START

Title: FEDERAL REGISTER.

Volume: 64 Issues: 224-230
PAGES:63561-67468

Date: NOVEMBER 22 - DECEMBER 01, 1999

UMI Number: 2575.00

Notes: REEL: 9 OF 11

UMI

Bell & Howell Information and Learning Company
300 North Zeeb Road
P.O. Box 1346
Ann Arbor, MI 48106-1346

VOL
64
ISS
2
2
4
NO
22
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11–22–99
Vol. 64

United State
Governmen
Printing Offi
SUPERINTENDEN
OF DOCUMENTS
Washington, DC 20

OFFICIAL BUSINE
Penalty for private u

11–22–99
Vol. 64 No. 224

federal register

Monday
November 22, 1999

Book 1 of 4 Books

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
4
NO
22
1999
UMI

11–22–99
Vol. 64
Pages 63

11–22–99
Vol. 64 No. 224
Pages 63561–63846

Federal Register

Monday
November 22, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche **202–512–1800**
Assistance with public subscriptions **512–1806**
General online information **202–512–1530; 1–888–293–6498**
Single copies/back copies:
Paper or fiche **512–1800**
Assistance with public single copies **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche **523–5243**
Assistance with Federal agency subscriptions **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 7, 1999 at 9:00 am.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 224

Monday, November 22, 1999

Advisory Council on Historic Preservation
See Historic Preservation, Advisory Council

Agency for International Development
PROPOSED RULES
Semi-annual agenda, 64996

Agriculture Department
PROPOSED RULES
Semi-annual agenda, 64104

Architectural and Transportation Barriers Compliance Board
PROPOSED RULES
Semi-annual agenda, 65000

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 63785

Civil Rights Commission
PROPOSED RULES
Semi-annual agenda, 65004
NOTICES
Meetings; State advisory committees:
Delaware, 63784
Louisiana, 63784
Pennsylvania, 63784
South Dakota, 63784

Coast Guard
PROPOSED RULES
Boating safety:
Ground tackle on recreational vessels; Federal requirements for carrying, 63773–63774

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
PROPOSED RULES
Semi-annual agenda, 64194

Commodity Futures Trading Commission
PROPOSED RULES
Semi-annual agenda, 65340

Consumer Product Safety Commission
PROPOSED RULES
Semi-annual agenda, 65348

Corporation for National and Community Service
PROPOSED RULES
Semi-annual agenda, 65006

Defense Department
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Semi-annual agenda, 65326
Semi-annual agenda, 65326
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63792–63793
Arms sales notification; transmittal letter, etc., 63793–63797

Education Department
PROPOSED RULES
Semi-annual agenda, 64320

Energy Department
See Federal Energy Regulatory Commission
PROPOSED RULES
Semi-annual agenda, 64332
NOTICES
Grants and cooperative agreements; availability, etc.:
Biotechnological Investigations-Ocean Margins Program, 63798–63800
Fundamental plant and microbial research in carbon management, 63800–63801
Small Business Innovation Research and Small Business Technology Transfer Programs, 63801–63802

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Generic maximum achievable control technology
Correction, 63702–63709
Process wastewater provisions, 63695–63702
Air quality implementation plans; approval and promulgation; various States:
Iowa, 63693–63695
New Jersey, 63690–63693
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Avermectin B1 and its delta-8,9-isomer, 63709–63711
Herbicide safener HOE-107892 and metabolites, 63711–63714
Paraquat, 63714–63720
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 63720–63721
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
Generic maximum achievable control technology
Surge control and bottoms receiver vessels, 63779–63783
Semi-annual agenda, 65010
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63808–63810
Meetings:
Acute Exposure Guideline Levels for Hazardous Substances National Advisory Committee, 63810–63811

Superfund; response and remedial actions, proposed settlements, etc.:
Bull Moose Tube Site, MO, 63811–63812

Equal Employment Opportunity Commission
PROPOSED RULES
Semi-annual agenda, 65170

Executive Office of the President
See Management and Budget Office

Farm Credit Administration
PROPOSED RULES
Semi-annual agenda, 65358
NOTICES
Farm credit system:
Borrower privacy; policy statement, 63812

Farm Credit System Insurance Corporation
PROPOSED RULES
Semi-annual agenda, 65366

Federal Aviation Administration
RULES
Airworthiness directives:
Aerospatiale, 63599–63607
Bombardier, 63653–63661
British Aerospace, 63615–63622
CASA, 63630–63638
Dornier, 63638–63645
Fairchild, 63591–63599
Fokker, 63661–63668
Gulfstream American, 63576–63584
Jetstream, 63607–63615
Lockheed, 63584–63591, 63645–63653
Mitsubishi, 63568–63576
Saab, 63622–63630
Sabreliner, 63561–63568
Short Brothers, 63668–63676
Class D and Class E airspace; correction, 63676
Class E airspace, 63676–63680
PROPOSED RULES
Airworthiness directives:
Boeing, 63753–63764
Bombardier, 63760–63762
Lockheed, 63755–63757
McDonnell Douglas, 63764–63765
Class E airspace, 63765–63768
NOTICES
Reports and guidance documents; availability, etc.:
Propulsion system and auxiliary power unit related aircraft safety hazards; technical report, 63842

Federal Communications Commission
RULES
Radio stations; table of assignments:
New Mexico, 63745
Texas, 63745
Television broadcasting:
Two-way transmissions; multipoint distribution service and instructional television fixed service licensees participation, 63727–63745
PROPOSED RULES
Radio stations; table of assignments:
Montana, 63783
Semi-annual agenda, 65368
NOTICES
Meetings; Sunshine Act, 63812–63813

Federal Deposit Insurance Corporation
PROPOSED RULES
Semi-annual agenda, 65414

Federal Emergency Management Agency
PROPOSED RULES
Semi-annual agenda, 65174

Federal Energy Regulatory Commission
PROPOSED RULES
Semi-annual agenda, 65424
NOTICES
Electric rate and corporate regulation filings:
Berkshire Power Co., LLC, et al., 63805–63808
Applications, hearings, determinations, etc.:
CNG Transmission Corp., 63802
Great Lakes Gas Transmission L.P., 63802–63803
High Island Offshore System, L.L.C., 63803
Koch Gateway Pipeline Co., 63803
Questar Pipeline Co., 63803–63804
Reliant Energy Gas Transmission Co., 63804
Select Energy, Inc., et al., 63804
Texas Eastern Transmission Corp., 63804
Trunkline LNG Co., 63804–63805
U-T Offshore System, L.L.C., 63805

Federal Housing Enterprise Oversight Office
PROPOSED RULES
Semi-annual agenda, 65222

Federal Housing Finance Board
PROPOSED RULES
Semi-annual agenda, 65432

Federal Maritime Commission
PROPOSED RULES
Semi-annual agenda, 65440

Federal Mediation and Conciliation Service
PROPOSED RULES
Semi-annual agenda, 65182

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 63813
Formations, acquisitions, and mergers, 63813–63814
Permissible nonbanking activities, 63814–63815

Federal Trade Commission
PROPOSED RULES
Semi-annual agenda, 65458

Fish and Wildlife Service
RULES
Endangered and threatened species:
Zapata bladderpod, 63745–63752

Food and Drug Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63817–63818
Meetings:
Reuse of single use devices; agency strategy, 63818–63819

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Arizona, 63785–63786
Missouri
Bayer Corp.; pharmaceutical products, 63786
Ohio, 63786
Texas
Fina Oil & Chemical Co.; oil refinery complex, 63786–63787
Wisconsin
Mercury Marine (Inc.); marine propulsion products manufacturing facilities, 63787

General Accounting Office
NOTICES
Reports and guidance documents; availability, etc.:
Internal control standards in Federal government; Green Book, 63815

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Semi-annual agenda, 65184

Government Ethics Office
PROPOSED RULES
Semi-annual agenda, 65226

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
RULES
Grants:
National Institutes of Health construction grants, 63721–63727
PROPOSED RULES
Semi-annual agenda, 64352
NOTICES
Meetings:
Vital and Health Statistics National Committee, 63815–63816

Health Care Financing Administration
NOTICES
Meetings:
Practicing Physicians Advisory Council, 63819

Historic Preservation, Advisory Council
PROPOSED RULES
Semi-annual agenda, 64994

Housing and Urban Development Department
See Federal Housing Enterprise Oversight Office
RULES
Community development block grants:
Expenditure documentation; clarification, 63680–63681
PROPOSED RULES
Semi-annual agenda, 64444

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Indian Gaming Commission
See National Park Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Semi-annual agenda, 64482

Internal Revenue Service
PROPOSED RULES
Income taxes:
Last known address; definition, 63768–63773
NOTICES
Meetings:
Citizen Advocacy Panels—
Brooklyn District, 63843
Electronic Tax Administration Advisory Committee, 63843–63844

International Trade Administration
NOTICES
Overseas trade missions:
Business development mission to Brazil et al., 63788–63790
Applications, hearings, determinations, etc.:
Massachusetts Institute of Technology, 63787–63788
University of—
North Carolina, School of Pharmacy, et al., 63788

Justice Department
See Justice Programs Office

Justice Programs Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63831–63832

Labor Department
PROPOSED RULES
Semi-annual agenda, 64622

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Transit Mixed Concrete Co. Sand and Gravel Mining Project, CA, 63828
Recreation management restrictions, etc.:
Wallowa and Grande Ronde River corridors, OR and WA; prohibited acts; supplementary rules, 63829–63830

Management and Budget Office
PROPOSED RULES
Semi-annual agenda, 65234

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Semi-annual agenda, 65200

National Archives and Records Administration
PROPOSED RULES
Semi-annual agenda, 65204

National Credit Union Administration
PROPOSED RULES
Semi-annual agenda, 65470

National Foundation on the Arts and the Humanities
PROPOSED RULES
Semi-annual agenda:
Institute of Museum and Library Sciences, 65212
National Endowment for the Arts, 65214
National Endowment for the Humanities, 65218

National Indian Gaming Commission
PROPOSED RULES
Semi-annual agenda, 65480

National Institutes of Health
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63819–63820
Inventions, Government-owned; availability for licensing, 63820–63821
Meetings:
Advisory Committee to Director, 63821
National Cancer Institute, 63821–63822
National Heart, Lung, and Blood Institute, 63822
National Institute of Allergy and Infectious Diseases, 63824
National Institute of Neurological Disorders and Stroke, 63822–63823
National Institute on Aging, 63823–63824
National Institute on Alcohol Abuse and Alcoholism, 63823
Scientific Review Center, 63824–63826
Recombinant DNA molecules research:
Actions under guidelines
Proposed, 63827–63828

National Oceanic and Atmospheric Administration
PROPOSED RULES
Marine mammals:
Incidental taking—
U.S. Navy; operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar; correction, 63783
NOTICES
Coastal zone management and estuarine sanctuaries:
Narragansett Bay National Estuarine Research Reserve, RI; management plan, 63790–63791
Meetings:
Mid-Atlantic Fishery Management Council, 63791
North Pacific Fishery Management Council, 63791–63792

National Park Service
PROPOSED RULES
Concession contracts; solicitation, award, and administration
Economic analysis, 63775–63778

National Science Foundation
PROPOSED RULES
Semi-annual agenda, 65220

Nuclear Regulatory Commission
PROPOSED RULES
Semi-annual agenda, 65484
NOTICES
Agency information collection activities:
Proposed collection; comment request, 63832

Office of Federal Housing Enterprise Oversight
See Federal Housing Enterprise Oversight Office

Office of Management and Budget
See Management and Budget Office

Panama Canal Commission
PROPOSED RULES
Semi-annual agenda, 65268

Peace Corps
PROPOSED RULES
Semi-annual agenda, 65270

Pension Benefit Guaranty Corporation
PROPOSED RULES
Semi-annual agenda, 65274

Personnel Management Office
PROPOSED RULES
Semi-annual agenda, 65240

Presidio Trust
PROPOSED RULES
Semi-annual agenda, 65280

Public Health Service
See Food and Drug Administration
See National Institutes of Health

Railroad Retirement Board
PROPOSED RULES
Semi-annual agenda, 65284

Reclamation Bureau
NOTICES
Meetings:
Bay-Delta Advisory Council, 63830–63831

Regulatory Information Service Center
PROPOSED RULES
Unified Agenda of Federal Regulatory and Deregulatory Actions, 63883

Securities and Exchange Commission
PROPOSED RULES
Semi-annual agenda, 65504
NOTICES
Agency information collection activities:
Proposed collection; comment request, 63832–63833
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., et al., 63837–63839
American Stock Exchange LLC, 63834–63837
Applications, hearings, determinations, etc.:
Pacific Bell, 63833
Southwestern Bell Telephone Co., 63833–63834

Selective Service System
PROPOSED RULES
Semi-annual agenda, 65290

Small Business Administration
PROPOSED RULES
Semi-annual agenda, 65292
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63839
Disaster loan areas:
New Jersey, 63840
License surrenders:
Florida Capital Ventures, Ltd., 63840
Walnut Capital Corp., 63840
Applications, hearings, determinations, etc.:
EDF Ventures, L.P., 63839–63840

Social Security Administration
PROPOSED RULES
Semi-annual agenda, 65302

Special Counsel Office
PROPOSED RULES
Semi-annual agenda, 65266

State Department
PROPOSED RULES
Semi-annual agenda, 64674
NOTICES
Art objects; importation for exhibition:
At the End of the Century: One Hundred Years of Architecture, 63840
Organization, functions, and authority delegations:
Assistant Secretary for Educational and Cultural Affairs, 63840–63841

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Indiana, 63681–63684
Maryland, 63684–63688
Ohio, 63688–63690

Surface Transportation Board
PROPOSED RULES
Semi-annual agenda, 65530

Tennessee Valley Authority
PROPOSED RULES
Semi-annual agenda, 65324

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Surface Transportation Board
PROPOSED RULES
Semi-annual agenda, 64682
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 63841–63842
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 63841

Treasury Department
See Internal Revenue Service
PROPOSED RULES
Semi-annual agenda, 64870
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63842
Senior Executive Service:
Legal Division Performance Review Board; membership, 63842–63843

Veterans Affairs Department
PROPOSED RULES
Semi-annual agenda, 64964
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 63844–63846
Meetings:
Scientific Review and Evaluation Board for Health Services Research and Development Service, 63846

Vice President of the United States
PROPOSED RULES
Regulatory Plan statement, 63883

Separate Parts in This Issue

Parts II through LXIV
The Unified Agenda of Federal Regulatory and Deregulatory Actions, 63881–65651

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

14 CFR
39 (15 documents) 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668
71 (6 documents) 63676, 63677, 63678, 63679, 63680
Proposed Rules:
39 (6 documents) 63753, 63755, 63757, 63760, 63762, 63764
71 (2 documents) 63765, 63767

24 CFR
570.....63680

26 CFR
Proposed Rules:
1.....63768
301.....63768

30 CFR
914.....63681
920.....63684
935.....63688

33 CFR
Proposed Rules:
175.....63773

36 CFR
Proposed Rules:
51.....63775

40 CFR
52 (2 documents) 63690, 63693
63 (2 documents) 63695, 63702
180 (3 documents) 63709, 63711, 63714
300.....63720
Proposed Rules:
63.....63779

42 CFR
52b.....63721

47 CFR
21.....63727
73 (2 documents) 63745
74.....63727
101.....63727
Proposed Rules:
73.....63783

50 CFR
17.....63745
Proposed Rules:
216.....63783

Rule

This sectio
contains re
applicability
are keyed t
Federal Re
50 titles pu

The Code o
the Superin
new books
REGISTER

DEPARTM

Federal A

14 CFR Pa

[Docket No
39–11292;

RIN 2120–A

Airworthin
Model NA
and, NA–2

AGENCY: F
Administr
ACTION: Fi

SUMMARY:
new airwo
applicable
NA–265–4
NA–265–8
requires re
Manual (A

Cessna Airc
Sabreliner C
Gulfstream A
McDonnell D
Mitsubishi H
Gulfstream A
Lockheed, M
Fairchild Mo
Aerospatiale
Jetstream M
Jetstream M
British Aeros
Saab Model
CASA Model
Dornier Mod
Lockheed Mo
de Havilland
Fokker Mode
Short Brothe

Comments

Interested
an opportun

VOL 64 ISS 224 NOV 22 1999 UMI

Rules and Regulations

Federal Register
Vol. 64, No. 224
Monday, November 22, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–137–AD; Amendment 39–11292; AD 99–19–03]

RIN 2120–AA64

Airworthiness Directives; Sabreliner Model NA–265–40, NA–265–60, NA–70, and, NA–265–80 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Sabreliner Model NA–265–40, NA–265–60, NA–70, and NA–265–80 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Tina Miller, Aerospace Engineer, Flight Test Branch, ACE–117W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4168; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Sabreliner Model NA–265–40, NA–265–60, NA–70, and, NA–265–80 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38358). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). Those 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F–27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F–27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling

characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½-to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream

Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice:" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition.

However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that,

although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (e.g., ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (e.g., normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary

greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 283 Model NA–265–40, NA–265–60, NA–70, and, NA–265–80 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 176 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $10,560, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–03 Sabreliner Corporation: Amendment 39–11292. Docket 99–NM–137–AD.

Applicability: Model NA–265–40, NA–265–60, NA–70, and NA–265–80 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office, FAA, Small Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30131 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–140–AD; Amendment 39–11295; AD 99–19–06]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Model YS–11 and YS–11A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Mitsubishi Model YS–11 and YS–11A series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5338; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Mitsubishi Model YS–11 and YS–11A series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38371). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are

observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any

deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series

airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½- to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal for Airplanes With "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation

Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision

may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [part 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the

ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (e.g., ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (*e.g.*, normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 38 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,280, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–06 Mitsubishi Heavy Industries, Ltd.: Amendment 39–11295. Docket 99–NM–140–AD.

Applicability: Model YS–11 and YS–11A series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

"• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30132 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–141–AD; Amendment 39–11296; AD 99–19–07]

RIN 2120–AA64

Airworthiness Directives; Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Rotorcraft Directorate, 1601 Meacham Boulevard, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Efran Esparza, Aerospace Engineer, Airplane Certification Office, ASW–150, FAA, Rotorcraft Directorate, 1601 Meacham Boulevard, Fort Worth, Texas 76137–4298; telephone (817) 222–5130; fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38355). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). Those 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F–27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374

Manufacturer airplane model	Number	Federal Register citation
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F–27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, *i.e.*, visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when to inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions

typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing.

According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½ to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to

trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and

landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [part 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of-attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (e.g., normal wear and tear, "patching," and

oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately Model G–73 (Mallard) and G–73T series airplanes of the affected design in the worldwide fleet. The FAA estimates that 5 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $300, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–07 Gulfstream American (Frakes Aviation): Amendment 39–11296. Docket 99–NM–141–AD.

Applicability: Model G–73 (Mallard) and G–73T series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

- Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.
- Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Airplane Certification Office, ASW–150, FAA, Rotorcraft Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Airplane Certification Office, ASW–150 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Airplane Certification Office, ASW–150 ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30133 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–142–AD; Amendment 39–11297; AD 99–19–08]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–14 and L–18 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model L–14 and L–18 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Tom Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Lockheed Model L–14 and L–18 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38338). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). Those 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F–27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F–27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific

consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers

conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily address the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½- to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy

inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated

only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [part 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master

Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of-attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (e.g., ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (e.g., normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any

AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 120 Model L–14 and L–18 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 109 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,540, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–08 Lockheed: Amendment 39–11297. Docket 99–NM–142–AD.

Applicability: Model L–14 and L–18 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30134 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–143–AD; Amendment 39–11298; AD 99–19–09]

RIN 2120–AA64

Airworthiness Directives; Fairchild Model F–27 and FH–227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fairchild Model F–27 and FH–227 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred

in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7520; fax (516) 256–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fairchild Model F–27 and FH–227 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38322). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). Those 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F–27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F–27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain

airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, *i.e.*, visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ½ or ¼ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ½ to ¼ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape

associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily address the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½- to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal for Airplanes With "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the

common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [part 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion.

No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (*e.g.*, normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation

may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 426 Model F–27 and FH–227 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 47 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,820, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–09 Maryland Air Industries, Inc.: Amendment 39–11298. Docket 99–NM–143–AD.

Applicability: Model F–27 and FH–227 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30135 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–144–AD; Amendment 39–11299; AD 99–19–10]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR–42 and ATR–72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR–42 and ATR–72 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration

(FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR–42 and ATR–72 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38368). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer Airplane Model	Number	Federal Register Citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374.
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358.
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341.
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325.
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371.
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355.
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338.
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322.
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368.
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351.
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335.
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319.
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365.
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348.
Dornier Model 328–100	99–NM–150–AD	64 FR 38332.
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316.
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362.
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870.
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support For the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and de Havilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from

ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British

Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½-to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request to Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice

accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory

materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [part 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of-attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed

by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (e.g., ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (e.g., normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 158 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $9,480, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–10 Aerospatiale: Amendment 39–11299. Docket 99–NM–144–AD.

Applicability: Model ATR–42 and ATR–72 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

• "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30136 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–145–AD; Amendment 39–11300; AD 99–19–11]

RIN 2120–AA64

Airworthiness Directives; Jetstream Model BAe ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model BAe ATP series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model BAe ATP series airplanes was published in the **Federal Register** on July 17, 1999 (64 FR 38351). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322

Manufacturer airplane model	Number	Federal Register citation
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot.

Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised

the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily address the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½- to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to

ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM

limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the

airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (e.g., ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. Hqwever, a variety of factors (e.g., normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed

AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $600, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–11 **British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]:** Amendment 39–11300. Docket 99–NM–145–AD.

Applicability: Model BAe ATP series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to ■ location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30137 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–147–AD; Amendment 39–11302; AD 99–19–13]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model HS 748 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model HS 748 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model HS 748 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38319). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as ■ supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model Airplanes 4101	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model Series Airplanes 1329–23 and 1329–25 (Lockheed Jetstar)	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the

proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request to Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that

operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an

acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following:

Normal Operation of the Deicing Boots, ½- to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into

known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice:" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA

consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action to Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (e.g., ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (e.g., normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: Maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: For some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future. The FAA estimates that airplanes of U.S. registry will be affected by this AD.

Should an affected airplane by imported and placed on the U.S. Register, it will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–13 British Aerospace Regional Aircraft (Formerly British Aerospace, Aircraft Group): Amendment 39–11302. Docket 99–NM–147–AD.

Applicability: Model HS 748 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions.

• (b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30138 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–148–AD; Amendment 39–11303; AD 99–19–14]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38365). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register Citation
Cessna Aircraft Company, Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American, (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–Ad	64 FR 38322
Aerospatiale Models, ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAc, ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101, Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model, HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are

observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any

deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series

airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½- to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (*i.e.*, stick shaker or stick pusher) are reset to lower values (*i.e.*, higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal for Airplanes With "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (*i.e.*, Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation

Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision

may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; *etc.* One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the

ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (*e.g.*, normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request to Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 224 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $13,440, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–14 SAAB Aircraft AB: Amendment 39–11303. Docket 99–NM–148–AD.

Applicability: SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30139 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–149–AD; Amendment 39–11304; AD 99–19–15]

RIN 2120–AA64

Airworthiness Directives; CASA C–212 and CN–235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain CASA C–212 and CN–235 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain CASA C–212 and CN–235 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38348). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register Citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374.
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358.
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341.
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325.

Manufacturer airplane model	Number	Federal Register Citation
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371.
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes.	99–NM–141–AD	64 FR 38355.
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338.
Fairchild Models F–27and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322.
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368.
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351.
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335.
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319.
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365.
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348.
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332.
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316.
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362.
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870.
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, *i.e.*, visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic

operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the

electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily address the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½- to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (*i.e.*, stick

shaker or stick pusher) are reset to lower values (*i.e.*, higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal for Airplanes With "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (*i.e.*, Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and

landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition.

For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (*e.g.*, normal wear and tear, "patching," and

oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 36 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,160, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–15 **Construcciones Aeronauticas, S.A. (CASA):** Amendment 39–11304. Docket 99–NM–149–AD.

Applicability: C–212 and CN–235 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30140 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–150–AD; Amendment 39–11305; AD 99–19–16]

RIN 2120–AA64

Airworthiness Directives; Dornier Model Dornier 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model Dornier 328–100 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model Dornier 328–100 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38332). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374.
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358.
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341.
McDonnell Douglas Models DC–3 and DC–4	99–NM–139–AD	64 FR 38325.
Mitsubishi Heavy Industries Model YS–11 and YS–11A	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes.	99–NM–141–AD	64 FR 38355.
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338.
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322.
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368.
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351.
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335.
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319.
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365.
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348.
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332.
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316.
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362.
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870.
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329..

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request to Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific

consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers

conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½-to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request to Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy

inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes With "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated

only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [part 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master

Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (e.g., normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any

AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 31 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,860, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–16 Dornier Luftfahrt GmbH: Amendment 39–11305. Docket 99–NM–150–AD.

Applicability: Model Dornier 328–100 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with §§21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30141 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–151–AD; Amendment 39–11306; AD 99–19–17]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model 1329–23 and 1329–25 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model 1329–23 and 1329–25 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the

airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Tom Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Lockheed Model 1329–23 and 1329–25 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38316). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). Those 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F–27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane Model	Number	Federal register citation
Cessna Aircraft Company, Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374.
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358.
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341.
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325.
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371.
Gulfstream American, (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes.	99–NM–141–AD	64 FR 38355.
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338.
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322.
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368.
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351.
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335.
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319.
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365.
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348.
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332.
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316.
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362.
Fokker Model F–27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870.
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request to Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is

that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since

they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request to Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing

boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½ to ¾ inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (*i.e.*, stick shaker or stick pusher) are reset to lower values (*i.e.*, higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼ inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (*i.e.*, Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations

on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When to Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request to Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training,

along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request to Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (e.g., ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (e.g., normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request to Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 91 Model 1329–23 and 1329–25 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,600, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–17 Lockheed: Amendment 39–11306. Docket 99–NM–151–AD.

Applicability: Model 1329–23 and 1329–25 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office, Small Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30142 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–152–AD; Amendment 39–11307; AD 99–19–18]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–7 and DHC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–7 and DHC–8 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–7 and DHC–8 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38362). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company, Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation, Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace, Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas, Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries, Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American, (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, *i.e.*, visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½

inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or deHavilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a

British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD.

Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresses the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½ to ¾ inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or

failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (i.e., stick shaker or stick pusher) are reset to lower values (i.e., higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼ inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during

all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When To Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters

states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may

provide an additional safety benefit. However, a variety of factors (*e.g.*, normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 183 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $10,980, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–18 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–11307. Docket 99–NM–152–AD.

Applicability: Model DHC–7 and DHC–8 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

"• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30143 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–153–AD; Amendment 39–11308; AD 99–19–19]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes and Model F27 Mark 050 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes and Model F27 Mark 050 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes and Model F27 Mark 050 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on August 6, 1999 (6 FR 42870). That action proposed to require revising the Airplane Flight Manual (AFM) to specify that, at the first signs of ice accumulation, "heavy" automatic cycling mode must be used during operation of the deicing boots.

Related Proposed Rules

In addition to the supplemental proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series Airplanes	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar) Series Airplanes	99–NM–151–AD	64 FR 38316
deHavilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support for the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, *i.e.*, visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific

consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers

conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of ½-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½ to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (*i.e.*, stick shaker or stick pusher) are reset to lower values (*i.e.*, higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy

inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal for Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (i.e., Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flight crew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When to Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated

only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests the FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training, along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations Section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [section 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; *etc.* One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master

Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action to Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (*e.g.*, normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any

AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 34 airplanes of U.S. registry will be affected by this AD, That it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,040, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–19 Fokker Services B.V.: Amendment 39–11308. Docket 99–NM–153–AD.

Applicability: Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes and Model F27 Mark 050 series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the "heavy" automatic cycling mode; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30144 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–154–AD; Amendment 39–11309; AD 99–19–20]

RIN 2120–AA64

Airworthiness Directives; Short Brothers SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA Series Airplanes.

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Short Brothers SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This amendment is

prompted by reports of inflight incidents and an accident that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The actions specified by this AD are intended to ensure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: December 27, 1999.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman Martenson, Aerospace Engineer, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Short Brothers SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38329). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots.

Related Proposals

In addition to the proposed rule described previously, in June 1999, the FAA issued 18 other similar proposals that address the subject unsafe condition on various airplane models (see below for a listing of all 19 proposed rules). These 18 proposals also were published in the **Federal Register** on July 16, 1999. (Docket 99–NM–153–AD, for Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes, was also issued as a supplemental notice of proposed rulemaking, and published in the **Federal Register** on August 6, 1999.) This final rule contains the FAA's responses to all relevant public comments received for each of these proposed rules.

Manufacturer airplane model	Number	Federal Register citation
Cessna Aircraft Company Models 500, 550, and 560 Series Airplanes	99–NM–136–AD	64 FR 38374
Sabreliner Corporation Models 40, 60, 70, and 80 Series Airplanes	99–NM–137–AD	64 FR 38358
Gulfstream Aerospace Model G–159 Series Airplanes	99–NM–138–AD	64 FR 38341
McDonnell Douglas Models DC–3 and DC–4 Series Airplanes	99–NM–139–AD	64 FR 38325
Mitsubishi Heavy Industries Model YS–11 and YS–11A Series Airplanes	99–NM–140–AD	64 FR 38371
Gulfstream American (Frakes Aviation) Model G–73 (Mallard) and G–73T Series Airplanes.	99–NM–141–AD	64 FR 38355
Lockheed, Models L–14 and L–18 Series Airplanes	99–NM–142–AD	64 FR 38338
Fairchild Models F–27 and FH–227 Series	99–NM–143–AD	64 FR 38322
Aerospatiale Models ATR–42/ATR–72 Series	99–NM–144–AD	64 FR 38368
Jetstream Model BAe ATP Airplanes	99–NM–145–AD	64 FR 38351
Jetstream Model 4101 Airplanes	99–NM–146–AD	64 FR 38335
British Aerospace Model HS 748 Series Airplanes	99–NM–147–AD	64 FR 38319
Saab Model SF340A/SAAB 340B/SAAB 2000 Series Airplanes	99–NM–148–AD	64 FR 38365
CASA Model C–212/CN–235 Series Airplanes	99–NM–149–AD	64 FR 38348
Dornier Model 328–100 Series Airplanes	99–NM–150–AD	64 FR 38332
Lockheed Model 1329–23 and 1329–25 (Lockheed Jetstar Series Airplanes	99–NM–151–AD	64 FR 38316
de Havilland Model DHC–7/DHC–8 Series Airplanes	99–NM–152–AD	64 FR 38362
Fokker Model F27 Mark 100/200/300/400/500/600/700/050 Series Airplanes	99–NM–153–AD	64 FR 42870
Short Brothers Model SD3–30/SD3–60/SD3–SHERPA Airplanes	99–NM–154–AD	64 FR 38329

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the following comments received.

1. Support For the Rule

One commenter supports the proposed rule.

2. Request To Withdraw the Proposal: No Unsafe Condition

Several commenters request that the proposal be withdrawn because no unsafe condition exists on certain airplanes. One of these commenters states that the FAA is merely speculating that the proposed Airplane Flight Manual (AFM) revision will improve safety. Further, the commenter contends that the FAA cannot substantiate that the proposed AFM revision will prevent ice bridging. This same commenter also asks if the FAA met its own standards by testing the proposed procedure on each of the affected airplanes.

The FAA does not concur that no unsafe condition exists. As discussed in the preamble of the proposed rule, the FAA has reviewed the icing-related incident history of certain airplanes, and has determined that icing incidents may have occurred because pneumatic deicing boots were not activated at the first evidence of ice accretion. As a result, the handling qualities or the controllability of the airplane may have been reduced due to the accumulated ice. The FAA also discussed an accident that occurred as a result of the failure of the flightcrew to activate the wing and tail pneumatic deicing boots.

Although there may have been no reported cases of incidents or accidents on a specific airplane model, the potential still exists for reduced controllability of all airplanes equipped with pneumatic deicing boots due to adverse aerodynamic effects of ice adhering to the airplane. This AD addresses this unsafe condition.

Further, ice bridging of deicing boots was considered during development of the proposed rule. A broad representation of the aviation community was consulted, including airframe manufacturers, air carriers, airline pilot associations, airplane owner associations, deicing boot manufacturers, and National Aeronautics and Space Administration (NASA). Also, articles readily accessible by the general piloting community solicited operational information concerning ice bridging of deicing boots. The FAA considers that the general consensus of the aviation community is

that little or no evidence exists of ice bridging of deicing boots with current deicing boot designs, and ice that is not shed after the initial boot cycle continues to increase in thickness and sheds during subsequent cycles.

In addition, many airplanes equipped with pneumatic deicing boots to protect the engine are operated when icing conditions are present, i.e., visible moisture and a specific temperature are observed. As discussed in Comment #3 (following this response), at least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. The FAA is unaware of any ice bridging problems associated with early operations of either the airfoil or engine pneumatic deicing boots.

In response to the commenter's question regarding the FAA meeting its own standards, the FAA infers that the commenter is requesting the basis for the FAA's determination that the proposed procedures are safe. Most aircraft certification programs have not considered the reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the pneumatic boots. The requirements of this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first, along with the periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

3. Request To Withdraw the Proposal: Possible Adverse Effects of Residual Ice

Several commenters state that deicing boots do the best job of shedding ice on a single cycle, if ice is permitted to accrete to ¼ or ½ inch before activation of the boots. One of these commenters further contends that the effect of continuous cycling in auto mode may not produce a clean shed of ice on each activation, and that residual ice must be taken into consideration before any revision to the AFM is required. Another commenter states that, although operation in the continuous mode upon first indication of ice accretion would eliminate the problem of identification of accretion, the commenter is concerned that there would then be a potential for degraded performance due to residual ice.

The FAA does not concur that the proposal should be withdrawn because of concerns over residual ice. Operation of pneumatic deicing boots typically results in persistent ice accretions on the boot surfaces, even when ¼ to ½ inch of ice is allowed to accrete prior to activation of the boots. The persistent residual and inter-cycle ice accretions typically result in adverse aerodynamic effects and degraded airplane flying qualities. Activation of the wing and tail pneumatic deicing boots at the first sign of ice accretion, or at the annunciation of an ice detector system and periodic operation of the deicing boots will also result in persistent ice accretions. However, the proposed procedure will minimize the residual and intercycle ice accretions because the ice will be shed when the minimum thickness or mass required for shedding is reached. The residual and intercycle ice accretion thickness resulting from this procedure is less than the ice accretion thickness typically recommended prior to operation of the pneumatic deicing boot. Adverse airplane flying qualities resulting from ice accretions typically are affected by the thickness, shape, texture, and location of the ice accretion.

At least two airplane manufacturers have issued AFM's that contain procedures to activate the deicing boots at the first sign of ice accumulation. Those two airplane models have different wing and stabilizer design characteristics and different deicing boot configurations. Further, those two airplane models represent a large proportion of the airplane fleet equipped with pneumatic deicing boots. The FAA has received no reports indicating any adverse effects of residual ice resulting from early activation of the deicing boots for these airplane designs.

In addition, a number of airplane models are equipped with deicing boot systems that include automatic operating modes, wherein the boots automatically cycle at specific time intervals after being activated. This automatic cycling has surely resulted in operation of the boots with less than the recommended thickness of ice accreted. The FAA has received no reports indicating any adverse effects resulting from the use of the automatic mode.

4. Request To Withdraw or Delay: Develop More Data

Several commenters request that the FAA delay issuance of the rule until more data are developed and reviewed. Certain of these commenters also state that at the public meeting on icing (February 2–4, 1999), the consensus was that a uniform procedure cannot be adopted for all airplanes. That is, a "blanket" proposal for numerous airplanes (regardless of design) is inappropriate without specific consideration for the individual designs. Another one of these commenters points out that each airplane model is unique and that the operating instructions for the ice protection system for one airplane model may not be appropriate for another airplane model. That commenter further adds that the airframe manufacturer is in the best position to determine appropriate limitations.

Another one of the commenters requests that, if the proposal is not withdrawn, the issuance of any rulemaking be delayed since certain language of the requirements of the AD is confusing.

The FAA does not concur that a delay in issuing this action is appropriate. The FAA concurs that the airframe manufacturers present at the February public meeting did not support a common procedure for the operation of deicing boots. However, as mentioned previously, there have been no adverse reports on the airplane fleet equipped with pneumatic deicing boots that operate the boots at the first sign of ice accretion. With the exception of "older" pneumatic boots (reference comment #7, below), the FAA finds that a common procedure for boot operation is appropriate. The FAA has determined that the common procedures for operation of deicing boots as required by this AD (activation of the deicing boot system at the first sign of ice formation anywhere on the aircraft, or upon annunciation of an ice detector system, whichever occurs first, and periodic cycling of the boots) will minimize the ice accretions and thereby reduce the adverse aerodynamic effects.

To withdraw or delay this AD would be inappropriate since the FAA has determined that an unsafe condition exists, and that the required AFM revision must be accomplished to ensure continued safety of the fleet. The fact that other data may be developed at a later time does not negate the FAA's responsibility to address the existing identified unsafe condition in a timely manner. No change is necessary to the final rule in this regard.

The FAA is unable to respond to one commenter's statement that certain language of the proposal was confusing since no example was specified.

5. Request To Withdraw Proposals for Certain Airplanes

Three commenters, all airframe manufacturers, request that the proposal be withdrawn for several airplane models [British Aerospace Model ATP airplanes, British Aerospace Model HS 748 airplanes, Dornier Model 328–100 series airplanes, and deHavilland Model DHC–7/DHC–8 series airplanes] since

they have been certified to be in compliance with part 25 of the Federal Aviation Regulations (14 CFR 25.1419). Additionally, the commenters point out that those airplanes have been certificated in accordance with the appropriate foreign civil airworthiness authorities. The commenters further explain that service experience of those airplanes does not indicate any deficiencies with regard to handling and performance due to airframe accreted ice. In conclusion, the commenters state that, in the absence of any evidence to suggest deficiencies regarding this subject, they cannot support the intent of the rule.

The FAA acknowledges that an airplane model may have design characteristics that mitigate the adverse airplane flying qualities resulting from ice accretion on deicing boot surfaces. As discussed in the proposal for this AD, the FAA has previously requested that interested persons provide information on icing system design and operations procedures concerning flight during icing conditions. The request also asked manufacturers, who are in the best position to determine those operating procedures, to provide data showing that their aircraft have safe operating characteristics with ice accreted on the protected surfaces (boots). That information was requested specifically by letter on October 1, 1998, to certain manufacturers of airplanes certified in accordance with part 25 of the Federal Aviation Regulations (14 CFR part 25). Except as discussed in Item 6 of the comment section of this final rule, no other information received caused the FAA to reconsider that an unsafe condition may exist, or that a revision of the AFM, such as required by this AD, was unsafe for those airplanes.

Additionally, similar information was specifically requested in the discussion section of the proposed rule. Of the comments to the proposal that were received by the FAA, no additional data was included for Dornier Model 328–100 series airplanes, or de Havilland Model DHC–7/DHC–8 series airplanes that caused the FAA to reconsider the previous conclusion that an unsafe condition exists. Further, no data was provided to indicate that the proposal to require activation of wing and tail pneumatic deicing boots at the first sign of ice accretion or annunciation of an ice detector system was unsafe for any particular airplane model.

United Kingdom Accident Investigation Board Preliminary Report EWC 91/18 indicated that, while on climb to 16,000 feet in the vicinity of Oxford, England, on August 11, 1991, a British Aerospace Model ATP airplane suffered a significant degradation of flying qualities and propeller icing. According to that report, the deicing boots of the airplane were not activated, and the airplane stalled, experienced severe uncontrolled roll oscillations, severe vibration that rendered the electronic flight instruments partially unreadable, and developed a high rate of descent. The deicing boots were finally activated and control of the airplane was regained after a loss of 3,500 feet in altitude. The report identified causal factors of the incident which included rapid accumulation of glaze ice that was not evident to the flightcrew, difficulty of the flightcrew to visually gauge the ice accretion thickness on the wing's leading edge, and propeller vibrations that disguised the onset of wing stall. Even though this incident occurred outside of the United States, and although this airplane model demonstrated acceptable in-flight icing airworthiness relative to FAA and Joint Airworthiness Authorities (JAA) requirements, the incident illustrates the vulnerability of this airplane model to the safety condition addressed by this AD.

One commenter, British Aerospace, has requested until October 20, 1999, to provide additional data to substantiate that the Model ATP airplanes and Model HS 748 airplanes can safely operate with ice accumulations on the protected surfaces. As discussed previously and in the NPRM, the FAA considers that this same vulnerability exists on all airplanes equipped with pneumatic deicing boots.

In the interest of safety, the FAA finds that it is not prudent to delay issuance of the final rules on those airplane models. However, British Aerospace and any other manufacturer is encouraged to request approval of an alternative method of compliance with the airworthiness directive based on substantiating data indicating that a particular aircraft can safely be operated with the ice that would accumulate on the protected surfaces prior to activation of the ice protection system.

6. Request To Withdraw the Proposal for Certain Other Airplanes

Two manufacturers request that the proposals regarding Cessna Model 500, 501, 550, 551, and 560 series airplanes, and British Aerospace (Jetstream) Model 4101 airplanes be withdrawn. The manufacturers advise that the testing summarized in their comments provides evidence that the current procedures provide a safe method to operate those airplane models. The manufacturers conclude that, based on the service history and data provided to the FAA, the proposed AFM revision for those models is unnecessary.

The FAA concurs that the notice of proposed rulemaking for Cessna Model 500, 501, 550, 551, and 560 series airplanes should be withdrawn based on the following information. The manufacturer performed a complete evaluation of the stall and handling characteristics with simulated ice shapes on the Model 550 (Bravo) series airplanes. Stall speeds and warning margins were evaluated with a ½-inch glaze ice shape and with an ice shape associated with the system failure. This ½-inch ice shape simulated the ice shape prior to deicing boot activation. Maneuver margin testing consisted of left and right 40-degree bank turns. Stall characteristics were evaluated with a ½-inch rime ice shape configuration. Stall characteristic testing consisted of wings level and 30-degree bank turns. At the conclusion of the testing it was determined that the airplane had an acceptable stall warning margin with ice shapes present. The manufacturer maintains that Model 500/501, Model 550/551, and Model 550 (Bravo) series airplanes all use a common wing airfoil with some minor differences in span and wing loading. These aircraft also use a common tail configuration (airfoil, span, and leading edge sweep).

Additionally, the FAA reviewed the Type Inspection Report (TIR) for Model 550 (Bravo) series airplane testing and found that ice shapes were placed on both the protected and unprotected surfaces.

The Model 560 (Ultra) series airplanes underwent an extensive ice shape stall investigation. This investigation consisted of stall testing of the baseline airplane and the airplane with the most adverse simulated intercycle ice shapes. The ice shapes consisted of 3-inch shapes on the surfaces protected by boots and 3-inch shapes on unprotected flight surfaces. The stall speeds determined by this testing were incorporated into the Safeflight Angle of Attack computer to increase the stall warning margin during flight in icing conditions. The Model 560 series airplanes angle of attack computer was also updated to incorporate a normal mode and an ice mode stall warning system. The changes to the angle of attack computer on Model 560 and 560 (Ultra) series airplanes were proposed by Rules Docket No. 98–NM–312–AD.

The FAA notes that extensive testing of Model 550 and 560 series airplanes (in which acceptable stall protection and maneuver margins at operational speeds were demonstrated with expected ice accretion on the deicing

boot surfaces) indicates that these airplanes can safely operate with ice accretions associated with the AFM normal operations procedures of the deicing boots. These attributes demonstrate that Model 550 and 560 series airplanes satisfactorily address the unsafe condition addressed by this AD. Since Model 500 series airplanes are similar to Model 550 series airplanes, the Model 500 series airplanes also satisfactorily addresss the unsafe condition addressed by this AD. The FAA also notes that testing of Model 560 series airplanes revealed problems in the stall warning margin for flight in icing conditions that were addressed by previously issued airworthiness directives.

The FAA also concurs that the notice of proposed rulemaking for British Aerospace Jetstream Model 4101 airplanes should be withdrawn based on the following information. In response to the FAA's October 1, 1998, letter (discussed previously), British Aerospace submitted a summary of the handling and performance flight test results that were produced during the original flight in icing certification. This summary was referenced in their response to the proposed rulemaking. The commenter volunteered to provide any reports referenced in the summary. The FAA requested and subsequently received copies of the full handling and performance flight test results for certification in the icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and the JAA draft issue of AMJ25.1419, which was used as guidance for compliance with JAR/FAR 25.1419. The FAA reviewed these reports and guidance material and finds that the Jetstream 4101 airplane was adequately tested with a variety of natural ice accretions on both the protected and unprotected surfaces. Handling and performance flight test was accomplished for the following: Normal Operation of the Deicing Boots, ½-to ¾-inch of ice on the protected wing leading edges and up to 3 inches of ice on unprotected leading edges; Simulated Failure of the Deicing Boots, approximately 1 to 1½ inches of ice on all leading edges; Ice Accreted During the Take-off Phase, a thin rough layer of ice accreted during the initial take-off phase to 400 feet, prior to operation of deicing boots.

These ice accretion depths were established to address the following: Ice accreted during the rest-time of a deicing cycle, delayed operation or failure of the system, and residual ice accumulations. The flight testing examined stall speeds, stall warning margins, stall characteristics, maneuver margins, longitudinal controllability, flap configuration changes, ability to trim, susceptibility to tailplane stall, and longitudinal, lateral, and directional stability. The angles of attack for activation of the stall warning system and stall identification system (*i.e.*, stick shaker or stick pusher) are reset to lower values (*i.e.*, higher speeds) for flight in icing and safe flight speeds (minimum operating speeds) established accordingly. Affected AFM performance information was derived for icing conditions based on the higher operating speeds, in accordance with JAA draft AMJ25.1419.

The Cessna and British Aerospace aircraft models discussed in this comment have been tested and, where appropriate, changes have been made to ensure the airplanes are safe for operations with ice accretions on the protected surfaces. Without this type of testing and substantiation, the FAA must conclude the aircraft affected by this final rule may be subject to adverse aerodynamic effects due to ice accretions on the protected surfaces prior to deicing boot operation. Other manufacturers may also develop the necessary data to substantiate that their airplanes are safe with these accretions and request approval of an alternative method of compliance.

7. Request To Differentiate Between "Modern" Boot Systems and "Older" Boot Systems

Several commenters request that the difference between the "older" boot systems and the "modern" boot systems be explained. These commenters express concern that although both systems are addressed in the proposal, there may not be a sound technical reason to apply the requirements of the proposal to both types of boot systems.

The FAA acknowledges that definitions of "older" and "modern" pneumatic boot systems should be provided. Therefore, for the purposes of this AD, "modern" pneumatic boot systems may be characterized by short segmented, small diameter tubes, which are operated at relatively high pressures [18–23 pounds per square inch (psi)] by excess bleed air that is provided by turbine engines. "Older" pneumatic boot systems may be characterized by long, uninterrupted, large diameter tubes, which were operated at low pressures by engine driven pneumatic pumps whose pressure varied with engine revolutions per minute (rpm). This low pressure coupled with long and large diameter tubes caused early de-ice systems to have very lengthy inflation and deflation cycles and dwell times. (Dwell time is the period of time that the boot remains fully expanded following the completion of the inflation cycle until the beginning of the deflation cycle.)

8. Request To Withdraw the Proposal For Airplanes with "Older" Boots

Two commenters request that the proposed rules applying to Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes be withdrawn. Both commenters state that those airplane models do not meet the common definition of the word "modern." (See Comment #7 of this final rule for a definition of "modern" as used in this AD.) One commenter states that the current AFM specifically directs the flightcrew to wait for ¼-inch of ice before activating the boots. Further, the commenter asserts that the current procedure was developed during certification and is the basis for the airplane's approval for flight into known icing. Additionally, the commenters assert that the in-service safety records for more than 40 years indicates that the existing procedures are appropriate for these airplanes. The commenter concludes that the proposed AFM revision is in direct opposition to the certification findings.

The FAA acknowledges that early activation of the "older" pneumatic deicing boots may create the hazard of ice bridging on the "older" systems. As discussed in Comment #2 previously, "older" boots may be susceptible to ice bridging, and the FAA concurs that requiring the activation of the boots at the first sign of icing may actually introduce an unsafe condition on those airplanes. In order to address this issue, the FAA is taking the following steps. First, to accommodate certain airplane models of the fleet (*i.e.*, Gulfstream Model G–159 series airplanes and McDonnell Douglas Model DC–3 and DC–4 series airplanes) that may be equipped with the "older" pneumatic deicing boot system, the FAA is considering the issuance of supplemental NPRM's for those airplane models. The purpose of the supplemental NPRM's would be to require an inspection to determine which type of pneumatic deicing boots are installed on the airplanes, and to require operation of the boots at the first sign of ice accretion if the airplanes have been retrofitted with "modern" boots. Second, for aircraft with "older" pneumatic boots installed, the FAA will continue to investigate other solutions to the unsafe condition of reduced handling qualities or controllability of the airplane due to ice accumulations

on the protected surfaces. If other solutions are identified, the FAA may consider further rulemaking.

9. Request To Revise AFM Change

One commenter requests that the proposal to operate the boots at the first sign of ice accretion be limited to the holding and approach phases of flight. The commenter states that the Aviation Rulemaking Advisory Committee (ARAC) Ice Protection Harmonization Working Group (IPHWG) completed a comprehensive review of past icing accidents/incidents. The IPHWG concluded that the only phases of flight that demonstrate a safety concern are holding patterns and various approach segments; since these operations are conducted at lower airplane speed, instability could occur as a result of ice accumulations on the wing and tail surfaces.

The FAA does not concur that the AFM revision should be limited to the holding and approach phases of flight. The FAA acknowledges that the IPHWG is working on a proposed operations rule that may only be applicable during holding and approach phases of flight. However, the IPHWG continues to work on the proposed rule and has not reached technical agreement. Since discussions are ongoing, it would not be appropriate to assume that the IPHWG positions as presented by the commenter will necessarily be reflected in the actual published proposal.

Another commenter, an airplane manufacturer, stated that the AFM for Model SF340A/SAAB340B/SAAB 2000 series airplanes currently does not limit the operation of the deicing boots during specific phases of flight. The commenter requests that the AFM change required by paragraph (a) of the proposal be revised to limit the applicable phases of flight where the AFM specifies that deicing boots should not be used. Specifically, the commenter requests that the language be revised to read "Deicing boots must not be used during take-off and landing."

The FAA partially concurs, and acknowledges that clarification is necessary. It was the FAA's intent that the boots do not have to be operated at the first sign of ice accretion during those phases of flight if there are existing procedures in the AFM that prohibit the operation of the boots during specific phases of flight. However, the boots must always be operated at the first sign of ice accretion if, in accordance with the AFM, it is acceptable to operate the boots during all phases of flight. Therefore, the FAA has revised paragraph (a) of the final rule to state, "Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required."

With respect to the request to specify that the deicing boots must not be used during take-off and landing, it would be desirable to customize the AFM limitation for specific models of airplanes. This would allow the AFM to clearly indicate to the flightcrew when the deicing boots should be deactivated, rather than necessitating that the flightcrew first determine if there are other portions of the AFM that indicate that the deicing boots should not be used during specific phases of flight. Therefore, the FAA encourages requests for approval of alternative methods of compliance to customize the AFM limitation to the specific airplane model.

However, the FAA does not concur with the request to revise the final rule that applies to Saab Model SAAB SF340A/SAAB340B/SAAB 2000 series airplanes since the existing Saab AFM does not indicate that the deicing boots should not be used during take-off and landing. If the commenter has data to indicate that the deicing boots should not be used during those phases of flight, the commenter should take action to revise the AFM and request approval of an alternative method of compliance.

10. Request To Revise Instructions on When to Deactivate the Boot System

One commenter requests that two changes be made to paragraph (a) of the proposal. The first change would be to specify that the wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions. The commenter also requests that the proposal be revised to add related procedures for operating speeds, and that related procedures for operation of the autopilot (if any) be discontinued only after the airplane is determined to be clear of ice. The commenter states that natural ice shedding, melting, or sublimation from the protected areas will mostly eliminate residual ice.

Regarding the commenter's first request, the FAA concurs. For the reasons the commenter stated, the FAA has revised paragraph (a) of the final rule from: "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the airplane is determined to be clear of ice;" to "The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions."

Regarding the commenter's second request, the FAA considers that, since the suggested change would alter the actions currently required by this AD, additional rulemaking would be required. The FAA finds that to delay this action would be inappropriate in light of the identified unsafe condition. However, the FAA is considering additional rulemaking concerning operating speeds during icing conditions.

11. Requests The FAA Consider the Pilot Workload

One commenter states that the proposal would require the pilot to monitor ice formation and to activate the deicing system almost constantly. Another commenter suggests that such increase of the pilot's workload could, of itself, cause an indirect adverse impact on operational safety. The commenters request that the FAA consider the additional pilot workload if the proposal is adopted.

The FAA has previously considered the effects on the pilot of requiring that the deicing boots be activated at the first sign of ice formation anywhere on the airplane, or upon annunciation from an ice detector system. The FAA acknowledges that current procedures recommending activation of the deicing boots at a specific ice accretion thickness require the flightcrew to closely monitor the ice accretion. However, since a number of airplanes affected by this AD are equipped with deicing boot systems with automatic operating modes, operating the deicing boots at the first sign of ice accretion in an appropriate automatic mode will favorably influence flightcrew workload. For airplanes not equipped with automatic deicing boot operating modes, periodic operation of the boots can be accomplished based on time intervals consistent with existing icing conditions. The FAA considers that periodic operation of the boots is not a greater workload burden than closely monitoring the ice accretion thickness.

For the reasons stated, the FAA has determined that it is unnecessary to revise the final rule.

12. Request To Withdraw the Proposal: Provide Training Instead

Several commenters request that the FAA withdraw the proposal and ensure that appropriate information and training regarding the use of the boots is provided to pilots. The commenters also suggest that a testing program be accomplished by industry. The commenters assert that such training,

along with an analysis of the testing program, would eliminate the need for requiring that the deicing boots be activated in accordance with the proposal. One commenter also adds that the AFM should only be changed to add a warning that delayed activation of the pneumatic boot system may be unsafe. Another commenter adds that the language of the proposed AFM revision may conflict with current AFM procedures and could confuse operators.

The FAA does not concur that substituting mandatory training for issuance of an AD is appropriate in this case. The FAA acknowledges that, in addition to the issuance of an AD, information specified in the revision to the AFM should be integrated into the pilot training syllabus. However, the development and use of advisory materials and training alone are not adequate to address the unsafe condition. The only method of ensuring that certain information is available to, and mandatory for, the pilot is through incorporation of the information into the Limitations section of the AFM. The appropriate vehicle for requiring such revision of the AFM is issuance of an AD. No change is necessary to the final rule in this regard.

13. Request To Consider Procedures Already in Normal Procedures Section

One commenter requests concurrence that procedures existing in the Normal Procedures section of the AFM be considered as compliant with the requirements of the proposed AD.

The FAA does not concur that procedures specified in the Normal Procedures section of the AFM are an equivalent method of compliance with the AD. The FAA considers that, since the Limitations section of the AFM is the only section of the AFM that is mandatory [§ 91.9 of the Federal Aviation Regulations (14 CFR 91.9)], the subject required revision to the AFM must be included in the Limitations section. No change is necessary to the final rule in this regard.

14. Request To Limit the AD to Only Those Operations Conducive to Icing

Two commenters request that the AFM limitation specified in paragraph (a) of the proposal be limited to those conditions where operations conducive to icing exist. The commenters provide examples of conditions where operations not conducive to icing may exist such as Hawaii; the Caribbean; short, low altitude flights in the summer; etc. One of these commenters states that, "under the proposal, dispatch with an inoperative boot would be considered prohibited even though the deicing would never be needed."

The FAA does not concur that revision of the AD is necessary in this regard. Paragraph (a) of the AD specifically states that wing and tail leading edge pneumatic deicing boot systems must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first. The FAA considers that, regardless of what geographic area an airplane may be flying in or what season of the year it may be, the boot system must be activated if those specified conditions occur.

Regarding dispatch with an inoperative boot, current Master Minimum Equipment List (MMEL) procedures prohibit dispatch of the airplane into known or forecast icing conditions if the deicing boots are inoperative. In the event that icing conditions are inadvertently encountered during operation in accordance with MMEL provisions, procedures exist to instruct the flightcrew to exit the icing conditions immediately. The FAA considers that those existing procedures will prevent conflict between the requirements of this AD and perceived problems regarding dispatch with inoperative boots. No change is necessary to the final rule in this regard.

15. Request To Consider Differences in Airplanes Systems

One commenter requests that the AFM revision specified in paragraph (a) of the proposed rule be revised for those airplanes that are equipped with icing detection systems. Such a revision should read "activate the wing and tail leading edge pneumatic deicing boot system upon annunciation from an ice detector," rather than "at the first sign of ice anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first." The commenter states that, since the sensor for the ice detection system detects ice buildup at the boot, it would make sense for airplanes that have an ice detection system to activate the boot only when ice is detected at the boot by the ice detection system. The commenter further points out that activating the boot when ice is not forming on the boot will not remove the ice formations elsewhere on the airplane, but will simply deteriorate the condition of the boot and provide no safety benefit. Additionally, the commenter adds that if the ice detection system were inoperative for dispatch, it would be appropriate as a Master Minimum Equipment List (MMEL) condition to activate the boot at the first sign of icing.

The FAA does not concur that the final rule should be revised to address procedures specifically for airplanes equipped with icing detection systems. Visual detection of icing by the flightcrew has been certificated as the primary means of ice detection. Therefore, the FAA has determined that, although ice detection systems may alert the flightcrew to the presence of icing, the flightcrew is still responsible to monitor the airframe for ice accretion. No change is necessary to the final rule in this regard. However, in the event a turbopropeller airplane equipped with pneumatic deicing boots was also equipped with an ice detection system that was approved as the primary ice detection system, the operator could request an alternative method of compliance in accordance with paragraph (b) of the final rule.

16. Request To Require Additional Operational Procedures

Several commenters propose that the FAA consider that minimum speed restrictions be used in conjunction with the early activation of the deicing boots. Some of the commenters specify that these speed additions be applied during landing approach. One of the commenters expresses concern that various reports and research indicate that increasing the angle-of attack with even a small ice formation on the airfoil can cause large increases in drag and loss of lift. The commenter contends that control of the angle-of-attack is critical in maintaining airfoil performance, and concludes that additional operational procedures must be added.

The FAA concurs that certain operational procedures may be beneficial when used with early activation of the deicing boots. As a complement to this AD, the FAA is considering rulemaking regarding minimum speeds in icing conditions. As mentioned previously, the FAA encourages manufacturers to present data via a request for approval of an alternative method of compliance to substantiate that their airplanes are either capable of flying safely with ice that accumulates prior to boot activation, or that they are not capable of flying safely but there are other means to address the unsafe condition. For example, in the case of Cessna Model 560 series airplanes, the stall warning margins were modified to ensure the airplane could safely operate with ice accretions on the protected surfaces. No change is necessary to the final rule in this regard.

17. Request To Mandate Installation of an Ice Detection System

One commenter suggests that a required installation of a reliable ice detection system might alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. The commenter notes that, historically, the problem of ice detection has been the ability of the flightcrew to either identify that the airfoil has ice adhering to it or accurately determine that a certain thickness of ice exists on the airfoil prior to activation of the boot system.

The FAA concurs that installation of a reliable ice detection system would alleviate the difficulties associated with flightcrew recognition of airfoil ice accretions. This issue is being addressed by an ARAC working group. Upon receipt of a recommendation from ARAC, the FAA may consider further rulemaking. In the interim, the FAA is issuing these airworthiness directives to impose a relatively simple deicing boot operational change to address the reduced handling qualities or controllability of the airplane due to ice accumulations on the protected surfaces. No change is necessary to the final rule in this regard.

18. Request To Require Action To Reduce Adhesion Characteristics

One commenter requests that action be taken to minimize or reduce the ice adhesion characteristics of boot material. The commenter asserts that one reason flightcrews may be seeing large amounts of residual ice may be that, as the boot ages, the tendency for residual ice to stick to the boot surface may increase if the adhesion qualities of the boot materials are not properly maintained. In addition, the commenter suggests that the use of certain compounds (*e.g.*, ICEX, an ice-phobic chemical spray) can reduce ice adhesion by substantial margins.

The FAA does not concur with the commenter's request to require rulemaking to reduce adhesion characteristics of boot material. The FAA considers that normal wear and tear on the deicing boot materials is to be expected, and the adhesion characteristics of the boot increases as the boot surface degrades over time. Operators have the responsibility to monitor the performance of the deicing boots installed on their airplanes, and to perform maintenance as required.

The FAA acknowledges that use of certain ice-phobic chemicals may provide an additional safety benefit. However, a variety of factors (*e.g.*, normal wear and tear, "patching," and oxidation of boot material) exist in varying degrees on individual airplanes. As a result, the optimum frequency of application will vary during the life of the boot. The FAA has received no quantitative data to demonstrate the adequacy of particular amounts of ice phobic chemical sprays or to provide adequate intervals of application. Therefore, the FAA cannot establish an appropriate application interval at this time. However, if additional data becomes available, the FAA may consider further rulemaking.

19. Request To Consider the Associated Maintenance Procedures and Increased Costs

Several commenters point out that certain maintenance requirements should be considered if the proposed AFM revision is required. One commenter notes that a detailed review of maintenance procedures should be conducted regarding the deicing boots to ensure that, as the boot ages, the boot system continues to effectively shed ice.

Several commenters request that the FAA also consider the additional costs that the proposed AFM revision would require. One commenter states that the added cycling of the boots will require additional maintenance. The commenters express concern that the boots will wear out faster, need to be replaced at an accelerated rate, and thereby add additional costs.

The FAA acknowledges the concerns of these commenters. The FAA considered the deicing boot fatigue issues surrounding the proposed AD, such as the reliability of the deicing boots. Reliability of the deicing boots is affected by several factors, including: maintenance practices; abrasion during dry air, rain, hail, snow, and icing operations; oxidation; and, fatigue resulting from boot cycling.

However, none of the commenters provided cost estimates for any of the maintenance costs or replacement costs. The FAA did receive certain other information from a large operator of two airplane models that will be affected by this final rule. (One of the airplane models in that fleet currently observes the early-activation procedures required by this final rule and the other airplane model does not.) The operator stated that the largest contributor to periodic replacement of deicing boots on the fleet was erosion of the boot surface, rather than fatigue that would be caused by activation of deicing boots at the first sign of ice accretion.

The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs. In the case of this AD, for example, the requirements are to revise the AFM to include certain information. How operators actually "implement" that information thereafter (once it is placed in the AFM) may vary greatly among them: for some operators, implementation may necessitate extensive retraining among their flightcrews; for others, implementation may merely be considered a typical part of the routine, continuous training of their flightcrews. In light of this, it would be nearly impossible for the FAA to calculate accurately or to reflect all costs associated with the AFM revision required by this AD. The FAA has determined that direct and incidental costs are still outweighed by the safety benefits of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 138 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required AFM revisions, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $8,280, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–19–20 Short Brothers PLC: Amendment 39–11309. Docket 99–NM–154–AD.

Applicability: SD3–30, SD3–60, SD3–SHERPA, and SD3–60 SHERPA series airplanes equipped with pneumatic deicing boots, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that flightcrews activate the wing and tail pneumatic deicing boots at the first signs of ice accumulation on the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD: Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

• Except if the AFM otherwise specifies that deicing boots should not be used for certain phases of flight (*e.g.*, take-off, final approach, and landing), compliance with the following is required.

•Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after completion of an entire deicing cycle after leaving icing conditions.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116 ACO.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116 ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on December 27, 1999.

Issued in Renton, Washington, on November 10, 1999.

John J. Hickey,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30145 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–14]

Amendment to Class D and Establishment of Class E2 Airspace, Fort Rucker, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the amendatory language of a final rule that was published in the **Federal Register** on October 15, 1999, (64 FR 55815), Airspace Docket No. 99–ASO–14.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document DOCID: fr15oc99–5, Airspace Docket No. 99–ASO–14, published on October 15, 1999, (64 FR 55815), amended Class D surface area airspace and established Class E2 surface area airspace at Cairns Army Airfield, Fort Rucker, AL. An error was discovered in the amendatory language identifying the publication in which the airspace is described. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the publication for describing The Cairns Army Airfield, AL Class D surface area airspace and Class E2 surface area airspace at Fort Rucker, AL, as published in the **Federal Register** on October 15, 1999, (64 FR 55815), (Federal Register Document DOCID: fr15oc99–5; page 55815), is corrected as follows:

§ 71.1 [Corrected]

* * * * *

ASO AL D Fort Rucker, AL [Corrected]

By removing "DOD IFR–Supplement"

* * * * *

ASO AL E2 Fort Rucker, AL [Corrected]

By removing "DOD IFR–Supplement"

* * * * *

Issued in College Park, Georgia, on November 3, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 99–30392 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–12]

Revision of Class E Airspace; Point Lay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Point Lay, AK. The establishment of a Nondirectional Radio Beacon (NDB) instrument approach to runway (RWY) 5 and Global Positioning System (GPS) instrument approach procedures to RWY 5 and RWY 23 at Point Lay Airport made this action necessary. This rule provides adequate controlled airspace for aircraft flying IFR procedures at Point Lay, AK.

EFFECTIVE DATE: 0901 UTC, December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Bob Durand, Operations Branch, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

History

On July 30, 1999, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace at Point Lay, AK, was published in the **Federal Register** (64 FR 41358). The proposal was necessary due to the establishment of NDB and GPS instrument approaches at Point Lay, AK. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received. The airspace description, however, had errors in the airport position and the first two coordinates listed. The airport position should read "lat. 69°43′ 58″ N., long. 163° 00′19″ W." The verbiage "bounded by lat. 69°50′30″ N long. 161°41′30″ W, to lat. 69°28′45″ N long. 163°32′30″ W" has been changed to read "bounded by lat. 69°47′45″ N long. 161°37′18″ W to lat. 69°25′00″ N long. 163°30′42″ W". Additionally, the statement "excluding that airspace within V–506" has been added to eliminate chart clutter around the GPS waypoint located on the airway. The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71. The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises the Class E airspace at Point Lay, AK, through the establishment of NDB and GPS instrument approaches. The area will be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Point Lay, AK.

The FAA has determined that these regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Point Lay, AK [Revised]

Point Lay Airport,
(Lat. 69°43′58″N., long. 163°00′19″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Point Lay Airport; and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 69°47′45″ N long. 161°37′18″ W, to lat. 69°25′00″ N long. 163°30′42″ W, to lat. 69°42′35″ N long. 163°57′30″ W, to lat. 70°05′20″ N long. 162°04′35″ W, to the beginning point; and that airspace within 6 miles radius of lat. 68°51′00″ N long 166°00′00″ W; and that airspace 6 miles either side of a line from of lat. 68°51′00″ N long 166°00′00″ W, to lat 69°36′45″ N long. 163°30′ 00″ W; and that airspace 4 miles either side of a line from lat. 69°47′37″ N long. 162°33′03″ W, to lat. 69°05′17″ N long. 159°59′43″ W; excluding that airspace within V–506.

* * * * *

Issued in Anchorage, AK, on November 5, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–30121 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–15]

Establishment of Class E Airspace; Koliganek, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Koliganek, AK. The establishment of Global Positioning System (GPS) instrument approach procedures at Koliganek Airport made this action necessary. The Koliganek Airport status changes from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). This rule provides adequate controlled airspace for aircraft flying IFR procedures at Koliganek, AK.

EFFECTIVE DATE: 0901 UTC, December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Bob Durand, Operations Branch, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On September 2, 1999, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace at Koliganek, AK, was published in the **Federal Register** (64 FR 48123). The proposal was

necessary due to the establishment of GPS instrument approaches at Koliganek, AK. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received, thus, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes the Class E airspace at Koliganek, AK, through the establishment of GPS instrument approaches. The area will be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Koliganek, AK.

The FAA has determined that these proposed regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Koliganek, AK [New]

Koliganek Airport
(Lat. 61°32'11" N., long. 160°20'29" W.)

That airspace extending upward from 700 feet above the surface within 6.3-mile radius of the Koliganek Airport, and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 59° 08' 00" N. long. 158° 30' 00" W., to lat. 59° 55' 00" N. long. 158° 30' 00" W., to lat. 59° 55' 00" N. long. 155° 00' 00" W., to lat. 59° 08' 00" N. long. 155° 00' 00" W., to the point of beginning.

* * * * *

Issued in Anchorage, AK, on November 16, 1999.

Joseph F. Woodford,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–30390 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–45]

Notification of Class E Airspace; Maple Lake, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This section modifies Class E airspace at Maple Lakes, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 28 has been developed for Maple Lake Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, August 27, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Maple Lake, MN (64 FR 46869). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designation for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Maple Lake, MN, to accommodate aircraft executing the proposed GPS Rwy 28 SIAP for Maple Lake Municipal Airport by increasing the radius of the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, the regulation— (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it

is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Maple Lake, MN [Revised]

Maple Lake Municipal Airport, MN
(Lat. 45°14′10″ N., long. 93°59′08″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Maple Lake Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on November 4, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–30391 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–44]

Establishment of Class E Airspace; Batesville, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Batesville, IN. A Transponder Landing System (TLS) Standard Instrument. Approach Procedure (SIAP) to Runway (Rwy) 36 has been developed for Hillenbrand Industries Airport. Controlled airspace extending upward from 100 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, August 27, 1999, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Batesville, IN (64 FR 46870). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Batesville, IN, to accommodate aircraft executing the proposed TLS Rwy 36 SIAP Hillenbrand Industries Airport by creating controlled airspace. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 CFR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is routine matter that will only affect six traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Com., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Batesville, IN [New]

Batesville, Hillenbrand Industries Airport, IN
(Lat. 39°20′40″ N., long. 85°15′30″ W.)

That airspace extending upward from 700 feet above the surface within an 6.5-mile radius of the Hillenbrand Industries Airport, excluding that airspace within the Greensburg, IN, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on November 4, 1999.

Christopher R. Blum,

Manager, Air Traffic Division

[FR Doc. 99–30393 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–46]

Modification of Class E Airspace; Fort Wayne, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Fort Wayne, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 13 has been developed for Smith Field Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action enlarges the existing controlled airspace to the north for this airport.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60081, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, August 27, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Fort Wayne, IN (64 FR 46868). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Fort Wayne, IN, to accommodate aircraft executing the proposed GPS Rwy 13 SIAP for Smith Field Airport by enlarging the existing controlled airspace to the north. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 Feet or more above the surface of the earth.

* * * * *

AGL IN E5 Fort Wayne, IN [Revised]

Fort Wayne VORTAC
(Lat. 40°58′45″ N., long. 85°11′17″ W.)
Fort Wayne, Smith Field Airport, IN
(Lat. 41°08′36″ N., long. 85°09′10″ W.)

That airspace extending upward from 700 feet above the surface within a 14.8-mile radius of the Fort Wayne VORTAC, and within a 16.1-mile radius of the Fort Wayne VORTAC, extending from the Fort Wayne VORTAC 194° radial clockwise to the Fort Wayne VORTAC 335° radial, and within a 6.3-mile radius of the Smith Field Airport, and within 2.0 miles each side of the 308° bearing from the airport, extending from the 6.3-mile radius to 7.6 miles northwest of the airport.

* * * * *

Issued in Des Plaines, Illinois on November 4, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–30394 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR–4449–F–02]

RIN 2506–AC00

Community Development Block Grant (CDBG) Program; Clarification of the Nature of Required CDBG Expenditure Documentation; Final Rule

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: On July 15, 1999, HUD published an interim rule that clarifies the level of expenditure documentation that Community Development Block Grant (CDBG) grantees and subrecipients must maintain to identify the use of CDBG funds provided for assisted activities. This change provides the public with more assurance that CDBG funds are used only for allowable purposes. This rule makes final the amendments made by the July 15, 1999 interim rule, and takes into consideration the public comment received on the interim rule. HUD has adopted the interim rule without change.

DATES: *Effective Date:* December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sue Miller, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7282, Washington, DC 20410; telephone (202) 708–1577 (this number is not toll-free). Persons with hearing or speech-impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. The July 19, 1999 Interim Rule

On July 19, 1999 (64 FR 38812), HUD published an interim rule that clarified the level of expenditure documentation that Community Development Block Grant (CDBG) grantees and subrecipients must maintain to identify the use of CDBG funds provided for assisted activities. The lack of appropriate documentation increases the potential for misuse of CDBG funds. The change made by the July 19, 1999 interim rule provides the public with more assurance that CDBG funds are used only for allowable purposes.

OMB Uniform Administrative Requirements for grants to local governments and nonprofit organizations have long required that grantees and subrecipients maintain records which adequately identify the source and application of funds provided for financially-assisted activities. This requirement is found at 24 CFR 85.20(b)(2) for local governments and at 24 CFR 84.21(b)(2) for nonprofit organizations. These requirements are specifically made applicable to the CDBG program by 24 CFR 570.502(a)(4) and 24 CFR 570.502(b)(3), respectively. The CDBG regulations at § 570.506(h) also require maintaining financial records in accordance with the applicable requirements listed in § 570.502.

The interim rule amended § 570.506(h) to clarify the level of documentation that is needed for grantees and subrecipients to demonstrate compliance with the existing financial management requirements in 24 CFR parts 84 and 85 relating to maintaining adequate records to identify the use of funds provided for assisted activities. A broad range of types of documentation is described in an effort to reflect the myriad of different activities and financing mechanisms that can be undertaken with CDBG funds.

The preamble to the July 19, 1999 interim rule provides additional details regarding the amendment to HUD's CDBG program regulations at § 570.506(h).

II. Discussion of Public Comment Received on the July 19, 1999 Interim Rule

The public comment period on the July 19, 1999 interim rule closed on September 17, 1999. By close of business on that date, HUD had received a single public comment on the interim rule. The public commenter expressed support of the interim regulatory amendment. The commenter wrote that "[g]rantees should not have difficulty maintaining evidence to support how CDBG funds provided to for-profit entities are expended." Accordingly, HUD has adopted the amendments made by the interim rule without change.

III. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2506–0077. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a substantial economic impact on small entities. This final rule will have no economic impact on small entities since it is a clarification of existing policy.

Environmental Impact

This amendment is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321). In keeping with the exclusion provided for in 24 CFR 50.19(c)(1), this amendment does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction; or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(2), this amendment is categorically excluded because it amends an existing document where the existing document as a whole would not fall under the exclusion in 24 CFR 50.19 (c)(1), but the amendment by itself would do so.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the Community Development Block Grants program are 14.218, 14.219, 14.225, 14.227, 14.246, and 14.248.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Northern Mariana Islands, Pacific Islands Trust Territory, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid, Virgin Islands.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Accordingly, the interim rule amending 24 CFR part 570, which was published at 64 FR 38812 on July 19, 1999, is adopted as a final rule without change.

Dated: November 16, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 99–30366 Filed 11–19–99; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–143–FOR; State Program Amendment No. 98–5]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed revisions to rules

concerning revegetation standards for success for nonprime farmland for surface and underground coal mining and reclamation operations under Indiana Code (IC) 14–34. Indiana intends to revise its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521. Telephone (317) 226–6700. Internet: INFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, 914.16, and 914.17.

II. Submission of the Proposed Amendment

By letter dated August 2, 1999 (Administrative Record No. IND–1664), Indiana sent us an amendment to its program under SMCRA. This amendment replaces State Program Amendment No. 95–2, which we approved in the May 30, 1995, **Federal Register** (60 FR 28069). Indiana sent the amendment, which amends the Indiana Administrative Code (IAC), at its own initiative.

We announced receipt of the amendment in the August 16, 1999, **Federal Register** (64 FR (44448)). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on September 25, 1999. Because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment.

A. Withdrawal of Previously Approved Amendment

Indiana notified us in its letter dated July 24, 1997 (Administrative Record No. IND–1670), that the statutory time frame for approving State Program Amendment No. 95–2 had expired prior to final approval. We approved this amendment, dated May 3, 1995 (Administrative Record No. IND–1460), on September 14, 1995 (60 FR 47692). Since Indiana did not adopt the amendment, we are removing our approval and amending 30 CFR 914.15 to reflect this decision.

B. 310 IAC 12–5–64.1 (Surface) and 12–5–128.1 (Underground) Revegetation Standards for Success for Nonprime Farmland

Since the revisions proposed for surface mining at § 12–5–64.1(c) are identical to those being proposed for underground mining at § 12–5–128.1(c), they will be combined for ease of discussion. These subsections provide the standards for success which are to be applied under the approved postmining land uses.

1. Organizational and Reference Changes

Indiana proposed paragraph notation changes to reflect the organizational changes made throughout subsections (c). Additionally, Indiana proposed revisions throughout subsections (c) to correct the reference to the "Soil Conservation Service" to the "Natural Resources Conservation Service."

We find that the organizational and reference changes do not render the Indiana regulations at 310 IAC 12–5–64.1/128.1 less effective than the Federal regulations at 30 CFR 816.116/817.116.

2. Redesignations

Indiana proposed to redesignate existing subsections (c)(5), (c)(6), (c)(7), and (c)(8) as subsections (c)(4), (c)(5), (c)(6), and (c)(7), respectively. We find that the proposed redesignations do not render the Indiana regulations at 310 IAC 12–5–64.1/128.1 less effective than the Federal regulations at 30 CFR 816.116/817.116.

3. Relocation of Existing Provisions

Indiana proposed to delete the provisions at existing subsections (c)(4) and redesignated subsections (c)(6). These provisions require that if current Natural Resources Conservation Service predicted yield by soil map units are used to determine production of living plants, then the standard for success shall be a weighted average of the predicted yields for each unmined soil type which existed on the permit areas at the time the permit was issued. Indiana proposed to relocate these provisions to existing subsections (c)(3)(B) and redesignated subsections (c)(5)(B).

Indiana also proposed to delete the provisions at redesignated subsections (c)(6) which require that once the method for establishing the standards has been selected, it may not be modified without the approval of the director of IDNR. Indiana proposed to relocate these provisions to redesignated subsections (c)(5)(E).

We find that Indiana's relocation of these provisions does not render the Indiana regulations less effective than the Federal regulations and are approving the modifications.

4. Subsections (c)(3)(C), Pastureland Production Success Standards Methodology

Indiana proposed to delete the language in existing subsections (c)(3)(C) for determining production of living plants on pastureland and replace it with the following:

> (C) A target yield determined by the following formula: Target Yield = NRCS Target Yield × (CCA/10 Year CA) where: NRCS Target Yield = the average yield per acre, as predicted by the Natural Resources Conservation Service, for the crop and the soil map units being evaluated. The most current yield information at the time of permit issuance shall be used, and shall be contained in the appropriate sections of the permit application. CCA = the county average for the crop for the year being evaluated as reported by the United States Department of Agriculture crop reporting service, the Indiana Agricultural Statistics Service. 10 Year CA = the ten (10) Year Indiana Agricultural Statistics Service county average, consisting of the year being evaluated and the nine (9) preceding years.

The Federal regulations at 30 CFR 816/817.116(a)(2) require standards for success to include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. As discussed in the May 29, 1992, **Federal Register** (57 FR 22655), Indiana's average county yield data contains data of yields from previously mined lands. In letters dated February 26, 1992 (Administrative Record No. IND–1036 and IND–1037), OSM asked Indiana to clarify the use of this data. In letters dated March 20, 1992 (Administrative Record No. IND–1051 and IND–1052), Indiana stated that the amount of previously mined acreage

being farmed is so limited that the inclusion of these yields essentially has no impact upon the overall yields calculated for the county average. Indiana also stated that it used the average county yield data as a weather correction factor applied to predicted soil mapping unit yields.

In the May 29, 1992, **Federal Register** (57 FR 22655, finding No. 1.c.), we found that the use of the Indiana average county yield data as the sole standard for determining success of revegetation would be less effective than the Federal regulations at 30 CFR 816/817.116(a)(2). However, we found that the use of Indiana's average county yield data as a correction factor would not be inconsistent with the Federal regulations.

The currently proposed methodology is an acceptable way to calculate production standards for non-prime farmland pastureland. This method adjusts the weighted production standard based on soil type by using a factor derived by the county average and an average of the historical county average. The weighted production standard is already approved in the Indiana program and the adjustment of this standard by county average data is reasonable. Thus, we find that the proposed method for calculating success standards on nonprime farmland pasture at 310 IAC 12–5–64.1/128.1(c)(3)(C) is no less effective than the Federal requirements for success standards at 30 CFR 816/817.116(a)(2).

5. Subsections (c)(3)(D) and (c)(5)(D), Other Success Standards

Indiana proposed to add subsections (c)(3)(D) and (c)(5)(D) to allow other methods approved by the director of the Indiana Department of Natural Resources (IDNR) to be used in determining success of production of living plants on revegetated nonprime farmland pasture land. This language has the same meaning as the language Indiana deleted at subsections (c)(3)(C) and (c)(5)(C). We previously approved the provisions at (c)(3)(C) and (c)(5)(C) on May 29, 1992 (57 FR 22655), with the understanding that Indiana will request our approval of other methods before using them in the Indiana program. By letters dated March 20, 1992 (Administrative Record No. IND–1051 and IND–1052), Indiana stated the IDNR will request OSM's approval for other standards prior to their use in the Indiana program if they vary significantly from the approved standards. Because the addition of the provisions at subsections (c)(3)(D) and (c)(5)(D) does not substantially change the approved Indiana program, we are approving them.

6. Subsections (c)(5)(C), Cropland Production Success Standards Methodology

At redesignated subsections (c)(5)(C), Indiana proposed to delete the existing language for determining production of living plants on cropland and replace it with the following:

(C) A target yield determined by the following formula: Target Yield = CCA × (NRCSP/NRCSC) where: CCA = the county average for the crop for the year being evaluated as reported by the United States Department of Agriculture crop reporting service, the Indiana Agricultural Statistics Service. NRCSP = the weighted average of the current Natural Resources Conservation Service predicted yield for each croppable, unmined soil which existed on the permit at the time the permit was issued. NRCSC = the weighted average of the current Natural Resources Conservation Service predicted yield for each croppable, unmined soil which is shown to exist in the county on the most current county soil survey. A croppable soil is any soil which the Natural Resources Conservation Service has defined as being in capability class I, II, III, or IV.

The Federal regulations at 30 CFR 816/817.116(a)(2) require that standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. The above discussion in finding No. B.4, pertaining to Indiana's average county yield data containing data of yields from previously mined lands is also relevant to this proposed revision. As discussed in finding No. B.4, we had previously found that the use of Indiana's average county yield data as a correction factor was not inconsistent with the Federal regulations.

Indiana's currently proposed methodology would modify the county average by a factor that uses the NRCS predicted standard for permitted unmined soils and an NRCS predicted standard that excludes mined land. Therefore, we are approving the provisions proposed at 310 IAC 12–5–64.1/128.1(c)(5)(C).

IV. Summary and Disposition of Comments

Public Comments

OSM requested public comments on the proposed amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND–1665). By letter dated September 20, 1999, the Mine Safety and Health Administration (MSHA) responded to our request by stating that the proposed amendment does not conflict with MSHA regulations or policies (Administrative Record No. IND–1675).

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IND–1665). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On August 9, 1999, we requested comments on Indiana's amendment (Administrative Record No. IND–1665), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Indiana on August 2, 1999. We approve the rules that Indiana proposed with the provision that they be published in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 914, which codify decisions concerning the Indiana program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Indiana to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

For reasons discussed in finding III.A., we are also amending 30 CFR Part 914 by removing the approval of an amendment that Indiana submitted on May 3, 1995.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 4, 1999.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended in the table by removing the entire entry having the date "May 3, 1995" in the "Original amendment submission date" column, and by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
August 2, 1999	November 22, 1999	310 IAC 12–5–64.1(c) and 128.1(c).

[FR Doc. 99–30358 Filed 11–19–99; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–044–FOR]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving proposed amendments to the Maryland regulatory program (Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments consist of revisions to the Maryland regulations regarding the design, construction and maintenance of haul roads. The amendments are intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh PA 15220. Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 18, 1982, **Federal Register** (47 FR 7214). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 920.12, 920.15 and 920.16.

II. Submission of the Proposed Amendment

Maryland provided an informal amendment to OSM regarding the design, construction and maintenance of haul roads in a letter dated August 4, 1998. OSM completed its review of the

informal amendment and submitted comments to Maryland in a letter dated May 19, 1999. By letter dated May 27, 1999 (Administrative Record No. MD–581–00), Maryland submitted its response to OSM's comments in the form of a proposed amendment to its program pursuant to SMCRA.

OSM announced receipt of the proposed amendment in the July 16, 1999 **Federal Register** (64 FR 38392), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on August 16, 1999.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment. Revisions not specifically discussed below concern paragraph notations to reflect organizational changes resulting from this amendment.

1. COMAR 26.20.01.02B Definitions

The existing definition at (82), "road" is modified by adding the words "surface coal" before "mining and reclamation operations"; adding the words "and from" after "leading to"; deleting the phrase "and such contiguous appendages as are necessary for the total structure"; and deleting the reference to active spoil disposal areas and substituting the phrase that "road" does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas. The Director finds that the definition is now substantively identical to and therefore no less effective than the definition of "road" contained in the Federal Regulations at 30 CFR 701.5.

2. COMAR 26.20.02.13 Description of Proposed Mining Operations

Paragraph BB.(1) is modified by adding the following requirements: design drawings, and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low water crossings, and drainage structures;

Existing paragraph BB.(2) is deleted and new paragraph BB.(2) is added to require that each permit application include:

Drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream, as necessary for approval of the road by the Bureau in accordance with COMAR 26.20.19;

New paragraph BB.(3) is added to require that each permit application include:

Drawings and specifications for each proposed ford of perennial or intermittent streams that is used as a temporary route, as necessary for approval of the ford by the Bureau in accordance with COMAR 26.20.19;

Existing paragraph BB.(3) is renumbered as BB.(4).

Existing paragraph BB.(5) is deleted and replaced with the following permit application requirement:

Drawings and specifications for each low-water crossing of perennial or intermittent stream channels so that the Bureau can maximize the protection of the stream in accordance with COMAR 26.20.19:

Existing paragraph BB.(4) is renumbered as BB.(6).

New paragraph BB.(7) is added to require that each permit application include:

A description of the plans to remove and reclaim each road that will not be retained under an approved postmining land use, and the schedule for this removal and reclamation; and

New paragraph BB.(8) is added to require that each permit application include:

Design and certification of the plans and drawings for each primary road by a qualified registered professional engineer in accordance with COMAR 26.20.19.01G.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 780.37(a) and (b).

New paragraph CC. is added to require that each permit application include:

A description of each support facility to be constructed, used, or maintained within the proposed permit area, including plans and drawings. The plans and drawings shall include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate compliance with COMAR 26.20.19.08 and .09.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 780.38.

3. COMAR 26.20.19.01 General

New paragraphs A., B., and C. are added as follows:

A. Each road, as defined in §§ B and C of this regulation shall be classified as either a primary road or an ancillary road.

B. A primary road is any road which is:

(1) Used for transporting coal or spoil;

(2) Frequently used for access or other purposes for a period in excess of six months: or

(3) To be retained for an approved postmining land use.

C. An ancillary road is any road not classified as a primary road.

Existing paragraph A. is re-lettered as D. and further modified by adding the word "locate" before "design, construction..." and deleting the phrase "control or minimize erosion and siltation, air and water pollution, and damage to public or private property." Also, new subparagraphs "1" through "7" are added. With the modifications, paragraph D states that:

Each person who conducts surface mining activities shall locate, design, construct or reconstruct, utilize, and maintain roads and restore the area to meet the requirements of the Regulatory Program to:

(1) Control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices;

(2) Control or prevent damage to fish, wildlife, or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause nor contribute to, directly or indirectly, the violation of State or federal water quality standards applicable to receiving streams;

(5) Refrain from seriously altering the normal flow of water in stream beds or drainage channels;

(6) Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects on lands within the boundaries of units of the National Park System, the National Wildlife Refuge System; the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Act of the U.S. Congress; and

(7) Use nonacid and nontoxic-forming substances in road surfacing.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.150(a) and (b).

Existing paragraph B. is deleted and existing paragraph C. is re-lettered as E.

Existing paragraph D. is deleted and new paragraphs F. and G. are added as follows:

F. The plans and drawings for primary roads shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer as meeting the requirements of this chapter and any prudent engineering practices. The Director finds that this paragraph is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 780.37(b).

G. The construction or reconstruction of primary roads shall be certified in a report to the Bureau by a qualified registered professional engineer. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan. The Director finds that this paragraph is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151(a).

4. COMAR 26.20.19.02 Location

This section is now re-titled Location of Primary Roads.

Paragraph A. is modified to include the word "primary," so that the paragraph, as modified, states that "[P]rimary roads shall be located, insofar as possible, on the most stable available areas to minimize erosion."

Paragraph B. is modified by adding the phrase "in accordance with the applicable requirements of COMAR 26.20.20 and COMAR 26.20.21.02, .03, and .04." As modified, the paragraph states that "[N]o part of any roads may be located in the channel of an intermittent or perennial stream unless specifically approved by the Bureau in accordance with the applicable requirements of COMAR 26.20.20 and COMAR 26.20.21.02, .03, and .04."

Paragraph C. is modified by including the phrase "on perennial or intermittent streams by primary roads." As modified, the first sentence of paragraph C states that "[S]tream fords on perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Bureau as temporary routes during periods of construction."

The Director finds that the changes to Paragraphs A., B., and C., above, render those paragraphs substantively identical to and therefore no less effective than the Federal regulations at 30 CFR 816.151(c)(1), 816.150(d)(1) and 816.151(c)(2), respectively.

5. COMAR 26.20.19.03 Design and Construction

This section is re-titled as Design and Construction of Primary Roads and paragraph A. is modified to include the word "primary." As modified, the paragraph states that "[P]rimary roads shall be designed and constructed or reconstructed in compliance with the standards of this regulation in order to control subsequent erosion and disturbance of the hydrologic balance." While this paragraph has no precise Federal counterpart, the Director finds that, as modified, the paragraph is consistent with the Federal regulations at 30 CFR 816.151.

Paragraph D., Road Embankments, is modified by adding the following subparagraphs:

(9) Each primary road embankment shall have a minimum static safety factor of 1.3. The Director finds that this proposal is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151(b).

(10) Each road embankment shall be constructed of fill material that contains sufficient moisture content to achieve proper compaction.

(11) A primary road embankment that is designed and constructed to meet the criteria of this section with an embankment slope not steeper than 2:1 and a foundation slope equal to or less than 25 percent shall be considered to meet the minimum static safety factor under § D(9)of this regulation.

As a result of its technical review of the informal proposed rule submitted on August 4, 1998, OSM recommended that Maryland prepare a stability analysis for road embankments. Specifically, OSM recommended that the analysis be revised to specify the angle of the side slopes and the phreatic surface in the embankment to reflect conditions to be found in a road embankment. Additionally, OSM recommended that the moisture content of the embankment material should be specified as adequate to achieve the required dry density compaction associated with the assumed soil strengths. Maryland's formal submittal addresses OSM's concerns, and the Director finds that the proposal is consistent with the Federal Regulations at 30 CFR 780.37(c) and 816.151(b) because the engineering design standards proposed in subparagraph (11) will ensure compliance with the 1.3 minimum static safety factor requirement.

6. COMAR 26.20.19.04 Drainage

This section is re-titled as Drainage Control for Primary Roads.

Subparagraph A.(1) is modified by adding the word "primary" before the word "road," by adding "bridges" to the list of structures used in a primary road drainage control system, by substituting the word "drainage" for water, and by substituting a 2-year 24-hour precipitation event for the existing 1 year. As modified, paragraph A.(1) states that:

> Each primary road shall be designed, constructed or reconstructed, and maintained to have adequate drainage, using structures such as but not limited to bridges, ditches, cross drains, and ditch relief drains. The drainage control system shall be designed to safely pass peak runoff from a 2-year, 24-hour precipitation event.

The Federal regulations at 30 CFR 816.151(d)(1) require that the drainage control system be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the regulatory authority. As part of its informal submittal of this proposed amendment dated August 4, 1998, Maryland provided a comparison study to OSM showing that drainage control structures designed to safely pass the 2-year, 24 hour storm results in safer structures than those designed using the 10-year, 6-hour storm. (Administrative Record No. MD–581–04). OSM reviewed this study and found the criteria to be acceptable. (Administrative Record No. MD–581–05). Therefore, the Director finds that the modifications to subparagraph A.1. do not render it less effective than the Federal regulations at 30 CFR 816.151(d)(1).

Existing subparagraph 2. is deleted and a new subparagraph 2. is added as follows: Drainage pipes and culverts shall be installed as designed and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets. The Director finds that subparagraph 2, as modified, is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151(d)(2).

New subparagraphs (3) and (4) are added as follows:

(3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment.

(4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road. The Director finds that subparagraphs (3) and (4) are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151 (d)(3) and (d)(4).

Paragraph C., Culverts, is modified by substituting a 2-year 24-hour precipitation event for the existing 1 year. As modified, the first sentence of the paragraph states that "[C]ulverts shall be designed to safely pass a 2-year, 24-hour precipitation event." The Federal regulations at 30 CFR 816.151(d)(1) require that drainage control systems be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the regulatory authority. Maryland's comparison study referenced above showed that drainage control structures designed to safely pass the 2-year, 24 hour storm results in safer structures than those designed using the 10-year, 6-hour storm criteria. As mentioned previously, OSM performed a technical review of these criteria and found them to be acceptable. (Administrative Record No. MD–581–05). Therefore, the Director finds that paragraph C, as modified, remains no less effective than the Federal regulations at 30 CFR 816.151(d)(1).

7. COMAR 26.20.19.06 Maintenance

New paragraph D. is added as follows:

A road damaged by a catastrophic event, such as a flood, shall be repaired as soon as is practicable after the damage has occurred.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.150(e)(2).

8. COMAR 26.20.19.07 Removal of Roads

This section is re-titled as Reclamation of Roads.

The existing paragraph is deleted and replaced with the following:

A road not to be retained under an approved postmining land use shall be reclaimed in accordance with the approved reclamation plan as soon as practicable after it is no longer needed for mining and reclamation operations. This reclamation shall include:

(1) Closing the road to traffic;

(2) Removing all bridges and culverts, unless approved as part of the postmining land use;

(3) Removing or disposing of road surfacing materials that are incompatible with the postmining land use and revegetation requirements;

(4) Reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain;

(5) Protecting the natural drainage pattern by installing dikes or cross drains, as necessary, to control surface runoff and erosion; and

(6) scarifying or ripping the roadbed, replacing topsoil or substitute material, and revegetating disturbed surfaces.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.150(f).

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Maryland program. In a letter dated July 23, 1999 (Administrative Record No. MD–581–02), the U.S. Army Corps of Engineers noted that the proposed amendment requires submission of documentation of compliance with COMAR to the Bureau. The U.S. Army Corps of Engineers suggested that this responsibility be shifted to the permittee by requiring the use of agents, if appropriate, that are considered capable of fulfilling the Bureaus servicing needs. The Director notes that the existing Federal regulations require that such documentation be submitted to the regulatory authority, which, in Maryland, is the Maryland Department of the Environment, Water Management Administration, Bureau of Mines.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

The Director has determined that this amendment contains no such provisions and that EPA concurrence is therefore unnecessary. Also, EPA did not respond to OSM's request for comments.

V. Director's Decision

The Federal regulations at 30 CFR Part 920, codifying decisions concerning the Maryland program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal

which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 4, 1999.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 920.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 920.15 Approval of Maryland regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
May 27, 1999	November 22, 1999.	COMAR 26.20.01.02B(82), 26.20.02.13 BB(1) through BB(8)&CC, 26.20.19.01A through G, 26.20.19.02 A, B&C, 26.20.19.03 A&D, 26.20.19.04 A(1) through (4)&C, 26.20.19.06D, 26.20.19.07(1) through (6).

[FR Doc. 99–30357 Filed 11–19–99; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–246–FOR]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Ohio regulatory program (Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio is proposing revisions to section 1501:13–1–04 of the Ohio Administrative Code (OAC) as it relates to exemptions for coal extraction incidental to government-financed highway or other construction. The amendment is intended to revise the Ohio program to include counterparts to the recently promulgated "AML Enhancement Rule," which revised the Federal regulations at 30 CFR 707.5 and added a new provision, at 30 CFR 874.17.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh PA 15220. Telephone: (412) 937–2153. Internet: grieger@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the August 10, 1982, **Federal Register** (47 FR 34688). You can find later actions on conditions of approval and program amendments at 30 CFR 935.11, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated March 16, 1999 (Administrative Record No. OH–2178–00) Ohio submitted a proposed amendment to its program concerning exemptions for coal extraction incidental to government-financed highway or other construction. Ohio submitted the proposed amendment at its own initiative, in order to incorporate into its program the expanded exemption recently promulgated in the Federal regulations at 30 CFR 707.5, as part of the "AML Enhancement Rule." Under this rule, approved Title IV abandoned mine land (AML) projects under SMCRA which involve incidental coal extraction and are less than 50 percent government financed may qualify for exemption. Projects which qualify for this expanded exemption must also meet the newly promulgated requirements contained in 30 CFR 874.17. (64 FR 7470, February 12, 1999). The proposed amendment was announced in the April 16, 1999, **Federal Register** (64 FR 18857). The initial comment period closed on May 17, 1999.

By letter dated July 9, 1999 (Administrative Record No. OH–2178–06), Ohio submitted a revised and final version of the proposed amendment. Ohio made this more recent submittal in response to an OSM, July 1, 1999, issue letter (Administrative Record No. OH–2178–05). In the letter, OSM had requested that the amendment clearly restrict exemptions to projects that are AML eligible, and clearly require that the exempted reclamation project be conducted in accordance with the provisions of 30 CFR Subchapter R.

III. Director's Findings

The following are changes to OAC Section 1501:13–1–04 made in the final submission of the proposed amendment. Revisions concerning nonsubstantive wording, format, or organizational changes will not be described in this notice.

OAC 1501:13–1–04 Exemption for coal extraction incidental to government financed highway or other construction.

(a) The following sentence has been added to Subsection (A) (3): "Funding at less than 50 percent may qualify if the project is eligible under 1513:37 of the revised code and the construction is undertaken as an approved reclamation project under Section 1513.30 or 1513.37 of the Revised Code."

(b) New Subsection (C) is added and reads as follows:

(C) Requirements for approved reclamation projects under section 1513.30 and 1513.37 of the Revised Code with less than 50 percent government financing.

(1) Determinations. The Division of Mines and Reclamation shall determine:

(i) The likelihood of the coal being mined under a permit issued under Section 1513.07 of the Revised Code considering the coal reserves from existing mine maps or other sources, the existing environmental conditions, all prior mining activity on or adjacent to the site, current and historic coal production in the area, and any known or anticipated interest in mining the site;

(ii) The likelihood that nearby or adjacent mining activities might create new environmental problems or adversely affect existing environmental problems at the site; and

(iii) The likelihood that reclamation activities at the site might adversely affect nearby or adjacent mining activities.

(2) Concurrence. The regulatory program coordinator and the abandoned mine lands program coordinator must concur on determinations of the limits on any coal refuse, coal waste, or other coal deposits which can be extracted under this exemption and in the delineation of the boundaries of the AML project.

(3) Documentation. The AML case file must include the determinations made under paragraph (1) and (2) of this rule, the information taken into account in making these determinations, and the names of the parties making the determinations.

(4) Special Requirements. For each exempt project the division must:

(i) Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrologic balance;

(ii) Ensure that the reclamation project is conducted in accordance with the provisions of the AML program and procedures as approved by the U.S. Secretary of Interior under 30 CFR Subchapter R;

(iii) Develop site-specific reclamation requirements, including performance bonds when appropriate in accordance with approved AML procedures; and

(iv) Require the contractor conducting the reclamation to provide prior to the time reclamation begins applicable documents that clearly authorize the extraction of coal and payment of royalties.

(5) Limitations. If the reclamation contractor extracts coal beyond the limits of the incidental coal specified in paragraph (C)(2) of this rule, the contractor must obtain a permit under section 1513.07 of the Revised Code for such coal.

The changes described above revise the OAC to correspond with revisions to the Code of Federal Regulations at 30 CFR 707 and 874 as published in the February 12, 1999, **Federal Register**, 64 FR 7470. The Director finds that the revisions do not render OAC section 1501:13–1–04 inconsistent with section 528 (2) of SMCRA (30 U.S.C. 1278), and that they are substantively identical to the changes to the Federal regulatory definition of "government-financed construction" at 30 CFR 707.5 and to the Federal provision at 30 CFR 874.17, both of which were promulgated on February 12, 1999. 64 FR 6470.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Because no one requested an opportunity to speak at a public hearing, no hearing was held. No comments were received.

Ohio Historical Preservation Office (OHPO)

Pursuant to 30 CFR 732.17(h)(4), the Director solicited comments on the proposed amendment from the OHPO with respect to actual or potential effects of the amendment on historic and cultural properties in the state. In accordance with the National Historic Preservation Act (NHPA), as amended (16 U.S.C. 470), the OHPO recommended the addition of language to the amendment to ensure the review determinations include the completion of coordination with the OHPO prior to initiation of the excavation and/or reclamation activities (Administrative Record No. OH–2178–04).

In response, we note that the consultation requirements of the NHPA will apply if the approval of a reclamation project involving incidental coal extraction constitutes a "Federal undertaking," as that term is defined at 36 CFR 800.2(o). Therefore, we do not believe the additional language recommended by the OHPA is necessary. Moreover, as discussed in the Finding above, the proposed amendment is substantively identical to its Federal counterparts at 30 CFR 707.5 and 874.17.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Ohio program. The Department of the Army, Army Corps of Engineers, concurred without comment (Administrative Record No. OH–2178–02). No other comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions Ohio proposed to make in its amendment pertains to air or water quality standards. Nevertheless, OSM requested EPA's comments on the proposed amendment. EPA had no comments to offer (Administrative Record OH–2178–03).

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as revised on July 9, 1999.

The Federal regulations at 30 CFR part 935 codifying decisions concerning the Ohio program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 8, 1999.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 935.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 935.15 Approval of Ohio regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
. . . . .	. . . . .	. . . . .
March 16, 1999	November 22, 1999	OAC 1501:13–1–04

[FR Doc. 99–30356 Filed 11–19–99; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ37–2–203; FRL–6477–3]

Approval and Promulgation of Air Quality Implementation Plans; New Jersey; Approval of Carbon Monoxide State Implementation Plan Revision; Determination of Carbon Monoxide Attainment; Removal of Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's action, the EPA is finalizing its determination that the New York—Northern New Jersey—Long Island carbon monoxide nonattainment area has attained the carbon monoxide National Ambient Air Quality Standards. As a consequence of this determination, EPA is approving a State Implementation Plan revision submitted by the State of New Jersey on August 7, 1998. The intended effect of the revision is to remove New Jersey's oxygenated gasoline program as a carbon monoxide control measure from the State's SIP.

EFFECTIVE DATE: This rule will be effective November 22, 1999.

ADDRESSES: Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street. CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Michael P. Moltzen, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–3710.

SUPPLEMENTARY INFORMATION: EPA is determining that the New York—Northern New Jersey—Long Island carbon monoxide (CO) nonattainment area [1] has attained the health-related CO National Ambient Air Quality Standards (NAAQS). EPA is also determining that New Jersey's winter-time oxygenated gasoline (oxyfuel) program is no longer needed to ensure that air quality levels remain healthful. As a consequence of

[1] This area is comprised of counties in Northern New Jersey, downstate New York and Southwestern Connecticut. The Connecticut portion of the area was redesignated to attainment on March 10, 1999 at 64 FR 12005. The remainder of the area is still designated nonattainment.

these determinations, EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Jersey on August 7, 1998. That revision removes New Jersey's oxyfuel program as a CO control measure from the State's CO SIP. It has been determined that the program is no longer necessary to keep ambient CO concentrations below the CO NAAQS. For detail regarding this determination, the reader is referred to the proposal for today's action, published in the September 9, 1999 **Federal Register** (64 FR 48970). It should be noted that there were no adverse comments associated with the proposed removal of the winter-time oxyfuel program.

Additional details regarding the applicability of the oxyfuel program in New Jersey, EPA's authority to approve oxyfuel removal from a state's SIP, and the further demonstration that oxyfuel removal from the New York and Connecticut parts of the area, as well as New Jersey, is now technically justifiable and appropriate and will maintain healthy CO air quality concentrations, can be found in the proposal for this action and a similar proposal on New York's oxyfuel program, published in the October 8, 1999 **Federal Register** (64 FR 54851).

Conclusion

EPA is taking final action to approve New Jersey's August 7, 1998 SIP revision to remove the State's oxygenated gasoline program from the federally approved SIP. EPA's authority to approve removal of a state's oxyfuel program is set forth at Clean Air Act section 211(m)(6). EPA has determined that the criteria of section 211(m)(6) have been satisfied and removal of the oxyfuel program at this time is appropriate.

EPA is making its approval of today's action effective upon the date of publication in the **Federal Register**, based upon a finding of good cause. Approval of this action would give final assurance of fuel specification requirements to the industry supplying gasoline to New Jersey. Due to the impending oxyfuel program start date of November 1, on September 17, 1999, EPA issued "no enforcement action assurance" for New Jersey until this SIP change was effective, or until the scheduled end of the program on February 29, whichever came first. Good cause for making this rule effective upon publication is to remove, as soon as possible, the need for EPA's commitment not to enforce the oxyfuel program in New Jersey. Good cause is also to provide, as soon as possible, normal regulatory assurance regarding fuel specifications which is desired by industry.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Orders on Federalism

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987)), on federalism still applies. This rule will not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612. The rule affects only two states, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) Concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This SIP revision is not subject to E.O. 13045 because it finalizes approval of a state program revision, and it is not economically significant under E.O. 12866.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to state, local, or tribal governments, in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action does not include a federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action proposes to approve amendments to state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 21, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

Dated: November 8, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-*et seq.*

Subpart FF—New Jersey

2. Section 52.1570 is amended by adding new paragraph (c)(68) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(68) Revisions to the New Jersey State Implementation Plan (SIP) for carbon monoxide concerning the oxyfuel program, dated August 7, 1998, submitted by the New Jersey State Department of Environmental Protection (NJDEP).

(i) Incorporation by reference:

Amendments to Title 7, Chapter 27 of the New Jersey Administrative Code Subchapter 25, "Control and Prohibition of Air Pollution by Vehicular Fuels," effective August 17, 1998 (as limited in section 52.1605).

3. Section 52.1605 is amended by revising the entry for Subchapter 25 under the heading Title 7, Chapter 27, to read as follows:

§ 52.1605 EPA—approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * * * *			
Title 7, Chapter 27			
* * * * * * *			
Subchapter 25, "Control and Prohibition of Air Pollution by Vehicular Fuels;".	August 17, 1998	November 22, 1999 and Federal Register.	
* * * * * * *			

[FR Doc. 99–30238 Filed 11–19–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 075–1075; FRL–6462–3]

Approval and Promulgation of Air Quality Implementation Plans; Iowa Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; annual update to IBR process.

SUMMARY: EPA is updating the materials submitted by Iowa that are incorporated by reference into the State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the state agency and approved by EPA.

EFFECTIVE DATE: This action is effective November 22, 1999.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101; the EPA Office of Air and Radiation, Docket and Information Center (Air Docket), 401 M Street S.W., Room M1500, Washington, D.C. 20460; and Office of the Federal Register, 800 North Capitol Street N.W., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward West at the above Region VII address or at (913) 551–7330.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is a SIP?
What action is EPA taking in this document?
How does this rule comply with EPA Administrative Procedures?

What is a SIP?

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally approved SIPs, as a result of consultations between EPA and OFR. The description of the revised SIP document, incorporation by reference (IBR) procedures, and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document.

What Action Is EPA Taking in This Document?

On February, 12, 1999, EPA published a document in the **Federal Register** (64 FR 7091) beginning the new IBR procedure for Iowa, Kansas, and Nebraska.

In this document EPA is doing the first annual update to the material being incorporated by reference by Iowa.

How Does This Rule Comply With EPA Administrative Procedures?

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply codifies provisions which are already in effect as a matter of law in approved Federal and state programs.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by updating citations.

I. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. E.O. 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new E.O. on federalism, E.O. 13132 (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current E.O. 12612 (52 FR 41685 (October 30, 1987)) on federalism still applies. This rule will not have a substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 12612, because it merely codifies Federal approval of preexisting requirements. The rule affects only one state, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA).

C. E.O. 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not establish a further health or risk-based standard because it codifies provisions which implement a previously promulgated health or safety-based standard.

D. E.O. 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. In addition, this final rule merely codifies Federal approvals of state requirements which have already occurred. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action codifies Federal approvals of preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Iowa SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 17, 1999.

William Rice,

Acting Regional Administrator, Region VII.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority for citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

2. Section 52.824 paragraph (b) is revised to read as follows:

§ 52.824 Original Identification of Plan Section.

* * * * *

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to August 1, 1999, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after August 1, 1999, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region VII certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of August 1, 1999.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901

North 5th Street, Kansas City, Kansas 66101; the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC; or at EPA Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

* * * * *

[FR Doc. 99–30239 Filed 11–19–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6478–6]

RIN 2060–AI53

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT); Process Wastewater Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On June 29, 1999 (64 FR 34854), we promulgated a consolidated rulemaking that included standards for four specific source categories (i.e., acetal resins (AR), acrylic and modacrylic fiber (AMF), hydrogen fluoride (HF) and polycarbonate (PC) production), and general control requirements for certain types of emission points for hazardous air pollutants (HAP).

At the time of promulgation of the consolidated rulemaking, we deferred taking final action regarding provisions applicable to wastewater streams for the AR, AMF, and PC production source categories based on a need to propose significant changes to the wastewater provisions that were proposed on October 14, 1998 (63 FR 55178). The HF production source category does not have wastewater streams. In parallel with the promulgated consolidated rulemaking package, we published a supplemental notice of proposed rulemaking regarding wastewater provisions (64 FR 34950) applicable to wastewater streams for the AR, AMF, and PC production source categories and reopened the public comment period regarding those proposed wastewater provisions.

Today's action promulgates wastewater provisions amendments applicable to wastewater streams for the AR, AMF, and PC production source categories based on our response to comments received on the wastewater provisions proposed on June 29, 1999 (64 FR 34950).

EFFECTIVE DATE: November 22, 1999.

ADDRESSES: Docket No. A–97–17 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning the final wastewater provision amendments, contact David W. Markwordt at the Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–0837, facsimile (919) 541–0942, e-mail address markwordt.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (Act).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Technical Support Document.

The wastewater amendments promulgated today are supported by a supplementary information memorandum that contains a summary of the public comments received on the proposed wastewater provision amendments and our response to those comments. This memorandum may be obtained from the docket for this rule, A–97–17 (see *Docket*). The title of the memorandum is "Generic Maximum Achievable Control Technology—Supplementary Information for Acetal Resins, Acrylic and Modacrylic Fiber, and Polycarbonate Production Wastewater Provisions." The Supplementary Notice of Proposed Rulemaking (SNPR), the promulgated regulatory text, and supporting documentation are available in Docket No. A–97–17 or by request from our Air and Radiation Docket and Information Center (see **ADDRESSES**).

Technology Transfer Network

In addition to being available in the docket, an electronic copy of today's amendments is also available through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Plain Language

In compliance with President Clinton's June 1, 1998 Executive Memorandum on Plain Language in government writing, this preamble is written using plain language. Thus, the use of "we" in this notice refers to the EPA. The use of "you" refers to the reader, and may include industry; State, local, and tribal governments; environmental groups; and other interested individuals.

Regulated Entities

Entities potentially regulated are those that produce AR, AMF, and PC and are major sources of HAP as defined in section 112 of the Act. Regulated categories and entities include:

Category	Regulated entities [a]
Industry	Producers of homopolymers and/or copolymers of alternating oxymethylene units. Producers of either acrylic fiber or modacrylic fiber synthetics composed of acrylonitrile (AN) units.

Category	Regulated entities *
	Producers of polycarbonate.

* This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1104(a)(1), (b)(1), (c)(1), and (d)(1) of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial review. Under section 307(b)(1) of the Act, judicial review of these final wastewater provision amendments is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by January 21, 2000. Under section 307(d)(7)(B) of the Act, only an objection to these wastewater provisions amendments which was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the Act, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding we bring to enforce these requirements.

I. What Is the Background for These Wastewater Provision Amendments?

On June 29, 1999 (64 FR 34854), we promulgated a consolidated rulemaking that included generic MACT standards under section 112 of the Act for certain small source categories consisting of five or fewer sources. At that time, we proposed amendments to the provisions applicable to wastewater and certain liquid streams in open systems and deferred taking final action on those provisions until now. Today's action finalizes these amendments based on comments received on the proposed amendments and our response to those comments.

II. Compliance Dates

The compliance dates for the standards promulgated on June 29, 1999 (64 FR 34854) for the AR, AMF, and PC production source categories are July 1, 2002 for existing sources and upon startup after June 29, 1999 for new sources. Additional compliance time is not warranted for existing sources, and there have not been any new AR, AMF, and PC production facilities that would warrant specifying a different compliance date for new sources. Therefore, although we deferred action on the wastewater provisions for the AR, AMF, and PC production source categories, the dates for compliance with the wastewater provisions adopted by this action will be the same as for the other provisions we previously promulgated on June 29, 1999.

III. Comments Received on the Proposed Wastewater Provisions Amendments

We received no major comments on the wastewater provisions amendments proposed on June 29, 1999 (64 FR 34950). We have made limited clarifying changes and some editorial changes in response to comments received. Clarifying changes include (1) amending 40 CFR part 63, subpart YY by replacing the term "chemical manufacturing process unit" and "CMPU" with the phrase "a process unit whose primary product is a product produced by a source category subject to this subpart"; (2) amending 40 CFR part 63, subpart YY applicability tables for process wastewater requirements to reflect that both Group 1 and Group 2 wastewater streams are subject to requirements under § 63.1106(a); and (3) amending 40 CFR part 63, subpart YY to clarify that when a source subject to this subpart is colocated with a Synthetic Organic Chemical Manufacturing Industry (SOCMI) source, and a single wastewater treatment facility treats similar wastewaters from both sources, a certification by the treatment facility that they will manage and treat the waste in conformity with the specific control requirements set forth in 40 CFR 63.133 through 63.147 will also be deemed sufficient to satisfy the certification requirements for the generic MACT wastewater provisions.

A supplementary information memorandum that contains a summary of the public comments received on the proposed wastewater provisions amendments and our response to those comments may be obtained from the docket for this rule, A–97–17 (see *Docket*).

IV. Summary of Final Wastewater Provisions Amendments

The final wastewater provisions amendments incorporate and cross-reference wastewater provisions of the HON for the AR, AMF, and PC production source categories. These final amendments respond to comments received on the proposed wastewater provisions published on October 14, 1998 (63 FR 55178), and the proposed amendments to those provisions published on June 29, 1999 (64 FR 34950). In addition, these final amendments reflect our original intent regarding "point of determination" measurements and "treatment and destruction" requirements for process wastewater, and that requirements for maintenance wastewater and liquid streams in open systems be included.

The final amendments for process wastewater, maintenance wastewater, and liquid streams in open systems within the regulated process unit directly refer to HON wastewater requirements. For process wastewater, you are required to make a group determination for each wastewater stream based on flow rate and organic HAP concentration. If a process wastewater stream is determined to be Group 1, you must comply with specific requirements for waste management units to suppress emissions, and requirements to treat the wastewater streams to reduce the organic HAP concentration. The suppression requirements in the referenced sections of the HON are equivalent in stringency to the wastewater requirements that were initially proposed on October 14, 1998 (63 FR 55178) for most emissions points associated with wastewater streams.

The maintenance wastewater provisions require, for each maintenance wastewater stream that contains organic HAP, that you develop and follow procedures to manage wastewaters generated during maintenance activities so that emissions are minimized. The provisions for liquid streams in open systems apply to drain or drain hubs, manholes, lift stations, trenches, pipes, oil/water separators, and tanks within the regulated process unit, and require that you implement specific emission reduction techniques for each type of equipment.

V. Summary of Impacts

We estimate that the impacts for air emissions will be negligible because AR, AMF, and PC production affected sources that will be subject to these requirements are already well controlled. Similarly, water pollution and solid waste, and increases in energy use resulting from the use of control devices will be negligible. Based on

previous impacts analyses associated with the application of the control and recovery devices required under the standards and because each of the three subject source categories have only five or fewer major sources, we believe that there will be minimal, if any, adverse environmental or energy impacts associated with the final amendments.

Likewise, based on available information, we estimate that the cost and economic impacts of the final wastewater provisions amendments for the three source categories being regulated will be insignificant or minimal. The economic analyses for each of the three source categories can be obtained from the docket (see *Docket*).

VI. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements associated with these wastewater provisions amendments do not add to the promulgated rule information collection requirements. The information collection requirements of the promulgated rule for the generic MACT standards were submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501, *et seq.* Under the promulgated rule, we prepared an Information Collection Request (ICR) document (ICR No. 1750.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street, SW, Washington, DC 20460, or by calling (202) 260–2740. We may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB approved the information collection requirements for the AR, AMF, and PC production source categories and assigned the OMB control number 2060–0420 to the ICR. This approval expires September 30, 2002.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The final wastewater provisions amendments for AR, AMF, and PC production do not constitute a "significant regulatory action" as defined under Executive Order 12866, and therefore, are not subject to review by OMB.

C. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule has minimal direct affects on the 9 plants which are impacted by this rule. This rule has even less impacts on States within which the plants reside. Thus,the requirements of section 6 of the Executive Order do not apply to this rule.

D. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996

Under the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), we are required to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts.

Today's action is not subject to the requirements of the RFA as modified by SBREFA because it does not impose any regulatory requirements on small entities.

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), we must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any 1 year. Under section 203, we are required to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule. Under section 205 of UMRA, we must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. We are required to select the

least burdensome alternative for State, local, and tribal governments and the private sector that achieves the objectives of the rule, unless we explain why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because the promulgated rule and these final amendments to the rule do not include a Federal mandate and are estimated to result in expenditures less than $100 million in any 1 year by State, local, and tribal governments, we have not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments would not be significantly or uniquely affected by this rule, we are not required to develop a plan with regard to small governments. Therefore, the requirements of the UMRA do not apply to this action.

F. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note), we are directed to use voluntary consensus standards instead of government-unique standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. By doing so, the Act is intended to reduce the cost to the private and public sectors.

Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. We are required by the NTTAA to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

As part of a larger effort, we are undertaking a project to cross-reference existing voluntary consensus standards on testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist us in identifying potentially-applicable voluntary consensus standards that can then be evaluated for equivalency and applicability in determining compliance with future regulations.

This action does not involve the promulgation of any new technical standards. It does, however, cross-reference existing technical standards, including government-unique technical standards that have been proposed and promulgated under other rulemakings for similar source control applicability and compliance determinations, therefore section 12(d) does not apply.

G. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that we determine (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives we considered.

This amendatory action is not subject to Executive Order 13045 because it does not constitute an economically significant regulatory action as defined by Executive Order 12866 and because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13084

Under Executive Order 13084, we may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance cost incurred by the tribal governments, or we consult with those governments. If we comply by consulting, we are required to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of our prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, we are required to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's amendments implement requirements specifically set forth by Congress in section 112 of the Act without the exercise of any discretion by us. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. Congressional Review Act

Under the Small Business Regulatory Enforcement Fairness Act of 1996, we submitted a report containing these final amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of these final amendments in the **Federal Register**. This is not a "major rule" as defined by the Small Business Regulatory Enforcement Fairness Act.

List of Subjects in 40 CFR Part 63

Environmental protection, Acetal resins production, Acrylic and modacrylic fiber production, Air emissions control, Hazardous air pollutants, Polycarbonates production, Process wastewater streams, Wastewater.

Dated: November 15, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

2. Section 63.1100 is amended by adding paragraph (g)(5) as follows:

§ 63.1100 Applicability.

* * * * *

(g) * * *

(5) *Overlap of subpart YY with other regulations for wastewater.* (i) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, a wastewater stream that is subject to the wastewater requirements of this subpart and the wastewater requirements of subparts F, G, and H of this part (collectively known as the "HON") shall be deemed to be in compliance with the requirements of this subpart if it complies with either set of requirements. In any instance where a source subject to this subpart is colocated with a Synthetic Organic Chemical Manufacturing Industry (SOCMI) source, and a single wastewater treatment facility treats both

Group 1 wastewaters and wastewater residuals from the source subject to this subpart and wastewaters from the SOCMI source, a certification by the treatment facility that they will manage and treat the waste in conformity with the specific control requirements set forth in 40 CFR 63.133 through 63.147 will also be deemed sufficient to satisfy the certification requirements for wastewater treatment under this subpart.

(ii) After the compliance dates specified in § 63.1102 for an affected source subject to this subpart, a wastewater stream that is subject to control requirements in the Benzene Waste NESHAP (subpart FF of part 61 of this chapter) and this subpart is required to comply with both rules.

3. Section 63.1101 is amended by adding definitions in alphabetical order to read as follows:

§ 63.1101 Definitions.

* * * * *

Annual average concentration, as used in the wastewater provisions, means the flow-weighted annual average concentration, as determined according to the procedures specified in § 63.144(b).

Annual average flow rate, as used in the wastewater provisions, means the annual average flow rate, as determined according to the procedures specified in § 63.144(c).

* * * * *

Group 1 wastewater stream means a process wastewater stream at an existing or new source that meets the criteria for Group 1 status in § 63.132(c).

Group 2 wastewater stream means a process wastewater stream that does not meet the definition of a Group 1 wastewater stream.

* * * * *

Maintenance wastewater means wastewater generated by the draining of process fluid from components in the process unit, whose primary product is a product produced by a source category subject to this subpart, into an individual drain system prior to or during maintenance activities. Maintenance wastewater can be generated during planned and unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewaters include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of low legs and high point bleeds, draining of pumps into an individual drain system, and draining of portions of the process unit, whose primary product is a product produced by a source category subject to this subpart, for repair.

* * * * *

Oil-water separator or *organic-water separator* means a waste management unit, generally a tank used to separate oil or organics from water. An oil-water or organic-water separator consists of not only the separation unit but also the forebay and other separator basins, skimmers, weirs, grit chambers, sludge hoppers, and bar screens that are located directly after the individual drain system and prior to additional waste management units such as an air flotation unit, clarifier, or biological treatment unit. Examples of an oil-water or organic-water separator include, but are not limited to, an American Petroleum Institute separator, parallel-plate interceptor, and corrugated-plate interceptor with the associated ancillary equipment.

* * * * *

Point of determination means each point where process wastewater exits the process unit, whose primary product is a product produced by a source category subject to this subpart.

Note to definition for point of determination: The regulation allows determination of the characteristics of a wastewater stream at the point of determination or downstream of the point of determination if corrections are made for changes in flow rate and annual average concentration of Table 9 compounds (as defined under this subpart) as determined in § 63.144. Such changes include losses by air emissions, reduction of annual average concentration or changes in flow rate by mixing with other water or wastewater streams, and reduction in flow rate or annual average concentration by treating or otherwise handling the wastewater stream to remove or destroy hazardous air pollutants.

* * * * *

Process wastewater means wastewater which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Examples are product tank drawdown or feed tank drawdown, water formed during a chemical reaction or used as a reactant, water used to wash impurities from organic products or reactants, equipment washes between batches in a batch process, water used to cool or quench organic vapor streams through direct contact, and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

Process wastewater stream means a stream that contains process wastewater.

* * * * *

Table 9 compounds means compounds listed in Table 9 of subpart G of this part.

* * * * *

Wastewater is either a process wastewater or a maintenance wastewater and means water that:

(1) Contains either:

(i) An annual average concentration of Table 9 compounds (as defined under this subpart) of at least 5 parts per million by weight at the point of determination and has an annual average flow rate of 0.02 liter per minute or greater, or

(ii) An annual average concentration of Table 9 compounds (as defined under this subpart) of at least 10,000 parts per million by weight at the point of determination at any flow rate, and that

(2) Is discarded from a process unit, whose primary product is a product produced by a source category subject to this subpart.

Wastewater stream means a stream that contains wastewater.

* * * * *

4. Section 63.1103 is amended by:

a. Adding entries 6, 7, and 8 in table 1 of paragraph (a)(3);

b. Adding entries 8, 9, and 10 in table 2 of paragraph (b)(3)(i);

c. Adding entries 7, 8, and 9 in table 5 of paragraph (d)(3); and

d. Adding entries 6, 7, and 8 in table 6 of paragraph (d)(3) as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

* * * * *

(a) * * *

(3) * * *

TABLE 1. TO § 63.1103.—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACETAL RESINS PRODUCTION EXISTING OR NEW AFFECTED SOURCE?

If you own or operate * * *	And if * * *	Then you must * * *

TABLE 1. TO § 63.1103.—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACETAL RESINS PRODUCTION EXISTING OR NEW AFFECTED SOURCE?—Continued

If you own or operate * * *	And if * * *	Then you must * * *
* * *	* * *	* * *
6. An acetal resins production process unit that generates process wastewater.	The process wastewater stream is a Group 1 or Group 2 wastewater stream.	Comply with the requirements of § 63.1106(a).
7. An acetal resins production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
8. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * *

(b) * * *

(3) * * *

(i) * * *

TABLE 2. TO § 63.1103.—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (B)(3)(I) OF THIS SECTION?

If you own or operate * * *	And if * * *	Then you must * * *
* * *	* * *	* * *
8. An acrylic and modacrylic fiber production process unit that generates process wastewater.	The process wastewater stream is a Group 1 or Group 2 wastewater stream.	Comply with the requirements of § 63.1106(a).
9. An acrylic and modacrylic fiber production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
10. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * *

(d) * * *

(3) * * *

TABLE 5. TO § 63.1103.—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?

If you own or operate * * *	And if * * *	Then you must * * *
* * *	* * *	* * *
7. A polycarbonate production process unit that generates process wastewater.	The process wastewater stream is a Group 1 or a Group 2 wastewater stream.	Comply with the requirements of § 63.1106(a).
8. A polycarbonate production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
9. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * *

TABLE 6. TO § 63.1103.—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?

If you own or operate * *	And if * * *	Then you must * * *
* * *	* * *	* * *
6. A polycarbonate production process unit that generates process wastewater.	The process wastewater stream is a Group 1 or a Group 2 wastewater stream.	Comply with the requirements of § 63.1106(a).
7. A polycarbonate production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
8. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.

* * * * *

5. Section 63.1106 is added to subpart YY to read as follows:

§ 63.1106 Wastewater provisions.

(a) *Process wastewater.* Except as specified in paragraphs (a)(1) through (a)(16) and paragraph (d) of this section, the owner or operator of each affected source shall comply with the HON process wastewater requirements in §§ 63.132 through 63.148.

(1) When terms used in §§ 63.132 through 63.148 are defined in § 63.1101, the definition in § 63.1101 shall apply, for the purposes of this subpart. For terms used in §§ 63.132 through 63.148 that are not defined in § 63.1101, the definitions in § 63.101 and § 63.111 shall apply.

(2) When the term chemical manufacturing production process unit, or CMPU, is used in §§ 63.132 through 63.148, the phrase "a process unit whose primary product is a product produced by a source category subject to this subpart" shall apply, for the purposes of this subpart.

(3) Owners and operators of affected sources are not required to comply with § 63.132(b)(1) and (d) and § 63.138(c). Further, owners and operators are exempt from all requirements in §§ 63.132 through 63.148 that pertain solely and exclusively to organic HAP listed in Table 8 of subpart G of this part.

(4) When the determination of equivalence criteria in § 63.102(b) is referred to in §§ 63.132, 63.133, and 63.137, the alternative nonopacity emission standard provisions in § 63.6(g) shall apply, for the purposes of this subpart.

(5) When the HON storage vessel requirements for internal floating roofs contained in § 63.119(b) are referred to in § 63.133(a)(2)(ii), the requirements in § 63.1063(a)(1)(i), (2), and (b) shall apply, for the purposes of this subpart.

(6) When the HON storage vessel requirements for external floating roofs in § 63.119(c) and § 63.120(b)(5) and (6) are referred to in § 63.133(a)(2)(iii) and (d), the requirements in § 63.1063(a)(1)(ii), (2), and (b) shall apply, for the purposes of this subpart.

(7) For the purposes of this subpart, § 63.1063(c)(2)(iv) shall apply instead of § 63.133(e).

(8) When § 63.143(c), (d), (e)(3) and § 63.146(a) require the submission of a request for approval to monitor alternative parameters according to the procedures specified in § 63.151(f) or (g), the owner or operator requesting to monitor alternative parameters shall follow the procedures specified in § 63.1108(c) or as specified in a referenced subpart.

(9) When § 63.147(d) requires the owner or operator to keep records of the daily average value of each continuously monitored parameter for each operating day as specified in § 63.152(f), the owner or operator shall keep records of each continuously monitored parameter for each operating day as specified in § 63.998(b).

(10) When § 63.132(a) and (b) refer to the "applicable dates specified in § 63.100 of subpart F of this part," the applicable compliance dates specified in § 63.1102 shall apply, for purposes of this subpart.

(11) Where § 63.152(b) and/or the Notification of Compliance Status is referred to in §§ 63.132 through 63.148, the Notification of Compliance Status requirements contained in § 63.1110(a)(3) shall apply, for purposes of this subpart.

(12) Where § 63.152(c) and/or the Periodic Report requirements are referred to §§ 63.132 through 63.148, the Periodic Report requirements contained in § 63.1110(a)(4) shall apply, for purposes of this subpart.

(13) When Method 18 of appendix A to part 60 of this chapter is specified in § 63.139(e)(1)(ii), § 63.145(d)(4), or § 63.145(i)(2), either Method 18 or Method 25A may be used. The use of Method 25A of appendix A to part 60 of this chapter shall comply with paragraphs (a)(13)(i) and (a)(13)(ii) of this section.

(i) The organic HAP used as the calibration gas for Method 25A of appendix A of part 60 of this chapter shall be the single organic HAP representing the largest percent by volume of the emissions.

(ii) The use of Method 25A of appendix A of part 60 of this chapter is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(14) When the HON recordkeeping requirements for by-pass lines in § 63.118(a)(3) is referred to in § 63.148(f), the requirements in § 63.998(d)(1)(ii)(A) shall apply, for the purposes of this subpart.

(15) When the Initial Notification requirements in § 63.182(b) are referred to in § 63.148(j), the requirements in § 63.1110(c) shall apply, for the purposes of this subpart.

(16) For the purposes of this subpart, § 63.148(k) shall not apply.

(b) *Maintenance wastewater.* The owner or operator of each affected source shall comply with the HON maintenance wastewater requirements in § 63.105. When terms used in § 63.105 are defined in § 63.1101, the definition in § 63.1101 shall apply, for the purpose of this subpart. For terms used in § 63.105 that are not defined in § 63.1101, the definitions in § 63.101 and § 63.111 shall apply.

(c) *Liquid streams in open systems.* The owner or operator shall comply with the provisions of Table 35 of subpart G of this part for each item of equipment meeting the criteria specified in paragraphs (c)(1) through (3) of this section and either paragraph (c)(4)(i) or (ii) of this section, with the exceptions provided in paragraphs (c)(5) and (6) of this section.

(1) The item of equipment is one of the types of equipment identified in paragraphs (c)(1)(i) through (vii) of this section.

(i) Drain or drain hub;

(ii) Manhole (including sumps and other points of access to a conveyance system);

(iii) Lift station;

(iv) Trench;

(v) Pipe;

(vi) Oil/water separator; and

(vii) Tanks with capacities of 38 m^3 or greater.

(2) The item of equipment is part of an affected source that is subject to this subpart.

(3) The item of equipment is controlled less stringently than in Table 35 of subpart G of this part, and the item of equipment is not otherwise exempt from the provisions of this subpart, or a referenced subpart.

(4) The item of equipment:

(i) Is a drain, drain hub, manhole, lift station, trench, pipe, or oil/water separator that conveys water with a total annual average concentration greater than or equal to 10,000 parts per million by weight of Table 9 compounds (as defined under this subpart) at any flow rate; or a total annual average concentration greater than or equal to 1,000 parts per million by weight of Table 9 compounds (as defined under this subpart) at an annual average flow rate greater than or equal to 10 liters per minute.

(ii) Is a tank that receives one or more streams that contain water with a total annual average concentration greater than or equal to 1,000 parts per million by weight of Table 9 compounds (as defined under this subpart) at an annual average flow rate greater than or equal to 10 liters per minute. The owner or operator shall determine the characteristics of the stream as specified in paragraphs (c)(4)(ii)(A) and (B) of this section.

(A) The characteristics of the stream being received shall be determined at the inlet to the tank.

(B) The characteristics shall be determined according to the procedures in § 63.144(b) and (c).

(5) When terms used in Table 35 of subpart G of this part are defined in § 63.1101, the definition in § 63.1101 shall apply, for the purpose of this subpart. For terms used in Table 35 of subpart G of this part that are not defined in § 63.1101, the definitions in § 63.101 and § 63.111 shall apply.

(6) When Table 35 of subpart G of this part refers to 40 CFR 63.119(e)(1) or (e)(2) in the requirements for tanks, the requirements in § 63.982(a)(1) shall apply, for purposes of this subpart.

(d) The compliance date for the affected sources subject to the provisions of this section is specified in § 63.1102.

[FR Doc. 99–30230 Filed 11–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6478–8]

RIN 2060–AG91

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; corrections.

SUMMARY: On June 29, 1999, we issued the National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT) (64 FR 34854). This final rule corrections serve to clarify and correct errors in the promulgated rule.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: For information concerning these corrections amendments, contact David W. Markwordt, Policy, Planning, and Standards Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–0837, facsimile: (919) 541–0942, electronic mail address: markwordt.david@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities that will potentially be affected by these corrections are those that produce acetal resins, acrylic and modacrylic fiber, hydrogen fluoride, and polycarbonate and are major sources of hazardous air pollutants as defined in section 112 of the Clean Air Act (Act). The regulated categories and entities include the following:

Category	Regulated entities [a]
Industry	Producers of homopolymers and/or copolymers of alternating oxymethylene units. Producers of either acrylic fiber or modacrylic fiber synthetics composed of acrylonitrile (AN) units. Producers of, and recoverers of HF by reacting calcium fluoride with sulfuric acid. For the purpose of implementing the rule, HF production is not a process that produces gaseous HF for direct reaction with hydrated aluminum to form aluminum fluoride (i.e., the HF is not recovered as an intermediate or final product prior to reacting with the hydrated aluminum). Producers of polycarbonate.

[a] This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1104(a)(1), (b)(1), (c)(1), and (d)(1) of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. What Is the Background for the Corrections?

On June 29, 1999 (64 FR 34854), we published the National Emission Standards for Hazardous Air Pollutants: Generic MACT final rule which promulgated standards for four major HAP source categories (i.e., acetal resins production, acrylic and modacrylic fiber production, hydrogen fluoride production, and polycarbonate production). The proposal for the Generic MACT rule was published on October 14, 1998 (63 FR 55178), and given the size of the proposed rule, we allowed for a 90-day public comment period even though we were under a May 15, 1999 court ordered deadline for the Administrator's signature of the final rule. Because of the short time period between proposal and promulgation and the many changes made to the proposal package, some inadvertent errors were made. Today's action consists of editorial, cross-reference, and clarifying corrections to the promulgated Generic MACT rule published on June 29, 1999 (64 FR 34854). These corrections will become effective immediately (without further rulemaking action) on November 22, 1999. We have determined that it is unnecessary to provide prior notice and opportunity to comment on these corrections. In one case, we determined an opportunity for public comment is warranted; we are proposing amendments to address this case in a separate notice.

Today's action corrects typographical, grammatical, and cross-reference errors. For example, as promulgated, § 63.998(a)(1)(iii)(A) incorrectly referred the reader to § 63.999(c)(8) for the requirement for an owner or operator to report times and duration of all periods during which the flare or all the pilot flames are absent. The correct citation for this requirement is § 63.999(c)(3) and today's action makes the necessary changes to reflect the accurate citation. For another example, § 63.1012(f) incorrectly includes a citation with two repetitive paragraph designations (*i.e.*, § 63.1003(e)(e)). Today's action corrects that error by removing one of those paragraph designations (*i.e.*, § 63.1003(e)).

One of the corrections is in wording. We made an error in Table 2 to § 63.1103(b)(3)(i), item 4, that could result in control applicability errors. At promulgation, Table 2 to § 63.1103(b)(3)(i), item 4, erroneously required that an owner or operator of a new or modified source that met specified criteria would be subject to new source requirements. We should have specified that an owner or operator of a new or reconstructed source, not modified source, that met specified criteria would be subject to new source requirements. We have corrected this error by replacing the word "modified" with "reconstructed."

II. What Are the Impacts Associated With the Corrections?

This action consists of corrections and clarifications of our intent at the time of

promulgation of 40 CFR part 63, subparts SS, TT, UU, WW, and YY, and will not affect the estimated emissions reduction or the control costs for the standards promulgated for AR, AMF, HF, and PC production source categories on June 29, 1999 (64 FR 34854). These clarifications and corrections should make it easier for owners and operators of affected sources, and for local and State authorities, to understand and implement the requirements found in these subparts.

III. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements in this rule were submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501, *et seq*. We submitted an Information Collection Request (ICR) document (ICR No. 1871.02) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street, SW, Washington, DC 20460 or by calling (202) 260–2740. We may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB approved the information collection requirements under the Generic MACT rule for the AR, AMF, HF, and PC production source categories and assigned the OMB control number 2060–0420 to the ICR. This approval expires September 30, 2002.

These corrections will not impact the information collection estimates made previously for the Generic MACT consolidated rulemaking package. Therefore, the ICR has not been revised.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and therefore subject to review by OMB and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that these correcting amendments do not qualify as a "significant regulatory action" and, therefore, are not subject to review by OMB.

C. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule has minimal direct affects on the 10 plants which are impacted by this rule. This rule has even less impacts on States within which the plants reside. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires the EPA to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

Today's corrections will not have a significant impact on a substantial number of small entities because they clarify and make corrections to the promulgated 40 CFR part 63, subparts SS, TT, UU, WW and YY, and do not impose any additional regulatory requirements on owners or operators of affected sources regulated by standards promulgated on June 29, 1999 (64 FR 34854).

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995, Pub. L. 104–4, we must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Section 203 requires us to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of UMRA, we must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be

prepared. The Agency must select the least burdensome alternative from those alternatives for State, local, and tribal governments and the private sector that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because these corrections do not include a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year, we have not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by these correcting amendments, we are not required to develop a plan with regard to small governments. Therefore, the requirements of UMRA do not apply to this action.

G. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the SBREFA of 1996, provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the corrections, to each House of the Congress and to the Comptroller General of the United States. Therefore, we will submit a report containing these corrections and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action does not constitute a "major rule" as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note), we are directed to use voluntary consensus standards instead of government-unique standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. By doing so, the Act is intended to reduce the cost to the private and public sectors.

Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), International Organization for Standardization (IOS), International Electrotechnical Commission (IEC), American Petroleum Institute (API), National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires that we provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

As part of a larger effort, we are undertaking a project to cross-reference existing voluntary consensus standards in testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist us in identifying potentially applicable voluntary consensus standards that can then be evaluated for equivalency and applicability in determining compliance with future regulations.

This action does not require the use of any new technical standards, therefore section 12(d) does not apply.

I. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that we determine (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

These corrections are not subject to Executive Order 13045 because they do not constitute an economically significant regulatory action as defined by Executive Order 12866 and because they do not establish an environmental standard intended to mitigate health or safety risks.

J. Executive Order 13084

Under Executive Order 13084, we may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance cost incurred by the tribal governments, or we consult with those governments. Under Executive Order 13084, if we comply by consulting, we are required to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of our prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, we are required to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's corrections do not impose any duties or compliance costs on Indian tribal governments. Further, the corrections provided herein do not significantly alter the control standards imposed by subparts SS, TT, UU, WW, and YY, including any that may affect communities of Indian tribal governments. Hence, today's action does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

List of Subjects for 40 CFR Part 63

Acetal resins production, Acrylic and modacrylic fiber production, Air emissions control, Equipment leaks, Hazardous air pollutants, Hydrogen fluoride production, Polycarbonate production, Process vents, Reporting and recordkeeping requirements, Storage vessels.

Dated: November 15, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 63.981 is amended by adding in alphabetical order a definition for *recovery operations equipment* as follows:

§ 63.981 Definitions.

* * * * *

Recovery operations equipment means the equipment used to separate the components of process streams. Recovery operations equipment includes distillation units, condensers, etc. Equipment used for wastewater treatment shall not be considered recovery operations equipment.

* * * * *

3. Section 63.982 is amended by revising paragraph (f)(1) as follows:

§ 63.982 Requirements.

* * * * *

(f) * * *

(1) Comply with the applicable requirements of this subpart for each kind of emissions in the stream (e.g., the requirements of paragraph (a)(2) of this section for process vents, and the requirements of paragraph (a)(3) of this section for transfer racks); or

* * * * *

4. Section 63.983 is amended by revising paragraph (b)(1)(i)(B) as follows:

§ 63.983 Closed vent systems.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) Conduct annual inspections for visible, audible, or olfactory indications of leaks.

* * * * *

5. Section 63.987 is amended by revising the last sentence of paragraph (c) as follows:

§ 63.987 Flare requirements.

* * * * *

(c) * * * Flare flame monitoring and compliance records shall be kept as specified in § 63.998(a)(1) and reported as specified in § 63.999(a).

6. Section 63.998 is amended by revising the last sentence of paragraph (a)(1)(iii)(A), revising the first sentence of paragraph (a)(2)(ii)(A), and revising paragraph (a)(2)(ii)(B)(6) as follows:

§ 63.998 Recordkeeping requirements.

(a) * * *

(1) * * *

(iii) * * *

(A) * * * This record shall be submitted in the periodic reports as specified in § 63.999(c)(3).

* * * * *

(2) * * *

(ii) * * *

(A) *General requirements.* Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the data specified in paragraphs (a)(2)(ii)(B) through (C) of this section, as applicable, measured during each performance test performed pursuant to § 63.988(b), § 63.990(b), § 63.994(b), or § 63.995(b), and also include that data in the Notification of Compliance Status required under § 63.999(b). * * *

(B) * * *

(6) For a boiler or process heater with a design heat input capacity of less than 44 megawatts and where the process vent stream is introduced with combustion air or used as a secondary fuel and is not mixed with the primary fuel, record the percent reduction of organic regulated material or TOC, or the concentration of regulated material or TOC (parts per million by volume, by compound) determined as specified in § 63.997(e)(2)(iii) at the outlet of the combustion device.

* * * * *

7. Section 63.999 is amended by revising the last sentence of paragraph (c)(6)(i), and revising the first sentence of paragraph (c)(6)(iv) as follows:

§ 63.999 Notifications and other reports.

* * * * *

(c) * * *

(6) * * *

(i) * * * If the owner or operator elects not to retain the daily average values pursuant to § 63.998(b)(5)(ii)(A), the owner or operator shall report this in the Periodic Report.

* * * * *

(iv) If the owner or operator has chosen to use the alternative recordkeeping requirements of § 63.998(b)(5), and has not notified the Administrator in the Notification of Compliance Status that the alternative recordkeeping provisions are being implemented as specified in paragraph (b)(5) of this section, the owner or operator shall notify the Administrator in the Periodic Report submitted immediately preceding implementation of the alternative. * * *

* * * * *

8. Section 63.1000 is amended by revising paragraph (c)(2) as follows:

§ 63.1000 Applicability.

* * * * *

(c) * * *

(2) *Equipment in service less than 300 hours per calendar year.* Equipment that is in regulated material service less than 300 hours per calendar year is excluded from the requirements of §§ 63.1006 through 63.1015 if it is identified as required in § 63.1003(b)(5).

* * * * *

9. Section 63.1001 is amended by revising the definitions for *connector* and *first attempt at repair* as follows:

§ 63.1001 Definitions.

* * * * *

Connector means flanged, screwed, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered connectors for the purpose of this regulation. For the purpose of reporting and recordkeeping, connector means joined fittings that are not inaccessible, ceramic, or ceramic-lined (e.g., porcelain, glass, or glass-lined) as described in § 63.1008(d)(2).

* * * * *

First attempt at repair, for the purposes of this subpart, means to take action for the purpose of stopping or reducing leakage of organic material to the atmosphere, followed by monitoring as specified in § 63.1004(b) and, as applicable, in § 63.1004(c), as appropriate, to verify whether the leak is repaired, unless the owner or operator determines by other means that the leak is not repaired.

* * * * *

10. Section 63.1002 is amended by revising the section heading, revising the heading for paragraph (a), and revising paragraph (b), introductory text, as follows:

§ 63.1002 Compliance assessment.

(a) *General procedures for compliance assessment.* * * *

(b) *Alternative means of emission limitation.* The provisions of paragraph (b) of this section do not apply to the performance standards of § 63.1006(e)(4) for valves designated as having no detectable emissions, § 63.1011(b) for pressure relief devices, or § 63.1012(f) for compressors operating under the alternative compressor standard.

* * * * *

11. Section 63.1003 is amended by revising the first sentence of paragraph (c)(2), revising paragraphs (c)(5)(i) and (e)(1) as follows:

§ 63.1003 Equipment identification.

* * * * *

(c) * * *

(2) *Designation and criteria for difficult-to-monitor.* Valves meeting the provisions of § 63.1006(e)(2) may be designated difficult-to-monitor if the provisions of paragraph (c)(2)(i) of this section apply. * * *

* * * * *

(5) * * *

(i) The owner or operator of equipment designated as unsafe-to-monitor except connectors meeting the provisions of § 63.1008(d)(1) according to the provisions of paragraph (c)(1) of this section shall have a written plan

that requires monitoring of the equipment as frequently as practical during safe-to-monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable, and repair of the equipment according to the procedures in § 63.1005 if a leak is detected.

* * * * *

(e) * * *

(1) *Designation and criteria.* Equipment may be designated as having no detectable emissions if it has no external actuating mechanism in contact with the process fluid and is operated with emissions less than 500 parts per million above background as determined by the method specified in § 63.1004(b) and (c).

* * * * *

12. Section 63.1004 is amended by revising the second sentence of paragraph (c), introductory text, and paragraph (c)(1) as follows:

§ 63.1004 Instrument and sensory monitoring for leaks.

* * * * *

(c) * * * If an owner or operator elects not to adjust instrument readings for background, the owner or operator shall monitor the equipment according to the procedures specified in paragraphs (b)(1) through (b)(5) of this section. * * *

(1) The requirements of paragraphs (b)(1) through (b)(5) of this section shall apply.

* * * * *

13. Section 63.1005 is amended by revising paragraph (d) as follows:

§ 63.1005 Leak repair.

* * * * *

(d) *Unsafe-to-repair connectors.* Any connector that is designated, as described in § 63.1003(d), as an unsafe-to-repair connector is exempt from the requirements of § 63.1008(c), and paragraph (a) of this section.

* * * * *

14. Section 63.1012 is amended by revising the first sentence of paragraph (f)(1) as follows:

§ 63.1012 Compressor standards.

* * * * *

(f) * * *

(1) Any compressor that is designated as described in § 63.1003(e) as operating with no detectable emissions shall operate at all times with an instrument reading of less than 500 parts per million. * * *

* * * * *

15. Section 63.1026 is amended by revising paragraph (e)(6) as follows:

§ 63.1026 Pumps in light liquid service standards.

* * * * *

(e) * * *

(6) *Unsafe-to-monitor pumps.* Any pump that is designated, as described in § 63.1022(c)(1), as an unsafe-to-monitor pump is exempt from the requirements of paragraph (b) of this section, the monitoring and inspection requirements of paragraphs (e)(1)(v) through (viii) of this section, and the owner or operator shall monitor and inspect the pump according to the written plan specified in § 63.1022(c)(4).

16. Section 63.1029 is amended by revising the first sentence of paragraph (b)(1) as follows:

§ 63.1029 Pumps, valves, connectors, and agitators in heavy liquid service; pressure relief devices in liquid service, and instrumentation systems standards.

* * * * *

(b) * * *

(1) *Monitoring method.* Unless otherwise specified in § 63.1021(b), § 63.1036, or § 63.1037, the owner or operator shall comply with paragraphs (b)(1) and (b)(2) of this section. * * *

* * * * *

17. Section 63.1100 is amended by revising the first sentence of paragraph (d)(4), introductory text, and revising paragraph (d)(4)(ii), introductory test, as follows:

§ 63.1100 Applicability.

* * * * *

(d) * * *

(4) The determination of the primary product for a process unit, including the assessment of applicability of this subpart to process units that are designed and operated as flexible operation units, shall be reported in the Notification of Compliance Status report required by § 63.1110(a)(4) when the primary product is determined to be a product produced by a source category subject to requirements under this subpart. * * *

(ii) If the process unit is designed and operated as a flexible operation unit, the information specified in paragraphs (d)(4)(ii)(A) and (B) of this section, as appropriate.

* * * * *

18. Section 63.1101 is amended by revising the definition for *total resource effectiveness index value* as follows:

§ 63.1101 Definitions.

* * * * *

Total resource effectiveness index value or *TRE index value* means a measure of the supplemental total resource requirement per unit reduction of organic HAP associated with a process vent stream, based on vent stream flow rate, emission rate of organic HAP, net heating value, and corrosion properties (whether or not the vent stream contains halogenated compounds), as quantified by the equations given under § 63.1104(j).

* * * * *

19. Section 63.1103 is amended by revising entry 4 of table 2 of paragraph (b)(3)(i), revising entry 6 of table 5 of paragraph (d)(3), and revising table 6 of paragraph (d)(3) as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

* * * * *

(b) * * *

(3) * * *

(i) * * *

* * * * *

TABLE 2. TO § 63.1103(b)(3)(i).—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(i) OF THIS SECTION?

If you own or operate* * *	And if* * *	Then you must* * *
4. A fiber spinning line that is a new or reconstructed source.	The lines use a spin dope produced from either a suspension polymerization process or solution polymerization process,.	a. Reduce acrylonitrile emissions by 85 weight-percent or more. (For example, by enclosing the spinning and washing areas of the spinning line (as specified in paragraph (b)(4) of this section) and venting through a closed vent system and using any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a), of this part); or b. Reduce acrylonitrile emissions from the spinning line to less than or equal to 0.25 kilograms of acrylonitrile per megagram (0.5 pounds of acrylonitrile per ton) of acrylic and modacrylic fiber produced; or c. Reduce the AN concentration of the spin dope to less than 100 ppmw.

(d) * * *

(3) * * *

Table 5.—To § 63.1103(d)—What Are My Requirements If I Own or Operate a Polycarbonate Production Existing Affected Source?

If you own or operate. . .	And if. . .	Then you must. . .
6. Equipment as defined under § 63.1101	The equipment contains or contacts weight-percent total organic HAPe, and operates ≤ 300 hours per year.	Comply with the requirements of subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.

* * * * *

TABLE 6.—TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?

If you own or operate. . .	And if. . .	Then you must. . .
1. A storage vessel with: 38 cubic meters ≤capacity <151 cubic meters.	13.1 kilopascals ≤maximum true vapor pressure of total organic HAP <76.6 kilopascals.	a. Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS (national emission standards for closed vent systems, control devices, recovery devices, and routing to a fuel gas system or a process), as specified in § 63.982(a)(1) (storage vessel requirements) of this part; or b. Comply with the requirements of subpart WW (national emission standards for storage vessels (control level 2)) of this part.
2. A storage vessel with: 151 cubic meters ≤capacity.	The maximum true vapor pressure of total organic HAP is ≥5.2 kilopascals.	Reduce emissions of total organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(1) (storage vessel requirements) of this part.

TABLE 6.—TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?—Continued

If you own or operate. . .	And if. . .	Then you must. . .
3. A storage vessel with: 38 cubic meters ≤capacity <151 cubic meters.	The maximum true vapor pressure of total organic HAP is ≥76.6 kilopascals.	Reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(1) (storage vessel requirements) of this part.
4. A process vent from continuous unit operations or a combined vent stream[a].	The vent stream has a a TRE[b,c] ≤9.6	a. Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part; and Vent emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, of this part that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hourd, whichever is less stringent; or b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994 (halogen reduction device requirements) of this part; and Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP or TOC to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(a)(2) (process vent requirements) of this part; or c. Achieve and maintain a TRE index value greater than 9.6
5. Equipment as defined under § 63.1101	The equipment contains or contacts ≥ 5 weight-percent organic HAPe, and operates ≥ 300 hours per year.	Comply with the requirements of 40 CFR subpart TT (national emission standards for equipment leaks (control level 1)) or subpart UU (national emission standards for equipment leaks (control level 2)) of this part.

[a] Combined vent streams shall use the applicability determination procedures and methods for process vents from continuous unit operations (§ 63.1104).

[b] The TRE equation coefficients for halogenated streams (table 7 of this subpart) shall be used to calculate the TRE index value.

[c] The TRE is determined according to the procedures specified in § 63.1104(j). If a dryer is manifolded with such vents, and the vent is routed to a recovery, recapture, or combustion device, then the TRE index value for the vent must be calculated based on the properties of the vent stream (including the contributions of the dryer). If a dryer is manifolded with other vents and not routed to a recovery, recapture, or combustion device, then the TRE index value must be calculated excluding the contributions of the dryer. The TRE index value for the dryer must be calculated separately in this case.

[d] The mass emission rate of halogen atoms contained in organic compounds is determined according to the procedures specified in § 63.1104(i).

[e] The weight-percent organic HAP is determined for equipment according to procedures specified in § 63.1107.

20. Section 63.1104 is amended by revising paragraphs (f) introductory text, and (j)(1) as follows:

§ 63.1104 Process vents from continuous unit operations: applicability assessment procedures and methods.

* * * * *

(f) *Volumetric flow rate.* The process vent volumetric flow rate (Q_S), in standard cubic meters per minute at 20 °C, shall be determined as specified in paragraph (f)(1) or (2) of this section and shall be recorded as specified in § 63.1109(d).

* * * * *

(j) * * *

(1) *TRE index value equation.* The equation for calculating the TRE index value is Equation 5:

$$TRE = 1/E_{HAP}*[A+B(Q_S)+ C(H_T)+ D(E_{TOC})] \quad [Eq. 5]$$

Where:

TRE = TRE index value.

A, B, C, D = Coefficients presented in table 1 of this section.

E_{HAP} = Emission rate of total organic HAP, kilograms per hour, as calculated according to paragraph (h) or (k) of this section.

Q_S = process vent flow rate, standard cubic meters per minute, at a standard temperature of 20 °C, as calculated according to paragraph (f) or (k) of this section.

H_T = process vent net heating value, megaJoules per standard cubic meter, as calculated according to paragraph (g) or (k) of this section.

E_{TOC} = Emission rate of TOC (minus methane and ethane), kilograms per hour, as calculated according to paragraph (h) or (k) of this section.

* * * * *

21. Section 63.1108 is amended by revising the second sentence of paragraph (b)(1), and by revising the first sentence of paragraph (b)(2) as follows:

§ 63.1108 Compliance with standards and operation and maintenance requirements.

* * * * *

(b) * * *

(1) * * * For each excursion except for excused excursions (as described in § 63.998(b)(6)(ii)), and as provided for in paragraph (b)(2) of this section the owner or operator shall be deemed to have failed to have applied the control in a manner that achieves the required operating conditions.

(2) *Parameter monitoring: Excursions.* An excursion is not a violation in cases where continuous monitoring is required and the excursion does not count toward the number of excused excursions (as described in § 63.998(b)(6)(ii)), if the conditions of paragraph (b)(2)(i) or (ii) of this section are met. * * *

* * * * *

22. Section 63.1110 is amended by revising paragraph (e)(2) as follows:

§ 63.1110 Reporting requirments.

* * * * *

(e) * * *

(2) *Due date.* The Periodic Report shall be submitted no later than 60 days after the end of each 6-month period. The first report shall cover the 6-month period after the Notification of Compliance Status report is due. The first report shall be submitted no later than the last day of the month that includes the date 8 months (6 months and 60 days) after the Notification of Compliance Status report is due.

* * * * *

[FR Doc. 99–30229 Filed 11–19–99; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300948; FRL–6391–8]

RIN 2070–AB78

Avermectin B1 and its delta-8,9-isomer; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for the combined residues of the insecticide and miticide avermectin B_1 and its delta-8,9-isomer in or on celeriac at 0.05 part per million (ppm) for an additional 1-year period. This tolerance will expire and is revoked on December 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on celeriac. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective November 22, 1999. Objections and requests for hearings, identified by docket control number OPP–300948, must be received by EPA on or before January 21, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300948 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dan Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–9375; and e-mail address: rosenblatt.dan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300948. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents

that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of August 19, 1997 (62 FR 44089) (FRL–5737–1), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established a time-limited tolerance for the combined residues of avermectin B_1 and its delta-8,9-isomer in or on celeriac at 0.05 ppm, with an expiration date of July 31, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment. In the **Federal Register** of August 7, 1998 (63 FR 42246) (FRL–6021–2), EPA extended the time-limited tolerance for the combined residues of avermectin B_1 and its delta-8,9-isomer in or on celeriac at 0.05 ppm, with an expiration date of January 31, 2000.

EPA received a request to extend the use of avermectin B_1 and its delta-8,9-isomer on celeriac for this year's growing season due to continued pest pressure from the two-spotted spider mite. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of avermectin B_1 and its delta-8,9-isomer on celeriac for control of the two-spotted spider mite in celeriac.

EPA assessed the potential risks presented by residues of avermectin B_1 and its delta-8,9-isomer in or on celeriac. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of August 19, 1997 (62 FR 44089) (FRL–5737–1). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on December 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on celeriac after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300948 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 21, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources

and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300948, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the [tolerance/exemption] in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 9, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.449 [Amended]

2. In § 180.449, by amending paragraph (b) in the table, for the commodity "celeriac," by revising the date "1/31/00" to read "12/31/00".

[FR Doc. 99–30409 Filed 11–19–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300933; FRL–6385–5]

RIN 2070–AB78

Herbicide Safener HOE-107892; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for residues of the

herbicide safener HOE-107892 and its metabolites HOE-113225, HOE-109453, and HOE-094270 in or on barley grain at 0.05 part per million (ppm), barley hay at 0.5 ppm; barley straw at 0.1 ppm; and the processed by-products of barley grain: pearled barley at 1.0 ppm, bran at 0.4 ppm, and flour at 0.1 ppm; wheat grain a 0.01 ppm; and wheat straw at 0.05 ppm for an additional 23-month period. These tolerances will expire and be revoked on December 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on wheat and barley. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective November 22, 1999. Objections and requests for hearings, identified by docket control number OPP–300933, must be received by EPA on or before January 21, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300933 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–9367; and e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300933. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued final rules, published in the **Federal Registers** of May 6, 1998 (63 FR 24939) (FRL–5788–1), for wheat and its associated commodities and September 9, 1998 (63 FR 48116) (FRL–6024–7), for barley and its associated commodities which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it extended time-limited tolerances for the residues of herbicide safener HOE-107892 and its metabolites HOE-113225, HOE-109453, and HOE-094270 on wheat grain a 0.01 ppm; and wheat straw at 0.05 ppm with an expiration date of February 1, 2000 (63 FR 24939) and residues of herbicide safener HOE-107892 and its metabolites HOE-113225, HOE-109453, and HOE-094270 barley grain at 0.05 part per million (ppm), barley hay at 0.5 ppm; barley straw at 0.1 ppm; and the processed by-products of barley grain: pearled barley at 1.0 ppm, bran at 0.4 ppm, and flour at 0.1 ppm with an expiration date of February 1, 2000 (63 FR 48116). EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA assessed the potential risks presented by residues of HOE-107892 in or on wheat and barley and their associated commodities. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the most recent final rule of September 9, 1998. Based on those data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 23-month period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these

tolerances will expire and be revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on wheat, barley, and their associated commodities after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300933 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 21, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300933, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule extends time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children*

from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 4, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.509 [Amended]

2. In § 180.509, by amending paragraph (b) by revising the date for "barley, bran; barley, flour; barley, grain; barley, hay; barley, pearled; barley, straw; wheat, grain; and wheat, straw" from "2/1/00" to read "12/31/01".

[FR Doc. 99–30410 Filed 11–19–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300949; FRL–6392–9]

RIN 2070–AB78

Paraquat; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of paraquat (1,1′-di-methyl-4,4′-bipyridinium-ion) in or on artichokes. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on artichokes. This regulation establishes a maximum permissible level for residues of paraquat in this food commodity. The tolerance will expire and is revoked on December 31, 2000.

DATES: This regulation is effective November 22, 1999. Objections and requests for hearings, identified by docket control number OPP–300949, must be received by EPA on or before January 21, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300949 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number:(703) 308-9364; and e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under

the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300949. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the herbicide paraquat, in or on artichokes at 0.05 part per million (ppm). This tolerance will expire and is revoked on December 31, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Paraquat on Artichokes and FFDCA Tolerances

Simazine has been used in the past to control common chickweed, mustard, Bermuda buttercup, certain grasses and older weeds in artichokes. With the imminent cancellation of simazine on artichokes, the industry purchased all existing stocks. However, growers are expected to deplete the existing stocks of simazine, labeled for artichokes by September of 1999. EPA has authorized under FIFRA section 18 the use of paraquat on artichokes for control of weeds in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of paraquat in or on artichokes. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on artichokes after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether paraquat meets EPA's registration requirements for use on artichokes or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of paraquat by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for paraquat , contact the Agency's Registration Division at the address provided under "FOR FURTHER INFORMATION CONTACT."

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7) .

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of paraquat and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of paraquat on artichokes at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity,

completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by paraquat are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity*. An acute reference dose (acute RfD) of 0.03 milligrams per kilogram per day (mg/kg/day) has been identified for females 13+ years old and the general population including infants and children. For females 13+ the acute RfD is based on the maternal no observable adverse effects level (NOAEL) of 3 milligrams/kilogram/day (mg/kg/day) derived from the combined results of two developmental studies in rats. The effects of concern are delayed ossification of the forelimb and hindlimb digits. The maternal NOAEL of 3 mg/kg/day has also been identified as the endpoint of concern for the acute RfD for the general population including infants and children. The effects of concern are based on clinical signs of toxicity, decreased body weight gain, and respiratory distress and histopatholgy of the lungs An uncertainty factor (UF) of 100 (10x for inter-species extrapolation and 10x for intra-species variability) is appropriate. The 10x FQPA Safety factor to account for enhanced sensitivity of infants and children as required by FFDCA section 408 (b)(2)(C) was reduced to 1x for acute exposures. The acute Population Adjusted Dose (aPAD) is a modification of the acute RfD to accommodate the FQPA Safety Factor. The aPAD is equal to the acute RfD divided by the FQPA Safety Factor. Therefore, for females 13+ years old and the general population including infants and children the dietary aPAD is 0.03 mg/kg/day.

2. *Short- and intermediate-term toxicity*. The NOAEL of 3.0 mg/kg/day derived from the combined results of two developmental studies in rats was identified as the short- and intermediate-term endpoints for dermal exposures. At lowest observable adverse effects level (LOAEL) of 5.0 mg/kg/day, there were clinical signs of toxicity, decreased body weight gain, and lung histopathology. A 0.3% dermal absorption rate should be used in risk assessments.

3. *Chronic toxicity*. EPA has established the chronic RfD for paraquat at 0.0045 mg/kg/day. The chronic RfD is based on the NOAEL of 0.45 mg/kg/day from a one year oral study in dogs. At the LOAEL of 0.93 mg/kg/day the effects were chronic pneumonitd. An UF of 100 (10x for inter-species extrapolation and 10x for intra-species variability is appropriate. The 10x FQPA Safety factor to account for enhanced sensitivity of infants and children as required by FFDCA section 408 (b)(2)(C) is not applicable because the endpoint used in deriving the chronic RfD is based on chronic pneumonitd (not developmental or neurotoxic effects) in adult dogs after chronic exposure and thus are not relevant for enhanced sensitivity to infants and children. The chronic Population Adjusted Dose (cPAD) is a modification of the chronic RfD to accommodate the FQPA Safety Factor. The cPAD is equal to the chronic RfD divided by the FQPA Safety Factor. Hence for chronic exposures, the cPAD and chronic RfD are the same (0.0045 mg/kg/day).

4. *Carcinogenicity*. Paraquat is classified as Group E (no evidence of carcinogenicity in humans).

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.205) for the residues of paraquat, in or on a variety of raw agricultural commodities. Tolerances have also been established for fat, kidney, meat, and meat byproducts for cattle, goats, hogs, horses, poultry and sheep as well as tolerances for eggs and milk. Risk assessments were conducted by EPA to assess dietary exposures and risks from paraquat as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–91 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. At the 95th percentile exposure level, assuming 100 percent crop treated and tolerance level residues for all commodities, 13 percent of the aPAD was utilized for the U.S. Population and 23 percent of the aPAD was utilized for children (1-6 years old), the subgroup with the highest exposure. The results of this analysis indicate that the acute dietary risk associated with existing uses and the proposed use of paraquat is below the Agency's level of concern.

ii. *Chronic exposure and risk*. In conducting this chronic dietary risk assessment the DEEM™ analysis evaluated the individual food consumption as reported by respondents in the USDA 1989-91 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. Assuming tolerance level residues for all commodities and 100 percent crop treated values, 31 percent of the cPAD was utilized for the U.S. Population and 69 percent of the cPAD was utilized for children (1-6 years old), the subgroup with the highest exposure. The results of this analysis indicate that the chronic dietary risk associated with existing uses and the proposed use of paraquat is below the Agency's level of concern.

2. *From drinking water*. Paraquat dichloride binds strongly to soil clay particles and it did not leach from the surface in terrestrial field dissipation studies. There were, however, detections of paraquat in drinking water wells from two states cited in the Pesticides in Ground Water Database (1991). These detections are not considered to be representative of normal paraquat use. Therefore, paraquat is not expected to be a groundwater contaminant or concern based on normal use patterns.

Due to its persistent nature, paraquat could potentially be found in surface water systems associated with soil particles carried by erosion, however, paraquat is immobile in most soils, and at very high application rates (50-1000X), there was no desorption of paraquat from soils. Therefore, based on paraquat's normal use patterns and unique environmental fate characteristics, exposures to paraquat in drinking water are not expected to be obtained from surface water sources.

3. *From non-dietary exposure*. Paraquat is not registered on any use sites which would result in non-dietary, non-occupational exposure. Therefore, EPA expects only dietary and occupational exposure from the use of paraquat.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether paraquat has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a

common mechanism of toxicity, paraquat does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that paraquat has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* Acute aggregate exposure takes into account acute dietary food and water exposures plus other indoor and outdoor non-occupational exposure. Since paraquat is not registered on any use sites which would result in non-dietary, non-occupational exposure and exposure to ground or surface water is not expected, the only non-occupational exposure to paraquat is expected through consumption of food. Therefore acute aggregate risk to paraquat is assumed to be the same as estimated risk from food and feed uses: at the 95th percentile exposure level, assuming 100 percent crop treated and tolerance level residues for all commodities, 13 percent of the aPAD was utilized for the U.S. Population.

2. *Chronic risk.* Chronic-term aggregate exposure takes into account chronic dietary food and water plus other indoor and outdoor non-occupational exposure. Since there are no non-dietary, non-occupational exposures expected from the use of this chemical and paraquat is not expected to reach ground or surface water, the only non-occupational exposure to paraquat is anticipated through consumption of food. Therefore chronic aggregate risk to paraquat is expected be the same as the estimated risk from food and feed uses: assuming tolerance level residues for all commodities and 100 percent crop treated values, 31 percent of the cPAD was utilized for the U.S. Population.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Paraquat is not registered on any use sites which would result in non-dietary, non-occupational exposure. Therefore no short- and intermediate-term aggregate risk assessments are needed.

4. *Aggregate cancer risk for U.S. population.* Paraquat is classified as Group E (no evidence of carcinogenicity in humans).

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to paraquat residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children—i. In general.* In assessing the potential for additional sensitivity of infants and children to residues of paraquat, EPA considered data from developmental toxicity studies in the rat and mice and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined interspecies and intraspecies variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In a developmental study in rats, the maternal NOAEL is 8 mg/kg/day (HDT). No LOAEL was identified and there were no maternal or developmental effects observed in the study.

In another developmental study in rats, the maternal NOAEL is 1 mg/kg/day based on thin and hunched appearance, decreased body weight gain, and histological changes in the lungs and kidneys of non-survivors at 5 mg/kg/day (LOAEL). The developmental NOAEL is 1 mg/kg/day based on delayed ossification in the fore- and hindlimb digits at 5 mg/kg/day (LOAEL). (The overall maternal and developmental NOAEL for the rat is considered 3 mg/kg/day based on the results from two developmental studies.)

In a developmental study in mice, the maternal NOAEL is 5 mg/kg/day based on statistically significant decreases in body weight gain at 10 mg/kg/day (LOAEL). The developmental NOAEL is 5 mg/kg/day based on statistically significant decreases in body weight gain at 10 mg/kg/day (LOAEL).

In another developmental study in mice, the maternal NOAEL is 15 mg/kg/day based clinical signs, death, decreased body weight gain, decreased body weight, increased organ weight (lung w/ trachea, kidney), dark red lung lobes, and possible decrease in pregnancy rate at 25 mg/kg/day (LOAEL). The developmental NOAEL is 15 mg/kg/day based on decreased mean fetal weight, retarded ossification of occipital, increased number with extra 14th ribs, increased number with unossified astragalus in the hindlimb, and an increased number with ≤ 6 caudal centra.

iii. *Reproductive toxicity study.* In a 2-generation reproductive study in rats, the NOAEL for paternal toxicity is 1.25 mg/kg/day based on increased incidence of alveolar histiocytes, discolored lungs, fibrosis, edema at the LOAEL of 3.75 mg/kg/day. There were no reproductive effects seen in this study therefore, the reproductive NOAEL/LOAEL is 7.5 mg/kg/day (HDT).

iv. *Prenatal and postnatal sensitivity.* The Agency has determined that there is no indication of additional sensitivity to young rats or mice following pre-and/or postnatal exposure to paraquat.

v. *Conclusion.* There is a complete toxicity data base for paraquat and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Data provided no indication of increased sensitivity of rats or mice to *in utero* and/or postnatal exposure to paraquat. Based on this, EPA concludes that reliable data support the use of the standard 100-fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants and children.

2. *Acute risk.* Acute aggregate exposure takes into account acute dietary food and water exposures plus other indoor and outdoor non-occupational exposures. Since paraquat is not registered on any use sites which would result in non-dietary, non-

occupational exposure and is not expected in ground or surface water, the only non-occupational exposure to paraquat is expected through consumption of food. Therefore acute aggregate risk to paraquat is assumed to be the same as estimated risk from food and feed uses; at the 95th percentile exposure level, assuming 100 percent crop treated and tolerance level residues for all commodities, 23 percent of the aPAD was utilized for utilized for children, 1-6 years old, the major identifiable subgroup with the highest aggregate exposure.

3. *Chronic risk.* Chronic-term aggregate exposure takes into account chronic dietary food and water plus other indoor and outdoor non-occupational exposure. Since there are no non-dietary, non-occupational exposures expected from the use of this chemical and paraquat is not expected to reach ground or surface water, the only non- occupational exposure to paraquat is expected through consumption of food. Therefore chronic aggregate risk to paraquat is assumed to be the same as the estimated risk from food and feed uses; assuming tolerance level residues for all commodities and 100 percent crop treated values, 69 percent of the cPAD was utilized for children, 1-6 years old, the major identifiable subgroup with the highest aggregate exposure.

4. *Short- or intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Paraquat is not registered on any use sites which would result in non-dietary, non-occupational exposure. Therefore no short- and intermediate-term aggregate risk assessments are needed.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to paraquat residues.

V. Other Considerations

A. Metabolism in Plants and Animals

The qualitative nature of the residue in plants and animals has is understood. The residue of concern is the parent compound, paraquat, only, as specified in 40 CFR 180.205.

B. Analytical Enforcement Methodology

Method I of PAM, Vol. II (spectrophotometric), is adequate for tolerance enforcement purposes. In addition, the Agency concluded that Method 1B adequately recovers paraquat cation residues from samples of potatoes and soybeans treated with radiolabeled paraquat.

C. Magnitude of Residues

Residues of paraquat are not expected to exceed 0.05 ppm in/on artichokes as a result of this section 18. No animal feed items are associated with the proposed use.

D. International Residue Limits

No CODEX, Canadian, and/or Mexican MRLs/tolerances have been established for residues of paraquat on artichoke. Therefore, there are no issues of international harmonization associated with this action.

E. Rotational Crop Restrictions

Artichokes are a perennial crop and are not normally rotated; therefore, a discussion of rotational crop requirements is not germane to this petition.

VI. Conclusion

Therefore, the tolerance is established for residues of paraquat in artichokes at 0.05 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300949 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 21, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of

Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP-300949, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

IX. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 4, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.205, the table to paragraph (b) is amended by adding alphabetically an entry for "artichokes" to read as follows:

§ 180.205 Paraquat; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.*

* * *

Commodity	Parts per million	Expiration/revocation date
* * *	* * *	
Artichokes	0.05	12/31/00
* * *	* * *	

* * * * *

[FR Doc. 99–30411 Filed 11–19–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6476–8]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the Materials Technology Laboratory (MTL)—Watertown Arsenal Development Corporation Parcel and Commander's Quarters parcel (also known as Zones 1–4) from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region I announces the partial deletion of the Materials Technology Laboratory—Watertown Arsenal Development Corporation Parcel and Commander's Quarters parcel (jointly known as Zones 1–4) from the National Priorities List (NPL). Zones 1 through 4 of MTL include a portion of Operable Unit (OU) No. 1 and OU No. 3. The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act. After consultation with the Commonwealth of Massachusetts, EPA has determined that all appropriate actions under CERCLA have been implemented. Moreover, EPA and the Commonwealth have determined that remedial activities conducted to date at OU No. 1 (Zones 1 through 4) and OU No. 3 have been protective of human health, welfare and the environment. Institutional controls, which have been established as part of the remedy, will ensure continued protectiveness in the future. Institutional controls are provided for in a Grant of Environmental Restriction and Easement. The Charles River Park parcel and the Charles River Operable Unit, are still undergoing investigation/remedial actions and are not to be removed from the NPL at this time.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Meghan Cassidy, Remedial Project Manager, U.S. EPA Region I , 1 Congress St., Suite 1100 (HBT), Boston, MA 02114–2023, (617) 918–1387.

SUPPLEMENTARY INFORMATION: The site to be partially deleted from the NPL is: Watertown Arsenal Development Corporation Parcel and Commander's Quarters parcel (also known as Zones 1–4) of the Materials Technology Laboratory (MTL) in Watertown, Massachusetts.

A Notice of Intent to Delete for these parcels at this site was published on August 16, 1999, 64 FR 44454. The closing date for comments on the Notice of Intent to Delete was September 15, 1999. EPA received no comments.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site (or portion thereof) deleted from the NPL are eligible for further remedial actions should future conditions warrant such action.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 8, 1999.

John P. DeVillars,

Regional Administrator, Region 1.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

2. Table 2 of Appendix B to Part 300 is amended by revising the entry for "Materials Technology Laboratory (USARMY)", Watertown, Massachusetts to read as follows:

Appendix B to Part 300—National Priorities List

* * * * *

TABLE 2.—FEDERAL FACILITIES SECTION

St	Site name	City/county	Notes(a)
* * *	* * *	* * *	*
MA	Materials Technology Laboratory (USARMY)	Watertown	P
* * *	* * *	* * *	*

(a) * * *
P = Sites with partial deletion(s).

[FR Doc. 99–30155 Filed 11–19–99; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 52b

RIN 0925–AA04

National Institutes of Health Construction Grants

AGENCY: National Institutes of Health, Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The National Institutes of Health (NIH) is revising regulations governing National Cancer Institute construction grants for the purpose of making them applicable to all NIH financial assistance programs with construction grant authority, including programs transferred to NIH by the ADAMHA Reorganization Act and two programs authorized by the National Institutes of Health Revitalization Act of 1993. The regulations are also being revised to update statutory references in the regulations, add new administrative and technical requirements for the awarding of these grants, and add procedures for the recovery of grant funds for facilities no longer used for biomedical research purposes.

DATES: This final rule is effective on December 22, 1999. The incorporation by reference of certain publications listed in the rule was approved by the Director of the Federal Register, effective December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Moore, NIH Regulations Officer, National Institutes of Health, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852, or telephone 301–496–4607 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Under the Public Health Service (PHS) Act, as amended (42 U.S.C. 201 *et seq.*), construction or modernization grant authority exists in sections 413(b)(6)(B) and 414(b) for the National Cancer Institute (construction grants); sections 421(b)(2)(B) and 422(c)(3) for the National Heart, Lung, and Blood Institute (construction grants); section 441(a) for the National Institute of Arthritis and Musculoskeletal and Skin Diseases (modernization grants); section 455 for the National Eye Institute (construction grants); section 464C(a) for the National Institute on Deafness and Other Communication Disorders (modernization grants); section 464P(b)(3) for the National Institute on Drug Abuse (construction grants); section 481A(a) for the Director of NIH, acting through the Director of the National Center for Research Resources (construction and modernization grants); section 481B(a) for the Director of NIH (construction grants); and section 2354(a)(5)(B) for NIH AIDS research programs (construction grants).

NIH is revising the existing regulations at 42 CFR part 52b (National Cancer Institute Construction Grants) to make them applicable to all NIH financial assistance programs with construction or modernization grant authority, except for certain alterations and improvements under research project grants and center grants, and to make other changes. NIH announced proposed revisions to the existing regulations at 42 CFR part 52b (National Cancer Institute Construction Grants) in a notice of proposed rulemaking (NPRM) published in the **Federal Register** on July 6, 1995 (60 FR 35266). One comment was received and it supported the proposed changes. With the exception of minor editorial and the following changes, the regulations are the same as those proposed in the NPRM.

In lieu of specifically listing in § 52b.1, the applicability section, each NIH construction grant program to which the regulations apply, as proposed in the NPRM, the section has been revised and simplified to apply across-the-board to all NIH construction grant programs, except for those few programs specifically excluded by the section. This will have the advantage of assuring that any new NIH construction grant programs enacted by Congress will have implementing regulations without the necessity of having to amend the regulations. The final rule authorizes the Director of NIH to publish a list from time to time of the construction grant programs covered by the regulations. This list would be for informational purposes only and would not restrict the applicability of the regulations.

Part 52b is retitled and the authority citation is amended to add the construction and modernization grant authorities. Sections 52b.2 through 52b.5 are revised in their entirety. Although the current National Cancer Institute (NCI) construction grants regulations do not specify a specific length of time the grantee must use a facility for the purpose for which constructed, § 52b.10(a) of the current regulations requires the applicant to have sufficient title to assure "for the estimated useful life of the facility," as determined by the Director, NCI, undisturbed use and possession for the purpose of the construction and operation of the facility. The regulations governing the administration of grants, 45 CFR part 74, which are incorporated in the current part 52b, provide that the recipient shall use the real property "for the authorized purpose of the project as long as it is needed" (§ 74.32(a)). The revised regulations continue to specify continued use of the facility for its originally authorized purpose so long as needed, unless another period is prescribed by statute (e.g., 20 years after completion of construction prescribed by section 481A(c)(1)(B) of the PHS Act for biomedical and behavioral research facilities).

The NPRM continued without change the provisions relating to title (sufficient for the estimated useful life as determined by the awarding component director) and incorporation of 45 CFR part 74 (use for the originally authorized purpose so long as needed), but added express provisions authorizing alternate use in appropriate circumstances and the right of the Federal Government to recover in the event a facility is sold or transferred to an ineligible third party or diverted to an unauthorized purpose, prior to the expiration of its useful life. Those provisions remain in this final rule with minor modifications to conform more closely to the pertinent provisions of 45 CFR part 74.

Sections 52b.6, 52b.7, 52b.8, 52b.9, 52b.10, and 52b.11 are revised and redesignated as indicated on the following chart, which shows the new section designations of all the sections of former part 52b:

Former section	New section
52b.1	52b.1
52b.2	52b.2
52b.3	52b.3
52b.4	52b.4
52b.5	52b.5
52b.6	52b.14
52b.7	52b.6
52b.8	52b.10
52b.9	52b.11
52b.10	52b.13
52b.11	52b.12
None	52b.7
None	52b.8
None	52b.9

Three new sections are added to part 52b. A new § 52b.7 is added specifying facility usage requirements; a new § 52b.8 is added concerning NIH monitoring of the usage of biomedical research facilities constructed with federal funds; and a new § 52b.9 is added concerning procedures to recover federal funds for facilities that cease to be used for biomedical research purposes. Section 52b.10 adds new

requirements relating to the recording of the Notice of Federal Interest and the purchasing of insurance.

The introductory paragraph of § 52b.11, as proposed in the NPRM, is revised for editorial purposes. Sections 52b.12 and 52b.14, as proposed in the NPRM, are revised to (1) include additional information concerning where copies of the standards that are incorporated by reference may be inspected and obtained, (2) comply with **Federal Register** format requirements for the references, and (3) consolidate the published standards that are incorporated by reference in § 52b.12 and the other laws, regulations, executive orders, and policies referenced in § 52b.14. Additionally, the heading of § 52b.14 is revised to include public laws and executive orders.

These construction grant regulations do not apply to minor alterations and renovations under research project grants. Minor alterations and renovations are covered under the regulations at 42 CFR part 52 governing the award of research project grants. These regulations also do not cover alterations and renovations under NIH center grants. Those alterations and renovations are covered under the regulations for that program at 42 CFR part 52a.

HHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and title X, part C of Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

The following statements are provided for the information of the public.

Executive Order 12866

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, requires that all regulatory actions reflect consideration of the costs and benefits they generate, and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. If a regulatory action is deemed to fall within the scope of the definition of the term "significant regulatory action" contained in section 3(f) of the Order, prepublication review by the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), is necessary. This rule was reviewed under Executive Order 12866 and was deemed not significant.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. chapter 6) requires that regulatory actions be analyzed to determine whether they will have a significant impact on a substantial number of small entities. The Secretary of Health and Human Services certifies that this final rule will not have a significant economic impact on a substantial number of small entities and, therefore, a regulatory flexibility analysis, as defined under the Regulatory Flexibility Act, is not required. The rule codifies in the CFR policies and procedures of the Federal Government which are used by the NIH to administer construction grants awarded under the authority set forth in sections 413(b)(6)(B), 414(b), 421(b)(2)(B), 422(c)(3), 441(a), 455, 464C(a), 464P(b)(3), 481A(a), 481B(a), and 2354(a)(5)(B) of the PHS Act and updates the current regulations. These grants do not have significant economic or policy impact on a broad cross-section of the public. Furthermore, the revised regulations only affect the limited number of public or private nonprofit agencies or institutions which are interested in participating in the construction grant programs. No agency or institution is required to participate in these programs. Apart from the requirements for applicants and award recipients necessary to operate these programs, the revised regulations include no standards or requirements which burden small entities.

Paperwork Reduction Act

Sections 52b.9(b), 52b.10(f), 52b.10(g), and 52b.11(b) of this rule contain information collection requirements which are subject to OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Section 52b.10(g) also contains recordkeeping requirements which are subject to OMB approval under the Paperwork Reduction Act. The information collection language in §§ 52b.9(b), 52b.10(f), 52b.10(g), and 52b.11(b), and the recordkeeping language in § 52b.10(g) is approved under OMB Control Number 0925–0424 (expires November 30, 2001).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbered programs affected by these proposed regulations are:

93.392—Cancer Construction
93.131—Shared Research Facilities for Heart, Lung, and Blood Diseases
93.846—Arthritis, Musculoskeletal and Skin Diseases Research

List of Subjects in 42 CFR Part 52b

Grant programs—health, Health facilities, Incorporation by reference, Medical research, Reporting and recordkeeping requirements.

Dated: August 29, 1999.

Harold Varmus,

Director, National Institutes of Health.

For the reasons set out in the preamble, part 52b of title 42 of the Code of Federal Regulations is revised to read as follows:

PART 52b—NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Sec.

52b.1 To what programs do these regulations apply?
52b.2 Definitions.
52b.3 Who is eligible to apply?
52b.4 How to apply.
52b.5 How will NIH evaluate applications?
52b.6 What is the rate of federal financial participation?
52b.7 How is the grantee obligated to use the facility?
52b.8 How will NIH monitor the use of facilities constructed with federal funds?
52b.9 What is the right of the United States to recover federal funds when facilities are not used for research or are transferred?
52b.10 What are the terms and conditions of awards?
52b.11 What are the requirements for acquisition and modernization of existing facilities?
52b.12 What are the minimum requirements of construction and equipment?
52b.13 Additional conditions.
52b.14 Other federal laws, regulations, executive orders, and policies that apply.

Authority: 42 U.S.C. 216, 285a-2, 285a-3, 285b-3, 285b-4, 285d-6, 285i, 285m-3, 285o-4, 287a-2, 287a-3, 300cc-41.

§ 52b.1 To what programs do these regulations apply?

(a) *General.* Except as provided in paragraph (c) of this section, this part applies to all grants awarded by NIH and its components for construction of new buildings and the alteration, renovation, remodeling, improvement, expansion, and repair of existing buildings, including the provision of equipment necessary to make the building (or applicable part of the building) suitable for the purpose for which it was constructed.

(b) *Specific programs covered.* From time to time the Director may publish a list of the construction grant programs covered by this part. The list is for informational purposes only and is not intended to restrict the statement of applicability in paragraph (a) of this section. In addition, information on particular construction grant programs,

including applications and instructions, may be obtained from the component of NIH that administers the program.

(c) *Specific programs excluded.* The regulations of this part do not apply to minor alterations, renovations, or repairs funded under a research project grant (see part 52 of this chapter) or alterations or renovations funded under an NIH center grant (see part 52a of this chapter).

§ 52b.2 Definitions.

As used in this part:

Act means the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*).

Construction means the construction of new buildings or the modernization of, or the completion of shell space in, existing buildings (including the installation of fixed equipment), but excluding the cost of land acquisition and off-site improvements.

Construction grant means funds awarded for construction in accordance with the applicable provisions of the Act and this part.

Director means the Director of NIH or the director of an NIH national research institute, center, or other component of NIH, authorized to award grants for construction under the applicable provisions of the Act, and any official to whom the authority involved is delegated.

Federal share with respect to any construction project means the proportion, expressed as a percentage, of the cost of a project to be paid by a grant award under the Act.

HHS, DHHS, and *Department* mean the Department of Health and Human Services.

Institute means any national research institute, center, or other agency of the National Institutes of Health.

Modernization means the alteration, renovation, remodeling, improvement, expansion, and/or repair of existing buildings and the provision of equipment necessary to make the building suitable for use for the purposes of the particular program.

NIH means the National Institutes of Health and its organizational components that award construction grants.

Nonprofit as applied to any agency or institution means an agency or institution which is a corporation or an association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

Project means the particular construction activity which is supported by a grant under this part.

Secretary means the Secretary of Health and Human Services and any official to whom the authority involved is delegated.

§ 52b.3 Who is eligible to apply?

In order to be eligible for a construction grant under this part, the applicant must:

(a) Be a public or private nonprofit agency or institution;

(b) Be located in a state, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the successor states of the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau); and

(c) Meet any additional eligibility criteria specified in the applicable provisions of the Act.

§ 52b.4 How to apply.

Applications for construction grants under this part shall be made at the times and in the form and manner as the Secretary may prescribe.

§ 52b.5 How will NIH evaluate applications?

(a) In evaluating and approving applications for construction grants under this part, the Director shall take into account, among other pertinent factors, the following:

(1) The priority score assigned to the application by an NIH peer review group as described in paragraph (b) of this section;

(2) The relevance of the project for which construction is proposed to the objectives and priorities of the particular program authorized by the Act;

(3) The scientific merit of the research activities that will be carried out in the proposed facility;

(4) The scientific or professional standing or reputation of the applicant and of its existing or proposed officers and research staff;

(5) The availability, by affiliation or other association, of other scientific or health personnel and facilities to the extent necessary to carry out effectively the program proposed for the facility, including the adequacy of an acceptable biohazard control and containment program when warranted;

(6) The need for the facility and its total effects on similar or related facilities in the locale, and the need for appropriate geographic distribution of similar facilities; and

(7) The financial need of the applicant.

(b) The priority score of the application shall be based, among other pertinent factors, on the following criteria:

(1) The scientific merit of the total program and its component parts to be carried out in the facility;

(2) The administrative and leadership capabilities of the applicant's officers and staff;

(3) The organization of the applicant's research program and its relationship with the applicant's overall research programs;

(4) The anticipated effect of the project on other relevant research programs and facilities in the geographic area, and nationwide;

(5) The need for the project or additional space; and

(6) The project cost and design.

§ 52b.6 What is the rate of federal financial participation?

(a) Unless otherwise specified by statute, the rate of federal financial participation in a construction project supported by a grant under this part shall not be more than 50 percent of the necessary allowable costs of construction as determined by the Director, except that when the Director finds good cause for waiving this limitation, the amount of the construction grant may be more than 50 percent of the necessary allowable costs of construction.

(b) Subject to paragraph (a) of this section, the Director shall set the actual rate of federal financial participation in the necessary allowable costs of construction, taking into consideration the most effective use of available federal funds to further the purposes of the applicable provisions of the Act.

§ 52b.7 How is the grantee obligated to use the facility?

(a) The grantee shall use the facility (or that portion of the facility supported by a grant under this part) for its originally authorized purpose so long as needed for that purpose, or other period prescribed by statute, unless the grantee obtains advance approval from the Director, in the form and manner as the Director may prescribe, to use the facility for another purpose. Use for other purposes shall be limited as prescribed in § 52b.9(c)(2).

(b) The Director, in determining whether to approve an alternative use of the facility, shall take into consideration the extent to which:

(1) The facility will be used by the grantee or other owner for a purpose described in § 52b.9(c)(2); or

(2) There are reasonable assurances that alternative facilities not previously used for NIH supported research will be utilized to carry out the original purpose as prescribed in § 52b.9(c)(1).

(c) *Sale or transfer.* In the form and manner as the Director may prescribe,

the grantee may request the Director's approval to sell the facility or transfer title to a third party eligible under § 52b.3 for continued use of the facility for an authorized purpose in accordance with paragraphs (a) and (b) of this section. If approval is permissible under the Act or other federal statute and is granted, the terms of the transfer shall provide that the transferee shall assume all the rights and obligations of the transferor set forth in 45 CFR part 74, the regulations of this part, and the other terms and conditions of the grant.

§ 52b.8 How will NIH monitor the use of facilities constructed with federal funds?

NIH may monitor the use of each facility constructed with funds awarded under this part to ensure its continued use for the originally authorized research purpose, by means of reviewing periodic facility use certifications or reports, site visits, and other appropriate means.

§ 52b.9 What is the right of the United States to recover Federal funds when facilities are not used for research or are transferred?

(a) If the grantee plans to cease using the facility for the particular biomedical research or training purposes for which it was constructed as required by § 52b.7 (or alternate use authorized under § 52b.7(a) or paragraph (c) of this section), or the grantee decides to sell or transfer title to an entity ineligible for a grant under § 52b.3, the grantee shall request disposition instructions from NIH in the form and manner as the Director may prescribe. Those instructions shall provide for one of the following alternatives:

(1) The facility may be sold and the grantee or transferee shall pay to the United States an amount computed by multiplying the federal share of the facility times the proceeds from the sale (after deducting the actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). The sales procedures must provide for competition to the extent practicable, and be designed to provide the highest possible return;

(2) The grantee may retain title and shall pay to the United States an amount computed by multiplying the current fair market value of the facility by the federal share of the facility; or

(3) The grantee shall transfer the title to either the United States or to an eligible non-federal party approved by the Director. The grantee shall be entitled to be paid an amount computed by multiplying the current fair market value of the facility by the nonfederal share of the facility.

(b) The grantee or transferor of a facility which is sold or transferred, or the owner of a facility the use of which has changed, as described in paragraph (a) of this section, shall report that action in writing to the Director not later than 10 days from the date on which the sale, transfer, or change occurs, in the form and manner as the Director may prescribe.

(c) In lieu of disposition of a facility pursuant to the provisions of paragraph (a) of this section, the Director may, for good cause, supported by assurances provided by the grantee or transferee, approve one of the following alternatives:

(1) Transfer of the remaining usage obligation to facilities of substantially comparable or greater value or utility, to carry out the biomedical research or training purpose for which the grant was awarded. In this event, the remaining usage obligation shall be released from the original facility constructed with grant funds and transferred to the new facility, and the grantee shall remain subject to all other requirements imposed under this part with respect to the new facility; or

(2) Use the facility for as long as needed, in order of priority, for one of the following purposes:

(i) For other health related activities consistent with the purposes of one or more of the activities of the awarding institute as authorized under title IV or other provisions of the Act;

(ii) To provide training and instruction in the health fields for health professionals or health related information programs for the public; or

(iii) Other health related purposes consistent with one or more of the purposes authorized under the Act.

(d) The right of recovery of the United States set forth in paragraph (a) of this section shall not, prior to judgment, constitute a lien on any facility supported in whole or in part by a federal grant, including a construction grant under this part.

(e) Any amount required to be paid to the United States under this section will be paid to the awarding institute for disposition as required by law.

(Approved by the Office of Management and Budget under Control Number 0925–0424; expires November 30, 2001)

§ 52b.10 What are the terms and conditions of awards?

In addition to any other requirement imposed by law or determined by the Director to be reasonably necessary to fulfill the purposes of the grant, each construction grant shall be subject to the terms and conditions and the grantee assurances required by this section, supported by such documentation as the Director may reasonably require. The Director may, by general policy or for good cause shown by an applicant, approve exceptions to these terms and conditions or assurances where the Director finds that the exceptions are consistent with the applicable provisions of the Act and the purposes of the particular program:

(a) *Title.* The applicant must have a fee simple or other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for the estimated useful life of the facility, as determined by the Director, undisturbed use and possession for the purpose of the construction and operation of the facility.

(b) *Plans and specifications.* Approval by the Director of the final working drawings, specifications, and cost estimates must be obtained before the project is advertised or placed on the market for bidding. The approval must include a determination by the Director that the final plans and specifications conform to the minimum standards of construction and equipment as set forth in § 52b.12.

(c) *Relocation assistance.* An applicant with an approved project which involves the displacement of persons or businesses shall comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*) and the applicable regulations issued under that Act (45 CFR part 15; 49 CFR part 24).

(d) *Approval of changes in estimated cost.* Unless approved by the Director, the applicant shall not enter into any construction contracts for the project or a part of the project, the cost of which exceeds the estimated cost approved in the terms of an award for that portion of the work covered by the plans and specifications. Exceptions shall be requested in the form and manner as the Director may prescribe.

(e) *Completion responsibility.* The applicant must construct the project, or cause it to be constructed, to final completion in accordance with the grant application, the terms and conditions of the award, and the approved plans and specifications.

(f) *Construction schedule inspection.* Prior to the start of construction, the grantee shall submit an approved copy of the construction schedule (critical path method) to the Director in the form and manner as the Director may prescribe.

(g) *Construction management.* The applicant must provide and maintain competent and adequate construction

management services for inspection at the construction site to ensure that the completed work conforms with the approved plans and specifications. Construction management services shall include daily construction logs and monthly status reports which shall be maintained at the job site and shall be submitted to the Director at the times and in the form and manner as the Director may prescribe.

(h) *Nonfederal share.* Sufficient funds must be available to meet the nonfederal share of the costs of constructing the facility.

(i) *Funds for operation.* Sufficient funds must be available when construction is completed for effective use of the facility for the purposes for which it is being constructed.

(j) *Inspection.* The Director and the Director's representatives shall have access at all reasonable times to all work areas and documents during any stage of construction and the contractor shall provide proper facilities for this access and inspection.

(k) *Accessibility to handicapped persons.* The facility must be designed to comply with the Uniform Federal Accessibility Standards (41 CFR part 101–19, subpart 101–19.6, Appendix A), as modified by other standards prescribed by the Director or the Administrator of General Services. The applicant shall conduct inspections to ensure compliance with these specifications by the contractor.

(l) *Notice of Federal Interest.* The grantee shall record a Notice of Federal Interest in the appropriate official land records of the jurisdiction in which the property is located.

(m) *Title insurance.* The grantee shall purchase a title insurance policy unless a legal opinion has been provided which certifies that the grantee institution has fee simple title to the site free and clear of all liens, easements, rights-of-way, and any other adverse interests which would encumber the project. The Director may waive this requirement upon a request from the grantee adequately documenting self-insurance against the risks involved and containing such other information as the Director may prescribe.

(n) *Physical destruction insurance.* At the time construction is completed or at the time of beneficial occupancy, whichever comes first, the grantee shall purchase an insurance policy which insures the facility for the full appraised value of the property using state certified appraisers. The insurance policy must protect the property from total and partial physical destruction. The insurance policy must be maintained throughout the period of federal interest. The Director may waive this requirement upon a written request from the grantee adequately documenting self-insurance against the risks involved and containing such other information as the Director may prescribe.

(Approved by the Office of Management and Budget under Control Number 0925–0424; expires November 30, 2001)

§ 52b.11 What are the requirements for acquisition and modernization of existing facilities?

Grant awards for the acquisition and modernization of existing facilities are permitted if authorized by the statutes authorizing the construction grant program and shall be subject to the requirements of this section.

(a) *Minimum standards of construction and equipment.* A determination by the Director that the facility conforms (or upon completion of any necessary construction will conform) to the minimum standards of construction and equipment as set forth in § 52b.12 shall be obtained before entering into a final or unconditional contract for the acquisition and/or modernization of facilities. Where the Director finds that exceptions to or modifications of these minimum standards would be consistent with the purposes of the applicable section of the Act under which the acquisition or modernization is supported, the Director may authorize the exceptions or modifications.

(b) *Estimated cost of acquisition and remodeling: suitability of facility.* Each application for a project involving the acquisition of existing facilities shall include in the detailed estimates of the costs of the project, the cost of acquiring the facilities, and any cost of remodeling, renovating or altering the facilities to serve the purposes for which they are acquired. The application shall demonstrate to the satisfaction of the Director that the architectural, mechanical, electrical, plumbing, structural, and other pertinent features of the facility, as modified by any proposed expansion, remodeling, renovation, or alteration, will be suitable for the purposes of the applicable sections of the Act.

(c) *Bona fide sale.* Grant awards for the acquisition of existing facilities shall be subject to the condition that the acquisition constitutes a bona fide sale involving an actual cost to the applicant and will result in additional or improved facilities for purposes of the applicable provisions of the Act.

(d) *Facility previously funded by a federal grant.* No grant for the acquisition or modernization of a facility which has previously been funded in whole or in part by a federal grant for construction, acquisition, or equipment shall serve either to reduce or restrict the liability of the applicant or any other transferor or transferee from any obligation of accountability imposed by the Federal Government by reason of the prior grant.

(Approved by the Office of Management and Budget under Control Number 0925–0424; expires November 30, 2001)

§ 52b.12 What are the minimum requirements of construction and equipment?

(a) *General.* In addition to being subject to other laws, regulations, executive orders, and policies referred to in § 52b.14, the standards set forth in this section have been determined by the Director to constitute minimum requirements of construction and equipment, including the expansion, remodeling, renovation, or alteration of existing buildings, and these standards, as may be amended, or any revisions or successors of these standards, shall apply to all projects for which federal assistance is requested under this part. The publications referenced in this section are hereby incorporated by reference and made a part of the regulations in this part.

(b) *Incorporation by reference.* The Director of the Federal Register approves the incorporations by reference in paragraph (c) of this section in accordance with 5 U.S.C. 552(a)(1) and 1 CFR part 51. Copies may also be obtained from the organizations at the addresses listed in paragraph (c) of this section. Copies may be inspected at the National Cancer Institute, Executive Plaza North, Room 539, 6130 Executive Boulevard, Rockville, MD 20852 (telephone 301–496–8534; not a toll-free number); the National Center for Research Services, Building 31, Room 3B11, 9000 Rockville Pike, Bethesda, MD 20892 (telephone 301–496–5793; not a toll-free number); and at the Office of the Federal Register, 800 North Capital Street, NW, Suite 700, Washington, DC. The Director may for good cause shown, approve plans and specifications which contain deviations from the requirements prescribed in paragraph (c) of this section, if the Director is satisfied that the purposes of the requirements have been fulfilled. In addition to these requirements, each project shall meet the requirements of the applicable state and local codes and ordinances relating to construction.

(c) *Design and construction standards.* The facility shall comply with the following mandatory design and construction standards:

(1) "Guidelines for Design and Construction of Hospital and Health Care Facilities" (1996–97). American Institute of Architects Academy of Architecture for Health (AIA); available from AIA Rizzoli Catalogue Sales, 117 Post Street, San Francisco, CA 94108 (telephone 1–800–522–6657, fax 415–984–0024).

(2) 1995 ASHRAE Handbook: Heating, Ventilating, and Air Conditioning Applications (1995), Chapter 13, "Laboratory Systems." American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., 1791 Tullie Circle, NE, Atlanta, GA 30329 (telephone 404–636–8400).

(3) ICBO "Uniform Building Code," Volumes 1–3 (1997). International Conference of Building Officials (ICBO), 5360 South Workman Mill Road, Whittier, CA 90601–2298 (telephone 562–699–0541 or 800–284–4406).

(4) BOCA National Building Code (1996) 1998 Supplement, Building Officials and Code Administrators International, Inc. (BOCA), 4051 West Flossmoor Road, Country Club Hills, IL 60478–5795 (telephone 708–799–4981; fax 708–799–4981).

(5) "Recommended Lateral Force Requirements and Commentary" (1996). Structural Engineers Association of California; available from International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, CA 90601–2298 (telephone 562–699–0541).

(6) "Prudent Practices in the Laboratory: Handling and Disposal of Chemicals" (1995). National Research Council; available from National Academy Press, 8700 Spectrum Drive, Landover, MD 20785 (telephone 1–800–624–6242).

(7) The following material is available for purchase from the National Fire Protection Association (NFPA), 11 Tracy Drive, Avon, MA 02322–9908 (telephone 617–770–3000 or 1–800–735–0100):

(i) NFPA 45, "Standard on Protection for Laboratories Using Chemicals" (1996).

(ii) NFPA 70, "National Electric Code" (1996).

(iii) NFPA 99, Chapter 4, "Gas and Vacuum Systems" (1996).

(iv) NFPA 101, "Life Safety Code" (1997).

(v) NFPA "Health Care Facilities Handbook" (1996).

(8) NSF Standard No. 49 for Class II (Laminar Flow) Biohazard Cabinetry (1992). National Sanitation Foundation (NSF), 3475 Plymouth Road, Box 1468, Ann Arbor, MI 48106 (telephone 734–769–9010).

(9) ACGIH "Industrial Ventilation: A Manual of Recommended Practice" (1998). American Conference of Governmental Industrial Hygienists (ACGIH), 1330 Kemper Meadow Drive, Cincinnati, OH 45240–1634 (telephone 513–742–2020).

(10) AIHA "Laboratory Ventilation Workbook" (1994). American Industrial Hygiene Association (AIHA), 2700 Prosperity Avenue, Suite 250, Fairfax, VA 22031 (telephone 703–849–8888).

(11) The following material is available for purchase from the Southern Building Code Congress (SBCC), 900 Montclair Road, Birmingham, AL 35213–1206 (telephone 205–591–1853; fax 202–591–0075:

(i) SBCC "International Standard Plumbing Code" (1997).

(ii) SBCC "Standard Building Code" (1997).

§ 52b.13 Additional conditions.

The Director may with respect to any grant award impose additional conditions consistent with the regulations of this part prior to or at the time of any award when in the Director's judgment the conditions are necessary to assure or protect advancement of the approved project, the purposes of the applicable provisions of the Act, or the conservation of grant funds.

§ 52b.14 Other federal laws, regulations, executive orders, and policies that apply.

Other federal laws, regulations, executive orders, and policies apply to grants under this part. These include, but are not necessarily limited to:

(a) *Laws.*

An Act to Provide for the Preservation of Historical and Archeological Data (and other purposes), as amended (16 U.S.C. 469 *et seq.*).

Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 *et seq.*).

Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 *et seq.*).

Flood Disaster Protection Act of 1973, section 202, as amended (42 U.S.C. 4106).

National Historic Preservation Act, section 106, as amended (16 U.S.C. 470f).

Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*).

(b) *Regulations.*

9 CFR part 3—Standards (Animal Welfare).

29 CFR 1910.1450—Occupational exposure to hazardous chemicals in laboratories.

36 CFR part 1190—Minimum guidelines and requirements for accessible design.

41 CFR part 101–19, subpart 101–19.6—Accommodations for the physically handicapped.

41 CFR part 101–19, subpart 101–19.6, Appendix A—Uniform Federal accessibility standards.

42 CFR part 50, subpart A—Responsibility of PHS awardee and applicant institutions for dealing with and reporting possible misconduct in science.

42 CFR part 50, subpart D—Public Health Service grant appeals procedure.

45 CFR part 15—Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.

45 CFR part 16—Procedures of the Departmental Grant Appeals Board.

45 CFR part 46—Protection of human subjects.

45 CFR part 74—Uniform administrative requirements for awards and subawards to institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations; and certain grants and agreements with states, local governments and Indian tribal governments.

45 CFR part 76—Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of title VI of the Civil Rights Act of 1964.

45 CFR part 81—Practice and procedure for hearings under part 80 of this chapter.

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving Federal financial assistance.

45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefitting from Federal financial assistance.

45 CFR part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance.

45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State and local governments.

45 CFR part 93—New restrictions on lobbying.

49 CFR part 24—Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.

(c) *Executive orders.*

Executive Order 11988, Floodplain Management (May 24, 1977)(3 CFR, 1977 Comp., p. 117).

Executive Order 11990, Protection of Wetlands (May 24, 1977)(3 CFR, 1977 Comp., p. 121).

Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (January 5, 1990)(3 CFR, 1990 Comp., p. 269).

(d) *Policies.*

(1) Design Policy and Guidelines (1996). Division of Engineering Services, National Institutes of Health (**Note:** To obtain copies of the policy, interested persons should contact the Division of Engineering Services, 9000 Rockville Pike, Building 13, Room 2E43, Bethesda, MD 20892 (telephone 301–496–6186; not a toll-free number) or visit the following site on the World Wide Web (http://des.od.nih/gov/nihpol.html).).

(2) NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research (1994) (**Note:** To obtain copies of the policy, interested persons should contact the Office of Research on

Women's Health, NIH, Room 201, Building 1, MSC 0161, Bethesda, MD 20892–0161 (telephone 301–402–1770; not a toll-free number).).

(3) NIH Guidelines for Research Involving Recombinant DNA Molecules (1994) (**Note:** To obtain copies of the policy, interested persons should contact the Office of Recombinant DNA Activities, NIH, 6000 Executive Boulevard, Suite 323, MSC 7010, Bethesda, MD 20892–7010 (telephone 301–496–9838; not a toll-free number).).

(4) "NIH Grants Policy Statement." NIH Pub. No. 99–80 (Oct. 1998) (Note: To obtain copies of the policy, interested persons should contact the Extramural Outreach and Information Resources Office (EOIRO), Office of Extramural Research, NIH, 6701 Rockledge Drive, Room 6208, MSC 7910, Bethesda, MD 20892–7910 (telephone 301–435–0714; not a toll-free number). Information may also be obtained by contacting the EOIRO via its e-mail address (asknih@odrockml.od.nih.gov) and by browsing the NIH Home Page site on the World Wide Web (http://www.nih.gov).).

(5) "Guide for the Care and Use of Laboratory Animals (1996). Institute of Laboratory Animal Resources, Commission on Life Sciences, National Research Council (**Note:** To obtain copies of the policy, interested persons should contact the Office for Protection from Research Risks, NIH, 6100 Executive Boulevard, Suite 3B01, MSC 7507, Rockville, MD 20852–7507 (telephone 301–496–7005; not a toll-free number).).

(6) "Public Health Service Policy on Humane Care and Use of Laboratory Animals." (Rev. Sept. 1986). Office for Protection from Research Risks, NIH (Note: To obtain copies of the policy, interested persons should contact the Office for Protection from Research Risks, NIH, 6100 Executive Boulevard, Suite 3B01, MSC 7507, Rockville, MD 20852–7507 (telephone 301–496–7005; not a toll-free number).).

(7) "Biosafety in Microbiological and Biomedical Laboratories." DHHS Publication No. (CDC) 88–8395 (1993). Centers for Disease Control and Prevention (CDC) (**Note:** To obtain copies of the policy, interested persons should contact the Division of Safety, Occupational Safety and Health Branch, NIH, 13 South Drive, Room 3K04, MSC 5760, Bethesda, MD 20892–5760 (telephone 301–496–2960; not a toll-free number).).

(8) "NIH Guidelines for the Laboratory Use of Chemical Carcinogens," DHHS Publication No. (NIH) 81–2385 (May 1981) (**Note:** To obtain copies of the policy, interested persons should contact the Division of Safety, Occupational Safety and Health Branch, NIH, 13 South Drive, Room 3K04, MSC 5760, Bethesda, MD 20892–5760 (telephone 301–496–2960; not a toll-free number).).

(9) "NIH Policy and Guidelines on the Inclusion of Children as Participants in Research Involving Human Subjects (March 6, 1998)." NIH Guide for Grants and Contracts (**Note:** To obtain copies of the policy, interested persons should contact the Office of Extramural Research, NIH, 6701 Rockledge Drive, Room 6208, MSC 7910, Bethesda, MD 20817–7910 (telephone 301–435–0714; not a toll-free number). Information may also be obtained by browsing the NIH Home Page site on the World Wide Web (http://www.nih.gov).).

[FR Doc. 99–30068 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21, 74 and 101

[MM Docket 97–217; FCC 99–178]

MDS and ITFS Two-Way Transmissions

AGENCY: Federal Communications Commission.

ACTION: Final rule; reconsideration.

SUMMARY: In this document, the Commission makes changes to the rules adopted in previous order which enabled licensees in the Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") to engage in fixed two-way transmissions. These new rule changes further enhance the flexibility of MDS and ITFS operations by making certain technical modifications and by extending the streamlined application processing system to ITFS major modification applications.

DATES: Effective January 21, 2000.

FOR FURTHER INFORMATION CONTACT: Dave Roberts (202) 418–1600, Video Services Division, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order on Reconsideration*, MM Docket, 97–217, adopted July 13, 1999 and released July 29, 1999. The full text of this *Reconsideration Order* is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY–A257, Portals II, 445 12th Street, S.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS"), Portals II, 445 12th Street, S.W. Room CY–B402, Washington, D.C. 20554.

Synopsis of Report ad Order on Reconsideration on MDS and ITFS Two-Way Transmissions

I. Introduction

1. This *Reconsideration Order* is adopted by the Commission after receiving petitions for reconsideration of its Order in this docket. *Two-Way Order*, 63 FR 65087 (November 25, 1998). The *Order* was issued following a notice of proposed rulemaking, which arose from a petition for rulemaking filed by a group of 111 educators and participants in the wireless cable industry (collectively, "Petitioners"), comprised of MDS and ITFS licensees, wireless cable operators, equipment manufacturers, and industry consultants and associations. Traditionally, MDS and ITFS had been one-way video service providers. The Petitioners sought rule changes which would facilitate the provision of two-way digital service by these providers. The *Order* (1) permitted both MDS and ITFS licensees to provide two-way services on a regular basis; (2) permitted increased flexibility on permissible modulation types; (3) permitted increased flexibility in spectrum use and channelization, including combining multiple channels to accommodate wider bandwidths, dividing 6 MHz channels into smaller bandwidths, and channel swapping; (4) adopted a number of technical parameters to mitigate the potential for interference among service providers and to ensure interference protection to existing MDS and ITFS services; (5) simplified and streamlined the licensing process for stations used in cellularized systems; and (6) modified the ITFS programming requirements in a digital environment. The *Reconsideration Order* further modified some of the technical rules and extended the streamlined application processing system to all ITFS modification applications. These rule changes were designed to provide greater flexibility to operators in the design and operation of systems. We believe that the rule modifications we adopt in the *Reconsideration Order* will facilitate the most efficient use of the affected spectrum, enhance the competitiveness of the wireless cable industry, and provide benefits to the educational community through the use of two-way services, while still permitting traditional use of the spectrum, thus giving both MDS and ITFS licensees the flexibility they need to serve the public interest.

II. Procedural Changes to Rules

A. Application Processing Issues

2. In the *Order*, we adopted an application processing system that will substantially shift review of applications for new or modified response station hubs, boosters or downstream I Channel operations from Commission staff and leave much of the interference environment to be worked out by licensees. This system will now be extended to all ITFS modification applications. This system includes a one-day rolling filing window system. Each applicant will be required to

demonstrate protection of existing or previously proposed facilities, but applications filed on the same day will be granted and the filers left to resolve incompatibilities among themselves with little or no intervention by Commission staff. Because parties will be unable to offer reliable service without resolving such conflicts, we believe that the incentive to reach a resolution will be so great that Commission involvement will be unnecessary to resolve disputes.

3. Applications will be placed on public notice without prior staff review of interference studies. The applicant must certify that it has completed, served upon potentially affected parties, and submitted to the Commission's copy contractor all required interference studies (or consent letters) and engineering showings demonstrating no interference. Before placing an application on public notice, Commission staff will review it to ensure that all required certifications are included, and any application that does not contain proper certifications will be dismissed. The application will be granted in reliance on the certifications on the 61st day after public notice, unless a petition to deny is filed or the application is subject to a random audit. A false certification will result in denial of the application and be grounds for license revocation. Though consistent with similar certification procedures that have been adopted for other communications services, this approach is particularly appropriate for MDS and ITFS, because of the interdependent and cooperative nature of the services. Any system causing non-consensual interference must cure it immediately or face shut-down, even if the relevant station applications had been unopposed.

4. Because a large number of potentially conflicting applications are likely to be filed as soon as the new rules become effective, we have adopted a special one-week initial filing window, which will be announced by public notice. All applications filed during that window will be deemed filed as of the same day. Following the public notice announcing the filing of the applications submitted during that window, applicants will have a period of 60 days, during which no additional applications may be filed, to amend their applications and resolve conflicts. This 60-day period is the only time at which amendments may be made to any engineering portion of the application. Such amendments are not permitted once the rolling one-day filing window is in place. At the end of the 60-day period, the applications, as amended where applicable, will again be placed on public notice and be at that time subject to the same petition to deny, audit and grant procedures as during the one-day rolling filing window. We believe that our adoption of the one-week initial filing window will lessen the burden on all affected parties, including the Commission's staff, during the first round of application filing. We also believe that providing parties with an initial 60-day period during which they can resolve any apparent conflicts and then amend their applications without prejudice will serve to expedite service to the public by allowing parties to resolve their differences without the need to seek Commission review through the petition to deny process.

5. When parties seek to create two-way systems that make the most efficient use of spectrum and that respond most effectively to public needs, it often will be necessary to make major modifications to existing ITFS facilities. Under the old system, these major modifications could only be sought in the context of a filing window. Waiting for such a filing window could seriously impede the creation of two-way systems and delay service to the public. We believe that by expanding the streamlined application processing system to cover all ITFS modification applications, including those which formerly required a window for filing, will greatly facilitate the creation of effective two-way systems to the benefit of MDS and ITFS licensees as well as to consumers.

B. Interference Complaints

6. In the *Two-Way Order*, we stated that a "documented complaint" was required in the event of non-consensual interference in order to compel mandatory shut-down of an allegedly interfering station. At the urging of Petitioners and other parties, in the *Reconsideration Order*, we set out the requirements for such a complaint.

7. Because the two-way paradigm is premised on cooperation between the parties, the documented complaint must contain a certification that the complainant has contacted the operator of the allegedly offending facility and attempted to resolve the situation before filing. The complaint must also specify: the nature of the interference, whether the interference is constant or intermittent, when the interference began and the site(s) most likely to be causing the interference. Where possible evidence demonstrating the effects of the interference should be included. Finally, the complaint must contain a motion for a temporary order that the interfering station cease transmitting. The complained against party shall have two business days from the date of filing to respond and the burden of proof lies on the complained against party. If we find in favor of the complainant, we shall order immediate shut-down of the facility and the operator of that facility must submit proof that the interference has been cured before it will be allowed to recommence operations.

C. Interference

8. *Registration of ITFS Receive Sites.* The Catholic Television Network ("CTN") asked to us clarify that we will continue to register ITFS receive sites. However, because we granted each ITFS licensee a 35-mile protected service area ("psa") and granted individual protection to all receive sites registered through the date of adoption of the *Two-Way Order*, we instead make clear that we will not any longer register ITFS receive sites. BellSouth requested that we hold that point-to-point ITFS receive sites would not be entitled to a psa. We reject that request because it would place an unacceptable burden on ITFS licensees who wish to convert from point-to-point to point-to-multipoint transmission in the future.

9. *Advance Notification and Professional Installation.* In the *Two-Way Order*, we created a notification zone with a radius of 1960 feet around each ITFS receive site and required that the associated hub station licensee notify the appropriate ITFS licensee by certified mail at least 20 days prior to activation of any response station. We also required that response station transmitters be professionally installed to help prevent interference and to minimize the risk of human exposure to potentially hazardous radio-frequency ("RF") emissions. In the *Reconsideration Order*, we modify these requirements in certain circumstances.

10. We amend our rules to eliminate the notification and professional installation requirements for digital response stations in two-way cellularized systems utilizing no more than 18 dBW EIRP, contingent upon the operator of the associated hub station providing and installing replacement downconverters at registered ITFS receive sites with the outer edge to response station service area add beyond to a distance of 1960 feet. We also completely eliminate the profession installation and notification requirements for any response station operating with EIRP no greater than -6 dBW. In both cases, the problems these rules were meant to address, downconverter overload and unsafe exposure to RF emissions, are unlikely

to be caused as a result of the use of improved equipment in the first case and the very low power levels involved in the second case. Both of these changes should facilitate the installation of a very large number of response stations without the need for advance notification or professional installation, thereby cutting costs and making the service more affordable for users. We also waive our rules to permit the use of omnidirectional antennae at any response station with an EIRP no greater than -6 dBW. We also amended our rules to permit an ITFS licensee to waive the professional installation and advance notification requirements in regard to its own facilities.

11. *Timing and Method of Advance Notification.* Except for those stations which are subject to one of the exceptions we adopted, we retain our advance notification requirement, but reduce the timing of the notification to one business day in advance of such activation. The main purpose of the advance notification requirement is to jump-start the interference identification process and we are persuaded that one business day is sufficient for that purpose. At the same time, this time period allies the concerns expressed by some parties of the anti-competitive effects of a longer period. We also will permit the notification to be performed by fax or e-mail if the ITFS licensee has elected to receive it by either of these methods.

D. Technical Standards

12. *Spectral Mask.* We clarify that for emissions such as QPSK and 4–QAM, the "flat top" portion of the signal is the only point within the channel at which a correct comparison of the relative levels of in-band and out-of-band power can be taken. We also emphasize that such emissions are constrained in terms of maximum permissible EIRP by the degree to which they are non-uniform.

13. *Frequency Tolerance.* We amend the frequency tolerance requirement to 0.001% for non-VSB digital emissions, because this will not increase the potential for interference from these stations and will reduce the cost of manufacturing the oscillators used in these transmitters very significantly.

14. *Other Technical Considerations.* We agree with CTN that the terms "free space" and "unobstructed path" in the rule pertaining to interference calculations are used inconsistently and replace them with the term "terrain sensitive methodology." We also clarify that only the Epstein-Peterson signal propagation model may be used for interference calculations performed in accordance with Appendix D of both the *Two-Way Order* and the *Reconsideration Order.*

15. *Use of 125 kHz Channels.* Consistent with our decision to broaden the field of ITFS and MDS applications subject to streamlined processing, we permit applications for traditional return-path use of I channels to filed under that system. We reject CTN's proposal to make all downstream operations on the I Channel secondary, this would undermine our goals of flexibility and efficiency in the spectrum.

E. Issues Primarily Involving ITFS

16. *Channel Swapping and Shifting.* In the *Two-Way Order*, we authorized the use of channel swapping and shifting in systems where some party was using digital transmissions to provide maximum system flexibility and to give ITFS licensees flexibility in fulfilling their educational requirements. We now expand this authorization to permit channel swapping and shifting regardless of whether digital transmissions are employed. This will further maximize the flexibility of the service and benefit the public.

17. *Grandfathering of Excess Capacity Lease Provisions.* We clarified that a lease containing a provision that automatically extended a 10-year initial term (formerly the maximum allowable term) to the maximum allowed by the Commission, did not loose its grandfathered status. However, we also clarified that a provision that simply automatically renewed the lease did not protect the leases grandfathered status. The first clarification will prevent any need for a mass renegotiation of leases, while the second will prevent leases from being grandfathered into perpetuity.

F. Booster Stations

18. We amend our rules to make clear that a high-power booster may be utilized for digital and/or analog modulation, and that two-way operations are not a prerequisite for licensing a high-power booster. We also will permit ITFS excess-capacity lessees to apply for booster stations on ITFS frequencies if (1) the have the written consent of the main station licensee and (2) the lease contains a provision that requires the lessee to offer to assign the booster licenses to the main station licensee for purely nominal consideration upon lease termination.

G. Digital Declaratory Ruling

19. *Limited Exception to the Protected Service Area Definition for Modifications.* Under our Rules, a modifying applicant may secure a waiver of the 35 mile psa definition and maintain "grandfathered" interference subject to six conditions: (1) the modification is filed after the effective date of the expanded psa; (2) the station being modified was authorized or proposed prior to that date; (3) the desired station was authorized on or before the effective date; (4) the predicted interference does not occur within the 710 square mile psa of the desired station; (5) the modification does not increase the size of the area suffering harmful interference; and (6) the modification does not result in any new interference to the desired station's psa. This exception may be expanded for any modification not resulting in new interference tot he desired station's psa nor increasing the size of the area suffering harmful interference to effectively nullify the fourth condition of the exception and allow preexisting interference even with the former 70 square mile psa which pertained prior to September 15, 1995. We also expand the exception to cover any modification application where either the modifying or desired station was proposed after the effective date of the expanded psa.

20. *Rights of Licensees Where Digital Operation Affects Use of Frequency Offset.* We will continue to evaluate involuntary frequency offset proposals on a case-by-case basis. We also decline to mandate, at this time, a particular frequency offset or tolerance for the pilot carrier stations utilizing VSB digital modulation.

H. Procedural Matters

Ordering Clauses

21. Accordingly, It is ordered that the above-referenced petitions for reconsideration and/or clarification of the *Order are granted in part and denied in part*, as described above.

22. *It is further ordered* that the above-referenced petitions for clarification of the *Digital Declaratory Ruling are granted in part and denied in part*, and that the *Declaratory Ruling on the Use of Digital Modulation by Multipoint Distribution Service and Instructional Television Fixed Service Stations is modified and clarified* to the extent specified above. These modifications and clarifications shall be effective upon the release of this order.[1]

23. *It is further ordered* that the application for review of the October 17 Public Notice, filed November 18, 1996 by CAI Wireless Systems, Inc., *is dismissed as moot.*

24. *It is further ordered* that, pursuant to the authority contained in Sections

[1] *See* 47 CFR 1.4(b)(2) and 1.103.

4(i) and (j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 308(b), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(f), 303(g), 303(h), 303(j), 303(r), 308(b), 403, and 405, this Report and Order on Reconsideration *is adopted*, the *Order is modified and clarified* to the extent specified above, and Parts 21, 74 and 101 of the Commission's Rules, 47 CFR 21, 74 and 101 *are amended* as set forth in the Rule Changes.

25. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act. The new or modified paperwork requirements contained in this *Report and Order on Reconsideration* (which are subject to approval by OMB) will go into effect upon OMB approval. However, *it is further ordered* that the rule amendments set forth in Appendix C not pertaining to new or modified reporting or recordkeeping requirements *will become effective* January 21, 2000.

26. As required by Section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis of the possible impact on small entities of the rules and policies adopted in this document. *See* Appendix B. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, *shall send* a copy of this *Report and Order on Reconsideration*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 21

Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Television.

47 CFR Part 74

Communications equipment, Education, Reporting and recordkeeping requirements, Television.

47 CFR Part 101

Fixed Microwave Services.

Federal Communications Commission.

Magalie Román Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 21, 74 and 101 as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201–205, 208, 215, 218, 303, 307, 313, 403, 404, 410, 602, 48 Stat. as amended, 1064, 1066, 1070–1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201–205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552, 554.

2. Section 21.2 is amended by adding the definition of "Documented complaint" and by revising the first sentence of the definition of "Response station hub" to read as follows:

§ 21.2 Definitions

* * * * *

Documented complaint. A complaint that a party is suffering from non-consensual interference. A documented complaint must contain a certification that the complainant has contacted the operator of the allegedly offending facility and tried to resolve the situation prior to filing. The complaint must then specify the nature of the interference, whether the interference is constant or intermittent, when the interference began and the site(s) most likely to be causing the interference. The complaint should be accompanied by a videotape or other evidence showing the effects of the interference. The complaint must contain a motion for a temporary order to have the interfering station cease transmitting. The complaint must be filed with the Secretary's office and served on the allegedly offending party.

* * * * *

Response station hub. A fixed facility licensed to an MDS licensee, and operated by an MDS licensee or the lessee of an MDS facility, for the reception of information transmitted by one or more MDS response stations that utilize digital modulation. * * *

* * * * *

§ 21.11 [Amended]

3. Section 21.11(d) is amended by removing the number "702" and adding, in its place, the number "305," and in paragraph (e) by removing the number "704" and adding, in its place, the number "306."

4. Section 21.23 is amended by revising paragraph (c)(1)(vi) and by adding paragraph (c)(2) to read as follows:

§ 21.23 Amendment of applications.

* * * * *

(c) * * *

(1) * * *

(vi) Any technical change which would increase the effective radiated power in any horizontal or vertical direction by more than one and one-half (1.5) dB; or

* * * * *

(2) Except during the sixty (60) day amendment period provided for in § 21.27(d) of this part, any amendment to an application for a new or modified response station hub, booster station or point-to-multipoint I channel(s) station or to an application for a modified main station that reflects any change in the technical specifications of the proposed facility, includes any new or modified analysis of potential interference to another facility or submits any interference consent from a neighboring licensee. Such an amendment shall result in the application being assigned a new file number and being treated as newly filed.

* * * * *

5. Section 21.31 is amended by revising paragraph (a) and removing paragraph (e)(6)(iv) to read as follows:

§ 21.31 Mutually exclusive applications.

(a) Except with respect to applications for new or modified response stations hubs, booster stations, and point-to-multipoint I channel stations, and to applications for modified main stations, filed on the same day or during the same window, the Commission will consider applications to be mutually exclusive if their conflicts are such that grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications.

* * * * *

6. Section 21.101 is amended by revising footnote 2 to paragraph (a) to read as follows:

§ 21.101 Frequency tolerance.

* * * * *

[2] Beginning January 21, 2000, the equipment authorized to be used at all MDS main stations, and at all MDS booster stations authorized pursuant to § 21.913(b) of this part, shall maintain a frequency tolerance of 0.001%. MDS booster stations authorized pursuant to § 21.913(e) of this part and MDS response stations authorized pursuant to § 21.909 of this part shall employ transmitters with sufficient frequency

stability to ensure that the emission is, at all times, within the required emission mask. *

7. Section 21.201 is revised to read as follows:

§ 21.201 Posting of station license.

(a) The instrument of authorization, a clearly legible photocopy thereof, or the name, address and telephone number of the custodian of the instrument of authorization shall be available at each station, booster station authorized pursuant to § 21.913(b) and MDS response station hub. Each operator of an MDS booster station shall post at the booster station the name, address and telephone number of the custodian of the notification filed pursuant to § 21.913(e) if such notification is not maintained at the booster station.

(b) If an MDS station, an MDS booster station or an MDS response station hub is operated unattended, the call sign and name of the licensee shall be displayed such that it may be read within the vicinity of the transmitter enclosure or antenna structure.

8. Section 21.900 is amended by redesignating paragraphs (a), (b), and (c) as paragraphs (a)(1), (a)(2), and (a)(3) respectively, by designating the introductory text as paragraph (a) introductory text, and by designating the concluding text as paragraph (b) and revising it to read as follows:

§ 21.900 Eligibility.

* * * * *

(b) The applicant shall state whether service will be provided initially on a common carrier basis or on a non-common carrier basis. An applicant proposing to provide initially common carrier service shall state whether there is any affiliation or relationship to any intended or likely subscriber or program originator.

9. Section 21.901 is amended by revising paragraph (d) to read as follows:

§ 21.901 Frequencies.

* * * * *

(d) An MDS licensee or conditional licensee may apply to exchange evenly one or more of its assigned channels with another MDS licensee or conditional licensee in the same system, or with an ITFS licensee or conditional licensee in the same system. The licensees or conditional licensees seeking to exchange channels shall file in tandem with the Commission separate pro forma assignment of license applications, each attaching an exhibit which clearly specifies that the application is filed pursuant to a channel exchange agreement. The exchanged channel(s) shall be regulated according to the requirements applicable to the assignee.

* * * * *

10. Section 21.902 is amended by revising paragraphs (b)(3), (b)(4), (b)(7), (f)(1), (f)(2)(i), (f)(2)(ii), (i)(1), (i)(2), (i)(4) introductory text, (i)(4)(iii) through (i)(4)(v), (i)(6)(i) introductory text, (i)(6)(iii)(E), (i)(6)(iii)(F) and (i)(6)(iv) to read as follows:

§ 21.902 Interference.

* * * * *

(b) * * *

(3) Engineer the system to provide at least 45 dB of cochannel interference protection within the 56.33 km (35 mile) protected service area of any authorized or previously-proposed ITFS or incumbent MDS station, and at each previously-registered ITFS receive site registered as of September 17, 1998 (or the appropriate value for bandwidths other than 6 MHz.)

(4) Engineer the station to provide at least 0 dB of adjacent channel interference protection within the 56.33 km (35 mile) protected service area of any authorized or previously-proposed ITFS or incumbent MDS station, and at each previously-registered ITFS receive site registered as of September 17, 1998 (or the appropriate value for bandwidths other than 6 MHz.)

* * * * *

(7) Notwithstanding the above, main, booster and response stations shall use the following formulas, as applicable, for determining compliance with: (1) Radiated field contour limits where bandwidths other than 6 MHz are employed at stations utilizing digital emissions; and (2) Cochannel and adjacent channel D/U ratios where the bandwidths in use at the interfering and protected stations are unequal and both stations are utilizing digital modulation or one station is utilizing digital modulation and the other station is utilizing either 6 MHz NTSC analog modulation or 125 kHz analog modulation (I channels only).

(i) Contour limit: -73 dBW/m^2 + 10 log(X/6) dBW/m^2, where X is the bandwidth in MHz of the digital channel.

(ii) Co-channel D/U: 45 dB + 10 log(X_1/X_2) dB, where X_1 is the bandwidth in MHz of the protected channel and X_2 is the bandwidth in MHz of the interfering channel.

(iii) Adjacent channel D/U: 0 dB + 10 log(X_1/X_2), dB where X_1 is the bandwidth in MHz of the protected channel and X_2 is the bandwidth in MHz of the interfering channel.

* * * * *

(f) * * *

(1) Cochannel interference is defined as the ratio of the desired signal to the undesired signal present in the desired channel, at the output of a reference receiving antenna oriented to receive the maximum desired signal. Harmful interference will be considered present when a calculation using a terrain sensitive signal propagation model determines that this ratio is less than 45 dB (or the appropriate value for bandwidths other than 6 MHz.)

(2) * * *

(i) Harmful interference will be considered present when a calculation using a terrain sensitive model determines that this ratio is less than 0dB (or the appropriate value for bandwidths other than 6 MHz.)

(ii) In the alternative, harmful interference will be considered present for an ITFS station constructed before May 26, 1983, when a calculation using a terrain-sensitive propagation model determines that this ratio is less than 10 dB (or the appropriate value for bandwidths other than 6 MHz.) unless:

* * * * *

(i)(1) For each application for a new station, or amendment thereto, proposing MDS facilities, filed on October 1, 1995, or thereafter, on or before the day the application or amendment is filed, the applicant must prepare, but is not required to submit with its application or amendment, an analysis demonstrating that operation of the MDS applicant's transmitter will not cause harmful electrical interference to each receive site registered as of September 17, 1998, nor within a protected service area as defined at paragraph (d)(1) of this section, of any cochannel or adjacent channel ITFS station licensed, with a conditional license, or proposed in a pending application on the day such MDS application is filed, with an ITFS transmitter site within 50 miles of the coordinates of the MDS station's proposed transmitter site.

(2) For each application described in paragraph (i)(1) of this section, the applicant must serve, by certified mail, return receipt requested, on or before the day the application or amendment described in paragraph (i)(1) of this section is filed initially with the Commission, a copy of the complete MDS application or amendment, including each exhibit and interference study, described in paragraph (i)(1) of this section, on each ITFS licensee, conditional licensee, or applicant described in paragraph (i)(1) of this section.

* * * * *

(4) For each application described in paragraph (i)(1) of this section, the applicant must file with the Commission in Washington, DC, on or before the 30th day after the application or amendment described in paragraph (i)(1) of this section is filed initially with the Commission, a written notice which contains the following:

* * * * *

(iii) A list of each ITFS licensee and conditional licensee described in paragraph (i)(1) of this section;

(iv) The address used for service to each ITFS licensee and conditional licensee described in paragraph (i)(1) of this section; and

(v) A list of the date each ITFS licensee and conditional licensee described in paragraph (i)(1) of this section received a copy of the complete application or amendment described in paragraph (i)(1) of this section; or a notation of lack of receipt by the ITFS licensee or conditional licensee of a copy of the complete application or amendment, on or before such 30th day, together with a description of the applicant's efforts for receipt by each such licensee or conditional licensee lacking receipt of the application.

* * * * *

(6) (i) Notwithstanding the provisions of Sections 1.824(c) and 21.30(a)(4), for each application described in paragraph (i)(1) of this section, each ITFS licensee and each ITFS conditional licensee described in paragraph (i)(1) of this section may file with the Commission, on or before the 30th day after the public notice described in paragraph (i)(5) of this section, a petition to deny the MDS application.

* * * * *

(iii) * * *

(E) Include a demonstration, in those cases in which the MDS applicant's analysis is dependent upon modification(s) to the ITFS facility, that the harmful interference cannot be avoided by the proposed substitution of new or modified equipment to be supplied and installed by the MDS applicant, at no expense to the ITFS licensee or conditional licensee; and

(F) Be limited to raising objections concerning the potential for harmful interference to its ITFS station, or concerning a failure by the MDS applicant to serve the ITFS licensee or conditional licensee with a copy of the complete application or amendment described in paragraph (i)(1) of this section.

(iv) The Commission will presume an ITFS licensee or conditional licensee described in paragraph (i)(1) of this section has no objection to operation of the MDS station, if the ITFS licensee or conditional licensee fails to file a petition to deny by the deadline prescribed in paragraph (i)(6)(i) of this section.

* * * * *

§ 21.903 [Amended]

11. Section 21.903 is amended by revising paragraph (d) to read as follows:

* * * * *

(d) An MDS licensee also may alternate, without further authorization required, between rendering service on a common carrier and non-common carrier basis, provided that the licensee notifies the Commission of any service status changes at least 30 days in advance of such changes. The notification shall state whether there is any affiliation or relationship to any intended or likely subscriber or program originator.

12. Section 21.904 is revised to read as follows:

§ 21.904 EIRP limitations.

(a) The maximum EIRP of a main or booster station shall not exceed 33 dBW + 10log(X/6) dBW, where X is the actual bandwidth if other than 6 MHz, except as provided in paragraph (b) of this section.

(b)(i) If a main or booster station sectorizes or otherwise uses one or more transmitting antennas with a non-omnidirectional horizontal plane radiation pattern, the maximum EIRP in a given direction shall be determined by the following formula:

EIRP = 33 dBW + 10 log(X/6) dBW + 10 log(360/beamwidth) dBW, where X is the channel width in MHz and 10 log(360/beamwidth) ≤ 6 dB.

(ii) Beamwidth is the total horizontal plane beamwidth of the individual transmitting antenna for the station or any sector measured at the half-power points.

(c) An increase in station EIRP, above currently-authorized or previously-proposed values, to the maximum values provided in paragraphs (a) and (b) of this section may be authorized, if the requested increase would not cause harmful interference to any authorized or previously-proposed, cochannel or adjacent channel station entitled to interference protection under the Commission's rules, or if an applicant demonstrates that:

(1) A station that must be protected from interference could compensate for interference by increasing its EIRP; and

(2) The interfered-with station may increase its own EIRP consistent with the rules and without causing harmful interference to any cochannel or adjacent channel main or booster station protected service area, response station hub or BTA/PSA, for which consent for the increased interference has not been obtained; and

(3) The applicant requesting authorization of an EIRP increase agrees to pay all expenses associated with the increase in EIRP by the interfered-with station.

(d) For television transmission if the authorized bandwidth is 4.0 MHz or more for the visual and accompanying aural signal, the peak power of the accompanying aural signal must not exceed 10 percent of the peak visual power of the transmitter. The Commission may order a reduction in aural signal power to diminish the potential for harmful interference.

(e) For main, booster and response stations utilizing digital emissions with non-uniform power spectral density (*e.g.* unfiltered QPSK), the power measured within any 100 kHz resolution bandwidth within the 6 MHz channel occupied by the non-uniform emission cannot exceed the power permitted within any 100 kHz resolution bandwidth within the 6 MHz channel if it were occupied by an emission with uniform power spectral density, *i.e.*, if the maximum permissible power of a station utilizing a perfectly uniform power spectral density across a 6 MHz channel were 2000 watts EIRP, this would result in a maximum permissible power flux density for the station of 2000/60 = 33.3 watts EIRP per 100 kHz bandwidth. If a non-uniform emission were substituted at the station, station power would still be limited to a maximum of 33.3 watts EIRP within any 100 kHz segment of the 6 MHz channel, irrespective of the fact that this would result in a total 6 MHz channel power of less than 2000 watts EIRP.

13. Section 21.905 is amended by revising paragraphs (b) and (d) introductory text to read as follows:

§ 21.905 Emissions and bandwidth.

* * * * *

(b) Quadrature amplitude modulation (QAM), digital vestigial sideband modulation (VSB), quadrature phase shift key modulation (QPSK), code division multiple access (CDMA), and orthogonal frequency division multiplex (OFDM) emissions may be employed, subject to compliance with the policies set forth in the Declaratory Ruling and Order, 11 FCC Rcd 18839 (1996). Use of OFDM also is subject to the subsequent Declaratory Ruling and Order, DA 99–554 (Mass Med. Bur. rel. Mar. 19, 1999). Other digital emissions may be added to

those authorized above, including emissions with non-uniform power spectral density, if the applicant provides information in accordance with the guidelines and procedures set forth in the Declaratory Ruling and Order which clearly demonstrates the spectral occupancy and interference characteristics of the emission. The licensee may subchannelize its authorized bandwidth, provided that digital modulation is employed and the aggregate power does not exceed the authorized power for the channel, and may utilize all or a portion of its authorized bandwidth for MDS response stations authorized pursuant to § 21.909 of this part. The licensee may also, jointly with affected adjacent channel licensees, transmit utilizing bandwidth in excess of its authorized frequencies, provided that digital modulation is employed, all power spectral density requirements set forth in this part are met and the out-of-band emissions restrictions set forth in § 21.908 of this part are met at and beyond the edges of the channels employed. The wider channels thus created may be redivided to create narrower channels.

* * * * *

(d) Notwithstanding the above, any digital emission which complies with the out-of-band emission restrictions of § 21.908 of this part may be used in the following circumstances:

* * * * *

14. Section 21.906 is amended by revising paragraph (a) and by removing the third sentence from paragraph (d) to read as follows:

§ 21.906 Antennas.

(a) Main and booster station transmitting antennas shall be omnidirectional, except that a directional antenna with a main beam sufficiently broad to provide adequate service may be used either to avoid possible interference with other users in the frequency band, or to provide coverage more consistent with distribution of potential receiving points. In lieu of an omnidirectional antenna, a station may employ an array of directional antennas in order to reuse spectrum efficiently. When an applicant proposes to employ a directional antenna, or a licensee notifies the Commission pursuant to § 21.42 of the installation of a sectorized antenna system, the applicant shall provide the Commission with information regarding the orientation of the directional antenna(s), expressed in degree of azimuth, with respect to true north, and the make and model of such antenna(s).

* * * * *

15. Section 21.909 is amended by revising the last sentence of paragraph (a), paragraphs (b), (c) and (d), (g)(3), (g)(6)(i), (g)(6)(ii), (g)(8), (h), (k), (m), (n), and the first sentence of pargagraph (o) to read as follows:

§ 21.909 MDS response stations.

(a) * * * When a 125 kHz channel is employed, the specific channel which may be used by the response station is determined in accordance with §§ 21.901 and 74.939(j) of this chapter.

(b) MDS response stations that utilize the 2150–2162 MHz band, the 2500–2686 MHz band, and/or the 125 kHz channels may be installed and operated without an individual license, to communicate with a response station hub, provided that the conditions set forth in paragraph (g) of this section are met and that the MDS response stations' technical parameters are consistent with all applicable rules in this part and with the terms and conditions set out in the Commission's *Declaratory Ruling and Order*, 11 FCC Rcd 18839 (1996).

(c) An applicant for a response station hub license, or for modification thereto where not subject to § 21.41 or § 21.42, shall:

(1) File FCC Form 331 with Mellon Bank, and certify on that form that it has complied with the requirements of paragraphs (c)(2) and (d) of this section and that the interference data submitted under paragraph (d) of this section is complete and accurate. Failure to certify compliance and to comply completely with the requirements of paragraphs (c)(2) and (d) of this section shall result in dismissal of the application or revocation of the response station hub license, and may result in imposition of a monetary forfeiture; and

(2) Submit the following to the Commission's copy contractor, both in hard copy and on sequential 3.5″ DSHD computer diskettes in ASCII for all Appendix D data and in a format to be specified by public notice for all other submissions:

(i) Duplicates of the Form 331 filed with Mellon Bank; and

(ii) The data required by Appendix D to the *Report and Order on Reconsideration* in MM Docket No. 97–217, FCC 99–178, "Methods for Predicting Interference from Response Station Transmitters and to Response Station Hubs and for Supplying Data on Response Station Systems" as amended; and

(iii) The information, showings and certifications required by paragraph (d) of this section; and

(3) Submit to the Commission, only upon Commission staff request, duplicates of the submissions required by paragraph (c)(2) of this section.

(d) An applicant for a response station hub license shall, pursuant to paragraph (c)(2)(iii) of this section, submit to the Commission's copy contractor, in a format to be specified by the Commission at a later date, the following:

(1) The channel plan (including any guardbands at the edges of the channel) to be used by MDS response stations in communicating with each response station hub, including a statement as to whether the applicant will employ the same frequencies on which response stations will transmit to also transmit on a point-to-multipoint basis from an MDS station or MDS booster station; and

(2) A demonstration that:

(i) The proposed response station hub is within a protected service area, as defined in § 21.902(d) or § 21.933, to which the applicant is entitled either:

(A) by virtue of its being the licensee of an incumbent MDS station whose channels are being converted for MDS response station use; or

(B) by virtue of its holding a Basic Trading Area or Partitioned Service Area authorization. In the case of an application for response stations to utilize one or more of the 125 kHz response channels, such demonstration shall establish that the response station hub is within the protected service area of the station authorized to utilize the associated E-Group or F-Group channel(s); and

(ii) The entire proposed response service area is within a protected service area to which the applicant is entitled either (A) by virtue of its being the licensee of an incumbent MDS station whose channels are being converted for MDS response station use; or (B) by virtue of its holding a Basic Trading Area or Partitioned Service Area authorization. In the alternative, the applicant may demonstrate that the licensee entitled to any cochannel protected service area which is overlapped by the proposed response service area has consented to such overlap. In the case of an application for response stations to utilize one or more of the 125 kHz response channels, such demonstration shall establish that the response service area is entirely within the protected service area of the station authorized to utilize the associated E-Group or F-Group channel(s), or, in the alternative, that the licensee entitled to any cochannel protected service area which is overlapped by the proposed response service area has consented to such overlap; and

(iii) The combined signals of all simultaneously operating MDS response

stations within all response service areas and oriented to transmit towards their respective response station hubs, and all cochannel MDS stations and booster stations licensed to or applied for by the applicant will not generate a power flux density in excess of −73 dBW/m² (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 21.902(b)(7)(i)) outside the boundaries of the applicant's protected service area, as measured at locations for which there is an unobstructed signal path, except to the extent that consent of affected licensees has been obtained or consents have been granted pursuant to paragraph (d)(3)(ii) of this section to an extension of the response service area beyond the boundaries of the protected service area; and

(iv) The combined signals of all simultaneously operating MDS response stations within all response service areas and oriented to transmit towards their respective response station hubs, and all cochannel MDS stations and booster stations licensed to or applied for by the applicant, will result in a desired to undesired signal ratio of at least 45 dB (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 21.902(b)(7)(ii)):

(A) within the protected service area of any authorized or previously-proposed cochannel MDS or ITFS station with a 56.33 km (35 mile) protected service area with center coordinates located within 160.94 km (100 miles) of the proposed response station hub; and

(B) within the booster service area of any cochannel booster station entitled to such protection pursuant to §§ 21.913(f) or 74.985(f) of this chapter and located within 160.94 km (100 miles) of the proposed response station hub; and

(C) at any registered receive site of any authorized or previously-proposed cochannel ITFS station or booster station located within 160.94 km (100 miles) of the proposed response station hub, or, in the alternative, that the licensee of or applicant for such cochannel station or hub consents to the application; and

(v) The combined signals of all simultaneously operating MDS response stations within all response service areas and oriented to transmit towards their respective response station hubs, and all cochannel MDS stations and booster stations licensed to or applied for by the applicant, will result in a desired to undesired signal ratio of at least 0 dB (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 21.902(b)(7)(iii)):

(A) within the protected service area of any authorized or previously-proposed adjacent channel MDS or ITFS station with a 56.33 km (35 mile) protected service area with center coordinates located within 160.94 km (100 miles) of the proposed response station hub; and

(B) within the booster service area of any adjacent channel booster station entitled to such protection pursuant to §§ 21.913(f) or 74.985(f) of this chapter and located within 160.94 km (100 miles) of the proposed response station hub; and

(C) at any registered receive site of any authorized or previously-proposed adjacent channel ITFS station or booster station located within 160.94 km (100 miles) of the proposed response station hub, or, in the alternative, that the licensee of or applicant for such adjacent channel station or hub consents to the application; and

(vi) The combined signals of all simultaneously operating MDS response stations within all response service areas and oriented to transmit towards their respective response station hub and all cochannel MDS stations and booster stations licensed to or applied for by the applicant will comply with the requirements of paragraph (i) of this section and § 74.939(i) of this chapter.

(3) A certification that the application has been served upon

(i) the holder of any cochannel or adjacent channel authorization with a protected service area which is overlapped by the proposed response service area;

(ii) the holder of any cochannel or adjacent channel authorization with a protected service area that adjoins the applicant's protected service area;

(iii) the holder of a cochannel or adjacent channel authorization for any BTA or PSA inside whose boundaries are locations for which there is an unobstructed signal path for combined signals from within the response station hub applicant's protected service area; and

(iv) every licensee of, or applicant for, any cochannel or adjacent channel, authorized or previously-proposed, incumbent MDS station with a 56.33 km (35 mile) protected service area with center coordinates located within 160.94 km (100 miles) of the proposed response station hub;

(v) every licensee of, or applicant for, any cochannel or adjacent channel, authorized or previously-proposed ITFS station (including any booster station or response station hub) located within 160.94 km (100 miles) of the proposed response station hub; and

(vi) every licensee of any non-cochannel or non-adjacent channel ITFS station (including any booster station) with one or more registered receive sites in, or within 1960 feet of the proposed response station service area.

(g) * * *

* * * * *

(3) No response station shall operate with an EIRP in excess of that specified in the application for the response station hub pursuant to paragraph (d)(2)(i)(B) of this section for the particular regional class of characteristics with which the response station is associated, and such response station shall not operate at an excess of 33 dBW + 10 log(X/6) dBW, where X is the channel width in MHz; and

* * * * *

(6) * * *

(i) First notifies the Commission, in a format to be specified by public notice, of the altered number of response stations of such class(es) to be operated simultaneously in such region, and certifies in that notification that it has complied with the requirements of paragraphs (g)(6)(ii) and (iii) of this section, and that the interference data submitted under paragraph (g)(6)(ii) is complete and accurate; and

(ii) Provides the Commission's copy contractor with a set of sequential 3.5″ DSHD diskettes in ASCII format which update the previously filed response station data (*see* § 21.909(c)(2)(ii) of this part) and with an analysis, in a format to be specified by public notice establishing that such alteration will not result in any increase in interference to the protected service area or protected receive sites of any existing or previously-proposed, cochannel or adjacent channel MDS or ITFS station or booster station, to the protected service area of any MDS Basic Trading Area or Partitioned Service Area licensee entitled to protection pursuant to paragraph (d)(3) of this section, or to any existing or previously-proposed, cochannel or adjacent channel response station hub, or response station under § 21.949 of this part or § 74.949 of this chapter; or that the applicant for or licensee of such facility has consented to such interference; and

* * * * *

(8) In the event any MDS or ITFS receive site suffers interference due to block downconverter overload, the licensee of each non-co/adjacent response station hub with a response service area within five miles of such receive site shall cooperate in good faith to expeditiously identify the source of

the interference. Each licensee of a response station hub with an associated response station contributing to such interference shall bear the joint and several obligation to promptly remedy all block downconverter overload interference at any ITFS registered receive site or at any receive site within an MDS or ITFS protected service area applied for prior to the submission of the application for the response station hub license, regardless of whether the receive site suffering the interference was constructed prior to or after the construction of the response station(s) causing the downconverter overload; provided, however, that the licensee of the registered ITFS receive site or the MDS or ITFS protected service area must cooperate fully and in good faith with efforts by the response station hub licensee to prevent interference before constructing response stations and/or to remedy interference that may occur. In the event that the associated response station(s) of more than one response station hub licensee contribute(s) to block downconverter interference at an MDS or ITFS receive site, such hub licensees shall cooperate in good faith to remedy promptly the interference.

(h) Applicants must comply with part 17 of this chapter concerning notification to the Federal Aviation Administration of proposed antenna construction or alteration for all hub stations and associated response stations.

* * * * *

(k) A response station may be operated unattended. The overall performance of the response station transmitter shall be checked by the hub licensee as often as necessary to ensure that it is functioning in accordance with the requirements of the Commission's rules. The licensee of a response station hub is responsible for the proper operation of all associated response station transmitters. Each response station hub licensee is responsible for maintaining, and making available to the Commission upon request, a list containing all customer names and addresses, plus the technical parameters (EIRP, emission, bandwidth, antenna pattern/ height/ orientation/ polarization) pertinent to each class of response station within the response service area.

* * * * *

(m) An MDS response station shall be operated only when engaged in communications with its associated MDS response station hub or MDS station or booster station, or for necessary equipment or system tests and adjustments. Upon initial installation, and upon relocation and reinstallation, a response station transmitter shall be incapable of emitting radiation unless, and until, it has been activated by reception of a signal from the associated MDS station or booster station. A hub station licensee shall be capable of remotely de-activating any and all response station transmitters within its RSA by means of signals from the associated MDS station or booster station. Radiation of an unmodulated carrier and other unnecessary transmissions are forbidden.

(n) All response stations utilizing an EIRP greater than 18 dBW shall be installed by the associated hub licensee or by the licensee's employees or agents. For the purposes of this section, all EIRP dBW values assume the use of a 6 MHz channel. For channel bandwidths other than 6 MHz, the EIRP dBW values should be adjusted up (channel >6 MHz) or down (channel <6 MHz) by 10 log(X/6) dBW, where X is the channel width in MHz. For response stations located within 1960 feet of an ITFS receive site registered and built prior to the filing of the application for the hub station license, the hub licensee must notify the licensee of the ITFS receive site at least one business day prior to the activation of these response stations. The notification must contain, for each response station to be activated, the following information: name and telephone number of a contact person who will be responsible for coordinating the resolution of any interference problems; street address; geographic coordinates to the nearest second; channels/subchannels (transmit only); and transmit antenna pattern, EIRP, orientation and height AMSL. (If transmit antenna pattern, EIRP, orientation or height AMSL are not known with specificity at the time of notification, the hub licensee may, instead, specify the worst-case values for the class of response station being activated.) Such notice to the ITFS licensee shall be given in writing by certified mail unless the ITFS licensee has requested delivery by email or facsimile. The ITFS licensee may waive the notification requirement on a site-specific basis or on a system-wide basis. The notification provisions of this section shall not apply if:

(1) The response station will operate at an EIRP no greater than −6 dBW; or

(2) The response station will operate at an EIRP greater than −6 dBW and no more than 18 dBW and:

(i) The channels being received at the ITFS site are neither the same as, nor directly adjacent to, the channel(s) to be transmitted from the response station; and

(ii) The hub station licensee has replaced, at its expense, the frequency downconverters used at all ITFS receive sites registered and constructed prior to the filing of the hub station application which are within 1960 feet of the hub station's response service area; and

(iii) The downconverters, at a minimum, conform to the following specifications:

(A) A frequency of operation covering the 2150–2162 MHz band or the 2500–2686 MHz band; and

(B) A third-order intercept point of 30 dBm; and

(C) A conversion gain of 32 dB, or the same conversion gain as the existing ITFS downconverter, whichever is least; and

(D) A noise figure of no greater than 2.5 dB, or no more than 1 dB greater than the noise figure of the existing ITFS downconverter, whichever is greater; and

(iv) The proposal to upgrade the ITFS downconverter was made in writing and served upon the affected ITFS licensee, conditional licensee or applicant at the same time the application for the response station hub license was served on cochannel and adjacent channel ITFS parties and no objection was made within the 60-day period allowed for petitions to deny the hub station application.

(o) Interference calculations shall be performed in accordance with Appendix D to the *Report and Order on Reconsideration* in MM Docket No. 97–217, FCC 99–178, "Methods For Predicting Interference From Response Station Transmitters and To Response Station Hubs and For Supplying Data on Response Station Systems" as amended.

* * *

16. Section 21.910 is amended by revising the section heading, removing the introductory text, revising paragraphs (a) and (b), and removing paragraphs (c) and (d) to read as follows:

§ 21.910 Special procedures for discontinuance, reduction or impairment of service by common carrier licensees.

(a) Any licensee who has elected common carrier status and who seeks to discontinue service on a common carrier basis and instead provide service on a non-common carrier basis, or who otherwise intends to reduce or impair service the carrier shall notify all affected customers of the planned discontinuance, reduction or impairment on or before the date that the licensee provides notice to the Commission pursuant to § 21.903(d).

(b) Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for

good cause shown, another form of notice. Notice shall include the following:

(1) Name and address of carrier; and

(2) Date of planned service discontinuance, reduction or impairment; and

(3) Points or geographic areas of service affected; and

(4) How many and which channels are affected.

17. Section 21.913 is amended by removing paragraph (e)(4) and redesignating paragraph (e)(5) as (e)(4), and revising paragraphs (a), (b), (e) introductory text, (e)(1), (e)(4)(i), (e)(4)(vi), and (h) to read as follows:

§ 21.913 Signal booster stations.

(a) An MDS booster station may reuse channels to repeat the signals of MDS stations or to originate signals on MDS channels. The aggregate power flux density generated by an MDS station and all associated signal booster stations and all simultaneously operating cochannel response stations may not exceed -73 dBW/m^2 (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 21.909(b)(7)(i)) at or beyond the boundary of the protected service area, as defined in §§ 21.902(d) and 21.933, of the main MDS station whose channels are being reused, as measured at locations for which there is an unobstructed signal path, unless the consent of the affected cochannel licensee is obtained.

(b) A licensee or conditional licensee may secure a license for a high power signal booster station that has a maximum EIRP in excess of -9 dBW + 10 log(X/6) dBW where X is the channel width in MHz, if it complies with the out-of-band emission requirements of § 21.908. The applicant for a high-power station, or for modification thereto, where not subject to § 21.41 or § 21.42, shall file FCC Form 331 with Mellon Bank, and certify on that form that the applicant has complied with the additional requirements of paragraph (b) of this section, and that the interference data submitted under this paragraph is complete and accurate. Failure to certify compliance and to comply completely with the following requirements of paragraph (b) of this section shall result in dismissal of the application or revocation of the high-power MDS signal booster station license, and may result in imposition of a monetary forfeiture. The applicant additionally is required to submit to the Commission's copy contractor (and to the Commission upon staff request), both in hard copy, and on sequential 3.5″ DSHD computer diskettes in a form to be specified by the Commission by public notice, duplicates of the Form 331 filed with Mellon Bank, and the following information:

(1) A demonstration that the proposed signal booster station site is within the protected service area, as defined in §§ 21.902(d) and 21.933, of the MDS station whose channels are to be reused; and

(2) A study which demonstrates that the aggregate power flux density of the MDS station and all associated booster stations and simultaneously operating cochannel response stations licensed to or applied for by the applicant, measured at or beyond the boundary of the protected service area of the MDS station whose channels are to be reused, does not exceed -73 dBW/m^2 (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 21.907(b)(7)(i)) at locations for which there is an unobstructed signal path, unless the consent of the affected licensees has been obtained; and

(3) In lieu of the requirements of § 21.902(c) and (i), a study which demonstrates that the proposed booster station will cause no harmful interference (as defined in § 21.902(f)) to cochannel and adjacent channel, authorized or previously-proposed ITFS and MDS stations with protected service area center coordinates as specified in § 21.902(d), to any authorized or previously-proposed response station hubs, booster stations or I channel stations associated with such ITFS and MDS stations, or to any ITFS receive sites registered as of September 17, 1998, within 160.94 kilometers (100 miles) of the proposed booster station's transmitter site. Such study shall consider the undesired signal levels generated by the proposed signal booster station, the main station, all other licensed or previously-proposed associated booster stations, and all simultaneously operating cochannel response stations licensed to or applied for by the applicant. In the alternative, a statement from the affected MDS or ITFS licensee or conditional licensee stating that it does not object to operation of the high-power MDS signal booster station may be submitted; and

(4) A description of the booster service area; and

(5) A demonstration either

(i) That the booster service area is entirely within the protected service area to which the licensee of a station whose channels are being reused is entitled by virtue of its being the licensee of an incumbent MDS station, or by virtue of its holding a Basic Trading Area or Partitioned Service Area authorization; or

(ii) That the licensee entitled to any cochannel protected service area which is overlapped by the proposed booster service area has consented to such overlap; and

(6) A demonstration that the proposed booster service area can be served by the proposed booster without interference; and

(7) A certification that copies of the materials set forth in paragraph (b) of this section have been served upon the licensee or conditional licensee of each station (including each response station hub and booster station) required to be studied pursuant to paragraph (b)(3) of this section, and upon any affected holder of a Basic Trading Area or Partitioned Service Area authorization pursuant to paragraph (b)(2) of this section.

* * * * *

(e) Eligibility for a license for a low power signal booster station that has a maximum EIRP of -9 dBW +10log(X/6) dBW, where X is the channel width in MHz, shall be restricted to a licensee or conditional licensee. A low-power MDS signal booster station may operate only on one or more MDS channels that are licensed to the licensee of the MDS booster station, but may be operated by a third party with a fully-executed lease or consent agreement with the MDS conditional licensee or licensee. An MDS licensee or conditional licensee may install and commence operation of a low-power MDS signal booster station for the purpose of retransmitting the signals of the MDS station or for originating signals. Such installation and operation shall be subject to the condition that for sixty (60) days after installation and commencement of operation, no objection or petition to deny is filed by the licensee of a, or applicant for a previously-proposed, cochannel or adjacent channel ITFS or MDS station with a transmitter within 8.0 kilometers (5 miles) of the coordinates of the low-power MDS signal booster station. An MDS licensee or conditional licensee seeking to install a low-power MDS signal booster station under this rule must, within 48 hours after installation, submit FCC Form 331 to the Commission in Washington, DC, and submit to the Commission's copy contractor (and to the Commission upon staff request), both in hard copy, and on sequential 3.5″ DSHD computer diskettes in a format to be specified by public notice, duplicates of the Form 331 filed with the Commission, and the following (which also shall be

submitted to the Commission only upon Commission staff request at any time):

(1) A description of the booster service area; and

* * * * *

(4) * * *

(i) The maximum power level of the signal booster transmitter does not exceed −9 dBW + 10 log(X/6) dBW, where X is the channel width in MHz; and

* * * * *

(vi) The aggregate power flux density of the MDS station and all associated booster stations and simultaneously operating cochannel response stations licensed to or applied for by the applicant, measured at or beyond the boundary of the protected service areas of the MDS stations whose channels are to be reused, does not exceed −73 dBW/m² (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 21.907(b)(7)(i)) at locations for which there is an unobstructed signal path, unless the consent of the affected licensees has been obtained; and

* * * * *

(h) In the event any MDS or ITFS receive site suffers interference due to block downconverter overload, the licensee of each non-co/adjacent channel signal booster station within five miles of such receive site shall cooperate in good faith to expeditiously identify the source of the interference. Each licensee of a signal booster station contributing to such interference shall bear the joint and several obligation to remedy promptly all interference resulting from block downconverter overload at any ITFS registered receive site or at any receive site within an MDS or ITFS protected service area applied for prior to the submission of the application or notification for the signal booster station, regardless of whether the receive site suffering the interference was constructed prior to or after the construction of the signal booster station(s) causing the downconverter overload; provided, however, that the licensee of the registered ITFS receive site or the MDS or ITFS protected service area must cooperate fully and in good faith with efforts by signal booster station licensees to prevent interference before constructing the signal booster station and/or to remedy interference that may occur. In the event that more than one signal booster station licensee contributes to block downconverter interference at an MDS or ITFS receive site, such licensees shall cooperate in good faith to remedy promptly the interference.

§ 21.938 [Amended]

18. Section 21.938(b) is amended by removing §§ 21.940 and 74.940 and adding, in their place, §§ 21.949 and 74.949, respectively.

19. Section 21.949 is amended by revising paragraphs (a), (b) introductory text, and the first sentence of paragraph (d) and adding paragraph (b)(5) to read as follows:

§ 21.949 Individually licensed 125 kHz channel MDS response stations.

(a) The provisions of § 21.909(a), (e), (h), (j), (l) and (m) and § 74.939(j) of this chapter shall also apply with respect to authorization of 125 kHz channel MDS response stations not authorized under a response station hub license. The applicant shall comply with the requirements of § 21.902 and § 21.938 where appropriate, as well as with the provisions of §§ 21.909, 21.913, 74.939 and 74.985 of this chapter regarding the protection of response stations hubs and booster (and primary) service areas from harmful electromagnetic interference, using the appropriately adjusted interference protection values based upon the ratios of the bandwidths involved.

(b) An application for a license to operate a new or modified 125 kHz channel MDS response station not under a response station hub license shall be filed with Mellon Bank on FCC Form 331. The applicant shall supply the following information and certification on that form for each response station:

* * * * *

(5) A certification that all licensees and applicants appropriately covered under the provisions of (a), above, have been served with copies of the application.

* * * * *

(d) During breaks in communications, the unmodulated carrier frequency of an analog transmission shall be maintained within 35 kHz of the assigned frequency at all times. * * *

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

20. The authority for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

§ 74.901 [Amended]

21. Section 74.901 is amended by adding the definition of "Documented complaint" to read as follows:

* * * * *

Documented complaint. A complaint that a party is suffering from non-consensual interference. A documented complaint must contain a certification that the complainant has contacted the operator of the allegedly offending facility and tried to resolve the situation prior to filing. The complaint must then specify the nature of the interference, whether the interference is constant or intermittent, when the interference began and the site(s) most likely to be causing the interference. The complaint should be accompanied by a videotape or other evidence showing the effects of the interference. The complaint must contain a motion for a temporary order to have the interfering station cease transmitting. The complaint must be filed with the Secretary's office and served on the allegedly offending party.

* * * * *

22. Section 74.902 is amended by revising the first sentence of paragraph (f) to read as follows:

§ 74.902 Frequency assignments.

* * * * *

(f) An ITFS licensee or conditional licensee may apply to exchange evenly one or more of its assigned channels with another ITFS licensee or conditional licensee in the same system, or with an MDS licensee or conditional licensee in the same system, except that an ITFS licensee or conditional licensee may not exchange one of its assigned channels for MDS channel 2A. The licensees or conditional licensees seeking to exchange channels shall file in tandem with the Commission separate pro forma assignment of license applications, each attaching an exhibit which clearly specifies that the application is filed pursuant to a channel exchange agreement. * * *

* * * * *

23. Section 74.903 is amended by revising paragraphs (a)(1), (a)(2)(i), (a)(2)(ii) introductory text, (a)(6) and the last sentence of paragraph (b) introductory text, and revising (b)(5) to read as follows:

§ 74.903 Interference.

(a) * * *

(1) Cochannel interference is defined as the ratio of the desired signal to the undesired signal, at the output of a reference receiving antenna oriented to receive the maximum desired signal level. Harmful interference will be considered present when a calculation using a terrain sensitive signal propagation model determines that this ratio is less than 45 dB (or the appropriate value for bandwidths other than 6 MHz.)

(2) * * *

(i) Harmful interference will be considered present when a calculation using a terrain sensitive signal propagation model determines that this ratio is less than 0 dB (or the appropriate value for bandwidths other than 6 MHz.)

(ii) In the alternative, harmful interference will be considered present for an ITFS station constructed before May 26, 1983, when a calculation using a terrain sensitive signal propagation model determines that this ratio is less than 10 dB (or the appropriate value for bandwidths other than 6 MHz), unless:

* * * * *

(6) Notwithstanding the above, main, booster and response stations shall use the following formulas, as applicable, for determining compliance with: (1) Radiated field contour limits where bandwidths other than 6 MHz are employed at stations utilizing digital emissions; and (2) Cochannel and adjacent channel D/U ratios where the bandwidths in use at the interfering and protected stations are unequal and both stations are utilizing digital modulation or one station is utilizing digital modulation and the other station is utilizing either 6 MHz NTSC analog modulation or 125 kHz analog modulation (I channels only).

(i) Contour limit: -73 dBW/m^2 + 10 log(X/6) dBW/m^2, where X is the bandwidth in MHz of the digital channel.

(ii) Co-channel D/U: 45 dB + 10 log(X_1/X_2) dB, where X_1 is the bandwidth in MHz of the protected channel and X_2 is the bandwidth in MHz of the interfering channel.

(iii) Adjacent channel D/U: 0 dB + 10 log(X_1/X_2), where X_1 is the bandwidth in MHz of the protected channel and X_2 is the bandwidth in MHz of the interfering channel.

(b) * * * An applicant for a new instructional television fixed station must include the following technical information with the application:

* * * * *

(5) Specific rules relating to response station hubs, booster stations, and 125 kHz channels are set forth in §§ 21.909, 21.913, 21.949, 74.939, 74.949 and 74.985. To the extent those specific rules are inconsistent with any rules set forth above, those specific rules shall control.

* * * * *

24. Section 74.911 is revised to read as follows:

§ 74.911 Processing of ITFS station applications.

(a) Applications for ITFS stations are divided into three groups:

(1) In the first group are applications for new stations. These applications are subject to the provisions of paragraph (c) of this section.

(2) In the second group are applications for major changes in the facilities of authorized stations. A major change for an ITFS station will be any proposal to add new channels, change from one channel (or channel group) to another, except as provided for in § 74.902(f), change polarization, increase the EIRP in any direction by more than 1.5 dB, increase the transmitting antenna height by 25 feet or more, or relocate a facility's transmitter site by 10 miles or more. Major change applications are subject to paragraphs (d) and (e) of this section.

(3) The third group consists of applications for all other licenses and all other changes in the facilities of authorized stations.

(b) A new file number will be assigned to an application for a new station or for major changes in the facilities of an authorized station, when it is amended so as to effect a major change, as defined in paragraph (a)(2) of this section, or results in a situation where the original party or parties to the application do not retain control of the applicant as originally filed. An application for change in the facilities of any existing station will continue to carry the same file number even though (pursuant to Commission approval) an assignment of license or transfer of control of such licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(c) (1) The FCC will specify by Public Notice, pursuant to § 73.5002, a period for filing ITFS applications for a new station. Such ITFS applicants shall be subject to the provisions of § 1.2105 and the ITFS competitive bidding procedures. *See* 47 CFR 73.5000, *et. seq.*

(2) The requirements of this section apply to a wireless cable entity requesting to be licensed on ITFS frequencies pursuant to § 74.990.

(d) Notwithstanding any other provisions of this part, effective as of September 17, 1998, there shall be a one-week window, at such time as the Commission shall announce by public notice, for the filing of applications for all major changes, high-power signal booster station, response station hub, and I channels point-to-multipoint transmissions licenses, during which all applications shall be deemed to have been filed as of the same day for purposes of §§ 74.939 and 74.985. Following the publication of a public notice announcing the tendering for filing of applications submitted during that window, applicants shall have a period of sixty (60) days to amend their applications, provided such amendments do not result in any increase in interference to any previously-proposed or authorized station, or to facilities proposed during the window, absent consent of the applicant for or conditional licensee or licensee of the station that would receive such additional interference. At the conclusion of that sixty (60) day period, the Commission shall publish a public notice announcing the acceptance for filing of all applications submitted during the initial window, as amended during the sixty (60) day period. All petitions to deny such applications must be filed within sixty (60) days of such second public notice. On the sixty-first (61st) day after the publication of such second public notice, applications for major changes, new or modified response station hub, high powered signal booster and booster station licenses may be filed and will be processed in accordance with the provisions of §§ 74.939 and 74.985. Each application submitted during the initial window shall be granted on the sixty-first (61st) day after the Commission shall have given such public notice of its acceptance for filing, unless prior to such date either a party in interest timely files a formal petition to deny or for other relief pursuant to § 74.912, or the Commission notifies the applicant that its application will not be granted. Where an application is granted pursuant to the provisions of this paragraph, the conditional licensee or licensee shall maintain a copy of the application at the transmitter site or response station hub until such time as the Commission issues a license.

(e) Except as provided in paragraph (d) of this section, major change applications may be filed at any time. Except during the sixty (60) day amendment period provided for in paragraph (d) of this section, any amendment to a major change application that reflects any change in the technical specifications of the proposed facility, includes any new or modified analysis of potential interference to another facility, or submits any interference consent from a neighboring licensee, shall cause the application to be considered newly-filed. Notwithstanding any other provision of part 74, major change applications meeting the requirements of part 74 shall cut-off applications that are filed on a subsequent day for facilities that would cause harmful electromagnetic interference to the facilities proposed in the major change

application. A facility proposed in a major change application shall not be entitled to protection from interference caused by any facilities proposed on or prior to the day the major change application is filed. A facility proposed in a major change application shall not be required to protect from interference facilities proposed on or after the day the major change application is filed. Except as provided by paragraph (d) of this section, any petition to deny a major change application shall be filed no later than the sixtieth (60th) day after the date of public notice announcing the filing of such application. Except as provided in paragraph (d) of this section a major change application that meets the requirements of part 74 shall be granted on the sixty-first (61st) day after the Commission shall have given public notice of the acceptance for filing of it, unless prior to such date either a party in interest files a timely petition to deny or files for other relief pursuant to § 74.912, or the Commission notifies the applicant that its application will not be granted at such time. Where an application is granted pursuant to the provisions of this paragraph, the conditional licensee or licensee shall maintain a copy of the application at the facility until such time as the Commission issues a license for that facility's operations.

25. Section 74.931 is amended by revising paragraphs (c)(3), (c)(6)(ii), (d) introductory text, (d)(1), (d)(6)(ii), and (d)(6)(iii) to read as follows:

§ 74.931 Purpose and permissible service.

* * * * *

(c) * * *

(3) The licensee may shift its requisite ITFS educational usage onto fewer than its authorized number of channels, via channel mapping or channel loading technology, so that it can lease full-time channel capacity on its ITFS station and/or associated ITFS booster stations, subject to the condition that it provide a total average of at least 20 hours per channel per week of ITFS educational usage on its authorized channels. The use of channel mapping or channel loading consistent with the Rules shall not be considered adversely to the ITFS licensee in seeking a license renewal. The licensee also retains the unabridgeable right to recapture, subject to six months' advance written notification by the ITFS licensee to its lessee, an average of an additional 20 hours per channel per week, accounting for all recapture already exercised. The licensee may agree to the transmission of this recapture time on channels not authorized to it, but which are included in the wireless system of which it is a part. A licensee under this paragraph which leases excess capacity to an operator which utilizes digital transmissions on any one of the licensee's licensed channels may "channel shift" pursuant to and under the conditions of paragraph (d)(2) of this section.

(6) * * *

(ii) An ITFS licensee also may alternate, without further authorization required, between rendering service on a common carrier and non-common carrier basis, provided that the licensee notifies the Commission of any service status changes at least 30 days in advance of such changes. The notification shall state whether there is any affiliation or relationship to any intended or likely subscriber or program originator.

(d) A licensee utilizing digital transmissions on any of its licensed channels may use excess capacity on each channel to transmit material other than the ITFS subject matter specified in paragraphs (a) and (b) of this section, subject to the following conditions:

(1) The licensee must reserve a minimum of 5% of the capacity of its channels for instructional purposes only, and may not lease this reserved capacity. In addition, before leasing excess capacity, the licensee must provide at least 20 hours per licensed channel per week of ITFS educational usage. This 5% reservation and this 20 hours per licensed channel per week ITFS educational usage requirement shall apply spectrally over the licensee's whole actual service area.

* * * * *

(6) * * *

(ii) An ITFS licensee also may alternate, without further authorization required, between rendering service on a common carrier and non-common carrier basis, provided that the licensee notifies the Commission of any service status changes at least 30 days in advance of such changes. The notification shall state whether there is any affiliation or relationship to any intended or likely subscriber or program originator.

(iii) Licensees under paragraph (d)(6) of this section additionally shall comply with the provisions of §§ 21.304, 21.900(b), 21.903(b)(1), 21.903(b)(2), 21.903(c), and 21.910 of this chapter.

* * * * *

26. Section 74.932 is amended by revising paragraph (a)(4) to read as follows:

§ 74.932 Eligibility and licensing requirements.

(a) * * *

(4) Those applicant organizations whose eligibility is established by service to accredited institutional or governmental organizations must submit documentation from proposed receive sites demonstrating that they will receive and use the applicant's educational usage. In place of this documentation, a state educational television (ETV) commission may demonstrate that the public schools it proposes to serve are required to use its proposed educational usage.

* * * * *

27. Section 74.935 is amended by revising the section heading, paragraphs (a) through (c) and by adding paragraph (e) to read as follows:

§ 74.935 EIRP limitations.

(a) The maximum EIRP of a main or booster station shall not exceed 33 dBW + 10log(X/6) dBW, where X is the actual bandwidth if other than 6 MHz, except as provided in paragraph (b) of this section.

(b) If a main or booster station sectorizes or otherwise uses one or more transmitting antennas with a non-omnidirectional horizontal plane radiation pattern, the maximum EIRP over a 6 MHz channel in dBW in a given direction shall be determined by the following formula:

EIRP = 33 dBW + 10 log(X/6) dBW + 10 log(360/beamwidth) dBW, where X is the channel width in MHz and 10 log(360/beamwidth) ≤ 6 dB.

Beamwidth is the total horizontal plane beamwidth of the individual transmitting antenna for the station or any sector measured at the half-power points.

(c) An increase in station EIRP, above currently-authorized or previously-proposed values, to the maximum values provided in paragraphs (a) and (b) of this section may be authorized, if an applicant demonstrates that the requested EIRP increase would not cause harmful interference to any authorized or previously-proposed, cochannel or adjacent channel station entitled to interference protection under the Commission's rules, or if an applicant demonstrates that:

(1) A station that must be protected from interference could compensate for interference by increasing its EIRP; and

(2) The interfered-with station may increase its own EIRP consistent with the rules and without causing harmful interference to any cochannel or adjacent channel main or booster station protected service area, response station hub or BTA/PSA, for which consent for the increased interference has not been obtained ; and

(3) The applicant requesting authorization of an EIRP increase agrees to pay all expenses associated with the increase in EIRP by the interfered-with station.

* * * * *

(e) For main, booster and response stations utilizing digital emissions with non-uniform power spectral density (*e.g.* unfiltered QPSK), the power measured within any 100 kHz resolution bandwidth within the 6 MHz channel occupied by the non-uniform emission cannot exceed the power permitted within any 100 kHz resolution bandwidth within the 6 MHz channel if it were occupied by an emission with uniform power spectral density, *i.e.*, if the maximum permissible power of a station utilizing a perfectly uniform power spectral density across a 6 MHz channel were 2000 watts EIRP, this would result in a maximum permissible power flux density for the station of 2000/60 = 33.3 watts EIRP per 100 kHz bandwidth. If a non-uniform emission were substituted at the station, station power would still be limited to a maximum of 33.3 watts EIRP within any 100 kHz segment of the 6 MHz channel, irrespective of the fact that this would result in a total 6 MHz channel power of less than 2000 watts EIRP.

28. Section 74.936 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

§ 74.936 Emissions and bandwidth.

(a) An ITFS station may employ amplitude modulation (C3F) for the transmission of the visual signal and frequency modulation (F3E) or (G3E) for the transmission of the aural signal when transmitting a standard analog television signal. Quadrature amplitude modulation (QAM), digital vestigial sideband modulation (VSB), quadrature phase shift key modulation (QPSK), code division multiple access (CDMA) and orthogonal frequency division multiplex (OFDM) emissions may be employed, subject to compliance with the policies set forth in the *Declaratory Ruling and Order*, 11 FCC Rcd 18839 (1996). Use of OFDM also is subject to the subsequently *Digital Declaratory Ruling and Order*, DA 99–554 (Mass Med. Bur. rel. Mar. 19, 1999). Other digital emissions may be added to those authorized above, including emissions with non-uniform power spectral density, if the applicant provides information in accordance with the guidelines and procedures set forth in the *Declaratory Ruling and Order* which clearly demonstrates the spectral occupancy and interference characteristics of the emission. The licensee may subchannelize its authorized bandwidth, provided that digital modulation is employed and the aggregate power does not exceed the authorized power for the channel, and may utilize all or a portion of its authorized bandwidth for ITFS response stations authorized pursuant to § 74.939. The licensee may also, jointly with affected adjacent channel licensees, transmit utilizing bandwidth in excess of its authorized frequencies, provided that digital modulation is employed, all power spectral density requirements set forth in this part are met and the out-of-band emissions restrictions set forth in § 74.936 are met at the edges of the channels employed. The wider channels thus created may be redivided to create narrower channels.

(b) Notwithstanding the above, any digital emission which complies with the out-of-band emission restrictions of § 21.908 of this chapter may be used in the following circumstances:

* * * * *

29. Section 74.939 is amended as follows:

(1) by revising paragraph (b);

(2) revising paragraph (c);

(3) removing paragraph (d)(1);

(4) redesignating paragraphs (d)(2) and (d)(3) as paragraphs (d)(1) and (d)(2);

(5) revising newly redesignated paragraphs (d)(2)(iii), (d)(2)(iv), (d)(2)(v) introductory text; (d)(2)(v)(A);

(6) revising the second sentence of paragraph (f);

(7) revising pargraphs (g)(3), (g)(6)(i), (g)(6)(ii), (g)(8);

(8) revising paragraph (h);

(9) revising paragraph (i)(2);

(10) revising the second sentence of paragraph (l)(1), (l)(2) introductory text;

(11) adding paragraph (l)(6);

(12) revising paragraph (m);

(13) revising paragraph (o);

(14) revising paragraph (p); and

(15) revising the first sentence of paragraph (q).

The additions, removals and revisions are set out as follows:

§ 74.939 ITFS response stations.

* * * * *

(b) ITFS response stations that utilize the 2150–2162 MHz band pursuant to § 74.902(f), the 2500–2686 MHz band, and/or the 125 kHz channels identified in paragraph (j) of this section may be installed and operated without an individual license, to communicate with a response station hub, provided that the conditions set forth in paragraph (g) of this section are met and that ITFS response stations' technical parameters are consistent with all applicable rules in this part and with the terms and conditions set out in the Commission's *Declaratory Ruling and Order*, 11 FCC Rcd 18839 (1996).

(c) An applicant for a response station hub license, or for modification thereto, shall:

(1) File FCC Form 331 with the Commission in Washington, DC, and certify on that form that it has complied with the requirements of paragraphs (c)(2) and (d) of this section and that the interference data submitted under paragraph (d) of this section is complete and accurate. Failure to certify compliance and to comply completely with the requirements of paragraphs (c)(2) and (d) of this section shall result in dismissal of the application or revocation of the response station hub license, and may result in imposition of a monetary forfeiture; and

(2) Submit the following to the Commission's copy contractor, both in hard copy and on sequential 3.5″ DSHD computer diskettes in ASCII for all Appendix D data and in a format to be specified by the Commission by public notice for all other submissions.

(i) Duplicates of the Form 331 filed with the Commission; and.

(ii) The data required by Appendix D to the *Report and Order on Reconsideration* in MM Docket No. 97–217, FCC 99–178, "Methods for Predicting Interference from Response Station Transmitters and to Response Station Hubs and for Supplying Data on Response Station Systems" as amended; and

(iii) The information, showings and certifications required by paragraph (d) of this section; and

(3) Submit to the Commission, only upon Commission staff request, duplicates of the submissions required by paragraph (c)(2) of this section.

* * * * *

(d) * * *

(2) * * *

(iii) The combined signals of all simultaneously operating ITFS response stations within all response service areas and oriented to transmit towards their respective response station hubs and all cochannel ITFS stations and booster stations licensed to or applied for by the applicant will not generate a power flux density in excess of −73 dBW/m^2 (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 74.903(a)(6)(i)) outside the boundaries of the applicant's protected service area, as measured at locations for which there is an unobstructed signal path, except to the extent that consent of affected licensees has been obtained or consents have been granted pursuant to

paragraph (d)(3)(ii) of this section to an extension of the response service area beyond the boundaries of the protected service area; and

(iv) The combined signals of all simultaneously operating ITFS response stations within all response service areas and oriented to transmit towards their respective response station hubs, and all cochannel ITFS stations and booster stations licensed to or applied for by the applicant, will result in a desired to undesired signal ratio of at least 45 dB (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 74.903(a)(6)(ii)):

(A) Within the protected service area of any authorized or previously-proposed cochannel MDS or ITFS station with a 56.33 km (35 mile) protected service area with center coordinates located within 160.94 km (100 miles) of the proposed response station hub; and

(B) Within the booster service area of any cochannel booster station entitled to such protection pursuant to §§ 21.913(f) of this chapter or 74.985(f) and located within 160.94 km (100 miles) of the proposed response station hub; and

(C) At any registered receive site of any authorized or previously-proposed cochannel ITFS station or booster station located within 160.94 km (100 miles) of the proposed response station hub, or, in the alternative, that the licensee or applicant for such cochannel station or hub consents to the application; and

(v) The combined signals of all simultaneously operating ITFS response stations within all response service areas and oriented to transmit towards their respective response station hubs, and all cochannel ITFS stations and booster stations licensed to or applied for by the applicant, will result in a desired to undesired signal ratio of at least 0 dB (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 74.903(a)(6)(iii)):

(A) Within the protected service area of any authorized or previously-proposed adjacent channel MDS or ITFS station with a 56.33 km (35 mile) protected service area with center coordinates located within 160.94 km (100 miles) of the proposed response station hub; and

* * * * *

(f) * * * Except as provided in § 74.911(e), an application for a response station hub license that meets the requirements of this section shall be granted on the sixty-first (61st) day after the Commission shall have given public notice of the acceptance for filing of it, or of a major amendment to it if such major amendment has been filed, unless prior to such date either a party in interest timely files a formal petition to deny or for other relief pursuant to § 74.912, or the Commission notifies the applicant that its application will not be granted. * * *

(g) * * *

(3) No response station shall operate with an EIRP in excess of that specified in the application for the response station hub pursuant to paragraph (d)(2)(i)(B) of this section for the particular regional class of characteristics with which the response station is associated, and such response station shall not operate at an excess of 33 dBW + 10 log(X/6) dBW, where X is the channel width in MHz; and

* * * * *

(6) * * *

(i) First notifies the Commission, in a format to be specified by public notice, of the altered number of response stations of such class(es) to be operated simultaneously in such region, and certifies in that notification that it has complied with the requirements of paragraphs (g)(6)(ii) and (iii) of this section, and that the interference data submitted under paragraph (g)(6)(ii) of this section is complete and accurate; and

(ii) Provides the Commission's copy contractor with a set of sequential 3.5″ DSHD diskettes in ASCII format which update the previously filed response station data (see § 21.909(c)(2)(ii) of this chapter) and with an analysis, in a format to be specified by public notice, establishing that such alteration will not result in any increase in interference to the protected service area or protected receive sites of any existing or previously-proposed, cochannel or adjacent channel MDS or ITFS station or booster station, to the protected service area of any MDS Basic Trading Area or Partitioned Service Area licensee entitled to protection pursuant to paragraph (d)(3) of this section, or to any existing or previously-proposed, cochannel or adjacent channel response station hub, or response station under § 21.949 of this chapter or § 74.949; or that the applicant for or licensee of such facility has consented to such interference; and

* * * * *

(8) In the event any MDS or ITFS receive site suffers interference due to block downconverter overload, the licensee of each non-co/adjacent response station hub with a response service area within five miles of such receive site shall cooperate in good faith to expeditiously identify the source of the interference. Each licensee of a response station hub with an associated response station contributing to such interference shall bear the joint and several obligation to promptly remedy all block downconverter overload interference at any ITFS registered receive site or at any receive site within an MDS or ITFS protected service area applied for prior to the submission of the application for the response station hub license, regardless of whether the receive site suffering the interference was constructed prior to or after the construction of the response station(s) causing the downconverter overload; provided, however, that the licensee of the registered ITFS receive site or the MDS or ITFS protected service area must cooperate fully and in good faith with efforts by the response station hub licensee to prevent interference before constructing response stations and/or to remedy interference that may occur. In the event that the associated response station(s) of more than one response station hub licensee contribute(s) to block downconverter interference at an MDS or ITFS receive site, such hub licensees shall cooperate in good faith to remedy promptly the interference.

(h) Applicants must comply with part 17 of this chapter concerning notification to the Federal Aviation Administration of proposed antenna construction or alteration for all hub stations and associated response stations.

(i) * * *

(2) Commencing upon the filing of an application for an ITFS response station hub license and until such time as the application is dismissed or denied or, if the application is granted, a certification of completion of construction is filed on FCC Form 330A, the ITFS station whose channels are being utilized shall be entitled both to interference protection pursuant to §§ 21.902(i) and 21.938(b)(3) of this chapter and 74.903, and to protection of the response station hub pursuant to the preceding paragraph. Unless the application for the response station hub license specifies that the same frequencies also will be employed for digital and/or analog point-to-multipoint transmissions by ITFS stations and/or ITFS booster stations, upon the submission of a certification of completion of construction of an ITFS response station hub on FCC Form 330A where the channels of an ITFS station are being utilized as response station transmit frequencies, the ITFS station whose channels are being utilized for response station transmissions shall no longer be entitled to interference protection pursuant to §§ 21.902(i) and

21.938(b)(3) of this chapter and 74.903 within the response service area with regard to any portion of any 6 MHz channel employed solely for response station communications. Upon the submission of a certification of completion of construction of an ITFS response station hub on FCC Form 330A where the channels of an ITFS station are being utilized for response station transmissions and the application for the response station hub license specifies that the same frequencies will be employed for point-to-multipoint transmissions, the ITFS station whose channels are being utilized shall be entitled both to interference protection pursuant to §§ 21.902(i) and 21.938(b)(3) of this chapter and 74.903, and to protection of the response station hub pursuant to the preceding provisions of this paragraph.

* * * * *

(l) * * *

(1) * * * The application shall specify which of the associated I channels is/are intended for point-to-multipoint transmissions, or whether an I channels station already authorized for point-to-multipoint transmissions is being modified. * * *

(2) Submit to the Commission's copy contractor, both in hard copy, and on a 3.5" DSHD computer diskette in ASCII, and likewise submit to the Commission, only upon Commission staff request:

* * * * *

(6) A certification that copies of the materials set forth in paragraph (l)(2) of this section have been served upon the licensee or conditional licensee of each station (including each response station hub and booster station) required to be studied pursuant to paragraph (l)(3) of this section, and upon any affected holder of a Basic Trading Area or Partitioned Service Area authorization pursuant to paragraph (l)(2) of this section.

(m) A response station may be operated unattended. The overall performance of the response station transmitter shall be checked by the hub licensee as often as necessary to ensure that it is functioning in accordance with the requirements of the Commission's rules. The licensee of a response station hub is responsible for the proper operation of all associated response station transmitters. Each response station hub licensee is responsible for maintaining, and making available to the Commission upon request, a list containing all customer names and addresses, plus the technical parameters (EIRP, emission, bandwidth, antenna pattern/height/orientation/polarization) pertinent to each class of response station within the response service area.

* * * * *

(o) An ITFS response station shall be operated only when engaged in communications with its associated ITFS response station hub or ITFS station or booster station, or for necessary equipment or system tests and adjustments. Upon initial installation, and upon relocation and reinstallation, a response station transmitter shall be incapable of emitting radiation unless, and until, it has been activated by reception of a signal from the associated ITFS station or booster station. A hub station licensee shall be capable of remotely de-activating any and all response station transmitters within its RSA by means of signals from the associated ITFS station or booster station. Radiation of an unmodulated carrier and other unnecessary transmissions are forbidden.

(p) All response stations utilizing an EIRP greater than 18 dBW shall be installed by the associated hub licensee or by the licensee's employees or agents. For the purposes of this section, all EIRP dBW values assume the use of a 6 MHz channel. For channel bandwidths other than 6 MHz, the EIRP dBW values should be adjusted up (channel >6 MHz) or down (channel <6 MHz) by 10 log(X/6) dBW, where X is the channel width in MHz. For response stations located within 1960 feet of an ITFS receive site registered and built prior to the filing of the application for the hub station license, the hub licensee must notify the licensee of the ITFS receive site at least one business day prior to the activation of these response stations. The notification must contain, for each response station to be activated, the following information: name and telephone number of a contact person who will be responsible for coordinating the resolution of any interference problems; street address; geographic coordinates to the nearest second; channels/subchannels (transmit only); and transmit antenna pattern, EIRP, orientation and height AMSL. (If transmit antenna pattern, EIRP, orientation or height AMSL are not known with specificity at the time of notification, the hub licensee may, instead, specify the worst-case values for the class of response station being activated.) Such notice to the ITFS licensee shall be given in writing by certified mail unless the ITFS licensee has requested delivery by email or facsimile. The ITFS licensee may waive the notification requirement on a site-specific basis or on a system-wide basis. The notification provisions of this section shall not apply if:

(1) The response station will operate at an EIRP no greater than −6 dBW; or

(2) The response station will operate at an EIRP greater than −6 dBW and no more than 18 dBW and:

(i) The channels being received at the ITFS site are neither the same as, nor directly adjacent to, the channel(s) to be transmitted from the response station; and

(ii) The hub station licensee has replaced, at its expense, the frequency downconverters used at all ITFS receive sites registered and constructed prior to the filing of the hub station application which are within 1960 feet of the hub station's response service area; and

(iii) The downconverters, at a minimum, conform to the following specifications:

(A) A frequency of operation covering the 2150–2162 MHz band or the 2500–2686 MHz band; and

(B) A third-order intercept point of 30 dBm; and

(C) A conversion gain of 32 dB, or the same conversion gain as the existing ITFS downconverter, whichever is least; and

(D) A noise figure of no greater than 2.5 dB, or no more than 1 dB greater than the noise figure of the existing ITFS downconverter, whichever is greater; and

(iv) The proposal to upgrade the ITFS downconverter was made in writing and served upon the affected ITFS licensee, conditional licensee or applicant at the same time the application for the response station hub license was served on cochannel and adjacent channel ITFS parties and no objection was made within the 60-day period allowed for petitions to deny the hub station application.

(q) Interference calculations shall be performed in accordance with Appendix D to the *Report and Order on Reconsideration* in MM Docket No. 97–217, FCC 99–178, "Methods For Predicting Interference From Response Station Transmitters and To Response Station Hubs and For Supplying Data on Response Station Systems" as amended

* * *

30. Section 74.949 is amended by revising paragraphs (a), (b) introductory text, and by adding (b)(5) to read as follows:

§ 74.949 Individually licensed 125 kHz channel ITFS response stations.

(a) The provisions of § 74.939(a), (e), (h), (j), (k), (n) and (o) shall also apply with respect to the authorization of 125 kHz channel ITFS response stations not authorized under a response station hub

license. The applicant shall also comply with the requirements of § 74.903 and § 21.938 of this chapter where appropriate, as well as with the provisions of §§ 21.909 and 21.913 of this chapter and of §§ 74.939 and 74.985 regarding the protection of response station hubs and booster (and primary) service areas from harmful electromagnetic interference, using the appropriately adjusted interference protection values based upon the ratios of the bandwidths involved.

(b) An application for a license to operate a new or modified 125 kHz channel ITFS response station not under a response station hub license shall be filed with the Commission in Washington, D.C., on FCC Form 331. The applicant shall supply the following information and certification on that form for each response station:

* * * * *

(5) A certification that all licensees and applicants appropriately covered under the provisions of paragraph (a) of this section have been served with copies of the application.

* * * * *

31. Section 74.951 is amended by revising paragraph (b) to read as follows:

§ 74.951 Modification of transmission systems.

* * * * *

(b) Any change in the antenna system affecting the direction of radiation, directive radiation pattern, antenna gain, or radiated power; provided, however, that a licensee may install a sectorized antenna system without prior consent if such system does not change polarization or result in an increase in radiated power by more than one dB in any direction, and notice of such installation is provided to the Commission and the Commission's copy contractor on FCC Form 331 within ten (10) days of installation. When an applicant proposes to employ a directional antenna, or a licensee notifies the Commission pursuant to this paragraph of the installation of a sectorized antenna system, the applicant shall provide the Commission with information regarding the orientation of the directional antenna(s), expressed in degree of azimuth, with respect to true north, and the make and model of such antenna(s).

* * * * *

32. Section 74.961 is amended by revising paragraph (a) to read as follows:

§ 74.961 Frequency tolerance

(a) Beginning January 21, 2000, equipment authorized to be used at all ITFS main stations, and at all ITFS booster stations authorized pursuant to § 74.985(b), shall maintain a frequency tolerance of 0.001%. ITFS booster stations authorized pursuant to § 74.985(e) and ITFS response stations authorized pursuant to § 74.939 shall employ transmitters with sufficient frequency stability to ensure that the emission is, at all times, within the required emission mask. A transmitter licensed prior to November 1, 1991 that remains at the station site for which it was initially authorized and does not comply with the provisions of this paragraph may continue to be used if it does not cause harmful interference to the operations of any other licensee. Any non-conforming transmitter replaced after November 1, 1991 must be replaced by a transmitter meeting the requirements of this paragraph.

* * * * *

33. Section 74.985 is amended by:

(1) removing paragraph (e)(4);

(2) redesignating paragraph (e)(5) as (e)(4);

(3) revising paragraph (a);

(4) revising paragraphs (b) introductory text (b)(4), (b)(5);

(5) revising the second sentence of paragraph (d);

(6) revising paragraph (e) introductory text, newly redesignated paragraphs (e)(4)(i), (e)(4)(vi);

(7) revising paragraph (f); and

(8) revising paragraph (h).

The additions, removals and revisions are set out as follows:

§ 74.985 Signal booster stations.

(a) An ITFS booster station may reuse channels to repeat the signals of ITFS stations or to originate signals on ITFS channels. The aggregate power flux density generated by an ITFS station and all associated signal booster stations and all simultaneously operating cochannel response stations licensed to or applied for by the applicant may not exceed -73 dBW/m^2 (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 74.903(a)(6)(i)) at or beyond the boundary of the protected service area, as defined by § 21.902(d) of this chapter, of the main ITFS station whose channels are being reused, as measured at locations for which there is an unobstructed signal path, unless the consent of the cochannel licensee is obtained.

(b) A licensee or conditional licensee may secure a license for a high power signal booster station that has a maximum EIRP in excess of -9 dBW + 10 log(X/6) dBW where X is the channel width in MHz, if it complies with the out-of-band emission requirements of § 21.908 of this chapter. The applicant for a high-power station, or for modification thereto, shall file FCC Form 331 with the Commission in Washington, DC, and certify on that form that the applicant has complied with the additional requirements of paragraph (b) of this section, and that the interference data submitted under this paragraph is complete and accurate. Failure to certify compliance and to comply completely with the following requirements of paragraph (b) of this section shall result in dismissal of the application or revocation of the high-power ITFS signal booster station license, and may result in imposition of a monetary forfeiture. The applicant additionally is required to submit to the Commission's copy contractor (and to the Commission upon staff request), both in hard copy, and on sequential 3.5″ DSHD computer diskettes in a form to be specified by the Commission by public notice, duplicates of the Form 331 filed with Mellon Bank, and the following information:

* * * * *

(4) A study which demonstrates that the aggregate power flux density of the ITFS station and all associated booster stations and simultaneously operating cochannel response stations licensed to or applied for by the applicant does not exceed -73 dBW/m^2 (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 74.903(a)(6)(i)) at or beyond the boundary of the protected service area of the main ITFS station whose channels are to be reused, as measured at locations for which there is an unobstructed signal path, unless the consent of affected licensees has been obtained; and

(5) In lieu of the requirements of § 74.903, a study which demonstrates that the proposed signal booster station will cause no harmful interference (as defined in § 74.903(a)(1) and (2)) to cochannel and adjacent channel, authorized or previously-proposed ITFS and MDS stations with protected service area center coordinates as specified in § 21.902(d) of this chapter, to any authorized or previously-proposed response station hubs, booster service areas, or I channel stations associated with such ITFS and MDS stations, or to any ITFS receive sites registered as of September 17, 1998, within 160.94 kilometers (100 miles) of the proposed booster station's transmitter site. Such study shall consider the undesired signal levels generated by the proposed signal booster station, the main station, all other licensed or previously-proposed associated booster stations, and all simultaneously operating cochannel response stations licensed to

or applied for by the applicant. In the alternative, a statement from the affected MDS or ITFS licensee or conditional licensee stating that it does not object to operation of the high-power ITFS signal booster station may be submitted; and

* * * * *

(d) * * * Except as provided in § 74.911(e), an application for a high-power ITFS signal booster station license that meets the requirements of paragraph (b) of this section shall be granted on the sixty-first (61st) day after the Commission shall have given public notice of the acceptance for filing of it, or of a major amendment to it if such major amendment has been filed, unless prior to such date either a party in interest timely files a formal petition to deny or for other relief pursuant to § 74.912, or the Commission notifies the applicant that its application will not be granted. * * *

(e) Eligibility for a license for a low power signal booster station that has a maximum EIRP of −9 dBW + 10log(X/6) dBW, where X is the channel width in MHz, shall be restricted to a licensee or conditional licensee. A low-power ITFS signal booster station may operate only on one or more ITFS channels that are licensed to the licensee of the ITFS booster station, but may be operated by a third party with a fully-executed lease or consent agreement with the ITFS conditional licensee or licensee. An ITFS licensee or conditional licensee may install and commence operation of a low-power ITFS signal booster station for the purpose of retransmitting the signals of the ITFS station or for originating signals. Such installation and operation shall be subject to the condition that for sixty (60) days after installation and commencement of operation, no objection or petition to deny is filed by the licensee of a, or applicant for a previously-proposed, cochannel or adjacent channel ITFS or MDS station with a transmitter within 8.0 kilometers (5 miles) of the coordinates of the low-power ITFS signal booster station. An ITFS licensee or conditional licensee seeking to install a low-power ITFS signal booster station under this rule must, within 48 hours after installation, submit FCC Form 331 to the Commission in Washington, DC, and submit to the Commission's copy contractor (and to the Commission upon staff request), both in hard copy, and on sequential 3.5″ DSHD computer diskettes in a format to be specified by public notice, duplicates of the Form 331 filed with the Commission, and the following (which also shall be submitted to the Commission only upon Commission staff request at any time):

* * * * *

(4) * * *

(i) The maximum power level of the signal booster transmitter does not exceed −9 dBW + 10 log(X/6) dBW, where X is the channel width in MHz; and

* * * * *

(vi) The aggregate power flux density of the ITFS station and all associated booster stations and simultaneously operating cochannel response stations licensed to or applied for by the applicant does not exceed −73 dBW/m^2 (or the appropriately adjusted value based on the actual bandwidth used if other than 6 MHz, see § 74.903(a)(6)(i)) at or beyond the boundary of the protected service area of the main ITFS station whose channels are to be reused, as measured at locations for which there is an unobstructed signal path, unless the consent of affected licensees has been obtained; and

(f) Commencing upon the filing of an application for a high-power ITFS signal booster station license and until such time as the application is dismissed or denied or, if the application is granted, a certification of completion of construction on FCC Form 330A is submitted, an applicant for any new or modified MDS or ITFS station (including any response station hub, high-power booster station, or I channels station) shall demonstrate compliance with the interference protection requirements set forth in §§ 21.902(i) and 21.938(b)(3) of this chapter or § 74.903 with respect to any previously-proposed or authorized booster service area both using the transmission parameters of the high-power ITFS signal booster station (*e.g.*, EIRP, polarization(s) and antenna height) and the transmission parameters of the ITFS station whose channels are to be reused by the high-power ITFS signal booster station. Upon the submission of a certification of completion of construction on FCC Form 330A of an ITFS booster station applied for pursuant to paragraph (b) of this section, or upon the submission of an ITFS booster station notification pursuant to paragraph (e) of this section, the ITFS station whose channels are being reused by the ITFS signal booster shall no longer be entitled to interference protection pursuant to §§ 21.902(i) and 21.938(b)(3) of this chapter and § 74.903 within the booster service area based on the transmission parameters of the ITFS station whose channels are being reused. A booster station shall not be entitled to protection from interference caused by facilities proposed on or prior to the day the application or notification for the booster station is filed. A booster station shall not be required to protect from interference facilities proposed on or after the day the application or notification for the booster station is filed.

* * * * *

(h) In the event any MDS or ITFS receive site suffers interference due to block downconverter overload, the licensee of each non-co/adjacent channel signal booster station within five miles of such receive site shall cooperate in good faith to expeditiously identify the source of the interference. Each licensee of a signal booster station contributing to such interference shall bear the joint and several obligation to remedy promptly all interference resulting from block downconverter overload at any ITFS registered receive site or at any receive site within an MDS or ITFS protected service area applied for prior to the submission of the application or notification for the signal booster station, regardless of whether the receive site suffering the interference was constructed prior to or after the construction of the signal booster station(s) causing the downconverter overload; provided, however, that the licensee of the registered ITFS receive site or the MDS or ITFS protected service area must cooperate fully and in good faith with efforts by signal booster station licensees to prevent interference before constructing the signal booster station and/or to remedy interference that may occur. In the event that more than one signal booster station licensee contributes to block downconverter overload interference at an MDS or ITFS receive site, such licensees shall cooperate in good faith to remedy promptly the interference.

34. The alphabetical index to part 74 is amended by adding under the heading "ITFS" a "Response stations hub" heading and adding "Response station hubs (ITFS; individually licensed)" heading, to read as follows:

Alphabetical Index—Part 74

* * * * *

ITFS—

* * * * *

Response station hubs	74.939

* * * * *

Response stations (ITFS; individually licensed)	74.949

* * * * *

PART 101—FIXED MICROWAVE SERVICES

35. The authority for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309 and 554.

§ 101.149 [Amended]

36. Section 101.147 is amended by removing the number (22) from the entries 2,150–2,160 MHz (20) (22) and 2,650–2,690 MHz (22) from the frequency assignments in paragraph (a).

[FR Doc. 99–29785 Filed 11–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2476; MM Docket No. 92–81; RM 7875]

Radio Broadcasting Services; Farmington and Gallup, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies the petition for reconsideration filed by KOB–TV, Inc. against our action in the *Report and Order*, 61 FR 08000 (1996) which reallotted Channel 3 from Gallup to Farmington and modified the construction permit for Station KOAV–TV to specify Farmington as its community of license.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket 92–81, adopted October 27, 1999 and released November 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73.

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 99–30173 Filed 11–19–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–2452; MM Docket No. 98–196; RM–9325 & RM–9476]

Radio Broadcasting Services; Whitewright and Van Alstyne, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a Petition for Rule Making filed by Chinquapin Creek Broadcasting Company, a Notice of Proposed Rule Making was issued proposing the allotment of Channel 260A at Whitewright, Texas. *See* 63 FR 67036, December 4, 1998. In response to a counterproposal filed by Chinquapin Creek Broadcasting this document allots Channel 260A to Van Alstyne, Texas, at coordinates 33–27–08 and 96–27–21. With this action, this proceeding is terminated. A filing window for Channel 260A at Van Alstyne, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective December 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–196, adopted October 27, 1999, and released November 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas is amended by adding Van Alstyne, Channel 260A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–30169 Filed 11–19–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE54

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant *Lesquerella thamnophila* (Zapata Bladderpod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine the plant *Lesquerella thamnophila* (Zapata bladderpod) to be an endangered species under the authority of the Endangered Species Act (Act) of 1973, as amended. *Lesquerella thamnophila* is currently known from four locations in Starr and Zapata Counties, Texas. Increased urban development, roadway construction, invasion of exotic species, increased oil and gas activities, alteration and conversion of native plant communities to improved pastures, overgrazing, and vulnerability from low population numbers threaten this species.

EFFECTIVE DATE: This final rule is effective December 22, 1999.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours (8:00 am to 4:30 pm, Monday through Friday), at the U.S. Fish and Wildlife Service, Ecological Services Field Office, c/o Texas A&M University-Corpus Christi, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412.

FOR FURTHER INFORMATION CONTACT: Field Supervisor of the Corpus Christi Ecological Services Field Office at the

above address (Telephone 316–994–9005; Facsimile 361–994–8262).

SUPPLEMENTARY INFORMATION:

Background

Lesquerella thamnophila, a member of the Brassicaceae (mustard) family, was first collected in Zapata County, Texas, by R. C. Rollins in 1959. The species was named *Lesquerella thamnophila* in 1973 by R.C. Rollins and E.A. Shaw in their work on the genus *Lesquerella* (Rollins and Shaw 1973). The few collected specimens of *Lesquerella thamnophila* have all come from Starr and Zapata Counties in southern Texas.

Lesquerella thamnophila is a pubescent (hairy), somewhat silvery-green herbaceous (herblike) perennial plant, with sprawling stems 43–85 centimeters (cm) (17–34 inches (in)) long. The plant exhibits a taproot system indicating a perennial life habit. It possesses narrow basal leaves 4–12 cm (1.5–4.8 in) long, and 7–15 millimeters (mm) (0.3–0.6 in) wide, with entire to wavy or slightly toothed margins. Stem leaves are 3–4 cm (1–1.5 in) long and 2–8 mm (0.1–0.3 in) wide, with margins similar to basal leaves. The inflorescences (arrangement of flowers on a single stalk) are loose racemes of bright yellow-petaled flowers (the flowers are arranged along an axis with the lower flowers maturing first), which appear at different times of the year depending upon timing of rainfall. Fruits are round and 4.5–6.5 mm (0.2–0.8 in) in diameter on short, downward curving pedicels (slender stalks) (Poole 1989).

Physical and climatic characteristics of Starr and Zapata Counties include level to rolling topography and an average of 45–51 cm (18–20 in) of precipitation, with major peaks of rainfall in September and May. Infrequent but heavy downpours associated with hurricanes and tropical storms contribute to wide fluctuations in rainfall from year to year, and skew the historical mean well above the yearly median. Drought, a recurring event in south Texas, has a profound effect on native vegetation. The range of *Lesquerella thamnophila* has been under an extreme drought situation for a number of years, making it likely that the plant would take advantage of any measure of rainfall to flower and reproduce. The numbers of plants present in known populations appear to fluctuate dramatically in response to precipitation (Poole 1989).

Lesquerella thamnophila can occur on graveled to sandy-loam upland terraces above the Rio Grande floodplain. The known populations are associated with three Eocene-age geologic formations—Jackson, Laredo, and Yegua, which have yielded fossiliferous (containing fossils) and highly calcareous (containing calcium carbonate) sandstones and clays.

Known Starr County populations occur within the Jimenez-Quemado soil association and on Catarina series soils. Jimenez-Quemado soils are well-drained, shallow, and gravelly to sandy loam underlain by caliche (a hard soil layer cemented by calcium carbonate). This soil association is broad, dissected, and irregularly shaped, and occurs on huge terraces 6–15 meters (20–50 feet) above the floodplains of the Rio Grande. In most areas, the Jimenez soils occupy the slope breaks extending from the tops of ridges to the bottoms of the slopes, and narrow valleys between. Quemado soils occur as narrow areas on ridgetops, where the slope range is 3–20 percent. Steep escarpments can be present with rocky outcrops adjacent to the river floodplain. Catarina series soils consist of clayey, saline upland soils developed from calcareous, gypsiferous (containing gypsum), and or saline clays that usually contain many drainages and erosional features. The underlying material of the soils contain calcareous concretions (a rounded mass of mineral matter), gypsum crystals, and marine shell fragments (Thompson *et al.* 1972).

Bladderpod populations in Zapata County occur within the Zapata-Maverick soil association. Zapata soils are shallow, loamy or mixed, hyperthermic (high temperature), well-drained, and nearly level with undulating slopes ranging from 0 to18 percent, primarily on uplands occurring over caliche. The upper portion of the soil horizon ranges 5–25 cm (2–10 in), with course fragments consisting of few to 25 percent of angular caliche 2.5–20 cm (1–8 in) long, and combined with chert gravel. Maverick soils consist of upland clayey soils occurring over caliche with underlying calcareous material containing shale and gypsum crystals (Thompson, *et al.* 1972). The upper zone consists of a moderately deep soft shale bedrock, sloping 1–10 percent, well-drained, and forming clayey sediments. Ancient deposition of rock material from the Rio Grande can be found in these portions of the soil, and rock and Indian artifact collection has become a pastime for residents and visitors in the area.

Lesquerella thamnophila occurs as an herbaceous component of an open *Leucophyllum frutescens* (cenizo) shrub community that grades into an *Acacia rigidula* (blackbrush) shrub community. Both plant communities dominate upland habitats on shallow soils near the Rio Grande (Diamond 1990). Other related plant species in the cenizo and blackbrush communities include *Acacia berlandieri* (guajillo), *Prosopis sp.* (mesquite), *Celtis pallida* (granjeno), *Yucca treculeana* (Spanish dagger), *Zizyphus obtusifolia* (lotebush), and *Guaiacum angustifolium* (guayacan). The coverage of an aggressively invasive, nonnative grass, *Cenchrus ciliaria* (buffelgrass), is extensive at three of the four extant sites and present at the fourth. *Dichanthium annulatum* (Kleberg's bluestem), which is used for erosion control on roadways, has also begun to invade natural areas and is present at all four *Lesquerella* sites, although not as extensively as buffelgrass. These shrublands are sparsely vegetated due to the shallow, fast-draining, highly erosional soils and semi-arid climate (Poole 1989).

Livestock production is one of the major land uses for the area, although wildlife rangeland production for hunting and recreational use is becoming increasingly important. Major game species include white-tailed deer (*Odocoileus virginianus*), quail (*Colinus virginianus* and *Callipepla squamata*), mourning dove (*Zenaida macroura*), turkey (*Meleagris gallopavo*), javelina (*Pecari tajacu*), and feral pig (*Sus scrofa*). Oil and natural gas production has become one of the most significant forms of income in the area due to a drought-induced decrease in cattle production.

Overgrazing by livestock, root-plowing of shrubs, and subsequent planting of buffelgrass for rangeland improvement has eliminated much of the natural habitat. Buffelgrass, the forage plant used by most ranchers in the area, has invaded natural areas and out-competed native plants. Results from various invasive grass studies indicate that there may be shade and root competition as well as possible allelopathic effects (suppression of growth of one plant species by another due to release of toxic substances) on native forbs and grasses (Nurdin and Fulbright 1990).

Lesquerella thamnophila occurred historically in Starr and Zapata Counties in the United States. We do not have information on Mexican populations, although we have contacted biologists and botanists in Mexico regarding its possible occurrence there and use as a medicinal plant. One response indicated that the plant was historically found in northern Mexico and was used as a poultice for open sores, wounds, and skin eruptions (Garcia *in Litt.* 1999).

Since the first collection of *Lesquerella thamnophila* in 1959, and nine additional populations of the plant

have been located since then. Of the ten total known populations, four are believed to have been extirpated, two populations have not been surveyed since 1996 due to restricted access to private lands, and four sites are known to support extant populations.

Sites Believed To Be Extirpated

R. C. Rollins originally discovered *Lesquerella thamnophila* in 1959 in Zapata County, in a subdivision near Falcon Lake. This type locality was relocated in 1985, when approximately 1,000 plants were seen within a 5-hectare (ha) (15-acre (ac)) area. In 1986, the site was under a drought condition, and no plants were found. Plants were located again in 1988, but the numbers of plants were not recorded. Biologists from the Texas Parks and Wildlife Department (TPWD) relocated the site in 1996, but saw no plants. Our personnel also found no plants in September 1998 or April 1999. The habitat at this site has become severely degraded. Soil has eroded into roadside ditches, buffelgrass has invaded the sloping hillside, and housing construction has eliminated much of the natural habitat of the area. The population has likely been extirpated from this site.

In 1994, a site along an electric transmission line in southwestern Starr County was reported, however, no specimen was collected, and no plants have been seen at this site since then. In 1996, we discovered another site consisting of about 50 plants, less than 1.6 kilometers (1 mile) northeast of the above-mentioned site along a roadside cut of Highway 83. Surveys for this population were performed in 1997–1999. In 1998, one plant was observed, and in 1999, we found no plants at this site. In 1995, we discovered a small site in the Highway 83 right-of-way south of the city of Zapata. The TPWD and Service biologists found one plant in 1998, but none were found in our April 1999 survey.

Extant Populations

In April 1994, TPWD personnel discovered a new Starr County population of about 50 plants. We purchased this site as part of the Lower Rio Grande Valley National Wildlife Refuge (LRGVNWR) complex and began to monitor population numbers. In 1996, LRGVNWR biologists recorded a total of 131 plants, 84 of which exhibited no seedling productivity. In 1997, after high precipitation, the number of individuals increased to several thousand within an approximately 1-ha (2–3-ac) portion of the tract. In September 1998, we surveyed the site and found few individuals, but one plant had produced two fruits. The majority of plants seen were located under the canopy of associated brush species. Previous to the survey, high amounts of precipitation fell at the site, eroding soils, exposing the calcareous sandstone, and leaving the root structure of some *Lesquerella thamnophila* plants partially exposed. Where *Lesquerella thamnophila* individuals were protected by associated plants, topsoil was retained, and the species was less affected by heavy rains.

In April 1999, after resumption of drought conditions, only a few *Lesquerella thamnophila* plants were found. However, in June we visited the site after 10–15 cm (4–6 in) of rain had fallen in the area and observed a large number of *Lesquerella thamnophila* plants flowering and producing fruit. During a survey one week later, few flowers, but many pods at various stages of development, were present. Close inspection of the plants revealed possible predation on seeds within developed pods. Botanists at the LRGVNWR are currently conducting habitat and community structure studies of *Lesquerella thamnophila* and associated species present at this site. The studies include investigations on habitat composition and productivity in relation to shade effects, relationships with other plant species, and the degree of successful species propagation.

Another historical site in Zapata County, originally reported by Lundell and Lundell in 1941, was re-verified by TPWD in 1985 (Poole 1989). Approximately 5,000 plants were found in this area on the east side of Highway 83 located near the Arroyo Tigre Chiquito bridge. In 1986, during drought conditions, only 28 plants were seen. Plants were again located in 1988, but no counts recorded. The TPWD and the Texas Department of Transportation (TDOT) established a management agreement to protect the site, and we and TPWD monitor this population annually. The TPWD recorded 10 reproductive plants in 1991, no plants in 1992, and 7 nonreproductive plants in 1995. No plants were found during 1996–1998 surveys, however, TDOT biologists found five plants at the site in 1999.

In 1996, TPWD discovered about 100 plants in a vacant lot near the Siesta Shores Subdivision in Zapata County, and in January 1998, located many rosettes (plants whose leaves are spread flat at ground level). We found one plant in July 1999, but extensive housing construction had begun, which eliminated much of the potential habitat. The population at the site could be extirpated unless conservation measures can be implemented in the very near future.

In 1986, TPWD found 20 plants on a 2-ha (5-ac) tract of a privately owned ranch in southwestern Starr County (Poole 1989). The TPWD personnel observed the species again in 1994 but did not count individuals. The TPWD biologists observed 20 or fewer individuals in 1996. In 1999, the site was confirmed to support plants, but no information is available on the number of plants observed.

Populations for Which Status Is Unknown

Three Starr County populations, including the one above, were known from private ranch sites near the towns of Roma and Los Saenz. Two of the private ranch sites have not been visited by us or TPWD personnel because we do not have permission to access these sites. Therefore, we do not know the status of *Lesquerella thamnophila* at these sites.

Previous Federal Action

Federal action involving this species began with section 12 of the Act (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. The report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) accepting the Smithsonian report as a petition within the context of section 4(c)(2) of the Act, now section 4(b)(3)(A), and announcing that we would initiate a review of the status of those plants. *Lesquerella thamnophila* was included as threatened in the Smithsonian report and in our notice.

On June 16, 1976 (41 FR 24523), we published a proposed rule to determine approximately 1,700 species of vascular plants as endangered. *Lesquerella thamnophila* was included in this proposal. However, the 1978 amendments to the Act required the withdrawal of all proposals over 2 years old (although a 1-year grace period was allowed for those proposals already over 2 years old). On December 10, 1979 (44 FR 70796), we published a notice withdrawing that portion of the June 16, 1976, proposal that had not been made final.

On December 15, 1980 (45 FR 82823), we published a list of plants under review for listing as threatened or endangered, which included *Lesquerella thamnophila* as a category 2 candidate. "Category 2 candidates" were those

species for which available information indicated listing as threatened or endangered may have been appropriate, but for which substantial data were not available to support preparation of a proposed rule.

Section 4(b)(3)(B) of the Act requires that we make findings on petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments to the Act required that all petitions pending as of October 13, 1982, be treated as having been submitted on that date. The 1975 Smithsonian report was accepted as a petition, and all the plants noted within the report, including *Lesquerella thamnophila*, were treated as being newly petitioned on October 13, 1982. In each subsequent year from 1983 to 1993, we determined that listing *Lesquerella thamnophila* was warranted, but precluded by other listing actions of higher priority, and that additional data on vulnerability and threats were still being compiled.

A status report on *Lesquerella thamnophila* was completed August 8, 1989 (Poole 1989). That report provided sufficient information on biological vulnerability and threats to warrant designating the species as a category 1 candidate and to support preparation of a proposed rule to list *Lesquerella thamnophila* as endangered. "'Category 1 candidates'" were those species for which we had substantial information indicating that listing under the Act was warranted.

Notices revising the 1980 list of plants under review for listing as endangered or threatened were published in the **Federal Register** on September 27, 1985 (50 FR 39626), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51171). *Lesquerella thamnophila* was included in the September 30, 1993, notice as a category 1 candidate.

Upon publication of the February 28, 1996, Notice of Review (61 FR 7605), we ceased using category designations and included *Lesquerella thamnophila* as a candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list them as threatened or endangered species. We retained *Lesquerella thamnophila* as a candidate species in the September 19, 1997, Review of Plant and Animal Taxa (62 FR 49398). On January 22, 1998 (63 FR 3301), we published a proposed rule to list *Lesquerella thamnophila* as endangered, without critical habitat, in the **Federal Register**. We invited the public and State and Federal agencies to comment on the proposed listing.

The processing of this final rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will be funded separately from other section 4 listing actions and will no longer be subject to prioritization under the Listing Priority Guidance. This final rule is a Priority 2 action and is being completed in accordance with the current Listing Priority Guidance. We have updated this rule to reflect any changes in information concerning distribution, status, and threats since the publication of the proposed rule.

Summary of Comments and Recommendations

The January 22, 1998, proposed rule and associated notification requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. We published newspaper notices of the proposed rule in the Brownsville Herald on February 4, 1998; the Monitor (McAllen), the Valley Morning Star (Harlingen), the Rio Grande City Herald, and the Zapata News on February 5, 1998; and the February monthly issue of LareDOS (Laredo). The public comment period was open for 60 days, from January 22 to March 23, 1998.

Five commenters, including the State and four individuals or groups, commented on the proposed rule. Three commenters opposed the listing; one commenter was neutral on listing; and one supported the listing. Issues raised by the commentors are discussed below.

Issue 1: The listing of the plant poses a threat to landowners who earn their livelihood by cattle ranching or oil and gas production. Listing would also threaten the success of the North American Free Trade Agreement (NAFTA) by postponing construction of various roadways within south Texas.

Response: The Act prohibits us from considering economic and other nonbiological factors in listing decisions. However, once a species is listed, we strive to minimize adverse economic impacts when considering how best to conserve listed species. The Act provides protection to listed plant species when landowners seek Federal permits, funding, or Federal loans for a land development project or other activities that may affect the species. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities (such as road building) they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. Early coordination with State and Federal agencies can help minimize economic impacts and avoid unnecessary delays in project implementation.

Endangered plants are not protected on private lands except when taken in knowing violation of a State law or regulation, including State criminal trespass law. However, we hope that listing the species will alert private landowners to the need to protect it and encourage them to work with us to develop conservation measures that will benefit both the landowner and the species.

Issue 2: Additional surveys should be performed after rain events, and biological information should be gathered prior to listing, possibly to preclude listing.

Response: Extirpations at historical sites and the apparent decline of extant *Lesquerella thamnophila* populations necessitates protecting the few known surviving plants under the Act. Should additional surveys and biological data indicate that the populations are more viable than most recently demonstrated, we would consider that information in formulating a recovery strategy for the species. Although the decrease in population number and size appears correlated with drought conditions, it is not known whether the remaining populations would rebound sufficiently following future rain events to justify not listing the species. Furthermore, delaying the listing process would increase the risk that more bladderpod populations would disappear. Because there are only four known populations scattered over a large geographical area, each loss decreases genetic variability and reduces the chances of the species' survival even after normal rainfall returns. The best scientific and commercial information available indicates that the species' existence is too precarious to delay the protections afforded by the Act.

Peer Review

Our July 1, 1994, Peer Review Policy (59 FR 34270) requires that we solicit

the opinions of at least three independent specialists regarding pertinent scientific or commercial data on proposed species listings. We provided the proposed rule to 29 botanists and biologists outside the Service and asked for their review of the proposed action. We received responses from three biologists. Two supported listing the species and provided corrections to the proposed rule and other information. One respondent opposed listing on the grounds that further surveys would likely reveal additional populations, however, this scientist agreed that current information supports listing the species..

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we determined that *Lesquerella thamnophila* should be classified as an endangered species. We followed procedures found at section 4(a)(1) of the Act and the regulations implementing the listing provisions of the Act (50 CFR part 424). We may determine a species to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Lesquerella thamnophila* (Zapata bladderpod) (Rollins and Shaw), are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat destruction and modification are the primary threats to *Lesquerella thamnophila*. These threats include the introduction of nonnative pasture grasses, such as buffelgrass, and conversion of native rangeland to improved pasture, overgrazing, urban development, construction or improvement of highways and utility transmission systems necessary to support urban infrastructures, and oil and gas exploration and production. . These types of activities have destroyed or altered more than 95 percent of the native habitat in south Texas (Jahrsdoerfer and Leslie 1988).

A common practice in south Texas to improve rangeland for livestock production is to remove native shrubs through root-plowing or aerial herbicide application and then re-seeding the area with nonnative grasses. This practice potentially destroys *Lesquerella thamnophila* and its habitat. Buffelgrass has spread beyond improved pastureland and is now present throughout a large portion of south Texas. This invasive nonnative grass outcompetes and displaces native grasses, herbs, and small shrubs. Possible mechanisms for displacement of native species by invasive nonnatives could be loss of sites for native plant seedling establishment, light and moisture competition, and possibly allelopathic effects (Nurdin and Fulbright 1990).

Much of south Texas has been affected by long-term grazing, and grazing continues to be an established practice on private lands. Vegetation of the semi-arid south Texas climate is less resilient to the impacts of long-term grazing than is the vegetation of wetter climates. This situation has led to severe depletion of the often highly erodible south Texas soils (Schlesinger, *et al.* 1990). It is impossible to calculate how much habitat occupied by Zapata bladderpod may have been lost due to the effects of long-term grazing and conversion of native rangeland to improved pasture.

Lesquerella thamnophila is also threatened by potential urban development. Habitat at the type locality for this species has been reduced to a small vacant lot in a resort subdivision near Falcon Reservoir in the City of Zapata, Texas. This area is undergoing rapid development. Another *Lesquerella thamnophila* population, which had occurred in an abandoned trailer park, has disappeared. The current trend toward urbanization, including increased construction of convenience stores in the area, could extirpate remaining populations.

South Texas is experiencing a rapid increase in highway improvements and construction to handle increased traffic stimulated by NAFTA. Existing roads that may be proposed for widening and/or paving lie adjacent to *Lesquerella thamnophila* populations. In addition, nonnative Kleberg's bluestem (*Dichanthium annulatum*) is used for errosion control, and that species is present at the known *Lesquerella* sites.

South Texas is presently undergoing a significant increase in oil and gas exploration and production, especially in Zapata and Starr Counties. All phases of exploration and production have the potential to impact *Lesquerella thamnophila* populations and habitat. Seismic exploration requires clearing of extensive, temporary rights-of-way to facilitate equipment traffic. The construction of well pads, access and egress roads, electrical lines, and petroleum gathering lines from wells, if not planned properly, may destroy native habitat. The re-seeding of nonnative grasses in pipeline rights-of-way not only hampers re-colonization by native species but further spreads invasive species that will displace native vegetation.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although reported to have medicinal values, the species is not known to be a product in commercial trade.

C. *Disease or predation.* The populations of *Lesquerella thamnophila* have shown no evidence of disease. However, Poole (1989) reports that cattle graze *Lesquerella* to the extent that numbers of plants in populations subjected to grazing are severely reduced compared to those in adjacent, ungrazed lands. In addition, our biologists surveying for the plant at a site owned and protected by the LRGVNWR found evidence of browsing by native animal species on the plants. While consumption by herbivores is a natural event, browsing can be a greater threat during drought conditions when range quality is reduced and other forage species have been reduced or removed. The small number of extant sites and the low number of plants can result in greater susceptibility to browsing than likely was present when populations were at historical levels. The plants in this portion of south Texas are sensitive to browsing during drought conditions due to the semi-arid environment and the sparseness of vegetation, even under ideal range conditions. Additionally, biologists have discovered evidence of predation on seed material of Zapata bladderpod during status surveys.

D. *The inadequacy of existing regulatory mechanisms.* The species is not currently protected by any Federal or State laws or regulations.

E. *Other natural or man-made factors affecting its continued existence. Lesquerella thamnophila* populations adjacent to maintained highway rights-of-way are exposed to herbicides used to control vegetation around bridges, guardrails, signs, and reflector posts. Maintenance crews may also use herbicides to kill woody species encroaching into the rights-of-way and along fence lines. Any plants within these areas are also threatened by maintenance practices such as blading, disking, and re-seeding with erosion control seed mixtures that contain primarily non-native invasive grasses.

Only four known *Lesquerella thamnophila* populations are known to exist, and these have widely fluctuating numbers of plants from year to year. The low plant numbers usually seen in these populations during drought years can result in genetic drift which can restrict genetic variability reducing the species' ability to overcome environmental stresses. The reduced number of plants during drought years, with populations

in some areas falling to zero above-ground vegetative individuals, also makes the species vulnerable to extinction from prolonged drought situations. The extreme rarity of this species makes populations vulnerable to extirpation and extinction from the variety of random environmental events mentioned, as well as human exploitation of its habitat.

In finalizing this rule, we carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species. Based on this evaluation, the preferred action is to list *Lesquerella thamnophila* as endangered. The Act defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is defined as one that is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range. Endangered status is appropriate because of the species' limited distribution, low population numbers, and imminent threats of habitat destruction. Threatened status would not accurately reflect the current status of this species.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

In the proposed rule, we indicated that designation of critical habitat was not prudent for *Lesquerella thamnophila* because of a concern that publication of precise maps and descriptions of critical habitat in the **Federal Register** could increase the vulnerability of this species to incidents of collection and vandalism. We also indicated that designation of critical habitat was not prudent because we believed it would not provide any additional benefit beyond that provided through listing as endangered.

In the last few years, a series of court decisions have overturned Service determinations regarding a variety of species that designation of critical habitat would not be prudent (e.g., *Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt*, 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we have reexamined the question of whether critical habitat for *Lesquerella thamnophila* would be prudent.

Due to the small number of populations, *Lesquerella thamnophila* is vulnerable to unrestricted collection, vandalism, or other disturbance. We remain concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, we have examined the evidence available for *Lesquerella thamnophila* and have not found specific evidence of taking, vandalism, collection, or trade of this species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we do not expect that the identification of critical habitat will increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. In the case of this species, there may be some benefits to designation of critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. There may also be some educational or informational benefits to designating critical habitat. Therefore, we find that critical habitat is prudent for *Lesquerella thamnophila*.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states, "The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will be funded separately from other section 4 listing actions and will no longer be subject to prioritization under the Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year." As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Deferral of the critical habitat designation for *Lesquerella thamnophila* will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of *Lesquerella thamnophila* without further delay.

We plan to employ a priority system for deciding which outstanding critical habitat designations should be addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to the species, and the magnitude and immediacy of those threats. We will develop a proposal to designate critical habitat for the *Lesquerella thamnophila* as soon as feasible, considering our workload priorities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, preservation programs, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, as well as by private organizations and individuals. The Act provides for possible land acquisition, cooperation with the States, and requires that all Federal agencies use their authorities to carry out programs for the conservation of all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as threatened or endangered and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species, or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species, the responsible Federal agency must enter into consultation with us.

Federal agency actions that may require consultation as described in the preceding paragraph include, but are not limited to, brush clearing for flood control in arroyos within the jurisdiction of the International Boundary and Water Commission; technical assistance to landowners by the Natural Resource Conservation Service (formerly Soil Conservation Service) for activities funded by the Consolidated Farm Service Agency (formerly Agricultural Stabilization and Conservation Service); and rangeland herbicide or pesticide registration by the Environmental Protection Agency. The Federal Highway Administration will need to consider the occurrence of the species in activities such as widening existing roadways, or constructing new highways, as well as some maintenance practices. The U.S. Department of Housing and Urban Development will need to consider this species when it permits or funds water, sewer, and power services for settlements. The Federal Energy Regulatory Commission will need to consider the occurrence of the species when it approves interstate pipelines and electrical transmission lines, especially in previously undisturbed natural areas.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce any such plant species; or to remove and reduce the species to possession from areas under Federal jurisdiction. In addition, the Act prohibits the malicious damage or destruction of such plants on areas under Federal jurisdiction; and the removal, cutting, digging up, or damaging or destroying of such plants in any other area, including non-Federal lands, in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Fish and Wildlife Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipate that few trade permits would ever be sought or issued because this species is not in cultivation nor common in the wild.

Our policy (59 FR 34272) is to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range.

We believe that, based on the best information available at this time, the following actions will not result in a violation of section 9, provided these activities are carried out in accordance with existing laws and regulations, including State laws and regulations, and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (e.g., grazing management, agricultural conversions, flood and erosion control, residential development, recreational trail development, road construction, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, construction or maintenance of pipelines or utility lines), when conducted in accordance with any reasonable and prudent measures given by us in a consultation under section 7 of the Act;

(2) Casual, dispersed human activities on foot or horseback (e.g., birding, sightseeing, photography, camping, or hiking);

(3) Activities on private lands that do not require Federal authorization and do not involve Federal funding, such as grazing management, agricultural conversions, flood and erosion control, residential development, road construction, and pesticide/herbicide application when consistent with label restrictions;

(4) Residential landscape maintenance, including the clearing of vegetation around one's personal residence as a fire break.

We believe that the following might result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Collection, damage, or destruction of *Lesquerella thamnophila* on Federal lands without a Federal permit. *Lesquerella thamnophila* occurs on Federal lands under our jurisdiction.

(2) Collection, damage, or destruction of this species on non-Federal land if conducted in knowing violation of State law or regulations, or in the course of any violation of a State criminal trespass law.

(3) Interstate or foreign commerce and import/export without previously obtaining an appropriate permit. Permits are available for purposes of scientific research and enhancement or survival of the species.

Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the Field Supervisor of our Corpus Christi Ecological Services Field Office (see **ADDRESSES** section). Requests for copies of the regulations regarding listed plants and inquiries about prohibitions and permits may be addressed to—U.S. Fish and Wildlife Service, Branch of Endangered Species/Permits, PO Box 1306, Albuquerque, New Mexico 87103 (telephone 505–248–6920; facsimile 505–248–6922).

National Environmental Policy Act

We determined we do not need to prepare Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain any information collection requirements for which Office of Management and Budget (OMB) approval is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This rule does not alter that information collection requirement.

References Cited

Diamond, D. 1990. Plant Communities of Texas (series level). Texas Parks and Wildlife Department. Austin, Texas.

Jahrsdoerfer, S.E. and D.M. Leslie, Jr. 1988. Tamaulipan Brushland of the Lower Rio Grande Valley of South Texas: Description, Human Impacts, and Management Options. U.S. Fish and Wildlife Service, Biological Report. 88(36). 63 pp.

Nurdin, and T. E. Fulbright. 1990. Germination of Two Legumes in Leachate from Introduced Grasses. Journal of Range Management 43: 5.

Poole, J. 1989. Status Report on *Lesquerella thamnophila*. U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

Rollins, R.C. and E.A. Shaw. 1973. The Genus *Lesquerella*. Harvard University Press, Cambridge, Massachusetts.

Schlesinger, W.H., J.F. Reynolds, G.L. Cunningham, L.F. Huenneke, and W.G. Whitford. 1990. Biological Feedbacks in Global Desertification. Science 247:1043–1047.

Thompson, C.M., R.R. Sanders, and D. Williams. 1972. Soil Survey of Starr County, Texas. U.S. Department of Agriculture. Soil Conservation Service, Temple, Texas.

Authors:

The primary authors of this document are Loretta Pressly, Kathy Nemec, and Angie Brooks. Major contributors to this document are Robyn A. Cobb and Ernesto Reyes (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Final Regulation Promulgation

For the reasons outlined in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
•	•	•	•	•	•	•	
FLOWERING PLANTS							
•	•	•	•	•	•	•	
Lesquerella thamnophila.	Zapata bladderpod	U.S.A. (TX)	Cruciferae	E	671	N/A	N/A
•	•	•	•	•	•	•	

Dated: November 16, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–30378 Filed 11–19–99; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 64, No. 224
Monday, November 22, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–293–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 and 727C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727 and 727C series airplanes. This proposal would require one-time inspections of the exterior body skin located at the forward corners of the mid-galley door hinge cutouts to detect cracking, and corrective actions, if necessary. This proposal also would require modification of the body skin of the mid-galley door hinge cutouts. This proposal is prompted by a report indicating that, during fatigue testing on a Boeing Model 727 series airplane, a crack was found in the body skin at the lower forward corners of the mid-galley door hinge cutouts due to cabin pressurization cycles. The actions specified by the proposed AD are intended to prevent such fatigue cracking of the body skin, which could result in reduced structural integrity of the fuselage and consequent loss of cabin pressurization.

DATES: Comments must be received by January 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–293–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Linda Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–293–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–293–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that, during fatigue testing on a Boeing Model 727 series airplane, a crack was found in the body skin at the lower forward corners of the mid-galley door hinge cutouts. The crack was attributed to fatigue induced by cabin pressurization cycles. Such cracking, if not corrected, could result in reduced structural integrity of the fuselage and consequent loss of cabin pressurization.

Other Related Rulemaking

On January 16, 1990, the FAA issued AD 90–06–09, amendment 39–6488 (55 FR 8370, March 7, 1990), applicable to certain Boeing Model 727 series airplanes, which currently requires the incorporation of certain structural modifications specified by Boeing Document No. D6–54860, Revision C, dated December 11, 1989, "Aging Airplane Service Bulletin Structural Modification Program—Model 727." That Boeing document references numerous Boeing service bulletins that specify various modification actions that are mandated by AD 90–06–09. That AD was prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes that were approaching or had exceeded their design life goal. The actions required by that AD are intended to prevent a degradation in the structural capabilities of the affected airplanes, which could result in structural failure. That action also reflects the FAA's decision that long-term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspection.

Since issuance of that AD, the FAA has determined that the same unsafe condition addressed in that AD may exist on certain additional Model 727 and 727C series airplanes. The FAA was advised that three Model 727 and 727C series airplanes (line numbers 153, 290, and 339) were omitted inadvertently from the applicability of AD 90–06–09 because those airplanes had been excluded inadvertently from the effectivity of Section I.A. of Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989. Therefore, these additional airplanes are also subject to the same unsafe condition addressed in AD 90–06–09.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 727–53–0054, Revision 1, which describes a modification to the corners of the hinge cutouts and provides a top kit and instructions for installing doublers. Procedures include a close (detailed) visual inspection and a high-frequency eddy current (HFEC) inspection of the forward upper and lower corners of the mid-galley door hinge cutouts for cracks in the body skin. If no cracks are found, procedures specify either a modification, which includes modifying cutout corners and installing doublers, or a reinspection at "C" check intervals until accomplishment of the modification. If cracks are within specified repair limits, procedures include stop-drilling cracks, modifying cutout corners, and installing doublers. If cracks exceed specified repair limits, procedures specify contacting the manufacturer for repair instructions. Accomplishment of the modification is intended to increase the fatigue life of the body skin adjacent to the forward corners of the mid-galley door hinge cutouts.

The procedures specified by Revision 1 of the service bulletin are essentially the same as those procedures included in Boeing Document D6–54860, Revision C, as cited in AD 90–06–09, and the procedures specified in the original issue of Boeing Service Bulletin 727–53–0054.

Accomplishment of the actions specified in AD 90–06–09 is acceptable for compliance with the requirements of this proposed AD.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in Revision 1 of the service bulletin described previously, except as described below in the Differences section of this AD.

Since this AD expands the applicability of AD 90–06–09, the FAA has considered a number of factors in determining whether to issue a new AD or to supersede the "old" AD. Although the three additional airplanes included in the applicability of this proposed AD were inadvertently omitted from Boeing Service 727–53–0054, numerous other service bulletins referenced in Boeing Document No. D6–54860, Revision C, (cited in AD 90–06–09) included those additional airplanes in the effectivity. The FAA also has considered the entire fleet size that would be affected by superseding AD 90–06–09 and the consequent workload associated with revising maintenance record entries. In light of this, the FAA has determined that a less burdensome approach is to issue a separate AD applicable only to these additional airplanes. This proposed AD would not supersede AD 90–06–09; airplanes listed in the applicability of AD 90–06–09 are required to continue to comply with the requirements of that AD. This proposed AD is a separate AD action, and is applicable only to Boeing Model 727 and 727C series airplanes, line numbers 153, 290, and 339; certificated in any category.

Differences Between Proposed AD and Relevant Service Information

Operators should note that the proposed AD differs from Boeing Service Bulletin 727–53–0054, Revision 1, as follows:

- The effectivity of Revision 1 includes Model 727–100 series airplanes, line positions 1 through 474 inclusive. However, the applicability of this proposal includes Model 727 and 727C series airplanes, line numbers 153, 290, and 339 inclusive, which were inadvertently omitted from AD–90–06–09.
- Although Revision 1 specifies that, in certain cases, repetitive inspections may be performed in lieu of a modification, this proposal does not allow such action. Instead, this proposal would require accomplishment of a repair and modification if cracking is detected, or a modification if no cracking is detected. The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed repair and modification requirement is in consonance with these conditions.
- Paragraph III.C. of the Accomplishment Instructions of Revision 1 specifies that if any crack is found that is greater than 1.00 inch, the manufacturer must be contacted for repair instructions. However, this proposal requires the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.
- Figure 1 of Revision 1 specifies a "close visual inspection" of the body skin at the forward corners of mid-galley door hinge cutouts. However, this AD would require a "detailed visual inspection" of the body skin at those locations.

Cost Impact

There are approximately 1,516 airplanes of the affected design in the worldwide fleet. The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 1 work hour per airplane to accomplish the required inspections of the body skin at the corners of the mid-galley door hinge cutouts, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the required inspections on U.S. operators is estimated to be $180, or $60 per airplane.

The FAA also estimates that it would take approximately 28 work hours per airplane to accomplish the repair and modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,023 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,109, or $2,703 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if

promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 98–NM–293–AD.

Applicability: Model 727 and 727C series airplanes, line numbers 153, 290, and 339 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the body skin at the forward corners of the mid-galley door hinge cutouts, which could result in reduced structural integrity of the fuselage and consequent loss of cabin pressurization, accomplish the following:

One-Time Inspections

(a) Prior to the accumulation of 60,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time detailed visual inspection and a high frequency eddy current inspection of the exterior body skin located adjacent to the forward corners of the mid-galley door hinge cutouts for cracking in accordance with Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required."

Repairs and Modification

(1) If no cracking is found during any inspection, prior to further flight, modify the body skin at the forward corners of the mid-galley door hinge cutouts, in accordance with Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989. No further action is required by this AD.

(2) If any cracking is found during any inspection, prior to further flight, accomplish the requirements of either paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable.

(i) If any crack is less than or equal to 1.00 inch, accomplish the repair and modification in accordance with Boeing Service Bulletin 727–53–0054, Revision 1, dated November 16, 1989. No further action is required by this AD.

(ii) If any crack is greater than 1.00 inch, accomplish the repair and modification in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD. No further action is required by this AD.

Note 3: Accomplishment of the actions required by AD 90–06–09, amendment 39–6488, is considered acceptable for compliance with this AD.

Alternative Method of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 16, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30372 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–314–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Lockheed Model L–1011–385 series airplanes. This proposal would require modifications of the engine turbine cooling air panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel, and monitoring system for the engine turbine air temperature. This proposal is prompted by reports of an undetected fire breaching the high speed gearbox (HSGB) case on certain Rolls Royce engines installed on in-service airplanes due to lack of an internal fire detection system within the HSGB. The actions specified by the proposed AD are intended to prevent undetected fires originating within the HSGB from breaching the HSGB case, which could result in engine damage and increased difficulty in extinguishing a fire.

DATES: Comments must be received by January 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–314–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Martin Aircraft & Logistics

Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063 fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–314–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–314–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of an undetected fire breaching the high speed gear box (HSGB) case on Rolls Royce Model RB211–22B and -524 series engines installed on all Lockheed Model L–1011–385 series airplanes due to lack of an internal fire detection system within the HSGB. Investigation has revealed that an internal failure (*i.e.*, principally bearing failure) in the engine HSGB induces combustion of the lubricating oil in the gearbox. This fire can eventually burn through the gearbox housing, which is the first point where it becomes detectable with the current fire detection system. After shutting down the engine subsequent to a fire warning, the windmilling engine core will still supply sufficient air to the HSGB to sustain combustion. Undetected HSGB fires due to lack of an internal fire detection system within the HSGB, could result in engine damage and increased difficulty in extinguishing a fire.

Other Relevant Rulemaking

On June 26, 1997, the FAA issued AD 97–14–07, amendment 39–10065 (62 FR 35951, July 3, 1997), applicable to certain Lockheed Model L–1011 series airplanes equipped with Rolls Royce RB211–524 engines, to require various modifications and corrective actions to prevent a potential fire hazard from an undetected gearbox fire.

On April 21, 1998, the FAA issued AD 98–09–23, amendment 39–10504 (63 FR 23382, April 29, 1998), applicable to certain Lockheed Model L–1011 series airplanes equipped with Rolls Royce RB211–22B engines, to require various modifications and corrective actions to prevent a potential fire hazard from an undetected gearbox fire.

However, this proposed AD would not affect the current requirements of those previously issued AD's.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Service Bulletin 093–77–059, dated February 25, 1998, and Revision 1, dated February 2, 1999. The service bulletin describes procedures for modifications to the engine turbine cooling air panel at the flight engineer/second officer's console, pilot's caution and warning light panel on the main instrument panel, and monitoring system for the engine turbine air temperature. The modification to the engine turbine cooling air panel involves installation of a HSGB overheat (OVHT) marker. The modification to the pilot's caution and warning light panel on the main instrument panel involves renaming the pilot's caution and warning light panel "TURB AIR OVHT ENG 1" indicator light to "TURB AIR / HSGB ENG 1", "TURB AIR OVHT ENG 2" to "TURB AIR / HSGB ENG 2," and "TURB AIR OVHT ENG 3" to "TURB AIR / HSGB ENG 3." The modification to the monitoring system for the engine turbine air temperature involves installation of a revised breather duct assembly for the HSGB; installation of two overheat detectors in the gearbox breather duct assembly; wiring modifications to the fancase/A-frame to engine core services loom assembly; installation of a spiral anti-chafe sleeve over the modified fancase/A-frame; and installation of additional clipping brackets for the wiring modifications. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Lockheed Service Bulletin 093–77–059 refers to Rolls Royce Service Bulletins RB.211–72–C178, dated March 20, 1998; and RB.211–77–C144, dated August 7, 1998; as additional sources of service information for accomplishment of the modification to the monitoring system for the engine turbine air temperature.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in Lockheed Service Bulletin 093–77–059 described previously.

Cost Impact

There are approximately 235 airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 24 work hours per airplane to accomplish the proposed modifications, and that the average labor rate is $60 per work hour.

Required parts would cost approximately $6,350 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $911,430, or $7,790 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Lockheed: Docket 98–NM–314–AD.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected fires originating within the high speed gearbox (HSGB) from breaching the HSGB case, which could result in engine damage and increased difficulty in extinguishing a fire, accomplish the following:

Modification

(a) Within 24 months after the effective date of this AD, accomplish the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, in accordance with Lockheed Service Bulletin 093–77–059, dated February 25, 1998; or Revision 1, dated February 2, 1999.

(1) Modify the engine turbine cooling air panel at the flight engineer/second officer's console.

(2) Modify the pilot's caution and warning light panel on the main instrument panel.

(3) Modify the monitoring system for the engine turbine air temperature.

Note 2: Lockheed Service Bulletin 093–77–059 refers to Rolls Royce Service Bulletins RB.211–72–C178, dated March 20, 1998; and RB.211–77–C144, dated August 7, 1998; as additional sources of service information for accomplishment of the modification of the monitoring system for the engine turbine air temperature.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane, an engine turbine cooling air panel assembly, part number 1559672, or a pilot's caution and warning light panel assembly on the main instrument panel, unless it has been modified in accordance with paragraphs (a)(1) and (a)(2) of this AD, as applicable.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 16, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30371 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–85–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200 and –300 Series Airplanes Equipped With Cargo Doors Installed in Accordance With Supplemental Type Certificate (STC) SA2969SO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737–200 and –300 series airplanes, that currently requires repetitive inspections to detect cracking in the radii on the support angles on the lower jamb (latch lug fittings) of the main deck cargo door, and replacement of cracked parts. This action would add a requirement for installation of redesigned lower jamb latch support angles in the main cargo door surround structure, which would terminate the repetitive inspections. This proposal is prompted by the development of a modification that will provide better protection of the subject area against effects of structural fatigue. The actions specified by the proposed AD are intended to prevent in-flight separation of the main deck cargo door from the airplane due to fatigue cracking on the support angles on the lower door jamb.

DATES: Comments must be received by January 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pemco Aeroplex, Inc., P.O. Box 2287, Birmingham, Alabama 35201–2287. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown

Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Paul Sconyers, Manager, Airframe and Propulsion Branch, ACE–117A; FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6076; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–85–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 29, 1994, the FAA issued AD 95–01–06, amendment 39–9117 (60 FR 2323, January 9, 1995), as revised by AD 95–01–06 R1, amendment 39–9449 (60 FR 62192, December 5, 1995), applicable to certain Boeing Model 737–200 and –300 series airplanes [those equipped with main deck cargo doors installed in accordance with supplemental type certificate (STC) SA2969SO]. That AD requires repetitive visual inspections to detect cracking in the radii on the support angles on the lower jamb (latch lug fittings) of the main deck cargo door, and replacement of cracked parts with new parts. That action was prompted by reports of premature fatigue cracking on the support angles on the lower jamb of the main deck cargo door. The requirements of that AD are intended to prevent in-flight separation of the main deck cargo door from the airplane due to fatigue cracking on the support angles on the lower door jamb.

Actions Since Issuance of Previous Rule

When the FAA originally issued AD 95–01–06R1, it was noted in the preamble that the AD was considered interim action until final action was identified, at which time the FAA might consider further rulemaking. Since the issuance of that AD, the STC holder for the cargo door airplane modification has generated a design change for the lower latch lug fitting support angles for the main cargo door surround structure. This design change, consisting of the installation of new lower jamb latch support angles in the main cargo door surround structure, would eliminate the need for the repetitive inspections (as required by AD 95–01–06R1). Upon consideration, the FAA has determined that installation of the design change is necessary to correct the unsafe condition addressed by AD 95–01–06R1.

The FAA has determined that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed design change requirement is in consonance with these considerations.

The actions specified by the proposed AD are intended to prevent in-flight separation of the main deck cargo door from the airplane due to fatigue cracking on the support angles on the lower door jamb.

Explanation of Relevant Service Information

The FAA has reviewed and approved Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995, and Revision 5, dated March 25, 1999, which describe, among other things, procedures for installation of new, improved lower jamb latch support angles in the main cargo door surround structure. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 95–01–06 R1 to continue to require the repetitive visual inspections to detect cracking in the radii on the support angles on the lower jamb (latch lug fittings) of the main deck cargo door, and replacement of cracked parts with new parts. The proposed AD would also add a requirement for accomplishment of the design change specified in the service bulletins described previously, which would terminate the repetitive visual inspections. The actions would be required to be accomplished in accordance with the service information described previously, except as discussed below.

The FAA has clarified the inspection requirement contained in AD 95–01–06 R1. Whereas that AD specified a visual inspection, the FAA has revised this proposed AD to clarify that its intent is to require a detailed visual inspection. Additionally, a note has been added to the proposed rule to define that inspection.

Differences Between Proposed Rule and Service Information

Operators should note that, unlike the procedures described in Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994, this proposed AD would not permit further flight if cracks are detected in the affected area of the cargo door installation. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any affected area of the cargo door installation that is found to be cracked must be repaired or modified prior to further flight.

Cost Impact

There are approximately 32 airplanes of the affected design in the worldwide fleet. The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD.

The inspection that is currently required by AD 95–01–06 R1 and retained in this proposed AD takes approximately 8 work hours per

airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $480 per airplane, per inspection cycle.

The new installation that is proposed in this AD action would take approximately 500 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $9,700 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $79,400, or $39,700 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) If promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9449 (60 FR 62192, December 5, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–85–AD. Supersedes AD 95–01–06 R1, Amendment 39–9449.

Applicability: Model 737–200 and –300 series airplanes equipped with main deck cargo doors installed in accordance with supplemental type certificate (STC) SA2969SO, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c)(1) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight separation of the main deck cargo door from the airplane, accomplish the following:

Note 2: This AD references Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994; Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995; and Pemco Service Bulletin 737–53–0003, Revision 5, dated March 25, 1999; for information concerning inspection and replacement procedures. In addition, this AD specifies replacement requirements different from those included in the service letter or service bulletin. Where there are differences between the AD and the service letter or service bulletin, the AD prevails.

Restatement of Requirements of AD 95–01–06R1, Amendment 39–9449

Repetitive Inspections

(a) Within 50 flight cycles after January 24, 1995 (the effective date of AD 95–01–06, amendment 39–9117), or within 50 flight cycles after installation of STC SA2969SO, whichever occurs later, perform a detailed visual inspection to detect cracking in the radii on the support angles on the lower jamb of the main deck cargo door, in accordance with Pemco Alert Service Letter 737–53–0003, Revision 3, dated December 22, 1994.

(1) If no cracking is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 450 flight cycles.

(2) If any cracking is detected, prior to further flight, replace the cracked part with a new part in accordance with the alert service letter. Repeat the detailed visual inspection thereafter at intervals not to exceed 450 flight cycles.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, *etc.*, may be used. Surface cleaning and elaborate access procedures may be required."

New Requirements of This AD

Terminating Action

(b) Within 1,500 flight cycles after the effective date of this AD, install redesigned lower jamb latch lug support angles in the main cargo door surround structure in accordance with Pemco Service Bulletin 737–53–0003, Revision 4, dated February 22, 1995, or Revision 5, dated March 25, 1999. This action constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(c)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(c)(2) Alternative methods of compliance, approved previously in accordance with AD 95–01–06 R1, amendment 39–9449, are approved as alternative methods of compliance with paragraphs (a) and (b) of this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 16, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30370 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

VOL 64 ISS 224 NO 22 1999 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–107–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–7–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Bombardier Model DHC–7–100 series airplanes. This proposal would require repetitive high frequency eddy current inspections to detect cracks on the locking pin fittings of the baggage door and locking pin housings of the fuselage; repetitive detailed visual inspections to detect cracks of the inner door structure on all four door locking attachment fittings; and corrective actions, if necessary. In lieu of accomplishing the corrective actions, this proposal also would provide a temporary option, for certain cases, for revising the Airplane Flight Manual (AFM), and installing a placard. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct fatigue cracking of the baggage door fittings and the support structure, which could result in structural failure, and consequent rapid decompression of the airplane during flight.

DATES: Comments must be received by December 22, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–107–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Franco Pieri, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7526; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–107–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–107–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on all Bombardier Model DHC–7–100 series airplanes. TCCA advises that fatigue cracks have been reported in the door stop fittings mounted on the baggage door. Failure of a door stop fitting would appreciably degrade the structural integrity of the baggage door installation. This condition, if not corrected, could result in structural failure, and consequent rapid decompression of the airplane during flight.

Explanation of Relevant Service Information

Bombardier has issued de Havilland Temporary Revision (TR) 5–100, dated December 23, 1998, for Supplementary Inspection Task 52–1 to the de Havilland Dash 7 Maintenance Manual PSM 1–7–2. The service information describes procedures for repetitive high frequency eddy current inspections to detect cracks on the locking pin fittings of the baggage door and locking pin housings of the fuselage; and repetitive detailed visual inspections to detect cracks of the inner door structure on all four door locking attachment fittings. TCCA classified this service information as mandatory and issued Canadian airworthiness directive CF–99–03, dated February 22, 1999, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service information described previously, except as discussed below. The proposed AD also would require corrective actions to be accomplished in accordance with de Havilland Dash 7 Maintenance Manual PSM 1–7–2. The corrective actions, for certain cases, involve replacement of any cracked fitting or housing with a new fitting or housing, as applicable. For certain other

cases, the corrective actions involve replacement of any cracked structure with a new support structure, or repair as described below. In lieu of accomplishing the corrective actions, this proposal also would provide a temporary option, for certain cases, for revising the Airplane Flight Manual (AFM), and installing a placard.

Differences Between Proposed Rule and Service Information

Operators should note that, although the service information specifies that the manufacturer may be contacted for disposition of certain cracks, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA, or the TCCA (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the TCCA would be acceptable for compliance with this proposed AD.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 32 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $5,760, or $180 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) If promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 99–NM–107–AD.

Applicability: All Model DHC–7–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the baggage door fittings and the support structure, which could result in structural failure, and consequent rapid decompression of the airplane during flight, accomplish the following:

Repetitive Inspections

(a) At the latest of the times specified in paragraphs (a)(1) and (a)(2) of this AD, perform a high frequency eddy current inspection to detect fatigue cracks of the locking pin fittings of the baggage door and locking pin housings of the fuselage; and a detailed visual inspection to detect fatigue cracks of the inner door structure on all four locking attachment fittings of the baggage door; in accordance with de Havilland Temporary Revision (TR) 5–100, dated December 23, 1998, for Supplementary Inspection Task 52–1 to the de Havilland Dash 7 Maintenance Manual PSM 1–7–2. Thereafter, repeat the inspections at intervals not to exceed 1,000 flight cycles.

(1) Inspect prior to the accumulation of 12,000 total flight cycles.

(2) Inspect within 600 flight cycles or 3 months after the effective date of this AD, whichever occurs later.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Corrective Actions

(b) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the requirements of paragraphs (b)(1) and (b)(2) of this AD, as applicable, except as provided in paragraph (c) of this AD. For operators that elect to accomplish the actions specified in paragraph (c) of this AD: After accomplishment of the replacement required by paragraph (b)(1) or (b)(2) of this AD, the AFM revision and placard required by paragraph (c) of this AD may be removed.

(1) If a crack is detected in a baggage door locking pin fitting or fuselage locking pin housing: Replace the fitting or housing with a new fitting or housing, as applicable, in accordance with de Havilland Dash 7 Maintenance Manual PSM 1–7–2.

(2) If a crack is detected in the inner baggage door structure at the locking attachment fittings: Replace the structure with a new support structure in accordance with de Havilland Dash 7 Maintenance Manual PSM 1–7–2, or repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate, or the Transport Canada Civil Aviation (or its delegated agent). For a repair method to be approved by the Manager, New York ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(c) For airplanes on which only one baggage door stop fitting or its support structure is found cracked at one location, and on which the pressurization system "Dump" function is operational: Prior to further flight, accomplish the requirements of paragraphs (c)(1) and (c)(2) of this AD.

Within 1,000 flight cycles after accomplishment of the requirements of paragraphs (c)(1) and (c)(2) of this AD, accomplish the requirements of paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) Revise the Limitations Section of the FAA-approved DHC–7 Airplane Flight Manual (AFM), PSM 1–71A–1A, to include the following statement. This AFM revision may be accomplished by inserting a copy of this AD into the AFM.

Flight is restricted to unpressurized flight below 10,000 feet mean sea level (MSL). The airplane must be operated in accordance with DHC–7 AFM, PSM 1–71A–1A, Supplement 20.

(2) Install a placard on the cabin pressure control panel or in a prominent location that states the following:

DO NOT PRESSURIZE THE AIRCRAFT UNPRESSURIZED FLIGHT PERMITTED ONLY IN ACCORDANCE WITH DHC–7 AFM PSM 1–71A–1A, SUPPLEMENT 20 FLIGHT ALTITUDE LIMITED TO 10,000 FEET MSL OR LESS.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–99–03, dated February 22, 1999.

Issued in Renton, Washington, on November 16, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30369 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–355–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737, 757, 767, and 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737, 757, 767, and 777 series airplanes. This proposal would require a one-time general visual inspection to determine the vendor and manufacturing date of all oxygen masks in the passenger cabin; and corrective action, if necessary. This proposal is prompted by a report that passengers were unable to activate supplemental oxygen generators during an in-flight decompression due to stress corrosion cracking of the crimped copper alloy ferrules used to secure loops on the lanyard ends. The actions specified by the proposed AD are intended to prevent failure of the supplemental oxygen system to deliver oxygen to the passengers and flight attendants in the event of decompression, which could result in injury to passengers and flight attendants.

DATES: Comments must be received by January 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–355–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P. O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Susan J. Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2670; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–355–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–355–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report that passengers on a Boeing Model 767 series airplane were unable to activate supplemental oxygen generators during an in-flight decompression due to failure of the oxygen mask lanyards when the masks were pulled after deployment. Failure of the oxygen mask lanyards has been attributed to stress corrosion cracking of the crimped copper alloy ferrules used to secure loops on the lanyard ends. This condition, if not corrected, could result in failure of the supplemental oxygen system to deliver oxygen to the passengers and flight attendants in the event of decompression, which could result in injury to passengers and flight attendants.

The subject oxygen mask lanyards on Boeing 737, 757, and 777 series airplanes are similar to those on the affected Boeing 767 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletins 737–35–1049, dated September 17, 1998, including Appendix A (for Model 737 series airplanes); 757–35–0014, dated

September 10, 1998, including Appendix A (for Model 757 series airplanes); 767–35–0033, dated September 10, 1998 including Appendix A (for Model 767 series airplanes); and 777–35–0005, dated September 3, 1998, including Appendix A (for Model 777 series airplanes). These service bulletins describe procedures for a one-time general visual inspection to determine the vendor and manufacturing date of all oxygen masks in the passenger cabin, and replacement of all lanyards on masks manufactured by Puritan-Bennett between May 1986 and July 1998 inclusive, with new lanyards which incorporate crimped metal ferrules that are not susceptible to stress corrosion cracking. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the referenced service bulletins recommend accomplishing the inspection at the next maintenance period (2C) when the oxygen mask drop test is scheduled, the FAA has determined that this interval would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection. In light of all of these factors, the FAA finds a 4-year compliance time for initiating the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 4,547 airplanes of the affected design in the worldwide fleet. The FAA estimates that 2,206 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 26 work hours (for Model 737 series airplanes), 38 work hours (for Model 757 series airplanes), 44 work hours (for Model 767 series airplanes), and 52 work hours (for Model 777 series airplanes) per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Required parts would cost approximately $576 (for Model 737 series airplanes), $846 (for Model 757 series airplanes), $990 (for Model 767 series airplanes), and $1,170 (for Model 777 series airplanes). Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,849,424, or $2,136 per airplane (for Model 737 series airplanes); $1,744,308, or $3,126 per airplane (for Model 757 series airplanes); $1,016,400, or $3,630 per airplane (for Model 767 series airplanes); and $145,860, or $4,290 per airplane (for Model 777 series airplanes).

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 98–NM–355–AD.

Applicability: Model 737 series airplanes, line numbers 1 through 2984 inclusive; Model 757 series airplanes, line numbers 1 through 798 inclusive; Model 767 series airplanes, line numbers 1 through 682 inclusive; and Model 777 series airplanes, line numbers 1 through 083 inclusive; certificated in any category; and equipped with Puritan-Bennett passenger and flight attendant oxygen masks, as listed in Boeing Service Bulletins 737–35–1049, dated September 17, 1998; 757–35–0014, dated September 10, 1998; 767–35–0033, dated September 10, 1998; or 777–35–0005, dated September 3, 1998; as applicable.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the supplemental oxygen system to deliver oxygen to the passengers and flight attendants in the event of decompression, which could result in injury to passengers and flight attendants, accomplish the following:

Inspection

(a) Within 4 years after the effective date of this AD, perform a general visual inspection to determine the vendor and manufacturing date of all oxygen masks in the passenger cabin in accordance with Boeing Service Bulletin 737–35–1049, dated September 17, 1998, including Appendix A (for Model 737 series airplanes); Boeing Service Bulletin 757–35–0014, dated September 10, 1998, including Appendix A (for Model 757 series airplanes); Boeing Service Bulletin 767–35–0033, dated September 10, 1998, including Appendix A

(for Model 767 series airplanes); or Boeing Service Bulletin 777–35–0005, dated September 3, 1998, including Appendix A (for Model 777 series airplanes); as applicable.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Corrective Action

(b) If the oxygen mask is manufactured by Puritan-Bennett between May 1986 and July 1998 inclusive: Prior to further flight, replace the lanyards on the masks with new lanyards in accordance with Boeing Service Bulletins 737–35–1049, dated September 17, 1998, including Appendix A (for Model 737 series airplanes); 757–35–0014, dated September 10, 1998, including Appendix A (for Model 757 series airplanes); 767–35–0033, dated September 10, 1998, including Appendix A (for Model 767 series airplanes); or 777–35–0005, dated September 3, 1998, including Appendix A (for Model 777 series airplanes); as applicable.

Spares

(c) As of the effective date of this AD, no person shall install an oxygen mask manufactured by Puritan-Bennett between May 1986 and July 1998 inclusive, on any airplane, unless the lanyard has been replaced with a new lanyard in accordance with paragraph (b) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 16, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30368 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–246–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas MD–11 series airplanes. This proposal would require replacement of the upper and lower reading lights in the forward crew rest area with a redesigned light fixture. This proposal is prompted by reports of burning and smoldering blankets in the forward crew rest area due to a reading light fixture that came into contact with the blankets after the light was inadvertently left on. The actions specified by the proposed AD are intended to prevent a possible flammable condition, which could result in smoke and fire in the crew rest area.

DATES: Comments must be received by January 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–246–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5346; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–246–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–246–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that burning and smoldering blankets were found in the forward crew rest area on McDonnell Douglas Model MD–11 series airplanes. Investigation revealed that a reading light fixture came into contact with the blankets after the light was inadvertently left on. This condition, if not corrected, could result in smoke and fire in the crew rest area.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–25A233, dated June 9, 1999, which describes procedures for

replacement of the upper and lower reading lights in the forward crew rest area with a redesigned light fixture. The redesigned light fixture allows a halogen light bulb with lower wattage to be recessed within the fixture to avoid any contact with combustible materials. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition.

McDonnell Douglas Alert Service Bulletin MD11–25A233 refers to AIM Aviation Service Incorporated Service Bulletin AIM-MD11–25–2, Revision C, dated March 8, 1999; as an additional source of service information for accomplishment of the replacement.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the action specified in the service bulletin described previously.

Cost Impact

There are approximately 71 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would cost approximately $238 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $4,172, or $298 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–246–AD.

Applicability: Model MD–11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11–25A233, dated June 9, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a possible flammable condition, which could result in smoke and fire in the crew rest area, accomplish the following:

Replacement

(a) Within 6 months after the effective date of this AD, replace the upper and lower reading lights in the forward crew rest area with a redesigned light fixture, in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A233, dated June 9, 1999.

Note 2: McDonnell Douglas Alert Service Bulletin MD11–25A233 refers to AIM Aviation Service Incorporated Service Bulletin AIM-MD11–25–2, Revision C, dated March 8, 1999; as an additional source of service information for accomplishment of the replacement of the upper and lower reading light in the forward crew rest area.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 16, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30367 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–19]

Proposed Establishment of Class E Airspace; Scammon Bay, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Scammon Bay, AK. The establishment of Global Positioning System (GPS) instrument approach procedures at Scammon Bay Airport have made this action necessary. The Scammon Bay Airport status will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). Adoption of this proposal would result in adequate controlled airspace for aircraft flying IFR procedures at Scammon Bay, AK.

DATES: Comments must be received on or before January 6, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 99–AAL–19, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Bob Durand, Operations Branch, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AAL–19." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Federal Register's electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the Federal Register's web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the individual(s) identified in the **FOR FURTHER INFORMATION CONTACT** section.

The Proposal

The FAA proposes to amend 14 CFR part 71 by establishing Class E airspace at Scammon Bay, AK, due to the establishment of two GPS instrument approach procedures. The intended effect of this proposal is to provide controlled airspace for IFR operations at Scammon Bay, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, *Airspace Designations and Reporting Points*, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Scammon Bay, AK [New]

Scammon Bay Airport
(Lat. 61°50′40″ N., long. 165°34′26″ W.)
Hooper Bay VOR
(Lat. 61°30′52″ N., long. 166°08′04″ W.)

That airspace extending upward from 700 feet above the surface within 6.3-mile radius of the Scammon Bay Airport and that airspace extending upward from 1,200 feet above the surface within a 42-mile radius of the Hooper Bay VOR extending clockwise between the 006° radial and 066° radial.

* * * * *

Issued in Anchorage, AK, on November 5, 1999.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 99–30122 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–55]

Proposed Modification of Class E Airspace; Connersville, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Connersville, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 18, and a GPS SIAP to Rwy 36, have been developed for Mettel Field Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before January 3, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–55, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AGL–55." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Connersville, IN, to accommodate aircraft executing the proposed GPS Rwy 18 SIAP, and the GPS Rwy 36 SIAP, at Mettel Field Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Connersville, IN [Revised]

Connersville, Mettel Field Airport, IN
(Lat. 39°41'57" N., long. 85°07'53" W.)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of the Mettel Field Airport, excluding

that airspace within the New Castle, IN, and Richmond, IN, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on November 4, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–30395 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–104939–99]

RIN 1545–AX13

Definition of Last Known Address

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations defining "last known address" in relation to the mailing of notices of deficiency and other notices, statements, and documents sent to a taxpayer's last known address. The proposed regulations affect taxpayers who receive notices of deficiency and other notices, statements, and documents sent to taxpayers' last known addresses.

DATES: Written or electronic comments and requests for a public hearing must be received by February 22, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–104939–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–104939–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to http://www.irs.gov/tax_regs/regslist.html (the IRS Internet site).

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Michael Slaughter, (202) 622–7180; concerning the regulations, Charles A. Hall, (202) 622–4940 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

In General

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR part 301) under section 6212(b) relating to the sufficiency of a notice of deficiency if it is mailed to the last known address of a taxpayer. This document also contains proposed amendments to the Income Tax Regulations (26 CFR part 1) and the Regulations on Procedure and Administration (26 CFR part 301) to provide cross-references to the proposed last known address rules under section 6212(b) in order to apply those rules to other notices, statements, and documents required to be sent to the last known address of a taxpayer.

Last Known Address

Many statutory and regulatory provisions refer to the last known address of a taxpayer. However, current law with respect to the last known address of a taxpayer has developed under section 6212(b), relating to the address for mailing a notice of deficiency. Generally, under section 6501, the IRS has three years from the date a Federal tax return is filed, or the due date for the return if the return is filed early, to assess a deficiency. Under section 6213, the IRS may not assess or collect a deficiency until after the notice of deficiency has been mailed to the taxpayer giving the taxpayer an opportunity to petition the United States Tax Court. Under section 6212(b), an otherwise valid notice of deficiency is sufficient if it is mailed to the taxpayer's last known address, even if it is not received by the taxpayer.

The term *last known address* is not defined by statute or current regulations. However, case law defines *last known address* as the "address which appears on the taxpayer's most recently filed return, unless [the IRS] has been given clear and concise notification of a different address." *Abeles* v. *Commissioner*, 91 T.C. 1019, 1035 (1988), *acq.* 1989–2 C.B. 1. The taxpayer's most recently filed return for this purpose is the last return filed by the taxpayer from which, if the return was properly processed, the address on the return was available to the IRS agent mailing a notice of deficiency. *Id.* at 1035.

The taxpayer provides the IRS with clear and concise notification of a change of address by affirmatively informing the IRS that the former address is not to be used. See *King* v. *Commissioner*, 857 F.2d 676, 681 (9th Cir. 1988); *Monge* v. *Commissioner*, 93 T.C. 22, 32 (1989). Although the IRS must exercise due diligence in ascertaining the last known address and in mailing the notice of deficiency to the correct address after having become aware of a taxpayer's change of address, that duty does not require the IRS to change the taxpayer's last known address based on information from third party sources. See *Grencewicz* v. *Commissioner*, 60 T.C.M. (CCH) 1300, 1302 (1990). Accordingly, under current law, clear and concise notification does not include taxpayer notification to third parties, such as payors or the United States Postal Service (USPS). See *Adams* v. *Commissioner*, 68 T.C.M. (CCH) 291, 294 (1994), *aff'd sub nom., Miller* v. *Commissioner*, 76 A.F.T.R.2d (RIA) 95–5903 (10th Cir. 1995) (forwarding order filed with USPS not clear and concise notice to IRS); *Selman* v. *Commissioner*, 61 T.C.M. (CCH) 2184, 2186 (1991) (USPS change of address form not notice to IRS because no evidence IRS received form); *Martin* v. *Commissioner*, 64 T.C.M. (CCH) 1529, 1531 (1992) (citing *Selman*); *Grencewicz* v. *Commissioner*, 60 T.C.M. (CCH) 1300, 1302 (1990) (IRS not required to review Forms 1099 and Schedule K–1); *Greenstein* v. *Commissioner*, 60 T.C.M. (CCH) 379, 382 (1990) (Forms W–2G and Form 1099–DIV not sufficient notice).

Current IRS Procedures for Changing Last Known Address

The IRS has prescribed rules for providing clear and concise notification of a different address in Rev. Proc. 90–18 (1990–1 C.B. 491). Under Rev. Proc. 90–18, a taxpayer must give clear and concise written notification of a change of address to the Internal Revenue Service Center that serves the taxpayer's old address or to the Chief, Taxpayer Service Division, in the local district office. The revenue procedure applies to notices required to be sent to a taxpayer's last known address under sections 982(c)(1), 6110(f)(3)(B), 6212(b), 6303(a), 6325(f)(2)(A), 6331(d)(2)(C), 6332(b)(1), 6335(a) and (b), 6901(g), and 7609(a)(2). Rev. Proc. 90–18, section 2.01. Although not included in Rev. Proc. 90–18, section 6110(f)(4)(B) also requires a notice to be sent to a taxpayer's last known address. Since publication of Rev. Proc. 90–18, four new sections have been added to the Code that reference last known address. See sections 6245(b)(1), 6320(a)(2)(C), 6330(a)(2)(C), and 7603(b)(1). Future updates of Rev. Proc. 90–18 will incorporate these new sections, as well as section 6110(f)(4)(B).

Under section 5.04 of Rev. Proc. 90–18, taxpayers may provide the IRS with clear and concise notification of a different address in one of three ways. First, a taxpayer may send the IRS a signed statement informing the IRS that the taxpayer wants the address of record

changed to a new address. In addition to the new address, this notification must contain the taxpayer's full name, signature, old address, and social security number and/or employer identification number. Filers of a joint return should provide both names, social security numbers, and signatures. Individuals who have changed last names, for instance, due to marriage, should provide the last name shown on the most recently filed return and the new last name. In all cases, clear and concise written notification must be specific as to a change of address. Thus, a new address reflected in the letterhead of taxpayer correspondence will not by itself change a taxpayer's address of record.

Second, if the IRS sends correspondence to the taxpayer that solicits or requires a response by the taxpayer and the taxpayer returns the correspondence to the IRS with corrections marked on the taxpayer's address information, the return of the correspondence will constitute clear and concise written notification of a change of address. The taxpayer's signature on the correspondence is not required.

Third, the taxpayer may file a Form 8822, "Change of Address," with the IRS.

In addition to the rules prescribed in Rev. Proc. 90–18, the IRS currently accepts oral notification of a different address, provided the request is made in the context of an inquiry about the taxpayer's account. Courts have acknowledged the validity of oral notification of a change of address for purposes of last known address under section 6212(b), provided the notification is sufficiently clear, is given to a proper representative of the IRS, and is established by competent proof. See *Mollet* v. *Commissioner*, 82 T.C. 618, 625–26 (1984). Future updates of Rev. Proc. 90–18 will permit the oral notification of a change of address.

Explanation of Provisions

The proposed regulations define last known address consistent with the definition set forth in *Abeles*. Accordingly, the proposed regulations provide that the taxpayer's last known address is the address that appears on the taxpayer's most recently filed and properly processed Federal tax return, unless the IRS is given clear and concise notification of a different address.

The proposed regulations also provide that the IRS will use an address obtained from the United States Postal Service (USPS) as a taxpayer's last known address in the absence of a more recent address. Although current law does not require the IRS to treat a taxpayer's notification to a third party, such as a payor or the USPS, as clear and concise notification of a different address for purposes of determining a last known address, the IRS and the Treasury Department are not prohibited from prescribing a rule that would allow the IRS to consult a third party source for the taxpayer's most current address.

Thus, the proposed regulations provide that beginning in May 2000, the IRS will refer to the USPS's National Change of Address (NCOA) database to obtain a taxpayer's address for purposes of determining the taxpayer's last known address. The proposed regulations also provide that the rules for last known address under § 301.6212–2 apply for purposes of other notices, statements, and documents mailed by the IRS to a taxpayer's last known address pursuant to the Internal Revenue Code or regulations. In addition, the regulations propose to amend existing regulations that use the term "last known address" to cross reference the regulations to § 301.6212–2.

NCOA Database

The NCOA database is a computerized record of changes of address maintained by the USPS. This database retains address changes for a thirty-six month period. USPS obtains the change of address information from a properly submitted USPS Form 3575, "Official Mail Forwarding Change of Address Form." Both businesses and individuals use the Form 3575. Individuals may indicate whether the change of address applies to the individual or, if applicable, the individual's entire family.

Updating Master File

In May 2000, and again in November 2000, and annually thereafter in each November, the Martinsburg Computing Center (MCC) in Martinsburg, West Virginia, will access the NCOA database to update all taxpayer address records maintained in the IRS's automated master file for purposes of updating the IRS's mailing list. Generally, if the taxpayer's name and the last known address maintained in the automated master file match the taxpayer's name and old mailing address contained in the NCOA database, within certain tolerances, the IRS will use the new address obtained from the NCOA database to update the automated master file. The updated address will be the taxpayer's last known address, unless the IRS is given clear and concise notification of a different address. However, due to IRS system limitations, if taxpayers file jointly, but the NCOA database contains change of address information for only one spouse, the earliest this rule will apply is January 2001. The IRS will publish further guidance as to when this rule will apply to these joint filers.

In addition, beginning in May 2000, prior to mailing correspondence to any particular taxpayer from an IRS Service Center, the IRS will access the NCOA database to determine if the taxpayer submitted a Form 3575 to the USPS with a more recent address. If so, the following will occur: (1) The correspondence will be mailed to the address obtained from the NCOA database, and (2) the IRS will use the new address from the NCOA database to update the automated master file. This updated address will be the taxpayer's last known address. Similar to the exception relating to the annual update, however, this rule will not be effective any earlier than January 2001 if taxpayers file jointly, but the NCOA database contains change of address information for only one spouse.

If the taxpayer subsequently files a return with an address other than the address on the Form 3575, the taxpayer's last known address will be the address on the subsequently filed and properly processed return. Similarly, if the taxpayer submits a Form 8822, "Change of Address," (or other clear and concise notification of a change of address) to the IRS after the taxpayer submits a Form 3575 to the USPS, the taxpayer's last known address will be the address on the Form 8822 (or on the clear and concise notification). In each instance, the IRS's master file will be updated to reflect the taxpayer's new last known address.

The IRS will not access the NCOA database prior to mailing correspondence from district offices and posts of duty. Unlike Service Centers, these locations do not have the systems capability to check the NCOA database for individual mailings at this time. Instead, the IRS will use the address stored in the automated master file. For purposes of correspondence mailed from district offices and posts of duty, the address on the IRS automated master file, as updated through the use of the NCOA database, will be the taxpayer's last known address.

Using the NCOA database will increase customer service by allowing faster delivery of IRS correspondence to a taxpayer. Rather than mailing correspondence to an address which is no longer a taxpayer's address and relying on the USPS to forward mail to the taxpayer's most recent address, the IRS will mail the correspondence

directly to the taxpayer's most recent address. In addition, by updating the automated master file with the most recent address, future IRS correspondence will be mailed to the taxpayer's most recent address.

Although use of the NCOA database will result in improved delivery in most cases, such use does not completely eliminate the taxpayer's need to provide the IRS with clear and concise notification of a different address. For instance, if the taxpayer changes the address of a residence or business and submits a Form 3575 with the USPS, but does not wish to change the taxpayer's address for purposes of IRS correspondence, then the taxpayer must notify the IRS as provided in Rev. Proc. 90–18. It should be noted, however, that even if the taxpayer notifies the IRS to continue using the old address for IRS correspondence, the USPS may forward the correspondence to the address on the USPS Form 3575.

Licensing Agreement with USPS

To gain access to the NCOA database, the IRS has applied to the USPS to become a limited licensee of the NCOA database. As a limited licensee, the IRS will receive from the USPS a copy of the entire thirty-six month NCOA database and periodic updates thereto in electronic format. The USPS will not have access to confidential return information as a result of this process. Moreover, unlike organizations that have entered into general licensing agreements with the USPS for use of the NCOA database, the IRS will not provide name and address matching services to commercial customers. Rather, the IRS will only use the NCOA database to update taxpayers' addresses maintained in the automated master file in the manner prescribed by these regulations. The IRS and the Treasury Department invite comments regarding whether the IRS should become a licensee for the limited purpose of updating its automated master file.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information: The principal author of these regulations is Charles A. Hall, Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.468A–5, paragraph (c)(1)(ii) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.468A–5 Nuclear decommissioning fund qualification requirements; prohibitions against self-dealing; disqualification of nuclear decommissioning fund; termination of fund upon substantial completion of decommissioning.

* * * * *

(c) * * *

(1) * * *

(ii) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

* * * * *

Par. 3. Sectioni 1.503(a)–1 is amended by adding a sentence at the end of the concluding text of paragraph (c) to read as follows:

§ 1.503(a)–1 Denial of exemption to certain organizations engaged in prohibited transactions.

* * * * *

(c) * * *

* * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

* * * * *

Par. 4. In § 1.547–2, paragraph (b)(1)(v) is amended by adding a sentence after the third sentence of the paragraph to read as follows:

§ 1.547–2 Requirements for deficiency dividends.

* * * * *

(b) * * *

(1) * * *

(v) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter. * * *

* * * * *

Par. 5. In § 1.856–6, paragraph (g)(5) is amended by adding a sentence after the first sentence of the paragraph to read as follows:

§ 1.856–6 Foreclosure property.

* * * * *

(g) * * *

(5) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter. * * *

* * * * *

Par. 6. In § 1.860–2, paragraph (b)(1)(ii) is amended by adding a sentence after the fourth sentence of the paragraph to read as follows:

§ 1.860–2 Requirements for deficiency dividends.

* * * * *

(b) * * *

(1) * * *

(ii) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter. * * *

* * * * *

Par. 7. In § 1.963–6, paragraph (c)(5) is amended by adding a sentence after the second sentence of the paragraph to read as follows:

§ 1.963–6 Deficiency distribution.

* * * * *

(c) * * *

(5) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter. * * *

* * * * *

Par. 8. In § 1.992–3, paragraph (c)(3)(iv) is amended by adding a sentence after the third sentence of the paragraph to read as follows:

§ 1.992–3 Deficiency distributions to meet qualification requirements.

* * * * *

(c) * * *

(3) * * *

(iv) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter. * * *

* * * * *

Par. 9. In § 1.6081–2, paragraph (f) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.6081–2 Automatic extension of time to file partnership return of income.

* * * * *

(f) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

* * * * *

Par. 10. In § 1.6081–3, paragraph (d) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.6081–3 Automatic extension of time for filing corporation income tax returns.

* * * * *

(d) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

* * * * *

Par. 11. In § 1.6081–4, paragraph (c) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.6081–4 Automatic extension of time for filing individual income tax returns.

* * * * *

(c) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

* * * * *

Par. 12. In § 1.6081–6, paragraph (d) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.6081–6 Automatic extension of time to file trust income tax return.

* * * * *

(d) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

* * * * *

Par. 13. In § 1.6081–7, paragraph (d) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.6081–7 Automatic extension of time to file Real Estate Mortgage Investment Conduit (REMIC) income tax return.

* * * * *

(d) * * * For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 14. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 15. In § 301.6110–4, paragraph (c)(3) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.6110–4 Communications from third parties.

* * * * *

(c) * * *

(3) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 16. In § 301.6110–5, paragraph (b)(4) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.6110–5 Notice and time requirements; actions to restrain disclosure; actions to obtain additional disclosure.

* * * * *

(b) * * *

(4) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 17. In § 301.6110–6, paragraph (b)(2)(v) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.6110–6 Written determinations issued in response to requests submitted before November 1, 1976.

* * * * *

(b) * * *

(2) * * *

(v) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 18. Section 301.6212–2 is added to read as follows:

§ 301.6212–2 Definition of last known address.

(a) *General rule.* Except as provided in paragraph (b)(2) of this section, a taxpayer's last known address is the address that appears on the taxpayer's most recently filed and properly processed Federal tax return, unless the Internal Revenue Service (IRS) is given clear and concise notification of a different address.

(b) *Address obtained from third party*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, change of address information that a taxpayer provides to a third party, such as a payor or another government agency, is not clear and concise notification of a different address for purposes of determining a last known address under this section.

(2) *Exception for address obtained from the United States Postal Service*—(i) *Annual update.* Annually, the IRS will update taxpayer addresses maintained in IRS records by referring to data accumulated and maintained in the United States Postal Service (USPS) National Change of Address database that retains change of address information for thirty-six months (NCOA database). Except as provided in paragraph (b)(2)(ii) of this section, if the taxpayer's name and last known address in IRS records match the taxpayer's name and old mailing address contained in the NCOA database, within certain tolerances, the new address in the NCOA database is the taxpayer's last known address, unless the IRS is given clear and concise notification of a different address.

(ii) *Update prior to mailing any notice, statement or document from an IRS Service Center.* Prior to mailing any notice, statement, or other document, including a notice of deficiency, to the taxpayer from an IRS Service Center, the IRS will update the taxpayer's last known address by referring to the NCOA database. If the taxpayer's name and last known address in IRS records match the taxpayer's name and old mailing address contained in the NCOA database, within certain tolerances, the new address in the NCOA database is the taxpayer's last known address, unless the IRS is given clear and concise notification of a different address.

(iii) *Duration of address obtained from NCOA database.* The address obtained from the NCOA database under paragraph (b)(2)(i) or (ii) of this section is the taxpayer's last known address until one of the following events occurs—

(A) The taxpayer files and the IRS properly processes a Federal tax return with an address different from the address obtained from the NCOA database; or

(B) The taxpayer provides the IRS with clear and concise notification of a

change of address, as defined in procedures prescribed by the Commissioner, that is different from the address obtained from the NCOA database.

(3) *Examples.* The following examples illustrate the rules of paragraph (b)(2) of this section:

Example 1. (i) A is an unmarried taxpayer. The address on A's 1999 Form 1040, U.S. Individual Income Tax Return, filed on April 14, 2000, and 2000 Form 1040 filed on April 13, 2001, is 1234 Anyplace Street, Anytown, USA 43210. On May 15, 2001, A informs the USPS of a new permanent address (9876 Newplace Street, Newtown, USA 12345) using the USPS Form 3575, "Official Mail Forwarding Change of Address Form." The change of address is included in the USPS NCOA database.

(ii) In June 2001 the IRS determines a deficiency for A's 1999 tax year and prepares to issue the notice of deficiency. When the IRS mails the notice of deficiency from the Service Center, the IRS refers to the NCOA database and updates the taxpayer's last known address to 9876 Newplace Street, Newtown, USA 12345. On June 15, 2001, the IRS mails a notice of deficiency to A at 9876 Newplace Street, Newtown, USA 12345. For purposes of section 6212(b), the notice of deficiency mailed on June 15, 2001, is mailed to A's last known address.

Example 2. (i) The facts are the same as in *Example 1*, except that instead of determining a deficiency for A's 1999 tax year in June 2001, the IRS determines a deficiency for A's 1999 tax year in December 2001. The IRS performs its annual update of addresses in November 2001. At this time the taxpayer's address maintained in IRS records was changed to 9876 Newplace Street, Newtown, USA 12345.

(ii) On December 14, 2001, the IRS mails a notice of deficiency to A at 9876 Newplace Street, Newtown, USA 12345. For purposes of section 6212(b), the notice of deficiency mailed on December 14, 2001, is mailed to A's last known address.

Example 3. (i) B is an unmarried taxpayer. The address on B's 1999 Form 1040, U.S. Individual Income Tax Return, filed on April 14, 2000, is 1234 Main Street, Mytown, USA 56789. In September 2000, B informs the USPS of a new permanent address (4321 Maple Street, Ourtown, USA 54321) using the USPS Form 3575, "Official Mail Forwarding Change of Address Form."

(ii) In September 2000, the IRS determines a deficiency for B's 1998 tax year and prepares to issue the notice of deficiency in the Service Center. On September 15, 2000, the IRS refers to the NCOA database to update the taxpayer's last known address. Because B did not inform the USPS of a change of address in sufficient time to be included in the NCOA database on September 15, 2000, the NCOA database does not yet contain any address information for B. On September 15, 2000, the IRS mails a notice of deficiency to B at 1234 Main Street, Mytown, USA 56789. For purposes of section 6212(b), the notice of deficiency mailed on September 15, 2000, is mailed to B's last known address.

Example 4. (i) C is an unmarried taxpayer. The address on C's 1998 Form 1040, U.S. Individual Income Tax Return, filed on April 15, 1999, and 1999 Form 1040 filed on April 14, 2000, is 2468 Spring Street, Little City, USA 97531. On August 15, 2001, C informs the USPS of a new permanent address (8642 Peachtree Street, Big City, USA 13579) using the USPS Form 3575, "Official Mail Forwarding Change of Address Form." The IRS performs its annual update of addresses in November 2001.

(ii) In September 2001 the IRS district office for Little City, USA determines a deficiency for C's 1998 tax year and prepares to issue the notice. When the IRS mails the notice of deficiency from the district office, the IRS does not refer to the NCOA database because IRS systems are not capable of checking the NCOA database for individual mailings other than for Service Center correspondence. On September 17, 2001, the IRS mails a notice of deficiency for tax year 1998 to C at 2468 Spring Street, Little City, USA 97531. For purposes of section 6212(b), the notice of deficiency mailed on September 17, 2001, is mailed to C's last known address.

(iii) Also in September 2001, the IRS determines a deficiency for C's 1999 tax year. When the IRS mails this notice of deficiency from the IRS Service Center, the IRS refers to the NCOA database and updates the taxpayer's last known address to 8642 Peachtree Street, Big City, USA 13579. On September 18, 2001, the IRS mails a notice of deficiency for tax year 1999 to C at 8642 Peachtree Street, Big City, USA 13579. For purposes of section 6212(b), the notice of deficiency mailed on September 18, 2001, is mailed to C's last known address.

Example 5. The facts are the same as in *Example 4, except* that the IRS Service Center mails the notice of deficiency for C's 1999 tax year on September 10, 2001, after updating the taxpayer's last known address by referring to the NCOA database. On September 17, 2001, when the district office prepares to mail the notice of deficiency for C's 1998 tax year by referring to the IRS's automated master file, the taxpayer's address will appear as 8642 Peachtree Street, Big City, USA 13579. Thus, in both cases, for purposes of section 6212(b), the taxpayer's last known address is 8642 Peachtree Street, Big City, U.S.A. 13579.

(c) *Last known address for all notices, statements, and documents.* The rules in paragraphs (a) and (b) of this section apply for purposes of determining whether all notices, statements, or other documents are mailed to a taxpayer's last known address whenever the term *last known address* is used in the Internal Revenue Code or the regulations thereunder.

(d) *Effective Date*—(1) *In general.* Except as provided in paragraph (d)(2) of this section, the rules prescribed by this section apply to all notices, statements, and other documents mailed on or after May 1, 2000.

(2) *Individual moves in the case of joint filers.* In the case of taxpayers who file joint returns under section 6013, if the NCOA database contains change of address information for only one spouse, paragraphs (b)(2) and (3) of this section will not apply to notices, statements, and other documents mailed before January 1, 2001.

Par. 19. In § 301.6303–1, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.6303–1 Notice and demand for tax.

* * * * *

(a) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 20. In § 301.6305–1, paragraph (b)(2)(ii) is revised to read as follows:

§ 301.6305–1 Assessment and collection of certain liability.

* * * * *

(b) * * *

(2) * * *

(ii) The name, social security number, and last known address of the individual owing the assessed amount. For further guidance regarding the definition of last known address, see § 301.6212–2;

* * * * *

Par. 21. In § 301.6320–1T, paragraph (a)(1) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.6320–1T Notice and opportunity for hearing upon filing of notice of Federal tax lien (temporary).

(a) * * * (1) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 22. In § 301.6325–1, paragraph (f)(2)(ii)(*a*) is revised to read as follows:

§ 301.6325–1 Release of lien or discharge of property.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

(*a*) Mailing notice of the revocation to the taxpayer at his last known address (see § 301.6212–2 for further guidance regarding the definition of last known address); and

* * * * *

Par. 23. In § 301.6330–1T, paragraph (a)(1) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.6330–1T Notice and opportunity for hearing prior to levy (temporary).

(a) * * * (1) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 24. In § 301.6331–2, paragraph (a)(1) is amended by adding a sentence after the second sentence of the paragraph to read as follows:

§ 301.6331–2 Procedures and restrictions on levies.

(a) * * * (1) * * * For further guidance regarding the definition of last known address, see § 301.6212–2. * * *

* * * * *

Par. 25. Section 301.6332–2 is amended as follows:

1. Paragraphs (b)(1) introductory text, (b)(1)(i), and (b)(1)(ii) are redesignated as paragraphs (b)(1)(i) introductory text, (b)(1)(i)(A), and (b)(1)(i)(B), respectively.

2. In newly designated paragraph (b)(1)(i)(B), the text beginning with the second sentence is designated as paragraph (b)(1)(ii).

3. Newly designated paragraph (b)(1)(ii) is amended by adding a sentence after the second sentence of the paragraph. The addition reads as follows:

§ 301.6332–2 Surrender of property subject to levy in the case of life insurance and endowment contracts.

* * * * *

(b) * * * (1) *In general.* (i)* * *

(ii) * * * For further guidance regarding the definition of last known address, see § 301.6212–2. * * *

* * * * *

Par. 26. In § 301.6335–1, paragraph (b)(1) is amended by adding a sentence after the third sentence of the paragraph to read as follows:

§ 301.6335–1 Sale of seized property.

* * * * *

(b) * * * (1) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 27. In § 301.6503(c)–1, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.6503(c)–1 Suspension of running of period of limitation; location of property outside the United States or removal of property from the United States; taxpayer outside of United States.

(a) * * * For further guidance regarding the definition of last known address, see § 301.6212–2.

* * * * *

Par. 28. In § 301.6903–1, paragraph (c) is amended by adding a sentence after the first sentence of the paragraph to read as follows:

§ 301.6903–1 Notice of fiduciary relationship.

* * * * *

(c) * * * For further guidance regarding the definition of last known address, see § 301.6212–2. * * *

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–30178 Filed 11–19–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 175

[USCG–1998–4447]

Federal Requirements To Carry Ground Tackle on Recreational Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of petition for rulemaking and request for comments.

SUMMARY: The Coast Guard seeks comments from interested people, groups and businesses in response to a petition for rulemaking submitted by the National Boating Federation (NBF). The petition requests that the Coast Guard require that all recreational vessels in the United States carry proper anchoring gear and that the gear be in useable condition. Currently, Federal regulations do not require that ground tackle (anchor and line or chain) be carried on recreational vessels as safety equipment. This notice describes the Coast Guard's policy for establishing National minimum safety equipment carriage requirements for recreational vessels, and related issues, to assist interested persons with providing helpful comments as to whether the Coast Guard should initiate a regulatory project.

DATES: Comments and related material must reach the Docket Management Facility on or before May 22, 2000.

ADDRESSES: To make sure your comments and related material (referred to USCG–1998–4447) are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW, Washington, DC 20590–0001.

(2) By hand-delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Carlton Perry, Project Manager, Office of Boating Safety, by telephone at 202–267–0979 or by e-mail at *cperry@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet at the Web Site for the Office of Boating Safety at *http://www.uscgboating.org or at http://dms.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Boating Federation (NBF) has submitted a petition to the Coast Guard (included in the public docket for this notice). The petition requests that we require that all recreational vessels in the United States carry proper anchoring gear and that the gear be in useable condition. Currently, Federal regulations do not require that ground tackle (anchor and line or chain) be carried on recreational vessels as safety equipment. The NBF suggests that because we urge boaters experiencing a loss of maneuverability during near-shore boating to set their anchor, we should also require boaters to carry appropriate ground tackle. The NBF did not identify or describe any incidents where the lack of an anchor contributed to, or the presence of an anchor may have prevented, a boating accident resulting in a fatality, injury or property damage.

We maintain a boating accident report database (BARD) on reported boating accidents involving deaths, injuries requiring medical treatment beyond first aid, and property damage greater than $500. We searched the 1997 database on

the root terms "anchor", "drift" and "ground" and found 1,607 incidents out of 8,047 reported accidents, where one or more of the terms were mentioned in the report narrative.

The vast majority (1,593) of reported accident narratives indicated that a factor other than ground tackle was the cause of the accident. The following list describes the number of cases and the general factor categories leading to the 1607 reported accidents.

1. 651—Operator inexperience, failure, or inattention.
2. 412—Machinery failure, no details, or miscellaneous.
3. 125—Alcohol.
4. 115—Poor weather or hazardous water conditions.
5. 111—Excessive speed.
6. 73—Jet-ski or canoe.
7. 65—Vessel at anchor and hit or upset by wake from passing vessel.
8. 20—Drifting on purpose or accident while pulling anchor.
9. 14—Improper lights.
10. 11—Insufficient anchor or improperly anchored.
11. 10—Ran aground while setting anchor or ran aground with anchor down.

Only 14 of the 1,607 report narratives described an incident where the lack of an anchor contributed to, or that the presence of an anchor may have prevented, the reported accident. Listed below are five samples of report narratives from our database that reflect cases where the accident may have been prevented if the operator had carried appropriate ground tackle.

1. "The operator didn't pay attention to the fuel level and the vessel ran out of gas. Then he tried to anchor but had an improper anchor for sea conditions and the rough water forced the vessel onto the beach totaling it."
2. "Due to hazardous weather conditions the operator attempted to anchor the vessel. The anchor line was insufficient and broke and the vessel grounded, causing damage. The vessel then sank."
3. "The boat broke free from the dock and drifted across the creek into a marsh. In an effort to recover the boat, both occupants stayed on the boat and tried to get back to the dock. Both occupants were exposed to the weather elements and died from hypothermia."
4. "Operator's engine stalled and wouldn't restart. The vessel grounded onto the jetty, causing major damage."
5. "The operator was returning from fishing when the engine died and the vessel was sucked into shore."

Under 46 U.S.C. 4302, we may prescribe regulations to require the installation, carrying or use of associated equipment (including fuel systems, ventilation systems, electrical systems, sound-producing devices, fire fighting equipment, life saving devices, signaling devices, ground tackle, life- and grab-rails, and navigational equipment) on recreational vessels. In prescribing such regulations, we must consider the need for and the extent to which the regulations will contribute to recreational vessel safety and relevant available recreational vessel safety standards, statistics, and data, including public and private research, development, testing, and evaluation. We have done so for fuel systems (33 CFR part 175, subpart J), ventilation systems (33 CFR parts 175, subpart C and 183, subpart K and 46 CFR part 25, subpart 25.40), electrical systems (33 CFR part 183, subpart I), fire fighting equipment (46 CFR part 25, subpart 25.30), life saving devices (33 CFR part 175, subpart B), and signaling devices (33 CFR part 175, subpart C). The Navigation Rules prescribe requirements to carry sound-producing devices (33 CFR part 86). We have not prescribed requirements to carry ground tackle, life- and grab-rails, or navigational equipment on recreational vessels.

Public Meeting

We do not plan to hold a public meeting in response to this petition. You may request one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid the consideration of this petition, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Request for Comments

We encourage you to participate in this petition for rulemaking by submitting comments and related material, answering the following questions, as well as other comments in connection with this notice. Please include with your submission your name and address, identify the docket number for this rulemaking (USCG–1998–4447), indicate the specific question of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand-delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand-delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Your comments will help us to determine whether to initiate a rulemaking project in accordance with the petitioner's request.

We will summarize all the comments we receive during the comment period, place a copy of the summary in the public docket, and provide copies to the members of the National Boating Safety Advisory Council (NBSAC) for them to consider at their next meeting. We will consider all relevant comments and material received during the comment period in proposing any regulatory or nonregulatory measures that may follow from this notice.

Please consider and respond to the following questions:

1. Should the Coast Guard propose regulations for all recreational vessels operated on waters subject to the jurisdiction of the United States to carry appropriate ground tackle as required safety equipment? Why or why not?

2. If not all vessels, should the Coast Guard propose regulations for any class, type or size of recreational vessels to carry appropriate ground tackle?

3. If not on all waters subject to the jurisdiction of the United States, should the Coast Guard propose regulations for recreational vessels on any such waters?

4. If the Coast Guard should propose any ground tackle carriage requirements, how should we address the variety of anchor sizes and styles, the various lengths of chain or line, and the various sizes and types of recreational vessels that would be subject to such requirements?

5. Please describe any nonregulatory ways to reduce the number of recreational boating accidents that are achievable at lower cost or with less burden than by Federal rules for carrying ground tackle.

6. Are you aware of any additional information about boating accidents involving the use or absence of anchors or ground tackle, which you think we should consider?

Dated: November 15, 1999.

Ernest R. Riutta,

Rear Admiral, Coast Guard, Assistant Commandant for Operations.

[FR Doc. 99–30373 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 51

RIN 1024–AC72

Economic Analysis of Proposed Concession Contracting Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: With this notice, the National Park Service ("NPS") addresses the economic impacts of its proposed concession contracting regulation, which NPS published pursuant to Title IV of the National Park Omnibus Management Act of 1998.

DATES: NPS will accept written comments, suggestions or objections until December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Wendelin Mann, Concession Program, National Park Service, 1849 "C" Street, NW, Washington, DC 20240 (202/565–1219).

Background

Concession contracts are the form of governmental authorization used to permit private businesses ("concessioners") to provide visitor services in areas of the national park system. Visitor services include lodging, food service, merchandising, transportation, outfitting and guiding and similar activities.

NPS has been awarding and administering concession contracts in various forms since its establishment in 1916. In 1965, Congress formally established by the Concession Policies Act of 1965 (the "1965 Act") a number of policies and procedures regarding concession contracts. 36 CFR part 51 as it presently exists implemented the 1965 law. On November 13, 1998, the Congress substantially reformed these policies and procedures by passage of Title IV of Act of 1998 (the "1998 Act").

The 1998 Act requires NPS to promulgate regulations appropriate for its implementation. On June 30, 1999, NPS published proposed regulations for public comment in the **Federal Register**. The deadline for submission of public comments was October 15, 1999. NPS is currently considering the public comments received.

The June 30, 1999, **Federal Register** proposed regulation stated that NPS would publish in the **Federal Register** a related initial regulatory flexibility analysis and invite public comment on it. Because the proposed concession contracting regulations address contracts and public property (park areas), they are not subject to the notice and comment provisions of 5 U.S.C. 553. This conclusion is not affected by the fact that section 417 of the 1998 Act requires NPS to promulgate regulations appropriate for its implementation, as the 1998 Act does not require that this be done through a general notice of proposed rulemaking. Accordingly, the proposed regulations were published for public comment as a matter of policy. NPS has preliminarily determined that because the regulations are exempt from the notice and comment provisions of 5 U.S.C. 553, they appear not to be subject to the Regulatory Flexibility Act. The Regulatory Flexibility Act is only applicable to rules and regulations that are required by 5 U.S.C. 553 or other law to be promulgated after publication of a general notice of proposed rulemaking. As indicated above there is no such notice and comment requirement for the concession contracting regulations. Accordingly, the NPS believes there may be no requirement that an initial regulatory analysis is required.

Nevertheless, NPS has chosen as a matter of policy to prepare an analysis that meets the requirements of the Regulatory Flexibility Act. This analysis has concluded at this juncture that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Public comment is invited on the content of this discussion, as well as the question of whether the proposed concession regulations are in fact subject to the Regulatory Flexibility Act. Upon consideration of the public comments received, NPS will take appropriate final action with respect to any applicable requirements of the Regulatory Flexibility Act by the date of publication of the final concession contracting regulations. The publication of the following analysis is not to be construed as indicating that NPS necessarily considers that it is required by the Regulatory Flexibility Act to prepare an initial regulatory flexibility analysis for the proposed concession contracting regulations.

As a final background note, NPS points out that the preamble to the proposed concession regulations included a statement to the effect that it is likely that the number of concession contracts and permits may decrease to as few as 360 because alternative authorities are now available to NPS. This statement was erroneously included in the preamble after it had been determined by NPS to be incorrect. Accordingly, this statement in the preamble to the proposed regulations should be disregarded and the preamble to the proposed regulations is hereby amended to delete this statement.

General Content of the Proposed Regulations

The proposed concession regulations establish the procedures under which NPS is to administer concession contracts and certain terms and conditions of concession contracts in furtherance of the requirements and policies of the 1998 Act.

The proposed regulations have two major purposes. The first is to set forth procedures as to how concession contracts are to be solicited and awarded by the National Park Service under the 1998 Act. With certain exceptions, the 1998 Act requires competitive awards of concession contracts. In some circumstances, an existing satisfactory concessioner may have a right to match the terms of a competing proposal for a new concession contract.

Second, unlike the existing 36 CFR part 51, the proposed regulation sets forth in detail the nature of the compensatory interest in capital improvements a concessioner may construct on park lands under the terms of a concession contract. This interest, called a "leasehold surrender interest," is described at length in the 1998 Act. It is the intention of NPS to establish appropriate contract terms and conditions for leasehold surrender interests by the proposed regulations so as to assure that the requirements of the 1998 Act are strictly followed.

Content of Subparts of the Proposed Regulations

Subpart A. Authority and Purpose

Subpart A of the regulation describes the authority for the proposed regulations, their scope, and the scope of concession contracts in general. It also describes the statutory policies that underlie concession contracts.

Subpart B. General Definitions

Subpart B provides a number of definitions of terms that are used throughout the proposed regulations.

Subpart C. Solicitation, Selection and Award Procedures

Subpart C describes general procedures for competitive solicitation, selection and award of concession contracts in compliance with the 1998 Act. Except as described in subpart D, NPS must award all concession contracts on a competitive basis.

Subpart D. Non-Competitive Award of Concession Contracts

Subpart D describes the three limited situations in which NPS may make non-competitive awards of concession contracts as expressly authorized by the 1998 Act. NPS may extend a concession contract for up to three years on a non-competitive basis, may award a temporary contract for a term of no more than three years on a non-competitive basis, and, may award a concession contract on a non-competitive basis in extraordinary circumstances if certain findings are made and special procedures followed.

Subpart E. Right of Preference

Subpart E describes the right of preference to a new concession contract that may be obtained by certain existing satisfactory concessioners. Only satisfactory outfitter and guide concessioners or satisfactory concessioners annually grossing under $500,000 are eligible for the preference. If a concessioner is eligible for the preference, it must submit a responsive offer pursuant to the prospectus issued for the new contract. If the concessioner does so, it is entitled under specified conditions to match the terms of a better proposal for the concession contract.

Subpart F. Leasehold Surrender Interest

Subpart F first defines a number of terms necessary to understand the leasehold surrender provisions of the regulation. Subpart F then sets forth the terms and conditions of leasehold surrender interests which may be obtained under a concession contract. Generally, a leasehold surrender interest constitutes a right of a concessioner to receive payment for capital improvements a concessioner makes on park area lands.

Subpart G. Possessory Interest

Subpart G sets forth transition procedures with respect to the form of compensatory interest ("possessory interest") obtained by concessioners under certain concession contracts entered into under the 1965 Act and concession contracts to be entered into under the 1998 Act. In general terms, a 1965 Act concessioner may either receive full compensation for existing possessory interest as described in the applicable contract or convert the possessory interest to a leasehold surrender interest if it seeks and is awarded a new concession contract.

Subpart H. Concession Contract Provisions

Subpart H describes in general the terms of certain concession contract provisions that reflect the policies and procedures of the 1998 Act.

Subpart I. Assignment or Encumbrance of Concession Contracts

Subpart I sets forth the standards and procedures applicable to NPS approval of assignments of concession contracts and encumbrance of concessioner assets.

Subpart J. Information and Access to Information

Subpart J describes the types of records a concessioner must retain for the purposes of NPS concession contract administration, the access rights of the government to the records, and the types of concessioner information that are made available to the public.

Subpart K

Subpart K describes the effect of the 1998 Act's repeal of the 1965 Act by the 1998 Act.

Subpart L

Subpart L sets forth information collection requirements of the proposed regulations.

Impacts of the Proposed Regulations on Small Businesses

NPS considers that the fundamental policy objective of the 1998 Act was to make the award of larger NPS concession contracts more competitive by generally repealing the preference in renewal granted to all concessioners by the terms of the 1965 Act.

The preference in renewal granted all concessioners under the 1965 Act resulted in more than 99% of concession contract renewals being awarded to the incumbent concessioner. This was because the preference in renewal gave the incumbent concessioner the right to match the terms and conditions of any better offer made for the contract by a competitor. Because of the renewal preference, no competing offers at all were received for concession contract renewals in the vast majority of cases under the 1965 Act. Potential competitors generally considered it pointless to go to the effort of submitting a competing offer that was subject to being matched by the incumbent concessioner. The 1965 Act's preference in renewal created an enormous entry barrier to persons that wished to become NPS concessioners.

The 1998 Act requires full competition, with no advantage to an incumbent, for the award of most concession contracts with annual gross receipts in excess of $500,000. The exception is outfitting and guide concession contracts. Approximately 175 of the existing 630 NPS concession contracts will be subject to open competition upon renewal. (This analysis assumes that the repeal applies to existing concession contract renewals as well as to the renewal of concession contracts entered into after the effective date of the 1998 Act. NPS is presently considering this issue in promulgating the proposed concession contracting regulations. However, the premises of the analysis remain the same no matter when the repeal takes effect.)

The greatest effects of the 1998 Act are likely to occur because of the 175 concessioners that will no longer receive a renewal preference. Currently, 142 of the operations of these concessioners generate gross receipts under $5 million annually. The effects of ending renewal preferences will be experienced by incumbent firms who will face competition in the solicitation process for a new contract, particularly those that do not win the new contract. Incumbent firms will experience the effects of having to prepare competitive proposals. In order to win, they may have to take efficiency measures or trim profits. Those incumbent firms that do not win will experience the effects of losing business volume. Non-incumbent firms that choose to submit a proposal but do not win will experience the costs of bid preparation without any increase in their business volume. Non-incumbent firms that win contracts will experience an increase in their business volume. It should be emphasized that these are the normal effects of competition in the U.S. economy.

The NPS has no basis at this time for predicting the number of non-incumbent firms that will submit proposals or win no-preference concession contracts, nor does the NPS have a basis for predicting the extent of the changes that incumbents will make in order to win new contracts. It is possible however to illustrate reasonable bounds on the resulting effects. If each of the 142 concession contracts held by incumbents generating gross receipts of less than $5 million were to face 2 new proposals, the total number of firms (of all sizes) that would be affected would be 426. If, despite the competitive process, the incumbents were all to obtain the new contracts, then only the 142 incumbents would experience any effects other than the cost of preparing proposals. If all 142 were to be replaced by new firms, then 284 firms would experience effects of changes in business volume, half-losing, half-gaining. On this basis and in light of the great number of firms in the food service, lodging, merchandising, marina and guide industries in the United

States, it does not appear that a substantial number of small entities will experience significant effects.

NPS considers that the preference in renewal reform contained in the 1998 Act will have a beneficial economic impact on small businesses as it eliminates for most larger concession contracts the entry barrier resulting from the preference in renewal.

NPS does not consider that any other provisions of the 1998 Act, or the proposed regulations, will have a significant impact on small businesses. In fact, for the most part, the proposed regulations do not "regulate" businesses at all in the usual meaning of that term. The proposed regulations in general merely describe the procedures under which concession contracts are to be awarded, describe the nature and extent of leasehold surrender interest that may be obtained by a concessioner under the terms of a concession contract, and describe various provisions that NPS must include in concession contracts.

No business of any size is under any obligation to comply with the proposed regulations unless it chooses to apply for a concession contract.

Analysis

The following analysis covers the matters that would be addressed in an initial regulatory flexibility analysis if the Regulatory Flexibility Act applies. They are as follows, together with the NPS discussion:

(1) A description of the reasons why the action is being considered;

The NPS is promulgating the proposed concession regulations in compliance with section 417 of the 1998 Act.

(2) A succinct statement of the objectives of, and legal basis for, the proposed regulation;

The objective of the proposed concession regulations is to provide regulatory implementation for applicable concession contracting provisions of the 1998 Act. The legal authority for the proposed concession regulations is section 417 of the 1998 Act.

(3) A description of, and, where feasible, an estimate of the number of small entities to which the proposed regulation will apply;

The proposed concession regulations, when finalized, will apply to all persons holding NPS concession contracts, and, in part, to persons who seek to become an NPS concessioner by submitting a contract proposal. As of September 1999, there are approximately 630 NPS concessioners operating in 127 park areas (out of the 378 park areas NPS administers). Of this number, there are approximately 113 food service concessioners (providing food services ranging from prepackaged food items to full service restaurants), 71 lodging concessioners (providing lodging ranging from rustic cabins to hotels), 180 merchandising concessioners (providing merchandise ranging from campstores to souvenir shops) and 41 marina concessioners. Most other concessioners are outfitters and guides, including hunting, fishing, hiking, and mountain climbing guides, guided trail rides, river runners, boat/canoe rental, snowmobile rental and bicycle rental operators. NPS generally characterizes concessioners by the primary service provided. However, most larger concessioners provide a combination of services (for example, lodging, food service, merchandising and service stations).

The application procedures of the proposed regulations apply to any person who chooses to submit a proposal for a concession contract. The number of such persons is unlimited.

In 1997 (the latest year for which complete data is available), all but 33 of the 630 concessioners had gross receipts of less than $5 million. NPS considers a concessioner with gross receipts of $5 million or less to be a small business for purposes of this analysis. Businesses that apply for concession contracts may be of any size.

(4) A description of the projected reporting, recordkeeping and other compliance requirements of the proposed regulation, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record;

The proposed concession regulations contain three classes of reporting, recordkeeping and other compliance requirements. They are applicable only to persons holding concession contracts. These are (1) the recordkeeping requirements (§ 51.111 of the proposed regulations) mandated by section 411 of the 1998 Act; (2) the information submission requirements (§ 51.100 of the proposed regulations) necessary for NPS to approve a sale or transfer of a concession contract pursuant to section 408 of the 1998 Act; and (3) the submission and recordkeeping requirements regarding leasehold surrender interests under concession contracts (subpart F of the proposed regulations) necessary for implementation of section 405 of the 1998 Act.

All new concession contracts will contain provisions concerning the first the first two classes of requirements. Only persons that obtain new concession contracts that provide for construction of improvements on park land will be required to comply with the third class of requirements. It is estimated that less than 150 concession contracts will provide for construction of improvements.

The type of professional skills which will be required for compliance are accounting, and in limited circumstances, legal.

(5) An identification, to the extent practicable, of all relevant federal regulations that may duplicate, overlap, or conflict with the proposed regulation.

There are no federal regulations which duplicate, overlap, or conflict with the proposed concession contracting regulations.

(6) A description of any significant alternatives the proposed regulation, that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed regulation on small entities.

The proposed regulations implement express, detailed provisions of the 1998 Act. Given the specificity of the 1998 Act, NPS has little flexibility as to significant alternatives to the provisions of the proposed regulations which would accomplish the objectives of the 1998 Act and which would minimize any impact of the proposed regulations on small businesses. NPS anticipates that public comment on the proposed regulations may result in adoption in the final regulation of alternative procedures in some circumstances. However, in developing the proposed concession regulations, NPS considered and adopted several alternatives for implementing provisions of the 1998 Act consistent with the spirit of the Regulatory Flexibility Act, as follows:

(1) Section 51.13 of the proposed concession regulations authorizes NPS to include in concession contract prospectuses additional solicitation or selection procedures in the interests of enhancing competition. Such additional procedures may include, but are not limited to, issuance of a two-phase prospectus—a qualifications phase and a proposal phase—and, use of a lottery system to select proposals where two or more proposals are determined to be of equal merit. This authority to utilize additional solicitation or selection procedures gives NPS administrative discretion to tailor the solicitation and award of concession contracts in a flexible manner to meet the circumstances of a particular concession opportunity. The result will be a more competitive process in special circumstances.

(2) Section 51.13 also authorizes NPS to include simplified solicitation or information requirements in concession prospectuses when it is considered that the concession contract is likely to be awarded to a sole proprietorship. This non-regulatory administrative flexibility will allow NPS to reduce the paperwork or procedural steps generally required by the regulations for many smaller concession contract opportunities.

(3) Section 406 of the 1998 Act requires that the rates charged visitors by concessioners be reasonable and appropriate and makes the rates subject to approval by NPS. NPS, in developing the proposed concession regulations, chose not to implement these requirements by regulation. Rather, the NPS rate approval process will continue to be established administratively, giving NPS more flexibility in its implementation. In this connection, NPS in recent years has been seeking to reduce paperwork and procedural steps in its rate approval process. It will continue to do so with an intention to rely on market forces to control rates whenever possible.

(7) A discussion of certain possible significant alternatives consistent with the stated objectives of applicable statutes. The specific significant alternatives considered are set forth below together with NPS' analysis:

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

As stated above, all but approximately 33 of the some 630 businesses to which the proposed concession regulations will apply are small businesses within the meaning of the Regulatory Flexibility Act. Accordingly, NPS has made the regulations' requirements equally applicable to both small and large businesses.

In this connection, the recordkeeping requirements set forth in § 51.111 of the proposed regulations, although required to carry out the mandate of section 411 of the 1998 Act, do not prescribe any particular records that a concessioner must maintain as a regulatory compliance matter. Rather, the regulation gives NPS the authority to prescribe recordkeeping requirements administratively. This will occur in the form of requirements of particular concession contracts.

It is NPS policy to have less burdensome recordkeeping requirements for smaller concessioners. NPS policy under consideration requires an audited financial report to be submitted to NPS only by concessioners with annual gross receipts of more than 1 million. Concessioners with annual gross receipts between $250,000 and $1 million need only include a financial review with their annual report financial report and concessioners with gross receipts of less than $250,000 are not required to submit any form of independent verification of their annual financial reports.

The information that a concessioner is to submit to NPS under § 51.100 of the proposed regulations (regarding sale or transfer of a concession contract) is not necessarily mandatory. Section 51.101 of the proposed regulations permits NPS to waive these information requirements in circumstances where particular information is considered unnecessary.

The information and recordkeeping requirements of subpart F of the proposed regulations are applicable only to those concessioners that that have leasehold surrender interests. However, although mandatory, in fact the proposed regulations only mandate what a prudent concessioner would have to do in order to make sure that it receives credit for all the leasehold surrender interest to which the concessioner is entitled. This is because, under section 405 of the 1998 Act, a concessioner generally obtains leasehold surrender interest in buildings it constructs on park area lands in the amount of their initial construction cost inflated by CPI. In order to keep track of this amount, a concessioner would have to maintain the records that subpart F requires as a matter of prudent business practice. Subpart F also requires a concessioner to submit to NPS for approval plans and specifications of buildings it propose to build on park lands. This requirement is necessary in order for NPS to carry out its responsibilities under section 402 of the 1998 Act. Section 402 requires that the development of concession facilities in a park area be limited to those that are necessary and appropriate for public use and enjoyment of the park area and that are consistent to the highest practicable degree with the preservation and conservation of the resources and values of the park area.

(2) The clarification, consolidation, or simplification of compliance and reporting requirements under the regulation for small entities;

NPS considers that the compliance and reporting requirement of the proposed regulations are quite clear. However, NPS anticipates that the clarity of the proposed regulations will be improved in the final regulations as a result of the consideration of public comments. NPS considers that the location of the compliance and reporting requirements of the proposed regulations (in three different subparts) is appropriate as the requirements reflect the specific substantive provisions of the subpart. To consolidate them in one location would make them less clear as they would not be in context. NPS considers that the proposed regulations are as simple as possible in light of the many statutory requirements applicable to concession contracts under the terms of the 1998 Act. However, NPS anticipates that public comment may contain good suggestions for further simplification that will be reflected in the final regulations.

(3) The use of performance rather than design standards;

The proposed regulations do not dictate standards for reporting or information requirements.

(4) An exemption from coverage of the regulation, or any part thereof, for small entities.

As discussed above, almost all NPS concessioners are small businesses within the meaning of the Regulatory Flexibility Act. The proposed regulations, accordingly, do not exempt small businesses from their application.

Initial Conclusion

NPS, based on the above considerations, does not consider that the proposed concession contracting regulations, even if they are subject to the Regulatory Flexibility Act, will have a significant impact on a substantial number of small businesses, within the meaning of the Regulatory Flexibility Act. These initial determinations will be reviewed by NPS in the course of considering public comments on this analysis. As indicated above, NPS will then take appropriate final action with respect to any applicable requirements of the Regulatory Flexibility Act by the date of publication of the final concession contracting regulations. No final administrative decision on the applicability of the Regulatory Flexibility Act to the proposed concession contracting regulations or their impact will be made until after consideration of public comments received in response to this notice.

Linda Canzanelli,

Acting Associate Director, Park Operations and Education.

[FR Doc. 99–30292 Filed 11–19–99; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6478–7]

RIN 2060–AG91

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT)

AGENCY: Environmental Protection Agency (EPA).

ACTION. Proposed amendments.

SUMMARY: On June 29, 1999 (64 FR 34854), we issued the National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology (Generic MACT) rulemaking package. This proposal amends the promulgated rule (40 CFR part 63, subpart YY) regarding the regulation of surge control vessels and bottoms receiver vessels. This proposal also clarifies that surge control vessels and bottoms receiver vessels containing wastewater are covered by the wastewater provisions.

DATES: Comments. Comments must be received on or before January 21, 2000.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by December 13, 1999, a public hearing will be held on December 22, 1999.

ADDRESSES: Comments. Written comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention, Docket No. A–97–17, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of comments also be sent to Mr. David W. Markwordt (see **FOR FURTHER INFORMATION CONTACT**).

Public hearing. If a public hearing is held, it will be held at 10:00 a.m. in the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–97–17 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning this document, contact Mr. David W. Markwordt; Policy, Planning, and Standards Group; Emission Standards Division (MD–13); U.S. Environmental Protection Agency; Research Triangle Park, North Carolina 27711; telephone: (919) 541–0837; facsimile: (919) 541–0942; e-mail address: markwordt.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Docket

The docket is an organized and complete file of all the information we considered in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (Act).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Public Hearing

Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Dorothy Apple; Policy, Planning, and Standards Group; Emission Standards Division (MD–13); U.S. Environmental Protection Agency; Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4487 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Dorothy Apple to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Comments

Comments and data may be submitted by electronic mail (e-mail) to: a-and-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number: A–97–17. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Ms. Melva Toomer, U.S. EPA, OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 944, Durham NC 27711. We will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when we receive information, the information may be made available to the public without further notice to the commenter.

Technology Transfer Network

In addition to being available in the docket, an electronic copy of today's proposed amendments is also available through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Plain Language

In compliance with President Clinton's June 1, 1998 Executive Memorandum on Plain Language in government writing, this preamble is written using plain language. Thus, the use of "we" in this notice refers to the EPA. The use of "you" refers to the reader, and may include industry; State, local, and tribal governments; environmental groups; and other interested individuals.

Regulated Entities

Entities potentially regulated are those that produce acetal resins (AR), acrylic and modacrylic fiber (AMF), hydrogen fluoride (HF), and polycarbonate (PC) and are major sources of hazardous air pollutants (HAP) as defined in section 112 of the Act. Regulated categories and entities include:

Category	Regulated entities[a]
Industry	Producers of homopolymers and/or copolymers of alternating oxymethylene units. Producers of either acrylic fiber or modacrylic fiber synthetics composed of acrylonitrile (AN) units. Producers of, and recoverers of HF by reacting calcium fluoride with sulfuric acid. For the purpose of implementing the rule, HF production is not a process that produces gaseous HF for direct reaction with hydrated aluminum to form aluminum fluoride (i.e., the HF is not recovered as an intermediate or final product prior to reacting with the hydrated aluminum). Producers of polycarbonate.

[a] This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1104(a)(1), (b)(1), (c)(1), and (d)(1) of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. What is the Background for the Proposed Amendments?

On June 29, 1999 (64 FR 34854), we published the National Emission Standards for Hazardous Air Pollutants: Generic MACT final rulemaking package. At that time, standards were promulgated for four major HAP source categories (i.e., AR production, AMF fiber production, HF production, and PC production). This proposal amends the promulgated rulemaking package (40 CFR part 63, subpart YY) regarding the regulation of surge control vessels and bottoms receiver vessels that do not contain wastewater, and clarifies that surge control vessels and bottoms receiver vessels that contain wastewater are covered by the wastewater provisions of these standards. These proposed amendments would parallel the intended subparts F, G, and H of part 63 (collectively known as the hazardous organic national emission standards for hazardous air pollutants (HON)) level of control.

We are also making corrections to the promulgated rulemaking package (40 CFR part 63, subparts SS, TT, UU, WW, and YY) under a separate notice.

II. What is the Basis for the Proposed Amendments?

During the public comment period for the proposed wastewater provisions (64 FR 34950) applicable to wastewater streams for the AR, AMF, and PC production source categories, we received a comment that stated that one part of the proposed provisions for liquid streams in open systems under the generic MACT rule is inconsistent with the wastewater requirements of the HON, and that the Generic MACT wastewater provisions, as many other aspects of the Generic MACT rulemaking package, are intended to parallel what is required under the HON.

The commenter explained that, under the HON, a "tank" could qualify as either a storage vessel or a surge control vessel if it met the relevant size and vapor pressure criteria and that, as proposed, § 63.1106(c) of the Generic MACT wastewater provisions also applies to "tanks," and that a vessel could be subject to both requirements (i.e., storage vessel/surge control vessel requirements and liquid streams in open systems requirements). The commenter stated that the overlap results in inconsistencies in emission control requirements and suggested that we add clarifying changes to eliminate double-regulating of a storage vessel that qualifies as a vessel subject to the liquid streams in open systems requirements.

Under the Generic MACT rule, a vessel that qualifies as a vessel subject to the liquid streams in open systems requirements would contain material that qualifies as wastewater as defined under § 63.1101 (as proposed to be amended). Additionally, the definition for "storage vessel" or "tank" under the Generic MACT promulgated rule excludes "vessels that store wastewater." Therefore, as proposed under the wastewater provisions, "vessels that store wastewater" would not be subject to "storage vessel" or "tank" requirements. Our assessment of the comment indicated that there was a need to modify the definition of the promulgated definition for "storage vessel" to clarify that applicable storage vessels or tanks that contain wastewater are covered under the wastewater provisions. Therefore, today's proposal adds this clarification to the definition of "storage vessel" and is consistent with the HON.

Upon further evaluation of the comment, we discovered that we omitted requirements for "surge control vessels" and "bottoms receivers." Under the HON, surge control vessels and bottoms receivers are covered under equipment leak requirements, though their control applicability criteria and requirements parallel what is required for storage vessels. The Control Level 2 equipment leak subpart (40 CFR part 63, subpart UU), which is cross-referenced under the Generic MACT rule, parallels the level of control under the HON, except that it does not specify requirements for bottoms receivers and surge control vessels. The Control Level 2 equipment leak subpart referenced under the Generic MACT rule mirrors what was developed under the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) Consolidated Air Rule (CAR) development effort. Under the SOCMI CAR effort, bottoms receivers and surge control vessels are regulated under the storage vessel provisions.

Inadvertently, under the promulgated Generic MACT rule, we defined "storage vessel" as excluding "bottoms receivers" and "surge control vessels" (which parallels the HON). This led to an omission of specified requirements for bottoms receivers and surge control vessels, and a need for clarification on how they were to be regulated. Therefore, we are proposing to amend the definition for "storage vessel" as including bottoms receivers and surge control vessels. As intended, this proposed amendment would result in control of these vessels that parallels what is done under the SOCMI CAR, which mirrors the requirements of the HON, and would reduce confusion on how they are to be regulated.

III. What Are the Impacts Associated With the Proposed Amendments?

The changes contained in the proposed amendments consist of corrections and a clarification change that reflect what was intended and accounted for in our control costs and emission reduction estimates at the time of promulgation of 40 CFR part 63, subparts SS, TT, UU, WW, and YY. Therefore, these proposed amendments will not affect the estimated emissions reduction or the control costs for the standards promulgated for AR, AMF, HF, and PC production source categories on June 29, 1999 (64 FR 34854). These clarifying corrections should make it easier for owners and operators of affected sources, and for local and State authorities, to understand and implement the requirements of the Generic MACT rule.

IV. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to OMB under the *Paperwork Reduction Act*, 44 U.S.C. 3501, *et seq.* We submitted an Information Collection Request (ICR) document (ICR No. 1871.02) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street, SW, Washington, DC 20460 or by calling (202) 260–2740. We may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB approved the information collection requirements for the AR, AMF, HF, and PC production source categories and assigned the OMB control number 2060–0420 to the ICR. This approval expires September 30, 2002.

The proposed amendments would have no impact on the information collection estimates made previously for the promulgated rule. Therefore, the ICR has not been revised.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that these proposed amendments do not qualify as a "significant regulatory action" and, therefore, are not subject to review by OMB.

C. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule has minimal direct affects on the 10 plants which are impacted by this rule. This proposed rule has even less impacts on States within which the plants reside. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996

Under the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), we are required to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

These proposed amendments would not have a significant impact on a substantial number of small entities because they clarify and correct the promulgated 40 CFR part 63, subparts SS, TT, UU, WW and YY, and do not impose any additional regulatory requirements on owners or operators of affected sources regulated by standards promulgated on June 29, 1999 (64 FR 34854).

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995, Pub. L. 104–4, we must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Under section 203, we are required to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of UMRA, we must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. We are required to select the least burdensome alternative for State, local, and tribal governments and the private sector that achieves the objectives of the rule, unless we explain why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because these proposed amendments do not include a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year, we have

not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by these proposed amendments, we are not required to develop a plan with regard to small governments. Therefore, the requirements of UMRA do not apply to these proposed amendments.

F. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (the NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note), we are directed to use voluntary consensus standards instead of government-unique standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. By doing so, the Act is intended to reduce the cost to the private and public sectors.

Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, *etc.*) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), International Organization for Standardization (IOS), International Electrotechnical Commission (IEC), American Petroleum Institute (API), National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). Under the NTTAA, we are required to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

As part of a larger effort, we are undertaking a project to cross-reference existing voluntary consensus standards in testing, sampling, and analysis, with current and future EPA test methods. When completed, we will use this project to assist in identifying potentially applicable voluntary consensus standards that can then be evaluated for equivalency and applicability in determining compliance with future regulations.

These proposed amendments do not require the use of any new technical standards, therefore section 12(d) does not apply.

G. Executive Order 13045

Executive Order 13045, entitled Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that we determine (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives that we considered.

These proposed amendments are not subject to Executive Order 13045 because they do not constitute an economically significant regulatory action as defined by Executive Order 12866 and because they do not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13084

Under Executive Order 13084, we may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance cost incurred by the tribal governments, or we consult with those governments. If we comply by consulting, Executive Order 13084 requires that we provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of our prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, we are required to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed amendments do not impose any duties or compliance costs on Indian tribal governments. Further, the proposed amendments provided herein do not significantly alter the control standards imposed by 40 CFR part 63, subparts SS, TT, UU, WW, and YY, including any that may effect communities of Indian tribal governments. Hence, today's proposed amendments do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these proposed amendments.

List of Subjects for 40 CFR Part 63

Environmental protection, Acetal resins production, Acrylic and modacrylic fiber production, Air emissions control, Equipment, Hazardous air pollutants, Hydrogen fluoride production, Polycarbonate production, Reporting and recordkeeping requirements, Storage vessel.

Dated: November 15, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

2. Section 63.1101 is amended by revising the definitions for *equipment* and *storage vessel* as follows:

§ 63.1101 Definitions.

* * * * *

Equipment means each of the following that is subject to control under this subpart: pump, compressor, agitator, pressure relief device, sampling collection system, open-ended valve or line, valve, connector, instrumentation system in organic hazardous air pollutant service as defined in § 63.1103 for the applicable process unit, whose primary product is a product produced by a source category subject to this subpart.

* * * * *

Storage vessel or *Tank*, for the purposes of regulation under the storage vessel provisions of this subpart, means a stationary unit that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) that provides structural support and is designed to hold an accumulation of liquids or other materials. Storage vessel includes surge control vessels and bottoms receiver vessels. For the purposes of regulation under the storage vessel provisions of this subpart, storage vessel does not include vessels

permanently attached to motor vehicles such as trucks, railcars, barges, or ships; or wastewater storage vessels. Wastewater storage vessels are covered under the wastewater provisions of § 63.1106.

* * * * *

[FR Doc. 99–30231 Filed 11–19–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99–2463; MM Docket No. 99–15; RM–9440]

Radio Broadcasting Services; Neihart, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document denies a petition for rule making filed by Mountain West Broadcasting requesting the allotment of Channel 246C2 at Neihart, Montana. *See* 64 FR 5736, February 5, 1999. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–15, adopted October 27, 1999, and released November 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–30172 Filed 11–19–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 990927266–9266–01; I.D. 072699A]

RIN 0648–AM62

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Navy Operations of Surveillance Towed Array Sensor System Low Frequency Active Sonar; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correction to advance notice of proposed rulemaking.

SUMMARY: This document contains corrections to the advance notice of proposed rulemaking that was published on October 22, 1999. These corrections are necessary to inform the public of the correct distance the U.S. Navy proposes to use to safeguard marine mammals from receiving more than a non-serious injury due to sounds from the Navy's Surveillance Towed Array Sensor System (SURTASS) Low Frequency Active (LFA) Sonar.

ADDRESSES: A copy of the U.S. Navy application may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, ext 128.

SUPPLEMENTARY INFORMATION: On October 22, 1999, NMFS published a notice (64 FR 57026) that NMFS had received a request from the U.S. Navy for a small take of certain marine mammal species incidental to Navy operations of SURTASS LFA Sonar over the next 5 years.

Need for Correction

As published, the notice contains errors to the proposed safety zone that may prove to be misleading and are in need of correction.

Correction of Publication

Accordingly, the publication on October 22, 1999, of the advance notice of proposed rulemaking (I.D. 072699A), which was the subject of FR Doc. 99–27579, is corrected as follows:

On page 57028, in the first column, under the heading Risk Analysis, in paragraph two, the sentence beginning on line 13, is corrected to read: "However, the RL for serious injury would be much higher, and the marine mammal would have to be much closer to the array than the 1 km (0.54 nm) radius around the vertical array delineating the 180 dB sound field."

On page 57028, in the second column, in the second complete paragraph, in line 7 the words inside the parentheses are corrected to read: "(inside the 180 dB re 1 μPa_{rms} sound field; approximately 1 km (0.54 nm) from the source)"

Dated: November 16, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30422 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 224
Monday, November 22, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 3:30 p.m. and adjourn at 5:00 p.m on Friday, December 10, 1999, at the University of Delaware, Black Studies Department, 420 Ewing Hall, Conference Room 416, Newark, Delaware 19716. The Committee will (1) update developments under its Reference Guide project, (2) identify prospective nominees for appointments, and (3) delimit ideas for its next project, including a series of forums across Delaware.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 15, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–30300 Filed 11–19–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Amendment to Notice of Public Meeting of the Louisiana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission which was to convene at 6:00 p.m. and adjourn at 8:30 p.m. on Thursday, November 18, 1999, at the Radisson Hotel, 4728 Constitution, Baton Rouge, Louisiana, has a new meeting date. The meeting date is Thursday, December 16, 1999. This is a change of date only.

The original notice for the meeting was announced in the **Federal Register** on Friday, October 29, 1999, FR Doc. 99–28385, 64 FR, No. 209, p. 58379.

Persons desiring additional information should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414).

Dated at Washington, DC, November 15, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–30298 Filed 11–19–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 5:00 p.m on Friday, December 10, 1999, at the Philadelphia Convention Center, Administrative Level Board Room, 12th and Arch Streets, Philadelphia, Pennsylvania 19107. The Committee will review the staff draft report, Barriers to Minority and Women Owned Business in Pennsylvania, develop preliminary conclusions, recommendations, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 15, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–30299 Filed 11–19–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn at 9:00 p.m on Monday, December 6, 1999, at the Holiday Inn (Rushmore Plaza), 505 North 5th Street, Rapid City, South Dakota 57701. The purpose of the meeting is to obtain information from Federal, tribal, State, and local officials and citizens to present views and information on administration of justice issues in South Dakota affecting Native Americans.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 16, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–30301 Filed 11–19–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Census 2000 Web Site and Questionnaire Customer Satisfaction Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 21, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Courtney Stapleton, Bureau of the Census, PRED, Mailstop 9200, Washington, DC 20233–0001, (301)457–4142.

SUPPLEMENTARY INFORMATION

I. Abstract

The Census Bureau plans to administer customer satisfaction surveys to a sample of people who (1) Fill out their census form on the Internet or (2) Go to the Internet Census 2000 help screens. The surveys will be self administered, self-selected and will be completed and submitted via the Internet. The surveys evaluate various aspects of Internet Data Collection (IDC) and Internet Questionnaire Assistance (IQA). Specific help topics and overall satisfaction will also be evaluated.

This evaluation is unique, given it is the first time the Census Bureau has attempted an Internet data collection within the decennial census. This evaluation will serve as an indicator of the success of the project as measured by customer satisfaction. It will provide substantial feedback for future Census Internet products.

Of those who submit their census form via the Internet, a sample will be selected by digits located in the 22 digit Census ID. Once in the sample, those people will be asked if they would like to fill out the customer satisfaction survey while they are online. The respondent then must choose to participate by clicking on the link to the survey. Of those who visit the Internet Census 2000 help screens, a sample will be asked if they would like to fill out the customer satisfaction survey during pre-selected times. The respondent then must choose to participate by clicking on the link to the survey while online. We anticipate 1,500 responses from each survey.

Additionally, there are 7,500 households that are a part of the Response Mode and Incentive Experiment (RMIE). These households will be specifically asked to fill out their census forms via the Internet. These households will receive a letter giving them the Internet address of the Census Internet Form. Some of these respondents will be offered an incentive of a 30 minute pre-paid phone card if they do in fact complete their census form via the Internet. We expect that the use of the incentive and advance letter will increase response rates to the customer satisfaction survey. We anticipate 4,500 responses.

II. Method of Collection

The customer satisfaction surveys will be online self-administered surveys. Respondents who are selected to be a part of the sample will have to self select by clicking on a hypertext link to complete the survey. Once completed, the respondent will submit the survey online.

III. Data

OMB Number: Forthcoming.

Form Number: This electronic questionnaire will have no form number.

Type of Review: Regular submission.

Affected Public: Those who receive Census short forms or update/leave (US and Puerto Rico) and have access to the Internet.

Estimated Number of Respondents: 1,500 (IQA)+ 1,500 (IDC)+ 4,500 (RMIE) = 7,500.

Estimated Time Per Response: 2 minutes.

Estimated Total Annual Burden Hours: 250.

Estimated Total Annual Cost: There is no cost to the respondent other than the time taken to complete the survey.

Respondent's Obligation: Voluntary (self-selected).

Legal Authority: Title 13, United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 16, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–30349 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 56–99]

Foreign-Trade Zone 174—Tucson, AZ; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board), by the City of Tucson, Arizona, grantee of Foreign-Trade Zone 174, requesting authority to expand its zone (Site 2) in Tucson, Arizona, within the Tucson Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 8, 1999.

FTZ 174 was approved on January 30, 1991 (Board Order 508, 56 FR 4595, 2/5/91). The City of Tucson, Arizona, was designated the new grantee on November 22, 1996. The general-purpose zone project currently consists of five sites (398 acres): *Site 1* (107 acres)—Southpointe Park, intersection of Kolb and Valencia Roads; *Site 2* (193 acres)—Century Park Research Center, along Kolb Road between Valencia Road and I–10; *Site 3* (70 acres)—within the Santa Cruz industrial park; *Site 4* (25 acres)—within the Downtown Commerce Park, adjacent to I–19 and I–10; and, *Site 5* (3 acres)—warehouse facility, 330 South Toole Avenue.

The applicant is now requesting authority to expand existing Site 2, by

adding a 70-acre parcel within the Century Park Research Center, along Kolb Road between Valencia Road and I–10, Tucson. This proposed expansion is located within the State designated Enterprise Zone and will increase Site 2 from 193 acres to 263 acres. The area previously had FTZ status prior to a relocation of certain space in 1996. The site is owned by the Levin Family Limited Partnership. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 21, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 7, 2000).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 166 West Alameda, Tucson, AZ 85701.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: November 9, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–30385 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1061]

Approval for Expanded Manufacturing Authority (Pharmaceutical Products) Within Foreign-Trade Subzone 15D Bayer Corporation Kansas City, MO

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Kansas City Foreign-Trade Zone, Inc., grantee of FTZ 15, has requested authority on behalf of Bayer Corporation (Bayer), operator of FTZ Subzone 15D, located in Kansas City, Missouri, to expand the scope of manufacturing activity conducted under FTZ procedures and to expand the Subzone 15D boundaries at the Bayer plant (FTZ Doc. 52–98, filed 11–16–98; amended 1–25–99 and 3–4–99, to remove nitromethane and bulk aspirin from the scope of authority); and,

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 64677, 11/23/98); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, Therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, D.C., this 4th day of November 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–30386 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1063]

Expansion of Foreign-Trade Zone 138 Columbus, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Rickenbacker Port Authority, grantee of Foreign-Trade Zone No. 138, submitted an application to the Board for authority to expand FTZ 138 to update the boundaries of the existing zone site at Rickenbacker International Airport (Franklin County) and to include a new site in Lima (Allen County), Ohio, adjacent to the Columbus Customs port of entry (FTZ Docket 55–98, filed 12/4/98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 69261, 12/16/98) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 138 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 9th day of November 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–30387 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 55–99]

Foreign-Trade Zone 116—Port Arthur, TX; Expansion of Manufacturing Authority—Subzone 116B, Fina Oil and Chemical Company, Jefferson County, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone of Southeast Texas, Inc., grantee of FTZ 116, requesting authority on behalf of the Fina Oil and Chemical Company (Fina), to expand the scope of manufacturing activity conducted under zone procedures within Subzone 116B at the Fina oil refinery complex in Jefferson County, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 8, 1999.

Subzone 116B was approved by the Board in 1995 and consists of four sites with 450 employees in Jefferson County, Texas: *Site 1* (1,244 acres)—main refinery complex located along the Neches River at State Farm to Market Highway 366 & 32nd Street, Port Arthur Jefferson County); *Site 2* (19 acres)—West Port Arthur Tank Farm (564,000 barrel capacity), owned by American Petrofina Pipe Line Company (subsidiary of Fina, Inc.), located at Roosevelt and 53rd Streets, Port Arthur; *Site 3* (194 acres)—refinery expansion site, located adjacent to the refinery at State Farm to Market Hwy 366, Port

Arthur; *Site 4*—Sun Marine Terminal-Nederland tank storage facility, leased storage (1,278,500 barrel capacity), along the Neches River in Nederland, Texas. Authority was granted for the manufacture of fuel products and certain petrochemical feedstocks and refinery by-products (Board Order 772, 60 FR 49564, 9/26/95).

The refinery (180,000 barrels per day; 450 employees) is used to produce fuels and petrochemical feedstocks. The expansion request involves a new petrochemical unit. Fina, in a limited partnership with BASF Corporation will construct a single-train naphtha cracker facility on 51 acres of Site 1. The new facilities (with 150 additional employees) will produce ethylene (1.9 billion lbs./year), propylene (1.2 billion lbs./year), as well as butadiene, styrene, benzene, toluene and xylene (HTS 2901, duty free). In addition, the expansion will increase storage capacity by 1.5 million barrels, and increase the overall crude and condensate capacity of the refinery to 240,000 BPD. New feedstocks for use in the expanded facilities will include natural gas condensate, and virgin gas oil (HTS 2710.00.45, 2710.00.05, and 2710.00.10, duty rate ranges from 5.25 cents/barrel to 10.5 cents/barrel). Approximately 75 percent of the crude oil and 85 percent of the condensates will be sourced from abroad.

Zone procedures would exempt the new refinery facility from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates for certain petrochemical feedstocks (duty-free) by admitting foreign crude oil and natural gas condensate in non-privileged foreign status. The application indicates that the additional savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 21, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period February 7, 2000.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 500 Dallas, Suite 1160, Houston, TX 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., Washington, DC 20230

Dated: November 9, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–30384 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1065]

Grant of Authority for Subzone Status; Mercury Marine (Inc.) (Marine Propulsion Products), Fond Du Lac and Oshkosh, WI

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "the establishment * * * of * * * foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in our adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Foreign Trade Zone of Wisconsin, Ltd., grantee of Foreign-Trade Zone 41, has made application for authority to establish special-purpose subzone status at the marine propulsion products manufacturing facilities of Mercury Marine (Inc.), located in Fond du Lac and Oshkosh, Wisconsin (FTZ Docket 47–98, filed 10–30–98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 60293, 11–9–98); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the marine propulsion products manufacturing facilities of Mercury Marine (Inc.), located in Fond du Lac and Oshkosh, Wisconsin (Subzone 41H), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 9th day of November, 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–30383 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Massachusetts Institute of Technology; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1996 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 99–022. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Fish Tank System, replacement parts for existing tank system, and fish breeding accessories. *Manufacturer:* Klaus-Jurgen Schwartz, Germany. *Intended Use:* See notice at 64 FR 53999, October 5, 1999.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is indented to be used, is being manufactured in the United States. *Reason:* The foreign instrument provides: (1) An optimal design based on small tank size, simple operation and uniformity for genetic analysis of early development using large numbers of zebra fish and (2) compatibility with an existing tank system. These capabilities are pertinent to the applicant's intended purpose and we know of no other instrument or apparatus of equivalent scientific value to the foreign

instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–30381 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC.

Docket Number: 99–025. *Applicant:* University of North Carolina, School of Pharmacy, CB #7360, Beard Hall, S. Colombia Street, Chapel Hill, NC 27599. *Instrument:* Nose Only Inhalation System. *Manufacturer:* ADG Developments Ltd., United Kingdom. *Intended Use:* The instrument is intended to be used to evaluate novel therapies for the treatment of tuberculosis in animal models by delivering aerosols of drug by nose only exposure to Mycobacterium infected guinea pigs. *Application accepted by Commissioner of Customs:* October 28, 1999.

Docket Number: 99–026. *Applicant:* Boston University, Department of Biology, 44 Cummington Street, Boston, MA 02215. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used in the study of the ultrastructure of biological specimens, especially neurons in the brain during experiments conducted to determine whether the structure of neurons is altered under a variety of experimental conditions, such as different levels of activity or molecular signaling. In addition, the instrument will be used to investigate the development and maturation of brain neurons and their synapses to determine how structure and ultrastructure change with growth and maturation of the organism. *Application accepted by Commissioner of Customs:* October 28, 1999.

Docket Number: 99–027. *Applicant:* University of Hawaii, School of Ocean, Earth Science and Technology, Department of Oceanography, 1000 Pope Road, MSB 610, Honolulu, HI 96822. *Instrument:* Low-Level Beta Counter, Model GM–25–5. *Manufacturer:* Riso National Laboratory, Denmark. *Intended Use:* The instrument is intended to be used for the measurement of naturally occurring radionuclides in seawater. Various marine regimes will be sampled at a variety of oceanic depths in order to estimate the spatial and temporal distribution of radioactive elements. The instrument will be used during the graduate level course Ocean 633, Chemical Oceanography Lab Methods to teach oceanographic laboratory and field analytical techniques. Application accepted by Commissioner of Customs: November 4, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99–30382 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Business Development Mission to Brazil, Uruguay, Argentina and Chile

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of business development mission to Brazil, Uruguay, Argentina and Chile.

SUMMARY: This notice serves to inform the public of a Secretarial Business Development Mission to Brazil, Uruguay, Argentina and Chile, February 13–21, 2000, and of the opportunity to apply for participation in the mission; sets forth objectives, procedures and participation criteria for the mission; and requests applications.

DATES: Applications should be submitted to Lucie Naphin by December 27, 1999, in order to ensure sufficient time to obtain in-country appointments for applicants selected to participate in the mission. Applications received after that date will be considered only if space and scheduling constraints permit. Recruitment and selection of private sector participants will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daley on March 3, 1997.

ADDRESSES: Request for and submission of applications—Applications are available from Lucie Naphin, Director, Office of Business Liaison, at (202) 482–1360 or via facsimile at (202) 482–4054. Numbers listed in this notice are not toll-free. An original and two copies of the required application materials should be sent to Ms. Naphin. Applications sent by facsimile must be immediately followed by submission of the original application to Ms. Naphin at the following address: Office of Business Liaison, Room 5062, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Lucie Naphin, Director of the Office of Business Liaison, or Jennifer Andberg at (202) 482–1360. Information is also available via the International Trade Administration's (ITA) website at: http://www.ita.doc.gov/doctm.

SUPPLEMENTARY INFORMATION:

Description of the Mission

Secretary of Commerce William M. Daley will travel to Brazil, Uruguay, Argentina and Chile as head of a senior-level business development mission focused on three key growth sectors—information and communications technology, environment and energy. Brazil, Uruguay and Argentina, together with Paraguay, form Mercosur, the acronym in Spanish for the Southern Common Market, the world's fourth largest economic area, a customs union with a population in excess of 200 million people and a combined GDP of approximately $1 trillion. Chile, along with Bolivia, is an associate member of Mercosur.

The mission will visit Brasilia, Sao Paulo, Montevideo, Buenos Aires and Santiago. The overall focus of the trip will be commercial opportunities for U.S. companies, including joint ventures, presented by the continuing market liberalization and privatizations within Mercosur. In each country, briefings and matchmaking business appointments will be arranged for members of the business delegation in order that they may take full advantage of the commercial opportunities available to firms in these key South American markets. Individual country briefings will include local public and private sector officials to discuss developments in the country that affect the commercial environment.

Commercial Setting for the Mission

Participants in the mission will be drawn from, but not limited to, the following sectors:

• *Information and Communications Technology:* Brazil is Latin America's most important telecommunications market for U.S. companies. U.S. companies' telecommunications exports to Argentina totaled $461.4 million in 1997—nearly doubling the 1996 total of $238 million. Chile is the most advanced telecommunications market in Latin America. A 20–25 percent annual growth rate is predicted within Chile for the next five years, with investments projected at $700 million annually.

• *Environment:* Brazil is the largest environmental technologies market in South America, totaling an estimated $3.65 billion for 1997, with growth projections for equipment sales ranging from 8–10 percent per year over the next five years. Argentina is the second largest environmental technologies market in South America, totaling an estimated $885 million for 1998. Over the last five years, investment in the environmental sector has doubled. The Chilean environmental market totaled approximately $460 million in 1997 and is expected to grow by between 8 and 10 percent through 2000.

• *Energy:* Brazil is expected to make annual investments of $8 billion over the next five years to meet its rapidly increasing energy demand. Argentine electricity planners expect consumption to continue to grow 5 percent annually for the next decade with investment opportunities in natural gas combined cycle power generation plants, transmission and distribution networks. Chile's electricity demand—over 29,000 GWh in 1998—is averaging 7 percent annual growth. Natural gas, coal-fired and hydro power plants totaling 3,500 MW of generating capacity are currently under construction or planned and offer potential investment and trade opportunities.

Mercosur

Mercosur encompasses 50 percent of Latin America's Gross Domestic Product, 43 percent of its population, 59 percent of its total landmass, 50 percent of its industrial production and intra-regional trade and 33 percent of total Latin American foreign trade. Its nations' per capita income is 30 percent higher than that of Latin America as a whole.

Reforms implemented by the individual countries have produced impressive growth rates. The strong GDP growth recorded by the region in the 1990s has been underpinned by a surge in foreign trade and direct investment. Since 1990, U.S. export sales to the rest of Latin America and the Caribbean have increased 150 percent, and by almost 250 percent to the countries of Mercosur, reaching $22.4 billion in 1998.

U.S. investments within the Mercosur region have increased dramatically during the 1990s, reaching a total of $40 billion by 1998. U.S. companies have invested in a broad range of sectors from transportation infrastructure and national utilities, to mining and industry, to services and agriculture. In Brazil, U.S. investment now exceeds $38 billion, to the point where the United States is Brazil's largest investor, accounting for one-third of total foreign investment. In fact, Brazil is home to more U.S. direct investment than Mexico.

However, even before the global financial crisis hit Brazil and led to its January 1999 devaluation, a general slowdown in Brazil and the other Mercosur economics was causing U.S. exports to slump. U.S. exports to Mercosur declined by 3.4 percent, falling by almost $800 million in 1998, compared to 1997. Even so, our trade is still substantial. U.S. exports to Mercosur last year exceeded $22.4 billion, ranking the region as our 6th largest export market.

The slowdown is clearly visible in U.S. trade performance. Excluding Mexico, 1998 marked the first time since 1986 that our total trade with Latin America declined, with our exports to the region flat and imports falling. For the year, U.S. exports to Brazil declined 5 percent; to Chile by 9 percent; and virtually all other countries within the region showed a reversal from recent double-digit export growth. Our balance-of-trade has decreased dramatically during the first 9 months of 1999 when compared with the same period last year.

Fortunately, recent reports indicate that the Latin downturn may be short lived, with growth returning to many of the countries in the year 2000.

Already Brazil has evidenced signs of a more rapid than expected recovery following its January devaluation. The government of Brazil is forecasting an overall trade surplus in 1999. Interest rates remain high, but they are far lower than the levels seen last fall and winter. Brazil has been lowering rates steadily since March. Most observers predict that positive growth will resume by the end of the year. Several important sectors, such as transportation, telecommunications and agriculture, have continued to grow even during the recession.

Positive Brazilian growth should have a salutary effect, both on overall regional economic prospects and for a rebound in U.S. exports and investment. Brazil, after all, is the largest economy in Latin America, the 9th largest in the world and our largest South American trading partner. Its gross national product is nearly equal to that of the rest of South America combined. It is also a key market for Latin nations, particularly within the southern cone. Indeed, Argentina, the second largest economy in South America, sends roughly 30 percent of its exports to Brazil and has been severely affected by the Brazilian recession.

The continuing recovery in Asia should provide an impetus for growth in other Latin countries. Chile is but one example. Mired in a recession for much of the past year caused by declining world prices for its primary export commodity—copper—and the contraction of Asian markets which account for almost 30 percent of Chilean exports, Chile has nonetheless appeared to weather the worst of its economic storm. Business confidence is returning and the longer term outlook for Chile's economy is positive. Export commodity prices are recovering, and after a year of very low or zero growth in 1999, the government of Chile expects a rebound to 5.5 percent growth in 2000.

Goals for the Mission

The mission will further both U.S. commercial policy objectives and advance specific business interests. It is aimed at:

• Introducing American companies to Mercosur and promoting expanded commercial opportunities in Mercosur;

• Advocating on behalf of U.S. firms already active in Mercosur;

• Resolving market access issues for U.S. companies in Mercosur, particularly in light of Mercosur's integration efforts, both internally and with other markets; and

• Advancing U.S. economic/commercial policy objectives in the FTAA negotiations, particularly as it will allow the Secretary to engage Argentine officials in a timely discussion of their FTAA goals, as they will have the Chairmanship of the FTAA process. The Secretary and participating U.S. companies will be among the first high-level U.S. officials to interact with the newly elected governments in Argentina, Uruguay and Chile.

Scenario for the Mission

Briefings and matchmaking business appointments will be made for members of the business delegation in Brazil,

Uruguay, Argentina and Chile. In Mercosur, the business of the mission will consist of:

- Embassy briefings on the economic/commercial climates;
- Meetings with Ministers and other senior level government officials with responsibilities for the mission's focus sectors;
- Meetings with potential buyers, agents/distributors and partners.
- Meetings with the U.S. business community.

The Commerce Department's U.S. and Foreign Commercial Service will provide logistical support for these activities at each stop.

The trip itinerary will be as follows:

February 13 (Sun): Brasilia
February 14 (Mon): Brasilia—Depart Brasilia for Sao Paulo; Arrive Sao Paulo
February 15 (Tue): Sao Paulo
February 16 (Wed): Depart Sao Paulo for Montevideo; Arrive Montevideo
February 17 (Thu): Depart Montevideo for Buenos Aires; Arrive Buenos Aires
February 18 (Fri): Buenos Aires
February 19 (Sat): Buenos Aires
February 20 (Sun): Depart Buenos Aires for Santiago—Arrive Santiago
February 21 (Mon): Santiago—Depart Santiago for Washington, D.C.
February 22 (Tues): Arrive Washington, D.C.

Criteria for Participation of Companies

The recruitment and selection of private sector participants in the mission will be conducted according to the Statement of Policy governing Department of Commerce-led trade missions announced by Secretary Daley on March 3, 1997. Companies will be selected according to the criteria set out below. Approximately 12–15 companies will be selected.

Eligibility

Participating companies must be incorporated in the United States. A company is eligible to participate only if the products and/or services that it will promote on the mission (a) are manufactured or produced in the United States; or (b) if manufactured or produced outside the United States, are marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service. (At the discretion of the Department, which will generally be exercised on a sector-by-sector basis, the 51 percent U.S. content requirement may be modified or waived.)

Selection Criteria

Company participation will be determined on the basis of:

- Level of seniority of designated company representatives and its appropriateness to the mission objectives;
- Consistency of company's goals with the scope and desired outcome of the mission as described herein;
- Relevance of a company's business line to the plan for the mission;
- Past, present and prospective business activity in Latin America, and particularly Brazil, Uruguay, Argentina and Chile, as applicable; and
- Diversity of company size, type, location, demographics and traditional under-representation in business.

In addition, the Department may consider whether the companies' overall business objectives, including those of any U.S. or overseas affiliates, are fully consistent with the missions' foreign and commercial policy objectives.

An applicant's partisan political activities (including political contributions) are irrelevant to the selection process.

Time Frame for Applications

Applications for the trade mission to Brazil, Uruguay, Argentina and Chile will be made available beginning on or about Monday, November 22. The fees to participate in the mission have not yet been determined. The fees will not cover travel or lodging expenses. For additional information on the trade missions or to obtain an application, business persons should be referred to Lucie Naphin, Director of the Office of Business Liaison, or Jennifer Andberg at 202–482–1360. Applications should be submitted to Lucie Naphin by December 27, 1999, in order to ensure sufficient time to obtain in-country appointments for applicants selected to participate in the mission. Applications received after that date will be considered only if space and scheduling constraints permit.

Authority: 15 U.S.C. 1512.

Dated: November 17, 1999.

Walter M. Bastian,

Director, Office of Latin America and the Caribbean, International Trade Administration, Department of Commerce.

[FR Doc. 99–30380 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval and availability of the final revised Management Plan for the Narragansett Bay National Estuarine Research Reserve, 1998–2003.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division (ERD), Office of Ocean and Coastal Resource Management, has approved the revised Management Plan for the Narragansett Bay National Estuarine Research Reserve (NBNERR). The NBNERR was designated in 1980 and has been operating under a Management Plan approved in 1983. Pursuant to Section 315 of the Coastal Zone Management Act, 16 U.S.C. 1461, and Section 921.33(c) of the implementing regulations, a state must revise its management plan at least every five years, or more often if necessary.

The revisions to the NBNERR Management Plan include:

Information about the Reserve's boundary expansion that increased from 2626 acres to 4259 acres. The land area is 2478 acres including the privately owned Prudence Conservancy, all state owned properties on Prudence Island, all of Hope and most of Patience islands. The aquatic areas of the Reserve are delineated by all waters out to a depth of 18 feet and is 1781 acres in extent.

Addition of dedicated positions for the NBNERR Manager and Research Coordinator.

Under a NOAA matching grant, the NBNERR renovated an existing building to create a new 2,500 square-foot multi-purpose facility to support research, education, and office space. The newly renovated building provides educational exhibit space, a research lab, meeting rooms, the NBNERR office. Other construction improvements include the repair and upgrading of the caretaker's and visitors' cottages.

The revised management plan demonstrates continued strong support from the Rhode Island Department of Environmental Management (DEM) and NOAA for research, monitoring and education programs. A long-term research plan focuses on understanding the structure and function of key habitats, such as the Reserve's five major marsh systems. A comparative ecology approach provides the basis for research project design and priority setting. Collaborative studies with Federal, state, and institutional researchers are encouraged. An associated long-term monitoring

program will characterize the environmental quality and the occurrence and abundance of living resources. Monitoring is designed to determine baseline status and trends in habitat quality and the health of important resource species.

Copies of the document can be obtained from the Narragansett Bay National Estuarine Research Reserve, Department of Environmental Management, 55 South Reserve Drive, Prudence, Rhode Island 02872. (401) 683–6780.

FOR FURTHER INFORMATION CONTACT: Doris Grimm, OCRM, Estuarine Reserves Division, 1305 East-West Highway, 11th Floor (N/ORM5), Silver Spring, Maryland 20910. (301) 713–3132, Extension 107.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves.

Dated: November 16, 1999.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 99–30322 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111799A]

Mid-Atlantic Fishery Management Council (MAFMC); Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council and its Comprehensive Management Committee, Habitat Committee, Dogfish Committee, Information and Education Committee, Executive Committee, and its Demersal Species Committee, together with the Atlantic States Marine Fisheries Commission, will hold a public meeting.

DATES: See **SUPPLEMENTARY INFORMATION** for specific dates and times of committee meetings.

ADDRESSES: This meeting will be held at the Dunes Manor Hotel, 2800 Baltimore Avenue, Ocean City, MD; telephone 1–800–523–2888.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: Agenda items for this meeting are: Use of observers in small mesh fisheries; review status of small mesh gear research efforts; review with advisors NMFS's Proposed Final Rule for essential fish habitat (EFH); develop committee recommendations regarding the National Marine Fisheries Service's (NMFS) Proposed Final Rule for EFH; develop committee recommendations for dogfish regarding 2000 and 2001 management measures, i.e, quotas, trip limits, size limits; review New England Council's action regarding NMFS's disapproval of Dogfish Fishery Management Plan's B_{msy} target; review Council policy regarding quarterly newsletter, brochures, white papers and regulatory information sheets; participate in NMFS review of its actions regarding implementing regulations for the Monkfish Fishery Management Plan; address Council policy regarding use and role of industry advisors; review FY1999 budget; approve FY2000 grant application package; review and discuss Monitoring Committee recommendations for summer flounder, scup and black sea bass; develop and approve management measures for 2000 recreational specifications for summer flounder, scup and black sea bass.

Dates and Times of Committee Meetings

On Tuesday, December 7, the Comprehensive Management Committee will meet from 10:00 a.m. until noon. The Habitat Committee will meet from 10:00 a.m. until noon. The Dogfish Committee will meet from 1:00–3:00 p.m. The Information and Education Committee will meet from 1:00–3:00 p.m. The Council will meet from 3:00–5:00 p.m. to decide on dogfish management measures for 2000–2001. On Wednesday, December 8, the Executive Committee will meet from 8:00–9:00 a.m. The Demersal Species Committee will meet as a Council Committee of the Whole, together with the Atlantic States Marine Fisheries Commission's Management Board, from 9:00 a.m. until 5:00 p.m. On Thursday, December 9, Council will meet from 8:00 a.m. until 1:00 p.m.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting date.

Dated: November 17, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30423 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111599A]

North Pacific Fishery Management Council; Notice of MeetingsAGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Meetings of the North Pacific Fishery Management Council and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings.

DATES: The Council and its advisory bodies will meet in Anchorage, Alaska the week of December 6, 1999. The Scientific Committee will begin at 8:00 a.m. on Monday, December 6, and continue through Wednesday, December 8. The Advisory Panel will begin at 8:00 a.m. on Monday, December 6, and continue through December 9. The Council will begin at 8:00 a.m. on Wednesday, December 8, and continue through Monday, December 13. All meetings are open to the public except Executive Sessions which may be held during the week to discuss litigation and/or personnel matters.

ADDRESSES: All meetings will be held at the Hilton Hotel, 500 W. Third Avenue, Anchorage, Alaska.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, Phone: 907–271–2809.

SUPPLEMENTARY INFORMATION:

Council

The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

Reports

Executive Director's Report
State Fisheries Report by Alaska Department of Fish and Game
National Marine Fisheries Service Management Report
Enforcement and Surveillance Reports

American Fisheries Act

Review co-op performance reports and agreements.
Comment on proposed rule for 2000, particularly with regard to vessel exemptions.
Update analysis of excessive shares/processing sideboards.

Essential Fish Habitat

Comment on interim final rule.

Halibut Charter Guideline Harvest Level

Initial review of alternatives and analysis.

Steller sea lions

Status report on litigation.
Comment on proposed rule for 2000.
Discuss adaptive management strategies and results of evening workshop.

Pacific Cod License Limitation Program Endorsements

Discussion paper on grandfather provisions and progress on analysis.

Groundfish Supplemental Environmental Impact Statement (SEIS)

Status report and comment on notice of intent.

Halibut Subsistence

Review alternatives and analysis and give direction to staff.

Alaska Board of Fisheries

Receive summary of October work session and review Board of Fisheries proposals of mutual concern.

Groundfish Specifications for 2000

Approve final Bering Sea/Aleutian Islands (BSAI) Groundfish Stock Assessment and Fishery Evaluation (SAFE) report.
Approve final 2000 BSAI groundfish and prohibited species apportionments.
Approve final Gulf of Alaska (GOA) Groundfish Stock Assessment and Fishery Evaluation (SAFE) report.
Approve final 2000 GOA groundfish and prohibited species apportionments.
Approve assumed halibut discard mortality rates.

Advisory Meetings

Advisory Panel

With the exception of the reports listed above, the agenda for the Advisory Panel will mirror that of the Council listed above.

Scientific and Statistical Committee

The Scientific and Statistical Committee (SSC) will address the following items:

Groundfish SAFEs and specifications for 2000 for BSAI and GOA groundfish.

Initial review of alternatives and the analysis for the halibut charter harvest guideline level.

Progress on the Groundfish SEIS.

Comment on the interim final rule for essential fish habitat.

Other committees and workgroups may hold impromptu meetings throughout the meeting week. Such meetings will be announced during regularly-scheduled meetings of the Council, Advisory Panel, and SSC, and will be posted at the hotel.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Helen Allen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: November 17, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30421 Filed 11–19–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form Number, and OMB Number: Appointment of Chaplains for the Military Services; DD Forms 2088 and 2741; OMB Number 0704–0190.

Type of Request: Revision.

Number of Respondents: 797.

Responses Per Respondent: 1.

Annual Responses: 797.

Average Burden Per Response: 46 minutes (average).

Annual Burden Hours: 614.

Needs And Uses: The Department is required to ensure that religious organizations seeking to endorse chaplains are eligible and that applicants qualified for the military chaplain services are endorsed by those religious organizations. This information collection will provide basis information about the religious organization seeking to supply chaplains and ensure that those organizations are authorized by their membership to act as the sole agency for the purpose of certifying and endorsing clergy to serve as military chaplains. Two forms are associated with this program to collect the necessary information. The DD From 2741, "Ecclesiastical Endorsing Organization Verification/Reverification Information," requests basic demographic information about the religious denominations seeking to supply chaplains. It request the name of an official authorized to represent the organization to the Military Services, and it requires the organization to certify that it is authorized by its membership to act as the sole agency for the purpose of certifying and endorsing clergy to serve as military chaplains. The DD Form 2088, "Certificate of Ecclesiastical Endorsement," is used by religious denominations to certify that a member of their clergy is professionally qualified to become a chaplain. It request information about name, address, professional experience, and previous military experience to be used in determining grade, date of rank, and eligibility for promotion for appointees to the chaplain services.

Affected Public: Not-for-Profit Institutions.

Frequency: On occasion; Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Office for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written request for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: November 16, 1999.

Patricia L. Toppings,

Altenate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99– 30296 Filed 11–19–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–11]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–11 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: November 16, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

5 NOV 1999
In reply refer to:
I-99/012727

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-11, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $85 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-11

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Egypt

(ii) Total Estimated Value:

Major Defense Equipment*	$ 60 million
Other	$ 25 million
TOTAL	$ 85 million

(iii) Description of Articles or Services Offered: Modification/upgrade of five AN/TPS-59(V)2 radar systems to the AN/TPS-59(V)3 configuration consisting of the procurement and installation of five AN/TPS-59(V)3E Theater Missile Defense Modified Shelters, five Array Modification Kits, and Command and Control Operation Shelter Interfaces with associated provisioning, spare and repair parts, publications, personnel training and training equipment, technical assistance, contractor technical and logistics personnel services and other related elements of program support.

(iv) Military Department: Navy (LCT)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(vii) Date Report Delivered to Congress: 5 NOV 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - Modification/upgrade of AN/TPS-59(V)2 Radar Systems to the AN/TPS-59(V)3 Configuration

The Government of Egypt has requested a possible sale for the modification/upgrade of five AN/TPS-59(V)2 radar systems to the AN/TPS-59(V)3 configuration. The modification/upgrade consists of the procurement and installation of five AN/TPS-59(V)3E Theater Missile Defense Modified Shelters, five Array Modification Kits, and Command and Control Operation Shelter Interfaces with associated provisioning, spare and repair parts, publications, personnel training and training equipment, technical assistance, contractor technical and logistics personnel services and other related elements of program support. The estimated cost is $85 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The proposed sale of radar will provide more responsive and timely information for air defense operations. The modification/upgrade of the AN/TPS-59 radar would significantly contribute to the modernization of its forces as well as its interoperability with U.S. forces. It would greatly simplify the projection of U.S. military forces during regional contingency operations by enhancing the deployment of 3D dimensional land based radar capabilities. This sale will not provide a new capability in the region since AN/TPS-59 or comparable radar systems are presently in the inventory of most of the countries in the region.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Corporation of Syracuse, New York. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government representatives in Egypt. However, there will be two U.S. contractor representatives for five years representing varying technical skills and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 99
BILLING COD

VOL 64 ISS 224 NO 22 1999 UMI

Transmittal No. 00-11

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

**Annex
Item No. vi**

(vi) Sensitivity of Technology:

1. The AN/TPS-59(V)3E radar system and all associated hardware and software is Unclassified. The AN/TPS-59 Electronic Counter-Counter Measures (ECCM) is critical technology, the ECCM is Unclassified. Threat and security concerns relative to the AN/TPS-59(V)3 are founded upon the system's operational employment and the location of anticipated deployment areas. There is insignificant anticipated consequence due to loss of this hardware technology to an advanced or competent adversary.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the
development of a system with similar or advanced capabilities.

3. A determination has been made that Egypt can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 99–30297 Filed 11–19–99; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 00–04: Biotechnological Investigations—Ocean Margins Program (BI–OMP)

AGENCY: Department of Energy.

ACTION: Notice inviting research grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving research applications involving the use of molecular biological and biogeochemical techniques to understand the linkages between carbon and nitrogen cycles (primary production and microbial processes) in ocean margins. This information is critical to understanding carbon fixation and sequestration in ocean margin ecosystems and global biogeochemical cycles. Applications must involve mutually collaborative partnerships between institutions with a strong tradition of research in marine sciences and those institutions with developing research capabilities in marine science. Partnerships are particularly encouraged with institutions that traditionally have served groups under represented in the sciences. The goals of such collaborative research projects are to enhance the research capabilities of both institutions, to promote significant interactions between institutions, to foster long-term collaboration among investigators, and to advance understanding at the molecular and biogeochemical level of the linkages between nitrogen cycling and carbon fixation and sequestration in coastal oceans.

DATES: To permit timely consideration for awards in Fiscal Year 2000 and early Fiscal Year 2001, formal applications submitted in response to this notice must be received by 4:30 p.m., E.S.T., February 10, 2000.

ADDRESSES: Formal applications referencing Program Notice 00–04 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 00–04. This address also must be used when submitting applications by U.S. Postal Service Express Mail or any commercial mail delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Anna Palmisano, Environmental Sciences Division, SC–74, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–9963, e-mail: anna.palmisano@science.doe.gov, fax: (301) 903–8519. The full text of Program Notice 00–04 is available via the Internet using the following web site address: http://www.sc.doe.gov/production/grants/grants.html.

SUPPLEMENTARY INFORMATION: The primary research goal of the Biotechnological Investigation—Ocean Margins Program is to establish a more thorough understanding of the molecular to global scale links and feedback mechanisms between solar irradiance, marine microbial activity, primary productivity, carbon and nitrogen cycles and remotely-sensed ocean color data. Specifically, DOE seeks applications to:

I. Apply new and innovative techniques in marine molecular biology and marine biotechnology to assess fixation of carbon dioxide from the atmosphere, determine the mechanisms and processes that control the dynamics of nitrogen fixation or denitrification in coastal waters and sediments, define the coupling and/or decoupling of carbon and nitrogen cycles in coastal environments, and determine the linkages between the function and structure of microbial communities mediating carbon and nitrogen cycling in coastal environments, and

II. Examine the environmental factors (including nutrient availability, temperature, irradiance, and biopolymer lability) that affect the linkages between primary productivity, the utilization of particulate and dissolved organic matter (POM and DOM) by bacterial populations, and nitrogen cycling in coastal areas.

This information is crucial to understanding the responses of marine biological systems to changes in atmospheric radiative budgets and global biogeochemical cycles.

Program Relationships

The Biotechnological Investigations—Ocean Margins Program is expected to build on past research results and accomplishments within the Ocean Margins Program (OMP) component of the Biological and Environmental Research (BER) program. The main objective of OMP was determining whether primary productivity on continental shelves is quantitatively significant in removing carbon dioxide (CO_2) from the atmosphere. Other objectives of the OMP were: (1) Quantifying the ecological and biogeochemical processes that affect the cycling, flux, and storage of carbon and other biogenic elements at the land/ocean interface; and (2) Defining ocean margin sources and sinks in global biogeochemical cycles.

Under the first phase of BI–OMP, molecular biological techniques were developed, adapted, and applied to determine how biological processes are regulated and controlled by genetic limitations and environmental variables. Research emphasis was placed on molecular regulation of photosynthetic carbon reduction by phytoplankton; molecular diagnostic markers of bacterial growth, production, and nutrient limitations to growth, and; molecular techniques for elucidating metabolic pathways.

Research in Biotechnological Investigations—Oceans Margins Program will complement ongoing OBER efforts in the area of ocean carbon sequestration. The Carbon Management Science Program is funding a DOE Center for Ocean Carbon Sequestration Research jointly lead by the Lawrence Berkeley National Laboratory and Lawrence Livermore National Laboratory.

The Center is performing research necessary to evaluate the feasibility, effectiveness and environmental acceptability of sequestration of carbon in the ocean, either through direct injection of carbon dioxide to ocean depths or by fertilization of the ocean with limiting nutrients such as iron. The Carbon Management Science Program also is supporting the sequencing of microorganisms involved in ocean carbon cycling including *Prochlorococcus marinus*.

Biotechnological Investigations—Ocean Margins Program (BI–OMP)

BI–OMP is an outgrowth of the Ocean Margins Program (OMP). It places an increased emphasis on the application of modern molecular tools to marine microbes and their role in carbon and nitrogen cycling, and processes affecting global change. Photosynthetic rates in the ocean, and sequestration of atmospheric CO_2 by marine primary production greatly depend on the availability of fixed inorganic nitrogen. Three major external sources of fixed inorganic nitrogen are cultural eutrophication of the coastal zone; atmospheric deposition of anthropogenic and naturally produced oxides of nitrogen; and nitrogen fixation from the atmosphere by microorganisms.

Research in Temperate and High Latitude coastal areas indicates that the availability and cycling of nitrogen is likely to be the major control on primary productivity and carbon cycling in these

areas. Moreover, it appears that denitrification (the reduction of fixed nitrogen to N_2) overwhelms nitrogen fixation by cyanobacteria in Northern Latitude waters and sediments. In these areas, there does not appear to be paucity of iron (Fe) to limit nitrogen fixation, but nitrogenase activity may be inhibited by the elevated concentrations of ammonia (NH_3) that occur in Arctic waters following phytoplankton blooms. Since little is known about the rates of nitrogen fixation, primary productivity, and bacterial respiration in cold water areas, this notice calls for applications to help understand the molecular to global scale links and feedback mechanisms between solar irradiance, marine microbiology, coastal nitrogen and carbon cycles, primary productivity, and remotely-sensed ocean color data in the low-temperature waters, such as those off Alaska and the Pacific Northwest.

Although it is anticipated that most of the research performed will be laboratory-based, if field studies are necessary, they should be conducted in the coastal waters, including those off the North Slope of Alaska and Pacific Northwest; or, in the estuarine and shelf waters of the Mississippi River and Gulf of Mexico; Savannah River and South Atlantic Bight; or Chesapeake Bay and Mid-Atlantic Bight. Applications that are solely concerned with the taxonomic characterization or distributions of bacteria, or the identification of new biochemicals or enzymes from marine organisms, are excluded from consideration within this notice.

Application of Molecular Tools to Microbes Mediating Carbon and Nitrogen Cycling

This notice encourages applications that use molecular approaches to study marine microbial processes, in particular, carbon and nitrogen cycling. Insights can be gained from application of biotechnological tools to carbon sequestration and storage, nitrogen fixation and denitrification. Knowledge of the genes responsible for these processes, and most importantly, the expression of these genes in marine environments is needed. The mechanisms by which environmental factors regulate gene expression in ocean margin environments will help us to understand the natural controls on these processes.

The advent of modern molecular biology has provided powerful tools for examining genes and gene expression. Molecular methods are now being applied to research problems in marine biology, including the enzymes involved in carbon fixation (*e.g.*, ribulose bisphosphate carboxylase), nitrogen fixation (*e.g.*, nitrogenase) and denitrification (*e.g.*, nitrate reductase). Examples of enabling biotechnologies include in situ polymerase chain reaction (PCR) to amplify specific catabolic genes within bacterial cells, and fluorescent in situ hybridization (FISH) to elucidate genotypes in microbial communities. A fundamental knowledge of molecular regulatory mechanisms of photosynthesis and nitrogen cycling in the oceans is needed.

Environmental Factors That Affect Linkages Between Carbon and Nitrogen Cycling

Environmental factors such as nutrient availability, temperature, irradiance, and biopolymer lability affect the coupling and decoupling of primary production, bacterial respiration, POM and DOM formation, and nitrogen metabolism in coastal areas. The impact of individual environmental factors and synergistic effects of multiple environmental factors, on these processes is poorly understood. This notice encourages applications that address the environmental controls on carbon and nitrogen cycles, and their coupling and decoupling. An understanding of these linkages is critical to monitoring and predicting potential changes due to physical, chemical or biological factors, and may ultimately contribute to the development of algorithms for use in interpreting remotely sensed ocean color data.

Collaborative Partnerships

Research applications shall include a mutually collaborative partnership between institutions that have a strong tradition of research in the marine sciences and those institutions with developing research capabilities in marine science. Participation of institutions with a high proportion of groups that are under represented in the sciences are particularly encouraged. Examples of collaborative activities include co-investigator status, periodic exchanges of researcher-in-residence between institutions, and joint supervision of research students. It is critical that both institutions have key roles in the collaboration. One institution should serve as the primary applicant with a subcontract to the collaborative institution. The application should:

- Clearly state the nature of the collaborative research agreement between the institutions;
- Define respective research roles and responsibilities of scientists at each institution;
- Describe how the partnership between the institutions will be effected (*e.g.*, team meetings, shared students, *etc.*); and
- Provide separate institutional budgets.

In addition, the applicants will need to show how their proposed collaborative research addresses the goals stated in this notice and convey a commitment to developing research partnerships between respective institutions. Additional information on collaboration is available in the Application Guide for the Office of Science Financial Assistance Program that is available via the Internet at http://www.sc.doe.gov/production/grants/Colab.html.

It is anticipated that a total of up to $2 million will be available for multiple grants awarded in FY2000 and FY2001, contingent upon availability of appropriated funds. Applications may request project support up to three years, with out-year support contingent on availability of funds, progress of the research and programmatic needs. Annual budgets are expected to range from approximately $50,000 depending on the number of partnerships involved the nature of the research proposed. Applications should include detailed budgets for each year of support requested.

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria which are listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project;
2. Appropriateness of the Proposed Method or Approach;
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources;
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and the agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Information about the development, submission of applications, eligibility,

limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at: http://www.sc.doe.gov/production/grants/grants.html. In addition, for this notice, the Project Description must be 20 pages or less, exclusive of attachments, and the application must contain a Table of Contents, an abstract or project summary, letters of intent from collaborators (if any) and short curriculum vitae consistent with National Institutes of Health guidelines. On the SC grant face page, form DOE F4650.2, in block 15, also provide the PI's phone number, fax number, and E-mail address. Lengthy application appendices are not encouraged.

The Office of Science as part of its grant regulations requires at 10 CFR 605.11(b) that a recipient receiving a grant and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with NIH "Guidelines for Research Involving Recombinant DNA Molecules," which is available via the world wide web at: http://www.niehs.nih.gov/odhsb/biosafe/nih/rdna-apr98.pdf, (59 FR 34496, July 5, 1994), or such later revision of those guidelines as may be published in the **Federal Register**.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on November 8, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–30359 Filed 11–19–99; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 00–03; Fundamental Plant and Microbial Research in Carbon Management

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Basic Energy Sciences (BES), of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for research grants in the area of fundamental research underlying potential strategies to reduce or limit gaseous carbon production from fossil fuel use. Research-related activities in areas of interest to the Division of Energy Biosciences include biochemical, molecular genetic, and cellular mechanisms of carbon fixation metabolism in plants and microbes.

DATES: Applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 00–03, should be received by DOE by January 12, 2000. A response regarding the potential program relevance of the preapplication and encouraging or discouraging a formal application will be communicated to the applicant by January 31, 2000.

The deadline for receipt of formal applications is March 1, 2000, in order to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2000.

ADDRESSES: All preapplications, referencing Program Notice 00–03, should be sent to Dr. Gregory L. Dilworth, Division of Energy Biosciences, SC–17, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290.

Formal applications, referencing Program Notice 00–03, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 00–03. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: For questions concerning research topics in specific technical areas, contact: Dr. Gregory L. Dilworth, Division of Energy Biosciences, SC–17, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–2873, fax (301) 903–1003, e-mail: greg.dilworth@science.doe.gov

The full text of Program Notice 00–03 is available via the Internet using the following web site address: *http://www.sc.doe.gov/production/grants/grants.html.*

SUPPLEMENTARY INFORMATION: Conversion of sunlight to fuels and chemicals by plants and microorganisms and the interconversion of greenhouse gases requires a better understanding of plant and microbial biochemistry, physiology, molecular biology, and the structure and function of enzymes and sub-cellular components. Areas of specific interest include fundamental understanding in photosynthesis, photochemistry, photosynthetic and nonphotosynthetic carbon fixation, plant and microbial carbon biochemistry, regulatory control of plant assimilate allocation and transport, molecular regulatory mechanisms controlling carbon metabolism, and related areas of bioscience.

Program Funding

It is anticipated that up to $4.8 million will be available for multiple grant awards to be made in FY 2000. Multiple year funding of grant awards is expected, and is also contingent on the availability of appropriated funds, progress of the research, and continuing program need. Applications received by the Office of Science under its normal competitive application mechanisms may also be deemed appropriate for consideration under this announcement and may be funded under this program.

Applicants may collaborate with researchers in other institutions, such as industry, non-profit organizations, federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories. A parallel announcement with a similar potential total amount of funds will be issued for DOE Federally Funded Research and Development Centers. All projects will be evaluated using the same criteria, regardless of the submitting institution.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project,
2. Appropriateness of the Proposed Method or Approach,
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources,
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and this agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Information about the development, submission of applications, eligibility, limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at: *http://www.sc.doe.gov/production/grants/grants.html*. On the SC grant face page, form DOE F 4650.2, in block 15, also provide the PI's phone number, fax number and e-mail address. The research description must be 10 pages or less, exclusive of figure illustrations, and must contain an abstract or summary of the proposed research (to include the hypotheses being tested and the proposed experimental design). Attachments include curriculum vitae, a listing of all current and pending federal support, and letters of intent when collaborations are part of the proposed research.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on November 12, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–30361 Filed 11–19–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Department of Energy Fiscal Year 2000 Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs Request for Grant Applications

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability of program solicitation for the request for grant applications for Fiscal Year 2000 Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs.

SUMMARY: Notice is hereby given that under the authority of the Small Business Innovation Development Act of 1982 (Pub. L. 97–219) and reauthorized until the year 2000 by the Small Business Research and Development Enhancement Act of 1992 (Pub. L. 102–564); and the STTR program which was created by Title II of the Small Business Research and Development Enhancement Act of 1992 (Pub. L. 102–564), and reauthorized until the year 2001 by the Small Business Reauthorization Act of 1997 (Pub. L. 105–135), the Department of Energy (DOE) expects to award grants in the technical topics listed in the **SUPPLEMENTARY INFORMATION** section.

DATES: The solicitation for the DOE SBIR and STTR programs will be a single document this Fiscal Year (FY 2000) and will be available on the World Wide Web at *http://sbir.er.doe.gov/sbir* and *http://sttr.er.doe.gov/sttr* on or about November 29, 1999.

Applications in response to the solicitation must be received by 5:00 p.m., EST on Tuesday, February 29, 2000.

ADDRESSES: The solicitation requires all applications be submitted to the following address: SBIR/STTR Program Manager (SC–32), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Phase I grant applications hand carried by the applicant may be delivered to the above mentioned address only. Applications will not be accepted by the Department at its Independence Avenue SW, Washington, D.C. address.

FOR FURTHER INFORMATION CONTACT: Julie Scott, Program Support Specialist, telephone (301) 903–0569. Those without Web access should either write to the SBIR/STTR Program Manager, SC–32, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–1414, or e-mail *sbir-sttr@science.doe.gov*.

SUPPLEMENTARY INFORMATION: The objectives of the SBIR and STTR programs include increasing private sector commercialization of technology developed through DOE-supported R&D, stimulating technological innovation in the private sector, and improving the return on investment from federally-funded research for economic and social benefits to the nation. DOE will support high-quality research or research and development (R&D) on advanced concepts concerning important mission-related scientific or engineering problems and opportunities that could lead to significant public benefit if the research is successful.

For both SBIR and STTR, grant applications are sought for the following technical topics:

1. Improved Composite Materials and Processing Technologies;
2. High Performance Networks and Applications;
3. High-Speed Wireless Data-Link for Communicating from Downhole to the Surface while Drilling;
4. High-Temperature Electronics Development for Geothermal Applications;
5. Neutron Instrumentation;
6. Lithium-Based Battery Technology for Electric and Hybrid Vehicles;
7. Recovery, Recycle, and Re-Use of Polymers and Plastics;
8. Membranes for Advanced Industrial Separation Technologies;
9. Reactive Separations;
10. Development of Nonaqueous Enzymes for Chemical Production;
11. Integrative Analysis of Gene Expression in Plants and Non-Medical Microbes;
12. Genome, Structural Biology, and Related Biotechnologies;
13. Medical Sciences;
14. Biological Carbon Sequestration Research and Technology;
15. Carbon Cycle Measurements of the Atmosphere and the Biosphere;
16. Atmospheric Measurement Technology;
17. Advanced Monitoring Technologies for Soils, Sediments and Groundwater;
18. Technologies for Long-Term Monitoring of Contaminants at DOE Sites;
19. Technologies for Deactivation and Decommissioning;
20. Oil and Gas Technologies;
21. Advanced Power Systems;
22. Materials Research for Fossil Energy Applications;
23. Hydrogen and Fuels Technologies;
24. Hydrogen Program: Alternative Climate Friendly Process to Produce Fuels for Fuel Cells;
25. Fuel Cells for Buildings;
26. Advanced Technology for General Purpose Lighting;
27. Hybrid Electric Vehicle Technology;
28. BioProducts and BioEnergy Research;
29. Ocean Current Energy Capture;
30. Thermophotovoltaics;
31. Advanced Sensors and Data Analysis Techniques for National Security Applications;
32. Enabling Technologies for Active Optical Remote Sensor Systems;
33. Enabling Technologies for Passive Optical Remote Sensor Systems;
34. Nuclear Physics Instrumentation and Techniques;
35. Nuclear Physics Accelerator Technology;
36. Advanced Concepts and Technology for High Energy Physics Accelerators;
37. Radio Frequency Accelerator Technology for High Energy Physics Accelerators and Colliders;
38. High-Field Superconductor and Superconducting Magnet Technologies for High Energy Particle Colliders;
39. Technologies for the Next-Generation Electron-Positron Linear Collider;

40. High Energy Physics Detectors;
41. High Energy Physics Data Acquisition and Processing;
42. Fusion Plasma Science Research;
43. Enabling Technologies for Fusion Plasma Experiments;
44. Advanced Technologies and Materials for Future Fusion Energy Systems;
45. Advanced Technologies for Nuclear Energy.

The solicitation indicates that successful applicants (approximately 200 for SBIR and 15 for STTR) may receive up to $100,000 for a Phase I grant for a period of about six months for SBIR (nine months for STTR) to develop the feasibility of the idea. Phase I awardees can apply for Phase II funding up to $750,000 for SBIR ($500,000 for STTR) for those ideas with the highest potential to meet program objectives. The award of any grants under the provisions of these programs are contingent upon availability of appropriated funds.

Issued in Washington, DC on November 8, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–30360 Filed 11–19–99; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–22–008]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 16, 1999.

Take notice that on November 10, 1999, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed in Attachment A to the filing. CNG requests various effective dates for its proposed tariff sheets.

CNG states that the filing is being made to comply with the Commission's "Order on Rehearing and Compliance" issued October 27, 1999 ("Rehearing Order").

As explained in the filing, CNG proposes various effective dates for the tariff sheets and, therefore, requests waiver of the notice requirements of Section 154.207 of the Commission's regulations in order that CNG's revised tariff sheets may become effective as proposed.

CNG states that it is complying with Ordering Paragraph (B) of the Rehearing Order which required CNG to file revised tariff sheets within 15 days of the date of issuance of the order. According to CNG, the filed tariff sheets reflect these items; (1) collection of "Tennessee fuel costs" in the usage component of rates effective November 1, 1998, and the waiver granted to CNG to include Hastings-related costs in the reservation component of CNG's rates; (2) separately stated and recalculated "Base Tariff' and TCRA" columns of CNG's relevant rate tariff sheets; and (3) prospective treatment of Hastings-related gas purchase costs in the reservation component of CNG's rates.

CNG states that copies of its letter of transmittal and enclosures are being served upon parties to this proceeding and to interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rim.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30313 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–220–003]

Great Lakes Gas Transmission Limited Partnership; Notice of Negotiated Rate Agreements

November 16, 1999.

Take notice that on November 12, 1999, Great Lakes Gas Transmission Limited Partnership (Great Lakes) filed for disclosure, two transportation service agreements pursuant to Great Lakes' Rate Schedule FT entered into by Great Lakes and Coral Energy Resources, L.P. (Coral) and by Great Lakes and CXY Energy Marketing (U.S.A.) Inc. (CXY) (FT Service Agreements). The FT Service Agreements being filed reflect negotiated rate arrangements between Great Lakes and Coral and between Great Lakes and CXY commencing November 1, 1999.

Great Lakes states that the FT Service Agreements are being filed to implement negotiated rate contracts as required by both Great Lakes' negotiated rate tariff provisions and the Commission's Statement Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, issued January 31, 1996, at Docket Nos. RTM95–6–000 and RM96–7–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 23, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims/htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30307 Filed 11–19–99; 8:45 am]

BILLING CODE 5717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–63–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

November 16, 1999.

Take notice that on November 12, 1999, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the pro forma tariff sheet listed on Appendix A to the filing.

Great Lakes states that the pro forma tariff sheets listed on Appendix A are being filed in conformance with Section 154.202 of the Commission's regulations to implement a new Limited Firm Transportation Service under Rate Schedule LFT. Under Rate Schedule LFT, service will be firm except that service shall be unavailable for a

specified number of days, as mutually agreed to by the parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30312 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–463–002]

High Island Offshore System, L.L.C.; Notice of Compliance Filing

November 16, 1999.

Take notice that on November 12, 1999 High Island Offshore System, L.L.C. (HIOS), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to be effective August 1, 1999.

First Revised Sheet No. 97
First Revised Sheet No. 97
Third Revised Sheet No. 170
Third Revised Sheet No. 171

HIOS states that such tariff sheets are being submitted to comply with the Office of Pipeline Regulation's October 28, 1999, Letter Order that accepted HIOS' tariff filing in compliance with Commission's Order No. 587–K in Docket No. RM96–1–011.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30308 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–026]

Koch Gateway Pipeline Company; Notice of Negotiated Rate Filing

November 16, 1999.

Take notice that on November 10, 1999, Koch Gateway Pipeline Company (Koch) filed with the Commission a contract for disclosure of recently negotiated rate transaction. Koch also requests a waiver of the Commission's regulations in order to permit an effective date of November 1, 1999.

Special Negotiated Rate Between Koch and Koch Energy Trading

Koch states that the above filing which was submitted on October 29, 1999, has been resubmitted to comply with Section 385.2003 (Rule 20003) of the Commission's regulations.

Koch further states that copies of this filing are being served upon each all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 23, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30306 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–001]

Questar Pipeline Company; Notice of Tariff Filing

November 16, 1999.

Take notice that on November 12, 1999, Questar Pipeline Company tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective October 28, 1999:

Substitute Third Revised Sheet No. 14
Substitute Second Revised Sheet No. 23
Substitute First Revised Sheet No. 33
Substitute Original Sheet No. 99G
Substitute Original Sheet No. 99H

On September 28, 1999, Questar filed tariff sheets to add a new Section 30 to its General Terms and Conditions to enable it to charge negotiated rates for transportation and storage services. On October 27, 1999, the Commission issued an Order Accepting (1) filing revised sheets to eliminate the tariff provision restricting access to recourse service at receipt and delivery points, (2) clarifying its intentions with respect to pass-through of additional revenue generated through negotiated rates that exceed recourse rates and (3) clarifying that adequate safeguards are in place to prevent cost-shifting from negotiated-rate shippers to recourse-rate shippers in future rate cases. This filing complied with the Commission's order.

Questar states that a copy of this filing has been served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE. Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room. This filing may be viewed on the web at htt://www/ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30310 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 16, 1999.

Take notice that on November 12, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective November 1, 1999:

Substitute Second Revised Sheet No.8G

REGT states that the purpose of this filing is to reflect the correction of an element of a pricing formula that was filed on October 29, 1999 in this docket.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30305 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–102–000]

Select Energy, Inc., Northeast Utilities Service Co.; Notice of Filing

November 16, 1999.

Take notice that on October 29, 1999, Select Energy, Inc., tendered for filing a copy of a settlement reached by Public Service Company of New Hampshire and Northeast Utilities (NU) with the State of New Hampshire for informational purposes in connection with a wholesale power sales agreement between Select and its affiliates, Northeast Utilities Service Company and the NU Operating Companies that was filed on October 12, 1999. This settlement was referenced in the earlier filing to the purpose of illustrating protections available to retail customers in New Hampshire from any adverse consequences of the affiliate transaction being proposed.

The Applicants state that copies of this filing have been sent to persons designated for service in the above-captioned proceeding and to the Connecticut Department of Public Utility Control, the Massachusetts Department of Telecommunications and Energy and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before November 26, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30363 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–7–001]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

November 16, 1999.

Take notice that on November 12, 1999, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing additional data and explanations supporting its proposed reduction in the storage cost credit resulting from the expansion of the Oakford storage field.

Texas Eastern states that the filing is submitted in compliance with Ordering Paragraph (B) of the "Order Accepting And Suspending Tariff Sheets, Subject To Refund And Conditions", issued by the Federal Energy Regulatory Commission (Commission) on October 27, 1999 [89 FERC ¶ 61,097 (1999)]. Also pursuant to Ordering Paragraph (B), reply comments are due 20 days after Texas Eastern's filing.

Texas Eastern states that copies of the filing were mailed to all affected customers and interested state commissions as well as parties to the proceeding.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30304 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–62–000]

Trunkline LNG Company; Notice of Proposed Changes in FERC Gas Tariff

November 16, 1999.

Take notice that on November 10, 1999, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the revised tariff sheets listed on Appendix A attached to the filing, to be effective December 11, 1999.

TLNG states that the purpose of this filing, made in accordance with the provisions of Section 154.204 of the Commission's Regulations, is to: (1) Add an overrun charge to Rate Schedule FTS

to provide for LNG quantities received in excess of shipper's Maximum Contract Storage Capacity; (2) establish a maximum allowable saturation pressure for LNG shipments in new Section 4.2(G) of the General Terms and Conditions; (3) clarify in Section 13.2(G) of the General Terms and Conditions that the quantity received from shipper's vessel is net of boil off returned to the vessel during unloading; (4) change the notice to shipper as a prerequisite to final balancing to 15 days prior to the termination of shipper's service agreement with a term of 90 days or less in Section 6.2(A) of the General Terms and Conditions; (5) modify Section 2.2 of Rate Schedules FTS and ITS, Section 3.1 of the General Terms and Conditions and Section 1 of the form of service agreement to provide for a maximum and minimum daily delivery obligation to allow TLNG and its shippers to determine a flexible daily send-out rate; and (6) correct a punctuation error in Section 19.3 of the General Terms and Conditions.

TLNG states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30311 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–462–002]

U–T Offshore System, L.L.C.; Notice of Compliance Filing

November 16, 1999.

Take notice that on November 12, 1999 U–T Offshore System, L.L.C. (U–TOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective August 1, 1999:

Second Revised Sheet No. 47
First Revised Sheet No. 47A
Sub Thirteenth Revised Sheet No. 73
Sub Eighth Revised Sheet No. 73A
Sub Seventh Revised Sheet No. 73B

U–TOS states that such tariff sheets are being submitted to comply with the Office of Pipeline Regulation's October 28, 1999, Letter Order that accepted UTOS' tariff rifling in compliance with Commission's Order No. 587–K in Docket No. RM96–1–011.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[JR Dos. 99–30309 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–498–000, et al.]

Berkshire Power Company, LLC, et al.; Electric Rate and Corporate Regulation Filings

November 15, 1999.

Take notice that the following filings have been made with the Commission:

1. Berkshire Power Company, LLC

[Docket No. ER00–498–000]

Take notice that on November 4, 1999, Berkshire Power Company, LLC (Berkshire Power), an Exempt Wholesale Generator that owns and operates a 272-megawatt gas-fired electric generating plant (Plant) currently under construction in the town of Agawam, Massachusetts, tendered for filing a Power Marketing Agreement pursuant to which Berkshire Power sells power generated at the Plant to El Paso Power Services Company. The filing is made pursuant to the August 24, 1999 order of the Federal Energy Regulatory Commission, which granted Berkshire Power authorization to make wholesale sales of energy and capacity at market-based rates. Illinova Power Marketing, et al., 88 FERC ¶ 61,189 (1999).

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Western Resources, Inc.

[Docket No. ER00–406–000]

Take notice that on November 1, 1999, Western Resources, Inc. (WRI), tendered for filing revisions to the Electric Power, Transmission and Service Contract between WRI and the Kansas Electric Power Cooperative (KEPCo) dated May 26, 1993. WRI also files on behalf of its wholly-owned subsidiary Kansas Gas and Electric Company revisions to the Electric Power, Transmission and Service Contract between KG&E and KEPCo dated May 26, 1999, and files notice that effective January 1, 2000, Service Schedule E designated as Supplement No. 7 to Western Resources, Inc., FERC Electric Rate Schedule No. 264 and Pricing Schedule E designated as Supplement No. 1 to Supplement No. 7 to Rate Schedule 264 is to be canceled. WRI states that the filing makes revisions to the rate schedule currently in effect between WRI and KEPCo.

WRI requests an effective date of January 1, 2000, for these rate schedule changes.

Copies of the filing has been served upon KEPCo and the Kansas Corporation Commission.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Company

[Docket No. ER00–488–000]

Take notice that on November 4, 1999, New England Power Company (NEP), tendered for filing amendments to the service agreements for Network Integration Transmission Service

between NEP, Massachusetts Electric Company and Nantucket Electric Company, and between NEP and The Narragansett Electric Company, under NEP's FERC Electric Tariff, Original Volume No. 9. The amendments to the service agreements reflect updated delivery point information and certain technical corrections to the previously accepted service agreements with these customers.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Energy, Inc.

[Docket No. ER00–489–000]

Take notice that on November 4, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with City of Redding (Redding).

A copy of the filing was served upon Redding.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Energy, Inc.

[Docket No. ER00–490–000]

Take notice that on November 4, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Sierra Pacific Power Company (Sierra Pacific).

A copy of the filing was served upon Sierra Pacific.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Energy, Inc.

[Docket No. ER00–491–000]

Take notice that on November 4, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Rocky Mountain Generation Cooperative, Inc., (RMGC).

A copy of the filing was served upon RMGC.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Puget Sound Energy, Inc.

[Docket No. ER00–492–000]

Take notice that on November 4, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Questar Energy Trading (Questar).

A copy of the filing was served upon Questar.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Puget Sound Energy, Inc.

[Docket No. ER00–493–000]

Take notice that on November 4, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Sacramento Municipal Utility District (SMUD).

A copy of the filing was served upon SMUD.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. TransAlta Centralia Generation LLC

[Docket No. ER00–494–000]

Take notice that on November 4, 1999, TransAlta Centralia Generation LLC (TACG) petitioned the Commission for acceptance of its proposed FERC Rate Schedule No. 1. TACG requests authority to make wholesale power sales, including energy and capacity, at market-based rates, requests certain blanket authorizations, and waiver of certain of the Commission's Regulations.

TACG requests that the tendered rate schedules become effective as of the closing date of the transaction whereby TECWA Power, Inc. (TECWA) will acquire indirect ownership control over the coal-fired Centralia Steam Electric Generating Plant, by acquiring 100% of the membership interests in TACG. TACG intends to engage in wholesale power sales. TACG does not own or control and is not affiliated with any entity that owns or controls electric transmission or distribution facilities in the United States. TACG further states that it is not affiliated with any franchised electric utility in the United States.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Electric Power Company

[Docket No. ER00–495–000]

Take notice that on November 4, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a long-term firm Transmission Service Agreement between itself and Alliant Energy (Alliant). The Transmission Service Agreement allows Alliant to receive five megawatts of firm point-to-point transmission service under Wisconsin Energy Corporation Operating Companies' FERC Electric Tariff, Volume No. 1. The term of the Agreement is ten years and three months.

Wisconsin Electric requests an effective date of October 1, 2000, in accordance with the transmission service agreement. Wisconsin Electric requests waiver of the Commission's notice requirements in order to implement the Agreement.

Copies of the filing have been served on Alliant, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Okeechobee Generating Company, LLC

[Docket No. ER00–499–000]

Take notice that on November 4, 1999, Okeechobee Generating Company, LLC (Okeechobee), tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, (1) a Petition for authorization to engage in the sale of certain Ancillary Services at market-based rates; and (2) authorization to reassign transmission capacity. Okeechobee also notifies the Commission of a change in facts with respect to its previously-approved application for market-based rates.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Sierra Pacific Energy Company

[Docket No. ER00–500–000]

Take notice that on November 4, 1999, Sierra Pacific Energy Company (SPEC), tendered for filing an application for an order accepting its FERC Electric Rate Schedule No. 1, which will permit SPEC to make wholesale sales of electric power at market rates to eligible customers located outside of its two Nevada control areas and to sell ancillary services at market-based rates within the California ISO control area.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER00–502–000]

Take notice that on November 5, 1999, Niagara Mohawk Power Corporation tendered for filing notice that effective upon the start date of the New York Independent System Operator

(NYISO), November 18, 1999, Rate Schedule FERC No. 182 effective date March 22, 1993 and any supplements thereto, and filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon Northeast Utilities Service Company.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER00–503–000]

Take notice that on November 5, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notice that effective upon the start date of the New York Independent System Operator (NYISO), November 18, 1999, Rate Schedule FERC No. 161 effective date November 1, 1988 and any supplements thereto, and filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon Central Vermont Public Service.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER00–504–000]

Take notice that on November 5, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notice that effective upon the start date of the New York Independent System Operator (NYISO), November 18, 1999, Rate Schedule FERC No. 166 effective date November 1, 1988 and any supplements thereto, and filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon New England Power Company.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER00–505–000]

Take notice that on November 5, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notice that effective upon the start date of the New York Independent System Operator (NYISO), November 18, 1999, Rate Schedule FERC No. 236, effective date December 15, 1995, and any supplements thereto, and filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon Cambridge Electric Light Company.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Power Corporation

[Docket No. ER00–506–000]

Take notice that on November 5, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notice that effective upon the start date of the New York Independent System Operator (NYISO), November 18, 1999, Rate Schedule FERC No. 160, effective date November 1, 1988, and any supplements thereto, and filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon Unitil Power Corp.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Niagara Mohawk Power Corporation

[Docket No. ER00–507–000]

Take notice that on November 5, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notice that effective upon the start date of the New York Independent System Operator (NYISO), November 18, 1999, Rate Schedule FERC No. 158 effective date May 1, 1989 and any supplements thereto, and filed with the Federal Energy Regulatory Commission by Niagara Mohawk Power Corporation is to be canceled.

Notice of the proposed cancellation has been served upon Boston Edison Company.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Commonwealth Edison Company

[Docket No. ER00–508–000]

Take notice that on November 5, 1999, Commonwealth Edison Company (ComEd), tendered for filing a Service Agreement for Network Integration Service (Service Agreement) and a Network Operating Agreement (Operating Agreement) between ComEd and Commonwealth Edison Company-Power Purchase Option (ComEd PPO). These agreement will govern ComEd's provision of network service to serve retail load under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of October 8, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on ComEd PPO.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Reliant Energy Indian River, LLC

[Docket No. ER00–509–000]

Take notice that on November 5, 1999, Reliant Energy Indian River, LLC (Reliant Indian River), tendered for filing a service agreement establishing Reliant Energy Services, Inc. (RES), as a customer under Reliant Indian River's market-based rate tariff.

Reliant Indian River requests an effective date of October 8, 1999, for the service agreement.

Reliant Indian River states that a copy of the filing was served on RES.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Allegheny Power Service Corporation, on behalf of Monongahela Power Company; The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–510–000]

Take notice that on November 5, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 63 to add ACN Power, Inc., to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000.

The proposed effective date under the Service Agreement is November 4, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Allegheny Power Service Corporation, on behalf of Monongahela Power Company; The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–511–000]

Take notice that on November 5, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 10–6 to add Utility.com to Allegheny Power's Open Access Transmission Service Tariff. The proposed effective date under the agreement is November 1, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Tucson Electric Power Company

[Docket No. ER00–513–000]

Take notice that on November 5, 1999, Tucson Electric Power Company tendered for filing one (1) umbrella service agreement (for short-term firm service) and one (1) service agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. OA96–140–000.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Select Energy, Inc.

[Docket No. ER00–514–000]

Take notice that on November 5, 1999, Select Energy, Inc. (Select), tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations a Standard Offer Service Wholesale Sales Agreement between Select and The Connecticut Light and Power Company (CL&P).

An effective date of January 1, 2000, is proposed.

Copies of this filing have been sent to the Connecticut Department of Public Utility Control.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Northeast Utilities Service Company, Select Energy, Inc.

[Docket No. ER00–515–000]

Take notice that on November 5, 1999, Northeast Utilities Service Company (NUSCO) and Select Energy, Inc. (Select), tendered for filing under Section 205 of the Federal Power Act two transition power supply agreements under which The Connecticut Light and Power Company and Western Massachusetts Electric Company may sell electric power to, or buy electric power from, Select. Applicants state that the agreements are designed to bridge potential gaps in power supply availability if certain restructuring events occur at different times.

The Applicants state that copies of this filing have been sent to the Connecticut Department of Public Utility Control and the Massachusetts Department of Telecommunications and Energy.

Comment date: November 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30364 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6479–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NESHAP Subpart M, National Emission Standard for Asbestos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP Subpart M, National Emission Standard for Asbestos; OMB Control Number 2060–0101; expires February 29, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0111.09.

SUPPLEMENTARY INFORMATION:

Title: NESHAP Subpart M National Emission Standard for Asbestos (OMB Control No. 2060–0101; EPA ICR No. 0111.09) expiring February 29, 2000. This is a request for extension of a currently approved collection.

Abstract: The revised National Emission Standards for Hazardous Air Pollutants (NESHAP), for Asbestos were proposed on January 10,1989 and promulgated on November 20, 1990. The standards apply to the following facilities: demolition and renovation of facilities; the disposal of asbestos waste; asbestos milling, manufacturing and fabricating; the use of asbestos on roadways; asbestos waste conversion facilities; and the use of asbestos insulation and sprayed-on materials. This information is being collected to assure compliance with 40 CFR part 61, subpart M.

Milling, Manufacturing, Fabricating, Waste Disposal and Waste Conversion Facilities

Owners or operators of the affected milling, manufacturing, fabricating, waste disposal, and waste conversion

facilities described must make one-time-only notifications and are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction. Record keeping includes the initial performance test results including information necessary to determine the conditions of the performance test, and performance test measurements and results, including monitoring each potential source of asbestos emissions for visible emissions to the outside air and inspecting air cleaning devices to ensure proper operation. The reporting requirements include the initial notifications listed, the initial performance test results, and quarterly reports of instances when visible emissions are observed. These notifications, reports and records are required, in general, of milling, manufacturing, fabricating, and waste disposal sources subject to the NESHAP Subpart M. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated, and if the standard is being met. The quarterly reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations.

Demolition and Renovation

Owners and operators of demolitions and renovations must notify EPA in advance of the initiation of any asbestos removal work. The notice provides information on the dates of operation, the nature of the removal operation, the quantity of asbestos, and controls to be used. The reviewing authority may then inspect the source to ensure compliance with the standard. The demolition and renovation standard requires that a representative trained in the provisions of the standard be present at the facility. Evidence that the required training has been completed is required. The provisions require that all containers of asbestos waste be labeled including the name of the waste generator and the location of where the waste was generated. Owners or operators of demolitions and renovations are required to prepare and maintain records of each waste shipment as to its destination, the quantity of waste, and the date of shipment, and to furnish a copy of the record to disposal site owners or operators. The regulation also requires that the generators of asbestos waste attempt to reconcile instances in which a signed copy of the waste shipment record is not received from the disposal site and that the generator notify EPA if delivery to the disposal site cannot be confirmed.

Owners and operators of waste disposal sites are required to document all asbestos waste shipments that are received and send a copy of each record back to the generator. A record of the location and quantity of asbestos in the landfill is required as well as noting the presence and location of asbestos in the landfill property deed. Disposal site owners and operators have to report to EPA any discrepancies between the amount of waste designated on the waste shipment record and the amount actually received, as well as instances of improperly contained waste. An owner or operator of an operation in which asbestos-containing materials are spray-applied must notify EPA in advance of the spraying operation. The notice provides information on the name and address of the owner or operator, location of the spraying operation, and procedures to be followed.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least 2 years following the date of such measurements, and records. All reports are sent to the delegated State or Local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Responses to this information collection are mandatory. Section 112 of the Clean Air Act as Amended provides EPA with the authority for NESHAP Standards. 40 CFR part 61, subpart M requires the collection and reporting of the emissions data/ work practice compliance. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/4/99 (64 FR 107); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 2.7 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of Asbestos Milling, Manufacturing and Fabricating Facilities

Estimated Number of Respondents: 10,647.

Frequency of Response: On occasion, weekly, quarterly and annually.

Estimated Total Annual Hour Burden: 362,159 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0111.09 and OMB Control No. 2060–0101 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: November 15, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–30406 Filed 11–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6479–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NESHAP: Benzene Waste Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information

Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP, Benzene Waste Operations, OMB Control Number 2060–0183, expiration date 2/29/2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1541.06.

SUPPLEMENTARY INFORMATION:

Title: NESHAP: Benzene Waste Operations (OMB Control No. 2060–0183; EPA ICR No. 1541.06) expiring 2/29/2000. This is a request for extension of a currently approved collection.

Abstract: Any facility which manages a waste containing benzene must maintain records and submit reports to the Agency. There is a tiered threshold for burden. Facilities managing waste containing less than 1 megagram of benzene must simply certify to that affect and maintain documentation to support their finding. Facilities managing more than 1 megagram and less than 10 megagrams of benzene-containing waste must prepare an initial certification, test annually to verify that their waste stream still falls within this range and maintain documentation to support these findings. Facilities managing more than 10 megagrams of waste must submit quarterly and annual reports documenting the results of continuous monitoring. The Agency uses this information to determine compliance and to select plants or processes for inspection.

Owners or operators of the affected facilities described must make one-time-only notifications. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to Benzene Waste Operations provide information on the operation of the vapor control device and compliance with the standard. Quarterly reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to the NESHAPs. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least 2 years following the date of such records. Approximately 240 sources are currently subject to the standard, and 120 of those are estimated to have more than 10 Mg/yr of benzene in the waste. It is estimated that no additional sources will become subject to the standard in the next three years. The cost of this ICR will be 405,266 dollars. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/4/99; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 71 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of chemical plants, petroleum refineries, coke by-product recovery plants, and commercial treatment, storage, and disposal facilities.

Estimated Number of Respondents: 240.

Frequency of Response: quarterly, annually.

Estimated Total Annual Hour Burden: 17,028 hours.

Estimated Total Annualized Capital O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1541.06 and OMB Control No. 2060–0183 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: November 9, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–30407 Filed 11–19–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00282; FRL–6395–1]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on December 6–8, 1999, in Washington, DC. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: Agent GA (tabun): Ethyl *N,N*-dimethylphosphoramidocyanidate, Agent GB (sarin): *O*-isopropyl methylphosphonofluoridate, Agent GD (soman): *O*-pinacolyl methylphosphonofluoridate, Agent GF: *O*-cyclohexyl-methylfluorophosphonate, Agent HD (sulfur mustard): Bis(2-chloroethyl)sulfide, Agent VX: *O*-ethyl *S*-(2-diisopropylaminoethyl) methyl-phosphonothiiolate, bromine, 1,2-dichloroethylene, ethylene oxide, methyl isocyanate, otto fuel (propylene glycol dinitrate major component) phosphine, 1,1,1-trichloroethane, and uranium hexafluoride. There will also be a discussion of the review and comment by the National Academy of

Sciences/National Research Council (NAS/NRC) Subcommittee on certain Interim AEGL values previously published in the **Federal Register** of October 30, 1997 (62 FR 58840–58851). These chemicals include: Aniline, arsine, chlorine, 1,1-dimethylhydrazine, 1,2-dimethylhydrazine, fluorine, hydrazine, and methyl hydrazine. There may also be a discussion regarding any further comments on the Standing Operating Procedures.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5 p.m. on December 6, 1999; from 8:30 a.m. to 5 p.m. on December 7, 1999; and from 8:30 a.m. to 1 p.m. on December 8, 1999.

ADDRESSES: The meeting will be held at the U. S. Department of Transportation (DOT), DOT Headquarters, Nassif Building, Rooms 6200–6204, 400 7th St., SW., Washington, DC (L'Enfant Center Metro stop). Visitors should bring a photo ID for entry into the building and should contact the Designated Federal Officer (DFO) to have their names added to a security entry list. Visitors must enter the building at the Southwest Entrance/ Visitor's Entrance, 7th and E Sts. Quadrant.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Christine M. Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: (202) 554–1404 and TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul S. Tobin, DFO, Office of Pollution Prevention and Toxics (7406), 401 M St., SW., Washington, DC 20460; telephone number: (202) 260–1736; e-mail address: tobin.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–00282. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Busniess Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under "FOR FURTHER INFORMATION CONTACT."

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for March, 2000. The exact date, location of this meeting, and chemicals to be discussed will be published in a future **Federal Register** notice.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: November 15, 1999.

William H. Sanders, III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 99–30412 Filed 11–19–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6479–7]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as Amended, Bull Moose Tube Superfund Site, Gerald, MO

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for public comment.

SUMMARY: The United States Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended 42 U.S.C. 9622(h). This settlement is intended to resolve the liability of the Bull Moose Tube Company for response costs incurred at the Bull Moose Tube Superfund Site, 401 E. Industrial Drive, Gerald, Missouri.

DATES: Written comments must be provided on or before December 22, 1999.

ADDRESSES: Comments should be addressed to Steven L. Sanders, Assistant Regional Counsel, Office of Regional Counsel, United States

Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101 and should refer to: *In the Matter of Bull Moose Tube Superfund Site*, EPA Docket No. CERCLA–7–2000–0001.

The proposed administrative cost recovery settlement may be examined in person at the United States Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101. A copy of the proposed settlement may be obtained from Kathy Robinson, Regional Hearing Clerk, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551–7567.

FOR FURTHER INFORMATION CONTACT: Steven L. Sanders, Assistant Regional Counsel, Office of Regional Counsel, EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551–7010.

Dated: November 8, 1999.

Michael J. Sanderson,

Director, Superfund Division, Region VII.

[FR Doc. 99–30405 Filed 11–19–99; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

[BM–10–NOV–99–02]

Policy Statement on Borrower Privacy

AGENCY: Farm Credit Administration.

ACTION: Policy statement.

SUMMARY: The Farm Credit Administration (FCA) Board adopted a policy statement that requires Farm Credit System (FCS or System) institutions to formally inform borrowers that their nonpublic personal financial information is protected by regulation. The policy statement requires System institutions to inform new borrowers at loan closing of the FCA regulations on releasing borrower information and to address this issue in the Annual Report to Shareholders.

EFFECTIVE DATE: November 10, 1999.

FOR FURTHER INFORMATION CONTACT: Eric Howard, Senior Policy Analyst, Office of Policy Analysis, Farm Credit Administration, (703) 883–4498, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The text of the Board's policy statement on borrower privacy is set forth below in its entirety:

FCA Board Action on Policy Statement on Borrower Privacy, BM–10–NOV–99–02, FCA–PS–77

Effective Date: 10–Nov–99.
Effect on Previous Action: None.
Source of Authority: Section 5.9 of the Farm Credit Act of 1971, as amended.

The Farm Credit Administration (FCA) Board Hereby Adopts the Following Policy Statement

The Farm Credit Administration Board believes that consumer privacy is an important component of individual freedom. The FCA Board also realizes that the free flow of information is necessary for the functioning of our democratic society and market economy. As cooperative institutions organized using the principles of democracy and free markets, these same issues are important to Farm Credit System (System) institutions and their shareholders. Moreover, since Farm Credit institutions are owned and directed by the farmers, ranchers and cooperatives who borrow from them, the privacy and security of customer information is vital to the System's continued dependability and long-term success.

Recently we have witnessed the proliferation of businesses that specialize in the collection and dissemination of personal financial information. These "information brokers" market public and nonpublic information to various customers. Advances in computer technology have enabled "information brokers" to access and distribute personal financial information easily, cheaply, and without a consumer's knowledge or consent.

Since 1972, FCA regulations have required that borrower information be held in strict confidence by Farm Credit institutions, their directors, officers and employees. Our regulations at 12 CFR Part 618, Subpart G specifically restrict Farm Credit institution directors and employees from disclosing information not normally contained in published reports or press releases about the institution or its borrowers or members. These regulations also provide Farm Credit institutions clear guidelines for protecting their borrowers' nonpublic personal information.

The FCA Board believes that Farm Credit institutions have a responsibility to inform their shareholders of their obligation to protect shareholders' nonpublic personal information. Therefore, Farm Credit institutions should inform new borrowers at loan closing of the FCA regulations on releasing borrower information. Farm Credit institutions should also address this information in the Annual Report to Shareholders. The implementation of these measures will ensure that new and existing borrowers are aware of the privacy protections afforded them through FCA regulations and Farm Credit System institution efforts.

Adopted this 10th day of November, 1999 by order of the Board.

Dated: November 16, 1999.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 99–30365 Filed 11–19–99; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

November 10, 1999.

FCC To Hold Open Commission Meeting Thursday, November 18, 1999

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, November 18, 1999, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, S.W., Washington, D.C.

Item No.	Bureau	Subject
1	Mass Media	Title: Implementation of Video Description of Video Programming. Summary: The Commission will consider a Notice of Proposed Rulemaking concerning the accessibility of video programming to persons with visual disabilities.
2	Common Carrier	Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147); and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996. Summary: The Commission will consider a Third Report and Order in CC Docket No. 98–147 and a Fourth Report and Order in CC Docket 96–98 concerning the availability and deployment of advanced services and the application of Section 251 to advanced services.
3	Wireless Telecommunications.	Title: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems (CC Docket No. 94–102, RM–8143).

Item No.	Bureau	Subject
4	Office of Engineering and Technology.	Summary: The Commission will consider a Second Memorandum Opinion and Order concerning petitions for reconsideration and clarification of the wireless E911 rules. Title: Principles for Reallocation of Spectrum to Encourage the Development of Telecommunications Technologies for the New Millennium. Summary: The Commission will consider a Policy Statement concerning spectrum management for the new millennium.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500; TTY (202) 418–2555.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800; fax (202) 857–3805 and 857–3184; or TTY (202) 293–8810. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its__inc@ix.netcom.com. Their Internet address is http://www.itis.com.

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–30438 Filed 11–17–99; 4:50 pm]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 7, 1999.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Steven D. McLaen, Forman, North Dakota; David L. Sorgatz, Napoleon, North Dakota; and Bruce Wentz, Napoleon, North Dakota; to acquire voting shares of Napoleon Bancorporation, Inc., Napoleon, North Dakota, and thereby indirectly acquire voting shares of Stock Growers Bank, Napoleon, North Dakota.

Board of Governors of the Federal Reserve System, November 16, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30295 Filed 11–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 7, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Bradley Place Heath, Palestine, Illinois; to acquire additional voting shares of First National Bancshares in Newton, Inc., Newton, Illinois, and thereby indirectly acquire additional voting shares of First National Bank in Newton, Newton, Illinois.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. James O. Pohlad, Edina, Minnesota; Robert C. Pohlad, Edina, Minnesota; William M. Pohlad, Minneapolis, Minnesota; Donald Benson, Wayzata, Minnesota; and Raymond Zehr, Jr., Edina, Minnesota, as trustees for The 2000 Irrevocable Security Trust No. 1 of Carl R. Pohlad and the 2000 Irrevocable Trust No. 2 of Carl R. Pohlad; to acquire voting shares of Marquette Bancshares, Inc., Minneapolis, Minnesota, and thereby indirectly acquire voting shares of Marquette Bank, N.A., Golden Valley, Minnesota; Marquette Capital Bank, N.A., Minneapolis, Minnesota; Marquette Bank Cedar Rapids, Cedar Rapids, Iowa; Marquette Bank Clinton, Clinton, Iowa; Marquette Bank Oelwein, N.A., Oelwein, Iowa; Marquette Bank Illinois, Galesburg, Illinois; Marquette Bank Morrison, Morrison, Illinois; Meridian Capital Bank, N.A., Milwaukee, Wisconsin; First National Bank and Trust Co. of Baraboo, Baraboo, Wisconsin; Marquette Bank Nebraska, N.A., O'Neill, Nebraska; and Marquette Bank South Dakota, N.A., Sioux Falls, South Dakota.

Board of Governors of the Federal Reserve System, November 17, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30397 Filed 11–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval,

pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 17, 1999.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Greater Bay Bancorp, Palo Alto, California; to merge with Mt. Diablo Bancshares, Danville, California, and thereby indirectly acquire Mt. Diablo National Bank, Danville, California.

2. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of Prime Bancshares, Inc., Houston, Texas, and thereby indirectly acquire Prime Bank, Houston, Texas. Comments regarding this application must be received not later than December 7, 1999.

Board of Governors of the Federal Reserve System, November 16, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30294 Filed 11–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 17, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street. Richmond, Virginia 23261-4528:

1. Centura Banks, Inc., Rocky Mount, North Carolina; to merge with Triangle Bancorp, Inc., Raleigh, North Carolina, and thereby indirectly acquire Triangle Bank, Raleigh, North Carolina, and Bank of Mecklenburg, Charlotte, North Carolina.

In connection with this application, Applicant also has applied to acquire Coastal Leasing LLC, Greenville, North Carolina, and thereby engage in leasing activities, pursuant to § 225.28(b)(3) of Regulation Y.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Team Financial ESOP; Team Financial Acquisition Subsidiary, Inc.; and Team Financial, Inc., all of Paola, Kansas; to acquire 100 percent of the voting shares of Fort Calhoun Investment Co., Fort Calhoun, Nebraska, and thereby indirectly acquire Fort Calhoun State Bank, Fort Calhoun, Nebraska.

In connection with this application, Applicants also have applied to acquire Fort Calhoun Investment Co., Fort Calhoun, Nebraska, and thereby engage in insurance activities in a town of less than 5,000 in population, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

Board of Governors of the Federal Reserve System, November 17, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30398 Filed 11–19–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 17, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Hometown Banc Corp., Grand Island, Nebraska; to retain voting shares of Hometown Banc Corp., Grand Island, Nebraska, and thereby indirectly retain voting shares of Security State Bank, Sumner, Nebraska, and thereby engage in the operation of a thrift, pursuant to § 225.28(b)(4)(ii) of Regulation Y upon the conversion of Security State Bank to a thrift charter. Security State Bank will be renamed Security Bank, Sumner, Nebraska.

Board of Governors of the Federal Reserve System, November 17, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30399 Filed 11–19–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

[GAO/AIMD–00–21.3.1]

Standards for Internal Control in the Federal Government

AGENCY: General Accounting Office.

ACTION: Notice of document availability.

SUMMARY: The General Accounting Office (GAO) has issued a revised "Standards for Internal Control in the Federal Government," dated November 1999. This publication updates and replaces the 1983 "Standards for Internal Controls in the Federal Government," commonly referred to as the "Green Book." The new standards incorporate the concepts of the existing standards and provide greater recognition to the impact of information technology, human capital management, and private sector guidance on internal control. The new standards are intended to assist federal agency program and financial managers achieve the internal control objectives of their organizations. The standards are effective for fiscal year 2000 and apply to reports required by the Federal Managers' Financial Integrity Act (FMFIA) for that year.

DATES: November 1999.

ADDRESSES: Copies of the internal control standards are available by (1) pick-up at Document Distribution, U.S. General Accounting Office, Room 1100, 700 4th Street, NW. (corner of 4th and G Streets, NW.), Washington, DC; (2) Mail from U.S. General Accounting Office, P.O. Box 37050, Washington, DC 20013; (3) Phone at 202–512–6000 or FAX at 202–512–6061 or TDD at 202–512–2537; or (4) On GAO's homepage on the Internet at (http://www.gao.gov) under the link to "Special Publications."

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Gramling, Director, Corporate Audits and Standards, Accounting and Information Management Division, U.S. General Accounting Office, Room 5089, 441 G Street, NW., Washington, DC 20548, or by telephone at 202–512–9406.

SUPPLEMENTARY INFORMATION: Beginning with the Accounting and Auditing Act of 1950, agency heads have been required to establish and maintain effective internal control. Over the years, GAO had issued numerous publications to assist agencies in establishing and maintaining effective internal control. In 1982, the Federal Managers' Financial Integrity Act required agencies to evaluate their systems of internal control on a periodic basis using guidance issued by the Office of Management and Budget (OMB Circular A–123, "Management Accountability and Control," revised June 21, 1995) and to report on whether their systems conform to the internal control standards. The Act also amended the Accounting and Auditing Act of 1950 requiring GAO to promulgate internal control standards. In 1983, GAO drew on its previously issued guidance and experts throughout government, the private sector, and the academic communities to develop and issue the required "Standards for Internal Controls in the Federal Government."

Although, those standards remain conceptually sound and are used throughout the federal government, several factors indicated a need to revise and update the standards. The revision and update was performed primarily in response to (1) the effect of rapid advances in information technology management upon internal control, (2) a greater recognition of the role of human capital management as an important factor in internal control, and (3) the need to implement updates of the standards used in the private sector where useful in the federal government environment. The new standards also reflect the increased emphasis upon internal control inherent in important legislation such as the Chief Financial Officers Act of 1990, the Government Performance and Results Act of 1993, and the Federal Financial Management Improvement Act of 1996. These standards provide the overall framework for federal agencies to establish and maintain internal control and to identify and address major performance and management challenges and areas at greatest risk for fraud, waste, abuse, and mismanagement. They will be useful to both program and financial managers in all federal departments and agencies in meeting their missions and objectives and in achieving financial accountability.

The format of the new standards and the concepts expressed by them are consistent with those contained in the document "Internal Control-Integrated Framework" published in 1992 by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The COSO document is widely accepted for use in the private sector. The GAO document defines internal control as an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved: (a) Effectiveness and efficiency of operations, (b) reliability of financial reporting, and (c) compliance with applicable laws and regulations. There are five broad standards that define the minimum level of quality acceptable for internal control in government and provide a basis against which agency internal control can be evaluated. These five standards cover the areas of (1) Control Environment, (2) Risk Assessment, (3) Control Activities, (4) Information and Communications, and (5) Monitoring.

We encourage wide distribution and application of the new standards for internal control throughout the federal government.

Jeffrey C. Steinhoff,

Acting Assistant Comptroller General for Accounting and Information Management.

[FR Doc. 99–30354 Filed 11–19–99; 8:45 am]

BILLING CODE 1610–02–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Workgroup on the National Health Information Infrastructure.

Time and Date: 10 a.m.–4 p.m., December 16, 1999.

Place: Room 305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: At this meeting the Workgroup on the National Health Information Infrastructure will discuss progress the Workgroup has made on narrative descriptions of various stakeholder views on the national health information infrastructure, plan for next steps, and attend to other business as required.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Mary Jo Deering, Lead Staff Person for the NCVHS Workgroup on the National Health Information Infrastructure, Office of the Assistant Secretary for Public Health and Science, DHHS, Room 738G, Humphrey

Building, 200 Independence Avenue SW., Washington, DC 20201, telephone (202) 260–2652, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/, where an agenda for the meeting will be posted when available.

Dated: November 15, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–30350 Filed 11–19–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), *Joint Meeting:* Subcommittee on Standards and Security and Workgroup on Computer-based Patient Records.

Time and Date: 9 a.m. to 5 p.m., December 9, 1999; 9 a.m. to 5 p.m., December 10, 1999.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: On December 9, the Subcommittee and Working Group will review previous testimony and draft recommendations for a report to the Secretary. On December 10, they will discuss the Notice of Proposed Rule Making (NPRM) on claims attachments (if published), draft comments on the RPRM for full HCVHS review, discuss a process for assessing implementations of HIPAA, and discuss issues for year 2000.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from J. Michael Fitzmaurice, Ph.D., Agency for Health Care Policy and Research, 2101 East Jefferson Street, #602, Rockville, MD 20852, phone: 301–594–1483, x1052; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the HCVHS home page of the HHS website: *http://www.ncvhs.hhs.gov/* where an agenda for the meeting will be posted when available.

Dated: November 15, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–30351 Filed 11–19–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Service announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Executive Subcommittee.

Time and Date: 1 a.m.–5:30 p.m., December 7, 1999.

Place: Room 405A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: At this meeting the Executive Subcommittee will be planning for the February meeting of the NCVHS, discussing the Notice of Proposed Rule Making (NPRM) on Standards for Privacy of Individually Identifiable Health Information, and attending to other business as required.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: http://www.ncvhs.hhs.gov/, where an agenda for the meeting will be posted when available.

Dated: November 15, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–30352 Filed 11–19–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Privacy and Confidentiality.

Time and Date: 10–12 noon, November 23, 1999.

Place: Conference Call, Participants Dial-in Number: 1–888–296–1938, Participants Code: 336102.

Status: Open.

Purpose: During this conference call, the Subcommittee will discuss the Notice of Proposed Rule Making (NPRM) on Standards for Privacy of Individually Identifiable Health Information and develop recommendations for the full Committee.

Notice: This conference call is open to the public using the participants' dial-in-telephone number and participants' code, but access may be limited by the number of available telephone lines.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Gail Horlick, M.S.W., J.D., Lead Staff Person for the NCVHS Subcommittee on Privacy and Confidentiality, Office of Research and Demonstrations, Program Analyst, National Immunization Program, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop E–62, Atlanta, Georgia 30333, telephone (404) 639–8345; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: *http://aspe.os.dhhs.gov/ncvhs*, where further information will be posted when available.

Dated: November 16, 1999.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 99–30353 Filed 11–19–99; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2607]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by December 22, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale—21 CFR 801.420 and 801.421 (OMB Control No. 0910–0171—Extension)

Under section 520(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(e)), the Secretary of the Department of Health and Human Services may, under certain conditions, require by regulation that a device be restricted to sale, distribution, or use only upon authorization of a licensed practitioner or upon other prescribed conditions. Sections 801.420 and 801.421 (21 CFR 801.420 and 801.421) implement this authority for hearing aids, which are restricted devices. The regulations require that the manufacturer or distributor provide to the user data useful in selecting, fitting, and checking the performance of a hearing aid through distribution of a user instructional brochure. The user instructional brochure must also contain technical data about the device, instructions for its use, maintenance and care, a warning statement, a notice about the medical evaluation requirement, and a statement if the aid is rebuilt or used.

Hearing aid dispensers are required to provide the prospective user, before the sale of a hearing aid, with a copy of the user instructional brochure for the hearing aid model that has been, or may be, selected for the prospective user and to review the contents of the brochure with the buyer. In addition, upon request by an individual who is considering the purchase of a hearing aid, the dispenser is required to provide a copy of the user instructional brochure for that model hearing aid or the name and address or telephone number of the manufacturer or distributor from whom a user instructional brochure for the hearing aid may be obtained. Under conditions of sale of hearing aid devices, manufacturers or distributors shall provide sufficient copies of the user instructional brochure to sellers for distribution to users and prospective users and provide a copy of the user instructional brochure to any health care professional, user, or prospective users who request a copy in writing. The regulations also require that the patient provide a written statement that he or she has undergone a medical evaluation within the previous 6 months before the hearing aid is dispensed, although informed adults may waive the medical evaluation requirement by signing a written statement. Finally, the regulation requires that the dispenser retain for 3 years copies of all physician statements or any waivers of medical evaluations.

The information obtained through this collection of information is used by FDA to ensure that hearing aids are sold and used in a way consistent with the public health.

The information contained in the user instructional brochure is intended not only for the hearing aid user but also for the physician, audiologist, and dispenser. The data is used by these health care professionals to evaluate the suitability of a hearing aid, to permit proper fitting of it, and to facilitate repairs. The data also permits the comparison of the performance characteristics of various hearing aids. Noncompliance could result in a substantial risk to the hearing impaired because the physician, audiologist, or dispenser would not have sufficient data to match the aid to the needs of the user.

The respondents to this collection of information are hearing aid manufacturers, distributors, dispensers, health care professionals, or other for-profit organizations.

In the **Federal Register** of August 25, 1999 (64 FR 46395), the agency requested comments on the proposed collection of information.

FDA received one comment from an association representing hearing aid manufacturers. The comment noted that the association had commented in 1998 on this collection of information and had suggested through a limited survey of its members that its companies produced 18 models and not the 5 estimated by FDA and that it took 136 hours for a company to prepare a User Instructional Brochure. The comment noted that FDA used a figure of 102 hours and failed to address where this figure came from.

FDA previously addressed this comment in the **Federal Register** of October 26, 1998 (63 FR 57128). FDA agreed with the comment with respect to the number of models, and FDA raised its estimate in that respect. FDA noted, however, that the comment failed to take into account that FDA was estimating an annual burden and not every model required a new brochure every year. FDA further noted that much of the information in the brochure remains the same from one permutation of a model to another and, therefore, it would not take 136 hours to develop every brochure. FDA estimated that, for about half of the models, it would only take one-half of 136 hours or 68 hours to modify the brochure. From this, FDA estimated that the average preparation time for all brochures would be 102 hours. FDA believes that this estimate is still appropriate.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
801.420(c)	40	24	960	102	97,920
801.421(b)	9,900	162	1,600,000	0.30	480,000
801.421(c)	9,900	5	49,700	0.17	8,449
Total					586,369

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
801.421(d)	9,900	162	1,600,000	0.25	400,000
Total					400,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Section 801.420(c) estimate assumes that 40 hearing aid manufacturers or distributors each will distribute 5 different models of hearing aids. Thus, the 40 hearing aid manufacturers or distributors will provide 5 different user instructional brochures to sellers for distribution to prospective users and users. The completion of each user instructional brochure is estimated to require 102 staff hours.

Section 801.421(b) estimate assumes that 9,900 hearing aid dispensers will have 162 sales annually. For all such sales, the dispenser must provide the prospective user a copy of the user instructional brochure and the opportunity to read and review the contents with him or her orally, or in the predominant method used during the sale. FDA estimates that this exchange will involve .30 staff hours.

Section 801.421(c) estimate assumes that 40 hearing aid manufacturers or distributors and 9,900 dispensers will provide copies of the user instructional brochure to any health care professional, user, or prospective user who requests a copy in writing. It is estimated that five written requests for copies of the brochures will be received by each hearing aid manufacturer or distributor and dispenser annually. It is estimated that each request for a brochure will take .17 staff hours to complete. This effort consists of the hearing aid manufacturer or distributor or hearing aid dispenser locating the appropriate user instructional brochure for the specific model and mailing the brochure to the requester.

Section 801.421(d) recordkeeping estimate assumes that 9,900 hearing aid dispensers will each retain 162 records. Each record documents the dispensing of a hearing aid to a hearing aid user. The recordkeeping entry is estimated to require 0.25 staff hours.

Dated: November 10, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–30302 Filed 11–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4491]

Reuse of Single Use Devices; FDA's Proposed Strategy; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting: Reuse of Single Use Devices—FDA's Proposed Strategy. The topic to be discussed is the current practice of reprocessing and reusing devices that are labeled, or otherwise intended, for only one use and FDA's proposed strategy to address concerns regarding this practice.

Date and Time: The meeting will be held on December 14, 1999, 8 a.m. to 5:30 p.m.

Location: The meeting will be held at the University of Maryland Auditorium, 9640 Gudelsky Dr., Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Heather Howell, Center for Devices and Radiological Health (HFZ–205), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD, 20850, 301–594–3252, FAX 301–443–7185, Internet site: http://www.fda.gov/cdrh/reuse, e-mail: reuse@cdrh.fda.gov.

Registration and Requests for Oral Presentations: Please register online on the Internet at http://www.fda.gov/cdrh/reuse by December 1, 1999. There is no charge to attend this meeting, but advance registration is requested due to limited seating. Those desiring to make formal oral presentations should submit a brief statement of the general nature of their presentation, the names and addresses of the proposed participants, and an indication of the approximate time requested to make their presentation. The time allotted for each presentation is limited.

Written comments may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, by December 1, 1999.

If you need special accommodations due to a disability, please contact Heather Howell at least 7 days in advance of the meeting.

SUPPLEMENTARY INFORMATION:

I. Background

FDA announced the availability of a document entitled "FDA's Proposed Strategy on Reuse of Single-Use Devices" in the **Federal Register** of November 3, 1999 (64 FR 59782). The document presents the agency's current thinking about the best way to address the concerns regarding the practice of reprocessing and reusing devices that are labeled, or otherwise intended, for only one use. The agency is interested in discussing this proposed strategy, and it is soliciting comments, proposals for alternative approaches, and information on this issue.

II. Electronic Access

In order to receive "FDA's Proposed Strategy on Reuse of Single Use

Devices" via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 800–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at the second voice prompt press 2, and then enter the document number 2525 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of "FDA's Proposed Strategy on Reuse of Single Use Devices" may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes "FDA's Proposed Strategy on Reuse of Single Use Devices," device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

Dated: November 12, 1999.

David W. Feigal, Jr.,

Director, Center for Devices and Radiological Health.

[FR Doc. 99–30303 Filed 11–19–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1079–N]

Medicare Program; December 13, 1999, Meeting of the Practicing Physicians Advisory Council

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory Council. This meeting is open to the public.

DATES: The meeting is scheduled for December 13, 1999, from 8:00 a.m. until 5 p.m., e.s.t.

ADDRESSES: The meeting will be held in the Multi-purpose Room, Room 705–A, 7th Floor, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Paul Rudolf, Executive Director, Practicing Physicians Advisory Council, Room 435–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690–7874. News media representatives should contact the HCFA Press Office, (202) 690–6145.

SUPPLEMENTARY INFORMATION: The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Health Care Financing Administration not later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under Medicare or Medicaid in the previous year. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members must be doctors of medicine or osteopathy authorized to practice medicine and surgery by the States in which they practice. Members have been invited to serve for overlapping 4-year terms. In accordance with section 14 of the Federal Advisory Committee Act, terms of more than 2 years are contingent upon the renewal of the Council by appropriate action before the end of the 2-year term. The Council held its first meeting on May 11, 1992.

The current members are: Jerold M. Aronson, Richard Bronfman, Wayne R. Carlsen, Mary T. Herald, Sandral Hullett, Stephen A. Imbeau, Jerilynn S. Kaibel, Marie G. Kuffner, Derrick K. Latos, Dale Lervick, Sandra B. Reed, Susan Schooley, Maisie Tam, Victor Vela, and Kenneth M. Viste, Jr. The Council chairperson is Marie G. Kuffner.

Council members will be updated on the, Physician Fee Schedule (Practice Expense) Issues, Impact of the Balanced Budget Act of 1997, and New Coverage Process-How It Is Working.

The agenda will provide for discussion and comment on the following topics:

- New Initiatives in Provider Education/Communication.
- Provider Involvement in Beneficiary Education.
- Co-payment Follow Up.
- Physician/Beneficiary Interaction in Medicare+Choice.
- Program Fraud and Abuse Issues.

For additional information and clarification on the aforementioned topics, call the contact person listed above.

Individual physicians or medical organizations that represent physicians that wish to make 5-minute oral presentations on agenda issues should contact the Executive Director by 12 noon, November 29, 1999, to schedule the presentation. Testimony is limited to listed agenda issues only. The number of oral presentations may be limited by the time available. A written copy of the presenters' oral remarks should be submitted to the Executive Director no later than 12 noon, December 6, 1999, for distribution to Council members for review prior to the meeting. Physicians and organizations not scheduled to speak may also submit written comments to the Executive Director and Council members. The meeting is open to the public, but attendance is limited to the space available.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a)); 45 C.F.R. Part 11)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 10, 1999.

Nancy-Ann DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–30441 Filed 11–19–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request, Training Tomorrow's Scientists: Linking Minorities and Mentors Through the Web

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Behavioral and Social Sciences Research, Office of the Director, National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review

and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 24, 1999, pages 28001–28002, and allowed 60 days for public comment. Two public comments were received in response to the notice, both requesting additional general information on the project. No comments were received regarding cost or hour burden for respondents. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: Training Tomorrow's Scientists: Linking Minorities and Mentors through the Web. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This activity will increase the visibility of the National Institutes of Health's Research Supplements for Underrepresented Minorities program. The primary objective is to ensure in the coming decades a concentration of minority researchers who will address behavioral and social factors important in improving the public health and eliminating racial disparities. The Office will design a web site that will link promising minorities at the high school through junior faculty level with senior NIH-funded researchers who are willing to mentor. The activity is consistent with the Congressional mandate for the Office to enhance behavioral and social science training opportunities at NIH, especially for minorities. *Frequency of Response:* On occasion. *Affected Public:* Individuals or households. *Type of Respondents:* Students (high school, college, graduate school), postdoctoral fellows, junior faculty, and NIH researchers. The annual reporting burden is as follows: *Estimated Number of Respondents:* 4,000; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* .49 and *Estimated Total Annual Burden Hours Requested:* 1960. The annualzied cost to respondents is estimated at: 0. There are no Capital Costs, Operating Costs, or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Paula Skedsvold, Science Policy Officer, Office of Behavioral and Social Sciences Research, Office of the Director, National Institutes of Health, 9000 Rockville Pike, Building 31, Room B1C32, Bethesda, MD 20892, or call non-toll-free number (301) 435–6780 or E-mail your request,including your address to: skedsvop@od.nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before December 22, 1999.

Dated: November 12, 1999.

Virginia Cain,

Special Assistant to the Director, Office of Behavioral and Social Sciences Research, Office of the Director, National Institutes of Health.

[FR Doc. 99–30418 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing: "Extracellular cAMP-Dependent Protein Kinase in the Diagnosis and Prognosis of Cancer and Methods of Treatment"

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting J.R. Dixon, at the Office of Technology Transfer, National Institutes of Heath, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220; E–Mail; jd212g@NIH.GOV). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

SUPPLEMENTARY INFORMATION:

Invention Title: "Extracelular cAMP-Dependent Protein Kinase in the Diagnosis and Prognosis of Cancer and Methods of Treatment".

Inventor: Dr. Yoon S. Cho-Chung (NCI).

U.S. Patent Application Serial No.: 60/140,288 filed June 18, 1999.

DHHS Ref. No.: E–110–99/0

Abstract

It has been discovered that expression of extracellular-PKA (ECPKA) is serum is a measure of hormone-dependency of breast cancer. In view of this discovery, this invention provides a method of determining whether or not breast cancer in a give patient is hormone-dependent or hormone-independent. Current methods of determining hormone-dependency in breast cancer involve biopsy and examination of the breast cancer tissue for the presence of estrogen and/or progesterone receptors, which can be detected in the tissue by an immunohistochemical assay using a monoclonal antibody, by a biochemical assay using dextran-coated charcoal, and by other means. Such methods are disadvanageous due to inaccuracies (As much as 30–40% of results are false positives or false negatives), a lack of

consensus as to the minimum number of cells required to have an estrogen and/or progesterone receptor for determination of hormone-dependent cancer, and required biopsy. The present invention seeks to overcome such disadvantages by providing a more accurate assay for the hormone dependency or independency of breast cancer which does not require biopsy.

The determination of whether a breast cancer is hormone-dependent or hormone-independent has meaningful implications for the selection of treatment strategy and the prognosis of the disease. For example, if the breast cancer is hormone-dependent, the treatment may include hormone therapy involving administration of anti-estrogen drugs, the destruction of ovary function, or the removal of the ovaries. In the case of hormone-independence the absence of estrogen receptors in the primary tumor indicates a higher rate of recurrence and a shorter survival rate. In this instance the treatment will likely include the administration of chemotherapeutic drugs.

Technology

This invention provides a method of diagnosing cancer in a patient. The method involves assaying a sample of serum or other body fluids from the patient for the presence of ECPKA. An elevated level of ECPKA in the sample compared to the level in a control sample is indicative of cancer in the patient. The invention also includes a method of assaying a sample of serum or other body fluids from the patient for the presence of ECPKA in which (i) A reduction in the level of ECPKA in the sample as compared to the level in an earlier sample from the patient indicates an improvement in the patient's prognosis, (ii) no change in the level of ECPKA in the sample as compared to the level of ECPKA in an earlier sample from the patient, indicates no change in the patient's condition, or (iii) an increase in the level of ECPKA in the sample as compared to the level in an earlier sample from the patient, indicating a worsening of the patient's condition. As alluded to above, the invention also involves a method of determining whether a diagnosed breast cancer is hormone-dependent or hormone-independent. This method involves assaying a serum or other body fluid sample from the patient for the presence of ECPKA versus a control sample. An elevated level of ECPKA indicates that the breast cancer is hormone-dependent. Finally, the invention provides a method for the treatment of cancer. This method involves reducing the level of ECPKA by delivering the RIIβ subunit of PKA–II to target cancer cells to down-regulate the expression of ECPKA and inhibit cancer cell growth.

The above mentioned Invention is available, including any available foreign intellectual property rights, for licensing.

Dated: November 15, 1999.

Jack Spiegel,

Director, Division of Technology Development & Transfer, Office of Technology Transfer.

[FR Doc. 99–30341 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting of the Advisory Committee to the Director, NIH

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, December 2, 1999, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:30 a.m. to adjournment. The topics proposed for discussion include but are not limited to (1) a Report on the Burden of Illness Workshop; (2) a Preliminary Report of the Government Performance and Results Act Review Group; (3) an Update on Stem Cell Research; and (4) a Report from the Panel on Scientific Boundaries for Review. Attendance by the public will be limited to space available.

Ms. Janice Ramsden, Special Assistant to the Deputy Director, National Institutes of Health, 1 Center Drive MSC 0159, Bethesda, Maryland 20892–0159, telephone (301) 496–0959, fax (301) 496–7451, will furnish the meeting agenda, roster of committee members, and available substantive program information upon request. Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Ramsden no later than November 29, 1999.

Dated: November 12, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–30337 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and the personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee A—Cancer Centers.

Date: December 2–3, 1999.

Time: 7 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: David E. Maslow, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard—EPA 643A, Bethesda, MD 20892–7405, 301/496–2330.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 12, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30340 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C Appendix 2), notice is hereby given of the meeting of the President's Cancer Panel.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended because the premature disclosure of information and the discussions would likely to significantly frustrate implementation of recommendations.

Name of Committee: President's Cancer Panel.

Date: December 6, 1999.

Open: 8 am to 12 pm.

Agenda: To review the National Cancer Program: Then, Now, and in the Future.

Place: National Institutes of Health, 31 Center Drive, Building 31C, Conference Room 10, Bethesda, MD 20892.

Closed: 1 pm to 5 pm.

Agenda: To review and evaluate agency perspectives on the National Cancer Program and review questions and agendas for future meetings in 2000.

Place: National Institutes of Health, 31 Center Drive, Building 31C, Conference Room 10, Bethesda, MD 20892.

Contact Person: Maureen O. Wilson, Executive Secretary, National Cancer Institute, NIH, 31 Center Drive, Building 31, Room 4A48, Bethesda, MD 20892, (301) 496–1148.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.3997, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 16, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30415 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and the personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Pediatric Hydroxyurea Phase III Clinical Trail (BABYHUG) Coordinating Centers.

Date: December 16, 1999.

Time: 7:00 PM to 10:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: S. Charles Selden, Scientific Review Administrator, NIH/NHLBI/DEA, Rockledge Center II, 6701 Rockledge Drive, Suite 7196, Bethesda, MD 20892–7924, 301/435–0288.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Pediatric Hydroxyurea Phase III Clinical Trail (BABYHUG) Coordinating Centers.

Date: December 17, 1999.

Time: 8:00 AM to 5:30 PM.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: S. Charles Selden, Scientific Review Administrator, NIH/NHLBI/DEA, Rockledge Center II, 6701 Rockledge Drive, Suite 7196, Bethesda, MD 20892–7924, 301/435–0288.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 15, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30332 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel Nocturnal Asthma, Chronobiology and Sleep.

Date: November 16, 1999.

Time: 8:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Anne P. Clark, NIH, NHLBI, DEA, Review Branch, Rockledge II, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, (301) 435–0280.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93. 838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 15, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30333 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: November 18–19, 1999.

Time: 6:00 PM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Pace: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Alan L. Willard, Scientific Review Administrator, Scientific Review Branch, NINS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 15, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30334 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: November 30, 1999.

Time: 2:30 PM to 4:30 PM.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 15, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30335 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: November 29, 1999.

Time: 2:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Elsie D. Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–9787, etaylor@niaa.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: December 14, 1999.

Time: 12:00 pm to 2:00 pm.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Ronald Suddendorf, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2926.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273 Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: November 12, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30338 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Female Reproductive Aging: The Role of Estrogen.

Date: November 30, 1999.

Time: 11:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: James P. Harwood, Deputy Chief, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Training in the Epidemiology of Aging.

Date: November 30, 1999.

Time: 1:30 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Ann Guadagno, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 12, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30339 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, RFA Ai–99–002: Multicenter AIDS Cohort Study: Pathogenesis Research Laboratories.

Date: December 8, 1999.

Time: 1 pm to 4:30 pm.

Agenda: To review and evaluate cooperative agreement applications.

Place: 6700–B Rockledge Drive, Rm. 2151, Bethesda, MD 20892–7616 (Telephone Conference Call).

Contact Person: Allen C. Stoolmiller, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, (301) 496–2500.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 16, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30416 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 29, 1999.

Time: 2:30 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jo Pelham, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 1, 1999.

Time: 3:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sherry L. Dupere, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435–1021.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 7, 1999.

Time: 10:00 AM to 11:30 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William C. Branche, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 7, 1999.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcia Steinberg, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7840, Bethesda, MD 20892, (301) 435–1023.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 7, 1999.

Time: 2:00 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander D. Politis, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225. politisa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 8, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jean D. Sipe, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1743, sipej@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN–7 (03)M.

Date: December 8, 1999.

Time: 2:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call)

Contact Person: Bernard F. Driscoll, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 9, 1999.

Time: 10:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel Georgetown, 3000 M Street, NW, Washington, DC 20007.

Contact Person: Jeanne N,. Ketley, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room. 4130, MSC 7814, Bethesda, MD 20892, (301) 435–1789.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 9, 1999.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. Mac. Stiles, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7816, Bethesda, MD 20892, 301–435–1785.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BM–2 O1.

Date: December 9, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William C. Branche, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 9, 1999.

Time: 3:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 9, 1999.

Time: 3:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sherry L. Dupere, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435–1021.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 10, 1999.

Time: 2:00 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander D. Politis, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892 (301) 435–1225, politisa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 10, 1999.

Time: 12:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed Husain, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892–7850, (301) 435–1224.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 15, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30330 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 16–17, 1999.

Time: 3:00 PM to 10:30 AM.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Angela M. Pattatucci, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–435–1775.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–BDCN–1 (02)B.

Date: November 18, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Joe Marwah, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, 301–435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 18, 1999.

Time: 3:00 PM to 4:00 PM.

Agenda: To review and evaluate contract grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: J. Scott Osborne, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, 301–435–1782.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306. Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 15, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30331 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and the personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Review Special Emphasis Panel.
Date: November 18, 1999.
Time: 11:30 am to 11:45 am.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Jean D. Sipe, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4106, MSC 7814, Bethesda, MD 20892, 301/435–1743, spiej@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Review Special Emphasis Panel.
Date: November 22, 1999.
Time: 2:00 pm to 3:00 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Anthony C. Chung, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4128, MSC 7802, Bethesda, MD 20892, (301) 435–1850.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 12, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30336 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: November 29, 1999.
Time: 11 am to 12:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: David J. Remondin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, remondid@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 8, 1999.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza Washington-National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: J. Terrell Hoffeld, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 13, 1999.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza Washington-National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: J. Terrell Hoffeld, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781, th88q@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 13, 1999.
Time: 2 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: John L. Bowers, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 13, 1999.
Time: 3:30 pm to 4:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Nancy Hicks, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 13, 1999.
Time: 12:30 pm to 3:30 pm.
Agenda: To review and evaluate grant applications.
Place: Hilton National Airport Hotel, 2399 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Everett E. Sinnett, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, (301) 435–1016, sinnett@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 14, 1999.
Time: 1 pm to 3 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Priscilla B. Chen, Scientific Review Administrator, Center for Scientific review, National Institutes of health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 16, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30417 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Recombinant DNA Activities; Recombinant DNA Research: Proposed Actions Under the NIH Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).

SUMMARY: The purpose of this document is to inform the public of proposed changes to the NIH Guidelines related to the reporting of serious adverse events involving human gene transfer research. This notice describes a proposed action to amend the NIH Guidelines regarding the reporting and public disclosure of serious adverse events.

DATES: The public is encouraged to submit written comments on these proposed changes to the NIH Office of Recombinant DNA Activities (ORDA). Written comments may be submitted to NIH/ORDA in paper or electronic form. Written comments received by December 3, 1999, will be reproduced and distributed to the RAC for consideration at its December 8–10, 1999, meeting.

All comments received in response to this notice will be considered by the NIH and will be available for public inspection in the NIH/ORDA office weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions, or require additional information about these proposed changes to the NIH Guidelines, please contact the Office of Recombinant DNA Activities (ORDA) by e-mail at: ci4e@nih.gov, or telephone at: 301–496–9838. Written comments on these proposed changes to the NIH Guidelines can be submitted by e-mail to: ci4e@nih.gov, fax to: 301–496–9839, or mail to: the Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010.

For additional information about the December 8–10, 1999, RAC meeting at which these proposed changes will be deliberated, please visit the NIH/ORDA web site at: http://www.nih.gov/od/orda/.

SUPPLEMENTARY INFORMATION: Appendix M–VII–C of the NIH Guidelines requires Principal Investigators (or their designated sponsors) to report serious adverse events immediately to the local Institutional Review Board (IRB), Institutional Biosafety Committee (IBC), Office for Protection from Research Risks (OPRR) (if applicable), NIH/ORDA, and Food and Drug Administration (FDA).

All non-NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an institution that receives NIH support for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in: (i) Suspension, limitation, or termination of NIH funds for recombinant DNA research at the institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the institution.

All gene transfer clinical studies are subject to FDA regulations found in volume 21 of the Code of Federal Regulations (CFR), including specific requirements at 21 CFR 312.32 related to adverse events.

The immediate reporting of serious adverse events to NIH/ORDA by investigators allows rapid notification of the RAC. This, in turn, allows notification, as appropriate, of other IBCs, IRBs, and Principal Investigators in the field. Immediate reporting also provides a unique mechanism for early recognition of trends in the occurrence of serious adverse events that may raise significant implications for the safety of patients enrolled in similar human gene transfer studies. For example, there have been several instances in which public RAC discussion of serious adverse events has resulted in important changes in the design of vectors for gene delivery. When deemed appropriate, NIH/ORDA will initiate additional data collection for a comprehensive and public review by the RAC and ad hoc experts. This process fosters broad public awareness of issues and developments in human gene transfer research. The comprehensive public review of data by the RAC is a critical component of Federal oversight of gene transfer research.

Recently some investigators and sponsors have begun to designate human gene transfer protocols or serious adverse event reports confidential, thereby precluding public RAC review. Out of concern about this development, the NIH requested that the RAC consider whether the requirement for serious adverse event reporting as set forth in the NIH Guidelines needed to be clarified.

During the September 2–3, 1999, meeting, the RAC developed the following consensus statement with regard to serious adverse event reporting to NIH/ORDA and the RAC: "Adverse event reports shall not be designated as confidential, either in whole or in part. Adverse event reports are essential to decision-making by IBCs, IRBs, and potential subjects of gene transfer research in humans. The public disclosure of adverse events [in human gene transfer research] is also essential to public understanding and evaluation of gene transfer in humans. Adverse event reports must be made available for public discussion [by the RAC] without the inclusion of proprietary or trade secret information."

Some investigators have not complied with the NIH Guidelines requirement to report serious adverse events immediately to the NIH/ORDA. While the NIH Guidelines are clear on this matter, the NIH is proposing to amend the NIH Guidelines to restate the requirements for serious adverse event reporting and to include: (1) A definition of serious adverse events and a stipulation of the time-frame in which they are to be reported in writing (adapted from 21 CFR 312.32 IND Safety Reports); (2) a mandate that serious adverse event reports must not contain any trade secret or commercial or financial information that is privileged or confidential and that all information submitted in accordance with Appendix M–VII–C will be considered public unless NIH ORDA determines that there are exceptional circumstances; and (3) a directive that serious adverse event reports submitted to ORDA be stripped of individually-identifiable patient information.

Proposed Amendments to the NIH Guidelines

A new Section I–E–7 is added to read:

"Section I–E–7. A "serious adverse event" is defined as any expected or unexpected adverse event, related or unrelated to the intervention, occurring at any dose that results in any of the following outcomes: death, a life-threatening event, in-patient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization also may be considered a serious adverse event when, based upon appropriate medical judgement, they may jeopardize the human gene transfer research subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition."

Appendix M, Points To Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules Into One or More Human Subjects (Points To Consider)

Appendix M–VII–C, Serious Adverse Events, is proposed to read:

"Appendix M–VII–C–1, Serious Adverse Event Reporting

"Principal Investigators who have received authorization from FDA to initiate a human gene transfer protocol must report immediately in writing any serious adverse event (as defined in Section I–E–7) to the local Institutional Review Board, Institutional Biosafety Committee, Office for Protection from Research Risks (if applicable), NIH/ORDA, and FDA.

"Serious adverse event reports must not contain any trade secret or commercial or financial information that is privileged or confidential as defined under the Freedom of Information Act, 5 U.S.C. 552; therefore, unless NIH/ORDA determines that there are exceptional circumstances, all information submitted in accordance with Appendix M–VII–C will be considered public.

"Reports of serious adverse events may be submitted by e-mail to: ci4e@nih.gov, fax to: 301–496–9839, or by mail to: the Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010.

Appendix M–VII–C–2, Serious Adverse Event Reporting: Content and Format

"Reports of serious adverse events must follow the format provided in the Adverse Event Reporting Form available on NIH/ORDA's web site at: http://www.nih.gov/od/orda/. The serious adverse event report must include, but need not be limited to: (1) The date of the event; (2) a complete description of the event; (3) relevant clinical observations; (4) relevant clinical history; (5) relevant tests that were or are planned to be conducted; (6) the suspected cause of the event; (7) gene delivery method; (8) vector type, *e.g.*, adenovirus; (9) vector subtype, *e.g.*, type 5, relevant deletions; (10) dosing schedule; (11) route of administration; (12) clinical site; (13) principal investigator(s); (14) NIH Protocol number; and (15) Investigational New Drug (IND) number.

"Serious adverse event reports should be stripped of individually-identifiable patient information. Examples of such information include, but are not limited to, the patient's name, address, contact information, social security number, date of birth.

"Appendix M–VII–C–3, Time-Frames for Serious Adverse Event Reporting: Initial and Follow-Up Reports

"Immediate reporting of serious adverse events is essential for the early identification of acute events related to a gene transfer procedure, as well as the identification of patterns that may signal potential safety concerns. For the purposes of the NIH Guidelines, 'immediate' written reporting of all serious adverse events is to occur as soon as possible but no later than 15 calendar days after such an event has occurred. This applies to all serious adverse events, related or unrelated to gene transfer, which occur during the course of the clinical trial.

"Relevant additional clinical and laboratory data may become available following the initial serious adverse event report. The Principal Investigator(s) must provide any relevant follow-up information to a serious adverse event report within 15 calendar days of receipt of the relevant information. In addition, if a serious adverse event occurs after the end of a clinical trial, and is determined to be related to gene transfer, that event shall be reported by the Principal Investigator within 15 calendar days of the determination."

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which recombinant DNA techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: November 16, 1999.

Lana Skirboll,

Associate Director for Science Policy, National Institutes of Health.

[FR Doc. 99–30342 Filed 11–19–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–066–99–1990–00; CACA–20139 and CACA–22901]

Notice of Availability of Supplemental Environmental Impact Statement and Preferred Action for the Proposed Sand and Gravel Mining Operation, Los Angeles County, CA

AGENCY: Bureau of Land Management, Department of the Interior, Palm Springs-South Coast Field Office, Desert District, California.

ACTION: Notice of availability of supplemental environmental impact statement and identification of preferred action.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969 and 40 CFR 1503.1(a), notice is hereby given that the Bureau of Land Management (BLM) has prepared a supplement to the Draft Environmental Impact Statement (EIS). This supplement to the Draft EIS addresses a new proposal by Transit Mixed Concrete Company to transport mine material by a conveyor belt system rather than open trucks as proposed in the original draft EIS. The supplement will provide; further analysis of the potential air quality impacts. In addition the supplement identifies the BLM's preferred action. Interested citizens are invited to review the Supplement and submit comments. Copies of the Supplement may be obtained by telephoning or writing to the contact person listed below. Public reading copies of the Supplement are available at the following County of Los Angeles public libraries: Canyon County Library, 18536 Soledad Canyon Road, Santa Clarita, CA 91351; Newhall Library, 22704 W. Ninth Street, Santa Clarita, CA 91321; Valencia Library, 23743 W. Valencia Boulevard, Santa Clarita, CA 91355.

DATES: Comments must be received in writing to the BLM no later than January 10, 2000.

ADDRESSES: Written comments shall be mailed to the following address: Mr. James G. Kenna, Field Manager, Bureau of Land Management, Palm Springs-South Coast Field Office, 690 W. Garnet Avenue, PO Box 1260, North Palm Springs, California, 92258. Comments may also be submitted by electronic mail (E-mail) to the following address: emisquez@ca.blm.gov. The response to comments will be provided in the Final EIS.

FOR FURTHER INFORMATION CONTACT: Ms. Elena Misquez, BLM, Palm Springs-South Coast Field Office, PO Box 1260, North Palm Springs, CA 92258, telephone 760–251–4804.

Dated: November 12, 1999.

Carole Levitzky,

Assistant District Manager, External Affairs.

[FR Doc. 99–30094 Filed 11–19–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–1220–00 PD; HAG99–0309]

Proposed Prohibited Acts on Public Land in Oregon

AGENCY: Bureau of Land Management, Vale District, Baker Field Office, Oregon/Washington.

ACTION: Proposed supplementary rules for public land within the Wallowa and Grande Ronde River corridors, Baker Resource Area, Vale District, Oregon and Washington.

SUMMARY: The Bureau of Land Management's (BLM) Baker Field Office is proposing supplementary rules. These supplementary rules will apply in parts of the canyons of the Wallowa River and the Grande Ronde River in Oregon and Washington. The supplementary rules will govern conduct on all public lands managed by BLM within the river corridors described in the notice. The supplementary rules are needed in order to protect the rivers' natural resources and the public health and safety.

DATES: You should submit your comments by December 22, 1999.

ADDRESSES: You may mail or hand-deliver comments on the proposed supplementary rule to Bureau of Land Management, Baker Field Office. 3165 10th St., Baker City, OR 97814. You may also comment via the Internet to: vale__mail@blm.gov.

FOR FURTHER INFORMATION CONTACT: Penelope Dunn-Woods, Baker Field Office Manager, 3165 10th St., Baker City, OR 97814, telephone (541) 523–1256.

PUBLIC COMMENT PROCEDURES: Please submit your comments on issues related to the proposed supplementary rules, in writing, according to the **ADDRESSES** section above. Comments on the proposed supplementary rule should be specific, should be confined to issues pertinent to the proposed supplementary rules, and should explain the reason for any recommended change. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. BLM may not necessarily consider or include in the Administrative Record for the final supplementary rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

BLM will make your comments, including your name and address, available for public review at the Baker Resource Area address listed in **ADDRESSES** above during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays).

Under certain conditions, BLM can keep your personal information confidential. You must prominently state your request for confidentiality at the beginning of your comment. BLM will consider withholding your name, street address, and other identifying information on a case-by-case basis to the extent allowed by law. BLM will make available to the public all submissions from organizations and businesses and from individuals identifying themselves as representatives or officials of organizations or businesses.

DISCUSSION OF THE RULES: These supplementary rules will apply to portions of both the Wallowa and Grande Ronde river corridors managed by the Bureau of Land Management. In the canyon of the Wallowa River this includes public lands within ¼ mile of the mean high water mark of that portion of the river from mile 10 to the river's confluence with the Grande Ronde River. In the canyon of the Grande Ronde River includes public lands ¼ mile above the mean high water mark in the Washington State portion, and the public land in Oregon from approximately river mile 86.5 to the Oregon-Washington State line. BLM has determined these supplementary rules are necessary to protect the rivers' nature resources and to provide for safe public recreation, public health, and data collection. Our objective is to provide a quality recreational experience to the general public, with minimal amounts of user conflicts, and minimum damage to the public lands and resources.

In addition, these supplementary rules are in accordance with the Wallowa & Grande Ronde Rivers Final Management Plan and Environmental Assessment, December 1993, and conform to U.S. Forest Service regulations for management of adjacent segments of both rivers. You may read legal descriptions of the areas to which this order applies at the Baker Field Office, or find them in the Wallowa/Grande Final Management Plan, and in the 1995 & 1999 Vale District Project & Planning Update for the Baker Field Office.

Supplementary Rules for Wallowa and Grande Ronde River Canyons

Under 43 CFR 8365.1–6 and 43 CFR 8351.2–1, the Bureau of Land Management will enforce the following supplementary rules on portions of both the Wallowa and Grand Ronde river corridors managed by BLM. In the canyon of the Wallowa River this includes public lands within ¼ mile of the mean high water mark of that portion of the river from mile 10 to the river's confluence with the Grande Ronde River. In the canyon of the Grande Ronde River this includes public lands within ¼ mile above the mean high water mark in the Washington state portion, and the public land in Oregon from approximately river mile 86.5 to the Oregon-Washington state line. In all of these areas you must follow these supplementary rules:

1. Fires

(A) You must not build, maintain, or use a fire or campfire unless it is fully contained in a fireproof container with sides of a height sufficient to contain all ash and debris.

(B) You must not leave any campfire debris in the river corridor. This includes all ash, wood, or charcoal residue, or partially consumed briquets. All campfire ash and debris must be packed out of the river corridors.

2. Firewood and Vegetation

(A) You must not cut any live tree or vegetation,

(B) You must not cut or use other than dead and down material.

3. Sanitation

(A) You must carry and use a portable, containerized toilet during float trips.

(B) You must not dispose of solid human body waste except at designated locations or fixtures provided for that purpose.

4. Firearms

(A) You must not discharge a firearm within 150 yards of any occupied site, across any road or river, or in violation of State law.

5. Boating

(A) You must not operate motorized watercraft anywhere on the Grande Ronde River from the Umatilla National Forest Boundary marker (1.5 miles below the confluence with the Wallowa River at approximately river mile 80) downstream to the Oregon/Washington State line (approximately river mile 38.5).

(B) You must not violate any State Marine Board regulation.

6. Camping

(A) You must not camp in any area posted as "Closed" to that use.

7. Vehicles

(A) You must not enter the river corridor by motor vehicle in any area closed to that use.

(B) You must not operate a vehicle on other than established roads and trails.

8. Motorized Equipment

(A) You must not possess or use any motorized equipment or machinery activated by a non-living power source within the designated wild section of the Grande Ronde River from the USFS boundary near Grossman Creek (approximately river mile 62) downstream to Wildcat Creek (approximately river mile 53).

(B) You may use small, battery-powered, hand carried devices.

9. Other Acts

(A) No party or group larger than 25 people may launch, be on the river, stop, or camp within the boundary stated in these supplementary rules.

(B) You must obtain a permit for any boat trip prior to launching.

(C) You must follow the requirements of your permit and its permit stipulations.

(D) You must follow the regulations posted at launch sites.

10. Exemptions

Persons who are exempt from these supplementary rules include any Federal, State, or local officer, and members of any organized rescue or fire-fighting force in performance of an official duty, and any person authorized in writing by the Bureau of Land Management.

Penalties

(A) Under 18 U.S.C. 3571 and 43 CFR 8351.2–1, any person who violates any of these supplementary rules within the wild and Scenic portions of the river corridors may be tried before a United States Magistrate and fined no more than $500 or imprisoned for no more than 6 months, or both. Such violations may also be subject to the enhanced fines provided for by Title 18 U.S.C. 3571.

(B) On public lands outside of the designated Wild and Scenic river corridors, under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and 43 CFR 8365.1–6 any person who violates any of these supplementary rules within the boundaries established in the supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Charles Wassinger,

Associate State Director.

[FR Doc. 99–29356 Filed 11–19–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Issues Subcommittee Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem Roundtable Issues Subcommittee will meet on December 8, 1999 to discuss revisions to next years proposal solicitation package. Focus will be on local involvement, public access, and minimum requirements for applicants. This meeting is open to the public. Interested persons may make oral statements to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The BDAC's Ecosystem Roundtable meeting will be held from 9:30 a.m. to 12:00 p.m. on Wednesday, December 8, 1999.

ADDRESSES: The Ecosystem Roundtable will meet at the Resources Building, Room 1118, 1416 Ninth Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Wendy Halverson Martin, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay-Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This efforts, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advise to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: November 16, 1999.

Lester A. Snow,

Regional Director, Mid-Pacific Region.

[FR Doc. 99–30343 Filed 11–19–99; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Delta Drinking Water Council Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Delta Drinking Water Council will meet on December 16,

1999, to discuss several issues including drinking water quality targets and interim milestones. This meeting is open to the public. Interested persons may make oral statements to the Delta Drinking Water Council or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council's Delta Drinking Water Council meeting will be held from 12 noon to 3:30 p.m. on Thursday, December 16, 1999.

ADDRESSES: This meeting will meet at the Resources Building, 1416 Ninth Street, Room 1142, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Paul Hutton CALFED Bay-Delta Program, at (916) 653–9715. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One are of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Delta Drinking Water Council to advise the CALFED Program and the CALFED Policy Group through BDAC on necessary adaptations to the Program's Drinking Water Quality Improvement Strategy to achieve CALFED's drinking water objectives.

Minutes of the meeting will be maintained by the Program, 1416 Ninth Street, Suite 1155, Sacramento, CA 95814. and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: November 16, 1999.

Lester A. Snow,

Regional Director, Mid-Pacific Region.

[FR Doc. 99–30344 Filed 11–19–99; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of Justice Programs, Justice.

ACTION: Notice of information collection under review.

Bulletproof Vest Partnership Grant Act of 1998 (Act)—Public Law 105–181 June 16, 1998 Funding Program.

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 19, 1999 (64 FR 19200), allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until December 22, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the three form/collections:* Registration, Application for Funding, and Request for Payment.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government, State, Local or Tribal, and any law enforcement agencies who may elect to assist their units of general government with completion of the Application for Funding or Request for Payment forms.

Other: Armor vest manufacturers or distributors, individual law enforcement officers, or other interested parties.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that between 25,000 and 30,000 eligible units of general government may complete the Registration and Application for Funding forms that may take one hour during any one Fiscal Year, and may complete any number of Requests for Payment forms that may take as much as one hour total per Fiscal Year to complete as armor vests are received/accepted and Requests for Payment are made to the BVP.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Estimated to be between 50,000 and 90,000 total hours for the 25,000 to 30,000 estimated applicants.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: November 12, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–30073 Filed 11–19–99; 8:45 am]

BILLING CODE 4410–18–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Billing Instructions for NRC Cost Type Contracts.

2. *Current OMB approval number:* 3150–0109.

3. *How often the collection is required:* Monthly.

4. *Who is required or asked to report:* NRC Contractors.

5. *The number of annual respondents:* 80.

6. *The number of hours needed annually to complete the requirement or request:* 1,851 hours (1,123 for Billing + 728 for License Fee Recovery Cost Summary).

7. *Abstract:* The Division of Contracts and Property Management in administering its contracts provides Billing Instructions for its contractors to follow in preparation of invoices. These instructions stipulate the level of detail in which supporting cost data must be submitted for NRC review. The review of this information ensures that all payments made by NRC for valid and reasonable costs in accordance with the contract terms and conditions.

Submit, by January 21, 2000, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 16th day of November 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–30355 Filed 11–19–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 15c1–7, SEC File No. 270–146, OMB Control No. 3235–0134

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15c1–7 provides that any act of a broker-dealer designed to effect securities transactions with or for a customer account over which the broker-dealer (directly or through an agent or employee) has discretion will be considered a fraudulent, manipulative, or deceptive practice under the federal securities laws, unless a record is made of the transaction immediately by the broker-dealer. The record must include (a) the name of the customer, (b) the name, amount, and price of the security, and (c) the date and time when such transaction took place. The Commission estimates that 500 respondents collect information annually under Rule 15c1–7 and that approximately 33,333 hours would be required annually for these collections.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: November 15, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30316 Filed 11–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–1414]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Pacific Bell, Ten Year 7¼% Notes, Due July 1, 2002; Twelve 6¼% Notes, Due March 1, 2005; Thirty-Three Year 7⅛% Debentures, Due March 15, 2026; Forty Year 7½% Debentures, Due February 1, 2033; Thirty Year 6⅞% Debentures, Due August 15, 2003; and Forty-One Year 6⅝% Debentures, Due October 15, 2034)

November 16, 1999.

Pacific Bell, a California corporation ("Company") an indirect, wholly-owned subsidiary of SBC Communications Inc. ("SBC"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the securities specified above ("Securities") from listing and registration on the New York Stock Exchange, Inc. ("NYSE" or "Exchange").

On September 27, 1999, the Company's Board of Directors, in compliance with NYSE Rule 500, adopted a resolution to withdraw the Securities from listing and registration on the Exchange. The Company, in making the determination to seek such withdrawal, has cited the following factors in its application to the Commission:

- Each of the Securities currently has a limited number of registered holders.
- The Securities trade infrequently on the Exchange and the Company does not anticipate that such trading volume might increase appreciably.
- The costs associated with the continued listing of the Securities are prohibitive, given the limited trading volume.
- Both the Company and SBC are currently reporting companies under the Act and each files annual and periodic reports with the Commission, but the Company is seeking to avoid the costs it incurs in preparing such annual and periodic reports by obtaining from the Commission an exemption from the Act's reporting requirements. SBC has therefore proposed to guarantee certain of the Company's debt securities owned by more than 300 registered holders. Based on this proposed guaranty, and in conjunction with its application to withdraw its Securities from listing and registration on the NYSE, the Company has sought exemption from the Act's reporting requirements as provided in certain circumstances by Section 12(h) of the Act.
- The Company is not obligated by the terms of the indenture under which the Securities were issued or by any other document to maintain the Securities' listings on the NYSE or any other exchange.

The Company has stated in its application to the Commission that it has complied with the requirements of NYSE Rule 500 and that the Exchange has indicated it will not interpose any objection to the withdrawal of the Securities.

Any interested person may, on or before December 7, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–30317 Filed 11–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–2346]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Southwestern Bell Telephone Company, Seven Year 6⅛% Notes, Due March 1, 2000; Eight Year 6⅜% Notes, Due April 1, 2001; Twelve Year 6⅝% Notes, Due April 1, 2005; Forty Year 6⅞% Debentures, Due February 1, 2011; Twenty-Two Year 7% Debentures, Due July 1, 2015; Thirty Year 7⅝% Debentures, Due March 1, 2023; Thirty-Two Year 7¼% Debentures, Due July 15, 2025; and Fifty Year 6⅞% Debentures, Due March 31, 2048)

November 16, 1999.

Southwestern Bell Telephone Company, a Missouri corporation ("Company") and indirect, wholly-owned subsidiary of SBC Communications Inc. ("SBC"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the securities specified above ("Securities") from listing and registration on the New York Stock Exchange, Inc. ("NYSE" or "Exchange").

On September 27, 1999, the Company's Board of Directors, in compliance with NYSE Rule 500, adopted a resolution to withdraw the Securities from listing and registration on the Exchange. The Company, in making the determination to seek such withdrawal, has cited the following factors in its application to the Commission:

- Each of the Securities currently has a limited number of registered holders.
- The Securities trade infrequently on the Exchange and the company does not anticipate that such trading volume might increase appreciably.
- The costs associated with the continued listing of the Securities are prohibitive, given the limited trading volume.
- Both the Company and SBC are currently reporting companies under the Act and each files annual and periodic reports with the Commission, but the Company is seeking to avoid the costs it incurs in preparing such annual and periodic reports by obtaining from the Commission an exemption from the Act's reporting requirements. SBC has therefore proposed to guarantee certain of the Company's debt securities owned by more than 300 registered holders.

Based on this proposed guaranty, and in conjunction with its application to withdraw its Securities from listing and registration on the NYSE, the Company has sought exemption from the Act's reporting requirements as provided in certain circumstances by Section 12(h) of the Act.

• The Company is not obligated by the terms of the indenture under which the Securities were issued or by any other document to maintain the Securities' listing on the NYSE or any other exchange.

The Company has stated in its application to the Commission that it has complied with the requirements of NYSE Rule 500 and that the Exchange has indicated it will not interpose any objection to the withdrawal of the Securities.

Any interested person may, on or before December 7, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–30318 Filed 11–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42129; File No. SR–Amex–99–26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to Margin and Net Capital Requirements for Members and Clearing Members Participating in Joint Back Office Arrangements

November 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on July 16, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 462, "Minimum Margins," to establish margin and net capital requirements for Amex members and clearing members participating in joint back office ("JBO") arrangements. The test of the proposed rule change is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to revise Exchange Rule 462 to establish margin and net capital requirements for JBO participants [3] and clearing members. JBO arrangements permit a participating broker-dealer to be deemed self-clearing [4] for margin purposes and entitle the participating broker-dealer to receive credit on a good faith margin basis.[5]

In a 1996 release discussing amendments to Regulation T,[6] the Board of Governors of the Federal Reserve System ("FRB") placed its reliance on the authority of self-regulatory organizations ("SROs") to ensure the reasonableness of JBO arrangements.[7] When the Regulation T provision that permits JBO arrangements was first adopted, the FRB assumed there would be a reasonable relationship between the good faith credit a JBO clearing member extended to a JBO participant and the participant's ownership interest in the clearing member. Consequently, the FRB did not establish any explicit requirement for the amount of ownership that each JBO participant should have in the JBO clearing member. However, because Regulation T does not provide a precise ownership standard,[8] good faith credit has been extended to some "owners" that hold merely a nominal interest in a JBO clearing member.

In conjunction with other SROs and representatives from the securities industry, the Exchange seeks to establish prudent ownership standards for JBO participants and clearing members. These standards would permit the extension of good faith credit to clearing member "owners" only when the owners maintain meaningful assets on deposit with the JBO clearing member, and the clearing member maintains sufficient net capital and risk control procedures to carry the JBO accounts.

a. *Requirements for JBO Participants.* Under the proposal, each JBO participant would be required to be a registered broker-dealer subject to the net capital requirements prescribed by Commission Rule 15c3–1 ("Rule 15c3–1").[9] JBO participants could not claim the net capital exemption available to option market makers under Commission Rule 15c3–1(b)(1).[10] Instead, JBO participants would be required to deposit and maintain minimum account equity of $1 million and would be subject to Financial and Operational Combined Uniform Single Report ("FOCUS") filings and certified audits. If the equity in a JBO participant's account fell below $1 million, the JBO clearing firm would be

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The proposed rule change would apply to Amex members and member organizations that participate in JBO arrangements with JBO clearing members ("JBO participants").

[4] Under the proposal, JBO participants would not be considered self-clearing for any purpose other than for the extension of credit under Exchange Rule 462, as revised, or under the comparable rules of another self-regulatory organization.

[5] "Good faith" with respect to margin means, "the amount of margin which a creditor would require in exercising sound credit judgment." *See* 12 CFR 220.2.

[6] Regulation T is entitled "Credit by Brokers and Dealers." The FRB issued Regulation T pursuant to Section 7(a) of the Act. *See* 12 CFR 220, *et seq.*

[7] *See* Board of Governors of the Federal Reserve System Docket No. R–0772 (April 26, 1996), 61 FR 20386 (May 6, 1996).

[8] Section 220.7(c) of Regulation T only requires that a JBO clearing firm be "a clearing and servicing broker or dealer owned jointly or individually by other [broker-dealers]." 12 CFR 220.7(c).

[9] 17 CFR 240.15c3–1.

[10] 17 CFR 240.15c3–1(b)(1).

required to issue a margin call for additional funds or securities to be satisfied within five business days. Additionally, each JBO participant would be required to satisfy the ownership standards established by the JBO clearing member. To ensure that adequate procedures existed for complying with these requirements, JBO participants would be required to employ or have access to qualified Series 27 principal.[11]

b. *Requirements for JBO Clearing Members.* The proposed rule change would require each member clearing JBO accounts to notify its Designated Examining Authority in writing of its intention to clear JBO accounts and to comply with additional net capital requirements prescribed by the Exchange. Specifically, a JBO clearing member must maintain either: (1) tentative net capital of $25 million; [12] or (2) net capital of $7 million, if the clearing member's primary business is clearing option market maker accounts.[13] A JBO clearing member that primarily conducts an options market maker clearing business would be required to include the gross deductions calculated for all JBO participant accounts in its ratio of gross options market maker deductions to adjusted net capital.

Under the proposal, a JBO clearing member would be required to adjust its net worth each day by deducting any deficiency between a JBO participant's account equity and the proprietary haircut calculated pursuant to Rule 15c3–1 for the positions maintained in the JBO account. Additionally, clearing members that maintained JBO accounts would be required to ensure that each JBO participant maintained equity of $1 million over all related funds. The JBO clearing member would be required to issue a margin call if the JBO participant's account equity fell below the $1 million threshold. Each JBO clearing member also would be required to establish and maintain written ownership standards for its JBO accounts.[14] Finally, JBO clearing members would be required to develop acceptable risk analysis standards and comply with the requirements of Amex Rule 462.

c. *Margin Requirements for Broker-Dealer Accounts.* Currently, any deficiency between the equity maintained in a proprietary account carried for a broker-dealer and the maintenance margin required by Exchange Rule 462(b)(1)(*i.e.*, 25% of the current market value of securities held "long" in the account) is deducted in computing the net capital of the clearing member organization. To treat introducing broker-dealers and JBO participants similarly, the proposed rule change predicates the deduction to a clearing member organization's net capital upon the haircut requirements of Rule 15c3–1 (*i.e.*, 15% of the current market value for long positions) [15] rather than the 25% maintenance margin requirement under Exchange Rule 462(b)(1).

d. *Margin Requirements for Specialist and Market Maker Accounts.* The proposal would likewise change the manner in which deductions to a clearing member organization's net capital are computed for specialist and market maker accounts. Presently, the amount of any deficiency between the equity in the account carried for a specialist or market maker and the 25% maintenance margin required by Exchange Rule 462(b)(1) is deducted in computing the net capital of the clearing member organization. Under the proposed rule change, the deduction would be based upon the haircut requirements of Rule 15c3–1 (*i.e.*, 15%) rather than the margin requirements under Exchange Rule 462(b)(1)(*i.e.*, 25%).

The same modification would be made to the margin provision governing joint accounts carried by member organizations in which the member organizations also participate. If the equity maintained in the joint account by other participants is deficient, the proposal would require the clearing member organization to compute the deduction to its net capital based upon the haircut requirements of Rule 15c3–1 rather than the margin requirements of Exchange Rule 462(b)(1).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[16] in general, and further the objectives of Section 6(b)(5) of the Act,[17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule

---

[11] The Commission notes that certain broker-dealers subject to Rule 15c3–1(a)(2) (*i.e.*, broker-dealers that carry customer accounts and broker-dealers that introduce customer accounts and receive securities) are eligible for an exemption from NASD Rule 1022(b), which requires such broker-dealers to employ a Series 27 principal. The Exchange's proposal recognizes this class of broker-dealers by providing that broker-dealers participating in JBO arrangements must either employ "or have access to" a qualified Series 27 principal. According to the Exchange, the phrase "or have access to" means that a JBO participant may employ a Series 27 principal on a part-time basis or as a consultant. Telephone conversation between Scott Van Hatten, Legal Counsel, Exchange, and Michael Loftus, Special Counsel, Division of Market Regulation, Commission (November 10, 1999).

[12] The term "tentative net capital" generally refers to a clearing member's net capital before the application of haircuts and undue concentration deductions.

[13] A clearing member would be deemed to be primarily conducting an options market maker clearing business if at least 60% of the gross haircuts calculated for all options market maker and JBO participant accounts, in aggregate, could be attributed to options market maker transactions.

[14] The Exchange would not require JBO clearing members to establish ownership standards that meet any minimum guidelines in addition to the rules of the Exchange. As a result, clearing members would possess the discretion to develop the ownership criteria governing their JBO accounts. However, should the Exchange learn of any inappropriate ownership standards through its audit and surveillance activities, the Exchange would move to correct the impropriety.

[15] 17 CFR 240.15c3–1.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5)

change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–99–26 and should be submitted by December 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30319 Filed 11–19–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42128; File No. SR–Amex–99–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating To an Increase In the Maximum Size of Options Orders Eligible To Be Entered Through the Amex Order File System Into the Amex Options Display Book

November 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 8, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase from 100 to 250 the maximum number of equity and index option contracts in an order that may be entered through the Amex Order File System ("AOF") into the Amex Options Display Book ("AODB"). The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The AOF routes orders to specialists' order books and to Auto-Ex, an automatic execution system that executes public customer market and marketable limit orders in options at the best bid or offer displayed at the time the order is entered. Currently, the AOF permits a Member or Member Firm to enter orders for up to 100 option contracts directly into an Exchange specialist's order book (the AODB) from off the Exchange's trading floor.[3]

Amex proposes to increase the maximum size of options orders that may be entered through the AOF into the AODB from 100 to 250 option contracts.[4] This increase in maximum size of orders eligible for automated entry into the AODB will permit Members and Member Firms to send a larger percentage of orders directly to a specialist's order book for execution, resulting in increased automated order handling. Amex believes this increased automated order handling will benefit customers as well as Members and Member Firms by expanding the number of option orders eligible for automated handling and promoting the orderly and timely delivery, processing and execution of such orders.

The Exchange represents that AOF/AODB has been successful in enhancing execution and operational efficiencies. It anticipates that the proposed increase in the AOF.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)[5] of the Act, in general, and furthers the objectives of Section 6(b)(5)[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex represents that the foregoing rule change effects a change in an Amex order-entry system that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not have the effect of limiting the access to or availability of the system. Therefore, the rule change has become effective pursuant to Section

---

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange represents that currently, orders for more than 100 option contracts are communicated by telephone to the floor broker, who seeks to execute that order in the trading crowd. Telephone conversation between Scott Van Hatten, Legal Counsel, Amex and Gordon Fuller, Special Counsel and Gail Fortson, Paralegal Specialist, Division of Market Regulation ("Division"), SEC (October 8, 1999).

[4] Amex represents that its system capacity is sufficient to accommodate the anticipated increased volume of orders entered into AODB as a result of the increase in maximum order size. Telephone conversation between Scott Van Hatten, Amex, And Gordon Fuller, Special Counsel and Gail Fortson, Paralegal Specialist, Division, SEC (October 8, 1999).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

19(b)(3)(A) of the Act[7] and subparagraph (f)(5) of Rule 19b–4 under the Act.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–99–41 and should be submitted December 13, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30320 Filed 11–19–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 24.19b–4(f)(5).

[9] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42132; File Nos SR–Amex–98–39; SR–Phlx–98–39]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Philadelphia Stock Exchange; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amex Amendment No. 1 and Phlx Amendment No. 2 Thereto Relating to an Increase in Position and Exercise Limits for Narrow-Based Index Options

November 12, 1999.

I. Introduction

On October 13, 1998, and on September 3, 1998, the American Stock Exchange, Inc. ("Amex") and the Philadelphia Stock Exchange, Inc. ("Phlx") (collectively, the "Exchanges") respectively submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] proposed rule changes to increase position and exercise limits for narrow-based index options.

The proposed rule changes were published for comment in the **Federal Register** on December 14, 1998, and December 17, 1998, respectively.[3] No comments were received on the proposal. Amex and Phlx filed amendments to the proposed rule changes on September 2, 1999, and July 16, 1999, respectively.[4] This order approves the proposals, as amended.

II. Description

The Exchanges propose to increase position and exercise limits for narrow-based index options traded on each Exchange.[5] Specifically, the Exchanges' rules provide three different position limits depending on index components' relative weightings in the index.[6] The current limits for narrow-based index options are 9,000, 12,000 and 15,000 contracts on the same side of the market. Under the proposed changes, the new limits will be 18,000, 24,000, and 31,500.

III. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[7] Specifically, the Commission believes the proposed rule changes are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Position limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. In the past, the Commission has stated that:

> Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate or disrupt the underlying market

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release Nos. 40756 (December 7, 1998), 63 FR 68809 (December 14, 1998); 40757 (December 7, 1998), 63 FR 69704 (December 17, 1998). Phlx Amendment No. 1 was published for comment in the Notice. *See* Letter to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, from Nandita Yagnik, Attorney, Phlx, dated September 25, 1998.

[4] *See* Letter from Scott G. VanHatten, Legal Counsel, Amex, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated September 2, 1999 ("Amex Amendment No. 1"); and Letter from Nadita Yagnik, Phlx, to Michael Walinskas, Associate Director, Division of Market Regulation, Commission, dated July 156 1999 ("Phlx Amendment No. 2"). These amendments propose to set the position and exercise limits at 18,000, 24,000, and 31,500 contracts, rather than the originally proposed tripled limits.

[5] Amex trades options on the following narrow-based indices: Airline, Biotechnology, Computer Hardware, Computer Technology, de Jager Year 2000, Disk Drive, Inter@ctive Week Internet, Morgan Stanley Commodity Related, Morgan Stanley High-Technology 35, Natural Gas, Networking, North American Telecommunications, Oil, Pharmaceutical, Securities Broker/Dealer, CSFB Technology Index, Deutsche Bank Energy Index, TheStreet.com E-Commerce Index, and TheStreet.com E-Finance Index.

Phlx trades options on the following narrow-based indices: Gold/Silver Index ("XAU"); Utility Index ("UTY"); Phlx/KBW Bank Index ("BKX"); Semiconductor Index ("SOX"); Forest and Paper ("FPP"); Box Maker Index ("BMX"); OTC Prime Index ("OTX"); Oil Service Index ("OSC"); and TheStreet.com Internet Index ("DOT").

[6] *See* Amex Rule 904C. Amex Rule 905C establishes exercise limits for the corresponding options at the same levels. *See* Phlx Rule 1001A. Phlx Rule 1002A establishes exercise limits for the corresponding option at the same levels.

[7] *See* 15 U.S.C. 78f(b). In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* at 78c(f).

so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market. In addition such limits serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[8]

In general, the Commission has taken a gradual, evolutionary approach toward the expansion of position and exercise limits.[9] The Commission has been careful to balance two competing concerns when considering the appropriate level at which to set option position and exercise limits. The Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market in the component securities comprising the indexes. At the same time, the Commission has determined that limits must be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market-makers from adequately meeting their obligations to maintain a fair and orderly market.[10]

In this regard, the Exchanges have represented that the current position and exercise limits impede their members; ability to execute investment strategies. Given the Commission's traditional, gradual approach to position and exercise limits, and that three years have passed since these limits have been raised, the Commission believes that it is reasonable to allow for an increase in the limits for narrow-based index options to accommodate the needs of market participants.

The Commission believes that an increase in position and exercise limits for narrow-based index options is appropriate for several reasons. First, the Commission believes that increasing position and exercise limits for narrow-based index options may bring additional depth and liquidity, in terms of both volume and open interest, to these index options classes without significantly increasing concerns regarding intermarket manipulations or disruptions of the index options or the underlying component securities.

Second, increasing position and exercise limits for narrow-based index options should better serve the hedging needs of institutions that engage in trading strategies different from those covered under the index hedge exemption policy.

Third, the Commission notes that the proposals, while increasing the position limits for narrow-based index options, continue to reflect the unique characteristic of each index option and to maintain the structure of the current three-tiered system. Specifically, the lowest proposed limit, 18,000 contract will apply to narrow-based index options in which a single underlying stock accounts for 30% or more of the index value during the 30-day period immediately preceding the Exchanges' semi-annual review of industry index option position limits. A position limit of 24,000 contracts will apply if any single underlying stock accounts, on average for 20% or more of the index value or any fire underlying stocks account, on average for more than 50% of the index value, but no single value in the group account, on average, for 30% or more of the index value during the 30-day period immediately preceding the Exchange's semi-annual review of industry index option position limits. The 31,500 contract limit will apply only if the Exchanges respectively determine that the conditions requiring either the 18,000 contract limit or the 24,000 contract limit have not occurred.[11]

Fourth, the Commission believes that financial requirements imposed by the Exchanges and by the Commission adequately address concerns that an Amex or Phlx member or their customer may try to maintain a large unhedged position in a narrow-based index option. Current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer.[12] The Exchanges also have the authority under its rules to impose a higher margin requirement upon the member or member organization when it determines a higher requirement is warranted.[13] Monitoring accounts maintaining large positions should provide the Exchanges with the information necessary to determine whether to impose additional margin and/or whether to assess capital charges upon a member organization carrying the account. In addition, the Commission's net capital rule, Rule 15c3–1 under the Exchange Act, imposes a capital charge on members to the extent of any margin deficiency resulting from the higher margin requirement. The significant increases in unhedged options capital charges resulting from the September 1997 adoption of risk-based haircuts and the Exchanges' margin requirements applicable to these products under Exchange rules serves as an additional form of protection.[14] The Commission also notes that The Options Clearing Corporation("OCC") will serve as the counter-party guarantor in every exchange-traded transaction.

Fifth, the Commission notes that the index options and other types of index-based derivatives (*e.g.*, forwards and swaps) are not subject to position and exercise limits in the OTC market. The Commission believes that increasing position and exercise limits for narrow-based index options will better allow the Exchanges to compete with the OTC market.

Sixth, the Commission notes that it recently approved rule filings increasing position and exercise limits for standardized equity options.[15] The Commission also approved rule filings eliminating position and exercise limits for certain broad-based index options.[16] Given these recent changes to the various exchanges' position limit rules, the Commission believes it is reasonable to allow for corresponding changes to the position and exercise limits for narrow-based index options.[17]

---

[8] Exchange Act Release Nos. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR–CBOE–97–11) (order approving an increase in OEX position and Exercise limits); 31330 (October 16, 1992), 57 FR 48408 (October 23, 1992) (SR–Amex–92–13) (order approving an increase in Institutional Index Options position and exercise limits).

[9] The Commission approved increases in position limits in 1983, 1993, 1995, and 1996. *See, e.g.*, Exchange Act Release No. 37863 (October 24, 1996), 61 FR 56599 (November 1, 1996) (SR–Phlx–96–33).

[10] *See* H.R. Rep. No. IFC–3, 96th Cong., 1st Sess. at 189–91 (Comm. Print 1978).

[11] *See* Amex Rule 904C(c); Phlx Rule 1001A(b).

[12] Exchange Act Rule 15c3–1 requires a capital charge equal to the maximum potential loss on a broke-dealer's aggregate index position over a + (-) 10% market move. Exchange margin rules require margin on naked index options, which are in, or at-the-money equal to a 15% move in the underlying index; and a minimum 10% charge for naked out-of-the money contracts. At an index value of 9,000 this approximates of a $90,000 to $135,000 requirement per each unhedged contract.

[13] *See* Amex Rule 462(d)(2)(K); and Phlx Rule 722(i)(8).

[14] *See* Exchange Act Release No. 38248 (February 6, 1997), 62 FR 6474 (February 12, 1997) (adopting Risk Based Haircuts); Phlx Rule 722; and Amex Rule 462.

[15] *See* Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999) (File Nos. SR–CBOE–98–25; Amex-98–22; PCX–98–33; and Phlx–98–36) (increasing position limits for standardized equity options to 13,500, 22,500, 31,500, 60,000, and 75,000).

[16] *See* Exchange Act Release Nos. 40969 (January 22, 1999), 64 FR 4911 (February 1, 1999) (File No. SR–CBOE–28–23); 41011 (February 1, 1999), 64 FR 6405 (February 9, 1999) (File No. SR–Amex–98–38).

[17] The Commission notes that the trend toward increasing position and exercise limits for standardized equity options and eliminating them for certain broad-based index options, while a factor in considering increases for narrow-based index options, does not automatically dictate the need for or appropriateness of an increase in position and exercise limits for narrow-based index options. The

Finally, the absence of any discernable manipulative problems for narrow-based index options at existing levels leads the Commission to conclude that the proposed increases are reasonable and that they can be safely implemented. The Commission believes that the Exchanges' surveillance programs are adequate to detect and deter violations of position and exercise limits, as well as to detect and deter attempted manipulation and other trading abuses through the use of such illegal positions by market participants.[18]

The Commission finds good cause to approve Amex Amendment No. 1 and Phlx Amendment No. 2 to the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in the **Federal Register**. These amendments set the new position and exercise limits at 18,000, 24,000, and 31,500 contracts. In light of the Commission's traditional, gradual approach to position limits, the Commission believes that these limits are more appropriate than those initially proposed. The Commission also notes that the limits being approved reflect percent increases that more closely correspond to previous increases. Finally, the Commission notes that the higher limits were noticed for comment and no comments were received. Given that no regulatory issues were raised with the higher limits, the Commission believes approving the lower limits on an accelerated basis is appropriate under the Act. Accordingly, the Commission finds that, consistent with Sections 6(b) and 19(b)(2) of the Act, there is good cause to approve Amex Amendment No. 1 and Phlx Amendment No. 2 to the proposed rule changes on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amex Amendment No. 1 and Phlx Amendment No. 2, including whether the amendments are consistent with the Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR–Amex–98–39 or SR–Phlx–98–39 and should be submitted by December 13, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule changes (SR–Amex–98–39; SR–Phlx–98–39) are approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30321 Filed 11–19–99; 8:45 am]

BILLING CODE 8010–01–M

fact that many narrow-based index options include non-options eligible components requires that the Exchanges and the Commission give additional consideration to manipulation and other regulatory concerns prior to any increase. The Commission has considered these issues and believes that the proposed increases are appropriate at this time.

[18] The Commission emphasizes that the Exchanges must closely monitor compliance with position and exercise limits and impose appropriate sanctions for failures to comply with the Exchanges' position and exercise limit rules.

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before December 22, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Applications for Business Loans.

Form No's: 4, 4–SCHA, 4I, 4L and 4Short.

Frequency: On Occasion.

Description of Respondents: Applicants applying for a SBA Business Loan.

Annual Responses: 60,000.

Annual Burden: 1,187,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–30347 Filed 11–19–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Applicant No. 99000356]

EDF Ventures, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that EDV Ventures, L.P. ("EDF"), 425 North Main Street, Ann Arbor, MI 48104, an applicant for a Federal License under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the completed financing of a small concern is seeking an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (1998)). An exemption may not be granted by SBA until Notices of this transaction have been published. EDF Ventures, LP plans to provide equity financing to InterLase Corporation, 2217 Vinewood Boulevard, Ann Arbor, MI 48104. The financing will be used for research, development, and working capital purposes.

The financing is brought within the purview of 107.730(a)(1) of the Regulations because EDF II, L.P., an associate of EDF Ventures, L.P., owns greater than 10 percent of InterLase Corporation, and therefore InterLase

Corporation is considered an Associate of EDF Ventures, L.P. as defined in Sec. 107.50 of the regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

A copy of this notice shall be published, in accordance with Section 107.730(g), in the **Federal Register** by SBA.

Dated: November 12, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–30425 Filed 11–19–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3215]

State of New Jersey; Amendment #3

In accordance with correspondence received from the Federal Emergency Management Agency dated November 9, 1999, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster to December 17, 1999.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 19, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 12, 1999.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 99–30424 Filed 11–19–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Windup Order of the United States District Court for the Middle District of Florida, dated June 29, 1999, the United States Small Business Administration hereby revokes the license of Florida Capital Ventures, Ltd., a Florida corporation, to function as a small business investment company under the Small Business Investment Company License No. 04/04–0253 issued to Florida Capital Ventures, Ltd. on March 5, 1990 and said license is hereby declared null and void as of September 30, 1999.

Dated: October 15, 1999.

Small Business Administration.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–30427 Filed 11–19–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Walnut Capital Corporation License No. 05/02–0430; Notice of Surrender of License

Notice is hereby given that Walnut Capital Corporation, Two North LaSalle Street, Chicago, Illinois 60602, has surrendered their license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Walnut Capital Corporation was licensed by Small Business Administration on November 7, 1983.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on this date, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: November 12, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–30426 Filed 11–19–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3161]

Culturally Significant Objects Imported for Exhibition

Determinations: "At the End of the Century: One Hundred Years of Architecture"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999, as amended by Delegation of Authority No. 236–1 of November 9, 1999, I hereby determine that the objects to be included in the exhibit, "At the End of the Century: One Hundred Years of Architecture," imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Museum of Contemporary Art in Chicago, Illinois, from on or about December 19, 1999, to on or about March 12, 2000, and at The Museum of Contemporary Art in Los Angeles, California, from on or about April 16, 2000, to on or about September 24, 2000, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is Room 700, United States Department of State, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: November 16, 1999.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, United States Department of State.

[FR Doc. 99–30388 Filed 11–19–99; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Delegation of Authority No. 236–1]

Delegation of Functions to the Assistant Secretary for Educational and Cultural Affairs

By virtue of the authority vested in me as the Under Secretary of State for Public Diplomacy and Public Affairs by law, including by Delegation of Authority No. 234 of October 1, 1999, and the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 *et seq.*), and to the extent permitted by law, delegation of authority No. 236 is hereby amended to read as follows:

1. By virtue of the authority vested in me as the Under Secretary of State for Public Diplomacy and Public Affairs by law, including by Delegation of Authority No. 234 of October 1, 1999, and the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 *et seq.*), and to the extent permitted by law, I hereby delegate to

the Assistant Secretary for Educational and Cultural Affairs:

a. The functions in Public Law 89–259 (79 Stat. 985) (22 U.S.C. 2459) (providing for immunity from judicial seizure for cultural objects imported into the U.S. for temporary exhibits).

b. The functions in sections 101(1)(15)(J) and 212(j) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(15)(J) and 1182(J)), and section 641 of Public Law 104–208 (8 U.S.C. 1372(h)(2)(A)) (relating to designation of exchange visitor programs and related functions).

2. Until such time as the Assistant Secretary for Educational and Cultural Affairs has been confirmed by the Senate and sworn into office, the functions delegated by this order shall be exercised by the Executive Director of the Bureau of Educational and Cultural Affairs, in consultation with the Executive Assistant to the Under Secretary of State for Public Diplomacy and Public Affairs and the Office of the Legal Adviser.

3. Notwithstanding any other provision of this order, the Under Secretary of State for Public Diplomacy and Public Affairs may at any time exercise any function or authority delegated or reserved by this delegation of authority.

4. Functions delegated by this delegation of authority may be redelegated, to the extent consistent with law.

5. Any reference in this delegation of authority to any statute or delegation of authority shall be deemed to be a reference to such statute or delegation of authority as amended from time to time.

6. This delegation shall be published in the **Federal Register**.

Dated: November 9, 1999.

Evelyn S. Lieberman,

Under Secretary for Public Diplomacy and Public Affairs, Department of State.

[FR Doc. 99–30389 Filed 11–19–99; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ending November 12, 1999. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, ConformingApplications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–6499.
Date Filed: November 12, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 10, 1999.
Description: Application of Spernak Airways, Inc. pursuant to 49 U.S.C. 41102 and Subpart Q, applies for a certificate of public convenience and necessity to authorize it to engage in interstate scheduled air transportation of persons, property and mail between any point in any State in the United States or the District of Columbia, or any Territory or Possession of the United States, and any other point in any State of the United States or the District of Columbia, or any Territory or Possession of the United States.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–30413 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During Week Ending November 12, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6470.
Date Filed: November 9, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC23 AFR–TC3 0088 dated 12 November 1999, Mail Vote 046—Resolution 010p, TC23/TC123 Africa-TC3 Special Passenger Amending, Resolution from Malaysia, Intended effective date: 15 November 1999.

Docket Number: OST–99–6474.
Date Filed: November 9, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC23 ME–TC3 0076 dated 8 October 1999, Expedited Middle East-TC3 Resolution 002L, Intended effective date: 1 December 1999.

Docket Number: OST–99–6477.
Date Filed: November 10, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC23 AFR–TC3 0085, 0087 dated 8, 22 October 1999, South Atlantic-Europe Resolutions r1–r41, Minutes—PTC23 AFR–TC3 0083 dated 8 October 1999, Tables—PTC23 AFR–TC3 Fares 0035 dated, 22 October 1999, Intended effective date: 1 April 2000.

Docket Number: OST–99–6479.
Date Filed: November 10, 1999
Parties: Members of the International Air Transport Association.
Subject: PTC12 CAN–EUR 0054 dated 29 October 1999, Canada-Europe Resolutions r1–r31, Minutes—PTC12 CAN–EUR 0055 dated 29 October 1999, Tables—PTC12 CAN–EUR Fares 0016 dated 2 November 1999, Intended effective date: 3 January 2000.

Docket Number: OST–99–6489
Date Filed: November 12, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC COMP 0528 dated 12 November 1999, Mail Vote 047—Resolution 010q, TC2/12/23/123 Special Passenger Amending, Resolution to/from Damman, Intended effective date: 28 November 1999.

Docket Number: OST–99–6490
Date Filed: November 12, 1999.
Parties: Members of the International Air Transport Association.
Subject: CTC COMP 0225 dated 12 November 1999, Mail Vote 048—Resolution 010rr, TC2/12/23 Special Cargo Amending, Resolution to/from Dammam, Intended effective date: 28 November 1999.

Docket Number: OST–99–6491.
Date Filed: November 12, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC3 0363 dated 2 November 1999, TC3 Within South East Asia Expedited Resolutions r1–r5, PTC3 0393 Technical Correction, TC3 Within South East Asia Expedited Resolution, PTC3 0393 dated 9 November 1999 corrects PTC3 0363 dated 2 November 1999, PTC3 0367 dated 2 November 1999, TC3 Between South East Asia and South Asian, Subcontinent Expedited Resolutions r6–r8, PTC3 0370 dated 2 November 1999, TC3 Between South East Asia and South West Pacific, Expedited Resolutions r9–r12, PTC3 0392 dated 9 November 1999, TC3 Between Japan, Korea and South West Pacific, Expedited Resolutions r13–r16, Intended effective date: 1 December 1999, 1 April 2000.

Docket Number: OST–99–6492.
Date Filed: November 12, 1999.
Parties: Members of the International Air Transport Association.

Subject: PTC3 0359 dated 2 November 1999, TC3 Areawide Expedited Resolution r1, PTC3 0360 dated 2 November 1999, TC3 Within South East Asia Expedited Resolutions r2–r8, PTC3 0361 dated 2 November 1999, TC3 Within South East Asia Expedited Resolutions r9, PTC3 0362 dated 2 November 1999, TC3 Within South East Asia Expedited Resolution r10, PTC3 0364 dated 2 November 1999, TC3 Within South West Pacific Expedited Resolution r11, PTC3 0365 dated 2 November 1999, TC3 Between South East Asia and South Asian Subcontinent, Expedited Resolutions r12–r19, PTC3 0366 dated 2 November 1999, TC3 Between South East Asia and South Asian Subcontinent, Expedited Resolution r20, PTC 0368 dated 2 November 1999, TC3 Between South Asian Subcontinent and South West Pacific, Expedited Resolution r21, PTC3 0369 dated 2 November 1999, TC3 Between South East Asia and South West Pacific, Expedited Resolutions r22–r25, PTC3 0371 dated 2 November 1999, TC3 Between Japan, Korea, and South Asian Subcontinent Expedited, Resolution r26, PTC3 0372 dated 2 November 1999, TC3 Between Japan, Korea, and South East Asia Expedited Resolution r27, PTC3 0373 dated 2 November 1999, TC3 Between Japan, Korea, and South West Pacific Expedited, Resolutions r28–r36, Intended effective date: 1 December 1999, 1 January, 1 February 2000.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–30414 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Technical Report on Propulsion System and Auxiliary Power Unit (APU) Related Aircraft Safety Hazards

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of Technical Report on Propulsion System and Auxiliary Power Unit (APU) Related Aircraft Safety Hazards.

SUMMARY: This notice announces the availability of Technical Report on Propulsion System and Auxiliary Power Unit (APU) Related Aircraft Safety Hazard, dated October 25, 1999. In 1991, the Aerospace Industries Association (AIA) provided the Federal Aviation Administration (FAA) with a study aimed at the development of more effective methods to identify, prioritize and resolve safety-related problems occurring on commercial aircraft engines. The activity was undertaken as a result of the rapid increase in commercial aircraft entering revenue service, leading to a corresponding increase in the exposure to flight-safety events. The AIA team that developed the study was the Continued Airworthiness Assessment Methodologies (CAAM) Committee. This initial AIA study covered a variety of propulsion system and auxiliary power unit (APU) events. Later, the AIA recognized the need to update uncontained engine events, and prepared a supplemental report.

This FAA report is a compilation of both the initial and supplemental data from the above noted reports, and provides historical safety data that document propulsion system and APU-related aircraft safety hazards. The information provided in this FAA report has been used by the Engine and Propeller Directorate since 1994 to help identify and prioritize responses to potential engine, propeller and APU unsafe conditions.

How To Obtain Copies

A copy of the subject Technical Report may be obtained by contacting the Federal Aviation Administration, Attn: Ann Azevedo, Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA 01803–5299. A copy of the subject report may also be obtained electronically by writing to the following Internet address "ann.azevedo@faa.gov."

Issued in Burlington, Massachusetts, on November 10, 1999.

David A. Downey,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 99–30396 Filed 11–19–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 15, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 22, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1515.

Regulation Project Number: REG–209817–96 (NPRM).

Type of Review: Extension.

Title: Treatment of Obligation-Shifting Transactions.

Description: Section 1.7701(1)–2 recharacterizes certain multiple-party financing transactions. Pass-through entities engaging in these transactions must reflect the required recharacterization on their books. This collection of information is required to verify compliance with the regulation and will be used to determine whether the amount of tax has been correctly computed.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 100.

Estimated Burden Hours Per Recordkeeper: 5 hours.

Estimated Total Recordkeeping Burden: 500 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–30314 Filed 11–19–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

[General Counsel Designation No. 245]

Appointment of Members to the Legal Division Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 301 and 26 U.S.C. 7801, Treasury Department Order No. 101–5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following individuals to the Legal Division Performance Review Board. This supersedes General Counsel Designation No. 241:

(1) For the General Counsel Panel—
Kenneth R. Schmalzbach, Acting

Deputy General Counsel, who shall serve as Chairperson;
Roberta K. McInerney, Assistant General Counsel (Banking & Finance);
Stephen J. McHale, Assistant General Counsel (Enforcement);
Russell L. Munk, Assistant General Counsel (International Affairs);
Rochelle F. Granat, Acting Assistant General Counsel (General Law & Ethics);
Francine J. Kerner, Deputy Assistant General Counsel (Enforcement);
Marilyn L. Muench, Deputy Assistant General Counsel (International Affairs);
Eleni Constantine, Deputy Assistant General Counsel (Banking & Finance);
John J. Manfreda, Chief Counsel, Bureau of Alcohol, Tobacco & Firearms;
Alfonso Robles, Chief Counsel, United States Customs Service; and
Walter Eccard, Chief Counsel, Bureau of Public Debt.

(2) For the Internal Revenue Service Panel—
Chairperson, Deputy Chief Counsel, IRS;
Deputy General Counsel;
Two Associate Chief Counsel, IRS; and
Two Regional Counsel, IRS.

I hereby delegate to the Chief Counsel of the Internal Revenue Service the authority to make the appointments to the IRS Panel specified in this Designation and to make the publication of the IRS Panel as required by 5 U.S.C. 4314(c)(4).

November 15, 1999.

Neal S. Wolin,

Acting General Counsel.

[FR Doc. 99–30376 Filed 11–19–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday December 10, 1999.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday December 10, 1999, 6 p.m. to 9 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, NY 11201. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555.

The public is invited to make oral comments from 6 p.m. to 6:30 p.m. on Friday December 10, 1999.

Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, PO Box R, Brooklyn, NY, 11201. The Agenda will include the following: various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: November 15, 1999.

John J. Mannion,

Chief, Special Projects.

[FR Doc. 99–30375 Filed 11–19–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Meeting of the Electronic Tax Administration Advisory Committee (ETAAC)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of the Electronic Tax Administration Advisory Committee (ETAAC).

SUMMARY: In 1998 the IRS established the Electronic Tax Administration Advisory Committee (ETAAC). The primary purpose of ETAAC is to provide an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC offers constructive observations about current or proposed policies, programs, and procedures, and suggests improvements.

There will be a meeting of ETAAC on Thursday, December 2, 1999. The meeting will be held in the Radisson Barcelo' Hotel, 2121 P Street, NW, Washington, DC. A summarized version of the agenda along with a list of topics that are planned to be discussed are listed below.

Summarized Agenda for Meeting Thursday, December 2, 1999

9:00 Meeting Opens
11:40 Break for Lunch
1:00 Meeting Resumes
3:15 Meeting Adjourns

The topics that are planned to be covered are as follows:

(1) Importance of Advisory Committee
(2) Strategic Plan Update
(3) Self Preparer Strategy Sub-group
(4) Business e-commerce Sub-group
(5) Alliance Strategy Sub-group
(6) Strategic Planning Process Sub-group
(7) ERO Strategy Sub-group
(8) Modernization
(9) 2000 Advertising Campaign

Note: Last minute changes to these topics are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: ETAAC reports to the Assistant Commissioner, Electronic Tax Administration, who is the executive responsible for the electronic tax administration program. Increasing participation by external stakeholders in the development and implementation of the Internal Revenue Service' (IRS') strategy for electronic tax administration will help achieve the goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend the public meetings, working sessions, and an orientation each year.

DATES: The meeting will be open to the public, and will be in a room that accommodates approximately 150 people, including members of ETAAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. To get your name on the access list, notification of intent to attend the meeting should be made with Ms. Robin Marusin by November 30, 1999. Ms. Marusin can be reached at 202–622–8184. Notification of intent should include your name, organization and phone number. If you leave this information for Ms. Marusin in a voice-mail message, please spell out all names. A draft of the agenda will be available via facsimile transmission the week prior to the meeting. Please call Ms. Robin Marusin on or after Monday November 23 to have a copy of the agenda faxed to you. Please note that a draft agenda will not be available until that date.

FOR FURTHER INFORMATION CONTACT: To get on the access list to attend this

meeting, to have a copy of the agenda faxed to you, or to get general information about ETAAC, call Robin Marusin at 202–622–8184.

Dated: November 16, 1999.

Robert E. Barr,

Assistant Commissioner, Electronic Tax Administration.

[FR Doc. 99–30374 Filed 11–18–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0005]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8135 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0005."

SUPPLEMENTARY INFORMATION:

Title: Application for Dependency and Indemnity Compensation by Parent(s), VA Form 21–535.

OMB Control Number: 2900–0005.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to gather the necessary information to determine a parent's eligibility, dependency and income, as applicable, for death benefits. Without the information, entitlement to the benefit could not be determined.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 10, 1999 at page 43424.

Affected Public: Individuals or households.

Estimated Annual Burden: 25,056 hours.

Estimated Average Burden Per Respondent: 1 hour and 12 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 20,880.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to "OMB Control No. 2900–0005" in any correspondence.

Dated: October 27, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–30325 Filed 11–19–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0031]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before December 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0031."

SUPPLEMENTARY INFORMATION:

Title: Veteran's Supplemental Application for Assistance in Acquiring Specially Adapted Housing, VA Form 26–4555c.

OMB Control Number: 2900–0031.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by Loan Guaranty personnel in approving the benefits available under 38 U.S.C. 2101(a). The information requested is necessary in order to determine if it is economically feasible for a veteran to reside in specially adapted housing and also to compute the proper grant amount.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 3, 1999 at pages 42170–42171.

Affected Public: Individuals or households.

Estimated Annual Burden: 115 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 460.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 12035, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0031" in any correspondence.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30326 Filed 11–19–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0034]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits

Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before December 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0034."

SUPPLEMENTARY INFORMATION:

Title: Trainee Request for Leave—Chapter 31, Title 38, U.S. Code, VA Form 28–1905h.

OMB Control Number: 2900–0034.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: VA Form 28–1905h serves as the only document for requesting leave and for providing the information necessary to determine whether to approve the leave request. A trainer or authorized school official must verify on the form the effect the absence will have on the veteran's progress in the program. The case manager supervising the veteran's training approves or denies the leave request. Upon approval, the veteran can receive subsistence allowance and other program services during the leave period. Disapproval of the request may result in loss of subsistence allowance for the leave period. Failure to collect the information would create the potential for substantial abuse through receipt of benefits for unauthorized absences.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 3, 1999 at page 42171.

Affected Public: Individuals or households.

Estimated Annual Burden: 7,500 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 30,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0034" in any correspondence.

Dated: October 27, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–30327 Filed 11–19–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0107]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0107."

SUPPLEMENTARY INFORMATION:

Title: Certificate as to Securities, VA Form 21–4709.

OMB Control Number: 2900–0107.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The form is used to verify investment in saving bonds and other securities reported in the accounting as part of the beneficiary's estate. The information provided on the form provides VA with an independent verification of the value of reported estate assets. Without independent verification of assets, account audits would be less useful in preventing asset diversion, fraud and abuse.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published August 3, 1999 at pages 42171–42172.

Affected Public: Individuals or households, business or other for-profit, not-for-profit institutions, State, Local or Tribal Government.

Estimated Annual Burden: 863 hours.

Estimated Average Burden Per Respondent: 12 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 4,316.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0107" in any correspondence.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30328 Filed 11–19–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0265]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 22, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0265."

SUPPLEMENTARY INFORMATION:

Title: Application for Counseling, VA Form 28–8832.

OMB Control Number: 2900–0265.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

The data collected is used to quickly assess applicant's entitlement to counseling, to call up further records if necessary, and to contact the applicant to schedule a counseling appointment. A veteran or dependent may use this form as a convenience to apply for counseling services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 3, 1999 at page 42172.

Affected Public: Individuals or households.

Estimated Annual Burden: 417 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 5,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0265" in any correspondence.

Dated: October 27, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–30329 Filed 11–19–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Health Services Research and Development Service, Notice of Meeting

The Department of Veterans Affairs, Veterans Health Administration, gives notice under Pub. L. 92–463, that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development Service will be held at the Mayflower Park Hotel, 405 Olive Way, Seattle, WA, January 25, through 28, 2000. On January 25, the meeting will begin at 7:00 p.m. until 9:00 p.m. and on January 26 through 28, from 8:00 a.m. until 5:00 p.m. each day. The purpose of the meeting is to review research and development applications concerned with the measurement and evaluation of health care services and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are prepared for the Chief Research and Development Officer.

This meeting will be open to the public at the start of the January 25 session for approximately one half-hour to cover administrative matters and to discuss the general status of the program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would be likely to frustrate significantly implementation of proposed agency action regarding such research projects). As provided by the subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open session should contact the Scientific Review Program Manager (124F), Health Research Services and Development Service, Department of Veterans Affairs, 1400 I Street, N.W., Suite 780, Washington, D.C., at least five days before the meeting. For further information, call (202) 408–3665.

Dated: November 4, 1999.

By Direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 99–30324 Filed 11–19–99; 8:45 am]

BILLING CODE 8320–01–M

Reader Aids

Federal Register

Vol. 64, No. 224

Monday, November 22, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

58755–59106	1
59107–59602	2
59603–60082	3
60083–60332	4
60333–60646	5
60647–61014	8
61015–61198	9
61199–61472	10
61473–61768	12
61769–62088	15
62089–62560	16
62561–62970	17
62971–63170	18
63171–63560	19
63561–63846	22

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7245	59103
7246	60083
7247	60085
7248	61473
7249	62561
7250	62563

Executive Orders:

12170 (See Notice of November 5, 1999)	61471
12938 (See Notice of November 10, 1999)	61767
13067 (See Notice of October 29, 1999)	59105
13096 (See Proc. 7247)	60085
13101 (See Proc. 7250)	62563
13141	63169

Administrative Orders:

Memorandums:

October 27, 1999	60647

Notices:

October 29, 1999	59105
November 5, 1999	61471
November 10, 1999	61767

Presidential Determinations:

No. 99–13 of February 4, 1999 (See Presidential Determination No. 2000–5 of October 29, 1999)	60651
No. 2000–2 of October 21, 1999	58755
No. 2000–3 of October 25, 1999	58757
No. 2000–4 of October 27, 1999	60649
No. 2000–5 of October 29, 1999	60651

5 CFR

532	60087, 61769

Proposed Rules:

532	61793
1201	58798

7 CFR

210	61770
220	61770
226	61770
246	61015
301	60088, 60333, 63171
319	59603
354	62089
759	62565
761	62565, 62566
762	62566
905	58759, 63160
928	59604
944	58759
981	58763, 59107
1001	61776
1002	61776
1004	61776
1005	61776
1006	61776
1007	61776
1012	61776
1013	61776
1030	61776
1032	61776
1033	61776
1036	61776
1040	61776
1044	61776
1046	61776
1049	61776
1050	61776
1064	61776
1065	61776
1068	61776
1076	61776
1079	61776
1106	61776
1124	61776
1126	61199, 61776
1131	61201, 61776
1134	61776
1135	61776
1137	61199, 61776
1138	61201, 61776
1139	61776
1439	58766
1477	58766
1922	62566
1941	62566
1943	62566
1945	62566
1951	62566, 62971
1955	62566
1965	62566

Proposed Rules:

278	59665
770	59131
785	61034
923	60733
1217	59669
1823	59131
1946	61034
1951	61221
1956	59131

9 CFR

52	62569
77	58769
130	61689

Proposed Rules:

130	61689
391	61223

10 CFR

Proposed Rules:
2.....59669, 59671
50.....59671
72.....59677
73.....59684
430.....61794
905.....62604

11 CFR

100.....59113
110.....59606
114.....59113
9003.....61475
9004.....59606, 61475
9007.....61777
9008.....61475
9032.....61475
9033.....61475
9034.....59606, 61475, 61777
9035.....61475, 61777
9036.....59607, 61475
9038.....61777

Proposed Rules:
100.....60360
102.....60360
103.....60360
104.....60360
106.....60360
107.....60360
109.....60360
110.....60360
114.....60360
116.....60360

12 CFR

1.....60092
5.....60092
7.....60092
211.....58780
226.....60335
229.....59607
308.....62096
330.....62096
343.....62103
905.....61016
1805.....59076

Proposed Rules:
226.....60368
611.....60370
650.....61740
1102.....58800

13 CFR

Proposed Rules:
120.....60735

14 CFR

34.....60335
39.....59113, 59115, 59116, 59117, 59613, 59614, 60100, 60102, 60336, 61475, 61477, 61478, 61480, 61482, 61484, 61485, 61487, 61491, 61493, 61495, 61782, 61784, 62105, 62106, 62108, 62109, 62570, 62973, 62975, 63171, 63174, 63176, 631778, 63180, 63182, 63184, 63187, 63190, 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668
71.....59615, 60337, 60653, 60654, 61785, 63192, 63676, 63677, 63678, 63679, 63680
73.....60339
97.....61017, 61018, 63192, 63194
139.....60068

Proposed Rules:
39.....59137, 59685, 60134, 60136, 60138, 60383, 60386, 60742, 60743, 60745, 60748, 60750, 61039, 61042, 61044, 61533, 61540, 61547, 61554, 61794, 61796, 61798, 61801, 62129, 62131, 62613, 62615, 62988, 62990, 62991, 62993, 62995, 63753, 63755, 63757, 63760, 63762, 63764
71.....59687, 59688, 59689, 59690, 60388, 61225, 61689, 61690, 61803, 61804, 63261, 63765, 63767
91.....63140
93.....62133
121.....63140
125.....63140

15 CFR

285.....59616
738.....60339
740.....60339
746.....60339
801.....59119

Proposed Rules:
287.....59691
922.....63262

16 CFR

312.....59888
1616.....61021

17 CFR

200.....61382, 61408
210.....61962
228.....61962
229.....61408, 61962
230.....61382, 61408, 61497, 61962, 62540
232.....61408
239.....61382, 61408, 61962
240.....61382, 61408, 61962, 62540
249.....61382, 61962
260.....61382, 61962
270.....62540
271.....59877

Proposed Rules:
1.....59694
230.....62548
239.....59826
240.....59826, 62548
270.....59826
274.....59826
275.....61226
279.....61226

18 CFR

11.....62572
385.....62580

Proposed Rules:
35.....60390
141.....60140
385.....60140

19 CFR

10.....61204

Proposed Rules:
12.....62618
24.....62619
101.....61232
141.....62135

20 CFR

220.....62976

Proposed Rules:
220.....62996
322.....62135
718.....62997
722.....62997
725.....62997
726.....62997
727.....62997

21 CFR

5.....59617
74.....62582
175.....60104
178.....62583
207.....63195
225.....63195
310.....62110
510.....63195
514.....63195
515.....63195
558.....63195
801.....59618
884.....62977

Proposed Rules:
20.....60143
101.....62746
600.....61045
606.....61045
607.....61045
610.....61045
630.....61045
640.....61045
660.....61045
801.....59695

24 CFR

570.....63680
982.....59620
990.....61516

25 CFR

Proposed Rules:
504.....61234

26 CFR

1.....58782, 59139, 60342, 61205, 61498, 61502
301.....58782, 61498, 61502
602.....61498

Proposed Rules:
1.....59139, 60395, 61236, 63768
26.....62997
301.....63768

28 CFR

0.....58782
2.....59622
16.....61786
27.....58782
50.....59122

Proposed Rules:
16.....60753

29 CFR

37.....61692
1917.....61504
1918.....61504
4044.....61787

Proposed Rules:
1401.....59697
1952.....62138
2590.....62054
2700.....61236

30 CFR

914.....63681
920.....63684
934.....60654
935.....63688
948.....61506, 61507

Proposed Rules:
946.....61805

31 CFR

1.....62585, 62586
18.....62112
538.....58789
550.....58789
560.....58789

Proposed Rules:
1.....62620

32 CFR

199.....60671
2001.....62113

Proposed Rules:
767.....63263

33 CFR

100.....59623
117.....59123, 59624, 60672, 60673, 60674, 61206, 61207, 61518, 61519, 61520, 61521, 62113
165.....61051, 61209, 62586

Proposed Rules:
Ch. I.....63266
110.....60399
117.....61561
165.....63267
175.....63773

34 CFR

668.....58974, 59016, 59060
682.....58938, 59016
685.....58938, 59016

Proposed Rules:
611.....60632

36 CFR

211.....60675

Proposed Rules:
5.....61563
13.....61563
51.....63775
1190.....62248, 62622
1191.....62248, 62622

37 CFR

202.....62977

Proposed Rules:
1.....59701
201.....59140

39 CFR

20.....60106

40 CFR

51.....58792
52.....59625, 59629, 59633,

59635, 59638, 59642, 59644, 60109, 60343, 60346, 60678, 60681, 60683, 60687, 60688, 61213, 61217, 61522, 61523, 63206, 63690, 63693
62 ..... 59648, 60689, 62114, 62117, 62978
63 ..... 59650, 63209, 63695, 63702
68 59650
131 61182
180 ..... 59652, 60112, 61788, 62588, 62982, 63709, 63711, 63714
261 63209
266 63209
300 ..... 60121, 61526, 63720

Proposed Rules:

50 63002
51 62144
52 ..... 59703, 59704, 59705, 59706, 60400, 60401, 60759, 61046, 61051, 61239, 61572, 63002, 63268, 63271
55 63271
62 ..... 59718, 62144, 62145
63 ..... 59719, 63779
68 59719
81 60478
82 59141
86 60401
141 59245
142 59245
152 62145
156 62145
180 58792
261 63382
266 63464
300 61051
372 61807
721 63275

41 CFR

101 59591
101-11 60348
101-43 62146
102 59591
102-36 62146

42 CFR

52b 63721
61 61218
409 60122
410 59379
411 ..... 59379, 60122
413 60122
414 59379
415 59379
485 59379
489 60122
1001 ..... 63504, 63518

Proposed Rules:

431 60882
433 60882
435 60882
457 60882

43 CFR

414 58986

Proposed Rules:

1300 61810

44 CFR

64 ..... 62594, 62596, 62598
65 ..... 60706, 60709
67 60711

Proposed Rules:

67 60759

45 CFR

Proposed Rules:

160 59918
161 59918
162 59918
163 59918
164 59918
303 62054

46 CFR

10 63213
15 63213

Proposed Rules:

2 62018
30 62018
31 62018
52 62018
61 62018
71 62018
90 62018
91 62018
98 62018
107 62018
110 62018
114 62018
115 62018
125 62018
126 62018
132 62018
133 62018
134 62018
167 62018
169 62018
175 62018
176 62018
188 62018
189 62018
195 62018
199 62018

47 CFR

Ch. 1 61527
0 ..... 60122, 60715, 61022
1 ..... 59656, 60122, 60715, 62119, 63235
2 60123
6 63235
7 63235
20 ..... 59656, 60126
21 ..... 60715, 63727
25 61791
27 60715
52 62983
54 ..... 60349, 62120
61 60122
68 60715
69 ..... 60122, 60349
73 ..... 59124, 59655, 60131, 62123, 63258, 63745
74 63727
76 60131
90 ..... 59148, 60123, 60715
95 59656
101 ..... 59663, 63727

Proposed Rules:

Ch. I 63277
1 59719
15 62159
18 62159
20 59719
43 59719
73 ..... 59147, 59148, 59728, 60149, 60150, 60151, 61054, 61239, 63783
90 ..... 59148, 60151

48 CFR

201 ..... 58908, 63380
203 62984
204 61028
208 61030
209 ..... 61028, 62984
213 ..... 58908, 63380
215 61031
219 ..... 62986, 62987
225 ..... 61028, 62984
226 62987
242 61028
247 61028
249 62984
251 61030
1845 62600
1852 62600

Proposed Rules:

203 63002
211 61056
226 63003

49 CFR

171 61219
172 61219
209 62828
230 62828
240 60966
601 61033

Proposed Rules:

Ch. I 63279
Ch. II 59046
178 62161
209 59046
552 60556
571 ..... 60556, 61810, 62622
585 60556
595 60556

50 CFR

17 ..... 58910, 63745
20 61532
222 60727
600 60731
622 ..... 59126, 60132
635 58793
640 59126
648 ..... 60359, 61220
660 ..... 59129, 62127, 63259
679 ..... 61966, 63259

Proposed Rules:

16 59149
17 ..... 58934, 59729, 62627, 62641, 63004
25 62163
26 62163
29 62163
216 63783
224 62627
622 ..... 59152, 59153, 60151, 60402
648 59156
654 59153
660 60402
679 ..... 58796, 59730, 60157

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 22, 1999

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Generic maximum achievable control technology; published 11-22-99
- Correction; published 11-22-99

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- California; published 9-23-99

Air quality implementation plans; approval and promulgation; various States:
- Iowa; published 11-22-99
- Maryland; published 9-23-99
- New Jersey; published 11-22-99
- Oregon; published 9-21-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Avermectin B1 and its delta-8,9-isomer; published 11-22-99
- Herbicide safener HOE-107892; published 11-22-99
- Paraquat; published 11-22-99

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; published 10-22-99
  - National priorities list update; published 11-22-99

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
- Michigan; published 10-21-99
- Minnesota; published 10-21-99
- Nevada; published 10-21-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:
- Housing assistance payments (Section 8)—
  - Tenant-based certificate and voucher programs merger into Housing Choice Voucher Program; published 10-21-99

Public and Indian housing:
- Public housing agency organization; required resident membership on board of directors or similar governing body; published 10-21-99
- Public housing agency plans; published 10-21-99
- Tenant-based Section 8 program; expiring annual contributions contracts renewal; housing assistance allocation formula; published 10-21-99

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
- Indiana; published 11-22-99
- Maryland; published 11-22-99
- Ohio; published 11-22-99

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon presidential materials:
- Private and personal segments of tape recordings; return to Nixon estate; published 10-21-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
- Organization and operations—
  - Statutory liens; impressment and enforcement; published 10-22-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Airbus; published 10-18-99
- Boeing; published 10-18-99
- Bombardier; published 10-18-99
- Eurocopter France; published 11-5-99
- Raytheon; published 10-18-99

Class D airspace; published 11-22-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Pipeline safety:
- Natural gas transportation, etc.—
  - Gas pipelines; corrosion extent determination; published 10-22-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Olive oil promotion, research, and information order
- Referendum procedures; comments due by 12-3-99; published 11-3-99

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
- Mexican fruit fly; comments due by 11-29-99; published 9-28-99
- Oriental fruit fly; comments due by 11-29-99; published 9-28-99

User fees:
- Veterinary services; import- and export-related services; comments due by 11-29-99; published 9-30-99

Viruses, serums, toxins, etc.:
- Dog; definition; comments due by 11-29-99; published 9-28-99

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Administrative regulations:
- Appeal procedure; comments due by 11-29-99; published 9-30-99

AGRICULTURE DEPARTMENT

Farm Service Agency

Administrative regulations;
- Appeal procedure; comments due by 11-29-99; published 9-30-99

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT

Rural Utilities Service

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

COMMERCE DEPARTMENT

Census Bureau

Foreign trade statistics:
- Shipper's Export Declaration on behalf of principal party in interest; exporters' and forwarding agents' responsibilities to prepare and file; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT

Export Administration Bureau

Export administration regulations:
- Parties to transaction and their responsibilities, routed export transactions, Shipper's Export Declarations, and export clearance; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Coastal migratory pelagic resources; comments due by 11-29-99; published 10-25-99
  - Essential fish habitat; comments due by 12-2-99; published 11-2-99
- West Coast States and Western Pacific fisheries—
  - West Coast salmon; comments due by 12-1-99; published 11-16-99

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:
- Patent business goals; comments due by 12-3-99; published 10-4-99
- Payment of fees by credit card; changes; comments due by 12-3-99; published 11-3-99

DEFENSE DEPARTMENT
Engineers Corps
Navigation regulations:
Columbia and Snake Rivers, OR and WA; restricted area boundary adjustments; comments due by 11-29-99; published 10-13-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution control; new motor vehicles and engines:
Heavy duty highway engines and vehicles (2004 and later model years); emissions control, and light-duty truck definition; comments due by 12-2-99; published 10-29-99
Tier 2 motor vehicle emission standards and gasoline sulfur control requirements; comments due by 12-1-99; published 10-27-99
Air programs:
Accidental release prevention—
Risk management programs; comments due by 12-3-99; published 11-3-99
Ozone areas attaining 1-hour standard; identification of areas where standard will cease to apply
Findings rescission; comments due by 12-1-99; published 10-25-99
Findings rescission; comments due by 12-1-99; published 11-5-99
Stratospehric ozone protection—
Essential-use allowances; allocation; comments due by 12-2-99; published 11-2-99
Volatile organic compound (VOC) emmission standards—
t-butyl acetate; comments due by 11-29-99; published 9-30-99
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Maryland; comments due by 12-3-99; published 11-3-99
Air programs; State authority delegations:
Ohio; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 12-3-99; published 11-3-99
California; comments due by 11-29-99; published 10-28-99
Indiana; comments due by 12-3-99; published 11-3-99
Maryland; comments due by 11-29-99; published 10-28-99
New Jersey; comments due by 12-3-99; published 11-3-99
New York; comments due by 12-3-99; published 11-3-99
Ohio; comments due by 12-3-99; published 11-3-99
Oklahoma; comments due by 12-3-99; published 11-3-99
Tennessee; comments due by 12-3-99; published 11-3-99
Texas; comments due by 11-29-99; published 10-28-99
Virginia; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio; comments due by 11-29-99; published 10-28-99
Clean Air Act:
Acid rain program—
Nitrogen Oxides Emission Reduction Program; response to court remand; comments due by 11-29-99; published 10-15-99
Hazardous waste:
Identification and listing—
Exclusions; comments due by 11-29-99; published 10-15-99
Exclusions; comments due by 11-29-99; published 10-13-99
Water pollution control:
Great Lakes System; water quality guidance—
Bioaccumulative chemicals of concern; mixing zones prohibition; comments due by 12-3-99; published 10-4-99
Underground injection control program—
Alabama; comments due by 11-29-99; published 10-22-99

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Communications Assistance for Law Enforcement Act; implementation; comments due by 11-29-99; published 9-28-99
Federal-State Joint Board on Universal service—
Telecommunications deployment and subscribership to unserved or underserved areas including tribal and insular areas; comments due by 11-29-99; published 9-30-99
Local telephone service competition status and advanced telecommunications capability (broadband) deployment; comments due by 12-3-99; published 11-3-99
Radio stations; table of assignments:
Minnesota; comments due by 11-29-99; published 10-21-99
Missouri; comments due by 11-29-99; published 10-21-99

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL
Freedom of Information Act; implementation; comments due by 12-1-99; published 11-1-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Administrative practice and procedure:
Ozone-depleting substances use; essential use determinations; comments due by 11-30-99; published 9-1-99
Biological products:
Blood, blood components, and source plasma requirements; revisions; comments due by 12-3-99; published 8-19-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Part B initial claim determinations; telephone and electronic review requests; comments due by 11-29-99; published 9-30-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Low income housing:
Housing assistance payments (Section 8)—
Moderate rehabilitation units; lease execution or termination when remaining term of contract is less than one year; comments due by 12-3-99; published 10-4-99

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Tidewater goby; comments due by 11-30-99; published 10-15-99

INTERIOR DEPARTMENT
Minerals Management Service
Outer Continental Shelf; oil, gas, and sulphur operations:
Producer-operated pipelines that cross directly into State waters; comments due by 11-30-99; published 10-1-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 11-30-99; published 11-15-99

JUSTICE DEPARTMENT
Prisons Bureau
Inmate control, custody, care, etc.:
Aliens; release gratuities, transportation, and clothing; comments due by 12-3-99; published 10-4-99

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Organization and operations—
Overdraft policy; comments due by 11-29-99; published 9-30-99

NUCLEAR REGULATORY COMMISSION
Rulemaking petitions:
Nevada; comments due by 11-29-99; published 9-13-99

PERSONNEL MANAGEMENT OFFICE
Retirement:
Voluntary early retirement authority; comments due

by 12-3-99; published 10-4-99

SECURITIES AND EXCHANGE COMMISSION

Securities:
Audit committee disclosure; comments due by 11-29-99; published 10-14-99

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:
Alaska; comments due by 11-30-99; published 6-2-99
Alaska; correction; comments due by 11-30-99; published 6-15-99

Ports and waterways safety:
Hudson River, NY; safety zone; comments due by 11-29-99; published 10-29-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
AeroSpace Technologies of Australia Pty Ltd.; comments due by 12-1-99; published 10-12-99
Boeing; comments due by 12-3-99; published 10-19-99
Bombardier; comments due by 12-1-99; published 10-12-99
British Aerospace; comments due by 12-1-99; published 10-8-99
Cessna; comments due by 12-1-99; published 10-12-99
CFE Co.; comments due by 11-29-99; published 9-28-99
Dassault; comments due by 12-3-99; published 11-3-99
Dornier; comments due by 12-1-99; published 10-8-99
Empresa Brasileira de Aeronautica S.A.; comments due by 12-1-99; published 10-8-99
Eurocopter France; comments due by 12-3-99; published 10-4-99
Fairchild; comments due by 12-1-99; published 10-12-99
Harbin Aircraft Manufacturing Corp.; comments due by 12-1-99; published 10-8-99
Industrie Aeronautiche e Meccaniche; comments due by 12-1-99; published 10-8-99
McDonnell Douglas; comments due by 11-29-99; published 9-28-99
Mitsubishi; comments due by 12-1-99; published 10-8-99
New Piper Aircraft, Inc.; comments due by 12-1-99; published 10-12-99
Partenavia Costruzioni Aeronauticas S.p.A.; comments due by 12-1-99; published 10-8-99
Pilatus Aircraft Ltd.; comments due by 12-1-99; published 10-8-99
Pilatus Britten-Norman Ltd.; comments due by 12-1-99; published 10-8-99
Raytheon; comments due by 11-29-99; published 10-14-99
Short Brothers & Harland Ltd.; comments due by 12-1-99; published 10-12-99
SOCATA-Groupe Aerospatiale; comments due by 12-1-99; published 10-12-99

Special conditions—
Garlick Helicopters, Inc. Model GH205A; comments due by 11-29-99; published 9-30-99
Twin Commander Aircraft Corp.; comments due by 12-1-99; published 10-12-99

Class D airspace; comments due by 11-29-99; published 10-28-99

Schools and other certificated agencies:
Repair stations: Part 145 review; comments due by 12-3-99; published 10-21-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:
Miscellaneous amendments; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:
Diamond Mountain, CA; comments due by 11-29-99; published 9-29-99

TREASURY DEPARTMENT

Comptroller of the Currency

Federal Deposit Insurance Act:
Safety and soundness standards—
Year 2000 guidelines; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Fiscal Service

Financial management services:
Collateral acceptability and valuation; comments due by 11-29-99; published 10-29-99

UNITED STATES INFORMATION AGENCY

Exchange visitor program:
Administrative processing fees; comments due by 11-30-99; published 9-27-99

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:
Appeals regulations and rules of practice—
Simultaneously contested claims; comments due by 11-30-99; published 10-1-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 441/P.L. 106–95

Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96

To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97

To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98

District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99

History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100

To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101

Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102

Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103

To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104

To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

Last List November 15, 1999

Public
Notifica
(PENS)

PENS is
notificatio
enacted
subscribe
archives/
send E-m
listserv@
the follow

SUBSCR
Your Nar

Note: Th
for E-mai
laws. The
available
PENS ca
specific i
address.

VOL 64 ISS 224 NOV 22 1999 UMI

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–038–00001–6)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
4	(869–038–00003–2)	7.00	[5] Jan. 1, 1999
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–038–00005–9)	27.00	Jan. 1, 1999
1200–End, 6 (6 Reserved)	(869–038–00006–7)	44.00	Jan. 1, 1999
7 Parts:			
1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–038–00010–5)	47.00	Jan. 1, 1999
300–399	(869–038–00011–3)	25.00	Jan. 1, 1999
400–699	(869–038–00012–1)	37.00	Jan. 1, 1999
700–899	(869–038–00013–0)	32.00	Jan. 1, 1999
900–999	(869–038–00014–8)	41.00	Jan. 1, 1999
1000–1199	(869–038–00015–6)	46.00	Jan. 1, 1999
1200–1599	(869–038–00016–4)	34.00	Jan. 1, 1999
1600–1899	(869–038–00017–2)	55.00	Jan. 1, 1999
1900–1939	(869–038–00018–1)	19.00	Jan. 1, 1999
1940–1949	(869–038–00019–9)	34.00	Jan. 1, 1999
1950–1999	(869–038–00020–2)	41.00	Jan. 1, 1999
2000–End	(869–038–00021–1)	27.00	Jan. 1, 1999
8	(869–038–00022–9)	36.00	Jan. 1, 1999
9 Parts:			
1–199	(869–038–00023–7)	42.00	Jan. 1, 1999
200–End	(869–038–00024–5)	37.00	Jan. 1, 1999
10 Parts:			
1–50	(869–038–00025–3)	42.00	Jan. 1, 1999
51–199	(869–038–00026–1)	34.00	Jan. 1, 1999
200–499	(869–038–00027–0)	33.00	Jan. 1, 1999
500–End	(869–038–00028–8)	43.00	Jan. 1, 1999
11	(869–038–00029–6)	20.00	Jan. 1, 1999
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–038–00033–4)	25.00	Jan. 1, 1999
500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–038–00035–1)	45.00	Jan. 1, 1999
13	(869–038–00036–9)	25.00	Jan. 1, 1999
14 Parts:			
1–59	(869–038–00037–7)	50.00	Jan. 1, 1999
60–139	(869–038–00038–5)	42.00	Jan. 1, 1999
140–199	(869–038–00039–3)	17.00	Jan. 1, 1999
200–1199	(869–038–00040–7)	28.00	Jan. 1, 1999
1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–038–00042–3)	25.00	Jan. 1, 1999
300–799	(869–038–00043–1)	36.00	Jan. 1, 1999
800–End	(869–038–00044–0)	24.00	Jan. 1, 1999
16 Parts:			
0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–038–00046–6)	37.00	Jan. 1, 1999
17 Parts:			
1–199	(869–038–00048–2)	29.00	Apr. 1, 1999
200–239	(869–038–00049–1)	34.00	Apr. 1, 1999
240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–038–00051–2)	48.00	Apr. 1, 1999
400–End	(869–038–00052–1)	14.00	Apr. 1, 1999
19 Parts:			
1–140	(869–038–00053–9)	37.00	Apr. 1, 1999
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
1–99	(869–038–00059–8)	24.00	Apr. 1, 1999
100–169	(869–038–00060–1)	28.00	Apr. 1, 1999
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
200–299	(869–038–00062–8)	11.00	Apr. 1, 1999
300–499	(869–038–00063–6)	50.00	Apr. 1, 1999
500–599	(869–038–00064–4)	28.00	Apr. 1, 1999
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
800–1299	(869–038–00066–1)	35.00	Apr. 1, 1999
1300–End	(869–038–00067–9)	14.00	Apr. 1, 1999
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
300–End	(869–038–00069–5)	32.00	Apr. 1, 1999
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–038–00072–5)	32.00	Apr. 1, 1999
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–038–00075–0)	18.00	Apr. 1, 1999
25	(869–038–00076–8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
§§ 1.61–1.169	(869–038–00078–4)	50.00	Apr. 1, 1999
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–038–00080–6)	25.00	Apr. 1, 1999
§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441-1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[7] Apr. 1, 1999
§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
§§ 1.851–1.907	(869–038–00085–7)	40.00	Apr. 1, 1999
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–038–00090–3)	28.00	Apr. 1, 1999
40–49	(869–038–00091–1)	17.00	Apr. 1, 1999
50–299	(869–038–00092–0)	21.00	Apr. 1, 1999
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–038–00094–6)	11.00	Apr. 1, 1999
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–038–00096–2)	53.00	Apr. 1, 1999

Title	Stock Number	Price	Revision Date
200–End	(869–038–00097–1)	17.00	Apr. 1, 1999
28 Parts:			
0–42	(869–038–00098–9)	39.00	July 1, 1999
43–end	(869–038–00099–7)	32.00	July 1, 1999
29 Parts:			
0–99	(869–038–00100–4)	28.00	July 1, 1999
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–038–00102–1)	40.00	[8] July 1, 1999
900–1899	(869–038–00103–9)	21.00	July 1, 1999
1900–1910 (§§ 1900 to 1910.999)	(869–038–00104–7)	46.00	July 1, 1999
1910 (§§ 1910.1000 to end)	(869–038–00105–5)	28.00	July 1, 1999
1911–1925	(869–038–00106–3)	18.00	July 1, 1999
1926	(869–038–00107–1)	30.00	July 1, 1999
1927–End	(869–038–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–038–00109–8)	35.00	July 1, 1999
200–699	(869–038–00110–1)	30.00	July 1, 1999
700–End	(869–038–00111–0)	35.00	July 1, 1999
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
200–End	(869–038–00113–6)	48.00	July 1, 1999
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–038–00114–4)	46.00	July 1, 1999
191–399	(869–038–00115–2)	55.00	July 1, 1999
400–629	(869–038–00116–1)	32.00	July 1, 1999
630–699	(869–038–00117–9)	23.00	July 1, 1999
700–799	(869–038–00118–7)	27.00	July 1, 1999
800–End	(869–038–00119–5)	27.00	July 1, 1999
33 Parts:			
1–124	(869–038–00120–9)	32.00	July 1, 1999
125–199	(869–038–00121–7)	41.00	July 1, 1999
200–End	(869–038–00122–5)	33.00	July 1, 1999
34 Parts:			
1–299	(869–038–00123–3)	28.00	July 1, 1999
300–399	(869–038–00124–1)	25.00	July 1, 1999
400–End	(869–038–00125–0)	46.00	July 1, 1999
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–038–00127–6)	21.00	July 1, 1999
200–299	(869–038–00128–4)	23.00	July 1, 1999
300–End	(869–038–00129–2)	38.00	July 1, 1999
37	(869–038–00130–6)	29.00	July 1, 1999
38 Parts:			
0–17	(869–038–00131–4)	37.00	July 1, 1999
18–End	(869–038–00132–2)	41.00	July 1, 1999
39	(869–038–00133–1)	24.00	July 1, 1999
40 Parts:			
1–49	(869–038–00134–9)	33.00	July 1, 1999
50–51	(869–038–00135–7)	25.00	July 1, 1999
52 (52.01–52.1018)	(869–038–00136–5)	33.00	July 1, 1999
52 (52.1019–End)	(869–038–00137–3)	37.00	July 1, 1999
53–59	(869–038–00138–1)	19.00	July 1, 1999
60	(869–038–00139–0)	59.00	July 1, 1999
61–62	(869–038–00140–3)	19.00	July 1, 1999
63 (63.1–63.1119)	(869–038–00141–1)	58.00	July 1, 1999
63 (63.1200–End)	(869–038–00142–0)	36.00	July 1, 1999
64–71	(869–038–00143–8)	11.00	July 1, 1999
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87–135	(869–038–00146–1)	53.00	July 1, 1999
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–038–00150–1)	23.00	July 1, 1999
260–265	(869–038–00151–9)	32.00	July 1, 1999
266–299	(869–038–00152–7)	33.00	July 1, 1999
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–038–00154–3)	34.00	July 1, 1999
425–699	(869–038–00155–1)	44.00	July 1, 1999
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–038–00157–8)	23.00	July 1, 1999
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–038–00160–8)	16.00	July 1, 1999
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	14.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	30.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998

Title	Stock Number	Price	Revision Date
600-End	(869-034-00201-3)	33.00	Oct. 1, 1998
CFR Index and Findings Aids	(869-038-00047-4)	48.00	Jan. 1, 1999
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.

VOL 64 ISS 224 NO 22 1999 UMI

VOL
64
ISS
2
2
4
NO
22
1999
UMI

Printed on recycled paper

VOL
64
ISS
2
2
4
NO
22
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11–22–99
Vol. 64 No

United States
Government
Printing Offic
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 204

OFFICIAL BUSINES
Penalty for private us

11–22–99
Vol. 64 No. 224

federal register

Monday
November 22, 1999

Book 2 of 4 Books

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
4
NO
22
1999
UMI

11-22-99
Vol. 64 No

BOOK 2:
Pages 6388

11-22-99
Vol. 64 No. 224

BOOK 2:
Pages 63881-64441

Federal Register

Monday, November 22, 1999
Book 2 of 4 Books

The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

63883 II—Regulatory Information Service Center
64104 III—Department of Agriculture
64194 IV—Department of Commerce
64286 V—Department of Defense
64320 VI—Department of Education
64332 VII—Department of Energy
64352 VIII—Department of Health and Human Services

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part II

Regulatory Information Service Center

Statement by the Vice President

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

Agency Regulatory Plans

VOL
64
ISS
2
2
4
NO
22
1999
UMI

Federal Register
Vol. 64, No. 224
Monday, November 22, 1999

The Regulatory Plan

Statement by the Vice President

The publication of this sixth Regulatory Plan is a great time to assess this Administration's progress in meeting its commitment to provide the American people with a regulatory system that works for them.

Since the first Regulatory Plan, published in 1994, we've learned a lot about how to go about the business of regulating. Initially, the reform effort focused on the regulatory process itself, with Executive Order No. 12866 serving as the foundation. At that time, we pointed to several early indications of progress based on the planning principles contained in the Executive order.

The next year, we moved from process to content with a Governmentwide call for reinvention of regulations. We challenged agencies to eliminate or reinvent existing regulations and paperwork requirements to reduce the burden on the American public while retaining the intended benefits. The 1995 Regulatory Plan contained a number of illustrations of regulatory programs that agencies critically reviewed and changed as a result of this challenge.

In 1996, the dominant theme in regulatory reform was the use of emerging technology to improve public access to regulatory information. Federal agencies were in the forefront in reengineering their regulatory processes to take advantage of the revolution in information technology, and the 1996 Regulatory Plan reported many of the innovations and changes agencies instituted.

In the past two years, the Regulatory Plans included many regulations developed using the regulatory philosophy and principles of Executive Order No. 12866. Agencies were working hard to instill its planning principles into their ongoing rulemaking operations. By streamlining regulations, considering a range of alternatives, increasing outreach, and using plain language, Federal agencies are adopting a new approach to regulating.

Executive Order No. 12866 laid a foundation for real change in the way we regulate. In addition, we've learned a great deal in the past 6 years. We now know that:

1. We need to do a better job communicating and involving stakeholders in the regulatory process;

2. We need to do more to help the regulated community to comply;

3. By using information effectively, we can better target our enforcement efforts at the most serious challenges; and

4. We always need to keep focused on the results that Americans care about, like clean air and safe food, instead of how many tickets we're writing.

In the 1999 Regulatory Plan, we are seeing more evidence we're changing the way we regulate. But we still have a long way to go. The challenge ahead is to sustain this momentum and not become complacent with the progress we have made to date. You can be an active participant in this process by using The Regulatory Plan and the Unified Agenda of Federal

Regulatory and Deregulatory Actions and registering your opinions with the regulatory agencies. We encourage you to do so.

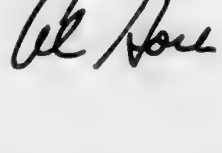

[FR Doc 99-30345
Filed 11-19-99 8:45 am]
Billing Code 3110-01-F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

REGULATO

Introductio
Agenda of

AGENCY: Re

ACTION: Intr
Agenda of

SUMMARY: T
agencies pu
regulatory a
Executive O
(58 FR 517
and Budget
Order estab
including s

The Unif
requiremen
to publish t
publication

Section 4
part of thei
Unified Ag
most impor
reasonably
the upcomi
first section
follow.

The Regu
statement,
regulatory
Each of the
agenda des
regulatory a
appear in P
followed by

We welco
your sugges

ADDRESSES:
General Ser
3039, Wash

Electronic

All editio
Agenda of
since Octob
search the
at:

http://regin

You may
Governmen
accessible t

http://www

FOR FURTHE
about speci
Contact list

To provide
about this p
Director, Re
General Ser
3039, Wash
send comm

RISC@gsa.g

REGULATORY INFORMATION SERVICE CENTER

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing (5 U.S.C. 602). Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry.

The Unified Agenda helps agencies fulfill all of these requirements. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication.

Section 4 of Executive Order 12866 also directs that, as part of their submissions to the October edition of the Unified Agenda, agencies prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. The agency plans appear as the first section of this joint publication; the agency agendas follow.

The Regulatory Plan begins with Vice President Gore's statement, followed by an introduction, and then the regulatory plans of 30 Federal departments and agencies. Each of these agencies has also submitted a regulatory agenda describing its other regulatory actions. The regulatory agendas for these and 32 other Federal agencies appear in Parts III-LXIV of this issue of the **Federal Register**, followed by indexes to both Plan and Agenda entries.

We welcome your comments on this joint publication and your suggestions for improving future ones.

ADDRESSES: Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405.

Electronic Availability

All editions of **The Regulatory Plan** and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are available in electronic form. You can search the Plan and the Agenda on the World Wide Web at:

http://reginfo.gov

You may also search the Plan and the Agenda on the Government Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: Ronald C. Kelly, Executive Director, Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405, (202) 482–7340. You may also send comments to us by e–mail at:

RISC@gsa.gov

SUPPLEMENTARY INFORMATION:

TABLE OF CONTENTS

	Page
Statement by the Vice President	63883
Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions	
I. What Are the Unified Agenda and The Regulatory Plan?	63886
A. What Are the Limitations of the Information?	63886
II. Why Are the Unified Agenda and The Regulatory Plan Published?	63887
III. How Are The Regulatory Plan and the Unified Agenda Organized?	63887
IV. What Information Appears for Each Entry?	63888
V. Abbreviations	63889
VI. How Can Users Get Copies of the Plan and the Agenda	63889
AGENCY REGULATORY PLANS	
Cabinet Departments	
Department of Agriculture	63891
Department of Commerce	63911
Department of Defense	63919
Department of Education	63923
Department of Energy	63925
Department of Health and Human Services	63930
Department of Housing and Urban Development	63954
Department of the Interior	63961
Department of Justice	63969
Department of Labor	63975
Department of Transportation	64001
Department of the Treasury	64015
Department of Veterans Affairs	64022
Other Executive Agencies	
Environmental Protection Agency	64023
Equal Employment Opportunity Commission	64062
General Services Administration	64065
National Aeronautics and Space Administration	64066
National Archives and Records Administration	64067
Office of Personnel Management	64069
Pension Benefit Guaranty Corporation	64072
Small Business Administration	64074
Social Security Administration	64078
Independent Regulatory Agencies	
Commodity Futures Trading Commission	64082
Consumer Product Safety Commission	64083
Federal Energy Regulatory Commission	64087
Federal Housing Finance Board	64090
Federal Maritime Commission	64093
Federal Trade Commission	64094
National Indian Gaming Commission	64098
Nuclear Regulatory Commission	64100
AGENCY AGENDAS	
Cabinet Departments	
Department of Agriculture	64104
Department of Commerce	64194
Department of Defense	64286
Department of Education	64320
Department of Energy	64332
Department of Health and Human Services	64352
Department of Housing and Urban Development	64444
Department of the Interior	64482
Department of Justice	64560
Department of Labor	64622

Department of State 64674
Department of Transportation 64682
Department of the Treasury 64870
Department of Veterans Affairs 64964

Other Executive Agencies

Advisory Council on Historic Preservation 64994
Agency for International Development 64996
Architectural and Transportation Barriers Compliance Board 65000
Commission on Civil Rights 65004
Corporation for National and Community Service 65006
Environmental Protection Agency 65010
Equal Employment Opportunity Commission 65170
Federal Emergency Management Agency 65174
Federal Mediation and Conciliation Service 65182
General Services Administration 65184
Morris K. Udall Foundation—U.S. Institute for Environmental Conflict Resolution 65198
National Aeronautics and Space Administration 65200
National Archives and Records Administration 65204
National Foundation on the Arts and the Humanities
Institute of Museum and Library Services 65212
National Endowment for the Arts 65214
National Endowment for the Humanities 65218
National Science Foundation 65220
Office of Federal Housing Enterprise Oversight 65222
Office of Government Ethics 65226
Office of Management and Budget 65234
Office of Personnel Management 65240
Office of Special Counsel 65266
Panama Canal Commission 65268
Peace Corps 65270
Pension Benefit Guaranty Corporation 65274
Presidio Trust 65280
Railroad Retirement Board 65284
Selective Service System 65290
Small Business Administration 65292
Social Security Administration 65302
Tennessee Valley Authority 65324

Joint Authority

Department of Defense/General Services Administration/National Aeronautics and Space Administration (Federal Acquisition Regulation) 65326

Independent Regulatory Agencies

Commodity Futures Trading Commission 65340
Consumer Product Safety Commission 65348
Farm Credit Administration 65358
Farm Credit System Insurance Corporation 65366
Federal Communications Commission 65368
Federal Deposit Insurance Corporation 65414
Federal Energy Regulatory Commission 65424
Federal Housing Finance Board 65432
Federal Maritime Commission 65440
Federal Reserve System 65446
Federal Trade Commission 65458
National Credit Union Administration 65470
National Indian Gaming Commission 65480
Nuclear Regulatory Commission 65484
Securities and Exchange Commission 65504
Surface Transportation Board 65530

INDEXES TO REGULATORY PLAN AND UNIFIED AGENDA ENTRIES

A. Regulatory Flexibility Act Section 610 Review Index 65533
B. Regulatory Flexibility Analysis Index 65535
C. Small Entities Index (Regulatory Flexibility Analysis Not Required) 65547
D. Government Levels Index 65561
E. Subject Index 65601

INTRODUCTION TO THE UNIFIED AGENDA AND THE REGULATORY PLAN

I. What Are the Unified Agenda and The Regulatory Plan?

The **Unified Agenda of Federal Regulatory and Deregulatory Actions** (Unified Agenda) provides information, in a uniform format, about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983. This edition includes regulatory agendas from 62 Federal departments and agencies. Agencies of the United States Congress are not included.

The Regulatory Plan (Plan) serves as a defining statement of the Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. Each participating agency's regulatory plan contains: (1) A narrative statement of the agency's regulatory priorities and, for most agencies, (2) a description of the most important significant regulatory and deregulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 30 departments and agencies.

The Regulatory Information Service Center (the Center) compiles the Unified Agenda and the Plan for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of E.O. 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last agenda. The agendas do not contain regulations that were excluded under Executive Order 12866, such as those concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

A. What Are the Limitations of the Information?

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed.

The Regulatory Plan and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules within them or to confine their regulatory activities to those regulations that appear in these publications. The information in this edition is accurate as of October 1, 1999, in the judgment of the submitting agencies, except as otherwise noted by the agencies. In addition, some agencies submitted updates after that date.

Where applicable, individual actions will be subject to review for compliance with applicable Executive orders, the Regulatory Flexibility Act, and the Paperwork Reduction Act at appropriate points in the regulatory process.

II. Why Are the Unified Agenda and The Regulatory Plan Published?

The Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610).

Executive Order 12866

Executive Order 12866 entitled "Regulatory Planning and Review" (September 30, 1993; 58 FR 51735) requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears as part of the October Unified Agenda.

Executive Order 12875

Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. The Order directs agencies that are proposing to impose nonstatutory unfunded mandates to consult with affected governmental officials and document their concerns, report those concerns to the Director of the Office of Management and Budget, and explain the agency's position supporting the continuing need to issue the regulation in light of those concerns. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government.

Unfunded Mandates Reform Act of 1995

The *Unfunded Mandates Reform Act of 1995* (P.L. 104–4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions "that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . ." The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Small Business Regulatory Enforcement Fairness Act

The *Small Business Regulatory Enforcement Fairness Act* (P.L. 104–121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 et seq.), which defers, unless exempted, the effective date of a "major" rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is "major" if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. If the issuing agency believes that a rule may be major, it indicates this under the "Priority" heading of the entry. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How Are The Regulatory Plan and the Unified Agenda Organized?

The Regulatory Plan appears in Part II of this edition of the **Federal Register**. Following the Plan, each agency's agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Departments may in turn be divided into subagencies.

Each department's or agency's section of the Plan contains a narrative statement of regulatory priorities followed by a description of the department's or agency's most important significant regulatory and deregulatory actions. Each part of the Agenda begins with a preamble providing information specific to that part.

In the Agenda, each agency presents its entries under one of five headings according to the rulemaking stage of the entry. In the Plan, only the first three stages are applicable. The stages are:

1. *Prerule Stage* — actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage* — actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage* — actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step in their rulemaking process.

4. *Long-Term Actions* — items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions* — actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

In the Agenda, an agency may use subheadings to identify regulations that it has grouped according to particular topics. When these subheadings are used, they appear above the title of the first regulation in each group.

A bullet (•) preceding an entry indicates that the entry appears in the Unified Agenda for the first time.

All entries are numbered sequentially from the beginning of the Plan to the end of the Unified Agenda. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The same number is used in the indexes to enable readers to find entries on specific subjects.

For each agency that requests it, the Center provides a table of contents that appears in the Agenda after the agency preamble. In addition to listing all the agency's Agenda entries, the tables of contents identify each Plan entry by a cross-reference in bold type.

This publication contains five indexes. Index A lists entries for which agencies have indicated that they are conducting, or in some cases have conducted, a periodic review under section 610(c) of the Regulatory Flexibility

Act. Index B lists the regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis. Index C lists additional regulatory actions for which agencies have chosen to indicate that some impact on small entities is likely though a Regulatory Flexibility Analysis may not be required. Index D lists entries that agencies believe may have effects on levels of government. Index E is a subject index based on the **Federal Register Thesaurus of Indexing Terms**.

IV. What Information Appears for Each Entry?

All entries in the Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation. The notation "Section 610 Review" following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews.

Priority. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an "economically significant" rule is similar but not identical to the definition of a "major" rule under 5 U.S.C. 801 (P.L. 104–121). (See below.)

(2) Other Significant

A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that the agency anticipates will be reviewed under E.O. 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

In addition, if an agency believes that a rule may be "major" under 5 U.S.C. 801 (P.L. 104–121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act, the agency indicates this under the "Priority" heading. (The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.)

Unfunded Mandates — whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate. If the agency believes the entry is not subject to the Act, this data element will not be printed.

Reinvention — whether the action is part of the Administration's Reinventing Government effort and, if so, whether the result will be elimination of existing text in the Code of Federal Regulations (CFR) or revision of text in the CFR to reduce burden or duplication or to streamline requirements. If the action is not specifically part of this effort, the data element will not be printed.

Legal Authority — the section(s) of the United States Code (U.S.C.) or Public Law (P.L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation — the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline — whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract — a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential costs and benefits of the action.

Timetable — the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date printed in the form 12/00/99 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is "To Be Determined." "Next Action Undetermined" indicates the agency does not know what action it will take next. Dates after 1999 are printed in the same form as other dates, using the last two digits of the year.

Regulatory Flexibility Analysis Required — whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the rule is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected — the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rule is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected — whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Agency Contact — the name, title, address, and phone number of a person in the agency who is knowledgeable

about the regulation. If available, the agency may also provide the fax number, e-mail address, and TDD for the agency contact.

Procurement — whether the action is related to procurement and, if so, whether it is required by statute and whether it involves a paperwork burden. The Procurement heading appears only if the entry is related to procurement.

Some agencies have provided the following optional information:

Compliance Cost to the Public — the estimated gross compliance cost of the action.

Affected Sectors — the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by North American Industry Classification System (NAICS) codes.

Entries appearing in **The Regulatory Plan** should also contain the following information:

Statement of Need — a description of the need for the regulatory action.

Summary of the Legal Basis — a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives — a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of E.O. 12866.

Anticipated Costs and Benefits — a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks — a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM — An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR — The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles, and each title covers a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO — An Executive order is a directive from the President to executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR — The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal departments and agencies.

FY — The Federal fiscal year runs from October 1 to September 30.

NPRM — A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;
- a reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL — A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 105-4 is the fourth public law of the 105th Congress.

RFA — A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN — The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Unified Agenda and **The Regulatory Plan**, as directed by E.O. 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No. — The Sequence Number identifies the location of an entry in this publication. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers in different editions of the Unified Agenda and **The Regulatory Plan**.

USC — The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, and each title covers a broad area of Federal law.

VI. How Can Users Get Copies of the Plan and the Agenda?

Printed copies of this edition of the **Federal Register** are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325, (202) 512–1800.

Copies of individual agency materials may be available directly from the agency. Please contact the particular agency for further information.

All editions of **The Regulatory Plan** and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** since October 1995 are also available in electronic form. You can search the Plan and the Agenda on the World Wide Web at:

http://reginfo.gov

or through the U.S. Business Advisor at:

http://www.business.gov

You may also search the Plan and the Agenda on the Government Printing Office's GPO Access, which is accessible through:

http://www.access.gpo.gov

Dated: November 9, 1999.

Ronald C. Kelly,

Executive Director.

[FR Doc. 99–29935 Filed 11–19–99; 8:45 am]

BILLING CODE 6820–27–F

VOL 64 ISS 224 NO 22 1999 UMI

DEPARTM
(USDA)

Statement

To comp
Performanc
achieve reg
Departmen
implement
eliminate u
improve th
them easier
user friendl
review and
in actions c
commitmer
program co
will have e
percent of i
CFR.

Positive
proposed a
reform acti
corner of th
and indirec
Americans.
support to
segments o
simplified
for assistan
participatio
rules. Yet h
ensure effic
managemer
taxpayer do
other USDA
significant
regulations
with the De
Farm credit
rural econo
streamlined
cumbersom
with forms
to facilitate
Department
actions in t
that will inc
customer se
markets, an
greater resp
spread of pl
disease. The
improving t
rural comm
being made
that will fac
the applicat
programs ar
their efficie
integrity en
reform. In th
Department
reinvention
relationship
public. Ther

DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

To comply with the National Performance Review (NPR) directive to achieve regulatory reform, the Department of Agriculture continues to implement an ongoing program to eliminate unnecessary regulations and improve those remaining by making them easier to understand and more user friendly. To date, the Department's review and revision effort has resulted in actions on over 60 percent of our NPR commitment to regulatory reform. At program conclusion, the Department will have eliminated or reinvented 81 percent of its regulatory holdings in the CFR.

Positive changes resulting from proposed and completed regulatory reform actions will reach into every corner of the country and, both directly and indirectly, touch the lives of most Americans. Those programs that offer support to specific rural and urban segments of the economy are being simplified so that persons who qualify for assistance, or some other form of participation, will find less burdensome rules. Yet high standards are in place to ensure efficient and effective program management that makes the best use of taxpayer dollars. Farmers, ranchers, and other USDA customers will find significant changes in all aspects of regulations that govern their interaction with the Department and its programs. Farm credit, a mainstay of the Nation's rural economy, is being significantly streamlined by the merger of cumbersome loan-making regulations with forms and certifications simplified to facilitate the application process. The Department is undertaking a number of actions in the regulation of commodities that will increase efficiency, improve customer service, reduce intervention in markets, and allow States to assume greater responsibility in controlling the spread of plant and animal pests or disease. The Department is also improving the regulations that serve rural communities. Several changes are being made in rural housing programs that will facilitate access and simplify the application process. Nutrition programs are also being strengthened, their efficiency improved, and their integrity enhanced through regulatory reform. In the area of food safety, the Department has undertaken a significant reinvention of all policies and relationships with industry and the public. There are also several important reinvention plans in the natural resources and conservation area.

Reducing Paperwork Burden on Farmers

The Department has made substantial progress under the guidance of the Chief Information Officer in implementing the goal of the Paperwork Reduction Act of 1995 to reduce the burden of information collection on the public. USDA continues to work toward the goal of reducing burden by an additional 5 percent for fiscal year 2000. Further reductions will result from program changes, improved efficiency in the collection and management of information, and adjustments in the collection burden.

The Department established a Paperwork Reduction Implementation Team (PRIT), under the guidance of the Food and Agriculture Council, based on direction from the Secretary of Agriculture, to create a plan to reduce the paperwork burden on farmers. The PRIT has developed a USDA Paperwork Reduction Framework—a set of standards and guidelines for the Service Center agencies. USDA agencies will use the framework in the execution of their paperwork reduction initiatives. Simultaneously, the PRIT, working with the Service Center agencies, will continue ongoing initiatives to reduce burden as quickly as possible. Business process reengineering initiatives are addressing customer needs by integrating agency processes to streamline information collected from the farmer. This will eliminate redundant data collection, provide direct access to benefit and eligibility information, and reduce and simplify the number of regulations and forms.

The Role of Regulations

The programs of the Department are diverse and far reaching, as are the regulations that attend their delivery. Regulations codify how the Department will conduct its business, including the specifics of access to, and eligibility for, USDA programs. Regulations also specify the behavior of State and local governments, private industry, businesses, and individuals that is necessary to comply with their provisions. The diversity in purpose and outreach of our programs contributes significantly to the USDA being at or near the top of the list of departments that produce the largest number of regulations annually. These regulations range from nutrition standards for the school lunch program, to natural resource and environmental measures governing national forest usage and soil conservation, to regulations protecting American agribusiness (the largest dollar value contributor to exports) from the ravages of domestic or foreign plant or animal pestilence and they extend from farm to supermarket to ensure the safety, quality, and availability of the Nation's food supply. Many regulations function in a dynamic environment which requires their periodic modification. The factors determining various entitlement, eligibility, and administrative criteria often change from year to year. Therefore, many significant regulations must be revised annually to reflect changes in economic and market benchmarks. Almost all legislation that affects departmental programs has accompanying regulatory needs, often with a significant impact. The Farm Bill of 1996, Public Law 104–127, has considerable regulatory consequences. This key legislation affects most agencies of USDA and will result in the addition of new programs, the deletion of others, and modification to still others.

Administration Guidance—USDA Response

In developing and implementing regulations, the Department has been guided by the regulatory principles and philosophy set forth by the President in Executive Order 12866 "Regulatory Planning and Review." As prescribed in the Order, the USDA is committed to "promulgate only those regulations that are required by law, are necessary to interpret the law, or are made necessary by compelling public need." When considering a rulemaking action, the Department will assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating. Our analysis will consider the costs and benefits of both quantifiable and qualitative measures and opt for approaches that maximize net benefits.

Major Regulatory Priorities

Six agencies are represented in this regulatory plan. They include the Farm Service Agency, the Food and Nutrition Service, the Forest Service, the Food Safety and Inspection Service, the Animal and Plant Health Inspection Service, and the Agricultural Marketing Service. This document represents summary information on prospective significant regulations as called for in Executive Order 12866. A brief comment on each of the six agencies appears below, which summarizes the Agency mission and its key regulatory

priorities. The Agency summaries are followed by the regulatory plan entries.

Farm Service Agency

Mission: The Farm Service Agency (FSA) administers contract commodity, conservation, farm loan, commodity purchase, and emergency loan and disaster programs, as prescribed by various statutes, in order to support farming certainty and flexibility while ensuring compliance with farm conservation and wetland protection requirements and to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources.

Priorities: FSA's priority for 2000 will be to continue to implement these programs with emphasis on enhanced service to our customers. The most significant FSA regulations are those that operate the contract commodity programs and farm loans. The farm programs were significantly changed by the 1996 Farm Bill. The Farm Bill instituted the contract commodity programs, which utilize production flexibility contracts and marketing assistance loans in place of the deficiency payments and production adjustment of past programs. The contracts removed the link between income support payments and farm prices by providing for seven annual fixed but declining payments. FSA's farm loan programs make and guarantee loans to family farmers and ranchers to purchase farm land and finance agricultural production. While the contract commodity and farm loan programs have significant economic impact, they are driven by specific statutory requirements. Therefore, they are noted here to acknowledge their significance in the overall USDA regulatory plan, but are not further listed in the body of the plan which appears below.

In addition to its normal program operations, FSA is committed to the Paperwork Reduction Act of 1995's goal of reducing the information collection burden on the public. FSA has initiated a business process reengineering project to streamline its farm loan-making and servicing regulations and reduce the information collection burden associated with the programs. FSA plans to reduce the number of CFR parts containing its farm loan program regulations by approximately 70 percent. In addition, FSA hopes to achieve a significant reduction in the total number of CFR pages by removing administrative provisions and internal policy, and eliminating duplicative material. Furthermore, FSA intends to improve the clarity of the farm loan program regulations by following the guidelines established in the President's Plain Language in Government Writing Initiative.

As part of this project, all Farm Loan Program (FLP) regulations and internal Agency directives will be completely rewritten. All application processes and information collections will be reviewed, and unnecessary or redundant requirements will be eliminated. Under one phase of the contract, all forms associated with FLP were reviewed and assigned to one of the following categories:

- prepared by the public
- prepared by the Agency, reviewed by the public, or
- internal agency use only.

FLP will concentrate on streamlining forms assigned to the first category to reduce public burden. In addition, a database was developed listing each field contained on the forms. This information will be used to identify duplicate collections and ensure consistency in terminology.

FLP is completing three regulation packages under the streamlining project. Guaranteed loan program regulations were published in February 1999. The following changes are being implemented to reduce public burden:

- Establish the Certified Lender Program, which reduces documentation and application requirements
- Eliminate requirements that lenders submit copies of leases, contracts, and legal documents
- Reduce the number of years of production and financial records from 5 years to 3 years
- Reduce application requirements for loans under $50,000.

FLP plans to publish regulations for direct loan program and administrative regulations as a proposed rule in March 2000, and as a final rule in September 2001. While rewriting of the regulations has begun, it will be a lengthy process because approximately 37 CFR parts are being consolidated into 3 parts and more than 750 CFR pages must be rewritten. Revised regulations for special loan programs (including Indian land acquisition, boll weevil eradication, drainage and irrigation and grazing association loans) are planned for publication as a proposed rule in August 2001, and as a final rule in April 2002. These programs will be completed last because there are only about 850 borrowers with outstanding special loans in comparison to almost 110,000 borrowers with outstanding direct loans.

In addition to the FLP streamlining initiative, FSA is one of the major participants in USDA's Service Center Implementation Team (SCIT) along with the Natural Resources Conservation Service and the Rural Development mission area. Information collections at the service center level represent most of FSA's total collection burden. FSA believes that SCIT provides a unique opportunity to achieve new levels of information collection efficiency because collections across organizational boundaries can be consolidated as common service center business processes are reengineered. FSA is taking full advantage of this opportunity by sponsoring a companion initiative of the Paperwork Reduction Implementation Team (PRIT) that brings a paperwork reduction focus to the business process reengineering initiative under SCIT. Another focus of PRIT is to develop standard methodologies for information collection management and to standardize burden calculations and reporting processes.

Food and Nutrition Service

Mission: FNS reduces hunger and food insecurity in partnership with cooperating organizations by providing children and needy people access to food, a healthful diet, and nutrition education in a manner that supports American agriculture and inspires public confidence.

Priorities: In addition to responding to provisions of legislation authorizing and modifying Federal nutrition assistance programs, FNS's 2000 regulatory plan supports broad strategic policy goals aimed at improving the nutritional well-being of program participants, and improving stewardship of Federal resources. These goals, included in our strategic plan, are:

- Enhanced food and nutrition security for low-income Americans. This goal reflects the continuation of the Food Stamp Program's traditional role in providing nutrition assistance, as well as improving program administration to meet the future challenges. Our plan supports ongoing implementation of welfare reform legislation that modified the eligibility criteria for food stamp benefits and increased program design options for States, while continuing to meet the overall mission to provide food and nutrition security for low-income Americans participating in the FSP and to enhance program efficiency and integrity.

- Healthful diets for school-age children. The two major programs serving this goal are the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). This goal reflects the Agency's recognition of its National health and education responsibilities for school-age children.
- Improved nutritional status and health of low-income women, infants, and children. This goal reflects the mission of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). It emphasizes nutrition education, healthy infant feeding practices, and positive health outcomes while seeking to enhance program efficiency and integrity.
- Improved nutritional status of children in day-care settings. This goal reflects our effort to enhance the effectiveness of the Child and Adult Care Food Program (CACFP), by improving the nutritional quality of program meals, improving program access for low-income families and enhanced program integrity.
- Low-income children consume nutritious lunches when school meals are not available. Through its Summer Food Service Program, FNS seeks to extend its commitment to children from low-income households during summer months when school meals are not available.
- Improved quality of food distribution commodities and service. FNS continues its support for agricultural markets with an emphasis on more healthful commodities, as well as improved program efficiency through automation, reduced Federal and State inventories, and timely deliveries of commodity foods.

Forest Service

Mission: The mission of the Forest Service is to sustain the health, productivity, and diversity of the Nation's forest and rangelands to meet the needs of present and future generations. This includes protecting and managing the National Forest and Grasslands; providing technical and financial assistance to States, communities, and private forest landowners; and developing and providing scientific and technical assistance and scientific exchanges in support of international forest and range conservation.

Priorities: On October 13, 1999, the President issued a Memorandum directing the Forest Service to develop, and propose for public comment, regulations to provide appropriate long-term protection for most or all of the currently inventoried "roadless" areas and to determine whether such protection is warranted for any smaller "roadless" areas not yet inventoried. The President further directed that the final regulations should reflect the best available science and a careful consideration of the full range of ecological, economic, and social values inherent in these lands. A notice of intent to prepare an Environmental Impact Statement to analyze and disclose various alternatives for meeting the President's directive was published in the **Federal Register** on October 19, 1999.

As an adjunct to this roadless policy, another agency priority is to revise its road management rules and policy to reflect reduced funding available for road construction and maintenance, the need to better inventory and analyze the need for existing forest roads, and thus the need to shift the emphasis from building new roads to better maintaining and managing those already in use. A proposal is expected to be published in November. Finally, the President's environmental program also includes incorporation of the principles of ecosystem management in natural resource planning for the National Forest System. In support of that effort, a proposed rule was published in the **Federal Register** of October 5, 1999 (Part II, 64 FR 54074–54112). Guided by recommendations of a Committee of Scientists, the proposed rule provides for science-based planning, ecosystem sustainability, use of ecoregional and watershed-level assessments, and strengthened collaboration with the individuals, organizations, State, local, tribal governments and other Federal agencies.

Food Safety and Inspection Service

Mission: The Food Safety and Inspection Service (FSIS) is responsible for ensuring the Nation's meat, poultry, and egg products are safe, wholesome, and properly packaged and labeled.

Priorities: FSIS is continuing to review its regulations to eliminate duplication of and inconsistency with its own and other agencies' regulations. The Agency's regulatory review efforts are directed, in particular, at improving the consistency of the regulations with the July 25, 1996, final rule "Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems." HACCP is a science-based process control system for producing safe food products. The final rule requires official meat and poultry establishments to develop and implement HACCP plans incorporating the controls they have determined are necessary and appropriate to produce safe products. HACCP places the responsibility for food safety firmly on meat and poultry establishments but enables them to tailor their control systems to their particular needs and processes and to take advantage of the latest technological innovations.

FSIS must revise its numerous "command-and-control" regulations, which prescribe the exact means establishments must use to ensure the safety of their products. Some of these regulations specify precise cooking time-and-temperature combinations. Others require prior approval by FSIS of equipment and procedures, in effect assigning to the Agency the responsibility for the means used by establishments to comply with the regulations. As a general matter, command-and-control regulations are incompatible with HACCP because they deprive plants of the flexibility to innovate and undercut the clear delineation of responsibility for food safety. Therefore, FSIS is conducting a thorough review of its current regulations and, to the maximum extent possible, converting its command-and-control regulations to performance standards. Following are some of the Agency's recent and planned initiatives to convert command-and-control regulations to performance standards, to streamline and simplify the regulations and to facilitate the continuing implementation of the pathogen reduction and HACCP systems final rule:

- FSIS has proposed consolidating the sanitation regulations into a single part of the Code of Federal Regulations that would be applicable to both meat and poultry establishments, eliminating unnecessary differences between the meat and poultry sanitation requirements, and converting many of the highly prescriptive requirements to performance standards.
- FSIS will be proposing to remove most requirements pertaining to partial quality control programs. The Agency will also be proposing to consolidate and streamline the regulations governing the importation of meat, meat food and poultry products. This rulemaking also will implement provisions in recent international agreements, notably that on veterinary equivalence between the United States and the European Union.

- FSIS has proposed new regulations limiting the amount of processing water that can be retained by raw, single-ingredient, meat or poultry products requiring labeling to indicate the amount of water retention.
- FSIS has proposed, in coordination with FDA, amending the regulations to harmonize and improve the efficiency of the procedures used for reviewing, approving and listing food or color additives that are used in the preparation of meat, meat food and poultry products.
- FSIS will be proposing generic Escherichia coli process control criteria, based on the sponge method of sampling, for cattle, swine and geese slaughtering establishments, and for turkey slaughtering establishments based on both the sponge and the whole-bird rinse sampling methods. The Agency also will be proposing updated Salmonella performance standards for all market classes of cattle and swine.
- Finally, FSIS will be proposing to require federally inspected egg product establishments to develop and implement HACCP systems and sanitation standards operating procedures. The Agency will be proposing pathogen reduction performance standards for pasteurizing egg products. Further, the Agency will be proposing to remove current requirements for approval by FSIS of egg-product plant drawings, specifications, and equipment prior to use and to end the system for pre-marketing approval of labels for egg products. The Agency also is planning to propose requiring safe-handling labels on shell eggs and egg products.

Animal and Plant Health Inspection Service

Mission: A major part of the mission of the Animal and Plant Health Inspection Service (APHIS) is to protect U.S. animal and plant resources from destructive pests and diseases. APHIS conducts programs to control and eradicate exotic pests and diseases in the United States. These activities enhance agricultural productivity and competitiveness and contribute to the national economy and the public health.

Priority: APHIS is developing a proposal to strengthen restrictions on the importation of solid wood packing material (e.g., crates, dunnage, wooden spools, pallets, packing blocks) into the United States. Imported solid wood packing material (SWPM) has been linked to introductions of exotic plant pests such as the pine shoot beetle and the Asian longhorned beetle. These and other plant pests that could be carried by imported SWPM pose a serious threat to U.S. agriculture and to natural, cultivated, and urban forests. SWPM accompanies nearly all types of imported commodities, from fruits and vegetables to machinery and electrical equipment.

Agricultural Marketing Service

Mission: The Agricultural Marketing Service (AMS) facilitates the marketing of agricultural products in domestic and international markets, while ensuring fair trading practices, and promoting a competitive and efficient marketplace, to the benefit of producers, traders, and consumers of U.S. food and fiber products.

Priorities: AMS' top regulatory priority is to establish the National Organic Program (NOP). The NOP will establish national standards for the production and handling of organically produced products, including a National List of substances approved and prohibited for use in organic production and handling.

AMS will also publish the procedures for Mandatory Market News Reporting of Livestock and Meat. These regulations will establish a program that will provide livestock producers, packers, and other market participants with information on pricing, contracting for purchase, numbers and quality marketed for cattle, swine, lambs, and production of livestock products.

AMS will publish a regulation to update the Federal Seed Act to incorporate current seed testing and seed certification procedures. This regulation will keep the Federal Seed Act consistent with present technology and prevent conflicts between Federal and State regulations that could inhibit the free movement of seed.

AMS published an interim final rule that established a voluntary, fee-for-service program, under the Agricultural Marketing Act of 1946, under which AMS assesses State and private agencies in the United States to verify compliance with the requirements of the International Organization for Standardization (ISO) Guide 65. This assessment facilitates uninterrupted imports of U.S. organic products to countries in the European Union (EU) by enabling organic certifying agencies to comply with EU requirements. The interim final rule was effective June 10, 1999. A 60-day period was provided for interested persons to comment on the interim rule before the final rule is published in the near future.

AMS will continue to review its regulations to keep them up-to-date and consistent with industry terminology and to eliminate duplication with its own and other agencies' regulations. This includes amending the regulations governing the inspection of eggs to delete regulatory detail not needed by AMS to administer its responsibilities under the Egg Products Inspection Act.

USDA—Agricultural Marketing Service (AMS)

PROPOSED RULE STAGE

1. NATIONAL ORGANIC PROGRAM

Priority:

Economically Significant

Legal Authority:

PL 101-624, sec 2101 to 2123; 7 USC 6501 to 6522

CFR Citation:

7 CFR 205

Legal Deadline:

Other, Statutory, May 28, 1991.

NPRM, Statutory, May 28, 1992.

Final, Statutory, October 1, 1993, The Organic Foods Production Act calls for the Secretary to appoint the National Organic Standards Board 180 days after enactment and convene it within 60 days thereafter.

Abstract:

The program is proposed under the Organic Foods Production Act of 1990 (title XXI of the Food, Agriculture, Conservation and Trade Act, Pub. L. 101-624), as amended (OFPA or Act), which requires the establishment of national standards governing the marketing of certain agricultural products as organically produced to facilitate commerce in fresh and processed food that is organically produced and to assure consumers that such products meet consistent standards. This program would establish national standards for the organic production and handling of agricultural products, which would include a national list of synthetic substances approved for use in the production and handling of organically produced products. It also would establish an accreditation program for State officials and private persons who want to be accredited to certify farms and handling operations that comply with the program's requirements and a

certification program for farms and handling operations that want to be certified as meeting the program's requirements. The program additionally would include labeling requirements for organic products and products containing organic ingredients and enforcement provisions. It further provides for the approval of State organic programs and the importation into the United States of organic agricultural products from foreign programs determined to have equivalent requirements. On December 16, 1997, the proposed rule was published with a public comment period that ended on April 30, 1998. Over 275,000 comments were received and are currently being reviewed with a subsequent revised proposed rule planned for calender year 1999.

Statement of Need:

The purpose of these regulations is to implement the Organic Foods Production Act (OFPA). The Act requires the establishment of consistent national standards for products labeled as organic; mandatory independent, third-party certification of such products; U.S. Department of Agriculture (USDA) oversight of the independent certifiers and their inspectors; and assurance that imported organic food products are produced and processed under practices equivalent to USDA standards. Establishment of the National Organic Program is necessary to eliminate the confusion that exists among consumers because of the variety of standards under which organic foods are currently produced, and the irregular and sometimes unsubstantiated labeling claims. As required by law, the National Organic Standards Board made recommendation on the development of the program. Based on recommendations of the Board, the Agency prepared a proposed rule for the accreditation of State and private persons to carry out the certification procedures and processors of organic foods, and a separate proposed rule for defining standards for the production of organic crops, livestock, and for processing foods to be labeled as organic. The proposed rule for standards will include the national list of prohibited substances and allowed synthetic substances to be used in organic production and processing. The standards will also include the process for the collection of user fees, enforcement provisions, determination of equivalency of foreign certification programs (either national or private certification programs), and the ongoing functions of the Board. The Board submitted recommendations for most of the program to the Secretary.

Summary of Legal Basis:

This regulatory action is authorized by statute. The Organic Foods Production Act of 1990, which is title XXI—Organic Certification—of the 1990 Farm Bill, calls for the Secretary of Agriculture to establish an organic certification program that relies on State and private agencies to verify that agricultural products are produced according to national standards. The Act also authorizes State officials to establish State Organic Certification Programs, provided that the provisions of each program are first submitted to USDA and approved by the Secretary.

Alternatives:

The Board developed recommendations through an open discussion process with the interested parties. The Board formed six subcommittees to draft recommendations for the following subject areas: crop standards; livestock standards; processing, packaging, and labeling standards; materials; accreditation of certifying agents; and, international (import) requirements. The Board held 14 full board meetings and 11 subcommittee meetings, during which the Board accepted public comments. In addition, the Agency held four public hearings on livestock to develop additional input to the development of livestock standards. In reviewing the Organic Foods Production Act, the subcommittees identified about 25 specific topics requiring recommendation development such as an organic plan, pesticide drift, livestock health, and materials review. Draft documents were prepared by the subcommittees in the specific subject areas and circulated initially to known individuals with expertise in these subjects in the organic community for comment. Comments were received and documents revised and sent out to a mailing list exceeding 1,000 names, for additional public comment. Documents were further revised, became committee position papers and were sent out to the mailing list for additional public comment. If the comments were minimal the documents were then approved by the subcommittees and forwarded to the full Board to be approved as draft recommendations. These documents were then further revised with full board-member input and submitted a final time for public comment. Upon receipt of comments, revisions were made, and the document was approved as a recommendation to the Secretary. Approximately 25 of these recommendations were approved at a Board meeting in June 1994 and forwarded to the Secretary (after minor editing in the approval process) in August 1994. In all of the documents, the Board committees considered alternatives and altered positions based on reasoned public comments received. The Board will continue to provide recommendations for modification or additions to program recommendations as the program is implemented and operating. The allowed synthetic substances and prohibited natural substances on the National List are subject to review by the Board and the Secretary every 5 years in order for the National List to be valid according to section 211(e) of the OFPA. The Secretary received the recommendations and used them as the basis for developing proposed rules for implementing the program. The Secretary may not accept recommendations that are deemed to be inconsistent with Department policy or lack a defensible position.

Anticipated Cost and Benefits:

The calculations and research related to the costs and benefits for the program are still under development. Because information is not collected on organic farmers, as a class, there is a lack of a good database to be used in determining the impacts of the program. Administrative costs would include staff costs for managing the accreditation program, costs for a peer review panel, costs for site visits to observe and review certifier program activities, overhead and/or indirect costs. If it is determined that income from the accreditation program would need to pay for all costs associated with the program, additional costs would include staff and indirect costs for support for the Board, ongoing materials reviews for the National List, enforcement costs, international equivalency costs to determine whether to allow organic imports, collection and management of the user-fee program, and approval of State programs. The program anticipates being funded through user fees. However, we believe that full user-fee support will not be possible for at least 3 years following implementation; appropriated general funds will be necessary to provide support while the organic industry develops a sufficient economic base. It is expected that the industry will soon be able to financially cover program activities related to accreditation if it continues to grow at its current annual rate of 20 percent as reported by a private natural foods magazine;

VOL 64 ISS 224 NO 22 1999 UMI

however, full coverage of costs related to development of State and international programs may not be possible for several years. The tangible benefits of the program are numerous. The benefits will extend to the marketplace, where it is expected that the price of organic food will decrease with increasing volume and availability and benefit current and potential consumers; all products labeled as organic will have been produced from systems certified to a national and consistent standard; truthful market information will be developed; access to international markets with products from certification programs overseen by USDA will be improved; certifying agents will be relieved of the financial costs related to standards development, materials review, and other endeavors that duplicate activities at the Federal level; and manufacturers and processors will be able to buy certified organic products from producers certified by different certifying agents without requiring the paperwork process in use today. Finally, exports will be enhanced by a common natural standard.

Risks:

The program does not purport to directly address either environmental problems or food residue issues. Any reduction in risks to public health, safety, or the environment are indirect benefits of the criteria used by organic producers in choosing materials that serve as an adjunct to the preferred methodology of mechanical and biological control measures. Organic agriculture is based on management practices and materials that enhance ecological activity. Organic producers seek to reduce or eliminate practices and materials that do not enhance ecological activity. Organic producers seek to reduce or eliminate practices and materials that may harm soil life, deplete nonrenewable resources, pose a hazard to water and air quality, or threaten farmworker health. The Act requires the establishment of a "National List" of approved synthetic and prohibited natural materials as an integral part of the program. Synthetic materials approved for the National List must have been determined by the USDA, FDA, and EPA to be not harmful to human health or the environment.

Timetable:

Action	Date	FR Cite
Organic Livestock Hearings	12/30/93	58 FR 69315
Notice - Procedure To Submit Names of Substances for National List	03/27/95	60 FR 15744
NPRM	12/16/97	62 FR 65850
NPRM Comment Period End	10/01/98	
Reproposal	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Tribal

Agency Contact:

Eileen Stommes
Deputy Administrator, Transportation and Marketing Programs
Department of Agriculture
Agricultural Marketing Service
Room 4006
P.O. Box 96456, Room 2748-So. Bldg.
Washington, DC 20090-6456
Phone: 202 720-3252

RIN: 0581–AA40

USDA—Animal and Plant Health Inspection Service (APHIS)

PROPOSED RULE STAGE

2. IMPORTATION OF SOLID WOOD PACKING MATERIAL

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation:

7 CFR 319.40

Legal Deadline:

None

Abstract:

APHIS is undertaking rulemaking to strengthen restrictions on the importation of solid wood packing material (e.g., crates, dunnage, wooden spools, pallets, packing blocks) into the United States. Imported solid wood packing material (SWPM) has been linked to introductions of exotic plant pests such as the pine shoot beetle and the Asian longhorned beetle. These and other plant pests that could be carried by imported SWPM pose a serious threat to U.S. agriculture and to natural, cultivated, and urban forests. SWPM accompanies nearly all types of imported commodities, from fruits and vegetables to machinery and electrical equipment.

Statement of Need:

Unmanufactured wood articles imported into the United States could pose a serious threat of introducing plant pests detrimental to agriculture and to natural, cultivated, and urban forests. Regulations in 7 CFR 319.40-1 through 319.40-11 are intended to mitigate this plant pest risk. Introductions into the United States of exotic plant pests such as the pine shoot beetle and the Asian longhorned beetle have been linked to the importation of solid wood packing material (an unmanufactured wood article). Solid wood packing material accompanies nearly all types of imported commodities, from fruits and vegetables to machinery and electrical equipment. For this reason, we are undertaking rulemaking to strengthen the regulations that restrict the importation of solid wood packing material in order to reduce the risk that plant pests will be introduced into the United States.

Summary of Legal Basis:

The Animal and Plant Health Inspection Service (APHIS) is authorized to take action under the Federal Plant Pest Act (7 U.S.C. 150aa-150jj).

Alternatives:

APHIS presented three alternatives in an advance notice of proposed rulemaking. The alternatives were to apply restrictions on the importation of solid wood packing material based on risk assessment of regions, apply restrictions on a general basis regardless of origin, and prohibit importation of any solid wood packing material. We accepted comments on other alternatives to consider. These and other alternatives will be considered in analyses prepared in connection with further rulemaking.

Anticipated Cost and Benefits:

The costs of proposed regulatory changes will be dependent on the option that is chosen. We anticipate that costs will be alleviated by utilization of alternative materials, such as nonwood packing material. The benefits of increased restrictions will be

the reduction in the risk of potentially destructive plant pests being introduced into the United States and the resulting avoidance of economic losses to forest and agricultural resources. For the Asian longhorned beetle alone (a pest detected on solid wood packing material imported from China), we estimate that, if left unchecked, this pest has the potential to cause economic losses of $41 billion, affecting the forest products, commercial fruit, maple syrup, nursery, and tourist industries in the United States.

Risks:

APHIS will conduct a comprehensive pest risk assessment prior to making any regulatory changes.

Timetable:

Action	Date	FR Cite
ANPRM	01/20/99	64 FR 3049
ANPRM Comment Period End	03/22/99	
NPRM	01/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Agency Contact:

Dr. Robert Flanders
Regulatory Coordination Specialist,
Regulatory Coordination Staff, PPQ
Department of Agriculture
Animal and Plant Health Inspection Service
Unit 141
4700 River Road
Riverdale, MD 20737-1228
Phone: 301 734-5930
Email: robert.v.flanders@usda.gov

RIN: 0579–AA99

USDA—Food and Nutrition Service (FNS)

PROPOSED RULE STAGE

---

3. CHILD AND ADULT CARE FOOD PROGRAM: IMPROVING MANAGEMENT AND PROGRAM INTEGRITY

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 1766; PL 104-193; PL 105-336; PL 103-448

CFR Citation:

7 CFR 226

Legal Deadline:

None

Abstract:

This rule amends the Child and Adult Care Food Program (CACFP) regulations. The changes in this rule result from the findings of State and Federal Program reviews and from audits and investigations conducted by the Office of Inspector General. This rule proposes to revise: State agency criteria for approving and renewing institution applications; Program training and other operating requirements for child care institutions and facilities; State- and institution-level monitoring requirements; and criteria for terminating agreements with institutions. This rule also includes changes that are required by the Healthy Meals for Healthy Americans Act of 1994 (PL 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PL 104-193), and the William F. Goodling Child Nutrition Reauthorization Act of 1998 (PL 105-336).

The changes are designed to improve Program operations and monitoring at the State and institution levels and, where possible, to streamline and simplify Program requirements for State agencies and institutions. (95-024)

Statement of Need:

In recent years, State and Federal Program reviews have found numerous cases of mismanagement, abuse, and in some instances, fraud by child care institutions and facilities in the CACFP. These reviews revealed weaknesses in management controls over Program operations, and examples of regulatory noncompliance by institutions, including failure to pay facilities or failure to pay them in a timely manner; improper use of Program funds for non-Program expenditures; and improper meal reimbursements due to incorrect meal counts or to mis-categtorized or incomplete income eligibility statements. In addition, audits and investigations conducted by the Office of Inspector General (OIG) have raised serious concerns regarding the adequacy of financial and administrative controls in CACFP. Based on its findings, OIG recommended changes to CACFP review requirements and management controls.

Summary of Legal Basis:

Most of the changes proposed in the rule are discretionary changes being made in response to deficiencies found in Program reviews and OIG audits. Other proposed changes codify statutory changes made by the Healthy Meals for Healthy Americans Act of 1994 (PL 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PL 104-193), and the William F. Goodling Child Nutrition Reauthorization Act of 1998 (PL 105-336).

Alternatives:

In developing the proposal, the agency considered various alternatives to minimize burden on State agencies and institutions while ensuring effective Program operation. Key areas in which alternatives were considered include State agency reviews of institutions and sponsoring organization oversight of day care homes.

Anticipated Cost and Benefits:

This rule contains changes designed to improve management and financial integrity in the CACFP. When implemented, these changes would affect all entities in CACFP, from USDA to participating children and children's households. These changes will primarily affect the procedures used by State agencies in reviewing applications submitted by, and monitoring the performance of, institutions which are participating or wish to participate in the CACFP. Those proposed changes which would affect institutions and facilities will not, in the aggregate, have a significant economic impact.

Data on CACFP integrity is limited, despite numerous OIG reports on individual institutions and facilities that have been deficient in CACFP management. While Program reviews and OIG reports clearly illustrate that there are weaknesses in parts of the Program regulations, and that there have been weaknesses in oversight, neither Program reviews, OIG reports, nor any other data sources illustrate the prevalence and magnitude of CACFP fraud and abuse. This lack of information precludes USDA from estimating the amount of money lost due to fraud and abuse or the reduction in fraud and abuse the changes in this rule will realize.

Risks:

Continuing to operate the CACFP under existing provisions of the regulations

that do not sufficiently protect against fraud and abuse in CACFP puts the Program at significant risk. This rule includes changes designed to strengthen current program regulations to reduce the risk associated with the Program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	
Final Action	08/00/01	
Final Action Effective	09/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Organizations

Government Levels Affected:

State, Local

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC24

USDA—FNS

4. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 271; 7 CFR 272; 7 CFR 273

Legal Deadline:

Other, Statutory, August 22, 1996, Stat. implementation deadline of 8/22/96 for sec 813, 814, 820, 821, 837, and 911 of PL 104-193; stat. implementation deadline of 7/1/97 for sec 115, and 11/22/96 for sec 824 of PL 104-193.

Abstract:

This rule will implement 13 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. (96-019)

Statement of Need:

P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, amends the Food Stamp Act of 1977, to add some new eligibility requirements and disqualifiers and increase some existing penalties for noncompliance with food stamp rules. The new law: (1) Makes individuals convicted of drug-related felonies ineligible for food stamps; (2) doubles the penalties for violating food stamp program requirements; (3) permanently disqualifies individuals convicted of trafficking in food stamp benefits of $500 or more; (4) allows States to disqualify an individual from food stamps if the individual is disqualified from another means-tested program for failure to perform an action required by that program; (5) makes individuals ineligible for 10 years if they misrepresent their identity or residence in order to receive multiple food stamp benefits; (6) makes fleeing felons and probation and parole violators ineligible for the food stamp program; (7) allows States to require food stamp recipients to cooperate with child support agencies as a condition of food stamp eligibility; (8) allows States to disqualify individuals who are in arrears in court-ordered child support payments; (9) limits the food stamp participation of most able-bodied adults without dependents to three months in a three-year period during times the individual is not working or participating in a work program; (10) prohibits an increase in food stamp benefits when households' income is reduced because of a penalty imposed under a Federal, State, or local means-tested public assistance program for failure to perform a required action; (11) requires States to provide households' addresses, social security numbers, or photographs to law enforcement officers to assist them in locating fugitive felons or probation or parole violators; and (12) prohibits an increase in food stamp benefits when households' income is reduced because of a penalty imposed under a Federal, State, or local means-tested public assistance program for an act of fraud by the individual under the program.

Summary of Legal Basis:

All of the provisions of this rule are mandated by P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Alternatives:

None.

Anticipated Cost and Benefits:

Over 7 years, the provisions are expected to reduce the cost of the Food Stamp Program by approximately $5.565 billion.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, State, Local

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC39

USDA—FNS

5. FSP: STATE FLEXIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193; PL 104-208; 7 USC 2011 to 2032

CFR Citation:

7 CFR 272.3; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.4; 7 CFR 273.9(c); 7 CFR

273.9(d); 7 CFR 273.10(a); 7 CFR 273.10(c) to 273.10(f); 7 CFR 273.11(a) to 273.11(c); 7 CFR 273.11(e); 7 CFR 273.11(j); 7 CFR 273.13; 7 CFR 273.14(b); 7 CFR 273.14(e)

Legal Deadline:

Other, Statutory, August 22, 1996, Stat. implementation deadline of 8/22/96 for sec 813, 814, 820, 821, 837, and 911 of PL 104-193; stat. implementation deadline of 7/1/97 for sec 115, and 11/22/96 for sec 824 of PL 104-193.

For provisions effective upon enactment, the statutory implementation date is August 22, 1996.

Abstract:

This rule proposes to amend Food Stamp Program regulations to implement 14 provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and one provision of the Omnibus Consolidated Appropriations Act of 1996. These provisions would increase State agency flexibility in processing applications for the Food Stamp Program and allow greater use of standard amounts for determining deductions and self-employment expenses. The provisions would also give State agencies options to issue partial allotments for households in treatment centers, issue combined allotments to certain expedited service households, and certify elderly or disabled households for 24 months. Other changes would revise requirements for determining noncitizen eligibility and the eligibility and benefits of sponsored noncitizens, eliminate the exclusion of certain transitional housing payments and State and local energy assistance, exclude the earnings of students under 18, and require proration of benefits following any break in certification. (96-020)

Statement of Need:

This action is required by P. L. 104-193, P. L. 104-208, P. L. 105-53, and P. L. 105-185.

Summary of Legal Basis:

This rule is required to implement the provisions of sections 402, 421, 801, 807, 808, 809, 811, 812, 818, 827, 828, 830, and 835 of P. L. 104-193; section 552 of P. L. 104-208; sections 5302, 5305, 5306, 5562, 5563, 5571, 5572, and 5573 of P. L. 105-53; and section 503 of P. L. 105-185.

Anticipated Cost and Benefits:

The provision of this rule would reduce Food Stamp Program costs for FY 1997-2002 by approximately $6.605 billion.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, State, Local

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC40

USDA—FNS

6. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

PL 104-193

CFR Citation:

7 CFR 273.7; 7 CFR 273.22

Legal Deadline:

None

Abstract:

This proposed rule will implement revisions to the Food Stamp Program's work and employment and training requirements, as well as new provisions for a work supplementation or support program and an employment initiative program. (96-025)

Statement of Need:

This rule is necessary to implement revisions to the Food Stamp Program's work requirements.

Summary of Legal Basis:

All provisions of this proposed rule are mandated by Public Law 104-193.

Alternatives:

The alternative is not to revise current rules. This is not practical. The current rules have been superseded by changes brought about by Public Law 104-193.

Anticipated Cost and Benefits:

Federal costs will increase by $15 million between fiscal year 1997 and fiscal year 2002. State agencies will benefit by achieving greater flexibility to encourage work and foster personal responsibility and independence.

Risks:

An increase in food stamp rolls would result by not implementing this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC45

USDA—FNS

FINAL RULE STAGE

7. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS INTEGRITY

Priority:

Other Significant

Legal Authority:

42 USC 1786

CFR Citation:

7 CFR 246

Legal Deadline:

NPRM, Statutory, March 1, 1999.

Final, Statutory, March 31, 2000.

Abstract:

A proposed rule addressing WIC Food Delivery Systems was published on December 28, 1990 (55 FR 53446). The Department provided a 120-day comment period for the proposed rule, which closed on April 28, 1991. Nearly 1,100 comments were received from a wide variety of sources. Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters responding during the formal comment period suggested that the Department's food delivery regulations be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems. Therefore, the Department has issued a second proposed rule addressing WIC food delivery systems and requirements. This second rule addresses many of the provisions contained in the previous rulemaking, and contains modifications to some of the proposed provisions, as well as clarifications of several provisions that may not have been clearly understood in the earlier rule. See also RIN 0584-AC50 for related provisions that fulfill the statutory deadline.

Statement of Need:

On December 28, 1990, the Department published a proposed rule designed primarily to strengthen State agency operations in vendor management and related food delivery areas for the WIC Program. This proposal was developed with input over several years' time from State agency experts in food delivery, and with the full support of and encouragement from Congress and the Department's Office of Inspector General (OIG). The Department provided a 120-day comment period for the proposed rule, which closed on April 28, 1991. During this comment period, nearly 1,100 comments were received from State and local WIC agencies, vendors, and associated groups, public interest groups, members of Congress, members of the public, and WIC participants.

Despite the degree of preliminary input to the December 28, 1990, proposed rule, many of the commenters suggested that the Department's food delivery regulations needed to be proposed again, rather than proceeding directly to a final rule. In addition, several members of Congress requested that the rule be reproposed in light of its impact on State agency food delivery systems. The Department has therefore issued a second proposed rule addressing WIC food delivery systems integrity and procedural requirements. This second rule addresses many of the provisions contained in the previous rulemaking, and contains significant modifications to some of the proposed revisions, as well as clarifications to a number of provisions that may not have been clearly understood in the earlier rule. The rule is intended to provide for more cost effective and efficient management of WIC vendors by State agencies. A 120-day public comment period is provided with this proposed rule. The Department intends to publish a final rule, based on all of the comments received, by the end of fiscal year 2000.

Although this rule does not have a direct impact on reducing risks to public health, safety, or the environment, it will significantly improve the operation and accountability of the WIC Program nationwide.

Alternatives:

Given the intensive input that has been gathered for the development of this rule since it was recommended by the General Accounting Office in 1988, and the comments that were received pertaining to the first proposed version of the rule in December 1990, the Department has determined that there are no viable alternatives to the provisions included in this reproposal. The alternative of proceeding directly to promulgation of a final rule based on the 1990 proposal has been rejected by Congress.

Anticipated Cost and Benefits:

The costs of this action include costs due to vendor overcharges and costs associated with the proposal. The estimated costs for implementation of the proposal include a shift of not more than $2.0 million in WIC Program Nutrition Services and Administration (NSA) funds within the 88 State agencies, partially from reduced requirements for management evaluations of local agencies and reduced costs due to elimination of representative on-site monitoring. They also include $0.5 million in additional costs to vendors to meet the proposed minimum training and authorization requirements. It should be noted that all the vendors are currently required to participate in some type of training and complete an application form for program authorization. The estimated $0.5 million in additional costs therefore represents those instances where current training and authorization requirements are below the level established in the proposal. In these instances, vendors may incur costs in attending more frequent training sessions or may be required to complete an application form at more frequent intervals. The estimated cost does not represent charges to the vendor for training or authorization. Rather, the cost represents the estimated cost of the vendor's time to participate in the training session and to complete the application form.

The gross benefit results from a significant reduction in vendor overcharges. A significant net benefit of $37 million is expected, as vendor overcharges are estimated at $39.5 million and costs associated with the proposal are a maximum of $2.5 million.

Risks:

This rule is intended to reduce and minimize the risk of vendor fraud and abuse of the WIC program.

Timetable:

Action	Date	FR Cite
NPRM	06/16/99	64 FR 32308
NPRM Comment Period End	09/14/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AA80

USDA—FNS

8. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

7 USC 2011 to 2032

CFR Citation:

7 CFR 272; 7 CFR 273

Legal Deadline:

None

Abstract:

The Food and Nutrition Service is revising Food Stamp Program regulations which cover the establishment and collection of recipient claims. This action is the result of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and is consistent with the President's regulatory reform effort. In addition, this rule revises existing discretionary areas to improve claim establishment and promote effective management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. In addition, the current rule has been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims.

Statement of Need:

In addition to implementing PRWORA, this rule is necessary to improve the establishment and collection of recipient claims. The last significant revision to these regulations was in 1983. Subsequent activities, such as technological advances and general debt management regulations, have rendered many portions of the current rule obsolete. The current rule has also been found to place unnecessary burdens on State agencies. State agencies are responsible for establishing and collecting recipient claims. This rule will address two dimensions of the overissuance problem: establishing claims on excess allowances, and recovering overages where possible. Data from the food stamp quality control system for 1998 show that overissuances to recipients totaled over $1.3 billion, 7.63 percent of the $16.9 billion in total food stamp issuances that year. Claims against recipients are a direct means to recover overissuances and, to the extent that recipients know that recovery of overissuances will be sought, represent a deterrent to households who quietly accept the extra food benefits.

Alternatives:

The alternative is not to revise the current rule governing this aspect of the Program. In addition, the existing regulations must be changed to conform with the new legislative requirement. The current rule is not adequate to facilitate effective and efficient debt management. The inability of State agencies to establish and collect claims has continuously been cited as a deficiency by the Department's Office of Inspector General.

Anticipated Cost and Benefits:

Nationwide, as of October 1, 1998, there was over $1.2 billion in uncollected recipient claims. Inspector General reports have also noted that, in addition to large accounts receivable for established, uncollected claims, there are backlogs of hundreds of millions of claims that have not yet been established. These unestablished claims represent the most current, and typically the most collectable losses to the program. Updated regulations that incorporate recent debt management rules and technological advances, as well as practical suggestions and feedback received from State agencies, should improve the establishment and collection of recipient claims in the Food Stamp Program. In addition, efforts will be made to increase the degree of conformity with claims-related issues and procedures currently used in other social programs.

Risks:

The tolerance of program abuse or even the perception of such undermines the fundamental mission of the Food Stamp Program. The efficient and effective establishment and collection of recipient claims, which this rulemaking addresses, is essential in ensuring that this does not occur.

Timetable:

Action	Date	FR Cite
NPRM	05/28/98	63 FR 29303
NPRM Comment Period End	08/26/98	
Final Action	01/00/00	
Final Action Effective	01/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB88

USDA—FNS

9. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Priority:

Other Significant

Legal Authority:

PL 103-225; 7 USC 2012; 7 USC 2018

CFR Citation:

7 CFR 271; 7 CFR 278

Legal Deadline:

Final, Statutory, March 25, 1994.

Abstract:

This proposed rule would implement provisions of Public Law 103-225 requiring firms to offer a variety of staple food items for sale or to have more than 50 percent of gross retail sales in staple foods. This rule also addresses the requirement in Public Law 103-225 to provide periodic notices to participating firms, clarifying certain eligibility criteria. (95-003)

Statement of Need:

Public Law 103-225 amends the Food Stamp Act of 1977, to make changes in eligibility requirements for retail food stores to participate in the Food Stamp Program. Prior to enactment of these changes, a retail food store qualified to participate in the Food Stamp Program if more than 50 percent of its total eligible food sales were in staple foods. The new law changes that to require 50 percent of its total gross sales in staple foods. It also provides another option for stores not meeting the new 50 percent rule. Those stores can now qualify if they offer for sale, on a continuous basis, a variety of food

in each of four categories of staple foods. The staple food categories are defined as "(1) meat, poultry, or fish; (2) bread or cereals; (3) vegetables or fruits; or (4) dairy products." This statutory change in eligibility will require developing policy definitions for the terms "continuous basis," "variety," and "perishable."

Alternatives:

None. The new law also requires the Secretary to issue new rules providing for the periodic reauthorization of retail food stores and wholesale food concerns. This must include providing periodic notice of the definitions for "retail food stores," "staple foods," and "perishable foods."

Anticipated Cost and Benefits:

It is not anticipated that this proposed rule will impact program costs. It is anticipated that the clarifications of program eligibility criteria in this proposed rule will make it easier for firms to understand and for the Food and Consumer Service to administer.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35082
NPRM Comment Period End	08/30/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB90

USDA—FNS

10. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-193, sec 803; PL 104-193, sec 804; PL 104-193, sec 805; PL 104-193, sec 809; PL 104-193, sec 810; PL 104-193, sec 838; PL 104-193, sec 109; PL 104-193, sec 826

CFR Citation:

7 CFR 271.2; 7 CFR 273.1; 7 CFR 273.2; 7 CFR 273.8; 7 CFR 273.9; 7 CFR 273.10; 7 CFR 276.2(e)

Legal Deadline:

Other, Statutory, For provisions effective upon enactment, the statutory implementation date is August 22, 1996.

Statutory Implementation Dates: PL 104-193, sec 809 - 1/1/97; PL 104-193, sec 803, 805 and 838 - 08/22/96; PL 104-193, sec 804 and 810 - 10/01/96.

Abstract:

This proposed rule amends the Food Stamp Program regulations to implement eight provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. These provisions require no interpretation or discretion: 1) Freeze the minimum allotment at $10; 2) change the way the maximum allotments are calculated to use 100% of the Thrifty Food Plan as opposed to 103%; 3) freeze the standard deduction at current level and eliminate the adjustment procedures; 4) cap the excess shelter expense deduction; 5) change the household composition definition so that children under 22 years of age and living with their parents cannot be a separate household; 6) increase the time frame from 5 to 7 days for expedited service; 7) set a time limit of not more than 90 days living in another person's house for considering a person homeless; and 8) set the fair market value of vehicles at $4,600 through 9/30/96 and raise it to $4,650 effective 10/1/96 and eliminate future adjustments. (96-021)

Statement of Need:

This action is required by P.L. 104-193.

Summary of Legal Basis:

This rule is required to implement the provisions of sections 109, 803, 804, 805, 809, 810, 826, and 838 of P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Alternatives:

None. The provisions are mandated by statute.

Anticipated Cost and Benefits:

The provisions of this rule would reduce Food Stamp Program costs for FY 1997-2002 by $11.2 billion.

Timetable:

Action	Date	FR Cite
NPRM	07/12/99	64 FR 37454
NPRM Comment Period End	09/10/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

Agency Contact:

Sheri Ackerman
Agency Regulatory Officer
Department of Agriculture
Food and Consumer Service
Room 322
3101 Park Center Drive
Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC41

USDA—Food Safety and Inspection Service (FSIS)

PROPOSED RULE STAGE

11. • REFORM OF REGULATIONS ON IMPORTED LIVESTOCK AND POULTRY PRODUCTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 327; 9 CFR 381

Legal Deadline:

None

Abstract:

As part of its continuing regulatory reform effort, FSIS is proposing to consolidate and streamline the regulations governing the importation of livestock and poultry products to make them consistent with the regulatory approach the Agency has taken in its Pathogen Reduction/Hazard Analysis and Critical Control Point (PR/HACCP) regulations and related rulemakings. FSIS is proposing to eliminate obsolete provisions and, where appropriate, to replace command-and-control provisions with performance standards. The Agency is proposing to require establishments where import inspection is conducted to have documented process controls that parallel in some respects the HACCP and other documented systems that establishments where inspection of domestic products is conducted must have. The rulemaking stems from the Agency's commitment to its regulatory reform, reinventing government, effort to eliminate duplication and inconsistency in the regulations and especially to make the regulations PR/HACCP consistent.

Statement of Need:

The rulemaking stems from the Agency's commitment to its regulatory reform, reinventing government, effort to eliminate duplication and inconsistency in the regulations and especially to make the regulations consistent with PR/HACCP.

Summary of Legal Basis:

This rulemaking is proposed under the authorities of the Federal Meat Inspection Act, as amended (21 U.S.C. 601-695) and the Poultry Products Inspection Act, as amended (21 U.S.C. 451-470).

Alternatives:

FSIS considered the following alternative courses of action with respect to the regulation of imported products: (1) no rulemaking; (2) combining and streamlining the current regulations into a single body of regulations covering imported livestock and poultry products; (3) combining and streamlining the import regulations and requiring establishments to have documented process controls for imported product.

(1) The first alternative would preserve the status quo. Leaving the current regulations unchanged would preserve the inconsistencies between these regulations and the PR/HACCP regulations. Obsolete, duplicative, and command-and-control provisions would not be amended or removed.

(2) The second alternative, to combine and streamline the current regulations, would provide the opportunity for FSIS to remove the obsolete, command-and-control provisions of the current regulations.

(3) The third alternative, combining and streamlining the current regulations and requiring importing establishments to have documented process controls, would provide a more flexible system of imported product controls than that furnished by the current regulations. Both FSIS and the imported products industry would gain with improved flexibility and efficiency. FSIS chose the third alternative.

Anticipated Cost and Benefits:

This proposed rule would affect about 125 import inspection establishments. These would have to develop, maintain, and carry out documented process control systems. These costs would primarily be those associated with system development, i.e., paperwork or information collection costs. FSIS estimates that the development costs to the establishments would be, in the aggregate, about $55,000. The on-going costs would be incidental to the operation of the establishments, a number of which already have documented process control systems.

FSIS is likely to gain some flexibility in its administration of import inspection. The proposed requirement for official import inspection establishments to have documented process control systems will benefit some establishments by introducing more efficient procedures. FSIS would be able to more efficiently assess the establishments and products for compliance because the Agency would be verifying controls managed by the establishments rather than, in effect, carrying out some checks that should be a normal part of establishment operations.

The proposal would potentially have a positive effect on international trade. The listing of additional European Union (E.U.) countries eligible to export product to the United States, with reciprocal actions by those countries in favor of the U.S., would potentially expand trade in livestock products and poultry products. The amount by which such trade would increase would depend, in part, on the number of livestock and poultry products establishments listed respectively by the U.S. or the E.U. as eligible to have their products imported into the U.S. or the E.U.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Daniel L. Engeljohn
Director, Regulations Development and Analysis Division
Department of Agriculture
Food Safety and Inspection Service
Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC56

USDA—FSIS

12. • EGG PRODUCTS INSPECTION REGULATIONS

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 U.S.C. 1031-1056

CFR Citation:

9 CFR 590.570; 9 CFR 590.575; 9 CFR 590.146; 9 CFR 590.10; 9 CFR 590.411;

9 CFR 590.502; 9 CFR 590.504; 9 CFR 590.580; 9 CFR 591; ...

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to require egg products plants to develop and implement Hazard Analysis and Critical Control Point (HACCP) Systems and Sanitation Standard Operating Procedures (SOP's). FSIS also is proposing pathogen reduction performance standards that would be applicable to pasteurized egg products. Plants would be expected to develop HACCP systems that ensure processed egg products meet the pathogen reduction performance standards. Finally, FSIS is proposing to amend the Federal shell egg and egg products inspection regulations by removing current requirements for prior approval by FSIS of egg products plant drawings, specifications, and equipment prior to their use in official plants. The Agency also plans to eliminate the prior label approval system for egg products, as well as require safe handling labels on shell eggs and egg products.

The actions being proposed are part of FSIS's regulatory reform effort to improve FSIS's shell egg and egg products food safety regulations, better define the roles of Government and the regulated industry, encourage innovations that will improve food safety, remove unnecessary regulatory burdens on inspected egg products plants, and make the shell egg and egg products regulations as consistent as possible with the Agency's livestock and poultry products regulations. FSIS is also taking these actions in light of changing inspection priorities and recent findings of Salmonella in pasteurized egg products.

Statement of Need:

The actions being proposed are part of FSIS's regulatory reform effort to improve FSIS's shell egg and egg products food safety regulations, better define the roles of Government and the regulated industry, encourage innovations that will improve food safety, remove unnecessary regulatory burdens on inspected egg products plants, and make the shell egg and egg products regulations as consistent as possible with the Agency's livestock and poultry products regulations. FSIS is also taking these actions in light of changing inspection priorities and recent findings of Salmonella in pasteurized egg products.

Summary of Legal Basis:

This rulemaking is proposed under the authority of the Egg Products Inspection Act, as amended, 21 U.S.C. 1031-1056.

Alternatives:

FSIS is engaged in a thorough review of its current regulations and, where possible, will eliminate overly prescriptive regulations and replace them with regulations that embody performance standards. Performance standards establish requirements in terms of the objective to be achieved. They specify, the ends, but do not detail the means to achieve those ends. Performance standards allow food processing establishments to develop and employ innovative and more effective sanitation or processing procedures customized to the nature and volume of their production.

To address hazards that can be presented by egg products, FSIS now is considering (1) requiring all inspected egg products plants to develop, adopt, and implement written Sanitation SOP's and HACCP plans; and (2) converting to a lethality-based pathogen reduction performance standard many of the current highly prescriptive egg products processing requirements. The implementation of HACCP and Sanitation SOP requirements by egg products plants would reduce the occurrence and numbers of pathogenic microorganisms in egg products. Further, with HACCP and Sanitation SOP's in place, FSIS would be better able to allocate its inspection resources to the areas of greatest risk; FSIS inspection program personnel, therefore, would be better able to ensure that egg products processing would grant plants the flexibility needed to properly implement HACCP and Sanitation SOP's, and encourage innovation in egg products processing. In addition, such a performance standard for egg products processing would provide FSIS inspection program employees an objective measure of performance useful in processing, inspection, and enforcement.

The Agency will also propose to require that egg products plants adopt sanitation SOP and HACCP plans. Plants will have significant latitude in identifying the sanitation SOP and HACCP plan suitable for their process. The egg products industry has indicated its desire to adopt HACCP on an industry-wide basis. About 30 percent of egg products plants have already implemented HACCP or HACCP-like programs. The pathogen reduction performance standard that egg product plants will have to achieve under their HACCP plans would likely have a more economically significant impact than the requirement of Sanitation SOP's or HACCP plans.

Anticipated Cost and Benefits:

Costs

The expected costs of the proposal will depend on a number of factors, including the following:

Required Lethality. The level of lethality required in the pathogen reduction performance standard will have a significant impact on the cost of the proposal. The expected type performance standard may specify a uniform level of pathogen reduction for a target organism. Alternatively, different reduction levels may be specified for white, yolk, and whole egg products, or production processes, reflecting the relative level of risk. As the level of lethality increases, the ability to utilize the egg for different products and formulations is diminished. The Agency will investigate the level of lethality that provides an acceptable balance between risk and egg utilization.

HACCP and Sanitation Standard Operating Procedures. Implementing a HACCP plan and Sanitation SOP's requires the preparation of a plan, employee training, documentation and record keeping, and testing procedures. The costs associated with HACCP implementation are reduced by the extent to which quality assurance or similar programs are utilized by egg products firms and the availability of off-the-shelf HACCP plans. The types of Sanitation SOP's being considered are essentially the same as those for meat and poultry, and costs would be similar.

Plant Compliance/Enforcement. FSIS costs for monitoring and enforcement are expected to be lower than those for current comparable activities as the program moves from continuous inspection (inspector on duty throughout the entire shift) to being monitored on a patrol assignment. We are not aware of any estimates of FSIS costs for verifying process control and pathogen reduction for egg products. They would probably be similar in costs to those for meat and poultry inspection. The monitoring costs for some plants may increase, especially those reliant on the inspector to be the quality control expert.

Benefits

The types of potential benefits associated with this rule are: Improvements in human health due to pathogen reduction; improved utilization of FSIS inspection program resources; and cost savings resulting from the flexibility of egg products plants in achieving a lethality-based pathogen reduction performance standard. Once specific alternatives are identified, economic analysis will identify the quantitative and qualitative benefits associated with each.

Human health benefits are based on changes from a baseline level of illnesses and the health cost per illness. FSIS egg products testing results indicate either some pasteurization processes are inadequate, or that egg products are being contaminated with Salmonella after pasteurization, prior to, or during packaging. The results indicate a very low level of contamination. Pasteurized egg products have not been identified/associated with any known outbreaks; however, unpasteurized egg products have been implicated in foodborne outbreaks. Salmonella would principally be found in unpasteurized product. However, there have been a few instances when SE has been isolated from egg products found to be positive for the presence of Salmonella. In the majority of these cases, the Salmonella contamination can be attributed to post-pasteurization product contamination. Sanitation SOP and HACCP requirements could remedy this problem by enhancing the effectiveness of pasteurization by minimizing microbiological hazards before and after pasteurization.

Two recent studies have raised questions about the efficacy of the current regulatory requirements for egg products pasteurization (9 CFR 590.570). The research suggests that for certain formulations of egg products, the required time/temperature combinations are not sufficient to destroy high numbers of Salmonella (5 log 10), as originally projected by USDA research completed in the 1960s. A pathogen reduction performance standard requiring a specific reduction of Salmonella in egg products would assist plants in ensuring that pasteurization of egg products is effective.

FSIS has established an Egg Products Risk Management Analysis Team to better assess the information available on potential human health risks associated with egg products. The team is comprised of technical personnel from FSIS and other Federal agencies. The primary task is to fully characterize the hazard and identify potential risk mitigation alternatives for further analysis. The USDA Salmonella Enteritidis Risk Assessment and the CDC Salmonella surveillance data provide estimates of the baseline level of risk. The Egg Products component of the risk assessment is being used to identify the expected reduction in illness attributed to the alternative identified in the proposed rule. Any new scientific or epidemiological information will be incorporated into the risk assessment model. The analysis will identify a range of estimated annual illnesses prevented. A standard methodology employed by the Economic Research Service will be used to calculate the health cost per illness, taking into account the severity of the illness.

Sanitation SOP's would improve the utilization of FSIS inspection program resources by refocusing FSIS sanitation inspection on the oversight of establishment prevention and correction of conditions that cause direct product contamination or adulteration. If Sanitation SOP's are put in place, Agency inspection personnel will spend less time enforcing detailed sanitation requirements and directing the correction of problems after they occur. Instead, FSIS inspection program personnel will focus on oversight of an establishment's implementation of Sanitation SOP's and on taking appropriate regulatory action when an establishment's Sanitation SOP's are not properly executed, or when product contamination or adulteration is imminent, directly observed, or probably had occurred.

Under the current command-and-control based system, the inspector assumes responsibility for "approving" production-associated decisions. Under HACCP, industry would assume full responsibility for production decisions and execution. FSIS would monitor establishments' compliance with the pathogen reduction performance standard and HACCP requirements. The number of inspection tasks will be reduced, so inspection program personnel can focus more attention on areas of greatest risk in the production system within each establishment.

Performance standards set forth requirements in terms of what is to be achieved by a given regulatory requirement. They represent a shift in focus from "command-and-control" regulations in that they specify the ends to be achieved, but not the means to achieve those ends. The command-and-control provisions in the current regulations prescribe the means for producing safe egg products and do not account for the uniqueness of individual processing procedures and needs within different plants. FSIS command-and-control regulations require all establishments to produce egg products in the same manner. Such prescriptive regulations are burdensome and often conflict with HACCP and the new FSIS food safety strategy.

As a general matter, command-and-control regulations are incompatible with HACCP and the new food safety strategy because they deprive plants of the flexibility to innovate-adopt new, more cost-effective production technologies, or develop new egg products. Potential technical innovations in improving product safety can be expected with the introduction of Sanitation SOP's and HACCP. In addition, with the elimination of prior approval requirements, the industry would be able to utilize computer integrated process controls and other technologies (currently used for other types of food processing). There is potential for the development of shelf-stable product which does not require refrigeration. Similarly, command-and-control regulations are incompatible with the proposed Sanitation SOP requirements because they often prescribe the exact means by which egg product plants must maintain sanitary conditions and do not allow the plant to assume responsibility for sanitation. Command-and-control regulations undercut the clear delineation of responsibility on which the food safety strategy is based. Analysis of the gains in resource productivity, technological change, and consumer choice will be largely qualitative.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

None

Agency Contact:

Daniel L. Engeljohn
Director, Regulations Development and Analysis Division
Department of Agriculture
Food Safety and Inspection Service
Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC58

USDA—FSIS

13. • PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS; ADDITIONS TO E. COLI CRITERIA AND SALMONELLA PERFORMANCE STANDARDS

Priority:

Other Significant

Legal Authority:

21 U.S.C. 601 to 695; 21 U.S.C. 451 to 470

CFR Citation:

9 CFR 310; 9 CFR 381

Legal Deadline:

None

Abstract:

FSIS is proposing to add generic E. coli criteria and Salmonella performance standards to the regulations. In addition, FSIS is proposing to revise the terms used to identify and define certain classes of product listed in the Salmonella tables.

Statement of Need:

To further enhance its Pathogen Reduction/HACCP implementation, the Agency is proposing to add generic Eschericha coli (E. coli) criteria for cattle, swine, and goose carcasses based on the sponging method of sample collection and for turkey carcasses by the sponging and rinse methods of sample collection. FSIS is also proposing new Salmonella performance standards for cattle, swine, young turkey, and goose carcasses by the sponging method and fresh pork sausage by direct sampling. The new cattle performance standard replaces the existing Salmonella performance standards for steers/heifers and cows/bulls. The new swine standard replaces the existing standard for hogs. These new standards apply to all market classes of cattle and swine, respectively. In addition, FSIS is proposing to revise the terms used to identify and define certain classes of product listed in the Salmonella tables to more accurately reflect the products sampled in the baseline studies that are the basis for the standards. The Agency also intends to correct some errors in the E. coli and Salmonella tables and to change the footnotes to the tables for greater clarity. This rulemaking stems from the Agency's commitment to increase the use of science-based methodology in meat and poultry inspection.

Summary of Legal Basis:

This rulemaking was proposed under the authorities of the Federal Meat Inspection Act, as amended (21 U.S.C. 601-695), and the Poultry Products Inspection Act, as amended (21 U.S.C. 451-470).

Alternatives:

No action.

Anticipated Cost and Benefits:

The Pathogen Reduction/HACCP final rule included a Final Regulatory Impact Assessment (FRIA) (61 FR 38945). Except for the proposed performance standard for goose carcasses, the cost and benefit estimates and impact assessments were already presented in the FRIA. The final rule estimated that a small percentage of firms would have to make process modifications in order to meet the standards based on national prevalence levels. The ongoing compliance-testing program has basically validated the FRIA estimates. Approximately ten percent of establishments must take corrective actions to meet existing standards. The final rule noted that benefits would accrue from reductions in pathogen levels, which, in turn, would lead to reductions in foodborne illness.

In the preamble to the Pathogen Reduction/HACCP final rule, the Agency acknowledged that the initial performance standards were based on the current national prevalence and not on a quantitative assessment of the risk posed by any particular incidences of Salmonella contamination or the determination of a safe incidence level. This policy was based on the public health judgement that reducing the percentage of carcasses with Salmonella will reduce the risk of foodborne illness and on the regulatory judgement that the pathogen reduction performance standards implemented in conjunction with HACCP would lead to significant reductions in contamination rates. Preliminary evidence indicates that these judgements were correct. The revised and new standards proposed now are based on the same original judgements supported by preliminary data showing reductions in both contamination rates and foodborne illness.

Also in the preamble of the Pathogen Reduction/HACCP final rule, FSIS stated that the scientific basis for establishing food safety performance standards needs to be improved. However, as noted in the preamble and it is still true today, there is no scientific basis for setting pathogen standards based on a quantitative assessment of risk.

As noted above, the FRIA prepared for the Pathogen Reduction/HACCP final rule did not address the cost of complying with a performance standard for geese. In Fiscal Year 1998 only 7 federally inspected establishments slaughtered more than 100 geese. Based on past experience it is likely that one or two of these establishments will have to make some process modification to meet the proposed standard. The adjustments could range from having to make minor adjustments to spray nozzles used for the final carcass wash to having to install a trisodium phosphate rinse system (estimated at $40,000 in the FRIA).

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

Daniel L. Engeljohn
Director, Regulations Development and Analysis Division
Department of Agriculture
Food Safety and Inspection Service
Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC63

USDA—FSIS

FINAL RULE STAGE

14. SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT AND POULTRY PRODUCTS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 318; 9 CFR 381

Legal Deadline:

None

Abstract:

This rule will amend the Federal meat and poultry products inspection regulations to simplify the procedures by which FSIS approves food additives and Generally Recognized as Safe substances to be used as ingredients in meat food products and poultry products. The final rule will be developed in cooperation with the Food and Drug Administration to make the Federal regulation of food additives and other substances that may be used as ingredients in meat food and poultry products more efficient and uniform.

Statement of Need:

This rule is a response to longstanding requests by industry representatives for FSIS the procedures for approving and listing in the Agency's regulations food additives and other substances used in the preparation of meat, meat food, and poultry products. The industry representatives have argued that the FSIS rulemakings to permit the use of FDA-approved additives in meat, meat food, and poultry products have been largely duplicative of the FDA procedures.

FSIS adopted a final rule in July 1983 under which the Agency could amend its regulations on a "fast track" basis to provide for the use in livestock products or poultry products, at appropriate levels and for appropriate purposes, of FDA-approved substances. The Agency discontinued this procedure in 1988, however, because of concerns it might not satisfy the requirements of the Administrative Procedure Act.

Comments submitted in response to USDA's February 25, 1992, notice requesting public comments on how Department regulations can be improved, updated, or streamlined, supported the Agency's decision to initiate this rulemaking project in coordination with FDA. This rulemaking has been included among the Administration's proposals for reinventing food regulations.

Summary of Legal Basis:

This rulemaking was proposed under the authorities of the Federal Meat Inspection Act, as amended (21 U.S.C. 601-695), and the Poultry Products Inspection Act, as amended (21 U.S.C. 451-470).

Alternatives:

No action.

Anticipated Cost and Benefits:

The public benefits conferred by this rulemaking include, principally, those associated with the more timely regulatory approval of food and color additives added to foods and those associated with having the food and color additives themselves available for use more quickly. The benefits of food and color additives added to meat, meat food, and poultry products include the technical effects on the characteristics of food products, the uses of the food and color additives in food processing, and a greater variety of foods in the marketplace. Public health benefits include the greater availability of food through preservation techniques and improved food safety through, for example, antimicrobial treatments of raw product and the use of curing solutions in processed products. The benefits conferred by the availability of food and color additives and this rulemaking will marginally increase the food and color additives' use.

The public benefits of regulating food and color additives generally will not change. These include, principally, the prevention of adulteration or misbranding of food products. Consumers are provided assurances that the products they buy do not contain food and color additives whose use ought, for various reasons, to be prohibited, and food and color additives that have been approved have not been used improperly in foods. This final rulemaking will not affect such benefits because FDA will continue to conduct safety reviews of food and color additives proposed for use in foods, including—in consultation with FSIS—meat, meat food, and poultry products, and FSIS will continue to exercise its in-plant inspection and other regulatory authorities to prevent the marketing of adulterated or misbranded meat, meat food, and poultry products. Therefore, elimination of the duplicative FSIS rulemaking process involved in listing or approving food and color additives for use in meat, meat food, and poultry products will probably save the regulated industry between $400,000 and $600,000 a year over and above the savings the Government itself will realize in administrative costs. (According to industry representatives, the cost of filing one food or color additive is approximately $100,000. This includes research and administrative costs.)

Other less calculable benefits arise through the removal of a disincentive to innovative. With the potential expansion of uses of approved food additives and other new food and color additives that will result from the easing of the current regulatory burden, new product development and marketing are encouraged.

This final rule will not have a significant economic impact on a substantial number of small entities. Obtaining approval for the use in meat, meat food, and poultry products of new food and color additives or for new uses of previously listed or approved food and color additives will be simpler, faster, and less costly for both industry and the Federal Government than under the current system.

FSIS now may authorize for use in meat, meat food, or poultry products only those food and color additives that have been previously reviewed for safety and approved for such use by FDA. Under the final rule, separate petitions to FSIS will no longer have to be submitted. FSIS will permit food and color additives to be used in products under its jurisdiction based on FDA's title 21 regulations permitting such uses. Those food and color additives not approved for meat, meat food, or poultry product use under current FDA regulations will require only one petition for rulemaking—to FDA.

FSIS currently receives approximately four to six petitions per year for the listing or approval of food and color additives for use in livestock products and poultry products. Approximately 75 percent of these petitions are from large commercial entities.

Risks:

As mentioned, potential public health benefits of this rule include the greater availability of food through preservation techniques and improved food safety through, for example, antimicrobial treatments of raw product and the use of curing solutions in processed products. A more timely and efficient approval process would make these benefits available sooner than

they can be under the current approval process. However, FSIS has no way of forecasting how many food and color additives that yield health and safety benefits will be submitted to FDA in any given future year. The Agency therefore does not have a basis for quantifying the future health and safety benefits of this rule.

Timetable:

Action	Date	FR Cite
NPRM	12/29/95	60 FR 67459
NPRM Comment Period End	05/06/96	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Daniel L. Engeljohn
Director, Regulations Development and Analysis Division
Department of Agriculture
Food Safety and Inspection Service
Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AB02

USDA—FSIS

15. ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline:

None

Abstract:

This proposed rule would amend the meat and poultry inspection regulations by removing most requirements pertaining to partial quality control (PQC) programs. A PQC program controls a single product, operation, or part of an operation in a meat or poultry establishment. The proposal would remove the design requirements affecting most PQC programs that establishments have and most requirements for establishments to have PQC programs for certain products or processes. The proposal would also remove from the thermal processing regulations the requirements for FSIS prior approval, or approval before use, of systems and devices not specified in the regulations and all requirements concerning PQC programs. The proposal would expand the alternatives available to establishments under the thermal processing regulations for ensuring the safety of their products. However, the requirements for establishments to have quality control programs to control food irradiation processing and certain slaughtering inspection systems for poultry and the requirements concerning the design and content of those programs would be unaffected by this rulemaking. This proposal is intended to allow establishments under inspection additional flexibility, consistent with the Pathogen Reduction/Hazard Analysis and Critical Control Points (HACCP) regulations, to adopt new technologies and methods that will improve food safety and other consumer protections.

Statement of Need:

FSIS carries out programs designed to ensure that meat, poultry, and egg products are wholesome, not adulterated, and properly marked, labeled, and packaged. FSIS is implementing the "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems" final rule promulgated July 25, 1996 (61 FR 38806), to reduce the risk of foodborne illness associated with consumption of meat and poultry products to the maximum extent possible. Under the Pathogen Reduction/HACCP final rule, establishments are to accomplish this objective by taking appropriate and feasible measures to prevent or reduce the likelihood of physical, chemical, and microbiological hazards in the production of meat and poultry products.

FSIS is reviewing its other regulations to determine how they can be made more consistent with the Pathogen Reduction/HACCP regulations and the regulations and the regulatory approach they embody. Included in this review are regulations concerning sanitation standards, the exclusion from the food supply of meat and poultry products with visible defects affecting safety or quality, and preventing the economic adulteration of meat and poultry products.

As stated in the December 29, 1995, advance notice of proposed rulemaking (ANPRM) "FSIS Agenda for Change" (60 FR 67469), FSIS plans to eliminate regulations that are unnecessary and, to the extent possible, modify or replace command-and-control prescriptions with performance standards. Command-and-control requirements specify, often in great detail, how a plant is to achieve particular food safety or other regulatory objectives, while performance standards state the objectives or levels of performance to be achieved, and the plant can then choose how to achieve them. Replacing command-and-control requirements with performance standards will afford inspected establishments the flexibility to adopt technological innovations that can yield food safety benefits.

This change is also compelled by the philosophy underlying HACCP systems. Under the HACCP approach, plant management builds into its food production processes science-based controls and related measures—the HACCP plans—required to ensure food safety. The HACCP plans can vary from plant to plant.

Where appropriate, command-and-control regulations must be changed to provide greater flexibility for industry to design and implement processes and HACCP systems of control, tailored to the circumstances of each plant. This is consistent with the HACCP approach, which clearly delineates industry and Government responsibility for food safety, with plants establishing procedures they will follow to ensure the production of safe food.

Among the regulations FSIS has identified as candidates for modification or elimination to be consistent with HACCP are restrictive, command-and-control-type regulations which delimit processing and treatment methods intended to eliminate specific food safety hazards and requirements concerning PQC programs. Among these are requirements that establishments have such programs for their products or processes and requirements concerning the design of such programs.

Summary of Legal Basis:

Under the Federal Meat Inspection Act (21 USC 601 et seq.) and the Poultry Products Inspection Act (21 USC 451 et seq.), FSIS issues regulations governing the production of meat and poultry products prepared for

distribution in interstate commerce. The Agency also issues regulations concerning the sanitation conditions under which such products are prepared.

Alternatives:

The alternatives to this proposed rulemaking that FSIS considered were, in addition to the alternative of no rulemaking, market sampling of finished products, mandating additional in-plant controls, sampling finished products for chemical analysis, general requirements and standards for PQC programs, and the elimination of all TQC and PQC requirements.

Anticipated Cost and Benefits:

The proposed rule could save the regulated industry up to $14,000,000 in costs associated with developing PQC programs according to FSIS specifications and in operating PQC programs that are mandated by the regulations.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	05/18/99	64 FR 26892
NPRM Comment Period End	07/19/99	
Final Rule	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State

Agency Contact:

Daniel L. Engeljohn
Director, Regulations Development and Analysis Division
Department of Agriculture
Food Safety and Inspection Service
Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC35

USDA—Forest Service (FS)

PRERULE STAGE

---

16. • NATIONAL FOREST SYSTEM ROADLESS AREAS

Priority:

Other Significant

Legal Authority:

16 USC 472; 16 USC 551; 16 USC 1604; 42 USC 4321

CFR Citation:

36 CFR 294

Legal Deadline:

None

Abstract:

On October 13, 1999, the President directed the Forest Service to begin an open and public dialogue about the future of inventoried roadless areas within the National Forest System. As the first step in carrying out the President's direction, the Forest Service published a Notice of Intent to prepare an environmental impact statement in the Federal Register on October 19, 1999 (64 FR 56306). The Notice of Intent initiates the scoping process, whereby the Forest Service is soliciting public comment on the nature and scope of the environmental, social, and economic issues related to roadless areas. The public has been asked to provide comments by December 20, 1999. Additionally, the agency is holding scoping meetings in every Forest Service Region to facilitate public comment on the scope of an environmental analysis and alternatives. This initiative responds to strong public sentiment for protecting roadless areas and the public benefits those areas provide, including clean water, biological diversity, wildlife habitat, forest health, dispersed recreational opportunities, and other benefits. It also responds to budgetary concerns about the National Forest road system. The public has long questioned the logic of building new roads in roadless areas when the Forest Service receives insufficient funding to maintain its existing road system. To assist in determining the scope and content of a proposed rule, the agency will prepare an environmental impact statement to analyze (1) the effects of eliminating certain activities such as road construction in the remaining unroaded portions of inventoried roadless areas on the National Forest System; and (2) the effects of establishing criteria and procedures to ensure that the social and ecological values are considered and protected through the forest planning process. The draft environmental impact statement (EIS) and a proposed rule that embodies the preferred alternative identified in the draft EIS are expected to be available for public review and comment in the spring of 2000.

Statement of Need:

Areas that are without roads have inherent values that are increasingly scarce and highly desirable. Under present management policies, the maintenance of areas with these values cannot be guaranteed. At the same time, present and foreseeable funding for road maintenance is expected to be only a small fraction of the total needed to meet environmental and safety standards. Therefore, it is necessary for the agency to change its policies and practices for roadless area management to reflect different resource priorities and realistic funding levels.

Summary of Legal Basis:

The Forest Service's proposal to initiate a rulemaking process to protect roadless areas comes under applicable administrative and environmental laws, including the Organic Act, the Multiple-Use Sustained-Yield Act, the National Forest Management Act, and the National Environmental Policy Act.

Alternatives:

The agency could either continue under existing regulations or propose regulations to address the protection of roadless areas.

Anticipated Cost and Benefits:

As part of the development of a proposed rule, the agency will assess the environmental impacts, as well as the costs and benefits of promulgating a rule for the protection of roadless areas. The benefits of publishing the rule are to preserve the value of areas without roads, including biological diversity, clean water, and other social, economic, and ecological values. Without this protection, the cost to the taxpayer in the future may be considerable, in terms of the loss of desirable aesthetic qualities that are becoming increasingly scarce.

Risks:

The planned regulatory action addresses the protection of roadless areas and would not directly cause specific risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
ANPRM	10/19/99	64 FR 56306
ANPRM Comment Period End	12/20/99	
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Agency Contact:

Marian P. Connolly
Regulatory Officer
Department of Agriculture
Forest Service
P.O. Box 96090
Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB77

USDA—FS

FINAL RULE STAGE

17. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

16 USC 1600 et seq; 5 USC 301

CFR Citation:

36 CFR 219

Legal Deadline:

None

Abstract:

On October 5, 1999, the Forest Service published a proposed rule to guide land and resource management planning for the National Forest System. The proposed planning framework makes sustainability the foundation for National Forest System planning and management and establishes requirements for implementation, monitoring, evaluation, amendment, and revision of land and resource management plans. The intended effects are to simplify, clarify, and otherwise improve the planning process to reduce burdensome and costly procedural requirements; and to strengthen collaborative relationships with the public and other government entities. The comment period ends on January 4, 2000.

Statement of Need:

The need for the rule arises from having completed the first round of forest plans as required by the National Forest Management Act. The Forest Service contracted with the Conservation Foundation and Purdue University to conduct a comprehensive critique of the planning process and plan decisions. The critique involved both agency employees and external participants—state and local governments, businesses, environmental organizations, and others—and resulted in several volumes of findings and recommendations. Key recommendations were to strengthen the emphasis on ecosystem sustainability and health; to incorporate ecoregional and watershed-level assessments; and to strengthen opportunities for public participation in the planning process and for greater interaction and dialog with Federal, State, local and Indian tribal governments. Building on those recommendations, the agency published an Advance Notice of Proposed Rulemaking and a proposed rule in 1995. The proposed rule was controversial. There was a strong concern that the agency had not chartered a Committee of Scientists as was required by the statute for the initial planning regulations. In response, the Secretary of Agriculture decided to appoint a Committee of Scientists to provide advice in the development of a science-based approach to the planning process. The proposed rule is built on the Committee's recommendations for achieving more collaborative, dynamic, science-based planning that fosters collaboration among Forest Service officials, state, local, and Indian governments, organizations, and the public at large.

Summary of Legal Basis:

The legal basis for the planned regulatory action is the National Forest Management Act, which requires that regulations be promulgated. This final action will revise the existing regulation which was finalized in 1982.

Alternatives:

Alternatives to this rule that were considered include continuing under existing regulations or staying with the concepts in the embodied 1995 rulemaking effort. The agency determined that the Committee's recommendations should be the basis for a new proposed rule.

Anticipated Cost and Benefits:

A cost-benefit analysis has been completed as part of an Environmental Assessment. Based on that analysis, it is anticipated that streamlined planning procedures will result in a reduction in the cost of amending and revising forest plans relative to the same procedures under the existing regulation. Other benefits should include improved communication and coordination with the public and other agencies and governments, better understanding of the planning process, improved procedures for resource decisionmaking, and improved on-the-ground results as those decisions are implemented.

Risks:

The planned regulatory action addresses agency planning procedures and would not directly cause specific risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/91	56 FR 6508
NPRM	04/13/95	60 FR 18886
NPRM Comment Period End	08/17/95	60 FR 36767
Second NPRM	10/05/99	64 FR 54074
Second NPRM Comment Period End	01/04/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

Marian P. Connolly
Regulatory Officer
Department of Agriculture
Forest Service
P.O. Box 96090
Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB20

BILLING CODE 3410–90–F

DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

Sustainable, long-term economic growth is a central focus of the President's policies and priorities. The mission of the Department of Commerce (DOC) is to promote job creation, economic growth, sustainable development, and improved living standards for all Americans by working in partnership with business, universities, communities, and workers to:

- Build for the future and promote U.S. competitiveness in the global marketplace by strengthening and safeguarding the Nation's economic infrastructure;
- Keep America competitive with cutting-edge science and technology and an unrivaled information base; and
- Provide effective management and stewardship of our Nation's resources and assets to ensure sustainable economic opportunities.

The Commerce mission statement, containing our three strategic themes, provides the vehicle for understanding Commerce's aims, how they interlock, and how they are to be implemented through our programs. Working collectively, the bureaus of the Department (including the Office of the Secretary) developed this mission statement, with the intent that it serve as both a statement of Departmental philosophy and as the guiding force behind the Department's programs.

The importance that this mission statement and these strategic themes have for the Nation is amplified by the vision they pursue for America's communities, businesses, and families. Commerce is the smallest Cabinet agency, yet our presence is felt, and our contributions are found, in every State.

The DOC touches Americans, daily, in many ways—we make possible the weather reports that all of us hear every morning; we facilitate the technology that all of us use in the workplace and in the home each day; we support the development, gathering, and transmitting of information essential to competitive business; we make possible the diversity of companies and goods found in America's (and the world's) marketplace; and we support environmental and economic health for the communities in which Americans live.

The DOC has a clear and powerful vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. We confront the intersection of trade promotion, civilian technology, economic development, sustainable development, and economic analysis, and we want to provide leadership in these areas for the Nation. As a Department, we aspire to provide programs and services that serve our country's businesses, communities, and families, as initiated and supported by the President and the Congress. We are dedicated to making those programs and services as effective as possible, while ensuring that they are being delivered in the most cost-effective ways. We seek to function in close concert with other agencies having complementary responsibilities so that our collective impact can be most powerful. We seek to meet the needs of our customers quickly and efficiently, with programs, information, and services they require and deserve.

As a permanent part of the Federal Government, but serving an Administration and Congress that can vary with election results, we seek to serve the unchanging needs of the Nation, according to the priorities of the President and the Congress. We are able to do this effectively by functioning in accordance with the legislation that undergirds our programs and by working closely with the President and the committees in Congress, which have programmatic and financial oversight for our programs.

In his 1996 State of the Union message, the President said: "Now we move to an age of technology, information, and global competition. These changes have opened vast new opportunities, but they have also presented us with stiff challenges." The Vice President has sounded a similar call: "Americans also understand that in a global economy, the only way to maintain America's competitive edge is to lead the world in innovation and new technologies. Investments in science and technology mean better jobs, higher wages, and a growing economy." In the 1997 State of the Union address, the President said: "Over the last four years, we have brought new economic growth by investing in our people, expanding our exports, cutting our deficits, creating over 11 million new jobs, a four-year record.... We face no imminent threat, but we do have an enemy. The enemy of our time is inaction." He continued: "To prepare America for the 21st century, we must harness the powerful forces of science and technology to benefit all Americans." Again, in the 1998 State of the Union message, the President said: "Rarely have Americans lived through so much change, in so many ways, in so short a time. Quietly, but with gathering force, the ground has shifted beneath our feet as we have moved into an Information Age, a global economy, a truly new world.... As we enter the 21st century, the global economy requires us to seek opportunity not just at home, but in all the markets of the world. We must shape this global economy, not shrink from it..... Today, record high exports account for fully one-third of our economic growth. I want to keep them going, because that's the way to keep America growing and to advance a safer, more stable world." President Clinton, in the 1999 State of the Union message, said: "If we ... invest in our people, our communities, our technology, and lead in the global economy—then we will begin to meet our historic responsibility to build a 21st century prosperity for America."

These words embody the mission of the DOC: to help keep America as the world's technology leader; to help American companies compete globally; to enable communities to conquer economic challenges; to stimulate the growth of high-pay, high-quality jobs; to preserve and protect the environment and our natural resources, as well as safeguard the public from the adverse impacts of undesirable environmental changes; and to provide information, which is vital to ensuring sound business and policy decisions.

Commerce promotes and expedites American exports, helps nurture business contacts abroad, protects U.S. firms from unfair foreign competition, and makes how-to-export information accessible to small and mid-sized companies throughout the Nation, thereby ensuring that U.S. market opportunities span the globe.

Commerce encourages development in every community, clearing the way for private-sector growth by building or rebuilding economically deprived and distressed communities. We promote minority entrepreneurship to establish businesses that frequently anchor neighborhoods and create new job opportunities. We work with the private sector to enhance competitive assets.

As the Nation looks to revitalize its industries and communities, Commerce works as a partner with private entities to build America with an eye on the future. Through technology, research and development, and innovation, we are making sure America continues to prosper in the short-term, while also

helping industries prepare for long-term success.

Commerce's considerable information capacities help businesses understand clearly where our national and world economies are going, and take advantage of that knowledge by planning the road ahead. Armed with this information, businesses can undertake the new ventures, investments, and expansions that make our economy grow.

The capacity for managing the Nation's assets and resources is another key policy driver for Commerce, an essential one in our ability to help the Nation succeed in the future. These activities—ranging from protecting our fisheries to controlling the radio frequency spectrum to protecting intellectual property—affect the economy directly.

The DOC has instituted programs and policies that lead to cutting-edge, competitive, and better paying jobs. We work every day to boost exports, to deregulate business, to help smaller manufacturers battle foreign competition, to advance the technologies critical to our future prosperity, to invest in our communities, and to fuse economic and environmental goals.

The DOC is American business' surest ally in job creation, serving as a vital resource base, a tireless advocate, and its Cabinet-level voice.

The Department's Regulatory Plan directly tracks these policy and program priorities, only a few of which involve regulation of the private sector by the Department.

Responding to the Administration's Regulatory Philosophy and Principles

The vast majority of the Department's programs and activities do not involve regulation. Of the Department's 12 primary operating units, only five—the Bureau of Export Administration (BXA), the International Trade Administration (ITA), the Economic Development Administration, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office—plan significant preregulatory or regulatory actions for this Regulatory Plan year. Only two of these operating units, BXA and NOAA, have a regulatory action rising to the level of the most important of the Department's significant regulatory actions planned for the Regulatory Plan year.

Though not principally a regulatory agency, the DOC has long been a leader in advocating and using market-oriented regulatory approaches in lieu of traditional command-and-control regulations when such approaches offer a better alternative. All regulations are designed and implemented to maximize societal benefits while placing the smallest possible burden on those being regulated.

The DOC is also refocusing on its regulatory mission by taking into account, among other things, the President's regulatory principles. To the extent permitted by law, all preregulatory and regulatory activities and decisions adhere to the Administration's statement of regulatory philosophy and principles, as set forth in section 1 of Executive Order 12866. Moreover, we have made bold and dramatic changes, never being satisfied with the status quo. Over the past seven years we have emphasized, initiated, and expanded programs that work in partnership with the American people to secure the Nation's economic future. At the same time we have downsized, cut regulations, closed offices, and eliminated programs and jobs that are not part of our core mission. The bottom line is that, after much thought and debate, we have made many hard choices needed to make this Department "state of the art."

The Secretary has prohibited the issuance of any regulation that discriminates on the basis of race, religion, gender, or any other suspect category and requires that all regulations be written in simple, plain English and be understandable to those affected by them. The Secretary also requires that the Department afford the public the maximum possible opportunity to participate in Departmental rulemakings, even where public participation is not required by law.

Improving the Regulatory Environment for Small Business

The DOC remains committed to its goal of providing small businesses with the least burdensome regulatory environment possible. While we believe small business should remain free from the constraints of regulation whenever possible, the Department realizes that there are times where these entities must be subject to regulation of some kind. But in all cases where small businesses will be affected by DoC regulations, we make every effort to provide them with all relevant and necessary information at the earliest possible time, while making representatives of the Department available to discuss any problems or questions that may arise in complying with these regulations. Additionally, the Department remains committed to providing small businesses with the greatest amount of warning prior to the issuance of any regulation that could affect them directly or indirectly.

Within the Department, the two agencies that regulate activities of small business are the National Oceanic and Atmospheric Administration (NOAA) and the Bureau of Export Administration (BXA). Both NOAA and BXA have taken numerous actions to comply with the Departmental goal of providing small businesses with the least burdensome regulatory environment, while working with small business to ensure that when regulations are issued, small businesses are informed as early as possible and prepared to meet regulatory requirements.

National Oceanic and Atmospheric Administration

When NOAA issues regulations that impact small business, NOAA Special Agents and officers begin an information outreach campaign to educate the regulated community on the new or amended regulations. This outreach campaign involves boarding vessels and visiting fish dealers to explain the new regulations and answer questions regarding compliance. Special Agents and officers educate the regulated community on the technical aspects of the regulations and the conservation value of the management plan and regulations.

It has long been NOAA's practice to answer inquiries by small entities whenever appropriate in the interest of administering statutes and regulations. Inquiries are received via telephone, mail, and electronic mail; during public hearings, town hall meetings, and workshops held by NOAA throughout the year; and in the day-to-day interactions that small entities have with NOAA personnel. As a result, NOAA answers tens of thousands of inquiries from small entities each year.

NOAA also issues written warnings rather than penalties for many minor violations. Since March 1996, NOAA has issued approximately 1,216 written warnings. In addition, NOAA has a Summary Settlement System that allows violators, including small entities, to choose not to contest an alleged violation and to pay a reduced penalty within a specified time period following receipt of the Summary Settlement Notice. Since March 1996, approximately 708 Summary Settlement offers were extended by NOAA.

NOAA has also established a Fix-It Notice (FIN) program for the reduction or waiver of civil penalties under several of the natural resource protection statutes NOAA enforces, including the Marine Mammal Protection Act, the Endangered Species Act, and the Magnuson-Stevens Fishery Conservation and Management Act. Under the FIN program, dozens of minor, first-time violations that are of a technical nature and do not have a direct natural resource impact, receive a FIN, which allows the violation to be corrected in lieu of a penalty. The FIN identifies the violation and allows the violator a specified amount of time to fix the violation. At this time, there are over 130 types of violations that have been included in the FIN program. NOAA's Civil Administrative Penalty Schedule has been amended to reflect the FIN program. Since March 1996, approximately 348 Fix-It Notices were issued in lieu of penalties, many to small entities. The FIN program has helped NOAA achieve compliance and has elicited a positive response from the regulated community, which includes small entities.

Bureau of Export Administration

BXA administers a classification and advisory opinion program. Under the Export Administration Regulations (EAR), which set the criteria for export of dual-use items, commercial items with potential military or weapons proliferation applications, an exporter has the responsibility of classifying the item it seeks to export to determine if an export license is required. In light of this responsibility, BXA has established a program whereby an exporter can ask BXA whether the item is subject to the EAR and, if so, the correct classification of that item. Further, for a given end-use, end-user, or destination, BXA will advise an exporter whether an export license is required, or likely to be granted.

BXA has continually used technological advances in order to provide information and customer service to those entities that may be affected by BXA activities. Through its "Fax-on-Demand" system, BXA enables exporters to access useful information by facsimile 24 hours a day, and this service has been expanded to provide over 60 documents, including recent regulatory changes, upcoming workshops, useful points of contact, and a wide variety of other competitiveness and trade-related information. BXA also uses its broadcast subscription and broadcast e-mail services, known as netFacts, combined with its longstanding facsimile service, "First Facts," to provide regular and timely updates regarding regulatory and policy changes and other items of interest to exporters.

In addition, BXA spends a great deal of time educating industry about the export control provisions of the EAR. BXA has an extensive outreach program, conducting seminars throughout the United States and overseas. For example, as a standard part of the seminar, BXA provides a set of guidelines, *Export Management System Guidelines*, to assist firms in ensuring that their exports and export decisions are consistent with the EAR. The EAR also contain "Know Your Customer" guidelines and "red flag" indicators, designed to assist exporters in complying with regulatory requirements.

The BXA Web site offers those with Internet access to a wide range of export control information, including frequently asked questions, free access to the full text of Export Administration Regulations, and links to other government sites. BXA's Simplified Network Application Process (SNAP) allows submission of license applications and classification requests through the Internet.

Description of Agency Regulations

National Oceanic and Atmospheric Administration

The National Oceanic and Atmospheric Administration (NOAA) establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental services vital to public safety and to the Nation's economy, such as weather forecasts and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving the Departmental goal of promoting stewardship by providing assessments of the global environment.

Recognizing that economic growth must go hand-in-hand with environmental stewardship, the Commerce Department, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on "sustainable fisheries" is saving fisheries and confronting short-term economic dislocation, while boosting long-term economic growth. The Department of Commerce is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a "win-win" situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine fisheries, protects marine mammals, and promotes economic development of the U.S. fishing industry. NOS assists the coastal states in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the Nation's national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate commercial land-remote sensing satellite systems.

The Administration is committed to an environmental strategy that promotes sustainable economic development and rejects the false choice between environmental goals and economic growth. The intent is to have the Government's economic decisions be guided by a comprehensive understanding of the environment. The DOC, through NOAA, has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing sound scientific observations, assessments, and forecasts of environmental phenomena on which resource management and other societal decisions can be made.

In the environmental stewardship area, NOAA's goals include: rebuilding U.S. fisheries by refocusing policies and fishery management planning on increased scientific information; increasing the populations of depleted, threatened, or endangered species of marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in

ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include: modernizing the National Weather Service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long-term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Magnuson-Stevens Act Rulemakings

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. 3-to-200-mile Exclusive Economic Zone (EEZ). Among the several hundred rulemakings that NOAA plans to issue in the Regulatory Plan year, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments, and for drafting implementing regulations for each managed fishery. Once a rulemaking is triggered by an FMC, the Magnuson-Stevens Act places stringent deadlines upon NMFS by which it must exercise its rulemaking responsibilities. Most of these rulemakings will be minor, involving only the opening or closing of a fishery under an existing FMP. While no one Magnuson-Stevens Act rulemaking is among the Department's most important significant regulatory actions, and, therefore, none is specifically described below, the sum of these actions, and a few of the individual actions themselves, are highly significant.

The Magnuson-Stevens Act, which is the primary legal authority for Federal regulation to conserve and manage fishery resources, establishes eight regional FMCs, responsible for preparing FMPs and FMP amendments. NMFS issues regulations to implement FMPs and FMP amendments. FMPs address a variety of fishery matters, including depressed stocks, overfished stocks, gear conflicts, and foreign fishing. One of the problems that FMPs may address is preventing overcapitalization (preventing excess fishing capacity) of fisheries. This may be resolved by limiting access to those dependent on the fishery in the past and/or by allocating the resource through individual transferable quotas, which can be sold on the open market to other participants or those wishing access. Quotas set on sound scientific information, whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant, enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds, and establishing seasonal and area closures to protect fishery stocks.

NMFS favors the concept of framework FMPs where applicable. Such FMPs provide ranges, boundaries, and decision rules within which NMFS can change management measures without formally amending the FMP. Further, consistent with the recommendations on improving regulatory systems, which accompany the Report of the National Performance Review, NMFS favors using market-oriented approaches in managing fisheries. Open-access fisheries are destined to have too many people investing too much money in vessels and equipment. Access controls (e.g., a limited number of permits) represent a rational approach for managing fishery resources; they can be used to control fishing mortality levels and to prevent overfishing, economic dissipation, and subsequent economic and social dislocation. Of course overall quotas will need to be set based on the best scientific information available as to such things as stock status and optimum yields.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson-Stevens Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson-Stevens Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

The Magnuson-Stevens Act contains ten national standards against which fishery management measures are judged. NMFS has supplemented the standards with guidelines interpreting each standard, and is currently in the process of updating and adding to those guidelines. One of the national standards requires that management measures, where practicable, minimize costs and avoid unnecessary duplication. Under the guidelines, NMFS will not approve management measures submitted by an FMC unless the fishery is in need of management. Together, the standards and the guidelines correspond to many of the Administration's principles of regulation as set forth in section 1(b) of Executive Order 12866. One of the national standards establishes a qualitative equivalent to the Executive Order's net benefits requirement—one of the focuses of the Administration's statement of regulatory philosophy as stated in section 1(a) of the Order.

Licensing of Private Commercial Remote-Sensing Satellite Systems

NOAA/NESDIS is planning to issue a second proposed rule to revise its existing procedures governing the licensing of private commercial Earth remote-sensing space systems under title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 et seq. (1992 Act).

Title II of the 1992 Act requires that any person subject to the jurisdiction or control of the United States obtain a license from the Secretary of Commerce before operating a private remote-sensing space system. The authority to issue licenses has been delegated to the Administrator of NOAA and redelegated to the Assistant Administrator for Satellite and Information Services.

On July 10, 1987, NOAA published final regulations implementing title IV of the Land Remote Sensing Act of 1984 (the 1984 Act) setting forth the procedural requirements for obtaining a license. In 1988, the Radio Television News Directors Association filed a Petition for Rulemaking requesting NOAA to reopen these regulations in light of the President's January 5, 1988, Decision Directive encouraging commercial space development. On January 18, 1989, NOAA responded to this Petition, agreeing to reopen the regulations and incorporate certain principles favorable to commercial development that were consistent with the Directive. See 54 FR 1945.

Shortly thereafter, Congress began to review the 1984 Act and, on October 28, 1992, enacted the 1992 Act, which repealed and succeeded the 1984 Act.

The 1992 Act made significant changes to the 1984 Act, particularly with regard to the latter's requirement that all unenhanced data must be provided on a nondiscriminatory basis. The 1992 Act also provided for judicial review of certain licensing and enforcement actions. NOAA has issued ten licenses under the regime established in the 1992 Act.

On March 9, 1994, the President issued a policy decision to "support and enhance U.S. competitiveness in the field of remote sensing space capabilities, while at the same time protecting U.S. interests in national security and international obligations." This established a number of policies that promote an appropriate balance between these interests. Specifically, the President's policy announced the goal of enhancing U.S. competitiveness in a market that is projected to be worth approximately $2 billion worldwide by the year 2000, while at the same time addressing the national security concerns brought up by other Government agencies. The President's policy covers foreign access to remote-sensing systems, technology, products, and data. It states that there is a presumption that systems whose capabilities are already available in the global marketplace will be "favorably considered." It also elaborated eight more conditions that are to be applied to any license. The most significant of these conditions are:

(1) During periods when national security or international obligations and/or foreign policies may be compromised, as defined by the Secretary of Defense or the Secretary of State, respectively, the Secretary of Commerce may, after consultation with the appropriate agencies, require the licensee to limit data collection and/or distribution by the system to the extent necessitated by the given situation. Decisions to impose such limits only will be made by the Secretary of Commerce in consultation with the Secretary of Defense or Secretary of State, as appropriate. Disagreements between Cabinet Secretaries may be appealed to the President;

(2) That the licenses are not subject to foreign ownership, above a specified threshold, without the explicit permission of the Secretary of Commerce; and

(3) Licensees must notify the U.S. Government of their intent to enter into significant or substantial agreements with new foreign customers. Interested agencies are to be given advance notice of such agreements to allow them to review the proposed agreement in light of national security, international obligations, and foreign policy concerns. The President's policy stated that the definition of a significant or substantial agreement, as well as the time frames and other details of this process, were to be defined by the Commerce Department in regulations.

On December 4, 1995, a Notice of Inquiry and Request for Public Comment was published in the **Federal Register**, wherein NOAA sought public comment to decide whether, and to what extent, the 1987 regulations needed revision in light of the President's policy and the 1992 Act, and if so, which issues should be addressed. NOAA received seven sets of comments. Additionally, NOAA held a public hearing at the Department of Commerce on June 14, 1996, at which it received additional input from interested parties. The main theme that emerged at the public hearing was the need for transparency and predictability in the regulations.

On November 3, 1997, NOAA issued a proposed rule to revise its remote-sensing licensing procedures. The proposed regulations would update the 1987 regulations to reflect the above-described intervening events and information gathered through the public process, as well as the experience gained during recent licensing procedures. The intent of the proposed regulations would be to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry lead this emerging market.

The November 3, 1997, proposed regulations incorporate the basic regulatory principle that any restrictions on a licensee, including those required for national security and foreign policy purposes, must be the least burdensome possible to achieve the stated objective. Further, the proposed rule would establish a notice mechanism for allowing up to 49 percent foreign ownership in the licensee and monitoring domestic investment, so that control of the remote-sensing system could not be transferred without a formal amendment to the license. As required by the President's 1994 policy, the rule sought to define what foreign agreements are significant or substantial and must be submitted for review. Agency actions under the regulation would be reviewable by an administrative law judge.

On April 1, 1998, NOAA held a public meeting to listen to public comments on the proposed regulations. The public comment period ended the next day. NOAA received 18 sets of substantive comments on the proposed regulations. As a result of the extensive public comments received on the November 3, 1997, proposed rule and at the April 1, 1998, public hearing, NOAA has determined it appropriate to revise its proposal and seek further public comment.

Bureau of Export Administration

The Bureau of Export Administration (BXA) promotes U.S. national and economic security and foreign policy interests by managing and enforcing the Department's security-related trade and competitiveness programs. BXA plays a key role in challenging issues involving national security and nonproliferation, export growth, and high technology. The Bureau's continuing major challenge is combating the proliferation of weapons of mass destruction while furthering the growth of U.S. exports, which are critical to maintaining our leadership in an increasingly competitive global economy. BXA strives to be the leading innovator in transforming U.S. strategic trade policy and programs to adapt to the changing world.

Major Programs and Activities

The Export Administration Regulations (EAR) provide for export controls on dual use goods and technology (primarily commercial goods that have potential military applications) not only to fight proliferation, but also to pursue other national security, short supply, and foreign policy goals (such as combating terrorism). Simplifying and updating these controls in light of the end of the Cold War has been a major accomplishment of BXA.

BXA is also responsible for:

- Enforcing the export control and antiboycott provisions of the Export Administration Act (EAA), as well as other statutes such as the Fastener Quality Act. The EAA is enforced through a variety of administrative, civil, and criminal sanctions.

- Analyzing and protecting the defense industrial and technology base, pursuant to the Defense Production Act and other laws. As the Defense Department increases its reliance on dual-use high technology goods as part of its cost-cutting efforts, ensuring that we remain competitive in those sectors and sub-sectors is critical to our national security.
- Helping Ukraine, Kazakstan, Belarus, Russia, and other newly emerging countries develop effective export control systems. The effectiveness of U.S. export controls can be severely undercut if "rogue states" or terrorists gain access to sensitive goods and technology from other supplier countries.
- Working with former defense plants in the Newly Independent States to help make a successful transition to profitable and peaceful civilian endeavors. This involves helping remove unnecessary obstacles to trade and investment and identifying opportunities for joint ventures with U.S. companies.
- Assisting U.S. defense enterprises to meet the challenge of the reduction in defense spending by converting to civilian production and by developing export markets. This work assists in maintaining our defense industrial base as well as preserving jobs for U.S. workers.

BXA's two principal operating units, Export Administration and Export Enforcement, as well as its Office of Administration, have undergone significant reorganization and downsizing in recent years in order to meet the goals of reforming and streamlining the export control system, as recommended by the National Performance Review (NPR) and the Trade Promotion Coordinating Committee. BXA is also an NPR Reinvention Laboratory.

Chemical Weapons Convention

BXA plans to issue a final rule that will make effective the proposed rule published July 21, 1999. The purpose of the regulation is to implement the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention) and the Chemical Weapons Convention Implementation Act of 1998, requiring private facilities to submit information on certain activities involving toxic chemicals, and to make certain private facilities subject to periodic inspection by the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization created to administer the Convention and to monitor compliance by States Parties.

On April 25, 1997, the United States ratified the Chemical Weapons Convention, just prior to the entry into force of the Convention on April 29, 1997. The Convention bans the development, production, stockpiling, or use of chemical weapons and prohibits States Parties from assisting or encouraging anyone to engage in a prohibited activity. The Convention provides for declaration and inspection of all States Parties' chemical weapons and facilities. To fulfill its arms control and non-proliferation objectives, the Convention also establishes a comprehensive verification scheme and requires the declaration and inspection of facilities that produce, process, or consume certain lists or "Scheduled" chemicals, some of which have significant commercial applications. The United States has declared its chemical weapons and chemical weapons production and storage facilities to the OPCW, and is in the process of destroying its chemical weapons stockpiles. In order to be in compliance with its obligations as a State Party to the Convention, the United States also must establish the declaration and inspection program for private facilities engaged in activities involving "Scheduled" chemicals.

The Chemical Weapons Convention Implementation Act of 1998, enacted on October 21, 1998, authorized the United States to require the U.S. chemical industry and other private entities to submit declarations, notifications, and other reports and also to provide access for on-site inspections, in order that the United States may comply with its obligations under the Convention. On June 25, 1999, the President issued Executive Order 13128, which directs the Commerce Department to issue regulations.

The BXA's discretion in drafting the declaration forms and formulating the reporting requirements is limited by the Convention requirements. The OPCW issued forms for States Parties to use in submitting declarations.

In drafting the declaration forms and the CWCR, BXA has consistently made the reporting requirements as narrow as possible to ensure that only information required to be declared to the OPCW or necessary to ensure that U.S. aggregate Schedule 1 activities are below the one metric ton limit set forth in the Convention is to be reported to BXA. For certain reporting requirements that are currently subject to national discretion, BXA has adopted the minimum requirements consistent with a reasonable reading of the Convention, keeping in mind its purposes and objectives.

DOC—Bureau of Export Administration (BXA)

FINAL RULE STAGE

18. CHEMICAL WEAPONS CONVENTION REGULATIONS

Priority:

Other Significant

Legal Authority:

22 USC 6701 et seq; EO 13128

CFR Citation:

15 CFR 710 et seq

Legal Deadline:

None

Abstract:

The final rule will make effective the proposed rule published July 21, 1999. The purpose of the regulation is to implement the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention) and the Chemical Weapons Convention Implementation Act of 1998, requiring private facilities to submit information on certain activities involving toxic chemicals, and to make certain private facilities subject to periodic inspection by the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization created to administer the Convention and to monitor compliance by States Parties.

Statement of Need:

On April 25, 1997, the United States ratified the Chemical Weapons Convention, just prior to the entry into force of the Convention on April 29, 1997. The Convention bans the development, production, stockpiling, or use of chemical weapons and prohibits States Parties from assisting or encouraging anyone to engage in a prohibited activity. The Convention provides for declaration and inspection of all States Parties' chemical weapons and chemical weapons production facilities, and oversees the destruction

of such weapons and facilities. To fulfill its arms control and non-proliferation objectives, the Convention also establishes a comprehensive verification scheme and requires the declaration and inspection of facilities that produce, process, or consume certain lists or "Schedules" chemicals, some of which have significant commercial applications. The United States has declared its chemical weapons and chemical weapons production and storage facilities to the OPCW, and is in the process of destroying its chemical weapons stockpiles. In order to be in compliance with its obligations as a State Party to the Convention, the United States also must establish the declaration and inspection program for private facilities engaged in activities involving "Scheduled" chemicals.

Summary of Legal Basis:

The Chemical Weapons Convention Implementation Act of 1998, enacted on October 21, 1998, authorized the United States to require the U.S. chemical industry and other private entities to submit declarations, notifications and other reports and also to provide access for on-site inspections, in order that the United States may comply with its obligations under the Convention. On June 25, 1999, the President issued Executive Order 13128, which directs the Commerce Department to issue regulations.

Alternatives:

The Bureau of Export Administration's (BXA) discretion in drafting the declaration forms and formulating the reporting requirements is limited by the Convention requirements. The OPCW has issued forms for States Parties to use in submitting declarations.

In drafting the declaration forms and the CWCR, BXA has consistently made the reporting requirements as narrow as possible to ensure that only information required to be declared to the OPCW or necessary to ensure that U.S. aggregate Schedule 1 activities are below the one metric ton limit set forth in the Convention is to be reported to BXA. Other States Parties, such as Canada, have imposed much broader reporting requirements on their industries, with the government taking on the responsibility of determining the information that must be forwarded to the OPCW.

In addition, there are certain declaration requirements of the Convention that are subject to interpretation. Until the Conference of States Parties establishes clear rules for these requirements, States Parties may use their national discretion to implement them. National discretion generally means a reasonable interpretation of the requirement. For such reporting requirements currently subject to national discretion, BXA has adopted the minimum requirements consistent with a reasonable reading of the Convention, keeping in mind its purposes and objectives.

Anticipated Cost and Benefits:

Benefits from the regulation include increased national security and economic growth and stability in a safe and secure environment. State Party obligations under the Convention include imposition of restrictions on trade with non-States Parties. Over 120 countries, including the United States' major trading partners accounting for most of U.S. chemical exports, are States Parties to the Convention. The U.S. chemical industry, therefore, will also benefit from the United States' ratification of the Convention and compliance with its requirements because its trade with other States Parties will not be subject to CWC trade restrictions. The costs of the regulation will include: (1) the cost to industry of preparing data declarations and reports and preparing for and receiving inspections; and (2) the cost to government of processing the declarations and reports, assisting industry to prepare for inspections, and escorting OPCW inspection teams.

Timetable:

Action	Date	FR Cite
Proposed Rule	07/21/99	64 FR 39193
Final Rule	10/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal

Agency Contact:

Hillary Hess
Director, Regulatory Policy Division
Department of Commerce
Bureau of Export Administration
2096/MS 2705
14th & Pennsylvania Ave., N.W.
Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB06

DOC—National Oceanic and Atmospheric Administration (NOAA)

PROPOSED RULE STAGE

19. LICENSING OF PRIVATE REMOTE-SENSING SATELLITE SYSTEMS

Priority:

Other Significant

Legal Authority:

15 USC 5601 et seq

CFR Citation:

15 CFR 960.1 et seq

Legal Deadline:

None

Abstract:

The proposed regulations would update the 1987 regulations to reflect the intervening events and information gathered through the public process, as well as the experience gained during recent licensing procedures. The intent of the regulations is to facilitate the development of the U.S. commercial remote-sensing industry and thus promote the collection and widespread availability of Earth remote-sensing data, while preserving essential U.S. national security interests and international obligations. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market.

Statement of Need:

On July 10, 1987, NOAA published final regulations implementing Title IV of the Land Remote Sensing Act of 1984 (the 1984 Act), setting forth the procedural requirements for obtaining a license. In 1988, the Radio Television News Directors Association filed a Petition for Rulemaking requesting NOAA to reopen these regulations in light of the President's January 5, 1988,

Decision Directive encouraging commercial space development. On January 18, 1989, NOAA responded to this Petition, agreeing to reopen the regulations and incorporate certain principles favorable to commercial development that were consistent with the Directive. See 54 FR 1945.

Shortly thereafter, Congress began to review the 1984 Act and, on October 28, 1992, enacted the 1992 Act, which repealed and succeeded the 1984 Act. The 1992 Act made significant changes to the 1984 Act, particularly with regard to the latter's requirement that all unenhanced data must be provided on a nondiscriminatory basis. The 1992 Act also provided for judicial review of certain licensing and enforcement actions.

On November 3, 1997, NOAA issued a Notice of Proposed Rulemaking (NPRM) revising its procedures governing the licensing of private commercial Earth remote-sensing space systems under title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 et seq. (1992 Act). On April 1, 1998, NOAA held a public meeting to listen to public comments on the proposed regulations. The public comment period ended the next day.

NOAA received 24 sets of public comments to the November 3, 1997, NPRM from a wide range of interests in industry, the media, academia, government, and the foreign policy community. The major substantive issues raised can be summarized under the following categories: (1) control, ownership, and investment; (2) national security concerns and international obligations concerns; (3) review of foreign agreements; (4) confidentiality of information; and (5) the interagency memorandum of understanding.

As a result of the extensive public comments received on the November 3, 1997, proposed rule and at the April 1, 1998, public hearing, NOAA has determined it appropriate to revise its proposal and seek further public comment. This revised NPRM incorporates changes in each of the areas addressed by the comments, with the most significant changes in the area of foreign ownership, control, and investment. Specifically, the revised rule focuses more closely on "control" over the operations of the system. The revised rule has also been harmonized with existing regulations addressing foreign ownership and control. This revised NPRM also incorporates and facilitates NOAA's enforcement program, which will be key to protecting vital national security interests once the high-resolution systems become operational.

Summary of Legal Basis:

Title II of the 1992 Act requires that any person subject to the jurisdiction or control of the United States obtain a license from the Secretary of Commerce before operating a private remote-sensing space system. The authority to issue licenses has been delegated to the Administrator of NOAA and redelegated to the Assistant Administrator for Satellite and Information Services.

Alternatives:

The November 3, 1997, proposed regulations incorporate the basic regulatory principle that any restrictions on a licensee, including those required for national security and foreign policy purposes, must be the least burdensome possible to achieve the stated objective. The fundamental goal of the proposed rule was to support and enhance U.S. industrial competitiveness in the field of remote-sensing space capabilities, while at the same time protecting U.S. national security and foreign policy interests. The measures included in the proposed rule are those necessary to protect U.S. interests. The alternatives to the measures proposed would be the establishment of national security and foreign policy controls that would hinder or prevent growth of the commercial market or allowing unrestricted commercial operations that could harm U.S. national security and foreign policy interests. The final regulations will achieve this goal.

Anticipated Cost and Benefits:

The intent of the regulations is to help promote the development of the commercial remote-sensing industry by keeping Government oversight to the minimum necessary to ensure protection of U.S. national security and foreign policy interests and by making that role predictable and transparent to the affected applicants and licensees. An underlying premise is that the long-term national security and foreign policy interests of the United States are best served by helping the U.S. industry to lead this emerging market. Failure to provide a regulatory regime that nurtures and fosters the development of this high-skilled, high-wage industry is likely to result in the United States losing not only its advantage in this technology, but also a great percentage of the projected growth in economic value of this industry. The costs of the licensing procedures would be borne, for the most part, by the Federal Government and would not be significant.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	12/04/95	60 FR 62054
Notice of Public Meeting	05/14/96	61 FR 24480
NPRM	11/03/97	62 FR 59317
Notice of Public Meeting	03/05/98	63 FR 10785
Revised NPRM	11/00/99	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Agency Contact:

Charles Wooldridge
Licensing Coordinator
Department of Commerce
National Oceanic and Atmospheric Administration
NOAA/NESDIS
Silver Spring, MD 20910
Phone: 301 713-2024

RIN: 0648–AC64

BILLING CODE 3510–BW–F

DEPARTMENT OF DEFENSE (DOD)

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of 3 military departments (Army, Navy, and Air Force), 9 unified combatant commands, 14 Defense agencies, and 7 DoD field activities. It has over 1,360,000 military personnel and 700,000 civilians assigned as of May 31, 1999, and over 500 military installations and properties in the continental United States, U. S. territories, and foreign countries. The overall size, composition, and dispersion of the Department of Defense, coupled with an innovative regulatory program, presents a challenge to the management of the Defense regulatory efforts under Executive Order 12866 "Regulatory Planning and Review" of September 30, 1993.

Because of its diversified nature, DoD is impacted by the regulations issued by regulatory agencies such as the Departments of Energy, Health and Human Services, Housing and Urban Development, Labor, Transportation, and the Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in Executive Order 12866, there must be coordination of proposed regulations among the regulating agencies and the affected Defense components. Coordinating the proposed regulations in advance throughout an organization as large as DoD is straightforward, yet a formidable undertaking.

DoD is not a regulatory agency but occasionally issues regulations that have an impact on the public. These regulations, while small in number compared to the regulating agencies, can be significant as defined in Executive Order 12866. In addition, some of DoD's regulations may impact the regulatory agencies. DoD, as an integral part of its program, not only receives coordinating actions from the regulating agencies, but coordinates with the agencies that are impacted by its regulations, as well.

The regulatory program within DoD fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866. Promulgating and implementing the regulatory program throughout DoD presents a unique challenge to the management of our regulatory efforts.

Coordination

Interagency

DoD annually receives regulatory plans from those agencies that impact the operation of the Department through the issuance of regulations. A system for coordinating the review process is in place, regulations are reviewed, and comments are forwarded to the Office of Management and Budget. The system is working in the Department, and the feedback from the Defense components is most encouraging since they are able to see and comment on regulations from the other agencies before they are required to comply with them. The coordination process in DoD continues to work as outlined in Executive Order 12866.

Internal

Through regulatory program points of contact in the Department, we have established a system that provides information from the Vice President and the Administrator of the Office of Information and Regulatory Affairs (OIRA) to the personnel responsible for the development and implementation of DoD regulations. Conversely, the system can provide feedback from DoD regulatory personnel to the Administrator, OIRA. DoD continues to refine its internal procedures, and this ongoing effort to improve coordination and communication practices is well received and supported within the Department.

Overall Priorities

The Department of Defense needs to function at a reasonable cost, while ensuring that it does not impose ineffective and unnecessarily burdensome regulations on the public. The rulemaking process should be responsive, efficient, cost-effective, and both fair and perceived as fair. This is being done at a time when there is a significant ongoing downsizing in the Department and it must react to the contradictory pressures of providing more services with fewer resources. The Department of Defense, as a matter of overall priority for its regulatory program, adheres to the general principles set forth in Executive Order 12866 as amplified below.

Problem Identification

Congress typically passes legislation to authorize or require an agency to issue regulations and often is quite specific about the problem identified for correction. Therefore, DoD does not generally initiate regulations as a part of its mission.

Conflicting Regulations

Since DoD does not plan to issue any significant regulations this year, the probability of developing conflicting regulations is low. Conversely, DoD is impacted to a great degree by the regulating agencies. From that perspective, DoD is in a position to advise the regulatory agencies of conflicts that appear to exist using the coordination processes that exist in the DoD and other Federal agency regulatory programs. It is a priority in the Department to communicate with other agencies and the affected public to identify and proactively pursue regulatory problems that occur as a result of conflicting regulations both within and outside the Department.

Alternatives

DoD will identify feasible alternatives that will obtain the desired regulatory objectives. Where possible, the Department encourages the use of incentives to include financial, quality of life, and others to achieve the desired regulatory results.

Risk Assessment

Assessing and managing risk is a high priority in the DoD regulatory program. The Department is committed to risk prioritization and an "anticipatory" approach to regulatory planning which focuses attention on the identification of future risk. Predicting future regulatory risk is exceedingly difficult due to rapid introduction of new technologies, side effects of Government intervention, and changing societal concerns. These difficulties can be mitigated to a manageable degree through the incorporation of risk prioritization and anticipatory regulatory planning into DoD's decisionmaking process which results in an improved regulatory process and increases the customer's understanding of risk.

Cost-Effectiveness

One of the highest priority objectives of DoD is to obtain the desired regulatory objective by the most cost-effective method available. This may or may not be through the regulatory process. When a regulation is required, DoD considers incentives for innovation to achieve desired results, consistency in the application of the regulation, predictability of the activity outcome (achieving the expected results), and the costs for regulation development, enforcement, and compliance. These will include costs to the public, Government, and regulated entities, using the best available data or parametric analysis methods, in the

cost-benefit analysis and the decisionmaking process.

Cost-Benefit

Conducting cost-benefit analyses on regulation alternatives is a priority in the Department of Defense so as to ensure that the potential benefits to society outweigh the costs. Evaluations of these alternatives are done quantitatively or qualitatively or both, depending on the nature of the problem being solved and the type of information and data available on the subject. DoD is committed to considering the most important alternative approaches to the problem being solved and providing the reasoning for selecting the proposed regulatory change over the other alternatives.

Information-Based Decisions

The Defense Department uses the latest technology to provide access to the most current technical, scientific, and demographic information in a timely manner through the world-wide communications capabilities which are available on the "information highway." Realizing that increased public participation in the rulemaking process improves the quality and acceptability of regulations, DoD is committed to exploring the use of Information Technology (IT) in rule development and implementation. IT provides the public with easier and more meaningful access to the processing of regulations. Furthermore, the Department endeavors to increase the use of automation in the Notice and Comment Rulemaking process in an effort to reduce time pressures in the regulatory process.

Performance-Based Regulations

Where appropriate, DoD is incorporating performance-based standards that allow the regulated parties to achieve the regulatory objective in the most cost-effective manner.

Outreach Initiatives

DoD endeavors to obtain the views of appropriate State, local, and tribal officials and the public in implementing measures to enhance public awareness and participation both in developing and implementing regulatory efforts. Historically, this has included such activities as receiving comments from the public, holding hearings, and conducting focus groups. This reaching out to organizations and individuals who are affected by or involved in a particular regulatory action remains a significant regulatory priority of the Department and, we feel, results in much better regulations.

Coordination

DoD has enthusiastically embraced the coordination process between and among other Federal agencies in the development of new and revised regulations. Annually, DoD receives regulatory plans from key regulatory agencies and has established a systematic approach to providing the plans to the appropriate policy officials within the Department. Feedback from the DoD components indicates that this communication among the Federal agencies is a major step forward in improving regulations and the regulatory process, as well as in improving Government operations.

Minimize Burden

In the regulatory process, there are more complaints concerning burden than anything else. In DoD, much of the burden is in the acquisition area. Over the years, acquisition regulations have grown and become burdensome principally because of legislative action. But, in coordination with Congress, the Office of Federal Procurement Policy, and the public, DoD is initiating significant reforms in acquisition so as to effect major reductions in the regulatory burden on personnel in Government and the private sector.

The Department of Defense has made a commitment to the Vice President, as a high impact agency under the National Partnership for Reinventing Government, to reduce paper transactions by 50 percent by the year 2000. The composite of all paperless contracting transactions must be increased to 64 percent in Fiscal Year 2000 in order to meet the 50 percent reduction goal. As of August 1999, DoD's composite of all paperless contracting is 67 percent.

DoD implemented a multi-year strategy for reducing the paperwork burden imposed on the public. This plan shows that DoD has met and will exceed the goals set forth in the Paperwork Reduction Act. One significant reduction in the burden imposed on the public is planned as a result of the review of the information collection requirement in support of the solicitation phase of the Department of Defense acquisition process. The information collection requirement pertains to information that an offeror must submit to DoD in response to DoD solicitations, not covered by another Office of Management and Budget (OMB) clearance. DoD reviewed the information being collected under this requirement and reduced the number of respondents, as well as the number of actions, to reflect fiscal year 1998 data available in the DoD database. As a result of these reviews, DoD plans to reduce the burden hours imposed on the public under this information collection requirement by an estimated 18.4 million hours per year.

Another significant decrease is planned for the Department's largest information collection and will result from a reduction in contractor data requirements. This program change will decrease the burden in excess of 7.3 million hours. The combined total burden reduction in the Department's two largest information collections will decrease DoD's burden on the public by 21 percent from the actual FY 1998 year end total. This is the first time that the Department's total burden has dropped below 100 million hours. It is the goal of the Department of Defense to impose upon the public the smallest burden viable, as infrequently as possible, and for no longer than absolutely necessary.

Plain Language

Ensuring that regulations are simple and easy to understand is a high regulatory priority in the Department of Defense. All too often, the regulations are complicated, difficult to understand, and subject to misinterpretation, all of which can result in the costly process of litigation. The objective in the development of regulations is to write them in clear, concise language that is simple and easy to understand.

DoD recognizes that it has a responsibility for drafting clearly written rules that are reader-oriented and easily understood. Rules will be written for the customer using natural expressions and simple words. Stilted jargon and complex construction will be avoided. Clearly written rules will tell our customers what to do and how to do it. DoD is committed to a more customer-oriented approach and uses Plain Language rules thereby improving compliance and reducing litigation. The Department will adhere to the timetable established in the President's memorandum of June 1, 1998, regarding Plain Language in Government Writing, for incorporation of plain writing techniques in official documents.

In summary, the rulemaking process in DoD should produce a rule that addresses an identifiable problem, implements the law, incorporates the President's policies defined in Executive Order 12866, is in the public interest, is consistent with other rules

and policies, is based on the best information available, is rationally justified, is cost-effective, can actually be implemented, is acceptable and enforceable, is easily understood, and stays in effect only as long as is necessary. Moreover, the proposed rule or the elimination of a rule should simply make sense.

Specific Priorities

For this regulatory plan, there are three specific DoD priorities, all of which reflect the established regulatory principles. In those areas where rulemaking or participation in the regulatory process is required, DoD has studied and developed policy and regulation which incorporate not only the provisions of the President's priorities and objectives under the Executive order but also the National Performance Review, dated September 1993.

DoD has focused its regulatory resources on the most serious environmental, health, and safety risks. Perhaps most significant is that each of the three priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life such as those regulations concerning wetlands, acquisition, and health care delivery.

Preserve Quality and Quantity of Wetlands

During FY 2000, the U.S. Army Corps of Engineers is not proposing any significant regulations as defined by Executive Order 12866. The Office of the Assistant Secretary of the Army (Civil Works) and the Corps will propose and complete two regulations initiated as part of the President's August 24, 1993, Wetlands Protection Plan and the President's 1995 Regulatory Reinvention Initiative. The wetlands protection plan provides for a fair, flexible, and effective approach to protecting America's wetlands through both regulatory and nonregulatory mechanisms. The regulatory reinvention initiative reinforced those provisions and included additional regulatory reform and streamlining provisions.

During 2000, the Corps will propose and finalize two regulations pursuant to its authorities under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act of 1899. The first regulation will establish an administrative appeal process whereby permit applicants and landowners can appeal Corps jurisdiction determination decisions. This regulation was proposed on July 19, 1995, with a similar regulation on permit denials and declined permits. The permit denial appeal regulation was finalized on March 9, 1999, and became effective on August 6, 1999. The administrative appeal process will increase fairness to applicants and landowners in the permitting process by establishing a recourse to Corps permit denials, declined permits, and jurisdiction determined decisions without pursuing litigation. The process will also provide for interested party involvement when the Corps reconsiders a previous denial or declined permit.

The second regulation will be to clarify the scope of analysis that the Corps has responsibility for under the Endangered Species Act (ESA). The Corps scope of analysis for the National Environmental Policy Act and the National Historic Preservation Act is established in 33 CFR part 325, appendices B and C, respectively. This regulation will adopt the Corps ESA scope of analysis consistent with the ESA, the ESA regulations, and the Corps authorities.

Reform Defense Acquisition

The Department continues its efforts to reengineer its acquisition system to achieve its vision of an acquisition system which is recognized as being the smartest, most efficient, most responsive buyer of best value goods and services which meet the warfighter's needs from a globally competitive base. To achieve this vision, the Department will focus in the acquisition regulations arena during this next year on implementing and institutionalizing initiatives which may include additional changes to existing, and recently modified, regulations to ensure that we are achieving the outcomes we desire (continuous process improvement). The Department will focus on reengineering the process by which it acquires services, focusing on the use of performance-based work statements. The Department also intends to improve its use of electronic commerce/electronic data interchange.

The Department is committed to acquisition reform and continues to make significant improvements in this area, consistent with the National Performance Review and Executive Order 12866. DoD is leading the following initiatives to reform the acquisition process, which include, integrating commercial and military facilities, and expanding the ability to buy commercial products and expanding the use of commercial procedures.

Integration of commercial and military facilities is critical to enable the Department to capitalize on and access commercial technology, and generate funds for modernization, all within a balanced-budget environment. In addition to the need to integrate commercial and military facilities, the Department must expand the use of commercial procedures. Acquisition Reform's Commercial Practices Initiative is geared to providing learning opportunities on key techniques, strategies and negotiating/pricing tools used in the commercial business environment. Modern, technology-based learning methods and enterprise models of change management are available to meet the needs for both individual and team training. Based on the knowledge gained, the workforce will be enabled to adopt best practices, implement reforms, and understand better how to work with commercial businesses, including ones that are not themselves accustomed to doing business with DoD.

DoD continuously reviews its supplement to the Federal Acquisition Regulation (FAR) and continues to lead Governmentwide efforts to simplify the following acquisition processes:

- Rewrite of FAR part 45, Government Property. The goals of the FAR part 45 rewrite are to reduce contractor and Government costs to manage property in the possession of contractors by streamlining recordkeeping requirements; to eliminate requirements to track, report, and inventory property valued at $5,000 or less during contract performance; to eliminate oversight for items valued under $1,000,000 where the contractor assumes liability for loss, damage, or destruction of property; to replace five inventory schedules with a single inventory disposal schedule; and to shorten screening times prior to disposal. The FAR part 45 rewrite also encourages the dual use of Government property introducing commercial rental practices and reducing property rental costs.
- Rewrite of various FAR cost principles. The goal of this initiative is to determine whether certain FAR cost principles are still relevant in today's business environment, whether they place an unnecessary administrative burden on contractors and the Government, and whether they can be streamlined or simplified.
- Review of FAR guidance pertaining to progress payments and other related financing policies. The goal of this initiative is to simplify the progress payments process; to minimize the burdens imposed on contractors and

contracting officers; and to expand the use of performance-based payments or commercial financing payments.

- Rewrite FAR part 25, International Acquisition. The goal of this initiative is to clarify and simplify the complex, interrelated laws and agreements which govern international trade.
- Revise policy on the applicability of cost accounting standards. The goal of this initiative is to modify and streamline the applicability of the Federal cost accounting standards.
- Revise policy on the use of the Governmentwide commercial purchase card. The goal of this initiative is to increase the use of the purchase card for small dollar purchases.
- Revise policy to expand the use of the procedures in FAR part 12, Acquisition of Commercial Items. The goal of this initiative is to expand the use of streamlined procedures for the acquisition of commercial items.
- Develop FAR and DFARS guidance on the use of price based acquisition. The goal of this initiative is to move away from the use of cost as a basis for contracting to acquisition on the basis of price, to the maximum extent practicable. The use of price will reduce the administrative burden for both Government and industry and result in lower overhead rates.

Improve Health Care Delivery in the Defense Department

The Department of Defense is able to meet its dual mission of wartime readiness and peacetime health care by operating an extensive network of medical treatment facilities. This network includes DoD's own military treatment facilities supplemented by civilian health care providers, facilities, and services under contract to DoD through the TRICARE program. TRICARE is a major health care initiative designed to improve the management and integration of DoD's health care delivery system. The program's goal is to increase access to health care services, improve health care quality, and control health care costs. TRICARE builds upon the original CHAMPUS program by offering two additional options, Prime and Extra. The Prime enrollment offers an HMO-like option; and two options that do not require enrollment: Extra is a preferred provider-like option while Standard is a fee for service option (formally known as CHAMPUS). Like the old CHAMPUS program, under TRICARE, DoD continues to share the cost of civilian health care with its eligible beneficiaries when services are not available in the military medical treatment facility.

DoD will be testing a variety of alternative health care delivery approaches to providing care for our over-65 beneficiaries. In addition to the ongoing TRICARE Senior Prime demonstration project allowing beneficiaries over the age of 65 the ability to enroll in the TRICARE HMO option, the Department plans to test additional approaches including a limited pharmacy demonstration, a Federal Employees Health Benefits Program (FEHBP) demonstration, and a TRICARE Senior Supplement demonstration. These demonstration projects are conducted under the authority of title 10, chapter 55, section 1092.

The principal health-related regulatory publications of the Department are based on CHAMPUS, the Civilian Health and Medical Program of the Uniformed Services (32 CFR part 199). CHAMPUS regulations are comprehensive and address issues such as: eligibility, benefits, authorized providers, claims payment, appeals procedures, and the health care delivery options available under TRICARE.

DoD coordinates changes to CHAMPUS regulations with the Departments of Transportation (U. S. Coast Guard), Health and Human Services (Public Health Service), and Commerce (National Oceanic and Atmospheric Administration) whose beneficiaries are also eligible for CHAMPUS. Revisions in the TRICARE/CHAMPUS Program's statutory base or DoD initiatives to improve the program may result in amendments to the regulation. DoD's regulatory priorities for the upcoming year include: promulgation of regulations governing TRICARE Prime enrollment for families of E–4 and below; modifications to reimbursement for beneficiaries who have other health insurance that is primary to TRICARE; implementing a TRICARE incentive payment program modeled after the Medicare Incentive payment program; and modifying payment rates for providers who practice in remote locations in Alaska.

BILLING CODE 5001–10–F

DEPARTMENT OF EDUCATION (ED)

Statement of Regulatory and Deregulatory Priorities

The Department supports States, local communities, and institutions of higher education, and others to improve education nationwide. The Department's roles include leadership and financial support for education to agencies, institutions, and individuals in situations where there is a national interest; monitoring and enforcing of civil rights in the area of education; and supporting research, evaluation, and dissemination of findings to improve the quality of education. ED works in partnership with parents, neighborhoods, schools, colleges, educators, business leaders, communities, and States across the country. Since the announcement of President Clinton's "Regulatory Reinvention Initiative" on March 4, 1995, the Department has conducted a comprehensive review of its programs, legislation, and implementing regulations to enhance partnerships, increase flexibility, and improve accountability. In response to this initiative, the Department has eliminated or simplified most of its regulations—including the elimination of 2/3 of the regulations applicable to elementary and secondary education programs. The Department has accomplished these results through a departmentwide effort that recognizes that students and educational partners are best served by regulations that focus on critical steps and results, allow as much flexibility as possible consistent with statutory and program goals, and impose the least possible burden.

As part of its regulatory reinvention efforts and in response to the President's memorandum of June 1, 1998, on "Plain Language in Government Writing," the Department also seeks to draft all of its regulations and related documents clearly and concisely in plain language, so that potential program beneficiaries will better understand benefits and requirements. Woven throughout the Department's reinvention is a commitment to provide quality customer service in the spirit of continuous improvement to assure that we are truly "putting people first." The Department listens to our customers to identify their needs and incorporates their suggestions into program goals and strategies.

In order to provide information and support enhanced exchange, the Department instituted 1-800-USA-LEARN to connect our customers to a "one-stop-shopping" center for information about departmental programs and initiatives; 1-800-4FED-AID for information on student aid; and an on-line library of information on education legislation, research, statistics, and promising programs. Internet address:

http://www.ed.gov.

More than 10,000 people take advantage of these resources every week. The Department has forged effective partnerships with customers and others to develop policies, regulations, guidance, technical assistance, and compliance approaches. The Department has an impressive record of successful communication and shared policy development with affected persons and groups, including parents, representatives of State and local government, institutions of higher education, school administrators, teachers, students, special education and rehabilitation service providers, professional associations, advocacy organizations, business, and labor.

In particular, the Department continues to seek greater and more useful customer participation in its rulemaking activities through the use of consensual rulemaking and new technology. When rulemaking is determined to be absolutely necessary, customer participation is essential and sought at all stages—in advance of formal rulemaking, during rulemaking, and after rulemaking is completed in anticipation of further improvements through statutory or regulatory changes. The Department has expanded its outreach efforts through the use of satellite broadcasts, electronic bulletin boards, and teleconferencing. For example, the Department invites comments on all proposed rules through the Internet.

The Department is streamlining information collections, reducing burden on information providers involved in ED programs, and making information maintained by the Department easily available to the public. Coordinating similar information collections across programs may be one approach to reduce overlapping and inconsistent paperwork requirements. To the extent permitted by statute, regulations will be revised to eliminate barriers that inhibit coordination across programs (such as by creating common definitions), to reduce the frequency of reports, and to eliminate unnecessary data requirements. ED has reduced the information collection burden imposed on the public by 14.7 percent in fiscal year (FY) 1996, by 11 percent in FY 1997, and by more than 5 percent in FY 1998. Our goal for FY 1999 is a further 5 percent reduction.

The Department's Principles for Regulating, developed in October 1994 during planning to implement the Improving America's Schools Act of 1994, determine when and how it will regulate. Through aggressive application of the following principles, the Department has eliminated outdated or unnecessary regulations and identified situations in which major programs could be implemented without any regulations or with only limited regulations.

Principles for Regulating

The Department will regulate only if regulating improves the quality and equality of services to the Department's customers, learners of all ages. The Department will regulate only when absolutely necessary and then in the most flexible, most equitable, and least burdensome way possible.

Whether to Regulate:

- When essential to promote quality and equality of opportunity in education.
- When a demonstrated problem cannot be resolved without regulation.
- When necessary to provide legally binding interpretation to resolve ambiguity.
- Not if entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

How to regulate:

- Regulate no more than necessary.
- Minimize burden and promote multiple approaches to meeting statutory requirements.
- Encourage federally funded activities to be integrated with State and local reform activities.
- Ensure that benefits justify costs of regulation.
- Establish performance objectives rather than specify compliance behavior.
- Encourage flexibility so institutional forces and incentives achieve desired results.

Regulatory and Deregulatory Priorities for the Next Year

Higher Education Amendments of 1998

Legislation reauthorizing the Higher Education Act has been a Department priority in 1999. To the extent regulations were determined to be necessary, they were developed through regulatory negotiation with the participation of interested parties. Three of the most significant regulations

needed to implement the new legislation are listed as the Department's priorities in the 1999 Regulatory Plan.

The State Vocational Rehabilitation Services Program

The State Vocational Rehabilitation (VR) Services Program is a $2.5 billion program that provides funds to State VR agencies to assist individuals with disabilities to achieve employment. These regulations would amend the existing program regulations in 34 CFR part 361 to implement various changes in recently enacted statutes.

ED—Office of Postsecondary Education (OPE)

PROPOSED RULE STAGE

20. • GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS (GEAR UP)

Priority:

Other Significant

Legal Authority:

20 USC 1070a-21 et seq

CFR Citation:

34 CFR 694

Legal Deadline:

None

Abstract:

These regulations are needed to implement section 403 of the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998), establishing GEAR UP, a program designed to give more low-income students the skills, encouragement, and preparation needed to pursue postsecondary education, and to strengthen academic programs and student services at participating schools.

Statement of Need:

These regulations are necessary to implement new legislation. In developing the regulations, the Department will seek to minimize regulatory burden and maximize flexibility.

Summary of Legal Basis:

Pub. L. 105-244, enacted October 7, 1998.

Alternatives:

In implementing the legislation, the Department will consider whether there are any appropriate alternatives.

Anticipated Cost and Benefits:

The Department will consider anticipated costs and benefits in developing these regulations.

Risks:

These regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

David Condon
Department of Education
Office of Postsecondary Education
400 Maryland Avenue, SW.
Washington, DC 20202
Phone: 202 502-7676

RIN: 1840–AC82

ED—Office of Special Education and Rehabilitative Services (OSERS)

PROPOSED RULE STAGE

21. • THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM (SECTION 610 REVIEW)

Priority:

Other Significant

Legal Authority:

29 USC 711(C)

CFR Citation:

34 CFR 361

Legal Deadline:

None

Abstract:

These regulations are needed to implement changes made by the Rehabilitation Act Amendments of 1998, the Reading Excellence Act, and the Carl D. Perkins Vocational and applied Technology Education Act Amendments of 1998.

Statement of Need:

These regulations are necessary to implement new legislation. The Department is also completing its review of these regulations under section 610(c) of the Regulatory Flexibility Act. In developing the regulations, the Department will seek to reduce regulatory burden and increase flexibility to the extent possible.

Summary of Legal Basis:

Pub. L. 105-220, enacted August 7, 1998.

Alternatives:

In addition to implementing the new legislation, the purpose of reviewing these regulations is to determine whether there are appropriate alternatives.

Anticipated Cost and Benefits:

Existing regulatory provisions may be eliminated or improved as a result of this review.

Risks:

These regulations would not address a risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Beverlee Stafford
Director, Planning, Policy, and Evaluation Services
Department of Education
Office of Special Education and Rehabilitative Services
Room 3014
Switzer Building
400 Maryland Ave. SW
Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB50

BILLING CODE 4000–01–F

DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory Priorities

The Department makes vital contributions to the Nation's welfare through its extraordinary scientific and technical capabilities in energy research, environmental remediation, and national security. The Department's mission is to:

- Enhance the Nation's energy security by developing and deploying clean and affordable energy supplies and by improving the energy efficiency of our economy;
- Ensure a safe and reliable nuclear weapons stockpile and reduce the global nuclear danger;
- Clean up former nuclear weapons sites and address the complex challenge of disposing of nuclear wastes; and
- Leverage science and technology to advance fundamental knowledge and our country's competitiveness with stronger partnership with the private sector.

The Department of Energy's 1999 regulatory plan reflects the Department's continuing commitment to enhance safety, cut costs, reduce regulatory burden, and increase responsiveness to the public. While not primarily a major Federal regulatory agency, the Department's regulatory activities are essential to achieving its critical mission.

Energy Efficiency Program for Consumer Products and Commercial Equipment

During fiscal year 1999, the Department made substantial progress with the high priority standards rulemakings (i.e., clothes washers, fluorescent lamp ballasts, water heaters, and residential central air conditioning and central air conditioning heat pumps). In November 1998, the Department published a supplemental advance notice of proposed rulemaking for clothes washers. A proposed rule for distribution transformer test procedures was published in November 1998.

The Department's rulemaking activities related to energy efficiency standards and determinations have been categorized as high, medium, or low priority. The schedules in this regulatory plan and the **Unified Agenda of Federal Regulatory and Deregulatory Actions** reflect priorities established with significant input from the public. The standards rulemakings incorporate the process improvements established in July 1996, including more workshops to collect public input and new, more transparent forecasting models developed with the help of industry experts, including manufacturers.

During fiscal year 2000, the Department expects to publish final rules for clothes washer, fluorescent lamp ballast, and residential water heater efficiency standards, and to propose efficiency standards for residential central air conditioners and residential heat pumps. The Department expects to begin preparation of efficiency standards for commercial air conditioners and commercial heat pumps, furnaces and boilers, and commercial water heaters. Proposed rules for test procedures for these commercial products should be published by the early part of fiscal year 2000. Additional information and timetables for these actions are presented below. Information concerning the medium priority and low priority standards rulemakings and the test procedures rulemakings can be found in the Department's regulatory agenda, which appears elsewhere in this issue of the **Federal Register**.

Nuclear Safety Regulations

The Department is committed to openness and public participation as it addresses one of its greatest challenges—managing the environment, health, and safety risks posed by its nuclear activities. A key element in the management of these risks is to establish the Department's expectations and requirements relative to nuclear safety and to hold its contractors accountable for safety performance. The 1988 Price-Anderson Amendments Act revisions to the Atomic Energy Act of 1954 (AEA) provide for the imposition of civil and criminal penalties for violations of DOE nuclear safety requirements. As a result, new nuclear safety requirements were initiated with the publication of four notices of proposed rulemaking for review and comment in 1991. The Department's nuclear safety procedural regulations (10CFR Part 820) were published as a final rule in 1993. Substantive DOE nuclear safety requirements were issued as 10 CFR Parts 830 and 835 (Parts 830 and 835) in 1994 and 1993, respectively. On November 4, 1998, DOE published an amendment to 10 CFR Part 835 to revise Part 835 based on a comprehensive evaluation of the Department's radiation protection program.

In August 1995, the Department published a notice of limited reopening of the comment period to request public comments on the remaining Part 830 and 10 CFR Part 834 (Part 834) rulemakings. The Department has substantially completed the comment resolution process and has addressed the major issues raised by the Defense Nuclear Facilities Safety Board and is engaged in a dialog with the Environmental Protection Agency concerning its comments on Part 834.

The Department recently established an integrated safety management initiative to ensure that safety activities at a DOE site or facility are integrated and appropriate for the work and hazards. One outcome of this initiative, incorporated as part of the contract reform final rule published on June 27, 1997, requires contractors to manage and perform work in accordance with a documented safety management system that ensures that environment, safety and health are integrated into all phases of work. The Department intends to ensure that its nuclear safety regulations (1) are consistent with the integrated safety management process and (2) avoid duplication and counterproductive efforts. The Department expects to complete an interim final rulemaking to accomplish this goal on Parts 830 and 834 by January 1, 2000.

Chronic Beryllium Disease Protection Program

The AEA gives the Department the authority to prescribe regulations as it deems necessary to govern any activity authorized by the AEA, specifically including standards to protect health and minimize danger to life or property (42 U.S.C. 2201(i)(3) and (p)). In addition, section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668) and Executive Order 12196, "Occupational Safety and Health Programs for Federal Employees," (5 U.S.C. 7902 note), require Federal agencies to establish comprehensive occupational safety and health programs for their employees.

The Department has a long history of beryllium use because of the element's broad application to many nuclear operations and processes. Beryllium metal and ceramics are used in nuclear weapons, as nuclear reactor moderators or reflectors, and as nuclear reactor fuel element cladding. Inhalation of beryllium dust or particles may cause chronic beryllium disease (CBD) and beryllium sensitization. CBD is a chronic, often debilitating, and potentially fatal lung condition. Beryllium sensitization is a condition in which a person's immune system becomes highly responsive (allergic) to the presence of beryllium in the body.

Based on the number of confirmed cases of CBD and the expected future increase in the number of workers potentially exposed to beryllium during decontamination and decommissioning activities, the Department has concluded that there is a compelling need for a chronic beryllium disease prevention program rule to meet its obligation to establish and maintain an effective occupational safety and health program to protect its employees and other workers at DOE facilities.

In 1996, the Department surveyed its contractors to characterize the extent of beryllium usage, the types of tasks involving beryllium usage, the controls in place for each task, the estimated number of workers exposed during each task, and the estimated exposure levels associated with each task. To supplement the data obtained from the survey, the Department published a **Federal Register** notice on December 30, 1996, requesting scientific data, information, and views relevant to a new Departmental beryllium health standard (61 FR 68725). This was followed by two Beryllium Public Forums held in Albuquerque, New Mexico and Oak Ridge, Tennessee in January 1997.

The Department established the Beryllium Rule Advisory Committee (BRAC) in June 1997, to advise the DOE on issues pertinent to the proposed rulemaking. The BRAC, which consisted of a diverse set of stakeholders and recognized experts from DOE, other Federal agencies, industry, labor, medicine, and academia, explored issues and generated recommendations for consideration in the development of a chronic beryllium disease prevention rule. As an interim measure to protect workers from the hazards of beryllium, the Department issued an administrative directive in July 1997, to establish a chronic beryllium disease prevention program (CBDPP) that enhances the existing worker protection program.

On December 3, 1998, the Department published a notice of proposed rulemaking (NPRM) for public comment in the **Federal Register** (63 FR 66940) proposing regulations for a CBDPP, at10 CFR Part 850. This proposed regulation is expected to reduce the number of workers at DOE facilities exposed to beryllium, minimize the levels of and potential for exposure to beryllium, and establish medical surveillance requirements to ensure early detection and treatment of disease. The Department is now considering the comments and data from interested parties submitted to the beryllium docket and other information relevant to the development of the final CBDPP rule. The Department expects to complete final action on Part 850 rulemaking by December 1999.

Polygraph Examination Program

In Presidential Decision Directive (PDD) 61, *Department of Energy Counterintelligence Program*, dated February 11, 1998, the President instructed DOE to develop and implement specific measures to enhance protection of the highly sensitive and classified information at its facilities, including implementation of a polygraph program.

A counterintelligence-scope polygraph examination both serves as a means to deter unauthorized disclosures of classified information and provides a means for possible early detection of disclosures to enable DOE to take steps promptly to prevent further harm to the national security. Although the Employee Polygraph Protection Act (EPPA) generally prohibits the use of polygraph examinations in private employment settings, it specifically allows for DOE, in the performance of its counterintelligence function, to administer polygraph examinations to expert, consultant or contractor employees of DOE in connection with atomic energy defense activities.

As an initial step toward developing and implementing a polygraph examination program, the Department issued an internal directive, DOE Notice 472.2, *Use of Polygraph Examinations*, that establishes a polygraph requirement for Federal employees who occupy or seek to occupy certain sensitive positions at DOE. As a second step, the Department issued a notice of proposed rulemaking on August 18, 1999, (64 FR 45062) to expand the polygraph examination program to cover all employees, contractors as well as Federal employees, who are in positions with access to the most sensitive categories of classified information and materials. Applicants for such positions would be covered as well. The Department expects to issue a final rule this November.

Regulatory Reform

In June 1998, the President directed agencies to use plain language in regulations issued after January 1, 1999. In response to this initiative, the Department has conducted training on the elements of plain language to its major regulatory offices. The Department's rule that protects whistleblowers at our facilities was rewritten in plain language and published on March 15, 1999 (64 FR 12861, Contractor Employee Protection Program, 10 CFR Part 708). The Department is also using plain language in drafting new rules and major revisions to existing rules.

DOE—Energy Efficiency and Renewable Energy (EE)

PROPOSED RULE STAGE

22. ENERGY EFFICIENCY STANDARDS RULEMAKINGS AND DETERMINATIONS FOR HIGH PRIORITY CONSUMER PRODUCTS AND COMMERCIAL EQUIPMENT

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6295

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Statutory, January 1, 1992, (fluorescent lamp ballasts and water heaters).

Final, Statutory, January 1, 1994, (central air conditioners and heat pumps).

Final, Statutory, May 14, 1996, (clothes washers).

Abstract:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the current standard for a covered product should be amended.

This is the initial review of the statutory standards for fluorescent lamp ballasts, water heaters and central air conditioners and heat pumps. This is

the second review of the standard for clothes washers.

Statement of Need:

These rulemakings are required by statute. Experience has shown that the choice of residential appliances and commercial equipment being purchased by both builders and building owners is generally based on the initial cost rather than on life-cycle cost. Thus, the law requires minimum energy efficiency standards for appliances to eliminate inefficient appliances and equipment from the market.

Summary of Legal Basis:

The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and certain types of commercial equipment and generally requires DOE to undergo rulemakings, at specified times, to determine whether the standard for a covered product should be made more stringent.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, the Department conducts a thorough analysis of alternative standard levels, including the existing standard, based on criteria specified by statute. The process improvements that were recently announced (61 FR 36974, July 15, 1996) further enhance the analysis of alternative standards. For example, DOE will ask stakeholders and private sector technical experts to review its analyses of the likely impacts, costs, and benefits of alternative standard levels. In addition, the Department will solicit and consider information on non-regulatory approaches for encouraging the purchase of energy efficient products.

Anticipated Cost and Benefits:

The specific costs and benefits for these rulemakings have not been established because the final standard levels have not been determined. Nevertheless, existing appliance standards are projected to save 23 quadrillion Btu's of energy from 1993 to 2015, resulting in estimated consumer savings of $1.7 billion per year in the year 2000 and estimated annual emission reductions of 107 million tons of carbon dioxide and 280 thousand tons of nitrogen oxides in the year 2000. Under the existing standards, the discounted energy savings for consumers are 2.5 times greater than the up-front price premium paid for the appliance.

Risks:

Without appliance efficiency standards, energy use will continue to increase with resulting damage to the environment caused by atmospheric emissions. Enhancing appliance energy efficiency reduces atmospheric emissions of carbon dioxide and nitrogen oxides. Establishing standards that are too stringent could result in excessive increases in the cost of the product, possible reductions in product utility and may place an undue burden on manufacturers that could result in a loss of jobs or other adverse economic impacts.

Timetable:

1904-AA67 (Clothes Washers)
ANPRM 11/14/1994 (59 FR 56423)
Supplemental ANPRM 11/18/1998 (63 FR 64343)
Workshop 12/15/1998
NPRM 12/00/1999
Final Action 07/00/2000

1904-AA75 (Fluorescent Lamp Ballasts)
ANPRM 09/28/1990 (55 FR 39624)
NPRM 03/04/1994 (59 FR 10464)
Impact Workshop 03/18/1997
Reissue NPRM 11/00/1999
Final Action 06/00/2000

1904-AA76 (Water Heaters)
ANPRM 09/28/1990 (55 FR 39624)
NPRM 03/03/1994 (59 FR 10464)
Workshop 07/23/1999
Reissue NPRM 12/00/1999
Final Action 07/00/2000

1904-AA77 (Central Air Conditioners and Heat Pumps)
ANPRM 09/08/1993 (58 FR 47326)
Screening Workshop 06/30/1998
Supplemental ANPRM 11/00/1999
NPRM 04/00/2000
Final Action 12/00/2000

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Additional Information:

Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact:

Edward Pollock
Acting Director, Office of Codes and Standards
Department of Energy
Conservation and Renewable Energy
1000 Independence Avenue SW.
Washington, DC 20585
Phone: 202 586-9127

RIN: 1904–AA67

DOE—Defense and Security Affairs (DSA)

FINAL RULE STAGE

23. • POLYGRAPH EXAMINATION PROGRAM

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7254

CFR Citation:

10 CFR 709; 10 CFR 710; 10 CFR 711

Legal Deadline:

None

Abstract:

This action would establish regulations for the use of polygraph examinations for certain DOE and contractor employees, applicants for employment, and other individuals assigned or detailed to Federal positions at DOE. The regulations would describe the categories of individuals who would be eligible for polygraph testing and controls for the use of such testing and for the prevention of unwarranted intrusion into the privacy of individuals.

Statement of Need:

The Department has broad responsibilities to direct the development, use, and control of atomic energy. This includes the responsibility to protect sensitive and classified information and materials involved in the design, production, and maintenance of nuclear weapons. A counterintelligence-scope polygraph examination program would deter unauthorized disclosure of classified information. It would also provide a means for early detection of disclosures allowing the Department to act promptly to prevent further harm to the national security.

Summary of Legal Basis:

The Atomic Energy Act of 1954 (AEA), as amended, assigns to DOE certain atomic energy defense production and clean-up obligations that are discharged at various DOE-owned, contractor-operated installations around the country. Section 161 of the AEA authorizes DOE to adopt rules necessary to carry out those functions.

Alternatives:

The Department could continue to rely on purely subjective evaluations of random interviews.

Anticipated Cost and Benefits:

It is estimated that the polygraph examination program would cost approximately one million dollars annually. The use of polygraph testing would strengthen the Department's ability to protect against the disclosure of information and materials that could harm national defense and security.

Risks:

By acting as a deterrent, this program would reduce the risk of unauthorized disclosure of information that could harm national security.

Timetable:

Action	Date	FR Cite
NPRM	08/18/99	64 FR 45062
Final Action	11/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

Douglas Hinckley
Program Director
Department of Energy
Office of Counterintelligence
1000 Independence Avenue SW.
Washington, DC 20585
Phone: 202 586-5901

RIN: 1992–AA24

DOE—Departmental and Others (ENDEP)

FINAL RULE STAGE

---

24. NUCLEAR SAFETY MANAGEMENT

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 830

Legal Deadline:

None

Abstract:

This action will add regulations under 10 CFR 830 to establish nuclear safety management requirements for the Department's nuclear facilities. These requirements stem from the Department's obligations to assure adequate protection and to hold contractors who manage and operate these facilities accountable and responsible for safe operations. Quality assurance requirements were issued in 1994. Additional nuclear safety management requirements are expected to be issued by January 1, 2000.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the imposition of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of nuclear safety requirements using notice and comment rulemaking.

Summary of Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Cost and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Action	Date	FR Cite
NPRM	12/01/91	56 FR 64316
Second NPRM	08/31/95	60 FR 45381
Final Action	01/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

Richard L. Black
Director, Office of Nuclear Safety and Policy Standards
Department of Energy
1000 Independence Avenue SW.
Washington, DC 20585
Phone: 301 903-3465

RIN: 1901–AA34

DOE—ENDEP

25. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 834

Legal Deadline:

None

Abstract:

This action would add a new 10 CFR 834 to DOE's regulations establishing a body of rules setting forth the basic requirements for ensuring radiation protection of the public and environment in connection with DOE nuclear activities. These requirements stem from the Department's ongoing effort to strengthen the protection of health, safety, and the environment from the nuclear and chemical hazards posed by these DOE activities. Major elements of the proposal included a dose limitation system for protection of the public; requirements for liquid discharges; reporting and monitoring requirements; and residual radioactive material requirements.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to protect health and safety is fulfilled and to provide, if needed, a basis for the imposition of civil and criminal penalties consistent with the Price-Anderson Amendments Act of 1988. This action is consistent with the Department's commitment to the issuance of nuclear safety requirements using notice and comment rulemaking.

Summary of Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of the public and workers affected by its operations and the protection of the environs around its facilities.

Alternatives:

The Department could continue to impose nuclear safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Cost and Benefits:

The incremental costs of the proposed rules should be minimal because contractors are currently bound by comparable contractual obligations. Full compliance by contractors with nuclear safety standards will result in substantial societal benefits.

Risks:

This rulemaking should reduce the risk of nuclear safety problems by clarifying safety requirements applicable to DOE contractors and improving compliance.

Timetable:

Action	Date	FR Cite
NPRM	03/25/93	58 FR 16268
Second NPRM	08/31/95	60 FR 45381
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Agency Contact:

Andrew Wallo III
Director, Air, Water and Radiation Division
Department of Energy
Office of Environmental Guidance
1000 Independence Avenue SW.
Washington, DC 20585
Phone: 202 586-4996

RIN: 1901–AA38

DOE—ENDEP

26. CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

Priority:

Other Significant

Legal Authority:

42 USC 2201; 42 USC 7191

CFR Citation:

10 CFR 850

Legal Deadline:

None

Abstract:

This action will add requirements for the control of occupational exposures to beryllium at DOE and DOE contractor facilities and operations. This action reflects the Department's ongoing commitment to strengthen the protection of health, safety, and the environment from the hazards posed by its facilities.

Statement of Need:

The purpose of this rule is to ensure that the Department's obligation to provide a safe and healthy workplace is fulfilled.

Summary of Legal Basis:

Under the Atomic Energy Act of 1954, as amended, the Department of Energy has the authority to regulate activities at facilities under its jurisdiction. The Department is committed to honoring its obligation to ensure the health and safety of workers and the public affected by its operations.

Alternatives:

The Department could continue to impose health and safety requirements through directives made applicable to DOE contractors through the terms of their contracts.

Anticipated Cost and Benefits:

The incremental costs of the proposed rule should be minimal. Full compliance with these requirements will enhance occupational health and safety at certain DOE facilities.

Risks:

This rulemaking would reduce the risk of an occupational hazard by clarifying worker protection program requirements applicable to DOE contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66940
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

C. Rick Jones
Director, Office of Worker Protection Programs and Hazards Management
Department of Energy
19901 Germantown Road
Germantown, MD 20874-1290
Phone: 301 903-6061

RIN: 1901–AA75

BILLING CODE 6450–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Statement of Regulatory and Deregulatory Priorities

The Department of Health and Human Services is the United States Government's principal agency for protecting the health of all Americans and for providing essential human services, especially for those who are least able to help themselves. To carry out its multiple responsibilities, the Department works through ten major operating divisions which manage over 300 programs. This spectrum of activities includes:

- Medicare (health insurance for elderly and disabled Americans)
- Medicaid (health insurance for low-income people)
- Medical and social science research
- Preventing outbreaks of infectious disease, including immunization services
- Assuring food and drug safety
- Financial assistance for low-income families
- Child support enforcement
- Improving maternal and infant health
- Head Start (pre-school education and services)
- Preventing child abuse and domestic violence
- Substance abuse treatment and prevention
- Services for older Americans, including home-delivered meals
- Comprehensive health services delivery for American Indians and Alaska Natives

HHS is the largest grant-making agency in the Federal Government, providing some 60,000 grants per year. The Medicare program is the nation's largest health insuror, handling more than 900 million claims per year. The Department works closely with State and local governments, and many HHS-funded services are provided by State- or local-government agencies, or through private-sector grantees. HHS programs, in addition to the services they deliver, provide for equitable treatment of beneficiaries nationwide, and they enable the collection of national health and other data.

For the foreseeable future, the Department's regulatory priorities, as reflected in the specific Plan entries that follow, involve: Continuing implementation of Medicare-restructuring provisions of the Balanced Budget Act of 1997; new measures reflecting the President's food-safety initiative; several undertakings to assure the safety and efficacy of prescription drugs, biologics and medical devices; and persisting efforts to assure an equitable organ-donation system in the Nation.

Underlying the Department's efforts to move forward in these areas in FY 2000 and beyond, there endures the policy framework instituted by the President's Executive Order 12866, Regulatory Planning and Review. Under the principles set out in this Order, and in the context of the Administration's subsequent regulatory reform initiatives, the Department assures that its rulemakings emphasize performance standards and market incentives over prescriptive, command-and-control requirements; reflect the use of benefit-cost and risk assessment analyses, to achieve policy objectives in the most efficient manner possible; are developed in consultation with those most affected, especially our partners in the Federal system at the State and local levels; and focus specifically on clearly identified problems, avoiding overly broad, one-size-fits-all approaches to these problems. Efforts to comply with these principles have been a continuing HHS priority since 1993.

The bulk of HHS's regulatory activity emanates from programs of the Food and Drug Administration and the Health Care Financing Administration. There follow statements of regulatory priorities pertaining to these two HHS components, followed by their Regulatory Plan entries.

Food and Drug Administration

The Food and Drug Administration's (FDA) regulatory strategy involves three main goals: (1) To reflect new technologies or programs that will benefit the public, affected industries, and the agency or further protect the public health; (2) to provide more information to consumers so that they may use FDA-regulated products more safely or effectively; and (3) to eliminate unnecessary burdens on industry. The following illustrative examples reflect the agency's efforts to carry out this strategy.

On November 6, 1998, FDA published a final rule amending its regulations pursuant to an international agreement between the United States and the European Community. Under the terms of that agreement, the importing country authority may normally endorse good manufacturing practice (GMP) inspection reports for pharmaceuticals provided by the exporting authority determined by the importing authority to have an equivalent regulatory system. Likewise, the importing country authority may normally endorse medical device quality system evaluation reports and certain medical device product evaluation reports provided by conformity assessment bodies determined by the importing country authority to have equivalent assessment procedures. The Agency took this action to enhance its ability to ensure the safety and effectiveness of pharmaceuticals and medical devices through more efficient and effective utilization of its regulatory resources.

On December 1, 1998, FDA issued regulations establishing requirements for the distribution of patient labeling for selected prescription human drug and biological products used primarily on an outpatient basis. The agency is requiring the distribution of patient labeling, called Medication Guides, for certain products that pose a serious and significant public health concern requiring distribution of FDA-approved patient medication information. The intent of this action is to improve public health by providing information necessary for patients to use their medications safely and effectively. FDA believes that this program will result in direct improvements in the safe and effective use of prescription medications.

FDA promulgated new regulations on December 2, 1998, requiring pediatric studies of certain new and marketed drug and biological products. Most drugs and biologics have not been adequately tested in the pediatric subpopulation. As a result, product labeling frequently fails to provide directions for safe and effective use in pediatric patients. This rule will partially address the lack of pediatric use information by requiring that manufacturers of certain products provide sufficient data and information to support directions for pediatric use for the claimed indications.

In a January 21, 1999 publication, the Agency proposed to permit the use on dietary supplements of health claims based on authoritative statements under the notification procedures in the Food and Drug Administration Modernization Act of 1997 (FDAMA). FDAMA permits nutrient content claims based on authoritative statements for both conventional foods and dietary supplements.

In another rulemaking, the Agency has proposed to require safe handling statements on labels of shell eggs that have not been treated to destroy Salmonella microorganisms (July 6, 1999). FDA has also proposed to require that, when held by retail establishments,

shell eggs be stored and displayed under refrigeration at a temperature of 7.2 degrees C (45 degrees F) or less. FDA is taking these actions because of the number of outbreaks of foodborne illnesses and deaths caused by Salmonella Enteritidis that are associated with the consumption of shell eggs that have not been treated to destroy this pathogen.

FDA, as directed by the Animal Drug Availability Act of 1996, has amended its new animal drug regulations to further define the term "substantial evidence" (July 28, 1999). The purpose of this final rule is to encourage the submission of new animal drug applications (NADAs) and supplemental NADAs for single ingredient and combination new animal drugs. The final rule also encourages dose range labeling.

In multiple rulemakings on August 19, 1999, FDA proposed to amend the biologics regulations by removing, revising, or updating specific regulations applicable to blood and blood derivatives to be more consistent with current practices and to remove unnecessary or outdated requirements. These actions are part of FDA's "Blood Initiative," in which FDA is reviewing and when appropriate revising its regulations, policies, guidances, and procedures related to blood and blood products, including blood derivatives.

Health Care Financing Administration

The Health Care Financing Administration (HCFA) has worked, and continues to work diligently, to provide guidance on the many provisions of the Balanced Budget Act legislation. We are developing additional appropriate regulations to address provisions that have not yet been implemented in their entirety. HCFA's focus during this coming fiscal year is diverse, encompassing payment issues, program integrity, the children's health insurance program, and managed care.

Payment Issues

Ambulance Fee Schedule

The Balanced Budget Act of 1997 (BBA) requires the establishment of a fee schedule for ambulance services under the Medicare program. Policies are being developed through negotiated rulemaking. The negotiated rulemaking committee, representing varied public and private interests related to ambulance services, is scheduled to conclude in February 2000, after taking into account such factors as cost control, geographic and operational differences. We anticipate publication of the proposed rule as soon as practical thereafter.

Prospective Payment Systems

Home Health Agencies are currently being paid under an interim payment system in accordance with requirements of the BBA. As also required by the BBA, HCFA is in the process of developing a final rule to establish requirements for the new Home Health prospective payment system. The same legislation requires that we develop a prospective payment system for rehabilitation facilities, now being formulated as a proposed rule. We published a notice of proposed rulemaking on September 8, 1998 for a hospital outpatient prospective payment system, and are in the process of drafting a final rule that takes into consideration the comments that we received on the September 1998 document.

Program Integrity

Surety Bonds

In addressing BBA requirements for certain providers and suppliers to furnish surety bonds in order to participate in the Medicare and Medicaid programs, we issued several **Federal Register** documents. Some dealt with surety bond submissions for home health agencies, and a notice of proposed rulemaking considered requirements for suppliers of durable medical equipment. Based on public response, we have decided to propose new, less burdensome regulations, and we are developing notices of proposed rulemaking to address the related issues. Plans include finalizing these rules during the fiscal year.

Qualifications for Establishing and Maintaining Medicare Billing Privileges

BBA and other laws require the furnishing of information and the identification of individuals or entities who furnish medical services to beneficiaries before payment can be made. We are particularly interested in ensuring that those who provide services to our beneficiaries are qualified to do so. In addition, we are responsible for protecting the Trust Funds by ensuring that any duplicate or overpayments are recouped. Through the gathering of information, and the use of unique identifiers for those that furnish services for which Medicare payment may be made, we can better protect our beneficiaries and public funds. We are developing a notice of proposed rulemaking to address the use of an information collection instrument that would provide to us the necessary information before we make a determination of whether a provider or supplier should be granted billing privileges.

Children's Health Insurance Program (CHIP)

Under this optional program, created as title XXI of the Social Security Act, under BBA, States may initiate and expand child health assistance to uninsured, low-income children. Because of the short timeframe between the enactment of the BBA and the effective date of the legislation, and our interest in ensuring that States could take advantage of the opportunity to better serve their vulnerable youthful populations, we developed guidance that permitted 54 States and territories to have approved CHIP plans. Thus, operation of the CHIP program has begun, prior to the completion of regulations, which are now nearing publication.

Managed Care

Medicare+Choice

We published an interim final regulation implementing the Medicare+Choice program on June 26, 1998, and a final rule on February 17, 1999, addressing selected issues raised by commenters on the June regulation. The next final rule under development will be more comprehensive and will respond to all comments and implement other necessary changes.

Medicaid Managed Care

We published a notice of proposed rulemaking on September 29, 1998, addressing the BBA modifications of the Medicaid managed care programs. The publication proposed enhanced enrollee protections and emphasized the quality of health care delivered to Medicaid enrollees. The final rule, under development, will respond to public comments and make any appropriate revisions necessary to finalize the Medicaid Managed Care programs.

Additional Regulations

We continue to focus on the importance of updating physician payments. We published a final rule on November 2, 1999, addressing the updating of physician payments by Medicare, including a provision to change the method of determining malpractice insurance relative value units (RVUs) from the current charge-based system to a resource-based system. The rule continues the refinement of the practice expense RVUs that are transitioning from charge-based to resource-based, and addresses

new and revised procedure codes for the year 2000.

HHS—Office of the Secretary (OS)

FINAL RULE STAGE

27. • STANDARDS FOR PRIVACY OF INDIVIDUALLY INDENTIFIABLE HEALTH INFORMATION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority:

42 USC 1320d-2; 42 USC 1320d-4; PL 104-191, sec 264

CFR Citation:

45 CFR 160; 45 CFR 164

Legal Deadline:

Final, Statutory, February 21, 2000.

Abstract:

The proposed rule would implement part of the Administrative Simplification requirements of Public Law 104-191 by establishing standards for health plans, health care clearinghouses and certain health care providers to protect the privacy of individually identifiable health information.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (PL 104-191) requires the Department to issue final standards for the privacy of individually identifiable health information by February 21, 2000. The confidentiality of such information is currently unprotected. The standards will establish protections applicable to medical records created by health care providers, hospitals, health plans and health care clearinghouses that are either transmitted or maintained electronically, and the paper printouts created from these records.

Summary of Legal Basis:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (PL 104-191) directed the Department to issue several standards to facilitate the electronic exchange of information with respect to financial and administrative transactions. It also directed the Department to develop and submit to the Congress recommendations for privacy legislation. In addition, if Congress did not enact legislation governing privacy standards with respect to individually identifiable health information by August 21, 1999, HIPAA directed the Department to promulgate final regulations containing such standards by February 21, 2000. This proposed rule will enable the Department to solicit public comment and issue final regulations in order to satisfy the statutory requirement.

Alternatives:

The Department is required by statute to issue final regulations by February 21, 2000. Therefore, no alternatives to regulatory action have been considered.

Anticipated Cost and Benefits:

Estimates of the economic impact that will stem from this rule will be made available after all public commentary has been received and analyzed.

Risks:

This proposed rule provides an important opportunity for interested parties to comment on many complex privacy policies prior to implementation of a significant new set of regulatory requirements. Failure to publish this proposed rule would jeopardize the Department's ability to meet the statutory deadline.

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 59967
Final Action	02/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Agency Contact:

Roxanne Gibson
Senior Administrative Assistant
Department of Health and Human Services
Office of the Secretary
Room G-322A, Attention: Privacy-P
200 Independence Avenue SW.
Washington, DC 20201
Phone: 202 260-5083

RIN: 0991–AB08

HHS—Food and Drug Administration (FDA)

PROPOSED RULE STAGE

28. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 351; 21 USC 352; 21 USC 360d; 21 USC 371; 21 USC 360j(e)

CFR Citation:

21 CFR 801.420; 21 CFR 801.421

Legal Deadline:

None

Abstract:

FDA is considering revising its present regulation governing the labeling and conditions for sale of hearing aids. The present rule requires an examination by a physician before purchase of a hearing aid, but permits an informed adult to waive that requirement. There is some evidence that this waiver provision is being misused.

Statement of Need:

FDA has become aware of changes in the nature of the causes of hearing loss and the technology of hearing aids that necessitate reconsideration of the regulations governing the types of testing needed before a hearing aid purchase and the labeling for health professionals and patients. In the past, hearing loss often was caused by medically treatable conditions. Today, medical and/or surgical intervention will correct hearing loss in only 5 to 10 percent of the cases. Therefore, there may be less of a need for medical evaluation. FDA believes, however, that patients should receive proper testing in order for a hearing aid to be effective.

Summary of Legal Basis:

Under 21 USC 360j(e), FDA has the authority to restrict the sale,

distribution, or use of a medical device, if FDA determines that, without such restrictions, there cannot be reasonable assurance of its safety and effectiveness. Under 21 USC 352, FDA has the authority to require that the labeling of a medical device include adequate directions for use.

Alternatives:

FDA considered applying the rule only to first time purchasers of hearing aids. FDA believes, however, that this would not adequately protect present users of inappropriate or unneeded hearing aids. FDA also considered requiring additional tests, but has preliminarily determined to list these tests as recommended only in order to provide additional flexibility.

Anticipated Cost and Benefits:

FDA has estimated the costs of the mandatory testing required by the rule would add an additional $24.8 million to $51.7 million depending upon the assumptions concerning present practices. On the average, FDA estimates that this would add about $24 to the cost of a hearing aid. FDA expects that the benefits from the rule would include: (1) Improving the quality of life of hearing aid users; (2) avoiding the cost of inappropriate hearing aid purchase; (3) reducing doctor visits for hearing aid evaluations; (4) lowering treatment costs due to early detection of serious conditions; and (5) encouraging the dissemination of accurate information concerning the benefits and limitations of hearing aids.

Risks:

If the hearing aid purchaser inappropriately waives the medical evaluation requirement under the existing rule, treatable causes of hearing loss may go undetected. Many purchasers who have not had proper testing before a hearing aid purchase will forego the use of a hearing aid because the one purchased does not adequately improve their hearing ability. At this time, FDA believes that many hearing impaired people who may benefit from a hearing aid do not purchase one because they fear that they will not benefit from one due to inaccurate information.

Timetable:

Action	Date	FR Cite
ANPRM	11/10/93	58 FR 59695
ANPRM Comment Period End	01/10/94	
NPRM	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

Previously reported under RIN 0905-AE46.

Agency Contact:

Joseph M. Sheehan
Chief, Regulations Staff
Department of Health and Human Services
Food and Drug Administration
HFZ-215
Center for Devices and Radiological Health
1350 Piccard Drive
Rockville, MD 20850
Phone: 301 827-2974

RIN: 0910–AA39

HHS—FDA

29. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation:

21 CFR 201

Legal Deadline:

None

Abstract:

The proposed regulation would amend the regulations governing the format and content of professional labeling for human prescription drug and biologic products, 21 CFR 201.56 and 201.57. The proposal would require that professional labeling include a section containing highlights of prescribing information and a section containing an index to prescribing information, reorder currently required information and make minor changes to its content, and establish minimum graphical requirements for professional labeling. The proposal would also eliminate certain unnecessary statements that are currently required to appear on prescription drug labels and move certain information to patient labeling.

Statement of Need:

The current format and content requirements in sections 201.56 and 201.57 were established to help ensure that labeling includes adequate information to enable health care practitioners to prescribe drugs safely and effectively. However, various developments in recent years, such as technological advances in drug product development, have contributed to an increase in the amount, detail, and complexity of labeling information. This has made it harder for practitioners to find specific information and to discern the most critical information in product labeling.

FDA took numerous steps to evaluate the usefulness of prescription drug labeling for its principal audience and to determine whether, and how, its format and content can be improved. The agency conducted focus groups and a national survey of office-based physicians to ascertain how prescription drug labeling is used by health care practitioners, what labeling information is most important to practitioners, and how professional labeling should be revised to improve its usefulness to prescribing practitioners.

Based on the concerns cited by practitioners in the focus groups and physician survey, FDA developed and tested two prototypes of revised labeling formats designed to facilitate access to important labeling information. Based on this testing, FDA developed a third revised prototype that it made available to the public for comment. Ten written comments were received on the prototype. FDA also presented the revised prototype at an informal public meeting held on October 30, 1995. At the public meeting, the agency also presented the background research and provided a forum for oral feedback from invited panelists and members of the audience. The panelists generally supported the prototype.

The proposed rule attempts to establish format and content requirements for prescription drug labeling that incorporate information and ideas gathered during this process.

Summary of Legal Basis:

The agency has broad authority under sections 502, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (the act)(21 USC 352, 355, 371) and section 351 of the Public Health Service Act (42 USC 262) to regulate the content and format of prescription drug labeling to help ensure that products are safe and effective for their intended uses. A major part of FDA's efforts regarding the safe and effective use of drug products involves FDA's review, approval, and monitoring of drug labeling. Under section 502(f)(1) of the act, a drug is misbranded unless its labeling bears "adequate directions for use" or it is exempted from this requirement by regulation. Under section 201.100 (21 CFR 201.100), a prescription drug is exempted from the requirement in section 502(f)(1) only if, among other things, it contains the information required, in the format specified, by sections 201.56 and 201.57.

Under section 502(a) of the act, a drug product is misbranded if its labeling is false or misleading in any particular. Under section 505(d) and 505(e) of the act, FDA must refuse to approve an application and may withdraw the approval of an application if the labeling for the drug is false or misleading in any particular. Section 201(n) of the act provides that in determining whether the labeling of a drug is misleading, there shall be taken into account not only representations or suggestions made in the labeling, but also the extent to which the labeling fails to reveal facts that are material in light of such representations or material with respect to the consequences which may result from use of the drug product under the conditions of use prescribed in the labeling or under customary usual conditions of use.

These statutory provisions, combined with section 701(a) of the act and section 351 of the Public Health Service Act, clearly authorize FDA to promulgate a regulation designed to help ensure that practitioners prescribing drugs (including biological products) will receive information essential to their safe and effective use in a format that makes the information easier to access, read, and use.

Alternatives:

The alternatives to the proposal include not amending the content and format requirements in sections 201.56 and 201.57 at all, or amending them to a lesser extent. The agency has determined that although drug product labeling, as currently designed, is useful to physicians, many find it difficult to locate specific information in labeling, and some of the most frequently consulted and most important information is obscured by other information. In addition, the agency's research showed that physicians strongly support the concept of including a summary of the most important prescribing information, an index and numbering system that permits specific information to be easily located, and other proposed requirements, such as the requirement for a minimum type size. Thus, the agency believes that the proposed requirements will greatly facilitate health care practitioners' access and use of prescription drug and biological labeling information.

Anticipated Cost and Benefits:

The expected benefits from the proposed rule include reduced time needed for health care professionals to read or review labeling for desired information, increased effectiveness of treatment, and a decrease in adverse events resulting from avoidable drug-related errors. For example, the proposed revised format is expected to significantly reduce the time spent on reading labeling by highlighting often used information at the beginning of labeling and facilitating access to detailed information.

The potential costs associated with the proposed rule include the cost of redesigning labeling for previously approved products to which the proposed rule would apply and submitting the new labeling to FDA for approval. In addition, one-time and ongoing incremental costs would be associated with printing the longer labeling that would result from additional required sections. These costs would be minimized by applying the amended requirements only to newer products and by staggering the implementation date for previously approved products.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Additional Information:

Legal Authority continued: 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

Agency Contact:

Lee D. Korb
Regulatory Counsel, Regulatory Policy Staff
Department of Health and Human Services
Food and Drug Administration
Suite 3037 (HFD-7)
Center for Drug Evaluation and Research
1451 Rockville Pike
Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

Nancy M. Ostrove
Division of Drug Marketing, Advertising, and Communications
Department of Health and Human Services
Food and Drug Administration
HFD-40
Center for Drug Evaluation and Research
5600 Fishers Lane
Rockville, MD 20857
Phone: 301 827-2828

RIN: 0910–AA94

HHS—FDA

30. PHARMACY AND PHYSICIAN COMPOUNDING OF DRUG PRODUCTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353a; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation:

21 CFR 216

Legal Deadline:

None

Abstract:

Section 503A of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 353a) describes the circumstances under which compounded drugs may qualify for exemption from three requirements of the act: (1) That a drug be manufactured according to current good manufacturing practice, (2) that a drug have adequate directions for use, and (3) that a marketing application be approved by FDA before a new drug product is introduced for sale (i.e., sections 501(a)(2)(B), 502(f)(1), and 505 of the act (21 U.S.C. 351(a)(2)(B), 352(f)(1), and 355)).

To qualify for the exemption, a pharmacist or physician must meet the following statutory conditions for compounding: (1) There usually must be a prescription for an identified individual patient before compounding. (2) Compounding before receiving a prescription is allowed only under limited circumstances. (3) Prescriptions may not be solicited and certain types of advertising are not permitted. (4) The quantity of drugs that may be shipped out of state is limited and may vary depending on whether the compounder is located in a state that has entered into a memorandum of understanding (MOU) with FDA. (5) Drug products may only be compounded using a bulk drug substance (which is essentially the active ingredient) that is listed in the United States Pharmacopoeia (USP) or National Formulary (NF); or a bulk drug substance that is a component of an FDA-approved drug product; or a bulk drug substance that is listed in the regulation as one that FDA has found to be suitable for compounding. (6) The bulk drug substance must be made in a facility registered with FDA and the bulk drug substance must be accompanied by a certificate of analysis. (7) Limited quantities of copies of commercially manufactured drug products may be compounded in special circumstances. (8) Drug products may not be compounded if they are listed in a regulation as having been removed from the market or had their FDA-approval withdrawn because they were found to be not safe or not effective. (9) Drug products that are listed in the regulations as "demonstrably difficult to compound" may not be compounded.

The regulations will amplify and explain the statutory requirements as well as execute tasks Congress assigned FDA in section 503A.

This proposed rule will be one of several rulemakings implementing section 503A. Related regulatory initiatives are described below:

FDA has issued a final rule listing drug products that may not be compounded because they were found to be not safe or not effective and were removed from the market or had their FDA approval withdrawn.

FDA has also issued a proposed rule and is preparing a final rule listing drugs that are not the subject of a USP or NF monograph, and are not components of an FDA-approved drug product but are suitable for compounding.

FDA is currently preparing a proposed rule listing those drugs that are demonstrably difficult to compound and are not allowed to be compounded.

FDA has published a Federal Register notice announcing the availability of a draft MOU between FDA and state boards of pharmacy.

Statement of Need:

Pharmacy compounding can provide substantial benefits to the public health. It can give to patients, who are allergic to inactive ingredients found in commercially available drug products, versions of those drug products from which the allergenic ingredient has been omitted. Patients who have difficulty taking a commercially available drug product may obtain a compounded version of the drug product in a different dosage form. Pharmacy compounding can also enable physicians to access certain drugs that are not commercially available.

Just as compounded drugs may present significant benefits to health, they can also present significant risks. Compounded drugs are generally not evaluated by FDA for safety or effectiveness. They are not made according to current good manufacturing practices and have generally not been tested for strength, quality, or purity. Stability testing, to establish the useful shelf life of the products, has generally not been performed on compounded drug products. Compounders have made illicit copies of FDA-approved drug products, threatening the integrity of the drug approval process. FDA is attempting to maximize the public health benefits of pharmacy compounding, while minimizing the potential threat to the public health.

Summary of Legal Basis:

Section 127 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) adds section 503A to the act. Sections 503A(b)(1)(A)(i)(III) and (d)(2) direct FDA to publish regulations establishing a list of drugs that are suitable for compounding. Section 503A(b)(1)(C) directs FDA to publish in the Federal Register a list of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective. Section 503A(b)(1)(D) directs FDA to define the term "compound regularly or in inordinate amounts" relating to compounding drug products that are essentially copies of a commercially available drug product. Section 503A(b)(3)(A) directs FDA to develop a list of drug products that may not be compounded because they are demonstrably difficult to compound. Efficient enforcement of section 503A would benefit from publication of a substantive rule that interprets and applies the statutory language.

Alternatives:

Section 127 of FDAMA directs FDA to develop regulations, so no alternatives to regulations have been considered. FDA has considered a wide range of options and approaches within the framework of a regulation. FDA has convened and consulted the Pharmacy Compounding Advisory Committee, which consists of representatives of the United States Pharmacopoeia, the National Association of Boards of Pharmacy, and a consumer organization, as well as members of the pharmacy and pharmaceutical manufacturing industries, physicians and academics.

Anticipated Cost and Benefits:

FDA has not yet quantified the costs and benefits of any regulatory approach. FDA has not been significantly involved in the regulation of pharmacy compounding, and does not have any economic data on the industry at this time. Responses to the NPRM will be important in determining the costs and benefits of any regulation.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State

Additional Information:

See RINs 0910-AB57, 0910-AB5

Agency Contact:

Wayne H. Mitchell
Regulatory Counsel, Regulatory Policy Staff
Department of Health and Human Services
Food and Drug Administration
Suite 3057 (HFD-7)
Center for Drug Evaluation and Research
1451 Rockville Pike
Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB58

HHS—FDA

31. CGMPS FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES AND TRANSFUSION RECIPIENTS RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK OF TRANSMITTING HCV INFECTION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25

CFR Citation:

21 CFR 606; 21 CFR 610

Legal Deadline:

None

Abstract:

This rulemaking is one of a number of actions being taken to amend the biologics regulations to remove, revise, or update the regulations applicable to blood, blood components, and blood derivatives. These actions are based on a comprehensive review of the regulations performed by FDA, and are also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations, the General Accounting Office, and the Institute of Medicine, as well as public comments. In this rulemaking, FDA will propose to amend the biologics regulations to require that blood establishments prepare and follow written procedures for appropriate action when it is determined that blood and blood components pose an increased risk for transmitting hepatitis C virus (HCV) infection because they have been collected from a donor who, at a later date, tested repeatedly reactive for evidence of HCV.

Statement of Need:

In the Federal Register of October 23, 1998 (63 FR 56198), FDA announced the availability of guidance, which updated previous guidance, providing recommendations for donor screening and further testing for antibodies to HCV, notification of consignees, transfusion recipient tracing and notification, and counseling by physicians regarding transfusion with blood components at increased risk for transmitting HCV (often called "lookback"). While available evidence indicates that blood establishments are following these recommendations, FDA believes that regulations should be codified, consistent with the previous recommendations, to assure there is clear enforcement authority in case deficiencies in an establishment's lookback program are found and to provide clear instructions for continuing lookback activities.

Summary of Legal Basis:

The Public Health Service Act (21 USC 216 et seq.) and the Federal Food, Drug, and Cosmetic Act (21 USC 921 et seq.) authorize FDA to regulate biological products and to ensure that the products are safe, pure, potent, and effective. The Public Health Service Act also contains the authority under which FDA can promulgate regulations to prevent the spread of communicable diseases. These regulations would assure that appropriate action is taken when blood components have been transfused which may potentially be capable of transmitting HCV, that persons who have been transfused with such blood components are notified so that they receive proper counseling and treatment, and to help prevent the further transmission of HCV.

Alternatives:

FDA has considered permitting the continued voluntary compliance with the recommendations that have already issued. However, the ability of FDA to enforce appropriate lookback procedures would be unclear. In addition, because lookback will remain appropriate for the foreseeable future, FDA believes that the procedures should be clearly established in the regulations.

Anticipated Cost and Benefits:

FDA is in the process of analyzing the costs related to the rulemaking. Monetary burdens will be associated to the tracing of previous donations of donors, identifying the recipients of these previous blood donations, and notifying these recipients, as appropriate. FDA believes these costs will be more than compensated by the public health benefits, including benefits related to the notification of past transfusion recipients who may be unaware that they may be infected with HCV.

Risks:

FDA believes there are minimum risks posed by requiring that appropriate lookback procedures for HCV be prepared and followed.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

See RIN 0910-AB26.

Agency Contact:

Steven F. Falter
Director, Regulations and Policy Staff
Department of Health and Human Services
Food and Drug Administration
Suite 200N (HFM-17)
Center for Biologics Evaluation and Research
1401 Rockville Pike
Rockville, MD 20852-1448
Phone: 301 827-6210
Email: falter@a1.cber.fda.gov

RIN: 0910–AB76

HHS—FDA

32. • CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING DIETARY SUPPLEMENTS

Priority:

Other Significant

Legal Authority:

21 USC 342; 21 USC 371; 21 USC 374; 42 USC 264

CFR Citation:

21 CFR 111

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) announced in an advance notice of proposed rulemaking (ANPRM) of February 6, 1997, its plans to consider developing regulations establishing current good manufacturing practice (CGMP) for dietary supplements and dietary supplement ingredients. The ANPRM was published in order for FDA to solicit comments on whether it should initiate action to establish CGMP regulations and if so, what constitutes CGMP for these products. FDA announced that this effort was in response to the section of the Federal Food, Drug, and Cosmetic Act (the act) that provides authority to the Secretary of Health and Human Services to promulgate CGMP regulations and to a submission from the dietary supplement industry asking that FDA consider an industry-proposed CGMP framework as a basis for CGMP regulations. The ANPRM also responds to concerns that such regulations are necessary to ensure that consumers are provided with dietary supplement products which are not adulterated or misbranded, which have the identity and provide the quantity of dietary ingredients declared in labeling, and which meet the quality specifications that the supplements are represented to meet.

Statement of Need:

FDA is considering whether to develop regulations establishing current good manufacturing practice (CGMP) for dietary supplements and dietary supplement ingredients for several reasons. First, FDA is concerned that some firms may not be taking appropriate steps during the manufacture of supplement products to ensure that products are properly formulated and not adulterated. There have been cases of misidentified ingredients harming consumers using dietary supplements. FDA is also aware of products or ingredients that contain potentially harmful contaminants or ingredients because of apparently inadequate manufacturing controls and quality control procedures. The agency believes that a system of CGMP or other preventive manufacturing controls may be the most effective and efficient way to ensure that these products will not be adulterated during the manufacturing process.

Summary of Legal Basis:

If CGMP regulations were adopted by FDA, failure of a manufacturer to implement and follow CGMP would render the dietary supplement or dietary supplement ingredients of that manufacturer adulterated under section 402(g) of the act.

Alternatives:

The two principal alternatives to comprehensive CGMP are end-product testing and Hazard Analysis Critical Control Points (HACCP). In the ANPRM, FDA asked for public comment on approaches to ensuring that dietary supplements and dietary supplement ingredients are not adulterated during the manufacturing process. The agency asked whether HACCP may be a more effective approach than a comprehensive CGMP, and whether different approaches may be better able to address the needs of the broad spectrum of firms that conduct one or more distinct operations, such as the manufacture of finished products, or solely the distribution and sale of finished products at the wholesale or retail level. FDA will consider the information it received in response to the ANPRM and from other sources, such as public meetings and small business outreach meetings, in its consideration of whether CGMP or other approaches are most appropriate.

Anticipated Cost and Benefits:

A comprehensive CGMP (or other system of ensuring the safety of dietary supplements and dietary supplement ingredients) would permit more effective and efficient oversight by Federal, State, and local governments. It would place primary responsibility for ensuring that these products are not adulterated on the manufacturer/distributor by requiring that they develop and implement a rational, scientific-based system to control their manufacturing process. FDA anticipates that costs to industry generated by implementing a comprehensive manufacturing process, whether CGMP or other plan, would be offset in four ways: (1) by reducing the amount of supplement-associated illnesses or adverse events; (2) by increasing public confidence in dietary supplements marketed in the United States; (3) by enabling U.S. supplements companies to compete more effectively in the world market; and (4) by decreasing the number of future product recalls.

Risks:

Any potential for consumers to be provided adulterated (contaminated with industrial chemicals, pesticides, microbial pathogens, or dangerous misidentified ingredients or toxic components of ingredients) products must be considered a very serious risk because of the possibility that such contamination could be widespread, affecting whole segments of the population, causing some severe long-term effects and even loss of life. Dietary supplements are used by a large segment of the American public. Moreover they are often used by segments of the population that are particularly vulnerable to adulterated products, such as the elderly, young children, pregnant and nursing women, and persons who may have serious illnesses or are taking medications that may adversely interact with dietary supplement components. FDA has adopted or proposed manufacturing controls for a number of foods and commodities that present potential health hazards to consumers if not processed properly, including seafood, juice products, and fruits and vegetables and it is appropriate that FDA consider whether manufacturing controls are necessary to assure consumers that dietary supplements are not adulterated during the manufacturing process.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/97	62 FR 5700
ANPRM Comment Period End	06/06/97	
NPRM	09/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Agency Contact:

Karen Strauss
Consumer Safety Officer
Department of Health and Human Services
Food and Drug Administration
200 C Street, S.W. (HFS-456)
Washington, DC 20204
Phone: 202 205-5372
Fax: 202 260-8957
Email: KFS@cfsan.fda.gov

RIN: 0910–AB88

HHS—FDA

FINAL RULE STAGE

33. FRUIT AND VEGETABLE JUICES: DEVELOPMENT OF HACCP AND LABEL WARNING STATEMENTS FOR JUICES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 321 et seq; 42 USC 264

CFR Citation:

21 CFR 120

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) announced in an advance notice of proposed rulemaking of August 4, 1994, its plans to consider the development of regulations establishing requirements for a new comprehensive food safety assurance program that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). The new food safety program would respond to new challenges, such as new food processing and packaging technologies, new food distribution and consumption patterns, exposure to industrial chemicals and chemical waste, the increasing importation of foods, new microbial pathogens, and resource constraints. Current information shows that the most serious of these challenges is presented by food-borne pathogens. The number of recognized food-borne pathogens has broadened considerably, as has the awareness of long-term complications from certain food-borne illnesses—such as arthritis, heart disease, and kidney and neurological damage. To meet such challenges, FDA intends to shift the focus of its food safety assurance program away from periodic visual inspection and end-product testing and toward prevention of food safety risks and problems, utilizing the state-of-the-art HACCP preventive approach. A first step was taken when FDA published a HACCP regulation for fish and fishery products on December 18, 1995. Consistent with FDA's HACCP efforts, USDA published a HACCP regulation for meat and poultry on July 25, 1996. FDA proposed on April 24, 1998 to adopt a HACCP regulation for the processing of juice. The agency simultaneously proposed to require a warning statement on the labels or in labeling for juice products that have not been processed to reduce, control, or eliminate the presence of harmful bacteria. Such labeling would serve to reduce the risk of food-borne illness, pending development of a final HACCP rule for juice. As part of the development of the HACCP proposal, FDA considered information obtained during agency HACCP pilot activities, and comments and scientific and technological information relating to fresh juices provided during and after an agency public meeting on juice held on December 16 and 17, 1996. On July 8, 1998, the agency finalized the warning statement requirement. FDA held two technical scientific workshops, one November 12, 1998, in Lake Alfred, Florida and the other November 29, 1998, in Irvine, California, to discuss and clarify issues related to the implementation of the agency's rule requiring a warning statement for certain juice products. The workshops addressed citrus juice production and the methods for measuring and validating such systems. On December 8 and 9, 1998, the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) met to consider performance criteria for fresh juice. FDA specifically requested the NACMCF to make recommendations about the efficacy of surface treatments in ensuring the safety of citrus juices.

Statement of Need:

FDA is adopting regulations that would establish requirements for a new comprehensive food safety assurance program for both domestically produced and imported fruit and vegetable juices that would be based on the principles of Hazard Analysis Critical Control Points (HACCP). FDA intends to adopt a juice HACCP regulation because there have been a number of outbreaks of illnesses associated with juice products, including some directly affecting children, and because the agency believes that a system of preventive controls is the most effective and efficient way to ensure that these products will be safe.

Summary of Legal Basis:

Failure of a processor to have and implement a HACCP system will render the food products of that processor adulterated under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act. Whether a processor's actions are consistent with ensuring the safety of food will be determined through an evaluation of the overall implementation of the firm's HACCP system.

Alternatives:

The two principal alternatives to HACCP are end-product testing and comprehensive current good manufacturing practices (CGMPs). FDA has concluded, based on information available at this time, that these alternatives lack the distinct advantages of a HACCP-based approach. End-product testing does not address the root causes of food safety problems, is not preventive by design, and requires that a large number of samples be analyzed to ensure product integrity. CGMPs are not practical because they are plant-wide operating procedures and do not concentrate on the identification and prevention of food hazards.

Anticipated Cost and Benefits:

In general terms, HACCP focuses on prevention and is designed to prevent the occurrence of hazards affecting food; HACCP permits more effective and efficient oversight by Federal, State, and local governments; and HACCP appropriately places primary responsibility for ensuring food safety on the food manufacturer/distributor to analyze, in a rational, scientific manner, its production processes in order to identify critical control points and establish critical limits and monitoring procedures. FDA anticipates that costs to industry generated by implementation of HACCP would be offset in four ways: (1) by reducing the amount of food-borne illnesses (for example, total illness reduction benefits estimated to result from FDA's HACCP-based requirements for seafood regulation are between $15 and $75 million per year); (2) by increasing public confidence in the Nation's food supply; (3) by enabling U.S. food companies to compete more effectively in the world market (for example, current recommendations of the Codex

Alimentari
on Food H
the HACCP
Communit
that foods
processed
and (4) by
future proc

Risks:

Any potent
food suppl
or microbia
considered
of the poss
contaminat
affecting w
population
term effects
made a dec
based appr
based on a
literature a
Likewise, F
information
unprocesse
propose tha
the manufa
products.

Timetable:

Action
ANPRM
ANPRM Com Period End
Economic An
Labeling
PRIA 05/
PRIA Co
HACCP for J
NPRM 04
NPRM C
NPRM C 12/17/1
NPRM R 01/19/1
Final Acti
Label Warnin
Notice of
NPRM 04
NPRM C
Final Acti

Regulatory Required:

Yes

Small Entiti

Businesses

Governmen

Federal

Additional I

Previously r
AE60.

VOL 64 ISS 224 NO 22 1999 UMI

Alimentarius Commission's Committee on Food Hygiene encourage the use of the HACCP system, and the European Community (EC) has begun to require that foods produced within the EC be processed under HACCP requirements); and (4) by decreasing the number of future product recalls.

Risks:

Any potential for contamination of the food supply with industrial chemicals or microbial pathogens must be considered a very serious risk because of the possibility that such contamination could be widespread, affecting whole segments of the population, causing some severe long-term effects and even loss of life. FDA made a decision to adopt a HACCP-based approach to regulate seafood, based on a considerable body of literature and expertise in this area. Likewise, FDA has reviewed current information on hazards associated with unprocessed juice, and intends to propose that processors use HACCP in the manufacture of certain juice products.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/94	59 FR 39888
ANPRM Comment Period End	12/02/94	
Economic Analysis for Juice HACCP and Labeling		
PRIA 05/01/1998 (63 FR 24254)		
PRIA Comment Period End 06/22/1998		
HACCP for Juice		
NPRM 04/24/1998 (63 FR 20450)		
NPRM Comment Period End 08/07/1998		
NPRM Comment Period Reopened 12/17/1998 (63 FR 69579)		
NPRM Reopened Comment Period End 01/19/1999		
Final Action 04/00/2000		
Label Warning Statements for Juice		
Notice of Intent 08/28/1997 (62 FR 45593)		
NPRM 04/24/1998 (63 FR 20496)		
NPRM Comment Period End 06/21/1998		
Final Action 07/08/1998 (63 FR 37029)		

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

Previously reported under RIN 0905-AE60.

Agency Contact:

Shellee Anderson
Consumer Safety Officer
Department of Health and Human Services
Food and Drug Administration
HFS-306
Center for Food Safety and Applied Nutrition
200 C Street SW.
Washington, DC 20204
Phone: 202 205-5023
Email: sdavis@bangate.fda.gov

RIN: 0910–AA43

HHS—FDA

34. SHELL EGGS: WARNING, NOTICE AND SAFE HANDLING LABELING STATEMENTS AND REFRIGERATION REQUIREMENTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

21 USC 321; 42 USC 264

CFR Citation:

21 CFR 101.17(g); 21 CFR 115.50; 21 CFR 16.5

Legal Deadline:

None

Abstract:

There have been numerous foodborne outbreaks of salmonellosis, principally due to Salmonella Enteritidis (SE), that have been traced to the consumption of temperature abused and/or undercooked shell eggs. The Food and Drug Administration has received petitions from Rose Acres Farm, Inc., and the Center for Science in the Public Interest that request, in part, that FDA establish safe handling statements for shell eggs. FDA intends to propose to require safe handling statements on labeling of shell eggs that have not been treated to destroy Salmonella microorganisms that may be present. In accordance with amendments to the Egg Products Inspection Act, USDA published on August 27, 1998, a final rule to require that shell eggs be stored at an ambient temperature of 7.2 degrees Celsius (45 degrees Fahrenheit). However, the USDA rulemaking does not include refrigeration at retail. FDA intends to propose regulations to mandate that shell eggs be stored for retail sale at 7.2 degrees Celsius (45 degrees Fahrenheit) or less. FDA is proposing this measure to ensure that shell eggs are handled in a manner to decrease the possible growth of any SE that may be present in shell eggs. All of these actions are intended to reduce the occurrence of illnesses and deaths associated with the consumption of improperly cooked shell eggs.

Statement of Need:

FDA is adopting regulations as part of the farm-to-table food safety system for shell eggs that would establish refrigeration requirements for shell eggs held at retail and labeling requirements instructing egg preparers and consumers on safe handling of shell eggs. FDA intends to adopt these regulations because of the continued reports of outbreaks of foodborne illness and death caused by SE that are associated with the consumption of shell eggs, and because the agency believes that these measures can have an immediate effect in significantly reducing the risk of foodborne illness due to consumption of SE contaminated shell eggs. Further, these measures can be implemented while FDA and FSIS continue to develop their comprehensive farm-to-table food safety system.

Summary of Legal Basis:

FDA's legal basis to require refrigeration of shell eggs derives from sections 402(a)(4), and 701(a) of the Federal Food, Drug and Cosmetic Act (FDCA) (21 U.S.C.342(a)(4) and 371(a)) and sections 311, 361, and 368 of the Public Health Service Act (PHSA) (42 U.S.C. 243, 264, and 271) that relate to communicable disease. Under section 402(a)(4) of the act, a food is adulterated if it is prepared, packed, or held in insanitary conditions whereby it may have been contaminated with filth or may have been rendered injurious to health. Numerous scientific reports describe how refrigeration helps to maintain the egg's natural defenses against degradation and slows the growth of any SE present. Under section 701(a) of the act, FDA is authorized to issue regulations for the efficient enforcement of the act. Thus, a regulation that prohibits food from being held under insanitary conditions would provide for efficient enforcement. FDA's legal authority to require label statements on food products derives from sections 201(n), 403(a)(1), and 701(a) of the FDCA (21 U.S.C. 321(n), 343(a)(1), and 371(a)), and sections 311, 361, and 368 of the Public Health Service Act (PHSA) (42 U.S.C. 243, 264, and 271) that relate to communicable disease. Under section 403(a)(1) of the FDCA, a food is misbranded if its labeling is false or

misleading in any particular. Section 201(n) of the FDCA provides that in determining whether labeling is misleading, the agency shall take into account the extent to which the labeling fails to reveal facts that are material with respect to consequences that may result from use of the product under conditions of use prescribed in the labeling or under customary or usual conditions. The fact that shell eggs may contain illness causing bacteria and that there are measures that consumers can take to protect themselves from illness is material information and, therefore, must be provided in labeling to ensure that the product is not misbranded.

Alternatives:

There are several alternatives to requiring refrigeration and safe handling instructions for shell eggs. The five principal alternatives include: (1) No new regulatory action, (2) labeling only, (3) refrigeration only, (4) Hazard Analysis Critical Control Point (HACCP) for shell eggs, and (5) in-shell pasteurization. FDA had concluded, based on information available at this time, that relying on current safeguards (option 1) would not greatly reduce the number of illnesses from SE in shell eggs. Even though the benefits from either labeling alone or refrigeration alone (options 2 and 3) exceed the costs, the combined benefits of refrigeration and labeling are much greater than either taken separately. FDA believes that a HACCP-like program (option 4) is currently not feasible. However, FDA is evaluating whether in the future, a HACCP-like program including possibly in-shell pasteurization, may be necessary to further ensure the safety of shell eggs. In-shell pasteurization (option 5) would greatly reduce SE, but FDA believes other interventions between farm-to-table could reduce SE at lower cost.

Anticipated Cost and Benefits:

The benefits from requiring safe handling labeling and the refrigeration of shell eggs at 7.2 degrees C (45 degrees F) come from reducing SE-related illness. FDA used the results of the USDA SE risk assessment for one estimate of the baseline risk and the CDC Salmonella surveillance data for another estimate of the baseline. FDA also used the risk assessment model to estimate the expected reduction in illnesses attributed to the requirements. The range (5th to 95th percentile) of estimated annual benefits for the USDA SE risk assessment baseline was $87 million to $6.6 billion, with a median of $700 million. The range (5th to 95th percentile) of estimated annual benefits for the CDC surveillance baseline was $50 million to $1.7 billion, with a median of $300 million. The benefits are large, although FDA estimates that 95 percent of shell eggs are already held at ambient temperatures of 7.2 degrees C (45 degrees F) or less. The costs of the proposed rule are the sum of the costs of changes in manufacturing practices—labeling and refrigeration—and changes in consumer practices—egg preparation and consumption. The costs of labeling are the sum of administrative compliance, inventory disposal, and label redesign costs. FDA anticipates that the total labeling cost for a 6-month compliance period to be a one-time cost of approximately $18 million. The total cost included administrative costs of $280,000, inventory disposal costs of $3 million, and label redesign costs of $15 million. The refrigeration costs will be the cost of the additional equipment required for all establishments to maintain an ambient temperature of 7.2 degrees C (45 degrees F). The anticipated costs per establishment range from close to zero for small equipment upgrades to $6,000 for a large new refrigerator. For all establishments, the range (5th to 95th percentile) of anticipated one-time refrigeration costs was $7 million to $228 million, with a median of $31 million. FDA also considered as a part of the cost the change in consumer behaviors. The anticipated annual costs to consumers to change the way eggs are prepared and consumed ranged (5th to 95th percentile) from $2 million to $20 million, with a median of $10 million. The median total costs of the proposed rule—the sum of the costs of labeling, refrigeration, and changes in consumer practices—are about $60 million in the first year and $10 million per year thereafter.

Risks:

Any potential for growth of SE in shell eggs must be considered a very serious risk because of the possibility that such growth could be widespread, affecting whole segments of the population, causing some severe long-term effects and even loss of life. FDA made a decision to adopt refrigeration and labeling requirements for shell eggs based on a considerable body of evidence, literature, and expertise in this area. This decision was also based on the USDA Risk Assessment and the identified effects associated with refrigeration and labeling.

Timetable:

Action	Date	FR Cite
ANPRM	05/19/98	63 FR 27502
ANPRM Comment Period End	08/17/98	
Economic Analysis for Refrigeration and Labeling of Shell Eggs		
NPRM 07/06/1999 (64 FR 36492)		
NPRM Comment Period End 09/20/1999 (64 FR 36492)		
Final Action 04/00/2000		
Refrigeration and Labeling of Shell Eggs		
NPRM 07/06/1999 (64 FR 36492)		
NPRM Comment Period End 09/20/1999 (64 FR 36492)		
Final Action 04/00/2000		

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State

Agency Contact:

Geraldine A. June
Consumer Safety Officer
Department of Health and Human Services
Food and Drug Administration
HFS-158
Center for Food Safety and Applied Nutrition, 200 C Street SW
Washington, DC 20204
Phone: 202 205-5099
Email: gaj@vm.cfsan.fda.gov

RIN: 0910–AB30

HHS—Health Care Financing Administration (HCFA)

PROPOSED RULE STAGE

35. MEDICARE PROGRAM; QUALIFICATIONS FOR ESTABLISHING AND MAINTAINING MEDICARE BILLING PRIVILEGES (HCFA-6002-P)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 1302; 42 USC 1395hh

CFR Citation:

42 CFR 424; 42 CFR 489

Legal Deadline:

None

Abstract:

This proposed rule would establish a requirement that all providers and suppliers (other than physicians who have entered into a private contract with a beneficiary) complete an enrollment form and submit specified information to us and to periodically revalidate the enrollment information to receive and maintain billing privileges in the Medicare program. The information must clearly identify the provider or supplier and its place of business, provide documentation that it is qualified to perform the services for which it is billing, and assure that it is not currently excluded from the Medicare program. If we determine the information submitted is incomplete, invalid, or insufficient to meet Medicare requirements, we would reject, deny, inactivate, or revoke billing privileges. Any deliberate concealment or misrepresentation of material information would subject the provider or supplier to liability under civil and criminal laws.

Statement of Need:

The Medicare program is currently the principal payer for health care for 39.2 million enrolled beneficiaries. Under section 1802 of the Act, a beneficiary may obtain health services from any institution, agency, or person qualified to participate in Medicare. Some qualifications to participate are specified in statute, such as in sections 1819, 1834, 1861, 1866, and 1891 of the Act. Many more are in our regulations, especially at 42 CFR subchapter E, which concerns standards and certification requirements.

Summary of Legal Basis:

Because we are intending to use the form HCFA 855 as the principal information collection instrument, we provide the following information about the data request on the forms. In addition to the legal authority cited, the following additional cites grant us the authority to collect the information required to complete the form HCFA 855:

Section 1814(a) of the Act states that payment for services furnished to an individual may only be made to providers and only if a written request is filled in such a form and manner as the Secretary may prescribe.

Sections 1815 and 1833(e) of the Act authorize the Secretary to withhold Medicare payments until the provider or supplier furnishes such information as may be necessary to determine amounts due.

Section 1866(a)(1) of the Act establishes provider agreement requirements, including a requirement not to charge the beneficiary if the provider would have been entitled to Medicare payment had the provider compiled with procedural requirements.

Alternatives:

If this rule is not published, we would weaken our authority to prevent fraudulent or abusive providers and suppliers from billing the Medicare program.

Anticipated Cost and Benefits:

This is an administrative initiative that may result in Medicare program saving but at this time those savings are inestimable. We believe the probable costs providers or suppliers would incur as a result of this rule would be negligible.

Risks:

This rule will potentially improve the information and documentation collection used to determine if a provider or supplier should be granted billing privileges. This rule will promote compliance with Medicare requirements, and also prevent abuse of the Medicare program and inappropriate uses of Medicare funds by ensuring that payment is made only for services furnished by qualified individuals or entities by requiring that the providers and suppliers of those services prove their qualifications and identity. If the provider or supplier failed to meet the requirements or submit the required information, we would not enroll them in the Medicare program or we would remove them if they were currently in the program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Additional Information:

Formerly known as HCFA-1023

Agency Contact:

Michael Collett
CHPP
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
Baltimore. MD 21244
Phone: 410 786-6121

RIN: 0938–AH73

HHS—HCFA

36. PROSPECTIVE FEE SCHEDULE FOR AMBULANCE SERVICES (HCFA-1002-NR)

Priority:

Other Significant

Unfunded Mandates:

This action may affect the public sector under PL 104–4.

Legal Authority:

PL 105-33, sec 4531(b)

CFR Citation:

42 CFR 410

Legal Deadline:

Final, Statutory, January 1, 2000.

Abstract:

The Balanced Budget Act of 1997 requires that the Secretary establish a fee schedule for ambulance services through negotiated rulemaking. The fee schedule is to be effective beginning with services furnished on or after January 1, 2000. In addition to setting the payment rates, the Secretary is to ensure that the aggregate amount of payment made for ambulance services in 2000 may not exceed the amount of payment that would have been made absent the fee schedule. This is a cap on payment, not a budget neutrality adjustment. The Secretary is to consult with national organizations representing individuals and entities that furnish and regulate ambulance services and share relevant data with these organizations. This provision will be met through the negotiated rulemaking process.

Statement of Need:

The establishment of this fee schedule is required by section 4531 of the BBA. In so doing through the negotiated rulemaking process, a fairer payment system will be implemented that is consistent with the services furnished and that takes into account the variations caused by regional and operational differences among ambulance companies.

Summary of Legal Basis:

Section 4531 of the BBA requires the establishment of this fee schedule.

Alternatives:

Because section 4531 of the BBA requires the establishment of this fee schedule, no alternatives to this regulation exist.

Anticipated Cost and Benefits:

There is an anticipated savings of $65 million that will be attributed to the savings that would have occurred if the HCFA proposed regulation published on June 17, 1997 at 62 FR 32715 had been implemented in final. This savings derived from the proposal to pay for ambulance services furnished, rather than paying for the more expensive advanced life support (ALS) level of service solely because an ALS vehicle was used even if no ALS service was furnished.

Benefits include establishing a fee schedule that will be commensurate with the services furnished, and that will take into account the regional and operational variations in providing ambulance services. The current reasonable charge/reasonable cost systems do not result in a fair geographic variation in payment allowances, since some areas receive 2 to 3 times the payment of other areas for the same services.

Risks:

Failing to implement the Medicare ambulance fee schedule would perpetuate an inequitable payment system that sometimes overpays and other times underpays for this critical aspect of medical care. The current system also has unintentional incentives to provide inefficient ambulance services in some areas, and inadequate ambulance services in areas of low population.

Timetable:

Action	Date	FR Cite
Notice of Intent To Negotiate	01/22/99	64 FR 3474
NPRM	05/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Agency Contact:

Nancy Edwards
Center for Health Plans and Providers
Department of Health and Human Services
Health Care Financing Administration
C5-06-27
7500 Security Boulevard
Baltimore, MD 21244-1850
Phone: 410 786-4531
Email: nedwards@hcfa.gov

RIN: 0938–AI72

HHS—HCFA

37. • MEDICARE PROGRAM: PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT REHABILITATION HOSPITAL SERVICES (HCFA-1069-P)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 105-33, sec 4421

CFR Citation:

None

Legal Deadline:

NPRM, Statutory, October 1, 2000.

Abstract:

This proposed rule will estalish requirements for the new prospective payment system for rehabilitation facilities as mandated by section 4421 of the BBA.

Statement of Need:

The BBA significantly changed the way we will pay for Medicare covered services furnished to a Medicare inpatient in a rehabilitation facility. The BBA requires payments to be based on the inpatient operating and capital costs of rehabilitation facilities and adjusted for: (1) Case mix using patient classification groups; (2) Area wages; (3) Inflation; (4) Outlier and special payments; and (5) Other factors necessary to reflect variations in costs of treatment. Total payments made under the system to rehabilitation facilities during fiscal years 2001 and 2002 are required to be equal to 98 percent of estimated payments that would have been made under the current TEFRA payment system. Outlier payments in a fiscal year may not exceed 5 percent of the total projected payments for the fiscal year.

The BBA gives us considerable discretion in designing the prospective payment system. Payment rates are required to be based on payment units which may be defined as a discharge, a day of inpatient services, or another unit of payment defined by the Secretary. The case mix classification groups may be based on such factors as the Secretary deems appropriate such as impairment, age, related prior hospitalization, co-morbidities, and functional capability of the patient.

The BBA mandates implementation of the prospective payment system on October 1, 2000. We thus plan on publishing a Notice of Proposed Rulemaking (NPRM) in February 2000. We are currently funding research on various aspects of the prospective payment system that will be thoroughly discussed in the NPRM.

Summary of Legal Basis:

Section 4421 of the BBA mandates the phase-in of a case mix prospective payment system for inpatient rehabilitation facilities (freestanding and units) for cost reporting periods beginning on or after October 1, 2000, with full implementation by October 1, 2002.

Alternatives:

None.

Anticipated Cost and Benefits:

Based on the results of implementation of other Medicare prospective payment systems, HCFA believes that the implementation of a prospective payment system, as the method to pay for the services furnished to Medicare beneficiaries who are inpatients in rehabilitation facilities, will yield significant savings to the Medicare program. However, we have not completed our analysis so we can't be more specific about the expected costs and benefits.

Risks:

Altering the method that we pay rehabilitation facilities for the services they furnish to Medicare inpatients has the potential to affect a beneficiary's access to care and the quality of care furnished to a beneficiary. Therefore, we will be implementing methods to monitor the effect of the prospective payment system on these two associated patient care concerns.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Agency Contact:

Laurence Wilson
Center for Health Plans and Providers
Department of Health and Human Services
Health Care Financing Administration
C4-7-04
7500 Security Boulevard
Baltimore, MD 21244-1850
Phone: 410 786-4603

RIN: 0938–AJ55

HHS—HCFA

38. • DME SURETY BONDS (HCFA-6006-P)

Priority:

Economically Significant

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

PL 105-33, sec 4312(a)

CFR Citation:

42 CFR 424.57

Legal Deadline:

NPRM, Statutory, January 1, 1998.

Abstract:

This proposed rule would implement the provision of the Balanced Budget Act of 1997 that requires a Medicare supplier of durable medical equipment (DME) to furnish HCFA with a surety bond.

Statement of Need:

Section 4312(a) of the BBA '97 requires all suppliers of DME to obtain a surety bond for a minimum of $50,000. Drawing on our experience with the surety bond requirement for home health agencies, we have made extensive changes to an initial proposal published in the Federal Register in January 1998. Because of these changes, we decided to reissue this requirement as another notice of proposed rulemaking in order to give the public opportunity to comment.

Summary of Legal Basis:

Section 4312(1) of the BBA '97 amended section 1834(a) of the Social Security Act by adding a new paragraph (16). This new paragraph requires a DME supplier to provide the Secretary, on a continuing basis, with a surety bond of at least $50,000, as a condition of being issued or renewing a provider number. Section 1834(a)(16), as amended by section 4312(c) of the BBA '97, further provides that the Secretary may, at the Secretary's discretion, impose a surety bond on some or all providers or suppliers who furnish items or services under Medicare Part B other than physicians or other practitioners.

We are adding to the current supplier standards set forth at 42 CFR 424.57 a stipulation that for every tax identification number for which a supplier billing number is issued, a DME supplier must obtain a surety bond. The surety bond must be in a form specified by the Secretary and in an amount of $50,000.

Alternatives:

If this rule is not published, we would not implement a provision of the BBA '97 related to surety bonds.

Anticipated Cost and Benefits:

Estimates of the economic impact (if any) that will stem from these rules have not yet been determined.

Risks:

This rule will potentially improve HCFA's ability to protect the Medicare Part B Trust Fund from losses resulting from unrecovered Medicare debts by durable medical equipment (DME) suppliers. Failure to publish this rule would deprive HCFA of a valuable tool in screening applications from potential DME suppliers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Undetermined

Agency Contact:

Charles Waldhauser
Division of Provider/Supplier Enrollment
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
Baltimore, MD 21244-1850
Phone: 410 786-6140

RIN: 0938–AJ64

HHS—HCFA

39. • HHA SURETY BOND (HCFA-6001-P)

Priority:

Economically Significant

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

PL 105-33, sec 431ff; PL 105-33, sec 4724ff; PL 105-33, sec 1861(o)(8); PL 105-33, sec 1861(v)(1); PL 105-33, sec 1866(b)(2); PL 105-33, sec 1891(b); PL 105-33, sec 1902(a)(10)(D); PL 105-33, sec 1903(I); PL 105-33, sec 1905(a)(7)

CFR Citation:

42 CFR parts 413, 440, 441, 489

Legal Deadline:

NPRM, Statutory, June 15, 2000.

Abstract:

This proposed rule would amend our regulations to require an HHA surety bond of $50,000. We would remove the 15 percent provision based on concerns expressed by the Congress, the home health industry, surety association representatives, and comments published in a report by the General Accounting Office. This rule would require that HHAs obtain a surety bond by October 1, 2000. Although the bond must be effective January 1, 1998, we are proposing not to hold sureties liable for excessive interim payments attributable to the implementation of the interim payment systems made between October 1, 1997 and September 30, 2000. Other suggestions recommended by GAO were to require a single $50,000 bond for both the Medicare and Medicaid programs and provide an exemption of those HHAs that demonstrate fiscal responsibility. However, these recommendations require Congressional action. The final recommendation was to eliminate the HHA's option for substituting a Treasury note, U.S. bond, or other Federal public debt obligation for a surety bond. We generally agree with these recommendations except for the elimination of substituting a Treasury note, etc., for a surety bond.

Statement of Need:

Home Health Care (skilled nursing, therapy, and related services provided to homebound beneficiaries) has been one of Medicare's fastest growing benefits in recent years. Between 1990 and 1997, spending increased from $3.7 billion to $17.8 billion, an average annual income increase of 26 percent.

VOL 64 ISS 224 NO 22 1999 UMI

This growth occurred because more beneficiaries used the services and more users received more home health care visits. Concurrent with the rise in spending was an increase in the number of home health agencies (HHA), which almost doubled from 1989 to 1997. Changes in practice patterns and the need for home health care have contributed to the greater use of this benefit, but inappropriate use and billing practices have added to Medicare's HHA spending as well. Concern about growth in spending, fraud and abuse, and inadequate oversight led the Congress and the Administration to implement a number of initiatives to better control Medicare's home health care costs. By implementing the BBA provisions, the Congress strengthened HCFA's ability to keep potentially problematic providers out of the Medicare program by codifying a $50,000 surety bond requirement and establishing other participation requirements. HCFA's use of a financial guarantee bond for the return of overpayments regardless of their source will ensure more scrutiny and benefits to the Medicare and Medicaid programs.

Summary of Legal Basis:

The BBA '97 requires each home health agency to secure a surety bond in order to participate in the Medicare and Medicaid programs. This requirement applies to all participating Medicare and Medicaid HHAs, regardless of the date participation began.

Alternatives:

If this rule is not published, we would not implement a provision of the Balanced Budget Act of 1997 related to fraud and abuse initiatives.

Anticipated Cost and Benefits:

The savings to Medicare and Medicaid that could result from this rule would be from any uncollected overpayments that could be collected from the surety companies responsible for the bond. The other benefit of the surety bond requirement is that it provides a deterrent to fraud and abuse. It is unclear how many HHAs would be affected but the impact is expected to be small. We believe that it is impossible to estimate the savings due to this regulation.

Risks:

Failure to publish this rule could jeopardize the trust funds for failure to collect overpayments under the Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Organizations

Government Levels Affected:

None

Additional Information:

RIN 0938-AJ08 in the October 1998 Unified Agenda provides information about rulemaking actions taken and withdrawn in 1998 concerning surety bond requirements for home health agencies.

Agency Contact:

Ralph Goldberg
Center for Health Plans and Providers
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AJ81

HHS—HCFA

FINAL RULE STAGE

40. NATIONAL STANDARD HEALTH CARE PROVIDER IDENTIFIER (HCFA-0045-F)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1320d-2

CFR Citation:

45 CFR 142

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

This rule addresses the health care industry's need for a standardized provider identifier. It implements one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. A standard provider identifier will save the health insurance industry significant costs incurred in maintaining multiple identifier systems.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996(HIPAA) (P.L. 104-191) creates a new part C, entitled "Administrative Simplification," to title XI of the Social Security Act. One of the standards for health identifiers that is mandated by part C is a standard unique health care provider identifier, to be used in the health care system. This final regulation announces the adoption of the National Provider Identifier (NPI) as the standard unique health care provider identifier. It also provides information on how health care providers will be assigned NPIs and defines the requirements of health plans, health care providers, and health care clearinghouses with respect to obtaining and using this standard. Implementation of the NPI and the other Administrative Simplification standards will increase the efficiency of the processing of standard transactions within the health care system.

Summary of Legal Basis:

Currently, health plans assign identification numbers to their member health care providers. Different health plans assign different numbers to the same health care providers. The identifiers are frequently not standard within a health plan or across health plans. This results in health care providers having different identification numbers for different health programs, often having multiple billing numbers issued within a single health program. This complicates the health care providers' claims submissions and other transactions and increases the costs incurred by health care providers in conducting those transactions.

The Administrative Simplification provisions of HIPAA were designed to improve the efficiency and effectiveness of the health care system by encouraging the development of a health information system through the establishment of the standard unique health care provider identifier and other standards and requirements to facilitate the electronic transmission of certain health information.

Alternatives:

This final regulation announces the NPI as the standard unique health care provider identifier. The NPI is a 10-position all numeric identifier, with a check-digit in the tenth position. There is no intelligence in the number. This

design and our assignment strategy will allow more than 200 million NPIs to be issued. The NPI meets the principles established by the Department of Health and Human Services (HHS) for designation as a national standard. This final regulation defines "health care provider" in terms of the entities that will receive NPIs.

Health care providers will be enumerated by a Federally-directed registry (the enumeration contractor). The enumeration contractor will use the National Provider System (NPS) to uniquely identify a health care provider and issue it an NPI. The NPS will be developed by HCFA. Health care providers must supply updates to their NPS data to the enumeration contractor within 30 days of the effective dates of the changes.

The NPS will establish the National Provider File (NPF), which will contain information collected from health care providers in order to assign them NPIs. The NPS will assign a single, unique NPI to a health care provider. Upon the dissolution of an organization health care provider or the death of a individual health care provider, the NPS will deactivate the NPI that had been issued to that health care provider and will not assign a deactivated NPI to any other health care provider. The NPS will disseminate information from the NPF to users in accordance with the Privacy Act and the NPS System of Records.

Anticipated Cost and Benefits:

Our analysis of the costs and savings of the HIPAA Administrative Simplification standards is an aggregate impact of all the standards. Assessing the impact of each standard independently would inflate the costs and would yield inaccurate results. While each individual standard is beneficial, the standards as a whole have a synergistic effect on savings. A difficulty in this analysis was the fact that we have no historical experience in assessing the costs and benefits of such a sweeping change. The costs of implementing the standards specified in HIPAA are primarily one-time or short-term costs related to conversion. These costs will be incurred during the first 3 years of implementation. Benefits will accrue almost immediately, but will not exceed costs for health care providers until after the third year of implementation. After the third year, the benefits will continue to accrue into the fourth year and beyond. The impact analysis for the costs and benefits associated with all the Administrative Simplification standards indicates that the combined net savings for health plans and health care providers would amount to $1.5 billion dollars after 5 years.

Risks:

This rule will formally establish the standard for the unique health care provider identifier and will communicate the requirements for health plans, health care providers, and health care clearinghouses in implementing this standard.

Failure to publish this rule would jeopardize the benefits of administrative simplification. Payers would continue to maintain their own system of enumerating providers, and providers would need to maintain systems to store the different identifiers. Additional costs would thus be incurred.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25320
NPRM Comment Period End	07/06/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

HCFA-0045-

Agency Contact:

Patricia Peyton
Office of Information Services
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
N3-20-05
Baltimore, MD 21224-1850
Phone: 410 786-1812

RIN: 0938–AH99

HHS—HCFA

41. MEDICARE PROGRAM; MEDICARE+CHOICE PROGRAM (HCFA-1030-2-F)

Priority:

Other Significant

Legal Authority:

PL 105-33, section 400; 42 USC 1395w-21 to 1395w-27

CFR Citation:

42 CFR 422

Legal Deadline:

None

Abstract:

This final rule responds to comments on the June 26, 1998 interim final rule that implemented the Medicare+Choice (M+C) program and makes revisions to those regulations where warranted.

Statement of Need:

Section 4001 of the Balanced Budget Act of 1997 (BBA) (Public Law 105-33), enacted August 5, 1997, added sections 1851 through 1859 to the Social Security Act (the Act) to establish a new Part C of the Medicare program, known as the "Medicare+Choice (M+C) Program." Under section 1851(a)(1) of the Act, every individual entitled to Medicare Part A and enrolled under Part B, except for individuals with end-stage renal disease, may elect to receive benefits through either the existing Medicare fee-for-service program or Part C M+C plan, if one is available where he or she lives. The M+C statute authorizes a variety of private health plan options for beneficiaries, including both the traditional managed care (such as those offered by health maintenance organizations (HMOs)) that traditionally have been offered under section 1876 of the Act, and new options that were not previously authorized. Among the alternatives authorized by the BBA are M+C coordinated care plans (including plans offered by health maintenance organizations, preferred provider organizations, and provider-sponsored organizations), M+C "MSA" plans, that is, a combination of a high deductible M+C health insurance plan and a contribution to an M+C medical savings account (MSA), and M+C private fee-for-service plans.

The M+C program also introduced several other fundamental changes to the managed care component of the Medicare program. These changes include:

Establishment of an expanded array of quality assurance standards and other consumer protection requirements;

Introduction of an annual coordinated enrollment period, in conjunction with the distribution by HCFA of uniform, comprehensive information about M+C plans that is needed to promote informed choices of beneficiaries;

Revisions in the way we calculate payment rates to M+C organizations

that will narrow the range of payment variation across the country and increase incentives for organizations to offer M+C plans in diverse geographic areas; and

Establishment of requirements concerning provider participation procedures.

As directed by the BBA, we published an interim final rule on June 26, 1998 to implement the M+C program. On February 17, 1999, we published a limited final rule that set forth selected changes to the interim final regulations.

This more comprehensive final rule is necessary to respond to all comments on the interim final rule and implement other necessary changes. Issues discussed in this rule include eligibility, election, and enrollment policies; marketing requirements; access requirements; service area and benefit policy; quality improvement standards; payment rates, risk adjustment methodology and encounter data submission; provider participation rules; beneficiary appeals and grievances; contractual requirements; and preemption of State law by Federal law.

This final rule also addresses comments on the M+C user fee interim final rule published on December 2, 1997 and on the provider-sponsored organization (PSO) interim final rule published April 1, 1998.

Summary of Legal Basis:

Sections 1851 through 1859 of the Social Security Act and the implementing regulations at 42 CFR 422 set forth a series of requirements for organizations that participate in the M+C program. The specific areas addressed by the different sections of the statute are as follows:

Section 1851—Eligibility, election and enrollment

Section 1852—Benefits and beneficiary protections

Section 1853—Payment to M+C organizations

Section 1854—Premiums

Section 1855—Organizational and financial requirements for M+C organizations

Section 1856—Establishment of standards

Section 1857—Contracts with M+C organizations

Section 1859—Definitions and miscellaneous provisions

Part 422 establishes regulatory requirements based on these statutory provisions.

Alternatives:

Section 1856(b)(1) of the Act provided that in order to carry out the requirement to establish M+C standards by regulation, the Secretary was authorized to promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment. Inherent to this provision is the Department's commitment to subsequent publication of a final rule that responds to those public comments. Thus, we believe we have no alternative other than to publish a comprehensive final rule concerning the M+C program standards.

Anticipated Cost and Benefits:

We do not anticipate that this final rule will implement any changes in the M+C program that will have a significant economic impact on M+C organizations or the general public. Where possible without negative effects on the care provided to M+C enrollees, we intend to make minor changes in the M+C regulations that would reduce the administrative burden on M+C organizations.

Risks:

Given that the payment rates for M+C organizations are set by the statute, and that we do not intend to impose any burdensome new requirements on M+C organizations, we do not believe that this final rule poses any risks of financial harm to M+C organizations of causing pull-outs from the M+C program that could negatively affect Medicare beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/26/98	63 FR 34968
NPRM Comment Period End	09/24/98	
Limited Final Rule	02/17/99	64 FR 7968
Final Rule	02/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Tony Culotta
Department of Health and Human Services
Health Care Financing Administration
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
Baltimore, MD 21244
Phone: 410 786-4661

RIN: 0938–AI29

HHS—HCFA

42. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES (HCFA-1005-F)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

PL 105-33, sec 4521; PL 105-33, sec 4522; PL 105-33, sec 4523; PL 99-509, sec 9343(c)

CFR Citation:

42 CFR 409.10; 42 CFR 410.2; 42 CFR 410.27; 42 CFR 410.28; 42 CFR 410.30; 42 CFR 411.15; 42 CFR 412.50; 42 CFR 413.118; 42 CFR 413.122; 42 CFR 413.124; 42 CFR 413.130; 42 CFR 413; 42 CFR 489.20; 42 CFR 1003.101 to 102; 42 CFR 1003.105

Legal Deadline:

Final, Statutory, November 1, 1998.

Abstract:

The Balanced Budget Act of 1997 (BBA) (Public Law 105-33), enacted on August 5, 1997, provides for implementation of a Prospective Payment System (PPS) for hospital outpatient services (and for part B services furnished to inpatients who have no Part A coverage) furnished on or after January 1, 1999.

In the proposed rule published on September 8, 1998, HCFA indicated that, although the statutory effective date for the outpatient prospective payment system is January 1, 1999, implementation of the system would be delayed because of year 2000 systems concerns. Demands on intermediary bill-processing systems and HCFA internal systems to become compliant for the year 2000 precluded making the major systems changes that are required to implement the prospective payment system.

This system will also apply to partial hospitalization services furnished by community mental health centers. The BBA also requires a new method for calculating beneficiary copayments for the hospital outpatient services included under the PPS. The PPS will consist of about 340 groups of services, called "Ambulatory Payment Classifications" or APCs, that are related clinically and in terms of their resource use. We will assign a group weight to each group, based on the median cost (operating and capital) of the services included in the group. We will convert the weights for each group to payment rates using a national conversion factor, taking into account group weights and the projected volume of services for each group. In addition, this rule would establish in regulations the requirements for designating certain entities as provider-based or as a department of a hospital.

Statement of Need:

As the Medicare statute was originally enacted, Medicare payment for hospital services (inpatient and outpatient) was based on hospital-specific reasonable costs attributable to serving Medicare beneficiaries. The law was later amended to limit payment to the lesser of a hospital's reasonable costs or to its customary charges. In 1983, section 601 of the Social Security Amendments of 1983 (Public Law 98-21) completely revised the cost-based payment system for most hospital inpatient services by enacting section 1886(d) of the Social Security Act (the Act). This section provided for a PPS for acute inpatient hospital stays, effective with hospital cost reporting periods beginning on or after October 1, 1983.

Although payment for most inpatient services became subject to PPS, hospital outpatient services continue to be paid based on hospital-specific costs which provided little incentive for hospital efficiency for outpatient services. At the same time, advances in medical technology and changes in practice patterns were bringing about a shift in the site of medical care from the inpatient to the outpatient setting. During the 1980's, the Congress took steps to control the escalating costs of providing outpatient care. The Congress amended the statute to implement across-the-board reductions of 5.8 percent and 10 percent to the amounts otherwise payable for hospital operating costs and capital costs, respectively, and legislated a number of different payment methods for specific types of hospital outpatient services. These methods included fee schedules for clinical diagnostic laboratory tests, orthotics, prosthetics, and durable medical equipment (DME); composite rate payment for dialysis for persons with end-stage renal disease; and payments based on blends of hospital costs in the rates paid in other ambulatory settings, such as separately certified ambulatory surgical centers (ASCs) or physician offices for certain surgery, radiology, and other diagnostic procedures. Nevertheless, Medicare payment for services performed in the hospital outpatient setting remains largely cost-based.

Summary of Legal Basis:

In section 9343 of the Omnibus Budget Reconciliation Act of 1986 (OBRA 1986) (Public Law 99-509) and in section 4151(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), the Congress required the Secretary to develop a proposal to replace the current hospital outpatient payment system with a PPS and to submit a report to Congress on the system. In section 9343 of OBRA 1986, the Congress paved the way for development of a PPS by requiring hospitals to report claims for services under the HCFA Common Procedure Coding System (HCPCS), and by extending the prohibition against unbundling of hospital services under section 1862(a)(14) of the Social Security Act (the Act) to include outpatient services as well as inpatient services. HCPCS coding enabled us to determine what specific procedures and services were being billed, while the extension of the prohibition against unbundling ensured that all non-practitioner services provided to hospital outpatients would be billed only by the hospital not by an outside supplier, and therefore, would be reported on hospital bills and captured in the hospital outpatient data used in developing an outpatient PPS.

The Secretary submitted a report to Congress on March 17, 1995. The report summarized the research HCFA conducted in searching for a way to classify outpatient services for purposes of developing an outpatient PPS. The report cited Ambulatory Patient Groups (APGs), developed by 3M-Health Information Systems under a cooperative grant with HCFA, as the most promising classification system for grouping outpatient services and recommended that the APG-like groups be used in designing a hospital outpatient PPS.

The report also presented a number of options that could be used, once the PPS was in place, for addressing the issue of rapidly growing beneficiary copayment. As a separate issue we recommended that the Congress amend the provisions of the law pertaining to the blended payment methods for ASC surgery, radiology, and other diagnostic services to correct an anomaly that resulted in a less than full recognition of the amount paid by the beneficiary in calculating program payment (referred to as the formula-driven overpayment).

The Balanced Budget Act of 1997 (BBA) (Public Law 105-33), enacted on August 5, 1997, contains a number of provisions that affect Medicare payment for hospital outpatient services. The purpose of this rule is to implement sections 4521, 4522, and 4523 of the BBA. Section 4521 of the BBA eliminates the formula-driven overpayment, effective for services furnished on or after October 1, 1997. Section 4522 extends the current cost reduction of 5.8% and 10% (applicable to hospital outpatient operating cost and hospital capital costs, respectively) through December 31, 1999. Section 4523 provides for implementation of a PPS for hospital outpatient services (and for part B services furnished to inpatients who have no part A coverage) furnished on or after January 1, 1999. This system will also apply to partial hospitalization services furnished by community mental health centers. Section 4523 also requires a new method for calculating beneficiary copayments for the hospital outpatient services included under the PPS.

This rule would also implement section 9343(c) of the Omnibus Reconciliation Act of 1986, which prohibits Medicare payment for non-physician services furnished to a hospital outpatient by a provider or supplier other than a hospital, unless the services are furnished under an arrangement with a hospital. This section also authorizes HHS's Office of Inspector General to impose a civil money penalty against any individual or entity who knowingly or willfully presents a bill for non-physician or other bundled services not provided directly or under such an arrangement.

The Secretary has the authority under the BBA to determine which services are included (with the exception of ambulance services and physical, occupational, and speech therapies, for which fee schedules are being separately created). We will continue to pay for laboratory services and for orthotics and prosthetics on their prospective fee schedules, and for

chronic dialysis using the composite rate.

Alternatives:

If this final rule were not published, we would not implement the Balanced Budget Act of 1997 provision mandating a prospective payment system for hospital outpatient services. In addition, there would be no relief for beneficiaries from the large coinsurance burdens that they have been bearing for outpatient services.

Anticipated Cost and Benefits:

The primary benefit of this rule is the elimination of a cost-based system, which provides little incentive for hospital efficiency for outpatient services. In addition, the regulation will provide considerable relief over time to beneficiaries from high coinsurance payments under the current system. Finally, the rules governing provider-based status will alleviate an important area of program abuse.

Timetable:

Action	Date	FR Cite
NPRM	09/08/98	63 FR 47551
Correction Notice	06/30/99	64 FR 35258
NPRM Comment Period End	07/30/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

The April 1999 Unified Agenda erroneously reported this RIN as a completed action.

Agency Contact:

Janet Wellham
Center for Health Plans and Providers
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
Baltimore, MD 21244
Phone: 410 786-4510

RIN: 0938–AI56

HHS—HCFA

43. SECURITY AND ELECTRONIC SIGNATURE STANDARDS (HCFA-0049-F)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 104-191; 42 USC 1320d-2

CFR Citation:

45 CFR 162

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

This rule implements some of the requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996. It establishes standards for the security of health information and electronic signature use by health plans, health care clearing houses, and health care providers. These entities would use the security standard to develop and maintain the security of all electronic health information pertaining to an individual. The electronic signature standard is applicable only with respect to use with the specific transactions defined in the Health Insurance Portability and Accountability Act of 1996.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996 requires the Secretary of Health and Human Services to adopt security standards that require reasonable and appropriate administrative, technical and physical safeguards to (1) ensure the integrity and confidentiality of health information, (2) protect against any reasonably anticipated threats or hazards to the security or integrity of the information and protect against unauthorized uses or disclosures of the information.. Further, the Secretary, in coordination with the Secretary of Commerce, is to adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to certain transactions specified in HIPAA. This rule stipulates the requirements necessary to comply with the law.

Summary of Legal Basis:

The Administrative Simplification provisions of HIPAA require the Secretary to establish standards for the security of health information and electronic signature use by health plans, health care clearing houses, and health care providers.

Alternatives:

In the absence of federal regulations, the security of health care information in electronic form would be left to the private sector to develop. It is believed that this course of action would result in an extremely uneven level of protection (ranging from none to excessive) for electronic health information pertaining to individuals and make it difficult, if not impossible, to provide for privacy of this information.

Anticipated Cost and Benefits:

As the effect of any one of the HIPAA standards is affected by the implementation of other standards, it is misleading to discuss the impact of one standard by itself. Therefore, an Impact Analysis on the total effect of all the standards was published in the proposed rule concerning the national provider identifier (HCFA-0045-P) which was published on May 7, 1998 (63 FR 25320). Security protection for health care information is not a "stand alone" type requirement. Appropriate security protections will be a business enabler, encouraging the growth and use of electronic data interchange. The synergistic effect of the employment of the recommended security practices, procedures and technologies will enhance all aspects of HIPAA's Administrative Simplification requirements.

Risks:

The storage, handling and transmission of health information has long been a paper process. However, the transition from paper to electronic media has begun and is increasing at a rapid pace. This transition has brought on a significantly increased risk to the security and confidentiality of health information, particularly for information pertaining to individuals. This rule formally establishes a baseline set of requirements for security that must be adopted by health care providers, health plans and health care clearinghouses. Compliance with these requirements will greatly decrease risk to the security, integrity and confidentiality of health information pertaining to individuals.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43242
Final Action	05/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Agency Contact:

Barbara Clark
Office of Information Services
Department of Health and Human Services
Health Care Financing Administration
N2-14-10
7500 Security Boulevard
Baltimore, MD 21244-1850
Phone: 410 786-3017

RIN: 0938–AI57

HHS—HCFA

44. HEALTH INSURANCE REFORM: STANDARDS FOR ELECTRONIC TRANSACTIONS (HCFA-0149-F)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1320d-2

CFR Citation:

45 CFR 162

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

The rule puts in place code-set standards and standards for eight electronic transactions to be used by health plans, certain health care providers, and health care clearing houses. It would implement requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996. The standards will significantly reduce costs for processing health care transactions.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996, subtitle F of title II added to title XI of the Social Security Act a new part C, entitled "Administrative Simplification." The purpose of this part is to improve the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of the Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information. This regulation implements the requirements for standard transactions and code sets.

Summary of Legal Basis:

Part C of title XI consists of sections 1171 through 1179 of the Act. These sections define various terms and impose several requirements on HHS, health plans, health care clearinghouses, and certain health care providers.

As established by Part C of title XI, section 1173 of the Act requires the Secretary to adopt standards for financial and administrative transactions, and data elements for those transactions, to enable health information to be exchanged electronically. Section 1173 of the Act requires the Secretary to establish standards for code sets for each data element for each health care transaction. The Secretary must also ensure that procedures exist for the routine maintenance, testing, enhancement and expansion of code sets. In order to codify this authority, we have proposed implementing regulations at 45 CFR 162.

Alternatives:

Alternatives to naming standards would be to leave the marketplace to determine the standards. Up to now, this has not been successful. There has been a steady increase in use of electronic data interchange in the health care market since 1993, and it is predicted there will be continued growth, even without national standards. However, the upward trend in electronic health care transactions will be enhanced by having national standards in place. Because national standards are not in place today, there continues to be a proliferation of proprietary formats in the health care industry. Proprietary formats are those that are unique to an individual business. Due to proprietary formats, business partners that wish to exchange information electronically must agree on which formats to use. Since most health care providers do business with a number of plans, they must produce electronic transactions in many different formats.

Anticipated Cost and Benefits:

The economic impact that will stem from this rule will result in an estimated net savings to health plans and health care providers of $1.5 billion during the first five years; use of the standards would continue to save the industry money.

Risks:

This regulation will standardize a set of administrative transactions in the health care industry. Not publishing this rule would see the continuing of the myriad of formats of these transactions and eliminate the anticipated $1.5 billion in savings due to simplification efforts.

Timetable:

Action	Date	FR Cite
NPRM	05/07/98	63 FR 25277
NPRM Comment Period End	07/06/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Joy Glass
Office of Information Systems
Department of Health and Human Services
Health Care Financing Administration
N2-14-26
7500 Security Boulevard
Baltimore, MD 21244-1850
Phone: 410 786-6125

RIN: 0938–AI58

HHS—HCFA

45. NATIONAL STANDARD EMPLOYER IDENTIFIER (HCFA-0047-F)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 104-191; 42 USC 1320d-2

CFR Citation:

45 CFR 162

Legal Deadline:

Final, Statutory, February 21, 1998.

Abstract:

This rule institutes the employer identification number (EIN) as the standard for identifying employers for

purposes of administrative simplification, as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Use of one standard in the health care industry will reduce the cost of identifying employers in electronic health care transactions.

Statement of Need:

The Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) includes Subtitle F—Administrative Simplification, whose purpose is to improve the Medicare and Medicaid programs under the Social Security Act, and the efficiency and effectiveness of the health care system, by the establishment of standards and requirements for the electronic transmission of certain health information. This regulation establishes the standard for a unique employer identifier, as required by the Administrative Simplification provisions of P.L. 104-191.

Summary of Legal Basis:

The Administrative Simplification provisions of HIPAA require the Secretary of HHS to adopt a standard unique health identifier for each employer for use in the health care system and to specify the purposes for which a unique health identifier may be used.

Alternatives:

HHS examined several existing identifiers that might be adopted for the standard. In keeping with the requirements of HIPAA, because no standard setting organization had developed, adopted, or modified a standard for an employer identifier, HHS consulted with the National Uniform Billing Committee, the National Uniform Claim Committee, the Workgroup for Electronic Data Interchange and the American Dental Association in selecting this standard. HHS also relied on the recommendations of the National Committee on Vital and Health Statistics.

Anticipated Cost and Benefits:

As the effect of any one standard is affected by the implementation of other standards, it can be misleading to discuss the impact of one standard by itself. Therefore HHS did an impact analysis showing total costs and savings of all the HIPAA standards in the proposed rule concerning the national provider identifier (HCFA-0045-P), which can be found at 63 FR 25320. HHS determined that the requirements concerning the employer identifier would have a one time impact on those providers, clearinghouses, and health plans that have to convert to use the EIN, and on those employers that would have to disclose the EIN to covered entities.

Risks:

Failure to publish this rule would mean that no standard employer identifier would be established for use in the health care system. Lack of a standard employer identifier would decrease the savings in health care costs to be realized from administrative simplification.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32784
NPRM Comment Period End	08/17/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

Agency Contact:

Mary Emerson
Office of Information Services
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
N2-12-22
Baltimore, MD 21244
Phone: 410 786-7065
Email: memerson@hcfa.gov

RIN: 0938–AI59

HHS—HCFA

46. MEDICAID MANAGED CARE; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICAID PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (HCFA-2001-P)

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments.

Legal Authority:

PL 105-33, sec 4701 to 4710

CFR Citation:

42 CFR 438; 42 CFR 430; 42 CFR 431; 42 CFR 434; 42 CFR 435; 42 CFR 438; 42 CFR 440; 42 CFR 447

Legal Deadline:

None

Abstract:

This rulemaking establishes rules for Medicaid managed care programs which involve quality of care and services under Medicaid managed care programs. It implements certain provisions in sections 4701 through 4710 of the Balanced Budget Act of 1997 (BBA) (PL 105-33).

Statement of Need:

The BBA significantly modifies Medicaid managed care programs by providing a new State plan amendment vehicle for States to furnish managed health care to beneficiaries, enhanced enrollee protections, and an emphasis on the quality of health care delivered to Medicaid enrollees.

Summary of Legal Basis:

Section 1903(m) of the Social Security Act and implementing regulations at 42 CFR part 434 contain a number of requirements related to Medicaid managed care contracts. Among other things, the requirements relate to contract provisions involving enrollment and disenrollment in a Medicaid managed care organization (MCO), marketing, choice of health professionals within an MCO, quality assurance systems, grievance procedures, and plan solvency. Statutory amendments made by sections 4701 through 4710 of the BBA modify those requirements.

To control cost while enhancing quality of care, States are increasingly delivering services to their Medicaid populations through Medicaid managed care organizations (MCOs) and other managed care arrangements. These arrangements vary according to the comprehensiveness of the services they provide and the degree to which they accept risk. Fully capitated plans contract on a risk basis to provide beneficiaries with a comprehensive set of covered services in return for a monthly capitation payment. In general, partially capitated plans provide a less than comprehensive set of services on a risk basis; services not included in the contract are reimbursed on a fee-for-service basis. In addition, some States implement a primary care case management (PCCM) system in which a Medicaid beneficiary selects or is

assigned to a single primary care provider that provides or arranges for all covered services and is reimbursed on a fee-for-service basis. Under each of these managed care arrangements, beneficiaries have a regular source of coordinated care and States have predictable, controlled spending per beneficiary.

The BBA creates a new section of the Social Security Act relating to managed care arrangements. The new section 1932 establishes increased enrollee protections, quality assessment and performance improvement strategies for States, and enrollee rights and responsibilities.

Alternatives:

If this rule is not published, we would not implement many of the provisions in the Balanced Budget Act of 1997 related to Medicaid managed care.

Anticipated Cost and Benefits:

Estimates of the economic impact (if any) that will stem from these rules have not yet been completed.

Risks:

This rule will potentially improve the quality of health care provided to Medicaid managed care enrollees and provide States with new tools to become more effective purchasers of health care services. Failure to publish this rule would jeopardize broad-based improvement in the quality of care our beneficiaries receive and would deprive States of many tools that would improve their managed care programs.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 52021
NPRM Comment Period End	11/30/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Organizations, Governmental Jurisdictions

Government Levels Affected:

Federal, Tribal, State, Local

Agency Contact:

Michael Fiore
Center for Medicaid and State Operations
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
Baltimore, MD 21244
Phone: 410 786-0623

RIN: 0938–AI70

HHS—HCFA

47. HOME HEALTH PROSPECTIVE PAYMENT SYSTEM (HCFA-1059-P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

PL 105-33, sec 4603

CFR Citation:

42 CFR ch IV

Legal Deadline:

NPRM, Statutory, October 1, 2000.

Abstract:

This final rule will establish requirements for the new prospective payment system (PPS) for home health agencies as governed by section 4603 of the Balanced Budget Act of 1997 (BBA) (PL 105-33).

Statement of Need:

The BBA significantly changed the way we pay for Medicare home health services. It requires the establishment of a facility-specific PPS and provides for interim steps until the PPS is established. Under the interim system HHAs will receive payment in accordance with section 4602 of the Balanced Budget Act of 1997. The interim payment system establishes two sets of cost limits for home health agencies. The long-standing home health per visit cost limits are reduced from 112 percent of the mean labor-related and non-labor per visit costs for freestanding agencies to 105 percent of the median. In addition, home health agency costs will be subject to an aggregate per-beneficiary cost limitation. For those providers with a cost report ending in Federal fiscal year 1994, the per-beneficiary cost limitation is based on a blend of costs (75 percent on 98 percent of the agency-specific costs and 25 percent on 98 percent of the standardized regional average of the costs for the agency's census region). For new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, the per-beneficiary limitation will be the national median of the per-beneficiary limits for HHAs. Under the interim system, HHAs will be paid the lesser of 1) actual costs; 2) the per-visit limits; 3) the per-beneficiary limits. The result of the interim system will be to create a strong incentive for HHAs to reduce utilization to at least 1994 levels to fall within the aggregate cost limit. The interim payment system was effective 10/1/97 and will be in effect until prospective payment for home health agencies is implemented.

Section 4603 of the BBA establishes section 1895 of the Social Security Act, which specifies the authority for the development of a prospective payment system for home health services effective 10/1/99, which will ultimately be based on units of payment, most likely episodes of care. In developing the PPS, the Secretary will consider an appropriate unit of service, the number of visits provided within the unit, and their cost. Payment for a unit of home health service will be modified by a case mix adjustor, set by the Secretary, to explain a significant amount of the variation in the cost of different units of service. The HHA would have the potential of profit or loss on each individual patient. Over many patients, the HHA would presumably make or lose money based on its ability to provide needed care effectively and efficiently.

Summary of Legal Basis:

Section 1861(v)(1)(A) of the Social Security Act requires the limits that comprise the interim system. Under this authority, HCFA has maintained limitations on home health agency per-visit costs since 1975. Additional statutory provisions specifically governing limitations applicable to home health agencies are contained at section 1861(v)(1)(L) of the Social Security Act. These limits will be replaced by the establishment of a prospective payment system as defined in section 4603 of the BBA that requires the Secretary to establish and implement the prospective payment system for home health services.

Alternatives:

Section 4603 of the BBA specifies the authority for the development of a prospective payment system for home health services effective 10/1/99. However, there is contingency language for the home health prospective payment system provided in BBA. If the Secretary for any reason does not establish and implement the

prospective payment system for home health services, the Secretary shall provide for a reduction by 15 percent of the per-visit cost limits and per-beneficiary limits, as those limits would otherwise be in effect on September 30, 2000.

Anticipated Cost and Benefits:

The Congress anticipates that the implementation of a PPS for home health services will achieve the combined benefits of establishing a system which will enable HCFA to find the provision of medically necessary HHA care to beneficiaries consistent with the HHA's own case mix and will also prevent the development of further unsustainable growth in HHA costs. The combined effects of the "interim" and final systems are required to achieve this result.

Risks:

The statutory contingency for reducing cost caps under the interim system by 15 percent, if the PPS is not timely implemented, is not the preferred method for achieving the desired savings because the interim system does not adjust fully for case mix, as the PPS is required to do. Therefore, the longer the delay in implementation of the PPS, the greater the potential disparity between the case mix of an individual HHA and its payments.

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 58133
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Agency Contact:

Robert Wardwell
Center for Health Plans and Providers
Department of Health and Human Services
Health Care Financing Administration
7500 Security Boulevard
Baltimore, MD 21244
Phone: 410 786-3254

RIN: 0938–AJ24

HHS—HCFA

48. • THE CHILDREN'S HEALTH INSURANCE PROGRAM: IMPLEMENTING THE BALANCED BUDGET ACT OF 1997 (HCFA-2006-P)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1396; PL 105-33

CFR Citation:

42 CFR 457

Legal Deadline:

None

Abstract:

This rulemaking establishes rules for the new Children's Health Insurance Program (CHIP). It implements sections 4901 and 4911 of the Balanced Budget Act (BBA) of 1997.

Statement of Need:

The Balanced Budget Act of 1997 (PL 105-33) creates a new title XXI of the Social Security Act to establish a Children's Health Insurance Program that supplements the Medicaid program and enables States to create a new and unique health delivery system for low-income children. This regulation will codify a series of policy guidance that has been released to the States and other interested parties over the past two years.

Summary of Legal Basis:

As established by section 4901 of the BBA, the new title XXI of the Social Security Act authorizes $41 billion over the next 10 years for States to create separate Children's Health Insurance Programs to provide health care coverage to targeted low-income children.

In order to receive reimbursement through an enhanced matching rate, States have three options in developing programs. They may expand existing Medicaid programs, create unique and separate children's health programs, or establish a combination of the two options. Within certain parameters set by the statute, States have flexibility to determine eligibility levels, develop benefit packages, and impose cost-sharing requirements. The statute also includes provisions for meeting strategic objectives, evaluation and data collection. In order to codify this authority, we have proposed implementing regulations at 42 CFR part 457.

Alternatives:

Federal payments under title XXI are based on State expenditures under approved plans that could be effective on or after October 1, 1997. The short time frame between the enactment of the BBA on August 5, 1997 and the availability of funding for States and territories required the Department to begin reviewing CHIP plans at the same time as it was issuing policy guidance to States on how to operate the CHIP program. The Department worked closely with States to disseminate as much information as possible, as quickly as possible, so States could begin to implement their new programs expeditiously. As a result, 54 States and territories have approved CHIP plans. Therefore, CHIP is now in operation prior to the completion of regulations.

Anticipated Cost and Benefits:

Estimates of the economic impact that will stem from this rule will be made available.

Risks:

This rule will formally establish the Department's policies and requirements related to the implementation of this program. It will provide States with needed information and also give them and other interested parties the opportunity to comment on the feasibility of implementing these policies. Failure to publish this rule would jeopardize our relationships with the States, advocates and providers because it would deprive them of many tools needed for establishing concrete programs.

Timetable:

Action	Date	FR Cite
NPRM	11/08/99	64 FR 60881
Final Rule	06/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Organizations

Government Levels Affected:

State, Local

Agency Co

Cheryl Aus
Department
Services
Health Care
200 Indepe
Washington
Phone: 410

RIN: 0938–
BILLING CODE

Agency Contact:

Cheryl Austein-Casnoff
Department of Health and Human Services
Health Care Financing Administration
200 Independence Avenue SW.
Washington, DC 20201
Phone: 410 786-4196

RIN: 0938–AJ75

BILLING CODE 4150–04–F

VOL 64 ISS 224 NO 22 1999 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Statement of Regulatory Priorities

The Regulatory Plan of the Department of Housing and Urban Development for Fiscal Year 2000 highlights priority regulations and policy initiatives directed towards the achievement of HUD's traditional goals of increasing the supply of affordable housing, ensuring equal opportunity for housing, promoting jobs and economic development, as well as its more recent goal of restoring the public's trust in HUD. These goals are embodied in HUD's mission and its strategic goals for Fiscal Year 2000.

HUD approaches the new fiscal year with a renewed sense of commitment to its mission and goals, and greater accountability for its performance. HUD 2020 Management Reform was designed in 1997 with the objective of improving the overall administration of HUD's programs to enhance the delivery of HUD's services to local communities. HUD has made significant progress in achieving its reforms through the Department, as evidenced by the following.

In a July 15, 1999 report issued by an independent organization, the National Academy of Public Administration (NAPA), HUD was cited as making major progress in improving its management performance and its planning to achieve the Department's strategic goals. In May 1999, HUD received its first clean audit in HUD history. HUD's Fiscal Year 1999 budget was the Department's best budget in a decade. In HUD's FY 1999 appropriations act, HUD received new Section 8 rental assistance vouchers for 90,000 low- and moderate-income families, and the appropriations also included landmark reforms for public and assisted housing. The increased budget for FY 1999, the clean audit, and the recognition of HUD's progress in management reform reflect a HUD that has been revitalized, has demonstrated significant progress in becoming a performance-oriented organization, and is restoring a reputation for credibility and competence. The improvements within HUD translate into improvements for HUD's constituents, such as better delivery of services and stronger partnerships with HUD's public and private partners.

The improvements within HUD also translate into improved regulations and policy initiatives. Consistent with President Clinton's Executive order on Regulatory Planning and Review (E.O. 12866), HUD's approach to regulations is to refrain, as permitted by law, from top-down directives, and over-regulation. HUD's general approach is to establish the necessary legal parameters and guidance, include the appropriate oversight, and provide as much flexibility as possible for program implementation at the local level given local concerns and needs. However, where strong action is needed to ensure that HUD programs are serving the people they are intended to serve, HUD has taken such action, restoring public trust.

Several priority regulations and policy initiatives implemented in Fiscal Year 1999 highlight these approaches to rulemaking.

HUD's Mark-to-Market Program, implemented by a rule which became effective on October 13, 1998, is already assisting State and local housing agencies to maintain affordable housing stock throughout the nation. The program, which gets its name because rents permitted by HUD in privately owned subsidized housing are marked down to the competitive rent level prevailing in an area's rental housing, is designed to enable HUD and its State and local partners to more effectively use Federal subsidies to preserve the maximum amount of affordable housing under the project-based Section 8 program.

The first comprehensive physical inspections of public housing, which got underway in Fiscal Year 1999, following implementation of the final rule on HUD's new Public Housing Assessment System (PHAS), rated 87 percent of the inspected housing good or excellent. The implementation of the PHAS marks the first time in HUD's history that all public housing properties will be physically inspected, as well as financially assessed using comprehensive and consistent assessment protocols. A Request for Proposals (RFP) issued by HUD on May 3, 1999, challenged public housing agencies (PHAs) to improve administration of the project-based Section 8 program by forming partnerships with private firms and nonprofit organizations experienced in property management and accounting. The RFP solicited proposals from PHAs to administer more than 20,000 project-based Section 8 contracts currently administered by HUD. The intended partnerships promoted by the RFP are expected to effectively enforce owner obligations to provide decent housing to residents by adding private sector expertise to a PHA's administration of the contract.

HUD's Homebuyer Protection Initiative, announced in June 1999, is designed to protect consumers from buying HUD-insured homes with undetected defects. The initiative includes a consumer education campaign about appraisals and inspections conducted by HUD, calls for mandatory testing of all appraisers to determine qualifications to perform appraisals for HUD, requires more thorough and reliable appraisals for HUD-insured homes including mandatory disclosure of detected home defects, automated evaluation of appraisals, and stricter enforcement actions to suspend poorly performing appraisers.

HUD's Consumer Protection Measures for elderly homeowners participating in HUD's Home Equity Conversion Mortgage (HECM) Insurance Program, was implemented by final rule issued on January 19, 1999. The rule is directed to protecting elderly homeowners from becoming liable for payment of excessive fees for third party provided services that are of little or no value to the homeowner. The rulemaking was prompted by concerns that some estate planning entities were charging what HUD considered exorbitant fees to elderly homeowners in transactions related to HECMs.

HUD's new policy statement on RESPA — the Real Estate Settlement Procedures Act — is designed to save Americans millions of dollars a year by protecting them from excessive mortgage broker fees and by encouraging improved disclosure of mortgage broker fees and services. The statement, issued March 1, 1999, clarifies HUD's long-standing position dealing with fees paid to mortgage brokers, which is that the compensation a broker receives from a lender and from a borrower must be reasonable for the actual work performed. The fee disclosure called for in the policy statement is designed to make it easier for millions of homebuyers and families refinancing their mortgages to comparison shop for a home loan and save money on the fees they pay mortgage brokers to find and originate home loans.

HUD's Native American Housing Initiative, implemented in March 1999, will enable tribal governments to create non-profit groups that can apply for a share of more than $1 billion in annual assistance under several major HUD programs. Because only local governments and non-profit groups are

eligible for funding under these programs, tribal governments have been unable to benefit from the programs, even though Indian reservations have high poverty and unemployment rates, as well as great housing needs. Under the initiative, the non-profit groups created by tribal governments will be eligible to apply for several funding sources to assist tribal governments in meeting their housing and community needs.

HUD's Officer Next Door Program (issued by interim rule on July 2, 1999) is designed to help revitalize economically distressed areas, make communities safer and promote strong police-community ties. The program offers law enforcement officers a 50 percent discount on homes that were previously insured through the Federal Housing Administration and were then foreclosed when owners failed to make mortgage payments. The savings under the program provided to officers presents a significant incentive to move into neighborhoods in need of revitalization. The program builds on the success of community policing by turning the neighborhood officer into the good neighbor next door.

In addition to these priority regulatory initiatives, Fiscal Year 1999 saw considerable headway made by HUD in implementing the program reforms called for by the Quality Housing and Work Responsibility Act of 1998, enacted on October 21, 1998 (commonly referred to as the "Public Housing Reform Act"). The Public Housing Reform Act constitutes a substantial overhaul of HUD's public housing programs and also institutes important reforms in HUD's Section 8 assistance programs. The statute enacts into law many of the reforms proposed by Secretary Cuomo in his HUD 2020 Management Reform Plan for HUD's public housing and Section 8 programs. The Public Housing Reform Act is designed to transform public housing into a setting that encourages and rewards work, brings more working families into public housing, increases the availability of subsidized housing for very poor families, deconcentrates poverty, removes barriers that isolate low income residents, provides for the demolition of the largest failed public housing projects, and replaces these projects with new townhouse style developments through the HOPE VI program.

The Public Housing Reform Act requires that many of its mandated reforms be implemented by rulemaking, including three negotiated rulemaking proceedings. Issuance of regulations to implement these reforms began early in Fiscal Year 1999, and HUD is well underway to completing the rulemakings required by the statute.

On February 18, 1999, HUD issued its interim rule on the Public Housing Agency (PHA) Plans. The two PHA plans — the 5-year Plan and the Annual Plan — allow the PHA to describe its mission and long range goals and objectives and provide details about the PHA's immediate operations, programs and services, and the PHA's strategy for handling operational concerns and resident concerns and needs.

On May 14, 1999, HUD issued its interim rule to provide for the complete merger of the Section 8 tenant-based certificate and voucher programs into a new Housing Choice Voucher Program. This single market-driven program will assist in making Section 8 tenant-based rental assistance more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families.

Proposed rules already issued by HUD under the Public Housing Reform Act include rules pertaining to: Changes in admission and occupancy requirements for public and assisted housing; one-strike screening and eviction for drug abuse and other criminal activity in public and assisted housing; changes to the PHAS; Public Housing Drug Elimination Program formula allocation; required resident membership on the board of directors of a PHA or similar governing body; pet ownership in public housing; required conversion of developments from public housing stock; voluntary conversion of developments from public housing stock; Section 8 homeownership; public housing homeownership; and public housing agency consortia and joint ventures. HUD's objective is to complete the rulemakings on these subjects as close as possible to the beginning of the new fiscal year. HUD recognizes the importance of these changes, long sought by HUD and by its program partners, being implemented as quickly as possible.

For Fiscal Year 2000, HUD's regulatory plan reflects a continuation of the priority regulations and policy initiatives implemented in Fiscal Year 1999. Where rulemaking is required, it is HUD's intent that regulations be used to strengthen protections of those most vulnerable and in need of protection (the elderly, persons with disabilities and other protected classes), to empower communities by increasing their responsibility to design and implement strategies to address housing and community needs, and to increase the supply of affordable housing.

HUD's Regulatory Plan for Fiscal Year 2000 focuses on HUD's mission and strategic goals.

The Departmental Mission: Promote adequate and affordable housing, economic opportunity, and a suitable living environment free from discrimination.

To accomplish this mission, the Secretary has directed HUD to focus on the following strategic goals that are designed to reflect the core business of HUD:

1. Increase the availability of decent, safe, and affordable housing in American communities;
2. Ensure equal opportunity in housing for all Americans;
3. Promote self-sufficiency and asset development of families and individuals;
4. Improve community quality of life and economic vitality;
5. Restore public trust.

HUD's regulatory priorities for Fiscal Year 2000 include all of the rulemakings required by the Public Housing Reform Act. In addition to these priorities, HUD highlights certain of the Public Housing Reform Act rules and other priority rules in its Plan description that follows. The regulatory priorities set forth in HUD's Regulatory Plan for Fiscal Year 2000, and all the regulations set forth in HUD's Semiannual Regulatory Agenda, are designed to implement HUD's mission and address the strategic goals.

Regulatory Priorities

Regulatory Action: Capital Fund Allocation, Operating Fund Allocation, and Section 8 Housing Certificate Fund Allocation

These three rules, being developed through three separate negotiated rulemaking processes, will provide formula allocation for public housing agencies' capital needs, their operating needs, and their Section 8 tenant-based contract renewal needs. These three rules address the basic funding needs of public housing agencies. By developing these three significant funding rules through the negotiated rulemaking process, public housing agencies, public housing residents, and other affected and interested parties have a say in how to meet their future local needs, and how the funding should be allocated among the public housing agencies, given their needs.

[Furthers Strategic Goals 1 and 4]

Regulatory Action: Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties

This rule will establish for certain multifamily housing an administrative process by which (1) HUD will notify owners of HUD's assessment of the physical condition of their multifamily housing; (2) owners of multifamily housing will be provided an opportunity to seek technical review of HUD's physical condition assessment of their housing; and (3) HUD will notify owners of action to be taken where the housing is found not to be in compliance with HUD's uniform physical condition standards.

[Furthers Strategic Goals 1 and 5]

Regulatory Action: Resident Opportunities and Supportive Services Program

This rule would provide for more active involvement by public housing residents in their community and geographical area by linking public housing residents to supportive services and resident empowerment activities, and establishing methods for assisting residents in becoming economically self-sufficient. This rule is important in reducing the isolation of low-income residents by promoting their involvement in key areas that affect their lives — their housing and their communities. The rule is also important in promoting economic empowerment of public housing residents.

[Furthers Strategic Goals 3 and 4]

Regulatory Action: HOPE VI Program

This rule will establish the legal parameters and guidance that will govern funding and eligible activities of HUD's HOPE VI Program, but under President Clinton's and HUD's regulatory principles allow HOPE VI grantees to develop, within those parameters, their own strategies to address public housing that is in severe distress. Consistent with new statutory requirements, the rule includes as an eligible activity appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities.

[Furthers Strategic Goals 1, 3 and 4]

Regulatory Action: The Secretary of HUD's Regulation of Fannie Mae and Freddie Mac (Government Sponsored Entities)

Through this rule, HUD will issue new housing goal levels for the purchase of mortgages by Fannie Mae and Freddie Mac (collectively, the Government Sponsored Entities, or GSEs) for calendar years 2000 through 2003. The new goals will provide strong incentives for the two enterprises to more fully address the housing finance needs for very low-, low- and moderate-income families and residents of underserved areas and, therefore, to more fully realize their public purposes.

[Furthers Strategic Goals 2 and 3]

HUD—Office of the Secretary (HUDSEC)

PROPOSED RULE STAGE

---

49. • SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC: PURCHASE GOALS (FR-4494)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

12 USC 1451 et seq; 12 USC 1716-1723h; 12 USC 4501-4641; 28 USC 2641; 42 USC 3535(d); 42 USC 3601-3619

CFR Citation:

24 CFR 81

Legal Deadline:

None

Abstract:

Through this rule, the Department is issuing new housing goal levels for the purchase of mortgages by Fannie Mae and the Freddie Mac (collectively, the Government Sponsored Enterprises, or GSEs) for calendar years 2000 through 2003. In accordance with the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, this rule establishes new goal levels for purchasing of mortgages financing low- and moderate-income housing, special affordable housing, and housing in central cities, rural areas, and other underserved areas. This rule also clarifies HUD's guidelines for counting different types of mortgage purchases toward those goals, and provides greater public access to certain types of mortgage data in HUD's public use database.

Statement of Need:

Current regulations, published in 1995, establish the GSEs' housing goals for 1995-99. While the goals would remain effective beyond 1999 at 1999 levels, to avoid any lapse in coverage, the Secretary is establishing new goals to reflect current conditions. The new goals will provide strong incentives for the two enterprises to more fully address the housing finance needs for very low-, low- and moderate-income families and residents of underserved areas and thus, to realize more fully their public purposes. Such incentives are consistent with the Department's strategic objectives of increasing homeownership opportunities and the supply of affordable rental housing in the United States.

Summary of Legal Basis:

The Department is authorized to establish housing goals for the GSEs by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.), which sets several parameters for the housing goals and provides other requirements for many of the issues addressed in this rule.

Alternatives:

The alternative of leaving the housing goals unchanged was considered. It was rejected because it failed to meet HUD's strategic objectives of increasing the supply of affordable rental housing and homeownership and promoting equal housing opportunities for those protected by the law.

Anticipated Cost and Benefits:

This rule will have the benefit of increasing the number of affordable housing units for low- and moderate-income families and underserved communities over the next four years (2000-03). However, there is no indication that focusing the GSEs' attention on the affordable lending market would be costly for the GSEs. In fact, HUD's analysis indicates that meeting the proposed housing goals will have little impact on the GSEs' financial returns or on the safety and soundness of GSE operations. Additionally, increased GSE activity in the affordable lending arena should not lead to significant crowding out of traditional portfolio lenders.

Risks:

This rule poses no risk to public health, safety or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Janet Tasker
Director, Office of Government Sponsored Enterprise Oversight
Department of Housing and Urban Development
Office of Housing
Phone: 202 708-2224

Allen Fishbein
Senior Advisor to the Assistant Secretary for Housing Sponsored Enterprise Oversight
Department of Housing and Urban Development
Office of Housing
Phone: 202 708-3600

RIN: 2501–AC60

HUD—Office of Housing (OH)

PROPOSED RULE STAGE

50. • UNIFORM PHYSICAL CONDITIONS AND PHYSICAL INSPECTION REQUIREMENTS FOR CERTAIN HUD MULTIFAMILY HOUSING; ADMINISTRATIVE PROCESS FOR ASSESSMENT OF INSURED AND ASSISTED PROPERTIES (FR-4452)

Priority:

Other Significant

Legal Authority:

12 USC 1701-1715; 42 USC 3535(d)

CFR Citation:

24 CFR 200

Legal Deadline:

None

Abstract:

This rule will establish for certain multifamily housing administrative processes by which (1) HUD will notify owners of HUD's assessment of the physical condition of their multifamily housing; (2) the owners, under certain circumstances, will be provided an opportunity to seek technical review of HUD's physical condition assessment of the multifamily housing; and (3) HUD may take action where the housing is found not to be in compliance with the physical condition standards. The assessment of multifamily housing to ensure that it is a condition that is decent, safe and sanitary is an important mission of HUD. This rule helps HUD to achieve this mission.

Statement of Need:

HUD is responsible for ensuring that housing subsidized by HUD is in a condition that is decent, safe, sanitary and in good repair. Until implementation of HUD's 2020 Management Reform Plan, HUD never had an effective and comprehensive property assessment system. This system was established in 1998 and HUD's Real Estate Assessment Center is charged with the responsibility for assessing the properties in which HUD has an interest. In 1998, HUD established the Public Housing Assessment System, which provides for the assessment, among other things, of the physical condition of public housing. This rule will establish a process for the assessment of the physical condition for certain multifamily housing.

Summary of Legal Basis:

The Congress has charged HUD with the responsibility to ensure that housing assisted by HUD is in decent safe and sanitary condition (42 U.S.C. 1437, 42 U.S.C. 12702, 12 U.S.C. 1701-z-11).

Alternatives:

In 1998, HUD established uniform physical condition standards and uniform physical inspection requirements. Until that date, physical condition requirements applicable to housing assisted under various HUD programs were similar but not uniform. Additionally, there was no comprehensive oversight and assessment of the properties in HUD's portfolio. Inspection was left to owners and managers with infrequent oversight by HUD, and HUD was without important information on the condition of the housing in its portfolio. By establishing uniform physical condition standards, HUD seeks to bring consistency in physical condition standards for all HUD housing, to standardize the inspection to be undertaken to determine compliance with the standards, and to implement an electronically based inspection system to evaluate, rate and rank the physical condition of HUD housing in an objective manner as possible.

Anticipated Cost and Benefits:

HUD has undertaken the responsibility for initial physical inspection of the properties in its portfolio and determining the condition of these properties. The benefit to owners of the covered multifamily housing is the elimination of subjectivity in the physical condition analysis process. By having uniform physical condition standards and uniform physical inspection requirements, owners are subject to the same standards and the standards do not vary because the inspection by one HUD Office might differ from that conducted by another HUD Office. The benefit to residents is increased confidence that HUD is committed to providing decent, safe and sanitary housing.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Kenneth Hannon
Office of Multifamily Housing
Department of Housing and Urban Development
Office of Housing
Phone: 202 708-3944

RIN: 2502–AH44

HUD—Office of Public and Indian Housing (PIH)

PROPOSED RULE STAGE

51. OPERATING FUND ALLOCATION FORMULA (FR-4425)

Priority:

Other Significant

Legal Authority:

42 USC 1437g(e); 42 USC 1437g(f); 42 USC 3535(d)

CFR Citation:

24 CFR 990

Legal Deadline:

Final, Statutory, October 1, 1999. Section 519(f) permits the Department to extend the effective date for up to 6 months.

Abstract:

This rule will implement a new formula system for allocating funds to public housing agencies for their operation and management of public housing. The new formula system is being developed through negotiated rulemaking procedures, as required by section 519 of the Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276, approved October 21, 1998, 112 Stat. 2551; hereafter, "Public Housing Reform Act"). That statute amended section 9 of the United States Housing Act of 1937 to require development of a new formula that would change the current method (the Performance Funding System) of determining the payment of operating subsidies to public housing agencies.

The members of the negotiated rulemaking advisory committee include national housing associations, housing authorities, tenant and community organizations, public interest organizations and HUD. Committee meetings began in March 1999 and are continuing.

Statement of Need:

Section 519 of the Public Housing Reform Act requires HUD to develop this rule to govern funding of PHAs' operating and management needs.

Summary of Legal Basis:

Section 519 of the Public Housing Reform Act amending Section 9 of the U.S. Housing Act of 1937, codified at 42 USC 1437g.

Alternatives:

The Public Housing Reform Act requires that this new formula system be developed through negotiated rulemaking.

Anticipated Cost and Benefits:

The costs of the program as administered with one fund from which a PHA will fund all of its operating and management needs will be the same as under existing provisions. The benefits of having this new formula system developed through negotiated rulemaking is that it allows those entities and individuals directly affected — public housing agencies and their residents — to have a say in how the formula will operate, and consequently to help foster constructive, creative and acceptable solutions to difficult problems.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
Notice	02/03/99	64 FR 5570
Notice Comment Period End	03/05/99	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Stephen Sprague
Acting Director, Funding and Financial Management Division
Department of Housing and Urban Development
Office of Public and Indian Housing
Phone: 202 708-1872

RIN: 2577–AB88

HUD—PIH

52. • RESIDENT OPPORTUNITIES AND SUPPORTIVE SERVICES (FR-4525)

Priority:

Other Significant

Legal Authority:

42 USC 1437-6; 42 USC 3535(d)

CFR Citation:

24 CFR 964

Legal Deadline:

None

Abstract:

This rule will implement section 538 of Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276, approved October 21, 1998, 112 Stat. 2461; hereafter, "Public Housing Reform Act") by adding the Resident Opportunities and Supportive Services (ROSS) program requirements to 24 CFR part 964. The purpose of the ROSS Program is to provide linkage of services to public housing residents, including supportive services and resident empowerment activities. Eligible activities include those related to physical improvements of a public housing development in order to provide space for supportive services of residents; work readiness including education, job training and counseling; and other activities designed to improve the economic self-sufficiency of residents.

Statement of Need:

The program established by section 538 of the Public Housing Reform Act is a permanent program. The regulations will provide the appropriate notice of the legal framework for the program, and clear and uniform criteria for program eligibility and participation.

Summary of Legal Basis:

Section 538 of the Public Housing Reform Act, amending title I of the U.S. Housing Act of 1937 (42 U.S.C. 1437z-6).

Alternatives:

As a program that authorizes the use of funds for resident supportive services, the ROSS Program could be administered by a notice of funding availability (NOFA), but a NOFA does not provide a long term legal framework for the program. Requirements established for a program by NOFA are generally limited to short-term funding initiatives and demonstration programs. A permanent program requires regulations. HUD, however, will develop regulations consistent with President Clinton's Executive order on Regulatory Planning and Review (E.O. 12866) to provide flexibility, the least burden, and performance incentives.

Anticipated Cost and Benefits:

The establishment of regulations will bring certainty to this funding program, and confirm its permanency. Although interested parties looked to the notice of funding availability, issued in Fiscal Year 1999, the first year of funding, to determine applicable requirements, the regulations when issued will provide the legal basis for the program. The certainty to be provided through issuance of regulations should reduce costs by providing longer term planning on the part of grantees.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Paula Blunt
Director, Customer Services and Amenities Division
Department of Housing and Urban Development
Office of Public and Indian Housing
Phone: 202 619-8201

RIN: 2577–AC07

HUD—PIH

53. • HOPE VI PROGRAM (FR-4530)

Priority:

Other Significant

Legal Authority:

42 USC 1437v; 42 USC 3535(d)

CFR Citation:

24 CFR 000

Legal Deadline:

None

Abstract:

This rule will establish regulations that will govern funding and eligible activities of HUD's HOPE VI Program. To date, HOPE VI has been operated from year to year as a demonstration program in accordance with authorization provided each year in appropriations bills. HOPE VI activities were funded and guided by notices of funding availability issued each fiscal year by HUD. The Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276, approved October 21, 1998, 112 Stat. 2585; hereafter, "Public Housing Reform Act") makes HOPE VI a permanent program. The regulations to be implemented for the HOPE VI program will include the provisions set out in section 535 of the Public Housing Reform Act.

Statement of Need:

With the establishment of a permanent framework for the HOPE VI Programs, regulations are necessary to establish certainty and consistency in the operation of HOPE VI funded projects as provided by the statute. The regulations will establish clear and uniform criteria for program eligibility and participation.

Summary of Legal Basis:

Section 535 of the Public Housing Reform Act (42 U.S.C. 1437v).

Alternatives:

The HOPE VI Program has been operated as a demonstration program and funded by a NOFA on a yearly basis, dependent upon continued authorization through appropriations bills. The permanent framework provided by the Public Housing Reform Act necessitates the establishment of a permanent legal framework for administration of the program.

Anticipated Cost and Benefits:

The establishment of regulations will bring certainty and permanency to the program, which has been lacking to date. Interested parties have looked to the notice of funding availability, issued annually, to determine applicable requirements. The certainty to be provided through issuance of regulations should reduce costs by providing longer term planning on the part of grantees.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Milan Ozdinec
Director, Office of Urban Revitalization
Department of Housing and Urban Development
Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC17

HUD—PIH

FINAL RULE STAGE

---

54. CAPITAL FUND ALLOCATION FORMULA (FR-4423)

Priority:

Other Significant

Legal Authority:

42 USC 1437g(d); 42 USC 1437g(f); 42 USC 3535(d)

CFR Citation:

24 CFR 905

Legal Deadline:

Final, Statutory, October 1, 1999.

Abstract:

This rule will implement a new formula system for allocating funds to public housing agencies for their public housing program capital needs, whether related to development or modernization. The new formula system is being developed through negotiated rulemaking procedures, as required by section 519 of the Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105-276, approved October 21, 1998, 112 Stat. 2551; hereafter, "Public Housing Reform Act"). That statute amended section 9 of the United States Housing Act of 1937 to require development of a single formula to replace the existing development and modernization funding methods. This rule will work in conjunction with a rule that replaces the existing framework for public housing development and modernization, found in 24 CFR parts 941 and 968.

The members of the negotiated rulemaking advisory committee include national housing associations, housing authorities, tenant and community organizations, Fannie Mae, and HUD. Committee meetings began in April 1999 and concluded in August 1999.

The Capital Fund formula in this rule fulfills the statute's mandate to include a mechanism to reward performance. It also provides for a replacement housing factor, in recognition that funding for this purpose will facilitate demolition of obsolete housing and allow public housing authorities (PHAs) to address some of the remaining housing needs in the affected communities.

Statement of Need:

Section 519 of the Public Housing Reform Act requires HUD to develop

this rule to govern funding of PHAs' public housing capital needs.

Summary of Legal Basis:

Section 519 of the Public Housing Reform Act amending Section 9 of the U.S. Housing Act of 1937 codified at 42 USC 1437g.

Alternatives:

The Public Housing Reform Act requires a formula system to be established by negotiated rulemaking.

Anticipated Cost and Benefits:

The costs of the program as administered with one fund from which a PHA will fund all of its capital needs will be the same as under existing provisions. However, the benefits of having just one funding mechanism for all such needs, and the provision of additional flexibility to PHAs to manage their physical assets will provide increased benefits to the PHAs. The additional consultation of residents built into the program will also benefit both tenants and the health of the public housing developments, through a stronger sense of involvement and commitment on the part of residents.

Risks:

This rule poses no threat to public safety, health, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/14/99	64 FR 49924
End NPRM Comment Period	10/14/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

William Flood
Director, Office of Capital Improvements
Department of Housing and Urban Development
Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AB87

BILLING CODE 4210–01–F

DEPARTM

Statement

The Dep
is the prin
natural res
of our pric
serve as tr
Alaska nat
for relation
under Uni
of our duti
million ac
approxima
Outer Con
57,000 bui
many resp
to creative

- Ensure t resource
- Protect t resource
- Minimiz maximiz people.

The Dep
seek to eas
regulations
protection
jurisdictio

- Establish maintain systems and to pr introduc reduce th species b endanger voluntar achieve e potential cost.
- Using pe rather th This give using the to meet t while pr specific i
- Incorpora where ap
- Continui regulatio remain to improve understa and will compliar

The Depa
maintain o
environme

- Reducing general p
- Increasin to use the ensure th
- Making r understa

DEPARTMENT OF THE INTERIOR (DOI)

Statement of Regulatory Priorities

The Department of the Interior (DOI) is the principal steward of our nation's natural resources and guardian of many of our priceless cultural resources. We serve as trustee to Native Americans and Alaska natives and also are responsible for relations with the island territories under United States jurisdiction. As part of our duties, we manage more than 450 million acres of Federal lands, approximately 3 billion acres of the Outer Continental Shelf, and more than 57,000 buildings. In carrying out our many responsibilities we are committed to creative ideas that:

- Ensure the long-term viability of our resources
- Protect the environment in which our resources are found
- Minimize negative effects and maximize benefits to the American people.

The Department's bureaus and offices seek to ease the burdens imposed by regulations while increasing the protection of resources under their jurisdiction. Examples of this include:

- Establishing a community approach to maintaining the environmental systems that support native species and to preventing invasive species introductions. We expect this to reduce the rate at which individual species become threatened and endangered. This approach enlists the voluntary support of land owners to achieve environmental goals while potentially reducing the regulatory cost.
- Using performance-based regulations rather than process-based regulations. This gives local entities the options of using the most cost-effective method to meet the spirit and letter of the law while providing the best result for the specific instance and location.
- Incorporating scientific standards, where applicable, into regulations.
- Continuing to reduce the number of regulations and converting those that remain to plain language. This will improve the public's ability to understand regulatory requirements and will result in improved compliance.

The Department's overall goal is to maintain or improve the quality of the environment while:

- Reducing the financial burden on the general public;
- Increasing the flexibility of the public to use the best means available to ensure that the laws are met; and
- Making regulations easy to understand and administer.

This approach to improving regulations will help us better execute our mission and meet the requirements of our eight bureaus and the following objectives:

- Conserve, protect, and enhance the Nation's national parks, wilderness, and fish and wildlife resources;
- Manage, develop, and protect the quality of water resources;
- Promote economic opportunity and improve the trust assets of American Indians, Indian tribes, Alaska Natives, and people of the U.S. territories;
- Improve the Federal Government's relationship with State, local, tribal, and territorial governments; and
- Enhance America's ability to meet its needs for domestic energy and mineral resources.

Major Regulatory Areas

Among the Department's bureaus and offices, the Office of Surface Mining Reclamation and Enforcement (OSM) has the highest concentration of regulatory responsibilities. OSM, in partnership with the States and Indian tribes, has the responsibility for setting and enforcing environmental standards during coal mining and reclamation operations. OSM has implemented an innovative approach to facilitate the reclamation of abandoned mine lands by allowing the party conducting the reclamation to offset the cost of reclamation through the sale of coal extracted as an incidental part of the reclamation project.

Other DOI bureaus rely on regulations to implement legislatively mandated programs by focusing on the management of natural resources and public or trust lands. Some of these regulatory activities include:

- Management of migratory birds and preservation of certain marine mammals and endangered species;
- Management of dedicated lands, such as national parks, wildlife refuges, and American Indian trust lands;
- Management of public lands open to multiple use;
- Leasing and oversight of development of Federal energy, minerals, and renewable resources;
- Management of revenues from American Indian and Federal minerals;
- Fulfillment of trust and other responsibilities pertaining to American Indian tribes; Natural resource damage assessments; and
- Management of financial and nonfinancial assistance programs.

Regulatory Policy

How DOI Regulatory Procedures Relate to the Administration's Regulatory Policies

Within the requirements and guidance in Executive Orders 12866, 12612, and 12630, DOI's regulatory program seeks to:

- Fulfill all legal requirements as specified by statutes or court orders;
- Perform essential functions that cannot be handled by non-Federal entities;
- Minimize regulatory costs to society while maximizing societal benefits; and
- Operate programs openly, efficiently, and in cooperation with Federal and non-Federal entities.

DOI bureaus have taken the initiative in working with other Federal agencies, non-Federal government agencies, and public entities to make our regulations easier to comply with and understand. Because regulatory reform is a continuing process that requires the participation of all affected parties, we strive continually to include affected entities in the decision making process and to issue rules more efficiently. To better manage and review the regulatory process, we have revised our internal rulemaking guidance. Results have included:

- Increased bureau awareness of and responsiveness to the needs of small businesses and better compliance with the Small Business Regulatory Enforcement Fairness Act (SBREFA);
- A Department-wide effort to evaluate the economic effects of rules and regulations that are planned; and
- Issuance of new guidance in the Departmental Manual to ensure the use of plain language in Government writing.

We are committed to improving the regulatory process through the use of plain language. Simplifying regulations has resulted in a major rewrite of the regulations for onshore oil and gas leasing and operations in an easily understandable form that: (a) Puts previously published rules into one location in a logical sequence; (b) eliminates duplication by consolidating existing regulations and onshore orders and national notices to lessees; (c) incorporates industry standards by reference; and (d) implements performance standards in some of the operating regulations. Our regulatory process ensures that bureaus share ideas on how to reduce regulatory burden while meeting the requirements of the laws they enforce and improving their

stewardship of the environment and resources under their purview.

Encouraging Responsible Management of the Nation's Resources

The Department's mission is to protect and provide access to our Nation's natural and cultural heritage and to honor our trust responsibilities to tribes. We are committed to this mission and to applying laws and regulations fairly and effectively. The Department's priorities are compliance, enforcement, prevention, solving problems, and protecting public health and safety. To this end, our bureaus encourage users of public resources to adopt long-term strategies designed to meet current needs while preserving resources for future generations.

An example of this is the "no surprises" policy of the U.S. Fish and Wildlife Service (FWS). This policy gives property owners an incentive to implement voluntary conservation measures for a proposed or candidate species, or a species likely to become a candidate or proposed in the near future. These property owners will receive assurances from FWS that additional conservation measures will not be required and additional land, water, or resource use restrictions will not be imposed should the species become listed in the future. This policy results in fewer fines, no "surprises" (in the form of unexpected fines) for conforming landowners, and better overall compliance with the Endangered Species Act.

Minimizing Regulatory Burdens

We are using the regulatory process to ease the burdens on various entities throughout the country. For instance, the Endangered Species Act (ESA) allows for the delisting of threatened and endangered species if they no longer need the protection of the ESA. We have has identified approximately 40 species for which delisting or downlisting (reclassification from endangered to threatened) may be appropriate. Experience has shown us that changing the planning process for land use and water development can reduce unnecessary delays and paperwork associated with agency decision making. For some projects, an improved planning process has dramatically reduced the time required for paperwork.

We use performance standards in a variety of regulations. These allow the affected entity to choose the most economical method to accomplish a goal provided it meets the requirements of the regulations. An example of this is Minerals Management Service's (MMS) proposed training rule, which will allow companies with operations in the Outer Continental Shelf (OCS) to select their own training courses or programs for employees. Currently MMS has a prescriptive program where employees working on the OCS must attend an MMS-certified school. The new rule will allow lessees and contractors to properly train the employees by any method they choose as long as the employees are competent. We anticipate that this will result in new and innovative training techniques and allow companies added flexibility in tailoring their training to employees' specific duties.

Encouraging Public Participation and Involvement in the Regulatory Procedure Process

One of the goals of Executive Order 12866 is to ensure that the public has adequate opportunities to participate in developing new regulations. Under this Administration, encouraging increased public participation in the regulatory process to make regulatory policies more responsive to our customers' needs is a priority.

The Department is reaching out to communities to seek their input on a variety of regulatory issues. For example, every year the FWS establishes migratory bird hunting seasons in partnership with "flyway councils," which are made up of State fish and wildlife agencies. As the process evolves each year, FWS holds a series of public meetings to give other interested parties, including hunters and other groups, adequate opportunity to participate in establishing the upcoming season's regulations.

Similarly, the Bureau of Land Management (BLM) uses Resource Advisory Councils (RACs) made up of affected parties to help prepare regulations that it issues under the Rangeland Reform Act.

We also encourage public consultation during the regulatory process. For example:

- OSM is continuing its outreach to interested groups to improve the substance and quality of rules and, to the greatest extent possible, achieve a consensus on regulatory issues;
- The Bureau of Indian Affairs is developing its roads program rule using the negotiated rulemaking process. Because of the importance of the roads program to the individual tribes and because of the varying needs of the tribal governments, the negotiated rulemaking process will result in a rule that better serves the diverse needs of the Native American community.

The Future of DOI

In compliance with the Government Performance and Results Act of 1993 (GPRA), we are preparing a revised comprehensive strategic plan to prepare DOI for the 21st century. The plan will cover the period from 2000 through 2005 and will be a stand-alone plan with the five Departmental goals supported by the bureau goals. It gives employees and managers clear goals and strategies to help the Department meet its mission and fulfill its commitment to the nation. We believe that this plan must evolve in response to the changing natural and human environments. For this reason, our bureaus have already begun their strategic plans to respond to those changes and to prepare for others that may take place in the future.

A copy of DOI's current strategic plan (including updates that have been made during FY 1999) can be seen on our web site at this address: http://www.doi.gov/gpra/

Bureaus and Offices Within DOI

The following brief descriptions summarize the regulatory functions of DOI's major regulatory bureaus and offices.

Office of the Secretary, Office of Environmental Policy and Compliance

The regulatory functions of the Office of Environmental Policy and Compliance (OEPC) stem from requirements under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Section 301(c) requires the development of natural resource damage assessment rules and the biennial review and revision, as appropriate, of these rules. Rules have been promulgated for the optional use of natural resource trustees to assess compensation for damages to natural resources caused by hazardous substances. OEPC is overseeing the study and possible promulgation of additional rules pursuant to section 301(c)(2) and the review and possible revision of the existing rules in compliance with section 301(c)(3).

In undertaking DOI's responsibilities under section 301(c), OEPC is striving to meet three regulatory objectives: (a) That the minimum amount of regulation necessary be developed; (b) that the assessment process provide for tailoring to specific discharges or releases; and (c)

that the process not be considered punitive, but rather a system to achieve fair and just compensation for injuries sustained.

Bureau of Indian Affairs

The philosophy of the Bureau of Indian Affairs (BIA) is to encourage the development and management of human and other resources among American Indians and Alaska Natives, to encourage tribal assumption of BIA programs, and to fulfill trust and other responsibilities of the U.S. Government. BIA regulatory actions serve to balance its dual role as: (a) Advocate in assisting tribes and encouraging their participation in BIA programs and (b) trustee protecting and/or enhancing American Indian trust resources.

Important BIA programs are promulgated through regulations, rather than informal guidelines, so that American Indians are aware of and have an opportunity to participate in the development of standards and procedures affecting them. BIA regulatory policies seek to accomplish the following: (a) Ensure consistent policies throughout American Indian country; (b) promote American Indian involvement in the operation, management, planning, and evaluation of BIA programs and services; (c) provide guidance to applicants for BIA services; and (d) govern the development of American Indian lands and provide for the protection of American Indian treaty and statutory rights.

BIA's regulatory program is designed (a) to promote American Indian self-determination, (b) to provide American Indians and Alaska Natives with high-quality education and tribal development opportunities, (c) to meet BIA's trust responsibilities, and (d) to meet the needs of tribes and their members.

Bureau of Land Management

The Bureau of Land Management manages about 264 million acres of land surface and about 570 million acres of Federal mineral estate. These lands consist of extensive grasslands, forests, mountains, arctic tundra, and deserts. Resources on the lands include energy and minerals, timber, forage, wild horse and burro populations, habitat for fish and wildlife, wilderness areas, and archeological and cultural sites. BLM manages these lands and resources for multiple use and the sustained yield of renewable resources. Primary statutes under which the Agency must operate include: The Federal Land Policy and Management Act of 1976; the General Mining Law of 1872; the Mineral Leasing Act of 1920, as amended; the Recreation and Public Purposes Act; the Taylor Grazing Act; and the Wild, Free-Roaming Horses and Burros Act.

The regulatory program mirrors statutory responsibilities and Agency objectives. Agency objectives include:

- Providing for a wide variety of public uses without compromising the long-term health and diversity of the land and without sacrificing significant natural, cultural, and historical resource values;
- Understanding the arid, semi-arid, arctic, and other ecosystems we manage and committing to using the best scientific and technical information to make resource management decisions;
- Understanding the needs of the public that use BLM-managed lands and providing them with quality service;
- Committing to recovering a fair return for using publicly owned resources and avoiding the creation of long-term liabilities for American taxpayers; and
- Resolving problems and implementing decisions in cooperation with other agencies, States, tribal governments, and the public.

The regulatory program contains its own objectives. These include preparing regulations that:

- Are the product of coordination and consultation with all affected members of the public;
- Are understandable to the general public, especially those to whom they are directly applicable; and
- Are reviewed periodically to determine whether or not BLM still needs them and whether or not they need to be updated to reflect statutory and policy changes.

Minerals Management Service

The Minerals Management Service (MMS) has two major responsibilities: (1) Timely and accurate collecting, distributing, accounting for, and auditing of revenues owed by holders of Federal onshore, offshore, and tribal land mineral leases in a manner that meets or exceeds Federal financial integrity requirements and recipient expectations and (2) management of the resources of the Outer Continental Shelf in a manner that provides for safety, protection of the environment, and conservation of natural resources. These responsibilities are carried out under the provisions of the Federal Oil and Gas Royalty Management Act, the Minerals Leasing Act, the Outer Continental Shelf Lands Act, the Indian Mineral Leasing Act, and other related statutes.

MMS's regulatory philosophy is to develop clear, enforceable rules that support the missions of each program. For the Offshore Program, MMS will issue final regulations implementing the Deep Water Royalty Relief Act. MMS will also publish a final rule to address financial responsibility under the Oil Pollution Act of 1990. MMS will continue to review rules and issue amendments in response to new technology and new industry practices.

MMS also plans to continue its review of existing regulations and to issue rules to refine the royalty management regulations in chapter II of 30 CFR. Revisions to the royalty management regulations cover oil and gas valuation of Federal and Indian leases. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 will require numerous additional changes to the royalty management regulations, including the delegation of royalty collection and related activities to States.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSM) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to "strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy."

The principal regulatory provisions contained in title V of SMCRA set minimum requirements for obtaining a permit for surface coal mining operations, set standards for surface coal mining operations, require land reclamation once mining ends, and require rules and enforcement procedures to ensure that the standards are met. Under SMCRA, OSM serves as the primary enforcer of SMCRA until the States achieve "primacy"; that is, until they demonstrate that their regulatory programs meet all the specifications in SMCRA and have regulations consistent with those issued by OSM.

A primacy State takes over the permitting, inspection, and enforcement activities of the Federal Government. OSM then changes its role from regulating mining activities directly to overseeing and evaluating State programs. Today, 24 of the 27 key coal-producing States have primacy. In return for assuming primacy, States are

entitled to regulatory grants and to grants for reclaiming abandoned mine lands. In addition, under cooperative agreements, some primacy States have agreed to regulate mining on Federal lands within their borders. Thus, OSM regulates mining directly only in nonprimacy States, on Federal lands in States where no cooperative agreements are in effect, and on American Indian lands.

SMCRA charges OSM with the responsibility of publishing rules as necessary to carry out the purposes of the Act. The most fundamental mechanism for ensuring that the purposes of SMCRA are achieved is the basic policy and guidance established through OSM's permanent regulatory program and related rulemakings. Its regulatory framework is developed, reviewed, and applied according to policy directives and legal requirements.

Litigation by the coal industry and environmental groups is responsible for some of the rules now being considered by OSM. Others are the result of efforts by OSM to address areas of concern that have arisen during the course of implementing OSM's regulatory program, and one is the result of legislation.

OSM has sought to develop an economical, safe, and environmentally sound program for the surface mining of coal by providing a stable and consistent regulatory framework.

At the same time, however, OSM has recognized the need (a) to respond to local conditions, (b) to provide flexibility to react to technological change, (c) to be sensitive to geographic diversity, and (d) to eliminate burdensome recordkeeping and reporting requirements that over time have proved unnecessary to ensure an effective regulatory program.

Major regulatory objectives regarding the mining of surface coal include:

- Continuing outreach activities with interested groups during the rulemaking process to increase the quality of the rulemaking process, improve the substance of the rules, and, to the greatest extent possible, reflect consensus on regulatory issues;
- Minimizing the recordkeeping and regulatory compliance burden during rulemaking; and
- Publishing final rules to implement the Energy Policy Act of 1992, Public Law 102-486.

U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service has three basic mission objectives:

- To develop and apply an environmental stewardship ethic based on ecological principles and scientific knowledge of fish and wildlife;
- To guide the conservation, development, and management of the Nation's fish and wildlife resources; and
- To administer a national program to provide the public with opportunities to understand, appreciate, and wisely use fish and wildlife resources.

These objectives are met through the following regulatory programs:

- Management of Service lands, primarily national wildlife refuges;
- Management of migratory bird resources;
- Conservation of certain marine mammals and endangered species;
- Allowance of certain activities that would otherwise be prohibited by law; and
- Administration of grant and assistance programs.

The Service maintains a comprehensive set of regulations in the first category—those that govern public access, use, and recreation on more than 500 national wildlife refuges and in national fish hatcheries. These uses are authorized only if they are compatible with the purpose for which each area was established, are consistent with State and local laws where practical, and afford the public appropriate economic and recreational opportunity. These regulations are developed and continually reviewed for improvements, with a substantial amount of public input, and are typically of limited geographical interest.

Management of migratory bird resources is covered by the second category of regulations, required by various international treaties. Annually, the Department issues a regulation on migratory bird hunting seasons and bag limits, developed in partnership with the States, American Indian tribal governments, and the Canadian Wildlife Service. Although issued annually, regulations such as these have been in existence for more than 50 years and have not significantly changed over that period of time. The regulations are necessary to permit migratory bird hunting that would otherwise be prohibited. Although recent declines in waterfowl populations have reduced the numbers of birds that may be harvested, the regulations generally do not change significantly from one year to another.

The third category includes regulations to fulfill the statutory obligation to identify and conserve species faced with extinction. The basis for determining endangered species is limited by law to biological considerations, although priorities for allocating Service resources are established consistent with the President's policies (by directing the Service's efforts to species most threatened and those whose protection is of the most benefit to the natural resource). Included in this program are regulations to enhance the conservation of listed species and of marine mammals for which DOI has management responsibility. This program also contains regulations that provide guidance to other Federal agencies to assist them in complying with section 7 of the Endangered Species Act, which requires them not to conduct activities that would jeopardize the existence of endangered species or adversely modify critical habitat of listed species. In designating critical habitat, the Service considers biological information and economic and other impacts of the designation. Areas may be excluded from the designation where the benefits of exclusion outweigh the benefits of inclusion, provided that the exclusion will not result in the extinction of the species.

The fourth category—the Service's regulatory program that permits activities otherwise prohibited by law—entails regulating possession, sale or trade, scientific research, and educational activities involving fish and wildlife and their parts or products. Generally, these regulations are supplemental to State protective regulations and cover activities that involve interstate or foreign commerce, which must comply with various laws and international obligations. The Service works continually with foreign and State governments, the affected industries and individuals, and other interested parties to minimize the burdens associated with Service-related activities. Easing these burdens through regulatory actions continues to balance possible benefits with adequate protection for the natural resource. Most of the regulatory activities are permissive in nature, and the concerns of the public generally center on technical issues.

The last category—the Service's assistance programs—includes a limited number of regulations necessary to ensure that assistance recipients comply with applicable laws and Office of Management and Budget (OMB) Circulars. Regulations in this program help the affected parties to obtain assistance and to comply with

requirements imposed by Congress and OMB.

National Park Service

The National Park Service is dedicated to conserving the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations. The Service is also responsible for managing a great variety of national and international programs designed to help extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

There are more than 375 units in the National Park System, including national parks and monuments; scenic parkways, preserves, trails, riverways, seashores, lakeshores, and recreation areas; and historic sites associated with important movements, events, and personalities of the American past.

The National Park Service develops and implements park management plans and staffs the areas under its administration. It relates the natural values and historical significance of these areas to the public through talks, tours, films, exhibits, and other interpretive media. It operates campgrounds and other visitor facilities and provides, usually through concessions, lodging, food, and transportation services in many areas. The National Park Service also administers the following programs: The State portion of the Land and Water Conservation Fund, Nationwide Outdoor Recreation coordination and information and State comprehensive outdoor recreation planning, planning and technical assistance for the National Wild and Scenic Rivers System, and the National Trails System, natural area programs, the National Register of Historic Places, national historic landmarks, historic preservation, technical preservation services, Historic American Buildings survey, Historic American Engineering Record, and interagency archeological services.

The National Park Service maintains regulations that help manage public use, access, and recreation in units of the National Park System. The Service provides visitor and resource protection to ensure public safety and prevent derogation of resources. The regulatory program develops and reviews regulations, maintaining consistency with State and local laws, to allow these uses only if they are compatible with the purpose for which each area was established.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, Reclamation applies management, engineering, and scientific skills that result in effective and environmentally sensitive solutions.

Reclamation projects provide for some or all of the following concurrent purposes: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses.

The Bureau's regulatory program is designed to ensure that its mission is carried out expeditiously and efficiently.

DOI—Minerals Management Service (MMS)

PROPOSED RULE STAGE

55. VALUATION OF OIL FROM INDIAN LEASES

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

25 USC 396 et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq

CFR Citation:

30 CFR 206

Legal Deadline:

None

Abstract:

This rule would modify the regulations that establish royalty value for oil produced from Indian leases and create a new form for collecting value and value differential data. These changes would decrease reliance on oil posted prices and make Indian oil royalty valuation more consistent with the terms of Indian leases.

Statement of Need:

Current oil valuation regulations rely primarily on posted prices and prices under arm's-length sales to value oil that is not sold at arm's-length. Recently, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to place substantial reliance on the highest of crude oil futures prices, major portion prices, or gross proceeds. It would eliminate any direct reliance on posted prices. This rulemaking would also add more certainty to valuation of oil produced from Indian leases.

Summary of Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's (1) authority to implement and maintain a royalty management system for oil and gas leases on Indian lands, and (2) trust responsibility to administer Indian oil and gas resources.

Alternatives:

We considered a range of valuation alternatives. Among these were: (1) Making minor adjustments to the current gross proceeds valuation method using spot prices; (2) using index-based prices with fixed adjustments for production from specific geographic zones; (3) relying on some type of field pricing other than posted prices; and (4) taking oil in-kind.

We chose the higher of New York Mercantile Exchange (NYMEX) futures prices, major portion prices in the field or area, or gross proceeds received by the lessee or its affiliate. We chose NYMEX-based prices as one of three measures of value because NYMEX represents the price for a widely-traded domestic crude oil, there is little likelihood that any particular participant in NYMEX trading could affect the prices, and NYMEX prices are regarded by many experts to be the best available measure of oil market value.

Anticipated Cost and Benefits:

We estimate compliance with this rulemaking would cost the oil and gas industry approximately $46,000 annually. Additional costs to industry and MMS would be up-front computer programming and other administrative costs associated with processing the new form. The benefits of this rulemaking would be an estimated $3.6 million increase in annual royalties collected on oil produced from Indian leases. Additional benefits would include simplification and increased

certainty of oil pricing, reduced audit efforts, and reduced valuation determinations and associated litigation.

Risks:

The risk of not modifying current oil valuation regulations is that Indian recipients may not receive royalties based on the highest paid price or offered for the major portion of oil produced—a common requirement in most Indian leases. These modifications ensure that the Department fulfills its trust responsibilities for administering Indian oil and gas leases under governing mineral leasing laws, treaties, and lease terms.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	02/12/98	63 FR 7089
NPRM Comment Period Extended	04/09/98	63 FR 17349
NPRM Comment Period End	05/13/98	
Supplementary NPRM	01/00/00	
Comment Period End	03/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Tribal

Agency Contact:

David S. Guzy
Chief Rules and Publications Staff
Department of the Interior
Minerals Management Service
MS 3021
P.O. Box 25165
Mail Stop 3021
Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC24

DOI—MMS

FINAL RULE STAGE

---

56. VALUATION OF OIL FROM FEDERAL MINERAL LEASES

Priority:

Other Significant

Legal Authority:

30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1701 et seq; 30 USC 1001 et seq; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation:

30 CFR 206

Legal Deadline:

None

Abstract:

This rule would modify the valuation procedures for non-arm's-length crude oil transactions and establish a new MMS form for collecting value differential data. These changes would decrease reliance on oil posted prices and assign a value to crude oil that better reflects market value.

Statement of Need:

Current oil valuation regulations rely primarily on posted prices and prices under arm's-length sales to value oil that is not sold at arm's length. Recently, posted prices have become increasingly suspect as a fair measure of market value. This rulemaking would modify valuation regulations to eliminate any direct reliance on posted prices.

Summary of Legal Basis:

The primary legal basis for this rulemaking is the Federal Oil and Gas Royalty Management Act of 1982, as amended, which defines the Secretary of the Interior's authority to implement and maintain a royalty management system for Federal oil and gas leases.

Alternatives:

We considered a range of valuation alternatives such as making minor adjustments to the current gross proceeds valuation method using futures prices adjusted for location and quality, using spot prices tabulated by various publications, using the P-plus market, and taking oil in-kind. As most recently proposed, we chose to retain the concept that, for true, outright, arm's length sales, gross proceeds generally represent royalty value.

For non-arm's-length transactions in the most recent proposal, we chose three different methods for three distinct geographic areas. For production other than in California, Alaska, or the Rocky Mountain region, we chose to use appropriate spot prices because they result from market surveys of actual prices paid and received in the marketplace and thus form the basis for much of the way crude oil is marketed. We originally chose New York Mercantile Exchange (NYMEX) prices because they represent the price for a widely traded crude oil and there is little likelihood that any particular trading participant could affect the prices. However, we decided on spot prices because, when adjusted for location and quality, they essentially duplicate NYMEX prices, and this eliminates the need for one set of adjustments.

For non-arm's-length transactions in the geographically isolated California and Alaska markets, we chose Alaska North Slope (ANS) spot prices. ANS spot prices represent large volumes of oil delivered into the California market, and many experts regard ANS spot prices as the best indicator of value for California and Alaska production. Finally, due to the lack of a reliable spot price in the Rocky Mountain region, we chose a series of benchmarks relying on the lessee's arm's-length sales and purchases, alternative spot prices, or a value determination by the Director.

Anticipated Cost and Benefits:

We estimate that compliance with this rulemaking would cost the oil and gas industry approximately $161,000 annually. The benefits of this rulemaking would be an estimated $66 million increase in annual royalties collected on oil produced from Federal leases. Additional benefits would include simplification and increased certainty of oil pricing reduced audit efforts, and reduced valuation determinations. These changes should also reduce litigation.

Risks:

The risk of not modifying current oil valuation regulations is that royalty recipients such as State and local governments and the U.S. Treasury would not receive royalties based on the true market value of oil produced from Federal leases.

Timetable:

Action	Date	FR Cite
ANPRM	12/20/95	60 FR 65610
ANPRM Comment Period End	03/19/96	
NPRM	01/24/97	62 FR 3742
Comment Period Extended	02/18/97	62 FR 7189
NPRM Comment Period Extended	02/24/97	62 FR 19966
NPRM Comment Period End	03/25/97	
Supplemental NPRM	07/03/97	62 FR 36030
Comment Period End	08/04/97	

Action	Date	FR Cite
NPRM Comment Period Extended	09/22/97	62 FR 49460
Comment Period Extended	10/23/97	62 FR 55198
Supplementary NPRM	02/06/98	63 FR 6113
Comment Period Extended	03/24/98	63 FR 14057
Comment Period Extended	07/08/98	63 FR 36868
Supplementary Proposed Rule	07/16/98	63 FR 38355
Comment Period Extended	07/27/98	63 FR 40073
Comment Period Reopened	03/12/99	64 FR 12267
Comment Period Extended	04/13/99	64 FR 17990
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State

Agency Contact:

David S. Guzy
Chief Rules and Publications Staff
Department of the Interior
Minerals Management Service
MS 3021
P.O. Box 25165
Mail Stop 3021
Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC09

DOI—Bureau of Land Management (BLM)

PROPOSED RULE STAGE

57. SURFACE MANAGEMENT (LOCATABLE MINERALS)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

18 USC 1001; 30 USC 22; 30 USC 42; 30 USC 612; 43 USC 1061 et seq; 18 USC 3571 et seq

CFR Citation:

43 CFR 3809

Legal Deadline:

None

Abstract:

The proposed rule would: (1) redefine "unnecessary and undue degradation" to require the use of the "best available technology and practices" or other technology-based standards during the mining of locatable minerals and during the reclamation of mined lands, (2) incorporate performance standards for locatable mineral exploration and development, and (3) treat mining operations involving disturbance to 5 acres or less in a more stringent fashion.

Statement of Need:

Current locatable mineral mining regulations provide insufficient environmental protection and insufficient enforcement authority for BLM to regulate mining activities which disturb 5 acres or less of public lands. The proposed regulations would strengthen environmental protection and would increase BLM's oversight of mining operations on 5 acres or less of public lands.

Summary of Legal Basis:

Section 302(b) of the Federal Land Policy and Management Act gives the Secretary of the Interior or his or her delegated representative the authority to regulate the use, occupancy, and development of public lands. Although the Secretary may not impair the rights of mining claimants by regulating these activities, he or she may take any action necessary to prevent the unnecessary and undue degradation of the public lands.

Alternatives:

The proposed rule could consider three alternatives for increasing oversight on mining activities which disturb 5 acres or less of public lands: (1) repeal the current notice provision and treat these small operations like large ones; (2) narrow the scope of the notice exception so that it does not apply in areas of environmental sensitivity; and (3) better protect the environment against abuse by measures such as requiring more information from operators, giving BLM a longer time to review the notices, and imposing greater penalties for not meeting notice requirements.

Anticipated Cost and Benefits:

The Department has prepared a cost-benefit analysis. On balance, the general public is expected to benefit by decreasing the public health and safety costs associated with the clean-up of hazardous and toxic substances generated by the mining of various locatable minerals (acid, draining, etc.). There may be slightly increased costs to operators on mining claims from their exploration, development, and reclamation activities, if the surface management regulations require using the best available technology in exploration, mining, and reclamation activities.

Risks:

Claimants unable to comply with increased mining costs could cease operations and go out of business. Some portion of the mining industry could cease exploration and mining operations in the United States and begin or increase mining operations in other countries whose policies are less stringent.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6422
NPRM Comment Period End	05/10/99	
Supplementary Proposed Rule	10/00/02	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, State, Local

Agency Contact:

Robert Anderson
Minerals Resources
Department of the Interior
Bureau of Land Management
Phone: 202 208-4201

RIN: 1004–AD22

DOI—BLM

FINAL RULE STAGE

58. OIL AND GAS LEASING AND OPERATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

30 USC 181 et seq

CFR Citation:

43 CFR 3100 to 3160

Legal Deadline:

None

Abstract:

This rule will revise BLM's current Federal oil and gas leasing and operations regulations, except those concerning drainage (section 3100.2-2), combined hydrocarbon leasing (part 3140), and oil and gas leasing in the National Petroleum Reserve—Alaska (part 3130). The rule will: (1) use performance standards in certain places instead of prescriptive requirements, to allow more flexibility for operators and protect the environment and Federal royalty interests; (2) cite industry standards and incorporate them by reference rather than repeat those standards in the rule; (3) incorporate the requirements of the Onshore Oil and Gas Orders and national notices to lessees into the regulations to eliminate overlap with current regulations; (4) revise and replace BLM's unitization regulations with a more flexible unit agreement process; and (5) eliminate redundancies, clarify procedures and regulatory requirements and streamline procedures.

Statement of Need:

This rulemaking complies with the requirements of the Government Performance and Results Act, the recommendations of the National Performance Review, and other initiatives. It will be presented in a user-friendly format, presented by process rather than by subject matter.

Summary of Legal Basis:

The Mineral Leasing Act gives BLM the authority to issue and administer the terms of oil and gas leases on Federal lands, to conduct inspections of drilling operations and to promulgate and enforce regulations pertaining to oil and gas leasing and operations. BLM is the only Federal agency with authority to issue leases for publicly owned oil and gas resources.

Alternatives:

The only alternative to the proposed regulations would be to continue to operate under the existing regulations. These regulations are not performance-based and are at times ambiguous and hard to understand. Further, the important information found in Onshore Operating Orders is published separately from the regulations and at irregular intervals.

Anticipated Cost and Benefits:

BLM anticipates the following benefits: (1) more clearly written rules will be better understood by both oil and gas lessees and operators and members of the general public; (2) performance standards, rather than prescriptive requirements, will allow lessees and operators and BLM greater flexibility to deal with unique geological or engineering circumstances within the standards set by the rule; and (3) streamlining and clarifying procedures will result in better customer service and decreased time and money for both BLM and the user public.

Risks:

The public may misunderstand one or more performance standards. BLM will publish user guides that explain in detail the standards and will provide examples of how operators might meet specific standards.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66840
NPRM Comment Period End	07/19/99	64 FR 29256
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, State, Local

Agency Contact:

Ian Senio
Regulatory Analyst
Department of the Interior
Bureau of Land Management
MS 401
Regulatory Management Team (WO-630)
1849 C Street N.W.
Washington, DC 20240
Phone: 202 452-5049
Email: Ian__ Senio@blm.gov

RIN: 1004–AC94

BILLING CODE 4310–RK–F

DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The Department of Justice is not a major regulatory agency, and it carries out its vital investigative, prosecutorial, and other law enforcement activities principally through means other than the regulatory process. Even so, the Department does have significant responsibilities for implementing the Americans with Disabilities Act (ADA), as well as the immigration laws, including the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. The Department's key regulatory goals and initiatives are set forth in detail below.

The Department has worked actively to implement the general regulatory principles of Executive Order 12866. Relatively few of the Department's rules are significant regulatory actions requiring review by the Office of Management and Budget (OMB) under the Executive order. Accordingly, the orientation of the OMB review process to focus on significant rules has required the Department to increase its own efforts to ensure that all of its regulations are carefully reviewed for consistency with the Administration's regulatory principles, including the large majority of rules that are not reviewed directly by OMB as significant regulatory actions.

Pursuant to section 4(c) of Executive Order 12866, the Department of Justice provides the following statement of regulatory priorities, focusing in particular on four regulatory initiatives in the areas of civil rights and immigration.

In addition to the specific initiatives set forth below, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not singled out for specific attention in this regulatory plan, those components carry out key roles in implementing the Department's law enforcement priorities. In particular, the Drug Enforcement Administration (DEA) is responsible for controlling abuse of narcotics and dangerous drugs by restricting the aggregate supply of those drugs. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities, development and maintenance of drug intelligence systems, regulation of legitimate controlled substances, and enforcement coordination and intelligence-gathering activities with foreign government agencies. DEA has various regulatory actions under development relating to the diversion control requirements and to the requirements of the Comprehensive Methamphetamine Control Act of 1996 which regulates certain drug products that are being diverted for the production of methamphetamine.

Also, on March 20, 1997, the Federal Bureau of Investigation promulgated final cost recovery regulations under the Communications Assistance for Law Enforcement Act of 1994 (CALEA). Congress enacted CALEA to address the recent and continuing advances in telecommunications technology, which have impaired and, in some instances, precluded law enforcement agencies from fully conducting various types of court-authorized electronic surveillance. The Attorney General is authorized to reimburse carriers for all of the reasonable costs directly associated with the modifications they perform on equipment, facilities, and services deployed on or before January 1, 1995. These regulations provide the cost accounting standards for the reimbursements.

In response to public comments during the cost recovery rulemaking, the FBI published on April 28, 1998, a proposed rule defining the terms "significant upgrade" and "major modification." The FBI is considering the comments it has received and anticipates publishing a final rule in the year 2000.

On March 12, 1998, the FBI, on behalf of law enforcement, published a Final Notice of Capacity (following two previously published notices on the same subject) informing telecommunications carriers offering local exchange services and certain commercial mobile radio services (specifically cellular service and broadband PCS) of the estimated actual and maximum number of simultaneous interceptions that law enforcement might conduct on or after specified dates.

On December 18, 1998, the FBI published a Notice of Inquiry (NOI) soliciting information and suggestions from interested parties for developing reasonable capacity methodologies for characterizing the capacity requirements for telecommunications services other than those covered by the March 12, 1998, Final Notice of Capacity. The FBI will be issuing a Further Notice of Inquiry (FNOI) that will respond to comments on the NOI and intends to focus on developing reasonable methodologies for the paging, mobile satellite service, specialized mobile radio, and enhanced specialized mobile radio services. The FBI anticipates publishing this FNOI by the beginning of the year 2000.

Civil Rights

The Department and its Civil Rights Division are deeply committed to a rigorous and revitalized approach to the enforcement of this Nation's civil rights laws. In keeping with that commitment, the Division will be reviewing, updating, and improving its civil rights regulations implementing the Americans with Disabilities Act of 1990 (ADA) and promulgating regulations implementing the prohibition against sex discrimination in federally assisted education programs and activities that is contained in title IX of the Education Amendments of 1972. The Department's regulatory plan has two civil rights initiatives.

The Department is planning to make revisions in its regulations implementing titles II and III of the ADA to amend the ADA Standards for Accessible Design to be consistent with the revised accessibility guidelines for State and local facilities and children's facilities that have been developed by the Architectural and Transportation Barriers Compliance Board (Access Board) and to make conforming changes in the Department's rules. Title II of the ADA prohibits discrimination on the basis of disability by public entities and title III prohibits such discrimination by places of public accommodation and requires accessible design and construction of places of public accommodation and commercial facilities. The Access Board's new accessibility guidelines for State and local facilities and children's facilities are the subject of related, pending rulemakings that are expected to be completed during fiscal year 1999. These rulemakings have been the subject of considerable scrutiny through the Board's regulatory process. The Department of Justice, which is required by statute to promulgate standards that are consistent with the guidelines developed by the Access Board, has proposed to incorporate them in the Department's regulations.

These amendments to the ADA regulations are an important step forward in fulfilling the promise of the ADA in ushering in a new era of opportunity and dignity for the many millions of Americans with disabilities. These regulations will open doors that have shut out people with disabilities in the past.

In addition, the Department will be promulgating regulations implementing the prohibition against sex discrimination in federally assisted education programs and activities that is contained in title IX of the Education Amendments of 1972. The Department will be issuing this regulation as part of a joint rulemaking by several Federal agencies in the coming year.

The Department's promulgation of a regulation implementing title IX will provide guidance to its recipients who administer education programs or activities. Since all departments and agencies should interpret title IX consistently, it is important that they all be governed by similar regulatory standards. The Department's regulation will closely follow that of the Department of Education, which funds most educational institutions covered by title IX. A regulation is essential for adequate enforcement of title IX because a regulation contains administrative requirements (such as promulgation of grievance procedures, designation of a coordinator, and processing of complaints), as well as essential statutory interpretations.

Immigration

The Immigration and Naturalization Service (INS) is responsible for facilitating the entry of persons legally admissible as visitors or as immigrants to the United States, for preventing unlawful entry or receipt of immigration benefits by those who are not entitled to receive them, and for apprehending or removing those aliens who enter or remain illegally in the United States. Though many of the Administration's goals for more effective immigration process flow from either new statutory authority or increased resources, the regulatory process is a vital aspect of carrying out the goals of the immigration laws.

Certainly, one of the regulatory challenges facing the Department of Justice is to improve the effectiveness of those regulatory efforts. Commissioner Meissner established three fundamental goals at the time of her confirmation: To increase the professionalism of the Service, to provide immigration control with compassion, and to build the Service's role in immigration policy leadership and communication. The regulatory priorities for the Service follow those priorities, though other desired improvements may require legislative action. Two INS initiatives are included in this regulatory plan.

First, the Service will publish a proposed rule to implement the new grounds of inadmissibility and their waivers, especially those established under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This regulation will clarify the interplay between the new grounds of inadmissibility and existing law and will set forth changes in procedures and policies. Second is the Service's ongoing effort to facilitate the U.S. business community's ability to comply with the employer sanctions provisions of the Immigration Control and Reform Act.

The Service anticipates additional progress in its efforts to simplify the employers' compliance with employment verification (Form I-9) requirements of the Act. The Service published a proposed rule on February 2, 1998. This proposal reflected numerous changes stemming from IIRIRA and from a comprehensive review of the 10-year-old verification regulations, as required by the Regulatory Flexibility Act. The result was a comprehensive overhaul of the regulations. The Service adopted a "plain language" approach and simplified the structure of the regulation. Both steps were well received by the public. In addition, the list of documents acceptable for employment verification was shortened, and several other requirements were clarified. The Service received thoughtful comments from the public on the proposal. Those are now being reviewed, and the Service anticipates publishing a final rule during the coming fiscal year.

DOJ—Civil Rights Division (CRT)

FINAL RULE STAGE

59. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Priority:

Other Significant

Legal Authority:

42 USC 12134; 42 USC 12186; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation:

28 CFR 35; 28 CFR 36; 28 CFR 38

Legal Deadline:

None

Abstract:

On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines required for facilities covered by title III — the ADA Standards for Accessible Design (ADA Standards) — but did not specifically include guidelines for facilities covered by title II, such as courthouses or prisons. Title II entities now have the option of using the ADA Standards (without certain exceptions applicable only to title III facilities) or another existing standard, the Uniform Federal Accessibility Standards.

The final rule will amend titles II and III to adopt a revised version of the ADA Standards, which incorporates new guidelines for facilities typically covered by title II. The new guidelines were issued as the interim final ADA Accessibility Guidelines (ADAAG) by the Architectural and Transportation Barriers Compliance Board (Access Board) and were published on the same day as the Department's proposed rule.

Statement of Need:

Section 504 of the ADA requires the Access Board to issue supplemental minimum guidelines and requirements for accessible design of buildings and facilities subject to the ADA, including titles II and III. Sections 204(c) and 306(c) of the ADA provide that the Attorney General shall promulgate regulations implementing titles II and III that are consistent with the Access Board's ADA guidelines. Because the Department of Justice is required by statute to promulgate regulations that do not go below the Access Board's minimum guidelines, and because this rule will adopt standards that are consistent with the guidelines issued by the Access Board, as also required by statute, this rule is required by statute.

Summary of Legal Basis:

The summary of the legal basis of authority for this regulation is set forth above in the Legal Authority and in the Statement of Need.

Alternatives:

The Department is required by the ADA to issue this regulation as described in

the Statement of Need above. All comments (including those that suggest alternatives to the current proposed guidelines) received by the Department on the proposed rule and by the Access Board on its current interim rule and its guidelines published December 21, 1992, have been thoroughly analyzed and considered by the Department.

Anticipated Cost and Benefits:

The Clinton Administration is deeply committed to ensuring that the goals of the ADA are met. Promulgating this amendment to the Department's ADA regulations will ensure that entities subject to the ADA will have one comprehensive regulation to follow. Currently, entities subject to title II of the ADA (State and local governments) have a choice between following the Department's ADA standards for title III, which were adopted for places of public accommodation and commercial facilities and which do not contain standards for common State and local government buildings (such as courthouses and prisons), or the Uniform Federal Accessibility Standards (UFAS). By developing one comprehensive standard, the Department will eliminate the confusion that arises when governments try to mesh two different standards. As a result, the overarching goal of improving access to the built environment to persons with disabilities will be better served.

The Access Board has analyzed the impact of applying its proposed amendments to ADAAG to entities covered by titles II and III of the ADA and has determined that they are a significant regulatory action for purposes of Executive Order 12866. The Access Board has prepared a Regulatory Assessment, which includes a cost impact analysis for certain accessibility elements and a discussion of the regulatory alternatives considered.

The Access Board's proposed rule contained provisions that would have had a significant economic impact on a substantial number of small entities. Therefore, the Board included a regulatory flexibility analysis in its regulatory assessment. Because of significant changes that were made to the final rule pursuant to public comment, the final rule published by the Access Board does not have a significant economic impact on small entities. The Access Board's determination will apply as well to the revised ADA Standards published by the Department. The Department's proposed procedural amendments will not have a significant impact on small entities.

The Access Board has made every effort to lessen the impact of its proposed guidelines on State and local governments, but recognizes that the guidelines will have some federalism impacts. These impacts are discussed in the Access Board's Regulatory Assessment, which also applies to the Department's proposed rule.

Risks:

Without this amendment to the Department's ADA regulations, regulated entities will be subject to confusion and delay as they attempt to sort out the requirements of conflicting design standards. This amendment should eliminate the costs and risks associated with that process.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31808
NPRM Comment Period End	08/19/94	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

State, Local

Agency Contact:

John L. Wodatch
Chief, Disability Rights Section
Department of Justice
Civil Rights Division
P.O. Box 66738
Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA26

DOJ—CRT

60. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority:

Other Significant

Legal Authority:

20 USC 1682 et seq

CFR Citation:

28 CFR 54 (New)

Legal Deadline:

None

Abstract:

On June 17, 1980, the Department published a proposed regulation to implement the requirements of title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of an individual's sex in federally assisted educational programs. That regulation was never issued in final form. As a result of subsequent statutory amendments, it is necessary to revise the prior proposed title IX regulation and begin a new rulemaking process. The Department's regulation will be published as a common rule with other agencies that need title IX regulations.

Statement of Need:

Title IX directs each department and agency that provides Federal financial assistance to effectuate its provisions by issuing rules, regulations, or orders of general applicability, 20 U.S.C. 1682. The Department must issue a title IX regulation because it funds many educational programs. Since all departments and agencies should interpret title IX consistently, it is important that they all be governed by similar regulatory standards. The Department's regulation will closely follow that of the Department of Education, which funds most educational institutions covered by title IX. A regulation is essential for adequate enforcement of title IX because a regulation contains administrative requirements (such as promulgation of grievance procedures, designation of a coordinator, and processing of complaints) as well as essential statutory interpretations.

Summary of Legal Basis:

Title IX specifically authorized the promulgation of regulations to effectuate the statute, 20 U.S.C. 1682.

Alternatives:

Because title IX requires an agency (such as the Department of Justice) that funds educational programs to issue an implementing regulation, issuance of a title IX regulation is mandatory. With respect to the contents of a title IX regulation, the Department will consider all comments received during the public comment period before issuing a final regulation.

Anticipated Cost and Benefits:

In order to carry out this Administration's commitment to equal educational opportunity for women, it is essential that the Department of Justice issue its own regulation implementing title IX. Currently, the Department has no regulation in place to provide guidance to recipients on compliance or identify formal procedures for addressing complaints of sex discrimination in funded programs. In providing Federal financial assistance to educational programs, the Department and its recipients have been subject to the requirements of title IX since it was enacted in 1972. Therefore, promulgating this regulation should not impose any new costs upon recipients of Federal financial assistance.

Risks:

Without a regulation, individuals who are granted protection from discrimination on the basis of sex will not have their rights protected in the Department's programs to the same extent as if they participated in programs funded by agencies with title IX regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58567
NPRM Comment Period End	12/28/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local

Agency Contact:

Merrily A. Friedlander
Chief, Coordination and Review Section
Department of Justice
Civil Rights Division
P.O. Box 66560
Washington, DC 20035-6560
Phone: 202 307-2222
Fax: 202 307-2678

RIN: 1190–AA28

DOJ—Immigration and Naturalization Service (INS)

PROPOSED RULE STAGE

---

61. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1157; 8 USC 1158; 8 USC 1159; 8 USC 1160; 8 USC 1182; 8 USC 1183; 8 USC 1184

CFR Citation:

8 CFR 103; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 232; 8 CFR 235; 8 CFR 240; 8 CFR 241; 8 CFR 245; 8 CFR 245a; 8 CFR 248; 8 CFR 249; 8 CFR 2742; 8 CFR 299

Legal Deadline:

None

Abstract:

This regulation covers the grounds of inadmissibility applicable to those aliens seeking admission to the United States temporarily or permanently. On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) which substantially revised most grounds of inadmissibility under section 212 of the Act and the waivers available to both immigrants and nonimmigrants. The Immigration and Naturalization Service will publish regulations implementing these new grounds of inadmissibility and new/revised waiver provisions. In addition, this rule will incorporate the changes made to the grounds of inadmissibility and waivers provided for in the Immigration Act of 1990 (IMMACT 90), Pub. L. 101-649; the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), Pub. L. 102-232; the National Institutes of Health Revitalization Act of 1993, Pub. L. 103-43; the Immigration and Nationality Technical Corrections Act of 1991 (INTCA), Pub. L. 103-416; and the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104-132.

Statement of Need:

This regulation is necessary to implement the IIRIRA and IMMACT 90, Pub. L. 101-649; the MTINA, Pub. L. 102-232; the National Institutes of Health Revitalization Act of 1996, Pub. L. 103-43; and the AEDPA, Pub. L. 104-132.

Summary of Legal Basis:

See Statement of Need.

Alternatives:

None

Anticipated Cost and Benefits:

The INS anticipates a relatively low cost for staff time and resources necessary to conduct training and disseminate new guidelines to the field on implementation of the revised grounds of inadmissibility and waivers available to both immigrants and nonimmigrants. With respect to certain waivers for the new vaccination requirements that fall under the health-related grounds of inadmissibility, the blanket waiver procedures (that entail a delegation of authority from INS to Department of State consular officers) minimize the administrative burdens not only on the agencies responsible for administering this requirement—Centers for Disease Control, Department of State, and INS—but also the administrative burden on the alien applicant for such waiver. This, in turn, reduces the incentive for fraud, that enhances the public health initiative contemplated by the newly enacted vaccination requirements. Moreover, the new application for waiver, Form I-724, that will be implemented concurrently with the promulgation of the regulation will consolidate numerous forms currently used to determine eligibility for such classes of aliens.

Risks:

This regulatory initiative is critical for complete and clear implementation of the new grounds of inadmissibility and their waivers, especially those established under IIRIRA. The regulation will clarify the confusion that presently exists due to the interplay between the new grounds of inadmissibility and existing law. It will also clarify changes in procedures or policies.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1232) Comment Period End 2/5/90	01/05/90	55 FR 438
NPRM (INS No. 1413)	12/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Additional Information:

INS No. 1413-92

Consolidated INS Rules 1304, RIN 1115-AC01; 1235, RIN 1115-AB39; 1232, RIN 1115-AB45; and 1648, RIN 1115-AD62.

Agency Contact:

Sophia Cox
Staff Officer, Adjudications Division
Department of Justice
Immigration and Naturalization Service
Room 3214
425 I Street NW
Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AB45

DOJ—INS

FINAL RULE STAGE

---

62. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS (SECTION 610 REVIEW)

Priority:

Other Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

8 USC 1324a; PL 104-208

CFR Citation:

8 CFR 274a

Legal Deadline:

Final, Statutory, March 31, 1998, An interim rule, published Sept. 30, 1997, makes the minimal changes required by statute. The provisions will remain in effect until completion of this rulemaking.

Abstract:

On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Section 412(d) clarifies the applicability of section 274A to the Federal Government. Section 610 of the Regulatory Flexibility Act requires agencies to review rules that have a significant economic impact on a substantial number of small entities every 10 years. The Service is conducting this review in conjunction with IIRIRA implementation. The proposed rulemaking published 2/12/98 implements sections 212(a) and (d) of IIRIRA and proposes other changes to the employment verification process identified through that review. A revised Form I-9 was included with the proposed rulemaking.

The comment period closed on 4/3/98. The Service is analyzing the comments. It should be noted that this action supersedes the previously published regulatory plan titled "Reduction in the Number of Documents Accepted for Employment Verification." In order to avoid confusion, this regulatory action is being referenced under the current RIN, which captures all prior actions related to employment verification.

INS No. 1947-98, Interim Rule published 2/9/99 (64 FR 6187). The "Receipt Rule" permits employees to present their employer certain types of "receipts" in lieu of a document listed on the Form I-9. (Previously under RIN 1115-AE94, which was withdrawn and placed under AB73 due to the relationship of the regulations.)

Statement of Need:

The Immigration Reform and Control Act of 1986 amended the Immigration and Nationality Act (INA) to require employers to hire only persons who are eligible to work in the United States and to verify the work eligibility of all new hires. Form I-9 was designated for that purpose. Newly hired individuals must attest to the status that makes them eligible to work and present documents that establish their identity and eligibility to work. In its third review of employer sanctions regulations, the GAO reported that employer confusion over the "multiplicity" of acceptable documents contributed to discrimination against authorized workers. See GAO/GGD Report No. 90-62, dated March 29, 1990. Section 412(a) of IIRIRA requires a reduction in the number of documents that may be accepted in the employment verification process. Implementation of these provisions along with other simplifications and clarifications will reduce potential employment discrimination based upon misapplication of the verification requirements.

Summary of Legal Basis:

The legal basis of authority for this regulation is set forth above in Legal Authority. Parts of this regulatory action are required by IIRIRA.

Alternatives:

The lists of documents for employment verification have been controversial throughout the 10 years that employer sanctions have been in effect. When the INS first published implementing regulations in 1987, the supplementary information noted that the list of identity documents had been expanded in response to public comment. When the law was new, a consensus emerged that an inclusive list of documents would ensure that all persons who are eligible to work could easily meet the requirements. As early as 1990, there was evidence that some employers found the list confusing. As noted in the "Statement of Need," GAO linked employer confusion over the "multiplicity" of acceptable documents to discrimination against authorized workers. The INS has taken steps to address this criticism. In July 1988, INS committed to the establishment of a uniform employment authorization policy. First the INS limited the number and types of "paper" documents on which employment could be authorized. Second, a standardized Employment Authorization Document (EAD) I-688B was introduced in 1989. In February 1997, a more secure EAD Form (I-766) was produced with state of the art technology.

Anticipated Cost and Benefits:

Employment is often the magnet that attracts individuals to come to or stay in the United States illegally. The employer sanctions provisions help reduce the strength of this magnet by requiring employers to hire only those individuals who may legally work in

the United States. This rule, by reducing the number of documents that are acceptable for employment eligibility verification purposes and clarifying other requirements, will reduce confusion on the part of employers. This in turn, will increase employer compliance, preserving jobs for persons who are eligible to work in the United States.

Risks:

An employment eligibility verification system that relies on a wide range of documents may result in employment discrimination based upon misapplication of the employment eligibility verification requirements. In addition, a complicated system may encourage fraud and result in individuals who are authorized to work in the United States being displaced by unauthorized individuals.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1399 Comment Period End 12/23/93	11/23/93	58 FR 61846
NPRM-INS No. 1339S Comment Period End 07/24/95	06/22/95	60 FR 32472
Notice-INS No. 1713 INS No. 1713 Applications Due 01/29/96	11/30/95	60 FR 61630
Appl. Extension Through 3/8/96 Notice Pilot Demonstration Program-INS No. 1713	02/06/96	61 FR 4378
Final Rule INS No. 1399E	09/04/96	61 FR 46534
Interim Final Rule INS No. 1818	09/30/97	62 FR 51001
NPRM-INS No. 1890-97 Comment Period End 04/03/98	02/02/98	63 FR 5287
Final Rule INS No. 1890-97	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

The deadline for implementing section 412(a) of IIRIRA was extended to March 31, 1998 by P.L. 105-54. This rulemaking has been delayed by the need to coordinate implementation with other provisions of IIRIRA, by several complex policy and regulatory issues that have taken time to resolve, and by the review required by section 610 of the Regulatory Flexibility Act.

INS No. 1890-97; PL 104-208, title 4.

INS Nos. 1399 and 1399S-94, Control of Employment of Aliens, Supplemental Rule; Action for INS No. 1399 and 1399S is canceled as a result of IIRIRA requirements.

INS No. 1399E is an extracted portion of INS No. 1399, published separately to allow for the production of a new, more secure Employment Authorization Document.

INS No. 1713-95, Demonstration Project for Electronic I-9s, contact Bob Reed, (202) 514-2998.

Interim Rule INS No. 1818 was published on 9/30/97 at 62 FR 51001 to maintain the status quo as much as possible until the Service completes the more comprehensive document reduction initiative designated by INS No. 1890-97.

Agency Contact:

Linda Dodd-Major
Director, Business Liaison Branch, Adjudications Division
Department of Justice
Immigration and Naturalization Service
425 I Street NW
Washington, DC 20536
Phone: 202 305-2529
Fax: 202 305-2523
Email: linda.dodd-major@usdoj.gov

RIN: 1115–AB73

BILLING CODE 4410–BP–F

DEPARTME

1999 Regul

Executive S

The Secre
strategic goa
to enhance
workforce;
economic se
families; an
workplaces
fair. The 18
regulations
(DOL) admi

Regulatio
enacted legi
stakeholder
that statute'
effective, fle
regulated co
existing reg
achievemen
old or ineffe
them easier
has always
the workpla
practices, in
technologie
render exist
demand the

In keepin
Language M
the Departm
issuing regu
understand
minimize b
community
understand
compliance
satisfaction
community
workplace
information
When writi
will explore
our regulato
with greate
community
those who a
rules or mu
given the op
the rulemak
have been p
friendly co
materials.

DOL's 19
highlights t
important,
five of our
Employmen
(ESA), Min
Administra
Safety and
(OSHA), Pe
Administra
Employmen

DEPARTMENT OF LABOR (DOL)

1999 Regulatory Plan

Executive Summary

The Secretary of Labor has set three strategic goals for the Department: first, to enhance opportunities for America's workforce; second, to promote the economic security of workers and their families; and third, to foster quality workplaces that are safe, healthy and fair. The 180 labor laws and related regulations that the Department of Labor (DOL) administers advance these goals.

Regulations that implement newly enacted legislation help DOL and its stakeholders work together to achieve that statute's goal by providing clear, effective, flexible plans of action for the regulated community. Rules that revise existing regulations also facilitate the achievement of DOL's goals by updating old or ineffective standards or making them easier to understand and use. DOL has always recognized that changes in the workplace, such as new business practices, improved or safer technologies, or new hazards, may render existing rules ineffective or demand the creation of new ones.

In keeping with the President's Plain Language Memorandum of June 1, 1998, the Department remains committed to issuing regulations that are easy to understand and effective and that minimize burdens on the regulated community. Regulations that are easy to understand help promote voluntary compliance and improve customer satisfaction. Most of the regulated community would comply with workplace regulations if given the information and knowledge they need. When writing or revising rules, DOL will explore new approaches to achieve our regulatory goals at lower costs and with greater flexibility for the regulated community. DOL will also ensure that those who are protected by the new rules or must abide by them have been given the opportunity to participate in the rulemaking process and that they have been provided timely, user-friendly compliance assistance materials.

DOL's 1999 Regulatory Plan highlights the Department's 25 most important, significant regulations from five of our major regulatory agencies: Employment Standards Administration (ESA), Mine Safety and Health Administration (MSHA), Occupational Safety and Health Administration (OSHA), Pension and Welfare Benefits Administration (PWBA) and Employment and Training Administration (ETA). The entries in the Regulatory Plan were carefully selected as the most important; that is, they are essential to the fulfillment of the Department's three strategic goals.

The Secretary of Labor's Strategic Goals

A Prepared Workforce: This first goal is to assure that American workers have the opportunity to obtain the information and tools they will need throughout their careers to enhance their productivity and raise their standard of living. The new economy requires workers to continue their education beyond a high school diploma, or even a college degree — education must mean lifelong learning and constant development of new skills.

A Secure Workforce: The rapidly changing global economy imposes economic security concerns on both employers and employees. The life cycles of many products are shorter and shorter, requiring quick adjustments by both industry and labor. Competitive forces can lead to plant closures and layoffs, plant and employee relocations, and in some cases to attempts to avoid legal obligations. The Department will continue to do all it can to increase compliance with worker protection laws, protect worker benefits, and provide worker retraining.

Quality Workplaces: The intensely competitive global economy offers unparalleled opportunities for both business and labor, but also can pressure some unscrupulous employers to shrink from their responsibilities to their employees. Smart employers recognize that they must utilize all of the talent that is available to them and that a quality workplace is a productive workplace. The Department works with employers to prevent workplace discrimination and to help them recognize the benefits of ensuring equal opportunity and equal pay for all workers. DOL also is committed to doing all it can to guarantee safety and health in the workplace and to obtain compliance with other important labor standards such as the minimum wage, overtime, and family and medical leave requirements. The Department is particularly committed to reducing the exploitation of child labor. The Department's ultimate goal is full compliance with employment laws which will ensure workers a safe, healthy, and fair workplace.

The Department's Regulatory Priorities

The Employment Standards Administration's (ESA's) Wage and Hour Division enforces several statutes establishing minimum labor standards that protect the Nation's work force, including the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act, the Family and Medical Leave Act, the Service Contract Act, the Davis-Bacon Act, the Employee Polygraph Protection Act, and certain provisions of the Immigration and Nationality Act. These labor standards include requirements for payment of minimum wages and overtime pay, protections for working youth under child labor standards, job protection for employees who take leave for certain family or medical reasons, and minimum working conditions for agricultural workers. The regulatory activities required to implement these statutory responsibilities represent an important aspect of the Division's work — affecting over 100 million employees in the work force. When developing regulatory proposals, the Division's focus is to assure fair, safe and healthful workplaces for the Nation's workers, while at the same time providing clear compliance guidance and minimizing burdens on the regulated community.

Updating the child labor regulations issued under the FLSA will help guarantee a safe, healthy, and fair workplace for the Nation's working youth to balance their education with job-related experiences. Many workers first gain job-related skills through their initial exposure to work as teenagers. Updated child labor regulations that better reflect today's workplace will assist young workers in having safe jobs and enhance their opportunity to gain the skills to find and hold good jobs with the potential to increase their earnings over time. Ensuring safe and reasonable work hours for working youth will also ensure that top priority is given to education while allowing young workers to contribute to the economic security of their family.

Updating and clarifying the criteria that define the minimum wage and overtime exemptions for executive, administrative, professional, and outside sales employees under the FLSA, and clarifying when helpers may be used on federally funded and assisted construction contracts covered by the prevailing wage requirements of the Davis-Bacon and related acts, will help guarantee workers a secure and quality workplace. Revising and updating these regulations will help employers meet their obligations voluntarily and enhance employees' understanding of their rights and benefits.

ESA's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing the requirements of Executive Order 11246, selected provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), and Section 503 of the Rehabilitation Act of 1973. Regulations issued under the Executive Order and the two acts cover nondiscrimination and affirmative action obligations for Federal contractors and subcontractors. They help to ensure that workplace policies and practices are fair and provide equal opportunity to all workers. OFCCP's regulatory plan entry, the proposed amendments to regulations implementing Executive Order 11246, some of which became effective in 1997, will streamline and clarify the existing regulatory language and reduce paperwork requirements of covered Federal contractors while ensuring that their obligations under the Executive Order and the two acts are met. This NPRM encourages contractors to analyze their own compensation and other employment practices to ensure that all employees are fairly treated. In addition, this plan entry will help fulfill the Administration's Equal Pay and Civil Rights initiative to eliminate wage discrimination by identifying and remedying compensation discrimination by Federal contractors.

The mission of the Mine Safety and Health Administration (MSHA) is to protect the safety and health of the Nation's miners. The Federal Mine Safety and Health Act of 1977 (Mine Act) places primary responsibility for preventing the existence of unsafe and unhealthful working conditions in mines on the operators, with the assistance of the miners. The Mine Act requires MSHA to determine compliance with Federal safety and health standards through inspections and investigations, and to work cooperatively with States and the mining industry to improve training programs aimed at preventing accidents and occupationally-caused diseases.

MSHA is committed to providing the Nation's miners a safer and healthier workplace. Despite MSHA's past efforts, miners face safety and health hazards daily at levels unknown in most other occupations. Government intervention alone cannot eliminate occupational deaths, injuries, and illnesses in mining. The commitment of miners, mine operators and government is needed. MSHA's Regulatory Plan reflects this commitment. It will continue to concentrate on improving existing health standards and addressing emerging health hazards in mining.

Several significant regulatory actions exemplify MSHA's commitment to improving workplace health for miners. MSHA has issued proposed rules for diesel particulate matter in underground coal and metal and nonmetal mines to reduce the potential health hazards associated with the exhaust emitted by diesel-powered equipment. Those hazards range from headaches and nausea to respiratory disease and cancer.

While there have been significant reductions in levels of respirable coal mine dust over the years, some miners exposed to respirable coal mine dust at certain mine operations continue to develop coal workers' pneumoconiosis. MSHA is developing a proposed rule to provide a means to verify operators' coal dust control plans and to prevent overexposure to respirable coal mine dust on each and every working shift.

MSHA has identified the above actions for the October 1999 Regulatory Plan because occupational lung disease is the most serious and pervasive occupational illness in mining. MSHA believes these combined initiatives will greatly improve health protection for miners and are, therefore, tied directly and significantly to its mission and strategic plan.

Several years ago, the Occupational Safety and Health Administration (OSHA) recognized the need to find a better way to carry out its mission — to save the lives and improve the safety and health of America's working men and women. In the regulatory arena, this meant that OSHA had to change its regulatory approach to establish clear and sensible priorities, emphasize consensus-based approaches to rulemaking, and focus on developing a proposed ergonomics rule and a basic safety and health programs rule.

The seven rules in OSHA's Regulatory Plan directly support OSHA's mission as well as the Secretary's goal of assuring America's workers a quality workplace. Each rule is designed to reduce occupational deaths, injuries, and illnesses among America's workers or to simplify OSHA recordkeeping requirements for employers. OSHA's Plan entries address the causes of the most dangerous occupational injuries, i.e., those with fatal or disabling consequences, those affecting large number of workers, those for which recognized solutions are available, or those identified as top priorities by the Agency's Priority Planning process.

Some of OSHA's standards, particularly those adopted wholesale from national consensus standards in 1971, are written in highly detailed, specification-driven language that limits compliance flexibility. To address this problem, OSHA has launched a series of initiatives aimed at streamlining and rationalizing the Agency's regulations and ensuring that all future OSHA rules will pass plain language and common sense tests. In addition, the Agency is actively soliciting input from stakeholders — business, labor, small employers, professional associations, and affected government entities — as it moves forward on these rulemaking initiatives. The OSHA rules in the 1999 Regulatory Plan reflect the rulemaking approach that is being followed by the New OSHA. For example, the Agency plans to initiate a process with stakeholders to select for future regulation a group of air contaminants that both OSHA and the regulated community recognize as hazardous to worker health. The Agency is considering the establishment of a Standards Advisory Committee to work on the selection of candidates for future air contaminants rulemaking.

One of the most important regulatory initiatives ever undertaken by OSHA — development of an ergonomics programs rule — is the centerpiece of the Agency's current Regulatory Plan. This rule will ensure that employers in general industry whose employees work in manual handling or manufacturing jobs, or whose employees experience a work-related musculoskeletal disorder (MSD), implement ergonomics programs in those jobs. About 65 percent of all MSDs reported by employers to the Bureau of Labor Statistics each year are caused by ergonomic risk factors in manual handling and manufacturing production jobs, although fewer than 30 percent of all general industry employees work in these jobs. Evidence of the effectiveness of ergonomics programs in achieving OSHA's ultimate goal — the prevention of musculoskeletal disorders on the job — is widespread and growing daily, as more and more companies report that their accident rates and their workers' compensation costs have fallen after the implementation of such programs. OSHA has held a series of stakeholder meetings designed to identify ways of meeting the business community's need for a strong but simple rule, and of recognizing existing ergonomics programs that are demonstrably effective. Included among these was a series of regional meetings to gain input on the rule at the grassroots level.

The Department believes that, by actively involving both employers and employees in the implementation of ergonomics programs, this standard will help to produce the high-performance workplaces of tomorrow. In sum, OSHA's regulatory strategy is designed to achieve a body of standards that will make sense to ordinary people, protect the safety and health of the U.S. work force, and enhance the productivity of American businesses.

The Pension and Welfare Benefits Administration (PWBA) administers and enforces the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA). ERISA establishes reporting, disclosure and other standards applicable to an estimated 700,000 private-sector employee pension benefit plans, covering approximately 87 million participants and an estimated 6 million employee welfare benefit plans, including group health plans, covering approximately 185 million participants.

PWBA's regulatory priorities continue to focus on efforts to simplify and otherwise facilitate compliance with benefit laws, to improve pension and welfare plan coverage, and to protect the benefits of American workers. PWBA's top regulatory priorities involve implementation of enhanced standards for group health plans, including strengthening the claims review processes and improving the disclosure of health care benefit information. PWBA also will be working with the Department of Health and Human Services to adopt regulations under the Child Support Performance and Incentive Act of 1998, that will establish a model qualified medical child support order for use by State child support agencies to facilitate the extension of health care coverage to children under their jurisdiction. Another PWBA priority for the 1999 Plan is the adoption of standards to improve security and accountability with respect to assets held by small pension plans.

Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to State and local communities to create additional job opportunities for the hardest-to-employ recipients of the Temporary Assistance for Needy Families (TANF) — the new system of block grants created by recent welfare reform legislation. The Employment and Training Administration (ETA) has issued interim planning guidance under this legislation. Moving people from welfare to work is not only a primary goal of Federal welfare to work opportunities, but also responds to the Secretary's goal of a Prepared Workforce. Guidance and regulations reflect minimal amplification of the law, and were written only when further information or clarification was needed to make the program operational. Reporting requirements assure program integrity and provide timely information for tracking performance against established measures. Performance measures will be consistent with long-term goals. Wherever possible, existing regulations and systems will be used.

The Employment Training Administration is issuing for comment a proposed rule to create, by regulation, the opportunity for the State agencies that administer the Unemployment Compensation (UC) program to pay, under a voluntary experimental program, UC to parents who take time off from employment after the birth or placement for adoption of a child. This effort responds to the President's Executive Memorandum issued May 24, 1999, directing the Secretary of Labor to allow States the opportunity to develop innovative ways of using UC to support parents taking leave to be with their newborns or newly-adopted children and to evaluate the effectiveness of using the UC system for these or related purposes. This regulation will permit interested States to experiment with methods for allowing the use of the UC program for this purpose.

DOL—Employment Standards Administration (ESA)

PROPOSED RULE STAGE

---

63. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (SECTION 610 REVIEW)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

EO 11246, as amended

CFR Citation:

41 CFR 60-1; 41 CFR 60-2

Legal Deadline:

None

Abstract:

These regulations cover nondiscrimination and affirmative action obligations of Federal contractors under Executive Order 11246 as amended. The part 60-1 final rule, published 8/19/97, revised parts of the regulations implementing E.O. 11246. OFCCP's review of regulatory options continues with emphasis on streamlining and clarifying the regulatory language and reducing paperwork requirements associated with compliance. OFCCP plans to propose revisions to written affirmative action program (AAP) requirements to reduce burdens on the regulated community and to improve the enforcement of the Executive order.

Statement of Need:

Parts of the regulations implementing Executive Order 11246 need to be revised to reflect changes in the law that have occurred over time, streamlined, and clarified. Executive Order 11246 requires all Federal contractors and subcontractors and federally assisted construction contractors and subcontractors to apply a policy of nondiscrimination and affirmative action in employment with respect to race, color, religion, sex, and national origin. The regulatory revisions are necessary in order to allow the DOL to effectively and efficiently enforce the provisions of the Executive Order. As a first step in updating its Executive Order regulations, the Department published changes to the provisions that govern preaward review requirements; recordkeeping and record retention requirements; certification requirements; and related provisions. In addition, other revisions have been made that conform Executive Order 11246 regulations to the recent changes made in the Department's regulations implementing section 503 of the Rehabilitation Act.

A second phase of revision will contain proposals to change provisions that govern requirements for written affirmative action plans and the provisions concerning evaluation of contractor procedures.

Summary of Legal Basis:

No aspect of this action is required by statute or court order.

Alternatives:

After careful review, it was decided that the most effective way to improve

compliance with the Executive Order 11246 provisions and reduce burdens on contractors, was to propose revisions to these regulations. Administrative actions alone could not produce the desired results.

Anticipated Cost and Benefits:

It is anticipated that the net effect of the proposed changes will increase compliance with the nondiscrimination and affirmative action requirements of the Executive order and reduce compliance costs to Federal contractors. The Department will also be able to utilize its resources more efficiently and more effectively.

Risks:

Failure to move forward with OFCCP's regulatory agenda would cause the continuation of outdated methods of evaluating contractor compliance and impede effective enforcement of Executive Order 11246.

Timetable:

Action	Date	FR Cite
NPRM Affirmative Action Plans (60-2)	03/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

Under the Reinventing Government initiative, OFCCP's emphasis is on regulatory reform, e.g., to revise the Executive Order 11246 regulations to reduce paperwork burdens, eliminate unnecessary regulations, and simplify and clarify the regulations while improving the efficiency and effectiveness of the contract compliance program.

Agency Contact:

James I. Melvin
Director, Division of Policy, Planning, and Program Development, OFCCP
Department of Labor
Employment Standards Administration
Room N3424
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AA01

DOL—ESA

64. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 203(e)

CFR Citation:

29 CFR 570

Legal Deadline:

None

Abstract:

Section 3(l) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for minors 16 and 17 years of age. Child Labor Regulation No. 3 sets forth the permissible industries and occupations in which 14- and 15-year-olds may be employed, and specifies the number of hours in a day and in a week, and time periods within a day, that such minors may be employed. The Department has invited public comment in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders, and whether changes are needed in some of the applicable hazardous occupation orders. Comment has also been solicited on whether revisions should be considered in the permissible hours and time-of-day standards for 14- and 15-year-olds. Comment has been sought on appropriate changes required to implement school-to-work transition programs. Additionally, Congress enacted Public Law 104-174 (August 6, 1996), which amended FLSA section 13(c) and requires changes in the regulations under Hazardous Occupation Order No. 12 regarding power-driven paper balers and compactors, to allow 16- and 17-year-olds to load, but not operate or unload, machines meeting applicable American National Standards Institute (ANSI) safety standards and certain other conditions.

Statement of Need:

Because of changes in the workplace and the introduction of new processes and technologies, the Department is undertaking a comprehensive review of the regulatory criteria applicable to child labor. Other factors necessitating a review of the child labor regulations are changes in places where young workers find employment opportunities, the existence of differing Federal and State standards, and the divergent views on how best to correlate school and work experiences.

Under the Fair Labor Standards Act, the Secretary of Labor is directed to provide by regulation or by order for the employment of youth between 14 and 16 years of age under periods and conditions which will not interfere with their schooling, health and well-being. The Secretary is also directed to designate occupations that may be particularly hazardous for youth between the ages of 16 and 18 years or detrimental to their health or well-being. The Secretary has done so by specifying, in regulations, the permissible industries and occupations in which 14- and 15-year-olds may be employed, and the number of hours per day and week and the time periods within a day in which they may be employed. In addition, these regulations designate the occupations declared particularly hazardous for minors between 16 and 18 years of age or detrimental to their health or well-being.

Public comment has been invited in considering whether changes in technology in the workplace and job content over the years require new hazardous occupation orders or necessitate revision to some of the existing hazardous orders. Comment has also been invited on whether revisions should be considered in the permissible hours and time-of-day standards for the employment of 14- and 15-year-olds, and whether revisions should be considered to facilitate school-to-work transition programs. When developing regulatory proposals (after receipt of public comment on the advance notice of proposed rulemaking), the Department's focus will be on assuring healthy, safe and fair workplaces for young workers, and at the same time promoting job opportunities for young people and making regulatory standards less burdensome to the regulated community.

Summary of Legal Basis:

These regulations are issued under sections 3(1), 11, and 12 of the Fair Labor Standards Act, 29 USC secs. 203(1), 211, and 212 which require the Secretary of Labor to issue regulations prescribing permissible time periods and conditions of employment for minors between 14 and 16 years old so as not to interfere with their schooling, health, or well-being, and to designate occupations that may be particularly hazardous or detrimental to the health or well-being of minors under 18 years old.

Alternatives:

Regulatory alternatives will be developed based on the public comments responding to the advance notice of proposed rulemaking. Alternatives likely to be considered include specific additions or modifications to the hazardous occupation orders and changes to the hours 14- and 15-year-olds may work.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of this regulatory action will be developed once decisions are reached on particular proposed changes in the child labor regulations. Benefits will include safer working environments and the avoidance of injuries with respect to young workers.

Risks:

An assessment of the magnitude of the risk addressed by this action will be prepared once decisions are reached on particular proposed changes in the child labor regulations.

Timetable:

Action	Date	FR Cite
Final Action HOS 2, 10 and 12	11/20/91	56 FR 58626
Final Rule Effective	12/20/91	
ANPRM	05/13/94	59 FR 25167
ANPRM Comment Period End	08/11/94	59 FR 40318
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

John R. Fraser
Deputy Administrator (WHD)
Department of Labor
Employment Standards Administration
Room S3502
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA09

DOL—ESA

65. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority:

29 USC 213(a)(1)

CFR Citation:

29 CFR 541

Legal Deadline:

None

Abstract:

These regulations set forth the criteria for exemption from the Fair Labor Standards Act's minimum wage and overtime requirements for "executive," "administrative," "professional" and "outside sales employees." To be exempt, employees must meet certain tests relating to duties and responsibilities and be paid on a salary basis at specified levels. A final rule increasing the salary test levels was published on January 13, 1981 (46 FR 3010), to become effective on February 13, 1981, but was indefinitely stayed on February 12, 1981 (46 FR 11972). On March 27, 1981, a proposal to suspend the final rule indefinitely was published (46 FR 18998), with comments due by April 28, 1981. As a result of numerous comments and petitions from industry groups on the duties and responsibilities tests, and as a result of recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed. An ANPRM reopening the comment period and broadening the scope of review to include all aspects of the regulations was published on November 19, 1985, with the comment period subsequently extended to March 22, 1986.

The Department has revised these regulations since the ANPRM to address specific issues. In 1991, as the result of an amendment to the Fair Labor Standards Act (FLSA), the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also, in 1992 the Department issued a final rule which provided, in part, that an otherwise exempt public sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In addition, a number of court rulings have caused confusion on the factors to consider in meeting the regulation's "salary basis" criteria, in both the public and private sectors.

Statement of Need:

These regulations set forth the criteria used in the determination of the application of the FLSA exemption for "executive," "administrative," "professional," and "outside sales employees." The existing salary test levels used in determining which employees qualify as exempt from the minimum wage and overtime rules were adopted in 1975 on an interim basis. These salary level tests are outdated and offer little practical guidance in the application of the exemption. In addition numerous comments and petitions have been received in recent years from industry groups regarding the duties and responsibilities tests in the regulations. These factors, as well as recent case law developments, have led the Department to conclude that a review of these regulations is needed.

These regulations have been revised in recent years to deal with specific issues. In 1991, as the result of an amendment to the FLSA, the regulations were revised to permit certain computer systems analysts, computer programmers, software engineers, and other similarly skilled

professional employees to qualify for the exemption, including those paid on an hourly basis if their rates of pay exceed 6 1/2 times the applicable minimum wage. Also in 1991, the Department undertook separate rulemaking on another aspect of the regulations, the definition of "salary basis" for public-sector employees. This interim final rule provided, in part, that an otherwise exempt public-sector employee would not be disqualified from the exemption's requirement for payment on a "salary basis" solely because the employee is paid according to a public pay and leave system that, absent the use of paid leave, requires the employee's pay to be reduced for absences of less than one workday. In 1992, the Department issued its final rule on this matter.

Because of the limited nature of these revisions, the regulations are still in need of updating and clarification. In addition, recent court rulings have caused confusion as to what constitutes compliance with the regulation's "salary basis" criteria in both the public and private sectors.

Summary of Legal Basis:

These regulations are issued under the statutory exemption from minimum wage and overtime pay provided by section 13(a)(1) of the Fair Labor Standards Act, 29 USC 213(a)(1), which requires the Secretary of Labor to issue regulations that define and delimit the terms "any employee employed in a bona fide executive administrative, or professional capacity ..., or in the capacity of outside salesman...," for purposes of applying the exemption to employees who meet the specified criteria.

Alternatives:

The Department will involve affected interest groups in developing regulatory alternatives. Following completion of these outreach and consultation activities, full regulatory alternatives will be developed.

Although legislative proposals have been introduced in the Congress to address certain aspects of these regulations, the Department will continue to pursue revisions to the regulations as the appropriate response to the concerns raised. Alternatives likely to be considered include particular changes to address "salary basis" and salary level issues to a comprehensive overhaul of the regulations that also addresses the duties and responsibilities tests.

Anticipated Cost and Benefits:

Some 23 million employees are estimated to be within the scope of these regulations. Legal developments in court cases are causing progressive loss of control of the guiding interpretations under this exemption and are creating law without considering a comprehensive analytical approach to current compensation concepts and workplace practices. These court rulings are creating apprehension in both the private and public sectors. Clear, comprehensive, and up-to-date regulations would provide for central, uniform control over the application of these regulations and ameliorate this apprehension. In the public sector, State and local government employers contend that the rules are based on production workplace environments from the 1940s and 1950s, and that they do not readily adapt to contemporary government functions. The Federal government also has concerns regarding the manner in which the courts and arbitration decisions are applying the exemption to the Federal workforce. Resolution of confusion over how the regulations are to be applied in the public sector will ensure that employees are protected, that employers are able to comply with their responsibilities under the law, and that the regulations are enforceable. Preliminary estimates of the specific costs and benefits of this regulatory action will be developed once the various regulatory alternatives are identified.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Indefinite Stay of Final Rule	02/12/81	46 FR 11972
Proposal To Suspend Rule Indefinitely	03/27/81	46 FR 18998
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment Period From 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	
NPRM	09/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Local, State, Federal

Agency Contact:

John R. Fraser
Deputy Administrator (WHD)
Department of Labor
Employment Standards Administration
Room S3502
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA14

DOL—ESA

FINAL RULE STAGE

66. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Priority:

Other Significant

Legal Authority:

40 USC 276a to 276a(7)

CFR Citation:

29 CFR 1; 29 CFR 5

Legal Deadline:

None

Abstract:

The Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act in May 1982 (see 47 FR 23644, 23658 (May 28, 1982); 47 FR 32090 (July 20, 1982)). After protracted litigation, a final rule was published in January 1989 (see 54 FR 4234) which became effective on February 4, 1991. Thereafter, on two occasions Congress acted to prevent the Department from expending any funds to implement these revised helper regulations—through the Dire Emergency Supplemental Appropriations Act of 1991, PL 102-27, 105 Stat. 130,151 (1991), and then through section 104 of the DOL Appropriations Act of 1994, PL 103-112. There is no such prohibition in the DOL's Appropriations Act for fiscal

year 1999 Public Law 105-277 (October 21, 1998). Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking. A notice inviting public comment on a proposal to continue the suspension of the former helper regulations while the Department conducts additional rulemaking proceedings was published August 2, 1996 (61 FR 40366). A final rule continuing the suspension while further rulemaking is considered was published December 30, 1996 (61 FR 68641).

Statement of Need:

The current helper rules are difficult to administer and enforce and—as evidenced by the prolonged litigation history and subsequent Congressional actions—are highly controversial. In May 1982, the Department attempted to implement revised rules governing the circumstances in which "helpers" may be used on federally funded and assisted construction contracts subject to the Davis-Bacon Act. After protracted litigation, a final rule was published in January 1989 and became effective on February 4, 1991. Thereafter, on two occasions, Congress acted to prevent the Department from expending any funds to implement these revised helper regulations through appropriations riders. Given the uncertainty of continuation of such moratoriums, the Department has determined that the helper issue needs to be addressed through further rulemaking.

Summary of Legal Basis:

These regulations are issued under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 USC appendix) and the Copeland Act (40 USC 276c) in order to provide coordinated enforcement of the prevailing wage provisions of the Davis-Bacon Act (40 USC 276a-276a-7) and several additional Federal statutes that require payment of prevailing wages as determined by the Secretary of Labor according to the Davis-Bacon Act to laborers and mechanics working on federally funded or assisted construction contracts (see list of statutes in 29 CFR sec. 5.1).

Alternatives:

The Administration has determined that there are only limited alternatives to addressing this issue through rulemaking, in addition to possible legislative changes.

Anticipated Cost and Benefits:

A new rulemaking regarding the helper criteria will seek to make administration of the Davis-Bacon Act more efficient by establishing reasonable "helper" criteria and methodology—thus resolving the controversy and uncertainty currently experienced by interested parties. Changes in the helper regulations may affect prior estimates of potential construction procurement cost savings anticipated from the earlier rulemaking. Estimates of the financial impacts of revised "helper" regulations included in the NPRM range from $72.8 million to $296 million, depending upon the alternative considered and the data sources used.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM Continue Suspension	08/02/96	61 FR 40367
Final Continue Suspension	12/30/96	61 FR 68641
NPRM	04/09/99	64 FR 17442
Comment Period Ends	06/08/99	
Final	01/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, State, Local, Tribal

Agency Contact:

John R. Fraser
Deputy Administrator (WHD)
Department of Labor
Employment Standards Administration
Room S3502
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA94

DOL—Employment and Training Administration (ETA)

PROPOSED RULE STAGE

---

67. • BIRTH AND ADOPTION UNEMPLOYMENT COMPENSATION

Priority:

Other Significant

Legal Authority:

42 USC 1302(a); 42 USC 503(a)(2) and (5); Secretary's Order No. 4-75 (40 FR 18515); Secretary's Order No. 14-75 (November 12, 1975); 26 USC 3306(h); 26 USC 3304(a)(1) and (4)

CFR Citation:

20 CFR 604

Legal Deadline:

None

Abstract:

The Department of Labor is issuing for comment a Notice of Proposed Rulemaking to create, by regulation, the opportunity for the State agencies that administer the Unemployment Compensation (UC) program to pay, under a voluntary experimental program, UC to parents who take time off from employment after the birth or placement for adoption of a child. This effort responds to the President's Executive Memorandum issued May 24, 1999, directing the Secretary of labor to allow States the opportunity to develop innovative ways of using UC to support parents taking leave to be with their newborns or newly-adopted child/children and to evaluate the effectiveness of using the UC system for these or related purposes. This regulation will permit interested States to experiment with methods for allowing the use of the UC program for this purpose.

Statement of Need:

This effort responds to the President's Executive Memorandum issued May 24, 1999, directing the Secretary of Labor to allow States the opportunity to develop innovative ways of using UC to support parents taking leave to be with their newborns or newly-adopted children and to evaluate the effectiveness of using the UC system for these or related purposes. That Memorandum cited a Family and Medical Leave Commission study indicating that lost pay was the most significant barrier to parents taking advantage of unpaid leave after the birth or adoption of a child.

Summary of Legal Basis:

This rulemaking action is undertaken under the authority of sections 1102(a) and 303(a)(2) and (5) of the Social Security Act, sections 3304(a)(1) and (4) and 3306(h) of the Federal Unemployment Tax Act, and the Secretary's Orders No. 4-75 and 14-75.

Alternatives:

The Department of Labor considered different regulatory alternatives and intends to pursue, in the proposed rule, an approach that gives States as much flexibility as possible within the defined parameters of the experimental program.

Anticipated Cost and Benefits:

Based on legislative activity and expressed interest, the Department of Labor anticipates that a relatively small number of States will enact experimental Birth and Adoption Unemployment Compensation programs and, on this basis, estimates that the annual aggregate cost of Birth and Adoption Unemployment Compensation to the States will be between $50 and $87 million. The benefit of this regulatory action will be to help eliminate a significant barrier that parents face in taking leave, thus having a positive effect on family well-being.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	11/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State

Agency Contact:

Jerry Hildebrand
Chief Division of Legislation
Department of Labor
Employment and Training Administration
C-4512
FP Bldg
200 Constitution Avenue NW
Washington, DC 20210
Phone: 202 219-5201
Fax: 202 219-8506

RIN: 1205–AB21

DOL—ETA

FINAL RULE STAGE

---

68. WELFARE-TO-WORK (WTW) GRANTS

Priority:

Other Significant

Legal Authority:

42 USC 601 to 619

CFR Citation:

20 CFR 645

Legal Deadline:

Final, Statutory, November 3, 1997, 90 days from enactment.

Abstract:

The Employment and Training Administration published interim final regulations on November 18, 1997, implementing the Welfare-to-Work Grants Program. The Personal Responsibility and Work Opportunity Reconciliation Act reformed the Nation's welfare laws, when enacted in August 1996, by creating a new system of block grants to the States for Temporary Assistance for Needy Families (TANF). Moving people from welfare to work is one of the primary goals of Federal welfare policy as well as one of five goals the Secretary of Labor has identified for the Department of Labor. Section 5001 of the Balanced Budget Act of 1997 authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF and certain noncustodial parents. The Welfare-to-Work Grants will be provided to the States through the use of a formula, and in a competitive process to local communities. A small amount of total grant funds will be set aside for special purposes: one percent for Indian tribes; 0.8 percent for evaluation; and $100 million for performance bonuses to successful States.

The interim final regulations and other guidance focus on providing maximum local flexibility. Guidance and regulations reflect minimal amplification of the law and provide further information or clarification as needed to make the program operational. Existing regulations and systems are used wherever possible. Reporting requirements will assure program integrity and provide timely information for tracking performance. Performance measures have been established and will serve as the basis for the award of FY 2000 bonus grants to the States based on successful performance. Products provided link welfare agencies and workforce development system agencies at the operational level in order to maximize resources available and avoid duplication and overlap. Leveraging of non-Federal resources at the State and local level is encouraged.

These funds will allow States and local communities to help move eligible individuals into jobs by: job creation through public or private sector wage subsidies; on-the-job training; contracts with public or private providers of job readiness, job placement, and post-employment services; job vouchers for similar services; community service or work experience; or job retention and supportive services (if such services are not otherwise available).

Statement of Need:

Since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, the President and the Congress recognized the need for a measure to complement the Temporary Assistance for Needy Families (TANF) block grant created as a result of the Act. On August 5, 1997, President Clinton signed into law the Balanced Budget Act of 1997, which authorized the Department of Labor to provide Welfare-to-Work Grants to States and local communities to create additional job opportunities for the hardest-to-employ recipients of TANF. The basic goal of the program is to move welfare recipients into unsubsidized jobs with good career potential for economic self-sufficiency. Welfare-to-Work formula and competitive grants provide States and local communities with an array of tools to help them accomplish this goal in ways that make sense and are most effective for their particular population needs. The Employment and Training Administration will issue final regulations and other guidance, provide technical assistance, and establish performance standards which will drive State and local efforts towards the program's goal while still allowing maximum local flexibility.

Summary of Legal Basis:

Promulgation of these regulations is authorized by SSA section 403 (a)(1)(5)(C)(viii).

Alternatives:

Regulatory alternatives will be developed once determinations have

been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs of this regulatory action have not been determined at this time and will be determined at a later date. Welfare recipients will receive job placement and temporary, transitional employment opportunities leading to lasting employment and self-sufficiency. Employers will have ready access to a large pool of motivated hard-working entry-level workers who will be eligible for job retention and support services to maintain employment. Businesses will be eligible to receive wage and on-the-job training subsidies when they hire the hard-to-employ welfare recipients.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61587
Final Action	11/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Local, Tribal

Agency Contact:

Dennis Lieberman
Director, Office of Welfare to Work
Department of Labor
Employment and Training Administration
200 Constitution Avenue NW
C4524, FP Building
Washington, DC 20210
Phone: 202 219-0181

RIN: 1205–AB15

DOL—ETA

69. WORKFORCE INVESTMENT ACT OF 1998

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

Workforce Investment Act of 1998, section 189(2)-506(c); 29 USC 939(a)

CFR Citation:

20 CFR 660 to 671; 20 CFR 652

Legal Deadline:

Other, Statutory, February 7, 1999, Interim Final Rule.

Final, Statutory, December 31, 1999.

Abstract:

The Workforce Investment Act of 1998 was signed into law by President Clinton on August 7, 1998. Titles I and III, and V of the Act fall under the purview of the Employment and Training Administration. Title V falls under the purview of ETA as well as the Department of Education. The Act makes significant changes in the way this country's employment and training programs do business. The Act will ensure that Americans have the information and training they need to qualify for good jobs and successfully manage their careers. The interim final regulations, final regulations, and other guidance will focus on providing maximum local flexibility. Guidance and regulations will reflect minimal amplification of the law and will provide further information or clarification as needed to make the program operational. Reporting requirements will assure program integrity and provide timely information for tracking performance.

Statement of Need:

The purpose of title I of the Workforce Investment Act of 1998 is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and skill attainment of participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation. The Employment and Training Administration will issue regulations and other guidance and provide technical assistance that will focus State and local efforts towards the program's goal while allowing maximum local flexibility. The Department of Labor and its partners must move quickly to implement the reforms contained in the legislation. Interim final regulations were published on April 15, 1999. The law requires that final regulations be published no later than December 31, 1999.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance necessary to carry out new provisions under the new legislation, the Workforce Investment Act of 1998.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs of this newly enacted legislation have not been determined at this time, but will be at a later date. It is anticipated, however, that successful implementation of this legislation will result in changes in the way this country's employment and training programs do business, and will ensure that Americans have the training they need to qualify for good jobs and successfully manage their careers. The Act consolidates more than 60 Federal programs. It will significantly enhance the ability of State and local areas to effectively implement welfare reform and move welfare recipients from welfare to work. It establishes a single delivery system for adult employment and training and for dislocated worker employment and training that maximizes choice in the selection of occupations and training providers. Under the Act, individuals with disabilities will have access to a comprehensive job training system capable of serving all. Unemployed individuals with disabilities will have broader job opportunities allowing them to re-enter or in some cases enter the workforce for the first time.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/99	64 FR 18662
Interim Final Rule Effective	05/17/99	
Interim Final Rule Comment Period End	07/14/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Federal, State, Local, Tribal

Agency Contact:

Eric Johnson
Director, WIA Implementation Team
Department of Labor
Employment and Training Administration
Room S5513
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-0316

RIN: 1205–AB20

DOL—Pension and Welfare Benefits Administration (PWBA)

PROPOSED RULE STAGE

70. NATIONAL MEDICAL SUPPORT NOTICE

Priority:

Other Significant

Legal Authority:

PL 105-200, section 401(b); 29 USC 1135; 29 USC 1169

CFR Citation:

29 CFR 2565

Legal Deadline:

Other, Statutory, May 16, 1999, Interim Final Rule.

Final, Statutory, May 16, 2000.

Abstract:

The purpose of this rulemaking is to develop regulations which establish a model qualified medical child support order for use by State child support agencies to facilitate the extension of health care coverage to children under their jurisdiction. This initiative is mandated by the Child Support Performance and Incentive Act of 1998 (CSPIA), P.L. 105-200.

Statement of Need:

These regulations are needed to provide guidance to the public concerning the application of the provisions of section 401 of the Child Support Performance and Incentive Act of 1998 and section 609 of ERISA, which require, respectively, the promulgation of a National Medical Support Notice to be used by State child support agencies to order health care coverage for children under their jurisdiction, and that such notice is to be deemed a qualified medical child support order for purposes of section 609 of ERISA.

Summary of Legal Basis:

Promulgation of these regulations is mandated by section 401 of CSPIA, and authorized by sections 505 and 609 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 401 of CSPIA and section 609 of ERISA. Section 401 of CSPIA mandates the promulgation of a National Medical Support Notice.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found necessary to implement the new provisions will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to issue these regulations would be likely to impair compliance by State child support agencies with the new standards established by section 401 of CSPIA and by group health plans with the requirements of section 609 of ERISA for the extension of health care coverage to children of plan participants.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Agency Contact:

David J. Lurie
Pension Law Specialist
Department of Labor
Pension and Welfare Benefits Administration
Room N5669
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA72

DOL—PWBA

FINAL RULE STAGE

71. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 1021; 29 USC 1022; 29 USC 1023; 29 USC 1024; 29 USC 1025; 29 USC 1026; 29 USC 1027; 29 USC 1029; 29 USC 1030; 29 USC 1059; 29 USC 1135; 29 USC 1166; 29 USC 1168

CFR Citation:

29 CFR 2520

Legal Deadline:

None

Abstract:

Under title I of ERISA, title IV of ERISA, and the Internal Revenue Code, as amended, pension and other employee benefit plans are generally required to file returns/reports annually concerning, among other things, the financial condition and operations of the plan. These annual reporting requirements are satisfied generally by filing the Form 5500 Series in accordance with its instructions and related regulations. The Department of Labor, IRS, and PBGC have undertaken a comprehensive review of the annual return/report forms in an effort to streamline the information required to be reported and the methods by which such information is filed and processed.

Statement of Need:

This project was included in prior PWBA regulatory plans. The Form 5500 Series is the primary source of information concerning the operation, funding, assets and investments of pension and other employee benefit plans, and is an important compliance and research tool for the Department, and a disclosure document for plan participants and beneficiaries and a source of information and data for use by other Federal agencies, Congress and the private sector in assessing employee benefit, tax, and economic trends and policies.

Summary of Legal Basis:

Title I of ERISA, sections 101 through 105, 107, 209, and 606 impose specific reporting and disclosure obligations on administrators of employee benefit plans. Sections 104(a)(2), 104(a)(3) and 110 of ERISA provide the Secretary with the authority to prescribe simplified reports, exemptions and alternative methods of compliance for employee welfare benefit plans and employee pension benefit plans. Section 505 provides the Secretary with

general authority to prescribe regulations necessary or appropriate to carry out the provisions of title I of ERISA.

Alternatives:

Amendments to the annual report regulations implementing the revisions to the Form 5500 Series are in development.

Anticipated Cost and Benefits:

By simplifying the Form 5500 Series and creating an automated processing system for the filed reports, it is anticipated that filer costs of preparing forms and Government processing costs will be reduced. These measures will eliminate reporting requirements for information that is not needed for the discharge of the Department's statutory responsibilities, while ensuring that participants and beneficiaries have access to the information they need to protect their rights and benefits under ERISA.

Risks:

Failure to revise the Form 5500 Series Annual Reports for Employee Benefit Plans could deprive plans, sponsors, participants and beneficiaries, as well as the Government, of the cost savings and related benefits associated with streamlining the forms and their processing.

Timetable:

Action	Date	FR Cite
Proposed Forms Revisions	09/03/97	62 FR 46556
Proposed Forms Comment Period End	11/03/97	
NPRM Implementing/ Related Regulations	12/10/98	63 FR 68370
NPRM Comment Period End	02/08/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

Public hearing held November 17, 1997. Hearing comment period ended 12/03/97.

Agency Contact:

John J. Canary
Supervisory Pension Law Specialist
Department of Labor
Pension and Welfare Benefits Administration
Room N5669
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA52

DOL—PWBA

72. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 104-91 section 101; 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1172; 29 USC 1177

CFR Citation:

29 CFR 2590

Legal Deadline:

Other, Statutory, April 1, 1997, Interim Final Rule.

Per Section 734 of ERISA as added by Section 101 of HIPAA.

Abstract:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended title I of ERISA by adding a new part 7, designed to improve health care access, portability and renewability. This rulemaking will provide regulatory guidance to implement these provisions.

Statement of Need:

HIPAA added a new part 7 to title I of ERISA, containing provisions designed to improve the availability and portability of health insurance coverage. Part 7 includes provisions limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage to employers and individuals.

Summary of Legal Basis:

Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made, in conjunction with other concerned agencies with regard to the scope and nature of the final regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to provide regulatory guidance necessary to carry out these important health care reforms would adversely impact the availability and portability of health insurance coverage for American families.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	
Request for Information	10/25/99	64 FR 57520
Comment Period End	01/25/00	
Final Rule	07/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

Daniel J. Maguire
Director, Health Care Task Force
Department of Labor
Pension and Welfare Benefits Administration
Room N5677
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA54

DOL—PWBA

73. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Priority:

Other Significant

Legal Authority:

PL 104-191 section 101; PL 104-204 section 603

CFR Citation:

29 CFR 2520.102-3; 29 CFR 2520.104b-1; 29 CFR 2520.104b-3

Legal Deadline:

NPRM, Statutory, April 1, 1997, Per sections 707 and 734 of ERISA as added by section 101 of HIPAA.

Abstract:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA's summary plan description (SPD) and related reporting and disclosure provisions to require that participants and beneficiaries receive from their group health plans: (i) more timely notice if there is a material reduction in services or benefits under the plan; (ii) more information regarding the financing and administration of the plan; and (iii) specific identification of Department of Labor offices through which they can seek assistance or information about HIPAA. The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) also amended ERISA's SPD and related reporting and disclosure provisions. This rulemaking will amend the Department's SPD and related regulations to implement those statutory changes.

Statement of Need:

The existing SPD and related reporting and disclosure provisions need to be revised to reflect the changes made by HIPAA. HIPAA's statutory changes modify the requirements concerning the manner and timing of how certain important plan information is communicated to participants and beneficiaries by plan administrators. Without revised regulatory guidance administrators may not be able to improve the timely disclosure of plan information on both a quantitative and qualitative basis. HIPAA also requires the Secretary to issue regulations within 180 days after its enactment providing alternative mechanisms to delivery by mail through which group health plans may notify participants and beneficiaries of material reductions in covered services or benefits.

Summary of Legal Basis:

Promulgation of these regulations is authorized by sections 104(b), 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to carry out the new provisions.

Anticipated Cost and Benefits:

There is estimated to be no capital/start-up cost. Total burden cost for operating/maintenance is estimated to average $73,000,000 annually for the years 1997, 1998, and 1999. However, the Department believes that the regulation assures that participants have better access to more complete information about their benefit plans.

Risks:

The SPD is a critical plan document for participants and beneficiaries. Without access to accurate and timely information participants and beneficiaries will not be able to protect their rights under ERISA. Improved disclosure requirements also should serve to facilitate compliance by plan administrators, thereby reducing litigation and penalty risks to plan administrators. The failure to issue revised disclosure regulations also may result in a failure to achieve HIPAA's objective of improving the disclosure of plan information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16979
Interim Final Rule Comment Period End	05/31/97	
Interim Final Rule Effective	06/01/97	
Interim Final Rule Second	09/09/98	63 FR 48372
Interim Final Rule Effective	11/09/98	
Comment Period End	11/09/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Agency Contact:

John J. Canary
Supervisory Pension Law Specialist
Department of Labor
Pension and Welfare Benefits Administration
Room N5669
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA55

DOL—PWBA

74. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

29 USC 1133; 29 USC 1135

CFR Citation:

29 CFR 2560.503-1

Legal Deadline:

None

Abstract:

The Department has proposed to amend the regulation governing the establishment and maintenance of benefit claims procedures by employee benefit plans covered by title I of the Employee Retirement Income Security Act (ERISA). The proposal would establish new standards for the processing of group health and other employee benefit plan claims filed by participants and beneficiaries. In the case of group health plans, as well as certain plans providing disability benefits, the new standards are intended to ensure more timely benefit determinations, improved access to information on which a benefit determination is based, and greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Statement of Need:

This regulation is necessary to insure more timely benefit determinations, improve access to information on which a benefit determination is made, and provide greater assurance that participants and beneficiaries will be afforded a full and fair review of denied claims.

Summary of Legal Basis:

Promulgation of this regulation is authorized by sections 503 and 505 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments necessary to update the rules that implement section 503 of ERISA.

Anticipated Cost and Benefits:

On the basis of available data, the Department believes that the projected benefits of this proposed regulation would outweigh its projected costs. In particular, updating the existing regulation to address recent changes in the delivery and financing of health care services would improve health care quality by averting harmful, inappropriate delays and denials of health benefits thereby yielding substantial social benefits.

Risks:

Failure to issue this regulation would deprive many plan participants and beneficiaries of the benefits of an improved claims review process.

Timetable:

Action	Date	FR Cite
Request for Information--Amendment of Regulations on Plan Claims Procedures	09/08/97	62 FR 47262
Comment Period End	11/07/97	
NPRM	09/09/98	63 FR 48390
NPRM Comment Period End	11/09/98	
Notice of Public Hearing Held on Feb. 17,18 & 19, 1999	01/04/99	64 FR 65
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Jeffrey J. Turner
Pension Law Specialist
Department of Labor
Pension and Welfare Benefits Administration
Room N5669
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA61

DOL—PWBA

75. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1181 (PL 104-204, 110 Stat 2935); 29 USC 1135; 29 USC 1194

CFR Citation:

29 CFR 2590.711

Legal Deadline:

None

Abstract:

The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (PL 104-204). NMHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child. NMHPA provisions are set forth in title XXVII of the PHSA and part 7 of subtitle B of title I of ERISA. This rulemaking will provide further guidance with regard to the provisions of the NMHPA.

Statement of Need:

These regulations are needed to provide guidance to the public concerning the application of the provisions of section 711 of ERISA, which establishes requirements for group health plan standards for minimum hospital stays following birth.

Summary of Legal Basis:

Promulgation of these regulations is authorized by sections 505 and 734 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the regulatory guidance which will be necessary to implement section 711 of ERISA.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits of the regulatory actions found to be necessary to implement the new provision will be developed once decisions are reached on which specific actions are necessary.

Risks:

Failure to issue these regulations would be likely to impair compliance by group health plans with the new standards established by section 711 of ERISA for mothers' and newborns' health care.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/98	63 FR 57546
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Additional Information:

LEGAL AUTHORITY CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact:

Amy Turner
Pension Law Specialist
Department of Labor
Pension and Welfare Benefits Administration
Room N5669
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA63

DOL—PWBA

76. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 1024; 29 USC 1135

CFR Citation:

29 CFR 2520.102-3; 29 CFR 2520.102-5

Legal Deadline:

None

Abstract:

These amendments to the regulations governing the contents of summary plan descriptions (SPD) ensure that all participants in group health plans are provided, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, understandable information concerning their plan; provider network composition; preauthorization and utilization review procedures; whether, and under what circumstances, coverage is provided for existing and new drugs; and whether, and under what circumstances, coverage is provided for experimental drugs, devices, and procedures. These amendments repeal special rules limiting the information that must be included in summary plan descriptions with respect to certain health maintenance organizations. In addition, the amendments include provisions that update or clarify the application of certain SPD content requirements affecting both pension and welfare benefit plans.

Statement of Need:

This regulation is necessary to improve the disclosure of group health plan benefit information, consistent with the recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, as set forth in its November 20, 1997, report. The amendments will also update the general SPD content requirements and update other relevant regulatory provisions.

Summary of Legal Basis:

Promulgation of this regulation is authorized by sections 101(a), 102(b), and 505 of ERISA.

Alternatives:

Regulatory alternatives will be developed once determinations have been made with regard to the scope and nature of the amendments which are necessary to improve the disclosure of benefit information to participants and beneficiaries of group health plans under the applicable ERISA regulations.

Anticipated Cost and Benefits:

The Department estimates that the aggregate additional costs associated with the regulation would average approximately $125 million per year for the years 2000, 2001, and 2002. However, the Department believes that the regulation would assure that participants have better access to more complete information on their benefit plans. Better information will lead both participants and plan sponsors to make more economically efficient decisions regarding benefit plans. This enhanced value and efficiency from better information constitute the benefits of the regulation.

Risks:

Failure to issue the regulation would deprive participants, beneficiaries, and plan sponsors of the improvements in health care market efficiency which would be generated by the regulatory amendments specified therein.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48376
NPRM Comment Period End	11/09/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Agency Contact:

John J. Canary
Supervisory Pension Law Specialist
Department of Labor
Pension and Welfare Benefits Administration
Room N5669
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA69

DOL—Mine Safety and Health Administration (MSHA)

PROPOSED RULE STAGE

77. VERIFICATION OF DUST CONTROL PLAN AND CONTINUOUS MONITORING

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 812

CFR Citation:

30 CFR 70; 30 CFR 75; 30 CFR 90

Legal Deadline:

None

Abstract:

Our current regulations require that all underground coal mine operators develop and follow a mine ventilation plan that we approve. However, we do not have a requirement that provides for in-mine verification of the plan's effectiveness under typical mining conditions. Consequently, plans may be implemented by mine operators that could be inadequate to control respirable dust. The proposed rule will require mine operators to verify a plan's adequacy in controlling respirable dust. The proposed rule will address the issue of the use of continuous monitoring for sampling.

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. Our regulations require that all underground coal mine operators develop and follow a mine ventilation plan approved by us. The dust control portion of the mine ventilation plan is the key element of an operator's strategy to control respirable dust in the work environment. Although such plans are required to be designed to control respirable dust, there is no current requirement that provides for in-mine verification of the proposed plan's effectiveness under typical mining conditions. Consequently, plans may be implemented that may later be shown as inadequate to control respirable dust.

Therefore, we are considering regulatory action which would require

mine operators to verify the adequacy of the dust control provisions in new or revised plans by demonstrating that the plan will be effective under typical mining conditions.

Alternatives:

In developing the proposed rule, we will consider alternatives related to typical production levels and the use of appropriate dust control strategies.

Anticipated Cost and Benefits:

Benefits sought are reduced dust levels over a miner's working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift, the key to eliminating lung disease as a risk to coal miners. Enhanced protection of miners from disease will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. We are in the early stages of developing proposed rules and do not have cost estimates. As we proceed, however, we will develop estimates and make them available for public review.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are both potentially disabling and can cause death. We are pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and the reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

This rulemaking is related to RIN 1219-AB18.

Agency Contact:

Carol J. Jones
Acting Director, Office of Standards
Department of Labor
Mine Safety and Health Administration
Room 631
4015 Wilson Boulevard
Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB14

DOL—MSHA

78. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Priority:

Other Significant

Legal Authority:

30 USC 811

CFR Citation:

30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 90

Legal Deadline:

None

Abstract:

The National Institute for Occupational Safety and Health and the Mine Safety and Health Administration jointly determined that a single, full-shift measurement ("single-shift sample") will accurately represent the atmospheric condition to which a miner is exposed. The proposed rule will address the U.S. Court of Appeals' final decision and order in National Mining Association v. Secretary of Labor, issued September 4, 1998.

Statement of Need:

Respirable coal mine dust levels in this country are significantly lower than they were over two decades ago. Despite this progress, there continues to be concern about the respirable coal mine dust sampling program and its effectiveness in presenting an accurate picture of exposure levels in mines. For as long as miners have taken coal from the ground, many have suffered respiratory problems due to their occupational exposures to respirable coal mine dust. These respiratory problems range from mild impairment of respiratory function to more severe diseases, such as silicosis and pulmonary massive fibrosis. For some miners, the impairment of their respiratory systems is so severe, they die prematurely. There is a clear relationship between a miner's cumulative exposure to respirable coal mine dust and the severity of the resulting respiratory conditions.

Although dust levels in underground coal mines are significantly lower than they were in the past, we believe that miners' health can be further protected from the debilitating effects of occupational respiratory disease by further limiting their exposures to respirable coal mine dust. On each and every workshift, it is essential to prevent miners from being exposed to respirable coal mine dust concentrations that exceed the mandated exposure limits.

Alternatives:

The requirements of this rule ("single-shift sample") will work in tandem with those of the proposed rule on verification of dust control plans and continuous monitoring - RIN 1219-AB14. We believe that the fine-tuning of the latter rule will lessen the impact of the single-shift sample requirements.

Anticipated Cost and Benefits:

Benefits sought are reduced dust levels over a miner's working lifetime by the elimination of over-exposures to respirable coal dust on each and every production shift, the key to eliminating lung disease as a risk to coal miners. Enhanced protection of miners from disease will reduce the cost of future black lung benefits and lead to lower operator insurance premiums. We are in the early stages of developing a proposed rule and we do not have cost estimates. As we proceed, however, we will develop estimates and make them available for public review.

Risks:

Respirable coal mine dust is one of the most serious occupational hazards in the mining industry. Long-term exposure to excessive levels of respirable coal mine dust can cause black lung and silicosis, which are potentially disabling and can cause death. Occupational lung disease associated with coal mine dust exposure typically arises after many years of cumulative exposure. Even after eliminating or substantially reducing individual shift overexposures, reductions in lung disease prevalence are not expected to materialize immediately. We are pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and reduction of miners' exposure.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

This rulemaking is related to RIN: 1219-AB14 (Verification of Dust Control Plans and Continuous Monitoring).

Agency Contact:

Carol J. Jones
Acting Director, Office of Standards
Department of Labor
Mine Safety and Health Administration
Room 631
4015 Wilson Boulevard
Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB18

DOL—MSHA

FINAL RULE STAGE

---

79. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND COAL MINERS)

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 813; 30 USC 957; 30 USC 961

CFR Citation:

30 CFR 72; 30 CFR 75

Legal Deadline:

None

Abstract:

Epidemiological studies indicate that diesel exhaust presents potential health risks to workers ranging from headaches and nausea to respiratory disease and cancer. The National Institute for Occupational Safety and Health considers whole diesel exhaust to be a potential occupational carcinogen. The International Agency for Research on Cancer found that diesel engine exhaust is probably carcinogenic to humans.

The rule as proposed for underground coal mines requires the use of filtration to remove diesel particulate matter and requires the use of engineering and work practice controls to reduce diesel particulate matter.

Statement of Need:

The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. We estimate that approximately 13,000 miners are occupationally exposed to diesel exhaust emissions in underground coal mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual acuity, and decreased forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, we are concerned about the potential health risk to miners.

Alternatives:

In the fall of 1995, we held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

We considered establishing a PEL for diesel particulate in coal mines, but found that technology for measuring it in the presence of coal mine dust is not currently feasible. Therefore, the use of filtration to remove diesel particulate matter is required by the proposed rule.

Anticipated Cost and Benefits:

We estimate that the per year compliance costs are just over $10 million, of which underground coal mine operators would incur about $10 million and manufacturers of diesel engines and equipment would incur about $14,000.

The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer, and premature death, along with the attendant suffering and costs thereof to the miners, their families, and society. In addition to savings related to acute health effects, we estimate that some lung cancers would also be avoided.

Risks:

Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. Laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. We believe that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	04/09/98	63 FR 17492
Notice Significant Environment Impact	07/14/98	63 FR 37796
Extension of Comment Period; Notice of Hearings; Close of Record	08/05/98	63 FR 41755
Notice of Hearings; Close of Record	10/19/98	63 FR 55811
Extension of Comment Period; Availability of Studies; Close of Record	02/12/99	64 FR 7144
Extension of Comment Period; Close of Record	04/27/99	64 FR 2259
Corrections	07/08/99	64 FR 36826
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Carol J. Jones
Acting Director, Office of Standards
Department of Labor
Mine Safety and Health Administration
Room 631
4015 Wilson Boulevard
Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA74

DOL—MSHA

80. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS)

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 813; 30 USC 961; 30 USC 957

CFR Citation:

30 CFR 57

Legal Deadline:

None

Abstract:

Epidemiological studies indicate that diesel exhaust presents potential health risks to workers ranging from headaches and nausea to respiratory disease and cancer. The National Institute for Occupational Safety and Health considers whole diesel exhaust to be a potential occupational carcinogen. The International Agency for Research on Cancer found that diesel engine exhaust is probably carcinogenic to humans.

The rule as proposed for underground metal and nonmetal mines establishes a concentration limit for diesel particulate matter and requires the use of engineering and work practice controls to reduce diesel particulate matter.

Statement of Need:

The use of diesel-powered equipment in underground mines has increased significantly and rapidly during the past decade. We estimate that about 7,500 miners working in production or development areas are occupationally exposed to diesel exhaust emissions in underground metal and nonmetal mines.

Several epidemiological studies have shown a positive carcinogenic risk associated with exposure to diesel exhaust. Other reported health effects associated with exposure to diesel exhaust include dizziness, drowsiness, headaches, nausea, decreased visual activity, and decreased forced expiratory volume. In addition, studies by MSHA and the former Bureau of Mines show that miners working in underground mining operations that use diesel equipment are probably the most heavily exposed workers of any occupational group. Based on the levels of diesel particulate measured in underground mining operations and the evidence of adverse health effects associated with exposure to diesel exhaust, MSHA is concerned about the potential health risk to miners.

Alternatives:

In the fall of 1995, we held a series of public workshops to gather suggestions for possible approaches to limit miners' exposure to diesel particulate. In addition, over the past 10 years, MSHA and the former Bureau of Mines have conducted research on methodologies for the measurement and control of diesel particulate in the mining environment. This research has demonstrated that the use of low sulfur fuel, good engine maintenance, exhaust after-treatment, new engine technology, and optimized application of ventilating air all play a role in reducing miners' exposure to diesel exhaust particulate matter.

Anticipated Cost and Benefits:

We estimate that the compliance costs for underground metal and nonmetal operators would be approximately $19 million. The compliance costs to manufacturers are assumed to be passed through to underground metal and nonmetal operators and therefore, they would not incur any direct costs as a result on the rule.

The proposed rule would reduce a significant health risk to underground miners, reducing the potential for acute sensory irritations and respiratory symptoms, lung cancer, and premature death, along with the attendant suffering and costs thereof to the miners, their families, and society. In addition to savings related to acute health effects, we estimate that some lung cancer would also be avoided.

Risks:

Several epidemiological studies have found that exposure to diesel exhaust presents potential health risks to workers. Laboratory tests have shown diesel exhaust to be carcinogenic in rats, as well as toxic and mutagenic. These potential adverse health effects range from headaches and nausea to respiratory disease and cancer. In the confined space of the underground mine environment, occupational exposure to diesel exhaust may present a greater hazard due to ventilation limitations and the presence of other airborne contaminants, such as toxic mine dusts or mine gases. We believe that the health evidence forms a reasonable basis for reducing miners' exposure to diesel particulate.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/92	57 FR 500
ANPRM Comment Period End	07/10/92	57 FR 7906
NPRM	10/29/98	63 FR 58104
Extension of Comment Period; Availability of Studies; Close of Record	02/12/99	64 FR 7144
Comment Period End	02/26/99	63 FR 58104
Notice of Hearings; Close of Record	03/24/99	64 FR 14200
Corrections	07/08/99	64 FR 36826
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Carol J. Jones
Acting Director, Office of Standards
Department of Labor
Mine Safety and Health Administration
Room 631
4015 Wilson Boulevard
Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB11

DOL—Occupational Safety and Health Administration (OSHA)

PROPOSED RULE STAGE

81. ERGONOMICS PROGRAMS: PREVENTING MUSCULOSKELETAL DISORDERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

29 USC 651; 29 USC 652; 29 USC 655; 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation:

29 CFR 1910

Legal Deadline:

None

Abstract:

Work-related musculoskeletal disorders (MSDs) are a leading cause of pain, suffering, and disability in American workplaces. Since the 1980's, the Occupational Safety and Health Administration (OSHA) has had a number of initiatives related to addressing these problems, including enforcement under the general duty clause, issuance of guidelines for the meatpacking industry, and development of other compliance-assistance materials.

Ultimately, the Agency decided that, given the magnitude of the problem, a regulatory approach was appropriate to ensure that the largest possible number of employers and employees become aware of the problems and ways of preventing work-related musculoskeletal disorders. OSHA has examined and analyzed the extensive scientific literature documenting the problem of work-related musculoskeletal disorders, the causes of the problem, and effective solutions; conducted a telephone survey of over 3,000 establishments regarding their current practices to prevent work-related musculoskeletal disorders; and completed a number of site visits to facilities with existing programs. The Agency has also held numerous stakeholder meetings to solicit input from individuals regarding the possible contents of a standard to prevent work-related musculoskeletal disorders. Agency representatives have delivered numerous outreach presentations to people who are interested in this subject and consulted professionals in the field to obtain expert opinions on the options considered by the Agency. Information obtained from these activities is undergoing Agency review.

The Agency believes that the scientific evidence supports the need for a standard and that the availability of effective and reasonable means to control these hazards has been demonstrated. The Agency, therefore, is currently developing a proposed rule for ergonomics. The National Institute for Occupational Safety and Health (NIOSH) has issued a report evaluating the scientific basis for the relationship of workplace stressors to MSDs. The report concludes that such a relationship exists for many stressors.

Statement of Need:

OSHA estimates that work-related musculoskeletal disorders in the United States account for over 600,000 injuries and illnesses that are serious enough to result in days away from work (34 percent of all lost workday injuries reported to the Bureau of Labor Statistics (BLS)). These disorders now account for one out of every three dollars spent on workers' compensation. It is estimated that employers spend as much as $15-$18 billion a year on direct costs for MSD-related workers' compensation, and up to three to four times that much for indirect costs, such as those associated with hiring and training replacement workers. In addition to these monetary effects, MSDs often impose a substantial personal toll on affected workers who can no longer work or perform simple personal tasks like buttoning their clothes or brushing their hair.

Scientific evidence associates MSDs with stresses to various body parts caused by the way certain tasks are performed. The positioning of the body and the type of physical work that must be done to complete a job may cause persistent pain and lead to deterioration of the affected joints, tissues, and muscles. The longer the worker must maintain a fixed or awkward posture, exert force, repeat the same movements, experience vibration, or handle heavy items, the greater the chance that such a disorder will occur. These job-related stresses are referred to as "ergonomic risk factors," and the scientific literature demonstrates that exposure to these risk factors, particularly in combination, significantly increases an employee's risk of developing a work-related musculoskeletal disorder. Jobs involving exposure to ergonomic risk factors appear in all types of industries and in all sizes of facilities.

Musculoskeletal disorders occur in all parts of the body—the upper extremity, the lower extremity, and the back. An example of the increasing magnitude of the problem involves repeated trauma to the upper extremity, or that portion of the body above the waist, in forms such as carpal tunnel syndrome and shoulder tendinitis. In 1996, employers reported 281,000 repeated trauma cases to the BLS. As a point of comparison, the number of reported cases in this category was only 22,700 in 1981. When the data are adjusted to reflect changes in the size of the employee population, they indicate that such cases have increased more than 7-fold in the last ten years. In industries such as meatpacking and automotive assembly, approximately 10 out of 100 workers report work-related MSDs from repeated trauma each year. The number of work-related back injuries occurring each year is even larger than the number of upper extremity disorders. Industries reporting a large number of cases of back injuries include hospitals and personal care facilities.

The evidence OSHA has assembled and analyzed indicates that technologically and economically feasible measures are available to significantly reduce exposures to ergonomic risk factors and the risk of developing work-related musculoskeletal disorders. Many companies that have voluntarily implemented ergonomics programs have demonstrated that effective ergonomic interventions are available to reduce MSDs. Many of these interventions are simple and inexpensive, but nevertheless have a significant effect on the occurrence of work-related musculoskeletal disorders. Benefits include substantial savings in workers' compensation costs, increased productivity, and decreased turnover.

Summary of Legal Basis:

The legal basis for this proposed rule is a preliminary finding by the Secretary of Labor that workers in workplaces within OSHA's jurisdiction are at significant risk of incurring work-related musculoskeletal disorders.

Alternatives:

OSHA is considering many different regulatory alternatives. These include variations in the scope of coverage, particularly with regard to industrial sectors, work processes, and degree of hazard. The agency is still developing

and refining its regulatory alternatives, including those recommended by the SBREFA Panel.

Anticipated Cost and Benefits:

Implementation costs of an ergonomics program standard would include those related to identifying and correcting problem jobs using engineering and administrative controls. Benefits expected include reduced pain and suffering, both from prevented disorders as well as reduced severity in those disorders that do occur, decreased numbers of workers' compensation claims, and reduced lost work time. Secondary benefits may accrue from improved quality and productivity due to better designed work systems.

Risks:

The data OSHA has obtained and analyzed indicate that employees are at significant risk of developing or aggravating musculoskeletal disorders due to exposure to risk factors in the workplace. In addition, information from site visits, the scientific literature, the Agency's compliance experience, and other sources indicates that there are economically and technologically feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. These data and analyses will be presented in the preamble to any proposed standard published in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/92	57 FR 34192
ANPRM Comment Period End	02/01/93	
SBREFA Panel	03/02/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Undetermined

Agency Contact:

Marthe B. Kent
Acting Director, Directorate of Health Standards Programs
Department of Labor
Occupational Safety and Health Administration
Room N3718
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB36

DOL—OSHA

82. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 651; 29 USC 657

CFR Citation:

29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918

Legal Deadline:

None

Abstract:

The Occupational Safety and Health Administration (OSHA), many of the States, members of the safety and health community, insurance companies, professional organizations, companies participating in the Agency's Voluntary Protection Programs, and many proactive employers in all industries recognize the value of worksite-specific safety and health programs in preventing job-related injuries, illnesses, and fatalities. The reductions in job-related injuries and illnesses, workers' compensation costs, and absenteeism that occur after employers implement such programs dramatically demonstrate the effectiveness of these programs. In 1989, OSHA published nonmandatory guidelines to help employers establish safety and health programs (54 FR 3904). Those guidelines were based on a distillation of the best safety and health management practices observed by OSHA in the years since the Agency was established. OSHA has decided to expand on these guidelines by developing a safety and health programs rule because occupational injuries, illnesses, and fatalities are continuing to occur at an unacceptably high rate. For example, an average of about 17 workers were killed each day in 1997. This number does not include an estimated 137 daily deaths associated with job-related chronic illnesses.

The safety and health programs required by the proposed rule will include at least the following elements: management leadership of the program; active employee participation in the program; analysis of the worksite to identify significant safety and health hazards of all types; and eliminating or controlling those hazards in an effective and timely way. In response to extensive stakeholder involvement, OSHA has, among other things, focused the rule on significant hazards and reduced burdens on small business to the extent consistent with the goals of the OSH Act.

Statement of Need:

Worksite-specific safety and health programs are increasingly being recognized as the most effective way of reducing job-related accidents, injuries, and illnesses. Many States have to date passed legislation and/or regulations mandating such programs for some or all employers, and insurance companies have also been encouraging their client companies to implement these programs, because the results they have achieved have been dramatic. In addition, all of the companies in OSHA's Voluntary Protection Programs have established such programs and are reporting injury and illness rates that are sometimes only 20 percent of the average for other establishments in their industry. Safety and health programs apparently achieve these results by actively engaging front-line employees, who are closest to operations in the workplace and have the highest stake in preventing job-related accidents, in the process of identifying and correcting occupational hazards. Finding and fixing workplace hazards is a cost-effective process, both in terms of the avoidance of pain and suffering and the prevention of the expenditure of large sums of money to pay for the direct and indirect costs of these injuries and illnesses. For example, many employers report that these programs return between $5 and $9 for every dollar invested in the program, and almost all employers with such programs experience substantial reductions in their workers' compensation premiums. OSHA

VOL 64 ISS 224 NO 22 1999 UMI

believes that having employers evaluate the job-related safety and health hazards in their workplace and address any hazards identified before they cause occupational injuries, illnesses, or deaths is an excellent example of "regulating smarter," because all parties will benefit: workers will avoid the injuries and illnesses they are currently experiencing; employers will save substantial sums of money and increase their productivity and competitiveness; and OSHA's scarce resources will be leveraged as employers and employees join together to identify, correct, and prevent job-related safety and health hazards.

Summary of Legal Basis:

The legal basis for the proposed rule is a preliminary finding by the Secretary of Labor that unacceptably high injury, illness, and fatality rates can be substantially reduced by getting employers to systematically comply with their existing duty to control hazards under sections 5(a)(1) and 5(a)(2) of the OSH Act.

Alternatives:

In the last few years, OSHA has considered both nonregulatory and regulatory alternatives in the area of safety and health program management. First, in 1989, OSHA published a set of voluntary management guidelines designed to help employers set up and maintain safety and health programs. Although these guidelines have received widespread praise from many employers and professional safety and health associations, they have not been adequately effective in reducing job-related deaths, injuries, and illnesses, which have continued to occur at unacceptably high levels. Many States have also recognized the value of these programs and have mandated that some or all employers establish them; this has led to inconsistent coverage from State to State, with many States having no coverage and others imposing stringent program requirements.

Anticipated Cost and Benefits:

OSHA preliminarily estimated the overall program costs of the draft proposed standard provided to the SBREFA Panel for this rule for all covered employers to be about $2.3 billion per year. The Agency also estimates that 580,000 to 1,300,000 injuries and illnesses and 416 to 918 fatalities will be avoided each year as a result of the rule. OSHA anticipates that employers will have direct cost savings associated with this reduction in the number of injuries and illnesses of approximately $7.3 to $16.5 billion per year.

Risks:

Workers in all major industry sectors in the United States continue to experience an unacceptably high rate of occupational fatalities, injuries, and illnesses. For 1996, the Bureau of Labor Statistics reported that 6.2 million injuries and illnesses occurred within private industry. For 1997, BLS reported that 6,218 workers lost their lives on the job. There is increasing evidence that addressing hazards in a piecemeal fashion, as employers tend to do in the absence of a comprehensive safety and health program, is considerably less effective in reducing accidents than a systematic approach. Dramatic evidence of the seriousness of this problem can be found in the staggering workers' compensation bill paid by America's employers and employees: about $54 billion annually. These risks can be reduced by the implementation of safety and health programs, as evidenced by the experience of OSHA's Voluntary Protection Program participants, who regularly achieve injury and illness rates averaging one-fifth to one-third those of competing firms in their industries. Because the proposed rule addresses significant job-related hazards, the rule will be effective in ensuring a systematic approach to the control of long-recognized hazards, such as lead, which are covered by existing OSHA standards, and emerging hazards, such as lasers and violence in the workplace, where conditions in the workplace would require control under the General Duty Clause of the Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

Additional Information:

A separate rule is being developed for the construction industry (29 CFR 1926). OSHA will coordinate the development of the two rules.

Agency Contact:

Marthe B. Kent
Acting Director, Directorate of Health Standards Programs
Department of Labor
Occupational Safety and Health Administration
Room N3605
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB41

DOL—OSHA

83. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

29 USC 655 (b)

CFR Citation:

29 CFR 1910.1000; 29 CFR 1915.1000; 29 CFR 1917.1(a)(2)(ii); 29 CFR 1918.1(b)(a); 29 CFR 1929.55

Legal Deadline:

None

Abstract:

OSHA enforces hundreds of permissible exposure limits (PELs) for toxic air contaminants found in U.S. workplaces. Most of the air contaminant limits were adopted by OSHA in 1971 from recommendations issued by the American Conference of Governmental Industrial Hygienists and the American National Standards Institute. These PELs, which have not been updated since 1971, thus reflect the results of research conducted in the 1950s and 1960s. Since then, much new information has become available that indicates that, in many cases, these early limits are outdated and insufficiently protective of worker health. To correct this situation, OSHA issued a final rule in 1989 (54 FR 2332); it lowered the existing PELs for 212 toxic air contaminants and established PELs for 164 previously unregulated air contaminants. On June 12, 1992 (57 FR 26001), OSHA proposed a rule that would have extended these limits to workplaces in the construction, maritime, and agriculture industries. However, on July

10, 1992, the Eleventh Circuit Court of Appeals vacated the 1989 final rule on the grounds that "(1) OSHA failed to establish that existing exposure limits in the workplace presented significant risk of material health impairment or that new standards eliminated or substantially lessened the risk; (2) OSHA did not meet its burden of establishing that its 428 new permissible exposure limits (PELs) were either economically or technologically feasible." The Court's decision forced the Agency to return to the earlier, insufficiently protective limits.

OSHA continues to believe that establishing a rulemaking approach that will permit the Agency to update existing air contaminant limits and establish new ones as toxicological evidence of the need to do so becomes available is a high priority. The rulemaking described in this Regulatory Plan entry reflects OSHA's intention to move forward with this process. In determining how to proceed, OSHA is being guided by the OSH Act and the Eleventh District Court decision regarding quantifying the risk and analyzing the feasibility that are required to support revised and new air contaminant limits. State-of-the-art risk assessment methodologies will be utilized for both carcinogens and noncarcinogens, and the determinations of feasibility contained in the economic analysis accompanying the proposal will be extensive. OSHA published (61 FR 1947) the name of the 20 substances from which the proposed new PELs for the first update were chosen: carbon disulfide, carbon monoxide, chloroform, dimethyl sulfate, epichlorohydrin, ethylene dichloride, glutaraldehyde, n-hexane, 2-hexanone, hydrazine, hydrogen sulfide, manganese and compounds, mercury and compounds, nitrogen dioxide, perchloroethylene, sulfur dioxide, toluene, toluene diisocyanate, trimellitic anhydride, and vinyl bromide. The specific hazards associated with the air contaminants preliminarily selected for regulation include cancer, neurotoxicity, respiratory and skin irritation and sensitivity, and cardiovascular disease, etc. Using the same criteria as those used in the Priority Planning Process, OSHA has evaluated for each substance: the severity of the health effect, the number of exposed workers, toxicity of the substance, uses and prevailing exposure levels of the substance, the potential risk reduction, and the availability and quality of information useful in quantitative risk assessment to ensure that significant risks are addressed and that workers will experience substantial benefits in the form of enhanced health and safety.

Although OSHA has evaluated factors for the twenty substances and plans to develop more PELs in the future, for this first stage in the current rulemaking process OSHA has decided to propose new PELs for four chemicals - carbon disulfide, glutaraldehyde, hydrazine, and trimellitic anhydride - that have different adverse health effects, both carcinogenic and non-carcinogenic, requiring different risk assessment approaches. For these four chemicals, OSHA has modified or developed new quantitative risk assessment approaches for cancer, respiratory sensitization and irritation, cardiovascular disease and neurotoxicity effects. Publication of the proposal will allow OSHA to continue to develop a mechanism for updating and extending its air contaminant limits, that will, at the same time, provide added protection to many workers who are currently being overexposed to toxic substances in the workplace.

OSHA is also considering supplemental mechanisms proposed by stakeholders to increase the effectiveness and timeliness of the process. The agency may consider using an advisory committee to review issues related to the PELs process.

Statement of Need:

OSHA has permissible exposure limits for approximately 470 toxic substances, many of which are widely used in industrial settings. These PELs, which were adopted wholesale by OSHA in 1971 and have not been revised since then, often lead to adverse effects when workers are exposed to the contaminants at these levels. In addition, new chemicals are constantly being introduced into the working environment, and exposure to these substances can result in both acute and chronic health effects. Acute effects include respiratory and sensory irritation, chemical burns, and ocular damage; chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. For these reasons, it is a high OSHA priority to establish an ongoing regular process that will allow OSHA routinely to update existing PELs and to establish limits for some currently unregulated substances. The first step in achieving this goal is to publish an air contaminants proposal for a number of substances that will establish streamlined but scientifically sound and defensible procedures for conducting risk assessments and performing feasibility analyses that will permit regular updating and review of permissible exposure limits for air contaminants. The ability to lower existing limits and establish limits for new contaminants is an essential component of OSHA's mandate to protect the health and functional well-being of America's workers.

Summary of Legal Basis:

The legal basis for the proposed PELs for selected air contaminants is a preliminary determination by the Secretary of Labor that the substances for which PELs are being proposed pose a significant risk to workers and that the new limits will substantially reduce that risk.

Alternatives:

OSHA has considered a variety of nonregulatory approaches to address the problem of the Agency's outdated exposure limits for air contaminants. These include the issuance of nonmandatory guidelines, enforcing lower limits through the "general duty" clause of the OSH Act in cases where substantial evidence exists that exposure presents a recognized hazard of serious physical harm, and the issuance of hazard alerts. OSHA believes, however, that the problem of overexposure to hazardous air contaminants is so widespread, and the Agency's current limits are so out of date, that only a regulatory approach will achieve the necessary level of protection. The regulatory approach also has advantages for employers, because it gives them the information they need to establish appropriate control strategies to protect their workers and reduce the costs of job-related illnesses. This first phase of an ongoing air contaminants updating and revision process will begin to resolve a problem of long standing and major occupational health import.

Anticipated Cost and Benefits:

The scope of the proposed rule is currently under development and thus quantitative estimates of costs and benefits have not been determined at this time. Implementation costs associated with the proposed standard include primarily those related to identifying and correcting overexposures using engineering controls and work practices. Additional costs may be incurred for the implementation of administrative controls and the purchase and use of

personal protective equipment. Estimates of the magnitude of the problem of occupational illnesses, both acute and chronic, vary considerably. In 1989, OSHA concluded that its Air Contaminants rule in general industry, which lowered 212 exposure limits and added 164 where none had previously existed, would result in a reduction of approximately 700 deaths, 55,000 illnesses, and over 23,300 lost-workday illnesses annually. Chronic effects include cardiovascular disease, respiratory, liver and kidney disease, reproductive effects, neurological damage, and cancer. Acute effects include respiratory and sensory irritation, chemical burns, and ocular effects.

Risks:

Risk assessments for the substances under consideration for this first phase of the air contaminants updating and revision process have not yet been completed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Undetermined

Additional Information:

During the rulemaking, OSHA will meet with small business stakeholders to discuss their concerns, and will conduct an initial Regulatory Flexibility Screening Analysis to identify any significant impacts on a substantial number of small entities.

Agency Contact:

Marthe B. Kent
Acting Director, Directorate of Health Standards Programs
Department of Labor
Occupational Safety and Health Administration
Room N3718
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB54

DOL—OSHA

FINAL RULE STAGE

---

84. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Priority:

Economically Significant. Major under 5 USC 801.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline equirements.

Legal Authority:

29 USC 655; 40 USC 333

CFR Citation:

29 CFR 1926.750 (Revision); 29 CFR 1926.751 (Revision); 29 CFR 1926.752 (Revision)

Legal Deadline:

None

Abstract:

In 1992, OSHA announced that it would develop a proposal for revising steel erection safety requirements using the negotiated rulemaking process. In negotiated rulemaking, OSHA, industry and employee representatives meet as an advisory committee and attempt to forge a consensus on a proposed standard. An advisory committee for this rule was formed in 1994. Its work resulted in the publication of a proposed rule on August 13, 1998.

The written comment period ended November 17, 1998. A public hearing was held in Washington, D.C. on December 1-11, 1998. The post-hearing comment period closed April 12, 1999. OSHA is now working to complete a final rule.

Statement of Need:

In 1989, the Ironworkers International Union and National Erectors Association petitioned OSHA to revise the steel erection standard through negotiated rulemaking. In light of the significant number of steel erection fatalities and injuries and concerns that the Agency's existing rule fails to adequately address a number of factors affecting safety, OSHA determined that the current rule needed to be revised.

Summary of Legal Basis:

The legal basis for the proposed steel erection rule is a preliminary finding that workers engaged in steel erection work are at significant risk of serious injury or death as a result of that work.

Alternatives:

OSHA considered continuing to rely on the existing rule. The Agency also considered issuing a proposed rule without negotiated rulemaking. Leaving the existing rule unchanged was rejected because of the apparent inadequacies of the standard. Negotiated rulemaking was chosen to help resolve conflicts and produce a proposal sooner.

Anticipated Cost and Benefits:

OSHA expects compliance with the proposal to impose annualized costs of about $50 million per year. Benefits are expected to include the prevention of about 14 fatalities and 824 lost workday injuries per year.

Risks:

OSHA estimates that at least 28 workers die each year while engaged in steel erection. Falls continue to be the leading cause of job-related deaths among construction workers, and steel erection involves a significant degree of exposure to fall hazards.

Timetable:

Action	Date	FR Cite
Notice of Committee Establishment	05/11/94	59 FR 24389
NPRM	08/13/98	63 FR 43451
NPRM Comment Period End	11/17/98	
Public Hearing	12/01/98	
Final Rule	07/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Russell B. Swanson
Director, Directorate of Construction
Department of Labor
Occupational Safety and Health Administration
Room N3468
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AA65

DOL—OSHA

85. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

29 USC 657; 29 USC 673

CFR Citation:

29 CFR 1904; 29 CFR 1952.4

Legal Deadline:

None

Abstract:

OSHA requires employers to keep records of occupational illnesses and injuries. These records are used by OSHA and the Bureau of Labor Statistics (BLS), among others, to develop data on workplace safety and health by industry and across industries. Over the years concerns about the reliability and utility of these data have been raised by Congress, the National Institute for Occupational Safety and Health (NIOSH), the National Academy of Sciences, the Office of Management and Budget (OMB), the General Accounting Office, business and labor, as well as BLS and OSHA. In the late 1980's, OSHA contracted with the Keystone Center to bring together representatives of industry, labor, government, and academia in a year-long effort to discuss problems with OSHA's injury and illness recordkeeping system. Keystone issued a report with specific recommendations on how to improve the system. In 1995, OSHA held several meetings with stakeholders from business, labor and government to obtain feedback on a draft OSHA recordkeeping proposal and to gather related information.

OSHA published a Notice of Proposed Rulemaking (NPRM) in the February 2, 1996 Federal Register that contained revised recordkeeping requirements and recordkeeping forms. The original 90-day public comment period was extended another 60 days and ended July 2, 1996. During that comment period, the public submitted over 450 written comments to OSHA Docket R-02. In addition, OSHA held two public meetings in Washington, DC (March 26-29 and April 30-May 1) resulting in 1,200 pages of transcripts from nearly 60 presentations. OSHA is now planning to issue a final rule that incorporates changes based on an analysis of the public comments and testimony.

Statement of Need:

The occupational injury and illness records maintained by employers are an important component of OSHA's program. The records are used by employers and employees to identify and evaluate workplace safety and health hazards, and they provide OSHA personnel with necessary information during workplace inspections. The records also provide the source data for the Annual Survey of Occupational Injuries and Illnesses conducted by the BLS.

All of these uses of the data are affected by the quality of the records employers maintain. Higher quality data lead to higher quality analyses, which in turn lead to better decisions about occupational safety and health matters. To improve the quality of the records and enhance the use of the information, OSHA needs to provide clearer regulatory guidance to employers, simplify the recordkeeping forms and provide employees with access to the information.

Summary of Legal Basis:

The legal basis for issuance of this final rule is Section 8(c)(1) of the OSH Act, which requires employers to record and report such records as are necessary for the enforcement of the Act and for developing information on the causes and prevention of occupational accidents and illnesses, as required by regulation and section 24(a) of the Act, which requires OSHA to develop an effective program of occupational safety and health statistics to further the purposes of the Act.

Alternatives:

One alternative to publication of a final rule is to take no action and continue to administer the injury and illness recordkeeping system using the current regulation, forms and guidelines. Another alternative is to revise the current rule to expand its coverage and scope (i.e., eliminate the current rule's small employer and Standard Industrial Classification exemptions). The first alternative is unacceptable because it does not address the problems with the current system identified by participants in the Keystone dialogue and other OSHA stakeholders. The second alternative is also unacceptable because it would require many employers, especially small-business employers, in low hazard industries to keep OSHA injury and illness data. This could impose a substantial paperwork burden on those employers without commensurate benefit.

Anticipated Cost and Benefits:

OSHA has not determined the cost and benefits of the final rule.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	02/02/96	61 FR 4030
NPRM Comment Period End	07/02/96	
Final Action	04/00/00	
Final Action Effective	01/00/01	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Agency Contact:

Marthe B. Kent
Acting Director, Directorate of Health Standards Programs
Department of Labor
Occupational Safety and Health Administration
Room N3605
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB24

DOL—OSHA

86. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

29 USC 655(b)

CFR Citation:

29 CFR 1910.1035

Legal Deadline:

None

Abstract:

On August 25, 1993, the Labor Coalition to Fight TB in the Workplace petitioned the Occupational Safety and Health Administration (OSHA) to develop an occupational health standard to protect workers against the transmission of tuberculosis (TB). The Coalition stated that although the Centers for Disease Control and Prevention (CDC) had developed guidelines for controlling the spread of TB, many of the TB outbreak investigations conducted by CDC showed that many employers were not fully implementing the CDC guidelines. After reviewing the available information, OSHA preliminarily concluded that a significant risk of occupational transmission of TB exists for some workers in some work settings and began rulemaking on a proposed standard.

To assist in the development of the proposed standard, OSHA consulted with parties outside the Agency. The preliminary risk assessment was peer-reviewed by four experts with specific knowledge in the areas of TB disease and risk assessment. In addition, OSHA conducted stakeholder meetings with representatives of various groups that might be affected by the proposed standard. The draft proposed standard was also reviewed and commented on by affected small business entities under the Small Business Advocacy Review Panel requirements of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) and by the Office of Management and Budget (OMB) under Executive Order 12866.

On October 17, 1997 OSHA published its proposed standard for occupational exposure to TB (62 FR 54160). The proposed standard would cover workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings where workers are at significant risk of becoming infected with TB while caring for their patients or clients or performing certain procedures. The proposed standard would require employers to protect TB-exposed workers using infection control measures that have been shown to be highly effective in reducing or eliminating work-related TB infections. Such measures include procedures for early identification of individuals with infectious TB, isolation of individuals with infectious TB using appropriate ventilation, use of respiratory protection in certain situations, and skin testing and training of employees.

After the close of the written comment period for the proposed standard on February 17, 1998, informal public hearings were held in Washington, DC (April 7-17), Los Angeles, CA (May 5-7), New York City, NY (May 19-21), and Chicago, IL (June 2-4). At the end of the public hearings a post-hearing comment period was established. The post-hearing comment period closed on October 5, 1998. On June 17, 1999 OSHA re-opened the rulemaking record to submit the Agency's report on homeless shelters and certain other documents that became available to the Agency after the close of the post-hearing comment period. During this limited re-opening of the rulemaking record, OSHA also requested interested parties to submit comments and data on the Agency's preliminary risk assessment in order to obtain the best, most recent data for providing the most accurate estimates of the occupational risk of tuberculosis.

Statement of Need:

TB is a contagious disease caused by the bacterium Mycobacterium tuberculosis. Infection is acquired by the inhalation of airborne particles carrying the bacterium. These airborne particles, called droplet nuclei, can be generated when persons with pulmonary TB in the infectious stage of the disease cough, sneeze, or speak. In some individuals who inhale the droplet nuclei, TB bacteria establish an infection. In most cases, the bacteria are contained by the individual's immune system. However, in some cases, the bacteria are not contained by the immune system and continue to grow and invade the tissue, leading to the progressive destruction of the organ involved. In most cases, this organ is the lung, although other organs may also become infected.

From 1953, when active cases began to be reported in the United States, until 1984, the number of annual reported cases declined 74 percent, from 84,304 cases to 22,255 cases. However, this steady decline did not continue. Instead, from 1985 to 1992, the number of reported cases increased 20 1 percent. TB control efforts were re-initiated in some areas of the country and from 1993 to 1998, the number of cases in the United States again declined. A large portion of the decrease occurred in high incidence areas, such as New York City, where intervention efforts were focused. However, despite the recent decrease in active cases, there were still 18,371 reported TB cases in 1998. Outbreaks of TB continue to occur and multidrug-resistant forms of TB disease continue to spread to new states. In addition, more than 10 to 15 million persons in the United States have latent TB infection and are at risk of developing TB disease sometime in the future. Moreover, the factors that led to the resurgence from 1985 to 1992 (e.g., increases in homelessness, HIV infection, immigration from countries with high rates of infection) still exist.

Providing health care for individuals with TB increases the risk of occupational exposure among healthcare workers. Many of the outbreaks of TB have occurred in health care facilities, resulting in the transmission of TB to both patients and health care workers. CDC found that the factors contributing to these outbreaks included delayed diagnosis of TB, delayed initiation of effective therapy, delayed initiation and inadequate duration of TB isolation, inadequate ventilation of isolation rooms, lapses in TB isolation practices, and lack of adequate respiratory protection. CDC analyzed data from several of the outbreaks and found that the transmission of TB decreased significantly when recommended TB control measures were implemented. Workers outside health care also provide services to patient or client populations that have an increased rate of TB disease. For example, occupational transmission of TB has been documented in correctional facilities, and the standard would cover such workers.

Summary of Legal Basis:

The legal basis for the proposed TB standard is a preliminary finding by the Secretary of Labor that workers in hospitals, nursing homes, hospices, correctional facilities, homeless shelters, and certain other work settings

are at a significant risk of incurring TB infection while caring for their patients and clients or performing certain procedures.

Alternatives:

Prior to a decision to publish a proposal, OSHA considered a number of options, including whether or not to develop an emergency temporary standard, publish an advance notice of proposed rulemaking, or to enforce existing regulations.

Anticipated Cost and Benefits:

Costs will be incurred by employers for engineering controls, respiratory protection, medical surveillance, training, exposure control, recordkeeping, and work practice controls. Benefits will include the prevention of work-related TB transmissions and infections, and a corresponding reduced risk of exposure among the general population. OSHA estimates that more than 5 million workers are exposed to TB in the course of their work. The Agency estimates that the proposed provisions will result in annual costs of 245 million dollars. Implementation of the standard is estimated to reduce the number of work-related cases of TB by 70-90 percent in the work settings covered, thus preventing approximately 21,400 to 25,800 work-related infections per year, 1,500 to 1,700 active cases of TB resulting from these infections, and approximately 115 to 136 deaths resulting from these active cases.

Risks:

From 1985 to 1992, the number of reported cases of TB in the United States increased, reversing a previous 30-year downward trend. While there has been a recent decrease in the reported number of cases of TB in the general population, a large part of this decrease can be attributed to focused intervention efforts in areas of high incidence of TB. Fourteen states showed an increase or no change in the number of reported cases in 1998, and the factors that contributed to the resurgence continue to exist, along with exposure of certain workers to patient or client populations with an increased rate of TB. In addition, TB outbreaks continue to occur and multidrug-resistant strains of TB continue to spread to new states. Therefore, employees in work settings such as health care or correctional facilities, who have contact with infectious individuals, are at high risk of occupational transmission of TB. OSHA estimates that the average lifetime occupational risk of TB infection ranges from 30-386 infections per 1000 workers exposed to TB on the job and that the average lifetime occupational risk of TB disease ranges from 3-39 cases of active TB disease per 1000 workers exposed to TB. Active disease can cause signs and symptoms such as fatigue, weight loss, fever, night sweats, loss of appetite, persistent cough, and shortness of breath, and may result in serious respiratory illness or death.

Timetable:

Action	Date	FR Cite
SBREFA Panel	09/10/96	
NPRM	10/17/97	62 FR 54160
NPRM Comment Period End	02/17/98	62 FR 65388
Post Hearing Comment End	10/05/98	
Record Reopening	06/17/99	64 FR 32447
Reopening Comment Period End	08/02/99	
Final Rule	07/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

During this rulemaking, OSHA met with small business stakeholders to discuss their concerns, and conducted an initial Regulatory Flexibility Analysis to identify any significant impacts on a substantial number of small entities. In addition, OSHA conducted a special study of homeless shelters and set aside certain hearing dates for persons who wished to testify on homeless shelter issues.

Agency Contact:

Marthe B. Kent
Acting Director, Directorate of Health Standards Programs
Department of Labor
Occupational Safety and Health Administration
Room N3718
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB46

DOL—OSHA

87. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT

Priority:

Other Significant

Legal Authority:

29 USC 655(b); 29 USC 657; 33 USC 941; 40 USC 333

CFR Citation:

29 CFR 1910.132; 29 CFR 1915.152; 29 CFR 1917.96; 29 CFR 1918.106; 29 CFR 1926.95

Legal Deadline:

None

Abstract:

Generally, OSHA standards require that protective equipment (including personal protective equipment (PPE)) be provided and used when necessary to protect employees from hazards that can cause them injury, illness, or physical harm. In this discussion, OSHA uses the abbreviation "PPE" to cover both personal protective equipment and other protective equipment. The Agency is proposing to revise its PPE standards to clarify who is required to pay for required PPE and under what circumstances. According to the proposal, employers would be required to provide all OSHA-required PPE at no cost to employees, with the following exceptions: the employer would not need to pay for safety-toe protective footwear or prescription safety eyewear if all three of the following conditions are met: (1) the employer permits such footwear or eyewear to be worn off the job-site; (2) the footwear or eyewear is not used in a manner that renders it unsafe for use off the job-site (for example, contaminated safety-toe footwear would not be permitted to be worn off a job-site); and (3) such footwear or eyewear is not designed for special use on the job. Employers are also not required to pay for the logging boots required by 29 CFR 1910.266(d)(1)(v).

Statement of Need:

The regulatory language used in OSHA standards has generally clearly stated that the employer must provide PPE and ensure that employees wear it. However, the regulatory language regarding the employer's obligation to pay for the PPE has varied.

OSHA attempted to clarify its position on the issue of payment for required PPE in a compliance memorandum to its field staff dated October 18, 1994.

The memorandum stated that it was the employer's obligation to provide and pay for PPE except in limited situations.

Recently, the Occupational Safety and Health Review Commission declined to accept this interpretation (Secretary of Labor v. Union Tank Car, OSHRC No. 96-0563). The Commission vacated a citation against an employer who failed to pay for OSHA-required PPE, finding that the Secretary had failed to adequately explain the policy outlined in the 1994 memorandum in light of several inconsistent earlier letters of interpretation from OSHA. Therefore, the Agency needs to clarify who is to pay for PPE under what conditions, to eliminate any confusion and unnecessary litigation.

Summary of Legal Basis:

The legal basis for this proposed rule is the need to clarify OSHA's intent with regard to the payment for protective equipment required by OSHA standards promulgated under section 6 of the OSH Act.

Alternatives:

OSHA has considered several alternative approaches to resolving this issue, including leaving this as a labor-management issue, issuing compliance directives to identify what PPE the employer must pay for, or requiring the employer to pay for all PPE. OSHA believes that, in this case, revising the standard to clarify who is to pay for the PPE is the most appropriate way to proceed. It is the only approach that will assure significant public participation in the resolution of this issue, and the codification of that resolution.

Anticipated Cost and Benefits:

It is estimated that this rule will shift, at most, annualized costs to employers of no more than $62 million across all affected industries. It is also estimated that the proposed rule will prevent over 47,000 injuries and seven fatalities that occur annually as a result of the non-use or misuse of personal protective equipment by employees required to pay for their own PPE.

Risks:

Substantive requirements for protective equipment are included in other OSHA standards. This proposed rule is designed solely to clarify OSHA's intent as to what protective equipment must be paid for by the employer. Accordingly, no assessment of risk is required for this proposal.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15401
NPRM Comment Period End	06/14/99	
Informal Public Hearing End	08/13/99	
Final Rule	07/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Federal

Agency Contact:

Marthe B. Kent
Acting Director, Directorate of Health Standards Programs
Department of Labor
Occupational Safety and Health Administration
Room N3605
200 Constitution Avenue NW
FP Building
Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB77

BILLING CODE 4510–23–F

VOL 64 ISS 224 NO 22 1999 UMI

DEPARTMENT OF TRANSPORTATION (DOT)

Statement of Regulatory Priorities

The Department of Transportation (DOT) consists of ten operating administrations, and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, maritime, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. It regulates the construction and operation of bridges over navigable waters, the prevention of oil pollution, and the security of commercial aviation and passenger vessels. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern internal programs such as acquisition and grants, access for the disabled, environmental protection, energy conservation, information technology, property asset management, seismic safety, security, and the use of aircraft and vehicles.

Although it carries this heavy regulatory workload, the Department has long been recognized as a leader in Federal efforts to improve and streamline the regulatory process and ensure that regulations do not impose unnecessary burdens. The Department's regulatory policies and procedures provide a comprehensive internal management and review process for new and existing regulations and ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules.

For virtually all DOT rules, the initiating office must prepare an analysis that includes a discussion of the problem being addressed, the major alternatives, the reasons for choosing one alternative over another, and the economic and other consequences of the action. The Department has a management process that permits key officials to follow closely the development of significant regulatory projects. The process is intended to ensure that these rulemakings are completed in a timely manner, and it facilitates top management's involvement in these actions.

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effects. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that legislation does not impose unreasonable mandates.

DOT continually seeks to improve its regulatory process. The creation of an electronic, Internet-accessible docket for the Department; the use of direct final rulemaking; and the use of regulatory negotiation are three examples of this.

The Department has engaged in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. These have included summits with front-line regulators and representatives of regulated industries. In addition, the Department's agencies have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

Throughout the Department, we are also actively engaged in the review of existing rules to determine whether they need to be revised or revoked. These reviews are in accordance with section 610 of the Regulatory Flexibility Act, the Department's regulatory policies and procedures, Executive Order 12866, and/or the President's directive to "consider writing existing regulations in plain language...." Appendix D to our Regulatory Agenda highlights our new, organized approach in this area.

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with Executive Order 12866 and other legal and policy requirements affecting rulemaking, including a number of new statutes and Executive orders. Although OST's principal role concerns the review of the Department's significant rulemakings, this office also plays an important role in the substance of projects concerning aviation economic rules and those having significance among the various elements of the Department.

OST provides guidance and training regarding compliance with regulatory requirements and process for use by personnel throughout the Department. This past year, OST also led Departmental efforts in conducting roundtable discussions with the public on how to improve our economic analyses, risk assessment, and regulatory flexibility analyses. OST is also leading DOT's effort to implement the President's plain language initiatives.

OST also leads and coordinates the Department's response to Administration and congressional proposals that concern the regulatory process. The General Counsel's Office works closely with representatives of other agencies, the Office of Management and Budget, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

OST is continually incorporating new technology into its rulemaking process. OST initiated the effort that resulted in the consolidation of nine Departmental rulemaking (and adjudicatory) docket facilities into one, centrally-managed facility. The new docket system stores electronic images in unalterable form. It includes all rulemaking and support documents, public comments, and other documents included in the public docket. This electronic docket is accessible via the Internet, and now accepts electronic filing of comments. OST redesigned its Internet home page and the General Counsel's Office now includes hyperlinks to other useful DOT regulatory web sites, including the public rulemaking dockets, and contacts for many issues of special interest to the public (http://regs.dot.gov/).

United States Coast Guard (USCG)

The United States Coast Guard's statutory responsibilities include protecting the marine environment; enforcing U.S. laws and international

treaties; performing search and rescue; and ensuring marine safety and security.

The majority of the regulatory actions issued by the Coast Guard are classified as routine and frequent because they take effect for a limited time and at specific locations. These temporary actions allow local Coast Guard units to ensure safety during marine events. The Coast Guard issues approximately 30 regulations annually that set national standards or respond to specific statutory mandates. The Marine Safety Council, a board of senior Coast Guard Leaders, approves each of these rulemaking projects, monitors the Coast Guard's regulatory program, and advises the Commandant on regulatory matters. The following are significant aspects of the Coast Guard's regulatory program:

- The Coast Guard is an active member of the Vice President's Plain Language Action Network. It has used plain language, including question/answer format and graphical displays to issue rules directly affecting the public, such as changes to the fee schedule for work credentials and new training requirements for international safety. The Coast Guard issues all new regulations and revisions to whole parts of the CFR in plain language to meet the Presidential Memorandum on Plain Language. Plain language updates will be an important part of the Coast Guard's review of all regulations under the Regulatory Flexibility Act.
- The Coast Guard encourages early public involvement in rulemaking through a variety of public meetings and the ongoing work of nine advisory committees. In addition, public comments are requested on existing rules identified for analysis each year and identified in Appendix D of the fall agenda.
- Recognizing that it should issue only necessary regulations tailored to impose the least burden on society, the Coast Guard has developed a broad Prevention Through People Program, which develops and encourages a wide variety of voluntary actions by industry and individuals to improve marine safety. To support this effort, the Coast Guard has several Quality Partnerships.
- Finally, to ensure that all regulations are necessary, each agenda item specifies how it supports at least one of the goals of the Coast Guard's Strategic Plan. Strategic goals include marine safety, protection of the marine environment, facilitation of maritime commerce, and national defense.

Federal Aviation Administration (FAA)

The FAA issues regulations to provide a safe, secure, and efficient global aviation system for civil aircraft.

In response to the mandate of the Vice President's National Performance Review to streamline the regulatory process, the FAA reengineered its rulemaking process. The new process is more efficient, ensures effective communication and decisionmaking among all parties, is flexible to manage crises, and allows for the effective use of personnel. Other related actions include:

- Supporting the FAA's Safety Agenda on Safer Skies. This agenda is based on a comprehensive review of the causes of aviation accidents and is designed to bring about a five-fold (80 percent) reduction in fatal accidents. The reformed rulemaking process supports this agenda by ensuring that appropriate resources are available to support those rulemaking projects identified as the agency's highest priority. Projects related to controlled flight into terrain, loss of control of an aircraft, uncontrolled engine failures, runway incursions, weather, pilot decisionmaking, and cabin safety are some of the focus areas identified that may result in rulemaking, advisory and guidance materials.
- Continuing to involve the aviation community early in the regulatory process. The FAA obtains input, both on the rule and the economics, from affected parties prior to publishing a proposed regulation by using the Aviation Rulemaking Advisory Committee, which represents members from all aviation interests. It is presently working on the resolution of more than 60 issues. In 1998, the ARAC issued more than 35 rulemaking documents.
- Continuing to harmonize the U.S. aviation regulations with those of other countries. The harmonization of the U.S. regulations with the European Joint Aviation Regulations (JAR) is the FAA's most comprehensive long-term rulemaking effort. The differences worldwide in certification standards, practices and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators. Harmonization and standardization should help the U.S. aerospace industry remain internationally competitive. While the overall effort to achieve this is global, it will be accomplished by many small, individual, nonsignificant rulemaking projects.
- Implementing the recommendations of the White House Commission on Aviation Safety and Security. FAA rulemaking actions are continuing in the areas of: 1) revising repair station requirements; and 2) improving Security of checked baggage on flights within the United States.
- Continuing to recognize the needs of small entities by complying with the Small Business Regulatory Enforcement Fairness Act and addressing small entity concerns whenever appropriate in rulemaking documents. In response to the Act, the FAA has established a Small Entity Contact, a web site on FAA's home page, a toll free number, and an e-mail address for receipt of inquiries. To date, the FAA has received more than 10,000 inquiries concerning small entities.
- Ensuring that the congressional mandates for rulemaking deadlines established by the FAA Reauthorization Act of 1996 are met. One mandate is the issuance of a final rule 16 months after the close of the comment period on the proposed rule.

Top regulatory priorities for 1999–2000 include a duty limitations and rest requirements rule to ensure that pilots are sufficiently rested for duty; a terrain awareness and warning system requirement; flight recorder improvements; a transport airplane fleet fuel tank ignition source review; and an overflight of the national parks rulemaking effort to reduce or prevent the negative effects of aircraft noise in our national parks.

Federal Highway Administration (FHWA)

The FHWA anticipates that its priority for fiscal year 2000 will be continuing implementation of the Transportation Equity Act for the 21st Century (TEA–21), which reauthorizes the surface transportation programs administered by the FHWA. The FHWA will continue to implement this legislation in the least burdensome and restrictive way possible consistent with the FHWA's mission. The FHWA will also pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

Another major area in which the FHWA will initiate or continue significant rulemaking actions is the ongoing zero-base review of the Federal Motor Carrier Safety Regulations. The goals and objectives of the zero-base review project are to: 1) focus on those areas of enforcement and compliance which are most effective in reducing motor carrier accidents; 2) reduce compliance costs; 3) encourage innovation; 4) clearly and succinctly describe what is required; and 5) facilitate enforcement. Through the zero-base review, the FHWA intends to develop a unified, performance-based regulatory system that will enhance safety on our Nation's highways while minimizing the burdens placed on the motor carrier industry.

In addition, the FHWA is prioritizing regulatory initiatives that will enhance the operational safety of commercial motor vehicles. The FHWA is currently redrafting the Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings. It plans to simplify the current process to facilitate responses by the accused motor carriers and drivers and to offer alternative means of adjudicating the claims. It also intends to promulgate comprehensive rules covering the entire enforcement process from initial contact with the motor carrier to the final disposition of the claim.

National Highway Traffic Safety Administration (NHTSA)

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) include reducing the number of and mitigating the effects of motor vehicle crashes and related fatalities and injuries, providing motor vehicle information to consumers, and improving automotive fuel efficiency. NHTSA pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandate. It issues new standards and regulations or amendments to existing standards and regulations when appropriate. It ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action. Finally, it considers alternatives consistent with the Administration's regulatory principles.

In addition to numerous programs that focus on the safety and performance of the motor vehicle, the Agency is engaged in a variety of programs to improve driver behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. This goal is accomplished through a number of means, including encouraging initiatives in such areas as safety belt use, child safety-seat use, activities aimed at combating impaired driving and aggressive driving, and consumer information activities.

NHTSA is conducting several program evaluations that are designed to review and evaluate the actual benefits, costs, and overall effectiveness of existing standards and regulations. For example, it will continue evaluating Standard 208's new measures to improve the safety performance of air bags, Standard 214's dynamic side-impact requirements, and Standard 108's requirement for reflective marking on heavy truck trailers to enhance their detection at night or under other conditions of reduced visibility. NHTSA will continue evaluating the implementation of the American Automobile Labeling Act, which requires new passenger cars, pickup trucks, vans, and sport utility vehicles to carry labels providing information on their domestic and foreign parts content. It is also evaluating the efficacy of child safety seat registration for increasing consumer response to recalls of defective seats.

NHTSA's regulatory program includes additional proposals that will be undertaken in order to allow design flexibility, promote new technology, and encourage market competition and consumer choice.

Federal Railroad Administration (FRA)

The Federal Railroad Administration (FRA) exercises regulatory authority over all areas of railroad safety.

Fashioning regulations that have favorable benefit-to-cost ratios, and that where feasible, incorporate flexible performance standards, requires cooperative action by all affected parties. In order to foster an environment of collaborative rulemaking, FRA established the Railroad Safety Advisory Committee (RSAC). The purpose of RSAC is to develop consensus recommendations for regulatory action on issues referred to it by FRA. Where consensus is achieved, and FRA believes it serves the public interest, the resulting rule is very likely to be better understood, more widely accepted, more cost-beneficial, and more correctly applied. Where consensus cannot be achieved, however, FRA will fulfill its regulatory role without the benefit of RSAC's recommendations.

The RSAC has met on a quarterly basis so far and currently has working groups addressing the following tasks: 1) The development of regulations governing track, motor vehicle, and roadway worker equipment; 2) the revision of the regulations governing locomotive inspection standards for steam-powered locomotives; 3) the review of FRA regulations for their applicability to historic railroads; 4) the development of safety standards for locomotive crashworthiness; 5) the development of safety standards for locomotive working conditions; 6) the development of locomotive event recorder accident survivability standards; 7) the development of regulations governing the use of positive train control (PTC) systems; 8) the revision of regulations governing locomotive engineering certification; and 9) the development of a new accident reporting threshold.

In addition to RSAC, FRA continues to use collaborative rulemaking to address passenger safety issues. FRA established a working group to address Passenger Equipment Safety Standards and published a final rule in the first phase of this rulemaking initiative in May 1999 based on its recommendations. FRA expects to conduct research workshops related to the second phase of the rule in 2000. FRA is also involved in extensive public outreach to develop regulations regarding the use of train whistles, and plans to publish an NPRM in late 1999 or early 2000.

Federal Transit Administration (FTA)

The Federal Transit Administration (FTA) provides financial assistance to State and local governments for mass transportation purposes. The regulatory activity of FTA focuses on establishing the terms and conditions of Federal financial assistance available under the Federal transit laws.

FTA's policy regarding regulations is to:

- Implement statutory authorities in ways that provide the maximum net benefits to society;
- Keep paperwork requirements to a minimum;
- Allow for as much local flexibility and discretion as is possible within the law;
- Ensure the most productive use of limited Federal resources;
- Protect the Federal interest in local investments; and

- Incorporate good management principles into the grant management process.

As mass transportation needs have changed over the years, so have the requirements for Federal financial assistance under the Federal transit laws and related statutes. FTA's regulatory priorities for 1999–2000 are to continue to issue rulemakings required under the Transportation Equity Act for the 21st Century (TEA–21), to amend existing regulations as needed, and to update existing regulations for plain language.

Of particular importance to FTA is the publication of the Major Capital Investment Projects rule which is required by TEA–21 and will detail how the agency will evaluate and rate proposed transit projects as recommended, highly recommended or not recommended. FTA will use these ratings to recommend to Congress which of the more than 190 projects authorized in TEA–21 should be federally funded.

TEA–21 also requires that FTA and FHWA amend the joint Environmental and Planning rules, both of which will be of significant interest to States, transit agencies, local governmental bodies, and environmental groups.

FTA intends to amend the State Safety Oversight of Rail Fixed Guideway Systems rule by proposing to require States to begin overseeing rail fixed guideway systems in the planning, design, and construction phases of a system's cycle. FTA also intends to combine the drug and alcohol rules into one rule. These rules will be rewritten in plain language.

Maritime Administration (MARAD)

MARAD administers Federal laws and programs designed to promote and maintain a U.S. merchant marine capable of meeting the Nation's shipping needs for both national security and domestic and foreign commerce.

MARAD's regulatory objectives and priorities reflect the Agency's responsibility of ensuring the availability of adequate and efficient water transportation services for American shippers and consumers. To advance these objectives, MARAD issues regulations, which are principally administrative and interpretive in nature, when appropriate, in order to provide a net benefit to the U.S. maritime industry.

In 1999, and continuing into 2000, MARAD will give priority to updating existing regulations to reduce unnecessary burden on the public. For example, MARAD will update and streamline existing regulations and administrative practices governing the following areas: 1) the ship financing guarantee process; 2) standards for evaluation and approval of applications; and 3) the process and documentation for closing of commitments to guarantee obligations issued under these regulations.

Research and Special Programs Administration (RSPA)

The Research and Special Programs Administration (RSPA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, RSPA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, RSPA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

In the area of hazardous materials transportation, the regulatory priority is to clarify through rulemaking the applicability of regulations to the loading, unloading, and storage of hazardous materials incidental to their movement in commerce. Clarifying the applicability of the regulations will facilitate compliance with them and also clarify when other requirements of Federal, State, local, and tribal governments apply.

A previous priority to revise the requirement for cylinders has been removed from the plan as a result of public comments received to a notice of proposed rulemaking. RSPA will be conducting a full technical review of the proposed specifications and standards.

The regulatory priorities in the pipeline area are to manage the risks inherent in pipeline transportation through strategies directed at prevention, detection, and mitigation activities. Specific regulatory actions to implement these activities include the use of emergency flow-restricting devices and other mechanisms to detect and locate pipeline ruptures and minimize releases, excavation damage prevention programs, mandating participation in one-call notification systems, increased inspection requirements using instrumented internal inspection devices, and prescribing risk-based approaches to pipeline safety regulations.

Bureau of Transportation Statistics (BTS)

The Bureau of Transportation Statistics (BTS) is responsible for collecting, compiling, analyzing, and making accessible information on the Nation's transportation systems; identifying needs for new information and analysis and implementing programs to meet those needs; and enhancing the quality and effectiveness of the Department's statistical programs through research, the development of guidelines, coordination with related information-gathering activities conducted by other Federal agencies, and the promotion of improvements in data acquisition, archiving, dissemination, and use.

BTS's Office of Airline Information (OAI), collects airline financial and operating statistical data, covering both passenger and cargo traffic. This information gives the Government consistent and comprehensive economic and market data on individual airline operations and is used, for instance, in supporting policy initiatives, negotiating international bilateral aviation agreements, awarding international route authorities, and meeting international treaty obligations. The aviation, travel, and tourism communities value this information for a variety of purposes, such as conducting analyses of on-time performance, denied boardings, market trends, and economic analyses.

BTS's long-range regulatory priority in the aviation area is to conduct a complete review and modernization of the Passenger Origin and Destination Survey. BTS can make significant improvements by providing data to meet the needs of DOT and other users in a way that takes advantage of the information revolution and matches the dramatically changing airline industry.

BTS, in conjunction with the Office of the Secretary, is in the preliminary stages of performing a zero-base review of the financial and traffic data to determine what, if any, revisions can be made to the current data collections to ensure that these collections fully support the Department's mandated aviation responsibilities. Moreover, the review will seek to identify potential savings to the affected air carriers and the Government that can be accomplished through the application of advanced information technologies to the collection, processing, validation, and dissemination of aviation data.

BTS's review and modernization of the Passenger Origin and Destination Survey will be incorporated as part of this zero-base review.

Saint Lawrence Seaway Development Corporation (SLSDC)

The Saint Lawrence Seaway Development Corporation (SLSDC) is a wholly owned Government corporation created by Congress in 1954. The primary operating service of the SLSDC is to ensure the safe transit of commercial and noncommercial vessels through the two U.S. locks and navigation channels of the Saint Lawrence Seaway System. The SLSDC works jointly with its Canadian counterpart to operate and maintain this deep draft waterway between the Great Lakes and the Atlantic Ocean. The SLSDC also works jointly with its Canadian counterpart on all matters related to rules and regulations, overall operations, vessel inspection, traffic control, navigation aids, safety, operating dates, and trade development programs.

The regulatory priority of the SLSDC is to provide its customers with the safest, most reliable, and most efficient Seaway System possible.

DOT—U.S. Coast Guard (USCG)

PROPOSED RULE STAGE

88. +MARINE TRANSPORTATION - RELATED FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Priority:

Other Significant

Legal Authority:

33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 154

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a marine transportation-related facility transferring bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to marine transportation-related facilities that, because of their location, could cause harm to the environment by discharging a hazardous substance into or on the navigable waters or adjoining shoreline. A separate rulemaking, under RIN 2115-AE88, was developed in tandem with this rulemaking and addresses hazardous response plan requirements for tank vessels. Resources were committed to initially publish an NPRM for the Tank Vessel Response Plans rulemaking. That expertise will now be used to draft the NPRM for this related rulemaking. This project supports Coast Guard strategic goals of marine safety and protection of the marine environment by reducing the amount of chemicals entering the environment, as well as reducing the consequence of pollution incidents. This action is considered significant because of substantial public and industry interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels and marine transportation-related facilities.

Summary of Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although section 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under 33 U.S.C. 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk by vessels, and transferred to or from marine transportation-related facilities.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For facilities, a "worst case discharge" is "the largest foreseeable discharge in adverse weather conditions."

Anticipated Cost and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk of human exposure and enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances. The draft analysis indicates that this project will not be economically significant. A regulatory assessment addressing costs and benefits of this rule will be available in the public docket when the NPRM is published.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of facilities involved in transferring hazardous substances in bulk or have a significant impact on the volume of hazardous substances shipped by marine transportation-related facilities. Most facilities involved in transferring hazardous substances in bulk have developed plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

Public hearings regarding this rulemaking were held in Washington,

DC on July 30, 1996; Houston, TX on August 5, 1996; and in Houston, TX on February 26 and 27, 1997.

Agency Contact:

David Dupont
Project Manager, G-MSR-1
Department of Transportation
U.S. Coast Guard
2100 Second Street SW
Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AE87

DOT—USCG

FINAL RULE STAGE

89. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1998-4354)

Priority:

Other Significant

Legal Authority:

33 USC 1231; 33 USC 1321(j); PL 101-380

CFR Citation:

33 CFR 155

Legal Deadline:

None

Abstract:

This project would implement provisions of the Oil Pollution Act of 1990 that require an owner or operator of a tank vessel carrying bulk hazardous substances to develop and operate in accordance with an approved response plan. The regulations would apply to vessels operating on the navigable waters or within the Exclusive Economic Zone (EEZ) of the U.S. that carry bulk hazardous substances. A separate rulemaking under RIN 2115-AE87 would address hazardous substances response plan requirements for marine transportation-related facilities. This project supports Coast Guard strategic goals by reducing the amount of chemicals entering the environment, as well as reducing the consequences of pollution incidents. This project is considered significant because of substantial public and industry interest.

Statement of Need:

This rulemaking is intended to reduce the impact from hazardous substance spills from vessels.

Summary of Legal Basis:

Section 4202(a) of the Oil Pollution Act of 1990 (OPA 90), codified at 33 U.S.C. 1321(j)(5), mandates that the President issue regulations requiring the preparation of oil and hazardous substance discharge response plans. Although 4202(b)(4) of OPA 90 established an implementation schedule for these response plans for oil, it did not establish a deadline for submission or approval of hazardous substances response plans. The Coast Guard has issued separate final rules governing response plan requirements for vessels carrying oil in bulk as cargo and facilities that handle, store, or transport oil in bulk. Under section 1321, "hazardous substances" are designated by the Administrator of the Environmental Protection Agency. The Administrator has designated 297 chemicals as hazardous substances under this section. The Coast Guard has identified 84 hazardous substances currently carried in bulk.

Alternatives:

The Coast Guard intends to determine what types of response strategies would be required to address spills of different types of hazardous substances. For some substances, containment and recovery may be the appropriate response. However, some spilled substances may not be recoverable from the water and other actions may be necessary. Plans would be required, by statute, to address responses to a "worst case discharge." For vessels, a "worst case discharge" is "a discharge in adverse weather conditions of its entire cargo."

Anticipated Cost and Benefits:

The potential costs of this rulemaking may include the costs of developing and implementing a hazardous substance response plan, maintaining contracts for spill-response resources, reviewing and updating hazardous substance response plans, maintaining any required equipment, and training and exercising response personnel. Potential benefits include reduced risk to human health, enhanced environmental quality from improved ability to respond to, contain, and recover spilled hazardous substances and a reduction in the severity of the impact of accidental hazardous substance discharges. A regulatory assessment addressing costs and benefits of this rule is available in the public docket.

Risks:

Response plans are required by statute. A response plan will not prevent a discharge of a hazardous substance, but it may improve the response and help to minimize personal injury and damage to the environment. This rule should not affect the economic viability of vessels involved in transferring hazardous substances in bulk, or have a significant impact on the volume of hazardous substances shipped by vessel. Most vessels carrying hazardous substances in bulk have developed response plans, but there have not been requirements for standardization.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/96	61 FR 20084
Notice of Public Hearings	07/03/96	61 FR 34775
ANPRM Comment Period End	09/03/96	
NPRM	03/22/99	64 FR 13734
Notice of Public Hearing	06/15/99	64 FR 31994
NPRM Comment Period Extended	06/15/99	
NPRM Comment Period End	06/21/99	
NPRM Extended Comment Period End	08/30/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

A public hearing on this rulemaking was held in Houston, TX on August 12 and 13, 1999.

Agency Contact:

David Dupont
Project Manager, G-MSR-1
Department of Transportation
U.S. Coast Guard
2100 Second Street SW
Washington, DC 20593-0001
Phone: 202 267-0971

RIN: 2115–AE88

DOT—Federal Aviation Administration (FAA)

PROPOSED RULE STAGE

90. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation:

14 CFR 91; 14 CFR 93; 14 CFR 121; 15 CFR 135

Legal Deadline:

None

Abstract:

The FAA and National Park Service (NPS) established a joint working group which is tasked with developing a notice of proposed rulemaking to reduce or prevent adverse effects of aircraft noise over our national park system. At the same time, the working group is charged with affording those persons who wish to visit our national parks from the air the opportunity to do so. The working group met from May to November 1997, and developed a concept paper that was approved by the Aviation Rulemaking Advisory Committee and the NPS Advisory Board in December 1997. A notice of proposed rulemaking has been developed and is now being reviewed by the FAA and NPS. In April 1999, the FAA issued a disposition of comments to the ANPRM. That document summarizes those comments to the ANPRM and provides an update to the public on matters concerning air tours over units of the national park system. This rulemaking is significant because of substantial public interest.

Statement of Need:

The need to reduce or prevent the adverse effects of aircraft noise over the national parks is apparent for the preservation of a valuable national resource. In its Report to Congress, the National Park Service identified 98 parks that potentially have an overflight problem. The FAA recognizes its role both to provide for the safe and efficient use of airspace and to enhance the environment by minimizing the adverse effects of aviation in the national parks.

Summary of Legal Basis:

The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. (49 U.S.C. 40101, et. seq.) The FAA also has responsibility to protect persons and property on the ground. The President's Memorandum of April 22, 1996, directed the FAA, working with the National Park Service, to issue a notice of proposed rulemaking for the management of sightseeing aircraft in those National Parks where it is deemed necessary to reduce or prevent the adverse effects of noise from such aircraft.

Alternatives:

During its working sessions, the working group considered a variety of criteria for defining an air tour, various triggering events for determining which parks are at risk, and various means for the NPS and FAA to work together to develop an air tour management plan.

Anticipated Cost and Benefits:

Undetermined.

Risks:

This rulemaking addresses the risk of destruction of valuable national resources: the right to enjoy the natural quiet in our national parks. At the same time, taking this risk has to be balanced against any potential safety problems that restrictions on overflights might create. Both the National Park Service and FAA are confident that a solution can be reached whereby all visitors to the park may be accommodated through an agreed upon park airspace management plan.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/94	59 FR 12740
ANPRM Correction	04/01/94	59 FR 15350
ANPRM Comment Period End	06/15/94	
Comment Period End 07/15/94	06/20/94	59 FR 31883
Notice of Public Meeting	06/06/97	62 FR 31187
Notice of Public Meeting	04/07/98	63 FR 17040
Disposition of Comments	04/09/99	64 FR 17293
NPRM	04/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Refer to 1996 Regulatory Plan entry RIN 2120-AF93, Airspace Management: Special Flight Rules in the Vicinity of the Grand Canyon and also RIN 2120-AG11, Special Flight Rules in the Vicinity of the Rocky Mountain National Park. Project Number: ARM-97-318A

ANALYSIS: Regulatory Evaluation, 04/00/2000

Agency Contact:

Linda L. Williams
Office of Rulemaking, ARM-100
Department of Transportation
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591
Phone: 202 267-9685

RIN: 2120–AF46

DOT—FAA

91. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation:

14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would amend the regulations on duty period limitations, flight time limitations, and rest requirements for flight crewmembers engaged in air transportation. The changes are necessary to ensure that the rules will continue to provide the minimum level of safety. This

rulemaking responds to public and congressional interest in regulating flight crewmember rest requirements, NTSB Safety Recommendations, petitions for rulemaking, and scientific data. This action is considered significant because of substantial public interest.

Statement of Need:

The aviation community requires 24-hour activities to meet operational demands. Growths in long-haul, regional, overnight cargo, and short-haul domestic operations are increasing. Therefore, shift work, night work, irregular work schedules, and time zone changes will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. Some of the scientific knowledge has indicated that aviators experience performance-impairing fatigue from sleep loss resulting from current flight and duty practices.

In addition, industry and individuals have told the FAA that the current regulations are confusing and difficult to enforce. Therefore, a second purpose of the rulemaking is to establish consistent and clear duty period limitations and rest requirements for all types of operations.

Summary of Legal Basis:

Section 44701, Title 49 of the United States Code states that the Administrator shall promote safety of flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety.

Alternatives:

One obvious alternative would be to continue with the current rules, which would be very expensive for the industry. In reviewing the comments, the FAA is also considering other reserve alternatives that would not penalize certain segments of the industry, such as air ambulance operators. There is no overall alternative to rest and duty regulations; however, there may be some alternatives that would lend flexibility for operators.

Anticipated Cost and Benefits:

Undetermined.

Risks:

Although there has been only one identifiable accident due to pilot fatigue, fatigue is increasingly becoming the focus of possible causes following all accidents. Pilot reports of being fatigued to the point of incapacity are not uncommon, and intuitively, it is reasonable, given the sheer volume of air traffic, to expect fatigue to be a factor in future accidents if the regulations are not corrected.

Timetable:

Action	Date	FR Cite
NPRM	12/20/95	60 FR 65951
NPRM Comment Period End	03/19/96	
Comment Period End 6/19/96	03/20/96	61 FR 11492
SNPRM	08/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

Project Number: AFS-94-443R

ANALYSIS: Regulatory Evaluation, 12/20/95, 60 FR 65951

Agency Contact:

Alberta Brown
Air Transportation Division
Department of Transportation
Federal Aviation Administration
800 Independence Avenue SW.
Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AF63

DOT—FAA

FINAL RULE STAGE

---

92. +TERRAIN AWARENESS AND WARNING SYSTEM

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44712; 49 USC 44715; 49 USC 44716 to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316

CFR Citation:

14 CFR 91; 14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would issue rules that would prohibit the operation of turbine-powered U.S.-registered civil airplanes of six or more passenger seats, exclusive of pilot and copilot seating, unless that airplane is equipped with an FAA-approved enhanced ground proximity warning system (GPWS). This proposed rule is intended to further reduce the risk of controlled flight into terrain (CFIT) accidents. This rule is significant because of substantial public interest.

Statement of Need:

The TAWS improves on existing GPWS systems by providing the flight crew much earlier aural and visual warning of impending terrain, forward looking capability, and continued operation in the landing configuration. These improvements provide more time for the flight crew to make smoother and gradual corrective action.

Summary of Legal Basis:

49 USC 44701 empowers the Administrator to prescribe regulations and minimum standards in the interest of safety for aircraft and equipment.

Alternatives:

The FAA considered regulatory options to identify the least intrusive and most cost-effective means of achieving the goal of reducing the probability of CFIT accidents. The alternatives considered fall under two general groupings: 1) require different levels of TAWS or GPWS technologies for different subsegments of the regulated population; and, 2) impose different compliance deadlines on different subsegments of the regulated population.

Anticipated Cost and Benefits:

The discounted costs of this rule are estimated at $774 million; the benefits are estimated at $2.8 billion. The benefit/cost ratio is 3.65 to 1. This total includes adding the equipment to all in-service airplanes and to all newly manufactured airplanes over the next 10 years.

Risks:

The purpose of this rulemaking is to expand and enhance the safety benefits of the current ground proximity warning system. TAWS provides an earlier time for verbal warning along with a visual warning (situational display) that will allow the flight crew

to see approaching terrain. The combination of the increased warning times and situational awareness of flight crews decreases the risk of controlled-flight-into-terrain accidents.

Timetable:

Action	Date	FR Cite
NPRM	08/26/98	63 FR 45628
NPRM Comment Period End	11/24/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

Project Number: AIR-96-354R.

ANALYSIS: Regulatory Evaluation, 08/26/98, 63 FR 45628

Agency Contact:

Manny Macedo
Office of Aircraft Certification Service
Department of Transportation
Federal Aviation Administration
800 Independence Avenue SW.
Washington, DC 20591
Phone: 202 267-9566

RIN: 2120–AG46

DOT—Federal Highway Administration (FHWA)

PROPOSED RULE STAGE

---

93. +HOURS OF SERVICE OF DRIVERS (SECTION 610 REVIEW)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

PL 104-88

CFR Citation:

49 CFR 395

Legal Deadline:

Other, Statutory, March 1, 1996, ANPRM.

NPRM, Statutory, November 5, 1997.

Final, Statutory, November 5, 1999.

Abstract:

This action would revise the FHWA's hours of service regulations. It is mandated by the ICC Termination Act of 1995. It also responds to the NTSB's safety recommendations, petitions for rulemaking, and new scientific data. There is substantial public and congressional interest in the regulation of medium-and heavy-duty truck and bus drivers' sleep, off-duty, and working periods of time. The FHWA will propose new rules based upon comments and scientific data submitted to the advance notice of proposed rulemaking docket, an initial regulatory flexibility analysis, a cost-benefit analysis, and an unfunded mandates analysis, and a paperwork reduction analysis. This action is considered significant because of substantial public and congressional interest.

Statement of Need:

The motor carrier industry requires 24-hour activities to meet the operational demands of a healthy U.S. economy. Growth in long-haul, regional, overnight, and local operations is increasing with the growth of the U.S. economy. Therefore, night work, shift work, and irregular work schedules will continue to be commonplace.

With this growth, the scientific knowledge about sleep, sleep disorders, circadian physiology, fatigue, and performance decrements has also grown. One of the purposes of this rulemaking is to incorporate as much of the scientific knowledge as possible into the applicable regulations.

Summary of Legal Basis:

Section 31502 of Title 49, United States Code, authorizes the Secretary of Transportation to prescribe maximum hours-of-service regulations for employees of motor carriers when needed to promote the safety of operations.

Section 408 of the ICC Termination Act of 1995 (Pub. L. 104-88, December 29, 1995) requires the Federal Highway Administration to issue a final rule dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver-alertness).

Alternatives:

One alternative is to continue the current rules. Other alternatives may include replacing the current daily maximum 15-hour on-duty, maximum 10-hour-driving, minimum 8-hour-off-duty periods and weekly 60-hour-in-seven-day sliding week with an alternative set of rules based upon scientific knowledge and submitted comments. The FHWA will consider different regulations for different types of drivers, operations, or classification of vehicles.

The FHWA will also consider modifying the information collection burdens that have been placed upon the motor carrier industry, including the following types of record keeping methods. 1. Reducing the required items on the record of duty status (log book), 2. Adding automated on-board recording devices to commercial motor vehicles, 3. Adding global positioning system on-board recording devices to commercial motor vehicles.
4. Eliminating all FHWA hours-of-service record keeping requirements while relying exclusively on the duplicative hours-of-service record keeping system of records required by the U.S. Department of Labor under the Fair Labor Standards Act of 1938, as amended.

Anticipated Cost and Benefits:

Undetermined. A cost-benefit analysis completed in 1981 and based upon a 1978 notice of proposed rulemaking calculated national costs between $10.6 and $11.5 billion with possible societal benefits of about $450 million, a benefit to cost ratio under one. (In 1997 dollars, this would be national costs between $20.67 and $22.43 billion with possible societal benefits of about $878 million.) A new cost-benefit analysis is underway and will be conducted and reported in compliance with OMB Circular A-94, "Discount Rates to be Used in Evaluating Time-Distributed Costs and Benefits."

Risks:

The Department's National Highway Traffic Safety Administration's databases show fatigue as a contributing factor in 306 to 1,163 annual police-reported crashes for all vehicles nationally. Some scientific research suggests the number may be closer to 364 to 4,070 of all crashes (police-reported and non-police-reported).

Timetable:

Action	Date	FR Cite
ANPRM	11/05/96	61 FR 57251
Notice of Meeting	02/11/97	62 FR 6161
ANPRM Comment Period End	03/31/97	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Agency Contact:

David Miller
Transportation Specialist
Department of Transportation
Federal Highway Administration
400 Seventh Street SW.
Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD93

DOT—National Highway Traffic Safety Administration (NHTSA)

FINAL RULE STAGE

---

94. +ROLLOVER PROTECTION

Priority:

Other Significant

Legal Authority:

49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322

CFR Citation:

49 CFR 571

Legal Deadline:

None

Abstract:

The agency has initiated research to focus on exploring whether it can develop a practicable, repeatable and appropriate dynamic emergency handling test that assesses a vehicle's propensity for involvement in an on-road, un-tripped rollover crash. The agency also has granted a petition for rulemaking on this subject. This action is considered significant because of substantial public interest.

Statement of Need:

Rollover crashes account for over 9,000 traffic fatalities annually. Currently, there is a requirement that most sport utility vehicles of under 10,000 pounds gross vehicle weight rating (GVWR) have a warning label. On March 9, 1999 (64 FR 11724 - RIN 2127-AG53), in a separate rulemaking, the agency upgraded the label with better graphics and stronger wording. However, there is no safety standard or rating test for rollovers.

Summary of Legal Basis:

Section 30111, Title 49 of the United States Code states that the Secretary shall prescribe motor vehicle safety standards. Section 30117, Title 49 of the United States Code states that the Secretary may require each manufacturer of a motor vehicle to provide technical information related to performance and safety to purchasers. Authority to take these actions has been delegated to the NHTSA Administrator by 49 CFR 1.50.

Alternatives:

In addition to a potential safety standard, the rollover prevention effort could result in a consumer information or rating program which would involve notices and public comment. Another alternative might be long-term research on rollover dynamics. Long-term research would be necessary if the current effort indicates that existing test methods are inadequate for measuring rollover propensity.

Anticipated Cost and Benefits:

The anticipated costs and benefits of this action have not yet been estimated.

Risks:

Rollover crashes are the most dangerous collision type for all classes of light vehicles when measured either by fatalities or incapacitating injuries per involved occupant. In terms of fatalities per registered vehicle, rollovers are second only to frontal crashes in their level of severity. Expressed another way, rollovers accounted for 5.9 percent of light vehicle tow-away crashes in NHTSA's 1997 NASS-CDS data, less than 1/6 of the combined level of side and rear tow-away crashes. However, rollovers accounted for 29.4 percent of light vehicle occupant fatalities in 1997 FARS data, more deaths than the combined total of light vehicle occupant deaths in side and rear crashes. In addition, the rollover problem is generally more serious for light trucks and vans (LTV's) than for passenger cars. State crash data indicate that although the involvement rate for LTV's in all types of collisions is only 68 percent of that for passenger cars, their involvement rate in rollover accidents is 127 percent of that for passenger cars.

Timetable:

Action	Date	FR Cite
ANPRM	01/03/92	57 FR 242
ANPRM Comment Period End	04/03/92	
NPRM	06/28/94	59 FR 33254
Correction	07/26/94	59 FR 38038
NPRM Comment Period End	08/05/96	
Petition Grant	05/20/97	62 FR 27578
Agency Decision	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

A notice of availability of a planning document for this rulemaking was published 09/29/92 (57 FR 44721). As part of its comprehensive efforts to address the problem of light vehicle rollover, the agency proposed a new consumer information regulation that would require that passenger cars, and light multipurpose passenger vehicles and trucks be labeled with information about their resistance to rollover. In the NPRM, the agency terminated rulemaking to establish a vehicle stability standard. The agency denied petitions for reconsideration of this termination on 06/05/96 (61 FR 28560). The comment period for the NPRM was reopened after publication of a related study by the National Academy of Sciences (NAS). (This notice was inadvertently published under RIN 2127-AC54.) At the same time the agency published the grant notice on the petition for rulemaking, NHTSA published, in a separate notice, its response to the NAS study and requested comments by 08/18/97 (05/20/97 62 FR 27578). See RIN 2127-AG53 for related information on warning labels for sport utility vehicles.

ANALYSIS: Regulatory Evaluation, 06/28/94, 59 FR 33254

Agency Contact:

Mike Pyne
Safety Standards Engineer, Office of Crash Avoidance
Department of Transportation
National Highway Traffic Safety Administration
400 Seventh Street SW.
Washington, DC 20590
Phone: 202 366-4171

RIN: 2127–AC64

DOT—NHTSA

95. +ADVANCED AIR BAGS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation:

49 CFR 571.208

Legal Deadline:

Final, Statutory, March 1, 2000.

Abstract:

On September 18, 1998, the agency proposed to upgrade its occupant protection standard to require advanced air bags. This proposal included performance tests for advanced air bags, requiring that advancements be made in the ability of air bags to protect occupants of different sizes, belted and unbelted, and requiring air bags to be designed to minimize risks to infants, children, and other occupants. In light of its review of the comments and other new information, the agency is presenting a modified proposal in an SNPRM. This action is considered significant because of the degree of congressional and public interest in this subject and because of potential costs.

Statement of Need:

While current air bags have been shown to be highly effective in reducing overall fatalities, they sometimes cause fatalities to out-of-position occupants, especially children. As part of NHTSA's program to mitigate adverse effects of current-design air bags, the agency has stated that the next step in the evolution of air bags would be systems that automatically prevent those effects. As of July 1, 1999, the agency was aware of 80 children and 61 adults who had been killed by current air bags. The agency has already required more graphic warning labels on all new air-bag-equipped vehicles, enhanced manufacturers' flexibility to quickly reduce the aggressivity of current-design air bags, allowed consumers in certain defined risk groups to install retrofit on-off switches for air bags, and participated in public programs to increase safety belt and child restraint use, to reduce fatalities. This program will pursue the next step: air bags incorporating advanced technologies.

Summary of Legal Basis:

Section 30111, Title 49 of the United States Code, states that the Secretary shall prescribe motor vehicle safety standards. Section 7103 of the National Highway Traffic Safety Administration Reauthorization Act of 1998 requires the Secretary to issue amendments to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags. Authority to prescribe such standards is delegated to the Administrator by 49 CFR 1.50.

Alternatives:

The agency has been participating with motor vehicle manufacturers, equipment suppliers, the insurance industry, and academia through the Advanced Air Bag Technology Working Group of NHTSA's Motor Vehicle Research Advisory Committee. The agency has been utilizing the resources of this partnership in identifying alternatives for this proposed rulemaking. Moreover, the agency joined with the National Aeronautics and Space Administration in a comprehensive state-of-the-art assessment for near-term air bag technology. As a result of these partnerships and due to its own internal research efforts, the agency is aware of the various advanced air bag technologies currently being seriously considered by the vehicle manufacturers. The proposed rule would permit the use of these technologies which include: suppression systems that could include weight sensors and/or proximity or positioning sensors, low-risk air bags that could include dual or multi-stage inflators, added or redesigned crash sensors, and/or modified fold patterns.

Anticipated Cost and Benefits:

The agency estimates that the costs of the proposed rule would be in the range of $22 to $162 per vehicle, for an estimated total of up to $2.5 billion for 15.5 million vehicles per year. Property damage savings could exceed $2.4 billion annually depending on the extent to which manufacturers use air bag suppression systems. Several hundred lives could be saved annually, as well as a currently-unquantified number of serious injuries.

Risks:

Air bags have been shown to substantially reduce fatalities in traffic crashes. When fully implemented, NHTSA estimates that air bags will save 3,000 lives per year and prevent about 34,000 moderate-to-critical injuries. However, current air bags deploy the same way for all occupants, regardless of their size or location at the time of deployment and regardless of crash severity. As a result of the designs of current air bags, there have been adult and child fatalities caused by the air bag. Therefore, the development and introduction of advanced air bags is being pursued aggressively by both the industry and the agency.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 49957
Notice of Public Meeting	10/26/98	63 FR 57091
NPRM Comment Period End	12/17/98	
Notice of Technical Workshop	03/23/99	64 FR 13947
SNPRM	11/05/99	64 FR 60556
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

A technical workshop was held February 11 and 12, 1997, in Washington, DC. The NPRM responded to the petitions received for reconsideration on the final rule published for Depowering of Air Bags, RIN 2127-AG59 and Passenger-Side Manual Cutoff Switch for Air Bags, RIN 2127-AG60.

Public meetings to discuss technical issues relating to this NPRM were held

on November 23 and 24, 1998. Also, biomechanics meetings were held on April 20 and 21, 1999.

ANALYSIS: Regulatory Evaluation, 09/18/98, 63 FR 49957

Agency Contact:

Clarke Harper
Division Chief, Light Duty Vehicle Division
Department of Transportation
National Highway Traffic Safety Administration
400 Seventh Street SW.
Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AG70

DOT—Federal Railroad Administration (FRA)

PROPOSED RULE STAGE

---

96. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Priority:

Other Significant

Legal Authority:

49 USC 20153

CFR Citation:

49 CFR 222

Legal Deadline:

Final, Statutory, November 2, 1996.

Abstract:

This action would govern when and how train whistles at grade crossings must be sounded. FRA has found that failing to use the locomotive horn can significantly increase the number of collisions with motorists using the crossing. This action is considered significant because of substantial public interest. This action is being taken pursuant to statutory mandate. FRA studied the consequences of the proposed action and prepared a draft environmental impact statement (EIS) for the proposed rule.

Statement of Need:

This rule is required by the Swift Development Act of 1994 (Act). The Act requires the use of locomotive horns at every public highway-rail grade crossing but gives FRA the authority to make reasonable exceptions. Congress amended this law in 1996 to require that FRA take into account the interest of the communities with pre-existing restrictions on locomotive horns.

Summary of Legal Basis:

Issuance of this rule is required by 49 USC 20153.

Alternatives:

There was no alternative to initiating this rulemaking, as it is required by statute. However, the rule would provide a list of supplementary measures the FRA has determined to be effective substitutes for the locomotive horn in the prevention of highway-rail grade crossing casualties. The rule would also allow for whistle bans if there are alternative safety measures that compensate for the lack of a locomotive horn.

Anticipated Cost and Benefits:

The problems considered by this rule are collisions and their associated casualties and property damage involving vehicles on public highways and the front ends of trains at whistle-ban grade crossings. Although accident severity and the probability of a fatal accident is most strongly related to train speed, every grade crossing where locomotive horns are not sounded is a potential accident site. In 1996, there were 79 collisions at whistle-ban crossings which resulted in 2 fatalities, 39 injuries to non-railroad employees, and 2 injuries to railroad employees. The estimated safety benefits of the proposed rule are derived from the prevention of collisions and the resulting fatalities and injuries. Benefits also exist for railroads in terms of reduced train delay, debris removal and repairs.

The costs of this rulemaking will be incurred predominantly by communities. However, there are also costs to railroads and to the Federal government. At this time, FRA does not know how many businesses would be impacted or the severity of the impact if a community elects to follow the mandate and become subject to whistleblowing at crossings. Nevertheless, the benefits in terms of lives saved and injuries prevented will exceed the costs imposed on society for the proposed rule. Even under the best case scenario (falling collision rates over time) the safety benefits alone, excluding any benefit to railroads, exceed the most costly realistic scenario for community safety enhancements.

Risks:

As a result of studies conducted on accident rates at crossings at which locomotive horns are banned, FRA has concluded that such crossings generally result in a higher risk of accident than at crossings at which horns are sounded. FRA has compared the number of collisions occurring within ten different groups of crossings grouped by risk and found that the risk of a collision was 62 percent greater at crossings equipped with automatic gates and flashing lights than at similarly equipped crossings across the nation without bans. FRA analysis also indicated that whistle ban crossings without gates, but equipped with flashing light signals and/or other types of active warning devices, on average, experienced 119 percent more collisions than similarly equipped crossings without whistle bans. Congress requires that FRA issue a regulation requiring the sounding of locomotive horns at all public highway rail grade crossings. However, an exception to the requirement is permissible in circumstances in which there is not a significant risk of loss of life or serious personal injury, use of the locomotive horn is impractical, or supplementary safety measures fully compensate for the absence of the warning provided by the horn. Issuance of the rule would lower the increased collision risk associated with crossings at which no locomotive horns are sounded.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local

Agency Contact:

Mark Tessler
Trial Attorney
Department of Transportation
Federal Railroad Administration
400 Seventh Street SW.
Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AA71

DOT—FRA

FINAL RULE STAGE

97. +REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, ACQUISITIONS OF CONTROL AND START-UP OPERATIONS

Priority:

Other Significant

Legal Authority:

49 USC 20103; 49 USC 20107; 49 USC 21301; 28 USC 2461

CFR Citation:

49 CFR 244; 49 CFR 1.49

Legal Deadline:

None

Abstract:

This proposed rule would require a railroad to file a Safety Integration Plan with the Federal Railroad Administration (1) whenever a Class I railroad, the National Railroad Passenger Corporation, or a railroad providing commuter service proposes to merge, consolidate or acquire control of one another; (2) whenever an entity proposes to start operations as a railroad; (3) whenever a Class II railroad proposes to consolidate, merge, or acquire control of another Class II railroad with which it would directly interchange freight, or (4) whenever a railroad merger, consolidation or acquisition of control would result in operations that generate revenue in excess of the Class I threshold. The proposed rule would prescribe content and subject matter areas that must be addressed in each plan before FRA may approve of such plan. FRA is working with the Surface Transportation Board to conduct coordinated rulemaking actions covering these transactions within the framework of each agency's jurisdiction.

Statement of Need:

This rule is necessary to ensure advance planning of operations to promote rail safety. Given the safety problems encountered in previous transactions and the need for the merging or acquiring railroad to integrate and harmonize information systems, training, operational practices and safety procedures on a massive scale, the need to require detailed plans setting forth the manner in which the parties intend to safely implement integration plans became apparent to FRA.

Summary of Legal Basis:

Because this rule concerns rail safety, FRA is vested with statutory authority to issue regulations governing these regulated transactions. See 49 USC 20101 et seq.

Alternatives:

The proposed rule would authorize a railroad carrying out a regulated transaction to petition for a waiver of compliance. The railroad would have to follow the procedures prescribed in 49 CFR 211 in filing such a petition. FRA may grant the petition if waiver of compliance is consistent with the public interest and railroad safety. FRA does not intend to regulate Class III railroads for the purposes of this rule. Nevertheless, the agency solicited comments from interested parties about this proposal, or whether the rule should cover any Class III railroad seeking to carry out a regulated transaction.

Anticipated Cost and Benefits:

In this rulemaking action, FRA addressed the costs and benefits of issuing the proposed rule. See 63 FR 72225, 72235 (December 31, 1998). For Class I railroads, the agency estimates that a SIP would cost between $300,000 and $800,000 to prepare, but will prevent $1.5 million to $12 million in accident costs. For Class II railroads, FRA estimates that a SIP would cost between $50,000 and $200,000 to prepare, but will prevent between $60,000 and $1.2 million in accident costs. The agency adds that the safety planning process may save railroads from experiencing substantial service difficulties that correspond to these complex transactions.

Risks:

The problems that surfaced after the merger of the Union Pacific and the Southern Pacific indicated that safety could be significantly compromised in implementing a consolidation unless the parties addressed the safety issues specifically, formally and systematically, particularly if the merger was large and complex. To address safety-related problems stemming from a merger, FRA needed a projection into the future of the safety consequences of consolidating the systems. To accomplish this, in response to the proposed acquisition of Conrail by Norfolk Southern and CSX Transportation, FRA suggested, and the STB required, that the merger applicants develop and submit well-defined Safety Integration Plans (SIPs) as part of the merger application process. The proposed rule would require, as a matter of FRA regulations, that such Plans be filed by certain railroads in the context of proposed mergers and acquisitions and similar circumstances.

Timetable:

Action	Date	FR Cite
NPRM	12/31/98	63 FR 72225
Public Hearing - Notice	04/21/99	64 FR 19512
Comment Period Extended	04/21/99	
NPRM Comment Period End	05/04/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

A public hearing on this rulemaking was held on May 4, 1999.

Agency Contact:

Jon Kaplan
Trial Attorney
Department of Transportation
Federal Railroad Administration
400 Seventh Street SW.
Washington, DC 20590
Phone: 202 493-6042

RIN: 2130–AB24

DOT—Research and Special Programs Administration (RSPA)

PROPOSED RULE STAGE

98. +APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS TO LOADING, UNLOADING, AND STORAGE

Priority:

Other Significant

Legal Authority:

49 USC 5101 to 5127

CFR Citation:

49 CFR 106 to 107; 49 CFR 171 to 180

Legal Deadline:

None

Abstract:

This rulemaking proposes to better define the applicability of the Federal Hazardous Materials Regulations (HMR) in order to clarify the relationship among Federal, state, local, and tribal agencies in the regulation of hazardous materials. Under circumstances specified in Federal statutes, the regulations of other Federal agencies (EPA and OSHA) and non-Federal governments (States, localities, and Indian tribes) must be consistent with or defer to RSPA's regulation of the transportation of hazardous materials in commerce. However, other Federal and non-Federal requirements are generally not limited where hazardous materials are not in transportation. Activities relating to loading, unloading, and storage of hazardous materials have become areas of particular uncertainty and concern to both industry and non-Federal governments. This action is significant because of the substantial public interest in reducing uncertainty and avoiding conflicting regulations.

Statement of Need:

In recent years, RSPA has issued interpretations and administrative decisions on a case-by-case basis about whether particular activities are in "transportation" and therefore subject to regulation under the HMR. Because of increasing State and local regulation of hazardous materials, RSPA concluded that an overall rulemaking is appropriate, rather than just case-by-case decisions. RSPA believes that better overall definitions of the applicability of the HMR will reduce uncertainty by the regulated community and other regulatory agencies (both Federal and non-Federal) as to which agency has regulatory authority. Greater certainty in this regard should promote improved compliance with the HMR and also with the requirements of other regulatory agencies.

Summary of Legal Basis:

Section 5103 of title 49 U.S.C. specifies that the Secretary shall prescribe regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce applicable to, among others, any person who offers hazardous materials for transportation or who transport hazardous materials in commerce. In addition, section 5125 of title 49 U.S.C. sets forth the circumstances under which differing non-Federal requirements are preempted.

Alternatives:

Commenters to the ANPRM and SANPRM suggested alternative ways to describe the applicability of the HMR. One suggestion is to describe the applicability of the HMR in relationship to specific transportation functions. Another is to describe the applicability of the HMR over specific regulated entities, such as those who offer hazardous materials for transportation or those who transport hazardous materials. RSPA is considering each of the alternatives proposed.

Anticipated Cost and Benefits:

The potential costs and benefits of this action have not been determined. A preliminary regulatory evaluation will be developed.

Risks:

Clarifying the applicability of the HMR should reduce uncertainty as to which regulatory agency's requirements apply to any particular activity involving hazardous materials and improve compliance with the HMR, the requirements of EPA and OSHA, and non-Federal requirements. This should result in improved compliance with the applicable regulatory requirements, and improve hazardous materials transportation safety, reduce risks to the environment from hazardous materials, and promote workplace safety at facilities that manufacture or handle hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/96	61 FR 39522
ANPRM Comment Period End	11/30/96	
SANPRM	04/27/99	64 FR 22718
Extension Comment Period Published for SANPRM	07/26/99	
SANPRM Comment Period End	08/25/99	
NPRM	02/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

Docket No. HM-223. As a result of comments received to the ANPRM, we have upgraded this rulemaking to significant.

Agency Contact:

Susan Gorsky
Senior Regulations Specialist
Department of Transportation
Research and Special Programs Administration
400 Seventh Street SW.
Washington, DC 20590
Phone: 202 366-8553
Email: Susan.Gorsky@rspa.dot.gov

RIN: 2137–AC68

BILLING CODE 4810–25–F

DEPARTMENT OF THE TREASURY (TREAS)

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are: protecting and collecting the revenue under the Internal Revenue Code and customs laws; supervising national banks and thrift institutions; managing the fiscal operations of the Federal government; developing domestic and international economic policy; enforcing laws relating to counterfeiting, Federal government securities, firearms and explosives, money laundering, foreign commerce in goods and financial instruments, and smuggling and trafficking in contraband; administering the Community Development Financial Institutions Fund and its programs; protecting the President, Vice President, certain foreign diplomatic personnel, and others; training Federal, State and local law enforcement officers; and producing coins and currency.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. Unless circumstances require otherwise, it is the policy of the Department to issue a notice of proposed rulemaking (NPRM) and carefully consider public comments before adopting final regulations. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while the NPRM is being developed, and to hold public hearings to discuss a proposed rule.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Order 12866 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

During FY 2000 the Department will continue to implement the President's June 1, 1998 memorandum directing agencies to use "plain language" in new proposed and final rulemaking documents.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of the Assistant Secretary (Tax Policy), promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 2000, the IRS will accord priority to the following regulatory projects:

- Reporting Requirements for U.S. Persons with Respect to Certain Foreign Partnerships. The Taxpayer Relief Act of 1997 significantly modified the information reporting requirements with respect to foreign partnerships. The IRS intends to issue comprehensive final regulations relating to the tax return requirements for United States persons owning interests in foreign partnerships. The final regulations will be issued under section 6038 (reporting with regard to controlled foreign partnerships), section 6038B (reporting with regard to certain transfers to foreign partnerships), and section 6046A (reporting with regard to certain ownership changes in foreign partnerships) of the Internal Revenue Code (Code). These regulations will provide guidance to United States persons who must file the relevant information returns.
- Credit for Increasing Research Activities. Section 41 of the Code provides a tax credit equal to a percentage of the amount by which a taxpayer's qualified research expenses for a taxable year exceeds its base amount for that year. To be qualified research, the research activities must not only satisfy the requirements of section 174 of the Code but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which must constitute a process of experimentation pertaining to the functional aspects, performance, reliability or quality of a business component. The final regulations under section 41 of the Code will explain the term "qualified research" and the exclusions from research credit eligibility.
- Relief from Joint and Several Liability. The Taxpayer Relief Act of 1997, as amended by the Internal Revenue Service Restructuring and Reform Act of 1998, repealed former section 6013(e) of the Code and added section 6015, which provides individuals who filed a joint return the opportunity for three types of relief from joint and several liability with respect to the return. Section 6015 is effective for liabilities unpaid as of July 22, 1998, and for liabilities that arise after that date. Section 6015(g) directs the Secretary to prescribe regulations necessary to carry out the provisions of section 6015, including: (1) providing alternative methods for allocation of items; and (2) providing a "nonrequesting spouse" with notice of, and an opportunity to participate in, any administrative proceeding with respect to an election for relief made under section 6015(b) or 6015(c) by the "requesting" spouse. The IRS expects to issue proposed regulations that will provide guidance on these and other issues relating to the new relief provisions.
- Third Party Contacts Under Section 7602(c). The Internal Revenue Service Restructuring and Reform Act of 1998 added section 7602(c) to the Code. Section 7602(c) creates a new taxpayer right that prohibits IRS employees from contacting any person, other than the taxpayer, with respect to the determination or collection of tax without first giving the taxpayer notice. Section 7602(c) also requires that the IRS make a record of any contacts made and provide that record to the taxpayer.
- Sourcing of Income From Communications Activities. The IRS and Treasury intend to issue proposed regulations to determine the source of income from ocean and space activities and international communications. These proposed regulations are of particular importance to taxpayers engaged in such emerging technologies as data transmission, the Internet, and satellite communications.
- Excise Taxes on Excess Benefit Transactions. Section 4958 imposes excise taxes on non-fair market value transactions between certain tax-exempt organizations and persons in positions to exercise substantial influence over those organizations

(disqualified persons). Disqualified persons who benefit economically from the excess benefit transactions (and in certain instances, the organization managers) are liable for the taxes. The IRS expects to issue final regulations that will clarify various definitions and rules contained in section 4958.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) charters, regulates, and supervises national banks to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States. The substantive content of the OCC's regulations reflects four organizing principles that support this mission:

- The OCC's regulations help ensure safety and soundness by establishing standards that set the limits of acceptable conduct for national banks.
- The OCC's regulations promote competitiveness by facilitating a national bank's ability to develop new lines of business, subject to any safeguards that are necessary to ensure that the bank has the expertise to manage risk effectively and adapt its business practices to deal responsibly with its customers.
- Regulations can also affect national banks' ability to compete by contributing significantly to their costs. The OCC's goal is to improve efficiency and reduce burden by updating and streamlining its regulations and eliminating those that no longer contribute significantly to the fulfillment of its mission.
- The OCC's regulations help assure fair access to financial services for all Americans by removing unnecessary impediments to the flow of credit to consumers and small businesses, by encouraging national banks' involvement in community development activities, and by implementing Federal laws designed to protect consumers of financial services.

The OCC's regulatory workload and plans are affected directly by new statutes. For example, if the 106th Congress enacts financial modernization legislation the OCC would be required to devote substantial time and resources to implementing the new law. That legislation and other possible statutory changes are not otherwise addressed in this Regulatory Plan, but may affect some of the planned rules directly, and likely would affect how the OCC prioritizes its regulatory workload.

Important final and interim rules issued during fiscal year 1999 (or expected to be issued before publication of this Regulatory Plan) include:

- Capital Amendments (12 C.F.R. Part 3). This rule, issued jointly with the other federal banking agencies, amended the capital adequacy rules with respect to second mortgages on certain residential properties; construction loans on certain presold residential properties; bank investments in mutual funds; and the leverage capital ratio. This rule implemented section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA), which requires the banking agencies to work jointly to make uniform regulations that implement common statutory or supervisory policy. These changes were conforming in nature and were designed to make the capital requirements of the banking agencies more uniform.
- Release of Nonpublic OCC Information (12 C.F.R. Part 4). This rule clarified that the OCC may make non-public OCC information available to a supervised entity and to other persons, as the Comptroller deems necessary or appropriate, without a request.
- Management Official Interlocks (12 C.F.R. Part 26). This rule, issued jointly by the federal banking agencies, amended their regulations to conform to the 1996 amendments to the Depository Institutions Management Interlocks Act (DIMIA). Those amendments (1) permitted the agencies to grant exemptions to the interlocks prohibition for any interlock that would not result in a monopoly or substantial lessening of competition and (2) raised the asset thresholds for the "major assets" prohibition to apply only to interlocks involving a depository institution having assets of at least $2.5 billion and an unaffiliated depository institution having assets of at least $1.5 billion.
- Y2K Standards for Safety and Soundness (12 C.F.R. Part 30). The OCC and the other banking agencies issued interim guidelines establishing Year 2000 standards for safety and soundness for insured depository institutions pursuant to section 39 of the Federal Deposit Insurance Act. The banking agencies previously issued several guidance papers on important aspects of Year 2000 readiness. The guidelines complement these guidance papers by establishing minimum safety and soundness standards for achieving Year 2000 readiness.

The OCC's regulatory priorities for fiscal year 2000 include projects in the following areas:

- Community Banks. The OCC published an advance notice of proposed rulemaking on May 12, 1999, inviting comment on ways to eliminate unnecessary burdens on community banks. In particular, the OCC requested comment on ways to reduce burden in the areas of capital, lending limits, corporate governance, and applications processing.
- Community Development Corporations, Community Development Projects, and Other Public Welfare Investments (12 C.F.R. Part 24). This rule would (1) make community benefit information optional in self-certification letters and investment proposals, (2) remove the local community investment requirement for self-certification, and (3) provide that eligible community banks may self-certify all public welfare investments. The rule also would request comments on whether the requirements for community involvement in a national bank's public welfare investments should be modified.
- Interpretive Rulings (12 C.F.R. Part 7). This rule would codify recent OCC interpretations concerning messenger services, visitorial powers, ownership of stock by a director, acquisition and retention by a bank of its shares, the power to guaranty liabilities for foreign activities, and the ability of national banks to have ATMs without being subject to geographic restrictions.
- Minimum Security Devices and Procedures (12 C.F.R. Part 21). This rule would address a problem inadvertently created when the Economic Growth and Regulatory Paperwork Reduction Act of 1996 removed automated teller machines (ATMs) from the definition of "branch" in 12 U.S.C. 36(j).
- Conservatorship and Receivership Rules for Uninsured Entities. This rule will develop rules governing the conduct of a conservatorship or receivership for an uninsured national bank.
- Y2K. The OCC also expects to publish guidelines in the following two areas affecting banks' efforts to become Year 2000 compliant:
- Year 2000 Transfer Agent/Broker-Dealer Safety and Soundness Guidelines. This rule will complement the Year 2000 Safety and Soundness Guidelines by establishing

steps that national bank transfer agents and broker-dealers must take to ensure the Year 2000 readiness of transfer agent and broker-dealer automated systems.

- Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness. The OCC intends to finalize, with changes if appropriate, the interim guidelines discussed above
- Risk-Based Capital Standards (12 C.F.R. Part 3). The OCC will continue to work with the other federal banking agencies to update the risk-based capital standards to maintain, and, where necessary, improve consistency in the agencies' rules. Regulatory projects in this area may include the following:
- Risk-Based Capital Treatment of Recourse and Direct Credit Substitutes. Among other things, this rule would (1) treat recourse obligations and direct credit substitutes comparably; (2) use credit ratings to assign risk weights to credit enhancements and asset-backed securities; and (3) permit the use of bank internal risk ratings for certain limited purposes.
- Collateralized Transactions. The rule would conform the rules of the other banking agencies to the OCC's rule regarding the risk-based capital treatment of loans collateralized in cash or OECD government securities. The rule would assign a zero risk weight for the portion of claims collateralized by cash on deposit in a bank or securities issued or guaranteed by the U.S. government or its agencies or the central government of an OECD country, provided that certain conditions are met.
- Capital Adequacy. The OCC, along with the other banking agencies, plans to issue a joint advance notice of proposed rulemaking inviting comments on ways to simplify the capital adequacy framework for small, noncomplex institutions.

Office of Thrift Supervision

As the primary Federal regulator of the thrift industry, the Office of Thrift Supervision (OTS) has established regulatory objectives and priorities to effectively and efficiently supervise thrift institutions. These objectives include maintaining and enhancing the safety and soundness of the thrift industry; a flexible, responsive regulatory structure that enables savings associations to provide credit and other financial services to their communities, particularly housing credit; and a risk-focused, proactive approach to supervision.

Under the auspices of the Federal Financial Institutions Examination Council (FFIEC) the, OTS will continue to work with the other federal banking agencies to make uniform all regulations and guidelines implementing common statutory provisions or supervisory policies. These include:

- Risk-Based Capital Standards. The OTS will continue to work with the other federal banking agencies to update the risk-based capital standards to maintain, and, where necessary, improve consistency in the agencies' rules. Regulatory projects in this area may include the following:
- Risk-Based Capital Treatment of Recourse and Direct Credit Substitutes. Among other things, this rule would (1) treat recourse obligations and direct credit substitutes comparably; (2) use credit ratings to assign risk weights to credit enhancements and asset-backed securities; and (3) permit the use of bank internal risk ratings for certain limited purposes.
- Collateralized Transactions. The rule would conform the rules of OTS and the other banking agencies to the OCC's rule regarding the risk-based capital treatment of loans collateralized in cash or OECD government securities. The rule would assign a zero risk weight for the portion of claims collateralized by cash on deposit in a bank or securities issued or guaranteed by the U.S. government or its agencies or the central government of an OECD country, provided that certain conditions are met.
- Capital Adequacy. This rulemaking would simplify capital adequacy framework for small, non-complex institutions.
- Miscellaneous Capital Revisions. OTS plans to issue a proposed rule making miscellaneous amendments to update its capital rules.
- Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness. During fiscal year 1999 the OTS and the other banking agencies issued interim guidelines establishing Year 2000 standards for safety and soundness for insured depository institutions pursuant to section 39 of the Federal Deposit Insurance Act. The OTS intends to finalize, with changes if appropriate, the interim guidelines discussed above.

The OTS also plans to issue a proposed rule revising its conversion regulations, to finalize a rule concerning multiple holding companies claiming unitary status based on acquisitions, and to issue a proposed rule that would require certain holding companies to notify OTS before they engage in significant new activities.

- During fiscal 2000, the OTS intends to publish a number of proposed rules as part of its ongoing effort to review and streamline its regulations. These proposals, which will be drafted in "plain language" format, include:
- Applications Processing. The OTS plans to revise its procedures governing the submission of certain applications, notices, and other filings to OTS.
- Offices. The OTS will review and update its regulations on types of offices, including existing provisions on home, branch, and agency offices. The project is designed to ensure that OTS rules reflect how modern thrifts conduct their operations.
- Directors and Officers. This rule would streamline regulatory provisions concerning matters such as indemnification, savings association boards of directors, compensation, employment contracts, extensions of credit to insiders, conflicts of interest, and corporate opportunity.

The regulatory workload and plans of the OTS are affected directly by new statutes. For example, if the 106th Congress enacts financial modernization legislation the OTS will be required to devote substantial time and resources to implementing the new law. That legislation and other possible statutory changes are not addressed in this Regulatory Plan, but may affect some of the planned rules directly, and likely would affect how the OTS prioritizes its regulatory workload.

United States Customs Service

The United States Customs Service is responsible, among other things, for administering laws concerning the importation of goods into the United States. This includes inspecting imports, collecting applicable duties, over-seeing the activities of persons and businesses engaged in importing, and enforcing the laws concerning smuggling and trafficking in contraband. The regulatory priorities of Customs for fiscal year 2000 are to continue to facilitate procedures for legitimate commercial transactions and to provide further obstacles to the flow of narcotics and other contraband into the United States.

During fiscal year 1999, one of Customs' priorities was to continue the

reinvention of its regulatory procedures began under the authority granted by the Customs Modernization provisions of the North American Free Trade Implementation Act ("Customs Mod Act"). Customs' reinvention efforts, in accordance with the principles of E.O. 12886, have involved and will continue to involve significant input from the importing public. Two final rules implementing the Customs Mod Act were published during the past fiscal year. One set forth Customs procedures regarding the detention of merchandise and the other concerned recordkeeping for merchandise transported by pipeline and for duty-free withdrawals of aircraft turbine fuel from customs bonded warehouses. Customs also proposed a major revision of its regulations concerning the licensing and conduct of customs brokers in the performance of customs business on behalf of others. This proposal is integral to implementation of the Customs Mod Act and was issued after consultation with the concerned public.

During fiscal year 2000 Customs will continue to move forward with amendments implementing the Customs Mod Act. Customs plans to publish a proposal to revise the procedures by which Customs will issue administrative rulings responding to requests from prospective importers concerning how Customs will treat their transactions. Customs also plans to finalize the proposed regulation concerning customs brokers.

During the fiscal year 2000, Customs also plans to undertake several other regulatory actions that will affect the traveling and importing public, customs brokers, carriers and commercial importers. Customs will accord priority to several regulatory projects focusing on the development of a more automated environment to expedite the entry, processing, and release of imported commercial merchandise, and the clearance of merchandise for export. These regulations will benefit the importing and exporting public by reducing paperwork and administrative costs, improving the efficiency of Customs operations, and streamlining the work of the trade community. Among these projects are:

- Liquidations. Customs will propose regulations allowing paperless procedures for extension and suspension of liquidation notices, improving and clarifying the administrative process and simplifying the regulations pertaining to liquidations and extensions and suspensions of liquidation.
- Entry Reconciliation. Customs will propose regulations allowing a "reconciliation" process that will allow elements of an entry (other than those relating to the admissibility of merchandise) that are undetermined at the time an entry summary or an import activity summary statement is required to be submitted, to be provided to Customs at a later date: This will permit importers to submit information not available at the time of entry that is necessary for the importer and Customs to determine the correct amount of duty on a shipment. The procedure will allow Customs to finalize the duty assessment process by liquidating the underlying entry as to all merchandise covered by the entry, except the merchandise identified by the importers as requiring the submission of additional information.
- Remote Location Filing. Customs will propose regulations allowing electronic filing of entries with Customs from locations in the United States other than the port of arrival of the merchandise or the place at which the merchandise is examined. Remote location filing will provide entry filers (such as brokers and couriers) with greater flexibility and will allow Customs to make more efficient use of its resources.

Bureau of Alcohol, Tobacco and Firearms

The Bureau of Alcohol, Tobacco and Firearms (ATF) issues regulations to enforce the Federal laws relating to the manufacture and commerce of alcohol products, tobacco products, firearms and explosives. ATF's regulations carry out these missions and are designed to:

- Curb illegal traffic in, and criminal use of, firearms; and to assist State, local and other Federal law enforcement agencies in reducing crime and violence;
- Facilitate investigations of violations of Federal explosives laws and arson-for-profit schemes;
- Regulate the alcohol, tobacco, firearms and explosives industries, including the issuance of licenses and permits;
- Assure the collection of all alcohol, tobacco, firearms and ammunition taxes, and obtain a high level of voluntary compliance with all laws governing those industries;
- Suppress commercial bribery, consumer deception and other prohibited practices in the alcoholic beverage industry; and
- Assist the States in their efforts to eliminate interstate trafficking in, and the sale and distribution of, cigarettes in avoidance of State taxes.

ATF intends to streamline its regulations applying to the brewing industry by simplifying its brewery reports and operations and eliminating obsolete regulatory provisions. Also, ATF will propose minimum production standards for beer, thereby reducing formula filings and a revised statement of net contents requirement for certain container sizes.

ATF will continue, as a priority during Fiscal Year 2000, the multi-faceted regulatory project governing various modifications to its regulations governing commerce in explosives. ATF is further analyzing its regulations governing storage requirements for explosives, including fireworks explosive materials, and plans to issue the notice of proposed rulemaking described in detail in Part II of this Regulatory Plan.

Financial Crimes Enforcement Network

The regulations of the Financial Crimes Enforcement Network (FinCEN) constitute the core of Treasury's anti-money laundering initiatives and are an essential component of Treasury's anti-narcotics effort. The Bank Secrecy Act (BSA) authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax or regulatory proceedings, and to implement counter-money laundering programs and compliance procedures.

Since mid-1994, FinCEN has been engaged in a thorough review of its regulatory policies and has been building a partnership between government and the financial sector to fight money laundering. The cornerstone of that partnership is the recognition that only a cooperative relationship between government and industry can provide a way to implement a three-pronged strategy of prevention, detection, and enforcement against those who seek to use the financial system to promote or further illegal activity. FinCEN recognizes that BSA compliance imposes costs on the financial community and that recordkeeping and reporting should be required only when the benefits to law enforcement efforts are clear.

During fiscal year 2000, FinCEN will continue to review and revise its existing regulations. FinCEN will continue to work with the financial community to reduce administrative burdens associated with complying with

the law while enhancing the usefulness of BSA information for law enforcement, financial regulators and policymakers. FinCEN is continuing a general revision and simplification of all of its regulations and will accord priority to the following projects:

- Suspicious Transaction Reports. FinCEN will issue a final rule based on a 1998 notice of proposed rulemaking requiring the reporting of suspicious transactions by casinos and card clubs. FinCEN may also publish for public comment a proposal to require brokers and dealers in securities to report suspicious transactions.
- Foreign Bank Drafts. In 1997, FinCEN issued a notice of proposed rulemaking to expand the definition of "monetary instrument" to include certain foreign bank drafts for purposes of the reporting of cross-border transportation. This expansion would implement only as much of the broad authority granted by a 1994 amendment to the BSA as FinCEN believes is required to address the issue of the sale of these foreign bank drafts. FinCEN expects to take further action on the notice.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) administers regulations governing transactions in government securities by government securities brokers and dealers and regulations that implement Treasury's borrowing authority, including rules governing the sale and issue of marketable Treasury securities. BPD also is responsible for administering the regulatory provisions governing the types and valuations of collateral that are acceptable to secure deposits of public monies and other financial interests of the Federal Government.

The Government Securities Act of 1986 (GSA) authorizes the Secretary of the Treasury to prescribe rules governing financial responsibility, the protection of customer funds and securities, recordkeeping, reporting, audit, and large position reporting for all government securities brokers and dealers, including financial institutions. These rules fulfill the Treasury's statutory responsibility to safeguard the efficient functioning of the government securities market and are designed to prevent fraudulent and manipulative acts and practices and to protect the integrity, efficiency and liquidity of the market. The Department and BPD are committed to implementing rules that make sense from both a regulatory and market efficiency perspective. Accordingly, the Department and BPD seek to balance the benefits of regulation with the compliance costs imposed on the government securities market and its participants.

The rules setting out the terms and conditions for the sale and issue by the Department to the public of marketable book-entry Treasury bills, notes and bonds are known as the uniform offering circular. These rules apply to securities held in accounts in the book-entry system established by the Department and operated by the Federal Reserve Banks, known as the Treasury/Reserve Automated Debt Entry System, as well as to securities held in accounts directly with Treasury in the TREASURY DIRECT system. The uniform offering circular describes the types of securities offered for sale, the auction methods by which they are sold, the process by which bidders submit bids, the process for awarding securities to successful bidders and the authorized payment methods.

During fiscal year 2000 BPD will accord priority to finalizing the proposed rule issued in August 1999 that would establish the mechanism by which the Treasury can buy back marketable Treasury securities held by the public. This regulation will be an important potential debt management tool for the Federal Government in the future.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management and to administer its payments, collections, and debt collection and government-wide accounting programs. During this fiscal year, FMS will continue to implement provisions of the Debt Collection Improvement Act of 1996. FMS, in conjunction with the Department of Justice, will finalize the rule containing the Federal Claims Collection Standards. This rule establishes standards for government-wide debt collection. Additionally, FMS will promulgate regulations to implement amendments to section 6402 of the Internal Revenue Code, authorizing the Secretary of the Treasury to offset tax refund payments to collect delinquent State income tax debt.

Also in fiscal year 2000, FMS will revise its rule that implements the Cash Management Improvement Act of 1990 (CMIA). The CMIA requires the head of each executive agency, under regulations prescribed by the Secretary of the Treasury, to provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary of the Treasury. FMS issued an implementing regulation, affecting billions of dollars in Federal payments, on December 21, 1992. Since that date, many changes have been identified that require public comment. FMS intends to issue a notice of proposed rulemaking concerning CMIA in late 1999, with publication of a final rule targeted for several months later.

Finally, FMS plans to revise certain of its rules that pertain to Treasury checks. FMS plans to revise its rule that governs the processing of claims on Treasury checks that are lost or stolen, and then paid over forged or unauthorized endorsements. FMS also plans to revise its rule that governs the issuance of settlement checks for forged checks that are drawn on designated depositaries.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.). The primary purpose of the Fund is to promote economic revitalization and community development through investments in, and assistance to, community development financial institutions (CDFIs), principally through the CDFI Program.

The Fund administers the Bank Enterprise Award (BEA) Program, which encourages insured depository institutions to engage in certain eligible development activities and to make equity investments in CDFIs. The Fund also administers the Presidential Awards for Excellence in Microenterprise Development, which recognize outstanding microenterprise development and support programs in an effort to advance an understanding of "best practices" in the field of domestic microenterprise development.

The Fund's regulatory priority for fiscal year 2000 is to continue to streamline the application and review process for the CDFI and BEA programs. The Congress is currently considering legislation known as the "Program for Investment in Microentrepreneurs Act of 1999," which would establish a program to provide financial grants for the purpose of encouraging microenterprise development. If this legislation is enacted, the Fund will also accord priority to promulgating regulations to implement this program.

TREAS—Financial Management Service (FMS)

PROPOSED RULE STAGE

99. RULES AND PROCEDURES FOR EFFICIENT FEDERAL-STATE FUNDS TRANSFERS

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

5 USC 301; 31 USC 321; 31 USC 3335; 31 USC 6501; 31 USC 6503

CFR Citation:

31 CFR 205

Legal Deadline:

None

Abstract:

This regulation governs the transfer of Federal assistance funds to State governments and implements the Cash Management Improvement Act of 1990, as amended. Revisions to the regulation will address concerns raised by both States and Federal agencies about intergovernmental financing. Rules and procedures for funds transfers will be revised to provide more options and greater flexibility.

Statement of Need:

The Cash Management Improvement Act (CMIA), Public Law 101-453, October 24, 1990, requires the head of each Executive agency, under regulations prescribed by the Secretary of the Treasury, to provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary of the Treasury. FMS issued a final implementing regulation, impacting billions of dollars in Federal payments, on December 21, 1992. Since that date, many changes have been identified that require public comment. This CMIA regulation affects all States and territories receiving Federal funds.

Summary of Legal Basis:

This regulation is authorized by the Cash Management Improvement Act of 1990, Public Law 101-453, October 24, 1990. The substantive provisions of this law are codified at 31 U.S.C. 3335 and 6503; other applicable provisions of law are codified at 5 U.S.C. 301 and 31 U.S.C. 321.

Alternatives:

Not applicable.

Anticipated Cost and Benefits:

This proposed revision of the regulation implementing the Cash Management Improvement Act of 1990 is anticipated to improve the efficiency of funds transfers between the Federal Government and the States. No increase in costs is anticipated for the Federal Government or the States. Administrative burdens on the Federal Government and the States are anticipated to decrease.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, State

Agency Contact:

Stephen Kenneally
Financial Program Specialist, Cash Management Policy and Planning Division
Department of the Treasury
Financial Management Service
Room 408D
401 14th Street SW.
Washington, DC 20227
Phone: 202 874-6799

RIN: 1510–AA38

TREAS—Bureau of Alcohol, Tobacco and Firearms (BATF)

PROPOSED RULE STAGE

100. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

26 USC 5051 to 5056; 26 USC 5401 to 5417; 27 USC 205

CFR Citation:

27 CFR 7; 27 CFR 25

Legal Deadline:

None

Abstract:

ATF intends to streamline regulations applying to breweries. ATF will eliminate obsolete regulatory provisions. A formula system for manufactured beer products will replace statements of process attached to the brewers notice. The annual notice for small brewers to pay reduced rate of tax will be eliminated. Separate regulations for brewpubs will be added to part 25. A section will be added to part 25 to authorize and regulate the alternating use of brewery premises by different brewers. Regulations authorizing the operation of brew-on-premises facilities will be added to part 25.

Statement of Need:

ATF intends to streamline its regulations applying to the brewing industry. These changes will simplify brewery reports and operations and eliminate obsolete regulatory provisions. Specific changes would include the implementation of a formula system for the breweries to replace the statement of process; the establishment of a separate subpart containing simplified regulations for brewpubs; authorizing alternating brewery premises among different proprietors; eliminating the annual notice to pay reduced rate of tax for most breweries; authorizing brewers to file the Brewer's Report of Operations on a quarterly basis; and authorizing many brewers to take inventories quarterly rather than monthly. The rule will also propose minimum production standards for beer thereby reducing formula filings and a revised statement of net contents requirement for certain container sizes.

Summary of Legal Basis:

ATF has undertaken this review of brewery regulations as part of the President's Regulatory Initiative. These regulations are issued under the general

authority of the Secretary of the Treasury to promulgate regulations to implement the Internal Revenue Code and the Federal Alcohol Administration Act.

Alternatives:

Not applicable. ATF believes that industry will support these regulatory changes because they will streamline regulatory requirements applying to the brewing industry.

Anticipated Cost and Benefits:

The proposed regulations will benefit the brewing industry by reducing required inventories, notices, and other submissions to ATF.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

William Foster
ATF Specialist
Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue NW
Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB37

TREAS—BATF

101. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Priority:

Other Significant

Legal Authority:

5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 18 USC 1261; 19 USC 1612 to 1613; 19 USC 1618; 26 USC 7101; 26 USC 7322 to 7326; 31 USC 9301; 31 USC 9303 to 9304; 40 USC 304(k)

CFR Citation:

27 CFR 55

Legal Deadline:

None

Abstract:

Pursuant to section 610 of the Regulatory Flexibility Act, ATF published a notice on January 10, 1997 seeking public comments on whether it should revise its regulations codified at 27 CFR part 55, governing Commerce in Explosives (Including Explosives in the Fireworks Industry). Based on comments received, ATF plans to initiate a rulemaking to revise these regulations in 1999.

Statement of Need:

This notice of proposed rulemaking will address many of the issues in part 55 - Commerce in Explosives, especially the issues in requirements for explosives, including fireworks explosive materials. Pursuant to the periodic review requirements of the Regulatory Flexibility Act (5 U.S.C. 610), ATF published on January 10, 1997 a General Notice initiating the review of a final rule published in 1990 concerning the storage of fireworks explosives materials. The 1990 rule, which was issued as a result of the number and severity of explosions occurring on the premises of special fireworks plants, amended certain regulations codified at 27 CFR part 55, generally concerning the recordkeeping and storage of fireworks explosive materials. The regulations also codified two fireworks related rulings issued in 1979 and 1985, and the provisions of Pub. L. 99-308 relating to black powder. As a result of the public comments received in response to the General Notice and further study of this issue, ATF will issue a notice of proposed rulemaking covering this and related commerce and storage of explosives issues.

Summary of Legal Basis:

Section 847 of title 18, United States Code, grants the Secretary of the Treasury broad discretion to promulgate regulations necessary for the importation, manufacture, distribution and safe storage of explosives materials. Section 846 of title 18, United States Code, authorizes the Secretary to prescribe precautionary measures to prevent the recurrence of accidental explosions in which explosive materials were involved. The General Notice and upcoming notice of proposed rulemaking are also being issued pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610), which requires an agency to review within ten years of publication rules for which an agency prepared a final regulatory flexibility analysis addressing the impact of the rule on small businesses or other small entities.

Alternatives:

Alternatives will be examined in the context of public comments to the notice of proposed rulemaking.

Anticipated Cost and Benefits:

Unknown at this time.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
General Notice of Regulatory Review	01/10/97	62 FR 1386
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

James Ficaretta
Program Manager
Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue NW
Washington, DC 20226
Phone: 202 927-8230

RIN: 1512–AB48

BILLING CODE 4810–25–F

DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) administers benefit programs that recognize the important public obligations to those who served this Nation. VA's regulatory responsibility is almost solely confined to carrying out mandates of the laws enacted by Congress relating to programs for veterans and their beneficiaries. VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by VA involve three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery Administration. The basic goal of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The National Cemetery Administration's primary mission is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries, and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

BILLING CODE 8320-01-F

VOL 64 ISS 224 NO 22 1999 UMI

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Regulatory and Deregulatory Priorities

An Era of Opportunity

During the past 29 years, the Nation has made great headway in cleaning up the air, water, and land. But as the next century approaches, we are finding that many problems remaining are more complex than those of the past, and they require more sophisticated, tailor-made remedies. EPA has undertaken to rethink its current public health and environmental strategies to better meet the challenges of today and the future. And because this effort comes at the same time the President and Vice President are calling for a Government that works better and costs less, EPA has an unprecedented opportunity to develop tough but flexible, new protections that not only solve today's difficult problems but do so in cheaper and smarter ways.

Building a Better System

EPA's efforts to develop a system that works better and costs less are focused on five areas: Greater public access to information; more regulatory flexibility to obtain better results; stronger partnerships with States, Tribes, and industries; more compliance assistance; and less paperwork and red tape. We are pursuing this through every possible venue, internally and externally, and we can already see results.

Internally, EPA has streamlined its management, restructured programs, and given EPA employees broader responsibilities. For example, enforcers are emphasizing compliance assistance, permitters are paying more attention to pollution prevention and market mechanisms, and rule writers are developing public health and environmental protections that include alternatives proposed by regulated entities. These are innovative alternatives that are less costly but which still meet environmental and public health protection goals.

Externally, EPA is bringing together stakeholders from businesses, State, local, and Tribal governments, as well as labor and public interest groups so that all interested parties can participate in the design of environmental and public health protections. This stakeholder involvement increases flexibility, promotes local stewardship, and helps establish and strengthen partnerships between the public and private sectors—all without sacrificing environmental or public health goals. And, as compliance with today's environmental laws comes to be regarded as a floor to maintain rather than a ceiling to be reached, EPA is offering flexibility that encourages facilities to go beyond the minimum baseline requirements and continuously improve environmental performance.

EPA has sharpened its focus on protecting the health of children by evaluating data to take into account their unique characteristics and vulnerabilities. In November 1998, the Agency published the final EPA Rule Writer's Guide to Executive Order 13045. This Guidance advises EPA rule writers and risk assessors in considering risks to children during the establishment of public health-based and risk-based standards. The Guidance has resulted in an evaluation of children's environmental health for economically significant rules. It further provides rule writers with additional guidance on considering children's health in all applicable EPA rules, even those that are not categorized as economically significant, consistent with EPA's 1995 policy on Evaluating Health Risks to Children. Since 1997, EPA has conducted an inclusive public process through the Children's Health Protection Advisory Committee (established under the Federal Advisory Committee Act.) The Committee recommended to the Administrator the following existing standards for reevaluation to ensure that they protect children's health: the chloralkali NESHAP; pesticide tolerances for atrazine; the MCL for atrazine; pesticide tolerances for dimethoate, chlorpyrifos, methyl parathion; and the (Farm) Worker Protection Standard. EPA is currently in various stages of work to evaluate these standards.

Providing Greater Public Access to Information

To enhance the ability of the regulated community to comply with environmental requirements the Agency committed itself to make available its policy and guidance documents through the Internet. The Agency also set the end of FY 2000 as the date by which this would be achieved. With that goal in sight, the Agency expects to provide the public and in particular, the regulated community, with a single location on the EPA web site where Agency documents which interpret statutory and regulatory requirements can be located regardless of issuing organization.

With more than 40 million visits to EPA's Web site every month, public demand for high-quality environmental information has never been greater. To meet this and other related demands, EPA is establishing its first internal organization to deal comprehensively with environmental information. In addition to improving data quality and streamlining reporting, this move will advance community right-to-know opportunities for citizens and improve our ability to analyze environmental conditions.

Recognizing the effect that public disclosure can have on environmental performance, the Agency took action to make more environmental information publicly available. We recently expanded reporting under the Toxic Release Inventory for persistent, bioaccumulative chemicals, such as dioxin and mercury, by almost 25 percent. Other actions will give Americans access to information about the hazards from lead-based paint when renovating or remodeling their homes, whether their drinking water meets federal public health standards, and the potential risks from facilities in their neighborhoods that produce, use, or store chemical products.

A new program announced by Vice President Gore challenges the chemical industry to provide needed information on about 2,800 of the nation's most widely used toxic chemicals. By agreeing to conduct any necessary toxicity testing and to report the results publicly, companies can help resolve remaining questions about risk levels and avoid the need for further regulation.

More Regulatory Flexibility

To obtain better results, EPA is also giving businesses, communities, and Tribes more flexibility in how they fulfill their responsibilities to protect public health and the environment. For example, a rule for the pulp and paper industry — the Agency's first-ever integrated, multimedia rulemaking — allows companies to delay compliance with new water-pollution control requirements if they commit to go beyond compliance and installing more advanced technologies.

Through a program called Project XL, EPA encourages companies to use flexible alternative regulatory strategies if they agree to go beyond compliance — and involve stakeholders along the way.

Stronger Partnerships with States, Tribes, and Industry

EPA recognizes that a new and improved system of environmental protection must include stronger partnerships between the public and private sectors, and among the States, Tribes and the Federal Government. It would also include a greater role for citizens in community-based decisionmaking. The Agency has taken several steps to improve these relationships and involve citizens. For example, the Agency offers Brownfields grants and Sustainable Development Challenge Grants that give communities the resources necessary to clean up contamination, especially from abandoned industrial sites, and to restore environmental quality and provide environmentally sound economic opportunities. In addition, by providing better public access to environmental data, as discussed above, EPA is working to empower citizens so that they can be informed participants in environmental decisionmaking processes at national, State, Tribal, or local levels.

EPA, States, and Tribes are reinventing their working relationship to strengthen management of the Nation's environmental programs. Under the National Environmental Performance Partnership System (NEPPS), EPA has negotiated agreements with 32 States. NEPPS is designed to give States greater flexibility to direct resources where they are needed most, based on environmental conditions and program needs, and to tailor EPA's oversight and technical assistance to each State's particular situation. As part of the partnership effort, EPA and States are collaborating in the development of core performance measures that should strengthen EPA's ability to measure environmental progress over the long term. The core measures include a mix of activity and environmental measures and will be refined over time, particularly to increase the focus on environmental results as environmental indicators become more available. In another move to strengthen State/EPA partnerships EPA and the States have approved a formal agreement on how to manage testing of innovative environmental management strategies within the current regulatory framework.

To strengthen the relationship between the private and public sectors, EPA is consulting with regulated industries earlier in its rule development processes. EPA sometimes employs formal consensus-based rulemaking, such as regulatory negotiation. More frequently, however, the Agency depends on less formal outreach to potentially affected parties. The Agency has paid particular attention to its relationship with small businesses and, in fact, EPA has long been prominent among Federal agencies in its outreach to these small entities. The Agency not only vigorously carries out the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) and the Regulatory Flexibility Act (RFA), but it also uses its Small Business Ombudsman and its Office of State and Local Relationships to reach out to small entities.

More Compliance Assistance

Once EPA establishes public health and environmental protection rules, the Agency must ensure that businesses and others can understand and comply with them. This is particularly important for small businesses and communities that have limited staff and resources. To help these small entities, EPA established sector-specific compliance assistance centers to serve as direct, readily available sources of information on the latest regulatory requirements. EPA has established nine centers to support the following sectors: printed wiring board manufacturing; auto service and repair; printing; agriculture; metal finishing; transportation; local government; chemical manufacturing; and paints and coatings.

EPA is also offering to reduce or eliminate penalties for violations if small businesses establish programs to detect, publicly disclose, and fix problems—if the violation does not involve criminal activity or a serious risk to public health or the environment. Besides making life easier for businesses and other regulated facilities, these steps can help prevent pollution and lessen the burden and expense of cleanup.

Streamlining Regulatory and Paperwork Burdens

The Agency continues to examine existing environmental regulations and paperwork to simplify and streamline compliance for the regulated community. This is consistent with the President's announcement in February 1995 that all Federal agencies must conduct line-by-line reviews of their regulations and eliminate those that are obsolete or redundant. In March 1995, EPA set a goal of reducing by 25 percent paperwork burden associated with requirements in effect on January 1, 1995. By September 30, 1995, EPA had achieved six million hours in reductions from this baseline. Following reauthorization of the Paperwork Reduction Act starting in October 1995, EPA revised its goal while reaffirming its commitment to the reduction of paperwork burdens. During the 3-year period from October 1, 1995, through September 30, 1998, EPA completed reductions of over 22 million hours and another 4 million hours is projected by the September 30, 2000. Reductions during this period will be offset by the addition of approximately 49 million burden hours from new regulations and upward revisions of previous burden estimates. More than two-thirds of this offset is due to strengthening of the community right-to-know initiative.

Some examples of regulatory and paperwork streamlining are:

- Proposed Consolidated Air Rule for Chemical Manufacturers

A proposed rule that consolidates 16 federal air regulations into a single guideline could save the average U.S. chemical plant about 1,700 hours or $80,000 a year in the future. The proposal, which represents the first consolidated rule ever under the Clean Air Act, would be voluntary. Plant managers could opt to comply with the consolidated rule or continue operating under the 16 existing rules.

- Streamlined Certification Process for Auto Makers

A streamlined process for certifying that new passenger cars and trucks meet federal standards for air pollution emissions is expected to save automobile manufacturers an estimated $55 million a year. Under the proposed process, testing would be performed on vehicles actually in use on the nation's highways rather than on brand new vehicles. In addition to cutting burden, the new process creates an incentive for manufacturers to produce more durable emissions control equipment and gives EPA better data for managing real-world air quality programs.

- Simplified Hazardous Waste Management Requirements

The Agency addressed several barriers that have prevented common sense practices in managing hazardous wastes. Reforms to the 20-year-old program for managing polychlorinated biphenyls, or PCBs, are expected to produce cost savings estimated at between $178 million and $736 million each year. New treatment standards for land disposal of hazardous waste will facilitate cleanups of contaminated sites. Another regulation simplifies the

cleanup and closure of hazardous waste disposal facilities.

Highlights of EPA's Regulatory Plan for 1999

EPA's regulatory plan for 1999 reflects the Agency's continuing commitment to create new environmental protection strategies that better protect public health and the environment at lower cost.

Here are highlights of our upcoming rules:

Office of Air and Radiation Highlights

One of the most significant events for the Office of Air and Radiation (OAR) since the publication of the last Regulatory Plan was an adverse court decision regarding EPA's air quality standards. As summarized below, EPA is appealing this decision, and is re-evaluating its implementation program while it awaits legal resolution of this situation. To assure air quality progress in the interim, EPA has reinstated the one hour ozone standard in areas where it had previously been revoked. Meanwhile, EPA remains committed to taking advantage of the flexibility granted by the Clean Air Act that enables companies, States, and communities to meet clean air goals with low-cost approaches. The following paragraphs summarize the most significant of OAR's activities.

- In 1997, EPA established new, more stringent air quality standards for ozone and particulate matter based on new scientific and technical information. The new standards were designed to offer increased protection for public health and the environment, and EPA began pursuing a commonsense implementation strategy that would give States and industry flexibility with which they can meet these air quality goals. However, on May 14, 1999, a three-judge panel of the D.C. Circuit found that the Clean Air Act provision authorizing the new standards is unconstitutional as EPA applied it. This decision did not call into question the scientific basis for the new standards, only the procedure by which they were established. EPA has appealed this decision and intends to vigorously defend the standards in court. However, until the matter is resolved in court, EPA must defer to the panel's decision, and is re-evaluating this implementation strategy to decide which parts of it can continue and which parts must be put on hold during the litigation.
- To achieve further emission reductions mandated by the Clean Air Act, EPA is developing the Tier II rulemaking which will propose the next generation of emission standards for light-duty vehicles and light-duty trucks. The primary focus of this action will be reducing emissions of nitrogen oxides and non-methane hydrocarbons, pollutants which contribute to ozone pollution. The rulemaking will also propose limitations on the sulfur content of gasoline available nationwide. Sulfur in gasoline has a detrimental impact on catalyst performance and could be a limiting factor in the introduction of advanced technologies on motor vehicles.
- In accordance with Section 801 of the Energy Policy Act of 1992, EPA is developing health and safety standards for protection of the public from releases from radioactive materials stored or disposed of by the Department of Energy in the nuclear waste repository being constructed at Yucca Mountain in Nevada.
- The Agency has proposed changes to simplify and streamline the New Source Review Program, which requires newly built facilities or those undergoing major modification to obtain a permit to ensure that emissions will not cause or contribute to air pollution problems. A final rulemaking is expected late in 1999.
- EPA, building on successful State programs, has been working with stakeholders to develop a more streamlined way for facilities to get operating permit updates from State or local agencies. Depending on the environmental significance of the change, States would have greater flexibility to decide the appropriate amount of EPA and public review for most permit revisions.
- In August of 1997, EPA completed a comprehensive revision to streamline its regulations on transportation conformity. On March 2, 1999, the U.S. District Court for the District of Columbia overturned parts of that 1997 revision, including the provisions governing which projects can proceed without a conforming transportation plan and when States can use State Implementation Plans that EPA has not approved. The Administration's initial response to this court decision was to issue guidance from EPA and the Department of Transportation dealing with the issues in question. EPA is now developing a rule to respond to these court decisions that will formalize this guidance and deal definitively will all the issues raised by the court.
- From discussions with affected industries, EPA has learned that many companies find it difficult to know what we expect of them given the growing complexity of the regulatory system during the last 29 years. In many cases, regulations may be duplicative, overlapping, or inconsistent, especially in the areas of monitoring, recordkeeping, and reporting. In response to these problems, in October 1998 EPA proposed a rule intended to consolidate and synchronize all Federal air regulations that apply to the synthetic organic chemical manufacturing industry. If this pilot program proves successful, we will expand it to cover other industries. The final rule on the pilot program is expected by the end of 1999.
- To date, our air toxics program has focused primarily on getting broad emission reductions from large industrial sources through technology-based standards. Since 1990, EPA has issued standards affecting 77 different industries, such as petroleum refineries and chemical manufacturing plans. When fully implemented, these standards will reduce more than one million tons of toxic air emissions per year. Additionally, through other efforts such as the phase-out of lead in gasoline, we have significantly reduced air toxics from cars and trucks. We are continuing to set technology-based standards for large industries, and will complete more than 80 additional standards over the next few years. The rule listed in this year's Regulatory Plan — industrial boilers, institutional/commercial boilers — is among the most significant remaining categories to be regulated under this program. While working on these standards, we are beginning to evaluate those sources with standards already in place to determine if the remaining risk from these sources warrants additional regulation. We are also implementing our Urban Air Toxics Strategy, which focuses on 33 air toxics that pose the greatest risk in the largest number of urban areas and presents our plan, both nationally and more locally, to reduce those toxics. Finally, to better understand and measure risks from air toxics, we are also conducting important health research and improving our emissions inventories, modeling capability, and monitoring network.
- On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The

notice stated that EPA would shortly propose a new implementation strategy to help States in addressing short-term peaks of sulfur dioxide. The new implementation strategy - the Intervention Level Program - was proposed on January 2, 1997. In July 1996, the American Lung Association and the Environmental Defense Fund petitioned the U.S. Court of Appeals for the D.C. Circuit for a judicial review of EPA's decision not to establish a new 5-minute NAAQS. On January 30, 1998, the court found that EPA did not adequately explain its decision and remanded the case so EPA could explain its rationale more fully. EPA published a schedule for responding to the remand in the May 5, 1998 **Federal Register**. The schedule calls for a final response to the remand by December 2000. Any final action on the intervention level program would occur no sooner than December 2000.

- On April 15, 1998, the EPA promulgated an integrated regulation for the pulp and paper industry that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air from the most important emission sources at pulp and paper facilities. At the same time, the EPA proposed air emission standards for a final group of combustion sources at these facilities. These air standards are scheduled to be completed by the end of the year 2000.

Office of Water Highlights

On August 6, 1996, President Clinton signed the Safe Drinking Water Act (SDWA) Amendments of 1996 which laid out requirements to strengthen the nations drinking water program. These amendments directed EPA to further improve the quality of drinking water and protect public health by requiring the following actions:

- The National Primary Drinking Water Regulation (NPDWR) for Radon will reduce exposure to radon in homes. The regulation recognizes that the public health problem from radon in indoor air typically far exceeds the health risks of breathing radon released to the air from showers, sinks, or drinking water . The rule, therefore, lays out a unique framework that allows States and/or systems to adopt multimedia programs which reduce radon risks from indoor air and drinking water in combination. States and systems that choose this option will focus risk reduction on the greatest threat (indoor air), while spending much less money to comply with these rules than if they focused on drinking water alone.
- The NPDWR for Ground Water sets in place an increasingly targeted strategy to identify ground water systems that are vulnerable to microbial contamination. The multiple barrier approach, of this rule relies on 4 major components (inspections, monitoring, corrective action, and treatment) which, in combination, EPA believes strikes an appropriate balance between the intensity or burden of protective measures against microbial contamination and follow-up action to the risk being addressed.
- The NPDWR for Arsenic is another rule mandated by the 1996 SDWA Amendments. Presently, the arsenic standard is 50 ug/l. The National Academy of Science, however, issued a report in March 1999 that urged EPA to lower the drinking water standard, based on conclusive evidence that inorganic arsenic causes bladder, lung and skin cancer in humans. EPA will decide what that appropriate level is, balancing health risk reduction benefits and the costs.
- The Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule contains provisions that require surface water treatment for public water systems serving 10,000 or fewer people and that govern the recycle of filter backwash within the treatment process of all public water utilities. EPA believes that implementing the provisions contained in this rule will improve public health protection in three ways. First, it will reduce the level of Cryptosporidium in finished drinking water supplies through improvements in filtration and recycle practices. Second, the reduced level of Cryptosporidium will reduce the likelihood of outbreaks of cryptosporidiosis, which usually causes symptoms such as abdominal discomfort and nausea in healthy individuals and possibly death to sensitive populations such as children and the immunocompromised. Third, the filtration provisions of the rule are expected to increase the level of protection from exposure to other pathogens (i.e., Giardia or other waterborne bacterial or viral pathogens).

The amendments also set forth new public notification provisions for EPA to better inform customers of the quality of their drinking water. The new provisions require EPA to tailor the frequency and content of the public notice to the relative risks to public health and otherwise streamline the process currently in place. The 1996 amendments (1) require notice within 24 hours for violations posing a serious public health risk from short term exposure and give EPA discretion to set the timing of the notification for all other violations; (2) give EPA discretion to set the method of delivery of the notices as long as the public notice reaches all persons served; (3) establish a specific requirement for EPA consultation with the States in issuing revised regulations and (4) allow the primary States to specify alternative notification requirements (by rule) with respect to the form and content of the notice. One other new requirement was for public water systems to prepare an annual consumer confidence report which was implemented as part of a separate rulemaking (published August 19, 1998). In addition to streamlining the existing requirements, this rule will provide quicker and more effective notification of violations that have a serious adverse effect and better inform customers of the risk to their health.

The National Water Quality Inventory, 1996 Report to Congress indicates that storm water discharges are major causes of water quality impairment, roughly 45 percent of the identified cases of water quality impairment of estuarine square miles surveyed, for example, are attributable to storm sewer runoff. Pollutants in discharges from municipal separate storm sewer systems (MS4s) include sediment, floatables, oil and grease, as well as toxic pollutants, metals and raw sewage from illicit discharges. Studies indicate that erosion rates from construction sites are typically an order of magnitude larger than from other land uses. Sediment and erosion from these sites have been shown to severely impact water quality and aquatic life. Storm water runoff has also been the cause of many beach closings and caused increase gastrointestinal illnesses in swimmers who swim adjacent to storm drains. To protect public health and the aquatic environment EPA issued the National Pollutant Discharge Elimination System (NPDES) existing storm water program (Phase I) in 1990. The Phase I regulation addresses storm water discharges from specific industrial categories, MS4s serving populations over 100,000, and construction sites that disturb 5 or more acres. To further protect American families and the environment EPA proposed the Storm Water Phase II rule and we will issue the final rule by October 29, 1999. Phase II will expand the existing national program to smaller municipalities and construction sites

that disturb 1 to 5 acres. In this expansion, EPA is proposing an exemption for certain sources to be excluded from the national program based on the lack of impact on water quality, as well as to pull in other sources not regulated on a national basis based on localized adverse impact on water quality.

EPA believes that the implementation of the six minimum measures for small MS4s should significantly and cost-effectively reduce pollutants in urban storm water. Similarly, EPA believes that implementation of best management practices (BMPs) at small construction sites will cause a significant reduction in pollutant discharges and an improvement in surface water quality. EPA expects significant monetized financial, recreational and health benefits, as well as benefits that EPA has been unable to monetize. These include reduced scouring and erosion of streambeds, improved aesthetic quality of waters, reduced eutrophication of aquatic systems, benefit to wildlife and endangered and threatened species, tourism benefits, biodiversity benefits and reduced costs for siting reservoirs.

On August 12, 1990, Environmental Protection Agency Administrator Carol Browner signed proposed revisions to the Total Maximum Daily Load (TMDL) regulations (40 CFR part 130) for implementing state, territorial, authorized tribal, and EPA responsibilities under section 303(d) of the Clean Water Act. Administrator Browner also signed proposed revisions to the National Pollutant Discharge Elimination System (NPDES) and Water Quality Standards regulations to facilitate implementation of TMDLs and to improve water quality in impaired waters before TMDLs are established. These proposed regulatory revisions address issues of fundamental importance to cleaning up our Nation's polluted waters. States and territories have identified over 20,000 individual river segments, lakes, and estuaries across America as polluted. These polluted waters include approximately 300,000 miles of river and shoreline and approximately 5 million acres of lakes — polluted mostly by sedimentation, nutrients, and harmful microorganisms. With the overwhelming majority of the population living within 10 miles of these polluted waters, these proposed regulatory revisions will have a profound impact on the environment and health of communities across the country.

The proposed revisions to the TMDL regulations provide states with clear, consistent, and balanced direction for listing waters and developing TMDLs, resulting in restoration of waterbodies not meeting water quality standards. Listing impaired and threatened waters and establishing TMDLs are fundamental tools for identifying remaining sources of water pollution and achieving water quality goals. Clean-up plans developed under this regulatory proposal will help to restore the health of thousands of miles of river and shoreline and make millions of lake acres safe for fishing, swimming and other activities.

The proposed revisions to the NPDES and water quality standards regulations (40 CFR parts 122, 123, 124 and 131) are designed to achieve reasonable further progress toward attainment of water quality standards in impaired waterbodies after listing and pending TMDL establishment, and to provide reasonable assurance that TMDLs, once completed, will be adequately implemented. Federal implementation through NPDES permits, in the absence of State, Territorial, or Tribal implementation, will ensure that the clean-up plans will work.

Pollution from concentrated animal feeding operations (CAFOs) potentially can reach waters of the United States through discharges from waste storage and containment areas and from areas where waste is applied to the land as a nutrient or soil amendment. The potential for polluted discharges from these areas is especially high during periods of heavy rain when waste storage and disposal systems and the soil's assimilation capacity are likely to be overwhelmed. Discharges from CAFOs can lead to degradation of surface waters due to the addition of nutrients, micronutrients, salts, BOD, various pathogens and other pollutants.

Currently, certain CAFOs are regulated through permits issued under the National Pollutant Discharge Elimination System (NPDES). These permits specify appropriate discharge standards based on either promulgated effluent limitation guidelines and/or permit writers' best professional judgment. EPA promulgated the regulations describing the NPDES regulatory process for CAFOs in 1976. It also promulgated effluent limitation guidelines applicable to feedlots in 1974 and 1975.

EPA is re-examining and plans to revise the existing NPDES and effluent guideline regulations related to CAFOs due to: Changes within the animal agriculture industry since the rules were promulgated in the 1970s; new animal and waste management techniques; improved understanding of the water quality impacts associated with CAFO waste management; and issues associated with implementing the existing regulations. The types of changes that are being considered, but may not necessarily be adopted, include: requirements to develop and implement nutrient management plans; requirements regarding land application of manure; requirements regarding treatment of manure, litter and wastewater to reduce manure constituent concentrations; installation of controls to contain animal waste; Best Management Practices; establishing numeric discharge limitations; additional sampling and monitoring, reporting and record keeping; and revising the regulatory scope.

Office of Prevention, Pesticides, and Toxic Substances Highlights

The Food Quality Protection Act (FQPA) overhauled U.S. pesticides laws, enhancing protections related to pesticide residues in food by requiring aggregate and cumulative risk assessments, with a special emphasis on children and infants. EPA currently has underway the Pesticide Tolerance Reassessment Program, a 10-year program to reevaluate the safety of all pesticide residues in food. Under this program, EPA has now completed reassessment of the first third of the pesticide residues in foods. In addition, the Agency is establishing an Endocrine Disruptor Screening and Testing Program based on the recommendations of the advisory committee established by EPA to consider human health and ecological effects; estrogenic, androgenic, anti-estrogenic, anti-androgenic, and thyroid effects of pesticides, industrial chemicals and drinking water contaminants.

The Chemical Right-to-Know Initiative, which was announced by the Vice President in April 1998, challenges industry and directs the Agency to establish programs and/or promulgate regulations that would provide baseline toxicity information for approximately 3,000 widely used commercial chemicals, additional health effects information for those chemicals to which children are disproportionately exposed; and the listing and lowering of the reporting threshold for persistent, bioaccumlative, toxic chemicals reported under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). This information will better enable

communities to understand the nature of toxic releases and potential risks at the local level, as well as decide local priorities.

With almost a million children under 5 with blood-lead levels exceeding the Center for Disease Control's level of concern (10 ug/dl), reducing the opportunities for childhood lead poisoning resulting from activities associated with lead-based paint activities continues to be a priority for the Agency. Elevated blood-lead levels can lead to reduced intelligence and neuro-behavioral problems in young children, and can cause other health problems in children and adults. EPA is working on a final regulation to replace the existing interim guidance that identifies lead-based paint, lead-contaminated dust, and lead-contaminated soil hazards. EPA is considering proposed approaches to address lead risks associated with renovation and remodeling activities. To help reduce the costs related to the abatement of lead-based paint hazards, EPA is working on final rules which would address the disposal of lead-based paint debris.

EPA expects to issue a final rule which would require EPA-approved Pesticide Management Plans (PMPs) for certain pesticides that have a high groundwater contamination potential. Through a PMP, a State or Tribe may commit to both EPA and the public that they will manage the use of a particular pesticide in a way that avoids unreasonable risks to groundwater that would otherwise warrant the cancellation of the use of that particular pesticide. The PMP program was developed in partnership with State and Tribal representatives.

Office of Solid Waste and Emergency Response Highlights

The Office of Solid Waste and Emergency Response (OSWER) is planning a number of actions to streamline and simplify compliance under the Resource Conservation and Recovery Act (RCRA), the Federal law governing hazardous waste management. As part of its effort to refocus hazardous waste regulation on high-risk wastes, EPA is undertaking a number of actions to tailor standards to the nature or degree of risk posed by particular wastes.

- EPA seeks to streamline the regulation of listed hazardous wastes. Certain regulations may be overly broad in that they apply regardless of the concentrations of chemicals within listed wastes. As a result, they regulate certain low-risk wastes (in particular, treatment residuals) as if they posed high risk. EPA plans to propose concentration-based exemptions that could grant relief to some of these lower risk wastes from the full management requirements designed for higher risk hazardous waste.
- The Agency is revising the RCRA Hazardous Waste Manifest system because of how much paperwork burden is associated with the manifest. Reduction in paperwork burden is part of the Administration's Regulatory Reinvention goal of cutting Government red tape. The Agency wants to standardize the manifest program across the states by introducing a truly uniform manifest tracking form that can be completed either manually or electronically. The chief goal of the manifest system is to facilitate the safe transportation of hazardous waste shipments to appropriate RCRA management facilities.
- The proposed rule on storage, treatment and disposal of mixed waste suggests regulatory flexibility in the management of mixed waste that is dually regulated by EPA and the Nuclear Regulatory Commission. The proposal will take comment on allowing low-level radioactive mixed wastes to be conditionally exempt from the definition of hazardous waste while it is subject to NRC regulations and providing certain conditions are met. When completed, it is expected to reduce worker exposures to radiation, costs, and regulatory requirements.
- Over the past few years, the Agency has worked with stakeholders from state agencies, industry, and the environmental community to develop recommendations to improve the Agency's permitting programs. These stakeholders concluded that permitting activities should be commensurate with the complexity of the activity and that permit programs should be flexible enough to allow streamlined procedures for routine permitting activities. The stakeholders recommended that regulations be developed to allow standardized permits for on-site storage and non-thermal treatment of hazardous waste in tanks, containers, and containment buildings. As a result of this recommendation, the Agency is proposing to revise the RCRA regulations to allow this type of permit.

Office of Administration and Resources Management Highlights

In 1995, EPA and the States agreed to develop and carry out the National Environmental Performance Partnership System (NEPPS) to: Promote joint planning and priority setting by EPA and the States; give States greater flexibility to direct resources where they need them most; foster use of integrated and innovative strategies for solving water, air, and waste problems; achieve a better balance in the use of environmental indicators and traditional activity measures for managing programs; and improve public understanding of environmental conditions and the strategies being used to address them.

EPA is announcing its intent to establish a new subpart governing Environmental Program Grants to States, Interstate, and Local Agencies (40 CFR 35, subpart A). The regulation includes rules applicable to the Performance Partnership Grant (PPG) program. Under the PPG program, eligible applicants can combine environmental program grants into a single grant in order to improve environmental performance, increase programmatic flexibility, and achieve administrative savings. The proposed rule was published in the **Federal Register** on July 23, 1999. The Agency anticipates that the regulation will be made final in December 1999.

Executive Order 13084 addresses the need for regular and meaningful consultation and collaboration with Indian Tribal governments in developing regulatory policies on federal matters affecting their communities. In accordance with this Executive Order, EPA is announcing its intent to publish a new subpart containing Tribal-specific provisions for environmental program grants and a new Tribal Performance Partnership Grant (PPG) program (40 CFR 35, subpart B). Under the PPG program, eligible Tribes and Intertribal Consortia can combine environmental program grants into a single grant in order to improve environmental performance, increase programmatic flexibility, achieve administrative savings, and strengthen the government-to-government partnership between Indian Tribes and EPA. The proposed rule was presented in the **Federal Register** on July 23, 1999. The Agency anticipates publishing the final regulation in February 2000.

In developing all of these actions, EPA is committed to flexible, cost-effective regulatory programs that offer increased protections for public health

and the environment. EPA welcomes suggestions from the public to help the Agency in this effort.

EPA

PRERULE STAGE

102. TRI; ADDITION OF OIL AND GAS EXPLORATION AND PRODUCTION TO THE TOXIC RELEASE INVENTORY

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 11013, EPCRA 313; 42 USC 11023; 42 USC 1108; 42 USC 11076

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover facilities whose primary economic activity was classified as manufacturing. This requirement was specified under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. The Environmental Protection Agency (EPA) has recently expanded this original list of covered industries. EPA began additional analyses to determine whether facilities which perform exploration and production of oil and gas should also be added to the list of facilities covered under EPCRA section 313. Facilities recently added include certain electric generating facilities, waste management facilities, metal and coal mining, hazardous waste treatment facilities, solvent recyclers, and wholesale distributors of chemicals and petroleum products.

Statement of Need:

The Emergency Planning and Community Right-To-Know Act (EPCRA) was passed to better plan for and prevent chemical accidents and emergencies and to provide the public with access to information regarding the release and disposition of toxic chemicals in their communities. The public access requirements of EPCRA originally covered facilities operating within the manufacturing sector. It has come to EPA's attention that industry groups not classified within the manufacturing sector also manage toxic chemicals and that information concerning their management practices is limited and generally not publicly available in the manner provided by EPCRA section 313. EPA believes that activities conducted by oil and gas exploration and production facilities involve toxic chemicals and may be associated with wastes that are managed for which limited information is publicly available. EPA believes that information related to the management of wastes associated with oil and gas exploration and production activities may significantly contribute to the public's knowledge of the release and disposition of toxic chemicals in the environment.

Summary of Legal Basis:

This requirement was specified under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. The statute as originally passed required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39 only. The Environmental Protection Agency (EPA) has recently expanded this original list of covered industries.

Alternatives:

Based on currently available information, existing sources of information are incomplete and do not satisfy the need of making publicly available information on the release and disposition of toxic chemicals in communities.

Anticipated Cost and Benefits:

Based on the current status of the project, anticipated costs are unknown. Estimated costs for compliance with EPCRA section 313 reporting requirements are available, but until further evaluation is completed no estimates are available for the impact of the resulting requirements. Equally true, until further evaluations are performed, estimated benefits cannot be accurately calculated. Generally, anticipated benefits will be in the form of making available more complete information regarding the release and disposition of toxic chemicals in the environment.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 4023

Program is implemented at the Federal level. States are designated as co-recipients of the information, but are not required to manage the information in any particular manner.

Sectors Affected:

211111 Crude Petroleum and Natural Gas Extraction

Agency Contact:

Tim Crawford
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-1715
Email: crawford.tim@epamail.epa.gov

Maria J. Doa
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-9592
Email: doa.maria@epa.mail.epa.gov

RIN: 2070–AD19

EPA

PROPOSED RULE STAGE

103. NAAQS: SULFUR DIOXIDE (RESPONSE TO REMAND)

Priority:

Economically Significant

Legal Authority:

42 USC 7409, CAA sec 109

CFR Citation:

40 CFR 50.4; 40 CFR 50.5

Legal Deadline:

Final, Judicial, December 31, 2000.

Abstract:

On November 15, 1994, the Environmental Protection Agency (EPA) proposed not to revise the existing 24-hour and annual primary standards. The EPA sought public comment on the need to adopt additional regulatory measures to address the health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposure.

On March 7, 1995, EPA proposed implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The notice stated that EPA would shortly propose a new implementation strategy to assist States in addressing short-term peaks of sulfur dioxide. The new implementation strategy - the Intervention Level Program - was proposed on January 2, 1997. In July 1996, the American Lung Association and the Environmental Defense Fund petitioned the U.S. Court of Appeals for the D.C. Circuit for a judicial review of EPA's decision not to establish a new 5-minute NAAQS. On January 30, 1998, the court found that EPA did not adequately explain its decision and remanded the case so EPA could explain its rationale more fully. EPA published a schedule for responding to the remand in the May 5, 1998 Federal Register. The schedule calls for a final response to the remand by December 2000. Any final action on the intervention level program would occur no sooner than December 2000.

Statement of Need:

Brief exposures to elevated concentrations of sulfur dioxide, while at exercise, may cause bronchoconstriction, sometimes accompanied by symptoms (coughing, wheezing, and shortness of breath), in mild to moderate asthmatic individuals. The existing sulfur dioxide National Ambient Air Quality Standard (NAAQS) provides substantial protection against short-term peak sulfur dioxide levels. At issue is whether additional measures are needed to further reduce the health risk to asthmatic individuals.

Summary of Legal Basis:

Title I of the Clean Air Act.

Alternatives:

The March 7, 1995, proposal notice sought public comment on three alternatives to further reduce the public health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposures. These included: (a) a new 5-minute NAAQS; (b) a new program under section 303 of the Act; and (c) a targeted monitoring program to ensure sources likely to cause or contribute to high 5-minute peaks are in attainment with the existing standard. The January 2, 1997, notice proposed an alternative program under section 303 of the Act that will assist States in addressing high 5-minute peaks.

Anticipated Cost and Benefits:

A draft regulatory impact analysis was completed and made available for public comment at the time of the January 2, 1997 proposal.

Risks:

Exposure analyses indicate from the national perspective that the likelihood of exposure to high 5-minute sulfur dioxide concentrations is very low. Asthmatic individuals in the vicinity of certain sources or source categories, however, may be at higher risk of exposure than the population as a whole.

Timetable:

Action	Date	FR Cite
NPRM NAAQS Review	11/15/94	59 FR 58958
NPRM NAAQS Implementation (Part 51)	03/07/95	60 FR 12492
Final Rule NAAQS Review	05/22/96	61 FR 25566
NPRM Revised NAAQS Implementation (Part 51)	01/02/97	62 FR 210
Notice Schedule for Response to NAAQS Remand	05/05/98	63 FR 24782
NPRM Response to NAAQS Remand	11/00/99	
Final Rule Response to NAAQS Remand	12/00/00	
Final Action NAAQS Implementation (Part 51)	01/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 1002

Agency Contact:

Susan Stone
Environmental Protection Agency
Air and Radiation
MD-15
Phone: 919 541-1146
Fax: 919 541-0237
Email: stone.susan@epa.gov

Gary Blais (Implementation)
Environmental Protection Agency
Air and Radiation
MD-15
Phone: 919 541-3223
Email: blais.gary@epa.gov

RIN: 2060–AA61

EPA

104. OPERATING PERMITS: REVISIONS (PART 70)

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7661 et seq

CFR Citation:

40 CFR 70; 40 CFR 51

Legal Deadline:

None

Abstract:

In response to litigation on the operating permits rule regulations, 40 CFR Part 70, to provide more effective

implementation of part 70, and to address comments provided in response to notices of proposed rulemaking, parts 70 and 51 are being revised. The changes streamline the procedures for revising stationary-source operating permits issued by State and local permitting authorities under title V of the Clean Air Act and eliminate public participation requirements for minor new source review actions with little or no environmental impact.

Statement of Need:

These revised rules will allow more streamlined procedures for revising operating permits. These revisions reflect the principles articulated in the President's and the Vice President's March 16, 1995 report Reinventing Environmental Regulation. That report established as goals for environmental regulation the building of partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibility to State and local programs.

Alternatives:

In response to concerns expressed in comments on the draft final rulemaking, the EPA discussed alternatives with representatives from State and local permitting authorities and industry and environmental groups, and desires public comment on some of the proposed alternatives. EPA will then consider public comments before promulgating a final rule.

Anticipated Cost and Benefits:

The administrative cost of implementing these proposed rules by permitting authorities, EPA, and permitted sources has not yet been estimated, but is expected to be lower than the cost of the current rule. Administrative costs include a range of costs which cover the source's preparing an application through EPA's and the permitting authority's effort to complete the process.

Risks:

All major sources of air pollution are required to have a permit to operate by the Clean Air Act. No adverse effect on the public health or ecosystems should result from this action, because the rule will require permit revisions with significant environmental impact to undergo public and EPA review.

Timetable:

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
Supplemental NPRM Part 71	04/27/95	60 FR 20804
Supplemental NPRM Part 70	08/31/95	60 FR 45530
NPRM Interim Approval Extension	07/27/98	63 FR 40053
Direct Final Interim Approval Extension	07/27/98	63 FR 40054
NPRM	02/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State

Additional Information:

SAN No. 3412

Agency Contact:

Ray Vogel
Environmental Protection Agency
Air and Radiation
MD-12
Research Triangle Park, NC 27711
Phone: 919 541-3153

RIN: 2060–AF70

EPA

105. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Priority:

Other Significant

Legal Authority:

Energy Policy Act sec 801

CFR Citation:

40 CFR 197

Legal Deadline:

NPRM, Statutory, August 1, 1996.

Abstract:

This rulemaking is in response to section 801 of the Energy Policy Act of 1992 which directs the Administrator to promulgate public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. The only regulated entity is the U.S. Department of Energy.

Statement of Need:

In 1985, the Agency issued generic standards for the management and disposal of spent nuclear fuel and high-level radioactive waste. The Nuclear Waste Policy Amendments Act of 1987 mandated the study of Yucca Mountain, Nevada to determine its suitability to be a repository for spent nuclear fuel and high-level radioactive waste. The Waste Isolation Pilot Plant Land Withdrawal Act of 1992 exempted Yucca Mountain from coverage under the 1985 generic standards. Concurrently, the Energy Policy Act of 1992 gave EPA the responsibility of setting site-specific, radiation-protection standards for Yucca Mountain.

Summary of Legal Basis:

The legal authority is derived from the Energy Policy Act of 1992.

Alternatives:

Since this action is legally mandated, there are no alternatives.

Anticipated Cost and Benefits:

Since the potential cost is dependent upon several factors whose determination has not yet been made, a precise assessment of the economic impact of the rulemaking is not possible at this time. Likewise, the benefits, i.e., the adverse effects averted (which are required to complete a cost-benefit analysis), cannot be determined in a meaningful manner at this time since the effect of these standards is to avert potential adverse health effects that may occur during very long periods into the future and are, therefore, quantifiable only with a high degree of uncertainty.

Risks:

The potential risks which would be allowed under these standards is dependent upon the level of protection and the regulatory time frame which is selected. Since the standards have not yet been proposed, it is not possible to estimate the potential risks.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Additional Information:

SAN No. 3568

Agency Contact:

Ray Clark
Environmental Protection Agency
Air and Radiation
6602J
Washington, DC 20460
Phone: 202 564-9198
Email: clark.ray@epamail.epa.gov

RIN: 2060–AG14

EPA

106. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

42 USC 7412

CFR Citation:

40 CFR 63

Legal Deadline:

Final, Statutory, November 15, 2000.

Abstract:

The Clean Air Act, as amended in 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). Industrial boilers and institutional/commercial boilers are among the potential source categories to be regulated under section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. EPA promulgated an NSPS for these source categories in 1987 and 1990. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in section 112 of the CAA.

Statement of Need:

Industrial boilers and institutional/commercial boilers are source categories listed to be regulated under Section 112 of the Clean Air Act.

Summary of Legal Basis:

Section 112 of the Clean Air Act.

Alternatives:

Alternatives will be explored as the proposal is developed. At this early stage, no alternatives have yet been identified.

Anticipated Cost and Benefits:

It is expected that this rule will result in significant costs to the affected industry, including costs for recordkeeping and reporting. These costs will be identified as the proposal is developed.

Risks:

The risks from this industry are expected to be those normally associated with combustion, such as exposure to particulate matter and sulfur oxides. These will be addressed as the proposal is developed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 3837

Agency Contact:

James Eddinger
Environmental Protection Agency
Air and Radiation
MD-13
Phone: 919 541-5426
Fax: 919 541-5450
Email: eddinger.jim@epa.gov

Amanda Aldridge
Environmental Protection Agency
Air and Radiation
MD-13
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

RIN: 2060–AG69

EPA

107. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 7408; 42 USC 7409

CFR Citation:

40 CFR 50

Legal Deadline:

Final, Statutory, July 1, 2002, Under the Clean Air Act - the next standards review is to be completed July 2002.

Abstract:

On July 18, 1997, the EPA published a final rule revising the national ambient air quality standards (NAAQS) for particulate matter (PM) (62 FR 38652). While retaining the PM10 standard levels, new standards were added for fine particles (PM2.5) to provide increased protection against both health and environmental effects of PM. On the same day, a Presidential Memorandum (62 FR 38421, July 16, 1997) was published that, among other things, directed EPA to complete the next review of the PM NAAQS by July 2002. The EPA's plans and schedule for the next periodic review of the PM NAAQS were published on October 23, 1997 (62 FR 55201). As with other NAAQS reviews, a rigorous assessment of relevant scientific information will be presented in a Criteria Document (CD), and the preparation of this document is currently under way by the EPA's National Center for Environmental Assessment. The EPA's Office of Air Quality Planning and Standards will also prepare a Staff Paper (SP) for the Administrator which will evaluate the policy implications of the key studies and scientific information contained in the CD and additional technical analyses and identify critical elements that EPA staff believe should be considered in reviewing the standards. The SP and CD will be reviewed by the Clean Air Scientific Advisory Committee (CASAC) and the public; both will reflect the input received through these reviews. As the PM NAAQS review is completed, the Administrator's proposal to revise or reaffirm the PM NAAQS will be published with a request for public comment. Input received during the public comment period will be reflected in the Administrator's final decision which will be published in July 2002.

Statement of Need:

As established in the Clean Air Act, the national ambient air quality standards for particulate matter are to be reviewed every five years.

Summary of Legal Basis:

Section 109 of the Clean Air Act (42 USC 7409) directs the Administrator to propose and promulgate "primary" and "secondary" national ambient air quality standards for pollutants identified under section 108 (the

"criteria" pollutants). The "primary" standards are established for the protection of public health, while "secondary" standards are to protect against public welfare or ecosystem effects.

Alternatives:

The main alternatives for the Administrator's decision on the review of the national ambient air quality standards for particulate matter are whether to reaffirm or revise the existing standards.

Anticipated Cost and Benefits:

Costs and benefits of revising or reaffirming the national ambient air quality standards for particulate matter cannot be determined at present; a regulatory impact analysis will be conducted along with the review of the standards.

Risks:

The current national ambient air quality standards for particulate matter are intended to protect against public health risks associated with morbidity or premature mortality from cardiopulmonary disease. During the course of this next review, a risk assessment will be conducted to evaluate health risks associated with alternative particulate matter standards.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	07/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 4255

Agency Contact:

Eric Ginsburg
Chief, Policy and Guidance Section
Environmental Protection Agency
Air and Radiation
MD-15
Research Triangle Park, NC 27711
Phone: 919 541-5274
Email: ginsburg.eric@epamail.epa.gov

Mary A. Ross
Environmental Protection Agency
Air and Radiation
MD-15
Research Triangle Park, NC 27711
Phone: 919 541-5170
Email: ross.mary@epamail.epa.gov

RIN: 2060–AI44

EPA

108. • TRANSPORTATION CONFORMITY AMENDMENTS: RESPONSE TO MARCH 2, 1999, COURT DECISION

Priority:

Other Significant

Legal Authority:

42 USC 7401-7671q

CFR Citation:

40 CFR 93

Legal Deadline:

None

Abstract:

The Clean Air Act requires EPA to promulgate rules that establish the criteria and procedures for determining whether highway and transit plans, programs, and projects conform to state air quality plans. "Conformity" means that the transportation actions will not cause or worsen violations of air quality standards or delay timely attainment of the standards. The original conformity rule was finalized on November 24, 1993, and most recently amended on August 15, 1997. On March 2, 1999, the U.S. Court of Appeals overturned certain provisions of the 1997 conformity amendments. This rulemaking will amend the conformity rule in compliance with the court decision. The rulemaking will formalize the May 14, 1999 EPA guidance and the June 18, 1999 DOT guidance that was issued to guide action on this issue until a rulemaking could be issued. Specifically, the rulemaking will clarify the types of projects that can be implemented in the absence of a conforming transportation plan. It will also explain EPA's process for reviewing newly submitted air quality plans and when those submissions can be used for conformity purposes.

Statement of Need:

The U.S. Court of Appeals remanded some provisions of EPA's conformity rule. The conformity rule must be amended in compliance with the court decision.

Summary of Legal Basis:

The Clean Air Act requires transportation plans, programs, and projects to conform to state air quality plans. The Clean Air Act also requires EPA to establish rules for how to determine the conformity of transportation actions.

Alternatives:

EPA's alternatives are constrained by the court decision.

Anticipated Cost and Benefits:

This amendment will not change the results of the economic analysis performed for the original transportation conformity rule, which was summarized in the preamble to that rule on 11/24/93 at 58 FR 62214.

Risks:

Transportation conformity is a process designed to help achieve attainment with the National Ambient Air Quality Standards. The risks addressed by the rule are therefore those risks associated with non-achievment of such standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 434

Agency Contact:

Kathryn Sargeant
Environmental Protection Agency
Air and Radiation
NFEVL
Ann Arbor, MI 48105
Phone: 734 214-4441
Email: sargeant.kathryn@epamail.epa.gov

RIN: 2060–AI56

VOL 64 ISS 224 NO 22 1999 UMI

EPA

109. • HEAVY-DUTY ENGINE EMISSION STANDARDS AND DIESEL FUEL SULFUR CONTROL REQUIREMENTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

Not Yet Determined

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This rulemaking sets new quality requirements for fuel used in diesel engines in order to bring about large environmental benefits through the enabling of a new generation of diesel emission control technologies. Improving the quality of diesel fuel will enable advanced technologies for diesel emission control. These advanced sulfur-sensitive technologies have the potential to reduce diesel engine NOx emissions by 75% and PM emissions by 80% or more. A key approach taken in developing the "Tier II" standards (Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards — see item number RIN 2060-AI23 in this Regulatory Plan) was "fuel -neutrality" — applying standards equally to diesel and gasoline vehicles powered vehicles. Reducing sulfur levels in on highway diesel fuel will help facilitate development of diesel powered vehicle that meet these standards. This rulemaking will also tighten heavy duty NOx and PM engine standards. Low sulfur diesel fuel is needed so that advanced technology for diesel engines will be available to meet new more stringent standards. There are also additional air quality benefits such as particulate matter and sulfate reductions associated with reducing sulfur levels in diesel fuel.

Statement of Need:

Ozone and particulate pollution pose a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. This rulemaking will address additional national control measures to reduce emissions, including emissions of nitrogen oxides, hydrocarbons, and particulate matter, from heavy-duty diesel engines, and will also require reduced sulfur levels in diesel fuel, in order to protect the public health and welfare.

Summary of Legal Basis:

42 USC 7521, 42 USC 7545

Alternatives:

Alternatives will be considered as the rulemaking proposal is developed.

Anticipated Cost and Benefits:

Costs and benefits will be assessed as the rulemaking proposal is developed.

Risks:

The risks addressed by this program are primarily those associated with nonattainment of the National Ambient Air Quality Standards for ozone and particulate matter. There are also serious public health and environmental problems associated with toxic air pollution, acid rain, reduced visibility, and nitrogen loading of estuaries.

Timetable:

Action	Date	FR Cite
ANPRM	06/16/99	64 FR 32209
NPRM	01/00/00	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Additional Information:

SAN No. 4355

This rule incorporates the work done on Control of Diesel Fuel Quality, RIN 2060-AI32, SAN 4268 which is listed as "Withdrawn" in the Completed section of this Agenda.

Agency Contact:

Paul Machele
Environmental Protection Agency
Air and Radiation
Ann Arbor, MI 48105
Phone: 734 214-4264
Fax: 734 214-4050
Email: machiele.paul@epa.gov

Don Kopinski
Environmental Protection Agency
Air and Radiation
Ann Arbor, MI 48105
Phone: 734 214-4229
Fax: 734 214-4781
Email: kopinski.don@epa.gov

RIN: 2060–AI69

EPA

110. TSCA INVENTORY UPDATE RULE AMENDMENTS

Priority:

Other Significant

Legal Authority:

15 USC 2607(a), TSCA 8(a)

CFR Citation:

40 CFR 710

Legal Deadline:

None

Abstract:

This action would amend the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) to require chemical manufacturers to report to EPA data on exposure-related information and the industrial and consumer end uses of chemicals they produce or import. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 3,000 facilities reported data on about 9,000 unique chemicals during the last reporting cycle under the IUR. Data obtained would be used by EPA and others to: better understand the potential for chemical exposures; screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs, and monitor the programs' progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. Additionally, EPA will consider other amendments to the IUR. These include removing the inorganic chemicals exemption; providing the information to better assess and manage risks of inorganic chemicals; improving the linkages of IUR data to other data sources to enhance the data's usefulness; and altering the confidential business information (CBI) claim procedures to reduce the frequency of CBI claims, allowing the public greater access to relevant information on toxic chemicals. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders, labor groups, State governments and other Federal agencies to ensure public involvement in the TSCA Inventory Update Rule Amendments Project.

Statement of Need:

There are more than 75,000 chemicals in commerce listed on the TSCA Inventory. EPA faces the challenge of sorting through these chemicals to identify the ones of most concern, then taking the appropriate steps to mitigate unreasonable risks of those chemicals. The current IUR collects some key data, such as production volume, used to identify the chemicals of most concern. However, other exposure-related information is essential to more accurately identify the chemicals with the greater risk potential. Information on how a chemical is manufactured, processed, and used is needed to determine possible exposure routes and scenarios of these chemicals. This action will propose to modify the inventory update process to collect the exposure-related data necessary for an effective TSCA Inventory Screening program; the information will be collected in a format that makes the information easy to use to screen thousands of chemicals. A national report will make data collected via the amended IUR publicly available. This report will not contain any information claimed to be confidential.

Summary of Legal Basis:

Toxic Substances Control Act (TSCA) Section 8.

Alternatives:

Although data on the use of specific chemicals can be found in varying sources, there is no national, comprehensive, current searchable database providing consistent information on a wide variety of chemicals. EPA has examined alternate sources of the information including state information, Federal databases and privately collected information. EPA can find no information comparable to the data anticipated to be collected through amendments to the IUR.

Anticipated Cost and Benefits:

EPA anticipates costs of this action to be well under $100 million for the first year of reporting. Total costs of this action depend on the amendments to IUR that are contained in a proposed rule. The amended IUR will assist EPA in screening chemicals in commerce and identifying those of highest concern; establishing priorities and goals for chemical assessment, risk management and prevention programs and to monitor their progress; identifying potentially safer substitute chemicals for uses of potential concern; and enhancing the effectiveness of chemical risk communication efforts.

Risks:

This action will secure data on describing how chemicals in commerce are used; this data is essential to determine possible exposure routes and scenarios. Using these exposure estimates, EPA's toxics program will be able to better focus on chemical risks of most concern.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

SAN No. 3301

Sectors Affected:

325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing

Agency Contact:

Susan Krueger
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7406
Washington, DC 20460
Phone: 202 260-1713
Email: krueger.susan@epa.gov

Robert Lee
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7406
Washington, DC 20460
Phone: 202 260-0676
Fax: 202 260-1661
Email: lee.robert@epa.gov

RIN: 2070–AC61

EPA

111. LEAD; OVERVIEW OF RULEMAKINGS UNDER TSCA SECTION 402, LEAD-BASED PAINT ACTIVITIES FOR THE REGULATORY PLAN

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

15 USC 2603, TSCA title IV

CFR Citation:

40 CFR 745

Legal Deadline:

Final, Statutory, April 28, 1994.

Other, Statutory, October 28, 1996, Section 402(c)(3).

Abstract:

The Residential Lead-Based Hazard Reduction Act of 1992 (Title X) amended TSCA by adding a new Title IV. TSCA section 402, Lead-Based Paint Activities Training and Certification directs EPA to promulgate a number of regulations intended to address the nation's need for a qualified and properly trained workforce to assist in the prevention, detection, and elimination of hazards associated with lead-based paint. EPA is required to promulgate (a) regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (section 402(a)); (b) a Model State Program which may be adopted by any State which seeks to administer and enforce a State Program for the requirements established under TSCA section 402 (section 404); (c) a rule addressing lead risks from renovation and remodeling activities or state why no regulation is necessary (section 402(c)(3)); and (d) a rule establishing a fee schedule for the lead-based paint training, certification, and accreditation activities addressed in the rules developed under TSCA section 402 (section 402(a)(3)). Additionally, in response to other Federal agencies and several States and advocacy groups who were concerned that the high costs of disposing of lead-based paint debris as a RCRA hazardous waste were discouraging residential lead abatements, EPA is using its authority under TSCA section 402(a) to address the disposal of lead-based paint debris that will result from the lead-based paint activities regulated under TSCA section 402. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations (i.e., Toxicity Characteristic Rule) applicable to lead-based paint debris which will be

subject to the new TSCA standards. These rules are listed separately in the Regulatory Agenda.

Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with almost a million young children having more than 10 ug/dl of lead in their blood, (Center for Disease Control's level of concern). Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses continues to be a significant source of childhood lead poisoning. These rules will help insure that individuals and firms conducting lead-based paint activities will do so in a way that safeguards the environment and protects the health of building occupants, especially children under 6 years old.

Summary of Legal Basis:

These regulations are mandated by TSCA section 402.

Alternatives:

Alternatives to each of the mandated activities will be analyzed.

Anticipated Cost and Benefits:

For the section 402(a)/404 (Residential) rule, the costs have been provided in the final economic impact analysis that was prepared in conjunction with the final rule. For the remainder of the section 402 rules, costs will be estimated in the draft economic impact analyses that will be prepared for the proposed rules. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to qualify.

Risks:

These rules are aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

Timetable:

Action	Date	FR Cite
NPRM Sections 402(a) and 404 (Residential)	09/02/94	59 FR 45872
Final Rule Sections 402(a) and 404 (Residential)	08/29/96	61 FR 45778
Interim Final Rule Section 404(g)	08/04/98	63 FR 41430
Direct Final Rule Sections 402(a)(3)/404(h)	09/02/98	63 FR 46668
NPRM Sections 402(a)(3)/404(h)	09/02/98	63 FR 46734
Direct Final Rule Withdrawn Sections 402(a)(3)/404(h)	10/16/98	63 FR 55547
NPRM Section 402(a) (Debris)	12/18/98	63 FR 70190
Final Rule Sections 402(a)(3)/404(h)	11/00/99	
NPRM Section 402(c) (Remodeling & Renovation)	07/00/00	
NPRM Section 402(a) (Buildings & Structures)	09/00/00	
Final Rule Section 402(a) (Debris)	12/00/00	
Final Rule Section 402(c) (Remodeling & Renovation)	08/00/01	
Final Rule Section 402(a) (Buildings & Structures)	10/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3243

Also covers SANs 3244, 3557, 3881, 4172, 3506.

Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (sections 402 and 404)(SAN 3244; RIN 2070-AC64); Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling (section 402(c)(3))(SAN 3557; RIN 2070-AC83); Lead Fee Rule for Lead-Based Paint Activities Training and Certification (section 402(a)(3)) (SAN 3881; RIN 2070-AD11); Lead-Based Paint: Notification of Commencement of Abatement Activities (section 404(h)) (SAN 4172; RIN 2070-AD31); Lead: TSCA Requirements for the Disposal of Lead-Based Paint Debris (section 402(a)) and Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris (RCRA sections 1006(b)(1) and 2002)(SAN 3508; RIN 2070-AC72).

Agency Contact:

Ellie Clark
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7404
Washington, DC 20460
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov

Mike Wilson
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7404
Washington, DC 20460
Phone: 202 260-4664
Email: wilson.mike@epa.gov

RIN: 2070–AD06

EPA

112. CHEMICAL RIGHT-TO-KNOW INITIATIVE

Priority:

Other Significant

Legal Authority:

15 USC 4, TSCA; 15 USC 8, TSCA; 7 USC 136, FIFRA; 42 USC 313

CFR Citation:

Not Yet Determined

Legal Deadline:

Final actions must be completed by December 31, 1999.

Abstract:

The Chemical RTK Initiative was announced by the Vice President on EPA's Earth Day 1998 in response to the finding that most commercial chemicals have very little, if any, publicly available toxicity information on which to make sound judgments about potential risks. There are three key components to this initiative, each of which is being implemented by EPA. These are: collecting and making public screening level toxicity data for 2,800 widely used commercial chemicals; additional health effects testing for chemicals to which children are substantially exposed; and the listing and lowering of thresholds for persistent, bioaccumulative, toxic chemicals reported to TRI. This Initiative will involve several separate activities, with any regulatory related actions included as separate entries in the Regulatory Agenda.

Statement of Need:

The Chemical Right to Know Initiative grew out of the finding of an EPA study

that there is very little basic publicly available information on the health and environmental effects of even the most widely used commercial chemicals. Less than 7% of the 2,800 high production volume chemicals have a full set of baseline testing information readily available, while almost 50% have no public information whatsoever. The Chemical Right to Know Initiative is designed to close these information gaps, and to make both new and existing information available to the public.

Summary of Legal Basis:

To the extent that rule-making is required to implement the chemical Right-to-Know Initiative, EPA will utilize the testing authorities available under TSCA and the chemical reporting authorities of EPCRA Section 313 (the Toxics Release Inventory).

Alternatives:

The Chemical Right-to-Know Initiative will rely on a combination of partnership programs and rule-writing to accomplish its goals. For instance, an HPV Challenge Program will ask industry to voluntarily provide both new and existing data on high production volume chemicals, while an HPV test rule would require testing of specific HPV chemicals of concern.

Anticipated Cost and Benefits:

The benefits of the Chemical Right-to-Know Initiative are substantial, as no one in the environmental community — whether in industry, government or the public — can make reasoned risk management decisions in the absence of reliable health and environmental information. The cost of baseline testing is well-established, and runs about $200,000 per chemical for a full set of tests, for those chemicals on which data do not already exist. More detailed testing, as envisioned for the Children's Health testing portion of this initiative, may be more expensive, but has not yet been costed out.

Risks:

None.

Timetable:

Action	Date	FR Cite
Initiative Completion	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 4176

This Initiative includes the following Regulatory Agenda activities: TRI's Reporting Threshold Rule (SAN 3880; RIN 2070-AD09); Test Rule; Multi-Chemicals Test Rule for High Production Volume Chemicals (SAN 3990; RIN 2070-AD16); Children's Health Test Rule (SAN 2865; RIN 2070-AC27).

Sectors Affected:

325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact:

Barbara Leczynski
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7405
Washington, DC 20460
Phone: 202 260-1864
Email: leczynski.barbara@epa.gov

Mary Dominiak
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7405
Washington, DC 20460
Phone: 202 260-7768
Fax: 202 260-1096
Email: dominiak.mary@epa.gov

RIN: 2070–AD25

EPA

113. HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905 RCRA sec 1006; 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921 RCRA sec 3001; 42 USC 6922 RCRA sec 3002; 42 USC 6926 RCRA sec 3006

CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

Legal Deadline:

Other, Judicial, October 31, 1999, Reproposal.

Final, Judicial, April 30, 2001.

Abstract:

EPA is proposing to amend its regulations governing solid wastes that are designated as hazardous, because they have been mixed with or derived-from listed hazardous wastes. Specifically, under this action, the Agency is proposing to retain the mixture and derived-from rules promulgated under the Resource Conservation and Recovery Act (RCRA). These rules are currently in effect on an emergency basis and this rulemaking action formally proposes their retention.

The Agency is also proposing two revisions to the mixture and derived-from rules. The first is an exemption for wastes and their residuals listed solely for the ignitability, corrosivity, and/or reactivity characteristics. The second, which EPA is proposing in a separate notice, is a conditional exemption from the mixture and derived from rules for "mixed wastes" (that is, wastes that are both hazardous and radioactive).

Because this action is deregulatory, it is not expected to have adverse impacts on small business. This action will be implemented by EPA and authorized States.

Statement of Need:

EPA has proposed to amend its regulations under RCRA for hazardous waste identification. The rule would retain and amend the mixture and derived-from rules. The mixture and derived-from rules ensure that hazardous wastes that are mixed with other wastes and their residuals from treatment, storage or disposal, do not escape regulation and thereby cause harm to human health and the environment.

The proposal also discusses an approach to establish exemption criteria, protective of human health and the environment, for low-risk listed hazardous waste, waste mixtures, and derivatives. Once finalized, this rule will reflect a balancing of the Agency's informational needs for oversight and enforcement with the practical resource considerations of the generator. This rule could reduce demand on Subtitle C landfill capacity, and promote pollution prevention, waste minimization, and development of innovative waste treatment technology.

This notice will also contain the Agency's response to a petition for rulemaking submitted by the Chemical Manufacturers Association in 1989.

Summary of Legal Basis:

This regulation will amend the mixture and derived-from rules, 40 CFR 261.3(a)(2)(iii) and (iv) and (c)(2)(i), and will create an exemption for low-risk waste. EPA is required to revise the mixture and derived-from rules under Public Law No. 102-389, 106 Stat. 1571. The mixture and derived-from rules and the exemption are exercises of EPA's authority under RCRA section 3001, 42 U.S.C. Section 6921.

Alternatives:

A variety of alternatives for establishing the exemption criteria and the implementation requirements were identified by a FACA committee co-chaired by EPA and the States. EPA is forging a strong partnership with the States in the interest of our co-regulator, co-implementor roles. The October 1999 notice discussed two options for a concentration-based exemption: a generic exit option and a contingent management option. Before these options could be finalized, EPA would formally propose the exemption, providing public notice and the opportunity to comment on the revised risk assessment and resulting exemption levels.

Anticipated Cost and Benefits:

EPA estimates that 236 applicable industrial hazardous wast streams, totaling 3.6 million tons in annual generation by an estimated 120 US facilities may be affected by proposed revions to the mixture and derived-from rules. As generated, these waste streams consist of 87% wastewaters and 13% non-wastewaters. After RCRA Subtitle C treatment (mainly incineration), the 236 wastestreams result in the annual disposal of about 57,400 tons of treatment residuals, primarily in the form of incineration ash. Total annual cost savings is estimated at $4.29 to $6.56 million per year.

Risks:

This rule would maintain current levels of risk protection.

Timetable:

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	12/21/95	60 FR 66344
NPRM Reproposal	11/00/99	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3328

Sectors Affected:

325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing

Agency Contact:

Tracy Atagi
Environmental Protection Agency
Solid Waste and Emergency Response
5304W
Washington, DC 20460
Phone: 703 308-8672
Fax: 703 308-0514
Email: atagi.tracy@epa.gov

Adam Klinger
Environmental Protection Agency
Solid Waste and Emergency Response
5304W
Washington, DC 20460
Phone: 703 308-3267

RIN: 2050–AE07

EPA

114. HAZARDOUS WASTE MANIFEST REGULATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6922, RCRA sec 3002; 42 USC 6923, RCRA sec 3003; 42 USC 6926, RCRA sec 3006; 42 USC 6924, RCRA sec 3004

CFR Citation:

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 270; 40 CFR 271

Legal Deadline:

None

Abstract:

The Uniform Hazardous Waste Manifest (Form 8700-22) is a multi-copy form used to identify the quantity, composition, origin, routing, and destination of hazardous waste during its transportation. The manifest system's reliance on paper results in significant paperwork and cost burden to waste handlers and States who collect manifest information. The Agency intends to pursue an optional approach to redesign the manifest system so that it utilizes automated technologies to increase access to manifest related information, and to facilitate the manifest process, including the form's preparation, transmission, and recordkeeping, thereby lessening the total burden on waste handlers and States. In addition, the Agency intends to standardize further the manifest form itself, by eliminating several optional data fields, and by specifying one format that may be used in all states.

Statement of Need:

The Agency is revising the RCRA manifest system because of the amount of paperwork burden associated with the manifest. Reduction in paperwork burden is part of the Administration's Regulatory Reinvention goal of cutting government red tape. The Agency wants to standardize the manifest program across the States by introducing a truly uniform manifest tracking form. The chief goal of the manifest system is to facilitate the safe transportation of offsite shipments of hazardous waste to appropriate RCRA management facilities. Furthermore, the manifest promotes accountability throughout the generation, transportation, and disposal cycle of a hazardous waste shipment; and the manifest also provides essential hazard information to handlers and emergency responders.

Summary of Legal Basis:

RCRA Section 3002(a)(5) authorizes EPA to issue regulations applicable to generators of hazardous waste regarding the use of a manifest system to describe waste, its origin, and its routing to ensure waste arrives at designated off-site facilities. RCRA Sections 3002 and 3004 authorizes EPA to issue

regulations applicable to transportors of hazardous waste and to treatment, storage, and disposal facilitites regarding compliance with the manifest system.

Alternatives:

The Agency has looked at three alternatives to revising the manifest system. The first alternative is to revise and standardize the manifest form itself. The second alternative is to introduce the option of automated technologies (electronic commerce) to reduce paperwork and make the manifest system more efficient. The third alternative is to develop alternative requirements for certain types of hazardous waste handlers which will reduce some of the paperwork burden. The Agency has chosen to combine the three alternatives into one cohesive package which will preserve the positive features of the current manifest system (maintaining the necessary controls to protect human health and the environment) and at the same time substantially reducing the burden on industry.

Anticipated Cost and Benefits:

The overall costs of this action should be minimal to the regulated industry since the new Federal manifest system should reduce the overall number of elements on the manifest form. Additionally, uniformity in data required across the U.S. will benefit the transportation industry by reducing the burden associated with obtaining various state requirements for wastes traveling through multiple states. Other hazardous waste handlers will benefit from having the option to use automation to complete, send, receive, and store manifest information. Some states may have to modify their data systems in response to this action. The Agency is currently conducting an analysis to determine the costs and benefits of the rule.

Risks:

This rule reduces the paperwork burden of the manifest on the public without reducing protectiveness of human health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3147

Sectors Affected:

2111 Oil and Gas Extraction; 2122 Metal Ore Mining; 2211 Electric Power Generation, Transmission and Distribution; 3221 Pulp, Paper, and Paperboard Mills; 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 482 Rail Transportation; 483 Water Transportation; 484 Truck Transportation; 5621 Waste Collection; 5622 Waste Treatment and Disposal

Agency Contact:

Ann Codrington
Environmental Protection Agency
Solid Waste and Emergency Response
5304W
Washington, DC 20460
Phone: 703 308-8825
Fax: 703 308-0514
Email: codrington.ann@epa.gov

Rich Lashier
Environmental Protection Agency
Solid Waste and Emergency Response
5304W
Washington, DC 20460
Phone: 703 308-8796
Fax: 703-308-0522
Email: lashier.rich@epamail.epa.gov

RIN: 2050–AE21

EPA

115. STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905; 42 USC 6912; 42 USC 6924; 42 USC 6925; 42 USC 6927; 42 USC 6939; 42 USC 6974

CFR Citation:

40 CFR 124; 40 CFR 267; 40 CFR 270

Legal Deadline:

None

Abstract:

This rulemaking will allow a type of general permit, called a standardized permit, for facilities that generate waste and routinely manage the waste on-site in tanks, containers, and containment buildings. Under the standardized permit, facility owners and operators would certify compliance with generic design and operating conditions set on a national basis. The permitting agency would review the certifications submitted by the facility owners or operators. The permitting agency would also be able to impose additional site-specific terms and conditions for corrective action or other purposes, as called for by RCRA. Ensuring compliance with the standardized permit's terms and conditions would occur during inspection of the facility after the permit has been issued.

Statement of Need:

The Agency convened a special task force in 1994 to look at permitting activities throughout its different programs and to make specific recommendations to improve these permitting programs. This task force, known as the Permits Improvement Team (PIT), spent two years working with stakeholders from the Agency, State permitting agencies, industry, and the environmental community. The PIT stakeholders mentioned, among other things, that permitting activities should be commensurate with the complexity of the activity. The stakeholders felt that current Agency permitting programs were not flexible enough to allow streamlined procedures for routine permitting activities.

Currently, facilities that store, treat, or dispose of hazardous waste must obtain site-specific "individual" permits prescribing conditions for each "unit" (e.g., tank, container area, etc.) in which hazardous waste is managed. Experience gained by the Agency and states over the past 15 years has shown that not all waste management activities are at the same level of complexity. Some activities, such as thermal treatment or land disposal of hazardous waste, are more complex than storage of hazardous waste. The Agency believes that thermal treatment and land disposal activities continue to warrant "individual" permits, prescribing unit-specific conditions. However, the Agency believes that some accommodation can be made for hazardous waste management practices

in standardized units such as tanks, container storage areas, and containment buildings. The Agency's Permit Improvement Team tentatively recommended, among other things, that regulations be developed to allow "standardized permits" for on-site storage and non-thermal treatment of hazardous waste in tanks, containers, and containment buildings. The Agency is proposing to revise the RCRA regulations to allow this type of permit.

Summary of Legal Basis:

Facilities that manage hazardous waste are required under RCRA to obtain a permit and carry out corrective action as necessary (see: RCRA Section 3004, 3005, 3008 and 3010). EPA has discretion under these statutory provisions to apply different permitting procedures to different types of facilities, as EPA is proposing to do here. No aspect of this streamlining action is required by court order.

Alternatives:

Several significant alternatives or options that have been considered concern the scope of the rule and corrective action alternatives. The scope of the proposed rule is expected to be limited to facilities that generate waste and manage it on-site. The Agency considered, however, and plans to ask for comment on, whether coverage of the rule should be expanded to facilities that generate waste at operations in more than one location and want to manage the waste at one location. The Agency also plans to ask for comment on the option of allowing a facility's RCRA corrective action activities to be postponed if corrective action is being carried out under an approved State remedial program.

Anticipated Cost and Benefits:

The following cost/benefit information is based on preliminary estimates and is being provided for informational purposes only; it is subject to change. The RCRA standardized permit proposal is an optional rule designed to streamline the regulatory burden to EPA/states as well as to private sector facilities covered by the rule, by reducing the amount of information collected, submitted and reviewed for permit actions (i.e. new permit applications, permit modifications, and permit renewals). Because the rule proposes to streamline existing RCRA regulation, rather than add new RCRA regulation, implementation of the rule by the EPA and by states with EPA-authorized permitting programs is expected to result in economic benefits in the form of national cost savings from reducing both government and private sector resources required for the RCRA permit process. Based on a preliminary economic analysis, the EPA estimates that the potential average annual cost savings to eligible facilities resulting from implementation of this rule, will range from approximately $1,000 to $4,600 per permit action, depending on such things as the type of permit and the type of storage equipment. The expected national cost savings benefit to the private sector for RCRA permitting is between $4.2 and $8.8 million annually. In addition, this rule is expected to produce an average annual cost savings benefit for streamlined EPA/state administrative review of $2.0 million, representing a total annual national cost savings benefit of $6.2 to $10.8 million. Potential cost savings benefits are incremental to the average annual cost associated with the current RCRA permitting program. Compared to the magnitude of potential benefits, the costs to EPA/states of implementing the standardized permit option are considered minimal, and therefore have not been estimated by the EPA.

Risks:

A description of risks is not applicable to the rule. The purpose of this rule is to streamline existing RCRA permit application and issuance procedures. Since facilities covered by this rule are currently already required to obtain RCRA permits, this rule will have minimal effects on incremental risk reduction.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 4028

Sectors Affected:

3251 Basic Chemical Manufacturing; 325211 Plastics Material and Resin Manufacturing; 32551 Paint and Coating Manufacturing; 3252 Resin, Synthetic Rubber, and Artificial and Synthetic Fibers and Filaments Manufacturing; 32411 Petroleum Refineries; 332813 Electroplating, Plating, Polishing, Anodizing and Coloring; 32532 Pesticide and Other Agricultural Chemical Manufacturing

Agency Contact:

Vernon Myers
Environmental Protection Agency
Solid Waste and Emergency Response
5303W
Washington, DC 20460
Phone: 703 308-8660
Fax: 703 308-8609
Email: myers.vernon@epa.gov

RIN: 2050–AE44

EPA

116. HAZARDOUS WASTE STORAGE AND DISPOSAL REGULATION RELATED TO LOW LEVEL MIXED WASTE; PROPOSED MODIFICATIONS

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6926

CFR Citation:

40 CFR 261.4; 40 CFR 262.34

Legal Deadline:

NPRM, Judicial, October 31, 1999.

Final, Judicial, April 30, 2001.

Abstract:

EPA is proposing a conditional exemption from the regulatory definition of RCRA hazardous waste for storage, treatment, and disposal of low-level mixed waste (LLMW) which is subject to Nuclear Regulatory Commission (NRC) or NRC Agreement State regulations and licensing provisions. Commercial mixed waste generators, particularly nuclear power plants, contend that dual regulation of mixed waste by EPA and NRC is duplicative, burdensome, and costly. EPA has determined that NRC-licensed storage of LLMW, or disposal of LLMW in low-level radioactive waste disposal facilities that we have evaluated, not only address radiological hazards, but will provide protection of human health and the environment with respect to chemical hazards. The exemption, when finalized, will provide regulatory flexibility for

generators of LLMW for storage, treatment or disposal based on compliance with the required conditions. The storage proposal, when finalized, would allow LLMW generators meeting specified conditions to claim an exemption for stored mixed waste while subject to NRC regulations and licensing provisions. Regulatory flexibility proposed for treatment would be limited to treatment that: is covered in the generator's NRC license; and takes place in a tank or container for the purpose of solidification, neutralization or other stabilization. For the purposes of disposal, EPA is proposing that LLMW, which meets land disposal restriction treatment standards, may be disposed at a low-level waste disposal facility licensed by NRC or its Agreement States if the generator complies with specified conditions. The proposal was signed by the Administrator on October 29, 1999.

Statement of Need:

The Proposed Rulemaking is needed due to: the lack of mixed waste treatment and disposal facilities nationwide; industry concerns regarding the potential for duplication under EPA and NRC regulatory requirements; and follow through on comments relating to mixed waste management received from industry on the Hazardous Waste Identification Rule proposal of December 1995, and the mixed waste storage guidance of August 1995.

Summary of Legal Basis:

The Proposed Rulemaking is required by the settlement agreement reached with the Edison Electric Institute, and other litigants and intervenors, in April 1997.

Alternatives:

EPA is considering a number of alternatives including: 1) use of LDR treatment standards for chemical constituents in conjunction with NRC disposal requirements for LLW; 2) applicability of HWIR exit concentration levels and associated requirements for chemical constituents; 3) a conditional exemption for stored mixed waste subject to NRC regulatory requirements; and 4) allowing decay-in-storage as provided by NRC for some mixed wastes to limit worker exposures to radionuclides.

Anticipated Cost and Benefits:

EPA anticipates that implementation of this rule will result in net cost savings of at least 1-3 million dollars annually; unquantified cost savings from administrative and permitting burdens could be much higher. In addition, EPA anticipates risk reductions from reduced exposure to radionuclides.

Risks:

The purpose of this rule is not risk reduction. The rule will maintain current level of protection as required by NRC for radionuclides under alternatives 1 and 3, and also provide protection for human health and the environment from chemical hazards. For alternative 2 the risk will be similar to HWIR risk benchmarks for carcinogens and non-carcinogens. For alternative 4, there would be a reduction in risk due to reduced exposure of workers to radionuclides mixed with hazardous wastes.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/99	64 FR 10063
NPRM	11/00/99	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 4017

SIC Codes: Nuclear Electric Power Generation (4911); Federal Facilities (9431) and (9511); Mixed Waste Treatment, Storage and Disposal Facilities (4953); Commercial Low Level Radioactive Waste Disposal Facilities (4953); Universities (8221); Medical Facilities (8071); Pharmaceutical Companies (2834); Research Laboratories (8731, 8734)

Agency Contact:

Nancy Hunt
Environmental Protection Agency
Solid Waste and Emergency Response
5303W
Washington, DC 20460
Phone: 703 308-8762
Fax: 703 308-8638
Email: hunt.nancy@epa.gov

Rajani Joglekar
Environmental Protection Agency
Solid Waste and Emergency Response
5304W
Washington, DC 20460
Phone: 703 308-8806
Fax: 703 308-0522
Email: joglekar.rajani@epa.gov

RIN: 2050–AE45

EPA

117. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments.

Legal Authority:

42 USC 300(f), SDWA sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Other, Statutory, February 6, 1999, Publish radon health risk reduction and cost analysis.

NPRM, Statutory, August 6, 1999.

Final, Statutory, August 6, 2000.

Abstract:

EPA is proposing new regulations for radon in drinking water which will provide states flexibility in how to manage the health risks from radon, in both drinking water and in indoor air. States would be able to focus their efforts on the highest radon risks to the public - in indoor air - while reducing the highest risks from radon in drinking water. Breathing indoor radon in homes is the primary public health risk from radon, contributing to about 20,000 lung cancer deaths each year in the United States, according to a landmark report this year by the National Academy of Sciences. That makes radon in indoor air the second leading cause of lung cancer in the United States. Based on a second NAS report, EPA estimates that radon in drinking water causes about 168 cancer deaths per year, of which about 89 percent are lung cancer from breathing radon released from water. The remaining 11 percent of the risk is for stomach cancer from drinking radon-containing water.

The unique framework for the proposed regulations, outlined in the 1996 Safe Drinking Water Act (SDWA), recognizes that the public health problem from radon in indoor air typically far exceeds the health risks from radon in drinking water and that targeting indoor radon exposures is the most cost-effective way for states to reduce radon health risks. The proposed new regulation will provide two options to states and water systems for reducing public health risks from radon. Under the first option, states can choose to

develop enhanced state programs to address the health risks from indoor radon while water systems reduce radon levels in drinking water to the higher, alternative maximum contaminant level (MCL) of 4,000 pCi/L (picoCuries per liter, a standard unit of radiation) or lower, ensuring protection from the highest risks from radon in drinking water. EPA is encouraging the states to adopt this approach as the most cost-effective way to achieve the greatest radon risk reduction. If a state does not elect this option, the second option would require water systems in that state to either reduce radon in drinking water levels to the MCL, or to develop a local indoor radon program and reduce levels in drinking water to 4000 pCi/L. Those systems initially at the MCL or lower will not need to treat their water for radon.

Statement of Need:

Radon in drinking water increases risk to public health, both from inhalation of radon discharged through normal water use, such as showering, and from ingestion of water.

Summary of Legal Basis:

Pursuant to the Safe Drinking Water Act, as amended in 1996 [sec. 1412 (b)(13)], EPA is required to: (1) Withdraw the 1991 proposed radon in drinking water rule; (2) Work with the National Academy of Sciences to conduct a risk assessment for radon in drinking water, and an assessment of the health risk reduction benefits associated with various mitigation methods of reducing radon in indoor air; (3) Publish a radon health risk reduction and cost analysis for possible radon Maximum Contaminant Levels (MCLs) for public comment, by February, 1999; (4) Propose a Maximum Contaminant Level Goal (MCLG) and National Primary Drinking Water Regulation (NPDWR) for radon by August, 1999; and (5) Publish an MCLG and Final NPDWR for radon by August, 2000.

In addition, if EPA promulgates an MCL more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Agency must establish an alternative MCL (AMCL). The AMCL is to be set at a level which would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If an alternative MCL is established, EPA must publish guidelines and criteria for States to develop multimedia radon mitigation programs. EPA shall approve State multimedia mitigation programs if they are expected to achieve equal or greater health risk reduction benefits than would be achieved through compliance with the MCL. If EPA approves a State multimedia mitigation program, public water supply systems within the State may comply with the AMCL. If a State does not have an approved multimedia mitigation program, any public water system may submit a program for approval by EPA according to the same criteria, conditions, and approval process that would apply to a State program. EPA shall evaluate multimedia mitigation programs every 5 years.

Alternatives:

EPA considered a range of MCL options for radon in drinking water in the Health Risk Reduction and Cost Analysis (HRRCA) (published in February 1999). The primary alternative is for a State or public water system to develop a multimedia mitigation program in order for it to comply with the AMCL. The National Academy of Sciences provided information on key factors (the water to air transfer factor and the national average outdoor radon level) that EPA will use in setting the AMCL.

Anticipated Cost and Benefits:

The total annual costs of compliance with the MCL of 300 pCi/l for radon in drinking water and the associated information collection and reporting requirements is estimated at $407 million. In complying with 300 pCi/l, an estimated 62.0 fatal and 0.2 non-fatal cancer cases are avoided each year. Because EPA expects that most States and systems will choose to comply with the alternative maximum contaminant level (AMCL) of 4,000 pCi/l and implement a Multi-Media Mitigation (MMM) program, EPA expects the total annual costs of compliance with the radon rule to be significantly less than $407 million. If most States and systems comply with the AMCL and implement a MMM program, the total annual costs of compliance are estimated at approximately $86 million. The quantifiable benefits of the health risk reduction are estimated to be $362 million for either implementation scenario. EPA expects compliance with the AMCL and implementation of a MMM program to achieve equal or greater risk reduction than is expected with strict compliance with the MCL.

Risks:

Radon is a naturally occurring volatile gas formed from the normal radioactive decay of uranium. It is colorless, odorless, tasteless, chemically inert, and radioactive. Exposure to radon and its progeny is believed to be associated with increased risks of several kinds of cancer. When radon or its progeny are inhaled, lung cancer accounts for most of the total incremental cancer risk. Ingestion of radon in water is suspected of being associated with increased risk of tumors of several internal organs, primarily the stomach. As required by the SDWA, as amended, EPA arranged for the National Academy of Sciences (NAS) to assess the health risks of radon in drinking water. The NAS released the pre-publication draft of a report on the Risks of Radon in Drinking Water, (NAS Report) in September 1998 and published the report in July 1999. The analysis in this RIA uses information from the 1999 NAS Report. The NAS Report represents a comprehensive assessment of scientific data gathered to date on radon in drinking water. The report, in general, confirms earlier EPA scientific conclusions and analyses of radon in drinking water.

NAS estimated individual lifetime unit fatal cancer risks associated with exposure to radon from domestic water use for ingestion and inhalation pathways. The results show that inhalation of radon progeny accounts for most (approximately 88 percent) of the individual risk associated with domestic water use, with almost all of the remainder (11 percent) resulting from directly ingesting radon in drinking water. Inhalation of radon progeny is associated primarily with increased risk of lung cancer, while ingestion exposure is associated primarily with elevated risk of stomach cancer.

The NAS Report confirmed that indoor air contamination arising from soil gas typically accounts for the bulk of total individual risk due to radon exposure. Usually, most radon gas enters indoor air by diffusion from soils through basement walls or foundation cracks or openings. Radon in domestic water generally contributes a small proportion of the total radon in indoor air. However, NAS recognized that radon in water is the largest source of cancer risk in drinking water compared to other regulated chemicals in water.

The NAS Report is one of the most important inputs used by EPA in its regulatory impact analysis. EPA has used the NAS's assessment of the

cancer risks from radon in drinking water to estimate both the health risks posed by existing levels of radon in drinking water and also the cancer deaths prevented by reducing radon levels.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
Notice	02/26/99	64 FR 9560
NPRM	11/02/99	64 FR 59245
Final Action	08/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2281

Agency Contact:

Sylvia Malm
Environmental Protection Agency
Water
4607
Phone: 202 260-0417
Email: malm.sylvia@epa.gov

RIN: 2040–AA94

EPA

118. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUND WATER RULE

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority:

42 USC 300(f), SDWA sec 1412

CFR Citation:

40 CFR 141; 40 CFR 142

Legal Deadline:

Final, Statutory, May 31, 2002.

Abstract:

The Safe Drinking Water Act as amended in 1996 directs EPA to promulgate regulations requiring disinfection as necessary for ground water systems. The intention is to develop a protective public health approach which assures a baseline of protection for all consumers of ground water and sets in place an increasingly targeted strategy to identify high risk or high priority systems that require greater scrutiny or further action. Development and implementation of the rule will involve local, tribal, State and Federal governments. The structure of the rule is a series of barriers to microbial contamination. The multiple-barrier approach relies upon four major components: 1) periodic onsite inspections of ground water systems requiring the evaluation of eight key areas and the identification of significant deficiencies; 2) source water monitoring for systems drawing from sensitive aquifers without treatment or with other indications of risk; 3) a requirement for correction of significant deficiencies; and 4) a requirement for treatment where contamination or significant deficiencies are not or cannot be corrected, and alternative sources of drinking water are not available. EPA believes that the combination of these elements strikes an appropriate regulatory balance which tailors the intensity or burden of protective measures and follow-up action to the risk being addressed.

Statement of Need:

Public water systems (PWSs) that use ground water as their sole source of water, as opposed to surface water PWSs are not subject to treatment technique requirements for the control of pathogens. There is data that indicates that a number of ground water PWSs are contaminated with microorganisms of fecal origin that can and have caused illness.

Summary of Legal Basis:

Section 1412(b)(1)(A) of the Safe Drinking Water Act (SDWA) requires EPA to establish National Primary Drinking Water Regulations for contaminants that may have an adverse public health effect and that present a meaningful opportunity for health risk reduction. This general provision is supplemented with an additional requirement under Section 1412(b)(8) that EPA also develop regulations specifying the use of disinfectants for ground water systems as necessary.

Alternatives:

Not available at this time.

Anticipated Cost and Benefits:

Not available at this time.

Risks:

Not available at this time.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2340

Statutory deadline for final: After August 6,1999 but before May 31, 2002.

Agency Contact:

Tracy Bone
Environmental Protection Agency
Water
4607
Washington, DC 20460
Phone: 202 260-2954

RIN: 2040–AA97

EPA

119. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority:

42 USC 300(f), SDWA sec 1412

CFR Citation:

40 CFR 141(Revision); 40 CFR 142 (Revision)

Legal Deadline:

NPRM, Statutory, January 1, 2000.

Final, Statutory, January 1, 2001.

Abstract:

The Safe Drinking Water Act (SDWA) Amendments of 1996 require EPA to develop and carry out a study plan to reduce the uncertainty in assessing health risks of low levels of arsenic. In addition, EPA must propose a revised drinking water regulation for arsenic by January 1, 2000, and issue a final rule by January 1, 2001. Currently the National Primary Drinking Water Regulation (NPDWR) for arsenic is 50 ppb, or 50 ug/L. The

VOL 64 ISS 224 NO 22 1999 UMI

. National Academy of Sciences issued a report in March 1999 that urged EPA to lower the drinking water standard, based on significantevidence that inorganic arsenic causes bladder, lung and skin cancer in humans. The report recommended additional studies to characterize heath effects at low doses for cancers, cardiovascular disease, diabetes, and reproductive effects. The SDWA directs EPA to establish an enforceable maximum contaminant level (MCL) as close to the health-based maximum contaminant level goal (MCLG) as feasible, considering treatment efficacy and costs, unless the benefits of a standard set at this level do not justify the costs, in which case EPA may set a less stringent standard. EPA must list affordable technologies or treatment techniques that achieve compliance with the MCL for three categories of small systems considering the quality of the source water. Furthermore, alternatives to central treatment, such as point-of-use and point-of-entry devices, can be considered for small systems that maintain control over operation and maintenance. At the time of proposal, EPA must seek comment on its analyses of the costs of compliance and health risk reduction benefits likely to occur as the result of treatment to comply with the proposed MCL and any alternatives being considered.

Statement of Need:

The U.S. Public Health Service first established a drinking water standard for arsenic at 50 Fg/L in 1942. The Safe Drinking Water Act of 1974 (SDWA) which amended the Public Health Service Act specified that EPA set drinking water standards. In 1975 EPA issued a National Interim Primary Drinking Water Regulation for arsenic at 50 Fg/L, noting no illness. After EPA's risk assessment approach calculated a much lower arsenic criteria to protect humans from skin cancer for surface water quality criteria under the Clean Water Act, the drinking water program retained its 50 Fg/L standard. EPA did not revise the standard as required by 1986 amendments to SDWA, based on the need to better characterize health effects and assess arsenic removal technologies. At that time, EPA's analysis estimated it would cost $2.1 billion a year to comply with a standard protective of health (skin cancer). The 1996 amendments to the Safe Drinking Water Act require EPA to determine whether the costs of regulation would justify the benefits, including consideration of nonquantifiable benefits. In addition, EPA must determine the incremental costs and benefits of alternatives considered that do not include what would occur from compliance with other proposed or final regulations. If the costs do not justify the benefits, the Administrator may choose to raise the MCL to a level still protective of health at which costs do justify the benefits. As noted in u17 above, the 1999 report issued by the National Academy of Sciences definitely implicated inorganic arsenic's effects on bladder, lung, and skin cancer althoaugh it was not able to determine the shape of the dose-response curve below 50 ppb. However, based on existing data, and in order to be adequately protective, EPA is urged to lower the drinking water standard as soon as possible.

Summary of Legal Basis:

1412(b)(12) CERTAIN CONTAMINANTS.

(A) ARSENIC.: i) SCHEDULE AND STANDARD.— notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

(ii) STUDY PLAN.— Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

(iii) COOPERATIVE AGREEMENTS.— In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State and local governments, and other interested public and private entities.

(iv) PROPOSED REGULATIONS.— The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

(v) FINAL REGULATIONS.— Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

(vi) AUTHORIZATION.— There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

Also see: 1412(b)(4)(E)(ii) for listing small system technologies; 1412(b)(4)(C) for requiring analysis of whether costs justify benefits; 1412(b)(3)(C)(i) for other requirements for the cost-benefit analyses; 1412(b)(15) for small system variance technologies, if, considering the source water, no treatment technology is listed.

Alternatives:

EPA is considering arsenic MCL options of 3, 5, 10, 15, and 20 Fg/L and performing costs and benefits analyses of each of these alternatives, measured as reducing drinking water arsenic from the current standard of 50 Fg/L. This analysis includes flexibility to allow additional technologies for small systems, as allowed by the 1996 amendments to the statute. In addition, depending on the option chosen, EPA may list some small system variance technologies that consider the quality of source water treated which may not reach the MCL but will be protective of health.

Anticipated Cost and Benefits:

Not yet available.

Risks:

According to the report issued by the National Academy of Sciences, the risk of male bladder cancer at the current standard is 1 to 1.5 additional cancers per thousand people, or 1-1.5x10-3, based on a default linear approach.

Timetable:

Action	Date	FR Cite
Plan Arsenic Study	12/24/96	61 FR 67800
NPRM	01/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 2807

Agency Contact:

Irene Dooley
Environmental Protection Agency
Water
4607
Washington, DC 20460
Phone: 202 260-9531
Fax: 202 260-3762
Email: dooley.irene@epa.gov

RIN: 2040–AB75

EPA

120. LONG TERM 1 ENHANCED SURFACE WATER TREATMENT/FILTER BACKWASH RULE

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments.

Legal Authority:

SDWA 1412(b)(2)(C); SDWA 1412(b)(14)

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, August 30, 2000, Filter Backwash Rule Provisions.

Final, Statutory, November 30, 2000, LT1 provisions.

Abstract:

The purposes of the Long Term 1 Filter Backwash rule (LT1FBR) are to: 1) improve control of microbial pathogens in drinking water, including Cryptosporidium, for PWSs serving fewer than 10,000 people; 2) prevent increases in microbial risk while PWSs serving fewer than 10,000 people control for disinfection byproducts, and; 3) require certain public water systems (PWSs) to institute changes to the return of recycle flows within the treatment process to reduce the effects of recycle on compromising microbial control. The rule responds to the statutory requirement to establish a Long Term Final Enhanced Surface Water Treatment Rule (LTESWTR) affecting PWSs that serve under 10,000 people. It also addresses the statutory requirement to promulgate a regulation which "governs" the recycle of filter backwash within the treatment process of public utilities.

The proposed LT1FBR will contain 5 key provisions for systems serving fewer than 10,000 people: 1) a 2-log Cryptosporidium removal requirement for systems practicing conventional or direct filtration; 2) strengthened combined filter effluent turbidity performance standards and new individual filter turbidity provisions; 3) disinfection benchmark provisions to assure continued microbial protection is provided while facilities take the necessary steps to comply with new disinfection byproduct standards (63 FR 69390, December 16, 1998); 4) inclusion of Cryptosporidium in the definition of ground water under the direct influence of surface water (GWUDI) and in the watershed control requirements for unfiltered public water systems; and 5) requirements for covers on new finished water reservoirs. The proposed LT1FBR will contain three key provisions for all systems: 1) a provision requiring recycle flows be introduced at the head of the plant; 2) a requirement for plants meeting criteria to perform a one-time self assessment of their recycle practice and consult with their primacy Agency to address and correct high risk recycle operations; and 3) a requirement for direct filtration plants to provide information to the State on their current recycle practice.

Statement of Need:

The National Academy of Sciences identified Cryptosporidium as one of the major threats to public Health. This resulted in the requirements for an Interim and Long Term Enhanced Surface Water Treatment Rule, as well as a governing the recycle of filter backwash in the 1996 Safe Drinking Water Act Amendments.

Summary of Legal Basis:

1412(b)(2)(C): "The Administrator shall promulgate in Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, A Stage I Disinfectants and Disinfection byproducts Rule in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information collection rule. If a delay occurs with respect to the promulgation of any rule in the schedule referred to in this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the schedule."

1412(b)(14): RECYCLING OF FILTER BACKWASH - "The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 unless such recycling has been addressed by the Administrator's Enhanced Surface Water Treatment Rule prior to such date."

Alternatives:

The Long Term 1 Enhanced Surface Water Treatment rule/Filter Backwash used the Interim Enhanced Surface Water Treatment rule (IESWTR) as a template to develop the turbidity and disinfection benchmarking requirements of the rule. The Agency has considered several alternatives in the development of these regulatory provisions. These alternatives include:

Turbidity: The Agency recognized that small system operators are often not present during the full hours of operation at a water treatment plant. The Agency is therefore proposing a monitoring scheme that requires less operator review and record keeping time than was required for the IESWTR.

Disinfection Benchmarking: Again, in an attempt to reduce operators data gathering and record keeping time, as well as reduce cost, the Agency is recommending provisions that will allow the operator to ensure that the plant is achieving satisfactory disinfection, while planning for the reduction in disinfection byproducts.

Filter Backwash: The Agency considered several more stringent alternatives when developing the filter backwash provisions. A lack of data associating the occurrence of Cryptosporidum in filter backwash water and finished water in plants which recycle backwash, has resulted in a recommendation of less restrictive provisions. The Agency considered requiring two types of treatment of filter backwash recycle, but has instead recommended monitoring and reporting of practices to the State.

Anticipated Cost and Benefits:

Costs and benefits still under development.

Risks:

Risk analysis still under development.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 4147

The Filter Backwash Recycling Regulations, previously listed separately in the Regulatory Agenda (RIN 2040-AD17) has been merged into this rule. It is listed as "completed" elsewhere in the Agenda.

Agency Contact:

Steve Potts
Environmental Protection Agency
Water
Washington, DC 20460
Phone: 202 260-5015
Fax: 202 410-6135
Email: potts.steve@epa.gov

Steve Potts
Environmental Protection Agency
Water
4607
Washington, DC 20460
Phone: 202 260-5015
Email: potts.steve@epa.gov

RIN: 2040–AD18

EPA

121. EFFLUENT GUIDELINES AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, SWINE AND POULTRY SUBCATEGORIES, AND NPDES REGULATION FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1311, CWA sec 301; 33 USC 1314, CWA sec 304; 33 USC 1316, CWA sec 306; 33 USC 1317, CWA sec 307; 33 USC 1318, CWA sec 308; 33 USC 1342, CWA sec 402; 33 USC 1361, CWA sec 501

CFR Citation:

40 CFR 412; 40 CFR 122.23

Legal Deadline:

NPRM, Judicial, December 31, 1999.

Final, Judicial, December 31, 2001.

Abstract:

Feedlot operations are covered by existing effluent guidelines at 40 CFR 412 and concentrated animal feeding operations (CAFOs) are covered by regulations at 40 CFR 122.23. This action will revise the existing regulations for two of the effluent guidelines subcategories to address swine and poultry operations and the NPDES regulation for concentrated animal feeding operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Swine and poultry operations have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and problem algae blooms.

Statement of Need:

Inputs of nutrients, most notably nitrogen and phosphorus, are essential for profitable crop and animal agriculture. However, nitrogen and phosphorus export in watershed runoff can accelerate the eutrophication of surface waters, nitrate leaching through the soil profile can contaminate groundwater aquifers, and ammonia volatilization and odors from manure storage and land application degrade air quality. The rapid growth and intensification of animal production in many areas has created regional imbalances in nutrient inputs from feed and fertilizer, and nutrient output in crops and animals. In many of these areas, nutrients produced in animal manures exceed crop needs and pose risks to the environment.

Summary of Legal Basis:

The Clean Water Act (CWA) requires EPA to establish effluent limitations guidelines and standards to regulate the quality of point source discharges. In addition, EPA is required to periodically review and revise, if appropriate, the existing effluent guidelines and standards and the existing implementing regulations for NPDES permits. EPA is also required to revisit these effluent guidelines to satisfy a provision in a Consent Decree entered in settlement of Natural Resources Defense Council et al v. Reilly, (D.D.C No. 89-2980).

Alternatives:

The CWA requires effluent guidelines to be established on a technology basis. Limitations are to be based on the performance of specific technology levels, such as the best available technology economically achievable. For animal feeding operations, EPA is considering a range of regulatory alternatives that includes management practices, traditional pollution control technologies, and alternative technologies/practices that recover the energy value or alter the handling/marketability characteristics of animal wastes. EPA is also considering whether alternative pollution control requirements should be established for smaller animal feeding operations, recognizing that circumstances at smaller operations may warrant special consideration.

Anticipated Cost and Benefits:

The types of benefits associated with revisions to effluent guidelines for animal feeding operations include improvements to surface water and groundwater. Reduced risks to human health are expected to result from these improvements in environmental quality. Surface water benefits will principally derive from reduced loadings of nutrients in runoff from animal confinement, manure storage, and land application areas. Discharges of metals and pathogens to surface waters will also be reduced. This reduction in pathogens will result in fewer beach and shellfish bed closings. Revisions to effluent guidelines will lessen the degree to which nitrate leaches through the soil and contaminates groundwater. The costs associated with this regulation will include capital expenses to purchase or install facility upgrades to the existing manure storage structures and feedlot stormwater diversions. There may be capital expenditures associated with manure application equipment.

Risks:

The changes under consideration for effluent guidelines will reduce adverse water quality impacts caused by runoff from animal feeding operations, thereby reducing risks to aquatic habitat and public health.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

No

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 4153

Sectors Affected:

11221 Hog and Pig Farming; 11232 Broilers and Other Meat Type Chicken Production; 11231 Chicken Egg Production; 112112 Cattle Feedlots; 11212 Dairy Cattle and Milk Production; 11241 Sheep Farming; 11233 Turkey Production; 11292 Horse and Other Equine Production; 11239 Other Poultry Production

Agency Contact:

Jan Goodwin
Environmental Protection Agency
Water
4303
Washington, DC 20460
Phone: 202 260-7152
Fax: 202 260-7185
Email: goodwin.janet@epa.gov

Shelley Fudge
Environmental Protection Agency
Water
4203
Washington, DC 20460
Phone: 202 260-8496
Fax: 202 260-1460
Email: fudge.shelley@epa.gov

RIN: 2040–AD19

EPA

122. EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, DAIRY AND BEEF CATTLE SUBCATEGORIES

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1311, CWA sec 301; 33 USC 1314, CWA sec 304; 33 USC 1316, CWA sec 306; 33 USC 1317, CWA sec 307; 33 USC 1318, CWA sec 308; 33 USC 1342, CWA sec 402; 33 USC 1361, CWA sec 501

CFR Citation:

40 CFR 412

Legal Deadline:

NPRM, Judicial, December 31, 2000.

Final, Judicial, December 31, 2002.

Abstract:

Feedlot operations are covered by existing effluent guidelines at 40 CFR 412. This new regulatory action will revise the existing regulations for two of the subcategories—dairy and beef cattle operations. The existing regulations, which require the largest confined animal feeding operations to achieve zero discharge of wastes to surface waters except for certain storm related discharges, have not been sufficient to resolve water quality impairment from feedlot operations. Beef and dairy cattle operations represent a large segment of the feedlot industry and have been identified as substantial contributors of nutrients in surface waters that have severe anoxia (low levels of dissolved oxygen) and affect drinking water sources in some regions of the country.

Statement of Need:

Inputs of nutrients, most notably nitrogen and phosphorus, are essential for profitable crop and animal agriculture. However, nitrogen and phosphorus export in watershed runoff can accelerate the eutrophication of surface waters, nitrate leaching through the soil profile can contaminate groundwater aquifers, and ammonia volatilization and odors from manure storage and land application degrade air quality. The rapid growth and intensification of animal production in many areas has created regional imbalances in nutrient inputs from feed and fertilizer, and nutrient output in crops and animals. In many of these areas, nutrients produced in animal manures exceed crop needs and pose risks to the environment.

Summary of Legal Basis:

The Clean Water Act (CWA) requires EPA to establish effluent limitations guidelines and standards to regulate the quality of point source discharges. In addition, EPA is required to periodically review and revise, if appropriate, the existing effluent guidelines and standards. EPA is also required to revisit these effluent guidelines to satisfy a provision in a Consent Decree entered in settlement of Natural Resources Defense Council et al v. Reilly, (D.D.C No. 89-2980).

Alternatives:

The CWA requires effluent guidelines to be established on a technology basis. Limitations are to be based on the performance of specific technology levels, such as the best available technology economically achievable. For animal feeding operations, EPA is considering a range of regulatory alternatives that includes management practices, traditional pollution control technologies, and alternative technologies/practices that recover the energy value or alter the handling/marketability characteristics of animal wastes. EPA is also considering whether alternative pollution control requirements should be established for smaller animal feeding operations, recognizing that circumstances at smaller operations may warrant special consideration.

Anticipated Cost and Benefits:

The types of benefits associated with revisions to effluent guidelines for animal feeding operations include improvements to surface water and groundwater. Reduced risks to human health are expected to result from these improvements in environmental quality. Surface water benefits will principally derive from reduced loadings of nutrients in runoff from animal confinement, manure storage, and land application areas. Discharges of metals and pathogens to surface waters should also be reduced. Revisions to effluent guidelines will lessen the degree to which nitrate leaches through the soil and contaminates groundwater. The costs associated with this regulation will include capital expenses to purchase or install facility upgrades to the existing manure storage structures and feedlot stormwater diversions. There may be capital expenditures associated with manure application equipment as well as operation & maintenance costs.

Risks:

The changes under consideration for effluent guidelines will reduce adverse water quality impacts caused by runoff from animal feeding operations, thereby reducing risks to aquatic habitat and public health.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Tribal, Federal

Additional Information:

SAN No. 4167

Sectors Affected:

112112 Cattle Feedlots; 11212 Dairy Cattle and Milk Production

Agency Contact:

Ron Jordan
Environmental Protection Agency
Water
4303
Washington, DC 20460
Phone: 202 260-7115
Email: jordan.ronald@epa.gov

RIN: 2040–AD21

EPA

FINAL RULE STAGE

---

123. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (STATE) GRANT REGULATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-134; PL 105-65

CFR Citation:

40 CFR 35

Legal Deadline:

None

Abstract:

This proposed regulation: (1) updates, clarifies, and streamlines requirements governing environmental program grants; (2) establishes requirements for the new Performance Partnership Grant (PPG) program; and (3) establishes requirements for grant programs that began after the original rule was published.

Statement of Need:

Since EPA was formed in 1970, State capacity and responsibility for implementing environmental and public health protection programs has grown steadily. Until 1996, State and Interstate agencies could receive EPA assistance in carrying out their environmental programs only through a variety of categorical environmental grants, such as grants for water pollution control, air pollution control, and hazardous substance control. Meanwhile, environmental problems and their solutions have grew more complex and solutions to these complex problems often crossed EPA program lines. In light of this complexity, State and EPA leaders recognized that continued environmental progress could be best achieved if EPA and States worked together more effectively as partners and environmental programs were made more flexible in terms of their coverage.

In response, EPA asked Congress for new authority that would provide that needed flexibility. In 1996, Congress authorized the award of Performance Partnership Grants (PPGs), in which State and interstate agencies can choose to combine two or more environmental program grants.

This proposed rule will implement the PPG program which promotes State-EPA collaboration; provides opportunities for innovation; and reduces paperwork. EPA expects the rule will foster joint planning and priority-setting by explicitly requiring that State priorities and needs be considered, along with national and Regional guidance, in negotiating grant work plans, consistent with the National Environmental Performance Partnership System (NEPPS). Under this rule, a State can choose to organize its grant work plans in accord with environmental goals and objectives or in other new ways rather than using categories pre-defined by EPA. The length of a grant budget period will be negotiable. These opportunities afforded by the PPG program and this rule are available to all States.

This rule accommodates all potential variations in how EPA and individual States work to build partnerships. The rule is also minimizes duplicative effort by allowing for multiple uses of information or processes wherever appropriate. The regulation advances ongoing efforts to build more effective State-EPA partnerships and to improve environmental conditions by providing States with increased flexibility to direct resources where they are needed most to address environmental and public health needs.

Summary of Legal Basis:

Not required by law or court order.

Alternatives:

EPA can continue to award PPGs under guidance prepared by the agency and announced in the Federal Register.

Anticipated Cost and Benefits:

The rule does not result in any new costs. It is expected to allow cost and administrative savings for States by reducing the amount of grant paperwork and by simplifying accounting requirements that do not require the recipient to account for expenditures in accordance with their original funding sources. With PPGs, recipients can negotiate work plans with EPA that direct Federal funds where the recipients need them most to address environmental and public health problems. Recipients can also try new multi-media approaches and initiatives, such as children's health protection programs, multi-media inspections, compliance assistance programs, and ecosystem management, that were difficult to fund under traditional categorical grants.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 63731
Final Action	02/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Federal

Additional Information:

SAN No. 3736

Agency Contact:

Scott McMoran
Environmental Protection Agency
Administration and Resource Management
3903R
Washington, DC 20460
Phone: 202 564-5376

RIN: 2030–AA55

EPA

124. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (TRIBAL) GRANT RULE

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

PL 104-134; PL 105-65

CFR Citation:

40 CFR 35

Legal Deadline:

None

Abstract:

This proposed regulation will: (1) update, clarify, and streamline requirements governing environmental program grants; (2) establish requirements for the new Performance Partnership Grant (PPG) program; and (3) establish requirements for grant programs that were developed after the original rule was published. (EPA is also issuing a regulation governing environmental program grants to State and Interstate agencies.)

Statement of Need:

This regulation provides a Tribal-specific Subpart which is intended to be easy to use; optimizes the administration of Tribal assistance programs through increased flexibility; and removes procedural impediments to effective environmental programs for Indian Tribes.

Since EPA was formed in 1970, tribal capacity and responsibility for implementing environmental and public health protection programs has grown steadily. Until 1996, Tribes and Intertribal Consortia could receive EPA assistance in carrying out their environmental programs only through a variety of categorical environmental grants, such as grants for water pollution control, air pollution control, and safe drinking water. During that time, environmental problems and their solutions grew more complex and solutions to those complex problems often crossed EPA program lines. In light of this complexity, Tribal and EPA leaders recognized that continued environmental progress could be best achieved if EPA and the Tribes worked together more effectively as partners and environmental programs were made more flexible in terms of their coverage.

In response, EPA asked Congress for new authority that would provide that needed flexibility. In 1996, Congress authorized the award of Performance Partnership Grants (PPGs), in which Tribes and Intertribal Consortia can choose to combine two or more environmental program grants.

This proposed rule will implement the PPG program which promotes Tribal-EPA collaboration; provides opportunities for innovation; and reduces paperwork. EPA expects the rule will foster joint planning and priority-setting by explicitly requiring that Tribal priorities and needs be considered, along with national and Regional guidance, in negotiating grant work plans, consistent with the National Environmental Performance Partnership System (NEPPS). Under this rule, a Tribe can choose to organize its grant work plans in accord with environmental goals and objectives or in other new ways rather than using categories pre-defined by EPA. The length of a grant budget period will be negotiable. These opportunities afforded by the PPG program and this rule are available to all Tribes which receive grants under more than one EPA environmental program.

This rule accommodates all potential variations in how EPA and individual Tribes work to build partnerships. The rule is also minimizes duplicative effort by allowing for multiple uses of information or processes wherever appropriate. The regulation advances ongoing efforts to build more effective Tribal-EPA partnerships and to improve environmental conditions by providing Tribes with increased flexibility to direct resources where they are needed most to address environmental and public health needs.

Summary of Legal Basis:

Not required by law or court order.

Alternatives:

EPA can continue to award PPGs under guidance prepared by the agency and announced in the Federal Register.

Anticipated Cost and Benefits:

The rule does not result in any new costs. It is expected to achieve cost and administrative savings for Tribes by reducing the amount of grant paperwork and by simplifying accounting requirements that do not require the recipient to account for expenditures in accordance with their original funding sources. With PPGs, recipients can negotiate work plans with EPA that direct Federal funds where the recipients need them most to address environmental and public health problems. Recipients can also try new multi-media approaches and initiatives, such as children's health protection programs, multi-media inspections, compliance assistance programs, and ecosystem management, that were difficult to fund under traditional categorical grants.

Risks:

There are no known risks.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 63732
Final Action	02/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions, Organizations

Government Levels Affected:

Tribal, Federal

Additional Information:

SAN No. 4128

Agency Contact:

Michelle McClendon
Environmental Protection Agency
Administration and Resource Management
3903R
Washington, DC 20460
Phone: 202 564-5357
Fax: 202 565-2470
Email: mcclendon.michelle@epa.gov

RIN: 2030–AA56

EPA

125. NEW SOURCE REVIEW (NSR) REFORM

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

CAA as amended, title I

CFR Citation:

40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

Legal Deadline:

None

Abstract:

This action is to revise the CAA new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking will deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action seeks to more clearly define the appropriate roles and requirements of sources, permitting authorities and Federal land managers and EPA in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the NSR regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meets their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to NSR applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24).

Statement of Need:

In August 1992, EPA voluntarily initiated a comprehensive effort to reform the NSR process. This effort was initiated to examine complaints from the regulated community that the current regulatory scheme is too complex, needlessly delays projects, and unduly restricts source flexibility. Currently there are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. The goal of this effort is to address industry's concerns without sacrificing the environmental benefits embodied in the present approach; that is, protecting and improving local air quality, and stimulating pollution prevention and advances in control technologies.

In July 1993, the New Source Review (NSR) Reform Subcommittee of the Clean Air Act Advisory Committee was formed. The Subcommittee's purpose is to provide independent advice and counsel to EPA on policy and technical issues associated with reforming the NSR rules. The Subcommittee was composed of representatives from industry, State/local air pollution control agencies, environmental organizations, EPA headquarters and regions, and other Federal agencies (National Park Service and Forest Service, Department of Energy, and the Office of Management and Budget).

Summary of Legal Basis:

There are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. However, the rule will address three outstanding settlement agreements: CMA Exhibit B, Top-down BACT, and the applicability test for modifications at utilities ("WEPCO").

Alternatives:

The Subcommittee discussed numerous options for implementing NSR reform. However, EPA's primary focus has been to consider the specific recommendations developed by the Subcommittee and, where appropriate, use them in this rulemaking effort. In January 1996, EPA, as part of another regulatory streamlining measure, merged portions of a separate rulemaking to implement the 1990 CAA Amendments with the Reform effort. The combined package was proposed in the Federal Register on July 23, 1996. On July 24, 1998, EPA issued another Federal Register Notice seeking comment on two applicability provisions. On February 2-3, 1999, EPA convened a public meeting to listen to new stakeholder proposals for streamlining NSR applicability and control technology requirements. Stakeholder groups submitted written proposals during May and June 1999. Discussions on these proposals will conclude by October 1999.

Anticipated Cost and Benefits:

From a cost perspective, the proposed rulemaking represents a decrease in applications and recordkeeping costs to industry of at least $13 million per year, as compared to the preexisting program, based primarily on the fact that fewer sources will need to apply for major source permits. In addition, the cost to State and local agencies will be reduced by approximately $1.4 million per year. The Federal Government should realize a savings of approximately $116,000 per year. Additional cost reductions, which are difficult to quantify, will be realized due to the streamlining effect of the rulemaking on the permitting process, for example, the opportunity costs for shorter time periods between permit application and project completion and reduced uncertainty in planning for future source growth.

Risks:

This is a procedural rule applicable to a wide variety of source categories. Moreover, it applies to criteria pollutants for which NAAQS have been established. This action is considered environmentally neutral. However, any potential risks are considered in the NAAQS rulemaking from a national perspective.

Timetable:

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38249
Final Action	05/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 325

Agency Contact:

Dennis Crumpler
Environmental Protection Agency
Air and Radiation
MD-12
Research Triangle Park, NC 27711
Phone: 919 541-0871
Email: crumpler.dennis@epa.gov

RIN: 2060–AE11

VOL 64 ISS 224 NO 22 1999 UMI

EPA

126. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER) (PHASE 2)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

42 USC 7547, CAA sec 213

CFR Citation:

40 CFR 90

Legal Deadline:

None

Abstract:

This action will establish the second phase of emissions standards for new nonroad spark-ignition engines at or below 19 kilowatts (25 horsepower), as required by section 213(a)(3) of the Clean Air Act, as amended. The Environmental Protection Agency (EPA) had been developing the second phase of small-engine regulations through a negotiated rulemaking, with representation by engine manufacturers, equipment manufacturers, emissions control manufacturers, equipment dealers, environment and public health interests, and State air programs. The negotiations came to an end on February 16, 1996 with no consensus reached. EPA will now develop the rulemaking through other means.

The affected engines are used in lawn, garden, and utility equipment, such as lawnmowers, string trimmers, chain saws, and small pumps and generators. The first phase was established July 3, 1995 (60 FR 34582), effective for the 1997 model year, and was very similar to the tier 1 small-engine regulations developed by California for the same engines. Regulated pollutants are hydrocarbons, carbon monoxide, and oxides of nitrogen.

Statement of Need:

Nonroad engines contribute significantly to total ozone precursor and CO emissions in areas that have failed to attain the National ambient air quality standards (NAAQS) for ozone and CO. Requirements for emissions reductions will help many areas achieve the NAAQS. The second phase will include additional controls not achievable in the time frame of the first phase, which are necessary for continued attainment of NAAQS.

Summary of Legal Basis:

Clean Air Act Section 213.

Alternatives:

Regulation of this category of engines was split into two phases on the recommendation of the regulated industry, in order to obtain some early reductions quickly while providing sufficient lead-time to develop and implement an appropriate second phase. The regulatory negotiation committee was convened for the second phase to ensure that all possible options for achieving appropriate emissions reductions from this sector were considered.

Anticipated Cost and Benefits:

The regulatory negotiation committee is developing the rule, including setting of emissions standards levels, based on a cost/benefit analysis that considers cost per ton of emissions reduced as well as cost per engine. Until that process is complete, the specific costs and benefits are unknown. The benefits of phase 1 were a 32 percent reduction in hydrocarbons and a 7 percent reduction in carbon monoxide from these engines, at a cost of $266 per ton of hydrocarbons reduced.

Risks:

Over 89 million small engines contribute to unhealthy ozone and carbon monoxide levels in nearly 100 cities across the country. An estimated 6.8 million tons of air pollution are generated from lawn and garden equipment each year. Carbon monoxide is an odorless, colorless poisonous gas. Hydrocarbons and oxides of nitrogen contribute to the formation of ground-level ozone, which is a noxious pollutant that impairs lung functioning and is a key ingredient in smog.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/97	62 FR 14740
NPRM Non-hand-held engines	01/27/98	63 FR 3950
NPRM Hand-held engines	01/27/98	63 FR 3950
Final Action Non-hand-held engines	03/30/99	64 FR 15207
Final Action Hand-held engines	03/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Additional Information:

SAN No. 3361

Agency Contact:

Betsy McCabe
Environmental Protection Agency
Air and Radiation
NFEVL
Ann Arbor, MI 48105
Phone: 734 241-4344

RIN: 2060–AE29

EPA

127. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

Clean Air Act, title I

CFR Citation:

40 CFR 50; 40 CFR 51; 40 CFR 52; 40 CFR 81

Legal Deadline:

None

Abstract:

On July 18, 1997, EPA issued new, updated air quality standards for ozone (62 FR 38856) and particulate matter (PM) (62 FR 38652). Pursuant to President Clinton's implementation strategy as outlined in a July 16, 1997 memorandum to EPA Administrator Carol Browner, EPA had been developing guidance and rules for sensibly and cost-effectively meeting the new standards. For ozone, the implementation plan will emphasize a regional, State-sponsored approach that addresses the long-distance transport of ozone. On October 27, 1998, EPA published a final rule (sometimes referred to as the NOx SIP Call) to require broad regional emissions reductions of NOx gases which contribute to the formation of ozone (63 FR 57356, October 27, 1998). On November 17, 1998, EPA made available for comment proposed implementation guidance on implementing the revised ozone and PM NAAQS and regional haze program. On May 14, 1999, however, the U.S. Court of Appeals for the D.C. Circuit issued an opinion concerning the

revised ozone and particulate matter NAAQS (American Trucking Assoc., Inc. et al. v. USEPA, No. 97-1440 (May 14, 1999)) in which the Court stated, among other things, that the revised 8-hour ozone standard "cannot be enforced." The Court also vacated the revised PM10 NAAQS and remanded the PM2.5 NAAQS. On June 28, 1999, EPA requested a rehearing of the case before the Court on three issues, including enforcement of the 8-hour standard. Until the appeals process is exhausted, EPA does not intend to issue final guidance for implementation of the standards affected by the Court's decision. In final rules promulgated on June 5, 1998 (63 FR 31013), July 22, 1998 (63 FR 39432), and June 9, 1999 (64 FR 30911), EPA identified areas that have air quality meeting the 1-hour ozone standard and revoked that standard for those areas.

Statement of Need:

Development of programs for ozone and PM are necessary to implement any revised NAAQS under title 1 of the Clean Air Act.

Summary of Legal Basis:

Title I of the Clean Air Act.

Alternatives:

This entry comprises the set of actions the Agency plans to take to implement the new ozone and fine particulate standards. The major alternative facing the Agency was whether to implement the standards strictly on a state-by-state basis, as has been the norm in the past, or to take Federal action to address the fact that emissions from one State affect the ability of other States to achieve the standards. The Agency chose the latter course, embodied in the NOx Regional Strategy described above. The other major set of alternatives involved various possible strategies for infrastructure design, such as the designations of nonattainment areas and the requirements that will apply to them. The major issues in this area were settled by the July 1997 issuance of a Presidential Directive setting out a flexible implementation policy, the elements of which are summarized in the abstract above.

Anticipated Cost and Benefits:

EPA prepared a regulatory impact analysis (RIA) for the final ozone and PM NAAQS, as well as the regional haze reduction program.

Risks:

The risks addressed by this implementation plan are those of not attaining the National Ambient Air Quality Standards for Ozone and Particulate Matter.

Timetable:

Action	Date	FR Cite
ANPRM	12/13/96	61 FR 65764
Notice Proposed Policy	12/13/96	61 FR 65752
NPRM Regional Haze	07/31/97	62 FR 41138
Notice Review Schedule for PM2.5 Standard	10/23/97	62 FR 55201
NPRM NOx Regional Strategy SIP Call	11/07/97	62 FR 60318
Supplemental NPRM NOx SIP Call Supplemental NPRM	05/11/98	63 FR 25902
Final Rule Areas meeting 1-hour ozone standard	06/05/98	63 FR 31013
Final Rule Additional areas meeting 1-hour ozone standard	07/22/98	63 FR 39432
Final Rule NOx Regional Strategy SIP Call	10/27/98	63 FR 57356
Draft Guidance Implementation Planning	11/17/98	63 FR 65593
Final Rule Regional Haze	07/01/99	64 FR 35713
Final Guidance	To Be	Determined

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Local, Tribal

Additional Information:

SAN No. 3553

Agency Contact:

Denise Gerth
Environmental Protection Agency
Air and Radiation
MD-15
Research Triangle Park, NC 27711
Phone: 919 541-5550
Email: gerth.denise@epa.gov

John Silvasi
Environmental Protection Agency
Air and Radiation
MD-15
Research Triangle Park, NC 27711
Phone: 919 541-5666
Email: silvasi.john@epa.gov

RIN: 2060–AF34

EPA

128. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 7401 et seq

CFR Citation:

40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline:

None

Abstract:

Over the past 25 years, EPA has issued a series of national air regulations, many of which affect the same facility. Some facilities are now subject to five or six national rules, sometimes affecting the same emission points. Each rule has emission control requirements as well as monitoring, recordkeeping, and reporting requirements.

These requirements may be duplicative or overlapping.

All existing Federal air rules applicable to an industry sector will be reviewed to determine whether their provisions can be consolidated into a single new rule. Affected industries, State agencies, and other stakeholders will be consulted to identify duplicative provisions. The chemical industry and State representatives have agreed to work on a pilot project with EPA's air programs to explore this approach. If the approach is successful with the chemical industry, it may be expanded to air rules for other industry sectors.

Statement of Need:

Both industry and regulatory agencies have expressed a great desire to streamline and simplify rules. This rule streamlines and simplifies by consolidating and collapsing the numerous Federal rules that apply to the chemical industry, with resulting improved compliances.

Summary of Legal Basis:

Clean Air Act Section 111, 112.

Alternatives:

The main alternative is to do nothing and let the many rules with their many provisions remain the only compliance mechanism.

Anticipated Cost and Benefits:

This rule will result in considerable savings to the affected industry. There is significant burden reduction associated with recordkeeping and reporting. The rule will be easier to follow and understand. There will be no change in applicability of the rules being consolidated.

Risks:

This rulemaking deals with consolidated reporting to simplify existing rules. The risks addressed by each of these existing rules were addressed in those individual rulemakings.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57748
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3748

Agency Contact:

Rick Colyer
Environmental Protection Agency
Air and Radiation
MD-13
Phone: 919 541-5262
Fax: 919 541-3470
Email: colyer.rick@epa.gov

RIN: 2060–AG28

EPA

129. TIER II LIGHT-DUTY VEHICLE AND LIGHT-DUTY TRUCK EMISSION STANDARDS AND GASOLINE SULFUR STANDARDS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104–4.

Legal Authority:

42 USC 7521; 42 USC 7545

CFR Citation:

40 CFR 86 (Revision); 40 CFR 80

Legal Deadline:

None

Abstract:

EPA is mandated by the Clean Air Act Amendments of 1990 to study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required through lowering tailpipe emissions standards. EPA submitted a report to Congress on July 31, 1998. The report provided evidence that there was a need for further reductions in emissions and that cost-effective technology is available to meet more stringent standards. This rulemaking will propose the next generation of emission standards for light-duty vehicles and light-duty trucks. The primary focus of this action will be reducing emissions of nitrogen oxides and non-methane hydrocarbons, pollutants which contribute to ozone pollution. Highway vehicles are significant contributors to ozone pollution, though tighter standards will also have additional air quality benefits. The light-duty vehicle and light-duty truck standards cannot go into effect before the 2004 model year, as per Clean Air Act requirements. The rulemaking will also propose limitations on the sulfur content of gasoline available nationwide. Sulfur in gasoline has a detrimental impact on catalyst performance and could be a limiting factor in the introduction of advanced technologies on motor vehicles.

Statement of Need:

Ozone pollution poses a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. This rulemaking will address additional national control measures to reduce emissions, including emissions of nitrogen oxides and hydrocarbons, from new motor vehicles, and sulfur levels in gasoline in order to protect the public health and welfare.

Summary of Legal Basis:

New motor vehicle controls, effective no earlier than model year 2004, are authorized under section 202 of the Clean Air Act. Controls on gasoline sulfur levels are authorized under Clean Air Act Section 211.

Alternatives:

EPA considered various alternatives for control levels, gasoline sulfur levels, and timing of the rule. These are discussed in the proposed rule, published on May 13, 1999 in the Federal Register at 64 FR 26003.

Anticipated Cost and Benefits:

The benefits of the rule are the emission reductions described below. The cost estimates presented in the proposed rule are an average cost increase of less than $100 per passenger car, less than $200 per light truck, and an increase of less than 2 cents per gallon of gasoline.

Risks:

The risks addressed by this program are primarily those associated with nonattainment of the National Ambient Air Quality Standards for ozone. This rule will help States achieve the emission reductions needed to achieve these standards. The proposed rule projected a reduction in oxides of nitrogen emissions of nearly 800,000 tons per year by 2007 and 1,200,000 by 2010. Emission reductions would continue increasing for many years, reaching almost 2,200,000 tons per year in 2020. In addition, the proposed program would reduce the contribution of vehicles to other serious public health and environmental problems, including particulate matter pollution, regional visibility problems, toxic air pollution, acid rain, and nitrogen loading of estuaries.

Timetable:

Action	Date	FR Cite
NPRM	05/13/99	64 FR 26004
Supplemental NPRM	06/30/99	64 FR 26053
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 4211

Agency Contact:

Tad Wysor
Environmental Protection Agency
Air and Radiation
Ann Arbor, MI 48105
Phone: 734 214-4332
Email: wysor.tad@epa.gov

RIN: 2060–AI23

EPA

130. GROUND WATER AND PESTICIDE MANAGEMENT PLAN

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments.

Legal Authority:

7 USC 136(a), FIFRA sec 3; 7 USC 136(w)

CFR Citation:

40 CFR 152.170

Legal Deadline:

None

Abstract:

This regulation would establish Pesticide Management Plans (PMPs) as a new regulatory requirement for certain pesticides. Unless a State or tribal authority has an EPA-approved Plan specifying risk-reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and modification of plans by States and tribal authorities.

Statement of Need:

EPA proposed to make specific pesticides subject to the provisions of EPA-approved Pesticide Management Plans (PMPs) because of their strong ground-water contamination potential. The rule will establish PMPs as an other regulatory restriction and define the minimum requirements and procedures for developing, approving and managing PMPs. Upon promulgation of this rule, the labels of the designated pesticides will be changed to require use in conformance with EPA-approved PMPs, and to prohibit sale and use in States or Indian Country without such approved Plans (after a period allowed for development and EPA review of these Plans). A PMP is a State's or tribe's commitment to EPA and the public to manage the use of a certain pesticide in such a way as to avoid unreasonable risks to ground water that would otherwise warrant cancellation of the use. An approved plan will embody a combination of educational, scientific, and regulatory tools to fulfill the State's ground-water protection goals, developed through a process of public participation. A plan will include a process for disseminating this information to pesticide users and marketers, and for monitoring the effectiveness of the plan through the development of appropriate indicators of environmental improvement and/or protection.

Summary of Legal Basis:

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) generally requires EPA to regulate pesticide use in such a manner as to prevent unreasonable risks to human health and the environment. Specifically, 7 USC 136a authorizes EPA to prescribe by regulation "other regulatory restrictions" for pesticides that may generally cause unreasonable risks to the environment (such as those that are associated with ground-water contamination potential) without those restrictions.

Alternatives:

This Rule is a direct outgrowth of the Pesticides and Ground Water Strategy, published in October 1991 (after extensive consultation with States, localities, and other affected stakeholders). In publishing the Strategy EPA conducted an analysis of three different alternatives to the regulation of pesticides' ground-water risks. One option was to rely exclusively on orthodox national-level pesticide regulatory tools (tantamount to a "baseline"), which would entail tolerating or remediating a certain level of ground-water contamination. At the other extreme, outright cancellation of candidate pesticides with significant ground-water contamination potential was considered to provide full assurance that no further ground water contamination would occur (taking into account the high economic losses due to the removal of the pesticide from the market). The analysis concluded that a "partnership" approach, providing a mechanism for more tailored management of pesticide use (i.e., taking into account the prevailing influence of highly variable hydrologic "sensitivity" factors), would be simultaneously a more effective and least costly alternative.

Anticipated Cost and Benefits:

EPA anticipates four categories of costs entailed in requiring PMPs. Federal Program Costs are those of administering ground-water protection activities, such as the review of State or Tribal proposals. State Program Costs entail both capital and annual costs. Registrant and user impacts are the economic losses ascribed to the reduced use of the classified pesticides, as well as the costs (to the registrants) of complying with Federal, State and Tribal provisions. Benefits accrue from the reduced levels of pesticide residues in ground water, and a corresponding reduction in: 1) human and ecological risk (see below); and 2) threats to the economic and intrinsic values of the ground-water resource. Enormous uncertainties attend the quantification of these benefits, however.

Risks:

The pesticides under consideration are those most frequently detected (sometimes at concentrations exceeding health-based reference points) of currently-registered Pesticides, and display physical and chemical characteristics associated with a ground-water contamination potential. The level of potential contamination (and related risk to both human health and the environment) represent a potential unreasonable risk to the environment in the absence of local management measures. State management measures are expected to avert these risks substantially. Because the Food Quality Protection Act (FQPA) requires that EPA consider drinking water as part of dietary exposure, the Agency is analyzing implications for this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33259
Final Action	02/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

Federal, Tribal, State, Local

Additional Information:

SAN No. 3222

Sectors Affected:

9241 Administration of Environmental Quality Programs

Agency C

Arthur-Jea
Environme
Office of P
Substances
7506C
Washingto
Phone: 703
Email: wil

Jean Frane
Environme
Office of P
Substances
7506C
Washingto
Phone: 703
Fax: 703 3
Email: fran

RIN: 2070

EPA

131. LEAD IDENTIFIC LEVELS C

Priority:

Economic

Legal Aut

15 USC 26

CFR Citat

40 CFR 74

Legal Dea

NPRM, Ju

Final, Jud

Abstract:

The Resid
Hazard Re
amended
IV. TSCA
promulgat
lead-based
contamina
contamina
TSCA Titl
Title X. El
guidance
provide pu
makers wi
and priori
hazards fo
guidance,
published
9/11/95),
EPA's offi
TSCA sect

Statement

Childhood
pervasive
with almo
having mo

Agency Contact:

Arthur-Jean B. Williams
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7506C
Washington, DC 20460
Phone: 703 305-5239
Email: williams.arty@epa.gov

Jean Frane
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7506C
Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

RIN: 2070–AC46

EPA

131. LEAD; TSCA SECTION 403; IDENTIFICATION OF DANGEROUS LEVELS OF LEAD

Priority:

Economically Significant

Legal Authority:

15 USC 2683

CFR Citation:

40 CFR 745

Legal Deadline:

NPRM, Judicial, May 26, 1998.

Final, Judicial, December 22, 2000.

Abstract:

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) amended TSCA by adding a new Title IV. TSCA section 403 requires EPA to promulgate regulations that identify lead-based paint hazards, lead-contaminated dust and lead-contaminated soil for the purposes of TSCA Title IV as well as for the entire Title X. EPA developed an interim guidance document in July 1994, to provide public and private decision-makers with guidance on identifying and prioritizing lead-based paint hazards for control. This interim guidance, which was subsequently published in 1995 (60 FR 47248, 9/11/95), will continue to serve as EPA's official policy until the final TSCA section 403 rule is promulgated.

Statement of Need:

Childhood lead poisoning is a pervasive problem in the United States, with almost a million young children having more than 10 ug/dl of lead in their blood, (Center for Disease Control's level of concern). Elevated blood-lead levels can lead to reduced intelligence and neurobehavioral problems in young children, as well as causing other adverse health effects in children and adults. Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint, gasoline, and food sources, remaining paint in older houses remains the significant source of childhood lead poisoning. This regulation is a focal point of the Federal lead program and supports the implementation of regulations already promulgated (e.g., lead hazard disclosure in real estate transactions) as well as others under development (e.g., renovation and remodeling). By supporting the implementation of the national lead program, this rule would help prevent lead poisoning in children under the age of six.

Summary of Legal Basis:

This action is mandated by TSCA section 403.

Alternatives:

Alternatives were discussed in the proposed rule. Alternatives will be further considered as part of the proposed rule's comment review.

Anticipated Cost and Benefits:

Although this action doesn't require any action, the costs associated with the establishment of these levels were estimated in a draft economic impact analysis that was prepared for the proposed rule. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to quantify. During its review of the NPRM under EO 12866, OMB attributed the potential impact of all of the lead regulations to this rule and determined that this action should be classified as economically significant.

Risks:

This rule is aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

Timetable:

Action	Date	FR Cite
NPRM	06/03/98	63 FR 30301
Notice Comment Period Extended to 10/01/98	07/22/98	63 FR 39262
Notice Comment Period Extended to 11/30/98	10/01/98	63 FR 52662
NPRM Correction	12/18/98	63 FR 70087
Notice Reopens Comment Period to 03/01/99	01/14/99	64 FR 2460
Final Action	12/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3243

Agency Contact:

Ellie Clark
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7404
Washington, DC 20460
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov

Jonathan Jacobson
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7404
Washington, DC 20460
Phone: 202 260-3779
Email: jacobson.jonathan@epa.gov

RIN: 2070–AC63

EPA

132. TRI; REPORTING THRESHOLD AMENDMENT FOR CERTAIN PERSISTENT AND BIOACCUMULATIVE TOXIC CHEMICALS (PBTS)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority:

42 USC 11013, EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The Toxics Release Inventory (TRI) currently requires reporting from

facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 lbs of a listed chemical. These thresholds were initially established under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to establish a threshold amount for a toxic chemical different from the amount established by paragraph (1) and that such altered thresholds may be based on classes of chemicals. EPA is considering lowering the thresholds for those chemicals which it determines to be highly toxic at very low dose levels and/or have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, and/or bioaccumulate through the food chain. Persistent bioaccumulative toxic chemicals are of particular concern in ecosystems such as the Great Lakes Basin due to the long retention time of the individual lakes and the cycling of the chemicals from one component of the ecosystem to another.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet because of the current reporting thresholds, TRI does not collect release and transfer data on small quantities of chemicals that may persist and bioaccumulate in the environment. Even small releases of such chemicals can have significant impacts on human health and the environment. Congress gave EPA the authority to adjust reporting thresholds, because it recognized that this might be necessary in order to address the American publics right to know what is happening to the environment near their homes, schools, and businesses.

Summary of Legal Basis:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA sec 313

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

Anticipated Cost and Benefits:

EPA has proposed to lower the EPCRA section 313 reporting thresholds to 10 pounds for 13 chemicals/chemical categories, to 100 pounds for 5 chemicals, and to .01 grams for 1 chemical category. Under this proposal the estimated aggregate industry cost in the first year would be $145 million and in subsequent years would be $80 million. The information reported in TRI increases the knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Currently communities do not have access to TRI data on chemicals that, although released in relatively small quantities, pose a potential risk to human health and the environment because they persist and bioaccumulate. By lowering the reporting thresholds for such chemicals the public will be able to determine if such chemicals are being released into their communities and whether any action should be taken to reduce potential risks.

Timetable:

Action	Date	FR Cite
NPRM	01/05/99	64 FR 688
Notice of Availability and Clarification of Proposed Rule	02/23/99	64 FR 8766
Final Action	10/29/99	64 FR 58370

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3880

OTHER DEADLINE: Vice-President directed the Agency to finalize any necessary regulatory changes by December 1999.

AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Sectors Affected:

42269 Other Chemical and Allied Products Wholesalers

Agency Contact:

Daniel R. Bushman
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-3882
Email: bushman.daniel@epa.gov

Maria Doa
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

RIN: 2070–AD09

EPA

133. TRI; LOWERING OF EPCRA SECTION 313 REPORTING THRESHOLDS FOR LEAD AND LEAD COMPOUNDS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 11001 et seq

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The Toxics Release Inventory (TRI) currently requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 pounds of a listed chemical. These thresholds were initially established under the Emergency Planning and community Right-To-Know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to establish a threshold amount for a toxic chemical different from the amount established by paragraph (1), and that such altered thresholds may be based on classes of chemicals. EPA is considering lowering the thresholds for certain persistent bioaccumulative toxic (PBT) chemicals and has issued a proposed rule that sets out the criteria EPA intends to use for determining if a chemical is persistent and bioaccumulative under EPCRA section 313. EPA is currently conducting analysis to determine if lead and lead compounds meet the proposed criteria for persistence and bioaccumulation and whether the EPCRA section 313 reporting thresholds should be lowered. EPA is also evaluating the environmental fate of lead.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program. Yet because of the current reporting thresholds, TRI does not collect release and transfer data on small quantities of lead and lead compounds that may persist and bioaccumulate in the environment. Even small releases of lead and lead compounds can have significant impacts on human health and the environment. Congress gave EPA the authority to adjust reporting thresholds, because it recognized that this might be necessary in order to address the American public's right to know what is happening to the environment near their homes, schools, and businesses.

Summary of Legal Basis:

42 USC 11023(f)(2); 42 USC 11048; EPCRA sec 313; EPCRA sec 328.

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

Anticipated Cost and Benefits:

EPA has proposed to lower the EPCRA section 313 reporting thresholds for Lead and Lead Compounds to 10 pounds. Under this proposal the estimated aggregate industry cost in the first year would be $116 million and in subsequent years would be $60 million. The information reported in TRI increases the knowledge levels of lead and lead compounds released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Currently communities do not have access to TRI data on lead and lead compounds that, although released in relatively small quantities, pose a potential risk to human health and the environment because they persist and bioaccumulate. By lowering the reporting thresholds for lead and lead compounds the public will be able to determine if these chemicals are being released into their communities and whether any action should be taken to reduce potential risks.

Timetable:

Action	Date	FR Cite
NPRM	08/03/99	64 FR 42222
Comment Extension to 12/16/1999	10/29/99	64 FR 58370
Final Action	04/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 4259

By Statute and Regulation, this rule will affect SIC codes 20-39, 10 (except SIC codes 1011, 1081, 1094), 12 (except SIC code 1241), 4911, 4931, 4939, 4953, 5169, 5171, and 7389.

Agency Contact:

Daniel R. Bushman
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-3882
Fax: 202 401-8142
Email: bushman.daniel@epa.gov

Maria Doa
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

RIN: 2070–AD38

EPA

134. NPDES COMPREHENSIVE STORM WATER PHASE II REGULATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority:

33 USC 1311, CWA sec 301; 33 USC 1314, CWA sec 304; 33 USC 1318, CWA sec 308; 33 USC 1342, CWA sec 402; 33 USC 1361, CWA sec 501

CFR Citation:

40 CFR 122; 40 CFR 123

Legal Deadline:

Final, Statutory, October 1, 1993.

NPRM, Judicial, December 15, 1997.

Final, Judicial, October 29, 1999.

Abstract:

The Phase II NPDES storm water regulations expand the existing national program to storm water discharges from small municipal separate storm sewer systems (MS4s) and construction sites

facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 lbs of a listed chemical. These thresholds were initially established under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to establish a threshold amount for a toxic chemical different from the amount established by paragraph (1) and that such altered thresholds may be based on classes of chemicals. EPA is considering lowering the thresholds for those chemicals which it determines to be highly toxic at very low dose levels and/or have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, and/or bioaccumulate through the food chain. Persistent bioaccumulative toxic chemicals are of particular concern in ecosystems such as the Great Lakes Basin due to the long retention time of the individual lakes and the cycling of the chemicals from one component of the ecosystem to another.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet because of the current reporting thresholds, TRI does not collect release and transfer data on small quantities of chemicals that may persist and bioaccumulate in the environment. Even small releases of such chemicals can have significant impacts on human health and the environment. Congress gave EPA the authority to adjust reporting thresholds, because it recognized that this might be necessary in order to address the American publics right to know what is happening to the environment near their homes, schools, and businesses.

Summary of Legal Basis:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA sec 313

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

Anticipated Cost and Benefits:

EPA has proposed to lower the EPCRA section 313 reporting thresholds to 10 pounds for 13 chemicals/chemical categories, to 100 pounds for 5 chemicals, and to .01 grams for 1 chemical category. Under this proposal the estimated aggregate industry cost in the first year would be $145 million and in subsequent years would be $80 million. The information reported in TRI increases the knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Currently communities do not have access to TRI data on chemicals that, although released in relatively small quantities, pose a potential risk to human health and the environment because they persist and bioaccumulate. By lowering the reporting thresholds for such chemicals the public will be able to determine if such chemicals are being released into their communities and whether any action should be taken to reduce potential risks.

Timetable:

Action	Date	FR Cite
NPRM	01/05/99	64 FR 688
Notice of Availability and Clarification of Proposed Rule	02/23/99	64 FR 8766
Final Action	10/29/99	64 FR 58370

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 3880

OTHER DEADLINE: Vice-President directed the Agency to finalize any necessary regulatory changes by December 1999.

AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Sectors Affected:

42269 Other Chemical and Allied Products Wholesalers

Agency Contact:

Daniel R. Bushman
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-3882
Email: bushman.daniel@epa.gov

Maria Doa
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

RIN: 2070–AD09

EPA

133. TRI; LOWERING OF EPCRA SECTION 313 REPORTING THRESHOLDS FOR LEAD AND LEAD COMPOUNDS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 11001 et seq

CFR Citation:

40 CFR 372

Legal Deadline:

None

Abstract:

The Toxics Release Inventory (TRI) currently requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 pounds of a listed chemical. These thresholds were initially established under the Emergency Planning and community Right-To-Know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to establish a threshold amount for a toxic chemical different from the amount established by paragraph (1), and that such altered thresholds may be based on classes of chemicals. EPA is considering lowering the thresholds for certain persistent bioaccumulative toxic (PBT) chemicals and has issued a proposed rule that sets out the criteria EPA intends to use for determining if a chemical is persistent and bioaccumulative under EPCRA section 313. EPA is currently conducting analysis to determine if lead and lead compounds meet the proposed criteria for persistence and bioaccumulation and whether the EPCRA section 313 reporting thresholds should be lowered. EPA is also evaluating the environmental fate of lead.

Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program. Yet because of the current reporting thresholds, TRI does not collect release and transfer data on small quantities of lead and lead compounds that may persist and bioaccumulate in the environment. Even small releases of lead and lead compounds can have significant impacts on human health and the environment. Congress gave EPA the authority to adjust reporting thresholds, because it recognized that this might be necessary in order to address the American public's right to know what is happening to the environment near their homes, schools, and businesses.

Summary of Legal Basis:

42 USC 11023(f)(2); 42 USC 11048; EPCRA sec 313; EPCRA sec 328.

Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

Anticipated Cost and Benefits:

EPA has proposed to lower the EPCRA section 313 reporting thresholds for Lead and Lead Compounds to 10 pounds. Under this proposal the estimated aggregate industry cost in the first year would be $116 million and in subsequent years would be $60 million. The information reported in TRI increases the knowledge levels of lead and lead compounds released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks:

Currently communities do not have access to TRI data on lead and lead compounds that, although released in relatively small quantities, pose a potential risk to human health and the environment because they persist and bioaccumulate. By lowering the reporting thresholds for lead and lead compounds the public will be able to determine if these chemicals are being released into their communities and whether any action should be taken to reduce potential risks.

Timetable:

Action	Date	FR Cite
NPRM	08/03/99	64 FR 42222
Comment Extension to 12/16/1999	10/29/99	64 FR 58370
Final Action	04/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

State, Federal

Additional Information:

SAN No. 4259

By Statute and Regulation, this rule will affect SIC codes 20-39, 10 (except SIC codes 1011, 1081, 1094), 12 (except SIC code 1241), 4911, 4931, 4939, 4953, 5169, 5171, and 7389.

Agency Contact:

Daniel R. Bushman
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-3882
Fax: 202 401-8142
Email: bushman.daniel@epa.gov

Maria Doa
Environmental Protection Agency
Office of Prevention, Pesticides and Toxic Substances
7408
Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

RIN: 2070–AD38

EPA

134. NPDES COMPREHENSIVE STORM WATER PHASE II REGULATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority:

33 USC 1311, CWA sec 301; 33 USC 1314, CWA sec 304; 33 USC 1318, CWA sec 308; 33 USC 1342, CWA sec 402; 33 USC 1361, CWA sec 501

CFR Citation:

40 CFR 122; 40 CFR 123

Legal Deadline:

Final, Statutory, October 1, 1993.

NPRM, Judicial, December 15, 1997.

Final, Judicial, October 29, 1999.

Abstract:

The Phase II NPDES storm water regulations expand the existing national program to storm water discharges from small municipal separate storm sewer systems (MS4s) and construction sites

that disturb 1 to 5 acres. The rule includes waiver provisions based on the lack of impact on water quality and allows designation of other sources based on a likelihood of localized adverse impact on water quality. The regulations also exclude from the NPDES program storm water discharges from industrial facilities that have "no exposure" of industrial activities or materials to storm water. This rule establishes a cost effective, flexible approach for reducing environmental harm by storm water discharges from currently unregulated storm water point sources. EPA believes that the implementation of the six minimum measures for small MS4s should significantly and cost-effectively reduce pollutants in urban storm water. Similarly, EPA believes that implementation of best management practices (BMPs) at small construction sites will cause a significant reduction in pollutant discharges and an improvement in surface water quality. EPA expects significant monetized financial, recreational and health benefits, as well as benefits that EPA has been unable to monetize. These include reduced scouring and erosion of streambeds, improved aesthetic quality of waters, reduced eutrophication of aquatic systems, benefit to wildlife and endangered and threatened species, tourism benefits, biodiversity benefits and reduced costs for sitting reservoirs. In addition, the costs of industrial storm water controls will decrease due to the exclusion of storm water discharges from facilities where there is "no exposure" of storm water to industrial activities and materials.

Statement of Need:

Data collected under sections 305(b) and 402(p)(5) of the CWA indicate that uncontrolled storm water discharges from municipalities serving population less than 100,000 and construction sites that result in the disturbance of less than 5 acres of land cause water quality use impairment. The proposed changes to the NPDES storm water regulations would address these currently unregulated storm water discharges. The proposed changes would also provide needed regulatory relief to Phase I facilities that have no exposure to storm water and do not cause water quality use impairment.

Summary of Legal Basis:

CWA sec. 402(p)(6) requires EPA, in consultation with States and local officials, to issue regulations for the designation of the remaining unregulated discharges to be regulated to protect water quality. The United States Court of Appeals for the Ninth Circuit remanded EPA's de minimis exemption of construction sites below 5 acres and the no exposure exemption for category (XI) industrial facilities under the Phase I rule (NRDC v. EPA, 966 F.2d 1292(9th Cir. 1992)). This remand requires EPA to examine construction sites below 5 acres for possible designation. EPA is also currently subject to a court order to propose supplemental rules under CWA sec. 402(p)(6) by September 1, 1997, and finalize these rules by October 29, 1999 (NRDC v. Browner, Civ. No. 95-634 PLF (D.D.C., April 6, 1995)).

Alternatives:

The proposed changes to the NPDES storm water regulations were developed with significant input from the FACA subcommittee. Alternative options, as well as successive drafts of the proposed rule was distributed to FACA members for comment. The language of the proposed changes are the result of extensive stakeholder input. The Agency solicited comments on alternative approaches in the preamble to the proposed rule.

Anticipated Cost and Benefits:

EPA estimates that the rule would result in an annual cost of $803 million, with expected annual monetized benefits from implementation of the requirements of $814 million to $1.62 billion. EPA also estimated that the "no exposure" waiver for Phase I industrial facilities would result in expected annual cost savings of $317 million to $1.86 billion.

Risks:

The proposed changes to the NPDES storm water regulations will reduce adverse water quality impacts from storm water, thereby reducing risks to aquatic habitat and public health.

Timetable:

Action	Date	FR Cite
NPRM	01/09/98	63 FR 1535
Final Action	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 3785

Agency Contact:

George Utting
Environmental Protection Agency
Water
4203
Washington, DC 20460
Phone: 202 260-9530
Fax: 202 260-1460

RIN: 2040–AC82

EPA

135. PUBLIC WATER SYSTEM PUBLIC NOTIFICATION REGULATION

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 300(f) et seq

CFR Citation:

40 CFR 141.32; 40 CFR 142.14; 40 CFR 142.15; 40 CFR 142.16; 40 CFR 143.5

Legal Deadline:

None

Abstract:

This action revises an existing regulation to incorporate the new public notification provisions of the Safe Drinking Water Act. A Public Water System is required to provide notification to its customers whenever: (1) a violation of certain drinking water regulations occurs (including MCL, treatment technique, and monitoring/reporting requirements); (2) a variance or exemption to those regulations is in place or the conditions of the variance or exemption are violated; or (3) required results from unregulated contaminant monitoring are received. The Administrator is required to prescribe by regulation the manner, frequency, form, and content for giving notice. States are required to adopt this rule to retain primacy. The 1996 amendments (1) require notice within 24 hours for violations posing a serious public health risk from short term exposure and give EPA discretion to set the timing of the notification for all other violations; (2) give EPA discretion to set the method of delivery of the notices as long as the public

notice reaches all persons served; (3) establish a specific requirement for EPA consultation with the States in issuing revised regulations; (4) allow the primary States to prescribe alternative notification requirements by rule with respect to the form and content of the notice. One other new requirement — for public water systems to prepare an annual consumer confidence report — is being implemented under a separate regulatory action. The benefits of the revised public notification regulations will be to streamline the existing requirements, provide quicker and more effective notification of violations that have a serious adverse effect, and better inform customers of the risk to their health from the drinking water.

Statement of Need:

The public notification rule is being revised to incorporate the legislative changes contained in the 1996 SDWA amendments under Section 1414(c)(1) and (2). The new provisions require EPA to tailor the frequency and content of the public notice to the relative risks to public health and otherwise streamline the process currently in place. The statute requires EPA to promulgate regulations, after consultation with the states, to implement this section.

Summary of Legal Basis:

The 1996 SDWA amendments require EPA to promulgate public notification regulations to implement new Sections 1414(c)(1) and (2). There is no statutory deadline.

Alternatives:

Within the statutory obligation to issue revised public notification regulations, EPA is developing regulatory options that balance the need to protect public health with the need to provide flexibility in local implementation and a reduced reporting burden. Options are being considered related to the frequency of notices for violations not posing a risk to health from short term exposure, how best to ensure that notices reach all persons served, what the notice should contain to be most effective, and how the public notice provisions could be integrated into the parallel requirement for an annual consumer confidence report.

Anticipated Cost and Benefits:

The preliminary cost estimate of the proposed rule for public water systems (PWS) and State primacy agencies is $17,956,117 per year, or $351.96 per violating PWS and $27,944 per primacy State. This would be a decrease of $9,100,000 (or 33 percent) per year from the costs under the existing public notification rule. There are no capital costs associated with this rulemaking. The benefits would be more effective public notices allowing consumers to make more informed choices about protecting their public health from drinking water.

Risks:

The public notification regulations require water systems to notify all persons served of any violation of drinking water standards. Consumers not notified of violations may put themselves at risk from drinking the water and otherwise will be unable to make informed choices about whether to continue drinking the water. Risks are largest when the violation is for a contaminant that poses a risk from short-term exposure or for subpopulations vulnerable to the contaminants in the drinking water. Compliance with the public notification rule allows consumers, at their option, to make timely choices about the risk from their drinking water. Public notification is one of several federal barriers protecting consumers from exposure to harmful contaminants from their drinking water.

Timetable:

Action	Date	FR Cite
NPRM	05/13/99	64 FR 25963
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State, Local, Tribal, Federal

Additional Information:

SAN No. 4009

Agency Contact:

Carl Reeverts
Environmental Protection Agency
Water
4606
Washington, DC 20460
Phone: 202 260-7273
Fax: 202 260-4656
Email: reeverts.carl@epamail.epa.gov

RIN: 2040–AD06

EPA

136. TOTAL MAXIMUM DAILY LOAD (TMDL) PROGRAM REGULATIONS REVISIONS

Priority:

Other Significant

Legal Authority:

33 USC 1313

CFR Citation:

40 CFR 130.7

Legal Deadline:

None

Abstract:

EPA is proposing changes to the Total Maximum Daily Load (TMDL) regulations for implementing State, Territorial, authorized Tribal (collectively referred to as "States"), and EPA responsibilities under Section 303(d) of the Clean Water Act. The purpose of Section 303(d) is to identify remaining sources of pollution, after technology-based controls have been required, and to allocate pollutant reductions at a level that will ensure attainment and maintenance of water quality standards. These allocations are contained in a TMDL, which is the maximum amount of a pollutant that a waterbody can absorb and still meet water quality standards. The proposed revisions provide States with clear, consistent, and balanced direction for listing waters and developing TMDLs, resulting in restoration of waterbodies not meeting water quality standards.

Statement of Need:

Listing impaired and threatened waters and establishing TMDLs are fundamental tools for identifying remaining sources of water pollution and achieving water quality goals. In 1996, EPA determined that there was a need for a comprehensive evaluation of EPA's and the States' implementation of their Section 303(d) responsibilities. EPA convened a committee under the Federal Advisory Committee Act to make recommendations for improving such implementation, including recommended changes to the TMDL regulations and guidance. The committee, comprised of 20 individuals with diverse backgrounds, submitted its final report to EPA on July 28,1998. The report contained more than 100 consensus recommendations, a subset of which would require regulatory changes. The committee's recommendations helped to guide the development of the proposed revisions.

The proposed regulatory revisions address issues of fundamental importance to cleaning up our Nation's polluted waters. States and territories have identified over 20,000 individual river segments, lakes, and estuaries across America as polluted. These polluted waters include approximately 300,000 miles of river and shoreline and approximately 5 million acres of lakes — polluted mostly by sedimentation, nutrients, and harmful microorganisms. With the overwhelming majority of the population living within 10 miles of these polluted waters, these proposed regulatory revisions will have a profound impact on the environment and health of communities across the country.

Summary of Legal Basis:

Section 303(d) of the Clean Water Act requires the identification of waters not meeting water quality standards and the establishment of the TMDSs for such waters. Section 303(d) gives States responsibility for listing impaired waterbodies and establishing TMDLs. In addition, Section 303(d) authorizes EPA to review and approve or disapprove State lists and TMDLs within 30 days of final submission. If EPA disapproves lists or TMDLs, EPA has 30 days to establish lists and TMDLs. Section 501 authorizes the Administrator to prescribe regulations as necessary to carry out the purposes of the Clean Water Act.

Alternatives:

The preamble to the proposed revisions explains the various options that EPA considered on each of the major issue areas as part of the rule development process. These alternatives generally include maintaining the existing regulatory requirements, as well as options other than those selected for the proposed rule language. In the proposal, EPA explicitly solicits comments on the approach set out in the proposed rule and on the other options considered.

Anticipated Cost and Benefits:

The supporting economic analysis found that the proposed TMDL regulation is expected to increase the costs to States by approximately $10.3 - $24.4 million annually from the present through 2015. The bulk of the additional costs ($10.1 - $23.8 million) are associated with the proposed rule's provisions addressing TMDL development. The increased costs associated with the proposed revisions to the listing requirements are estimated to be $0.23 million annually — these increased costs might be offset if the listing cycle is lengthened. The analysis also found that EPA's costs associated with the listing and TMDL requirements of the proposed regulation are likely to increase by $18,000 annually. The estimated increased costs to States associated with the proposed TMDL changes represent only three to eight percent of the amount of support provided annually by the Federal government to States for water quality management programs, and undoubtedly a much smaller proportion of the total State spending for these activities. Moreover, the intent of many of the proposed regulatory changes is to improve efficiency and national consistency by establishing uniform formats, eliminating ambiguities, encouraging prudent planning, and improving information for public participation. The benefits from the proposed revisions will be sizeable. Clean-up plans developed under the proposal will help to restore the health of thousands of miles of river and shoreline, and make millions of acres safe for fishing, swimming, and other activities.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 46011
Final Action	05/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Tribal, Federal

Additional Information:

SAN No. 4145

Agency Contact:

Hazel Groman
Environmental Protection Agency
Water
4305F
Washington, DC 20460
Phone: 202 260-7074
Fax: 202 401-4078

RIN: 2040–AD22

EPA

137. • TOTAL MAXIMUM DAILY LOAD (TMDL) - NPDES AND WQS REGULATIONS REVISIONS

Priority:

Other Significant

Legal Authority:

33 USC 1311 CWA sec 301; 33 USC 1313 CWA sec 303; 33 USC 1314 CWA sec 304; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation:

40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 131

Legal Deadline:

None

Abstract:

On August 12, 1999, Environmental Protection Agency (EPA) Administrator Carol Browner signed proposed revisions to the Total Maximum Daily Load (TMDL) regulations (40 CFR Part 130) for implementing state, territorial, authorized tribal, and EPA responsibilities under Section 303(d) of the Clean Water Act. Administrator Browner also signed proposed revisions to the National Pollutant Discharge Elimination System (NPDES) and Water Quality Standards regulations to facilitate implementation of TMDLs and to improve water quality in impaired waters before TMDLs are established.

The Federal Advisory Committee (FACA) on the Total Maximum Daily Load Program recommended a number of ways to improve the effectiveness and efficiency of EPA, State, Territorial and Tribal programs under section 303(d) of the CWA. These recommendations address many of the TMDL program's complex technical and policy issues, and include recommendations on several new policy and program directions some of which are included in the proposed revisions to the NPDES and water quality standards regulations. These proposed revisions are aimed at achieving reasonable further progress toward attainment of water quality standards in impaired waterbodies pending TMDL establishment and providing reasonable assurance that TMDLs, once completed, will be adequately implemented. EPA may also, in the future, promulgate federal water quality standards for states, pursuant to section 303(c)(2)(B), to ensure consistent, nationwide application of the new requirements in

the period between listing and TMDL establishment. Federal implementation through NPDES permits, in the absence of State, Territorial, or Tribal implementation, will ensure that the clean-up plans will work.

Statement of Need:

These proposed regulatory revisions address issues of fundamental importance to cleaning up our Nation's polluted waters. States and territories have identified over 20,000 individual river segments, lakes, and estuaries across America as polluted. These polluted waters include approximately 300,000 miles of river and shoreline and approximately 5 million acres of lakes — polluted mostly by sedimentation, nutrients, and harmful microorganisms. With the overwhelming majority of the population living within 10 miles of these polluted waters, these proposed regulatory revisions will have a profound impact on the environment and health of communities across the country.

Summary of Legal Basis:

The Clean Water Act establishes the goal to " .... restore and maintain the chemical, physical and biological integrity of the Nation's waters." CWA section 101(a). EPA believes extending Tier 1 of the federal antidegradation policy to include a provision aimed at promoting reasonable further progress toward restoring water quality in impaired waterbodies is both consistent with the goals of the Act, and is a logical means for meeting those goals. The current antidegradation requirements were establishedpurusant to section 303.

The language in today's proposal about the Agency's intention and authority to designate unregulated animal production sources in authorized States and silvicultural operations both in authorized and unauthorized States — where EPA establishes a TMDL— supports the fulfillment of the CWA goals to attain and maintain water quality standards. The proposal also supports EPA's authority, as specified in CWA section 303(d)(2), to establish TMDLs (including all required elements) for waterbodies for which the State fails to do so. The same purposes are served by the proposal for EPA to object to State-issued permits that are administratively extended. EPA is implementing its authorities under sections 402 and 501 in this proposal.

Alternatives:

The FACA recommended an optional stabilization plan that would identify mechanisms that might allow for exceptions from point source discharge restrictions upon demonstration that the optional stabilization plan results in parameter specific net progress in water quality through means other than those restrictions. EPA considered these optional stabilization plans as a means to achieve parameter specific net progress but instead, chose to propose an offset requirement under the federal antidegradation policy for certain dischargers as a means to achieve parameter specific net progress. In implementing the offset requirement, EPA is considering a wide range of regulatory alternatives to address: enforceability issues; how offsets are implemented through different permitting schemes; the magnitude, duration and location of the offset; and who is subject to the requirements. EPA is also soliciting comments on alternatives to the proposed revisions aimed at facilitating the implementation of established TMDLs.

Anticipated Cost and Benefits:

EPA estimated that the costs to State, local and tribal governments, in the aggregate, or the private sector in any one year to implement the requirements in today's proposal are not expected to exceed $65.2 million in any one year. The total cost to State, local and tribal governments is not expected to exceed $0.96 Million in any one year, with a majority of these costs born by State government. The remaining $64.24 million is expected to be born by the private sector.

The types of benefits associated with the proposed revisions include improvements to the water quality of waters that are not meeting water quality standards. Reduced risks to human health and an increase in the number of waterbodies fit for fishing and swimming are expected to result from these improvements.

Risks:

The proposed changes to the NPDES and WQS regulations will reduce adverse water quality impacts from dischargers discharging to waterbodies not meeting water quality standards, thereby reducing risks to aquatic habitat and public health.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 46057
Final Action	05/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Tribal, Federal

Additional Information:

SAN No. 4294

Agency Contact:

Kim Kramer
Environmental Protection Agency
Water
4203
Washington, DC 20460
Phone: 202 260-7933
Fax: 202 260-9544

RIN: 2040–AD36

BILLING CODE 6560–50–F

VOL 64 ISS 224 NO 22 1999 UMI

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The Equal Employment Opportunity Commission (EEOC) enforces six statutes prohibiting discrimination in employment. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, sex, religion, or national origin. The Equal Pay Act of 1963, as amended, prohibits the payment of different wages to women and men working in the same establishment, performing equal work that requires equal skill, effort, and responsibility under similar working conditions, unless the pay differential is based on a factor(s) other than sex. The Age Discrimination in Employment Act of 1967, as amended (ADEA), prohibits employment discrimination on the basis of age against people age 40 and older. Title I of the Americans with Disabilities Act of 1990, as amended (ADA), prohibits employment discrimination against qualified individuals with disabilities. Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, prohibit Federal agencies from discriminating in employment against qualified individuals with disabilities and require agencies to accommodate the special needs of persons with disabilities. The Government Employee Rights Act of 1991 extends protections against employment discrimination to certain employees who were not previously covered.

The mission of the Agency is to ensure equality of opportunity by vigorously enforcing Federal legislation prohibiting discrimination in employment. Enforcement is accomplished through investigation, conciliation, alternative methods of dispute resolution, litigation, coordination, and regulation, as well as by education, policy research, and technical assistance. In pursuing its mission of eradicating discrimination in the workplace, the Commission intends that its enforcement be certain and predictable and that its remedies be preventive and remedial in scope.

One important step toward these ends is to make sure that employees, employers, and union representatives understand their rights and obligations under the Federal laws prohibiting employment discrimination. In accordance with the President's national regulatory principles, EEOC develops regulations necessary to inform employees and employers of their rights and obligations under the statutes it enforces. EEOC further educates the public on an ongoing and proactive basis through interpretive guidelines, policy documents, management directives, and other public guidance programs.

EEOC is currently considering two significant actions of a regulatory nature. One has been published for public comment and the other will be published for public comment.

The Commission proposes to issue legislative regulations to provide detailed guidance for employers and employees on the status of consideration paid for a waiver of rights and claims under the laws it enforces. These issues were addressed by the United States Supreme Court's decision in Oubre v. Entergy Operations, Inc., 522 U.S. 422 (1998). The proposed rule would provide guidance on the meaning and implications of the Oubre decision. The proposed rule is titled "Waivers of Rights and Claims: Tender Back of Consideration," and was published for public comment (NPRM) on April 23, 1999, 64 FR 19952. The Commission is now assessing all comments received in response to this NPRM.

The second significant action of a regulatory nature being considered by the Commission is amendment of its regulation governing federal sector equal employment opportunity, 29 CFR 1614.203, to reflect the 1992 amendments of section 501 of the Rehabilitation Act of 1973. Congress amended section 501 to state that the nondiscrimination standards of Title I of the Americans with Disabilities Act apply to section 501 of the Rehabilitation Act.

(Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chairwoman of the Agency. The statement has not been reviewed or approved by the other members of the Commission).

EEOC

PROPOSED RULE STAGE

---

138. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Priority:

Other Significant

Legal Authority:

PL 102-569, The Rehabilitation Act Amendments of 1992; 42 USC 2000e-16; 29 USC 794a

CFR Citation:

29 CFR 1614

Legal Deadline:

None

Abstract:

The Commission proposes to change its Federal sector equal employment opportunity regulations to implement the Rehabilitation Act Amendments of 1992. The 1992 amendments provide that the standards used to determine if title I of the Americans with Disabilities Act has been violated will apply to complaints of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act.

Statement of Need:

The Commission promulgated its latest regulation under section 501 of the Rehabilitation Act in April 1992, several months before Congress enacted the 1992 Rehabilitation Act Amendments. The Commission is thus proposing to amend its section 501 regulation, found at 29 CFR 1614.203, to implement the Rehabilitation Act Amendments.

Summary of Legal Basis:

Pursuant to sections 501 and 505 of the Rehabilitation Act, the Commission is authorized to issue such regulations as it deems necessary to carry out its responsibilities under the Act. The proposed regulatory revisions are not required by statute or court order.

Alternatives:

The Commission has consulted with stakeholders and has considered their suggested alternatives in developing this regulatory proposal. In addition, EEOC will publish the proposed regulatory amendments for public comment and will consider all offered alternatives prior to adoption of a final rule.

Anticipated Cost and Benefits:

The proposed regulatory changes will enhance enforcement of the statutory requirements. Federal agencies and individuals will have a clearer understanding of their respective obligations and rights under the Rehabilitation Act. It is not anticipated that this proposal will result in increased costs.

Risks:

The propo
lessen the
statutory r
and provic
appropriat
Federal se
action emp
under sect
Act. This p
risks to pu
environme

Timetable:

Action
NPRM

Regulatory Required:

No

Governme

Federal

Agency Co

Carol Miasl
Assistant L
Counsel
Equal Empl
Commissio
Room 6037
1801 L Stre
Washingtor
Phone: 202
TDD Phone
Fax: 202 66

RIN: 3046-

EEOC

**139. WAIV
CLAIMS: T
CONSIDER**

Priority:

Other Sign

Legal Auth

5 USC 522
42 USC 12

CFR Citati

29 CFR 162

Legal Dead

None

Abstract:

Following
Court's dec
Operations
Commissio

Risks:

The proposed regulatory changes will lessen the risk of noncompliance with statutory requirements by identifying and providing detailed guidance on the appropriate legal standards governing Federal sector claims of nonaffirmative action employment discrimination under section 501 of the Rehabilitation Act. This proposal does not address risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Agency Contact:

Carol Miaskoff
Assistant Legal Counsel, Office of Legal Counsel
Equal Employment Opportunity Commission
Room 6037
1801 L Street NW
Washington, DC 20507
Phone: 202 663-4689
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA57

EEOC

FINAL RULE STAGE

---

139. WAIVERS OF RIGHTS AND CLAIMS: TENDER BACK OF CONSIDERATION

Priority:

Other Significant

Legal Authority:

5 USC 522; 29 USC 628; 42 USC 2000e; 42 USC 12101; 29 USC 206(d)

CFR Citation:

29 CFR 1625

Legal Deadline:

None

Abstract:

Following the United States Supreme Court's decision in Oubre v. Entergy Operations, Inc., 522 US 422 (1998), the Commission has developed proposed regulatory guidance on the status of consideration paid for a waiver of rights and claims under the laws it enforces.

Statement of Need:

The Equal Employment Opportunity Commission (EEOC or Commission) is proposing to adopt legislative regulations addressing issues relating to the "tender back of consideration" in connection with waivers of rights and claims under the Age Discrimination in Employment Act of 1967 (ADEA). This issue was addressed by the United States Supreme Court in Oubre v. Entergy Operations, Inc., 522 U.S. 422 (1998). In that decision, the Supreme Court held that an individual was not required to return (tender back) consideration (such as improved severance benefits, extra money, or early retirement) for a waiver in order to allege a violation of the ADEA. Prior to the Supreme Court's decision in Oubre, the Federal courts of appeals were split on the issue of whether an individual who signed a waiver agreement was required to tender back any consideration paid by the employer in order to bring a claim under the ADEA. The Commission's proposed legislative rule would provide detailed regulatory guidance to the public on the tender back issue addressed by the Supreme Court's Oubre decision.

The ADEA was amended by title II of the Older Worker Benefits Protection Act of 1990 (OWBPA) to regulate the use of waivers for employees 40 years of age or older. Title II of OWBPA sets forth the statutory requirements for a valid waiver of rights under the ADEA. The Commission conducted a negotiated rulemaking in 1995 and 1996 on ADEA waivers under OWBPA. The Rulemaking Committee considered, but agreed not to resolve, the tender back issue, and it was not included in the regulatory language recommended by the Committee to the Commission. EEOC promulgated a final regulation on ADEA waivers at 29 CFR 1625.22 on June 5, 1998, 63 FR 30624. The preamble to the final regulation confirmed that the issues raised in the Supreme Court's Oubre decision would not be addressed in that regulation, but that the tender back issue would be covered in other EEOC guidance.

Since the enactment of OWBPA, employer and employee representatives have expressed continuing interest in receiving guidance on the issue of waiver agreements. The use of waiver agreements in the workplace is an increasingly common practice, particularly in connection with layoffs and reductions-in-force. The Supreme Court recognized in Oubre that requiring tender back of consideration, as a condition of bringing an ADEA suit, could frustrate the purposes of the statute and lead to evasion of OWBPA's waiver requirements. Because of the importance of the tender back issue to both employers and employees, and based on input from stakeholders, the Commission believes that the public would benefit from regulatory guidance in this area.

Summary of Legal Basis:

Section 9 of ADEA authorizes the Commission to issue such rules and regulations as it may consider necessary or appropriate for carrying out the Act. This regulatory proposal is not required by statute or court order.

Alternatives:

The Commission will consider all alternatives offered by public commenters.

Anticipated Cost and Benefits:

Providing a clear outline of what is and is not permissible concerning issues raised by the Supreme Court's Oubre decision will reduce employment disputes and save both employers and employees time and unnecessary costs. In addition, regulatory guidance on the issue of waiver agreements should result in increased voluntary resolution of potential employment disputes, and thereby reduce the likelihood of protracted and costly litigation. Finally, when necessary, regulatory guidance on tender back of consideration paid under waiver agreements will ensure that employees are able to challenge the validity of such agreements. It is not anticipated that any costs will arise from issuing the proposed regulatory guidance.

Risks:

Regulatory guidance on tender back issues will lessen the risk that employees will be forestalled from challenging the validity of waivers under the laws enforced by EEOC in the event that they are unable to tender back consideration. The Commission has a substantial interest in addressing this risk. The right of individual employees to challenge waiver agreements is essential to implement the strong public interest in eradicating discrimination in the workplace and is also a vital part of the statutory enforcement scheme of the ADEA, as well as the other laws enforced by the

Commission. The proposed regulation does not address risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/23/99	64 FR 19952
NPRM Comment Period End	06/22/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State, Local, Federal

Agency Contact:

Carol Miaskoff
Assistant Legal Counsel, Office of Legal Counsel
Equal Employment Opportunity Commission
Room 6037
1801 L Street NW
Washington, DC 20507
Phone: 202 663-4689
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA68

BILLING CODE 6570–01–F

VOL 64 ISS 224 NO 22 1999 UMI

GENERAL SERVICES ADMINISTRATION (GSA)

Statement of Regulatory and Deregulatory Priorities

The General Services Administration (GSA) establishes policy for and provides economical and efficient management of Government property and records, including construction and operation of buildings, procurement and distribution of supplies, utilization and disposal of property, and transportation, traffic, and communications management.

GSA's regulatory priorities for fiscal year 2000 are to continue to issue regulations that reflect the President's philosophy of being consistent, sensible, and do not place an undue burden on the public. Further, GSA's regulations are being written in a plain language, question and answer format, to make the regulations easier to read and understand.

Toward that end, GSA is improving its regulatory system by establishing the Federal Management Regulation (FMR) as the successor regulation to the Federal Property Management Regulations (FPMR). As parts of the FPMR are updated and rewritten, they are being moved into the FMR. The FMR will provide Federal managers with streamlined regulatory material they need to efficiently manage real and personal property and administrative services.

Content changes will also bring the FMR into conformance with recommendations from the National Partnership for Reinventing Government to reduce regulations and use plain language. Parts of the Federal Travel Regulation have already been issued in the new plain language format and the effort continues. Completion is anticipated by the end of calendar year 1999.

BILLING CODE 6820–34–F

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

The National Aeronautics and Space Administration (NASA) was established by the National Aeronautics and Space Act of 1958 (the Act), 42 United States Code (U. S. C.) 2451 et seq., which laid the foundation for NASA's mission. The Act authorizes NASA, among other things, to conduct space activities devoted to peaceful purposes for the benefit of humankind; to preserve the leadership of the United States in aeronautics and space science and technology; and to expand knowledge of the Earth and space. To carry out this mission, NASA is authorized to conduct research for the solution of problems of flight within and outside the Earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; to operate space transportation systems, including the Space Shuttle, and the International Space Station; and to perform such other activities as may be required for the exploration of space. NASA conducts activities required for the exploration of space with human tended, robotic, and expendable vehicles; and arranges for the most effective utilization of the scientific and engineering resources of the United States with other nations engaged in aeronautical and space activities for peaceful purposes.

NASA's mission, as documented in its 1998 Strategic Plan, is to explore, use, and enable the development of space for human enterprise; to advance and communicate scientific knowledge and understanding of the Earth, the solar system, and the universe, and use the environment of space for research; and research, develop, verify and transfer advanced aeronautics, space, and related technologies.

The following are narrative descriptions of the most important regulations being planned for publication in the **Federal Register** during fiscal year (FY) 2000.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. Major revisions are not expected in FY 2000, except to conform to FAR changes that are currently being promulgated in Part 12, Acquisition of Commercial Items; Part 25, Foreign Acquisitions; and Part 45, Government Property.

In a continuing effort to keep the NFS current with NASA initiatives and Federal procurement policy, minor revisions to the NFS will be published. For instance, NASA is developing a risk-centered approach to acquisition that will affect acquisition planning, contract structure, contractor surveillance, and other contract management areas, which will result in NFS revisions.

To reduce the time and cost spent by the Agency and by our science and industry partners in the procurement of basic and applied research, NASA is focusing on streamlining our processes. To go forward in this effort, regulations governing Grant and Cooperative Agreements at 14 CFR Parts 1260, 1273, and 1274 are being rewritten to incorporate improvements and streamlining initiatives.

NASA is working on revising its environmental policy and procedures regulations, which appear at 14 CFR Subparts 1216.1 and 1216.3. Changes are being considered to streamline and clarify the Agency's policy, and its implementation of the National Environmental Policy Act (NEPA) process.

NASA is continuing consideration of revisions to the cross-waiver of liability in NASA contracts and agreements, involving activities such as launch services.

NASA is also continuing consideration of a new regulation that would clarify, and provide procedures for exercising, its claims authority under 42 U.S.C. 2473(c)(13), section 203(c)(13) of the Act, as amended, especially as applied to Agency functions such as launches of NASA missions.

BILLING CODE 7510-01-F

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

The National Archives and Records Administration (NARA) issues regulations directed to other Federal agencies and to the public. Records management regulations directed to Federal agencies concern proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Governmentwide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA's regulatory priorities for fiscal year 2000 are (1) developing regulations relating to storage standards for archival records and measures to protect underground records storage facilities from catastrophic fires; (2) reinventing our program for periodically reviewing all NARA regulations; and (3) reviewing, updating and streamlining NARA regulations relating to the Freedom of Information Act, records declassification, and use of NARA facilities.

NARA

FINAL RULE STAGE

---

140. AGENCY RECORDS CENTERS

Priority:

Other Significant

Legal Authority:

44 USC 2104 (a); 44 USC 3103

CFR Citation:

36 CFR 1228.222

Legal Deadline:

None

Abstract:

NARA is revising the regulations on facility standards for records centers in 36 CFR part 1228, subpart I. The current regulation cites obsolete industry standards and has not been revised since the early 1980's. This rulemaking action revises standards for environmental conditions, with particular emphasis on storage areas for archival material; incorporates standards for the storage of nontextual records; prescribes new physical security and fire detection and suppression standards; and establishes environmental and security requirements for new agency records centers.

Statement of Need:

This regulation is required to ensure that Federal records are stored in facilities meeting the appropriate environmental, physical security and fire safety standards to maintain the records for their required retention period. Permanently valuable records need to be stored in environmental conditions that will preserve the records for extended periods of time while temporary records require a different level of environmental storage conditions. The previous standards did not distinguish between the environmental storage conditions for temporary records and for permanently valuable records. In addition, the previous standards do not reflect current information relative to fire safety or to the proper long term storage of permanently valuable records.

Summary of Legal Basis:

This regulation reflects the legal requirements for agencies to maintain records in a manner to insure that the records are available for the appropriate retention period. The National Archives and Records Administration (NARA) is required by law to assist Federal agencies in the development of standards and guidelines for the appropriate management of Federal records storage conditions for Federal records. The Archivist of the United States is also statutorily responsible for insuring that Federal agencies are maintaining records in an appropriate manner.

Alternatives:

The current standards in 36 CFR 1228 do not adequately distinguish between storage requirements for temporary records and for permanently valuable records. Further, the draft international standards do not provide the appropriate storage conditions for the preservation and protection of Federal records. An alternative to this regulation change would be to state in the regulations only the statutory requirements for storage of Federal records in the appropriate environmental conditions. Since agencies are permitted to maintain their own records, NARA would then be required to prepare and issue a records storage guide describing the appropriate environmental conditions for records storage facilities. This alternative, however, would reduce the effectiveness of the regulation since the specific environmental limits would be contained in nonmandatory guidance.

Anticipated Cost and Benefits:

There are costs associated with bringing existing facilities up to the new standards and, in some cases, replacing existing facilities that can not be brought up to the performance requirements of the new standards. It is expected that the existing facilities that store permanently valuable records, for the most part, will have to be replaced since replacing the facility is more cost effective than attempting to renovate the facility. For facilities storing temporary records, it is expected that most of these facilities can be renovated to comply with the new standards. Agencies that arrange for their own storage of records will be required to maintain facilities meeting the new standards. The agencies that contract for this service will be required to include the standards in their contracts with private companies.

Risks:

Failure to follow these regulations could result in records that are not properly maintained and, as a result, not available for use when they are required. In the case of permanently valuable records, failure to maintain the records in facilities meeting the revised standards could result in unique, valuable information being permanently lost. Information relative to the expenditure of funds could be lost; documentation of significant decisions with wide ranging effects on the public could be unavailable; and the lack of information could result in inefficient Government operations while trying to recreate the information or in fruitless searches for the information.

Timetable:

Action	Date	FR Cite
NPRM	04/30/99	64 FR 23504
NPRM Comment Period End	07/07/99	64 FR 30276
Final Action	11/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Agency Contact:

Nancy Allard
Regulatory Contact
National Archives and Records Administration
Room 4100, NPLN
8601 Adelphi Road
College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA81

NARA

141. STORAGE OF FEDERAL RECORDS

Priority:

Other Significant

Legal Authority:

44 USC 2907; 44 USC 3103

CFR Citation:

36 CFR 1220; 36 CFR 1222; 36 CFR 1228; 36 CFR 1236

Legal Deadline:

None

Abstract:

NARA's records center program will convert to a totally reimbursable program on October 1, 1999 (FY 2000). This regulation will update records management regulations relating to the storage of Federal records.

Statement of Need:

The Administration has decided that NARA's records center program will become fully reimbursable in FY 2000. In the past, only about 30 percent of NARA's records center program was reimbursable. Seventy percent of the program relied on direct appropriations to provide storage space and records center services to other Federal agencies. This change in policy is intended to ensure that NARA has sufficient resources to provide adequate storage and reference services and to meet increasing demands for records center space and services. Aligning the costs of records center services with those Federal agencies that use the services will lead to greater emphasis on records management activities throughout the Federal Government.

Summary of Legal Basis:

Under the Federal Records Act (44 U.S.C. 2907) NARA has the authority, but is not required, to operate the records center program. The records center program will continue, but on a reimbursable basis effective October 1, 1999.

Alternatives:

This approach was adopted by the Administration after consideration of all available alternatives. OMB has stipulated that NARA is to be the sole source for agency records center services through FY 2002 for agencies currently using NARA records centers. Agencies currently storing records in agency or private sector records centers may continue to do so. After FY 2002, agencies may choose to store records with NARA, a private sector records center, another agency's records center, or establish its own agency records center pursuant to guidelines that NARA will issue.

Anticipated Cost and Benefits:

While costs will increase for individual agencies, the overall cost to the Government will not increase. The new emphasis on records management may result in lowered costs for the storage of Federal records as records retention periods are reviewed and revised. The reimbursable program will allow for more and higher quality records center storage space and improved services to agencies. NARA's goal is to provide agencies with the best balance of service and cost.

Risks:

Management controls will be established to ensure that the program is achieving its intended objectives. Legislation is required to establish a revolving fund that will be used to finance the records center operations. The reimbursable program will be monitored by NARA staff and audited by OMB.

Timetable:

Action	Date	FR Cite
NPRM	04/30/99	64 FR 23510
NPRM Comment Period End	06/29/99	
Final Action	11/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Agency Contact:

Nancy Allard
Regulatory Contact
National Archives and Records Administration
Room 4100, NPLN
8601 Adelphi Road
College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA86

BILLING CODE 7515–05–F

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

The Office of Personnel Management's (OPM) regulatory priorities for the coming year will continue to focus on human resource management improvements that will enable the Federal Government to recruit, manage and retain the high quality, diverse workforce needed by agencies to deliver their respective missions to the American public.

This Administration has developed an outstanding record in managing the largest workforce in the Nation — a record that includes reinventing Federal human resource management systems, downsizing the Federal workforce by over 370,000 to its lowest point in 30 years, and at the same time focusing on improving quality, effectiveness and customer service. Continued progress toward Governmentwide improvements now depends largely upon the passage of legislation which currently is in varying stages of discussion that would provide the tools needed to make more profound improvements in Federal human resource management. Pending passage of legislation, OPM will continue to use its regulatory authority whenever regulations are the appropriate vehicle to achieve our goal of an effective, merit-based civil service system. However, we are also mindful of the dangers of over-regulating. Excessive regulation in the area of Federal human resources management creates obstacles that stand in the way of the innovation and creativity that Federal managers need to lead and motivate the workforce and to operate programs more effectively. We seek an appropriate balance of minimizing regulation to ensure flexibility, innovation and excellence, while preserving the merit-based civil service system that serves as the cornerstone of our democracy.

Clearly, under the President's leadership, we are now a Government that does work better and cost less. We are also a Government that leads with compassion and an understanding of the real every day needs of the people who form the backbone of our workforce. Ours is a commitment not only to the workforce of today which continually strives to balance the needs of work and family, but to the safety and well-being of those who represent the workforce of tomorrow. With that in mind we will be proposing regulations to enable Federal employees to use up to 12 weeks of sick leave each year to care for a family member with a serious health condition.

We will soon be issuing regulations to permit agencies to use appropriated funds to reduce child care costs for lower income Federal employees. Striving to provide affordable, safe child care for our workforce is not only our moral obligation, it is simply good management. When human resource systems are designed to address employee needs, agencies immediately benefit by better recruitment and retention of qualified personnel which can result in significant recruitment and training cost savings, lower absenteeism and improved employee morale.

We must also open wide the doors of opportunity to every segment of our society. The President addressed the underemployment of people with disabilities by signing Executive Order 13078 establishing the Presidential Task Force on Employment of Adults with Disabilities. The Task Force's mission is to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment. OPM fully supports the Task Force's recommendation that the Government's hiring standards for individuals with psychiatric disabilities parallel the hiring standards of individuals with mental retardation and severe physical disabilities. Regulations will soon be promulgated to implement both this recommendation and the President's Executive Order which directed the Office of Personnel Management to implement changes necessary to improve Federal employment policy for adults with disabilities.

Finally, we remain committed to the principle of effective performance management, a principle that starts with the Government's top management. The Senior Executive Service is the linchpin of our civil service system, and we owe these dedicated executives a performance appraisal system that is flexible enough to adapt to varying needs, improves linkages with agency strategic planning and emphasizing results, and that allows consideration of customer and employee satisfaction measures.

In our management of the Federal Employees Health Benefits Program, we will continue to look for opportunities to lead the Nation by implementing policies and regulations that ensure fair and effective treatment of those in need of health care.

Overall, the Office of Personnel Management will continue to improve existing human resource management systems in order to attract and keep the best possible talent, to promote fairness and diversity, and to create a Government that truly serves our citizens.

OPM

PROPOSED RULE STAGE

---

142. PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

Priority:

Other Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

5 USC 4315

CFR Citation:

5 CFR 430, subpart C

Legal Deadline:

None

Abstract:

Proposed revision of SES regulations at 5 CFR 430, subpart C, will focus on (1) increasing agency flexibility to develop SES appraisal systems tailored to their needs, (2) improving linkages with agency strategic planning and emphasizing results, (3) allowing consideration of customer and employee satisfaction measures, and (4) simplifying agency submission requirements for approval of appraisal systems.

Statement of Need:

A regulatory proposal is the result of extensive stakeholder discussions about improving SES performance management, the need to focus on results, and agencies' needs for greater flexibility.

Summary of Legal Basis:

The legal basis for these regulations is 5 U.S.C. 4315, which authorizes the Office of Personnel Management to prescribe regulations to implement performance appraisal in the SES.

Alternatives:

While it may be possible to do this by legislation, we have not yet determined that this would be a more efficient or effective way to meet the objectives.

Anticipated Cost and Benefits:

There are no anticipated costs associated with the publication of revised regulations on SES performance appraisal. Revised regulations would provide additional flexibility for agencies.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

William C. Collins
Office of Executive Resources Management
Office of Personnel Management
1900 E Street NW
Washington, DC 20415
Phone: 202 606-2683

RIN: 3206–AI57

OPM

143. • ABSENCE AND LEAVE: SICK LEAVE

Priority:

Other Significant

Legal Authority:

5 USC 6311

CFR Citation:

5 CFR 630

Legal Deadline:

None

Abstract:

The Office of Personnel Management is proposing regulations to expand the use of sick leave for family care purposes. Under the proposed regulations, an employee would be able to use a total of up to 12 weeks of sick leave to care for a family member with a serious health condition.

Statement of Need:

A regulatory proposal is necessary because currently employees can use only 13 days of sick leave for family care or bereavement purposes. The proposed regulations increase the amount of sick leave that may be used to care for a family member with a serious health condition.

Summary of Legal Basis:

The legal basis for these regulations is 5 U.S.C. 6311, which authorizes OPM to prescribe regulations necessary for the administration of annual and sick leave.

Alternatives:

While it is possible to do this by legislation, it would be more efficient and effective to do it by regulation. Legislation is not really necessary, and regulation allows for future flexibility.

Anticipated Cost and Benefits:

Based on our experience under the current sick leave program, we estimate that the cost of the new sick leave policy will be less than $80 million annually. This estimate is based on the assumption that 0.5 percent of the total Federal workforce will use the maximum amount of sick leave provided under the new policy.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

JoAnn Perrini
Workforce Compensation and Performance Service
Office of Personnel Management
Office of Compensation Administration
1900 E Street NW
Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI76

OPM

144. • AGENCY USE OF APPROPRIATED FUNDS FOR CHILD CARE COSTS FOR LOWER INCOME FAMILIES

Priority:

Other Significant

Legal Authority:

PL 106-58

CFR Citation:

5 CFR 792

Legal Deadline:

None

Abstract:

The Office of Personnel Management is issuing a proposed rule to authorize the use of Federal agency appropriated funds for child care tuition assistance for lower income Federal employees. The rule will apply to employees who enroll their children in licensed and/or regulated center-based child care or family child care homes. Federal families are more challenged than ever before to meet the expenses of child care. This law will give lower income Federal families financial relief with their child care expenses. It is left to the discretion of the agencies to use appropriated funds from their salaries and expense accounts to be used for this purpose. Agencies will make the determinations about lower income eligibility. OPM will provide guidance on the implementation of this rule. OPM is required to prepare a report for Congress on the results of the implementation of this law no later than September 1, 2000.

Statement of Need:

A regulatory proposal is necessary to meet the requirement set forth in Section 643, subpart (c) of Pub. L. 106-58 that states: REGULATIONS — The Office of Personnel Management shall, within 180 days after the enactment of this Act, issue regulations necessary to carry out this section.

Summary of Legal Basis:

Section 643 of Pub. L. 106-58 authorizes the use of appropriated funds to assist lower income Federal workers to access child care services. This law, enacted by Congress, became effective on September 29, 1999, and remains in effect for one year. The law enables Federal agencies, for the first time, to assist their civilian employees with costs of child care.

Alternatives:

The regulation is required by public law.

Anticipated Cost and Benefits:

The law permits Federal agencies to use appropriated funds from their salaries and expense accounts to assist lower income Federal employees with the costs of child care. Employees can

benefit from reduced tuition rates at Federal child care centers, non-Federal child care centers, and in family child care homes. Benefits to the agencies include better recruitment and retention of qualified personnel, lower absenteeism and improved employee morale. Improved retention can result in significant recruitment and training cost savings to agencies. Over the past ten years, anecdotal evidence from on-site federally sponsored child care centers has shown that more and more employees consider the availability of affordable child care as a major reason for choosing one job over another.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

Anice V. Nelson
Office of Personnel Management
Family-Friendly Workplace Advocacy Office
1900 E St. NW.
Washington, DC 20415
Phone: 202 606-2011
Fax: 202 606-2091
Email: avnelson@opm.gov

RIN: 3206–AI93

OPM

145. • APPOINTMENTS OF PERSONS WITH DISABILITIES

Priority:

Other Significant

Legal Authority:

E.O. 13124

CFR Citation:

5 CFR 213; 5 CFR 315

Legal Deadline:

None

Abstract:

The regulations will create a new Governmentwide excepted appointing authority for persons with psychiatric disabilities, with noncompetitive conversion to the competitive service; amend the excepted service appointing authorities for individuals with mental retardation and severe physical disabilities; and make technical corrections. The regulations will help further the President's goal of assuring equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.

Statement of Need:

The regulations will create a new Governmentwide excepted appointing authority for persons with psychiatric disabilities, with noncompetitive conversion to the competitive service. The regulations will also make technical corrections. Noncompetitive conversion is authorized under Executive Order 13124. The regulations will help further the President's goal of assuring equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.

Summary of Legal Basis:

OPM has the authority under Civil Service Rule 6.1 to except positions from the competitive service when it determines that the appointments to these positions through competitive examination are not practicable. Noncompetitive conversion is authorized under Executive Order 13124, which amended Executive Order 12125.

Alternatives:

After reviewing the current Governmentwide excepted appointing authorities, it was apparent that no current authorities were defined broad enough to encompass persons with psychiatric disabilities

Anticipated Cost and Benefits:

Any costs are reflected in the expenses of an agency when hiring an individual under the authority. The benefit is the increase in persons with psychiatric disabilities employed in the workforce

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Christina Vay
Employment Service
Office of Personnel Management
Staffing Reinvention Office
1900 E Street NW.
Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0390
Email: cmvay@opm.gov

RIN: 3206–AI94

BILLING CODE 6325–01–F

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

PBGC Insurance Programs

The Pension Benefit Guaranty Corporation (PBGC) administers two insurance programs for private defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program. The PBGC protects the pensions of nearly 42 million working men and women in about 44,000 private defined benefit plans, including about 2,000 multiemployer plans.

Under the single-employer program, the PBGC pays guaranteed and certain other pension benefits to participants and beneficiaries if their plan terminates with insufficient assets (distress and involuntary terminations). At the end of fiscal year 1998, the PBGC was trustee of almost 2,700 plans and paid $848 million in benefits to about 209,000 people during 1998. Another 263,000 people will receive benefits when they retire in the future.

Most terminating single-employer plans terminate with sufficient assets to pay all benefits. The PBGC has administrative responsibility for these terminations (standard terminations), but its role is limited to seeing that proper procedures are followed and participants and beneficiaries receive their plan benefits.

The multiemployer program (which covers about 8.8 million workers and retirees in about 2,000 insured plans) is funded and administered separately from the single-employer program and differs in several significant ways. The multiemployer program covers only collectively bargained plans involving more than one unrelated employer. The PBGC provides financial assistance (in the form of a repayable loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are generally less than a participant's full benefit under the plan (and less than the single-employer guaranteed benefit). PBGC financial assistance occurs infrequently.

The PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by the PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, the PBGC must issue regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, and assessment and collection of employer liability.

Objectives and Priorities

PBGC regulatory objectives and priorities are developed in the context of the statutory purposes of title IV: (1) To encourage voluntary private pension plans, (2) to provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries, and (3) to maintain the premiums that support the insurance programs at the lowest possible levels consistent with carrying out the PBGC's statutory obligations (ERISA section 4002(a)).

The PBGC implements its statutory purposes by developing regulations designed: (1) To assure the security of the pension benefits of workers, retirees, and beneficiaries; (2) to improve services to participants; (3) to ensure that the statutory provisions designed to minimize losses for participants in the event of plan termination are effectively implemented; (4) to encourage the establishment and maintenance of defined benefit pension plans; (5) to facilitate the collection of monies owed to plans and to the PBGC, while keeping the related costs as low as possible; and (6) to simplify the termination process.

Legislative Initiatives

On December 8, 1994, the Retirement Protection Act of 1994 was enacted. The Retirement Protection Act (1) accelerates the funding of underfunded single-employer pension plans, (2) phases out the cap on the variable rate portion of the premium paid to the PBGC by underfunded single-employer plans, (3) provides the PBGC with better tools to prevent employers from escaping their plan funding obligations through corporate transactions, (4) requires better information to participants in underfunded plans on plan funding status and PBGC guarantees, and (5) helps assure that workers do not lose pensions because they have lost contact with a terminating pension plan covered by the PBGC.

In May 1996, the President submitted the Retirement Savings and Security Act (RSSA) to Congress. The RSSA would have expanded coverage, increased portability and worker protection, and simplified pension law. The proposal included an increase in the guarantees in the multiemployer insurance program to address inflation since 1980 and expansion of the PBGC's missing participant program to include terminating defined contribution plans and non-PBGC-covered defined benefit plans. The Small Business Job Creation Act of 1996 and the Taxpayer Relief Act of 1997 included many of the RSSA provisions but did not include the increase in the multiemployer guarantee or the expansion of the missing participant program. These provisions are contained in several bills that were introduced in the House and Senate in 1997, 1998, and 1999 and remain legislative objectives.

Many workers are not saving enough, through personal savings or a 401(k) or other defined contribution plan, for a secure retirement. About half of all workers have no employment-based pension coverage. In businesses with fewer than 100 employees, only about 20 percent of workers are covered by any retirement plan. Traditional pension plans, i.e., defined benefit plans, provide a predictable lifetime benefit, guaranteed by the PBGC. Yet the defined benefit system is stagnating.

In early 1998, the Administration proposed a new, simplified defined benefit plan-the Secure Money Annuity or Retirement Trust (SMART)-for employers with 100 or fewer employees. SMART combines the advantages of traditional defined benefit plans and defined contribution plans, while removing some of the major obstacles that discourage small business from adopting defined benefit plans. (The SMART proposal is contained in the Income Security Enhancement Act of 1999 (S. 8), the Employee Pension Portability and Accountability Act of 1999 (H.R. 1213), and the Retirement Security Act of 1999 (H.R. 1590).) For workers, SMART provides predictable benefits for life, guaranteed by PBGC, portability, and a chance to share in favorable investment experience. For employers, SMART offers more predictable contributions and reduced administrative costs.

Additional Administration proposals to encourage defined benefit plans include reduced PBGC premiums for new plans and improved benefit guarantees for owners of small businesses (these can be severely limited under current law).

- *Reduced premiums for newly established plans.* For small employers, a flat-rate per participant premium of $5 (rather than $19) and no variable rate premium during the first five plan years of a plan

established by a small employer. For larger employers, phase-in of the variable rate premium ($9 per $1,000 of unfunded vested current liability) in newly established plans at 20% per year.

- *Improved benefit guarantees for owners of small businesses.* For an owner with less than 50% ownership, the guarantee limits would be the same as for non-owner participants. After a plan has been in effect for ten years, owners with a 50% or greater ownership interest would have the same guarantee limits as other participants.

Regulatory and Deregulatory Initiatives

The PBGC issued regulations implementing the Retirement Protection Act through the end of 1996. In FY 1997 through FY 1999, the PBGC focused on changes that would simplify the rules and reduce regulatory burden. The PBGC:

- Reduced penalties for late premiums that are paid before the PBGC notifies the plan of the delinquency (statement of policy, December 2, 1996).
- Extended the time limits for various actions required to terminate a fully funded single-employer plan in a "standard termination" (final rule, November 7, 1997).
- Stopped the reduction of monthly benefits under its actuarial recoupment method once the nominal amount of the benefit overpayment is repaid (final rule, May 29, 1998).
- Provided participants with benefits valued up to $5,000 in PBGC-trusteed plans with the choice of receiving their benefit in the form of an annuity or a lump sum (final rule, July 17, 1998).
- Proposed to simplify its valuation assumptions by adopting a single set of assumptions for allocation purposes (proposed rule, October 26, 1998).
- Extended the filing date for PBGC premiums to match the latest Form 5500 filing date (final rule, December 14, 1998).
- Proposed to amend its premium regulation to encourage self-correction of premium underpayments by making it easier to qualify for safe-harbor penalty relief (proposed rule, May 26, 1999).

The PBGC is continuing to review its regulations to look for further simplification opportunities.

The PBGC's regulatory plan for October 1, 1999, to September 30, 2000, consists of one significant regulatory action.

PBGC

PROPOSED RULE STAGE

146. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Priority:

Other Significant

Legal Authority:

29 USC 1302(b)(3); 29 USC 1341; 29 USC 1301(a); 29 USC 1344; 29 USC 1362

CFR Citation:

29 CFR 4044 subpart B

Legal Deadline:

None

Abstract:

The Pension Benefit Guaranty Corporation is considering amending its benefit valuation and asset allocation regulations by adopting more current mortality tables and otherwise simplifying and improving its valuation assumptions and methods.

Statement of Need:

The PBGC's regulations prescribe rules for valuing a terminating plan's benefits for several purposes, including (1) determining employer liability and (2) allocating assets to determine benefit entitlements. The PBGC's interest assumption for valuing benefits, when combined with the PBGC's mortality assumption, is intended to reflect the market price of single-premium, nonparticipating group annuity contracts for terminating plans. In developing its interest assumptions, the PBGC uses data from surveys conducted by the American Council of Life Insurance. The PBGC currently uses a mortality assumption based on the 1983 Group Annuity Mortality Table in its benefit valuation and asset allocation regulations (29 CFR parts 4044 and 4281).

In May 1995, the Society of Actuaries Group Annuity Valuation Table Task Force issued a report that recommends new mortality tables for a new Group Annuity Reserve Valuation Standard and a new Group Annuity Mortality Valuation Standard. In December 1996, the National Association of Insurance Commissioners adopted the new tables as models for determining reserve liabilities for group annuities. The PBGC is now considering incorporating the new tables into its regulations and making other modifications.

Summary of Legal Basis:

The PBGC has the authority to issue rules and regulations necessary to carry out the purposes of title IV of ERISA.

Alternatives:

Not yet determined.

Anticipated Cost and Benefits:

Cost estimates are not yet available. However, the PBGC expects that this regulation will not have a material effect on costs.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
ANPRM	03/19/97	62 FR 12982
ANPRM Comment Period End	05/19/97	
NPRM	03/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

James L. Beller
Attorney
Pension Benefit Guaranty Corporation
Office of the General Counsel
1200 K Street NW.
Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA55

BILLING CODE 7708–01–F

SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

The Small Business Administration (SBA) continues to focus its regulatory efforts towards delivering sound economic development programs to small businesses through streamlined, customer-oriented regulations.

SBA began its efforts to streamline SBA regulations in 1994 in response to a Presidential directive to all agencies to review, revise and eliminate regulations. SBA followed the directive, thoroughly reviewed all regulations and, by 1996, revised the bulk of SBA's regulations. The revised regulations are less burdensome, more "user-friendly" and provide for more efficient operations. The regulations incorporate SBA's mission to ensure access to capital to our nation's small businesses.

SBA's 1999 Regulatory Plan

Section 7(a) of the Small Business Act states that SBA may provide financing to small businesses "directly or in cooperation with banks or other financial institutions." Today, SBA guarantees loans through approximately 7,000 lenders. Of these lenders, fourteen currently are Small Business Lending Companies (SBLCs) that are not otherwise regulated by Federal or state chartering, licensing, or similar regulatory control. SBA examines or audits these SBLCs periodically.

In view of SBA's desire to manage its guaranteed loan portfolio more effectively, along with recent increases in loan volume, SBA expects to increase its SBLC oversight. To that end, SBA continues to draft regulations that govern the oversight and operation of the SBLC Program.

SBA's 2000 Regulatory Plan

Small Business Lending Company Oversight Regulations

As discussed earlier as part of SBA's 1999 Regulatory Plan, SBA's drafting process with regard to the SBLC program continues.

Business Loan Programs — Multi-Lender Securitizations

Also, SBA seeks to allow small volume SBA Lenders to get less costly means of financing their small business loan-making while protecting the safety and soundness of the 7(a) program. SBA is drafting a rule to aid in such cost savings. The rule is intended to level the playing field between large and small volume Lenders and will have a long-term benefit of increasing the number of small business loans.

Business Loan Program: Modifications to CDC Operations

Another important change to an SBA loan program will be a new rule modifying the operating rules applicable to certified development companies (CDCs). There are currently approximately 270 active CDCs. In 1998, CDCs made approximately four thousand 504 loans to small businesses. SBA will publish a proposed rule to allow active CDCs to service locations that do not receive adequate 504 loans. SBA hopes that this will encourage active CDCs to provide 504 services to underserved areas. Thus, additional small businesses and the local economies in which they operate will benefit.

New Markets Venture Capital Program

This fall, SBA believes that a bill based on a Presidential initiative designed to bring small business economic growth to previously underserved areas ("new markets") will be introduced in Congress. SBA expects to issue regulations based on this bill when and if it is enacted into law. The regulations would implement the New Markets Venture Capital Program, which would help spur economic development in some of America's under-invested communities. The rule would initiate a public-private partnership encouraging venture capital investing and intensive technical assistance to small businesses in low and moderate income areas.

Local Economic Development and For-Profit CDCs

Finally, SBA's Office of Financial Assistance plans to publish a "Notice of Intent" to develop a regulation to better define the term "local economic development" and the organizational and program requirements CDCs must satisfy to comply with this concept. As part of this rulemaking, for-profit CDCs' organizational requirements will be dealt with specifically to ensure that they comply with Congressional intent for the program.

SBA

PROPOSED RULE STAGE

---

147. SMALL BUSINESS LENDING COMPANY OVERSIGHT REGULATIONS

Priority:

Other Significant

Legal Authority:

15 USC 634(b)(6); 15 USC 636(a); 15 USC 636(b)

CFR Citation:

13 CFR 120

Legal Deadline:

None

Abstract:

This rulemaking would amend 13 CFR part 120 to update the rules regarding Small Business Lending Company (SBLC) oversight and expand the SBLC Program.

Statement of Need:

Section 7(a) of the Small Business Act states that the Small Business Administration (SBA) may provide financing to small businesses "directly or in cooperation with banks or other financial institutions." Today, SBA guarantees loans through approximately 7,000 lenders. Of these lenders, 14 are Small Business Lending Companies (SBLCs) that are not otherwise regulated by Federal or State chartering, licensing, or similar regulatory control. SBA examines or audits these SBLCs periodically. Congressional and Administration policy to privatize SBA lending and recent increases in loan volume require that SBA increase its SBLC oversight. To that end, SBA will draft regulations that govern the oversight and expansion of the Small Business Lending Company Program.

Summary of Legal Basis:

Not required by statute or court order.

Alternatives:

This rulemaking amends and expands SBA's existing regulations on the SBLC Program.

Anticipated Cost and Benefits:

This rulemaking is designed to clarify SBA's oversight responsibilities in the SBLC Program. It will also facilitate access by new potential small business lenders to the SBLC Program. No costs to the Government or the SBLCs

associated with this rulemaking will result. However, benefits from improving access to the SBLC Program will accrue to the general economy through the creation of greater opportunity for small business loans, creation of jobs, and increased tax revenues.

Risks:

This regulation addresses no risks to the public health and safety or to the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Charles D. Tansey
Associate Deputy Administrator, Office of Financial Assistance
Small Business Administration
409 Third Street SW
Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE14

SBA

148. • BUSINESS LOAN PROGRAMS—MULTI-LENDER SECURITIZATIONS

Priority:

Other Significant

Legal Authority:

15 USC 634(b)(6); 15 USC 634(a)

CFR Citation:

13 CFR 120

Legal Deadline:

None

Abstract:

This regulation will allow multiple lenders to pool and securitize the unguaranteed portion of 7(a) loans ("multi-lender securitizations").

Statement of Need:

SBA published a final rule, at the request of Congress and after appropriate rulemaking procedures, on single-lender securitizations in February 1999 (64 FR 6503). In that rule, SBA stated that it would consider multi-lender securitizations on a case-by-case basis. On July 30, 1998, SBA met with lenders, trade groups, and rating agencies to discuss multi-lender securitizations. Based on that meeting, SBA is formulating a rule which allows multi-lender securitizations based on the same framework established for single-lender securitizations.

Summary of Legal Basis:

Not required by statute or court order.

Alternatives:

This rulemaking expands the single-lender securitization rules mandated by Congress.

Anticipated Cost and Benefits:

The purpose of this rule is to allow small volume SBA lenders to get less costly means of financing their small business loan-making while protecting the safety and soundness of the 7(a) program. SBA is drafting the rule to limit or eliminate costs. The rule will level the playing field between large and small volume lenders and has a long-term benefit of increasing the number of small business loans.

Risks:

This regulation addresses no risks to the public health and safety or to the environment. SBA does not anticipate substantial costs or risks associated with the proposed regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Agency Contact:

James W. Hammersley
Director for Secondary Market Sales
Small Business Administration
8th Floor
409 Third Street SW
Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AE26

SBA

149. • BUSINESS LOAN PROGRAM; MODIFICATIONS TO CDC OPERATIONS

Priority:

Other Significant

Legal Authority:

15 USC 636(b)(6); 15 USC 636(a); 15 USC 636(h); 15 USC 696(3); 15 USC 697(a)(2)

CFR Citation:

13 CFR 802; 13 CFR 810; 13 CFR 820; 13 CFR 822-825; 13 CFR 835, 837

Legal Deadline:

None

Abstract:

This would amend the rules governing CDC Area of Operations (the geographic area where SBA authorizes a CDC to make loans under SBA's development company loan program ("504 loan")).

The rule would cover an applicant requesting to become a CDC; an existing CDC applying to expand its Area of Operations within the State in which it is chartered; an existing CDC applying to expand its Area of Operations beyond the State in which it is chartered into a contiguous bisected local economic area ("Local Economic Area"); and an existing CDC applying to expand its Area of Operations outside the State in which it is chartered into another State beyond a Local Economic Area.

This rule also revises when SBA considers a county "adequately served" (when the 504 loan activity within a county precludes the county from being available for inclusion in a new CDC's Area of Operations or an existing CDC's expansion request). In some cases, counties would be available for inclusion in a new CDC's Area of Operations or an existing CDC's expansion request under the proposed rule that are not available under the current regulations.

The rule would clarify under what circumstances and conditions a CDC may contract out its management and staff functions. It also would address the purposes for which a CDC may use its net income generated in different States. The rule would eliminate a limited liability company from the types of organizations that may apply to become a CDC.

Finally, the rule would expressly authorize CDCs to establish Loan Committees and set forth conditions under which they may be used.

Statement of Need:

Since the inception of the Certified Development Company Program ("504 Program"), no CDC has been certified to operate permanently in more than one State, except for relatively few circumstances when a CDC's operations are in an area local to the CDC which is bisected by a State line. Given the low 504 lending volume in several parts of the country, SBA believes that it is in the best interests of underserved communities to permit active CDCs in good standing to permanently expand their Areas of Operations beyond their State of incorporation and beyond a Local Economic Area. SBA proposes to call such a CDC a "Foreign CDC" (a CDC that is operating as a foreign corporation in another State and is permitted by SBA under certain circumstances to include in the CDC's permanent Area of Operations counties in that State that are located beyond a Local Economic Area). SBA will ensure that the congressional intent for CDCs is followed and that they are formed by local citizens whose primary purpose is to improve their community's economy.

Summary of Legal Basis:

Not required by statute or court order.

Alternatives:

This rulemaking expands CDC operations, allowing 504 services to reach more small businesses.

Anticipated Cost and Benefits:

This rule modifies the operating rules applicable to certified development companies (CDCs). There are currently approximately 270 active CDCs. In 1998, CDCs made approximately 4000 504 loans to small businesses. The proposed rule would allow active CDCs to apply to service locations that are not receiving adequate 504 loan activity. SBA hopes that this will encourage active CDCs to provide 504 services to underserved areas. Thus, additional small businesses and the local economies in which they operate will benefit.

Risks:

This regulation addresses no risks to the public health and safety or to the environment. SBA does not anticipate substantial costs or risks associated with the proposed regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Michael Dowd
Director, Loan Programs Division
Small Business Administration
409 Third Street SW
8th Floor
Washington, DC 20416
Phone: 202 205-6570

RIN: 3245–AE39

SBA

150. • NEW MARKETS VENTURE CAPITAL PROGRAM

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

Not Yet Determined

CFR Citation:

Not Yet Determined

Legal Deadline:

NMVC Bill introduced in Congress in September 1999.

Abstract:

The New Markets Venture Capital (NMVC) program will help spur economic development in some of America's under-invested communities through a public-private partnership encouraging venture capital investing and intensive technical assistance to small businesses in low- and moderate-income areas.

Statement of Need:

This initiative provides equity-type capital to smaller businesses located in low- and moderate-income areas whose needs are more modest than the typical recipient of SBIC financing ($50,000 - $300,000, vs. $300,000 - $5 million for SBICs) and where significant technical assistance is an essential element of investment.

Summary of Legal Basis:

Not yet required by statute or court order. An NMVC bill is expected to be introduced in Congress in the fall of 1999.

Alternatives:

SBA expects that Congress will construct a statute based on a Presidential initiative to create this program. The NMVC program will confer benefits and is not designed to address a risk for which there may be alternative solutions.

Anticipated Cost and Benefits:

This rulemaking will require a small SBA staff to administer. No Federal agency other than SBA will incur costs. This program will benefit small businesses by providing equity-type capital and specialized technical assistance to previously underserved small businesses in low- and moderate-income areas.

Risks:

This regulation addresses no risks to the public health and safety or to the environment. SBA does not anticipate substantial costs or risks associated with the proposed regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

Agency Contact:

Saunders Miller
Senior Policy Advisor
Small Business Administration
Suite 6300
409 Third Street SW
Washington, DC 20416
Phone: 202 205-3646

RIN: 3245–AE40

SBA

151. • LOCAL ECONOMIC DEVELOPMENT AND FOR-PROFIT CDCS

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 695

CFR Citation:

13 CFR 120

Legal Deadline:

None

Abstract:

The Office of Financial Assistance proposes to publish a "Notice of Intent" regarding a proposed regulation to better define "local economic development" and the organizational and program requirements CDCs must satisfy in order to be in compliance with this concept. As part of the regulation, for-profit CDCs' organizational requirements will be dealt with specifically to ensure that they are in compliance with the congressional intent for the program.

Statement of Need:

This regulation is needed to better define "local economic development" and the organizational and program requirements CDCs must satisfy in order to be in compliance with this concept.

Summary of Legal Basis:

This rulemaking is not required by any statute or court order.

Alternatives:

SBA is exploring possible alternatives. The rulemaking will solicit comments geared towards developing alternatives.

Anticipated Cost and Benefits:

There may be minimal opportunity costs to Lenders associated with this rulemaking. It will allow Lenders to reinvest revenues from their operations in their local communities for the benefit of small businesses.

Risks:

This rulemaking addresses no risks to public health and safety or to the environment. SBA does not anticipate economic or financial risks. If there were such risks, the magnitude of these risks compared to those of other SBA programs would be minimal.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Agency Contact:

Michael Dowd
Director, Loan Programs Division
Small Business Administration
409 Third Street SW
8th Floor
Washington, DC 20416
Phone: 202 205-6570

RIN: 3245–AE41

BILLING CODE 8025–01–F

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

The Social Security Administration (SSA) administers the retirement, survivors, and disability insurance programs under title II of the Social Security Act (the Act), and the Supplemental Security Income (SSI) program under title XVI of the Act. Generally, SSA's regulations do not impose burdens on the private sector or on State or local governments. Our regulations codify the requirements for eligibility and entitlement to benefits under the programs that we administer.

Our six entries for the Regulatory Plan represent areas of major importance to the administration of the retirement, survivors, disability, and SSI benefit programs.

Included in this year's Plan is a proposed regulation that will provide more choices for people with disabilities who seek Return-to-Work services so that they may become self-sufficient. This proposed regulation parallels provisions of pending legislation, the Work Incentives Improvement Act of 1999, which would remove barriers to work for individuals with disabilities.

We are currently preparing two final regulations to implement several elements of a major agency initiative known as "process unification," which is designed to produce one set of adjudicative standards for all levels of disability review within SSA. The first, Weight of Disability Determination Service (DDS) Medical Consultant Opinions, will define the specific weight to be given to DDS medical consultant opinions in hearing decisions. The second, Assessment of Residual Functional Capacity, will clarify the guidelines in our regulations used in determining whether an individual under age 50 has the capacity to perform no more than the full range of sedentary work.

Providing world-class service to our customers remains a principal objective of SSA. One of the items in the Plan—Expansion of the Use of Video Teleconference Technology in Hearings Before Administrative Law Judges of the Social Security Administration—is expected to improve customer service by providing faster access to a hearing.

We list one regulatory initiative, Assessing Attorney Representatives for Direct Payment, which parallels provisions of a legislative proposal included in the President's Fiscal Year (FY) 2000 Budget. Under this proposed regulation, SSA would, in favorably-decided cases, assess an attorney representative for withholding authorized attorney fees from a claimant's past-due Social Security benefits and paying all or part of the withheld fees directly to the attorney. This is expected to generate $19 million in additional revenues in FY 2000 to meet SSA's administrative expenses and $26 million in succeeding years.

We have also included in this year's Plan proposed regulations that would provide SSA with additional tools to strengthen the integrity of the Social Security and SSI programs. These proposed regulations would implement provisions of pending legislation, the Foster Care Independence Act of 1999 (H.R. 1802). There are several provisions in the bill that relate to program integrity. For example, one provision would give SSA the authority to administratively impose nonpayment of benefits on certain individuals who misstate or withhold material facts. Another provision would authorize SSA to obtain information from financial institutions in order to determine initial or continuing eligibility for SSI benefits.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. We expect that the partnerships will contribute to the successful development of our Regulatory Plan entries.

SSA

PROPOSED RULE STAGE

---

152. OASDI AND SSI; EXPANSION OF THE USE OF VIDEO TELECONFERENCE TECHNOLOGY IN HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (737P)

Priority:

Other Significant

Legal Authority:

42 USC 205(a); 42 USC 205(b); 42 USC 902(a)(5); 42 USC 1383

CFR Citation:

20 CFR 404.929; 20 CFR 416.1438; 20 CFR 404.936(b); 20 CFR 404.936(c); 20 CFR 404.936(d)(8) (New); 20 CFR 404.938; 20 CFR 416.1429; 20 CFR 416.1436(b); 20 CFR 416.1436(c); 20 CFR 416.1436(d)(8) (New)

Legal Deadline:

None

Abstract:

We propose to amend our regulations to permit us to conduct hearings before an administrative law judge (ALJ) by video teleconference (VTC). We also propose to add new sections to the regulations that state an ALJ will find good cause to change the time and place of a hearing if we schedule a VTC hearing, and the individual tells us he/she does not want a VTC hearing.

Statement of Need:

Our regulations provide for a hearing in person before an ALJ. Traditionally, this has meant that the individual requesting a hearing and the ALJ were present in the same room. The proposed changes will allow us to schedule a VTC hearing without requiring prior written consent, and set out the right to decline such a hearing. We believe that conducting hearings by VTC will improve our efficiency and allow us to serve our customers better.

Providing VTC hearings is one initiative of the Hearings Process Improvement Plan we issued in August 1999. We expect that the plan, when fully implemented, will reduce the average processing time for hearings from 313 days in Fiscal Year 1999 to less than 200 days in Fiscal Year 2002. The VTC provision would aid in this reduction by eliminating much of the time some ALJ's must spend to travel to remote sites to conduct hearings face-to-face.

Summary of Legal Basis:

None.

Alternatives:

Require participation in a scheduled VTC hearing, i.e., no right to decline a VTC hearing.

Anticipated Cost and Benefits:

Improved customer service by providing faster access to a hearing.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

Lawrence V. Dudar
Social Security Administration
Office of Process and Innovation Management
6401 Security Boulevard
Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE97

SSA

153. • ASSESSING ATTORNEY REPRESENTATIVES FOR DIRECT PAYMENT (763P)

Priority:

Other Significant

Legal Authority:

42 USC 406 (Proposed Amendment)

CFR Citation:

20 CFR 404.1700 et seq

Legal Deadline:

None

Abstract:

We propose to amend our regulations on payment of the fees authorized by the Social Security Administration (SSA) or by a Federal court for services an attorney representative provided to a claimant for Social Security benefits. SSA would, in favorably decided cases, assess an attorney representative for withholding from a claimant's past-due Social Security benefits and paying all or part of the authorized fee directly to the attorney. SSA would assess 6.3 percent of the amount subject to withholding and direct payment, and deduct the assessment from the amount payable to the attorney.

Statement of Need:

Currently, SSA does not assess a charge for approving, withholding, and certifying the direct payment of the attorney's fee. This proposal would allow SSA to receive compensation from attorneys for the services we provide.

Summary of Legal Basis:

None at this time. SSA has included this proposal in our Fiscal Year 2000 legislative agenda.

Alternatives:

None.

Anticipated Cost and Benefits:

SSA expects to achieve $19 million administrative savings the first year.

Risks:

We have not identified any risks associated with the changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Agency Contact:

Georgia E. Myers
Acting SSA Regulations Officer
Social Security Administration
Office of Process and Innovation Management
6401 Security Boulevard
Baltimore, MD 21235-6401
Phone: 410 965-3632

RIN: 0960–AF08

SSA

154. • ANTI-FRAUD PROVISIONS (765P)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

Not Yet Determined

CFR Citation:

Not Yet Determined

Legal Deadline:

Undetermined at this time.

Abstract:

These regulations would implement new authorities to be granted to SSA upon enactment of H.R. 1802, the Foster Care Independence Act of 1999, to strengthen the integrity of the SSI and OASDI programs. Currently, the bill is pending in the Senate after passing the House on June 25, 1999. One provision concerns adding a new penalty of non-payment of SSI and/or OASDI benefits for individuals found to have made a material statement or representation concerning eligibility for benefits that the individual knew was false or misleading. Another provision would bar for a specified period of time representatives and health-care providers from the program, if they are found to have helped commit fraud.

Statement of Need:

Eliminating fraud and abuse in Social Security's programs is a vital goal of SSA. SSA's Strategic Plan asserts zero tolerance for fraud and abuse, and states that we will increase our attention on deterring fraudulent activities. This reflects our ideal that we must remain vigilant if we are to fulfill our role as capable stewards of the public trust. These regulations would implement anti-fraud legislation included in the Foster Care Independence Act of 1999, now pending in congress.

Summary of Legal Basis:

Undetermined at this time.

Alternatives:

Undetermined at this time.

Anticipated Cost and Benefits:

Undetermined at this time.

Risks:

Undetermined at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Agency Contact:

Georgia E. Myers
Acting SSA Regulations Officer
Social Security Administration
Office of Process and Innovation Management
6401 Security Boulevard
Baltimore, MD 21235-6401
Phone: 410 965-3632

RIN: 0960–AF09

SSA

155. • WORK INCENTIVES IMPROVEMENT ACT (767P)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 405 (proposed amendment); 42 USC 1383 (proposed amendment)

CFR Citation:

Not Yet Determined

Legal Deadline:

Section 201 of S. 331—within one year of enactment, including necessary regulation.

Sections 211 and 212 of S. 331—upon enactment.

Abstract:

One of SSA's most important initiatives is to assure that Social Security and SSI beneficiaries with disabilities who want to work have the opportunity to do so. Individuals with disabilities face multiple barriers in attempting to return to work. The provisions in the Work Incentive Improvement Act of 1999 would remove such barriers by, for example, providing the opportunity for disability beneficiaries to obtain, from an approved vocational rehabilitation provider of their choice, the help they need to go to work.

Statement of Need:

This regulatory action will be necessary to implement the provisions of the legislation currently pending in Congress. The specific provisions of S. 331 requiring rulemaking are shown below.

Section 201 would establish the Ticket to Work and Self-Sufficiency Program, requiring regulation of the following:

- Outcome Payment and Milestone-Outcome payment systems
- Program Manager/Employment Network standards
- Employment Network services
- Individual Work Plan requirements
- Suspension of continuing disability reviews based on work activity for beneficiaries using a Ticket, requiring revision of current CDR regulations.

Section 211 would suspend CDRs based on work activity for beneficiaries receiving Title II disability benefits for at least 24 months, requiring revision of current CDR regulations.

Section 212 would provide for expedited reinstatement of disability benefits terminated due to work activity based on a request within 5 years.

Section 221 would require regulation of requirements for the operation of a Work Incentives Specialist corps within SSA.

Section 302 would require regulation of a demonstration project to evaluate a program to reduce Title II disability benefits by $1 for every $2 of earnings above a level to be determined by the Commissioner, including waiver of current benefit provisions and procedures for the conduct of the demonstration projects in selected areas.

Summary of Legal Basis:

Undetermined at this time. Various provision of the WIIA will require this regulatory action.

Alternatives:

None—this regulatory action will be necessary to implement Administration-sponsored legislation presently pending in Congress.

Anticipated Cost and Benefits:

Anticipated costs are undetermined at this time. The anticipated benefits of this legislation include allowing individuals with disabilities to seek the services necessary to obtain employment and reduce their dependency on cash benefit programs, including SSI and SSDI.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State

Agency Contact:

Marianne Daley
Social Insurance Specialist
Social Security Administration
Office of Employment Support Programs
6401 Security Boulevard
Baltimore, MD 21235-6401
Phone: 410 965-9173

RIN: 0960–AF11

SSA

Final Rule

---

156. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; REVISION TO MEDICAL-VOCATIONAL GUIDELINES (599F)

Priority:

Other Significant

Legal Authority:

42 USC 423; 42 USC 405(a); 42 USC 902(a)(5)

CFR Citation:

20 CFR 404.1500, app 2

Legal Deadline:

None

Abstract:

This rule will make clarifications to the Social Security Medical-Vocational guidelines used to evaluate disability in individuals under age 50 who have severe impairments that do not meet or equal the criteria of any listed impairment, but have a residual functional capacity for no more than the full range of sedentary work. The guidelines are contained in appendix 2 of Subpart P of 20 CFR 404.

Statement of Need:

This regulation is necessary to implement one of several process unification initiatives approved by the Commissioner on July 8, 1996. Process unification is an ongoing initiative designed to foster similar results on similar cases at all stages of the administrative review process, from the initial decision through hearings and appeals, by the consistent application of laws, regulations and rulings. Where needed, clarifying our intent in our regulations is an important part of process unification.

Summary of Legal Basis:

None.

Alternatives:

None.

Anticipated Cost and Benefits:

Since these regulations merely clarify existing policy, they impose no additional program or administrative costs.

Risks:

None—Because the only purpose of these regulations is to clarify existing policy.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49636
NPRM Comment Period End	11/24/97	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Agency Contact:

Robert J. Augustine
Social Insurance Specialist
Social Security Administration
Office of Process and Innovation Management
6401 Security Boulevard
Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE42

SSA

157. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; EVALUATING OPINION EVIDENCE (624F)

Priority:

Other Significant

Legal Authority:

42 USC 405(a); 42 USC 405(b); 42 USC 902(a); 42 USC 1382C; 42 USC 221

CFR Citation:

20 CFR 404.1502; 20 CFR 416.927; 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 404.1519; 20 CFR 404.1527; 20 CFR 416.902; 20 CFR 416.912; 20 CFR 416.913; 20 CFR 416.919

Legal Deadline:

None

Abstract:

These changes will revise our disability regulations to clarify the weight administrative law judges and the appeals council are to give to opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts in claims for disability benefits under title II and title XVI of the Social Security Act.

Statement of Need:

This regulation is necessary to implement one of several process unification initiatives approved by the Commissioner on July 8, 1996. Process unification is an ongoing initiative designed to foster similar results on similar cases at all stages of the administrative review process, from the initial decision through hearings and appeals, by the consistent application of laws, regulations and rulings. Where needed, clarifying our intent in our regulations is an important part of process unification.

Summary of Legal Basis:

None.

Alternatives:

None.

Anticipated Cost and Benefits:

We do not anticipate any additional program or administrative costs.

Risks:

At this time we have not identified any risks associated with the proposal.

Timetable:

Action	Date	FR Cite
NPRM	09/25/97	62 FR 50270
NPRM Comment Period End	11/24/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

Agency Contact:

Lawrence V. Dudar
Social Security Administration
Office of Process and Innovation Management
6401 Security Boulevard
Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE56

BILLING CODE 4190–29–F

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Statement of Regulatory Priorities

The mission of the Commodity Futures Trading Commission is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options and to foster open, competitive, and financially sound commodity futures and option markets. The Commission's objectives are to: (1) foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity; (2) oversee markets which can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting; (3) promote compliance with, and deter violations of, Federal commodities laws; (4) require commodities professionals to meet high standards; (5) provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Commodity Exchange Act; (6) ensure sound financial practices of clearing organizations and firms holding customer funds; (7) promote and enhance effective self-regulation of the commodity futures and option markets; (8) facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions; and (9) promote markets free of trade practice abuses.

BILLING CODE 6351–01–F

VOL 64 ISS 224 NO 22 1999 UMI

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Participates in the development or revision of voluntary product safety standards;
- Develops mandatory product safety standards or banning rules when other, less restrictive efforts are inadequate to address a safety hazard;
- Obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard; and
- Develops information and education campaigns about the safety of consumer products.

When deciding which of these approaches to take in any specific case, the Commission gathers the best available data about the nature and extent of the hazard presented by the product. The Commission then analyzes this information to determine the best way to reduce the hazard in each case. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- Causality of injury;
- Chronic illness and future injuries;
- Costs and benefits of Commission action;
- Unforeseen nature of the risk;
- Vulnerability of the population at risk; and
- Probability of exposure to the hazard.

Additionally, if the Commission proposes a mandatory safety standard for a particular product, the Commission is generally required to make statutory cost/benefit findings and adopt the least burdensome requirements that adequately protect the public.

The Commission's statutory authority requires it to rely on voluntary standards rather than mandatory standards whenever a voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with the voluntary standard. As a result, much of the Commission's work involves cooperative efforts with other participants in the voluntary standard-setting process rather than promulgating mandatory standards.

In fiscal year 2000, the Commission's significant rulemaking activities will involve addressing risks of fire associated with ignition of upholstered furniture by small open flames, a standard for multi-purpose lighters to make those products resistant to operation by young children, and entrapment risks to young children in bunk beds. These projects are described in detail below.

All three of the rulemaking proceedings in the Commission's FY 2000 regulatory plan are related to protection of vulnerable populations. Upholstered furniture fires disproportionately kill and injure children, the elderly, and families and individuals with lower incomes.

With regard to multi-purpose lighters, children younger than five usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by children playing with multi-purpose lighters. Most fatalities reported to the Commission from the fires resulting from children playing with multi-purpose lighters were the children who started the fires. The proposed bunk bed rule is intended to reduce the hazard that young children can be suffocated or strangled when they become entrapped in the beds' structure or become wedged between the upper bunk and a wall.

The emphasis on these three rulemaking activities in the Commission's FY 2000 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities. Additionally, the Commission's FY 2000 regulatory plan supports the President's goal to reduce costs of health care by preventing injuries to individuals who are among the most vulnerable to being injured in incidents associated with the use of consumer products.

CPSC

PROPOSED RULE STAGE

---

158. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 1193 Flammable Fabrics Act

CFR Citation:

16 CFR 1640

Legal Deadline:

None

Abstract:

On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources such as matches, lighters, or candles. This ANPRM was issued after the Commission granted part of a petition requesting development of a mandatory flammability standard to address risks of injury from ignition of upholstered furniture by: (1) small open-flame sources; (2) large open-flame sources; and (3) cigarettes. The Commission voted to deny that part of the petition requesting development of a mandatory standard to address hazards associated with ignition of upholstered furniture by large open-flame sources. The Commission also voted to defer a decision on that part of the petition requesting development of a standard to address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff developed a draft standard to address ignition of upholstered furniture by small open-flame sources. On March 2, 1998, the Commission voted to defer action on small open-flame sources and gather additional information on the potential toxicity of flame-retardant chemicals that might be used to meet a standard. A public hearing on this subject was held on May 5-6, 1998. The staff is analyzing data from the hearing and completing other technical studies. In CPSC's 1999 appropriations legislation Congress directed the Commission to contract with the National Academy of Sciences for a 12-month independent study of potential health hazards associated with the use of flame retardant chemicals that might be used in upholstered furniture fabrics to meet a CPSC standard. This contract was awarded in January 1999. Upon completion of this study, the staff will present alternatives for future action by the Commission. CPSC is also

considering possible impacts of flame retardant chemical use on worker safety and the environment. At the CPSC staff's request, the National Institute of Occupational Safety and Health will assess potential worker exposure to and risks from certain flame retardant chemicals that may be used by textile and furniture producers to comply with an upholstered furniture flammability standard. The CPSC staff is also working with the Environmental Protection Agency to consider possible controls on flame retardant compounds used in residential upholstered furniture fabrics, under that agency's Toxic Substances Control Act Authority.

Statement of Need:

In 1996, approximately 650 deaths, more than 1,600 injuries, and about $250 million in property damage resulted from 13,100 residential fires in the United States in which upholstered furniture was the first item to ignite. This total includes fires ignited by small open-flame sources, large open-flame sources, and cigarettes. Small open-flame fires accounted for an average of approximately 90 deaths, 420 injuries and $40 million in property losses each year from 1992 to 1996.

The total societal cost attributable to upholstered furniture fires was approximately $3.75 billion in 1996. A significant portion of that total — $560 million — was associated with upholstered furniture fires ignited by small open-flame sources, such as matches, lighters, or candles. These fires are not addressed by any national standard or voluntary program.

Summary of Legal Basis:

Section 4 of the Flammable Fabrics Act (FFA) (15 USC 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." No aspect of the Commission's regulatory proceeding is required by statute or court order.

The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

Alternatives:

The ANPRM stated that the Commission was considering the following alternatives:

(1) The Commission could issue a mandatory flammability standard if the Commission finds that such a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of upholstered furniture by small open-flame sources;

(2) The Commission could issue mandatory requirements for labeling of upholstered furniture, in addition to, or as an alternative to, the requirements of a mandatory flammability standard;

(3) The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the risk of fire and substantial compliance with such a standard is likely to result; and

(4) The Commission could terminate the proceeding and withdraw the ANPRM.

Anticipated Cost and Benefits:

The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture by small open-flame sources will depend upon the test requirements imposed by the standard and the steps manufacturers take to meet those requirements. The average annual societal cost of fires involving upholstered furniture ignited by small open-flame sources since 1990 is more than $500 million. Again, depending upon the test requirements, a small open-flame standard could also reduce cigarette-ignited fire losses, the societal cost of which was over $2 billion in 1996. For this reason, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture by small open-flame sources could be significant, even if the standard did not prevent all such fires started by open-flame sources.

Risks:

The estimated total cost to society from all residential fires associated with upholstered furniture was $3.75 billion in 1996.

Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A standard has the potential to reduce these societal costs.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	
Staff Briefing of Commission on NPRM	12/18/97	
Commission Voted To Defer Action Pending Results of Toxicity Hearing	03/02/98	
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame Retardant Chemicals	03/17/98	63 FR 13017
NAS Study Completed (required by Congress)	01/00/00	
Commission Decision on NPRM	To Be	Determined

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Agency Contact:

Dale R. Ray
Project Manager, Directorate for Economic Analysis
Consumer Product Safety Commission
Washington, DC 20207
Phone: 301 504-0962

RIN: 3041–AB35

CPSC

FINAL RULE STAGE

---

159. REQUIREMENTS FOR CHILD-RESISTANCE OF MULTI-PURPOSE LIGHTERS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 2051 Consumer Product Safety Act

CFR Citation:

16 CFR 1212

Legal Deadline:

Final, Statutory, December 31, 1999, Unless the time is extended by the Commission, this rule must either be

issued or the proposal must be withdrawn by December 31, 1999.

Abstract:

On January 16, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in a mandatory consumer product safety rule requiring multi-purpose lighters to resist operation by children. The Commission began this proceeding after granting a petition.

A mandatory product safety rule for multi-purpose lighters, also known as grill lighters, utility lighters, and micro-torches, would require these lighters to have a child-resistant mechanism to prevent operation by most children younger than 5 years of age. Child resistance would be measured by a panel of children who would attempt to operate lighters that would not produce a flame. The standard would include lighters marketed for a wide range of general household uses, such as igniting fuel for fireplaces, charcoal or gas-fueled grills, and camping equipment.

On September 30, 1998, a notice of proposed rulemaking (NPRM) was published in the Federal Register. On August 4, 1999, a supplemental NPRM was published, seeking comment on a change that would require the test lighters to be given to the panel of children with the lighters' on-off switches in the on, or unlocked position.

Statement of Need:

The Commission staff has obtained information about 178 incidents occurring from January 1988 to August 6, 1998 in which children younger than 5 years of age started fires using multi-purpose lighters. These fires resulted in 29 deaths and 71 injuries. Because these data are actual incidents rather than national estimates, the extent of the total problem may be greater.

Children younger than 5 years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by child-play. About half of all of the fatalities in the fires resulting from children playing with multi-purpose lighters were the children who started the fires. About 25 percent of the 71 persons injured in fires started by children with multi-purpose lighters were hospitalized for treatment.

Annual sales of multi-purpose lighters have grown from one million in 1985 to 20 million in 1998. With sales growing at a rate estimated to be 5 percent to 10 percent a year, it is expected that fires started with these products by children under 5 will also increase. Staff testing of lighters currently on the market indicated child resistance levels ranging from a low of 4 percent to a high of 41 percent, still far below the 85 percent required of cigarette lighters under the Commission's cigarette lighter standard.

Fires started by young children playing with multi-purpose lighters are not addressed by any voluntary standard or other voluntary program.

Summary of Legal Basis:

Sections 7 and 9 of the Consumer Product Safety Act (CPSA) authorize the Commission to issue a consumer product safety standard to eliminate or reduce an unreasonable risk of injury associated with a consumer product. No aspect of this proceeding is required by statute or court order.

Alternatives:

This proceeding could result in the establishment of requirements for multi-purpose lighters to reduce risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children. The NPRM discussed the following alternatives:

(1) Establishment of a mandatory standard with performance requirements for multi-purpose lighters to reduce risks of death and injury from fires ignited by multi-purpose lighters operated by young children;

(2) Establishment of mandatory labeling requirements to warn of the risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children, either instead of, or in addition to, a mandatory standard with performance requirements;

(3) Development of a voluntary standard containing performance, labeling, or other requirements to address risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children; and

(4) The Commission could terminate the proceeding and withdraw the NPRM.

Anticipated Cost and Benefits:

Based on available fire incident and sales information, the estimated cost to society of fires started by children playing with multi-purpose lighters is about $35 million a year. This estimate includes the costs associated with loss of life, medical treatment, lost income, pain and suffering, and property damage. A safety standard for multi-purpose lighters with a required child-resistance of 85 percent would provide estimated gross benefits of at least $27 million a year. Costs of compliance are expected to result in increased consumer expenditures of around $17 million per year, resulting in net benefits of over $10 million annually. This annual net benefit will increase if sales of multi-purpose lighters increase.

Risks:

The Commission has information indicating that from January 1988 through August 6, 1998, children younger than five years of age started at least 178 fires using multi-purpose lighters. These fires resulted in 29 deaths and 71 injuries. Based on available fire incident and sales information, the Commission staff estimates that the total cost to society of these fires is about $35 million a year.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2327
ANPRM Comment Period End	03/17/97	
NPRM	09/30/98	63 FR 52397
NPRM Comment Period End	12/14/98	
Supplemental NPRM	08/04/99	64 FR 42302
Second NPRM Comment Period End	10/18/99	
Staff Sends Briefing Package to Commission	11/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Agency Contact:

Barbara Jacobson
Project Manager
Consumer Product Safety Commission
Directorate for Health Sciences
Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB66

CPSC

160. REQUIREMENTS FOR BUNK BEDS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

15 USC 2051 Consumer Product Safety Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation:

16 CFR 1213; 16 CFR 1500; 16 CFR 1513

Legal Deadline:

Final, Statutory, March 3, 2000, Unless the time is extended by the Commission, the NPRM must either be issued as a final rule or the proposal must be withdrawn.

Abstract:

On March 3, 1999, the Commission published a notice of proposed rulemaking (NPRM) and proposed mandatory rules that would contain performance requirements for bunk beds to reduce the hazard that children can be suffocated or strangled when they become entrapped in the beds' structure or become wedged between the upper bunk and a wall. The proposed rule contains requirements for the presence of guardrails, the height and extent of guardrails, and the height of, and the openings in, the beds' end structures to address entrapment hazards.

On July 9, 1999, the Commission published a notice requesting comment on an additional requirement addressing entrapment in end structures.

Statement of Need:

Bunk beds have been long recognized as a potential cause of children's deaths. From January 1990 through October 23, 1998, CPSC received reports of 89 bunk-bed-related deaths of children under age 15. Of the 89 fatalities, 56 (64%) resulted from entrapment. Over 96% (55 of 57) of those who died in entrapment incidents were age 3 and younger, and all but one were younger than 5. There is an ASTM voluntary standard addressing entrapment deaths in bunk beds. Nevertheless, using statistical methodology, the CPSC estimated that about 10 bunk-bed-related entrapment deaths have occurred in the United States each year since 1990.

Generally, these deaths involve suffocation or strangulation when a child either becomes wedged between the upper bunk's structure or mattress and a wall or becomes trapped by the head when the child's torso slips through an opening in the bed that the head cannot pass through. CPSC is also aware of an incident where a child inserted his head through an opening in the end structure of the bed, moved to another part of the opening where the head could not be pulled directly out, and then lost his footing and was strangled. The proposed standard addresses all these scenarios.

Summary of Legal Basis:

The Federal Hazardous Substances Act (FHSA) authorizes the regulation of unreasonable risks of injury associated with articles intended for use by children that present mechanical (or electrical or thermal) hazards. FHSA sec. 2(f)(1)(D), 15 U.S.C. 1261(f)(1)(D). The hazards associated with bunk beds that are described above are mechanical. See FHSA sec. 2(s), 15 U.S.C. 1261(s). The Consumer Product Safety Act (CPSA) authorizes the regulation of unreasonable risks of injury associated with "consumer products," which include bunk beds — whether intended for the use of children or adults. CPSA sec. 3(a)(1), 15 U.S.C. sec. 2052(a)(1). Thus, bunk beds intended for the use of adults can be regulated only under the CPSA, while bunk beds intended for the use of children potentially could be regulated under either the FHSA or the CPSA.

Alternatives:

The Commission considered two alternatives to the proposed rule:

(a) Defer to the voluntary standard.

(b) Third-party certification.

Anticipated Cost and Benefits:

The CPSC estimates that the present value of the benefits of averting the entrapment fatalities addressed by the voluntary standard ranges from about $175 to $350 per noncomplying bed. If the standard prevents all of the deaths addressed, the benefits would be much higher than the costs of implementing the standard. In fact, the net benefits per otherwise noncomplying bed, over its expected product life, would range from a low of $135 ($175 - $40) to a high of $335 ($350 - $15). The benefits of these provisions are about 4 to 23 times their costs. The Commission's staff expects a mandatory standard to be highly effective.

Risks:

The estimated total cost to society from entrapment deaths to children in the upper bunk and end structures of bunk beds that would be addressed by the proposed rule is from $6.75 million to $16.75 million per year.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/98	63 FR 3280
ANPRM Comment Period End	04/07/98	
Staff Sends Briefing Package to Commission	12/16/98	
Commission Decision	02/03/99	
NPRM	03/03/99	64 FR 10245
NPRM Comment Period End	05/17/99	
Staff Sends Briefing Package to Commission	06/16/99	
Request for Additional Comment	07/09/99	64 FR 37051
NPRM Comment Period End	09/22/99	
Staff Sends Briefing Package to Commission	11/00/99	
Commission Decision	12/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Agency Contact:

John D. Preston
Project Manager
Consumer Product Safety Commission
Directorate for Engineering Sciences
Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB75

BILLING CODE 6355–01–F

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Statement of Regulatory Priorities

The Federal Energy Regulatory Commission regulates key interstate aspects of the electric power, natural gas, oil pipeline, and hydroelectric industries. The Commission chooses regulatory approaches that foster competitive markets whenever possible, assures access to reliable service at a reasonable price, and gives full and fair consideration to environmental and community impacts in assessing the public interest of energy projects.

The 1999 regulatory plan reflects the Commission's commitment to the elements of its strategic goals:

- promoting competitive markets;
- protecting customers;
- respecting the environment; and
- serving and safeguarding the public.

While much of the Commission's regulatory activity continues to be done in case-specific adjudications, the Commission has increasingly employed informal rulemaking as a critical process tool in pursuing these strategic goals and carrying out its statutory responsibilities.

The industries the Commission regulates are changing very rapidly in response to increasing competition and environmental awareness. The Commission is responding with the following integrated package of initiatives.

Energy Markets. Make natural gas and electric markets both more competitive and less costly to use. These measures will bring more of the benefits of competitive markets to more customers more quickly.

- Notice of Proposed Rulemaking (NOPR) on Formation of Regional Transmission Organizations
- NOPR on Regulation of Natural Gas Transportation Services

Energy Projects. Improve the Nation's ability to site new energy projects — primarily natural gas pipelines — quickly, fairly and (where possible) consensually. These measures will improve the Commission's ability to ensure that essential pipeline infrastructure is in place to support competitive gas markets and competitive gas-fired electric generation.

- Policy Statement on Determining Need for New Pipeline Facilities
- Final Rule on Landowner Notification
- Final Rule on Collaborative Procedures for Energy Facility Applications

Procedural Reforms. Improve the Commission's processes for handling information, complaints and communications with the public. These measures will give the Commission state-of-the-art electronic filing and encourage much greater use of informal, less costly ways of resolving regulatory issues.

- Final Rule on Complaint Procedures
- Final Rule on Off-the-Record Communications
- Pilot Program on Electronic Filing

Together, these measures will implement policies and processes that match the fast-paced, competitive energy industry of the future and the increasingly important environmental impacts of that industry.

Energy Markets

In carrying out its statutory responsibilities for economic regulation of interstate aspects of electricity and natural gas markets, the Commission is pursuing policies designed to promote competitive markets and protect customers. To support competition in electricity and natural gas markets, the Commission regulates access to and pricing of essential electricity transmission and natural gas transportation services so as to eliminate undue discrimination and mitigate market power. The Commission has two pending rulemaking initiatives to advance these important goals: one relating to formation of regional transmission organizations in the electric industry, and the other reforming regulation of the natural gas industry.

Regional Transmission Organizations; 1902-AB77, Docket No. RM99-2-000. In May 1999, the Commission issued a Notice of Proposed Rulemaking on Regional Transmission Organizations (RTOs). The Commission supports the creation of RTOs to promote efficient operation of the transmission grid, eliminate residual discrimination by transmission owners, promote grid reliability, and facilitate regional grid planning. This rulemaking advances the Commission goal of promoting competition in bulk power markets as a means of encouraging efficient operation of, and investment in, generation facilities, and thereby reducing consumer prices.

The Commission has proposed to amend its regulations under the Federal Power Act to facilitate the formation of RTOs. The Commission proposes that each public utility that owns, operates or controls facilities for the transmission of electric energy in interstate commerce make certain filings with respect to forming and participating in an RTO. The Commission also proposes certain minimum characteristics and functions that must be satisfied in order to be considered to be an RTO.

The Commission has proposed that RTOs have a minimum of four characteristics:

- independent governance;
- appropriate scope and regional configuration;
- adequate operational authority; and
- responsibility for short-term reliability.

It further proposed that RTOs would have at least these seven functions:

- designing and administering tariffs;
- providing ancillary services;
- managing congestion;
- operating an Open Access Same-Time Information System (OASIS) and determining available transmission capacity (ATC);
- monitoring markets;
- addressing a parallel path flow; and
- regional planning and expansion.

The NOPR proposes a framework for supporting and encouraging voluntary RTO formation. The NOPR invites comment on how regulatory mandates, ratemaking incentives, or other tools should be employed to advance RTO formation.

After the Commission issues the final rule, which is expected by the end of 1999, it proposes to initiate a collaborative process to facilitate RTO formation that will involve jurisdictional and nonjurisdictional utilities, state officials and other affected interest groups through regional workshops across the country. Commission staff will share information and explore processes to facilitate RTO formation.

Gas Policy Initiative; 1902-AB74, Docket No. RM98-10-000. The Commission is undertaking a natural gas policy initiative to improve the efficiency, transparency, and competitiveness of natural gas markets. Further, it is exploring expanded reliance on competitive market forces in its oversight of the natural gas transportation market.

The market-oriented goals of the natural gas initiative are to foster competitive markets and mitigate residual market power. In selecting regulatory strategies to achieve these goals, this initiative sets forth four subsidiary objectives:

- provide appropriate incentives for efficient pipeline operations, efficient customer choices, and optimal level of construction;

- monitor for discrimination and the exercise of market power;
- minimize any adverse financial impact from regulatory changes; and
- use fair and administratively efficient regulatory approaches.

As part of the natural gas initiative, the Commission issued a NOPR proposing a more market-based approach to regulation of the short-term transportation market. The primary proposals included removing the rate cap for all short-term transportation services, requiring auctions for all short-term transportation capacity, and permitting negotiation of terms and conditions of services. The Commission simultaneously issued a Notice of Inquiry (NOI) requesting comments on a variety of long-term transportation issues in light of market changes and the regulatory changes proposed in the NOPR. The NOI sought comments on whether the Commission should modify its long-term market pricing policies by moving away from traditional cost-of-service ratemaking or by modifying the current ratemaking methods.

Energy Projects

The Commission's rulemaking activities in the area of authorizing gas pipeline and hydroelectric project development are aimed at protecting the environment and the public, while at the same time serving customer interests and promoting competition. The key rulemakings in the energy projects area are: (1) a policy statement articulating the Commission's approach to determining need for new pipeline development; (2) a rulemaking to give earlier notification to landowners affected by pipeline project proposals, to facilitate their participation in project review; and (3) a rulemaking to enable pipeline certificate applicants to employ the type of pre-filing collaborative procedures that have been used successfully to identify and resolve issues in the hydroelectric licensing program.

Policy Statement on Determination of Need; 1902-AB86, Docket No. PL-3-000. As articulated in a recent policy statement, in deciding whether a proposed pipeline project is required by the public convenience and necessity, the Commission considers the effects of the project on all affected parties. This means considering not only the interests of the applicant and potential new customers, but also those of the applicant's existing customers, existing pipelines that serve the market and their captive customers, landowners, and communities. One key element of the policy is that a project must not rely on subsidies from existing customers. With a policy favoring incremental pricing, the market will decide whether a project is financially viable. Moreover, under this policy, construction projects that will have adverse effects on relevant interests can be approved only if on balance the benefits outweigh the harm.

The new policy is designed to provide incentives for pipelines to eliminate or minimize adverse effects before filing, through correctly structured financial arrangements, careful project design, and negotiations with landowners. By working out contentious issues in advance and mitigating impacts where impacts cannot be avoided, the applicant can develop a record in support of the project, reducing time required for the Commission's deliberative process.

Landowner Notification, Expanded Categorical Exclusions, and Other Environmental Filing Requirements; 1902-AB83, Docket No. RM98-17-000. On October 13, 1999, the Commission issued a final rule amending its regulations under the Natural Gas Act by adding certain early landowner notification requirements that will ensure that landowners who may be affected by a pipeline's proposal to construct natural gas pipeline facilities have sufficient opportunity to participate in the Commission's certificate process. The Commission also amended its regulations to provide pipelines with greater flexibility and to further expedite the certificate process.

Extension of Pre-filing Collaborative Process; 1902-AB81, Docket No. RM98-16-000. The Commission recently revised its regulations to offer prospective applicants seeking to construct, operate or abandon natural gas facilities or services the option, prior to filing an application, of employing a collaborative process that includes environmental analysis and issue resolution. This pre-filing collaborative process is comparable to the process the Commission successfully adopted two years ago with respect to applications for hydroelectric licenses, amendments and exemptions and, like those regulations, is optional and is designed to be adaptable to the facts and circumstances of the particular case.

Procedural Reforms

The Commission has undertaken several important initiatives to reform and streamline its procedures, with the goals of expediting Commission action, emphasizing use of alternative dispute resolution (ADR), and improving access to information. The key rulemaking initiatives in this area include: (1) reforms to complaint procedures to facilitate expedited review and encourage use of ADR; (2) reforms to rules governing off-the-record communications designed to enhance the Commission's access to information consistent with preserving the fairness and integrity of the decisional process; and (3) a pilot program, which will lead to a rulemaking, on electronic filing.

Complaint Procedures; 1902-AB, Docket No. RM98-13-000. The Commission recently issued revised regulations governing complaints filed under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, the Public Utility Regulatory Policies Act of 1978, the Interstate Commerce Act, and the Outer Continental Shelf Lands Act. The new complaint rule sets forth clear requirements for issues that must be addressed in a complaint filed at the Commission, including listing whether any informal attempts at resolution were tried and whether ADR would be appropriate. The new rule sets forth a variety of possible resolution paths, including alternative dispute resolution, arbitration, and settlement judge procedures, as well as the more traditional administrative hearing or Commission procedures. A feature of the new rule is "fast track" processing, which allows expedited action on complaints that clearly state why such expedition is necessary.

The complaint rule was designed to encourage and support consensual resolution of complaints, and to organize the complaint process so that all complaints are handled fairly and expeditiously. As the Commission moves toward lighter-handed methods of regulation for increasingly market-driven energy industries, it must have a fast and fair complaint process to ensure adequate protection and redress to complainants.

Off-the-Record Communications; 1902-AB80, Docket No. RM98-1-000. The Commission recently revised its regulations governing off-the-record communications between the Commission and persons outside of the Commission. The rulemaking creates one uniform set of rules regarding off-the-record communications, and clarifies the rules to permit fully informed decision making, while continuing to ensure the integrity of the Commission's decision-making process.

The new rule allows specified off-the-record communications, subject to notice and disclosure requirements that

will provide the public with notice of and access to relevant communications. For example, the rule enables more informal dialog, as may be useful, during the preparation of required environmental documentation. The rulemaking is consistent with the Commission's goals of fostering effective two-way communication with interested parties.

Electronic Filing; 1902-AB-89, Docket No. PL98-1-001. The Commission has begun implementation of its electronic filing initiative by amending its rules to permit electronic service of documents. In October 1999 the Commission is expanding this initiative to allow electronic filing of certain filing types. These steps will reduce expenses involved with paper service, such as copying and messenger services, and make information available more quickly.

Besides reducing the filing burden on industry, electronic filing will generate information more quickly for industry by making the content of filings available within minutes or hours, rather than days. Electronic notification of filings will take much less time than is necessary for paper notification, giving companies earlier access to filed information.

Information technology development within the Commission will make information available more timely through the Commission's web site and will facilitate searching for specific information within the large body of data the Commission maintains. Data will become more accurate and consistent, contributing to well-informed decision-making and streamlined workload processing.

BILLING CODE 6717-01-F

FEDERAL HOUSING FINANCE BOARD (FHFB)

Statement of Regulatory and Deregulatory Priorities

The Federal Housing Finance Board (Finance Board) is an independent agency that is charged under the Federal Home Loan Bank Act (Bank Act) with supervising and regulating the nation's Federal Home Loan Bank (FHLBank) System. The FHLBank System comprises 12 regional FHLBanks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related community lending activities. The FHLBank System also includes the Office of Finance, which issues FHLBank System consolidated obligations. The Finance Board is required to prepare the following Regulatory Plan pursuant to section 4 of Executive Order 12866.

As always, the Finance Board's highest regulatory priorities during the coming year are to ensure the safety and soundness of the FHLBank System and to ensure that the FHLBanks fulfill their housing finance and community lending mission. In furtherance of these statutory mandates, the Finance Board plans one significant regulatory action during 1999–2000.

The Finance Board is proposing new financial management and mission achievement regulations that would modernize policies governing the business activities of the FHLBanks and, for the first time, would establish regulatory standards for mission achievement by the FHLBanks and a definition of mission assets. The proposal includes a risk-based capital requirement, pursuant to which the amount of capital required to be maintained by a FHLBank would be based on the credit, market, and operations risks to which it is exposed, as well as a mission achievement requirement designed to eliminate the use of the FHLBanks' government sponsored enterprise advantages in issuing debt to fund arbitrage investments. The proposal also would define the responsibilities of the boards of directors and senior management of the FHLBanks, as a means of ensuring that they fulfill their duties in operating the FHLBanks in a safe and sound manner and in furtherance of their mission. The proposal is designed to enable the FHLBanks to help their members be more effective competitors in the housing finance and community lending marketplace, which in turn will assure that benefits accrue to consumers.

In addition to this regulatory initiative, the Finance Board has been working, and will continue to work, with members of Congress and their staffs to refine and promote pending FHLBank System reform legislation. This legislation, if enacted, would devolve further governance authorities to the FHLBanks, would correct several technical and structural anomalies in the Bank Act, and would position the FHLBank System to operate at maximum efficiency and effectiveness in the financial world of the 21st century.

FHFB

PROPOSED RULE STAGE

---

161. FHLBANK FINANCIAL MANAGEMENT AND MISSION ACHIEVEMENT REGULATION

Priority:

Other Significant

Unfunded Mandates:

This action may affect State, Local or Tribal Governments.

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

12 USC 1422b(a); 12 USC 1431; 12 USC 1436(a)

CFR Citation:

12 CFR 917; 12 CFR 925; 12 CFR 930; 12 CFR 940; 12 CFR 950; 12 CFR 954 to 955; 12 CFR 958; 12 CFR 965 to 966; 12 CFR 980

Legal Deadline:

None

Abstract:

The Federal Housing Finance Board (Finance Board) proposed to adopt new financial management and mission achievement regulations and amend certain existing regulations for the Federal Home Loan Banks (Banks). The Finance Board has informed Congress that this regulation will be withdrawn upon the enactment of the Federal Home Loan Bank System Modernization Act of 1999 (title VI of S.900). The proposal would modernize policies governing the business activities of the Banks and, for the first time, would establish regulatory standards for mission achievement by the Banks and a definition of mission assets. The proposal includes a risk-based capital requirement, pursuant to which the amount of capital required to be maintained by a Bank would be based on the credit, market, and operations risks to which it is exposed. The risk-based capital regime builds upon the regulatory framework used by other financial institution and government-sponsored enterprise (GSE) regulators. The mission achievement requirement in the proposal would: codify the authority of the Banks to hold mortgage assets, including mortgage-backed securities; allow mortgage assets meeting certain regulatory requirements to be counted as mission assets; and eliminate the use of the Banks' GSE advantages in issuing debt to fund arbitrage investments. The proposal also sets forth in the regulation the responsibilities of the boards of directors and senior management of the Banks, as a means of ensuring that they fulfill their duties in operating the Banks in a safe and sound manner and in furtherance of their mission. The proposal will enable the Banks to help their members be more effective competitors in the housing finance and community lending marketplace, which in turn will assure that benefits accrue to consumers.

Statement of Need:

The proposed rule is intended primarily to establish mission achievement standards for the Banks and to establish a new capital structure and risk-management framework under which the Banks may more effectively pursue their public policy mission, while still ensuring the safety and soundness of the Bank System.

The Banks currently operate in accordance with the Finance Board's Financial Management Policy (FMP), under which risk management is accomplished principally through a list of specific restrictions and limitations on the Banks' investment practices and a leverage limit which prohibits Banks from incurring liabilities in the form of consolidated obligations (COs) or unsecured senior liabilities in an amount greater than twenty times their capital stock. Though this approach has served the purpose of ensuring the safety and soundness of the Bank System, it lacks the flexibility that would enable the Banks to fulfill their mission to the maximum extent.

To ensure that the risks taken by a Bank are adequately supported by capital, the proposed rule would implement, for the first time, a risk-based capital requirement for the Banks, which builds upon the risk-based capital regimes of other federal financial institution regulators.

The principal source of funding for the Banks is the COs that are issued in the global capital markets and for which the twelve Banks are jointly and severally liable. Because of the Banks' GSE status, the costs to the Banks of obtaining such funding are substantially less than the borrowing costs for comparable debt issued by other entities. The Banks pass the benefit of this funding advantage to their members through wholesale loans (called advances) priced lower than the members could otherwise obtain to provide support for housing finance, including community lending, in fulfillment of the Banks' mission.

The FMP does not expressly require the Banks to use a particular percentage of the funds obtained through the issuance of COs to provide advances to their members. In large part due to the financial burdens imposed on the Banks as a result of the savings and loan crisis, the Banks use a portion of the proceeds from COs to finance investments that the Finance Board does not consider to be adequately related to their statutory mission.

To better link the GSE advantages in the capital markets to the mission performance of the Bank System, the proposed rule would require, by January 1, 2005, that an amount equal to 100 percent of each Bank's outstanding COs be held by the Bank in core mission activities. "Core mission activities" would be defined as those activities that assist and enhance members' and eligible nonmember borrowers' financing of housing and community lending.

The proposed core mission activity requirement would be subordinate to the safe and sound financial operation of the Banks, as mandated by the Federal Home Loan Bank Act (Act). During any specified period in which a Bank's board of directors determines that the core mission activities requirement would be inconsistent with the safe and sound operation of the Bank, the Bank would be permitted to be out of compliance with the core mission activities requirement.

Because it allows the Banks substantially greater authority to acquire new assets and manage their risks, and to raise member capital accordingly, the proposed rule also would articulate certain minimum responsibilities of the Banks' boards of directors and senior management with regard to operating the Banks in a safe and sound manner and ensuring that the Banks achieve their statutory mission.

Summary of Legal Basis:

Under section 10 of the Act and part 935 of the Finance Board's regulations, the Banks have broad authority to make advances in support of housing finance, which includes community lending. See 12 U.S.C. 1430(a), (i), (j); 12 CFR part 935. The Banks also are required to offer two programs - the Affordable Housing Program and the Community Investment Program - to provide subsidized or at-cost advances, respectively, in support of unmet housing finance or targeted economic development credit needs. See 12 U.S.C. 1430(i), (j); 12 CFR parts 960, 970. In addition, section 10(j)(10) of the Act, as implemented by a recently-issued Finance Board regulation, authorized the Banks to establish Community Investment Cash Advance (CICA) programs for community lending. See 12 U.S.C. 1430(j)(10); 12 CFR part 970; 63 FR 65536 (Nov. 27, 1998).

The Banks' investment authority is set forth primarily in sections 11(j) and 16(a) of the Act, which govern the investment of the Banks' surplus and reserve funds, respectively. See 12 U.S.C. 1431(h), 1436(a). Under both sections, the Banks are authorized to invest in obligations of the United States, certain obligations of Fannie Mae, Ginnie Mae or Freddie Mac, and in such securities in which fiduciary and trust funds may be invested under the law of the state in which the Bank is located. Section 11(h) also authorizes investments in the securities of certain small business investment companies. In addition, the Banks are required to have liquidity reserves in an amount equal to deposits from their members invested in obligations of the United States, deposits in banks or trust companies, and certain specified short-term advances to their members. See 12 U.S.C. 1431(g).

Currently, the Finance Board regulates the Banks' investments and investment practices through its regulations, as well as through the FMP. Section 934.1 of the regulations provides that the Banks may acquire or dispose of investments only with the prior approval of the Finance Board, or in conformity with authorizations of the Finance Board or "stated [Finance] Board policy." 12 CFR 934.1. By resolution, the Finance Board adopted the FMP, in part, as its "stated policy" regarding permissible Bank investments. The FMP generally provides a framework within which the Banks may implement their financial management strategies in a prudent and responsible manner. See 62 FR 13146 (Mar. 19, 1997); Finance Board Res. No. 96-45 (July 3, 1996), as amended by Finance Board Res. No. 96-90 (Dec. 6, 1996), Finance Board Res. No. 97-05 (Jan. 14, 1997), and Finance Board Res. No. 97-86 (Dec. 17, 1997).

The Banks' current capital requirements are based on the asset size of, or the dollar amount of advances outstanding to, their members. Specifically, a member must maintain a minimum investment in the capital stock of a Bank in an amount equal to the greater of: (1) 1 percent of the member's mortgage assets; (2) 0.3 percent of the member's total assets; or (3) 5 percent of total advances outstanding to the member (with a somewhat higher percentage for any member that is not a "qualified thrift lender"). See 12 U.S.C. 1426(b)(1), (b)(2), (b)(4); 1430(c), (e)(1), (e)(3); 12 CFR 933.20(a).

The proposed Financial Management and Mission Achievement regulation would build on the statutory provisions outlined here, and would supplement or replace current Finance Board regulations and the FMP on matters related to investments, mission and capital. Section 2B(a) of the Act authorizes the Finance Board to supervise the Banks and to promulgate such regulations as are necessary to carry out the provisions of the Act. This regulatory action is not required by statute or court order.

Alternatives:

As an alternative to this rulemaking, the Finance Board could choose to continue to conduct risk management at the Banks through the list of specific restrictions and limitations on the Banks' investment practices in the FMP and the current regulatory leverage limit which prohibits Banks from incurring liabilities in the form of consolidated obligations (COs) or unsecured senior liabilities in an amount greater than twenty times their capital stock. The Finance Board could decide to amend and expand the listed restrictions and limitations in the FMP, and permit the Banks to engage in other investment activities only pursuant to a staff legal interpretation of the statute,

or to decide these issues on a case-by-case basis. The Finance Board could choose not to establish a modern risk-based capital structure for the Banks, or could choose variations of the model proposed. The agency will consider all alternatives suggested by the public during the notice and comment period.

Anticipated Cost and Benefits:

Although the Finance Board cannot quantify precisely the costs and benefits of this rulemaking at this time, the agency anticipates that the regulatory amendments will benefit both the Banks and their members by giving the Banks greater operational flexibility, thereby enabling the Banks to help their members compete more effectively in the housing finance and community lending marketplace, which in turn will assure that the GSE benefit will accrue more efficiently and effectively to consumers.

Timetable:

Action	Date	FR Cite
NPRM	09/27/99	64 FR 52163
NPRM Comment Period End	12/27/99	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Undetermined

Agency Contact:

James L. Bothwell
Chief Economist, Director, Policy, Research & Analysis
Federal Housing Finance Board
1777 F Street N.W.
Washington, DC 20006
Phone: 202 408-2821
Fax: 202 408-2850
Email: bothwellj@fhfb.gov

Deborah F. Silberman
General Counsel
Federal Housing Finance Board
1777 F Street NW.
Washington, DC 20006
Phone: 202 408-2570
Fax: 202 408-2580
Email: silbermand@fhfb.gov

RIN: 3069–AA84

BILLING CODE 6725–01–F

FEDERAL (FMC)

Statement Deregulat

The Fed (Commissi guided by The Comm administer effectively efficient, e nondiscrim system in foreign ma Commissio to implem statutes th manner co and in a w costs, foste promotes i

Recent l the Federa internation legislation well as the Commissio One of the elimination

VOL 64 ISS 224 NO 22 1999 UMI

FEDERAL MARITIME COMMISSION (FMC)

Statement of Regulatory and Deregulatory Priorities

The Federal Maritime Commission's (Commission) regulatory objectives are guided by the Agency's basic mission. The Commission's mission is to administer the shipping statutes as effectively as possible to provide an efficient, economic, and nondiscriminatory ocean transportation system in an environment free of unfair foreign maritime trade practices. The Commission's regulations are designed to implement each of the various statutes the Agency administers in a manner consistent with this mission and in a way that minimizes regulatory costs, fosters economic efficiencies, and promotes international harmony.

Recent legislation altered significantly the Federal regulatory scheme regarding international ocean shipping. The legislation required new regulations as well as the revision of many of the Commission's substantive regulations. One of the principal changes was the elimination of the requirement that carriers file tariffs with the Commission listing their rates and charges. Carriers are now required to publish their rates in private automated systems. The Commission will assess continually its regulations implementing this requirement as well as other requirements of the new legislation.

The recent rulemaking process uncovered concern by common carriers as to the content requirements of agreements filed with the Commission. Carriers have expressed a desire for better delineation as to what matters do or do not have to be filed, and have suggested that the Commission's rules should provide protections for confidential business information, provide maximum flexibility for carriers to modify cooperative arrangements, and include guidance tailored for different types of agreements. Therefore, the Commission has initiated an inquiry to solicit comments from the ocean transportation industry and the general public to assist the Commission in formulating new rules governing content requirements.

The principal objective or priority of the Agency's current regulatory plan will be to continue to assess its major existing regulations for continuing need, effectiveness, burden on the regulated industry, fairness, and clarity.

The Commission continues to have under review, inter alia, regulations regarding passenger vessel operator financial responsibility, and co-loading arrangements between non-vessel-operating common carriers. In addition, the Commission currently is seeking comment on a definition of ocean common carriers. The Commission's review of existing regulations exemplifies its objective to regulate fairly and effectively while imposing a minimum burden on the regulated entities, following the principles stated by the President in Executive Order 12866.

Description of the Most Significant Regulatory Actions

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866.

BILLING CODE 6730-01-F

VOL 64 ISS 224 NO 22 1999 UMI

FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory Priorities

Background

The Federal Trade Commission (FTC or Commission) is an independent agency charged with protecting American consumers from "unfair methods of competition" and "unfair or deceptive acts or practices" in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that free markets work — that competition among producers and information in the hands of consumers brings the best products at the lowest prices for consumers, spurs efficiency and innovation, and strengthens the economy.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. First, for competition to thrive, curbing deception and fraud is critical. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, not false or misleading, information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission — antitrust enforcement — is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. The Commission, however, is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. In addition, under the FTC Act, the Commission currently has in place 13 trade regulation rules. The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters, and are generally intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Children's Online Privacy Rule Initiative

The Internet offers children unprecedented opportunities for learning, recreation, and communication in ways scarcely imagined a decade ago. Despite its obvious attraction for children, the Internet is also a medium that may entail risks for children. As they use the Internet, children, like others, are often asked to provide a wide variety of personal information about themselves and their parents. Web sites and online services collect this information by such means as registration pages, order forms, contests, surveys, chat rooms, and bulletin boards. In some instances, those collecting the information have shared it with third parties, without notice to children or their parents. In addition, public posting of children's personal information makes it available to anyone on the Internet, including those who would harm children. The FTC recommended in June 1998 that Congress enact legislation after a March 1998 survey of 212 commercial children's web sites revealed that only 24 percent posted privacy policies and only one percent required prior parental consent to the collection or disclosure of children's information.

On October 21, 1998, Congress enacted the Children's Online Privacy Protection Act of 1998 ("COPPA"). Title XIII, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681–728 (Oct. 21, 1998), reprinted in 144 Cong. Rec. H11240–42 (Oct. 19, 1998). The Act prohibits unfair and deceptive acts and practices in connection with the collection and use of personal identifying information from and about children on the Internet. Section 1303 of the Act directs the FTC to adopt regulations by October 21, 1999 to prohibit unfair and deceptive acts and practices in connection with the collection and use of personal information from and about children on the Internet. The Act specifies that operators of web sites directed to children or who knowingly collect personal information from children (1) provide parents notice of their information practices; (2) obtain prior parental consent for the collection, use and/or disclosure of personal information from children (with certain limited exceptions for the collection of on-line contact information, e.g., an e-mail address); (3) provide a parent, upon request, with the ability to review the personal information collected from his/her child; (4) provide a parent with the opportunity to prevent the further use of personal information that has already been collected, or the future collection of personal information from that child; (5) limit collection of personal information for a child's online participation in a game, prize offer, or other activity to information that is reasonably necessary for the activity; and (6) establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of the personal information collected. The Act authorizes the FTC to bring enforcement actions for violations of the final rule in the same manner as for other rules defining unfair and deceptive acts or practices under section 5 of the FTC Act. In addition, section 1305 of the Act authorizes State attorneys general to enforce compliance with the final rule by filing actions in Federal court after serving prior written notice upon the FTC when feasible.

Earlier in 1999, the Commission issued a proposed rule designed to achieve the objectives of the COPPA. The proposed rule, which was subject to public comment, applies to commercial web sites directed to, or that knowingly collect information from, children under 13. With certain exceptions, these sites will have to obtain parental consent before collecting, using, or disclosing personal information from children. To inform parents of their information practices, these sites also will be required to provide notice on the site and to parents about their policies with respect to the collection, use and disclosure of children's personal information. Parental consent would have to be verifiable. Operators may develop any number of ways to implement this requirement. As part of its review of the issues raised by the comments in preparation for publishing the final rule, the Commission held a public workshop to obtain additional comment regarding the issue of appropriate mechanisms for obtaining verifiable parental consent. The proposed rule also requires sites to give parents a choice as to whether their child's information can be disclosed to third parties, and give parents a chance to prevent further use or future collection of personal information from their child. Parents must also, upon request, be given access to the personal information collected from their child and a means of reviewing that information. Both the statute and proposed rule include a "safe harbor" program for industry groups or others who wish to create self-regulatory

programs to govern participants' compliance. Commission-approved safe harbors will provide web site operators the opportunity to tailor compliance obligations to their business models with assurance that if they follow the safe harbor they will be in compliance with the new law. The proposed rule outlines the process by which industry groups and others may obtain certification of their guidelines.

Ten-Year Review Program

In 1992, the Commission implemented a program to review its rules and guides on a regular basis. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act. 5 U.S.C. 601 *et seq.* Under the Commission's program, however, rules are continually reviewed at least every ten years, not just once as usually required by section 610 of the Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a "significant economic impact upon a substantial number of small entities." The program's goal is to ensure that all of the Commission's rules and guides remain beneficial and in the public interest.

As part of the ten-year plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews often lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary or in the public interest. As a result of the review program, the Commission has repealed 48% of both its trade regulation rules and guides since 1992.

Calendar Year 1999 Reviews

As part of the Commission's ten-year review program, in 1999 the Commission initiated reviews of one statutory rule (Regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986, 16 CFR Part 307); one trade regulation rule (Trade Regulation Rule on Funeral Industry Practices, 16 CFR Part 453); and three guides (the Dog and Cat Food Industry Guides, 16 CFR Part 241, the Law Book Industry Guides, 16 CFR Part 256, and the Fuel Economy Advertising Guide, 16 CFR Part 259).

Two additional reviews, previously scheduled to commence in 1999 under the Commission's tentative review schedule, have been deferred.[1] The Commission will commence its review of the Advertising Allowance and Other Merchandising Payments and Services Guides ("Fred Meyer Guides"), 16 CFR Part 240, at a later date in the ten-year review cycle due to the press of other agency priorities. In addition, review of the Statements of General Policy or Interpretations under the Fair Credit Reporting Act ("FCRA"), 16 CFR Part 600, tentatively scheduled for this year, is also deferred until later. Congress significantly amended the FCRA, effective September 1997, and as a result, significant portions of Part 600 may require revision or have become obsolete. Commission staff has been interacting with the public on a variety of issues and continuing to assess the implications of these statutory amendments. Accordingly, the Commission has determined that it would be premature to review and amend Part 600 at this time.

All of the matters scheduled for review this year pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. For example, the Regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986, 16 CFR Part 307, issued in 1987, were designed to implement a law requiring health warnings for labeling and advertising smokeless tobacco products. The regulations specify the format, type size, and style of the required warnings for both product labels and advertisements. Although the regulations, as originally promulgated, specified that utilitarian objects for personal use that are sold or given away by the smokeless tobacco industry, such as pens, pencils, clothing, or sporting goods, were not required to carry health warnings, the Commission's 1991 amendments to the regulations eliminated this exemption from the health warning requirement. This fall, the Commission will commence its regulatory review of these regulations.

[1] In publishing the regulatory review schedule each year, the Commission indicates that the tentative timetable may be modified in the future to incorporate new legislative rules, or to respond to external factors (such as changes in the law) or other considerations. See, e.g., 64 FR 3668 (Jan. 25, 1999).

Earlier this year, the Commission began its regulatory review of certain aspects of the Funeral Industry Practices Rule ("Funeral Rule"), 16 C.F.R. Part 453. The Funeral Rule, which became effective in 1984, and was amended in 1994, requires providers of funeral goods and services to give consumers itemized lists of funeral goods and services that not only state price and descriptions, but also contain specific disclosures. The rule enables consumers to select and purchase only the goods and services they want, except for those which may be required by law and a basic services fee. Also, funeral providers must seek authorization before performing some services, such as embalming. In addition to an assessment of the rule's overall costs and benefits and continuing need for the rule, the Commission's review will examine whether changes in the funeral industry warrant broadening the scope of the rule to include non-traditional providers of funeral goods or services and revise or clarify certain prohibitions in the rule. See 64 FR 24249 (May 5, 1999). In response to requests of industry members, the Commission determined to extend the comment period. A public workshop conference will be held this fall to explore issues raised in the comments submitted.

The Commission has begun a review of the Guides for the Dog and Cat Food Industry, 16 CFR Part 241 ("Dog and Cat Food Guides"). The Dog and Cat Food Guides, effective since 1969, advise industry members not to misrepresent dog or cat food in any material respect, including the composition, quality, dietary and nutritional value, or processing methods used in the manufacture or processing of dog or cat food. Industry members are also advised, *inter alia*, against misrepresenting information about the dog or cat food company (e.g., length of time in business, ranking in the industry or ownership of laboratory or other testing facilities) and using deceptive endorsements or testimonials or deceptively claiming that any dog or cat food has received an award. The Commission has published a **Federal Register** notice seeking comment on several questions concerning the Guides' provisions. See 64 FR 13368 (March 18, 1999).

The Commission has requested comments on its Guides for the Law Book Industry, 16 CFR Part 256 ("Law Book Guides"). See 64 FR 13369 (March 18, 1999). Effective since 1976, the Law Book Guides contain seventeen sections, or guides, that provide guidance

regarding the sale of legal reference materials to the law profession and law schools. The seventeen covered practices range from the marketing of legal reference materials to consumers, to the supplementation of these materials and billing practices employed by sellers.

In addition, the Commission has solicited comments on its Guide Concerning Fuel Advertising for New Automobiles (''Fuel Economy Guiderdquo;), 16 CFR Part 259, adopted in 1975. See 64 FR 19720 (Apr. 22, 1999). The Fuel Economy Guide is designed to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy in advertising. Since its enactment, the Fuel Economy Guide has advised marketers to disclose the established fuel economy of the vehicle as determined by EPA's Automobile Information Disclosure Act, 15 U.S.C. 2206, in advertisements that make representations regarding the fuel economy of a new vehicle. These EPA fuel economy numbers also appear on window labels attached to new automobiles. The Commission amended the Fuel Economy Guide in 1978 and 1995 to make it consistent with EPA Information Disclosure Act changes regarding fuel economy disclosures.

Final Actions and Continuing Reviews

Since publication of the 1998 Regulatory Plan, the Commission has completed several regulatory reviews. The Commission has determined to retain its warranty-related rules and guides, 16 CFR Parts 239 and 701–703, issued under the Magnuson-Moss Warranty Act, in their current form, 64 FR 19700 (April 22, 1999). The agency also has determined to rescind three industry guides that were either outdated or otherwise unnecessary in light of industry self-regulation: (1) Guides Against Deceptive Labeling and Advertising of Adhesive Compositions; (2) Guides for the Decorative Wall Paneling Industry; and (3) Guides for the Watch Industry. In addition, the Commission has completed its periodic review of the Procedures for State Application for Exemption from the Provisions of the Fair Debt Collection Practices Act and determined to amend the exemption procedures. These actions are described more fully below.

The Commission has rescinded the Guides Against Deceptive Labeling and Advertising of Adhesive Compositions, 16 CFR Part 235, which counseled against the use of terms that suggested that various adhesive products contained or had the properties of metal, solder or weld, porcelain, epoxy, and rubber if those products did not, in fact, have the same chemical or physical properties as the specified products. In rescinding the Adhesive Compositions Guides, the Commission noted that industry compliance with the Guides appeared to be satisfactory and that in the 31 years since the Guides were issued, the Commission had not received any complaints or initiated any enforcement actions relating in any way to the Guides. Further, if future deceptive practices prove to be a problem in this industry, the Commission may pursue enforcement actions under Section 5 of the FTC Act, 15 U.S.C. 45, as needed on a case-by-case basis. See 63 FR 70332 (Dec. 21, 1998).

The Commission also rescinded the Guides for the Decorative Wall Paneling Industry, 16 CFR Part 243. The Wall Paneling Guides advised manufacturers, retail distributors, and other suppliers of decorative wall panels with regard to labeling, advertising, and promoting their products in a manner consistent with section 5 of the FTC Act. The Guides were designed to protect purchasers from being misled by the appearance of a product, or by deceptive descriptions, depictions, designations, or representations in advertisements, labels, or other promotional materials. The agency's review revealed that a voluntary industry standard, effective in various versions since 1983, sets forth detailed product quality, labeling and testing requirements for a variety of wood- and veneer-finished products. The Commission determined that, although the voluntary industry standard does not expressly prohibit sellers from misrepresenting the composition of a particular wood or simulated wood product, it indeed provides an adequate basis for a common understanding among industry members through its highly specific descriptions of the qualities and characteristics of hardwood and decorative plywood products. In rescinding the Wall Paneling Guides, the Commission emphasized that industry compliance with both the Guides and the industry standard appeared to be exemplary. In the 27 years since the Guides were issued, the agency neither received any complaints nor initiated any enforcement actions relating to the Guides. Further, the Commission's ability to pursue actions against industry members for unfair and deceptive acts and practices under section 5 of the FTC Act persuaded the agency to rescind the Guides because they were no longer necessary. See 63 FR 70333 (Dec. 21, 1998).

Earlier this year, the Commission also rescinded the Guides for the Watch Industry, 16 CFR Part 245, adopted in 1968. The Watch Guides addressed claims made about watches, watchcases, watch accessories and watch bands that are permanently attached to watchcases. The Guides specifically addressed representations and markings regarding a watch's metallic composition, protective and other special features, movement and country of origin. The Commission completed its review and has concluded that the Watch Guides, which were significantly outdated, are no longer needed to resolve uncertainty among businesses over what claims are likely to be considered deceptive. The Commission determined that, in most instances, international standards provided substantial guidance to the industry regarding watch markings and claims. For those topics not addressed by international standards, principles of law articulated in FTC policy statements and pertinent Commission and court decisions on deception provide guidance regarding watch sellers' obligations to refrain from unfair or deceptive acts or practices under section 5 of the FTC Act. The Commission further noted that if deceptive practices prove to be a problem in this industry, agency investigations and law enforcement actions may be appropriate and necessary. See 64 FR 30898 (June 9, 1999).

The Commission completed its regulatory review of its warranty-related rules and guides in 1999. The review encompassed the following regulatory provisions: (1) Interpretations of Magnuson-Moss Warranty Act, 16 CFR Part 700; (2) the Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR Part 701 (''Rule 701''); (3) the Rule Governing Pre-Sale Availability of Written Warranty Terms, 16 CFR Part 702 (''Rule 702''); (4) the Rule Governing Informal Dispute Settlement Procedures, 16 CFR Part 703 (''Rule 703''); and (5) Guides for the Advertising of Warranties and Guarantees, 16 CFR Part 239. The Interpretations represent the agency's views on various aspects of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, *et seq.*, and are intended to clarify the Act's requirements. They are similar to industry guides in that they are advisory in nature, although failure to comply with the Act and the Rules under the Act as elucidated by the Interpretations may result in corrective

action by the Commission. Rule 701 specifies the information that must appear in a written warranty on a consumer product. Rule 702 details the obligations of sellers and warrantors to make warranty information available to consumers prior to purchase. Rule 703 specifies the minimum standards which must be met by any informal dispute settlement mechanism that is incorporated into a written consumer product warranty and which the consumer must use prior to pursuing any legal remedies in court. The Guides are intended to help advertisers avoid unfair or deceptive practices in the advertising of warranties or guarantees. After careful review of the comments received in response to agency requests, the Commission has determined to retain the Interpretations, Rules 701, 702, and 703 and the Guides without change.

In addition, the Commission completed its periodic review of the Procedures for State Application for Exemption from the Provisions of the Fair Debt Collection Practices Act ("FDCPA"). The FDCPA, 15 U.S.C. 1692, prohibits the use of deceptive, unfair and abusive practices by third-party debt collectors. The statute also requires that the FTC, by regulation, exempt from its requirements any class of debt collection practices within any State if the Commission determines that under the law of that State, the class of debt collection practices is subject to requirements substantially similar to those imposed by [the FDCPA], and that there is adequate provision for enforcement. Pursuant to that requirement, the Commission promulgated procedures for State applications for exemption from the provisions of the FDCPA. 16 CFR Part 901. After extensive review and consideration of public comments, the Commission determined to amend the exemption procedures to make them more convenient and less burdensome by permitting supporting documents to be submitted in either paper or electronic form and by eliminating the requirement that States submit certain information that is not essential in determining that State law and administrative enforcement offer at least as much protection as the FDCPA. See 64 FR 34532 (June 28, 1999).

Calendar Year 2000 Reviews

In calendar year 2000, the Commission expects to initiate a review of one rule and four industry guides. The rule scheduled for review in 2000 is the Telemarketing Sales Rule, 16 CFR Part 310. The guides scheduled for review in 2000 are: (1) Guides Against Deceptive Pricing, 16 CFR Part 233; (2) Guides Against Bait Advertising, 16 CFR Part 238; (3) Guides for the Household Furniture Industry, 16 CFR Part 250; and (4) Guide Concerning Use of the Word Free and Similar Representations, 16 CFR Part 251.

Summary

With regard to both content and process, the FTC's ongoing and proposed regulatory actions are compatible with the President's priorities. The actions under consideration inform and protect consumers and reduce the regulatory burdens on business. The Commission will continue working toward these goals. The Commission's ten-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's ten-year program also is consistent with President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. The program corresponds as well to section 5(a) of Executive Order 12866, 58 FR 51735 (Sept. 30, 1993), which directs Executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. In addition, the proposed Children's Online Privacy Protection Rule is consistent with the President's Statement of Regulatory Philosophy and Principles, E.O. 12866 Section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia*, required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

As set forth in Executive Order 12866, the Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions, and to receive the broadest practicable array of comment from affected consumers, businesses, and the public at large. As stated above, since 1992 the Commission has repealed 48 percent of both its trade regulation rules and industry guides that were in existence in 1992 because they had ceased to serve a useful purpose. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. Executive Order 12866, Sec. 1.

Regulatory Actions

The Commission has no rules that constitute significant regulatory actions under the definition in Executive Order 12866.

BILLING CODE 6750–01–F

NATIONAL INDIAN GAMING COMMISSION (qNIGC)

Statement of Regulatory Priorities

The Indian Gaming Regulatory Act (IGRA or the Act), 25 U.S.C. 2701 et seq., was signed into law on October 17, 1988. The Act established the National Indian Gaming Commission (NIGC or the Commission). The stated purpose of the Commission is to regulate the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. It is the Commission's intention to provide regulation of Indian gaming to adequately shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players.

The NIGC's regulatory priorities for the next fiscal year are to:
1. Develop standards for constructing and maintaining gaming facilities operated on Indian lands.
2. Develop regulations to establish processes for the classification, review, and approval of games and devices used in tribal gaming.

NIGC

PROPOSED RULE STAGE

162. GAME CLASSIFICATION

Priority:

Other Significant

Legal Authority:

25 USC 2703; 25 USC 2706

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This rule will establish processes for the classification, review, and approval of games and devices used in tribal gaming.

Statement of Need:

Over the course of the past couple of years, the NIGC has received numerous requests for advisory opinions on the classification of a particular game or device. The Commission has through an informal process issued several advisory opinions. However, given the growing number of requests and the need for some degree of predictability and certainty in the industry regarding the classification of games or devices, the Commission believes it is necessary to develop a formal process. Consequently, the Commission will use the rulemaking process to promulgate regulations in this area.

Summary of Legal Basis:

The Indian Gaming Regulatory Act specifically defines both Class II and Class III gaming (25 USC 2703). The Act also expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act." (25 USC 2706(b)(10)) The Commission relies on these sections of the statute to authorize the development by regulation of a process of formal classification of particular games and devices.

Alternatives:

At this time, the only identified alternative is to continue with the informal process of issuing advisory opinions regarding particular games.

Anticipated Cost and Benefits:

The potential benefits to this regulatory action are to bring more clarity and predictability to the industry regarding classification. Those engaged in Indian gaming need to have some degree of certainty regarding the legal consequences of playing a particular game. For those tribes without tribal-State compacts, the need is even greater to know with as much certainty as possible the classification of a particular game or device. The anticipated costs of implementing a classification system are unknown at this time.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Tribal

Agency Contact:

Penny J. Coleman
Deputy General Counsel
National Indian Gaming Commission
Suite 9100
1441 L Street NW.
Washington, DC 20005
Phone: 202 632-7003

RIN: 3141–AA12

NIGC

163. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Priority:

Other Significant

Legal Authority:

25 USC 2710(b)(2)(E)

CFR Citation:

25 CFR 573

Legal Deadline:

None

Abstract:

It is necessary for the NIGC to promulgate regulations which ensure that tribal gaming facilities are constructed and maintained in a manner which protects the environment and the public health and safety.

Statement of Need:

The Indian Gaming Regulatory Act (IGRA) requires that an approved tribal gaming ordinance contain a provision requiring each tribal gaming facility to be constructed and maintained in a manner which adequately protects the environment and the public health and safety. (25 U.S.C. 2710(b)(2)(E)) The Commission has determined that standards are needed to ensure compliance with this statutory requirement.

Summary of Legal Basis:

IGRA expressly authorizes the Commission to "promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the [Act]." (25 U.S.C. 2706(b)(10)) The Commission relies on this section of the statute to authorize the promulgation of standards for constructing and maintaining gaming facilities operated on Indian lands in a manner which adequately protects the environment and the public health and safety.

Alternatives:

The Commission has no alternative but to promulgate these environmental,

health and safety standards for gaming facilities operated on Indian lands.

Anticipated Cost and Benefits:

The potential benefits to this regulatory action are to establish and define for the regulated community the environmental, health, and safety standards it must follow in order to comply with the IGRA, regulations promulgated thereunder, and tribal gaming ordinances. This regulatory action will provide the regulated public with guidance as to the standards the Chairman will use to determine what constitutes an environmental, health, or safety problem sufficient to warrant an enforcement action.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/99	64 FR 22588
ANPRM Comment Period End	06/28/99	
NPRM	09/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

Agency Contact:

Mr. Todd J. Araujo
Attorney
National Indian Gaming Commission
9th Floor
1441 L Street NW.
Washington, DC 20005
Phone: 202 632-7003

RIN: 3141–AA17

BILLING CODE 7565–01–F

VOL 64 ISS 224 NO 22 1999 UMI

NUCLEAR REGULATORY COMMISSION (NRC)

Statement of Regulatory Priorities

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) regulates the possession and use of source, byproduct, and special nuclear material. The NRC regulatory mission is to ensure that civilian uses of nuclear materials and facilities are carried out in a manner that will protect public health and safety and the environment and that will not be inimical to the common defense and security of the United States. The NRC regulates the operation of nuclear power plants and fuel cycle plants; the medical, industrial, and research applications of nuclear material; the safeguarding of nuclear materials from theft and sabotage; the safe transportation of nuclear materials; the decommissioning and return to safe use of licensed facilities that are no longer in operation; disposal of radioactive waste; import and export of nuclear materials; and related activities.

The NRC regulatory priority is to ensure that nuclear power plants and other licensed facilities are operated safely and that nuclear materials are possessed and used in a manner that will adequately protect public health and safety and the environment. The NRC is addressing its regulatory initiatives in a manner that is consistent with the President's regulatory philosophy. The NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of proposed regulations as part of its regulatory process. The NRC has developed internal procedures and programs to ensure that only necessary requirements are imposed on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

The NRC will change the provisions for safety analysis used to evaluate emergency core cooling systems (ECCS) under loss-of-coolant-accident conditions. The revised rule would allow reactor licensees to take advantage of the improved accuracy of power measurement achieved through the use of enhanced instrumentation. Specifically, licensees using improved instrumentation that reduces the uncertainties associated with power measurement could propose increases in licensed power levels in plants using the evaluation models in Appendix K of 10 CFR part 50.

NRC

Proposed Rule

---

164. ECCS EVALUATIONS MODELS

Priority:

Economically Significant

Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority:

42 USC 2201; 42 USC 5841

CFR Citation:

10 CFR 50

Legal Deadline:

None

Abstract:

The proposed rule would amend the Commission's regulations by changing the provision that requires safety analyses used for evaluation of emergency core cooling system (ECCS) under loss-of-coolant-accident (LOCA) conditions be conducted at 1.02 times the licensed power for the plant. The proposed rule would allow licensees to propose increases in licensed power levels less than the current requirement. Licensees would need to demonstrate that the reduced margin for assumed power level in the analyses for their facility is justified in terms of the effect on plant risk.

Statement of Need:

The proposed rule revision would change the provision that requires safety analyses used for evaluation of emergency core cooling systems (ECCS) under loss-of-coolant-accident (LOCA) conditions be conducted at 1.02 times the licensed power for the plant. The current provision is intended to account for uncertainties in reactor power level, such as instrumentation error. Licensees have proposed using instrumentation that would reduce the uncertainties associated with measurement of reactor power, thus justifying the use of a reduced analysis margin if a licensee chooses to do so. A reduced ECCS analysis margin could be used by licensees to facilitate small, cost-beneficial increases to licensed power. If the uncertainties associated with power measurement instrumentation errors are less than 2 percent, then the current rule unnecessarily restricts operation. Therefore, the objective of this rulemaking is to allow a change to an unnecessarily burdensome and restrictive regulatory requirement.

Summary of Legal Basis:

Not applicable.

Alternatives:

Without a revision to the regulation, many nuclear power plant licensees are expected to request exemptions from the existing provision based on the improved accuracy of power measurement possible with upgraded instrumentation.

Anticipated Cost and Benefits:

The proposed rulemaking would provide the benefit of removing an unnecessarily burdensome and restrictive regulatory requirement for those licensees who wish to use the option. Economic benefits are possible in terms of replacement energy cost savings for utilities that no longer need to purchase the additional power generated as a result of a power uprate. Considered on an industry-wide basis, utilities could gain a maximum of about $430 million annually, or about $4.1 million per plant. If only 50 plant licensees pursue power uprate, they would share an annual benefit of about $205 million, still a substantial industry benefit.

Licensees electing to request a smaller margin for their analysis assumption along with a power uprate would incur analysis costs of about $140,000 to prepare their requests for NRC review, and implementation costs of about $5 to $10 million, for a total cost of $5.1 to $10.1 million. Other plants not electing to reduce their margin assumption would not be affected.

The NRC total cost of revising the rule and implementing the change is estimated to be between $150,000 and $200,000. This total does not include the cost to the NRC to review proposed power uprate amendments, or licensee justification of accuracy claims for upgraded instrumentation used for power measurement. An individual review could cost as much as $50,000 depending on plant-specific factors.

Risks:

Revising the analysis requirement by itself does not affect plant risk. Changes

to plant license limits could entail a risk impact, but for the very small changes expected to result from this rule change, the risk impact is expected to be negligible.

Timetable:

Action	Date	FR Cite
NPRM	10/01/99	64 FR 53270
NPRM Comment Period End	12/15/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

Joseph Donoghue
Nuclear Regulatory Commission
Office of Nuclear Reactor Regulation
Washington, DC 20555-0001
Phone: 301 415-1131
Email: jed1@nrc.gov

RIN: 3150–AG26

BILLING CODE 7590–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, October 1999

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 "Regulatory Planning and Review." The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. Requests for copies of the agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 118-E, Jamie Whitten Building, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

SUPPLEMENTARY INFORMATION: For this edition of USDA's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated : September 28, 1999.

Marvin J. Shapiro,

Chief, Legislative, Regulatory, and Automated Systems Division.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
165	National Organic Program **(Reg Plan Seq. No. 1)**	0581-AA40
166	National Laboratory Accreditation Program	0581-AB42
167	Processed Fruits and Vegetables: Qualified Through Verification (QTV)	0581-AB58
168	General Specifications for Dairy Plants Approved for USDA Inspection and Grading	0581-AB59
169	Blueberry Research, Promotion, and Information Order	0581-AB61
170	Olive Oil Research, Promotion, and Information Order	0581-AB62
171	Fresh Fruits and Vegetables: Fee Increase	0581-AB63
172	Livestock Mandatory Reporting Act of 1999	0581-AB64

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
173	Federal Seed Act; Amendments	0581-AB55
174	Voluntary Shell Egg Regulations; Repackaging of Shell Eggs Under USDA's Grading Program	0581-AB56
175	Refrigeration Requirements for Shell Eggs	0581-AB60

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
176	Kiwifruit Research, Promotion, and Consumer Information Order	0581-AB46
177	Federal Milk Order Consolidation and Reform	0581-AB49
178	Cotton Classification Services to Growers; Revision of User Fees for 1999 Crop	0581-AB57

Sequence Number
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206

VOL 64 ISS 224 NOV 22 1999 UMI

USDA

Agricultural Research Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
179	National Agricultural Library Fees for Loans and Copying	0518-AA01

Farm Service Agency—Prerule Stage

Sequence Number	Title	Regulation Identification Number
180	Method of Calculation of Loan Deficiency Payment Rates	0560-AF87

Farm Service Agency—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
181	Part 1946 Mediation; Subpart A—Agricultural Loan Mediation Program	0560-AE26
182	Debt Settlement for Indian Tribal Land Acquisition Loans	0560-AF43
183	2000-Crop Peanuts National Poundage Quota, National Average Loan Rates for Quota and Additional Peanuts and Minimum Export-Edible Sales Price for Additional Peanuts	0560-AF83
184	2000-Crop Marketing Quotas and Price Support Levels for Five Kinds of Tobacco	0560-AF86
185	Debt Settlement of Farm Loan Program Loans	0560-AF88

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
186	1999-Crop Marketing Quotas and Price Support Levels for Five Kinds of Tobacco	0560-AF51
187	Disaster Reserve Flood Compensation Program	0560-AF57
188	Suspension of Collection of Recapture Amount for Borrowers with Certain Shared Appreciation Agreements	0560-AF80
189	1999 Livestock Indemnity Program	0560-AF82
190	2000-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AF84
191	2000-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF85
192	Amendment to the Farm Loan Program Regarding the Time Period for Requests for Debt Settlement	0560-AF89

Farm Service Agency—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
193	Program Ineligibility for Noncompliance With Boll Weevil Eradication Program	0560-AD57
194	Sugar and Crystalline Fructose Information and Recordkeeping Requirements	0560-AD68
195	Small Farmer Outreach Training and Technical Assistance Program	0560-AE17
196	Selection and Functions of Farm Service Agency State and County Committees	0560-AE33
197	Implementation Procedures for Highly Erodible Land and Wetlands Conservation Provisions of the Food Security Act	0560-AE38
198	Amendments to the Farmer Account Servicing Policies	0560-AE42
199	Amendments to the Standards for Approval of Warehouse for Commodity Credit Corporation Storage Contracts	0560-AE50
200	Deletion of FSA Regulations Regarding Colorado River Basin Salinity Control Program	0560-AE54
201	Amendment to the Conservation Reserve Program Regarding Early Contract Terminations	0560-AE56
202	Suspension of the Emergency Livestock Assistance Regulations for Crop Years 1996 to 2002	0560-AE86
203	Direct Line of Credit Program	0560-AE90
204	Revision of Regulations Pertaining to Indian Tribes and Tribal Corporations	0560-AE91
205	Amendments To Update the Tobacco Program Regulations	0560-AF05
206	Amendments To Update the Peanut Program Regulations	0560-AF06

USDA

Farm Service Agency—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
207	Amendments To Update Farm Program Payment Limitation and Disaster Regulations Under the National Performance Review	0560-AF10
208	Amendment to the Cotton Warehouse Regulations Regarding the Definition of "Unnecessary Delay"	0560-AF13
209	Amendments to the Debt Settlement Policies and Procedures To Conform to the Debt Collection Improvement Act of 1996	0560-AF22
210	Amendments to the Forage Provisions of the Noninsured Crop Disaster Assistance Program	0560-AF23
211	Refund of Marketing Quota Penalties and Tobacco Auction Warehouse Records and Reports	0560-AF26
212	Refund of Marketing Quota Penalties and Other Peanut Program Provisions	0560-AF27
213	Contracting Additional Peanuts by Type and Segregation	0560-AF28
214	American Indian Livestock Feed Program	0560-AF29
215	Sugar Program Information Reporting and Recordkeeping Requirements	0560-AF31
216	Upland Cotton User Marketing Certificate Program; Revision of Regulations	0560-AF32
217	Cooperative Marketing Associations	0560-AF33
218	Inapplicability to FSA's Farm Loan Programs of Redundant Instructions Regarding the Collection and Depositing of Program Payments	0560-AF34
219	Amendment to the Farm Reconstitution Regulations	0560-AF36
220	Change in Warehouse Receipt Requirements for CCC's Cotton Loan and Loan Deficiency Payment Programs	0560-AF39
221	Chemical Testing of Farmers' Stock Peanuts for Aflatoxin Content	0560-AF40
222	Dairy Recourse Loan Program	0560-AF41
223	Noninsured Crop Disaster Assistance Program Regulations for the 1998 and Succeeding Crop Years	0560-AF46
224	Amendments to the Regulations Regarding Suspension and Debarment From Commodity Credit Corporation Programs	0560-AF47
225	1999-Crop Peanuts National Poundage Quota, National Average Loan Rates and Minimum Export-Edible Sales Price for Additional Peanuts	0560-AF48
226	1999-Crop Marketing Quota and Price Support Level for Flue-Cured Tobacco	0560-AF49
227	1999-Crop Marketing Quota and Price Support Level for Burley Tobacco	0560-AF50
228	Remove Internal Agency Provision From FSA Farm Credit Program Regulation—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property	0560-AF53
229	Debt Settlement of the Farm Loan Program's Nonprogram Loans	0560-AF54
230	Cleaning and Reinspection of Farmers' Stock Peanuts	0560-AF56
231	Disaster Set-Aside Program Second Installment	0560-AF59
232	Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs	0560-AF60
233	Amendments to the Regulations Governing the Peanut Poundage Quota and Price Support Programs	0560-AF61
234	Accelerated Production Flexibility Contract Payments	0560-AF65
235	Nonrecourse Marketing Assistance Loans for Crambe	0560-AF68
236	Streamlining of Regulations for Real Estate Appraisals and Chattel Appraisals	0560-AF69
237	Small Hog Operation Payment Plan	0560-AF70
238	Low Documentation Loan	0560-AF71
239	Modification of Collateral Requirements for Emergency Loans	0560-AF72
240	Marketing Assistance Loan Provisions for the 1998 and Subsequent Crop Years	0560-AF76
241	Amendments to the Conservation Reserve Program Regulations Regarding Loan Eligibility	0560-AF77
242	Servicing Shared Appreciation Agreements	0560-AF78
243	Production Flexibility Contracts for Wheat, Feed Grains, Rice, and Upland Cotton	0560-AF79

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identification Number
244	Amendments to the Regulations for Cotton Warehouses Under the United States Warehouse Act—Electronic Block Warehouse Receipts, Insurance Requirements, and Other Provisions	0560-AE60
245	1998-Crop Marketing Quotas and Price Support Levels for Eight Kinds of Tobacco	0560-AF20
246	Lender Buyback of Repurchased Guaranteed Loans	0560-AF21
247	Revision of FSA-Guaranteed Loan Regulations—Interest Subsidy for Guaranteed Borrowers	0560-AF35
248	End-Use Certificate Program	0560-AF64
249	Dairy Indemnity Payment Program	0560-AF66
250	Dairy Market Loss Assistance Program	0560-AF67
251	Crop Loss Disaster Assistance Program	0560-AF75

VOL 64 ISS 224 NO 22 1999 UMI

USDA

Farm Service Agency—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
252	1998-Crop Peanuts National Poundage Quota, National Average Price Support Level for Quota and Additional Peanuts, and Minimum CCC Export-Edible Sales Price for Additional Peanuts	0560-AF81

Animal and Plant Health Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
253	Noxious Weeds; Weed Categories and Priorities	0579-AB07

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
254	Plant Pest Regulations; Update of Current Provisions	0579-AA80
255	Karnal Bunt	0579-AA83
256	Veterinary Services Multi-Year User Fees	0579-AA87
257	Interstate Movement of Sheep and Goats From States That Do Not Quarantine Scrapie-Infected and Source Flocks	0579-AA90
258	Irradiation Phytosanitary Treatment of Imported Fresh Fruits and Vegetables	0579-AA97
259	Importation of Solid Wood Packing Material **(Reg Plan Seq. No. 2)**	0579-AA99
260	Horse Protection; Horse Industry Organizations	0579-AB04
261	User Fees—Rate Revisions for Agricultural Quarantine and Inspection Service	0579-AB05

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
262	Animal Welfare—Standards for Marine Mammals	0579-AA59
263	Importation of Logs, Lumber, and Other Unmanufactured Wood Articles	0579-AA82
264	Importation of Grapefruit, Lemons, and Oranges From Argentina	0579-AA92
265	Restrictions on the Importation of Ruminants, Meat and Meat Products From Ruminants, and Certain Other Ruminant Products	0579-AA98
266	Importation of Rhododendron in Growing Media	0579-AB00
267	Commercial Transportation of Equines to Slaughter	0579-AB06
268	Importation of Gypsy Moth Host Material From Canada	0579-AB11

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
269	Importation of Certain Embryos and Animal Semen	0579-AA63
270	Importation of Pork and Pork Products From Yucatan and Sonora, Mexico	0579-AA91
271	Importation of Fuji Apples From the Republic of Korea	0579-AA93
272	Animal Welfare; Inspection, Licensing, and Procurement of Animals	0579-AA94
273	Importation of Poultry From Sinaloa and Sonora, Mexico	0579-AA96
274	Requiring Treatment of Solid Wood Packing Material From China	0579-AB01
275	Importation of Unmanufactured Wood Articles From Mexico	0579-AB02
276	Establishment of Regions in the European Union for Hog Cholera, Foot-and-Mouth Disease, and Swine Vesicular Disease	0579-AB03
277	Noxious Weeds; Restrictions on Interstate Movement	0579-AB08

Regulation Identification Number
0560-AF10
0560-AF13
0560-AF22
0560-AF23
0560-AF26
0560-AF27
0560-AF28
0560-AF29
0560-AF31
0560-AF32
0560-AF33
0560-AF34
0560-AF36
0560-AF39
0560-AF40
0560-AF41
0560-AF46
0560-AF47
0560-AF48
0560-AF49
0560-AF50
0560-AF53
0560-AF54
0560-AF56
0560-AF59
0560-AF60
0560-AF61
0560-AF65
0560-AF68
0560-AF69
0560-AF70
0560-AF71
0560-AF72
0560-AF76
0560-AF77
0560-AF78
0560-AF79

Regulation Identification Number
0560-AE60
0560-AF20
0560-AF21
0560-AF35
0560-AF64
0560-AF66
0560-AF67
0560-AF75

USDA

Animal and Plant Health Inspection Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
278	Aquaculture; Farm-Raised Fin Fish	0579-AB09
279	Pseudorabies in Swine; Payment of Indemnity	0579-AB10

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
280	Importation of Fruits and Vegetables	0579-AA58
281	Licensing Requirements for Dogs and Cats	0579-AA95

Cooperative State Research, Education, and Extension Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
282	Higher Education Multicultural Scholars Program; Administrative Provisions	0524-AA09
283	Hispanic-Serving Institutions Education Grants Program Administrative Provisions	0524-AA17
284	Community Food Projects Administrative Provisions	0524-AA19
285	Small Business Innovation Research Program Administrative Provisions	0524-AA20
286	Biotechnology Risk Assessment Research Grants Program Administrative Provisions	0524-AA21
287	National Research Initiative Competitive Grants Program Administrative Provisions	0524-AA22

Cooperative State Research, Education, and Extension Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
288	Stakeholder Input to Research, Education, and Extension Formula Funds	0524-AA23
289	Matching Funds Requirement for Formula Funds for Agricultural Research and Extension Activities at 1890 Land Grant Institutions and Tuskegee University	0524-AA24

Rural Housing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
290	Civil Rights Compliance Requirements—1901-E to 1940-D	0575-AA83
291	Servicing Community Programs Loans and Grants	0575-AC12
292	Multi-Family Housing Reinvention	0575-AC13
293	Guaranteed Rural Housing Loan Single Family	0575-AC18
294	Self-Help Technical Assistance Grants	0575-AC20

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
295	Denying Credit to Applicants Delinquent on Any Federal Debt	0575-AA66
296	Reengineering and Reinvention of the Direct Section 502 and 504 Single-Family Housing Program	0575-AB99

USDA

Sequence Number
297
298

Sequence Number
299
300
301
302
303

Sequence Number
304
305
306
307
308
309
310
311
312
313
314
315

Sequence Number
316
317
318
319
320
321
322

Sequence Number
323
324

USDA

Rural Housing Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
297	Environmental Program Streamline Environmental Process	0575-AB98
298	National Flood Insurance Regulations	0575-AC07

Rural Housing Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
299	Community Facility Grants	0575-AC10
300	Direct Single-Family Housing Loans and Grants	0575-AC11
301	Section 538 Guarantee Rural Rental Housing Program	0575-AC14
302	Community Programs Guaranteed Loans	0575-AC17
303	Farm Labor Housing—Competitive Funding	0575-AC19

Federal Crop Insurance Corporation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
304	General Administrative Regulations; High Risk Land Regulations	0563-AA98
305	General Administrative Regulations; Subpart D; Application for Crop Insurance	0563-AB00
306	Common Crop Insurance Regulations; Small Grains Crop Insurance Provisions and Wheat Winter Coverage Endorsement	0563-AB63
307	Common Crop Insurance Regulations; Coarse Grains Crop Insurance Provisions	0563-AB64
308	General Administrative Regulations; Movement of Business Among Insurance Providers	0563-AB71
309	General Administrative Regulations; Reinsurance Agreement—Standards for Approval	0563-AB72
310	General Administrative Regulations; Sanctions	0563-AB73
311	Common Crop Insurance Regulations; Florida Fruit-Tree Crop Insurance Provisions	0563-AB75
312	Common Crop Insurance Regulations; Blueberry Crop Insurance Provisions	0563-AB76
313	Dairy Options Pilot Program—Revised Notice of Availability	0563-AB77
314	General Administrative Regulations; Civil Rights Data Collection	0563-AB78
315	Common Crop Insurance Regulations; Millet Crop Insurance Provisions	0563-AB79

Federal Crop Insurance Corporation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
316	General Administrative Regulations; Subpart S; Regulations for Insurance Coverage by Written Agreement	0563-AB07
317	General Administrative Regulations; Subpart J; Appeal Procedure Regulations	0563-AB17
318	General Administrative Regulations; Subpart N; Disaster Assistance Act of 1988	0563-AB20
319	Federal Crop Insurance on Highly Erodible Land and Wetlands—Part 400	0563-AB59
320	Federal Crop Insurance on Highly Erodible Land and Wetlands—Part 401	0563-AB60
321	General Administrative Regulations; Nonstandard Underwriting Classification System	0563-AB66
322	General Administrative Regulations; Premium Reductions; Payments of Rebates, Dividends, and Patronage Refunds; and Payments to Insured-Owned and Record-Controlling Entities	0563-AB70

Federal Crop Insurance Corporation—Completed Actions

Sequence Number	Title	Regulation Identification Number
323	Group Risk Plan Crop Insurance Provisions; Part 407	0563-AB06
324	General Administrative Regulations; Subpart V; Submission of Policies and Provisions of Policies and Rates of Premium	0563-AB15

USDA

Federal Crop Insurance Corporation—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
325	General Administrative Regulations; Subpart T—Regulations for the 1999 and Subsequent Reinsurance Years	0563-AB67
326	General Administrative Regulations; Subpart U; and Catastrophic Risk Protection Endorsement—Regulations for the 1999 and Subsequent Reinsurance Years	0563-AB68
327	General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions	0563-AB74

Grain Inspection, Packers and Stockyards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
328	Review Inspection Requirements	0580-AA58
329	Regulations Under Packers and Stockyards Act (Price Reporting)	0580-AA65

Grain Inspection, Packers and Stockyards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
330	Tolerances for Dividers	0580-AA57
331	Regulations Issued Under Packers and Stockyards Act (Feed Weight)	0580-AA64

Grain Inspection, Packers and Stockyards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
332	Poultry Grower Contracts, Scales, Weighing	0580-AA51

Grain Inspection, Packers and Stockyards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
333	Official Testing Service for Barley Protein Analysis	0580-AA68

Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
334	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions	0584-AB10
335	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem	0584-AB51
336	Food Stamp Program: Retailer Application Processing	0584-AC05
337	Disclosure of Free and Reduced-Price Eligibility Information Under the School Nutrition and Child and Adult Care Food Programs	0584-AC21
338	Food Stamp Program: Welfare Reform Matching, Fair Hearings and Recipient Service Rule	0584-AC22
339	Child and Adult Care Food Program: Improving Management and Program Integrity **(Reg Plan Seq. No. 3)**	0584-AC24
340	Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools: Provision 2 and Provision 3 ...	0584-AC25
341	Food Stamp Program Regulatory Review: Certification of Eligible Households	0584-AC28
342	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations	0584-AC31
343	Food Stamp Program Regulatory Review: FSP Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer Systems	0584-AC37

VOL 64 ISS 224 NO 22 1999 UMI

USDA

Food and Nutrition Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
344	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 **(Reg Plan Seq. No. 4)**	0584-AC39
345	FSP: State Flexibility and Certification Provisions of Public Law 104-193 **(Reg Plan Seq. No. 5)**	0584-AC40
346	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 **(Reg Plan Seq. No. 6)**	0584-AC45
347	Food Distributions Programs: Commodity Acceptability Report	0584-AC56
348	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula	0584-AC68
349	FSP: Civil Rights Data Collections	0584-AC75
350	FDPIR: Income Deduction and Miscellaneous Provision Rule	0584-AC81
351	Commodity Supplemental Food Program: Plain Language, Program Accountability, and Program Flexibility	0584-AC84
352	Food Stamp Program: Payment Adjustments	0584-AC86

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
353	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity **(Reg Plan Seq. No. 7)**	0584-AA80
354	Child and Adult Care Food Program: Authority To Collect Overclaims	0584-AB19
355	Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs	0584-AB35
356	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts	0584-AB52
357	Food Stamp Program: Anticipating Income and Reporting Changes	0584-AB57
358	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies	0584-AB66
359	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household	0584-AB67
360	Amendments to the Infant Meal Pattern	0584-AB81
361	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards **(Reg Plan Seq. No. 8)**	0584-AB88
362	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance **(Reg Plan Seq. No. 9)**	0584-AB90
363	Summer Food Service Program: Program Meal Service During the School Year	0584-AC06
364	Implementation of Legislative Reforms in the Summer Food Service Program	0584-AC23
365	WIC: Bloodwork Requirements	0584-AC30
366	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives	0584-AC38
367	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 **(Reg Plan Seq. No. 10)**	0584-AC41
368	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC44
369	Food Distribution Program: Regulatory Implementation of Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193, 110 Stat 2105)	0584-AC49
370	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996	0584-AC51
371	Food Stamp Program: Electronic Benefits Transfer (EBT) Benefit Adjustments	0584-AC61
372	Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations	0584-AC65
373	FSP: EBT System SAS70 Audit Requirements	0584-AC71
374	Child Nutrition Programs: Reimbursement for Snacks in Afterschool Care Programs	0584-AC72
375	WIC: Local Agency Expenditure Reports	0584-AC74
376	WIC: Certification Integrity	0584-AC76
377	WIC: WIC Funding Provisions of Public Law 105-336	0584-AC77
378	Food Distribution Program: Deletion of Requirement to Evaluate State-Run Commodity Distribution and Warehousing Systems Every Three Years	0584-AC79
379	Modification of the "Vegetable Proteins Products" Requirements for the National School Lunch Program, School Breakfast Program, Summer Food Service Program and Child and Adult Care Food Program	0584-AC82
380	Waiver Authority To Implement Pilot Projects Resulting From Recommendations from "Food Distribution 2000: Transforming Food Distribution for the Next Millennium"	0584-AC83

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

USDA

Food and Nutrition Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
381	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994	0584-AC20
382	Regulatory Reform: Provisions Relating to Firms Participating in the Food Stamp Program	0584-AC48
383	Food Stamp Provisions of the Balanced Budget Act of 1997	0584-AC63

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
384	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements	0584-AB11
385	Food Stamp Program: 1995 Quality Control Technical Amendments	0584-AB38
386	School Nutrition Programs: Technical and Nondiscretionary Amendments	0584-AC01
387	Amendment To Remove Formulated Grain—Fruit Product Section	0584-AC09
388	Consolidation of National School Lunch Program, School Breakfast Program and Summer Food Service Program Into a Comprehensive School Meal Program	0584-AC10
389	WIC: Food Package Adjustments and Corrections	0584-AC29
390	Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties	0584-AC46
391	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program	0584-AC50
392	Implementation of Legislative Changes in the Child and Adult Care Food Program	0584-AC52
393	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule	0584-AC64
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments	0584-AC66
395	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC	0584-AC67
396	Maximum Allotments for 48 States & DC & Income Eligibility Standards for 48 States, DC, AK, GU and VI	0584-AC69
397	FSP: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands	0584-AC70
398	WIC Farmers' Market Nutrition Program (FMNP): Nondiscretionary Provisions of the William F. Goodling Reauthorization Act of 1998	0584-AC80

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
399	Performance Standards for Ready-to-Eat Meat and Poultry Products	0583-AC46
400	Performance Standards for Bacon	0583-AC49
401	Labeling of Food Under the Voluntary Nutrition Labeling Program; 1996 Retail Survey Compliance Results	0583-AC55
402	Reform of Regulations on Imported Livestock and Poultry Products **(Reg Plan Seq. No. 11)**	0583-AC56
403	Agency Organization and Terminology	0583-AC57
404	Egg Products Inspection Regulations **(Reg Plan Seq. No. 12)**	0583-AC58
405	Nutrition Labeling of Ground or Chopped Meat or Poultry Products and Single-Ingredient Products	0583-AC60
406	Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems; Additions to E. Coli Criteria and Salmonella Performance Standards **(Reg Plan Seq. No. 13)**	0583-AC63

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
407	Substances Approved for Use in the Preparation of Meat and Poultry Products **(Reg Plan Seq. No. 14)**	0583-AB02
408	Retained Water in Raw Meat and Poultry Products; Poultry-Chilling Performance Standards	0583-AC26
409	Rules of Practice	0583-AC34
410	Elimination of Requirements for Partial Quality Control Programs **(Reg Plan Seq. No. 15)**	0583-AC35

USDA

Sequence Number
411
412

References

Sequence Number
413
414
415
416
417
418
419
420
421

Sequence Number
422
423
424
425
426
427
428
429

Sequence Number
430
431

Sequence Number
432
433

USDA

Food Safety and Inspection Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
411	Irradiation of Meat and Meat Products	0583-AC50
412	Meat Produced by Advanced Meat/Bone Separation Machinery and Recovery Systems	0583-AC51

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
413	Nutrition Labeling of Ground Beef and Hamburger	0583-AB74
414	Transportation, Storage, and Other Handling of Potentially Hazardous Foods	0583-AC05
415	Grant and Inauguration of Inspection	0583-AC07
416	Beef or Pork With Barbecue Sauce; Revision of Standards	0583-AC09
417	Performance Standard for the Chilling or Other Processing of Livestock Carcasses and Ready-to-Cook Poultry	0583-AC21
418	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry	0583-AC43
419	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products	0583-AC44
420	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration	0583-AC53
421	Labeling—Generic Approval and Regulation Consolidation	0583-AC59

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
422	Use of Soy Protein Concentrate, Food Starch-Modified and Gelatin as Binders in Certain Meat Products	0583-AB82
423	Addition of Mexico to List of Countries Eligible To Export Poultry Products to the United States	0583-AC33
424	Sanitation Requirements for Official Meat and Poultry Establishments	0583-AC39
425	Labeling Standards for Ovine Carcasses, Parts of Carcasses, Meat and Meat-Food Products	0583-AC41
426	Performance Standards for Shelf-Stable, Ready-to-Eat Products	0583-AC45
427	Elimination of Accredited Laboratory Program for Food Chemistry and Residue Chemistry	0583-AC48
428	Salmonella Enteritidis in Eggs	0583-AC52
429	Fee Increase for Inspection Services of Meat and Poultry Products	0583-AC54

Foreign Agricultural Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
430	Export Sales Reporting Requirement	0551-AA51
431	Dairy Tariff-Rate Import Quoting Licensing	0551-AA58

Foreign Agricultural Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
432	CCC Supplier Credit Guarantee Program	0551-AA30
433	Facility Guarantee Program	0551-AA35

USDA

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
434	Proposed Regulations Governing Implementation of the Cooperator Foreign Market Development Program Overseas	0551-AA26
435	Reform of Export Bonus Program	0551-AA41
436	Dairy Tariff-Rate Import Quota Licensing	0551-AA53

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
437	National Forest System Roadless Areas **(Reg Plan Seq. No. 16)**	0596-AB77

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
438	Hydropower Applications	0596-AA47
439	National Forest Prohibitions	0596-AA75
440	Small Tracts Act Regulations	0596-AA79
441	Species Surplus to Domestic Manufacturing Needs	0596-AB27
442	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AB36
443	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands	0596-AB45
444	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber	0596-AB48
445	National Environmental Policy Act; Revised Policy and Procedures; Categorical Exclusions	0596-AB54
446	Law Enforcement Support Activities	0596-AB61
447	Administration of the Forest Development Transportation System	0596-AB67
448	Noncompetitive Sale of Timber	0596-AB70
449	Categorical Exclusion for Certain Special Uses Permit Actions (FSH 1909.15, chapter 30)	0596-AB73
450	Clarification of Exemptions From Special-Use Authorizations	0596-AB74
451	Sale and Disposal of National Forest System Timber; Timber Export and Substitution Restrictions	0596-AB75
452	Appeal of Regional Guides and National Forest Land and Resource Management Plans; Multi-Agency Decisions	0596-AB76

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
453	Indian Allotments on National Forest System Lands	0596-AA52
454	National Forest System Land and Resource Management Planning **(Reg Plan Seq. No. 17)**	0596-AB20
455	Disposal of National Forest Timber; Cancellation of Timber Sale Contracts	0596-AB21
456	State and Private Forestry Assistance Stewardship Incentive Program	0596-AB32
457	Preference for Visitor Service; Alaska National Forest Conservation System Units	0596-AB57
458	Administrative, Cooperative Funds Agreements	0596-AB63
459	Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities	0596-AB69
460	Small Business Timber Sale Set-Aside Recomputation Basis	0596-AB72

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

USDA

Sequence Number
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475

USDA

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
461	Disposal of National Forest Timber: Timber Sale Contract Revisions	0596-AB52
462	Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands; Mediation of Grazing Permit Disputes	0596-AB59

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
463	Designation of Rural Empowerment Zones and Enterprise Communities	0503-AA20

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
464	Nondiscrimination in USDA-Conducted Programs and Activities	0503-AA15
465	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	0503-AA16

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
466	Uniform Procedures for the Acquisition and Transfer of Excess Personal Property	0503-AA19

Rural Business-Cooperative Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
467	Rural Economic Development Loan and Grant Program	0570-AA19
468	Business and Industry Direct Loan Program	0570-AA22
469	Business and Industrial Guaranteed Loan Program—Miscellaneous Changes	0570-AA23
470	Affirmative Fair Housing Marketing Plan	0570-AA24
471	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock	0570-AA26

Rural Business-Cooperative Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
472	Rural Business Opportunity Grants	0570-AA05

Rural Business-Cooperative Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
473	Rural Venture Capital Demonstration Program	0570-AA25
474	Rural and Rural Area Under the Rural Community Advancement Program	0570-AA27
475	Rural Business Enterprise Grant Program	0570-AA28

USDA

Rural Utilities Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
476	Preservation of Records Accounting Requirements for RUS Electric Borrowers	0572-AA92
477	Water and Waste Loan and Grant Servicing	0572-AB23
478	Telecommunications Standards and Specifications for Materials, Equipment, and Construction	0572-AB40
479	Seismic Safety	0572-AB47
480	Revision of RUS Telecommunications Program and RTB Loan Documents	0572-AB48

Rural Utilities Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
481	Load Forecasts	0572-AB05
482	Special Equipment Contract (Including Installation)	0572-AB35

Rural Utilities Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
483	Electric Standards and Specifications for Materials and Construction	0572-AA67
484	Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans	0572-AA71
485	Loan Documents—Bank Program	0572-AA76
486	Depreciation Rates and Procedures	0572-AA80
487	Use of General Funds Investments, Loan Guarantees, and Retirement of Capital Credits by Electric Borrowers	0572-AB01
488	RUS Approval of Sale of Capital Assets by Electric Borrowers	0572-AB02
489	Community Facility Loans—Timber-Dependent Communities	0572-AB11
490	Solid Waste Management Grants	0572-AB14
491	Technical Assistance and Training Grants	0572-AB15
492	RUS Approval of Additions and Extensions to Electric Plants	0572-AB38
493	Telecommunications System Construction Contract and Specifications	0572-AB41

Rural Utilities Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
494	Civil Rights Policies Applicable to RUS Borrowers	0572-AA75
495	Telecommunications System Construction Policies and Procedures	0572-AB34
496	Amending the Rural Utilities Service Water and Waste Program Regulations	0572-AB44
497	Distance Learning and Telemedicine Loan and Grant Program	0572-AB45
498	Construction Work Plans and Related Studies	0572-AB46
499	Central Office Equipment Contract (Not Including Installation)	0572-AB50

Natural Resources Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
500	Conservation of Private Grazing Land	0578-AA29

Sequence Number
501
502
503

Sequence Number
504

Sequence Number
505

Sequence Number
506
507

Sequence Number
508

Sequence Number
509

Departme
Agricultu

165. NATI

Regulator
1 in Part I
Register.

RIN: 0581

VOL 64 ISS 224 NOV 22 1999 UMI

USDA

Natural Resources Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
501	Highly Erodible Land and Wetland Conservation	0578-AA17
502	Forestry Incentives Program	0578-AA26
503	Wetland Categorical Minimal Effects Exemptions	0578-AA27

Natural Resources Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
504	7 CFR Part 610 Technical Assistance	0578-AA22

Office of Procurement and Property Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
505	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers	0599-AA05

Office of Procurement and Property Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
506	Department of Agriculture Priorities and Administrative Guideline for Donation of Excess Research Equipment	0599-AA06
507	Agricultural Acquisition Regulations: Rewrite; Contracting by Negotiation	0599-AA07

Office of Procurement and Property Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
508	New Restrictions on Lobbying	0599-AA03

Office of Procurement and Property Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
509	Agriculture Acquisition Regulation (AGAR); Simplified Acquisition Procedures	0599-AA04

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

165. NATIONAL ORGANIC PROGRAM

Regulatory Plan: This entry is Seq. No. 1 in Part II of this issue of the **Federal Register**.

RIN: 0581–AA40

166. NATIONAL LABORATORY ACCREDITATION PROGRAM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 7 USC 138 to 138i

CFR Citation: 7 CFR 100

Legal Deadline: None

Abstract: The 1990 Farm Bill authorized the creation of a National Laboratory Accreditation Program (NLAP) for laboratories that request accreditation and conduct residue testing of agricultural products concerning chemical residue levels on

agricultural products. The program is designed to protect human health by ensuring that laboratories which make claims to the public concerning pesticide residue levels meet minimum quality and reliability standards. The standards for the NLAP will be provided by the Food and Drug Administration with the operation of the program under the Agricultural Marketing Service, USDA. The program costs will be offset by a fee schedule. The one-time appropriation was used to provide for a fully equipped pesticide laboratory to verify the findings of those laboratories applying for accreditation.

Timetable:

Action	Date	FR Cite
ANPRM	11/20/92	57 FR 54727
ANPRM Comment Period End	01/19/93	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: I-Pin Ho, Chemist, Technical Services Branch, Department of Agriculture, Agricultural Marketing Service, Room 3521, Science and Technology, P.O. Box 96456, South, Washington, DC 20090-6456
Phone: 202 205-4993

RIN: 0581–AB42

---

167. • PROCESSED FRUITS AND VEGETABLES: QUALIFIED THROUGH VERIFICATION (QTV)

Priority: Other Significant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 52

Legal Deadline: None

Abstract: The Department of Agriculture (USDA) is proposing to revise the regulations governing inspection and certification of processed fruits and vegetables and certain other products by making changes to the definitions for the terms "inspection service, general"; "inspection service, types of"; official identification"; and "official marks" to specifically provide for a new voluntary audit-based inspection service for food safety and wholesomeness under the authority of the Agricultural Marketing Act (AMA) of 1946, amended. The "Qualified Through Verification (QTV) Program was developed as a pilot program in 1995 at the request of the fresh-cut produce industry. The industry asked for a voluntary audit and verification service using science-based techniques that would help maintain public confidence in the wholesomeness of minimally processed fruits and vegetables. AMS finds that the economic impact of this action on businesses should be similar in effect to other existing voluntary programs within the agency and that firms availing themselves of the QTV program will not necessarily have a significant marketing advantage or risk over those that do not use the service. It is reasonable to assume that a company would not choose to participate in the program unless it expected benefits to exceed costs. AMS went out in a variety of ways, public meetings and public notice to inform the public of the new service which was requested initially by the fresh-cut produce industry. The AMA of 1946 provides AMS authority for offering voluntary quality assurance and related services.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: James R. Rodeheaver, Chief, Department of Agriculture, Agricultural Marketing Service, MS 0709, F&V, PPB, P.O. Box 96456, Washington, DC 20090-6456
Phone: 202 720-4693
Email: james.rodeheaver@usda.gov

RIN: 0581–AB58

---

168. • GENERAL SPECIFICATIONS FOR DAIRY PLANTS APPROVED FOR USDA INSPECTION AND GRADING

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 58

Legal Deadline: None

Abstract: The proposed rule would: (1) Lower the maximum allowable bacterial estimate for manufacturing-grade producer milk from 1,000,000 per milliliter to 5,000,000 per milliliter. (2) Lower the maximum allowable somatic cell count from 1,000,000 to 750,000 cells per milliliter. (3) Lower the maximum permitted bacterial estimate in commingled milk from 3,000,000 per milliliter to 1,000,000 per milliliter. (4) Modify the follow-up procedures when producer herd milk exceeds the maximum allowable bacterial estimate. (5) Delete the laboratory screening test for somatic cells in producer-held milk samples (no change for goat milk). (6) Make editorial changes where necessary.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Duane R. Spomer, Chief, Dairy Standardization Branch, Dairy Division, Department of Agriculture, Agricultural Marketing Service, P.O. Box 96456, Room 2748-So. Bldg., Washington, DC 20090-6456
Phone: 202 720-7473
Email: duane.spomer@usda.gov

RIN: 0581–AB59

---

169. • BLUEBERRY RESEARCH, PROMOTION, AND INFORMATION ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7411 to 7425

CFR Citation: 7 CFR 1218

Legal Deadline: None

Abstract: A proposal was submitted to the Department of Agriculture for a Blueberry Research, Promotion, and Information Order. Under the Order, producers and importers would pay an assessment of $12 per ton. The assessment would be used to conduct a program to maintain, expand, and develop markets for blueberries. The proposed order was published on July 22, 1999 (64 FR 39790). A national referendum will be held to determine if the program will be implemented.

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39790
NPRM Comment Period End	09/20/99	
Second NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

USDA—AMS

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Oliver Layne Flake, Marketing Specialist, Department of Agriculture, Agricultural Marketing Service, 0244, FV/Research and Promotion Branch, P.O. Box 96456, Room 2535, So. Bldg., Washington, DC 20090-6456
Phone: 202 720-5976
Email: Oliver.flake@usda.gov

RIN: 0581–AB61

---

170. • OLIVE OIL RESEARCH, PROMOTION, AND INFORMATION ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7411 to 7425

CFR Citation: 7 CFR 1217

Legal Deadline: None

Abstract: A proposal was submitted by the North American Olive Association for a Olive Oil Research, Promotion, and Information Order. This program would be funded by an assessment on first handlers and importers of $0.01 per pound. The proposed rule was published on August 26, 1999.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46754
NPRM Comment Period End	12/03/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Oliver Layne Flake, Marketing Specialist, Department of Agriculture, Agricultural Marketing Service, 0244, USDA, AMS-FV/Research and Promotion Branch, P.O. Box 96456, Room 2535, So. Bldg., Washington, DC 20090-6456
Phone: 202 720-5976
Email: Oliver.flake@usda.gov

RIN: 0581–AB62

---

171. • FRESH FRUITS AND VEGETABLES: FEE INCREASE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 51

Legal Deadline: None

Abstract: This proposed rule would revise the regulations governing the inspection and certification for fresh fruits, vegetables and other products by increasing by approximately 14 percent the fees charged for the inspection of these products at destination markets. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services at destination markets under the Agricultural Marketing Act of 1946. The fees charged to persons required to have inspections on imported commodities in accordance with the Agricultural Marketing Agreement Act of 1937 and for imported peanuts under the Agricultural Act of 1949 would also be affected. It is essential that the inspection program be self-sustaining and this fee increase is necessary to ensure that the program continues to support itself.

Timetable:

Action	Date	FR Cite
NPRM	09/20/99	64 FR 50774
NPRM Comment Period End	11/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Huttenlocker, Head, Program Support Section, Fresh Products Branch, Department of Agriculture, Agricultural Marketing Service, Room 2049, P.O. Box 96456, South, Washington, DC 20090-6456
Phone: 202 720-0297
Email: robert_ j_ huttenlocker@usda.gov

RIN: 0581–AB63

---

172. • LIVESTOCK MANDATORY REPORTING ACT OF 1999

Priority: Economically Significant

Legal Authority: 7 USC 1621

CFR Citation: None

Legal Deadline: NPRM, Statutory, January 2000.
Final, Statutory, April 2000.

Abstract: The purpose of this rule is to establish a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: John E. VanDyke, Chief, Livestock and Grain Market News, Department of Agriculture, Agricultural Marketing Service, Room 2619, South Building, 14th and Independence Avenue SW, Washington, DC 20090-6456
Phone: 202 720-6231
Fax: 202 720-3499
Email: john.vandyke@usda.gov

RIN: 0581–AB64

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Final Rule Stage

173. FEDERAL SEED ACT; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1551 to 1611

CFR Citation: 7 CFR 201

Legal Deadline: None

Abstract: The objective of this proposal is to update the Federal Seed Act (FSA) regulations to incorporate current seed testing and seed certification procedures, and the proposal would also make seeds of Federal Noxious Weed Act (FNWA) species noxious, in interstate shipments of seed. This amendment would keep the FSA regulations consistent with present technology and prevent conflicts between Federal and State regulations that could inhibit the free movement of seed. Making the FNWA species noxious would provide the States and AMS a means to regulate and prevent the spread of these highly destructive weeds.

USDA—AMS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	10/20/98	63 FR 55964
NPRM Comment Period End	02/04/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard C. Payne, Seed Regulatory and Testing Branch, Department of Agriculture, Agricultural Marketing Service, Room 209, Building 306, BARC-East, Beltsville, MD 20705-2325
Phone: 301 504-9430
Email: richard.payne2@usda.gov

RIN: 0581–AB55

174. VOLUNTARY SHELL EGG REGULATIONS; REPACKAGING OF SHELL EGGS UNDER USDA'S GRADING PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 56

Legal Deadline: None

Abstract: Currently about one-third of the Nation's table eggs are marketed under the voluntary shell egg-grading program. Shell egg processors that choose to use this service pay a fee to have graders in their plants monitor processing operations and verify the grade and size of eggs packaged into packages bearing the USDA grade shield. The proposal would provide that in order to be officially identified with a USDA consumer grade shield, shell eggs must not be more than 15 days old (or some other period between 15 and 30 days if justified by public comment) and must not have been previously shipped for retail sale.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40522
NPRM Comment Period End	09/27/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Douglas C. Bailey, Chief, Standardization Branch, Poultry Programs, Department of Agriculture, Agricultural Marketing Service, Room 3944 MS 0259, South, 1400 Independence Avenue SW, Washington, DC 20250-0259
Phone: 202 720-3506

RIN: 0581–AB56

175. • REFRIGERATION REQUIREMENTS FOR SHELL EGGS

Priority: Other Significant

Legal Authority: 7 USC 1621 to 1627

CFR Citation: 7 CFR 56

Legal Deadline: NPRM, Statutory, October 1, 1999.

Abstract: Amendments to the Egg Products Inspection Act involved temperature and labeling requirements. AMS proposed changes to 7 CFR part 59 (Inspection of Eggs and Egg Products) to implement the mandatory amendments and changes to 7 CFR part 56 (Grading of Shell Eggs and U.S. Standards, Grades and Weight Classes for Shell Eggs) to make its requirements conform to those mandated in part 59. A USDA reorganization then consolidated food safety responsibilities into FSIS. FSIS promulgated a final rule to revise 7 CFR part 59, later redesignated 9 CFR part 590, to become effective August 27, 1999. AMS is now amending 7 CFR part 56 to conform to the mandatory FSIS requirements, also to become effective August 27, 1999.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/99	64 FR 56945
Interim Final Rule Comment Period End	12/21/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rex A Barnes, Chief, Grading Branch, Department of Agriculture, Agricultural Marketing Service, PY, P.O. Box 96456, Rm. 3938-So. Bldg., Washington, DC 20090-6456
Phone: 202 720-3271

RIN: 0581–AB60

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Completed Actions

176. KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1214

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Martha B. Ransom
Phone: 202 720-9915

RIN: 0581–AB46

177. FEDERAL MILK ORDER CONSOLIDATION AND REFORM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1139

Completed:

Reason	Date	FR Cite
Second NPRM	04/02/99	64 FR 16026
Final Action	09/01/99	64 FR 47898
Final Action Effective	10/01/99	
Final Action Effective Delayed	10/05/99	64 FR 53885

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local

Agency Contact: John F. Borovies
Phone: 202 720-6274
Email: john.borovies@usda.gov

RIN: 0581–AB49

178. COTTON CLASSIFICATION SERVICES TO GROWERS; REVISION OF USER FEES FOR 1999 CROP

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 28

USDA—AMS

Completed Actions

Completed:

Reason	Date	FR Cite
NPRM	04/02/99	64 FR 15937
NPRM Comment Period End	05/03/99	
Final Action	05/28/99	64 FR 28883

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: A. Lee Cliburn
Phone: 202 720-2145

RIN: 0581–AB57

BILLING CODE 3410–02–F

Department of Agriculture (USDA)
Agricultural Research Service (ARS)

Proposed Rule Stage

179. NATIONAL AGRICULTURAL LIBRARY FEES FOR LOANS AND COPYING

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624, sec 104

CFR Citation: 7 CFR 505

Legal Deadline: None

Abstract: The Department of Agriculture seeks comments on a proposed rule establishing a fee schedule for loans of materials and copying of materials in the collections of the National Agricultural Library.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol Ditzler, Head, Document Delivery Services Branch, Department of Agriculture, Agricultural Research Service, Room 300, National Agricultural Library, 10301 Baltimore Avenue, Beltsville, MD 20705
Phone: 301 504-6503
Fax: 301 504-6856
Email: userfees@nal.usda.gov

RIN: 0518–AA01

BILLING CODE 3410–90–F

Department of Agriculture (USDA)
Farm Service Agency (FSA)

Prerule Stage

180. • METHOD OF CALCULATION OF LOAN DEFICIENCY PAYMENT RATES

Priority: Other Significant

Legal Authority: 7 USC 7231-7235, 7237; 15 USC 714b and 714c

CFR Citation: 7 CFR 1421

Legal Deadline: None

Abstract: The Commodity Credit Corporation is seeking comments regarding the potential implementation of a new method for determining alternative loan repayment and loan deficiency payment (LDP) rates under the marketing assistance loan and LDP programs for wheat, feed grains, and oilseeds. The proposed method would replace the posted county price system (PCP) that has been used for determining alternative loan repayment and LDP rates since the 1991 crops of soybeans and minor oilseeds and the 1993 crops of wheat and feed grains. The new method would remove the disparities in the LDP and marketing loan gain rates that, under the PCP system, exist across State and county lines on a given day for each commodity and replace disparate rates with a nationally determined, uniform rate.

Timetable:

Action	Date	FR Cite
Notice	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF87

Department of Agriculture (USDA)
Farm Service Agency (FSA)

Proposed Rule Stage

181. PART 1946 MEDIATION; SUBPART A—AGRICULTURAL LOAN MEDIATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 7 USC 301; PL 103-354, sec 282

CFR Citation: 7 CFR 1946 subpart A

Legal Deadline: Final, Statutory, October 13, 1994, Regulations will be issued as soon as practicable after 10/13/94.

Abstract: Legislation expanded the State Mediation Programs to include wetland determinations, conservation compliance, and other issues the Secretary deems appropriate. This action will establish procedures for certification and for administering the matching grant program, and set out the Department's duties to participate in such programs. The USDA Reorganization Act of 1994 requires mediation to be a part of the informal hearing process when an officer, employee, or committee of an agency

makes an adverse decision. The legislation also requires certification of a State's Mediation program in order to participate in mediation pursuant to a State's Certified Mediation program, and to enable a State to receive a Federal matching grant(s) to be used for the operation and administration of the program. The Agriculture Improvement Act of 1992 increased the percentage of grants to 70 percent from 50 percent of the cost of a State's program, limited to $500,000, whichever is the lesser. The Reorganization Act of 1994 extended the mediation program authority through fiscal year 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: This entry was reported as RIN 0575-AB91 prior to the reorganization of USDA.

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE26

---

182. DEBT SETTLEMENT FOR INDIAN TRIBAL LAND ACQUISITION LOANS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 1480

CFR Citation: 7 CFR 1823; 7 CFR 1951

Legal Deadline: None

Abstract: Indian tribes have experienced loss of Federal assistance in the last 5 years due to reorganization of the Bureau of Indian Affairs (BIA) and the shifting of responsibilities from the BIA to the tribes themselves. These have included waste management, as well as other mandates. The funding to fully meet these mandates has been insufficient, requiring tribes to use other financial resources to meet them. Funding for tribal priority allocations, which include law enforcement, housing, education, natural resource management, and other tribal services, was reduced in FY 1996. This action will allow for a reduction of debt commensurate with reductions from other Federal sources. Action will be taken on a case-by-case basis in determining the amount and timing of any debt reduction. This action is intended to head off further repayment difficulties and strengthen tribal operations. Outlays are expected to be $22 million.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/99	64 FR 10235
ANPRM Comment Period End	04/02/99	
NPRM	11/02/99	64 FR 59131
NPRM Comment Period End	12/02/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF43

---

183. • 2000-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES FOR QUOTA AND ADDITIONAL PEANUTS AND MINIMUM EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

Legal Authority: 7 USC 1358-1; PL 101-624, sec. 802; PL 103-66, sec. 1109; PL 104-127

CFR Citation: 7 CFR 729; 7 CFR 1446

Legal Deadline: Other, Statutory, December 15, 1999, Quota Announcement.

Abstract: The objective of the peanut quota is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by statute, which provides a formula for computing the national quota, based on the Secretary's estimate of the amount of peanuts required for domestic food and related uses for the 2000 marketing year. The 2000 marketing year is from August 1, 2000, through July 31, 2001.

The action is also needed to implement the peanut price support program, as required by statute. The price support levels provide a domestic price floor for quota and additional peanuts and a minimum export-edible sales price for additional peanuts.

The Peanut Program, which includes the poundage quota, price support, and export policies, will result in gross outlays of $55 million, which are expected to be offset by repayments and assessments in FY 2000 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Quota Announcement	12/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF83

---

184. • 2000-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1312; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, March 1, 2000, Quota Announcement.

Abstract: Marketing quotas/acreage allotments and price support are required by statute for these kinds of tobacco: Fire-cured (type 21), Fire-cured (types 22-23), Dark Air-cured (types 35-36), Virginia sun-cured (type 37), and Cigar Filler and Binder (types 42-44 and 53-55). Quotas and

USDA—FSA **Proposed Rule Stage**

allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export use. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 2000 crops of sun-cured (type 37) and cigar filler and binder (types 42-44 and 53-55) in March 1998 and 1999. Referenda for the other kinds are scheduled for March 2000. Producers of these types have historically voted in favor of quotas. Price support levels are set by statutory formula. The Secretary may reduce the level at the request of producer associations and may limit increases to 65 percent of the formula increase. Gross loan outlays of $1 million are expected in FY 2001, to be offset by loan redemptions and no-net-cost assessments in FY 2001 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF86

185. • DEBT SETTLEMENT OF FARM LOAN PROGRAM LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 1956

Legal Deadline: None

Abstract: FSA plans to revise its Farm Loan Programs Debt Settlement regulations (7 CFR 1956-B) as follows: (1) Place settlement of nonprogram loans under 7 CFR 1956-B. This authority, which was under 7 CFR 1951-J, was removed without specifying how nonprogram debt would be settled; (2) Revise 7 CFR 1956-B with regard to bankruptcy. Most of section 1956.70(b)(3) will be removed since it addresses internal Agency procedure. The Agency has simplified internal agency procedures, which cannot be implemented until the CFR provisions are removed; (3) Revise 7 CFR 1956-B with regard to charge offs. The definition of "charge off" will be changed to note that the Government may continue its collection activity on charged off accounts, since the debt is written off without release of liability. Section 1956.75 will be rewritten to remove internal agency procedure and to clarify that charged off accounts may be referred to the Department of Treasury for cross-servicing in accordance with the Debt Collection Improvement Act of 1996. Revisions will also be made to comply with changes in OMB Circular A-129. This rule will reduce losses and increase collection activity. The Agency will be able to settle delinquent loan accounts faster and minimize unnecessary interest accrual, thus minimizing losses to the Government. Qualified charged off accounts will be referred to Treasury for collection through cross-servicing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF88

Department of Agriculture (USDA)
Farm Service Agency (FSA) **Final Rule Stage**

186. 1999-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR FIVE KINDS OF TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1312; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, March 1, 1999, Marketing Quota Announcement.

Abstract: Marketing quotas and price support are required by statute for these kinds of tobacco: Fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), and cigar filler and binder (types 42-44 and 53-55). Quotas and allotments are determined by statutory formula to balance supply with demand to assure stable supplies for domestic and export. Marketing quotas are implemented if approved by producers in referenda. Producers approved quotas for the 1999 crops of fire-cured (types 21-23), dark air-cured (types 35-36), and sun-cured (type 37) in March 1997 and 1998. Referenda for the other kinds are scheduled for March 1999. Producers of these types have historically voted for quotas. Price support levels are set by statutory formula. The Secretary may reduce the level at the request of producer associations and may limit increases to 65 percent of the formula increase. Gross loan outlays of $1 million in FY 2000 are expected to be offset by loan repayments and no-net-cost assessments in FY 2000 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
NPRM	02/26/99	64 FR 9452
NPRM Comment Period End	03/01/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural

Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF51

---

187. DISASTER RESERVE FLOOD COMPENSATION PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1427a

CFR Citation: 7 CFR 1439

Legal Deadline: None

Abstract: The Disaster Reserve Flood Compensation Program is a proposed program announced by Secretary Glickman on June 8, 1998, which will utilize proceeds from the sale of grain remaining in the Disaster Reserve. This program is being established to provide monetary assistance to eligible livestock producers with flooded land that was used for the production of livestock. Long-term flooding of agricultural land has occurred in certain portions of the United States as a result of higher than normal snowfalls and excessive moisture. Benefits will be provided to livestock producers in the approved counties based on the land that is inaccessible or incapable of crop production, haying, or grazing due to the flooding present in FY 98 and that have a Presidential designation or Secretarial declaration during the period January 1, 1997, through August 1, 1998. This action is needed to authorize the program in accordance with section 813 of the Agricultural Act of 1970 (establishes the Disaster Reserve) and S. Con. Res. 63 which authorizes use of the Disaster Reserve for livestock producers. The program will cost $12 million, which is the balance remaining in the Disaster Reserve.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	08/26/99	
Interim Final Rule	08/31/99	64 FR 47358
Interim Final Rule Comment Period End	09/27/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF57

---

188. • SUSPENSION OF COLLECTION OF RECAPTURE AMOUNT FOR BORROWERS WITH CERTAIN SHARED APPRECIATION AGREEMENTS

Priority: Other Significant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1951

Legal Deadline: None

Abstract: The Shared Appreciation Agreement (SAA) insures that FSA shares in any value appreciation of real estate security when a farm borrower has received debt forgiveness on a portion of their FSA indebtedness. The amount due can be paid in full or amortized when the SAA matures, or is triggered during the term of the agreement. This action will amend the regulations for the collection of calculated shared appreciation under the existing SAA to allow temporary suspension of the shared appreciation collection for up to three years, based on extreme economic adversities now challenging FSA farm and ranch borrowers. The economic disaster now occurring is rooted in severely depressed farm commodity prices. The suspension will provide financial relief and recovery time for affected FSA borrowers whose SAA's are now maturing and who do not have the financial ability to handle the additional burden of immediate shared appreciation repayment. This temporary modification and modest delay in collecting shared appreciation will give borrowers who have received debt forgiveness the best opportunity to repay FSA all or a portion of the debt that was previously written off. Borrowers will have to pay interest on approved suspensions at the Government's cost of borrowing money. Without the proposed action, some existing Agency borrowers will face certain liquidation, despite having remained current on existing program loans, and despite having remained in compliance with all other loan agreements. Liquidation of otherwise current borrowers could also adversely affect the Agency's ultimate ability to collect shared appreciation, as well as receive full repayment on outstanding program loans. Suspension is likely to be pursued by about 2,150 borrowers in 1999 and 1,200 in 2000, with loan volumes of $342,000,000 and $167,000,000, respectively. This rule will not increase losses for the Agency. FSA debt is fully collateralized.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/99	64 FR 19863
Interim Final Rule Comment Period End	06/22/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF80

---

189. • 1999 LIVESTOCK INDEMNITY PROGRAM

Priority: Other Significant

Legal Authority: Emergency Supplemental Appropriations for the Fiscal Year 1999.

CFR Citation: 7 CFR 1439

Legal Deadline: None

Abstract: This action is needed to implement the 1999 Livestock Indemnity Program in accordance with the Emergency Supplemental Appropriations for the fiscal year 1999. The program will provide monetary assistance to eligible producers for livestock losses that occurred as a result of natural disasters between May 2, 1998, and the date of enactment of the Act (May 21, 1999). The program is available only in counties with a Presidential or Secretarial disaster declaration requested during this

USDA—FSA

Final Rule Stage

period. $3 million has been appropriated under the CCC fund.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/01/99	64 FR 58766
Interim Final Rule Comment Period End	01/03/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF82

---

190. • 2000-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, December 15, 1999, Quota Announcement.

Abstract: The flue-cured tobacco marketing quota and price support are required by statute. The purpose of the quota and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in January 1998. Gross loan outlays of $25 million in FY 2000 and 2001 are expected to be offset by loan repayments and no-net-cost assessments in FY 2000 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	
Quota Announcement	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF84

---

191. • 2000-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

Legal Authority: 7 USC 1314; 7 USC 1445

CFR Citation: 7 CFR 723; 7 CFR 1464

Legal Deadline: Other, Statutory, February 1, 2000, Quota Announcement.

Abstract: The burley tobacco marketing quota and price support are required by statute. The purpose of the quota and price support is to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The national quota is based on cigarette manufacturers' intentions, 3-year average exports, a loan stocks adjustment, and a discretionary adjustment of plus or minus 3 percent. The price support level is based on a formula that averages market prices (2/3 weight) and a cost index (1/3 weight), plus discretion to limit any increase to 65 percent of the formula increase. Marketing quotas were approved by producers in a referendum in February 1998. Gross loan outlays of $50 million in FY 2001 are expected to be offset by loan repayments and no-net-cost assessments in FY 2001 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
Quota Announcement	12/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF85

---

192. • AMENDMENT TO THE FARM LOAN PROGRAM REGARDING THE TIME PERIOD FOR REQUESTS FOR DEBT SETTLEMENT

Priority: Info./Admin./Other

Legal Authority: 5 USC 1; 7 USC 1989; 31 USC 3716; 42 USC 1480

CFR Citation: 7 CFR 1951-S

Legal Deadline: None

Abstract: FSA has clarified its instructions regarding the referral of delinquent debts to the U.S. Department of the Treasury for collection to state that the agency will consider borrower requests for debt settlement only if they are received within 30 days of the borrower being notified of the delinquency and settlement options. This clarification is in conformance with the Federal Claims Collection Act. This action will amend Attachment 1 of Exhibit A of 7 CFR 1951-S, which informs borrowers of the availability of debt settlement programs, to include the 30-day limit in Attachment 1's reference to the instructions, and to include a statement regarding referral of debts to Treasury. This action will improve collection of debt.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service,

USDA—FSA **Final Rule Stage**

Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov
RIN: 0560–AF89

Department of Agriculture (USDA)
Farm Service Agency (FSA) **Long-Term Actions**

193. PROGRAM INELIGIBILITY FOR NONCOMPLIANCE WITH BOLL WEEVIL ERADICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AD57

194. SUGAR AND CRYSTALLINE FRUCTOSE INFORMATION AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AD88

195. SMALL FARMER OUTREACH TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1943 subpart C

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/27/94	59 FR 66441
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: State

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE17

196. SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Priority: Info./Admin./Other

CFR Citation: 7 CFR 7

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE33

197. IMPLEMENTATION PROCEDURES FOR HIGHLY ERODIBLE LAND AND WETLANDS CONSERVATION PROVISIONS OF THE FOOD SECURITY ACT

Priority: Other Significant

CFR Citation: 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE38

198. AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES

Priority: Economically Significant

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1962; 7 CFR 1965

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/14/88	53 FR 35638
NPRM	10/23/91	56 FR 54970
Interim Final Rule	04/30/92	57 FR 18612
Interim Final Rule	10/15/92	57 FR 47257
Interim Final Rule	03/23/93	58 FR 15418
Interim Final Rule	05/26/93	58 FR 30104
Interim Final Rule	12/30/93	58 FR 69190
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE42

199. AMENDMENTS TO THE STANDARDS FOR APPROVAL OF WAREHOUSE FOR COMMODITY CREDIT CORPORATION STORAGE CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1421; 7 CFR 1423; 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE50

USDA—FSA

Long-Term Actions

200. DELETION OF FSA REGULATIONS REGARDING COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 702; 7 CFR 703; 7 CFR 752

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE54

201. AMENDMENT TO THE CONSERVATION RESERVE PROGRAM REGARDING EARLY CONTRACT TERMINATIONS

Priority: Other Significant

CFR Citation: 7 CFR 704

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/15/96	61 FR 10671
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE56

202. SUSPENSION OF THE EMERGENCY LIVESTOCK ASSISTANCE REGULATIONS FOR CROP YEARS 1996 TO 2002

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1475

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE86

203. DIRECT LINE OF CREDIT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1910; 7 CFR 1924; 7 CFR 1941

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE90

204. REVISION OF REGULATIONS PERTAINING TO INDIAN TRIBES AND TRIBAL CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1823; 7 CFR 1942-F; 7 CFR 1956-C

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE91

205. AMENDMENTS TO UPDATE THE TOBACCO PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 711; 7 CFR 714; 7 CFR 717; 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF05

206. AMENDMENTS TO UPDATE THE PEANUT PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF06

207. AMENDMENTS TO UPDATE FARM PROGRAM PAYMENT LIMITATION AND DISASTER REGULATIONS UNDER THE NATIONAL PERFORMANCE REVIEW

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 777; 7 CFR 795; 7 CFR 1400

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF10

208. AMENDMENT TO THE COTTON WAREHOUSE REGULATIONS REGARDING THE DEFINITION OF "UNNECESSARY DELAY"

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 735

Timetable:

Action	Date	FR Cite
ANPRM	05/26/98	63 FR 28488
ANPRM Comment Period End	07/27/98	
NPRM	05/28/99	64 FR 28938
NPRM Comment Period End	07/27/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF13

---

209. AMENDMENTS TO THE DEBT SETTLEMENT POLICIES AND PROCEDURES TO CONFORM TO THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

Priority: Other Significant

CFR Citation: 7 CFR 792; 7 CFR 1403; 7 CFR 1404

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF22

---

210. AMENDMENTS TO THE FORAGE PROVISIONS OF THE NONINSURED CROP DISASTER ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1437

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/17/97	62 FR 53929
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF23

---

211. REFUND OF MARKETING QUOTA PENALTIES AND TOBACCO AUCTION WAREHOUSE RECORDS AND REPORTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 714; 7 CFR 723; 7 CFR 729

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF26

---

212. REFUND OF MARKETING QUOTA PENALTIES AND OTHER PEANUT PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 729

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF27

---

213. CONTRACTING ADDITIONAL PEANUTS BY TYPE AND SEGREGATION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF28

---

214. AMERICAN INDIAN LIVESTOCK FEED PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1439

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/27/98	63 FR 65524
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF29

---

215. SUGAR PROGRAM INFORMATION REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1435

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF31

---

216. UPLAND COTTON USER MARKETING CERTIFICATE PROGRAM; REVISION OF REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1427

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67806
NPRM Comment Period End	01/08/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF32

217. COOPERATIVE MARKETING ASSOCIATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1425

Timetable:

Action	Date	FR Cite
NPRM	04/09/98	63 FR 17311
NPRM Comment Period End	05/11/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF33

218. INAPPLICABILITY TO FSA'S FARM LOAN PROGRAMS OF [illegible] REDUNDANT INSTRUCTIONS REGARDING THE COLLECTION AND DEPOSITING OF PROGRAM PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1951

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF34

219. AMENDMENT TO THE FARM RECONSTITUTION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 718

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF36

220. CHANGE IN WAREHOUSE RECEIPT REQUIREMENTS FOR CCC'S COTTON LOAN AND LOAN DEFICIENCY PAYMENT PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1427

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF39

221. CHEMICAL TESTING OF FARMERS' STOCK PEANUTS FOR AFLATOXIN CONTENT

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 729; 7 CFR 1446

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF40

222. DAIRY RECOURSE LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1430

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39442
NPRM Comment Period End	09/07/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF41

223. NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 1998 AND SUCCEEDING CROP YEARS

Priority: Other Significant

CFR Citation: 7 CFR 1437

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/09/99	64 FR 17271
Interim Final Rule Comment Period End	06/08/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF46

224. AMENDMENTS TO THE REGULATIONS REGARDING SUSPENSION AND DEBARMENT FROM COMMODITY CREDIT CORPORATION PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1407

Timetable:

Action	Date	FR Cite
NPRM	12/30/98	63 FR 71796
NPRM Comment Period End	01/29/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF47

225. 1999-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE LOAN RATES AND MINIMUM EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

CFR Citation: 7 CFR 729; 7 CFR 1446; 7 CFR 1421

Timetable:

Action	Date	FR Cite
NPRM	11/25/98	63 FR 65133

Action	Date	FR Cite
NPRM Comment Period End	12/08/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF48

---

226. 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR FLUE-CURED TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF49

---

227. 1999-CROP MARKETING QUOTA AND PRICE SUPPORT LEVEL FOR BURLEY TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF50

---

228. REMOVE INTERNAL AGENCY PROVISION FROM FSA FARM CREDIT PROGRAM REGULATION—LIQUIDATION OF LOANS SECURED BY REAL ESTATE AND ACQUISITION OF REAL AND CHATTEL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1955

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF53

---

229. DEBT SETTLEMENT OF THE FARM LOAN PROGRAM'S NONPROGRAM LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1956

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF54

---

230. CLEANING AND REINSPECTION OF FARMERS' STOCK PEANUTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	08/05/98	63 FR 41711
NPRM Comment Period End	09/04/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF56

---

231. DISASTER SET-ASIDE PROGRAM SECOND INSTALLMENT

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1951

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/99	64 FR 392
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF59

---

232. REGULATORY STREAMLINING OF THE FARM SERVICE AGENCY'S DIRECT FARM LOAN PROGRAMS

Priority: Other Significant

CFR Citation: 7 CFR ch 7; 7 CFR ch 18

Timetable:

Action	Date	FR Cite
NPRM	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF60

---

233. AMENDMENTS TO THE REGULATIONS GOVERNING THE PEANUT POUNDAGE QUOTA AND PRICE SUPPORT PROGRAMS

Priority: Other Significant

CFR Citation: 7 CFR 714; 7 CFR 729; 7 CFR 1446

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig

Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF61

234. ACCELERATED PRODUCTION FLEXIBILITY CONTRACT PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1412

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF65

235. NONRECOURSE MARKETING ASSISTANCE LOANS FOR CRAMBE

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1421

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF68

236. STREAMLINING OF REGULATIONS FOR REAL ESTATE APPRAISALS AND CHATTEL APPRAISALS

Priority: Info./Admin./Other

CFR Citation: 7 CFR 761; 7 CFR 1922

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF69

237. SMALL HOG OPERATION PAYMENT PLAN

Priority: Other Significant

CFR Citation: 7 CFR 761

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/10/99	64 FR 6495
Interim Final Rule	08/30/99	64 FR 47097
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF70

238. LOW DOCUMENTATION LOAN

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1910; 7 CFR 1941

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF71

239. MODIFICATION OF COLLATERAL REQUIREMENTS FOR EMERGENCY LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1945

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF72

240. • MARKETING ASSISTANCE LOAN PROVISIONS FOR THE 1998 AND SUBSEQUENT CROP YEARS

Priority: Economically Significant

Legal Authority: 7 USC 7231

CFR Citation: 7 CFR 1421

Legal Deadline: None

Abstract: This action will provide for nonrecourse loans and loan deficiency payments on commodities harvested as other than grain; i.e., silage, ensilage, ground grain, hay, cobbage, cracked, rolled, or crimped, and on commodities that are below the warehouse-stored loan standards. It will also amend the commodity loan and loan deficiency payment program regulations as follows: 1) Amend the definition for high moisture commodities; 2) amend policy on contaminated commodities; 3) clarify when county committees may waive administrative actions on a violation; 4) clarify when sales proceeds are applied to the amount owed CCC by the producer when the commodity is sold by CCC in settlement of the loan; 5) clarify when a loan deficiency payment application is considered a completed request; 6) provide for acceptance of fax signatures on loan deficiency payment applications; 7) amend production evidence requirements; and 8) make other minor technical adjustments. The changes in commodity eligibility will provide greater coverage of commodities eligible for loan or loan deficiency payments. Expected outlays are estimated to be between $160 million and $260 million.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF76

USDA—FSA

Long-Term Actions

241. • AMENDMENTS TO THE CONSERVATION RESERVE PROGRAM REGULATIONS REGARDING LOAN ELIGIBILITY

Priority: Other Significant

Legal Authority: 16 USC 3801 - 3847

CFR Citation: 7 CFR 1410

Legal Deadline: None

Abstract: The purpose of the CRP is to assist farmers and ranchers in conserving soil, water and wildlife resources by converting highly erodible and other environmentally sensitive acreage to long-term, resource-conserving cover. The authorizing statute permits farmers and ranchers to enroll "cropland" and "marginal pastureland" into the CRP, but does not define those terms. Current CRP regulations limit cropland enrollment to lands where crops have been produced by annual tilling of the soil, plus sugar cane or other multi-year grasses and legumes, in two out of the most recent five cropping seasons. This definition precludes certain lands with high environmental values from being considered for enrollment in the program. The proposed rule would expand the definition of eligible land to permit orchards, vineyards, and certain other agricultural lands to be considered for enrollment in the CRP. The overall cost of the CRP is not expected to increase; in fact costs could decrease as a result of increased competition among a larger land base for enrollment into the CRP, which is limited by statute to 36.4 million acres.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF77

242. • SERVICING SHARED APPRECIATION AGREEMENTS

Priority: Other Significant

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1951

Legal Deadline: None

Abstract: The Farm Service Agency (FSA) is amending the Shared Appreciation Agreement (SAA) and the servicing of SAAs. The SAA insures that FSA shares in any appreciation of real estate security when a farm borrower has received forgiveness on a portion of their FSA debt. The amount due can be paid in full or amortized when the SAA matures or is triggered during the term of the agreement. The changes will allow some capital improvements made during the term of the SAA to be deducted from recapture, institute a short three-year deferral period if needed to create a positive cash flow when amortizing the recapture amount, and change the maturity period of future SAAs from 10 years to 5 years. These changes will give borrowers who have received debt forgiveness the best opportunity of repaying FSA a portion of the debt that was written off without FSA being required to monitor the agreement for the full 10 years. This should also encourage some improvement of Agency collateral during the term covered by the SAA. This rule will not increase losses for the Agency.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF78

243. • PRODUCTION FLEXIBILITY CONTRACTS FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7211 et seq.

CFR Citation: 7 CFR 1412.401

Legal Deadline: None

Abstract: The Farm Service Agency (FSA) is requesting comments regarding the appropriateness of the current method of calculating Production Flexibility Contract (PFC) payment reductions resulting from planting violations. Comments will be requested on (1) the appropriateness of the current method of calculating PFC payments reductions as a result of fruit or vegetable planting violations, (2) alternative methods for calculating the payment reductions, (3) retroactivity of any change in the method, and (4) the effect of a change on PFC's that have been terminated, or for which contract acreage was reduced, because of the current method of calculation. This action is not expected to have any significant cost.

Timetable:

Action	Date	FR Cite
ANPRM	05/05/99	64 FR 24091
ANPRM Comment Period End	06/02/99	
Second ANPRM	06/25/99	64 FR 34154
Second ANPRM Comment Period End	07/23/99	
NPRM	To Be Determined	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF79

Department of Agriculture (USDA)
Farm Service Agency (FSA)

Completed Actions

244. AMENDMENTS TO THE REGULATIONS FOR COTTON WAREHOUSES UNDER THE UNITED STATES WAREHOUSE ACT—ELECTRONIC BLOCK WAREHOUSE RECEIPTS, INSURANCE REQUIREMENTS, AND OTHER PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 735

Completed:

Reason	Date	FR Cite
Final Action	10/07/99	64 FR 54508

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AE60

245. 1998-CROP MARKETING QUOTAS AND PRICE SUPPORT LEVELS FOR EIGHT KINDS OF TOBACCO

Priority: Other Significant

CFR Citation: 7 CFR 723; 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action	03/31/99	64 FR 15290

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF20

246. LENDER BUYBACK OF REPURCHASED GUARANTEED LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart B

Completed:

Reason	Date	FR Cite
Final Action	02/12/99	64 FR 7358

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Phillip Elder
Phone: 202 690-4012
Email: phillip__elder@wdc.fsa.usda.gov

RIN: 0560–AF21

247. REVISION OF FSA-GUARANTEED LOAN REGULATIONS—INTEREST SUBSIDY FOR GUARANTEED BORROWERS

Priority: Other Significant

CFR Citation: 7 CFR 1980

Completed:

Reason	Date	FR Cite
Final Action	02/12/99	64 FR 7358

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF35

248. END-USE CERTIFICATE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 782

Completed:

Reason	Date	FR Cite
Final Action	03/16/99	64 FR 12884

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF64

249. DAIRY INDEMNITY PAYMENT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 760

Completed:

Reason	Date	FR Cite
Final Action	04/13/99	64 FR 17492

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF66

250. DAIRY MARKET LOSS ASSISTANCE PROGRAM

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 1430

Completed:

Reason	Date	FR Cite
Final Action	05/10/99	64 FR 24933

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Tom Witzig
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF67

251. • CROP LOSS DISASTER ASSISTANCE PROGRAM

Priority: Other Significant

Legal Authority: PL 105-277

CFR Citation: 7 CFR 14777

Legal Deadline: None

Abstract: 1998 Crop Loss Disaster Assistance will provide monetary assistance to eligible producers for crop losses from natural disasters in 1998 or in at least 3 of the past 5 years. This action is needed to authorize the program in accordance with The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999. $2.375 billion was appropriated.

Timetable:

Action	Date	FR Cite
Final Action	04/15/99	64 FR 18553

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__witzig@wdc.fsa.usda.gov

RIN: 0560–AF75

USDA—FSA

Completed Actions

252. • 1998-CROP PEANUTS NATIONAL POUNDAGE QUOTA, NATIONAL AVERAGE PRICE SUPPORT LEVEL FOR QUOTA AND ADDITIONAL PEANUTS, AND MINIMUM CCC EXPORT-EDIBLE SALES PRICE FOR ADDITIONAL PEANUTS

Priority: Other Significant

Legal Authority: 7 USC 1358-1

CFR Citation: 7 CFR 729; 7 CFR 1446

Legal Deadline: Other, Statutory, December 15, 1997, Quota Announcement.

Abstract: The objective of the peanut quota is to balance supply with demand at a level that will assure stable supplies for domestic use and assure producers a stable income. This action is required by statute, which provides a formula for computing the national quota, based on the Secretary's estimate of the amount of peanuts required for domestic food and related uses for the 1998 marketing year. The 1998 marketing year is from August 1, 1998, through July 31, 1999.

The action is also needed to implement the peanut price support program, as required by statute. The price support levels provide a domestic price floor for quota and additional peanuts and a minimum export-edible sales price for additional peanuts. The Peanut Program, which includes the poundage quota, price support, and export policies, will result in gross outlays of $22 million, which are expected to be offset by repayments and assessments in FY 1998 and subsequent years, for a net cost of 0.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/97	62 FR 43955
ANPRM Comment Period End	09/30/97	
NPRM	12/02/97	62 FR 63678
NPRM Comment Period End	12/09/97	
Quota Announcement	12/14/97	
Final Action	09/09/99	64 FR 48938

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 6734-S, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 205-5851
Fax: 202 720-5233
Email: tom__ witzig@wdc.fsa.usda.gov

RIN: 0560–AF81

BILLING CODE 3410–05–F

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS)

Prerule Stage

253. NOXIOUS WEEDS; WEED CATEGORIES AND PRIORITIES

Priority: Other Significant

Legal Authority: 7 USC 2803; 7 USC 2809

CFR Citation: 7 CFR 360

Legal Deadline: None

Abstract: We are soliciting public input on the manner in which Federal noxious weeds are characterized and categorized. Specifically, we are seeking public comment on a categorization scheme for noxious weeds that would provide for varying levels of response to weeds based on their pest risk potential. The information gathered through this advance notice of proposed rulemaking will be used by the Animal and Plant Health Inspection Service as we consider regulatory changes and weigh alternative approaches to addressing the problem of noxious weeds.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/00	
ANPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Polly Lehtonen, Botanist, BATS, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 133, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-8896

RIN: 0579–AB07

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

254. PLANT PEST REGULATIONS; UPDATE OF CURRENT PROVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 149; 7 USC 150bb; 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 154; 7 USC 159; 7 USC 160; 7 USC 162; 7 USC 2260; 21 USC 136; 21 USC 136a; 31 USC 9701

CFR Citation: 7 CFR 330

Legal Deadline: None

Abstract: APHIS is undertaking rulemaking to amend its plant pest regulations by: (1) Setting out the criteria that will be used by APHIS when considering whether an organism is a plant pest; (2) adding a permit category for organisms that would be released into the environment for purposes such as the biological control of weeds; (3) establishing a notification system that could be used in place of permits for the importation and interstate movement of certain low-risk organisms; and (4) revising or amending existing portions of the regulations to clarify or update requirements, eliminate redundancy, and make the regulations easier for the public to use. This action will serve as a follow-up to the advance notice of proposed rulemaking that APHIS

published in the Federal Register on September 27, 1996, to solicit input on the need for regulatory changes and alternative methods of addressing plant pest risk.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/96	61 FR 50767
ANPRM Comment Period End	12/26/96	
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Robert Flanders, Regulatory Coordination Specialist, Regulatory Coordination Staff, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 141, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-5930
Email: robert.v.flanders@usda.gov

RIN: 0579–AA80

255. KARNAL BUNT

Priority: Other Significant

Legal Authority: 7 USC 147a; 7 USC 161 to 162; 7 USC 164 to 167; 7 USC 150bb; 7 USC 150dd to 150ff

CFR Citation: 7 CFR 301

Legal Deadline: None

Abstract: Karnal bunt is a fungal disease of wheat (Triticum aestivum), durum wheat (Triticum durum), and triticale (Triticum aestivum x Secale cereale), a hybrid of wheat and rye. In the absence of measures taken by the U.S. Department of Agriculture, the establishment of Karnal bunt in the United States would have significant consequences with regard to the export of wheat to international markets. Prior to March 8, 1996, Karnal bunt was not known to exist in the United States. Since March 8, 1996, Karnal bunt has been detected within several States. In response, we have established regulations that define regulated areas in certain States because of Karnal bunt, restrict the movement of certain articles from the regulated areas to prevent the spread of Karnal bunt, and provide compensation for certain growers, handlers, and other individuals in the regulated areas to mitigate losses and expenses incurred because of actions taken by the Secretary to prevent the spread of Karnal bunt. As part of a continuing Karnal bunt program, we anticipate that the regulations concerning regulated areas, movement restrictions, and compensation will be revised as more is known about the Karnal bunt situation in the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35102
NPRM	08/02/96	61 FR 40354
NPRM Comment Period End	09/03/96	
Final Rule Classifying Regulated Areas, Movement of Regulated Articles	10/04/96	61 FR 52190
Interim Final Rule Change Classification of Regulated Areas	05/01/97	62 FR 23620
Final Rule Compensation for 1995-96 Crop Season	05/06/97	62 FR 24746
NPRM Compensation for 1996-97 Crop Season	07/11/97	62 FR 37159
NPRM Compensation for Wheat Seed and Straw, 1995-96 Crop Season	07/30/97	62 FR 40756
Interim Final Rule Additions to Regulated Areas	11/24/97	62 FR 62504
Interim Final Rule Approved Treatments	12/05/97	62 FR 64263
Final Rule Compensation for Wheat Seed and Straw, 1995-96 Crop Season	01/09/98	63 FR 1321
NPRM Movement from Regulated Areas	01/28/98	63 FR 4198
Final Rule Compensation for 1996-97 Crop Season	06/10/98	63 FR 31593
AIR as Final Rule Approved Treatments	09/04/98	63 FR 47127
Final Rule Movement from Regulated Areas	09/23/98	63 FR 50747
NPRM Compensation for the 1997-98 Crop Season	12/17/98	63 FR 69563
NPRM Reclassification of Regulated Areas	03/09/99	64 FR 11392
NPRM Reclassification of Regulated Areas Comment Period End	04/08/99	
Final Rule Reclassification of Regulated Areas	05/04/99	64 FR 23749
Final Rule Change Classification of Regulated Areas	06/02/99	64 FR 29541
Final Rule Compensation for the 1997-98 Crop Season	06/25/99	64 FR 34109
NPRM Compensation Policy (Projected)	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-8247
Email: stephen.r.poe@usda.gov

RIN: 0579–AA83

256. VETERINARY SERVICES MULTI-YEAR USER FEES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 5542; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114 to 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135; 21 USC 136 to 136a

CFR Citation: 9 CFR 130

Legal Deadline: None

Abstract: This action would adjust the user fees charged for veterinary services we provide for import and export related activities for fiscal years 1998 through 2003. Costs to operate the Veterinary Services import-export program increase slightly from year to year due to increase in employee costs (i.e., cost of living, etc.) and changes in other operational costs. We have determined that the fees must be adjusted to reflect the anticipated cost of providing these services through fiscal year 2003.

USDA—APHIS **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	09/30/99	64 FR 52680
NPRM Comment Period End	11/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Donna Ford, Section Head, M&B, Budget and Accounting Division, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 54, 4700 River Road, Riverdale, MD 20737
Phone: 301 734-5785

Louise Lothery, Director, VS, Resource Management Support Staff, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 44, 4700 River Road, Riverdale, MD 20737
Phone: 301 734-7517

RIN: 0579–AA87

257. INTERSTATE MOVEMENT OF SHEEP AND GOATS FROM STATES THAT DO NOT QUARANTINE SCRAPIE-INFECTED AND SOURCE FLOCKS

Priority: Other Significant

Legal Authority: 21 USC 111 to 114; 21 USC 114a; 21 USC 115; 21 USC 117; 21 USC 120 to 121; 21 USC 123 to 126; 21 USC 134a to 134h

CFR Citation: 9 CFR 54; 9 CFR 79

Legal Deadline: None

Abstract: After soliciting public comment to help us develop options for potential changes to our regulations for the interstate movement of sheep and goats, we believe changes are necessary to improve control and limit the spread of scrapie, a serious disease of sheep and goats. We are undertaking rulemaking to correlate Federal interstate movement restrictions with the effectiveness of individual State scrapie programs.

Timetable:

Action	Date	FR Cite
ANPRM	01/26/98	63 FR 3671
ANPRM Comment Period End	03/27/98	
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Diane Sutton, Senior Staff Veterinarian, VS, National Animal Health Programs, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-7716

RIN: 0579–AA90

258. IRRADIATION PHYTOSANITARY TREATMENT OF IMPORTED FRESH FRUITS AND VEGETABLES

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136 to 136a

CFR Citation: 7 CFR 305; 7 CFR 319.56

Legal Deadline: None

Abstract: This rulemaking would establish irradiation as a new treatment alternative for the importation of certain fresh fruits and vegetables. Irradiation would be allowed as an alternative to mitigation measures that are required to control certain species of fruit flies in a variety of imported fruits and vegetables. If this proposal is adopted, importers of certain fruits and vegetables will have an additional alternative to the currently approved treatments, such as fumigation and cold treatment, for treating their articles. No net societal gains and losses other than small price-related changes are expected from this proposed rule change.

Timetable:

Action	Date	FR Cite
Policy Statement for Irradiation Treatment of Fresh Fruits and Vegetables	05/15/98	63 FR 24433
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna L. West, Import Specialist, PIMT, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6653

RIN: 0579–AA97

259. IMPORTATION OF SOLID WOOD PACKING MATERIAL

Regulatory Plan: This entry is Seq. No. 2 in Part II of this issue of the **Federal Register**.

RIN: 0579–AA99

260. HORSE PROTECTION; HORSE INDUSTRY ORGANIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1823 to 1825; 15 USC 1828; 44 USC 3506

CFR Citation: 9 CFR 11

Legal Deadline: None

Abstract: This action would amend the horse protection regulations as follows: To require that horse industry organizations (HIO) officers meet standards of conduct similar to those required for a designated qualified person (DQP); to require that HIOs submit horse show schedules to APHIS at least 30 days prior to a show; to require APHIS approval of those portions of HIO rule books relevant to the Horse Protection Act; to require that HIO rule books define what constitutes a conflict of interest for HIO officers and DQPs; and to require that each HIO annually submit to APHIS a financial statement or otherwise demonstrate financial solvency.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Richard Watkins, Initiative Coordinator, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-4981

RIN: 0579–AB04

261. USER FEES—RATE REVISIONS FOR AGRICULTURAL QUARANTINE AND INSPECTION SERVICE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 2260; 21 USC 136; 21 USC 136a; 40 USC 1741

USDA—APHIS **Proposed Rule Stage**

CFR Citation: 7 CFR 354.3

Legal Deadline: None

Abstract: This action would amend agricultural quarantine inspection service (AQI) international air passenger, commercial aircraft, commercial vessel, commercial truck, and commercial railroad car user fees to properly recover the cost of providing these services.

Timetable:

Action	Date	FR Cite
NPRM	08/09/99	64 FR 43103
NPRM Comment Period End	10/08/99	
Final Rule	11/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Donna Ford, Section Head, M&B, Budget and Accounting Division, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 54, 4700 River Road, Riverdale, MD 20737
Phone: 301 734-5785

RIN: 0579–AB05

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS) **Final Rule Stage**

262. ANIMAL WELFARE—STANDARDS FOR MARINE MAMMALS

Priority: Other Significant

Legal Authority: 7 USC 2131 to 2159

CFR Citation: 9 CFR 3

Legal Deadline: None

Abstract: The Department regulates the treatment of certain marine mammals under the Animal Welfare Act. The present standards for treatment of these animals have been in effect for over 10 years. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. The Department has conducted negotiated rulemaking (Reg Neg) and published changes to the regulations based on the consensus reached by the negotiated rulemaking committee. In addition to identifying regulatory provisions for revision based on negotiated rulemaking, the Department is conducting separate rulemaking to establish standards governing "swim with the dolphins" (SWTD) programs.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/93	58 FR 39458
ANPRM Comment Period End	10/06/93	
NPRM	01/23/95	60 FR 4383
NPRM Comment Period End	02/22/95	
NPRM Comment Period Extended Swim with the Dolphins (SWTD)	02/28/95	60 FR 10810
NPRM Comment Period Extended (SWTD)	03/09/95	60 FR 12908
NPRM Comment Period Extended (SWTD)	03/24/95	60 FR 15524
Notice, Establish a Committee (Reg Neg)	05/22/95	60 FR 27049
Correction (Reg Neg)	06/02/95	60 FR 28834
Final Rule Animal Welfare; Marine Mammals, Swim with the Dolphins	09/04/98	63 FR 47128
Applicability of Regulations	10/14/98	63 FR 55012
NPRM Animal Welfare; Marine Mammals	02/23/99	64 FR 8735
Suspension of Enforcement of September 1998 SWTD Final Rule	04/02/99	64 FR 15918
Suspension of Enforcement of September 1998 SWTD Final Rule Effective	04/02/99	
NPRM Comment Period End	05/26/99	
Suspension of Enforcement of September 1998 SWTD Final Rule Comment Period End	06/01/99	
Final Rule Animal Welfare; Marine Mammals (Projected)	05/00/00	
NPRM Swim with the Dolphins	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Barbara Kohn, Veterinary Medical Officer, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 84, 4700 River Road, Riverdale, MD 20737-1234
Phone: 301 734-7833

RIN: 0579–AA59

263. IMPORTATION OF LOGS, LUMBER, AND OTHER UNMANUFACTURED WOOD ARTICLES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319

Legal Deadline: None

Abstract: This rule would amend the importation options for importing wood chips from Chile. We have determined that a surface pesticide treatment is effective in rendering large shipments of Pinus radiata wood chips from Chile free of plant pests and have approved a surface pesticide treatment for use on Pinus radiata wood chips from Chile. Therefore, this rule would allow the importation of Pinus radiata wood chips from Chile if the surfaces of the wood chips are treated with a pesticide approved by the Administrator. This rule would also allow solid wood packing materials used with nonregulated articles to be imported without an importer document.

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40193
NPRM Comment Period End	09/28/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—APHIS **Final Rule Stage**

Agency Contact: Donna L. West, Import Specialist, PIMT, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6653

RIN: 0579–AA82

264. IMPORTATION OF GRAPEFRUIT, LEMONS, AND ORANGES FROM ARGENTINA

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 300; 7 CFR 319.28; 7 CFR 319.56

Legal Deadline: None

Abstract: APHIS is conducting rulemaking to amend the citrus fruit regulations by recognizing a citrus-growing area within Argentina as being free from citrus canker. Surveys conducted by Argentine plant health authorities in that area of Argentina since 1992 have shown the area to be free from citrus canker, and Argentine authorities are enforcing restrictions designed to protect the area from the introduction of that disease. This rulemaking would also amend the fruits and vegetables regulations to allow the importation of grapefruit, lemons, and oranges from the citrus canker-free area of Argentina under conditions designed to prevent the introduction into the United States of two other diseases of citrus, sweet orange scab and citrus black spot, and other plant pests. These changes would allow grapefruit, lemons, and oranges to be imported into the United States from Argentina subject to certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	08/12/98	63 FR 43117
NPRM Comment Period End	02/11/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mr. Ronald C. Campbell, Director, Trade Management - Western Hemisphere, PPQ, APHIS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1228
Phone: 301 734-8262
Email: ronald.c.campbell@usda.gov

RIN: 0579–AA92

265. RESTRICTIONS ON THE IMPORTATION OF RUMINANTS, MEAT AND MEAT PRODUCTS FROM RUMINANTS, AND CERTAIN OTHER RUMINANT PRODUCTS

Priority: Other Significant

Legal Authority: 7 USC 147a; 7 USC 150ee; 7 USC 1622; 19 USC 1306; 21 USC 102 to 105; 21 USC 111; 21 USC 114a; 21 USC 134a to 134d; 21 USC 134f; 21 USC 135 to 136; 21 USC 136a; 31 USC 9701

CFR Citation: 9 CFR 93.404(c); 9 CFR 94.18; 9 CFR 95.4(a); 9 CFR 96.2(b)

Legal Deadline: None

Abstract: This action relieves restrictions with regard to BSE on the importation from certain countries of ruminants and meat, meat products, and other edible products of ruminants, and relieves restrictions under certain conditions on the importation of meat from ruminants of the family Cervidae.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 38, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-8590

RIN: 0579–AA98

266. IMPORTATION OF RHODODENDRON IN GROWING MEDIA

Priority: Other Significant

Legal Authority: 7 USC 150dd to 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 319.37-8

Legal Deadline: None

Abstract: We are amending our regulations to allow the importation from Europe of rhododendron established in growing media.

Timetable:

Action	Date	FR Cite
NPRM	09/07/93	58 FR 47074
NPRM Comment Period End	12/06/93	
Final Rule on All of 9/7/93 NPRM Except Rhododendron (Effective 2/13/95)	01/13/95	60 FR 3067
NPRM Comment Period Extended - Rhododendron	04/30/98	63 FR 23683
NPRM Comment Period Extended - Rhododendron	06/01/98	63 FR 29675
NPRM Comment Period End - Rhododendron	07/30/98	
Final Rule - Rhododendron	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne Burnett, Import Specialist, PIM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 140, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-6553

RIN: 0579–AB00

267. COMMERCIAL TRANSPORTATION OF EQUINES TO SLAUGHTER

Priority: Other Significant

Legal Authority: 7 USC 1901 note 1996 Farm Bill

CFR Citation: 9 CFR 88 (New)

Legal Deadline: None

Abstract: This action would establish regulations pertaining to the commercial transportation of equines to slaughter. The purpose of these regulations is to establish minimum standards to ensure the humane movement of equines to slaughter via commercial transportation. We are proposing these regulations to fulfill our responsibility under the 1996 Farm Bill to regulate the commercial transportation of equines to slaughter by persons regularly engaged in that activity within the United States.

USDA—APHIS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/19/99	64 FR 27210
NPRM Comment Period End	07/19/99	
Final Rule	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Timothy R. Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 43, 4700 River Road, Riverdale, MD 20737-1231
Phone: 301 734-3279
Email: timothy.r.cordes@usda.gov

RIN: 0579–AB06

268. • IMPORTATION OF GYPSY MOTH HOST MATERIAL FROM CANADA

Priority: Other Significant

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 150ff; 7 USC 151 to 167; 7 USC 450; 7 USC 2803; 7 USC 2809; 21 USC 136; 21 USC 136a

CFR Citation: 7 CFR 301; 7 CFR 319

Legal Deadline: None

Abstract: We are establishing regulations for the importation into the United States of gypsy moth host materials from Canada due to infestations of gypsy moth in the Provinces of British Columbia, New Brunswick, Nova Scotia, Ontario, and Quebec. These regulations require trees without roots (e.g., Christmas trees), trees with roots, shrubs with roots and persistent woody stems, logs and pulpwood with bark attached, outdoor household articles, and mobile homes and their associated equipment to meet specified certification or destination requirements if they are intended to be moved into or through areas of the United States that are not infested with gypsy moth. This action is necessary on an emergency basis to prevent the introduction of gypsy moth into the noninfested areas of the United States.

Timetable:

Action	Date	FR Cite
Interim Rule	08/23/99	
Interim Final Rule Effective	08/23/99	
Interim Rule Comment Period End	10/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ms. Coanne O'Hern, Operations Officer, Domestic and Emergency Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, Unit 134, 4700 River Road, Riverdale, MD 20737-1236
Phone: 301 734-8247

RIN: 0579–AB11

Department of Agriculture (USDA) **Long-Term Actions**

Animal and Plant Health Inspection Service (APHIS)

269. IMPORTATION OF CERTAIN EMBRYOS AND ANIMAL SEMEN

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 98

Timetable:

Action	Date	FR Cite
ANPRM	07/08/93	58 FR 36625
ANPRM Comment Period End	09/07/93	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Perkins
Phone: 301 734-8419
Email: roger.w.perkins@usda.gov

RIN: 0579–AA63

270. IMPORTATION OF PORK AND PORK PRODUCTS FROM YUCATAN AND SONORA, MEXICO

Priority: Other Significant

CFR Citation: 9 CFR 94

Timetable:

Action	Date	FR Cite
NPRM	02/23/99	64 FR 8755
NPRM Comment Period End	04/26/99	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: John Cougill
Phone: 301 734-3399
Email: john.w.cougill@usda.gov

RIN: 0579–AA91

271. IMPORTATION OF FUJI APPLES FROM THE REPUBLIC OF KOREA

Priority: Other Significant

CFR Citation: 7 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna L. West
Phone: 301 734-6653

RIN: 0579–AA93

272. ANIMAL WELFARE; INSPECTION, LICENSING, AND PROCUREMENT OF ANIMALS

Priority: Other Significant

CFR Citation: 9 CFR 1 and 2

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bettye K. Walters
Phone: 301 734-8100
Email: bettye.k.walters@usda.gov

RIN: 0579–AA94

273. IMPORTATION OF POULTRY FROM SINALOA AND SONORA, MEXICO

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 94.22

Timetable:

Action	Date	FR Cite
NPRM	05/21/99	64 FR 27711
NPRM Comment Period End	07/20/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Michael David
Phone: 301 734-5034

RIN: 0579–AA96

274. REQUIRING TREATMENT OF SOLID WOOD PACKING MATERIAL FROM CHINA

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 319.40

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/18/98	63 FR 50100
Interim Final Rule	12/17/98	63 FR 69539
Interim Final Rule Effective	12/17/98	
Interim Final Rule Comment Period End	02/16/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Flanders
Phone: 301 734-5930
Email: robert.v.flanders@usda.gov

RIN: 0579–AB01

275. IMPORTATION OF UNMANUFACTURED WOOD ARTICLES FROM MEXICO

Priority: Other Significant

CFR Citation: 7 CFR 319.40

Timetable:

Action	Date	FR Cite
NPRM	06/11/99	64 FR 31512
NPRM Comment Period End	08/10/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane E. Levy
Phone: 301 734-8295

RIN: 0579–AB02

276. ESTABLISHMENT OF REGIONS IN THE EUROPEAN UNION FOR HOG CHOLERA, FOOT-AND-MOUTH DISEASE, AND SWINE VESICULAR DISEASE

Priority: Other Significant

CFR Citation: 9 CFR 92; 9 CFR 94; 9 CFR 98

Timetable:

Action	Date	FR Cite
NPRM	06/25/99	64 FR 34155
NPRM Comment Period End	08/24/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Gary Colgrove
Phone: 301 734-8590

RIN: 0579–AB03

277. NOXIOUS WEEDS; RESTRICTIONS ON INTERSTATE MOVEMENT

Priority: Other Significant

CFR Citation: 7 CFR 360.300

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/29/99	64 FR 41007
Interim Final Rule Effective	07/29/99	
Interim Final Rule Comment Period End	09/27/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Randy Westbrooks
Phone: 910 648-6762

RIN: 0579–AB08

278. AQUACULTURE; FARM-RAISED FIN FISH

Priority: Other Significant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
ANPRM	05/04/99	64 FR 23795
ANPRM Comment Period End	07/06/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Otis Miller
Phone: 301 734-7679

RIN: 0579–AB09

279. PSEUDORABIES IN SWINE; PAYMENT OF INDEMNITY

Priority: Other Significant

CFR Citation: 9 CFR 52

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/12/99	64 FR 2545
Interim Final Rule Comment Period End	04/16/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith A. Hand
Phone: 301 734-8073

RIN: 0579–AB10

Departme
Animal a

280. IMPO
VEGETAB
Priority: S
CFR Citati
Completed
Reason
Withdrawn
Regulatory
Required:
Governme
Agency Co

Departme
Cooperat

282. HIGH
MULTICUL
PROGRAM
PROVISIO
Priority: S
Legal Auth
103-111; P
104-180
CFR Citati
Legal Dea
Abstract: I
procedures
the solicita
evaluation
award of p
Multicultu
Timetable:

Action
NPRM
NPRM Comm Period End

Regulatory
Required:
Small Enti
Governme
Agency Co
Policy Adv
Liaison Sta
Agriculture
Service, M
Avenue SW
2299
Phone: 202
Email: pca
RIN: 0524–

VOL 64 ISS 224 NOV 22 1999 UMI

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS)

Completed Actions

280. IMPORTATION OF FRUITS AND VEGETABLES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 319.56

Completed:

Reason	Date	FR Cite
Withdrawn	09/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane E. Levy
Phone: 301 734-8295

RIN: 0579–AA58

281. LICENSING REQUIREMENTS FOR DOGS AND CATS

Priority: Other Significant

CFR Citation: 9 CFR 1; 9 CFR 3; 9 CFR 2

Completed:

Reason	Date	FR Cite
Decision and Policy Statement	07/19/99	64 FR 38546

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bettye K. Walters
Phone: 301 734-8100
Email: bettye.k.walters@usda.gov

RIN: 0579–AA95

BILLING CODE 3410–34–F

Department of Agriculture (USDA),
Cooperative State Research, Education, and Extension Service (CSREES)

Proposed Rule Stage

282. HIGHER EDUCATION MULTICULTURAL SCHOLARS PROGRAM; ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3152(b)(5); PL 103-111; PL 103-330; PL 104-37; PL 104-180

CFR Citation: 7 CFR 3409

Legal Deadline: None

Abstract: Regulations will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Multicultural Scholars Program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA09

283. HISPANIC-SERVING INSTITUTIONS EDUCATION GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 3241

CFR Citation: 7 CFR 3412

Legal Deadline: None

Abstract: Regulation will establish the procedures to be followed annually in the solicitation of proposals, the evaluation of such proposals, and the award of project grants under the Hispanic Education Partnership Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA17

284. COMMUNITY FOOD PROJECTS ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2034

CFR Citation: 7 CFR 3416

Legal Deadline: None

Abstract: This regulation proposes to establish administrative provisions for the Community Food Projects to institute procedures to be followed in preparing proposals, to outline requirements which grant recipients must meet, to provide instructions on how to apply for a grant, and to provide general information about post-award administration of grants under the program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Interim Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA19

285. SMALL BUSINESS INNOVATION RESEARCH PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 638

USDA—CSREES **Proposed Rule Stage**

CFR Citation: 7 CFR 3403

Legal Deadline: None

Abstract: The Cooperative State Research Education and Extension Service (CSREES) proposes to modify the Small Business Innovation Research Program Administrative Provisions by changing the language of when a Phase I awardee is eligible to apply for a Phase II award. Currently a Phase I awardee may apply for a Phase II award in the next fiscal year funding cycle or the second fiscal year funding cycle. CSREES intends to revise this language to allow Phase I awardees to apply in either of the two fiscal years following the end of the initial project period; this does not include any no-cost extensions of time. This revision will allow an 18-month Phase I awardee the same privileges as that of a 6-month Phase I awardee. Privileges as used herein refers to the opportunity for a no-cost extension of time, if necessary, and two options of when a Phase I awardee may apply for a Phase II award.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA20

286. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 5921; 5 USC 301

CFR Citation: 7 CFR 3415

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise and modify the Biotechnology Risk Assessment Research Grants Program Administrative Provisions. The revision and modification updates 7 CFR part 3415 to delete references to the Office of Agricultural Biotechnology and the Agricultural Biotechnology Research Advisory Committee clarifying the requirements for the pre-proposals, clarifying what is to be included in the 15-page limit on proposals, and revising the language regarding conflicts of interests (3415.12).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA21

287. NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM ADMINISTRATIVE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 450i(b)

CFR Citation: 7 CFR 3411

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to revise and modify the National Research Initiative Competitive Grants Program administrative provisions. The revision and modification will update 7 CFR 3411 to reflect changes in the Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105-185), and to comply with a recent OIG audit. Specifically, the equipment grant eligibility requirements need to be revised, along with other administrative changes. In addition, CSREES plans to comply with the proposed plain language requirements set out in the Presidential Memo dated June 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA22

Department of Agriculture (USDA)

Final Rule Stage

Cooperative State Research, Education, and Extension Service (CSREES)

288. STAKEHOLDER INPUT TO RESEARCH, EDUCATION, AND EXTENSION FORMULA FUNDS

Priority: Other Significant

Legal Authority: 7 USC 7612(c)(2); 5 USC 301

CFR Citation: 7 CFR 3418

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service proposes a rule to implement section 102(c) of the Agricultural Research Extension and Education Reform Act of 1998 (AREERA) and 7 U.S.C. 7612(c), which requires 1862 land-grant institutions, 1890 land-grant institutions, and 1994 land-grant institutions that receive agricultural research extension or education

USDA—CSREES

Final Rule Stage

formula funds to establish a process for stakeholder input on the uses of such funds.

Timetable:

Action	Date	FR Cite
NPRM	04/14/99	64 FR 18533
NPRM Comment Period End	05/14/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA23

289. MATCHING FUNDS REQUIREMENT FOR FORMULA FUNDS FOR AGRICULTURAL RESEARCH AND EXTENSION ACTIVITIES AT 1890 LAND GRANT INSTITUTIONS AND TUSKEGEE UNIVERSITY

Priority: Other Significant

Legal Authority: 7 USC 3222(d)

CFR Citation: 7 CFR 3419

Legal Deadline: None

Abstract: The Cooperative State Research, Education, and Extension Service (CSREES) proposes a rule to implement section 226 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (7 U.S.C. 7612(c)) which amends subtitle G of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). This section requires matching funds from non-Federal sources for formula funds authorized under sections 1444 and 1445 of NAREPTA for agricultural research and extension activities at the 1890 land-grant institutions and Tuskegee University.

Timetable:

Action	Date	FR Cite
NPRM	08/09/99	64 FR 42575
NPRM Comment Period End	09/03/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip A. Carter, Policy Advisor, Policy and Program Liaison Staff, Department of Agriculture, Cooperative State Research Service, MS 2299, 1400 Independence Avenue SW, Washington, DC 20250-2299
Phone: 202 720-9181
Email: pcarter@reeusda.gov

RIN: 0524–AA24

BILLING CODE 3410–22–F

Department of Agriculture (USDA)
Rural Housing Service (RHS)

Proposed Rule Stage

290. CIVIL RIGHTS COMPLIANCE REQUIREMENTS—1901-E TO 1940-D

Priority: Other Significant

Legal Authority: PL 100-259; EO 12898; PL 88-352; 42 USC 2000d et seq; PL 90-284; 42 USC 3601 to 3619; PL 100-430; PL 92-318; 20 USC 1681 et seq; PL 93-112; 29 USC 794; PL 94-135; 42 USC 6101 et seq; PL 94-239; 15 USC 1601 et seq; EO 11246

CFR Citation: 7 CFR 15; 12 CFR 202; 28 CFR 42; 45 CFR 90; 41 CFR 60 to 64; 24 CFR 14; 7 CFR 1940 subpart D; 7 CFR 1901 subpart E

Legal Deadline: None

Abstract: This ruling will effectuate a comprehensive civil rights regulation implementing the following laws: The Equal Credit Opportunity Act (ECOA); title VI of the Civil Rights Act of 1964; title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act); section 504 Federally Conducted and Federally Assisted Programs; title IX of the Education Amendments of 1972; Age Discrimination Act of 1975; and Executive Orders 11246 and 12898 (Environmental Justice). The revised regulations will provide detailed guidelines for field offices for improved enforcement and compliance with these laws which heavily impact the Agency's programs. Mechanisms for monitoring compliance by field offices and recipients of Federal financial assistance at all levels will decrease the Agency's vulnerability that exist due to noncompliance with recently enacted Civil Rights legislation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Carlton L. Lewis, Chief, Program Compliance Branch, Department of Agriculture, Farmers Home Administration, MS 0703, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 692-0097
Fax: 202 692-0107

RIN: 0575–AA83

291. SERVICING COMMUNITY PROGRAMS LOANS AND GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 31 USC 3711; 42 USC 1480

CFR Citation: 7 CFR 3570 subpart E; 7 CFR 1951 subpart E; 7 CFR 1951 subpart O; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart C; 7 CFR 1951 subpart F

Legal Deadline: None

Abstract: The Agency is combining seven regulations affecting the servicing of Community Program loans and grants into one regulation. Justification: This is part of the Reinventing Government Initiative. There are no policy or procedural changes. The published regulation will be simplified by removing the administrative portion and will only contain the information affecting the public.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Beth Jones, Loan Specialist, Community Programs Division, Department of Agriculture, Farmers Home Administration, Room 0183/Stop 0787, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1498
Email: epjones@rdasun2.rurdev.usda.gov

RIN: 0575–AC12

292. MULTI-FAMILY HOUSING REINVENTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1475; 42 USC 1479; 42 USC 1480; 42 USC 1481; 42 USC 1484; 42 USC 1485; 42 USC 1486; 42 USC 1490a

CFR Citation: 7 CFR 1806 subpart A; 7 CFR 1930 subpart C; 7 CFR 1944 subpart D; 7 CFR 1944 subpart E; 7 CFR 1951 subpart C; 7 CFR 1951 subpart D; 7 CFR 1951 subpart K; 7 CFR 1951 subpart N; 7 CFR 1955 subpart A; 7 CFR 1955 subpart B; 7 CFR 1955 subpart C; 7 CFR 1956 subpart B; 7 CFR 1965 subpart B; 7 CFR 1965 subpart E

Legal Deadline: None

Abstract: Reinvention of the Rural Housing Service's Multi-Family Housing Programs will consolidate regulations pertaining to section 515 Rural Rental Housing, section 514 Farm Labor Housing Loans, section 516 Farm Labor Housing Grants, and section 521 Rental Assistance Payments. Fourteen published regulations will be reduced to one regulation and handbooks for program administration. This will simplify loan origination and portfolio management for applicants, borrowers, and housing operators as well as Rural Development field staff. This will also provide flexibility for program modifications to reflect current and foreseeable changes. It will also reduce regulations that address solely internal agency program administration. Finally, the regulation will be more customer friendly and responsive to the needs of the public.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Allen, Special Assistant to Deputy Administrator, Multi-Family Housing Processing Div., Department of Agriculture, Farmers Home Administration, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 690-4499
Email: jallen@rdmail.rural.usda.gov

RIN: 0575–AC13

293. GUARANTEED RURAL HOUSING LOAN SINGLE FAMILY

Priority: Other Significant

Unfunded Mandates: This action may affect State, Local or Tribal Governments.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 3555; 7 CFR 1980 subpart D

Legal Deadline: None

Abstract: The Rural Housing Service is revising the regulation for the Guaranteed Rural Housing (GRH) program in order to increase the number of rural households that are able to make homeownership a reality, strengthen internal controls of the program, streamline and "reinvent" the regulation by making it clearer and more concise, and improve performance by lenders and servicers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: David Villano, Deputy Administrator, Department of Agriculture, Farmers Home Administration, Room 5013/Stop 0780, 1400 Independence Avenue SW, Washington, DC 20250-0780
Phone: 202 720-5177
Fax: 202 690-3025
Email: david.villano@usda.gov

RIN: 0575–AC18

294. • SELF-HELP TECHNICAL ASSISTANCE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 U.S.C. 301; 42 U.S.C. 1480

CFR Citation: 7 CFR Part 1944; 7 CFR Part 3551

Legal Deadline: None

Abstract: The regulations for 7 CFR 1944-I, "Self-Help Technical Assistance Grants," is being rewritten and renumbered to 7 CFR 3551. Changes are proposed for clarification of policy and procedures relative to the: 1) application procedure which is changing to an annual competitive grant process; 2) labor contribution of participating families; 3) monitoring of grantee progress through Self-Help Automated Reporting and Evaluation System (SHARES), and; 4) define the roles of Technical and Management Assistance Contractors.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a

USDA—RHS **Proposed Rule Stage**

paperwork burden associated with this action.

Agency Contact: Lucia A. McKinney, Senior Loan Specialist, Department of Agriculture, Farmers Home Administration, Room 2209/Stop 0783, 1400 Independence Avenue SW, Washington, DC 20250-0783
Phone: 202 720-1457
Fax: 202 720-2232
Email: lmckinne@rdasun2.rurdev.usda.gov

RIN: 0575–AC20

Department of Agriculture (USDA)
Rural Housing Service (RHS) **Final Rule Stage**

295. DENYING CREDIT TO APPLICANTS DELINQUENT ON ANY FEDERAL DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1942 subpart C; 7 CFR 1944 subpart E; 7 CFR 1948 subpart B; 7 CFR 1951 subpart E; 7 CFR 1942 subpart A; 7 CFR 1942 subpart G; 7 CFR 1944 subpart D; 7 CFR 1980 subpart E; 7 CFR 1980 subpart I

Legal Deadline: None

Abstract: OMB Circular A-129 dated November 25, 1988, recommends that the processing of applications for Federal direct loans be suspended and requires private lenders to suspend processing of loan guarantee applications when an applicant is found to be delinquent on a Federal debt. The Federal Debt Collections Procedures Act of 1990 also requires that credit be denied if an outstanding judgment lien obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, is found.

Timetable:

Action	Date	FR Cite
NPRM	05/04/94	59 FR 23018
NPRM Comment Period End	07/05/94	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal, Local, Tribal

Agency Contact: Sherie Hinton Henry, Director, Financial Management Division, Department of Agriculture, Farmers Home Administration, MS 0707, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 692-0080

RIN: 0575–AA66

296. REENGINEERING AND REINVENTION OF THE DIRECT SECTION 502 AND 504 SINGLE-FAMILY HOUSING PROGRAM

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480; 31 USC 3700

CFR Citation: 7 CFR 1806; 7 CFR 1900; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965; 7 CFR 3550

Legal Deadline: None

Abstract: Rural Housing Service (RHS) has purchased a state-of-the-art dedicated loan origination servicing system (DLOSS) which includes escrow capability. To conform to this new system, RHS proposes to make further amendments to the regulations to allow the Agency to provide escrow services to Single-Family Housing borrowers which follow industry standards. In addition, the Agency proposes to amend its regulations to conform to processes and techniques currently utilized by the private sector.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15395
NPRM Comment Period End	06/07/96	
Interim Final Rule	11/22/96	61 FR 59762
Final Action	04/00/00	
Final Action Effective	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Betsy Fletcher, Chief, Loan Origination Branch, Department of Agriculture, Farmers Home Administration, MS 0783, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1486

RIN: 0575–AB99

Department of Agriculture (USDA)
Rural Housing Service (RHS) **Long-Term Actions**

297. ENVIRONMENTAL PROGRAM STREAMLINE ENVIRONMENTAL PROCESS

Priority: Other Significant

CFR Citation: 40 CFR 300; 40 CFR 260; 40 CFR 700; 40 CFR 400; 7 CFR 1940

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan Wieferich
Phone: 202 720-9647

RIN: 0575–AB98

USDA—RHS

Long-Term Actions

298. NATIONAL FLOOD INSURANCE REGULATIONS

Priority: Other Significant

CFR Citation: 7 CFR 1926 subpart B; 7 CFR 1806 subpart B

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Don Lander
Phone: 202 720-9656

RIN: 0575–AC07

Department of Agriculture (USDA)
Rural Housing Service (RHS)

Completed Actions

299. COMMUNITY FACILITY GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3570 subpart B

Completed:

Reason	Date	FR Cite
Final Action	06/17/99	64 FR 32387

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Barton
Phone: 202 720-1504

RIN: 0575–AC10

300. DIRECT SINGLE-FAMILY HOUSING LOANS AND GRANTS

Priority: Other Significant

CFR Citation: 7 CFR 1924 subpart A; 7 CFR 1944 subpart E; 7 CFR 1980 subpart D; 7 CFR 3550 subpart B

Completed:

Reason	Date	FR Cite
Final Action	09/02/99	64 FR 48083
Final Action Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Hodges
Phone: 202 720-9653

RIN: 0575–AC11

301. SECTION 538 GUARANTEE RURAL RENTAL HOUSING PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 3565

Completed:

Reason	Date	FR Cite
Final Action	06/16/99	64 FR 32370

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Wagner
Phone: 202 720-1604
Email: cwagner@usda.gov

RIN: 0575–AC14

302. COMMUNITY PROGRAMS GUARANTEED LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1980 subpart I

Completed:

Reason	Date	FR Cite
Final Action	05/26/99	64 FR 28333

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melvin Padgett
Phone: 202 720-1495

RIN: 0575–AC17

303. FARM LABOR HOUSING—COMPETITIVE FUNDING

Priority: Other Significant

CFR Citation: 7 CFR 1944 subpart D

Completed:

Reason	Date	FR Cite
Final Action	05/06/99	64 FR 24476

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Allen
Phone: 202 690-4499
Email: jallen@rdmail.rural.usda.gov

RIN: 0575–AC19

BILLING CODE 3410–07–F

Department of Agriculture (USDA)
Federal Crop Insurance Corporation (FCIC)

Proposed Rule Stage

304. GENERAL ADMINISTRATIVE REGULATIONS; HIGH RISK LAND REGULATIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation adds new regulations to be known as High Risk Land Regulations. The intended effect of this rule is to set forth rates apart from those prescribed by standard actuarial tables and coverage procedures for acreage on which actual or expected frequency and severity of loss does not reasonably conform to standard insurance coverage and rating determination methods.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803

USDA—FCIC **Proposed Rule Stage**

Fax: 202 690-2818

RIN: 0563–AA98

305. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART D; APPLICATION FOR CROP INSURANCE

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation amends the General Administrative Regulations by revising the "Collection of Information and Data (Privacy Act)" statement found on the general crop insurance application. The proposed amendments to the statement include defining "substantial beneficial interest" as those persons whose interest in the policyholder is in excess of 10 percent. Other minor changes have been made to more fully comply with provisions of the Privacy Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB00

306. COMMON CROP INSURANCE REGULATIONS; SMALL GRAINS CROP INSURANCE PROVISIONS AND WHEAT WINTER COVERAGE ENDORSEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.101; 7 CFR 457.102

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to revise and clarify existing policy provisions, establish winter wheat coverage in certain South Dakota and Wisconsin counties, reduce coverage under Option B of the Wheat Winter Coverage Endorsement, and to require insurance on spring wheat planted to replace damaged winter wheat covered under the Wheat Winter Coverage Endorsement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

RIN: 0563–AB63

307. COMMON CROP INSURANCE REGULATIONS; COARSE GRAINS CROP INSURANCE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457.113

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to make changes to the Coarse Grains Crop Insurance Provisions for corn, grain, sorghum, and soybeans for the 2000 crop year specific to the way corn grain versus corn silage is insured and to clarify the insurability of specialty corn and soybeans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

RIN: 0563–AB64

308. GENERAL ADMINISTRATIVE REGULATIONS; MOVEMENT OF BUSINESS AMONG INSURANCE PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To ensure that the interests of policyholders are protected, and that the policies and policyholder data are transferred in an orderly manner, the Risk Management Agency is providing comprehensive regulations that will apply to agents, managing general agents, policy-issuing companies, and reinsured companies. The objective of this regulation is to prescribe uniform administrative requirements for the movement or assumption of crop insurance policies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

RIN: 0563–AB71

309. GENERAL ADMINISTRATIVE REGULATIONS; REINSURANCE AGREEMENT—STANDARDS FOR APPROVAL

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To provide regulatory authority for the issuance of final determinations by the Administrator. Final determinations are currently being issued by the agency official responsible for entering into Standard Reinsurance Agreements with private sector insurance companies. Final determinations made by the agency cite contract violations and also require that corrective action be taken.

USDA—FCIC **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

RIN: 0563–AB72

---

310. GENERAL ADMINISTRATIVE REGULATIONS; SANCTIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(m); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To add a new section to the Sanction regulation that will specify the conditions under which a person and affiliate may qualify for a waiver or reduction of a civil penalty imposed by the Agency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

RIN: 0563–AB73

---

311. COMMON CROP INSURANCE REGULATIONS; FLORIDA FRUIT TREE CROP INSURANCE PROVISIONS

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to convert the Florida fruit tree pilot insurance program to a permanent insurance program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Hoffmann, Director, Product Development Branch, Department of Agriculture, Federal Crop Insurance Corporation, 9435 Holmes Road, Kansas City, MO 64141
Phone: 816 926-7743

RIN: 0563–AB75

---

312. • COMMON CROP INSURANCE REGULATIONS; BLUEBERRY CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this rule is to solicit public comments on FCIC's proposed action to convert the blueberry pilot insurance program to a permanent insurance program for the 2000 and succeeding crop years. The pilot was initiated for the 1995 crop year for selected counties in Michigan, Mississippi, New Jersey and North Carolina and covered highbush and rabbiteye blueberry varieties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB76

---

313. • DAIRY OPTIONS PILOT PROGRAM—REVISED NOTICE OF AVAILABILITY

Priority: Other Significant

Legal Authority: FAIR Act of 1996, section 191, section 226 A(b)

CFR Citation: None

Legal Deadline: None

Abstract: The purpose of this revised notice is to modify the Notice of Availability published on November 6, 1998, which announced the availability of a new Dairy Options Pilot Program (DOPP) to be administered by the Risk Management Agency (RMA) in conjunction with the private sector. Several program restrictions caused confusion among participating producers, brokers, and Government employees. In particular, the available strike months for which put options may be purchased by producers. The requirement that a producer must purchase all option contracts within 2 months of training did not allow the producer sufficient time to track the volatility of milk futures prices in the coming months. The restrictions also prevented the producer from purchasing options contracts for the strike months when prices are highly volatile and of a real concern to milk producers. These restrictions did not serve to enhance the educational benefit of the program. No additional costs to the Federal Government, or the producer shall result from the changes to this notice. Other changes are being made strictly for administrative purposes. For example, the CCC-321 form which is the entrance/exit survey form was deleted as a requirement of the producer contract making it voluntary.

Timetable:

Action	Date	FR Cite
Notice of Availability	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 001 None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803

USDA—FCIC **Proposed Rule Stage**

Fax: 202 690-2818

RIN: 0563–AB77

314. • GENERAL ADMINISTRATIVE REGULATIONS; CIVIL RIGHTS DATA COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 28 CFR 42.403; 28 CFR 42.406

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The purpose of this action is to ensure compliance with title VI civil rights requirements. This data collection includes race/national origin, sex, disability, and age. This will allow the agency to better assess if discrimination has occurred and to identify areas in need of outreach.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB78

315. • COMMON CROP INSURANCE REGULATIONS; MILLET CROP INSURANCE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 457

Legal Deadline: None

Abstract: The purpose of this rule is to solicit public comments on FCIC's proposed action to convert the millet pilot crop insurance program to a permanent insurance program and clarify existing crop provisions and methodology for calculated losses for the 2001 and succeeding crop years. FCIC believes this proposed rule will provide additional coverage benefits and improved the risk management tool for millet producers in all regions of the country.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB79

Department of Agriculture (USDA)
Federal Crop Insurance Corporation (FCIC) **Final Rule Stage**

316. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART S; REGULATIONS FOR INSURANCE COVERAGE BY WRITTEN AGREEMENT

Priority: Other Significant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation (FCIC) hereby proposes regulations to allow insurance coverage by written agreement for crops in counties which have no actuarial table. Currently, FCIC provides insurance by written agreement for only program crops, By providing insurance by written agreement, FCIC will provide a risk management tool to a broader base of producers.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33575
NPRM Comment Period End	08/19/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB07

317. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART J; APPEAL PROCEDURE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: This proposed rule will amend FCIC appeal procedures by outlining provisions that producers must follow when appealing decisions which deny them program benefits or eligibility.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/95	60 FR 67298
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB17

318. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART N; DISASTER ASSISTANCE ACT OF 1988

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1506(l)

CFR Citation: 7 CFR 400

Legal Deadline: None

USDA—FCIC

Final Rule Stage

Abstract: This rule proposes to revise subpart N of the General Administrative Regulations by repealing obsolete disaster guidelines and requiring the mandatory purchase of catastrophic crop insurance for program crops as a prerequisite for obtaining benefits under any commodity price subpart, production adjustment, or conservation program administered by USDA, or any farmer loan program, whether these programs are administered by FCIC or CFSA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB20

---

319. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 400

Priority: Other Significant

Legal Authority: 16 USC 3811; 16 USC 3821

CFR Citation: 7 CFR 400.47

Legal Deadline: Final, Statutory, July 3, 1996.

Abstract: This action will implement requirements of the Federal Agriculture Improvement and Reform Act of 1996 to provide that producers will no longer be required to be in compliance with the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 in order to be eligible to obtain crop insurance. No cost is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/96	61 FR 38057
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB59

---

320. FEDERAL CROP INSURANCE ON HIGHLY ERODIBLE LAND AND WETLANDS—PART 401

Priority: Other Significant

Legal Authority: 16 USC 3811; 16 USC 3821

CFR Citation: 7 CFR 401.8

Legal Deadline: Final, Statutory, July 3, 1996.

Abstract: This action will implement requirements of the Federal Agricultural Improvement and Reform Act of 1996 to provide that producers will no longer be required to be in compliance with the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 in order to be eligible to obtain crop insurance. No cost is expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/96	61 FR 39048
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman, Manager, Department of Agriculture, Federal Crop Insurance Corporation, MS 0801, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB60

---

321. GENERAL ADMINISTRATIVE REGULATIONS; NONSTANDARD UNDERWRITING CLASSIFICATION SYSTEM

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: The Federal Crop Insurance Corporation proposes to remove and reserve subpart O of the General Administrative Regulations, effective for the 1999 (2000 for Texas and Arizona and California Citrus) and succeeding crop years. This proposed action is intended to eliminate the unintended adverse effects of the Nonstandard Classification System (NCS), simplify and update program underwriting rules consistent with the program's current and future anticipated experience, and ensure that crop insurance premiums are applied to all producers in a fair and consistent manner.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/97	62 FR 48798
ANPRM Comment Period End	10/17/97	
NPRM	09/02/98	63 FR 46703
NPRM Comment Period End	10/19/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak, Regulatory Review Officer, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0801
Phone: 202 720-2832

RIN: 0563–AB66

---

322. GENERAL ADMINISTRATIVE REGULATIONS; PREMIUM REDUCTIONS; PAYMENTS OF REBATES, DIVIDENDS, AND PATRONAGE REFUNDS; AND PAYMENTS TO INSURED-OWNED AND RECORD-CONTROLLING ENTITIES

Priority: Other Significant

Legal Authority: 7 USC 1506(l); 7 USC 1506(p); 7 USC 1508(e)(3)

CFR Citation: 7 CFR 400

Legal Deadline: None

Abstract: To allow approved insurance providers to apply to the Federal Crop Insurance Corporation for authority to reduce the premium charged producers in accordance with section 508(e)(3) of the Federal Crop Insurance Act, as amended, and to provide the limitations and requirements applicable to the payment of rebates, dividends, and patronage refunds to insureds, and payments to insured-owned and record-controlling entities.

USDA—FCIC

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/12/99	64 FR 25464
NPRM Comment Period End	07/12/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Heyward Baker, Director, Reinsurance Services Division, Department of Agriculture, Federal Crop Insurance Corporation, 1400 Independence Avenue SW, Washington, DC 20250-0804
Phone: 202 720-4286

RIN: 0563–AB70

Department of Agriculture (USDA)
Federal Crop Insurance Corporation (FCIC)

Completed Actions

323. GROUP RISK PLAN CROP INSURANCE PROVISIONS; PART 407

Priority: Other Significant

CFR Citation: 7 CFR 407

Completed:

Reason	Date	FR Cite
Final Action	06/07/99	64 FR 30214

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB06

324. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART V; SUBMISSION OF POLICIES AND PROVISIONS OF POLICIES AND RATES OF PREMIUM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400

Completed:

Reason	Date	FR Cite
Final Action	07/19/99	64 FR 38537

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth D. Ackerman
Phone: 202 690-2803
Fax: 202 690-2818

RIN: 0563–AB15

325. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART T—REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Priority: Other Significant

CFR Citation: 7 CFR 400; 7 CFR 457

Completed:

Reason	Date	FR Cite
Final Action	07/28/99	64 FR 40740

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 720-2832

RIN: 0563–AB67

326. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; AND CATASTROPHIC RISK PROTECTION ENDORSEMENT—REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS

Priority: Other Significant

CFR Citation: 7 CFR 400; 7 CFR 402

Completed:

Reason	Date	FR Cite
Final Action	07/28/99	64 FR 40738

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diana Moslak
Phone: 202 720-2832

RIN: 0563–AB68

327. GENERAL ADMINISTRATIVE REGULATIONS; INTERPRETATIONS OF STATUTORY AND REGULATORY PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 400

Completed:

Reason	Date	FR Cite
Final Action	09/16/99	64 FR 50245

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian Jenkins
Phone: 202 720-5290

RIN: 0563–AB74

BILLING CODE 3410–08–F

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

328. REVIEW INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 800.125; 7 CFR 800.135

Legal Deadline: None

Abstract: GIPSA is proposing to revise regulations under the US Grain Standards Act to allow interested persons to stipulate the quality factors that would be redetermined during a reinspection or appeal inspection for grade. Currently reinspections and appeal inspections for grade must include a review for all factors that (1) may determine the grade; (2) are reported on the original certificate; or (3) are required to be shown. GIPSA has determined that mandating all quality factors be reexamined during a review inspection is inefficient, time consuming and costly. Further, such a complete review of the preceding inspection service is usually not needed to confirm the true quality of the grain. This proposed action will allow interested parties to specify which official factors should be redetermined during the reinspection or appeal inspection service. However, to safeguard against inadvertent misgrading, official personnel may

USDA—GIPSA — **Proposed Rule Stage**

determine other factors, when deemed necessary.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Liaison, Department of Agriculture, Federal Grain Inspection Service, Room 0623-S, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-0292
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA58

329. REGULATIONS UNDER PACKERS AND STOCKYARDS ACT (PRICE REPORTING)

Priority: Other Significant

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 200

Legal Deadline: None

Abstract: Following a review of comments received in response to the ANPRM, the Agency is considering a proposed regulation that would make purchasing or selling livestock with the condition that the price not be reported a violation of the Packers and Stockyards Act.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/98	63 FR 48450
ANPRM Comment Period End	12/09/98	
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Liaison, Department of Agriculture, Federal Grain Inspection Service, Room 0623-S, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-0292
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA65

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA) — **Final Rule Stage**

330. TOLERANCES FOR DIVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 71 et seq

CFR Citation: 7 CFR 801.10

Legal Deadline: None

Abstract: GIPSA proposes to remove section 801.10, Tolerance for Dividers, from the CFR. Since GIPSA no longer tests dividers, the rule is no longer needed. By using the direct final rule process, GIPSA will give the public general notice of its intent to remove the rule and provide interested persons an opportunity to participate in the rulemaking through submission of comments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Liaison, Department of Agriculture, Federal Grain Inspection Service, Room 0623-S, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-0292
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA57

331. REGULATIONS ISSUED UNDER PACKERS AND STOCKYARDS ACT (FEED WEIGHT)

Priority: Other Significant

Legal Authority: 7 USC 204; 7 USC 228

CFR Citation: 9 CFR 201.49; 9 CFR 201.55; 9 CFR 201.71; 9 CFR 201.72; 9 CFR 201.73

Legal Deadline: None

Abstract: The Agency is proposing to amend existing scales and weighing regulations under the Packers and Stockyards Act to include feed when the weight of the feed is a factor in determining payment to growers. The proposed amendments to existing regulations would require that scale tickets be issued containing certain required information and that the weight be printed by a printing device; the actual weight be printed on scale tickets or otherwise explained; scales be installed, maintained, operated, and tested in accordance with National Institute of Standards and Technology Handbook 44, 1996; scales be tested twice each calendar year at intervals of approximately 6 months by competent persons; and scales be operated by qualified persons in accordance with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/02/99	64 FR 15938
NPRM Comment Period End	06/01/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George W. Wollam, Regulatory Liaison, Department of Agriculture, Federal Grain Inspection Service, Room 0623-S, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-0292
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA64

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Long-Term Actions

332. POULTRY GROWER CONTRACTS, SCALES, WEIGHING

Priority: Other Significant

CFR Citation: 9 CFR 201

Timetable:

Action	Date	FR Cite
ANPRM	02/10/97	62 FR 5935
ANPRM Comment Period End	05/12/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: George W. Wollam
Phone: 202 720-0292
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA51

Department of Agriculture (USDA)
Grain Inspection, Packers and Stockyards Administration (GIPSA)

Completed Actions

333. OFFICIAL TESTING SERVICE FOR BARLEY PROTEIN ANALYSIS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 800.71; 7 CFR 801.9

Completed:

Reason	Date	FR Cite
Withdrawn	06/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George W. Wollam
Phone: 202 720-0292
Email: gwollam@fgisdc.usda.gov

RIN: 0580–AA68

BILLING CODE 3410–EN–F

Department of Agriculture (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

334. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): MISCELLANEOUS PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This proposed rule responds to a variety of program concerns, most of which have been expressed by WIC State agencies. The proposal increases State agency flexibility regarding the sharing of participant information with other programs and streamlines Federal requirements for financial and participation reporting by State agencies. Several minor clarifications and technical corrections are also made. (89-515)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB10

335. PROVISIONS OF COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988, AMENDMENTS OF 1990, AND IMPLEMENTATION OF THE DISQUALIFIED RECIPIENT SUBSYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552(a) Computer Matching and Privacy Protection Act; 7 USC 2015(b) Food Stamp Act

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: In accordance with the Computer Matching and Privacy Protection Act, PL 100-503, and the Computer Matching and Privacy Protection Amendments of 1990, PL 101-508, the Food Stamp Program must extend certain protections to persons whose benefits could be adversely affected by computer matches. These protections include independent verification of computer information, notification to the affected individual and provision of an opportunity to respond to the information before an adverse action becomes effective.

In addition, this proposed rule describes requirements for State agencies to report information on individuals disqualified from the program for intentional program violations to FCS and the related FCS computer matching program known as the Disqualified Recipient Subsystem (DRS). (89-010)

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	
NPRM Comment Period End	09/00/00	
Final Action	02/00/01	
Final Action Effective	05/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB51

USDA—FNS

Proposed Rule Stage

336. FOOD STAMP PROGRAM: RETAILER APPLICATION PROCESSING

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032; PL 104-193

CFR Citation: 7 CFR 278.1

Legal Deadline: None

Abstract: This rule would increase from 30 to 60 days the initial application processing time frame for stores that apply for authorization. It would also allow FCS to request specific documentation to verify applicant firms' eligibility. Such information would include, but would not be limited to, business licenses, photographic identification cards, bills of sale, deeds, leases, sales contracts, certificates of incorporation, sales records, invoice records, and tax records. This documentation would be used to confirm self-reported information provided on the application form and to obtain third-party verification. This rule also includes two provisions dealing with disclosure of retailer tax information based on changes made by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). (95-008)

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 59665
NPRM Comment Period End	01/03/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC05

337. DISCLOSURE OF FREE AND REDUCED-PRICE ELIGIBILITY INFORMATION UNDER THE SCHOOL NUTRITION AND CHILD AND ADULT CARE FOOD PROGRAMS

Priority: Other Significant

Legal Authority: PL 103-448, sec 108

CFR Citation: 7 CFR 226; 7 CFR 245

Legal Deadline: None

Abstract: This rule would allow limited disclosure of children's free and reduced price meal eligibility status or information, as authorized under Public Law 103-448, to persons directly connected with the administration or enforcement of (1) programs under the National School Lunch Act or Child Nutrition Act of 1966; (2) Federal education programs; (3) State health and education programs; (4) means-tested nutrition programs; and (5) the Comptroller General and certain law enforcement officials. The rule also proposes safeguards to protect the free and reduced-price application and personal information from misuse and includes penalties for unauthorized disclosures. (95-022)

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC21

338. FOOD STAMP PROGRAM: WELFARE REFORM MATCHING, FAIR HEARINGS AND RECIPIENT SERVICE RULE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273.15; 7 CFR 274; 7 CFR 277

Legal Deadline: None

Abstract: The Department of Agriculture is proposing to implement eight provisions from the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 pertaining to State agency administration and management.

These provisions: 1) Eliminate the requirement for using mail issuance in rural areas; 2) eliminate the requirement that State agencies display or provide nutrition education information to food stamp applicants and recipients; 3) modify bilingual requirements to allow State agencies more flexibility in providing bilingual services to non-English speaking low-income households; 4) eliminate mandatory State training requirements; 5) allow State agencies to accept an oral withdrawal from the household for a fair hearing request; 6) make optional rather than mandatory the use of the Income Eligibility and Verification System and the Systematic Alien Verification for Entitlements matching programs; 7) prohibit Federal reimbursement for recruitment activities and prohibit recruitment activities from being approved as part of a State agency's optional Outreach plan; and 8) eliminate the requirement that State agencies review and report on the food stamp office hours. (95-023)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	
Final Action	09/00/00	
Final Action Effective	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC22

339. CHILD AND ADULT CARE FOOD PROGRAM: IMPROVING MANAGEMENT AND PROGRAM INTEGRITY

Regulatory Plan: This entry is Seq. No. 3 in Part II of this issue of the **Federal Register**.

RIN: 0584–AC24

USDA—FNS

Proposed Rule Stage

340. DETERMINING ELIGIBILITY FOR FREE AND REDUCED-PRICE MEALS AND FREE MILK IN SCHOOLS: PROVISION 2 AND PROVISION 3

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: Under an alternative known as Provision 2, schools that serve all meals at no charge for 3 consecutive years may distribute applications and make free and reduced price meal eligibility determinations once every 3 years. During year 1 of the 3-year cycle, they count and claim meals by category (free, reduced price and paid) and use these counts to develop claiming percentages to use during years 2 and 3. P.L. 103-448 amended the NSLA to allow schools to extend these procedures an additional 2 years and allow subsequent 5-year cycles, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. P.L. 103-448 also added a new Provision 3 for schools that serve all meals free for 4 consecutive years. These schools receive the same level of cash and commodity assistance they received in the last year free and reduced price eligibility determinations and actual meal counts were taken. Additional 4-year cycles were permitted, without making new free and reduced price eligibility determinations, provided the income level of the school's population remained stable. For both provisions, schools must make up the difference between Federal reimbursement and meal costs. Public Law 105-336 subsequently amended the timeframe for Provision 2 so that both Provisions 2 and 3 are 4-year cycles, which may be extended, without making new eligibility determinations, if the income level of the school's population remains stable. The rule will codify these provisions and specify technical aspects, such as the measurement of the income level of the school's population and the types of data that may be used. (96-003)

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC25

341. FOOD STAMP PROGRAM REGULATORY REVIEW: CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 7 USC 2011 to 2026

CFR Citation: 7 CFR 273

Legal Deadline: None

Abstract: This action proposes to amend Food Stamp Program rules governing the certification of eligible households. It results from a comprehensive, page-by-page review of all existing Food Stamp Program regulations conducted in response to the President's regulatory reform initiative. The proposed changes would empower States to set their own procedures for case management and customer service; remove overly prescriptive, outdated, and redundant provisions; and emphasize recipient responsibility for complying with Program requirements. (96-006)

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC28

342. PART 240, CASH IN LIEU OF DONATED FOODS AND PART 250, FOOD DISTRIBUTION REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-448

CFR Citation: 7 CFR 240; 7 CFR 250

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Healthy Meals for Healthy Americans Act of 1994 relative to schools participating in the National School Lunch Program. (96-010)

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
NPRM Comment Period End	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC31

343. FOOD STAMP PROGRAM REGULATORY REVIEW: FSP STANDARDS FOR APPROVAL AND OPERATION OF FOOD STAMP ELECTRONIC BENEFIT TRANSFER SYSTEMS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 7 USC 2011 TO 2034

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule proposes revisions to food stamp regulations affecting the standards and administration of EBT systems for food stamp issuance. Current regulations at 7 CFR 274.12 delineate the standards that EBT systems must meet in order to be approved for operation. This rule will revise those regulations to provide the State agency more flexibility in implementing and operating those systems. Clarifications and FNS settlement improvements will also be incorporated into the rule. (96-016)

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC37

---

344. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 4 in Part II of this issue of the **Federal Register**.

RIN: 0584–AC39

---

345. FSP: STATE FLEXIBILITY AND CERTIFICATION PROVISIONS OF PUBLIC LAW 104-193

Regulatory Plan: This entry is Seq. No. 5 in Part II of this issue of the **Federal Register**.

RIN: 0584–AC40

---

346. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 6 in Part II of this issue of the **Federal Register**.

RIN: 0584–AC45

---

347. FOOD DISTRIBUTIONS PROGRAMS: COMMODITY ACCEPTABILITY REPORT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 100-237

CFR Citation: 7 CFR 250.13(k)

Legal Deadline: None

Abstract: Food Distribution Programs—Reduction of the Paperwork Burden Associated with this Requirement for State and Local Agencies. This rule proposes to reduce the paperwork burden for State and local agencies administering Food Distribution Programs by reducing the sample size needed for collecting commodity acceptability report information for the National School Lunch Program, Child and Adult Care Food Program, Commodity Supplemental Food Program, and the Food Distribution Program on Indian Reservations. A 60-day comment period will be provided. (97-004)

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC56

---

348. WIC FARMERS MARKET NUTRITION PROGRAM (FMNP): EXPANSION FUNDS ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786(m)

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: The Child Nutrition Act of 1966 as amended (42 USC 1786(m)(6)) sets forth funding requirements of State agencies currently operating the program and for State agencies wishing to start a new program. The law leaves it to the discretion of the Secretary to determine the method of allocating funds to currently operating State agencies. This interim rule would implement a funding formula for the allocation of such expansion funds to existing FMNP State agencies. (98-003)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC68

---

349. FSP: CIVIL RIGHTS DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 88-352, sec 601

CFR Citation: 7 CFR 272

Legal Deadline: None

Abstract: Title VI of the Civil Rights Act of 1964 requires the collection of racial/ethnic data for all programs

USDA—FNS **Proposed Rule Stage**

utilizing Federal funds. State agencies are required to collect the data by racial/ethnic categories set by the Federal Government. In 1997, those categories changed. This proposed rule would change the racial categories for State Food Stamp Program reporting to comply with the new Federal racial categories. (98-010)

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	
Final Action	01/00/01	
Final Action Effective	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC75

350. • FDPIR: INCOME DEDUCTION AND MISCELLANEOUS PROVISION RULE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011-2032

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: This rule proposes the establishment of two income deductions under the Food Distribution Program on Indian Reservations (FDPIR). Households providing proper verification will be allowed an income deduction for: 1) Legally required child support payments for a nonhousehold member and 2) Medicare Part B premium payments. This rule would also make technical amendments, such as changing outdated terminology, and revising or removing provisions that are obsolete or have changed. These changes are designed to improve program service to FDPIR participants. (99-003)

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC81

351. • COMMODITY SUPPLEMENTAL FOOD PROGRAM: PLAIN LANGUAGE, PROGRAM ACCOUNTABILITY, AND PROGRAM FLEXIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-624; PL 104-127; PL 104-193

CFR Citation: 7 CFR 247

Legal Deadline: None

Abstract: This rule will rewrite regulations pertaining to the Commodity Supplemental Food Program (7 CFR Part 247) in "plain language." It will also amend regulatory provisions in this part to increase program accountability and flexibility for program operators. The rule will affect program accountability by : (1) Requiring State agencies to initiate a claim against participants for repayment of the value of program benefits obtained as a result of intentional misrepresentation; (2) extending the period that State agencies may disqualify participants for program violations for up to one year; (3) requiring State agencies to disqualify participants for engaging in dual participation, or for other selected program violations; (4) including under program violations the physical abuse, or the threat of physical abuse, of program staff; and (5) including actions of proxies to also be program violations subject to sanctions.

Amendments to increase program flexibility include: (1) Allowing the State to extend the certification of elderly persons on a fixed income for an indefinite period without a formal review of eligibility; (2) increasing the period of time the State agency has to review a local agency's application for participation; (3) allowing State agencies to request to retain more than the maximum amount of administrative funds allocated whether or not they perform warehouse services; (4) reducing the frequency of State management evaluations of local agencies; and (5) making State plans and Federal-State agreements permanent, with amendments submitted as needed.

Other miscellaneous proposed changes include: (1) Requiring local agencies to notify applicants of a decision on their application within 20 days of the date of application; (2) including the specific factors that FNS uses to determine the amount of caseload that States will receive in addition to base caseload; (3) making the caseload cycle the period from January 1 to December 31; and (4) including a pregnant woman's embryo or fetus in utero as a household member in determining the family's income eligibility.

The rule will also incorporate legislative provisions that have been implemented through program policy, including: (1) Increasing the percentage of the program appropriation, and of funds carried over from the pervious year, to be allotted for administrative support of State and local agencies from 15 to 20 percent; (2) requiring that State and local agencies provide information on certain other public assistance programs to participants; (3) allowing State agencies to choose to require that benefits be restricted to U.S. citizens or qualified aliens; and (4) allowing State or local agencies to share information on the immigration status of program applicants or participants with INS or other government agencies. (99-005)

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC84

USDA—FNS **Proposed Rule Stage**

352. • FOOD STAMP PROGRAM: PAYMENT ADJUSTMENTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-185, sec 502

CFR Citation: 7 CFR 277

Legal Deadline: Final, Statutory, October 1, 1998, Payment reduction required by law.

Abstract: State agencies are reimbursed by FNS at 50 percent rate for all allowable costs incurred in the State's operation of the Food Stamp Program. This proposed rule would reduce the Federal payment by the amount of FSP common costs built into the Temporary Assistance for Needy Families (TANF) grant as determined by the Department of Health and Human Services (HHS). It would also allow State agencies to charge the FSP for its share of common costs for determining eligibility of TANF households for FSP in accordance with new HHS policy and approved cost allocation plans. (99-007)

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	
Final Action	05/00/01	
Final Action Effective	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC86

Department of Agriculture (USDA)
Food and Nutrition Service (FNS) **Final Rule Stage**

353. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD DELIVERY SYSTEMS INTEGRITY

Regulatory Plan: This entry is Seq. No. 7 in Part II of this issue of the **Federal Register**.

RIN: 0584–AA80

354. CHILD AND ADULT CARE FOOD PROGRAM: AUTHORITY TO COLLECT OVERCLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1766

CFR Citation: 7 CFR 226

Legal Deadline: None

Abstract: This rule establishes the Department's authority to collect overclaims where participating institutions fail to comply with regulatory recordkeeping requirements. (96-009)

Timetable:

Action	Date	FR Cite
NPRM	12/05/95	60 FR 62227
NPRM Comment Period End	02/05/96	
Final Action	12/00/99	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB19

355. DIRECT CERTIFICATION IN NATIONAL SCHOOL LUNCH, SCHOOL BREAKFAST, AND SPECIAL MILK PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-147; PL 104-193

CFR Citation: 7 CFR 245

Legal Deadline: Final, Statutory, July 1, 1990.

Abstract: In response to the Child Nutrition and WIC Reauthorization Act of 1989, the Department proposed to allow school officials to certify children eligible for free meals based on information obtained directly from the State or local agency administering the Food Stamp or Aid for Families with Dependent Children (AFDC) Program. Subsequent to the proposal, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 further amended the National School Lunch Act to replace AFDC with the Temporary Assistance for Needy Families (TANF) program. Children in households participating in TANF in States that the Secretary determines have comparable standards or more stringent standards than the program on June 1, 1995, shall continue to be automatically eligible for free meals. (89-520)

Timetable:

Action	Date	FR Cite
NPRM	05/28/91	56 FR 24033
NPRM Comment Period End	07/29/91	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB35

356. WIC: REQUIREMENTS FOR AND EVALUATION OF WIC PROGRAM REQUESTS FOR BIDS FOR INFANT FORMULA REBATE CONTRACTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

USDA—FNS **Final Rule Stage**

Abstract: At the time the current cost containment regulations were published in 1989, there were only minor differences in infant formula wholesale prices and few differences in types of infant formulas offered by manufacturers, i.e., milk- and soy-based infant formula. However, current wholesale prices vary considerably among manufacturers for similar formulas and several new infant formulas have emerged on the market over the last decade. Therefore, to reflect market changes in the infant formula industry and to optimize competition in the WIC Program's infant formula rebate contracts, this proposed rule would require WIC State agencies to award infant formula rebate contracts based on the lowest net price, allowing highest gross rebate as a basis of award only when retail prices of the different brands of infant formula vary, on average, by 5 percent or less. Additionally, this proposed rule would define the types and forms of infant formula that must be included in cost containment systems. It would also expand on conditions that must be met for the issuance of infant formulas not covered by rebate contracts. (92-013)

Timetable:

Action	Date	FR Cite
NPRM	07/16/98	63 FR 38343
NPRM Comment Period End	09/14/98	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB52

357. FOOD STAMP PROGRAM: ANTICIPATING INCOME AND REPORTING CHANGES

Priority: Other Significant

Unfunded Mandates: This action may affect State, Local or Tribal Governments.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 272; 7 CFR 273

Legal Deadline: None

Abstract: This rule proposes revisions in Food Stamp Program procedures for reporting and acting on changes in earned income. The changes are designed to increase State agency flexibility and improve procedures for determining the eligibility and benefits of households whose income fluctuates unpredictably. Under this proposal, State agencies would choose from three different reporting requirements for households with earned income. The reporting requirement a State agency selects would replace the current requirement that households report a change of more than $25 in earned income. In addition to reporting a change in source of income, households would be required to report one of the following: A change in wage rate or salary and a change in part-time or full-time status, provided the household is certified for no more than 3 months; a change in wage rate or salary and a change of more than 5 hours a week that is expected to continue for more than a month; or a change in the amount earned of more than $80 a month. (93-005)

Timetable:

Action	Date	FR Cite
NPRM	12/17/96	61 FR 66233
NPRM Comment Period End	02/18/97	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB57

358. FOOD STAMP PROGRAM: PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

Priority: Other Significant

Legal Authority: 7 USC 2011 to 2032; PL 103-66, sec 13961

CFR Citation: 7 CFR 277

Legal Deadline: Other, Statutory, April 1, 1994, The Act requires funding rate reduction effective 04/01/94.

Abstract: State agencies are reimbursed by FNS at standard or enhanced Federal reimbursement level for all allowable costs incurred in the State's operation of the Food Stamp Program. This proposed rule would reduce the Federal reimbursement rate for State agencies for fraud control, system development, and immigration status verification to the standard 50 percent rate. It would also limit the time period during which State agencies may file a claim for retroactive funding, and allows the cost of certifying aid to families with dependent children to be charged to the Food Stamp Program for purposes of Federal reimbursement. (93-010)

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60079
NPRM Comment Period End	01/23/95	
Final Action	03/00/00	
Final Action Effective	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB66

USDA—FNS **Final Rule Stage**

359. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DEFINITION OF INDIAN TRIBAL HOUSEHOLD

Priority: Other Significant

Legal Authority: PL 88-525; PL 97-98, sec 1338; PL 95-113

CFR Citation: 7 CFR 253; 7 CFR 254

Legal Deadline: None

Abstract: This final rule will amend part 253 to permit households containing a Native American living in "near areas" to participate in the Food Distribution Program on Indian Reservations (FDPIR) regardless of the Native American's tribal affiliation or age. It will also amend part 254 to permit households containing a Native American to participate in FDPIR in Oklahoma regardless of the Native American's age. (82-217)

Timetable:

Action	Date	FR Cite
NPRM	10/20/87	52 FR 39158
Interim Final Rule	01/11/94	59 FR 1447
Final Action	03/00/00	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB67

360. AMENDMENTS TO THE INFANT MEAL PATTERN

Priority: Other Significant

Legal Authority: 42 USC 1751 to 1760; 42 USC 1762a; 42 USC 1765; 42 USC 1766; 42 USC 1773; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 226

Legal Deadline: None

Abstract: This rule amends the regulations for the National School Lunch Program (7 CFR 210), School Breakfast Program (7 CFR 220) and the Child and Adult Care Food Program (7 CFR 226) to (1) eliminate the option of serving whole cow's milk to infants between the ages of 8 months and 1 year instead of infant formula or breast milk and (2) permit reimbursement for meals containing only breast milk. The first provision responds to scientific evidence indicating that whole cow's milk is nutritionally deficient compared to breast milk and formula and is not recommended for children less than 1 year old. The second provision is intended to remove a potential disincentive to breast feeding. A related provision would permit providers to give infants that are less than 4 months old an amount of breast milk less than the minimum requirement when the infants consistently do not want the full minimum amount. (95-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Interim Final Rule Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB81

361. FOOD STAMP PROGRAM: FOOD STAMP RECIPIENT CLAIM ESTABLISHMENT AND COLLECTION STANDARDS

Regulatory Plan: This entry is Seq. No. 8 in Part II of this issue of the **Federal Register**.

RIN: 0584–AB88

362. FOOD STAMP PROGRAM: REVISIONS TO THE RETAIL FOOD STORE DEFINITION AND PROGRAM AUTHORIZATION GUIDANCE

Regulatory Plan: This entry is Seq. No. 9 in Part II of this issue of the **Federal Register**.

RIN: 0584–AB90

363. SUMMER FOOD SERVICE PROGRAM: PROGRAM MEAL SERVICE DURING THE SCHOOL YEAR

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-448; 42 USC 1769a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Implements provision of PL 103-448 which permits Summer Food Service Program (SFSP) meal service to be provided at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. This rule also simplifies the SFSP sponsor application and State monitoring requirements in order to eliminate unnecessary paperwork and reduce administrative burden for sponsors and State agencies. (95-011)

Timetable:

Action	Date	FR Cite
NPRM	10/13/98	63 FR 54617
NPRM Comment Period End	12/14/98	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC06

364. IMPLEMENTATION OF LEGISLATIVE REFORMS IN THE SUMMER FOOD SERVICE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1758; 42 USC 1761; 42 USC 1762a

CFR Citation: 7 CFR 225

Legal Deadline: None

Abstract: Recent legislative actions have made a number of changes to conditions affecting reimbursement, participation of certain service organizations, and State administration under the Summer Food Service

USDA—FNS **Final Rule Stage**

Program (SFSP). This interim rule implements several nondiscretionary amendments to SFSP that are prescribed by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193). This rule also formalizes categorical eligibility for households participating in the Food Distribution Program on Indian reservations, and makes a number of technical corrections to part 225. (95-025)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC23

365. WIC: BLOODWORK REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would propose revisions to the bloodwork requirements for WIC applicants. Currently, to be certified as eligible for the program, applicants must be determined at nutritional risk. In determining nutritional risk, at a minimum height or length and weight must be measured, and a hematological test for anemia must be performed. This rule would eliminate the requirement for a hematological test for anemia as part of the certification process if another risk factor is present that would qualify the applicant as nutritionally at risk. Hematological test data for anemia would still be required for counseling and food package purposes. (96-008)

Timetable:

Action	Date	FR Cite
NPRM	11/19/98	63 FR 64211
NPRM Comment Period End	01/19/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC30

366. NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM: ADDITIONAL MENU PLANNING ALTERNATIVES

Priority: Other Significant

Legal Authority: PL 104-149

CFR Citation: 7 CFR 210; 7 CFR 220

Legal Deadline: None

Abstract: Public Law 104-149, enacted on May 29, 1996, establishes additional menu planning alternatives for the school meals programs and requires the Secretary to establish guidelines for the use of these additional alternatives. One alternative specified in the statute was the meal pattern in effect for the 1994-95 school year; the other was "any reasonable approach." This regulation would reestablish the meal pattern as a menu planning alternative and provide guidelines for school food authorities to develop a different approach to menu planning. (96-017)

Timetable:

Action	Date	FR Cite
NPRM	05/04/98	63 FR 24686
NPRM Comment Period End	11/02/98	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC38

367. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Regulatory Plan: This entry is Seq. No. 10 in Part II of this issue of the **Federal Register**.

RIN: 0584–AC41

368. ELECTRONIC BENEFIT TRANSFER (EBT) PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant

Legal Authority: PL 104-193, sec 825

CFR Citation: 7 CFR 274.3; 7 CFR 274.12

Legal Deadline: Other, Statutory, October 1, 2002, Statutory Implementation Dates: PL 104-193, sec 809 - 1/1/97; PL 104-193, sec 803, 805, and 838 - 08/22/96; PL 104-193, sec 804 and 810 - 10/01/96.
Statutory implementation date of EBT systems per section 825.

Abstract: On August 22, 1996, the President signed the Personal Responsibility and Work Opportunity Act of 1996 (Pub. L. 104-193). This rule proposes to implement the Electronic Benefit Transfer (EBT) provisions found in section 825 of this law which affect the Food Stamp Program. These provisions are meant to encourage implementation of EBT systems to replace food stamp coupons. (96-024)

Timetable:

Action	Date	FR Cite
NPRM	05/27/99	64 FR 28763
NPRM Comment Period End	07/26/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer

USDA—FNS **Final Rule Stage**

Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC44

369. FOOD DISTRIBUTION PROGRAM: REGULATORY IMPLEMENTATION OF PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PL 104-193, 110 STAT 2105)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-193

CFR Citation: 7 CFR 250(Revision); 7 CFR 251(Revision)

Legal Deadline: None

Abstract: This rule proposes to amend provisions of the Food Distribution Program regulations and the Emergency Food Assistance Program regulations to implement the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly known as Welfare Reform, while generally streamlining and providing greater clarity to these regulations. In accordance with the Welfare Reform legislation, the proposals contained in this rule would address various program changes required by the repeal of section 110 of the Hunger Prevention Act of 1988, which authorized the former Soup Kitchens/Food Banks Program (SK/FB) and the amendment of definitional terms regarding organizational eligibility in the Emergency Food Assistance Program (TEFAP), contained in the Emergency Food Assistance Act of 1983, accompanying the absorption of SK/FB into TEFAP. Changes to term definitions are also proposed in order to provide greater clarity to the regulations. As required by Welfare Reform, this rule also proposes changes in the required contents and frequency of submission of the TEFAP State plan of operation, an encouragement for States to create advisory boards comprised of public and private entities with an interest in the distribution of TEFAP commodities, broadening the definition of allowable usage of TEFAP administrative funds at the State level, and greater flexibility for States in meeting the TEFAP maintenance of effort requirement. In order to reduce the paperwork burden and afford the States greater flexibility, this rule also proposes changes in TEFAP recordkeeping, monitoring, and reporting requirements. (96-029)

Timetable:

Action	Date	FR Cite
NPRM	07/08/99	64 FR 36978
NPRM Comment Period End	09/07/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC49

370. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WIC: IMPLEMENTATION OF WIC-RELATED PROVISIONS OF PL 104-193, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This rule would implement the WIC-related provisions of Public Law 104-193, the Personal Responsibility and Work Opportunity Act of 1996. These provisions include: Sharing of WIC information with the Immigration and Naturalization Service; revision to the definition of homeless individual; and the elimination of several current requirements including annual evaluation of nutrition education and breastfeeding promotion and support efforts, provision of written information on certain programs, and timeframes for action on local agency applications for program participation. (96-031)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC51

371. FOOD STAMP PROGRAM: ELECTRONIC BENEFITS TRANSFER (EBT) BENEFIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 273; 7 CFR 274

Legal Deadline: None

Abstract: This proposed rule will allow States and/or their EBT processors to make adjustments to an EBT household's food stamp account under certain circumstances. Current regulations do not allow adjustments to a household's EBT account balance once the benefits have been made available to the household. Occasionally, however, system errors and other malfunctions result in out-of-balance settlement conditions which must be adjusted manually. This proposed rule describes the conditions under which an adjustment is allowed, and the accompanying notice requirements. The rule also makes changes to the representation formula. (97-009)

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	63 FR 27511
NPRM Comment Period End	07/20/98	
Interim Final Rule	09/09/99	64 FR 48933
Interim Final Rule Effective	10/12/99	
Interim Final Rule Comment Period End	11/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246

USDA—FNS **Final Rule Stage**

Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC61

372. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS: DISQUALIFICATION PENALTIES FOR INTENTIONAL PROGRAM VIOLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: This rule proposes the establishment of disqualification penalties under the Food Distribution Program for Indian Reservations (FDPIR) for intentional program violations (IPV). It will include provisions that define IPV, establish disqualification penalties for initial and subsequent violations, and address the procedures and requirements for disqualification hearings and notices. The proposed rule will also address the establishment and handling of claims against households. This proposed rulemaking is in response to a recent audit recommendation by USDA's Office of Inspector General to adopt disqualification penalty procedures for IPVs. FDPIR is an alternative to the Food Stamp Program for eligible households living on or near Indian reservations. Food Stamp Program regulations at 7 CFR 273.16 establish disqualification penalties for IPVs and require State agencies to take appropriate action on alleged cases of IPVs. In proposing similar requirements under FDPIR, we expect to deter program abuse, thereby improving program integrity. (97-012)

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39432
NPRM Comment Period End	09/20/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC65

373. FSP: EBT SYSTEM SAS70 AUDIT REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2011 to 2032

CFR Citation: 7 CFR 274.12

Legal Deadline: None

Abstract: This rule will add a requirement that each State agency ensure that their EBT system is audited annually in accordance with the: 1) AICPA Statement of Auditing Standards 70 (SAS 70); and 2) Audit Guidelines for Service Organizations Providing EBT Services for Government Programs produced by the President's Council on Integrity and Efficiency (PCIE) in consultation with interested parties in State agencies and National Associations concerned with EBT systems. (98-006)

Timetable:

Action	Date	FR Cite
NPRM	02/23/99	64 FR 8733
NPRM Comment Period End	05/24/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC71

374. CHILD NUTRITION PROGRAMS: REIMBURSEMENT FOR SNACKS IN AFTERSCHOOL CARE PROGRAMS

Priority: Other Significant

Legal Authority: PL 105-336

CFR Citation: 7 CFR 210; 7 CFR 235; 7 CFR 245; 7 CFR 226

Legal Deadline: None

Abstract: This rule will amend the National School Lunch and Child and Adult Care Food Program regulations to allow reimbursement for snacks to "at-risk" children up to age 18 in after-school care programs. To qualify, the after-school programs must be organized primarily to provide care for children and have an educational or enrichment purpose. Additionally, snacks must be served free to all children enrolled in after-school care programs located in low-income areas in which at least 50 percent of the children are eligible for free or reduced price school meals. Thus, individual free and reduced price eligibility determinations will not be required for these programs. (98-007)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC72

375. WIC: LOCAL AGENCY EXPENDITURE REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This direct final rule amends the regulations for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to give State agencies greater flexibility in the way they collect nutrition services and administration (NSA) expenditure data from local agencies. State agencies will be allowed to permit local agencies to submit NSA expenditure reports up to quarterly, rather than monthly as is currently required. (98-009)

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

USDA—FNS **Final Rule Stage**

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC74

376. WIC: CERTIFICATION INTEGRITY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: This interim rule implements three WIC certification requirements contained in Public Law 105-336, the William F. Goodling Child Nutrition Reauthorization Act of 1998, enacted October 31, 1998. Public Law 105-336 requires: (1) The physical presence of applicants at certification, except in certain circumstances; (2) documentation of an applicant's income, except in certain circumstances; and (3) State agencies to implement a system designed to identify participants participating at more than one WIC site. (98-011)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC76

377. WIC: WIC FUNDING PROVISIONS OF PUBLIC LAW 105-336

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1786

CFR Citation: 7 CFR 246

Legal Deadline: None

Abstract: The William F. Goodling Child Nutrition Reauthorization Act of 1998 sets forth new funding requirements and revises existing funding provisions for WIC State agencies. The changes incorporated in this final rule are mandated by Congress and require little or no agency discretion. The major funding provisions set forth in WIC's reauthorization included in this final regulation are expanded backspend authority for both food and nutrition services and administration (NSA) funds, the elimination of food spend forward, the expansion of NSA spend forward authority, new requirements for conversion of food funds to NSA funds, a decrease in the NSA spending standard from 15 to 10 percent, the authority to use food funds to purchase breast pumps, and expands the use of vendor and participant collections in the year following collection. (98-012)

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC77

378. • FOOD DISTRIBUTION PROGRAM: DELETION OF REQUIREMENT TO EVALUATE STATE-RUN COMMODITY DISTRIBUTION AND WAREHOUSING SYSTEMS EVERY THREE YEARS

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-237

CFR Citation: 7 CFR 250.14; 7 CFR 250.15

Legal Deadline: None

Abstract: Section 250.14(a) currently requires State distributing agencies that operate their own warehousing and distribution system to make a cost comparison of that system with a commercial system every 3 years. Most State distributing agencies have now either switched to a commercial system or evaluated their own system at least twice and determined it to be the most cost effective. Therefore, we propose to remove that requirement from our regulations. We will maintain the authority to require a cost comparison when circumstances warrant. We are suggesting a direct final rule rather than a proposed rule because we do not expect any objections to this discretionary change. (99-001)

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC79

379. • MODIFICATION OF THE "VEGETABLE PROTEINS PRODUCTS" REQUIREMENTS FOR THE NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM, SUMMER FOOD SERVICE PROGRAM AND CHILD AND ADULT CARE FOOD PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1751-1761, 1779

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 225; 7 CFR 226

Legal Deadline: None

Abstract: The Food and Nutrition Service is proposing to update the requirements on using "Vegetable Protein Products" in the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Child and Adult Care Food Program (the Child Nutrition Programs) given changes in food technology since the current provisions were adopted. The major changes proposed are to: rename "Vegetable Protein Products" as "Alternate Protein Products;" remove the limit on the amount of these products that can be used; eliminate the requirement that alternate protein products be specially fortified; and update the test used to determine protein quality. These

USDA—FNS **Final Rule Stage**

proposed changes would give menu planners more flexibility to incorporate these products into their menus along with the traditional protein sources of meat, poultry and seafood. (95-018)

Timetable:

Action	Date	FR Cite
NPRM	07/20/99	64 FR 38839
NPRM Comment Period End	09/20/99	
NPRM Comment Period Extended	11/19/99	
Final Action	05/00/00	
Final Action Effective	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC82

380. • WAIVER AUTHORITY TO IMPLEMENT PILOT PROJECTS RESULTING FROM RECOMMENDATIONS FROM "FOOD DISTRIBUTION 2000: TRANSFORMING FOOD DISTRIBUTION FOR THE NEXT MILLENNIUM"

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011-2032

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: Waiver authority to implement pilot projects designed to improve the purchase and distribution of donated foods and delivery of services for commodity distribution programs. Projects will result from Food Distribution 2000: Transforming Food Distribution for the Next Millennium a major effort to evaluate and improve commodity programs. Under this effort, USDA will assess existing operations, identify reinvention opportunities, and recommend changes that will transform commodity distribution programs so that they work better and cost less. System changes will be implemented and tested as pilot projects. We do not anticipate any increase in program costs or decrease in program accountability as a result of these pilot projects. (99-004)

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC83

Department of Agriculture (USDA)
Food and Nutrition Service (FNS) **Long-Term Actions**

381. CHILD AND ADULT CARE FOOD PROGRAM: CHILD NUTRITION AND WIC REAUTHORIZATION ACT AMENDMENTS AND HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Priority: Other Significant

CFR Citation: 7 CFR 226

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/98	63 FR 9721
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC20

382. REGULATORY REFORM: PROVISIONS RELATING TO FIRMS PARTICIPATING IN THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 278; 7 CFR 279

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC48

383. FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 7 CFR 272.1(g); 7 CFR 273.7(c); 7 CFR 273.7(d); 7 CFR 273.24

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC63

Department of Agriculture (USDA)
Food and Nutrition Service (FNS)

Completed Actions

384. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): FOOD COST CONTAINMENT REQUIREMENTS

Priority: Other Significant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Withdrawn--Incorporated into RIN 0584-AB52	08/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB11

---

385. FOOD STAMP PROGRAM: 1995 QUALITY CONTROL TECHNICAL AMENDMENTS

Priority: Other Significant

CFR Citation: 7 CFR 271.2; 7 CFR 275.3; 7 CFR 275.10; 7 CFR 275.11; 7 CFR 275.12; 7 CFR 275.13; 7 CFR 275.23

Completed:

Reason	Date	FR Cite
Final Action	07/16/99	64 FR 38287
Final Action Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AB38

---

386. SCHOOL NUTRITION PROGRAMS: TECHNICAL AND NONDISCRETIONARY AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 235; 7 CFR 245

Completed:

Reason	Date	FR Cite
Final Action	09/20/99	64 FR 50735
Final Action Effective	10/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC01

---

387. AMENDMENT TO REMOVE FORMULATED GRAIN—FRUIT PRODUCT SECTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 220

Completed:

Reason	Date	FR Cite
Withdrawn--Re-evaluated the need for the action.	07/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC09

---

388. CONSOLIDATION OF NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM INTO A COMPREHENSIVE SCHOOL MEAL PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 210; 7 CFR 220; 7 CFR 225

Completed:

Reason	Date	FR Cite
Withdrawn--for major reworking	06/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC10

---

389. WIC: FOOD PACKAGE ADJUSTMENTS AND CORRECTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Withdrawn--Will be a future rulemaking	08/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC29

---

390. FOOD STAMP PROGRAM: RETAILER INTEGRITY, FRAUD REDUCTION AND PENALTIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 271; 7 CFR 278; 7 CFR 279

Completed:

Reason	Date	FR Cite
Final Action	04/30/99	64 FR 23165

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC46

---

391. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): DISQUALIFICATION OF WIC VENDORS WHO ARE DISQUALIFIED FROM THE FOOD STAMP PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	03/18/99	64 FR 13311
Final Action Effective	05/17/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC50

---

392. IMPLEMENTATION OF LEGISLATIVE CHANGES IN THE CHILD AND ADULT CARE FOOD PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 226

USDA—FNS

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn--Incorporated into RIN 0584-AC24	06/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC52

---

393. WIC: FOOD AND NUTRITION SERVICES AND ADMINISTRATION (NSA) FUNDING FORMULA RULE

Priority: Other Significant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Final Action	10/02/99	64 FR 56669

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC64

---

394. COMMODITY SUPPLEMENTAL FOOD PROGRAM: PROGRAM STREAMLINING, FLEXIBILITY, AND MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 247

Completed:

Reason	Date	FR Cite
Withdrawn--Superseded by RIN 0584-AC84	08/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC66

---

395. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): SOY-BASE BEVERAGES (SOYMILK) IN WIC

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 246

Completed:

Reason	Date	FR Cite
Withdrawn--Will be a future rulemaking	08/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC67

---

396. MAXIMUM ALLOTMENTS FOR 48 STATES & DC & INCOME ELIGIBILITY STANDARDS FOR 48 STATES, DC, AK, GU AND VI

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	05/11/99	64 FR 25272

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC69

---

397. FSP: MAXIMUM ALLOTMENTS FOR ALASKA, HAWAII, GUAM, AND THE VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	05/11/99	64 FR 25270

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Sheri Ackerman
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC70

---

398. • WIC FARMERS' MARKET NUTRITION PROGRAM (FMNP): NONDISCRETIONARY PROVISIONS OF THE WILLIAM F. GOODLING REAUTHORIZATION ACT OF 1998

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1786; PL 105-336, sec 203(o)

CFR Citation: 7 CFR 248

Legal Deadline: None

Abstract: This final rule will implement the nondiscretionary provisions of the recent reauthorizing legislation pertaining to the FMNP. These provisions: (1) Allow program income as a countable source for the matching funds requirement; (2) allow FMNP State agencies who want to increase the value of benefits to recipients (as opposed to increasing the total number of recipients) to compete for expansion funds when such funds are available; and (3) eliminate specific State Plan ranking criteria and preferences, requiring only that the Secretary use objective criteria in selecting new FMNP State agencies. (99-002)

Timetable:

Action	Date	FR Cite
Direct Final Rule	09/02/99	64 FR 48073

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Consumer Service, Room 322, 3101 Park Center Drive, Alexandria, VA 22302
Phone: 703 305-2246
Email: sheri.ackerman@fns.usda.gov

RIN: 0584–AC80

BILLING CODE 3410–30–F

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

399. PERFORMANCE STANDARDS FOR READY-TO-EAT MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 430

Legal Deadline: None

Abstract: FSIS is proposing to establish pathogen reduction performance standards for all ready-to-eat meat and poultry products. The performance standards spell out the objective level of pathogen reduction that establishments must meet during their operations in order to produce safe products, but allow the use of customized, plant-specific processing procedures other than those prescribed in the earlier regulations. Along with HACCP, food safety performance standards will give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, while providing objective, measurable standards that can be verified by Agency inspectional oversight. This set of performance standards will include and be consistent with those already in place for certain ready-to-eat meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC46

---

400. PERFORMANCE STANDARDS FOR BACON

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 601

CFR Citation: 9 CFR 318.7(b)

Legal Deadline: None

Abstract: FSIS is proposing to revise the regulatory provisions concerning the production and testing of bacon (9 CFR 318.7(b)). FSIS is proposing to remove provisions that require the Agency to test bacon for nitrosamines and to remove provisions that prescribe the substances and amounts of such substances that must be used to produce bacon. FSIS is proposing to replace these provisions with performance standards that establishments producing bacon must meet. To meet these proposed performance standards, the process used would be required to prevent the multiplication of Clostridium botulinum and limit the multiplication Clostridium perfringens. In addition, the process would be required to limit the presence of nitrosamines when the product is cooked. Establishments under HACCP would be required to incorporate the proposed performance standards into their Hazard Analysis and Critical Control Point (HACCP) plans.

FSIS is proposing these regulations in order to allow establishments to develop alternative means of producing bacon. In addition, FSIS is proposing these regulations to remove the Agency's testing responsibilities and to require establishments producing bacon, instead, to control and monitor their own processes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC49

---

401. LABELING OF FOOD UNDER THE VOLUNTARY NUTRITION LABELING PROGRAM; 1996 RETAIL SURVEY COMPLIANCE RESULTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 601 - 695; 21 USC 451 - 470

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service is proposing a change in its voluntary nutrition labeling program for single ingredient, raw meat and poultry products. A retail survey indicated that less than 60 percent of retailers were participating in the voluntary program. Therefore, FSIS is proposing to require the nutrition labeling of the 45 major cuts of single-ingredient, raw meat and poultry products.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC55

---

402. • REFORM OF REGULATIONS ON IMPORTED LIVESTOCK AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 11 in Part II of this issue of the **Federal Register**.

RIN: 0583–AC56

---

403. • AGENCY ORGANIZATION AND TERMINOLOGY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451-470; 21 USC 601-695; 21 USC 1031-1056

CFR Citation: 9 CFR 300; 9 CFR 301; 9 CFR 306; 9 CFR 311; 9 CFR 320; 9 CFR 327; 9 CFR 381; 9 CFR 590; ...

Legal Deadline: None

Abstract: This rulemaking will amend FSIS's regulations by consolidating and

USDA—FSIS **Proposed Rule Stage**

updating organizational provisions and definitions of various terms that, until now, have been addressed separately in regulations adopted under the Federal Meat Inspection Act, the Poultry Products Inspection Act, and, in some instances, the Egg Products Inspection Act. The rulemaking will complete a task that the Agency began in a December 31, 1998, final rule that added information on FSIS's current responsibilities and organizational structure to the Agency's regulations and reflected the current allocation of responsibilities within the Department by redesignating regulations adopted under the EPIA and transferring them to FSIS's regulations (from those of the Agricultural Marketing Service).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5276

RIN: 0583–AC57

404. • EGG PRODUCTS INSPECTION REGULATIONS

Regulatory Plan: This entry is Seq. No. 12 in Part II of this issue of the **Federal Register**.

RIN: 0583–AC58

405. • NUTRITION LABELING OF GROUND OR CHOPPED MEAT OR POULTRY PRODUCTS AND SINGLE-INGREDIENT PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq.

CFR Citation: 9 CFR 317; 9 CFR 381

Legal Deadline: None

Abstract: This proposed rule will amend the Federal meat and poultry inspection regulations to provide increased flexibility in the labeling of ground meat and poultry and single-ingredient products. This rule allows consumers to differentiate between the varying amounts of fat in these products and to help them select lower fat versions of these products.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5276

RIN: 0583–AC60

406. • PATHOGEN REDUCTION; HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS; ADDITIONS TO E. COLI CRITERIA AND SALMONELLA PERFORMANCE STANDARDS

Regulatory Plan: This entry is Seq. No. 13 in Part II of this issue of the **Federal Register**.

RIN: 0583–AC63

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS) **Final Rule Stage**

407. SUBSTANCES APPROVED FOR USE IN THE PREPARATION OF MEAT AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 14 in Part II of this issue of the **Federal Register**.

RIN: 0583–AB02

408. RETAINED WATER IN RAW MEAT AND POULTRY PRODUCTS; POULTRY-CHILLING PERFORMANCE STANDARDS

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 440

Legal Deadline: None

Abstract: FSIS is developing a final rule to limit the amount of water absorbed and retained by single-ingredient raw meat and poultry products to the amount that is unavoidable in carrying out washing or chilling procedures. Such products include immersion-chilled poultry carcasses and raw meat byproducts that are chilled in water. A requirement for raw products to bear a labeling statement on absorbed water content is being considered. However, establishments having data that demonstrate their raw products do not gain weight as a result of washing or chilling would not have to label the products with such a statement. The proposal also would replace the command-and-control provisions of the regulations on poultry chilling and moisture control with performance standards. This proposal is being made in furtherance of the Agency's regulatory reform effort and in response to a July 23, 1997, U.S. District Court order setting aside current moisture limits for frozen, cooked, or consumer-packaged whole poultry. The labeling provisions of this proposal would be intended to provide consumers with additional information for making purchasing decisions.

Affected establishments would have to bear the minimal costs associated with any required labeling modifications.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48961
NPRM Comment Period End	01/13/99	63 FR 68700
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and

USDA—FSIS **Final Rule Stage**

Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC26

409. RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 601; 21 USC 451

CFR Citation: 9 CFR 304; 9 CFR 305; 9 CFR 306; 9 CFR 327; 9 CFR 335; 9 CFR 381; 9 CFR 500

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is amending the regulations concerning the rules of practice that apply to Agency enforcement actions. In response to comments received on the proposed rule and its experience under the Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems, FSIS is defining each type of enforcement action that it may take, the conditions under which it is likely to take each of these actions, and the procedures that it will follow in doing so. This rule is part of FSIS's ongoing efforts to consolidate, streamline, and clarify the meat and poultry product inspection regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/12/98	63 FR 1797
NPRM Comment Period End	03/13/98	
Final Action	11/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC34

410. ELIMINATION OF REQUIREMENTS FOR PARTIAL QUALITY CONTROL PROGRAMS

Regulatory Plan: This entry is Seq. No. 15 in Part II of this issue of the **Federal Register**.

RIN: 0583–AC35

411. IRRADIATION OF MEAT AND MEAT PRODUCTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 7 USC 450; 21 USC 601

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: The Food Safety and Inspection Service (FSIS) is amending the meat inspection regulations to permit the use of ionizing radiation for treating fresh or frozen uncooked meat, meat byproducts, and certain meat food products to reduce levels of pathogens. FSIS is taking this action in light of the Food and Drug Administration's recent final rule amending the food additive regulations to provide for the safe use of irradiation sources to treat these same meat products. FSIS also is revising to revise for consistency the current regulations governing the irradiation of poultry.

Timetable:

Action	Date	FR Cite
NPRM	02/24/99	64 FR 9089
NPRM Comment Period End	06/17/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC50

412. MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND RECOVERY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 601 to 695

CFR Citation: 9 CFR 301.2; 9 CFR 318.24 (Revision); 9 CFR 320.1(b)(10)

Legal Deadline: None

Abstract: In 1994, the Food Safety and Inspection Service amended its regulations to recognize that product resulting from advanced meat/bone separation machinery comes within the definition of meat when recovery systems are operated to assure that the characteristics and composition of the resulting product are consistent with those of meat. Subsequent compliance problems and other concerns have made it apparent that the regulations are confusing and inadequate to prevent misbranding and economic adulteration. Therefore, FSIS is developing a proposed rule to clarify the regulations and supplement the rules for assuring compliance. The Agency is reviewing information obtained since publication of the proposal and further rulemaking on the noncompliance criterion for bone marrow.

Timetable:

Action	Date	FR Cite
NPRM	04/13/98	63 FR 17959
NPRM Comment Period End	06/12/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250
Phone: 202 720-5276

RIN: 0583–AC51

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Long-Term Actions

413. NUTRITION LABELING OF GROUND BEEF AND HAMBURGER

Priority: Other Significant

CFR Citation: 9 CFR 317; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	05/24/94	59 FR 26916
NPRM Extension of Comment Period	07/05/94	59 FR 34396
NPRM Comment Period End	07/08/94	
NPRM Extension of Comment Period End	08/22/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AB74

414. TRANSPORTATION, STORAGE, AND OTHER HANDLING OF POTENTIALLY HAZARDOUS FOODS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 308: 9 CFR 317; 9 CFR 325; 9 CFR 381

Timetable:

Action	Date	FR Cite
ANPRM	11/22/96	61 FR 59372
ANPRM Comment Period End	02/20/97	
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC05

415. GRANT AND INAUGURATION OF INSPECTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 304; 9 CFR 305

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC07

416. BEEF OR PORK WITH BARBECUE SAUCE; REVISION OF STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 319

Timetable:

Action	Date	FR Cite
NPRM	09/03/97	62 FR 46450
NPRM Comment Period End	11/03/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC09

417. PERFORMANCE STANDARD FOR THE CHILLING OR OTHER PROCESSING OF LIVESTOCK CARCASSES AND READY-TO-COOK POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC21

418. ANTE-MORTEM AND POST-MORTEM INSPECTION OF LIVESTOCK AND POULTRY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 309; 9 CFR 310; 9 CFR 381

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC43

419. REQUIREMENTS FOR DISPOSITION AND DISPOSAL OF INSPECTED RAW MEAT AND POULTRY PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 311; 9 CFR 314; 9 CFR 320; 9 CFR 325; 9 CFR 381; 9 CFR 428; 9 CFR 455

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC44

420. REWORKING OF MEAT AND POULTRY CARCASSES ACCIDENTALLY CONTAMINATED DURING EVISCERATION

Priority: Other Significant

CFR Citation: 9 CFR 310; 9 CFR 381; 9 CFR 433

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
NPRM Comment Period End	02/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC53

USDA—FSIS

Long-Term Actions

421. • LABELING—GENERIC APPROVAL AND REGULATION CONSOLIDATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 U.S.C. 451-470; 21 U.S.C. 601-695

CFR Citation: 9 CFR 317; 9 CFR 327; 9 CFR 381; 9 CFR 412

Legal Deadline: None

Abstract: This rulemaking will continue an effort initiated several years ago by amending FSIS's regulations to expand the types of labeling that are generically approved. FSIS plans to propose that the submission of labeling for approval prior to use be limited to certain types of labeling, as specified in the regulations. In addition, FSIS plans to reorganize and amend the regulations by consolidating labeling rules that currently are stated separately for livestock products and poultry products (in part 317, subpart A, and part 381, subpart N, respectively) and by amending their provisions to set out clearly various circumstances under which these products are misbranded.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn, Director, Regulations Development and Analysis Division, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250 Phone: 202 720-5276

RIN: 0583–AC59

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

422. USE OF SOY PROTEIN CONCENTRATE, FOOD STARCH-MODIFIED AND GELATIN AS BINDERS IN CERTAIN MEAT PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 318

Completed:

Reason	Date	FR Cite
Final Action	05/24/99	64 FR 27901

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5276

RIN: 0583–AB82

423. ADDITION OF MEXICO TO LIST OF COUNTRIES ELIGIBLE TO EXPORT POULTRY PRODUCTS TO THE UNITED STATES

Priority: Other Significant

CFR Citation: 9 CFR 381.196

Completed:

Reason	Date	FR Cite
Final Action	09/14/99	64 FR 49640

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5276

RIN: 0583–AC33

424. SANITATION REQUIREMENTS FOR OFFICIAL MEAT AND POULTRY ESTABLISHMENTS

Priority: Other Significant

CFR Citation: 9 CFR 303; 9 CFR 308; 9 CFR 381; 9 CFR 416

Completed:

Reason	Date	FR Cite
Final Action	10/20/99	64 FR 56400

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5276

RIN: 0583–AC39

425. LABELING STANDARDS FOR OVINE CARCASSES, PARTS OF CARCASSES, MEAT AND MEAT-FOOD PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 319

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5276

RIN: 0583–AC41

426. PERFORMANCE STANDARDS FOR SHELF-STABLE, READY-TO-EAT PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 9 CFR 317; 9 CFR 381

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn Phone: 202 720-5276

RIN: 0583–AC45

427. ELIMINATION OF ACCREDITED LABORATORY PROGRAM FOR FOOD CHEMISTRY AND RESIDUE CHEMISTRY

Priority: Substantive, Nonsignificant

CFR Citation: 9 CFR 318.21; 9 CFR 381.153

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

USDA—FSIS

Completed Actions

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC48

---

428. SALMONELLA ENTERITIDIS IN EGGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 59; 21 CFR 100

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC52

---

429. FEE INCREASE FOR INSPECTION SERVICES OF MEAT AND POULTRY PRODUCTS

Priority: Other Significant

CFR Citation: 9 CFR 391

Completed:

Reason	Date	FR Cite
Final Action	04/23/99	64 FR 19865

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel L. Engeljohn
Phone: 202 720-5276

RIN: 0583–AC54

BILLING CODE 3410–DM–F

Department of Agriculture (USDA)
Foreign Agricultural Service (FAS)

Proposed Rule Stage

---

430. EXPORT SALES REPORTING REQUIREMENT

Priority: Other Significant

Legal Authority: 7 USC 5712

CFR Citation: 7 CFR 20

Legal Deadline: None

Abstract: Consideration of a proposal to add meat and meat products to the list of commodities for which advanced notice of export is reported, and a streamlined electronic reporting system as the means to accomplish that reporting. A proposed rule will solicit public comments.

Timetable:

Action	Date	FR Cite
ANPRM	11/14/96	61 FR 58343
ANPRM Comment Period End	01/13/97	
NPRM	12/01/99	
NPRM Comment Period End	02/01/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kimberly Chisley, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 6087, South Building, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-2568
Fax: 202 720-3814
Email: chisleyk@fas.usda.gov

Tamoria Thompson, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, 6th Floor, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 690-1690
Email: thompsont@fas.usda.gov

RIN: 0551–AA51

---

431. • DAIRY TARIFF-RATE IMPORT QUOTING LICENSING

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1202; PL 97-258; 31 USC 9701; 19 USC 3513; 19 USC 3601

CFR Citation: 7 CFR Part 6

Legal Deadline: None

Abstract: The proposed rule would revise the import regulation that governs the administration of the TRQ import licensing system for certain dairy products to: 1) broaden the definition of "Licensing Authority" and 2) provide for review and correction of errors made by USG officials.

Timetable:

Action	Date	FR Cite
NPRM	08/04/99	64 FR 42288
NPRM Comment Period End	10/04/99	
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kimberly Chisley, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, Room 6087, South Building, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-2568
Fax: 202 720-3814
Email: chisleyk@fas.usda.gov

Tamoria Thompson, Regulatory Coordinator, Department of Agriculture, Foreign Agricultural Service, 6th Floor, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 690-1690
Email: thompsont@fas.usda.gov

RIN: 0551–AA58

Department of Agriculture (USDA)
Foreign Agricultural Service (FAS)

Long-Term Actions

432. CCC SUPPLIER CREDIT GUARANTEE PROGRAM

Priority: Economically Significant

CFR Citation: 7 CFR 1493

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37025
NPRM Comment Period End	09/18/95	
Interim Final Rule	07/01/96	61 FR 33825
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Chisley
Phone: 202 720-2568
Fax: 202 720-3814
Email: chisleyk@fas.usda.gov
Tamoria Thompson
Phone: 202 690-1690
Email: thompsont@fas.usda.gov

RIN: 0551–AA30

433. FACILITY GUARANTEE PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 17; 7 CFR 1493

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/01/93	58 FR 11786
Interim Final Rule Comment Period End	06/01/93	
Interim Final Rule	08/08/97	62 FR 42651
Interim Final Rule Comment Period End	10/07/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Chisley
Phone: 202 720-2568
Fax: 202 720-3814
Email: chisleyk@fas.usda.gov
Tamoria Thompson
Phone: 202 690-1690
Email: thompsont@fas.usda.gov

RIN: 0551–AA35

Department of Agriculture (USDA)
Foreign Agricultural Service (FAS)

Completed Actions

434. PROPOSED REGULATIONS GOVERNING IMPLEMENTATION OF THE COOPERATOR FOREIGN MARKET DEVELOPMENT PROGRAM OVERSEAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1550

Completed:

Reason	Date	FR Cite
NPRM	06/15/99	64 FR 32156
NPRM Comment Period End	07/14/99	
Final Action	09/30/99	64 FR 52627

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Chisley
Phone: 202 720-2568
Fax: 202 720-3814
Email: chisleyk@fas.usda.gov
Tamoria Thompson
Phone: 202 690-1690
Email: thompsont@fas.usda.gov

RIN: 0551–AA26

435. REFORM OF EXPORT BONUS PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 1494; 7 CFR 1570

Completed:

Reason	Date	FR Cite
Withdrawn	09/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Kimberly Chisley
Phone: 202 720-2568
Fax: 202 720-3814
Email: chisleyk@fas.usda.gov
Tamoria Thompson
Phone: 202 690-1690
Email: thompsont@fas.usda.gov

RIN: 0551–AA41

436. DAIRY TARIFF-RATE IMPORT QUOTA LICENSING

Priority: Other Significant

CFR Citation: 7 CFR 6.20 to 6.36

Completed:

Reason	Date	FR Cite
Withdrawn	08/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly Chisley
Phone: 202 720-2568
Fax: 202 720-3814
Email: chisleyk@fas.usda.gov
Tamoria Thompson
Phone: 202 690-1690
Email: thompsont@fas.usda.gov

RIN: 0551–AA53

BILLING CODE 3410–10–F

Department of Agriculture (USDA)
Forest Service (FS)

Prerule Stage

437. • NATIONAL FOREST SYSTEM ROADLESS AREAS

Regulatory Plan: This entry is Seq. No. 16 in Part II of this issue of the **Federal Register**.

RIN: 0596–AB77

Department of Agriculture (USDA)
Forest Service (FS)

Proposed Rule Stage

438. HYDROPOWER APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 43 USC 1761

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is revising its current policy and procedures implemented in February 1987, concerning administration of hydropower authorizations and the processing of proposals for hydropower projects affecting National Forest System lands. These revisions are necessary to make agency policy and procedures consistent with regulatory changes by the Federal Energy Regulatory Commission (FERC). The proposed policy was published in the Federal Register on May 22, 1995 (60 FR 27153) for a 60-day public comment period, which was extended for another 45 days (60 FR 36401). As a result of the comments received, substantial changes were made to the proposed policy (60 FR 36401). Therefore, the Forest Service is publishing a revised proposed policy for public comment.

Timetable:

Action	Date	FR Cite
NPRM	05/22/95	60 FR 27153
NPRM Comment Period Extended	07/17/95	60 FR 36401
NPRM Comment Period End	09/05/95	
Second NPRM	02/00/00	
Second NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AA47

439. NATIONAL FOREST PROHIBITIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 683; 7 USC 1011(f); 16 USC 1246(i); 16 USC 1133(c) to 1133(d)(1); 16 USC 4306 to 4307

CFR Citation: 36 CFR 261

Legal Deadline: None

Abstract: Regulations at 36 CFR 261, subpart A, set out the acts prohibited on National Forest System (NFS) lands. These prohibitions derive from either statutes governing National Forest programs or other regulations. The regulations at subpart B authorize Regional Foresters, Forest Supervisors, or Station Directors to close National Forest System lands under their jurisdiction to certain uses or to restrict some uses of NFS lands. These closures are issued by order. Because of the high level of public interest in this rulemaking the Agency has decided to issue a second proposed rule for comment. This action no longer includes the minor revisions to part 262, Law Enforcement Support Activities, which is now described as a separate action.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	03/00/00	
Second NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RIN 0596-AA65 was combined with RIN 0596-AA75

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AA75

440. SMALL TRACTS ACT REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 521(c) to 521(i)

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: Implementation of the Agency's Small Tracts regulations (adopted in 1984) has revealed an inadvertent inconsistency between the regulations at 36 CFR 254.35(f) and 254.41(a) and the legislative history of the Small Tracts Act of January 12, 1983. The regulations imply that the disposal of mineral fractions by sale can only be made in response to an application from an abutting landowner, thus discouraging the conveyance by sale to the public. The Act clearly authorizes sale of mineral fractions to the public through public sale, as well as individual applications, provided that certain conditions are met. The revisions will clarify the application of the Act to ensure that both individual applications and public sale are permissible means of disposing of qualifying tracts.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AA79

441. SPECIES SURPLUS TO DOMESTIC MANUFACTURING NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 620 et seq

CFR Citation: 36 CFR 223.200

Legal Deadline: None

Abstract: This proposed rule would amend 36 CFR 223.200, to list species proposed to be surplus to domestic manufacturing needs. This proposed rule would implement a portion of section 620a(b) of the Forest Resources

USDA—FS **Proposed Rule Stage**

Conservation and Shortage Relief Act of 1990 (16 USC 620 et seq). Section 620a(a) of the Act provides that no person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange or otherwise convey such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States. Section 620a(b) of the Act provides that the prohibition contained in section (a) shall not apply to specific quantities of grades and species of unprocessed timber originating in Federal lands which the Secretary determines, through rulemaking, to be surplus to domestic manufacturing needs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB27

---

442. COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 43 USC 1764; 30 USC 181

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The objective of this proposal is to incorporate into regulation the authority contained in the Mineral Leasing Act and the Federal Land Policy and Management Act to reimburse the United States for reasonable administrative costs associated with the issuance and administration of special-use authorizations on National Forest System lands. It responds to a recommendation contained in GAO Audit Report RCED-97-16 (12/96).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Cost reimbursement for processing special-use applications and administration of special-use authorizations was originally included under RIN 0596-AA36. All provisions pertaining to the special-use application and administration process have been merged with RIN 0596-AB35. Thus, this rulemaking addresses only the cost-reimbursement provisions.

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB36

---

443. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 251; 36 CFR 214

Legal Deadline: None

Abstract: These proposed regulations would redesignate these appeals rules as a new part 214, thus placing all appeals and notices and comment rules in close proximity. Additionally, this proposed rule would revise a number of existing provisions. For example, changes to part 251 would clarify the application of this rule to the issuance of permits for occupancy and use of National Forest System lands. When 36 CFR part 251, subpart C, regulations were promulgated in 1989, NEPA analysis and documentation was not consistently applied to the authorization of special uses. Now the authorization and the issuance of permits and other authorization requires application of the NEPA process prior to issuance. In addition, since these regulations were implemented, Congress has passed the Appeal Reform Act. The proposed changes to the permit related appeal rules are needed to make this regulation consistent with regulations at 36 CFR part 215. Among specific proposed changes being considered are removing the second level of appeal opportunity, removing the discretionary review option, shortening timeframes for scheduling oral presentations, and changes to conform terminology and definitions with 36 CFR part 215.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB45

---

444. SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; EXTENSION OF TIMBER SALE CONTRACTS TO PERMIT URGENT REMOVAL OF OTHER TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472a; 16 USC 618; 16 USC 620

CFR Citation: 36 CFR 223.50; 36 CFR 223.53

Legal Deadline: None

Abstract: This rule and policy change will provide for extension of National Forest System (NFS) timber sale contracts when such extension will permit the prompt removal and utilization of non-NFS-owned timber damaged by catastrophic events. The change will define the responsibilities

USDA—FS **Proposed Rule Stage**

of the parties for requesting and approving such extensions and specify when such extension should be approved. This change will also allow for the use of scarce timber resources and the recovery of economic benefits from timber that might otherwise be lost because of contractual obligations to harvest undamaged timber.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB48

---

445. NATIONAL ENVIRONMENTAL POLICY ACT; REVISED POLICY AND PROCEDURES; CATEGORICAL EXCLUSIONS

Priority: Other Significant

Legal Authority: 42 USC 4371

Legal Deadline: None

Abstract: The proposed revision to Forest Service Manual and Handbook direction would be revised to clarify the environmental analysis process used by the Forest Service to implement the NEPA regulations at 40 CFR part 1500. The proposal will focus on better defining the process for determining when projects are categorically excluded and expanding the categories of action that can be excluded under NEPA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB54

---

446. LAW ENFORCEMENT SUPPORT ACTIVITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1011(f); 16 USC 472; 16 USC 551; 16 USC 559(a) to 559(g); 40 USC 484(m)

CFR Citation: 36 CFR 262

Legal Deadline: None

Abstract: In February 1994, the Forest Service published proposed rule changes for parts 261 and 262 of title 36 of the Code of Federal Regulations. Due to the high level of interest in and comment on part 261, the decision was made to publish a second proposed rule. The majority of the public comment on part 262 referred to the definition section which has been revised to respond to those comments. The Forest Service has decided to issue a second proposed rule for comment on part 262, Law Enforcement Support Activities. Proposed revisions to part 261 will proceed separately.

Timetable:

Action	Date	FR Cite
NPRM	02/16/94	59 FR 7880
NPRM Comment Period End	05/18/94	
Second NPRM	01/00/00	
Second NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB61

---

447. ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 551; 23 USC 205

CFR Citation: 36 CFR 212

Legal Deadline: None

Abstract: The Forest Service proposes to change how the National Forest road system is improved, maintained, operated, and funded. Advanced notice of the agency's intent was published January 28, 1998, concurrently with publication of a notice of a proposed interim rule to Temporarily Suspend Road Construction in Roadless Areas. Extensive comments were received on both notices and have been considered in developing an interim final road suspension rule (February 12, 1999, 64 FR 7290) and in proposing a long range road management policy for the National Forest System.

The existing road system on National Forest System lands was largely funded and constructed through timber harvesting and the development of other resources to provide long-term access for use, management and protection. In the last 10 years, public interest in the national forests has shifted substantially toward recreation use and resource protection. Road management emphasis needs to shift away from new construction and development toward operation and maintenance.

Accordingly, the agency proposes to revise its transportation system rules at 36 CFR part 212 to change the emphasis from development of roads to operation and maintenance of roads. The agency also proposes revision of its internal road management and forest planning direction to shift the focus of forest road system administration to access management rather than development and expansion, and clarify terminology and definitions. A key element of the internal directive change is the adoption of science-based, multi-scale road analysis that subjects potential road construction and reconstruction to a rigorous analysis of effects and more completely considers unroaded area values. These analyses will be coordinated and integrated with other resource assessments and forest planning. This is expected to result in fewer roads, especially in unroaded

areas, and a more affordable, safer, better maintained road system needed to access the national forests.

Timetable:

Action	Date	FR Cite
ANPRM	01/28/98	63 FR 4350
ANPRM Comment Period End	03/30/98	
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB67

---

448. NONCOMPETITIVE SALE OF TIMBER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472(a)

CFR Citation: 36 CFR 223.85

Legal Deadline: None

Abstract: This proposed rule would revise 36 CFR 223.85 by removing references to section 2001(k) of Public Law 104-19 (109 Stat. 246) and define "extraordinary conditions" to allow forest officers, without advertisement, to make modifications to timber and forest product sales, which result in the substitution of timber or forest products from outside the sale area specified in the contract. Under the proposed rule, substitute timber or forest products would have to come from the same administrative national forest and meet agency requirements for compliance with the National Environmental Policy Act and other environmental laws. This proposed rule would not compel a timber purchaser to accept a timber sale modification offered under this rule. The rule only authorizes the Forest Service to propose modifications and to enter into discussions with purchasers on such modifications.

This proposed rule will reduce timber sale cancellations and partial cancellations, thus reducing future damage claims on timber sales.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB70

---

449. CATEGORICAL EXCLUSION FOR CERTAIN SPECIAL USES PERMIT ACTIONS (FSH 1909.15, CHAPTER 30)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 to 4346

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program. One finding in that study was that the Forest Service is conducting extensive National Environmental Policy Act (NEPA) analysis and documentation for the renewal or transfer of ownership of special use authorizations having no significant effect on the human environment, either individually or cumulatively. This level of NEPA compliance is costly, time consuming and not commensurate with the risk attributed to the activity. Therefore, the Forest Service proposes to add a new category of categorical exclusions from NEPA documentation section 31.1b of FSH 1909.15, Environmental Policy and Procedures Handbook, to provide clearer direction regarding the NEPA obligation in the transfer of and amendment to special use authorizations. Also, a new category would be added to section 31.2 that applies to the renewal of special use authorizations.

Further, the Forest Service proposes to amend section 30.3 to clarify the NEPA documentation that is needed for processing applications and authorizations under a categorical exclusion when extraordinary circumstances exist. The existing definition in section 30.3 implies that the "mere presence" of an extraordinary circumstance would require that an Environmental Assessment (EA) or Environmental Impact Statement (EIS) be completed for actions that would otherwise be categorically excluded. The Forest Service proposes to amend this section to provide that an identified extraordinary circumstance must clearly have an impact on the National Forest resource to merit preparation of an EA or EIS.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB73

---

450. CLARIFICATION OF EXEMPTIONS FROM SPECIAL-USE AUTHORIZATIONS

Priority: Info./Admin./Other

Legal Authority: 16 USC 477 to 482; 16 USC 551; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251.50(c)

Legal Deadline: None

Abstract: In April 1997, the Forest Service completed a reengineering study of its special uses program on how to manage the program in a more business-like, customer-service-oriented way. The Agency proposes the following revisions to 36 CFR 251.50 that would implement recommendations from this study. The study determined that many units are issuing special use authorizations unnecessarily, thereby increasing workloads. The study concluded that the Agency should clarify the special uses rules at section 251.50(a) to make explicitly clear that special use authorizations should not be issued for activities that are regulated by other Forest Service regulations; for example, those governing the disposal of timber

USDA—FS **Proposed Rule Stage**

(part 223); minerals (part 228); the use of forest development roads and trails (part 212 and section 251.110); and the grazing of cattle (part 222). The study also concluded that section 251.50(d) should be revised to direct that special use authorizations should not be issued where such authorization would serve no land or resource management objective and would have nominal effects on National Forest System lands; for example, where activities are adequately regulated by other governmental entities or where an authorized officer determines that normal operation and maintenance by the holder is within the scope of a right-of-way, easement, or other valid existing real property interest. Further, the rule at section 251.50(c) would be revised to clarify that, in emergency situations, a special use authorization should be sought at the earliest opportunity following the emergency to ensure that appropriate measures are carried out to protect National Forest System lands after the emergency situation no longer exists.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB74

---

451. • SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER; TIMBER EXPORT AND SUBSTITUTION RESTRICTIONS

Priority: Other Significant

Legal Authority: 16 USC 620

CFR Citation: 36 CFR 223; 36 CFR 261

Legal Deadline: None

Abstract: The proposed rule for timber export and substitution restrictions would implement the Forest Resources Conservation and Shortage Relief Act of 1990, as amended. The proposed rule defines the certain terms necessary to facilitate uniform compliance; prohibits transfer of unprocessed private timber for export by a person who possesses or acquires unprocessed Federal timber; prohibits export of such unprocessed private timber by a third or successive party; prescribes procedures for reporting the acquisition and disposition of NFS and private timber requiring domestic processing, including transfers; prescribes procedures for identifying unprocessed National Forest Service and private timber requiring domestic processing; and establishes procedures for assessing civil and criminal penalties and applying administrative remedies for violations of the Act, its implementing regulations, and contracts subject to the Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB75

---

452. • APPEAL OF REGIONAL GUIDES AND NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLANS; MULTI-AGENCY DECISIONS

Priority: Other Significant

Legal Authority: 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 217

Legal Deadline: None

Abstract: The Forest Service is increasingly cooperating with other Federal land managing agencies to address resource management issues that cross Federal administrative boundaries. An example of such an effort is the Interior Columbia Basin Ecosystem Management Project (ICBEMP). Through joint planning and decisionmaking, the Forest Service and the Bureau of Land Management (BLM) can provide more consistent direction for the management of common resources in the Columbia Basin and for other joint management projects. Because the Forest Service and the BLM each have their own separate and differing processes for administrative review of planning decisions (appeals in the Forest Service and protests in the BLM) and because it is important to maintain consistency in the decisions made and how they are implemented across Federal jurisdictions, a single process for administrative review of the joint ICBEMP decision is needed. This proposed rule permits the Forest Service to waive its appeal process in favor of an administrative review process provided by another agency when a Forest Service decision is embodied in a multi-agency planning document. The intended effects are to provide the public the benefit of one administrative review process and to simplify what would otherwise be a complicated and burdensome review process.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB76

Department of Agriculture (USDA)
Forest Service (FS)

Final Rule Stage

453. INDIAN ALLOTMENTS ON NATIONAL FOREST SYSTEM LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603; 43 USC 1740; 25 USC 337

CFR Citation: 36 CFR 254

Legal Deadline: None

Abstract: This rule sets forth Forest Service procedures and role in the regulation of Indian allotments on National Forest System land. The Indian Allotment Act, as amended, authorizes the Secretary of the Interior to make allotments of National Forest System lands to Indians for homesteading and agricultural and grazing purposes. The Forest Service has relied upon USDI rules and procedures at 43 CFR 2533 to govern its involvement in Indian allotment cases. Litigation and a decision by the Interior Board of Land Appeals require the Forest Service to set forth its own regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/22/87	52 FR 23473
NPRM Comment Period End	07/22/87	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AA52

454. NATIONAL FOREST SYSTEM LAND AND RESOURCE MANAGEMENT PLANNING

Regulatory Plan: This entry is Seq. No. 17 in Part II of this issue of the **Federal Register**.

RIN: 0596–AB20

455. DISPOSAL OF NATIONAL FOREST TIMBER; CANCELLATION OF TIMBER SALE CONTRACTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 472a; 16 USC 551; 16 USC 618

CFR Citation: 36 CFR 223.30; 36 CFR 223.40; 36 CFR 223.116

Legal Deadline: None

Abstract: Current regulations governing cancellation of National Forest timber sale contracts do not adequately protect the Government's financial interests in the event the Forest Service is forced to cancel contracts due to events beyond its control arising from compliance with environmental statutes. This rulemaking would remove an unworkable compensation-of-damages formula and establish a termination-for-environmental-protection clause in timber sale contracts, a standard in most Federal procurement contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68690
NPRM Comment Period End	02/13/97	
Final Action	11/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB21

456. STATE AND PRIVATE FORESTRY ASSISTANCE STEWARDSHIP INCENTIVE PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 2101 et seq

CFR Citation: 36 CFR 230

Legal Deadline: None

Abstract: This final rule would incorporate streamlined procedural changes in response to public comments on the interim rule published December 4, 1991. The interim rule established the interim procedures for administration of the Stewardship Incentive program. The program is intended to encourage private landowners, through cost-share assistance, to manage their forest lands for economic, environmental, and social benefits. Only two alternatives were considered in detail: (1) To implement the program in accordance with 16 USC 2101, et seq., and (2) not to implement the program, in which case there would be no accelerated program for multiple resource management on nonindustrial private forest lands. The overall effects of the program over time will be environmentally beneficial by enhancing wetlands, wildlife habitat, forest health, forest productivity, and recreation. The program will help meet future demand for commodity and noncommodity forest resources. There are no potential negative impacts anticipated for the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/91	56 FR 63581
Interim Final Rule Public Comment Period End	01/21/92	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB32

457. PREFERENCE FOR VISITOR SERVICE; ALASKA NATIONAL FOREST CONSERVATION SYSTEM UNITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3197

CFR Citation: 36 CFR 251

Legal Deadline: None

Abstract: The Forest Service is issuing regulations to define and establish procedures for administering the statutory rights and preferences

established by the Alaska National Interest Lands Conservation Act of 1980 for historical operators, Native Corporations, and local residents to conduct revenue producing visitor services on certain National Forest System Lands in Alaska. The regulations are necessary to comply with section 1307 of the Alaska National Interest Lands Conservation Act which requires the Secretary of Agriculture to give preference to persons he determines by rule are local residents. The regulations, which have been developed in close consultation with the other Federal land managing agencies in Alaska, will apply only to Conservation System Units administered by the Forest Service. As applied to these regulations, administered Conservation System Units are Forest Service national monuments units of the National Wild and Scenic River Systems, National Trails System, and the National Wilderness Preservation System in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	04/25/97	62 FR 20140
NPRM Comment Period End	06/24/97	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB57

---

458. ADMINISTRATIVE, COOPERATIVE FUNDS AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 498; 16 USC 472; 16 USC 551

CFR Citation: 36 CFR 211

Legal Deadline: None

Abstract: The Forest Service published a proposed revision to 36 CFR part 211 in the Federal Register on May 18, 1998 (63 FR 27245), to implement recent amendments to the Act of June 30, 1914 (16 USC 498 et seq.). The amendments to the Act (1) expand the Forest Service's authority to use contributions on the entire National Forest System for cooperative work, (2) add the word "management" to the list of activities for which contributions for cooperative work may be accepted, (3) allow reimbursable payments to the agency by cooperators, (4) provide specific authority to accomplish cooperative work using Forest Service funds prior to reimbursement by the cooperator pursuant to a written agreement, and (5) adequately protect the Government's interests.

The agency received six responses to the proposed rule: Three from national conservation organizations, one from a State fish and wildlife agency, one from a utility company, and one from a Member of Congress.

The Department has considered all comments and is proceeding to publish the final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27245
NPRM Comment Period End	07/17/98	
Final Action	11/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB63

---

459. NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-381, sec 322

CFR Citation: 36 CFR 215

Legal Deadline: None

Abstract: A recent lawsuit brought by a Forest Service employee challenging this regulation led to a reassessment of the employee appeal limitation 36 CFR 215.11(c). The Department agreed to repeal the employee prohibition provision to allow the agency time to consider the issues related to employees filing appeals. After additional consideration of relevant factors, the Department may decide to publish a new proposed rule to address the matter of appeals by employees. If so, public comment would be requested at the time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/98	63 FR 4187
Final Action	02/00/00	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB69

---

460. SMALL BUSINESS TIMBER SALE SET-ASIDE RECOMPUTATION BASIS

Priority: Info./Admin./Other

Legal Authority: 16 USC 472; 16 USC 618; 16 USC 620

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Forest Service is revising policy and procedures that will make timber sale set-aside recomputations, required by industry changes, easier to implement and more responsive to the actual conditions in the market area. Two changes were considered in the proposed policy. The first would revise the formula used to calculate the timber sale set-aside program recomputation by removing timber harvest data and instead use only timber sale purchased volume data. The second would modify the timing of a structural change implementation from 3 years to 1.5 years. Structural change recalculations are needed when a business's characteristics change, such as the size of the operation. This will simplify the process and give appropriate weight to small and big businesses. The agency received approximately 30 comments to the proposed policy and is considering them in the final policy.

Timetable:

Action	Date	FR Cite
NPRM	05/28/99	64 FR 28969

USDA—FS — **Final Rule Stage**

Action	Date	FR Cite
NPRM Comment Period End	07/28/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly, Regulatory Officer, Department of Agriculture, Forest Service, P.O. Box 96090, Washington, DC 20090-6090
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB72

Department of Agriculture (USDA)
Forest Service (FS)

Completed Actions

461. DISPOSAL OF NATIONAL FOREST TIMBER: TIMBER SALE CONTRACT REVISIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn	09/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marian P. Connolly
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB52

462. APPEAL OF DECISIONS RELATING TO OCCUPANCY AND USE OF NATIONAL FOREST SYSTEM LANDS; MEDIATION OF GRAZING PERMIT DISPUTES

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 251

Completed:

Reason	Date	FR Cite
Final Action	07/14/99	64 FR 37843
Final Action Effective	08/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian P. Connolly
Phone: 703 605-4533
Fax: 703 605-5111
Email: mconnoll/wo@fs.fed.us

RIN: 0596–AB59

BILLING CODE 3410–11–F

Department of Agriculture (USDA)
Office of the Secretary (AgSEC)

Proposed Rule Stage

463. DESIGNATION OF RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Priority: Other Significant

Legal Authority: PL 105-277, sec 766

CFR Citation: 7 CFR 25

Legal Deadline: None

Abstract: This rule sets forth the policies and procedures for designating twenty additional rural enterprise communities. This rule also sets forth the policies and procedures for a newly authorized grant program for Round II rural empowerment zones and Round II's enterprise communities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Victor Vasquez, Deputy Administrator, Office of Community Development, Department of Agriculture, Office of the Secretary, Room 701, Reporters Building, Washington, DC 20024-3203
Phone: 202 619-7980

RIN: 0503–AA20

Department of Agriculture (USDA)
Office of the Secretary (AgSEC)

Long-Term Actions

464. NONDISCRIMINATION IN USDA-CONDUCTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 15

Timetable:

Action	Date	FR Cite
NPRM	04/23/96	61 FR 17851
NPRM Comment Period End	05/23/96	
Second NPRM	11/10/98	63 FR 62962
Second NPRM Comment Period End	12/10/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosalind D. Gray
Phone: 202 720-5212

RIN: 0503–AA15

465. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Priority: Other Significant

CFR Citation: 7 CFR 3016

Timetable:

Action	Date	FR Cite
NPRM	02/17/98	63 FR 7734

USDA—AgSEC

Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	06/18/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gerald Miske
Phone: 202 720-1553

RIN: 0503–AA16

Department of Agriculture (USDA)
Office of the Secretary (AgSEC)

Completed Actions

466. UNIFORM PROCEDURES FOR THE ACQUISITION AND TRANSFER OF EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3200; 7 CFR 3201; 7 CFR 3202; 7 CFR 3203; 7 CFR 3204; 7 CFR 3205; 7 CFR 3206; 7 CFR 3208; 7 CFR 3209; 7 CFR 3210; 7 CFR 3211

Completed:

Reason	Date	FR Cite
Final Action	10/27/98	63 FR 57233

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda W. Oliphant
Phone: 202 720-3141

RIN: 0503–AA19

BILLING CODE 3410–30–F

Department of Agriculture (USDA)
Rural Business-Cooperative Service (RBS)

Proposed Rule Stage

467. RURAL ECONOMIC DEVELOPMENT LOAN AND GRANT PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 940c

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 4280 subpart A

Legal Deadline: None

Abstract: This action is part of a reinvention laboratory initiative of the Department of Agriculture and Rural Business-Cooperative Service. The regulations will be written in a "Plain Language" style. The proposed regulation will be simpler and improve the ease of use by the public and program beneficiaries. The regulation will be written in a question and answer format from the perspective of questions from the applicant under this program. The regulations will simplify the application format, review and selection process, and recipient's recordkeeping requirements. It will also add a section on the appeal of adverse decisions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Public Compliance Cost: Initial Cost: $25,000; Yearly Recurring Cost: $25,000; Base Year for Dollar Estimates: 1995

Agency Contact: Mark Wyatt, Team Leader, Specialty Lenders Division, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6865, South Building, STOP 3225, Washington, DC 20250
Phone: 202 720-1400

RIN: 0570–AA19

468. BUSINESS AND INDUSTRY DIRECT LOAN PROGRAM

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 1980 subpart A; 7 CFR 1980 subpart E; 7 CFR 1942 subpart A; 7 CFR 1951 subpart E; 7 CFR 4274 subpart I; 7 CFR 4287 subpart H

Legal Deadline: None

Abstract: The Agency currently utilizes RD Instructions 1980-A and E, 1942-A, 1951-E to make and service new and existing direct B&I loans. These regulations contain very limited direction in direct B&I loan making. The Agency is writing new regulations to replace the instructions for direct loan making and servicing. This program will complement the Agency's existing guaranteed (B&I) loan program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Richard Bonnet, Senior Loan Specialist, Processing Division, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6864/Stop 3221, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1804
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA22

469. BUSINESS AND INDUSTRIAL GUARANTEED LOAN PROGRAM—MISCELLANEOUS CHANGES

Priority: Other Significant

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4287 subpart B; 7 CFR 4279 subpart A; 7 CFR 4279 subpart B

Legal Deadline: None

USDA—RBS **Proposed Rule Stage**

Abstract: Revisions are proposed in the following areas: Exclusion of financing agriculture production, limiting debt refinancing, definition of rural and rural area, criteria for reducing percent of guarantee, revising loan priority criteria, eligibility issues when an applicant is delinquent on Federal debt, title IX provisions, additional administrative guidance, tightening eligibility criteria for non-bank lenders, removing the need for a Regional Attorney review for transfers and assumptions of existing loans, limiting debt refinancing, limiting packaging fees, adjusting loan priorities, additional application requirements for certain applicants, and various other minor editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard Bonnet, Senior Loan Specialist, Processing Division, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6864/Stop 3221, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1804
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA23

470. AFFIRMATIVE FAIR HOUSING MARKETING PLAN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

CFR Citation: 7 CFR 1703 subpart B; 7 CFR 1942 subpart G; 7 CFR 4284 subpart D; 7 CFR 4287 subpart B; 7 CFR 4279 subpart B; 7 CFR 4274 subpart D

Legal Deadline: None

Abstract: This action will incorporate the requirement for housing-related projects (such as apartment buildings, nursing homes, group homes, and assisted living type facilities) to develop an Affirmative Fair Housing Marketing Plan (plan) when receiving funding from the Intermediary Relending Program, Rural Business Enterprise Grant Program, Rural Business Opportunity Grant Program, Rural Economic Development Loan and Grant Programs, and the Business and Industry Direct and Guaranteed Loan Program. The plan will describe strategies to attract applications from all groups in a housing market area and efforts to reach those persons in the market area who traditionally would not be expected to apply for housing. The Rural Housing Service Multifamily Housing Program regulations currently include this borrower requirement. We estimate this action will impact a total of 100 housing-related projects not previously required to complete a plan.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Lewis, Loan Specialist Servicing Division, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6858/Stop 3224, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 690-0797

RIN: 0570–AA24

471. BUSINESS AND INDUSTRY GUARANTEED LOAN PROGRAM—FINANCING COOPERATIVE STOCK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989; 42 USC 1480; 5 USC 301

CFR Citation: 7 CFR 4279 subpart B; 7 CFR 4279 subpart A

Legal Deadline: None

Abstract: The Agency proposes to revise the Business and Industry Program regulations to incorporate additional guidance and eliminate or reduce certain requirements when financing cooperative stock. It also purposes to develop a streamlined application form when financing working capital, which includes cooperative stock.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
NPRM Comment Period End	07/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Richard Bonnet, Senior Loan Specialist, Processing Division, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6864/Stop 3221, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-1804
Email: rbonnet@rurdev.usda.gov

RIN: 0570–AA26

Department of Agriculture (USDA)
Rural Business-Cooperative Service (RBS) **Final Rule Stage**

472. RURAL BUSINESS OPPORTUNITY GRANTS

Priority: Other Significant

Legal Authority: 7 USC 1989; 7 USC 1926

CFR Citation: 7 CFR 4284; 7 CFR 1951

Legal Deadline: None

Abstract: The Rural Business-Cooperative Service proposes to add a new regulation implementing a grant program to fund local technical assistance and planning activities in rural areas for the purpose of improving economic conditions. Grants will be available to public bodies, nonprofit organizations, Indian tribes, and

USDA—RBS

Final Rule Stage

cooperatives. This action is necessary to comply with Pub. L. 104-127. Grants may be used for technical assistance and training for small businesses, identifying and analyzing business opportunities in rural areas establishing business support centers, conducting local or multi-county economic development planning, coordination of economic development activities, and leadership development training of local government officials.

Timetable:

Action	Date	FR Cite
NPRM	02/03/98	63 FR 5474
NPRM Comment Period End	03/20/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Wayne Stansbery, Loan Specialist, Specialty Lenders Division, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6867/Stop 3225, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-6819
Email: wstansbe@rus.usda.gov

RIN: 0570–AA05

Department of Agriculture (USDA)
Rural Business-Cooperative Service (RBS)

Long-Term Actions

473. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 4279 subpart A; 7 CFR 4279 subpart F; 7 CFR 4287 subpart G

Timetable:

Action	Date	FR Cite
ANPRM	04/09/97	62 FR 17107
ANPRM Comment Period End	05/09/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Brenda Griffin
Phone: 202 720-6802
Email: bgriffin@rurdev.usda.gov

RIN: 0570–AA25

474. RURAL AND RURAL AREA UNDER THE RURAL COMMUNITY ADVANCEMENT PROGRAM

Priority: Other Significant

CFR Citation: 7 CFR 4279; 7 CFR 1980; 7 CFR 1942; 7 CFR 4284

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Local

Agency Contact: Bill Hagy
Phone: 202 720-7287

RIN: 0570–AA27

475. • RURAL BUSINESS ENTERPRISE GRANT PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 U.S.C. 301; 7 U.S.C. 1932; 7 U.S.C. 1989; 16 U.S.C. 1005

CFR Citation: 7 CFR Part 1942; 7 CFR Part 4284

Legal Deadline: None

Abstract: The Agency proposes to rewrite and renumber 7 CFR 1942, subpart G, "Rural Business Enterprise Grant Program to 7 CFR part 4284, subpart B, to incorporate public law changes and clarify administrative regulatory procedures and guidelines in order to improve program administration.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Amy Cavanaugh, Loan Specialist, Department of Agriculture, Rural Business and Cooperative Development Service, Room 6867/Stop 3225, 1400 Independence Ave., SW, Washington, DC 20250-1521
Phone: 202 690-2516
Email: acavanau@rurdev.usda.gov

RIN: 0570–AA28

BILLING CODE 3410–07–F

Department of Agriculture (USDA)
Rural Utilities Service (RUS)

Proposed Rule Stage

476. PRESERVATION OF RECORDS ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq

CFR Citation: 7 CFR 1767 D

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend its regulation by adding a new subpart on Preservation of Records. Current RUS policy on this subject is set forth in RUS Bulletin 180-2, Manual for Preservation of Borrower's Records. In addition to codifying these policies and procedures, revisions are being proposed to the existing policy that will establish the proper record media forms for record retention. Once the final is effective, RUS Bulletin 180-2 will be rescinded.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA92

477. WATER AND WASTE LOAN AND GRANT SERVICING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1782

Legal Deadline: None

Abstract: This proposed action combines the various servicing regulations of the water and waste program into one. The new regulation will codify and clarify RUS policy relating to servicing water and waste loans and grants.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB23

478. TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT, AND CONSTRUCTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) proposes to amend 7 CFR 1755 to include requirements presently contained in RUS Bul. 345-3. This rule would establish and codify provisions for the inclusion and removal for products from I.P. 344-2. This rule also proposes to integrate the existing section on field trials in the procedures for product acceptance and inclusion in this codification, as well as clarifying the reorganizing the field trials section.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB40

479. SEISMIC SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq; 42 USC 7701 et seq; EO 12699

CFR Citation: 7 CFR 1792 C

Legal Deadline: None

Abstract: This revision is being made to update and simplify the requirements of RUS. This revised rule will provide RUS borrowers, grant recipients, RTB borrowers, and the public with updated rules for compliance with seismic safety requirements for new building construction using RUS or RTB loan, grant or guaranteed funds or funds provided through lien accommodations or subordinations approved by RUS or RTB.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB47

USDA—RUS

Proposed Rule Stage

480. REVISION OF RUS TELECOMMUNICATIONS PROGRAM AND RTB LOAN DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 941 et seq; 7 USC 6941 et seq; 7 USC 1921 et seq

CFR Citation: 7 CFR 1610; 7 CFR 1744

Legal Deadline: None

Abstract: As part of the Rural Utilities Service's (RUS) continuing effort to streamline and simplify regulations and to reduce burdens on borrowers, RUS and RTB intend to revise and reform their loan contract and mortgage documents.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB48

Department of Agriculture (USDA)
Rural Utilities Service (RUS)

Final Rule Stage

481. LOAD FORECASTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 to 950(b); PL 99-591

CFR Citation: 7 CFR 1710 E

Legal Deadline: None

Abstract: The Rural Utilities Service (RUS) is proposing to amend its regulations to revise requirements for borrowers load forecasts (previously referred to as power requirements studies) and load forecast work plans. The proposed changes would reduce the level of detail required in load forecasts filed by smaller power supply borrowers and their members and by distribution borrowers unaffiliated with a large power supply borrower.

Timetable:

Action	Date	FR Cite
NPRM	07/07/99	64 FR 36609
NPRM Comment Period End	09/07/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB05

482. SPECIAL EQUIPMENT CONTRACT (INCLUDING INSTALLATION)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 901 et seq, 1921 et seq, 6941 et seq

CFR Citation: 7 CFR 1755.397

Legal Deadline: None

Abstract: RUS is proposing to amend its regulation on RUS Telecommunications Standards and Specifications for Materials, Equipment, and Construction. This action codifies RUS Form 397, Special Equipment Contract (including installation).

Timetable:

Action	Date	FR Cite
NPRM	02/20/98	63 FR 8582
NPRM Comment Period End	04/21/98	
SNPRM	07/06/98	63 FR 36377
SNPRM Comment Period End	09/04/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB35

Department of Agriculture (USDA)
Rural Utilities Service (RUS)

Long-Term Actions

483. ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1728

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA67

484. POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1717, subparts A-F; 7 CFR 1717, subparts J-K

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA71

485. LOAN DOCUMENTS—BANK PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1620

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA76

486. DEPRECIATION RATES AND PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1767 C

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA80

487. USE OF GENERAL FUNDS INVESTMENTS, LOAN GUARANTEES, AND RETIREMENT OF CAPITAL CREDITS BY ELECTRIC BORROWERS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1717 O

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB01

488. RUS APPROVAL OF SALE OF CAPITAL ASSETS BY ELECTRIC BORROWERS

Priority: Other Significant

CFR Citation: 7 CFR 1717 P

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB02

489. COMMUNITY FACILITY LOANS—TIMBER-DEPENDENT COMMUNITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 7 CFR 1942 subpart A

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB11

490. SOLID WASTE MANAGEMENT GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart B

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB14

491. TECHNICAL ASSISTANCE AND TRAINING GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1775 subpart A

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB15

492. RUS APPROVAL OF ADDITIONS AND EXTENSIONS TO ELECTRIC PLANTS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1717.603

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB38

493. TELECOMMUNICATIONS SYSTEM CONSTRUCTION CONTRACT AND SPECIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1755

Timetable:

Action	Date	FR Cite
ANPRM	09/16/98	63 FR 49504
ANPRM Comment Period End	12/15/98	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

USDA—RUS

Long-Term Actions

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB41

Department of Agriculture (USDA)
Rural Utilities Service (RUS)

Completed Actions

494. CIVIL RIGHTS POLICIES APPLICABLE TO RUS BORROWERS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1790

Completed:

Reason	Date	FR Cite
Withdrawn	11/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AA75

495. TELECOMMUNICATIONS SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1753

Completed:

Reason	Date	FR Cite
Final Action	04/06/99	64 FR 16602
Final Action Effective	05/06/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB34

496. AMENDING THE RURAL UTILITIES SERVICE WATER AND WASTE PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1780

Completed:

Reason	Date	FR Cite
Final Action	06/04/99	64 FR 29945
Final Action Effective	06/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB44

497. DISTANCE LEARNING AND TELEMEDICINE LOAN AND GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1703 D

Completed:

Reason	Date	FR Cite
Direct Final Rule	03/25/99	64 FR 14355
Final Rule Effective	05/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB45

498. CONSTRUCTION WORK PLANS AND RELATED STUDIES

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 1710 F

Completed:

Reason	Date	FR Cite
Direct Final Rule	06/22/99	64 FR 33176
Final Rule Effective	08/06/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB46

499. • CENTRAL OFFICE EQUIPMENT CONTRACT (NOT INCLUDING INSTALLATION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 901 et seq.; 1921 et seq.; 7941 et seq.

CFR Citation: 7 CFR 1755

Legal Deadline: None

Abstract: RUS is amending its regulations on Telecommunications Standards and Specifications for Materials, Equipment, and Construction to revise RUS Form 545, Central Office Equipment Construction (Not Including Installation). RUS is revising this contract form in order to incorporate contractual and technological changes.

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68406
NPRM Comment Period End	02/09/99	
Final Action	10/05/99	64 FR 53886
Final Action Effective	11/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: F. Lamont Heppe Jr., Director, Program Development & Reg Analysis, Department of Agriculture, Rural Electrification Administration, Room 4034, South Building, 1400 Independence Avenue SW, Washington, DC 20250-1522
Phone: 202 720-9550
Fax: 202 720-4120

RIN: 0572–AB50

BILLING CODE 3410–15–F

Department of Agriculture (USDA)
Natural Resources Conservation Service (NRCS)

Proposed Rule Stage

500. • CONSERVATION OF PRIVATE GRAZING LAND

Priority: Other Significant

Legal Authority: 16 USC 2005b

CFR Citation: 7 CFR 610

Legal Deadline: None

Abstract: Private grazing land constitutes nearly one-half of the non-federal land of the United States and is basic to environmental, social, and economic stability of rural areas. In fact, grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water for all of the many uses in the watershed. Congress recognized the importance of grazing lands in Subtitle H, Section 386 of the Federal Agriculture Improvement and Reform Act of 1996 by authorizing the Secretary to provide a coordinated technical, educational and related assistance program to conserve and enhance private grazing lands.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, National Resources Conservation Service, P.O. Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
Phone: 202 720-0450
Email: peggy.willis@usda.gov

RIN: 0578–AA29

Department of Agriculture (USDA)
Natural Resources Conservation Service (NRCS)

Final Rule Stage

501. HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION

Priority: Other Significant

Legal Authority: 16 USC 3801 et seq

CFR Citation: 7 CFR 12

Legal Deadline: NPRM, Statutory, July 3, 1996.

Abstract: Soil erosion and its results, including damage to water quality and air quality, loss of productive capacity of the land, and offsite damages, is caused in part by inadequate or inappropriate systems. Loss of wetlands due to conversion for agricultural production destroys wildlife habitat, reduces the lands ability to slow runoff, and affects water quality and quantity. The 1985 Food Security Act required producers who farm highly erodible land to do so by using a conservation system that controls erosion at an acceptable amount and requires producers to not convert and produce crops on the areas, in order to remain eligible for most USDA program benefits. This act gave producers a major incentive to conserve wetlands and to install conservation practices on the country's most fragile lands. The 1996 Farm Bill refines these requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47019
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, National Resources Conservation Service, P.O. Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
Phone: 202 720-0450
Email: peggy.willis@usda.gov

RIN: 0578–AA17

502. FORESTRY INCENTIVES PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 2103

CFR Citation: 7 CFR 635

Legal Deadline: None

Abstract: The Forestry Incentives Program (FIP) supports good forest management practices on privately owned, non-industrial forest lands nationwide. FIP is designed to benefit the environment while meeting future demands for wood products. The Cooperative Forestry Assistance Act of 1978, as amended by Public Law 95-313 is the source of authority for FIP. FIP was reauthorized for fiscal year 2002 by Public Law 104-127. The interim rule sets forth FIP policies and procedures.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, National Resources Conservation Service, P.O. Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
Phone: 202 720-0450
Email: peggy.willis@usda.gov

RIN: 0578–AA26

503. WETLAND CATEGORICAL MINIMAL EFFECTS EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3801 et seq

CFR Citation: 7 CFR 12

Legal Deadline: None

Abstract: The 1985 Farm Bill , as amended, gives producers a major incentive to conserve wetlands by tying eligibility for most USDA program benefits to conservation of wetlands. However, producers can convert wetlands based on available exemptions, including a minimal effect exemption. A minimal effect applies if the action, individually and cumulatively, will have minimal effect on the functional hydrological and biological value of the wetlands in the area. A categorical minimal effect is one that, when carried out, will always have a minimal effect on the hydrologic and biological functions of wetlands in the area. These activities will be identified on a regional basis.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

USDA—NRCS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis, Regulatory Liaison, Department of Agriculture, National Resources Conservation Service, P.O. Box 2890, Cotton Annex Mezz 1, Washington, DC 20013
Phone: 202 720-0450
Email: peggy.willis@usda.gov

RIN: 0578–AA27

Department of Agriculture (USDA)
Natural Resources Conservation Service (NRCS)

Completed Actions

504. 7 CFR PART 610 TECHNICAL ASSISTANCE

Priority: Other Significant

CFR Citation: 7 CFR 610

Completed:

Reason	Date	FR Cite
Final Action	08/03/99	64 FR 41999

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peggy Willis
Phone: 202 720-0450
Email: peggy.willis@usda.gov

RIN: 0578–AA22

BILLING CODE 3410–16–F

Department of Agriculture (USDA)
Office of Procurement and Property Management (OPPM)

Proposed Rule Stage

505. AGRICULTURE ACQUISITION REGULATION (AGAR); CONTRACTOR EMPLOYMENT OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 422; 48 CFR 452

Legal Deadline: None

Abstract: USDA proposes to add clauses to the AGAR to inform offerors and contractors for forestry service contracts about immigration and labor laws applicable to employment of migrant and seasonal agricultural workers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph J. Daragan, Procurement Analyst, Department of Agriculture, Office of Operations, Room 1566, South Building, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 720-5729
Email: joseph.daragan@usda.gov

RIN: 0599–AA05

Department of Agriculture (USDA)
Office of Procurement and Property Management (OPPM)

Final Rule Stage

506. DEPARTMENT OF AGRICULTURE PRIORITIES AND ADMINISTRATIVE GUIDELINE FOR DONATION OF EXCESS RESEARCH EQUIPMENT

Priority: Info./Admin./Other

Legal Authority: PL 102-45; EO 12999

CFR Citation: 7 CFR 2812

Legal Deadline: None

Abstract: The Office of Procurement and Property Management of the Department of Agriculture proposed to amend its procedures for the donation of excess research equipment for technical and scientific education research activities to educational institutions and nonprofit organizations under section 11(1) of the Stevenson-Wydler Technology Act (15 U.S.C 3710 (I)). This amendment would expand the list of entities eligible to receive such equipment, establish a priority list for eligible entities seeking transfer of such equipment, and clarify administrative rules regarding equipment transfer.

Timetable:

Action	Date	FR Cite
NPRM	07/29/99	64 FR 41049
NPRM Comment Period End	08/30/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Kathleen N. Fay, Property Utilization Specialist, Department of Agriculture, Office of Operations, Room 1520, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720-9779
Email: kathy.fay@usda.gov

RIN: 0599–AA06

507. • AGRICULTURAL ACQUISITION REGULATIONS: REWRITE; CONTRACTING BY NEGOTIATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 401.106; 48 CFR 415 (Revision); 48 CFR 437.204 (New); 48 CFR 452.215

USDA—OPPM **Final Rule Stage**

Legal Deadline: None

Abstract: The Agriculture Acquisition Regulation (AGAR) is being revised and reorganized at part 415, Contracting by Negotiation. The amended part 415 will reflect changes in the content and structure of Federal Acquisition part 15, Contracting by Negotiation.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Joseph J. Daragan, Procurement Analyst, Department of Agriculture, Office of Operations, Room 1566, South Building, 14th and Independence Avenue SW, Washington, DC 20250
Phone: 202 720-5729
Email: joseph.daragan@usda.gov

RIN: 0599–AA07

Department of Agriculture (USDA)
Office of Procurement and Property Management (OPPM) **Long-Term Actions**

508. NEW RESTRICTIONS ON LOBBYING

Priority: Substantive, Nonsignificant

CFR Citation: 7 CFR 3018

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Joseph J. Daragan
Phone: 202 720-5729
Email: joseph.daragan@usda.gov

RIN: 0599–AA03

Department of Agriculture (USDA)
Office of Procurement and Property Management (OPPM) **Completed Actions**

509. AGRICULTURE ACQUISITION REGULATION (AGAR); SIMPLIFIED ACQUISITION PROCEDURES

Priority: Info./Admin./Other

CFR Citation: 48 CFR 413; 48 CFR 453

Completed:

Reason	Date	FR Cite
Final Action	08/23/99	64 FR 45894
Final Action Effective	10/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph J. Daragan
Phone: 202 720-5729
Email: joseph.daragan@usda.gov

RIN: 0599–AA04

BILLING CODE 3410–13–F
[FR Doc. 99–27048 Filed 11–19–99; 8:45 am

federal register

Monday,
November 22, 1999

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

October 1999 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866 entitled, "Regulatory Planning and Review" and the Regulatory Flexibility Act, as amended, the Department of Commerce, in April and October of each year, publishes in the Federal Register an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the April 1999 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's October 1999 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 1999, through September 30, 2000.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-3151.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of July 21, 1999, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the October 1999 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in April and October of each year, a regulatory flexibility agenda which contains a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

Department of Commerce's Regulatory Plan

For this edition of the Department of Commerce's agenda, the most significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the Bureau of Export Administration, the International Trade Administration, the National Oceanic and Atmospheric Administration (NOAA), and the Patent and Trademark Office, issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson–Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries which require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing can be conducted in a fishery for which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The DOC October 1999 regulatory agenda follows.

Kathryn R. Lunney,
Deputy General Counsel.

Sequence Number
510
Sequence Number
511
Sequence Number
512
513
Sequence Number
514
Sequence Number
515
516
517
518
519
Sequence Number
520
521
522

VOL 64 ISS 224 NO 22 1999 UMI

DOC

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
510	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	0690-AA28

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
511	Standards of Ethical Conduct—Department of Commerce Supplemental Regulations	0690-AA23

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
512	Benchmark Survey of U.S. Direct Investment Abroad—1999	0691-AA36
513	Change in Reporting Requirements for BE-577, Direct Transactions of U.S. Reporter With Foreign Affiliate	0691-AA37

Bureau of Economic Analysis—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
514	Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons—1999	0691-AA35

Bureau of the Census—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
515	Changes to the Foreign Trade Statistical Regulations (FTSR) To Clarify the Definition of Exporter	0607-AA20
516	Special Services and Studies by the Bureau of the Census; General	0607-AA24
517	Furnishing Personal Census Data From Census of Population Schedules; General Requirements	0607-AA25
518	Furnishing Personal Census Data From Census of Population Schedules: General Requirements	0607-AA26
519	Special Services and Studies by the Bureau of the Census; Fee Structure for Age Search and Citizenship Information	0607-AA27

Bureau of the Census—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
520	Reporting Value on Shipper's Export Declaration for Inland Freight and Insurance Charges	0607-AA29
521	Reporting the Value of Repairs and Replacement Parts on the Shipper's Export Declaration	0607-AA30
522	Notation of the Shipper's Export Declaration Filing Exemption Statement on Manifest Documents	0607-AA31

DOC

Bureau of the Census—Completed Actions

Sequence Number	Title	Regulation Identification Number
523	Amendment to the Foreign Trade Statistical Regulations: Provisions for Filing Shippers Export Data Electronically Using the Automated Export System (AES)	0607-AA19
524	New Canadian Province Import Codes for Territory of Nunavut	0607-AA32

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
525	Regulations To Implement the Economic Development Administration Reform Act of 1998	0610-AA56
526	Civil Rights Guidelines	0610-AA59
527	Economic Adjustment Program—Revolving Loan Fund (FLF) Grants	0610-AA62

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
528	Public Information, Freedom of Information and Privacy	0605-AA14

General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
529	Uniform Administrative Requirement for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofits and Commercial Organizations	0605-AA09

General Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
530	Solicitation Provisions and Contract Causes: Women-Owned Small Business Sources	0605-AA13
531	Agency-Level Protest Procedures—Level Above the Contracting Officer	0605-AA15

International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
532	External Production Incentives Benefits to Jewelry Manufacturers in the U.S. Insular Possessions	0625-AA55

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
533	Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders	0625-AA51

VOL 64 ISS 224 NO 22 1999 UMI

Sequence Number
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559

DOC

International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
534	Export Trade Certificates of Review (15 CFR 325)	0625-AA52

International Trade Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
535	Revocation of Orders Based on Absence of Dumping; DRAMS WTO Decision	0625-AA54
536	Critical Circumstances, Timing of a Preliminary Finding	0625-AA56

Bureau of Export Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
537	Export of Technology and Software Through Electronic Transmissions, Downloads, and Programmed Onto Hardware	0694-AB97

Bureau of Export Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
538	Revisions to the Export Administration Regulations: Parties to a Transaction and their Responsibilities, Routed Export Transactions, Shipper's Export Declarations, and Export Clearance	0694-AB88
539	Revisions to the North Korean Embargo Policy	0694-AC10

Bureau of Export Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
540	Chemical Weapons Convention Regulations **(Reg Plan Seq. No. 18)**	0694-AB06
541	Change the Commerce Control List To Revise Controls on Communication Intercepting Devices (Export Commerce Control Number ECCN 5A980)	0694-AB41
542	Revisions to EAR as a Result of the Addition of Brazil, Ukraine, and Latvia to the Nuclear Suppliers Group	0694-AB50
543	Revisions to Commerce Control List: Addition of Technology and Software Controls for Certain Crime Control Commodities	0694-AB53
544	Revisions to the Export Administration Regulations; Additions to the Entity List	0694-AB60
545	Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations	0694-AB67
546	Exports of Firearms, Ammunition, Explosives, and Other Related Materials: Implementation of Firearms Convention	0694-AB68
547	Clarification of Reporting Requirements Under the Wassenaar Arrangement	0694-AB72
548	Exports and Reexports of Commercial Charges and Devices Containing Energetic Materials	0694-AB79
549	Revisions to the Commerce Control List; Medical Products Containing Biological Agents	0694-AB85
550	Revisions to the Commerce Control List Based on Wassenaar Arrangement Review	0694-AB86
551	Exports and Reexports of Explosive Detection Systems; Expansion of Foreign Policy Controls	0694-AB87
552	Exports to Kosovo	0694-AB99
553	License Exceptions LVS and APR for High Performance Computers; Revisions to ECCN 4A003	0694-AC01
554	Editorial Clarifications and Revisions to the Export Administration Regulations	0694-AC02
555	Definition Harmonization	0694-AC03
556	Rewrite of Support Documents section in 748 and other editorial changes.	0694-AC04
557	Exports and Reexports to Sudan	0694-AC05
558	Anti-terrorism Controls on Iraq	0694-AC06
559	Effect of Imported Articles on the National Security	0694-AC07

DOC

Bureau of Export Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
560	Revisions to the Commerce Control List: Clarifications of Missile Technology and Nuclear Non-proliferation Controls for Export Control Classification Number 2B009	0694-AC08
561	Exports to the Government of Serbia	0694-AC09
562	Revisions to Encryption Items	0694-AC11

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Export Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
563	Revision of Foreign Boycott Provisions of Export Administration Regulations	0694-AA11
564	Transfer of Dual-Use Items From U.S. Munitions List to the Commerce Control List	0694-AA52
565	Clarification of Enhanced Proliferation Control Initiative (EPCI) "Catch-All" Provision and Validated License Requirements	0694-AB10
566	Administration of State Log Exports Ban	0694-AB25
567	Libya: Expansion of Foreign Policy Controls	0694-AB28
568	Clarification of License Exception GFT (Humanitarian Donations)	0694-AB49
569	Exports of Technology and Software; Release of Technology or Source Code to Foreign Nationals in the United States	0694-AB59
570	De Minimis Exclusion for Technology and Software	0694-AB62
571	India and Pakistan Sanctions	0694-AB73
572	Revisions to the Export Administration Regulations; Country Groups D:1 and E.2; License Exception TMP	0694-AB76
573	Expansion of License Exception CIV Eligibility for "Microprocessors" Controlled by ECCN 3A001	0694-AB90

Bureau of Export Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
574	Licensing of, and Expansion of National Security and Foreign Policy Controls on, Recoverable Encryption Software	0694-AB47
575	Revisions to the Commerce Control List: Changes in Missile Technology Controls	0694-AB75
576	Revisions and Clarifications to the Export Administration Regulations; Commerce Control List	0694-AB77
577	Encryption Items	0694-AB80
578	Editorial Clarification and Revision to the Export Administration Regulations (EAR)	0694-AB81
579	Removal of Commercial Communications Satellites and Related Items From the Department of Commerce's Commerce Control List for Transfer to the Department of State's U.S. Munitions List	0694-AB84
580	Addition of Macau to Export Administration Regulations	0694-AB89
581	Exports to Serbia	0694-AB91
582	Exports and Reexports for Syrian Civilian Passenger Aircraft Safety of Flight	0694-AB92
583	Exports to Cuba	0694-AB93
584	Reexports of U.S.-Origin Aircraft to Libya	0694-AB94
585	Revision of High Performance Computer Licensing Policy	0694-AB96

National Institute of Standards & Technology—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
586	Implementation of the Fastener Quality Act	0693-AB47
587	Guidance on Federal Conformity Assessment Activities	0693-AB49

VOL 64 ISS 224 NO 22 1999 UMI

DOC

National Institute of Standards & Technology—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
588	National Type Evaluation Program	0693-AB45
589	NIST Traceable Reference Materials Program	0693-AB46

National Oceanic and Atmospheric Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
590	Notice of Control Date for the Atlantic Herring Fishery.	0648-AM86
591	Fisheries of the Northeastern United States; Northeast Multispecies and Atlantic Sea Scallop Fishery Management Plans; Control Date for Capacity and Latent Effort	0648-AM99
592	Rulemaking for the Incidental Taking of Marine Mammals During World-wide Deployment of the U.S. Navy's Low Frequency Active Sonar	0648-AM62
593	North Atlantic Whale Protection	0648-AM85

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
594	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish	0648-AE01
595	Fishery Management Plan for Tilefish	0648-AF87
596	Amendment 3 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands	0648-AG87
597	Amendment 1 to the Fishery Management Plan for Atlantic Bluefish	0648-AH63
598	Amendment to the Observer Program	0648-AI69
599	Fishery Management Plan for the Atlantic Herring Fishery	0648-AI78
600	Regulatory Amendment to Establish permit and Reporting Requirements for Pelagic Troll and Handline Vessels Fishing off Pacific Remote Islands of the United States	0648-AJ08
601	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl	0648-AJ22
602	Regulatory Amendment To Establish a Program for the Collection and Use of Fees in the Individual Fishing Quota Program	0648-AJ52
603	Amend the Foreign Fishing Regulations to Implement the Provisions of a Pacific Insular Area Fishery Agreement	0648-AJ60
604	Establish "Central Registry for Limited Access System Permits"	0648-AJ77
605	Regulatory Amendment To Change Membership Requirements for the Regional Fishery Management Councils	0648-AJ82
606	Adjustment of Management Program for Pelagic Species Fisheries in the Western Pacific	0648-AK11
607	Adjustment of the Management Program for Precious Corals Fisheries in the Western Pacific	0648-AK23
608	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish	0648-AK26
609	Amendment to Portions of Individual Fishing Quota Program Regulations	0648-AK50
610	Amendment 54 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 54 to FMP for Groundfish of Gulf of Alaska	0648-AK70
611	Amendment 59 to the Fishery Management Plan for Groundfish in the Gulf of Alaska To Close an Area	0648-AK74
612	Fishing Capacity Reduction Program	0648-AK76
613	Rule To Implement Amendment 9 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries	0648-AK80
614	Adjustment of Management Program: Bottomfish Fisheries in the Hawaiian Islands	0648-AK82
615	Revise Exempted Fishing Regulations To Specify Compensatory Fishing Under Exempted Fishing	0648-AK84
616	Amendment 9 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AK89
617	Amendment 17 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK96
618	Regulatory Amendment To Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear	0648-AL12
619	Amendment 12 to the Fishery Management Plan for the Northeast Multispecies Fishery	0648-AL27
620	Amendment 57 to the Fishery Management Plan for Groundfish in the BSAI Prohibiting Directed Fishing for Pollock With Bottom Trawl Gear	0648-AL30

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
621	Regulatory Amendment To Prohibit Fishing by Vessels Over 50 Feet from Fishing for Pelagic Management Unit Species Within 50 Nautical Miles of American Samoa	0648-AL41
622	Proposed Guidelines for Defining Serious Injury; Request for Comments	0648-AL44
623	Regulatory Amendment To Allow "Stacking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries	0648-AL50
624	Amendment 14 to the Pacific Coast Salmon Plan	0648-AL51
625	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet	0648-AL66
626	Adjustment of Management Program: Crustacean Fisheries in the Western Pacific	0648-AL67
627	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits	0648-AL68
628	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries	0648-AL69
629	Regulatory Amendment To Establish Program for Collection and Use of Fees in Community Development Quota Program	0648-AL71
630	Recreational Measures for 1999 Summer Flounder, Scup, and Black Sea Bass Fisheries	0648-AL75
631	Fishery Management Plan (FMP) for Calico Scallop Fishery in the South Atlantic Region	0648-AL78
632	Generic Sustainable Fisheries Act Amendment (SFA) to the FMPs for the Gulf of Mexico Addressing Requirements Regarding Overfishing, Bycatch, Fishing Communities, and other SFA Provisions	0648-AL81
633	Comprehensive Amendment Addressing Sustainable Fisheries Act Requirements Regarding Overfishing, Bycatch, Fishing Communities and Provisions for Fishery Management Plans for the Caribbean	0648-AL86
634	Regulatory Amendment to the Alaska Groundfish Regulations Pertaining to Scales Performance Criteria	0648-AL88
635	Amendments to the Alaska Groundfish and Crab FMPs to revise the License Limitation Program	0648-AL95
636	Regulatory Amendment To Reinstate 6000 Pound Trip Limit of Halibut in Area Northeast of the Bering Sea	0648-AL97
637	Definition of Overfishing for Salmon Fisheries Off Alaska	0648-AL98
638	Amendments to Alaska Groundfish, Crab, and Scallop FMPs to Implement the American Fisheries Act	0648-AL99
639	Regulatory Amendment To Establish Total Allowable Catch Limits for the Gulf Groups of King and Spanish Mackerel for the 1999-2000 Fishing Year	0648-AM01
640	Regulatory Amendment under the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico to Establish Red Snapper TAC and Associated Management Measures for 2000	0648-AM04
641	Fishery Management Plan Amendment To Revise CDQ Regulations	0648-AM07
642	Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region	0648-AM15
643	Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	0648-AM23
644	Adjustment of Management Program; Crustacean Fisheries of the Hawaiian Islands	0648-AM26
645	List of Fisheries for 2000	0648-AM28
646	Fishery Management Plan Amendment to Rebuild C. Bairdi Stocks	0648-AM29
647	Enhanced Measures To Mitigate Seabird Bycatch in the Alaska Hook-and-Line Fisheries	0648-AM30
648	Revisions to the License Limitation Program for the Commercial Crab Fisheries of the BSAI	0648-AM31
649	Steller Sea Lion Conservation Measures for the BSAI and GOA Pollock Fisheries	0648-AM32
650	PR/FR Vessel Monitoring System for Aleutian Island Atka Mackerel Fishery	0648-AM34
651	Alaska Groundfish Fishery Management Plan Amendment To Revise Improved Retention/Improved Utilization Program (IR/IU)	0648-AM39
652	Alaska Groundfish License Limitation Program Amendments	0648-AM40
653	Scallop License Limitation Program	0648-AM42
654	Recordkeeping and Reporting Requirements for 2000	0648-AM43
655	Regulatory Amendment To Change the Regulations Implementing the North Pacific Observer Program	0648-AM44
656	Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2000	0648-AM46
657	Quotas for the Atlantic Bluefish Fishery for Fishing Year 2000	0648-AM47
658	Specifications for the Summer Flounder, Scup, and Black Sea Bass Fisheries for Fishing Year 2000	0648-AM48
659	Initial Specifications for the Atlantic Mackerel, Squid, and Butterfish Fisheries for Fishing Year 2000	0648-AM49
660	Fishing Quotas for Fishing Year 2000 for Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AM50
661	FMP Amendment 53 to Require Full Retention of Demersal Shelf Rockfish	0648-AM51
662	Rulemaking to Announce the Annual 2000 Management Measures for Pacific Halibut Fisheries Under the International Pacific Halibut Commission.	0648-AM52
663	Established Control Date for the Commercial Gillnet Fishery for Atlantic Group King Mackerel North of Cape Lookout, NC.	0648-AM60
664	BSAI FMP Amendment 58	0648-AM63
665	Regulatory Amendment to Adjust Halibut Bycatch Accounting for Yellowfin Sole Fishery.	0648-AM64
666	Establishment of Control Date for the Dolphin and Wahoo Commercial Fisheries in the South Atlantic EEZ	0648-AM67

DOC

Sequence Number
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710

References

DOC

National Oceanic and Atmospheric Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
667	Regulatory Amendment under the Fishery management Plan for the Reef Fish Resources of the Gulf of Mexico to Establish Management Measures for Gag and Black Grouper	0648-AM70
668	Modify Dealer and Vessel Reports Requirements	0648-AM74
669	Amendment 12 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic	0648-AM75
670	Halibut Bycatch Accounting for the Yellowfin Sole	0648-AM76
671	Highly Migratory Species Fisheries; Time Area Closure of Pelagic Longline Fishery to Protect Small Swordfish	0648-AM79
672	Measures for the Pollock Fishery of the Bering Sea and Aleutian Islands to comply with the American Fisheries Act	0648-AM83
673	Framework Regulatory Amendment for the Atlantic Highly Migratory Species (HMS) Fisheries	0648-AM91
674	Resubmission of a Previously Disapproved Measure (Greater Amberjack Trip Limit) Originally Contained in Amendment 9 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region	0648-AM93
675	Amendment 62 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area and Amendment 62 to the FMP for the Groundfish of the Gulf of Alaska	0648-AM94
676	Simplification of Capital Construction Fund rules.	0648-AM95
677	Implementation of Western Pacific Community Development Program	0648-AM96
678	Implementation of Western Pacific Coral Reef Ecosystem Fishery Management Plan (FMP)	0648-AM97
679	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific.	0648-AM98
680	Prohibit Use of Set Net Gear to Harvest Groundfish in Certain Portions of the Exclusive Economic Zone Waters Seaward of California	0648-AN03
681	1999 Quotas for the Purse Seine Fisheries in the Eastern Pacific Ocean	0648-AN04
682	Atlantic Highly Migratory Species Fisheries; Minimum Size Adjustments for Atlantic Billfish	0648-AN06
683	Regulatory Amendment to Establish Total Allowable Catch Limits for the Atlantic Groups of King and Spanish Mackerel for the 1999-2000 Fishing Year	0648-AN07
684	Amendment 18 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AN09
685	Annual Specifications for Fishing Year 2000 for Atlantic Herring.	0648-AN11
686	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan	0648-AN12
687	Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan	0648-AN16
688	Amendment 13 to the Northeast Multispecies Fishery Management Plan	0648-AN17
689	Amendment 1 to the Atlantic Herring Fishery Management Plan	0648-AN19
690	Amendment 14 to the Northeast Multispecies Fishery Management Plan	0648-AN20
691	Regulatory Amendment to Clarify the Alaska Groundfish Individual Fishing Quota program Appeals Regulations	0648-AN21
692	Regulatory Amendment to Implement an Observer Program for Vessels Delivering Shore-side; Pacific Coast Groundfish	0648-AN27
693	Limitation on Section 9 Protections Applicable to Salmon Listed as Threatened under the Endangered Species Act, for Actions Under Tribal Resource Management Plans (Tribal Plans)	0648-AG15
694	Proposed Rule To Provide Regulations for Permits for Capture, Transport, Import and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648-AH26
695	Proposed Rule Governing the Issuance of Permits for Marine Mammal Photography	0648-AH31
696	Amend Regulations Governing the Taking and Importing of Marine Mammals	0648-AH83
697	Endangered and Threatened Species: Proposed Rule Governing Take of West Coast Steelhead	0648-AK94
698	Section 4(d) of ESA Protective Regulations for Johnson Seagrass, a Threatened Species	0648-AL59
699	Determination of Critical Habitat for Johnson's Seagrass	0648-AL82
700	Draft Policy for Evaluation of Conservation Efforts in Making Listing Decisions	0648-AL91
701	Rulemaking for the Taking of Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Platforms in the U.S. Beaufort Sea	0648-AM09
702	Rule Governing the Take of Seven Threatened Evolutionarily Significant Units (ESUs) of West Coast Salmonids	0648-AM59
703	Designation of the Cook Inlet, Alaska, Stock of Beluga Whale as Depleted Under the Marine Mammal Protection Act (MMPA) and Response to Petitions	0648-AM84
704	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act	0648-AD83
705	Revision of Overflight Regulations	0648-AI91
706	Interagency Consultation for the National Marine Sanctuary Program	0648-AL06
707	Natural Resource Damage Assessment Under the Oil Pollution Act of 1990	0648-AM80
708	Coastal Zone Management Act Consistency Regulations	0648-AM88
709	Licensing of Private Remote-Sensing Satellite Systems **(Reg Plan Seq. No. 19)**	0648-AC64
710	Policies and Procedures Regarding Program Evaluation and Competitive Funding Requirements Within the Office of Oceanic and Atmospheric Research	0648-AL45

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOC

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
711	Amendment 1 to the Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands	0648-AG88
712	Implement Regulations Under ACFCMA To Provide for Coordinated Management of the American Lobster Resource Throughout Its Range, End Overfishing, and Rebuild the American Lobster Stock	0648-AH41
713	Interim Final Rule To Consolidate the Rules for Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic and Stone Crab Fishery of the Gulf of Mexico With 50 CFR 622	0648-AJ28
714	Guidelines for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat	0648-AJ30
715	Implementation of a Fishery Management Plan for Monkfish	0648-AJ44
716	Amendment 16A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AK31
717	Proposed Highly Migratory Species Process	0648-AK40
718	Endangered and Threatened Species: Proposed Endangered Status and Designated Critical Habitat for Coastwide Chum Salmon	0648-AK53
719	Rule To Implement a Fishery Management Plan for the Spiny Dogfish Fishery	0648-AK79
720	Regulatory Amendment To Establish a Sitka Sound Halibut Management Plan	0648-AL18
721	Regulatory Amendment To Revise the Recordkeeping and Reporting Requirements for 1999	0648-AL23
722	Amendment 9 to the Northeast Multispecies FMP To Address New Sustainable Fisheries Act Requirements, and Other Management Measures	0648-AL31
723	Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region	0648-AL42
724	Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region	0648-AL43
725	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan	0648-AL48
726	Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan	0648-AL52
727	Amend 12 Summer Flounder, Scup & Black Sea Bass Fisheries FMP; Amend 8 to FMP for Atlantic Mackerel, Squid & Butterfish; and Amend 12 to FMP for Atlantic Surf Clam and Ocean Quahog Fisheries	0648-AL56
728	Amendment 16B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648-AL57
729	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species	0648-AL65
730	Rule to Prohibit Fishing and Anchoring of Fishing Vessels in the EEZ Seaward of Navassa Island	0648-AL93
731	Amendment To Require a Specific Vessel Name be Included on a License for a Vessel	0648-AL96
732	2000 Harvest Guidelines for the Northwestern Hawaiian Islands Lobster Fishery	0648-AM16
733	Fishing Participation in 1999 in Non-Salmon Fishery	0648-AM18
734	Pacific Coast Groundfish Fishery; Announcement of the 2000 Groundfish Fishery Specifications and Management Measures	0648-AM21
735	Effects of Spotter Aircraft Assistance in Atlantic Bluefin Tuna (BFT) Fishery	0648-AM27
736	Gulf of Alaska Groundfish Regulatory Amendment	0648-AM36
737	Endangered and Threatened Species; Status of Chinook Salmon in Washington, Idaho, Oregon and California and Designation of Critical Habitat	0648-AM54
738	Emergency Interim Rule to Close Red Porgy Fishery of the South Atlantic Region	0648-AM55
739	Interim Final Rule to Revise the List of Gear and Fisheries under Jurisdiction of Each Fishery Management Council or the Secretary of Commerce for Highly Migratory Species	0648-AM56
740	Disaster Assistance Program for the Northeast Multispecies Fishery	0648-AM68
741	Atlantic Bluefin Tuna Fishery Regulatory Adjustment Purse Seine Category Allocation Limit	0648-AM82
742	Interim Final Rule to Implement Interim Measures to Adjust the Gulf of Maine Cod Landing Limit for the Northeast Multispecies Fishery Management Plan (FMP)	0648-AM87
743	Emergency Interim Rule for Restricted Reopening of Limited Access Permit Application Process for Snapper-Grouper Permits in the South Atlantic Region	0648-AM92
744	Atlantic Highly Migratory Species Fisheries; Limited Access Permits	0648-AN05
745	Annual Framework Adjust to the Northeast Multispecies Fishery Management Plan	0648-AN13
746	Framework Adjustment 32 to the Northeast Multispecies Fishery Management Plan	0648-AN14
747	Framework Adjustment 31 to the Northeast Multispecies Fishery Management Plan	0648-AN15
748	Framework Adjustment 12 to the Atlantic Sea Scallop Fishery Management Plan	0648-AN18
749	Designated Critical Habitat; Pacific Steelhead	0648-AG49
750	Final Rule To Establish Guidelines for Nonlethally Deterring Marine Mammals From Endangering Personal Safety or Damaging Public or Private Property	0648-AH19
751	General Authorization for Scientific Research Involving Level B Harassment	0648-AH20
752	Endangered and Threatened Species: Take of Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) Coho Salmon	0648-AJ91

DOC

Sequence Number
753
754
755
756
757
758
759
760
761
762
763
764

Sequence Number
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794

VOL 64 ISS 224 NOV 22 1999 UMI

DOC

National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
753	Endangered and Threatened Species: Proposed Threatened Status and Designated Critical Habitat for West Coast Sockeye Salmon	0648-AK52
754	Definition of Harm Under the ESA	0648-AK55
755	Sea Turtle Conservation; Shrimp Trawling Requirements	0648-AK66
756	Pacific Offshore Cetacean Take Reduction Plan	0648-AL70
757	Redesignation of Critical Habitat for Snake River Spring/Summer Chinook	0648-AM41
758	Marketing and Reporting Beluga Whales	0648-AM57
759	Designate Critical Habitat	0648-AM58
760	Sea Turtle Conservation Regulations; Summer Flounder Fishery	0648-AM89
761	Thunder Bay National Marine Sanctuary	0648-AE41
762	Operations of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary	0648-AK01
763	Olympic Coast National Marine Sanctuary—Addition of Definition for Seabirds	0648-AL09
764	NOAA Procedures for Implementing the National Environmental Policy Act	0648-AL58

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
765	General Provisions for Domestic Fisheries—Standard Definitions	0648-AG46
766	Regulatory Amendment To Require Electronic Submission by Alaska Groundfish Processors of Weekly Production Reports and Check In/Out Reports	0648-AI66
767	Regulatory Amendment To Revise the Product Recovery Rate Codes for Certain Alaska Groundfish Products	0648-AI87
768	Regulatory Amendment To Implement Bycatch Reduction Measures	0648-AJ47
769	Implementation of Data Collection and Reporting Requirements to the Fishery Management Plan for the American Lobster Fishery	0648-AJ75
770	Rulemaking To Establish the North Pacific Loan Program	0648-AK07
771	Regulatory Amendment To Develop a C. Bairdi Vessel Incentive Program	0648-AK08
772	Regulatory Amendment To Allocate Pacific Halibut to the Halibut Subsistence Fishery	0648-AK16
773	Regulatory Amendment To Allocate Pacific Halibut to the Charter Boat Fleet	0648-AK17
774	Amendment 52 to FMP for Groundfish Fishery of Bering Sea and Aleutian Islands Area and Amendment 52 to FMP for Groundfish of Gulf of Alaska	0648-AK73
775	Observer Funding Policy	0648-AL08
776	Crab Community Development Quota Reserves	0648-AL92
777	Fishery Management Plan Amendments to Establish Permit Moratoria in the Recreational-for-Hire Sectors in the Gulf of Mexico Coastal Migratory Pelagics and Reef Fish Fisheries	0648-AM03
778	Observation Coverage Multispecies Groundfish	0648-AM53
779	BSAI FMP Amendment 66	0648-AM72
780	Endangered and Threatened Species: Listing Status and Designation of Critical Habitat for White Abalone	0648-AM90
781	Recordkeeping and Reporting Requirement Revisions to the Alaska Groundfish Fisheries Alaska Commercial Operator's Annual Report (ACOAR)	0648-AN01
782	Amendment 7 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic	0648-AN08
783	Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico	0648-AN10
784	Recordkeeping and Reporting Requirement Revisions to the Alaska Groundfish Fisheries Logbooks	0648-AN22
785	Regulatory Amendment to Redefine Vessel Length Overall	0648-AN23
786	Amendment 63 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area and Management 63 to the FMP for the Groundfish of the Gulf of Alaska	0648-AN24
787	Amendment 64 to the FMP for the Groundfish Fishery of the Bering Sea	0648-AN25
788	Amendments to Alaska FMPs for Groundfish, Crab, and Scallop to Reduce Halibut Mortality	0648-AN26
789	Sea Turtle Monitoring and Conservation Measures for Nonshrimp Fisheries	0648-AE54
790	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba	0648-AF32
791	Taking of Marine Mammals Incidental to Fisheries-Related Research	0648-AF50
792	Proposed Rule To Authorize Lethal Takings of Marine Mammals by State Authorities	0648-AG79
793	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238	0648-AG80
794	North Atlantic Right Whale Protection; Interim Final Rule	0648-AH47

DOC

National Oceanic and Atmospheric Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
795	Implementation of 1997 MMPA Amendments Affecting Yellowfin Tuna Purse Seine Fishing in the Eastern Tropical Pacific	0648-AI85
796	Monterey Bay National Marine Sanctuary—Minor Boundary Revision	0648-AL07
797	Regional Marine Research Program	0648-AF20
798	National Undersea Research Program Funding Regulations	0648-AH90

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
799	Regulatory Amendment To Impose Restrictions on Fishing Black Rockfish Off Oregon	0648-AG81
800	Regulatory Amendment for Managing Pelagic Fisheries by U.S. Vessels Beyond EEZ Throughout Pacific	0648-AG85
801	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ	0648-AJ21
802	Fishery Management Plan (FMP) for Atlantic Highly Migratory Species, Amendment 1 to the Billfish FMP and Consolidation of Regulations	0648-AJ67
803	Rule To Implement Procedures for Issuance of Permits Under Section 204(d) of the Magnuson-Stevens Fishery Conservation and Management Act	0648-AJ70
804	Final Definition of the Zero Mortality Rate Goal	0648-AJ84
805	Regulatory Amendment To Specify Minimal Vessel Ownership Requirements for the Hired Skipper Provision in the IFQ Fisheries	0648-AK20
806	Implementation of Amendment 5 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region	0648-AK21
807	Additional Measures of Amendment 2 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic—Procedures for Testing and Certification of Bycatch Reduction Devices (BRDS)	0648-AK29
808	Regulatory Amendment for a Bycatch Reduction Device (BRD) Testing and Certification Protocol Under Amendment 9 to the FMP for the Shrimp Fishery of the Gulf of Mexico	0648-AK32
809	Western Pacific Crustacean Fisheries; Bank-Specific Harvest Guidelines	0648-AK61
810	Regulatory Amendment To Establish Application Period for License Limitation Program	0648-AK69
811	Amendment 13 to the Pacific Coast Salmon Plan	0648-AK83
812	VMS Pilot Program for Atlantic Swordfish	0648-AK90
813	Amend the Bluefin Statistical Document To Allow for the Attachment of Re-export Certificates	0648-AL02
814	Fishery Disaster Relief	0648-AL13
815	Amendment 48 to the BSAI FMP and Amendment 48 to the GOA FMP - Streamline Annual Specification Process	0648-AL19
816	Regulatory Amendment to the Halibut Community Development Quota Program - Definition of Management Measures	0648-AL21
817	Management of U.S. Purse Seine Fishery in the Eastern Pacific Ocean	0648-AL28
818	Vessel Permit Consistency Amendment	0648-AL36
819	Atlantic Sturgeon EEZ Regulations	0648-AL38
820	BSAI/GOA/KTC/Scallop Fishery Management Plan (FMP) Amendments 55/55/8/5 Essential Fish Habitat Definitions	0648-AL40
821	Implementation of Amendments to Four Western Pacific Fishery Management Plans To Address New Requirements of the Magnuson-Stevens Fishery Conservation and Management Act	0648-AL49
822	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries	0648-AL62
823	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California	0648-AL64
824	Framework 27 To Implement Annual Management Measures for Northeast Multispecies Fishery Management Plan	0648-AL72
825	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf of Mexico Groups of King and Spanish Mackerel for the 1998-99 Fishing Year	0648-AL80
826	FMP Amendment for the Commercial King and Tanner Crab Fisheries of the BSAI and Scallop Fisheries Off Alaska	0648-AL89
827	Regulatory Amendment To Adjust the Gulf of Mexico Red Snapper TAC and Associated Management Measures Under the Framework Procedure of the FMP for the Reef Fish Resources of the Gulf of Mexico	0648-AL94
828	Amendment to Individual Fishing Quota Survivorship Provision	0648-AM00
829	Framework Adjustment 28 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) To Provide Consistency Between the Harbor Porpoise Take Reduction Plan and the FMP	0648-AM10

DOC

Sequence Number
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856

Sequence Number
857

Sequence Number
858

VOL 64 ISS 224 NO 22 1999 UMI

DOC

National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
830	Amendment 1 to the Atlantic Salmon Fishery Management Plan (FMP)	0648-AM13
831	Addendum to Fishery Management Plan for Highly Migratory Species (HMSFMP)	0648-AM17
832	Regulatory Amendment - Pacific Coast Groundfish Fishery; Final 1999 ABC, OY and Tribal and Nontribal Allocations for Pacific Whiting	0648-AM19
833	Northern Anchovy Fishing; Quotas for the 1999 and 2000 Fishing Year (Annual Specifications)	0648-AM20
834	Fleet Capacity Limits for U.S. Purse Seine Fishery in the Eastern Pacific Ocean	0648-AM22
835	Framework Adjustments to the Northeast Multispecies and Atlantic Sea Scallop FMPs to Allow Controlled Access to the Georges Bank Closed Areas by Scallop Vessels	0648-AM24
836	Framework Adjustment to the Fishery Management Plan for the Atlantic Sea Scallops To Allow Controlled Access to the Georges Bank Groundfish Closed Areas by Scallop Vessels	0648-AM25
837	Emergency Rule for Steller Sea Lion Conservation Measures for BSAI and GOA Pollock Fisheries During Second Half of 1999	0648-AM33
838	Revise BSAI Bycatch Management Program for Chinook Salmon	0648-AM38
839	Candidate Conservation Agreements with Assurances	0648-AM61
840	Framework 30 to the Northeast Multispecies Fishery Managment Plan	0648-AM65
841	Regulatory Amendment under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico to Implement Red Snapper Management Changes	0648-AM66
842	Atlantic Bluefin Tuna; 1999 Deadline for Permit Category Changes	0648-AM69
843	Emergency Interim Rule to Increase the Minimum Size Limit in the Recreational Red Snapper Fishery of the Gulf of Mexico	0648-AM71
844	Extension of Emergency Interim Rule to Implement a 4-fish Recreational Red Snapper Bag Limit in Federal waters of the Gulf of Mexico	0648-AM73
845	Amendment 45 to Extend Allocation of Pollock to the CDQ Program	0648-AM77
846	Determination of State Jurisdiction for Reporting Catch of Atlantic Bluefin Tuna	0648-AM81
847	Performance Standards for Tuna Vessel Operators	0648-AD03
848	Taking and Importing of Marine Mammals; Dolphin Mortality Limits During Purse Seine Sets on Marine Mammals in the Eastern Tropical Pacific	0648-AF07
849	Taking and Importing of Marine Mammals; "Dolphin-Safe" Tuna Labeling	0648-AF08
850	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses	0648-AG35
851	Designated Critical Habitat; Central California Coast and Southern Oregon/Northern California Coast Coho Salmon	0648-AG56
852	Taking and Importing of Marine Mammals: Proposed Rule Prohibiting U.S. Citizens From Encircling Marine Mammals During Tuna Fishing Operations	0648-AH04
853	Final Policies for Safe Harbor and Candidate Conservation Agreements	0648-AJ54
854	Proposed Rule on Taking Marine Mammals Incidental to Power Plant Operations at Seabrook, New Hampshire	0648-AK00
855	Endangered and Threatened Species; Status of Chinook Salmon in Washington, Idaho, Oregon and California	0648-AK02
856	Atlantic Large Whale Take Reduction Plan Regulations	0648-AK41

National Telecommunications and Information Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
857	Improvement of Technical Management of Internet Names and Addresses	0660-AA11

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
858	Changes To Implement the Patent Business Goals	0651-AA98

DOC

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
859	Revision of Patent and Trademark Fees for Fiscal Year 2001	0651-AB01
860	Official Insignia of Native American Tribes: Statutorily Required Study	0651-AB02
861	Clarification of Patent and Trademark Copy Fees	0651-AB08

Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
862	Patent Application Electronic Submission Rules	0651-AA50
863	Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA93
864	Technical Requirements for Registration To Practice Before the PTO in Patent Cases	0651-AA95
865	Consideration of Interlocutory Rulings at Final Hearing in Interference Processings	0651-AB03
866	Changes To Implement Optional Inter Partes Reexamination Proceedings	0651-AB04
867	Changes To Implement Eighteen-Month Publication of Patent Application	0651-AB05
868	Changes To Implement Patent Term Adjustments and Revise Application Examination Practice Under Twenty-Year Patents Term	0651-AB06

Patent and Trademark Office—Completed Actions

Sequence Number	Title	Regulation Identification Number
869	Changes To Implement 18-Month Publication of Patent Applications	0651-AA75
870	Rules of Practice in Patent Cases; Reexamination Proceedings	0651-AA79
871	Trademark Law Treaty Implementation Rules Changes	0651-AB00

Technology Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
872	Promotion of Private Sector Industrial Technology Partnerships	0692-AA13
873	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements	0692-AA14
874	Acquisition and Protection of Foreign Rights in Inventions	0692-AA15
875	Licensing of Government-Owned Inventions	0692-AA17

Department of Commerce (DOC)
Office of the Secretary (OS)

Proposed Rule Stage

510. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: PL 92-318, sec 901 and 902

CFR Citation: 15 CFR 8a

Legal Deadline: None

Abstract: The Department of Commerce plans to join with the Department of Justice and other agencies in a Governmentwide common rule to enforce title IX of the Education Amendments of 1972. The rule will provide guidelines for enforcing nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly H. Walton, Acting Director, Office of Civil Rights,

DOC—OS **Proposed Rule Stage**

Department of Commerce, Office of the Secretary, Room 6010, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-5691
RIN: 0690–AA28

Department of Commerce (DOC)
Office of the Secretary (OS) **Long-Term Actions**

511. STANDARDS OF ETHICAL CONDUCT—DEPARTMENT OF COMMERCE SUPPLEMENTAL REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Maggi
Phone: 202 482-5384

RIN: 0690–AA23

Department of Commerce (DOC)
Bureau of Economic Analysis (BEA) **Proposed Rule Stage**

512. BENCHMARK SURVEY OF U.S. DIRECT INVESTMENT ABROAD—1999

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment and Trade Svcs Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing 15 CFR 806.16 to provide for the conduct of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—1999, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1994 which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rulemaking	09/07/99	64 FR 48568
Notice of Proposed Rulemaking Period End	11/08/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 606-9800
Email: david.belli@bea.doc.gov

RIN: 0691–AA36

513. CHANGE IN REPORTING REQUIREMENTS FOR BE-577, DIRECT TRANSACTIONS OF U.S. REPORTER WITH FOREIGN AFFILIATE

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 806.14 to bring reporting on the BE-577, Direct Transactions of U.S. Reporter With Foreign Affiliate, into conformity with the proposed BE-10, Benchmark Survey of U.S. Direct Investment Abroad - 1999.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rulemaking	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 606-9800
Email: david.belli@bea.doc.gov

RIN: 0691–AA37

Department of Commerce (DOC)
Bureau of Economic Analysis (BEA)

Final Rule Stage

514. BENCHMARK SURVEY OF FINANCIAL SERVICES TRANSACTIONS BETWEEN U.S. FINANCIAL SERVICES PROVIDERS AND UNAFFILIATED FOREIGN PERSONS—1999

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 3101 to 3108 Intl Investment & Trade in Svcs Survey Act

CFR Citation: 15 CFR 801

Legal Deadline: None

Abstract: This action will amend existing rule 15 CFR 801.11 to provide for the conduct of the BE-80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons—1999, as required in the International Investment and Trade in Services Survey Act, 22 USC 3101 to 3108 (see especially section 4(b) of the Act). The existing rule covers a similar survey for 1994, which has been completed and which the new survey will update.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37049
NPRM Comment Period End	09/07/99	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: R. David Belli, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, BE-50, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 606-9800
Email: david.belli@bea.doc.gov

RIN: 0691–AA35

Department of Commerce (DOC)
Bureau of the Census (CENSUS)

Proposed Rule Stage

515. CHANGES TO THE FOREIGN TRADE STATISTICAL REGULATIONS (FTSR) TO CLARIFY THE DEFINITION OF EXPORTER

Priority: Other Significant

Legal Authority: 13 USC 301 to 307

CFR Citation: 15 CFR 30.4; 15 CFR 30.7

Legal Deadline: None

Abstract: The Census Bureau proposes to amend the FTSR definition of exporter for purposes of clarifying responsibility to report trade information. The FTSR also will be amended to reinforce the requirement for filing a power of attorney when an agent acts for an exporter specifying the essential provisions to be included with additional requirements if the exporter does not have a permanent U.S. residence.

Timetable:

Action	Date	FR Cite
NPRM	08/06/98	63 FR 41979
NPRM Comment Period End	10/05/98	
Second NPRM	10/04/99	64 FR 53861

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA20

516. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; GENERAL

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.1(d)

Legal Deadline: None

Abstract: Chapter 1, part 50.1(d) should be amended to read as follows: If a search is unsuccessful and additional information for a further search is requested by the Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA24

517. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES; GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(c)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(c): Change the address from Pittsburg, Kansas 66762 to Jeffersonville, Indiana 47131.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA25

DOC—CENSUS

Proposed Rule Stage

518. FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES: GENERAL REQUIREMENTS

Priority: Info./Admin./Other

Legal Authority: 13 USC 8

CFR Citation: 15 CFR 80.1(g)

Legal Deadline: None

Abstract: Chapter 1, part 80.1(g): The language may be clarified by changing it to read: Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC-600.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA26

519. SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS; FEE STRUCTURE FOR AGE SEARCH AND CITIZENSHIP INFORMATION

Priority: Info./Admin./Other

Legal Authority: 15 USC 1526; 13 USC 8

CFR Citation: 15 CFR 50.5

Legal Deadline: None

Abstract: Chapter 1, part 50.5: the note following the chart of the fee structure can be eliminated since we have not had a fee increase since February 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stanley M. Domzalski, Assistant Chief (Services), National Processing Center, Department of Commerce, Bureau of the Census, 1201 East 10th Street, Jeffersonville, IN 47132
Phone: 812 218-3579
Fax: 812 218-3293

RIN: 0607–AA27

Department of Commerce (DOC)
Bureau of the Census (CENSUS)

Final Rule Stage

520. REPORTING VALUE ON SHIPPER'S EXPORT DECLARATION FOR INLAND FREIGHT AND INSURANCE CHARGES

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.7(q)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify the provisions for reporting the value of merchandise on the Shipper's Export Declaration (SED) when the inland and freight and insurance charges are not known. Current provisions define the value to be reported on the SED as the value at the U.S. port of export including inland freight and insurance charges. In situations where inland freight and insurance charges are not known the Census Bureau will require that the exporter add 3 percent of the value of the commodity to the value to determine the total value to be reported on the SED.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA29

521. REPORTING THE VALUE OF REPAIRS AND REPLACEMENT PARTS ON THE SHIPPER'S EXPORT DECLARATION

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.30(c)

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations to clarify provisions for reporting the value of exports that were previously imported for repairs or alterations, and the value of replacement parts. This amendment will clarify provisions for reporting the cost of repairs and/or alterations and reporting the value of replacement parts on the Shipper's Export Declaration.

Timetable:

Action	Date	FR Cite
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA30

522. NOTATION OF THE SHIPPER'S EXPORT DECLARATION FILING EXEMPTION STATEMENT ON MANIFEST DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 and 302

CFR Citation: 15 CFR 30.50

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations (FTSR) to clarify provisions for notating the Shipper's Export Declaration (SED) filing exemption statement on the bill of lading, air waybill, or other loading document for

DOC—CENSUS **Final Rule Stage**

carrier use, in all cases, when an SED is not required to be filed. This amendment will require the exporter to reference the specific FTSR section, explaining the exemption criteria, whenever an SED is not required to be filed with the statement "No SED Required, FTSR 30.XX" on the manifest document.

Timetable:

Action	Date	FR Cite
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA31

Department of Commerce (DOC)
Bureau of the Census (CENSUS) **Completed Actions**

523. AMENDMENT TO THE FOREIGN TRADE STATISTICAL REGULATIONS: PROVISIONS FOR FILING SHIPPERS EXPORT DATA ELECTRONICALLY USING THE AUTOMATED EXPORT SYSTEM (AES)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 30.60

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/13/99	64 FR 7412
Final Action	07/28/99	64 FR 40974

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA19

524. • NEW CANADIAN PROVINCE IMPORT CODES FOR TERRITORY OF NUNAVUT

Priority: Substantive, Nonsignificant

Legal Authority: 13 USC 301 to 307

CFR Citation: 13 CFR 30.80

Legal Deadline: None

Abstract: The Bureau of the Census is amending the Foreign Trade Statistics Regulations (FTSR), to add a new Canadian Province/Territory code for the Territory of Nunavut. This Canadian territory code is being added to the existing Canadian Province/Territory codes used for reporting Canadian Province of Origin information on Customs Entry Records.

Timetable:

Action	Date	FR Cite
Final Action	05/10/99	64 FR 24942

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Frank Korpusik, Regulations, Outreach, & Education Branch, Foreign Trade Division, Department of Commerce, Bureau of the Census, Room 3148, FB-3, Washington, DC 20233
Phone: 301 457-2238
Fax: 301 457-3765

RIN: 0607–AA32

Department of Commerce (DOC)
Economic Development Administration (EDA) **Final Rule Stage**

525. REGULATIONS TO IMPLEMENT THE ECONOMIC DEVELOPMENT ADMINISTRATION REFORM ACT OF 1998

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3121 et seq

CFR Citation: 13 CFR 300 to 318

Legal Deadline: Final, Statutory, February 11, 1999.

Abstract: EDA will implement the requirements of the Economic Development Administration Reform Act of 1998 establishing criteria and procedures for the award of grants under the legislation, a comprehensive revision of the Public Works and Economic Development Act of 1965.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/99	64 FR 5348
Interim Final Rule Effective	02/11/99	
Interim Final Rule Comment Period End	04/05/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Edward M. Levin, Chief Counsel, Department of Commerce, Economic Development Administration, 7th Floor, Room 7005, 14th and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-4687
Fax: 202 482-5671
Email: elevin@doc.gov

RIN: 0610–AA56

526. CIVIL RIGHTS GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2000d et seq; 42 USC 3123; 29 USC 794; 42 USC 6101

CFR Citation: None

Legal Deadline: None

Abstract: This action is being withdrawn. The regulatory provisions of this action will be included in EDA's rule to implement the Economic Development Reform Act of 1998, RIN

DOC—EDA **Final Rule Stage**

0610-AA56. The remaining provisions of this document will be guidance, thus it will not be a rule subject to listing in the Agenda.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank J. Monteferrante, Director, Compliance Review Division, Department of Commerce, Economic Development Administration, Room H-7816, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-5575

RIN: 0610–AA59

527. • ECONOMIC ADJUSTMENT PROGRAM—REVOLVING LOAN FUND (FLF) GRANTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3149

CFR Citation: 13 CFR 308

Legal Deadline: None

Abstract: EDA will be publishing a final rule revising its Revolving Loan Fund (RLF) program as a result of recommendations made by a special task force established to examine program procedures and requirements.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Edward M. Levin, Chief Counsel, Department of Commerce, Economic Development Administration, 7th Floor, Room 7005, 14th and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-4687
Fax: 202 482-5671
Email: elevin@doc.gov

RIN: 0610–AA62

Department of Commerce (DOC)
General Administration (ADMIN) **Proposed Rule Stage**

528. PUBLIC INFORMATION, FREEDOM OF INFORMATION AND PRIVACY

Priority: Other Significant

Legal Authority: 5 USC 301; 5 USC 552 to 553; 44 USC 3101; 44 USC 3717; Reorganization Plan No. 5 of 1950

CFR Citation: 15 CFR 4; 15 CFR 4a; 15 CFR 4b

Legal Deadline: None

Abstract: The Department of Commerce plans to amend the regulations pertaining to the Freedom of Information Act, Privacy Act, and declassification and public availability of national security information. The proposed rule contains new provisions implementing the Electronic Freedom of Information Act Amendment of 1996, reflects the principles established by the President and Attorney General in the FOIA Policy Memoranda of October 4, 1993, incorporates updated cost figures to be used in charging fees, and streamlines and clarifies the present regulations at 15 CFR parts 4, 4a and 4b.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rulemaking	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: None.

Agency Contact: Andy McCready, Attorney Advisor, Department of Commerce, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-8044

RIN: 0605–AA14

Department of Commerce (DOC)
General Administration (ADMIN) **Final Rule Stage**

529. UNIFORM ADMINISTRATIVE REQUIREMENT FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFITS AND COMMERCIAL ORGANIZATIONS

Priority: Other Significant

Legal Authority: 5 USC 301

CFR Citation: 15 CFR 14

Legal Deadline: None

Abstract: On November 29, 1993, Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements, with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" was published in the Federal Register (58 FR 62992). In the published revised circular, OMB specified as "required action" that Federal agencies responsible for awarding and administering grants and other agreements to recipients described therein, shall adopt the language of the Circular unless other provisions are required by Federal Statute or exceptions or deviations are approved by OMB. This interim final rule adopts the provisions of the Circular and its language to the maximum extent feasible with minor language changes made to make the language apply specifically to the DOC and its operating units.

DOC—ADMIN **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/04/98	63 FR 47155
Interim Final Rule Effective	10/01/98	
Interim Final Rule Comment Period End	11/03/98	
Final Action	10/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan L. Sutherland, Acting Director, Office of Executive Assistance Management, Department of Commerce, Office of Administration, 14th Street and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-4115

RIN: 0605–AA09

Department of Commerce (DOC)
General Administration (ADMIN) **Completed Actions**

530. SOLICITATION PROVISIONS AND CONTRACT CAUSES: WOMEN-OWNED SMALL BUSINESS SOURCES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1352

Completed:

Reason	Date	FR Cite
Final Action	06/30/99	64 FR 35080

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Jandovitz
Phone: 202 482-0202

RIN: 0605–AA13

531. AGENCY-LEVEL PROTEST PROCEDURES—LEVEL ABOVE THE CONTRACTING OFFICER

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1333.100

Completed:

Reason	Date	FR Cite
Final Action	04/06/99	64 FR 16651

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Jandovitz
Phone: 202 482-0202

RIN: 0605–AA15

Department of Commerce (DOC)
International Trade Administration (ITA) **Proposed Rule Stage**

532. • EXTERNAL PRODUCTION INCENTIVES BENEFITS TO JEWELRY MANUFACTURERS IN THE U.S. INSULAR POSSESSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1202, PL 97-446; 48 USC 1681, PL 103-465, PL 94-241; PL 106-36

CFR Citation: 15 CFR 303

Legal Deadline: None

Abstract: The Department of Commerce and the Department of the Interior propose to amend their regulations governing duty-exemption allocations and duty-refund benefits for watch producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands) due to the enactment of Pub. L. 106-36. This law amends additional U.S. notes to chapter 71 of the Harmonized Tariff Schedule of the United States ("HTSUS") to provide a duty-refund benefit for any article of jewelry within heading 7113 which is the product of the Virgin Islands, Guam, American Samoa or the Northern Mariana Islands in accordance with the new provisions of the note in chapter 71 and additional U.S. note 5 to chapter 91. The proposed rule would amend the regulations by changing Title 15 CFR Part 303 to include jewelry, creating a Subpart A for the current insular watch and watch movement regulations and a Subpart B for the new regulations pertaining to jewelry duty-refund benefits authorized by Pub. L. 106-36.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: None

Agency Contact: Faye Robinson, Program Manager, Department of Commerce, International Trade Administration, HCHB Room 4211, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-3526

RIN: 0625–AA55

Department of Commerce (DOC)
International Trade Administration (ITA)

Final Rule Stage

533. PROCEDURES FOR CONDUCTING FIVE-YEAR (SUNSET) REVIEWS OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1671 et seq; 19 USC 1673 et seq; 19 USC 1303

CFR Citation: 19 CFR 351

Legal Deadline: None

Abstract: On May 19, 1997 (62 FR 27296), the Department of Commerce (the Department) published final rules on, inter alia, procedures for conducting antidumping and countervailing duty proceedings to conform the Department's existing regulations to the Uruguay Round Agreements Act (URAA). Although these regulations contain provisions on the conduct of sunset reviews, the Department is planning to amend the regulations to provide more guidance on the procedures for conducting sunset reviews. Specifically, the Department proposes to amend the procedural regulations for participation in, and conduct of, sunset reviews to add two definitions to provide shorthand expressions for 120-day and 240-day sunset reviews; provide deadlines for certain submissions; clarify the information to be provided by parties participating in a sunset review; clarify when the Department will conduct a 120-day or a 240-day sunset review, and provide time limits for actions to be taken by the Department.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/98	63 FR 13516
Interim Final Rule Effective	03/20/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stacy Ettinger, Attorney, Department of Commerce, International Trade Administration, Room 3828, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-4618

RIN: 0625–AA51

Department of Commerce (DOC)
International Trade Administration (ITA)

Long-Term Actions

534. EXPORT TRADE CERTIFICATES OF REVIEW (15 CFR 325)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Morton Schnabel
Phone: 202 482-5131
Fax: 202 482-1790

RIN: 0625–AA52

Department of Commerce (DOC)
International Trade Administration (ITA)

Completed Actions

535. • REVOCATION OF ORDERS BASED ON ABSENCE OF DUMPING; DRAMS WTO DECISION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 605(b); 19 USC 3533

CFR Citation: 19 CFR 351

Legal Deadline: None

Abstract: The Department of Commerce is proposing to amend 19 CFR 351.222(b), which governs the revocation of antidumping duty orders, in whole or in part, based upon an absence of dumping. The proposed regulation is intended to conform the existing regulation to the United States' obligations under Article 11 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Antidumping Agreement" or "AD Agreement"). The proposed regulations, if adopted, would allow the Secretary to revoke an antidumping duty order if the Secretary concludes that producers or exporters did not sell subject merchandise at less than normal value for at least three consecutive years and that the continued application of the antidumping duty order as to those producers or exporters is no longer necessary to offset dumping.

Timetable:

Action	Date	FR Cite
NPRM	06/02/99	64 FR 29618
Final Rule	09/22/99	64 FR 51236

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John D. McInerney, Senior Counsel for Trade Agreements, Department of Commerce, International Trade Administration, 6th Floor, 14th and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-5589

RIN: 0625–AA54

536. • CRITICAL CIRCUMSTANCES, TIMING OF A PRELIMINARY FINDING

Priority: Other Significant

Legal Authority: 5 USC 301; 19 USC 1202 note; 19 USC 1303 note; 19 USC 1671 et seq; 19 USC 3538

CFR Citation: 19 CFR 351

Legal Deadline: None

Abstract: The Department of Commerce amended 19 CFR Part 351.206(c), which concerns preliminary findings of critical circumstances in antidumping and countervailing duty investigations. The critical circumstances provisions of the antidumping and countervailing duty laws and regulations ensure that the statutory remedies are not undermined by massive imports of dumped or subsidized merchandise following the filing of a petition. Normally, if an antidumping or countervailing duty order is issued, duties are assessed only on imports that enter the United States after the

DOC—ITA — Completed Actions

Department makes a preliminary determination of dumping or subsidization. However, where critical circumstances exist, duties are assessed retroactively on imports that enter up to 90 days prior to the preliminary determination. By permitting the Department to determine on a preliminary basis that critical circumstances exist before the preliminary determination of dumping, the amended regulation will ensure that the injurious effects of dumped or subsidized imports are remedied to the fullest extent permitted by the law.

Timetable:

Action	Date	FR Cite
Final Rule	09/08/99	64 FR 48706

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John D. McInerney, Senior Counsel for Trade Agreements, Department of Commerce, International Trade Administration, 6th Floor, 14th and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-5589

RIN: 0625–AA56

Department of Commerce (DOC)
Bureau of Export Administration (BXA) — Prerule Stage

537. • EXPORT OF TECHNOLOGY AND SOFTWARE THROUGH ELECTRONIC TRANSMISSIONS, DOWNLOADS, AND PROGRAMMED ONTO HARDWARE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101); ...

CFR Citation: 15 CFR 700-799

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is reviewing technology and software export issues as they pertain to electronic transmissions and downloads, as well as programming onto hardware. BXA is considering how export controls on such technology transfers affect U.S. exporters. Specifically, BXA is seeking to gain a better understanding of how these transfers actually take place so that the Export Administration Regulations may be clarified in a manner that meets the export control objectives of the regulations while increasing the utility of the regulations to the public. BXA is particularly interested in the comments of those who have direct experience in the area of technology and software exports.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB97

Department of Commerce (DOC)
Bureau of Export Administration (BXA) — Proposed Rule Stage

538. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS: PARTIES TO A TRANSACTION AND THEIR RESPONSIBILITIES, ROUTED EXPORT TRANSACTIONS, SHIPPER'S EXPORT DECLARATIONS, AND EXPORT CLEARANCE

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations by clarifying and updating the procedures to the export clearance requirements.

Timetable:

Action	Date	FR Cite
Proposed Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB88

539. • REVISIONS TO THE NORTH KOREAN EMBARGO POLICY

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 42 USC 2139(a); 42 USC 2139(a); 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101); Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On September 17, 1999, the President announced his decision to ease some sanctions against North Korea. Under the relaxed sanctions policy, the comprehensive embargo against North Korea is lifted and all non-sensitive items on the Commerce

DOC—BXA **Proposed Rule Stage**

Control List (CCL), classified as EAR 99, may be exported or reexported to North Korea without a license. In addition, the licensing policy for some dual-use goods on the CCL destined for certain North Korean civil end-users will be relaxed. This easing of sanctions does not affect U.S. counterterrorism or nonproliferation export controls on North Korea.

Timetable:

Action	Date	FR Cite
Proposed rule	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC10

Department of Commerce (DOC)
Bureau of Export Administration (BXA) **Final Rule Stage**

540. CHEMICAL WEAPONS CONVENTION REGULATIONS

Regulatory Plan: This entry is Seq. No. 18 in Part II of this issue of the **Federal Register**.

RIN: 0694–AB06

541. CHANGE THE COMMERCE CONTROL LIST TO REVISE CONTROLS ON COMMUNICATION INTERCEPTING DEVICES (EXPORT COMMERCE CONTROL NUMBER ECCN 5A980)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 10, 1999 (64 FR 44101)

CFR Citation: 15 CFR 742

Legal Deadline: None

Abstract: Validated licenses are required for the export or reexport of all communication interception devices to all destinations (including Canada). The Export Administration Regulations specify that such exports or reexports will only be issued to: (1) a provider of wire or electronic communication service or an officer, agent or employee of or person under contract with such a provider in the normal course of the business of providing that wire or electronic communication service; or (2) officers, agents, or employees of, or person under contract with the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities. Commerce will need to make changes to the Commerce Control List and the Export Administration Regulations to clarify the requirements for issuing export licenses.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis, Director, Office of Strategic Trade and Foreign Policy Control, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-4196
Email: jlewis@bxa.doc.gov

RIN: 0694–AB41

542. REVISIONS TO EAR AS A RESULT OF THE ADDITION OF BRAZIL, UKRAINE, AND LATVIA TO THE NUCLEAR SUPPLIERS GROUP

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2570 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 24091 et seq; 46 USC 466(c); EO 12924; Notice of August 10, 1999(64 FR 44101)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: As a result of Brazil, Latvia, and Ukraine being admitted to the Nuclear Suppliers Group (NSG), this rule adds Brazil and Ukraine to Supplement Number 1 to part 740-, Country Group A, Column A:4 (Nuclear Suppliers) and removes Brazil and Ukraine from the Commerce Country Chart, NP Column 1 (Nuclear Nonproliferation). The subscribing governments have agreed to establish export licensing procedures for the transfer of items identified on the Annex to the "Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List," which is published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments in the Nuclear Suppliers Group.

This action will lessen the administrative burden on U.S. Exporters by decreasing licensing requirements for exports of items controlled for nuclear nonproliferation reasons to Brazil and Ukraine.

Timetable:

Action	Date	FR Cite
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB50

543. REVISIONS TO COMMERCE CONTROL LIST: ADDITION OF TECHNOLOGY AND SOFTWARE CONTROLS FOR CERTAIN CRIME CONTROL COMMODITIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2570 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(e); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 10, 1999(64 FR 44101)

DOC—BXA

Final Rule Stage

CFR Citation: 15 CFR 774 Supplement No. 1

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Commerce Control List (CCL) of the Export Administration Regulations (15 CFR parts 730 to 774) to add technology and software controls for certain crime control commodities.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB53

---

544. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; ADDITIONS TO THE ENTITY LIST

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 10 USC 7429; 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 46 USC 466(c); EO 11912; EO 12924; Notice of August 10, 1999(64 FR 44101)

CFR Citation: 15 CFR 744

Legal Deadline: None

Abstract: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule adds entities to the Entity List, and requires a license for all exports and reexports of all items subject to the EAR.

Timetable:

Action	Date	FR Cite
Addition to Entity List	05/16/97	62 FR 26922
Addition to Entity List	06/30/97	62 FR 35334
Addition to Entity List	06/30/97	62 FR 35335
Revision to Entity List	10/01/97	62 FR 51369
Addition to Entity List Russian Entities	07/29/98	63 FR 40363
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB60

---

545. IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION; REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 10, 1999(64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule implements the Chemical Weapons Convention (CWC) that affect exports and reexports subject to the jurisdiction of the Commerce Department by amending the Export Administration Regulations. Specifically, this rule modifies an existing License Exception to permit the export of technology to foreign nationals during inspections of chemical facilities in the U.S. pursuant to the CWC and to permit the export or reexport of equipment for use in inspections in countries party to the CWC, adds licensing requirements for certain chemicals listed in the CWC, adds a requirement for an End-Use Certificate for exports of certain chemicals to those countries that are not a party to the CWC, and adds a notification and annual report requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/18/99	64 FR 27138
Final Rule - Correction	05/28/99	64 FR 28908
Interim Final Rule	09/13/99	64 FR 49380
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Export Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: ncrowe@bxa.doc.gov

RIN: 0694–AB67

---

546. EXPORTS OF FIREARMS, AMMUNITION, EXPLOSIVES, AND OTHER RELATED MATERIALS: IMPLEMENTATION OF FIREARMS CONVENTION

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c)EO 11912; EO 12924; Notice of August 10, 1999(64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is revising the Export Administration Regulations (EAR) to implement the export control provisions of the Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition. The OAS Model Regulations were promulgated based upon the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (Firearms Convention). Convention signatories agreed to effectively combat the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials (collectively referred to as "firearms") because of the links such activities have to drug trafficking, terrorism, transnational organized crime, and mercenary and other criminal activities by imposing an export license and

DOC—BXA **Final Rule Stage**

import certificate requirement for the import and export of firearms.

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End	04/13/99	64 FR 17968
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB68

---

547. CLARIFICATION OF REPORTING REQUIREMENTS UNDER THE WASSENAAR ARRANGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1710 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 10, 1999(64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On January 15, 1998, the Bureau of Export Administration (BXA) published an interim final rule (63 FR 4252) implementing the Wassenaar Arrangement list of dual-use items and reporting requirements under the Wassenaar Arrangement. This rule provides clarification on the reporting requirements under the Wassenaar Arrangement.

Timetable:

Action	Date	FR Cite
Interim Final Rule - Clarification of Reporting Requirements Under Wassenaar Arr.	10/14/98	63 FR 55017
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-4479
Fax: 202 482-3354

RIN: 0694–AB72

---

548. EXPORTS AND REEXPORTS OF COMMERCIAL CHARGES AND DEVICES CONTAINING ENERGETIC MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This interim rule amends the Commerce Control List by revising and clarifying controls on certain commercial charges and devices containing energetic materials commonly used in mining and oil well development as well as in air bags and fire extinguishers and also certain pyrotechnic/explosive devices, of the type commonly used by the U.S. motion picture and television industry.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-4479
Fax: 202 482-3354

RIN: 0694–AB79

---

549. REVISIONS TO THE COMMERCE CONTROL LIST; MEDICAL PRODUCTS CONTAINING BIOLOGICAL AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This final rule amends the Commerce Control List (CCL) of the Export Administration Regulations to implement an October 1998 Australia Group agreement to amend controls on toxic gas monitoring systems and dedicated detectors. This final rule also amends the CCL to authorize, without a license, exports of medical products containing biological agents that are developed, packaged and sold for medical treatment. This rule will result in a decreased licensing burden on U.S. industry.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB85

---

550. REVISIONS TO THE COMMERCE CONTROL LIST BASED ON WASSENAAR ARRANGEMENT REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

DOC—BXA

Final Rule Stage

Legal Deadline: None

Abstract: The Bureau of Export Administration maintains the Commerce Control List, which identifies those items subject to Department of Commerce export controls. This final rule revises certain entries controlled for national security reasons to conform with changes in the Wassenaar Arrangement's List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement controls strategic items with the objective of improving regional and international security and stability.

Timetable:

Action	Date	FR Cite
Final Action	07/23/99	64 FR 40106
Correction	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC Phone: 202 482-2440

RIN: 0694–AB86

---

551. EXPORTS AND REEXPORTS OF EXPLOSIVE DETECTION SYSTEMS; EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999(64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations by expanding the current scope of control of explosive detection systems controlled by Export Control Classification Number (ECCN) 2A993 to include all types of systems that detect the presence of explosives or explosive residue. This rule also expands the control of these explosive detection systems to Iraq. In addition, this rule establishes a new licensing requirement on the export and reexport of software designed or modified for the development, production, or use of explosive detection systems to Iran, Iraq, Sudan, and Syria for antiterrorism reasons.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC Phone: 202 482-2440

RIN: 0694–AB87

---

552. • EXPORTS TO KOSOVO

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2510 et seq; 30 USC 185; 42 USC 6212; 10 USC 7420; 10 USC 74301(e); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC 2401 et seq; 46 USC 466(c); EO 12924; Notice of August 10, 1999 (64 FR 44101)

CFR Citation: 15 CFR 746

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to exempt the Serbian province of Kosovo ("Kosovo") from certain license requirements for exports and reexports to Serbia of items subject to the Export Administration Regulations (EAR).

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB99

---

553. • LICENSE EXCEPTIONS LVS AND APR FOR HIGH PERFORMANCE COMPUTERS; REVISIONS TO ECCN 4A003

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a; 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101); 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Commerce Control List by removing License Exception LVS eligibility for digital computers and electronic assemblies controlled under ECCN 4A003. This rule also amends License Exception APR (Additional Permissive Reexports) by removing License Exception APR eligibility for high performance computers with a CTP between 2,000 and 12,300 MTOPS when destined to a Computer Tier 3 country. This action is consistent with the provisions of sections 1211-1215 of the National Defense Authorization Act for Fiscal Year 1998 (NDAA) (P.L. 105-85, 111 Stat. 1629).

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC01

---

554. • EDITORIAL CLARIFICATIONS AND REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC

DOC—BXA **Final Rule Stage**

2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101); ...

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule makes certain editorial revisions and clarifications to the Export Administration Regulations

Timetable:

Action	Date	FR Cite
Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC
Phone: 202 482-2440

RIN: 0694–AC02

555. • DEFINITION HARMONIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999)

CFR Citation: 15 CFR 772

Legal Deadline: None

Abstract: This regulation harmonizes the list definitions of terms found in the EAR with the list that accompanied the Wassenaar Arrangement list of dual-use items.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC03

556. • REWRITE OF SUPPORT DOCUMENTS IN SECTION 748 AND OTHER EDITORIAL CHANGES.

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

CFR Citation: 15 CFR 748

Legal Deadline: None

Abstract: This rule clarifies and organizes the sections in the Export Administration Regulations that pertain to support documentation requirements for license applications.

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC04

557. • EXPORTS AND REEXPORTS TO SUDAN

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) to reflect the imposition of economic sanctions on Sudan, as a result of the issuance of Executive Order 13067 on November 3, 1997. The Executive Order delegates implementation responsibility to the Department of the Treasury's Office of Foreign Assets Control, including authority for exports and certain reexports. In addition, this rule makes editorial revisions to the EAR relating to embargoes and anti-terrorism controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC
Phone: 202 482-2440

RIN: 0694–AC05

558. • ANTI-TERRORISM CONTROLS ON IRAQ

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations to impose foreign policy controls on Iraq for anti-terrorism reasons.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC
Phone: 202 482-2440

RIN: 0694–AC06

559. • EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1862; EO 12188 (45 FR 989, Jan. 4, 1980)

DOC—BXA

Final Rule Stage

CFR Citation: 15 CFR 705

Legal Deadline: None

Abstract: The Department of Commerce is amending its regulation on the "Effect of Imported Articles on the National Security" to reduce the number of copies of a request or application for an investigation to be filed with the Department from 12 copies to 1 copy, plus the original, thereby reducing the burden on the applicant.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Baker, Export Specialist, Department of Commerce, Bureau of Export Administration, 14th and Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-4060

RIN: 0694–AC07

---

560. • REVISIONS TO THE COMMERCE CONTROL LIST: CLARIFICATIONS OF MISSILE TECHNOLOGY AND NUCLEAR NON-PROLIFERATION CONTROLS FOR EXPORT CONTROL CLASSIFICATION NUMBER 2B009

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq; 50 USC 1701 et seq; 10 USC 7420, 7430(e); 22 USC 287c, 3201 et seq, 6004; 30 USC 185(s), 185(u); 42 USC 2139a, 6212; 43 USC 1354; 46 USC app 466c; 50 USC app 5; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

CFR Citation: 15 CFR 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This interim rule amends the CCL by revising Export Control Classification Number (ECCN) 2B009 to clearly describe the scope of controls for flow-forming and spin-forming machines controlled for missile technology and nuclear non-proliferation reasons.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sharron Cook, Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AC08

---

561. • EXPORTS TO THE GOVERNMENT OF SERBIA

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 2401 et seq, 1701 et seq; 22 USC 287c, 6004; EO 12854, 58 FR 36587, 3 CFR 1993 Comp., p. 614; EO 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; EO 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; EO 13088, 63 FR 32109, 3 CFR, 1998 Comp., p. 191; EO 13121 of April 30, 1999, 64 FR 24021 (May 5, 1999); Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

CFR Citation: 15 CFR 746

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to extend licensing requirements on exports or reexports of all items subject to the EAR to the Government of Serbia, or entities owned or controlled by the Government of Serbia, located outside of Serbia.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AC09

---

562. • REVISIONS TO ENCRYPTION ITEMS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101); Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 700 to 799

Legal Deadline: None

Abstract: This interim rule amends the Export Administration Regulations (EAR) by allowing the export or reexport of any encryption commodity or software to individuals, commercial firms, and other non-government end-users in all non-terrorist supporting destinations. This rule also allows the export or reexport of retail encryption commodities and software to all destinations, again excluding terrorist supporting states. Post-export reporting requirements are streamlined for encryption commodities and software, and changes are made to reflect recent amendments to the Wassenaar Arrangement for encryption items. This rule implements the Administration's recent initiative to update it's encryption policy, and will greatly simplify U.S. encryption export and reexport controls.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AC11

Department of Commerce (DOC)
Bureau of Export Administration (BXA)

Long-Term Actions

563. REVISION OF FOREIGN BOYCOTT PROVISIONS OF EXPORT ADMINISTRATION REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 760

Timetable:

Action	Date	FR Cite
NPRM	09/26/89	54 FR 39415
NPRM Comment Period End	10/26/89	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dexter M. Price
Phone: 202 482-5914

RIN: 0694–AA11

564. TRANSFER OF DUAL-USE ITEMS FROM U.S. MUNITIONS LIST TO THE COMMERCE CONTROL LIST

Priority: Other Significant

CFR Citation: 15 CFR 774 Supplement No. 1

Timetable:

Action	Date	FR Cite
Transfer of Communications Satellites	10/23/92	57 FR 48312
Navigation and Avionics	06/23/93	58 FR 34211
Final Rule: Transfer of Commercial Communication Satellites	09/08/93	58 FR 47322
Transfer of Items From the USMI to the CCL; Imposition of Certain Foreign Policy Controls	10/26/93	58 FR 57549
Satellite Fuel	09/29/97	62 FR 50865
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James A. Lewis
Phone: 202 482-4196
Email: jlewis@bxa.doc.gov

RIN: 0694–AA52

565. CLARIFICATION OF ENHANCED PROLIFERATION CONTROL INITIATIVE (EPCI) "CATCH-ALL" PROVISION AND VALIDATED LICENSE REQUIREMENTS

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB10

566. ADMINISTRATION OF STATE LOG EXPORTS BAN

Priority: Other Significant

CFR Citation: 15 CFR 754

Timetable:

Action	Date	FR Cite
ANPRM	06/07/95	60 FR 30030
ANPRM Comment Period End	07/07/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Bernard Kritzer
Phone: 202 482-0894

RIN: 0694–AB25

567. LIBYA: EXPANSION OF FOREIGN POLICY CONTROLS

Priority: Other Significant

CFR Citation: 15 CFR 746

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharron Cook
Phone: 202 482-2440
Fax: 202 482-3355
Email: scook@bxa.doc.gov

RIN: 0694–AB28

568. CLARIFICATION OF LICENSE EXCEPTION GFT (HUMANITARIAN DONATIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 740

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB49

569. EXPORTS OF TECHNOLOGY AND SOFTWARE; RELEASE OF TECHNOLOGY OR SOURCE CODE TO FOREIGN NATIONALS IN THE UNITED STATES

Priority: Other Significant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB59

570. DE MINIMIS EXCLUSION FOR TECHNOLOGY AND SOFTWARE

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 799

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
Fax: 202 482-3355
Email: ncrowe@bxa.doc.gov

RIN: 0694–AB62

571. INDIA AND PAKISTAN SANCTIONS

Priority: Other Significant

CFR Citation: 15 CFR 730 to 774

DOC—BXA

Long-Term Actions

Timetable:

Action	Date	FR Cite
Interim Final Rule - India and Pakistan Sanctions and Other Measures	11/19/98	63 FR 64322
Interim Final Rule - Correction to India and Pakistan Sanctions and Other Measures	11/27/98	63 FR 65352
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB73

---

572. REVISIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COUNTRY GROUPS D:1 AND E:2; LICENSE EXCEPTION TMP

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe
Phone: 202 482-2440
Fax: 202 482-3355
Email: ncrowe@bxa.doc.gov

RIN: 0694–AB76

---

573. • EXPANSION OF LICENSE EXCEPTION CIV ELIGIBILITY FOR "MICROPROCESSORS" CONTROLLED BY ECCN 3A001

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export licensing requirements. Consistent with technological changes, this interim rule adjusts the License Exception CIV eligibility level for microprocessors controlled by Export Control Classification Number (ECCN) 3A001 from a composite theoretical performance (CTP) of equal to or less than 1200 million theoretical operations per second (MTOPS) to a CTP of equal to or less than 1900 MTOPS. License Exception CIV is available for exports and reexports to civil end-users for civil end-uses in Country Group D:1.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/08/99	64 FR 36779
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB90

Department of Commerce (DOC)
Bureau of Export Administration (BXA)

Completed Actions

574. LICENSING OF, AND EXPANSION OF NATIONAL SECURITY AND FOREIGN POLICY CONTROLS ON, RECOVERABLE ENCRYPTION SOFTWARE

Priority: Other Significant

CFR Citation: 15 CFR 700 to 799

Completed:

Reason	Date	FR Cite
Withdrawn	10/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero
Phone: 202 482-2440

RIN: 0694–AB47

---

575. REVISIONS TO THE COMMERCE CONTROL LIST: CHANGES IN MISSILE TECHNOLOGY CONTROLS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	02/08/99	64 FR 5931

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian
Phone: 202 482-4479
Fax: 202 482-3354

RIN: 0694–AB75

---

576. REVISIONS AND CLARIFICATIONS TO THE EXPORT ADMINISTRATION REGULATIONS; COMMERCE CONTROL LIST

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	03/05/99	64 FR 10852

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Muldonian
Phone: 202 482-4479
Fax: 202 482-3354

RIN: 0694–AB77

DOC—BXA

Completed Actions

577. ENCRYPTION ITEMS

Priority: Other Significant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Interim Final Rule Correction	01/21/99	64 FR 3213

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero
Phone: 202 482-2440

RIN: 0694–AB80

578. EDITORIAL CLARIFICATION AND REVISION TO THE EXPORT ADMINISTRATION REGULATIONS (EAR)

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	08/30/99	64 FR 47104

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero
Phone: 202 482-2440

RIN: 0694–AB81

579. REMOVAL OF COMMERCIAL COMMUNICATIONS SATELLITES AND RELATED ITEMS FROM THE DEPARTMENT OF COMMERCE'S COMMERCE CONTROL LIST FOR TRANSFER TO THE DEPARTMENT OF STATE'S U.S. MUNITIONS LIST

Priority: Other Significant

CFR Citation: 15 CFR 730 to 774

Completed:

Reason	Date	FR Cite
Final Action	03/18/99	64 FR 13338

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB84

580. • ADDITION OF MACAU TO EXPORT ADMINISTRATION REGULATIONS

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (64 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) in preparation of the return of the Portuguese Colony of Macau (Macau) to the sovereignty of the People's Republic of China (PRC) on December 20, 1999. This final rule adds Macau as a separate destination on the Commerce Country Chart for export licensing purposes.

Timetable:

Action	Date	FR Cite
Final Rule	05/28/99	64 FR 28907

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB89

581. • EXPORTS TO SERBIA

Priority: Other Significant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1998 (63 FR 44121)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule imposes a license requirement for exports and reexports to Serbia of all items subject to the Export Administration Regulations.

Timetable:

Action	Date	FR Cite
Final Rule	05/04/99	64 FR 24018

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hillary Hess, Director, Regulatory Policy Division, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: hhess@bxa.doc.gov

RIN: 0694–AB91

582. • EXPORTS AND REEXPORTS FOR SYRIAN CIVILIAN PASSENGER AIRCRAFT SAFETY OF FLIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations (EAR) by authorizing the export and reexport of certain aircraft parts and components not already eligible for license exception to ensure safety of flight for civil passenger aircraft. License applicaitons for the export and reexport of aircraft parts and components for civil passenger aircraft will be reviewed on a case-by-case basis with a presumption of approval.

Timetable:

Action	Date	FR Cite
Final Rule	09/16/99	64 FR 50247

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirsten Mortimer, Policy Analyst, Department of Commerce, Bureau of Export Administration, Washington, DC
Phone: 202 482-2440

RIN: 0694–AB92

DOC—BXA

Completed Actions

583. • EXPORTS TO CUBA

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: The Bureau of Export Administration is amending the Export Administration Regulations to implement a part of the January 5, 1999, Presidential initiative to enhance the United States' support of the Cuban people to promote a transition to democracy. This final rule authorizes the issuance of licenses for exports of food and certain agricultural commodities sold to individuals and independent non-governmental entities in Cuba. This rule will increase the number of license applications submitted to the Department of Commerce for exports to Cuba.

Timetable:

Action	Date	FR Cite
Final Rule	05/13/99	64 FR 25807

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Crowe, Export Policy Analyst, Department of Commerce, Bureau of Export Administration, 2096/MS 2705, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440
Fax: 202 482-3355
Email: ncrowe@bxa.doc.gov

RIN: 0694–AB93

584. • REEXPORTS OF U.S.-ORIGIN AIRCRAFT TO LIBYA

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 2501 et seq; 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101)

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: On April 5, 1999, the United Nations Security Council (UNSC) suspended UNSC resolutions 748 and 883. In light of this suspension, the United States has taken action that will allow, under License Exception AVS, the temporary reexport to Libya of foreign registered aircraft subject to the EAR. Foreign registered aircraft meeting all the temporary sojourn requirements of License Exception AVS may fly from foreign countries to Libya without obtaining prior written authorization from BXA. This action is limited in scope and in no way impacts other U.S. sanctions against Libya. Note that License Exception AVS remains unavailable for U.S. registered aircraft.

Timetable:

Action	Date	FR Cite
Final Rule	09/13/99	64 FR 49382

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB94

585. • REVISION OF HIGH PERFORMANCE COMPUTER LICENSING POLICY

Priority: Other Significant

Legal Authority: 30 USC 185; 42 USC 6212; 10 USC 7429; 10 USC 7430(c); 50 USC 1701 et seq; 22 USC 3201 et seq; 42 USC 2139(a); 43 USC 1354; 50 USC app 2401 et seq; 40 USC 466(c); EO 11912; EO 12924; Notice of August 13, 1999 (64 FR 44101); 18 USC 2501 et seq

CFR Citation: 15 CFR 730 to 774

Legal Deadline: None

Abstract: This rule amends the Export Administration Regulations (EAR) by raising the upper threshold of the Composite Theoretical Performance (CTP) parameter for Computer Tier 2 from 10,000 millions of theoretical operations per second (Mtops) to 20,000 Mtops. The upper threshold of Computer Tier 3 countries is raised to 12,300 Mtops for civilian end-users and end-uses and 6,500 Mtops for military end-users and end-uses. In addition, the following countries are moved from Computer Tier 2 to computer Tier 1: Brazil, the Czech Republic, Hungary, and Poland.

Timetable:

Action	Date	FR Cite
Final Action	08/03/99	64 FR 42009

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Ruggiero, Policy Analyst, Department of Commerce, Bureau of Export Administration, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-2440

RIN: 0694–AB96

Department of Commerce (DOC)
National Institute of Standards & Technology (NIST)

Proposed Rule Stage

586. IMPLEMENTATION OF THE FASTENER QUALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-113; PL 106-34; PL 101-592, sec 13; PL 105-234

CFR Citation: 15 CFR 280

Legal Deadline: None

Abstract: On June 6, 1999, Congress significantly amended the Fastener Quality Act (PL 101-592, as amended by PL 104-113 and PL 105-234) by passing PL 106-34, which limits the Department of Commerce's role to the following six activities: (1) laboratory accreditation; (2) receipt of affirmations from accreditation bodies accrediting laboratories or third parties who certify manufacturing systems as fastener quality assurance systems, affirming that the accreditation bodies meet the requirements of certain international standards; (3) receipt, evaluation, and approval or disapproval of petitions

DOC—NIST **Proposed Rule Stage**

seeking approval of documents for purposes described in the Act; (4) operation of a hotline; (5) registration of trademarks; and (6) certain enumerated enforcement activities. The enforcement and registration provisions of the existing regulations will be amended to reflect changes in the Fastener Quality Act. The remainder of the existing regulations will be repeated, and new regulations necessary to implement the new activities required by the Fastener Quality Act will be issued by the Department of Commerce.

Timetable:

Action	Date	FR Cite
Study	10/00/99	
Proposed Rule	11/00/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Subhas G. Malghan, Acting Deputy Director, Technology Services, Department of Commerce, National Institute of Standards & Technology, Room 306, Mail Stop 2000, Building 820, Gaithersburg, MD 20899
Phone: 301 975-4510

RIN: 0693–AB47

587. GUIDANCE ON FEDERAL CONFORMITY ASSESSMENT ACTIVITIES

Priority: Other Significant

Legal Authority: 15 USC 272 et seq

CFR Citation: 15 CFR 287

Legal Deadline: None

Abstract: The National Technology Transfer and Advancement Act of 1995 and the Office of Management and Budget Circular A-119 require the National Institute of Standards and Technology (NIST) to coordinate Federal, State, and local conformity assessment activities with private sector conformity assessment activities. NIST is issuing guidance to outline Federal agencies' responsibility for evaluating the efficacy and efficiency of their conformity assessment activities. Agencies are also responsible for coordinating their conformity assessment activities with those of other Government agencies at all levels and with those of the private sector to make more productive use of the increasingly limited Federal resources available for the conduct of conformity assessment activities and to reduce unnecessary duplication.

Timetable:

Action	Date	FR Cite
Notice of Proposed Rulemaking	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Belinda L. Collins, Director, Office of Standards Services, Department of Commerce, National Institute of Standards & Technology, Room 282, Building 820, Gaithersburg, MD 20899
Phone: 301 975-4000

RIN: 0693–AB49

Department of Commerce (DOC) **Long-Term Actions**
National Institute of Standards & Technology (NIST)

588. NATIONAL TYPE EVALUATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Butcher
Phone: 301 975-2196

RIN: 0693–AB45

589. NIST TRACEABLE REFERENCE MATERIALS PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas E. Gills
Phone: 301 975-2016

RIN: 0693–AB46

Department of Commerce (DOC) **Prerule Stage**
National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

590. • NOTICE OF CONTROL DATE FOR THE ATLANTIC HERRING FISHERY.

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This notification announces that NMFS is considering, and seeking public comment on, a proposed rule that may include eligibility criteria to control future access to the Atlantic herring fishery in certain geographic areas, known as herring management areas.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM86

DOC—NOAA

Prerule Stage

591. • FISHERIES OF THE NORTHEASTERN UNITED STATES; NORTHEAST MULTISPECIES AND ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLANS; CONTROL DATE FOR CAPACITY AND LATENT EFFORT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This notice would inform the industry that the New England Fishery Management Council (Council) is considering future action to control the number of participants in the multispecies and sea scallop fisheries. If management measures to limit capacity or effort in the fisheries are determined to be necessary, the notification announces that performance or effort in the regulated multispecies or sea scallop fisheries after the control date may not be treated the same as performance or effort that was expended prior to the control date. Consideration of a control date does not commit the Council or NMFS to any particular management regime or criteria for participation in these fisheries. Implementation of any such program would require preparation of an amendment to the respective FMP and publication of a notice of availability and proposed rule with pertinent public comment periods.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM99

592. • RULEMAKING FOR THE INCIDENTAL TAKING OF MARINE MAMMALS DURING WORLD-WIDE DEPLOYMENT OF THE U.S. NAVY'S LOW FREQUENCY ACTIVE SONAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216.101

Legal Deadline: None

Abstract: NMFS has received an application from the U.S. Navy for authorization to take marine mammals incidental to the World-wide deployment of its new low frequency active sonar system. The U.S. Navy anticipates deployment of up to 4 shipboard systems within the next 5 years. This authorization can be granted under the Marine Mammal protection Act provided the taking of marine mammals is incidental, is having no more than a negligible impact on small numbers of marine mammals and is not having an unmitigable impact on Arctic subsistence needs. If an authorization if granted monitoring and reporting takings will be required.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AM62

593. • NORTH ATLANTIC WHALE PROTECTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1361 et seq; 16 USC 1531 et seq

CFR Citation: 50 CFR 216; 50 CFR 222

Legal Deadline: None

Abstract: Investigate the need to adopt regulations to decrease negative action of whale watching.

Timetable:

Action	Date	FR Cite
ANPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeannie Kathleen Drevenak, Permit Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Rm. 13824, Silver Spring, MD 20910
Phone: 301 713-2289
Fax: 301 713-0376
Email: Jeannie.Drevenak@noaa.gov

RIN: 0648–AM85

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

---

594. REGULATORY AMENDMENT TO IMPLEMENT PERMIT, REPORTING, AND RECORDKEEPING REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET AND THEIR CATCHER VESSELS: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would implement a comprehensive data collection and regulatory program for all processing vessels longer than 125 feet and for all harvesting vessels that deliver their catch to those vessels in the groundfish fishery off Washington, Oregon, and California. This program would consist of: (1) a requirement for a mandatory Federal permit; (2) recordkeeping and reporting requirements; and (3) a definition for "fishing trip" for processing vessels over 125 feet in length for the purpose of applying trip landing and frequency limits.

Timetable:

Action	Date	FR Cite
NPRM	11/19/92	57 FR 54552
Comment Period End	12/21/92	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AE01

---

595. FISHERY MANAGEMENT PLAN FOR TILEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory. Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP would manage tilefish (Lopholatilus chamaeleonticeps) in the EEZ along the Atlantic Coast north of the Virginia/North Carolina border to rebuild the stock.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AF87

---

596. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 3 would restrict the use of gillnets, fish traps, and other gear in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG87

---

597. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR ATLANTIC BLUEFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, This deadline is motivated by the Strahan v. Linnon litigation. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would revise the management of the fishery and include measures which will be specified annually for commercial quotas and recreational possession limits for Atlantic Bluefish in the U.S. EEZ.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 45938
NPRM Comment Period End	10/07/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AH63

---

598. AMENDMENT TO THE OBSERVER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendments to FMP Amendment 47 to the Groundfish of the BSAI and FMP Amendment 47 to the Gulf of Alaska Groundfish to implement an observer program, replacing the interim Observer Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AI69

599. FISHERY MANAGEMENT PLAN FOR THE ATLANTIC HERRING FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This fishery management plan would supersede the preliminary management plan and regulate fishing activity in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AI78

600. REGULATORY AMENDMENT TO ESTABLISH PERMIT AND REPORTING REQUIREMENTS FOR PELAGIC TROLL AND HANDLINE VESSELS FISHING OFF PACIFIC REMOTE ISLANDS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action will ensure collection and availability of data on catch, effort, protected species interactions, and economic values needed to develop, implement, evaluate, and modify fisheries management measures for Western Pacific fisheries under the Magnuson-Stevens Fishery Conservation and Management Act. The regulations will require permits for participation in the fishery and that fishery participants report to NMFS if existing State/Territory/Commonwealth data systems are not providing data when, where, and in the format needed for management decisions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AJ08

601. AMENDMENT 10 TO THE PACIFIC COAST GROUNDFISH FMP REGARDING SALMON BYCATCH IN GROUNDFISH TRAWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations implementing Amendment 10 to the Pacific Coast Groundfish FMP would require retention, landing, and reporting of salmon caught in whiting and other groundfish trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AJ22

602. REGULATORY AMENDMENT TO ESTABLISH A PROGRAM FOR THE COLLECTION AND USE OF FEES IN THE INDIVIDUAL FISHING QUOTA PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would establish a program for the collection and use, including the procedures, of fees in the Individual Fishing Quota (IFQ) program. The collection of fees would recover the costs of managing and enforcing IFQ program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AJ52

603. AMEND THE FOREIGN FISHING REGULATIONS TO IMPLEMENT THE PROVISIONS OF A PACIFIC INSULAR AREA FISHERY AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory.

Abstract: Amend the foreign fishing regulations at 50 CFR part 600 subpart F to authorize foreign fishing under a Pacific Insular Area Fishery Agreement (PIAFA). Foreign fishing vessels fishing under a PIAFA would be authorized to fish in the EEZ's around American Samoa, Guam, the Northern Mariana Islands and other U.S. insular areas in the Pacific. Prior to the negotiation of a PIAFA, American Samoa, Guam and the Northern Mariana Islands must develop a three year Marine Conservation Plan (MCP) detailing the use of funds collected under a PIAFA. A MCP must be consistent with relevant Fishery Management Plans. The Magnuson-Stevens Act further provides that fees received by the Secretary for foreign fishing under a PIAFA for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which the funds were collected.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AJ60

---

604. ESTABLISH "CENTRAL REGISTRY FOR LIMITED ACCESS SYSTEM PERMITS"

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking and Request for Comments regarding establishment of a Central Registry for Limited Access System Permits as required by the Magnuson-Stevens Fishery Conservation and Management Act Section 305(h).

Timetable:

Action	Date	FR Cite
ANPRM	05/07/97	62 FR 24897
ANPRM Comment Period End	08/05/97	
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael B. Fraser, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2387
Email: Michael.Fraser@noaa.gov

RIN: 0648–AJ77

---

605. REGULATORY AMENDMENT TO CHANGE MEMBERSHIP REQUIREMENTS FOR THE REGIONAL FISHERY MANAGEMENT COUNCILS

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: Regulations governing the operation and membership of the Regional Fishery Management Councils will be revised based on provisions in the Sustainable Fisheries Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AJ82

---

606. ADJUSTMENT OF MANAGEMENT PROGRAM FOR PELAGIC SPECIES FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would modify the management program for the fisheries for swordfish, tuna, and associated species in the western Pacific region. Possible changes include measures to prevent or mitigate the take of seabirds or turtles and to conserve, manage, and allow full utilization of shark resources in the longline fishery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AK11

---

607. ADJUSTMENT OF THE MANAGEMENT PROGRAM FOR PRECIOUS CORALS FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulation would modify the management program for the fisheries for precious corals in the western Pacific region. In response to new information on changes that may occur in the fishery, possible changes to the management program include the establishment of or adjustments to fishing seasons, permit requirements, quotas, closures, area limitations, gear, coral size restrictions, and fishery-

dependent data reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AK23

608. REGULATORY AMENDMENT TO IMPLEMENT OBSERVER REQUIREMENTS FOR PROCESSING VESSELS OVER 125 FEET: PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would require processing vessels 125 feet and longer to carry fishery observers approved by NMFS for the purpose of monitoring catch and gathering data.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AK26

609. AMENDMENT TO PORTIONS OF INDIVIDUAL FISHING QUOTA PROGRAM REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Court mandated deadline. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to amend portions of the regulations implementing the Individual Fishing Quota Program for the Pacific halibut and sablefish fixed gear fisheries in and off of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK50

610. AMENDMENT 54 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 54 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: These FMP amendments would change sablefish use limits from percentages to quota share units; add a leasing provision to allow initial recipients of quota shares to lease 10% of their individual fishing quota pooled across all areas, with an option to restrict this allowance to the Bering Sea; and modify plan language to allow an individual who holds an initial allocation of quota share to hire a skipper to fish individual IFQ on a collectively owned vessel.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK70

611. AMENDMENT 59 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH IN THE GULF OF ALASKA TO CLOSE AN AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 59 for GOA would create a groundfish refuge by closing a small area off Cape Edgecumbe to commercial fishing for groundfish and halibut. The closure would protect a unique habitat and protect rockfish and lingcod during critical phase of their life cycle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AK74

DOC—NOAA

Proposed Rule Stage

612. FISHING CAPACITY REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1861(b) to 1861(e)

CFR Citation: 50 CFR 253

Legal Deadline: None

Abstract: To establish a fishing capacity reduction program, commonly called a buyback, as required by the Sustainable Fisheries Act to address the problem of excess fishing capacity in most fisheries. This will involve paying fishermen to either surrender their fishing permits or both surrender their fishing permits and scrap their fishing vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael L. Grable, Chief, Financial Services Division, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2390
Email: michael.grable@noaa.gov

RIN: 0648–AK76

613. RULE TO IMPLEMENT AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of NPRM comment period.

Abstract: Amendment 9 would implement controlled entry for the Atlantic Mackerel Fishery. Amendment 9 may include real-time monitoring for squids and controlled entry for the Atlantic Mackerel Fishery.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AK80

614. ADJUSTMENT OF MANAGEMENT PROGRAM: BOTTOMFISH FISHERIES IN THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of NPRM comment period.

Abstract: This regulatory action would facilitate and enable adjustments to management measures governing bottomfish fisheries of the main and Northwestern Hawaiian Islands. Possible measures include area closures, harvest limits, size limits, season closures, and permit and reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AK82

615. REVISE EXEMPTED FISHING REGULATIONS TO SPECIFY COMPENSATORY FISHING UNDER EXEMPTED FISHING

Priority: Info./Admin./Other

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: None

Abstract: This action would revise current exempted fishing regulations to specifically authorize the use of an exempted fishing permit as the method of allowing the compensation of private vessels for their conduct of resource assessment. Specific methodology for vessel compensation would be developed on a fishery-by-fishery basis. The rule would also make other minor changes in the regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK84

616. AMENDMENT 9 TO THE FISHERY MANAGEMENT PLAN FOR THE COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 9 proposes more than 14 management actions. For Gulf group king mackerel, actions are proposed to: (1) change the start of the fishing year; (2) prohibit the sale of fish caught under the bag limit; (3) revise the allocation of TAC between the commercial and recreational sectors; (4) increase the minimum size limit from 20 inches to 24 or 26 inches fork length; (5) for the eastern zone (off Florida), revise the allocation of the commercial quota between the Florida east (North) and west coast (South/West Area) subzones; (6) for the Florida west coast subzone, subdivide the commercial hook-and-line quota into two separate quotas for proposed northern and southern subzones; and for the commercial run-around gillnet

fishery; (7) restrict/ reduce/phase-out the number of vessels holding gillnet endorsements to fish under the quota; (8) restrict the area of operation to southwest Florida; (9) restrict the transfer of gillnet endorsements to vessels owned by the endorsement holder or his/her family members; (10) for the western zone (Texas through Alabama), subdivide the commercial quota on a seasonal or areal basis; (11) establish a trip limit (harvest/possession/landing limit) for commercial vessels; and, (12) for both Gulf and Atlantic groups of king mackerel, allow the sale of cut-off (damaged) fish taken and possessed within the established trip limits. For Gulf group Spanish mackerel, establish a purse seine allocation and vessel trip limits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK89

---

617. AMENDMENT 17 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 17 would address expiration of the commercial reef fish permit moratorium (December 31, 2000). Measures may be implemented prior to the moratorium expiration date, and would apply to all species in the FMP management unit, except red snapper. Management options include: extending the current moratorium for an additional 3 years, or replacing the current provisions with a system of various classes of transferable vessel licenses or endorsements, similar to that approved for red snapper under Amendment 15.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK96

---

618. REGULATORY AMENDMENT TO CHANGE THE LIMITED ENTRY, SABLEFISH FISHERY SEASON STRUCTURE FIXED GEAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would implement a framework to allow the Pacific Fishery Management Council to designate each year whether the limited entry, fixed gear, regular sablefish fishery would consist of a single opening, or of three separate openings. If the regular fishery is set at three separate openings, a participant would have to choose to participate in just one of the three openings.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL12

---

619. AMENDMENT 12 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 12 to the NE Multispecies FMP proposes to define silver hake (whiting) red hake and offshore hake as small mesh multispecies. Revised overfishing definitions for whiting, red hake, and offshore hake are also proposed. In addition to the new overfishing definitions, this action would implement: 1) moratorium permit qualifications to fish for whiting, red hake, ocean pout and offshore hake; 2) possession limits and minimum mesh sizes; 3) an allowance for transfer of fish at sea; 4) additional framework measures for future management possibilities; and 5) a monitoring mechanism for continued response to changing conditions in the fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL27

VOL 64 ISS 224 NOV 22 1999 UMI

DOC—NOAA

Proposed Rule Stage

620. AMENDMENT 57 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH IN THE BSAI PROHIBITING DIRECTED FISHING FOR POLLOCK WITH BOTTOM TRAWL GEAR

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This FMP amendment would prohibit directed fishing for pollock with bottom trawl gear in the BSAI. This amendment would also reduce the trawl prohibited species catch limits for halibut, king crab, and tanner crab in the BSAI to account for the projected PSC bycatch savings associated with a ban on bottom trawl gear for pollock.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL30

621. REGULATORY AMENDMENT TO PROHIBIT FISHING BY VESSELS OVER 50 FEET FROM FISHING FOR PELAGIC MANAGEMENT UNIT SPECIES WITHIN 50 NAUTICAL MILES OF AMERICAN SAMOA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final Regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action would prohibit fishing by vessels over 50 feet from fishing for pelagic management unit species within 50 nautical miles of American Samoa.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AL41

622. PROPOSED GUIDELINES FOR DEFINING SERIOUS INJURY; REQUEST FOR COMMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: Under the Marine Mammal Protection Act (MMPA), the National Marine Fisheries Service (NMFS) is responsible for assessing and reducing the level of serious injury and mortality that occurs incidental to commercial fishing operations. NMFS is issuing proposed guidelines for determining what constitutes a serious injury to a marine mammal. If finalized, NMFS will use these guidelines in assessing fisheries beginning in 2000.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Email: cathy.eisele@noaa.gov

RIN: 0648–AL44

623. REGULATORY AMENDMENT TO ALLOW "STACKING" OF MULTIPLE LIMITED ENTRY PERMITS IN THE PACIFIC COAST GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would link groundfish cumulative trip limits to limited entry permits instead of to vessels. This linkage would allow limited entry permit holders to associate more than one limited entry permit with a vessel without having to combine those permits. A vessel attached to multiple limited entry permits would be able to pursue multiple cumulative trip limits.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL50

624. AMENDMENT 14 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998.
Final, Statutory.
See "Additional Information".

Abstract: Amendment 14 would provide a change in the management of salmon fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) off Washington, Oregon, and California, which are managed by the Pacific Fishery Management Council (PFMC, Council) and NMFS under the Fishery Management Plan for

Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California (FMP) as revised and updated in 1996 for implementation in 1997. The amendment will revise the FMP to bring it into compliance with the recently amended Magnuson-Stevens Fishery Conservation and Management Act. The primary changes relate to issues of optimum yield, overfishing, essential fish habitat, and bycatch specifications. Editorial and organizational changes to improve and update the FMP and its environmental impact statement, in addition to refinements harvest allocation standards among the recreational fisheries north of Cape Falcon, are also part of the amendment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	11/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL51

---

625. REGULATORY AMENDMENT TO FUND PURCHASE OF LIMITED ENTRY TRAWL PERMITS TO REDUCE EXCESS CAPACITY IN PACIFIC COAST GROUNDFISH FLEET

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would authorize Federal purchase of Pacific Coast groundfish limited entry trawl permits, under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act, "Fishing Capacity Reduction Program." Federal purchase of trawl permits would be considered a "loan" to the trawl fleet, which would be repaid by that fleet through a tax on groundfish landings by limited entry trawl vessels. The goal of this program would be to match effort within the fishery more closely with available resources.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL66

---

626. ADJUSTMENT OF MANAGEMENT PROGRAM: CRUSTACEAN FISHERIES IN THE WESTERN PACIFIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory action, under an amendment to the Western Pacific Crustaceans FMP, would add the EEZ waters off the U.S. Pacific Island Possessions and Commonwealth of the Northern Mariana Islands as crustaceans management areas.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AL67

---

627. REGULATORY AMENDMENT TO ALLOW LIMITED ENTRY TRAWLERS TO RETAIN GROUNDFISH TAKEN IN EXCESS OF CUMULATIVE TRIP LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would allow limited entry groundfish trawlers to retain groundfish taken in excess of cumulative trip limits. Groundfish in excess of trip limits, "overage," would be sold to designated processors, at no profit to the fisher. Proceeds from the sale of groundfish overages would be placed in a fund managed by the Pacific States Marine Fisheries Commission. This fund will be used to conduct research on Pacific coast groundfish stocks.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and

DOC—NOAA

Proposed Rule Stage

Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL68

628. REGULATORY AMENDMENT TO ALLOCATE LINGCOD AND BOCACCIO ROCKFISH BETWEEN COMMERCIAL AND RECREATIONAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would set allocations of lingcod and bocaccio rockfish between the commercial and recreational fisheries for Pacific Coast groundfish.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL69

629. REGULATORY AMENDMENT TO ESTABLISH PROGRAM FOR COLLECTION AND USE OF FEES IN COMMUNITY DEVELOPMENT QUOTA PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would establish a program for the collection and use, including the procedures, of fees in the Community Development Quota Program. The collection of fees would recover the costs of managing and enforcing the CDQ program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL71

630. RECREATIONAL MEASURES FOR 1999 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for 1999.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	11/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL75

631. FISHERY MANAGEMENT PLAN (FMP) FOR CALICO SCALLOP FISHERY IN THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The FMP could include the following measures: (1) Definitions of management unit, MSY, OY, and overfishing; (2) requiring a vessel permit to harvest or possess calico scallops in or from the South Atlantic EEZ; (3) establishment of Essential Fish Habitat for Calico Scallops; (4) prohibiting harvest of calico scallops in the area bounded to the West by 80 degrees W. Longitude, to the North by 28 degrees 30' N. Latitude, to the South by 27 degrees 30' N. Latitude, and to the East by the 100 fathom depth contour; and (5) requiring use of transponders by calico scallop vessels.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL78

632. GENERIC SUSTAINABLE FISHERIES ACT AMENDMENT (SFA) TO THE FMPS FOR THE GULF OF MEXICO ADDRESSING REQUIREMENTS REGARDING OVERFISHING, BYCATCH, FISHING COMMUNITIES, AND OTHER SFA PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

DOC—NOAA

Proposed Rule Stage

Abstract: The Generic Sustainable Fishery Act (SFA) Amendment, prepared by the Gulf of Mexico Fishery Management Council, will amend existing fishery management plans (FMPs) for Gulf coral and coral reef resources, coastal migratory pelagics, red drum, reef fish, shrimp, spiny lobster, and stone crab to ensure that for these FMPs: (1) they are in conformance with SFA section 102 definitions, (2) that bycatch provisions are in conformance with SFA section 108 provisions, (3) they address fishery impact statements that describe the likely effects of management measures on fishing communities, (4) they address overfishing provisions specifying objective and measurable criteria for identifying whether a fishery is overfished, and (5) they propose measures to rebuild overfished stocks in fisheries of the Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL81

---

633. COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERIES ACT REQUIREMENTS REGARDING OVERFISHING, BYCATCH, FISHING COMMUNITIES AND PROVISIONS FOR FISHERY MANAGEMENT PLANS FOR THE CARIBBEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, October 11, 1998, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The comprehensive amendment will amend the Caribbean Fishery Management Council's existing fishery management plans for queen conch, coral resources, spiny lobster, and reef fish to address the Sustainable Fisheries Act requirements regarding section 102 definitions, bycatch provisions, fishery impact statements, effects on fishing communities, and preventing overfishing and rebuilding overfished stocks.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL86

---

634. REGULATORY AMENDMENT TO THE ALASKA GROUNDFISH REGULATIONS PERTAINING TO SCALES PERFORMANCE CRITERIA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would modify the technical requirements for the at-sea scales program, clarify the meaning of some terms, revise observer sampling station specifications, and allow flexibility in designing sampling stations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL88

---

635. AMENDMENTS TO THE ALASKA GROUNDFISH AND CRAB FMPS TO REVISE THE LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Restrict license transfers, establish gear designation, remove exemption of CDQ vessels, and revise crab License Limitation Plan to establish recent participation requirements for qualification.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL95

---

636. REGULATORY AMENDMENT TO REINSTATE 6000 POUND TRIP LIMIT OF HALIBUT IN AREA NORTHEAST OF THE BERING SEA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

DOC—NOAA

Proposed Rule Stage

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would reinstate a 6000 pound halibut trip limit in the halibut management area northeast of the Bering Sea.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL97

---

637. DEFINITION OF OVERFISHING FOR SALMON FISHERIES OFF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amend the Fishery Management Plan for salmon fisheries in the EEZ off Alaska to define overfishing.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL98

---

638. AMENDMENTS TO ALASKA GROUNDFISH, CRAB, AND SCALLOP FMPS TO IMPLEMENT THE AMERICAN FISHERIES ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: These FMP amendments will implement the requirements of the American Fisheries Act; sideboard measures; crossover; fishery cooperatives.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL99

---

639. REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE GULF GROUPS OF KING AND SPANISH MACKEREL FOR THE 1999-2000 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The proposed regulatory amendment (1999-2000 mackerel catch specifications for the Gulf of Mexico) would: (1) maintain the Gulf group king mackerel annual total allowable catch at 10.6 million pounds; (2) re-establish a bag limit for Gulf group king mackerel for the captains and crews of for-hire vessels; (3) adjust the fishery opening date and allowable fishing days for the gillnet fishery for Gulf group king mackerel; (4) increase the total allowable catch of Gulf group Spanish mackerel to 9.1 million pounds; and (5) increase the recreational bag limit for Gulf group Spanish mackerel to 15 fish per person per day. These actions are intended to protect Gulf group king and Spanish mackerel from overfishing and maintain healthy stocks while still allowing catches by important commercial and recreational fisheries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM01

---

640. REGULATORY AMENDMENT UNDER THE FISHERY MANAGEMENT PLAN FOR REEF FISH RESOURCES OF THE GULF OF MEXICO TO ESTABLISH RED SNAPPER TAC AND ASSOCIATED MANAGEMENT MEASURES FOR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would amend the regulations implementing the FMP to establish management measures for the 2000 fishing season, in accordance with the FMP's framework procedure for setting annual total allowable catch (TAC) limits and associated measures. The FMP regulates commercial and recreational fishing in the exclusive economic zone of the Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

DOC—NOAA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM04

---

641. FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE CDQ REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revisions to the CDQ regulations that would include: overage/underage provisions, pooling, and removing species from CDQ; revise observer coverage requirements shoreside; crab CDQ regulations change to allow start in September crab management year instead of calendar year; change start date for CDQ trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM07

---

642. FISHERY MANAGEMENT PLAN FOR PELAGIC SARGASSUM HABITAT OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Fishery Management Plan (FMP) and associated rule would: (1) define the management unit for pelagic Sargassum; (2) specify optimum yield as zero harvest; (3) define overfishing levels; (4) identify essential fish habitat for pelagic Sargassum; (5) identify essential fish habitat-areas of special concern for pelagic Sargassum; (6) prohibit all harvest and possession of Sargassum from the South Atlantic EEZ south of the latitude line representing the North Carolina/South Carolina border; (7) limit the harvest to 50,000 pounds wet weight in the area bounded by the North Carolina/Virginia border, the North Carolina/South Carolina border, and the longitude line 100 miles (or greater) seaward from the North Carolina shoreline until January 1, 2001; (8) prohibit the harvest and possession of pelagic Sargassum after January 1, 2001; and (9) describe research and data needs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM15

---

643. AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 10 would extend the BRD requirement from Cape San Blas, Florida to the border with the South Atlantic Council in South Florida.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM23

---

644. ADJUSTMENT OF MANAGEMENT PROGRAM; CRUSTACEAN FISHERIES OF THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would facilitate and enable adjustments to management measures for the crustacean fisheries in the Northwestern and main Hawaiian Islands. Possible regulatory changes could include modification to bank-specific fishing grounds, closed areas, gear restrictions, seasons, notification/reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric

DOC—NOAA

Proposed Rule Stage

Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM26

645. LIST OF FISHERIES FOR 2000

Priority: Routine and Frequent

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: Final, Statutory, December 31, 1999.

Abstract: The list of fisheries, published pursuant to section 118 of the Marine Mammal Protection Act, classifies all U.S. commercial fisheries into one of three categories based on the level of incidental serious injuries and mortalities to marine mammals. Participants in fisheries placed in Category I, II, or III are subject to different regulatory requirements under 50 CFR 229.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322
Email: cathy.eisele@noaa.gov

RIN: 0648–AM28

646. FISHERY MANAGEMENT PLAN AMENDMENT TO REBUILD C. BAIRDI STOCKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, One year from approval of overfishing definitions.

Abstract: This amendment to the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI would define a rebuilding plan for C. bairdi.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM29

647. ENHANCED MEASURES TO MITIGATE SEABIRD BYCATCH IN THE ALASKA HOOK-AND-LINE FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, One year from approval of overfishing definitions. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would enhance measures designed to mitigate seabird bycatch in the longline fisheries off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM30

648. REVISIONS TO THE LICENSE LIMITATION PROGRAM FOR THE COMMERCIAL CRAB FISHERIES OF THE BSAI

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment to the FMP for Commercial King and Tanner Crab Fisheries in the BSAI would establish recent participation requirements for qualification under the License Limitation Program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM31

649. STELLER SEA LION CONSERVATION MEASURES FOR THE BSAI AND GOA POLLOCK FISHERIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: PR/FR to implement Steller Sea Lion conservation measures for the BSAI and GOA Pollock Fisheries; TAC allocation system for inside/outside critical habitat and E/W 170, overage/underage rollover provisions,

revise trip limit regulations for W/C GOA, additional pollock exclusion zones and reductions inside critical habitat A seasons catch.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM32

---

650. PR/FR VESSEL MONITORING SYSTEM FOR ALEUTIAN ISLAND ATKA MACKEREL FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement the vessel monitoring system requirements for Aleutian Island Atka Mackerel to monitor fishery activity inside and outside Steller Sea Lion critical habitat areas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM34

---

651. ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN AMENDMENT TO REVISE IMPROVED RETENTION/IMPROVED UTILIZATION PROGRAM (IR/IU)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revise regulations implementing IR/IU.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM39

---

652. ALASKA GROUNDFISH LICENSE LIMITATION PROGRAM AMENDMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Alaska groundfish License Limitation Program amendments to establish species endorsement.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM40

---

653. SCALLOP LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This Fishery Management Plan (FMP) amendment to the FMP for scallop fisheries off Alaska would implement a license limitation program for scallop fisheries.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM42

---

654. RECORDKEEPING AND REPORTING REQUIREMENTS FOR 2000

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory.

DOC—NOAA **Proposed Rule Stage**

Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would revise the recordkeeping and reporting requirements for the year 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM43

655. REGULATORY AMENDMENT TO CHANGE THE REGULATIONS IMPLEMENTING THE NORTH PACIFIC OBSERVER PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This would change the regulations implementing the North Pacific Observer program, including authority to place NMFS personnel onboard fish or processing vessels, revised requirements for shoreside accommodations for observers, and revisions to observe coverage levels.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM44

656. RECREATIONAL MEASURES FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the possession limit, size limit, and other management measures for the recreational fisheries for fishing year 2000.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM46

657. QUOTAS FOR THE ATLANTIC BLUEFISH FISHERY FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the quotas for Atlantic Bluefish in the exclusive economic zone for fishing year 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM47

658. SPECIFICATIONS FOR THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERIES FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish the allowed commercial catch limits as well as other management measures for these fisheries for 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM48

659. INITIAL SPECIFICATIONS FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES FOR FISHING YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

DOC—NOAA

Proposed Rule Stage

Abstract: This action would specify the initial annual amounts of the initial optimum yield as well as the amounts for allowable biological catch, domestic annual harvest, domestic annual processing, joint venture processing, and total allowable levels of foreign fishing for these species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM49

---

660. FISHING QUOTAS FOR FISHING YEAR 2000 FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone for fishing year 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM50

---

661. FMP AMENDMENT 53 TO REQUIRE FULL RETENTION OF DEMERSAL SHELF ROCKFISH

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment is to require full retention of demersal shelf rockfish to provide State of Alaska fishery managers an enhanced estimate of bycatch rates.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM51

---

662. • RULEMAKING TO ANNOUNCE THE ANNUAL 2000 MANAGEMENT MEASURES FOR PACIFIC HALIBUT FISHERIES UNDER THE INTERNATIONAL PACIFIC HALIBUT COMMISSION.

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 773

CFR Citation: 50 CFR 300

Legal Deadline: Final, Statutory, March 15, 2000.

Abstract: Annual management measures for Pacific halibut fisheries and catch sharing plan for 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM52

---

663. • ESTABLISHED CONTROL DATE FOR THE COMMERCIAL GILLNET FISHERY FOR ATLANTIC GROUP KING MACKEREL NORTH OF CAPE LOOKOUT, NC.

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: This notice establishes a control date for the commercial gillnet fishery for Atlantic group king mackerel north of Cape Lookout, NC and informs the industry that the Council is considering future action to control the number of participants in this fishery. Anyone entering the commercial gillnet fishery for Atlantic group king mackerel north of Cape Lookout, NC, after the control date would not be assured of future access to the fishery.

Timetable:

Action	Date	FR Cite
ANPRM	05/24/99	64 FR 27951
ANPRM Comment Period End	06/23/99	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM60

---

664. • BSAI FMP AMENDMENT 58

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory.

DOC—NOAA

Proposed Rule Stage

Abstract: Amendment 58 would revise the BSAI bycatch management program for chinook salmon.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM63

665. • REGULATORY AMENDMENT TO ADJUST HALIBUT BYCATCH ACCOUNTING FOR YELLOWFIN SOLE FISHERY.

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1801

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Adjust bycatch accounting for Pacific halibut for the yellowfin sole fishery of the Bering Sea and Aleutian Islands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM64

666. • ESTABLISHMENT OF CONTROL DATE FOR THE DOLPHIN AND WAHOO COMMERCIAL FISHERIES IN THE SOUTH ATLANTIC EEZ

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This notice would inform the industry that the Council is considering future action to control the number of participants in the Dolphin and Wahoo commercial fishery. Anyone entering the commercial fisheries for dolphin or wahoo in the South Atlantic EEZ after the control date would not be assured of future access to the fishery.

Timetable:

Action	Date	FR Cite
ANPRM	05/21/99	64 FR 27750
ANPRM Comment Period End	06/21/99	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM67

667. • REGULATORY AMENDMENT UNDER THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO TO ESTABLISH MANAGEMENT MEASURES FOR GAG AND BLACK GROUPER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: This regulatory amendment would establish a 24-inch minimum size limit for gag and black grouper for the commercial fishery and a 22-inch minimum size limit for recreational fishery. The recreational minimum size limit would increase by 1 inch per year until reaching 24 inches. The proposed rule would also establish an area closed to all reef fish fishing year round in the eastern Gulf of Mexico to protect spawning aggregation and the declining male population of this species.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM70

668. • MODIFY DEALER AND VESSEL REPORTS REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This rule would improve the collection of fisheries-dependent data by modifying and clarifying several report requirements for dealers and vessels issued a Federal summer flounder, scup, black sea bass, Atlantic sea scallops, Northeast multispecies Atlantic mackerel, squid, and butterfish, surfclam or ocean quahog permit.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM74

DOC—NOAA

Proposed Rule Stage

669. • AMENDMENT 12 TO THE FISHERY MANAGEMENT PLAN FOR COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 12 would extend the current moratorium on the issuance of king mackerel permits to October 15, 2005, to allow the Councils (Gulf of Mexico and South Atlantic) additional time to consider various management strategies that include limited access or limited entry, with or without individual transferable quotas (ITQ) or individual fishing quotas (IFQ). If approved and implemented by final rule, Amendment 12 would keep the king mackerel fisheries of the Gulf of Mexico and South Atlantic regions from reverting to open access on October 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM75

670. • HALIBUT BYCATCH ACCOUNTING FOR THE YELLOWFIN SOLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: Regulatory amendment to adjust the halibut bycatch accounting for the yellowfin sole fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM76

671. • HIGHLY MIGRATORY SPECIES FISHERIES; TIME AREA CLOSURE OF PELAGIC LONGLINE FISHERY TO PROTECT SMALL SWORDFISH

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: Implement time and area closures for pelagic longline gear to reduce incidental catch of juvenile swordfish and billfish.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AM79

672. • MEASURES FOR THE POLLOCK FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS TO COMPLY WITH THE AMERICAN FISHERIES ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Other, Statutory. American Fisheries Act requires regulatory implementation prior to January 2000.

Abstract: Would implement (1) new permitting requirements for AFA pollock catcher vessels, catcher vessel cooperatives, c/p motherships, and, shoreside processors; (2) new pollock allocation regime for allocations to catcher vessel cooperatives; (3) new recordkeeping & reporting requirements for vessels & processors; (4) new restrictions on participation of AFA pollock vessels in non-pollock fisheries; and (5) restrictions on ability of AFA pollock processors to process non-pollock groundfish & crab species from the Bering Sea & Gulf of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM83

673. • FRAMEWORK REGULATORY AMENDMENT FOR THE ATLANTIC HIGHLY MIGRATORY SPECIES (HMS) FISHERIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: Framework regulatory amendment to the HMS FMP will adjust gear/permitting/reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

DOC—NOAA **Proposed Rule Stage**

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AM91

---

674. • RESUBMISSION OF A PREVIOUSLY DISAPPROVED MEASURE (GREATER AMBERJACK TRIP LIMIT) ORIGINALLY CONTAINED IN AMENDMENT 9 TO THE FMP FOR THE SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule would implement a 1,000 pound trip limit for greater amberjack in the south Atlantic region. The intent of this action is to lengthen the fishing season and minimize the possibility of a "derby" fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM93

---

675. • AMENDMENT 62 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA AND AMENDMENT 62 TO THE FMP FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, January, 2000.

Abstract: Fishery Management Plan amendment to comply with the requirements of the American Fisheries Act by revising inshore/offshore directed pollock allocations and replacement requirements for eligible vessels.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM94

---

676. • SIMPLIFICATION OF CAPITAL CONSTRUCTION FUND RULES.

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 1177

CFR Citation: 50 CFR 259

Legal Deadline: None

Abstract: To remove unnecessary regulatory provisions which are not required by the program statute.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Charles L. Cooper, Program Leader, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2396
Email: charles__ cooper@ssp.nmfs.gov

RIN: 0648–AM95

---

677. • IMPLEMENTATION OF WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action would provide guidance on implementation of the Magnuson-Stevens Fishery Conservation and Management Act provisions that establish the Western pacific Community Development Program and announcement of eligibility criteria for participation in the program, including collection of fees for observer and reporting requirements, etc.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM96

---

678. • IMPLEMENTATION OF WESTERN PACIFIC CORAL REEF ECOSYSTEM FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final Regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would implement the Western Pacific Coral Reef Ecosystem FMP. Possible initial management measures include permit

and reporting requirements, framework procedures, gear restrictions, harvest limits/restrictions, protected marine areas, no anchoring zones, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	
Final Action	07/00/00	
Final Action Effective	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM97

---

679. • ADJUSTMENT OF MANAGEMENT PROGRAM: BOTTOMFISH FISHERIES IN THE WESTERN PACIFIC.

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of the end of NPRM comment period.

Abstract: This regulatory action would facilitate and enable adjustments to management measures for the bottomfish fisheries in Guam and American Samoa. Possible regulatory changes include closed areas, gear restrictions, seasons, permit and notification/reporting requirements, etc. Also, under an amendment to the FMP, the EEZ waters of the U.S. Pacific Island Possessions and Commonwealth of the Northern Mariana islands would be governed as bottomfish management areas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	
Final Action	09/00/00	
Final Action Effective	10/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM98

---

680. • PROHIBIT USE OF SET NET GEAR TO HARVEST GROUNDFISH IN CERTAIN PORTIONS OF THE EXCLUSIVE ECONOMIC ZONE WATERS SEAWARD OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory. Final Regulations to be published within 30 days of end of NPRM comment period.

Abstract: This rule would prohibit the use of set net gear to take groundfish species in a portion of the EEZ seaward of California. This rule has been requested by the Pacific Fishery Management Council (Council) under procedures in the Pacific Groundfish Fishery Management Plan (FMP) that allow for implementing Federal regulations to conform to State regulations for the groundfish fishery in selected circumstances. The Council has determined that the State regulations prohibiting the use of set net gear used to take groundfish species in certain areas are consistent with the FMP and requested Federal adoption of consistent regulations in the EEZ. The conformance with State regulations is desired to ensure consistent application of conservation and management measures and enforcement in the EEZ and in State waters to the extent practicable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AN03

---

681. • 1999 QUOTAS FOR THE PURSE SEINE FISHERIES IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 955

CFR Citation: 50 CFR 300

Legal Deadline: None

Abstract: This notice would advise the public and U.S. industries of the 1999 quotas for yellowfin and bigeye tuna established by the Inter-American Tropical Tuna Commission (IATTC) and approved by the Department of State. The notice would be published in accordance with a rule that established authority and procedures for the Southwest Regional Administrator, NMFS, to implement measures to carry out management recommendations of the IATTC as provided in the Tuna Conventions Act of 1950. Under that rule, among the actions that could be taken were announcing quotas, closure of the U.S. purse seine fishery for yellowfin tuna, closure of the U.S. purse seine fishery for tuna associated with floating objects, prohibiting the use of tender vessels used to service fish-aggregating devices, and prohibiting the transfer-at-sea of purse seine-caught tuna in the Eastern Pacific Ocean.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

DOC—NOAA

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AN04

---

682. • ATLANTIC HIGHLY MIGRATORY SPECIES FISHERIES; MINIMUM SIZE ADJUSTMENTS FOR ATLANTIC BILLFISH

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: To achieve the landings reduction targets that were recommended by the International Commission for the Conservation of Atlantic Tunas, NMFS will adjust the minimum sizes for retention and landing of Atlantic billfishes. This action is consistent with the framework provisions of Amendment 1 to the Atlantic Billfish Fishery Management Plan.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AN06

---

683. • REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE ATLANTIC GROUPS OF KING AND SPANISH MACKEREL FOR THE 1999-2000 FISHING YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment prepared under the framework rulemaking procedure of the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), would amend the regulations implementing the FMP to establish the total allowable catch limits and associated measures (e.g., trip and bag limits) for Atlantic groups of King and Spanish mackerel for the 1999-2000 fishing year.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN07

---

684. • AMENDMENT 18 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 18 is expected to address the need for improved conservation of grouper stocks in the Gulf of Mexico by establishing additional closed seasons and areas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN09

---

685. • ANNUAL SPECIFICATIONS FOR FISHING YEAR 2000 FOR ATLANTIC HERRING.

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq.

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would establish specifications for fishing year 2000 for the Atlantic Herring fishery. These quotas consist of an optimum yield, domestic harvest, domestic processing, joint venture processing, U.S. at-sea processing and TALFF.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Rule	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN11

---

686. • AMENDMENT 13 TO THE SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 13 is being developed to implement management measures that would extend the current rebuilding program for summer flounder. This action would extend rebuilding over the next 10 years.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN12

---

687. • AMENDMENT 10 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 10 would implement a management strategy that would incorporate rotational closed areas for rebuilding the sea scallop resource. This action may replace or modify the current DAS reduction schedule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN16

---

688. • AMENDMENT 13 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This action would amend the FMP to address the Magnuson-Stevens Act requirement to implement a stock rebuilding program for all of the regulated multispecies. Management measures may include a days-at-sea reduction, gear reductions and area management.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN17

---

689. • AMENDMENT 1 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This amendment would establish a controlled access system for a portion of the Atlantic herring fishery. The fishery slated for this action is Management Area I, i.e., Inshore Gulf of Maine. Vessels fishing in this area would need to have an exemption certificate based on past participation.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN19

---

690. • AMENDMENT 14 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published 30 days after the end of the NPRM comment period.

Abstract: Amendment 14 would implement measures that would separate small mesh species (whiting, red hake, offshore hake, and ocean pout) from the Multispecies FMP and create a new FMP for small mesh species, i.e., the Small Mesh Multispecies Fishery Management Plan. This action proposes to provide for easier, more timely management of the species, to reduce complexity of the existing multispecies FMP and to aid in the rebuilding process for the small mesh species. Management measures for small mesh species may include measures developed under Amendment 12 in addition to a limited access permit program to be developed and possibly other measures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN20

---

691. • REGULATORY AMENDMENT TO CLARIFY THE ALASKA GROUNDFISH INDIVIDUAL FISHING QUOTA PROGRAM APPEALS REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

DOC—NOAA

Proposed Rule Stage

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to revise the procedures for filing motions of reconsideration to set out clearly the time periods for filing motions, extensions, and decisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN21

---

692. • REGULATORY AMENDMENT TO IMPLEMENT AN OBSERVER PROGRAM FOR VESSELS DELIVERING SHORE-SIDE; PACIFIC COAST GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulations would establish provisions for an observer program on vessels that deliver shore-side for the purpose of estimating total catch, monitoring discards, and gathering biological data on groundfish species. The responsibilities of vessels that are required to carry observers are defined in this action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AN27

---

693. LIMITATION ON SECTION 9 PROTECTIONS APPLICABLE TO SALMON LISTED AS THREATENED UNDER THE ENDANGERED SPECIES ACT, FOR ACTIONS UNDER TRIBAL RESOURCE MANAGEMENT PLANS (TRIBAL PLANS)

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701 et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS has under consideration a proposal to allow terminal area tribes to directly harvest threatened salmon in the terminal areas.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AG15

---

694. PROPOSED RULE TO PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1372 (c)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This proposed rule would revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Hochman, Permits Analyst, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH26

---

695. PROPOSED RULE GOVERNING THE ISSUANCE OF PERMITS FOR MARINE MAMMAL PHOTOGRAPHY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1372 (c)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: This rule will provide for the issuance of permits to take marine mammals by only level B harassment for the purpose of educational or commercial photography.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Trevor Spradlin, Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH31

DOC—NOAA

Proposed Rule Stage

696. AMEND REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1371 (a)(6)

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: The proposed rule implements certain changes in the prohibitions on importing or exporting marine mammals or marine mammal parts and products that occurred with the enactment of the Marine Mammal Protection Act Amendments of 1994 (Pub. L. 104-238). This action prohibits the export of marine mammals or marine mammal products for purposes other than public display, scientific research, or enhancing the survival of a species or stock and establishes three new categories of exceptions to the prohibition on importing marine mammal parts and products. This is a noncontroversial action that is not significant as it will have only minor effects on a small number of people, most of whom will benefit by the new exceptions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas J. McIntyre, Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH83

---

697. ENDANGERED AND THREATENED SPECIES: PROPOSED RULE GOVERNING TAKE OF WEST COAST STEELHEAD

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq; 31 USC 9701 et seq; 16 USC 742a et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: The regulation will propose section 9(a) prohibitions for endangered species, with certain exceptions for certain benign and beneficial actions for threatened species of west coast steelhead.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AK94

---

698. SECTION 4(D) OF ESA PROTECTIVE REGULATIONS FOR JOHNSON SEAGRASS, A THREATENED SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: NMFS will issue protective regulations for Johnson's seagrass, a threatened species under section 4(d) of the Endangered Species Act (ESA). This will allow NMFS to tailor protective measures to best fit Johnson's seagrass.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: marta.nammack@noaa.gov

RIN: 0648–AL59

---

699. DETERMINATION OF CRITICAL HABITAT FOR JOHNSON'S SEAGRASS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1533 et seq

CFR Citation: 50 CFR 223

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period. The Endangered Species Act requires the designation of critical habitat, if any is designated, within one year of listing a species as threatened or endangered.

Abstract: The Endangered Species Act requires that critical habitat for a threatened or endangered species be designated within one year of listing that species under the Act. NMFS will determine if it will designate critical habitat for Johnson's seagrass, and if so, will designate it.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marta Nammack, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: marta.nammack@noaa.gov

RIN: 0648–AL82

---

700. DRAFT POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN MAKING LISTING DECISIONS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1531

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A policy to evaluate conservation efforts in making listing decisions under the Endangered Species Act. Policy identifies considerations to be used in determining whether conservation

plans and agreements, management plans or other efforts provide sufficient protections to preclude or remove the need to list a species under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Margaret C. Lorenz, ESA Policy Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: margaret.lorenz@noaa.gov

RIN: 0648–AL91

701. RULEMAKING FOR THE TAKING OF MARINE MAMMALS INCIDENTAL TO CONSTRUCTION AND OPERATION OF OFFSHORE OIL AND GAS PLATFORMS IN THE U.S. BEAUFORT SEA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 216

Legal Deadline: None

Abstract: NMFS has received an application from an oil exploration and development company for an authorization to take marine mammals incidental to oil development in the U.S. Beaufort Sea. This authorization can be granted under the Marine Mammal Protection Act provided the taking of marine mammals is incidental, is having no more than a negligible impact on small numbers of marine mammals and is not having an unmitigable adverse impact on Arctic subsistence needs. If authorization is granted, monitoring and reporting all takings will be required.

Timetable:

Action	Date	FR Cite
ANPRM	02/01/99	64 FR 9965
ANPRM Comment Period End	03/31/99	
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AM09

702. • RULE GOVERNING THE TAKE OF SEVEN THREATENED EVOLUTIONARILY SIGNIFICANT UNITS (ESUS) OF WEST COAST SALMONIDS

Priority: Economically Significant

Legal Authority: 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701 et seq

CFR Citation: 50 CFR 22

Legal Deadline: None

Abstract: NMFS is proposing to issue protective regulations for seven Evolutionarily Significant Units (ESUs) of west coast salmon listed as threatened under the Endangered Species Act (ESA). These regulations will apply section 9(a) prohibitions except with respect to certain benign and beneficial actions and specific actions taken consistent with approved conservation and fishery management plans.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AM59

703. • DESIGNATION OF THE COOK INLET, ALASKA, STOCK OF BELUGA WHALE AS DEPLETED UNDER THE MARINE MAMMAL PROTECTION ACT (MMPA) AND RESPONSE TO PETITIONS

Priority: Other Significant

Legal Authority: 16 USC 1362(3); 16 USC 1371(b); 16 USC 1383 et seq

CFR Citation: 50 CFR 216.15(g); 50 CFR 216.23(e)

Legal Deadline: Final, Statutory, October 6, 1999.

Abstract: The best available scientific information indicates that the Cook Inlet stock of beluga whales declined an average of 15 percent annually between 1994 and 1998, dropping from an estimated 653 whales in 1994 to fewer than 347 by 1998. Further, the 1994 estimate is significantly below anecdotal estimates of more than 1000 whales prior to 1980. Because of this decline, NMFS announced on November 19, 1998 that it would conduct a status review to determine if the Cook Inlet stock of beluga whales should be listed as endangered or threatened under the Endangered Species Act (ESA) or designated as depleted under the Marine Mammal Protection Act (MMPA). Subsequently, NMFS received petitions to list the stock as endangered under the ESA and/or to designate the stock as depleted under the MMPA.

Based on the status review, NMFS concludes that this stock is below its Optimal Sustainable Population level. Therefore, NMFS proposes to designate the Cook Inlet stock of beluga whales as depleted under the MMPA. NMFS also proposes to regulate the Native harvest of Cook Inlet beluga whales under section 101(b)(3) of the MMPA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Brad Smith, Department of Commerce, National Oceanic and Atmospheric Administration, 222 W. 7th Avenue, Box 43, Anchorage, AK 99513
Phone: 907 271-5006

DOC—NOAA

Proposed Rule Stage

Email: Brad.Smith@noaa.gov

RIN: 0648–AM84

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

704. REVISION OF FEDERAL CONSISTENCY REGULATIONS UNDER THE COASTAL ZONE MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1451 et seq

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: This rulemaking will revise the Federal consistency regulations to codify statutory provisions and clarify regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Karl Gleaves, Asst. General Counsel for Ocean Services, Office of General Counsel, Department of Commerce, National Oceanic and Atmospheric Administration, 6th Floor, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2967

RIN: 0648–AD83

705. REVISION OF OVERFLIGHT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations are being revised to clarify that they are for resource protection purposes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Moore, Sanctuaries and Resources Division, Department of Commerce, National Oceanic and Atmospheric Administration, N ORM 2, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3145

RIN: 0648–AI91

706. INTERAGENCY CONSULTATION FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Priority: Other Significant

Legal Authority: 16 USC 1434(d)

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA plans to issue regulations to implement the Federal-agency consultation requirements of the National Marine Sanctuaries Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie Campbell, Attorney-Adviser, Department of Commerce, National Oceanic and Atmospheric Administration, Room 6111, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2967

RIN: 0648–AL06

707. • NATURAL RESOURCE DAMAGE ASSESSMENT UNDER THE OIL POLLUTION ACT OF 1990

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2706(e)

CFR Citation: 15 CFR 990

Legal Deadline: None

Abstract: This rulemaking amends the natural resource damage assessment rule under the Oil Pollution Act of 1990, codified at 15 CFR 990, due to court remand (General Electric vs. Commerce, 128 F. 3d 767. DC Cir. 1997).

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eli Reinharz, Ecologist, Department of Commerce, National Oceanic and Atmospheric Administration, NOAA/DAC, Room 10218, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3038
Fax: 301 713-4387

RIN: 0648–AM80

708. • COASTAL ZONE MANAGEMENT ACT CONSISTENCY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 930 et seq

Legal Deadline: None

Abstract: This rulemaking revises existing Federal regulations governing consistency promulgated in 1979. These changes reflect statutory changes in the Coastal Zone Management Act in 1990 and 1996 as well as experience of 18 years of implementation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Interim Final Rule	03/00/00	
Final Action	07/00/00	
Final Action Effective	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Agency Contact: Molly Holt, Attorney Advisor, Department of Commerce, National Oceanic and Atmospheric Administration, Ocean Services, 1305 East-West Highway, 6th Floor, Silver Spring, MD 20910
Phone: 301 713-2967

RIN: 0648–AM88

OFFICE OF THE ADMINISTRATOR

709. LICENSING OF PRIVATE REMOTE-SENSING SATELLITE SYSTEMS

Regulatory Plan: This entry is Seq. No. 19 in Part II of this issue of the **Federal Register**.

RIN: 0648–AC64

DOC—NOAA

Proposed Rule Stage

710. POLICIES AND PROCEDURES REGARDING PROGRAM EVALUATION AND COMPETITIVE FUNDING REQUIREMENTS WITHIN THE OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 313; 15 USC 2901 et seq; 33 USC 883e; 33 USC 1121 et seq; 49 USC 44720

CFR Citation: 15 CFR 919 (New)

Legal Deadline: None

Abstract: The Office of Oceanic and Atmospheric Research (OAR) proposes regulations on its policies and procedures for program evaluation, the solicitation, review, and approval of proposals, and conflict of interest. These proposed regulations will provide the basic principles, objectives, and procedural framework for the evaluation of OAR programs, standardize the procedures for generating, evaluating, and selecting proposals sponsored within OAR that are subject to open competition, and establish procedures for identifying and handling conflicts of interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Eugene S. Fritz, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Oceanic and Atmospheric Research, Program Development and Coordination, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-0460
Email: gene.fritz@noaa.gov

RIN: 0648–AL45

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

NATIONAL MARINE FISHERIES SERVICE

711. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR CORALS AND REEF-ASSOCIATED PLANTS AND INVERTEBRATES FOR PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: Amendment 1 would establish marine conservation districts to conserve representative reef areas and fishery habitat in the exclusive economic zone of the Caribbean.

Timetable:

Action	Date	FR Cite
NPRM	08/03/99	64 FR 42068
NPRM Comment Period End	09/17/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AG88

712. IMPLEMENT REGULATIONS UNDER ACFCMA TO PROVIDE FOR COORDINATED MANAGEMENT OF THE AMERICAN LOBSTER RESOURCE THROUGHOUT ITS RANGE, END OVERFISHING, AND REBUILD THE AMERICAN LOBSTER STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1851 et seq

CFR Citation: 50 CFR 697

Legal Deadline: Final, Statutory.

Abstract: Action proposes measures in Federal waters to complement regulations in Amendment 3 to the Interstate Fishery Management Plan for American lobster under the authority of the Atlantic Coastal Fisheries Cooperative Management Act. Action proposes to transfer existing measures currently identified in the American Lobster Fishery Management Plan developed by the New England Fishery Management Council under the authority of the Magnuson-Stevens Act. In addition, this action proposes to address the Sustainable Fisheries Act requirements to end overfishing of American lobster by all methods of harvest in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	01/15/99	64 FR 2708
NPRM Comment Period End	02/10/99	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: The measures previously contained in Amendment 7 are contained in this action. Amendment 7 to the Fishery Management Plan for American Lobster will contain measures for the vessel permit consistency amendment (0648-AL36).

Agency Contact: Jon C. Rittgers, Acting Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AH41

713. INTERIM FINAL RULE TO CONSOLIDATE THE RULES FOR SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC AND STONE CRAB FISHERY OF THE GULF OF MEXICO WITH 50 CFR 622

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing

DOC—NOAA

Final Rule Stage

Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622; 50 CFR 640; 50 CFR 654

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS had proposed to withdraw the Fishery Management Plans for Spiny Lobster and Stone Crab (FMPs). The regulations implementing these FMPs were not included in the consolidated regulations for Fisheries of the Caribbean, Gulf, and South Atlantic at 50 CFR part 622. Recently, NMFS withdrew the proposed rules that would have withdrawn the FMPs. This final rule will incorporate the rules implementing these FMPs in the consolidated regulations without substantive change.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AJ28

---

714. GUIDELINES FOR THE DESCRIPTION, IDENTIFICATION, CONSERVATION, AND ENHANCEMENT OF ESSENTIAL FISH HABITAT

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 600

Legal Deadline: Final, Statutory, April 11, 1997, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Guidelines to assist Fishery Management Councils in the description and identification of essential fish habitat (EFH) in fishery management plans, and in the consideration of actions to conserve and enhance EFH.

Timetable:

Action	Date	FR Cite
ANPRM	11/08/96	61 FR 57843
ANPRM Comment Period End	12/09/96	
ANPRM	01/09/97	62 FR 1306
ANPRM Comment Period End	02/12/97	
NPRM	04/23/97	62 FR 19723
NPRM Comment Period End	07/08/97	
Interim Final Rule	12/19/97	62 FR 66531
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Andrew J. Kemmerer Ph.D., Director, Office of Habitat Conservation, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910-3282
Phone: 301 713-2325
Fax: 301 713-1043
Email: Andy.Kemmerer@noaa.gov

RIN: 0648–AJ30

---

715. IMPLEMENTATION OF A FISHERY MANAGEMENT PLAN FOR MONKFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Action to implement management measures for monkfish in the EEZ.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7601
NPRM Comment Period End	03/26/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AJ44

---

716. AMENDMENT 16A TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 16A will: (1) Prohibit the use of fish traps south of 25 degree north latitude (near Cape Sable, FL) on February 7, 2001; (2) prohibit the possession of reef fish exhibiting the condition of trap rash on board a reef fish vessel that is fishing spiny lobster or stone crab traps without a valid fish trap endorsement; (3) specify that NMFS establish a system design, implementation schedule, and protocol for a vessel monitoring system for the fish trap fishery (the system design, including costs and implementation schedule, would have to be approved by the Council prior to implementation through additional proposed and final rules); (4) provide a 1-month fish trap inspection/compliance/education period; and (5) require fish trap vessels to submit trip initiation and trip termination reports.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10613
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AK31

---

717. PROPOSED HIGHLY MIGRATORY SPECIES PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq; 16 USC 971 et seq

CFR Citation: 50 CFR 630

Legal Deadline: None

DOC—NOAA

Final Rule Stage

Abstract: NMFS proposes to revise the administrative procedures it follows to prepare and issue highly migratory species (HMS) management plans (FMPs), FMP amendments and implementing regulations for the Atlantic Ocean, Gulf of Mexico and Caribbean Sea in response to recent amendments to the Magnuson-Stevens Fishery Management Act.

Timetable:

Action	Date	FR Cite
NPRM	09/18/97	62 FR 48990
NPRM Comment Period End	10/15/97	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AK40

---

718. ENDANGERED AND THREATENED SPECIES: PROPOSED ENDANGERED STATUS AND DESIGNATED CRITICAL HABITAT FOR COASTWIDE CHUM SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 226; 50 CFR 227

Legal Deadline: Final, Statutory, March 10, 1999, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS has completed a comprehensive status review for chum salmon populations in Washington, Oregon and California and has identified evolutionarily significant units (ESUs) within the range. NMFS is now issuing a proposed rule to list appropriate ESUs under the Endangered Species Act. NMFS is also proposing critical habitat for ESUs proposed for listing.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11773
NPRM Comment Period End	06/30/98	63 FR 30455
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AK53

---

719. RULE TO IMPLEMENT A FISHERY MANAGEMENT PLAN FOR THE SPINY DOGFISH FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The Fishery Management Plan will include management measures for the Spiny Dogfish Fishery.

Timetable:

Action	Date	FR Cite
NPRM	08/03/99	64 FR 42071
NPRM Comment Period End	09/17/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AK79

---

720. REGULATORY AMENDMENT TO ESTABLISH A SITKA SOUND HALIBUT MANAGEMENT PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would create a local area halibut management plan for Sitka Sound. This management plan will include specified boundaries by latitude and longitude. Halibut longliners and halibut charter vessels would be prohibited from harvesting halibut in some areas of the Sitka Sound Halibut Management Area during specified times of the year. In addition, the amount of halibut on board a halibut longliner may be restricted during specified times of the year. Halibut catch in the Sitka Sound Management Area would be monitored for growth rate.

Timetable:

Action	Date	FR Cite
NPRM	04/28/99	64 FR 22826
NPRM Comment Period End	05/28/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL18

---

721. REGULATORY AMENDMENT TO REVISE THE RECORDKEEPING AND REPORTING REQUIREMENTS FOR 1999

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: This regulatory amendment would include the following issues suggested by NMFS Management, Enforcement, the U.S. Coast Guard, and the fishing industry: revise language for surrendering fisheries or processor permit; document "pumping" of fish; combine Steller sea lion tables; create revised figures for Bering Sea and Aleutian Islands Management Area; remove Improved Retention/Improved Utilization columns in catcher vessel

DOC—NOAA **Final Rule Stage**

logbook; develop code and recording procedure for experimental fisheries; develop a new discard category for adulterated fish and for research fish; develop secondary product code level that defines condition of end product (i.e., frozen blocks, grades of surimi); add CDQ delivery number to logbooks; and develop combined NMFS/IPHC catcher vessel and catcher/processor logbooks for fixed gear.

Timetable:

Action	Date	FR Cite
NPRM	02/05/99	64 FR 5868
NPRM Comment Period End	02/22/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL23

---

722. AMENDMENT 9 TO THE NORTHEAST MULTISPECIES FMP TO ADDRESS NEW SUSTAINABLE FISHERIES ACT REQUIREMENTS, AND OTHER MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: NPRM, Statutory, October 11, 1998, (See Additional Information).

Abstract: Amendment 9 to the FMP was developed by the New England Fishery Management Council primarily to address the new requirements of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act. To meet these requirements, this proposed rule adds Atlantic halibut to the Northeast Multispecies FMP, implement measures to rebuild halibut and stocks of winter flounder, and implement new or revised overfishing definitions and revised specifications of optimum yield for 12 groundfish species. In summary, this rule proposed a one-fish halibut possession limit of 36 inches or greater, an increase of one inch in the minimum size of winter flounder; postponement of the Vessel Monitoring System requirement beyond May 1, 1999; a modification of the framework process to allow for aquaculture projects and changes to the overfishing definitions; and a prohibition of baush-sweep trawl gear when fishing for multispecies.

Timetable:

Action	Date	FR Cite
NPRM	03/23/99	64 FR 13952
NPRM Comment Period End	05/03/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: LEGAL DEADLINE CONT: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

NMFS partially approved Amendment 9 on April 7, 1999. NMFS disapproved the winter flounder size increase. Amendment 9 did not provide an overfishing definition for the Gulf of Maine stock of winter flounder. The Council was advised that the overfishing definition should be revised at the next available opportunity using the most recent assessment conducted at the 28th Stock Assessment Workshop.

NMFS prepared an FRFA as part of the regulatory impact review, which describes the impact this rule would have on small entities. The New England Fishery Management Council, in its IRFA, had determined that this action would not have a significant impact on a substantial number of small entities. However, NMFS concluded that a determination of non-significance could not be made because of the inability to identify the number of vessels that may be impacted by measures in the proposed rule, namely the brush-sweep trawl gear prohibition, the 1-fish halibut possession limit, and the winter flounder fish size increase. In its supplement to the IRFA, NMFS revisited each of these measures and concluded that the degree of economic impacts on small entities varied depending on whether the number of vessels impacted includes all permitted vessels, all active vessels, or just those vessels directly impacted by a measure.

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL31

---

723. COMPREHENSIVE AMENDMENT ADDRESSING SUSTAINABLE FISHERY ACT DEFINITIONS AND OTHER REQUIRED PROVISIONS IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The comprehensive Sustainable Fishery Act (SFA) amendment will amend existing fishery management plans (FMPs) for shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, and golden crab to ensure (1) they are in conformance with SFA section 102 definitions, (2) that bycatch provisions are in conformance with SFA section 108 provisions, (3) they address fishery impact statements that describe the likely effects of management measures on fishing communities, (4) they address overfishing provisions specifying objective and measurable criteria for identifying whether a fishery is overfished, and (5) they propose measures to rebuild overfished stocks in fisheries of the South Atlantic Region.

Timetable:

Action	Date	FR Cite
NPRM	05/24/99	64 FR 27952
NPRM Comment Period End	07/08/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

DOC—NOAA

Final Rule Stage

Government Levels Affected: Federal

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL42

---

724. COMPREHENSIVE AMENDMENT ADDRESSING ESSENTIAL FISH HABITAT IN FISHERY MANAGEMENT PLANS OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: The comprehensive habitat amendment will identify essential fish habitat (EFH) for the shrimp, red drum, snapper-grouper, coastal migratory pelagics, coral, coral reefs, and live/hard bottom resources, spiny lobster, golden crab, sargassum, and calico scallop fisheries of the South Atlantic Region. EFH-habitat areas of particular concern will be identified and regulations designed to reduce or eliminate the impact of fisheries on EFH will be presented.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37082
NPRM Comment Period End	08/23/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL43

---

725. IMPLEMENTATION OF AMENDMENT 8 TO THE NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998.
Final, Statutory.
See "Additional Information".

Abstract: This action would amend the Northern Anchovy Fishery Management Plan (FMP) to comply with new requirements of the Sustainable Fisheries Act. The amendment would rename the FMP, add several species (Pacific mackerel, jack mackerel, and Pacific sardine) to the management unit, establish procedures for annual specification of harvest limits for managed species, and implement limited entry for fishing for small coastal pelagic species of fish in the management area. The amendment provides definitions and criteria to determine if any stocks are overfished and if rebuilding plans are needed. An annual review of the fisheries is conducted to make this determination.

Timetable:

Action	Date	FR Cite
NPRM	05/22/99	64 FR 28143
NPRM Comment Period End	07/09/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: Legal Deadline: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Suite 4200, 501 West Ocean Boulevard, Long Beach, CA 90802-4213
Phone: 310 980-4001

RIN: 0648–AL48

---

726. AMENDMENT 11 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: NPRM, Statutory, October 11, 1998.
Final, Statutory.
See "Additional Information".

Abstract: This rule implements portions of Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan (FMP), and to announce the partial approval of Amendment 11. The Pacific Fishery Management Council (Council) prepared Amendment 11 with the intention of bringing the FMP into compliance with the Sustainable Fisheries Act (SFA) regarding overfishing, bycatch, essential fish habitat (EFH), and fishing communities. This action announces that NMFS has approved all of Amendment 11, except for the bycatch provisions. This action also announces that NMFS has informed the Council that three stocks managed under the Pacific Coast groundfish FMP are considered overfished: Pacific ocean perch, lingcod, and bocaccio. This rule implements the portions of Amendment 11 that has collected resource information according to a NMFS-approved protocol may be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions. This rule also modifies the regulatory definition of "processing or to process," and "specification," and adds regulatory definitions for "optimum yield" and for "processor" to match the definitions of those terms in Amendment 11. This action is intended to improve the types and amounts of scientific information available for use in stock assessments and management of the Pacific Coast groundfish fishery.

Timetable:

Action	Date	FR Cite
NPRM	02/10/99	64 FR 6597
NPRM Comment Period End	03/29/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

DOC—NOAA

Final Rule Stage

Additional Information: Under 16 USC 1853 note, each Regional Fishery Management Council must submit to NMFS amendments to its fishery management plans and any associated proposed regulations bringing them into compliance with the Sustainable Fisheries Act (P.L. 104-297). Final regulations to be published within 30 days of NPRM comment period.

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL52

---

727. AMEND 12 SUMMER FLOUNDER, SCUP & BLACK SEA BASS FISHERIES FMP; AMEND 8 TO FMP FOR ATLANTIC MACKEREL, SQUID & BUTTERFISH; AND AMEND 12 TO FMP FOR ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of NPRM comment period end.

Abstract: The proposed rule to implement the three Fishery Management Plan (FMP) amendments would implement framework provisions for amending management measures for these fisheries, restrict the size of domestic harvesting vessels permitted in the Atlantic mackerel fishery without restricting the size of processing vessels, and implement an operator permit requirement for the surf clam and ocean quahog fisheries. These amendments are intended to meet the requirements of the Sustainable Fisheries Act of October 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 16891
NPRM Comment Period End	05/24/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AL56

---

728. AMENDMENT 16B TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 16B will: (1) establish a "slot limit" of 14 inches (minimum) and 22 inches (maximum) fork length for the commercial and recreational harvest of lesser amberjack and banded rudderfish; (2) establish a 5-fish aggregate bag limit; (3) remove queen triggerfish from the FMP and thus allow more conservative management measures in Florida state waters to extend into the EEZ; (4) eliminate the distinction in the FMP between reef fish species in the management unit and those in the fishery but not in the management unit with the intent of excluding sand perch and dwarf sand perch from the 20-fish aggregate bag limit; (5) implement minimum size limits on cubera snapper (12 inches, total length (TL)), dog snapper (12 inches, TL), mahogany snapper (12 inches, TL), schoolmaster (12 inches, TL), mutton snapper (16 inches, TL), scamp (20 inches, TL), gray triggerfish (12 inches, TL), and hogfish (12 inches, fork length); (6) establish a 5-fish bag limit for hogfish and exclude hogfish from the 20-fish aggregate reef fish bag limit; and (7) establish a recreational bag limit of 1 speckled hind and 1 warsaw grouper per vessel. Setting bag limits for speckled hind and warsaw grouper would prohibit the sale of these species by the recreational sector because the FMP and existing regulations prohibit sale of reef fish subject to bag limits.

Timetable:

Action	Date	FR Cite
NPRM	07/02/99	64 FR 35981
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL57

---

729. REGULATORY AMENDMENT TO IMPLEMENT A LIMITED ACCESS PROGRAM THAT REQUIRES SPECIES ENDORSEMENTS TO PARTICIPATE IN FISHERIES TARGETING CERTAIN GROUNDFISH SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of interim final rule comment period.

Abstract: Regulations would implement species-specific permit endorsement requirements for commercial groundfish fisheries. Limited entry permit holders would be either allowed to or prohibited from landing those species, based on historic dependence on those species.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070
Phone: 206 526-6150

RIN: 0648–AL65

---

730. RULE TO PROHIBIT FISHING AND ANCHORING OF FISHING VESSELS IN THE EEZ SEAWARD OF NAVASSA ISLAND

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

DOC—NOAA

Final Rule Stage

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: Rule to prohibit fishing and anchoring of fishing vessels in the exclusive economic zone (EEZ) within 15 nautical miles seaward of the baseline of Navassa Island, a U.S. territory in the Caribbean Sea. This is protect unique and unprotected marine resources in the area, including reef fish and invertebrates, especially coral, live rock, sponges, queen conch, and spiny lobsters, from unregulated harvest. These resources are in relatively pristine condition due to the area isolation and distance from commercial fishing grounds of major fishing nations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AL93

---

731. AMENDMENT TO REQUIRE A SPECIFIC VESSEL NAME BE INCLUDED ON A LICENSE FOR A VESSEL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to require a specific vessel name be issued under the license limitation program.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AL96

---

732. 2000 HARVEST GUIDELINES FOR THE NORTHWESTERN HAWAIIAN ISLANDS LOBSTER FISHERY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action announces the 2000 bank-specific harvest guidelines for the Northwestern Hawaiian Islands crustacean fishery. The guidelines are calculated according to the formula in the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Dr. Charles Karnella, Administrator, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700
Phone: 808 973-2937

RIN: 0648–AM16

---

733. FISHING PARTICIPATION IN 1999 IN NON-SALMON FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Anyone participating in any non-salmon fishery in the North Pacific EEZ during 1999 will not be assured of participation credit for future access under a limited access regime.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/99	64 FR 2870
ANPRM Comment Period End	02/18/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM18

---

734. PACIFIC COAST GROUNDFISH FISHERY; ANNOUNCEMENT OF THE 2000 GROUNDFISH FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 660

Legal Deadline: None

Abstract: This action will announce the 2000 fishery specifications and management measures for groundfish taken in the exclusive economic zone and state waters off the coasts of Washington, Oregon and California. The specifications will include the levels of the acceptable biological catch and optimum yields, including the distribution between domestic and foreign fishing operations.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Stelle, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, BIN C15700, 7600 Sand Point Way NE, Building 1, Seattle, WA 48115-0070

DOC—NOAA

Final Rule Stage

Phone: 206 526-6150

RIN: 0648–AM21

---

735. EFFECTS OF SPOTTER AIRCRAFT ASSISTANCE IN ATLANTIC BLUEFIN TUNA (BFT) FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes measures to manage the use of spotter aircraft to assist in the fishery for BFT.

Timetable:

Action	Date	FR Cite
NPRM	06/04/99	64 FR 29984
NPRM Comment Period End	06/22/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AM27

---

736. GULF OF ALASKA GROUNDFISH REGULATORY AMENDMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory. Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Regulatory amendment to reduce maximum retainable bycatch percentages in order to reduce industry incentives for target operations on Gulf of Alaska shortrake/rougheye rockfish when the fishery is closed to directed fishing.

Timetable:

Action	Date	FR Cite
NPRM	08/03/99	64 FR 42080
NPRM Comment Period End	09/02/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM36

---

737. • ENDANGERED AND THREATENED SPECIES; STATUS OF CHINOOK SALMON IN WASHINGTON, IDAHO, OREGON AND CALIFORNIA AND DESIGNATION OF CRITICAL HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 223; 50 CFR 224; 50 CFR 226

Legal Deadline: NPRM, Judicial, February 26, 1998.
Final, Statutory, March 9, 1999.

Abstract: NMFS has completed a comprehensive status review of west coast chinook salmon populations in Washington, Oregon, Idaho and California. NMFS has identified 15 Evolutionarily Significant Units (ESUs) of chinook within this range. Seven ESUs are proposed for listing and critical habitat is proposed for designation for the ESUs proposed for listing.

Timetable:

Action	Date	FR Cite
NPRM	03/09/98	63 FR 11482
NPRM Comment Period End	06/30/98	63 FR 30455
Proposed Extension of Deadline for Final Determination to 9/9/1999	03/24/99	64 FR 14329
Final Rule	03/24/99	64 FR 14308
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AM54

---

738. • EMERGENCY INTERIM RULE TO CLOSE RED PORGY FISHERY OF THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: The red porgy fishery in the south Atlantic is severely overfished. This rule would prohibit the harvest and possession of red porgy in the south Atlantic region. The intent of this rule is to initiate rebuilding the red porgy resource within ten years.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM55

---

739. • INTERIM FINAL RULE TO REVISE THE LIST OF GEAR AND FISHERIES UNDER JURISDICTION OF EACH FISHERY MANAGEMENT COUNCIL OR THE SECRETARY OF COMMERCE FOR HIGHLY MIGRATORY SPECIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq .

CFR Citation: 50 CFR 600; 50 CFR 622; 50 CFR 630; 50 CFR 644; 50 CFR 648; 50 CFR 649; 50 CFR 654; 50 CFR 660; 50 CFR 678; 50 CFR 679; 15 CFR 902

DOC—NOAA

Final Rule Stage

Legal Deadline: None

Abstract: This rule revises the list of fisheries and gear issued in a final rule (0648-AK49) on January 27, 1999. That listing of allowable gear types for the various fisheries becomes effective on July 26, 1999. Revisions in the list are necessary as the public has recently made us aware of unintended omissions of gear types that would eliminate certain types of established fishing that are consistent with current regulations and fishery management plans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AM56

---

740. • DISASTER ASSISTANCE PROGRAM FOR THE NORTHEAST MULTISPECIES FISHERY

Priority: Other Significant

Legal Authority: PL 105-277; 16 USC 4107

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This is a program for disbursing funds to assist persons who have incurred losses from a commercial fishery failure due to the declining stocks of groundfish (cod, haddock, flounders, etc.), which has caused harm to the Northeast multispecies fishery. In exchange for receiving compensation, fishermen will have to agree to provide their vessels for research if asked before September 30, 2000.

Timetable:

Action	Date	FR Cite
NPRM	06/11/99	64 FR 31542
NPRM Comment Period End	06/28/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin Chu, Special Assistant to the Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, Northeast Regional Office, 166 Water Street, Woods Hole, MA 02543
Phone: 508 495-2367

RIN: 0648–AM68

---

741. • ATLANTIC BLUEFIN TUNA FISHERY REGULATORY ADJUSTMENT PURSE SEINE CATEGORY ALLOCATION LIMIT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS proposes to amend the regulations governing the Atlantic highly migratory species fisheries to allocate 18.6 percent of the landings quota to the Purse Seine category, thereby removing the 250 metric ton allocation restriction.

Timetable:

Action	Date	FR Cite
NPRM	08/18/99	64 FR 44885
NPRM Comment Period End	09/27/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AM82

---

742. • INTERIM FINAL RULE TO IMPLEMENT INTERIM MEASURES TO ADJUST THE GULF OF MAINE COD LANDING LIMIT FOR THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: Shall remain in effect for not more than 180 days after date of publication and may be extended by publication in the Federal Register for one additional period of not more than 180 days.

Abstract: This rule adjusts GOM cod landing limit by increasing it from 30lb per day-at-sea with a maximum GOM cod possession limit of 500lb per trip and by revising the running clock provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/99	64 FR 42042
Interim Final Rule Effective	08/03/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM87

---

743. • EMERGENCY INTERIM RULE FOR RESTRICTED REOPENING OF LIMITED ACCESS PERMIT APPLICATION PROCESS FOR SNAPPER-GROUPER PERMITS IN THE SOUTH ATLANTIC REGION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: In 1998, a limited access program for the snapper-grouper fishery of the south Atlantic region was implemented. A number of qualified fishermen either failed to apply for a permit or submitted their application late. This rule will provide an additional 45-day application period for qualified fishermen to apply for a snapper-grouper permit.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOC—NOAA

Final Rule Stage

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM92

---

744. • ATLANTIC HIGHLY MIGRATORY SPECIES FISHERIES; LIMITED ACCESS PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This final rule extends the deadline to apply for limited access permits in the swordfish and shark fisheries from September 1, 1999 to September 10, 1999. This regulatory change will allow an additional 10 days for vessel owners who were precluded from posting the applications due to circumstances beyond their control.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AN05

---

745. • ANNUAL FRAMEWORK ADJUST TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This will be the annual framework adjustment required by the Fishery Management Plan to ensure that the management measures meet the overfishing and rebuilding objectives.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN13

---

746. • FRAMEWORK ADJUSTMENT 32 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would adjust measures to be implemented in Amendment 12 to the Northeast Multispecies Fishery Management Plan. Adjustments include replacing the whiting trip limit certificate program with a trip-by-trip call-in system and allowing vessels to use net strengtheners in their nets.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN14

---

747. • FRAMEWORK ADJUSTMENT 31 TO THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This framework action would modify the Gulf of Maine cod management program to address discards and adjust the mechanism in the Georges Bank cod trip limit program that provides authority to the Regional Administrator to reduce the trip limit based on an evaluation of the use of exceeding the Georges Bank total allowable catch.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AN15

---

748. • FRAMEWORK ADJUSTMENT 12 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This action would modify the 2000 fishing year scallop days-at-sea (DAS) schedule for full-time limited access vessels. The DAS schedule implemented under Amendment 7 to the FMP would remain in place for the fishing years beyond 2000. The framework also proposes to continue the Georges Bank Sea Scallop exemption program in Closed Area II for fishing year 2000.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930

DOC—NOAA **Final Rule Stage**

Phone: 978 281-9200

RIN: 0648–AN18

---

749. DESIGNATED CRITICAL HABITAT; PACIFIC STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: NPRM, Statutory, February 16, 1995.
Final, Statutory, August 18, 1998, Endangered Species Act section 4(b)(3)(D)(ii). If steelhead are listed under the ESA by 8/9/97, then critical habitat designation will be due 8/9/98.

Abstract: This rule will propose critical habitat for 9 stocks of Pacific Steelhead as follows: 5 stocks listed under Endangered Species Act on 8/18/97 2 stocks listed on 3/18/98, and 2 stocks proposed for listing on 3/10/98. (62 FR 43937, 63 FR 13347, 63 FR 11798 respectively)

Timetable:

Action	Date	FR Cite
NPRM	02/05/99	64 FR 5740
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lisa Lierheimer, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AG49

---

750. FINAL RULE TO ESTABLISH GUIDELINES FOR NONLETHALLY DETERRING MARINE MAMMALS FROM ENDANGERING PERSONAL SAFETY OR DAMAGING PUBLIC OR PRIVATE PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq The Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, January 1, 1995, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: On April 30, 1994, the President signed Pub. L. 103-238, the Marine Mammal Protection Act Amendments of 1994. One part of this law implemented a new section 101(a)(4) to authorize the nonlethal harassment takings by citizens of the United States to deter marine mammals from: (1) Damaging commercial fishing gear or catch; (2) damaging private property; (3) endangering public safety; or (4) damaging public property. The amendments require a list of guidelines for use in safely deterring marine mammals and provide for prohibiting certain deterrent measures that may have a significant adverse impact on marine mammals.

Timetable:

Action	Date	FR Cite
NPRM	05/05/95	60 FR 22345
NPRM Comment Period End	07/05/95	
Final Action	10/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910-3226
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AH19

---

751. GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH INVOLVING LEVEL B HARASSMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority: 16 USC 1151 et seq Fur Seal Act; 16 USC 1631 et seq Marine Mammal Protection Act

CFR Citation: 50 CFR 216

Legal Deadline: Final, Statutory, August 30, 1994, Final regulations to be published within 30 days of the end of the NPRM comment period.

Abstract: This final rule is required by the 1994 amendments to the Marine Mammal Protection Act. These regulations establish a general authorization for bona fide scientific research on non-endangered and non-threatened marine mammals that may result in harassment with only the potential to disturb. Inclusion under the general authorization is achieved by letter of intent to the National Marine Fisheries Service and a letter of confirmation from the Service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/03/94	59 FR 50372
Interim Final Rule Comment Period End	11/17/94	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Ruth Johnson, Marine Resources Management Specialist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2289

RIN: 0648–AH20

---

752. ENDANGERED AND THREATENED SPECIES: TAKE OF THREATENED SOUTHERN OREGON/NORTHERN CALIFORNIA COAST EVOLUTIONARILY SIGNIFICANT UNIT (ESU) COHO SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 31 USC 9701 et seq; 16 USC 742a et seq

CFR Citation: 50 CFR 223

Legal Deadline: None

Abstract: On May 6, 1997, NMFS listed the Southern Oregon/Northern California Coast ESU of coho salmon as threatened. NMFS is now issuing protective regulations under section 4(d) of the ESA which will apply section 9(a) prohibitions to all activities within this ESU unless: in compliance with section 10 or other exemptions under the ESA; in accordance with a timely application for a permit for scientific purposes to enhance propagation or survival of the species; or within carefully circumscribed harvest hatchery, research and monitoring, or habitat restoration activity exceptions.

DOC—NOAA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/97	62 FR 38479
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AJ91

753. ENDANGERED AND THREATENED SPECIES: PROPOSED THREATENED STATUS AND DESIGNATED CRITICAL HABITAT FOR WEST COAST SOCKEYE SALMON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 to 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 226; 50 CFR 223

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: NMFS has completed a comprehensive review of west coast sockeye salmon in Washington, Oregon and California and has identified 6 evolutionarily significant units (ESUs) within this range. NMFS is now fashioning a proposed rule to list one ESU as threatened under the Endangered Species Act. NMFS is also proposing critical habitat which will encompass the species current freshwater and estuarine range.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11750
NPRM Comment Period End	06/30/98	63 FR 30455
Final Rule	03/25/99	64 FR 14528
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AK52

754. DEFINITION OF HARM UNDER THE ESA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 742a et seq; 31 USC 9701 et seq

CFR Citation: 50 CFR 222

Legal Deadline: None

Abstract: This proposed rule defines the term "harm" which is contained in the Endangered Species Act. The purpose of this rulemaking is to help resolve uncertainty concerning the type of harm that may result in a take of a listed species under the ESA.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24148
NPRM Comment Period End	06/30/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chris Mobley, Salmon Coordinator, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: chris.mobley@noaa.gov

RIN: 0648–AK55

755. SEA TURTLE CONSERVATION; SHRIMP TRAWLING REQUIREMENTS

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 222; 50 CFR 223

Legal Deadline: None

Abstract: The interim final rule allows the use of Soft Turtle Excluder Devices (TEDs) in the Southeastern and Gulf of Mexico Shrimp fishery.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/13/98	63 FR 17948
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Therese Conant, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: therese.conant@noaa.gov

RIN: 0648–AK66

756. PACIFIC OFFSHORE CETACEAN TAKE REDUCTION PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 229

Legal Deadline: None

Abstract: This interim final rule would allow vessel operators participating in the California/Oregon drift gillnet fishery for thresher shark and swordfish to use longer lines to attach pingers to the nets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/22/99	64 FR 3431
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Vicki Cornish, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2322

RIN: 0648–AL70

757. REDESIGNATION OF CRITICAL HABITAT FOR SNAKE RIVER SPRING/SUMMER CHINOOK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: None

Abstract: On December 28, 1993, the National Marine Fisheries Service (NMFS) designated all river reaches presently or historically accessible to listed Snake River spring/summer chinook salmon (except river reaches

DOC—NOAA **Final Rule Stage**

above impassable natural falls, and Dworshak and Hells Canyon Dams) as critical habitat. On January 6, 1997, NMFS received a petition to revise critical habitat for Snake River spring/summer chinook salmon in Napias Creek, Idaho. On January 30, 1998, NMFS denied the petition based on information submitted in the petition and NMFS' own analysis. However, new information has since been submitted and NMFS is now proposing to redesignate critical habitat to exclude areas above Napias Creek Falls.

Timetable:

Action	Date	FR Cite
NPRM	06/02/99	64 FR 29618
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AM41

758. • MARKETING AND REPORTING BELUGA WHALES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1379(i)

CFR Citation: 50 CFR 216.23

Legal Deadline: None

Abstract: This rule amends 50 CFR 216.23 to require the marking and reporting of beluga whales harvested from Cook Inlet, Alaska, by Alaskan natives. The marking and reporting is necessary to provide essential biological data for the management and conservation of the stock. The effect of the information will be to provide a more sound scientific basis for management of the stock.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Brad Smith, Department of Commerce, National Oceanic and Atmospheric Administration, 222 W. 7th Avenue, Box 43, Anchorage, AK 99513
Phone: 907 271-5006
Email: Brad.Smith@noaa.gov

RIN: 0648–AM57

759. • DESIGNATE CRITICAL HABITAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1533

CFR Citation: 50 CFR 226

Legal Deadline: None

Abstract: NMFS proposes to designate critical habitat for the Oregon coast evolutionarily significant unit (ESU) of coho salmon previously listed under the Endangered Species Act (ESA). Proposed critical habitat occurs in Oregon and encompasses all accessible reaches (including estuarine areas and tributaries) of all rivers within the species' current range.

This proposal specifically excludes Indian lands on reservations within the range of the Oregon Coast ESU in accordance with the recent Secretarial Order entitled "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act" which directs NMFS to "consult with the affected Indian tribe(s) when considering the designation of critical habitat in an area that may impact tribal trust resources, tribally-owned fee lands, or the exercise of tribal rights.

Timetable:

Action	Date	FR Cite
NPRM	05/10/99	64 FR 24998
NPRM Comment Period End	07/09/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kellie Carter, Fishery Biologist, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AM58

760. • SEA TURTLE CONSERVATION REGULATIONS; SUMMER FLOUNDER FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 223; 50 CFR 222

Legal Deadline: None

Abstract: The National Marine Fisheries Service intends to amend the Turtle Excluder Device (TED) requirements for summer flounder trawlers at 50 CFR 223.206(d)(2)(iii). The rule change would require the use of a TED extension with a hard TED. The extension could not be more than 3.5" stretched mesh. The extension could extend not more than 24" and not less than 36" in front of and behind the TED. New information came to light over the winter and during TED testing in June 1999 that TED installation in larger mesh results in many turtle captures and deaths. The fishery will begin at the beginning of October, and many preventable sea turtle deaths would occur if the rule is not in place prior. Bringing the rule into effect during the course of the fishery would also be disruptive to the fishermen.

The rule is not significant and the cost to the fishermen for compliance will be minimal: $20 for materials and about 2 hours to reinstall the TED (many fishermen already reinstall their TEDs on an annual basis).

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Therese Conant, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: therese.conant@noaa.gov

RIN: 0648–AM89

DOC—NOAA

Final Rule Stage

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

761. THUNDER BAY NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 to 1445

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: These regulations will protect the ecological, historical, recreational, and esthetic resources of the waters surrounding Thunder Bay if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33768
NPRM Comment Period End	09/22/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, N ORM2, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AE41

762. OPERATIONS OF MOTORIZED PERSONAL WATERCRAFT IN THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: The National Oceanic and Atmospheric Administration's Sanctuaries and Reserves Division is considering prohibiting the operation of motorized personal watercraft in the nearshore areas of the Gulf of the Farallones National Marine Sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	04/23/99	64 FR 19945
NPRM Comment Period End	07/21/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, N ORM2, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AK01

763. OLYMPIC COAST NATIONAL MARINE SANCTUARY—ADDITION OF DEFINITION FOR SEABIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1431 et seq

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: NOAA plans to issue regulations to add a definition of the term "seabirds" for the Olympic Coast National Marine Sanctuary. The term "seabird" is used in that sanctuary's regulatory prohibitions. The regulations will define seabird to mean a member of any avian species that spends part or all of its life cycle (e.g., feeding) in or over the sanctuary, including shorebirds, waterfowl, and birds of prey.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45191
NPRM Comment Period End	09/24/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie R. Thornton, Chief, Sanctuaries and Reserve Division, Department of Commerce, National Oceanic and Atmospheric Administration, N ORM2, 1305 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-3155

RIN: 0648–AL09

OFFICE OF THE ADMINISTRATOR

764. NOAA PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: NOAA plans to issue proposed revised environmental review procedures for implementing the National Environmental Policy Act (NEPA) within the National Oceanic and Atmospheric Administration. The proposed revisions will update the Agency's procedures published in 1984, based on changing Agency direction, laws, and public concerns. The revisions reflect new initiatives and mandates for NOAA, particularly involving the Magnuson-Stevens Act, Endangered Species Act, and Marine Mammal Protection Act. The revisions provide information on preparing NEPA documents and streamlining of NEPA and other analyses or documents within NOAA.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57664
NPRM Comment Period End	12/14/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Fruchter, Acting NEPA Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, Room 5805, 14th & Pennsylvania Ave., N.W., Washington, DC 20230
Phone: 202 482-5916

RIN: 0648–AL58

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Long-Term Actions

NATIONAL MARINE FISHERIES SERVICE

765. GENERAL PROVISIONS FOR DOMESTIC FISHERIES—STANDARD DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard H. Schaefer
Phone: 301 427-2014

RIN: 0648–AG46

766. REGULATORY AMENDMENT TO REQUIRE ELECTRONIC SUBMISSION BY ALASKA GROUNDFISH PROCESSORS OF WEEKLY PRODUCTION REPORTS AND CHECK IN/OUT REPORTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI66

767. REGULATORY AMENDMENT TO REVISE THE PRODUCT RECOVERY RATE CODES FOR CERTAIN ALASKA GROUNDFISH PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AI87

768. REGULATORY AMENDMENT TO IMPLEMENT BYCATCH REDUCTION MEASURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AJ47

769. IMPLEMENTATION OF DATA COLLECTION AND REPORTING REQUIREMENTS TO THE FISHERY MANAGEMENT PLAN FOR THE AMERICAN LOBSTER FISHERY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 649

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AJ75

770. RULEMAKING TO ESTABLISH THE NORTH PACIFIC LOAN PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK07

771. REGULATORY AMENDMENT TO DEVELOP A C. BAIRDI VESSEL INCENTIVE PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK08

772. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE HALIBUT SUBSISTENCE FISHERY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 300

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK16

773. REGULATORY AMENDMENT TO ALLOCATE PACIFIC HALIBUT TO THE CHARTER BOAT FLEET

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 300

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK17

---

774. AMENDMENT 52 TO FMP FOR GROUNDFISH FISHERY OF BERING SEA AND ALEUTIAN ISLANDS AREA AND AMENDMENT 52 TO FMP FOR GROUNDFISH OF GULF OF ALASKA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK73

---

775. OBSERVER FUNDING POLICY

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AL08

---

776. CRAB COMMUNITY DEVELOPMENT QUOTA RESERVES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 50 CFR 679

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AL92

---

777. FISHERY MANAGEMENT PLAN AMENDMENTS TO ESTABLISH PERMIT MORATORIA IN THE RECREATIONAL-FOR-HIRE SECTORS IN THE GULF OF MEXICO COASTAL MIGRATORY PELAGICS AND REEF FISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Timetable:

Action	Date	FR Cite
ANPRM	11/18/98	63 FR 64031
ANPRM Comment Period End	12/18/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William T. Hogarth
Phone: 727 570-5301

RIN: 0648–AM03

---

778. • OBSERVATION COVERAGE MULTISPECIES GROUNDFISH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: Regulatory amendment to reduce observer coverage requirements for catcher vessels equal to or greater than 60 feet LOA fishing in the multispecies groundfish and halibut CDQ fisheries.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM53

---

779. • BSAI FMP AMENDMENT 66

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: American Fisheries Act requirements for pollock Community Development Quota (CDQ) catch accounting; remove squid from CDQ Program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM72

---

780. • ENDANGERED AND THREATENED SPECIES: LISTING STATUS AND DESIGNATION OF CRITICAL HABITAT FOR WHITE ABALONE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 - 1543; 16 USC 1361 et seq

CFR Citation: 50 CFR 223; 50 CFR 224; 50 CFR 226

Legal Deadline: None

Abstract: NMFR received a petition to list and designate critical habitat for white abalone under the Endangered Species Act and is not initiating a status review.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Terri Jordan, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Fax: 301 713-0376

RIN: 0648–AM90

DOC—NOAA

Long-Term Actions

781. • RECORDKEEPING AND REPORTING REQUIREMENT REVISIONS TO THE ALASKA GROUNDFISH FISHERIES ALASKA COMMERCIAL OPERATOR'S ANNUAL REPORT (ACOAR)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Revision to the Recordkeeping and Reporting requirements will require the offshore groundfish fleet to file the Alaska Department of Fish and Game ACOAR to enhance socioeconomic databases used by management agencies to assess existing or proposed fisheries management measures. This revision will include adding a form and regulations to accommodate this addition.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN01

782. • AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 640

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 7 would address gear limitations in the spiny lobster fishery.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN08

783. • AMENDMENT 7 TO THE FISHERY MANAGEMENT PLAN FOR THE STONE CRAB FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Amendment 7 is expected to extend the state of Florida's proposed limited entry program for stone crab into the exclusive economic zone off Florida's west coast.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AN10

784. • RECORDKEEPING AND REPORTING REQUIREMENT REVISIONS TO THE ALASKA GROUNDFISH FISHERIES LOGBOOKS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: Recordkeeping and Reporting requirements include revisions in the logbook and form formats; revisions to the figures and tables; and revisions to the regulations to accommodate these changes. In addition, these recordkeeping and reporting requirement revisions will contain revisions to the combined International Pacific Halibut Commission/NMFS groundfish/ Individual Fishing Quota logbooks by adding a new data field to the catcher vessel and catcher processor logbooks to indicate the type of seabird device used when fishing with hook-and-line gear; new observer fields and an additional logsheet will be incorporated into each logbook for use by the observer.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN22

785. • REGULATORY AMENDMENT TO REDEFINE VESSEL LENGTH OVERALL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This regulatory amendment would redefine and clarify the definition of vessel length overall.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce,

National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN23

786. • AMENDMENT 63 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA AND MANAGEMENT 63 TO THE FMP FOR THE GROUNDFISH OF THE GULF OF ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: These FMP amendments will revise management measures for the sharks and skates in the BSAI and GOA.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN24

787. • AMENDMENT 64 TO THE FMP FOR THE GROUNDFISH FISHERY OF THE BERING SEA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This FMP amendment will allocate Pacific cod among the fixed gear sectors in the BSAI.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN25

788. • AMENDMENTS TO ALASKA FMPS FOR GROUNDFISH, CRAB, AND SCALLOP TO REDUCE HALIBUT MORTALITY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: These FMP amendments will implement a halibut mortality avoidance program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AN26

789. SEA TURTLE MONITORING AND CONSERVATION MEASURES FOR NONSHRIMP FISHERIES

Priority: Other Significant

CFR Citation: 50 CFR 224; 50 CFR 222; 50 CFR 223

Timetable:

Action	Date	FR Cite
ANPRM	07/10/92	57 FR 30709
ANPRM Comment Period End	08/08/92	
NPRM	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Therese Conant
Phone: 301 713-1401
Email: therese.conant@noaa.gov

RIN: 0648–AE54

790. PROPOSED RULE TO REQUIRE CERTAIN FISH FROM MEXICO TO RETAIN HEADS AND TAILS INTACT IN ORDER TO PROTECT THE ENDANGERED TOTOABA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 224

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AF32

791. TAKING OF MARINE MAMMALS INCIDENTAL TO FISHERIES-RELATED RESEARCH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 228; 50 CFR 216

Timetable:

Action	Date	FR Cite
ANPRM	12/09/91	56 FR 64234
ANPRM Comment Period End	01/08/92	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AF50

792. PROPOSED RULE TO AUTHORIZE LETHAL TAKINGS OF MARINE MAMMALS BY STATE AUTHORITIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

DOC—NOAA

Long-Term Actions

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AG79

793. FINAL RULE TO AMEND MARINE MAMMAL REGULATIONS TO AUTHORIZE INCIDENTAL TAKINGS OF MARINE MAMMALS BY HARASSMENT AS AUTHORIZED BY PUBLIC LAW 103-238

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Timetable:

Action	Date	FR Cite
NPRM	05/31/95	60 FR 28379
NPRM Comment Period End	10/16/95	60 FR 35891
Interim Final Rule	04/10/96	61 FR 15884
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AG80

794. NORTH ATLANTIC RIGHT WHALE PROTECTION; INTERIM FINAL RULE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 222; 50 CFR 224

Timetable:

Action	Date	FR Cite
ANPRM	12/27/94	59 FR 66513
ANPRM Comment Period End	02/27/95	
NPRM	08/07/96	61 FR 41116
NPRM Comment Period End	11/07/96	
Interim Final Rule	02/13/97	62 FR 6729
Final Action	02/00/04	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margot Bohan
Phone: 301 713-2322

RIN: 0648–AH47

795. IMPLEMENTATION OF 1997 MMPA AMENDMENTS AFFECTING YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC

Priority: Economically Significant

CFR Citation: 50 CFR 216.24

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 31806
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney R. McInnis
Phone: 310 980-4001

RIN: 0648–AI85

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

796. MONTEREY BAY NATIONAL MARINE SANCTUARY—MINOR BOUNDARY REVISION

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 922

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephanie R. Thornton
Phone: 301 713-3155

RIN: 0648–AL07

OFFICE OF THE ADMINISTRATOR

797. REGIONAL MARINE RESEARCH PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Don Scavia
Phone: 301 713-3338

RIN: 0648–AF20

798. NATIONAL UNDERSEA RESEARCH PROGRAM FUNDING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Moore
Phone: 301 713-2427

RIN: 0648–AH90

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

799. REGULATORY AMENDMENT TO IMPOSE RESTRICTIONS ON FISHING BLACK ROCKFISH OFF OREGON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AG81

800. REGULATORY AMENDMENT FOR MANAGING PELAGIC FISHERIES BY U.S. VESSELS BEYOND EEZ THROUGHOUT PACIFIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

DOC—NOAA

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Karnella
Phone: 808 973-2937

RIN: 0648–AG85

---

801. REGULATORY AMENDMENT TO EXTEND CALIFORNIA GILLNET REGULATIONS TO THE EEZ

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AJ21

---

802. FISHERY MANAGEMENT PLAN (FMP) FOR ATLANTIC HIGHLY MIGRATORY SPECIES, AMENDMENT 1 TO THE BILLFISH FMP AND CONSOLIDATION OF REGULATIONS

Priority: Other Significant

CFR Citation: 50 CFR 630; 50 CFR 285; 50 CFR 300; 50 CFR 600; 50 CFR 635; 50 CFR 644; 50 CFR 678

Completed:

Reason	Date	FR Cite
Final Action	05/28/99	64 FR 29090

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ67

---

803. RULE TO IMPLEMENT PROCEDURES FOR ISSUANCE OF PERMITS UNDER SECTION 204(D) OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 600F

Completed:

Reason	Date	FR Cite
NPRM	04/05/99	64 FR 16414
NPRM Comment Period End	05/05/99	
Final Action	07/21/99	64 FR 39017
Final Action Effective	08/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AJ70

---

804. FINAL DEFINITION OF THE ZERO MORTALITY RATE GOAL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Eisele
Phone: 301 713-2322
Email: cathy.eisele@noaa.gov

RIN: 0648–AJ84

---

805. REGULATORY AMENDMENT TO SPECIFY MINIMAL VESSEL OWNERSHIP REQUIREMENTS FOR THE HIRED SKIPPER PROVISION IN THE IFQ FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	05/10/99	64 FR 24960

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK20

---

806. IMPLEMENTATION OF AMENDMENT 5 TO THE FISHERY MANAGEMENT PLAN FOR THE BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES OF THE WESTERN PACIFIC REGION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	04/28/99	64 FR 22810
Final Action Effective	05/28/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Charles Karnella
Phone: 808 973-2937

RIN: 0648–AK21

---

807. ADDITIONAL MEASURES OF AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE SHRIMP FISHERY OF THE SOUTH ATLANTIC—PROCEDURES FOR TESTING AND CERTIFICATION OF BYCATCH REDUCTION DEVICES (BRDS)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	07/08/99	64 FR 36780
Final Action Effective	07/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William T. Hogarth
Phone: 727 570-5301

RIN: 0648–AK29

---

808. REGULATORY AMENDMENT FOR A BYCATCH REDUCTION DEVICE (BRD) TESTING AND CERTIFICATION PROTOCOL UNDER AMENDMENT 9 TO THE FMP FOR THE SHRIMP FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Final Action	07/13/99	64 FR 37690
Final Action Effective	07/13/99	

Regulatory Flexibility Analysis Required: No

DOC—NOAA

Completed Actions

Government Levels Affected: None

Agency Contact: William T. Hogarth
Phone: 727 570-5301

RIN: 0648–AK32

---

809. WESTERN PACIFIC CRUSTACEAN FISHERIES; BANK-SPECIFIC HARVEST GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
NPRM	06/03/99	64 FR 29834
NPRM Comment Period End	06/18/99	
Final Action Effective	07/02/99	
Final Action	07/08/99	64 FR 36820

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Charles Karnella
Phone: 808 973-2937

RIN: 0648–AK61

---

810. REGULATORY AMENDMENT TO ESTABLISH APPLICATION PERIOD FOR LICENSE LIMITATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
NPRM	04/19/99	64 FR 19113
NPRM Comment Period End	05/17/99	
Final Action	08/06/99	64 FR 42826
Final Action Effective	09/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AK69

---

811. AMENDMENT 13 TO THE PACIFIC COAST SALMON PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/05/99	
Final Action	05/14/99	64 FR 26328
Final Rule Effective	06/14/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AK83

---

812. VMS PILOT PROGRAM FOR ATLANTIC SWORDFISH

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 630

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AK90

---

813. AMEND THE BLUEFIN STATISTICAL DOCUMENT TO ALLOW FOR THE ATTACHMENT OF RE-EXPORT CERTIFICATES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285

Completed:

Reason	Date	FR Cite
Withdrawn	08/24/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AL02

---

814. FISHERY DISASTER RELIEF

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael L. Grable
Phone: 301 713-2390
Email: michael.grable@noaa.gov

RIN: 0648–AL13

---

815. AMENDMENT 48 TO THE BSAI FMP AND AMENDMENT 48 TO THE GOA FMP - STREAMLINE ANNUAL SPECIFICATION PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn	08/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AL19

---

816. REGULATORY AMENDMENT TO THE HALIBUT COMMUNITY DEVELOPMENT QUOTA PROGRAM - DEFINITION OF MANAGEMENT MEASURES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	04/26/99	64 FR 20210

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AL21

---

817. MANAGEMENT OF U.S. PURSE SEINE FISHERY IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	08/16/99	64 FR 44428
Final Action Effective	09/13/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney R. McInnis
Phone: 310 980-4001

RIN: 0648–AL28

---

818. VESSEL PERMIT CONSISTENCY AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

DOC—NOAA

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	02/19/99	64 FR 8263
Final Action Effective	03/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AL36

---

819. ATLANTIC STURGEON EEZ REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 697

Completed:

Reason	Date	FR Cite
Final Action	02/26/99	64 FR 9449
Final Action Effective	05/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Meyer
Phone: 301 427-2014

RIN: 0648–AL38

---

820. BSAI/GOA/KTC/SCALLOP FISHERY MANAGEMENT PLAN (FMP) AMENDMENTS 55/55/8/5 ESSENTIAL FISH HABITAT DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	04/26/99	64 FR 20216

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AL40

---

821. IMPLEMENTATION OF AMENDMENTS TO FOUR WESTERN PACIFIC FISHERY MANAGEMENT PLANS TO ADDRESS NEW REQUIREMENTS OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action	04/19/99	64 FR 19067

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Karnella
Phone: 808 973-2937

RIN: 0648–AL49

---

822. REGULATORY AMENDMENT TO ALLOCATE CERTAIN GROUNDFISH SPECIES BETWEEN THE TRAWL AND FIXED GEAR COMMERCIAL GROUNDFISH FISHERIES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AL62

---

823. 1999-2000 MANAGEMENT MEASURES FOR COMMERCIAL, RECREATIONAL, AND TREATY INDIAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action Effective	05/01/99	
Final Action	05/05/99	64 FR 24078

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AL64

---

824. FRAMEWORK 27 TO IMPLEMENT ANNUAL MANAGEMENT MEASURES FOR NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/13/99	
Final Action Effective	05/01/99	
Final Action	05/05/99	64 FR 24066

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AL72

---

825. REGULATORY AMENDMENT TO ESTABLISH TOTAL ALLOWABLE CATCH LIMITS FOR THE ATLANTIC AND GULF OF MEXICO GROUPS OF KING AND SPANISH MACKEREL FOR THE 1998-99 FISHING YEAR

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
NPRM	06/02/99	64 FR 29622
NPRM Comment Period End	06/17/99	
Final Action	08/20/99	64 FR 45457
Final Action Effective	08/20/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: William T. Hogarth
Phone: 727 570-5301

RIN: 0648–AL80

---

826. FMP AMENDMENT FOR THE COMMERCIAL KING AND TANNER CRAB FISHERIES OF THE BSAI AND SCALLOP FISHERIES OFF ALASKA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action	03/09/99	64 FR 11390

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AL89

DOC—NOAA

Completed Actions

827. REGULATORY AMENDMENT TO ADJUST THE GULF OF MEXICO RED SNAPPER TAC AND ASSOCIATED MANAGEMENT MEASURES UNDER THE FRAMEWORK PROCEDURE OF THE FMP FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 622

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: William T. Hogarth
Phone: 727 570-5301

RIN: 0648–AL94

---

828. AMENDMENT TO INDIVIDUAL FISHING QUOTA SURVIVORSHIP PROVISION

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AM00

---

829. FRAMEWORK ADJUSTMENT 28 TO THE FISHERY MANAGEMENT PLAN FOR THE NORTHEAST MULTISPECIES FISHERY (FMP) TO PROVIDE CONSISTENCY BETWEEN THE HARBOR PORPOISE TAKE REDUCTION PLAN AND THE FMP

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	04/01/99	64 FR 15704

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AM10

---

830. AMENDMENT 1 TO THE ATLANTIC SALMON FISHERY MANAGEMENT PLAN (FMP)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	07/27/99	64 FR 40519
Final Action Effective	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AM13

---

831. ADDENDUM TO FISHERY MANAGEMENT PLAN FOR HIGHLY MIGRATORY SPECIES (HMSFMP)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 285; 50 CFR 630; 50 CFR 635; 50 CFR 644; 50 CFR 678

Completed:

Reason	Date	FR Cite
Final Action	06/03/99	64 FR 29806

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary C. Matlock
Phone: 301 713-2334

RIN: 0648–AM17

---

832. REGULATORY AMENDMENT - PACIFIC COAST GROUNDFISH FISHERY; FINAL 1999 ABC, OY AND TRIBAL AND NONTRIBAL ALLOCATIONS FOR PACIFIC WHITING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action Effective	05/19/99	
Final Action	05/24/99	64 FR 27928

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Tribal

Agency Contact: William Stelle
Phone: 206 526-6150

RIN: 0648–AM19

---

833. NORTHERN ANCHOVY FISHING; QUOTAS FOR THE 1999 AND 2000 FISHING YEAR (ANNUAL SPECIFICATIONS)

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 660

Completed:

Reason	Date	FR Cite
Final Action Effective	08/27/99	
Final Action	09/02/99	64 FR 48113

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney R. McInnis
Phone: 310 980-4001

RIN: 0648–AM20

---

834. FLEET CAPACITY LIMITS FOR U.S. PURSE SEINE FISHERY IN THE EASTERN PACIFIC OCEAN

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 300

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney R. McInnis
Phone: 310 980-4001

RIN: 0648–AM22

---

835. FRAMEWORK ADJUSTMENTS TO THE NORTHEAST MULTISPECIES AND ATLANTIC SEA SCALLOP FMPS TO ALLOW CONTROLLED ACCESS TO THE GEORGES BANK CLOSED AREAS BY SCALLOP VESSELS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Final Action	06/10/99	64 FR 31144
Final Action Effective	06/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AM24

DOC—NOAA

Completed Actions

836. FRAMEWORK ADJUSTMENT TO THE FISHERY MANAGEMENT PLAN FOR THE ATLANTIC SEA SCALLOPS TO ALLOW CONTROLLED ACCESS TO THE GEORGES BANK GROUNDFISH CLOSED AREAS BY SCALLOP VESSELS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 648

Completed:

Reason	Date	FR Cite
Withdrawn	08/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul
Phone: 978 281-9200

RIN: 0648–AM25

837. EMERGENCY RULE FOR STELLER SEA LION CONSERVATION MEASURES FOR BSAI AND GOA POLLOCK FISHERIES DURING SECOND HALF OF 1999

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Final Action Effective	07/14/99	
Final Action	07/21/99	64 FR 39087

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AM33

838. REVISE BSAI BYCATCH MANAGEMENT PROGRAM FOR CHINOOK SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 679

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Steven Pennoyer
Phone: 907 586-7228

RIN: 0648–AM38

839. • CANDIDATE CONSERVATION AGREEMENTS WITH ASSURANCES

Priority: Other Significant

Legal Authority: 16 USC 1531 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This final policy offers assurances as an incentive for non-Federal property owners to implement conservation measures for species that are proposed for listing under the Endangered Species Act as threatened or endangered, species that are candidates for listing, and species that are likely to become candidates or proposed in the near future.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32178
Final Action	06/17/99	64 FR 32726

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marta Nammack, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-1401
Email: marta.nammack@noaa.gov

RIN: 0648–AM61

840. • FRAMEWORK 30 TO THE NORTHEAST MULTISPECIES FISHERY MANAGMENT PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 648

Legal Deadline: None

Abstract: This final rule implements measures to protect Georges Bank cod. The adjustment implements a Georges Bank cod trip limit of 2,000 lb per day starting August 15, 1999, with a maximum possession limit of 20,000 lb per trip. The Regional Administrator is authorized to adjust the daily landing limit and possession limit depending on the risk of exceeding the total allowable catch (TAC) level, or not catching 75 percent of the TAC for Georges Bank cod.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/29/99	
Final Action	08/03/99	64 FR 42045

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Kurkul, Regional Administrator, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, MA 01930
Phone: 978 281-9200

RIN: 0648–AM65

841. • REGULATORY AMENDMENT UNDER THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO TO IMPLEMENT RED SNAPPER MANAGEMENT CHANGES

Priority: Other Significant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: Final, Statutory, Final regulations to be published within 30 days of end of NPRM comment period.

Abstract: This would: Set the opening date of the recreational red snapper fishing season at March 1, beginning with the 2000 fishing year; establish a 4-fish recreational red snapper bag limit with a 0-fish bag limit for captain and crew of for-hire vessels; and change the openings of the fall red snapper commercial season from the first 15 days of each month to the first 10 days of each month, beginning September 1 each year.

Timetable:

Action	Date	FR Cite
NPRM	06/29/99	64 FR 34756
NPRM Comment Period End	07/14/99	
Final Action	09/02/99	64 FR 47711

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM66

DOC—NOAA

Completed Actions

842. • ATLANTIC BLUEFIN TUNA; 1999 DEADLINE FOR PERMIT CATEGORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: NMFS suspends, for 1999 only, the May 15 deadline for category changes and establishes a June 11 deadline.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/14/99	
Interim Final Rule	05/19/99	64 FR 27207
Interim Final Rule Comment Period End	06/01/99	
Final Action	06/09/99	64 FR 30925
Final Action Effective	06/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AM69

843. • EMERGENCY INTERIM RULE TO INCREASE THE MINIMUM SIZE LIMIT IN THE RECREATIONAL RED SNAPPER FISHERY OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: This emergency interim rule: Increases the minimum size limit for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico from 15 inches (38.1 cm) to 18 inches (45.7 cm) for persons subject to the bag limit, as requested by the Gulf of Mexico Fishery Management Council (Council); and closes the recreational red snapper fishery in the EEZ of the Gulf of Mexico effective 12:01 a.m., local time, August 29, 1999. The intended effect of the minimum size limit increase is to reduce the rate of harvest, and thereby, extend the season for the recreational red snapper fishery.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/04/99	
Final Action	06/08/99	64 FR 30445

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM71

844. • EXTENSION OF EMERGENCY INTERIM RULE TO IMPLEMENT A 4-FISH RECREATIONAL RED SNAPPER BAG LIMIT IN FEDERAL WATERS OF THE GULF OF MEXICO

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 622

Legal Deadline: None

Abstract: This action extends an emergency interim rule, in effect through June 29, 1999, that reduces the daily bag limit for red snapper possessed in or from the Gulf of Mexico EEZ from 5 to 4 fish. The emergency rule is extended for an additional 180 days. The intended effect is to maintain the current 4-fish bag limit consistent with the Gulf of Mexico Fishery Management Council's intent, avoid angler confusion that otherwise would result from an unintended inseason change in the bag limit, and help ensure that the recreational quota is not exceeded.

Timetable:

Action	Date	FR Cite
Final Action	06/24/99	64 FR 33800
Final Action Effective	06/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. William T. Hogarth, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9721 Executive Center Drive N., St. Petersburg, FL 33702-2432
Phone: 727 570-5301

RIN: 0648–AM73

845. • AMENDMENT 45 TO EXTEND ALLOCATION OF POLLOCK TO THE CDQ PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1801 et seq

CFR Citation: 50 CFR 679

Legal Deadline: None

Abstract: Amendment 45 made permanent the allocation of 7.5 percent of the pollock total allowable catch to the Western Alaska community development program in the Bering Sea and Aleutian Islands Area.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46993
NPRM Comment Period End	10/19/98	
Final Action Effective	01/21/99	
Final Action	01/26/99	64 FR 3877

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Steven Pennoyer, Regional Administrator, Alaska Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
Phone: 907 586-7228

RIN: 0648–AM77

846. • DETERMINATION OF STATE JURISDICTION FOR REPORTING CATCH OF ATLANTIC BLUEFIN TUNA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 971 et seq; 16 USC 1801 et seq

CFR Citation: 50 CFR 635

Legal Deadline: None

Abstract: This action waives the requirement for anglers to report catch of Atlantic bluefin tuna landed in the State of Maryland through NMFS' automated catch reporting system.

Timetable:

Action	Date	FR Cite
Final Action Effective	06/22/99	
Final Action	06/25/99	64 FR 34138

Regulatory Flexibility Analysis Required: No

DOC—NOAA

Completed Actions

Government Levels Affected: None

Agency Contact: Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910
Phone: 301 713-2334

RIN: 0648–AM81

---

847. PERFORMANCE STANDARDS FOR TUNA VESSEL OPERATORS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Completed:

Reason	Date	FR Cite
Withdrawn	10/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney R. McInnis
Phone: 310 980-4001

RIN: 0648–AD03

---

848. TAKING AND IMPORTING OF MARINE MAMMALS; DOLPHIN MORTALITY LIMITS DURING PURSE SEINE SETS ON MARINE MAMMALS IN THE EASTERN TROPICAL PACIFIC

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hilda Diaz-Soltero
Phone: 310 980-4001

RIN: 0648–AF07

---

849. TAKING AND IMPORTING OF MARINE MAMMALS; "DOLPHIN-SAFE" TUNA LABELING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216; 50 CFR 247

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William T. Hogarth
Phone: 727 570-5301

RIN: 0648–AF08

---

850. TAKING AND IMPORTING OF MARINE MAMMALS: TUNA PURSE SEINE VESSEL OBSERVER EXPENSES

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: William T. Hogarth
Phone: 727 570-5301

RIN: 0648–AG35

---

851. DESIGNATED CRITICAL HABITAT; CENTRAL CALIFORNIA COAST AND SOUTHERN OREGON/NORTHERN CALIFORNIA COAST COHO SALMON

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 226

Completed:

Reason	Date	FR Cite
Final Action	05/05/99	64 FR 24049

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kellie Carter
Phone: 301 713-1401
Email: kellie f. carter@noaa.gov

RIN: 0648–AG56

---

852. TAKING AND IMPORTING OF MARINE MAMMALS: PROPOSED RULE PROHIBITING U.S. CITIZENS FROM ENCIRCLING MARINE MAMMALS DURING TUNA FISHING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216.24

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney R. McInnis
Phone: 310 980-4001

RIN: 0648–AH04

---

853. FINAL POLICIES FOR SAFE HARBOR AND CANDIDATE CONSERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 222

Completed:

Reason	Date	FR Cite
Final Action	06/17/99	64 FR 32717
Final Action Effective	07/19/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Margaret C. Lorenz
Phone: 301 713-1401
Email: margaret.lorenz@noaa.gov

RIN: 0648–AJ54

---

854. PROPOSED RULE ON TAKING MARINE MAMMALS INCIDENTAL TO POWER PLANT OPERATIONS AT SEABROOK, NEW HAMPSHIRE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	05/25/99	64 FR 28114
Final Action Effective	07/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth R. Hollingshead
Phone: 301 713-2055
Email: ken.hollingshead@noaa.gov

RIN: 0648–AK00

---

855. ENDANGERED AND THREATENED SPECIES; STATUS OF CHINOOK SALMON IN WASHINGTON, IDAHO, OREGON AND CALIFORNIA

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 222; 50 CFR 226; 50 CFR 227

Completed:

Reason	Date	FR Cite
Withdrawn	09/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

DOC—NOAA

Completed Actions

Agency Contact: Lisa Lierheimer
Phone: 301 713-1401
Email: lisa.lierheimer@noaa.gov

RIN: 0648–AK02

856. ATLANTIC LARGE WHALE TAKE REDUCTION PLAN REGULATIONS

Priority: Other Significant

CFR Citation: 50 CFR 229

Completed:

Reason	Date	FR Cite
Final Action	02/16/99	64 FR 7529

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory Silber
Phone: 301 713-2322

RIN: 0648–AK41

Department of Commerce (DOC)
National Telecommunications and Information Administration (NTIA)

Final Rule Stage

857. IMPROVEMENT OF TECHNICAL MANAGEMENT OF INTERNET NAMES AND ADDRESSES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1512; 47 USC 902(b)(2)(H); 47 USC 902(b)(2)(I); 47 USC 904(c)(1)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Consistent with the President's Electronic Commerce Directive of July 1, 1997, this proposed rule sets forth ways to improve technical management of the Internet Domain Name System (DNS). It describes the process by which the Federal Government will transfer management of the Internet DNS to a private, not-for-profit corporation and proposes a method for introducing competition in the administration and addition of new Internet top-level domains. It further proposes the introduction of competition into the domain name registration business and recommends guidelines under which domain name business and registration would operate. Further information available at http://www.doc.gov.

Instead of a final rule, a statement of policy was published in the Federal Register. (See 63 FR 31741, June 10, 1998.) The statement of policy announced that the Department of Commerce would subsequently seek public input on how best to make the .us domain space more attractive to commercial users. On August 4, 1998, a request for public comments regarding the .us domain name was published in the Federal Register. (See 63 FR 41547, August 4, 1998.) Comments were due September 3, 1998.

Another notice was published in the Federal Register on August 27, 1998, to extend the comment period to October 5, 1998. The agency will submit a Federal Register notice in February 1999 which will announce a public meeting to explore the future administration and management of the .us domain name space. The public meeting will be held in March 1999.

Timetable:

Action	Date	FR Cite
Notice: Request for Comment on Registration and Administration of Internet Domain	07/02/97	62 FR 35896
NPRM	02/20/98	63 FR 8826
NPRM Comment Period End	03/23/98	
Notice: Policy Statement	06/10/98	63 FR 31741
Notice: Request for Public Comment	08/04/98	63 FR 41547
Notice: Extension of Comment Period to 10/05/98	08/27/98	63 FR 45800
Notice: Public Meeting	02/10/99	64 FR 6633
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: J. Beckwith Burr, Associate Administrator, Office of International Affairs, Department of Commerce, National Telecommunications and Information Administration, 6th Floor, 14th and Constitution Avenue NW, Washington, DC 20230
Phone: 202 482-1304
Email: bburr@ntia.doc.gov

RIN: 0660–AA11

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

858. CHANGES TO IMPLEMENT THE PATENT BUSINESS GOALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 10; 37 CFR 3; 37 CFR 5

Legal Deadline: None

Abstract: The Patent and Trademark Office (PTO) has established business goals for the organizations reporting to the Assistant Commissioner for Patents (Patent Business Goals). The focus of the Patent Business Goals is to increase the level of service to the public by raising the efficiency and effectiveness of the PTO's business processes. The PTO is considering a number of changes to the rules of practice and procedure to support the Patent Business Goals.

DOC—PTO

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/05/98	63 FR 53497
ANPRM Comment Period End	12/04/98	
NPRM	10/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Hiram H. Bernstein, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285

RIN: 0651–AA98

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

859. REVISION OF PATENT AND TRADEMARK FEES FOR FISCAL YEAR 2001

Priority: Routine and Frequent

Legal Authority: 35 USC 41; 15 USC 1115; 35 USC 6; 35 USC 376; 15 USC 1051; 15 USC 1113; 15 USC 1123; PL 105-358

CFR Citation: 37 CFR 1.16 to 1.21; 37 CFR 1.26; 37 CFR 1.445; 37 CFR 1.482; 37 CFR 1.492; 37 CFR 2.6

Legal Deadline: Final, Statutory, October 1, 2000, Rules implement statutory changes that become effective October 30, 1999.

Abstract: This rulemaking revises certain patent and trademark fees to reflect fluctuations in the Consumer Price Index (CPI) consistent with the Patent and Trademark Office Reauthorization Act, Fiscal Year 1999 (PL 105-358).

Timetable:

Action	Date	FR Cite
Final Action	08/00/00	
Final Action Effective	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Matthew Lee, Systems Analyst, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 305-8051

RIN: 0651–AB01

---

860. OFFICIAL INSIGNIA OF NATIVE AMERICAN TRIBES: STATUTORILY REQUIRED STUDY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-330, sec 302

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, September 30, 1999, Rules implement statutory changes that become effective October 30, 1999. Statutory deadline is for report to Congress.
Statutory deadline is for report to Congress.

Abstract: PL 105-330 requires that the Patent and Trademark Office study a variety of issues surrounding trademark protection for the official insignia of federally and/or State-recognized American Indian tribes. The new law requires that the Commissioner of Patents and Trademarks complete the study and submit a report not later than September 30, 1999.

The report, including the findings and conclusions, must be submitted to the chairmen of the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

Timetable:

Action	Date	FR Cite
Request for Comments	12/29/98	63 FR 71619
Second Request for Comments	03/16/99	64 FR 13004
Public Hearing, Albuquerque, NM	07/08/99	
Public Hearing, San Francisco, CA	07/12/99	
Public Hearing, Arlington, VA	07/15/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Eleanor Meltzer, Attorney-Advisor, Department of Commerce, Patent and Trademark Office, Suite 902, 2121 Crystal Drive, Arlington, VA 22202
Phone: 703 306-2960
Email: eleanor.meltzer@uspto.gov

RIN: 0651–AB02

---

861. • CLARIFICATION OF PATENT AND TRADEMARK COPY FEES

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 41; 15 USC 1113

CFR Citation: 37 CFR 1.19(a)(1) and 2.6(b)(1)

Legal Deadline: None

Abstract: The Patent and Trademark Office is amending the rules of practice regarding fees for "regular service" providing copies of patents and trademark to the public.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wesley H. Gewehr, Administrator for Information Dissemination, Department of Commerce, Patent and Trademark Office, Washington, DC 20231
Phone: 703 305-9110
Fax: 703 305-3878
Email: wesley.gewehr@uspto.gov

RIN: 0651–AB08

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Long-Term Actions

862. PATENT APPLICATION ELECTRONIC SUBMISSION RULES

Priority: Other Significant

CFR Citation: 37 CFR 1; 37 CFR 2

Timetable:

Action	Date	FR Cite
ANPRM	11/30/92	57 FR 56537
ANPRM Comment Period End	03/01/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Fowler
Phone: 703 305-8600

RIN: 0651–AA50

863. REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.21; 37 CFR 10.7; 37 CFR 10.11

Timetable:

Action	Date	FR Cite
ANPRM	09/30/96	61 FR 51072
ANPRM Comment Period End	12/06/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry I. Moatz
Phone: 703 306-4097

RIN: 0651–AA93

864. TECHNICAL REQUIREMENTS FOR REGISTRATION TO PRACTICE BEFORE THE PTO IN PATENT CASES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 10.7

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry I. Moatz
Phone: 703 306-4097

RIN: 0651–AA95

865. CONSIDERATION OF INTERLOCUTORY RULINGS AT FINAL HEARING IN INTERFERENCE PROCESSINGS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.655(a)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/99	64 FR 12900
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Fred E. McKelvey
Phone: 703 308-9797
Email: interference.rules@uspto.gov

RIN: 0651–AB03

866. • CHANGES TO IMPLEMENT OPTIONAL INTER PARTES REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: Legislation is pending before Congress that, if enacted, would allow a third party requesting reexamination either to use the current ex parte reexamination with no participation rights during the examination, or to have the option of using the new inter partes reexamination with the right to comment on each PTO action and patent owner response. Election of inter partes reexamination, however, comes at the expense of being estopped from challenging at a later time, in any civil action, any fact determined in the inter partes reexamination. This rulemaking implements that legislation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald A. Dost, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AB04

867. • CHANGES TO IMPLEMENT EIGHTEEN-MONTH PUBLICATION OF PATENT APPLICATION

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1; 37 CFR 3; 37 CFR 5

Legal Deadline: None

Abstract: Legislation is pending before Congress that, if enacted, would mandate publication of pending patent applications at eighteen months from the earliest effective filing date, except those under a secrecy order. In addition, an applicant may request on filing that an application not be published, unless the subject matter of the application is the subject of an application filed outside the United States where it will be published at eighteen months from its earliest effective filing date. This rulemaking implements that legislation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Woodrow Bahr, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 305-6916

RIN: 0651–AB05

868. • CHANGES TO IMPLEMENT PATENT TERM ADJUSTMENTS AND REVISE APPLICATION EXAMINATION PRACTICE UNDER TWENTY-YEAR PATENTS TERM

Priority: Substantive, Nonsignificant

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1

Legal Deadline: None

Abstract: Legislation is pending before Congress that, if enacted, would provide patent term adjustment such that the term of a patent may extend beyond twenty years from its filing date, or its effective filing date under 35 USC 120, 121, or 365(c), if the issuance of the patent was subject to certain delays. This legislation also revises provisional application practice, and permits the PTO to provide further examination of an application for a fee.

DOC—PTO

Long-Term Actions

This rulemaking implements that legislation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Woodrow Bahr, Senior Legal Advisor, Department of Commerce, Patent and Trademark Office, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231
Phone: 703 305-9285
Fax: 703 305-6916

RIN: 0651–AB06

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Completed Actions

869. CHANGES TO IMPLEMENT 18-MONTH PUBLICATION OF PATENT APPLICATIONS

Priority: Other Significant

CFR Citation: 37 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn	08/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Woodrow Bahr
Phone: 703 305-9285
Fax: 703 305-6916

RIN: 0651–AA75

870. RULES OF PRACTICE IN PATENT CASES; REEXAMINATION PROCEEDINGS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.901 to 1.907; 37 CFR 1.909; 37 CFR 1.911; 37 CFR 1.913; 37 CFR 1.915; 37 CFR 1.917; 37 CFR 1.919; 37 CFR 1.921; 37 CFR 1.923

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald A. Dost
Phone: 703 305-9285
Fax: 703 308-6916

RIN: 0651–AA79

871. TRADEMARK LAW TREATY IMPLEMENTATION RULES CHANGES

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 1.1; 37 CFR 1.4 to 1.6; 37 CFR 1.23; 37 CFR 2.1; 37 CFR 2.6; 37 CFR 2.17; 37 CFR 2.20; 37 CFR 2.21; 37 CFR 2.31 to 2.35; 37 CFR 2.37 to 2.39; 37 CFR 2.45; 37 CFR 2.51 to 2.52; 37 CFR 2.56 to 2.59; 37 CFR 2.66; 37 CFR 2.71 to 2.72; 37 CFR 2.76; 37 CFR 2.86; 37 CFR 2.88; 37 CFR 2.89; 37 CFR 2.101; 37 CFR 2.111; 37 CFR 2.146; 37 CFR 2.151; 37 CFR 2.155; 37 CFR 2.156; 37 CFR 2.160 to 2.168; 37 CFR 2.173; 37 CFR 2.181 to 2.186; 37 CFR 3.16; 37 CFR 3.24; 37 CFR 3.25; 37 CFR 3.28; 37 CFR 3.31; 37 CFR 6.1

Completed:

Reason	Date	FR Cite
NPRM	05/11/99	64 FR 25223
NPRM Comment Period End	06/25/99	
Final Action	09/08/99	64 FR 48900
Final Action Correction	09/22/99	64 FR 51244

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Hannon
Phone: 703 308-8900
Email: mary.hannon@uspto.gov

RIN: 0651–AB00

Department of Commerce (DOC)
Technology Administration (TA)

Long-Term Actions

872. PROMOTION OF PRIVATE SECTOR INDUSTRIAL TECHNOLOGY PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 15 CFR 1160 subpart A

Timetable:

Action	Date	FR Cite
ANPRM	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Bohannon
Phone: 202 482-1984

RIN: 0692–AA13

873. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Priority: Other Significant

CFR Citation: 37 CFR 401

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/14/95	60 FR 41811
Comment Period End	09/13/95	
Final Action	12/00/00	
Final Action Effective	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Paugh
Phone: 202 482-2100

RIN: 0692–AA14

874. ACQUISITION AND PROTECTION OF FOREIGN RIGHTS IN INVENTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 101; 37 CFR 501

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 40997
Interim Final Rule Effective	08/07/96	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John H. Raubitschek

DOC—TA **Long-Term Actions**

Phone: 202 482-8010

RIN: 0692–AA15

875. LICENSING OF GOVERNMENT-OWNED INVENTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 37 CFR 404

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John H. Raubitschek
Phone: 202 482-8010

RIN: 0692–AA17

[FR Doc. 99–29467 Filed 11–19–99; 8:45 am]
BILLING CODE 3510–BW–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This edition of the **Unified Agenda of Federal Regulatory and Deregulatory Actions** includes **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. The Department of Defense's Statement of Regulatory Priorities is included in part II.

The agenda portion of this document updates the report published on April 26, 1999, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in April 2000, with the next regulatory plan scheduled to be published in October 2000. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-6269, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, or e-mail: cushingr@osd.pentagon.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301–1600, or call 703–697–2714.

For general information on Office of the Secretary regulations, other than those which are procurement–related, contact Mr. Dan Cragg, telephone 703–697–4111, or write to Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or e–mail: dcragg@osd.pentagon.mil.

For general information on Office of the Secretary agenda items which are procurement–related, contact Ms. Kathleen Fenk, telephone 703–602–0131, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301–3062, or e–mail: fenkk@acq.osd.mil.

For general information on Department of the Army regulations, contact Mr. Gregory D. Showalter, telephone 703–806–3708, or write to the U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, 6000 6th Street, Stop 5603, Fort Belvoir, Virginia 22060–5603, or e–mail: showalterg@rmpo.belvoir.army.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Michael L. Davis, telephone 703–695–1370, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310–0108, or e–mail: davisml@hqda.army.mil.

For general information on Department of the Navy regulations, contact Lieutenant Commander James L. Roth, telephone 703–604–8218, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374–5066, or e–mail: roth.james@hq.navy.mil.

For general information on Department of the Air Force regulations, contact Ms. Janet A. Long, telephone 703–588–6189, or write to Department of the Air Force, HQ AFCIC/ITCR, 1250 Air Force Pentagon, Washington, DC 20330–1250, or e–mail: afcicitcr@pentagon.af.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to differentiate among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single–source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;
b. Paperwork Reduction Act of 1995;
c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and

their actio
the regulat
agenda wi
Prerule sta
final rule s
and (5) lon
certain reg
small entit
these entit
significant
substantial
defined in
(5 U.S.C. 6

Sequence Number
876
877
878
879
880
881

Sequence Number
882
883
884
885
886
887
888
889
890
891

Sequence Number
892
893
894
895
896
897
898
899
900

VOL 64 ISS 224 NOV 22 1999 UMI

DOD

their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long–term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense–oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated : September 1, 1999.

D. O. Cooke,

Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
876	Commercial Activities Program Procedures (DoD Instruction 4100.33)	0790-AG44
877	Personnel and General Claims	0790-AG47
878	Eligibility Requirements for Education of Minor Dependents in Overseas Areas (DoD Directive 1342.13)	0790-AG71
879	Eligibility Procedures for the Education of Minor Dependents in Overseas Areas (DoD Instruction 1342.XX)	0790-AG72
880	Financial Institutions On DoD Installations	0790-AG73
881	Procedures Governing Banks, Credit Unions and Other Financial Institutions on DoD Installations (7000.14-R)	0790-AG74

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
882	Science, Mathematics, and Engineering (SME) Education	0790-AF27
883	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)	0790-AF59
884	Collection From Third Party Payers of Reasonable Costs of Healthcare Services	0790-AG51
885	Personnel Security Policies for Granting Access to Classified Information	0790-AG54
886	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity	0790-AG55
887	National Policy on Technical Surveillance Countermeasures	0790-AG56
888	Screening the Ready Reserve (DoD Directive 1200.7)	0790-AG57
889	Freedom of Information Act Program (NSA/CSS)	0790-AG59
890	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)	0790-AG60
891	Defense Information Systems Agency (DISA) Freedom of Information Act (FOIA) Program	0790-AG75

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
892	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers)(DoD Instruction 1404.13)	0790-AF71
893	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns	0790-AF72
894	DLA Acquisition Regulation; Fuel Allocation Procedures	0790-AF73
895	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)	0790-AG21
896	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B)	0790-AG22
897	University Research Initiative Support Program (URISP)	0790-AG26
898	Restoration Advisory Board (RABs)	0790-AG31
899	Closed, Transferred, and Transferring Ranges Containing Military Munitions	0790-AG46
900	Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam; Amendment	0790-AG67

DOD

Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
901	Rewrite of DFARS Part 225 (DFARS Case 98-D028)	0750-AC60
902	Domestic Source Restrictions—Commercial Items (DFARS Case 1999-D301)	0750-AC76
903	Acquisitions for Foreign Military Sales (DFARS Case 1999-D020)	0750-AC77

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
904	Contract Administration and Audit Services (DFARS Case 98-D003)	0750-AC02
905	Contractor Use of Nonimmigrant Aliens—Guam (DFARS Case 97-D318)	0750-AC21
906	Reform of Affirmative Action in Federal Government Procurement (DFARS Case 98-D007)	0750-AC38
907	Reform of Affirmative Action in Federal Procurement DFARS—Phase II (DFARS Case 98-D021)	0750-AC54
908	People's Republic of China (DFARS Case 98-D305)	0750-AC59
909	Manufacturing Technology Program (DFARS 98-D306)	0750-AC64
910	Debarment Investigation Reports (DFARS Case 1999-D013)	0750-AC78
911	Designation of Payment Offices (DFARS Case 1999-D010)	0750-AC79
912	Paying Offices (DFARS Case 1999-D004)	0750-AC84
913	References to Federal Acquisition Regulation 52.203.1, Officials Not To Benefit (DFARS Case 1999-D018)	0750-AC88

Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
914	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)	0750-AA07
915	Demilitarization (DFARS Case 92-D024)	0750-AA09
916	Acquisition of Commercial Items (DFARS Case 95-D712)	0750-AB00
917	DFARS Commercially Available Off-the-Shelf Items (DFARS Case 96-D316)	0750-AB40
918	Commercial Ball or Roller Bearings—Components of Noncommercial Items (DFARS Case 97-D028)	0750-AC13
919	Veterans Employment Emphasis (DFARS Case 97-D314)	0750-AC20
920	Uniform Procurement Instrument Identification (DFARS Case 97-D033)	0750-AC29
921	Contracting for Commercial Construction (DFARS Case 98-D013)	0750-AC44
922	Cargo Preference—Subcontracts for Commercial Items (DFARS Case 98-D014)	0750-AC45
923	Congressional Medal of Honor (DFARS Case 98-D304)	0750-AC63
924	Weighted Guidelines and Performance-Based Payments (DFARS Case 99-D001)	0750-AC65
925	Overseas Use of the Purchase Card (DFARS Case 99-D002)	0750-AC72
926	Streamlined Payment Practices (DFARS Case 98-D026)	0750-AC74
927	Disclosure of Information (DFARS Case 1999-D015)	0750-AC75
928	Military Packaging and Marking (DFARS Case 1999-D016)	0750-AC82
929	Utilization of Indian Organizations and Indian-Owned Economic Enterprises (DFARS Case 1999-D300)	0750-AC83
930	Foreign Military Sales Customer Observation in Contract Preparation and Negotiations (DFARS Case 1999-D005)	0750-AC85
931	General Property, Plant, and Equipment (DFARS Case 1999-D019)	0750-AC86
932	Transportation Acquisition Policy (DFARS Case 1999-D009)	0750-AC89
933	Randolph Sheppard (DFARS Case 1999-D021)	0750-AC93

Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identification Number
934	IR&D/B&P Costs for FY96 and Beyond (DFARS Case 95-D040)	0750-AB04
935	Antiterrorism Training (DFARS Case 96-D016)	0750-AB26
936	Distribution of Contract Financing Payment (DFARS Case 97-D011)	0750-AB87
937	FAR Part 30 Deviations (DFARS Case 97-D016)	0750-AB91
938	Single Process Initiative (DFARS Case 97-D014)	0750-AB94

VOL 64 ISS 224 NO 22 1999 UMI

DOD

Defense Acquisition Regulations Council—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
939	Employment Prohibition on Persons Convicted of Fraud (DFARS Case 97-D020)	0750-AB96
940	DD Form 2631, Performance Evaluation (A-E) (DFARS Case 97-D035)	0750-AC14
941	Multiyear Contracting (DFARS Case 97-D308)	0750-AC31
942	Television-Audio Support Activity (T-ASA) (DFARS Case 98-D008)	0750-AC39
943	Fiscal Year 2000 Contract Action Reporting Requirements (DFARS Case 98-D017)	0750-AC40
944	Revisions to DD Form 1707, Instructions to Offerors or Quoters (DFARS Case 98-D020)	0750-AC49
945	Flexible Progress Payments (DFARS Case 98-D400)	0750-AC51
946	Electronic Funds Transfer (DFARS Case 98-D012)	0750-AC52
947	Restructuring Savings Repricing Clause (DFARS Case 98-D019)	0750-AC53
948	Evaluation of Duty (DFARS Case 98-D030)	0750-AC56
949	Para-Aramid Fibers and Yarns (DFARS Case 98-D310)	0750-AC57
950	Singapore Accession to GPA (DFARS Case 98-D029)	0750-AC58
951	Applicability of DFARS Buy American Clauses to Simplified Acquisitions (DFARS Case 98-D031)	0750-AC61
952	Improved Accounting for Defense Contract Services (DFARS Case 98-D312)	0750-AC62
953	Taxpayer Identification Numbers and Commercial and Government Entity Codes (DFARS Case 98-D027)	0750-AC66
954	DoD Purchases Through Other Agencies (DFARS Case 98-D311)	0750-AC67
955	Revisions to DD Form 1425, Specifications and Standards Requisition (DFARS Case 98-D022)	0750-AC68
956	Electronic Publication of DFARS (DFARS Case 98-D024)	0750-AC69
957	Limitation on the Use of Price Preference Upon Achievement of Contract Goal for Small and Disadvantaged Businesses (DFARS Case 98-D307)	0750-AC71
958	DD Form 1057, Work Stoppage (DFARS Case 99-D003)	0750-AC73
959	Contracts Crossing Fiscal Years (DFARS Case 1999-D008)	0750-AC80
960	Oral Attestation (DFARS Case 1999-D006)	0750-AC81
961	Short Form Research Contract Clauses (DFARS Case 1999-D014)	0750-AC87
962	Fiscal Year 2000 DD Form 350 Revisions (DFARS Case 1999-D011)	0750-AC90
963	Contract Actions for Leased Equipment (DFARS Case 1999-D012)	0750-AC91

Department of the Army—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
964	The Department of the Army Freedom of Information Act Program	0702-AA30

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
965	Army Board for Correction of Military Records	0702-AA32

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
966	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710-AA42
967	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis	0710-AA43
968	Flood Control Cost-Sharing Requirements Under the Ability To Pay Provisions	0710-AA44

DOD

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
969	Regulatory Program of the Corps of Engineers—Administrative Appeals	0710-AA41
970	Public Use of Water Development Projects Administered by the Chief of Engineers	0710-AA45

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
971	Regulatory Programs of the Corps of Engineers	0710-AA30
972	Regulatory Programs of the Corps of Engineers—Wetland Delineator Certification Program	0710-AA38

U.S. Army Corps of Engineers—Completed Actions

Sequence Number	Title	Regulation Identification Number
973	Administrative Appeal Process Establishment for the Regulatory Program of the Corps of Engineers	0710-AA46

Department of the Navy—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
974	Application Guidelines for Underwater Archaeological Research Permits on Submerged Cultural Resources Under Jurisdiction of the Department of the Navy	0703-AA57

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
975	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48
976	Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy	0703-AA51
977	Availability of the Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public	0703-AA53
978	Professional Conduct of Attorney Practices Under the Supervision of the Judge Advocate General	0703-AA54
979	United States Navy Regulations	0703-AA55

Department of the Navy—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
980	Shipbuilding Capability Preservation Agreements	0703-AA50

DOD

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identification Number
981	Availability of the Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public	0703-AA52

Department of the Air Force—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
982	Appointment to the United States Air Force Academy	0701-AA58
983	Delivery of Personnel to U.S. Civilian Authorities for Trial	0701-AA60

Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identification Number
984	Environmental Impact Analysis Process	0701-AA56

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
985	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Double Coverage; Third Party Recoveries	0720-AA52

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
986	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R)	0720-AA20
987	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Transplants (DoD 6010.8-R)	0720-AA28
988	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions	0720-AA41
989	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Prosthetic Devices	0720-AA49
990	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Double Coverage	0720-AA50

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
991	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Former Spouse/Widow(er) and Federal Claims Collection Act (DoD 6010.8-R)	0720-AA07
992	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Provider Certification Requirements—Corporate Services Provider Class; Occupational Therapists (DoD 6010.8-R)	0720-AA27
993	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Extension of the Active Duty Dependents Dental Plan to Overseas Areas	0720-AA36
994	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to the Eligibility Requirements	0720-AA39
995	Civilian Health and Medical Program for the Uniformed Services (CHAMPUS); TRICARE Prime Enrollment Procedures	0720-AA48

DOD

Office of Assistant Secretary for Health Affairs—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
996	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Revisions to the Eligibility Requirements	0720-AA51

Department of Defense (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

876. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 552

CFR Citation: 32 CFR 164

Legal Deadline: None

Abstract: OMB issued a revised Circular No. A-76 supplemental handbook that contained streamlined cost comparison guidance. This rule updates DoD unique policies and assigns responsibility for commercial activities as contained in OMB Circular No. A-76, Revised Supplemental Handbook, "Performance of Commercial Activities." This rule also removes 32 CFR part 169a.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Horsfall, Department of Defense, Office of the Secretary
Phone: 703 604-6735

RIN: 0790–AG44

877. PERSONNEL AND GENERAL CLAIMS

Priority: Other Significant

Legal Authority: 5 USC 5584; 10 USC 2575; 10 USC 2771; 10 USC 2774; 24 USC 420; 31 USC 3702; 32 USC 714; 32 USC 716; 37 USC 554

CFR Citation: 32 CFR 153

Legal Deadline: None

Abstract: The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding $1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members to DoD and the authority to waive employee debts to the employee's agency (non-DoD agencies may request an advisory opinion from DoD). The Secretary of Defense further delegated his claims settlement authority to the Defense Office of Hearings and Appeals (DOHA). This proposed rule seeks public comments on the procedures that DOHA proposes to use to implement these authorities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: Pending analysis of public comments and issuance of final regulations, DOHA intends to use the procedures and practices applicable to claims and waiver applications before the effective dates of the transfers of authority, June 30, 1996, and December 18, 1996, respectively, which are published in title 4, Code of Federal Regulations, chapter 1, subchapters C and G. See also 61 FR 50285, September 25, 1996; and 62 FR 5387, February 5, 1997.

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary
Phone: 703 696-8524

RIN: 0790–AG47

878. • ELIGIBILITY REQUIREMENTS FOR EDUCATION OF MINOR DEPENDENTS IN OVERSEAS AREAS (DOD DIRECTIVE 1342.13)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 921-932; PL 105-261

CFR Citation: 32 CFR 83

Legal Deadline: None

Abstract: This rule updates eligibility requirements for the education of minor dependents in overseas areas. The updates reflect recent legislation in section 657 of PL 105-261, "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999," October 17, 1998, which authorizes the Secretary of Defense to pay an educational allowance to defray the educational expense of certain overseas, space-required dependents.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail Terres, Department of Defense, Office of the Secretary
Phone: 703 696-4545

RIN: 0790–AG71

DOD—OS **Proposed Rule Stage**

879. • ELIGIBILITY PROCEDURES FOR THE EDUCATION OF MINOR DEPENDENTS IN OVERSEAS AREAS (DOD INSTRUCTION 1342.XX)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 921-932; PL 105-261

CFR Citation: 32 CFR 84

Legal Deadline: None

Abstract: This rule implements policy, assigns responsibilities, and outlines the procedures including the recent education allowance legislation that allows sponsors the choice of schools (subject to the Department of State Standardized Regulation (DSSR) rates) in areas where DoD does not operate schools.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail Terres, Department of Defense, Office of the Secretary
Phone: 703 696-4545

RIN: 0790–AG72

880. • FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 230; 32 CFR 231a

Legal Deadline: None

Abstract: This rule proposes to remove 32 CFR part 231a, "Procedures Governing Banking Offices on DoD Installations," and revise 32 CFR part 230, "Financial Institutions on DoD Installations." This rule is being promulgated to provide administrative guidelines for the operation of banks and credit unions on domestic and overseas installations of the Department of Defense and address areas such as the solicitation for such services, the types of services and the logistics support provided.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43856
NPRM Comment Period End	10/12/99	
Final Action	12/00/99	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Summers, Department of Defense, Office of the Secretary
Phone: 703 602-0299

RIN: 0790–AG73

881. • PROCEDURES GOVERNING BANKS, CREDIT UNIONS AND OTHER FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS (7000.14-R)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 231

Legal Deadline: None

Abstract: This proposed rule reflects the transition of operational responsibilities for banks and credit unions from the Office of the Under Secretary of Defense (Comptroller) to the Defense Finance and Accounting Service; to address changes in financial-related technology and the vehicles through which financial services are delivered (i.e., in-store banking, electronic banking (ATMs)); and incorporates the procedural guidance contained in other DoD documents.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43858
NPRM Comment Period End	10/12/99	
Final Action	12/00/99	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Summers, Department of Defense, Office of the Secretary
Phone: 703 602-0299

RIN: 0790–AG74

Department of Defense (DOD)
Office of the Secretary (OS) **Final Rule Stage**

882. SCIENCE, MATHEMATICS, AND ENGINEERING (SME) EDUCATION

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 118

Legal Deadline: None

Abstract: This rule provides support to institutions of higher education through infrastructure assistance to historically black colleges and universities and minority institutions. It also defines minority institutions and establishes procedures for DoD programs and activities in science, mathematics, and engineering (SME) education.

Timetable:

Action	Date	FR Cite
NPRM	12/17/93	58 FR 65956
NPRM Comment Period End	02/15/94	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith Thompson, Department of Defense, Office of the Secretary
Phone: 703 696-0378
Email: thompsonk@acq.osd.mil

RIN: 0790–AF27

883. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1141(a)

CFR Citation: 32 CFR 206

Legal Deadline: Final, Statutory, April 5, 1994.

Abstract: The National Security Education Act provided for the National Security Education Program, the National Security Education Board, and a trust fund in the U.S. Treasury to provide all resources for the program. Under the Act the Secretary is directed to carry out a program to award undergraduate scholarships, graduate fellowships, and grants to institutions of higher education. This rule is to inform those concerned with institutional grants to be offered under the 1994-1995 pilot grants program of the preliminary guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule	05/19/94	
Interim Final Rule Comment Period End	07/18/94	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Steve Door, Department of Defense, Office of the Secretary
Phone: 703 696-1991
Email: nsep@nsep.policy.osd.mil

RIN: 0790–AF59

884. COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 10 USC 1095

CFR Citation: 32 CFR 220

Legal Deadline: None

Abstract: This proposed rule implements several recent statutory changes and makes other revisions to the Third Party Collection Program. The primary matters include: a new initiative to identify third party payer situations, similar to an activity currently in effect for the Medicare Program; implementation of new statutory authority to include worker's compensation programs under the Third Party Collection Program; the addition of special rules for collections from preferred provider organizations; and other program revisions.

Timetable:

Action	Date	FR Cite
NPRM	03/10/98	63 FR 11635
NPRM Comment Period End	05/11/98	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Edmund Chan, Department of Defense, Office of the Secretary
Phone: 703 681-8910

RIN: 0790–AG51

885. PERSONNEL SECURITY POLICIES FOR GRANTING ACCESS TO CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 147

Legal Deadline: None

Abstract: This rule is published to streamline security practices throughout the Government. Uniform adjudicative guidelines, investigative standards and guidelines for temporary access are being established. This initiative will simplify security processing and allow the deserving public to obtain a security clearance in a faster, more efficient manner.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/98	63 FR 4572
Interim Final Rule Effective	03/24/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG54

886. NATIONAL POLICY ON RECIPROCITY OF FACILITIES AND GUIDELINES FOR IMPLEMENTATION OF RECIPROCITY

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 148

Legal Deadline: None

Abstract: This rule is published to make physical facilities available for reciprocal use in the storage of classified information. Once a facility has been certified as suitable for classified use by one organization, it may also be used by another for like purposes.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4580
Interim Final Rule	01/30/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG55

887. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 149

Legal Deadline: None

Abstract: This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat.

DOD—OS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule	01/30/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary
Phone: 703 602-9969

RIN: 0790–AG56

888. SCREENING THE READY RESERVE (DOD DIRECTIVE 1200.7)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 10145; 10 USC 10146; 10 USC 10149; 10 USC 10150; 10 USC 10205; 10 USC 12301; 10 USC 12302; 10 USC 12304; 10 USC 12306; 10 USC 12317; 10 USC 12645; EO 11190

CFR Citation: 32 CFR 44

Legal Deadline: None

Abstract: This rule establishes guidance governing the screening of Reserve component members of the United States Military Departments relative to their civilian employment. The requirement for screening the Ready Reserve is established in law. The purpose of the screening program is to ensure the availability of Ready Reserve members for military mobilization purposes. The intended effect of the screening is to preclude conflicts between Reserve mobilization obligations and Federal civilian employment requirements during times of war or national emergency.

Timetable:

Action	Date	FR Cite
NPRM	08/28/98	63 FR 45975
NPRM Comment Period End	10/27/98	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Daniel Kohner, Department of Defense, Office of the Secretary
Phone: 703 693-7479
Email: dkohner@osd.pentagon.mil

RIN: 0790–AG57

889. FREEDOM OF INFORMATION ACT PROGRAM (NSA/CSS)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 299

Legal Deadline: None

Abstract: This rule revises the National Security Agency/Central Security Service (NSA/CSS) regulation governing disclosure of information under the Freedom of Information Act of 1986 (Pub. L. 99-570). As a component of the Department of Defense, the Departmental rules and schedules with respect to the Freedom of Information Reform Act will also be the policy of the NSA/CSS. The effect of the revised rule is to conform to the requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 USC 552, as amended by Public Law 104-231. It also incorporates guidance provided by the Department of Defense on implementation of this amended law.

Timetable:

Action	Date	FR Cite
NPRM	09/30/98	63 FR 52208
NPRM Comment Period End	11/30/98	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Paisley, Department of Defense, Office of the Secretary
Phone: 301 688-6527

RIN: 0790–AG59

890. IMPLEMENTATION OF THE WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996 (PUB. L. 104-307)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 104-307

CFR Citation: 32 CFR 171

Legal Deadline: Final, Statutory, September 30, 1998.

Abstract: The Wildfire Suppression Aircraft Transfer Act of 1996 states that, notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 USC 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning October 1, 1996, and ending on September 30, 2000, sell certain aircraft and aircraft parts to persons or entities that contract with the Federal Government for the delivery of fire retardant by air to suppress wildfire. The Act states that, as soon as practicable after the date of the enactment of the Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. This Interim Final Rule prescribes regulations to implement the Wildlife Suppression Aircraft Transfer Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29227
Interim Final Rule Effective	06/01/99	
Interim Final Rule Comment Period End	08/02/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	
Interim Final Rule Effective Period End	09/30/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Agency Contact: Michael Stubblebine, Department of Defense, Office of the Secretary
Phone: 703 767-1537

RIN: 0790–AG60

891. • DEFENSE INFORMATION SYSTEMS AGENCY (DISA) FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 287

DOD—OS

Final Rule Stage

Legal Deadline: None

Abstract: This proposed rule provides guidance on the implementation of the Freedom of Information Act (FOIA) Program within the Defense Information and the Office of the Manager National Communications System. It was written to comply with the Electronic FOIA amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	05/27/99	64 FR 28773
NPRM Comment Period End	07/26/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Berger, Department of Defense, Office of the Secretary
Phone: 703 607-6515

RIN: 0790–AG75

Department of Defense (DOD)
Office of the Secretary (OS)

Long-Term Actions

892. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS)(DOD INSTRUCTION 1404.13)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 254

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/94	59 FR 7213
Interim Final Rule Effective	02/22/94	
Interim Final Rule Comment Period End	04/18/94	
Interim Final Rule; Amendment Effective	11/25/94	
Interim Final Rule; Amendment	06/08/95	60 FR 30188
Interim Final Rule; Amendment Comment Period End	08/07/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Otto Thomas
Phone: 703 614-4074
Email: thomaso@pr.osd.mil

RIN: 0790–AF71

893. DLA ACQUISITION REGULATION; SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5419; 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21954
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF72

894. DLA ACQUISITION REGULATION; FUEL ALLOCATION PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5452

Timetable:

Action	Date	FR Cite
NPRM	04/28/94	59 FR 21956
NPRM Comment Period End	06/27/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Holley Bailey
Phone: 703 767-1374

RIN: 0790–AF73

895. MILITARY ASSISTANCE FOR CIVIL DISTURBANCES (MACDIS) (DOD DIRECTIVE 3025.12)

Priority: Other Significant

CFR Citation: 32 CFR 215

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: G. Warren
Phone: 703 697-5454

RIN: 0790–AG21

896. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14-R, VOL 7, PART B)

Priority: Info./Admin./Other

CFR Citation: 32 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fiti Malufau
Phone: 703 607-5061
Email: malufauf@cleveland.dfas.mil

RIN: 0790–AG22

897. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM (URISP)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 209

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11642
NPRM Comment Period End	05/01/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Evelyn Kent

DOD—OS **Long-Term Actions**

Phone: 703 696-0368
Email: kente@acq.osd.mil

RIN: 0790–AG26

898. RESTORATION ADVISORY BOARD (RABS)

Priority: Other Significant

CFR Citation: 32 CFR 202

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764
NPRM Comment Period End	11/04/96	61 FR 40765
NPRM Extension of Comment Period	11/19/96	61 FR 58803
NPRM Comment Period End	01/20/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marcia Read
Phone: 703 697-9793
Email: readmw@acq.osd.mil

RIN: 0790–AG31

899. CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Priority: Other Significant

CFR Citation: 32 CFR 178

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50796
Public Meetings Begin	10/22/97	
Public Meetings End	12/10/97	
NPRM Comment Period End	12/26/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Lydia Sanchez
Phone: 703 325-1373

RIN: 0790–AG46

900. COMPENSATION OF CERTAIN FORMER OPERATIVES INCARCERATED BY THE DEMOCRATIC REPUBLIC OF VIETNAM; AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 270

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/17/98	63 FR 68194
Interim Final Rule	12/10/98	
Interim Final Rule Comment Period End	02/08/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Hudson
Phone: 703 588-6570
Chuck Witschonke
Phone: 703 693-1059

RIN: 0790–AG67

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC) **Proposed Rule Stage**

901. REWRITE OF DFARS PART 225 (DFARS CASE 98-D028)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 208.72; 48 CFR 209.1; 48 CFR 209.4; 48 CFR 225; 48 CFR 252.209; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform DFARS part 225 and associated clauses to the proposed rewrite of FAR part 25 and to incorporate other improvements.

Timetable:

Action	Date	FR Cite
Case opened	11/02/98	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC60

902. • DOMESTIC SOURCE RESTRICTIONS—COMMERCIAL ITEMS (DFARS CASE 1999-D301)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421; 41 USC 430; 10 USC 2534; PL 105-262, sec 8067

CFR Citation: 48 CFR 212.5; 48 CFR 225.7019; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to review the applicability of Section 2534, Title 10, United States Code, and Department of Defense appropriations act domestic source restrictions to commercial items.

Timetable:

Action	Date	FR Cite
Case Opened	05/20/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC76

DOD—DARC

Proposed Rule Stage

903. • ACQUISITIONS FOR FOREIGN MILITARY SALES (DFARS CASE 1999-D020)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.7303

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to address pricing issues in foreign military sales contracts.

Timetable:

Action	Date	FR Cite
Case Opened	07/15/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC77

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC)

Final Rule Stage

904. CONTRACT ADMINISTRATION AND AUDIT SERVICES (DFARS CASE 98-D003)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232; 48 CFR 242; 48 CFR 246; 48 CFR 252; 48 CFR 231; 48 CFR 247

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to conform to FAR revisions regarding policies and procedures for assigning contract administration and audit responsibilities.

Timetable:

Action	Date	FR Cite
Case opened	01/15/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: RFA: N

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC02

905. CONTRACTOR USE OF NONIMMIGRANT ALIENS—GUAM (DFARS CASE 97-D318)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 390

CFR Citation: 48 CFR 222.73; 48 CFR 252.222

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to prohibit contracts for base operations support on Guam from being performed by certain nonimmigrant aliens.

Timetable:

Action	Date	FR Cite
Case opened	11/14/97	
Interim Final Rule	06/11/98	63 FR 31935
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: RFA: Y

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC21

906. REFORM OF AFFIRMATIVE ACTION IN FEDERAL GOVERNMENT PROCUREMENT (DFARS CASE 98-D007)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 205; 48 CFR 206; 48 CFR 217; 48 CFR 219; 48 CFR 225; 48 CFR 226; 48 CFR 235; 48 CFR 236; 48 CFR 252; 48 CFR 253

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise language concerning small disadvantaged businesses programs, in accordance with the Department of Justice proposal to reform affirmative action in Federal procurement and to make the language consistent with FAR changes.

Timetable:

Action	Date	FR Cite
Case opened	02/09/98	
Interim Final Rule	08/06/98	63 FR 41972
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: RFA: N

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139,

DOD—DARC

Final Rule Stage

OUSD A.T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC38

907. REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT DFARS—PHASE II (DFARS CASE 98-D021)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 215; 48 CFR 217; 48 CFR 219; 48 CFR 226; 48 CFR 236; 48 CFR 252.212; 48 CFR 252.219

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise language concerning small disadvantaged business programs, in accordance with the Department of Justice proposal to reform affirmative action in Federal procurement and to make the language consistent with FAR changes.

Timetable:

Action	Date	FR Cite
Case opened	08/05/98	
Interim Final Rule	11/20/98	63 FR 64427
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC54

908. PEOPLE'S REPUBLIC OF CHINA (DFARS CASE 98-D305)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-262, sec 8120; PL 105-277, sec 144

CFR Citation: 48 CFR 209.104; 48 CFR 212.301; 48 CFR 225.771; 48 CFR 252.225

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 8120 of the Defense Appropriations Act for Fiscal Year 1999. Section 8120, as amended, restricts contracts with companies in which the Under Secretary of Defense for Acquisition and Technology has determine that the People's Republic of China or the People's Liberation Army of the People's Republic of China owns more than 50 percent interest.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Interim Final Rule	02/23/99	64 FR 8727
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC59

909. MANUFACTURING TECHNOLOGY PROGRAM (DFARS 98-D306)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261, sec 213

CFR Citation: 48 CFR 235.006

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 213 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261). Section 213 amends 10 USC 2525(d)(i) to require the ratio of contract recipient cost to Government cost to be determined by competitive procedures for each grant awarded and each contract entered into on a cost-share basis under the program.

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Interim Final Rule	04/16/99	64 FR 18829
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC64

910. • DEBARMENT INVESTIGATION REPORTS (DFARS CASE 1999-D013)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 203.103; 48 CFR 209.406; 48 CFR 209.407; 48 CFR 203.104; 48 CFR 203.203; 48 CFR 203.301; 48 CFR 203.405; 48 CFR 203.502; 48 CFR 203.570; 48 CFR 209.105; 48 CFR 209.403; 48 CFR 225.206; 48 CFR 249.106

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify that the contracting officer's report with details of a proposed debarment is required at the discretion of the debarring official, and that the absence of a contracting officer's report does not affect the validity of any otherwise lawful agency action. Adds procedures for suspension.

Timetable:

Action	Date	FR Cite
Case Opened	05/10/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC78

911. • DESIGNATION OF PAYMENT OFFICES (DFARS CASE 1999-D010)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.302

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify the policies and procedures for identifying in contracts the cognizant paying offices.

Timetable:

Action	Date	FR Cite
Case Opened	03/12/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC79

912. • PAYING OFFICES (DFARS CASE 1999-D004)

Priority: Info./Admin./Other

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.302

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide an internet address for a reference tool that can be used for identifying cognizant Defense Finance Accounting System paying offices.

Timetable:

Action	Date	FR Cite
Case Opened	02/11/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC84

913. • REFERENCES TO FEDERAL ACQUISITION REGULATION 52.203.1, OFFICIALS NOT TO BENEFIT (DFARS CASE 1999-D018)

Priority: Info./Admin./Other

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 237.7204; 48 CFR 252.227

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to delete the references to 52.203-1, Officials Not to Benefit, in DFARS 237.7204 and the clause at DFARS 252.227-7012.

Timetable:

Action	Date	FR Cite
Case Opened	06/24/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC88

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC)

Long-Term Actions

914. INCREMENTAL FUNDING, FIXED PRICE CONTRACTS (DAR CASE 90-037)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Timetable:

Action	Date	FR Cite
Case opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AA07

915. DEMILITARIZATION (DFARS CASE 92-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 245; 48 CFR 252.245

Timetable:

Action	Date	FR Cite
Case opened	07/22/92	
NPRM	03/16/94	59 FR 12223
NPRM Comment Period End	06/30/94	
NPRM	03/23/95	60 FR 15276
NPRM Comment Period End	05/22/95	
NPRM	06/05/97	62 FR 30832
NPRM Comment Period End	08/04/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AA09

916. ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 95-D712)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 211.70; 48 CFR 212; 48 CFR 227.7102; 48 CFR 252.211; 48 CFR 252.212; 48 CFR 252.227

Timetable:

Action	Date	FR Cite
Case opened	10/04/95	
Interim Final Rule	11/30/95	60 FR 61585

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB00

917. DFARS COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS (DFARS CASE 96-D316)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212

Timetable:

Action	Date	FR Cite
Case opened	08/28/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB40

918. COMMERCIAL BALL OR ROLLER BEARINGS—COMPONENTS OF NONCOMMERCIAL ITEMS (DFARS CASE 97-D028)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7019; 48 CFR 252.225

Timetable:

Action	Date	FR Cite
Case opened	09/08/97	
NPRM	11/04/97	62 FR 59641
NPRM Comment Period End	01/05/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC13

919. VETERANS EMPLOYMENT EMPHASIS (DFARS CASE 97-D314)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.104; 48 CFR 212.503; 48 CFR 213.110; 48 CFR 217.207; 48 CFR 222.1304; 48 CFR 252.209

Timetable:

Action	Date	FR Cite
Case opened	10/17/97	
Interim Final Rule	03/11/98	63 FR 11850

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC20

920. UNIFORM PROCUREMENT INSTRUMENT IDENTIFICATION (DFARS CASE 97-D033)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204.70

Timetable:

Action	Date	FR Cite
Case opened	10/07/97	
ANPRM	12/16/97	62 FR 65782
ANPRM Comment Period End	02/17/98	
NPRM	04/28/99	64 FR 22822
NPRM Comment Period End	06/28/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC29

921. CONTRACTING FOR COMMERCIAL CONSTRUCTION (DFARS CASE 98-D013)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212; 48 CFR 252.212

Timetable:

Action	Date	FR Cite
Case opened	04/07/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC44

922. CARGO PREFERENCE—SUBCONTRACTS FOR COMMERCIAL ITEMS (DFARS CASE 98-D014)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 212.504; 48 CFR 252.212; 48 CFR 252.244; 48 CFR 247.572; 48 CFR 252.247

Timetable:

Action	Date	FR Cite
Case opened	05/05/98	
NPRM	06/22/99	64 FR 33238
NPRM Comment Period End	08/23/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC45

923. CONGRESSIONAL MEDAL OF HONOR (DFARS CASE 98-D304)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 209.104

Timetable:

Action	Date	FR Cite
Case opened	10/28/98	
Interim Final Rule	06/14/99	64 FR 31732

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC63

924. WEIGHTED GUIDELINES AND PERFORMANCE-BASED PAYMENTS (DFARS CASE 99-D001)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 215.404

Timetable:

Action	Date	FR Cite
Case opened	01/14/99	
NPRM	05/04/99	64 FR 23814
NPRM Comment Period End	07/06/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC65

925. OVERSEAS USE OF THE PURCHASE CARD (DFARS CASE 99-D002)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 201.603; 48 CFR 213.301

Timetable:

Action	Date	FR Cite
Case opened	01/15/99	
NPRM	05/25/99	64 FR 28134
NPRM Comment Period End	07/26/99	
NPRM Comment Period Extended	07/29/99	64 FR 41060
NPRM Comment Period End	08/25/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC72

926. STREAMLINED PAYMENT PRACTICES (DFARS CASE 98-D026)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232; 48 CFR 252.232; 48 CFR 208.405; 48 CFR 212; 48 CFR 213; 48 CFR 214.201; 48 CFR 215.204

Timetable:

Action	Date	FR Cite
Case opened	10/08/98	
NPRM	07/20/99	64 FR 38878
NPRM Comment Period End	09/20/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC74

927. • DISCLOSURE OF INFORMATION (DFARS CASE 1999-D015)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204.404; 48 CFR 252.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise the clause at DFARS 252.204-7000 to make it more specific and easier to administer.

Timetable:

Action	Date	FR Cite
Case Opened	06/15/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC75

928. • MILITARY PACKAGING AND MARKING (DFARS CASE 1999-D016)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 247; 48 CFR 252.247

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to add a clause to

specifically state that the packaging codes included in an Electronic Data Interchange transaction comply with MIL-STD 2073 and marking codes comply with MIL-STD-129.

Timetable:

Action	Date	FR Cite
Case Opened	06/16/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC82

---

929. • UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (DFARS CASE 1999-D300)

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-262, Sec 8024

CFR Citation: 48 CFR 226.103; 48 CFR 226.104

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement section 8024 of Public Law 105,262, to clearly reflect that the Indian Incentive Payment Program be made available for small business participation, and that small business participation be retroactive to fiscal year 1997.

Timetable:

Action	Date	FR Cite
Case Opened	05/06/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC83

---

930. • FOREIGN MILITARY SALES CUSTOMER OBSERVATION IN CONTRACT PREPARATION AND NEGOTIATIONS (DFARS CASE 1999-D005)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.7304

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to establish procedures to allow foreign military sales customers to observe price negotiations.

Timetable:

Action	Date	FR Cite
Case Opened	02/11/99	
NPRM	04/28/99	64 FR 22825
NPRM Comment Period End	06/28/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC85

---

931. • GENERAL PROPERTY, PLANT, AND EQUIPMENT (DFARS CASE 1999-D019)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 245; 48 CFR 252; 48 CFR 253

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide a mechanism to obtain data that will enable the Department of Defense to comply with the financial reporting requirements of the Chief Financial Officer's Act. Revisions would require contractors to furnish information on other real property, industrial plant equipment, other plant equipment, and software acquired or produced for performance of a cost-reimbursement or time-and-material contract. The reporting requirement is limited to reportable items or systems having an acquisition cost of $100,000 or more.

Timetable:

Action	Date	FR Cite
Case Opened	07/12/99	
ANPRM	07/22/99	64 FR 39456
ANPRM Comment Period End	09/07/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC86

---

932. • TRANSPORTATION ACQUISITION POLICY (DFARS CASE 1999-D009)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

DOD—DARC

Long-Term Actions

CFR Citation: 48 CFR 242; 48 CFR 247; 48 CFR 252

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement the Under Secretary of Defense for Acquisition and Technology policy memorandum, Subject: Transportation Acquisition Policy.

Timetable:

Action	Date	FR Cite
Case Opened	03/08/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC89

933. • RANDOLPH SHEPPARD (DFARS CASE 1999-D021)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 208.001; 48 CFR 208.74; 48 CFR 252.208

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide guidance on purchasing operation of a cafeteria.

Timetable:

Action	Date	FR Cite
Case Opened	08/12/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC93

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC)

Completed Actions

934. IR&D/B&P COSTS FOR FY96 AND BEYOND (DFARS CASE 95-D040)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 242.771; 48 CFR 225.7303; 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	02/23/99	64 FR 8729
Final Action Effective	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB04

935. ANTITERRORISM TRAINING (DFARS CASE 96-D016)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.7400; 48 CFR 225.7401; 48 CFR 225.7402; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	05/07/99	64 FR 24529
Final Action Effective	05/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB26

936. DISTRIBUTION OF CONTRACT FINANCING PAYMENT (DFARS CASE 97-D011)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 48 CFR 214.201

Completed:

Reason	Date	FR Cite
Withdrawn	06/22/99	64 FR 33239

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB87

937. FAR PART 30 DEVIATIONS (DFARS CASE 97-D016)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 201.402; 48 CFR 230

Completed:

Reason	Date	FR Cite
Final Action	02/23/99	64 FR 8726
Final Action Effective	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB91

938. SINGLE PROCESS INITIATIVE (DFARS CASE 97-D014)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 211.273; 48 CFR 252.211

DOD—DARC

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	03/25/99	64 FR 14398
Final Action Effective	03/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB94

---

939. EMPLOYMENT PROHIBITION ON PERSONS CONVICTED OF FRAUD (DFARS CASE 97-D020)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 203.570; 48 CFR 252.203

Completed:

Reason	Date	FR Cite
Final Action	03/25/99	64 FR 14397
Final Action Effective	03/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AB96

---

940. DD FORM 2631, PERFORMANCE EVALUATION (A-E) (DFARS CASE 97-D035)

Priority: Routine and Frequent

CFR Citation: 48 CFR 253

Completed:

Reason	Date	FR Cite
Published Revised Form	04/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC14

---

941. MULTIYEAR CONTRACTING (DFARS CASE 97-D308)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 202.101; 48 CFR 217.1

Completed:

Reason	Date	FR Cite
Final Action	08/09/99	64 FR 43096
Final Action Effective	08/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC31

---

942. TELEVISION-AUDIO SUPPORT ACTIVITY (T-ASA) (DFARS CASE 98-D008)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR ch 2, app B

Completed:

Reason	Date	FR Cite
Final Action	02/23/99	64 FR 8726
Final Action Effective	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC39

---

943. FISCAL YEAR 2000 CONTRACT ACTION REPORTING REQUIREMENTS (DFARS CASE 98-D017)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253.204

Completed:

Reason	Date	FR Cite
Final Action	08/19/99	64 FR 45197
Final Action Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC40

---

944. REVISIONS TO DD FORM 1707, INSTRUCTIONS TO OFFERORS OR QUOTERS (DFARS CASE 98-D020)

Priority: Routine and Frequent

CFR Citation: 48 CFR 253.303

Completed:

Reason	Date	FR Cite
Published revised form	03/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC49

---

945. FLEXIBLE PROGRESS PAYMENTS (DFARS CASE 98-D400)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.501; 48 CFR 232.502; 48 CFR 252.232

Completed:

Reason	Date	FR Cite
Final Action	02/23/99	64 FR 8731
Final Action Effective	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC51

---

946. ELECTRONIC FUNDS TRANSFER (DFARS CASE 98-D012)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 232.11; 48 CFR 252.232

Completed:

Reason	Date	FR Cite
Final Action	04/16/99	64 FR 18828
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC52

947. RESTRUCTURING SAVINGS REPRICING CLAUSE (DFARS CASE 98-D019)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 231.205

Completed:

Reason	Date	FR Cite
Final Action	04/16/99	64 FR 18827
Final Action Effective	04/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC53

948. EVALUATION OF DUTY (DFARS CASE 98-D030)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225; 48 CFR 242.302; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Case closed	04/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC56

949. PARA-ARAMID FIBERS AND YARNS (DFARS CASE 98-D310)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.70; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	05/07/99	64 FR 24528
Final Action Effective	05/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC57

950. SINGAPORE ACCESSION TO GPA (DFARS CASE 98-D029)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 225.408; 48 CFR 252.225

Completed:

Reason	Date	FR Cite
Final Action	02/23/99	64 FR 8730
Final Action Effective	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC58

951. APPLICABILITY OF DFARS BUY AMERICAN CLAUSES TO SIMPLIFIED ACQUISITIONS (DFARS CASE 98-D031)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 213.302

Completed:

Reason	Date	FR Cite
Final Action	05/07/99	64 FR 24528
Final Action Effective	05/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC61

952. IMPROVED ACCOUNTING FOR DEFENSE CONTRACT SERVICES (DFARS CASE 98-D312)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 237.201; 48 CFR 237.203; 48 CFR 237.271

Completed:

Reason	Date	FR Cite
Final Action	07/22/99	64 FR 39430
Final Action Effective	07/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC62

953. TAXPAYER IDENTIFICATION NUMBERS AND COMMERCIAL AND GOVERNMENT ENTITY CODES (DFARS CASE 98-D027)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 204; 48 CFR 212.301; 48 CFR 213.106; 48 CFR 252.204; 48 CFR 253.204

Completed:

Reason	Date	FR Cite
Final Action	08/09/99	64 FR 43098
Final Action Effective	08/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC66

954. DOD PURCHASES THROUGH OTHER AGENCIES (DFARS CASE 98-D311)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 217.500

Completed:

Reason	Date	FR Cite
Final Action	03/25/99	64 FR 14399

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC67

955. REVISIONS TO DD FORM 1425, SPECIFICATIONS AND STANDARDS REQUISITION (DFARS CASE 98-D022)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 211.201; 48 CFR 253.303

Completed:

Reason	Date	FR Cite
Final Action	02/23/99	64 FR 8727
Final Action Effective	02/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC68

956. ELECTRONIC PUBLICATION OF DFARS (DFARS CASE 98-D024)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 201.1; 48 CFR 201.3

Completed:

Reason	Date	FR Cite
Final Action	07/22/99	64 FR 39429
Final Action Effective	07/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC69

957. LIMITATION ON THE USE OF PRICE PREFERENCE UPON ACHIEVEMENT OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES (DFARS CASE 98-D307)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 219.2

Completed:

Reason	Date	FR Cite
Case closed	02/24/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC71

958. DD FORM 1057, WORK STOPPAGE (DFARS CASE 99-D003)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 253.303; 48 CFR 222.101

Completed:

Reason	Date	FR Cite
Final Action	05/25/99	64 FR 28109
Final Action Effective	05/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kathleen Fenk
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC73

959. • CONTRACTS CROSSING FISCAL YEARS (DFARS CASE 1999-D008)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421; PL 105-85, Sec 801

CFR Citation: 48 CFR 232.703; 48 CFR 237.106

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to clarify the authority granted by Section 801 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) to enter into a service contract that begins in one fiscal year and ends in the next.

Timetable:

Action	Date	FR Cite
Case Opened	02/23/99	
Final Action	05/25/99	64 FR 28109
Final Action Effective	05/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC80

960. • ORAL ATTESTATION (DFARS CASE 1999-D006)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204.404; 48 CFR 252.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to implement the Deputy Secretary of Defense policy on contractor oral attestations of Top Secret or higher security clearances.

Timetable:

Action	Date	FR Cite
Case Opened	02/12/99	
NPRM	03/25/99	64 FR 14424
NPRM Comment Period End	05/24/99	
Final Action	08/19/99	64 FR 45196
Final Action Effective	08/19/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC81

961. • SHORT FORM RESEARCH CONTRACT CLAUSES (DFARS CASE 1999-D014)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 252.235

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to remove obsolete clauses pertaining to short form research contracts.

Timetable:

Action	Date	FR Cite
Case Opened	06/03/99	
Final Action	07/22/99	64 FR 39431
Final Action Effective	07/22/99	

DOD—DARC

Completed Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC87

---

962. • FISCAL YEAR 2000 DD FORM 350 REVISIONS (DFARS CASE 1999-D011)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 253.204

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to revise the DD Form 350 and its instructions to conform with HUBZone, taxpayer identification numbers, and very small business requirements, and provide for other editorial changes.

Timetable:

Action	Date	FR Cite
Case Opened	03/18/99	
Final Action	08/19/99	64 FR 45197
Final Action Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC90

---

963. • CONTRACT ACTIONS FOR LEASED EQUIPMENT (DFARS CASE 1999-D012)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 207.471

Legal Deadline: None

Abstract: Modifies the Defense FAR Supplement to provide guidance on capital lease funding requirements.

Timetable:

Action	Date	FR Cite
Case Opened	03/18/99	
Final Action	06/14/99	64 FR 31732
Final Action Effective	06/14/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kathleen Fenk, Business Analyst, Defense Acquisition Regulations Directorate, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3D139, OUSD A&T, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0296
Fax: 703 602-0350
Email: fenkk@acq.osd.mil

RIN: 0750–AC91

Department of Defense (DOD)
Department of the Army (DOA)

Proposed Rule Stage

---

964. THE DEPARTMENT OF THE ARMY FREEDOM OF INFORMATION ACT PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 518

Legal Deadline: None

Abstract: This proposed rule updates the Army FOIA program. This change incorporates DoD policies as required by public law.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, MS 5603, U.S. Army Records Mgmt and Declass Agency, Attn: TAPC-PDD-RP, 6000 6th Street, Fort Belvoir, VA 22060-5603
Phone: 703 806-3708
Email: showalterg@rmpo.belvoir.army.mil

RIN: 0702–AA30

Department of Defense (DOD)
Department of the Army (DOA)

Final Rule Stage

965. ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 10 USC 1552; 10 USC 1553; 10 USC 1554; 10 USC 3012; 38 USC 3103a

CFR Citation: 32 CFR 581

Legal Deadline: None

Abstract: This rule updates the policy and procedures for consideration of applications and corrections of the military records process. It also implements DoD Instruction 1336.6, Correction of Military Records, and streamlines portions of the application process by transferring the information into a Department of the Army pamphlet.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 51875
NPRM Comment Period End	10/29/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gregory D. Showalter, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, MS 5603, U.S. Army Records Mgmt and Declass Agency, Attn: TAPC-PDD-RP, 6000 6th Street, Fort Belvoir, VA 22060-5603
Phone: 703 806-3708
Email: showalterg@rmpo.belvoir.army.mil

RIN: 0702–AA32

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

966. ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq; 40 CFR 1500.6

CFR Citation: 33 CFR 230

Legal Deadline: None

Abstract: The purpose of this regulatory revision is to clarify and provide additional guidance for Corps NEPA requirements for activities at Federal water resource development projects and lands.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Forrester Einarsen, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-AR-E), 7701 Telegraph Road, Alexandria, VA 22315-3861
Phone: 703 428-7081

RIN: 0710–AA42

967. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, ENDANGERED SPECIES ACT; SCOPE OF ANALYSIS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325

Legal Deadline: None

Abstract: The regulation will clarify the scope of analysis that the Corps has responsibility for under the Endangered Species Act (ESA). This regulation will adopt the Corps ESA scope of analysis consistent with the ESA, the ESA regulations, and the Corps authorities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
NPRM Comment Period End	10/00/00	
Final Action	12/00/00	
Final Action Effective	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, Attn: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0199

RIN: 0710–AA43

968. • FLOOD CONTROL COST-SHARING REQUIREMENTS UNDER THE ABILITY TO PAY PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2213

CFR Citation: 33 CFR 241

Legal Deadline: None

Abstract: The Department of the Army is proposing to amend the procedures in 33 CFR part 241 for ability to pay determinations for flood control projects. The proposed amendment will establish an eligibility for reductions in the non-Federal cost, using county per capita income and county per capita non-Federal project cost criterion. A final rule for flood control projects implementing section 103(m) of Public Law 99-662, 33 U.S.C. 2213m, was published in the Federal Register on January 26, 1995 (60 FR 5133). The proposed rule will amend the guidlines in accordance with the discretionary language in section 202(b) of Public Law 104-303. The proposed rule applies only to flood control projects.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mr. Harry M Shoudy, Senior Political Analyst, Department of Defense, U.S. Army Corps of Engineers, CECW-AR, 20 Massachusetts Avenue, N.W., Washington, DC 20314-1000

DOD—COE

Proposed Rule Stage

Phone: 202 761-1977
RIN: 0710–AA44

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

969. REGULATORY PROGRAM OF THE CORPS OF ENGINEERS—ADMINISTRATIVE APPEALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 331

Legal Deadline: None

Abstract: The regulation establishes an administrative appeal process for permit denials and declined permits by permit applicants and jurisdictional determinations for landowners and permit applicants. This process is included in the President's Wetland Protection Plan to increase fairness in the permitting process by allowing landowners and permit applicants to seek a speedy recourse of these decisions without having to go to court.

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37280
NPRM Comment Period End	09/05/95	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The permit denial and declined permits portion of this rulemaking was published as a Final Rule on March 9, 1999, in the Federal Register (64 FR 11707). It did not address regulations concerning jurisdictional determinations.

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, Attn: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0199

RIN: 0710–AA41

970. • PUBLIC USE OF WATER DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1

CFR Citation: 36 CFR 327

Legal Deadline: None

Abstract: This action amends the rules and regulations governing public use of water resources development projects administered by the Chief of Engineers. The amendments are necessary to clarify and strengthen the regulation for more effective management and to enhance public safety and enjoyment of U.S. Army Corps of Engineers water resources development projects. Changes are minor and editorial in nature and have been made to express the intent of the regulations more concisely and to maintain consistency with existing Public Law.

Timetable:

Action	Date	FR Cite
NPRM	07/20/99	64 FR 38854
NPRM Comment Period End	08/19/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen B. Austin, Outdoor Recreation Planner, Department of Defense, U.S. Army Corps of Engineers, Room 6223, Natural Resources Management Branch, CECW-ON, 20 Massachusetts Avenue NW., Washington, DC 20314-1000
Phone: 202 761-1796
Fax: 202 761-1671

RIN: 0710–AA45

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

971. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 320 to 330

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sam Collinson
Phone: 202 761-0199

RIN: 0710–AA30

972. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS—WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328; 33 CFR 333

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael D Smith
Phone: 202 761-0201

RIN: 0710–AA38

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Completed Actions

973. • ADMINISTRATIVE APPEAL PROCESS ESTABLISHMENT FOR THE REGULATORY PROGRAM OF THE CORPS OF ENGINEERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1413; 33 USC 401 et seq; 33 USC 1344

CFR Citation: 33 CFR 320; 33 CFR 326; 33 CFR 331

Legal Deadline: None

Abstract: On July 19, 1995, the Corps of Engineers published notice in the Federal Register of a proposal to establish an administrative appeal process for the regulatory program of the Corps of Engineers, (33 CFR parts 320 to 331). Changes have been made to clarify and enhance the administrative appeal process for permit denials and declined permits.

Timetable:

Action	Date	FR Cite
NPRM	07/19/95	60 FR 37280
NPRM Comment Period End	09/05/95	
Final Action	03/09/99	64 FR 11707
Final Action Effective	08/06/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The rule finalizes a proposed rule that was published in the Federal Register on July 19, 1995 (60 FR 37280), under RIN 0710-AA41. This final rule addresses regulations establishing an administrative appeal process for permit denials and declined permits. RIN 0710-AA41 will address jurisdictional determinations.

Agency Contact: Sam Collinson, Chief, Policy Development Section, Department of Defense, U.S. Army Corps of Engineers, Attn: CECW-OR, Washington, DC 20314-1000
Phone: 202 761-0199

RIN: 0710–AA46

Department of Defense (DOD)
Department of the Navy (NAVY)

Proposed Rule Stage

974. • APPLICATION GUIDELINES FOR UNDERWATER ARCHAEOLOGICAL RESEARCH PERMITS ON SUBMERGED CULTURAL RESOURCES UNDER JURISDICTION OF THE DEPARTMENT OF THE NAVY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 470aa to 47011

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department of the Navy (DON), Naval Historical Center, is implementing guidelines for issuance of permits for underwater archaeology on submerged cultural resources under jurisdiction of DON. These rules are being issued consistent with the Archaeological Resources Protection Act, and as a result of requirements to manage cultural resources under the National Historical Preservation Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Robert S. Neyland, Underwater Archaeologist, Department of Defense, Department of the Navy, Naval Historical Center, DON, 805 Kidder Breese Avenue SE., Washington, DC 20374-5060
Phone: 202 433-2210
Fax: 202 433-2729

RIN: 0703–AA57

Department of Defense (DOD)
Department of the Navy (NAVY)

Final Rule Stage

975. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1507

CFR Citation: 32 CFR 766

Legal Deadline: None

Abstract: This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than United States Department of Defense aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Maj James Beaton, Department of Defense, Department of the Navy, N885F, Office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 703 604-7707
Fax: 703 604-6969

RIN: 0703–AA48

976. POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 44502

CFR Citation: 32 CFR 775 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations which

DOD—NAVY **Final Rule Stage**

establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain Department of the Navy actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA documentation requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37069
NPRM Comment Period End	09/07/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Lew Shotten, Office of the Assistant Secretary of the Navy (Installations and Environment), Department of Defense, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 703 588-6671

RIN: 0703–AA51

977. • AVAILABILITY OF THE DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 701 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations pertaining to its Freedom of Information Act (FOIA) program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Formerly published as RIN 0703-AA52.

Agency Contact: Doris M. Lama, Head, DON PA/FOIA Policy Branch, Office of the Chief of Naval Operations, Department of Defense, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350-2000
Phone: 202 685-6545

RIN: 0703–AA53

978. • PROFESSIONAL CONDUCT OF ATTORNEY PRACTICES UNDER THE SUPERVISION OF THE JUDGE ADVOCATE GENERAL

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 806 to 806(a); 10 USC 826; 10 USC 827; 10 USC 1044

CFR Citation: 32 CFR 776 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations concerning the professional conduct of attorneys practicing law under the cognizance and supervision of the Judge Advocate General of the Navy.

Timetable:

Action	Date	FR Cite
NPRM	07/12/99	64 FR 37470
NPRM Comment Period End	09/10/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Maj Ed McDonnell USMC, Department of Defense, Department of the Navy, Code 13, Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE., Washington, DC 20374-5066
Phone: 703 604-8228

RIN: 0703–AA54

979. • UNITED STATES NAVY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 6011

CFR Citation: 32 CFR 700

Legal Deadline: None

Abstract: The Department of the Navy is amending the Navy Regulations, incorporating new subparts and modifying some existing subparts. This revision will allow the published Navy Regulations to comport with the 1990 Navy Regulations currently in use.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LT Nieva K. van Leer JAGC, USNR, Regulations/Leg. FOIA/Privacy Act Branch Attorney, Department of Defense, Department of the Navy, Suite 3000, Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE., Washington, DC 20374-5066
Phone: 703 604-8208
Fax: 703 604-6955
Email: vanleer.nieva@hq.navy.mil

RIN: 0703–AA55

Department of Defense (DOD)
Department of the Navy (NAVY) **Long-Term Actions**

980. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5231 (New)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66826
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarence Belton
Phone: 703 602-2807
Email: belton.clarence@hq.navy.mil

RIN: 0703–AA50

Department of Defense (DOD)
Department of the Navy (NAVY)

Completed Actions

981. AVAILABILITY OF THE DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 701 (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn	09/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doris M. Lama
Phone: 202 685-6545

RIN: 0703–AA52

Department of Defense (DOD)
Department of the Air Force (AF)

Final Rule Stage

982. APPOINTMENT TO THE UNITED STATES AIR FORCE ACADEMY

Priority: Info./Admin./Other

Legal Authority: 10 USC 903; 10 USC 8013

CFR Citation: 32 CFR 901

Legal Deadline: None

Abstract: This rule provides instructions on processing nominations and appointments to the United States Air Force Academy.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63485
NPRM Comment Period End	01/30/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Parker, Department of Defense, Department of the Air Force, HQ USAFA RRA, 1040 Air Force Pentagon, Washington, DC 20330-1040
Phone: 703 697-7116

RIN: 0701–AA58

983. • DELIVERY OF PERSONNEL TO U.S. CIVILIAN AUTHORITIES FOR TRIAL

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 8013; 10 USC 814; PL 100-456, sec 721(a)

CFR Citation: 32 CFR 884 (Revision)

Legal Deadline: None

Abstract: Establishes procedures for making Air Force members, civilian personnel, and family members available to U.S. civilian authorities for trial or specified court appearances.

Timetable:

Action	Date	FR Cite
NPRM	06/01/99	64 FR 29252
NPRM Comment Period End	08/02/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The NPRM was published in the Federal Register under RIN 0701-AA59; RIN was changed to 0701-AA60.

Agency Contact: Lt Col Tom Jaster, Department of Defense, Department of the Air Force, AFLSA/JAJM, 112 Luke Avenue, Suite 343, Bolling AFB, Washington, DC 20332-8000
Phone: 202 767-1539
Email: thomas.jaster@pentagon.af.mil

RIN: 0701–AA60

Department of Defense (DOD)
Department of the Air Force (AF)

Completed Actions

984. ENVIRONMENTAL IMPACT ANALYSIS PROCESS

Priority: Info./Admin./Other

CFR Citation: 32 CFR 989

Completed:

Reason	Date	FR Cite
Final Action Effective	07/06/99	
Final Action	07/15/99	64 FR 38127

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth L. Reinerton
Phone: 703 607-0221

RIN: 0701–AA56

Department of Defense (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Proposed Rule Stage

985. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; DOUBLE COVERAGE; THIRD PARTY RECOVERIES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 711 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 which allows the Secretary of Defense to authorize certain CHAMPUS/TRICARE claims to be paid, even though other health insurance may be primary payer, with authority to collect from the other health insurance (third-party payer) the CHAMPUS/TRICARE costs incurred on behalf of the beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Shepherd, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3705

RIN: 0720–AA52

Department of Defense (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

986. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes a new payment method for ambulatory care (other than ambulatory surgery) provided by hospitals to CHAMPUS beneficiaries, under which payment amounts would be based on the cost of the service rather than on the billed charge, as at present.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-1745
Email: steve.lillie@tma.osd.mil

RIN: 0720–AA20

987. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRANSPLANTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes coverage for heart-lung, single or double lung, and combined liver-kidney transplantation for those patients who meet specific patient selection criteria; establishes preauthorization requirements for heart, liver, heart-lung, single or double lung, combined liver-kidney transplantation, high dose chemotherapy and stem cell transplantation, and air ambulance (in conjunction with lung or heart-lung transplantation preauthorizations); extends coverage of cardiac rehabilitation to those patients who have had heart valve surgery, heart or heart-lung transplantation; authorizes an exception to the ambulance benefit to allow organ transplantation candidates to be transported to a certified CHAMPUS organ transplant center instead of the closest appropriate facility; authorizes pulmonary rehabilitation for beneficiaries whose conditions are considered appropriate for pulmonary rehabilitation according to guidelines adopted by the Director, OCHAMPUS, or a designee; recognizes certain transplant centers that meet specific criteria as an authorized CHAMPUS institutional provider; and clarifies the CHAMPUS position on consortium programs for organ transplantation to allow individual hospitals which are members of a consortium to use the combined (pooled) experience and survival data of the consortium team to meet CHAMPUS requirements for authorization as a certified CHAMPUS organ transplant center.

Timetable:

Action	Date	FR Cite
NPRM	03/17/95	60 FR 14403
NPRM Comment Period End	05/16/95	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Speight, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-1745
Email: cynthia.speight@tma.osd.mil

RIN: 0720–AA28

988. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: Currently, any individual who is a civilian employee of the United States Government cannot be

authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the Government agency on a part-time basis, that is, less than twenty (20) hours per week. Second, the agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-Government physicians. Third, the agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

Timetable:

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45196
NPRM Comment Period End	10/27/97	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3572
Email: stephen.isaacson@pma.osd.mil

RIN: 0720–AA41

---

989. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROSTHETIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 702 of the National Defense Authorization Act for Fiscal Year 1998 (PL 105-85), which authorizes purchase of prosthetic devices, as determined by the Secretary of Defense, to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease. The act changes the existing limited provisions for prosthetic devices, expands coverage to include cost sharing of other prostheses, e.g., noses, ears and fingers.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/20/99	64 FR 45453
Interim Final Rule	08/20/99	
Interim Final Rule Comment Period End	10/19/99	
Final Action	01/00/00	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Brown, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3581
Fax: 303 676-3579
Email: margaret.brown@pma.osd.mil

RIN: 0720–AA49

---

990. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); DOUBLE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule clarifies our double coverage policy for non-institutional claims for beneficiaries with primary health insurance. TRICARE network, non-network but participating, and non-participating providers are all reimbursed differently under current procedures. This has had the unintended effect of discouraging TRICARE network participation since non-network but participating providers receive the most favorable treatment with respect to double coverage calculations. The Department proposes to revise double coverage reimbursement calculations by reimbursing all providers up to 100 percent of the CHAMPUS Maximum Allowable Charge after the primary health insurance has paid or 115 percent for nonparticipating providers.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32451
NPRM Comment Period End	08/16/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: LTC Kathleen Larkin, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 703 681-1745
Email: kathleen.larkin@tma.osd.mil

RIN: 0720–AA50

Department of Defense (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Completed Actions

991. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); FORMER SPOUSE/WIDOW(ER) AND FEDERAL CLAIMS COLLECTION ACT (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	08/24/99	64 FR 46133
Final Action Effective	09/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Isaacson
Phone: 303 676-3572
Email: stephen.isaacson@pma.osd.mil

RIN: 0720–AA07

992. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROVIDER CERTIFICATION REQUIREMENTS—CORPORATE SERVICES PROVIDER CLASS; OCCUPATIONAL THERAPISTS (DOD 6010.8-R)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	03/10/99	64 FR 11765
Final Action Effective	06/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bennett
Phone: 303 676-3494
Email: david.bennett@pma.osd.mil

RIN: 0720–AA27

993. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXTENSION OF THE ACTIVE DUTY DEPENDENTS DENTAL PLAN TO OVERSEAS AREAS

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	07/19/99	64 FR 38575

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol Ortega
Phone: 703 681-1745
Email: carol.ortega@tma.osd.mil

RIN: 0720–AA36

994. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); REVISIONS TO THE ELIGIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	08/24/99	64 FR 46133
Final Action Effective	09/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Isaacson
Phone: 303 676-3572
Email: stephen.isaacson@pma.osd.mil

RIN: 0720–AA39

995. CIVILIAN HEALTH AND MEDICAL PROGRAM FOR THE UNIFORMED SERVICES (CHAMPUS); TRICARE PRIME ENROLLMENT PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 199

Completed:

Reason	Date	FR Cite
Final Action	03/23/99	64 FR 13912
Final Action Effective	04/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen Larkin
Phone: 703 681-1745
Email: kathleen.larkin@tma.osd.mil

RIN: 0720–AA48

996. • CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); REVISIONS TO THE ELIGIBILITY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule revises the comprehensive CHAMPUS regulation pertaining to basic CHAMPUS benefits in accordance with several statutory changes. This rule sets forth the requirements for reinstatement of CHAMPUS eligibility for beneficiaries under age 65 who would otherwise have lost eligibility for CHAMPUS due to eligibility for Medicare as a result of disability or end-stage renal disease (ESRD); establishes new classes of CHAMPUS eligibles; establishes the Transitional Assistance Management Program which provides transitional health care for members (and their dependents) who served on active duty in support of a contingency operation and for members (and their dependents) who are involuntarily separated from active duty; allows former spouses who buy a conversion health policy to keep CHAMPUS eligibility for twenty-four (24) months for preexisting conditions that are not covered by the conversion policy; and makes minor technical revisions to the double coverage provisions. In order to expedite compliance with the statutory requirements, all of these provisions have been implemented under interim instructions. This final rule also adds a new category of eligible beneficiary under the Continued Health Care Benefit Program.

Timetable:

Action	Date	FR Cite
NPRM	12/23/97	62 FR 67018
NPRM Comment Period End	02/23/98	
Final Action	08/24/99	64 FR 46133
Final Action Effective	09/23/99	

Specific Paragraphs Statutorily-Mandated Effective Dates
Section 199.3(b)(2)(ii)(H)(3) 11/14/1986
Section 199.3(b)(2)(iii)(A)(1) 11/14/1986
Section 199.3(e)(1)(ii) 10/01/1990
Section 199.3(e)(1)(iii) 10/01/1990
Section 199.3(e)(1)(i) 04/06/1991
Section 199.3(f)(3)(viii) 10/01/1991
Section 199.3(f)(3)(ix) 10/01/1991
Section 199.3(b)(2)(ii)(H)(2) 10/23/1992
Section 199.3(b)(2)(iii)(A)(2) 10/23/1992
Section 199.3(b)(2)(ii)(H)(4)pertaining to placement by a court 07/01/1994
Section 199.3(b)(2)(ii)(H)(4)pertaining to placement by a agency 10/05/1994

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The rule finalizes a proposed rule that was published in the Federal Register on December 23, 1997 (62 FR 67018) under RIN 0720-AA39. The proposed rule published under RIN 0720-AA39

DOD—DODOASHA **Completed Actions**

was split from a proposed rule published under RIN 0720-AA07.

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs
Phone: 303 676-3572
Email: stephen.isaacson@pma.osd.mil

RIN: 0720–AA51
[FR Doc. 99–24738 Filed 11–19–99; 8:45 am]
BILLING CODE 5001–10–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part VI

Department of Education

Semiannual Regulatory Agenda

Department of Education (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulations. The agenda is issued under the authority of section 4(b) of Executive Order 12866 "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Kenneth C. Depew, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6E109, FB-6, 400 Maryland Avenue SW., Washington, DC 20202-2241; telephone: (202) 401-8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, OMB, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(b)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.

In accordance with the Secretary's Principles for Regulating, listed in the Department's regulatory plan, the Department of Education is committed to regulating that improves the quality and equality of services to its customers, learners of all ages. ED will regulate only when absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on regulations listed on this agenda that are designated for periodic review under the Regulatory Flexibility Act (5 U.S.C. 610).

The Department also will review all regulations that are published to ensure that, if appropriate, those regulations support the National Education Goals.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. The Department may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

For this edition of ED's regulatory agenda, the most important significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**.

The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated : October 15, 1999.

Steve Y. Winnick,

Acting General Counsel.

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
997	Student Rights in Research, Experimental Programs, and Testing	1880-AA66

VOL 64 ISS 224 NO 22 1999 UMI

Sequence Number
998
Sequence Number
999
Sequence Number
1000
1001
Sequence Number
1002
Sequence Number
1003
1004
1005
1006
1007
1008
1009
1010
1011
1012
1013
Sequence Number
1014
1015

ED

Departmental Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
998	Protection of Human Subjects (Classified Research)	1880-AA79

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
999	Privacy Act Regulations	1880-AA78

Office of the Chief Financial Officer—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1000	Education Department General Administrative Regulations (EDGAR)	1890-AA00
1001	Education Department General Administrative Regulations (EDGAR)	1890-AA02

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1002	Title I — Helping Disadvantaged Children Meet High Standards	1810-AA90

Office of Student Financial Assistance—Completed Actions

Sequence Number	Title	Regulation Identification Number
1003	Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions **(Completion of a Section 610 Review)**	1845-AA08
1004	Secretary's Recognition of Accrediting Agencies **(Completion of a Section 610 Review)**	1845-AA09
1005	Student Assistance General Provisions (Return of Title IV Aid) **(Completion of a Section 610 Review)**	1845-AA02
1006	Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program	1845-AA01
1007	Student Assistance General Provisions (Consumerism) **(Completion of a Section 610 Review)**	1845-AA03
1008	Student Assistance General Provisions (Cohort Default Rates) **(Completion of a Section 610 Review)**	1845-AA04
1009	Student Assistance General Provisions (Student Eligibility) **(Completion of a Section 610 Review)**	1845-AA07
1010	Federal Perkins Loan Program **(Completion of a Section 610 Review)**	1845-AA05
1011	Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program **(Completion of a Section 610 Review)**	1845-AA00
1012	Federal Family Education Loan (FFEL) Program (Lenders and Guaranty Agencies) **(Completion of a Section 610 Review)**	1845-AA06
1013	William D. Ford Federal Direct Loan Program (Repayment Incentives) **(Completion of a Section 610 Review)**	1845-AA10

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1014	Teacher Quality Enhancement Grants Program	1840-AC65
1015	Preparing Tomorrow's Teachers To Use Technology	1840-AC81

ED

Office of Postsecondary Education—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1016	Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) **(Reg Plan Seq. No. 20)**	1840-AC82

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identification Number
1017	Institutional Eligibility Under the Higher Education Act of 1965, as Amended **(Completion of a Section 610 Review)**	1840-AC64
1018	Teacher Quality Enhancement Grants Program	1840-AC67
1019	Student Assistance General Provisions; Federal Work-Study Programs; Federal Supplemental Education Opportunity Grant Programs; Federal Pell Grant Program **(Completion of a Section 610 Review)**	1840-AC63
1020	Federal Family Education Loan Program	1840-AC55
1021	Federal Family Education Loan (FFEL) Program (Lenders and Guaranty Agencies)	1840-AC61
1022	Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program; and Federal Perkins Loan Program **(Completion of a Section 610 Review)**	1840-AC62
1023	William D. Ford Federal Direct Loan Program	1840-AC57
1024	William D. Ford Federal Direct Loan Program	1840-AC68

Office of Special Education and Rehabilitative Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1025	The State Vocational Rehabilitation Services Program **(Section 610 Review) (Reg Plan Seq. No. 21)**	1820-AB50

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1026	Personnel Preparation To Improve Services and Results for Children With Disabilities	1820-AB46
1027	The State Vocational Rehabilitation Services Program—Evaluation Standards and Performance Indicators	1820-AB14
1028	Projects With Industry	1820-AB45

Department of Education (ED)

Departmental Management (EDMAN)

Final Rule Stage

997. STUDENT RIGHTS IN RESEARCH, EXPERIMENTAL PROGRAMS, AND TESTING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1232h

CFR Citation: 34 CFR 98

Legal Deadline: None

Abstract: These regulations are needed to implement section 1017 of the Goals 2000: Educate America Act (Pub. L. 103-227, 20 U.S.C. 1232h). That provision amends the Protection of Pupil Rights Amendment (PPRA) to require schools, in certain instances, to make specific educational materials available to parents for inspection. The provision also amends the PPRA to prohibit schools from requiring a student to submit to certain surveys, analyses, or evaluations without prior parental consent. The regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44696
NPRM Comment Period End	10/27/95	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

ED—EDMAN **Final Rule Stage**

Government Levels Affected: None
Agency Contact: Ellen Campbell, Family Policy Compliance Office, Department of Education, Room 2W101, 400 MD Avenue SW, FB-6, Washington, DC 20202-4605
Phone: 202 260-3887
RIN: 1880–AA66

Department of Education (ED)
Departmental Management (EDMAN) **Long-Term Actions**

998. PROTECTION OF HUMAN SUBJECTS (CLASSIFIED RESEARCH)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 300v-1(b)

CFR Citation: 34 CFR 97

Legal Deadline: None

Abstract: These amendments would revise existing regulations to eliminate certain waiver and expedited review provisions by adopting additional protection pertaining to human subjects in classified research.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Helene Deramond, Department of Education, Room 3652, ROB-3, 400 MD Avenue SW, Washington, DC 20202
Phone: 202 260-5353

RIN: 1880–AA79

Department of Education (ED)
Departmental Management (EDMAN) **Completed Actions**

999. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 5b

Completed:

Reason	Date	FR Cite
Final Action	06/09/99	64 FR 31066

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gale Hoes
Phone: 202 205-5786

RIN: 1880–AA78

Department of Education (ED)
Office of the Chief Financial Officer (OCFO) **Long-Term Actions**

1000. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1)

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 77

Legal Deadline: None

Abstract: These proposed regulations would reinvent key parts of EDGAR by eliminating unnecessary, obsolete, or duplicative provisions; replacing some provisions with non-regulatory guidance; and revising other sections to improve clarity and ease of use by the Department's customers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/96	61 FR 43640
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tony Cavataio, Management Analyst, Grants Policy and Oversight Staff, Department of Education, Office of the Chief Financial Officer, Room 3652, 400 MD Avenue SW, ROB-3, Washington, DC 20202-4248
Phone: 202 708-7802
Fax: 800 877-8339
Email: tony__ cavataio@ed.gov

RIN: 1890–AA00

1001. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 20 USC 1221e-3(a)(1); 20 USC 3474

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: These regulations are needed to implement features of the Department's redesigned discretionary grants process. These regulations will establish the procedures the Secretary may use for reviewing and selecting applications submitted for new grants under the discretionary grant programs. Several new review and selection procedures will be established and defined. These regulations will also propose a new policy to give special

ED—OCFO

Long-Term Actions

consideration to novice applicants and will define the procedures for reviewing and selecting applications submitted under a novice set-aside.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Valerie A. Sinkovits, Management Analyst, Department of Education, Office of the Chief Financial Officer, Room 3652, 400 MD Avenue SW, ROB-3, Washington, DC 20202-4248
Phone: 202 708-7568
Fax: 800 877-8339
Email: valerie__ sinkovits@ed.gov

RIN: 1890–AA02

Department of Education (ED)
Office of Elementary and Secondary Education (OESE)

Proposed Rule Stage

1002. • TITLE I — HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

Priority: Other Significant

Legal Authority: 20 USC 6301-6514

CFR Citation: 34 CFR 200

Legal Deadline: None

Abstract: These regulations would reflect the Department's initial experience in making allocations directly to 15,000 school districts. The regulations will potentially affect all formula grant allocations under Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sandy Brown, Department of Education, Office of Elementary and Secondary Education, Room 3C132, FB-6, 400 Maryland Ave SW, Washington, DC 20202
Phone: 202 260-0976

RIN: 1810–AA90

Department of Education (ED)
Office of Student Financial Assistance (OSFA)

Completed Actions

1003. • INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED; STUDENT ASSISTANCE GENERAL PROVISIONS (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1001; 20 USC 1094; 20 USC 1099b; 20 USC 1099c; 20 USC 1002; 20 USC 1003; 20 USC 1088; 20 USC 1091; ...

CFR Citation: 34 CFR 600; 34 CFR 668

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The regulations would amend provisions governing eligibility for and participation in the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/15/99	64 FR 38272
Final Action	10/29/99	64 FR 58607

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC75.

Agency Contact: Cheryl Leibovitz, Department of Education, Office of Student Financial Assistance, PO Box 23272, Washington, DC 20026-3272
Phone: 202 708-9900

RIN: 1845–AA08

1004. • SECRETARY'S RECOGNITION OF ACCREDITING AGENCIES (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1099b

CFR Citation: 34 CFR 602

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. These regulations would affect provisions governing the Secretary's recognition of accrediting agencies.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	06/25/99	64 FR 34466
Final Action	10/20/99	64 FR 56611

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC80.

Agency Contact: Karen W. Kershenstein, Department of Education, Office of Student Financial Assistance, Room 3915, ROB-3, 400 Maryland Ave. SW, Washington, DC 20202-5244
Phone: 202 708-7417

RIN: 1845–AA09

ED—OSFA

Completed Actions

1005. • STUDENT ASSISTANCE GENERAL PROVISIONS (RETURN OF TITLE IV AID) (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1001; 20 USC 1002; 20 USC 1003; 20 USC 1071 thru 1087-2; 20 USC 1088; ...

CFR Citation: 34 CFR 668; 34 CFR 682

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The regulations would implement changes affecting the treatment of funds for student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended, if a student withdraws from an institution.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	08/06/99	64 FR 43023
Final Action	11/01/99	64 FR 59015

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC74.

Agency Contact: Wendy Macias, Department of Education, Office of Student Financial Assistance, Room 3013, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202 Phone: 202 708-8242

RIN: 1845–AA02

1006. • STUDENT ASSISTANCE GENERAL PROVISIONS; GENERAL PROVISIONS FOR THE FEDERAL PERKINS LOAN PROGRAM, FEDERAL WORK-STUDY PROGRAM, AND FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Priority: Other Significant

Legal Authority: 20 USC 421 thru 429; 20 USC 1070(a); 20 USC 1070b-1070b-3; 20 USC 1085; 20 USC 1087aa-1087ii; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099c; 20 USC 1141; 42 USC 2751-2756b; ...

CFR Citation: 34 CFR 668; 34 CFR 690; 34 CFR 673; 34 CFR 674; 34 CFR 675; 34 CFR 670; ...

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes would affect regulations governing the Campus-Based Programs, Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Education Opportunity Grant (FSEOG) Programs, the Federal Pell Grant Program, and the Student Assistance General Provisions.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	08/03/99	64 FR 42205
Final Action	10/28/99	64 FR 58283

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC72.

Agency Contact: Kathy Gause, Department of Education, Office of Student Financial Assistance, Room 3045, ROB-3, 400 Maryland Avenue SW, Washington, DC 20202-5447 Phone: 202 708-8242

RIN: 1845–AA01

1007. • STUDENT ASSISTANCE GENERAL PROVISIONS (CONSUMERISM) (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1085; 20 USC 1141; 20 USC 1088; 20 USC 1091; 20 USC 1094; 20 USC 1099e; ...

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The changes would govern the disclosure of institutional and financial assistance information provided to students under the student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	08/10/99	64 FR 43581
Final Action	11/01/99	64 FR 59059

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC76.

Agency Contact: Paula Husselmann, Department of Education, Office of Student Financial Assistance, PO Box 23272, Washington, DC 20026-3272 Phone: 202 708-8242

RIN: 1845–AA03

1008. • STUDENT ASSISTANCE GENERAL PROVISIONS (COHORT DEFAULT RATES) (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; ...

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes concern the cohort default rate and related issues.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/30/99	64 FR 41751
Final Action	11/01/99	64 FR 58973

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC79.

Agency Contact: Kenneth Smith, Department of Education, Office of Student Financial Assistance, PO Box 23272, Washington, DC 20026-3272 Phone: 202 708-8242

RIN: 1845–AA04

ED—OSFA

Completed Actions

1009. • STUDENT ASSISTANCE GENERAL PROVISIONS (STUDENT ELIGIBILITY) (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1001; 20 USC 1088; 20 USC 1091; 20 USC 1092; 20 USC 1094; 20 USC 1099e; 20 USC 1099c-1; 20 USC 1002; 20 USC 1003; 20 USC 1085; 20 USC 1088; ...

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes concern student eligibility issues.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/16/99	64 FR 38503
Final Action	10/22/99	64 FR 57355

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC73.

Agency Contact: Lloyd Horwich, Department of Education, Office of Student Financial Assistance, PO Box 20026, Washington, DC 20026-3272
Phone: 202 708-8242

RIN: 1845–AA07

1010. • FEDERAL PERKINS LOAN PROGRAM (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1087aa-1087hh; 20 USC 421-429

CFR Citation: 34 CFR 674

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244, enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed regulations implement provisions that affect institutions that participate in and borrowers who have loans made under, the Federal Perkins Loan Program.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	07/29/99	64 FR 41232
Final Action	10/28/99	64 FR 58297

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gail McLarnon, Department of Education, Office of Student Financial Assistance, Room 3042, ROB-3, 400 Maryland Ave SW, Washington, DC 20202-5449
Phone: 202 708-8242

RIN: 1845–AA05

1011. • FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1071 to 1087-2; 20 USC 1087 et seq

CFR Citation: 34 CFR 682; 34 CFR 685

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 and are subject to negotiated rulemaking. The changes concern provisions affecting FFEL borrowers, schools, lenders, and guaranty agencies and Direct Loan borrowers and schools.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	08/10/99	64 FR 43427
Final Action	11/01/99	64 FR 58938

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC69.

Agency Contact: Patsy Beavan, FFEL Program, Department of Education, Office of Student Financial Assistance, PO Box 23272, Washington, DC 20026-3272
Phone: 202 708-8242

RIN: 1845–AA00

1012. • FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM (LENDERS AND GUARANTY AGENCIES) (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Higher Education Amendments of 1998 (Pub. L. 105-244 enacted October 7, 1998) and are subject to negotiated rulemaking. The proposed changes concern lender and guaranty agency issues described in the notice of negotiated rulemaking published on December 23, 1998 (63 FR 71206).

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	08/03/99	64 FR 42176
Final Action	10/29/99	64 FR 58621

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1840-AC61.

Agency Contact: Pamela A. Moran, Department of Education, Office of Student Financial Assistance, Room 3060, ROB-3, PO Box 23272, Washington, DC 20202-5449
Phone: 202 708-8242

RIN: 1845–AA06

1013. • WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM (REPAYMENT INCENTIVES) (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 20 USC 1087 et seq.

CFR Citation: 34 CFR 685

Legal Deadline: None

Abstract: These regulations reflect the Secretary's authority to charge reduced interest rates to encourage on-time loan repayments.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206

ED—OSFA **Completed Actions**

Action	Date	FR Cite
NPRM	06/16/99	64 FR 32258
Final Action	10/27/99	64 FR 57959

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: NPRM published under RIN 1840-AC68.

Agency Contact: Nicki Meoli, Department of Education, Office of Student Financial Assistance, PO Box 23272, Washington, DC 20026-3272
Phone: 202 708-8242

RIN: 1845–AA10

Department of Education (ED)
Office of Postsecondary Education (OPE) **Proposed Rule Stage**

1014. TEACHER QUALITY ENHANCEMENT GRANTS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1021 et seq; 20 USC 1024(e)

CFR Citation: 34 CFR 611

Legal Deadline: None

Abstract: These regulations are needed to implement the statutory "teach or pay" requirements under the Teacher Recruitment Grants Program and any scholarships awarded to students in teacher preparation programs funded under the State and Partnerships Program authorized in sections 202 and 203 of the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
NPRM	11/05/99	64 FR 60631
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis J. Venuto, Division of Institutional Development, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Washington, DC 20202-5131
Phone: 202 502-7878

RIN: 1840–AC65

1015. • PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 6832

CFR Citation: 34 CFR 614

Legal Deadline: None

Abstract: These regulations would govern the Preparing Tomorrow's Teachers to Use Technology Program which provides grants to corsortia to help future teachers become proficient in the use of modern learning technologies.

Timetable:

Action	Date	FR Cite
NPRM	10/22/99	64 FR 57287
NPRM Comment Period End	11/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Gonzales, Department of Education, Office of Postsecondary Education, 400 Maryland Ave SW., Washington, DC 20202-1365
Phone: 202 502-7788

RIN: 1840–AC81

1016. • GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS (GEAR UP)

Regulatory Plan: This entry is Seq. No. 20 in Part II of this issue of the **Federal Register**.

RIN: 1840–AC82

Department of Education (ED)
Office of Postsecondary Education (OPE) **Completed Actions**

1017. INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

CFR Citation: 34 CFR 600

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela A. Moran
Phone: 202 708-8242

RIN: 1840–AC64

1018. • TEACHER QUALITY ENHANCEMENT GRANTS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1021 et seq.; 20 USC 1024(e)

CFR Citation: 34 CFR 611

Legal Deadline: None

Abstract: These regulations applied the Department's eight percent cost limitation for educational training grants to all funds that States and local educational agencies receive under the Teacher Quality Enhancement Grants Program.

Timetable:

Action	Date	FR Cite
NPRM	05/19/99	64 FR 27403
Final Action	08/06/99	64 FR 42837

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis J. Venuto, Division of Institutional Development, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue SW., Washington, DC 20202-5131

ED—OPE **Completed Actions**

Phone: 202 502-7878

RIN: 1840–AC67

1019. STUDENT ASSISTANCE GENERAL PROVISIONS; FEDERAL WORK-STUDY PROGRAMS; FEDERAL SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT PROGRAMS; FEDERAL PELL GRANT PROGRAM (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

CFR Citation: 34 CFR 668; 34 CFR 675; 34 CFR 676; 34 CFR 690; 34 CFR 692; 34 CFR 693

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathy Gause
Phone: 202 708-8242

RIN: 1840–AC63

1020. FEDERAL FAMILY EDUCATION LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
Final Action	04/16/99	64 FR 18974

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela A. Moran
Phone: 202 708-8242

RIN: 1840–AC55

1021. FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM (LENDERS AND GUARANTY AGENCIES)

Priority: Other Significant

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
NPRM	08/03/99	64 FR 42176
Transfer to 1845-AA06	08/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela A. Moran
Phone: 202 708-8242

RIN: 1840–AC61

1022. FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM; WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM; AND FEDERAL PERKINS LOAN PROGRAM (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

CFR Citation: 34 CFR 682; 34 CFR 685; 34 CFR 674

Completed:

Reason	Date	FR Cite
Merged With RIN 1845-AA04	09/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela A. Moran
Phone: 202 708-8242

RIN: 1840–AC62

1023. WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Info./Admin./Other

CFR Citation: 34 CFR 685

Completed:

Reason	Date	FR Cite
Final Action	05/28/99	64 FR 29182

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald Watson
Phone: 202 708-8242

RIN: 1840–AC57

1024. • WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Priority: Other Significant

Legal Authority: 20 USC 1087 et seq.

CFR Citation: 34 CFR 685

Legal Deadline: None

Abstract: These regulations remove references to the phase-in of the Direct Loan Program, update the loan interest rate formulas, and reflect the Secretary's authority to charge reduced loan fees on Direct Subsidized and Direct Unsubsidized Loans.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/98	63 FR 71206
NPRM	06/16/99	64 FR 32358
Final Action	08/24/99	64 FR 46251

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nicki Meoli, Department of Education, Office of Postsecondary Education, P.O. Box 23272, Washington, DC 20026-3272
Phone: 202 708-8242

RIN: 1840–AC68

Department of Education (ED) **Proposed Rule Stage**

Office of Special Education and Rehabilitative Services (OSERS)

1025. • THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 21 in Part II of this issue of the **Federal Register**.

RIN: 1820–AB50

Department of Education (ED)
Office of Special Education and Rehabilitative Services (OSERS)

Final Rule Stage

1026. PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES

Priority: Other Significant

Legal Authority: 20 USC 1473

CFR Citation: 34 CFR 304

Legal Deadline: None

Abstract: These regulations are needed to implement changes made by the Individuals with Disabilities Education Act Amendments of 1997 (Pub. L. 105-17, enacted June 4, 1997).

Timetable:

Action	Date	FR Cite
NPRM	07/10/98	63 FR 37465
NPRM Comment Period End	09/08/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Renee Bradley, Department of Education, Office of Special Education and Rehabilitative Services, 400 MD Avenue SW, Washington, DC 20202-2641
Phone: 202 358-2849

RIN: 1820–AB46

1027. THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM—EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Priority: Other Significant

Legal Authority: 29 USC 726; PL 102-569

CFR Citation: 34 CFR 361

Legal Deadline: None

Abstract: These proposed revisions to existing regulations are needed because of changes in the authorizing legislation made by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569) and the Rehabilitation Act Amendments of 1998 (Pub. L. 105-220). The Amendments require the development of standards and performance indicators. The proposed regulations are being developed in accordance with the Department's Principles for Regulating.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/93	58 FR 9458
NPRM	10/14/98	63 FR 55291
NPRM Comment Period End	11/30/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beverlee Stafford, Director, Planning, Policy, and Evaluation Services, Department of Education, Office of Special Education and Rehabilitative Services, Room 3014, Switzer Building, 400 Maryland Ave. SW, Washington, DC 20202-2531
Phone: 202 205-8299

RIN: 1820–AB14

1028. PROJECTS WITH INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 711(c); 29 USC 795

CFR Citation: 34 CFR 379

Legal Deadline: None

Abstract: These amendments change the performance indicators for this program in order to improve project performance, enhance project accountability, better reflect statutory intent and reduce grantee burden.

Timetable:

Action	Date	FR Cite
NPRM	06/23/98	63 FR 34218
NPRM Comment Period End	08/24/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas E. Finch, Department of Education, Office of Special Education and Rehabilitative Services, Room 3028, Switzer Building, 400 Maryland Avenue SW, Washington, DC 20202-2575
Phone: 202 205-8292

RIN: 1820–AB45

[FR Doc. 99–27966 Filed 11–19–99; 8:45 am]
BILLING CODE 4000–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part VII

Department of Energy

Semiannual Regulatory Agenda

Department of Energy (DOE)

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy has prepared and today is publishing its semiannual regulatory agenda pursuant to instructions of the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT: For further information about any particular item on the regulatory agenda, please contact the individual listed under that item. For further information on the regulatory agenda in general, please contact: Richard L. Farman, Room 6E-078, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8145.

SUPPLEMENTARY INFORMATION: Entries appended to this notice reflect the status of activities as of approximately August 31, 1999. They are divided into categories, first by subagencies and then according to their stage of rulemaking action: Prerule, proposed rulemaking, final rulemaking, long-term action, or completed action.

A draft of this regulatory agenda has been transmitted to the Chief Counsel for Advocacy of the U.S. Small Business Administration for comment, if any, pursuant to 5 U.S.C. 602(b).

For this edition of the Department of Energy's regulatory agenda, the most important significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Issued in Washington, DC, on September 7, 1999.

Mary Anne Sullivan,
General Counsel.

Energy Efficiency and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1029	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps	1904-AA77

Energy Efficiency and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1030	Equivalent Petroleum-Based Fuel Economy Calculation for Electric and Hybrid Electric Vehicles	1904-AA40
1031	Test Procedures for Central Air Conditioners and Heat Pumps—Amendments	1904-AA46
1032	State and Local Incentives Program: Alternative Fuels	1904-AA66
1033	Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment **(Reg Plan Seq. No. 22)**	1904-AA67
1034	Energy Efficiency Standards for Lamp Ballasts	1904-AA75
1035	Energy Efficiency Standards for Water Heaters	1904-AA76
1036	Test Procedures for Commercial Water Heaters	1904-AA95
1037	Test Procedures for Commercial Heating Equipment	1904-AA96
1038	Test Procedures for Commercial Air Conditioning Equipment	1904-AA97
1039	Alternate Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets	1904-AA98
1040	Test Procedures for Commercial Package Boilers	1904-AB02
1041	Test Procedures for Dishwashers—Amendment	1904-AB04

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Energy Efficiency and Renewable Energy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1042	Energy Efficiency Code for New Federal Residential Low Rise Buildings	1904-AA53
1043	Energy Code for New Federal Commercial and Multi-Family High Rise Residential Buildings	1904-AA69
1044	Test Procedures for Electric Distribution Transformers	1904-AA85
1045	Alternate Fuel Program: Biodiesel	1904-AB00
1046	State Energy Program	1904-AB01
1047	Amendments to the Refrigeration Standards	1904-AB03

VOL 64 ISS 224 NO 22 1999 UMI

Sequence Number
1048
1049
1050
1051
1052
1053
1054
1055

Sequence Number
1056
1057

Sequence Number
1058

Sequence Number
1059
1060
1061

Reference

Sequence Number
1062
1063
1064
1065

Sequence Number
1066
1067
1068

DOE

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1048	National Voluntary Residential Energy Efficiency Rating Guidelines	1904-AA74
1049	Energy Efficiency Standards for Residential Furnaces, Boilers and Mobile Home Furnaces	1904-AA78
1050	Determination for High Intensity Discharge Lamps	1904-AA86
1051	Determination for Small Electric Motors	1904-AA87
1052	Energy Efficiency Standards for Clothes Dryers and Dishwashers	1904-AA89
1053	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment	1904-AA90
1054	Energy Efficiency Standards for 1-200 HP Electric Motors	1904-AA91
1055	Energy Efficiency Standards for Fluorescent and Incandescent Lamps	1904-AA92

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identification Number
1056	Energy Conservation Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors	1904-AA82
1057	Alternative Fuel Transportation Program: P-Series Fuels	1904-AA99

Defense and Security Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1058	Physical Protection of Security Interests	1992-AA23

Defense and Security Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1059	General Criteria and Procedures for Determining Eligibility for Access to Classified Matters or Special Nuclear Material	1992-AA22
1060	Polygraph Examination Program **(Reg Plan Seq. No. 23)**	1992-AA24
1061	Assistance to Foreign Atomic Energy Activities	1992-AA25

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1062	Freedom of Information Act	1901-AA32
1063	Privacy Act System of Records Update	1901-AA69
1064	Environmental Management Financial Assistance Program	1901-AA71
1065	Redesign and Revision of Wholesale Power Rates and Resolution of Certain Transmission-Related Issues	1901-AA83

Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1066	Nuclear Safety Management **(Reg Plan Seq. No. 24)**	1901-AA34
1067	Radiation Protection of the Public and the Environment **(Reg Plan Seq. No. 25)**	1901-AA38
1068	Chronic Beryllium Disease Prevention Program **(Reg Plan Seq. No. 26)**	1901-AA75

DOE

Departmental and Others—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1069	Criteria and Procedures for Contractor Employee Protection Program	1901-AA78
1070	Economic Development Transfers of Real Property	1901-AA82

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Departmental and Others—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1071	Enforcement of Employee Safety Standards at Nuclear Weapons Facilities	1901-AA44
1072	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)	1901-AA57
1073	Payments for Special Burdens and in Lieu of Taxes	1901-AA58
1074	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository	1901-AA72
1075	Community Transition Activities	1901-AA77

Office of Procurement and Assistance Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1076	Acquisition Regulation: Project Management	1991-AB39
1077	DEAR: Mentor-Protege Program	1991-AB45
1078	DEAR: Cost Principles	1991-AB46
1079	DEAR: Recycling	1991-AB47
1080	DEAR: Work for Others	1991-AB48
1081	DEAR: Part 970 Rewrite	1991-AB49
1082	DEAR: Management and Operating Contract Clause Updates	1991-AB50
1083	Acquisition Regulation: Payment of Fee Relating to Security Issues	1991-AB54

Office of Procurement and Assistance Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1084	DEAR: Financial Management Clauses	1991-AB02
1085	DEAR: Management and Operating Contract Whistleblower Costs	1991-AB36
1086	Classified National Security Information—E.O. 12958	1991-AB42
1087	DEAR: Technical Amendments	1991-AB51
1088	DEAR: Purchasing by DOE Management and Operating Contractors From Affiliated Sources	1991-AB52

Office of Procurement and Assistance Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
1089	Fee Policy	1991-AB32
1090	Acquisition Regulations: Guarantees of Performance	1991-AB44
1091	Assistance Regulation: Technical and Administrative Amendments	1991-AB53

DOE

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1092	Conduct of Employees	1990-AA19

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Prerule Stage

1029. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for central air conditioners and heat pumps.

Timetable:

Action	Date	FR Cite
ANPRM	09/06/93	58 FR 47326
Screening Workshop	06/30/98	
Supplemental ANPRM	11/00/99	
NPRM	04/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local, State

Additional Information: Due to the Department's limited staff and financial resources, the regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is actively working on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears in part II of this issue of the Federal Register.

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9611
Email: michael.raymond@ee.doe.gov

RIN: 1904–AA77

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

1030. EQUIVALENT PETROLEUM-BASED FUEL ECONOMY CALCULATION FOR ELECTRIC AND HYBRID ELECTRIC VEHICLES

Priority: Other Significant

Legal Authority: PL 96-185, sec 18; PL 94-413, sec 13(c); PL 94-163, sec 503(a)(3); PL 103-272

CFR Citation: 10 CFR 474

Legal Deadline: None

Abstract: The final rule on the inclusion of electric vehicles in the Corporate Average Fuel Economy (CAFE) program was issued by DOE on April 15, 1981. It established a methodology for determining the equivalent petroleum-based fuel economy (PEF) for electric vehicles so that they could be included in a manufacturer's overall CAFE program. This methodology was based on several factors including the energy efficiency of the vehicle, the efficiency of electric generation and transmission, the fuels used to generate electricity, and the driving patterns of electric vehicles. It established a method for determining the PEF of electric vehicles that are recharged from stationary sources only. Hybrid electric vehicles, a type of electric vehicle, are electrically recharged by an on-board mobile generator. Hybrid vehicles are not covered by this action. This rulemaking would update the methodology for calculating the CAFE credits for electric vehicles that are recharged by stationary sources only. Rulemaking authority for establishing PEF values for electric and hybrid electric vehicles is provided under Public Law 103-272 (49 USC 32904).

Timetable:

Action	Date	FR Cite
NPRM	02/04/94	59 FR 5336
Revised NPRM	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rogelio Sullivan, Program Manager, Electric and Hybrid Propulsion Division, Department of Energy, Conservation and Renewable Energy, EE-32, 1000 Independence Avenue SW, Washington, DC 20585
Phone: 202 586-8042

RIN: 1904–AA40

1031. TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

Regulation Identification Number
1901-AA78
1901-AA82
1901-AA44
1901-AA57
1901-AA58
1901-AA72
1901-AA77
1991-AB39
1991-AB45
1991-AB46
1991-AB47
1991-AB48
1991-AB49
1991-AB50
1991-AB54
1991-AB02
1991-AB36
1991-AB42
1991-AB51
1991-AB52
1991-AB32
1991-AB44
1991-AB53

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: These revisions to the test procedures for central air conditioners and heat pumps in accordance with the Energy Policy and Conservation Act will reorganize the document in a logical order and update the references. The revisions include an updated nomenclature compatible with the eventual test procedure for combined (domestic hot water and central air conditioners or heat pumps) appliances, additional tables listing tests tolerances, a clearer specification for the demand defrost credit, and test methods for ECM (electronically commutated motor) blowers and history-dependent defrosts.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9611
Email: michael.raymond@ee.doe.gov

RIN: 1904–AA46

1032. STATE AND LOCAL INCENTIVES PROGRAM: ALTERNATIVE FUELS

Priority: Other Significant

Legal Authority: 42 USC 13235

CFR Citation: 10 CFR 409

Legal Deadline: Final, Statutory, April 24, 1993.

Abstract: The Energy Policy Act of 1992 requires DOE to issue regulations establishing the State and Local Incentives Program. Under this Program DOE may grant financial assistance to States for projects in DOE-approved State plans to promote use of alternative fuels and alternative-fueled vehicles. With the publication of an integrated State Energy Program (61 FR 35890), the alternative fuel grant programs may be a part of the State grant special projects, depending on funding availability. The next action will be a cancellation notice of any separate State grant program.

Timetable:

Action	Date	FR Cite
NPRM	03/21/95	60 FR 15020
NPRM Comment Period End	05/22/95	
Notice Withdrawing NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Marcy A. Rood, Program Manager, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8161
Email: marcy.rood@hq.doe.gov

RIN: 1904–AA66

1033. ENERGY EFFICIENCY STANDARDS RULEMAKINGS AND DETERMINATIONS FOR HIGH PRIORITY CONSUMER PRODUCTS AND COMMERCIAL EQUIPMENT

Regulatory Plan: This entry is Seq. No. 22 in Part II of this issue of the **Federal Register**.

RIN: 1904–AA67

1034. ENERGY EFFICIENCY STANDARDS FOR LAMP BALLASTS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended. This is the initial review of the statutory standards for fluorescent lamp ballasts.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Ballast Analysis Workshop	03/18/97	
Reissue NPRM	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears in part II of this issue of the Federal Register.

Agency Contact: Carl Adams, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9142
Email: carl.adams@ee.doe.gov

RIN: 1904–AA75

1035. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, January 1, 1992.

Abstract: The Energy Policy and Conservation Act as amended, establishes initial energy-efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

DOE—EE **Proposed Rule Stage**

This is the initial review of the statutory standards for electric water heaters.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/90	55 FR 39624
NPRM	03/04/94	59 FR 10464
Screening Workshop	06/24/97	
Notice of Availability	01/14/98	63 FR 2186
Impact Workshop	11/09/98	
Workshop	07/23/99	
Reissue NPRM	12/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

This action is covered in the Regulatory Plan entry 1904-AA67, which appears in part II of this issue of the Federal Register.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1689
Email: terry.logee@ee.doe.gov

RIN: 1904–AA76

1036. TEST PROCEDURES FOR COMMERCIAL WATER HEATERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial water heaters, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial water heaters. This action will incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA95

1037. TEST PROCEDURES FOR COMMERCIAL HEATING EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial heating equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), and will establish certification and compliance requirements commercial heating equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA96

1038. TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONING EQUIPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial air conditioning equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify the energy conservation standards and test procedures established in the EPCA for commercial air conditioning equipment. This action will also incorporate by reference energy conservation standards and test procedures, revised by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ARI/ASHRAE).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA97

1039. ALTERNATE FUELED VEHICLE ACQUISITION REQUIREMENTS FOR PRIVATE AND LOCAL GOVERNMENT FLEETS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 13257

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, January 1, 2000.

DOE—EE

Proposed Rule Stage

NPRM, Statutory, May 1, 1999.

Abstract: The Energy Policy Act of 1992 requires DOE to initiate a rulemaking to determine whether a private and local fleet program is deemed necessary to meet the fuel displacement goals of the Act. The criteria for making this determination is mandated by the Act. The Department held discussions with stakeholders as to whether the rule will be promulgated or whether the Department will pursue other voluntary or incentive programs.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/98	63 FR 19372
NPRM	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Kenneth R. Katz, Program Manager, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-6116
Email: kenneth.katz@hq.doe.gov

RIN: 1904–AA98

1040. TEST PROCEDURES FOR COMMERCIAL PACKAGE BOILERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 431

Legal Deadline: None

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, establishes energy conservation standards for commercial heating equipment, prescribes test procedures, and requires labeling for such equipment. This action would codify these provisions. It would also incorporate by reference energy conservation standards and test procedures revised by the American Society of Heating Refrigerating, and Air Conditioning Engineers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AB02

1041. • TEST PROCEDURES FOR DISHWASHERS—AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would add test procedures for dishwashers with soil-sensing technology, revise the calculation of estimated annual operating cost, and change the definitions of compact and standard models.

Timetable:

Action	Date	FR Cite
NPRM	09/28/99	64 FR 52248
NPRM Comment Period End	12/13/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Twigg, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8714
Email: barbara.twigg@ee.doe.gov

RIN: 1904–AB04

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

1042. ENERGY EFFICIENCY CODE FOR NEW FEDERAL RESIDENTIAL LOW RISE BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 435

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486, October 24, 1992) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24164
NPRM Comment Period End	07/14/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen P. Walder, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9209

RIN: 1904–AA53

DOE—EE

Final Rule Stage

1043. ENERGY CODE FOR NEW FEDERAL COMMERCIAL AND MULTI-FAMILY HIGH RISE RESIDENTIAL BUILDINGS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6834

CFR Citation: 10 CFR 434; 10 CFR 435 subpart A

Legal Deadline: Final, Statutory, November 14, 1997.

Abstract: Title III of the Energy Conservation and Production Act as amended by the Energy Policy Act of 1992 (PL 102-486) provides that DOE establish Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. The standards for Federal buildings are intended to parallel closely the voluntary building energy codes of the Energy Policy Act for private sector construction. Interim energy performance standards which DOE had issued before enactment of the Energy Policy Act are to remain in effect for the Federal sector until the new Federal building energy standards become effective.

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40882
NPRM Comment Period End	11/04/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ronald B. Majette, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7935
Email: ronald.majette@hq.doe.gov

RIN: 1904–AA69

1044. TEST PROCEDURES FOR ELECTRIC DISTRIBUTION TRANSFORMERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe testing requirements for electric distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	10/22/97	62 FR 54809
NPRM	11/12/98	63 FR 63359
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a high priority, and the Department is working actively on this action.

Agency Contact: Kathi Epping, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-7425
Email: kathi.epping@hq.doe.gov

RIN: 1904–AA85

1045. ALTERNATE FUEL PROGRAM: BIODIESEL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211(2); 42 USC 13211(14); 42 USC 13252(b)(2)

CFR Citation: 10 CFR 490

Legal Deadline: Final, Statutory, January 1, 1999.

Abstract: This action would implement the biodiesel fuel use credit created by the Energy Conservation Reauthorization Act of 1998. It would provide for the allocation of an alternative fuel vehicle acquisition credit for a specified amount of biodiesel fuel use by those required to purchase alternative fuel vehicles under titles III and V of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/19/99	64 FR 27169
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul McArdle, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4445
Email: paul.mcardle@eee.doe.gov

RIN: 1904–AB00

1046. STATE ENERGY PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 6321; 42 USC 7101

CFR Citation: 10 CFR 420

Legal Deadline: None

Abstract: This action would clarify the applicability of requirements under parts B and C.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/24/99	64 FR 46111
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas P. Stapp, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2096

RIN: 1904–AB01

1047. • AMENDMENTS TO THE REFRIGERATION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: None

Abstract: This action would amend the definition of electric refrigerator used

DOE—EE

Final Rule Stage

in DOE's energy conservation program to exclude units whose physical configuration makes them unsuitable for general storage of perishable foods.

Timetable:

Action	Date	FR Cite
NPRM	07/13/99	64 FR 37706
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Raymond, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9611
Email: michael.raymond@ee.doe.gov

RIN: 1904–AB03

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Long-Term Actions

1048. NATIONAL VOLUNTARY RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 8236

CFR Citation: 10 CFR 437

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: DOE is required to establish by rule national voluntary guidelines for home energy rating system. The guidelines are designed to encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings. The guidelines may be used to enable and encourage the assignment of energy efficiency ratings to residential buildings and the development of criteria for attractive financial instruments for energy efficient homes.

Timetable:

Action	Date	FR Cite
NPRM	07/25/95	60 FR 37949
NPRM Comment Period End	05/09/96	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael J. McCabe, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9155
Fax: 202 586-5557
Email: michael.mccabe@ee.doe.gov

RIN: 1904–AA74

1049. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES, BOILERS AND MOBILE HOME FURNACES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1994.

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for most types of major residential appliances and generally requires DOE to undergo two subsequent rulemakings, at specified times, to determine whether the extant standard for a covered product should be amended.

This is the initial review of the statutory standards for furnaces.

Timetable:

Action	Date	FR Cite
ANPRM	09/08/93	58 FR 47326
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Additional Information: Due to the Department's limited financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, or low priority based on significant input from the public. This action is low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA78

1050. DETERMINATION FOR HIGH INTENSITY DISCHARGE LAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures and efficiency standards for high intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial

resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority and the Department does not plan to work on it this year.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1689
Email: terry.logee@ee.doe.gov

RIN: 1904–AA86

1051. DETERMINATION FOR SMALL ELECTRIC MOTORS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6317

CFR Citation: 10 CFR 430

Legal Deadline: Other, Statutory, April 24, 1995, Determination Notice.

Abstract: The Energy Policy Act of 1992 requires the Department to prescribe test procedures for small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Timetable:

Action	Date	FR Cite
Determination Notice	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority and the Department plans to do only limited work on it this year.

Agency Contact: James Raba, Energy Technology Program Specialist, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8654
Email: jim.raba@ee.doe.gov

RIN: 1904–AA87

1052. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, May 14, 1996, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Bryan Berringer, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-0371
Email: bryan.berringer@ee.doe.gov

RIN: 1904–AA89

1053. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430

Legal Deadline: Final, Statutory, January 1, 1992, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: Cyrus Nasseri, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-9138
Email: cyrus.nasseri@ee.doe.gov

RIN: 1904–AA90

1054. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 6313

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1999, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

DOE—EE

Long-Term Actions

Government Levels Affected: None

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for the next two fiscal years.

Agency Contact: James Raba, Energy Technology Program Specialist, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8654
Email: jim.raba@ee.doe.gov

RIN: 1904–AA91

1055. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT AND INCANDESCENT LAMPS

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Final, Statutory, November 15, 1998, Determination Notice.

Abstract: The statute requires the Department to revise the standards to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Due to the Department's limited staff and financial resources, regulatory actions related to energy efficiency standards have been categorized as high, medium, and low priority based on significant input from the public. This action is a low priority, and the Department does not plan to begin substantive work on this action for at least the next two fiscal years.

Agency Contact: Terry Logee, Program Manager, Office of Codes and Standards, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1689
Email: terry.logee@ee.doe.gov

RIN: 1904–AA92

Department of Energy (DOE)
Energy Efficiency and Renewable Energy (EE)

Completed Actions

1056. ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT: TEST PROCEDURES, LABELING, AND CERTIFICATION REQUIREMENTS FOR ELECTRIC MOTORS

Priority: Other Significant

Legal Authority: 42 USC 6311 to 6316

CFR Citation: 10 CFR 431

Legal Deadline: Final, Statutory, October 24, 1997.

Abstract: The Energy Policy and Conservation Act, as amended, establishes energy efficiency standards for commercial and industrial electric motors, prescribes test procedures, and requires labeling for such equipment. The Department proposes to create a new part (10 CFR part 431) in the Code of Federal Regulations. This action will establish procedures for energy efficiency testing, labeling, and certification requirements for certain commercial and industrial electric motors.

Timetable:

Action	Date	FR Cite
NPRM	11/27/96	61 FR 60440
NPRM Comment Period End	03/10/97	62 FR 6888
NPRM Comment Period Reopened	06/25/98	63 FR 34758
NPRM Comment Period End	07/27/98	
Final Action	10/05/99	64 FR 54113

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Raba, Energy Technology Program Specialist, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8654
Email: jim.raba@ee.doe.gov

RIN: 1904–AA82

1057. ALTERNATIVE FUEL TRANSPORTATION PROGRAM: P-SERIES FUELS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13211(2)

CFR Citation: 10 CFR 490

Legal Deadline: None

Abstract: In response to a petition filed by Pure Energy Corporation, the Department amended the rules for the statutory program that requires certain alternative fuel providers and State government fleets to acquire alternative fueled vehicle. The amendments added three specific blends of methyltetrahydrofuran, ethanol and hydrocarbons (known as P-series fuels) to the definition of "alternative fuel".

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40202
Final Action	05/17/99	64 FR 26822

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Kenneth R. Katz, Program Manager, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-6116
Email: kenneth.katz@hq.doe.gov

RIN: 1904–AA99

Department of Energy (DOE)
Defense and Security Affairs (DSA)

Proposed Rule Stage

1058. PHYSICAL PROTECTION OF SECURITY INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2011; 42 USC 7101

CFR Citation: 10 CFR 1046 subpart A; 10 CFR 1046 subpart B

Legal Deadline: None

Abstract: 10 CFR part 1046, subparts A and B, establishes DOE contractor requirements in the areas of protective force medical, physical fitness, and firearms qualifications and training. The proposed revisions are to ensure protective force personnel receive quality medical services that are consistent with the Americans with Disabilities Act of 1990. They also will enhance communications between Designated Physicians and personnel responsible for supervising physical fitness training and certification to assure better understanding of the risk of injury to Security Police Officers and Security Officers participating in physical fitness activities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell Showers, Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5122

RIN: 1992–AA23

Department of Energy (DOE)
Defense and Security Affairs (DSA)

Final Rule Stage

1059. GENERAL CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTERS OR SPECIAL NUCLEAR MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968; 42 USC 2201

CFR Citation: 10 CFR 710 subpart A

Legal Deadline: None

Abstract: 10 CFR part 710, which stipulates DOE access authorization "due process" procedures, will be revised to comply with section 5.2(a) of EO 12968. This section requires three decision levels in the process of determining whether an individual's access to classified matter will be denied or revoked, with the final decision being made by a three member high level appeal panel. While the DOE decision structure will be revised, the DOE will continue to offer the individual the right to a hearing before a hearing officer in such cases. These revisions are not expected to significantly impact the costs, time intervals, or risks associated with DOE's administrative review process. There are no alternatives to the Department for assuring full compliance with the new requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	64 FR 44433
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: A. Barry Dalinsky, Personnel Security Specialist, Office of Safeguards and Security, Department of Energy, Germantown, MD 20874-1290
Phone: 301 903-5010

RIN: 1992–AA22

1060. • POLYGRAPH EXAMINATION PROGRAM

Regulatory Plan: This entry is Seq. No. 23 in Part II of this issue of the **Federal Register**.

RIN: 1992–AA24

1061. • ASSISTANCE TO FOREIGN ATOMIC ENERGY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 810

Legal Deadline: None

Abstract: This action would amend the Department's regulations concerning unclassified assistance to foreign atomic energy activities.

Timetable:

Action	Date	FR Cite
NPRM	07/02/99	64 FR 35959
NPRM Comment Period End	08/31/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Zander Hollander, Office of Arms Control and Nonproliferation, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-2125

RIN: 1992–AA25

Department of Energy (DOE)
Departmental and Others (ENDEP)

Proposed Rule Stage

1062. FREEDOM OF INFORMATION ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552

CFR Citation: 10 CFR 1004

Legal Deadline: None

Abstract: On October 23, 1991, DOE proposed to amend the procedures and principles to be applied in responding

DOE—ENDEP **Proposed Rule Stage**

to requests for records under the Freedom of Information Act (FOIA) 5 USC 552. The proposal updated names and addresses of organizational entities, and updated guidelines for the schedule of fees associated with processing requests. A proposed section on policies clarified DOE's operation of a first-in, first-out policy in responding to FOIA requests, and the role of the Office of Hearings and Appeals was clarified. The proposal also included a statement of DOE policy on contractor records.

On December 12, 1994, DOE adopted the contractor records policy, with certain modifications. DOE expects to take final action on the remainder of the proposal in the near future.

The new regulations will clarify the FOIA process by clearly defining the roles of the FOIA Officer and the Denying Official and comply with the new requirements of the Electronic Freedom of Information Act Amendment of 1996. The new regulations will be written in a more customer-friendly manner in plain English.

Timetable:

Action	Date	FR Cite
Final Rule (Contractor Records)	12/12/94	59 FR 63882
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Sectors Affected: 001 None

Agency Contact: Abel Lopez, Acting Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Email: abel.lopez@hq.doe.gov

RIN: 1901–AA32

1063. PRIVACY ACT SYSTEM OF RECORDS UPDATE

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: This action will amend the Department's Privacy Act Regulations, 10 CFR 1008, by deleting Privacy Act system notices no longer used by the Department. It will also update the remaining systems, many of which require minor amendments to location, authority, purpose, storage, or system manager.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Abel Lopez, Acting Director, FOIA and Privacy Act Division, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-5955
Email: abel.lopez@hq.doe.gov

RIN: 1901–AA69

1064. ENVIRONMENTAL MANAGEMENT FINANCIAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 6301 to 6308; 42 USC 7254; 42 USC 7256

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: The purpose of this action is to establish and implement policies and procedures applicable to the award and administration of grants and cooperative agreements by the Office of Environmental Management (EM) in the areas of: environmental waste management, environmental restoration, pollution prevention and supporting technologies, decommissioning and decontamination activities, technology integration and transfer, environmental education and transportation technologies as they relate to environmental restoration and waste management.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Malika S. Hobbs, Contract Management Specialist, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-6174

RIN: 1901–AA71

1065. • REDESIGN AND REVISION OF WHOLESALE POWER RATES AND RESOLUTION OF CERTAIN TRANSMISSION-RELATED ISSUES

Priority: Info./Admin./Other

Legal Authority: PL 96-501, sec 7

CFR Citation: None

Legal Deadline: None

Abstract: This is an action by the Bonneville Power Administration (BPA) to redesign and revise its wholesale power rates and to resolve certain transmission-related issues. The principal purpose of this action is to allow BPA to recover sufficient revenues to timely meet its repayment and other cost recovery obligations, to be a reliable and competitive power supplier, to send appropriate price signals to customers, to provide a methodology for treatment and allocation of inter-business line costs, and to otherwise meet BPA ratemaking standards set forth in various statutes.

Timetable:

Action	Date	FR Cite
NPRM	08/13/99	64 FR 44318
NPRM Comment Period End	11/05/99	
Draft Record of Decision	03/00/00	
Final Record of Decision	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Diane Cherry, Manager for Power Products, Pricing and Rates, Power Business Line, Department of Energy, PSP-5, 905 NE 11th Street, Portland, OR 97232
Phone: 503 230-5648

RIN: 1901–AA83

Department of Energy (DOE)
Departmental and Others (ENDEP)

Final Rule Stage

1066. NUCLEAR SAFETY MANAGEMENT

Regulatory Plan: This entry is Seq. No. 24 in Part II of this issue of the **Federal Register**.

RIN: 1901–AA34

1067. RADIATION PROTECTION OF THE PUBLIC AND THE ENVIRONMENT

Regulatory Plan: This entry is Seq. No. 25 in Part II of this issue of the **Federal Register**.

RIN: 1901–AA38

1068. CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

Regulatory Plan: This entry is Seq. No. 26 in Part II of this issue of the **Federal Register**.

RIN: 1901–AA75

1069. CRITERIA AND PROCEDURES FOR CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 708

Legal Deadline: None

Abstract: This action will amend the Department's contractor employee protection program to include employees who perform work directly related to the operation of programs and activities at DOE-owned and -leased sites, even if the contractor is located, or the work is performed, off-site.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 374
Interim Final Rule	03/15/99	64 FR 12861
Interim Final Rule Effective	04/14/99	
Interim Final Rule Comment Period End	05/14/99	
Interim Final Rule Amendment	07/12/99	64 FR 37396
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 426-1449
Email: roger.klurfeld@hq.doe.gov

RIN: 1901–AA78

1070. ECONOMIC DEVELOPMENT TRANSFERS OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 3158

CFR Citation: 10 CFR 770

Legal Deadline: None

Abstract: This action would establish procedures for identifying and disposing of real property by sale or lease at the Department's defense nuclear facilities for the purpose of permitting economic development. It would also establish procedures for reporting actions to Congress, informing those acquiring the property of the availability of indemnification for injury to people or property from releases or threatened releases of hazardous materials, requesting indemnification, and making claims for indemnification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Andrew Duran, General Engineer, Office of Field Integration, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-4548
Email: andrew.duran@hq.doe.gov

RIN: 1901–AA82

Department of Energy (DOE)
Departmental and Others (ENDEP)

Long-Term Actions

1071. ENFORCEMENT OF EMPLOYEE SAFETY STANDARDS AT NUCLEAR WEAPONS FACILITIES

Priority: Other Significant

Legal Authority: PL 102-190, sec 3131

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Public Law 102-190, section 3131, directs the Department of Energy to assess civil penalties against contractors at DOE nuclear weapons facilities who fail either to provide training to employees engaged in hazardous substance response and emergency response or fail to certify that such workers have been adequately trained.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/94	59 FR 44139
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Harry Pettengill, Director, Occupational Health and Safety Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 301 903-4343

RIN: 1901–AA44

1072. ANNOTATION OF LAND RECORDS FOR REMEDIATED PROPERTIES IN THE URANIUM MILL TAILINGS REMEDIAL ACTION PROJECT (UMTRA)

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-604, sec 104(d); PL 104-259, sec 4(a)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Under section 104(d) of the Uranium Mill Tailings Radiation Control Act of 1978, the Department of Energy (DOE) is required to issue appropriate rules and regulations concerning the annotation of land records of designated inactive uranium mill sites and vicinity properties included for remedial action under the Act. The annotation is intended to

ensure that future purchasers of remediated inactive uranium mill sites and vicinity properties will be notified, prior to such purchase, of the condition of the land.

Timetable:

Action	Date	FR Cite
NPRM	04/14/89	54 FR 29732
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: Public Law 104-259, signed into law on October 9, 1996, amended the annotation requirement to provide for States to receive certification from the Secretary for "a program which would achieve the purposes" of the annotation under section 104(d) of the UMTRCA in regards to vicinity properties. Letters have been sent to the affected States regarding the amendment language.

Agency Contact: Loretta Fahy, Environmental Protection Spec. UMTRA Team, Department of Energy, Cloverleaf Building, 19901 Germantown Road, Germantown, MD 20874-1290 Phone: 301 903-3895

RIN: 1901–AA57

1073. PAYMENTS FOR SPECIAL BURDENS AND IN LIEU OF TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2208 Atomic Energy Act of 1954, sec 168

CFR Citation: 10 CFR 610

Legal Deadline: None

Abstract: This action will revise the Department of Energy's policy on making payments for special burdens and in lieu of taxes to State and local taxing jurisdictions pursuant to the Atomic Energy Act of 1954. Prior to the 1987 issuance of DOE Order 2100.12, the Department and its predecessor agencies approved such payment requests on an ad hoc basis. To ensure all eligible taxing jurisdictions are provided appropriate opportunity to comment, the revised policy is being established through the rulemaking process. The Department anticipates no added costs by issuing the revised policy as a regulation rather than as an internal directive revision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local

Agency Contact: Helen O. Sherman, Director, Office of Financial Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-4860

RIN: 1901–AA58

1074. GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR NUCLEAR WASTE REPOSITORY

Priority: Other Significant

Legal Authority: 42 USC 10132

CFR Citation: 10 CFR 960

Legal Deadline: None

Abstract: This action would amend the guidelines that will be used by the Department in deciding whether to recommend a site for the development of the geologic repository for the disposal of high-level radioactive waste and spent nuclear fuel. The amended guidelines would reflect statutory and policy changes that have occurred since the Nuclear Waste Policy Act was passed in 1982. The amendments would also be based on the experience the Department has gained over the last decade of investigative efforts.

Timetable:

Action	Date	FR Cite
NPRM	12/16/96	61 FR 66158
NPRM Comment Period End	05/17/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Susan Rives, Counsel, Department of Energy, Yucca Mountain Site Characterization Office, P.O. Box 98608, Las Vegas, NV 89193 Phone: 702 794-5519

RIN: 1901–AA72

1075. COMMUNITY TRANSITION ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7274h

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 USC 7274h, provides authority for DOE to provide impact assistance to communities that are adversely affected by work force restructuring. This action would establish the regulations governing the community transition program.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah Swichkow, Deputy Director, Office of Worker and Community Transition, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-0876

RIN: 1901–AA77

Department of Energy (DOE)

Office of Procurement and Assistance Management (PR)

Proposed Rule Stage

1076. ACQUISITION REGULATION: PROJECT MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: Revises the contractual language for management of the Department's projects and facilities by contractors to more closely reflect industry practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

DOE—PR

Proposed Rule Stage

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-8189

RIN: 1991–AB39

1077. DEAR: MENTOR-PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 919

Legal Deadline: None

Abstract: This action would amend the Department of Energy Acquisition Regulations (DEAR) to formally encourage DOE prime contractors to assist small disadvantaged firms certified by the Small Business Administration under section 8(a) of the Small Business Act, other small disadvantaged businesses, and small businesses owned and controlled by women in enhancing their capabilities to perform contracts and subcontracts for DOE and other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-8264

RIN: 1991–AB45

1078. DEAR: COST PRINCIPLES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 49 CFR 970

Legal Deadline: None

Abstract: This action would amend various clauses that address cost principles.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Terrence D. Sheppard, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-8193

RIN: 1991–AB46

1079. DEAR: RECYCLING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 923; 48 CFR 970.52; 48 CFR 970.23

Legal Deadline: None

Abstract: This action would implement E.O. 13101, Greening the Government Through Recycling, Waste Prevention, and Federal Acquisition. It would increase the procurement of products containing recycled materials and reduce waste generation at DOE facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-8247 Email: richard.langston@hq.doe.gov

RIN: 1991–AB47

1080. DEAR: WORK FOR OTHERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would provide policies and procedures governing work for others by DOE contractors and would ensure that authorization is consistent and uniform.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: A. Scott Geary, Program Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585 Phone: 202 586-3299

RIN: 1991–AB48

1081. DEAR: PART 970 REWRITE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 2201

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would revise part 970 of the Department of Energy Acquisition Regulations to eliminate provisions that are unnecessary, obsolete, or duplicated elsewhere in title 48.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no

DOE—PR

Proposed Rule Stage

statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John R. Bashista, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8192
Email: john.bashista@hq.doe.gov

RIN: 1991–AB49

1082. DEAR: MANAGEMENT AND OPERATING CONTRACT CLAUSE UPDATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would update management and operating contract clauses to eliminate unnecessary or obsolete provisions. It would also standardize commonly-used alterations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB50

1083. • ACQUISITION REGULATION: PAYMENT OF FEE RELATING TO SECURITY ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would make the payment of fees to the Department's major operating contractors conditional on meeting safeguard and security requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: John Mitchell, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-0416
Email: john.mitchell@pr.doe.gov

RIN: 1991–AB54

Department of Energy (DOE)
Office of Procurement and Assistance Management (PR)

Final Rule Stage

1084. DEAR: FINANCIAL MANAGEMENT CLAUSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This rule revises selected financial management clauses and clarifies language in existing clauses. It will strengthen M&O contractor financial management and make the regulation easier to understand.

Timetable:

Action	Date	FR Cite
NPRM	11/18/98	63 FR 64024
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB02

1085. DEAR: MANAGEMENT AND OPERATING CONTRACT WHISTLEBLOWER COSTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254; 40 USC 486(c)

CFR Citation: 48 CFR 922; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: The Department's acquisition regulation is being amended to implement a recommendation of its Department-wide contract reform initiative concerning allowability of costs in whistleblower actions.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 386
Revised NPRM	03/24/99	64 FR 14206
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189

RIN: 1991–AB36

DOE—PR

Final Rule Stage

1086. CLASSIFIED NATIONAL SECURITY INFORMATION—E.O. 12958

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254; 42 USC 486(c)

CFR Citation: 48 CFR 904; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action implements Executive Order 12958, which prescribes a uniform system for classifying, safeguarding, and declassifying national security information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8247
Email: richard.langston@hq.doe.gov

RIN: 1991–AB42

1087. DEAR: TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 900 to 970

Legal Deadline: None

Abstract: This action would make corrections and technical changes to the Department of Energy Acquisition Regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Kevin M. Smith, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8189

RIN: 1991–AB51

1088. DEAR: PURCHASING BY DOE MANAGEMENT AND OPERATING CONTRACTORS FROM AFFILIATED SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 909; 48 CFR 970

Legal Deadline: None

Abstract: This action would amend provisions that cover organizational conflicts of interest and purchases from affiliated sources to protect the Department in transactions involving a DOE M&O contractor and its affiliates.

Timetable:

Action	Date	FR Cite
NPRM	10/13/99	64 FR 55453
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB52

Department of Energy (DOE)
Office of Procurement and Assistance Management (PR)

Completed Actions

1089. FEE POLICY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action will redefine the Department's policy regarding fees paid to nonprofit entities, incentives paid to contractors for cost avoidance and cost reduction, and the use of multiple fee arrangements. It is an integral part of the Department's contract reform initiative to improve contractor performance and reduce overall program costs.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17800
Final Action	03/11/99	64 FR 12219

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael L. Righi, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8175

RIN: 1991–AB32

1090. ACQUISITION REGULATIONS: GUARANTEES OF PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 909.970

Legal Deadline: None

Abstract: This action is to amend the Department's acquisition regulations to deal with contracting officer's determinations of responsibility in cases where the prospective awardee has been created solely for performance

DOE—PR **Completed Actions**

of the instant contract in the award of all contracts, including management and operating contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60268
Final Action	04/06/99	64 FR 16649

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-8264

RIN: 1991–AB44

1091. • ASSISTANCE REGULATION: TECHNICAL AND ADMINISTRATIVE AMENDMENTS

Priority: Info./Admin./Other

Legal Authority: 42 USC 7254

CFR Citation: 10 CFR 600

Legal Deadline: None

Abstract: This action would make technical and administrative changes to the Department's Financial Assistance Regulation.

Timetable:

Action	Date	FR Cite
Final Action	10/20/99	64 FR 56418

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Trudy Wood, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW., Washington, DC 20585
Phone: 202 586-5625
Email: trudy.wood@pr.doe.gov

RIN: 1991–AB53

Department of Energy (DOE)
Office of General Counsel (OGC) **Final Rule Stage**

1092. CONDUCT OF EMPLOYEES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7211 et seq; PL 103-160, sec 3161; EO 12674

CFR Citation: 10 CFR 1010; 5 CFR 2635

Legal Deadline: None

Abstract: The DOE regulation on conduct of employees needs to be revised to reflect the issuance of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and the repeal of conflict-of-interest provisions formerly applicable to DOE employees.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/96	61 FR 35085
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Susan Beard, Deputy Assistant General Counsel for Standards of Conduct, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586-1522

RIN: 1990–AA19

[FR Doc. 99–24739 Filed 11–19–99; 8:45 am]
BILLING CODE 6450–01–F

Monday,
November 22, 1999

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

Department of Health and Human Services (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: The President's Executive Order 12866 and the Regulatory Flexibility Act of 1980 require the semi-annual publication of an Agenda outlining all current, projected and recently completed rulemakings. Executive Order 12866 also requires the publication by the Department of a regulatory plan for fiscal year 2000. The Agenda thus informs the public about regulatory actions under development within the Department, and it provides an opportunity for all concerned with the impact of the regulations to participate in their development at an early stage. The last such Agenda was published on April 26, 1999.

FOR FURTHER INFORMATION CONTACT: Ann White, Department of Health and Human Services, Washington, DC 20201, (202) 690-6824, or the contact person for a specific component of the Department as listed below.

SUPPLEMENTARY INFORMATION: The regulatory actions described below continue to reflect the Department's efforts to embody in its rulemaking actions the President's initiative to modernize the Federal regulatory system so that it helps deliver important services and benefits to the American people while creating fewer burdens. These regulatory actions also are an indication of emerging policy mandates for HHS involving such national priorities as: strengthening and streamlining the Medicare program; assuring the safety of the American food supply; establishing improved access to health services for children; shoring up recent advances in welfare reform and health-insurance reform; and eliminating waste, fraud and abuse from the Nation's health care system. For this edition of the Department's regulatory agenda, the most significant regulatory actions are included in the Regulatory Plan, which appears in part II of this issue of the **Federal Register**. In the background of the Department's discharge of its regulatory responsibilities in all of the above-mentioned programmatic areas, there continues the focus and discipline with which the principles of Executive Order 12866 and the many subsequent regulatory reform initiatives of the Administration have vitalized the Department's regulatory functions. Public commentary is invited to assist the Department in continuing these efforts. Comments should be sent to the addresses listed below, depending on the specific agenda entry that is of interest. Comments may be sent to the Office of the Secretary, if the responsible component of the Department is not apparent or if a comment covers subjects crossing agency lines.

Health Care Financing Administration: Sue Brown, Director, Division of Regulations and Issuances, 7500 Security Boulevard, C5–09–27, Baltimore, Maryland 21244; Phone 410–786–4473.

Food and Drug Administration: Ed Dutra, Director, Regulatory Policy and Management Staff, 5600 Fishers Lane, Rockville, Maryland 20857; Phone 301–443–3480.

Administration on Children and Families: Madeline Mocko, Director, Division of Policy and Legislation, 7th Floor, 370 L' Enfant Promenade, SW, Washington, DC 20447; Phone 202–401–9223.

Administration on Aging: David Bunoski, Executive Secretariat, Room 4753, 330 Independence Avenue, SW, Washington, DC 20201; Phone 202–260–0669.

Agency for Health Care Policy and Research: Nancy Werbel, 2101 East Jefferson Street, Suite 603, Rockville, Maryland; 20852; Phone 301–594–1455.

Centers for Disease Control: Thena Durham, Executive Secretariat, 1600 Clifton Road, Building 16, Atlanta, Georgia 30333; Phone 404–639–7120.

Health Resource Services Administration: Dolores R. Etherith, 5600 Fishers Lane, Room 14–A–08, Rockville, Maryland 20857; Phone 301–443–1786.

Indian Health Service: Betty Penn, 12300 Twinbrook Parkway, Suite 450, Rockville, Maryland 20857; Phone 301–443–1116.

National Institutes of Health: Jerry Moore, 9000 Rockville Pike, Building 31, Room 1B25, Bethesda, Maryland 20205; Phone 301–496–4606.

Substance Abuse and Mental Health Services Administration: Rose Shannon, Executive Secretariat, 5600 Fishers Lane, Room 12–95, Rockville, Maryland, 20857; Phone 301–443–3779.

Office of the Secretary: Jacquelyn Y. White, Deputy Executive Secretary to the Department, Office of the Executive Secretariat, Room 603H, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201

LaVarne Burton,

Executive Secretary to the Department.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1093	Civil Money Penalties for Medicare+Choice Organizations and Medicaid Managed Care Organizations	0991-AB03
1094	Civil Money Penalty Safe Harbor to Protect Payment of Medicare and Medigap Premiums for ESRD Beneficiaries	0991-AB04
1095	Safe Harbor for Ambulance Re-Stocking	0991-AB05
1096	Safe Harbor for Arrangements Involving Federally Qualified Health Centers	0991-AB06

Sequence Number
1097
1098
1099
1100
1101
1102
1103
1104

Reference

Sequence Number
1105
1106
1107

Sequence Number
1108

Sequence Number
1109

Sequence Number
1110
1111
1112

Sequence Number
1113
1114
1115
1116
1117
1118

VOL 64 ISS 224 NO 22 1999 UMI

HHS

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1097	Clarification of the Initial OIG Safe Harbor Provisions and Establishment of Additional Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AA66
1098	Reproduction and Sale of Official Forms and Publications	0991-AA83
1099	Revised OIG Civil Money Penalties Resulting From Public Law 104-191	0991-AA90
1100	Shared Risk Exception to the Safe Harbor Provisions	0991-AA91
1101	Block Grant Programs	0991-AA97
1102	Health Care Fraud and Abuse Data Collection Program	0991-AA98
1103	Privacy Act Exempt Record System from the Healthcare Integrity and Protection Data Bank	0991-AA99
1104	Standards for Privacy of Individually Indentifiable Health Information **(Reg Plan Seq. No. 27)**	0991-AB08

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
1105	Revised OIG Sanction Authorities Resulting From Public Law 105-33	0991-AA95
1106	Revision of HHS Freedom of Information Act Regulations	0991-AB01
1107	Further Clarifications to the Safe Harbor Provisions Under the Anti-Kickback Statute	0991-AB07

Centers for Disease Control and Prevention—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1108	Interstate Shipment of Biological Materials That Contain or May Contain Infectious Substances	0920-AA02

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1109	Implementation of the Equal Access to Justice Act in Agency Proceedings	0990-AA02

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1110	Investigational Use New Animal Drug Regulations **(Section 610 Review)**	0910-AB02
1111	Natural Rubber-Containing Drugs; User Labeling	0910-AB56
1112	Substances Prohibited From Use in Animal Food or Feed	0910-AB90

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1113	Over-the-Counter (OTC) Drug Review	0910-AA01
1114	Hearing Aids; Professional and Patient Labeling; Conditions for Sale **(Reg Plan Seq. No. 28)**	0910-AA39
1115	Investigational New Drugs: Export Requirements for Unapproved New Drug Products	0910-AA61
1116	Adverse Drug Reaction Reporting and Recordkeeping Requirements for Marketed OTC Drugs	0910-AA86
1117	Direct-to-Consumer Promotion Regulations	0910-AA90
1118	Labeling for Human Prescription Drugs; Revised Format **(Reg Plan Seq. No. 29)**	0910-AA94

HHS

Food and Drug Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1119	Suspected Adverse Drug Reaction Reporting Requirements for Human Drug and Biological Products	0910-AA97
1120	Use of Ozone-Depleting Substances	0910-AA99
1121	Radioactive Drugs for Basic Research	0910-AB00
1122	Administrative Practices and Procedures; Advisory Opinions and Guidelines	0910-AB14
1123	Registration of Foreign Establishments and Product Listing	0910-AB21
1124	Blood Initiative	0910-AB26
1125	Suitability Determination for Donors of Human Cellular and Tissue-Based Products	0910-AB27
1126	Current Good Tissue Practice for Manufacturers of Human Cellular and Tissue-Based Products	0910-AB28
1127	Antibiotic Drug Approval and Exclusivity	0910-AB33
1128	Applications for FDA Approval to Market a New Drug, Complete Response Letter; Amendments to Unapproved Applications	0910-AB34
1129	Expanded Access to Investigational Therapies	0910-AB37
1130	Amendment of Regulations Regarding Certain Label Statements on Prescription Drugs	0910-AB39
1131	Electronic Submission of Adverse Drug Reaction Reports	0910-AB42
1132	Distinguishing Marks for Drug Products Containing Insulin	0910-AB43
1133	Pregnancy Labeling	0910-AB44
1134	Supplemental Manufacturing Changes for New Animal Drugs	0910-AB49
1135	Pharmacy and Physician Compounding of Drug Products **(Reg Plan Seq. No. 30)**	0910-AB58
1136	Drug Products That Present Demonstrable Difficulties for Compounding Because of Reasons of Safety or Effectiveness	0910-AB59
1137	Discontinuation of a Life-Saving Product	0910-AB60
1138	Pediatric Exclusivity	0910-AB62
1139	Positron Emission Tomography Drugs; Current Good Manufacturing Practices	0910-AB63
1140	Food Labeling: Trans Fatty Acids in Nutrition Labeling and Nutrient Content Claims	0910-AB66
1141	Designated Journals	0910-AB67
1142	Presubmission Conferences	0910-AB68
1143	Current Good Manufacturing Practice for Medicated Feeds	0910-AB70
1144	Citizen Petitions; Actions That Can Be Requested by Petition; Summary Denial; and Referral for Other Administrative Action	0910-AB73
1145	CGMPs for Blood and Blood Components: Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV Infection **(Reg Plan Seq. No. 31)**	0910-AB76
1146	Antibiotic Resistance Labeling	0910-AB78
1147	Fixed-Combination Prescription and Over-the-Counter Drugs for Human Use	0910-AB79
1148	Repackaging Approval Requirements	0910-AB81
1149	Stability Testing of Drugs	0910-AB82
1150	Postmarketing Studies for Human Drugs and Licensed Biological Products: Status Reports	0910-AB83
1151	Amendment of Various Food Additive and Device Regulations to Reflect Current American Society for Testing and Materials Citations	0910-AB84
1152	Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Supplements **(Reg Plan Seq. No. 32)**	0910-AB88
1153	Current Good Manufacturing for Blood and Blood Components; Blood Labeling Standards; Direct Final Rule	0910-AB89
1154	Submission in Electronic Format of Certain Labeling Information	0910-AB91
1155	Fees Relating to Drugs; Waiver and Reduction of Fees	0910-AB92
1156	Skip Lot Testing	0910-AB93
1157	Food Additives: Food Contact Substances Notification System	0910-AB94

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1158	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)	0910-AA02
1159	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications	0910-AA08
1160	Biological Product: Post-Marketing Surveillance Reports of Information Affecting Biological Product Safety and Quality	0910-AA12

VOL 64 ISS 224 NO 22 1999 UMI

HHS

Food and Drug Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1161	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices (**Reg Plan Seq. No. 33**)	0910-AA43
1162	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals	0910-AA45
1163	Bioavailability and Bioequivalence Requirements	0910-AA51
1164	Drugs Used for Treatment of Narcotic Addicts	0910-AA52
1165	Aluminum in Large and Small Volume Parenterals Used in Total Parenteral Nutrition	0910-AA74
1166	New Drug Applications; Drug Master File	0910-AA78
1167	Investigational New Drug Applications; Clinical Holds for Drugs for Life-Threatening Illnesses	0910-AA84
1168	Sterility Requirements for Aqueous-Based Drug Products for Oral Inhalation	0910-AA88
1169	Informed Consent for Human Drugs and Biologics; Determination That Informed Consent Is Not Feasible	0910-AA89
1170	Current Good Manufacturing Practice; Revision of Certain Labeling Controls	0910-AA98
1171	Veterinary Feed Directives	0910-AB09
1172	New Drugs for Human Use; Clarification of Requirements for Patent Holder Notification	0910-AB12
1173	Exports; Reporting and Recordkeeping Requirements	0910-AB16
1174	Medicated Feed Mill Licenses	0910-AB18
1175	Public Information; Communications With State and Foreign Government Officials	0910-AB22
1176	FDA Export Reform and Enhancement Act of 1996; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Later Export	0910-AB24
1177	Shell Eggs: Warning, Notice and Safe Handling Labeling Statements and Refrigeration Requirements (**Reg Plan Seq. No. 34**)	0910-AB30
1178	Progestational Drug Products for Human Use; Requirements for Labeling Directed to the Patient	0910-AB45
1179	Revisions to the General Safety Requirements for Biological Products; Direct Final Rule	0910-AB51
1180	Bulk Drug Substances for Use in Pharmacy Compounding	0910-AB57
1181	Manufacturing Changes for Drugs	0910-AB61
1182	Classification of Sheep as a Minor Species for All Data Collection Purposes	0910-AB69
1183	180-Day Generic Drug Exclusivity for Abbreviated New Drug Applications	0910-AB80
1184	Structure/Function	0910-AB97

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1185	Infant Formula: Good Manufacturing Practice, Quality Control Procedures, Quality Factors, Notification Requirements, and Records and Reports	0910-AA04
1186	Food Labeling Review	0910-AA19
1187	Medical Foods	0910-AA20
1188	Classification of Computer Software Programs That Are Medical Devices	0910-AA41
1189	Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution	0910-AA49
1190	Reinventing FDA Food Regulations	0910-AA58
1191	Debarment Certification Regulations for Drug Applications	0910-AA76
1192	Investigational New Drug Applications; Request for Information and Comments	0910-AA83
1193	Establishment Registration and Listing of Human Cellular and Tissue-Based Products	0910-AB05
1194	Requirements Pertaining to the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents; Use of Nontobacco Trade or Brand Names	0910-AB17
1195	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2	0910-AB19
1196	Requirements for Liquid Medicated Feed and Free-Choice Medicated Feed	0910-AB50
1197	Implementation of the Import Tolerance Provisions of the Animal Drug Availability Act of 1996 and the Safe Level Provisions of the Animal Medicinal Drug Use Clarification Act of 1994	0910-AB71
1198	Mandatory HACCP Regulations for Manufacturers of Rendered Products	0910-AB72
1199	Surgeon's and Patient Examination Gloves; Reclassification	0910-AB74
1200	Marking Requirements for Imported Food Products That Have Been Refused Admission into the United States	0910-AB95
1201	Requirements for Persons Using Private Laboratories Regarding Actions Taken by the Food and Drug Administration	0910-AB96

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1202	Dietary Supplement Regulations in Response to DSHEA	0910-AA59
1203	Over-the-Counter Human Drugs; Labeling Requirements	0910-AA79
1204	Definition of Substantial Evidence	0910-AB08
1205	Biological Products Regulated Under Section 351 of the Public Health Service Act; Implementation of Biologics License; Elimination of Establishment License and Product License	0910-AB29
1206	Radiopharmaceuticals Used for In Vivo Diagnosis and Monitoring	0910-AB52
1207	Requirements for Testing Human Blood Donors for Evidence of Infection Due to Communicable Disease Agents	0910-AB85
1208	General Requirements for Blood, Blood Components, and Blood Derivatives; Notification of Deferred Donors	0910-AB86
1209	Revisions to the Requirements Applicable to Blood, Blood Components, and Source Plasma	0910-AB87

Health Resources and Services Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1210	Designation of Medically Underserved Populations and Health Professional Shortage Areas	0906-AA44
1211	Compliance Alternatives for Provision of Uncompensated Services	0906-AA52

Health Resources and Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1212	Final Rule for the Health Professions, Nursing, Public Health, and Allied Health Training Grant Programs under 42 CFR Parts 57 and 58	0906-AA53

Health Resources and Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1213	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Corporate Shield	0906-AA41

Health Resources and Services Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1214	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Reporting Adverse and Negative Actions	0906-AA51

Indian Health Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1215	Contracts Under the Indian Self-Determination Act	0917-AA04

VOL 64 ISS 224 NO 22 1999 UMI

HHS

Indian Health Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1216	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character	0917-AA02

Indian Health Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1217	Currently Effective Indian Health Service Eligibility Regulations	0917-AA03

National Institutes of Health—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1218	National Institutes of Health AIDS Research Loan Repayment Program	0925-AA02
1219	Undergraduate Scholarship Program Regarding Professions Needed by the NIH	0925-AA10
1220	National Cancer Institute Clinical Cancer Education Program	0925-AA17
1221	National Institutes of Health Loan Repayment Program for Research	0925-AA18
1222	National Institute of Child Health and Human Development Contraception and Infertility Research Loan Repayment Program	0925-AA19
1223	Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects	0925-AA20

National Institutes of Health—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1224	Traineeships	0925-AA11
1225	Additional DHHS Protections for Pregnant Women and Human Fetuses Involved as Subjects in Research, and Pertaining to Human In Vitro Fertilization	0925-AA14
1226	National Research Service Awards	0925-AA16
1227	Federal Policy (Common Rule) for the Protection of Human Subjects	0925-AA21
1228	Service Fellowships	0925-AA22
1229	NIH Privacy Act System of Records, 09-25-0213, "Administration: Investigative Records"	0925-AA23

National Institutes of Health—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1230	National Institutes of Health Construction Grants	0925-AA04

Office of Public Health and Science—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1231	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers	0940-AA01

Office of Public Health and Science—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1232	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects	0940-AA00

Health Care Financing Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1233	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-F) **(Section 610 Review)**	0938-AG82
1234	Criteria for Medicare Coverage of Heart, Liver, and Lung Transplants (HCFA-3835-ANPRM)	0938-AH17

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1235	Medicare Program; Qualifications for Establishing and Maintaining Medicare Billing Privileges (HCFA-6002-P) **(Reg Plan Seq. No. 35)**	0938-AH73
1236	National Standard for Identifiers of Health Plans (HCFA-4145-P)	0938-AH87
1237	State Child Health; Implementing Regulations for the State Children's Health Insurance Program (HCFA-2006-P)	0938-AI28
1238	Appeals of Carrier Determination That a Supplier Fails To Meet the Requirements for Medicare Billing Privileges (HCFA-6003-P)	0938-AI49
1239	Prospective Fee Schedule for Ambulance Services (HCFA-1002-NR) **(Reg Plan Seq. No. 36)**	0938-AI72
1240	Medicare Program; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Intent To Form Negotiated Rulemaking Committee (HCFA-3250-P)	0938-AI92
1241	Decision on the Funding for the AIDS Healthcare Foundation START Program, (HCFA-2041-N)	0938-AJ43
1242	Protection for Women Who Elect Reconstruction After a Mastectomy (HCFA-2040-IFC)	0938-AJ44
1243	Accelerated Payments to Providers Furnishing Services Under Medicare Part A and Part B and Advance Payments to Suppliers Furnishing Items or Services Under Medicare Part B (HCFA-1066-FC)	0938-AJ45
1244	Medicare/Medicaid and CLIA Programs: Clinical Laboratory Improvement Amendments of 1988 Exemption of Laboratories in the State of California (HCFA-2245-N)	0938-AJ47
1245	Federal Enforcement in Group and Individual Health Insurance Markets (HCFA-2019-FC)	0938-AJ48
1246	Medicare Program: Prospective Payment System for Inpatient Rehabilitation Hospital Services (HCFA-1069-P) **(Reg Plan Seq. No. 37)**	0938-AJ55
1247	DME Surety Bonds (HCFA-6006-P) **(Reg Plan Seq. No. 38)**	0938-AJ64
1248	Reapplication of the Joint Commission for Accreditation of Health Care Organizations JCAHO (HCFA-2058-PN)	0938-AJ68
1249	Reapplication of the Community Health Accreditation Program, Incorporated (CHAP for continued approval of Deeming Authority for whom Health Care Agencies HCFA-2059-PN)	0938-AJ69
1250	HHA Surety Bond (HCFA-6001-P) **(Reg Plan Seq. No. 39)**	0938-AJ81

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1251	Additional Supplier Standards (HCFA-6004-F)	0938-AH19
1252	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (HCFA-2047-FC)	0938-AH48
1253	Terms, Definitions, and Addresses: Technical Amendments (HCFA-9877-FC)	0938-AH53
1254	Utilization Control and Discontinued Review Activities; Medicaid (HCFA-2101-FC)	0938-AH64
1255	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective for Calendar Year 2000 (HCFA-1885-F)	0938-AH81
1256	National Standard Health Care Provider Identifier (HCFA-0045-F) **(Reg Plan Seq. No. 40)**	0938-AH99
1257	Medicare Program; Medicare+Choice Program (HCFA-1030-2-F) **(Reg Plan Seq. No. 41)**	0938-AI29
1258	Medicare Program; Prospective Payment System for Hospital Outpatient Services (HCFA-1005-F) **(Reg Plan Seq. No. 42)**	0938-AI56

HHS

Health Care Financing Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1259	Security and Electronic Signature Standards (HCFA-0049-F) **(Reg Plan Seq. No. 43)**	0938-AI57
1260	Health Insurance Reform: Standards for Electronic Transactions (HCFA-0149-F) **(Reg Plan Seq. No. 44)**	0938-AI58
1261	National Standard Employer Identifier (HCFA-0047-F) **(Reg Plan Seq. No. 45)**	0938-AI59
1262	Medicaid Program; Home and Community-Based Services (HCFA-2010-FC)	0938-AI67
1263	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P) **(Reg Plan Seq. No. 46)**	0938-AI70
1264	Coverage of Religious Non-Medical Health Care Institutions (HCFA-1909-IFC)	0938-AI93
1265	Home Health Prospective Payment System (HCFA-1059-P) **(Reg Plan Seq. No. 47)**	0938-AJ24
1266	Establishment of a Program To Collect Suggestions for Improving Medicare Program Efficiency and To Reward Suggestors (HCFA-4000-FC)	0938-AJ30
1267	The Children's Health Insurance Program: Implementing the Balanced Budget Act of 1997 (HCFA-2006-P) **(Reg Plan Seq. No. 48)**	0938-AJ75

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Health Care Financing Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1268	Payment for Clinical Diagnostic Laboratory Tests (HCFA-1309-F)	0938-AB50
1269	Changes to Peer Review Organization Regulations (HCFA-3135-F)	0938-AD38
1270	Omnibus Nursing Home Reform Requirements (HCFA-3488-F)	0938-AD81
1271	"Without Fault" and Beneficiary Waiver of Recovery As It Applies to Medicare Overpayment Liability (HCFA-1719-P)	0938-AD95
1272	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)	0938-AE12
1273	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)	0938-AE39
1274	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (HCFA-2028-F)	0938-AE72
1275	Payment for Nursing and Allied Health Science Education (HCFA-1685-F)	0938-AE79
1276	Coverage of Screening Pap Smears (HCFA-3705-F)	0938-AE98
1277	Changes to the Long-Term Care Facility Survey Process (HCFA-3175-FC)	0938-AF02
1278	Requirements for Certain Health Insuring Organizations and OBRA '90 Technical Amendments (HCFA-1018-F)	0938-AF15
1279	Provider Reimbursement Determinations and Appeals (HCFA-1727-P)	0938-AF28
1280	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)	0938-AF32
1281	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)	0938-AF42
1282	Referral to Child Support Enforcement Agencies of Medicaid Families (HCFA-2051-F)	0938-AF68
1283	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants, and Children Under Age 19 (HCFA-2052-F)	0938-AF69
1284	Assessing Interest Against Medicare Secondary Payer (MSP) Debts (HCFA-6108-P)	0938-AF87
1285	Revised Medicaid Management Information Systems (HCFA-2038-FN)	0938-AG10
1286	Alternative Sanctions for Renal Dialysis Facilities (HCFA-3204-P)	0938-AG31
1287	Description of HCFA's Evaluation Methodology for the Peer Review Organizations Fifth Scope of Work Contracts (HCFA-3207-N)	0938-AG32
1288	Disclosure of Confidential PRO and ESRD Network Organization Information for Research Purposes (HCFA-3208-P)	0938-AG33
1289	Medicare Program: Limitations on Medicare Coverage of Intermittent Positive Pressure Breathing Machine Therapy (HCFA-3781-FN)	0938-AG44
1290	Telephone Requests for Review of Part B Initial Claim Determinations (HCFA-4121-F)	0938-AG48
1291	Effect of Change of Ownership on Provider and Supplier Penalties, Sanctions, Underpayments and Overpayments (HCFA-2215-P)	0938-AG59
1292	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (HCFA-2082-P)	0938-AG72
1293	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)	0938-AG79
1294	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (HCFA-1809-F)	0938-AG80
1295	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)	0938-AG81
1296	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (HCFA-3815-P)	0938-AG84
1297	CLIA Program: Categorization of Waived Tests (HCFA-2225-FC)	0938-AG99
1298	Liability for Third Parties To Pay for Services (HCFA-2080-P)	0938-AH01

Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1299	Definition of Skilled Nursing Facility (SNF) for Coverage of Durable Medical Equipment (DME) and Home Health (HCFA-1834-P)	0938-AH16
1300	State Plan Amendment (SPA) Reconsideration Process (HCFA-2096-P)	0938-AH24
1301	Hospice Care—Conditions of Participation (HCFA-3844-P)	0938-AH27
1302	CLIA Program; Cytology Proficiency Testing (HCFA-2233-N)	0938-AH35
1303	Medicare Coverage of Services of Speech-Language Pathologists and Audiologists (HCFA-1843-P)	0938-AH37
1304	Payment Amount if Customary Charges Are Less Than Reasonable Costs (HCFA-1860-FC)	0938-AH49
1305	Limitations on Liability (HCFA-4859-FC)	0938-AH51
1306	Medicare Secondary Payer Clarifications and Amendments (HCFA-1865-P)	0938-AH52
1307	Revision to Accrual Basis of Accounting Policy (HCFA-1876-F)	0938-AH61
1308	Medicaid; Estate Recoveries (HCFA-2083-P)	0938-AH63
1309	Medicaid Hospice Care (HCFA-2016-P)	0938-AH65
1310	Provider and Supplier Billing When Medicare Is Secondary Payor to Liability Insurance (HCFA-1848-P)	0938-AH66
1311	Medicare Technical Conforming Amendments (HCFA-1858-FC)	0938-AH67
1312	Elimination of Certain Requirements for Peer Review Organizations in the Utilization and Quality Review Process and a Change in the Length of Peer Review Organization Contracts (HCFA-3235-FC)	0938-AH68
1313	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)	0938-AH69
1314	Waiver of Staffing Requirements for End Stage Renal Disease (ESRD) Facilities Participating in an Experiment (HCFA-2236-GNC)	0938-AH72
1315	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)	0938-AH75
1316	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (HCFA-3887-P)	0938-AH83
1317	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HCFA-3241-P)	0938-AH85
1318	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)	0938-AH89
1319	Medically Needy Determinations Under Welfare Reform (HCFA-2109-IFC)	0938-AH92
1320	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)	0938-AH95
1321	Revision to the Definition of an Unemployed Parent (HCFA-2106-FC)	0938-AH98
1322	Portability and Nondiscrimination in the Group Health Insurance Market (HCFA-2890-F)	0938-AI08
1323	Medicare Program; Medicare Integrity Program (HCFA-7020-F)	0938-AI09
1324	Medicare Program; Improvements to the Appeals Process for Medicare Beneficiaries Enrolled in HMOs, CMPs, and HCPPs (HCFA-4024-P)	0938-AI11
1325	Medicare Program; Physician Fee Schedule Conversion Factor for Calendar Year 1998 and Sustainable Growth Rate for Fiscal Year 1998 (HCFA-1893-FN)	0938-AI16
1326	Medicaid: Medical Child Support (HCFA-2081-P)	0938-AI21
1327	Medicare Program: Physicians' Referrals; Issuance of Advisory Opinions (HCFA-1902-F)	0938-AI38
1328	Medicare/Medicaid Program; User Fees for Information, Prodcuts, and Services (HCFA-6021-P)	0938-AI46
1329	Surety Bond Requirements for Comprehensive Outpatient Rehab. Facilities, Rehab. Agencies, Community Mental Health Centers, and Independent Diagnostic Testing Facilities (HCFA-6005-P)	0938-AI48
1330	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)	0938-AI63
1331	Recognition of the Community Health Accreditation Program, Inc. (CHAP) and Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for Hospices (HCFA-2029-PN)	0938-AI69
1332	Elimination of Application of Federal Financial Participation Limits (HCFA-2111-IFC)	0938-AI73
1333	Medicaid Program; Changes to Eligibility of Non-U.S. Citizens (HCFA-2108-P)	0938-AI74
1334	Medicare Program; Advance Refunding of Debt and Methodology for Repayment of Loan (HCFA-1777-P)	0938-AI75
1335	Medicare Hospice Care (HCFA-1022-P)	0938-AI77
1336	Revision of Procedures for Requesting Exceptions to Cost Limits for SNFs and Elimination of Reclassifications (HCFA-1883-P)	0938-AI80
1337	Solvency Standards for Provider-Sponsored Organizations (HCFA-1011-F)	0938-AI83
1338	Medicare Program; Medicare Coverage of and Payment for Bone Mass Measurements (HCFA-3004-F)	0938-AI89
1339	Health Insurance Reform Universal Health Care Identifier (HCFA-0048-NOI)	0938-AI91
1340	Peer Review Organization Contracts: Solicitation of Statements of Interest From In-State Organizations (HCFA-3009-N)	0938-AI99
1341	Replacement of Reasonable Charge Methodology by Fee Schedules (HCFA-1010-P)	0938-AJ00
1342	External Quality Review of Medicaid Managed Care Organizations (HCFA-2015-P)	0938-AJ06
1343	HHS' Recognition of NAIC Model Standards for Regulation of Medigap Policy (HCFA-2025-N)	0938-AJ07
1344	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-IFC)	0938-AJ10

Sequence Number
1345
1346
1347
1348
1349
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1370
1371
1372
1373
1374

VOL 64 ISS 224 NO 22 1999 UMI

HHS

Health Care Financing Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1345	Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance: Millennium Compliance (HCFA-4002-GNC)	0938-AJ15
1346	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-P)	0938-AJ17
1347	Hospital Conditions of Participation: Laboratory Services (HCFA-3 014-P)	0938-AJ29
1348	Medicare Program; Procedures for Making Medical Services National Coverage Decisions (HCFA-3432-GN)	0938-AJ31
1349	Medicare Program; Special Payment Limits for Certain Durable Medical Equipment and Prosthetic Devices (HCFA-1050-PN)	0938-AJ34
1350	Medicare Hospice Care Amendments (HCFA-1022-P)	0938-AJ36
1351	Emergency Medical Treatment and Labor Act (EMTALA) (HCFA-1063-FC)	0938-AJ39
1352	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 2000 Rates (HCFA-1053-P) **(Section 610 Review)**	0938-AJ50

Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1353	Case Management (HCFA-2027-F)	0938-AF07
1354	Adjustment in Payment Amounts for New Technology Intraocular Lenses (HCFA-3831-F)	0938-AH15
1355	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances and Coverage Decisions—Second Quarter, 1998 (HCFA-9002-N)	0938-AI13
1356	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-F)	0938-AI27
1357	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities. (HCFA-1913-IFC)	0938-AI47
1358	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances — First Quarter 1998 (HCFA-9879-N)	0938-AJ12
1359	Medicare Program State Allotments for Payments of Medicare Part B Premium for Qualifying Individuals: Federal Fiscal Year for 1999 (HCFA-2032-N)	0938-AJ28
1360	Medicaid Program; Civil Money Penalties for Nursing Homes (SNF/NF), Change in Notice Requirements, and Expansion of Discretionary Remedy (HCFA-2035-FC)	0938-AJ35
1361	Medicare and Medicaid Programs; Quarterly Listing of Program Issuances — Third Quarter, 1998 (HCFA-9000-N)	0938-AJ37
1362	Recognition of the Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for Hospices (HCFA-2039-FN)	0938-AJ41
1363	Recognition of the Community Health Accreditation Program, Inc. (CHAP) for Hospices (HCFA-2029-FN)	0938-AJ42
1364	Prospective Payment System and Consolidated Billing for Home Health Agencies (HCFA-1059-P)	0938-AJ51
1365	Medicare and Medicaid Programs: Hospital Conditions of Participation; Patients' Rights (HCFA-3018-IFC)	0938-AJ56
1366	Medicare Program: Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities Update	0938-AJ58
1367	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2000 (HCFA-1065-P)	0938-AJ61
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997	0938-AJ73

Administration for Children and Families—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1369	Bonus To Reward High Performance States Under the Temporary Assistance for Needy Families Block Grant	0970-AB66
1370	Child Support Enforcement for Indian Tribes	0970-AB73
1371	Family Child Care Program Option for Head Start Programs	0970-AB90
1372	National Medical Support Notice	0970-AB97
1373	Program Performance Standards for the Operation of Head Start Programs	0970-AB99
1374	Safeguarding Child Support and Expanded FPLS Information	0970-AC01

Administration for Children and Families—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1375	Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, MEPA Implementation, and ASFA Implementation	0970-AA97
1376	Standards for Safe Transportation	0970-AB24
1377	Construction of Head Start Facilities	0970-AB54
1378	Methodology for Determining Whether an Increase in a State's Child Poverty Rate is the Result of the TANF Program	0970-AB65
1379	Requirements for the Tribal Programs	0970-AB78
1380	Child Support Enforcement Program Omnibus Conforming Regulation	0970-AB81
1381	Refugee Resettlement Program: Refugee Cash and Medical Assistance Programs	0970-AB83
1382	Incentive Payments and Audit Penalties to States and Political Subdivisions	0970-AB85
1383	Head Start Appeal Timelines	0970-AB87
1384	Welfare-to-Work Data Collection	0970-AB92
1385	State Self Assessments To Determine Compliance With Federal Regulations	0970-AB96
1386	Priority for Previously Selected Head Start Agencies	0970-AB98
1387	Technical Revision of Head Start Regulations to Make Them Conform to Recent Statutory Revisions	0970-AC00
1388	Assets for Independence Reserve Account	0970-AC02

Administration for Children and Families—Completed Actions

Sequence Number	Title	Regulation Identification Number
1389	Temporary Assistance for Needy Families (TANF)	0970-AB77
1390	Bonus to Reward Decrease in Illegitimacy Ratio	0970-AB79
1391	Implementation of AFCARS Corrective Action and Penalties and CAPTA Amendments	0970-AB94

Administration on Aging—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1392	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians	0985-AA00

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

1093. CIVIL MONEY PENALTIES FOR MEDICARE+CHOICE ORGANIZATIONS AND MEDICAID MANAGED CARE ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7a; 42 USC 1395mm; 42 USC 1395w-27; 42 USC 1396b; 42 USC 1396u-2

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would reflect OIG's authority to impose civil money penalties against health maintenance organizations and competitive medical plans that engage in certain abusive practices, including failure to provide medically necessary care and discriminatory enrollment procedures. This rule would specifically address the Medicare+Choice provisions set forth in Public Law 105-33 (the Balanced Budget Act of 1997), and the Medicaid managed care provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB03

HHS—OS **Proposed Rule Stage**

1094. • CIVIL MONEY PENALTY SAFE HARBOR TO PROTECT PAYMENT OF MEDICARE AND MEDIGAP PREMIUMS FOR ESRD BENEFICIARIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Section 1128A(a)(5) of the Social Security Act

CFR Citation: 42 CFR 1003

Legal Deadline: None

Abstract: This proposed rule would set forth in the OIG's civil money penalty provisions in 42 CFR part 1003 a new safe harbor for unlawful inducements to beneficiaries to provide protection for independent dialysis facilities that pay, in whole or in part, premiums for Supplementary Medical Insurance (Medicare Part B) or Medicare Supplemental Health Insurance policies (Medigap) for financially needy Medicare beneficiaries with end-stage renal disease (ESRD). This safe harbor would specifically establish various standards and guidelines that, if met, would result in the particular arrangement being protected from civil sanctions under section 1128A(a)(5) of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB04

1095. • SAFE HARBOR FOR AMBULANCE RE-STOCKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, sec 2; PL 100-93, sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule would set forth a new anti-kickback safe harbor to address certain re-stocking arrangements between municipal and non-profit ambulance companies and hospitals.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB05

1096. • SAFE HARBOR FOR ARRANGEMENTS INVOLVING FEDERALLY QUALIFIED HEALTH CENTERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, sec 2; PL 100-93, sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This rule would set forth a new anti-kickback safe harbor addressing remuneration between Federal Qualified Health Centers and certain service providers where a significant community benefit exists.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AB06

Department of Health and Human Services (HHS)
Office of the Secretary (OS) **Final Rule Stage**

1097. CLARIFICATION OF THE INITIAL OIG SAFE HARBOR PROVISIONS AND ESTABLISHMENT OF ADDITIONAL SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, sec 2; PL 100-93, sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This final rule serves both to clarify various aspects of the original safe harbor provisions and to add new safe harbors as authorized under section 14 of Public Law 100-93. Specifically, this rule modifies the original set of final safe harbor provisions (56 FR 35952, July 29, 1991) to give greater clarity to the rulemaking's original intent. In addition, this rule sets forth an expanded listing of safe harbor

provisions designed to protect additional payment and business practices from criminal prosecution and civil sanctions under the anti-kickback statute.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49008
NPRM Comment Period End	11/22/93	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This final rule incorporates the safe harbor clarification provisions previously addressed in RIN 0991-AA74 and set forth in proposed rulemaking (59 FR 37202, July 21, 1994).

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA66

1098. REPRODUCTION AND SALE OF OFFICIAL FORMS AND PUBLICATIONS

Priority: Info./Admin./Other

Legal Authority: PL 103-296, sec 312 (42 USC 1320b-10)

CFR Citation: 45 CFR 101

Legal Deadline: None

Abstract: This interim final rule with comment period will establish procedures for implementation of section 312 of the Social Security Independence Act. That section amends existing prohibitions against "misuse of symbols, emblems, or names in reference to Social Security or Medicare." Section 312 prohibits the "unauthorized reproduction, reprinting, or distribution for fee" of a "form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services." It requires prior written authorization for any such activity in accordance with the Secretary's regulations. The Department plans to distinguish between forms and publications that potentially involve misuse in contrast to benign or desirable reproductions and distributions, and to provide pre-authorization for the latter. The rule will be developed in consultation with the Social Security Administration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Herrell, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW, Washington, DC 20201 Phone: 202 690-5739

RIN: 0991–AA83

1099. REVISED OIG CIVIL MONEY PENALTIES RESULTING FROM PUBLIC LAW 104-191

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-191, sec 231(a); PL 104-191, sec 231(b); PL 104-191, sec 231(c); PL 104-191, sec 231(d); PL 104-191, sec 231(e); PL 104-191, sec 231(h); PL 104-191, sec 232

CFR Citation: 42 CFR 1003; 42 CFR 1005; 42 CFR 1006

Legal Deadline: None

Abstract: This final rule will revise the OIG's civil money penalty provisions in conjunction with new and revised authorities set forth in the Health Insurance Portability and Accountability Act of 1996. Among other provisions, this final rulemaking would codify new civil money penalties for: (1) excluded individuals retaining ownership or control interest in an entity; (2) upcoding and claims for medically unnecessary services; (3) offering inducements to beneficiaries; and (4) false certification of eligibility for home health services.

Timetable:

Action	Date	FR Cite
NPRM	03/25/98	63 FR 14393
NPRM Comment Period End	05/26/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA90

1100. SHARED RISK EXCEPTION TO THE SAFE HARBOR PROVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302, sec 216; 42 USC 1320a-7b; 42 USC 1395hh

CFR Citation: 42 CFR 1001

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This interim final rule will establish a new statutory exception for risk-sharing arrangements under the Federal health care programs' anti-kickback provisions. The rule sets forth an exception from liability for remuneration between an eligible organization and an individual or entity providing items or services in accordance with a written agreement between these parties. The rule would allow remuneration between an organization and an individual or entity if a written agreement places the individual or entity at "substantial financial risk" for the cost or utilization of the items or services which the individual or entity is obligated to provide.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/97	62 FR 28410
ANPRM Comment Period End	06/09/97	
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA91

HHS—OS

Final Rule Stage

1101. BLOCK GRANT PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 42 USC 300w et seq; 42 USC 300x et seq; 42 USC 300y et seq; 42 USC 701 et seq; 42 USC 1243 et seq; 42 USC 1397 et seq; 42 USC 8621 et seq; 42 USC 9901 et seq

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: The rule amends the regulations governing the administration on block grants. It updates current regulations to reflect current name and statutory petitions. It establishes submission and completion dates for funding applications from LIHEAP, CSBG and SSSBG. It clarifies that the department may specify the form of an application where this is authorized by statute. It requires to submit a obligation and expenditure for all block grants.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Herrell, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW, Washington, DC 20201 Phone: 202 690-5739

RIN: 0991–AA97

1102. HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320a-7e

CFR Citation: 42 CFR 61 (New)

Legal Deadline: Final, Statutory, January 1, 1997.

Abstract: This final rule would implement the requirements of section 1128E of the Social Security Act, as added by section 221(a) of the Health Insurance Portability and Accountability Act of 1996. Section 1128E of the Act directs the Department to establish a national health care fraud and abuse data collection program for the reporting and disclosure of certain final adverse actions taken against health care providers, suppliers and practitioners. The statute also requires the Department to implement the national health care fraud and abuse data collection program in such a manner as to avoid with reporting requirements established for the National Practitioner Data Bank under the Health Care Quality Improvement Act of 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58341
NPRM Comment Period End	01/11/99	
Final Rule	11/26/99	64 FR 57740

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Was previously 0906-AA46.

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA98

1103. PRIVACY ACT EXEMPT RECORD SYSTEM FROM THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552a

CFR Citation: 45 CFR 56

Legal Deadline: None

Abstract: This proposed rule would exempt the new system of records for the Healthcare Integrity and Protection Data Bank (HIPDB) from certain provisions of the Privacy Act (5 U.S.C. 552a). The proposed exemption being set forth would apply to investigative materials compiled for law enforcement purposes in anticipation of civil, criminal or administrative proceedings.

Timetable:

Action	Date	FR Cite
NPRM	10/26/99	64 FR 57619
NPRM Comment Period End	11/26/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201 Phone: 202 619-0089

RIN: 0991–AA99

1104. • STANDARDS FOR PRIVACY OF INDIVIDUALLY INDENTIFIABLE HEALTH INFORMATION

Regulatory Plan: This entry is Seq. No. 27 in Part II of this issue of the **Federal Register**.

RIN: 0991–AB08

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Completed Actions

1105. REVISED OIG SANCTION AUTHORITIES RESULTING FROM PUBLIC LAW 105-33

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 1001; 42 CFR 1002; 42 CFR 1003

Completed:

Reason	Date	FR Cite
Final Action	07/22/99	64 FR 39420

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer

Phone: 202 619-0089

RIN: 0991–AA95

HHS—OS

Completed Actions

1106. REVISION OF HHS FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Other Significant

CFR Citation: 45 CFR 5

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	05/26/99	64 FR 14668
Final Rule	10/26/99	64 FR 57740

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rosario Cirrincione
Phone: 202 690-7453

RIN: 0991–AB01

1107. • FURTHER CLARIFICATIONS TO THE SAFE HARBOR PROVISIONS UNDER THE ANTI-KICKBACK STATUTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 100-93, sec 2; PL 100-93, sec 14

CFR Citation: 42 CFR 1001

Legal Deadline: None

Abstract: This proposed rule would address modifications to the OIG's initial safe harbor provisions codified in 1991. The rule would specifically seek revisions to the employee safe harbor and to space rental safe harbor. The proposed changes would give greater clarity to the rule's original intent and respond to an expressed preference for greater consistency among laws governing health care providers.

Timetable:

Action	Date	FR Cite
Withdrawn	11/08/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Jay Schaer, Regulations Officer, Department of Health and Human Services, Office of the Secretary, Office of Inspector General (OCIG), 330 Independence Avenue SW, Washington, DC 20201
Phone: 202 619-0089

RIN: 0991–AB07

Department of Health and Human Services (HHS)
Centers for Disease Control and Prevention (CDC)

Proposed Rule Stage

1108. INTERSTATE SHIPMENT OF BIOLOGICAL MATERIALS THAT CONTAIN OR MAY CONTAIN INFECTIOUS SUBSTANCES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 264; 42 USC 271; 42 USC 262 note; 31 USC 9701; 18 USC 3559; 18 USC 3571

CFR Citation: 42 CFR 72.6 (Renumbered); 42 CFR 72.7 (Renumbered); 42 CFR 72.1-5 (Revision)

Legal Deadline: None

Abstract: The purpose of this NPRM is to update regulations governing the packaging, labeling, and shipment of infectious agents. Materials must be packaged in such a way as to prevent damage and leakage during transport in order to protect workers and the public from exposure.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Jonathan Y. Richmond, Director, Office on Health and Safety, Department of Health and Human Services, Centers for Disease Control, MS F05, 1600 Clifton Road NE, Atlanta, GA 30333
Phone: 404 639-2453

RIN: 0920–AA02

Department of Health and Human Services (HHS)
Departmental Management (HHSDM)

Proposed Rule Stage

1109. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504(c)(1)

CFR Citation: 45 CFR 13

Legal Deadline: None

Abstract: The Equal Access to Justice Act requires agencies to pay fees to parties prevailing against the Government in certain administrative proceedings. The Act has been amended several times since its 1980 enactment, most recently by the Contract with America Advancement Act of 1996, which increased the amount of the hourly fees payable. The proposed rule revises 45 CFR part 13 (HHS' regulation implementing the Equal Access to Justice Act) to conform with statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/19/87	52 FR 23311
NPRM Comment Period End	08/17/87	
Second NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy M. White, Associate General Counsel, Business

HHS—HHSDM **Proposed Rule Stage**

and Administrative Law Division, Department of Health and Human Services, Room 5362, HHS Cohen Building, 330 Independence Avenue SW, Washington, DC 20201
Phone: 202 619-0150

RIN: 0990–AA02

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA) **Prerule Stage**

1110. INVESTIGATIONAL USE NEW ANIMAL DRUG REGULATIONS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 5 USC 610; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 360b; 21 USC 371

CFR Citation: 21 CFR 511; 21 CFR 512

Legal Deadline: None

Abstract: FDA is proposing to revise its regulations governing investigational use of new animal drugs by proposing to delete 21 CFR 511 and establish in 21 CFR part 512 revised investigational use new animal drug regulations. The investigational use new animal drug regulations are expected to include regulations to implement provisions of the Animal Drug Availability Act of 1996, specifically presubmission conferences, and implement parts of the President's National Performance Report, "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will enable a more streamlined animal drug application review and approval process, and which would result in less regulatory burden upon industry and FDA while maintaining safety and effectiveness of new animal drugs. In addition, FDA is initiating a review of this rule under section 610 of the Regulatory Flexibility Act. The purpose of the 610 review is to determine if the rule should be amended to minimize adverse economic impacts on small entities. FDA will consider and solicit comments on the following: 1) the continued need for the rule; 2) the nature of complaints or comments received concerning the rule; 3) the complexity of the rule; 4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State or local government rules; and 5) the degree to which technology, economic conditions or other factors have changed in the area affected by the rule.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
Begin Review	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marty Schoenemann, Department of Health and Human Services, Food and Drug Administration, HFV-126, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0220

RIN: 0910–AB02

1111. NATURAL RUBBER-CONTAINING DRUGS; USER LABELING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking requests comments on requirements under consideration for labeling statements on products regulated as drugs (including combination products regulated under drug labeling provisions) that contain natural rubber that contacts humans.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB56

1112. • SUBSTANCES PROHIBITED FROM USE IN ANIMAL FOOD OR FEED

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: After determining that dioxins were present in some clays used as anti-caking agents in animal feeds, the Agency is considering proposing a rule that would prohibit the use of these clays unless they meet certain conditions under the Federal Food, Drug, and Cosmetic Act. At this time, it is not clear whether there are other types of mined clay products that contain dioxins or whether the relatively low concentrations found in recent samples of mined clay products would have a significant impact on the public health. Thus, the advance notice of proposed rulemaking will request further information regarding the presence of dioxins in mined clay products used in animal feeds or feed ingredients and the significance of these dioxins to the public health.

HHS—FDA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Dr. Randall A Lovell, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, 7500 Standish Place, HFV-222, Center for Veterinary Medicine, Rockville, MD 20855
Phone: 301 827-0176
Fax: 301 594-1812
Email: rlovell@cvm.fda.gov

RIN: 0910–AB90

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Proposed Rule Stage

1113. OVER-THE-COUNTER (OTC) DRUG REVIEW

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321p; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360a; 21 USC 371a

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 335; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" was combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" was included in the NPRM for "Skin Protectant Products." NPRM for "Diaper Rash Products" was included in NPRMs for "Antifungal," "Antimicrobial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." "Poison Ivy/Oak/Sumac Prevention" was included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" was included in revised NPRM for "Antimicrobial Products." NPRM for "Alcohol (Topical) Products" was included in revised NPRM for "Antimicrobial Products." The NPRM for "Antimicrobial Products" was updated and split into two sections: First Aid Products and Health Care Antiseptic Products.

SMALL ENTITIES AFFECTED: The effects, if any, vary depending on the individual rulemaking. However, the Agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Timetable:

Acne (Topical) Products
- ANPRM 03/23/1982 (47 FR 12430)
- NPRM 01/15/1985 (50 FR 2172)
- NPRM (Amendment) 08/07/1991 (56 FR 37622)
- Final Action 08/16/1991 (56 FR 41008)

Alcohol (Oral) in OTC Drug Products
- NPRM 10/21/1993 (58 FR 54466)
- Final Action 03/13/1995 (60 FR 13590)
- NPRM (Amendment) 05/10/1996 (61 FR 21392)
- Final Action (Amendment) 11/18/1996 (61 FR 58629)

Anorectal Products
- ANPRM 05/27/1980 (45 FR 35576)
- NPRM 08/15/1988 (53 FR 30756)
- Final Action 08/03/1990 (55 FR 31776)
- Final Action (LYCD) 09/02/1993 (58 FR 46746)
- Final Action (Witch Hazel) 06/03/1994 (59 FR 28766)

Antacid Drug Products
- ANPRM 04/05/1973 (38 FR 8714)
- NPRM 11/12/1973 (38 FR 31260)
- Final Action 06/04/1974 (39 FR 9862)
- NPRM (Amendment) (Overindulgence) 12/24/1991 (56 FR 66754)
- Final Action (Amendment) (Warning) 08/26/1993 (58 FR 45204)
- NPRM (Amendment) (Testing) 09/23/1993 (58 FR 49826)
- NPRM (Amendment)(Sodium Bicarb.) 02/02/1994 (59 FR 5060)
- Final Action (Technical Amendment) 11/25/1994 (59 FR 60555)
- Final Action (Amendment) (Testing) 02/08/1996 (61 FR 4822)
- Final Action (Amendment)(Sodium B.) 03/00/2000
- Final Action (Amendment) (Overindulgence) 12/00/2001

Anthelmintic Products
- ANPRM 09/09/1980 (45 FR 59541)
- NPRM 08/24/1982 (47 FR 37062)
- Final Action 08/01/1986 (51 FR 27756)

Antibiotic First Aid Products
- ANPRM 04/01/1977 (42 FR 17642)
- NPRM 07/09/1982 (47 FR 29986)
- Final Action 12/11/1987 (52 FR 47312)
- NPRM (Amendment) 08/18/1989 (54 FR 34188)
- Final Action 03/15/1990 (55 FR 9721)
- NPRM (Amendment) 05/11/1990 (55 FR 19868)
- NPRM (Amendment) 06/08/1990 (55 FR 23450)
- Final Action (Amendment) 10/03/1990 (55 FR 40379)
- Final Action (Amendment) 12/05/1990 (55 FR 50171)
- NPRM (Amendment) (Warning) 02/14/1996 (61 FR 5918)
- Final Action (Amendment)(Warning) 11/15/1996 (61 FR 58471)

Anticaries Products
- ANPRM 03/28/1980 (45 FR 20666)
- NPRM 09/30/1985 (50 FR 39854)
- NPRM 06/15/1988 (53 FR 22430)
- Final Action 10/06/1995 (60 FR 52474)
- Final Action (Technical Amendment) 10/07/1996 (61 FR 52285)

Antidiarrheal Products
- ANPRM 03/21/1975 (40 FR 12924)
- NPRM 04/30/1986 (51 FR 16138)
- NPRM (Amendment)(Trav. Diar.) 08/00/2000
- Final Action 08/00/2000

HHS—FDA **Proposed Rule Stage**

Antidotes, Toxic Ingestion Prdts (New Poison Treatment Prdts)
ANPRM 01/05/1982 (47 FR 444)
Antiemetic Products
ANPRM 03/21/1975 (40 FR 12934)
NPRM 07/13/1979 (44 FR 41064)
Final Action 04/30/1987 (52 FR 15886)
NPRM (Amendment) 08/26/1993 (58 FR 45216)
Final Action 04/11/1994 (59 FR 16981)
NPRM (Amendment)(Warning) 08/29/1997 (62 FR 45767)
Antiflatulent Drug Products
NPRM 11/12/1973 (38 FR 31260)
Final Action 06/04/1974 (39 FR 19877)
NPRM (Amendment) 01/29/1988 (53 FR 2716)
Final Action (Amendment) 03/05/1996 (61 FR 8836)
Antifungal (Topical) Products
ANPRM 03/23/1982 (47 FR 12480)
NPRM 12/12/1989 (54 FR 51136)
NPRM (Amendment) (Diaper Rash) 06/20/1990 (55 FR 25240)
Final Action (Amdt.)(Diaper Rash) 12/18/1992 (57 FR 60430)
Final Action (Partial) 09/02/1993 (58 FR 46744)
Final Action 09/23/1993 (58 FR 49890)
NPRM (Amendment) (Indications) 07/22/1999 (64 FR 39452)
Antimicrobial Products
ANPRM 09/13/1974 (39 FR 33103)
NPRM 01/06/1978 (43 FR 1210)
NPRM (Amendment) (Diaper Rash) 06/20/1990 (55 FR 25246)
Final Action (Diaper Rash) 03/00/2004
Antiperspirant Products
ANPRM 10/10/1978 (43 FR 46694)
NPRM 08/20/1982 (47 FR 36492)
Final Action 06/00/2000
Aphrodisiac Products
ANPRM 10/01/1982 (47 FR 43572)
NPRM 01/15/1985 (50 FR 2168)
Final Action 07/07/1989 (54 FR 28780)
Aspirin (Heart Labeling Warning)
NPRM 11/16/1988 (53 FR 46204)
NPRM 10/20/1993 (58 FR 54224)
NPRM (Amendment) 06/13/1996 (61 FR 30002)
Final Action 06/00/2000
Aspirin (Heart Labeling)
Final Action 10/23/1998 (63 FR 56802)
Astringent (Wet Dressings) Prdts (Merged w/other rulemkg)
ANPRM 09/07/1982 (47 FR 39436)
Benign Prostatic Hypertrophy Products
ANPRM 10/01/1982 (47 FR 43566)
NPRM 02/20/1987 (52 FR 5406)
Final Action 02/27/1990 (55 FR 6926)
Boil Ointments
ANPRM 06/29/1982 (47 FR 28306)
NPRM 01/26/1988 (53 FR 2198)
Final Action 11/15/1993 (58 FR 60332)
Camphorated Oil Drug Products
ANPRM 09/26/1980 (45 FR 63869)
Final Action 09/21/1982 (47 FR 41716)
Cholecystokinetic Products
ANPRM 02/12/1980 (45 FR 9286)
NPRM 08/24/1982 (47 FR 37068)
Final Action 06/10/1983 (48 FR 27004)
NPRM (Amendment) 08/15/1988 (53 FR 30786)
Final Action (Amendment) 02/28/1989 (54 FR 8320)
Corn and Callus Remover Products
ANPRM 01/05/1982 (47 FR 522)
NPRM 02/20/1987 (52 FR 5412)
Final Action 08/14/1990 (55 FR 33258)
Cough/Cold (Anticholinergic) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 07/09/1982 (47 FR 30002)
Final Action 11/08/1985 (50 FR 46582)
Cough/Cold (Antihistamine) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 01/15/1985 (50 FR 2200)
NPRM (Amendment) 08/24/1987 (52 FR 31892)
Final Action 12/09/1992 (57 FR 58356)
Final Action (Amendment)(Warning) 01/28/1994 (59 FR 4216)
NPRM (Amendment)(Diphenhydramine) 08/29/1997 (62 FR 45767)
Final Action 06/00/2000
Cough/Cold (Antitussive) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 10/19/1983 (48 FR 48576)
Final Action 08/12/1987 (52 FR 30042)
NPRM (Amendment) (Warning) 07/06/1989 (54 FR 28442)
NPRM (Amendment) 10/02/1989 (54 FR 40412)
Final Action (Amendment) (Warning) 07/06/1990 (55 FR 27806)
Final Action (Amendment) 10/03/1990 (55 FR 40381)
NPRM (Amendment)(Warning) 06/19/1992 (57 FR 27666)
NPRM (Amendment)(Ingredients) 12/09/1992 (57 FR 58378)
Final Action (Amendment)(Warning) 10/20/1993 (58 FR 54232)
Final Action (Amdt.)(Ingredients) 06/03/1994 (59 FR 29172)
NPRM (Amendment)(Diphenhydramine) 08/29/1997 (62 FR 45767)
NPRM (Amendment)(Flammability) 07/20/1998 (63 FR 38762)
Final Action (Amendment)(Flammability) 03/00/2000
Cough/Cold (Bronchodilator) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 10/26/1982 (47 FR 47520)
Final Action 10/02/1986 (51 FR 35326)
NPRM (Amendment)(Warning) 06/19/1992 (57 FR 27662)
Final Action (Amendment)(Warning) 10/20/1993 (58 FR 54238)
NPRM (Amendment)(MDI) 03/09/1995 (60 FR 13014)
NPRM (Amendment)(Ephedrine) 07/27/1995 (60 FR 38643)
Final Action (Amendment) (MDI) 05/20/1996 (61 FR 25142)
NPRM (Amendment)(Ephedrine) 06/00/2000
Cough/Cold (Combination) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 08/12/1988 (53 FR 30522)
NPRM (Amendment)(DPH Combinations) 02/23/1995 (60 FR 10286)
Final Action (Theophylline) 07/27/1995 (60 FR 38636)
Final Action 03/00/2000
Final Action (Ephedrine Combo) 06/00/2000
Cough/Cold (Diphenhydramine) Products
Final Action/Enforcement Policy 04/09/1996 (61 FR 15700)
Cough/Cold (Expectorant) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 07/09/1982 (47 FR 30002)
Final Action 02/28/1989 (54 FR 8494)
Final Action (Technical Changes) 06/30/1992 (57 FR 29176)
Cough/Cold (Expectorant/Ipecac) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 07/09/1982 (47 FR 30002)
Final Action 09/14/1992 (57 FR 41857)
Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/1976 (41 FR 38312)
NPRM 01/15/1985 (50 FR 2220)
NPRM (Amendment) 06/19/1992 (57 FR 27658)
Final Action 08/23/1994 (59 FR 43386)
Final Action; Partial Stay 03/08/1996 (61 FR 9570)
NPRM (Phenylpropanolamine) 12/00/2000
Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/1982 (47 FR 54646)
NPRM 07/30/1986 (51 FR 27346)
Final Action 12/04/1991 (56 FR 63554)
NPRM (Amendment) 04/05/1993 (58 FR 17554)
Final Action 01/28/1994 (59 FR 4000)
Daytime Sedatives
ANPRM 12/08/1975 (40 FR 57292)
NPRM 06/13/1978 (43 FR 25544)
Final Action 06/22/1979 (44 FR 36378)
Diaper Rash Products (Merged w/other rulemkg)
ANPRM 09/07/1982 (47 FR 39406)
Digestive Aid Products
ANPRM 01/05/1982 (47 FR 454)
NPRM 01/29/1988 (53 FR 2706)
Final Action 10/21/1993 (58 FR 54450)
Eligibility Criteria for Additional Conditions
ANPRM 10/03/1996 (61 FR 51625)
NPRM 12/00/1999
Emetic Products
ANPRM 03/21/1975 (40 FR 12939)
NPRM 09/05/1978 (43 FR 39544)
Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/1979 (44 FR 75666)
NPRM 11/08/1985 (50 FR 46594)
NPRM (Reproposed) 07/15/1991 (56 FR 32282)
Final Action 04/24/1995 (60 FR 20162)

External Analgesic Products
ANPRM 12/04/1979 (44 FR 69768)
NPRM 02/08/1983 (48 FR 5852)
NPRM (Amendment) (Dandruff) 07/30/1986 (51 FR 27360)
NPRM (Amendment) (Anorectal) 08/25/1988 (53 FR 32592)
NPRM (Amendment) (Poison Ivy) 10/03/1989 (54 FR 40818)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/1990 (55 FR 3370)
NPRM (Amendment) (1%Hydrocortisone) 02/27/1990 (55 FR 6932)
NPRM (Amendment) (Diaper Rash) 06/20/1990 (55 FR 25234)
Final Action (Diaper Rash) 12/18/1992 (57 FR 60426)
NPRM (Amendment)(Warning) 08/29/1997 (62 FR 45767)
Final Action 12/00/2001

Fever Blister Products (Internal)
ANPRM 01/05/1982 (47 FR 502)
NPRM 06/17/1985 (50 FR 25156)
Final Action 06/30/1992 (57 FR 29166)

First Aid Antiseptic
ANPRM 09/13/1974 (39 FR 33103)
NPRM 01/06/1978 (43 FR 1210)
NPRM (Revised) 07/22/1991 (56 FR 33644)
Final Action 12/00/2000

Fvr Blister/Cold Sore Prdts (Ext.) (To be merged w/other rulemkg)
ANPRM 09/07/1982 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/07/1980 (45 FR 73955)
NPRM 01/15/1985 (50 FR 2190)
Final Action 07/07/1989 (54 FR 28772)

Healthcare Antiseptic Products
ANPRM 09/13/1974 (39 FR 33103)
NPRM 01/06/1978 (43 FR 1210)
NPRM (Revised) 06/17/1994 (59 FR 31402)

Hormone (Topical) Products
ANPRM 01/05/1982 (47 FR 430)
NPRM 10/02/1989 (54 FR 40618)
Final Action 09/09/1993 (58 FR 57608)

Hypo/Hyperphosphatemia Products
ANPRM 12/09/1980 (45 FR 81154)
NPRM 01/15/1985 (50 FR 2160)
Final Action 05/11/1990 (55 FR 19852)

Ingrown Toenail Relief Products
ANPRM 10/17/1980 (45 FR 69128)
NPRM 09/03/1982 (47 FR 39120)
Final Action 09/09/1993 (58 FR 47602)

Insect Bite & Sting (Relief) Prdts (Merged w/other rulemkg)
ANPRM 09/07/1982 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/1982 (47 FR 424)
NPRM 06/10/1983 (48 FR 26986)
Final Action 06/17/1985 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/1977 (42 FR 35346)
NPRM 11/16/1988 (53 FR 46204)
NPRM (Amendment) (Overindulgence) 12/24/1991 (56 FR 66762)
NPRM (Amendment)(Sodium Bicarbonate) 02/02/1994 (59 FR 5068)
NPRM (Prof. Labeling)(Acute MI) 06/13/1996 (61 FR 30002)
NPRM (Amendment)(Alcohol Warning) 11/14/1997 (62 FR 61041)
Final Action (Alcohol Warning) 10/23/1998 (63 FR 56789)
Final Action (Aspirin Prof Label) 10/23/1998 (63 FR 56802)
Final Action (Sodium Bicarbonate) 03/00/2000
Final Action (Amendment)(Overindulgence) 12/00/2001

Internal Deodorant Products
ANPRM 01/05/1982 (47 FR 512)
NPRM 06/17/1985 (50 FR 25162)
Final Action 05/11/1990 (55 FR 19862)

Labeling of Drug Products for OTC Human Use
NPRM (Sodium Labeling) 04/25/1991 (56 FR 19222)
NPRM 04/05/1993 (58 FR 17553)
Final Action 01/28/1994 (59 FR 3998)
NPRM (Do not mix drugs) 08/03/1994 (59 FR 39499)
NPRM (Amendment) (Do not mix drugs) 10/04/1995 (60 FR 52058)
NPRM (Unless a doctor tells you) 03/04/1996 (61 FR 8450)
Final Action (Sodium Labeling) 04/22/1996 (61 FR 17798)
NPRM (Calcium/Magnesium/Potassium) 04/22/1996 (61 FR 17807)
Withdrawal (Unless a doctor tells you) 02/27/1997 (62 FR 9024)
Final Action (Format/Examples) 03/17/1999 (64 FR 13254)
Final Action (Ca/Mg/K/Na) 01/00/2000

Laxative Products
ANPRM 03/21/1975 (40 FR 12902)
NPRM 01/15/1985 (50 FR 2124)
NPRM (Amendment) (Directions/Bulk) 10/01/1986 (51 FR 35136)
NPRM (Amendment) (Docusate Salts) 09/02/1993 (58 FR 46589)
NPRM (Amendment)(Sodium Phosphates) 03/31/1994 (59 FR 15139)
NPRM (Phenolphthalein) 09/02/1997 (62 FR 46223)
Final Action (Sodium Phosphates) 05/21/1998 (63 FR 27836)
NPRM (Amendment)(Phosphates Label) 05/21/1998 (63 FR 27886)
NPRM (Amendment)(Stim. Laxative) 06/19/1998 (63 FR 33592)
Final Action; stay (Na Phos. Enema) 12/07/1998 (63 FR 67399)
Part. With. (Na Phos. Prof. Lab.) 12/09/1998 (63 FR 67817)
Final Action (Phenolphthalein) 01/29/1999 (64 FR 4535)
Final Action 03/00/2000
Final Action (Stim. Laxative) 12/00/2003

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/1982 (47 FR 43562)
NPRM 11/08/1985 (50 FR 46588)
Final Action 08/22/1994 (59 FR 43234)

Male Genital Desensitizer Products
ANPRM 09/07/1982 (47 FR 39412)
NPRM 10/02/1985 (50 FR 40260)
Final Action 06/19/1992 (57 FR 27654)

Menstrual Products
ANPRM 12/07/1982 (47 FR 55075)
NPRM 11/16/1988 (53 FR 46194)
Final Action 12/00/2001

Mercurial (Topical) Products (To be merged w/other rulemkg)
ANPRM 01/05/1982 (47 FR 436)

NDA Labeling Exclusivity
NPRM 11/09/1993 (58 FR 59622)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/1980 (45 FR 69122)
NPRM 09/03/1982 (47 FR 39096)
Final Action 09/02/1993 (58 FR 46749)

Nighttime Sleep Aid Products
ANPRM 12/08/1975 (40 FR 57292)
NPRM 06/13/1978 (43 FR 25544)
Final Action 02/14/1989 (54 FR 6814)
NPRM (Amendment) 08/26/1993 (58 FR 45217)
Final Action (Amendment) 04/11/1994 (59 FR 16982)
NPRM (Amendment) (Warning) 08/29/1997 (62 FR 45767)
Final Action 06/00/2000

Ophthalmic Products
ANPRM 05/06/1980 (45 FR 30002)
NPRM 06/28/1983 (48 FR 29788)
Final Action 03/04/1988 (53 FR 7076)
Final Action (Anti-infective) 12/18/1992 (57 FR 60416)
NPRM (Amendment) (Warning) 02/23/1998 (63 FR 8888)
Final Action 01/00/2000

Oral Discomfort (Relief) Products
ANPRM 05/25/1982 (47 FR 22712)
NPRM 09/24/1991 (56 FR 48302)
Final Action 06/00/2002

Oral Health Care Products
ANPRM 05/25/1982 (47 FR 22760)
NPRM 01/27/1988 (53 FR 2436)
NPRM (Amendment) (Antimicrobials) 02/09/1994 (59 FR 6084)
ANPRM (Plaque/Gingivitis) 01/00/2000
NPRM 01/00/2001

Oral Wound Healing Products
ANPRM 11/02/1979 (44 FR 63270)
NPRM 07/26/1983 (48 FR 33984)
Final Action 07/18/1986 (51 FR 26112)

Otic Products (Dry Water-Clogged Ears)
NPRM (Amendment) 08/17/1999 (64 FR 44671)

Otic Products (Earwax)
NPRM 07/09/1982 (47 FR 30012)
Final Action 08/08/1986 (51 FR 28656)

Otic Products (Swimmers Ear)
NPRM 07/30/1986 (51 FR 27366)
Final Action 02/15/1995 (60 FR 8916)
Final Action Partial Stay 08/16/1995 (60 FR 42435)

Overindulgence Remedies
ANPRM 10/01/1982 (47 FR 43540)
NPRM 12/24/1991 (56 FR 66742)
Final Action 12/00/2001
Overindulgence Remedies/Prevention of Inebriation
ANPRM 10/01/1982 (47 FR 43540)
Final Action 07/19/1983 (48 FR 32872)
Pediculicide Products
ANPRM 06/29/1982 (47 FR 28312)
NPRM 04/03/1989 (54 FR 13480)
Final Action 12/14/1993 (58 FR 65452)
NPRM (Labeling Amendment) 12/00/1999
Phenylpropanolamine Products (Labeling)
NPRM 02/14/1996 (61 FR 3912)
Final Action 06/00/2000
Poison Ivy/Oak/Sumac Prevention (Merged w/other rulemkg)
ANPRM 09/07/1982 (47 FR 39412)
Poison Treatment Products
NPRM 01/15/1985 (50 FR 2244)
Final Action 06/00/2000
NPRM (Amendment) 12/00/2001
Quinine for Malaria
NPRM 04/19/1995 (60 FR 19650)
Final Action 03/20/1998 (63 FR 13526)
Salicylate (Reye Syndrome)
NPRM (Amendment)(Warning) 05/05/1993 (58 FR 26886)
ANPRM 10/20/1993 (58 FR 54228)
Final Action (Warning) 12/00/1999
Skin Bleaching Products
ANPRM 11/03/1978 (43 FR 51546)
NPRM 09/03/1982 (47 FR 39108)
NPRM (Reproposed) 01/00/2003
Skin Protectant Products
ANPRM 08/04/1978 (43 FR 34628)
NPRM 02/15/1983 (48 FR 6820)
NPRM (Amendment) (Astringent) 04/03/1989 (54 FR 13490)
NPRM (Amendment) (Poison Ivy) 10/03/1989 (54 FR 40808)
NPRM (Amendment) (Fvr Blister/Ext) 01/31/1990 (55 FR 3362)
NPRM (Amendment) (Diaper Rash) 06/20/1990 (55 FR 25204)
Final Action (Astringent) 10/21/1993 (58 FR 54466)
Final Action (Witch Hazel) 06/03/1994 (59 FR 28767)
Final Action (Poison Ivy) 12/00/1999
Final Action 12/00/1999
Smoking Deterrent Products
ANPRM 01/05/1982 (47 FR 490)
NPRM 07/03/1985 (50 FR 27552)
Final Action 06/01/1993 (58 FR 31236)
Status of Certain Category II and III Ingredients
NPRM 05/16/1990 (55 FR 20434)
Final Action 11/07/1990 (55 FR 46914)
NPRM 08/25/1992 (57 FR 38568)
Final Action 05/10/1993 (58 FR 27636)
Final Action 04/22/1998 (63 FR 19799)
Final Action 08/24/1998 (63 FR 44996)
Stimulant (Overindulgence) Products
NPRM (Amendment) 12/24/1991 (56 FR 66758)
Final Action 12/00/2001
Stimulant Products
ANPRM 12/08/1975 (40 FR 57292)
NPRM 06/13/1978 (43 FR 25544)
Final Action 02/29/1988 (53 FR 6100)
Stomach Acidifier Products
ANPRM 10/19/1979 (44 FR 60316)
NPRM 01/15/1985 (50 FR 2184)
Final Action 08/17/1988 (53 FR 31270)
Sunscreen Products
ANPRM 08/25/1978 (43 FR 38206)
NPRM 05/12/1993 (58 FR 28194)
NPRM (Amendment) 06/08/1994 (59 FR 29706)
NPRM (Amendment)(Avobenzone) 09/16/1996 (61 FR 48645)
Final Action (Avobenzone Enf. Pol.) 04/30/1997 (62 FR 23350)
Final Action 05/21/1999 (64 FR 27666)
Sweet Spirits of Nitre
ANPRM 02/22/1980 (45 FR 11846)
Final Action 06/27/1980 (45 FR 43400)
Topical Drug Products Containing Benzoyl Peroxide (Labeling)
NPRM 02/17/1995 (60 FR 9554)
Final Action 07/00/2001
Vaginal Contraceptive Products
ANPRM 12/12/1980 (45 FR 82014)
NPRM 02/03/1995 (60 FR 6892)
NPRM (Amendment) 03/00/2000
Vaginal Drug Products
ANPRM 10/13/1983 (48 FR 46694)
Withdrawal 02/03/1995 (60 FR 5226)
NPRM (Douches) 12/00/2001
Vitamin/Mineral Products
ANPRM 03/16/1979 (44 FR 16126)
Withdrawal 11/27/1981 (46 FR 57914)
Wart Remover Products
ANPRM 10/03/1980 (45 FR 65609)
NPRM 09/03/1982 (47 FR 39102)
NPRM (Amendment) 03/27/1987 (52 FR 9992)
Final Action 08/14/1990 (55 FR 33246)
NPRM (Amendment)(Directions) 01/28/1994 (59 FR 4015)
Final Action (Amdt.)(Directions) 11/23/1994 (59 FR 60315)
Water Soluble Gums
NPRM 10/30/1990 (55 FR 45782)
Final Action 08/26/1993 (58 FR 45194)
Weight Control Products
ANPRM 02/26/1982 (47 FR 8466)
NPRM 10/30/1990 (55 FR 45788)
Final Action 08/08/1991 (56 FR 37792)
NPRM (Amendment) 12/00/2000

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA06.

NOTE: Reinventing government applies only to the Antacid Drug Products final action.

Agency Contact: Rosemary Cook, Supervisor, Project Management Staff, Office of Drug Evaluation V, Department of Health and Human Services, Food and Drug Administration, HFD-105, Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2222

RIN: 0910–AA01

1114. HEARING AIDS; PROFESSIONAL AND PATIENT LABELING; CONDITIONS FOR SALE

Regulatory Plan: This entry is Seq. No. 28 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA39

1115. INVESTIGATIONAL NEW DRUGS: EXPORT REQUIREMENTS FOR UNAPPROVED NEW DRUG PRODUCTS

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 356; 21 USC 357; 21 USC 371; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 241; 42 USC 243; 42 USC 262

CFR Citation: 21 CFR 312.110

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on the exportation of unapproved new drug products, including biological products, for investigational use. In general, the proposed rule would provide four different routes for exporting an unapproved new drug product for investigational use. One route would permit exportation, if the drug is the subject of an investigational new drug application (IND) and is being exported for use in the investigation. A second route would permit exportation, without prior Food and Drug Administration (FDA) approval and without an IND, if the product is to be exported for use in a clinical investigation and has received marketing authorization in certain developed countries. The third route would permit exportation, without prior FDA approval and without an IND, if the product is to be exported for use in a clinical investigation in certain specified developed countries. The fourth route would permit exportation without an IND, to any country provided that the exporter sends a written certification to FDA at the time the drug is first exported. Drugs exported under any of the first three routes would, however, be subject to certain statutory requirements, such as not conflicting with the foreign country's laws and not being sold or

offered for sale in the United States. Drugs exported under either the second or third routes would be subject to additional statutory requirements, such as being in substantial conformity with the current good manufacturing practices and certain labeling requirements. These provisions would implement recent changes in FDA's export authority resulting from the FDA Export Reform and Enhancement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AA61

1116. ADVERSE DRUG REACTION REPORTING AND RECORDKEEPING REQUIREMENTS FOR MARKETED OTC DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379; 42 USC 216

CFR Citation: 21 CFR 201; 21 CFR 211; 21 CFR 327; 21 CFR 330

Legal Deadline: None

Abstract: The proposed rule would require manufacturers of marketed nonprescription human drug products to report to FDA information they receive about adverse drug reactions, maintain records of adverse drug reactions, and permit access by FDA to adverse drug reaction records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audrey Thomas, Policy Analyst, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3047 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AA86

1117. DIRECT-TO-CONSUMER PROMOTION REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 334; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360e to 360i; 21 USC 360k; 21 USC 361; 21 USC 362; 21 USC 371

CFR Citation: 21 CFR 200; 21 CFR 800

Legal Deadline: None

Abstract: The Food and Drug Administration will issue proposed regulations for direct-to-consumer promotion of human and animal prescription drugs, biologics, and restricted devices. The regulations will set forth the requirements for what information shall be contained in the consumer directed advertisements for these products and how the information shall be presented.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy M. Ostrove, Division of Drug Marketing, Advertising, and Communications, Department of Health and Human Services, Food and Drug Administration, HFD-40, Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-2828

RIN: 0910–AA90

1118. LABELING FOR HUMAN PRESCRIPTION DRUGS; REVISED FORMAT

Regulatory Plan: This entry is Seq. No. 29 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA94

1119. SUSPECTED ADVERSE DRUG REACTION REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 320; 21 CFR 600; 21 CFR 601

Legal Deadline: None

Abstract: The proposed rule would amend the expedited and periodic safety reporting regulations for human drugs and biological products to revise certain definitions and reporting formats as recommended by the International Conference on Harmonization and to define new terms; to add to or revise current reporting requirements; to revise certain reporting time frames; and to make other revisions to these regulations to enhance the quality of suspected adverse drug reaction reports received by FDA.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Audrey Thomas, Policy Analyst, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3047 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AA97

1120. USE OF OZONE-DEPLETING SUBSTANCES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 402; 15 USC 409; 21 USC 321; 21 USC 331; 21 USC 335; 21 USC 342; 21 USC 346a; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 2

Legal Deadline: None

Abstract: FDA is proposing to amend the regulation that permits the use of ozone-depleting substances in particular circumstances to set the standard FDA will use to determine when the use of ozone-depleting substances (ODS) is no longer essential under the Clean Air Act (CAA) and set a new standard to determine when a new essential-use designation should be granted after the effective date of the rule. FDA is also proposing to amend the regulations to better conform to other statutes and regulations relating to ozone-depleting substances to eliminate potential confusion and conflicts. FDA is proposing to eliminate out-of-date transitional provisions and make other nonsubstantive housekeeping changes to its regulations on ozone-depleting substances. The intended effect of the proposed rule is to protect the health and safety of medical product users while complying with the CAA and the Montreal Protocol.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/97	62 FR 10242
ANPRM Comment Period End	05/05/97	
NPRM	09/01/99	64 FR 47719
NPRM Comment Period End	11/30/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA99

1121. RADIOACTIVE DRUGS FOR BASIC RESEARCH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 361

Legal Deadline: None

Abstract: The proposed rule would update FDA's regulations on the use of radioactive drugs for basic research to reflect technological changes in the field of radiopharmaceuticals. The proposed rule would also clarify and correct certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AB00

1122. ADMINISTRATIVE PRACTICES AND PROCEDURES; ADVISORY OPINIONS AND GUIDELINES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 394; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 42 USC 201; 42 USC 262; 42 USC 263b; 42 USC 264

CFR Citation: 21 CFR 10; 21 CFR 808

Legal Deadline: NPRM, Statutory, July 1, 2000.

Abstract: This proposed rule would amend FDA regulations in 21 CFR part 10 concerning advisory opinions and guidelines.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB14

1123. REGISTRATION OF FOREIGN ESTABLISHMENTS AND PRODUCT LISTING

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 360b to 360c; 21 USC 360e; 21 USC 360i to 360j; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262

CFR Citation: 21 CFR 207; 21 CFR 607; 21 CFR 807

Legal Deadline: None

Abstract: The proposal would amend the establishment registration and product listing regulations for human drugs, biologics, animal drugs, and devices to require foreign establishments engaged in the manufacture, preparation, propagation, compounding, or processing of such products that are imported or offered for import into the United States to register and to register the name of a United States agent for the foreign establishment.

Timetable:

Action	Date	FR Cite
NPRM	05/14/99	64 FR 26330

Action	Date	FR Cite
NPRM Comment Period Reopen	08/09/99	
NPRM Comment Period End	10/08/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB21

1124. BLOOD INITIATIVE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263; 42 USC 263a; 42 USC 264; 42 USC 300aa-25

CFR Citation: 21 CFR 600; 21 CFR 601; 21 CFR 606; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660; 21 CFR 680

Legal Deadline: None

Abstract: In multiple rulemakings, the Food and Drug Administration is proposing to amend the biologics regulations by removing, revising, or updating specific regulations applicable to blood, blood components, and blood derivative products to be more consistent with current practices and to remove unnecessary or outdated requirements. This action is based on a comprehensive review of the regulations that has been performed by FDA. It is also based on reports by the U.S. House of Representatives Committee on Government Reform and Oversight, Subcommittee on House Resources and Intergovernmental Relations; the General Accounting Office; the Institute of Medicine; as well as public comments. Some of the subjects intended to be addressed in the rulemakings include: "Lookback" requirements for hepatitis C virus; notification of consignees and end users of product safety information for plasma derivative products; notification of deferred donors; requirements for donor suitability and testing and infectious agent clearance. These actions are intended to help ensure the continued safety of the nation's blood supply.

Timetable:

Albumin (Human), Plasma Protein Fraction (Human) and Immune Globulin (Human); Rev. of Reqs.
Direct Final Rule 05/14/1999 (64 FR 26282)
NPRM 05/14/1999 (64 FR 26344)

Gen. Reqs. for Blood, Blood Compon., and Plasma Derivatives; Notification of Deferred Donors
NPRM 08/19/1999 (64 FR 45355)
Final Action 10/00/2000

Infectious Agent Clearance
NPRM 04/00/2000

Plasma Derivatives and Other Blood-Derived Products; Reqs. for Tracking and Notification
ANPRM 08/19/1999 (64 FR 45383)
NPRM 10/00/2000

Reqs. for Testing Human Blood Donors for Evid. of Infection Due to Communicable Disease Agents
NPRM 08/19/1999 (64 FR 45340)
Final Action 10/00/2000

Rev. to the Requirements Applicable to Blood, Blood Components, and Source Plasma
Direct Final Rule 08/19/1999 (64 FR 45366)
NPRM 08/19/1999 (64 FR 45375)
Final Action 10/00/2000

Suitability Reqs. for Whole Blood and Source Plasma Donors
NPRM 04/00/2000

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: See RIN 0910-AB76.

Agency Contact: Steven F. Falter, Director, Regulations and Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210
Email: falter@a1.cber.fda.gov

RIN: 0910–AB26

1125. SUITABILITY DETERMINATION FOR DONORS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 210.1(c); 21 CFR 210.2(a); 21 CFR 210.2(b); 21 CFR 211.1(b); 21 CFR 820.1(a)(1); 21 CFR 820.1(c); 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration is proposing to require manufacturers of human cellular and tissue-based products to screen and test the donors of cells and tissues used in those products for evidence of or risk factors for relevant communicable disease. As part of this action, the agency is proposing to amend the current good manufacturing practice regulations that apply to human cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new donor suitability requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/30/99	64 FR 52696
NPRM Comment Period End	12/29/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB27

1126. CURRENT GOOD TISSUE PRACTICE FOR MANUFACTURERS OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing

HHS—FDA

Proposed Rule Stage

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 243; 42 USC 262; 42 USC 263a; 42 USC 264; 42 USC 271

CFR Citation: 21 CFR 1271

Legal Deadline: None

Abstract: As part of implementing the proposed regulatory approach to human cellular and tissue-based products, the Food and Drug Administration (FDA) is proposing to require manufacturers of human cellular and tissue-based products to follow current good tissue practice (GTP), which includes proper handling, processing, and storage of human cellular and tissue-based products, recordkeeping, and the maintenance of a quality program. FDA is also proposing to amend the current good manufacturing practice regulations that apply to human cellular and tissue-based products regulated as drugs, medical devices, and/or biological products in order to incorporate the new GTP requirements into existing good manufacturing practice regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB28

1127. ANTIBIOTIC DRUG APPROVAL AND EXCLUSIVITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 105-115, sec 125

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would implement the incorporation of antibiotics, which were formerly regulated under authority of section 507 of the Federal Food, Drug, and Cosmetic Act, into the new drug regulatory scheme under section 505 of the Act. The regulation will describe which antibiotics are excepted under section 125(d) of the Food and Drug Administration Modernization Act of 1997 from certain provisions in section 505, including the exclusivity provisions under sections 505(c) and 505(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3057 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB33

1128. APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG, COMPLETE RESPONSE LETTER; AMENDMENTS TO UNAPPROVED APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 312; 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would amend the regulations on marketing approval of new drugs to discontinue the use of approvable and not approvable letters when taking action on a marketing application and instead use complete response letters. The proposed rule would also amend the regulations on extension of the review clock because of amendments to applications.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AB34

1129. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360bbb

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The proposed rule would revise the investigational new drug regulations to clarify the conditions under which individual patients may receive investigational drugs for treatment use; to clarify the conditions under which a small group of patients may receive investigational drugs for treatment use under an expanded access protocol; and to clarify the criteria under which sponsors can recover costs for providing investigational drugs to patients for certain treatment uses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of

Health and Human Services, Food and Drug Administration, (HFD-40), Center for Drug Evaluation and Research, 1451 Rockville Pike, Suite 6021, Rockville, MD 20852
Phone: 301 594-6758
Fax: 301 594-5298

RIN: 0910–AB37

1130. AMENDMENT OF REGULATIONS REGARDING CERTAIN LABEL STATEMENTS ON PRESCRIPTION DRUGS

Priority: Other Significant

Legal Authority: PL 105-115, sec 126

CFR Citation: 21 CFR 201; 21 CFR 290; 21 CFR 250; 21 CFR 310; 21 CFR 329; 21 CFR 361; 21 CFR 369

Legal Deadline: None

Abstract: This proposed rule would revise 21 CFR parts 201, 250, 310, and 361 by removing the requirement that prescription drugs be labeled "Caution: Federal law prohibits the dispensing without prescription" and substituting a requirement that prescription drugs be labeled "Rx only". The rule would also revise 21 CFR parts 201, 329, and 369 by removing the requirement that certain habit-forming narcotics or hypnotics bear the statement "Warning—May be habit forming." The rule would also revise 21 CFR part 290 to clarify that drugs that are controlled substances under the Federal Controlled Substances Act are prescription drugs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB39

1131. ELECTRONIC SUBMISSION OF ADVERSE DRUG REACTION REPORTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 216; 21 USC 262; 21 USC 263; 21 USC 263a; 21 USC 264; 21 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 251 to 353; 21 USC 355; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 20; 21 CFR 310; 21 CFR 312; 21 CFR 314; 21 CFR 600

Legal Deadline: None

Abstract: The proposed rule would set forth requirements on the electronic submission of adverse drug reaction reports using international medical terminology, electronic data format, and electronic transmission standards.

Timetable:

Action	Date	FR Cite
ANPRM	11/05/98	63 FR 59746
ANPRM Comment Period End	02/03/99	
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB42

1132. DISTINGUISHING MARKS FOR DRUG PRODUCTS CONTAINING INSULIN

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would set forth a new system of distinctive colors and marks to identify different types of insulin-containing drug products.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB43

1133. PREGNANCY LABELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The proposed rule would revise the regulatory requirements for the pregnancy labeling subsection of the labeling requirements for human drugs and biologics.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AB44

HHS—FDA

Proposed Rule Stage

1134. SUPPLEMENTAL MANUFACTURING CHANGES FOR NEW ANIMAL DRUGS

Priority: Other Significant

Legal Authority: 21 USC 356a

CFR Citation: 21 CFR 514.8

Legal Deadline: None

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 added a new section to the Federal Food, Drug, and Cosmetic Act that sets forth categories for the reporting of manufacturing changes to a drug product. These categories are based on the potential of the change to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of the drug. The rulemaking will propose the procedures for determining what information the agency would require before drugs manufactured subject to these changes may be distributed. The Center for Veterinary Medicine is proposing to amend the regulations regarding supplementary new animal drug regulations to incorporate the requirements of section 116.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Marnane, Department of Health and Human Services, Food and Drug Administration, HFV-140, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6966

RIN: 0910–AB49

1135. PHARMACY AND PHYSICIAN COMPOUNDING OF DRUG PRODUCTS

Regulatory Plan: This entry is Seq. No. 30 in Part II of this issue of the **Federal Register**.

RIN: 0910–AB58

1136. DRUG PRODUCTS THAT PRESENT DEMONSTRABLE DIFFICULTIES FOR COMPOUNDING BECAUSE OF REASONS OF SAFETY OR EFFECTIVENESS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding, and exempts compounded drug products, under certain circumstances, from several key provisions of the Food, Drug, and Cosmetic Act. Section 503A(b)(3)(A) directs FDA to issue by regulation a list of drug products that, if compounded, will not qualify for these exemptions because their compounding would be demonstrably difficult in terms of assuring the safety or effectiveness of the compounded product.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AB59

1137. DISCONTINUATION OF A LIFE-SAVING PRODUCT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 131

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 131 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506C to the Food, Drug, and Cosmetic Act (21 USC 356c). This proposed rule would set forth requirements on issues related to the implementation of section 131, which requires that the sole manufacturer of certain drug products notify the Secretary of the discontinuance of the manufacture of the product at least six months prior to the discontinuance of the drug.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB60

1138. PEDIATRIC EXCLUSIVITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 111

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: Section 111 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 505A to the Food, Drug, and Cosmetic Act (21 USC 355A). Section 505A permits certain applications to obtain an additional six months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits information relating to the use of the drug in the pediatric population. The proposed regulations would implement the pediatric exclusivity provisions of section 111. FDA is proposing to amend 21 CFR part 314 to add pediatric exclusivity to FDA's new drug product exclusivity regulations. FDA is also proposing to add new regulations describing the requirements an applicant must fulfill

in order to qualify for pediatric exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB62

1139. POSITRON EMISSION TOMOGRAPHY DRUGS; CURRENT GOOD MANUFACTURING PRACTICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 121

CFR Citation: 21 CFR 220

Legal Deadline: Final, Statutory, November 21, 1999.

Abstract: Section 121 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) directs FDA to establish requirements for current good manufacturing practices (CGMPs) for positron emission tomography (PET) drugs, a type of radiopharmaceutical. The proposed rule would adopt CGMPs that reflect the unique characteristics of PET drugs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AB63

1140. FOOD LABELING: TRANS FATTY ACIDS IN NUTRITION LABELING AND NUTRIENT CONTENT CLAIMS

Priority: Economically Significant

Legal Authority: 21 USC 321; 21 USC 343; 21 USC 371

CFR Citation: 21 CFR 101

Legal Deadline: None

Abstract: Section 403(q) of the Federal Food, Drug, and Cosmetic Act, which was added by the Nutrition Labeling and Education Act of 1990, requires that the label or labeling of food products bear nutrition information. Among other things, section 403(q) authorizes the Food and Drug Administration (FDA) to add or delete nutrients that are to be declared on the labels or labeling of food products by regulation if it finds such action necessary to assist consumers in maintaining healthy dietary practices. In response to this section, FDA published a proposal on November 27, 1991 (56 FR 60366). Among other things, FDA discussed including trans fatty acids among the nutrients that could voluntarily be listed on the nutrition label but concluded that there was no basis for doing so. On January 6, 1993, FDA issued a final rule entitled "Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label" (58 FR 2079) prescribing how nutrition labeling is to be provided on the food. Based on its review of the comments to the proposal, the agency stated that it was premature to consider the listing of trans fatty acids on the nutrition label because of a lack of consensus on the dietary implications of trans fatty acids intake. However, the agency acknowledged that it might be necessary to readdress the labeling of trans fatty acids in the future. FDA subsequently received a citizen petition requesting that FDA amend the definition of saturated fatty acid in section 101.9(c)(2)(i) to include trans fatty acid. In response to this petition and based on new evidence, FDA is proposing to amend its regulations to provide for the declaration of trans fatty acids in nutrition labeling, to add a requirement that permits foods to bear nutrient content claims for saturated fat (i.e., saturated fatty acids) and cholesterol only if they contain trans fatty acids below a specified level, and to define a "trans fatty acids free" nutrient content claim.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Susan Thompson, Chemist, Department of Health and Human Services, Food and Drug Administration, HFS-165, Center for Food Safety and Applied, Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-5587
Email: snt@cfsan.fda.gov

RIN: 0910–AB66

1141. DESIGNATED JOURNALS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 510.95

Legal Deadline: None

Abstract: FDA intends to remove 21 CFR 510.95. The current rule lists the veterinary and scientific journals available in FDA's library and allows sponsors to reference an article from a listed journal in applications rather than submitting a copy of the article. FDA is taking this action because the list of journals is outdated and is no longer being used by sponsors except on an extremely limited basis. Also, the application of this rule is not an efficient use of agency resources.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Claire Lathers, Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AB67

1142. PRESUBMISSION CONFERENCES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514

Legal Deadline: None

Abstract: This rule will implement section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act (the act). This section of the act states that any person intending to file a new animal drug application or supplemental new animal drug application, or to investigate a new animal drug is entitled to one or more conferences with the agency prior to submission to reach an agreement establishing a submission or investigational requirement. This rule would describe how to request a presubmission conference and describe the procedures for the conduct of presubmission conferences.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Gail Schmerfeld, Special Assistant, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-0205

RIN: 0910–AB68

1143. CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 225

Legal Deadline: None

Abstract: Proposal is in response to a citizen petition request to merge the separate requirements of the current good manufacturing practice (CGMP) regulations, 21 CFR part 225 applicable to licensed and unlicensed feed manufacturing facilities, respectively. The merger would produce a single set of updated, streamlined CGMPs that apply to all medicated feed manufacturers. This consolidation of existing CGMPs would preserve and strengthen food safety, be more appropriate given the changing structure of the medicated feed industry, and enhance uniformity and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: George Graber, Director, Division of Animal Feeds, Department of Health and Human Services, Food and Drug Administration, HFV-220, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6651
Email: ggraber@cvm.fda.gov

RIN: 0910–AB70

1144. CITIZEN PETITIONS; ACTIONS THAT CAN BE REQUESTED BY PETITION; SUMMARY DENIAL; AND REFERRAL FOR OTHER ADMINISTRATIVE ACTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 551 to 558; 5 USC 701 to 706; 15 USC 1451 to 1461; 21 USC 41 to 50; 21 USC 141 to 149; 21 USC 321 to 393; 21 USC 467f; 21 USC 679; 21 USC 821; 21 USC 1034; 28 USC 2112; 42 USC 201; 42 USC 262; 42 USC 263b to 263n; 42 USC 264

CFR Citation: 21 CFR 10

Legal Deadline: None

Abstract: The proposed rule would amend the agency's regulations pertaining to citizen petitions by specifying the types of actions that could be requested through a petition. The proposal would also revise the content requirements for citizen petitions and would establish a mechanism for receiving and filing citizen petitions. These changes are intended to improve the citizen petition mechanism by focusing FDA's resources on important public health issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB73

1145. CGMPS FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES AND TRANSFUSION RECIPIENTS RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK OF TRANSMITTING HCV INFECTION

Regulatory Plan: This entry is Seq. No. 31 in Part II of this issue of the **Federal Register**.

RIN: 0910–AB76

1146. ANTIBIOTIC RESISTANCE LABELING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; ...

CFR Citation: 21 CFR 201.57

Legal Deadline: None

Abstract: The proposed rule would require the inclusion of statements on antibiotic prescription drug labeling concerning inappropriate antibiotic use and the prevalence of drug resistant microorganisms.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB78

1147. FIXED-COMBINATION PRESCRIPTION AND OVER-THE-COUNTER DRUGS FOR HUMAN USE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 361; 21 USC 371

CFR Citation: 21 CFR 300.50; 21 CFR 330.10

Legal Deadline: None

Abstract: The proposed rule would amend 21 CFR 300.50 and 21 CFR 330.10(a)(4)(iv), which state the conditions under which two or more drugs (for a prescription drug) or active ingredients (for an over-the-counter drug) may be combined in a single dosage form. The proposed rule would state how this provision will apply to products derived from natural sources, including animal and botanical raw materials.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Brian L. Pendleton, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AB79

1148. REPACKAGING APPROVAL REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would set forth requirements for FDA prior approval of certain types of repackaging of approved drug products by persons who are not holders of approved applications for the products. The proposed rule would ensure that FDA approves changes to drug product containers and closure systems by both application holders and repackagers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB81

1149. STABILITY TESTING OF DRUGS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would specify required stability data that must be submitted with new drug applications.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB82

1150. POSTMARKETING STUDIES FOR HUMAN DRUGS AND LICENSED BIOLOGICAL PRODUCTS: STATUS REPORTS

Priority: Other Significant

Legal Authority: PL 105-115

CFR Citation: 21 CFR 314.81; 21 CFR 601.70

Legal Deadline: Other, Statutory, October 1, 2001, Section 130(b) requires the FDA to report by 10/01/01 to the House and Senate committees summarizing submitted postmarketing study reports evaluating sponsor performance and the timeliness of FDA review.

Abstract: Section 130(a) of the Food and Drug Administration Modernization Act of 1997 adds a new section 506B to the Federal Food, Drug, and Cosmetic Act requiring a drug sponsor that has agreed to conduct a postmarketing study to submit within one year after the drug's approval and annually thereafter until the study's conclusion, a progress report, or an explanation of why the sponsor has not conducted the study. Any information pertaining to postmarketing study reports will be considered public to identify the sponsor or explain the status of the study, including why it has not been carried out. FDA is required to publish annually in the Federal Register a report concerning the status of postmarketing studies that sponsors have agreements to conduct.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB83

1151. AMENDMENT OF VARIOUS FOOD ADDITIVE AND DEVICE REGULATIONS TO REFLECT CURRENT AMERICAN SOCIETY FOR TESTING AND MATERIALS CITATIONS

Priority: Routine and Frequent

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 346; 21 USC 348; 21 USC 351; 21 USC 352; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 373; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 172.210; 21 CFR 172.250; 21 CFR 172.615; 21 CFR 172.862; 21 CFR 172.864; 21 CFR 172.882; 21 CFR 173.25; 21 CFR 175.250; 21 CFR 175.270; 21 CFR 175.300; 21 CFR 176.170; 21 CFR 176.180; 21 CFR 177.1040; 21 CFR 177.1200; 21 CFR 177.1210; ...

Legal Deadline: None

Abstract: The proposed rule would amend various food additive and medical device regulations. The amendments would update the references in those regulations to various standards of the American Society for Testing and Materials (ASTM) to reflect the current standards designations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB84

1152. • CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING DIETARY SUPPLEMENTS

Regulatory Plan: This entry is Seq. No. 32 in Part II of this issue of the **Federal Register**.

RIN: 0910–AB88

1153. • CURRENT GOOD MANUFACTURING FOR BLOOD AND BLOOD COMPONENTS; BLOOD LABELING STANDARDS; DIRECT FINAL RULE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360j; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262; 42 USC 263a; 42 USC 264; 21 USC 355; 42 USC 216; 42 USC 262; 42 USC 263a; 42 USC 264

CFR Citation: 21 CFR 606.121; 21 CFR 606.122

Legal Deadline: None

Abstract: The direct final rule and companion proposed rule would amend the regulations governing labeling for human biologic products under 21 CFR 606.121 and 606.122. The rule or revised regulations would eliminate reference to an outdated guidance document on uniform labeling. The rule would also provide for updating the labeling requirements regarding testing and results for communicable disease agents. The regulations currently require that certain information, e.g., product name, donor classification statement, etc., be printed on the label in solid red. The rule would provide the alternative for printing this information in solid red or solid black. This alternative will make it unnecessary for manufacturers to seek an alternative exception under 21 CFR 640.120.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Direct Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gloria Hicks, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-630), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 594-3074

RIN: 0910–AB89

1154. • SUBMISSION IN ELECTRONIC FORMAT OF CERTAIN LABELING INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 350; 21 USC 351; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e; ...

CFR Citation: 21 CFR 314.50; 21 CFR 314.81; 21 CFR 314.94

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing to amend its regulations governing the format in which certain required labeling information in new drug applications, abbreviated new drug applications, supplements, and annual reports is required to be submitted. The proposal would require that the labeling information described under 201.56 and 201.57 be submitted to FDA in electronic format as a portable document format file.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB91

1155. • FEES RELATING TO DRUGS; WAIVER AND REDUCTION OF FEES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 379g; 21 USC 379h

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. sections 379g and 379h) require FDA to assess and collect fees related to human drug applications. Section 736(d) of the act (21 U.S.C. 379h(d) authorizes the agency to grant a waiver or reduction of such fees in certain circumstances. This proposed rule would establish FDA's criteria for determining whether to grant a waiver or reduction of fees.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB92

1156. • SKIP LOT TESTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360(b); 21 USC 371; 21 USC 374; ...

CFR Citation: 21 CFR 211.165

Legal Deadline: None

Abstract: The proposed rule requests comments on when certain tests used to determine satisfactory conformance to final specifications of a batch of drug product may be performed on a periodic basis.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB93

1157. • FOOD ADDITIVES: FOOD CONTACT SUBSTANCES NOTIFICATION SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 550 and 552; 21 USC 321-393, 1401-1403; 18 USC 1905; 17 USC 2531-2582; 5 USC 552; 40 CFR 1500-1508; 42 USC 241,242,242a, 242i, 242n, 243, 262, 263, 263b-264a, 265, 4321, 4332, 216; EO 11524, 3 CFR 1971 Comp. 0531-533 as amended by EO 11991; 42 FR 26967; 42 USC 300a-300e, 300aa-1; ...

CFR Citation: 21 CFR 25.20; 21 CFR 25.32; 21 CFR 20.100; 21 CFR 58.3; 21 CFR 170.3; 21 CFR 170.100; 21 CFR 170.101; 21 CFR 170.102; 21 CFR 170.103; 21 CFR 170.104; 21 CFR 170.105; 21 CFR 171.1; 21 CFR 171.4; 21 CFR 174.5; 21 CFR 179.25; 21 CFR 170.106; ...

Legal Deadline: None

Abstract: In November of 1997 the U.S. Congress amended the Federal Food, Drug, and Cosmetic Act (FFD&C) to establish a notification process whereby manufactures and suppliers of components of food contact materials may notify FDA 120 days prior to marketing a new food contact substance. If FDA does not object to the notification within 120 days, the substance may be marketed with the same status as a regulated food additive. FDA is authorized to publish regulations outlining the information required to be submitted in premarket notifications for food-contact substances, submitted to the agency. FDA is also authorized to publish regulations that identify when a food additive petition in lieu of a premarket notification is required. FDA is not required to accept a premarket notification in any fiscal year for which an appropriation is not specifically made for this program. FDA expects that the majority of food-contact substances that are currently the subject of food additive petitions will be the subject of premarket notifications once the process is in place. FDA also expects that substances currently reviewed under the agency's threshold of regulation process will be reviewed as premarket notifications under the new process. Unlike food additive regulations, premarket notifications will be specific to the notifier. The proposed use of a similar or identical substance produced by another manufacturer will require a separate premarket notification submission. Also unlike food additive petitions, the existence of the notification and any otherwise releasable data within the notification is not publicly available until the 120-day period has expired. FDA expects to keep a publicly available list of effective premarket notifications to assist manufacturers, distributors, and users of food packaging and other food-contact materials. FDA also expects to publish a proposed rule on the notification process for food contact substances by early FY 2000. FDA will provide a period for comments on the proposed rule and will need to address any comments in a final rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mitchell Alan Cheeseman, Team Leader, Department of Health and Human Services, Food and Drug Administration, HFS-215, Center for Food Safety and Applied Nutrition, 200 C Street, S.W., Washington, DC 20204
Phone: 202 418-3083
Fax: 202 418-3131
Email: mcheesem@Bangate.FDA.GOV

RIN: 0910–AB94

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Final Rule Stage

1158. NEW ANIMAL DRUG APPROVAL PROCESS; IMPLEMENTATION OF TITLE I OF THE GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT (GADPTRA)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 360b; 21 USC 371; 21 USC 379e; 21 USC 381

CFR Citation: 21 CFR 514

Legal Deadline: Final, Statutory, November 16, 1989, The deadline applies to the GADPTRA sections. There is no deadline relating to the other sections.

Abstract: On December 17, 1991, the Agency published a proposed revision of the existing regulations that is consistent with the current procedural regulations for human drugs, where appropriate. The New Animal Drug Application (NADA) revisions articulate general requirements in regulations containing performance standards and would complement these regulations through detailed guidances on, among other matters, appropriate ways of meeting requirements for submission of chemistry, pharmacology, and statistical data that would better address the intricate scientific issues involved. A separate proposed rule for reporting requirements for marketed animal drugs also was published on that date. The agency intends to repropose the NADA proposed rule to incorporate some recent changes in procedure. The NADA revisions are expected to include regulations to implement the provisions of the Animal Drug Availability Act of 1996, specifically the definition of flexible labeling, and implement parts of the President's National Performance Report "Reinventing the Regulation of Animal Drugs," May 1996. In the reinventing regulations report, FDA proposed to revise its regulations to reflect numerous new process changes and programs that will maintain safety and effectiveness of new animal drugs and enable a more streamlined animal drug application review and approval process which will result in less regulatory burden upon industry and FDA. The Agency also proposes to amend its regulations to implement title I of the Generic Animal Drug and Patent Term Restoration Act, which established new standards for marketing approval of generic copies of animal drugs approved after 1962.

Timetable:

Action	Date	FR Cite
ANPRM	11/21/96	61 FR 59209
ANPRM Comment Period End	01/21/97	
New Animal Drug Approval Process		
NPRM 12/17/1991 (56 FR 65544)		
NPRM 00/00/0000		
Reporting Requirements for Marketed Animal Drugs		
NPRM 12/17/1991 (56 FR 65581)		
Final Action 12/00/1999		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AA96.

For information concerning reporting requirements for marketed animal drugs, contact William C. Keller, Director, Division of Epidemiology and Surveillance, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301 827-6642. For further information concerning generic animal drugs, contact Lonnie W. Luther, Chief, Quality Assurance Support Team, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, 301 827-0209.

Agency Contact: Claire Lathers, Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AA02

1159. PRESCRIPTION DRUG MARKETING ACT OF 1987; POLICY INFORMATION, GUIDANCE, AND CLARIFICATIONS

Priority: Other Significant

Legal Authority: PL 100-293, Prescription Drug Marketing Act of 1987

CFR Citation: 21 CFR 203

Legal Deadline: None

Abstract: The Prescription Drug Marketing Act of 1987 (PDMA) amended the Federal Food, Drug, and Cosmetic Act to: (1) require State licensing of wholesale distributors of prescription human drugs under Federal guidelines including minimum standards for storage, handling, and recordkeeping; (2) ban the reimportation of prescription human drugs produced in the United States, except when reimported by the manufacturer or for emergency use; (3) ban the sale, trade, or purchase of drug samples; (4) ban trafficking in or counterfeiting of drug coupons; (5) mandate storage, handling, and recordkeeping requirements for drug samples; (6) require licensed practitioners to request drug samples in writing; (7) prohibit, with certain exceptions, the resale of prescription human drugs purchased by hospitals or health care facilities; and (8) set forth criminal and civil penalties for violations of these provisions. In the Federal Register of September 14, 1990 (55 FR 38012), FDA issued a final rule setting forth Federal guidelines for State licensing of wholesale drug distributors. This final rule would provide information, guidance, and clarification of those sections of PDMA that are not related to State licensing of wholesale distributors.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11842
NPRM Comment Period End	08/01/94	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal, State

Additional Information: Previously reported under RIN 0905-AD44.

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

Fax: 301 827-5562

RIN: 0910–AA08

1160. BIOLOGICAL PRODUCT: POST-MARKETING SURVEILLANCE REPORTS OF INFORMATION AFFECTING BIOLOGICAL PRODUCT SAFETY AND QUALITY

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360i; 21 USC 360j; 21 USC 371; 21 USC 374; 42 USC 216; 42 USC 262 to 264; 42 USC 300aa-25

CFR Citation: 21 CFR 600; 21 CFR 606

Legal Deadline: None

Abstract: FDA is amending the regulations that require licensed manufacturers of biological products to report errors and accidents in manufacturing that may affect the safety, purity, or potency of a product. FDA defines terms used; establishes a reporting period for all licensed biological products; and amends the current good manufacturing practice (CGMP) regulations for blood and blood components to require error and accident reporting by unlicensed registered blood establishments and transfusion services currently reporting on a voluntary basis. The reporting requirements will expedite reporting of errors and accidents in manufacturing of biological products; provide FDA with a more accurate surveillance of the Nation's blood supply enabling FDA to monitor actions taken in response to the errors and accidents detected for all establishments involved in the manufacture of blood and blood components; and facilitate a rapid response where public health may be at risk. The cost to licensed establishments would be minimal, since they already are required to report. Unlicensed establishments would only have to make some changes in standard operating procedures. Unlicensed establishments are already required to keep records and conduct investigations. Under the final rule they would have to establish reporting procedures and report to FDA. The transfusion services would have to assure that their recordkeeping and investigation procedures are sufficient, and establish reporting procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49642
NPRM Comment Period End	12/22/97	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD67.

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AA12

1161. FRUIT AND VEGETABLE JUICES: DEVELOPMENT OF HACCP AND LABEL WARNING STATEMENTS FOR JUICES

Regulatory Plan: This entry is Seq. No. 33 in Part II of this issue of the **Federal Register**.

RIN: 0910–AA43

1162. CURRENT GOOD MANUFACTURING PRACTICE; AMENDMENT OF CERTAIN REQUIREMENTS FOR FINISHED PHARMACEUTICALS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 351 to 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210.3; 21 CFR 211.22; 21 CFR 211.68; 21 CFR 211.82; 21 CFR 211.84; 21 CFR 211.101; 21 CFR 211.103; 21 CFR 211.110; 21 CFR 211.111; 21 CFR 211.113; 21 CFR 211.115; 21 CFR 211.160; 21 CFR 211.166; 21 CFR 211.192; 21 CFR 211.220; ...

Legal Deadline: None

Abstract: FDA is finalizing revisions to the current good manufacturing practice (CGMP) regulations at 21 CFR parts 210 and 211 regarding finished pharmaceuticals. The new regulations codify current agency policies or current industry practices. Among other things, the rule will create or clarify requirements for process and methods validation, appropriate laboratory testing procedures, and protection against contamination. The rule is designed to update the CGMP regulations in response to technological changes and the agency's experience with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 20104
NPRM Comment Period End	09/30/96	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA45

1163. BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 371

CFR Citation: 21 CFR 320

Legal Deadline: None

Abstract: The final rule revises and clarifies certain sections of part 320 and eliminates duplication and inconsistencies.

Timetable:

Action	Date	FR Cite
NPRM	11/19/98	63 FR 64222
NPRM Comment Period End	02/02/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

HHS—FDA

Final Rule Stage

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA51

1164. DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 355; 21 USC 371; 21 USC 823; 42 USC 241; 42 USC 257a; 42 USC 290; 42 USC 300

CFR Citation: 21 CFR 291

Legal Deadline: None

Abstract: The final rule will revise the regulations under part 291 and title 42 to provide for the certification of narcotic treatment programs as a basis for fulfilling the Department's requirements of the Narcotic Addict Treatment Act of 1974. Certification will be based on accreditation by non-profit accrediting bodies. This new system will replace the current system which relies solely on direct FDA approval and inspection for determining whether narcotic treatment programs comply with Federal treatment standards. The final rule will provide for a transition period for programs operating under the existing regulatory system.

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39810
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ellsworth Dory, Associate Director for International and Domestic Drug Control, Department of Health and Human Services, Food and Drug Administration, HFY-342, Center for Drug Evaluation and Research, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-7264

RIN: 0910–AA52

1165. ALUMINUM IN LARGE AND SMALL VOLUME PARENTERALS USED IN TOTAL PARENTERAL NUTRITION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 360b; 21 USC 360gg-360ss; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

CFR Citation: 21 CFR 201.323

Legal Deadline: None

Abstract: The rule will establish a maximum level of aluminum permitted in large volume parenterals and require that this maximum level be stated on the immediate container label of all large volume parenterals; require that the maximum aluminum content present at the time of release be stated on the immediate container label of small volume parenterals and pharmacy bulk packages; require that the package insert of all parenterals include a warning statement on the effects of aluminum toxicity in patients with impaired kidneys receiving total parenteral nutrition therapy; and require manufacturers to develop validated assay methods for determining the aluminum content.

Timetable:

Action	Date	FR Cite
NPRM	01/05/98	63 FR 176
NPRM Comment Period End	04/06/98	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA74

1166. NEW DRUG APPLICATIONS; DRUG MASTER FILE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The final rule eliminates Type I Drug Master Files, which contain information about manufacturing sites, facilities, operating procedures, and personnel, because these files contain outdated information, duplicate information contained in marketing applications, and are not used by application review divisions or field inspectors.

Timetable:

Action	Date	FR Cite
NPRM	07/03/95	60 FR 34486
NPRM Comment Period End	10/02/95	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee D. Korb, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA78

1167. INVESTIGATIONAL NEW DRUG APPLICATIONS; CLINICAL HOLDS FOR DRUGS FOR LIFE-THREATENING ILLNESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 42 USC 262

HHS—FDA

Final Rule Stage

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: The final rule amends the provisions governing investigational new drug applications to permit FDA to place a clinical hold on one or more studies under an IND involving a drug that is intended to treat a life-threatening disease affecting both genders if men or women with reproductive potential who have the disease are excluded from eligibility in any phase of the investigation because of a risk or potential risk of reproductive or developmental toxicity from use of the investigational drug.

Timetable:

Action	Date	FR Cite
NPRM	09/24/97	62 FR 49946
NPRM Comment Period End	12/23/97	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea C. Masciale, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA84

1168. STERILITY REQUIREMENTS FOR AQUEOUS-BASED DRUG PRODUCTS FOR ORAL INHALATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374 to 375

CFR Citation: 21 CFR 200

Legal Deadline: None

Abstract: The final rule requires that all aqueous-based drug products for oral inhalation be manufactured to be sterile. Based on reports of adverse drug experiences from contaminated nonsterile inhalation solution products and recalls of these products, FDA is taking this action to prevent future additional adverse health consequences.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49638
NPRM Comment Period End	12/22/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carol Drew, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA88

1169. INFORMED CONSENT FOR HUMAN DRUGS AND BIOLOGICS; DETERMINATION THAT INFORMED CONSENT IS NOT FEASIBLE

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 357; 21 USC 360; 21 USC 371; 21 USC 381; 42 USC 216; 42 USC 241; 42 USC 262

CFR Citation: 21 CFR 50; 21 CFR 314; 21 CFR 601

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing to revoke the interim final rule, published December 21, 1990, 55 FR 52814, which permitted the Commissioner to determine, based on a request by the Department of Defense, that obtaining informed consent from military personnel for the use of investigational products is not feasible in certain military combat situations. The rule was used to permit a waiver from the informed consent requirements for pyridostigmine bromide and the botulinum toxoid vaccine during the Gulf War. The agency is proposing this action after reviewing comments it received in response to a July 1997 Request for Comment as to whether the agency should revise or revoke the rule. At the same time, it will propose to amend its new drug and biological product regulations to identify the kind of evidence needed to demonstrate the efficacy of drug and biological products used to treat or prevent the toxicity of potentially devastating chemical or biological substances when efficacy studies in humans ethically cannot be conducted because they would involve administering a lethal or permanently disabling toxic substance to healthy human volunteers without a proven treatment.

Timetable:

Action	Date	FR Cite
NPRM	10/05/99	64 FR 53960
Interim Final Rule	10/05/99	64 FR 54180
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Bonnie M. Lee, Senior Policy Analyst, Office of the Executive Secretariat, Department of Health and Human Services, Food and Drug Administration, (HF-40), Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-4450

RIN: 0910–AA89

1170. CURRENT GOOD MANUFACTURING PRACTICE; REVISION OF CERTAIN LABELING CONTROLS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 210; 21 CFR 211

Legal Deadline: None

Abstract: The final rule amends the labeling control provisions in the current good manufacturing practice regulations to make the provisions less burdensome while still reducing the frequency of drug product mislabeling and associated drug product recalls associated with cut labeling.

Timetable:

Action	Date	FR Cite
NPRM	07/29/97	62 FR 40489
NPRM Comment Period End	10/27/97	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

HHS—FDA

Final Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA98

1171. VETERINARY FEED DIRECTIVES

Priority: Other Significant

Legal Authority: PL 104-250

CFR Citation: 21 CFR 510; 21 CFR 514; 21 CFR 558

Legal Deadline: None

Abstract: The Animal Drug Availability Act (ADAA) amended the Federal Food, Drug, and Cosmetic Act (the act) to create a new section 504, Veterinary Feed Directive Drugs (VFD drugs). VFD drugs are animal drugs intended for use in or on animal feed, which are limited by an approved application, filed pursuant to section 512(b) of the act, for use under the professional supervision of a licensed veterinarian in the course of the veterinarian's professional practice. This section requires, among other things, that the labeling, distribution and use of a VFD drug be consistent with its approval; that persons involved in the distribution and use of a VFD drug maintain copies of the VFD; and that persons distributing animal feed provide a one time notice upon first engaging in the distribution of VFD drugs. The final rule will provide guidance to the industry about how to comply with section 504 of the act and will serve as a basis for enforcement action.

Timetable:

Action	Date	FR Cite
NPRM	07/02/99	64 FR 35966
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: George Graber, Director, Division of Animal Feeds, Department of Health and Human Services, Food and Drug Administration, HFV-220, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6651
Email: ggraber@cvm.fda.gov

RIN: 0910–AB09

1172. NEW DRUGS FOR HUMAN USE; CLARIFICATION OF REQUIREMENTS FOR PATENT HOLDER NOTIFICATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: This final rule will clarify the methods by which application holders may provide notice to patent holders.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 11174
NPRM Comment Period End	06/04/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB12

1173. EXPORTS; REPORTING AND RECORDKEEPING REQUIREMENTS

Priority: Routine and Frequent

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216; 42 USC 241; 42 USC 243; 42 USC 262

CFR Citation: 21 CFR 1

Legal Deadline: None

Abstract: The final rule would establish the recordkeeping and notification requirements for persons exporting human drugs, animal drugs, biologics, and devices under the FDA Export Reform and Enhancement Act.

Timetable:

Action	Date	FR Cite
NPRM	04/02/99	64 FR 15944
Extension	06/17/99	64 FR 32442
NPRM Comment Period End	07/16/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB16

1174. MEDICATED FEED MILL LICENSES

Priority: Other Significant

Legal Authority: PL 104-250

CFR Citation: 21 CFR 5; 21 CFR 207; 21 CFR 225; 21 CFR 510; 21 CFR 514; 21 CFR 515; 21 CFR 558

Legal Deadline: None

Abstract: The Animal Drug Availability Act of 1996 (ADAA) amends sections 512(a) and 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) to require a single facility license for the manufacture of feeds containing approved new animal drugs, rather than multiple medicated feed applications (MFAs) for each feed mill, as previously required by the act. Prior to the passage of the ADAA, an approved medicated feed application was required by the act for the manufacture of medicated feed. The ADAA eliminates the requirement that a feed mill submit a separate medicated feed application for the manufacture of each type of medicated feed and instead provides for feed mills to be licensed and allows a licensed facility to manufacture any feed containing an approved new animal drug. Additionally, the act, as amended by the ADAA, provides the agency with the authority to exempt facilities that manufacture certain types of medicated

feed from the requirement of a medicated feed mill license. The Food and Drug Administration published on July 30, 1997, a proposed rule to amend the animal drug regulations and add a new part (21 CFR 515) to provide for feed mill licensing in accordance with the ADAA. The regulation implements the requirements for feed mill licensing set forth in the ADAA. Under this regulation, those medicated feeds exempted from the MFA requirement under 21 CFR 558.4 will also be exempt from the requirement of a medicated feed mill license.

Timetable:

Action	Date	FR Cite
NPRM	07/30/97	62 FR 40765
NPRM Comment Period End	10/28/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William D. Price, Special Assistant, Department of Health and Human Services, Food and Drug Administration, HFV-200, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6652
Fax: 301 594-4512

RIN: 0910–AB18

1175. PUBLIC INFORMATION; COMMUNICATIONS WITH STATE AND FOREIGN GOVERNMENT OFFICIALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 18 USC 1905; 19 USC 2531 to 2582; 21 USC 321 to 393; 21 USC 1401 to 1403; 42 USC 241; 42 USC 242; 42 USC 242a; 42 USC 242e; 42 USC 242l; 42 USC 242n; 42 USC 243; 42 USC 262; 42 USC 263; 42 USC 263b to 263n

CFR Citation: 21 CFR 20.88; 21 CFR 20.89

Legal Deadline: None

Abstract: The final rule would amend the regulations governing communications with State and foreign government officials. The rule would permit the Food and Drug Administration (FDA) to disclose confidential commercial information to international organizations having responsibility to facilitate global or regional harmonization of standards and requirements. These disclosures would, in almost all instances, occur only with the consent of the person providing the confidential commercial information to FDA. The rule would also eliminate the need for a written statement by a State or foreign government official establishing that government's ability to protect from public disclosure nonpublic, predecisional documents (such as draft rules and guidance documents) provided by FDA that do not include confidential commercial information. These changes are intended to facilitate information exchanges with State and foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	07/27/98	63 FR 40069
NPRM Comment Period End	10/13/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: 5 USC 552

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB22

1176. FDA EXPORT REFORM AND ENHANCEMENT ACT OF 1996; REPORTING AND RECORDKEEPING REQUIREMENTS FOR UNAPPROVED OR VIOLATIVE PRODUCTS IMPORTED FOR FURTHER PROCESSING OR INCORPORATION AND LATER EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 343; 21 USC 352; 21 USC 355; 21 USC 360b; 21 USC 362; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 382; 21 USC 393; 42 USC 216

CFR Citation: 21 CFR 1.84

Legal Deadline: None

Abstract: The rule would establish reporting and recordkeeping requirements to implement sections 801(d)(3) and 801(d)(4) of the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Food and Drug Administration (FDA) Export Reform and Enhancement Act of 1996. Section 801(d)(3) of the act provides that, under prescribed conditions, drug and device components, food and color additives, and dietary supplements may be imported if they are to be further processed or incorporated into products that are to be exported from the United States in accordance with sections 801(e) or 802 of the act or section 351(h) of the Public Health Service (PHS) Act. Section 801(d)(4) of the act provides that blood, blood components, source plasma, or source leukocytes, or a component, accessory, or part thereof, may not be imported under section 801(d)(3) of the act unless the importation complies with section 351(a) of the PHS Act or FDA permits the importation under FDA-determined appropriate circumstances and conditions. Additionally, section 801(d)(4) of the act prohibits the importation of tissue or a component or part of tissue under section 801(d)(3) of the act unless the importation complies with section 361 of the PHS Act.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 64930
NPRM Comment Period End	02/08/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB24

1177. SHELL EGGS: WARNING, NOTICE AND SAFE HANDLING LABELING STATEMENTS AND REFRIGERATION REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 34 in Part II of this issue of the **Federal Register**.

RIN: 0910–AB30

HHS—FDA

Final Rule Stage

1178. PROGESTATIONAL DRUG PRODUCTS FOR HUMAN USE; REQUIREMENTS FOR LABELING DIRECTED TO THE PATIENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 360b to 360f; 21 USC 360j; 21 USC 361(a); 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e

CFR Citation: 21 CFR 310

Legal Deadline: None

Abstract: The final rule revokes 21 CFR 310.516, which requires that progestational drug products be dispensed with a patient package insert containing a discussion of the risks of birth defects resulting from the use of these drugs during the first four months of pregnancy. The Food and Drug Administration is revoking this labeling requirement because of changes in the currently available scientific information.

Timetable:

Action	Date	FR Cite
NPRM	04/13/99	64 FR 17985
NPRM Comment Period End	07/12/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christine Rogers, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB45

1179. REVISIONS TO THE GENERAL SAFETY REQUIREMENTS FOR BIOLOGICAL PRODUCTS; DIRECT FINAL RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 351

CFR Citation: 21 CFR 610.11(g)

Legal Deadline: None

Abstract: The Food and Drug Administration (FDA) issued a direct final rule and companion proposed rule to amend the biologics regulations by adding "cellular therapy products" to the list of products excepted from the general safety test (GST) and by adding an administrative procedure for obtaining an exemption from the GST requirements for other biological products. Because the agency received significant adverse comment on the administrative procedure portion of the direct final rule, FDA withdrew that portion of the rule and confirmed the remaining portion. FDA intends to finalize the companion proposed rule to respond to the significant adverse comment on the administrative procedure portion of the rule. FDA is taking this action because the GST may not be relevant or necessary for all biological products, including cellular therapy products, currently in various stages of development. This action is part of FDA's continuing effort to achieve the objectives of the President's "Reinventing Government" initiative, and is intended to reduce the burden of unnecessary regulations on biological products without diminishing the protection of the public health.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/20/98	63 FR 19399
Proposed Rule - Companion Document to Direct Final Rule	04/20/98	63 FR 19431
Direct Final Rule Confirmation in Part	08/05/98	63 FR 41718
Direct Final Rule Withdrawal in Part	08/05/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Stephen M. Ripley, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB51

1180. BULK DRUG SUBSTANCES FOR USE IN PHARMACY COMPOUNDING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-115, sec 127

CFR Citation: 21 CFR 216

Legal Deadline: None

Abstract: Section 127 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 503A to the Food, Drug, and Cosmetic Act (21 USC 353a). Section 503A governs the application of Federal law to the practice of pharmacy compounding. Section 503A(b)(1)(A) directs FDA to issue by regulation a list of bulk drug substances that may be used in compounding that are not covered by a United States Pharmacopia (USP) or national Formulary (NF) monograph and are not components of FDA-approved drugs. Bulk drug substances that do not appear on the list may not be used in compunding under section 127 unless such substances are covered by USP or NF monograph or are components of approved drugs.

Timetable:

Action	Date	FR Cite
NPRM	01/07/99	64 FR 996
NPRM Comment Period End	03/23/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wayne H. Mitchell, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3057 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB57

1181. MANUFACTURING CHANGES FOR DRUGS

Priority: Other Significant

Legal Authority: 21 USC 356a

CFR Citation: 21 CFR 314

Legal Deadline: None

HHS—FDA

Final Rule Stage

Abstract: Section 116 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 506A to the Food, Drug, and Cosmetic Act (21 USC 356a). Pursuant to section 116, the rulemaking will revise current procedures for approving manufacturing changes and generally classify such changes into three categories. Major manufacturing changes, which are of a type determined by the Secretary to have a substantial potential to adversely affect the identity, strength, quality, purity, and potency of the drug as they may relate to the safety and effectiveness of a drug, require prior approval of a supplemental application. Other changes may be made pending review of a supplemental application if FDA has not notified the company within 30 days after the submission of a supplement that prior approval is required. The rule would also identify another category of changes that may be made without the submission of a supplement but which must be reported in an annual report.

Timetable:

Action	Date	FR Cite
NPRM	06/28/99	64 FR 34608
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AB61

1182. CLASSIFICATION OF SHEEP AS A MINOR SPECIES FOR ALL DATA COLLECTION PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 514.1

Legal Deadline: None

Abstract: This rule would amend 21 CFR 514.1(d) to state that sheep are minor species for all data collection purposes, thereby allowing extrapolation from major species data and limited studies to fulfill the human food safety data requirements for new animal drug applications.

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40321
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Oeller, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, HFV-130, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-7581

RIN: 0910–AB69

1183. 180-DAY GENERIC DRUG EXCLUSIVITY FOR ABBREVIATED NEW DRUG APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 371; 21 USC 374; 21 USC 379e

CFR Citation: 21 CFR 314.107

Legal Deadline: None

Abstract: The proposed rule would amend regulations governing 180-day generic drug exclusivity to clarify existing eligibility requirements and conditions for abbreviated new drug application sponsors, to modify current eligibility requirements, and to impose new eligibility conditions. These revisions are the result of a court decision in Mova Pharmaceutical v. Shalala, 140 F. 3d 1060 (D.C. Cir. 1998), invalidating an eligibility requirement for exclusivity.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 42873
NPRM Comment Period End	10/04/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Virginia G. Beakes, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041

RIN: 0910–AB80

1184. • STRUCTURE/FUNCTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 343(r)(6); 21 USC 321(g); 21 USC 371(a)

CFR Citation: 21 CFR 101.93(g)

Legal Deadline: Final, Statutory.

Abstract: The Food and Drug Administration (FDA) is issuing final regulations defining the types of statements that can be made concerning the effect of a dietary supplement on the structure or function of the body. The regulations also establish criteria for determining when a statement about a dietary supplement is a claim to diagnose, cure, mitigate, treat, or prevent disease. This action is intended to clarify what types of claims may be made for dietary supplements without prior review by FDA and what types of claims require prior authorization as health claims or prior approval as drug claims. Final rule establishing criteria for the types of statements that may be made for dietary supplements under 21 USC 343(r)(6) without prior FDA review.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 23624
Notice of Public Meeting; Reopen. of comment period	07/08/99	64 FR 36824
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ann Marlin Witt, Department of Health and Human Services, Food and Drug Administration, Office of the Commissioner, HF-11, 5600 Fishers Lane, Parklawn Bldg. rm. 14-101, Rockville, MD
Phone: 301 827-3360
Email: awitt@oc.fda.gov

RIN: 0910–AB97

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Long-Term Actions

1185. INFANT FORMULA: GOOD MANUFACTURING PRACTICE, QUALITY CONTROL PROCEDURES, QUALITY FACTORS, NOTIFICATION REQUIREMENTS, AND RECORDS AND REPORTS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 343; 21 USC 350a; 21 USC 371

CFR Citation: 21 CFR 106; 21 CFR 107

Legal Deadline: None

Abstract: The agency published a proposed rule on July 9, 1996 that would establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, and records and reports for the production of infant formulas. This proposal was issued in response to the 1986 Amendments to the Infant Formula Act of 1980. Two final rules will be published: one, on Quality Factors and the second, on Good Manufacturing Practice, Quality Control Procedures Notification Requirements, and Records and Reports.

Timetable:

Current Good Mfg. Practices; Qual. Control Proc.
NPRM 07/09/1996 (61 FR 36154)
NPRM Comment Period End 12/06/1996
Final Action 00/00/0000
Infant Form Cons Comp, Micro Test & Recd Retention Req
NPRM 01/26/1989 (54 FR 3783)
NPRM Comment Period End 03/27/1989
Final Rule 12/24/1991 (56 FR 66566)
Infant Formula Quality Factors
NPRM 07/09/1996 (61 FR 36154)
NPRM Comment Period End 12/06/1996
Final Action 00/00/0000

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AC46.

Agency Contact: Darla Danford, Supervisory Nutritionist, Department of Health and Human Services, Food and Drug Administration, HFS-456, Center for Food Safety and Applied Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-5365

RIN: 0910–AA04

1186. FOOD LABELING REVIEW

Priority: Routine and Frequent

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321; 21 USC 331; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 100; 21 CFR 101; 21 CFR 102; 21 CFR 161

Legal Deadline: None

Abstract: The Nutrition Labeling and Education Act of 1990 (NLEA) requires that most foods bear nutrition labeling. The agency issued final rules implementing most of the provisions contained in the NLEA on January 6, 1993. Subsequently, however, the agency has identified additional areas that should be the subject of rulemaking. FDA issued a proposal on January 6, 1993, to establish requirements for the identification of certain ingredients on food labels. FDA proposed on June 15, 1993, to amend its January 6, 1993, final rules on nutrient content and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. The agency proposed on January 4, 1994, to establish reference daily intakes based on the 9th and 10th editions of the National Research Council's Recommended Dietary Allowances. On March 14, 1994, FDA published a proposal implementing the provisions for exemptions from nutrition labeling for low-volume food products of small businesses that were established by the Nutrition Labeling and Education Act Amendments of 1993. On August 18, 1993, FDA published a proposal concerning the placement of the nutrition facts panel on food labels. Finally, on July 18, 1994, FDA published proposed revised guidelines for the voluntary declaration of nutrition labeling for raw produce and fish. A final rule concerning the placement of the nutrition facts panel was published on April 5, 1995. A final rule establishing reference daily intakes based on the 9th and 10th editions of Recommended Dietary Allowances was published on December 28, 1995.

FDA published a final rule on August 2, 1996, on nutrient content claims and health claims to remove the provisions that exempted restaurant menus from the requirements for how nutrient content claims and health claims are to be made. FDA published a final rule on August 7, 1996, implementing the exemption for small businesses from the requirements for nutrition labeling and providing instructions on how to file a notice claiming the exemption. FDA published on August 16, 1996, final guidelines on the voluntary declaration of nutrition labeling for raw produce and fish.

Timetable:

Amend Standard of Identity for Grain Products (Folic Acid)
NPRM 10/14/1993 (58 FR 53305)
Final Action 03/05/1996 (61 FR 8781)
Health Claims and Label Statements
NPRM Folic Acid and Neural Tube Def 10/14/1993 (58 FR 53254)
Final Action 03/05/1996 (61 FR 8752)
Misleading Containers; Nonfunctional Slack Fill
NPRM 01/06/1993 (58 FR 2957)
Final Action 12/06/1993 (58 FR 64123)
Nutrient Content Claims and Health Claims; Restaurant Foods
NPRM 06/15/1993 (58 FR 33055)
Final Action 08/02/1996 (61 FR 40320)
Nutrient Content, Definition of the Term, Healthy
NPRM 01/06/1993 (58 FR 2944)
Final Action 05/10/1994 (59 FR 24232)
Placement of Nutrition Facts Panel
NPRM 08/18/1993 (58 FR 44091)
Final Action 04/05/1995 (60 FR 17202)
Final Action Effective 05/05/1995
Final Action Correction 06/12/1995 (60 FR 30788)
Protein Hydrolysates; Broth in Tuna; and/or Labeling
NPRM (Declaration of Ingredients) 01/06/1993 (58 FR 2950)
Final Action (Dec. of Ingredients) 00/00/0000
Reference Daily Intakes
NPRM 01/04/1994 (59 FR 427)
Final Action 12/28/1995 (60 FR 67164)
Small Business Exemption, Nutrition Labeling
NPRM 03/14/1994 (59 FR 11872)
Final Action 08/07/1996 (61 FR 40963)
Voluntary Guidelines for Nutrition Labeling Produce
NPRM 07/18/1994 (59 FR 36379)
Final Action 08/16/1996 (61 FR 42742)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD89.

Agency Contact: Gerard L. McCowin, Acting Deputy Director, Office of Food Labeling, Department of Health and Human Services, Food and Drug Administration, HFS-150, Center for Food Safety and Applied, Nutrition,

200 C Street SW, Washington, DC 20204
Phone: 202 205-4561

RIN: 0910–AA19

1187. MEDICAL FOODS

Priority: Other Significant

Legal Authority: 21 USC 321; 21 USC 341; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 350; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360ee; 21 USC 371

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Food and Drug Administration is considering development of regulations for medical foods, as defined by the Orphan Drug Act Amendments of 1988 (21 USC 360ee(b)(3)) to assure, among other things, the safety and effectiveness of these products, proper labeling of the nutrient content and purported uses, including adequate and appropriate directions for use, and quality control and good manufacturing practices.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60661
ANPRM Comment Period End	04/28/97	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: Previously reported under RIN 0905-AD91.

Agency Contact: Robert Moore, Senior Regulatory Scientist, Department of Health and Human Services, Food and Drug Administration, HFS-456, Center for Food Safety and Applied, Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-4605

RIN: 0910–AA20

1188. CLASSIFICATION OF COMPUTER SOFTWARE PROGRAMS THAT ARE MEDICAL DEVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321(h); 21 USC 351; 21 USC 352; 21 USC 360; 21 USC 360c to 360l; 21 USC 371 to 374

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: FDA is considering whether to classify stand-alone computer software products that fit the definition of a medical device under the Federal Food, Drug, and Cosmetic Act. Although the Secretary has not made a final decision to initiate such a program, the agency is considering classifying these devices by using a risk-based approach as required under the Medical Device amendments to the act. In addition, the agency would use existing exemptions from regulation where appropriate. Under this approach, low risk medical software devices would be subject only to the adulteration and misbranding provisions of the act. Moderate risk devices would additionally be subject to the registration, listing, good manufacturing practice requirements, and reporting and recordkeeping requirements. High risk devices would be the only products to require premarket submissions. FDA is also seeking comment on potential criteria related to the intended uses of medical software devices that might be used in determining the level of risk.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE58.

Agency Contact: Charles S. Furfine, Regulatory Review Scientist/Software Expert, Department of Health and Human Services, Food and Drug Administration, HFZ-143, Center for Devices and Radiological, Health, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2536

RIN: 0910–AA41

1189. REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 355; 21 USC 360; 21 USC 371

CFR Citation: 21 CFR 207

Legal Deadline: None

Abstract: The proposed rule would revise the regulations under part 207 to clarify the burden on manufacturers, packers, and distributors and to consolidate, reorganize, and streamline the requirements.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Howard P. Muller, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA49

1190. REINVENTING FDA FOOD REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 1453; 15 USC 1454; 15 USC 1455; 21 USC 321 et seq

CFR Citation: 21 CFR 101; 21 CFR 102; 21 CFR 103; 21 CFR 131; 21 CFR 133; 21 CFR 135; 21 CFR 136; 21 CFR 137; 21 CFR 139; 21 CFR 145; 21 CFR 146; 21 CFR 150; 21 CFR 152; 21 CFR 155; 21 CFR 156; ...

Legal Deadline: None

Abstract: In response to President Clinton's memorandum to heads of departments and agencies entitled "Regulatory Reinvention Initiative,"

FDA has initiated rulemaking to retain, revise, or revoke certain of its regulations for food. FDA published an advance notice of proposed rulemaking (ANPRM) on December 29, 1995, requesting information on the need to retain, revise, or revoke its food standards of identity regulations and its common or usual name regulations. In the same issue of the Federal Register, FDA proposed to improve the coordination of the food additive, GRAS, and color additive approval process with USDA for substances used in meat and poultry products. FDA proposed to revoke several lower fat milk standards on November 9, 1995. On June 12, 1996, FDA published an ANPRM announcing its intention to review: (1) its human food labeling regulations pertaining to the exemption for soft drinks from requirements for the type size and placement of certain information on the information panel, requirements for listing "statements of identity," and requirements for flavor labeling; (2) its infant formula regulations to ensure that they fully reflect the Federal Food, Drug, and Cosmetic Act; (3) its regulations pertaining to the discharge of waste aboard casino ships, passenger ships, and ferries; and (4) its food additive regulations to consolidate certain existing regulations. In the same June 12 issue of the Federal Register, FDA published a second ANPRM seeking public comment on possible ways to streamline various food additive regulations. FDA also proposed on June 12, 1996, to revoke certain food labeling regulations pertaining to labeling of food with number of servings and labeling Kosher and Kosher-style foods and to revoke the agency's voluntary filing of cosmetic product experiences. The latter was published August 12, 1997.

On October 13, 1995, FDA proposed to revoke certain agency regulations that were obsolete or no longer necessary to achieve public health goals. The final rule (pertaining to food regulations only) was published on June 3, 1996. A confirmation of effective date (CED) on those regulations, promulgated under the formal rulemaking procedures of section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 USC 371(e)), pertaining to diabetic labeling (21 CFR 105.67) and sodium intake labeling (21 CFR 105.69), was published on August 27, 1996.

In the Federal Register of April 17, 1997 (62 FR 18938), FDA proposed to establish a notification procedure for companies to use to inform FDA of a company's determination that use of a substance in food is generally recognized as safe (GRAS).

Timetable:

Exempt Infant Formula; Plan for Revisions
ANPRM 06/12/1996 (61 FR 29701)
Comment Period Ended 10/10/1996
NPRM 00/00/0000

Food Standards of Identity, Quality, and Fill of Container
ANPRM 12/29/1995 (60 FR 67492)
Comment Period Ended 06/28/1996
NPRM 00/00/0000

Food, Color, and GRAS; Simult. Pet. Rev. by USDA (Meat/Poultry)
NPRM 12/29/1995 (60 FR 67490)
Comment Period Ended 03/14/1996
Extension of Comment Period 06/03/1996
Final Action 00/00/0000

Notification Procedures for Independent GRAS Determinations
NPRM 04/17/1997 (62 FR 18938)
NPRM Comment Period Ended 07/16/1997
Final Action 00/00/0000

Revocation of Certain Food Labeling and Cosmetic Regulations
NPRM 06/12/1996 (61 FR 29708)
Comment Period Ended 08/26/1996
Final Rule 08/12/1997 (62 FR 43071)

Revocation of Lower Fat Milk Standards
NPRM 11/09/1995 (60 FR 56541)
Comment Period Ended 01/23/1996
Partial Final 11/20/1996 (61 FR 58991)
Confirmation of Effective Date 02/24/1997 (62 FR 8163)

Revocation of Lower Fat Yogurt Standards
NPRM 11/09/1995 (60 FR 56541)
Confirmation of Effective Date 00/00/0000
Final Action (Yogurt) 00/00/0000

Revocation of Obsolete Regulations
NPRM 10/13/1995 (60 FR 53480)
Comment Period Ended 01/11/1996
Final Rule 06/03/1996 (61 FR 27771)
Confirmation of Eff. Date 08/27/1996 (61 FR 43963)

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: L. Robert Lake, Director, Office of Policy Planning and Strategic Initiatives, Department of Health and Human Services, Food and Drug Administration, HFS-150, Center for Food Safety and Applied, Nutrition, 200 C Street SW, Washington, DC 20204
Phone: 202 205-4561

RIN: 0910–AA58

1191. DEBARMENT CERTIFICATION REGULATIONS FOR DRUG APPLICATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 1451 to 1461; 21 USC 321; 21 USC 331; 21 USC 335 to 335c; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379; 21 USC 381 to 382; 42 USC 216; 42 USC 241; 42 USC 262 to 263

CFR Citation: 21 CFR 314; 21 CFR 514; 21 CFR 601

Legal Deadline: None

Abstract: The proposed rule would amend the regulations to require applicants to submit a debarment certification statement in accordance with 21 U.S.C. 335a(k).

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Leanne Cusumano, Regulatory Counsel, Regulatory Policy Staff, Department of Health and Human Services, Food and Drug Administration, Suite 3037 (HFD-7), Center for Drug Evaluation and Research, 1451 Rockville Pike, Rockville, MD 20852
Phone: 301 594-2041
Fax: 301 827-5562

RIN: 0910–AA76

1192. INVESTIGATIONAL NEW DRUG APPLICATIONS; REQUEST FOR INFORMATION AND COMMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 371; 42 USC 262

CFR Citation: 21 CFR 56; 21 CFR 312

Legal Deadline: None

Abstract: The rulemaking would permit certain uses of investigational new drugs by individual investigators, who are not included in a commercial sponsor's application, provided that, among other things, the drugs are in Phase 2 of commercial development.

Timetable:

Action	Date	FR Cite
ANPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph Griffin, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, (HFD-40), Center for Drug Evaluation and Research, 1451 Rockville Pike, Suite 6021, Rockville, MD 20852
Phone: 301 594-6758
Fax: 301 594-5298

RIN: 0910–AA83

1193. ESTABLISHMENT REGISTRATION AND LISTING OF HUMAN CELLULAR AND TISSUE-BASED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 264

CFR Citation: 21 CFR 207; 21 CFR 807; 21 CFR 1271

Legal Deadline: None

Abstract: This action is a continuation of FDA's approach for the regulation of human tissues and is part of FDA's reinventing government initiative. The final rule requires manufacturers of human cellular and tissue-based products to register with the agency and submit a list of all such products produced. Future regulations would include the promulgation of good tissue practices (GTP) that will provide good manufacturing standards and regulations for donor screening and testing, and compliance and procedural issues. The proposed approach would provide a rational, comprehensive, and clear framework under which tissue processors can develop and market their products without being subjected to unnecessary regulation and without sacrificing the protection of the public health.

Timetable:

Action	Date	FR Cite
NPRM	05/14/98	63 FR 26744
NPRM Comment Period End	08/12/98	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paula S. McKeever, Regulatory Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Suite 200N (HFM-17), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852-1448
Phone: 301 827-6210

RIN: 0910–AB05

1194. REQUIREMENTS PERTAINING TO THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO TO PROTECT CHILDREN AND ADOLESCENTS; USE OF NONTOBACCO TRADE OR BRAND NAMES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 352; 21 USC 360; 21 USC 360(j); 21 USC 371; 21 USC 372

CFR Citation: 21 CFR 897

Legal Deadline: None

Abstract: The proposed rule would clarify the restrictions on the use of non-tobacco product names and other identification on tobacco products and would modify the list of established names for smokeless tobacco products.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne M. Kirchner, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Room 12A-55 (HF-13), Office of Tobacco Programs, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-5321

RIN: 0910–AB17

1195. EXEMPTION FROM PREEMPTION OF STATE AND LOCAL CIGARETTE AND SMOKELESS TOBACCO REQUIREMENTS; APPLICATIONS FOR EXEMPTION SUBMITTED BY VARIOUS STATE GOVERNMENTS; GROUP 1; GROUP 2

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 360k; 21 USC 371

CFR Citation: 21 CFR 808

Legal Deadline: None

Abstract: FDA published a notice of proposed rulemaking on November 7, 1996, announcing that the agency would be accepting applications for exemption from Federal preemption for State and local cigarette and smokeless tobacco requirements. The notice explained that FDA would consider the applications in two groups and set deadlines for submitting applications. Group 1 applications, due December 9, 1996, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, FDA requirements under section 897.14(a) and section 897.14(b) of the final tobacco rule (the age and identification requirements). Group 2 applications, due May 6, 1997, pertain to State and local requirements governing the sale and distribution of cigarettes and smokeless tobacco that are different from, or in addition to, all other requirements under the final tobacco rule.

Timetable:

Group 1
NPRM 02/19/1997 (62 FR 7390)
NPRM Comment Period End 06/23/1997
Final Rule 11/28/1997 (62 FR 63271)
Group 2
NPRM 00/00/0000
Groups 1 and 2
Notice 11/07/1996 (61 FR 57685)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Formerly listed under RIN 0910-AB03.

Agency Contact: Anne M. Kirchner, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Room 12A-55 (HF-13), Office of Tobacco Programs, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-5321

RIN: 0910–AB19

1196. REQUIREMENTS FOR LIQUID MEDICATED FEED AND FREE-CHOICE MEDICATED FEED

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-25; 21 USC 360b

CFR Citation: 21 CFR 558.5; 21 CFR 510.455

Legal Deadline: None

Abstract: In response to a citizen petition filed by the American Feed Industry Association, the Food and Drug Administration (FDA) is proposing to amend the requirements for liquid medicated animal feed to clarify what information and data are required to demonstrate chemical and positional stability. The amended regulations would also clarify the provisions for the submission of such data through a master file and the reference to master files by subsequent applicants. Additionally, FDA is proposing to amend the regulations for free-choice medicated feed in order to ensure consistency with the requirements for liquid medicated feed. Finally, FDA is proposing to amend the regulations for free -choice medicated feed and liquid medicated feed so that these provisions comply with the terms of the Animal Drug Availability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William D. Price, Special Assistant, Department of Health and Human Services, Food and Drug Administration, HFV-200, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6652
Fax: 301 594-4512

RIN: 0910–AB50

1197. IMPLEMENTATION OF THE IMPORT TOLERANCE PROVISIONS OF THE ANIMAL DRUG AVAILABILITY ACT OF 1996 AND THE SAFE LEVEL PROVISIONS OF THE ANIMAL MEDICINAL DRUG USE CLARIFICATION ACT OF 1994

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 360b

CFR Citation: 21 CFR 556

Legal Deadline: None

Abstract: Section 4 of the Animal Drug Availability Act of 1996 (Pub. L. 104-250) permits the Secretary of HHS to establish tolerances for animal drugs used or intended for use in animals grown in an exporting nation from which an edible portion is imported into the United States. The standards used to establish tolerances are to be similar to the food safety criteria used by the Secretary to establish tolerances for drugs administered to animals grown in the United States. The data used for establishing the tolerances may be from the manufacturer and include data upon which a foreign approval is based or data available to an international organization such as the Codex Alimentarius Commission. The Animal Medicinal Drug Use Clarification Act of 1994 (Pub. L. 103-396) allows the Secretary to establish a safe level for a residue of an animal drug when the drug is used in an extralabel manner, if the Secretary finds that there is a reasonable probability that an extralabel use may present a risk to the public health.

Timetable:

Action	Date	FR Cite
NPRM	01/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Claire Lathers, Director, Office of New Animal Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, HFV-100, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 594-1620

RIN: 0910–AB71

1198. MANDATORY HACCP REGULATIONS FOR MANUFACTURERS OF RENDERED PRODUCTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 348; 21 USC 371

CFR Citation: 21 CFR 589

Legal Deadline: None

Abstract: During the notice and comment rulemaking for 21 CFR part 589, "Listing of Specific Substances Prohibited from Use in Animal Food or Feed; Animal Proteins Prohibited in Ruminant Feed," FDA received several comments supporting the application of mandatory Hazard Analysis Critical Control Point (HACCP) regulations for renderers. Some of these comments were from renderers. Because of the need to expedite the rulemaking for 21 CFR part 589, FDA stated that it would take up the HACCP regulations for renderers as a separate initiative. This rulemaking is to address the need expressed in the comments to 21 CFR part 589 by promulgating mandatory HACCP regulations for renderers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Daniel G. McChesney, Team Leader, Feed Safety Team,

Department of Health and Human Services, Food and Drug Administration, HFV-222, Center for Veterinary Medicine, 7500 Standish Place, Rockville, MD 20855
Phone: 301 827-6653

RIN: 0910–AB72

1199. SURGEON'S AND PATIENT EXAMINATION GLOVES; RECLASSIFICATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 352; 21 USC 357; 21 USC 360; 21 USC 360c; 21 USC 360e; 21 USC 360i; 21 USC 360j; 21 USC 360l; 21 USC 371; 21 USC 374

CFR Citation: 21 CFR 801.440; 21 CFR 878.4460; 21 CFR 878.4461; 21 CFR 880.6250; 21 CFR 880.6251

Legal Deadline: None

Abstract: FDA is considering revising its present regulations governing the classification of surgeon's and patient examination gloves. The present rule classifies surgeon's and patient examination gloves as class I devices. FDA is considering reclassifying surgeon's and patient examination gloves as class II devices subject to special controls. FDA is also considering requiring additional labeling concerning powder and protein levels for these devices.

Timetable:

Action	Date	FR Cite
NPRM	07/30/99	64 FR 41710
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joseph M. Sheehan, Chief, Regulations Staff, Department of Health and Human Services, Food and Drug Administration, HFZ-215, Center for Devices and Radiological Health, 1350 Piccard Drive, Rockville, MD 20850
Phone: 301 827-2974

RIN: 0910–AB74

1200. • MARKING REQUIREMENTS FOR IMPORTED FOOD PRODUCTS THAT HAVE BEEN REFUSED ADMISSION INTO THE UNITED STATES

Priority: Routine and Frequent

Legal Authority: 15 USC 1453, 1454, 1455; 21 USC 321, 343, 352, 355, 360b, 362, 371, 374, 381, 382, 393; 42 USC 216, 241, 243, 262, 264

CFR Citation: 21 CFR 1.98

Legal Deadline: None

Abstract: The proposed rule would require food products which are refused entry into the United States to be marked, "United States Refused Entry." The proposed rule is intended to protect the public health against contaminated or unsafe imported food products and to facilitate FDA's examination of imported products.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB95

1201. • REQUIREMENTS FOR PERSONS USING PRIVATE LABORATORIES REGARDING ACTIONS TAKEN BY THE FOOD AND DRUG ADMINISTRATION

Priority: Routine and Frequent

Legal Authority: 21 USC 331; 21 USC 333; 21 USC 334; 21 USC 335b; 21 USC 335c; 21 USC 342; 21 USC 343; 21 USC 351; 21 USC 352; 21 USC 361; 21 USC 362; 21 USC 371; 21 USC 372; 21 USC 374; 21 USC 376; 21 USC 381

CFR Citation: 21 CFR 59

Legal Deadline: None

Abstract: The proposed rule would establish requirements for importers and other persons who use private laboratories with regard to a FDA regulatory action. For example, the proposal would pertain to persons who use sample collection services and private laboratories and would describe some responsibilities for such persons, sample collection services, and private laboratories. These responsibilities might include recordkeeping requirements to ensure that the correct sample is collected and analyzed and a notification requirement if a person intends to use a private laboratory in connection with a FDA regulatory action. The proposed rule is intended to help insure the integrity and scientific validity of data and results submitted to FDA.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Philip L. Chao, Senior Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Room 15-74 (HF-23), Office of Policy, Planning and Legislation, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 827-3380
Email: pchao@oc.fda.gov

RIN: 0910–AB96

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Completed Actions

1202. DIETARY SUPPLEMENT REGULATIONS IN RESPONSE TO DSHEA

Priority: Other Significant

CFR Citation: 21 CFR 101

Completed:

Reason	Date	FR Cite
Final Rule-Nutrient Labeling and Ingredient Labeling; Dietary Supplements	06/05/98	63 FR 30615

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State

Agency Contact: Elizabeth A. Yetley
Phone: 202 205-4168

RIN: 0910–AA59

1203. OVER-THE-COUNTER HUMAN DRUGS; LABELING REQUIREMENTS

Priority: Other Significant

CFR Citation: 21 CFR 201; 21 CFR 330

Completed:

Reason	Date	FR Cite
Final Rule	03/17/99	64 FR 13254

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Debra Bowen
Phone: 301 827-2222

RIN: 0910–AA79

1204. DEFINITION OF SUBSTANTIAL EVIDENCE

Priority: Other Significant

CFR Citation: 21 CFR 514.4

Completed:

Reason	Date	FR Cite
Final Rule	07/28/99	64 FR 40746

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gail Schmerfeld
Phone: 301 827-0205

RIN: 0910–AB08

1205. BIOLOGICAL PRODUCTS REGULATED UNDER SECTION 351 OF THE PUBLIC HEALTH SERVICE ACT; IMPLEMENTATION OF BIOLOGICS LICENSE; ELIMINATION OF ESTABLISHMENT LICENSE AND PRODUCT LICENSE

Priority: Other Significant

CFR Citation: 21 CFR 3; 21 CFR 5; 21 CFR 10; 21 CFR 20; 21 CFR 207; 21 CFR 310; 21 CFR 312; 21 CFR 316; 21 CFR 600; 21 CFR 601; 21 CFR 607; 21 CFR 610; 21 CFR 640; 21 CFR 660

Completed:

Reason	Date	FR Cite
Final Rule	10/20/99	64 FR 56441

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert A. Yetter
Phone: 301 827-0373

RIN: 0910–AB29

1206. RADIOPHARMACEUTICALS USED FOR IN VIVO DIAGNOSIS AND MONITORING

Priority: Other Significant

CFR Citation: 21 CFR 315; 21 CFR 601

Completed:

Reason	Date	FR Cite
Final Rule	05/17/99	64 FR 26657

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven F. Falter
Phone: 301 827-6210
Email: falter@a1.cber.fda.gov
Brian L. Pendleton
Phone: 301 594-2041

RIN: 0910–AB52

1207. • REQUIREMENTS FOR TESTING HUMAN BLOOD DONORS FOR EVIDENCE OF INFECTION DUE TO COMMUNICABLE DISEASE AGENTS

Timetable:

Action	Date	FR Cite
Merged With 0910-AB26	09/20/99	

RIN: 0910–AB85

1208. • GENERAL REQUIREMENTS FOR BLOOD, BLOOD COMPONENTS, AND BLOOD DERIVATIVES; NOTIFICATION OF DEFERRED DONORS

Timetable:

Action	Date	FR Cite
Merged With 0910-AB26	09/20/99	

RIN: 0910–AB86

1209. • REVISIONS TO THE REQUIREMENTS APPLICABLE TO BLOOD, BLOOD COMPONENTS, AND SOURCE PLASMA

Timetable:

Action	Date	FR Cite
Merged With 0910-AB26	09/20/99	

RIN: 0910–AB87

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA)

Proposed Rule Stage

1210. DESIGNATION OF MEDICALLY UNDERSERVED POPULATIONS AND HEALTH PROFESSIONAL SHORTAGE AREAS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 254b; 42 USC 254e

CFR Citation: 42 CFR 5; 42 CFR 51c

Legal Deadline: None

Abstract: This rule would consolidate the process for designating areas of health professional shortage and medical underservice that apply in several department programs, and would improve the criteria for designating medically underserved populations (MUPs) and Primary Care Health Professional Shortage Areas (HPSAs). This NPRM will address issues raised by comments received in NPRM dated 9/1/98.

Timetable:

Action	Date	FR Cite
NPRM	09/01/98	63 FR 46538
NPRM Comment Period End	01/04/99	
Second NPRM	02/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard C. Lee, Public Health Analyst, Bureau of Primary Health Care, Department of Health and Human Services, Health Resources and Services Administration, 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4280

RIN: 0906–AA44

1211. • COMPLIANCE ALTERNATIVES FOR PROVISION OF UNCOMPENSATED SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 300s(3)

CFR Citation: 42 CFR part 124, subpart F

Legal Deadline: None

Abstract: The proposed rules apply to facilities obligated under the Hospital Survey and Construction Act, commonly known as the Hill-Burton Act. The proposed rules would revise a compliance alternative that provides more flexible compliance standards for facilities that principally serve nonpaying patient populations by reducing the amount of time needed to qualify for certification under the alternative and by providing for provisional certification, where a facility is unable to qualify for full certification. The propose rules would also provide a compliance alternative for facilities histories of uncompensated services deficits, to enable them to make up the deficits on a timely basis. These revisions would have the effect of making it easier for facilities with an uncompensated services obligation to meet that obligation, while still ensuring the availability of uncompensated services to persons unable to pay.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mr. Eulas Dortch, Deputy Director, Division of Facilities Compliance and Recovery, OSP, Department of Health and Human Services, Health Resources and Services Administration, Room 10-C16, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-5656
Fax: 301 443-0619
Email: edortch@hrsa.gov

RIN: 0906–AA52

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA)

Final Rule Stage

1212. • FINAL RULE FOR THE HEALTH PROFESSIONS, NURSING, PUBLIC HEALTH, AND ALLIED HEALTH TRAINING GRANT PROGRAMS UNDER 42 CFR PARTS 57 AND 58

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 105-392

CFR Citation: 42 CFR 57; 42 CFR 58

Legal Deadline: None

Abstract: This final rule rescinds and removes various Public Health Service health professions, nursing, public health, and allied health training grant regulations from the CFR at 42 CFR parts 57 and 58. The existing training grant regulations are fundamentally and extensively inconsistent with the new law, Health Professions Education Partnerships Act of 1998 (Pub. L. 105-392), enacted November 13, 1998. There are structural problems in implementing the new statute under the current program regulations. The general focus of this legislation is to reauthorize and consolidate 44 different Federal health professions training programs currently authorized under titles VII and VIII, PHS Act. These 44 programs are consolidated into seven general categories of authorities and offer more flexibility for program implementation. These categories are designed to train health practitioners most inclined to enter practice in rural and other medically undeserved areas. Because the statute always take precedence over regulations, and the existing regulations are inconsistent with the new law which takes an interdisciplinary approach (and thus inhibits the achievement of the statute's clustered objectives), we are removing the grant regulations from the Code of Federal Regulations. Program specific guidance and information for preparing applications are now provided in the grant application materials (which makes them now self-contained).

Timetable:

Action	Date	FR Cite
Final Action	03/00/00	

HHS—HRSA **Final Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steve Tise, Acting Chief, Planning, Evaluation and Legislation Branch/ORP, BHPr/HRSA/DHHS, Department of Health and Human Services, Health Resources and Services Administration, Room 8-67 Parklawn Buidling, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2381
Email: stise@hrsa.gov

RIN: 0906–AA53

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA) **Long-Term Actions**

1213. NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: CORPORATE SHIELD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11131

CFR Citation: 45 CFR 60.7

Legal Deadline: None

Abstract: This NPRM proposes to require that, in addition to reporting to the National Practitioner Data Bank medical malpractice payments made where physicians or other health care practitioners are named in medical malpractice actions or claims, judgments or settlements, payments be reported where they are made for the benefit of physicians or other health care practitioners not named in the judgments or settlements but who furnished or failed to furnish the health care services upon which the actions or claims were based. The purpose of this NPRM is to prevent the evasion of the medical malpractice payment reporting requirement of the Data Bank through the agreement of the parties to a lawsuit to use the corporate health care entity to "shield" the parties.

It would also require malpractice payers, in very limited circumstances, when it is impossible to identify the practitioner who furnished or failed to furnish the health care services upon which the actions or claims were based, to report why the practitioner could not be identified, the name of the hospital or health care organization for whose benefit the payment was made.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71255
NPRM Comment Period End	02/22/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, HRSA, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443-2300

RIN: 0906–AA41

Department of Health and Human Services (HHS)
Health Resources and Services Administration (HRSA) **Completed Actions**

1214. • NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS: REPORTING ADVERSE AND NEGATIVE ACTIONS

Timetable:

Action	Date	FR Cite
Duplicate of 0906-AA43	09/09/99	

RIN: 0906–AA51

Department of Health and Human Services (HHS)
Indian Health Service (IHS)

Proposed Rule Stage

1215. • CONTRACTS UNDER THE INDIAN SELF-DETERMINATION ACT

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 2003; 25 USC 13

CFR Citation: 42 CFR 36.201-237

Legal Deadline: None

Abstract: The Department of Health and Human Services and the Department of the Interior published, on June 24, 1996, joint regulations implementing section 107 of the Indian Self-Determination Act, as amended. This joint rule 25 CFR part 900 replaced 42 CFR sections 36.201 through 36.237 among other parts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Betty J. Penn, Regulations Officer, Department of Health and Human Services, Indian Health Service, Suite 450, 12300 Twinbrook Parkway, Rockville, MD 20857
Phone: 301 443-1116
Email: bpenn@hqe.ihs.gov

RIN: 0917–AA04

Department of Health and Human Services (HHS)
Indian Health Service (IHS)

Final Rule Stage

1216. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT MINIMUM STANDARDS OF CHARACTER

Priority: Info./Admin./Other

Legal Authority: 25 USC 3201 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: The Indian Health Service (IHS) is proposing to establish regulations as mandated by the Indian Child Protection and Family Violence Protection Act, Public Law 101-630, 25 U.S.C. 3201-3211, that prescribe minimum standards of character for individuals whose duties and responsibilities involve regular contact with, or control over, Indian children.

Timetable:

Action	Date	FR Cite
NPRM	03/25/99	64 FR 14559
NPRM Comment Period End	07/26/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Ramona D. Williams, Child Protection Coordinator, Department of Health and Human Services, Indian Health Service, 5300 Homestead Road NE, Albuquerque, NM 87110
Phone: 505 837-4245

RIN: 0917–AA02

Department of Health and Human Services (HHS)
Indian Health Service (IHS)

Completed Actions

1217. CURRENTLY EFFECTIVE INDIAN HEALTH SERVICE ELIGIBILITY REGULATIONS

Priority: Info./Admin./Other

CFR Citation: 42 CFR 36

Completed:

Reason	Date	FR Cite
Final Rule	10/28/99	64 FR 58318

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Betty J. Penn
Phone: 301 443-1116
Email: bpenn@hqe.ihs.gov

RIN: 0917–AA03

Department of Health and Human Services (HHS)
National Institutes of Health (NIH)

Proposed Rule Stage

1218. NATIONAL INSTITUTES OF HEALTH AIDS RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-1

CFR Citation: 42 CFR 68

Legal Deadline: None

Abstract: Section 487A of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of educational loans by conducting AIDS research as NIH employees.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Previously reported under RIN 0905-AD18.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606

Email: jm40@nih.gov

RIN: 0925–AA02

1219. UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY THE NIH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-4

CFR Citation: 42 CFR 68b

Legal Deadline: None

Abstract: Section 487D of the Public Health Service Act, as added by the National Institutes of Health Revitalization Act of 1993, creates a program offering scholarships, in an amount not to exceed $20,000 per year of academic study, to individuals from disadvantaged backgrounds who are enrolled as full-time students at accredited institutions pursuing academic programs appropriate for careers in professions needed by the NIH. For each year of scholarship support, the recipient agrees to service (employment) after graduation, at the NIH, for one year. Additionally, the individual agrees to at least ten consecutive weeks of service (employment) at the NIH during which the individual is attending the institution and receiving the NIH scholarship. The proposed new regulations will cover this program.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE57.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA10

1220. NATIONAL CANCER INSTITUTE CLINICAL CANCER EDUCATION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 42 USC 216

CFR Citation: 42 CFR 52d

Legal Deadline: None

Abstract: Current regulations relating to the National Cancer Institute (NCI) Clinical Cancer Education Program will be amended to update various aspects of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA17

1221. NATIONAL INSTITUTES OF HEALTH LOAN REPAYMENT PROGRAM FOR RESEARCH

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-3

CFR Citation: 42 CFR 68d

Legal Deadline: None

Abstract: Regulations will be issued to govern the awarding of educational loan repayments for research authorized under section 487C of the Public Health Service Act, as added by provisions of the National Institutes of Health Revitalization Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA18

1222. NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT CONTRACEPTION AND INFERTILITY RESEARCH LOAN REPAYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 288-2

CFR Citation: 42 CFR 68c

Legal Deadline: None

Abstract: Section 487B of the Public Health Service Act creates a program through which appropriately qualified health professionals may obtain federally funded repayment of education loans by conducting research with respect to contraception and/or infertility.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA19

1223. SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 282(b)(6); 42 USC 284(c)(3); 42 USC 289a; 42 USC 290aa-3

CFR Citation: 42 CFR 52h

Legal Deadline: None

Abstract: NIH staff have been reexamining the peer review process as part of its reinvention initiatives and have found ambiguities, misstatements, and voids in the existing regulations. These regulations, which govern the first level of review, are being amended

VOL 64 ISS 224 NOV 22 1999 UMI

HHS—NIH **Proposed Rule Stage**

to reflect current policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA20

Department of Health and Human Services (HHS)
National Institutes of Health (NIH) **Final Rule Stage**

1224. TRAINEESHIPS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 282(b)(B); 42 USC 284(b)(1)(C); 42 USC 285a-2(b)(3); 42 USC 286b-3; 42 USC 287c-21(a)

CFR Citation: 42 CFR 63

Legal Deadline: None

Abstract: Regulations governing NIH traineeships will be amended to set forth additional conditions under which awards may be terminated.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58336
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AE62.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA11

1225. ADDITIONAL DHHS PROTECTIONS FOR PREGNANT WOMEN AND HUMAN FETUSES INVOLVED AS SUBJECTS IN RESEARCH, AND PERTAINING TO HUMAN IN VITRO FERTILIZATION

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289

CFR Citation: 45 CFR 46, subpart B

Legal Deadline: None

Abstract: Current regulations which have been in effect for two decades will be revised to reflect provisions of Public Law 103-43 and recent changes in NIH and FDA policies on the involvement of women and human fetuses in research.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 27794
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michele Russell-Einhorn J.D., Director of Regulatory Affairs, Department of Health and Human Services, National Institutes of Health, MSC 7507 Suite 3B01, Office for Protection from Research Risks, 6100 Executive Boulevard, Rockville, MD 20892-7507
Phone: 301 435-5649

RIN: 0925–AA14

1226. NATIONAL RESEARCH SERVICE AWARDS

Priority: Info./Admin./Other

Legal Authority: 42 USC 216; 42 USC 288

CFR Citation: 42 CFR 66

Legal Deadline: None

Abstract: Current HHS regulations will be amended to reflect provisions of the ADAMHA Reorganization Act and the National Institutes of Health Revitalization Act of 1993. New language concerning the service payback obligation will set forth, specifically, that a service payback obligation is incurred only during the first twelve months of postdoctoral support and individuals may pay back this service obligation by engaging in an equal period of health-related teaching or, if the individual finished the first twelve months of support, by engaging in a second year of NRSA supported research training.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35119
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA16

1227. FEDERAL POLICY (COMMON RULE) FOR THE PROTECTION OF HUMAN SUBJECTS

Priority: Other Significant

Legal Authority: 5 USC 301; 42 USC 289; 42 USC 300v-1(b)

CFR Citation: 45 CFR 46

Legal Deadline: The President's Memorandum prohibits agencies from conducting or supporting classified human subject research without having proposed and promulgated the common rule and the changes.

Abstract: In compliance with the President's Memorandum of March 27, 1997, this interim final rule would amend the Federal Policy (common rule) for the Protection of Human Subjects to add a new section that applies only to classified research involving human subjects. The new section would modify the Federal Policy by: (1) prohibiting any executive branch agency from engaging in classified research involving human subjects unless the agency has adopted the Federal Policy and the interim final

HHS—NIH **Final Rule Stage**

rule; (2) eliminating the availability of waiver of informed consent and expedited review for classified research involving human subjects; (3) enhancing the informed consent requirements and allowing for disclosure of classified information if necessary; and (4) changing the composition of the institutional review board (IRB) and establishing a process for individual IRB approvals of classified research.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michele Russell-Einhorn J.D., Director of Regulatory Affairs, Department of Health and Human Services, National Institutes of Health, MSC 7507 Suite 3B01, Office for Protection from Research Risks, 6100 Executive Boulevard, Rockville, MD 20892-7507
Phone: 301 435-5649

RIN: 0925–AA21

1228. SERVICE FELLOWSHIPS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 209; 42 USC 210; 42 USC 216

CFR Citation: 42 CFR 61, subpart B

Legal Deadline: None

Abstract: This final rule would amend the regulations governing service fellowships by revising the current authority citation, extending the time limitation on initial appointments from 2 to 5 years, permitting extensions of appointments for up to 5 years rather than year-to-year, and removing obsolete references to the Surgeon General and obsolete requirements regarding the qualifications of applicants. These changes are being made to provide HHS health agencies with greater flexibility to recruit and retain their talented scientists and to update obsolete references.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/98	63 FR 9949
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA22

1229. • NIH PRIVACY ACT SYSTEM OF RECORDS, 09-25-0213, "ADMINISTRATION: INVESTIGATIVE RECORDS"

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 552a

CFR Citation: 45 CFR 5b

Legal Deadline: None

Abstract: The Department of Health and Human Services is exempting a new system of records, 09-25-0213, "Administration: Investigative Records, HHS/NIH/OM/OA/OMA," from certain requirements of the Privacy Act to protect records compiled in the course of an inquiry and/or investigation and to protect the identity of confidential sources who furnish information to the Government under an express promise that the identity of such source would be held in confidence.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37081
NPRM Comment Period End	08/09/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Wheeles, NIH Privacy Act Officer, Department of Health and Human Services, National Institutes of Health, 6011 Executive Boulevard, Room 601, Rockville, MD 20852
Phone: 301 402-5347
Fax: 301 402-0169

RIN: 0925–AA23

Department of Health and Human Services (HHS)
National Institutes of Health (NIH) **Long-Term Actions**

1230. NATIONAL INSTITUTES OF HEALTH CONSTRUCTION GRANTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 216; 42 USC 285a-3; 42 USC 285d-6; 42 USC 285i; 42 USC 285m-3; 42 USC 285o-4; 42 USC 287a-2; 42 USC 287a-3; 42 USC 300cc-41; 42 USC 285a-2; 42 USC 285b-3; 42 USC 285b-4

CFR Citation: 42 CFR 52b

Legal Deadline: None

Abstract: Regulations concerning NCI construction grants will be amended to make them generally applicable to all NIH extramural programs with construction grant authority. Additionally, the regulations will be amended to show new administrative and technical requirements, add new procedures for the recovery of grant funds for facilities no longer used for biomedical research, show new Public Health Service Act section numbers, and update the listing of other HHS regulations relevant to construction grants.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35266
NPRM Comment Period End	09/05/95	
Final Action	11/00/00	

HHS—NIH — Long-Term Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Previously reported under RIN 0905-AD49.

Agency Contact: Jerry Moore, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, Room 601 MSC 7669, 6011 Executive Boulevard, Rockville, MD 20852
Phone: 301 496-4606
Email: jm40@nih.gov

RIN: 0925–AA04

Department of Health and Human Services (HHS)
Office of Public Health and Science (OPHS) — **Proposed Rule Stage**

1231. PUBLIC HEALTH SERVICE STANDARDS FOR THE PROTECTION OF RESEARCH MISCONDUCT WHISTLEBLOWERS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 94

Legal Deadline: None

Abstract: To implement section 493(e) of the Public Health Service Act (added by section 163 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43), the Department is proposing to add a new part 94 to title 42 of the Code of Federal Regulations. Under this proposed regulation, covered institutions must follow certain requirements for preventing and responding to occurrences of retaliation against whistleblowers. The purpose of this part is to protect: (1) persons who make a good faith allegation that a covered institution or member thereof engaged in, or failed to respond adequately to, an allegation of research misconduct; and (2) persons who cooperate in good faith with an investigation of research misconduct.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
NPRM Comment Period End	07/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State

Agency Contact: Barbara Bullman, Policy Analyst, Department of Health and Human Services, Office of Public Health and Science, Suite 700, 5515 Security Lane, Rockville, MD 20852
Phone: 301 443-5300
Fax: 301 443-5351

RIN: 0940–AA01

Department of Health and Human Services (HHS)
Office of Public Health and Science (OPHS) — **Long-Term Actions**

1232. STANDARDS OF COMPLIANCE FOR ABORTION-RELATED SERVICES IN FAMILY PLANNING SERVICE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300a-4

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: This rule would return the Family Planning Service Program, funded under title X of the Public Health Service Act, to the regulatory standard operative prior to February 2, 1988, with regard to the statutory provision prohibiting abortion as a method of family planning in projects funded under that title.

Timetable:

Action	Date	FR Cite
NPRM	02/05/93	58 FR 7464
NPRM Comment Period End	08/09/93	58 FR 34024
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Previously reported under RIN 0905-AE03.

Agency Contact: Denese Shervington M.D., M.P., Department of Health and Human Services, Office of Public Health and Science, Suite 200, West Tower Bldg., East-West Towers, 4350 East-West Highway, Bethesda, MD 20814
Phone: 301 594-4001

RIN: 0940–AA00

Department of Health and Human Services (HHS)
Health Care Financing Administration (HCFA) — **Prerule Stage**

1233. END STAGE RENAL DISEASE (ESRD) CONDITIONS FOR COVERAGE (HCFA-3818-F) (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 400; 42 CFR 405; 42 CFR 406; 42 CFR 409; 42 CFR 410; 42 CFR 412; 42 CFR 413; 42 CFR 414; 42 CFR 489; 42 CFR 492

Legal Deadline: None

Abstract: This rule would revise the current conditions for coverage for end stage renal disease (ESRD) facilities approved to provide ESRD service

HHS—HCFA **Prerule Stage**

under Medicare. It would update the conditions to reflect developments in technology and equipment, emphasize the total patient experience and develop performance expectations for the facility that result in quality, comprehensive care for the dialysis patient. We will also review for the requirements of Section 610c of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/99	
End Review	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3818

Agency Contact: Robert Miller, Department of Health and Human Services, Health Care Financing Administration, S3-04-25, Department of Health and Human Services, Office of Clinical Standards and Quality, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6797

RIN: 0938–AG82

1234. CRITERIA FOR MEDICARE COVERAGE OF HEART, LIVER, AND LUNG TRANSPLANTS (HCFA-3835-ANPRM)

Priority: Other Significant

Legal Authority: 42 USC 1395y(a)(1)(A)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice lists various options related to the criteria for Medicare coverage of heart, liver, and lung transplants and seeks public comment on those options.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-3835-PN

Agency Contact: Kathy Linstromberg, Department of Health and Human Services, Health Care Financing Administration, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-8279

RIN: 0938–AH17

Department of Health and Human Services (HHS)
Health Care Financing Administration (HCFA) **Proposed Rule Stage**

1235. MEDICARE PROGRAM; QUALIFICATIONS FOR ESTABLISHING AND MAINTAINING MEDICARE BILLING PRIVILEGES (HCFA-6002-P)

Regulatory Plan: This entry is Seq. No. 35 in Part II of this issue of the **Federal Register**.

RIN: 0938–AH73

1236. NATIONAL STANDARD FOR IDENTIFIERS OF HEALTH PLANS (HCFA-4145-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1320d-2

CFR Citation: 45 CFR 142

Legal Deadline: Final, Statutory, February 21, 1998.

Abstract: This rule would implement a standard identifier to identify health plans that process and pay certain electronic health care transactions. It would implement one of the requirements for administrative simplification in section 262 of the Health Insurance Portability and Accountability Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: BPO-145

Agency Contact: Faye Broseker, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-07-06, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3342

RIN: 0938–AH87

1237. STATE CHILD HEALTH; IMPLEMENTING REGULATIONS FOR THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM (HCFA-2006-P)

Priority: Economically Significant

Legal Authority: PL 105-33; 42 USC 1396

CFR Citation: 42 CFR 457

Legal Deadline: None

Abstract: This proposed regulation will implement all programmatic provisions for the new State Children's Health Insurance Program (CHIP) under title XIX (Medicaid). The CHIP program was established to provide Federal funding to help States to initiate and expand child health assistance to uninsured, low-income children.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local

Agency Contact: Cheryl Austein-Casnoff, Department of Health and Human Services, Health Care Financing Administration, 200 Independence Avenue SW., Washington, DC 20201
Phone: 410 786-4196

RIN: 0938–AI28

HHS—HCFA

Proposed Rule Stage

1238. APPEALS OF CARRIER DETERMINATION THAT A SUPPLIER FAILS TO MEET THE REQUIREMENTS FOR MEDICARE BILLING PRIVILEGES (HCFA-6003-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395u(b)(3)(C); 42 USC 1395ff(b)

CFR Citation: 42 CFR 405.874

Legal Deadline: None

Abstract: This rule would establish an administrative appeal process whereby suppliers can request an appeal for a determination that affects their Medicare part B billing number. The purpose of this rule is to update and clarify our policy and extend administrative appeal rights to all current and prospective suppliers who are denied enrollment in the Medicare program or whose Medicare billing privileges are revoked. This rule does not apply to those suppliers covered under the appeals provisions for our regulations at 42 CFR 498.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Waldhauser, Division of Provider/Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850 Phone: 410 786-6140

RIN: 0938–AI49

1239. PROSPECTIVE FEE SCHEDULE FOR AMBULANCE SERVICES (HCFA-1002-NR)

Regulatory Plan: This entry is Seq. No. 36 in Part II of this issue of the **Federal Register**.

RIN: 0938–AI72

1240. MEDICARE PROGRAM; COVERAGE AND ADMINISTRATIVE POLICIES FOR CLINICAL DIAGNOSTIC LABORATORY TESTS; INTENT TO FORM NEGOTIATED RULEMAKING COMMITTEE (HCFA-3250-P)

Priority: Other Significant

Unfunded Mandates: This action may affect State, Local or Tribal Governments.

Legal Authority: PL 105-33, sec 4554(b)(1)

CFR Citation: 42 CFR ch 410

Legal Deadline: Final, Statutory, January 1, 1999, BBA Section 4106.

Abstract: This proposed rule would establish national coverage and administrative policies for clinical diagnostic laboratory services payable under Medicare Part B to promote Medicare program integrity and national uniformity, and simplify administrative requirements for clinical diagnostic laboratory services. A Negotiated Rulemaking Committee (the Committee) developed the proposed policies as directed by section 4554(b)(1) of the Balanced Budget Act of 1997 (the BBA).

Timetable:

Action	Date	FR Cite
Notice of Intent to Negotiate	06/03/98	63 FR 30166
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Jacqueline Sheridan, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-4635

RIN: 0938–AI92

1241. DECISION ON THE FUNDING FOR THE AIDS HEALTHCARE FOUNDATION START PROGRAM, (HCFA-2041-N)

Priority: Info./Admin./Other

Legal Authority: PL 105-33, sec 1110

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice announces the award of a grant in the sum of $2 million to the AIDS Healthcare Foundation of Los Angeles, California, for a demonstration project entitled, "START PROGRAM: Success Through Anti-Retroviral Therapy."

Timetable:

Action	Date	FR Cite
NPRM	03/04/99	64 FR 10479
Notice	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Wayne Smith Ph.D., CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-6762

RIN: 0938–AJ43

1242. PROTECTION FOR WOMEN WHO ELECT RECONSTRUCTION AFTER A MASTECTOMY (HCFA-2040-IFC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg-6

CFR Citation: 45 CFR 146; 45 CFR 148

Legal Deadline: None

Abstract: This IFC will implement the requirements of the Women's Health and Cancer Rights Act of 1998 (WHCRA). It will provide protection for patients who elect breast reconstruction following a mastectomy.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Michael Bussacca, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850 Phone: 410 786-4602

RIN: 0938–AJ44

HHS—HCFA

Proposed Rule Stage

1243. ACCELERATED PAYMENTS TO PROVIDERS FURNISHING SERVICES UNDER MEDICARE PART A AND PART B AND ADVANCE PAYMENTS TO SUPPLIERS FURNISHING ITEMS OR SERVICES UNDER MEDICARE PART B (HCFA-1066-FC)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 91-190; 42 USC 1302; 42 USC 1395g; 42 USC 1395l; 42 USC 1395hh

CFR Citation: 42 CFR 412.116; 42 CFR 413.64; 42 CFR 421.214

Legal Deadline: None

Abstract: This proposed rule would ensure continued payments to providers and suppliers in the event of a national, regional, or a local emergency, such as national disasters including fire, flood, earthquake and the year 2000 computer system difficulties and related breakdowns. The intent of the proposed rule is to give HCFA broad discretion in implementing procedures to provide appropriate payments to providers and suppliers in the event of a national, regional, or a local emergency that may prevent the submission or processing of Medicare claims.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Geraldine Nicholson, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6967

RIN: 0938–AJ45

1244. MEDICARE/MEDICAID AND CLIA PROGRAMS: CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988 EXEMPTION OF LABORATORIES IN THE STATE OF CALIFORNIA (HCFA-2245-N)

Priority: Other Significant

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493

Legal Deadline: None

Abstract: This NPRM grants all State-licensed or approved laboratories in California exemption from the requirements of the Clinical Laboratory Improvement Amendments of 1998, based on the State's demonstrated compliance with all the exemption requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Agency Contact: Jim Cometa, CMSO, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6720

RIN: 0938–AJ47

1245. FEDERAL ENFORCEMENT IN GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS (HCFA-2019-FC)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300gg

CFR Citation: 45 CFR 150

Legal Deadline: None

Abstract: This rule adds more specific requirements for enforcing legislative requirements concerning the portability and availability of health insurance. It specifies the Federal Government's role in enforcing the insurance requirements in States that do no enforce the requirements. It also specifies how the government will impose civil money penalties on health insurance issuers in those states and states appeal rights and procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Rochelle Shevitz, CMSO, Department of Health and Human Services, Health Care Financing Administration, S3-16-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1570

RIN: 0938–AJ48

1246. • MEDICARE PROGRAM: PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT REHABILITATION HOSPITAL SERVICES (HCFA-1069-P)

Regulatory Plan: This entry is Seq. No. 37 in Part II of this issue of the **Federal Register**.

RIN: 0938–AJ55

1247. • DME SURETY BONDS (HCFA-6006-P)

Regulatory Plan: This entry is Seq. No. 38 in Part II of this issue of the **Federal Register**.

RIN: 0938–AJ64

1248. • REAPPLICATION OF THE JOINT COMMISSION FOR ACCREDITATION OF HEALTH CARE ORGANIZATIONS JCAHO (HCFA-2058-PN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395(bb)

CFR Citation: None

Legal Deadline: None

Abstract: This NPRM announces the receipt of a reapplication from JCAHO for recognition as a national accreditation program for home health agencies (HHA's) that wish to participate in the Medicare or Medicaid programs. The Social Security Act requires that the Secretary publish a notice identifying the national accreditation body making the request for approval describing the nature of the request and providing a 30-day public comment period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joan Berry, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing

HHS—HCFA **Proposed Rule Stage**

Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7233
Email: jberry@hcfa.gov

RIN: 0938–AJ68

1249. • REAPPLICATION OF THE COMMUNITY HEALTH ACCREDITATION PROGRAM, INCORPORATED (CHAP FOR CONTINUED APPROVAL OF DEEMING AUTHORITY FOR WHOM HEALTH CARE AGENCIES HCFA-2059-PN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395(bb)

CFR Citation: None

Legal Deadline: None

Abstract: This NPRM announces the receipt of a reapplication from CHAP for recognition as a national accreditation program for home health agencies (HHA's) that wish to participate in the Medicare or Medicaid programs. The Social Security Act requires that the Secretary publish a notice identifying the national accrediatation body making the request for approval describing the nature of the request and providing a 30-day comment period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joan Berry, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7233
Email: jberry@hcfa.gov

RIN: 0938–AJ69

1250. • HHA SURETY BOND (HCFA-6001-P)

Regulatory Plan: This entry is Seq. No. 39 in Part II of this issue of the **Federal Register**.

RIN: 0938–AJ81

Department of Health and Human Services (HHS)
Health Care Financing Administration (HCFA) **Final Rule Stage**

1251. ADDITIONAL SUPPLIER STANDARDS (HCFA-6004-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 424.57

Legal Deadline: None

Abstract: This rule will establish additional standards for entities seeking to qualify as Medicare suppliers for purposes of submitting claims for durable medical equipment and supplies. This rule is part of HCFA's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2926
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1864

Agency Contact: Charles Waldhauser, Division of Provider/Supplier Enrollment, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6140

RIN: 0938–AH19

1252. REQUIREMENTS FOR ENROLLMENT OF MEDICAID RECIPIENTS UNDER COST EFFECTIVE EMPLOYER-BASED GROUP HEALTH PLANS (HCFA-2047-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396a(u)(1); 42 USC 1396d(a); 42 USC 1396a(a)(25); 42 USC 1396a(e); 42 USC 1396e

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This final rule with comment period amends our regulations to incorporate an optional statutory requirement that States may require, as a condition of Medicaid eligibility, enrollment of certain Medicaid eligibles in employer-based group health plans determined cost-effective by States under guidelines approved by HCFA. If this option is elected by the State, it also requires States to pay all premiums, deductibles, coinsurance, and other cost-sharing obligations under these group health plans for services otherwise covered under the approved Medicaid State plans. In addition, this final rule with comment period provides for Medicaid payment of premiums for certain individuals who are entitled to elect continuation coverage provided for in the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), Public Law 99-272, under a group health plan provided by an employer with 75 or more employees.

This final rule with comment period conforms our regulations to sections 4402 and 4713 of the Omnibus Budget Reconciliation Act of 1990 and section 4741 of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31569
NPRM Comment Period End	08/19/94	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: MB-047

Previously published under RIN 0938-AF64.

Agency Contact: Gwendolyn Talvert, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-15-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5928
Email: gtalvert@hcfa.gov

RIN: 0938–AH48

HHS—HCFA **Final Rule Stage**

1253. TERMS, DEFINITIONS, AND ADDRESSES: TECHNICAL AMENDMENTS (HCFA-9877-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x(v)(1)(A); 42 USC 1395hh

CFR Citation: 42 CFR 400 to 420; 42 CFR 421 to 430; 42 CFR 431 to 440; 42 CFR 442 to 447; 42 CFR 455 to 456; 42 CFR 462 to 466; 42 CFR 473 to 476; 42 CFR 482 to 489; 42 CFR 491 to 498

Legal Deadline: None

Abstract: This is a technical final rule with comment period that will initiate the rationalization of our system of definitions, correct outdated addresses and formulas, clarify which steps of the appeals process are binding and which are final, remove content that is duplicative or unnecessary, and make other clarifying editorial changes.

Timetable:

Action	Date	FR Cite
Final With Comment Period	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-877

Agency Contact: Luisa V. Iglesias, Division of Regulation and Issuances, Department of Health and Human Services, Health Care Financing Administration, Room 409-B, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC
Phone: 202 690-6383

RIN: 0938–AH53

1254. UTILIZATION CONTROL AND DISCONTINUED REVIEW ACTIVITIES; MEDICAID (HCFA-2101-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(26); 42 USC 1396a(a)(30); 42 USC 1396a(a)(31); 42 USC 1396a(a)(44); 42 USC 1396b(g)

CFR Citation: 42 CFR 400; 42 CFR 431; 42 CFR 456

Legal Deadline: None

Abstract: This final rule with comment period amends current regulations to reflect statutory changes under which physician certification, plan of care, and utilization review requirements become State plan requirements and are no longer included in the quarterly "showings" of compliance that States must submit. Those showings are now limited to inspection of care reviews in institutions for mental diseases and intermediate care facilities for the mentally retarded. The rule also reflects the discontinuance of the State-operated claims processing assessment system and of regional office review of a subsample of each State's Medicaid quality control sample.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: MB-101

Agency Contact: Pamela Butler, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-6776

RIN: 0938–AH64

1255. UPDATE OF RATESETTING METHODOLOGY, PAYMENT RATES AND THE LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS EFFECTIVE FOR CALENDAR YEAR 2000 (HCFA-1885-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 13951(i)(2)(A)

CFR Citation: 42 CFR 416.61(b); 42 CFR 416.65(a)(4); 42 CFR 416.65(c); 42 CFR 416.120(c)(1); 42 CFR 416.125; 42 CFR 416.130; 42 CFR 416.140(a); 42 CFR 416.140(b); 42 CFR 488.1

Legal Deadline: None

Abstract: This final rule discusses several policy changes affecting coverage of and payment for Ambulatory Surgical Center (ASC) facility services as provided under sections 1833(i)(1A) and (2A) of the Social Security Act. It would include the criteria for identifying procedures that are appropriate and safely performed in an ASC; the method used to set ASC payment rates; and the schedule for publishing and implementing payment and coverage updates.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32290
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-885

Agency Contact: Joan H. Sanow, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, C4-11-16, Baltimore, MD 21244
Phone: 410 786-5763

RIN: 0938–AH81

1256. NATIONAL STANDARD HEALTH CARE PROVIDER IDENTIFIER (HCFA-0045-F)

Regulatory Plan: This entry is Seq. No. 40 in Part II of this issue of the **Federal Register**.

RIN: 0938–AH99

1257. MEDICARE PROGRAM; MEDICARE+CHOICE PROGRAM (HCFA-1030-2-F)

Regulatory Plan: This entry is Seq. No. 41 in Part II of this issue of the **Federal Register**.

RIN: 0938–AI29

1258. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES (HCFA-1005-F)

Regulatory Plan: This entry is Seq. No. 42 in Part II of this issue of the **Federal Register**.

RIN: 0938–AI56

1259. SECURITY AND ELECTRONIC SIGNATURE STANDARDS (HCFA-0049-F)

Regulatory Plan: This entry is Seq. No. 43 in Part II of this issue of the Federal Register.

RIN: 0938–AI57

1260. HEALTH INSURANCE REFORM: STANDARDS FOR ELECTRONIC TRANSACTIONS (HCFA-0149-F)

Regulatory Plan: This entry is Seq. No. 44 in Part II of this issue of the Federal Register.

RIN: 0938–AI58

1261. NATIONAL STANDARD EMPLOYER IDENTIFIER (HCFA-0047-F)

Regulatory Plan: This entry is Seq. No. 45 in Part II of this issue of the Federal Register.

RIN: 0938–AI59

1262. MEDICAID PROGRAM; HOME AND COMMUNITY-BASED SERVICES (HCFA-2010-FC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, Local or Tribal Governments.

Legal Authority: 42 USC 1302; PL 105-33, sec 4743

CFR Citation: 42 CFR 440; 42 CFR 441

Legal Deadline: None

Abstract: This final rule with comment period expands State flexibility in providing prevocational, educational and supported employment services under the Medicaid home and community-based services waiver provisions of section 1915(c) of the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Bill Coons, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5921

RIN: 0938–AI67

1263. MEDICAID MANAGED CARE; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICAID PROVISIONS OF THE BALANCED BUDGET ACT OF 1997 (HCFA-2001-P)

Regulatory Plan: This entry is Seq. No. 46 in Part II of this issue of the Federal Register.

RIN: 0938–AI70

1264. COVERAGE OF RELIGIOUS NON-MEDICAL HEALTH CARE INSTITUTIONS (HCFA-1909-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-5; 42 USC 1395x(e), (y), and (ss); 42 USC 1395ff; 42 USC 1395oo; 42 USC 1302

CFR Citation: 42 CFR 403; 42 CFR 412.90; 42 CFR 412.98; 42 CFR 431.610; 42 CFR 440.155; 42 CFR 442.12; 42 CFR 456.351; 42 CFR 456.601; 42 CFR 466.1; 42 CFR 440.170; 42 CFR 488.2; 42 GFR 488.6; 42 CFR 489.102

Legal Deadline: Final, Statutory, July 1, 1998, BBA Section 4106.

Abstract: This final rule with comment period implements section 4454 of the Balanced Budget Act of 1997 (BBA 1997), which amended section 1861 of the Social Security Act (the Act) and added a new section 1821 to the Act. Section 4454 of BBA 1997 removed all references to Christian Science and Christian sanatoria from the Act and substituted religious nonmedical health care institutions in their place. This change permits any religious organization to apply to be paid for furnishing nonmedical services under Medicare. Section 4454 also authorizes payment for such services as an option benefit under State Medicaid plans. The rule sets forth minimum requirements and conditions of participation to qualify as a religious nonmedical health care institution for purposes of receiving payment for services furnished under Medicare and Medicaid.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jean Marie Moore, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3508

RIN: 0938–AI93

1265. HOME HEALTH PROSPECTIVE PAYMENT SYSTEM (HCFA-1059-P)

Regulatory Plan: This entry is Seq. No. 47 in Part II of this issue of the Federal Register.

RIN: 0938–AJ24

1266. ESTABLISHMENT OF A PROGRAM TO COLLECT SUGGESTIONS FOR IMPROVING MEDICARE PROGRAM EFFICIENCY AND TO REWARD SUGGESTORS (HCFA-4000-FC)

Priority: Other Significant

Legal Authority: PL 104-191, sec 203(c)1; 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 420.410

Legal Deadline: None

Abstract: This rule establishes a suggestion program as a means of (1) encouraging individuals to submit suggestions and (2) rewarding individuals who make suggestions for improving the efficiency of the Medicare program in those instances in which HCFA deems that it is appropriate and when a reward is not otherwise provided by law. The rule describes the program, lists information requirements and eligibility criteria, establishes an upper limit for payments, and outlines the process and time limitations for obtaining a reward.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sam Della Vecchia, CBS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4481

RIN: 0938–AJ30

HHS—HCFA

Final Rule Stage

1267. • THE CHILDREN'S HEALTH INSURANCE PROGRAM: IMPLEMENTING THE BALANCED BUDGET ACT OF 1997 (HCFA-2006-P)

Regulatory Plan: This entry is Seq. No. 48 in Part II of this issue of the **Federal Register**.

RIN: 0938–AJ75

Department of Health and Human Services (HHS)
Health Care Financing Administration (HCFA)

Long-Term Actions

1268. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS (HCFA-1309-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395k; 42 USC 1395l; 42 USC 1395x; 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395tt; 42 USC 1395ww; 42 USC 1396b

CFR Citation: 42 CFR 405; 42 CFR 413; 42 CFR 414; 42 CFR 424; 42 CFR 431; 42 CFR 447

Legal Deadline: None

Abstract: This rule will incorporate provisions of the Deficit Reduction Act of 1984, COBRA '85, OBRA '86, OBRA '87, TMRA '88, OBRA '89, and OBRA '90 regarding payment and "assignment" for diagnostic clinical laboratory tests establishing in regulations the methods for implementing fee schedules. This rule will set forth the methods by which the fee schedules will be updated and will allow certain adjustments for exceptions to the fee schedule. It will also reflect a statutory revision mandated by OBRA '93.

Timetable:

Action	Date	FR Cite
NPRM	08/18/93	58 FR 43156
NPRM Comment Period End	10/18/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-3

Agency Contact: Cathy Black, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4544

RIN: 0938–AB50

1269. CHANGES TO PEER REVIEW ORGANIZATION REGULATIONS (HCFA-3135-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1320c; 42 USC 1396a(a)(30); 42 USC 1395cc(a)

CFR Citation: 42 CFR 400.200; 42 CFR 411.15; 42 CFR 431.630; 42 CFR 433.15; 42 CFR 462.1; 42 CFR 462.101; 42 CFR 462.102; 42 CFR 462.106; 42 CFR 462.107; 42 CFR 466.1; 42 CFR 466.71; 42 CFR 466.76; 42 CFR 466.78; 42 CFR 466.83

Legal Deadline: None

Abstract: This rule will set forth several changes to regulations that govern Peer Review Organizations (PROs) and is based on statutory changes contained in COBRA '85 and OBRA '86. In addition, several technical changes will be included as a result of experience gained with the PRO program by HCFA. This rule also implements the new quality review requirements for certain Medicaid health maintenance organization contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	53 FR 8654
NPRM Comment Period End	05/16/88	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HSQ-135

Agency Contact: William Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-0433

RIN: 0938–AD38

1270. OMNIBUS NURSING HOME REFORM REQUIREMENTS (HCFA-3488-F)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395i-3; 42 USC 1395x; 42 USC 1396r; 42 USC 1302

CFR Citation: 42 CFR 431; 42 CFR 482; 42 CFR 483; 42 CFR 488

Legal Deadline: None

Abstract: This rule will implement several provisions of OBRA '87 that concern services to residents of nursing homes. This rule will implement provisions that include Federal standards for evaluating State waivers of nursing facility nurse staffing requirements, use of physical and chemical restraints in nursing facilities, qualifications of facility administrators, notice of Medicaid rights to be given to persons admitted to nursing facilities, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	02/05/92	57 FR 4516

Action	Date	FR Cite
NPRM Comment Period End	04/06/92	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-488

Agency Contact: Nancy Archer, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, S3-05-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 401 786-0596

RIN: 0938–AD81

1271. "WITHOUT FAULT" AND BENEFICIARY WAIVER OF RECOVERY AS IT APPLIES TO MEDICARE OVERPAYMENT LIABILITY (HCFA-1719-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395gg

CFR Citation: 42 CFR 401; 42 CFR 403.310; 42 CFR 405; 42 CFR 410.1; 42 CFR 411.23; 42 CFR 411.28; 42 CFR 413.20; 42 CFR 413.153; 42 CFR 447.31; 42 CFR 466.86; 42 CFR 466.94; 42 CFR 473.14; 42 CFR 493.1834

Legal Deadline: None

Abstract: This rule would amend the Medicare regulations to clarify our interpretation of "without fault" as it applies to physician, provider, supplier, and beneficiary liability for overpayments. This definition would result in greater uniformity of determinations by carriers and intermediaries. Additionally, this rule would amend the Medicare regulations governing liability for overpayments to eliminate application of certain regulations of the Social Security Administration and to replace them with HCFA regulations more specific to circumstances involving Medicare overpayments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-71

Agency Contact: David Walczak, Center for Health Plans and Providers, Plan & Provider Purchasing Policy Group, Department of Health and Human Services, Health Care Financing Administration, C4-07-07, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4475

RIN: 0938–AD95

1272. PROTECTION OF INCOME AND RESOURCES FOR COMMUNITY SPOUSES OF INSTITUTIONALIZED INDIVIDUALS (HCFA-2023-P)

Priority: Other Significant

Legal Authority: 42 USC 1396r-5; 42 USC 1302

CFR Citation: 42 CFR 435.650 to 674; 42 CFR 435.750 to 754

Legal Deadline: None

Abstract: This rule would interpret statutory changes made in 1988, 1989, 1990 and 1993 that allocate income and resources between an institutionalized spouse and the spouse remaining in the community. It would also provide special post-eligibility rules for institutionalized individuals who have spouses in the community to retain more income to meet living expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local, State

Additional Information: HCFA-2023

Agency Contact: Roy Trudel, Center for Medicaid & State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-20-15, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3417

RIN: 0938–AE12

1273. SURVEY REQUIREMENTS AND ALTERNATIVE SANCTIONS FOR HOME HEALTH AGENCIES (HCFA-2169-F)

Priority: Other Significant

Legal Authority: 42 USC 1395bbb; 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 488; 42 CFR 489; 42 CFR 498

Legal Deadline: None

Abstract: These rules will establish periodic, unannounced surveys of home health agencies (HHAs) and other survey requirements and also will specify sanctions that could be used when an HHA is out of compliance with Federal requirements (as an alternative or in addition to terminating an HHA's participation in the Medicare program).

Timetable:

Action	Date	FR Cite
NPRM	08/02/91	56 FR 37054
NPRM Comment Period End	10/01/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State, Federal

Additional Information: HSQ-169

Pending completion of RIN 0938-AG81 (HCFA-3819-P)

Agency Contact: Patricia Miller, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-19-14, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6780

RIN: 0938–AE39

1274. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT (EPSDT) SERVICES (HCFA-2028-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(43); 42 USC 1396d(r)

CFR Citation: 42 CFR 441.50; 42 CFR 440.40

Legal Deadline: None

Abstract: Section 1905(r) of the Social Security Act, added by section 6403 of OBRA '89, defines the following EPSDT services: screening services, vision services, dental services and hearing services. EPSDT services also are defined to include such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) of the Act to correct or ameliorate defects, illnesses and conditions discovered by the screening services whether or not the services are covered under the State plan. Section 1902(a)(43) of the Act requires States to report to the Secretary certain information about EPSDT services provided under the plan during each fiscal year. This rule would set forth requirements to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/01/93	58 FR 51288
NPRM Comment Period End	11/30/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local, State

Additional Information: MB-028

Agency Contact: Cindy Ruff, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, C4-16-08, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5916

RIN: 0938–AE72

1275. PAYMENT FOR NURSING AND ALLIED HEALTH SCIENCE EDUCATION (HCFA-1685-F)

Priority: Other Significant

Legal Authority: PL 101-239, Sec 6205; PL 101-508, Sec 4004; PL 101-508, Sec 4159; 42 USC 1395x

CFR Citation: 42 CFR 413

Legal Deadline: Final, Statutory, June 30, 1990.

Abstract: This rule will set forth our policy for the payment of the costs of approved nursing and allied health science programs, as directed by section 6205(b)(2) of OBRA '89. For the most part, the provisions set forth in this rule restate or clarify our current policies governing these costs, which were previously set forth in the provider reimbursement manual and other documents, but have never been included in the regulations. In addition, we are amending the list of approved programs and clarifying payment rules for certified registered nurse anesthetist programs. This rule will also address section 4004 of OBRA '90 which provides that, effective with cost reporting periods beginning on or after October 1, 1990, under certain conditions, costs incurred by a hospital or educational institution related to the hospital for clinical training are treated as pass-through costs and paid on the basis of reasonable cost even though the hospital does not operate the education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/22/92	57 FR 43659
NPRM Comment Period End	11/23/92	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HCFA-1685

Agency Contact: Marc Hartstein, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4539

RIN: 0938–AE79

1276. COVERAGE OF SCREENING PAP SMEARS (HCFA-3705-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 410.10; 42 CFR 410.32; 42 CFR 410.56; 42 CFR 411.15

Legal Deadline: None

Abstract: This rule establishes regulations under section 6115 of OBRA '89 to govern Medicare part B coverage of screening pap smears (including a physician's interpretation of the test results) provided to a woman for the early detection of cervical cancer.

Timetable:

Action	Date	FR Cite
NPRM	11/26/93	58 FR 62312
NPRM Comment Period End	01/24/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-705

Agency Contact: Joyce Eng, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-02-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4619

RIN: 0938–AE98

1277. CHANGES TO THE LONG-TERM CARE FACILITY SURVEY PROCESS (HCFA-3175-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: PL 101-239, sec 6901(a); 42 USC 1395i-3; 42 USC 1395aa(d); 42 USC 1396r

CFR Citation: 42 CFR 442; 42 CFR 488

Legal Deadline: None

Abstract: This rule will amend the Medicare and Medicaid regulations by removing obsolete long-term care survey forms, guidelines, and procedures used by State agencies when they evaluate a Medicare skilled nursing facility or a Medicaid nursing facility for compliance with Federal certification requirements. Effective October 1, 1990, the application of new Federal participation requirements for these facilities with an increased focus on actual or potential resident outcomes has made the survey forms and process in existing regulations outdated. Retention of the outdated items can cause confusion in connection with directions State survey agencies must follow in determining facility compliance. This rule is part of the Administration's reinventing government and regulatory reform initiatives. Publication of this regulation is dependent upon court approval which has been sought.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HSQ-175

This regulation may be published only with the concurrence of the U.S. District Court in Smith v. Shalala.

Agency Contact: Helene Fredeking, Director, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-21-28, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7304

RIN: 0938–AF02

1278. REQUIREMENTS FOR CERTAIN HEALTH INSURING ORGANIZATIONS AND OBRA '90 TECHNICAL AMENDMENTS (HCFA-1018-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(m); 42 USC 1396a(e)(2)(A)

CFR Citation: 42 CFR 434.20 to 72; 42 CFR 435.212; 42 CFR 435.326

Legal Deadline: None

Abstract: This final rule amends the Medicaid regulations to apply Medicaid regulations governing prepaid health plans to those health insuring organizations that provide or arrange for health care services to Medicaid recipients but are not subject to the requirements for health maintenance organizations (HMOs) set forth in section 1903(m)(2)(A) of the Social Security Act. It also incorporates technical amendments relating to HMO and/or competitive medical plan enrollment, disenrollments, guaranteed eligibility, and provisional status included in OBRA '90 and the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	05/09/94	59 FR 23820
NPRM Comment Period End	07/08/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: None

Additional Information: OMC-018

Agency Contact: Betty Stanton, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-25-13, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3247

RIN: 0938–AF15

1279. PROVIDER REIMBURSEMENT DETERMINATIONS AND APPEALS (HCFA-1727-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395x(v)(1)(A); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395ww; 42 USC 405; 42 USC 300e; 42 USC 300e-5; 42 USC 300e-9; 31 USC 9701

CFR Citation: 42 CFR 405.1801 to 405.1889; 42 CFR 413.30 to 413.64; 42 CFR 417.576; 42 CFR 417.810

Legal Deadline: None

Abstract: Section 1878 of the Social Security Act and 42 CFR part 405, subpart R, provide for administrative and judicial review, in accordance with prescribed requirements, of certain disputes regarding Medicare reimbursement for participating providers of services. This proposed rule would revise, update, and clarify various provisions of the regulations pertaining to provider appeals and make conforming changes to other regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-727

Agency Contact: Morton Marcus, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-26-22, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4477

RIN: 0938–AF28

1280. ALTERNATIVE SANCTIONS FOR PSYCHIATRIC HOSPITALS (HCFA-2191-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395cc; 42 USC 1396a

CFR Citation: 42 CFR 488

Legal Deadline: None

Abstract: This proposed rule would provide an alternative to terminating a psychiatric hospital's participation in the Medicare and Medicaid programs for facilities found to be out of compliance with participation requirements. Alternative sanctions could be imposed instead of, or in addition to, terminating a psychiatric hospital's participation in the Medicare and Medicaid programs when deficiencies do not pose immediate jeopardy to the health and safety of psychiatric hospital patients. These amendments are necessary to conform HCFA regulations to changes made by OBRA '89 and OBRA '90. The statutory and regulatory revisions are intended to encourage correction of deficiencies that do not jeopardize patient health and safety before termination of a facility becomes necessary.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Federal

Additional Information: HSQ-191

RIN: 0938–AF32

1281. MEDICAID PAYMENT FOR COVERED OUTPATIENT DRUGS UNDER REBATE AGREEMENTS (HCFA-2046-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396a(a); 42 USC 1396r-8; 42 USC 1396b(a); 42 USC 1302

CFR Citation: 42 CFR 447; 42 CFR 441

Legal Deadline: None

Abstract: This final rule with comment period will incorporate section 4401 of

OBRA '90 to add specific requirements for Medicaid payment for covered outpatient drugs. The requirements concern: denial of Federal financial participation unless rebate agreements and drug use review are in effect; prohibiting some State plan drug access limitations for drugs covered under a rebate agreement; and the content of the rebate agreements. (The drug rebate agreement was previously published in the Federal Register on February 21, 1991 (56 FR 7049)). This rule will reflect statutory revisions mandated by the Veteran's Health Care Act of 1992 and OBRA '93. Revision of the drug rebate dispute resolution process is part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	09/19/95	60 FR 48442
NPRM Comment Period End	11/20/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: HCFA-2046-FC

Agency Contact: Peggy Rahn, Department of Health and Human Services, Health Care Financing Administration, Department of Health and Human Services, Health Care Financing Adminsitration, 7500 Security Blvd., Baltimore, MD 21244
Phone: 410 786-3284

RIN: 0938–AF42

1282. REFERRAL TO CHILD SUPPORT ENFORCEMENT AGENCIES OF MEDICAID FAMILIES (HCFA-2051-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396k; 42 USC 1302

CFR Citation: 42 CFR 433.135; 42 CFR 433.137; 42 CFR 433.151; 42 CFR 433.160

Legal Deadline: None

Abstract: This rule will require State Medicaid agencies to refer Medicaid families with an absent parent to child support enforcement (CSE) agencies. Section 9142 of OBRA '87 required CSE agencies to provide all CSE services to such Medicaid families who have assigned to the State their rights to medical support. The purpose of these rules is to require States to make this referral to State CSE agencies to ensure that those recipients requiring CSE services receive them.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49272
NPRM Comment Period End	11/22/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: HCFA-2051

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-14-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4466

RIN: 0938–AF68

1283. MEDICAID: OUTSTATIONED INTAKE LOCATIONS FOR CERTAIN LOW-INCOME PREGNANT WOMEN, INFANTS, AND CHILDREN UNDER AGE 19 (HCFA-2052-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(55)

CFR Citation: 42 CFR 435.901; 42 CFR 435.902; 42 CFR 435.903; 42 CFR 435.904; 42 CFR 435.907; 42 CFR 436.2; 42 CFR 436.3; 42 CFR 435.3

Legal Deadline: None

Abstract: This rule will finalize the interim final rule that requires State Medicaid agencies to provide for receipt and initial processing of Medicaid applications filed by certain low-income pregnant women, infants, and children under age 19, at locations which are other than those used for receipt and processing of applications for cash assistance under title IV-A of the Social Security Act. The rule is based on section 1902(a)(55) of the Social Security Act, as added by section 4602 of OBRA '90, PL 101-508.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/94	59 FR 48805
Effective Date	10/24/94	
Comment Period End	11/22/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: HCFA-2052

Agency Contact: Robert Tomlinson Jr., Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-08-24, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4463

RIN: 0938–AF69

1284. ASSESSING INTEREST AGAINST MEDICARE SECONDARY PAYER (MSP) DEBTS (HCFA-6108-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3711; 42 USC 1395y(b)(2)(B)

CFR Citation: 42 CFR 405.378; 42 CFR 411.24(m); 42 CFR 411.39

Legal Deadline: None

Abstract: This proposed rule would amend the regulations concerning interest charges on amounts owed to the Federal government when an overpayment occurs because Medicare was billed and made payment as the primary payer, rather than as the secondary payer. We also propose to clarify the date of determination that an overpayment has occurred so that all parties would have a clear understanding of the period subject to payment of interest charges.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BP0-108

Agency Contact: John W. Albert, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, S3-02-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7457

RIN: 0938–AF87

1285. REVISED MEDICAID MANAGEMENT INFORMATION SYSTEMS (HCFA-2038-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396b(r)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice sets forth revised general functional requirements for the Medicaid Management Information Systems (MMIS). The MMIS consists of software and hardware used to process Medicaid claims and to retrieve and produce utilization and management information about services that are required by the Medicaid agency or Federal Government for administrative or audit purposes. The revised requirements allow States more flexibility to exercise variations in the implementation.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/93	58 FR 61692
Comment Period End	01/21/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: MB-038

Agency Contact: Richard H. Friedman, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4451

RIN: 0938–AG10

1286. ALTERNATIVE SANCTIONS FOR RENAL DIALYSIS FACILITIES (HCFA-3204-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395rr(c); 42 USC 1395rr(g)

CFR Citation: 42 CFR 405; 42 CFR 488; 42 CFR 498

Legal Deadline: None

Abstract: This proposed rule would set forth circumstances under which HCFA could impose denial of payment sanction as an alternative to terminating coverage of the facilities services when an end-stage renal dialysis (ESRD) facility is not in substantial compliance with the conditions for coverage, but its deficiencies do not pose immediate jeopardy to patient health or safety. Before section 1881 of the Social Security Act was amended by section 12 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), HCFA was authorized to impose alternative sanctions only when an ESRD facility failed to cooperate in the goals and activities of the ESRD network for the area in which the facility is located.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: HSQ-204

Agency Contact: Judith Kari, Center for Medicaid and State Operations, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-19-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6829

RIN: 0938–AG31

1287. DESCRIPTION OF HCFA'S EVALUATION METHODOLOGY FOR THE PEER REVIEW ORGANIZATIONS FIFTH SCOPE OF WORK CONTRACTS (HCFA-3207-N)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1320c; 42 USC 1320c-(2)(h)(2)

CFR Citation: 42 CFR 462

Legal Deadline: None

Abstract: This notice with a comment period would provide general criteria and standards that will be used to evaluate the effective and efficient performance of Utilization and Quality Control Peer Review Organizations (known as PROs) for contracts entered into on or after April 1, 1996.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35824
NPRM Comment Period End	09/02/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HSQ-207-NC

Agency Contact: Heidi Gelzer, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-08-24, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-9352

RIN: 0938–AG32

1288. DISCLOSURE OF CONFIDENTIAL PRO AND ESRD NETWORK ORGANIZATION INFORMATION FOR RESEARCH PURPOSES (HCFA-3208-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1320c-9; 42 USC 1302

CFR Citation: 42 CFR 405.2115; 42 CFR 476.144

Legal Deadline: None

Abstract: This rule would allow Peer Review Organizations (PROs) to disclose confidential information to researchers without the consent of the individuals who would be identified. The research must be directly related to the purposes of the PRO or ESRD program. Currently, PROs can only disclose to the public nonconfidential aggregate data where no one is specifically identified. The statute, however, provides for limited disclosure and allows the Secretary to provide for disclosure in the regulations while assuring adequate protection of the rights and interests of patients, health care practitioners, and providers. HCFA is now emphasizing the sharing of PRO data for educational and research purposes as evidenced by the implementation of the Uniform Clinical Data Set and the Health Care Quality Improvement Initiative. This regulatory revision would make confidential PRO information accessible to researchers while still protecting the identities of beneficiaries and practitioners from unwarranted disclosure.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: HSQ-208

Agency Contact: Mary Vienna, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6940

RIN: 0938–AG33

1289. MEDICARE PROGRAM: LIMITATIONS ON MEDICARE COVERAGE OF INTERMITTENT POSITIVE PRESSURE BREATHING MACHINE THERAPY (HCFA-3781-FN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395y(a)(1)(A)

CFR Citation: 45 CFR 500

Legal Deadline: None

Abstract: Intermittent positive pressure breathing (IPPB) machine therapy is currently covered under Medicare as durable medical equipment for patients whose ability to breathe is severely impaired. Based on an Office of Health Technology Assessment recommendation, we will place limitations on Medicare coverage of IPPB machine therapy.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/29/94	59 FR 33520
Comment Period End	08/29/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-781

Agency Contact: Francine Spencer, Office of Clinical Standards and Quality, Coverage and Analysis Group, Department of Health and Human Services, Health Care Financing Administration, C4-04-05, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4614

RIN: 0938–AG44

1290. TELEPHONE REQUESTS FOR REVIEW OF PART B INITIAL CLAIM DETERMINATIONS (HCFA-4121-F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395ff(b); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395u(b)(3)(C)

CFR Citation: 42 CFR 405.802; 42 CFR 405.807

Legal Deadline: None

Abstract: This rule will make it easier for beneficiaries, providers, and suppliers, who are entitled to appeal Medicare part B initial claim determinations to request a review of the carrier's initial determination. Currently, these initial claim requests must be in writing. This final rule will allow those requests to be made by telephone, which will expedite the appeals process, and save time and costs for all parties. Allowing the use of telephone requests will supplement, not replace, the current procedures for initiating appeals. By providing quick and easy access to the appeals process, this rule will also improve carrier relationships with the beneficiary, physician and other suppliers.

Timetable:

Action	Date	FR Cite
NPRM	07/10/95	60 FR 35544
NPRM Comment Period End	09/08/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPO-121

Agency Contact: Rosalind Little, Center for Beneficiary Services, Department of Health and Human Services, Health Care Financing Administration, S1-05-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6972

RIN: 0938–AG48

1291. EFFECT OF CHANGE OF OWNERSHIP ON PROVIDER AND SUPPLIER PENALTIES, SANCTIONS, UNDERPAYMENTS AND OVERPAYMENTS (HCFA-2215-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g(a); 42 USC 1395hh; 42 USC 1395ii; 42 USC 1395oo; 42 USC 1395xx; 42 USC 1395x(v); 42 USC 13951; 42 USC 405; 42 USC 1395ww

CFR Citation: 42 CFR 405.1803; 42 CFR 405.1811; 42 CFR 405.1835; 42 CFR 405.1843; 42 CFR 405.1805; 42 CFR 489.2; 42 CFR 489.18

Legal Deadline: None

Abstract: This rule would amend the regulations on provider and certain supplier agreements by clarifying the effect a change of ownership has on penalties and sanctions incurred by the former provider or supplier. It also would clarify our policy on changes involving leased departments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HSQ-215

Agency Contact: Mike Goldman, Division of Integrated Health Systems, Department of Health and Human Services, Health Care Financing Administration, S2-14-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6813

RIN: 0938–AG59

1292. MEDICAID: OPTIONAL COVERAGE OF TB-RELATED SERVICES FOR INDIVIDUALS INFECTED WITH TUBERCULOSIS (HCFA-2082-P)

Priority: Economically Significant

Legal Authority: 42 USC 1396a(a)(10)(A)(ii); PL 103-66, Sec 13603; 42 USC 1396a(z)

CFR Citation: 42 CFR 435.219; 42 CFR 435.201; 42 CFR 440.250; 42 CFR 436.201; 42 CFR 436.219; 42 CFR 440.164

Legal Deadline: None

Abstract: This rule would provide for optional Medicaid coverage of low-income individuals infected with tuberculosis (TB). These individuals would be eligible only for specified tuberculosis related services. The rule would incorporate and interpret provisions of section 13603 of OBRA '93.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: HCFA-2082

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-16-25, 7500 Security Boulevard, Baltimore, MD 21244-1850

Phone: 410 786-4461

RIN: 0938–AG72

1293. REVISION OF MEDICARE/MEDICAID HOSPITAL CONDITIONS OF PARTICIPATION (HCFA-3745-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1395x; 42 USC 1302; 42 USC 1395(cc); 42 USC 1395(hh); 42 USC 1320(b)(8)

CFR Citation: 42 CFR 416; 42 CFR 482; 42 CFR 485; 42 CFR 489

Legal Deadline: None

Abstract: This final rule will revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in health care practices since the requirements were last revised in 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/19/97	62 FR 66726
NPRM Comment Period End	03/20/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3745

Agency Contact: Doris Jackson, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S3-05-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4656

RIN: 0938–AG79

1294. PHYSICIANS' REFERRALS TO HEALTH CARE ENTITIES WITH WHICH THEY HAVE FINANCIAL RELATIONSHIPS—EXPANDED TO DESIGNATED HEALTH SERVICES (HCFA-1809-F)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395nn

CFR Citation: 42 CFR 411.1; 42 CFR 411.350 to 411.361; 42 CFR 424.22; 42 CFR 435.1002; 42 CFR 435.1012; 42 CFR 455.100 to 455.109

Legal Deadline: None

Abstract: This rule provides that a physician who has (or whose immediate family member has) a financial relationship with a health care entity may not make referrals to that entity for certain services (designated health services) under the Medicare program except under specified circumstances. In the Medicaid context, this rule would deny payment to a State for expenditures for designated health services furnished on the basis of a physician referral that, all things being equal, would result in denial of payment under Medicare. The provisions of the rule are based on sections 13562 and 13624 of OBRA '93 and section 152 of SSAA '94.

Timetable:

Action	Date	FR Cite
NPRM	01/09/98	63 FR 1659
NPRM Comment Period End	05/11/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: BPD-1809-

Agency Contact: Joanne Sinsheimer, Technical Assistant, CHPPS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AG80

1295. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (HCFA-3819-F)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bb

CFR Citation: 42 CFR 484

Legal Deadline: None

Abstract: This final rule will revise home health agency conditions of participation to center on the patient, using outcome-oriented measures. Most of the current HHA conditions of participation have remained unchanged since home health services became a Medicare benefit in 1966. Some limited modifications have been made over the years to comply with legislative changes. As a result, most of the conditions of participation continue to be structure and process oriented. In addition, this final rule will require that HHAs use a standard core assessment data set, the "Outcome and Assessment Information Set" (OASIS), when evaluating adult, non-maternity patients receiving home health care.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005
NPRM Comment Period End	06/09/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3819

Agency Contact: Mary Vienna, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, C4-05-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6940

RIN: 0938–AG81

1296. DISTINCT PART REQUIREMENTS FOR NURSING HOMES AND PROHIBITION OF FINANCIAL SCREENING OF APPLICANTS FOR NURSING HOME ADMISSION (HCFA-3815-P)

Priority: Other Significant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r(a); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 409; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would define "distinct part" by specifying that a distinct part is a physically identifiable unit of an institution (that is, an entire ward, wing, floor, or building) including all beds in the unit. This proposed rule would also prohibit nursing homes from financially screening private pay applicants for admission. Instead, nursing homes would be permitted to charge private pay applicants up to a 2-month deposit before admission to ensure that sufficient funds are available to pay for care which the individual may receive before discharge.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-815

Agency Contact: Nancy Archer, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, S3-05-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 401 786-0596

RIN: 0938–AG84

1297. CLIA PROGRAM: CATEGORIZATION OF WAIVED TESTS (HCFA-2225-FC)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 263a

CFR Citation: 42 CFR 493.2; 42 CFR 493.7; 42 CFR 493.8; 42 CFR 493.9; 42 CFR 493.15; 42 CFR 493.20; 42 CFR 493.25; 42 CFR 493.35; 42 CFR 493.37; 42 CFR 493.39; 42 CFR 493.45; 42 CFR 493.47; 42 CFR 493.49; 42 CFR 493.53; 42 CFR 493.1775

Legal Deadline: None

Abstract: As part of the CLIA program (see RIN: 0938-AE47), this rule will revise our current process of evaluating tests against generic criteria. A waiver will be granted to any test that meets the statutory criteria, provided that scientifically valid data are submitted verifying that the criteria were met.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47534
NPRM Comment Period End	11/13/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-225

Agency Contact: Judy Yost, Division of Outcomes and Improvements, Department of Health and Human Services, Health Care Financing Administration, S2-09-28, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-3531

RIN: 0938–AG99

1298. LIABILITY FOR THIRD PARTIES TO PAY FOR SERVICES (HCFA-2080-P)

Priority: Other Significant

Legal Authority: 42 USC 1396a(a)(25)(A); 42 USC 1396b(o)

CFR Citation: 42 CFR 433.135 to 433.152

Legal Deadline: None

Abstract: This rule would incorporate provisions of OBRA '93 by amending the regulations governing third party liability. It would add ERISA plans, service benefit plans, and health maintenance organizations to the definition of liable third parties. It would require States to prohibit any health insurer from taking into account, when enrolling or making payments, that an individual is eligible for or receiving Medicaid. It would also require States to enact a law under which the State is deemed to have acquired a individual's right to payment by a third party.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: MB-08

Agency Contact: Robert Nakielny, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-14-26, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4466

RIN: 0938–AH01

1299. DEFINITION OF SKILLED NURSING FACILITY (SNF) FOR COVERAGE OF DURABLE MEDICAL EQUIPMENT (DME) AND HOME HEALTH (HCFA-1834-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(n); 42 USC 1395i-3(a)(1); 42 USC 1396r(a)(1)

CFR Citation: 42 CFR 409; 42 CFR 410

Legal Deadline: None

Abstract: This proposed rule would define skilled nursing facilities (SNFs) under section 1819(A)(1) of the Social Security Act for purposes of Medicare coverage of durable medical equipment (DME) and home health services. A Medicare SNF (as defined under section 1819 of the Social Security Act) cannot be considered a home under Medicare part B for DME and home health coverage. This proposed rule would presume that all Medicare nursing facilities are section 1819(A)(1) facilities and thus would not be considered a home for DME coverage. This would define non-Medicare nursing homes as skilled facilities based upon the receipt of skilled care at least once a week by a proportion of its residents population.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-834

Agency Contact: Thomas E. Hoyer, Center for Health Plans and Providers,

Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4605

RIN: 0938–AH16

1300. STATE PLAN AMENDMENT (SPA) RECONSIDERATION PROCESS (HCFA-2096-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1316; 42 USC 1396a(a)

CFR Citation: 42 CFR 430.18; 42 CFR 430.60

Legal Deadline: None

Abstract: This proposed rule would revise and streamline the State Plan Amendment (SPA) reconsideration process. Currently, when a State requests reconsideration of a denied SPA, a hearing is held in all cases, even when the only dispute is over the interpretation of the statute. Under the proposed regulation, the State and HCFA could avoid the cost and delay of the hearing process when the only issue is interpretation of the statute by permitting the State expedited judicial review, without a full administrative hearing, after HCFA has a brief opportunity to reconsider its decision.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HCFA-2096

Agency Contact: Robert Tomlinson Jr., Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-08-24, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4463

RIN: 0938–AH24

1301. HOSPICE CARE—CONDITIONS OF PARTICIPATION (HCFA-3844-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395x(dd); 42 USC 1395hh

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would revise the Medicare conditions of participation for hospices to help ensure the provision of quality care through an emphasis on patient-centered outcomes. Areas of change would include, among others, assessment of patient needs, clarification of physician roles, coordination of care for hospice patients residing in nursing homes, clarification of nursing roles, patient rights, and provision of services.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: HCFA-3844

Agency Contact: Lynn Merritt-Nixon, Office of Clinical Standard & Quality, Department of Health and Human Services, Health Care Financing Administration, S3-04-25, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4652

RIN: 0938–AH27

1302. CLIA PROGRAM; CYTOLOGY PROFICIENCY TESTING (HCFA-2233-N)

Priority: Other Significant

Legal Authority: 42 USC 263a(f)(4)(B)(iv)

CFR Citation: 42 CFR 493.855

Legal Deadline: None

Abstract: This notice announces the withdrawal of a proposed rule on cytology proficiency testing that was published in the Federal Register November 30, 1995, and instead, announces a supplement to the rulemaking record of a final rule published February 28, 1992. In publishing the proposed rule, HHS complied with a Federal court order requiring publication of a proposal that would require that cytology proficiency testing be conducted to the extent practicable, under normal working conditions. As required, we proposed to revise regulations to require that proficiency testing be conducted at a pace corresponding to the maximum workload rate for individuals examining slides. We also solicited comments on the use of computer facsimile representations of cytology specimens, as an alternative to glass-slide proficiency testing. After the proposed rule was published, the appeals court revised the lower court's order, allowing us to withdraw the proposed rule and supplement the record to the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/30/95	60 FR 61509
NPRM Comment Period End	01/29/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-233-N. We are publishing a notice to advise the public that no final rule is necessary because the court decided the case in our favor.

Agency Contact: Rhonda S. Whalen, Senior Health Scientist, Department of Health and Human Services, Health Care Financing Administration, MS F, 4770 Buford Highway NE, 11, Atlanta, GA 30341-3724
Phone: 770 488-8155

RIN: 0938–AH35

1303. MEDICARE COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS (HCFA-1843-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395x(cc)(1); 42 USC 1395x(ll)

CFR Citation: 42 CFR 484; 42 CFR 485

Legal Deadline: None

Abstract: This proposed rule would implement SSA '94 provisions to

provide coverage for speech-language pathology services furnished by a qualified pathologist.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-843

Agency Contact: Jacqueline Gordon, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C4-07-14, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4517

RIN: 0938–AH37

1304. PAYMENT AMOUNT IF CUSTOMARY CHARGES ARE LESS THAN REASONABLE COSTS (HCFA-1860-FC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 1395f(b); 42 USC 1395l(a); 42 USC 1395m(a)

CFR Citation: 42 CFR 413.13

Legal Deadline: None

Abstract: In accordance with HCFA's regulatory burden reduction program, this technical regulation modifies or removes from regulations language that reference the following aspects of the Medicare program:

o The Lower of Cost or Charges (LCC) carryover provision; this provision was removed from HCFA regulations several years ago.

o The application of the LCC principle to durable medical equipment (DME) furnished by home health agencies (HHAs); these items are now paid in accordance with a fee schedule.

o Other content that was previously removed. This final regulation also clarifies several portions of section 413.13 and removes obsolete provisions.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: BPD-86

Agency Contact: Ward Pleines, Chronic Care Purchasing Policy Group, Division of Cost Reporting, Department of Health and Human Services, Health Care Financing Administration, C5-02-23, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4528

RIN: 0938–AH49

1305. LIMITATIONS ON LIABILITY (HCFA-4859-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395pp

CFR Citation: 42 CFR 411.404

Legal Deadline: None

Abstract: This final rule with comment period will implement section 1879 (h) of the Social Security Act, which limits beneficiary liability for certain medical equipment and supplies. This rulemaking is part of the Reinventing Government effort. We are working with industry representatives to develop guidelines that will streamline requirements, reduce burden and duplication, and give beneficiaries the opportunity to make informed consumer decisions regarding certain medical equipment and supplies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: BPD-85

Agency Contact: Denis M. Garrison, Division of Beneficiary Protections, Department of Health and Human Services, Health Care Financing Administration, C4-06-21, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5643

RIN: 0938–AH51

1306. MEDICARE SECONDARY PAYER CLARIFICATIONS AND AMENDMENTS (HCFA-1865-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 411

Legal Deadline: None

Abstract: This proposed rule would codify in regulations policies regarding liability insurance, such as structured liability settlements, future medical expenses, provider malpractice, wrongful death, and Federal Tort Claims Act policy. It would also clarify the rules dealing with group health plan bankruptcies, religious orders, and foreign group health plans, and make numerous other changes.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-865

Agency Contact: Herb Pollock, Center for Health Plans & Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-08-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4474

RIN: 0938–AH52

1307. REVISION TO ACCRUAL BASIS OF ACCOUNTING POLICY (HCFA-1876-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395x(v); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.100

Legal Deadline: None

Abstract: The proposed rule would specify the providers' share of the costs of FICA and other employee payroll taxes that will be allowable under Medicare when the payroll period ends subsequent to the end of the reporting period. The proposed rule would provide that if payment would be made to an employee during a cost reporting period but for the fact that the regularly scheduled payment date is after the end of the period, that portion of employees FICA or other taxes that have accrued

up to the end of the reporting period will be treated as allowable costs in the current reporting period.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HCFA-1876

Agency Contact: John Eppinger Jr., Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-03-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4518

RIN: 0938–AH61

1308. MEDICAID; ESTATE RECOVERIES (HCFA-2083-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a; 42 USC 1396p

CFR Citation: 42 CFR 433.36

Legal Deadline: None

Abstract: This proposed rule is being developed as a result of the OBRA 1993 provisions that mandated States to seek adjustment or recovery from the estates of Medicaid beneficiaries for amounts correctly spent by Medicaid on permanently institutionalized individuals (any age) and individuals age 55 or older for certain services. The OBRA 1993 provision also defines "estate," and further requires States to establish hardship procedures, in accordance with standards specified by the Secretary for waiver of recovery in cases where undue hardship would result.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: HCFA-2083

Agency Contact: Ingrid Osborne, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-16-25, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4461

RIN: 0938–AH63

1309. MEDICAID HOSPICE CARE (HCFA-2016-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395hh; 42 USC 1302

CFR Citation: 42 CFR 418.24; 42 CFR 418.28; 42 CFR 418.98; 42 CFR 440.167; 42 CFR 440.250(q); 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would provide for optional Medicaid coverage of hospice care for terminally ill recipients who elect to receive care from a participating hospice, establish eligibility requirements, covered services, reimbursement procedures, and conditions that a hospice must meet to provide services to Medicaid recipients. It would make conforming technical revisions to the Medicare regulations governing hospice care.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: HCFA-2016

Agency Contact: Tom Shenk, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3295

RIN: 0938–AH65

1310. PROVIDER AND SUPPLIER BILLING WHEN MEDICARE IS SECONDARY PAYOR TO LIABILITY INSURANCE (HCFA-1848-P)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395cc; 42 USC 1395dd; 42 USC 1395hh; 42 USC 1395ww; 42 USC 1395x; 42 USC 1395aa

CFR Citation: 42 CFR 411; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would revise current regulations to require that providers and suppliers attempt to collect payment from the proceeds of liability insurance during the "promptly period." This rule would also permit providers and suppliers to choose either to pursue collection of payment from the proceeds of liability insurance after the "promptly period" has ended or to bill Medicare.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-848

Agency Contact: Anita Heygster, Center for Health Plans & Providers, Department of Health and Human Services, Health Care Financing Administration, C4-04-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4486

RIN: 0938–AH66

1311. MEDICARE TECHNICAL CONFORMING AMENDMENTS (HCFA-1858-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395k

CFR Citation: 42 CFR 409.50; 42 CFR 409.61; 42 CFR 410.152

Legal Deadline: None

Abstract: This final rule with comment period will update our regulations to reflect that payment for durable medical equipment is on the basis of a fee schedule.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: BPD-858

Agency Contact: Martha Kuespert, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C4-02-16, 7500 Security Boulevard, Baltimore, MD 21244-1850

Phone: 410 786-4605

RIN: 0938–AH67

1312. ELIMINATION OF CERTAIN REQUIREMENTS FOR PEER REVIEW ORGANIZATIONS IN THE UTILIZATION AND QUALITY REVIEW PROCESS AND A CHANGE IN THE LENGTH OF PEER REVIEW ORGANIZATION CONTRACTS (HCFA-3235-FC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 462.107; 42 CFR 466.71; 42 CFR 466.73

Legal Deadline: None

Abstract: This rule would eliminate the requirement that Peer Review Organizations (PROs) conduct quarterly random sample reviews of hospital discharges. It would also change the period for PRO contracts from 2 years to 3 years and would eliminate certain notification requirements regarding contract awards.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-235-FC

Agency Contact: William Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-0433

RIN: 0938–AH68

1313. DETERMINATION OF SUBSTANDARD CARE IN SNFS AND NFS (HCFA-2240-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395i-3; 42 USC 1396r

CFR Citation: 42 CFR 488.301

Legal Deadline: None

Abstract: This proposed rule would revise the definition of "substandard quality of care" as it applies to skilled nursing facilities, in the Medicare program, and nursing facilities, in the Medicaid program. "Substandard quality of care" is one type of noncompliance with Federal participation requirements that carries with it statutory consequences to facilities providing such care. The purpose of this proposed revision is to improve the definition of substandard quality of care so that the process can make a more meaningful distinction between facility noncompliance that warrants the consequences mandated by the statute for a finding of substandard quality of care and noncompliance that does not.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local

Additional Information: HSQ-24

Agency Contact: Patricia Miller, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-19-14, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6780

RIN: 0938–AH69

1314. WAIVER OF STAFFING REQUIREMENTS FOR END STAGE RENAL DISEASE (ESRD) FACILITIES PARTICIPATING IN AN EXPERIMENT (HCFA-2236-GNC)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1320; 42 USC 1395x; 42 USC 1395y; 42 USC 1395hh; 42 USC 1395rr

CFR Citation: 42 CFR 405.2136; 42 CFR 405.2161; 42 CFR 405.2162; 42 CFR 405.2163

Legal Deadline: None

Abstract: This general notice with comment period announces our intention to conduct a demonstration that would grant selected ESRD facilities a 2-year waiver of staffing requirements. The ESRD staffing requirements pertain to: the governing body and management, director of a facility, on-duty licensed health care professionals, and providing adequate laboratory, social, and dietetic services. Facilities would be given flexibility to deviate from specified regulation requirements, provided assurances are in place ensuring that quality of care standards are not being compromised.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-236

Agency Contact: William Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-0433

RIN: 0938–AH72

1315. INDIVIDUAL MARKET HEALTH INS. REFORM PORTABILITY FROM GROUP TO INDIV. COVERAGE; FEDERAL RULES FOR ACCESS IN THE INDIV. MARKET; STATE ALTERNATIVE MECHANISMS TO FEDERAL RULES (HCFA-2882-F)

Priority: Other Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 USC 300gg-41 et seq

CFR Citation: 45 CFR 148

Legal Deadline: None

Abstract: This final rule will address comments received on the interim final rule published on April 8, 1997 and further clarifies the Departmental position on HIPAA requirements in the individual market.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16985
Interim Final Rule Effective Date	04/08/97	
Interim Final Rule Comment Period End	07/07/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local

Additional Information: BPD-882

Agency Contact: Gertrude Saunders, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5888
Email: gsaunders@hcfa.gov

RIN: 0938–AH75

1316. REVISIONS TO CONDITIONS FOR COVERAGE FOR AMBULATORY SURGICAL CENTERS (HCFA-3887-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 416

Legal Deadline: None

Abstract: This proposed rule would revise the ambulatory surgical center conditions for coverage to reflect current innovations in healthcare delivery, quality assessment, and performance improvement. The focus would be to improve outcomes of health care and satisfaction for Medicare beneficiaries, while streamlining structural and procedural requirements where possible.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BPD-887

Agency Contact: Judy Goldfarb, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, S2-199.06, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-6747

RIN: 0938–AH83

1317. DISCLOSURE OF PEER REVIEW ORGANIZATION INFORMATION IN RESPONSE TO BENEFICIARY COMPLAINTS (HCFA-3241-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 466.70(a); 42 CFR 476.101; 42 CFR 476.107; 42 CFR 476.132; 42 CFR 476.133(b)(4)

Legal Deadline: None

Abstract: This proposed rule would change our policy regarding the disclosure of peer review organization (PRO) information in responding to beneficiary complaints about physicians, other practitioners, and other institutional and non-institutional providers of health care, including Health Maintenance Organizations and Competitive Medical Plans. Under the proposal, we would permit the disclosure of PRO information about physicians and other individual practitioners without their permission to the extent necessary to comply with section 1154(a)(14) of the Social Security Act. This section requires PROs to conduct reviews of beneficiary complaints about the quality of services that do not meet professionally recognized standards of health care and inform each beneficiary of the final disposition of his or her complaint.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: HSQ-241

Agency Contact: William Roskey, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, S1-09-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-0433

RIN: 0938–AH85

1318. MEDICAID PROGRAM; AMENDMENT TO THE PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW PROGRAM (HCFA-2107-P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1396r(e); 42 USC 1396r(b)

CFR Citation: 42 CFR 405; 42 CFR 431; 42 CFR 433; 42 CFR 441; 42 CFR 483

Legal Deadline: None

Abstract: This proposed rule would make changes to the preadmission screening and annual resident review program in accordance with the provisions of Public Law 104-315, which were included in the Reinventing Government effort. The rule would repeal the Medicaid program requirement for an annual review of nursing facility (NF) residents with mental illness or mental retardation. This proposed rule also would add the requirement for NFs to notify the State when there is a significant change in the physical or mental condition of a resident and add a statutory requirement that the State conduct a review promptly after notification of the resident's change in condition.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: HCFA-2107

Agency Contact: Jan Earle, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-15-10, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-9004

RIN: 0938–AH89

1319. MEDICALLY NEEDY DETERMINATIONS UNDER WELFARE REFORM (HCFA-2109-IFC)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Deadline: None

Abstract: This interim final rule with comment period will revise our rules to allow States to include individuals who are described as categorically needy to be covered as medically needy. The State must specify the income and resources criteria for the medically needy group in the State plan. If an individual is also described as categorically needy, the individual would receive Medicaid as categorically needy if the State elected to cover the categorically needy group into which the individual fits. If the State has not elected to cover that group, the individual would be medically needy. This change will allow more individuals to become eligible for Medicaid as medically needy and eliminate an inequity in current regulations. This revision also allows some individuals who would otherwise lose their Medicaid benefits to retain their eligibility.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: MB-1

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-17-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4579
Email: jwilder@hfca.gov

RIN: 0938–AH92

1320. MEDICAID PROGRAM; COVERAGE AND PAYMENT FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES (HCFA-2043-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1396a(a)(13); 42 USC 1396d(a)

CFR Citation: 42 CFR 431; 42 CFR 440; 42 CFR 441; 42 CFR 447

Legal Deadline: None

Abstract: This proposed rule would incorporate and interpret in regulations coverage and payment requirements for services furnished by a federally qualified health center (FQHC) under the Medicaid program. This rule will include changes in the payment provisions to FQHCS made by section 4712 of the Balanced Budget Act of 1997 PL-105-33.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Additional Information: MB-43

Agency Contact: David Worgo, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-15-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5919

RIN: 0938–AH95

1321. REVISION TO THE DEFINITION OF AN UNEMPLOYED PARENT (HCFA-2106-FC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 607; 42 USC 1396u-1

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: This final rule with comment period will make a change necessary for a State to further facilitate coordination of its Medicaid and foster care program in cases where coverage has been expanded under its Temporary Assistance for Needy Families beyond the definition of unemployed parent contained in existing Aid to Families with Dependent Children regulations. This rule revises the definition of unemployment of a principal wage earner for purposes of coverage of dependent children of unemployed parents. It will also allow States to eliminate inequitable policies that are a disincentive to family unity.

Timetable:

Action	Date	FR Cite
Final Rule With Comment Period	08/07/98	63 FR 42270

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Additional Information: HCFA-2106-FC

Agency Contact: Judith Rhoades, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-08-05, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4462

RIN: 0938–AH98

1322. PORTABILITY AND NONDISCRIMINATION IN THE GROUP HEALTH INSURANCE MARKET (HCFA-2890-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 300gg et seq

CFR Citation: 45 CFR 146

Legal Deadline: None

Abstract: This final rule will address comments received on the interim final rule published April 8, 1997. It will also further clarify the Department's position on the minimum requirements applicable with respect to group health plans and health insurance issuers offering group health insurance coverage. A group health plan or health insurance issuer offering group health coverage may provide greater rights to participants and beneficiaries than those currently provided. This rule will include the following: (1) limitations on preexisting condition exclusion periods; (2) certification and disclosure of previous coverage; (3) special enrollment periods for individuals (and dependents) losing other coverage; (4) use of affiliation period by HMOs as alternative to preexisting condition exclusion; (5) prohibited discrimination against individual participants and beneficiaries based on health status; (6) guaranteed availability in the small group market; and (7) guaranteed renewability in the large and small group markets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Effective	06/07/97	
Interim Final Rule Comment Period End	07/07/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: BPD-890-IFC

Agency Contact: Dave Holstein, Insurance Standards Team, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1564

RIN: 0938–AI08

1323. MEDICARE PROGRAM; MEDICARE INTEGRITY PROGRAM (HCFA-7020-F)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: PL 104-191

CFR Citation: 42 CFR 400; 42 CFR 421

Legal Deadline: None

Abstract: This rule implements section 1893 of the Social Security Act (added by section 202 of the Health Insurance Portability and Accountability Act of 1996) by establishing the Medicare Integrity Program to carry out Medicare payment integrity activities. Under this program HCFA may enter into new contracts with entities to perform these activities. This rule will identify the services to be procured; competitive requirements; procedures for identification, evaluation, and resolution of conflicts of interest; and rules regarding contractor liability. In addition, this rule will revise the list of intermediary and carrier functions set forth in existing regulations to make them consistent with sections 1816, 1842, and 1893 of the Social Security Act.

Timetable:

Action	Date	FR Cite
NPRM	05/19/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: OFH-020-P, PL 104-191, sec. 202

Agency Contact: Brenda Thew, OICS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4889

RIN: 0938–AI09

1324. MEDICARE PROGRAM; IMPROVEMENTS TO THE APPEALS PROCESS FOR MEDICARE BENEFICIARIES ENROLLED IN HMOS, CMPS, AND HCPPS (HCFA-4024-P)

Priority: Other Significant

Legal Authority: 42 USC 1395mm(c)(5)

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: This proposed rule would establish new administrative review requirements for Medicare beneficiaries enrolled in health maintenance organizations (HMOs), competitive medical plans (CMPs), and health care prepayment plans. This rule would implement section 1876(c)(5) of the Social Security Act, which specifies the appeal and grievance rights of Medicare enrollees in HMOs and CMPs. This rule would reduce time lines for nonurgent denials of care and make other improvements. We will also address related requirements of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Beverly Sgroi, Department of Health and Human Services, Health Care Financing Administration, Department of Health and Human Services, Health Care Financing Administratin, 7500 Security Blvd, Baltimore, MD 21244-1850
Phone: 410 786-7638

RIN: 0938–AI11

1325. MEDICARE PROGRAM; PHYSICIAN FEE SCHEDULE CONVERSION FACTOR FOR CALENDAR YEAR 1998 AND SUSTAINABLE GROWTH RATE FOR FISCAL YEAR 1998 (HCFA-1893-FN)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395w-4

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice announces the calendar year 1998 Medicare physician fee schedule conversion factor and the fiscal year 1998 sustainable growth rate for expenditures for physicians' services under the Medicare Supplementary Medical Insurance (part B) program as required by sections 1848(d) and (f) of the Social Security Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/97	62 FR 59261
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Terrence Kay, Center for Health Plans and Providers, Division of Practitioner and Ambulatory C, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, C4-10-26, Baltimore, MD 21244
Phone: 410 786-4497

RIN: 0938–AI16

1326. MEDICAID: MEDICAL CHILD SUPPORT (HCFA-2081-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(60); 42 USC 1396g

CFR Citation: 42 CFR 433

Legal Deadline: None

Abstract: This proposed rule would require States to provide assurances satisfactory to the Secretary that the State has in effect laws relating to medical child support. This requirement would implement section 13623 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), commonly cited as OBRA 1993. The medical child support laws that the States must have in effect are set forth in section 1908 of the Social Security Act (the Act). These laws would impose requirements on insurers, employers, and State Medicaid agencies that would result in greater enrollment opportunities for children facilitate the filing of claims by custodial parents and establish new payment disbursement criteria.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Additional Information: HCFA-2081

Agency Contact: Sue Knefley, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0488

RIN: 0938–AI21

1327. MEDICARE PROGRAM: PHYSICIANS' REFERRALS; ISSUANCE OF ADVISORY OPINIONS (HCFA-1902-F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395nn(g)(6); 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 411.370 to 411.389

Legal Deadline: None

Abstract: This final rule will set forth the procedures HCFA will use to issue written advisory opinions to outside parties concerning whether a physician's referral of a Medicare beneficiary for certain designated health services is prohibited under section 1877 of the Social Security Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/09/98	63 FR 1646
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joanne Sinsheimer, Technical Assistant, CHPPS, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4620

RIN: 0938–AI38

1328. MEDICARE/MEDICAID PROGRAM; USER FEES FOR INFORMATION, PRODCUTS, AND SERVICES (HCFA-6021-P)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701

CFR Citation: 42 CFR 401

Legal Deadline: None

Abstract: This proposed rule would establish regulations relating to user fees for services we provide that confer benefits on specific individuals that are over and above those benefits received by the general public.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Escobedo, Office of Financial Management, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5401

RIN: 0938–AI46

1329. SURETY BOND REQUIREMENTS FOR COMPREHENSIVE OUTPATIENT REHAB. FACILITIES, REHAB. AGENCIES, COMMUNITY MENTAL HEALTH CENTERS, AND INDEPENDENT DIAGNOSTIC TESTING FACILITIES (HCFA-6005-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395x(v); 42 USC 1395hh

CFR Citation: 42 CFR 413; 42 CFR 489

Legal Deadline: None

Abstract: The Balanced Budget Act of 1997 (BBA 1997) requires suppliers of durable medical equipment, home health agencies, comprehensive outpatient rehabilitation facilities, and rehabilitation agencies to furnish us with a surety bond in order to participate in the Medicare Program. The BBA 1997 also affords us the discretion to require other health care providers (other than physicians or other practitioners) to furnish us with a surety bond to participate in the Medicare program. This proposed rule discusses the implementation of these provisions to require comprehensive outpatient rehabilitation facilities, rehabilitation agencies, and certain other providers and suppliers we have selected to furnish us with a surety bond on a continuing basis in order to participate in the Medicare program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ralph Goldberg, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4870
Email: rgoldberg@hcfa.gov

RIN: 0938–AI48

1330. STATE PLAN REQUIREMENTS FOR DURABLE MEDICAL EQUIPMENT PROVIDERS (HCFA-2007-P)

Priority: Other Significant

Unfunded Mandates: This action may affect State, Local or Tribal Governments.

Legal Authority: 42 USC 1396a(a)(65)(B)

CFR Citation: 42 CFR 441

Legal Deadline: None

Abstract: This proposed rule would establish in regulations a requirement that durable medical equipment suppliers be required to furnish Medicaid State agencies with a surety bond in order to participate in the Medicaid program. This proposed rule would implement section 4724(g) of the Balanced Budget Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Mary Linda Morgan, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-26-12, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-2011
Email: mmorgan@hcfa.gov

RIN: 0938–AI63

1331. RECOGNITION OF THE COMMUNITY HEALTH ACCREDITATION PROGRAM, INC. (CHAP) AND JOINT COMMISSION FOR ACCREDITATION OF HEALTHCARE ORGANIZATIONS (JCAHO) FOR HOSPICES (HCFA-2029-PN)

Priority: Routine and Frequent

Legal Authority: 42 USC 1395bb

CFR Citation: 42 CFR ch IV

Legal Deadline: Other, Statutory, September 8, 1998, The statue requires us to publish a notice within 60 days of receipt of a completed application.

Abstract: This notice announces the receipt of an application from the

Community Health Accreditation Program, Inc. (CHAP) and Joint Commission for Accreditation of Healthcare Organizations (JCAHO) for recognition as a national accreditation program for hospices that wish to participate in the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48735
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joan Berry, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-7233
Email: jberry@hcfa.gov

RIN: 0938–AI69

1332. ELIMINATION OF APPLICATION OF FEDERAL FINANCIAL PARTICIPATION LIMITS (HCFA-2111-IFC)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435

Legal Deadline: None

Abstract: This interim final rule with comment period eliminates the requirement that Federal financial participation income limits be applied when States use less restrictive income and resource methodologies to determine eligibility for aged, blind and disabled individuals, as well as for the optional categorically needy and the medically needy. This rule conforms the application of the FFP limits to the policy that the use of less restrictive income methodologies are not subject to FFP limits. This change will give States additional flexibility in setting Medicaid eligibility requirements.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jackie Wilder, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-17-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4579
Email: jwilder@hfca.gov

RIN: 0938–AI73

1333. MEDICAID PROGRAM; CHANGES TO ELIGIBILITY OF NON-U.S. CITIZENS (HCFA-2108-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; PL 104-193, sec 401 to 403

CFR Citation: 42 CFR 435; 42 CFR 436; 42 CFR 440

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 created changes in Federal law making most non-U.S. citizens ineligible for Supplemental Security Income (SSI). In most States, receipt of SSI confers automatic Medicaid eligibility. Although many States have elected optional eligibility groups that provide a basis for covering persons who do not receive SSI, some States have not done so. In these States, these individuals would be left without access to Medicaid (including emergency services). To conform with the new law, we are proposing regulations that would result in the loss of Medicaid for qualified aliens in those States that cover only SSI recipients. We are also seeking comments on whether there remains any statutory basis to continue Medicaid coverage for these individuals.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert Tomlinson Jr., Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, S2-08-24, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-4463

RIN: 0938–AI74

1334. MEDICARE PROGRAM; ADVANCE REFUNDING OF DEBT AND METHODOLOGY FOR REPAYMENT OF LOAN (HCFA-1777-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395x(v)

CFR Citation: 42 CFR 413

Legal Deadline: None

Abstract: This proposed rule would amend current regulations to clarify our policies regarding the treatment of interest expense. The rule would require that, when only part of the interest on a loan is allowable, repayment would be made first to that portion of the loan on which expense is allowable. This rule also would clarify how this policy is to be applied in situations in which there are multiple loans and one or more of the loans are not related to patient care. In addition, we would define the allowable costs associated with advance refunding of debt, and clarify the treatment of revenue and expenses.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Ann Pash, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4516
Email: apash@hcfa.gov

RIN: 0938–AI75

1335. MEDICARE HOSPICE CARE (HCFA-1022-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4441(a); PL 105-33, sec 4442 to 4446; PL 105-33, sec 4448

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would implement section 4441(a), 4442-4446, and 4448 of the Balanced Budget Act

of 1997. Specific changes include: updating hospice payment rates, specifying payment according to the site of service, modifying the hospice benefit periods, clarifying the services covered under the benefit, allowing hospices to contract for physician services, allowing waivers of certain staffing requirements for hospice care programs in non-urbanized areas, and extending the period for physician certification of an individual's terminal illness. Additionally, the proposed rule would also clarify other current policies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Blackford, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5909
Email: cblackford@hcfa.gov

RIN: 0938–AI77

1336. REVISION OF PROCEDURES FOR REQUESTING EXCEPTIONS TO COST LIMITS FOR SNFS AND ELIMINATION OF RECLASSIFICATIONS (HCFA-1883-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 413.30

Legal Deadline: None

Abstract: This proposed rule would revise the procedures for granting exceptions to the cost limits for skilled nursing facilities and retain the current procedures for exceptions to the cost limits for home health agencies. It would remove the provision allowing reclassification for all providers.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42797
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steve Raitzyk, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4599

RIN: 0938–AI80

1337. SOLVENCY STANDARDS FOR PROVIDER-SPONSORED ORGANIZATIONS (HCFA-1011-F)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395w-21 to 1395w-27; 42 USC 1395hh

CFR Citation: 42 CFR 422

Legal Deadline: None

Abstract: This final rule establishes solvency standards for provider-sponsored organizations (PSOs) under the new Medicare+Choice Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/98	63 FR 25360
Interim Final Rule Effective	05/07/98	
Interim Final Rule Comment Period End	07/06/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Greg Snyder, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-0329

RIN: 0938–AI83

1338. MEDICARE PROGRAM; MEDICARE COVERAGE OF AND PAYMENT FOR BONE MASS MEASUREMENTS (HCFA-3004-F)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302; 42 USC 1395hh; 42 USC 1395rr(b)(1); 42 USC 4106

CFR Citation: 42 CFR 410; 42 CFR 414

Legal Deadline: Other, Statutory, July 1, 1998, BBA Section 4106.

Abstract: This final rule provides for uniform coverage of, and payment for, bone mass measurements for qualified Medicare beneficiaries for services furnished on or after July 1, 1998. It implements provisions in section 4106(a) of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/24/98	63 FR 34320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: William Larson, Office of Communications & Operations Support, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4639

RIN: 0938–AI89

1339. HEALTH INSURANCE REFORM UNIVERSAL HEALTH CARE IDENTIFIER (HCFA-0048-NOI)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1320d-2

CFR Citation: 42 CFR ch IV

Legal Deadline: Final, Statutory, February 28, 1998, BBA Section 4106.

Abstract: This notice announces our intent to publish a proposed rule on requirements for a unique health identifier for individuals. These requirements are mandated by law and are part of a national framework for

health data standards and health information privacy that will support the efficient electronic exchange of specified administrative and financial health care transactions. This notice discusses the options for the identifier that have been put forward for consideration and asks for public comments.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mary Emerson, Office of Information Services, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, N2-12-22, Baltimore, MD 21244
Phone: 410 786-7065
Email: memerson@hcfa.gov

RIN: 0938–AI91

1340. PEER REVIEW ORGANIZATION CONTRACTS: SOLICITATION OF STATEMENTS OF INTEREST FROM IN-STATE ORGANIZATIONS (HCFA-3009-N)

Priority: Other Significant

Legal Authority: 44 USC 35

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice, in accordance with section 1153(i) of the Social Security Act, gives at least 6 months' advance notice of the expiration dates of contracts with out-of-state utilization and quality control peer review organizations. It also specifies the period of time in which in-state organizations may submit a statement of interest so that they may be eligible to compete for these contracts.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Udo Nwachukwu, Office of Clinical Standards and Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7234

RIN: 0938–AI99

1341. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE SCHEDULES (HCFA-1010-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13945u

CFR Citation: 42 CFR 414

Legal Deadline: None

Abstract: We are proposing to implement fee schedules to be used for payment of services, excluding ambulance services, still subject to the reasonable charge payment methodology.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joel Kaiser, Center for Health Plan and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4499

RIN: 0938–AJ00

1342. EXTERNAL QUALITY REVIEW OF MEDICAID MANAGED CARE ORGANIZATIONS (HCFA-2015-P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 438

Legal Deadline: None

Abstract: This proposed rule would amend the regulation to conform with the provisions of section 4705 of the Balanced Budget Act of 1997. It would require State agencies that contract with managed care organizations to implement quality improvement strategies that address access and other aspects of care and services directly related to the quality of care provided by these managed care organizations and performance through annual external, independent reviews conducted by accrediting organizations that are approved by HCFA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Sharon Gilles, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-1177

RIN: 0938–AJ06

1343. HHS' RECOGNITION OF NAIC MODEL STANDARDS FOR REGULATION OF MEDIGAP POLICY (HCFA-2025-N)

Priority: Other Significant

Legal Authority: 42 USC 1395ss

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice describes changes made by the Balanced Budget Act of 1997 and the Health Insurance Portability and Accountability Act of 1996 to section 1882 of the Social Security Act, which governs Medicare supplemental insurance. It also provides notice that the model regulation adopted by the National Association of Insurance Commissioners (NAIC) on April 29, 1998, and reprinted in its entirety as an addendum to this notice, constitutes the applicable NAIC model regulation that is incorporated by reference in section 1882.

Timetable:

Action	Date	FR Cite
Notice	09/30/98	63 FR 67078
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Cutler, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5903

RIN: 0938–AJ07

1344. REPORTING OUTCOME AND ASSESSMENT INFORMATION SET (OASIS) DATA AS PART OF THE CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES (HCFA-3006-IFC)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority: 42 USC 1302; 42 USC 1395(hh)

CFR Citation: 42 CFR 484.11; 42 CFR 484.20; 42 CFR 488.68

Legal Deadline: None

Abstract: This interim final rule with comment period requires electronic reporting of data from the Outcome and Assessment Information Set (OASIS) as a condition of participation for HHAs. Specifically, this rule provides guidelines for HHAs for the electronic transmission of the OASIS data set as well as responsibilities of the State agency or contractor in collecting and transmitting this information to HCFA. This interim final rule also sets forth provisions concerning the privacy of patient identifiable information generated by the OASIS.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/25/99	64 FR 3748
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Tracey Mummert, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD
Phone: 410 786-3398

RIN: 0938–AJ10

1345. MEDICARE PROGRAM; CRITERIA AND STANDARDS FOR EVALUATING INTERMEDIARY AND CARRIER PERFORMANCE: MILLENNIUM COMPLIANCE (HCFA-4002-GNC)

Priority: Info./Admin./Other

Legal Authority: 42 USC 1395(h); 42 USC 1395 (u)

CFR Citation: 42 CFR ch IV

Legal Deadline: None

Abstract: This notice revises the criteria and standards to be used for evaluating the performance of our contractors in administering the Medicare program. The revisions establish a performance standard requiring contractors to meet requirements for millennium compliance. We require contractors to certify that they have made all necessary system(s) changes and have tested those systems in accordance with our guideline.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Sue Lathroum, Center for Beneficiary Service, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-7409

RIN: 0938–AJ15

1346. RURAL HEALTH CLINICS: AMENDMENTS TO PARTICIPATION REQUIREMENTS AND PAYMENT PROVISIONS, AND ESTABLISHMENT OF A QUALITY ASSESSMENT AND IMPROVEMENT PROGRAM (HCFA-1910-P)

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405

Legal Deadline: None

Abstract: This proposed rule would amend our requirements to revise certification and payment requirements for rural health clinics (RHCs) as required by section 4205 of the Balanced Budget Act of 1997 (BBA 1997). It would include new refinements of what constitutes a qualifying rural shortage area in which a Medicare RHC must be located; establish criteria for identifying RHCs essential to delivery of primary care services that can continue to be approved as Medicare RHCs in areas no longer designated as medically underserved; and include recent statutory provisions that provide a temporary waiver of certain nonphysician practitioner staffing requirements. It would impose payment limits on provider based RHCs, prohibit commercial use, the use of space equipment, and other resources of an RHC by another entity. The rule also requires establishment of a quality assessment and performance improvement program.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: David Worgo, Center for Health Plans and Providers, Division of Integrated Services, Department of Health and Human Services, Health Care Financing Administration, C4-15-18, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-5919

RIN: 0938–AJ17

1347. HOSPITAL CONDITIONS OF PARTICIPATION: LABORATORY SERVICES (HCFA-3 014-P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 482.27

Legal Deadline: None

Abstract: This proposed rule would require hospitals that transfuse blood and blood products to (1) prepare and follow written procedures for appropriate action when it is determined that blood and blood products are at increased risk for transmitting hepatitis C virus (HCV); (2) quarantine prior collections from a donor who is at increased risk for transmitting HCV infection; (3) notify transfusion recipients, as appropriate, of the need for HCV testing and counseling; and (4) maintain records for at least 10 years.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Mary Collins, OCSQ, Department of Health and Human

Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3189

RIN: 0938–AJ29

1348. MEDICARE PROGRAM; PROCEDURES FOR MAKING MEDICAL SERVICES NATIONAL COVERAGE DECISIONS (HCFA-3432-GN)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 1302; 40 USC 1395hh

CFR Citation: None

Legal Deadline: None

Abstract: This notice withdraws the proposed rule that we published in the Federal Register on January 30, 1989 (54 FR 4302), in which we proposed to establish in regulations generally applicable criteria and procedures for HCFA decisions regarding whether and under what circumstances specific health care technologies could be considered "reasonable" and "necessary" and, therefore, covered under Medicare. We are withdrawing the proposed rule and announcing our intention to issue a new notice of proposed rulemaking concerning the criteria to be used in making national coverage decisions.

This notice also describes the procedures we use for making national decisions regarding the coverage of a payment for specific medical items and services under Medicare.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ron Milhourn, Office of Clinical Standards & Quality, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5666
Email: rmilhourn@hcfa.gov

RIN: 0938–AJ31

1349. MEDICARE PROGRAM; SPECIAL PAYMENT LIMITS FOR CERTAIN DURABLE MEDICAL EQUIPMENT AND PROSTHETIC DEVICES (HCFA-1050-PN)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1395m; 42 USC 1395u

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This notice proposes special payment limits, for five items of durable medical equipment and one prosthetic device, to replace the current fee schedule amounts for these items.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joel Kaiser, Center for Health Plan and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4499

RIN: 0938–AJ34

1350. MEDICARE HOSPICE CARE AMENDMENTS (HCFA-1022-P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-33, sec 4441(a); PL 105-33, sec 4442 to 4446; PL 105-33, sec 4448

CFR Citation: 42 CFR 418

Legal Deadline: None

Abstract: This proposed rule would implement sections 4441(a), 4442 to 4446, and 4448 of the Balanced Budget Act of 1997. Specific changes include updating hospice payment rates, specifying payment according to the site of service, modifying the hospice benefit periods, clarifying the services covered under the benefit, allowing hospices to contract for physician services, allowing waivers of certain staffing requirements for hospice care provided in non-urbanized areas, and extending the period for physician certification of an individual's terminal illness. Additionally, the proposed rule would clarify other current policies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Carol Blackford, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-5909
Email: cblackford@hcfa.gov

RIN: 0938–AJ36

1351. EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) (HCFA-1063-FC)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 1395cc, sec 1866; 42 USC 1395dd

CFR Citation: 42 CFR 489.24

Legal Deadline: None

Abstract: This final rule with comment period clarifies the extent of the Emergency Medical Treatment and Labor Act (EMTALA) application.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: George Morey, CHPP, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-4653

RIN: 0938–AJ39

1352. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 2000 RATES (HCFA-1053-P) (SECTION 610 REVIEW)

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 412; 42 CFR 413; 42 CFR 483; 42 CFR 485

HHS—HCFA

Long-Term Actions

Legal Deadline: NPRM, Statutory, April 1, 1999.
Final. Statutory, August 1, 1999.

Abstract: We are proposing to revise the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement changes arising from our continuing experience with the systems. In addition, in the addendum to this proposed rule, we are describing proposed changes in the amounts and factors necessary to determine rates for Medicare hospital inpatient services for operating costs and capital-related costs. These changes would be applicable to discharges occurring on or after October 1, 1999. We are also setting forth proposed rate-of-increase limits as well as proposed policy changes for hospitals and hospital unites excluded from the prospective payment systems. Finally, we are proposing changes to the policies governing payment to hospitals for the direct costs of graduate medical education. We will also review for the requirements of Section 610c of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
NPRM	05/07/99	64 FR 24715
NPRM Comment Period End	07/06/99	
Final Action	07/30/99	64 FR 41490

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Tzvi Hefter, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, C5-08-27, 7500 Security Boulevard, Baltimore, MD 21244-1850
Phone: 410 786-1304

RIN: 0938–AJ50

Department of Health and Human Services (HHS)
Health Care Financing Administration (HCFA)

Completed Actions

1353. CASE MANAGEMENT (HCFA-2027-F)

Priority: Other Significant

CFR Citation: 42 CFR 431.51(c); 42 CFR 431.54; 42 CFR 440.169; 42 CFR 440.250; 42 CFR 441.10; 42 CFR 441.18; 42 CFR 447.327

Completed:

Reason	Date	FR Cite
Withdrawn	09/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

RIN: 0938–AF07

1354. ADJUSTMENT IN PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES (HCFA-3831-F)

Priority: Economically Significant

CFR Citation: 42 CFR 416

Completed:

Reason	Date	FR Cite
Final Action	06/16/99	64 FR 32198

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Claude Mone
Phone: 410 786-5666

RIN: 0938–AH15

1355. MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES AND COVERAGE DECISIONS—SECOND QUARTER, 1998 (HCFA-9002-N)

Priority: Routine and Frequent

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
NOTICE	12/09/98	63 FR 67899

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kristy Nishimoto
Phone: 410 786-8517
Email: knishimotochcfa.gov

RIN: 0938–AI13

1356. GME: INCENTIVE PAYMENTS UNDER PLANS FOR VOLUNTARY REDUCTION IN NUMBER OF RESIDENTS (HCFA-1001-F)

Priority: Other Significant

CFR Citation: 42 CFR 413

Completed:

Reason	Date	FR Cite
Interim Final Rule	08/18/99	64 FR 44841
Interim Final Rule Comment Period End	10/18/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State, Local

Agency Contact: Marc Hartstein
Phone: 410 786-4539

RIN: 0938–AI27

1357. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES. (HCFA-1913-IFC)

Priority: Economically Significant

CFR Citation: 42 CFR 409; 42 CFR 410; 42 CFR 411; 42 CFR 413; 42 CFR 483; 42 CFR 489

Completed:

Reason	Date	FR Cite
Final Action	07/30/99	64 FR 41644
Final Action Effective	09/28/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Laurence Wilson
Phone: 410 786-4603

RIN: 0938–AI47

1358. MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES — FIRST QUARTER 1998 (HCFA-9879-N)

Priority: Routine and Frequent

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Notice	09/16/98	63 FR 49598

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kristy Nichimoto
Phone: 410 786-8517

RIN: 0938–AJ12

1359. MEDICARE PROGRAM STATE ALLOTMENTS FOR PAYMENTS OF MEDICARE PART B PREMIUM FOR QUALIFYING INDIVIDUALS: FEDERAL FISCAL YEAR FOR 1999 (HCFA-2032-N)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Notice	03/29/99	64 FR 14931

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Miles McDermott
Phone: 410 786-3722
Email: mmcdermott@hcfa.gov

RIN: 0938–AJ28

1360. MEDICAID PROGRAM; CIVIL MONEY PENALTIES FOR NURSING HOMES (SNF/NF), CHANGE IN NOTICE REQUIREMENTS, AND EXPANSION OF DISCRETIONARY REMEDY (HCFA-2035-FC)

Priority: Substantive, Nonsignificant

CFR Citation: 42 CFR 488.402; 42 CFR 488.408; 42 CFR 488.430; 42 CFR 488.432; 42 CFR 488.434; 42 CFR 488.438; 42 CFR 488.440; 42 CFR 488.442; 42 CFR 488.454; 42 CFR 435.1001(c)

Completed:

Reason	Date	FR Cite
Final Rule with Comment	03/28/99	64 FR 13354

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fred Galdden
Phone: 410 786-3033

RIN: 0938–AJ35

1361. MEDICARE AND MEDICAID PROGRAMS; QUARTERLY LISTING OF PROGRAM ISSUANCES — THIRD QUARTER, 1998 (HCFA-9000-N)

Priority: Routine and Frequent

CFR Citation: None

Completed:

Reason	Date	FR Cite
Notice	05/11/99	64 FR 25351

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kristy Nishimoto
Phone: 410 786-8517
Email: knishimotochcfa.gov

RIN: 0938–AJ37

1362. RECOGNITION OF THE JOINT COMMISSION FOR ACCREDITATION OF HEALTHCARE ORGANIZATIONS (JCAHO) FOR HOSPICES (HCFA-2039-FN)

Priority: Routine and Frequent

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Notice	06/18/99	64 FR 32881

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan C. Berry
Phone: 410 786-7233
Email: jberry@hcfa.gov

RIN: 0938–AJ41

1363. RECOGNITION OF THE COMMUNITY HEALTH ACCREDITATION PROGRAM, INC. (CHAP) FOR HOSPICES (HCFA-2029-FN)

Priority: Routine and Frequent

CFR Citation: 42 CFR ch IV

Completed:

Reason	Date	FR Cite
Notice	04/20/99	64 FR 19376

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan C. Berry
Phone: 410 786-7233
Email: jberry@hcfa.gov

RIN: 0938–AJ42

1364. • PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR HOME HEALTH AGENCIES (HCFA-1059-P)

Priority: Other Significant

Legal Authority: PL 105-33

CFR Citation: None

Legal Deadline: None

Abstract: This proposed rule will establish requirements for the new prospective payment system from home health agencies as governed by section 4603 of the Balanced Budget Act of 1997.

Timetable:

Action	Date	FR Cite
Duplicate of 0938-AJ24	10/20/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert Wardell, Chief, Home & Community Based Waiver Branch, Department of Health and Human Services, Health Care Financing Administration, 4th Floor, EHR, 6325 Security Boulevard, Baltimore, MD 21207
Phone: 301 966-5659

Robert Wardwell, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786-3254

RIN: 0938–AJ51

1365. • MEDICARE AND MEDICAID PROGRAMS: HOSPITAL CONDITIONS OF PARTICIPATION; PATIENTS' RIGHTS (HCFA-3018-IFC)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: PL 105-33, sec 4521; PL 105-33, sec 4522; PL 99-509, sec 9343(c)

CFR Citation: 42 CFR 409.10; 42 CFR 410.2; 42 CFR 410.27; 42 CFR 410.410.28; 42 CFR 410.30; 42 CFR 411.15; 42 CFR 412.50; 42 CFR 413.118; 42 CFR 413.122; 42 CFR 413.124; 42 CFR 413.130; 42 CFR 413; 42 CFR

489.20; 42 CFR 1003.101 to 102; 42 CFR 1003.105

Legal Deadline: Final, Statutory, November 1, 1998.

Abstract: The Balanced Budget Act of 1997 (BBA) (Public Law 105-33), enacted on August 5, 1997, provides for implementation of a Prospective Payment System (PPS) for hospital outpatient servies (and for Part B services furnished to inpatient who have no Part A coverage) furnished on or after January 1, 1999. This system will also apply to partial hospitalization services furnished by community mental health centers. The BBA also requires a new method for calculating beneficiary copayments for the hospital outpatient services included under the PPS. The PPS will consist of about 340 groups of services, called "Ambulatory Payment Classifications" or APCs, that are related clinically and in terms of their resource use. We will assign a group wright to each group, based on the median cost (operating and capital) of the services included in the group. We will convert the weights for each group to payment rates using a national conversion factor, taking into account group weightts and the projected volume of services for each group. In addition, this rule would establish in regulations the requirements for designating certain entities as provider based or as a department of a hospital.

Timetable:

Action	Date	FR Cite
NPRM	09/06/98	63 FR 47551
NPRM Comment Period End	07/30/99	
Duplicate of 0938-AI56	10/20/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janet Wellham, Center for Health Plans and Providers, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-4510

RIN: 0938–AJ56

1366. • MEDICARE PROGRAM: PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES UPDATE

Priority: None

Legal Deadline: None

Abstract: 0938–AJ58

Timetable:

Action	Date	FR Cite
Withdrawn	10/28/99	

Regulatory Flexibility Analysis Required:

RIN: 0938–AJ58

1367. • REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 2000 (HCFA-1065-P)

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 42 USC 1395w(4); PL 105-33, sec 4103; PL 105-33, sec 4505; PL 105-33, sec 4511; PL 105-33, sec 4512; PL 105-33, sec 4513

CFR Citation: 42 CFR 410; 42 CFR 411; 42 CFR 414; 42 CFR 415

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: This final rule will update physician payments by Medicare as required by section 1848 of the Social Security Act (the Act). It includes a provision to change the method of determining malpractice insurance relative value units (RVUs) from the current charge-based system to a resource-based system and continues the refinement of the practice expense RVUs that are transitioning from charge-based to resource-based. New and revised procedure codes for 2000 are also addressed. Provisions of the Balanced Budget Act of 1997 (BBA) concerning the coverage of prostate screening tests and removal of the x-ray requirement as a prerequisite for chiropractic manipulation, and policy changes concerning discontinuous anesthesia time, payment for diagnostic tests, physician pathology services and independent laboratories and nurse practitioner qualifications are also included in this rule. A discussion of the next 5 year review of work RVUs is also included.

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39608
NPRM Comment Period End	09/20/99	
Final Action	11/02/99	64 FR 59739

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Diane Milstead, Center for Medicaid and State Operations, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-3355

RIN: 0938–AJ61

1368. • MEDICAID MANAGED CARE; REGULATORY PROGRAM TO IMPLEMENT CERTAIN MEDICAID PROVISIONS OF THE BALANCED BUDGET ACT OF 1997

Priority: Other Significant

Legal Authority: PL 105-33; 42 USC 1396w

CFR Citation: 42 CFR 438

Legal Deadline: None

Abstract: This final rule establishes rules for Medicaid managed care programs. It implements certain provisions in sections 4710 of the Balanced Budget Act of 1997 (Pub. L. 105-33).

Timetable:

Action	Date	FR Cite
Duplicate of 0938-AI70	10/20/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: David Cade, Family & Children's Health Programs Group, Center for Medicaid and State Operati, Department of Health and Human Services, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, MD 21244 Phone: 410 786-3870

RIN: 0938–AJ73

Department of Health and Human Services (HHS)
Administration for Children and Families (ACF)

Proposed Rule Stage

1369. BONUS TO REWARD HIGH PERFORMANCE STATES UNDER THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 603(a)(4)

CFR Citation: 45 CFR 270 (New)

Legal Deadline: None

Abstract: The Administration for Children and Families, in consultation with the National Governor's Association and the American Public Human Services Association (formerly the American Public Welfare Association), will propose specific performance measures and a funds allocation formula for measuring State performance under the Temporary Assistance for Needy Families Block Grant as the basis for payment of a bonus to high performing States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 7th Floor West, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-9220

RIN: 0970–AB66

1370. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Priority: Other Significant

Legal Authority: 42 USC 655(f)

CFR Citation: 45 CFR 309

Legal Deadline: None

Abstract: This NPRM proposes to specify how tribes can obtain direct payments from the Department of Health and Human Services for provision of child support enforcement services if they submit a plan meeting the objectives of title IV-D, including establishment of paternity, modification and enforcement of support orders, and location of absent parents.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Paige Biava, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-5635
Email: phbiava@acf.dhhs.gov

RIN: 0970–AB73

1371. FAMILY CHILD CARE PROGRAM OPTION FOR HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1304; 45 CFR 1306

Legal Deadline: None

Abstract: This rule would allow Head Start programs to choose Family Child Care as a Head Start program option.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AB90

1372. NATIONAL MEDICAL SUPPORT NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 652(f); 42 USC 666(a)(19)

CFR Citation: 45 CFR 303.32

Legal Deadline: Final, Statutory, May 16, 2000.

Abstract: Joint DHHS/DOL regulations mandating use of a national medical support notice and including procedures for issuance and transmittal to employers by States to enforce health care coverage in a child support order.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: John Seneta, Program Specialist, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-5154
Email: jseneta@acf.dhhs.gov

RIN: 0970–AB97

1373. PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9831 et seq; sec 641A of the Head Start Act

CFR Citation: 45 CFR 1304

Legal Deadline: None

Abstract: The education component of the Head Start Performance Standards will be revised to ensure the school readiness of children participating in a Head Start program and to assure that Head Start children have certain understandings in the areas of language and numeracy.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AB99

HHS—ACF **Proposed Rule Stage**

1374. SAFEGUARDING CHILD SUPPORT AND EXPANDED FPLS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 652; 42 USC 653; 42 USC 653A; 42 USC 654; 42 USC 654A; 42 USC 663

CFR Citation: 45 CFR 303.21

Legal Deadline: None

Abstract: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 made far-reaching amendments to title IV-D of the Social Security Act, which governs the child support enforcement program. The Balanced Budget Act of 1997, the Adoption and Safe Families Act of 1997 and the Child Support Performance and Incentive Act of 1998 further amended title IV-D. A significant result of this legislation is an expansion in the scope of information available to State IV-D child support enforcement agencies. The legislation has rendered obsolete or inconsistent several regulations at 45 CFR chapter III, Office of Child Support Enforcement, including the regulations on the Federal Parent Locator Service, the State Parent Locator Services, offset of Federal payments for purposes of collecting child support, and safeguarding of information. This regulation would update various sections in 45 CFR chapter III to reflect the statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Eileen C. Brooks, Program Specialist, DHHS/OCSE, Department of Health and Human Services, Administration for Children and Families, 4th Floor East, OCSE DPP, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-5369
Email: ebrooks@acf.dhhs.gov

RIN: 0970–AC01

Department of Health and Human Services (HHS)
Administration for Children and Families (ACF) **Final Rule Stage**

1375. TITLE IV-E FOSTER CARE ELIGIBILITY REVIEWS AND CHILD AND FAMILY SERVICES STATE PLAN REVIEWS, MEPA IMPLEMENTATION, AND ASFA IMPLEMENTATION

Priority: Other Significant

Legal Authority: 42 USC 622; 42 USC 671; 42 USC 1302; 42 USC 1320a-2a

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1357

Legal Deadline: Final, Statutory, July 1, 1995.

Abstract: This rule will contain requirements that implement the Social Security Act Amendments of 1994 on review of State programs under parts B and E of the Social Security Act for conformity with State Plan requirements as well as Adoption and Safe Families Act requirements related to State plan issues. It will contain requirements that govern on-site eligibility reviews that the Administration for Children and Families conducts to assure State agencies' compliance with the statutory requirements under title IV-E of the Social Security Act for the eligibility of foster care providers and the eligibility of children in foster care. The rule will provide for enforcement of the prohibition on race-based discrimination in foster care and adoptive placements.

Timetable:

Action	Date	FR Cite
NPRM	09/18/98	63 FR 50058
NPRM Comment Period End	12/17/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: This action was previously reported under RIN 0970-AB60.

Agency Contact: Kathleen McHugh, ACYF/Children's Bureau, Department of Health and Human Services, Administration for Children and Families, Washington, DC 20013
Phone: 202 401-5789
Email: kmchugh@acf.dhhs.gov

RIN: 0970–AA97

1376. STANDARDS FOR SAFE TRANSPORTATION

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1310

Legal Deadline: None

Abstract: This rule establishes Head Start Performance Standards for the safe transportation of Head Start children, including vehicle requirements, driver qualifications and training and safety rules for children and staff while en route and loading and unloading of vehicles.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 31612
NPRM Comment Period End	08/14/95	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AB24

1377. CONSTRUCTION OF HEAD START FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1309

Legal Deadline: None

Abstract: This rule establishes procedures to be used by Head Start agencies in requesting to use Head Start grant funds to construct or renovate a Head Start facility.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 6013
NPRM Comment Period End	04/09/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: Local, Tribal

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AB54

1378. METHODOLOGY FOR DETERMINING WHETHER AN INCREASE IN A STATE'S CHILD POVERTY RATE IS THE RESULT OF THE TANF PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 613(i)

CFR Citation: 45 CFR 284 (New)

Legal Deadline: None

Abstract: This rule will set forth a methodology to determine whether an increase in a State's child poverty rate is the result of the TANF Program.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50837
NPRM Comment Period End	11/23/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 7th Floor West, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-9220

RIN: 0970–AB65

1379. REQUIREMENTS FOR THE TRIBAL PROGRAMS

Priority: Other Significant

Legal Authority: 42 USC 612

CFR Citation: 45 CFR 286 (New); 45 CFR 287 (New)

Legal Deadline: None

Abstract: This rule sets forth a process for: the completion and submission of tribal TANF plans; the determination of funding levels for tribal TANF grants; the establishment of criteria to determine minimum work participation requirements and time limits for tribal TANF programs; and the review and approval of tribal TANF plans. This rule sets forth program requirements for the application of penalties and for data collection and reporting.

The rule also sets forth procedures for planning and operating a program to make work activities available to tribal members. Funds for this program are available to Indian tribes and Alaska Native organizations that operated a Job Opportunities and Basic Skills Training (JOBS) program in fiscal year 1995. This tribal work activities program is called the Native Employment Works (NEW) Program.

Timetable:

Action	Date	FR Cite
NPRM	07/22/98	63 FR 39366
NPRM Comment Period End	11/20/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: John Bushman, Director, Division of Tribal Services, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-2418
Email: jbushman@acf.dhhs.gov

RIN: 0970–AB78

1380. CHILD SUPPORT ENFORCEMENT PROGRAM OMNIBUS CONFORMING REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 304; 45 CFR 305; 45 CFR 301; 45 CFR 302; 45 CFR 303

Legal Deadline: None

Abstract: This rule eliminates child support enforcement program regulations rendered obsolete or inconsistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/99	64 FR 6237
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Marilyn R. Cohen, Program Specialist, Department of Health and Human Services, Administration for Children and Families, MS OCSE, DPP, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-5366
Email: mcohen@acf.dhhs.gov

RIN: 0970–AB81

1381. REFUGEE RESETTLEMENT PROGRAM: REFUGEE CASH AND MEDICAL ASSISTANCE PROGRAMS

Priority: Other Significant

Legal Authority: 8 USC 1522(a)(9)

CFR Citation: 45 CFR 400

Legal Deadline: None

Abstract: This regulation will give States flexibility to establish the refugee cash assistance program as a public/private partnership between States and local resettlement agencies, make several revisions to the Refugee Medical Assistance Program, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	01/08/99	64 FR 1159
NPRM Comment Period End	03/09/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Gayle Smith, Division of Refugee Self-Sufficiency, Department

HHS—ACF **Final Rule Stage**

of Health and Human Services, Administration for Children and Families, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-9250

RIN: 0970–AB83

1382. INCENTIVE PAYMENTS AND AUDIT PENALTIES TO STATES AND POLITICAL SUBDIVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 609(a)(8); 42 USC 658A

CFR Citation: 45 CFR 305; 45 CFR 302.55; 45 CFR 304.12

Legal Deadline: NPRM, Statutory, April, 1999.

Abstract: This regulation proposes to implement the requirements in 42 U.S.C. 609(a)(8) which provide for a penalty of 1 percent to 5 percent of a State's Temporary Assistance for Needy Families (TANF) funds if the Secretary of HHS determines that the State failed to meet the paternity establishment percentages or other performance measures established by the Secretary. It would also implement a new incentive system, enacted under Public Law 105-200. Based on 42 U.S.C. 658A, States will receive incentives according to their performance on key statutory indicators and performance standards from a capped pool of funds beginning in FY 2000. These funds must be reinvested in the IV-D Program.

Timetable:

Action	Date	FR Cite
NPRM	10/08/99	64 FR 55074
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Joyce Pitts, Division of Policy and Planning, Department of Health and Human Services, Administration for Children and Families, MS OCSE, DPP, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-5374
Email: jpitts@acf.dhhs.gov

RIN: 0970–AB85

1383. HEAD START APPEAL TIMELINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1303

Legal Deadline: None

Abstract: This amendment to part 1303 will provide timelines and selected procedural changes for conducting administrative hearings on adverse actions taken against Head Start agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35554
NPRM Comment Period End	08/31/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Additional Information: RFA: N

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AB87

1384. WELFARE-TO-WORK DATA COLLECTION

Priority: Other Significant

Legal Authority: 42 USC 611

CFR Citation: 45 CFR 276

Legal Deadline: None

Abstract: This final rule specifies the data elements that grantees must report for the Welfare-to-Work program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/98	63 FR 57919
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Howard Rolston, Director, Office of Planning, Research and Evaluation, Department of Health and Human Services, Administration for Children and Families, 7th Floor West, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-9220

RIN: 0970–AB92

1385. STATE SELF ASSESSMENTS TO DETERMINE COMPLIANCE WITH FEDERAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 654(15)(A)

CFR Citation: 45 CFR 306

Legal Deadline: None

Abstract: The rule would require States to conduct annual reviews on certain aspects of the State Title IV-D Programs and provide a report to the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	10/08/99	64 FR 55102
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Jan Rothstein, Program Specialist, Office of Child Support Enforcement/DHHS, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-5073
Email: jrothstein@acf.dhhs.gov

RIN: 0970–AB96

1386. PRIORITY FOR PREVIOUSLY SELECTED HEAD START AGENCIES

Priority: Other Significant

Legal Authority: 42 USC 9801 et seq

CFR Citation: 45 CFR 1302.12

Legal Deadline: None

Abstract: The final rule proposes to amend 45 CFR part 1302 by removing section 1302.12 for clarification purposes.

Timetable:

Action	Date	FR Cite
NPRM	03/24/99	64 FR 14202
NPRM Comment Period End	05/24/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, Tribal

Agency Contact: James Kolb, Head Start Bureau, ACYF, Department of

HHS—ACF **Final Rule Stage**

Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20201
Phone: 202 205-8580

RIN: 0970–AB98

1387. TECHNICAL REVISION OF HEAD START REGULATIONS TO MAKE THEM CONFORM TO RECENT STATUTORY REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9831 et seq

CFR Citation: 45 CFR 1301; 45 CFR 1302; 45 CFR 1303; 45 CFR 1308

Legal Deadline: None

Abstract: This rule will correct several Head Start regulations which define Head Start programs as "non-profit" agencies. Recent statutory changes now allow "for-profit" agencies to receive Head Start grant funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Douglas Klafehn, Deputy Associate Commissioner, Head Start, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Washington, DC 20447
Phone: 202 205-8569

RIN: 0970–AC00

1388. ASSETS FOR INDEPENDENCE RESERVE ACCOUNT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 604 Note

CFR Citation: 45 CFR Part 1000

Legal Deadline: None

Abstract: The Office of Community Services (OCS) is administering a new demonstration project that will establish, support, and participate in the evaluation of Individual Development Accounts (IDA) for lower income individuals and families, as enacted in Title IV, Human Services Reauthorization Act of 1998 (P.L. 105-285). Section 407(b)(2) of Title IV, Human Services Reauthorization Act of 1998 (P.L. 105-285), states that the Secretary is to prescribe regulations on accounting for amounts in the IDA reserve fund. This regulation would address that requirement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard Saul, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 5th Floor, OCS, 370 L'Enfant Promenade SW, Washington, DC 20447
Phone: 202 401-9341
Email: rsaul@acf.dhhs.gov

RIN: 0970–AC02

Department of Health and Human Services (HHS)
Administration for Children and Families (ACF)

Completed Actions

1389. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

Priority: Other Significant

CFR Citation: 45 CFR 260 to 265 (New)

Completed:

Reason	Date	FR Cite
Final Rule	04/12/99	64 FR 17720

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Mack A. Storrs
Phone: 202 401-9289
Email: mstorrs@acf.dhhs.gov

RIN: 0970–AB77

1390. BONUS TO REWARD DECREASE IN ILLEGITIMACY RATIO

Priority: Other Significant

CFR Citation: 45 CFR 283 (New)

Completed:

Reason	Date	FR Cite
Final Rule	04/14/99	64 FR 18484

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kelleen Kaye
Phone: 202 401-6634
Email: kkaye@osaspe.dhhs.gov

RIN: 0970–AB79

1391. IMPLEMENTATION OF AFCARS CORRECTIVE ACTION AND PENALTIES AND CAPTA AMENDMENTS

Priority: Other Significant

CFR Citation: 45 CFR 1355; 45 CFR 1356; 45 CFR 1340

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kathleen McHugh
Phone: 202 401-5789
Email: kmchugh@acf.dhhs.gov

RIN: 0970–AB94

Department of Health and Human Services (HHS)
Administration on Aging (AOA)

Proposed Rule Stage

1392. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING, INTRASTATE FUNDING FORMULAS; TRAINING, RESEARCH AND DISCRETIONARY PROGRAMS; VULNERABLE ELDER RIGHTS; AND GRANTS TO INDIANS AND NATIVE HAWAIIANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3001 et seq

CFR Citation: 45 CFR 1321; 45 CFR 1324; 45 CFR 1326; 45 CFR 1327; 45 CFR 1328

Legal Deadline: None

Abstract: The Administration on Aging in consultation with the Office of Management and Budget, has determined that it is no longer necessary to pursue final action on rules proposed earlier to implement the 1992 amendments to the Older Americans Act. The provisions of the Act remain in force and need no further regulations to implement them. AoA anticipates promulgating rules in the latter part of 2000 to implement the provisions to the next reauthorization of the Older Americans Act, if necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Edwin Walker, Director, Office of Program Operations and Development, Department of Health and Human Services, Administration on Aging, Room 4733, 330 Independence Avenue SW, Cohen Building, Washington, DC 20201
Phone: 202 619-0011

RIN: 0985–AA00

[FR Doc. 99–27967 Filed 11–19–99; 8:45 am]
BILLING CODE 4150–04–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

VOL
64
ISS
2
2
4
NO
22
1999
UMI

Printed on recycled paper

VOL
64
ISS
2
2
4
NO
22
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11–22–99
Vol. 64 N

United State
Government
Printing Offic
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 204

OFFICIAL BUSINES
Penalty for private us

11–22–99
Vol. 64 No. 224

federal register

Monday
November 22, 1999

Book 3 of 4 Books

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

******************3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
4
NO
22
1999
UMI

11-22-99
Vol. 64 N

BOOK 3:
Pages 6444

11–22–99
Vol. 64 No. 224

BOOK 3:
Pages 64443–65007

federal register

Monday, November 22, 1999
Book 3 of 4 Books

The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

64444 IX—Department of Housing and Urban Development
64482 X—Department of the Interior
64560 XI—Department of Justice
64622 XII—Department of Labor
64674 XIII—Department of State
64682 XIV—Department of Transportation
64870 XV—Department of the Treasury
64964 XVI—Department of Veterans Affairs
64994 XVII—Advisory Council on Historic Preservation
64996 XVIII—Agency for International Development
65000 XIX—Architectural and Transportation Barriers Compliance Board
65004 XX—Commission on Civil Rights
65006 XXI—Corporation for National and Community Service

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

Department of Housing and Urban Development (HUD)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

Docket No. FR-4481-N-02

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866, "Regulatory Planning and Review," the Department is publishing its agenda of (1) regulations already issued or expected to be issued, and (2) currently effective rules that are under review. Additionally, in accordance with section 602 of the Regulatory Flexibility Act, the Department has prepared an agenda of regulations expected to be proposed or promulgated, which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12866 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, (202) 708-3055. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Executive Order 12866, "Regulatory Planning and Review," published on October 4, 1993 (58 FR 51735), requires each agency to publish semiannually an agenda of (1) regulations that the agency has issued or expects to issue, and (2) currently effective regulations that are under agency review. Consistent with the principles set forth in Executive Order 12866 to reduce and streamline regulations, and in response to President Clinton's memorandum to Federal agencies to examine all regulations and eliminate those that are obsolete, the Department continues to examine those rules proposed to be issued under these principles.

The Regulatory Flexibility Act (5U.S.C. 601–612) requires each agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated that are likely to have a significant economic impact on a substantial number of "small entities", meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12866 and the Regulatory Flexibility Act each permits incorporation of the agenda required with any other prescribed agenda. The agenda set out below combines the information required by Executive Order 12866 and the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive Order or by the Act, which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

Section 610(c) of the Regulatory Flexibility Act requires each agency to publish annually a list of the rules that have a significant economic impact on a substantial number of small entities, and that are to be reviewed in accordance with the requirements of section 610 during the succeeding 12 months. All rules under development, published in each HUD agenda, are reviewed in accordance with the principles of section 610 of the Regulatory Flexibility Act.

In 1995 and 1996, all HUD regulations then codified underwent a section 610 review when these regulations were examined in accordance with President Clinton's regulatory reinvention initiative. In 1998, the Quality Housing and Work Responsibility Act of 1998 was enacted (Pub.L. 105–276, approved October 21, 1998)(commonly referred to as the Public Housing Reform Act). The Public Housing Reform Act made significant changes to HUD's public housing and Section 8 assistance programs. This statute, as will be seen by many of the items listed in this semiannual agenda, requires substantial regulatory changes to HUD's public housing and Section 8 assistance programs. In view of the significant changes implemented by the Public Housing Reform Act, the Department is reviewing all of the regulations governing its public housing and Section 8 assistance programs in accordance with the principles of section 610, not only those that are required to be revised by the Public Housing Reform Act. The Department welcomes comments on these regulations.

Although the Department's focus, during the next several months, is on its regulations governing its public housing and Section 8 assistance programs, the Department invites comments from the public on any rule listed in this agenda that the public believes will have a significant economic impact on a substantial number of small entities.

The Department also is subject to certain rulemaking requirements set forth in the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*) Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight of HUD (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking and Financial Services) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. Section 7(o) provides that if, within that period, either committee notifies the Secretary that it intends to review any rule or regulation which appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days before it is published for comment. The semiannual agenda published today is the agenda transmitted to the committees in compliance with this requirement.

For purposes of Executive Order 12866, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency," subject to certain exceptions. The agenda published below focuses on regulatory material contained or expected to be contained in the Code of Federal Regulations (CFR) (or incorporated therein by reference) following publication in the **Federal Register**. As appropriate, however, issuances in the nature of general statements of policy may be published

VOL 64 ISS 224 NOV 22 1999 UMI

in the Fe
codificati

The ag
program
office, th
four grou
(ii) publi
implemer
rulemaki
implemer
(iv)comp
grouping
chronolo
of the CF
multiple
listed by

The ag
have bee

Sequence Number
1393
1394
1395
1396
1397
1398
1399
1400
1401

Referenc

Sequence Number
1402
1403
1404
1405
1406
1407
1408
1409
1410
1411
1412

HUD

in the **Federal Register** but not for codification in the CFR.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publication or other implementations of notices of proposed rulemaking, (iii)publications or other implementations of final rules, and (iv)completed actions. Within each grouping, rules are listed in chronological order by the part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected part number.

The agenda reflects that some rules have been withdrawn by the Department since issuance of the previous agenda. Several of the public housing or Section 8 assistance regulations that are withdrawn were made obsolete by the Public Housing Reform Act. For other rules, the Department is withdrawing the rule to further assess the subject matter and whether rulemaking continues to be the appropriate method for implementation of the subject matter. Following this review, the Department may determine that certain rules listed as withdrawn under this agenda are necessary. If that determination is made, the rules will be included in a succeeding semiannual agenda.

For this edition of the Department's regulatory agenda, the most important significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Department invites all interested members of the public to comment on the rules listed in this fall 1999 agenda to assist the Department in improving its regulatory products and procedures.

Dated : September 2, 1999

Gail W. Laster,

General Counsel.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1393	24 CFR 3 Common Rule: Nondiscrimination in Educational Activities (FR-4301)	2501-AC42
1394	24 CFR 15 Revisions to HUD's Freedom of Information Act (FOIA) Regulations (FR-4292)	2501-AC51
1395	24 CFR 17 Procedures for the Collection of Claims by the Government (FR-4318)	2501-AC48
1396	24 CFR 24 Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)	2501-AC08
1397	24 CFR 30 Amendments to HUD's Civil Money Penalty Regulations (FR-4399)	2501-AC56
1398	24 CFR 58 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibility (FR-4523)	2501-AC64
1399	24 CFR 81 Secretary of HUD's Regulation of Fannie Mae and Freddie Mac: Non-Mortgage Investments (FR-4297)	2501-AC41
1400	24 CFR 81 Secretary of HUD's Regulation of Fannie Mae and Freddie Mac: Purchase Goals (FR-4494) **(Reg Plan Seq. No. 49)**	2501-AC60
1401	24 CFR 92 HOME Investment Partnerships Program (FR-4329)	2501-AC53

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1402	24 CFR 5 Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs (FR-4485)	2501-AC59
1403	24 CFR 5 One-Strike Screening and Eviction for Drug Abuse and Other Criminal Activity (FR-4495)	2501-AC63
1404	24 CFR 8 Nondiscrimination Based on Disability; Multifamily Homeownership Projects (FR-4317)	2501-AC47
1405	24 CFR 24 Limited Denial of Participation — Clarification of Consolidation of Debarment and Suspension Procedures (FR-4505)	2501-AC61
1406	24 CFR 25 Conforming Amendments to HUD's FHA-Single Family Housing and Multifamily Housing Enforcement Regulations (FR-4308)	2501-AC44
1407	24 CFR 45 Administrative Requirements for Grantees To Reflect Single Audit Act Amendments (FR-4258)	2501-AC39
1408	24 CFR 55 Floodplain Management and Protection of Wetlands (FR-4142)	2501-AC33
1409	24 CFR 91 Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)	2501-AC54
1410	24 CFR 92 HOME Investment Partnerships Program — Additional Streamlining (FR-4111)	2501-AC30
1411	24 CFR 125 Adoption of Revised OMB Circular A-133; Administrative Requirements for Grantees To Reflect the Single Audit Act Amendments of 1996; Technical Amendments (FR-4296)	2501-AC43
1412	24 CFR 401 Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)	2501-AC57

HUD

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1413	24 CFR 91 Consolidated Plan Amendments; Treatment of Troubled PHAs (FR-4518)	2501-AC62

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
1414	24 CFR 5, subpart E Revised Restriction on Assistance to Noncitizens (FR-4154)	2501-AC36
1415	24 CFR 5 Sanctions for Underreporting of Income in the Assisted Housing Programs (FR-4334)	2501-AC55
1416	24 CFR 200 Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)	2501-AB57
1417	24 CFR 215 Revisions to Regulations Implementing Uniform Relocation Act and Other Relocation Requirements in HUD Programs (FR-4122)	2501-AC31
1418	24 CFR 511.16(d) Flood Insurance and HUD-Assisted Buildings Located Within Special Flood Hazard Areas (FR-4273)	2501-AC40
1419	24 CFR 58 Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities; Miscellaneous Amendments (FR-4326)	2501-AC52
1420	24 CFR 200 Uniform Physical Conditions and Physical Inspection Requirements for Certain HUD Multifamily Housing; Administrative Process for Assessment of Insured and Assisted Properties (FR-4452)	2501-AC58

Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1421	24 CFR 401 Release of Information to Tenants and Other Parties Pursuant to MAHRA (FR-4531)	2502-AH45

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1422	24 CFR 200 Use of Materials Bulletins Used in the HUD Building Products Standards and Certification Program (FR-4391)	2502-AH28
1423	24 CFR 200 Uniform Physical Conditions and Physical Inspection Requirements for Certain HUD Multifamily Housing; Administrative Process for Assessment of Insured and Assisted Properties (FR-4452) **(Reg Plan Seq. No. 50)**	2502-AH44
1424	24 CFR 201 Strengthening the Title I Property Improvement Loan Insurance Program (FR-4246)	2502-AG95
1425	24 CFR 202 Mortgagee Approval for Single Family Programs - Procedures for Terminating Origination Approval Agreements and Placement in Credit Watch Status (FR-4492)	2502-AH42
1426	24 CFR 203 Single Family Appraisal Assessment (FR-4395)	2502-AH27
1427	24 CFR 207 Partial Payment of Claims for Health Care Facilities, Hospitals and Group Practice Facilities (FR-4387)	2502-AH25
1428	24 CFR 221 Limitation on Distributions (FR-4532)	2502-AH46
1429	24 CFR 270 Use of Federal Surplus Property for Self-Help Housing (FR-4464)	2502-AH34
1430	24 CFR 291 Disposition of HUD-Owned Single Family Assets in Revitalization Areas (FR-4471)	2502-AH40
1431	24 CFR 880 Section 8 Housing Assistance Payments Programs (New Construction Substantial Rehabilitation, State Housing Agencies and Special Allocations) (FR-4479)	2502-AH41
1432	24 CFR 3282 Special Procedures Permitting Limited Completion of Manufactured Homes On-Site (FR-4216)	2502-AG92

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

HUD

Sequence Number
1433
1434
1435
1436
1437
1438
1439
1440
1441
1442
1443
1444
1445
1446
1447
1448
1449
1450
1451
1452
Sequence Number
1453
1454
1455
1456
1457
Sequence Number
1458
1459
Sequence Number
1460
1461
1462

HUD

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1433	24 CFR 200 Delegation of Insuring Authority To Direct Endorsement Mortgagees (FR-4169)	2502-AG87
1434	24 CFR 200 Use of Materials Bulletins (FR-4265)	2502-AH02
1435	24 CFR 200 Update of the Model Energy Code (MEC) (FR-4272)	2502-AH03
1436	24 CFR 200 Single Family Mortgage Insurance; Appraiser Roster Placement Procedures (FR-4429)	2502-AH29
1437	24 CFR 201 Title I Property Improvement and Manufactured Home Loan Insurance Programs (FR-4242)	2502-AG94
1438	24 CFR 203 Mortgage Insurance Premium Reduction in Central Cities (FR-4284)	2502-AH07
1439	24 CFR 203 Single Family Mortgage Insurance; Direct Endorsement and Automated Underwriting (FR-4311)	2502-AH15
1440	24 CFR 203 Sources of Homebuyer Downpayment (FR-4469)	2502-AH38
1441	24 CFR 203 Single Family Claim Reform and Sale of Property (FR-4470)	2502-AH39
1442	24 CFR 206 Home Equity Conversion Mortgages; Right of First Refusal Permitted for Condominium Associations (FR-4267)	2502-AG93
1443	24 CFR 236 Rehabilitation Grants for Certain Multifamily Projects (FR-4465)	2502-AH35
1444	24 CFR 245 Tenant Participation in Multifamily Housing Projects (FR-4403)	2502-AH32
1445	24 CFR 290 Up-Front Grants in the Disposition of Multifamily Projects (FR-4310)	2502-AH12
1446	24 CFR 291 Officer Next Door Program (FR-4277)	2502-AH37
1447	24 CFR 891 Duration of Capital Advance (FR-4466)	2502-AH36
1448	24 CFR 3280 Manufactured Home Construction and Safety Standards (FR-4376)	2502-AH23
1449	24 CFR 3280 Federal Manufactured Housing Program; Definition of Manufactured Home (FR-4508)	2502-AH43
1450	24 CFR 3500 RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)	2502-AG40
1451	24 CFR 3500 Amendment to RESPA; Exemption for Employer Payments to Employees Who Make Like-Provider Referrals, and Other Amendments (FR-4173)	2502-AG88
1452	24 CFR 3500 RESPA Statements of Policy Regarding Certain Private Mortgage Insurance Arrangements (FR-4342)	2502-AH19

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identification Number
1453	24 CFR 200 Single Family Mortgage Insurance Clarification of Floodplain Requirements Applicable to New Construction (FR-4323)	2502-AH16
1454	24 CFR 203 Builder Warranty for High Ratio Single Family Mortgages (FR-4288)	2502-AH08
1455	24 CFR 203 Single Family Mortgage Insurance Informed Consumer Choice Disclosure (FR-4411)	2502-AH30
1456	24 CFR 242 Risk-Sharing Hospital Mortgage Insurance Program (FR-3914)	2502-AG53
1457	24 CFR 3500 Real Estate Procedures Settlement Act (RESPA): Escrow Account Statement Itemization of Charges (FR-4390)	2502-AH26

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1458	24 CFR 570 CDBG Slum/Blight National Objective Rule (FR-4487)	2506-AB94
1459	24 CFR 574 HOPWA Rental Assistance Options and Technical Changes (FR-4467)	2506-AC02

Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1460	24 CFR 570 CDBG Program for States; Community Revitalization Strategy Requirements & Miscellaneous Technical Amendments (FR-4081)	2506-AB83
1461	24 CFR 570 Community Development Block Grant Program; Clarification of the Nature of Required CDBG Expenditure Documentation (FR-4449)	2506-AC00
1462	24 CFR 576 Emergency Shelter Grants Program (FR-4330)	2506-AB99

HUD

Office of Community Planning and Development—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1463	24 CFR 000 Administrative Guidelines for CPD Programs; Section 102(d) Limitation on Combining Other Government Assistance With CPD Housing Assistance (FR-3135)	2506-AB74

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identification Number
1464	24 CFR 570 Community Development Block Grant Program; Section 108 Application Requirements (FR-3298)	2506-AB43
1465	24 CFR 570 Section 108 Loan Guarantee Program (FR-4039)	2506-AB80
1466	24 CFR 570 Community Development Block Grant Programs for States; Program Income (FR-4067)	2506-AB82
1467	24 CFR 570 Community Development Block Grant Program; National Objective and Streamlining Changes (FR-4144)	2506-AB90
1468	24 CFR 570 Community Development Block Grant Program: Prohibition on Use of Assistance for Employment Relocation Activities (FR-4468)	2506-AC01
1469	24 CFR 570 Community Development Block Grant Brownfields (FR-4260)	2506-AC03

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1470	24 CFR 300.3 Ginnie Mae—Finance—NAHASDA Implementation (FR-4215)	2503-AA11

Government National Mortgage Association—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1471	24 CFR 300 Elimination of Physical Certificate for Issued Securities (FR-4533)	2503-AA14

Government National Mortgage Association—Completed Actions

Sequence Number	Title	Regulation Identification Number
1472	24 CFR 320 Ginnie Mae—Financial Reporting (FR-4331)	2503-AA12

Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1473	24 CFR 115 Certification and Funding of State and Local Fair Housing Enforcement Agencies (FR-4392)	2529-AA85

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1474	24 CFR 9 Fair Housing Planning Performance Standard (FR-4133)	2529-AA81
1475	24 CFR 135 Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)	2529-AA49

HUD

Sequence Number
1476
1477
1478
1479
1480
1481
1482
1483
1484
1485
1486
1487
1488
1489
1490
1491
1492
1493
1494
1495

Reference

VOL 64 ISS 224 NOV 22 1999 UMI

HUD

Office of Fair Housing and Equal Opportunity—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1476	24 CFR 180 Civil Money Penalties for Fair Housing Act Violations (FR-4302)	2529-AA83

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identification Number
1477	24 CFR 103 Fair Housing Complaint Processing—Plain Language Revision and Reorganization (FR-4433)	2529-AA86
1478	24 CFR 108 Compliance Procedures for Affirmative Fair Housing Marketing; Nomenclature Changes (FR-4514)	2529-AA87

Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1479	48 CFR 2401 HUD Acquisition Regulation—II (FR-4115)	2535-AA24
1480	48 CFR 2409 HUD Acquisition Regulation (FR-4291)	2535-AA25

Office of Public and Indian Housing—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1481	24 CFR 1000 HUD Policy for the Administration of HUD Programs on Indian Reservations and Other Indian Areas (FR-4490)	2577-AC06

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1482	24 CFR 000 HOPE VI Program (FR-4530) **(Reg Plan Seq. No. 53)**	2577-AC17
1483	24 CFR 901 Resident Survey Information Disclosure Requirements—Privacy Act (FR-4393)	2577-AB84
1484	24 CFR 901 Quality Assurance Review of Independent Public Auditors by Real Estate Assessment Center Staff (FR-4394)	2577-AB85
1485	24 CFR 905 Operating Fund Allocation Formula (FR-4425) **(Reg Plan Seq. No. 51)**	2577-AB88
1486	24 CFR 905 Public Housing Capital Program (FR-4507)	2577-AC16
1487	24 CFR 941 Public Housing Development Total Development Cost (TDC) (FR-4489)	2577-AC05
1488	24 CFR 941 Mixed-Financed Public Housing Development (FR-4499)	2577-AC09
1489	24 CFR 945 Designated Housing Program Amendments (FR-3964)	2577-AB57
1490	24 CFR 964 Resident Opportunities and Supportive Services (FR-4525) **(Reg Plan Seq. No. 52)**	2577-AC07
1491	24 CFR 964 Direct Funding of Public Housing Resident Management Corporations (FR-4501)	2577-AC12
1492	24 CFR 970 Demolition and Disposition of Public Housing (FR-4500)	2577-AC11
1493	24 CFR 985 Section 8 Management Assessment Program (SEMAP) New Performance Indicators (FR-4388)	2577-AB83
1494	24 CFR 1000 Revision to Construction Cost Limits for Native American Housing (FR-4517)	2577-AC14

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1495	24 CFR 5 Pet Ownership in Public Housing (FR-4437)	2577-AB94

HUD

Office of Public and Indian Housing—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1496	24 CFR 791 Review of Applications for Housing Assistance and Allocations of Housing Assistance Funds (FR-4477)	2577-AC03
1497	24 CFR 882 Section 8 Moderate Rehabilitation Program Executing or Terminating Leases on Moderate Rehabilitation Units (FR-4472)	2577-AB98
1498	24 CFR 902 Public Housing Assessment System (PHAS); Amendments to the PHAS (FR-4497)	2577-AC08
1499	24 CFR 905 Capital Fund Allocation Formula (FR-4423) **(Reg Plan Seq. No. 54)**	2577-AB87
1500	24 CFR 943 Consortia of Public Housing Agencies and Joint Venture (FR-4474)	2577-AC00
1501	24 CFR 972 Voluntary Conversion of Public Housing to Vouchers (Tenant-Based Assistance) (FR-4476)	2577-AC02
1502	24 CFR 973 Required Conversion of Distressed Public Housing to Tenant-Based Assistance (FR-4475)	2577-AC01
1503	24 CFR 982 Section 8 Homeownership (FR-4427)	2577-AB90
1504	24 CFR 985 Technical Amendment to the Section 8 Management Assessment Program (SEMAP) (FR-4498)	2577-AC10
1505	24 CFR 1005 Loan Guarantee for Indian Housing; Direct Guarantee Processing (FR-4241)	2577-AB78

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identification Number
1506	24 CFR 000 Administrative Guidelines for PIH Regarding Section 102(d) Limitations on Combining Other Government Assistance ("Subsidy Layering") (FR-3100)	2577-AB53
1507	24 CFR 761 Public Housing Drug Elimination Program — Formula Allocation (FR-4451)	2577-AB95
1508	24 CFR 882 Housing Opportunity Program Extension Act of 1996 Implementation Provisions and Section 8 Certificate, Voucher, & Moderate Rehabilitation Admission & Occupancy Policies Revisions (FR-4159)	2577-AB72
1509	24 CFR 882 Moderate Rehabilitation Comparability (FR-4473)	2577-AB99
1510	24 CFR 903 Public Housing Agency Plan (FR-4420)	2577-AB89
1511	24 CFR 906 Public Housing Homeownership Programs (FR-4504)	2577-AC15
1512	24 CFR 941 Public Housing Development Regulations (FR-3569)	2577-AB37
1513	24 CFR 941 Public Housing Mixed-Finance Partnership Development—Streamlining (FR-4113)	2577-AB69
1514	24 CFR 960 Public Housing Admission and Occupancy Reforms and Streamlining (FR-4084)	2577-AB67
1515	24 CFR 964 Public Housing Agency Organization; Required Resident Membership on Board of Directors or Similar Governing Body (FR-4502)	2577-AC13
1516	24 CFR 968 Formula Funding for Comprehensive Improvement Assistance (CIAP) Agencies (FR-4462)	2577-AB97
1517	24 CFR 971 Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law (FR-4120)	2577-AB79
1518	24 CFR 982 Section 8 Tenant Based Assistance: Statutory Merger (FR-4428)	2577-AB91
1519	24 CFR 982 Section 8 Housing Certificate Fund (FR-4459)	2577-AB96
1520	24 CFR 1000 Dwelling Construction and Equipment Costs for Indian Housing (FR-4478)	2577-AC04

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

1393. COMMON RULE: NONDISCRIMINATION IN EDUCATIONAL ACTIVITIES (FR-4301)

Priority: Other Significant

Legal Authority: 20 USC 1681 to 1683; 20 USC 1685 to 1688

CFR Citation: 24 CFR 3

Legal Deadline: None

Abstract: This is HUD's component of a common rule coordinated by the Department of Justice to implement amendments made to title IX of the Education Amendments of 1972 to prohibit discrimination on the basis of sex in all federally funded educational activities.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58589
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Betsy Ryan, Office of Enforcement, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 619-8041

RIN: 2501–AC42

HUD—HUDSEC

Proposed Rule Stage

1394. REVISIONS TO HUD'S FREEDOM OF INFORMATION ACT (FOIA) REGULATIONS (FR-4292)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 42 USC 3535(d)

CFR Citation: 24 CFR 15

Legal Deadline: None

Abstract: This proposed rule would amend HUD's Freedom of Information Act (FOIA) regulations in their entirety. The rule would implement the amendments made by the Electronic Freedom of Information Act to FOIA. The proposed rule would also rewrite the FOIA regulations using plain language. Plain language is an approach to writing that promotes responsive, accessible, and understandable written communication. The rule would also make various streamlining and organizational changes to the regulations. These proposed amendments would simplify and improve the clarity of the HUD's FOIA requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shari Weaver, Deputy Managing Attorney for FOIA, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-3866

RIN: 2501–AC51

1395. PROCEDURES FOR THE COLLECTION OF CLAIMS BY THE GOVERNMENT (FR-4318)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3701

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This rule would amend the Department's procedures for the collection of claims by (1) moving the designation of the Department's Claims Officer from the Office of Administration to the Office of the Chief Financial Officer, and (2) revising the regulations at 24 CFR part 17 pertaining to administrative offset, tax refund offset, and salary offset.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wallace Garner, Director, Finance Planning & Analysis Div., Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-0654

RIN: 2501–AC48

1396. LIMITED DENIAL OF PARTICIPATION IN HUD PROGRAMS; CLARIFYING AMENDMENTS (FR-3975)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: This rule would streamline and clarify the causes for a limited denial of participation (LDP) in most HUD programs; conform the provisions with Governmentwide regulations; clarify calculation of a time period; and make other technical corrections.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Dane Narode, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC08

1397. AMENDMENTS TO HUD'S CIVIL MONEY PENALTY REGULATIONS (FR-4399)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q to 1; 12 USC 1703; 12 USC 1723i; 12 USC 1735f to 14; 12 USC 1735f to 15; 15 USC 1717a; 28 USC 2461 note; 42 USC 1437z to 1; 42 USC 3535(d)

CFR Citation: 24 CFR 30

Legal Deadline: NPRM, Statutory, October 27, 1998.

Abstract: The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998; Pub. L. 105-65, approved October 27, 1997) (the Act) made several amendments to strengthen HUD's enforcement authority. This rule addresses those amendments that require rulemaking for implementation, as follows. The Act expands the list of persons and types of violations subject to a civil money penalty under HUD's multifamily insured housing programs. The Act also amends the United States Housing Act of 1937 (the statutory authority for HUD's public and assisted housing programs) to provide for the imposition of civil money penalties for noncompliance with section 8 Housing Assistance Payment contracts. In accordance with the Act, HUD is implementing these statutory amendments through issuance of a proposed rule. The rule would incorporate these amendments in HUD's civil money penalty regulations located at 24 CFR part 30.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dane Narode, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC56

1398. • ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITY (FR-4523)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1707 note; 25 USC 4115; 42 USC 1437o(i)(1); 42 USC 1437o(i)(2); 42 USC 1437x; 42 USC 3535(d); 42 USC 3547; 42 USC 4332; 42 USC 4852; 42 USC 5304(g)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: This proposed rule would make a number of changes to 24 CFR part 58. That part implements statutory authorities that permit certain entities other than HUD to assume HUD's environmental review responsibilities for various HUD programs. HUD proposes to update the list of programs and statutory authorities covered by part 58 and to otherwise update the part.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frederick Regetz, Environmental Review Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC64

1399. SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC: NON-MORTGAGE INVESTMENTS (FR-4297)

Priority: Other Significant

Legal Authority: PL 101-73; 12 USC 4501 to 4641

CFR Citation: 24 CFR 81

Legal Deadline: None

Abstract: Through a notice published on 12/30/97, HUD sought comments from the public regarding a possible future proposed rule on non-mortgage investments to amend HUD's regulations at 24 CFR part 81 governing Freddie Mac and Fannie Mae (both are known as Government Sponsored Enterprises or GSEs). Under their respective Charters, the GSEs have broad authority to invest their funds. At the same time, the Secretary has general regulatory power over the GSEs to ensure that the purposes of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act are accomplished. HUD's current GSE regulations do not contain specific provisions concerning non-mortgage investments by the GSEs. Based on comments received and its analysis, HUD may issue a proposed rule on this subject.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68060
ANPRM Comment Period End	03/30/98	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet Tasker, Director, Office of Government Sponsored Enterprise Oversight, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2224

Allen Fishbein, Senior Advisor to the Assistant Secretary for Housing Sponsored Enterprise Oversight, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3600

RIN: 2501–AC41

1400. • SECRETARY OF HUD'S REGULATION OF FANNIE MAE AND FREDDIE MAC: PURCHASE GOALS (FR-4494)

Regulatory Plan: This entry is Seq. No. 49 in Part II of this issue of the **Federal Register**.

RIN: 2501–AC60

1401. HOME INVESTMENT PARTNERSHIPS PROGRAM (FR-4329)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12701 to 12839; 42 USC 3535(d)

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rulemaking will propose certain revisions to the HOME Program regulations in an effort to improve and simplify program administration.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC53

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

1402. • CHANGES TO ADMISSION AND OCCUPANCY REQUIREMENTS IN THE PUBLIC HOUSING AND SECTION 8 HOUSING ASSISTANCE PROGRAMS (FR-4485)

Priority: Other Significant

Legal Authority: 42 USC 1437a(b)(5),(c)(3),(d); 42 USC 1437u(b); 42 USC 1437j; 42 USC 1437d(l); 42 USC 1437n; 42 USC 1437d(c)(4); 42 USC 1437f(d)(1)(a); 42 USC 1437a(a)(2); 42 USC 1437a(a); 42 USC 1437f(cc); 42 USC 1436a; PL 105-276

CFR Citation: 24 CFR 5; 24 CFR 960; 24 CFR 966; 24 CFR 984

Legal Deadline: None

Abstract: This rule implements provisions of the Quality Housing and Work Opportunity Act of 1998 pertaining to community service, self-sufficiency and lease requirements in public housing. In addition, it implements changes with respect to admission preferences, including treatment of classes of single persons, income and rent determinations, restrictions on assistance to non-citizens, and new provisions on minimum rent. It includes statutory provisions that are already effective, as described in the Interim Guidance Notice published on February 18, 1999 at 63 FR 8170.

Timetable:

Action	Date	FR Cite
NPRM	04/30/99	64 FR 23460
End NPRM Comment Period	06/29/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2501–AC59

1403. • ONE-STRIKE SCREENING AND EVICTION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY (FR-4495)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437d; 42 USC 3525(d)

CFR Citation: 24 CFR 5; 24 CFR 200; 24 CFR 247; 24 CFR 880; 24 CFR 882; 24 CFR 884; 24 CFR 891; 24 CFR 960; 24 CFR 966; 24 CFR 982

Legal Deadline: None

Abstract: This rule amends regulations for public housing and Section 8 assisted housing programs, and for other HUD assisted housing programs. It gives public housing agencies and assisted housing owners the tools for adopting and implementing fair, effective, and comprehensive policies for denying admission to applicants who engage in illegal drug use or other criminal activity, and for evicting or terminating assistance of persons who engage in such activity.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40262
End NPRM Comment Period	09/21/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1380

RIN: 2501–AC63

1404. NONDISCRIMINATION BASED ON DISABILITY; MULTIFAMILY HOMEOWNERSHIP PROJECTS (FR-4317)

Priority: Other Significant

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 8

Legal Deadline: None

Abstract: This rule will clarify the applicability of HUD's requirements under section 504 of the Rehabilitation Act of 1973 to multifamily homeownership projects. It will also replace the term "handicap" with "disability" to conform to the Rehabilitation Amendments of 1992.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Kent, Director, Program Compliance and Disability Rights Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2333

RIN: 2501–AC47

1405. • LIMITED DENIAL OF PARTICIPATION — CLARIFICATION OF CONSOLIDATION OF DEBARMENT AND SUSPENSION PROCEDURES (FR-4505)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 701 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: HUD's regulations at 24 CFR part 24.713(c)(2) provide that if HUD issues a Limited Denial of Participation (LDP) and then subsequently issues or proposed debarment based on the same transaction(s) or conduct as the LDP, and the respondent contests the suspension or proposed debarment then "the proceedings shall be consolidated and the debarring or suspending official shall issue a final decision as to both the limited denial of participation and the debarment suspension." This final rule will clarify that under the circumstances discussed above, jurisdiction of the hearing officer to hear the LDP under 24 CFR part 24, subpart G, is divested and transferred to the Debarring Official who will enter a decision on both the LDP and the debarment or suspension.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Herold, Enforcement Center, Legal Division,

Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-3856

RIN: 2501–AC61

1406. CONFORMING AMENDMENTS TO HUD'S FHA-SINGLE FAMILY HOUSING AND MULTIFAMILY HOUSING ENFORCEMENT REGULATIONS (FR-4308)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q to 1701q1; 12 USC 1703; 12 USC 1708(c) to 1708(d); 12 USC 1709(s); 12 USC 1715b; 12 USC 1723i; 12 USC 1735f to 1735f15; 15 USC 1717a; 28 USC 2461 note; 42 USC 3535(d)

CFR Citation: 24 CFR 25; 24 CFR 30

Legal Deadline: None

Abstract: This interim rule makes conforming changes to HUD regulations to reflect statutory changes made by the Multifamily Assisted Housing Reform and Affordability Act of 1997 (the Multifamily Reform Act). Among other amendments, the Multifamily Reform Act provides that a suspension issued by the HUD Mortgagee Review Board is effective, without previous 30-day written notice of violation to the mortgagee, if there is sufficient evidence that immediate action is required to protect the financial interests of HUD or the public. The Multifamily Reform Act also expanded the list of persons and types of violations subject to a civil money penalty under HUD's insured housing programs. The interim rule also makes three clarifying, non-substantive amendments to these regulations. The first clarifies under what conditions HUD's Mortgagee Review Board may issue a suspension. The second amendment clarifies the effect of a suspension or withdrawal issued by the Board. The third clarifies that the Assistant Secretary for Public and Indian Housing may initiate a civil money penalty under the section 184 Indian housing loan guarantee program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dane Narode, Deputy Chief Counsel for Administrative Proceedings, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-2350

RIN: 2501–AC44

1407. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS (FR-4258)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); PL 104-156

CFR Citation: 24 CFR 45

Legal Deadline: None

Abstract: This rule adopts the final revision of OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" to establish uniform audit requirements for non-Federal entities that administer Federal awards and to implement the Single Audit Act Amendments of 1996. OMB Circular A-128 "Audits of States and Local Governments" is rescinded as a result of the consolidation of audit requirements under Circular A-133.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/97	62 FR 61616
Interim Final Rule Effective	12/18/97	
Interim Final Rule Comment Period End	01/20/98	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Heist, Director, Financial Audits Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0383

RIN: 2501–AC39

1408. FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS (FR-4142)

Priority: Other Significant

Legal Authority: 42 USC 3535(d); EO 11990

CFR Citation: 24 CFR 55

Legal Deadline: None

Abstract: This rule adopts procedures to implement Executive Order 11990 "Protection of Wetlands." This rule amends part 55 to implement the procedures for wetlands protection in accordance with Executive Order 11990. The rule makes several other changes including expanding the number of HUD programs that are subject to the four-step decision-making process for ensuring compliance with part 55.

Timetable:

Action	Date	FR Cite
NPRM	06/02/98	63 FR 30046
NPRM Comment Period End	08/03/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walter Prybyla, Deputy Director for Policy Environmental Review Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1201

RIN: 2501–AC33

1409. CLARIFYING AMENDMENTS TO CONSOLIDATED SUBMISSION FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS (FR-4333)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 91

Legal Deadline: None

Abstract: This rule would amend 24 CFR part 91 to address comments and issues raised by members of the public on the Consolidated Plan regulations in part 91. Because certain comments require further proposed rulemaking, they could not be addressed in the technical corrections to the final rule.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

HUD—HUDSEC

Final Rule Stage

Agency Contact: Salvatore Sclafani, Acting Director, Policy Division, Office of Executive Services, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1283

RIN: 2501–AC54

1410. HOME INVESTMENT PARTNERSHIPS PROGRAM — ADDITIONAL STREAMLINING (FR-4111)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 12701 to 12839

CFR Citation: 24 CFR 92

Legal Deadline: None

Abstract: This rule makes final a provision published as an interim rule on August 22, 1997, with respect to rents for over-income tenants in HOME-assisted units that "float."

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65298
NPRM Comment Period End	02/10/97	
Final Rule	08/22/97	62 FR 44838
Final Rule Effective	09/22/97	
Comment Period End	10/21/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar, Director, Program Policy Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-2470

RIN: 2501–AC30

1411. ADOPTION OF REVISED OMB CIRCULAR A-133; ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT THE SINGLE AUDIT ACT AMENDMENTS OF 1996; TECHNICAL AMENDMENTS (FR-4296)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 92; 24 CFR 125; 24 CFR 200; 24 CFR 202; 24 CFR 236; 24 CFR 280; 24 CFR 511; 24 CFR 570; 24 CFR 572; 24 CFR 574; 24 CFR 576; 24 CFR 582; 24 CFR 583; 24 CFR 585; 24 CFR 700; ...

Legal Deadline: None

Abstract: On June 30, 1997, OMB published revised Circular A-133 to implement the Single Audit Act Amendments of 1996. The Act sets forth requirements for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards. HUD adopted the revised circular in November 1997. This final rule makes technical amendments throughout title 24 of the Code of Federal Regulations to correct references outdated as a result of the revised circular.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Heist, Director, Financial Audits Division, Department of Housing and Urban Development, Office of the Inspector General
Phone: 202 708-0383

RIN: 2501–AC43

1412. MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK TO MARKET) AND RENEWAL OF EXPIRING SECTION 8 PROJECT-BASED ASSISTANCE (FR-4298)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1; 42 USC 1436f note

CFR Citation: 24 CFR 401; 24 CFR 402

Legal Deadline: Final, Statutory, October 27, 1998.
Final rule to be issued by the later of October 27, 1998 or 3 months following appointment of a director of OMAR.

Abstract: This rule will implement legislation that created a Mark-to-Market Program through which section 8 rents for multifamily projects with HUD-insured or HUD-held mortgages will be reduced in order to preserve low-income rental housing affordability while reducing the long-term costs of project-based rental assistance and minimizing the adverse effect on the FHA insurance funds. The interim rule also implemented legislation for renewal of section 8 project-based assistance contracts for projects outside of the Mark-to-Market Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/98	63 FR 48926
Interim Final Rule Effective	10/13/98	
Interim Final Rule Comment Period End	10/26/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Dan Sullivan, Housing Project Manager, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 708-3856

RIN: 2501–AC57

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC)

Long-Term Actions

1413. • CONSOLIDATED PLAN AMENDMENTS; TREATMENT OF TROUBLED PHAS (FR-4518)

Priority: Info./Admin./Other

Legal Authority: 42 USC 3535(d); 42 USC 12705

CFR Citation: 24 CFR 91

Legal Deadline: None

Abstract: This rule amends the Consolidated Plan regulations to conform to recent statutory requirements that a consolidated plan from a State or unit of general local government in which any troubled PHA is located must include a description of the manner in which the State or unit will provide assistance to remove the PHA's troubled designation and that Consolidated Plans prepared by State and local governments describe the manner in which the needs of public housing are addressed.

Timetable:

Action	Date	FR Cite
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Salvatore Sclafani, Acting Director, Policy Division, Office of Executive Services, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1283

RIN: 2501–AC62

Department of Housing and Urban Development (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

1414. REVISED RESTRICTION ON ASSISTANCE TO NONCITIZENS (FR-4154)

Priority: Other Significant

CFR Citation: 24 CFR 5, subpart E

Completed:

Reason	Date	FR Cite
Final Action	05/12/99	64 FR 25726
Final Action Effective	06/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo
Phone: 202 708-0744

RIN: 2501–AC36

1415. SANCTIONS FOR UNDERREPORTING OF INCOME IN THE ASSISTED HOUSING PROGRAMS (FR-4334)

Priority: Other Significant

CFR Citation: 24 CFR 5

Completed:

Reason	Date	FR Cite
Withdrawn	08/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Patricia Arnaudo
Phone: 202 708-0744

RIN: 2501–AC55

1416. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES (FR-3482)

Priority: Economically Significant

CFR Citation: 24 CFR 35; 24 CFR 91; 24 CFR 92; 24 CFR 200; 24 CFR 206; 24 CFR 280; 24 CFR 291; 24 CFR 511; 24 CFR 570; 24 CFR 572; 24 CFR 573; 24 CFR 574; 24 CFR 576; 24 CFR 582; 24 CFR 583; ...

Completed:

Reason	Date	FR Cite
Final Action	09/15/99	64 FR 50140
Final Action Effective	09/15/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David E. Jacobs
Phone: 202 755-1785

RIN: 2501–AB57

1417. REVISIONS TO REGULATIONS IMPLEMENTING UNIFORM RELOCATION ACT AND OTHER RELOCATION REQUIREMENTS IN HUD PROGRAMS (FR-4122)

Priority: Other Significant

CFR Citation: 24 CFR 42; 24 CFR 92; 24 CFR 215; 24 CFR 219; 24 CFR 221; 24 CFR 236; 24 CFR 290; 24 CFR 882; 24 CFR 511; 24 CFR 570; 24 CFR 574; 24 CFR 576; 24 CFR 582; 24 CFR 583; 24 CFR 585; ...

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Kolesar
Phone: 202 708-2470

RIN: 2501–AC31

1418. FLOOD INSURANCE AND HUD-ASSISTED BUILDINGS LOCATED WITHIN SPECIAL FLOOD HAZARD AREAS (FR-4273)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 56; 24 CFR 511.16(d); 24 CFR 570.605; 24 CFR 570.640; 24 CFR 572.425(f); 24 CFR 574.640; 24 CFR 583.330(a); 24 CFR 761.40(b); 24 CFR 882.407(c)(2); 24 CFR 886.313(c)(8); 24 CFR 891.155(c); 24 CFR 941.202(j); 24 CFR 968.110(d); 24 CFR 983.7(a)(6)

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Walter Prybyla
Phone: 202 708-1201

RIN: 2501–AC40

1419. REGULATIONS GOVERNING THE ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD'S ENVIRONMENTAL RESPONSIBILITIES; MISCELLANEOUS AMENDMENTS (FR-4326)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 58

HUD—HUDSEC

Completed Actions

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC64 (FR-4523)	08/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Richard Broun
Phone: 202 708-2894

RIN: 2501–AC52

1420. UNIFORM PHYSICAL CONDITIONS AND PHYSICAL INSPECTION REQUIREMENTS FOR CERTAIN HUD MULTIFAMILY HOUSING; ADMINISTRATIVE PROCESS FOR ASSESSMENT OF INSURED AND ASSISTED PROPERTIES (FR-4452)

Priority: Other Significant

CFR Citation: 24 CFR 200

Completed:

Reason	Date	FR Cite
Withdrawn - Duplicate of RIN 2502-AH44	08/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Hannon
Phone: 202 708-3944

RIN: 2501–AC58

Department of Housing and Urban Development (HUD)
Office of Housing (OH)

Prerule Stage

1421. • RELEASE OF INFORMATION TO TENANTS AND OTHER PARTIES PURSUANT TO MAHRA (FR-4531)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437f note

CFR Citation: 24 CFR 401

Legal Deadline: None

Abstract: The proposed rule is designed to ensure that tenants and other interested parties have access to the information needed for meaningful participation in the development of a Restructuring Plan, while ensuring appropriate protection of legitimate interest of project owners in confidential and proprietary business information.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Andrew Fay, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0001

RIN: 2502–AH45

Department of Housing and Urban Development (HUD)
Office of Housing (OH)

Proposed Rule Stage

1422. USE OF MATERIALS BULLETINS USED IN THE HUD BUILDING PRODUCTS STANDARDS AND CERTIFICATION PROGRAM (FR-4391)

Priority: Routine and Frequent

Legal Authority: 12 USC 1735e; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This proposed rule would adopt several Use of Materials Bulletins and references related to national voluntary consensus standards in accordance with OMB Circular No. A-119. The proposed rule would also supplement the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturer affixes to the certified product. The labeling of these products is in the public interest because it will allow consumers to readily identify those products that comply with existing voluntary consensus standards. In addition, the proposed rule would eliminate the need for manufacturers of these building products to seek HUD acceptance for individual products. Under the proposed rule, HUD would accept these products on a generic basis for use in properties covered under the HUD mortgage insurance programs. This would result in the streamlining of existing HUD requirements. The proposed rule would also specify the frequency with which products must be tested in order to be acceptable to HUD.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AH28

1423. • UNIFORM PHYSICAL CONDITIONS AND PHYSICAL INSPECTION REQUIREMENTS FOR CERTAIN HUD MULTIFAMILY HOUSING; ADMINISTRATIVE PROCESS FOR ASSESSMENT OF INSURED AND ASSISTED PROPERTIES (FR-4452)

Regulatory Plan: This entry is Seq. No. 50 in Part II of this issue of the **Federal Register**.

RIN: 2502–AH44

HUD—OH

Proposed Rule Stage

1424. STRENGTHENING THE TITLE I PROPERTY IMPROVEMENT LOAN INSURANCE PROGRAM (FR-4246)

Priority: Other Significant

Legal Authority: 12 USC 1703; 42 USC 1436a; 42 USC 3535(d)

CFR Citation: 24 CFR 201

Legal Deadline: None

Abstract: This rule proposes to amend HUD's regulations for the title I Property Improvement Loan Insurance Program. This rule would require that at least some of the loan proceeds must be used for correcting code violations, health and safety defects accessibility improvements, or energy improvements. This rule would also require the lender to certify that no party that is debarred or subject to a limited denial of participation will be involved in connection with the loan; that the property has been inspected and the proposed work meets the eligibility requirements; and that a post-completion inspection and verification of completion of the work has occurred. This rule would also establish time limits for completing improvements and streamline requirements, where appropriate. HUD anticipates that this rule will be finalized in conjunction with FR-3718.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AG95

1425. • MORTGAGEE APPROVAL FOR SINGLE FAMILY PROGRAMS - PROCEDURES FOR TERMINATING ORIGINATION APPROVAL AGREEMENTS AND PLACEMENT IN CREDIT WATCH STATUS (FR-4492)

Priority: Other Significant

Legal Authority: 12 USC 1703; 12 USC 1709; 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 202

Legal Deadline: None

Abstract: This rule would permit HUD/FHA to systematically review mortgagees' early default and claim rates and place mortgagees with loan originations that show an excessive default and claim rate during the initial 24 months from endorsement on Credit Watch status or, in more severe cases, terminate mortgagees' loan origination approval authority.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phillip Murray, Director, Office of Lender Activities and Program Compliance, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1515

RIN: 2502–AH42

1426. SINGLE FAMILY APPRAISAL ASSESSMENT (FR-4395)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1708; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would set standards and the process under which HUD will assess the accuracy of appraisals performed by the single family industry. HUD seeks to increase the efficiency of receipt of appraisals and to monitor the appraisals' accuracy through standardization and superior quality control of the end product. Appraisals are performed for approximately 1,000,000 home purchases annually.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2502–AH27

1427. PARTIAL PAYMENT OF CLAIMS FOR HEALTH CARE FACILITIES, HOSPITALS AND GROUP PRACTICE FACILITIES (FR-4387)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1735f to 19

CFR Citation: 24 CFR 207; 24 CFR 232; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: This rule would implement a statutory amendment which extended HUD's authority to make partial payments of claims on insured mortgages covering health care facilities, hospitals and group practice facilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Donald Kaplan, Deputy Director for Office of Insured Health Facilities, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0599

RIN: 2502–AH25

1428. • LIMITATION ON DISTRIBUTIONS (FR-4532)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 221; 24 CFR 236; 24 CFR 880; 24 CFR 881; 24 CFR 883

Legal Deadline: None

Abstract: Section 524(a)(1) of the Multifamily Housing Reform and Affordability Act of 1997 (MAHRA) allows for the renewal of expiring Section 8 contracts at levels that do not exceed comparable rents for the local area. In June 1999 HUD implemented an Emergency Initiative which grants rent increases to certain project owners of limited distribution projects who are eligible for, and decide to participate in, the Emergency Initiative.

Current regulatory provisions limit the owner's distribution to a certain percent of interest on the owner's equity investment. Limited waivers are now being granted by the Department based on the requirements in Notice H-99-15, which provides guidance on the Emergency Initiative. This rule establishes regulations to address this issue on a long term basis.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH46

1429. USE OF FEDERAL SURPLUS PROPERTY FOR SELF-HELP HOUSING (FR-4464)

Priority: Other Significant

Legal Authority: PL 105-50m 111 Stat. 1167

CFR Citation: 24 CFR 270

Legal Deadline: None

Abstract: This rule will establish a program to transfer surplus Federal property to a governmental entity or a nonprofit organization to develop as self-help housing for low-income individuals or families. HUD will operate the transfer program in cooperation with the General Services Administration which has an ongoing program of transferring surplus Federal property for public benefit.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elizabeth Burdock, Special Assistant to the Assistant Secretary for Housing, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1490

RIN: 2502–AH34

1430. DISPOSITION OF HUD-OWNED SINGLE FAMILY ASSETS IN REVITALIZATION AREAS (FR-4471)

Priority: Other Significant

Legal Authority: 12 USC 1701 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 291

Legal Deadline: Final, Statutory, October 21, 2000.

Abstract: This proposed rule would implement section 602 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276 112 Stat. 2461, approved October 21, 1998). Section 602 directs HUD to carry out a program under which HUD-owned homes and mortgages are made available in a manner that promotes expanded homeownership opportunities in designated revitalization areas. Under section 602, the Secretary will designate revitalization areas, in consultation with affected units of general local government and interested nonprofit organizations. Section 602 provides that the Secretary shall provide a preference in the sale of HUD-owned homes and mortgages to nonprofit organizations or to the unit of general local government having jurisdiction in the revitalization area.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH40

1431. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS (NEW CONSTRUCTION SUBSTANTIAL REHABILITATION, STATE HOUSING AGENCIES AND SPECIAL ALLOCATIONS) (FR-4479)

Priority: Routine and Frequent

Legal Authority: PL 105-276, secs. 549, 575, 576, 577

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 886

Legal Deadline: None

Abstract: This rule will start the rulemaking process to implement the following sections of the Quality Housing and Work Responsibility Act of 1998: sections 549, 575, 576 and 577. These sections provide, among other things, for a 5-year contract renewal subject to funding availability; "one-strike" provisions; and notification of contract expiration or termination.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH41

1432. SPECIAL PROCEDURES PERMITTING LIMITED COMPLETION OF MANUFACTURED HOMES ON-SITE (FR-4216)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 5424; 42 USC 3535(d)

CFR Citation: 24 CFR 3282

Legal Deadline: None

Abstract: This rule proposes a new process, under which manufacturers and State and private inspection agencies could agree to permit limited site work, under certain conditions, to complete production of manufactured homes, without prior approval by the

Secretary. This new process would supplement the current process for approving alternative construction methods.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AG92

Department of Housing and Urban Development (HUD)
Office of Housing (OH)

Final Rule Stage

1433. DELEGATION OF INSURING AUTHORITY TO DIRECT ENDORSEMENT MORTGAGEES (FR-4169)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d); PL 104-204

CFR Citation: 24 CFR 200; 24 CFR 202; 24 CFR 203; 24 CFR 206

Legal Deadline: None

Abstract: This rule implements the Lender Insurance program, which reflects the Secretary's new authority to delegate the issuance of Mortgage Insurance Certificates (MICs) to mortgagees that are approved under the Direct Endorsement program. This rule will provide that eligible mortgagees that participate in the Lender Insurance program will be responsible for conducting a pre-endorsement review during the origination of their single family mortgage loans, and they will be responsible for endorsing the mortgages for insurance. HUD intends that delegating this insurance authority through the Lender program will be consistent with HUD's efforts to reinvent the Federal Housing Administration (FHA) by creating a more efficient and less burdensome process for providing single family mortgage insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/02/97	62 FR 30222
Interim Final Rule Effective	07/02/97	
Interim Final Rule Comment Period End	08/01/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AG87

1434. USE OF MATERIALS BULLETINS (FR-4265)

Priority: Routine and Frequent

Legal Authority: 12 USC 1701 to 1735e; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule, the second of its type in two years, will permit generic acceptances of additional building products or systems. These acceptances are called Use of Materials Bulletins (UMs). UMs are issued to establish a generic level of acceptability for an individual product or system, or a group of similar products or systems. UMs supersede 3 or more Material Releases (MRs) for generally similar products.

Timetable:

Action	Date	FR Cite
NPRM	02/10/98	63 FR 6798
NPRM Comment Period End	04/13/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AH02

1435. UPDATE OF THE MODEL ENERGY CODE (MEC) (FR-4272)

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-486 Energy Policy Act of 1992; 42 USC 12709 Cranston-Gonzalez National Affordable Housing Act

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: The Energy Policy Act of 1992 (EPAct) modified section 109 of the National Affordable Housing Act so that HUD must require improved energy efficiency standards for new construction in certain HUD-insured and -assisted housing programs. HUD must adopt the updated MEC unless its requirements do not significantly increase energy efficiency or are not technologically feasible or economically justified.

Timetable:

Action	Date	FR Cite
NPRM	04/16/98	63 FR 32958
NPRM Comment Period End	08/17/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AH03

HUD—OH

Final Rule Stage

1436. SINGLE FAMILY MORTGAGE INSURANCE; APPRAISER ROSTER PLACEMENT PROCEDURES (FR-4429)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 to 1715z-18; 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule codifies the current placement procedures for HUD's Appraiser Roster. The Roster identifies those appraisers who are eligible to perform Federal Housing Administration (FHA) single family appraisals. Lenders must select an appraiser from the Roster for property appraisals involving the FHA single family mortgage insurance program. This rule is part of HUD's Homebuyer Protection Plan, which is designed to ensure that homebuyers seeking FHA-insured mortgages receive accurate and complete appraisals of homes they are interested in purchasing. The rule takes into consideration public comment received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/02/99	64 FR 36216
End NPRM Comment Period	08/02/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing Phone: 202 708-2700

RIN: 2502–AH29

1437. TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN INSURANCE PROGRAMS (FR-4242)

Priority: Other Significant

Legal Authority: 12 USC 1703; 42 USC 1436a; 42 USC 3535 (d)

CFR Citation: 24 CFR 201; 24 CFR 202

Legal Deadline: None

Abstract: This rule will amend HUD's regulations for the title I Property Improvement and Manufactured Home Loan Insurance Programs. In this rule, HUD will eliminate the portion of the program through which sellers, contractors, or suppliers of goods or services assist borrowers in preparing credit applications or otherwise obtaining title I property improvement loans from HUD-insured lenders. Property improvement loans will still, however, be available directly from lenders. This rule will attempt to end the abuses and excessive claims that HUD has experienced in the dealer loan portion of the title I Property Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	07/03/97	62 FR 36194
NPRM Comment Period End	09/02/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing Phone: 202 708-2700

RIN: 2502–AG94

1438. MORTGAGE INSURANCE PREMIUM REDUCTION IN CENTRAL CITIES (FR-4284)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule will amend HUD's regulations in 24 CFR part 203 to permit HUD to reduce the Up-Front Mortgage Insurance Premium from 1.75 percent to 1.50 percent for qualified first-time homebuyers with counseling located in "central cities."

Housing and Urban Development and Independent Agencies Appropriations Act of 1997 mandated that the Up-Front Mortgage Insurance Premium not exceed 2.00 percent for first-time homebuyers. The further reduction from 1.75 to 1.50 is consistent with the Administration's homeownership strategy.

Timetable:

Action	Date	FR Cite
NPRM	05/04/98	63 FR 24736
NPRM Comment Period End	07/06/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Stephen Semelsberger, Single Family Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing Phone: 202 708-2121

RIN: 2502–AH07

1439. SINGLE FAMILY MORTGAGE INSURANCE; DIRECT ENDORSEMENT AND AUTOMATED UNDERWRITING (FR-4311)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1709; 12 USC 1710; 12 USC 1715b; 12 USC 1715u; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: On May 29, 1998, the Department issued an interim rule which amended the regulations on Single Family Mortgage Insurance to allow the lender to accept the classification from an automated underwriting system approved by FHA that a borrower is an accepted risk. The prior regulatory provision required the Direct Endorsement underwriter to certify that the underwriter had personally reviewed the credit application and appraisal report. This rule makes final the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/29/98	63 FR 29506
Final Action Effective	06/29/98	
Comment Period End	07/28/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing

HUD—OH

Final Rule Stage

Phone: 202 708-2700

RIN: 2502–AH15

1440. SOURCES OF HOMEBUYER DOWNPAYMENT (FR-4469)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Section 203(b)(9) of the National Housing Act requires mortgagors to pay on account of the property at least 3 percent of the cost of acquisition in order for the mortgage to be eligible for insurance by FHA. The implementing regulations at 24 CFR 203.19 generally require that borrowers pay as downpayment in cash or its equivalent at least 3 percent of the acquisition cost. However, both the statute and the regulations are silent about permissible and/or impermissible sources of the downpayment (except for legislation in 1996 to permit family members to provide gifts and loans to other family members). This rule will clarify acceptable sources of homebuyer downpayment on FHA-insured mortgages.

Timetable:

Action	Date	FR Cite
NPRM	09/14/99	64 FR 49956
End NPRM Comment Period	11/15/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AH38

1441. SINGLE FAMILY CLAIM REFORM AND SALE OF PROPERTY (FR-4470)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1710; 12 USC 1735f-14; 42 USC 3535(d); PL 105-276

CFR Citation: 24 CFR 203

Legal Deadline: Final, Statutory, October 21, 2000.

Abstract: The interim rule will eliminate redundant and obsolete provisions of the National Housing Act; provide a new authority to take assignment of notes and transfer these notes to third parties for servicing and foreclosure avoidance and will provide the authority to pay assignment claims for those cases. In addition the rule will make loss mitigation mandatory for lenders (except for assignments), and will provide the authority for HUD to assess a new civil money penalty for a lender's failure to engage in loss mitigation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH39

1442. HOME EQUITY CONVERSION MORTGAGES; RIGHT OF FIRST REFUSAL PERMITTED FOR CONDOMINIUM ASSOCIATIONS (FR-4267)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-20; 42 USC 3535(d)

CFR Citation: 24 CFR 206

Legal Deadline: None

Abstract: This rule removes the current restriction on FHA mortgage insurance for the Home Equity Conversion Mortgage (HECM) program for a dwelling unit in a condominium project where the condominium association has a right of first refusal to purchase units that are offered for sale. This rule takes into consideration public comment received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	04/09/98	63 FR 17654
NPRM Comment Period End	06/08/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AG93

1443. REHABILITATION GRANTS FOR CERTAIN MULTIFAMILY PROJECTS (FR-4465)

Priority: Other Significant

Legal Authority: PL 105-65, sec. 531

CFR Citation: 24 CFR 236

Legal Deadline: None

Abstract: This rule implements a new statutory program of grants to owners of certain multifamily housing projects in need of rehabilitation that cannot be funded from project income. The grants are funded from recaptured or uncommitted funds originally intended for interest reduction payments (IRP) by HUD.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH35

1444. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS (FR-4403)

Priority: Other Significant

Legal Authority: 12 USC 1715z-1b; 42 USC 3535(d)

CFR Citation: 24 CFR 245

Legal Deadline: None

Abstract: This rule amends HUD's regulations for tenant participation in multifamily housing projects.

HUD—OH

Final Rule Stage

Specifically, the rule expands the number of categories of multifamily housing projects in which tenants have the right to establish and operate tenant organizations. The rule clarifies the reasonable activities that the owner of a multifamily housing project, covered under this proposed rule must allow tenants and tenant organizers to engage in while organizing their co-tenants and operating a tenant organization. The rule would also clarifies the requirements for establishing and operating a tenant organization. The rule takes into consideration public comment received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32782
End ANPRM Comment Period	08/16/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH32

1445. UP-FRONT GRANTS IN THE DISPOSITION OF MULTIFAMILY PROJECTS (FR-4310)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701z-11; 12 USC 1701z-12; 12 USC 1713; 12 USC 1715b; 12 USC 1715z-1b; 42 USC 3535(d)

CFR Citation: 24 CFR 290

Legal Deadline: None

Abstract: This rule codifies requirements governing the use of up-front grants in the disposition of HUD-owned multifamily properties. Specifically, it addresses eligibility for up-front grants and establishes limits on up-front grant amounts. The rule takes into consideration the public comment received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	07/15/99	64 FR 38284
End NPRM Comment Period	09/13/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris, Director, Home Mortgage Insurance Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-2700

RIN: 2502–AH12

1446. OFFICER NEXT DOOR PROGRAM (FR-4277)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701 et seq; 42 USC 1441; 42 USC 1441a; 42 USC 1551a; 42 USC 3535(d)

CFR Citation: 24 CFR 291

Legal Deadline: None

Abstract: This rule extends HUD's regulations concerning the disposition of HUD acquired single family properties to implement the Officer Next Door Sales Program (OND Program). The OND Program has been operating since August 11, 1997 as a temporary program and renewed on a yearly basis. This rule establishes the OND Program as a permanent program. The OND Program enables law enforcement officers to purchase, through a direct sale, HUD-acquired single family homes at a significant discount. Homes must be located in HUD-designated Revitalization Areas or HUD-approved except areas and law enforcement officers must agree to occupy a home purchased through the OND Program, as their sole residence for at least 3 years. Governmental entities and private nonprofit organizations may also purchase homes, through the OND Program if they intend to resell these homes directly to law enforcement officers under the terms and conditions of the OND Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/02/99	64 FR 36210
Interim Final Rule Effective	08/02/99	
Interim Final Rule Comment Period End	08/31/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-1672

RIN: 2502–AH37

1447. DURATION OF CAPITAL ADVANCE (FR-4466)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1701q; 42 USC 1437f; 42 USC 535(d)

CFR Citation: 24 CFR 891

Legal Deadline: None

Abstract: Several years ago, the Department decided to reduce the duration of the Section 202/811 fund reservation to 24 months for Sponsors selected in Fiscal Year 1996 and later years as one measure to facilitate the more timely development of Section 202/811 projects. Now that the 24-month period has expired for the first affected Sponsors, HUD is finding that the majority of these Sponsors are taking longer than 24 months to get their projects under construction. Thus, limiting the duration of the fund reservation is not achieving the desired result. The purpose of the regulatory change is to extend the fund reservations of Section 202 and Section 811 projects up to 36 months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Willie Spearmon, Director, Office of Business Products, Room 6134, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-3000

RIN: 2502–AH36

1448. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (FR-4376)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5403; 42 USC 5424; 42 USC 3535(d)

HUD—OH

Final Rule Stage

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This rule will amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS) to update many of the standards that are incorporated by reference therein. These reference standards, which are developed by voluntary consensus or industry groups, provide necessary technical standards for the FMHCSS. These amendments will keep the FMHCSS current with the industries that use these reference standards by incorporating the latest edition of these standards and new relevant standards.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58570
NPRM Comment Period End	12/29/98	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AH23

1449. • FEDERAL MANUFACTURED HOUSING PROGRAM; DEFINITION OF MANUFACTURED HOME (FR-4508)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5403; 42 USC 5424

CFR Citation: 24 CFR 3280; 24 CFR 3282

Legal Deadline: None

Abstract: This final rule amends HUD's regulations for the program operated under the National Manufactured Housing Construction and Safety Standards Act of 1974, to conform the definition of "manufactured home" to the statutory definition, as recently amended. The amendment removes self-propelled recreational vehicles from the definition of "manufactured home." Conforming changes are also made in the definition of "recreational vehicle" in part 3282.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AH43

1450. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

Priority: Economically Significant

Legal Authority: 12 USC 2601; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: A final rule will provide consumers with increased disclosure concerning the mortgage broker's function and fees and would provide mortgage brokers with greater clarity regarding application of the Real Estate Settlement Procedures Act (RESPA) to mortgage broker fees. Confusion about how RESPA applies to mortgage broker fees has led to litigation and numerous requests for clarification. The proposed rule was developed after receiving comments on a prior proposed rule and after parties to a negotiated rulemaking process, including consumer and industry groups, could not reach a consensus.

In order to benefit from greater clarity about permissibility of fees, mortgage brokers would be encouraged to provide information to the consumer early in a mortgage financing transaction. The information would include a statement regarding information about the mortgage broker's duties and compensation.

Timetable:

Action	Date	FR Cite
NPRM	09/13/95	60 FR 47650
Notice	10/25/95	60 FR 54794
NPRM Comment Period End	11/13/95	
Notice Comment Period End	11/24/95	
NPRM	10/16/97	62 FR 53912
NPRM Comment Period End	12/15/97	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AG40

1451. AMENDMENT TO RESPA; EXEMPTION FOR EMPLOYER PAYMENTS TO EMPLOYEES WHO MAKE LIKE-PROVIDER REFERRALS, AND OTHER AMENDMENTS (FR-4173)

Priority: Other Significant

Legal Authority: 12 USC 2601 to 2617; 42 USC 3535(d); PL 104-208

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This rule implements two amendments to RESPA contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996. One concerns referrals of settlement service business through telemarketing, in writing, or through electronic media. The other concerns mortgage servicing sales or transfers. The rule also concerns an exemption that would allow payments by an employer to its own bona fide employees for the referral of settlement service business.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25740
NPRM Comment Period End	07/08/97	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AG88

HUD—OH

Final Rule Stage

1452. RESPA STATEMENTS OF POLICY REGARDING CERTAIN PRIVATE MORTGAGE INSURANCE ARRANGEMENTS (FR-4342)

Priority: Other Significant

Legal Authority: 12 USC 2601 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: This statement of policy sets forth the Department's interpretation under the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2601 et seq.) of the legality of certain arrangements involving private mortgage insurers and lenders, and are issued under the authority of RESPA and Regulation X (24 CFR 3500.4(a)(ii)). These statements of policy analyze the applicability of section 8 of RESPA to Lender Paid Mortgage Insurance, to captive reinsurance arrangements, to the Performance Notes program and to agency pool insurance.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz, Acting Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, Office of Housing
Phone: 202 708-0502

RIN: 2502–AH19

Department of Housing and Urban Development (HUD)
Office of Housing (OH)

Completed Actions

1453. SINGLE FAMILY MORTGAGE INSURANCE CLARIFICATION OF FLOODPLAIN REQUIREMENTS APPLICABLE TO NEW CONSTRUCTION (FR-4323)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 234

Completed:

Reason	Date	FR Cite
NPRM	04/30/99	64 FR 23480
End NPRM Comment Period	06/29/99	
Final Action	10/15/99	64 FR 56108
Final Action Effective	11/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark W. Holman
Phone: 202 708-2121

RIN: 2502–AH16

1454. BUILDER WARRANTY FOR HIGH RATIO SINGLE FAMILY MORTGAGES (FR-4288)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Withdrawn	04/23/99	64 FR 19885
Interim Final Rule Effective	04/27/99	64 FR 14572
Interim Final Rule Comment Period End	05/24/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris
Phone: 202 708-2700

RIN: 2502–AH08

1455. SINGLE FAMILY MORTGAGE INSURANCE INFORMED CONSUMER CHOICE DISCLOSURE (FR-4411)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	06/02/99	64 FR 29758
Final Action Effective	07/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vance Morris
Phone: 202 708-2700

RIN: 2502–AH30

1456. RISK-SHARING HOSPITAL MORTGAGE INSURANCE PROGRAM (FR-3914)

Priority: Other Significant

CFR Citation: 24 CFR 242

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald Kaplan
Phone: 202 708-0599

RIN: 2502–AG53

1457. REAL ESTATE PROCEDURES SETTLEMENT ACT (RESPA): ESCROW ACCOUNT STATEMENT ITEMIZATION OF CHARGES (FR-4390)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 3500

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rebecca Holtz
Phone: 202 708-0502

RIN: 2502–AH26

Department of Housing and Urban Development (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

1458. CDBG SLUM/BLIGHT NATIONAL OBJECTIVE RULE (FR-4487)

Priority: Other Significant

Legal Authority: 42 USC 3535; 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule will be a key step in the implementation of the Department's Brownfields Initiative. (The Brownfields Initiative will stimulate economic development through the redevelopment of contaminated industrial properties.) It will increase CDBG recipients' flexibility to undertake activities that meet the national objective of preventing or eliminating slums or blighting conditions. The criteria for meeting the slum/blight national objective will be revised to specifically recognize economic obsolescence of buildings and the presence of environmental contaminants as blighting influences on an area or property. This rule also will propose clarifications of the standards for meeting the slum/blight national objective criteria on a spot basis, in accordance with recent statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB94

1459. HOPWA RENTAL ASSISTANCE OPTIONS AND TECHNICAL CHANGES (FR-4467)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12901 et seq

CFR Citation: 24 CFR 574

Legal Deadline: None

Abstract: The regulatory changes by this rule include revisions on rental assistance requirements in order to specify additional options available to grantees in responding to client needs, such as use of shallow rent subsidies that are offered in connection with other rental assistance options and allowance for client selection of units that are above area FMRs. Other revisions will update and clarify the regulation and address current requirements for performance reporting.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Vos, Director, Office of HIV/AIDS, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1934

RIN: 2506–AC02

Department of Housing and Urban Development (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

1460. CDBG PROGRAM FOR STATES; COMMUNITY REVITALIZATION STRATEGY REQUIREMENTS & MISCELLANEOUS TECHNICAL AMENDMENTS (FR-4081)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3601 to 3619; 42 USC 5300 to 5320; 42 USC 11331 to 11388; 42 USC 12701 to 12711; 42 USC 12741 to 12756; 42 USC 12901 to 12912

CFR Citation: 24 CFR 91; 24 CFR 570

Legal Deadline: None

Abstract: This rule implements the Community Revitalization Strategies concept into the State CDBG program. This concept will provide States additional flexibility in meeting certain requirements regarding the program's national objectives and public benefit. This rule also makes several technical amendments to correct errors from previous rulemaking and to enhance and clarify the regulation. These amendments are consistent with recent changes to the Entitlement CDBG program. This rule will be merged with the "CDBG Program for States: Program Income" rule (FR-4067) when published as a final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/22/96	61 FR 54914
Interim Final Rule Effective	11/21/96	
Interim Final Rule Comment Period End	02/16/97	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Yvette Aidara, CPD Specialist, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AB83

1461. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; CLARIFICATION OF THE NATURE OF REQUIRED CDBG EXPENDITURE DOCUMENTATION (FR-4449)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d); 42 USC 5300 to 5320

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule clarifies the level of expenditure documentation that is needed to meet the financial management requirement that grantees and subrecipients maintain adequate records to identify the use of funds provided for assisted activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/99	64 FR 38812

HUD—CPD **Final Rule Stage**

Action	Date	FR Cite
Interim Final Rule Effective	08/18/99	
Interim Final Rule Comment Period End	09/17/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Sue Miller, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2506–AC00

1462. EMERGENCY SHELTER GRANTS PROGRAM (FR-4330)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11371 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 576

Legal Deadline: None

Abstract: The regulatory changes to be made by this rule include technical corrections to the Emergency Shelter Grants (ESG) Program final rule published on October 2, 1996, and also revisions to CPD's implementation of IDIS, an automated payment and reporting system.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: John Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-4300

RIN: 2506–AB99

Department of Housing and Urban Development (HUD)
Office of Community Planning and Development (CPD) **Long-Term Actions**

1463. ADMINISTRATIVE GUIDELINES FOR CPD PROGRAMS; SECTION 102(D) LIMITATION ON COMBINING OTHER GOVERNMENT ASSISTANCE WITH CPD HOUSING ASSISTANCE (FR-3135)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 000

Legal Deadline: None

Abstract: This document sets forth the administrative guidelines the Office of Community Planning and Development will follow in determining on a case-by-case basis, that the amount of assistance being provided by HUD for a specific housing project for which other government assistance is also being made available, is not more than is necessary to make the assisted activity feasible after taking into account the other government assistance. HUD is required to make these determinations, and to so certify, under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 for certain CPD programs.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Duncan, Deputy Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-3587

RIN: 2506–AB74

Department of Housing and Urban Development (HUD)
Office of Community Planning and Development (CPD) **Completed Actions**

1464. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; SECTION 108 APPLICATION REQUIREMENTS (FR-3298)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Webster
Phone: 202 708-1871

RIN: 2506–AB43

1465. SECTION 108 LOAN GUARANTEE PROGRAM (FR-4039)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul Webster
Phone: 202 708-1871

RIN: 2506–AB80

1466. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS FOR STATES; PROGRAM INCOME (FR-4067)

Priority: Other Significant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Yvette Aidara
Phone: 202 708-1322

RIN: 2506–AB82

HUD—CPD

Completed Actions

1467. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; NATIONAL OBJECTIVE AND STREAMLINING CHANGES (FR-4144)

Priority: Other Significant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sue Miller
Phone: 202 708-1577

RIN: 2506–AB90

1468. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES (FR-4468)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sue Miller
Phone: 202 708-1577

RIN: 2506–AC01

1469. • COMMUNITY DEVELOPMENT BLOCK GRANT BROWNFIELDS (FR-4260)

Priority: Other Significant

Legal Authority: PL 105-769

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: This rule allows States and entitlement communities to use funds allocated under the community development block grant program under title I of the Housing and Community Development Act of 1974 for environmental cleanup and economic development activities related to Brownfields projects in conjunction with the appropriate environmental regulatory agencies.

Timetable:

Action	Date	FR Cite
Merged With RIN 2506-AB94	09/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Steve Johnson, Director, State and Small Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1322

RIN: 2506–AC03

Department of Housing and Urban Development (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

1470. GINNIE MAE—FINANCE—NAHASDA IMPLEMENTATION (FR-4215)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-330

CFR Citation: 24 CFR 300.3; 24 CFR 320; 24 CFR 330; 24 CFR 340

Legal Deadline: None

Abstract: Section 701(c) of the Native American Housing Assistance and Self-Determination Act of 1996 permits Ginnie Mae to securitize loans guaranteed by the Secretary. This rule will make amendments to the Ginnie Mae regulations to reflect this change and to make certain technical amendments to the Ginnie Mae regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nicholas Shelley, Acting Vice President for Policy Planning and Risk Management, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-4141

RIN: 2503–AA11

Department of Housing and Urban Development (HUD)
Government National Mortgage Association (GNMA)

Final Rule Stage

1471. • ELIMINATION OF PHYSICAL CERTIFICATE FOR ISSUED SECURITIES (FR-4533)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1721(g); 42 USC 3535(d)

CFR Citation: 24 CFR 300

Legal Deadline: None

Abstract: Ginnie Mae is considering eliminating physical certificates for securities that are already issued. This regulation would benefit investors who hold their securities in book entry form and pay to have their physical securities stored.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland, Vice President, Department of Housing and Urban Development, Government National Mortgage Association
Phone: 202 708-2884

RIN: 2503–AA14

Department of Housing and Urban Development (HUD)
Government National Mortgage Association (GNMA)

Completed Actions

1472. GINNIE MAE—FINANCIAL REPORTING (FR-4331)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 320

Completed:

Reason	Date	FR Cite
Final Action	06/24/99	64 FR 34106
Final Action Effective	07/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Weakland
Phone: 202 708-2884

RIN: 2503–AA12

Department of Housing and Urban Development (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

1473. CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES (FR-4392)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3601 to 19; 42 USC 3535(d)

CFR Citation: 24 CFR 115

Legal Deadline: None

Abstract: This proposed rule will amend the regulation to allow for changes caused by departmental reform and FHEO reorganization, and improve program implementation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ivy Davis, Director, FHIP/FHAP Support Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-1992

RIN: 2529–AA85

Department of Housing and Urban Development (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

1474. FAIR HOUSING PLANNING PERFORMANCE STANDARD (FR-4133)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 3535(d); 42 USC 3600 to 3620

CFR Citation: 24 CFR 91; 24 CFR 570

Legal Deadline: None

Abstract: This proposed rule was initially published in the Federal Register on 10/28/98, and was later withdrawn from further consideration pending consultation with affected parties. HUD will consult with affected parties and reissue the proposed rule based on those consultations. This rule will assist communities in complying with the legal requirement to certify that they are affirmatively furthering fair housing. It will provide a standard for determining the accuracy of the certification so that communities will have a clearer idea of what is expected of them and how HUD will review their certifications as well as measure performance for determining compliance with fair housing requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57882
NPRM Comment Period End	12/28/98	
NPRM Comment Period Extended	12/28/98	63 FR 71405
NPRM Comment Period End	02/26/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sue Miller, Acting Director, Entitlement Communities Division, Department of Housing and Urban Development, Office of Community Planning and Development
Phone: 202 708-1577

RIN: 2529–AA81

1475. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW-INCOME PERSONS (FR-2898)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1450; 42 USC 3301; 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline: Final, Statutory, April 28, 1993.

Abstract: The regulations at 24 CFR 135 were revised substantially to incorporate the statutory amendments in the Housing and Community Development Act of 1992, to reflect certain changes in the design of the Department's programs that are subject to the section 3 regulations to clarify the obligations of individuals and entities subject to the requirements of section 3, and to simplify the Department's administration of section 3 requirements. The final rule may make further revisions in response to public comment.

HUD—FHEO **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	10/08/93	58 FR 52534
Notice	11/09/93	58 FR 59423
Notice Comment Period End	12/08/93	
Interim Final Rule	06/30/94	59 FR 33886
Interim Final Rule Effective	08/01/94	
Interim Final Rule Comment Period End	08/29/94	
Extension of Effective Period of Interim Rule	05/31/95	60 FR 28325
Extension Effective	06/30/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: John Waller, Program Manager, Office of Economic Development, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-3633

RIN: 2529–AA49

1476. CIVIL MONEY PENALTIES FOR FAIR HOUSING ACT VIOLATIONS (FR-4302)

Priority: Other Significant

Legal Authority: 29 USC 794; 42 USC 2000d-1; 42 USC 3601 to 3619; 42 USC 5301 to 5320; 42 USC 6103; 42 USC 3535(d)

CFR Citation: 24 CFR 180

Legal Deadline: None

Abstract: This final rule adopts revisions to HUD's regulations governing hearing procedures for civil rights matters made effective by an interim rule published on February 10, 1999. These revisions implement two important changes in the way civil penalties are assessed in fair housing cases. First, they allow an administrative law judge (ALJ) to assess a separate civil penalty against a respondent for each separate and distinct discriminatory housing practice committed by the respondent. Second, they require an ALJ to take into account, in favor of imposing a maximum civil penalty, a finding that a respondent has committed a housing-related hate act. This final rule takes into consideration public comments received on the February 10, 1999 interim rule. After careful consideration of public comments, HUD has decided to adopt the interim rule without change.

Timetable:

Action	Date	FR Cite
NPRM	12/18/97	62 FR 66488
NPRM Comment Period End	01/20/98	
Interim Final Rule	02/10/99	64 FR 6744
Interim Final Rule Effective	03/12/99	
Interim Final Rule Comment Period End	04/12/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry Cary, Office of Associate General Counsel for Fair Housing, Department of Housing and Urban Development, Office of the General Counsel
Phone: 202 708-0570

RIN: 2529–AA83

Department of Housing and Urban Development (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

1477. FAIR HOUSING COMPLAINT PROCESSING—PLAIN LANGUAGE REVISION AND REORGANIZATION (FR-4433)

Priority: Substantive, Nonsignificant

CFR Citation: 24 CFR 103

Completed:

Reason	Date	FR Cite
Interim Final Rule	04/14/99	64 FR 18538
Interim Final Rule Effective	05/14/99	
Interim Final Rule Comment Period End	06/14/99	
Final Action	08/27/99	64 FR 46843
Final Action Effective	09/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Kaplan
Phone: 202 708-2904

RIN: 2529–AA86

1478. • COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING; NOMENCLATURE CHANGES (FR-4514)

Priority: Info./Admin./Other

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 108

Legal Deadline: None

Abstract: This final rule implements a nomenclature change in HUD's regulations that cover compliance procedures for affirmative fair housing marketing located at 24 CFR part 108. As a result of internal HUD organizational changes, the offices referred to in these regulations no longer exist as they did when the regulations were first issued. This final rule updates these references. This final rule also incorporates language that all correspondence that could lead to an enforcement action against a small entity (such as audits, investigations, or compliance reviews) will notify the small entity of its right to comment to the National Small Business Ombudsman. This requirement is added in accordance with the Small Business Regulatory Enforcement Fairness Act.

Timetable:

Action	Date	FR Cite
Final Action	08/12/99	64 FR 44094
Final Action Effective	09/13/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pamela Walsh, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity
Phone: 202 708-2288

RIN: 2529–AA87

Department of Housing and Urban Development (HUD)
Office of Administration (OA)

Final Rule Stage

1479. HUD ACQUISITION REGULATION—II (FR-4115)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 42 USC 3535(d); 41 USC 251

CFR Citation: 48 CFR 2401

Legal Deadline: None

Abstract: This rule implements changes stemming from the "Federal Acquisition Reform Act of 1996" and subsequent revisions to the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/23/99	64 FR 46092
Interim Final Rule Effective	09/22/99	
Interim Final Rule Comment Period End	10/22/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA24

1480. HUD ACQUISITION REGULATION (FR-4291)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 42 USC 3535(d)

CFR Citation: 48 CFR 2409; 48 CFR 2452

Legal Deadline: None

Abstract: This proposed rule would amend the HUD Acquisition Regulation (HUDAR) to make conforming and streamlining changes.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 46104
End NPRM Comment Period	10/22/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Office of Procurement & Contracts, Department of Housing and Urban Development, Office of Administration
Phone: 202 708-0294

RIN: 2535–AA25

Department of Housing and Urban Development (HUD)
Office of Public and Indian Housing (PIH)

Prerule Stage

1481. • HUD POLICY FOR THE ADMINISTRATION OF HUD PROGRAMS ON INDIAN RESERVATIONS AND OTHER INDIAN AREAS (FR-4490)

Priority: Other Significant

Legal Authority: 25 USC 4101 et seq; EO 13084

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: This notice sets forth HUD's policy for ensuring regular and meaningful consultation and collaboration with Indian tribal governments in the administration of HUD programs on Indian reservations and other Indian areas. The notice implements Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, issued by President Clinton on May 14, 1998 (63 FR 27655, May 19, 1998). In formulating policies that significantly or uniquely affect Indian tribal governments, HUD will adhere to the principles of respect, Indian tribal self-government, sovereignty, tribal legal rights, and the responsibilities that arise from the legal relationship that exits between the Federal government and Indian tribal governments. As provided in the notice, HUD will make all reasonable efforts to take into consideration and apply these principals when policy decisions are made affecting Native American communities.

Timetable:

Action	Date	FR Cite
Notice	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ed Fagan, Office of Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-7914

RIN: 2577–AC06

Department of Housing and Urban Development (HUD)
Office of Public and Indian Housing (PIH)

Proposed Rule Stage

1482. • HOPE VI PROGRAM (FR-4530)

Regulatory Plan: This entry is Seq. No. 53 in Part II of this issue of the **Federal Register**.

RIN: 2577–AC17

1483. RESIDENT SURVEY INFORMATION DISCLOSURE REQUIREMENTS—PRIVACY ACT (FR-4393)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This proposed rule would amend HUD's Privacy Act regulations by describing under what circumstances HUD may release information obtained from a resident survey. This rule would also describe the privacy requirements for public or private entities that have access to this data.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Christine Jenkins, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2577–AB84

1484. QUALITY ASSURANCE REVIEW OF INDEPENDENT PUBLIC AUDITORS BY REAL ESTATE ASSESSMENT CENTER STAFF (FR-4394)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 35; 42 USC 3535(d)

CFR Citation: 24 CFR 901

Legal Deadline: None

Abstract: This proposed rule would establish generally applicable requirements for HUD Quality Assurance reviews of parties that audit the books and records of HUD program recipients. The rule would address HUD inspections, HUD review of work paper prepared by Independent Public Auditors, and HUD enforcement of its right to such reviews.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Bell, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2577–AB85

1485. OPERATING FUND ALLOCATION FORMULA (FR-4425)

Regulatory Plan: This entry is Seq. No. 51 in Part II of this issue of the **Federal Register**.

RIN: 2577–AB88

1486. • PUBLIC HOUSING CAPITAL PROGRAM (FR-4507)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1437b; 42 USC 1437c; 42 USC 1437g; 42 USC 3535(d)

CFR Citation: 24 CFR 905; 24 CFR 941; 24 CFR 968; 24 CFR 969

Legal Deadline: None

Abstract: This rulemaking would be a combination of the old Comprehensive Grant Program/CIAP portions of 24 CFR part 968 and the public housing development program 24 CFR part 941, subparts A through E (RIB 2577-AB37). This rule would implement the requirements for the use of assistance made available under the Capital Fund formula, establishing the Capital Fund Program (CFP) at 24 CFR part 905. Assistance under the CFP is the primary, regular source of funding made available by HUD to a PHA for its capital activities, basically the production and maintenance of low-income housing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1640

RIN: 2577–AC16

1487. • PUBLIC HOUSING DEVELOPMENT TOTAL DEVELOPMENT COST (TDC) (FR-4489)

Priority: Other Significant

Legal Authority: 42 USC 1437(b); 42 USC 1437c; 42 USC 1437g; 43 USC 3535(d)

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This proposed rule would amend HUD's regulations governing Total Development Cost (TDC) for the development of public housing. The amendments would implement recent changes made to the statutory TDC requirements. Among other changes, this proposed rule would limit the amount of public housing funds that a public housing agency may use to pay for housing construction costs. The rule would also provide that demolition and environmental hazard remediation costs are included in TDC only to the extent that such costs are associated with the replacement of public housing units on the project site.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Elinor Bacon, Deputy Assistant Secretary for Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC05

HUD—PIH

Proposed Rule Stage

1488. • MIXED-FINANCED PUBLIC HOUSING DEVELOPMENT (FR-4499)

Priority: Other Significant

Legal Authority: 42 USC 1437z-7; 42 USC 3535

CFR Citation: 24 CFR 941

Legal Deadline: None

Abstract: This proposed rule would implement section 35 of the United States Housing Act, as enacted on October 21, 1998. It would revise the program of mixed-finance public housing development, which involves financial assistance from private sources. It would permit the use of a HUD grant, loan, guarantee or other form of investment in a mixed-finance project, using funds from the Capital Fund or the Operating Fund, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: David Sowell, Senior Advisor, Office of Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC09

1489. DESIGNATED HOUSING PROGRAM AMENDMENTS (FR-3964)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1473e; 42 USC 3535(d)

CFR Citation: 24 CFR 945

Legal Deadline: None

Abstract: The proposed rule would amend HUD's Designated Housing Program regulations at 24 CFR part 945 to implement certain new requirements made to this program by the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, approved March 28, 1996). In addition to implementing these requirements the regulations would be streamlined to allow autonomy and flexibility.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gloria Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-1380

RIN: 2577–AB57

1490. • RESIDENT OPPORTUNITIES AND SUPPORTIVE SERVICES (FR-4525)

Regulatory Plan: This entry is Seq. No. 52 in Part II of this issue of the **Federal Register**.

RIN: 2577–AC07

1491. • DIRECT FUNDING OF PUBLIC HOUSING RESIDENT MANAGEMENT CORPORATIONS (FR-4501)

Priority: Other Significant

Legal Authority: 42 USC 1437d; 42 USC 1437g; 42 USC 1437r; 42 USC 3535(d)

CFR Citation: 24 CFR 964

Legal Deadline: None

Abstract: This proposed rule revises HUD's regulations regarding resident participation and resident opportunities in public housing. Specifically, the rule would make conforming amendments to the HUD regulations to reflect recent statutory changes made by the Quality Housing and Work Responsibility Act of 1998. The proposed rule provides that a resident management corporation (RMC) may receive capital and operating funds from HUD if the RMC has primary management responsibility for the public housing project and HUD determines that the RMC has the capacity to effectively discharge such responsibility.

Timetable:

Action	Date	FR Cite
NPRM	10/21/99	64 FR 56890
NPRM Comment Period End	12/20/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paula Blunt, Director, Customer Services and Amenities Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 619-8201

RIN: 2577–AC12

1492. • DEMOLITION AND DISPOSITION OF PUBLIC HOUSING (FR-4500)

Priority: Other Significant

Legal Authority: 42 USC 1437t; 42 USC 1437v; 42 USC 3535(d)

CFR Citation: 24 CFR 970

Legal Deadline: None

Abstract: This proposed rule will implement changes made to sections 18 and 24 of the United States Housing Act of 1937 by the Quality Housing and Work Opportunity Act of 1998. Among those changes are that before demolishing public housing units the PHA must now consult with the local government and must provide a HUD-prescribed certification. In addition, demolition of public housing units can be approved under a HOPE VI revitalization plan instead of under the authority of these regulations. The requirement that residents must be offered an opportunity to buy their units is now applicable only to planned disposition, not to planned demolition. The right of tenants to organize in order to purchase their units after the decision has been made to dispose of the units, which was not required by statute, may be discontinued.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

HUD—PIH **Proposed Rule Stage**

Agency Contact: Elinor Bacon, Deputy Assistant Secretary for Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC11

1493. SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) NEW PERFORMANCE INDICATORS (FR-4388)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: Under the section 8 Management Assessment Program (SEMAP), HUD assesses whether local agencies operate the tenant-based rental assistance programs effectively. SEMAP currently measures housing agency performance under indicators representing 14 key program areas. This rule would add four new performance indicators to SEMAP: timeliness of housing assistance payments (HAPs) to owners; implementation of screening and termination policies for certain evictions, for drug-related criminal activity, and for disruptive alcohol abuses; for deconcentration of assisted families; and for timely response to inspection requests.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate Performance and Housing Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB83

1494. • REVISION TO CONSTRUCTION COST LIMITS FOR NATIVE AMERICAN HOUSING (FR-4517)

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 4101 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 1000

Legal Deadline: None

Abstract: This rule revises the way construction costs are controlled in the Indian Housing Block Grant (IHBG) program administered by IHBG grantees, who are Indian Tribes or their Tribally Designated Housing Entities (TDHEs). It would replace the system of HUD-established Dwelling Construction and Equipment costs with a choice between HUD-established Total Development Costs (TDC) or standards established by the TDHE based on standards in its geographic area. This rule also would provide that the construction, acquisition, or assistance of non-dwelling buildings is subject either to standards established by the TDHE or documentation of comparability to the size, design and amenities of similar buildings constructed in the geographic area.

When tribes began using Dwelling Construction Equipment Costs in place of TDC in accordance with the program changes implemented after enactment of the Native American Housing Assistance and Self-Determination Act, they discovered that the new limits were inadequate. This rule provides an alternative.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal

Agency Contact: Justina Walls, Native American Program Specialist, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 303 675-1600

RIN: 2577–AC14

Department of Housing and Urban Development (HUD)
Office of Public and Indian Housing (PIH) **Final Rule Stage**

1495. PET OWNERSHIP IN PUBLIC HOUSING (FR-4437)

Priority: Other Significant

Legal Authority: 42 USC 1437 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 5

Legal Deadline: None

Abstract: Section 526 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998) ("QHWRA") added a new section 31 to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) (the "1937 Act"). New section 31 of the 1937 Act provides that a public housing resident may have one or more common household pets in the resident's dwelling unit, subject to reasonable requirements established by the Public Housing Agency and in accordance with applicable State and local laws. This rule amends HUD's regulations regarding pet ownership in public and HUD-assisted housing (24 CFR part 5, subpart C) to implement the statutory amendments to the 1937 Act made by section 526 of QHWRA. The final takes into consideration public comment received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33640
End NPRM Comment Period	08/23/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo, Senior Housing Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0744

RIN: 2577–AB94

HUD—PIH

Final Rule Stage

1496. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS (FR-4477)

Priority: Other Significant

Legal Authority: 42 USC 1439; 42 USC 3535(d)

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: This rule would revise the current program regulations to implement the statutory language which eliminates the requirements for comment from local governments in non-housing assistance payment communities on applications for Section 8 funding and eliminates the non-metropolitan funding set-asides imposed by section 213 of the Housing and Community Development Act of 1974.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate Performance and Housing Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AC03

1497. SECTION 8 MODERATE REHABILITATION PROGRAM EXECUTING OR TERMINATING LEASES ON MODERATE REHABILITATION UNITS (FR-4472)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: Section 8(d)(1)(B)(i) of the United States Housing Act requires that the initial lease between the tenant and the owner be for at least one year or the term of the HAP contract, whichever is shorter. Current program regulations state that the initial term between an owner and a family must be for at least one year. The regulation is silent on the requisite lease term when the HAP contract term expires in less than one year. The purpose of this regulation revision is to implement the statutory language which requires that any initial lease term not extend beyond the term of the housing assistance payment contract.

This rule also will revise existing regulations to allow an owner and a public housing agency (PHA) to mutually agree to terminate a unit from the HAP contract if a unit becomes vacant and the term of the HAP contract is for less than one year.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/04/99	64 FR 53868
Interim Final Rule Comment Period End	12/02/99	
Interim Final Rule Effective Date	11/03/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate Performance and Housing Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB98

1498. • PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS); AMENDMENTS TO THE PHAS (FR-4497)

Priority: Other Significant

Legal Authority: 42 USC 1437d(j); 42 USC 3535(d)

CFR Citation: 24 CFR 902

Legal Deadline: None

Abstract: This rule will delineate the standards by which a housing authority's performance will be assessed under all four components of the Public Housing Assessment System. In addition, it will implement statutory changes made by the Quality Housing and Work Responsibility Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	06/22/99	64 FR 33348
End NPRM Comment Period	08/23/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, Office of the Secretary
Phone: 202 755-7540

RIN: 2577–AC08

1499. CAPITAL FUND ALLOCATION FORMULA (FR-4423)

Regulatory Plan: This entry is Seq. No. 54 in Part II of this issue of the **Federal Register**.

RIN: 2577–AB87

1500. CONSORTIA OF PUBLIC HOUSING AGENCIES AND JOINT VENTURE (FR-4474)

Priority: Other Significant

Legal Authority: 42 USC 1437k

CFR Citation: 24 CFR 943

Legal Deadline: None

Abstract: This rule will implement a new statutory provision specifically authorizing public housing agencies (PHAs) to administer any or all of their housing programs through a consortium of PHAs. It also authorizes PHAs to use subsidiaries, joint ventures, partnerships or other business arrangements to administer its housing programs or to provide supportive or social services. The rule specifies minimum requirements relating to formation and operation of consortia and minimum contents of consortium agreements, as required by the statute.

Timetable:

Action	Date	FR Cite
NPRM	09/14/99	64 FR 49940
End NPRM Comment Period	11/15/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen Holmquist, Program Development Advisor, Office of Policy, Program and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC00

HUD—PIH

Final Rule Stage

1501. VOLUNTARY CONVERSION OF PUBLIC HOUSING TO VOUCHERS (TENANT-BASED ASSISTANCE) (FR-4476)

Priority: Other Significant

Legal Authority: 42 USC 1437t; 42 USC 1437z-5; 42 USC 3535(d)

CFR Citation: 24 CFR 972

Legal Deadline: Final, Statutory, October 1, 1999.

Abstract: This rule implements a recent revision to the statute authorizing the public housing and Section 8 housing assistance programs to allow a Public Housing Agency (PHA) to convert any public housing project it owns to tenant-based assistance where the conversion would satisfy statutory objectives. If, after conducting a conversion assessment, the PHA determines that the following conditions are met, it may convert the project: Conversion will not be more expensive than continued operation of the project conversion will benefit residents and the community; and conversion will not adversely affect the availability of affordable housing in the community. The statute requires every PHA to conduct and submit to HUD a conversion assessment for its projects no later than October 1, 2001. However, HUD has the authority to exclude developments from the assessment requirement, or to streamline the conversion assessment requirements, and this rule does include streamlining for specified categories of developments.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40240
End NPRM Comment Period	09/21/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC02

1502. REQUIRED CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE (FR-4475)

Priority: Other Significant

Legal Authority: 42 USC 1437 et seq; 42 USC 3535(d)

CFR Citation: 24 CFR 973

Legal Deadline: Final, Statutory, October 1, 1999.

Abstract: This rule implements a recent revision to the statute that authorizes the public housing and Section 8 housing assistance programs. The revision requires Public Housing Agencies (PHAs) to identify distressed public housing developments that must be converted to tenant-based assistance. If it would be more expensive to modernize and operate a distressed development for its remaining useful life than to provide tenant-based assistance to all residents, or the PHA cannot assure the long-term viability of a distressed development, then it must develop and carry out a five-year plan to remove the development from its public housing inventory, and convert it to tenant-based assistance.

Timetable:

Action	Date	FR Cite
NPRM	07/23/99	64 FR 40232
End NPRM Comment Period	09/21/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC01

1503. SECTION 8 HOMEOWNERSHIP (FR-4427)

Priority: Other Significant

Legal Authority: 42 USC 1437f(y); 42 USC 3535(d)

CFR Citation: 24 CFR 982

Legal Deadline: Final, Statutory, October 21, 1999.

Abstract: This rule amends the regulations for the Section 8 tenant-based voucher program at 24 CFR part 982. These amendments implement Section 8(y) of the United Stated Housing Act of 1937 as amended by Section 555 of the Quality Housing and Work Responsibility Act of 1998 (42 USC 1437f(y)). Section 8(y) authorizes a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family.

Timetable:

Action	Date	FR Cite
NPRM	04/30/99	64 FR 23488
End NPRM Comment Period	06/29/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate Performance and Housing Division, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0477

RIN: 2577–AB90

1504. • TECHNICAL AMENDMENT TO THE SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) (FR-4498)

Priority: Other Significant

Legal Authority: 42 USC 1437a; 42 USC 1437c; 42 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 985

Legal Deadline: None

Abstract: This rule makes final an interim rule that amended the Section 8 Management Assessment Program (SEMAP) regulations to incorporate technical revisions recommended by OMB to conform to requirements under the Single Audit Act Amendments of 1996. This final rule will take into consideration public comment received on the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/99	64 FR 40496
Interim Final Rule Effective	08/25/99	
Interim Final Rule Comment Period End	09/24/99	
Final Action	12/00/99	

HUD—PIH **Final Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gerald Benoit, Director, Real Estate Performance and Housing Division, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0477

RIN: 2577–AC10

1505. LOAN GUARANTEE FOR INDIAN HOUSING; DIRECT GUARANTEE PROCESSING (FR-4241)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1715z-13a

CFR Citation: 24 CFR 1005

Legal Deadline: None

Abstract: This final rule would authorize a processing alternative known as "direct guarantee" under which HUD would not issue guarantee commitments and would not review an application for guarantee until after a loan has closed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/11/98	63 FR 48988
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Jacqueline Johnson, Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, Office of Public and Indian Housing Phone: 202 708-0950

RIN: 2577–AB78

Department of Housing and Urban Development (HUD)
Office of Public and Indian Housing (PIH) **Completed Actions**

1506. ADMINISTRATIVE GUIDELINES FOR PIH REGARDING SECTION 102(D) LIMITATIONS ON COMBINING OTHER GOVERNMENT ASSISTANCE ("SUBSIDY LAYERING") (FR-3100)

Priority: Other Significant

CFR Citation: 24 CFR 000

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Wilson Phone: 202 708-0614

RIN: 2577–AB53

1507. PUBLIC HOUSING DRUG ELIMINATION PROGRAM — FORMULA ALLOCATION (FR-4451)

Priority: Other Significant

CFR Citation: 24 CFR 761

Completed:

Reason	Date	FR Cite
NPRM	05/12/99	64 FR 25736
End NPRM Comment Period	07/12/99	
Final Action	09/14/99	64 FR 49900
Final Action Effective	10/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Sonia Burgos Phone: 202 708-1197

RIN: 2577–AB95

1508. HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1996 IMPLEMENTATION PROVISIONS AND SECTION 8 CERTIFICATE, VOUCHER, & MODERATE REHABILITATION ADMISSION & OCCUPANCY POLICIES REVISIONS (FR-4159)

Priority: Other Significant

CFR Citation: 24 CFR 882; 24 CFR 982

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit Phone: 202 708-0477

RIN: 2577–AB72

1509. MODERATE REHABILITATION COMPARABILITY (FR-4473)

Priority: Other Significant

CFR Citation: 24 CFR 882

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit Phone: 202 708-0477

RIN: 2577–AB99

1510. PUBLIC HOUSING AGENCY PLAN (FR-4420)

Priority: Other Significant

CFR Citation: 24 CFR 903

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End	04/19/99	64 FR 8170
Final Rule	09/21/99	64 FR 51045
Final Action	10/21/99	64 FR 56844
Final Action Effective	11/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon Phone: 202 708-0713

RIN: 2577–AB89

1511. • PUBLIC HOUSING HOMEOWNERSHIP PROGRAMS (FR-4504)

Priority: Other Significant

Legal Authority: PL 105-276, sec 536; 42 USC 3535(d)

CFR Citation: 24 CFR 906

Legal Deadline: None

Abstract: This rule would set forth the requirements and procedures governing a new statutory homeownership program to be administered by public housing agencies (PHAs). Under this

rule, a PHA may make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families as their principal residence.

Timetable:

Action	Date	FR Cite
NPRM	09/14/99	64 FR 49932
End NPRM Comment Period	11/15/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Sowell, Senior Advisor, Office of Public Housing Investments, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 401-8812

RIN: 2577–AC15

1512. PUBLIC HOUSING DEVELOPMENT REGULATIONS (FR-3569)

Priority: Other Significant

CFR Citation: 24 CFR 941

Completed:

Reason	Date	FR Cite
Withdrawn	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Flood
Phone: 202 708-1640

RIN: 2577–AB37

1513. PUBLIC HOUSING MIXED-FINANCE PARTNERSHIP DEVELOPMENT—STREAMLINING (FR-4113)

Priority: Other Significant

CFR Citation: 24 CFR 941

Completed:

Reason	Date	FR Cite
Merged With RIN 2577-AC09 (FR-4499)	10/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Sowell
Phone: 202 401-8812

RIN: 2577–AB69

1514. PUBLIC HOUSING ADMISSION AND OCCUPANCY REFORMS AND STREAMLINING (FR-4084)

Priority: Other Significant

CFR Citation: 24 CFR 960; 24 CFR 966

Completed:

Reason	Date	FR Cite
Merged With RIN 2501-AC63 (FR-4485)	08/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Arnaudo
Phone: 202 708-0744

RIN: 2577–AB67

1515. • PUBLIC HOUSING AGENCY ORGANIZATION; REQUIRED RESIDENT MEMBERSHIP ON BOARD OF DIRECTORS OR SIMILAR GOVERNING BODY (FR-4502)

Priority: Other Significant

Legal Authority: 42 USC 1437; 42 USC 1437d; 42 USC 1437g; 42 USC 1437l ; 42 USC 1437r; 42 USC 1437t; 42 USC 3535(d)

CFR Citation: 24 CFR 964

Legal Deadline: None

Abstract: On June 23, 1999 (64 FR 33644), HUD published a proposed rule to implement section 2(b) of the United States Housing Act of 1937. Section 2(b) was added by section 505 of the Quality Housing and Work Responsibility Act of 1998. Section 2(b) requires, with certain exceptions, that the membership of the board of directors or similar governing body of a public housing agency (PHA) must contain not less than one member who is directly assisted by the PHA. This final rule makes effective the policies and procedures set forth in the June 23, 1999 proposed rule, and takes into consideration the public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33644
End NPRM Comment Period	08/23/99	
Final Action	10/21/99	64 FR 56878

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon, Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives, Department of Housing and Urban Development, Office of Public and Indian Housing
Phone: 202 708-0713

RIN: 2577–AC13

1516. FORMULA FUNDING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE (CIAP) AGENCIES (FR-4462)

Priority: Other Significant

CFR Citation: 24 CFR 968

Completed:

Reason	Date	FR Cite
NPRM	04/30/99	64 FR 23484
End NPRM Comment Period	06/01/99	
Final Action	06/23/99	64 FR 33636
Final Action Effective	07/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Flood
Phone: 202 708-1640

RIN: 2577–AB97

1517. ASSESSMENT OF THE REASONABLE REVITALIZATION POTENTIAL OF CERTAIN PUBLIC HOUSING REQUIRED BY LAW (FR-4120)

Priority: Other Significant

CFR Citation: 24 CFR 971

Completed:

Reason	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod J. Solomon
Phone: 202 708-0713

RIN: 2577–AB79

1518. SECTION 8 TENANT BASED ASSISTANCE: STATUTORY MERGER (FR-4428)

Priority: Other Significant

CFR Citation: 24 CFR 982

HUD—PIH **Completed Actions**

Completed:

Reason	Date	FR Cite
Interim Final Rule	05/14/99	64 FR 26632
Interim Final Rule Comment Period End	07/13/99	
Interim Final Rule Effective	08/12/99	
Final Rule	10/21/99	64 FR 56894
Final Action	11/03/99	64 FR 59620
Final Rule Effective	11/22/99	
Final Action Effective	12/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gerald Benoit
Phone: 202 708-0477

RIN: 2577–AB91

1519. SECTION 8 HOUSING CERTIFICATE FUND (FR-4459)

Priority: Other Significant

CFR Citation: 24 CFR 982

Completed:

Reason	Date	FR Cite
Final Action	10/21/99	64 FR 56882
Final Action Effective	11/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Dalzell
Phone: 202 708-1380

RIN: 2577–AB96

1520. DWELLING CONSTRUCTION AND EQUIPMENT COSTS FOR INDIAN HOUSING (FR-4478)

Priority: Other Significant

CFR Citation: 24 CFR 1000

Completed:

Reason	Date	FR Cite
Merged with RIN 2577-AC14 (FR-4517)	08/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bruce Knott
Phone: 303 675-1600

RIN: 2577–AC04

[FR Doc. 99–23635 Filed 11–19–99; 8:45 am]
BILLING CODE 4210–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part X

Department of the Interior

Semiannual Regulatory Agenda

Department of the Interior (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between October 1999 and April 2000. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries with regard to these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Executive Secretariat, Department of the Interior, at the address above or on 202-208-5257 or 202-208-3071.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

For this edition of the Department's regulatory agenda, we have included the most important significant regulatory actions in The Regulatory Plan, which appears in part II of today's **Federal Register**. The table of contents below lists the Regulatory Plan entries and denotes them by a bracketed bold reference that directs the reader to the appropriate sequence number in part II.

Dated: November 4, 1999.

Richard A. Stephan,

Federal Register Liaison Officer.

Assistant Secretary for Policy, Management and Budget—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1521	Natural Resource Damage Assessments: Type B Procedures	1090-AA29
1522	Records and Testimony; Freedom of Information Act	1090-AA61
1523	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities	1090-AA64
1524	Department Hearings and Appeals; Special Rules Applicable to Public Land Hearings and Appeals	1090-AA68
1525	Rules Applicable in Indian Affairs Hearings and Appeals	1090-AA70

Assistant Secretary for Policy, Management and Budget—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1526	Revised Statute 2477 Rights-of-Way	1090-AA44
1527	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act	1090-AA66
1528	Administrative and Audit Requirements and Cost Principles for Assistance Programs, Seat Belt Usage	1090-AA67

Office of the Special Trustee—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1529	Special Deposits	1035-AA01
1530	Appealing Administrative Actions of the Office of the Special Trustee	1035-AA03

United States Fish and Wildlife Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1531	Injurious Wildlife; Addition of the Asian Swamp Eel	1018-AF53

Sequence Number
1532
1533
1534
1535
1536
1537
1538
1539
1540
1541
1542
1543
1544
1545
1546
1547
1548

Sequence Number
1549
1550
1551
1552
1553
1554
1555
1556
1557
1558
1559
1560
1561
1562
1563
1564
1565
1566
1567
1568
1569
1570

Sequence Number
1571
1572
1573

DOI

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1532	Convention on International Trade in Endangered Species (CITES)	1018-AD87
1533	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened	1018-AE04
1534	Refuge Compatibility Regulations Pursuant to the National Wildlife Refuge System Implementation Act of 1997	1018-AE98
1535	Proposed Delisting of the Bald Eagle Throughout the Lower 48 States	1018-AF21
1536	Humane and Healthful Transport of Wild Mammals, Birds, Reptiles and Amphibians to the United States	1018-AF27
1537	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Coastal California Gnatcatcher	1018-AF32
1538	National Boating Infrastructure Grant Program	1018-AF38
1539	Importation, Exportation, and Transportation of Wildlife	1018-AF46
1540	Administration of the National Coastal Wetlands Conservation Grant Program	1018-AF51
1541	Marine Mammals; Incidental Take of Polar Bear and Pacific Walrus During Specified Activities	1018-AF54
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making	1018-AF55
1543	Policy on General Conservation Permits	1018-AF63
1544	Convention on International Trade in Endangered Species of Wild Fauna and Flora; Sturgeon Permits	1018-AF66
1545	U.S. Proposals for CITES Appendix III; Certain Turtle Species	1018-AF69
1546	Bull Trout; Special Rule Revision	1018-AF71
1547	Critical Habitat for the Tidewater Goby	1018-AF73
1548	Native Cultural Exchange of Marine Mammal Handicrafts	1018-AF75

United States Fish and Wildlife Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1549	Endangered and Threatened Wildlife and Plants: Intercross Progeny Policy and Definitions	1018-AC54
1550	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover	1018-AD10
1551	Critical Habitat Proposal for Virgin River Fishes	1018-AD23
1552	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule	1018-AD67
1553	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Plant in Wenatchee Mountains of Washington	1018-AE32
1554	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered in the United States the Short-Tailed Albatross	1018-AE91
1555	Endangered and Threatened Wildlife and Plants; Delist Dismal Swamp Southeastern Shrew	1018-AF00
1556	Endangered and Threatened Wildlife and Plants; Proposal To List Contiguous U.S. Distinct Population Segments of Canada Lynx as Threatened	1018-AF03
1557	Endangered and Threatened Wildlife and Plants; Armored Snail and Campeloma	1018-AF29
1558	Endangered and Threatened Wildlife and Plants; Prebles Meadow Jumping Mouse	1018-AF30
1559	Endangered and Threatened Wildlife and Plants; Desert Yellowhead	1018-AF31
1560	Endangered and Threatened Wildlife and Plants; Santa Ana Sucker	1018-AF34
1561	Endangered and Threatened Wildlife and Plants; Mountain Plover	1018-AF35
1562	Endangered and Threatened Wildlife and Plants; Columbia White-Tailed Deer	1018-AF43
1563	Endangered and Threatened Wildlife and Plants; Coastal Cutthroat Trout	1018-AF45
1564	Endangered and Threatened Wildlife and Plants; Alabama Sturgeon	1018-AF56
1565	Endangered and Threatened Wildlife and Plants; Scaleshell Mussel	1018-AF57
1566	Endangered and Threatened Wildlife and Plants; Sierra Nevada Population of California Bighorn Sheep	1018-AF59
1567	Endangered and Threatened Wildlife and Plants; Tidewater Goby	1018-AF67
1568	Endangered and Threatened Wildlife; Golden Sedge	1018-AF68
1569	Regulations for Subsistence Hunting and Fishing on Federal Lands in Alaska for the 2000-2001 Seasons.	1018-AF74
1570	Spikedace and Loach Minnow; Determination of Critical Habitat Under the Endangered Species Act	1018-AF76

United States Fish and Wildlife Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1571	Captive-Bred Wildlife	1018-AB10
1572	Endangered and Threatened Wildlife and Plants	1018-AB66
1573	List of Migratory Birds	1018-AB72

DOI

United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1574	Endangered and Threatened Wildlife and Plants	1018-AB97
1575	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle	1018-AC14
1576	Export of American Ginseng Harvested in 1994-1996	1018-AC55
1577	General Provisions and General Permit Procedures	1018-AC57
1578	Endangered and Threatened Wildlife and Plants: Tropical Birds	1018-AC77
1579	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants	1018-AC88
1580	Seizure and Forfeiture Procedures	1018-AC89
1581	Critical Habitat Designation for the Lost River and Shortnose Suckers	1018-AC90
1582	Endangered and Threatened Wildlife and Plants: Least Chub	1018-AC91
1583	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20	1018-AD01
1584	Marine Mammal Protection Act; Unintentional Take of Marine Mammals by Harassment Only in Activities Other Than Commercial Fishing	1018-AD18
1585	Marine Mammal Protection Act; Measures To Safely Deter Marine Mammals, Including Threatened and Endangered Marine Mammals	1018-AD19
1586	Endangered and Threatened Wildlife and Plants; Special Rule for the Northern Spotted Owl	1018-AD20
1587	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub	1018-AD22
1588	Export of Appendix I Specimens That Were Bred for Commercial Purposes	1018-AD64
1589	Consolidation of Lists of Wildlife of Federal Concern	1018-AD66
1590	Migratory Bird Hunting: Regulations Regarding Prohibition Against Artificially Altering/Manipulating Natural Vegetation in Moist Areas To Attract Waterfowl	1018-AD74
1591	Federal Aid in Sport Fish Restoration Program for Participation for District of Columbia and Insular Territories and Commonwealths	1018-AD83
1592	Endangered and Threatened Species: Removal of Lloyd's Hedgehog Cactus From Federal List of Endangered and Threatened Plants	1018-AD91
1593	Rescission of Administrative Procedures for Grants in Aid (Marine Mammal Protection Act of 1972)	1018-AD92
1594	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana	1018-AE00
1595	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population of Ten Freshwater Mussels in Holston River System in TN and VA	1018-AE01
1596	Revision to Subchapter C—The National Wildlife Refuge System	1018-AE02
1597	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999	1018-AE03
1598	Importation, Exportation, Transportation of Wildlife	1018-AE08
1599	Export of American Alligator for the 1998-2000 Harvest Seasons	1018-AE15
1600	Revisions to the Federal Aid Administrative Requirements	1018-AE17
1601	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for Blackburn's Sphinx Moth from the Hawaiian Islands	1018-AE20
1602	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Larkspurs From Coastal Northern California	1018-AE23
1603	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Ione Buckwheat and Threatened Status for Ione Manzanita	1018-AE25
1604	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Newcomb's Snail From the Hawaiian Islands	1018-AE27
1605	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Keck's Sidalcea From Tulare County, California	1018-AE30
1606	Exportation of Marine Mammal Products for Cultural Exchange	1018-AE33
1607	Injurious Wildlife; Addition of Brush-Tailed Possum	1018-AE34
1608	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Cave Animals From Hawaiian Islands	1018-AE39
1609	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two San Joaquin Valley Mammals	1018-AE40
1610	Endangered and Threatened Wildlife and Plants; Proposed Determination of Threatened Status for Koala	1018-AE43
1611	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Plant Rough Popcornflower	1018-AE44
1612	Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for Gray Wolf	1018-AE45
1613	Update of Addresses for Endangered Species Permit Applications	1018-AE49
1614	Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Oahu Elepaio from the Hawaiian Islands	1018-AE51
1615	Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Plant Howell's Spectacular Thelypody	1018-AE52
1616		
1617		
1618		
1619		
1620		
1621		
1622		
1623		
1624		
1625		
1626		
1627		
1628		
1629		
1630		
1631		
1632		
1633		
1634		
1635		
1636		
1637		
1638		
1639		
1640		
1641		
1642		
1643		
1644		
1645		
1646		
1647		
1648		
1649		
1650		
1651		
1652		
1653		
1654		

DOI

United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1616	Endangered and Threatened Wildlife and Plants; Endangered Status for Willamette Daisy, Fender's Blue Butterfly and Threatened Status for Kincaid's Lupine	1018-AE53
1617	Endangered and Threatened Wildlife and Plants; List Plant Zapata Bladderpod as Endangered	1018-AE54
1618	Endangered and Threatened Wildlife and Plants; Endangered Status for the Plant Prairie Penny Cress From Coastal Northern California	1018-AE55
1619	Endangered and Threatened Wildlife and Plants; Determination of the Pecos Pupfish To Be Endangered	1018-AE56
1620	Public Use Regulations for Kodiak National Wildlife Refuge Alaska	1018-AE60
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests	1018-AE62
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits	1018-AE63
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions	1018-AE64
1624	Importation, Exportation and Transportation of Wildlife Concerning International Mail, Pet Birds, Border Ports, Shellfish and Fishery Products Exemption	1018-AE70
1625	Implementation of the 1994 Amendments to the Marine Mammals Protection Act	1018-AE72
1626	Reclassification of the Namibian Population of Cheetah From Endangered to Threatened	1018-AE73
1627	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Gentner's Fritilaria (Mission Bells)	1018-AE75
1628	Endangered and Threatened Wildlife and Plants; Proposal To List Camatta Canyon Amole as Endangered or Threatened	1018-AE76
1629	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened La Graciosa Thistle, Lompoc Yerba Santa, Gaviota Tarplant, Nipoma Mesa Lupine & Santa Cruz Tarplant	1018-AE81
1630	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Yreka Phlox	1018-AE82
1631	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Mariana Fruit Bat	1018-AE83
1632	Endangered and Threatened Species; Proposal To List Northern Idaho Ground Squirrel as Endangered or Threatened	1018-AE84
1633	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Cowhead Lake Tui Chub	1018-AE85
1634	Endangered and Threatened Wildlife and Plants; Proposal To List Colorado Butterfly Plant as Endangered or Threatened	1018-AE87
1635	Endangered and Threatened Species; Proposal To List as Endangered or Threatened Blumer's Dock	1018-AE89
1636	Endangered and Threatened Wildlife and Plants; Proposed Establishment of Nonessential Experimental Population Status for 16 Freshwater Mussels and 1 Freshwater Snail	1018-AE92
1637	Endangered and Threatened Wildlife and Plants; Listing of Several Evolutionary Significant Units of West Coast Steelhead	1018-AE97
1638	Endangered and Threatened Wildlife and Plants; List Coastal-Puget Sound Jarbidge River and St. Mary's-Belly River Population Segments of Bull Trout as Threatened	1018-AF01
1639	Update of Addresses and Office of Management and Budget Information Collection Numbers for FWS Permit Applications	1018-AF07
1640	Consideration of Listing the Green Iguana (Iguana Iguana) as Injurious, Pursuant to the Lacey Act	1018-AF08
1641	Listing of U.S. Species in Appendix III to CITES	1018-AF09
1642	Reclassification of Morelet's Crocodile (Crocodylus moreleti) From Endangered to Threatened	1018-AF10
1643	Announcement of Draft Policy for Evaluation of Conservation Efforts in Making Listing Decisions	1018-AF11
1644	Endangered and Threatened Wildlife and Plants; Proposal To List Sclerocactus Brevispinus (Pariette Cactus) as Endangered or Threatened	1018-AF15
1645	Endangered and Threatened Wildlife and Plants; Proposal To List Fourteen Hawaiian Pomace Flies as Endangered or Threatened	1018-AF16
1646	Endangered and Threatened Wildlife and Plants; Proposal To List Six Hawaiian Damselflies as Endangered or Threatened	1018-AF17
1647	Endangered and Threatened Wildlife and Plants; Proposal To List the Wet Canyon Talussnail as Endangered or Threatened	1018-AF19
1648	Proposed Reclassification and Delisting of the Gray Wolf in Certain Parts of Its Range	1018-AF20
1649	Proposed Delisting of the Grizzly Bear in the Yellowstone Ecosystem	1018-AF22
1650	Export of River Otters Taken in Missouri in 1998-1999 and Subsequent Seasons	1018-AF23
1651	Taking of Marine Mammals by Level B Harassment; Issuance of General Authorization for Scientific Research and Permits for Photography, Educational, and Commercial Purposes	1018-AF26
1652	Migratory Bird Permits; Specific Permit Provisions; Special Purpose Permits	1018-AF28
1653	Endangered and Threatened Wildlife and Plants; Nine Bexar County, Texas, Invertebrates	1018-AF33
1654	Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Arkansas River Shiner	1018-AF39

DOI

United States Fish and Wildlife Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1655	Endangered and Threatened Wildlife and Plants; Establishment of a Special Rule for the Canada Lynx	1018-AF40
1656	Endangered and Threatened Wildlife and Plants; Special Rule for the Chiricahua Leopard Frog	1018-AF41
1657	Endangered and Threatened Wildlife and Plants; Aleutian Canada Goose	1018-AF42
1658	Importation of Captive-Bred Exotic Birds Into the United States from Breeding Facilities in Other Countries	1018-AF44
1659	Amendment by Mexico to Appendix III Listing of Bigleaf Mahogany	1018-AF47
1660	Endangered and Threatened Wildlife and Plants; Asian Bonytongue	1018-AF48
1661	Endangered and Threatened Wildlife and Plants; Tibetan Antelope	1018-AF49
1662	Proposed Guidance for Conducting Consultations for the Indiana Bat	1018-AF50
1663	1999-2000 Refuge-Specific Hunting and Sport Fishing Regulations	1018-AF52
1664	National Wildlife Refuges: Administrative Provisions	1018-AF60

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1665	Eagle Permits	1018-AB81
1666	Safe Harbor Policy and Guidance for Candidate Agreements	1018-AD95
1667	Endangered and Threatened Wildlife and Plants; Proposed Status for Ten Plant Taxa From Maui Nui, Hawaii	1018-AE22
1668	Endangered and Threatened Wildlife and Plants; Proposal to List Klamath River Population Segment of Bull Trout as Endangered and Columbia River Population Segment as Threatened	1018-AE29
1669	Migratory Bird Special Purpose Canada Goose Permit	1018-AE46
1670	Revise and Amend Hunting and Disturbance Regulations on Units of the National Wildlife Refuge System	1018-AE50
1671	Endangered and Threatened Wildlife and Plants; List Desert Milk Vetch as Threatened	1018-AE57
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting	1018-AE61
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards	1018-AE65
1674	1998-99 Refuge-Specific Hunting and Fishing Regulations	1018-AE68
1675	Subsistence Management Regulations for Public Lands in Alaska - Subparts C and D — 1999-2000 Subsistence Taking of Fish and Wildlife Regulations	1018-AE69
1676	Endangered and Threatened Wildlife and Plants, Proposal To List Devil's River Minnow as Endangered or Threatened	1018-AE86
1677	Endangered and Threatened Wildlife and Plants; Proposal To List as Endangered or Threatened Puzzle Sunflower	1018-AE88
1678	Endangered and Threatened Wildlife and Plants; Proposal To Remove Peregrine Falcon in North America From List of Endangered and Threatened Wildlife	1018-AF04
1679	Endangered and Threatened Wildlife and Plants; Proposal To List the Alabama Sturgeon as Endangered	1018-AF12
1680	Endangered and Threatened Wildlife and Plants; Proposal To List the Scaleshelled Mussel as Endangered or Threatened	1018-AF14
1681	Migratory Bird Hunting; Proposed 1999-2000 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Proposals	1018-AF24
1682	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Cactus Ferriginous Pigmy Owl	1018-AF36
1683	Endangered and Threatened Wildlife and Plants; Critical Habitat for the Huachuca Water Umbel, a Plant	1018-AF37
1684	Convention on International Trade in Endangered Species of Wild Fauna and Flora; Addition of Bigleaf Mahogany to List of Controlled Species	1018-AF58
1685	Endangered and Threatened Wildlife and Plants; Ventura Marsh Milk-Vetch	1018-AF61
1686	Endangered and Threatened Wildlife and Plants; Johnson's Seagrass	1018-AF62
1687	Policy on National Wildlife Refuge System and Compensatory Mitigation Under the Section 10/404 Program	1018-AF64
1688	Migratory Bird Hunting; Approval of Nontoxic Shot	1018-AF65
1689	Endangered and Threatened Wildlife; Nine ESU of Salmon and Steelhead	1018-AF70
1690	Critical Habitat for Rio Grande Silvery Minnow	1018-AF72

DOI

Sequence Number
1691
1692
1693
1694
1695
1696
1697
1698

Sequence Number
1699
1700
1701
1702
1703
1704
1705
1706
1707

Sequence Number
1708
1709
1710
1711

Sequence Number
1712

Sequence Number
1713
1714
1715
1716
1717
1718
1719
1720

DOI

National Park Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1691	National Park Service Symbols: United States Park Police Insignia	1024-AB94
1692	Applicability and Resource Protection Revisions	1024-AC38
1693	Non-Federal Oil and Gas Rights	1024-AC53
1694	Denali National Park and Preserve, Special Regulations	1024-AC58
1695	Vehicles and Traffic Safety; Operating Under the Influence of Alcohol or Drugs	1024-AC69
1696	Solid Waste Sites in Units of the National Park System	1024-AC70
1697	Concession Contracts	1024-AC72
1698	World Heritage Convention	1024-AC74

National Park Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1699	Rights-of-Way	1024-AC01
1700	Voyageurs National Park: Aircraft Operations	1024-AC23
1701	Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway: Snowmobile and Snowplane Routes and Regulations	1024-AC34
1702	Big Cypress National Preserve; Recreational Frogging	1024-AC54
1703	Delaware Water Gap NRA, Bicycle Trail	1024-AC62
1704	Personal Watercraft	1024-AC65
1705	Appalachian National Scenic Trail—Snowmobiles	1024-AC67
1706	Land and Water Conservation Fund of Assistance to States; Post-Completion Compliance Responsibilities	1024-AC68
1707	Information Collection Activities	1024-AC71

National Park Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1708	National Natural Landmarks Program	1024-AB96
1709	Glacier Bay National Park, Alaska Fishing Regulations	1024-AB99
1710	Kaloko-Honokohou National Historic Park: Public Nudity	1024-AC66
1711	Canaveral National Seashore; Public Nudity	1024-AC73

Bureau of Indian Affairs—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1712	Use or Distribution of Indian Judgment Funds	1076-AD94

Bureau of Indian Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1713	Indian School Equalization Program	1076-AD09
1714	Leasing Restricted Lands of Members of the Five Civilized Tribes, Oklahoma, for Mining	1076-AD33
1715	Exploration, Mining, and Reclamation of Lands	1076-AD36
1716	Tribal Reorganization Under a Federal Statute	1076-AD46
1717	Petitioning Procedures	1076-AD47
1718	Academic and Dormitory Standards	1076-AD55
1719	Education Contracts Under the Johnson-O'Malley Act	1076-AD58
1720	Loans to Indians From the Revolving Loan Fund	1076-AD59

DOI

Bureau of Indian Affairs—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1721	Arrangement With States, Territories, or Other Agencies for Social Welfare and Relief of Distress of Indians	1076-AD61
1722	School Construction Contracts for Public Schools	1076-AD69
1723	Adult Vocational Training	1076-AD72
1724	Loan Guarantee Program	1076-AD73
1725	Employment Assistance for Adult Indians	1076-AD75
1726	Certificates of Degree of Indian Blood	1076-AD78
1727	Mortgages and Deeds of Trust on Individually Owned Trust Land or Land Subject to a Restriction on Alienation	1076-AD85
1728	Acquisition of Title to Land in Trust	1076-AD90
1729	Financial Assistance and Social Services Program	1076-AD91
1730	Land Acquisitions for Gaming	1076-AD93

Bureau of Indian Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1731	Leasing and Permitting	1076-AA29
1732	Navajo Partitioned Lands Grazing Regulations	1076-AC81
1733	Preference in Employment	1076-AD05
1734	Grants to Tribally Controlled Community Colleges and Navajo Community College	1076-AD08
1735	Indian Tribal Justice Support	1076-AD15
1736	Tribal Self-Governance	1076-AD20
1737	Leasing Osage Reservation Lands for Mining of Minerals Other Than Oil and Gas	1076-AD34
1738	Lead and Zinc Mining Operations and Leases on Quapaw Indian Lands	1076-AD35
1739	Irrigation Projects and Systems	1076-AD44
1740	Indian Electric Power Utilities	1076-AD45
1741	Appeals From Administrative Actions	1076-AD50
1742	Indian Business Development Program	1076-AD70
1743	Tribal Revenue Allocation Plans	1076-AD74
1744	Courts of Indian Offenses	1076-AD76
1745	Use of Columbia River Fish Access Sites	1076-AD83
1746	Use of Columbia River In-Lieu Fishing Sites	1076-AD86
1747	Preparation of Rolls of Indians	1076-AD89

Bureau of Indian Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
1748	Class III Gaming Procedures	1076-AD87

Minerals Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1749	Valuation of Oil From Indian Leases **(Reg Plan Seq. No. 55)**	1010-AC24
1750	Refunds and Recoupment of Overpayments on OCS	1010-AC27
1751	Takes vs. Entitlements Reporting	1010-AC29
1752	Accounting Relief for Marginal Properties	1010-AC30
1753	Chronic Erroneous Reporting	1010-AC34
1754	Oil and Gas Drilling Operations	1010-AC43
1755	Exploration or Development and Production Plans	1010-AC47
1756	Prospecting for Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf	1010-AC48
1757	Producer-Operated Outer Continental Shelf Pipelines That Cross Directly Into State Waters	1010-AC56
1758	Incident Reporting	1010-AC57

VOL 64 ISS 224 NO 22 1999 UMI

DOI

Minerals Management Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1759	Valuation of Federal Geothermal Resources Used To Generate Electricity	1010-AC59

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Minerals Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1760	Valuation of Oil From Federal Mineral Leases **(Reg Plan Seq. No. 56)**	1010-AC09
1761	Postlease Operations	1010-AC32
1762	Training Lessee and Contractor Employees Engaged in Oil and Gas Operations in the Outer Continental Shelf	1010-AC41
1763	Reviewing Exploration Plans and Development and Production Plans for Coastal Zone Consistency	1010-AC42
1764	Update of Documents Incorporated by Reference	1010-AC55

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Minerals Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1765	Royalty Payment Liability	1010-AB45
1766	Credit Adjustments	1010-AB73
1767	Prepayment of Royalties	1010-AC31
1768	Deep Water Emergency Well Control Operations	1010-AC54
1769	Royalty Relief Terms	1010-AC58

Minerals Management Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1770	Valuation of Gas From Indian Leases	1010-AB57
1771	Administrative Appeals Process	1010-AC21
1772	Electronic Reporting	1010-AC40
1773	Leasing Sulphur or Oil and Gas in the Outer Continental Shelf	1010-AC49
1774	Update of Industry Electrical Standards	1010-AC50
1775	Change to Delegated State Audit Functions	1010-AC51
1776	Royalty in Kind for Oil and Gas	1010-AC52

Office of Surface Mining Reclamation and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1777	Abandoned Coal Refuse Sites—Title I	1029-AB70
1778	Contemporaneous Reclamation	1029-AB79
1779	Dam Safety Rules	1029-AB92
1780	Electronic Filing of the OSM-1 Form	1029-AB95

DOI

Office of Surface Mining Reclamation and Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1781	Definition and Criteria for Valid Existing Rights	1029-AB42
1782	Prohibitions Under Section 522(e) of SMCRA	1029-AB82
1783	Indian Lands	1029-AB83
1784	Ownership and Control—Redesign	1029-AB94

Office of Surface Mining Reclamation and Enforcement—Completed Actions

Sequence Number	Title	Regulation Identification Number
1785	Enhancing AML Reclamation	1029-AB89

Bureau of Reclamation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1786	Central Valley Project of California — Purposes, Uses, and Allocation of Water Supplies	1006-AA34
1787	Recovering the Value of Rights of Use and Related Administrative Costs	1006-AA39

Bureau of Reclamation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1788	Acreage Limitation Rules for Trusts	1006-AA38

Bureau of Reclamation—Completed Actions

Sequence Number	Title	Regulation Identification Number
1789	Revenues Management	1006-AA30
1790	Offstream Storage of Colorado River Water and Interstate Marketing of Storage Credits in the Lower Division States	1006-AA40

Bureau of Land Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1791	Leases, Permits, and Easements	1004-AB51
1792	Sales — Federal Land Policy and Management Act	1004-AB77
1793	Desert Land Entries	1004-AC56
1794	Disposal of Reserved Minerals Under the Stock Raising Homestead Act	1004-AC59
1795	Cost Recovery; Mineral Filings and Operations	1004-AC64
1796	Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act	1004-AC74
1797	Railroad Grants	1004-AC76
1798	Carey Act Grants	1004-AC80
1799	Segregation and Opening of Lands	1004-AC84
1800	Appeals Procedures; Hearings Procedures	1004-AC99
1801	Color of Title and Omitted Lands	1004-AD00
1802	Geothermal Resource Unit Agreement	1004-AD10
1803	Coal Management	1004-AD11

VOL 64 ISS 224 NOV 22 1999 UMI

DOI

Bureau of Land Management—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1804	Oil and Gas Leasing; National Petroleum Reserve, Alaska - - Unit Agreements	1004-AD13
1805	Surface Management (Locatable Minerals) **(Reg Plan Seq. No. 57)**	1004-AD22
1806	Financial Assistance; Local Governments	1004-AD23
1807	Use Authorizations (Recreation)	1004-AD25
1808	Mineral Materials Disposal	1004-AD29
1809	Location Recording, and Maintenance of Mining Claims and Sites	1004-AD31
1810	Alaska Native Veterans Allotments	1004-AD34
1811	Conservation; Helium Leasing	1004-AD35
1812	Timber Export and Substitution	1004-AD37
1813	Hazardous Substances Compliance	1004-AD38

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Land Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1814	Management of Designated Wilderness Area	1004-AB69
1815	Oil and Gas Leasing; Drainage	1004-AC54
1816	Indian Allotments	1004-AC77
1817	Oil and Gas Leasing and Operations **(Reg Plan Seq. No. 58)**	1004-AC94

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Land Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1818	Coalbed Methane Development	1004-AC27
1819	Land Withdrawals	1004-AC63
1820	Land Classification	1004-AC78
1821	Paleontological Resources	1004-AD03
1822	Mineral Patent Applications; Adverse Claims, Protests, and Conflicts	1004-AD32

Bureau of Land Management—Completed Actions

Sequence Number	Title	Regulation Identification Number
1823	Management of Solid Minerals Other Than Coal	1004-AC49
1824	Definitions	1004-AC73
1825	Application Procedures	1004-AC83
1826	Advisory Committees	1004-AD26
1827	Coal Management: General (Public Participation)	1004-AD27
1828	Emergency Fire and Disaster Rehabilitation	1004-AD30

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1829	Wild and Scenic Rivers	1093-AA08

Department of the Interior (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Proposed Rule Stage

1521. NATURAL RESOURCE DAMAGE ASSESSMENTS: TYPE B PROCEDURES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 9651(c)

CFR Citation: 43 CFR 11

Legal Deadline: None

Abstract: CERCLA and the Clean Water Act allow natural resource trustees to bring a claim against a potentially responsible party for resources that have been injured by a release of a hazardous substance. CERCLA requires that natural resource damage assessment regulations be promulgated and that the regulations be reviewed, and revised as appropriate, every two years. This rulemaking is the biennial review of the administrative process for conducting assessments as well as the so-called "type B" procedures for determining injury and damages through scientific and economic studies. This rulemaking will also address the calculation of lost non-use values of natural resources, in compliance with State of Ohio v. Department of the Interior, 880 F.2d 432 (D.C. Cir. 1989), which ordered the Department to allow for the assessment of all reliably calculated values lost as a result of a natural resource injury.

Timetable:

Action	Date	FR Cite
ANPRM	07/16/96	61 FR 37031
ANPRM Comment Period End	09/16/96	
NPRM	01/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Willie R. Taylor, Director, Office of Environmental Policy and Compliance, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Room 2340, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3891

RIN: 1090–AA29

1522. RECORDS AND TESTIMONY; FREEDOM OF INFORMATION ACT

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 43 CFR 2

Legal Deadline: None

Abstract: 43 CFR part 2, subparts A and B, are being revised in their entirety to reflect the provisions of the new FOIA law "Electronic FOIA Amendments of 1996," Pub. L. 104-231, the recommendations of the National Performance Review lab, and other changes as necessary.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alexandra Mallus, DOI FOIA Officer (OIRM), Department of the Interior, Assistant Secretary for Policy, Budget, and Administration
Phone: 202 208-5342

RIN: 1090–AA61

1523. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED EDUCATION PROGRAMS OR ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 92-318; PL 93-568, sec 3; 20 USC 1681; 20 USC 1682; 20 USC 1683; 20 USC 1685; 20 USC 1686

CFR Citation: 43 CFR 41

Legal Deadline: None

Abstract: The purpose of this regulatory action is to proscribe discrimination on the basis of sex in federally assisted education programs or activities of the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Melvin C. Fowler, Civil Rights Staff Assistant, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3455

RIN: 1090–AA64

1524. DEPARTMENT HEARINGS AND APPEALS; SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.415; 43 CFR 4.404; 43 CFR 4.403; 43 CFR 4.405; 43 CFR 4.406; 43 CFR 4.414; 43 CFR 4.401(c)(2); 43 CFR 4.422(c)(2); 43 CFR 4.450-5; 43 CFR 4.407; 43 CFR 4.408

Legal Deadline: None

Abstract: This document proposes to amend procedural rules governing hearings and appeals in public-lands cases. The amendments are necessary to conform the rules to procedural practices contained in decisions of the Interior Board of Land Appeals. The amended rules would provide parties more complete information and more up-to-date procedures than the existing rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Final Action	05/00/00	
Final Action Effective	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, Interior Board of Appeals, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-3750

RIN: 1090–AA68

1525. RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 372

CFR Citation: 43 CFR 4.271; 43 CFR 4.320

DOI—ASPMB **Proposed Rule Stage**

Legal Deadline: None

Abstract: This action will amend the Office of Hearings and Appeals rules at 43 CFR 4.271 to clarify who has authority to make distributions in cash or trust personal property, and under what circumstances this authority can be exercised. This action will amend the regulations to clarify that BIA Superintendents will have the responsibility for making distribution determinations when an Indian dies intestate leaving only trust personal property or cash. The regulation will also amend the current regulation to increase the amount of cash or trust property that the Superintendent has jurisdiction to distribute to less than $5,000 not including interest.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles E. Breece, Deputy Director, Office of Hearings and Appeals, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 1849 C Street NW, Washington, DC 20240
Phone: 703 235-3810

RIN: 1090–AA70

Department of the Interior (DOI)
Assistant Secretary for Policy, Management and Budget (ASPMB)

Long-Term Actions

1526. REVISED STATUTE 2477 RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1201; 43 USC 1732(b); 43 USC 1740; 43 USC 1457; 43 USC 1782(c); 16 USC 668dd; 16 USC 460k-3; 16 USC 1 to 4

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This proposed rule would implement the Secretary of the Interior's June 1, 1993, recommendation to Congress that the Department promulgate regulations addressing rights-of-way pursuant to R.S. 2477 across lands now administered by the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service. R.S. 2477—a provision adopted in 1866 that granted a right-of-way for the construction of highways across public land not reserved for public uses—was repealed in 1976 but valid existing rights-of-way were not terminated. This proposed rule is intended to clarify the meaning of the statute and provide a workable administrative process and standards for recognizing valid claims.

Timetable:

Action	Date	FR Cite
NPRM	08/01/94	59 FR 39216
NPRM Comment Period End	08/01/95	60 FR 4135
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 260, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-7782
Email: Ron__ Montagna@blm.gov

RIN: 1090–AA44

1527. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS; BUY AMERICAN ACT

Priority: Info./Admin./Other

Unfunded Mandates: This action may affect State, Local or Tribal Governments.

Legal Authority: 5 USC 301; 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; PL 104-256, sec 501; PL 105-62, sec 503; PL 105-62, sec 303; PL 105-83, sec 307; EO 12549; EO 12674; EO 12689; EO 12731; OMB Circular A-102; OMB Circular A-110

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule is in response to the "Department of the Interior and Related Agencies Appropriations Act, 1998," and the "Energy and Water Development Appropriations Act, 1998." It implements provisions regarding lobbying restrictions; denial of funds for preventing ROTC access to campuses; and the purchase of American-made equipment and products.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Debra E. Sonderman, Director, Procurement and Property Management Systems, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3336

RIN: 1090–AA66

1528. ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS, SEAT BELT USAGE

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 6101 note; 31 USC 7501; 41 USC 252a; 41 USC 701 et seq; PL 104-256, sec 501; PL 105-62, sec 503; PL 105-62, sec 303; PL 105-83, sec 307; EO 12549; EO 12674; EO 12689; EO 12731; EO 13043; OMB Circular A-102

CFR Citation: 43 CFR 12

Legal Deadline: None

Abstract: This final rule will implement sections 1(c) and 2 in Executive Order 13043 of April 16, 1997, "Increasing Seat Belt Use in the United States." This rule will amend section 12.2 of subpart A of 43 CFR part 12 to add these provision and will apply to grants and cooperative agreements awarded by the Department.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

DOI—ASPMB — Long-Term Actions

Additional Information: LEGAL AUTHORITY CONT: OMB Circular A-110; OMB Circular A-133

Agency Contact: Debra E. Sonderman, Director, Procurement and Property Management Systems, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-3336

RIN: 1090–AA67

BILLING CODE 4310–RK–F

Department of the Interior (DOI)
Office of the Special Trustee (OST)
Proposed Rule Stage

1529. SPECIAL DEPOSITS

Priority: Info./Admin./Other

Legal Authority: 42 USC 4043

CFR Citation: 25 CFR 115; 25 CFR 123; 25 CFR 124; 25 CFR 114; 25 CFR 125

Legal Deadline: None

Abstract: This rule transfers from the Bureau of Indian Affairs to the Office of the Special Trustee for American Indians (OST) five CFR parts relating to management of Indian trust funds. The Department is making this change to implement title II of the American Indian Trust Fund Management Reform Act of 1994. This change will clarify the questions that have arisen since the passage of the Act about the responsibilities of BIA and OST regarding trust resources and assets.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Sarah Yepa, Chief, Division of Quality Assurance, Department of the Interior, Office of the Special Trustee, Suite 1000, 505 Marquette Avenue NW, Albuquerque, NM 87102
Phone: 505 248-5751

RIN: 1035–AA01

1530. APPEALING ADMINISTRATIVE ACTIONS OF THE OFFICE OF THE SPECIAL TRUSTEE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-412

CFR Citation: 25 CFR 1202

Legal Deadline: None

Abstract: This rule will establish a procedure for appealing decisions of the Office of the Special Trustee and the Office of Trust Funds Management.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sarah Yepa, Chief, Division of Quality Assurance, Department of the Interior, Office of the Special Trustee, Suite 1000, 505 Marquette Avenue NW, Albuquerque, NM 87102
Phone: 505 248-5751

RIN: 1035–AA03

BILLING CODE 4310–53–F

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)
Prerule Stage

1531. INJURIOUS WILDLIFE; ADDITION OF THE ASIAN SWAMP EEL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: We will review economic and biologic information on the Asian swamp eel (tentatively identified as Monopterus albus) for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AF53

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)
Proposed Rule Stage

1532. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES (CITES)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This will be a revision to an existing rule that will incorporate decisions/interpretations made at the last nine Conferences of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

DOI—FWS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104
Email: teiko__ saito@fws.gov

RIN: 1018–AD87

1533. PROPOSED SPECIAL RULE WITH THE RECLASSIFICATION OF THE VICUNA FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This special rule will be associated with the proposed reclassification of vicuna from endangered to threatened under the Endangered Species Act. The rule will provide for the conservation of the species and will stipulate conditions that must be met to allow for the importation of commercial specimens of the species (i.e., wool and wool products).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AE04

1534. REFUGE COMPATIBILITY REGULATIONS PURSUANT TO THE NATIONAL WILDLIFE REFUGE SYSTEM IMPLEMENTATION ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 668dd; 16 USC 742a; 16 USC 3101; 44 USC 3501

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 27; 50 CFR 29; 50 CFR 32; 50 CFR 36

Legal Deadline: None

Abstract: The Service proposes to revise compatibility regulations improving management of the National Wildlife Refuge System in accordance with requirements in the National Wildlife System Improvement Act of 1997 that amends the National Wildlife System Administration Act of 1966. Its purpose is to provide guidance for determining compatibility of proposed and existing uses on units of the system and procedures for documentation and periodic review of such uses. It also ensures that proposed and existing refuge uses are administered according to laws, regulations, and policies concerning compatibility.

Timetable:

Action	Date	FR Cite
NPRM	09/09/99	64 FR 49055
NPRM Comment Period End	11/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James W. Kurth, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AE98

1535. PROPOSED DELISTING OF THE BALD EAGLE THROUGHOUT THE LOWER 48 STATES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The bald eagle was reclassified to threatened status throughout the lower 48 States in 1995. Continued recovery gains and increasing population trends now make it possible to propose the removal of the eagle from the endangered species list. A comprehensive status review of eagle population data and existing protections is currently underway.

Timetable:

Action	Date	FR Cite
NPRM	07/06/99	64 FR 36454
NPRM Comment Period End	10/06/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF21

1536. HUMANE AND HEALTHFUL TRANSPORT OF WILD MAMMALS, BIRDS, REPTILES AND AMPHIBIANS TO THE UNITED STATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 42; 16 USC 3371 to 3378

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The proposed rule contains amendments designed to add numerous transport standards to part 14 for reptiles and amphibians. Standards have already been promulgated for mammals and birds.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Rosemarie Gnam, Chief, Branch of Operations, Department of the Interior, United States Fish and Wildlife Service, MS 700, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095

DOI—FWS

Proposed Rule Stage

Email: rosemarie__ gnam@fws.gov

RIN: 1018–AF27

1537. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE COASTAL CALIFORNIA GNATCATCHER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 95

Legal Deadline: None

Abstract: We will determine whether to designate critical habitat for the coastal California gnatcatcher under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF32

1538. NATIONAL BOATING INFRASTRUCTURE GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 7404

CFR Citation: 50 CFR 86

Legal Deadline: None

Abstract: We are establishing the rules for the Boating Infrastructure Grant Program and the survey of boaters and access providers to determine facilities and needs for transient boaters.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS -140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
Email: bob__ lange@fws.gov

RIN: 1018–AF38

1539. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704, 712, 1382, 1538(d)-(f), and 1540(f); 16 USC 3371-3378, 4223-4244, and 4901-4916; 18 USC 42; 31 USC 483(a)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: We will review our wildlife exportation and importation regulations pertaining to domesticated species, certain captive-bred and captive-born species.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38143
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AF46

1540. ADMINISTRATION OF THE NATIONAL COASTAL WETLANDS CONSERVATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 3951 et seq

CFR Citation: 50 CFR 87

Legal Deadline: None

Abstract: We will establish the requirements of the National Coastal Wetlands Conservation Grant Program, authorized by section 305 of the Coastal Wetlands Planning, Protection and Restoration Act. The program is designed to assist coastal States by providing grants to State agencies to protect and restore their coastal wetland ecosystems. The proposed rule includes the goals of the program, eligibility requirements,ranking criteria, and grant administration procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Dr. Benjamin Tuggle, Chief, Division of Habitat Conservation, Department of the Interior, United States Fish and Wildlife Service, Room 400, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2161

RIN: 1018–AF51

1541. MARINE MAMMALS; INCIDENTAL TAKE OF POLAR BEAR AND PACIFIC WALRUS DURING SPECIFIED ACTIVITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: We will propose regulations that would authorize for the next 5 years the incidental, unintentional take of small numbers of polar bear and Pacific walrus during year-round oil and gas industry operations (exploration, development, and production) in the Beaufort Sea and adjacent northern coast of Alaska.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AF54

1542. POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN ENDANGERED SPECIES DECISION-MAKING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

DOI—FWS

Proposed Rule Stage

Legal Deadline: None

Abstract: We would provide guidance concerning the evaluation of conservation agreements, conservation plans, management plans, and other formalized conservation efforts in making listing decisions under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF55

1543. • POLICY ON GENERAL CONSERVATION PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 1361 et seq; 16 USC 703 et seq

CFR Citation: None

Legal Deadline: None

Abstract: This policy would contain provisions to issue permits to qualified organizations to conduct general conservation activities over a specified period of time instead of issuing multiple permits for each activity.

Timetable:

Action	Date	FR Cite
Notice	10/28/99	64 FR 58086
Notice Comment Period End	12/27/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104
Email: teiko__ saito@fws.gov

RIN: 1018–AF63

1544. • CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA; STURGEON PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action would implement recent international restrictions that will prohibit trade into or from the U.S. in pre-Convention caviar (products that pre-date April 1, 1998). Caviar dated after April 1, 1998 may continue in trade if appropriate permits are obtained.

Timetable:

Action	Date	FR Cite
NPRM	10/26/99	64 FR 57645
Final rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104
Email: teiko__ saito@fws.gov

RIN: 1018–AF66

1545. • U.S. PROPOSALS FOR CITES APPENDIX III; CERTAIN TURTLE SPECIES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action would add certain native turtle species to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. If adopted, exports of the species would require CITES documentation from the Service to ensure that foreign countries accept the shipments. This action is necessary to monitor the impact of trade on the species in an effort to maintain healthy populations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-1708

RIN: 1018–AF69

1546. • BULL TROUT; SPECIAL RULE REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This rule would provide special regulations to authorize incidental take of bull trout in the coterminous U.S. This action would provide for enhanced Federal, State and local management options for this threatened species.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF71

1547. • CRITICAL HABITAT FOR THE TIDEWATER GOBY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This action would identify areas necessary for the survival and recovery of this fish species. If designated, the habitat would be protected form adverse modification by Federal, or Federal-funded, actions.

DOI—FWS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/03/99	64 FR 42250
NPRM	10/15/99	64 FR 55892
NPRM Comment Period End	11/30/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF73

1548. • NATIVE CULTURAL EXCHANGE OF MARINE MAMMAL HANDICRAFTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This rule addresses noncommercial activity of cultural exchange between Indians, Aleuts, and Eskimos residing in Alaska and native inhabitants of Russia, Canada, and Greenland. It also updates several definitions contained in this part.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AF75

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)

Final Rule Stage

1549. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: INTERCROSS PROGENY POLICY AND DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service propose to amend the regulations implementing the Endangered Species Act by adding definitions for intercross and intercross progeny (to include hybrids). Also, 50 CFR 17.11(g) and 17.12(g) will be amended by adding wording to indicate that the listing of a taxon as endangered or threatened would include all individuals that share characteristic traits of that taxon including individuals produced under conditions of confinement. The amendments are necessary in order to proceed with the evaluation and implementation of intercrossing as a recovery technique for the Florida panther.

Timetable:

Action	Date	FR Cite
NPRM	02/07/96	61 FR 4710
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC54

1550. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: CRITICAL HABITAT DESIGNATION FOR THE WESTERN SNOWY PLOVER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to designate critical habitat for the Pacific coast population of the Western snowy plover. The plover was listed as a threatened species on March 5, 1993. Critical habitat for the plover is proposed in coastal areas of Washington, Oregon, and California.

Timetable:

Action	Date	FR Cite
NPRM	03/02/95	60 FR 11768
NPRM Comment Period Reopened	05/15/95	60 FR 25882
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD10

1551. CRITICAL HABITAT PROPOSAL FOR VIRGIN RIVER FISHES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to designate critical habitat for the Virgin River Chub, the Woundfin, and Virgin spinedace. The Virgin River chub and Woundfin are listed as endangered; the Virgin spinedace has been proposed for listing as threatened (May 18, 1994), but the listing has not been finalized as yet.

Timetable:

Action	Date	FR Cite
NPRM	04/05/95	60 FR 17296
NPRM Comment Period End	06/05/95	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: This rulemaking was inadvertently published as RIN 1018-AD22. The final rule will be published with the correct RIN 1018-AD23. The rulemaking action(s) listed under this RIN has (have) been temporarily suspended due

to legislative restriction on publication of final listing and critical habitat determinations.

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD23

1552. RECLASSIFICATION OF YACARE CAIMAN FROM ENDANGERED TO THREATENED WITH SPECIAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will declassify populations of the Yacare caiman in South America. Also included in this rulemaking is a special rule to allow commercial trade in skins other parts, and products of Yacare caimans from South America. The combination of actions proposed will have the effect of stimulated legal and responsible trade in Yacare caiman hides and, in this respect, constitutes removal of a barrier to trade.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50850
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AD67

1553. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR PLANT IN WENATCHEE MOUNTAINS OF WASHINGTON

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered species status pursuant to the Endangered Species Act of 1973 for the Wenatchee Mountains checker-mallow (Sidalcea oregana var calva). This plant is endemic to meadows that have surface water on saturated soil in the spring and early summer at middle elevations in the Wenatchee Mountains of Chelan county, Washington. Although five populations of this plant are known, three of these have very few individuals. The estimated total number of plants is about 3,300. The primary threats to this plant include alterations of hydrology, rural residential development and associated activities, competition from native and alien plants, recreation fire suppression and activities associated with fire suppression. To a lesser extent, the taxon is threatened by livestock grazing road construction and timber harvesting and associated impacts including changes in surface-runoff in the small watersheds in which the plant occurs. This proposal, if made final, would implement the Federal protection and recovery programs of the Act for this plant.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41328
NPRM Comment Period End	09/30/97	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE32

1554. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED IN THE UNITED STATES THE SHORT-TAILED ALBATROSS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered in the United States the short-tailed albatross. Due to an oversight when the foreign and native species lists of the 1969 Endangered Species Conservation Act were merged, the U.S. population of this species was not listed. This proposed listing, if made final, would extend endangered status throughout the species' range. The species nests on certain Japanese islands but ranges into U.S. coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE91

1555. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DELIST DISMAL SWAMP SOUTHEASTERN SHREW

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove the Dismal Swamp Southeastern Shrew from the list of endangered and threatened wildlife. The Dismal Swamp Southeastern Shrew was listed as a threatened species in 1986 under the Endangered Species Act of 1973, as amended. New data indicate that this species is more widely distributed than previously

believed, is fairly abundant within its range, occurs in a wide variety of habitats, and is genetically secure. The Service concludes that the data supporting the original classification were incomplete and that the new data indicate removing the Dismal Swamp Southeastern Shrew from the list of endangered and threatened wildlife is warranted.

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56128
NPRM Comment Period End	12/21/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF00

1556. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST CONTIGUOUS U.S. DISTINCT POPULATION SEGMENTS OF CANADA LYNX AS THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, July 8, 1999.

Abstract: The Service proposes to list the contiguous States population of the Canada lynx as threatened, with a special rule, pursuant to the Endangered Species Act of 1973, as amended. This population segment includes the States of Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, Minnesota, Wisconsin, Michigan, Maine, New Hampshire, Vermont, New York, Pennsylvania, and Massachusetts. The contiguous U.S. population segment of the Canada lynx is threatened by human alteration of forests, low numbers as a result of past overexploitation, expansion of the range of competitors (bobcats, coyotes), and elevated levels of human access into lynx habitat. This rule also lists the captive population of Canada lynx within the coterminous U.S. (lower 48) as threatened due to similarity of appearance with a special rule.

Timetable:

Action	Date	FR Cite
NPRM	07/08/98	63 FR 36994
NPRM Comment Period End	09/30/98	
Second NPRM	07/08/99	64 FR 36836
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF03

1557. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ARMORED SNAIL AND CAMPELOMA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: The armored snail occurs in Piney and Limestone Creeks, Alabama. Threats include a general deterioration of water quality resulting from siltation and other pollutants. The slender campeloma is also a snail and is currently believed to occur only in the middle to lower reaches of Round Island, Piney, and Limestone Creeks, Alabama. Threats also include a general deterioration of water quality.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57642
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF29

1558. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PREBLES MEADOW JUMPING MOUSE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: We will propose a special rule under the Endangered Species Act allowing limited incidental take of the Prebles Meadow jumping mouse in Colorado.

Timetable:

Action	Date	FR Cite
NPRM	12/03/98	63 FR 66777
NPRM Comment Period Reopened	03/06/99	64 FR 12924
NPRM Comment Period End	04/30/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF30

1559. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESERT YELLOWHEAD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the desert yellowhead, a plant in Wyoming, under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70745
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF31

1560. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SANTA ANA SUCKER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the Santa Ana sucker under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	01/26/99	64 FR 3915
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF34

1561. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; MOUNTAIN PLOVER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the mountain plover under the provisions of the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7587
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF35

1562. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; COLUMBIA WHITE-TAILED DEER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will determine whether to remove the Douglas County, Oregon, population of the Columbia white-tailed deer from the list of endangered and threatened species.

Timetable:

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25263
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF43

1563. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; COASTAL CUTTHROAT TROUT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Together with the National Marine Fisheries Service, we will determine whether to list the southeastern Washington/Columbia River population of the coastal cutthroat trout under the provisions of the Endangered Species Act. We will also determine whether to remove from the list the Umpqua River population.

Timetable:

Action	Date	FR Cite
NPRM	04/05/99	64 FR 16397
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF45

1564. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ALABAMA STURGEON

Priority: Substantive, Nonsignificant

Legal Authority: 16 U.S.C. 1531 et seq.

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, March 26, 2000.

Abstract: This action determines the appropriate status of the species under the Endangered Species Act. The final rule will determine this fish to be endangered, threatened, or neither. If listed as endangered or threatened, the protection of the Endangered Species Act implemented in 50 CFR 17 would take effect.

Timetable:

Action	Date	FR Cite
NPRM	03/26/99	64 FR 14676
NPRM Comment Period Reopened	07/12/99	64 FR 37492
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service

DOI—FWS

Final Rule Stage

Phone: 703 358-2171

RIN: 1018–AF56

1565. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SCALESHELL MUSSEL

Priority: Substantive, Nonsignificant

Legal Authority: 16 U.S.C.1531 et seq.

CFR Citation: 50 CFR 17

Legal Deadline: Final, Statutory, August 13, 2000.

Abstract: This action determines if this species should be listed as endangered or threatened under the Endangered Species Act. If listed protective measures of the Endangered Species Act, implemented in 50 CFR 17, would take effect.

Timetable:

Action	Date	FR Cite
NPRM	08/13/99	64 FR 44171
NPRM Comment Period End	09/27/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF57

1566. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SIERRA NEVADA POPULATION OF CALIFORNIA BIGHORN SHEEP

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: This action determines the appropriate status of the species under the Endangered Species Act. The species cccurs in California.

Timetable:

Action	Date	FR Cite
NPRM	04/20/99	64 FR 19333
Emergency Listing	04/20/99	64 FR 19300
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF59

1567. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; TIDEWATER GOBY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This action would determine the appropriate status of northern populations of this fish species under the Endangered Species Act. Currently, all tidewater Goby populations in California are on the list of endangered and threatened species.

Timetable:

Action	Date	FR Cite
NPRM	06/24/99	64 FR 33816
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF67

1568. • ENDANGERED AND THREATENED WILDLIFE; GOLDEN SEDGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This action determine the appropriate status of this plant under the Endangered Species Act. If listed as endangered or threatened, the protective regulations of 50 CFR 17 would take effect.

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF68

1569. • REGULATIONS FOR SUBSISTENCE HUNTING AND FISHING ON FEDERAL LANDS IN ALASKA FOR THE 2000-2001 SEASONS.

Priority: Routine and Frequent

Legal Authority: 16 USC 3124

CFR Citation: 50 CFR 100

Legal Deadline: None

Abstract: This regulation, issued jointly with the Department of Agriculture, revises the customary and traditional use determinations and establishes hunting, fishing and trapping seasons, harvests limits, methods and means related to taking of wildlife for subsistence uses for the 2000-2001 regulatory year.

Timetable:

Action	Date	FR Cite
NPRM	09/10/99	64 FR 49278
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Pospahala, Chief, Office of Subsistence Management, Department of the Interior, United States Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, AK 99503
Phone: 907 786-3467

RIN: 1018–AF74

1570. • SPIKEDACE AND LOACH MINNOW; DETERMINATION OF CRITICAL HABITAT UNDER THE ENDANGERED SPECIES ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.95

Legal Deadline: None

Abstract: This action would determine those areas of habitat necessary to the survival and recovery of these species.

Critical habitat designation protects the areas from adverse modification by Federal, or Federal-funded, actions

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF76

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)

Long-Term Actions

1571. CAPTIVE-BRED WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service regulates certain activities involving non-native endangered or threatened wildlife species that are born in captivity in the United States. Currently, this is accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with the Service to obtain a captive-bred wildlife or CBW registration. These regulations will be reviewed to determine if further action is necessary to relieve certain restrictions on the public that may have become burdensome, counterproductive, or outmoded.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/92	57 FR 548
ANPRM Comment Period End	03/09/92	
NPRM	06/11/93	58 FR 32632
NPRM Comment Period End	09/09/93	
NPRM	12/27/93	58 FR 68323
Interim Final Rule	12/27/93	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: On June 11, 1993, the Service published a proposed rule that would revise the captive-bred wildlife regulations and the definitions of the terms "harass" and "enhance the propagation or survival." During the 90-day comment period, extensive comments on the proposal were received. The Service has decided to eliminate education as the sole basis for justifying issuance of a captive-bred wildlife registration, and a final rule to that effect was published on December 27, 1993 (58 FR 68323). The Service will split this action into three final rules and reopen the comment period on the balance of the issues in the proposals including the question of the value of education as it relates to endangered species permits.

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104
Email: teiko__ saito@fws.gov

RIN: 1018–AB10

1572. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Addax antelope
NPRM 11/05/1991 (56 FR 56491)
Final Action 00/00/0000

Dama gazelle
NPRM 11/05/1991 (56 FR 56491)

Ohio emerald dragonfly
Final Action 01/26/1995 (60 FR 5267)

Oryx antelope
NPRM 11/05/1991 (56 FR 56491)
NPRM Comment Period Reopened 06/08/1992 (57 FR 24220)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB66

1573. LIST OF MIGRATORY BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 704; 16 USC 712

CFR Citation: 50 CFR 10.13

Legal Deadline: None

Abstract: The List of Migratory Birds found at 50 CFR 10.13 is being revised to (1) bring the list into conformity with generally accepted taxonomy and nomenclature—English (common) and scientific names, as reflected in four published supplements to the 6th (1983) edition of the American Ornithologists' Union Checklist of North American Birds; and (2) add species that are of regular occurrence in the United States that are not included on the current list.

Timetable:

Action	Date	FR Cite
NPRM	05/09/95	60 FR 24686
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jon Andrew, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AB72

1574. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Appalachian elktoe
NPRM 09/03/1993 (58 FR 46940)
Final Action 11/23/1994 (59 FR 60324)
Arroyo southwestern toad
NPRM 08/03/1993 (58 FR 41378)
NPRM Comment Period Reopened 09/09/1993 (58 FR 47428)
Final Action 12/16/1994 (59 FR 64859)
Dugong
NPRM 08/05/1993 (58 FR 41688)
Louisiana black bear
NPRM 12/03/1993 (58 FR 63560)
NPRM Comment Period Reopened 03/07/1994 (59 FR 10607)
Notice of Draft 08/17/1998 (63 FR 43954)
Final Action 00/00/0000
McFarlane's four-o'clock
NPRM 08/26/1993 (58 FR 45085)
Final Action 03/15/1996 (61 FR 10693)
Pahrump poolfish
Final Action 08/05/1993 (58 FR 41688)
NPRM 09/22/1993 (58 FR 49279)
Southwestern willow flycatcher
Final Action 07/22/1997 (62 FR 39129)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AB97

1575. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; RECLASSIFICATION OF THE LOCH LOMOND COYOTE THISTLE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed which will list, reclassify, or delist, as appropriate, the Loch Lomond coyote thistle under the Endangered Species Act. Where prudent, critical habitat will be identified for the species. Such actions are taken upon determination that the species is endangered, threatened, or neither, and are based solely on the biological information available to the Department.

Timetable:

Action	Date	FR Cite
NPRM	11/29/93	58 FR 62629
NPRM Comment Period End	01/28/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC14

1576. EXPORT OF AMERICAN GINSENG HARVESTED IN 1994-1996

Priority: Routine and Frequent

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This proposed rule will announce findings on the export of American ginseng from the 1994-96 harvest season in 21 States. The Service reviews information and data as a basis for determining whether to continue approval of export from specified States for this harvest season, or to initiate changes. Also North Dakota has applied to export cultivated ginseng under a State program, and Michigan has submitted draft legislation and is intending to apply soon to export ginseng. Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49046
NPRM Comment Period End	10/26/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Marshall Jones, Assistant Director International Affairs, Department of the Interior, United States Fish and Wildlife Service, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6393
Email: marshall__ jones@fws.gov

RIN: 1018–AC55

1577. GENERAL PROVISIONS AND GENERAL PERMIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to amend 50 CFR part 13 which provides uniform permit procedures relating to the application, issuance renewal, suspension, revocation, and general administration of Service permits. The Service's criteria for suspension and revocation of permits and its review procedures will also be revised. Permit fee rates are amended to increase rates for the cost of processing certain permits. This change is necessary in order to recover a larger percentage of the cost of processing the permits. Several new permit fee exemptions will be added.

Timetable:

Action	Date	FR Cite
NPRM	09/05/95	60 FR 46087
NPRM Correction	09/27/95	60 FR 49976

Action	Date	FR Cite
NPRM Comment Period Reopened	11/15/95	60 FR 57386
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AC57

1578. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: TROPICAL BIRDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed that will determine the appropriate status for up to 38 species of tropical birds.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AC77

1579. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: FOUR SOUTHWESTERN CALIFORNIA PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed to determine the appropriate status for four plants found in southwestern California and northwestern Baja California, Mexico. These species are: Munz's onion, San Jacinto Valley crownscale, Thread-leaved brodiaea, and Spreading navarretia. These four plants occur in vernal pools and other wetlands or on clay soils and moist grasslands throughout their range. Critical habitat will be proposed only for the San Jacinto Valley crownscale, at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/15/94	59 FR 64794
NPRM Comment Period End	02/13/95	60 FR 64794
NPRM Comment Period Reopened	03/07/95	60 FR 12531
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC88

1580. SEIZURE AND FORFEITURE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 4222 to 4241; 16 USC 4901 to 4916; 18 USC 42

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: The Service proposes to amend regulations in 50 CFR part 12 that establish procedures relating to property seized or subject to administrative forfeiture under various laws enforced by the Service. This revision is intended to provide uniform guidance for the bonded release, appraisement, administrative proceeding petition for remission, and disposal of items subject to forfeiture. Also these revisions are intended to provide for greater consistency of Service seizure and forfeiture procedures with those of the U.S. Customs Service.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58468
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AC89

1581. CRITICAL HABITAT DESIGNATION FOR THE LOST RIVER AND SHORTNOSE SUCKERS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed that will identify critical habitat for the Lost River and Shortnose suckers, two species federally listed as endangered. Both species are endemic to the Upper Klamath River Basin of Oregon and California.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61744
NPRM Comment Period End	01/30/95	60 FR 61744
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC90

1582. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: LEAST CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be developed that will determine the appropriate status for the Least chub under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	09/29/95	60 FR 50518
NPRM Comment Period End	11/28/95	
NPRM Comment Period Reopened	06/07/96	61 FR 29047
Notice	09/25/97	62 FR 50394
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AC91

1583. REVISION OF MIGRATORY BIRD HUNTING REGULATIONS, 50 CFR PART 20

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 703 to 711; 16 USC 712; 16 USC 742a to 742d; 16 USC 742e to 742j

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service proposes to revise and update regulations governing migratory bird hunting. Changes will be proposed that will clarify and include all the specific prohibitions in part 20 to apply to migratory game hunting during closed and open hunting seasons.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AD01

1584. MARINE MAMMAL PROTECTION ACT; UNINTENTIONAL TAKE OF MARINE MAMMALS BY HARASSMENT ONLY IN ACTIVITIES OTHER THAN COMMERCIAL FISHING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Protection Act, as amended in April 1994 authorizes the Secretary to allow U.S. citizens to incidentally unintentionally take small numbers of marine mammals by harassment only for periods up to 1 year during specified activities other than commercial fishing. This regulatory action would implement this statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AD18

1585. MARINE MAMMAL PROTECTION ACT; MEASURES TO SAFELY DETER MARINE MAMMALS, INCLUDING THREATENED AND ENDANGERED MARINE MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Marine Mammal Act as amended in April 1994, requires the Service to develop a list of guidelines to safely deter marine mammals for which the Service has statutory management responsibility, including threatened and endangered species. Such measures of deterrence are for use in protecting: (1) Fishing gear or catch; (2) private property; (3) personal human safety; or (4) public property. This regulatory action would implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AD19

1586. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE NORTHERN SPOTTED OWL

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service will propose a section 4(d) rule for the northern spotted owl under the Endangered Species Act that will define the conditions under which incidental take of the species through habitat modification would not be a violation of section 9 of the Act. An environmental impact statement is also being prepared and will be available for review concurrent with the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/17/95	60 FR 9484
NPRM Comment Period End	05/18/95	
NPRM Comment Period Reopened	05/18/95	60 FR 26712
NPRM Comment Period Reopened	07/17/95	60 FR 36382
NPRM Comment Period Reopened	09/25/95	60 FR 49358
NPRM Comment Period Reopened	11/27/95	60 FR 58323
NPRM Comment Period Reopened	01/31/96	61 FR 3369

Action	Date	FR Cite
NPRM Comment Period Reopened	02/23/96	61 FR 6964
NPRM Comment Period Reopened	04/08/96	61 FR 15452
NPRM Comment Period Reopened	05/10/96	61 FR 21426
NPRM Comment Period Reopened	06/17/96	61 FR 30588
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD20

1587. TAXONOMIC CHANGE FROM SUBSPECIES TO VERTEBRATE POPULATION SEGMENT FOR THE VIRGIN RIVER CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Recent taxonomic work concluded that specific rank is warranted for the Virgin River chub, a federally listed endangered species found in the Virgin River system of Arizona, Nevada, and Utah. Additionally, researchers concluded that the chub in the Muddy River of Nevada is conspecific with the Virgin River chub. Previously this distinctive population of the Virgin River chub a category 2 candidate for Federal listing, was considered a separate, unnamed subspecies of roundtail chub, and was referred to as the Moapa roundtail chub. Because of this recent taxonomic work, the Service accepts that specific rank is warranted for the Virgin River chub and proposes to change the listing of the Virgin River chub in the Virgin River from a subspecies to a vertebrate population segment in the List of Endangered and Threatened Wildlife. In addition, the Service initiates a status review of the Virgin River chub in the Muddy River to determine whether this vertebrate population warrants listing as a threatened or endangered species.

Timetable:

Action	Date	FR Cite
NPRM	07/24/95	60 FR 37866
NPRM Comment Period End	09/22/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Local

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD22

1588. EXPORT OF APPENDIX I SPECIMENS THAT WERE BRED FOR COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations need to be updated to clarify the process of obtaining export permits for appendix I specimens that are bred for commercial purposes, including the procedure for becoming registered with the Convention on International Trade in Endangered Species (CITES) Secretariat.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104
Email: teiko__ saito@fws.gov

RIN: 1018–AD64

1589. CONSOLIDATION OF LISTS OF WILDLIFE OF FEDERAL CONCERN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1531 et seq; 16 USC 703; 16 USC 1361; 16 USC 4901; 18 USC 42; 16 USC 3371

CFR Citation: 50 CFR 10

Legal Deadline: None

Abstract: The Service proposes to consolidate into part 10 lists of plants and wildlife currently contained in various parts of subchapter B (parts 14, 15, 16, 17. 18, and 23).

Timetable:

Action	Date	FR Cite
ANPRM	03/19/96	61 FR 11180
ANPRM Comment Period End	05/03/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marshall Jones, Assistant Director International Affairs, Department of the Interior, United States Fish and Wildlife Service, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-6393
Email: marshall__ jones@fws.gov

RIN: 1018–AD66

1590. MIGRATORY BIRD HUNTING: REGULATIONS REGARDING PROHIBITION AGAINST ARTIFICIALLY ALTERING/MANIPULATING NATURAL VEGETATION IN MOIST AREAS TO ATTRACT WATERFOWL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 et seq; 16 USC 712; 16 USC 742

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: This action notifies the public and invites comments regarding promulgation of a separate rulemaking that will govern the manner in which or if at all natural vegetation in moist soil areas may be altered or manipulated artificially to attract waterfowl for hunting purposes. Previously, the subject regulations had been part of the ongoing review of 50 CFR 20 but now will be considered separately.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/96	61 FR 11805

Action	Date	FR Cite
ANPRM Comment Period End	06/20/96	
NPRM	03/25/98	63 FR 14415
NPRM Comment Period Reopened	05/22/98	63 FR 28343
NPRM Comment Period Reopened	10/06/98	63 FR 53635
NPRM Correction	10/13/98	63 FR 54753
NPRM Comment Period End	10/22/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AD74

1591. FEDERAL AID IN SPORT FISH RESTORATION PROGRAM FOR PARTICIPATION FOR DISTRICT OF COLUMBIA AND INSULAR TERRITORIES AND COMMONWEALTHS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 669i; 16 USC 777i

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service is proposing to define new standards for the District of Columbia and Insular Territories and Commonwealths for participation in the Federal Aid in Sport-Fish Restoration program by waiving the 10-percent cap on use of these funds for education.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS -140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
Email: bob__ lange@fws.gov

RIN: 1018–AD83

1592. ENDANGERED AND THREATENED SPECIES: REMOVAL OF LLOYD'S HEDGEHOG CACTUS FROM FEDERAL LIST OF ENDANGERED AND THREATENED PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to remove Lloyd's hedgehog cactus from the Federal list of endangered and threatened plants. Lloyd's hedgehog cactus was listed as endangered on October 26, 1979, due to threats of collection and highway projects. Recent evidence indicates that Lloyd's hedgehog cactus is not a distinct species but rather a hybrid. Lloyd's hedgehog cactus is presently known from four counties in west Texas and one county in New Mexico and from Chihuahua, Mexico.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30209
NPRM Comment Period End	08/13/96	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AD91

1593. RESCISSION OF ADMINISTRATIVE PROCEDURES FOR GRANTS IN AID (MARINE MAMMAL PROTECTION ACT OF 1972)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 82

Legal Deadline: None

Abstract: The Service is rescinding 50 CFR 82, Administrative Procedures for Grants-in-Aid (Marine Mammal Protection Act of 1972). This regulation was determined unnecessary because funding has not been provided for many years and adequate instructions are contained in the Act and in existing regulations to disseminate funds if they become available in the future. This action is part of the regulatory reinvention effort.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS -140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
Email: bob__ lange@fws.gov

RIN: 1018–AD92

1594. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REINTRODUCTION OF A NONESSENTIAL EXPERIMENTAL POPULATION OF GRIZZLY BEARS IN IDAHO AND MONTANA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish a nonessential experimental population of grizzly bears into the Bitterroot ecosystem in central Idaho and western Montana. This experimental population is proposed to be designated a nonessential experimental population in accordance with section 10(j) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35762
NPRM Comment Period End	10/09/97	
NPRM Comment Period Reopened	10/28/97	62 FR 55774
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species,

Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE00

1595. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION OF TEN FRESHWATER MUSSELS IN HOLSTON RIVER SYSTEM IN TN AND VA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service plans to reintroduce ten mussels (Appalachian monkeyface pearlymussel, cracking pearlymussel, Cumberland monkeyface pearlymussel, dromedary pearlymussel, fanshell orange-foot, pimpleback pearlymussel, ring pink mussel, rough pigtoe, and tan riffleshell) into historic habitat in the next 2 to 3 years. The mussels to be used in the reintroduction will include artificially propagated juveniles and adults taken from the wild, under certain circumstances. Mussel propagation technology currently is being developed using nonendangered surrogate species. The 4(d) rule will exempt unavoidable and unintentional take, such as fishing, boating, trapping, or wading.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE01

1596. REVISION TO SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 460k

CFR Citation: 50 CFR 25; 50 CFR 26; 50 CFR 27; 50 CFR 28; 50 CFR 29; 50 CFR 30; 50 CFR 31; 50 CFR 32; 50 CFR 34; 50 CFR 35; 50 CFR 36; 50 CFR 37

Legal Deadline: None

Abstract: The Service plans to rewrite subchapter C to include new public recreation policy on National Wildlife Refuges to include opening refuges to all public recreation (hunting, fishing, wildlife observation, photography, boating, hiking, camping, and picnicking) at the time of purchase. This is an administrative action and will not involve compliance cost to the public.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James W. Kurth, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AE02

1597. PROPOSED APPROVAL OF SELECTED STATE PROGRAMS ALLOWING THE EXPORT OF GINSENG HARVESTED IN 1997-1999

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This rule will announce findings on the export of American ginseng from the 1997-1999 harvest season in 25 States. The Service reviews information and data as a basis for determining whether to continue approval of export from specific States for this harvest season or to initiate changes. The State of Oregon intends to apply soon to export ginseng. Acceptance of information provided by State ginseng management programs allows the Service to expedite the issuance of permits as required by the CITES treaty.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AE03

1598. IMPORTATION, EXPORTATION, TRANSPORTATION OF WILDLIFE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This rule would revise the Service regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. The Service proposes a licensing and fee scheme which will exempt certain commercial importers and exporters from our inspection fee, based upon specific criteria including country of origin, numbers of items, and permitting requirements. We propose to modify our user fee regulations to grant relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fee and nondesignated administrative fee and hourly minimums only. This proposal, if implemented, will allow us to continue to collect data on fee collections in order to analyze the impact of user fees on small businesses for future decision making.

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3298
NPRM Comment Period End	03/23/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AE08

1599. EXPORT OF AMERICAN ALLIGATOR FOR THE 1998-2000 HARVEST SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23.57; 50 CFR 17.42(a)

Legal Deadline: None

Abstract: This rule will make minor changes in the tagging requirements for American alligator skins to conform with the CITES tagging resolution and announces proposed findings on the effects of the export of American alligator under CITES for the 1998-2000 harvest seasons. This rule provides for the export of American alligator parts and products under CITES.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Rosemarie Gnam, Chief, Branch of Operations, Department of the Interior, United States Fish and Wildlife Service, MS 700, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: rosemarie__ gnam@fws.gov

RIN: 1018–AE15

1600. REVISIONS TO THE FEDERAL AID ADMINISTRATIVE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 777i; 16 USC 669i; 18 USC 701

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: The Service proposes to revise part 80 to clarify the language in the administrative requirements section and simplify some of the procedures to enable the States and the public to better understand the procedures and requirements for obtaining and administering grants under the Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Tribal

Agency Contact: Bob Lange, Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, MS -140, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2156
Email: bob__ lange@fws.gov

RIN: 1018–AE17

1601. ENDANGERED AND THREATENED WILDLIFE AND PLANTS: PROPOSED ENDANGERED STATUS FOR BLACKBURN'S SPHINX MOTH FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is proposing to add the Blackburn's sphinx moth to the list of endangered and threatened wildlife. The single remaining population is found on the island of Maui in the Hawaiian Islands. It is the largest (in adult form) native insect with a wing span of 5 inches.

Timetable:

Action	Date	FR Cite
NPRM	04/02/97	62 FR 15640
NPRM Comment Period End	06/02/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE20

1602. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO LARKSPURS FROM COASTAL NORTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for two plants (Baker's larkspur and yellow larkspur). These species grow in a variety of habitats including coastal prairie, coastal scrub or chaparral in Sonoma and Marin counties in northern California. Habitat loss and degradation sheep grazing, road maintenance activities, and overcollection imperil the continued existence of these plants. Random events increase the risk of extinction to the extremely small plant populations.

Timetable:

Action	Date	FR Cite
NPRM	06/19/97	62 FR 33383
NPRM Comment Period End	08/18/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452

Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE23

1603. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR IONE BUCKWHEAT AND THREATENED STATUS FOR IONE MANZANITA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposed endangered status for ione buckwheat (a perennial herb) and threatened status for ione manzanita (an evergreen shrub of the heath family). These two species occur primarily on gravelly clay soils with iron-oxide crust within chaparral (derived from the iron formation) in Amador or Calaveras counties in the central Sierra Nevada foothills of California. They are imperiled by one or more of the following factors: mining, clearing of vegetation for agriculture and fire protection, disease, inadequate regulatory mechanisms, habitat fragmentation, residential and commercial development, changes in fire frequency, and continued erosion due to prior off-road vehicle use. Random events increase the risk to the few, small populations of ione buckwheat. Ownership of most occurrences of these two species is private. One population of each occurs on Federal land managed by the Bureau of Land Management. Other potential Federal involvement includes the use of Federal highway funds, the permitting of lignite or coal mines through the Office of Surface Mining Reclamation and Enforcement, and the relicensing of hydro-electric projects by the Federal Energy Regulatory Commission.

Timetable:

Action	Date	FR Cite
NPRM	06/25/97	62 FR 34190
NPRM Comment Period End	08/25/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE25

1604. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR NEWCOMB'S SNAIL FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes threatened status pursuant to the Endangered Species Act of 1973, as amended, for Newcomb's snail. This freshwater snail is restricted to the Hawaiian Island of Kauai. The known historic distribution of this snail has greatly decreased and extant populations are presently limited to restricted habitats on five perennial streams on State land. The five known populations of this snail and its habitat are currently threatened by predation by a species of non-native predatory snail and two species of non-native marsh flies. These populations are also subject to an increased likelihood of extirpation from naturally occurring events, including natural disasters such as hurricanes and landslides. All populations of this species occur on State-owned lands.

Timetable:

Action	Date	FR Cite
NPRM	07/21/97	62 FR 38953
NPRM Comment Period End	09/19/97	
NPRM Comment Period Reopened	11/12/97	62 FR 60676
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE27

1605. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR THE PLANT KECK'S SIDALCEA FROM TULARE COUNTY, CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Sidalcea keckii (Keck's sidalcea) as endangered pursuant to the Endangered Species Act of 1973. This annual herb (belonging to the mallow family) is threatened by urban development, agricultural land conversion, and random events. The species (found on sparsely vegetated slopes of serpentine-derived clay in annual grasslands) is known only from one population in the south-central Tulare County on private land and is not in an approved habitat conservation plan. The likelihood of any Federal involvement is small, however, the Bureau of Reclamation's renewal of the Central Valley Project Friant water contracts may affect the species.

Timetable:

Action	Date	FR Cite
NPRM	07/28/97	62 FR 40325
NPRM Comment Period Reopened	09/24/97	62 FR 49954
NPRM Comment Period End	09/26/97	
NPRM Comment Period Reopened	01/22/98	63 FR 3301
NPRM Comment Period Reopened	08/29/98	63 FR 44417
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE30

1606. EXPORTATION OF MARINE MAMMAL PRODUCTS FOR CULTURAL EXCHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 et seq

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: This regulatory action concerns a modification to export marine mammal products and to Native exemption provisions in the Marine Mammal Protection Act. The action will be made to allow for cultural exchange of marine mammal products between Natives of Alaska, Greenland, Russia and Canada.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AE33

1607. INJURIOUS WILDLIFE; ADDITION OF BRUSH-TAILED POSSUM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Service proposes to review the economic and biological information on the brush-tailed possum of genus Trichosurus for possible addition to the list of injurious wildlife under the Lacey Act.

Timetable:

Action	Date	FR Cite
ANPRM	01/24/96	61 FR 1893
ANPRM Comment Period End	03/25/96	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AE34

1608. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO CAVE ANIMALS FROM HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973 for two animals, the Kauai Cave Wolf Spider and the Kauai Cave Amphipod. These two species are found on the Hawaiian Island of Kauai. The Kauai Cave Wolf Spider is known from two populations and the Kauai Cave Amphipod is known from four populations. These animals and their habitats have been variously affected or are currently threatened by the following: habitat degradation/loss from development; competition for space water, and nutrients by naturalized introduced animals; biological/chemical pesticide use; and an increased likelihood of extinction from proposed development activities and naturally occurring events. This proposal, if made final, would extend Federal protection and recovery provisions of the Act for these animal taxa. Additionally, Hawaii State regulations protecting these animals would be triggered. All populations of these species occur on privately owned lands.

Timetable:

Action	Date	FR Cite
NPRM	12/05/97	62 FR 64340
NPRM Comment Period End	02/03/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE39

1609. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR TWO SAN JOAQUIN VALLEY MAMMALS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Riparian Brush Rabbit and Woodrat pursuant to the Endangered Species Act of 1973. The Brush Rabbit and Woodrat inhabit riparian communities along the lower portions of the San Joaquin and Stanislaus Rivers (within Caswell State Park) in the Northern San Joaquin Valley, California. Only a single remaining population of each species has been confirmed. Potential threats to these species include flooding, wildlife predation, and other factors.

Timetable:

Action	Date	FR Cite
NPRM	11/21/97	62 FR 62276
NPRM Comment Period End	01/20/98	
NPRM Comment Period Reopened	04/13/98	63 FR 17981
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE40

1610. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED DETERMINATION OF THREATENED STATUS FOR KOALA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will propose threatened status for the Australian koala. The eucalyptus forest and woodland ecosystem on which this arboreal marsupial depends has been reduced by more than half and is continuing

to deteriorate. The species also is threatened by habitat fragmentation and consequent potential loss of genetic viability, disease, and other factors. Any final rule resulting from this proposal could classify the koala or certain populations thereof as endangered or could exempt certain populations from any classification.

Timetable:

Action	Date	FR Cite
NPRM	09/22/98	63 FR 50547
NPRM Comment Period End	12/21/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AE43

1611. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR PLANT ROUGH POPCORNFLOWER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the plant rough popcornflower as an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This species is restricted to wet swales and meadows in Douglas County, Oregon where only 10 occurrences are known. Most populations are small with few individuals. The total estimated number of plants is 3,000 within a combined area of about 10 acres (most on private land). Threats to this species include destruction and/or alteration of habitat by development and hydrological changes (e.g., wetland fills, draining, construction); spring and summer grazing by domestic cattle, horses, and sheep; roadside maintenance; and competition from native and alien plant species.

Timetable:

Action	Date	FR Cite
NPRM	11/20/97	62 FR 61953
NPRM Comment Period End	01/20/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE44

1612. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED REVISION OF SPECIAL REGULATIONS FOR GRAY WOLF

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: On November 22, 1994, the Service published special rules to establish nonessential experimental populations of gray wolves in Yellowstone National Park and central Idaho. The nonessential experimental population areas include all of Wyoming, most of Idaho, and much of central and southern Montana. This proposed revision is to amend a section of the special regulations so that it clearly applies within the Yellowstone nonessential experimental population area and the central Idaho nonessential experimental population area as described in 7(ii). Ongoing litigation requires the clarification of the Service's need and authority to remove these animals from the area through live capture or lethal means in the interest of attaining gray wolf recovery goals. This proposed change will not affect any of the assumptions and earlier analysis made in the environmental impact statement or other portions of the special rules.

Timetable:

Action	Date	FR Cite
NPRM	12/11/97	62 FR 65237
NPRM Comment Period End	01/12/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE45

1613. UPDATE OF ADDRESSES FOR ENDANGERED SPECIES PERMIT APPLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service amends the regulations for endangered and threatened wildlife and plants to update the addresses for submission of endangered species permit applications.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE49

1614. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ENDANGERED STATUS FOR OAHU ELEPAIO FROM THE HAWAIIAN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for the Oahu elepaio. This bird is endemic to the Island of Oahu, Hawaii, where it was formerly found in all forested areas on the island. It

is currently found in greatly reduced numbers and range in six isolated populations occurring in mid-elevation forests in the southern Koolau mountain range and parts of the Waianae mountain range. The Oahu elepaio is now thought to occupy less than 8 percent of its original, prehistoric range. It may have been affected in the past or continue to be threatened by one or more of the following: habitat degradation, including habitat fragmentation; population fragmentation; predation by introduced alien mammals; competition from introduced alien birds, and introduced avian disease. The Oahu elepaio is also subject to an increased likelihood of extinction from naturally occurring events including natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE51

1615. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED THREATENED STATUS FOR PLANT HOWELL'S SPECTACULAR THELYPODY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Howell's spectacular thelypody as threatened pursuant to the Endangered Species Act of 1973, as amended. This plant is known from 11 sites in Baker and Union Counties, OR, all on privately-owned land. This taxon is threatened by a variety of factors including habitat destruction and fragmentation from agricultural and urban development grazing by domestic livestock, competition from non-native vegetation, and alterations of wetland hydrology.

Timetable:

Action	Date	FR Cite
NPRM	01/13/98	63 FR 1948
NPRM Comment Period Reopened	03/05/98	63 FR 10817
NPRM Comment Period End	03/16/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE52

1616. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR WILLAMETTE DAISY, FENDER'S BLUE BUTTERFLY AND THREATENED STATUS FOR KINCAID'S LUPINE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for Willamette daisy and Fender's blue butterfly and threatened status for Kincaid's lupine. These species are restricted to native prairie in the Willamette Valley in Oregon and currently are known from a few small remnants of a formerly widespread distribution. In addition to its Oregon occurrences, Kincaid's lupine also is known from one small site in southern Washington. The three taxa are threatened by one or more of the following: commercial and/or residential development, agriculture, silviculture, road improvement, over-collection, herbicide use, and naturally occurring demographic and random environmental events.

Timetable:

Action	Date	FR Cite
NPRM	01/27/98	63 FR 3863
NPRM Comment Period End	03/30/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE53

1617. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST PLANT ZAPATA BLADDERPOD AS ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the plant Zapata bladderpod as an endangered species under the Endangered Species Act of 1973, as amended. It is known from four locations in Zapata and Starr Counties, Texas (private land, highway right-of-way, and NWR land). This species is threatened by increased urban development highway construction, increased oil and gas activities alteration and conversion of native plant communities to improved pastures, overgrazing, and potential vulnerability from lowered genetic diversity due to presently low population numbers.

Timetable:

Action	Date	FR Cite
NPRM	01/22/98	63 FR 3301
NPRM Comment Period End	03/23/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE54

1618. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ENDANGERED STATUS FOR THE PLANT PRAIRIE PENNY CRESS FROM COASTAL NORTHERN CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, for one plant, Kneeland prairie pennycress. This plant is known from Kneeland prairie in Humboldt County, CA, where it grows in coastal prairie on serpentine outcrops. Habitat loss, potential road realignment and proposed airport expansion activities imperil the continued existence of this plant. The restricted range of this species limited to a single population, increases the risk of extinction from naturally occurring events such as fire.

Timetable:

Action	Date	FR Cite
NPRM	02/12/98	63 FR 7112
NPRM Comment Period End	04/13/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE55

1619. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DETERMINATION OF THE PECOS PUPFISH TO BE ENDANGERED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Pecos pupfish as an endangered species under the authority of the Endangered Species Act of 1973, as amended. The historical range of the Pecos pupfish included the mainstream Pecos River from the vicinity of Roswell Chaves County, New Mexico, downstream to the vicinity of Sheffield, Pecos County, Texas, and included various lakes gypsum sinkholes, saline springs, and tributaries associated with the river. The primary reason for the rapid range reduction is hybridization with and/or replacement by the Sheepshead minnow, a nonnative species introduced into the Pecos River between 1980 and 1984.

Timetable:

Action	Date	FR Cite
NPRM	01/30/98	63 FR 4608
NPRM Comment Period End	03/31/98	
NPRM Comment Period Extended to	11/20/98	63 FR 14892
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE56

1620. PUBLIC USE REGULATIONS FOR KODIAK NATIONAL WILDLIFE REFUGE ALASKA

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460(k) et seq; 16 USC 668dd et seq; 16 USC 3101 et seq

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: The Service will propose regulations to implement portions of the Public Use Management Plan (PUMP) for the Kodiak National Wildlife Refuge. Proposed regulations will include access restrictions and specific requirements and limitations related to commercial and administrative structures, camping, snow machines pack animals, tent platforms, food containers, and fish cleaning. The PUMP was prepared with an environmental assessment and was reviewed in an appropriate public involvement process. The final document was released in November 1993. By implementing the PUMP compatible public uses will be allowed while protecting the refuge resources.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bob Stevens, Refuges and Wildlife, Department of the Interior, United States Fish and Wildlife Service, 1011 E Tudor Road, Anchorage, AK 99503
Phone: 907 786-3499

RIN: 1018–AE60

1621. EAGLE PERMITS; PERMITS FOR FALCONRY PURPOSES; PERMITS TO TAKE GOLDEN EAGLE NESTS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 668a

CFR Citation: 50 CFR 22.24; 50 CFR 22.25

Legal Deadline: None

Abstract: The Service proposes to amend the eagle permit regulations providing for the taking, possession, and transportation of bald and golden eagles. The Service is revising the requirements for falconry purposes. The Service is adding additional requirements to allow a limited amount of take (relocation or destruction) of inactive bald eagle nests in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Jon Andrew, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AE62

1622. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; IMPORT AND EXPORT PERMITS; BANDING OR MARKING PERMITS; AND SCIENTIFIC COLLECTING PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the Migratory Bird Permit Regulations providing permits for the taking, possession transportation, sale, purchase, importation, exportation, and banding or marking of migratory birds. The Service is revising the requirements for scientific collecting, banding or marking permits and import and export permits.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Jon Andrew, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AE63

1623. MIGRATORY BIRD PERMITS; INTRODUCTION, GENERAL REQUIREMENTS AND EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2)

CFR Citation: 50 CFR 21

Legal Deadline: None

Abstract: The Service proposes to amend the migratory-bird permit regulations providing permits for the taking, possession transportation, sale, purchase, and barter of migratory birds. The Service is revising these permit calculations to update simplify language, clarify and ensure consistency in text between all parts and sections.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Jon Andrew, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714

RIN: 1018–AE64

1624. IMPORTATION, EXPORTATION AND TRANSPORTATION OF WILDLIFE CONCERNING INTERNATIONAL MAIL, PET BIRDS, BORDER PORTS, SHELLFISH AND FISHERY PRODUCTS EXEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service proposes this regulatory action that will make changes to part 14, Importation, Exportation and Transportation of Wildlife concerning international mail, pet birds, border ports and shellfish and fishery products exemption. Changes will involve requiring a declaration of commercial mail wildlife shipments, requiring Wild Bird Conservation Act permitted shipments to go through a designated port, clarifying use of border ports, and clarifying current exemptions for shellfish and fishery products.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AE70

1625. IMPLEMENTATION OF THE 1994 AMENDMENTS TO THE MARINE MAMMALS PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361 to 1374

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: Section 104 of the Marine Mammal Protection Act authorizes the Director of the Service, acting on behalf of the Secretary of the Interior, to issue permits for activities otherwise prohibited by the Act. Per the 1994 amendments to the Act, regulations will be developed for issuance of general authorizations and permits.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104
Email: teiko__ saito@fws.gov

RIN: 1018–AE72

1626. RECLASSIFICATION OF THE NAMIBIAN POPULATION OF CHEETAH FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1361; 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: The Service proposes to reclassify the cheetah in Namibia from endangered to threatened based on a review of the population status and management, including protected status, of the species within that country. Namibia has one of the largest populations of the cheetahs within the species' extensive range (much of Africa and Iran).

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AE73

1627. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED GENTNER'S FRITILARIA (MISSION BELLS)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Gentner's fritilaria (missionbells). This species is known from Josephine and Jackson Counties, Oregon. Threats include housing development, succession, logging and collection.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13819
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE75

1628. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST CAMATTA CANYON AMOLE AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list Camatta Canyon amole (Chlorogalum purpureum var. reductum) as endangered or threatened. This species is known from San Luis Obispo County, CA. Threats include CRV activity, cattle grazing, and predation by rodents.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15158
NPRM Comment Period End	05/29/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE76

1629. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED LA GRACIOSA THISTLE, LOMPOC YERBA SANTA, GAVIOTA TARPLANT, NIPOMA MESA LUPINE & SANTA CRUZ TARPLANT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Nipoma Mesa lupine (Lupinus nipomensis). This species is known from San Luis Obispo, California. Threats include habitat modification, hazardous waste clean-up and off-road vehicle impacts.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15142
NPRM	03/30/98	63 FR 15164
NPRM Comment Period End	05/29/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE81

1630. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED YREKA PHLOX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Yreka phlox (Phlox hirsuta). This species is known from Siskiyou County, northern CA. Threats include development and road maintenance activities.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15820
NPRM Comment Period End	06/01/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE82

1631. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED MARIANA FRUIT BAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened the Mariana fruit bat (Pteropus mariannus mariannus). This species is known from the Commonwealth of the Northern Mariana Islands Saipan, Tinian, and Agiguan Islands. Threats include deforestation, overhunting, poaching, and snake predation.

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14641
NPRM Comment Period Reopened	05/29/98	63 FR 29367
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE83

1632. ENDANGERED AND THREATENED SPECIES; PROPOSAL TO LIST NORTHERN IDAHO GROUND SQUIRREL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened the Northern Idaho ground squirrel (Spermophilus brunneus brunneus). This species is known from Adams County, Idaho. Threats include agricultural land conversion, meadow invasion of conifers grazing by domestic livestock, off-road and on-road vehicle use campground expansion and recreational shooting.

Timetable:

Action	Date	FR Cite
NPRM	03/23/98	63 FR 13825
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE84

1633. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED COWHEAD LAKE TUI CHUB

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Cowhead Lake tui chub (Gila bicolor vaccaceps). This species is known from Modoc County, California. Threats include diversion of water reduction of riparian vegetation, and predation from snakes and birds and pesticides.

Timetable:

Action	Date	FR Cite
NPRM	03/30/98	63 FR 15152
NPRM Comment Period End	05/29/98	
NPRM Comment Period Reopened	06/17/98	63 FR 33033
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE85

1634. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST COLORADO BUTTERFLY PLANT AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened the Colorado butterfly plant (Gaura neoexicana ssp. coloradensis). This species is known from Laramie County, Wyoming, and northern Weld County, Colorado. Threats include herbicide application for noxious weeds and natural succession/competition from shrubs, forbs and introduced weeds.

Timetable:

Action	Date	FR Cite
NPRM	03/24/98	63 FR 14060
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE87

1635. ENDANGERED AND THREATENED SPECIES; PROPOSAL TO LIST AS ENDANGERED OR THREATENED BLUMER'S DOCK

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list as endangered or threatened Blumer's dock (Rumex orthoneurus). This species is known from Gila and Cochise Counties, Arizona. Threats include habitat modification and destruction caused by mining, cattle grazing, recreation, and road construction.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 15813
NPRM Comment Period Reopened	07/29/98	63 FR 40389

Action	Date	FR Cite
NPRM Comment Period End	07/30/98	
NPRM	08/09/99	64 FR 43132

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE89

1636. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED ESTABLISHMENT OF NONESSENTIAL EXPERIMENTAL POPULATION STATUS FOR 16 FRESHWATER MUSSELS AND 1 FRESHWATER SNAIL

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to establish nonessential experimental population (NEP) status for 16 freshwater mussels and 1 freshwater snail in the free-flowing reach of the Tennessee River below Wilson Dam, Colbert and Lauderdale Counties, Alabama. None of these species are currently known to exist in this river reach or its tributaries. Thus, to ensure that any reintroduced species that may move into the tributaries are covered by these NEP designations, we also propose that the geographic boundaries of the NEPs include the lower 5 miles (8 km) of all tributaries that enter the Wilson Dam tailwater.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE92

1637. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LISTING OF SEVERAL EVOLUTIONARY SIGNIFICANT UNITS OF WEST COAST STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is adding several evolutionary significant units (ESU) of west coast steelhead to the list of endangered and threatened wildlife in accordance with the Endangered Species Act of 1973, as amended. The southern California and Upper Columbia River Basin ESU are added as endangered, and the central California coast, south-central California coast Snake River Basin, lower Columbia River, and Central Valley California ESUs are added as threatened. This amendment is based on determinations by the National Marine Fisheries Service, National Oceanic Atmospheric Administration, Department of Commerce, which has jurisdiction over this species.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AE97

1638. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST COASTAL-PUGET SOUND JARBIDGE RIVER AND ST. MARY'S-BELLY RIVER POPULATION SEGMENTS OF BULL TROUT AS ' THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service proposes to list the Coastal-Puget Sound population segment of Bull Trout from the coastal drainages and Puget Sound in western Washington; the Jarbidge River population segment of Bull Trout from the Jarbidge River Basin in Southern Idaho and Northern Nevada; and the St. Mary-Belly River population segment of Bull Trout in St. Mary and Belly Rivers in Northwestern Montana as threatened with a special rule, pursuant to the Endangered Species Act of 1973. The fish is threatened by one or more of the following: habitat degradation from past and ongoing land management activities such as mining, road construction and maintenance, and grazing. The special rule allows for take of Bull Trout within three population segments if in accordance with applicable State and Native American tribal fish and wildlife conservation laws and regulations, and conservation plans.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF01

1639. UPDATE OF ADDRESSES AND OFFICE OF MANAGEMENT AND BUDGET INFORMATION COLLECTION NUMBERS FOR FWS PERMIT APPLICATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 16 USC 703 to 712; 16 USC 668(a) to 668(d); 16 USC 742a; 16 USC 742(j) to 742(l); 16 USC 1361 to 1384; 16 USC 1401 to 1407; 16 USC 1531 to 1543; 16 USC 3371 to 3378; 18 USC 42; 19 USC 1202

CFR Citation: 50 CFR 10; 50 CFR 13; 50 CFR 14; 50 CFR 15; 50 CFR 17

Legal Deadline: None

Abstract: The Service amends the regulations for wildlife and plant permits to update the addresses for

submission of permit applications. Recently revised Office of Management and Budget Information Collection Numbers also are provided.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF07

1640. CONSIDERATION OF LISTING THE GREEN IGUANA (IGUANA IGUANA) AS INJURIOUS, PURSUANT TO THE LACEY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 42

CFR Citation: 50 CFR 16

Legal Deadline: None

Abstract: The Humane Society of the United States requested that the Service list the green iguana as injurious under the Lacey Act. Iguanas are released into the wild by their owners for various reasons. These iguanas may be carriers of Salmonella bacteria and could negatively impact native populations. A notice requesting information will be published so that data can be gathered as to the injurious nature of the iguanas. This information will be analyzed to determine whether listing is warranted.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hannibal Bolton, Chief, Fish and Wildlife Management Assistance, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1718

RIN: 1018–AF08

1641. LISTING OF U.S. SPECIES IN APPENDIX III TO CITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: Listing of native U.S. species in appendix III to CITES for more effective monitoring of trade, to ensure that traded specimens are legally acquired in their State(s) of origin, and to obtain the cooperation of other countries that are parties to CITES, in controlling the trade in such specimens.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AF09

1642. RECLASSIFICATION OF MORELET'S CROCODILE (CROCODYLUS MORELETI) FROM ENDANGERED TO THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq; 16 USC 4201; PL 99-625

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Reclassify Morelet's crocodile from endangered to threatened with a special rule to allow for the importation of specimens from captive-breeding operations that have been registered with the CITES Secretariat. Only one such facility in Mexico has been registered. Reclassification will be based on a review of the population status and management, including protected status of the species in range countries.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AF10

1643. ANNOUNCEMENT OF DRAFT POLICY FOR EVALUATION OF CONSERVATION EFFORTS IN MAKING LISTING DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Fish and Wildlife Service and the National Marine Fisheries Service announce a draft policy for the evaluation of conservation efforts in making listing decisions under the Endangered Species Act of 1973, as amended (Act). The policy identifies criteria to be used in determining whether conservation agreements, conservation plans, management plans, or other formalized conservation efforts remove the need to list a species as threatened or endangered under the Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF11

1644. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST SCLEROCACTUS BREVISPINUS (PARIETTE CACTUS) AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This species was recently described as a new species in 1994. It was previously included in Sclerocactus glaucus (Vinta Basin Hookless Cactus), a threatened species under the Endangered Species Act. This proposal is to address this change in taxonomy.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF15

1645. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST FOURTEEN HAWAIIAN POMACE FLIES AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 31, 1998.

Abstract: These fourteen species of insects are native to Hawaii and have experienced dramatic declines in abundance. Some of the primary threats facing these species are ongoing and threatened destruction and adverse modification of habitat by feral animals and alien plants.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF16

1646. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST SIX HAWAIIAN DAMSELFLIES AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 31, 1998.

Abstract: These Hawaiian damselflies are all confined to the Hawaiian Islands. Historically, damselflies were among the most common and conspicuous native Hawaiian insects. Threats include the severe alteration of freshwater habitats because of past and present land and water management practices, including agriculture, urban development of groundwater, perched aquifer and surface water resources, and the introduction of alien animals.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF17

1647. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE WET CANYON TALUSSNAIL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: Final, Judicial, December 31, 1998.

Abstract: This species is known from a single population in Arizona. The exceptionally small range of this snail makes it vulnerable to minimal human activity as well as any natural catastrophic event.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF19

1648. PROPOSED RECLASSIFICATION AND DELISTING OF THE GRAY WOLF IN CERTAIN PARTS OF ITS RANGE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Service is currently undertaking a status review and preparing a proposed rule to reclassify certain populations of the gray wolf from endangered to threatened status under the Endangered Species Act, based on the recent recovery achievements, and to delist the wolf in other parts of its range where recovery has been accomplished.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF20

1649. PROPOSED DELISTING OF THE GRIZZLY BEAR IN THE YELLOWSTONE ECOSYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The grizzly bear is classified as a threatened species in the lower 48 States. Six distinct recovery zones have been established in the States of Wyoming, Montana, Idaho and Washington. The Yellowstone Ecosystem (Yellowstone Recovery Zone) supports a growing population of grizzly bears and recovery planning efforts there are expected to result in a secure management scheme by early 1999 that will allow the Service to proceed with a proposal to delist the Yellowstone grizzly population. Other grizzly population will retain threatened status under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF22

1650. EXPORT OF RIVER OTTERS TAKEN IN MISSOURI IN 1998-1999 AND SUBSEQUENT SEASONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The purpose of this rule is to announce proposed findings by CITES Scientific and Management Authorities of the United States on the export of river otters taken in the State of Missouri, and to propose to add Missouri to the list of States and Indian Nations for which the export of river otter skins is approved. This approval is on a multi-year basis. The Service proposes to apply these findings to river otters taken in Missouri during the 1998-1999 season, and subsequent seasons, subject to the conditions applying to other approved States.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AF23

1651. TAKING OF MARINE MAMMALS BY LEVEL B HARASSMENT; ISSUANCE OF GENERAL AUTHORIZATION FOR SCIENTIFIC RESEARCH AND PERMITS FOR PHOTOGRAPHY, EDUCATIONAL, AND COMMERCIAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-238; 16 USC 1361 to 1407

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service proposes to issue regulations which would allow us to authorize harassment but not injury or death of polar bear, Northern sea otter, and walrus for scientific research photography, and for educational or commercial purposes. This rule would further implement the 1994 Amendments to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Teiko Saito, Chief, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2104
Email: teiko__ saito@fws.gov

RIN: 1018–AF26

1652. MIGRATORY BIRD PERMITS; SPECIFIC PERMIT PROVISIONS; SPECIAL PURPOSE PERMITS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 712(2); PL 95-616

CFR Citation: 50 CFR 27; 50 CFR 31; 50 CFR 32; 50 CFR 33; 50 CFR 34

Legal Deadline: None

Abstract: The Service proposes to amend the migratory bird permit regulations providing permits for the taking, possession transportation, sale, purchase, and barter of migratory birds. The Service is revising and updating the requirements for special purpose permits. Due to the large number of permits issued under "Special purpose," the Service proposes to create four new sections for specific types of the most frequently issued special purpose permit: Rehabilitation, Possession, Salvage, and Migratory Game Birds.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 634 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-1714
Email: paul__ schmidt@fws.gov

RIN: 1018–AF28

1653. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; NINE BEXAR COUNTY, TEXAS, INVERTEBRATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list nine invertebrate species in Bexar County, Texas, under the provisions of the Endangered Species Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF33

1654. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED SPECIAL RULE FOR THE ARKANSAS RIVER SHINER

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.44

Legal Deadline: None

Abstract: We will propose a special rule for the threatened Arkansas River Basin population of the Arkansas River shiner under the provisions of the Endangered Species Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF39

1655. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ESTABLISHMENT OF A SPECIAL RULE FOR THE CANADA LYNX

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.40

Legal Deadline: None

Abstract: We will propose a special rule for the Canada lynx under the provisions of the Endangered Species Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF40

1656. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; SPECIAL RULE FOR THE CHIRICAHUA LEOPARD FROG

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the Chiricahua leopard frog (AZ & NM) under the Endangered Species Act, with a special rule.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF41

1657. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ALEUTIAN CANADA GOOSE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.11

Legal Deadline: None

Abstract: We will determine whether to list the Aleutian Canada goose under the Endangered Species Act.

Timetable:

Action	Date	FR Cite
NPRM	08/03/99	64 FR 42058
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF42

1658. IMPORTATION OF CAPTIVE-BRED EXOTIC BIRDS INTO THE UNITED STATES FROM BREEDING FACILITIES IN OTHER COUNTRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 4901 to 4916

CFR Citation: 50 CFR 15.41; 50 CFR 15.42

Legal Deadline: None

Abstract: We will establish the information requirements and approval criteria for the import of captive-bred wild exotic birds from overseas breeding facilities. This rule applies primarily to species listed in the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which are otherwise prohibited from import by the Wild Bird Conservation Act of 1992. The rule also describes the process for handling petitions to approve qualifying facilities, establishes the duration of approval, provides for the suspension and revocation of approval, and provides for notice of approved facilities in the Federal Register.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/99	
NPRM	03/31/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Gabel, Chief, Branch of Consultation and Monitoring, Office of Scientific Authority, Department of the Interior, United States Fish and Wildlife Service, Room 750, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-1708

Email: roddy__ gabel@fws.gov

RIN: 1018–AF44

1659. AMENDMENT BY MEXICO TO APPENDIX III LISTING OF BIGLEAF MAHOGANY

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: We will announce an amendment to the Appendix III listing of bigleaf mahogany under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) by the Government of Mexico for its population of this species. This species has been included in Appendix III since November 1995, when the Government of Costa Rica initially listed its populations. The Governments of Bolivia and Brazil added their populations in 1998. We will consider comments on whether to enter a reservation on Mexico's action for its population.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AF47

1660. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; ASIAN BONYTONGUE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will determine whether to reclassify the Asian bonytongue, a freshwater fish popular in the aquarium trade, from endangered to threatened with a special rule to allow the importation of specimens from operations that are registered with the CITES Secretariat. Several facilities have been registered in Indonesia, Malaysia, and Singapore. Our decision on whether to reclassify the species, only some of the populations, or to take no action at all, will be based upon a review of the population status and management, including the protected status of the species in the the range countries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF48

1661. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; TIBETAN ANTELOPE

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: We will propose endangered status for the Tibetan antelope, of chira (Pantholops hodgsoni). The antelope is a wild ungulate native to Tibet, Kashmir, and north-central China. It is threatened by illegal trade in its wool, known as shah toosh, which is exceptionally fine. The wool and shawls made from it are in great demand on the black market, resulting in the slaughter of thousands of these animals annually. The species has experienced dramatic declines in recent years despite efforts by range countries to control poaching, as well as a prohibition on international commercial trade through listing in Appendix I of CITES.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AF49

1662. PROPOSED GUIDANCE FOR CONDUCTING CONSULTATIONS FOR THE INDIANA BAT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: None

Legal Deadline: None

Abstract: We will propose guidance to assist our field offices in addressing whether: 1) the Indiana bat is present, 2) a proposed project is likely to affect the species directly, and 3) the project is likely to affect the species' habitat.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Nancy Gloman, Chief, Division of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 452 Arlington Square, 1849 C Street NW., Washington, DC 20240
Phone: 703 358-2171

RIN: 1018–AF50

1663. 1999-2000 REFUGE-SPECIFIC HUNTING AND SPORT FISHING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 16 USC 460k; 16 USC 664; 16 USC 668 dd-ee; 16 USC 715i

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: We will propose to open additional national wildlife refuges for hunting and/or sport fishing, and to provide refuge-specific regulations for such activities. We will also propose to amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 1999-2000 season.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43834
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

DOI—FWS

Long-Term Actions

Government Levels Affected: None

Agency Contact: James W. Kurth, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AF52

1664. • NATIONAL WILDLIFE REFUGES: ADMINISTRATIVE PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 25

Legal Deadline: None

Abstract: This rule will update the administrative regulations related to management and public use of the National Wildlife Refuge System, including incorporation of applicable provisions of the National Wildlife Refuge System Improvement Act of 1997.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James W. Kurth, Chief, Division of Refuges, Department of the Interior, United States Fish and Wildlife Service, MS 670 ARLSQ, Washington, DC 20240
Phone: 703 358-1744

RIN: 1018–AF60

Department of the Interior (DOI)
United States Fish and Wildlife Service (FWS)

Completed Actions

1665. EAGLE PERMITS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 22

Completed:

Reason	Date	FR Cite
Final Action	09/17/99	64 FR 50467

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Adams
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AB81

1666. SAFE HARBOR POLICY AND GUIDANCE FOR CANDIDATE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 13; 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	09/30/99	64 FR 52676

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AD95

1667. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSED STATUS FOR TEN PLANT TAXA FROM MAUI NUI, HAWAII

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	09/03/99	64 FR 48307

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AE22

1668. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST KLAMATH RIVER POPULATION SEGMENT OF BULL TROUT AS ENDANGERED AND COLUMBIA RIVER POPULATION SEGMENT AS THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	11/01/99	64 FR 58909

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AE29

1669. MIGRATORY BIRD SPECIAL PURPOSE CANADA GOOSE PERMIT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 21

Completed:

Reason	Date	FR Cite
Final Action	06/17/99	64 FR 32766

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Jon Andrew
Phone: 703 358-1714

RIN: 1018–AE46

1670. REVISE AND AMEND HUNTING AND DISTURBANCE REGULATIONS ON UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 25; 50 CFR 27; 50 CFR 32

Completed:

Reason	Date	FR Cite
Merged With 1018-Af52	08/11/99	64 FR 43834

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Coleman
Phone: 703 358-2029

RIN: 1018–AE50

1671. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; LIST DESERT MILK VETCH AS THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/20/99	64 FR 56590

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AE57

1672. MIGRATORY BIRD HUNTING; NONTOXIC SHOT; APPROVAL OF TIN SHOT AS NONTOXIC FOR WATERFOWL AND COOT SHOOTING

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 20.21

Completed:

Reason	Date	FR Cite
Final Action	08/19/99	64 FR 45400

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Jon Andrew
Phone: 703 358-1714

RIN: 1018–AE61

1673. MIGRATORY BIRD PERMITS; FEDERAL FALCONRY STANDARDS; DETERMINATION THAT VERMONT AND WEST VIRGINIA MEET OR EXCEED FEDERAL FALCONRY STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 21

Completed:

Reason	Date	FR Cite
Final Action	09/07/99	64 FR 48565

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714
Email: paul__ schmidt@fws.gov

RIN: 1018–AE65

1674. 1998-99 REFUGE-SPECIFIC HUNTING AND FISHING REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 32

Completed:

Reason	Date	FR Cite
Final Action	09/03/98	63 FR 46910

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James W. Kurth
Phone: 703 358-1744

RIN: 1018–AE68

1675. SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA - SUBPARTS C AND D — 1999-2000 SUBSISTENCE TAKING OF FISH AND WILDLIFE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 100

Completed:

Reason	Date	FR Cite
Final Action	07/01/99	64 FR 35776

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard S. Pospahala
Phone: 907 786-3467

RIN: 1018–AE69

1676. ENDANGERED AND THREATENED WILDLIFE AND PLANTS, PROPOSAL TO LIST DEVIL'S RIVER MINNOW AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/20/99	64 FR 56596

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AE86

1677. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST AS ENDANGERED OR THREATENED PUZZLE SUNFLOWER

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	10/20/99	64 FR 47126

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AE88

1678. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO REMOVE PEREGRINE FALCON IN NORTH AMERICA FROM LIST OF ENDANGERED AND THREATENED WILDLIFE

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Final Action	08/25/99	64 FR 46541

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AF04

1679. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE ALABAMA STURGEON AS ENDANGERED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Merged With RIN 1018-AF56	11/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AF12

1680. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; PROPOSAL TO LIST THE SCALESHELLED MUSSEL AS ENDANGERED OR THREATENED

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17

Completed:

Reason	Date	FR Cite
Duplicate of RIN 1018-AF57	11/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AF14

1681. MIGRATORY BIRD HUNTING; PROPOSED 1999-2000 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN PROPOSALS

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 50 CFR 20

Completed:

Reason	Date	FR Cite
NPRM	08/27/99	64 FR 47048
Final Action	09/28/99	64 FR 52397

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul R. Schmidt
Phone: 703 358-1714
Email: paul__ schmidt@fws.gov

RIN: 1018–AF24

1682. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE CACTUS FERRIGINOUS PIGMY OWL

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17.95

Completed:

Reason	Date	FR Cite
Final Action	07/12/99	64 FR 37419

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AF36

1683. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; CRITICAL HABITAT FOR THE HUACHUCA WATER UMBEL, A PLANT

Priority: Substantive, Nonsignificant

CFR Citation: 50 CFR 17.96

Completed:

Reason	Date	FR Cite
Final Action	07/12/99	64 FR 37441

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman
Phone: 703 358-2171

RIN: 1018–AF37

1684. • CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA; ADDITION OF BIGLEAF MAHOGANY TO LIST OF CONTROLLED SPECIES

Priority: Info./Admin./Other

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: This action notifies the public that Mexico has added bigleaf mahogany and its products to Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Timetable:

Action	Date	FR Cite
Final Action	06/15/99	64 FR 31989

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Susan Lieberman, Chief, Branch of Operations, Office of Management Authority, Department of the Interior, United States Fish and Wildlife Service, MS 750, Arlington Square, 1849 C Street NW, Washington, DC 20240
Phone: 703 358-2095
Email: susan__ lieberman@fws.gov

RIN: 1018–AF58

1685. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; VENTURA MARSH MILK-VETCH

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.12

Legal Deadline: None

Abstract: This action would determine the appropriate status of the plant under the Endangered Species Act. If listed as either endangered or threatened, it would be afforded protective and recovery actions under the Act.

Timetable:

Action	Date	FR Cite
Final Action	10/20/99	64 FR 56590

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF61

1686. • ENDANGERED AND THREATENED WILDLIFE AND PLANTS; JOHNSON'S SEAGRASS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17.12

Legal Deadline: None

Abstract: This action determines that the plant should be listed under the Endangered Species Act. The National Marine Fisheries Service, as primary management authority for this species, has previously conducted a regulatory action to list the Johnson's seagrass.

Timetable:

Action	Date	FR Cite
Final Action	05/26/99	64 FR 28392

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service

DOI—FWS

Completed Actions

Phone: 703 358-2171

RIN: 1018–AF62

1687. • POLICY ON NATIONAL WILDLIFE REFUGE SYSTEM AND COMPENSATORY MITIGATION UNDER THE SECTION 10/404 PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC dd to ee

CFR Citation: None

Legal Deadline: None

Abstract: This pilicy would address the use of National Wildlife Refuge System funds for compensatory mitigation under Section 904.

Timetable:

Action	Date	FR Cite
Final Action	09/10/99	64 FR 49229

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Dr. Benjamin Tuggle, Chief, Division of Habitat Conservation, Department of the Interior, United States Fish and Wildlife Service, Room 400, 4401 North Fairfax Drive, Arlington, VA 22203
Phone: 703 358-2161

RIN: 1018–AF64

1688. • MIGRATORY BIRD HUNTING; APPROVAL OF NONTOXIC SHOT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 703 et seq

CFR Citation: 50 CFR 20.21

Legal Deadline: None

Abstract: This rule initiates the process for approval of four types of nontoxic shot that may be used for migratory bird hunting. The approvals are based on the application and testing procedures contained in 50 CFR 20.

Timetable:

Action	Date	FR Cite
Final Action	06/17/99	64 FR 45400

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kevin Adams, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-1949
Email: kevin__ adams@fws.gov

RIN: 1018–AF65

1689. • ENDANGERED AND THREATENED WILDLIFE; NINE ESU OF SALMON AND STEELHEAD

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This action adds nine ecological significant units of salmon and steelhead to the list of endangered species. The proposed and final determination of listing status was conducted by the National Marine Fisheries Service; this action simply updates the list of species under the Endangered Species Act maintained by the Service.

Timetable:

Action	Date	FR Cite
Final Action	08/02/99	64 FR 41835

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF70

1690. • CRITICAL HABITAT FOR RIO GRANDE SILVERY MINNOW

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: This action would identify those areas necessary for the survival and recovery of this fish species. If designated, the areas would be protected from adverse modification by Federal, or Federal-funded, actions.

Timetable:

Action	Date	FR Cite
Final Action	07/22/99	64 FR 36274

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Gloman, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service
Phone: 703 358-2171

RIN: 1018–AF72

BILLING CODE 4310–55–F

Department of the Interior (DOI)
National Park Service (NPS)

Proposed Rule Stage

1691. NATIONAL PARK SERVICE SYMBOLS: UNITED STATES PARK POLICE INSIGNIA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 11

Legal Deadline: None

Abstract: The rule will recognize an official United States Park Police insignia, provide for its future protection and prevent the unauthorized use of the insignia. The rule proposes to amend sections regarding authorized use and protection of the arrowhead symbol, add a section regarding the use and protection of the Park Ranger badge, and delete reference to the "Parkscape Symbol."

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Division, Department of the Interior, National Park Service, MS 7408, 1849

C Street N.W., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov

RIN: 1024–AB94

1692. APPLICABILITY AND RESOURCE PROTECTION REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462

CFR Citation: 36 CFR 2

Legal Deadline: None

Abstract: A major revision of 36 CFR part 2 was completed in 1983. This current review is to address clarification of the applicability of these regulations in National Park Service areas, and to update existing resource protection and visitor use regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street N.W., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov

RIN: 1024–AC38

1693. NON-FEDERAL OIL AND GAS RIGHTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 230a; 16 USC 450kk; 16 USC 459d-3; 16 USC 459h-3; 16 USC 460ee; 16 USC 460cc-2(i); 16 USC 460m; 16 USC 698c; 16 USC 698f; 16 USC 3101; 18 USC 3571; 18 USC 3581; 43 USC 600d

CFR Citation: 36 CFR 9

Legal Deadline: None

Abstract: This rule will update existing regulations that were promulgated in 1978 to make them consistent with existing laws, policies, and practices and will improve their clarity and workability. The rule will implement Congressional mandates for park resource protection contained in the Big Cypress National Preserve Act of 1988. The rule will strengthen the ability of the NPS to protect the natural, cultural, and historic resources of system units from non-Federal oil and gas and geothermal operations within park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol McCoy, Mining and Minerals Branch, Department of the Interior, National Park Service, Room 221, 12795 West Alameda Parkway, Lakewood, CA 80225
Phone: 303 969-2096

RIN: 1024–AC53

1694. DENALI NATIONAL PARK AND PRESERVE, SPECIAL REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 462(k); 16 USC 3101 et seq

CFR Citation: 36 CFR 13.63

Legal Deadline: None

Abstract: This proposed rule will change out-of-date references to Mount McKinley National Park to Denali National Park. It will also consolidate in the special regulations existing designations closures, permit requirements, and other restrictions regarding vehicle use, vehicle traffic, oversize vehicles, snowmachines and public health, safety, and resource protection postings and closures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russ Wilson, Alaska Desk Officer, Department of the Interior, National Park Service
Phone: 202 208-6381

RIN: 1024–AC58

1695. VEHICLES AND TRAFFIC SAFETY; OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 462k

CFR Citation: 36 CFR 4.23

Legal Deadline: None

Abstract: The National Park Service (NPS) is proposing to amend its regulations concerning motor vehicle operation under the influence of alcohol within units of the NPS. Current NPS regulations prohibit operation with a blood alcohol concentration (BAC) of 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath. On March 3, 1998, President Clinton directed the NPS to promulgate regulations adopting a stricter limit of 0.08 grams BAC within units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street N.W., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov

RIN: 1024–AC69

1696. SOLID WASTE SITES IN UNITS OF THE NATIONAL PARK SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 460l-22(c)

CFR Citation: 36 CFR 6.7

Legal Deadline: None

Abstract: The National Park Service (NPS) proposes to amend 36 CFR 6.7 to clarify its applicability to mining-generated solid wastes in units of the

DOI—NPS

Proposed Rule Stage

NPS. The proposed amendments are not intended to change the substantive scope and goals of 36 CFR 6, which has been in effect since January 25, 1995.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julia Brunner, Ecologist, Department of the Interior, National Park Service
Phone: 303 969-2012

RIN: 1024–AC70

1697. CONCESSION CONTRACTS

Priority: Other Significant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 20

CFR Citation: 36 CFR 51

Legal Deadline: None

Abstract: The National Park Service is proposing to revise existing regulations governing the award of concession contracts. Title IV of Public Law 105-391 (the National PArk Service Concessions Management Improvement Act of 1998) became effective on November 13, 1998, and repealed Public Law 89-249, the Concessions Policies Act of 1965. The new Act mandates revised procedures for issuing concession contracts as well as revised terms and conditions to be included in concession contracts. Section 417 of Public Law 105-391 requires the Secretary to issue implementing regulations as soon as practicable after the effective date of the Act. Existing regulations governing the concession contracting process are in conflict with several provisions of the new law and must be revised to reflect new statutory requirements. The proposed rule will affect approximately 625 concessioners operating within areas administered by NPS.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35516
NPRM Comment Period End	10/15/99	64 FR 47336
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Wendy Mann, Senior Contract Analyst, Department of the Interior, National Park Service, Concessions Management Program, 1849 C Street N.W., MS 7313, Washington, DC 20240
Phone: 202 565-1219
Email: wendy__ mann@nps.gov

RIN: 1024–AC72

1698. WORLD HERITAGE CONVENTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 470a-1; 16 USC 470a-2

CFR Citation: 36 CFR 73

Legal Deadline: None

Abstract: This rule will revise the existing World Heritage regulations to make necessary changes, such as correcting or eliminating the annual calendar for preparing and submitting U.S. nominations (now outdated), correcting the criteria for selecting sites (also outdated), and providing more explicit procedures for public participation. The underlying treaty (World Heritage Convention) and law (Historic Preservation Act Amendments of 1980) will remain in place unchanged.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: James Charleton, International Cooperation Specialist, Department of the Interior, National Park Service, MS 2252, Office of International Affairs, 1849 C Street N.W., MS 2252, Washington, DC 20240
Phone: 202 565-1280

RIN: 1024–AC74

Department of the Interior (DOI)
National Park Service (NPS)

Final Rule Stage

1699. RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 3; 16 USC 5; 16 USC 79

CFR Citation: 36 CFR 14

Legal Deadline: None

Abstract: The regulations for rights-of-way found at 36 CFR part 14 subparts A to H were promulgated as interim regulations in 1980. The regulations no longer meet the needs of the Service or of rights-of-way applicants. Final regulations need to be developed through a revision of part 14.

Timetable:

Action	Date	FR Cite
NPRM	12/01/97	62 FR 63488
NPRM Comment Period End	01/30/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Young, Park Ranger, Department of the Interior, National Park Service
Phone: 757 898-7846

RIN: 1024–AC01

1700. VOYAGEURS NATIONAL PARK: AIRCRAFT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.33

Legal Deadline: None

Abstract: This proposed rulemaking amends the current special regulations for Voyageurs National Park by adding

a section designating areas open to aircraft use within the Park. This addition is necessary because National Park Service general regulations require such special regulatory designations for areas in parks open to the operation or use of aircraft. The intended effects are to increase safety, protect resources, and provide appropriate enjoyment to park users.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/95	60 FR 39257
NPRM	01/31/96	61 FR 3360
NPRM Comment Period End	09/05/96	61 FR 20775
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jim Hummel, Chief Ranger, Department of the Interior, National Park Service
Phone: 218 283-9821

RIN: 1024–AC23

1701. GRAND TETON NATIONAL PARK AND JOHN D. ROCKEFELLER, JR. MEMORIAL PARKWAY: SNOWMOBILE AND SNOWPLANE ROUTES AND REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.22

Legal Deadline: None

Abstract: The National Park Service proposes to change the special regulations relating to the use of and designated routes for snowmobiles and snowplanes within Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The proposed rule will define more clearly the use of snowmobiles, snowplanes, and designated routes. This rule can eliminate the use of snowmobiles in the Potholes-Baseline Flats area at the discretion of the Superintendent and establish special regulations allowing snowmobile use on the Continental Divide Snowmobile Trail. The proposed rule will also establish a requirement for operators of snowmobiles within Grand Teton National Park to have a valid driver's license or learner's permit.

Timetable:

Action	Date	FR Cite
NPRM	10/25/95	60 FR 54633
NPRM Comment Period End	12/26/95	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street N.W., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov

RIN: 1024–AC34

1702. BIG CYPRESS NATIONAL PRESERVE; RECREATIONAL FROGGING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will allow the recreational, non-commercial taking of the pig frog (Rana grylio) in the Preserve. The rule will designate seasons, times, locations, methods, and means of taking, and establish harvest limits and permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/22/96	61 FR 59393
NPRM Comment Period End	01/21/97	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin Kacer, Chief Ranger, Department of the Interior, National Park Service, Big Cypress National Preserve
Phone: 941 695-2000

RIN: 1024–AC54

1703. DELAWARE WATER GAP NRA, BICYCLE TRAIL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(g); 16 USC 462(k)

CFR Citation: 36 CFR 7.71

Legal Deadline: None

Abstract: This rule will designate certain routes within a nondeveloped area of Delaware Water Gap NRA as open to bicycle use, and will regulate their use in this area.

Timetable:

Action	Date	FR Cite
NPRM	11/13/97	62 FR 60815
NPRM Comment Period End	01/12/98	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Doyle Nelson, Supervisory Park Ranger, Department of the Interior, National Park Service
Phone: 908 841-9533

RIN: 1024–AC62

1704. PERSONAL WATERCRAFT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 3

Legal Deadline: None

Abstract: This rule will provide a process for authorizing the use of personal watercraft in units of the NPS through area designations by the Superintendent using the criteria, procedures, and standards adopted by this rule. This rule will enable the NPS to better manage the burgeoning use of personal watercraft in units of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	09/15/98	63 FR 49312
NPRM Comment Period End	11/16/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Division, Department of the Interior,

DOI—NPS **Final Rule Stage**

National Park Service, MS 7408, 1849 C Street N.W., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov

RIN: 1024–AC65

1705. APPALACHIAN NATIONAL SCENIC TRAIL—SNOWMOBILES

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 1; 16 USC 3; 16 USC 9a; 16 USC 460(l); 16 USC 462 (k)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: This rule will designate trail crossings of snowmobile trails at three locations along the Appalachian National Scenic Trail. These trail crossings are part of a State-approved network of snowmobile routes that exist on adjacent State lands. These crossings existed prior to the NPS assuming management of the National Scenic Trail. Designating these crossings fulfills assurances made by the NPS at the time of land acquisition that establishment of the permanent linear trail corridor would not sever established snowmobile routes.

Timetable:

Action	Date	FR Cite
NPRM	03/19/98	63 FR 13383
NPRM Comment Period End	05/18/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street N.W., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov

RIN: 1024–AC67

1706. LAND AND WATER CONSERVATION FUND OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 460l-4

CFR Citation: 36 CFR 59

Legal Deadline: None

Abstract: This amendment to 36 CFR 59 modifies Land and Water Conservation Fund (L&WCF) post-completion requirements by: (1) Clarifying the "State" planning prerequisite for conversion approval; (2) allowing the recipient of an L&WCF grant to use non-recreation land it currently owns, or non-recreation land that is transferred from one public agency to another without payment, to satisfy the replacement requirement when land acquired with L&WCF assistance is proposed for conversion to other than public outdoor recreation uses, assuming all other eligibility criteria are met; (3) eliminating the requirement to notify NPS of all instances of obsolescence and facility use changes; and (4) establishing standards for resolving premature conversions to ensure their timely resolution.

Timetable:

Action	Date	FR Cite
NPRM	12/08/98	63 FR 67638
NPRM Comment Period End	02/08/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Wayne Strum, Outdoor Recreation Planner, Department of the Interior, National Park Service, Recreation Programs Division, 1849 C Street N.W., Washington, DC 20240
Phone: 202 565-1129

RIN: 1024–AC68

1707. INFORMATION COLLECTION ACTIVITIES

Priority: Info./Admin./Other

Legal Authority: 16 USC 1; 16 USC 3; 44 USC 3506

CFR Citation: 36 CFR 15

Legal Deadline: None

Abstract: This final rule is an administrative change to 36 CFR to condense and clarify NPS information collection activities. This change will remove references to OMB approvals for collections of information presently scattered throughout NPS regulations and consolidate them in one part of 36 CFR. These changes do not increase the burden of information collection as described in the Paperwork Reduction Act of 1995 or its implementing regulations at 5 CFR 1320.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis, Division, Department of the Interior, National Park Service, MS 7408, 1849 C Street N.W., ms 7408, Washington, DC 20240
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov

RIN: 1024–AC71

Department of the Interior (DOI) National Park Service (NPS) — Completed Actions

1708. NATIONAL NATURAL LANDMARKS PROGRAM

Priority: Other Significant

CFR Citation: 36 CFR 62

Completed:

Reason	Date	FR Cite
Final Action	05/12/99	64 FR 25708
Final Action Effective	06/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Craig Shafer

DOI—NPS — **Completed Actions**

Phone: 202 219-8934
RIN: 1024–AB96

1709. GLACIER BAY NATIONAL PARK, ALASKA FISHING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 36 CFR 13.65

Completed:

Reason	Date	FR Cite
Reproposed Rule	08/02/99	64 FR 41854
NPRM Comment Period End	09/16/99	
Final Action	10/20/99	64 FR 56455
Final Action Effective	10/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tomie Lee
Phone: 907 697-2230
RIN: 1024–AB99

1710. KALOKO-HONOKOHOU NATIONAL HISTORIC PARK: PUBLIC NUDITY

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7.87

Completed:

Reason	Date	FR Cite
Final Action	04/21/99	64 FR 19483
Final Action Effective	05/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov
RIN: 1024–AC66

1711. CANAVERAL NATIONAL SEASHORE; PUBLIC NUDITY

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 7

Completed:

Reason	Date	FR Cite
Withdrawn	08/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chip H. Davis
Phone: 202 208-4874
Fax: 202 208-6756
Email: Chip H Davis@rad.nps.gov
RIN: 1024–AC73

BILLING CODE 4310–70–F

Department of the Interior (DOI)
Bureau of Indian Affairs (BIA) — **Prerule Stage**

1712. USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1401 et seq

CFR Citation: 25 CFR 87

Legal Deadline: None

Abstract: This rule will update the existing provisions to reflect the changes to the Indian Judgement Funds Distribution Act that were made in 1992 by Public Law 102-572.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daisy West, Tribal Relations Officer, Department of the Interior, Bureau of Indian Affairs, Room 4603, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2475

RIN: 1076–AD94

Department of the Interior (DOI)
Bureau of Indian Affairs (BIA) — **Proposed Rule Stage**

1713. INDIAN SCHOOL EQUALIZATION PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13; 25 USC 2008

CFR Citation: 25 CFR 39

Legal Deadline: None

Abstract: This rule will change the definitions of some disabling conditions so that they are consistent with Department of Education definitions of some disabling conditions and adjust the way schools are reimbursed for student transportation services.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rod Young, Chief, Branch of Administrative Services, Department of the Interior, Bureau of Indian Affairs, MS 3512, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4555

RIN: 1076–AD09

1714. LEASING RESTRICTED LANDS OF MEMBERS OF THE FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 356

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: BIA is revising this rule to ensure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, processing lease payments through the Minerals Management Service, and the approval process for division orders.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Robertson, Realty Officer, Muskogee Area Office, Department of the Interior, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, OK 74401
Phone: 918 687-2324

RIN: 1076–AD33

1715. EXPLORATION, MINING, AND RECLAMATION OF LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 355; 25 USC 396; 25 USC 473; 25 USC 501; 25 USC 396; 5 USC 301

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will update part 216 to incorporate changes in regulations as well as the mining industry. It will bring the bureau into conformance with the standards of the Bureau of Land Management and the Office of Surface Mining and will protect the Indian mineral owners by giving them no less protection than what is given to Federal lands. Indian mineral owners will be protected through the regulation of exploration for minerals by adequate measures that avoid, minimize, or correct damage to the environment, land, water, and the public safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pete Aguilar, Geologist, Department of the Interior, Bureau of Indian Affairs, Suite 300, Office of Trust Responsibilities, 12136 West Bayaud Avenue, Lakewood, CO 80228
Phone: 303 969-5270
Email: ksnyder@snakel.cr.usgs.gov

RIN: 1076–AD36

1716. TRIBAL REORGANIZATION UNDER A FEDERAL STATUTE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 81

Legal Deadline: None

Abstract: This rule contains uniform procedures for conducting Secretarial elections for voting on proposed constitutions when tribes wish to reorganize, adopt constitutional amendments, ratify and amend charters, or revoke existing constitutions. This revision will incorporate changes to comply with Public Law 100-581.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Minneapolis Area Office, 331 South Second Avenue, Minneapolis, MN 55401
Phone: 612 373-1125

RIN: 1076–AD46

1717. PETITIONING PROCEDURES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 473a; 25 USC 476; 25 USC 477; 25 USC 503

CFR Citation: 25 CFR 82

Legal Deadline: None

Abstract: This rule contains procedures for submitting petitions that request the Secretary to call elections to amend tribal constitutions, issue charters, and other actions. The revision will allow the petitioners' spokesman to make technical changes to petitions in consultation with the Bureau and to change the petition format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Delores Springer, Office of Tribal Services, Department of the Interior, Bureau of Indian Affairs, Minneapolis Area Office, 331 South Second Avenue, Minneapolis, MN 55401
Phone: 612 373-1125

RIN: 1076–AD47

1718. ACADEMIC AND DORMITORY STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2001; 25 USC 2002; 25 USC 2003; PL 95-561; 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will eliminate subparts A through G of 25 CFR 36. Of 189 Bureau schools, 179 have adopted State or regional academic standards. BIA will assist the remaining schools to achieve State or regional accreditation. This will render the rules in subparts A through G obsolete.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James C. Martin, Division Chief, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5810

RIN: 1076–AD55

1719. EDUCATION CONTRACTS UNDER THE JOHNSON-O'MALLEY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: The rule will include guidelines and responsibilities related to agreements under the provisions of the Indian Self Determination Act Amendments of 1994. The new provisions will reduce the burden of reporting requirements by the tribes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs Phone: 202 208-3478

RIN: 1076–AD58

1720. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1469

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: The direct loan program is being eliminated. We will eliminate most of 25 CFR 101 and will rewrite the rest.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660, MIB, 1849 C Street NW, Washington, DC 20240 Phone: 202 208-4796 Email: woody__ sneed@ios.doi.gov

RIN: 1076–AD59

1721. ARRANGEMENT WITH STATES, TERRITORIES, OR OTHER AGENCIES FOR SOCIAL WELFARE AND RELIEF OF DISTRESS OF INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 454

CFR Citation: 25 CFR 21

Legal Deadline: None

Abstract: The Bureau has never used this regulation. Other regulations in 25 CFR provide adequate authority for the Bureau to contract with other organizations to provide social services for eligible Indians. Because this regulation is not needed, we will remove it from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/01/96	61 FR 33876
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, MS 4641, MIB, 1849 C Street NW, Washington, DC 20240 Phone: 202 208-2721

RIN: 1076–AD61

1722. SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-4

CFR Citation: 25 CFR 277

Legal Deadline: None

Abstract: This rule is being eliminated because the program it governs has never been funded.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Joann Sebastian Morris, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, MS 3512, MIB, 1849 C Street NW, Washington, DC 20240 Phone: 202 208-6123

RIN: 1076–AD69

1723. ADULT VOCATIONAL TRAINING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 309; PL 88-230

CFR Citation: 25 CFR 27

Legal Deadline: None

Abstract: The rule for BIA's adult vocational training program is being rewritten in plain English as part of the President's regulatory reform initiative

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Poleahla, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4660, MIB, 1849 C Street NW, Washington, DC 20240 Phone: 202 208-2671

RIN: 1076–AD72

1724. LOAN GUARANTEE PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1451

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: The rule for the guaranteed loan program is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660, MIB, 1849 C Street NW, Washington, DC 20240 Phone: 202 208-4796 Email: woody__ sneed@ios.doi.gov

RIN: 1076–AD73

1725. EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 26

DOI—BIA

Proposed Rule Stage

Legal Deadline: None

Abstract: The rule for BIA's employment assistance program for adult Indians is being rewritten in plain English as part of the President's regulatory reform initiative.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dean Poleahla, Office of Economic Development, Department of the Interior, Bureau of Indian Affairs, MS 4660, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2671

RIN: 1076–AD75

1726. CERTIFICATES OF DEGREE OF INDIAN BLOOD

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 70

Legal Deadline: None

Abstract: This rule establishes procedures for processing certificates of degree of Indian blood.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD78

1727. MORTGAGES AND DEEDS OF TRUST ON INDIVIDUALLY OWNED TRUST LAND OR LAND SUBJECT TO A RESTRICTION ON ALIENATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 483a

CFR Citation: 25 CFR 152

Legal Deadline: None

Abstract: Indians may mortgage or give deeds of trust to their restricted land with approval of the Secretary of the Interior. The regulation will state the conditions under which approval will be given.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4796
Email: woody__ sneed@ios.doi.gov

RIN: 1076–AD85

1728. ACQUISITION OF TITLE TO LAND IN TRUST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 2719

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: On September 18, 1980, we issued the first regulations for acquisition of title to land in trust by the United States for Indian tribes and individual Indians. This rule clarifies the process and criteria by which we determine whether to acquire title to land in trust.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Terry Virden, Director, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, MS 4513, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5831

RIN: 1076–AD90

1729. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is updating this rule to reflect changes in welfare programs. The principal changes are due to Public Law 104-193 which enacted welfare reform and removed welfare as an entitlement. The revised rule will reflect changes resulting from this law and other developments in national welfare policy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Larry R. Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, MS 4641, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2721

RIN: 1076–AD91

1730. LAND ACQUISITIONS FOR GAMING

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 2719

CFR Citation: 25 CFR 292

Legal Deadline: None

Abstract: This rule establishes the procedures that the Secretary will use to review tribal applications for trust acquisition of lands for gaming purposes. It applies only to trust acquisitions for gaming purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs, MS 2070, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4066

RIN: 1076–AD93

Department of the Interior (DOI)
Bureau of Indian Affairs (BIA)

Final Rule Stage

1731. LEASING AND PERMITTING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 395; 25 USC 402; 25 USC 403; 25 USC 466

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: This rule will reorganize the existing leasing and permitting rule into subparts and incorporate the provisions on range permits and leasing required by Public Law 103-177.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30560
NPRM Comment Period End	10/15/96	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, MS 4513, MIB, 1849 C Street NW, Washington, DC 20240 Phone: 202 208-3598

RIN: 1076–AA29

1732. NAVAJO PARTITIONED LANDS GRAZING REGULATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 640(d)

CFR Citation: 25 CFR 161

Legal Deadline: None

Abstract: These regulations are necessary for implementation of the livestock and grazing control provisions of 25 USC 640(d). In 1982 the Federal District Court for Arizona abolished 25 CFR 153 Grazing Regulation for the Joint Use Administrative Area and ordered the Secretary to promulgate new regulations for the control of grazing and livestock for the former Joint Use Administrative Area. Due to a lack of tribal concurrence regulations were not promulgated for lands partitioned to the Navajo tribe. Navajo tribal concurrence has been recently obtained; therefore, the BIA needs to move forward with publication of these regulations. Any cost associated with the implementation of these regulations will be assumed within the BIA annual budget. Cost associated with compliance of the provisions of these regulations will be borne by the Navajo tribe or its members. There is no associated cost to the general public.

Timetable:

Action	Date	FR Cite
NPRM	11/01/95	60 FR 55506
NPRM Comment Period End	09/06/96	61 FR 29327
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Bradford, Chief, Branch of Agriculture and Range, Department of the Interior, Bureau of Indian Affairs, MS 4513, MIB, 1849 C Street NW, Washington, DC 20240 Phone: 202 208-3598

RIN: 1076–AC81

1733. PREFERENCE IN EMPLOYMENT

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The Bureau is proposing to eliminate provisions relating to preference in employment because they expired on January 5, 1990.

Timetable:

Action	Date	FR Cite
NPRM	07/12/96	61 FR 36671
NPRM Comment Period End	09/10/96	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1887, Albuquerque, NM Phone: 505 248-6082

RIN: 1076–AD05

1734. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1801 to 1852; 25 USC 640; 25 USC 1831

CFR Citation: 25 CFR 41

Legal Deadline: None

Abstract: This rule applies to the provision of financial assistance technical assistance, and endowments to tribal colleges and Navajo Community College and will strengthen requirements relating to: (1) Criteria for satisfactory programs; (2) counting Indian students; (3) developing planning grants; (4) forward funding; (5) renovation and construction of facilities; and (6) preparing construction feasibility reports.

Timetable:

Action	Date	FR Cite
NPRM	04/01/97	62 FR 15446
NPRM Comment Period End	06/02/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Garry R. Martin, Education Specialist, Department of the Interior, Bureau of Indian Affairs Phone: 202 208-3478

RIN: 1076–AD08

1735. INDIAN TRIBAL JUSTICE SUPPORT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-176; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200; 25 USC 3601 et seq

CFR Citation: 25 CFR 92

Legal Deadline: None

Abstract: This rule will establish a base funding formula for the distribution of appropriations under the Indian Tribal Justice Act. BIA will use this formula to determine the funding levels to be awarded to eligible Indian tribes for use in establishing or enhancing traditional or contemporary justice systems.

DOI—BIA

Final Rule Stage

Timetable:

Action	Date	FR Cite
Tribal Consultation	06/20/95	
NPRM	07/30/96	61 FR 39607
NPRM Comment Period End	09/30/96	
Final Action	06/00/00	
Final Action Effective	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD15

1736. TRIBAL SELF-GOVERNANCE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-413

CFR Citation: 25 CFR 1000

Legal Deadline: None

Abstract: This rule will clarify how the Department and tribes will carry out their respective responsibilities under the Tribal Self-Governance Act of 1994. At the request of a majority of Indian tribes with self-governance agreements, the Secretary has established a negotiated rulemaking committee to negotiate and promulgate such regulations as are necessary to carry out the Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish a Negotiated Rulemaking Committee	02/15/95	60 FR 8806
NPRM	02/12/98	63 FR 7202
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal, Tribal

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD20

1737. LEASING OSAGE RESERVATION LANDS FOR MINING OF MINERALS OTHER THAN OIL AND GAS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 59-321

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This revision eliminates royalties for minerals not found within the Osage Mineral Estate and gives the Osage tribal Council authority for setting applicable royalty rates. This revision also replaces outmoded methods of exchange with modern methods and designates officials responsible for management of non-oil and gas minerals within the Osage Mineral Estate. The revisions will enhance the Department's management of the production of these minerals and eliminate inaccuracies in the current regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/08/96	61 FR 41365
NPRM Comment Period End	10/07/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: De Sloan, Acting Superintendent, Osage Agency, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1539, Pawhuska, OK 74056
Phone: 918 287-1351

RIN: 1076–AD34

1738. LEAD AND ZINC MINING OPERATIONS AND LEASES ON QUAPAW INDIAN LANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 66-359; PL 75-39

CFR Citation: 25 CFR 215

Legal Deadline: None

Abstract: This rule will update the procedures for leasing and discovery testing, processing, developing, and mining lead and zinc on lands under the jurisdiction of BIA's Miami Agency in Ottawa County, Oklahoma. The revisions will assist affected Indians with the efficient development of their lead and zinc deposits without waste, avoidable loss, or damage to their natural resources, the environment, or other resources. The rule will also retitle 25 CFR 215.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 44019
NPRM Comment Period End	10/28/96	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Dalgarn, Supervisory Realty Specialist, Department of the Interior, Bureau of Indian Affairs, Miami Agency, P.O. Box 391, Miami, OK 74355
Phone: 918 542-3396

RIN: 1076–AD35

1739. IRRIGATION PROJECTS AND SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 171

Legal Deadline: None

Abstract: This rule governs the operation and maintenance of BIA-owned irrigation projects. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35167
NPRM Comment Period End	09/03/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5480

RIN: 1076–AD44

DOI—BIA

Final Rule Stage

1740. INDIAN ELECTRIC POWER UTILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 385

CFR Citation: 25 CFR 175

Legal Deadline: None

Abstract: This rule contains procedures governing the operation of BIA-owned power utilities. It is being revised as part of the President's reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29040
NPRM Comment Period End	08/06/96	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ross Mooney, Civil Engineer, Department of the Interior, Bureau of Indian Affairs, Room 4559, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-5480

RIN: 1076–AD45

1741. APPEALS FROM ADMINISTRATIVE ACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: This rule changes the BIA delegations of authority and appeals process. The change will reduce burden on the tribes since there will be less confusion about how to file appeals and the processing of appeals within the Bureau. The revision will also clarify the rule and make it consistent with Bureau policy.

Timetable:

Action	Date	FR Cite
NPRM	06/21/96	61 FR 31875
NPRM Comment Period End	09/19/96	
Final Action	05/00/00	
Final Action Effective	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD50

1742. INDIAN BUSINESS DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 1524

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: The Indian Business Development Program is being discontinued. Entities already having received grants must submit business financial statements. The rule is being rewritten in plain English to reflect this situation.

Timetable:

Action	Date	FR Cite
NPRM	01/30/97	62 FR 4497
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Woodrow B. Sneed, Financial Analyst, Department of the Interior, Bureau of Indian Affairs, MS 4660, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4796
Email: woody__ sneed@ios.doi.gov

RIN: 1076–AD70

1743. TRIBAL REVENUE ALLOCATION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 2710; 5 USC 301

CFR Citation: 25 CFR 290

Legal Deadline: None

Abstract: This rule notifies the public of how tribal revenues are allocated.

Timetable:

Action	Date	FR Cite
NPRM	06/07/96	61 FR 29044
NPRM Comment Period End	08/06/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Skibine, Director, Indian Gaming Management Staff, Department of the Interior, Bureau of Indian Affairs, MS 2070, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4066

RIN: 1076–AD74

1744. COURTS OF INDIAN OFFENSES

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 13; 25 USC 200

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This rule will add offenses and clarify the authority of Courts of Indian Offenses.

Timetable:

Action	Date	FR Cite
NPRM	07/05/96	61 FR 35158
NPRM Comment Period End	09/04/96	
Final Action	05/00/00	
Final Action Effective	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bettie Rushing, BIA Security Programs, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1887, Albuquerque, NM
Phone: 505 248-6082

RIN: 1076–AD76

1745. USE OF COLUMBIA RIVER FISH ACCESS SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 100-581

CFR Citation: 25 CFR 247

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of fishing access sites on the Columbia River.

DOI—BIA **Final Rule Stage**

These sites are required to allow tribes boat access to the river so that they may exercise their treaty fishing rights. The rule defines who may use the sites, permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities located on the sites.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD83

1746. USE OF COLUMBIA RIVER IN-LIEU FISHING SITES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 248

Legal Deadline: None

Abstract: This rule contains procedures for permitting tribal use of in-lieu fishing sites on the Columbia River. These sites are owned by the Federal government and are necessary to allow boat access to the river so that Indian fishers can exercise their treaty fishing rights. The rule defines who may use the sites permitted and prohibited activities, and health and safety standards. It also provides rules for using facilities on the site.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55767
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Chuck James, Area Archeologist, Department of the Interior, Bureau of Indian Affairs
Phone: 503 231-6229

RIN: 1076–AD86

1747. PREPARATION OF ROLLS OF INDIANS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 1300d-3(b)

CFR Citation: 25 CFR 61

Legal Deadline: None

Abstract: We must reopen the enrollment application process authorized under 25 USC 1300d-3 (b) to give individuals another opportunity to file applications to share in the Sisseton and Wahpeton Mississippi Sioux Judgment Fund distribution.

Timetable:

Action	Date	FR Cite
NPRM	07/08/98	63 FR 36866
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daisy West, Tribal Relations Officer, Department of the Interior, Bureau of Indian Affairs, Room 4603, MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2475

RIN: 1076–AD89

Department of the Interior (DOI)
Bureau of Indian Affairs (BIA) **Completed Actions**

1748. CLASS III GAMING PROCEDURES

Priority: Other Significant

CFR Citation: 25 CFR 291

Completed:

Reason	Date	FR Cite
Final Action	04/12/99	64 FR 17535

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Local

Agency Contact: Paula L. Hart
Phone: 202 219-4066

RIN: 1076–AD87

BILLING CODE 4310–02–F

Department of the Interior (DOI)
Minerals Management Service (MMS) **Proposed Rule Stage**

1749. VALUATION OF OIL FROM INDIAN LEASES

Regulatory Plan: This entry is Seq. No. 55 in Part II of this issue of the **Federal Register**.

RIN: 1010–AC24

1750. REFUNDS AND RECOUPMENT OF OVERPAYMENTS ON OCS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 25 USC 181 et seq; 25 USC 351 et seq; 25 USC 1001 et seq; 25 USC 1701 et seq; 25 USC 1735; 25 USC 3716; 25 USC 3720a; 25 USC 9701; 25 USC 1301 et seq; 25 USC 1331 et seq; 25 USC 1801 et seq

CFR Citation: 30 CFR 206; 30 CFR 218; 30 CFR 230

Legal Deadline: None

Abstract: This rule allows MMS to pay interest on Federal onshore and offshore oil and gas royalty overpayments and makes interest charges more equitable between the payor and the recipient. Interest will be paid on overpayments related to royalty, rent and estimates resulting from sales of Federal onshore and offshore oil and gas production.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
NPRM Comment Period End	07/00/00	

Regulatory Flexibility Analysis Required: Yes

DOI—MMS

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC27

1751. TAKES VS. ENTITLEMENTS REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 205

Legal Deadline: None

Abstract: This rule addresses reporting and payment requirements for production removed and sold from a Federal lease, unit participating area, or communitization agreement beginning September 1996.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC29

1752. ACCOUNTING RELIEF FOR MARGINAL PROPERTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows reporters to seek accounting, reporting, and auditing relief for their marginal properties in accordance with section 117(c) of the Federal Oil and Gas Royalty Management Act of 1982 as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3360
NPRM Comment Period End	03/22/99	
Supplemental NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC30

1753. CHRONIC ERRONEOUS REPORTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 43 USC 1801 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq

CFR Citation: 30 CFR 216; 30 CFR 218

Legal Deadline: None

Abstract: This rule eliminates assessments for late reporting and failure to report and defines the assessment criteria. The new rule will define what is considered a chronic erroneous reporter and applicable assessments. Penalties for failure to report are also addressed.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC34

1754. OIL AND GAS DRILLING OPERATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: The rule will be written in plain English, substantive changes will be incorporated, and the rule will reflect the results of the blowout preventer study.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC43

DOI—MMS

Proposed Rule Stage

1755. EXPLORATION OR DEVELOPMENT AND PRODUCTION PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 25 CFR 250

Legal Deadline: None

Abstract: MMS requires companies to submit for approval their exploration and development plans for activities on the Outer Continental Shelf. The companies must submit these plans before they can begin any activities, except preliminary activities. This rule would rewrite the requirements into clearer language and organize them into discrete sections by topic, to make them easier to follow.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC47

1756. PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 280

Legal Deadline: None

Abstract: This rule will expand the provisions governing research by requiring everyone conducting geological and geophysical scientific research without a permit to file a notice with MMS. These revisions respond to changes in technology and practice.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC48

1757. • PRODUCER-OPERATED OUTER CONTINENTAL SHELF PIPELINES THAT CROSS DIRECTLY INTO STATE WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: A 1996 Memorandum of Understanding between the Departments of the Interior and Commerce agreed that interior would regulate producer-operated pipelines in the OCS and Transportation would regulate transporter-operated pipelines. This rule will implement the terms of the memorandum. It will ensure that 35 Gulf of Mexico and 10 California producer-operated pipelines are regulated by the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC56

1758. • INCIDENT REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: Recent rapid growth in offshore exploration and production activities in the Gulf of Mexico has led to an increase in accidents and fatalities. Since safety is our top priority, we must upgrade our accident investigation functions. To do this, we need accurate and timely information. This rule is the only was to require operators, lessees, and permit holders in the Outer Continental Shelf (OCS) to give us a written report about each OCS accident. It will also establish clearer guidelines for accident reporting thresholds and timing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC57

1759. • VALUATION OF FEDERAL GEOTHERMAL RESOURCES USED TO GENERATE ELECTRICITY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule contains procedures to use in valuing geothermal resources used to generate electricity.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/99	64 FR 45213
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385

DOI—MMS **Proposed Rule Stage**

Email: David.Guzy@mms.gov
RIN: 1010–AC59

Department of the Interior (DOI)
Minerals Management Service (MMS) **Final Rule Stage**

1760. VALUATION OF OIL FROM FEDERAL MINERAL LEASES

Regulatory Plan: This entry is Seq. No. 56 in Part II of this issue of the **Federal Register**.

RIN: 1010–AC09

1761. POSTLEASE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.1 to 250.29; 30 CFR 218.154; 30 CFR 256.1; 30 CFR 256.4; 30 CFR 256.55; 30 CFR 256.73

Legal Deadline: None

Abstract: This rule is a complete rewrite in plain English and changes the current regulation by both adding and deleting language. Although some of these changes could be considered significant when compared to the current regulations, they support the policies and procedures now in place. The proposed rule is revised to be as broad and general in scope as feasible.

Timetable:

Action	Date	FR Cite
NPRM	02/13/98	63 FR 7335
NPRM Comment Period End	07/17/98	63 FR 25187
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC32

1762. TRAINING LESSEE AND CONTRACTOR EMPLOYEES ENGAGED IN OIL AND GAS OPERATIONS IN THE OUTER CONTINENTAL SHELF

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 133

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule would require operators and lessees to ensure that their workers (including contractors) are properly trained and can demonstrate their proficiency to MMS. Operators and lessees will determine the type of training, teaching methods, training length, and frequency. MMS will develop appropriate performance measures and indicators. These measures may include: written testing; hands-on and simulator testing; audits, interviews, or cooperative reviews; and incidence of noncompliance for civil penalty and events data.

Timetable:

Action	Date	FR Cite
NPRM	04/20/99	64 FR 19318
NPRM Comment Period End	07/19/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov,

RIN: 1010–AC41

1763. REVIEWING EXPLORATION PLANS AND DEVELOPMENT AND PRODUCTION PLANS FOR COASTAL ZONE CONSISTENCY

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule proposes to amend provisions specifying how States will review exploration plans and development and production plans for coastal zone consistency.

Timetable:

Action	Date	FR Cite
NPRM	02/17/99	64 FR 7837
NPRM Comment Period End	04/12/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC42

1764. UPDATE OF DOCUMENTS INCORPORATED BY REFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: This rule incorporates by reference the following American Petroleum Institute Recommended Practices: Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2 (API RP 500) and Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone2 ((API RP 505). By incorporating these documents, we will ensure that lessees use the best available and safest technologies while operating in the outer continental shelf.

Timetable:

Action	Date	FR Cite
NPRM	03/19/99	64 FR 13535

DOI—MMS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	06/18/99	
Final Action	10/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joseph Levine, Chief, Operations Analysis Branch, Department of the Interior, Minerals Management Service, MS 4024, 381 Eldon Street, Herndon, VA 20170-4817
Phone: 703 787-1032
Email: rules.comments@mms.gov

RIN: 1010–AC55

Department of the Interior (DOI)
Minerals Management Service (MMS)

Long-Term Actions

1765. ROYALTY PAYMENT LIABILITY

Priority: Other Significant

Legal Authority: 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq; 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq

CFR Citation: 30 CFR 211

Legal Deadline: None

Abstract: Responsibilities of Minerals Management Service include the collection of royalties, bonuses, rentals, and related revenues from Federal and Indian mineral leases. These monies are, for the most part, collected from the current designated payor on the lease. However, if MMS is unable to collect from the current payor, it must pursue collections from prior payor(s), the lessee, or an assignee of the lease. Existing regulations are unclear as to the responsibilities and liabilities of the parties involved. Therefore, MMS is amending its regulations to clarify payor, lessee, and assignee requirements and responsibilities for Indian mineral leases and Federal solid mineral and geothermal leases.

Timetable:

Action	Date	FR Cite
NPRM	04/13/94	59 FR 17504
NPRM	06/09/95	60 FR 30492
Comment Period Extended	08/30/95	60 FR 45112
Comment Period Extended	10/03/95	60 FR 56033
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AB45

1766. CREDIT ADJUSTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 30 USC 351 et seq; 30 USC 1001 et seq; 30 USC 1701 et seq; 31 USC 9701; 43 USC 1301 et seq; 43 USC 1331 et seq; 43 USC 1801 et seq; 5 USC 301 et seq; 25 USC 396 et seq; 25 USC 396a et seq; 25 USC 2101 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This rule will limit adjustments on royalty payments and determine the use of administrative offset for certain collections. This rule was expanded to include post-Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 impacts on credit adjustments and administrative offsets after the initial proposed rule was published, so a new proposed rule will be issued.

Timetable:

Action	Date	FR Cite
NPRM	08/17/93	58 FR 43588
NPRM Comment Period End	11/01/93	58 FR 50301
NPRM	10/00/00	
NPRM Comment Period End	12/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AB73

1767. PREPAYMENT OF ROYALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1735

CFR Citation: 30 CFR 204

Legal Deadline: None

Abstract: This rule allows payors to prepay royalty in lieu of monthly royalty payments for their marginal properties with approval from the affected States. It will establish the criteria used by payors, States, and MMS to calculate, report, and monitor royalty prepayments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
NPRM Comment Period End	12/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: David S. Guzy, Chief Rules and Publications Staff, Department of the Interior, Minerals Management Service, MS 3021, P.O. Box 25165, Mail Stop 3021, Denver, CO 80225-0165
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC31

1768. DEEP WATER EMERGENCY WELL CONTROL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250

Legal Deadline: None

DOI—MMS

Long-Term Actions

Abstract: This rule would require an operator to have available a drilling unit capable of drilling a relief well in deep water. This unit could be available either through direct control or contractual arrangement. The rule would also require an operator to provide evidence of financial capability to carry out emergency operations in deep water.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
NPRM Comment Period End	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC54

1769. • ROYALTY RELIEF TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 396 et seq

CFR Citation: 30 CFR 203

Legal Deadline: None

Abstract: This rule amends the circumstances that discontinue the existing royalty relief for end-of-life leases.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kumkum Ray, Geologist, Department of the Interior, Minerals Management Service, 381 Elden Street, Herndon, VA 20170
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC58

Department of the Interior (DOI)
Minerals Management Service (MMS)

Completed Actions

1770. VALUATION OF GAS FROM INDIAN LEASES

Priority: Other Significant

CFR Citation: 30 CFR 206

Completed:

Reason	Date	FR Cite
Final Action	08/10/99	64 FR 43506
Final Action Effective	01/01/00	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Tribal

Agency Contact: David S. Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AB57

1771. ADMINISTRATIVE APPEALS PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 290; 30 CFR 241; 30 CFR 243; 30 CFR 250; 43 CFR 4

Completed:

Reason	Date	FR Cite
Final Action	05/13/99	64 FR 26240
Final Action Effective	05/13/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Platte Clark
Phone: 202 208-2394

RIN: 1010–AC21

1772. ELECTRONIC REPORTING

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 210; 30 CFR 216

Completed:

Reason	Date	FR Cite
Final Action	07/15/99	64 FR 38116
Final Action Effective	11/01/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: David S. Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC40

1773. LEASING SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 280

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/30/99	
Final Action	07/28/99	64 FR 40764
Final Action Effective	08/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC49

1774. UPDATE OF INDUSTRY ELECTRICAL STANDARDS

Priority: Routine and Frequent

CFR Citation: 30 CFR 250

Completed:

Reason	Date	FR Cite
Merged With RIN 1010-AC55	08/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kumkum Ray
Phone: 703 787-1600
Fax: 703 787-1093
Email: kumkum__ ray.mms.gov

RIN: 1010–AC50

1775. CHANGE TO DELEGATED STATE AUDIT FUNCTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 227

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/12/99	
Final Action	07/08/99	64 FR 36782
Final Action Effective	08/09/99	

DOI—MMS — **Completed Actions**

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Agency Contact: David S. Guzy
Phone: 303 231-3432
Fax: 303 231-3385
Email: David.Guzy@mms.gov

RIN: 1010–AC51

1776. ROYALTY IN KIND FOR OIL AND GAS

Priority: Other Significant

CFR Citation: 30 CFR 218

Completed:

Reason	Date	FR Cite
Withdrawn - MMS Published Notice Instead of Rule	07/13/99	64 FR 37809

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Federal

Agency Contact: Bonn Macy
Phone: 202 208-3827

RIN: 1010–AC52

BILLING CODE 4310–MR–F

Department of the Interior (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Proposed Rule Stage

1777. ABANDONED COAL REFUSE SITES—TITLE I

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 785; 30 CFR 829; 30 CFR 830; 30 CFR 845; 30 CFR 870

Legal Deadline: None

Abstract: OSM will propose new regulations governing permitting and performance standards for on-site processing of abandoned coal refuse piles and operations for removal of abandoned coal refuse piles. The rules are required to implement section 2503(e) of the Energy Policy Act of 1992.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Douglas Growitz, Hydrologist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 SIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2634

RIN: 1029–AB70

1778. CONTEMPORANEOUS RECLAMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 780; 30 CFR 773

Legal Deadline: None

Abstract: This rule will amend regulations to ensure that coal mine operators reclaim their operations in a contemporaneous manner using site-based contemporaneous standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John Craynon, Chief, Technology Development Staff, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2866

RIN: 1029–AB79

1779. DAM SAFETY RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816; 30 CFR 817

Legal Deadline: None

Abstract: This rule would require the surface coal mining permittee to have an emergency action plan (EAP) at the time a dam is placed in service. This would bring OSM's regulations on EAPs into compliance with the Federal guidelines for dam safety and the Department Manual. It would ensure that EAPs are in place for all Class "B" and Class "C" hazard structures that may not necessarily be regulated by the Mine Safety and Health Administration but for which OSM is responsible.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State

Agency Contact: Ruchi Kohli, Civil Engineer, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 202 208-2971

RIN: 1029–AB92

1780. ELECTRONIC FILING OF THE OSM-1 FORM

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 870

Legal Deadline: None

Abstract: This rule would allow operators the option of electronically filing the information required by the OSM-1 Form. The form is used by coal operators to report the amount of coal sold, used, or transferred during the calendar quarter; the method of coal removal; the type of coal removal; and other required information.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10, MS 10 MIB, 1849 C Street NW, Washington, DC 20240

DOI—OSMRE

Proposed Rule Stage

Phone: 202 208-2829
RIN: 1029–AB95

Department of the Interior (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

1781. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 761; 30 CFR 772; 30 CFR 773; 30 CFR 778; 30 CFR 780; 30 CFR 784

Legal Deadline: None

Abstract: This rule will amend the portions of the permanent program which address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977. This revision is in response to a court decision in round III of the litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4836
Comment Period Extended	05/30/97	62 FR 29368
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10, MS 10 MIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2829

RIN: 1029–AB42

1782. PROHIBITIONS UNDER SECTION 522(E) OF SMCRA

Priority: Other Significant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: This rule will clarify the applicability of section 522(e) of SMCRA to subsidence resulting from underground coal mining. Section 522(e) prohibits surface coal mining operations in certain areas designated by Congress, subject to existing rights.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 4864
Comment Period Extended to 08/01/97	05/30/97	62 FR 29368
NPRM Comment Period End	06/02/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Broderick, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10, MS 10 SIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2700

RIN: 1029–AB82

1783. INDIAN LANDS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700; 30 CFR 740; 30 CFR 746; 30 CFR 750

Legal Deadline: None

Abstract: This rule will amend regulations to allow OSM to contract to the Navajo and Hopi tribes certain functions relating to permitting mine plan review, bonding, and other functions authorized by the Indian land provisions of SMCRA. The rule is being proposed pursuant to a settlement agreement.

Timetable:

Action	Date	FR Cite
NPRM	02/19/99	64 FR 8464
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Suzy Hudak, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, MS 10 SIB, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-2713

RIN: 1029–AB83

1784. OWNERSHIP AND CONTROL—REDESIGN

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 12012 et seq

CFR Citation: 30 CFR 774; 30 CFR 773; 30 CFR 778; 30 CFR 843; 30 CFR 701; 30 CFR 724; 30 CFR 842; 30 CFR 846

Legal Deadline: None

Abstract: This rule would succeed the April 21, 1997, interim rule promulgated to comply with the January 31, 1997, decision of the U.S. Court of Appeals. It will further clarify the definition and application of "owned and controlled" and "owns or controls" in permitting and enforcement processes. In developing this rule, we will examine current permitting and enforcement issues that may be ripe for review in order to ensure continued effective implementation of section 520(c) of the Surface Mining Control and Reclamation Act of 1977.

Timetable:

Action	Date	FR Cite
ANPRM	11/26/97	62 FR 63044
NPRM	12/21/98	63 FR 70580
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Earl Bandy, Team Leader, Ownership and Control, Department of the Interior, Office of Surface Mining Reclamation and Enforcement
Phone: 606 233-2796

RIN: 1029–AB94

Department of the Interior (DOI)
Office of Surface Mining Reclamation and Enforcement (OSMRE)

Completed Actions

1785. ENHANCING AML RECLAMATION

Priority: Substantive, Nonsignificant

CFR Citation: 30 CFR 707; 30 CFR 874

Completed:

Reason	Date	FR Cite
Final Action	02/12/99	64 FR 7470
Final Action Effective	03/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Douglas Growitz Phone: 202 208-2634

RIN: 1029–AB89

BILLING CODE 4310–05–F

Department of the Interior (DOI)
Bureau of Reclamation (RB)

Proposed Rule Stage

1786. CENTRAL VALLEY PROJECT OF CALIFORNIA — PURPOSES, USES, AND ALLOCATION OF WATER SUPPLIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 551; 5 USC 553

CFR Citation: 43 CFR 432; 50 CFR 1

Legal Deadline: None

Abstract: The rule will address water measurement, water conservation standards, water transfers, tiered pricing, renewal of long-term contracts, water banking and collection of payments into the restoration fund created by the Central Valley Project Improvement Act. This rule is being developed jointly by the Bureau of Reclamation and the Fish and Wildlife Service.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39316
ANPRM Comment Period End	02/01/95	59 FR 67265
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local

Agency Contact: Betty Riley Simpson, Repayment Specialist, Department of the Interior, Bureau of Reclamation Phone: 916 978-5196

RIN: 1006–AA34

1787. RECOVERING THE VALUE OF RIGHTS OF USE AND RELATED ADMINISTRATIVE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 387; 31 USC 9701

CFR Citation: 43 CFR 429

Legal Deadline: None

Abstract: This rule will include new requirements to comply with OMB Circular A-25, specify procedures for appealing decisions made by the Bureau, and include administrative procedures for concession contracts and cabin site leases.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry Schluntz, Repayments Office, Department of the Interior, Bureau of Reclamation Phone: 303 445-2901

RIN: 1006–AA39

Department of the Interior (DOI)
Bureau of Reclamation (RB)

Final Rule Stage

1788. ACREAGE LIMITATION RULES FOR TRUSTS

Priority: Other Significant

Legal Authority: 43 USC 390aa to 390zz

CFR Citation: 43 CFR 428

Legal Deadline: None

Abstract: During the Reclamation Reform Act of 1982 (RRA) rulemaking completed in December 1996, the Department of the Interior received a number of comments regarding the compliance of certain large trusts with the acreage limitation provisions of the RRA. Comments expressed a variety of viewpoints, including the assertion that some trusts with landholdings (owned and leased land) in excess of 960 acres may circumvent the requirements of Federal reclamation law. The Department is now evaluating comments received and developing a final rule to address this issue.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/96	61 FR 66827
ANPRM Comment Period End	04/17/97	62 FR 7431
NPRM	11/18/98	63 FR 64154
NPRM Comment Period Extended	01/19/99	64 FR 2870
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven Richardson, Chief of Staff, Department of the Interior, Bureau of Reclamation Phone: 202 208-4291

RIN: 1006–AA38

Department of the Interior (DOI)
Bureau of Reclamation (RB)

Completed Actions

1789. REVENUES MANAGEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 403

Completed:

Reason	Date	FR Cite
Withdrawn - Bureau of Reclamation Has Published Manual Instead of Rule	08/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alonzo D. Knapp
Phone: 303 445-2889

RIN: 1006–AA30

1790. OFFSTREAM STORAGE OF COLORADO RIVER WATER AND INTERSTATE MARKETING OF STORAGE CREDITS IN THE LOWER DIVISION STATES

Priority: Other Significant

CFR Citation: 43 CFR 414

Completed:

Reason	Date	FR Cite
Final Action	11/01/99	64 FR 58986
Final Action Effective	12/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dale Ensminger
Phone: 702 293-8659

RIN: 1006–AA40

BILLING CODE 4310–09–F

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Proposed Rule Stage

1791. LEASES, PERMITS, AND EASEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2920

Legal Deadline: None

Abstract: This rule will amend the existing regulations to provide for improved administration of leases, permits and easements under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/21/90	55 FR 48810
NPRM Comment Period End	01/22/91	
Second NPRM	02/09/95	60 FR 7878
Second NPRM Comment Period End	04/10/95	
Final Rule for Minimum Impact Land Use Permits Only	06/24/96	61 FR 32351
Final Rule Effective	07/24/96	
Third NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street, NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708
Email: Jeff__ Holdren@blm.gov

RIN: 1004–AB51

1792. SALES — FEDERAL LAND POLICY AND MANAGEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701; 43 USC 1713

CFR Citation: 43 CFR 2710

Legal Deadline: None

Abstract: This rule will amend 43 CFR part 2710 to provide for improved administration of sales of public land under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 420, Regulatory Management Team, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-5042
Fax: 202 653-5287
Email: Ted__ Hudson@blm.gov

RIN: 1004–AB77

1793. DESERT LAND ENTRIES

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will transfer much of the regulation on entries of desert land to the BLM Manual if the underlying statute is not repealed as no longer practical.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street, NW., Washington, DC 20240
Phone: 202 452-7779
Email: Jeff__ Holdren@blm.gov

RIN: 1004–AC56

1794. DISPOSAL OF RESERVED MINERALS UNDER THE STOCK RAISING HOMESTEAD ACT

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 299

CFR Citation: 43 CFR 3814

Legal Deadline: Final, Statutory, October 13, 1993.

Abstract: This rule will establish new procedures for mineral exploration and development under the General Mining Law of 1872 on lands where the surface was patented under the Stock Raising Homestead Act of 1916 and the mineral estate remains reserved to the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355
Email: Roger__ Haskins@blm.gov

RIN: 1004–AC59

1795. COST RECOVERY; MINERAL FILINGS AND OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 360; 30 USC 1001 et seq; 30 USC 22; 50 USC app 565; 31 USC 9701; 43 USC 1734

CFR Citation: 43 CFR 3100; 43 CFR 3200; 43 CFR 3400; 43 CFR 3500; 43 CFR 3600; 43 CFR 3700; 43 CFR 3800

Legal Deadline: None

Abstract: This rule will amend regulations for user fees for locatable minerals, mineral materials, and leasable minerals (solids and fluids) to adjust current fees or establish new fees in accordance with title V of the Independent Offices Appropriations Act of 1952 (user charges), OMB Circular A-25 "User Charges" and section 304 of the Federal Land Policy and Management Act of 1976.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C, Street NW, Washington, DC 20240
Phone: 202 452-0350
Email: Durga__ Rimal@blm.gov

RIN: 1004–AC64

1796. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES; RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None

Abstract: This rule will move much of the existing regulations to manuals notices to applicants, etc. This action will ease update of cost recovery schedules. Materials will be combined with other rights-of-way guidance.

Timetable:

Action	Date	FR Cite
NPRM	06/15/99	64 FR 32106
NPRM Comment Period End	10/13/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ron Montagna, Realty Specialist, Department of the Interior, Bureau of Land Management, 260, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-7782
Email: Ron__ Montagna@blm.gov

RIN: 1004–AC74

1797. RAILROAD GRANTS

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 43 USC 1201; 49 USC 65

CFR Citation: 43 CFR 2630

Legal Deadline: None

Abstract: This rule will remove these regulations in their entirety due to their limited usage.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ian Senio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, MS 401, Regulatory Management Team (WO-630), 1849 C Street N.W., Washington, DC 20240
Phone: 202 452-5049
Email: Ian__ Senio@blm.gov

RIN: 1004–AC76

1798. CAREY ACT GRANTS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 641 et seq

CFR Citation: 43 CFR 2610

Legal Deadline: None

Abstract: This rule will update these regulations as they are inconsistent with present day management policies. Application of these provisions of the Carey Act is rarely feasible due to limited water and suitable lands.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47725
NPRM Comment Period End	10/10/96	
Supplementary NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street, NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708
Email: Jeff__ Holdren@blm.gov

RIN: 1004–AC80

1799. SEGREGATION AND OPENING OF LANDS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2091

Legal Deadline: None

Abstract: This rule will simplify and modernize the existing regulations on

segregation and opening public lands that are involved in various transactions such as sales or exchanges.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street, NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708
Email: Jeff__ Holdren@blm.gov

RIN: 1004–AC84

1800. APPEALS PROCEDURES; HEARINGS PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 43 USC 1701; 43 USC 1740

CFR Citation: 43 CFR 1840; 43 CFR 1850

Legal Deadline: None

Abstract: BLM proposes to amend its regulations that govern administrative review procedures for protests of proposed decisions, contests appeals of BLM decisions, and hearings on the record. The proposed regulations would provide more consistent procedures for administrative review of BLM decisions, and would clarify when and how BLM decisions go into effect and whether an appeal will stay the effectiveness of a BLM decision.

Timetable:

Action	Date	FR Cite
NPRM	10/17/96	61 FR 54120
NPRM Comment Period End	01/17/97	61 FR 58160
Second NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-5012
Fax: 202 653-5287
Email: Chris__ Fontecchio@blm.gov

RIN: 1004–AC99

1801. COLOR OF TITLE AND OMITTED LANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 2540

Legal Deadline: None

Abstract: As part of its reinventing government effort, BLM proposes to rewrite the current color of title and omitted lands regulations in plain English. No substantive changes are proposed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 420, Regulatory Management Team, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-5042
Fax: 202 653-5287
Email: Ted__ Hudson@blm.gov

RIN: 1004–AD00

1802. GEOTHERMAL RESOURCE UNIT AGREEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 30 USC 1001 et seq

CFR Citation: 43 CFR 3280

Legal Deadline: None

Abstract: This rule will rewrite unit agreement regulations, reduce and streamline information and permitting requirements, provide BLM maximum flexibility in permitting decision making to accommodate the full range of unitization scenarios, and reorganize the regulations to make specific requirements easier to find and understand.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-5012
Fax: 202 653-5287
Email: Chris__ Fontecchio@blm.gov

RIN: 1004–AD10

1803. COAL MANAGEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1266; 43 USC 1733; 43 USC 1740

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will clarify and streamline policy on coal exploration and post-lease operations. It will reorganize and revise portions of the Federal coal management program regulations, including exploration licenses, lease suspensions, lease administration diligence, and exploration and mining operations on leased Federal coal.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Bill Radden-LeSage, Mining Engineer, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-0360
Email: Bill__ Lesage@blm.gov

RIN: 1004–AD11

1804. OIL AND GAS LEASING; NATIONAL PETROLEUM RESERVE, ALASKA - - UNIT AGREEMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6503; 43 USC 1740

CFR Citation: 43 CFR 3130; 43 CFR 3135

Legal Deadline: None

Abstract: This proposed rule would add a new subpart to BLM's oil and gas regulations implementing new statutory authority allowing operators to form units in the National Petroleum Reserve, Alaska (NPRA). The rule would also:

(A) allow for waiver, suspension, or reduction of rental or royalty payments for NPRA leases;

(B) allow for suspension of operations and production for NPRA leases;

(C) amend existing regulatory language to set the primary lease term for an NPRA lease at 10 years; and,

(D) add a new subpart to the NPRA regulations on subsurface storage agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Erick Kaarlela, Senior Specialist, Operations and Inspection, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-0341
Email: Eric__ Kaarlela@blm.gov

RIN: 1004–AD13

1805. SURFACE MANAGEMENT (LOCATABLE MINERALS)

Regulatory Plan: This entry is Seq. No. 57 in Part II of this issue of the **Federal Register**.

RIN: 1004–AD22

1806. FINANCIAL ASSISTANCE; LOCAL GOVERNMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 31 USC 1601 et seq

CFR Citation: 43 CFR 1880

Legal Deadline: None

Abstract: This rule will update the regulations on payments to State and local governments in lieu of taxes to reflect changes in law.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Bill Howell, Accountant, Department of the Interior, Bureau of Land Management
Phone: 202 452-7721
Email: Bill__ Howell@blm.gov

RIN: 1004–AD23

1807. USE AUTHORIZATIONS (RECREATION)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740; 16 USC 460l-6a

CFR Citation: 43 CFR 8370

Legal Deadline: None

Abstract: This rule will revise the regulations on the issuance of special recreation permits for purposes of clarification and updating and will add regulations on the issuance of recreation use permits for the use of fee areas.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lee Larson, Recreation Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-5168
Email: Lee__ Larson@blm.gov

RIN: 1004–AD25

1808. MINERAL MATERIALS DISPOSAL

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 601 et seq

CFR Citation: 43 CFR 3600; 43 CFR 3610; 43 CFR 3620

Legal Deadline: None

Abstract: This rule will revise completely the regulations on mineral materials disposal to make them easier to understand. It will add provisions on recordkeeping and audit,inspection, inspection and production verification, cancellation and suspension, appeals and clarification of the rights of competitive or noncompetitive purchasers against subsequent claims on and users of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Durga N. Rimal, Geologist, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-0350
Email: Durga__ Rimal@blm.gov

RIN: 1004–AD29

DOI—BLM

Proposed Rule Stage

1809. LOCATION RECORDING, AND MAINTENANCE OF MINING CLAIMS AND SITES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 22 to 54; 43 USC 1740; 43 USC 1201

CFR Citation: 43 CFR 3710; 43 CFR 3730; 43 CFR 3810; 43 CFR 3820; 43 CFR 3830; 43 CFR 3840; 43 CFR 3850

Legal Deadline: None

Abstract: This rule will amend the mining claim recordation and annual fee collection procedures to conform to the Fiscal Year 1999 Interior and Related Agencies Appropriations Act. It will also consolidate duplicative portions of 43 CFR part 3700 et seq. into 43 CFR part 3800 et seq., and remove the duplicative portions of these regulations from title 43. The interim final rule only implements the statutory changes in the FY 99 Appropriations Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: The $100 annual maintenance fee and related provisions expired on 9/30/98. The fee and related provisions were extended in the FY 1999 budget legislation. The existing regulations must be amended to conform to the legislation. BLM will take the opportunity to do long-delayed but necessary housekeeping of these parts of title 43 to consolidate duplicative sections.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355
Email: Roger__ Haskins@blm.gov

RIN: 1004–AD31

1810. ALASKA NATIVE VETERANS ALLOTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-276; 43 USC 1740

CFR Citation: 43 CFR 2568

Legal Deadline: Final, Statutory, April 21, 2000.

Abstract: This rule will implement recently enacted legislation to allow for an 18-month open season in which certain Alaska Native veterans would be eligible for a 160-acre allotment under the 1906 Native Allotment Act. Such a veteran must have served between January 1, 1969, and December 31, 1971, and otherwise qualified under the 1906 Act as it was in effect before September 18, 1971.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal

Agency Contact: Frank Bruno, Regulatory Analyst, Department of the Interior, Bureau of Land Management, MS 401-LS, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-0352
Email: Frank__ Bruno@blm.gov

RIN: 1004–AD34

1811. • CONSERVATION; HELIUM LEASING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 50 USC 167; 43 USC 1701 et seq.

CFR Citation: 43 CFR 16; 43 CFR 3196

Legal Deadline: None

Abstract: This rule will redesignate, amend, and extend the regulations on conservation of helium to facilitate administration and implementation of provisions in the Helium Privatization Act. The rule will move these regulations to 43 CFR subpart 3196 to consolidate helium-related regulations in one area for ease in finding and complying with them.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Joseph B. Peterson, Chief, Division of Helium Resources, Department of the Interior, Bureau of Land Management, Amarillo Field Office, 801 S. Fillmore, Suite 500, Amarillo, TX 79101
Phone: 806 324-2614

RIN: 1004–AD35

1812. • TIMBER EXPORT AND SUBSTITUTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 617; 43 USC 1701 et seq.

CFR Citation: 43 CFR 5400; 43 CFR 5420; 43 CFR 5440; 43 CFR 4

Legal Deadline: None

Abstract: This rule will implement the Forest Resources Conservation and Shortage Relief Act of 1990, as amended, by prohibiting, with certain exceptions, the exportation of unprocessed timber from Federal lands west of the 100th Meridian in the contiguous 48 States, and prohibiting direct and indirect substitution of non-Federal for Federal timber. It would allow exceptions for timber surplus to domestic needs, and set up sourcing areas for this timber. The rule will establish civil penalties and administrative remedies for violations of the Act or the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

DOI—BLM

Proposed Rule Stage

Agency Contact: John Styduhar, Realty Specialist, Department of the Interior, Bureau of Land Management, Oregon State Office, 1515 S.W. 5th Ave., Portland, OR 97201
Phone: 503 952-6454

RIN: 1004–AD37

1813. • HAZARDOUS SUBSTANCES COMPLIANCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1701 et seq.

CFR Citation: 43 CFR 1890

Legal Deadline: None

Abstract: This rule will clarify the respective responsibilities of BLM and the holders of various BLM authorizations with regard to releases of hazardous substances and other violations of environmental law caused by the holder or the holder's operator on public lands.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Christopher Fontecchio, Regulatory Analyst, Department of the Interior, Bureau of Land Management, 1849 C Street NW, Washington, DC 20240
Phone: 202 452-5012
Fax: 202 653-5287
Email: Chris__ Fontecchio@blm.gov

RIN: 1004–AD38

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Final Rule Stage

1814. MANAGEMENT OF DESIGNATED WILDERNESS AREA

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1701 et seq; 16 USC 1131 et seq

CFR Citation: 43 CFR 8560; 43 CFR 6300

Legal Deadline: None

Abstract: This rule will amend the existing regulations to remove obsolete provisions, clarify and simplify the regulations, and add provisions on access to inholdings, rights-of-way, use of mechanized equipment by certain individuals, access by Native Americans.

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66968
NPRM Comment Period End	02/18/97	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff Jarvis, Wilderness Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-5189
Email: Jeff__ Jarvis@blm.gov

RIN: 1004–AB69

1815. OIL AND GAS LEASING; DRAINAGE

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3100

Legal Deadline: None

Abstract: This rule will specify who has the responsibility for drainage protection, what it constitutes, and when it begins.

Timetable:

Action	Date	FR Cite
NPRM	01/13/98	63 FR 1936
NPRM Comment Period End	05/15/98	63 FR 9171
NPRM Comment Period End	04/05/99	63 FR 66776
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Donnie Shaw, Fluid Minerals Group, Department of the Interior, Bureau of Land Management
Phone: 202 452-0382
Email: Donnie__ Shaw@blm.gov

RIN: 1004–AC54

1816. INDIAN ALLOTMENTS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1201; 25 USC 334; 25 USC 336

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule will convert existing regulations to plain English and remove those portions that relate to procedural matters.

Timetable:

Action	Date	FR Cite
NPRM	10/16/96	61 FR 53887
NPRM Comment Period End	09/13/99	64 FR 38172
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street, NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708
Email: Jeff__ Holdren@blm.gov

RIN: 1004–AC77

1817. OIL AND GAS LEASING AND OPERATIONS

Regulatory Plan: This entry is Seq. No. 58 in Part II of this issue of the **Federal Register**.

RIN: 1004–AC94

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Long-Term Actions

1818. COALBED METHANE DEVELOPMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 13368

CFR Citation: 43 CFR 3170

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: The rule will implement section 1339 of the Energy Policy Act of 1992. It will prevent conflicts in ownership of coalbed methane from impeding development of that resource by requiring pooling of development and payment of the proceeds into an escrow account until the ownership issue is resolved by a State entity of competent jurisdiction. The rule will also allow States to avoid the Federal regulations by promulgating their own regulations that substantially comply with Federal requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/15/95	60 FR 47920
NPRM Comment Period End	11/14/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: David R. Stewart, Mineral Resources, Department of the Interior, Bureau of Land Management
Phone: 703 440-1728
Email: Dave__ Stewart@blm.gov

RIN: 1004–AC27

1819. LAND WITHDRAWALS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 1714; 43 USC 1740

CFR Citation: 43 CFR 2310; 43 CFR 2370

Legal Deadline: None

Abstract: This rule will revise the regulations on withdrawals and revocations of withdrawals to streamline operations and clarify the regulations. It will also amend the regulations to expedite the opening of formerly withdrawn lands to the operation of the public land laws.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street, NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708
Email: Jeff__ Holdren@blm.gov

RIN: 1004–AC63

1820. LAND CLASSIFICATION

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 43 USC 315; EO 6910; EO 6964; 43 USC 1411 to 1418; 43 USC 869

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: This rule will revise 43 CFR group 2400 and redesignate it as part 1620. Most of these regulations are no longer needed because they contain either statutory reiteration or internal procedures best suited to the BLM Manual. Land classification can be accomplished through the BLM planning process.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Jeff O. Holdren, Deputy Group Manager, Department of the Interior, Bureau of Land Management, 1849 C. Street, NW., Washington, DC 20240
Phone: 202 452-7779
Fax: 202 452-7708
Email: Jeff__ Holdren@blm.gov

RIN: 1004–AC78

1821. PALEONTOLOGICAL RESOURCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 43 USC 1740

CFR Citation: 43 CFR 3622; 43 CFR 8365; 43 CFR 6600

Legal Deadline: None

Abstract: This rule will consolidate into one part of the CFR various BLM regulatory provisions relating to paleontological resource management and rewrite them in plain English.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carl Barna, Paleontological Program Coordinator, Department of the Interior, Bureau of Land Management
Phone: 202 452-0325

RIN: 1004–AD03

1822. MINERAL PATENT APPLICATIONS; ADVERSE CLAIMS, PROTESTS, AND CONFLICTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 22 to 54; 43 USC 1201; 43 USC 1740

CFR Citation: 43 CFR 3730; 43 CFR 3740; 43 CFR 3860; 43 CFR 3870; 43 CFR 3820

Legal Deadline: None

Abstract: This rule will revise the filing and administrative procedures for mineral patent applications. It will also revise the procedures for filing adverse claims or protests against mineral patent applications and for mineral-in-

character challenges to non-mineral land entries.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This rulemaking was ordered by the Secretary of the Interior on November 14, 1997. Much of the language of these regulations has remained unchanged since 1939 and needs modernization.

Agency Contact: Roger Haskins, Mining Law Specialist, Department of the Interior, Bureau of Land Management
Phone: 202 452-0355
Email: Roger__ Haskins@blm.gov

RIN: 1004–AD32

Department of the Interior (DOI)
Bureau of Land Management (BLM)

Completed Actions

1823. MANAGEMENT OF SOLID MINERALS OTHER THAN COAL

Priority: Info./Admin./Other

CFR Citation: 43 CFR 3500

Completed:

Reason	Date	FR Cite
Final Action	10/01/99	64 FR 53512
Final Action Effective	11/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Fontecchio
Phone: 202 452-5012
Fax: 202 653-5287
Email: Chris__ Fontecchio@blm.gov

RIN: 1004–AC49

1824. DEFINITIONS

Priority: Info./Admin./Other

CFR Citation: 43 CFR 1300

Completed:

Reason	Date	FR Cite
Withdrawn	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ted Hudson
Phone: 202 452-5042
Fax: 202 653-5287
Email: Ted__ Hudson@blm.gov

RIN: 1004–AC73

1825. APPLICATION PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 1820

Completed:

Reason	Date	FR Cite
Final Action	10/01/99	64 FR 53213
Final Action Effective	11/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir
Phone: 202 452-5033
Fax: 202 653-5287
Email: Shirlean__ Beshir@blm.gov

RIN: 1004–AC83

1826. ADVISORY COMMITTEES

Priority: Info./Admin./Other

CFR Citation: 43 CFR 1784

Completed:

Reason	Date	FR Cite
Withdrawn	08/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shirlean Beshir
Phone: 202 452-5033
Fax: 202 653-5287
Email: Shirlean__ Beshir@blm.gov

RIN: 1004–AD26

1827. COAL MANAGEMENT: GENERAL (PUBLIC PARTICIPATION)

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 3420

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	05/10/99	
Final Action	09/28/99	64 FR 52239
Final Action Effective	11/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Allard
Phone: 202 452-5195
Fax: 202 452-0399
Email: Phil__ Allard@blm.gov

RIN: 1004–AD27

1828. EMERGENCY FIRE AND DISASTER REHABILITATION

Priority: Substantive, Nonsignificant

CFR Citation: 43 CFR 9240

Completed:

Reason	Date	FR Cite
Withdrawn	08/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Roberts
Phone: 202 452-7769
Email: Tom__ Roberts@blm.gov

RIN: 1004–AD30

BILLING CODE 4310–84–F

Department of the Interior (DOI)
Office of the Secretary (OS)

Final Rule Stage

1829. WILD AND SCENIC RIVERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 1278

CFR Citation: 43 CFR 39

Legal Deadline: None

Abstract: This rule would establish uniform standards and procedures by which the Department of the Interior, through its agencies that administer rivers in the National Wild and Scenic Rivers System (Bureau of Land Management, Fish and Wildlife Service, and National Park Service), will consider Federal licensing of, or assistance to, water resources projects affecting designated Wild and Scenic Rivers or congressionally authorized Study Rivers.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67834
NPRM Comment Period End	02/08/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Haubert, Outdoor Recreation Planner, Department of the Interior, Office of the Secretary, Room 3230, 1849 C Street NW, Washington, DC 20240
Phone: 202 208-4290
Email: john__ haubert@nps.gov

RIN: 1093–AA08

BILLING CODE 4310–10–F

[FR Doc. 99–29468 Filed 11–19–99; 8:45 am

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XI

Department of Justice

Semiannual Regulatory Agenda

Department of Justice (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. I

21 CFR Ch. I

28 CFR Ch. I, III

48 CFR Ch. 28

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its October 1999 regulatory agenda pursuant to E.O. 12866 "Regulatory Planning and Review," 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601-612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION: For this edition of the Department of Justice's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

The Regulatory Flexibility Act (RFA) requires that, each year, the Department publish a list of those regulations that have a significant economic impact upon a substantial number of small entities and are to be reviewed under section 610 of the Act during the succeeding 12 months. This edition of the Department's Unified Agenda includes one regulation requiring such a review: "Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements" (RIN 1115–AB73). In accordance with the RFA, comments are specifically invited on this regulation. Those comments should be addressed to the contact person listed in the entry for this item.

Dated: October 6, 1999.

Eleanor D. Acheson,

Assistant Attorney General, Office of Policy Development.

Bureau of Prisons—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1830	Postsecondary Education Programs	1120-AA25
1831	Administrative Remedy Program: Excluded Matters	1120-AA72
1832	Drug Abuse Treatment Programs: Disincentives and Enhanced Incentives	1120-AA88
1833	Occupational Educational Programs	1120-AA92
1834	Classification and Program Review	1120-AA93
1835	Drug Testing Program	1120-AA95
1836	Release of Information	1120-AA96
1837	Administrative Remedy Program: Applicability to Contract Facilities	1120-AA97
1838	Release Gratuities, Transportation, and Clothing: Aliens	1120-AA99

Bureau of Prisons—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1839	Volunteer Community Service Projects	1120-AA03
1840	Intensive Confinement Centers	1120-AA11
1841	Incoming Publications	1120-AA15
1842	Infectious Diseases	1120-AA23
1843	Literacy Program	1120-AA33
1844	Telephone Regulations and Inmate Financial Responsibility	1120-AA49
1845	Incoming Publications: Nudity and Sexually Explicit Material or Information	1120-AA59
1846	Good Conduct Time	1120-AA62
1847	Drug Abuse Treatment and Intensive Confinement Center Programs: Early Release Consideration	1120-AA66
1848	Visiting Regulations: Prior Relationship	1120-AA77
1849	Inmate Discipline: Prohibited Acts	1120-AA78
1850	Smoking/No Smoking Areas	1120-AA79
1851	Victim and/or Witness Notification: State Custody Transfers	1120-AA80
1852	Over-the-Counter (OTC) Medications	1120-AA81
1853	Administrative Safeguards for Psychiatric Treatment and Medication; Military Prisoners and District of Columbia Code Violators	1120-AA83
1854	Designation of Offenses Subject to Sex Offender Release Notification	1120-AA85
1855	Inmate Commissary Account Deposit Procedures	1120-AA86
1856	Civil Contempt of Court Commitments	1120-AA87
1857	Searches of Housing Units, Inmates, Inmate Work Areas, and Persons Other Than Inmates: Electronic Devices	1120-AA90

Sequence Number
1858
1859
1860
1861
1862
1863
1864
1865
1866
1867
1868
1869
1870
1871
1872
1873
1874
1875
1876

References

DOJ

Bureau of Prisons—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1858	Federal Tort Claims Act	1120-AA94
1859	Correspondence: Inspection of Outgoing General Correspondence	1120-AA98

Bureau of Prisons—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1860	Telephone Regulations and Inmate Financial Responsibility	1120-AA39

Bureau of Prisons—Completed Actions

Sequence Number	Title	Regulation Identification Number
1861	Inmate Personal Property	1120-AA46
1862	Federal Prison Industries (FPI) Work Program: Deportation Orders	1120-AA57
1863	Correspondence: Excludable Mail	1120-AA65
1864	Visiting: Notification to Visitors	1120-AA67
1865	Correspondence: Return Address	1120-AA69
1866	Acceptance of Donations	1120-AA71
1867	Cost of Incarceration Fee	1120-AA75
1868	Federal Prison Industries, Inc. (FPI) Standards and Procedures Which Facilitate FPI's Ability To Accomplish Its Mission	1120-AA84

Civil Rights Division—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1869	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities	1190-AA44
1870	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA46
1871	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities	1190-AA47
1872	American Competitiveness and Workforce Improvement Act of 1998 Complaint Process; Change to Document Abuse Definition Pursuant to the Illegal Immigration Reform and Immigrant Responsibility Act	1190-AA48

Civil Rights Division—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1873	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards **(Reg Plan Seq. No. 59)**	1190-AA26
1874	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972 **(Reg Plan Seq. No. 60)**	1190-AA28
1875	Nondiscrimination on the Basis of Disability in State and Local Government Services	1190-AA36
1876	Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities; Children's Facilities	1190-AA38

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOJ

Civil Rights Division—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1877	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA31
1878	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964	1190-AA32

Drug Enforcement Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1879	Guidelines for Providing Controlled Substances to Ocean Vessels	1117-AA40
1880	Sale by Federal Departments or Agencies of Chemicals Usable to Manufacture a Controlled Substance	1117-AA47
1881	Chemical Registration and Reregistration Fees	1117-AA50

Drug Enforcement Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1882	Definition and Registration of Disposers	1117-AA19
1883	Exemption of Chemical Mixtures	1117-AA31
1884	Registration and Reregistration Application Fees	1117-AA34
1885	Establishment of Freight Forwarding Facilities	1117-AA36
1886	Listed Chemicals; Proposed Thresholds for Iodine and Hydrochloric Gas (Hydrogen Chloride Gas)	1117-AA43
1887	Implementation of the Methamphetamine Control Act; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products; Reports of Certain Transactions to Nonregulated Persons	1117-AA44

Drug Enforcement Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
1888	Temporary Exemption From Chemical Registration for Distributors of Pseudoephedrine and Phenylpropanolamine and Products	1117-AA46
1889	Anhydrous Hydrogen Chloride: Categories of Distribution Regarded as Nonregulated	1117-AA48
1890	Special Surveillance List of Chemicals, Products, Materials and Equipment	1117-AA49

Executive Office for Immigration Review—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1891	Authority of Immigration Judges To Issue Civil Money Penalties	1125-AA18

Executive Office for Immigration Review—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1892	Discipline of Attorneys and Representatives	1125-AA13
1893	Suspension of Deportation and Cancellation of Removal	1125-AA25

VOL 64 ISS 224 NO 22 1999 UMI

DOJ

Executive Office for Immigration Review—Completed Actions

Sequence Number	Title	Regulation Identification Number
1894	Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges	1125-AA17
1895	Adjustment of Status to That of Person Admitted for Permanent Residence	1125-AA20
1896	Board of Immigration Appeals: Streamlining	1125-AA22

Federal Bureau of Investigation—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1897	Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)	1110-AA01

Federal Bureau of Investigation—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1898	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act	1110-AA00
1899	Operation of the National Instant Criminal Background Check System	1110-AA02
1900	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act	1110-AA04

Federal Bureau of Investigation—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1901	Federal Convicted Offender DNA Database Program	1110-AA03

Federal Bureau of Investigation—Completed Actions

Sequence Number	Title	Regulation Identification Number
1902	FBI Criminal Justice Information Services Division Systems and Procedures	1110-AA05
1903	Whistleblower Protection for Federal Bureau of Investigation Employees	1110-AA06

Immigration and Naturalization Service—Prerule Stage

Sequence Number	Title	Regulation Identification Number
1904	Special Immigrant Juvenile Petitions	1115-AF35
1905	Expansion of Expedited Removal of Certain Criminal Aliens Held in Federal, State, and Local Jails	1115-AF50

Immigration and Naturalization Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
1906	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions **(Reg Plan Seq. No. 61)**	1115-AB45
1907	Inspection of Persons Applying for Admission	1115-AD17
1908	Employment Authorization Document Applications and Process	1115-AE06

DOJ

Immigration and Naturalization Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1909	Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements Liquidated Damages	1115-AE37
1910	Definition of the Term "Lawfully Present" for Purposes of Eligibility for Public Benefits	1115-AE51
1911	Corporate Reorganizations (Mergers and Acquisitions) and E, H, L Nonimmigrant Classification	1115-AE55
1912	Filing Factual Statements About Alien Prostitutes	1115-AE60
1913	F-1 Visa Abusers and Foreign Students	1115-AE63
1914	Employment Verification by Employers That Are Members of a Multi-Employer Association	1115-AE67
1915	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress	1115-AE68
1916	Regulations Pertaining to Battered Aliens and to Mail Order Bride Businesses, as Mandated by IIRIRA	1115-AE77
1917	Clarification of Age Requirements for Fingerprinting Naturalization Applicants	1115-AE86
1918	Control of Aliens Departing From the United States	1115-AE89
1919	En Route Inspections and Reimbursement for Immigration and Naturalization Service Costs	1115-AE98
1920	Jurisdictional Change for the Los Angeles and San Francisco Asylum Offices	1115-AF18
1921	Progressive Clearance Stopovers	1115-AF23
1922	Documentary Requirements for Returning Residents	1115-AF26
1923	Availability of Material Under Freedom of Information Act and Privacy Act	1115-AF32
1924	Dismissal of Asylum Application for Unexcused Failure To Appear and Effect on Eligibility for Employment Authorization	1115-AF38
1925	H-1B Nonimmigrant Worker Complaints Regarding U.S. Employer Violations Under the American Competitiveness and Workforce Improvement Act	1115-AF40
1926	American Competitiveness and Workforce Improvement Act	1115-AF41
1927	Special Immigrant Status for Certain NATO Civilian Employees	1115-AF44
1928	Contracts With Transportation Lines	1115-AF46
1929	Clarification of Parole Authority	1115-AF53
1930	Adjustment of Fees for Services at Land Border Ports-of-Entry	1115-AF55
1931	Authorizing Collection of Fee Levied on F, J, and M Nonimmigrant Classifications Under Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)	1115-AF56
1932	Manifest Requirements and Imposition of Fines Under Section 231 of the Act	1115-AF57

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Immigration and Naturalization Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
1933	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review) (Reg Plan Seq. No. 62)**	1115-AB73
1934	Nonimmigrant Classes; B Visitor for Business or Pleasure	1115-AC89
1935	Petitions for Employment-Based Immigrants	1115-AD55
1936	Admission of Certain Nurses Seeking Nonimmigrant Classification Under the H-1A Category	1115-AD74
1937	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program	1115-AD82
1938	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility	1115-AD83
1939	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses	1115-AD86
1940	90-Day Modified Inspection of Alien Crew Members	1115-AD95
1941	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children	1115-AE04
1942	Miscellaneous Modifications to Naturalization Regulations	1115-AE07
1943	Conditions on Nonimmigrant Status; Disclosure of Information	1115-AE17
1944	Orphan Petitions; Petitions To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Change in Definition of Child	1115-AE33
1945	Agreement Promising Non-Deportation or Other Immigration Benefits	1115-AE50
1946	Petitioning Requirements for the H Nonimmigrant Classification	1115-AE52
1947	Affidavit of Support on Behalf of Immigrants	1115-AE58
1948	Suspension of Privilege To Transport Aliens to the United States	1115-AE59
1949	Rights of Habitual Residence Between the United States and the Governments of the Marshall Islands, Micronesia and Palau	1115-AE61

DOJ

Sequence Number
1950
1951
1952
1953
1954
1955
1956
1957
1958
1959
1960
1961
1962
1963
1964
1965
1966
1967
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985

References

Sequence Number
1986
1987
1988
1989

VOL 64 ISS 224 NOV 22 1999 UMI

DOJ

Immigration and Naturalization Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
1950	Limiting Liability for Certain Technical and Procedural Violations of Paperwork Requirements	1115-AE70
1951	Ineligibility of Certain Juvenile Offenders for Family Unity Program	1115-AE72
1952	Certification of Certain Health Care Workers	1115-AE73
1953	Adjustment of Status for Certain Polish or Hungarian Parolees	1115-AE74
1954	Establishment of Preinspected Automated Lane (PAL) Program at Immigration and Naturalization Service	1115-AE80
1955	Surrender of Aliens Ordered Removed From the United States	1115-AE82
1956	Early Release for Removal of Criminal Aliens in State Custody for Nonviolent Offenses	1115-AE83
1957	Amendment of the Regulatory Definition of Arriving Alien	1115-AE87
1958	New Rules Regarding Procedures for Asylum and Withholding of Removal	1115-AE93
1959	Adjustment of Status. Continued Validity of Nonimmigrant Status and Unexpired Employment Authorization for Applicants Maintaining Nonimmigrant H or L Status	1115-AE96
1960	Verification of Eligibility for Public Benefits	1115-AE99
1961	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service	1115-AF03
1962	Adjustment of Status; Certain Nationals of Nicaragua and Cuba	1115-AF04
1963	Processing, Detention, and Release of Juveniles	1115-AF05
1964	Examinations Fee Account Schedule—Small Volume Applications	1115-AF10
1965	Special Immigrant Juvenile—Special Immigrant Status for Certain Aliens Declared Dependent on a Juvenile Court	1115-AF11
1966	Immigrant Petitions; Religious Workers	1115-AF12
1967	Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries	1115-AF14
1968	Change in Business Practices: Collection of Interest, Penalties, and Handling Charges for Delinquent Payment of Employer Sanctions Fines	1115-AF17
1969	Powers of the Attorney General To Authorize State or Local Law Enforcement Officers To Carry Out Immigration Enforcement	1115-AF20
1970	Elimination of Immigration and Naturalization Service Issued Mexican an Canadian Border Crossing Cards and Consent to Reapply for Admission After Removal	1115-AF24
1971	Filing of Proposals for Designation as a Regional Center Approved To Participate in the Immigrant Investor Pilot Program	1115-AF27
1972	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands	1115-AF28
1973	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor	1115-AF29
1974	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification	1115-AF31
1975	Adjustment of Status for Certain Nationals of Haiti	1115-AF33
1976	Temporary Protected Status Amendments to the Requirements for Employment Authorization Fee and Other Technical Amendments	1115-AF37
1977	Regulations Concerning the Convention Against Torture	1115-AF39
1978	Interim Designation of Acceptable Receipts for Employment Eligibility Verification	1115-AF42
1979	Deportability and Inadmissibility on Public Charge Grounds	1115-AF45
1980	Treatment of Certain H Petitions Filed After the Numerical Cap Is Reached	1115-AF47
1981	Adjustment of Status Under the 1966 Cuban Adjustment Act	1115-AF48
1982	Application for Refugee Status; Acceptable Sponsorship Agreement Guaranty of Transportation	1115-AF49
1983	Nonimmigrant Classes: Q-2 Irish Peace Process Cultural and Training Program Visitor	1115-AF51
1984	Adjustment of Small Volume Application Fees of the Immigration Examinations Fee Account	1115-AF52
1985	Conditional Residence of Lawful Permanent Residence for Certain Alien Spouses and Sons and Daughters: Battered and Abused Conditional Residents	1115-AF59

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Immigration and Naturalization Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
1986	Visa Waiver Pilot Program	1115-AB93
1987	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s	1115-AC70
1988	Update to Transit Without Visa (TWOV) Listing	1115-AD96
1989	Employer Sanctions Modifications	1115-AE21

DOJ

Immigration and Naturalization Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
1990	Regulations Relating to Temporary Protected Status	1115-AE26
1991	Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures	1115-AE47
1992	Petition for Employment Creation Aliens	1115-AE56
1993	Collection of Fees Under the Dedicated Commuter Lane Program, Port Passenger Accelerated Service System (PORTPASS) Program	1115-AE71
1994	Public Charge Bond Pilot Program	1115-AE78
1995	Authorizing Suspension of Employment Authorization Requirements on the Basis of Severe Economic Hardship for F-1 Students and Emergent Circumstances	1115-AF15
1996	Extending the Period of Duration of Status for Certain F and J Nonimmigrant Aliens	1115-AF54

Immigration and Naturalization Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
1997	Expansion of Direct Mail Program	1115-AD73
1998	Regulations Pertaining to Adjudications Processing	1115-AE31
1999	Canadian Border Boat Landing Program	1115-AE53
2000	Nonimmigrant Overstays	1115-AE62
2001	Change in Business Practices: Non-Acceptance of Cash as Remittance for Fees and Applications in Immigration and Naturalization Services Offices	1115-AF07
2002	Addition of Commercial Delivery Service as a Form of Personal Service	1115-AF30
2003	Additional Authorization To Issue Certificates for Foreign Health Care Workers	1115-AF43

Legal Activities—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2004	Revision of 28 CFR Part 15 Pertaining to the Defense of Certain Suits Against Federal Employees To Conform to the Federal Employees Liability Reform and Tort Compensation Act	1105-AA62
2005	United States Marshals Service Fee for Services	1105-AA64
2006	Waiver for Firearm Prohibition On Non-Immigrant Visa Holders	1105-AA66

Legal Activities—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2007	Federal Claims Collection Standards (FCCS)	1105-AA31
2008	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law	1105-AA45
2009	Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act	1105-AA65
2010	Ethical Standards for Attorneys for the Government	1105-AA67

Legal Activities—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2011	Criminal Fines Enforcement	1105-AA16
2012	Violent Crime and Drug Emergency Areas	1105-AA29
2013	False Claims Amendments Act of 1986—Civil Investigative Demands	1105-AA42

VOL 64 ISS 224 NO 22 1999 UMI

DOJ

Legal Activities—Completed Actions

Sequence Number	Title	Regulation Identification Number
2014	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act	1105-AA39
2015	Implementation of the National Stolen Passenger Motor Vehicle Information System (NSPMVIS)	1105-AA44
2016	Civil Monetary Penalties Inflation Adjustment	1105-AA48
2017	Operation of the National Instant Criminal Background Check System	1105-AA51
2018	Federal Convicted Offender DNA Database Program	1105-AA52
2019	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act	1105-AA56
2020	Police Recruitment Program Guidelines	1105-AA58
2021	Whistleblower Protection for Federal Bureau of Investigation Employees	1105-AA60
2022	FBI Criminal Justice Information Services Division Systems and Procedures	1105-AA63
2023	Amendment to the Justice Acquisition Regulations (JAR) Regarding Electronic Funds Transfer	1105-AA68
2024	Office of Special Counsel	1105-AA69

Office of Justice Programs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2025	Grants Program for Indian Tribes	1121-AA41
2026	Bulletproof Vest Partnership Grant Act of 1998	1121-AA48
2027	Timing of Police Corps Reimbursements of Educational Expenses	1121-AA50

Office of Justice Programs—Completed Actions

Sequence Number	Title	Regulation Identification Number
2028	Juvenile Accountability Incentive Block Grants	1121-AA46
2029	Grants to Combat Violence Against Women on Campuses	1121-AA49
2030	Public Safety Officers' Educational Assistance Program	1121-AA51

Department of Justice (DOJ)
Bureau of Prisons (BOP)

Proposed Rule Stage

1830. POSTSECONDARY EDUCATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on postsecondary education to exclude courses which are offered as part of an occupational education program. Courses which are offered as part of an occupational education program are to be covered by the Bureau's regulations on occupational education. The inmate is consequently responsible for paying postsecondary education tuition costs either through personal funds, community resources, or scholarships available to the inmate. This revision is intended to simplify the organization of the Bureau's regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	07/00/00	
Final Action Effective	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA25

1831. ADMINISTRATIVE REMEDY PROGRAM: EXCLUDED MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC

5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document amends Bureau regulations on the Administrative Remedy Program to provide for the processing of certain requests or appeals which previously had been excluded. This amendment is intended to comply with provisions of the Prisoner Litigation Reform Act pertaining to exhaustion of available administrative remedies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	07/00/00	
Final Action Effective	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA72

1832. DRUG ABUSE TREATMENT PROGRAMS: DISINCENTIVES AND ENHANCED INCENTIVES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document broadens the eligibility criteria for the drug abuse education program. In addition, this document establishes disincentives which may be imposed for the purpose of encouraging inmates to participate in the residential drug treatment program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	06/00/00	
Final Action Effective	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA88

1833. OCCUPATIONAL EDUCATIONAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544

Legal Deadline: None

Abstract: This rule revises the Bureau's regulations on occupational educational programs to remove obsolete or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	05/00/00	
Final Action Effective	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA92

1834. CLASSIFICATION AND PROGRAM REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 21 USC 848; 28 USC 509 to 510

CFR Citation: 28 CFR 524; 28 CFR 571

Legal Deadline: None

Abstract: This rule revises the Bureau's regulations on classification and program review in order to restate the provisions more plainly and to integrate into the regulations provisions pertinent to the inmate's release preparation needs. This amendment is intended to remove unnecessary regulations and to ensure that classification and program review procedures adequately address the apparent needs of the inmate.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
NPRM Comment Period End	07/00/00	
Final Action	11/00/00	
Final Action Effective	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA93

1835. • DRUG TESTING PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4251 to 4255; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 550

Legal Deadline: None

Abstract: This document consolidates into a single drug testing program separately stated regulations on alcohol testing and urine surveillance. The consolidated regulations provide for

more flexibility in the use of testing methods.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA95

1836. • RELEASE OF INFORMATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 TO 4082; 18 USC 5006 TO 5024; 18 USC 5039; 28 USC 509 TO 510; 31 USC 3711(f)

CFR Citation: 28 CFR 513

Legal Deadline: None

Abstract: This document revises Bureau regulations implementing the Freedom of Information Act and the Privacy Act in order to simplify the procedures and to eliminate unnecessary regulatory text.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Final Action	05/00/00	
Final Action Effective	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA96

1837. • ADMINISTRATIVE REMEDY PROGRAM: APPLICABILITY TO CONTRACT FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 TO 4082; 18 USC 5006 TO 5024; 18 USC 5039; 28 USC 509 TO 510

CFR Citation: 28 CFR 542

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on the administrative remedy program in order to extend coverage under the program to inmates in contract facilities who have been committed to the custody of the Attorney General or the Director of the Bureau of Prisons.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	
Final Action	06/00/00	
Final Action Effective	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA97

1838. • RELEASE GRATUITIES, TRANSPORTATION, AND CLOTHING: ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3565; 18 USC 3568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571.21

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on release gratuities, transportation, and clothing to require that aliens being released to immigration authorities for the purpose of release, transfer to a community corrections center, or another processing center, be provided a $10 gratuity. Aliens being released with an order of deportation, exclusion, or removal, or aliens detained or serving 60 days or less in contract facilities would not receive the gratuity.

Timetable:

Action	Date	FR Cite
NPRM	10/04/99	64 FR 53872
NPRM Comment Period End	12/03/99	
Final Action	04/00/00	
Final Action Effective	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA99

Department of Justice (DOJ)
Bureau of Prisons (BOP)

Final Rule Stage

1839. VOLUNTEER COMMUNITY SERVICE PROJECTS

Priority: Info./Admin./Other

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.60

Legal Deadline: None

Abstract: This document finalizes provisions for Volunteer Community Service Projects. A volunteer community service project is a project designed to provide for the public good which has been developed by local government or by a nonprofit charitable organization for approval by the Bureau.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/93	58 FR 5210
Final Action	05/00/00	
Final Action Effective	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA03

1840. INTENSIVE CONFINEMENT CENTERS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 524.31 to 524.34

Legal Deadline: None

Abstract: This document finalizes procedures for the operation of a specialized program combining features of a military boot camp with the traditional correctional values of the Bureau of Prisons. Inmates who successfully complete this program may be placed in community-based programs for longer periods of time than ordinarily permitted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/26/96	61 FR 18658
Final Action	05/00/00	
Final Action Effective	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA11

1841. INCOMING PUBLICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680

CFR Citation: 28 CFR 540.71

Legal Deadline: None

Abstract: This document amends Bureau regulations on Incoming Publications to require that inmates in medium security, high security, and administrative institutions may receive softcover publications only from the publisher, book club, or bookstore.

Timetable:

Action	Date	FR Cite
NPRM	01/18/94	59 FR 2668
NPRM Comment Period End	03/21/94	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA15

1842. INFECTIOUS DISEASES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549

Legal Deadline: None

Abstract: This document finalizes regulations on the correctional management of tuberculosis,HIV, and hepatitis B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/95	60 FR 52278
Interim Final Rule Comment Period End	12/04/95	
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA23

1843. LITERACY PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 544.70 to 544.76

Legal Deadline: None

Abstract: This document implements statutory provisions which make an inmate's vesting of good conduct time contingent upon the inmate's obtaining or making satisfactory progress toward obtaining a General Educational Degree or high school diploma. Additional changes to the regulations on the Bureau's literacy program are made for the sake of clarification or simplification.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/26/97	62 FR 50791

DOJ—BOP

Final Rule Stage

Action	Date	FR Cite
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA33

1844. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3013; 18 USC 3571; 18 USC 3572; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 3663; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; ...

CFR Citation: 28 CFR 540.105; 28 CFR 545.11

Legal Deadline: None

Abstract: This document establishes limitations on telephone privileges and commissary privileges for inmates who refuse to participate in the inmate financial responsibility program.

Timetable:

Action	Date	FR Cite
NPRM	01/02/96	61 FR 92
NPRM Comment Period End	03/04/96	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA49

1845. INCOMING PUBLICATIONS: NUDITY AND SEXUALLY EXPLICIT MATERIAL OR INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; PL 104-208

CFR Citation: 28 CFR 540.70 to 540.72

Legal Deadline: None

Abstract: This rule modifies the Bureau of Prisons rule on Incoming Publications in order to implement the provisions of the Fiscal Year 1997 Omnibus Budget Act (Public Law 104-208) prohibiting use of appropriated funds for distributing or making available to an inmate any commercially published information or material when such information or material is sexually explicit or features nudity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57568
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA59

1846. GOOD CONDUCT TIME

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3568; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 523

Legal Deadline: None

Abstract: This document notes the statutory requirements for the awarding of good conduct time, including the Bureau's consideration in instances where the inmate does not have a high school diploma or GED and is not making satisfactory progress toward earning a high school diploma or GED.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/27/97	62 FR 50786
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA62

1847. DRUG ABUSE TREATMENT AND INTENSIVE CONFINEMENT CENTER PROGRAMS: EARLY RELEASE CONSIDERATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3521 to 3528; 18 USC 3621; 18 USC 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4046; 18 USC 4081; 18 USC 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 848; 28 USC 509; 28 USC 510

CFR Citation: 28 CFR 524; 28 CFR 550

Legal Deadline: None

Abstract: This document adjusts criteria for receiving a sentence reduction under the drug abuse treatment program and the intensive confinement center program to demonstrate more clearly the discretion available to the Director of the Bureau of Prisons in making sentence reductions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/97	62 FR 53690
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534

DOJ—BOP

Final Rule Stage

Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA66

1848. VISITING REGULATIONS: PRIOR RELATIONSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.44

Legal Deadline: None

Abstract: This document revises regulations on visiting to require that visiting privileges at all institutions ordinarily shall be extended to friends and associates only when the relationship had been established prior to confinement. Previously this requirement was applicable only at Medium Security Level, High Security Level, and Administrative Institutions.

Timetable:

Action	Date	FR Cite
NPRM	05/18/99	64 FR 27166
NPRM Comment Period End	07/19/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA77

1849. INMATE DISCIPLINE: PROHIBITED ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 541.13

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on inmate discipline by establishing prohibited acts addressing use of the telephone to further criminal activity, abuses of the telephone for other than criminal activity, and violations of the no-smoking policy.

Timetable:

Action	Date	FR Cite
NPRM	02/25/99	64 FR 9432
NPRM Comment Period End	04/26/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA78

1850. SMOKING/NO SMOKING AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; EO 13058

CFR Citation: 28 CFR 551.160 to 551.163

Legal Deadline: None

Abstract: This document revises the Bureau's regulations on smoking to limit smoking in Bureau facilities to visibly designated outdoor locations, unless an indoor area has been designated as a smoking area to be used exclusively for authorized religious activities.

Timetable:

Action	Date	FR Cite
NPRM	11/25/98	63 FR 65502
NPRM Comment Period End	01/25/99	
Second NPRM	05/06/99	64 FR 24468
Second NPRM Comment Period End	07/06/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA79

1851. VICTIM AND/OR WITNESS NOTIFICATION: STATE CUSTODY TRANSFERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 1512; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 551.150 to 551.151

Legal Deadline: None

Abstract: This document provides for notification when an inmate is transferred to a State or local detention facility for service of sentence.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA80

1852. OVER-THE-COUNTER (OTC) MEDICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549.30 to 549.31

DOJ—BOP

Final Rule Stage

Legal Deadline: None

Abstract: This document establishes procedures governing inmate access to over-the-counter (OTC) medications. Selected OTC medications are currently available to the inmate population through commissary purchase. The Bureau will continue to dispense OTC medications at sick call only if the inmate does not already have the OTC medications and health services staff determine the inmate has an immediate medical need which needs to be addressed before the inmate's regularly scheduled commissary visit or that the inmate is without funds.

Timetable:

Action	Date	FR Cite
NPRM	03/01/99	64 FR 10094
NPRM Comment Period End	04/30/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA81

1853. ADMINISTRATIVE SAFEGUARDS FOR PSYCHIATRIC TREATMENT AND MEDICATION; MILITARY PRISONERS AND DISTRICT OF COLUMBIA CODE VIOLATORS

Priority: Info./Admin./Other

Legal Authority: 10 USC 876b; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4045; 18 USC 4081 to 4082; 18 USC 4241 to 4247; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 549.43

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on involuntary psychiatric treatment and medication to conform with statutory authority pertaining to military prisoners and District of Columbia (DC) Code violators.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA83

1854. DESIGNATION OF OFFENSES SUBJECT TO SEX OFFENDER RELEASE NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 3565; 18 USC 2568 to 3569; 18 USC 3582; 18 USC 3621 to 3622; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 4201 to 4218; 18 USC 5006 to 5024; 18 USC 5031 to 5042; 28 USC 509 to 510

CFR Citation: 28 CFR 571

Legal Deadline: None

Abstract: This document designates various offenses as sexual offenses for purposes of 18 USC 4042(c). The designations ensure that notifications can be made for military offenders, for District of Columbia Code offenders, and for these and other federal inmates with a sex offense in their criminal history.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/16/98	63 FR 69386
Final Action	12/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA85

1855. INMATE COMMISSARY ACCOUNT DEPOSIT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4005; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 18 USC 509 to 510; 31 USC 725

CFR Citation: 28 CFR 506; 28 CFR 540.23; 28 CFR 540.51

Legal Deadline: None

Abstract: This document specifies how an inmate may receive funds from family, friends, and other sources. Any funds sent from family or friends will be sent directly to a centralized inmate commissary account for receipt and posting. Funds received from other sources such as tax refunds, dividends from stocks, or state benefits will be forwarded for deposit to the centralized inmate commissary account.

Timetable:

Action	Date	FR Cite
NPRM	04/23/99	64 FR 20126
NPRM Comment Period End	06/22/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA86

1856. CIVIL CONTEMPT OF COURT COMMITMENTS

Priority: Info./Admin./Other

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 4161 to 4166; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 522

DOJ—BOP

Final Rule Stage

Legal Deadline: None

Abstract: This document amends regulations on civil contempt of court commitments to note the statutory distinction between the order of service of a sentence for offenses committed before November 1, 1987, and those committed on or after November 1, 1987.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	
Final Action Effective	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA87

1857. SEARCHES OF HOUSING UNITS, INMATES, INMATE WORK AREAS, AND PERSONS OTHER THAN INMATES: ELECTRONIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 751 to 752; 18 USC 1791 to 1793; 18 USC 3050; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4012; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 511; 28 CFR 552

Legal Deadline: None

Abstract: This document clarifies provisions in the Bureau's regulations which pertain to the use of electronic devices in searches of inmates and persons other than inmates.

Timetable:

Action	Date	FR Cite
NPRM	02/25/99	64 FR 9431
NPRM Comment Period End	04/26/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA90

1858. • FEDERAL TORT CLAIMS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510; 28 USC 1346(b); 28 USC 2671 to 2680

CFR Citation: 28 CFR 543

Legal Deadline: None

Abstract: This document revises the Bureau's implementing regulations for the Federal Tort Claims Act in accordance with the mandate to use plain language. This revision is intended to provide clearer instructions for filing and processing a claim with the Bureau for personal injury or death and/or damage to or loss of property.

Timetable:

Action	Date	FR Cite
NPRM	06/15/99	64 FR 32172
NPRM Comment Period End	08/16/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA94

1859. • CORRESPONDENCE: INSPECTION OF OUTGOING GENERAL CORRESPONDENCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551; 5 USC 552a; 18 USC 1791; 18 USC 3621 to 3622; 18 USC 3624; 18 USC 4001; 18 USC 4042; 18 USC 4081 to 4082; 18 USC 5006 to 5024; 18 USC 5039; 28 USC 509 to 510

CFR Citation: 28 CFR 540.14

Legal Deadline: None

Abstract: This document amends the Bureau's regulations on correspondence to require that outgoing inmate general correspondence at all institutions may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public. The requirement does not apply to special mail.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40718
NPRM Comment Period End	09/27/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic, Rules Administrator, Department of Justice, Bureau of Prisons, Room 754, HOLC, 320 First Street NW, Washington, DC 20534
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA98

Department of Justice (DOJ)
Bureau of Prisons (BOP)

Long-Term Actions

1860. TELEPHONE REGULATIONS AND INMATE FINANCIAL RESPONSIBILITY

Priority: Info./Admin./Other

CFR Citation: 28 CFR 540

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/02/96	61 FR 90
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA39

Department of Justice (DOJ)
Bureau of Prisons (BOP)

Completed Actions

1861. INMATE PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 553.10 to 553.15

Completed:

Reason	Date	FR Cite
Final Action	07/07/99	64 FR 36750
Final Action Effective	08/06/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA46

1862. FEDERAL PRISON INDUSTRIES (FPI) WORK PROGRAM: DEPORTATION ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 345

Completed:

Reason	Date	FR Cite
Final Action	06/15/99	64 FR 32168
Final Action Effective	07/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA57

1863. CORRESPONDENCE: EXCLUDABLE MAIL

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 540

Completed:

Reason	Date	FR Cite
Withdrawn	04/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA65

1864. VISITING: NOTIFICATION TO VISITORS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 540.51

Completed:

Reason	Date	FR Cite
Final Action	05/12/99	
Final Action Effective	06/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA67

1865. CORRESPONDENCE: RETURN ADDRESS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 540

Completed:

Reason	Date	FR Cite
Final Action	06/15/99	64 FR 32170
Final Action Effective	07/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA69

1866. ACCEPTANCE OF DONATIONS

Priority: Info./Admin./Other

CFR Citation: 28 CFR 504

Completed:

Reason	Date	FR Cite
Final Action	04/08/99	64 FR 17270
Final Action Effective	04/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA71

1867. COST OF INCARCERATION FEE

Priority: Routine and Frequent

CFR Citation: 28 CFR 505

Completed:

Reason	Date	FR Cite
Final Action	08/11/99	64 FR 43880
Final Action Effective	08/11/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roy Nanovic
Phone: 202 514-6655
Email: rnanovic@bop.gov

RIN: 1120–AA75

1868. FEDERAL PRISON INDUSTRIES, INC. (FPI) STANDARDS AND PROCEDURES WHICH FACILITATE FPI'S ABILITY TO ACCOMPLISH ITS MISSION

Priority: Other Significant

CFR Citation: 28 CFR 302

Completed:

Reason	Date	FR Cite
Clarification	05/07/99	64 FR 24547
Reopened Comment Period End	05/10/99	64 FR 11821
Withdrawn	09/03/99	64 FR 48336

Regulatory Flexibility Analysis Required: Undetermined

DOJ—BOP

Completed Actions

Government Levels Affected: None
Agency Contact: Marianne Cantwell
Phone: 202 514-6655
RIN: 1120–AA84

Department of Justice (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1869. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans with Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board is currently in the process of revising ADAAG, and it expects to publish a Notice of Proposed Rulemaking (NPRM) in late 1999. In order to maintain consistency between ADAAG and the ADA Standards, the Department anticipates reviewing its ADA regulations during fiscal year 2000. In addition to maintaining the consistency between ADAAG and the Standards, the purpose of these revisions will be to more closely coordinate with voluntary standards, to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion, and to reflect evolving technologies in areas affected by the Standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800-514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA44

1870. • NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509, 510; 42 USC 12134; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rule implementing title II of the Americans with Disabilities Act (ADA). In late 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) will issue its first comprehensive review of the ADA Accessibility Guidelines, which form the basis of the Department's ADA Standards for Accessible Design. The ADA (" 204(c)) requires the Department's Standards to be consistent with the Access Board's Guidelines. Therefore, the Civil Rights Division will publish a Notice of Proposed Rulemaking (NPRM) proposing to adopt the revisions proposed by the Access Board.
In addition to the statutory requirement for the rule, the social and economic realities faced by Americans with disabilities dictate the need for the rule. Individuals with disabilities cannot participate in the social and economic activities of the nation without being able to access the programs and services of state and local governments. Further, amending the Department's ADA regulations will: improve the format and usability of the ADA Standards for Accessible Design; harmonize the differences between the ADA Standards and national consensus standards and model codes; update the ADA Standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA Standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA46

1871. • NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS; RECREATION FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 28 USC 509, 510; 42 USC 12134; 42 USC 12186; PL 101-336

CFR Citation: 28 CFR 35; 28 CFR 36

DOJ—CRT

Proposed Rule Stage

Legal Deadline: None

Abstract: On July 9, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) published a Notice of Proposed Rulemaking (NPRM) to amend the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department's ADA Standards for Accessible Design. This NPRM would, for the first time, establish accessibility guidelines for the design of recreation facilities, such as health clubs, golf courses, and amusement parks. The ADA (”” 204(c) and 306(c)) requires the Department's accessibility standards to be consistent with the Access Board's guidelines. Therefore, the Civil Rights Division expects to publish a NPRM proposing to adopt the revisions proposed by the Access Board and proposing related changes to the Department's regulations with respect to the operation of recreation facilities. Individuals with disabilities cannot participate in the social and economic realms of the nation without being able to access public entities and public accommodations throughout the country. Promulgating this amendment to the Department's ADA regulations will ensure that the regulations are consistent with the Access Board's ADA Accessibility Guidelines, thereby preventing the confusion that could develop if the Department's regulations were inconsistent with the Access Board guidelines. In addition, amending the Department's ADA regulations will improve the Department's overarching goal of improving access for persons with disabilities. The proposed rule will ensure that new recreation facilities are readily accessible to and usable by individuals with disabilities. As new recreation facilities are designed and constructed to be accessible, individuals with disabilities will enjoy the benefits of these facilities. Operators of recreation facilities will experience increased usage and patronage by individuals with disabilities. Designers and manufacturers will have a clear and consistent set of standards with which to work. Establishing uniform standards for accessibility has resulted in innovation and new designs that are cost effective and beneficial to everyone.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA47

1872. • AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT OF 1998 COMPLAINT PROCESS; CHANGE TO DOCUMENT ABUSE DEFINITION PURSUANT TO THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182(n)(5); 8 USC 1324b(a)(6)

CFR Citation: 28 CFR 44.200

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA) — enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 — made various changes to the Immigration and Nationality Act (the INA) relating to temporary nonimmigrant professionals. In this rule (RIN 1190-AA48) the Civil Rights Division's Office of Special Counsel will implement the ACWIA "failure to select" protections — codified in the INA at section 212(n)(5) — by establishing a process under which U.S. workers may file complaints against employers for denying them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under this process, the Attorney General may receive and review these complaints, and then — if there is reasonable cause to believe the allegations — initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS). The Office of the Chief Administrative Hearing Officer of the Executive Office for Immigration Review will issue a rule implementing the Attorney General's authority to review arbitrators' decisions and, where appropriate, award administrative relief. These rules are being coordinated with the Department of Labor (DOL).

This rule also conforms the definition of document abuse under section 274B of the INA to the amendment enacted in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) by adding an intent element. The amendment requires complainants to prove not only that a respondent requested more or different documents than required for employment eligibility verification or rejected documents that appeared reasonably genuine on their face, but also that this action was taken with the purpose or intent of discriminating on the basis of citizenship status or national origin.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: By RIN 1115-AF40 (INS No. 1974-99) INS will implement the ACWIA "whistleblower" protection provisions — codified in the INA at section 212(n)(2)(C)(iv) and (v) — prohibiting retaliation against H-1B workers who disclose information which they believe indicates their employer has violated the law or regulations pertaining to labor condition applications for nonimmigrants. That rule will also enable an H-1B worker who files a complaint alleging retaliation to remain in the United States and seek authorization to work in the United States for a temporary period while his or her complaint is under review.

By RIN 1115-AF41 (INS No. 1975-99) INS will implement portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. That rule

DOJ—CRT — Proposed Rule Stage

complements regulations to be issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

Agency Contact: Mr. John D. Trasvina, Special Counsel, Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices, P.O. Box 27728, Washington, DC 20038-7728
Phone: 202 616-5593
Fax: 202 307-2874

Mr. Daniel Echavarren, Department of Justice, Civil Rights Division, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-3172
Fax: 703 305-0443

RIN: 1190–AA48

Department of Justice (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1873. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES; PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES; ACCESSIBILITY STANDARDS

Regulatory Plan: This entry is Seq. No. 59 in Part II of this issue of the **Federal Register**.

RIN: 1190–AA26

1874. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Regulatory Plan: This entry is Seq. No. 60 in Part II of this issue of the **Federal Register**.

RIN: 1190–AA28

1875. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 12134; 5 USC 301; 28 USC 509; 28 USC 510; PL 101-336

CFR Citation: 28 CFR 35

Legal Deadline: None

Abstract: This proposed amendment would revise the Department's regulation implementing title II to clarify the requirement for installation of curb ramps at existing pedestrian walkways and to extend the time period for compliance beyond the current deadline of January 26, 1995. This amendment responds to public concerns about the unique and significant capital expense involved in the installation of curb ramps.

The amendment would establish a two-tier system under which public entities would be required to provide access to pedestrian walkways serving government offices, public transportation, public accommodations, places of employment, and the residences of individuals with disabilities by January 26, 2000. Access to existing pedestrian walkways in other areas would be required by January 26, 2005. The proposed rule would require public entities to include a schedule for the implementation of these requirements in their transition plans.

Timetable:

Action	Date	FR Cite
NPRM	11/27/95	60 FR 58462
NPRM Comment Period End	01/26/96	
Comment Period Extended to 3/1/96	02/06/96	61 FR 4389
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738
Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198

RIN: 1190–AA36

1876. AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES; CHILDREN'S FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12186; 5 USC 301; 28 USC 509; PL 101-336; 28 USC 510

CFR Citation: 28 CFR 36

Legal Deadline: None

Abstract: On July 26, 1991, the Department published its final rules implementing titles II and III of the Americans with Disabilities Act (ADA), which prohibits discrimination on the basis of disability by public entities (title II) and in places of public accommodation and commercial facilities (title III). Those regulations included accessibility guidelines but did not specifically include guidelines for facilities designed for children.

This rule amends the ADA Standards for Accessible Design to include guidelines based on children's dimensions and anthropometrics and applies to newly constructed and altered facilities that are designed for use primarily by children. The rule ensures that newly constructed and altered children's facilities are readily accessible to and usable by children with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	07/22/96	61 FR 37964
NPRM Comment Period End	10/21/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John L. Wodatch, Chief, Disability Rights Section, Department of Justice, Civil Rights Division, P.O. Box 66738, Washington, DC 20035-6738

DOJ—CRT

Final Rule Stage

Phone: 800 514-0301
TDD Phone: 800 514-0383
Fax: 202 307-1198
RIN: 1190–AA38

Department of Justice (DOJ)
Civil Rights Division (CRT)

Long-Term Actions

1877. AMENDMENT TO NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.101 to 42.112

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
Fax: 202 307-2678

RIN: 1190–AA31

1878. AMENDMENT TO COORDINATION OF ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Other Significant

CFR Citation: 28 CFR 42.401 to 42.415

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Merrily A. Friedlander
Phone: 202 307-2222
Fax: 202 307-2678

RIN: 1190–AA32

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

Proposed Rule Stage

1879. GUIDELINES FOR PROVIDING CONTROLLED SUBSTANCES TO OCEAN VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 871(b)

CFR Citation: 21 CFR 1301.28

Legal Deadline: None

Abstract: DEA is considering whether to propose amending its regulations regarding the supply of controlled substances to ocean vessels to provide a means of supply more consistent with current industry practices for other materials. The decision on whether to propose amendments will be based on the information and comments submitted in response to this notice of proposed rulemaking and DEA's experience with the existing procedures and practices for supplying controlled substances to ocean vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/18/96	61 FR 49086
ANPRM Comment Period End	11/18/96	
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: DEA Number 142N

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office, of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA40

1880. SALE BY FEDERAL DEPARTMENTS OR AGENCIES OF CHEMICALS USABLE TO MANUFACTURE A CONTROLLED SUBSTANCE

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b); 21 USC 880; 21 USC 958(f); 21 USC 965

CFR Citation: 21 CFR 1310; 21 CFR 1316

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to provide that a Federal department or agency may not sell from the stocks of the department or agency any chemical which could be used in the manufacture of a controlled substance unless the Administrator of DEA certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance. The proposed rulemaking provides regulatory guidelines and establishes a procedure for prospective bidder and/or broker to appeal if they are aggrieved by DEA's failure to provide such certification.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: 176-

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office, of Diversion Control, Washington, DC 20537

DOJ—DEA — Proposed Rule Stage

Phone: 202 307-7297

RIN: 1117–AA47

1881. • CHEMICAL REGISTRATION AND REREGISTRATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 830; 21 USC 871 (b); 21 USC 875; 21 USC 877; 21 USC 958

CFR Citation: 21 CFR 1309

Legal Deadline: None

Abstract: The Drug Enforcement Administration (DEA) proposes to amend its application fees for registration and reregistration of manufacturers, distributors, importers, and exporters of List I chemicals, as authorized by section 3(a) of the Domestic Chemical Diversion Control Act of 1993 (DCDCA), reducing the fees from $595.00 to $326.00 for initial registration, and the reregistration fees from $477.00 to $171.00. Fees for retail registrants will increase from $255.00 to $326.00 for registration, and from $116.00 to $171.00 for reregistration. Office of Management and Budget Circular A-25 requires a periodic review of user charges for agency programs. This review will bring fees into alignment with current changes in costs or market values.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA 185-

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office, of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA50

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

Final Rule Stage

1882. DEFINITION AND REGISTRATION OF DISPOSERS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 821; 21 USC 822; 21 USC 823; 21 USC 824; 21 USC 871(b); 21 USC 875; 21 USC 877

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In years past, most pharmaceutical manufacturers and wholesalers, as a service to their customers, accepted returns of outdated/damaged merchandise. Also, agencies such as DEA and state Boards of Pharmacy accepted surrendered drugs or witnessed their disposal by controlled substance registrants. Over the past several years, environmental concerns and regulations have eliminated many of the disposal options which had been available. As a result, drug producers and government agencies alike are increasingly reluctant to be involved in the disposal process. Due to these factors and the time and resources expended by DEA and manufacturers, DEA is proposing the establishment of this essential link in the legitimate distribution chain.

Timetable:

Action	Date	FR Cite
NPRM	08/23/95	60 FR 43732
NPRM Comment Period End	10/23/95	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA 108

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office, of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA19

1883. EXEMPTION OF CHEMICAL MIXTURES

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 830; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Domestic Chemical Diversion Control Act of 1993 removed the exemption from regulation for chemical mixtures. Chemical mixtures are now regulated, unless specifically exempted by the Administrator. In the proposed rule regarding the implementation of the Domestic Chemical Diversion Control Act of 1993, DEA proposed regulations regarding exemption of chemical mixtures. Based on industry comments, the proposed regulations were subsequently withdrawn for reassessment and consultation with industry. Based on extensive consultations with industry, DEA has published proposed regulations intended to establish the least possible burden on industry while remaining consistent with the requirements of the law. Comments received on the proposed regulations are currently being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	09/16/98	63 FR 49506
NPRM Comment Period Extended to 04/16/99	02/12/99	64 FR 7144
NPRM Comment Period End	02/15/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA-137

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA31

1884. REGISTRATION AND REREGISTRATION APPLICATION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 821; 21 USC 822; 21 USC 871(b)

CFR Citation: 21 CFR 1301

Legal Deadline: None

Abstract: In furtherance of the DEA's 1992 final rule regarding the increase

of application fees (57 FR 60148), DEA is publishing this explanation of the components of the diversion control program.

Timetable:

Action	Date	FR Cite
Final Rule Republished for Further Comment	12/30/96	61 FR 68624
Comment Period End	03/31/97	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA Number 14

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office, of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA34

1885. ESTABLISHMENT OF FREIGHT FORWARDING FACILITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 21 USC 821 to 824; 21 USC 827; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 958(d); 21 USC 965

CFR Citation: 21 CFR 1301; 21 CFR 1304.

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to define the term Freight Forwarding Facility and to exempt such facilities from the requirement of registration, in response to industry requests for recognition of such facilities. The proposed amendments will establish the regulatory guidelines under which registrants may utilize a freight forwarding facility while shipping controlled substances to another registrant.

Timetable:

Action	Date	FR Cite
NPRM	12/18/96	61 FR 66637
NPRM Comment Period End	02/28/97	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: DEA Number 143

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office, of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA36

1886. LISTED CHEMICALS; PROPOSED THRESHOLDS FOR IODINE AND HYDROCHLORIC GAS (HYDROGEN CHLORIDE GAS)

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 802; 21 USC 871(b)

CFR Citation: 21 CFR 1310

Legal Deadline: None

Abstract: The Comprehensive Methamphetamine Control Act of 1996 (MCA) establishes that, effective October 3, 1996, Iodine (in its pure crystal form; mixtures such as tincture of iodine and other household products remain exempt from regulation) and Hydrochloric Gas are List II chemicals under the Controlled Substances Act (CSA). The inclusion of these chemicals under the CSA requires that each regulated person must keep records and make reports as specified in title 21, Code of Federal Regulations part 1310. The MCA applied the recording and reporting requirements to all transactions involving Iodine and Hydrochloric Gas.

The rule identified as DEA 156 establishes a domestic threshold of 0.4 kilograms for iodine, thus providing an exemption for transactions below this level, which would include the vast majority of retail sales. Legitimate commerce in Hydrochloric Gas consists almost exclusively of large volume transactions to commercial customers. However, clandestine methamphetamine laboratories often make use of small volumes of this gas, and, therefore, an effective threshold could not be established. In those rare cases where legitimate users purchase small quantities, principally for research or scientific purposes, the recordkeeping and reporting requirements will apply only to the distributor; the purchasers will not be subject to the requirements.

In response to comments submitted in connection with proposed DEA 156, DEA has determined that regulation of certain types of transactions involving hydrogen chloride is unnecessary for purposes of enforcement of the chemical controls under the Controlled Substances Act. However, exempting the transactions from regulation could not be' accomplished through the system of thresholds. By a rule identified as DEA 177, DEA will exempt certain transactions from the definition of Regulated Transaction, thus removing them from regulation.

Timetable:

DEA 156
NPRM 09/30/1997 (62 FR 51072)
NPRM Comment Period End 12/01/1997
Final Action 04/00/2000

DEA 177
Interim Final Rule 04/00/2000

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Department of Justice, Drug Enforcement Administration, Office of Diversion Control, Washington, DC 20537
Phone: 202 307-7183

RIN: 1117–AA43

1887. IMPLEMENTATION OF THE METHAMPHETAMINE CONTROL ACT; REGULATION OF PSEUDOEPHEDRINE, PHENYLPROPANOLAMINE, AND COMBINATION EPHEDRINE DRUG PRODUCTS; REPORTS OF CERTAIN TRANSACTIONS TO NONREGULATED PERSONS

Priority: Other Significant

Legal Authority: 21 USC 802; 21 USC 821 TO 824; 21 USC 830; 21 USC 871(b); 21 USC 875; 21 USC 877; 21 USC 951; 21 USC 958

CFR Citation: 21 CFR 1300; 21 CFR 1309; 21 CFR 1310

Legal Deadline: None

Abstract: DEA is proposing to amend its regulations to implement the

DOJ—DEA

Final Rule Stage

requirements of the Comprehensive Methamphetamine Control Act of 1996 (MCA) establishing pseudoephedrine, phenylpropanolamine, and combination ephedrine drug products as List I chemicals, and the MCA requirement that reports be submitted for certain distributions to nonregulated persons involving pseudoephedrine, phenylpropanolamine, and ephedrine, including drug pro lucts containing those chemicals. The MCA establishes pseudoephedrine, phenylpropanolamine, and combination ephedrine products as regulated List I chemicals, and requires that reports of certain distributions to nonregulated persons be reported each month.

To minimize the impact of the new law, DEA is proposing to exempt retail distributors from the registration requirement. This exemption will provide the estimated 750,000 retail distributors with relief from the chemical control requirements of the regulations, including registration. Additionally, the existing exemptions from registration for CSA registrants and for distributors of prescription drug products will help minimize the impact of the requirements on other handlers of the products.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	62 FR 52294
NPRM Comment Period End	12/08/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: DEA number 163

Agency Contact: Patricia M. Good, Chief, Department of Justice, Drug Enforcement Administration, Liaison and Policy Office, of Diversion Control, Washington, DC 20537
Phone: 202 307-7297

RIN: 1117–AA44

Department of Justice (DOJ)
Drug Enforcement Administration (DEA)

Completed Actions

1888. TEMPORARY EXEMPTION FROM CHEMICAL REGISTRATION FOR DISTRIBUTORS OF PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE AND PRODUCTS

Priority: Info./Admin./Other

CFR Citation: 21 CFR 1309; 21 CFR 1310

Completed:

Reason	Date	FR Cite
Final Action	07/27/99	64 FR 40516

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia M. Good
Phone: 202 307-7297

RIN: 1117–AA46

1889. ANHYDROUS HYDROGEN CHLORIDE: CATEGORIES OF DISTRIBUTION REGARDED AS NONREGULATED

Priority: Substantive, Nonsignificant

CFR Citation: 21 CFR 1310

Completed:

Reason	Date	FR Cite
Combined into RIN 1117-AA43	09/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Sapienza
Phone: 202 307-7183

RIN: 1117–AA48

1890. SPECIAL SURVEILLANCE LIST OF CHEMICALS, PRODUCTS, MATERIALS AND EQUIPMENT

Priority: Substantive, Nonsignificant

CFR Citation: None

Completed:

Reason	Date	FR Cite
Final Action	05/13/99	64 FR 25910
Final Action Effective	05/13/99	
Correction	09/17/99	64 FR 50541

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank Sapienza
Phone: 202 307-7183

RIN: 1117–AA49

Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

Proposed Rule Stage

1891. AUTHORITY OF IMMIGRATION JUDGES TO ISSUE CIVIL MONEY PENALTIES

Priority: Other Significant

Legal Authority: 5 USC 301; 8 USC 1103; 8 USC 1252 note; 8 USC 1252b; 8 USC 1362; 28 USC 509; 28 USC 510; 28 USC 1746; Reorg. Plan No. 2 of 1950, sec 2; 3 CFR, 1949 to 1953 Comp, p 1002

CFR Citation: 8 CFR 1; 8 CFR 3

Legal Deadline: None

Abstract: This rule proposes to amend the regulations by implementing the statutory authority given to Immigration Judges to sanction by civil money penalty any action or inaction in contempt of the Judge's proper exercise of authority. This statutory authority is derived from section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208 (IIRIRA), September 30, 1996. This rule sets forth the types of conduct for which civil money penalty sanctions may be imposed, the procedures for imposing these sanctions, the affirmative defenses which may excuse the imposition of a civil money penalty sanction, and the procedures for appealing such sanctions. The rule also adds an additional ground for

DOJ—EOIR **Proposed Rule Stage**

disciplinary sanctions under 8 CFR section 3.102 for engaging in a pattern and practice of conduct which has been found to be in contempt of the Immigration Judge's proper exercise of authority.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ms. Margaret M. Philbin, Deputy Director, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA18

Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR) **Final Rule Stage**

1892. DISCIPLINE OF ATTORNEYS AND REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1252b; 8 USC 1362

CFR Citation: 8 CFR 3; 8 CFR 292

Legal Deadline: None

Abstract: This rule amends 8 CFR parts 3 and 292 by changing both the present procedures for disciplining attorneys and representatives who practice before the Executive Office for Immigration Review, which includes the Board of Immigration Appeals and the Immigration Courts, and the procedures for disciplining attorneys and representatives who practice before the Immigration and Naturalization Service (INS). This rule also includes a provision which was promulgated as an interim rule on April 6, 1992, pursuant to section 545 of the Immigration Act of 1990, Public Law 101-649 (IMMACT), concerning sanctions against attorneys or representatives who engage in frivolous behavior in immigration proceedings. This rule outlines the authority of EOIR to investigate and impose disciplinary sanctions against attorneys and representatives who practice before its tribunals. The rule clarifies the authority of the INS to investigate complaints regarding attorneys and representatives who practice before the INS and outlines the procedures by which the INS may initiate disciplinary proceedings before EOIR against practitioners who practice before the INS.

Timetable:

Action	Date	FR Cite
NPRM	01/20/98	63 FR 2901
NPRM Comment Period End	03/23/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ms. Jennifer Barnes, Associate General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA13

1893. SUSPENSION OF DEPORTATION AND CANCELLATION OF REMOVAL

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1224 to 1227; 8 USC 1251 to 1252; 8 USC 1362; PL 105-100, sec 202

CFR Citation: 8 CFR 240

Legal Deadline: None

Abstract: This rule amends the regulations of the Executive Office for Immigration Review and the Immigration and Naturalization Service by eliminating the conditional grant process at 8 CFR 240.21, and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/98	63 FR 52134
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule supersedes rule published October 3, 1997, in the Federal Register at 62 FR 51760 through 51762 (RIN 1125-AA19).

Agency Contact: Mr. Charles Adkins-Blanch, Acting General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

RIN: 1125–AA25

Department of Justice (DOJ)
Executive Office for Immigration Review (EOIR)

Completed Actions

1894. RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 68.1 to 54

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End	04/13/99	
Final Action	09/14/99	64 FR 49659
Final Action Effective	09/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch
Phone: 703 305-0470

RIN: 1125–AA17

1895. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 245

Completed:

Reason	Date	FR Cite
Final rule moot; Deadline for filing under Interim rule has passed.	05/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch
Phone: 703 305-0470

RIN: 1125–AA20

1896. BOARD OF IMMIGRATION APPEALS: STREAMLINING

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 3

Completed:

Reason	Date	FR Cite
Final Action	10/18/99	64 FR 56135

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Adkins-Blanch
Phone: 703 305-0470

RIN: 1125–AA22

Department of Justice (DOJ)
Federal Bureau of Investigation (FBI)

Proposed Rule Stage

1897. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33109 to 33111

CFR Citation: 28 CFR 89

Legal Deadline: None

Abstract: The Attorney General is required to establish a National Stolen Passenger Motor Vehicle Information System pursuant to the Anti Car Theft Act of 1992 (49 USC 33109 to 33111). The FBI is coordinating efforts in this matter and, under delegated authority from the Attorney General, the FBI is issuing this rule to establish a national system to verify the theft status of major motor vehicle component parts. The system will include certain information about each passenger motor vehicle reported to a law enforcement agency as stolen and not recovered. The rule provides how an individual or entity may obtain information from the system on whether a vehicle or part is listed as stolen. The rule also provides verification procedures to be followed by insurance carriers and certain motor vehicle part businesses.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1105-AA44.

Agency Contact: Stephen A. Bucar, Domestic Projects Planning Unit, Department of Justice, Federal Bureau of Investigation, CJIS Division, Module C-3, 1000 Custer Hollow Road, Clarksburg, WV 26306
Phone: 304 625-2751
Fax: 304 625-3875

RIN: 1110–AA01

Department of Justice (DOJ)
Federal Bureau of Investigation (FBI)

Final Rule Stage

1898. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

Legal Authority: PL 103-414 Communications Assistance for Law Enforcement Act; PL 104-208 Omnibus Consolidated Appropriations Act of 1997

CFR Citation: 28 CFR 100

Legal Deadline: Other, Statutory, October 25, 1998, While CALEA required telecommunications carriers to be in compliance with section 103 by October 25, 1998, the FCC has since exercised (continued in Additional Information).

Abstract: As required by section 109 of the Communications Assistance for Law Enforcement Act (CALEA), the FBI promulgated Cost Recovery Regulations allowing telecommunications carriers to recover certain costs associated with implementing CALEA. The final rule was published on March 20, 1997 (62 FR 13307) and became effective on April 21, 1997. In response to public comment received during this rulemaking, the FBI published an ANPRM on November 19, 1996 (61 FR

58799), which solicited input on the definition of the term "significant upgrade or major modification" as used by CALEA. The "significant upgrade or major modification" NPRM was published on April 28, 1998 (63 FR 23231) and the FBI is currently reviewing the comments received.

Additionally, CALEA section 104 requires the Attorney General to publish a Notice of Actual and Maximum Capacity in order to provide telecommunications carriers with the information they will need to meet law enforcement's future simultaneous electronic surveillance requirements. For local exchange, cellular, and broadband PCS, the FBI published an Initial Notice of Capacity on October 16, 1995 (60 FR 53643) and a Second Notice of Capacity on January 14, 1997 (62 FR 1902). The FBI published the Final Notice of Capacity for local exchange, cellular, and broadband PCS on March 12, 1998 (63 FR 12218). Additionally, the FBI published a Notice of Inquiry (NOI) in the Federal Register on December 18, 1998 (63 FR 70160) which solicited information on and suggestions for developing reasonable methodologies for characterizing capacity requirements for telecommunications services and technologies other than local exchange, cellular, and broadband PCS. Comments were due on February 16, 1999. Information gathered in response to the NOI will be used in the publication of a further Notice of Inquiry, which will address the NOI comments and focus on developing reasonable capacity methodologies for the paging, mobile satellite, specialized mobile radio, and enhanced specialized mobile radio services.

Timetable:

"Significant upgrade or major modification"
ANPRM Soliciting Input on Term 11/19/1996 (61 FR 58799)
NPRM Proposing Definition 04/28/1998 (63 FR 23231)
Final Rule Defining Term 12/00/2000

Cost Recovery Rule (Telecom. Carriers)
NPRM 05/10/1996 (61 FR 21396)
NPRM Comment Period End 07/09/1996
Final Rule 03/20/1997 (62 FR 13307)
Final Rule Effective 04/21/1997

Notice of Actual and Max. Cap.-local exch, cellular, broadb PCS
Initial Notice 10/16/1995 (60 FR 53643)
Second Notice 01/14/1997 (62 FR 1902)
Final Notice 03/12/1998 (63 FR 12217)

Notice of Actual and Max. Cap.-paging, non-bb PCS, MSS, SMR, etc.
Notice of Inquiry (Cap Methodology) 12/18/1998 (63 FR 70160)
Further Notice of Inquiry (Cap Methodology) 12/00/1999

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: STATUTORY DEADLINE CONT: its authority under section 107 of CALEA to grant telecommunications carriers extensions of this compliance date. As a result of the FCC's order, carriers must now be in compliance with section 103 by June 30, 2000. Additionally, as a result of the publication of the Final Notice of Capacity for local exchange, cellular and broadband PCS carriers, these carriers must be in compliance with section 104 by March 12, 2001.

Transferred from RIN 1105-AA39.

Agency Contact: Walter V. Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Department of Justice, Federal Bureau of Investigation, Suite 300, 14800 Conference Center Drive, Chantilly, VA 20151
Phone: 703 814-4900

Rozanne R. Worrell, SSA, CALEA Implementation Section, Department of Justice, Federal Bureau of Investigation, Suite 300, 14800 Conference Center Drive, Chantilly, VA 20151
Phone: 703 814-4804

RIN: 1110–AA00

1899. OPERATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 18 USC 922 to 925 Brady Handgun Violence Prevention Act

CFR Citation: 28 CFR 16; 28 CFR 20; 28 CFR 25

Legal Deadline: Other, Statutory, November 30, 1998, The Brady Handgun Violence Prevention Act requires the NICS be established not later than 60 months after enactment (11/30/93).

Abstract: This rule notifies State and local law enforcement agencies and Federal Firearms Licensees of the establishment of the National Instant Check System (NICS). On June 4, 1998, the FBI published an NPRM setting forth the policies and procedures regarding use of the system, including regulations pertaining to the security and privacy of information.

On August 8, 1998, the FBI published an NPRM proposing the user fee to be charged for use of the NICS. On October 30, 1998 the FBI published a Final rule noting that the user fee would not be charged pursuant to congressional action. The Final rule also provides that by February 28, 1999 the Department will issue a notice of proposed revision of the regulation setting forth a further reduced period of retention of information relating to approved transfers.

Timetable:

NICS Privacy & Security Policies
NPRM 06/04/1998 (63 FR 30430)
Comment Period End 09/02/1998

NICS User Fee
NPRM 08/17/1998 (63 FR 43893)
Comment Period End 09/16/1998

Privacy & Security Policies and User Fee
Final Rule 10/30/1998 (63 FR 58303)

Reduction of Retention Period
NPRM 03/03/1999 (64 FR 10262)
NPRM Comment Period End 06/01/1999 (64 FR 10263)
Final Rule 11/00/1999

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Additional Information: Transferred from RIN 1105-AA51.

Agency Contact: Emmet A. Rathbun, Unit Chief, Research and Development Unit, Department of Justice, Federal Bureau of Investigation, CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306-0147
Phone: 304 625-2000

RIN: 1110–AA02

1900. IMPLEMENTATION OF THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermine[d].

Unfunded Ma.idates: Undetermined

Legal Authority: PL 104-236, sec 9

CFR Citation: Not Yet Determined

DOJ—FBI **Final Rule Stage**

Legal Deadline: Other, Statutory, October 3, 1999, The Act does not distinguish between NPRM and final regulations.

Abstract: The FBI is issuing regulations to carry out the Pam Lychner Sexual Offender Tracking and Identification Act of 1996. These regulations include guidelines as to the operation and use of the interim national sex offender registry established by the FBI, and the notice to be provided to the FBI in the event a registered sex offender moves interstate. On February 16, 1999 at 64 FR 7562, the FBI published a Notice of Proposed Rulemaking (NPRM) on this subject. Comments submitted on the NPRM are currently being reviewed.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7562
NPRM Comment Period End	04/19/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: Transferred from RIN 1105-AA56.

Agency Contact: Charles Marciano, Assistant General Counsel, Department of Justice, Federal Bureau of Investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue, NW, Washington, DC 20530
Phone: 202 324-4523

RIN: 1110–AA04

Department of Justice (DOJ)
Federal Bureau of Investigation (FBI)

Long-Term Actions

1901. FEDERAL CONVICTED OFFENDER DNA DATABASE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Joseph Dizinno
Phone: 202 324-4354
Email: lab-fssu@fbi.gov

RIN: 1110–AA03

Department of Justice (DOJ)
Federal Bureau of Investigation (FBI)

Completed Actions

1902. FBI CRIMINAL JUSTICE INFORMATION SERVICES DIVISION SYSTEMS AND PROCEDURES

Priority: Other Significant

CFR Citation: 28 CFR 0.85; 28 CFR 16 (Revision); 28 CFR 20 (Revision); 28 CFR 50.12

Completed:

Reason	Date	FR Cite
NPRM	05/10/99	64 FR 24972
NPRM Comment Period End	06/09/99	
Final Action	09/28/99	64 FR 52223
Final Action Effective	10/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Beth Haley
Phone: 202 324-4523

RIN: 1110–AA05

1903. • WHISTLEBLOWER PROTECTION FOR FEDERAL BUREAU OF INVESTIGATION EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 315; 5 USC 2303; 28 USC 590; 28 USC 510; 28 USC 515 to 519; ...

CFR Citation: 28 CFR 101

Legal Deadline: None

Abstract: This rule establishes procedures under which employees of the Federal Bureau of Investigation may make disclosures of information protected by the Civil Service Reform Act of 1978 (Pub. L. 95-454) and the Whistleblower Protection Act of 1989 (Pub. L. 101-12), codified at 5 USC 2303. It also establishes procedures under which the Department of Justice will investigate allegations by FBI employees of retaliation for making such disclosures and provide appropriate corrective action.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/10/98	63 FR 62937
Final Action	11/01/99	64 FR 58782
Final Action Effective	11/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Transferred from RIN 1105-AA60.

Agency Contact: Stuart Frisch, General Counsel, Justice Management Division, Department of Justice, Legal Activities, National Place Building, 1331 Pennsylvania Avenue NW., Washington, DC 20530
Phone: 202 514-3452

RIN: 1110–AA06

Department of Justice (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1904. SPECIAL IMMIGRANT JUVENILE PETITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 USC 1641

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking announces the intent of INS to issue regulations concerning special immigrant juveniles. Section 101(a)(27)(J) of the Immigration and Nationality Act (Act) that provides for the adjustment of status of special juveniles, was amended on November 27, 1997 by the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1998. This law now specifies that only juveniles who are present in the United States due to abuse, neglect, or abandonment, may apply for special immigrant juvenile status under this provision. Under this new law, the Attorney General's consent to the dependency order is a precondition to the grant of special immigrant juvenile status. No juvenile court shall have jurisdiction to determine the custody status or placement of an alien in the actual or constructive custody of the Attorney General unless the Attorney General specifically consents to such jurisdiction.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1948-98

Agency Contact: Ann Palmer, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 900, 801 I Street NW., Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF35

1905. • EXPANSION OF EXPEDITED REMOVAL OF CERTAIN CRIMINAL ALIENS HELD IN FEDERAL, STATE, AND LOCAL JAILS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR 212; 8 CFR 235

Legal Deadline: None

Abstract: This notice advises the public that the Immigration and Naturalization Service intends to apply the expedited removal provisions of section 235(b)(1) of the Immigration and Nationality
Act on a pilot basis to certain criminal aliens being held in three correctional facilities in the State of Texas. This action will not become effective until the Service evaluates and addresses public comments and informs the public by notice in the Federal Register when the expedited removal provisions will be implemented. This pilot program will last for a period of 180 days, and will be followed with an evaluation of the program. The Service believes that implementing the expedited removal provisions to persons who have been found by a Federal judge to be guilty of illegal entry and are serving short criminal sentences will result in faster removal of those criminal aliens. This will ensure prompt immigration determinations in those cases and consequently will save Service detention space and immigration judge and trial attorney resources.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/99	64 FR 51338
ANPRM Comment Period End	11/22/99	
Second ANPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: INS No. 1998-

Agency Contact: Ms. Isabelle Chewning, Detention and Deportation Officer, Department of Justice, Immigration and Naturalization Service, Suite 800, 801 I Street, Washington, DC 20536
Phone: 202 616-7797

RIN: 1115–AF50

Department of Justice (DOJ)
Immigration and Naturalization Service (INS)

Proposed Rule Stage

1906. REVISED GROUNDS OF INADMISSIBILITY, WAIVERS FOR IMMIGRANTS AND NONIMMIGRANTS, AND EXCEPTIONS

Regulatory Plan: This entry is Seq. No. 61 in Part II of this issue of the **Federal Register**.

RIN: 1115–AB45

1907. INSPECTION OF PERSONS APPLYING FOR ADMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1353a; 8 USC 1353b; 31 USC 9701

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule provides for the reimbursement to the INS for certain direct salary costs and administrative overhead charges in its overtime billing for arriving trains and vessels under 8 USC 1353b, for all immigration inspection services rendered to crews, and for services rendered to passengers not exempt under 8 USC 1353b or 1356(g).

Timetable:

Action	Date	FR Cite
NPRM	12/22/92	57 FR 60741
NPRM Comment Period End	01/21/93	
Second NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1512-92

DOJ—INS

Proposed Rule Stage

Agency Contact: Brenda Garland, Office of Financial Management, Department of Justice, Immigration and Naturalization Service, Room 6010, 425 I Street NW, Washington, DC 20536 Phone: 202 616-7683

RIN: 1115–AD17

1908. EMPLOYMENT AUTHORIZATION DOCUMENT APPLICATIONS AND PROCESS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: A final rule (INS No. 1399-96) introducing and authorizing centralized production of a new more secure and fraud-resistant EAD Card or Form I-766 was published in the Federal Register at 61 FR 46534 on September 4, 1996. Centralized production of this new EAD card will be performed by one or more INS Service Centers. Also, an employment authorization document (EAD) application and proposed rule is planned pending Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) regulatory initiatives and related policy actions. The proposed rule (INS No. 1707-95)will provide a more efficient process for centralized production of the new EAD card.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: The employment authorization document (EAD) applications and process proposed rule (INS No. 1707-95) has been pending for some time due to document reduction issues. The Service published a proposed rule (I-9) on 2/2/98 at 63 FR 5287. The remaining policy issues on the I-765 proposed rule are expected to be worked out during the next few months. With refocused resources, the Service is optimistic and is working to meet a February 2000 publication date for the I-765 proposed rule.

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-3228

RIN: 1115–AE06

1909. INSPECTION OF PERSONS APPLYING FOR ADMISSION; TRANSIT WITHOUT VISA (TWOV) AND INTERNATIONAL-TO-INTERNATIONAL AGREEMENTS LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This notice proposes that carriers must charge and collect a user fee from every International-to-International (ITI) passenger arriving in the United States, except those individuals exempted under section 286(e)(1) of the Immigration and Nationality Act (Act). Furthermore, this notice informs concerned parties that the Service shall increase to $2500 from $500 the amount of liquidated damages imposed on carriers for failure to timely transport any alien brought to the United States under the Immediate and Continuous Transit Agreement, better known as the Transit Without Visa (TWOV) Agreement, on Form I-426, or under the International-to-International (ITI) Agreement, formerly known as the Immediate and continuous Transit Agreement (with provisions for control of uninspected passengers and In-Transit Lounge Use) and also known as the In-Transit Lounge (ITL) Agreement. This notice also notifies carriers that the Service is amending both the TWOV and ITL Agreements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1757 Changes to section 235 by IIRIRA of 1996 requires regulations to be altered.

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536 Phone: 202 616-7499 Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AE37

1910. DEFINITION OF THE TERM "LAWFULLY PRESENT" FOR PURPOSES OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252B; 8 USC 1304; 8 USC 1356; 31 USC 9701; EO 12356; 47 FR 14874 to 15557; 3 CFR 1982 comp.; 8 CFR 2

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: Section 401(a) of the Personal Responsibility and Work Reconciliation Act of 1996 (PRWORA) provides that, with limited exceptions, only qualified aliens, as defined under section 431, may receive certain Federal public benefits. Section 401(b)(2) provides an exception which allows aliens who are "lawfully present in the United States" as determined by the Attorney General to receive Social Security benefits under title II of the Social Security Act. PRWORA, and other laws, use the term "lawfully present" in other benefit-related contexts as well.

The interim final rule published September 6, 1996 amended the Immigration and Naturalization Service (Service) regulations to define the term "an alien who is lawfully present in the United States" so that the Social Security Administration may determine which aliens are eligible for benefits under title II of the Social Security Act. It is necessary to define "lawfully present" for broader purposes than just the title II benefits. Therefore, rather than issue a final rule pertaining to title VI only, the Service intends to publish a proposed rule covering all other applications of the term as well. The resulting final rule, after notice and comment, will include title II within the rule's broader coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/06/96	61 FR 47039

DOJ—INS

Proposed Rule Stage

Action	Date	FR Cite
Interim Final Rule	11/05/96	
Comment Period End		
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: INS No. 1792-96

Agency Contact: Suzy Nguyen, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-4754

RIN: 1115–AE51

1911. CORPORATE REORGANIZATIONS (MERGERS AND ACQUISITIONS) AND E, H, L NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214.1(h)

Legal Deadline: None

Abstract: The Service solicits comments on establishing policy and administrative procedure for simplifying the processing of nonimmigrant temporary workers involved in mergers, acquisitions consolidations or other corporate restructurings. Streamlining Service Center procedures in this respect is in the public interest in light of increased numbers of corporate reorganizations anticipated in the future.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1797-96

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-5014

RIN: 1115–AE55

1912. FILING FACTUAL STATEMENTS ABOUT ALIEN PROSTITUTES

Priority: Other Significant

Legal Authority: 18 USC 2424; PL 104-208

CFR Citation: 28 CFR 94

Legal Deadline: None

Abstract: On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) was enacted. This law not only amended significant portions of title 8 of the United States Code, but also changed the provisions of title 18 United States Code (Crimes and Criminal Procedures). Because section 325 amends 18 USC, the Immigration and Naturalization Service will publish an implementing regulation dealing with the filing of statements by individuals who keep, maintain, control, support or harbor alien prostitutes.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1810-96)	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: INS No. 1810-96

Agency Contact: Elizabeth L. Dolan, Senior Special Agent, Headquarters Investigations, Department of Justice, Immigration and Naturalization Service, Room 1000, 425 I Street NW, Washington, DC 20536 Phone: 202 514-2998

RIN: 1115–AE60

1913. F-1 VISA ABUSERS AND FOREIGN STUDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1258; 8 USC 1362; PL 104-208

CFR Citation: 8 CFR 214.1; 8 CFR 214.2 (f); 8 CFR 214.3; 8 CFR 214.4; 8 CFR 221.1; 8 CFR 235; 8 CFR 236; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will amend current regulations governing F-1 foreign students and the schools authorized to enroll F-1 students. The purpose is to bar F-1 eligibility and status from attendance at a public elementary school and publicly funded adult education programs. In addition, this rulemaking will establish the reimbursement requirements and 12 month limit for F-1 eligibility and status to attend an INS approved public secondary school. The rulemaking will implement the statutorily mandated foreign student tracking provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1813-96

Agency Contact: Sophia Cox, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-3228

RIN: 1115–AE63

1914. EMPLOYMENT VERIFICATION BY EMPLOYERS THAT ARE MEMBERS OF A MULTI-EMPLOYER ASSOCIATION

Priority: Other Significant

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The INS will

issue regulations regarding when an employer that is a member of a multi-employer association employing an individual under a collective bargaining agreement entered into between one or more employee organizations and the multi-employer association may rely upon an Employment Eligibility Verification Form (Form I-9) completed for the individual by a previous employer that is a member of the same multi-employer association.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Rule INS No. 1817-96	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Re INS No. 1817-96; PL 104-208, title 4

Agency Contact: Marguerite Przbylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW., Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE67

1915. USE OF PAROLE FOR HUMANITARIAN REASON OR SIGNIFICANT PUBLIC BENEFIT AND REPORT TO CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212

Legal Deadline: NPRM, Statutory, September 11, 1997.

Abstract: Changes to the current regulations are necessitated by section 602 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section has reworded certain parole authority by stipulating parole on a case-by-case basis for urgent humanitarian reasons or significant public benefit.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: INS No. 1840-97

This rule effects the following section of the I&NA - section 212, as amended by sections 602 IIRIRA.

Agency Contact: James Kicfer, Acting, Director Parole Unit, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, Room 1000D, 425 I Street NW, Washington, DC 20536
Phone: 202 305-2455

RIN: 1115–AE68

1916. REGULATIONS PERTAINING TO BATTERED ALIENS AND TO MAIL ORDER BRIDE BUSINESSES, AS MANDATED BY IIRIRA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1641(c); PL 104-208

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) included a number of provisions relating to battered aliens and to mail order bride businesses. At present, INS anticipates rulemaking in the following areas.

INS No. 1845-97 is necessitated by the section 501 of IIRIRA, which provides certain types of public benefits for those aliens who have made a prima facie case for eligibility pursuant to the INS' interim rule on self-petitions by battered aliens, published at 61 FR 13061 (March 26, 1995; INS No. 1705-95). This new interim rule will define what constitutes a prima facie case.

INS No. 1838-97, an advance notice of proposed rulemaking to solicit public input into the regulation of certain functions of the international matchmaking industry (also referred to as "mail order bride businesses"), as required by section 652 of IIRIRA, was published on 7/16/97 (62 FR 38041).

Timetable:

Action	Date	FR Cite
ANPRM-INS No. 1838-97 Comments Due 09/15/97	07/16/97	62 FR 38041
Interim Rule-INS No. 1845-97	11/13/97	62 FR 60769
NPRM-INS No. 1838-97	12/00/99	
Final Rule-INS NO. 1845-97	02/00/00	
Final Rule-INS No. 1838-97	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No.1838-97. The Service submitted its report on international matchmaking organizations which can be found on the INS website. The Service is currently preparing the informational brochures which the organizations will be required to provide to women recruits.

Agency Contact: Karen Fitzgerald, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE77

1917. CLARIFICATION OF AGE REQUIREMENTS FOR FINGERPRINTING NATURALIZATION APPLICANTS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1443; 8 USC 1447; 8 CFR 2.1

CFR Citation: 8 CFR 316

Legal Deadline: None

Abstract: This rule amends Immigration and Naturalization Service regulations relating to requirements for fingerprinting naturalization applicants. This rule is necessary to clarify the age at which naturalization applicants are required to be fingerprinted. The rule requires naturalization applicants 18 age or older to be fingerprinted in connection with their applications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

DOJ—INS

Proposed Rule Stage

Additional Information: INS No. 1860-97

Agency Contact: Ann Palmer, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 900, 801 I Street NW., Washington, DC 20536 Phone: 202 514-4754

RIN: 1115–AE86

1918. CONTROL OF ALIENS DEPARTING FROM THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 8 CFR 215

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). IIRIRA required the Service to implement an arrival/departure management system by October 1, 1998. This regulation will implement that system by requiring that all aliens seeking to enter the United States on or after that date, unless otherwise exempted by Service regulation, be in possession of a machine readable travel document acceptable to the Service. The regulation will establish a requirement that every person seeking to depart from the United States must travel through a Service designated Port-of-Departure and must conform to Service procedures prior to or upon departure. The regulation also will establish penalties for persons who fail to comply with the requirements of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: INS No. 1869-97

Agency Contact: Andrew Taub, Assistant Chief Inspector, Office of Inspections, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536 Phone: 202 514-3019

RIN: 1115–AE89

1919. EN ROUTE INSPECTIONS AND REIMBURSEMENT FOR IMMIGRATION AND NATURALIZATION SERVICE COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1356(i)

CFR Citation: 8 CFR 235

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to define an en route inspection. The rule will also notify all affected parties that the Service will begin to bill cruise ship, train, and bus lines or other modes of transportation, or their designated shipping agents or representatives, for all expenditures of government funds which the Service obligates in connection with the performance of en route inspections on board transportation carriers. This action is necessary in order for the Service to more accurately account for the costs associated with providing special immigration inspection services on an en route basis, and to ensure their full recoupment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1784-96

Agency Contact: Sam Farmer, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW., Washington, DC 20536 Phone: 202 305-8153

RIN: 1115–AE98

1920. JURISDICTIONAL CHANGE FOR THE LOS ANGELES AND SAN FRANCISCO ASYLUM OFFICES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 CFR 2

CFR Citation: 8 CFR 100

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations to change the jurisdiction for the Los Angeles Asylum Office to include the State of Hawaii and the Territory of Guam. Asylum claims filed by people residing in the State of Hawaii and the Territory of Guam will no longer be handled by the San Francisco Asylum Office.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1949-98)	11/00/99	
Final Action (INS No. 1949-98)	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1949-98

Agency Contact: Marta Rothwarf, Asylum Officer, Office of International Affairs, Department of Justice, Immigration and Naturalization Service, 3rd Floor, 111 Massachusetts Avenue NW, Washington, DC 20536 Phone: 202 305-2792

RIN: 1115–AF18

1921. PROGRESSIVE CLEARANCE STOPOVERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228; 8 USC 1229

CFR Citation: 8 CFR 231.1; 8 CFR 231.4

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations by establishing passenger and carrier requirements with regard to progressive clearance and stopovers. This includes passenger and carrier obligations and liabilities and the charging and collection of a user fee for each subsequent inspection of stopover passengers. This rule is intended to facilitate travel while continuing to ensure the welfare, safety and security of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: INS No. 1930-98

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF23

1922. DOCUMENTARY REQUIREMENTS FOR RETURNING RESIDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1181; 8 USC 1182; 8 USC 1203; 8 USC 1225; 8 USC 1257

CFR Citation: 8 CFR 211

Legal Deadline: None

Abstract: This rule proposes to amend INS regulations to specify how an alien admitted for permanent residence, on returning to the United States, may prove that he or she is not to be considered an applicant for admission. This rule is necessary to implement section 101(a)(13)(C) of the Act and to clarify the responsibility for carriers who transport to the United States aliens who claim to be to be returning residents. This rule will ensure that aliens who present themselves as lawful permanent residents are properly documented as such.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1932-98)	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1932-98

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, Suite 210, 1400 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AF26

1923. AVAILABILITY OF MATERIAL UNDER FREEDOM OF INFORMATION ACT AND PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 552; 8 USC 552a; 8 USC 1101; 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This revised regulation is necessary to amend the Immigration and Naturalization Service regulations by providing procedures implementing the new provisions of the Electronic Freedom of Information Act (EFOIA) Amendments of 1996. New provisions implementing EFOIA require that we maintain, and provide to the public, a record in either paper or electronic format and maintain an electronic reading room. It further updates the timing of responses to requests by extending the response time from 10 to 20 working days. This regulation reflects current Service procedures for the public to request and obtain access to Service records through the Freedom of Information Act and Privacy Act. It is being updated to include the handling of requests referred from another agency to ensure that requesters are not penalized by waiting in another agency's backlog, and reflects the Department of Justice's updated cost for calculating and changing fees. It further contains new provisions that implement the new Federal discretionary release policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: INS No.1942-98

Agency Contact: Mildred Carter, FOIA/PA Program Specialist, Files and Forms Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-1722

RIN: 1115–AF32

1924. DISMISSAL OF ASYLUM APPLICATION FOR UNEXCUSED FAILURE TO APPEAR AND EFFECT ON ELIGIBILITY FOR EMPLOYMENT AUTHORIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2; 8 USC 1101; 8 USC 1329a

CFR Citation: 8 CFR 208; 8 CFR 274a

Legal Deadline: None

Abstract: On March 6, 1997, the Service published an interim rule to implement the asylum provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The interim regulation amended provisions regarding the effect of unexcused failure to appear for an asylum interview or hearing before an immigration judge on eligibility for employment authorization and also provided that unexcused failure to appear may result in dismissal of an asylum application on eligibility for employment authorization. This rule amends the current interim rule to clarify that dismissal of an asylum application will result in ineligibility for asylum-based employment authorization.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2011-

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 3rd Floor, 111 Massachusetts Avenue NW, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF38

DOJ—INS

Proposed Rule Stage

1925. H-1B NONIMMIGRANT WORKER COMPLAINTS REGARDING U.S. EMPLOYER VIOLATIONS UNDER THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1184; 8 USC 1258; 8 USC 1324; 8 USC 1255

CFR Citation: 8 CFR 214; 8 CFR 248; 8 CFR 274a

Legal Deadline: Section 413 of Public Law 105-277 was effective upon enactment, October 21, 1998.

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA) — enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 — made various changes to the Immigration and Nationality Act (the INA) relating to nonimmigrant skilled workers. By this rule (RIN 1115-AF40, INS No. 1974-99) INS will implement the ACWIA "whistleblower protection" provisions — codified in the INA at section 212(n)(2)(C)(iv) and (v) — prohibiting retaliation against H-1B workers who disclose information that their employer has violated the law or regulations pertaining to labor condition applications for nonimmigrants. This rule will also enable an H-1B worker who files a complaint alleging intimidation, coercion, threats, blacklisting, or other discrimination to remain in the United States and seek authorization to work in the United States for a temporary period while his or her complaint is under review.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: By a related rule (RIN 1115-AF41, INS No. 1975-99), INS will be implementing those portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. That rule complements regulations to be issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

In RIN 1190-AA48 the Civil Rights Division, in cooperation with DOL, will implement the ACWIA "failure to select" protections — codified in the INA at section 212(n)(5) — by establishing a process under which United States workers may file complaints against employers for denying them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under that process, the Attorney General may receive and review these complaints, and then — if there is reasonable cause to believe the allegations — initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS).

Agency Contact: Jacquelyn A. Bednarz, Special Assistant, Office of Programs, Department of Justice, Immigration and Naturalization Service, Room 7309, 425 I Street NW, Washington, DC 20536
Phone: 202 514-8223

RIN: 1115–AF40

1926. AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2(h); 8 CFR 103.7

Legal Deadline: None

Abstract: The American Competitiveness and Workforce Improvement Act (ACWIA) — enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 — made various changes to the Immigration and Nationality Act (the INA) relating to nonimmigrant skilled workers. This rule (RIN 1115-AF41; INS No. 1975-99) implements those portions of ACWIA pertaining to new penalties for employers misrepresenting material facts in an H-1B application. This rule complements regulations to be issued by the Department of Labor (DOL). It also defines the term "United States employer" and implements other provisions of ACWIA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: By a related rule (RIN 1115-AF40; INS 1974-99), INS will implement the ACWIA "whistleblower protection" provisions — codified in the INA at section 212(n)(2)(C)(iv) and (v) — prohibiting retaliation against H-1B workers who disclose information that their employer has violated the law or regulations pertaining to labor condition applications for nonimmigrants. That rule will also enable an H-1B worker who files a complaint alleging retaliation to remain in the United States and seek authorization to work in the United States for a temporary period while his or her complaint is under review.

In 1190-AA48 the Civil Rights Division, in cooperation with DOL, will implement in the Justice Department's regulations the ACWIA "failure to select" protections — codified in the INA at section 212(n)(5) — by establishing a process under which Untied States workers may file complaints against employers for denying them employment opportunities by improperly hiring temporary foreign professionals on H-1B visas. Under that process, the Attorney General is to receive and review these complaints, and then — where there is reasonable cause to believe a complainant's allegations — initiate binding arbitration proceedings through the Federal Mediation and Conciliation Service (FMCS).

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF41

1927. • SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154

CFR Citation: 8 CFR 204; 8 CFR 214; 8 CFR 245; 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by establishing procedures for certain North Atlantic Treaty Organization (NATO) civilian employees and their family members to receive special immigrant status in the U.S. and become lawful permanent residents of this country. This rule also offers nonimmigrant status to any parent or child of a NATO civilian employee who has been granted special immigrant status. This rule is intended to ensure the qualifying NATO employees and their family members are aware of their opportunity to acquire special immigrant status and adjustment of status or otherwise obtain corresponding nonimmigrant status.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1984-

Agency Contact: Suzy Nguyen, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF44

1928. • CONTRACTS WITH TRANSPORTATION LINES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1228

CFR Citation: 8 CFR 233

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (INS) regulations by: (1) establishing the INS's Commissioner or her delegated representative, as having signature authority for Forms I-420, I-425, I-426 Agreements; (2) changing the recipient of certain carrier agreements to the INS Headquarters; (3) removing signature authority of the Associate Commissioner for Examinations, a position which is obsolete; and (4) modifying Form I-420 because of changes to the Immigration Nationality Act caused by the enactment of IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: INS No.1994-

Agency Contact: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AF46

1929. • CLARIFICATION OF PAROLE AUTHORITY

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; ...

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule will amend the regulations governing parole of aliens from INS detention. This regulation was promulgated in 1982, and has undergone many revisions. The INS has discovered that certain provisions in the I&NA require clarification of the regulations relative to individuals authorized to grant parole.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2004

Agency Contact: Melinda R. Clark, Detention and Deportation Officer, Detention and Deportation Div., Field Operations, Department of Justice, Immigration and Naturalization Service, Room 3008, 425 I Street NW., Washington, DC 20536
Phone: 202 514-1986

RIN: 1115–AF53

1930. • ADJUSTMENT OF FEES FOR SERVICES AT LAND BORDER PORTS-OF-ENTRY

Priority: Other Significant

Legal Authority: PL 100-459; 8 USC 1356(m),(n); PL 101-515; PL 82-137; 31 USC 9701

CFR Citation: 8 CFR 239; 8 CFR 287

Legal Deadline: None

Abstract: This rule proposes to adjust the fees charged by the INS for services provided in the processing and issuance of documents at land border ports-of-entry. The fee adjustment is necessary to ensure that full costs are recovered and that sufficient funds are available to service present and future applicants. The fee adjustment complies with Federal statutes and Federal cost accounting standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schlesinger, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, Room 6240, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AF55

1931. • AUTHORIZING COLLECTION OF FEE LEVIED ON F, J, AND M NONIMMIGRANT CLASSIFICATIONS UNDER ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT (IIRIRA)

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; ...

DOJ—INS **Proposed Rule Stage**

CFR Citation: 8 CFR 103; 8 CFR 214; 8 CFR 299

Legal Deadline: None

Abstract: This rule proposes to amend INS regulations to establish a $95.00 fee that schools and exchange visitor programs must collect and remit on behalf of academic and vocational students and exchange visitors categorized as F-1, M-1, and J-1 nonimmigrants respectively. The fee will be collected and remitted by schools and exchange visitor programs when students and exchange visitors first register or enroll in school or first commence exchange program participation in the United States. This rule is necessary to implement section 641 of IIRIRA as well as the authority that the INS already has under sections 103 and 214 of the Immigration and Nationality Act (Act) and under 31 USC 9701 and section 286(m) of the Act.

The rule will amend the INS fee schedule and regulations to reflect the change. In addition, this rule explains which F-1, J-1, M-1 nonimmigrants are required to pay the fee, those who are exempt from the fee requirement, and describes the consequences that an F-1, J-1, or M-1 nonimmigrant faces upon failure to pay the fee. The rule specifies the consequences that an approved school or exchange program faces if it fails to collect the fee under section 641(e) of IIRIRA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Comment Period Ends	01/00/00	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1991-

Agency Contact: Kristen L. Casa, Program Analyst, Adjudications Division,, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW.,, Washington, DC 20536
Phone: 202 353-8920
Fax: 202 514-0198
Email: Kristen.L.Casa@usdoj.gov

RIN: 1115–AF56

1932. • MANIFEST REQUIREMENTS AND IMPOSITION OF FINES UNDER SECTION 231 OF THE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1221; 8 USC 1228

CFR Citation: 8 CFR 231

Legal Deadline: None

Abstract: This rule proposes to: (1) require carriers to submit Forms I-94 for all arriving and departing alien passengers including legal permanent residents of the United States, first-time immigrants, and in-transit passengers. Manifests will also be required for all flights and vessels, even those arriving from and departing to contiguous territory; (2) define criteria and procedures for imposing fines pursuant to 231(d) of the Act for not submitting a properly completed arrival or departure manifest; and (3) define alternative methods for submitting Forms I-94 data.

The rule is required in accordance with the Congressional mandate, that the INS collect arrival and departure data on all persons (except U.S. citizens) entering and exiting the U.S. INS is required to provide a report to Congress on the number of overstays by December 31, 1999.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 2008-

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, Suite 210, 1400 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AF57

Department of Justice (DOJ)
Immigration and Naturalization Service (INS) **Final Rule Stage**

1933. REDUCTION OF THE NUMBER OF ACCEPTABLE DOCUMENTS AND OTHER CHANGES TO EMPLOYMENT VERIFICATION REQUIREMENTS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 62 in Part II of this issue of the **Federal Register**.

RIN: 1115–AB73

1934. NONIMMIGRANT CLASSES; B VISITOR FOR BUSINESS OR PLEASURE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282; 8 CFR 2; 8 USC 1324a

CFR Citation: 8 CFR 214; 8 CFR 274a

Legal Deadline: None

Abstract: This rule incorporates into current regulations the information contained in the Service's Operations Instructions (OIs) and the interpretive note material to Volume 9 of the Department of State's Foreign Affairs Manual (FAM) relating to the B-1 (visitor for business) and B-2 (visitor for pleasure) classifications, with appropriate modifications due to the passage of the Immigration Act of 1990 and the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991. This rule clarifies the criteria for according B-1 or B-2 classification to applicants for admission to the United States. In addition, by incorporating the applicable portions of the instructions presently contained in the OIs and the FAM notes into regulations such information will be more readily available to the public.

Timetable:

Action	Date	FR Cite
NPRM	11/05/93	58 FR 58982
NPRM Comment Period End	12/06/93	
Final Action	04/00/00	

DOJ—INS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1441-93

Agency Contact: Craig S. Howie, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AC89

1935. PETITIONS FOR EMPLOYMENT-BASED IMMIGRANTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186A; 8 USC 1255; 8 CFR 2; 8 USC 1153(b)

CFR Citation: 8 CFR 204; 8 CFR 214

Legal Deadline: None

Abstract: This proposed rule will make changes to the regulations governing employment-based immigrant petitions. These regulations were promulgated in November of 1991. Since then, the Service has discovered certain provisions in the regulations which need clarification or revision. The Service also needs to incorporate certain changes made by the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 into the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/95	60 FR 29771
NPRM Comment Period End	08/07/95	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1633-93

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AD55

1936. ADMISSION OF CERTAIN NURSES SEEKING NONIMMIGRANT CLASSIFICATION UNDER THE H-1A CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: The H-1A nonimmigrant classification, which provided for the temporary admission of registered nurses to the United States, expired on September 1, 1995. However, in response to concerns that geographic locations in the United States continued to experience a shortage of registered nurses after the sunset date of the H-1A classification, the President signed Pub. L. 104-302 which provided for the granting of an extension of stay until September 30, 1997, to certain H-1A nurses. On March 7, 1997, the Immigration and Naturalization Service published an interim rule in the Federal Register at 62 FR 10422-10425 in order to amend the Service's regulations to reflect the provisions contained in the Pub. L. 104-302.

Since the H-1A classification and the extension period under Pub. L. 104-302 have now expired, this final rule removes all references to the H-1A classification.

Timetable:

Action	Date	FR Cite
Interim Final Rule Comment Period End 12/06/94	10/07/94	59 FR 51101
Interim Final Rule	03/07/97	62 FR 10422
Interim Final Rule-INS No. 1806 Comment Period End 5/06/97	03/07/97	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1663-94.

Cross Reference INS No. 1654-94, RIN 1115-AD66

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AD74

1937. FEES FOR PARTICIPATION IN DEDICATED COMMUTER LANES AT SELECTED PORTS OF ENTRY; COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1182; 8 USC 1183; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Legal Deadline: None

Abstract: These rules provide for the collection of a fee at the time of application for participation in a Dedicated Commuter Lane (DCL), instead of at the time of approval of the application. The DCL program is a pilot project established at selected land border ports of entry to expedite the transborder movement of eligible, pre-screened, low-risk groups through designated traffic lanes. The first rule clarifies the requirements for the use of the DCL. (INS No. 1675). A second rule will set forth the fee required of participants in order to cover the technological costs (INS No. 1794).

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1675 Eff. 9/29/95; Comment Period End 11/28/95	09/29/95	60 FR 50386
Interim Rule-INS No. 1794	10/11/96	61 FR 53303
Final Rule-INS No.1675-94 Effective 10/16/96	10/16/96	61 FR 53830
Final Rule-INS No.1794-96 ,	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Organizations

Government Levels Affected: Federal

DOJ—INS

Final Rule Stage

Additional Information: INS No. 1675 and 1794-96

Agency Contact: Thomas C. Campbell, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4214, 425 I Street NW, Washington, DC 20536
Phone: 202 305-9246

RIN: 1115–AD82

1938. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE; TEMPORARY REMOVAL OF CERTAIN RESTRICTIONS ON ELIGIBILITY

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552(a); 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 217; 8 CFR 245

Legal Deadline: None

Abstract: This rule allows certain persons in the United States to adjust status to that of a lawful permanent resident if the application was filed before November 25, 1997 or, if the adjustment application is based on a visa petition or labor certification filed between November 26, 1997 and January 14, 1998. These persons, although eligible for immigrant visa issuance abroad, have been barred from adjustment of status because they had entered the United States without inspection or had violated the conditions of temporary nonimmigrant status. The rule allows prospective lawful permanent or conditional residents to avoid the difficulties and expense of travel to a U.S. consulate or embassy abroad. It continues to penalize these violators of the immigration laws by requiring most adult applicants to pay an additional sum in excess of the standard adjustment filing fee. After adjusting status they may lawfully live and work in the United States and may later be eligible to seek United States citizenship through naturalization. This rule also implements the new section 245(k) of the INA which permits certain employment-based immigrants who are out of status to file for adjustment under section 245(a) of 8 CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule Eff. 10-1-94; Com. Due 12-6-94	10/07/94	59 FR 51091
Interim Final Rule Correction	10/20/94	59 FR 53020
Interim Rule INS No. , 1676-94 Effective 07/23/97	07/23/97	62 FR 39417
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1676 EOIR Interim Rule published 9/30/97 at 62 FR 50999. For more information, see RIN 1125-AA20.

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536
Phone: 202 514-2763

RIN: 1115–AD83

1939. NONIMMIGRANT CLASSES; S CLASSIFICATION; LAW ENFORCEMENT INITIATIVES; ALIEN WITNESSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252; 8 USC 1324a; 8 CFR 2

CFR Citation: 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299; 8 CFR 103

Legal Deadline: None

Abstract: Two regulatory initiatives dealing with the processing of alien witnesses have been prepared by the INS. INS No. 1683-94 provides the application and approval process for the admission of aliens in S nonimmigrant classification. It provides guidance to the various law enforcement agencies needing alien witnesses and informants to complete critical law enforcement initiatives in the United States. INS No. 1728-95 establishes a fee for the processing of Form I-854, Inter-Agency Alien Witness and Informant Record, for Law Enforcement Agency (LEA) requests for S nonimmigrant classification for eligible alien witnesses and informants. The fee recovers the costs of the processing of requests for immigration benefits, and is needed to comply with specific Federal immigration laws and Federal user fee statute and regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1683 Eff. 8/25/95; Comment Period End 12/4/95	08/25/95	60 FR 44260
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52068
Interim Final Rule-INS No. 1683 Correction	10/05/95	60 FR 52248
Final Rule-INS No. 1683	03/00/00	
NPRM-INS No. 1728	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: INS No. 1683-94; and INS No. 1728-95.

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AD86

1940. 90-DAY MODIFIED INSPECTION OF ALIEN CREW MEMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1183; 8 USC 1201; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1184; 8 USC 1258; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 235; 8 CFR 252

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service (the Service) regulations by establishing a procedure whereby bona fide alien crewmen actively serving on board a maritime ferry or a maritime commercial cruise ship may, at the discretion of the Service, be inspected one time during every 90-day period during which the cruise ship conducts operations between Ports-of-Entry (POEs) in the United States and a foreign country. This rule is necessary in order for the Service to formally codify the long-standing practice of

authorizing certain maritime crewmen landing privileges in the United States without further inspection during the intervening time between 90-day full-crew inspections.

Timetable:

Action	Date	FR Cite
NPRM	08/15/97	62 FR 43676
NPRM Comment Period End	10/14/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1695-95

Agency Contact: Sam Farmer, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW., Washington, DC 20536
Phone: 202 305-8153

RIN: 1115–AD95

1941. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A U.S. CITIZEN OR AS A PREFERENCE IMMIGRANT; SELF-PETITIONING FOR CERTAIN BATTERED OR ABUSED ALIEN SPOUSES AND CHILDREN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2; PL 103-322

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule allows battered and abused spouses and children of United States Citizens and Lawful Permanent Residents to petition for immigrant classification. The consent of the abuser would not be required.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/26/96	61 FR 13061
Interim Final Rule Effective	03/26/96	
Interim Final Rule Comment Period End	05/28/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1705-95

Agency Contact: Karen Fitzgerald, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE04

1942. MISCELLANEOUS MODIFICATIONS TO NATURALIZATION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1103; 8 USC 1433; 8 USC 1443; 8 USC 1448

CFR Citation: 8 CFR 322; 8 CFR 337

Legal Deadline: None

Abstract: These regulations implement provisions of the Immigration and Nationality Technical Amendments Act of 1994.

INS No. 1712 implements changes to 8 CFR 322 by establishing procedures for a U.S. citizen parent to apply for the expeditious naturalization of his or her children born outside the U.S. It allows certain U.S. parents who do not meet physical presence requirements to use the physical presence of their U.S. parent (the child's U.S. grandparent). The purpose of the rule is to relax the requirements of U.S. citizenship for children born to or adopted by U.S. citizens abroad.

INS No. 1764 reserves the authority to schedule all administrative oath-taking ceremonies with the District Director. The rule will not impact the Immigration Judges' authority to administer the oath at ceremonies conducted by the Service.

Timetable:

Action	Date	FR Cite
NPRM-INS No. 1712	09/10/96	61 FR 47690
Final Rule-INS No. 1712	01/00/00	
Final Rule-INS No. 1764	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1712 Contact, Jody Marten

INS No. 1764

Agency Contact: Jody Marten, Staff Officer,Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 900, 801 I Street NW, Washington, DC 20536
Phone: 202 305-4770

RIN: 1115–AE07

1943. CONDITIONS ON NONIMMIGRANT STATUS; DISCLOSURE OF INFORMATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186A; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule removes the current regulatory language conditioning an alien's nonimmigrant status on his or her providing full and truthful information requested by the INS, regardless of the requested information's materiality. This rule would clarify that the nonimmigrant's stay is conditioned on, among other things, the provision of all information deemed necessary to ensure that the alien has acquired, and is maintaining, lawful nonimmigrant status during the entire period of his or her stay, or is eligible to receive any other benefit under the INA.

Timetable:

Action	Date	FR Cite
NPRM	06/14/96	61 FR 30188

DOJ—INS

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	08/13/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1732-95

Agency Contact: Suzy Nguyen, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE17

1944. ORPHAN PETITIONS; PETITIONS TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR PREFERENCE IMMIGRANT; CHANGE IN DEFINITION OF CHILD

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-51

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by replacing the phrase "legitimate child" with "child born in wedlock." This change also makes the criteria for immigration, based on orphan classification and on certain other parent-child relationships, much easier to understand and apply.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1761 (Additional INS contact Ramonia Law-Hill)

Agency Contact: Ann Palmer, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 900, 801 I Street NW., Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE33

1945. AGREEMENT PROMISING NON-DEPORTATION OR OTHER IMMIGRATION BENEFITS

Priority: Other Significant

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 515; 28 USC 516; 28 USC 517; 28 USC 518; 28 USC 519

CFR Citation: 28 CFR 0.197

Legal Deadline: None

Abstract: This final rule requires federal prosecutors, law enforcement agencies, and other officials to obtain written consent from the Immigration and Naturalization Service when entering into a plea agreement, cooperation agreement, or similar agreement promising an alien favorable treatment by the Service. This rule ensures that favorable treatment under the Immigration laws is extended only after a full consideration of its affect on overall immigration enforcement, alleviates confusion over the authority to enforce the immigration laws, and prevents the Service from being bound by agreements undertaken without its knowledge and approval. The rule codifies a long-standing position of the Department of Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/13/96	61 FR 48405
Comment Period End	11/12/96	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1791-96

Agency Contact: Cristina Hamilton, Chief Enforcement Division, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE50

1946. PETITIONING REQUIREMENTS FOR THE H NONIMMIGRANT CLASSIFICATION

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214; 8 CFR 274

Legal Deadline: None

Abstract: This rule proposes to amend the INS regulations to accommodate the need of certain U.S. employers relative to the filing of new and amended petitions for H-1B nonimmigrant workers. This rule proposes to amend the Service's regulations relative to the submission of itineraries with certain H-1B petitions. In addition, it amends the Service's regulations regarding the H-1B classification by allowing petitioners to obtain and submit the required certified labor condition application after the petition is filed with the Service but before the petition is adjudicated. Finally, the rule proposes to revoke approved H petitions where the beneficiary is no longer employed by the petitioner.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30419
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: INS No. 1769-96

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AE52

1947. AFFIDAVIT OF SUPPORT ON BEHALF OF IMMIGRANTS

Priority: Other Significant

Legal Authority: 8 USC 1183a; PL 104-208; PL 104-193; 8 CFR 2

CFR Citation: 8 CFR 213a; 8 CFR 299

Legal Deadline: Final, Statutory, November, 1999.

Abstract: This rule will amend the INS regulations by establishing that an individual (the sponsor) who files an affidavit of support under section 213A of the INA on behalf of an intending immigrant incurs an obligation that may be enforced by a civil action. This rule also specifies the requirements that Federal, State, or local agencies or private entities must meet to request reimbursement from the sponsor for

provision of means-tested public benefits and provides procedures for imposing the civil penalty provided for under section 213A of the INA, if the sponsor fails to give notice of any change of address. This rule is necessary to ensure that sponsors of aliens meet their obligations under section 213A of the INA.

Timetable:

Action	Date	FR Cite
Interim Final Rule - INS No. 1807-96; Comment Period End 02/7/98	10/20/97	62 FR 52346
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1807-96; PL 104-208, title IV and PL 104-193, title IV

Agency Contact: Suzy Nguyen, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

Lisa Roney, Policy Analyst, Office of Policy and Planning, Department of Justice, Immigration and Naturalization Service, Room 6052, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3242

RIN: 1115–AE58

1948. SUSPENSION OF PRIVILEGE TO TRANSPORT ALIENS TO THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1252

CFR Citation: 8 CFR 103; 8 CFR 273

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) added a provision to the Immigration and Nationality Act that allows INS to suspend a commercial airline's privilege to transport aliens to the United States if the carrier has a record of bringing in aliens who have fraudulent documents. After consultation with other interested government agencies, INS is proposing to implement appropriate standards and procedures governing the use of this power to suspend a carrier's privilege to transport aliens to the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/23/98	63 FR 56869
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: This rule has required coordination with several other government agencies. INS No. 1809-96

Agency Contact: Una Brien, Director, National Fines Office, Inspections Division, Department of Justice, Immigration and Naturalization Service, Suite 210, 1400 Wilson Boulevard, Arlington, VA 22209
Phone: 202 305-7018

RIN: 1115–AE59

1949. RIGHTS OF HABITUAL RESIDENCE BETWEEN THE UNITED STATES AND THE GOVERNMENTS OF THE MARSHALL ISLANDS, MICRONESIA AND PALAU

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204; 8 CFR 214.2

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The statute, among other things, requires that INS issue regulations governing the rights of "habitual residence" under 1) the Compact of Free Association between the United States and the Governments of the Marshall Islands and the Federated States of Micronesia; and 2) the Compact of Free Association between the United States and the Government of Palau.

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30415
NPRM Comment Period End	08/03/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Re INS No. 1811-96

Agency Contact: Pearl Chang, Branch Chief, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-3228

RIN: 1115–AE61

1950. LIMITING LIABILITY FOR CERTAIN TECHNICAL AND PROCEDURAL VIOLATIONS OF PAPERWORK REQUIREMENTS

Priority: Other Significant

Legal Authority: 8 USC 1324a; PL 104-208

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This rule will implement section 411 of IIRIRA which allows employers that have made a good faith attempt to comply with a particular employment verification requirement to correct technical or procedural failures to meet the requirement before such failures are deemed to be violations of the Act. This rule will explain the good faith rule, define the term technical or procedural failure to meet such requirement, and explain how an employer can correct technical or procedural failures.

Timetable:

Action	Date	FR Cite
NPRM	04/07/98	63 FR 16909
NPRM Comment Period End	06/08/98	
Final Rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1819-96 and Public Law 104-208, title IV.

Agency Contact: Marguerite Przbylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW., Washington, DC 20536

DOJ—INS

Final Rule Stage

Phone: 202 514-2895

RIN: 1115–AE70

1951. INELIGIBILITY OF CERTAIN JUVENILE OFFENDERS FOR FAMILY UNITY PROGRAM

Priority: Other Significant

Legal Authority: 8 USC 1225a note; PL 104-208

CFR Citation: 8 CFR 236.23

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INS will publish a regulation implementing a new basis of ineligibility for Family Unity benefits for certain juvenile offenders.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1823-96)	12/00/99	
Final Rule (INS No. 1823-96)	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1823-96; PL 104-208, title III, section 38; and this regulation will affect 8 CFR 242.5 that will be renumbered 8 CFR 236.25.

Agency Contact: Joanna London, Attorney, Office of the General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE72

1952. CERTIFICATION OF CERTAIN HEALTH CARE WORKERS

Priority: Other Significant

Legal Authority: 8 USC 1182(a)(5); PL 104-208

CFR Citation: 8 CFR 204; 8 CFR 212; 8 CFR 214.2; 8 CFR 245; 8 CFR 248

Legal Deadline: None

Abstract: On September 30, 1996, the President signed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 343 prohibits the entry of any alien who seeks to enter the U.S. for the purpose of performing labor as a health care worker (other than a physician) without a certificate as to the alien's qualifications and English ability from the Commission on Graduates of Foreign Nursing Schools (CGFNS), or an equivalent independent organization approved by the Attorney General.

The Service published an interim rule (INS 1879) to address shortages in the occupations of nursing and occupational therapy on October 14, 1998. In addition, the Service issued a second interim rule on April 30, 1999, to grant CGFNS authorization to issue certificates to foreign health care workers in the occupations of occupational therapy and physical therapy. This rule also granted the Foreign Credentialing Commission on Physical Therapy the authority to issue certificates to foreign-trained physical therapists. The second interim rule was published under RIN 1115-AF43 and now is consolidated with this Unified Agenda of Federal Regulations entry.

The Service will be publishing a proposed rule (INS 1824) to fully implement section 343, including requirements relating to the designation of covered health care occupations, the procedures and requirements for certifying organizations, the content of the certificates, and the process for presentation of the certificates.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS 1879)	10/14/98	63 FR 55007
Interim Final Rule (INS 1979-99)	04/30/99	64 FR 23174
Final Action (INS 1979-99)	12/00/99	
NPRM (INS 1824-98)	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AE73

1953. ADJUSTMENT OF STATUS FOR CERTAIN POLISH OR HUNGARIAN PAROLEES

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1182

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: Section 646 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (PL 104-208) requires the Attorney General to establish procedures by which certain nationals of Poland or Hungary who were paroled into the United States from 1989 to 1991 may apply for adjustment to permanent resident status in the United States. A policy memorandum and an interim rule are needed to implement this new law.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1825-97)	05/23/97	62 FR 28314
Final Rule (INS No. 1825-97)	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536
Phone: 202 514-2763

RIN: 1115–AE74

1954. ESTABLISHMENT OF PREINSPECTED AUTOMATED LANE (PAL) PROGRAM AT IMMIGRATION AND NATURALIZATION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1251; 8 USC 1252; 8 USC 1357; 8 CFR 2

CFR Citation: 8 CFR 287; 8 CFR 299

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulation by establishing a Preinspected Automated Lane (PAL) Program for the use of eligible persons and vehicles at immigration checkpoints within the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments by 06/17/97	04/18/97	62 FR 19024
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1830-97

Agency Contact: William H. Carter, Border Patrol Agent, Office of Enforcement, Office of Field Operations, Department of Justice, Immigration and Naturalization Service, Room 4226, 425 I Street NW., Washington, DC 20536
Phone: 202 514-3072

RIN: 1115–AE80

1955. SURRENDER OF ALIENS ORDERED REMOVED FROM THE UNITED STATES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1254a; 8 USC 1245a note

CFR Citation: 8 CFR 240.13; 8 CFR 240.14; 8 CFR 240.15; 8 CFR 240.16

Legal Deadline: Although there is no formal legal deadline, the rule is an integral part of implementing PL 104-208.

Abstract: This rule requires aliens subject to a final order of removal to surrender to the INS. This rule also establishes procedures for surrender, and bars persons violating these procedures from obtaining discretionary immigration benefits.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47205
NPRM Comment Period End	11/03/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1847-97

Agency Contact: Kyle Latimerett, Assistant General Counsel, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2604

RIN: 1115–AE82

1956. EARLY RELEASE FOR REMOVAL OF CRIMINAL ALIENS IN STATE CUSTODY FOR NONVIOLENT OFFENSES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1251; 8 USC 1253; 8 USC 1255; 8 USC 1330; 8 CFR 2

CFR Citation: 8 CFR 241

Legal Deadline: None

Abstract: The final rule will amend the INS regulations relating to the apprehension and removal of aliens under section 241 of the Immigration and Nationality Act (Act). This regulatory action establishes an administrative process whereby criminal aliens in state custody convicted of nonviolent offenses may be removed prior to completion of their sentence of imprisonment. The rule will implement the authority contemplated by Congress to enhance the ability of the United States to remove criminal aliens.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1848-97)	07/12/99	64 FR 37461
Final Action (INS No. 1848-97)	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Additional Information: INS No.1848-97

Agency Contact: Joan S. Lieberman, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AE83

1957. AMENDMENT OF THE REGULATORY DEFINITION OF ARRIVING ALIEN

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 CFR 2

CFR Citation: 8 CFR 1

Legal Deadline: None

Abstract: This rule amends the INS regulations by changing the regulatory definition of an arriving alien. Under section 235(b)(1)(A)(i) of the Immigration and Nationality Act (Act), which was effective on April 1, 1997, certain arriving aliens are subject to expedited removal procedures. The existing regulatory definition of arriving aliens includes parolees. As a matter of policy, the Department has decided that it is appropriate to exempt from the new expedited removal procedures aliens who were paroled into the United States before April, 1997. This rule clarifies that aliens who were paroled before April 1, 1997 will not be subjected to expedited removal. The rule also makes several changes in the wording of 1.1(q) to use language that is clearer and more consistent with the wording of the statute.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/98	63 FR 19382
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Re: INS No. 1868-97

Agency Contact: Linda Loveless, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW., Washington, DC 20536
Phone: 202 616-7489

RIN: 1115–AE87

1958. NEW RULES REGARDING PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 208

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Services regulations that govern asylum and withholding of removal. This rule clarifies that, in cases where the applicant has established past persecution, the Attorney General may deny asylum in the exercise of discretion, if it is established by a preponderance of the evidence that the

DOJ—INS **Final Rule Stage**

applicant does not face a reasonable possibility of future persecution in the applicant's country of nationality or, if stateless, the applicant's country of last habitual residence.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1865-97)	06/11/98	63 FR 31945
NPRM Comment Period Extended to 09/11/98	08/04/98	63 FR 41478
Final Rule (INS No. 1865-97)	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1865-97; AG Order No. 2164-98

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Attn: Ullico Building 3rd Floor, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AE93

1959. ADJUSTMENT OF STATUS, CONTINUED VALIDITY OF NONIMMIGRANT STATUS AND UNEXPIRED EMPLOYMENT AUTHORIZATION FOR APPLICANTS MAINTAINING NONIMMIGRANT H OR L STATUS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1255; 8 USC 1281; 8 USC 1282; 8 CFR 2

CFR Citation: 8 CFR 214; 8 CFR 245

Legal Deadline: None

Abstract: Over the last several years, the Service has issued numerous policy statements regarding its position on employment authorization, advance parole, and extension of nonimmigrant status for certain skilled nonimmigrant workers who have filed for adjustment to permanent resident status. This rulemaking intends to: (1) codify existing Service policy statements by incorporating them into the Service's regulations, and (2) eliminate the requirement for service permission for overseas travel for adjustment applicants who are maintaining H-1 or L nonimmigrant status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1881-97

Agency Contact: Frances A. Murphy, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AE96

1960. VERIFICATION OF ELIGIBILITY FOR PUBLIC BENEFITS

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1642

CFR Citation: 8 CFR 104

Legal Deadline: Final, Statutory, February 22, 1998, Statutory deadline to promulgate regulations for State and local public benefits was previously 11/03/98. Deadline for regulations for Federal public benefits is 02/22/98. NPRM, Statutory, November 3, 1997.

Abstract: This regulatory action requires entities (other than nonprofit charitable organizations) providing Federal public benefits (with certain exceptions) to verify by examining documents and using an INS automated verification system that alien applicants are eligible for the benefits under Federal benefit reform legislation. This rule also sets forth provisions by which State or local governments can verify whether aliens applying for State or local public benefits are eligible for such benefits under Federal laws. In addition, the rule establishes procedures for verifying the U.S. nationality of individuals applying for benefits in a fair and nondiscriminatory manner. The Interim Verification Guidelines were published as a notice on 11/17/97 at 62 FR 61344. The guidelines set forth procedures that benefit providers can use to verify citizenship, qualified alien status, and eligibility under title IV of the PRWORA prior to issuance of the final regulations.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1902-98)	08/04/98	63 FR 41662
Final Rule (INS No. 1902-98)	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: INS t 1902-98 should be referenced for any inquiries concerning this rulemaking action.

Agency Contact: John Nahan, Director, SAVE Branch, Files and Forms Management Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Ullico Building, 4th Floor, Washington, DC 20536
Phone: 202 514-2317

RIN: 1115–AE99

1961. FINGERPRINTING APPLICANTS AND PETITIONERS FOR IMMIGRATION BENEFITS; ESTABLISHING A FEE FOR FINGERPRINTING BY THE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1201; 8 USC 1252 note; 8 USC 1252b; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 299; 8 CFR 316; 8 CFR 335

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations relating to fingerprinting applicants and petitioners for benefits under the Immigration and Nationality Act by: canceling the Designated Fingerprinting Service program; requiring applicants and petitioners for benefits to be fingerprinted at either a Service Office, a State or local law enforcement agency, or at a United States consular or military office; establishing a fee for fingerprinting by the Service; and requiring confirmation from the Federal Bureau of

DOJ—INS

Final Rule Stage

Investigation (FBI) that a full criminal background check has been completed before adjudication of a naturalization application is completed.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/17/98	63 FR 12979
Interim Final Rule Effective	03/29/98	
Interim Final Rule Correction	04/09/98	63 FR 17489
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: INS No. 1891-97

Agency Contact: Ann Palmer, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 900, 801 I Street NW., Washington, DC 20536 Phone: 202 514-4754

RIN: 1115–AF03

1962. ADJUSTMENT OF STATUS; CERTAIN NATIONALS OF NICARAGUA AND CUBA

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 245; 8 CFR 3; 8 CFR 240; 8 CFR 247a; 8 CFR 299

Legal Deadline: None

Abstract: This rule implements the Nicaraguan Adjustment and Central American Relief Act (NACARA) by establishing procedures for certain nationals of Nicaragua and Cuba who have been temporarily residing in the United States to become lawful permanent residents of this country. It allows them to obtain lawful permanent resident status without applying for an immigrant visa at a United States consulate abroad and waives many of the usual requirements for this benefit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/98	63 FR 27823
Correction (INS No. 1893-97)	06/29/98	63 FR 35309
Correction (INS No. 1893-97)	07/21/98	63 FR 39121
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No.1893-97

Agency Contact: Suzy Nguyen, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536 Phone: 202 514-4754

RIN: 1115–AF04

1963. PROCESSING, DETENTION, AND RELEASE OF JUVENILES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1182; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1362

CFR Citation: 8 CFR 236.3

Legal Deadline: Final, Judicial, July 31, 1998.
The court-approved settlement agreement in Flores v. Reno (C.D. Cal.) required INS to publish regulations in July 1998. However, the changes brought by AEDPA and IIRIRA delayed issuance of regs.

Abstract: The rule amends the Immigration and Naturalization Service regulations by establishing the procedures for processing alien juveniles from custody and the detention of unreleased juveniles in state-licensed programs and detention facilities. This rule also governs the transportation and transfer of juveniles in Service custody.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1906-98)	07/24/98	63 FR 39759
NPRM Comment Period End	09/22/98	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1906-98.

Agency Contact: John J. Pogash, Juvenile Coordinator (Headquarters), Department of Justice, Immigration and Naturalization Service, Room 3008, 425 I Street NW, Washington, DC 20536 Phone: 202 514-1970

RIN: 1115–AF05

1964. EXAMINATIONS FEE ACCOUNT SCHEDULE—SMALL VOLUME APPLICATIONS

Priority: Other Significant

Legal Authority: PL 82-137; PL 100-459; PL 101-515; PL 101-576; 8 USC 1356; 31 USC 9701

CFR Citation: 8 CFR 103.7

Legal Deadline: None

Abstract: This rule proposes to adjust the fee schedule of the Immigration Examinations Fee Account for four low volume applications which are the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant; Form N-300, Application to File Declaration of Intention; Form N-336, Request for Hearing on a Decision in Naturalization Procedures; and Form N-470, Application to Preserve Residence for Naturalization Purpose. The fee adjustments are necessary to comply with Federal statutes and Federal cost accounting standards. These statutes and standards require Federal Agencies to charge fees for specific services that provide a private benefit that does not accrue to the public. Federal Agencies are required to review their fees bi-annually to ensure that the fees charged recover the full cost to the Government for providing specific services. Implementation of this rule will ensure that sufficient funds are available to the Federal Government to provide the services for applications and petitions.

Timetable:

Action	Date	FR Cite
NPRM INS No. 1933-98	05/17/99	64 FR 26698
Final Rule INS No. 1933-98	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 1933-98

Agency Contact: Paul Schlesinger, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, Room 6240, 425 I Street NW, Washington, DC 20536 Phone: 202 616-2754

RIN: 1115–AF10

DOJ—INS

Final Rule Stage

1965. SPECIAL IMMIGRANT JUVENILE—SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-119

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule amends the Service's existing regulations by clarifying the special immigrant juvenile provisions. This rule limits the juvenile courts from considering dependency orders that would qualify juveniles for special immigrant status, without the expressed consent of the Attorney General. This rule also limits the jurisdiction of juvenile courts to consider the custody status for placement of an alien in the actual custody of the Attorney General, unless the Attorney General specifically consents to such jurisdiction.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ann Palmer, Staff Officer, Immigration Services Division, Department of Justice, Immigration and Naturalization Service, Room 900, 801 I Street NW., Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF11

1966. IMMIGRANT PETITIONS; RELIGIOUS WORKERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1153; 8 USC 1154; 8 USC 1182; 8 USC 1186a; 8 USC 1255; 8 CFR 2

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This rule will amend the Service's regulations by providing that all persons, other than ministers, immigrating to the United States as religious workers must immigrate or adjust status to permanent resident before October 1, 2000. This rule implements section 101(a)(27)(c)(ii) of the Immigration and Nationality Act (Act), which provides that religious workers who have 2 years of membership and experience in a religious occupation or vocation may qualify as special immigrant religious workers. By statute, this immigrant category for religious workers expires on October 1, 2000. This rule codifies, in regulatory form, the October 1, 2000 statutory deadline.

Timetable:

Action	Date	FR Cite
Final Rule (INS No. 1436-94)	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1436-94

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF12

1967. SUSPENSION OF DEPORTATION AND SPECIAL RULE CANCELLATION OF REMOVAL FOR CERTAIN NATIONALS OF GUATEMALA, EL SALVADOR, AND FORMER SOVIET BLOC COUNTRIES

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1186a; 8 USC 1224; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1251; 8 USC 1252 note; 8 USC 1252a

CFR Citation: 8 CFR 103; 8 CFR 274a; ...; 8 CFR 208; 8 CFR 240; 8 CFR 246

Legal Deadline: None

Abstract: This rule implements section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), enacted as title II of Pub. L. No. 105-100, 111 State. 2160,2193 (1997) (as amended by Technical Corrections to the Nicaraguan Adjustment and Central American Relief Act (NACARA),Pub. L. 105-139, Stat. 2644)(1997). Section 203 of NACARA provides that certain Guatemalans, Salvadorans, and nationals of former Soviet Bloc countries are eligible to apply for cancellation of removal under the standards for suspension of deportation that existed prior to enactment of Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The rule establishes the authority of INS asylum officers to adjudicate certain applications under section 203 of NACARA, provides application and adjudication procedures, identifies factors and standards relevant to eligibility, and establishes a rebutable presumption of extreme hardship for certain NACARA beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1915-98)	11/24/98	63 FR 64895
NPRM Comment Period End (INS No. 1915-98)	01/25/99	
Interim Rule (INS No. 1915-98)	05/21/99	64 FR 27856
Interim Rule Comment Period End	07/20/99	
Final Rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1915-98

Agency Contact: Joanna Ruppel, Supervisor for Asylum Operations, International Affairs, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Attn: Ullico Building 3rd Floor, Washington, DC 20536
Phone: 202 305-2663

RIN: 1115–AF14

1968. CHANGE IN BUSINESS PRACTICES: COLLECTION OF INTEREST, PENALTIES, AND HANDLING CHARGES FOR DELINQUENT PAYMENT OF EMPLOYER SANCTIONS FINES

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1324(b)

CFR Citation: 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service regulations by subjecting employers who are delinquent in paying employer sanctions fines, to charges for interest, handling costs, and penalties associated

with late payments of the fines. The Service has previously imposed fines against employers who violate section 274A of the Immigration and Nationality Act, but has yet to charge the employer for interest and handling costs, or to impose penalties for failure to promptly pay the fines. Accordingly, to ensure consistency and comprehensive implementation of the provisions contained in the Debt Collection Improvement Act (DCIA), the Service will begin to issue bills for the fines assessed against employers who violate section 274a of the Act, and impose charges for interest, handling costs, and penalties associated with late payments of the fines.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1875-97

Agency Contact: Jim Landolt, Chief, Debt Management Branch, Office of Financial Management, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 353-0229

RIN: 1115–AF17

1969. POWERS OF THE ATTORNEY GENERAL TO AUTHORIZE STATE OR LOCAL LAW ENFORCEMENT OFFICERS TO CARRY OUT IMMIGRATION ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 8 USC 1101; 8 USC 1103; 8 USC 1201

CFR Citation: 28 CFR 65

Legal Deadline: None

Abstract: In order to provide a more effective and efficient response to a mass migration event,this rule implements provisions in the Immigration and Nationality Act allowing the Attorney General to authorize any State and local law enforcement officer to perform certain functions related to the enforcement of the immigration laws during the period of an actual or imminent mass influx of aliens. This rule would place designated State/local law enforcement officers under the direction of the INS when enforcing immigration law. This rule also allows the Commissioner to enter into advance written agreements with State and local law enforcement officials setting forth the terms and conditions of the functions to be performed during a Federal response to a mass influx of aliens, including reimbursement of expenses and ties such reimbursement to the Immigration Emergency Fund as the primary source of such funding.

Timetable:

Action	Date	FR Cite
NPRM	04/08/99	64 FR 17128
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, State

Additional Information: INS No. 1924

Agency Contact: Milton J. Roney, Field Operations, Enforcement, Department of Justice, Immigration and Naturalization Service, 7114, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7185
Fax: 202 305-3399

RIN: 1115–AF20

1970. ELIMINATION OF IMMIGRATION AND NATURALIZATION SERVICE ISSUED MEXICAN AN CANADIAN BORDER CROSSING CARDS AND CONSENT TO REAPPLY FOR ADMISSION AFTER REMOVAL

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1201; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252; 8 USC 1304; 8 USC 1356; 8 USC 1304; 8 USC 1356

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 235; 8 CFR 247; 8 CFR 264; 8 CFR 286; 8 CFR 299

Legal Deadline: Final, Statutory, October 1, 2001.

Abstract: This rule amends the Immigration and Naturalization Service (Service) regulations to eliminate the use of Form I-175, Application for Nonresident Alien Canadian Border Crossing Card, and Form I-190, Application for Nonresident Alien Mexican Border Crossing Card. It also terminates the production of Form I-185, Nonresident Alien Canadian Border Crossing Card, and Form I-586, Nonresident Alien Mexican Border Crossing Card. In addition, this rule prohibits the use of Form I-186 (previous version of Mexican Border Crossing Card), Form I-185 and Form I-586 Border Crossing Cards (BCC's) after September 30, 2001, or whatever other date may be enacted for required use of a card containing a machine readable biometric identifier for entry (such as the fingerprint or handprint of the alien). Under the provisions of this rulemaking, an alien seeking entry into the United States by presentation of a BCC must complete a biometric verification upon each entry. This rule also amends the provisions regarding consent to reapply after removal to conform with the requirements of IIRIRA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1931-98

Agency Contact: Paul M. Morris, Assistant Chief Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 305-2970

RIN: 1115–AF24

1971. FILING OF PROPOSALS FOR DESIGNATION AS A REGIONAL CENTER APPROVED TO PARTICIPATE IN THE IMMIGRANT INVESTOR PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1154; 8 USC 1182; 8 USC 1186a

CFR Citation: 8 CFR 204

Legal Deadline: None

Abstract: This regulation changes the location for the filing, and adjudication of, proposals to participate in the Immigrant Investor Pilot Program from Headquarters, Adjudication to the

Texas and California Service Centers. This change is necessary to ensure the uniform and effective adjudication of these complex proposals related to economic development, export trade, and job creation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1944-98

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-5014

RIN: 1115–AF27

1972. NONIMMIGRANT VISA EXEMPTION FOR NATIONALS OF THE BRITISH VIRGIN ISLANDS ENTERING THE UNITED STATES THROUGH ST. THOMAS, UNITED STATES VIRGIN ISLANDS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1225; 8 USC 1226; 8 USC 1227; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service's regulations to allow nonimmigrant visitors for business or pleasure who are nationals of the British Virgin Islands to apply for admission to the United States without a visa at the ports-of-entry of St. Thomas, United States Virgin Islands. Since visas are no longer issued from the British Virgin Islands by the Department of State all persons needing a nonimmigrant visa have to either travel or mail their applications to Barbados, the nearest visa issuing location. The Service's action will facilitate travel to the United States for nationals of the British Virgin Islands while still ensuring that the proper application provisions of the INA Act are met.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/18/99	64 FR 7989
Interim Final Rule Comment Period End	04/18/99	
Final Rule (INS No. 1956-98)	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local

Additional Information: INS No. 1956-98

Agency Contact: William Plunges, Senior Immigration Inspector, Inspections Division, Department of Justice, Immigration and Naturalization Service, Room 4064, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7992

RIN: 1115–AF28

1973. DELEGATION OF THE ADJUDICATION OF CERTAIN H-2A PETITIONS TO THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization Service's regulations by delegating the adjudication of certain H-2A petitions to the United States Department of Labor (DOL). The H-2A petitions affected by this action would involve only those petitions filed for initial H-2A employment where the alien is not physically present in the United States. The Service has proposed these changes in order to streamline the existing H-2A petitioning process for certain foreign agricultural workers. The proposals contained in this rule will make it easier and less burdensome for United States employers to file petitions for foreign agricultural workers.

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1946-98)	12/07/98	63 FR 67431
Final Rule	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local

Additional Information: INS No. 1946-98

Agency Contact: Bert Rizzo, Adjudications Office, Office of Programs, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF29

1974. IMPLEMENTING CERTAIN PORTIONS OF THE AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT (ACWIA) RELATING TO THE H-1B NONIMMIGRANT CLASSIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1104; 8 USC 1186a; 8 USC 1187; 8 USC 1221; 8 USC 1281; 8 USC 1282

CFR Citation: 8 CFR 214.2h; 8 CFR 103.7

Legal Deadline: None

Abstract: This rule amends the Service's fee schedule and regulations regarding the filing of Form I-129 to reflect that certain employers must pay an additional $500.00 fee. The fee was added by the American Competitiveness and Workforce Improvement Act of 1998. The $500 must accompany and H-1B petition filed by a United States employer for new employment and for the alien's first extension of stay. Institutions of higher learning, nonprofit research institutions, and government research institutions are exempt from the $500 fee.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1962-98)	11/30/98	63 FR 65657
Interim Final Rule Correction (INS No. 1962-98)	12/24/98	63 FR 71342
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, Local, State

Additional Information: INS NO. 1962-98

Agency Contact: Irene Hoffman, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536
Phone: 202 616-7435

RIN: 1115–AF31

1975. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF HAITI

Priority: Other Significant

Legal Authority: PL 105-277, sec 902

CFR Citation: 8 CFR 3; 8 CFR 240; 8 CFR 245; 8 CFR 274a; 8 CFR 299

Legal Deadline: None

Abstract: This interim rule implements section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA) by establishing procedures for certain nationals of Haiti who have been residing in the United States to become lawful permanent residents of this country. This rule allows them to obtain lawful permanent residence status without applying for an immigrant visa at a United States consulate abroad and waives many of the usual requirements for this benefit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/12/99	64 FR 11954
Interim Final Rule Comment Period End	07/12/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS NO. 1963-98

Agency Contact: Michael L. Shaul, Examinations Officer, Office of Programs, Department of Justice, Immigration and Naturalization Service, 4th Floor ULLB, Washington, DC 20536
Phone: 202 616-7439

RIN: 1115–AF33

1976. TEMPORARY PROTECTED STATUS AMENDMENTS TO THE REQUIREMENTS FOR EMPLOYMENT AUTHORIZATION FEE AND OTHER TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1103; 8 USC 1254; 8 USC 1254a

CFR Citation: 8 CFR 244

Legal Deadline: None

Abstract: This rule amends the INS regulations by removing outdated language that certain El Salvadorans must pay a fee for temporary protected status (TPS)-related employment authorization Documents (EADs). Removing this language will make INS regulations conform to current INS policy as provided in the instructions to the Form I-765. The instructions on the form I-765 instruct all applicants for TPS who desire employment authorization to pay the fee.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/99	64 FR 4780
Interim Final Rule Comment Period End	04/02/99	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1972-

Agency Contact: Michael Valverde, Adjudications Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 514-2763
Email: michael.valverde@justice.usdoj.gov

RIN: 1115–AF37

1977. REGULATIONS CONCERNING THE CONVENTION AGAINST TORTURE

Priority: Other Significant

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282

CFR Citation: 8 CFR 3; 8 CFR 208; 8 CFR 235; 8 CFR 238; 8 CFR 240; 8 CFR 241

Legal Deadline: Other, Statutory, February 18, 1999, The Act requires promulgation by 02/18/99.

Abstract: This rule implements Article 3 of the United Nations Convention Against Torture or Other Forms of Cruel, Inhuman, or Degrading Treatment, or Punishment for persons who may be subject to removal from the United States Under the provisions of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/99	64 FR 8478
Interim Final Rule Corrections	03/22/99	64 FR 13881
Interim Final Rule Effective	03/22/99	
Interim Final Rule Comment Period End	04/20/99	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: INS No. 1976-

Agency Contact: Charles Adkins-Blanch, Acting General Counsel, Department of Justice, Executive Office for Immigration Review, 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041
Phone: 703 305-0470

Kelly Ryan, Chief, Refugee and Asylum Branch, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF39

1978. INTERIM DESIGNATION OF ACCEPTABLE RECEIPTS FOR EMPLOYMENT ELIGIBILITY VERIFICATION

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 CFR 2; 8 USC 1103; 8 USC 1324a

CFR Citation: 8 CFR 274a

Legal Deadline: None

Abstract: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) made several amendments to the employment eligibility verification provisions of the INA. An Interim Rule implementing

some of these amendments was issued on September 30, 1997. This rule included amendments to the "Receipt Rule", which permits employees to present a "Receipt" in lieu of a document listed on the employment eligibility verification form (Form I-9). Circumstances that have become apparent since publication of the September 30, 1997 rule required that rule to be amended by this Interim Rule. This Interim Rule was also necessary to facilitate employer and employee compliance with the regulations. The rule revised the amount of time a receipt remains valid where the employee presents a Form I-94 marked with a temporary I-551 stamp and containing a photograph of the bearer. Where the employee presents a Form I-94 marked with a refugee admission stamp, the rule adds Form I-688B to the list of documents that the employee can present at the end of the receipt validity period.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/09/99	64 FR 6187
Interim Final Rule Comment Period End	04/12/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule was published in the Federal Register as RIN 1115-AE94. This RIN has now been changed to 1115-AF42, INS No. 1947-98.

Agency Contact: Marguerite Przbylski, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, Room 6100, 425 I Street NW., Washington, DC 20536
Phone: 202 514-2895

RIN: 1115–AF42

1979. • DEPORTABILITY AND INADMISSIBILITY ON PUBLIC CHARGE GROUNDS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1103; 8 USC 1182; 8 USC 1183; ...

CFR Citation: 8 CFR 212; 8 CFR 237

Legal Deadline: None

Abstract: This rule proposes to amend the Immigration and Naturalization regulations to establish clear standards governing a determination that an alien is admissible or ineligible to adjust status, or has become deportable, on public charge grounds. This proposed rule is necessary to alleviate growing public confusion over the meaning of the currently undefined term public charge in immigration law and its relationship to the receipt of Federal, State, or local public benefits. By defining public charge the Service seeks to reduce the negative public health consequences generated by the existing confusion and to provide aliens with better guidance as to the types of public benefits that will and will not be considered in public charge determinations.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28676
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, State, Federal

Additional Information: INS No. 1989-

Agency Contact: Alice Smith, Attorney, Office of General Counsel, Department of Justice, Immigration and Naturalization Service, 6100, 425 I Street NW., Washington, DC 20536
Phone: 202 305-9353

RIN: 1115–AF45

1980. • TREATMENT OF CERTAIN H PETITIONS FILED AFTER THE NUMERICAL CAP IS REACHED

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1102; 8 USC 1104; 8 USC 1282

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This rule amends the Immigration and Naturalization Service's regulations by allowing the Service to accept and adjudicate certain petitions submitted after any of the annual numerical caps for H nonimmigrant have been reached. Under this rule, petitions that are approved would be assigned a work start date to begin no earlier than the beginning of the following fiscal year.

Timetable:

Action	Date	FR Cite
NPRM	06/15/99	64 FR 32149
Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS 2003-

Agency Contact: John W. Brown, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536
Phone: 202 353-8177
Fax: 202 514-0198

RIN: 1115–AF47

1981. • ADJUSTMENT OF STATUS UNDER THE 1966 CUBAN ADJUSTMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1255; PL 105-100 sec. 202; ...

CFR Citation: 8 CFR 245

Legal Deadline: None

Abstract: This interim rule specifies what effect an alien's arrival in the United States at a place other than an open port-of-entry, will have on the alien's ability to obtain permanent residence under section 1 of the Cuban Adjustment Act of 1966, as amended. This rule is necessary to establish uniform rules relating to both the alien's eligibility for this relief and to the proper exercise of the discretion to grant or deny this relief.

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1966-99)	12/00/99	
Final Action (INS No. 1966-99)	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1996-

Agency Contact: Frances A. Murphy, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536

DOJ—INS

Final Rule Stage

Phone: 202 514-4754

RIN: 1115–AF48

1982. • APPLICATION FOR REFUGEE STATUS; ACCEPTABLE SPONSORSHIP AGREEMENT GUARANTY OF TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1151; 8 USC 1157; 8 USC 1158; ...

CFR Citation: 8 CFR 207

Legal Deadline: None

Abstract: Section 207 of the Immigration and Nationality Act authorizes the Attorney General to admit refugees to the United States under certain conditions, including those provided for by regulation. The Immigration and Naturalization Service regulations require that sponsorship agreements be secured before an applicant is granted admission as a refugee at a U.S. port-of-entry (POE). The determination of whether or not someone is classified as a refugee is described in the Act as a separate decision from whether a refugee may be admitted to the United States in refugee status. This rule amends the Service regulations by removing language that erroneously implies that the Service requires a sponsorship agreement and guaranty of transportation prior to determining whether an applicant is a refugee. This rule is necessary to clarify issues that may appear ambiguous in the existing regulation, and provides more advantageous treatment for the limited number of applicants for refugee status who have their Service interviews before sponsorship agreements have been secured.

Timetable:

Action	Date	FR Cite
Interim Rule	05/21/99	64 FR 27660
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1999-

Sectors Affected: 001 None

Agency Contact: Kathleen Thompson, Staff Officer, Department of Justice, Immigration and Naturalization Service, Office of International Affairs, 425 I Street NW., 3rd Floor, Ullico Bldg., Washington, DC 20536
Phone: 202 305-2662

RIN: 1115–AF49

1983. • NONIMMIGRANT CLASSES: Q-2 IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM VISITOR

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1184; 8 USC 1186; 8 USC 1187; ...

CFR Citation: 8 CFR 214; 8 CFR 245; 8 CFR 248; 8 CFR 274

Legal Deadline: None

Abstract: This rule amends the regulations to establish a new visa classification, Q-2. Public Law 105-319, also known as the Irish Peace Process Cultural and Training Program Act of 1998, provides the basis for this regulatory change. The Q-2 visa classification identifies those visitors from Northern Ireland and certain designated counties in the Republic of Ireland to come to the United States temporally for training employment and to experience coexistence and conflict resolution in a diverse society.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: INS No. 2000-

Agency Contact: Donna Crump, Staff Officer, Adjudications Divison, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW, Washington, DC 20536
Phone: 202 353-8177

RIN: 1115–AF51

1984. • ADJUSTMENT OF SMALL VOLUME APPLICATION FEES OF THE IMMIGRATION EXAMINATIONS FEE ACCOUNT

Priority: Substantive, Nonsignificant

Legal Authority: PL 100-459; 8 USC 1356; PL 101-515; PL 82-137; 31 USC 9701

CFR Citation: 8 CFR 103

Legal Deadline: None

Abstract: This rule adjusts the Immigration Examinations Fee schedule of the Immigration Examinations Fee Account(IEFA) for certain small volume immigration adjudication and naturalization applications and petitions (Forms I-360, N-300, N-336,and N-470). The fee adjustment is necessary to ensure that sufficient funds are available in the account to fund the cost of processing immigration adjudication and naturalization applications and petitions. The fee adjustment also complies with Federal Statutes and Federal cost accounting standards.

Timetable:

Action	Date	FR Cite
NPRM	05/17/99	64 FR 26698
NPRM Comment Period End	07/16/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: INS No. 1933-98

Agency Contact: Paul Schlesinger, Fee Policy and Rate Setting Branch, Department of Justice, Immigration and Naturalization Service, Room 6240, 425 I Street NW, Washington, DC 20536
Phone: 202 616-2754

RIN: 1115–AF52

1985. • CONDITIONAL RESIDENCE OF LAWFUL PERMANENT RESIDENCE FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS; BATTERED AND ABUSED CONDITIONAL RESIDENTS

Priority: Other Significant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1154; 8 USC 1184; 8 USC 1186a

CFR Citation: 8 CFR 216

Legal Deadline: None

Abstract: Enacted on November 10, 1986, the Immigration Marriage Fraud Amendments of 1986 (IMFA) made a number of changes to the Act to deter aliens from marrying solely to obtain immigration benefits. IMFA established a conditional resident status for aliens who obtained lawful permanent resident status based upon a marriage of less than 2 years duration. The interim rule published on May 16, 1991, established procedures to allow a conditional resident who married in

DOJ—INS

Final Rule Stage

good faith but whose marriage was terminated by the United States citizen or lawful permanent resident spouse to seek a waiver of the joint filing requirement. The interim rule also was necessary to provide a method by which a battered conditional resident, or a conditional resident parent of an abused conditional resident child, may apply for removal of the conditional basis of resident status without filing a joint petition. The final rule implements certain technical changes made by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and addresses comments received in response to the interim rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/91	56 FR 22635
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Final Action for INS No. 1423-91 that was published on 5/16/1991.

Agency Contact: Anne Gyemant, Program Analyst, Adjudications Division,, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street, NW,, Washington, DC 20536
Phone: 202 514-4754

RIN: 1115–AF59

Department of Justice (DOJ)
Immigration and Naturalization Service (INS)

Long-Term Actions

1986. VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 217

Timetable:

Action	Date	FR Cite
NPRM INS No. 1406-91 Comment Period End 5/22/91	05/07/91	56 FR 21101
Final Rule-INS No. 1406-91 Eff. 7/18/91*	07/18/91	56 FR 32952
Interim Final Rule-INS No. 1447 Eff. 10/1/91; Comment Period End 10/15/91	09/13/91	56 FR 46716
Interim Final Rule-1622-93; Eff. 7/29/93; Com. End 8/30/93; (To be merged with 1447R-93)*	07/29/93	58 FR 40581
Public Notice-INS No. 1674 Eff. 10/25/94, Comment Period End 09/30/96	02/21/95	60 FR 9699
Interim Final Rule-INS No. 1685 Eff. 4/1/95; Comment Period End 5/30/95	03/28/95	60 FR 15855
Interim Final Rule-INS No. 1777	07/08/96	61 FR 35598
Interim Final Rule-INS No. 1782-96 With Comments (Australia)	07/29/96	61 FR 39721
Interim Final Rule-INS 1786-96 With Comments (Slovenia)	09/30/97	62 FR 50998
Final Rule-INS No. 1799	12/30/98	63 FR 71726
Interim Final Rule-INS 2002-99 With Comments (Portugal, Singapore, and Uruguay)	08/03/99	64 FR 42006
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Dominica Gutierrez
Phone: 202 305-2969

RIN: 1115–AB93

1987. ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE: CONDITIONAL RESIDENTS AND FIANCE(E)S

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 245

Timetable:

Action	Date	FR Cite
NPRM	08/20/96	61 FR 43028
NPRM Comment Period End	10/21/96	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Suzy Nguyen
Phone: 202 514-4754

RIN: 1115–AC70

1988. UPDATE TO TRANSIT WITHOUT VISA (TWOV) LISTING

Priority: Other Significant

CFR Citation: 8 CFR 212

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Robert F. Hutnick
Phone: 202 616-7499
Email: robert.f.hutnick@usdoj.gov

RIN: 1115–AD96

1989. EMPLOYER SANCTIONS MODIFICATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 274a

Timetable:

Action	Date	FR Cite
Interim Final Rule-INS No. 1738	10/07/96	61 FR 52235
Correction (Final Rule)	10/29/96	61 FR 55840
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Angelo Sorrento
Phone: 202 514-0747

RIN: 1115–AE21

1990. REGULATIONS RELATING TO TEMPORARY PROTECTED STATUS

Priority: Other Significant

CFR Citation: 8 CFR 103; 8 CFR 240; 8 CFR 299

Timetable:

Action	Date	FR Cite
TPS Final Rule (INS No. 1612) Removal of Obsolete Sections Covering TPS for Salvadorans	09/10/96	61 FR 47667
TPS Notice (INS No. 1832-97) Designation of Liberia	04/07/97	62 FR 16608
TPS Notice (INS No. 1853-97) Designation of Rwanda Eff. 06/07/97	06/19/97	62 FR 33442
TPS Notice (INS No. 1862-97) Designation of Bosnia-Hercegovina	08/01/97	62 FR 41420
TPS Notice (INS No. 1863-97) Designation of Somalia	08/01/97	62 FR 41421
TPS Notice (INS No. 1878-97) TPS Designation of Montserrat	08/28/97	62 FR 45685
TPS Notice (INS No. 1775-96) TPS Designation of Burundi	11/04/97	62 FR 59735
TPS Notice (INS No. 1877-97) TPS Designation of Sierra	11/04/97	62 FR 59736
TPS Notice (INS No. 1780-97) TPS Designation of Sudan	11/04/97	62 FR 59737
TPS Notice (INS No. 1910-98) Termination of Designation of Liberia	03/31/98	63 FR 15437
TPS Notice (INS No. 1929-98) TPS Designation of Kosovo	06/09/98	63 FR 31527
TPS Notice (INS No. 1945-98) Extension of Designation of Somalia	09/28/98	63 FR 51602
TPS Notice (INS No. 1953-98) Redesignation of Liberia	09/29/98	63 FR 51958
TPS Notice (INS No. 1957-98) TPS Extension of Designation of Burundi	11/03/98	63 FR 59334
TPS Notice (INS No. 1958-98) TPS Extension of Designation of Sierra Leone	11/03/98	63 FR 59336
TPS Notice (INS No. 1959-98) Extension of Designation of Sudan	11/03/98	63 FR 59337
TPS Final Rule (INS No. 1608) Exceptions to Registration	11/16/98	63 FR 63593
TPS Notice (INS No. 1964-98) TPS Designation of Honduras	01/05/99	64 FR 524
TPS Notice (INS No. 1965-98) TPS Designation of Nicaragua	01/05/99	64 FR 526
TPS Notice (INS No. 1960-98) TPS Designation of Guinea-Bissau	03/11/99	64 FR 12181
TPS Notice (INS No. 1986-99) TPS Redesignation of the Province of Kosovo	06/08/99	64 FR 30542
TPS Notice (INS No. 1953-99) Termination of TPS Designation of Liberia	07/30/99	64 FR 41463
TPS Notice (INS No. 2009-99) Extension of the TPS Registration Period for Hondurans and Nicaraguans	08/06/99	64 FR 42991
TPS Notice (INS No. 2006-99) Extension of TPS Designation of Bosnia-Herzegovina	08/11/99	64 FR 43720
TPS Notice (INS No. 2010-99) Extension of TPS Designation of Montserrat	09/02/99	64 FR 48190
TPS Notice (INS No. 2015-99) Extension of TPS Designation of Somalia	09/13/99	64 FR 49511
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Raferty
Phone: 202 514-5014

RIN: 1115–AE26

1991. INSPECTION AND EXPEDITED REMOVAL OF ALIENS; DETENTION AND REMOVAL OF ALIENS; CONDUCT OF REMOVAL PROCEEDINGS; ASYLUM PROCEDURES

Priority: Other Significant

CFR Citation: 8 CFR 1; 8 CFR 3; 8 CFR 103; 8 CFR 204; 8 CFR 207; 8 CFR 208; 8 CFR 209; 8 CFR 211; 8 CFR 212; 8 CFR 213; 8 CFR 214; 8 CFR 216; 8 CFR 217; 8 CFR 221; 8 CFR 223; ...

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1788-96) Comment Period End 2/3/97	01/03/97	62 FR 444
Interim Final Rule (INS No. 1788-96) Comment Period End 7/15/97	03/06/97	62 FR 10312
Interim Final Rule Correction (Effective 04/01/97)	04/01/97	62 FR 15362
Interim Final Rule (INS No. 1788-96) Correction	04/09/97	62 FR 17048
Final Rule (INS No. 1920-98) Correction	07/22/98	63 FR 39217
Final Action (INS No. 1788-96)	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Loveless
Phone: 202 616-7489
Charles Adkins-Blanch
Phone: 703 305-0470

RIN: 1115–AE47

1992. PETITION FOR EMPLOYMENT CREATION ALIENS

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 204; 8 CFR 216; 8 CFR 235

Timetable:

Action	Date	FR Cite
NPRM INS No. 1969-98	12/00/00	
NPRM INS No. 1798-96	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOJ—INS

Long-Term Actions

Government Levels Affected: None

Agency Contact: Katharine A. Lorr
Phone: 202 514-3228

RIN: 1115–AE56

1993. COLLECTION OF FEES UNDER THE DEDICATED COMMUTER LANE PROGRAM, PORT PASSENGER ACCELERATED SERVICE SYSTEM (PORTPASS) PROGRAM

Priority: Other Significant

CFR Citation: 8 CFR 103; 8 CFR 235; 8 CFR 286; 8 CFR 299

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1820-96)	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas C. Campbell
Phone: 202 305-9246

RIN: 1115–AE71

1994. PUBLIC CHARGE BOND PILOT PROGRAM

Priority: Other Significant

CFR Citation: 8 CFR 213

Timetable:

Action	Date	FR Cite
NPRM (INS No. 1843-97)	To Be	Determined
Final Rule (INS No. 1843-97)	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzy Nguyen
Phone: 202 514-4754
Lisa Roney
Phone: 202 514-3242

RIN: 1115–AE78

1995. AUTHORIZING SUSPENSION OF EMPLOYMENT AUTHORIZATION REQUIREMENTS ON THE BASIS OF SEVERE ECONOMIC HARDSHIP FOR F-1 STUDENTS AND EMERGENT CIRCUMSTANCES

Priority: Other Significant

CFR Citation: 8 CFR 214

Timetable:

Action	Date	FR Cite
Interim Final Rule (INS No. 1914-98)	06/10/98	63 FR 31872
Final Rule (INS No. 1914-98)	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Maurice R. Berez
Phone: 202 353-8177

RIN: 1115–AF15

1996. • EXTENDING THE PERIOD OF DURATION OF STATUS FOR CERTAIN F AND J NONIMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186; ...

CFR Citation: 8 CFR 214

Legal Deadline: None

Abstract: This interim rule amends the Immigration and Naturalization Service regulations to provide that the Commissioner may publish a notice to extend the duration of status. under specified conditions of certain F-1 and J-1 nonimmigrant aliens who may be affected adversely because the numerical limit (cap) on H-1B nonimmigrant aliens has been reached prior to the end of a given fiscal year. This rule is a necessary stop-gap measure because of large number of F-1 and J-1 nonimmigrant aliens seek a change of nonimmigrant status to that of H-1B after completion of their studies or their program. However, many of these aliens will be unable to change their nonimmigrant status for the remainder of a given fiscal year because of the cap on H-1B petitions. This rule will allow such aliens to avoid a lapse in their status because of a circumstance that is not under their control.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/99	64 FR 32146
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1992-

Agency Contact: Thomas Simmons, Chief, Business & Trade Branch, Adjudications Division, Department of Justice, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536
Phone: 202 333-8177

RIN: 1115–AF54

Department of Justice (DOJ)
Immigration and Naturalization Service (INS)

Completed Actions

1997. EXPANSION OF DIRECT MAIL PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 103; 8 CFR 245; 8 CFR 264; 8 CFR 274a; 8 CFR 245a

Completed:

Reason	Date	FR Cite
Withdrawn	07/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael L. Aytes
Phone: 202 514-5014

RIN: 1115–AD73

1998. REGULATIONS PERTAINING TO ADJUDICATIONS PROCESSING

Priority: Other Significant

CFR Citation: 8 CFR 101; 8 CFR 103; 8 CFR 204; 8 CFR 210; 8 CFR 212; 8 CFR 214; 8 CFR 216; 8 CFR 240; 8 CFR 245a; 8 CFR 249; 8 CFR 336

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Lawrence J. Weinig

DOJ—INS

Completed Actions

Phone: 202 616-7425

RIN: 1115–AE31

1999. CANADIAN BORDER BOAT LANDING PROGRAM

Priority: Other Significant

CFR Citation: 8 CFR 235.1(e)

Completed:

Reason	Date	FR Cite
Final Action	07/07/99	64 FR 36559

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Sava
Phone: 202 307-1942

RIN: 1115–AE53

2000. NONIMMIGRANT OVERSTAYS

Priority: Other Significant

CFR Citation: 8 CFR 214.2; 8 CFR 214.2(f); 8 CFR 236; 8 CFR 248

Completed:

Reason	Date	FR Cite
Withdrawn	08/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Crump
Phone: 202 353-8177

RIN: 1115–AE62

2001. CHANGE IN BUSINESS PRACTICES: NON-ACCEPTANCE OF CASH AS REMITTANCE FOR FEES AND APPLICATIONS IN IMMIGRATION AND NATURALIZATION SERVICES OFFICES

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 103.7

Completed:

Reason	Date	FR Cite
Withdrawn	07/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cheryl Kaminski
Phone: 202 307-2879

RIN: 1115–AF07

2002. ADDITION OF COMMERCIAL DELIVERY SERVICE AS A FORM OF PERSONAL SERVICE

Priority: Substantive, Nonsignificant

CFR Citation: 8 CFR 103

Completed:

Reason	Date	FR Cite
Final Action	04/13/99	64 FR 17943
Final Action Effective	04/13/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marylena S. Kruszka
Phone: 202 305-7018

RIN: 1115–AF30

2003. • ADDITIONAL AUTHORIZATION TO ISSUE CERTIFICATES FOR FOREIGN HEALTH CARE WORKERS

Priority: Routine and Frequent

Legal Authority: 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1186; 8 USC 1221

CFR Citation: 8 CFR 212

Legal Deadline: None

Abstract: This rule grants temporary authority to CGFNS to issue certificates to aliens coming to the U.S. to perform labor in the occupations of occupational therapists and physical therapist.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Request for Comments	04/30/99	64 FR 23174
Merged With RIN 1115-AE73	09/08/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: INS No. 1979-

Agency Contact: John W. Brown, Staff Officer, Adjudications Division, Department of Justice, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536
Phone: 202 353-8177
Fax: 202 514-0198

RIN: 1115–AF43

Department of Justice (DOJ)
Legal Activities (LA)

Proposed Rule Stage

2004. REVISION OF 28 CFR PART 15 PERTAINING TO THE DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES TO CONFORM TO THE FEDERAL EMPLOYEES LIABILITY REFORM AND TORT COMPENSATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 2679(b)

CFR Citation: 28 CFR 15

Legal Deadline: None

Abstract: This rule revises 28 CFR part 15, pertaining to the defense of certain suits against Federal employees, to conform the regulations to changes made by the Federal Employee Liability Reform and Tort Compensation Act, PL 100-694. Under prior law, the defense of suits against Federal employees for torts committed in the scope of their employment was limited to claims involving the operation of motor vehicles. PL 100-694 expanded the coverage of the immunity provisions to include all common law torts committed by Federal employees in the scope of their employment. This rule conforms the Department's regulations to the expanded coverage of the statute.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James G. Touhey Jr., Trial Attorney, Torts Branch, Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20004
Phone: 202 616-4292

RIN: 1105–AA62

DOJ—LA

Proposed Rule Stage

2005. UNITED STATES MARSHALS SERVICE FEE FOR SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 1921(b)

CFR Citation: 28 CFR 0.114 (Revision)

Legal Deadline: None

Abstract: This rule revises the United States Marshals Service fees pursuant to 28 USC 1921(b). This statute requires the Attorney General to establish fees to be taxed and collected for certain services rendered by the United States Marshals Service in connection with Federal court proceedings. These services include, but are not limited to, the serving of writs, subpoenas, or summonses, the preparing of notices or bills of sale, the keeping of attached property, and certain necessary travel. To the extent practicable, these fees shall reflect the actual and reasonable costs of the services provided. The Attorney General initially established the fee schedule in 1991, based on the actual costs, salaries, overhead, etc. of the services rendered and the hours expended. Due to an increase in the salaries and benefits of United States Marshals Service personnel over time, the current fee schedule is inadequate and no longer reflects actual and reasonable costs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joe Lazar, Associate General Counsel, United States Marshals Service, Department of Justice, 600 Army Navy Drive, CS-3, Arlington, VA 22202
Phone: 202 307-9054

RIN: 1105–AA64

2006. WAIVER FOR FIREARM PROHIBITION ON NON-IMMIGRANT VISA HOLDERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: PL 105-277, sec 121; 18 USC 922

CFR Citation: 28 CFR 25

Legal Deadline: None

Abstract: The Gun Control Act of 1968 established categories of individuals who are prohibited from possessing a firearm. A provision of PL 105-277, the Omnibus Appropriations Act of 1999, added non-immigrant visa holders as an additional prohibited category. In the same Act, the Attorney General was authorized to grant a waiver for individuals disqualified by this new prohibited category. The waiver petition will be granted upon an applicant showing proof of 180 days of residency, a statement of character from the applicant's embassy or consulate, and upon a determination by the Attorney General that the waiver should be granted in the interests of justice so as not to jeopardize public safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank A.S. Campbell, Deputy Assistant Attorney General, Office of Policy Development, Department of Justice, Room 4248, Main Building, 950 Pennsylvania Avenue NW, Washington, DC 20530
Phone: 202 514-2283

RIN: 1105–AA66

Department of Justice (DOJ)
Legal Activities (LA)

Final Rule Stage

2007. FEDERAL CLAIMS COLLECTION STANDARDS (FCCS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3711(d)(2)

CFR Citation: 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards (FCCS) are issued jointly by the Secretary of the Treasury and the Attorney General. These regulations prescribe the standards for the administrative collection, compromise, termination of agency collection, and the referral to the Department of Justice for litigation, of civil claims by the Federal Government for money or property. The Department of Justice and the Department of the Treasury are issuing this rule to revise and update the FCCS in order to reflect changes in the substantive law and in government procedures that have taken place since the standards were last issued in March 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68476
NPRM Comment Period End	03/02/98	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State

Agency Contact: Kathleen A. Haggerty, Director, Debt Collection Management, Department of Justice, Liberty Place Building Second Floor South, 325 7th Street NW, Washington, DC 20530
Phone: 202 514-5343

RIN: 1105–AA31

2008. FOREIGN AGENTS REGISTRATION ACT; REGULATIONS REVISED AND CLARIFIED TO REFLECT CHANGES IN THE LAW

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 611 et seq Foreign Agents Registration Act of 1938

CFR Citation: 28 CFR 5.5(d)(10); 28 CFR 5.5(d)(11); 28 CFR 5.100(c); 28 CFR 5.100(d); 28 CFR 5.200(b); 28 CFR 5.201(a)(1); 28 CFR 5.201(a)(2); 28 CFR

DOJ—LA

Final Rule Stage

5.202(b); 28 CFR 5.202(e); 28 CFR 5.203(a); 28 CFR 5.204(a); 28 CFR 5.205(a); 28 CFR 5.206(b); 28 CFR 5.304(c); 28 CFR 5.306(a); ...

Legal Deadline: None

Abstract: As a result of the passage of the Lobbying Disclosure Act of 1995 (LDA) and the Lobbying Disclosure Technical Amendments Act of 1998 (LDTAA), the Foreign Agents Registration Unit of the Criminal Division is issuing new regulations concerning changes in the Foreign Agents Registration Act of 1938, as amended, 22 USC 611, et seq (FARA). These regulations replace the term "political propaganda" in the existing regulations with "informational materials" as provided in the LDA and make other changes to the FARA regulations required by the passage of the LDA and the LDTAA. The regulations also make other modifications to the existing regulations to facilitate the administration of FARA.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37065
NPRM Comment Period End	09/07/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: CFR CITATIONS CONT: 28 CFR 5.307; 28 CFR 5.400(a) to (c); 28 CFR 5.401; 28 CFR 5.402(a) to (g); 28 CFR 5.500(a)(4); 28 CFR 5.600; 28 CFR 5.601(a); 28 CFR 5.601(b).

Agency Contact: Marshall R. Williams, Chief, Registration Unit, Internal Security Section, Criminal Division, Department of Justice, Room 9300, 1400 New York Avenue NW, Washington, DC 20530
Phone: 202 514-1216

RIN: 1105–AA45

2009. DESIGNATION OF AGENCIES TO RECEIVE AND INVESTIGATE REPORTS REQUIRED UNDER THE PROTECTION OF CHILDREN FROM SEXUAL PREDATORS ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 13032

CFR Citation: 28 CFR 81

Legal Deadline: NPRM, Statutory, April 28, 1999.

Abstract: On October 30, 1998, Congress passed the Protection of Children from Sexual Predators Act of 1998 (PCSPA). The PCSPA requires providers of an electronic communication service or a remote computing service to the public, through a facility or means of interstate commerce, to report incidents of child pornography as defined by sections 2251, 2251A, 2252, 2252A, or 2260 of Title 18, United States Code to the appropriate Federal agency. In order to facilitate effective reporting, the PCSPA requires the Attorney General to "designate an agency" to receive and investigate such reports of child pornography. The proposed rule sets forth the Attorney General's proposed designations and certain other matters covered by the PCSPA's reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28422
NPRM Comment Period End	07/26/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Terry R. Lord, Chief, Child Exploitation and Obscenity Section, Department of Justice, 1331 F Street NW, 6th Floor, Washington, DC 20530
Phone: 202 514-5780

RIN: 1105–AA65

2010. • ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT

Priority: Substantive, Nonsignificant

Legal Authority: 28 USC 530B

CFR Citation: 28 CFR 77

Legal Deadline: Final, Statutory, April 19, 1999.

Abstract: This rule supersedes the Department of Justice regulations relating to Communications with Represented Persons and implements 28 U.S.C. 530B pertaining to ethical standards for attorneys for the Government. Under that provision, an attorney for the Government shall be subject to State laws and rules, and local federal court rules governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State. This rule fulfills the Attorney General's obligation under section 530B and provides guidance to all Department of Justice employees who are subject to section 530B regarding their obligations and responsibilities under this new provision.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/19/99	64 FR 19273
Interim Final Rule Comment Period End	06/21/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Juliet A. Eurich, Acting Director, Professional Resonsibility Office, Department of Justice, Suite 600, National Theatre Building, 1325 Pennsylvania Avenue NW., Washington, DC 20530
Phone: 202 514-0458
Fax: 202 353-7483

RIN: 1105–AA67

Department of Justice (DOJ)
Legal Activities (LA)

Long-Term Actions

2011. CRIMINAL FINES ENFORCEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 72

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Lynne Solien
Phone: 202 616-6444

RIN: 1105–AA16

2012. VIOLENT CRIME AND DRUG EMERGENCY AREAS

Priority: Other Significant

CFR Citation: 28 CFR 92 (New)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Robert Hinchman
Phone: 202 514-8059
Email: robert.hinchman@usdoj.gov

RIN: 1105–AA29

2013. FALSE CLAIMS AMENDMENTS ACT OF 1986—CIVIL INVESTIGATIVE DEMANDS

Priority: Info./Admin./Other

CFR Citation: 28 CFR 28

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Michael F. Hertz
Phone: 202 514-7179

RIN: 1105–AA42

Department of Justice (DOJ)
Legal Activities (LA)

Completed Actions

2014. IMPLEMENTATION OF SECTIONS 104 AND 109 OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Priority: Other Significant

CFR Citation: 28 CFR 100

Completed:

Reason	Date	FR Cite
Transferred to RIN 1110-AA00	05/19/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: None

Agency Contact: Walter V. Meslar
Phone: 703 814-4900
Rozanne R. Worrell
Phone: 703 814-4804

RIN: 1105–AA39

2015. IMPLEMENTATION OF THE NATIONAL STOLEN PASSENGER MOTOR VEHICLE INFORMATION SYSTEM (NSPMVIS)

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 89

Completed:

Reason	Date	FR Cite
Transferred to RIN 1110-AA01	05/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven P. Polifko
Phone: 304 625-2710

RIN: 1105–AA44

2016. CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 50.22 (New)

Completed:

Reason	Date	FR Cite
Final Action	08/30/99	64 FR 47099
Final Action Effective	09/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Hinchman
Phone: 202 514-8059
Email: robert.hinchman@usdoj.gov

RIN: 1105–AA48

2017. OPERATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 28 CFR 16; 28 CFR 20; 28 CFR 25

Completed:

Reason	Date	FR Cite
Transferred to RIN 1110-AA02	05/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Emmet A. Rathbun
Phone: 304 625-2000

RIN: 1105–AA51

2018. FEDERAL CONVICTED OFFENDER DNA DATABASE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Transferred to RIN 1110-AA03	05/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Joseph Dizinno
Phone: 202 324-4354
Email: lab-fssu@fbi.gov

RIN: 1105–AA52

2019. IMPLEMENTATION OF THE PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/19/99	64 FR 7562
Transferred to RIN 1110-AA04	05/19/99	

DOJ—LA

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Charles Marciano Phone: 202 324-4523

RIN: 1105–AA56

2020. POLICE RECRUITMENT PROGRAM GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 92

Completed:

Reason	Date	FR Cite
Final Action	06/18/99	64 FR 32806
Final Action Effective	06/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Agency Contact: Rob Chapman Phone: 202 633-1295

RIN: 1105–AA58

2021. WHISTLEBLOWER PROTECTION FOR FEDERAL BUREAU OF INVESTIGATION EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 101

Completed:

Reason	Date	FR Cite
Transferred to RIN 1110-AA06	05/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stuart Frisch Phone: 202 514-3452

RIN: 1105–AA60

2022. FBI CRIMINAL JUSTICE INFORMATION SERVICES DIVISION SYSTEMS AND PROCEDURES

Priority: Other Significant

CFR Citation: 28 CFR 0.85; 28 CFR 16 (Revision); 28 CFR 20 (Revision); 28 CFR 50.12

Completed:

Reason	Date	FR Cite
NPRM	04/00/99	
Transferred to RIN 1110-AA05	05/19/99	
NPRM Comment Period End	05/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: W. A. Miller Phone: 202 324-4523

RIN: 1105–AA63

2023. • AMENDMENT TO THE JUSTICE ACQUISITION REGULATIONS (JAR) REGARDING ELECTRONIC FUNDS TRANSFER

Priority: Info./Admin./Other

Legal Authority: 28 USC 510; 40 USC 486(c); 28 CFR 0.75(j); 28 CFR 0.76(j)

CFR Citation: 48 CFR 2832

Legal Deadline: None

Abstract: The Department of Justice is amending the Justice Acquisition Regulations (JAR) to provide flexibility to contractors in the timing of receipt of Electronic Funds Transfer (EFT) information from them. The Debt Collection Improvement Act of 1996, Public Law (P.L.) 104-134 mandates payment by EFT in most situations. In order to make the payment by EFT, the Department needs certain information from contractors. This rule gives the Department's contracting officers discretion in determining when contractors must submit the required information. Without the changes made by this rule, contractors would have to submit their EFT information no later than 15 days prior to their first request for payment.

Timetable:

Action	Date	FR Cite
Final Action	07/09/99	64 FR 37044
Final Action Effective	07/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janis A. Sposato, Procurement Executive, Department of Justice, Room 1111, 950 Pennsylvania Avenue NW, Washington, DC 20530 Phone: 202 514-3101

RIN: 1105–AA68

2024. • OFFICE OF SPECIAL COUNSEL

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 28 USC 515 to 519

CFR Citation: 28 CFR 600

Legal Deadline: None

Abstract: The Attorney General has promulgated regulations to replace the procedures set out in the Independent Counsel Reauthorization Act of 1994. These regulations strike an appropriate balance between independence and accountability in certain sensitive investigations. A Special Counsel may be appointed to investigate and, if appropriate, prosecute matters when the Attorney General concludes that extraordinary circumstances exist such that the public interest would be served by removing a large degree of responsibility for the matter from the Department of Justice.

Timetable:

Action	Date	FR Cite
Final Action	07/09/99	64 FR 37041
Final Action Effective	07/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John C. Keeney, Deputy Assistant Attorney General, Department of Justice, Room 2107, Main Building, 950 Pennsylvania Avenue NW., Washington, DC 20530 Phone: 202 514-2621

RIN: 1105–AA69

Department of Justice (DOJ)
Office of Justice Programs (OJP)

Final Rule Stage

2025. GRANTS PROGRAM FOR INDIAN TRIBES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 13701 et seq

CFR Citation: 28 CFR 91

Legal Deadline: None

Abstract: This rule outlines the requirements and procedures to award grants to Indian tribes for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction. This rule implements provisions of the Violent Offender Incarceration and Truth-In-Sentencing Grants Program for Indian tribes as required by section 114 of the Fiscal Year 1998 Omnibus Consolidated Rescissions and Appropriations Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/96	61 FR 49969
Correction	10/18/96	61 FR 54333
Interim Final Rule Comment Period End	10/24/96	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Tribal

Agency Contact: Dr. Stephen Amos, Deputy Director, Department of Justice, Office of Justice Programs, Correction Program Office, 810 7th Street NW, Washington, DC 20531
Phone: 202 307-2019

RIN: 1121–AA41

2026. BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 1998

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 3796ll

CFR Citation: 28 CFR 33

Legal Deadline: NPRM, Statutory, September 14, 1998.

Abstract: This part proposes the process by which BJA will provide funds to eligible States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/23/98	63 FR 50759
Interim Final Rule Effective	09/23/98	
Interim Final Rule Comment Period End	11/23/98	
Final Rule	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Agency Contact: Lluana McCann, Program Manager, Department of Justice, Office of Justice Programs, 810 7th Street NW, Washington, DC 20053
Phone: 202 305-1772

RIN: 1121–AA48

2027. TIMING OF POLICE CORPS REIMBURSEMENTS OF EDUCATIONAL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 14091, et seq

CFR Citation: 28 CFR 92

Legal Deadline: None

Abstract: Regulations at 28 CFR 92.5 specify what educational expenses the Police Corps covers and how those expenses will be paid. Subsection (7) of 92.5 currently provides that financial aid reimbursements to college students who agree to serve as police in specifically designated areas for at least four years are made through four equal payments—one upon completion of each of the four years of required service. This rule changes the current provision to accelerate reimbursement. Under the revised provision, participants will be reimbursed in full by the time they successfully complete their first year of required service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/21/99	64 FR 33016
Interim Final Rule Comment Period End	09/20/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Dalich, Director, Office of the Police Corps and Law Enforcement Education, Department of Justice, Office of Justice Programs, Room 6424, 810 7th Street, Washington, DC 20531
Phone: 202 616-3603

RIN: 1121–AA50

Department of Justice (DOJ)
Office of Justice Programs (OJP)

Completed Actions

2028. JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANTS

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 31; 28 CFR 31.500; 28 CFR 31.501

Completed:

Reason	Date	FR Cite
Final Action	04/21/99	64 FR 19674
Final Action Effective	04/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rodney Albert
Phone: 202 307-5924
Email: albertr@ojp.usdoj.gov

RIN: 1121–AA46

2029. GRANTS TO COMBAT VIOLENCE AGAINST WOMEN ON CAMPUSES

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 90

Completed:

Reason	Date	FR Cite
NPRM	04/23/99	64 FR 20090
NPRM Comment Period End	05/24/99	

DOJ—OJP **Completed Actions**

Reason	Date	FR Cite
Final Action	07/22/99	64 FR 39774
Final Action Effective	07/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathy Schwartz
Phone: 202 307-6026

RIN: 1121–AA49

2030. PUBLIC SAFETY OFFICERS' EDUCATIONAL ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 28 CFR 32

Completed:

Reason	Date	FR Cite
NPRM	05/25/99	64 FR 28123
NPRM Comment Period End	07/09/99	
Final Action	09/14/99	64 FR 49952
Final Action Effective	09/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ashton Flemmings
Phone: 202 616-9045

RIN: 1121–AA51

[FR Doc. 99–27968 Filed 11–19–99; 8:45 am]
BILLING CODE 4410–BP–F

VOL 64 ISS 224 NO 22 1999 UMI

Actions

None

mings

8:45 am]

federal register

Monday,
November 22, 1999

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The agenda complies with the requirements of both Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists all regulations that are expected to be under review or development between October 1999 and October 2000, as well as those completed during the past 6 months.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210, (202) 219-6197.

NOTE: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. As permitted by law, the Department of Labor is combining the publication of its agendas under the Regulatory Flexibility Act and Executive Order 12866.

For this edition of the Department of Labor's regulatory agenda, the most important significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II. Executive Order 12866 became effective September 30, 1993, and in substance, requires the Department of Labor to publish an agenda listing all the regulations it expects to have under active consideration for promulgation, proposal, or review during the coming 1–year period. The focus of all departmental regulatory activity will be on the development of effective rules that advance the Department's goals and that are understandable and usable to the employers and employees in all affected workplaces.

The Regulatory Flexibility Act became effective on January 1, 1981, and applies only to regulations for which a notice of proposed rulemaking was issued on or after that date. It requires the Department of Labor to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602).

The Regulatory Flexibility Act (under section 610) also requires agencies to periodically review rules "which have or will have a significant economic impact upon a substantial number of small entities" and to annually publish a list of the rules that will be reviewed during the succeeding 12 months. The purpose of the review is to determine whether the rule should be continued without change, amended, or rescinded. In the November 9, 1998, Unified Agenda, the Department listed six rules that were to be reviewed in the succeeding 12 months.

The Employment Standards Administration (ESA) reviewed Government Contractors: Nondiscrimination and Affirmative Action Obligations (41 CFR 60–2) that was last reviewed in 1970. ESA has determined there is a continued need for 41 CFR 60–2. ESA is simplifying the regulation to lessen the impact on small entities and plans to publish a Notice of Proposed Rulemaking in March 2000.

The Occupational Safety and Health Administration (OSHA) had four items on the last two years' review lists: Control of Hazardous Energy Sources (Lockout/Tagout), Occupational Exposure to Ethylene Oxide, Grain Handling Facilities, and Cotton Dust. OSHA held public hearings in July 1998 on the Cotton Dust and Grain Handling standards. OSHA expects to make a decision on whether and what action to take regarding the Cotton Dust standard in May 2000, the Grain Handling standard in June 2000, and Ethylene Oxide Standard in December 1999. OHSA has determined that the lockout/tagout rule is necessary. However, it will revise the compliance directive and develop and disseminate compliance assistance materials.

The Mine Safety and Health Administration (MSHA) conducted the review of its regulations in 30 CFR part 48 addressing Training and Retraining of Miners. MSHA will be issuing final rules addressing supervisor and experienced miner training soon. In addition, based on comments received from the review and its experience, MSHA will develop an NPRM proposing more flexible training requirements.

The next 12–month review list for the Department of Labor is provided below and public comment is invited on the listing. A brief description of each rule, the legal basis for the rule, and the agency contact are provided with each agenda item.

Employment Standards Administration

Government Contractors: Nondiscrimination and Affirmative Action Obligations; 41 CFR 60–2 (RIN 1215–AA01)

Occupational Safety and Health Administration

Control of Hazardous Energy Sources (Lockout/Tagout); 29 CFR 1910.147 (RIN 1218–AB59)

Occupational Exposure to Ethylene Oxide; 29 CFR 1910.1047 (RIN 1218–AB60)

Grain Handling Facilities; 29 CFR 1910.272 (RIN 1218–AB73)

Cotton Dust, 29 CFR 1910.1043 (RIN 1218–AB74)

Mine Safety and Health Administration

Training and Retraining of Miners; 30 CFR 48 (RIN 1219–AB02)

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

Alexis M. Herman,

Secretary of Labor.

Sequence Number
2031
2032
Sequence Number
2033
2034
Sequence Number
2035
Sequence Number
2036
2037
2038
2039
2040
2041
2042
2043
2044
2045
2046
2047
2048
2049
2050

Reference

DOL

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2031	Production or Disclosure of Information or Materials	1290-AA17
2032	Equal Access to Justice Act	1290-AA18

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2033	Supplemental Standards of Ethical Conduct for Employees of the Department of Labor	1290-AA15
2034	Process for Electing State Employment Statistics Agency Representatives for Consultations With Department of Labor	1290-AA19

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
2035	Use of Settlement Judges in Longshore and Related Proceedings Before the Office of Administrative Law Judges	1290-AA20

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2036	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) **(Section 610 Review) (Reg Plan Seq. No. 63)**	1215-AA01
2037	Child Labor Regulations, Orders, and Statements of Interpretation (ESA/W-H) **(Reg Plan Seq. No. 64)**	1215-AA09
2038	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H) **(Reg Plan Seq. No. 65)**	1215-AA14
2039	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206	1215-AA96
2040	Benefits Under the Federal Coal Mine Safety and Health Act of 1977, as Amended Affecting the Black Lung Benefits Act	1215-AA99
2041	Records To Be Kept by Employers Under the Fair Labor Standards Act	1215-AB03
2042	Assessment and Collection of User Fees	1215-AB06
2043	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act	1215-AB11
2044	Implementation of the 1996 Amendments to the Fair Labor Standards Act	1215-AB13
2045	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act	1215-AB21
2046	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities	1215-AB23
2047	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors for Special Disabled Veterans and Veterans of the Vietnam Era	1215-AB24
2048	Service Contract Act Exemption for Certain Commercial Service Contracts	1215-AB26
2049	Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Veterans of the Vietnam Era (Revised)	1215-AB27
2050	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) (Revised)	1215-AB28

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOL

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2051	Standards for Waivers Under Section 503 of the Rehabilitation Act	1215-AA84
2052	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) **(Reg Plan Seq. No. 66)**	1215-AA94
2053	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models	1215-AB09
2054	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation	1215-AB20

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Employment Standards Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2055	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act	1215-AA43
2056	Application of the Fair Labor Standards Act to Domestic Service	1215-AA82
2057	Reporting by Labor Relations Consultants and Other Persons	1215-AB14

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2058	Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century	1215-AB25

Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2059	Disaster Unemployment Assistance Program, Amendment to Regulations	1205-AB02
2060	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System	1205-AB10
2061	Birth and Adoption Unemployment Compensation **(Reg Plan Seq. No. 67)**	1205-AB21
2062	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Modification of Fee Structure	1205-AB24

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2063	Trade Adjustment Assistance for Workers—Implementation of 1988 Amendments	1205-AB05
2064	Welfare-to-Work (WTW) Grants **(Reg Plan Seq. No. 68)**	1205-AB15
2065	Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of Information in State Records	1205-AB18
2066	Workforce Investment Act of 1998 **(Reg Plan Seq. No. 69)**	1205-AB20
2067	Labor Certification and Petition Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Delegation of Authority to Adjudicate H-2A Petitions	1205-AB23

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOL

Employment and Training Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2068	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement	1205-AA37
2069	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA66
2070	Trade Adjustment Assistance for Workers—Transitional Adjustment Assistance NAFTA-TAA	1205-AB07
2071	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration	1205-AB14
2072	Indian and Native American Welfare-to-Work Program	1205-AB16

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2073	Airline Deregulation: Employee Benefit Program	1205-AB17
2074	Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States; Administrative Measures To Improve Program Performance	1205-AB19

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2075	Definition of Collective Bargaining Agreement (ERISA Section 3(40))	1210-AA48
2076	Rulemaking Relating to Notice Requirements for Continuation of Health Care Coverage	1210-AA60
2077	Elimination of Filing Requirements for Summary Plan Descriptions	1210-AA66
2078	Requirement To Furnish Plan Documents Upon Request by the Secretary of Labor	1210-AA67
2079	Civil Penalty for Failure To Furnish Certain Plan Documents	1210-AA68
2080	National Medical Support Notice **(Reg Plan Seq. No. 70)**	1210-AA72
2081	Small Pension Plan Security Amendments	1210-AA73

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2082	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA) **(Reg Plan Seq. No. 71)**	1210-AA52
2083	Regulations Implementing the Health Care Access, Portability and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996 **(Reg Plan Seq. No. 72)**	1210-AA54
2084	Amendment of Summary Plan Description and Related ERISA Regulations to Implement Statutory Changes in the Health Insurance Portability and Accountability Act of 1996 **(Reg Plan Seq. No. 73)**	1210-AA55
2085	Limitation of Liability for Insurers and Others Under Part 4 of Title I of ERISA and Section 4975 of the Internal Revenue Code	1210-AA58
2086	Amendments to Employee Benefit Plan Claims Procedures Regulation **(Reg Plan Seq. No. 74)**	1210-AA61
2087	Mental Health Benefits Parity	1210-AA62
2088	Health Care Standards for Mothers and Newborns **(Reg Plan Seq. No. 75)**	1210-AA63
2089	Reporting Requirements for MEWAs Providing Medical Care Benefits	1210-AA64
2090	Amendments to Summary Plan Description Regulations **(Reg Plan Seq. No. 76)**	1210-AA69
2091	Electronic Disclosure of Employee Benefit Plan Information	1210-AA71
2092	Soft Dollar (Interpretive Bulletin)	1210-AA74
2093	Request for Information Relating to the Women's Health and Cancer Rights Act of 1998	1210-AA75
2094	Voluntary Fiduciary Correction Program	1210-AA76
2095	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status	1210-AA77

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOL

Pension and Welfare Benefits Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2096	Adequate Consideration	1210-AA15
2097	Civil Penalties Under ERISA Section 502(1)	1210-AA37
2098	Individual Benefits Reporting Requirements for Defined Contribution Plans	1210-AA65

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2099	Payroll Deduction Programs for Contributions to Individual Retirement Accounts (Interpretive Bulletin)	1210-AA70

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2100	Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit)	1219-AB08

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2101	Belt Entry Use as Intake Aircourse To Ventilate Working Sections	1219-AA76
2102	Metal/Nonmetal Impoundments	1219-AA83
2103	Surface Haulage	1219-AA93
2104	Improving and Eliminating Regulations	1219-AA98
2105	Training and Retraining of Miners **(Rulemaking Resulting From a Section 610 Review)**	1219-AB02
2106	Verification of Dust Control Plan and Continuous Monitoring **(Reg Plan Seq. No. 77)**	1219-AB14
2107	Determination of Concentration of Respirable Coal Mine Dust **(Reg Plan Seq. No. 78)**	1219-AB18
2108	Safety Standards for Self-Rescue Devices in Underground Coal Mines; Safety Standards for Self-Rescue Devices in Category I through V Gassy Underground Metal and Nonmetal Mines	1219-AB19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2109	Hazard Communication	1219-AA47
2110	Diesel Particulate Matter (Exposure of Underground Coal Miners) **(Reg Plan Seq. No. 79)**	1219-AA74
2111	Longwall Equipment (Including High-Voltage)	1219-AA75
2112	Requirements for Approval of Flame-Resistant Conveyor Belts	1219-AA92
2113	Diesel Particulate Matter (Exposure of Underground Metal and Nonmetal Miners) **(Reg Plan Seq. No. 80)**	1219-AB11

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Mine Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2114	Air Quality, Chemical Substances, and Respiratory Protection Standards	1219-AA48
2115	Confined Spaces	1219-AA54
2116	Independent Laboratory Testing	1219-AA87

VOL 64 ISS 224 NO 22 1999 UMI

DOL

Mine Safety and Health Administration—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2117	Safety Standards for the Use of Roof-Bolting Machines	1219-AA94
2118	Safety Standard Revisions for Underground Anthracite Mines	1219-AA96
2119	Electrical Standards for Metal and Nonmetal Mines	1219-AB01
2120	Respirable Crystalline Silica Standard	1219-AB12
2121	Mine Rescue Teams	1219-AB20

Mine Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2122	Noise Standard	1219-AA53
2123	Safety Standards for Methane in Metal and Nonmetal Mines	1219-AA90
2124	Safety Standards for Underground Coal Mine Ventilation—Preshift Examination Intervals	1219-AB10
2125	Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines	1219-AB17

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2126	Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor	1291-AA21
2127	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998	1291-AA29

Office of the Assistant Secretary for Administration and Management—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2128	Department of Labor Acquisition Regulation	1291-AA20
2129	Audits of States, Local Governments, and Nonprofit Organizations	1291-AA26
2130	Audit Requirements for Grants, Contracts, and Other Agreements	1291-AA27
2131	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance	1291-AA28

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2132	Control of Hazardous Energy Sources (Lockout/Tagout) **(Section 610 Review)**	1218-AB59
2133	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**	1218-AB60
2134	Fall Protection in the Construction Industry	1218-AB62
2135	Process Safety Management of Highly Hazardous Chemicals	1218-AB63
2136	Safety Standards for Scaffolds Used in the Construction Industry—Part II	1218-AB68
2137	Grain Handling Facilities **(Section 610 Review)**	1218-AB73
2138	Cotton Dust **(Section 610 Review)**	1218-AB74
2139	Occupational Exposure to Perchloroethylene	1218-AB86
2140	Hearing Loss Prevention in Construction Workers	1218-AB89

DOL

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2141	Ergonomics Programs: Preventing Musculoskeletal Disorders **(Reg Plan Seq. No. 81)**	1218-AB36
2142	Safety and Health Programs (for General Industry and the Maritime Industries) **(Reg Plan Seq. No. 82)**	1218-AB41
2143	Fire Protection in Shipyard Employment (Part 1915, Subpart P) (Shipyards: Fire Safety)	1218-AB51
2144	Permissible Exposure Limits (PELs) for Air Contaminants **(Reg Plan Seq. No. 83)**	1218-AB54
2145	Nationally Recognized Testing Laboratories Programs: Fees	1218-AB57
2146	Plain Language Revision of the Mechanical Power-Transmission Apparatus Standard	1218-AB66
2147	Occupational Exposure to Crystalline Silica	1218-AB70
2148	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II)	1218-AB81
2149	Spray Applications	1218-AB84
2150	Signs, Signals, and Barricades	1218-AB88

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2151	Steel Erection (Part 1926) (Safety Protection for Ironworkers) **(Reg Plan Seq. No. 84)**	1218-AA65
2152	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements) **(Reg Plan Seq. No. 85)**	1218-AB24
2153	Occupational Exposure to Tuberculosis **(Reg Plan Seq. No. 86)**	1218-AB46
2154	Employer Payment for Personal Protective Equipment **(Reg Plan Seq. No. 87)**	1218-AB77
2155	Consultation Agreements	1218-AB79

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2156	Respiratory Protection (Proper Use of Modern Respirators)	1218-AA05
2157	Longshoring and Marine Terminals (Parts 1917 and 1918) — Reopening of the Record (Vertical Tandem Lifts (VTLs))	1218-AA56
2158	Scaffolds in Shipyards (Part 1915 — Subpart N)	1218-AA68
2159	Access and Egress in Shipyards (Part 1915, Subpart E) (Shipyards: Emergency Exits and Aisles)	1218-AA70
2160	Glycol Ethers: 2-Methoxyethanol, 2-Ethoxyethanol, and Their Acetates: Protecting Reproductive Health	1218-AA84
2161	Accreditation of Training Programs for Hazardous Waste Operations (Part 1910)	1218-AB27
2162	Indoor Air Quality in the Workplace	1218-AB37
2163	Occupational Exposure to Hexavalent Chromium (Preventing Occupational Illness: Chromium)	1218-AB45
2164	Confined Spaces in Construction (Part 1926): Preventing Suffocation/Explosions in Confined Spaces	1218-AB47
2165	General Working Conditions for Shipyard Employment	1218-AB50
2166	Metalworking Fluids: Protecting Respiratory Health	1218-AB58
2167	Flammable and Combustible Liquids	1218-AB61
2168	Revocation of Certification Records for Tests, Inspections, and Training	1218-AB65
2169	Electric Power Transmission and Distribution; Electrical Protective Equipment in the Construction Industry	1218-AB67
2170	Safety and Health Programs for Construction	1218-AB69
2171	Control of Hazardous Energy (Lockout) in Construction (Part 1926) (Preventing Construction Injuries/Fatalities: Lockout)	1218-AB71
2172	Occupational Exposure to Beryllium	1218-AB76
2173	Consolidation of Records Maintenance Requirements in OSHA Standards	1218-AB78
2174	Walking Working Surfaces and Personal Fall Protection Systems (1910) (Slips, Trips and Fall Prevention)	1218-AB80
2175	Exit Routes	1218-AB82
2176	Oil and Gas Well Drilling and Servicing	1218-AB83
2177	Prevention of Needlestick and Other Sharps Injuries	1218-AB85
2178	Sanitation	1218-AB87

DOL

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2179	Plain Language Revision of Existing Standards	1218-AB55
2180	Fire Brigades	1218-AB64

Office of the Assistant Secretary for Veterans' Employment & Training—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2181	Annual Report for Federal Contractors	1293-AA07

Department of Labor (DOL)
Office of the Secretary (OS)

Proposed Rule Stage

2031. PRODUCTION OR DISCLOSURE OF INFORMATION OR MATERIALS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552 as amended; 5 USC Reorganization Plan No. 6 of 1950; EO 12600, 52 FR 23781 (June 25, 1987)

CFR Citation: 29 CFR 70

Legal Deadline: None

Abstract: The regulation will incorporate the provisions of the 1996 FOIA amendments. These include extending DOL processing time from 10 to 20 days for most FOIA requests and requiring that all reading room materials created since November 1, 1996, be made available by electronic means such as the Internet.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Miriam McD. Miller, Co-Counsel for Administrative Law, Division of Legislation and Legislative Counsel, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8188
Email: miller-miriam@dol.gov

RIN: 1290–AA17

2032. EQUAL ACCESS TO JUSTICE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 28 USC 2412

CFR Citation: 29 CFR 16

Legal Deadline: None

Abstract: The regulation will incorporate the 1996 amendments to the Equal Access to Justice Act and revise the existing regulation to conform with the case law which has evolved since 1981.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8201
Email: shapiro-robert@dol.gov

RIN: 1290–AA18

Department of Labor (DOL)
Office of the Secretary (OS)

Final Rule Stage

2033. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF LABOR

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 7301; 5 USC 7353; 5 USC app (Ethics in Government Act); EO 12674; 18 USC 208

CFR Citation: 5 CFR 5201; 29 CFR 0; 3 CFR 1989 Comp; 5 CFR 2634; 5 CFR 2635; 3 CFR 1990

Legal Deadline: None

Abstract: The Department of Labor is developing a rule for its employees that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (OGE). The rule would designate certain components of the Department as separate agencies for the purposes of provisions in the Executive Branch-wide standards regarding gifts from outside sources, the receipt of compensation for teaching, speaking, or writing, and fundraising in a personal capacity. The rule would also restrict the outside financial interests for employees of the Mine Safety and Health Administration and

DOL—OS

Final Rule Stage

require approval of outside employment for employees of the Office of Inspector General. It repeals existing regulations governing outside employment and financial interests. Issuance of this rule would require OGE concurrence.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/06/96	61 FR 57281
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert A. Shapiro, Associate Solicitor for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8201
Email: shapiro-robert@dol.gov

RIN: 1290–AA15

2034. PROCESS FOR ELECTING STATE EMPLOYMENT STATISTICS AGENCY REPRESENTATIVES FOR CONSULTATIONS WITH DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 927(c); 29 USC 49e-2; 5 USC 301

CFR Citation: 29 CFR 44

Legal Deadline: Final, Statutory, December 31, 1999.

Abstract: This interim final rule establishes a process for the election of State representatives to participate in formal consultations with the Department of Labor relating to the development of an annual employment statistics plan and to address other employment statistics issues. Section 15(d)(2) of the Wagner-Peyser Act, as recently amended by section 309 of the Workforce Investment Act of 1998, requires the Secretary to establish a process for the election of representatives from each of the 10 Federal regions of the Department. This provision requires that the representatives be elected by and from the directors of the State employment statistics agencies designed to carry at employment statistics responsibilities under section 15 of the Wagner-Peyser Act. The interim final rule addresses the election cycles, the tenure of representatives, the process for the distribution of ballots, tie-breaking procedures, methods of transmitting ballots and votes, and the filling of vacancies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/18/98	63 FR 70260
Interim Final Rule Comment Period End	03/18/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State

Agency Contact: Mark Morin, Senior Attorney Adviser, Department of Labor, Office of the Secretary, Room N2428, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8065

RIN: 1290–AA19

Department of Labor (DOL)
Office of the Secretary (OS)

Completed Actions

2035. • USE OF SETTLEMENT JUDGES IN LONGSHORE AND RELATED PROCEEDINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 5 USC 551-553; 5 USC 571 note; Executive Order 12778

CFR Citation: 29 CFR 18.9(e)(2)

Legal Deadline: None

Abstract: The Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative law Judges is amended to permit the appointment of settlement judges in cases arising out of Longshore and Harbor Workers' Compensation Act, the Defense Base Act, the Outer Continental Shelf Lands Act, the Nonappropriated Fund Instrumentalities Act, and the former District of Columbia Workmen's Compensation Act. Experience with the settlement judge procedure now indicates that the appointment of settlement judges in the above cases would be appropriate and beneficial.

Timetable:

Action	Date	FR Cite
Final Action	08/27/99	64 FR 47088
Final Action Effective	08/27/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John M. Vittone, Chief Administrative Law Judge, Office of Administrative Law Judges, Department of Labor, Office of the Secretary, Room 400-N, 800 K Street NW, Washington, DC 20001-8002
Phone: 202 565-5341
Fax: 202 565-4094
Email: jvittone@oalj.dol.gov

RIN: 1290–AA20

Department of Labor (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

2036. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 63 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA01

2037. CHILD LABOR REGULATIONS, ORDERS, AND STATEMENTS OF INTERPRETATION (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 64 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA09

2038. DEFINING AND DELIMITING THE TERM "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY" (ESA/W-H)

Regulatory Plan: This entry is Seq. No. 65 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA14

2039. REGULATIONS TO IMPLEMENT THE FEDERAL ACQUISITION STREAMLINING ACT OF 1994, 29 CFR PARTS 4 AND 5, 41 CFR PARTS 50-201 AND 50-206

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355, 108 Stat. 3243

CFR Citation: 29 CFR 4; 29 CFR 5; 41 CFR 50 to 201; 41 CFR 50 to 206

Legal Deadline: NPRM, Statutory, May 11, 1995.
Final, Statutory, October 1, 1995.

Abstract: The Federal Acquisition Streamlining Act of 1994, signed on October 13, 1994, amends several Acts administered by the Department of Labor: (1) It amends the Contract Work Hours and Safety Standards Act (CWHSSA) to limit its applicability to contracts in an amount of $100,000 or greater. (2) It amends the Davis-Bacon Act (DB) to provide waivers from the Act's prevailing wage requirements under selected laws for volunteers performing services to a State or local government or agency and for volunteers performing services to a public or private nonprofit recipient of Federal assistance. (3) It also amends the Walsh-Healey Public Contracts Act (PCA) to eliminate the requirements that contractors on covered contracts be either manufacturers or regular dealers in the items to be supplied under the contract but retains the Secretary of Labor's authority to define the terms "regular dealer" and "manufacturer." A final rule implementing the CWHSSA and PCA changes was published on August 5, 1996 (61 FR 40714).

Timetable:

Action	Date	FR Cite
NPRM	09/07/95	60 FR 46553
NPRM Comment Period End	10/10/95	
Final Rule - Walsh-Healey/CWHSSA Rule	08/05/96	61 FR 40714
Second NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Additional Information: These legislative amendments will require revisions to Regulations, 29 CFR parts 4 and 5 with respect to CWHSSA and DB and Regulations, 41 CFR part 50-201 and part 50-206 with respect to PCA.

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA96

2040. BENEFITS UNDER THE FEDERAL COAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED AFFECTING THE BLACK LUNG BENEFITS ACT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 718; 20 CFR 722; 20 CFR 725; 20 CFR 726; 20 CFR 727

Legal Deadline: None

Abstract: The Division of Coal Mine Workers' Compensation reviewed its existing regulations, pursuant to Executive Order 12866, with a goal of eliminating outdated and unnecessary rules and streamlining the processes. The result is a proposal to revise existing rules to facilitate alternative dispute resolution during the informal conference; streamline the litigation process by encouraging the early development and submission of evidence; reduce the costs of copying and mailing; raise the dollar limit for prior approval for medical equipment; and rewrite existing rules to make them more customer-oriented.

There will be no additional administrative costs associated with these changes, but savings can be expected through streamlining.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3338
NPRM Comment Period End	03/24/97	
NPRM Comment Period End Extended to 8/22/97	05/24/97	62 FR 8201
2nd NPRM	10/08/99	64 FR 54966
2nd NPRM Comment Period End	12/07/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. DeMarce, Director, Coal Mine Workers' Compensation, OWCP, Department of Labor, Employment Standards Administration, Room C3520, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0046
Fax: 202 693-1395

RIN: 1215–AA99

2041. RECORDS TO BE KEPT BY EMPLOYERS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 29 USC 211; 29 USC 201 et seq; 29 USC 207(g); 52 Stat 1066, sec 11; 52 Stat 1060, sec 11; 103 Stat 944, sec 7

CFR Citation: 29 CFR 516 et seq

Legal Deadline: None

Abstract: This regulation gives guidance to employers on the information they must keep in records deemed essential for determining compliance with the monetary requirements of the Fair Labor Standards Act (FLSA) regarding payment of minimum wages and overtime compensation to covered and nonexempt employees, or for determining that certain statutory exemptions to FLSA's requirements for payment of the minimum wage or overtime (or both) may apply. This regulation was included in the Department's regulatory reinvention initiative as a candidate for possible simplification of regulatory language and streamlining of regulatory requirements to ensure that applicable standards are easily understandable and reasonable.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB03

2042. ASSESSMENT AND COLLECTION OF USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-470; 96 Stat 2583; 29 USC 1801 to 1872; Secretary's Order No. 1-93 (58 FR 21190); PL 99-603, sec 210A(f); 100 Stat 3359; 8 USC 1161(f); 52 Stat 1068, sec 11 and 14; 75 Stat 74, sec 11; 29 USC 211; 29 USC 214; 52 Stat 1066, sec 11; 63 Stat 910, sec 9; 29 USC 211(d); 80 Stat 843 to 844, sec 501 and 602

CFR Citation: 29 CFR 500.45; 29 CFR 500.52; 29 CFR 519.3; 29 CFR 519.13; 29 CFR 530.4; 29 CFR 530.102

Legal Deadline: None

Abstract: In accordance with the authority provided by title V of the Independent Offices Appropriations Act of 1952, often referred to as the "user fee statute," and the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1995 (PL 103-333), the Department is proposing to establish and collect user fees to recover the costs of providing certain services that are required by law and without which, the recipients of the services would not legally be allowed to engage in particular employment practices. The services for which user fees are to be collected include processing applications and issuing farm labor contractor certificates of registration under the Migrant and Seasonal Agricultural Worker Protection Act; processing applications and issuing certificates authorizing employers to employ certain students at special minimum wages under section 14(b) of the Fair Labor Standards Act; and processing applications and issuing certificates authorizing employers to employ homeworkers under section 11(d) of the Fair Labor Standards Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB06

2043. EXEMPTIONS APPLICABLE TO AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS UNDER THE FAIR LABOR STANDARDS ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 201 et seq

CFR Citation: 29 CFR 780

Legal Deadline: None

Abstract: This regulation interprets various exemptions applicable to employees in agriculture, processing of agricultural commodities and related issues under the Fair Labor Standards Act (FLSA). The regulation has been targeted for updating and streamlining as part of the Department's regulatory reinvention initiative.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB11

2044. IMPLEMENTATION OF THE 1996 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

Priority: Other Significant

Legal Authority: PL 104-188, sec 2101 to 2105; 29 USC 201 et seq

CFR Citation: 29 CFR 4; 29 CFR 531; 29 CFR 541; 29 CFR 778; 29 CFR 785; 29 CFR 790; 29 CFR 870; 41 CFR 50-202

Legal Deadline: None

Abstract: The "Small Business Job Protection Act of 1996" (H.R. 3448) was enacted on August 20, 1996, as Public Law 104-188. Title II of this enactment amended the Portal-to-Portal Act (PA) and the Fair Labor Standards Act (FLSA). The PA amendment excludes (under certain circumstances) from compensable "hours worked" the time spent by an employee in home-to-work travel in an employer-provided vehicle. The FLSA amendments: (1) increase the $4.25 Federal minimum hourly wage by $.90 in two steps over two years (i.e., to $4.75 on October 1, 1996, and to

$5.15 on September 1, 1997); (2) provide a $4.25 subminimum wage for youth under age 20 in their first 90 calendar days of employment with an employer; (3) set the employer's direct wage payment obligation for tipped employees at $2.13 per hour (provided such employees receive the balance of the full minimum wage in tips); and (4) set the hourly compensation requirements at not less than $27.63 per hour for certain exempt professional employees in computer-related occupations. Changes will be required in the regulations to reflect these amendments.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB13

2045. LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5) DEFINITION OF "SITE OF THE WORK" UNDER THE DAVIS-BACON ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 276a to 276a-7; 40 USC 276c

CFR Citation: 29 CFR 5

Legal Deadline: None

Abstract: Two appellate court decisions have ruled that the Department of Labor's definition of "site of the work" in section 5.2(l) of the Davis-Bacon Act regulations does not conform to the statutory language of the Davis-Bacon Act, which requires payment of prevailing wages as determined under the Act to all laborers and mechanics "employed directly upon the site of the work." (See e.g., Ball, Ball and Brosamer v. Reich, 24 F.3d 1447, (D.C. Cir. 1994); L.P. Cavett Company v. U.S. Department of Labor, 101 F.3d 1111 (6th Cir. 1996).) The Department is proposing technical clarifications of Davis-Bacon coverage based on the site of the work definition as interpreted by these court decisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB21

2046. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793; EO 11758

CFR Citation: 41 CFR 60-741 (Revision)

Legal Deadline: None

Abstract: OFCCP proposes to revise the regulation implementing section 503 of the Rehabilitation Act of 1973, as amended, to conform to the recently revised section 60-1.20(a) of the regulation implementing E.O. 11246, as amended. The section authorizes OFCCP to use a range of methods to evaluate a contractor's compliance with the regulations.

In incorporating the recent revisions of 60-1.20, however, this NPRM would remove the obligation to visit an establishment during a compliance check, which is currently required by section 60-1.20(a)(3) in order to enhance efficiency in resource allocation. (OFCCP also proposes to make the same revision in section 60-1.20(a)(3) and in section 60-250.60(a)(3) of the regulation implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA).)

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AB23

2047. AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211; PL 95-520; PL 93-508, Amended; PL 94-502; PL 96-466; PL 101-237; EO 11758; PL 97-306; PL 98-223;PL 105-339; 38 USC 4212; PL 102-16; PL 102-127; PL 102-484

CFR Citation: 41 CFR 60-250

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA) 38 USC 4212, to conform with the newly enacted Veterans Employment Opportunities Act of 1998. The Act increases the current threshold for coverage from $10,000 to $25,000. The Act expands the existing definition of Veterans, i.e., special disabled veterans and veterans of the Vietnam Era, to include any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The Act also requires the contractor to add additional information to its annual VETS-100 report to provide the maximum and minimum number of employees of such contractor's workforce during the period covered by the report.

DOL—ESA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AB24

2048. • SERVICE CONTRACT ACT EXEMPTION FOR CERTAIN COMMERCIAL SERVICE CONTRACTS

Priority: Other Significant

Legal Authority: 41 USC 351; 41 USC 38; 41 USC 39; 5 USC 301

CFR Citation: 29 CFR 4.123(e)

Legal Deadline: None

Abstract: This rule proposes to exempt from prevailing wage, fringe benefit and related labor standards requirements of the McNamara-O'Hara Service Contract Act(SCA) certain types of commercial service contracts meeting prescribed criteria pursuant to Section 4(b) of the SCA. The exemption has been requested by the Office of Federal Procurement Policy(OFPP) following its review of an earlier final rule issued in the Federal Acquisition Regulation (FAR) that exempted all subcontracts for commercial services from the SCA based on the Federal Acquisition Streamlining Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB26

2049. • AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (REVISED)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 4211;38 USC 4212;PL 93-508, Amended; PL 94-502;PL 96-466;PL 101-237; EO 11758; PL 97-306; PL 98-223; PL 102-16; PL 102-127;; PL 102-484; PL 95-520; PL 105-339

CFR Citation: 41 CFR 60-250 (Revision)

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations at 60-250.60(a)(3) to remove the obligation to visit an establishment during a compliance check in order to enhance efficiency in resource allocation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AB27

2050. • GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS, EXECUTIVE ORDER 11246 (ESA/OFCCP) (REVISED)

Priority: Substantive, Nonsignificant

Legal Authority: EO 11246, As Amended

CFR Citation: 41 CFR 60-1(Revision)

Legal Deadline: None

Abstract: OFCCP proposes to amend the regulations at 60-1.20(a)(3) to remove the obligation to visit an establishment during a compliance check in order to enhance efficiency in resource allocation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AB28

Department of Labor (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

2051. STANDARDS FOR WAIVERS UNDER SECTION 503 OF THE REHABILITATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 706; 29 USC 793, as amended by PL 99-506; PL 100-630; PL 100-259; PL 101-336; PL 102-569; EO 11758

CFR Citation: 41 CFR 60-741

Legal Deadline: None

Abstract: OFCCP is planning to issue regulations that will set forth standards for waivers (from provisions of section 503 of the Rehabilitation Act) sought by Federal contractors for facilities that they deem totally separate from and not involved in Government contract work. OFCCP is required to issue these regulations by the 1992 Rehabilitation Act amendments.

Timetable:

Action	Date	FR Cite
NPRM	02/14/96	61 FR 5902
NPRM Comment Period End	04/15/96	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James I. Melvin, Director, Division of Policy, Planning, and Program Development, OFCCP, Department of Labor, Employment Standards Administration, Room N3424, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0102
TDD Phone: 202 693-1308
Fax: 202 693-1304
Email: jimelvin@fenix2.dol-esa.gov

RIN: 1215–AA84

2052. PROCEDURES FOR PREDETERMINATION OF WAGE RATES (29 CFR PART 1) AND LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (29 CFR PART 5)

Regulatory Plan: This entry is Seq. No. 66 in Part II of this issue of the **Federal Register**.

RIN: 1215–AA94

2053. LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(H)(i)(b); 8 USC 1182(n); 8 USC 1184; 29 USC 49 et seq; PL 102-232

CFR Citation: 20 CFR 655, subparts H & I

Legal Deadline: None

Abstract: This proposed rule is a republication for notice and public comment of various provisions of the Department's final rule implementing provisions of the Immigration and Nationality Act as it relates to the temporary employment in the United States of nonimmigrants admitted under H-1B visas. As part of the DOL regulatory reinvention efforts, Regulations, 29 CFR part 507 which duplicate 20 CFR part 655, subparts H and I, have been removed from title 29. (See 61 FR 51013.) In addition, amendments are proposed to implement the American Competitiveness and Workforce Improvement Act of 1998 (Title IV, Public Law 105-277, October 21, 1998; 112 Stat. 2681).

Timetable:

Action	Date	FR Cite
NPRM	10/31/95	60 FR 55339
NPRM Comment Period End	11/30/95	
NPRM	01/05/99	64 FR 628
NPRM Comment Period End	02/04/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB09

2054. MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 578); CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES (29 CFR 579); ADJUSTMENT OF CIVIL MONEY PENALTIES FOR INFLATION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 216(e); PL 101-410; PL 104-134

CFR Citation: 29 CFR 578; 29 CFR 579

Legal Deadline: Final, Statutory, October 23, 1996.

Abstract: The Debt Collection Improvement Act of 1996 (PL 104-134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (PL 101-410) to require Federal agencies to adjust certain civil money penalties for inflation. The Department is proposing adjustments in the civil money penalties that may be assessed under section 16(e) of the Fair Labor Standards Act for (1) repeated or willful violations of the minimum wage or overtime provisions; and (2) child labor violations. Any increase in the penalty amounts shall apply only to violations which occur after the effective date of the increase.

Timetable:

Action	Date	FR Cite
NPRM	12/28/98	63 FR 71405
NPRM Comment Period End	01/27/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AB20

Department of Labor (DOL)
Employment Standards Administration (ESA)

Long-Term Actions

2055. ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 216 OF THE IMMIGRATION AND NATIONALITY ACT

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-603

CFR Citation: 29 CFR 501

Legal Deadline: Final, Statutory, June 1, 1987.

Abstract: The Immigration Reform and Control Act of 1986 contains certain labor standards requirements for foreign agricultural workers employed under the H-2A foreign agricultural worker program, as well as for U.S. workers hired by employers who utilize foreign agricultural workers. The standards relate to pay, working conditions, housing, transportation and recruitment. The Employment Standards Administration issued an interim final rule on June 1, 1987 (53 FR 20524), that incorporates the labor standards issued by the Employment and Training Administration (ETA) and sets forth procedures for enforcement of these labor standards.

Timetable:

Action	Date	FR Cite
NPRM	05/05/87	52 FR 16795
NPRM Comment Period End	05/19/87	
Interim Final Rule	06/01/87	52 FR 20524
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA43

2056. APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: Sec 13(a)(15), Fair Labor Standards Act (FLSA), as amended; Sec 13(b)(21), FLSA, as amended; 29 USC 213(a)(15); 29 USC 213(b)(21) 88 Stat 62; Sec 29(b), FLSA of 1974; PL 93-259 88 Stat 76

CFR Citation: 29 CFR 552

Legal Deadline: None

Abstract: Section 13(a)(15) of the Fair Labor Standards Act (FLSA) provides an exemption from minimum wage and overtime compensation for domestic service employees engaged in providing companionship services. Section 13(b)(21) of the FLSA provides an exemption from overtime compensation for live-in domestic service employees. DOL proposed certain technical amendments to update the regulations, 29 CFR part 552, Application of the Fair Labor Standards Act to Domestic Service, and to clarify that these exemptions are applicable to third-party employers or temporary help agencies only where the domestic service worker is jointly employed by the third-party employer or temporary help agency and the family or household using their services (58 FR 69310). After reviewing the public comments, the Department adopted technical changes to update the regulations, including a revision necessitated by recently-enacted amendments to title II of the Social Security Act under Public Law 103-387 (Social Security Domestic Employment Reform Act) 10/22/94, (see 60 FR 46766) and reopened the public comment period on proposed revisions affecting third-party employers (section 552.109).

Timetable:

Action	Date	FR Cite
NPRM	12/30/93	58 FR 69310
NPRM Comment Period End	02/28/94	
NPRM Second	09/08/95	60 FR 46797
Final Rule	09/08/95	60 FR 46766
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: John R. Fraser, Deputy Administrator (WHD), Department of Labor, Employment Standards Administration, Room S3502, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-0051
Fax: 202 693-1432

RIN: 1215–AA82

2057. REPORTING BY LABOR RELATIONS CONSULTANTS AND OTHER PERSONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 433; 29 USC 438

CFR Citation: 29 CFR 406.3

Legal Deadline: None

Abstract: The Office of Labor-Management Standards (OLMS) is proposing to amend Receipts and Disbursements Report (Form LM-21) to narrow the scope of reporting. A Receipts and Disbursements Report is required in the circumstances specified in section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA). It is required to be filed by any labor relations consultant, or other individual or organization, who has made or received payment as a party to an agreement or arrangement with an employer, pursuant to which he has undertaken persuader or information-supplying activities on behalf of the employer. The proposed amendment would reflect reporting guidelines established in Donovan v. The Rose Law Firm, 768 F.2d 964 (8th Cir. 1985). This judicial decision narrowed the scope of reporting to eliminate reporting of receipts and disbursements in connection with labor relations advice and services rendered to employers for whom no persuader or information-supplying activities were undertaken.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kay H. Oshel, Chief, Division of Interpretations and Standards, OLMS, Department of Labor, Employment Standards Administration, Room N5605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1233
Fax: 202 693-1340

RIN: 1215–AB14

Department of Labor (DOL)
Employment Standards Administration (ESA)

Completed Actions

2058. AMENDMENT TO SECTION 5333(B) GUIDELINES TO CARRY OUT NEW PROGRAMS AUTHORIZED BY THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Priority: Substantive, Nonsignificant

Legal Authority: Secretary's Order 5-96, 62 FR 107, January 2, 1997

CFR Citation: 29 CFR 215.3(a); 29 CFR 215.8

Legal Deadline: None

Abstract: The Transportation Equity Act for the 21st Century provides for three new transportation programs which require employee protection under section 5333(b) — a Job Access and Reverse Commute Program, an Over-the-Road Bus Accessibility Program, and a State Infrastructure Bank Program. As a condition of release of assistance by FTA, the Department must certify that protective arrangements pursuant to section 5333(b) are in place. The Department has amended its guidelines to identify which of the new programs will be covered under the certification processes set forth therein.

Timetable:

Action	Date	FR Cite
NPRM	03/30/99	64 FR 15276
NPRM Comment Period End	04/29/99	
Final Action	07/28/99	64 FR 40990
Final Action Effective	08/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Kelley Andrews, Director, Statutory Programs Division, Office of Labor Management Standards, Department of Labor, Employment Standards Administration, Room N5603, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1182
Fax: 202 693-1342

RIN: 1215–AB25

Department of Labor (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

2059. DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM, AMENDMENT TO REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 1302; 42 USC 5177; EO 12673

CFR Citation: 20 CFR 625

Legal Deadline: None

Abstract: Experience in several recent disasters has highlighted the complexity and time-consuming nature of the monetary benefit provisions of the current regulations and brought into question other provisions of the current regulations which are perceived to be unduly restrictive and/or result in perceived inequities in some disaster situations. These issues will be addressed in two stages. First, an ANPRM was published, with a 60-day comment period, on 12/08/94 at 59 FR 63670. This ANPRM outlined provisions in the Disaster Unemployment Assistance (DUA) program regulations (20 CFR part 625), other than the monetary benefit provisions, that have come into question and solicits public comment and suggestions relative to these provisions and on other provisions for review and potential revision in a future NPRM. Second, an interim final rule was published May 11, 1995, with a 60-day comment period. This rule simplified the monetary assistance provisions by removing cumbersome administrative provisions and inconsistencies in the computation of a weekly amount. The NPRM will revise the entire part 625 to incorporate "plain language" format.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/94	59 FR 63670
ANPRM Comment Period End	02/06/95	
Interim Final Rule	05/11/95	60 FR 25560
NPRM	03/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal, State

Agency Contact: Robert Gillham, Team Leader, Federal Programs Team, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Washington, DC 20210
Phone: 202 219-5616

RIN: 1205–AB02

2060. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; UNEMPLOYMENT INSURANCE PERFORMANCE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 503(a)(1); 42 USC 503(a)(6); 42 USC 503(b); 42 USC 1302

CFR Citation: 20 CFR 602; 20 CFR 614.7(c); 20 CFR 640; 20 CFR 650; 20 CFR 609.6(f); 20 CFR 614.6(f)

Legal Deadline: None

Abstract: This regulation will formally establish a comprehensive system for helping ensure continuous improvement in UI operational performance. It will enunciate as the system's building blocks principles for Federal and State cooperation, key nationwide performance measures, criteria distinguishing satisfactory from unsatisfactory performance, an annual planning process, and actions which the Department may take when a State fails to perform satisfactorily. This regulation will be as brief and general as possible; detail and measures, standards, criteria and plans will be contained in implementing handbooks.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/97	62 FR 2543
ANPRM Comment Period End	03/17/97	
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

DOL—ETA **Proposed Rule Stage**

Agency Contact: Sandra T. King, Chief, Division of Performance Review, Department of Labor, Employment and Training Administration, Room S4321, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5223
Email: sking@doleta.gov

RIN: 1205–AB10

2061. • BIRTH AND ADOPTION UNEMPLOYMENT COMPENSATION

Regulatory Plan: This entry is Seq. No. 67 in Part II of this issue of the **Federal Register**.

RIN: 1205–AB21

2062. • LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; MODIFICATION OF FEE STRUCTURE

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a); 8 USC 1184; 8 USC 1188; 29 USC 49 et seq; 8 CFR 103.1(f)(iii)(j); 8 CFR 103.1(f)(iii)(w); 8 CFR 214.2(h)(5); 8 CFR 214.2(h)(11); 8 CFR 214.2(h)(12)

CFR Citation: 8 CFR 655

Legal Deadline: None

Abstract: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) proposes to amend its regulations relating to the temporary employment of nonimmigrant agricultural workers (H-2A workers) in the United States. The proposed amendments would require employers to submit fees for labor certification and the associated H-2A petitions with consolidated application form at the time of filing. The proposal also would modify the fee structure for labor certification. If the application is denied, both fees will be refunded to the employer. It is conceivable in rare instances that the statutory and regulatory standards for issuance of the certification will be met, but those applicable to the petition will not be met. In such occurrence, neither fee will be refunded because the certification fee is an issuance, while the petition fee is a processing fee.

Concurrently with the publication of this proposed rule, the Department is publishing an interim final rule with a request for comments setting forth the procedures and requirements for submission and processing of a consolidated Application for Temporary Agricultural Labor Certification and H-2A Petition (Form ETA 9079).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	02/00/00	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5263
Email: jnorris@doleta.gov

RIN: 1205–AB24

Department of Labor (DOL)
Employment and Training Administration (ETA) **Final Rule Stage**

2063. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—IMPLEMENTATION OF 1988 AMENDMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: The final rule implementing the 1988 Amendments to the TAA program was published in the Federal Register on January 6, 1994. Although published as final, comments were requested on several material changes being made in the final rule which differ from the November 1988 proposed rule and on a number of other changes which were not included in the proposed rule. Comments have been received and another final rule will be published relating to these substantive changes.

Timetable:

Action	Date	FR Cite
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward A. Tomchick, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C4318, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB05

2064. WELFARE-TO-WORK (WTW) GRANTS

Regulatory Plan: This entry is Seq. No. 68 in Part II of this issue of the **Federal Register**.

RIN: 1205–AB15

2065. FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM; CONFIDENTIALITY AND DISCLOSURE OF INFORMATION IN STATE RECORDS

Priority: Other Significant

Legal Authority: 42 USC 1302 (a); 42 USC 503; 42 USC 1320b-7; 26 USC chapter 23; Secretary's Orders 4-75 and 14-75

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: The Employment and Training Administration of the Department of Labor is preparing to issue a final rule on confidentiality and disclosure of information in State records collected, created, or maintained for purposes of the Federal-State Unemployment Compensation program. The final rule modifies and expands the regulations implementing the Income and Eligibility Verification System (IEVS) to include the statutory

DOL—ETA **Final Rule Stage**

requirements in title III of the Social Security Act, the Federal Unemployment Tax Act, and the Wagner-Peyser Act concerning confidentiality and disclosure of information in State records compiled or maintained for purposes of the Federal-State Unemployment Compensation Program.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: Formerly RIN 1205-AA74; was taken off regulatory agenda in 1994 due to inactivity. An NPRM was published 3/23/92 at 57 FR 100064 with comment period ending 5/22/92.

Agency Contact: Anne Vogel, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, C4512, FP Building, Washington, DC 20210
Phone: 202 219-5201

RIN: 1205–AB18

2066. WORKFORCE INVESTMENT ACT OF 1998

Regulatory Plan: This entry is Seq. No. 69 in Part II of this issue of the **Federal Register**.

RIN: 1205–AB20

2067. • LABOR CERTIFICATION AND PETITION PROCESS FOR THE TEMPORARY EMPLOYMENT OF NONIMMIGRANT ALIENS IN AGRICULTURE IN THE UNITED STATES; DELEGATION OF AUTHORITY TO ADJUDICATE H-2A PETITIONS

Priority: Other Significant

Legal Authority: 8 USC 1101(a)(15)(H)(ii)(a); 8 USC 1184; 8 USC 1188; 29 USC 49 et seq; 8 CFR 103.1(f)(iii)(j); 8 CFR 103.1(f)(iii)(w); 8 CFR 214.2(h)(5); 8 CFR 214.2(h)(11); 8 CFR 214.2(h)(12)

CFR Citation: 8 CFR 655

Legal Deadline: None

Abstract: This rule amends the Employment and Training Administration (ETA) regulations to implement the delegation of authority to adjudicate petitions for temporary nonimmigrant agricultural workers (H-2A's) from the Department of Justice, Immigration and Naturalization Service (INS), to the United States Department of Labor (DOL). Among the implementation measures is a new form, Application for Temporary Agricultural Labor Certification and H-2A Petition. The rulemaking further implements the delegation of authority, from INS to DOL, to hear appeals on determinations and to revoke petition approvals. The rule does not affect INS authority to make determinations at port-of-entry of an alien's admissibility to the United States, to make determinations of an alien's eligibility for change of nonimmigrant status, or to make determinations of an alien's eligibility for extension of stay. This rule streamlines existing H-2A processes to make it more efficient for petitioners to seek the admission of temporary agricultural workers without diminishing the workplace rights of U.S. workers or foreign workers admitted under the program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Interim Final Rule Effective	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5263
Email: jnorris@doleta.gov

RIN: 1205–AB23

Department of Labor (DOL)
Employment and Training Administration (ETA) **Long-Term Actions**

2068. SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING, AND ENFORCEMENT

Priority: Other Significant

Legal Authority: 29 USC 49k

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under title VI of the Job Training Partnership Act.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State, Local

Agency Contact: John R. Beverly, Director, U.S. Employment Service, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Washington, DC 20210
Phone: 202 219-5257
Email: beverlyj@doleta.gov

RIN: 1205–AA37

2069. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: INA 212(a)(5)(A)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: The Department of Labor (DOL) is currently re-engineering the labor certification process that is set forth in DOL regulations at 20 CFR 656.

DOL's goals are to make fundamental changes and refinements that will (a) better serve customers, (b) streamline the process, (c) improve effectiveness, and (d) save resources. The re-engineering effort is a collaborative effort of Federal and State staff who are involved in the administration of alien certification programs. The re-engineering effort also involves consultation throughout the process with sponsors, stakeholders State partners, and outside interest groups to solicit ideas and suggestions for change.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5263
Email: jnorris@doleta.gov

RIN: 1205–AA66

2070. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS—TRANSITIONAL ADJUSTMENT ASSISTANCE NAFTA-TAA

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 103-182, title V

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: Title V of the North American Free Trade Agreement Implementation Act (PL 103-182) amends chapter 2 of title II of the Trade Act of 1974 by adding a new Transitional Adjustment Assistance Program (NAFTA-TAA) for workers who lose their jobs because of increased imports from or a shift of production to Mexico and Canada. Most of the provisions of title V are in the form of amendments to chapter 2, title II, of the Trade Act. While some of the provisions are not in the form of amendments to the Trade Act they nonetheless must be given effect in implementing the NAFTA-TAA program. A proposed rule to amend the regulations on the trade adjustment assistance program for workers was published in the Federal Register on January 17, 1995.

Timetable:

Action	Date	FR Cite
NPRM	01/17/95	60 FR 3472
NPRM Comment Period End	03/20/95	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward A. Tomchick, Director, Office of Trade Adjustment Assistance, Department of Labor, Employment and Training Administration, Room C4318, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5555

RIN: 1205–AB07

2071. ESTABLISHMENT OF FEES FOR IMMIGRATION PROGRAMS ADMINISTERED BY THE EMPLOYMENT AND TRAINING ADMINISTRATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The regulation would establish a new fee charged to employers for processing of alien labor certification and attestation applications by the Department of Labor (DOL) and State Employment Security Agencies. The user fee would be proposed in the FY 2000 Appropriations. The user fee would be a government receipt and would be applied to Federal and State expenditures for Federal and State program administration in the State Unemployment Insurance and Employment Service account and the Program Operations Account in DOL's Employment and Training Administration (ETA).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: Funding of ETA immigration programs has been reduced by 39 percent since FY 1995. The fee proceeds would be used to offset the costs of administering the alien labor certification program. However, in each of Fiscal Years 1999 and 2000 regular appropriations of $41 million would be required in addition to user fees to work off a large backlog of applications already in the pipeline and future growing backlogs created primarily by appropriations reduction in FY 1996 and 1997.

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5263
Email: jnorris@doleta.gov

RIN: 1205–AB14

2072. INDIAN AND NATIVE AMERICAN WELFARE-TO-WORK PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 612(a)(3)(c)(iii), The Social Security Act, as amended

CFR Citation: 20 CFR 646

Legal Deadline: Final, Statutory, November 4, 1997, 90 days from enactment Citation mandates Secretary to prescribe regulations within 90 days of enactment to publish Interim Final rule by 10/31/98.

Abstract: These are program regulations needed to implement the Indian and Native American set-aside under the Welfare-to-Work program authorized by section 412(a)(3) of the Social Security Act, as amended.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/98	63 FR 15985
Interim Final Rule Effective	04/01/98	
Interim Final Rule Comment Period End	06/01/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Additional Information: There are two possibilities for future action anticipated for this regulation. A final rule will be published if (1) Congress extends the program and/or changes the eligibility criteria; or (2) Congress does not extend the program but (retroactive or not) eases the eligibility criteria.

DOL—ETA **Long-Term Actions**

Agency Contact: Gregory Gross, Department of Labor, Employment and Training Administration, Room N4641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8502
Email: ggross@doleta.gov

RIN: 1205–AB16

Department of Labor (DOL)
Employment and Training Administration (ETA) **Completed Actions**

2073. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 618

Legal Deadline: None

Abstract: U.S. District Court for the District of Columbia held that section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that employee protection provisions of section 43 were severable from the legislative veto provisions. The U.S. Supreme Court ruled on March 25, 1987, that the legislative veto provisions were unconstitutional but the employee protection provisions were constitutional; therefore, rulemaking on the monetary benefits aspect of the employee protection program can proceed. In 1991 DOT determined there were no job losses due to deregulation. In September 1993, the U.S. District Court for the District of Columbia ordered DOT to develop broader guidelines to apply to air carriers, which may result in a finding of job losses. DOL has reinstituted clearance on the proposed rule. No benefits are payable to eligible workers until DOT determines that an air carrier experienced a qualifying dislocation and Congress appropriates the money to award benefits. To date, neither of these actions has occurred.

Timetable:

Action	Date	FR Cite
Withdrawn	08/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Additional Information: Regulation is no longer required since Section 43 of the Airline Deregulation Act of 1977 has been repealed.

Agency Contact: Betty E. Castillo, Chief, Division of Program Development and Implementation, Department of Labor, Employment and Training Administration, Room S4514, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5616

RIN: 1205–AB17

2074. LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE IN THE UNITED STATES; ADMINISTRATIVE MEASURES TO IMPROVE PROGRAM PERFORMANCE

Priority: Other Significant

Legal Authority: 8 USC 1101 (a); 8 USC 1184 (c) (1); 8 USC 1188

CFR Citation: 20 CFR 655 subpart B; 20 CFR 654 subpart E

Legal Deadline: None

Abstract: The Amendments would improve and streamline the operation of the temporary program for the temporary employment of nonimmigrant agricultural workers in the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/02/98	63 FR 53243
Final Action	06/29/99	64 FR 34955
Final Action Effective	07/29/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Norris, Director, Division of Foreign Labor Certification, Department of Labor, Employment and Training Administration, Room N4456, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-5263
Email: jnorris@doleta.gov

RIN: 1205–AB19

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA) **Proposed Rule Stage**

2075. DEFINITION OF COLLECTIVE BARGAINING AGREEMENT (ERISA SECTION 3(40))

Priority: Other Significant

Legal Authority: 29 USC 1002(40)

CFR Citation: 29 CFR 2510.3-40

Legal Deadline: None

Abstract: The regulation will establish standards for determining whether an employee benefit plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of its exclusion from the Multiple Employer Welfare Arrangement (MEWA) definition in section 3(40) of ERISA, and thus exempted from State regulation. The regulation will clarify the scope of the exception from the MEWA definition for plans established or maintained under or pursuant to one or more collective bargaining agreements by providing criteria which will serve to distinguish welfare benefit arrangements which are maintained by legitimate unions pursuant to bona fide collective bargaining agreements from insurance arrangements promoted and marketed under the guise of ERISA-covered plans exempt from State insurance regulation. The regulation will also serve to limit the extent to which plans maintained pursuant to bona fide collective bargaining agreements may extend plan coverage to individuals not covered by such agreements. The Department is

developing a revised proposal utilizing the negotiated rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	08/01/95	60 FR 39208
NPRM Comment Period Extended to 11/16/95	09/29/95	60 FR 50508
NPRM Comment Period End	10/02/95	60 FR 39208
Notice Establishing Negotiated Rulemaking Advisory Committee	09/22/98	63 FR 50542
NPRM Second	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA48

2076. RULEMAKING RELATING TO NOTICE REQUIREMENTS FOR CONTINUATION OF HEALTH CARE COVERAGE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1136

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: This rulemaking will provide guidance concerning the notification requirements pertaining to continuation coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Section 606 of ERISA requires that group health plans provide employees notification of the continuation coverage provisions of the plan and imposes notification obligations upon plan administrators, employers, employees, and qualified beneficiaries relating to certain qualifying events.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49894
ANPRM Comment Period End	11/24/97	
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-0521

RIN: 1210–AA60

2077. ELIMINATION OF FILING REQUIREMENTS FOR SUMMARY PLAN DESCRIPTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104a-2; 29 CFR 2520.104a-3; 29 CFR 2520.104a-4; 29 CFR 2520.104a-7

Legal Deadline: None

Abstract: This rulemaking will remove from the CFR certain regulations that have been superseded by amendments to title I of ERISA effected by the Taxpayer Relief Act of 1997 (PL 105-34) that eliminate the requirement for plan administrators to file summary plan descriptions (SPDs), summaries of material modifications (SMMs), and updated SPDs with the Department of Labor. Under the amendments plan administrators must continue to furnish participants and beneficiaries with copies of these documents. Separate rulemakings (RIN: 1210-AA67 and 1210-AA68) will implement the Taxpayer Relief Act amendments that require plan administrators to furnish copies of SPDs and any other documents relating to the plan to the Department on request, and authorize the Secretary of Labor to assess a civil penalty for failure to do so.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42792
NPRM Comment Period End	10/04/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA66

2078. REQUIREMENT TO FURNISH PLAN DOCUMENTS UPON REQUEST BY THE SECRETARY OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, section 1503

CFR Citation: 29 CFR 2520.104a-8

Legal Deadline: None

Abstract: This rulemaking will implement an amendment to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (PL 105-34) which requires plan administrators to furnish copies of any documents relating to the plan to the Department on request.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA67

2079. CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN PLAN DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-34, section 1503; 29 USC 1135; 29 USC 1132

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This rulemaking will implement the enforcement aspects of

DOL—PWBA **Proposed Rule Stage**

amendments to title I of ERISA made by section 1503 of the Taxpayer Relief Act of 1997 (Public Law 105-34) which, while eliminating the requirement that plan administrators file summary plan descriptions (SPDs), summaries of material modifications (SMMs) and updated SPDs with the Department of Labor, also provided that administrators must furnish copies of any documents relating to the plan, including but not limited to SPDs, to the Department on request. In particular, this rulemaking will implement the amendments that authorize the Secretary of Labor to assess a civil penalty of up to $100 a day, up to a maximum of $1,000 per request, against a plan administrator who fails to furnish the requested documents on a timely basis.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42797
NPRM Comment Period End	10/04/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jeffrey J. Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA68

2080. NATIONAL MEDICAL SUPPORT NOTICE

Regulatory Plan: This entry is Seq. No. 70 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA72

2081. SMALL PENSION PLAN SECURITY AMENDMENTS

Priority: Other Significant

Legal Authority: 29 USC 1135; 29 USC 1024; 29 USC 1191c; Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104-41; 29 CFR 2520.104.46

Legal Deadline: None

Abstract: This initiative would amend the conditions under which small pension plans (i.e., those with fewer than 100 participants) will be exempt from the requirements of section 103(a)(3)(A) to engage an independent qualified public accountant and to include the report of such accountant as part of the plan's annual report. Specifically, the amendment would condition the availability of the exemption on the plan meeting certain additional conditions regarding plan assets being held by a regulated financial institution and related improvements in fidelity bonding and disclosures to plan participants and beneficiaries. This initiative is being undertaken to improve security and accountability with respect to assets of small employee pension benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Keene, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA73

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA)

Final Rule Stage

2082. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

Regulatory Plan: This entry is Seq. No. 71 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA52

2083. REGULATIONS IMPLEMENTING THE HEALTH CARE ACCESS, PORTABILITY AND RENEWABILITY PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Regulatory Plan: This entry is Seq. No. 72 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA54

2084. AMENDMENT OF SUMMARY PLAN DESCRIPTION AND RELATED ERISA REGULATIONS TO IMPLEMENT STATUTORY CHANGES IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Regulatory Plan: This entry is Seq. No. 73 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA55

2085. LIMITATION OF LIABILITY FOR INSURERS AND OTHERS UNDER PART 4 OF TITLE I OF ERISA AND SECTION 4975 OF THE INTERNAL REVENUE CODE

Priority: Other Significant

Legal Authority: PL 104-188, Sec 1460; 29 USC 1101(c)(1); 29 USC 1135; 29 USC 1021

CFR Citation: 29 CFR 2550.401(c-1); 29 CFR 2510.3-101

Legal Deadline: NPRM, Statutory, June 30, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA Per Section 707 of ERISA as added by Section 101 of HIPAA.
Other, Statutory, September 30, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA Per Section 707 of ERISA as added by Section 101 of HIPAA. Specifies 6/30/99 as latest date for the regulation to take effect. Regulation not.
Final, Statutory, December 31, 1997, Per Section 734 of ERISA as added by Section 101 of HIPAA Per Section 707 of ERISA as added by Section 101 of HIPAA. Specifies 6/30/99 as latest date for the regulation to take effect. Regulation not.

Abstract: Section 1460 of the Small Business Job Protection Act of 1991 (Public Law 104-188) amended ERISA section 401 to limit the liability of insurers and others under part 4 of title

I of ERISA and section 4975 of the Internal Revenue Code with regard to certain policies or contracts issued to or for the benefit of employee benefit plans which are supported by assets in the insurers' general accounts. Subsection 401(c) specifies the timetable by which the Secretary must issue regulatory guidance concerning this provision.

Timetable:

Action	Date	FR Cite
Request for Information	11/25/96	61 FR 59845
NPRM	12/22/97	62 FR 66908
NPRM Comment Period End	03/23/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ivan L. Strasfeld, Director, of Exemption Determinations, Department of Labor, Pension and Welfare Benefits Administration, Room N5649, 200 Constitution Avenue NW, FP Building, Washington, DC 20210 Phone: 202 219-8194

RIN: 1210–AA58

2086. AMENDMENTS TO EMPLOYEE BENEFIT PLAN CLAIMS PROCEDURES REGULATION

Regulatory Plan: This entry is Seq. No. 74 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA61

2087. MENTAL HEALTH BENEFITS PARITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1135; 29 USC 1182 (PL 104-204; 110 Stat 2944); 29 USC 1194

CFR Citation: 29 CFR 2590

Legal Deadline: None

Abstract: The Mental Health Parity Act of 1996 (MHPA) was enacted on September 26, 1996 (P.L. 104-204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. MHPA provisions are set forth in chapter 100 of subtitle K of the Code, title XXVII of the PHSA, and part 7 of subtitle B of title I of ERISA. This rulemaking will provide further guidance with regard to the provisions of the MHPA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66932
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: LEGAL AUTHORITIES CONT: Secs. 107, 209, 505, 701-703, 711, 712 731-734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1171-1173, 1181 1182, 1191-1194), as amended by HIPAA (Pub. L. 104-191, 101 Stat. 1936) and NMHPA (Pub. L. 104-204) and Secretary of Labor's Order No. 1-87, 52 FR 13139, April 21, 1987.

Agency Contact: Mark Connor, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210 Phone: 202 219-8671

RIN: 1210–AA62

2088. HEALTH CARE STANDARDS FOR MOTHERS AND NEWBORNS

Regulatory Plan: This entry is Seq. No. 75 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA63

2089. REPORTING REQUIREMENTS FOR MEWAS PROVIDING MEDICAL CARE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1135; 29 USC 1021(g)(h) (PL 104-191; 110 Stat 1952); 29 USC 1194

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: These interim final rules will govern certain reporting requirements under title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) for multiple employer welfare arrangements (MEWAs) that provide benefits consisting of medical care. In part, the rules will implement recent changes made to ERISA by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The rules will also set forth elements that MEWAs would be required to file with the Department of Labor for the purpose of determining compliance with the portability nondiscrimination, renewability and other requirements of part 7 of subtitle B of title I of ERISA including the requirements of the Mental Health Parity Act of 1996 and the Newborns' and Mothers' Protection Act of 1996. The rules would also provide guidance with respect to section 502(c)(5) of ERISA which authorizes the Secretary of Labor to assess a civil penalty of up to $1,000 a day for failure to comply with the new reporting requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210 Phone: 202 219-7006

RIN: 1210–AA64

2090. AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS

Regulatory Plan: This entry is Seq. No. 76 in Part II of this issue of the **Federal Register**.

RIN: 1210–AA69

2091. ELECTRONIC DISCLOSURE OF EMPLOYEE BENEFIT PLAN INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1024; 29 USC 1135; PL 105-34, Taxpayer Relief Act; Secretary of Labor's Order No. 1-87, April 21,1987

CFR Citation: 29 CFR 2520.104b

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: This rulemaking will improve the ability of sponsors and administrators of all employee benefit

plans covered by title I of ERISA to make certain disclosures of plan information to participants and beneficiaries through electronic means. The rule will provide guidance with respect to the conditions under which electronic disclosures will be deemed to satisfy the disclosure requirements under title I of ERISA. The rule also will establish recordkeeping standards for maintaining or storing data in electronic form.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4506
NPRM Comment Period End	03/29/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John J. Canary, Supervisory Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8521

RIN: 1210–AA71

2092. SOFT DOLLAR (INTERPRETIVE BULLETIN)

Priority: Other Significant

Legal Authority: 29 USC 1103; 29 USC 1104; 29 USC 1106; 29 USC 1108; 29 USC 1135

CFR Citation: 29 CFR 2509.98-2

Legal Deadline: None

Abstract: This Interpretive Bulletin will codify the guidance provided by the Department concerning "soft dollar" and directed commission arrangements, for ease of reference by employee benefit plan fiduciaries, plan service providers, and others.

Timetable:

Action	Date	FR Cite
Interpretive Bulletin	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: David J. Lurie, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA74

2093. REQUEST FOR INFORMATION RELATING TO THE WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1185; PL 105-277; 112 Stat 2681; 29 USC 1135; 29 USC 1194

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Women's Health and Cancer Rights Act of 1998 (WHCRA) was enacted on October 21, 1998 (P.L. 105-277). WHCRA amended the Employee Retirement Income Security Act of 1974 (ERISA) and the Public Health Service Act (PHS Act) to provide protection for patients who elect breast reconstruction in connection with a mastectomy. The WHCRA provisions are set forth in Part 7 of Subtitle B of Title I of ERISA and in Title XXVII of the PHS Act. These interim rules will provide guidance with respect to the WHCRA provisions.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/28/99	64 FR 29186
RFI Comment Period End	06/28/99	
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mila Kofman, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA75

2094. VOLUNTARY FIDUCIARY CORRECTION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1132; 29 USC 1134

CFR Citation: 29 CFR 2560

Legal Deadline: None

Abstract: Section 409 of ERISA provides that an employee benefit plan fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon him or her by part 4 of title I of ERISA shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits that such fiduciary may have made through use of assets of the plan. The Department has the authority under section 504 of ERISA to conduct investigations to deter and correct violations of title I of ERISA and under section 502(a)(2) and 502(a)(5) to bring civil actions to enforce the provisions thereof. Section 502(l) of ERISA requires the assessment of a civil penalty in an amount equal to 20 percent of the applicable recovery amount with respect to any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary.

To encourage and facilitate voluntary correction of certain breaches of fiduciary responsibility, PWBA is considering implementing a Voluntary Fiduciary Correction Program (VFC Program). Under this VFC Program, plan officials would be relieved of the possibility of investigation and civil action by the Department and imposition of civil penalties, to the extent that plan officials satisfy the conditions for correcting breaches to be described in the Program. PWBA anticipates that the Program would assist plan officials in understanding the requirements of part 4 of title I of ERISA and their legal responsibilities in correcting fiduciary breaches.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Goodman, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA76

DOL—PWBA

Final Rule Stage

2095. PROHIBITING DISCRIMINATION AGAINST PARTICIPANTS AND BENEFICIARIES BASED ON HEALTH STATUS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 29 USC 1027; 29 USC 1059; 29 USC 1135; 29 USC 1171; 29 USC 1167; 29 USC 1194; PL 104-191 SEC 101'; 29 USC 1181, 101 Stat 1936; Secretary of Labor's Order No. 1-37; 52 FR 13139, April 21, 1987

CFR Citation: 29 CFR 2590.702

Legal Deadline: None

Abstract: Section 702 of the Employee Retirement Income Security Act of 1974, amended by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), establishes that a group health plan or a health insurance issuer may not establish rules for eligibility (including continued eligibility) of any individual to enroll under the terms of the plan based on any health status-related factor. These provisions are also contained in the Internal Revenue Code under the jurisdiction of the Department of the Treasury, and the Public Health Service Act within the jurisdiction of the Department of Health and Human Services.

On April 8, 1997, the Department, in conjunction with the Departments of the Treasury and Health and Human Services (collectively, the Departments) published interim final regulations implementing the nondiscrimination provisions of HIPAA. These regulations can be found at 26 CFR 54.9802-1 (Treasury), 29 CFR 2590.702 (Labor), and 45 146.121 (HHS). That notice of rulemaking also solicited comments on the nondiscrimination provisions and indicated that the Departments intend to issue further regulations on the nondiscrimination rules. This rulemaking will contain additional regulatory guidance under HIPAA's nondiscrimination provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/97	62 FR 16894
Interim Final Rule Comment Period End	07/07/97	
Interim Final Rule	12/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: This item is being split off from RIN 210-AA54 in order to provide focused guidance on section 702 of ERISA, which prohibits discrimination against participants and beneficiaries by group health plans and health insurance issuers based on health status.

Agency Contact: Amy Turner, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-7006

RIN: 1210–AA77

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA)

Long-Term Actions

2096. ADEQUATE CONSIDERATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1002(18); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes "adequate consideration" under section 3(18) of ERISA for assets other than securities for which there is a generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17632
NPRM Comment Period End	07/17/88	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Paul Mannina, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4611, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-4592

RIN: 1210–AA15

2097. CIVIL PENALTIES UNDER ERISA SECTION 502(1)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1132

CFR Citation: 29 CFR 2570.80 (Procedural); 29 CFR 2560.502(l)-1 (Substantive)

Legal Deadline: None

Abstract: Section 502(l) of ERISA requires the Secretary of Labor to assess a civil penalty against a fiduciary who breaches a fiduciary duty under, or commits a violation of, part 4 of title I of ERISA, or any other person who knowingly participates in such breach or violation. The Department has published an interim rule setting forth the procedures for the assessment of penalties under ERISA section 502(l) and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment, as well as a proposed rule that defines the following pivotal terms contained in section 502(l): "applicable recovery amount," "breach of fiduciary responsibility or violation," "settlement agreement," and "court order." The Department intends to finalize these two regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/20/90	55 FR 25284
Interim Final Rule	06/20/90	
NPRM Comment Period End	08/20/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Vicki Shteir-Dunn, Staff Attorney, Plan Benefits Security Division, Department of Labor, Pension and Welfare Benefits Administration, Room N4638, 200 Constitution Avenue

DOL—PWBA **Long-Term Actions**

NW, FP Building, Washington, DC 20210
Phone: 202 219-8610

RIN: 1210–AA37

2098. INDIVIDUAL BENEFITS REPORTING REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520.105-1

Legal Deadline: None

Abstract: ERISA sections 105 and 209 require the furnishing of statements of accrued and vested pension benefits upon request of a participant or beneficiary, upon a participant's termination of service with an employer, and upon a participant's incurring a one-year break in service. This regulation will provide guidance with respect to the furnishing of individual benefit reports to participants and beneficiaries in defined contribution pension plans.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Debra M. Golding, Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue NW, N5669, FP Building, Washington, DC 20210
Phone: 202 219-8671

RIN: 1210–AA65

Department of Labor (DOL)
Pension and Welfare Benefits Administration (PWBA) **Completed Actions**

2099. PAYROLL DEDUCTION PROGRAMS FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS (INTERPRETIVE BULLETIN)

Priority: Info./Admin./Other

Legal Authority: 29 USC 1002 (2); 29 USC 1135

CFR Citation: 29 CFR 2509

Legal Deadline: None

Abstract: This interpretive bulletin compiles for ease of reference the views of the Department of Labor (the Department) concerning the circumstances under which the use of a payroll deduction program for forwarding employee monies to an individual retirement account annuity will not constitute an employee pension benefit plan subject to title I of the Employee Retirement Security Act of 1974 (ERISA). This guidance will assist employers in their efforts to provide retirement savings opportunities to employees by clarifying the circumstances under which the use of payroll deduction programs will not implicate provisions of parts 1 (Reporting and Disclosure), 4 (Fiduciary Responsibility) and 5 (Administration and Enforcement) of title I of ERISA.

Timetable:

Action	Date	FR Cite
Final Action	06/18/99	64 FR 33000

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan G. Lahne, Senior Pension Law Specialist, Department of Labor, Pension and Welfare Benefits Administration, Room N5669, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-0521

RIN: 1210–AA70

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA) **Prerule Stage**

2100. OCCUPATIONAL EXPOSURE TO COAL MINE DUST (LOWERING EXPOSURE LIMIT)

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70; 30 CFR 71; 30 CFR 90

Legal Deadline: None

Abstract: In 1996 the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners recommended that we consider lowering the coal dust permissible exposure limit (PEL). In 1995, the National Institute for Occupational Safety and Health issued a Criteria Document in which they recommended that the respirable coal mine dust PEL be cut in half. We are considering rulemaking to lower the coal dust PEL because miners continue to be at risk of developing dust-induced occupational lung disease.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB08

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

2101. BELT ENTRY USE AS INTAKE AIRCOURSE TO VENTILATE WORKING SECTIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75; 30 CFR 48

Legal Deadline: None

Abstract: Our current regulations prohibit belt haulage entries from being used to ventilate active working places in mines. This prevents smoke from a belt conveyor fire from being coursed to a miner's workplace.

Improved technology, including sophisticated atmospheric monitoring systems, makes it possible now to safely use belt haulage entries to ventilate active working places in mines provided certain conditions are met. In some instances this would result in more efficient and effective ventilation systems. Mine operators, however, must apply to us for a variance from the current regulations if they want to use belt haulage entries for ventilation purposes.

The proposed rule will permit the use of this type ventilation in certain circumstances and eliminate the need for the mine operator to apply for a variance.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held in April 1990.

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA76

2102. METAL/NONMETAL IMPOUNDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Water, sediment, and slurry impoundments for metal and nonmetal mining and milling operations are located throughout the country. Some are within flood range of homes and well-traveled roads. Impoundment failures could endanger lives and cause property damage. The proposed rule will address proper design, construction, and other safety issues.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA83

2103. SURFACE HAULAGE

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 77

Legal Deadline: None

Abstract: Approximately thirty percent of the fatal accidents which occurred during the past 4 years involved large haulage vehicles, over-the-road trucks, front-end loaders, and similar equipment. The proposed rule will set safety requirements for restraint systems, lighting, and blind areas for this equipment.

Timetable:

Action	Date	FR Cite
ANPRM	07/30/98	63 FR 40800
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA93

2104. IMPROVING AND ELIMINATING REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 1 to 199

Legal Deadline: None

Abstract: We have reviewed our current regulations and identified provisions that are outdated, redundant, unnecessary or otherwise require change. We will be making these changes through notice and comment rulemaking where necessary. We will also consider new regulations that reflect "best practices" in the mining industry. We view this effort to be evolving and ongoing and will continue to accept recommendations from the public.

Timetable:

Action	Date	FR Cite
NPRM - Phase 1 Removal of 30 CFR 21 and 24	08/30/96	61 FR 45925
Final Rule - Phase 1 Removal of 30 CFR 21, 24, and 75	09/03/98	63 FR 47118
Final Rule Effective - Phase 1 Removal of 30 CFR 21 and 24	11/02/98	
Final Rule - Phase 2 Removal of 30 CFR 26 and 29	08/10/99	64 FR 43280
Final Rule - Phase 3 Update of Reference IR 1240	08/10/99	64 FR 43283
Final Rule - Phase 4 Part 75 Subpart S	08/10/99	64 FR 43286
NPRM - Phase 5 Miscellaneous Technology Improvements	12/00/99	

DOL—MSHA **Proposed Rule Stage**

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA98

2105. TRAINING AND RETRAINING OF MINERS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 48

Legal Deadline: None

Abstract: Our current regulations require all mine operators to have approved plans for training of their miners. We reviewed these requirements as part of our Regulatory Flexibility Review to determine if changes were appropriate. We are considering developing a proposed rule to reflect a more flexible approach.

In response to public comments we are considering increasing the number of hours of annual refresher training for supervisors from 8 hours to 12 hours. The training needs of supervisors are broader in scope than those of miners. We believe that better trained, more knowledgeable, supervisors will contribute to their own safety and that of miners under their supervision.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
End Review	10/30/98	
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: RIN 1219-AB16 (Training and Retraining of Miners: Supervisor Training) is combined with this rulemaking.

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB02

2106. VERIFICATION OF DUST CONTROL PLAN AND CONTINUOUS MONITORING

Regulatory Plan: This entry is Seq. No. 77 in Part II of this issue of the **Federal Register**.

RIN: 1219–AB14

2107. DETERMINATION OF CONCENTRATION OF RESPIRABLE COAL MINE DUST

Regulatory Plan: This entry is Seq. No. 78 in Part II of this issue of the **Federal Register**.

RIN: 1219–AB18

2108. SAFETY STANDARDS FOR SELF-RESCUE DEVICES IN UNDERGROUND COAL MINES; SAFETY STANDARDS FOR SELF-RESCUE DEVICES IN CATEGORY I THROUGH V GASSY UNDERGROUND METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 48; 30 CFR 75; 30 CFR 57

Legal Deadline: None

Abstract: Self-contained self-rescuers (SCSR) are closed circuit breathing apparatuses that provide a source of oxygen and greatly increase a miner's chance of surviving a mine emergency involving an irrespirable atmosphere. The mining industry has had recent experiences with SCSRs which did not function properly and where the devices were not donned properly, rendering them ineffective. We are considering a rule to address the appropriate inspection of SCSRs and the adequacy of training. In addition, we are proposing to apply SCSR regulations to certain gassy metal and nonmetal mines .

Personal emergency devices (PED) are individual communication devices that inform a miner underground of an emergency situation and have proven to be effective in an emergency evacuation of a coal mine. We are considering the feasibility of requiring use of PEDs for miners.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/99	64 FR 36632
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking includes the metal and nonmetal rulemaking RIN 1219-AB06 (Self-Contained Self-Rescue Devices in Underground Metal and Nonmetal Mines). This new rulemaking addresses SCSRs at both coal and metal and nonmetal mines.

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB19

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA)

Final Rule Stage

2109. HAZARD COMMUNICATION

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 120

Legal Deadline: None

Abstract: Today's complex mining environment subjects miners to many hazards such as from wastes burned as fuel supplements at cement kilns and from the many chemicals brought onto mine property. The rule as proposed will provide miners with the means to receive necessary information on the hazards of chemicals to which they are exposed and the actions necessary to protect them from such hazards. It will be consistent with OSHA's rule to the extent appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	03/30/88	53 FR 10257
ANPRM Comment Period End	07/31/88	
NPRM	11/02/90	55 FR 46400
NPRM Comment Period End	01/31/92	56 FR 48720
Reopen Record	03/30/99	64 FR 15144
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA47

2110. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND COAL MINERS)

Regulatory Plan: This entry is Seq. No. 79 in Part II of this issue of the **Federal Register**.

RIN: 1219–AA74

2111. LONGWALL EQUIPMENT (INCLUDING HIGH-VOLTAGE)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 957

CFR Citation: 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require that high-voltage cables and transformers be kept at least 150 feet from coal extraction areas. These requirements are intended to eliminate an ignition source for methane and coal dust in close proximity to the work area.

Highly productive longwall mining systems are now in widespread use in the mining industry. They use safe high-voltage electrical equipment and associated cables. Mine operators, however, currently must apply to us for a variance from the existing regulations if they want to use this high-voltage equipment.

The rule as proposed will eliminate the need for a variance to use this equipment and will establish safety requirements for the design, construction, installation, use, and maintenance of high-voltage longwall equipment and associated cables.

Timetable:

Action	Date	FR Cite
NPRM	08/27/92	57 FR 39036
NPRM Comment Period End	11/13/92	57 FR 46350
Reopen Record	10/18/95	60 FR 53891
Extension of Comment Period	11/14/95	60 FR 57203
Comment Period End	12/18/95	
Reopen Record	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA75

2112. REQUIREMENTS FOR APPROVAL OF FLAME-RESISTANT CONVEYOR BELTS

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 957; 30 USC 811

CFR Citation: 30 CFR 14; 30 CFR 18; 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations require conveyor belts used in underground coal mines to be flame-resistant. The rule as proposed will set new procedures and requirements for testing and approval of these belts which will provide additional protective measures relating to fire ignition and propagation.

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61524
NPRM Comment Period End	03/26/93	58 FR 8028
Public Hearing	05/02/95	60 FR 16589
Record Closed	06/05/95	60 FR 16558
Extension of Comment Period	02/05/96	60 FR 65509
Reopen Record	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA92

2113. DIESEL PARTICULATE MATTER (EXPOSURE OF UNDERGROUND METAL AND NONMETAL MINERS)

Regulatory Plan: This entry is Seq. No. 80 in Part II of this issue of the **Federal Register**.

RIN: 1219–AB11

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA)

Long-Term Actions

2114. AIR QUALITY, CHEMICAL SUBSTANCES, AND RESPIRATORY PROTECTION STANDARDS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 58; 30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline: None

Abstract: Our current regulations for exposure to hazardous airborne contaminants are over 25 years old. They do not fully protect today's miners, who are potentially exposed to an array of toxic chemicals, and other hazards. Examples of these include lead, cyanide, arsenic benzene, asbestos and other well-documented hazards. We will propose provisions of the air quality rule in phases based on our assessment of priority needs.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/83	48 FR 31171
ANPRM	11/19/85	50 FR 47702
NPRM	08/29/89	54 FR 35760
NPRM Comment Period End	08/30/91	56 FR 29201
NPRM Phase 3 - PELs	12/00/00	
NPRM Phase 2 - Respiratory Protection - Reproposal	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA48

2115. CONFINED SPACES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 70; 30 CFR 71; 30 CFR 75; 30 CFR 77

Legal Deadline: None

Abstract: Storage bins, hoppers, tanks, stockpiles, and other confined spaces at mining operations create hazards to miners. These hazards include entrapment by shifting piles of loose materials, falling into materials, and being struck by overhanging materials. Additionally, miners are exposed to toxic and physical hazards in these confined spaces. We will explore both regulatory and non-regulatory ways to eliminate or reduce these hazards.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/91	56 FR 67364
ANPRM Comment Period End	05/01/92	57 FR 8102
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA54

2116. INDEPENDENT LABORATORY TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 6; 30 CFR 18; 30 CFR 19; 30 CFR 20; 30 CFR 22; 30 CFR 23; 30 CFR 26; 30 CFR 27; 30 CFR 28; 30 CFR 29; 30 CFR 33; 30 CFR 35

Legal Deadline: None

Abstract: Our current regulations allow us to set approval requirements and test products used in mines. The rule as proposed will allow us to: accept testing of certain mine equipment by independent laboratories; and approve products which satisfy alternative testing and evaluation requirements if those requirements are equivalent to ours, or could be enhanced to be equivalent.

Timetable:

Action	Date	FR Cite
NPRM	11/30/94	59 FR 61376
NPRM Comment Period End	02/21/95	
Public Hearing Notice	10/10/95	60 FR 52640
Public Hearing	04/30/96	61 FR 15743
Comment Period End	05/31/96	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA87

2117. SAFETY STANDARDS FOR THE USE OF ROOF-BOLTING MACHINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57; 30 CFR 75

Legal Deadline: None

Abstract: We believe that the current design of some roof-bolting machines may contribute to or cause accidents during drilling and roof-bolt installation procedures. Accident and fatality information points to the need to modify the design of such machines and take additional precautions in their use. We will explore both regulatory and non-regulatory ways to eliminate or reduce these hazards.

Timetable:

Action	Date	FR Cite
ANPRM	12/09/97	62 FR 64789
ANPRM Comment Period End	02/09/98	
Extension of Comment Period to 3/9/98	02/12/98	63 FR 7089
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910

Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA94

2118. SAFETY STANDARD REVISIONS FOR UNDERGROUND ANTHRACITE MINES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75

Legal Deadline: None

Abstract: Our current regulations for coal mines do not adequately apply to anthracite coal mining because of the significant difference in conditions and hazards in those mines. Mining methods in anthracite mines include minimal use of mechanized equipment and a slow rate of advance into the coal seam. In addition, anthracite coal is found in pitched, undulating seams.

Mine operators currently must apply to us for a variance from the existing regulations for certain mining situations. The proposed rule will address the specific conditions of the anthracite mining industry and eliminate the need for a variance from existing safety requirements.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA96

2119. ELECTRICAL STANDARDS FOR METAL AND NONMETAL MINES

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56; 30 CFR 57

Legal Deadline: None

Abstract: Electricity is used widely in the mining industry to power mining equipment, transport material and people, and for other purposes. Our records show that accidents occur from inadequate or improper equipment grounding. We are considering rulemaking to address proper equipment grounding.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB01

2120. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 70.101 et seq; 30 CFR 90.101 et seq; 30 CFR 71.101 et seq; 30 CFR 72.101 et seq

Legal Deadline: None

Abstract: Our current regulations set limits for respirable coal dust when crystalline silica is present. The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers recommended that there be separate standards for silica and coal mine dust. With a separate standard for silica, we will increase our ability to target mining situations where silica exposure constitutes a significant hazard. We are considering rulemaking to set a separate exposure limit for silica which is not tied to the respirable dust standard.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB12

2121. • MINE RESCUE TEAMS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 30 USC 811; 30 USC 825 (e); 30 USC 957

CFR Citation: 30 CFR 49

Legal Deadline: None

Abstract: We are assessing our current regulations to identify areas where we might increase flexibility and provide increased safety for miners. We anticipate publishing an ANPRM to solicit ideas from the mining community.

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB20

Department of Labor (DOL)
Mine Safety and Health Administration (MSHA)

Completed Actions

2122. NOISE STANDARD

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 30 USC 811; 30 USC 813

CFR Citation: 30 CFR 56; 30 CFR 57; 30 CFR 62; 30 CFR 70; 30 CFR 71

Legal Deadline: None

Abstract: Current data indicate that hearing impairment can be reduced significantly if effective protective action is used to reduce or eliminate noise and to minimize miners' exposure to it. The rule requires protective measures be taken where exposure to noise is at a level lower than that which is currently permitted. The rule, which is applicable to all types of mining, addresses hearing conservation plans and an "action level." It also includes an opportunity for miners and their representatives to observe required operator monitoring.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/89	54 FR 50209
ANPRM Comment Period End	06/22/90	55 FR 6011
NPRM	12/17/96	61 FR 66348
Extension of Comment Period to 4/21/97; Notice of Public Hearings	02/06/97	62 FR 5554
Hearings - Date Change Extension of Comment Period to 6/20/97	03/03/97	62 FR 9404
Extension of Comment Period to 8/1/97	06/13/97	62 FR 32252
NPRM Comment Period End	08/01/97	
Availability of Report	12/16/97	62 FR 65777
Request for Comments on Report	12/23/97	62 FR 67013
Extension of Comment Period	01/16/98	63 FR 2642
National Environmental Policy Act	05/26/98	63 FR 28496
Correction	09/13/99	64 FR 49636
Final Action	09/13/99	64 FR 49547
Final Action Effective	09/13/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA53

2123. SAFETY STANDARDS FOR METHANE IN METAL AND NONMETAL MINES

Priority: Substantive, Nonsignificant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57

Legal Deadline: None

Abstract: Metal and nonmetal mines which liberate methane, or have the potential to liberate methane, are classified into several categories. We are considering revising our current regulations to ensure they are legally sufficient to provide adequate protection for miners who are potentially exposed to explosive methane gas.

Timetable:

Action	Date	FR Cite
Withdrawn	08/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AA90

2124. SAFETY STANDARDS FOR UNDERGROUND COAL MINE VENTILATION—PRESHIFT EXAMINATION INTERVALS

Priority: Other Significant

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.360(a)(1)

Legal Deadline: None

Abstract: The final rule clarifies and standardizes the application of the preshift mine examination requirements to assure that they are concluded within appropriate timeframes. It requires preshift examinations to be conducted within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground.

This rule is virtually identical to the rule published in 1996 and invalidated by the District of Columbia Circuit on procedural grounds. Following the court decision invalidating the previous standard on procedural grounds, we published a Federal Register notice reinstating the portion of the previous standard requiring a preshift examination be conducted prior to the beginning of any shift.

Timetable:

Action	Date	FR Cite
NPRM	07/14/98	63 FR 38066
Comment Period End	09/14/98	
Final Action	08/18/99	64 FR 45165
Final Action Effective	10/18/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB10

2125. TRAINING AND RETRAINING OF MINERS ENGAGED IN SHELL DREDGING OR EMPLOYED AT SAND, GRAVEL, SURFACE STONE, SURFACE CLAY, COLLOIDAL PHOSPHATE, OR SURFACE LIMESTONE MINES

Priority: Other Significant

Legal Authority: 30 USC 811; 30 USC 825

CFR Citation: 30 CFR 46

Legal Deadline: Final, Statutory, September 30, 1999.

Abstract: Congress included language in our Fiscal Year 1999 appropriation that requires us to promulgate training regulations for the following industries: shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate and surface limestone mines. These

DOL—MSHA **Completed Actions**

industries have been exempted by Congressional action since 1980 from our enforcement of the training requirements contained in Agency regulations (found at 30 CFR part 48). Fatalities over the last several years have increased steadily in these industries. Our data show that the majority of victims at these exempted industries did not receive safety and health training. The final rule implements training requirements for these previously exempted industries.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	11/03/98	63 FR 59258
NPRM	04/14/99	64 FR 18498
Final Action and Notice of Public Hearings	09/30/99	64 FR 53080

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Agency Contact: Carol J. Jones, Acting Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203
Phone: 703 235-1910
Fax: 703 235-5551
Email: cjones@msha.gov

RIN: 1219–AB17

Department of Labor (DOL) **Final Rule Stage**

Office of the Assistant Secretary for Administration and Management (OASAM)

2126. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 90

Legal Deadline: NPRM, Statutory, September 10, 1979, Requires publication of the NPRM within 90 days of publication and submission to HHS of final rule within 120 days of NPRM.

Abstract: The proposed regulatory action is necessary to comply with the Department's statutory and regulatory obligations under the Age Discrimination Act of 1975, as amended (the Act). The Act and the general, Governmentwide implementing rule issued by the Department of Health and Human Services (HHS) (45 CFR 90) require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act no later than 90 days after the publication date of the Governmentwide rule, and to submit final agency regulations to HHS no later than 120 days after publication of the NPRM. As a practical matter, while DOL has not issued proposed or final regulations under the Age Discrimination Act, it has complied with its enforcement obligations. Furthermore, discrimination on the basis of age is prohibited under section 167 of the Job Training Partnership Act of 1982 and the implementing regulations at 29 CFR 34.

Timetable:

Action	Date	FR Cite
NPRM	12/29/98	63 FR 71714
NPRM Comment Period End	03/01/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8927
Fax: 800 326-2577
Email: lockhart-annabelle@dol.gov

RIN: 1291–AA21

2127. IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE WORKFORCE INVESTMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-220, sec 188 Workforce Investment Act

CFR Citation: 29 CFR 37

Legal Deadline: Final, Statutory, August 7, 1999.

Abstract: The Workforce Investment Act of 1988 (WIA) was signed into law by President Clinton on August 7, 1998. Section 188 prohibits discrimination on the grounds of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain noncitizens. Section 188(e) requires that the Secretary of Labor issue regulations necessary to implement section 188 not later than one year after the date of the enactment of the WIA. Such regulations will include standards for determining compliance and procedures for enforcement that are consistent with the Acts referred to in section 188(a)(1), as well as procedures to ensure that complaints filed under section 188 and such acts processed in a manner that avoids duplication of effort.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8927
Fax: 800 326-2577
Email: lockhart-annabelle@dol.gov

RIN: 1291–AA29

Department of Labor (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Long-Term Actions

2128. DEPARTMENT OF LABOR ACQUISITION REGULATION

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 2900 to 2999

Legal Deadline: None

Abstract: Revisions to the DOLAR reflect changes in the Federal Acquisition Regulations and organizational changes within DOL.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Revision of the Department of Labor Acquisition Regulation is awaiting the final publication of revisions to the Federal Acquisition Regulations as a result of changes being implemented pursuant to passage of the Federal Acquisition Streamlining Act of 1994 enacted October 13, 1994 and the Federal Acquisition Reform Act of 1995.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-9174
Fax: 202 219-9440
Email: mcmeekin-phyllis@dol.gov

RIN: 1291–AA20

2129. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: PL 104-156 110 Stat.136; OMB Circular A-110; OMB Circular A-133

CFR Citation: 29 CFR 99

Legal Deadline: None

Abstract: The Department of Labor hereby adds title 29 CFR 99 "Audits of States, Local Governments, and Non-Profit Organizations" as a new regulation which codifies the revised Office of Management and Budget (OMB) Circular A-133 in its entirety. The Single Audit Act Amendments of 1996 (Public Law 104-156, 110 Stat. 136) and the June 24, 1997, revision of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," required agencies to adopt in codified regulations the standards in the revised OMB Circular A-133 by August 29, 1997, so that they will apply to audits of fiscal years beginning after June 30, 1996. The revised OMB Circular A-133 co-located audit requirements for States, local governments, and non-profit organizations. As a consequence, the OMB rescinded OMB Circular A-128, "Audits of States and Local Governments." On August 29, 1997, the Department of Labor amended its grants common rules at 29 CFR 95 and 29 CFR 97 in accordance with OMB guidance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-9174
Fax: 202 219-9440
Email: mcmeekin-phyllis@dol.gov

RIN: 1291–AA26

2130. AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Priority: Info./Admin./Other

Legal Authority: 31 USC 7500 et seq; OMB Circular A-183

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: The Department of Labor hereby revises title 29 of the Code of Federal Regulations (CFR) part 96 "Audit Requirements for Grants, Contracts, and Other Agreements" to consolidate various provisions and ensure consistency, continuity, and ameliorate conflicts with subtitle A of 29 CFR parts 95 and 97.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/25/99	64 FR 14537
Interim Final Rule Effective	03/25/99	
Interim Final Rule Comment Period End	05/24/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Phyllis McMeekin, Director, Office of the Acquisition Advocate, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N5425, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-9174
Fax: 202 219-9440
Email: mcmeekin-phyllis@dol.gov

RIN: 1291–AA27

2131. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 32

Legal Deadline: None

Abstract: Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federally financed programs and activities. The Department last published a final rule implementing section 504 on October 7, 1980. Since that time, section 504 has been amended several times, generally to update terminology and

DOL—OASAM **Long-Term Actions**

provide new definitions. The Department is undertaking this rulemaking to update 29 CFR part 32 to incorporate those changes.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N4123, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 219-8927
Fax: 800 326-2577
Email: lockhart-annabelle@dol.gov

RIN: 1291–AA28

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA) **Prerule Stage**

2132. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT) (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.147

Legal Deadline: None

Abstract: As required by section 610 of the Regulatory Flexibility Act and section 5 of Executive Order 12866, OSHA has reviewed the Agency's standard for the protection of employees from exposure to lockout/tagout hazards, 29 CFR 1910.147, to determine whether the rule should be continued without change or should be amended or rescinded, consistent with the objectives of the rule and of the Occupational Safety and Health Act, to minimize any significant impact on a substantial number of small entities. After a thorough review of the Agency's experience in enforcing this standard, the available literature, and comments received in connection with this review, OSHA has determined that there is a continued need for the rule, that the rule does not appear to overlap, duplicate, or conflict with other Federal rules or with other State and local rules, and that no technological, economic or other factors have arisen since the rule was published that would necessitate amendment or rescission of the rule at this time. OSHA has also concluded that no change that is consistent with the objectives of the OSH Act can be made to the rule that will further minimize any significant impact on a substantial number of small entities. To respond to comments received during this review of the standard, OSHA will revise the compliance directive, review the Agency's interpretive guidance pertaining to this rule, and develop and disseminate training and other compliance assistance materials to assist employers in complying with the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Publish Report	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB59

2133. OCCUPATIONAL EXPOSURE TO ETHYLENE OXIDE (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1047

Legal Deadline: None

Abstract: OSHA has undertaken a review of the ethylene oxide (ETO) standard in accordance with the requirements of the Regulatory Flexibility Act and section 5 of EO 12866. The review has considered the continued need for the rule, the impacts of the rule, comments on the rule received from the public, the complexity of the rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was last evaluated. The Agency's findings with respect to this review will be published in a report available to the public in 1999.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/96	
Publish Report	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB60

2134. FALL PROTECTION IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued an ANPRM to gather information on fall protection issues regarding certain construction processes such as residential home building, precast concrete operations and post frame construction. The issues relate to the fall protection rules as they now apply to roofing work, residential construction operations, climbing reinforcement steel and vendors delivering materials to construction projects. These issues have arisen since OSHA revised the fall protection standard in August 1994.

DOL—OSHA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	07/14/99	64 FR 38077
ANPRM Comment Period End	01/24/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB62

2135. PROCESS SAFETY MANAGEMENT OF HIGHLY HAZARDOUS CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.119

Legal Deadline: None

Abstract: OSHA is considering two regulatory actions concerning the Process Safety Management of Highly Hazardous Chemicals (PSM) standard. One action is to publish an advance notice of proposed rulemaking to address the need to add reactive chemicals that are not currently covered by PSM to the rule and the need to revise the language of the rule to clarify OSHA's intent to cover flammable liquids stored in atmospheric tanks that are connected to a process. Another action is a proposal to add chemicals that were not included in the OSHA standard but were included in the Environmental Protection Agency's (EPA) Risk Management Program (RMP) rule (one part of the RMP rule addresses compliance with the OSHA Process Safety Management rule). OSHA has been asked by representatives of the regulated community to bring its chemical list into closer alignment with the RMP rule.

Timetable:

Action	Date	FR Cite
ANPRM Reactives	12/00/99	
NPRM Process Safety Management	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB63

2136. SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY—PART II

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1926.453; 29 CFR 1926.454

Legal Deadline: None

Abstract: Since the promulgation of a final rule for scaffolds used in construction in August 1996, several issues have arisen under the new standard. The agency will solicit information on issues including (1) providing access to platforms where decking extends past the ends of the scaffold; (2) changing the minimum width for roof brackets to less than 12 inches; (3) changing the requirements for grounding of the scaffold during welding operations; and (4) requiring the use of scaffold grade planks.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB68

2137. GRAIN HANDLING FACILITIES (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655(b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.272

Legal Deadline: None

Abstract: OSHA is undertaking a review of its grain handling standard (29 CFR 1910.272) in accordance with the requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2400
Email: jmartonik@dol.gov

RIN: 1218–AB73

2138. COTTON DUST (SECTION 610 REVIEW)

Priority: Other Significant

Legal Authority: 29 USC 655 (b); 5 USC 553; 5 USC 610

CFR Citation: 29 CFR 1910.1043

Legal Deadline: None

Abstract: OSHA is undertaking a review of its cotton dust standard (29 CFR 1910.1043) in accordance with the

DOL—OSHA

Prerule Stage

requirements of section 610 of the Regulatory Flexibility Act and section 5 of EO 12866. The review will cover the continued need for the rule; the nature of complaints or comments received from the public concerning the rule; the complexity of the rule; the extent to which the rule overlaps, duplicates or conflicts with other Federal rules and, to the extent feasible, with State and local rules; and the degree to which technology, economic conditions, or other factors have changed in the industries affected by the rule.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John F. Martonik, Director, Office of Program Audits and Evaluation, Department of Labor, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2400
Email: jmartonik@dol.gov

RIN: 1218–AB74

2139. • OCCUPATIONAL EXPOSURE TO PERCHLOROETHYLENE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None

Abstract: OSHA intends to issue an Advance Notice of Proposed Rulemaking (ANPR) to address the hazards associated with occupational exposure to perchloroethylene(also called "tetrachloroethylene"), (CAS 127-18-4). OSHA's limits for this substance are 100 ppm as an 8-hour TWA; 200 ppm as a 15-minute ceiling; and 300 ppm as a 5-minute peak not to be exceeded in any 3-hour period (29 CFR 1910.1000). These limits have been in place for nearly 30 years and are widely recognized as being inadequately protective. NIOSH classifies perchloroethylene as an occupational carcinogen. Workers exposed to perchloroethylene may experience sensory irritation, narcosis, liver damage, and cancer. The ANPR will solicit information from interested parties on the risk, current exposure levels, current industry control practices, and feasible means of achieving reductions in existing exposure levels among workers in perchloroethylene-using industries.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/00	
ANPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB86

2140. • HEARING LOSS PREVENTION IN CONSTRUCTION WORKERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.52

Legal Deadline: None

Abstract: OSHA issued a Sec. 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise exposed workers in general industry in 1983. However, a number of recent studies have shown that a large number of construction workers experience work-related hearing loss. In addition, current industry practice with regard to the use of engineering, administrative and personal protective equipment to reduce exposures to noise is low in this industry. OSHA intends to issue an Advance Notice of Proposed Rulemaking (ANPRM) in December, 1999, and to initiate stakeholder meetings later in the year, to gather information on the extent of noise-induced hearing loss among workers in different trades in this industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	
ANPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB89

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

2141. ERGONOMICS PROGRAMS: PREVENTING MUSCULOSKELETAL DISORDERS

Regulatory Plan: This entry is Seq. No. 81 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB36

2142. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)

Regulatory Plan: This entry is Seq. No. 82 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB41

2143. FIRE PROTECTION IN SHIPYARD EMPLOYMENT (PART 1915, SUBPART P) (SHIPYARDS: FIRE SAFETY)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, subpart P

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. With the assistance of the Agency's Maritime Advisory Committee on Occupational Safety and Health, OSHA formed a Negotiated Rulemaking Committee to develop draft regulatory text addressing fire protection in shipyards. The committee includes members representing employers, employees, and other affected parties. The committee has drafted a regulatory text and is now working with OSHA staff to refine and support it in preparation for publication as a proposed rule.

The operations that would be addressed in this rulemaking relate to fire brigades, fire extinguishers, sprinkler systems, detection systems, alarm systems, fire watches, and emergency plans. A total of 75,000 workers are potentially exposed to these hazards annually. This proposed standard is expected to be published next year.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB51

2144. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

Regulatory Plan: This entry is Seq. No. 83 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB54

2145. NATIONALLY RECOGNIZED TESTING LABORATORIES PROGRAMS: FEES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.7

Legal Deadline: None

Abstract: A number of OSHA standards require that certain products and equipment used in the workplace be tested and certified by a laboratory that has been recognized and accredited by OSHA. Through the Nationally Recognized Testing Laboratory (NRTL) Program OSHA has, to date, recognized 16 laboratories operating 40 sites in the U.S., Canada, and the Far East as NRTLs. OSHA is proposing to revise 29 CFR 1910.7 to allow OSHA to charge fees to NRTLs for services that are provided to the NRTLs. The fees will be computed on the basis of the cost of the services to the Government. In determining the amount of such fees, OSHA will follow the guidelines established by the Office of Management and Budget in Circular Number A-25.

Timetable:

Action	Date	FR Cite
NPRM	08/18/99	64 FR 45098
NPRM Comment Period End	10/04/99	
Final	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bernard Pasquet, Directorate of Technical Support, Department of Labor, Occupational Safety and Health Administration, N3653, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2300
Fax: 202 693-1644

RIN: 1218–AB57

2146. PLAIN LANGUAGE REVISION OF THE MECHANICAL POWER-TRANSMISSION APPARATUS STANDARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.219

Legal Deadline: None

Abstract: OSHA has identified this standard in part 1910 for revision as part of the President's initiative on Federal regulations discussed in the U.S. Department of Labor Report of June 15, 1995 and to respond to the President's June 1998 Executive Memo on Plain Language. OSHA intends to issue a plain language revision of the rule.

Timetable:

Action	Date	FR Cite
NPRM - Mechanical Power-Transmission Apparatus	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health

Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB66

2147. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910; 29 CFR 1926; 29 CFR 1915; 29 CFR 1916; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: Silica exposure remains a serious threat to nearly 2 million U.S. workers, including more than 100,000 workers in high risk jobs such as abrasive blasting, foundry work, stonecutting, rock drilling, quarry work and tunneling. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rock drillers and by recent studies that demonstrate a statistically significant increase in lung cancer among silica-exposed workers. In October 1996, the International Agency for Research on Cancer classified crystalline silica as "carcinogenic to humans." Exposure studies indicate that some workers are still exposed to very high levels of silica. Although OSHA currently has a permissible exposure limit for crystalline silica (10mg/m3 divided by the percent of silica in the dust + 2 respirable), more than 30 percent of OSHA-collected silica samples from 1982 through 1991 exceeded this limit. Additionally recent studies suggest that the current OSHA standard is insufficient to protect against silicosis. OSHA plans to publish a proposed rule on crystalline silica under section 6(b)(5) of the Act. The standard would protect silica-exposed workers in general industry, construction and maritime.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB70

2148. • STANDARDS IMPROVEMENT (MISCELLANEOUS CHANGES) FOR GENERAL INDUSTRY, MARINE TERMINALS, AND CONSTRUCTION STANDARDS (PHASE II)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.142; 29 CFR 1910.178; 29 CFR 1910.219; 29 CFR 1910.261; 29 CFR 1910.265; 29 CFR 1910.410; 29 CFR 1910.1001-.1052; 29 CFR 1926.60; 29 CFR 1926.62; 29 CFR 1926.1101; 29 CFR 1926.1127; 29 CFR 1926.1129; 29 CFR 1917.92

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) is continuing the process of removing or revising provisions in its standards that are out of date, duplicative, unnecessary, or inconsistent. The Agency is proposing these changes to reduce the burden imposed on the regulated community by these provisions and to further respond to a March 4, 1995 memorandum from the President. In this document, substantive changes are proposed for standards that will revise or eliminate duplicative, inconsistent, or unnecessary regulatory requirements without diminishing employee protections. Phase I of this Standards Improvement process was completed in June 1998 (63 FR 33450).

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB81

2149. • SPRAY APPLICATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.107; 29 CFR 1910.94(c), (d)

Legal Deadline: None

Abstract: The plain language effort will revise one of OSHA's most complex and out-of-date rules, those for Spray finishing using flammable and combustible liquids (29 CFR 1010.107). This standard addresses the hazards associated with the use of spray areas or spray booths to apply flammable or combustible liquids to manufactured equipment and objects. It includes specifications for the design of spray booths and areas, and for the use of these booths and areas and associated equipment. The plain language rule will be titled "Spray Applications." This rule was originally listed under RIN ı 1218-AB55.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB84

2150. • SIGNS, SIGNALS, AND BARRICADES

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

DOL—OSHA

Proposed Rule Stage

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.200; 29 CFR 1926.201; 29 CFR 1926.202; 29 CFR 1926.203

Legal Deadline: None

Abstract: OSHA's standard on Signs, Signals and Barricades (Subpart G-29 CFR 1926.200 through .203) currently incorporates the American National Standards Institute's 1971 industry consensus standard ANSI D6.1-1971. The ANSI organization has withdrawn its 1971 standard and the U.S. Department of Transportation has issued an updated standard, A Manual on Uniform Traffic Control Devices(MUTCD). For this reason, OSHA intends to issue a proposal to update Subpart G to incorporate the requirements of the Department of Transportation's MUTCD into the OSHA rule.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB88

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Final Rule Stage

2151. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)

Regulatory Plan: This entry is Seq. No. 84 in Part II of this issue of the **Federal Register**.

RIN: 1218–AA65

2152. RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES (SIMPLIFIED INJURY/ILLNESS RECORDKEEPING REQUIREMENTS)

Regulatory Plan: This entry is Seq. No. 85 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB24

2153. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

Regulatory Plan: This entry is Seq. No. 86 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB46

2154. EMPLOYER PAYMENT FOR PERSONAL PROTECTIVE EQUIPMENT

Regulatory Plan: This entry is Seq. No. 87 in Part II of this issue of the **Federal Register**.

RIN: 1218–AB77

2155. CONSULTATION AGREEMENTS

Priority: Other Significant

Legal Authority: 29 USC 670

CFR Citation: 29 CFR 1908

Legal Deadline: None

Abstract: OSHA proposed an amendment to 29 CFR 1908, the Agency's regulations governing consultation agreements, to provide for full employee involvement in the consultative process in line with the President's directive to enhance worker participation in the OSH Act's section 7(c)(1) consultation program (The New OSHA: Reinventing Worker Safety and Health, May 1995).

Timetable:

Action	Date	FR Cite
NPRM	07/02/99	64 FR 35972
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paula O. White, Director, Directorate of Federal State Operations, Department of Labor, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2213

RIN: 1218–AB79

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Long-Term Actions

2156. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941; 40 USC 333

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: In January 1998, OSHA published the final respiratory protection standard, except for the reserved provision on assigned protection factors (APFs). APFs are numbers that estimate the degree of performance of the various classes of respirators. OSHA has developed a statistical model for analyzing available data that will be used to derive APFs.

Accordingly, OSHA will request further public comment on the analyses conducted using that model, the ANSI Z88.2-1992 APFs, the NIOSH Respirator Decision Logic APFs and other relevant methods for deriving APFs. This will assure that OSHA receives and fully considers public input before issuing final APFs. OSHA expects to complete the rulemaking on APFs in 2000.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20803
ANPRM Comment Period End	09/13/82	
NPRM	11/15/94	59 FR 58884
Final Rule	01/08/98	63 FR 1152
Final Rule Effective	01/08/98	
Final Rule - Assigned Protection Factors	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AA05

2157. LONGSHORING AND MARINE TERMINALS (PARTS 1917 AND 1918) — REOPENING OF THE RECORD (VERTICAL TANDEM LIFTS (VTLS))

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 941; 29 USC 655

CFR Citation: 29 CFR 1918.11; 29 CFR 1918.85

Legal Deadline: None

Abstract: OSHA issued a final rule on Longshoring on July 25, 1997 (62 FR 40142). However, in that rule, the Agency reserved provisions related to vertical tandem lifts. Vertical tandem lifts (VTLs) involve the lifting of two single intermodal containers, secured together with twist locks, at the same time. Because some commenters to the record questioned the safety of allowing such tandem lifts and the record does not contain adequate information to allow the Agency to address this issue, OSHA is gathering additional information. The Agency will make a decision about whether to proceed with rulemaking or to address this issue through a compliance directive in early 2000.

Timetable:

Action	Date	FR Cite
NPRM	06/06/94	59 FR 28594
NPRM Comment Period End	09/23/94	
Final Rule on Longshoring	07/25/97	62 FR 40142
Public Meeting	01/27/98	62 FR 52671
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AA56

2158. SCAFFOLDS IN SHIPYARDS (PART 1915 — SUBPART N)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.71

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both shipyard and general industry standards, and this project aimed at establishing a vertical standard for shipyard employment by addressing six shipyard employment safety standards (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). Final rules have been issued on two of these proposals: Personal Protective Equipment and Confined Spaces. The remaining subparts in part 1915 were categorized as Phase II of the consolidation project (including general working conditions and fire protection).

This standard will revise the existing shipyard employment standards covering scaffolds and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. It will develop, in part, performance-oriented standards, address current gaps in coverage, and address new technologies. About 7500 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48182
NPRM Comment Period End	02/27/89	
Reopened Record Comment Period Ended 6/13/94	04/12/94	59 FR 17290
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AA68

2159. ACCESS AND EGRESS IN SHIPYARDS (PART 1915, SUBPART E) (SHIPYARDS: EMERGENCY EXITS AND AISLES)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: In the 1980s, OSHA embarked on a project to update and consolidate OSHA standards that applied to the shipbuilding, shiprepair, and shipbreaking industry. Shipyard employers are subject to both the shipyard and general industry standards and this project aimed at establishing a vertical standard for shipyard employment by addressing six subparts (Confined Spaces, Welding, Access/Egress, Personal Protective Equipment, Fall Protection and Scaffolding). Proposals on these subparts were issued in November 1988 (53 FR 48092). Final rules have been issued on two of these proposals: Personal Protective Equipment and Confined Spaces. The remaining subparts in part 1915 were categorized as Phase II of the consolidation project (including General Working Conditions and Fire Protection).

This standard will revise the existing shipyard employment standards covering access and egress and will consolidate all related and applicable 29 CFR part 1910 provisions into 29 CFR part 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions. About 75,000 workers are potentially exposed to these hazards annually.

Timetable:

Action	Date	FR Cite
NPRM	11/29/88	53 FR 48130
NPRM Comment Period End	02/27/89	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AA70

2160. GLYCOL ETHERS: 2-METHOXYETHANOL, 2-ETHOXYETHANOL, AND THEIR ACETATES: PROTECTING REPRODUCTIVE HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 29 USC 651

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1031

Legal Deadline: None

Abstract: On May 20, 1986, the Environmental Protection Agency (EPA) issued a report to OSHA, under section 9(a) of the Toxic Substance Control Act, stating that EPA had reasonable basis to conclude that the risk of injury to worker health from exposure to four glycol ethers during their manufacture, processing and use was unreasonable, and that this risk could be prevented or reduced to a significant extent by OSHA regulatory action. EPA gave OSHA 180 days in which to respond to its report. OSHA published its response on December 11, 1986, stating that OSHA had preliminarily concluded that occupational exposures to the subject glycol ethers at the current OSHA permissible exposure limits may present significant risks to the health of workers. OSHA published an Advance Notice of Proposed Rulemaking (ANPRM) on April 2, 1987 (52 FR 10586). OSHA used the information received in response to the ANPRM, as well as other information and analysis, and published a proposal on March 23, 1993 (58 FR 15526), that would reduce the permissible exposure limits for four glycol ethers and provide protection for approximately 46,000 workers exposed to these substances. OSHA is working toward promulgation of a final rule in 2000.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/87	52 FR 10586
ANPRM Comment Period End	07/31/87	
NPRM	03/23/93	58 FR 15526
NPRM Comment Period End	06/07/93	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AA84

2161. ACCREDITATION OF TRAINING PROGRAMS FOR HAZARDOUS WASTE OPERATIONS (PART 1910)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); PL 101-549 (November 15, 1990); 5 USC 552(a); 5 USC 553

CFR Citation: 29 CFR 1910.121

Legal Deadline: None

Abstract: The Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499) established the criteria under which OSHA was to develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply with the law's requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120).

On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), Congress amended section

126(d)(3) of SARA to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing this issue. OSHA received public comments following the issuance of the proposal. OSHA also reopened the record in June 1992 to allow additional public comment on an effectiveness of training study that the Agency had conducted. OSHA has also developed nonmandatory guidelines to further address minimum training criteria.

Timetable:

Action	Date	FR Cite
NPRM	01/26/90	55 FR 2776
NPRM Comment Period End	04/26/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB27

2162. INDOOR AIR QUALITY IN THE WORKPLACE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA was petitioned in May 1987 by Action on Smoking and Health (ASH), Public Citizen, and the American Public Health Association to issue an emergency temporary standard on environmental tobacco smoke (ETS) in the workplace. In March 1992, OSHA was petitioned by the AFL-CIO to establish workplace IAQ standards. In December 1992, ASH again petitioned for rulemaking on ETS.

Every day, more than 20 million American workers face an unnecessary health threat because of indoor air pollution in the workplace. Thousands of heart disease deaths, hundreds of lung cancer deaths, and many cases of respiratory disease, Legionnaire's disease, asthma, and other ailments are estimated to be linked to this occupational hazard. EPA estimates that 20 to 35 percent of all workers in modern mechanically ventilated buildings may experience air-quality related signs and symptoms.

After reviewing and analyzing available information, OSHA published a proposed rule on April 5, 1994. The proposal would require employers to write and implement indoor air quality compliance plans that would include inspection and maintenance of current building ventilation systems to ensure they are functioning as designed. In buildings where smoking is allowed, the proposal would require designated smoking areas that would be separate, enclosed rooms where the air would be exhausted directly to the outside. Other proposed provisions would require employers to maintain healthy air quality during renovation, remodeling, and similar activities. The provisions for indoor air quality would apply to 70 million workers and more than 4.5 million nonindustrial indoor work environments, including schools and training centers, offices, commercial establishments, health care facilities, cafeterias and factory break rooms. ETS provisions would apply to all 6 million industrial and nonindustrial work environments under OSHA's jurisdiction. OSHA preliminarily estimates that the proposed standard will prevent a substantial number of air-quality related illnesses per year.

Timetable:

Action	Date	FR Cite
Request for Information	09/20/91	56 FR 47892
NPRM	04/05/94	59 FR 15968
NPRM Comment Period End	08/13/94	59 FR 30560
Record Closed	02/09/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB37

2163. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector PL 104–4.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In July 1993, the Occupational Safety and Health Administration (OSHA) was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m3) as an eight-hour, time-weighted average (TWA). This would represent a significant reduction in the current PEL. The current PEL in general industry is found in 29 CFR 1910.1000 Table Z and is a ceiling value of 100 ug/m3, measured as chromium (VI) and reported as chromic anhydride (CrO3). The amount of chromium (VI) in the compound equates to a PEL of 52 ug/m3. This ceiling limit applies to all forms of hexavalent chromium (VI), including chromic acid and chromates, lead chromate, and zinc chromate. The current PEL for chromium (VI) in the construction industry is 100 ug/m3 as a TWA PEL, which also equates to a PEL of 52 ug/m3. After reviewing the petition, OSHA denied the request for an ETS and initiated a section 6(b) rulemaking.

The major illnesses associated with occupational exposure to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The

major uses of hexavalent chromium are: as a structural and anti-corrosive element in the production of stainless steel, ferrochromium, iron and steel, and in electroplating, welding and painting. Work on a proposed rule continues.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB45

2164. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.36

Legal Deadline: None

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment. One million construction workers are exposed to the hazards of confined space entry each year. OSHA intends to issue a proposed rule addressing this construction industry hazard next year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB47

2165. GENERAL WORKING CONDITIONS FOR SHIPYARD EMPLOYMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1915, subpart F

Legal Deadline: None

Abstract: During the 1980s, OSHA embarked on a project to update and consolidate the various OSHA shipyard standards that were applied in the shipbuilding, shiprepair, and shipbreaking industry. Publication of a proposal addressing general working conditions in shipyards is part of this project. The operations addressed in this rulemaking relate to housekeeping, illumination, sanitation, first aid, and lockout/tagout. About 75,000 workers are exposed annually to these hazards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB50

2166. METALWORKING FLUIDS: PROTECTING RESPIRATORY HEALTH

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b)(1); 29 USC 656(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: In December 1993, the International Union, United Automobile Aerospace and Agricultural Implement Workers of America, petitioned OSHA to take emergency regulatory action to protect workers from the risks of occupational cancers and respiratory illnesses due to exposure to metalworking fluids. In response to the petition, OSHA established a 15-member Standards Advisory Committee to make recommendations to OSHA regarding the need for a standard, a guideline, or other appropriate response to the dangers of occupational exposures to metalworking fluids. The Committee recommended that OSHA proceed with a rulemaking on metalworking fluids under section 6(b)(5) of the Act. Workers exposed to these fluids are at risk of developing respiratory diseases, including hypersensitivity pneumonitis, occupational asthma, as well as lung cancer and dermatoses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950

Fax: 202 693-1678

RIN: 1218–AB58

2167. FLAMMABLE AND COMBUSTIBLE LIQUIDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.106

Legal Deadline: None

Abstract: This project responds to the President's Executive Memo of June 1998 regarding the use of plain language in Federal regulations. With this project, OSHA is initiating rulemaking that will revise the regulations contained in 29 CFR 1910.106 addressing flammable and combustible liquids storage. The purpose of this rulemaking will be to restate this standard in plain language.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The Flammable and Combustible Liquids Plain Language Revision Project, 29 CFR 1910.106, was originally one of four projects listed under RIN 1218-AB55.

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB61

2168. REVOCATION OF CERTIFICATION RECORDS FOR TESTS, INSPECTIONS, AND TRAINING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 29 USC 655(b); 40 USC 333; 33 USC 941

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926; 29 CFR 1917; 29 CFR 1918

Legal Deadline: None

Abstract: Various OSHA standards require employers to prepare and maintain records to certify that they have tested or inspected certain types of equipment or machinery, or that they have provided training to employees. OSHA is considering whether to propose to revoke some of these certification provisions, in order to reduce paperwork burdens on employers. Such a proposal would not change the substantive requirements for employers to perform the testing, inspecting, and training.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB65

2169. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT IN THE CONSTRUCTION INDUSTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910.136; 29 CFR 1910.137; 29 CFR 1910.269; 29 CFR 1926.97; 29 CFR 1926.950 to 968

Legal Deadline: None

Abstract: The annual fatality rate for power line workers is over 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 20 years old. OSHA is developing a revision of this standard that will prevent many of these fatalities, that will add flexibility to the standard, and that will update and streamline the standard. In addition, OSHA intends to amend the corresponding standard for general industry so that requirements for work performed during maintenance of electric power transmission and distribution installations are the same as those for similar work in construction.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB67

2170. SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 29 USC 657; 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: In response to industry requests and in response to the recommendation of OSHA's Advisory Committee on Construction Safety and Health (ACCSH), OSHA has determined that the current safety and health program standards contained in subpart C of the construction standards, 29 CFR 1926, need to be revised to provide construction employers with a more comprehensive set of requirements to assist them in establishing safety and

health programs. Safety and health programs have proven to be an effective, systematic method of identifying and correcting existing workplace safety and health hazards, as well as preventing those that might arise in the future.

After its April 1996 meeting, ACCSH began to develop language and concepts to submit to OSHA for consideration as a proposed rule. Over 130 stakeholders representing small, medium and large contractors and host employers and stakeholders (such as petroleum producers; contractor associations; labor unions; other governmental agencies; and non-profit institutions) have participated in these ACCSH discussions.

Although OSHA is still developing the details of a new proposed safety and health program standard, the proposal will require employers to set up a program for managing workplace safety and health in order to reduce the incidence of occupational deaths, injuries, and illnesses. The standard will not impose duties on employers to control hazards that they are not already required to control. Instead, the standard will provide a basic framework for systematically identifying and controlling workplace hazards already covered by the OSH Act under section 5(a)(1) and current OSHA standards.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: A separate standard is being developed for general industry (29 CFR 1910) and the maritime (29 CFR 1915, 1917 and 1918) industries (see entry for RIN 1218-AB41).

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB69

2171. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES: LOCKOUT)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926

Legal Deadline: None

Abstract: OSHA issued a general industry rule on September 1, 1989 (54 FR 36644) to address the hazards posed to workers by the failure to control hazardous energy (i.e., the failure to properly lock out or tag out machines and equipment) during repair and servicing activities. OSHA has not yet issued a standard to prevent these accidents during equipment repair and maintenance activities in the construction industry. Four million workers annually may be exposed to this hazard in construction workplaces.

Construction sites often do not have effective lockout/tagout procedures to control hazardous energy because of several factors, all associated with the nature of the construction industry. These factors basically relate to the types of machines and equipment found in construction; the makeup of the industry (i.e., employment is relatively "short term," lasting only as long as the length of the current project); multiple employers having different employer/employee relationships are present at the same site; and "in-the-field" maintenance activity is usually temporary. OSHA intends to issue a proposal to address this hazard in this industry.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB71

2172. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Beryllium is a lightweight metal that is used for nuclear weapons, for atomic energy, and for metal alloys such as beryllium-copper and beryllium-aluminum. The metal alloys are used in dental appliances, golf clubs, non-sparking tools, wheel chairs, etc. Beryllium is also used in the ceramics industry. OSHA's current permissible exposure limits for beryllium are: an 8-hour TWA of 2 ug/m3; a 5 ug/m3 ceiling concentration not to be exceeded over a 30-minute period; and a 25 ug/m3 maximum peak exposure never to be exceeded.

In 1977, OSHA proposed to reduce the 8-hour TWA exposure to beryllium from 2 ug/m3 to 1 ug/m3 based on evidence that beryllium caused lung cancer in exposed workers. A hearing followed the proposal, but a final standard was never published. Since the previous OSHA hearing, NIOSH has updated its studies on beryllium exposed workers. The study results again demonstrate a significant excess of lung cancer among exposed workers. The International Agency for Research on Cancer (IARC) has concluded that beryllium is a carcinogen in humans (Category I).

In addition to lung cancer, a new OSHA beryllium standard would address chronic beryllium disease (CBD), a fatal disease involving lung fibrosis and other organ toxicity. Based on several recent studies involving workers employed in the beryllium ceramics industry, in beryllium production, and in Department of Energy facilities, there is now evidence that very low level beryllium exposure (less than 0.5 ug/m3) may cause CBD. A new medical surveillance tool is now available that allows for the early

detection of workers with CBD prior to any signs of clinical disease or symptoms. Beryllium-sensitized workers convert to CBD at an estimated rate of about 10 percent per year. This "beryllium sensitization" test is being used in clinical studies of current and past exposed workers. Recent study results indicate that between 5 percent and 15 percent of beryllium-exposed workers are sensitized and will eventually develop CBD.

In the past year, OSHA was petitioned to issue an emergency temporary standard (ETS) by the Paper, Allied-Industrial, Chemical and Energy Workers Union(PACE) to protect workers from developing Chronic Beryllium Disease(CBD) and lung cancer as a result of occupational beryllium exposure. The petition was denied, but the Agency is initiating rulemaking under Section 6(b)(5) to protect beryllium-exposed workers from contracting these diseases.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB76

2173. CONSOLIDATION OF RECORDS MAINTENANCE REQUIREMENTS IN OSHA STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 40 USC 333; 29 USC 655; 33 USC 941; 5 USC 553

CFR Citation: 29 CFR 1910; 29 CFR 1915 to 1918; 29 CFR 1926; 29 CFR 1928

Legal Deadline: None

Abstract: OSHA is initiating a rulemaking to simplify and consolidate many of its requirements for employers to maintain records of training, testing, medical surveillance, and other activities conducted to comply with OSHA health and safety standards. These records maintenance requirements appear in many OSHA standards and are codified at 29 CFR 1910 (General Industry), 29 CFR 1915-1918 (Maritime), 29 CFR 1926 (Construction), and 29 CFR 1928 (Agriculture). The final rule, when published, will facilitate compliance with these requirements and reduce the amount of paperwork associated with these records, but will leave employee protections unchanged.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB78

2174. WALKING WORKING SURFACES AND PERSONAL FALL PROTECTION SYSTEMS (1910) (SLIPS, TRIPS AND FALL PREVENTION)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655 (b)

CFR Citation: 29 CFR 1910, subparts D and I

Legal Deadline: None

Abstract: For many years, OSHA has had under consideration standards for walking working surfaces and personal fall protection systems. In 1990, OSHA proposed (55 FR 13360) a rule addressing slip, trip, and fall hazards and establishing requirements for personal fall protection systems. OSHA is analyzing the record to determine if it is appropriate to repropose the standard or to issue a final rule based on the existing record.

Timetable:

Action	Date	FR Cite
NPRM	04/10/90	55 FR 13360
NPRM Comment Period End	08/22/90	
Hearing	09/11/90	55 FR 29224
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB80

2175. • EXIT ROUTES

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 655(b); 5 USC 353

CFR Citation: 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline: None

Abstract: This plain language effort will revise one of OSHA's most complex and out-of-date standards, Means of Egress, codified at 29 CFR 190.38. This standard addresses exit routes in general industry workplaces, which are essential to guide employees to safety in an emergency. The plain language rule will be titled "Exit Routes." This rule was originally listed under RIN 1218-AB55.

Timetable:

Action	Date	FR Cite
NPRM	09/10/96	61 FR 47712
Public Hearing	04/29/97	62 FR 9402
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB82

2176. • OIL AND GAS WELL DRILLING AND SERVICING

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.270

Legal Deadline: None

Abstract: OSHA intends to propose a standard for the oil and gas well drilling and servicing industry. In 1982, OSHA proposed a standard for the industry. OSHA believed at that time that the OSHA general industry standard did not adequately address the hazards of oil and gas well drilling and servicing and that this lack of protection contributed to a high number of deaths and injuries in the industry. No final action was taken with respect to the proposed standard and, therefore, there is still no specific OSHA standard for the oil and gas well drilling and servicing industry. OSHA intends to repropose in the near future, because changes in technology, conditions in the industry, and workforce demographics necessitate the issuance of a new proposal.

The oil and gas well drilling and servicing industry is involved in extracting underground deposits of oil and gas and in maintaining the equipment used to bring the oil and gas to the surface. In 1997, there were 85 deaths resulting from accidents in the industry, caused by such events as falling from equipment/platforms to another level, being struck or crushed by equipment, and being asphyxiated. OSHA has begun collecting information and data with respect to the industry and will soon hold stakeholder meetings to provide an early opportunity to those who may be impacted by a standard to discuss their ideas on the rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB83

2177. • PREVENTION OF NEEDLESTICK AND OTHER SHARPS INJURIES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1030

Legal Deadline: None

Abstract: In 1998, OSHA published a Request for Information (RFI) requesting information from the public on the incidence of needlestick and sharps injuries among workers in healthcare, nursing home, and other related work settings; the availability and extent of use of safer medical devices to prevent such injuries; the potential cost and feasibility implications of relying on such devices; how best to evaluate the efficacy of these devices and encourage worker acceptance of them, and other issues. Workers receiving such injuries may contract such deadly diseases as Hepatitis B, Hepatitis C, or Acquired Immune Deficiency Syndrome (AIDS) if the needle or sharp causing the injury is contaminated by blood or other potentially infectious material from a patient or client with bloodborne disease. OSHA received 396 responses to the RFI. It has been estimated that there are 590,000 contaminated needlestick and sharps injuries every year. OSHA decided to take several actions in response to the information received: issuance of the RFI summary report; revision of the compliance directive (CPL 2-2.44D) for the Bloodborne Pathogens standard (29 CFR 1910.1030); and proposed revision of the Bloodborne Pathogens standard to clarify that, where feasible, safer medical devices must be used to satisfy the requirements of that paragraph: "Engineering and work practice controls shall be used to eliminate or minimize employee exposure." The revised compliance directive will be issued by the end of 1999. OSHA intends to issue the proposed rule in the Spring of 2001, and to hold stakeholder meetings in the summer of 2000.

Timetable:

Action	Date	FR Cite
NPRM	03/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3718, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-1950
Fax: 202 693-1678

RIN: 1218–AB85

2178. • SANITATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 655; 40 USC 333

CFR Citation: 29 CFR 1926.51

Legal Deadline: None

Abstract: On October 7, 1998, the Advisory Committee on Construction Safety and Health(ACCSH) recommended that OSHA consider proposed revisions to the construction sanitation standard (29 CFR 1926.51). OSHA believes that the ACCSH recommendation raises important issues regarding the type of sanitation facilities needed for construction workers. OSHA intends to propose revisions to the sanitation standard, including the need to require washing facilities, gender-separate and lockable toilet facilities, and (where other OSHA standards require change rooms) gender-separate and lockable change facilities.

DOL—OSHA

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Russell B. Swanson, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N3468, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2020
Fax: 202 693-1689
Email: bswanson@dol.gov

RIN: 1218–AB87

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Completed Actions

2179. PLAIN LANGUAGE REVISION OF EXISTING STANDARDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 655(b); 5 USC 553

CFR Citation: 29 CFR 1910.107; 29 CFR 1910.94(c); 29 CFR 1910.94(d); 29 CFR 1910.35; 29 CFR 1910.36; 29 CFR 1910.37; 29 CFR 1910.38

Legal Deadline: None

Abstract: The Occupational Safety and Health Administration (OSHA) adopted its initial package of workplace safety and health standards in the 1970's. Many of these standards have been identified by the regulated community as being overly complex, difficult to read and follow, and out of date with current technology.

OSHA is initiating separate rulemakings to revise three of the agency's most complex and out-of-date standards. The purpose of these rulemakings is to simplify and clarify these standards and to write them in "plain language," as directed by the President's report and the June 1998 Executive Memorandum on Plain Language. The first of these rulemakings, involving the Standard on Dipping and Coating Operations, was completed in March, 1999. The other two rulemakings address OSHA's Standards on Means of Egress and Spray Finishing Using Flammable and Combustible Liquids, which formerly appeared together in the Agenda under RIN 1218-AB55, have been separated in this agenda and appear under RIN 1218-AB82 (Exit Routes) and RIN 1218-AB84, Spray Applications.

Timetable:

Action	Date	FR Cite
NPRM Exit Routes (Means of Egress)	09/10/96	61 FR 47712
Hearing on Exit Routes	04/29/97	62 FR 9402
Final Action on Dipping and Coating Operations	03/23/99	64 FR 13897
Final Action Effective Dipping and Coating Operations	04/22/99	
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB55

2180. FIRE BRIGADES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1910.156

Legal Deadline: None

Abstract: This entry is being withdrawn from the Regulatory Agency because OSHA no longer intends to pursue this rulemaking action.

Timetable:

Action	Date	FR Cite
Withdrawn	08/30/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marthe B. Kent, Acting Director, Directorate of Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Avenue NW, FP Building, Washington, DC 20210
Phone: 202 693-2222
Fax: 202 693-1678

RIN: 1218–AB64

Department of Labor (DOL)
Office of the Assistant Secretary for Veterans' Employment & Training (ASVET)

Proposed Rule Stage

2181. • ANNUAL REPORT FOR FEDERAL CONTRACTORS

Priority: Other Significant

Legal Authority: PL 105-339 Employment Opportunities Act

CFR Citation: 41 CFR 61

Legal Deadline: None

Abstract: The Veterans' Employment and Training Service is proposing to issue regulations implementing changes in the reporting requirements as stated in Veterans Employment Opportunity Act of 1998. The Act requires all Federal contractors and sub-contractors with contracts in the amount of $25,000 or more to report their efforts toward the hiring of qualified veterans. The Act also added an additional category of veterans, "other veteran", to be eligible for employment by Federal

DOL—ASVET **Proposed Rule Stage**

contractors. This proposal will help VETS assist in providing qualified veterans to maximize employment and training opportunities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Agency Contact: Robert Wilson, Chief, Compliance Programs, VETS, Department of Labor, Office of the Assistant Secretary for Veteran's Employment & Training, S-1316, 200 Constitution Avenue, NW, Washington, DC 20210
Phone: 202 693-4717
Fax: 202 693-4755

RIN: 1293–AA07

[FR Doc. 99–25669 Filed 11–19–99; 8:45 am]
BILLING CODE 4510–23–P

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XIII

Department of State

Semiannual Regulatory Agenda

Department of State (STATE)

DEPARTMENT OF STATE

22 CFR Ch. I

Public Notice 2885

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of State.

ACTION: Semiannual regulatory agenda.

SUMMARY: Consistent with the Regulatory Flexibility Act of 1980, 5 U.S.C. 602, and OMB guidance to the Department of State pursuant to Executive Order 12866, the October 1999 agenda of the Department of State is set forth below. The purpose of this publication is to provide information to the public on the Department's regulatory plans. Consistent with OMB guidance, this agenda includes active continuing items from prior agendas. It also includes three agenda items from the former United States Information Agency (USIA).

FOR FURTHER INFORMATION CONTACT: D. Stephen Mathias, Assistant Legal Adviser for Legislation and General Management, Department of State, Room 5425, 2201 C Street NW., Washington, DC 20520-6310, telephone (202) 647-5154.

Dated : September 7, 1999.

Bonnie Cohen,

Under Secretary of State for Management.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
2182	Termination of DV Registration at NVC	1400-AA98
2183	Definition of Filing an Application	1400-AB05

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2184	Foreign Prohibitions on Longshore Work by U.S. Nationals	1400-AA34
2185	Revision to Department of State Acquisition Regulation (DOSAR)	1400-AB06

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2186	Transit Without Visa (TWOV)	1400-AA48
2187	B-1 Visa Classification	1400-AA54
2188	Revision of U.S. Munitions List	1400-AA64
2189	Addition of Countries Eligible to Participate in the Visa Waiver Pilot Program	1400-AA75
2190	Inadmissible Grounds: Public Charge	1400-AA79
2191	Documentation of Nonimmigrants: Border Crossing Identification Cards	1400-AA90
2192	Addition of "S" Nonimmigrant Visa Classification	1400-AA91
2193	Visa Technical Corrections	1400-AA93
2194	Authority To Issue Visas: Issuance of O&P Visas in the United States	1400-AA96
2195	Nonimmigrant Visa Fees	1400-AA97
2196	Delegation of INS Authority to DOA To Approve H-2A Petitions for Agricultural Laborers	1400-AB01
2197	Q2 Visas for Irish Nationals Participating in Work/Training Programs	1400-AB02

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2198	Establishing of Registry in State Department for Information About Execution of International Wills	1400-AA56
2199	Hague Intercountry Adoption Convention Implementation	1400-AA88
2200	Cultural Exchange Program, Au Pair Regulation — 22 CFR 514	1400-AB08
2201	Cultural Exchange Program, Short-Term Scholar — 22 CFR 514	1400-AB09
2202	Cultural Exchange Program, Summer Work/Travel — 22 CFR 514	1400-AB10

STATE

Completed Actions

Sequence Number	Title	Regulation Identification Number
2203	Revision to Department of State Acquisition Regulation (DOSAR)	1400-AA71
2204	International Traffic in Arms Regulations	1400-AA95
2205	Temporary Visitors—Acceptance of Honoraria and Incidental Expenses	1400-AA99
2206	Aliens Ineligible To Receive Visas	1400-AB00
2207	Definition of Accompanying	1400-AB03
2208	Fees for Border Crossing Cards	1400-AB04

Department of State (STATE)

Prerule Stage

2182. TERMINATION OF DV REGISTRATION AT NVC

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.83

Legal Deadline: None

Abstract: This regulatory action amends regulations to allow consular personnel to terminate DV registration at NVC.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AA98

2183. • DEFINITION OF FILING AN APPLICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 40.1; 22 CFR 42.71

Legal Deadline: None

Abstract: This rulemaking changes the procedures for payment of the immigrant visa fees.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AB05

Department of State (STATE)

Proposed Rule Stage

2184. FOREIGN PROHIBITIONS ON LONGSHORE WORK BY U.S. NATIONALS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1288(d)

CFR Citation: 22 CFR 89 (Revision)

Legal Deadline: Final, Statutory, December 31, 1998, Legal deadline reflects the statutory requirement that the list be updated on an annual basis.

Abstract: The above-mentioned statute requires the Secretary of State to compile, and update annually through notice-and-comment rulemaking procedures, a list, by particular longshore activity, of countries where performance of such activity is prohibited by law, regulation, or in practice in the country concerned. According to the statute cited above, the Attorney General will use this list for enforcing restrictions on work performed by crewmembers of vessels from such countries. Compilation of the list itself does not involve any significant costs and is based upon information being provided to the Department of State by U.S. diplomatic missions overseas as well as by the public. Questions regarding the policy justification for the list and its use are best directed to the Departments of Labor, Transportation, and Justice.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/30/91	56 FR 24338
Final Rule	12/27/91	56 FR 66970
Final Rule Effective	01/01/92	
Final Rule Correction	01/04/92	57 FR 1384

STATE

Proposed Rule Stage

Updated List of Countries
NPRM 11/04/1992 (57 FR 52600)
NPRM Comment Period End 12/04/1992
Final Rule 12/13/1993 (58 FR 65118)
Final Rule Effective 12/13/1993
NPRM 03/24/1994 (59 FR 13904)
NPRM Comment Period End 04/25/1994
NPRM 11/24/1995 (60 FR 58026)
NPRM Comment Period End 12/26/1995
NPRM Comment Period Extended to 01/26/1996 (60 FR 65609)
NPRM Comment Period Extended to 02/02/1996 (61 FR 2915)
NPRM 06/06/1996 (61 FR 29115)
Final Rule 06/13/1996 (61 FR 29941)
NPRM 06/00/2000
Final Rule 12/00/2000

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: In accordance with the mandate to maintain annually the list of countries, the Department will issue Final Rules to amend the list as appropriate.

Agency Contact: Stephen Miller, Office of Maritime and Land Transport, Bureau of Economic and Business Affairs, Department of State, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-6961

RIN: 1400–AA34

2185. • REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: This revision to the DOSAR will make minor changes to conform the DOSAR to continuing changes in the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Gladys G. Gines, Procurement Analyst, Department of State, Room 603, Office of the Procurement Executive, SA-6, Washington, DC 20522-0602
Phone: 703 516-1691
Fax: 703 875-6155
Email: ginesgg@state.gov

RIN: 1400–AB06

Department of State (STATE)

Final Rule Stage

2186. TRANSIT WITHOUT VISA (TWOV)

Priority: Substantive, Nonsignificant

Legal Authority: Section 212(d)(4)(C) of the Immigration & Nationality Act (INA)

CFR Citation: 22 CFR 41.2(i)

Legal Deadline: None

Abstract: Under the provision of section 212(d)(4)(C), the Secretary of State and the Attorney General acting jointly have the authority to waive nonimmigrant visa requirements for aliens in continuous and direct transit through the United States. Yugoslavia was removed from the list of countries participating in this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/16/93	58 FR 43438
Interim Final Rule Comment Period End	09/15/93	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA48

2187. B-1 VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-649, Immigration Act of 1990

CFR Citation: 22 CFR 41.31

Legal Deadline: NPRM, Statutory, October 1, 1991.

Abstract: B Visa Regulation revisions, which incorporate 9FAM notes and INS OI, reflect changes in interpretation of B Visa classes resulting from enactment of Immigration and Naturalization Act of 1990 and MATINA.

Timetable:

Action	Date	FR Cite
NPRM	07/26/93	58 FR 40024
NPRM Comment Period Extended to 11/23/93	09/23/93	58 FR 49456
NPRM Comment Period End	09/24/93	
NPRM Comment Period Extended to 12/06/93	11/23/93	58 FR 61856
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA54

2188. REVISION OF U.S. MUNITIONS LIST

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2778

STATE

Final Rule Stage

CFR Citation: 22 CFR 121.1; 22 CFR 121.16

Legal Deadline: None

Abstract: Review and revision as appropriate of USML on compliance with AECA.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Philip Rhoads, Chief, Compliance and Enforcement Branch, Department of State, Room 200, SA-6, Washington, DC 20522-0602
Phone: 703 875-6650
Fax: 703 875-5663

RIN: 1400–AA64

2189. ADDITION OF COUNTRIES ELIGIBLE TO PARTICIPATE IN THE VISA WAIVER PILOT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.2(l)

Legal Deadline: None

Abstract: Addition of countries eligible to participate in the Visa Waiver Pilot Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/99	64 FR 42032
Interim Final Rule Comment Period End	10/04/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA75

2190. INADMISSIBLE GROUNDS: PUBLIC CHARGE

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 551; 8 USC 1104

CFR Citation: 22 CFR 40.41

Legal Deadline: None

Abstract: This rule incorporates provisions making petitioning sponsor contractually responsible.

Timetable:

Action	Date	FR Cite
ANPRM	12/29/97	62 FR 67563
ANPRM Comment Period End	02/27/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Stephen K. Fischel, Office Director, Legislation and Regulation and Advisory Assistance, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0113
Phone: 202 663-1204
Fax: 202 663-3898

RIN: 1400–AA79

2191. DOCUMENTATION OF NONIMMIGRANTS: BORDER CROSSING IDENTIFICATION CARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 104

CFR Citation: 22 CFR 41.2(a); 22 CFR 41.32; 22 CFR 41.122

Legal Deadline: None

Abstract: This regulation implements sec. 104 of PL 104-208 which requires the inclusion of a machine-readable identifier in Border Crossing cards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/07/98	63 FR 16892
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AA90

2192. ADDITION OF "S" NONIMMIGRANT VISA CLASSIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.83

Legal Deadline: None

Abstract: Implements sec. 130003 of Pub. L. 103-322 by adding a new nonimmigrant visa classification (S) under INA 101(a)(15)(S). This visa classification provides for the admission of certain alien witnesses and informants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/24/96	61 FR 1837
Interim Final Rule Comment Period End	03/25/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AA91

2193. VISA TECHNICAL CORRECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 42.21

Legal Deadline: None

Abstract: This regulation makes technical corrections to 22 CFR parts 40 and 42. RIN 1400-AB03 has been merged with this rulemaking.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106

STATE — **Final Rule Stage**

Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AA93

2194. AUTHORITY TO ISSUE VISAS: ISSUANCE OF O&P VISAS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.111

Legal Deadline: None

Abstract: Authorizes officers in the visa office of the Department of State to revalidate O&P visas in the United States.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AA96

2195. NONIMMIGRANT VISA FEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-177, sec 410; 8 USC 1104

CFR Citation: 22 CFR 41.107

Legal Deadline: None

Abstract: This regulation reduces the fee for border crossing cards for aliens under age 15, and removes the fees for U.N. Observer Mission personnel.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AA97

2196. DELEGATION OF INS AUTHORITY TO DOA TO APPROVE H-2A PETITIONS FOR AGRICULTURAL LABORERS

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1104

CFR Citation: 22 CFR 41.53

Legal Deadline: None

Abstract: This regulatory action gives the Department of State authority to issue H-2A visas based on petitions approved by the Department of Agriculture.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AB01

2197. Q2 VISAS FOR IRISH NATIONALS PARTICIPATING IN WORK/TRAINING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-319; 8 USC 1104

CFR Citation: 22 CFR 41.57

Legal Deadline: None

Abstract: This regulation establishes a work/training program for Irish nationals.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Office, Department of State, 2401 E Street NW, SA-1, Washington, DC 20522-0106
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AB02

Department of State (STATE) — **Long-Term Actions**

2198. ESTABLISHING OF REGISTRY IN STATE DEPARTMENT FOR INFORMATION ABOUT EXECUTION OF INTERNATIONAL WILLS

Priority: Substantive, Nonsignificant

Legal Authority: International Legal Material, vol XII, no. 6, Nov. 1973, p 1302

CFR Citation: 22 CFR 92.81(b)(3)

Legal Deadline: None

Abstract: By resolution of the international diplomatic conference that adopted the final text of the 1973 convention on the forms of international wills, there was a recommendation that States establish an internal system to permit the optional registration of information to facilitate the discovery of international wills. The President transmitted the convention to the Senate on July 2, 1986, with the recommendation that the Senate give its advice and consent to U.S. ratification of the convention, and information about the intention to establish the Registry in the Department of State (Senate Treaty Doc. 99-29). The Senate gave advice and consent on August 2, 1991. Implementing legislation (the International Wills Act) is required before the United States can take further action to ratify the convention.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: U.S. ratification of the 1973 convention providing a uniform law on the form of an international will provides the basis for establishment of the registry.

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA56

2199. HAGUE INTERCOUNTRY ADOPTION CONVENTION IMPLEMENTATION

Priority: Other Significant

Legal Authority: Not yet determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Regulations will implement the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and its associated legislation. The Convention was submitted for Senate advice and consent in 1998, and the proposed implementing legislation was submitted to the full Congress in 1998 and again in 1999. Health and Human Services and the Immigration and Naturalization Service will also write regulations regarding this convention and legislation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Edward A. Betancourt, Director, Office of Policy Review and Interagency Liaison, Department of State, Bureau of Consular Affairs, 2201 C Street NW, Washington, DC 20520-5816
Phone: 202 647-3666
Fax: 202 647-0103

RIN: 1400–AA88

2200. • CULTURAL EXCHANGE PROGRAM, AU PAIR REGULATION — 22 CFR 514

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan 2 of 1977; 42 FR 62461; 3 CFR, 1977 Comp., p. 200; EO 12048; 43 FR 13361; 3 CFR, 1978 Comp., p. 168; USIA Delegation Order No. 85-5 (50 FR 27393)

CFR Citation: 22 CFR 514.31

Legal Deadline: None

Abstract: These regulations govern Agency-designated au pair programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family while providing child care services and attending a U.S. postsecondary educational institution. The Agency's goal in proposing amendment to these existing regulations is to strengthen the oversight and reduce potential risks of injury to program participants. These amendments will provide greater specificity regarding the selection and orientation of both host family and au pair participants, thereby enhancing the prospect for more informed participation by both parties. Further proposed program enhancements would require disclosure of prior experience for au pair participants providing child care for special needs children. An amendment to provide for uniform program audits is also proposed.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Transfered from 3116-AA14.

Agency Contact: R. Wallace Stuart, Assistant Legal Adviser for Public Diplomacy, Department of State, Room 624 M-ADD, 301 Fourth Street SW., Washington, DC 20547
Phone: 202 619-6531

RIN: 1400–AB08

2201. • CULTURAL EXCHANGE PROGRAM, SHORT-TERM SCHOLAR — 22 CFR 514

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan 2 of 1977; 42 FR 62462; 3 CFR, 1977 Comp., p. 200; EO 12048; 43 FR 13361; 3 CFR, 1978 Comp., p. 168; USIA Delegation Order No. 85-5 (50 FR 27393)

CFR Citation: 22 CFR 514.21

Legal Deadline: None

Abstract: To enhance the programmatic utility of the Short-Term Scholar category of exchange participation, the Agency is amending existing regulations to permit short-term scholar participants to lecture and consult at institutions not listed on the form IAP-66.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Transfered from 3116-AA15.

Agency Contact: R. Wallace Stuart, Assistant Legal Adviser for Public Diplomacy, Department of State, Room 624 M-ADD, 301 Fourth Street SW., Washington, DC 20547
Phone: 202 619-6531

RIN: 1400–AB09

2202. • CULTURAL EXCHANGE PROGRAM, SUMMER WORK/TRAVEL — 22 CFR 514

Priority: Substantive, Nonsignificant

Legal Authority: 8 USC 1101(a)(15)(j); 8 USC 1182; 8 USC 1258; 22 USC 1431 to 1442; 22 USC 2451 to 2460; Reorganization Plan 2 of 1977; 42 FR 62461; 3 CFR, 1977 Comp., p. 200; EO 12048; 43 FR 13361; 3 CFR, 1978 Comp., p. 168; USIA Delegation Order No. 85-5 (50 FR 27393)

CFR Citation: 22 CFR 514.32

Legal Deadline: None

Abstract: The Agency is adopting specific regulations governing participation in summer work/travel programs conducted by Agency-designated sponsors pursuant to Public Law 105-277. These regulations supersede program guidelines promulgated by the Agency and

STATE — **Long-Term Actions**

published at 61 FR 13760 (March 28, 1996).

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Transfered from 3116-AA16.

Agency Contact: R. Wallace Stuart, Assistant Legal Adviser for Public Diplomacy, Department of State, Room 624 M-ADD, 301 Fourth Street SW., Washington, DC 20547
Phone: 202 619-6531

RIN: 1400–AB10

Department of State (STATE) — **Completed Actions**

2203. REVISION TO DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 6

Completed:

Reason	Date	FR Cite
Final Action	08/11/99	64 FR 43618

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gladys G. Gines
Phone: 703 516-1691
Fax: 703 875-6155
Email: ginesgg@state.gov

RIN: 1400–AA71

2204. INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 126.5, Canadian exemption

Completed:

Reason	Date	FR Cite
Final Action	04/12/99	64 FR 17531

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rose Biancaniello
Phone: 703 812-2568
Fax: 703 875-6647

RIN: 1400–AA95

2205. TEMPORARY VISITORS—ACCEPTANCE OF HONORARIA AND INCIDENTAL EXPENSES

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.31

Completed:

Reason	Date	FR Cite
Merged With RIN 1400-AA54	09/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AA99

2206. ALIENS INELIGIBLE TO RECEIVE VISAS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 40.25; 22 CFR 40.26; 22 CFR 40.103; 22 CFR 40.207; 22 CFR 40.208; 22 CFR 40.209

Completed:

Reason	Date	FR Cite
Final Action	11/23/98	63 FR 64626

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AB00

2207. DEFINITION OF ACCOMPANYING

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 40.1(a)

Completed:

Reason	Date	FR Cite
Merged With RIN 1400-AA93	09/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AB03

2208. FEES FOR BORDER CROSSING CARDS

Priority: Substantive, Nonsignificant

CFR Citation: 22 CFR 41.107

Completed:

Reason	Date	FR Cite
Merged With RIN 1400-AA97	09/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Edward Odom
Phone: 202 663-1204
Fax: 202 663-1442
Email: odomher@state.gov

RIN: 1400–AB04

[FR Doc. 99–24740 Filed 11–19–99; 8:45 am]
BILLING CODE 4710–08–F

federal register

Monday,
November 22, 1999

Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I-III

23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

49 CFR Subtitle A, Chs. I-VI

OST Docket 99-5129

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

You should direct all comments and inquiries on the agenda in general to Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366–4723.

Specific

You should direct all comments and inquiries on particular items in the agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in Appendix B.

Individuals who use a telecommunications device for the deaf (TDD) may call (202) 755–7687.

Table of Contents

Supplementary Information:
- Significant/Priority Rulemakings
- Explanation of Information on the Agenda
- Request for Comments
- Appendix A – Instructions for Obtaining Copies of Regulatory Documents
- Appendix B – General Rulemaking Contact Persons
- Appendix C – Public Rulemaking Dockets
- Appendix D – Review Plans for Section 610 and Other Requirements

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations is a prime goal of the Clinton Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation (Department) achieve these goals and in accordance with Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda. It summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by the Department Regulations Council. The Department's last agenda was published in the **Federal Register** on April 26, 1999 (64 FR 21566). The next one is scheduled for publication in the **Federal Register** in April 2000.

For this edition of the Department's regulatory agenda the most important significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

On October 9, 1999, the motor carrier program was transferred from the Federal Highway Administration to a newly created Office of Motor Carrier Safety. Because this action took place so late in the Agenda and Plan cycle, we have not moved motor carrier rulemakings to a new category. We will, however, make appropriate changes in the next Agenda.

The Department has created an Internet site that provides general information about its rulemaking responsibilities and activities. It includes hypertext links to numerous other departmental sites providing helpful information about DOT regulation. The web address for this site is http://regs.dot.gov.

Significant/Priority Rulemakings

The agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. We have classified rules as a DOT agency priority in the agenda if they are, essentially, very costly, controversial, or of substantial public interest under Executive Order 12866. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decides a rule is subject to its review, we have it classified as significant in the agenda.

Explanation of Information on the Agenda

The format for this agenda is required by Office of Management and Budget memorandum of July 21, 1999.

First, the agenda is divided by initiating offices. Then, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long–term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) Its "significance"; (2) a short descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and, if so, which categories; (9) whether a

DOT

Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities; (10) a listing of any analyses an office will prepare or has prepared for the action (With minor exceptions, DOT requires an economic analysis for all its rulemakings.); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue; (13) whether the item is part of the Reinventing Government effort and, if so, whether it would revise existing text in the Code of Federal Regulations or eliminate text; (14) whether the action is subject to the Unfunded Mandates Act; and (15) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled "Additional Information."

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which we expect to make a decision on whether to issue it. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in Appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on a substantial number of small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (Section 610 Review) appears at the end of the title for these reviews. Please see Appendix D for the Department's section 610 review plans.

Plain Language

The President's "Plain Language in Government Writing" memorandum of June 1, 1998, requires that we use plain language in rulemaking documents. We try to write clearly. However, we solicit your comments and suggestions for how to improve the clarity of our regulations and specific existing or proposed rules that need improvement.

Year 2000 Computer Problem

We are requesting public comment to assist us in identifying rulemaking actions that would affect the private sector's or governmental entities' ability to fix their year 2000 computer date problem. If we consider a requirement that would mandate business process changes and require modifications to computer systems between September 30, 1998, and July 1, 2000, as part of the development of the proposed and final rule, we will analyze the effect of our action and our discretion to consider other approaches. If we impose a requirement, a summary of the analysis will be included in the preamble that will clearly explain why we are imposing it, why there are no acceptable alternatives, and why it cannot be delayed. If you see actions identified in this agenda that you believe would impose such requirements, we encourage you to let us know.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

Issued in Washington, DC, on October 26, 1999.

Rodney E. Slater,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the agenda, you should communicate directly with the contact person listed with the regulation at the address below.

United States Coast Guard (USCG)

(Name of contact person), United States Coast Guard, 2100 2nd Street SW., Washington, DC 20593.

Federal Highway Administration (FHWA)

(Name of contact person), Federal Highway Administration, 400 7th Street SW., Washington, DC 20590.

Federal Railroad Administration (FRA)

(Name of contact person), Federal Railroad Administration, 400 7th Street SW., Washington, DC 20590.

National Highway Traffic Safety Administration (NHTSA)

(Name of contact person), National Highway Traffic Safety Administration, 400 7th Street SW., Washington, DC 20590.

Federal Transit Administration (FTA)

(Name of contact person), Federal Transit Administration, 400 7th Street SW., Washington, DC 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

(Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street SW., Room 5424, Washington, DC 20590.

Research and Special Programs Administration (RSPA)

(Name of contact person), Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

Maritime Administration (MARAD)

Joel C. Richard, Secretary, Maritime Administration, 400 7th Street SW., Room 7210, Washington, DC 20590, (202) 366–5746.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for notices and advance notices of proposed rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11–2, which describes the application procedure, by calling (202) 267–3484 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591.

Office of the Secretary (OST)

To obtain a copy of a specific regulatory document or to receive future copies of the Department's regulatory agenda write to: Assistant General Counsel for Regulation and Enforcement, C–50, Office of the General Counsel, Department of Transportation, Washington, DC 20590, (202) 366–4723.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG – Pam Pelcovits, Office of Chief Counsel, USCG Headquarters Building, Room 3406, 2100 2nd Street SW., Washington, DC 20593; telephone: (202) 267–1534.

FAA – Donald Byrne, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone: (202) 267–3073.

FHWA – Thomas Holian, Office of Chief Counsel, 400 7th Street SW., Room 4223, Washington, DC 20590; telephone: (202) 366–1383.

FRA – Colleen Brennan, Office of Chief Counsel, 400 7th Street SW., Room 8128, Washington, DC 20590; telephone: (202) 493–6082.

NHTSA – Nicole H. Fradette, Office of Chief Counsel, 400 7th Street SW., Room 5219, Washington, DC 20590; telephone: (202) 366–2992.

FTA – Nancy Zaczek, Office of Chief Counsel, 400 7th Street SW., Room 9316, Washington, DC 20590; telephone: (202) 366–4011.

SLSDC – Marc Owen, General Counsel's Office, 400 7th Street SW., Room 5424, Washington, DC 20590; telephone: (202) 366–0108.

RSPA – Edward Bonekemper, Office of Chief Counsel, 400 7th Street SW., Room 8405, Washington, DC 20590; telephone: (202) 366–4400.

MARAD – Edmund T. Sommer, Jr., Office of Chief Counsel, Maritime Administration, 400 7th Street SW., Room 7221, Washington, DC 20590; telephone: (202) 366–5181.

BTS – David Mednick, 400 7th Street SW., Room 3430, Washington, DC 20590; telephone: (202) 366–8871.

OST – Neil Eisner, Office of Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; telephone: (202) 366–4723.

Appendix C - Public Rulemaking Dockets

The rulemaking and adjudicatory dockets for all of DOT are Internet accessible at the following address: http://dms.dot.gov. Examples of documents that may be in the dockets are proposed rules, public comments received, supporting analysis, studies, and reports.

The public may review regulatory dockets and hand–deliver comments on proposed rulemakings to the Dockets Office at 400 7th Street SW., Room PL 401, Washington, DC 20590, 1–800–647–5527. Working Hours: 9:00–5:00.

Appendix D - Review Plans for Section 610 and Other Requirements

Part I - The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under E.O. 12866 ("Regulatory Planning and Review") and section 610 of the Regulatory Flexibility Act to conduct such reviews. Finally, on June 1, 1998, the President also directed agencies to use plain language in new rules and to consider rewriting existing rules when we have the opportunity and resources permit. The Department is currently conducting a number of reviews of existing rules and is engaged in rulemaking actions resulting from reviews.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1) have been published within the last ten years and (2) have a "significant economic impact on a substantial number of small entities" (SEIOSNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. To better comply with section 610, the Department is updating its regulatory review plan published on June 29, 1981, to accomplish a more systematic review of all of its regulations. The Office of the Secretary and each of the Department's Operating Administrations, except for the Federal Highway Administration (FHWA), developed a 10–year plan for the analysis and review of all their rules. The agencies with smaller regulatory programs expect to complete their reviews over a shorter period of time. These reviews will comply with section 610 of the Regulatory Flexibility Act. FHWA's approach to section 610 reviews is described in Part II to this Appendix.

Other Review Plans

All elements of the Department, except for FHWA and the Federal

Aviation Administration (FAA), have also elected to use this 10–year plan process to comply with the review requirements of the Department's Regulatory Policies and Procedures, Executive Order 12866, and the President's directive on plain language. FHWA and FAA are using different approaches, which are described in Part II to this Appendix.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidentially mandated review. If there is any change to the review plan, we will note the change in the following Unified Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II - The Review Process

Year 1 - Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall–to–fall schedule for publication of the Agenda. Thus, Year 1 (1998) began in the fall of 1998 and ends in the fall of 1999; Year 2 (1999) begins in the fall of 1999 and ends in the fall of 2000; and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses can be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610

The agency will analyze each of the rules in a given year's group to determine whether any rule has a SEIOSNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability.

Publication of agencies' section 610 analyses list each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each October's Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (e.g., "these rules only establish petition processes that have no cost impact" or "these rules do not apply to any small entities"). For parts, subparts or other discrete sections of rules that do have a SEIOSNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

During this analysis year, the agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each October's Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

Year 2 - Section 610 Review

During this year we will conduct the review to determine whether to revise or revoke the rule to lessen the impact or whether we must keep the rule unchanged. At the end of the review year, we plan to publish the results of our review. If no changes are warranted, we will publish a short explanation. If we are going to make a change, we will explain that. In most cases, this will involve changing the review entry to the Unified Agenda noting that we now plan rulemaking action.

FHWA

Because of its ongoing zero–based review of its safety rules and the need to review many of its financial assistance rules in response to the Transportation Efficiency Act for the 21st Century, FHWA has not developed a 10–year review plan. In Part IV, it describes its ongoing or planned reviews.

FAA

The Federal Aviation Administration, in addition to reviewing its rules in accordance with the schedule below, has established a process by which the public is asked for its comments on which rules need review the most. Any information that the FAA receives in connection with its annual section 610 analyses would, of course, also be reviewed in the spirit of E.O. 12866. In addition, in response to a recommendation of the White House Commission on Aviation Safety and Security, the FAA has completed a review of all its existing regulations to identify those in need of rewriting as performance–based or plain language regulations. The agency also reviewed ongoing regulatory projects and proposals to identify additional candidates for revision. In all, the agency reviewed 68 parts of the CFR, containing 3,884 sections, appendices, and Special Federal Aviation Regulations. In addition to using plain language in its current and future regulations, the FAA intends to revise those regulations identified in its study when it has the opportunity and resources to do so.

Part III - List of Pending Section 610 Reviews

The Agenda identifies the pending DOT section 610 reviews by inserting "(Section 610 Review)" after the title for the specific entry. Also, a Government wide list of section 610 reviews can be located in an Index at the end of the Agenda. For further information on the pending reviews, see the Agenda entries.

DOT

OFFICE OF THE SECRETARY
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 200 through 212	1998	1999
2	14 CFR parts 213 through 232	1999	2000
3	14 CFR parts 234 through 254	2000	2001
4	14 CFR parts 255 through 298 and part 40	2001	2002
5	14 CFR parts 300 through 373	2002	2003
6	14 CFR parts 374 through 398	2003	2004
7	14 CFR part 399 and 49 CFR parts 1 through 11	2004	2005
8	49 CFR parts 17 through 28	2005	2006
9	49 CFR parts 29 through 39 and parts 41 through 89	2006	2007
10	49 CFR parts 91 through 99, 48 CFR parts 1201 through 1253, and new parts and subparts	2007	2008

Year 1 (fall 1998) List of Rules analyzed and a summary of the results

14 CFR part 200-Definitions and instructions

14 CFR part 201-Air Carrier authority under subtitle VII of title 49 USC

14 CFR part 204-Data to support fitness determinations

14 CFR part 205-Aircraft accident liability insurance

14 CFR part 206-Certificates of public convenience and necessity: Special authorizations and exemptions

- Section 610: No SEIOSNOSE. These rules apply to a substantial number of small entities but do not have a significant economic impact.
- Plain Language: Where confusing or wordy language is identified, we will make revisions.
- General: These rules have been amended several times over the past seven years to eliminate out–of–date language and make the rules easier for the public to understand and comply with. If additional updates become desirable, changes will be proposed.

14 CFR part 203-Waiver of Warsaw Convention liability limits and defenses

- Section 610: No SEIOSNOSE. Although the part applies to a substantial number of small entities, it does not have a significant economic impact.
- Plain Language: These are written in plain language.
- General: This rule may be amended to be consistent with the new Montreal Convention (signed May 28, 1999) and with inter–carrier agreements waiving the Warsaw Convention passenger liability limits in their entirety.

14 CFR part 211-Applications for permits to foreign air carriers

14 CFR part 212-Charter rules for U.S. and foreign air carriers

- Section 610: No SEIOSNOSE.
- Plain Language: This is written in plain language format.
- General: Part 212 was revised and updated during 1998. Part 211 is procedural and does not need to be revised.

Year 2 (fall 1999) List of Rules that will be analyzed during the next year

14 CFR 213-Terms, conditions and limitations of foreign air carrier permits

14 CFR 214-Terms, conditions, and limitations of foreign air carrier permits authorizing charter transportation only

14 CFR 215-Use and change of names of air carriers, foreign air carriers and commuter air carriers

14 CFR 216-Commingling of blind sector traffic by foreign air carriers

14 CFR 217-Reporting traffic statistics by foreign air carriers in civilian scheduled, charter, and nonscheduled services

14 CFR 218-Lease by foreign air carrier or other foreign person of aircraft with crew

14 CFR 221-Tariffs

14 CFR 222-Intermodal cargo services by foreign air carriers

14 CFR 223-Free and reduced-rate transportation

14 CFR 232-Transportation of mail, review of orders of postmaster general

UNITED STATES COAST GUARD
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR Parts 1 through 124	1998	1999
2	33 CFR Parts 125 through 199	1999	2000
3	46 CFR Parts 1 through 40	2000	2001
4	46 CFR Parts 41 through 69	2001	2002
5	46 CFR Parts 70 through 89	2002	2003
6	46 CFR Parts 90 through 139	2003	2004
7	46 CFR Parts 140 through 155	2004	2005

DOT

UNITED STATES COAST GUARD (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
8	46 CFR Parts 156 through 165	2005	2006
9	46 CFR Parts 166 through 199	2006	2007
10	New Parts and Subparts	2007	2008

Year 1 (fall 1998) List of Rules analyzed and a summary of the results

33 CFR part 1-General provisions
33 CFR part 2-Jurisdiction
33 CFR part 3-Coast Guard areas, districts, marine inspection zones, and captain of the port zones
33 CFR part 4-OMB control numbers assigned pursuant to the Paperwork Reduction Act
33 CFR part 8-United States Coast Guard Reserve
33 CFR part 13-Decorations, medals, ribbons and similar devices
33 CFR part 17-United States Coast Guard general gift fund
33 CFR part 23-Distinctive markings for Coast Guard vessels and aircraft
33 CFR part 27-Adjustment of civil monetary penalties for inflation
- Section 610: No SEIOSNOSE. These rules describe internal agency organization and procedures or relate to internal personnel matters and have no impact on small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: These rules are reviewed each year for necessary editorial and conforming amendments.

33 CFR part 5-Coast Guard Auxiliary
- Section 610: No SEIOSNOSE. These are organizational and procedural rules for the Coast Guard Auxiliary and have no impact on small entities.
- Plain Language: The upcoming revision will include a plain language rewrite.
- General: USCG will schedule this part for review and revision to implement recent statutory changes.

33 CFR part 6-Protection and security of vessels, harbors, and waterfront facilities
- ection 610: No SEIOSNOSE. This part relates to national defense and security measures and is used to provide necessary security for vessels, harbors, and waterfront facilities. These rules may affect some small entities, but will not have a significant effect.
- Plain Language: USCG will rewrite as resources permit.
- General: This part will be scheduled for general regulatory review and update.

33 CFR part 26 -Vessel bridge-to-bridge radiotelephone regulations
33 CFR part 81-72 COLREGS: Implementing Rules
33 CFR part 89-Inland navigation rules: implementing rules
33 CFR part 100-Marine events
33 CFR part 110-Anchorage regulations
- Section 610: Possible SEIOSNOSE. These rules have economic impacts on small entities. The extent of these impacts is at present unknown and, therefore, USCG will continue to analyze during the next year, and schedule next year for review if necessary.
- Plain Language: USCG will rewrite as resources permit.
- General: Continue to review and schedule for revisions if necessary.

33 CFR part 19-Waivers of navigation and vessel inspection laws and regulations
- Section 610: No SEIOSNOSE. This part affects no small entities.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary.

33 CFR part 20-Class II Civil Penalties
33 CFR part 25-Claims
- Section 610: No SEIOSNOSE. There are rules of practice and procedure.
- Plain Language: No rewrite necessary.
- General: No revision necessary.

33 CFR part 40-Cadets of the Coast Guard
33 CFR part 45-Enlistment of personnel
33 CFR part 49-Payment of amounts due mentally incompetent Coast Guards personnel
33 CFR part 50-Coast Guard Retiring Review Board
33 CFR part 51-Coast Guard Discharge Review Board
33 CFR part 52-Board for Correction of Military Records of the Coast Guard
33 CFR part 53-Coast Guard whistleblower protection
33 CFR part 54-Allotments from active duty pay for certain support obligations
- Section 610: No SEIOSNOSE. These concern internal and administrative procedures.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary.

33 CFR part 62-United States aids to navigation system

DOT

33 CFR part 62-United States aids to navigation system
33 CFR part 64-Marking of structures, sunken vessels and other obstructions
33 CFR part 66-Private aids to navigation
33 CFR part 67-Aids to navigation on artificial islands and fixed structures
33 CFR part 70-Interference with or damage to aids to navigation
33 CFR part 72-Marine Information
33 CFR part 74-Charges for Coast Guard aids to navigation work
33 CFR part 76-Sale and transfer of aids to navigation equipment
- Section 610: No SEIOSNOSE. Some small entities may be affected, but impact on these small entities is not significant.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary

33 CFR part 80 COLGREGS demarcation lines
33 CFR part 82 72 COLREGS: Interpretative Rules
- Section 610: No SEIOSNOSE. These rules implement the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) by defining where the Inland and International rules apply. Some small entities may be affected, but the impact on these small entities is not significant.
- Plain Language: These parts are required by international treaty or statute and we cannot change the language.
- General: No revision necessary.

33 CFR part 84-Annex I: Positioning and technical details of lights and shapes
33 CFR part 85-Annex II: Additional signals for fishing vessels fishing in close proximity
33 CFR part 86-Annex III: Technical details of sound signal appliances
33 CFR part 87-Annex IV: Distress signals
33 CFR part 88-Annex V: Pilot rules
33 CFR part 90-Inland rules: Interpretative rules
- Section 610: No SEIOSNOSE. Sections 13 and 15 of Part 88 have cost factors which may have small entity impacts, however the impact on these small entities is not significant
- Plain Language: No rewrite necessary.
- General: No revision necessary.

33 CFR part 95-Operating a vessel while intoxicated
- Section 610: No SEIOSNOSE. No smaller entities affected.
- Plain Language: No rewrite necessary.
- General: No revision necessary.

33 CFR part 96-Rules for the Safe Operation of Vessels and Safety Management Systems
- Section 610: No SEIOSNOSE. This part does not affect small entities.
- Plain Language: No rewrite necessary.
- General: No revision necessary — issued Dec. 1997

33 CFR part 109-General
- Section 610: No SEIOSNOSE. This concerns internal agency matters.
- Plain Language: No rewrite necessary.
- General: USCG will schedule this for review and possible redesignation of individual sections and removal.

33 CFR part 114-General
- Section 610: No SEIOSNOSE. This part has no impacts on small entities.
- Plain Language: No rewrite necessary.
- General: USCG will schedule this for review and possible redesignation of some sections.

33 CFR part 115-Bridge locations and clearances; administrative procedures
- Section 610: No SEIOSNOSE. This part sets out construction permit application process and internal agency procedures for processing applications. Some applicants may be small entities, but impact on these small entities is not significant.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary.

33 CFR part 116-Alteration of unreasonably obstructive bridges
- Section 610: No SEIOSNOSE. Some applicants may be small entities, but out of 18 projects since 1984, only one has been a small entity.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary.

33 CFR part 117-Drawbridge operation regulations
- Section 610: No SEIOSNOSE. No single drawbridge regulation has a significant effect on a substantial number of same entities. Individual regulations in Part B are geographically limited in effect.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary.

33 CFR part 118-Bridge lighting and other signals
- Section 610: No SEIOSNOSE. This part only affects bridge owners, though some may be small entities, but impact on these small entities is not significant.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary.

33 CFR part 120-Security of passenger vessels

DOT

- Section 610: No SEIOSNOSE. These rules either affect only large entities or have no economic consequences.
- Plain Language: USCG will rewrite as resources permit.
- General: No revision necessary.

Year 2 (Fall 1999) List of rules that will be analyzed during the next year

33 CFR Part 125 — Identification credentials for persons requiring access to waterfront facilities or vessels
33 CFR Part 126 — Handling of Class 1 (explosive) materials or other dangerous cargoes within or contiguous to waterfront facilities
33 CFR Part 127 — Waterfront facilities handling liquefied natural gas and liquefied hazardous gas
33 CFR Part 128 — Security of passenger terminals
33 CFR Part 133 — Oil spill liability trust fund; state access
33 CFR Part 135 — Offshore oil pollution compensation fund
33 CFR Part 136 — Oil spill liability trust fund; claims procedures; designation source; and advertisement
33 CFR Part 138 — Financial Responsibility for water pollution (vessels)
33 CFR Part 140 — General
33 CFR Part 141 — Personnel
33 CFR Part 142 — Workplace safety and health
33 CFR Part 143 — Design and equipment
33 CFR Part 144 — Lifesaving appliances
33 CFR Part 145 — Fire-fighting equipment
33 CFR Part 146 —Operations
33 CFR Part 147 — Safety zones
33 CFR Part 148 — General
33 CFR Part 149 — Design, construction, and equipment
33 CFR Part 150 — Operations

Items continued from analysis Year 1

33 CFR part 26-Vessel bridge-to-bridge radiotelephone regulations
33 CFR part 81-72 COLREGS: Implementing Rules
33 CFR part 89-Inland navigation rules: implementing rules
33 CFR part 100-Marine events
33 CFR part 110-Anchorage regulations

FEDERAL AVIATION ADMINISTRATION
SECTION 610 REVIEW PLAN

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 1 through 21	1998	1999
2	14 CFR parts 23 through 34	1999	2000
3	14 CFR parts 35 through 49	2000	2001
4	14 CFR parts 61 through 77	2001	2002
5	14 CFR parts 91 through 105	2002	2003
6	14 CFR parts 107 through 133	2003	2004
7	14 CFR part 135 through 147	2004	2005
8	14 CFR parts 150 through 169	2005	2006
9	14 CFR parts 170 through 198	2006	2007
10	14 CFR parts 400 through 415	2007	2008

* FAA will also review all other rules dealing with alcohol and drugs

Year 1 (Fall 1998) List of Rules analyzed and a summary of the results

14 CFR part 1-Definitions and abbreviations
- Section 610: No SEIOSNOSE. This part provides definitions and abbreviations used in other parts of the regulations and do not have impact aside from the parts where they are used.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.
- General: The impact of the definitions here will be considered in connection with the other parts in which they are used.

14 CFR part 11-General rulemaking procedures
14 CFR part 13-Investigatie and enforcement procedures
14 CFR part 14-Rules implementing the Equal Access to Justice Act of 1980
14 CFR part 15-Administrative claims under Federal Tort Claims Act
14 CFR part 16-Rules of practice for Federally-assisted airport enforcement proceedings
For parts 11–16 above:
- Section 610: No SEIOSNOSE. These are procedural..

- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in these parts, revisions will be made when the FAA has the opportunity and resources to do so.
- General: It is not necessary to review these regulations at this time, since the FAA has no indication that changes are needed to make them less burdensome on small entities.

14 CFR 21 - Certification procedures for products and parts

- Section 610: SEIOSNOSE. A number of sections in this part have a SEIOSNOSE. A substantial number of small entities may incur significant costs in complying with these sections. Hence, the impact on these entities may be significant. The FAA intends to conduct a section 610 review of this part during the next year.
- Plain Language: To the extent that the FAA's plain language study identified a need for revisions in this part, revisions will be made when the FAA has the opportunity and resources to do so.
- General: If changes are identified, they will be made.

Year 2 (Fall 1999) List of Rules that will be analyzed during the next year

14 CFR 23-Airworthiness standards: normal, utility, acrobatic, and commuter category airplanes
14 CFR 25-Airworthiness standards: transport category airplanes
14 CFR 27-Airworthiness standards: normal, utility, acrobatic, and commuter category rotorcraft
14 CFR 29-Airworthiness standards: transport category rotorcraft
14 CFR 31-Airworthiness standards: manned free balloons
14 CFR 33-Airworthiness standards: aircraft engines
14 CFR 34-Fuel venting and exhaust emission requirements for turbine engine powered airplanes

Section 610 Reviews resulting from Year 1 analysis: One

14 CFR 21-Certification procedures for products and parts

The FAA carries out its responsibility to promote safety of flight of civil aircraft in air commerce by prescribing minimum standards governing the design and construction of aircraft, aircraft engines and propellers and appliances as may be required in the interest of safety. The FAA has established procedural requirements in 14 CFR part 21 for the issuance of the following certificates and approvals : (1) type certificates and changes to type certificates; (2) production certificates; (3) airworthiness certificates; (4) export airworthiness certificates and approvals; and (5) approval of certain materials, parts, processes and appliances produced for sale or installation on a type certificated product. Also contained in this part are rules governing the holders of these certificates. In order to be issued a type certificate, the applicant must show that the product complies with the airworthiness standards for the product (aircraft, aircraft engine, or propeller). The airworthiness standards are amended as needed to reflect continually changing technology, correct design deficiencies, and provide for safety enhancements. The FAA intends to conduct a 610 review of this part during the next year and RIN number 2120–AG93 has been added to the Agenda to reflect this review. The public is invited to submit comments to the FAA by January 31, 2000, on whether any rules in this part can be amended or rescinded to reduce any SEIOSNOSE without reducing the level of safety provided by the rule.

FEDERAL HIGHWAY ADMINISTRATION

SECTION 610 AND OTHER REVIEWS

I. Federal-Aid Highway Program

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal–aid highway program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter 1 of title 23 of the USC. Section 145 of title 23 expressly provides that chapter 1 provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to requirements that States must meet to receive Federal funds for the construction and other work related to highways.

Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities, with limited exceptions discussed below. The FHWA solicits public comment on this preliminary conclusion.

In title 23, part 657, "Certification of Size and Weight Enforcement," may have impacts on small governments or small businesses. The FHWA intends to publish an ANPRM to consider revisions to part 657 in FY 2000. Public comment will be solicited specifically on whether and how part 657 may be revised to reduce burdens on small entities.

FHWA, jointly with the Federal Transit Administration, will be proposing revisions to the regulations currently codified at 23 CFR parts 450 and 771. These regulations will be issued in a new Chapter IV of 23 CFR as "intermodal" rules and renumbered respectively as 23 CFR part 1410 (planning assistance and standards) and 23 CFR part 1420 and 1430 (environmental impact and related matters). In the course of developing the notice of proposed rulemaking for each of these regulations, the FHWA and FTA will be soliciting comment on their potential for impact on small entities, including small governments.

Development of these revised regulations represents part of the FHWA's efforts to implement the Transportation Equity Act for the 21st Century (TEA–21), which reauthorizes Federal surface transportation programs. Additional implementation efforts under TEA–21 may offer further opportunities to reduce the burden of existing regulations on small entities, and comment on this possibility is requested.

II. Federal Motor Carrier Safety Regulations

The FHWA has underway a comprehensive, multi–year project to develop modern, uniform safety regulations that are up–to–date, clear, concise, easier to understand, and more performance oriented. The FHWA has held 11 public outreach meetings,

DOT

announced in the **Federal Register**, to solicit public involvement in this review; a total of 110 industry and government safety representatives participated in 14 one–day focus group sessions; over 2,000 comments have been received in the public docket so far.

On November 23, 1994, the FHWA published a final rule removing obsolete and redundant regulations identified through this review. In addition, on June 18, 1998, the FHWA published another final rule (63 FR 33254) removing and amending additional provisions of the Federal Motor Carrier Safety Regulations identified through the zero–base review.

The FHWA is now developing a notice of proposed rulemaking that would propose a complete revision of the Federal Motor Carrier Safety Regulations implementing the results of the FHWA's zero–base review of those regulations. The FHWA intends to propose a complete reorganization of the safety regulations and a rewrite of those regulations using plain language and a question and answer format to enhance the clarity and understandability of those regulations. In addition, the FHWA intends to better focus the regulations on safety while adopting a performance–based approach to the regulations and reducing the paperwork associated with compliance with the regulations. The FHWA believes that this effort will produce regulations which are simpler to understand and to comply with, especially for small motor carriers. Because of these long–term, on–going efforts. FHWA is not currently reviewing these rules.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 501 through 526 and 571.213	1998	1999
2	49 CFR parts 571.131 and 571,220 through 571.222	1999	2000
3	49 CFR parts 591 through 594	2000	2001
4	49 CFR parts 571.101 through 571.110 and 571.135	2001	2002
5	49 CFR parts 529 through 579, except part 571	2002	2003
6	49 CFR parts 571.111 through 571.129 and parts 580 through 590	2003	2004
7	49 CFR part 571.201 through 571.212	2004	2005
8	49 CFR parts 571.214 through 571.219	2005	2006
9	49 CFR parts 571.223 through 571.304, part 500 and new parts and subparts under 49 CFR	2006	2007
10	23 CFR parts 1200's and 1300's and new parts and subparts under 23 CFR	2007	2008

Year 1 (Fall 1998) List of Rules analyzed and a summary of the results

49 CFR part 501-Organization and delegation of powers and duties
49 CFR part 509-OMB control numbers for information collection requirements
49 CFR part 510-Information gathering powers
49 CFR part 511-Adjudicative procedures
49 CFR part 512-Confidential business information
49 CFR part 520-Procedures for considering environmental impacts
49 CFR part 523-Vehicle Classification
49 CFR part 525-Exemptions from average fuel economy standards
49 CFR part 526-Petitions and plans for relief under the Automobile Fuel Efficiency Act of 1980.
For parts 501–526 above:

- Section 610: No SEIOSNOSE. These are procedural or set up petition processes. Part 525 relates to small businesses since it sets up the petition process for exemptions for average fuel economy standards for low volume manufacturers. However, it only requires information which is available to the manufacturer, and does not have a significant economic impact.
- Plain Language: As resources permit, NHTSA will revise these rules where appropriate.
- General: No additional reviews are necessary.

49 CFR part 571.213-Child Restraint Systems

- Section 610: No SEIOSNOSE. Although, it has a significant economic impact on child restraint manufacturers, very few qualify as small entities.
- Plain Language: NHTSA will revise the standard where appropriate.
- General: NHTSA staff concluded that no changes to the standard are warranted.

Year 2 (Fall 1999) List of Rules that will be analyzed during the next year

49 CFR part 571.131-School bus pedestrian safety devices
49 CFR part 571.220-School bus rollover protection
49 CFR part 571.221-School bus body joint strength
49 CFR part 572.222-School bus passenger seating and crash protection

DOT

FEDERAL RAILROAD ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR parts 200 through 201	1998	1999
2	49 CFR parts 207, 209, 211, 215, and 256	1999	2000
3	49 CFR parts 210, 212, 214, and 217	2000	2001
4	49 CFR parts 219	2001	2002
5	49 CFR parts 218 and 221	2002	2003
6	49 CFR parts 216 and 228 through 229	2003	2004
7	49 CFR parts 223 and 233	2004	2005
8	49 CFR parts 225, 231, and 234	2005	2006
9	49 CFR parts 235 through 236, 250, 260, and 266	2006	2007
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265	2007	2008

Year 1 (Fall 1998) List of Rules analyzed and a summary of the results
49 CFR part 200-Informal Rules of Practice for Passenger Service
49 CFR part 201-Formal Rules of Practice for Passenger Service
- Section 610: No SEIOSNOSE. These are procedural rules.
- Plain Language: FRA's plain language review of these rules indicates no need for substantial revision. As resources permit, FRA will make such changes as may be necessary.
- General: No additional reviews are necessary.

Year 2 (Fall 1999) List of Rules that will be analyzed during the next year
49 CFR part 207-Railroad police officers
49 CFR part 209-Railroad safety enforcement procedures
49 CFR part 211-Rules of practice
49 CFR part 215-Railroad freight car safety standards

FEDERAL TRANSIT ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	None	1998	1999
2	None	1999	2000
3	49 CFR part 661	2000	2001
4	49 CFR parts 653 and 654	2001	2002
5	49 CFR part 665	2002	2003

MARITIME ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	46 CFR parts 201 through 207	1998	1999
2	46 CFR parts 221 through 232	1999	2000
3	46 CFR parts 249 through 295	2000	2001
4	46 CFR parts 298	2001	2002
5	46 CFR parts 307 through 310	2002	2003
6	46 CFR parts 315 through 399	2003	2004
7	46 CFR part 340 and 347	2004	2005
8	46 CFR parts 349 through 380	2005	2006
9	46 CFR parts 381 through 387	2006	2007
10	46 CFR parts 390 through 391	2007	2008

Year 1 (Fall 1998) List of Rules analyzed and a summary of the results
46 CFR part 201-Rules of practice and procedure
46 CFR part 202-Procedures relating to review by DOT Secretary of actions by Maritime Subsidy Board
46 CFR part 203-Procedures relating to conduct of certain hearings under the Merchant Marine Act, 1936, as amended
46 CFR part 204-Claims against the Maritime Administration under the Federal Tort Claims Act
- For parts 201—204 above:
  - Section 610: No SEIOSNOSE. Rules are procedural and have minimal, if any, cost impact.

DOT

- Plain Language: As resources permit, MARAD will rewrite the regulations using plain language techniques.
- General: No changes are necessary since the requirements regulate in the most cost–effective manner, the benefits of the regulations justify their costs, and the regulations impose the least burden on society.

46 CFR part 205-Audit appeals; policy and procedure

- Section 610: No SEIOSNOSE. Currently, MARAD uses the DOT Office of Inspector General to conduct audits, and these audits have minimal economic impact. Currently two entities are subject to audit.
- Plain Language: As resources permit, MARAD will rewrite any remaining regulations using plain language techniques.
- General: MARAD intends to eliminate and defer to the audit policies and procedures of the Department's Office of Inspector General.

46 CFR part 207-Statistical data for use in operating-differential subsidy application hearings

- Section 610: No SEIOSNOSE. The application hearing process will impact no entities because the Maritime Security Act of 1996 provided that such hearings would no longer apply to the operating —differential subsidy program. However, MARAD will eliminate this part (see "General" below).
- Plain Language: As resources permit, MARAD will rewrite using plain language techniques.
- General: MARAD will eliminate this part because of statutory changes of the Maritime Security Act of 1996 provided that a hearing process would no longer apply to the operating–differential subsidy program.

Year 2 (Fall 1999) List of Rules that will be analyzed during the next year

46 CFR part 221-Regulated transactions involving documented vessels and other maritime interests

46 CFR part 232-Uniform Financial Reporting Requirements

RESEARCH AND SPECIAL PROGRAMS ADMINSTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	49 CFR sections 171.15, 171.16 (incident reports)	1998	1999
2	49 CFR parts 106 and 107 (hazardous materials safety procedures), 171 (general hazmat requirements), and 190 (pipeline safety procedures)	1999	2000
3	49 CFR parts 174, 177 (rail and highway carriage) and 191 (gas pipeline transportation reports)	2000	2001
4	49 CFR parts 176 (vessel carriage) and 199 (pipeline employee drug and alcohol testing)	2001	2002
5	49 CFR parts 176 (vessel carriage) and 199 (pipeline employee drug and alcohol testing)	2002	2003
6	49 CFR parts 172, 173, 174, 176, and 178 (explosives), and 193 (liquefied natural gas facilities), and parts 172, 173, 178, and 180 (cylinders)	2003	2004
7	49 CFR 173 (shipper requirements) and 194 (onshore oil pipeline response plans)	2004	2005
8	49 CFR parts 178 (non-bulk packaging) and 195 (hazardous liquid pipeline transportation)	2005	2006
9	49 CFR parts 178 through 180 (bulk packaging) and 198 (State pipeline safety grants)	2006	2007
10	49 CFR parts 172 (communications, emergency response, training and hazmat table) and 175 (air carriage)	2007	2008

Year 1 (Fall 1998) List of Rules analyzed and a summary of the results

49 CFR sections 171.15 and 171.16- Hazardous Materials Incident Reports

- Section 610: No SEIOSNOSE. These apply to a large number of parties but do not have a significant impact.
- Plain Language: Regulations and reporting form are being rewritten in plain language.
- General: Revised regulation and reporting form will stabilize reporting requirements for the next decade.

49 CFR parts 172, 173, 178, 180-Requirement for Cylinders

This item is being moved to analysis year 6 because it is the subject of an open rulemaking at this time.

Year 2 (Fall 1999) List of Rules that will be analyzed during the next year

49 CFR part 106 and 107 -Hazardous materials safety procedures

49 CFR part 171-General hazmat requirements

49 CFR part 190-Pipeline safety procedures

BUREAU OF TRANSPORTATION STATISTICS
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 241, Form 41	1998	1999
2	14 CFR parts 241, Schedule T-100, and part 217	1999	2000
3	14 CFR parts 298, 49 CFR 1249	2000	2001
4	14 CFR parts 241, section 19-7	2001	2002
5	14 CFR parts 291	2002	2003
6	14 CFR parts 234	2003	2004
7	24 CFR part 399 and 49 CFR parts 1 through 11	2004	2005
8	49 CFR parts 17 through 28	2005	2006

DOT

BUREAU OF TRANSPORTATION STATISTICS (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
9	49 CFR parts 29 through 39 and parts 41 through 89	2006	2007
10	49 CFR parts 91 through 99, 48 CFR parts 1201 through 1253, and new parts and subparts	2007	2008

Year 1 (Fall 1998) List of Rules analyzed and a summary of the results

14 CFR part 241, Form 41- Report of Financial and Operating Statistics for Large Certificated Air Carriers

- Section 610: No SEIOSNOSE. It has a minor impact.
- Plain Language: In the future the agency plans to revise the rule to take into account the plain language initiative.
- General: In the future the agency plans to review the usefulness of and the costs and benefits of collecting these data.

Year 2 (Fall 1999) List of Rules that will be analyzed during the next year

14 CFR part 241, Schedule T-100-U.S. Air Carrier Traffic and Capacity Data by Nonstop Segment and On-Flight Market

14 CFR part 217-Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Non-Scheduled Services

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	33 CFR parts 401 through 403	1998	1999

Year 1 (Fall 1998) List of Rules analyzed and a summary of the results

33 CFR part 401-Seaway regulations and rules

33 CFR part 402-Tariff of Tolls

33 CFR part 403-Rules of procedure of the Joint Tolls Review Board

- Section 610: No SEIOSNOSE. These apply almost exclusively to non–U.S. commercial vessel operations which are not small entities.
- Plain Language: These regulations are written plainly, consistent with drafting requirements of both the Canadian and U.S. governments.
- General: SLSDC anticipates no amendments with any effect on small entities of any of these joint regulations.

Year 2 (Fall 1999) List of Rules that will be analyzed during the next year

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2209	+Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**	2105-AC49
2210	+Computer Reservations System Regulations Comprehensive Review	2105-AC65
2211	+Aviation Data Requirements Review and Modernization Program	2105-AC71
2212	Filing Periods for Responsive Pleadings; Rules of Practice in Aviation Economic Proceedings	2105-AC73
2213	Substance Abuse Professional Definition Change	2105-AC78
2214	Nondiscrimination in Air Travel; Boarding Where Level-Entry Is Unavailable	2105-AC81

+ DOT-designated significant regulation

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2215	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
2216	Air Travelers: Age Discrimination	2105-AA45
2217	Direct Flights	2105-AA73
2218	Diversion of Flights Within a Metropolitan Area	2105-AA78
2219	Simplified Aviation Exemption Procedures	2105-AA82
2220	Baggage Liability Notices in International Air Transportation	2105-AA84
2221	Simplified Airline Counter-Sign Notices	2105-AA88

VOL 64 ISS 224 NO 22 1999 UMI

DOT

Office of the Secretary—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2222	+Price Advertising	2105-AB50
2223	+Procedures for Transportation Workplace Drug-Testing Programs	2105-AB71
2224	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2105-AC02
2225	Domestic Baggage Liability	2105-AC07
2226	Use of Direct Final Rulemaking	2105-AC11
2227	Overbooking of Flights: Elimination of Airport Notice Signs	2105-AC45
2228	Fees and Charges for Special Services: Reinvention	2105-AC47
2229	Rules of Practice in Aviation Economic Proceedings: Reinvention	2105-AC48
2230	Amendments to Modal Alcohol Testing Rules: Pre-Employment Testing	2105-AC50
2231	Repeal of Traffic Restrictions to North Korea	2105-AC70
2232	+Participation by Disadvantaged Business Enterprises in Airport Concessions	2105-AC76
2233	Electronic Filing Option in DOT Proceedings	2105-AC79
2234	Standard Time Zone Boundary in the State of Kentucky; Proposed Relocation	2105-AC80
2235	Standard Time Zone Boundary in the State of Nevada: Proposed Relocation	2105-AC82

+ DOT-designated significant regulation

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2236	Policy Statement on Airline Preemption	2105-AA46
2237	+Statement of Enforcement Policy on Rebating	2105-AB39
2238	Smoking Aboard Aircraft	2105-AB58
2239	+Accessibility of Passenger Vessels to Individuals With Disabilities	2105-AB87
2240	+Transportation for Individuals With Disabilities (Accessibility Guidelines)	2105-AC06
2241	Use of Oxygen by Air Carrier Passengers	2105-AC29
2242	+Domestic Passenger Manifest Information	2105-AC62
2243	+Enforcement Policy: Unfair Exclusionary Conduct in the Air Transportation Industry	2105-AC72

+ DOT-designated significant regulation

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
2244	+New Restrictions on Lobbying	2105-AB57
2245	Passenger Tariff-Filing Requirements Exemption	2105-AC61
2246	Uniform Administrative Requirements for Grants and Cooperative Agreements: Common Rule	2105-AC66
2247	Disability in Air Travel; Compensation for Damage to Wheelchairs	2105-AC77

+ DOT-designated significant regulation

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2248	Barges Carrying Bulk Liquid Hazardous Material (USCG-1999-5117) **(Section 610 Review)**	2115-AF77

DOT

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2249	Reporting Marine Casualties (CGD 91-216)	2115-AD98
2250	+Marine Transportation - Related Facility Response Plans for Hazardous Substances (CGD 94-048) **(Reg Plan Seq. No. 88)**	2115-AE87
2251	Numbering of Undocumented Barges (CGD 93-091) (USCG-1998-3798)	2115-AF13
2252	Outer Continental Shelf Activities (1998-3868)	2115-AF39
2253	Carriage of Bulk Solid Materials Requiring Special Handling (CGD 97-037)	2115-AF47
2254	+Towing Vessel Safety (Fire Suppression Systems and Other Measures for Towing Vessels) (CGD 97-064)	2115-AF53
2255	Pollution Prevention for Oceangoing Ships and Certain Vessels in Domestic Service (CGD 97-072)	2115-AF56
2256	+Salvage and Firefighting Equipment; Vessel Response Plans (USCG-1998-3417)	2115-AF60
2257	Deep Water Ports (USCG 1998-4441)	2115-AF63
2258	Commercial Diving Operations (USCG-1998-3786)	2115-AF64
2259	Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (USCG-1999-5040)	2115-AF69
2260	Certification of Navigation Lights on Recreational Vessels (CGD 97-060)	2115-AF70
2261	Vessel Documentation (USCG-1998-4784)	2115-AF71
2262	+Revised Blood Alcohol Concentration (BAC) Limit (USCG-1998-4593)	2115-AF72
2263	Frequency of Inspection, Hull Examination Alternative for Certain Passenger Vessels, and Underwater Surveys for Passenger Vessels (USCG-1999-4976)	2115-AF73
2264	+Vessel Traffic Service Lower Mississippi/Automatic Identification System Carriage Requirement (USCG-1998-4399)	2115-AF75
2265	Vapor Control Systems (USCG-1999-5150)	2115-AF78
2266	Training and Qualifications for Personnel on Passenger Ships (USCG:1999-5610)	2115-AF83
2267	Oil Pollution Act of 1990 Phase-out Requirements for Single Hull Tank Vessels (USCG-1998-4620)	2115-AF86
2268	Increase in Threshold for Reporting Recreational Boat Accidents (USCG-1999-6094)	2115-AF87
2269	Eligibility of U.S.-Flag Vessels Measuring Less Than 100 Feet To Obtain Commercial Fisheries Documents (USCG-1999-6095)	2115-AF88
2270	Marine Shipboard Electrical Cable Standards (USCG-1999-6096)	2115-AF89
2271	Federal Pilotage in Baltimore Harbor Baltimore, MD (USCG-1999-6097)	2115-AF90
2272	Great Lakes Pilotage Rates (USCG-1999-6098)	2115-AF91
2273	Safety Zone; Outer Continental Shelf Platforms in the Gulf of Mexico (CGD08-99-023).	2115-AF93

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2274	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)	2115-AD23
2275	Vessel Identification System (CGD 89-050)	2115-AD35
2276	+State Access to the Oil Spill Liability Trust Fund (CGD 92-014)	2115-AE19
2277	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)(USCG-1998-4302)	2115-AE22
2278	Amendments to Hull Identification Number Regulations (CGD 92-065)	2115-AE37
2279	+Tank Vessel Response Plans for Hazardous Substances (USCG-1998-4354) **(Reg Plan Seq. No. 89)**	2115-AE88
2280	Regattas and Marine Parades (CGD 95-054)	2115-AF17
2281	Licensing and Manning for Officers of Towing Vessels (CGD 94-055)	2115-AF23
2282	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015) (USCG-1998-4623)	2115-AF38
2283	Traffic Separation Scheme in the Approaches to Delaware Bay (CGD 97-004)	2115-AF42
2284	+Fire Protection Measures for Towing Vessels (USCG-1998-4445)	2115-AF66
2285	Standard Measurement System Exemption From Gross Tonnage (USCG-1999-5118)	2115-AF76
2286	+Response Plans for Marine Transportation-Related Facilities Handling Non-Petroleum Oils (1999-USCG-5149)	2115-AF79
2287	Update of Standards from American Society for Testing and Materials (ASTM) (USCG-1999-5151)	2115-AF80
2288	Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK (CGD17-99-002)	2115-AF81
2289	Traffic Separation Schemes: Off San Francisco, in the Santa Barbara Channel, in the Approaches to Los Angeles-Long Beach, California (USCG-1999-5700)	2115-AF84
2290	Vessel Traffic Service (VTS) Puget Sound Sector Boundary Change (USCG-1999-6141).	2115-AF92

+ DOT-designated significant regulation

VOL 64 ISS 224 NO 22 1999 UMI

DOT

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2291	Safety/Security Zone Regulations	2115-AA97
2292	Special Anchorage Areas/Anchorage Grounds Regulations	2115-AA98
2293	+Discharge-Removal Equipment for Vessels Carrying Oil (USCG-1998-4858)	2115-AD66
2294	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)	2115-AD90
2295	+Escort Vessels for Certain Tankers (CGD 91-202)	2115-AE10
2296	Regatta Regulations	2115-AE46
2297	Drawbridge Regulations	2115-AE47
2298	+Escort Vessels in Certain U.S. Waters (CGD 91-202a)	2115-AE56
2299	Regulated Navigation Areas	2115-AE84
2300	+Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95-062)	2115-AF26
2301	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)	2115-AF28
2302	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)(USCG-1998-3423)	2115-AF55
2303	Rules of Practice, Procedure, and Evidence for Administrative Proceedings of the Coast Guard (USCG-1998-3472)	2115-AF59
2304	+Emergency Response Plans for Passenger Vessels (USCG-1998-3473)	2115-AF61
2305	+Emergency Control Measures for Tank Barges (USCG-1998-4443)	2115-AF65
2306	+Improvements to Maritime Safety Puget Sound-Area Waters (USCG-1998-4501)	2115-AF68
2307	Mandatory Ship Reporting System Off the Northeast and the Southeast Coasts of the United States (USCG-1999-5525)	2115-AF82

+ DOT-designated significant regulation

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identification Number
2308	Tank Level or Pressure Monitoring Devices (CGD 90-071)	2115-AD69
2309	User Fees for Marine Licensing, Certificates of Registry, and Merchant Mariner Documents (USCG-1997-2799)	2115-AF49
2310	Maritime Course Approval Procedures (USCG-1998-3824)	2115-AF58
2311	Revise Fees to Number Undocumented Vessels in Alaska (USCG-1998-3386)	2115-AF62
2312	Chemical Testing; Management Information System Reporting Requirements (USCG-1998-4469)	2115-AF67
2313	Incorporations by Reference for Alternate Compliance Program (ACP)(USCG-1999-5004)	2115-AF74
2314	Year 2000 (Y2K) Reporting Requirements for Vessels and Marine Facilities (USCG-1999-3917)	2115-AF85

Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2315	+Certification Procedures for Products and Parts **(Section 610 Review)**	2120-AG93

+ DOT-designated significant regulation

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2316	+Part 145 Review: Repair Stations	2120-AC38
2317	+Improved Survival Equipment for Inadvertent Water Landings	2120-AC72
2318	+Retrofit of Improved Seats in Air Carrier Transport Category Airplanes	2120-AC84
2319	+Corrosion Control Program	2120-AE92
2320	+Flight Operational Quality Assurance Program	2120-AF04
2321	+Air Tour Standards	2120-AF07

DOT

Federal Aviation Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2322	+Overflights of Units of the National Park System **(Reg Plan Seq. No. 90)**	2120-AF46
2323	+Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements **(Reg Plan Seq. No. 91)**	2120-AF63
2324	+Submission to Drug Tests	2120-AF64
2325	+Passenger Facility Charges	2120-AF69
2326	+Duration Between Examinations for First- and Second-Airman Medical Certificates	2120-AG06
2327	Fees for Aeromedical Education Training Services	2120-AG07
2328	+False and Misleading Statements Regarding Aircraft Parts	2120-AG08
2329	+Child Restraint Systems	2120-AG43
2330	Civil Penalties: Streamlined Enforcement Test and Evaluation Program; Security; Drug and Alcohol Abatement	2120-AG49
2331	Revision of Air Carrier Crewmember and Training Regulations	2120-AG57
2332	+Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements	2120-AG62
2333	Use of Electronic Signatures	2120-AG63
2334	Revised Landing Gear Shock Absorption Test Requirements	2120-AG72
2335	Training in the Recognition of Hazardous Material	2120-AG75
2336	Financial Responsibility Requirements for Licensed Reentry Activities	2120-AG76
2337	Revision of Braking Systems Airworthiness Standards to Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AG80
2338	+Certification of Screening Companies	2120-AG84
2339	+Additional Flight Data Recorder Improvements for Certain B-737 Airplanes	2120-AG87
2340	+Emergency Medical Equipment	2120-AG89
2341	+Traffic Alert and Collision Avoidance Systems - Cargo Airplanes	2120-AG90
2342	+Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes	2120-AG91

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2343	Objects Affecting Navigable Airspace	2120-AA09
2344	Miscellaneous Amendments	2120-AA50
2345	+Revision of Part 108, Airplane Operator Security	2120-AD45
2346	+Revision of Part 107, Airport Security	2120-AD46
2347	+Aging Aircraft Safety	2120-AE42
2348	+Aircraft Ground Deicing and Anti-Icing Program	2120-AE70
2349	Civil Penalty Assessment Procedures	2120-AE84
2350	Flight Attendant English Language Proficiency	2120-AE98
2351	+Revised Access to Type III Exits	2120-AF01
2352	+Training and Checking in Ground Icing Conditions	2120-AF09
2353	Los Angeles, CA, Class B Airspace	2120-AF16
2354	+Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement	2120-AF30
2355	+Type Certification Procedures for Changed Products	2120-AF68
2356	Miscellaneous Cabin Safety Changes	2120-AF77
2357	Repair Assessment for Pressurized Fuselages	2120-AF81
2358	Bird Ingestion Standards	2120-AF84
2359	Revision of Certification Requirements: Aircraft Dispatchers	2120-AG04
2360	+Security Programs of Foreign Air Carriers and Foreign Operators of U.S. Registered Air Carriers Engaged in Common Carriage	2120-AG13
2361	Revised Precision Approach Landing Systems Policy	2120-AG16
2362	+Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies	2120-AG17
2363	+Prohibition of the Transportation of Devices Designed as Chemical Generators as Cargo in Aircraft	2120-AG35
2364	+Protection of Voluntarily Submitted Information	2120-AG36
2365	+Air Tour Operations in the State of Hawaii	2120-AG44
2366	+Terrain Awareness and Warning System **(Reg Plan Seq. No. 92)**	2120-AG46

DOT

Sequence Number
2367
2368
2369
2370
2371
2372
2373
2374
2375
2376

+ DOT-de
Reference

Sequence Number
2377
2378
2379
2380
2381
2382
2383
2384
2385
2386
2387
2388
2389
2390
2391
2392
2393
2394
2395
2396
2397
2398
2399
2400
2401
2402
2403
2404
2405
2406
2407

+ DOT-de

DOT

Federal Aviation Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2367	+High Density Airports; Allocation of Slots	2120-AG50
2368	+Screening of Checked Baggage on Flights Within the United States	2120-AG51
2369	Parachute Operations	2120-AG52
2370	Flight Plan Requirements for Helicopter Operations Under Instrument Flight Rules	2120-AG53
2371	+Policy Regarding Airport Rates and Charges	2120-AG58
2372	Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States	2120-AG66
2373	+Grand Canyon National Park; Limits on Air Tour Operations	2120-AG73
2374	+Modification of the Airspace for Grand Canyon National Park	2120-AG74
2375	Reduced Vertical Separation Minimum	2120-AG82
2376	High Density Rule	2120-AG85

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2377	+Fuel System Vent Fire Protection	2120-AA49
2378	Airworthiness Standards; Crash-Resistant Fuel Systems	2120-AA57
2379	IFR Altitudes; Miscellaneous Amendments	2120-AA63
2380	Airworthiness Directives	2120-AA64
2381	Standard Instrument Approach Procedures; Miscellaneous Amendments	2120-AA65
2382	Airspace Actions	2120-AA66
2383	Low Fuel Quantity Alerting System	2120-AB46
2384	Aircraft Engines: Fuel and Induction Systems	2120-AB76
2385	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents	2120-AC17
2386	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines	2120-AC87
2387	+Drug Enforcement Assistance	2120-AD16
2388	+Sole Radio Navigation System; Minimum Standards for Certification	2120-AD26
2389	Airplane Engine Cowling Retention	2120-AD34
2390	1-G Stalling Speed as a Basis for Compliance With Part 25 of the Federal Aviation Regulations	2120-AD40
2391	+Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143	2120-AD91
2392	Type Certificates for Some Surplus Aircraft of the Armed Forces	2120-AE41
2393	+Airport Noise Compatibility Planning	2120-AE64
2394	+Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities	2120-AE79
2395	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System	2120-AE81
2396	+Revision of Emergency Evacuation Demonstration Procedures To Improve Participant Safety	2120-AF21
2397	+Controlled Rest on the Flight Deck	2120-AF54
2398	Operational and Structural Difficulty Reports	2120-AF71
2399	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes	2120-AF79
2400	Bird Strike	2120-AF80
2401	License Requirements for Operation of a Launch Site	2120-AG15
2402	+Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park	2120-AG34
2403	+Licensing and Safety Requirements for Launch From a Non-Federal Launch Site	2120-AG37
2404	+Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes	2120-AG42
2405	Commercial Space Transportation Reusable Launch Vehicle and Reentry Licensing Regulations	2120-AG71
2406	Pilot Certificates Issued or Validated on the Basis of a Bilateral Air Safety Agreement	2120-AG81
2407	FAR/JAR Harmonization Actions	2120-AG92

+ DOT-designated significant regulation

DOT

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2408	Revision of Certification Requirements: Mechanics and Repairmen	2120-AF22
2409	Normal Category Rotorcraft Maximum Weight and Passenger Seat Limitation	2120-AF33
2410	+Commercial Space Transportation Licensing Regulations	2120-AF99
2411	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations	2120-AG19
2412	Part 93 Subpart D, Anchorage, AK, Terminal Area	2120-AG45
2413	Rotorcraft Load Combination Safety Requirements	2120-AG59
2414	Harmonization of Critical Parts Rotorcraft Regulations	2120-AG60
2415	Noise Certification Standards for Propeller-Driven Small Airplanes	2120-AG65
2416	Night Flying Takeoff and Landing Currency	2120-AG77
2417	Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro	2120-AG78
2418	Airspace and Flight Operations Requirements for Kodak Albuquerque International Balloon Fiesta; Albuquerque, NM	2120-AG79
2419	Year 2000 Airport Safety Inspection	2120-AG83
2420	Airworthiness Standards; Transport Category Rotorcraft Performance	2120-AG86
2421	Revisions to Digital Flight Data Recorder Requirements for Airbus Airplanes	2120-AG88

+ DOT-designated significant regulation

Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2422	Highway Beautification	2125-AD24

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2423	Commercial Learner Permits and CDL Effectiveness	2125-AC54
2424	Certification of Size and Weight Enforcement	2125-AC60
2425	+Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles	2125-AC92
2426	+Training for Entry-Level Drivers of Commercial Motor Vehicles	2125-AD05
2427	+Commercial Driver Physical Fitness as Part of the CDL Process	2125-AD20
2428	+Department of Transportation NEPA and Related Procedures for Transportation Decisionmaking	2125-AD32
2429	Safety Performance History of New Drivers	2125-AD66
2430	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units	2125-AD76
2431	+Motor Carrier Replacement Information/Registration System	2125-AD91
2432	+Hours of Service of Drivers **(Section 610 Review) (Reg Plan Seq. No. 93)**	2125-AD93
2433	Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders	2125-AE01
2434	+Development of a North American Standard for Protection Against Shifting and Falling Cargo	2125-AE05
2435	+Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions	2125-AE09
2436	Traffic Control Devices, Markings, Signals, and Systems for Railroad-Highway Grade Crossings	2125-AE11
2437	Minimum Levels of Financial Responsibility for Mexican Motor Carriers	2125-AE14
2438	Work Zone Safety	2125-AE29
2439	+Revision of Application Form for Mexican Motor Carriers: Commercial Zones	2125-AE31
2440	+Revision of Application Form for Mexican Motor Carriers: NAFTA	2125-AE32
2441	+Accelerated Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States	2125-AE33
2442	Safety Fitness Procedures	2125-AE37
2443	+Federal Motor Carrier Safety Regulations; Zero-Base Revision	2125-AE42
2444	Administration of Engineering and Design Related Services Contracts	2125-AE45
2445	Procedures for Abatement of Highway Traffic Noise and Construction Noise	2125-AE51
2446	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the National Park Service, Including the Park Roads and Parkways Program	2125-AE52
2447	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Bureau of Indian Affairs, Including the Indian Reservations Road Program	2125-AE53

VOL 64 ISS 224 NO 22 1999 UMI

DOT

Federal Highway Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2448	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Fish and Wildlife Service, Including the Refuge Roads Program	2125-AE54
2449	+Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Forest Highways Program	2125-AE55
2450	+Federal Motor Carrier Safety Regulations; Requirements for Operators of Small Passenger Carrying Commercial Motor Vehicles	2125-AE60
2451	+Statewide Metropolitan Planning	2125-AE62
2452	Standards for Dedicated Short Range Communications (DSRC) Applications for Use by Commercial Vehicles in Intelligent Transportation Systems Projects	2125-AE63
2453	+NEPA and Related Procedures for Transportation Decisionmaking; Protection of Public Parks, Wildlife and Waterfowl Refuges and Historic Sites	2125-AE64
2454	National Intelligent Transportation Systems Architecture and Standards	2125-AE65
2455	Revision of the MUTCD; Regulatory Signs, Traffic Control for Low Volume Rural Roads; Traffic Control for Highway-Rail Grade Crossings.	2125-AE66
2456	+Revision of Color Specifications for Signs and Pavement Marking Retroreflective Materials	2125-AE67
2457	Utilities	2125-AE68

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2458	Acquisition of Real Property for Rights-of-Way	2125-AC17
2459	+Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers	2125-AC28
2460	Revision of Medical Examination Form and Procedures	2125-AC63
2461	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers	2125-AC74
2462	+Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking	2125-AD49
2463	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties	2125-AD64
2464	Standards for Center Line and Edge Line Markings on Streets and Highways	2125-AD68
2465	Federal-Aid Highway Systems	2125-AD74
2466	+Railroad Grade Crossing Safety	2125-AD75
2467	Mitigation of Impacts to Wetlands	2125-AD78
2468	Inspection, Repair, and Maintenance	2125-AD82
2469	Railroad Highway Projects	2125-AD86
2470	+Qualifications of Motor Carriers To Self-Insure Their Operations and Fees To Support the Approval and Compliance Process	2125-AE06
2471	+Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle	2125-AE22
2472	Emergency Relief Program — $500,000 Disaster Eligibility Threshold	2125-AE27
2473	Transportation of Household Goods; Consumer Protection Regulations	2125-AE30
2474	Right-of-Way Program Administration	2125-AE44
2475	Motor Carrier Safety Assistance Program (MCSAP)	2125-AE46
2476	Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures	2125-AE48
2477	Revision of the Manual on Uniform Traffic Control Devices; Tourist Oriented Directional Signs, Recreation and Cultural Interest Signs, and Traffic Controls for Bicycle Facilities	2125-AE50
2478	+Safety Fitness Procedures—Unsatisfactory Safety Ratings	2125-AE56
2479	Revision of the Manual on Uniform Traffic Control Devices; Warning Signs and Traffic Controls for Highway-Light Rail Grade Crossings	2125-AE58
2480	Safety Fitness Procedures; Amendments to Safety Fitness Rating Methodology (SFRM) Appendix	2125-AE59
2481	Federal Motor Carrier Safety Regulations; Technical Amendment	2125-AE61

+ DOT-designated significant regulation

DOT

Federal Highway Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2482	+Qualification of Drivers; Diabetes	2125-AB91
2483	+Commercial Driver's License Standards; Biometric Identifier	2125-AC24
2484	Truck Length and Width Exclusive Devices	2125-AC30
2485	Periodic Inspection Requirements	2125-AC47
2486	+Qualification of Drivers; Vision	2125-AC62
2487	+Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials	2125-AC78
2488	+Qualifications of Drivers: Hearing Deficiencies	2125-AD22
2489	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches	2125-AD25
2490	Motor Carrier Safety Assistance Program (MCSAP) Allocation Formula	2125-AD30
2491	+Hours of Service of Drivers; Supporting Document Recordkeeping	2125-AD52
2492	Advanced Construction of Federal Aid Projects	2125-AD59
2493	+Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**	2125-AD65
2494	+Transportation of Migrant Workers	2125-AD81
2495	Electronic Filing of Surety Bonds, Trust Fund Agreements, Insurance Certificates; Cancellations	2125-AD94
2496	General Jurisdiction Over Freight Forwarder Service	2125-AE00
2497	+English Language Requirement; Qualifications of Drivers	2125-AE19
2498	+Application of the National Transportation Communications for ITS Protocol (NTCIP) Standards in ITS Projects	2125-AE21
2499	Revision of Manual on Uniform Traffic Control Devices; General Provisions and Traffic Control for School Areas	2125-AE25
2500	Out-of-Service Criteria	2125-AE35
2501	Revision of the Manual on Uniform Traffic Control Devices; Part II — Signs	2125-AE38
2502	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs	2125-AE39
2503	+General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers	2125-AE40
2504	Indian Reservation Road Bridge Program	2125-AE57

+ DOT-designated significant regulation

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2505	+Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment	2125-AD27
2506	National Standards for Traffic Control Devices; Metric Conversion	2125-AD63
2507	Uniform Procedures for State Highway Safety Programs	2125-AD79
2508	+Parts and Accessories Necessary for Safe Operation; Rear Impact Guards and Rear Impact Protection	2125-AE15
2509	Commercial Driver Disqualification Provisions	2125-AE28
2510	Truck Size and Weight; Definitions; Nondivisible	2125-AE43
2511	+Credit Assistance for Surface Transportation Projects	2125-AE49

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2512	Certification Requirements of Multistage Vehicles	2127-AE27
2513	Review: Passenger-Car Back Seat Occupant Protection	2127-AE95
2514	Review: American Automobile Labeling Act	2127-AG18
2515	Convex Cross-View Mirrors	2127-AG41
2516	Upgrade Roof Crashworthiness	2127-AG51
2517	Child Restraints for Older Children	2127-AH14
2518	Ejection Mitigation Using Advanced Glazing	2127-AH50
2519	Use of Universal Child Seats in Aircraft	2127-AH56
2520	Side Impact Protection Test Procedures	2127-AH66
2521	Special Purpose Vehicles	2127-AH75
2522	Headlamp Glare	2127-AH81
2523	Stowable or Fold-Away Child Restraint Anchorages	2127-AH85
2524	Neck Lateral Bending for 50% Male Side Impact Dummy Hybrid III (SID/HIII)	2127-AH87

DOT

Sequence Number
2525
2526

Sequence Number
2527
2528
2529
2530
2531
2532
2533
2534
2535
2536
2537
2538
2539
2540
2541
2542
2543
2544
2545
2546
2547
2548
2549
2550
2551
2552
2553
2554
2555
2556
2557

+ DOT-de

Sequence Number
2558
2559
2560
2561
2562
2563
2564
2565
2566
2567
2568

DOT

National Highway Traffic Safety Administration—Prerule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2525	Child Restraint Systems **(Section 610 Review)**	2127-AH90
2526	Motorcycle Headlamp System	2127-AH92

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2527	Procedures for Considering Environmental Impacts	2127-AB79
2528	+Wheelchair Lifts	2127-AD50
2529	Radiator Safety Cap	2127-AE59
2530	Upgrade Fuel Integrity Performance Requirements	2127-AF36
2531	Door Latch Exemption for Vehicles Equipped With Wheelchair Lifts and Ramps	2127-AG16
2532	Seat Belt Positioning Devices	2127-AG49
2533	Hybrid III 95th Percentile Male	2127-AG79
2534	Signal Lamps Used With Light Emitting Diodes	2127-AG88
2535	Motorcycle Mounted Reflex Reflector Height	2127-AG92
2536	+Allocation of Fuel Economy Credits	2127-AG97
2537	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency	2127-AH00
2538	Incorporate the 1996 Revision of the American National Standards Institute (ANSI)	2127-AH08
2539	Harmonization of Head Restraints	2127-AH09
2540	Motorcycle Braking Requirements	2127-AH15
2541	Heavy Vehicle Antilock Brake System (ABS) Performance Requirement	2127-AH16
2542	Definition of Community Transportation Vehicles	2127-AH23
2543	Metric Conversion—Phase III	2127-AH27
2544	Upgrade Door Retention Performance	2127-AH34
2545	Administrative Rewrite of the Lighting Requirements Other Than Headlamps	2127-AH37
2546	Parking Brake Warning System on School Buses	2127-AH57
2547	Exemption for Inconsequential Defect or Noncompliance	2127-AH58
2548	Upper Interior Impact	2127-AH61
2549	Compliance and Enforcement	2127-AH63
2550	Importation of Canadian Vehicles Which Are in Compliance With Federal Motor Vehicle Safety Standards	2127-AH67
2551	Accelerator Control Systems	2127-AH71
2552	Frontal Offset Protection	2127-AH73
2553	Theft Data for Calendar Year 1998	2127-AH76
2554	Insurer Reporting Requirements for October 2000	2127-AH77
2555	Low-Speed Vehicle Performance Requirements	2127-AH80
2556	Interior Trunk Release	2127-AH83
2557	Defect Reporting and Notification	2127-AH89

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2558	+Rollover Protection **(Reg Plan Seq. No. 94)**	2127-AC64
2559	Brake Lining	2127-AC66
2560	Seating Systems Performance	2127-AD08
2561	Electric Vehicle Safety	2127-AF43
2562	Review: Odometer Fraud	2127-AF53
2563	Alternative Geometric Visibility Requirements for Lamps	2127-AF75
2564	Power-Operated Windows: Roof Panels	2127-AF83
2565	Automotive Fuel Economy Reports	2127-AG00
2566	Dealer Notification of Defect or Noncompliance Determination	2127-AG27
2567	Power Window Safety Switches	2127-AG36
2568	Modified Vehicles To Accommodate a Person's Disability	2127-AG40

DOT

National Highway Traffic Safety Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2569	Fifth Percentile Female Dummy	2127-AG66
2570	Transition Procedures From Current to New National Driver Register	2127-AG68
2571	+Advanced Air Bags **(Reg Plan Seq. No. 95)**	2127-AG70
2572	Hybrid III Type 6-Year-Old Size	2127-AG76
2573	Hybrid III Type 3-Year-Old Size	2127-AG77
2574	CRABI 12-Month-Old Size	2127-AG78
2575	Glare Reduction From Daytime Running Lamps	2127-AG86
2576	Administrative Rewrite for Headlamp Requirements	2127-AG87
2577	Uniform Tire Quality Grading Test Procedures	2127-AG96
2578	Placement of Wheelchair Restraints on Buses	2127-AH03
2579	Truck Air Braking Requirements	2127-AH11
2580	Transmission Control Levers	2127-AH21
2581	Public Participation in Activities Relating to the Agreement on Global Technical Regulations: Statement of Policy	2127-AH29
2582	+Safety Incentive Grants for Use of Seat Belts	2127-AH38
2583	Occupant Protection Incentive Grants	2127-AH40
2584	Open Container Requirements	2127-AH41
2585	Alcohol-Impaired Driving Countermeasures Incentive Grants	2127-AH42
2586	State Highway Safety Data Improvements Incentive Grants	2127-AH43
2587	+Uniform Criteria for State Observational Surveys of Seat Belt Use	2127-AH46
2588	Minimum Penalties for Repeat Offenders	2127-AH47
2589	Extension of Compliance Date for ABS Malfunction Indicator Lamp	2127-AH55
2590	Dynamically Deploying Head Protection Systems	2127-AH60
2591	Brake Testing Procedures	2127-AH64
2592	Requirements for Low-Speed Vehicles (LSV)	2127-AH69
2593	Compressed Natural Gas Fuel Container Integrity	2127-AH72
2594	Vehicles with Raised Roofs	2127-AH74
2595	High-Theft Lines for Model Year 2001	2127-AH78
2596	Brake Hoses	2127-AH79
2597	School Bus Body Joint Strength	2127-AH84
2598	Child Restraint Anchorage Systems - Part 2	2127-AH86

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

National Highway Traffic Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2599	+Crashworthiness Ratings	2127-AA03
2600	+Flammability of Interior Materials—School Buses	2127-AA44
2601	+Review: Side Impact Protection	2127-AF54
2602	Review: Heavy Truck Conspicuity	2127-AG19
2603	State Issued Identification Documents	2127-AG91
2604	Review: Child Safety Seat Registration	2127-AG93
2605	Buy American Requirements	2127-AG99
2606	Review: Air Bag On-Off Switches	2127-AH12
2607	Review: Redesigned Air Bags	2127-AH13

+ DOT-designated significant regulation

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2608	Seat Adjustment Position	2127-AE22
2609	Test Device Placement	2127-AF40
2610	Pelvic Restraints	2127-AG48
2611	Consumer Information on Tire Grading	2127-AG67

DOT

National Highway Traffic Safety Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2612	Extend Participation in the National Driver Register Program	2127-AG90
2613	Fuel Economy Calculations	2127-AG95
2614	Tire Identification Symbols	2127-AH10
2615	Functional Equivalence of Headlamp Concealment With European Regulations	2127-AH18
2616	Functional Equivalence of Windshield Washing and Wiping Systems With European Regulations	2127-AH20
2617	Functional Equivalence of Windshield Defrosting and Defogging Systems with European Regulations	2127-AH22
2618	Extension of Passenger Car Brake System Standard to Light Trucks and Vans (LTVs) With Gross Vehicle Weight Rating Between 3,500 and 4,536 Kg	2127-AH30
2619	Motor Vehicle Content Labeling Calculation	2127-AH33
2620	Theft Data for Calendar Year 1997	2127-AH35
2621	High-Theft Lines for Model Year 2000	2127-AH36
2622	+State Incentives To Prevent Operation of Motor Vehicles by Intoxicated Persons	2127-AH39
2623	Importation of Vehicles and Equipment Suppliers—Technical Amendment	2127-AH45
2624	Adjustment of Civil Penalties	2127-AH48
2625	Certification Requirements for Vehicle Alterers	2127-AH49
2626	+Light Truck Fuel Economy Standards for Model Year 2001	2127-AH52
2627	Uniform Procedures for State Highway Safety Programs	2127-AH53
2628	Procedures for Participation in and Receiving Data From the National Driver Register Problem Driver Pointer System	2127-AH54
2629	Bumper Standard Requirements	2127-AH59
2630	Insurer Reporting Requirements for October 1999	2127-AH62
2631	Child Restraint Anchorage Systems - Part 1	2127-AH65
2632	Location of Rollover Warning Labels	2127-AH68
2633	Stopping Distance Table	2127-AH70
2634	Uniform Tire Quality Grading Standards Information	2127-AH82
2635	Listing of Nonconforming Vehicles Eligible for Importation	2127-AH88

+ DOT-designated significant regulation

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2636	+Hours of Service Electronic Recordkeeping Project	2130-AB04
2637	Tourist and Historic Working Group Regulatory Review	2130-AB12

+ DOT-designated significant regulation

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2638	+Whistle Bans at Highway-Rail Grade Crossings **(Reg Plan Seq. No. 96)**	2130-AA71
2639	+Locomotive Cab Working Conditions	2130-AA89
2640	+Positive Train Control	2130-AA94
2641	+Locomotive Crashworthiness	2130-AB23
2642	Roadway Equipment Safety	2130-AB28
2643	+Joint Statement of Safety Policy for Shared Use of General Railroad System Trackage by Conventional Railroad and Rail Transit Trains	2130-AB33
2644	Event Recorder Crashworthiness	2130-AB34
2645	Revision to Railroad Safety Enforcement Procedures	2130-AB35
2646	Rules of Practice	2130-AB36

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

DOT

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2647	Local Rail Freight Assistance to States	2130-AA60
2648	+Freight Car Safety Standards: Maintenance-of-Way Equipment	2130-AA68
2649	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems	2130-AA97
2650	Statement of Policy Regarding Safety of Railroad Bridges	2130-AA99
2651	Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems	2130-AB05
2652	Reinvention of Signal System Reporting Requirements	2130-AB06.
2653	Reinvention of Steam Locomotive Inspection Regulations	2130-AB07
2654	Florida Overland Express High Speed Rail Rule of Particular Applicability	2130-AB14
2655	Small Railroads; Policy Statement on Enforcement Program	2130-AB15
2656	+Power Brake Regulations: Freight Power Brake Revisions	2130-AB16
2657	Use of One-Person Crews in Rail Operations	2130-AB18
2658	+Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control and Start-Up Operations **(Reg Plan Seq. No. 97)**	2130-AB24
2659	Bridge Worker Safety Standards	2130-AB25
2660	+Amendment of Regulations Governing Railroad Rehabilitation and Improvement Financing	2130-AB26
2661	Planning Activities Under the Magnetic Levitation Transportation Technology Deployment Program	2130-AB29
2662	Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents	2130-AB30
2663	Determination of Minimum Testing Rate for Random Drug and Alcohol Testing	2130-AB31
2664	Track Safety Standards Amendment To Address Gage Restraint Measurement Systems	2130-AB32
2665	Revised Docket Filing Procedures for Federal Railroad Administration Rulemaking and Adjudicatory Dockets	2130-AB37

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Federal Railroad Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2666	AMTRAK Waste Disposal	2130-AA84
2667	Blue Signal and Related Protections	2130-AA90
2668	Crane Safety Standards	2130-AB27

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2669	Qualification and Certification of Locomotive Engineers	2130-AA74
2670	+Environmental Impact and Related Procedures (FRA, FTA, FHWA)	2130-AA93
2671	+Passenger Equipment Safety Standards	2130-AA95
2672	Use of Remotely Controlled Locomotives in Rail Operations	2130-AB17

+ DOT-designated significant regulation

Federal Transit Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2673	Buy America Requirements; Permanent Waiver for Microcomputers	2132-AA68

DOT

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2674	+Department of Transportation (FTA, FHWA) and Related Procedures for Transportation Decisionmaking	2132-AA43
2675	+Clean Fuels Formula Grant Program	2132-AA64
2676	+Statewide Metropolitan Planning	2132-AA66
2677	State Safety Oversight; Rail Fixed Guideway Systems	2132-AA69
2678	Requirement for Third-Party Contracting with FTA Recipients	2132-AA70
2679	Prevention of Alcohol Misuse and Drug Use in Transit Operations	2132-AA71

+ DOT-designated significant regulation

Federal Transit Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2680	+Bus Testing	2132-AA30
2681	Charter Services Demonstration Program	2132-AA58
2682	Buy America Requirements; Amendment to Certification Procedures	2132-AA62
2683	+Major Capital Investment Projects	2132-AA63
2684	School Bus Operations	2132-AA67
2685	+Joint Statement of Safety Policy for Shared Use of General Railroad System Trackage by Conventional Railroad and Rail Transit Systems	2132-AA73

+ DOT-designated significant regulation

Federal Transit Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2686	Proposed Expanded Reporting of Safety and Security Portion of the National Transit Database	2132-AA60
2687	+Credit Assistance for Surface Transportation Projects	2132-AA72

+ DOT-designated significant regulation

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2688	Hazardous Materials: Revision of Requirements for Carriage by Aircraft	2137-AD18
2689	Hazardous Materials: Air Carrier Emergency Telephone Number Requirements	2137-AD29
2690	Hazardous Materials: Cargo Tank Rollover Requirements	2137-AD34
2691	Hazardous Materials: Adoption of latest IAEA and Other Miscellaneous Revisions and Clarifications	2137-AD40

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2692	Quantity Limitations Aboard Aircraft	2137-AA85
2693	Pipeline Safety: Gas Gathering Line Definition	2137-AB15
2694	DOT 3AL Aluminum Cylinders; Safety Problems	2137-AB51
2695	Areas Unusually Sensitive to Environmental Damage (USAs)	2137-AC34
2696	+Emergency Flow Restricting Devices	2137-AC39
2697	Pipeline Safety: Periodic Underwater Inspections	2137-AC54
2698	+Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage **(Reg Plan Seq. No. 98)**	2137-AC68
2699	Hazardous Materials: Requirements for Cargo Tanks	2137-AC90
2700	Further Regulatory Review; Gas Pipeline Safety Standards	2137-AD01

DOT

Research and Special Programs Administration—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2701	+Pipeline Safety: Recommendations To Change Hazardous Liquid Pipeline Safety Standards	2137-AD10
2702	Hazardous Materials: Revisions to Standards for Infectious Substances	2137-AD13
2703	Transportation of Hazardous Materials; Miscellaneous Amendments	2137-AD16
2704	+Hazardous Materials Transportation: Registration and Fee Assessment Program	2137-AD17
2705	Hazardous Materials: Revision of Requirements for Carriage by Rail Car and Motor Vehicle	2137-AD19
2706	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form	2137-AD21
2707	Pipeline Safety: Corrosion Control on Gas and Hazardous Liquid Pipelines	2137-AD24
2708	Pipeline Safety: Gas and Hazardous Liquid Pipeline Repair	2137-AD25
2709	Pipeline Safety: Pressure Testing Older Pipelines in Terminals	2137-AD26
2710	Hazardous Materials: Hazard Communication Requirements — Petitions for Rulemaking and Miscellaneous Amendments	2137-AD28
2711	Hazardous Materials: Revised and Clarified Hazardous Materials Exemptions Procedures	2137-AD30
2712	+Hazardous Materials Safety: Transportation of Oxygen Cylinders on Aircraft	2137-AD33
2713	Pipeline Safety: Periodic Updates to Pipeline Safety Requirements (1999)	2137-AD35
2714	Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions	2137-AD41
2715	Pipeline Safety: Producer-Operated Outer Continental Shelf Gas and Hazardous Liquid Pipelines That Cross Directly Into State Waters	2137-AD42

+ DOT-designated significant regulation
References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2716	+Requirements for Cylinders	2137-AA92
2717	+Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory	2137-AB48
2718	Determining the Extent of Corrosion on Exposed Gas Pipelines	2137-AB50
2719	Passage of Internal Inspection Devices	2137-AB71
2720	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements	2137-AC24
2721	+Response Plans for Onshore Oil Pipelines	2137-AC30
2722	Pipeline Safety: Underwater Abandoned Pipeline Facilities	2137-AC33
2723	Filling of Propane Cylinders	2137-AC86
2724	+Prohibition of Oxidizers Aboard Aircraft	2137-AC92
2725	Pipeline Safety: Adoption of Industry Standards for Liquefied Natural Gas Facilities	2137-AD11
2726	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures	2137-AD20
2727	Pipeline Safety: Enforcement Procedures	2137-AD22
2728	Hazardous Materials: Limited Extension of Requirements for Labeling Certain Shipments of Materials Poisonous by Inhalation (PIH)	2137-AD37
2729	Hazardous Materials: Editorial Corrections and Clarifications	2137-AD38
2730	Hazardous Materials: Hazardous Substances - Additions, Revisions and Deletions	2137-AD39

+ DOT-designated significant regulation

Research and Special Programs Administration—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2731	+Safeguarding Food From Contamination During Transportation	2137-AC00
2732	+Increased Inspection Requirements	2137-AC38
2733	Regulated Gas and Hazardous Liquid Gathering Lines	2137-AC53
2734	Retention of Shipping Papers	2137-AC64
2735	+Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service	2137-AD07

+ DOT-designated significant regulation

DOT

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identification Number
2736	+Pipeline Safety: Qualification of Pipeline Personnel	2137-AB38
2737	Pipeline Safety: Adoption of Industry Standards for Breakout Tanks	2137-AC11
2738	1998 Harmonization of Hazardous Materials Regulations With International Standards	2137-AD15
2739	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1998)	2137-AD23
2740	Pipeline Safety: Random Drug Testing Rates	2137-AD32

+ DOT-designated significant regulation

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2741	+Cargo Preference Regulations—Carriage of Agricultural Exports	2133-AB37
2742	+Eligibility of U.S.-Flag Vessels of 100 Feet or Greater To Obtain Commercial Fisheries Documents	2133-AB38

+ DOT-designated significant regulation

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2743	Putting Customers First in the Title XI Program: Ship Financing Guarantees	2133-AB32
2744	Administrative Waivers of the Coastwise Trade Laws for Eligible Vessels	2133-AB39

Bureau of Transportation Statistics—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2745	Modernizing the Passenger Origin-Destination Survey	2139-AA01

Bureau of Transportation Statistics—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2746	Amendment to the Definitions of Revenue and Nonrevenue Passengers	2139-AA07

Bureau of Transportation Statistics—Completed Actions

Sequence Number	Title	Regulation Identification Number
2747	Modernizing the Motor Carriers of Property Financial Data Collections	2139-AA05

Department of Transportation (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

2209. +UPDATE OF DRUG AND ALCOHOL PROCEDURAL RULES (COMPLETION OF A SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The Department is reviewing its procedural rules for drug and alcohol testing. This review is intended to lead to a notice of proposed rulemaking that will not include major substantive changes to how we test but rather to update and clarify provisions of the rules. This ANPRM asked for suggestions for possible changes to the regulation and the focus is expected to be on drug testing. As part of this action, a small entities review under 5 USC section 610 will be included.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/96	61 FR 18713
ANPRM Comment Period End	07/29/96	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: This change would apply to regulated parties through each of the six DOT operating administrations' rules (FAA, FHWA, FTA, FRA, USCG, and RSPA). It is expected that the NPRM to be issued in this action will withdraw an NPRM in a related action, RIN 2105-AB71, Procedures for Transportation Workplace Drug-Testing Programs. The NPRM will also incorporate all comments received in a related ANPRM issued under RIN 2105-AC78 6/3/99, 64 FR 29831, Substance Abuse Professional Definition Change.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC49

2210. +COMPUTER RESERVATIONS SYSTEM REGULATIONS COMPREHENSIVE REVIEW

Priority: Other Significant

Legal Authority: 49 USC 41712; 49 USC 40101(a); 49 USC 40113(a); 49 USC 40105

CFR Citation: 14 CFR 255

Legal Deadline: Final, Statutory, December 31, 1997.

Abstract: The Department regulates computer reservations systems owned by airlines or airline affiliates that are used by travel agencies. The current rules are designed to prevent the systems from unreasonably prejudicing the competitive position of other airlines and to ensure that travel agencies can provide accurate and unbiased information to the public. The Department is reexamining its rules to see whether they should be readopted and, if so, whether they should be changed. As part of this action, we will be looking at ways to lessen impacts on small entities.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/97	62 FR 47606
Notice Extending Comment Period	10/30/97	62 FR 58700
Request for Comments	11/07/97	62 FR 60195
ANPRM Comment Period End	11/10/97	
Extended Comment Period End	12/09/97	
Notice Extending Reply Comment Period	01/23/98	63 FR 3491
Extended Comment Period End	02/03/98	
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Ray, Office of General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4731

RIN: 2105–AC65

2211. +AVIATION DATA REQUIREMENTS REVIEW AND MODERNIZATION PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 40101; 49 USC 41101; 49 USC 41708; 49 USC 41709; 49 USC 41301; 49 USC 41501; 49 USC 41701

CFR Citation: 14 CFR 241; 14 CFR 250; 14 CFR 298; 14 CFR 374a; 14 CFR 234

Legal Deadline: None

Abstract: The Department is undertaking an aviation data requirements review and modernization program. The review is designed to harmonize the Department's aviation data systems with current regulatory and statutory needs; improve the quality of the Department's aviation databases; and eliminate obsolete data reporting and processing systems. The ANPRM was the first step in an outreach program to review aviation data collected by the Department and the measures that should be taken to modernize and improve aviation data reporting and processing systems. The Department solicited public comments from aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department invited comments to determine whether existing aviation data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and airline industry. The Department has reviewed the comments and reply comments and is in the process of redefining the data elements and restructuring the data reporting requirements to be included in a NPRM. This action is significant due to substantial public and industry interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/98	63 FR 38128
ANPRM Comment Period End	09/14/98	

VOL 64 ISS 224 NOV 22 1999 UMI

DOT—OST

Proposed Rule Stage

Action	Date	FR Cite
Reply Comment Period End	10/13/98	
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Todd Homan, Industry Economist, Department of Transportation, Office of the Secretary, X-55, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9605

RIN: 2105–AC71

2212. FILING PERIODS FOR RESPONSIVE PLEADINGS; RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5111; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action stems from an NPRM to revise rules of practice in aviation economic proceedings published 2/3/97 (63 FR 5094) RIN 2105-AC48. The Department received a number of comments seeking changes in filing periods for responsive pleadings to various types of applications. Based on comments there will be a reevaluation of the time periods for filing documents. Since changes in the time periods were outside the scope of the original notice, a supplemental notice will be published on this narrow question.

Timetable:

Action	Date	FR Cite
SNPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, X-56, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC73

2213. • SUBSTANCE ABUSE PROFESSIONAL DEFINITION CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 102

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: This action seeks comments on a proposal that organizations certifying substance abuse professionals (SAPs) could use to have members included in the Department's definition. The proposal would require these organizations to obtain a National Commission for Certifying Agencies accreditation as a prerequisite for having the DOT review their petitions for inclusion of their members as SAPs in the Department's drug and alcohol testing program.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/99	64 FR 29831
ANPRM Comment Period End	08/02/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The comments received are expected to be included in the NPRM for the Department's Update of Drug and Alcohol Procedural Rules RIN 2105-AC49.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC78

2214. • NONDISCRIMINATION IN AIR TRAVEL; BOARDING WHERE LEVEL-ENTRY IS UNAVAILABLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41702; 49 USC 41705; 49 USC 41712

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: This action requires air carriers and airports to work jointly to make lifts or other boarding devices available for aircraft, of whatever size, where level-entry loading bridges or existing lifts are not present. This action is intended to facilitate the boarding by individuals with disabilities on aircraft. It amends existing rules that implement the Air Carrier Access Act of 1986 and the Rehabilitation Act of 1973.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46611
NPRM Comment Period End	11/24/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC81

Department of Transportation (DOT)
Office of the Secretary (OST)

Final Rule Stage

2215. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This action proposed to make direct air carriers responsible for returning charter passengers stranded by strikes or other service interruptions, by eliminating the force majeure clause from charter contracts. However, the CAB subsequently issued an interpretive rule (ER-1387, 49 FR 33436) which was affirmed in court. (Arrow Air, Inc. v. Dole, 784 F2d 1118 (1986)) Therefore, this action is now moot; the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
To Be Withdrawn	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: EDR 405, Docket 37169.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA40

2216. AIR TRAVELERS: AGE DISCRIMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376

Legal Deadline: None

Abstract: This rulemaking action was initiated by the Civil Aeronautics Board to implement the Age Discrimination Act of 1975. A draft final rule was submitted to HHS, as required by that Act, and was approved. However, in view of current airline practices with respect to travel by the elderly, and the absence of complaints of discrimination based on age, there no longer appears to be a need for further rulemaking action, and the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	09/26/79	44 FR 55383
Final Action Adopted by the Board	04/10/80	
HHS Approved Final Rule With Changes	07/13/84	
To Be Withdrawn	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SPDR-74, Docket 36639.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AA45

2217. DIRECT FLIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The petition is filed in Docket 41217.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA73

2218. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given to passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is withdrawing the NPRM as unnecessary since it appears that carriers no longer have the policies that promoted the CAB's concern.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601. Docket 41683, EDR 468/PSDR-81.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590

DOT—OST

Final Rule Stage

Phone: 202 366-9306

RIN: 2105–AA78

2219. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 389; 14 CFR 399

Legal Deadline: None

Abstract: A Civil Aeronautics Board rulemaking proposed to revise and simplify the requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act. This action has become unnecessary since the Department included most of its provisions in its rule transferring the CAB's rules to DOT. Therefore, the NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39337
NPRM Comment Period End	12/04/84	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: PDR-88/ODR-27/PSDR-83.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA82

2220. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481 to 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49111
NPRM Comment Period End	03/19/85	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41690; EDR-477.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA84

2221. SIMPLIFIED AIRLINE COUNTER-SIGN NOTICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International, and the Air Transport Association of America petitioned the CAB to simplify its counter-sign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified counter sign. A CAB NPRM proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted, and whether a smoking notice should be included. DOT decided not to act on these "counter signs" separately, but rather to consider whether there should be a comprehensive re-examination of all forms of notice to passengers, including notices on tickets. This NPRM will be withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket 41971; EDR-474

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AA88

2222. +PRICE ADVERTISING

Priority: Other Significant

Legal Authority: 49 USC 1371; 49 USC 1381

CFR Citation: 14 CFR 380; 14 CFR 399

Legal Deadline: None

Abstract: The Department proposed in 1989 to amend its rule and policy statement with respect to air transportation price advertising. This rulemaking is significant because of substantial public interest. Because of the amount of time that has elapsed since the proposal was issued, the Department is withdrawing it.

Timetable:

Action	Date	FR Cite
NPRM	07/26/89	54 FR 31052
NPRM Comment Period Extended	08/23/89	54 FR 35005
NPRM Comment Period End	08/25/89	
Extended Comment Period End	09/25/89	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOT—OST

Final Rule Stage

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB50

2223. +PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG-TESTING PROGRAMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 101; 49 USC 102; 49 USC 301; 49 USC 302; 49 USC 322

CFR Citation: 49 CFR 40

Legal Deadline: None

Abstract: The NPRM in 1990 concerned the question of to whom reports of negative drug test results may be sent. It will be formally withdrawn when the Department issues an NPRM under RIN 2105-AC49, Update of Drug and Alcohol Procedural Rules. This action is significant because of substantial public and congressional interest, and multimodal impact.

Timetable:

Action	Date	FR Cite
NPRM	07/13/90	55 FR 28782
NPRM Comment Period End	08/13/90	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 07/13/90, 55 FR 28782

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AB71

2224. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322(a)

CFR Citation: 49 CFR 19

Legal Deadline: None

Abstract: This action implements OMB Circular A-110, providing uniform guidance for administering grants to institutions of higher education, hospitals, and other nonprofit organizations. The regulation is essentially a word-for-word issuance of the requirements in OMB Circular A-110. An interim final rule was issued because of the limited ability to change the requirements from those in the Circular.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/04/94	59 FR 15637
Comment Period End	06/03/94	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, Senior Procurement Executive, Department of Transportation, Office of the Secretary, M-62, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC02

2225. DOMESTIC BAGGAGE LIABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40101 et seq

CFR Citation: 14 CFR 254.4; 14 CFR 254.5

Legal Deadline: None

Abstract: The Department is proposing to amend its rule governing the amount by which certain U.S. air carriers may limit their liability to passengers for lost, damaged, and delayed baggage. This action is in response to a petition by Public Citizen and Aviation Consumer Action Project to increase the minimum liability limit from $1,250 to $ 2,500 with a mechanism that would provide periodic updates every two years per passenger.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 49867
NPRM Comment Period End	11/29/94	
NPRM Comment Period Extended	11/29/94	59 FR 60926
SNPRM	06/28/99	64 FR 34592
SNPRM Comment Period End	08/27/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC07

2226. USE OF DIRECT FINAL RULEMAKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 1657

CFR Citation: 49 CFR 5.21; 49 CFR 5.35

Legal Deadline: None

Abstract: The Department is considering a new rulemaking procedure to expedite the processing of noncontroversial changes to its regulations. Rules that the Secretary judges to be unlikely to result in public comment would be published as "direct final" rules. Such direct final rules would advise the public that no adverse comment is anticipated and that, unless written adverse comment or notice of intent to submit such comment is received within a specified number of days, the rule will become effective 60 days from the date of publication in the Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	08/04/95	60 FR 39919

DOT—OST

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	10/03/95	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mr. Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, Room 10424 Nassif Building, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC11

2227. OVERBOOKING OF FLIGHTS: ELIMINATION OF AIRPORT NOTICE SIGNS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 401; 49 USC 411; 49 USC 413; 49 USC 417

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: This action would eliminate a consumer notice about airline overbooking of flights that is required to appear on signs at airports, city ticket offices, and travel agencies. However, that information would be available to consumers because it must accompany every ticket.

Timetable:

Action	Date	FR Cite
NPRM	06/03/96	61 FR 27818
NPRM Comment Period End	07/18/96	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other rulemakings: RIN 2105-AA88, Simplified Airline Counter-Sign Notices. RIN 2105-AC36, Ticketless Travel: Passenger Notices, Statement of Compliance Policy published 4/22/97, 62 FR 19473.

Agency Contact: Tim Kelly, Aviation Consumer Protection Division, Office of the General Counsel, Department of Transportation, Office of the Secretary, C-75, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5952

RIN: 2105–AC45

2228. FEES AND CHARGES FOR SPECIAL SERVICES: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 40101; 49 USC 46101; 31 USC 9701

CFR Citation: 14 CFR 389

Legal Deadline: None

Abstract: This action would remove or update obsolete provisions and organizational references, and adjust the fee schedule for certain special services related to aviation economic proceedings that the Department makes available to the public. The regulation has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 389.

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3229
NPRM Comment Period End	03/22/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John Miller, Analyst, Planning and Special Projects Office, Department of Transportation, Office of the Secretary, X-60, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4868

RIN: 2105–AC47

2229. RULES OF PRACTICE IN AVIATION ECONOMIC PROCEEDINGS: REINVENTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 511; 39 USC 5402; 42 USC 4321; 49 USC 40101; 49 USC 41101; 49 USC 41301; 49 USC 41501; 49 USC 41701; 49 USC 41901; 49 USC 46101; 49 USC 46301

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This action would reorganize in a more logical fashion, regulations that govern the conduct of all aviation economic proceedings before the Department. It would also streamline the regulation to remove redundancies. Procedures relating only to oral evidentiary hearings are being grouped together separate from procedures pertaining only to non-hearing cases. Updates to terminology will be made to reflect the revision and recodification of the Federal Aviation Act. This rule has not been comprehensively updated since 1985 and the revisions will take the form of a complete reissuance of part 302. In response to the NPRM, comments were received. They seek changes in the filing periods for responsive pleadings to various types of applications. Since these were outside the scope of the original notice, a supplemental notice will be issued. See RIN 2105-AC73.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 5094
NPRM Comment Period End	04/04/97	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol A. Woods, Analyst, Air Carrier Fitness Division, Department of Transportation, Office of the Secretary, X-56, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2340

RIN: 2105–AC48

2230. AMENDMENTS TO MODAL ALCOHOL TESTING RULES: PRE-EMPLOYMENT TESTING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 49 USC 102; 49 USC 301; 49 USC 5331; 49 USC 20140; 49 USC 31306; 49 USC 45101; 49 USC 45106

CFR Citation: 49 CFR 219; 49 CFR 382; 49 CFR 653; 49 CFR 654; 49 CFR 121

Legal Deadline: None

Abstract: This rule would implement a recent statutory change required by the National Highway Systems Act of 1995, section 342, to the existing pre-employment alcohol testing provisions. It would make pre-employment testing voluntary for employers.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21149
NPRM Comment Period End	07/08/96	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action involves four operating administrations: FAA, FHWA, FTA, and FRA. On May 10, 1995 (60 FR 24765), DOT suspended its pre-employment alcohol testing requirements after a court decision vacated the requirements of the FHWA alcohol testing rule.

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC50

2231. REPEAL OF TRAFFIC RESTRICTIONS TO NORTH KOREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 1653; 50 USC app 2154; 50 USC app 2071; EO 12919

CFR Citation: 44 CFR 403; 49 CFR 1

Legal Deadline: None

Abstract: The Departments of Commerce and Transportation are proposing to amend their restrictions on shipping to North Korea. Currently, United States ships and aircraft are prohibited from traveling to or transporting goods to, or destined for, North Korea. In view of the U.S. policy to facilitate the gradual improvement of relations with North Korea, the two departments are proposing to provide for waivers under narrowly defined circumstances such as shipments for humanitarian relief. Shipments such as routine commercial trade would remain prohibited. This action includes a delegation of authority from the Secretary of Transportation to the Assistant Secretary of Transportation for Aviation and International Affairs to grant waivers of these restrictions.

Timetable:

Action	Date	FR Cite
Final Rule	11/05/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff D. Rupp, Office of the General Counsel for International Law, Department of Transportation, Office of the Secretary, 400 Seventh Street SW, Washington, DC 20593
Phone: 202 366-2972

RIN: 2105–AC70

2232. +PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN AIRPORT CONCESSIONS

Priority: Other Significant

Legal Authority: PL 102-581; PL 97-248

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: This action would implement changes to the Airport and Airway Improvement Act to allow airport sponsors to count new forms of disadvantaged business enterprise (DBE) participation toward the overall goals of a DBE concession plan. These new forms include purchases from DBEs of goods and services used in operating a concession, as well as management contracts and subcontracts with DBEs. This action was initially begun in an NPRM 10/6/93, 58 FR 52050, RIN 2105-AB99. It was then combined in the DBE general update and comments were received in response to an SNPRM of 5/30/95, 62 FR 29548. However, when the general update rule was published 2/2/99, 64 FR 5096, RIN 2105-AB92, the airport concessions issue was once again separated. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
SNPRM (Published under RIN 2105-AB92)	05/30/97	62 FR 29548
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC76

2233. • ELECTRONIC FILING OPTION IN DOT PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 49 USC 322; 49 USC 1655; 49 USC 1657; 45 USC 431

CFR Citation: 14 CFR 11

Legal Deadline: None

Abstract: This action amends existing rules, where necessary, to allow electronic filing in all DOT proceedings as an alternative to filing hard copy. The electronic filing option will help us serve the public more quickly and efficiently and will enable the public to participate more easily in DOT proceedings. This rulemaking addresses only the procedures for filing electronically, not technical issues such as media, word-processing formats, and mechanisms for payment of filing fees.

Timetable:

Action	Date	FR Cite
Notice Requesting Comment	05/26/98	63 FR 28545
Comment Period End	07/27/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is a procedural change that presents no

DOT—OST

Final Rule Stage

substantive issue that we could reasonably expect to produce further meaningful comment. It also will relieve a restriction. Therefore, good cause exists to publish this rule without prior formal notice and comments.

Agency Contact: Charlotte Boeck, Administrative Officer, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20015
Phone: 202 366-4713

RIN: 2105–AC79

2234. • STANDARD TIME ZONE BOUNDARY IN THE STATE OF KENTUCKY; PROPOSED RELOCATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 260 to 267

CFR Citation: 49 CFR 71

Legal Deadline: None

Abstract: This action responds to the request of the Wayne County, Kentucky, Fiscal Court. It relocates the boundary between eastern time and central time in the State of Kentucky. It would move Wayne County from the central time zone to the eastern time zone.

Timetable:

Action	Date	FR Cite
NPRM	06/21/99	64 FR 33035
NPRM Comment Period End	08/20/99	
Final Action	10/21/99	64 FR 56705

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A public hearing was held in Monticello, Kentucky 6/24/99.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC80

2235. • STANDARD TIME ZONE BOUNDARY IN THE STATE OF NEVADA: PROPOSED RELOCATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 260 to 267

CFR Citation: 49 CFR 71; 49 CFR 159(a)

Legal Deadline: None

Abstract: This action responds to a request of the City of West Wendover, Nevada. It would relocate the boundary between pacific and mountain time in the state of Nevada to move West Wendover, Nevada from the Pacific Time Zone to the Mountain Time Zone.

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40331
NPRM Comment Period End	09/24/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: A hearing was held in West Wendover, Nevada on August 11, 1999.

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AC82

Department of Transportation (DOT)
Office of the Secretary (OST)

Long-Term Actions

2236. POLICY STATEMENT ON AIRLINE PREEMPTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41713

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The Civil Aeronautics Board in 1979 issued an interim Policy Statement on preemption. It discusses the policy of the Department with respect to three areas in which State law has been preempted by the Airline Deregulation Act of 1978: regulation of commuter air carriers and air taxis, the rights of airport proprietors, and general State authority as it directly or indirectly affects air transportation competition. The Supreme Court subsequently ruled that section 105 of the ADA preempts even indirect State regulation that "has a connection with or reference to" airline rates, routes, or services. The Supreme Court issued another decision on this provision of the law, ruling that it does not preempt State contract law with respect to interpretation and enforcement of agreements voluntarily entered into by air carriers. The Department is considering the effect of these two holdings on the future course and content of the Policy Statement and whether there is a need for such a policy statement.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9948
Request for Comments on Interim Rule	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: PSDR-56, Docket 34684 The 1995 decision issued by the Supreme Court is American Airlines v. Wolens (S. Ct. No. 93-1286).

Agency Contact: Paul Smith, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9285

RIN: 2105–AA46

2237. +STATEMENT OF ENFORCEMENT POLICY ON REBATING

Priority: Other Significant

Legal Authority: 5 USC 601; 49 USC 1301 to 1302; 49 USC 1305; 49 USC

1324(a); 49 USC 1371 to 1379; 49 USC 1381 to 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481 to 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399.80; 14 CFR 399.85

Legal Deadline: None

Abstract: The Department is proposing to provide formal notice to the public of its enforcement policy concerning the rebating of international air fares by adopting that policy as a Policy Statement in the regulations. No change in the substance of that policy is intended. The Department also proposes to revoke an existing Policy Statement on the advertising of rebates that is contrary to DOT's current enforcement policy. The proposal responds to a request for such action by the American Society of Travel Agents. The proposed regulation is significant because it involves important departmental policies and substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	10/21/88	53 FR 41353
NPRM Comment Period End	12/20/88	
NPRM Comment Period Extended	02/03/89	54 FR 5497
Correction	02/10/89	54 FR 6475
Extended Comment Period End	02/21/89	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Betsy Wolf, Senior Trial Attorney, Office of the General Counsel, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9349

RIN: 2105–AB39

2238. SMOKING ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1386; PL 101-164

CFR Citation: 14 CFR 252

Legal Deadline: None

Abstract: This interim final rule amends the rules governing smoking aboard aircraft to incorporate a statutory ban on smoking aboard most U.S. flight segments. The statutory ban applies to both U.S. and foreign air carriers. This rulemaking proposed to clarify the current rule and make other minor changes. The interim final rule was significant because of substantial public interest. The present action would merely finalize that already taken and is, therefore, not considered significant.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/13/90	55 FR 4991
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The interim final rule was effective 02/25/90; the comments were due by 04/16/90.

ANALYSIS: Regulatory Evaluation, 02/13/90, 55 FR 4991

Agency Contact: Joanne Petrie, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306

RIN: 2105–AB58

2239. +ACCESSIBILITY OF PASSENGER VESSELS TO INDIVIDUALS WITH DISABILITIES

Priority: Other Significant

Legal Authority: 42 USC 12101 et seq; PL 101-336, Americans with Disabilities Act

CFR Citation: 49 CFR 37

Legal Deadline: None

Abstract: The Department's Americans with Disabilities Act (ADA) final rule, published September 6, 1991 (56 FR 45584), reserved portions of the rule concerning passenger vessels. The ADA covers passenger vessels, but issuing accessibility requirements for vessels involves complex issues unlike those affecting land transportation. This action will address these issues and propose feasible requirements to make passenger vessels accessible to, and usable by, individuals with disabilities. DOT is participating in an ongoing advisory committee effort convened by the Access Board to study passenger vessel accessibility issues. September and November 1998 meetings were held. This rulemaking is considered significant because of substantial public and congressional interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AB87

2240. +TRANSPORTATION FOR INDIVIDUALS WITH DISABILITIES (ACCESSIBILITY GUIDELINES)

Priority: Other Significant

Legal Authority: 5 USC 552a

CFR Citation: 49 CFR 27; 49 CFR 37

Legal Deadline: None

Abstract: This action would amend the rules implementing the Americans with Disabilities Act by adopting the revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board, published June 20, 1994 (59 FR 31676) as interim final rules. The proposed rule would also conform the Department's rule implementing section 504 of the Rehabilitation Act of 1973. Further DOT action is pending ATBCB/Justice Department action. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/20/94	59 FR 31818
NPRM Comment Period End	08/19/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC06

2241. USE OF OXYGEN BY AIR CARRIER PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41705

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The Department is considering the use of regulatory negotiation to seek consensus among air carriers, consumers, airports, equipment manufacturers, oxygen suppliers, and safety regulators concerning the use of oxygen by passengers on air carriers when individuals need special private supplies. The need for action stems from a current situation where all carriers do not allow passengers to bring their own oxygen aboard. Issues involve conformance with RSPA and FAA hazardous materials rules and the question of providing oxygen during long layovers. The Department is considering whether to begin a regulatory negotiation.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC29

2242. +DOMESTIC PASSENGER MANIFEST INFORMATION

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 49 USC 40101; 49 USC 40113 to 40114; 49 USC 41702; 49 USC 41708 to 41709; 49 USC 41711; 49 USC 46301; 49 USC 46310; 49 USC 46316

CFR Citation: 14 CFR 243

Legal Deadline: None

Abstract: This notice requested comments concerning operational and cost issues related to U.S. air carriers collecting information such as full name, date of birth and/or social security number, emergency contact and telephone number from passengers traveling on flights within the United States. This notice was issued on the Department's initiative in response to difficulties with notification in the aftermath of domestic aviation disasters and to comply with a recommendation contained in the initial report of the White House Commission on Aviation Safety and Security (1996) that urged the Department to explore immediately the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system. DOT will review the implementation of the international passenger manifest requirements (RIN 2105-AB78, 2/18/98, 63 FR 8258) as it determines how to proceed with this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11789
ANPRM Comment Period End	05/12/97	
Comment Period Reopened	05/30/97	62 FR 29313
Comment Period End	06/20/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernestine Allen, Acting Director, Office of International Transportation and Trade, Department of Transportation, Office of the Secretary, X-20, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4368

RIN: 2105–AC62

2243. +ENFORCEMENT POLICY: UNFAIR EXCLUSIONARY CONDUCT IN THE AIR TRANSPORTATION INDUSTRY

Priority: Other Significant

Legal Authority: 49 USC 41712

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proposed statement was developed in consultation with the Department of Justice and sets forth tentative findings and guidelines for use by DOT in evaluating whether major air carriers' competitive responses to new entry warrant enforcement action. This action is significant because it is a major policy initiative of the Department.

Timetable:

Action	Date	FR Cite
Request for Comments	04/10/98	63 FR 17919
Comment Period Extended	05/21/98	63 FR 28021
Comment Period End	06/09/98	
Extended Comment Period End	07/24/98	
Reply Comment Period End	09/08/98	
Reply Comment Period Extended	09/14/98	63 FR 49150
Extended Reply Comment Period End	09/25/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: The Department co-sponsored with the publishers of Aviation Week and Space Technology, the "Deregulation 20 Summit" on September 23 and 24, 1998 in Washington, DC.

Agency Contact: Randall Bennett, Deputy Director, Office of Aviation Analysis, Department of Transportation, Office of the Secretary, X-51, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1053

RIN: 2105–AC72

Department of Transportation (DOT)
Office of the Secretary (OST)

Completed Actions

2244. +NEW RESTRICTIONS ON LOBBYING

Priority: Other Significant

Legal Authority: 49 USC 322(a); 31 USC 1352

CFR Citation: 49 CFR 20

Legal Deadline: Final, Statutory, March 22, 1990.

Abstract: This regulation implements the provisions of a new section 1352 to title 31, United States Code, that prohibits the use of appropriated funds to influence certain Federal contracting and financial transactions. Organizations that use their own funds to pay for lobbying activities are required to disclose such activity. Guidance was issued by the Office of Management and Budget 12/20/89 (54 FR 52305). Additional OMB guidance based on changes to section 1352 in the Lobbying Disclosure Act of 1995 was published 1/19/96 (61 FR 1412). This action was a common, government-wide rule for which OMB has advised that no further action will be taken. For that reason, we are removing it from the Agenda. This action was considered significant because it involved agencies or departments governmentwide.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/90	55 FR 6736
Comment Period End	04/27/90	
Withdrawn	04/05/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, Senior Procurement Executive, Department of Transportation, Office of the Secretary, M-62, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AB57

2245. PASSENGER TARIFF-FILING REQUIREMENTS EXEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 46101; 49 USC 40101; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 41504; 49 USC 41701; 49 USC 41707 to 41709; 49 USC 41712

CFR Citation: 14 CFR 221; 14 CFR 156(h)

Legal Deadline: None

Abstract: This action exempts U.S. and foreign air carriers from the statutory and regulatory duty to file with DOT international passenger tariffs with DOT in certain instances, subject to the reimposition of the duty in specific cases when consistent with the public interest. In addition, the Department proposes to reissue a new version of part 221 that eliminates most of the traditional paper format and filing procedures in the present version. In response to comments, some currently effective rules may continue in legal effect for 180 days from the effective date. This action was taken on the Department's initiative in order to streamline government operations and eliminate unjustified regulatory burdens.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 10758
NPRM Comment Period End	05/09/97	
Final Action	07/27/99	64 FR 40654
Final Action Effective	09/10/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John H. Kiser, Chief, Pricing and Multilateral Affairs Division, Department of Transportation, Office of the Secretary, X-43, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2435

RIN: 2105–AC61

2246. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS: COMMON RULE

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7501 to 7507

CFR Citation: 49 CFR 18.26; 49 CFR 19.26; 49 CFR 322(a)

Legal Deadline: None

Abstract: The Department participated in a voluntary Governmentwide common regulatory effort to amend its regulations because OMB amended its circular A-133 regarding audits of States, local governments, and non-profit organizations, and also rescinded its circular A-128. OMB made these changes to comply with the Single Audit Act Amendments of 1996. OMB has advised that no further action will be taken and for this reason, we are removing it from the Agenda.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Comment Period End	10/28/97	
Action Terminated	04/05/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The interim final rule was required to be published not later than 60 days from June 30, 1997, the date of publication of OMB's notice of revision of OMB circular A-133 and rescission of circular A-128.

Agency Contact: Robert G. Taylor, Chief, Grants Management Division, Senior Procurement Executive, Department of Transportation, Office of the Secretary, M-62, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4289

RIN: 2105–AC66

2247. DISABILITY IN AIR TRAVEL; COMPENSATION FOR DAMAGE TO WHEELCHAIRS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41702; 49 USC 41705; 49 USC 41712

CFR Citation: 14 CFR 382; 14 CFR 254

Legal Deadline: None

Abstract: This action amends rules implementing the Air Carrier Access Act of 1986 to lift an existing cap on

DOT—OST — **Completed Actions**

the amount of compensation airlines would have to pay to passengers for loss or damage of their wheelchairs and other mobility devices. It is intended to provide additional relief to passengers using expensive mobility aids when those aids are seriously damaged or destroyed in the course of airline travel.

Timetable:

Action	Date	FR Cite
NPRM	02/17/99	64 FR 7833
NPRM Comment Period End	05/18/99	
Final Action	08/02/99	64 FR 41781
Final Action Effective	09/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9306
TDD Phone: 202 755-7687

RIN: 2105–AC77

Department of Transportation (DOT)
U.S. Coast Guard (USCG) — **Prerule Stage**

2248. BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL (USCG-1999-5117) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: This rulemaking project will update the regulations for barges carrying bulk hazardous material to account for modernization of the industry. The current regulations for barges carrying bulk liquid hazardous materials were originally published in 1970. Over the past three decades, technology has advanced and industry practices have changed. This project will first ask for public comment to identify the rules which need to be updated. Once those rules are identified, the project will propose appropriate revisions to the Code of Federal Regulations. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Felleisen, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0085

RIN: 2115–AF77

Department of Transportation (DOT)
U.S. Coast Guard (USCG) — **Proposed Rule Stage**

2249. REPORTING MARINE CASUALTIES (CGD 91-216)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101; 33 USC 1901 et seq

CFR Citation: 33 CFR 151; 46 CFR 4

Legal Deadline: None

Abstract: This action would add to the definition of a reportable marine casualty "significant harm to the environment." Some casualty reporting requirements are extended to include foreign tank vessels operating in U.S. waters, including the exclusive economic zone. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the consequence of pollution incidents and further supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments	12/20/94	59 FR 65522
Comment Period End	02/20/95	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LT Glen Mine, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1100

RIN: 2115–AD98

2250. +MARINE TRANSPORTATION - RELATED FACILITY RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (CGD 94-048)

Regulatory Plan: This entry is Seq. No. 88 in Part II of this issue of the **Federal Register**.

RIN: 2115–AE87

2251. NUMBERING OF UNDOCUMENTED BARGES (CGD 93-091) (USCG-1998-3798)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12301

CFR Citation: 33 CFR 189

Legal Deadline: None

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires all undocumented barges more than 100 gross tons operating on the navigable waters of the United States be numbered. This

rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help prevent future marine pollution. This rulemaking supports the Coast Guard's strategic goal of protection of the marine environment.

Timetable:

Action	Date	FR Cite
Request for Comments	10/18/94	59 FR 52646
Comment Period End	01/17/95	
ANPRM	07/06/98	63 FR 36384
ANPRM Comment Period End	11/03/98	
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Willis, Project Manager, National Vessel Documentation Center, Department of Transportation, U.S. Coast Guard, 2039 Stonewall Jackson Drive, Washington, WV 25419-9502
Phone: 304 271-2506

RIN: 2115–AF13

2252. OUTER CONTINENTAL SHELF ACTIVITIES (1998-3868)

Priority: Substantive, Nonsignificant

Legal Authority: 43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356

CFR Citation: 33 CFR 140 to 147

Legal Deadline: None

Abstract: This project would revise the regulations on Outer Continental Shelf (OCS) activities to: add new requirements for fixed OCS facilities for lifesaving, fire protection, training, hazardous materials used as stores on and accommodation spaces; require foreign vessels engaged in OCS activities to comply with requirements similar to those imposed on U.S. vessels similarly engaged, and; allow all mobile inland drilling units (MIDUs) to operate on the OCS out to a defined boundary line if they meet requirements for lifesaving, firefighting,and operations similar to those for fixed OCS facilities. This project would affect the owners and operators of facilities and vessels engaged in offshore activities associated with the exploration for, or development or production of, the resources of the OCS. The preliminary estimate of costs imposed by these amendments varies according to the unit. The Coast Guard is consulting with the Minerals Management Service, part of the Department of the Interior. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing deaths and injuries and the amount of oil discharged into the marine environment. It also supports the Coast Guard's strategic goal of safety.

Timetable:

Action	Date	FR Cite
Request for Comments	06/27/95	60 FR 33185
Comment Period End	09/25/95	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Notice of Request for Comments published 27 June 1995, was assigned Coast Guard docket number 95-016. Following the request for comments this docket was terminated. This project continues under docket CGD 96-068, and RIN number 2115-AF39.

Agency Contact: James Magill, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1082

RIN: 2115–AF39

2253. CARRIAGE OF BULK SOLID MATERIALS REQUIRING SPECIAL HANDLING (CGD 97-037)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321; 46 USC 3306; 46 USC 3703; 46 USC 5111; 46 USC 6101; 49 USC 1804; EO 11735; EO 12234

CFR Citation: 46 CFR 90; 46 CFR 97; 46 CFR 148

Legal Deadline: None

Abstract: This project will add materials carried with Special Permits issued under Coast Guard regulations and other materials contained in the International Maritime Organization Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal, to the list of materials permitted under the regulations. The special handling procedures associated with these materials are also included in the new rules. The revisions will harmonize U.S. regulations with recommended international practice, and eliminate the need to apply for Special Permits, except for newly classified hazardous materials. This project supports the Coast Guard's strategic goal of safety and improved service to the United States shipping industry.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This project was initiated with an ANPRM (28 April 1989), and further developed in an NPRM (12 April 1994). In prioritizing resources, it was terminated on April 13, 1995. This regulatory project can now be reinitiated. Based on comments to the docket (previously CGD 87-069), this is a non-controversial and welcome amendment to existing regulations.

Agency Contact: Brian Robinson, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0018

RIN: 2115–AF47

2254. +TOWING VESSEL SAFETY (FIRE SUPPRESSION SYSTEMS AND OTHER MEASURES FOR TOWING VESSELS) (CGD 97-064)

Priority: Other Significant

Legal Authority: 46 USC 3719; 46 USC 4102

CFR Citation: 33 CFR 157; 46 CFR 27

Legal Deadline: NPRM, Statutory, October 1, 1997.

Abstract: The Coast Guard proposes requirements for (a) total flooding or other installed systems for suppressing fires on existing towing vessels and (b)

DOT—USCG

Proposed Rule Stage

voyage planning. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled barges. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. The measures in this rule could enable crews of towing vessels to maintain or regain control of their barges before they run aground or to avoid extreme circumstances altogether. This project was developed in cooperation with the Towing Safety Advisory Committee. This project supports the strategic goals of the Coast Guard, marine safety and protection of the marine environment. DOT classifies this project significant because of congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52057
Comment Period End	01/05/98	
Reopening of Comment Period	02/27/98	63 FR 9980
Notice of Public Meeting	02/27/98	
Comment Period End	05/11/98	
SNPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking originally proposed requirements for three sets of towing vessel safety issues: Fire suppression systems and other measures, Control measures for tank barges, and Fire protection measures for towing vessels. The latter two components have developed into separate rulemakings: Emergency Control Measures for Tank Barges (USCG-1998-4443) (RIN 2115-AF65) and Fire Protection Measures for Towing Vessels (USCG-1998-4445) (RIN 2115-AF66).

Agency Contact: Randall Eberly, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF53

2255. POLLUTION PREVENTION FOR OCEANGOING SHIPS AND CERTAIN VESSELS IN DOMESTIC SERVICE (CGD 97-072)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 3703; 33 USC 1231; 33 USC 1321(j); 33 USC 1903

CFR Citation: 33 CFR 151; 33 CFR 155; 33 CFR 157; 46 CFR 170; 46 CFR 172

Legal Deadline: None

Abstract: This rulemaking concerns pollution prevention and the operational discharge of oil from vessels. It will align existing regulations on oil-water separators, operational discharge, damage and intact stability, and term of validity of International Oil Pollution Prevention Certificates with recent amendments under the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL). It will affect U.S.-flagged tank ships of 150 gross tons or more and other U.S.-flagged ships of four hundred gross tons or more. It will eliminate or reduce requirements for shore connections on certain vessels of one hundred gross tons or more. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into United States waters from maritime sources by 20 percent, and the Coast Guard's strategic goals of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: No additional information.

Agency Contact: LT Diane Kalina, Project Manager, G-M, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0226

RIN: 2115–AF56

2256. +SALVAGE AND FIREFIGHTING EQUIPMENT; VESSEL RESPONSE PLANS (USCG-1998-3417)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline: None

Abstract: Current vessel response plan regulations require that the owners or operators of vessels carrying groups I through V petroleum oil as a primary cargo identify in their response plans a salvage company with expertise and equipment, and a company with firefighting capability that can be deployed to a port nearest to the vessel's operating area within 24 hours of notification (groups I-IV) or a discovery of a discharge (group V). Numerous requests for clarification revealed widespread misunderstanding and confusion regarding the regulatory language, which will make the implementation of this requirement difficult. Based on comments received after the vessel response plan final rule publication (61 FR 1052; January 12, 1996) and during a Coast Guard hosted workshop, the Coast Guard intends to better define the terms "salvage expertise and equipment" and "vessel firefighting capability" requirements and will reconsider the 24-hour deployment requirement which was scheduled to go into effect on February 18, 1998. Therefore, the Coast Guard suspended the effective dates of the deployment requirements as published in the final rule. The Coast Guard will continue with this project to better define the requirements. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
Final Rule:Partial Suspension	02/18/98	63 FR 7069
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Partial suspension of regulations created through the vessel response plan final rule, docket No. 91-034, RIN 2115-AD81

Agency Contact: LCDR Roger Laferriere, Project Manager, G-MOR-3,

Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0448

RIN: 2115–AF60

2257. DEEP WATER PORTS (USCG 1998-4441)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1503

CFR Citation: 33 CFR 148 to 150

Legal Deadline: None

Abstract: The purpose of this rulemaking is to update the Deepwater Port Regulations. Section 502 of the Coast Guard Authorization Act of 1996 prescribes changes to the Deepwater Port current regulations. These regulations were developed in the 1970's when there were no deepwater ports in the United States. The Coast Guard will be revising the regulations to: remove from the regulations, and place in the license conditions, those requirements which belong in the license conditions; and remove from the regulations those things which can be addressed in an operations manual. The Coast Guard may also consider revising the regulations to address technological advancements and operational experience gained over the last twenty years. In accordance with section 610 of the Regulatory Flexibility Act, the Coast Guard is also reviewing these regulations for their impacts on small businesses and the potential to reduce any such impacts. Public comment on small business impacts is specifically requested. This project supports the Coast Guard's strategic goal of marine safety. This rulemaking will encompass a complete review of the Deepwater Port Regulations.

Timetable:

Action	Date	FR Cite
ANPRM(USCG 1998-4441)	08/29/97	62 FR 45774
ANPRM Comment Period End	10/13/97	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: LT Diane Kalina, Project Manager, G-M, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0226

RIN: 2115–AF63

2258. COMMERCIAL DIVING OPERATIONS (USCG-1998-3786)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1509; 43 USC 1333; 46 USC 3306; 46 USC 3703; 46 USC 6101

CFR Citation: 46 CFR 197; 49 CFR 1.46

Legal Deadline: None

Abstract: This project involves reviewing and updating the commercial diving regulations which are over 20 years old. A review of the commercial diving regulations is needed to determine what parts should be updated or changed based on the current standards of safety, technology, and industry practices and to evaluate and minimize any significant economic impact of the rules upon a small entities. The project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce deaths and injuries on U.S. commercial vessels and the Coast Guard's strategic goal of safety.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/98	63 FR 34840
ANPRM Comment Period End	11/09/98	63 FR 50848
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LT Diane Kalina, Project Manager, G-M, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0226

RIN: 2115–AF64

2259. SAFETY OF UNINSPECTED PASSENGER VESSELS UNDER THE PASSENGER VESSEL SAFETY ACT OF 1993 (USCG-1999-5040)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2101; 46 USC 2113; 46 USC 3306; 46 USC 4105

CFR Citation: 46 CFR 15; ...; 46 CFR 24 to 28; 46 CFR 70; 46 CFR 169; 46 CFR 175; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 46 CFR 10; 46 CFR 2; 46 CFR 30; 46 CFR 90; 46 CFR 114; 46 CFR 188; 46 CFR 199

Legal Deadline: None

Abstract: This rulemaking implements the Passenger Vessel Safety Act (PVSA) (Pub. L. 103-206) by amending the rules for Uninspected Passenger Vessels (UPVs). Specifically, the Coast Guard is considering amending existing UPV definitions to create a new class of UPV of at least 100 gross tons carrying not more that 12 passengers. The Coast Guard is considering operating, equipment, licensing and special permit application requirements appropriate for the new class of vessel. The Coast Guard is also considering adding definitions of "passenger," "passenger for hire," and "consideration" to bring its rules into conformity with the PVSA. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/99	64 FR 15709
ANPRM Comment Period End	06/30/99	
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Keith B. Janssen, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1055

RIN: 2115–AF69

2260. CERTIFICATION OF NAVIGATION LIGHTS ON RECREATIONAL VESSELS (CGD 97-060)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2071; 33 USC 1602

CFR Citation: 33 CFR 84; 46 CFR 111

Legal Deadline: None

Abstract: This project will place navigation lights for recreational and uninspected vessels under regulatory control similar to that already in place for inspected vessels. Specifically, the

rule will propose regulations requiring certification that navigation lights are in compliance with the Navigation Rules specifications, as evidenced by laboratory testing to a performance standard; this level of control is currently in place for all other items of safety equipment. This action is in accordance with recommendations made by the National Boating Safety Advisory Council (NBSAC), the Navigation Safety Advisory Council (NAVSAC),and the National Association of Boating Law Administrators (NASBLA). This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Randolph J. Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Steet SW, Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF70

2261. VESSEL DOCUMENTATION (USCG-1998-4784)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12103(d); 46 USC 31321(a)

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: This rulemaking will propose regulations to: (1) combine a Manufacturer's Certificate of Origin (MCO) with the Builder's Certificate (form CG12-1261); (2) require that the Hull Identification Number (HIN) be included on the Application for Documentation of recreational vessels for those vessels required to have an assigned HIN; (3) require the submission of the original State title, or if not a title State, the original State registration and/or official replacements issued by a titling/registering authority when documentation is based on those methods of establishing title and; (4) establish procedures for electronic submission of instruments. These four initiatives offer increased efficiency of the vessel documentation process and increased fraud protection for vessel owners.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Dennis Nelson, Project Manager, Department of Transportation, U.S. Coast Guard, National Vessel Documentation Center, 2039 Stonewall Jackson Drive, Falling Waters, WV 25419
Phone: 304 271-2400

RIN: 2115–AF71

2262. +REVISED BLOOD ALCOHOL CONCENTRATION (BAC) LIMIT (USCG-1998-4593)

Priority: Other Significant

Legal Authority: 46 USC 2302

CFR Citation: 33 CFR 95; 33 CFR 177; 46 CFR 4; 46 CFR 4311

Legal Deadline: None

Abstract: This rulemaking will revise the Federal Blood Alcohol concentration(BAC) limit from .10 to .08 percent by weight to determine whether operators of recreational vessels are under the influence of alcohol. With respect to recreational vessels on navigable waters within State boundaries, the Coast Guard will continue to adopt BAC limits enacted by respective State jurisdictions. This rulemaking will revise the rule adopting State BAC limits to account for recent developments in State boating legislation by removing language referencing state statutory schemes that no longer exist. The new rule will add language to reference statutory schemes that have come into existence since the promulgation of the .10 Federal BAC limit for recreational vessels. This rulemaking will also insert the words "under the influence of alcohol, or a dangerous drug in violation of a law of the United States" in place of the word "intoxication" where it appears in Titles 33 and 46 of the Code of Federal Regulations. That change will affect sections involving operators of both recreational and commercial vessels. The purpose of that change is to bring those regulations into conformity with the language of 46 USC 2302(c), as amended by the Oil Pollution Act of 1990. This rulemaking supports the Coast Guard's strategic goal of marine safety. This project is significant due to substantial Departmental and public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bruce Schmidt, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0955

RIN: 2115–AF72

2263. FREQUENCY OF INSPECTION, HULL EXAMINATION ALTERNATIVE FOR CERTAIN PASSENGER VESSELS, AND UNDERWATER SURVEYS FOR PASSENGER VESSELS (USCG-1999-4976)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 3305 to 3308

CFR Citation: 46 CFR 91; 46 CFR 107; 46 CFR 115; 46 CFR 126; 46 CFR 131; 46 CFR 167; 46 CFR 169; 46 CFR 176; 46 CFR 189; 46 CFR 2; 46 CFR 31; 46 CFR 71

Legal Deadline: None

Abstract: The regulatory project will harmonize the inspection/survey system that will enable vessel owners and operators to receive their certificates of inspection, Safety of Life at Sea (SOLAS) certificates, and load line certificates simultaneously. It would also implement the 1988 Protocol to the 1974 SOLAS Convention. It will facilitate international progress in maritime safety and environmental protection. For the purpose of continuity, non-convention vessels will comply with

the new inspection frequency. The proposed regulations would also establish hull examination alternatives and a drydock extension policy for qualifying passenger vessels that operate exclusively on benign, low-risk environments, and that have a limited time underway. In addition, the proposed regulations would provide the option of alternating drydock examinations with underwater surveys for passenger vessels. This project supports the Coast Guard's Marine Safety and Environmental Protection Program's goal of mobility by facilitating commerce and eliminating interruptions and impediments to the economical movement of goods and people.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: James Cratty, Project Manager (G-MSR-2), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593
Phone: 202 267-6742

RIN: 2115–AF73

2264. +VESSEL TRAFFIC SERVICE LOWER MISSISSIPPI/AUTOMATIC IDENTIFICATION SYSTEM CARRIAGE REQUIREMENT (USCG-1998-4399)

Priority: Other Significant

Legal Authority: 33 USC 1223(a)

CFR Citation: 33 CFR 161; 33 CFR 164; 33 CFR 165

Legal Deadline: None

Abstract: This project proposes to establish a new Vessel Traffic Service (VTS) area in the Lower Mississippi River region and proposes the implementation of an Automatic Identification System (AIS) carriage requirement for certain vessels operating in the new VTS area. The VTS Lower Mississippi area of responsibility will span from 20 miles north of Baton Rouge (mile marker 255) to the sea buoy at Southwest Pass. The proposed AIS carriage requirement is needed because of the technology to be employed in VTS Lower Mississippi River. Unlike traditional VTSs, which are based on radar and video surveillance and rely on voice communications by VHF-FM radio, VTS Lower Mississippi will use AIS transponder technology to perform the majority of both surveillance and information exchange. AIS transponders automatically exchange navigational and positional information in ship-to-ship and ship-to-shore-to-ship modes. AIS will improve a mariner's situational awareness, should reduce the cost of operating a VTS, and will eliminate much of the potentially distracting voice communications associated with traditional VTS operations. This project will also solicit public comments on a potential nationwide AIS carriage requirement, which may be implemented at some point in the future. This rulemaking supports the Coast Guard's strategic goals of marine safety and protecting the marine environment. This rulemaking is significant due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jorge Arroyo, Project Manager, G-MOV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AF75

2265. VAPOR CONTROL SYSTEMS (USCG-1999-5150)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1225; 33 USC 1231; 33 USC 1321; 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 39; 33 CFR 154.E

Legal Deadline: None

Abstract: This project will revise the facility marine vapor control systems (VCS) safety regulations and the vessel VCS safety regulations. These existing regulations require revision to reflect new Federal and State air emissions control requirements,VCS technology developments, and to evaluate and minimize any significant economic impacts of the rules upon small entities. The revisions will also incorporate Coast Guard policies and guidelines developed to support the existing regulations and a Navigation and Vessel Inspection Circular which provides safety guidelines for the design and operation of a marine VCS at tank barge cleaning facilities. This project supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce crewmember deaths and injuries on U.S. commercial vessels, it seeks to reduce the amount of oil and chemicals discharged into the nation's waterways,and it promotes the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Sara Ju, Project Manager, G-MSO-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1217

RIN: 2115–AF78

2266. • TRAINING AND QUALIFICATIONS FOR PERSONNEL ON PASSENGER SHIPS (USCG:1999-5610)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 71; 46 USC 73

CFR Citation: 46 CFR 12; 46 CFR 15; 46 CFR 1; 46 CFR 5; 46 CFR 7; 46 CFR 10

Legal Deadline: None

Abstract: This project will implement new amendments to the International Convention on Standards of Training, Certification and Watchkeeping (STCW) that impose requirements for training and qualifications of masters, officers, engineers, and "ratings"The following training courses are mandatory for the personnel on passenger ships other

DOT—USCG

Proposed Rule Stage

than roll-on, roll-off, carrying more than 12 passengers operating on international voyages: (1) Crisis Management and Human Behavior Training; (2) Crowd Management; (3) Special Safety Training;(4) Training in passenger safety with special attention given to disabled persons and others needing assistance;and (5)Special Familiarization Training. This rulemaking supports the Coast Guard's strategic goals of safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Gould, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6890

RIN: 2115–AF83

2267. • OIL POLLUTION ACT OF 1990 PHASE-OUT REQUIREMENTS FOR SINGLE HULL TANK VESSELS (USCG-1998-4620)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 3703a

CFR Citation: 33 CFR 157

Legal Deadline: None

Abstract: This rulemaking would make changes to the phase-out regulations for single hull tank vessels in the most current regulation consistent with the Coast Guard's April 21,1999, Federal Register notice of policy. In that notice, the Coast Guard set out its policy decision that a change in the hull configuration of an existing single hull tank vessel to a single hull tank vessel with double sides or a double bottom, after August 18, 1990, will not result in a change to the tank vessel's originally scheduled phase-out date as required by Oil Pollution Act of 1990. This rulemaking supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Notice of Policy	04/21/99	64 FR 19575
NPRM	11/00/99	
Second NPRM	07/00/00	
Final Rule Effective	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. Gauvin, Project Manager, G-MSO-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1053

RIN: 2115–AF86

2268. • INCREASE IN THRESHOLD FOR REPORTING RECREATIONAL BOAT ACCIDENTS (USCG-1999-6094)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 6101

CFR Citation: 33 CFR 173; 33 CFR 174

Legal Deadline: None

Abstract: This rule would increase the threshold for reporting recreational boat accidents involving only property damage. Because of inflation since the threshold was last revised, the threshold now requires the reporting of a larger number of minor accidents. These numbers distort the statistical base for the Recreational Boating Safety Program and increase the burden of paperwork on the boating public. Raising the threshold to an appropriate level would provide for a consistent statistical base and reduce the administrative burden on the Coast Guard and on State accident-investigating personnel as well as the burden of paperwork on the boating public. This rule would also allow State reporting authorities to submit accident report data electronically instead of paper copies of accident reports. This rule supports the Coast Guard strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bruce Schmidt, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0955

RIN: 2115–AF87

2269. • ELIGIBILITY OF U.S.-FLAG VESSELS MEASURING LESS THAN 100 FEET TO OBTAIN COMMERCIAL FISHERIES DOCUMENTS (USCG-1999-6095)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 2110; 46 USC 12102

CFR Citation: 46 CFR 67

Legal Deadline: NPRM, Statutory, April 1, 2000.

Abstract: This rulemaking will increase the percentage of stock required to be owned by U.S. citizens in corporations owning fishing vessels by citizens from 51% to 75%. The rulemaking will also provide that fisheries endorsements will become invalid if a documented fishing vessel is chartered or leased to a person who is not a citizen or to an entity which is ineligible to own a documented fishing vessel. In addition, regulatory restrictions must be developed prohibiting documentation of certain vessels with a fisheries endorsement if they are mortgaged to an entity not entitled to own documented fishing vessels. Finally, the regulations must be amended to reflect the repeal of the "grandfather" provisions of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. This rulemaking supports the Coast Guard's strategic mission of protecting marine resources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Willis, Project Manager, National Vessel Documentation Center, Department of Transportation, U.S. Coast Guard, 2039 Stonewall Jackson Drive, Washington, WV 25419-9502
Phone: 304 271-2506

RIN: 2115–AF88

DOT—USCG

Proposed Rule Stage

2270. • MARINE SHIPBOARD ELECTRICAL CABLE STANDARDS (USCG-1999-6096)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 110

Legal Deadline: None

Abstract: This project will amend the marine shipboard electrical cable regulations by incorporating by reference standards (concerning technical specifications) that reflect the latest industry practices and Coast Guard policy. The new standards have already been examined under Coast Guard regulations and found to be comparable to current standards that are incorporated by reference

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 001 None

Agency Contact: Dolores Mercier, Project Manager (G-MSE-3), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0658

RIN: 2115–AF89

2271. • FEDERAL PILOTAGE IN BALTIMORE HARBOR BALTIMORE, MD (USCG-1999-6097)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703; 46 USC 7703; 46 USC 8503

CFR Citation: 46 CFR 15; 49 CFR 1.46

Legal Deadline: None

Abstract: The Statuary and decisional law establishes a mariner's license is not subject to administrative action unless the mariner is acting or operating under it. This project would help ensure that a person providing pilotage is operating under the authority of either a State or Federal Pilots valid license and also would ensure adequate accountability. This rule would add a new section to the regulations to require that a foreign-trade vessel to be under the direction and control of a Federally-licensed pilot when operating in the designated waters of Baltimore Harbor. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	10/21/99	64 FR 56720
NPRM Comment Period End	12/20/99	
Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tim Farley, Project Manager, G-MVI-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2307

RIN: 2115–AF90

2272. • GREAT LAKES PILOTAGE RATES (USCG-1999-6098)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 9303(f)

CFR Citation: 46 CFR 401

Legal Deadline: None

Abstract: The Coast Guard conducts an annual review of the Great Lakes Pilotage rate based on the "Great Lakes Pilotage Rates Methodology" published in the Federal Register on May 9, 1996. Depending on the results of this review, the Coast Guard can make rate adjustments in accordance with the regulations or if the Director of Great Lakes Pilotage determines that pilotage rates are within a reasonable range of their target, make no adjustments to the rates. This rulemaking will reoccur annually after the "Notice of annual review" is published in the Federal Register and comments to that review are received. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Flyntz, Project Manager, G-MVP-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 366-8981

RIN: 2115–AF91

2273. • SAFETY ZONE; OUTER CONTINENTAL SHELF PLATFORMS IN THE GULF OF MEXICO (CGD08-99-023).

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 85; 43 USC 1333; 49 CFR 1.46

CFR Citation: 33 CFR 147

Legal Deadline: None

Abstract: This regulation establishes safety zones around seven petroleum producing platforms located in the Gulf of Mexico. These platforms are at risk from allison by vessels operating outside the Shipping Safety Fairways in the Gulf. The safety zones would keep these vessels from entering or remaining in the zones around the platforms and would protect the safety of life, property, and the environment. This rulemaking furthers the strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR Roderick Walker, Program Manager, Department of Transportation, U.S. Coast Guard, Eighth Coast Guard District, 501 Magazine Street, New Orleans, LA 70130
Phone: 504 589-3043

RIN: 2115–AF93

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

Final Rule Stage

2274. PERMITS FOR THE TRANSPORTATION OF MUNICIPAL AND COMMERCIAL WASTES (CGD 89-014)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2602

CFR Citation: 33 CFR 151

Legal Deadline: Final, Statutory, June 15, 1989.

Abstract: In May 1989, the Coast Guard began a rulemaking to incorporate into regulation certain elements of the Shore Protection Act. Its objective is to help prevent trash, medical debris, and other unsightly and potentially harmful materials from being deposited into the coastal waters of the United States as a result of sloppy waste-handling procedures. This project supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/89	54 FR 22546
Correction	06/05/89	54 FR 24078
Comment Period End	08/24/89	54 FR 22546
Notice	12/13/95	60 FR 64001
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This project was formerly known as Implementation of the Shore Protection Act of 1988.

ANALYSIS: Regulatory Evaluation, 05/24/89, 54 FR 22546

Agency Contact: LT Charles Srioudom, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2498

RIN: 2115–AD23

2275. VESSEL IDENTIFICATION SYSTEM (CGD 89-050)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 12501

CFR Citation: 33 CFR 187

Legal Deadline: None

Abstract: Shipping legislation requires the Secretary of Transportation to establish a Vessel Identification System (VIS). This rulemaking prescribes the manner and form for participating States to make information available for VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines. This rulemaking supports the Coast Guard's strategic goal of mobility of commercial and recreational vessels.

Timetable:

Action	Date	FR Cite
ANPRM	09/15/89	54 FR 38358
ANPRM Comment Period End	12/14/89	
NPRM	10/05/93	58 FR 51920
Correction	10/15/93	58 FR 53624
NPRM Comment Period End	01/03/94	
NPRM Comment Period Reopened	02/24/94	59 FR 8881
NPRM Comment Period End	03/28/94	
Interim Rule	04/25/95	60 FR 20310
Comment Period End	07/24/95	
NPRM Comment Period Reopened	10/17/95	60 FR 53727
NPRM Comment Period End	12/31/95	
Change in Effective Date	02/23/96	61 FR 6943
NPRM Comment Period Reopened	10/20/97	62 FR 54385
Change in Effective Date	04/21/98	63 FR 19657
SNPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The effective date of April 24, 1996, applies to all provisions in this interim final rule other than 33 CFR part 187, subpart D, which is suspended through April 24, 1999. The change in effective date of the interim final rule was published April 21, 1998, 63 FR 19657

ANALYSIS: Regulatory Evaluation, 10/05/93, 58 FR 5192

Agency Contact: LCDR Nancy Goodridge, Project Manager, G-MRI-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0254

RIN: 2115–AD35

2276. +STATE ACCESS TO THE OIL SPILL LIABILITY TRUST FUND (CGD 92-014)

Priority: Other Significant

Legal Authority: 33 USC 2712

CFR Citation: 33 CFR 133

Legal Deadline: NPRM, Statutory, February 18, 1991.

Abstract: Pursuant to the Oil Pollution Act of 1990 (OPA 90), this action specifies how the authority to obligate the pollution trust fund for oil spill response and cleanup efforts and to enter into agreements with the States will be exercised. The Coast Guard is evaluating the performance of the interim rule and expects to publish a final rule by December, 1999. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources. This rulemaking is considered significant because of substantial State interest.

Timetable:

Action	Date	FR Cite
Interim Rule	11/13/92	57 FR 53968
Comment Period End	02/11/93	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Al Thuring, Project Manager, National Pollution Funds Center, Department of Transportation, U.S. Coast Guard, Suite 1000, 4200 Wilson Boulevard, Arlington, VA 22203-1804
Phone: 202 363-6801

RIN: 2115–AE19

2277. HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES (CGD 92-026)(USCG-1998-4302)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 126

Legal Deadline: None

Abstract: This rulemaking is intended to revise existing regulations covering waterfront facilities handling dangerous cargoes. The present regulations are outdated and do not reflect improved safety procedures and modern transportation methods, such as the use

of containers. Where appropriate, the regulations would incorporate industry standards regarding the handling of hazardous materials at waterfront facilities. This project also supports the Vice Commandant's workload reduction initiative, and also supports Coast Guard strategic goals by reducing deaths and injuries in the maritime industry.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/93	58 FR 4127
Comment Period End	04/13/93	
NPRM	10/29/98	63 FR 57964
NPRM Comment Period End	12/28/98	
NPRM Reopening of Comment Period	01/12/99	64 FR 1770
NPRM Comment Period End	03/01/99	
Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Independent study has been completed and incorporated with comments from the public in the preparation of the rulemaking.

Agency Contact: LT Charles Srioudom, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2498

RIN: 2115–AE22

2278. AMENDMENTS TO HULL IDENTIFICATION NUMBER REGULATIONS (CGD 92-065)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302; 46 USC 12501

CFR Citation: 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking would amend the Hull Identification Number (HIN) regulations applicable to manufacturers of recreational boats. Changes to the regulations include display of the primary HIN, means of attachment, prohibitions against removal, model year, requirements for State business license information in manufacturer applications, references to State Boating Law administrators and revocation or refusal to issue a manufacturer identification code. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	05/06/94	59 FR 23651
NPRM Comment Period End	09/06/94	
Notice of Workshop	11/09/94	59 FR 55823
NPRM Comment Period Reopened	11/09/94	
NPRM Comment Period End	01/09/95	
SNPRM	02/21/97	62 FR 7971
Second NPRM Comment Period End	05/22/97	
Request for Comments	11/16/98	63 FR 63638
Comment Period End	02/16/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Alston Colihan, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0984

RIN: 2115–AE37

2279. +TANK VESSEL RESPONSE PLANS FOR HAZARDOUS SUBSTANCES (USCG-1998-4354)

Regulatory Plan: This entry is Seq. No. 89 in Part II of this issue of the **Federal Register**.

RIN: 2115–AE88

2280. REGATTAS AND MARINE PARADES (CGD 95-054)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: In keeping with the National Performance Review and the President's Regulatory Reinvention Initiative, the Coast Guard reviewed its regatta and marine parade permitting regulations and determined that certain revisions are needed to eliminate overly burdensome, unnecessary, and obsolete requirements. The rule establishes various categories of events: those which do not require any notice or a permit because they clearly pose no extra or unusual hazard to safety of life; those which require written notice because they may pose such a hazard; and those which require a permit because they clearly pose such a hazard. This rule eliminates the need for permits, and associated paperwork burden on the public, unless they are necessary to advance the statutory purpose of promoting safety of life during marine events. This rulemaking supports the Coast Guard's strategic goal of marine safety and mobility of commercial and recreational vessels.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/95	60 FR 67345
Comment Period End	02/09/96	
NPRM	04/17/96	61 FR 16732
NPRM Comment Period End	05/17/96	
Interim Rule	06/28/96	61 FR 33027
Comment Period End	08/27/96	
Delay Effective Date to 01/01/98	11/26/96	61 FR 60027
Delay Effective Date to 01/01/99	12/29/97	62 FR 67570
Delay Effective Date to 01/02/00	12/30/98	63 FR 71753
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This rulemaking will benefit small entities, and state and local governments by reducing the number of submitted permits. The rulemaking should reduce the information which is required to be submitted from 3,100 permits to 1,500 notifications, 20 of which may require additional information. The effective date has been delayed until the Coast Guard completes the Environmental Assessment and Finding of No Significant Impact

ANALYSIS: Regulatory Evaluation, 06/26/96, 61 FR 33031

DOT—USCG **Final Rule Stage**

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AF17

2281. LICENSING AND MANNING FOR OFFICERS OF TOWING VESSELS (CGD 94-055)

Priority: Substantive, Nonsignificant

Legal Authority: 14 USC 633; 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7106; 46 USC 7107; 46 USC 7701

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This rulemaking is necessary as part of an overall initiative by the Coast Guard to improve navigational safety for towing vessels. It will help ensure that the mariner piloting a towing vessel has the proper training and qualifications to handle the tug and tow. It will introduce an additional level of license where there has been only two licenses. Each level will require greater experience and proficiency. This will prevent a new operator with minimal experience from commanding the largest flotillas; it will prevent any operator from commanding the large flotillas until he or she has gained, and shown, the necessary competence. This rulemaking also introduces a requirement for demonstration of proficiency as a prerequisite to being issued a license. This will be in addition to the current requirements for sea service physical examination, drug testing, and successful testing. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the number of Marine casualties and the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	06/19/96	61 FR 31332
Correction	07/11/96	61 FR 36608
Correction	08/07/96	61 FR 41208
Notice of Meeting	08/26/96	61 FR 43720
NPRM Comment Period End	10/17/96	
Notice of Intent	12/18/96	61 FR 66642
SNPRM	10/27/97	62 FR 55548
Public Meeting Memphis 02/11/98	01/21/98	63 FR 3070
Public Meeting Houston 02/13/98	01/21/98	
Public Meeting Boston 02/18/98	01/21/98	
Public Meeting Seattle 02/24/98	01/21/98	
Second NPRM Comment Period End	02/24/98	
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LCDR Gerald Miante, Project Manager, G-MSO-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0221

RIN: 2115–AF23

2282. LIMITED SERVICE DOMESTIC VOYAGE LOAD LINES FOR RIVER BARGES ON LAKE MICHIGAN (CGD 95-015) (USCG-1998-4623)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 51

CFR Citation: 46 CFR 45

Legal Deadline: None

Abstract: This regulatory project will allow certain unmanned dry cargo river barges operating on Lake Michigan to be exempted from the normal Great Lakes load line requirements provided instead that they obtain a limited domestic service load line for two specific routes (Chicago to Milwaukee, and Chicago to Muskegon). This will allow certain non-hazardous cargoes originating at inland river ports to be transported as far as Milwaukee and Muskegon by river barge, thereby benefiting from the relatively low cost per ton-mile of river barge transportation. Compliance is not mandatory other than for those river barge operators who voluntarily seek this special load line for their barges. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58679
Comment Period End	03/04/99	
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Thomas Jordan, Project Manager, G-MSE-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2988

RIN: 2115–AF38

2283. TRAFFIC SEPARATION SCHEME IN THE APPROACHES TO DELAWARE BAY (CGD 97-004)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: This rule amends the Traffic Separation Scheme in approaches to Delaware Bay by shifting eastern approach lanes southward; establishing a two-way route for use by tug and tow traffic; and reconfiguring the precautionary area to exclude shoal areas too shallow for deep-draft vessels. This rulemaking supports the Coast Guard's Marine Safety and Environmental Protection goal of reducing the number of collisions, allisions, and groundings, and the Coast Guard's strategic goal of marine safety and protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	05/09/97	62 FR 25576
NPRM Comment Period End	08/07/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jorge Arroyo, Project Manager, G-MOV-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0352

RIN: 2115–AF42

2284. +FIRE PROTECTION MEASURES FOR TOWING VESSELS (USCG-1998-4445)

Priority: Other Significant

Legal Authority: 46 USC 4102

DOT—USCG

Final Rule Stage

CFR Citation: 46 CFR 25; 46 CFR 27

Legal Deadline: NPRM, Statutory, October 1, 1997.

Abstract: This rulemaking will require fire-protection measures such as fire detectors, alarms, portable extinguishers, and periodic crew training on towing vessels. The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled tank vessels that may become adrift because of a loss of propulsion through fire on their attending towing vessels. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment. This project is classed significant by DOT becuase of congressional & public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/06/97	62 FR 52057
NPRM Comment Period End	01/05/98	
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was one component of the proposed regulations for Towing Vessel Safety (CGD 97-064) (RIN 2115-AF53) concerning tank barges. To expedite the publication of regulations mandated by statute, the Towing Vessel Safety rulemaking was separated into additional rulemakings. The other former components of the Towing Vessel Safety rulemaking are Emergency Control Measures for Tank Barges (USCG-1998-4443) (RIN 2115-AF65) and Towing Vessel Safety(Fire Suppression systems and other Measures for Towing Vessels) (CGD-97-064)(RIN-2115-AF53).

Agency Contact: Randall Eberly, Project Manager, G-MSE-4, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF66

2285. STANDARD MEASUREMENT SYSTEM EXEMPTION FROM GROSS TONNAGE (USCG-1999-5118)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2301; 46 USC 14103

CFR Citation: 46 CFR 69

Legal Deadline: None

Abstract: The purpose of this rulemaking is to permit a crosspiece and bolting arrangement to hold bulkhead boards or plates in place. Coast Guard tonnage regulations provide an exemption from gross tonnage of superstructure spaces that are open to weather. To qualify as "open to the weather," the end bulkhead of the structure must be open, although the opening may be fitted with shifting boards dropped into channel sections, or a temporary cover plate or boards held in place with hook bolts meeting specific criteria. Prior to 1989, the tonnage regulations permitted a crosspiece and bolting arrangement to hold bulkhead boards or plates in place. The associated bulkhead was essentially "sandwiched" between the boards or plates and cross pieces. In 1989, this crosspiece bolting arrangement alternative was deleted from the regulation text in error while the tonnage regulations were being revised. This rulemaking will proceed directly to a final rule because it relieves a burden by reinstating a previously allowed alternative. Accordingly, this rule is noncontroversial and unlikely to spur adverse public comment. This rulemaking supports the Coast Guard's strategic goal of facilitating maritime commerce.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Peter Earekson, Project Manager, Marine Safety Center, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 366-6441

RIN: 2115–AF76

2286. +RESPONSE PLANS FOR MARINE TRANSPORTATION-RELATED FACILITIES HANDLING NON-PETROLEUM OILS (1999-USCG-5149)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 154.12

Legal Deadline: NPRM, Statutory, March, 1999.

Abstract: This rulemaking project would revise regulations for response plans for animal fats and vegetable oils facilities to address a congressional mandate. Revisions will downgrade facilities from a significant and substantial harm classification to a substantial harm classification and clarify planning and equipment requirements. This regulatory project supports the Coast Guard's strategic goal to reduce the amount of oil discharged into the marine environment. This regulatory project is a significant rulemaking due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/08/99	64 FR 17222
NPRM Comment Period End	07/07/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: LT Clardia Gelzer, Project Manager, G-MOR, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-1983

RIN: 2115–AF79

2287. UPDATE OF STANDARDS FROM AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) (USCG-1999-5151)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 1 CFR 51.5; 33 CFR 127; 33 CFR 154 to 155; 33 CFR 159; 33

DOT—USCG **Final Rule Stage**

CFR 164; 33 CFR 183; 46 CFR 20; 46 CFR 28; 46 CFR 30; 46 CFR 32 to 35; 46 CFR 38 to 39; 46 CFR 54; 46 CFR 56; 46 CFR 58; 46 CFR 61

Legal Deadline: None

Abstract: The purpose of this regulation is to update 143 of the 170 American Society of Testing and Materials (ASTM) standards that have been incorporated by reference in Titles 33 and 46 of the Code Federal Regulations. Some of the existing standards are 20 years old. By ensuring that industry is using the latest standards technology available, the Coast Guard will improve maritime safety and help ensure the adequacy of oil spill response equipment. Because this project is expected to be noncontroversial and is unlikely to spur adverse public comment, the Coast Guard will promulgate the regulations as a direct final rule. This project supports the Coast Guard's goals of marine safety and the protection of natural resources.

Timetable:

Action	Date	FR Cite
Direct Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janet Walton, Project Manager (G-MSR-2), Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0275

RIN: 2115–AF80

2288. • ANCHORAGE GROUND; SAFETY ZONE; SPEED LIMIT; TONGASS NARROWS AND KETCHIKAN, AK (CGD17-99-002)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 471; 33 USC 1231; 33 USC 2071

CFR Citation: 33 CFR 162; 33 CFR 165; 33 CFR 110

Legal Deadline: None

Abstract: This rulemaking would grant an exemption from the present 7-knot speed limit in Tongass Narrows, AK, for float plane take-off and landing and vessels 26 feet in length or less. The geographic area for the speed limit would be expanded. A safety zone used for cruise ship anchorages would be redesignated as an anchorage area to reflect actual usage of the area and transiting vessels would be required to move quickly and directly through the anchorage, without rapid course changes, to increase safety. This project supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
NPRM	03/25/99	64 FR 14414
Comment Period End	05/10/99	
Interim Final Rule	06/02/99	64 FR 29554
Comment Period End	11/30/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT P. W. Clark, Project Manager, Department of Transportation, U.S. Coast Guard, 2030 Sealevel Drive, Suite 203, Ketchikan, AK 99901
Phone: 907 225-4496

RIN: 2115–AF81

2289. • TRAFFIC SEPARATION SCHEMES: OFF SAN FRANCISCO, IN THE SANTA BARBARA CHANNEL, IN THE APPROACHES TO LOS ANGELES-LONG BEACH, CALIFORNIA (USCG-1999-5700)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 167

Legal Deadline: None

Abstract: This rulemaking will propose amendments to the existing San Francisco and Santa Barbara Channel Traffic Separation Schemes (TSSs). These amendments are adopted by the international Maritime Organization and have been validated by several recent vessel routing studies. With the amendments in place, commercial vessels would be routed farther offshore when entering or departing the TSSs, thereby providing an extra margin of safety and environmental protection for the Monterey Bay National Marine Sanctuary and adjacent waters. This rulemaking will incorporate the modified TSSs, as well as the existing Los Angeles/Long Beach TSS, into the Code of Federal Regulations. This project supports the Coast Guard's strategic goals of safety and protecting the marine environment.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32451
NPRM Comment Period End	08/16/99	
Interim Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ed Larue, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0400

RIN: 2115–AF84

2290. • VESSEL TRAFFIC SERVICE (VTS) PUGET SOUND SECTOR BOUNDARY CHANGE (USCG-1999-6141).

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1231; 33 USC 1223

CFR Citation: 33 CFR 161.12; 33 CFR 162.12B; 49 CFR 1.46

Legal Deadline: None

Abstract: This rulemaking will change the sector boundary of the Vessel Traffic Service (VTS) sector in Puget Sound. VTS sectors are areas of navigable waters within which radar surveillance aids maritime navigation. The change to the Puget Sound VTS will shift the entire sector about three mile south of its current position. This change will create a safer environment for mariners attempting to navigate a blind curve. The boundary line will also be drafted so that it is easier for mariners to locate on a navigation chart. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jorge Arroyo, Project Manager, G-MOV-2, Department of

DOT—USCG **Final Rule Stage**

Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001

Phone: 202 267-0352

RIN: 2115–AF92

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

Long-Term Actions

2291. SAFETY/SECURITY ZONE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish limited access zones in which the Coast Guard exercises control of all vessels to ensure the safety or security of events, vessels or individuals. They are usually of short duration, ranging from a few hours to a few days. Safety zones are established for events such as fireworks displays, high speed races, or the transit of dangerous cargoes such as explosives or liquefied petroleum gas. Security zones are established for presidential or vice presidential visits, high profile events such as the Olympics, or controversial events such as transport of spent nuclear fuel. Safety and security zones are promulgated by Captains of the Port or District Commanders in response to requests or notifications from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management and marine safety. Total actions expected 10/01/1999 to 10/01/2000: 250.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed Larue, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0400

RIN: 2115–AA97

2292. SPECIAL ANCHORAGE AREAS/ANCHORAGE GROUNDS REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: These routine and frequent regulations are established where maritime and commercial interests require them for safety of navigation. Special anchorage areas are areas in which vessels of not more than 65 feet may anchor without displaying the required lights or sound signals. These special anchorage areas are limited geographically, and depending upon the purpose, establish both long and short-term anchorages. Anchorage grounds are limited geographically, delineate the types and size of vessel which may use the anchorage, and may place time and other restrictions on its use. Special anchorage areas and anchorage grounds are promulgated by District Commanders in response to requests from appropriate officials. These routine and frequent rulemakings support the Coast Guard's strategic goal of waterways management and marine safety. Total actions expected 10/01/1999 to 10/01/2000: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed Larue, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0400

RIN: 2115–AA98

2293. +DISCHARGE-REMOVAL EQUIPMENT FOR VESSELS CARRYING OIL (USCG-1998-4858)

Priority: Other Significant

Legal Authority: 33 USC 1321

CFR Citation: 33 CFR 155

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The Oil Pollution Act of 1990 directed the President by August 18, 1992, to: require periodic inspection of discharge-removal equipment to ensure that it is available in an emergency, and to require carriage of discharge-removal equipment by vessels operating in the navigable waters of the U.S. and carrying oil or hazardous substances. This action implemented those provisions. This project supports the Coast Guard's Marine Safety and Environmental Protection goal to reduce the consequence of pollution incidents and the Coast Guard's strategic goal of protection of natural resources. This project is considered significant because of expected costs and substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/30/91	56 FR 43534
ANPRM Comment Period End	10/16/91	
NPRM	09/29/92	57 FR 44912
NPRM Comment Period Extended	10/26/92	57 FR 48489
NPRM Comment Period End	10/29/92	
Extension Comment Period End	11/16/92	
Interim Rule	12/22/93	58 FR 67988
Interim Rule Effective	01/21/94	
Correction	01/26/94	59 FR 3749
Comment Period End	02/22/94	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David DuPont, Project Manager, G-MSR-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001

Phone: 202 267-0971

RIN: 2115–AD66

2294. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (CGD 91-035)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2713; 33 USC 2714

CFR Citation: 33 CFR 136

Legal Deadline: None

Abstract: This rulemaking implements section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. The interim rule provides the requirements for the filing of claims for uncompensated removal costs or damages resulting from the discharge of oil, for the designation of the sources of the discharge, and for the advertisement of where claims are to be filed. The interim rule also included the processing of natural resource damage (NRD) claims. The NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSTLF) is available without further appropriation to pay trustee NRD claims under the general claims provisions of the Oil Pollution Act of 1990, 33 U.S.C. 2712(a)(4). Release of the final rule will be delayed until additional experience is gained on the adjudication of these NRD claims. This rulemaking supports the Coast Guard's strategic goal of the protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Correction	09/09/92	57 FR 41104
Comment Period End	12/10/92	
Final Rule	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Don Calkin, Project Manager, National Pollution Funds Center, Department of Transportation, U.S. Coast Guard, Suite 1000, 4200 Wilson Boulevard, Arlington, VA 22203-1804
Phone: 202 493-6845

RIN: 2115–AD90

2295. +ESCORT VESSELS FOR CERTAIN TANKERS (CGD 91-202)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This rulemaking developed standards which implement section 4116(c) of the Oil Pollution Act of 1990. It addressed the areas of Prince William and Puget Sounds and requires a two-vessel escort for single-hull tankers greater than 5,000 gross tons. On November 1, 1994, the crash stop criteria were suspended because of industry concerns about meeting the criteria. On February 1, 1995, a notice of availability of a two part study assessing the capability of escort tugs to control disabled tankers in Prince William Sound was published. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This project is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
NPRM	07/07/92	57 FR 30058
Comment Period End	09/08/92	
Reopening of Comment Period	03/26/93	58 FR 16391
ANPRM	04/27/93	58 FR 25766
Notice of Public Hearings	04/29/93	58 FR 25959
Correction	05/19/93	58 FR 29157
Comment Period End ANPRM	06/28/93	
Comment Period End NPRM	07/24/93	
Part 1 of Study	01/10/94	59 FR 1411
Final Action -	08/19/94	59 FR 42962
Final Action Partial Suspension Crash Stop Criteria	11/01/94	59 FR 54519
Final Action Effective Partial Suspension	11/17/94	
Part II of Study	02/01/95	60 FR 6345
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The Coast Guard, in cooperation with the Prince William Sound Regional Citizens Advisory Council, PWS Tanker Association, and Alaska Pipeline, conducted a disabled-tanker towing study. The result of the study was incorporated into this rulemaking. Tug escort requirements in areas other than Prince William Sound and Puget Sound are addressed in the project listed under RIN 2115-AE56.

ANALYSIS: Regulatory Evaluation, 08/19/94, 59 FR 42962

Agency Contact: Karen Adams, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6819

RIN: 2115–AE10

2296. REGATTA REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233

CFR Citation: 33 CFR 100

Legal Deadline: None

Abstract: These routine and frequent special local regulations ensure the safety of participants and spectators in regattas and marine parades. They specify such things as separate participant and spectator areas, separation schemes for water craft in the area of the event, and temporary restrictions on waterways to accommodate the event. These rules are short-term, usually applying to a single event not exceeding 8 hours in duration, and usually encompassing only a small portion of a navigable waterway. These rules are promulgated by District Commanders in response to a request from a sponsoring organization. These routine and frequent rulemakings support the Coast Guard's strategic goal of marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/1999 to 10/01/2000: 75.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Carlton Perry, Project Manager, G-OPB-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0979

RIN: 2115–AE46

2297. DRAWBRIDGE REGULATIONS

Priority: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating schedules, and notice requirements, for drawbridges across navigable waterways. Drawbridge regulations establish the permanent draw operation schedules for bridges and specify what notice mariners must give to request an opening. Short-term deviations from the permanent schedule may be issued for bridge repairs or to test the effectiveness of a proposed new opening schedule. Drawbridge regulations are promulgated by District Commanders usually at the request of the bridge owner or operator, or of local officials or local Coast Guard bridge administration officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management, marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/1999 to 10/01/2000:80.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Alesia Steinberger, Project Manager, G-OPT-1, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6215

RIN: 2115–AE47

2298. +ESCORT VESSELS IN CERTAIN U.S. WATERS (CGD 91-202A)

Priority: Other Significant

Legal Authority: 46 USC 3703

CFR Citation: 33 CFR 168

Legal Deadline: None

Abstract: This regulation would designate those U.S. waters, other than Prince William Sound and Puget Sound, where tankers and other vessels must be escorted by a towing vessel or other appropriate vessel. This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protecting natural resources. This action is considered significant because of substantial public and State government interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/27/93	58 FR 25766
Comment Period End	06/28/93	
Request for Comments	12/21/94	59 FR 65741
Comment Period End	02/13/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking is a companion to 2115-AE10, which concerns Prince William Sound and Puget Sound.

Agency Contact: Karen Adams, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6819

RIN: 2115–AE56

2299. REGULATED NAVIGATION AREAS

Priority: Routine and Frequent

Legal Authority: 33 USC 1233; 50 USC 191

CFR Citation: 33 CFR 165

Legal Deadline: None

Abstract: These routine and frequent regulations establish operating requirements for vessels within specified geographic areas to ensure safety on the navigable waters where some special or unusual circumstance exists. Regulated navigation areas are limited areas in which the Coast Guard specifies operational or vessel restrictions such as vessel entry, movement or departure; and vessel size, speed, horsepower, or draft limitations. Regulated navigation areas are promulgated by District Commanders, usually at the request of Coast Guard marine safety or local maritime safety officials. These routine and frequent rulemakings support the Coast Guard's strategic goals of waterways management, marine safety, and mobility of commercial and recreational vessel traffic. Total actions expected 10/01/1999 to 10/01/2000: 10.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This is an open docket for routine field regulations.

Agency Contact: Ed Larue, Project Manager, G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0400

RIN: 2115–AE84

2300. +IMPLEMENTATION OF THE 1995 AMENDMENTS TO THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 (STCW) (CGD 95-062)

Priority: Other Significant

Legal Authority: 31 USC 9701; 44 USC 3507; 46 USC 2103; 46 USC 7101; 46 USC 7107

CFR Citation: 46 CFR 10; 46 CFR 12; 46 CFR 15

Legal Deadline: None, Statutory, February 1, 1997.

Abstract: The International Maritime Organization (IMO) comprehensively amended the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), in 1995. The amendments came into force on February 1, 1997. This project is intended to implement

them by revising current regulations to ensure that the United States complies with their requirements on: the training of merchant mariners, the documenting of their qualifications, and watch-standing and other arrangements aboard seagoing merchant ships of the United States. This rulemaking is considered significant due to potential impact on industry and potential effect on international interests. This project supports the Coast Guard's strategic goal of marine safety, and the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing deaths and injuries of crewmembers on domestic merchant vessels and eliminating substandard vessels from the navigable waters of the United States.

Timetable:

Action	Date	FR Cite
Notice of Meeting	08/02/95	60 FR 39306
Comment Period End	09/29/95	
Notice of Inquiry	11/13/95	60 FR 56970
Comment Period End	01/12/96	
NPRM	03/26/96	61 FR 13284
Notice of Public Meetings	04/08/96	61 FR 15438
Comment Period End	07/24/96	
Notice of Intent	02/04/97	62 FR 5197
Interim Final Rule	06/26/97	62 FR 34505
Interim Final Rule Effective	07/28/97	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christopher Young, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0216

RIN: 2115–AF26

2301. PROPELLER INJURY PREVENTION ABOARD RENTAL BOATS (CGD 95-041)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 173; 33 CFR 174; 33 CFR 175; 33 CFR 177; 33 CFR 179; 33 CFR 181; 33 CFR 183; 33 CFR 187

Legal Deadline: None

Abstract: The Coast Guard published a notice of inquiry on this subject on May 11, 1995. It received 1983 comments, most of which were very general. It is clear that two boating accidents involving fatalities caused by propeller strikes on rented houseboats on Lake Shasta and Lake Havasu,and several instances of crippling injuries in the last several years have generated a great deal of concern. This rulemaking would examine the number and nature of injuries sustained from vessel propellers and help the Coast Guard to determine the need for Federal or State regulation of these vessels, the livery companies leasing these vessels, or the operators of these vessels. Any regulation issued would be implemented to reduce future injuries and fatalities involving rented boats. Future action is partially dependent upon results of a Technology Comparison and testing of propellers, propeller guards, etc. conducted under a Coast Guard grant. This rulemaking supports the Coast Guard's strategic goal of marine safety.

Timetable:

Action	Date	FR Cite
Request for Comments	05/11/95	60 FR 25191
Comment Period End	07/10/95	
Reopening of Comment Period	08/09/95	60 FR 40545
Comment Period End	11/07/95	
ANPRM	03/26/96	61 FR 13123
ANPRM Comment Period End	09/01/96	
Request for Comments	04/28/97	62 FR 22991
Comment Period End	07/28/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Randolph Doubt, Project Manager, G-OPB-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-6810

RIN: 2115–AF28

2302. IMPLEMENTATION OF THE NATIONAL INVASIVE SPECIES ACT OF 1996 (CGD 97-068)(USCG-1998-3423)

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 4701; 16 USC 4702; 16 USC 4711 to 4714; 16 USC 4721 to 4728; 16 USC 4741; 16 USC 4751

CFR Citation: 33 CFR 151

Legal Deadline: NPRM, Statutory, October 26, 1997.

Abstract: rulemaking establishes voluntary ballast water exchange guidelines applicable to all vessels entering U.S. waters, as well as reporting and sampling procedures to monitor compliance. Ballast water has been identified as a major pathway for the introduction and spread of Aquatic Nuisance Species (ANS). This project supports the Coast Guard's Marine Safety and Environmental Protection program's goal to reduce the volume of untreated ballast water discharged into United States waters, and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	04/10/98	63 FR 17782
NPRM Comment Period End	06/09/98	
Interim Final Rule	05/17/99	64 FR 26672
Interim Final Rule Effective	07/01/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: LT M. Pat McKeown, Project Manager, G-MSO, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0500

RIN: 2115–AF55

2303. RULES OF PRACTICE, PROCEDURE, AND EVIDENCE FOR ADMINISTRATIVE PROCEEDINGS OF THE COAST GUARD (USCG-1998-3472)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 7701; 46 USC 7702; 33 USC 1321; 42 USC 9609

CFR Citation: 33 CFR 20; 46 CFR 5; 46 CFR 4

Legal Deadline: None

Abstract: The Coast Guard maintains two separate sets of procedural rules for administrative adjudications against merchant mariners' license, certificates, and documents, and the adjudication of class II civil penalties. The rules for suspension and revocation, contained

in part 5 of title 46 of the Code of Federal Regulations (CFR), date from 1948 and are based on criminal procedure. The rules for class II civil penalties, contained in part 20 of title 33 of the CFR, date from 1994 and are based on the Model Rules of Administrative Procedure and on other modern rules for civil procedure. Neither set implements the authority of the Oil Pollution Act of 1990 (OPA 90), which provides for the temporary suspension of a license, certificate, or document for up to 45 days without a hearing, in certain circumstances, and a hearing within 30 days of any such suspension. This rulemaking would consolidate all procedural rules for administrative adjudications for class II civil penalties, and allow the Coast Guard to implement the OPA 90 authority. This project supports two goals: the strategic goal of the Coast Guard to promote safety, and the goal of its program in Marine Safety and Environmental Protection to reduce injuries and deaths of crewmembers aboard commercial vessels of the United States.

Timetable:

Action	Date	FR Cite
NPRM	04/06/98	63 FR 16731
NPRM Comment Period End	05/06/98	
NPRM Comment Period Reopened	05/20/98	63 FR 27700
NPRM Comment Period End	06/19/98	
Interim Final Rule	05/24/99	64 FR 28054
Interim Final Rule Effective	06/23/99	
Interim Final Rule Correction	06/28/99	64 FR 34540
Interim Final Rule Comment Period End	07/23/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking revises in part the previous docket of CGD 94-101 (RIN 2115-AD94), which was terminated on December 20, 1995.

Agency Contact: George Jordan, Project Manager, G-CJ, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-2940

RIN: 2115–AF59

2304. +EMERGENCY RESPONSE PLANS FOR PASSENGER VESSELS (USCG-1998-3473)

Priority: Other Significant

Legal Authority: 14 USC 633; 33 USC 1221; 33 USC 1223; 33 USC 1224; 33 USC 1231; 33 USC 1232; 46 USC 3306

CFR Citation: 46 CFR 1; 46 CFR 7 to 10; 46 CFR 199

Legal Deadline: None

Abstract: This rulemaking would require vessel owners or operators of small passenger vessels and passenger vessels in domestic service to develop, maintain, and exercise emergency response plans. The first step in this process is to publish an advance notice of proposed rulemaking to seek feedback from vessel owners and operators. Emergency response plans would establish a process that initiates and maintains actions to prevent injury and loss of life during collisions, allisions, groundings, fires, and other emergencies. The plans would address issues such as passenger egress, crew training, and available emergency resources both on a vessel and in a vessel's operating area. This rulemaking supports the Coast Guard's strategic goal of national security. This rulemaking is significant due to important Department of Transportation policy and public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/98	63 FR 9916
ANPRM Comment Period End	06/28/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Karen Adams, Project Manager, G-MSR-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-6819

RIN: 2115–AF61

2305. +EMERGENCY CONTROL MEASURES FOR TANK BARGES (USCG-1998-4443)

Priority: Other Significant

Legal Authority: 46 USC 3719

CFR Citation: 33 CFR 155; 46 CFR 32

Legal Deadline: NPRM, Statutory, October 1, 1997.

Abstract: This rulemaking will require anchor systems and retrieval systems or measures for all single-hull tank barges operating on the waters listed in the rule (primarily offshore). The purpose of this rulemaking is to reduce oil spills from single-hull, non-self-propelled tank vessels. Drifting oil barges have run aground and spilled their cargoes, causing considerable damage to marine life and the environment. This rulemaking supports the Coast Guard's strategic goals of marine safety and protection of the marine environment. This rulemaking is classed as significant because of congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/07/97	
NPRM Comment Period End	01/05/98	
Interim Final Rule	12/30/98	63 FR 71754
Interim Final Rule Effective	03/30/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rulemaking was one component of the originally proposed regulations for Towing Vessel Safety (CGD 1997-064) (RIN 2115-AF53) concerning tank barges. To expedite the publication of regulations mandated by statute, two of the components for the original Towing Vessel Safety rulemaking separated into rulemakings. The other former component of the Towing Vessel Safety rulemaking is Fire Protection Measures for Towing Vessels (USCG-1998-4445) (RIN 2115-AF66). The original rulemaking is Towing Vessel Safety (Fire Suppression and Other Measures for Towing Vessels)(CGD 1997-064).

Agency Contact: Robert Spears, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001

DOT—USCG

Long-Term Actions

Phone: 202 267-1099

RIN: 2115–AF65

2306. +IMPROVEMENTS TO MARITIME SAFETY PUGET SOUND-AREA WATERS (USCG-1998-4501)

Priority: Other Significant

Legal Authority: 33 USC 1223 to 1224

CFR Citation: 33 CFR 1

Legal Deadline: None

Abstract: This rulemaking would promulgate measures to improve maritime safety in Puget Sound-Area waters including Puget Sound, the Strait of Juan de Fuca, passages around and through the San Juan Islands, and the Olympic Coast National Marine Sanctuary. Based on a determination by the Secretary of Transportation regarding the status of maritime safety in the Puget Sound-area, the Coast Guard has initiated a comprehensive cost-benefit analysis to study the feasibility of implementing new safety measures, including extended tug escort requirements and a dedicated response vessel. Public input will help focus this cost-benefit analysis and develop any future proposed rules, if deemed necessary. This rulemaking supports the Coast Guard Marine Safety and Environmental Protection Program's goal to reduce the amount of oil discharged into the marine environment and the Coast Guard's strategic goal of protection of natural resources. This is a significant action due to substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/24/98	63 FR 64937
ANPRM Comment Period End	05/24/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: CDR T. M. Close, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0177

RIN: 2115–AF68

2307. • MANDATORY SHIP REPORTING SYSTEM OFF THE NORTHEAST AND THE SOUTHEAST COASTS OF THE UNITED STATES (USCG-1999-5525)

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1230(d)

CFR Citation: 33 CFR 169

Legal Deadline: None

Abstract: This regulatory project will establish two mandatory ship reporting systems in areas off the U.S. Atlantic Coast to protect the endangered Northern Right Whale. These areas are critically important calving and feeding grounds for that species. Although right whales are also found outside of these areas, the proposed areas are targeted because they have both large numbers of whales and a high volume of ship traffic. Ship collisions are the largest known source of human related mortality of right whales. Communication between shore-based authorities and ships would minimize the risk of collision damage to ships and the whales as well as provide beneficial information to ships. The reporting system will require ships weighing more than 300 gross tons to notify the Coast Guard of their intention to enter these areas. In return the mariner will be provided with automated information about the last known locations of any right whales. This project supports the Coast Guard's strategic goal of protecting the marine environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/01/99	64 FR 29229
Interim Final Rule Comment Period End	07/01/99	
Interim Final Rule Effective	07/01/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The International Maritime Organization established a June 30,1999 implementation for a mandatory reporting system. Less than 300 northern right whales are now known to exist. Designing an effective and simple reporting program in conjunction with other Federal agencies eliminated the availability of time to propose the regulations for comment prior to promulgation. However, the Coast Guard may revise the regulations in response to comments.

Agency Contact: Edward J. LaRue, Jr, Project Manager-G-MOV, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-0416

RIN: 2115–AF82

Department of Transportation (DOT)
U.S. Coast Guard (USCG)

Completed Actions

2308. TANK LEVEL OR PRESSURE MONITORING DEVICES (CGD 90-071)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 32

Legal Deadline: Final, Statutory, December 1, 1991.

Abstract: In the NPRM of August 21, 1995, the Coast Guard proposed minimum performance standards for tank level or pressure monitoring devices for single-hull tank vessels that carry oil in bulk as cargo. A technical feasibility study was commissioned by the Coast guard to analyze existing tank level detection devices. The study concluded that, under ideal conditions, a 2 percent change in tank volume might be detected. This is not accurate enough to meet the requirements set by the NPRM. Several comment letters on this NPRM were received from industry that expressed concern about the lack of current technology available to measure the required quantity specified in the rule. A temporary rule for these standards was enacted on April 28, 1997 and was effective until April 28,1999. In this temporary rule, the Coast Guard indicated that if a device is developed that could meet the

technical specifications set forth, the costs and benefits associated with the device would be examined. During the effective dates, no comments were received nor were any devices submitted for consideration that complied with the proposed minimum performance standards. Because current technology can not create a device that can meet reasonable expectations, the temporary rule was allowed to expire, and no further action is required. If the Coast Guard ever receives information about a device that is accurate enough to meet the standard, the rulemaking will be reinitiated.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/91	56 FR 21116
Comment Period End	10/04/91	
Technical Feasibility Study	02/05/93	58 FR 7292
Notice of Public Meeting	11/15/94	59 FR 58810
NPRM	08/21/95	60 FR 43427
Comment Period End	11/20/95	
Final Rule	03/28/97	62 FR 14828
Final Action Effective	04/28/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly titled Overfill and Tank Level or Pressure Monitoring Devices.

Agency Contact: LT Chris Carter, Project Manager, G-MSE-3, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0027

RIN: 2115–AD69

2309. USER FEES FOR MARINE LICENSING, CERTIFICATES OF REGISTRY, AND MERCHANT MARINER DOCUMENTS (USCG-1997-2799)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 2110; 14 USC 664; 31 USC 9701

CFR Citation: 46 CFR 10; 46 CFR 12; 49 CFR 1.46

Legal Deadline: None

Abstract: This project would revise user fees for Coast Guard services relating to the issuance of merchant mariner licenses, certificates of registry and MMDs. This rulemaking was ordered by the District Court for the D.C. Circuit. The litigation was settled on September 17, 1997, but the terms of the settlement require the Coast Guard to complete the rulemaking. The user fees are based on direct and indirect personnel costs and overhead costs associated with specific services, and will affect all mariners obtaining or renewing marine licenses, certificates of registry and Merchant Mariner Documents.

Timetable:

Action	Date	FR Cite
NPRM	04/01/98	63 FR 16024
NPRM Comment Period End	09/28/98	
Final Action	08/05/99	64 FR 42812
Final Action Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The previous docket number for this rulemaking was CGD 97-049. Annual compliance costs to the public are approximately $9.2 million. Related Dockets are CGD 96-053 and USCG-1997-2798.

Agency Contact: CDR. David Skewe, Project Manager, G-MRP-2, Department of Transportation, U.S. Coast Guard, U.S.Coast Guard, 2100 Second Street SW,, Washington, DC 20593
Phone: 202 267-6888

RIN: 2115–AF49

2310. MARITIME COURSE APPROVAL PROCEDURES (USCG-1998-3824)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 46 USC 2101; 46 USC 2103; 46 USC 2110; 46 USC 7101 et seq; 46 USC 7502; 46 USC 7505; 46 USC 7701

CFR Citation: 46 CFR 10; 49 CFR 1.45; 49 CFR 1.46

Legal Deadline: None

Abstract: This rulemaking will permit the Coast Guard to suspend or revoke its approval of courses for merchant mariners. Current regulations do not contain provisions to suspend or revoke course approvals. This rulemaking will affect training schools which offer Coast Guard approved courses, when those schools fail to comply with the terms of course approval. By ensuring that schools maintain uniformly high standards, this rulemaking supports the Coast Guard's Marine Safety and Environmental Protection program's goal of reducing injuries and deaths aboard commercial vessels, and reducing the amount of pollution being discharged into the marine environment, and the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
NPRM	05/13/98	63 FR 26566
NPRM Comment Period End	07/13/98	
Final Rule	02/02/99	64 FR 4981
Final Rule Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Cavo, Project Manager, National Maritime Center, Department of Transportation, U.S. Coast Guard, Suite 510, 4200 Wilson Boulevard, Arlington, VA 22203-1801
Phone: 703 235-0010

RIN: 2115–AF58

2311. REVISE FEES TO NUMBER UNDOCUMENTED VESSELS IN ALASKA (USCG-1998-3386)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 12307

CFR Citation: 33 CFR 173

Legal Deadline: None

Abstract: This rule revises the current fees the Coast Guard charges for numbering undocumented vessels in Alaska. The fees were promulgated in 1972 and do not reflect the costs that the Coast Guard incurs to issue the vessel numbers. All fees collected go to the Treasury's General Fund. The rule should result in an increased fee that reflects the current costs for the Coast Guard to issue the vessel numbers in Alaska. This rulemaking is required by the Coast Guard Authorization Act of 1996 (Pub. L. 104-324).

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4816
NPRM Comment Period End	04/02/99	
Final Action	07/06/99	64 FR 36240
Final Action Effective	09/01/99	

DOT—USCG

Completed Actions

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Janice Giles, Project Manager, G-OPB-2, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0911

RIN: 2115–AF62

2312. CHEMICAL TESTING; MANAGEMENT INFORMATION SYSTEM REPORTING REQUIREMENTS (USCG-1998-4469)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 USC 2115

CFR Citation: 46 CFR 16

Legal Deadline: None

Abstract: The Office of Management and Budget requested that the Coast Guard reduce its reporting requirements for chemical drug testing program data, contained in entitled Management Information System (MIS) requirements. The Coast Guard will eliminate the MIS reporting requirements for those employers with ten or fewer covered employees who have provided the required MIS reports for three consecutive years. These employers will continue to collect and retain the drug testing data; but will not have to compile and report the data annually to Coast Guard. This rulemaking supports the Coast Guard's strategic goal of mobility of commercial vessels.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71257
NPRM Comment Period End	02/22/99	
Final Rule Effective	04/27/99	
Final Rule	06/15/99	64 FR 31989

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: LT Jennifer Ledbetter, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593-0001
Phone: 202 267-0684

RIN: 2115–AF67

2313. INCORPORATIONS BY REFERENCE FOR ALTERNATE COMPLIANCE PROGRAM (ACP)(USCG-1999-5004)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3116

CFR Citation: 46 CFR 8.110(b)

Legal Deadline: None

Abstract: The purpose of this rulemaking is to add the following recently approved sets of classification society rules and U.S. supplements for those rules to the ACP regulations: The American Bureau of Shipping (ABS) 1997 and 1998 Rules for Building and Classing Steel Vessels; The 1997 U.S. Supplement to ABS Rules for Steel Vessels; ABS 1998 Rules for Building and Classing Mobile Offshore Drilling Units (MODUs); The 1998 U.S. Supplement to ABS Rules for MODUs; 1998 Lloyd's Register (LR) of Shipping Rules and Regulations for Classification of Ships; and the 1998 U.S. Supplement to LR Rules for Cargo Ship Safety Construction. Adding these rules and supplements through incorporation by reference is essential to the continued viability and validity of the Alternate Compliance Program for vessel inspection. This rulemaking is noncontroversial because it is administrative in nature and unlikely to result in adverse public comment. Accordingly, the Coast Guard intends to issue this rule as a direct final rule. This rulemaking supports the Coast Guard's strategic goal of facilitating maritime commerce.

Timetable:

Action	Date	FR Cite
Final Action	06/08/99	64 FR 30437
Final Action Effective	09/07/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Spears, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1099

RIN: 2115–AF74

2314. • YEAR 2000 (Y2K) REPORTING REQUIREMENTS FOR VESSELS AND MARINE FACILITIES (USCG-1999-3917)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC 3715; 33 USC 1223

CFR Citation: 33 CFR 160

Legal Deadline: None

Abstract: This temporary rulemaking will require certain vessels and marine facility operators to complete Y2K Readiness Questionnaires and submit them to the Coast Guard. Responses to the questionnaires will help Captains of the Port (COTPs) assess vessel and facility preparedness for potential Y2K-related system malfunctions. This information will help COTPs articulate threats during peak Y2K risk periods and implement appropriate control measures to ensure safety and environmental protection. This project supports the Coast Guard's strategic goals of marine safety and protection of the marine environment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/99	64 FR 33404
Interim Final Rule Effective	07/23/99	
Interim Final Rule Comment Period End	08/23/99	
Interim Final Rule Effective Period Ends	03/31/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Hannon, Project Manager, Department of Transportation, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001
Phone: 202 267-1464

RIN: 2115–AF85

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Prerule Stage

2315. • +CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS (SECTION 610 REVIEW)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7572; ; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: The FAA intends to conduct a 610 review (a review under section 610 of the Regulatory Flexibility Act) of this part and RIN 2120-AG93 has been added to the Agenda to reflect this review. The FAA carries out its responsibility to promote safety of flight of civil aircraft in air commerce by prescribing minimum standards governing the design and construction of aircraft, aircraft engines and propellers and appliances as may be required in the interest of safety. The FAA has established procedural requirements in 14 CFR part 21 for the issuance of the following certificates and approvals: (1) type certificates and changes to type certificates; (2) production certificates; (3) airworthiness certificates; (4) export airworthiness certificates and approvals; and (5) approvals of certain materials, parts processes and appliances produced for sale or installation on a type certificated product. Also contained in this part are the rules governing the holders of certificates. In order to be issued a type certificate, the applicant must show that the product complies with the airworthiness standards for the product (aircraft, aircraft engine, or propeller). The airworthiness standards are amended as needed to reflect continually changing technology, correct design deficiencies, and provide safety enhancements.

Timetable:

Action	Date	FR Cite
Notice;Request for Information	11/00/99	
Comment Period Ends	11/00/99	
Review To Be Completed	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Paul Larson, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591 Phone: 202 267-3296

RIN: 2120–AG93

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

2316. +PART 145 REVIEW: REPAIR STATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 44705; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44717; 49 USC 45102 to 45103; 49 USC 45301 to 45302; 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44703

CFR Citation: 14 CFR 43; 14 CFR 65; 14 CFR 145

Legal Deadline: None

Abstract: The FAA proposes to update and revise the regulations for repair stations. This action is necessary because many portions of the current repair station regulations do not reflect technical advances in aircraft maintenance practices or aircraft technology. The revisions would reorganize the repair station rules to reduce duplication of regulatory language and eliminate obsolete information. The proposal also would establish new requirements that relate to repair station ratings and classes, manual requirements, recordkeeping, and personnel. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Notice of Public Meetings	07/24/89	54 FR 30866
Notice Correction	08/08/89	54 FR 32563
NPRM	06/21/99	64 FR 33142
NPRM Comment Period End	10/19/99	
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-87-045R. This project was formerly entitled Review and Revision of Repair Station Requirements, and Repair Station and Repairmen Certification Rules.

ANALYSIS: Regulatory Evaluation, 06/21/99, 64 FR 33142

Agency Contact: Richard Nowak, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7228

RIN: 2120–AC38

2317. +IMPROVED SURVIVAL EQUIPMENT FOR INADVERTENT WATER LANDINGS

Priority: Other Significant

Legal Authority: 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would add new requirements for water survival equipment carried aboard airplanes and rotorcraft. The requirements would apply, after specified dates, to U.S.-certificate holders that conduct common-carriage operations with airplanes and rotorcraft. This action is in response to the Airport and Airway Safety and Capacity Enhancement Act of 1987 (PL 100-223) and relates to safety recommendations by the

National Transportation Safety Board. The requirements are intended to increase the likelihood of aircraft passengers surviving a crash landing in water and, thus, this rulemaking is significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/30/88	53 FR 24890
NPRM Comment Period End	11/28/88	
SNPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AIR-85-265R.

ANALYSIS: Regulatory Evaluation, 06/30/88, 53 FR 248

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-9574

RIN: 2120–AC72

2318. +RETROFIT OF IMPROVED SEATS IN AIR CARRIER TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: NPRM, Statutory, April 28, 1988.

Abstract: This action would require that all seats of transport category airplanes used in air carrier operations and transport category airplanes used in scheduled intrastate service comply with improved crashworthiness standards. The Airport and Airways Safety and Capacity Expansion Act of 1987 directs the Secretary of Transportation to initiate a rulemaking proceeding to consider requiring all seats onboard all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards. The intended effect of this action is to increase passenger protection and survivability in survivable impact accidents. This rulemaking is considered significant because of its safety implications and statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/17/88	53 FR 17650
NPRM Comment Period End	10/14/88	
Reopening of Comment Period	10/30/98	63 FR 58331
NPRM Comment Period End	01/08/99	
SNPRM	09/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 25611. Project Number: AIR-88-136R.

ANALYSIS: Regulatory Evaluation, 05/17/88, 53 FR 1765

Agency Contact: John Petrakis, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-9574

RIN: 2120–AC84

2319. +CORROSION CONTROL PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This project would ensure that airplanes used or not used in common carriage in air transportation have a comprehensive corrosion prevention program within their maintenance or inspection programs. In April 1988, a commercial transport airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. The airplane had been in service for 19 years and had flown almost 90,000 flights. The National Transportation Safety Board concluded that the failure of the airline to detect skin disbonding resulted in corrosion and metal fatigue leading to separation of the airplane's skin structure. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-382R

ANALYSIS: Regulatory Evaluation, 02/00/2

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7355

RIN: 2120–AE92

2320. +FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 106(g); 49 USC 40113; 49 USC 40119

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action would codify the Federal Aviation Administration's policy not to use information from voluntary Flight Operational Quality Assurance programs in any enforcement actions taken against operators or pilots. The proposed amendment responds to industry groups that have been reluctant to participate. These programs benefit aviation safety by providing information that can lead to improvements in training and operations. In 1995 the FAA initiated

a two-year concept demonstration study in partnership with industry. Based on the study, the FAA will issue an Advisory Circular. The FAA will use the information from the study to determine if it is appropriate to codify in the rules the immunity provisions. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Policy Statement	12/07/98	63 FR 67505
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-154R

ANALYSIS: Regulatory Evaluation, 10/00/

Agency Contact: Dan Meier, Flight Standards Service, Regulations Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3789

RIN: 2120–AF04

2321. +AIR TOUR STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44702; 49 USC 44705

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: FAA will propose new regulations for air tour and sightseeing operations that are currently allowed to operate under less stringent regulations than those applied to other types of commercial operations. Over the past decade the number of these operations and the number of accidents and incidents associated with these operations have increased. Hot air balloons and gliders would not be included in this amendment. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-91-012R. RIN 2120-AF61 which was proposed as a new item for this agenda was a duplicate of this rulemaking and has been terminated. This rulemaking was previously titled "Sightseeing Operations."

ANALYSIS: Regulatory Evaluation, 10/00/

Agency Contact: Katherine M. Hakala, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3760

RIN: 2120–AF07

2322. +OVERFLIGHTS OF UNITS OF THE NATIONAL PARK SYSTEM

Regulatory Plan: This entry is Seq. No. 90 in Part II of this issue of the **Federal Register**.

RIN: 2120–AF46

2323. +FLIGHT CREWMEMBER DUTY PERIOD LIMITATIONS, FLIGHT TIME LIMITATIONS, AND REST REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 91 in Part II of this issue of the **Federal Register**.

RIN: 2120–AF63

2324. +SUBMISSION TO DRUG TESTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 45102 to 45103

CFR Citation: 14 CFR 61; 14 CFR 63; 14 CFR 91

Legal Deadline: None

Abstract: This action would propose amendments to require aircraft crewmembers to submit to tests that show the presence of alcohol, drugs, or drug metabolites when requested by Federal, State, or local law enforcement officers investigating violations of Federal, State, or local law. The proposed amendments are intended to reduce aircraft accidents and incidents attributed to the use of drugs by crewmembers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-90-082

ANALYSIS: Regulatory Evaluation, 10/00/

Agency Contact: Thomas K. Glista, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8150

RIN: 2120–AF64

2325. +PASSENGER FACILITY CHARGES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40116 to 40117; 49 USC 47111; 49 USC 47114 to 47116

CFR Citation: 14 CFR 158

Legal Deadline: None

Abstract: This action would propose to increase the amount of compensation that a carrier may earn for collecting and remitting a passenger facility charge from eight cents to ten cents. In addition, the NPRM proposes to clarify that monthly remittances must be received by airport public agencies collecting PFCs on the last day of each month. The NPRM also proposes to amend the regulation to reflect the statutory prohibition on collection of PFCs from passengers using frequent

flyer bonus awards. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	04/16/96	61 FR 16678
ANPRM Comment Period End	05/16/96	
Comment Period Extended	05/21/96	61 FR 25420
Comment Period End	08/16/96	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: APP-94-568P.

Agency Contact: Sheryl Scarborough, Airport Financial Assistance Division, Office of Airports Planning and Programmi, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8825

RIN: 2120–AF69

2326. +DURATION BETWEEN EXAMINATIONS FOR FIRST- AND SECOND-AIRMAN MEDICAL CERTIFICATES

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This proposed action would reduce the required frequency of medical examinations for many holders of first- and second-class airman medical certifications, based on the age of the airman. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AAM-95-065R.

ANALYSIS: Regulatory Evaluation, 10/00/

Agency Contact: Dennis McEachen, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 493-4075

RIN: 2120–AG06

2327. FEES FOR AEROMEDICAL EDUCATION TRAINING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 9701; 49 USC 106(g); 49 USC 40104; 49 USC 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44702; 49 USC 45301 to 45303

CFR Citation: 14 CFR 187

Legal Deadline: None

Abstract: This action would establish (1) a schedule of fees for all aeromedical education training services, (2) the methodology for computing user fees, and (3) a timetable for periodic updates of established fees. The proposal is necessary to permit the FAA to recover the costs incurred in sponsoring aeromedical education training services.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AAM-95-065R.

ANALYSIS: Regulatory Evaluation, 10/00/99.

Agency Contact: B. J. Hudson, Aeromedical Standards Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 493-4077

RIN: 2120–AG07

2328. +FALSE AND MISLEADING STATEMENTS REGARDING AIRCRAFT PARTS

Priority: Other Significant

Legal Authority: 49 USC 44913

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action proposes additional rules that would prohibit certain false or misleading statements regarding civil aircraft, airframes, aircraft engines, propellers, appliances, component parts, and materials, including standard parts, that are used, or may be used, on civil aircraft. The proposals would also permit increased inspection by the FAA of records regarding the quality of aircraft parts. The additional rules are needed to help prevent persons from representing parts as suitable for use on civil aircraft when in fact they may not be. The proposals are intended to provide assurance that aircraft owners and operators, and persons who maintain aircraft, have truthful information on which to determine whether a part may be used in a given civil aircraft application. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AGC-94-549R.

ANALYSIS: Regulatory Evaluation, 10/00/

Agency Contact: Mardi Ruth Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG08

2329. +CHILD RESTRAINT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715

to 44718; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46502

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This action sought public comment on issues relating to the use of child restraint systems in aircraft during all phases of flight (i.e., taxi, takeoff, landing, or any other time the seat belt sign is illuminated). Specifically, the agency sought information about existing child restraint systems, the development of new and improved child restraint systems, the ease with which existing or new child restraint systems can be used, and the effectiveness of changing the current child restraint system regulations. The advance notice gathered information in response to a recommendation made by the White House Commission on Aviation Safety and Security (Gore Commission). Approximately 130 comments were received on the ANPRM. This information is needed so that the FAA can determine the best way to ensure the safety of children while on board aircraft. After such a determination is made, the FAA may issue a Notice of Proposed Rulemaking with specific regulatory proposals that respond to the Commission's recommendations regarding the use of child restraint systems. This action is considered significant because of safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	02/18/98	63 FR 8324
ANPRM Comment Period End	06/18/98	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-261R

Agency Contact: Gary E. Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG43

2330. CIVIL PENALTIES: STREAMLINED ENFORCEMENT TEST AND EVALUATION PROGRAM; SECURITY; DRUG AND ALCOHOL ABATEMENT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action proposes to establish a two-year test and evaluation program designed to streamline the procedures used to process certain civil penalty enforcement actions. This program was recommended as a result of the Deputy Administrator's 90-day system safety review.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Brian Reed, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7158

RIN: 2120–AG49

2331. REVISION OF AIR CARRIER CREWMEMBER AND TRAINING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 60; 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise title 14 of the Code of Federal Regulations part 121 subparts N, O, P, and create part 60. The proposed revision and creation will address Advanced Qualification Programs and additional training programs. The rulemaking is needed to enhance crew resource management training, to permit rapid changes to training and checking requirements for emerging technologies, to improve safety, and to respond to numerous recommendations from various sources.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-97-335R.

ANALYSIS: Regulatory Evaluation, 02/00/2

Agency Contact: Jan Demuth, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8922

RIN: 2120–AG57

2332. +TRANSPORT AIRPLANE FLEET FUEL TANK IGNITION SOURCE REVIEW; FLAMMABILITY REDUCTION, AND MAINTENANCE AND INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This action will develop a Special Federal Aviation Regulation (SFAR) to require type certificate holders of certain turbojet and turbofan-powered transport category airplanes to conduct a design review of fuel tank systems and develop fuel system inspection and maintenance instructions. It will also allow a certificate holder to submit documentation that the type design of the fuel system of a previously

certificated airplane precludes existence of ignition sources within the airplane's fuel tanks. This action is significant because of substantial public interest in the prevention of fire and explosion in airplane fuel tanks.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58644
NPRM Comment Period End	01/27/00	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-98-158R.

ANALYSIS: Regulatory Evaluation, 10/00/99.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AG62

2333. USE OF ELECTRONIC SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101 to 40103; 49 USC 40105; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44105 to 44106; 49 USC 44111; 49 USC 44701 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44906

CFR Citation: 14 CFR 21; 14 CFR 43; 14 CFR 91; 14 CFR 119

Legal Deadline: None

Abstract: This action proposes to amend the regulations to permit the use of electronic signatures to satisfy maintenance, operational, and type certification record preparation and retention requirements. Although this action will encourage the use of electronic recordkeeping systems, it will not discourage the use of paper documents and records to satisfy regulatory requirements. The proposed rule will provide cost savings and regulatory relief to owners, manufacturers, operators and repair stations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-226A.

ANALYSIS: Regulatory Evaluation, 10/00/99.

Agency Contact: Wayne Nutsch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 493-4291

RIN: 2120–AG63

2334. REVISED LANDING GEAR SHOCK ABSORPTION TEST REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 40113; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104; 49 USC 106(g); 49 USC 40103

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the landing gear shock absorption test requirements for transport category airplanes to be consistent with other requirements, to reflect modern technology and to achieve common requirements and language between the Federal aviation requirements and the European joint aviation requirements without reducing the level of safety provided by the regulations and industry practices.

Timetable:

Action	Date	FR Cite
NPRM	06/18/99	64 FR 32978
NPRM Comment Period End	10/18/99	
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-182A.

ANALYSIS: Regulatory Evaluation, 06/18/99, 64 FR 32978

Agency Contact: James Haynes, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Rind Avenue SW., Renton, WA 98055
Phone: 425 227-2131

RIN: 2120–AG72

2335. TRAINING IN THE RECOGNITION OF HAZARDOUS MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 4711; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: The FAA will clarify the requirement for "will not carry" certificate holders in parts 121 and 135 to provide hazardous material recognition training so that such materials are not inadvertently placed onboard aircraft.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-375R.

ANALYSIS: Regulatory Evaluation, 10/00/99.

Agency Contact: Gary E. Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3747

RIN: 2120–AG75

2336. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR LICENSED REENTRY ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2601

CFR Citation: 14 CFR 450

Legal Deadline: None

Abstract: This proposal will establish financial responsibility requirements

covering risks associated with the licensed reentry of a reentry vehicle. This action will provide general rules for demonstrating compliance with insurance requirements and implementing statutory-based Government/industry risk sharing provisions in manner comparable to that currently utilized for commercial launches.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-99-055R.

This rulemaking has been downgraded to Non-Significant because the Congressional interest has been adequately addressed by formalizing current practice (Financial Responsibility Requirements for Licensed Launch Activities) that resulted in little or no additional cost to the industry.

Agency Contact: Esta Rosenberg, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9306

RIN: 2120–AG76

2337. • REVISION OF BRAKING SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes to harmonize braking systems design and test requirements with standards proposed for the European Joint Aviation Requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43570
Correction	08/20/99	64 FR 45589
NPRM Comment Period End	11/08/99	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-98-302A.

ANALYSIS: Regulatory Evaluation, 08/10/99, 64 FR 4357

Agency Contact: Mahinder K. Wahi, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, VA 98055 Phone: 425 227-2142

RIN: 2120–AG80

2338. • +CERTIFICATION OF SCREENING COMPANIES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44905; 49 USC 44906; 49 USC 44907; 49 USC 44913 to 44914

CFR Citation: 14 CFR 108; 14 CFR 109; 14 CFR 111; 14 CFR 129

Legal Deadline: None

Abstract: This action proposes to require that all companies that perform aviation security screening be certificated by the FAA and meet enhanced requirements. This action is in response to a recommendation by the White House Commission on Aviation Safety and Security and to a Congressional mandate in the Federal Aviation Reauthorization Act of 1996. The proposal is intended to improve the screening of passengers, accessible property, checked baggage, and cargo, and to provide standards for consistent high performance and increased accountability of screening companies. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-98-299R.

Agency Contact: Kristine Mason, Office of Civil Aviation Security Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3413

RIN: 2120–AG84

2339. • +ADDITIONAL FLIGHT DATA RECORDER IMPROVEMENTS FOR CERTAIN B-737 AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: The FAA proposes to amend the digital flight data recorder rules for transport category airplanes to add a requirement for all Boeing 737 (B-737) series airplanes to record additional flight data parameters. This amendment is based on safety recommendations issued by the National Transportation Safety Board following the investigation of the 1994 USAir Flight 427 accident. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AIR-99-272R.

ANALYSIS: Regulatory Evaluation, 10/00/1

Agency Contact: George Kaseote, Policy and Procedures Branch, Aircraft

DOT—FAA

Proposed Rule Stage

Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8541

RIN: 2120–AG87

2340. • +EMERGENCY MEDICAL EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action responds to the Aviation Medical Assistance Act of 1998 (49 USC 44701) by proposing that large, passenger-carrying air carrier operators carry automatic external defibrillators and augment currently required emergency medical kits. If adopted, additional training for crewmembers on the use of this equipment would be required. The intent of this proposal is to better equip crewmembers, and those qualified to assist them, for responding to in-flight medical events. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project No: AAM-98-234R.

ANALYSIS: Regulatory Evaluation, 10/00/

Agency Contact: Judi Citrenbaum, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW,, Washington, DC 20591
Phone: 202 267-9689

RIN: 2120–AG89

2341. • +TRAFFIC ALERT AND COLLISION AVOIDANCE SYSTEMS - CARGO AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline: None

Abstract: This action proposes to require the installation and use of a traffic alert and collision system (TCAS) on certain cargo airplanes. Current regulations do not require TCAS installation on all-cargo airplanes. However, because the air cargo industry has experienced rapid growth and is increasingly sharing air space with other air carriers, the FAA is proposing this action to minimize the possibility of midair collisions involving cargo airplanes. This rulemaking proposes that affected airplanes be equipped with TCAS II, or another approved traffic alert and collision avoidance system, as appropriate, no later than October 31, 2003. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project No. AFS-98-314R.

ANALYSIS: Regulatory Evaluation, 12/00/

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AG90

2342. • +IMPROVED FLAMMABILITY STANDARDS FOR THERMAL/ACOUSTIC INSULATION MATERIALS USED IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 44701; 49 USC 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to adopt new flammability standards that specifically address flame propagation and entry of an external fire into the airplane (burnthrough) under realistic fire scenarios. The proposed standards are intended to reduce the incidence and severity of cabin fires, particularly those ignited in inaccessible areas where thermal/acoustic insulation materials are typically installed. Also the proposed standards would provide an increased level of safety with respect to post-crash fires by delaying the entry of such a fire into the cabin, thereby providing additional time for evacuation and enhancing survivability. The new standards would apply to new type designs, and newly manufactured airplanes entering parts 91, 121, 125, and 135 service. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-99-086R.

ANALYSIS: Regulatory Evaluation, 10/00/

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2136

RIN: 2120–AG91

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Final Rule Stage

2343. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44718; 49 USC 46101 to 46102; 49 USC 46104

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: This action would amend the standards, aeronautical studies, scope, and notice provisions concerning objects affecting navigable airspace. The notice consisted primarily of changes required by recent legislation or recommended by a government/industry task group of the National Airspace Review Advisory Committee. This action would also cover electromagnetic interference phenomenon that could create a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
NPRM	08/03/90	55 FR 31722
NPRM Correction	08/13/90	55 FR 32999
NPRM Correction	08/16/90	55 FR 33577
NPRM Correction	08/28/90	55 FR 35152
NPRM Correction	09/10/90	55 FR 37287
NPRM Comment Period End	12/31/90	
SNPRM	10/16/95	60 FR 53680
SNPRM Comment Period End	11/30/95	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATO-85-015R.

ANALYSIS: Regulatory Evaluation, 08/03/90, 55 FR 31722

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AA09

2344. MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 5103; 49 USC 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44703; 49 USC 44705; 49 USC 44706; 49 USC 44707; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to amend various sections of the regulations. The proposal was to clarify language, correct improper or obsolete references, and to relax certain existing requirements. Since publication of the NPRM, many other completed, in-process, or planned actions have addressed or will address many of the issues involved. The FAA has determined that all unresolved issues should be included in more recent actions dealing with the specific sections of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
NPRM Comment Period End	12/02/83	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. 23781. Project Number: ARM-81-128R.

ANALYSIS: Regulatory Evaluation, 10/03/83, 48 FR 45214

Agency Contact: Linda L. Williams, Office of Rulemaking, ARM-100, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9685

RIN: 2120–AA50

2345. +REVISION OF PART 108, AIRPLANE OPERATOR SECURITY

Priority: Other Significant

Legal Authority: 40 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: This action would amend part 108 of the Federal Aviation Regulations to incorporate new requirements in response to worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41730
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
NPRM Comment Period Reopened	08/10/99	64 FR 43322
Comment Period End	09/24/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-107R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 4173

Agency Contact: Rhoda Hatmaker, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3946

RIN: 2120–AD45

2346. +REVISION OF PART 107, AIRPORT SECURITY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44706; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 107

Legal Deadline: None

DOT—FAA

Final Rule Stage

Abstract: This action proposes to amend part 107 of the Federal Aviation Regulations to incorporate new requirements in response to the worldwide terrorist activity. This rulemaking is considered significant because of its safety implications and substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41760
Notice of Public Meeting	09/15/97	62 FR 48190
NPRM Comment Period End	12/01/97	
Notice of Public Meeting	04/21/98	63 FR 19691
Comment Period End 6/26/98	04/21/98	
NPRM Comment Period Reopened	08/10/99	64 FR 43321
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ACS-87-106R.

ANALYSIS: Regulatory Evaluation, 08/01/97, 62 FR 4176

Agency Contact: Bob Comonaroto, Office of Civil Aviation Security, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8553

RIN: 2120–AD46

2347. +AGING AIRCRAFT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135; 14 CFR 183

Legal Deadline: Other, Statutory, April 24, 1992, Action must be initiated by 04/24/92 per Aging Aircraft Safety Act of 1991.

Abstract: On October 5, 1993, the FAA published an NPRM that proposed to require air carriers of certain aircraft used in air transportation to demonstrate that the aircraft's maintenance has been adequate to ensure the highest degree of safety. After further review, and taking into consideration public comments to the NPRM, the FAA withdrew that NPRM. On March 19, 1999, the FAA issued a new NPRM that would ensure the continuing airworthiness of the most significant aging airplanes operating in air transportation by mandating aging aircraft records reviews and inspections for certain air carriers and certain aircraft and also by applying modern damage-tolerance analyses and inspection techniques to older airplane structures that were certificated before such techniques were available. The comment period will close October 18, 1999, This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/05/93	58 FR 51944
NPRM Comment Period End	02/02/94	
Comment Period End 3/4/94	02/08/94	59 FR 5741
NPRM	04/02/99	64 FR 16298
NPRM Comment Period End	08/02/99	
NPRM Comment Period Reopened	08/18/99	64 FR 45090
Comment Period End	10/08/99	
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number AFS-92-029R.

ANALYSIS: Regulatory Evaluation, 04/02/99, 64 FR 16298

Agency Contact: Frederick Sobeck, Aircraft Maintenance Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-7355

RIN: 2120–AE42

2348. +AIRCRAFT GROUND DEICING AND ANTI-ICING PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action establishes a requirement for part 121 certificate holders to develop an FAA-approved ground deicing/anti-icing program and to comply with that program any time conditions are such that frost, ice, or snow could adhere to the aircraft's wings, control surfaces, or propellers. This action is necessary because several accidents and the recent International Conference on Airplane Ground Deicing indicate that, under present procedures, the pilot in command may be unable to effectively determine whether critical airplane components are free of all frost, ice, or snow prior to attempting a takeoff. The action provides an added level of safety to flight operations in adverse weather conditions, and is considered significant because of its safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/23/92	57 FR 32846
NPRM Comment Period End	08/07/92	
Interim Final Rule	09/29/92	57 FR 44924
Interim Final Rule Effective	11/01/92	
Interim Final Rule Correction	11/09/92	57 FR 53385
Interim Final Rule Comment Period End	04/15/93	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-280-R.

A proposed advisory circular providing guidance on the program elements that should be included in an air carrier's approved ground deicing and anti-icing program was published September 29, 1992, requesting comments (57 FR 44944).

Various documents of this proceeding were erroneously published under RIN 2120-AE51.

DOT—FAA

Final Rule Stage

ANALYSIS: Regulatory Evaluation, 09/29/92, 57 FR 44924

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-9579

RIN: 2120–AE70

2349. CIVIL PENALTY ASSESSMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 6002; 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44103 to 44106; 49 USC 44702 to 44703; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111; 49 USC 47122

CFR Citation: 14 CFR 13

Legal Deadline: None

Abstract: This action would revise the procedures for the assessment of civil penalties for violations of the Federal Aviation Regulations and other provisions. The procedures proposed would implement the requirements of the FAA Civil Penalty Administrative Assessment Act of 1992, as they modify the procedures for adjudicating a civil penalty against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman.

Timetable:

Action	Date	FR Cite
NPRM	08/05/94	59 FR 40192
NPRM Comment Period End	10/04/94	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-93-076R. This rulemaking was considered significant; however, after receiving only two comments on the NPRM issued in 8/94, and the lack of controversy regarding this rule, the FAA does not consider this a significant rulemaking.

ANALYSIS: Regulatory Evaluation, 08/05/94, 59 FR 40192

Agency Contact: Joyce Redos, Regulations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7158

RIN: 2120–AE84

2350. FLIGHT ATTENDANT ENGLISH LANGUAGE PROFICIENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: The FAA has reviewed the Aviation Rulemaking Advisory Committee recommendation to proceed with this rulemaking. The FAA has determined that it would be most appropriate to address the flight attendant English language issue in the overall context of crew training. Therefore, because the FAA will incorporate the flight attendant English language issue into the proposed revision of part 121 subpart N and O notice of proposed rulemaking, this rulemaking entry will be withdrawn.

Timetable:

Action	Date	FR Cite
ANPRM	04/18/94	59 FR 18456
ANPRM Comment Period End	07/18/94	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-93-745A

Agency Contact: Gary E. Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AE98

2351. +REVISED ACCESS TO TYPE III EXITS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would adjust recently adopted requirements for access to type III emergency exits in transport category airplanes with 60 or more passenger seats. The adjustments would reflect new data from tests conducted at the FAA's Civil Aeromedical Institute and are intended to improve the ability of occupants to evacuate an airplane under emergency conditions. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/30/95	60 FR 5794
NPRM Comment Period End	05/01/95	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-93-005R.

Agency Contact: Charles Huber, Regulations Branch, Transport Airplane Directorate, Aircraft Certification Servi, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2114

RIN: 2120–AF01

2352. +TRAINING AND CHECKING IN GROUND ICING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44710 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722

CFR Citation: 14 CFR 125; 14 CFR 135

Legal Deadline: None

DOT—FAA

Final Rule Stage

Abstract: This amendment requires parts 125 and 135 certificate holders to provide pilot training or testing in ground deicing/anti-icing procedures and to check the airplane for contamination by frost, ice, or snow during ground icing conditions. The proposal is intended to provide an added level of safety to flight operations in adverse weather conditions under parts 125 and 135. This rulemaking is significant because it affects a substantial portion of the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	09/21/93	58 FR 49164
NPRM Comment Period End	10/06/93	
Interim Final Rule	12/30/93	58 FR 69620
Advisory Circular Published	12/30/93	58 FR 69631
Interim Final Rule Effective	01/31/94	58 FR 69620
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-93-459R

ANALYSIS: Regulatory Evaluation, 12/30/93, 58 FR 6962

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-9579

RIN: 2120–AF09

2353. LOS ANGELES, CA, CLASS B AIRSPACE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: The FAA is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that proposed to alter the Los Angeles, CA, Class B airspace area. The proposal would have lowered certain ceilings while raising others to provide more visual flight rules altitudes to circumnavigate the Los Angeles Class B airspace and to provide for better containment of arriving turbojets. This action will be handled as a routine airspace action.

Timetable:

Action	Date	FR Cite
NPRM	11/22/94	59 FR 60244
NPRM Comment Period End	01/23/95	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATP-94-035T RIN 2120-AF38 was inadvertently used when this rulemaking was published in the Federal Register on November 22, 1994. The correct RIN is 2120-AF16.

ANALYSIS: Regulatory Evaluation, 11/22/94, 59 FR 60244

Agency Contact: William Nelson, Airspace and Obstruction Evaluation Branch, Air Traffic Rules and Procedures Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-9295

RIN: 2120–AF16

2354. +SUSPENSION OF CERTAIN AIRCRAFT OPERATIONS FROM THE TRANSPONDER WITH AUTOMATIC PRESSURE ALTITUDE REPORTING CAPABILITY REQUIREMENT

Priority: Other Significant

Legal Authority: 49 USC 46306; 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The FAA is withdrawing the proposed Special Federal Aviation Regulation (SFAR) because data shows that adequate time has passed since 1988 for aircraft operators to purchase and install automatic altitude reporting transponders, and those without an operating transponder may use the ATC authorization procedures. In addition, according to an FAA survey, the majority of general aviation aircraft owners have installed automatic altitude encoding transponders. The FAA, therefore, finds that the provision proposed in the NPRM are no longer necessary and is withdrawing the proposal to reinstate SFAR 62. This action would have reinstated and modified expired SFAR No. 62. SFAR No. 62 suspended certain provisions of the regulations requiring the installation and use of a transponder with automatic altitude reporting capability within 30 nautical miles of a Class B airspace primary airport. This rulemaking was significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/25/94	59 FR 43994
NPRM Correction	09/14/94	59 FR 47210
Comment Period End 11/25/94	09/28/94	59 FR 49360
NPRM Comment Period End	10/11/94	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATP-93-474R. As this action merely involves extension of a suspension of a requirement, it is not a rulemaking requiring OMB review in the context of EO 12866. However, it is significant under DOT's regulatory policies and procedures.

ANALYSIS: Regulatory Evaluation, 08/25/94, 59 FR 43994

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AF30

2355. +TYPE CERTIFICATION PROCEDURES FOR CHANGED PRODUCTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

DOT—FAA

Final Rule Stage

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40101; 49 USC 40103; 49 USC 40105; 49 USC 40109; 49 USC 40113; 49 USC 44110; 49 USC 44502; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715

CFR Citation: 14 CFR 11; 14 CFR 21; 14 CFR 25

Legal Deadline: None

Abstract: This action amends the procedural regulations for certification of changes to type certificated products. The amendments affect changes accomplished through either an amended type certificate or a supplemental type certificate. The amendments are needed to address the trend toward fewer products that are of completely new design and more products with multiple changes to previously approved designs. This action will enhance safety by applying the latest airworthiness standards, to the greatest extent practicable, for the certification of significant design changes of aircraft, aircraft engines, and propellers. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/02/97	62 FR 24288
NPRM Comment Period End	09/02/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-99-0393A. This action is the result of an Aviation Rulemaking Advisory Committee recommendation.

ANALYSIS: Regulatory Evaluation, 05/02/97, 62 FR 24288

Agency Contact: Randall Peterson, Office of Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-9583

RIN: 2120–AF68

2356. MISCELLANEOUS CABIN SAFETY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 46105; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to revise the airworthiness standards for transport category airplanes relating to flight attendant assist space, flight attendant assist handles, door hold open features, outside viewing means, interior compartment doors and portable oxygen equipment. With one exception, these proposals are not the result of any specific incident or recommendation, but are part of the FAA's continuing effort to upgrade the regulations to improve the overall level of safety in areas where the state-of-the-art and good design practice have indicated that such upgrades are warranted. These proposals would result in both new type design regulations as well as requirements applicable to existing designs implemented via the operating rules.

Timetable:

Action	Date	FR Cite
NPRM	07/24/96	61 FR 38552
NPRM Comment Period End	11/21/96	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-90-016R.

ANALYSIS: Regulatory Evaluation, 07/24/96, 61 FR 38552

Agency Contact: Jeff Gardlin, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2136

RIN: 2120–AF77

2357. REPAIR ASSESSMENT FOR PRESSURIZED FUSELAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 40711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44912

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129

Legal Deadline: None

Abstract: This rulemaking would require incorporation of repair assessment guidelines for external fuselage pressure boundary into the FAA-approved maintenance programs of each operator of certain transport category airplane models. The purpose of the repair assessment guidelines is to establish a damage-tolerance based supplemental inspection program for repairs to detect damage, which may develop in a repaired area, before that damage degrades the load carrying capability of the structure below the levels required by the applicable airworthiness standards.

Timetable:

Action	Date	FR Cite
NPRM	01/02/98	63 FR 126
NPRM Comment Period End	04/02/98	
Comment Period End 7/2/98	04/03/98	63 FR 16452
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Project Number: ANM-97-309A. This is an Aviation Rulemaking Advisory Committee project.

ANALYSIS: Regulatory Evaluation, 01/02/98, 63 FR 126

Agency Contact: Dorenda Baker, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2109

RIN: 2120–AF81

DOT—FAA

Final Rule Stage

2358. BIRD INGESTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action proposes changes to amend the type certification standards for aircraft turbine engines that concern bird ingestion. This proposal updates the current bird ingestion standards to reflect recent analysis defining the actual bird threat encountered by turbine engines. This proposal also harmonizes the FAA's type certification standards on this issue with requirements being drafted by the Joint Aviation Authorities (JAA). The proposed changes, if adopted, would establish one set of common requirements, and thereby reduce the regulatory hardship on the aviation industry by eliminating the need for manufacturers to comply with different sets of standards when seeking type certification from the FAA and validation from the JAA.

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68636
NPRM Comment Period End	03/11/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-97-476A. This is an Aviation Rulemaking Advisory Committee project.

ANALYSIS: Regulatory Evaluation, 12/11/98, 63 FR 68636

Agency Contact: John Golinski, Engine and Propeller Directorate, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803-5299
Phone: 781 238-7119

RIN: 2120–AF84

2359. REVISION OF CERTIFICATION REQUIREMENTS: AIRCRAFT DISPATCHERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 65

Legal Deadline: None

Abstract: This action proposes to amend the regulations that prescribe the certification and training requirements for aircraft dispatchers. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aircraft dispatchers. The proposal would consolidate and clarify all certification, training, and experience requirements for aircraft dispatchers in newly revised part 65, subpart C, and appendix A of part 65.

Timetable:

Action	Date	FR Cite
NPRM	10/19/98	63 FR 55920
NPRM Comment Period End	02/16/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-171A.

ANALYSIS: Regulatory Evaluation, 10/19/98, 63 FR 5592

Agency Contact: Tom Toula, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AG04

2360. +SECURITY PROGRAMS OF FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S. REGISTERED AIR CARRIERS ENGAGED IN COMMON CARRIAGE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44712; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901 to 44904; 49 USC 44906

CFR Citation: 14 CFR 129

Legal Deadline: None

Abstract: As an action intended to implement the Antiterrorism and Effective Death Penalty Act of 1996 (PL 104-132, 4/14/96), the FAA is proposing to amend existing airplane operator security rules for foreign air carriers and foreign operators of U.S. registered aircraft. The proposed amendment would require the Administrator to accept a foreign air carrier's program only if the Administrator finds that the security program provides for identical security measures to those provided by U.S. air carriers serving the same airport. The proposed rule will establish the obligation to use identical security measures. The actual measures to be used will be identified through changes to the nonpublic security program of the foreign air carriers. This rule is considered significant due to substantial public interest and concern of foreign governments.

Timetable:

Action	Date	FR Cite
NPRM	11/23/98	63 FR 64764
Notice of Public Meeting	11/23/98	
Second NPRM	03/22/99	64 FR 13880
NPRM Comment Period End	03/23/99	
Second NPRM Comment Period End	05/24/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ACP-96-363R.

Agency Contact: Moira Lozada, Civil Aviation Security Division, Office of Civil Aviation Security Policy and P, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3373

RIN: 2120–AG13

DOT—FAA

Final Rule Stage

2361. REVISED PRECISION APPROACH LANDING SYSTEMS POLICY

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This statement announces the FAA's proposed policy for acquisition, installation, maintenance, and decommissioning of the instrument landing system (ILS) and the microwave landing system (MLS) during the transition to the global positioning system (GPS). The policy statement of December 1989 announced the transition from the ILS to the MLS for precision approach service in the National Airspace System. Since that time, advancement of GPS-based landing system technology has provided a more economical means of providing approach services.

Timetable:

Action	Date	FR Cite
Policy Statement	12/27/89	54 FR 53231
Policy Statement	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Wedge, Airway Facilities Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7848

RIN: 2120–AG16

2362. +FEES FOR AIR TRAFFIC SERVICES FOR CERTAIN FLIGHTS THROUGH U.S.-CONTROLLED AIRSPACE AND FOR AERONAUTICAL STUDIES

Priority: Other Significant

Legal Authority: 49 USC 45301 to 45303; 49 USC 46101 to 46102; 49 USC 46104; 49 USC 9701; 49 USC 106 (g); 49 USC 40103; 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44502; 49 USC 44701; 49 USC 44702; 49 USC 44718

CFR Citation: 14 CFR 77; 14 CFR 187

Legal Deadline: None

Abstract: Pursuant to the 1996 FAA Reauthorization Act, the FAA is issuing another interim rule to establish fees and collection procedures for FAA air traffic and related services provided to certain aircraft that transit U.S.-controlled airspace but neither take off from, nor land in, the United States. Previously, the FAA issued an Interim Final Rule that was remanded back to FAA by the United States Court of Appeals for the District of Columbia. That Interim Final Rule was withdrawn by the Final Rule issued on July 24, 1998. The new Interim Final Rule complies with the Court's decision. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13496
Correction	04/29/97	62 FR 23295
Correction	05/05/97	62 FR 24552
Interim Final Rule Effective	05/19/97	
Period End	07/18/97	
Interim Final Rule	10/02/97	62 FR 51736
Interim Final Rule Effective	10/02/97	
Final Rule Effective	07/21/98	
Interim Final Rule	07/24/98	63 FR 40000
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: APO-96-172R.

ANALYSIS: Regulatory Evaluation, 03/20/97, 62 FR 13496

Agency Contact: Tim Lawler, Office of Aviation Policy and Plans, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7052

RIN: 2120–AG17

2363. +PROHIBITION OF THE TRANSPORTATION OF DEVICES DESIGNED AS CHEMICAL GENERATORS AS CARGO IN AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 46301

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking proposes to ban the transportation of devices designed to chemically generate oxygen in certain aircraft, with limited exceptions. This proposed ban applies to newly-manufactured chemical oxygen generators that have never been filled with chemicals. It would also apply to devices designated as chemical oxygen generators that have been discharged (spent) or that are past their expiration dates. The FAA believes that newly-manufactured chemical oxygen generators might be manufactured in one location and transported to another location to be filled. This could lead to human factors errors in determining whether the device designed as a chemical oxygen generator is actually empty.

The Research and Special Programs Administration (RSPA) proposed a ban that applies to "spent" chemical oxygen generators to the extent that such generators have residue chemicals in the canisters. (See RIN 2137-AC92)

This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	08/27/98	63 FR 45912
Correction	09/24/98	63 FR 51048
NPRM Comment Period End	10/26/98	
Correction	11/10/98	63 FR 29276
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AFS-97-065R

ANALYSIS: Regulatory Evaluation, 08/27/98, 63 FR 45912

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG35

DOT—FAA

Final Rule Stage

2364. +PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Administrator has been tasked, under the Federal Aviation Reauthorization Act of 1996, to develop regulations to protect safety and security related information voluntarily disclosed by industry. The FAA is in the process of determining what voluntarily submitted information should be given protection under the statute. This rulemaking is significant because of substantial industry interest.

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40472
NPRM Comment Period End	09/24/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ARM-97-040.

ANALYSIS: Regulatory Evaluation, 07/26/99, 64 FR 40472.

Agency Contact: Mardi Thompson, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3073

RIN: 2120–AG36

2365. +AIR TOUR OPERATIONS IN THE STATE OF HAWAII

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44711 to 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91; 14 CFR 135

Legal Deadline: None

Abstract: This rulemaking disposes of comments received in response to the final rule published on September 26, 1994 (59 FR 49138), for certain procedural, operational, and equipment requirements for air tour operations in the State of Hawaii, codified as Special Federal Aviation Regulation (SFAR 71). It also extends SFAR 71 until the FAA publishes a final rule regulating all air tour operations. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	10/26/97	
Interim Final Rule	10/30/97	62 FR 58854
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-94-453R

Agency Contact: Gary Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3747

RIN: 2120–AG44

2366. +TERRAIN AWARENESS AND WARNING SYSTEM

Regulatory Plan: This entry is Seq. No. 92 in Part II of this issue of the **Federal Register**.

RIN: 2120–AG46

2367. +HIGH DENSITY AIRPORTS; ALLOCATION OF SLOTS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action proposes to codify the provision of the U.S./Canadian Bilateral Agreement, which was signed on February 24, 1995, with the current provisions of the High Density Rule. The agreement allows for a three-year phase-in period to "Open Skies" between the two countries. Service between the two countries would convert from international service to domestic service. To achieve the mandate, Canadian carriers have been allocated additional slots that would be subject to the restrictions currently mandated for domestic operations of U.S. carriers. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 2086
Correction	01/20/99	64 FR 3054
NPRM Comment Period End	02/11/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AGC-97-474R.

ANALYSIS: Regulatory Evaluation, 01/12/99, 64 FR 2086

Agency Contact: Lorelei Peter, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3134

RIN: 2120–AG50

2368. +SCREENING OF CHECKED BAGGAGE ON FLIGHTS WITHIN THE UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 49 USC 106(g); 49 USC 5103; 49 USC 40113; 49 USC 40119; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44901 to 44905; 49 USC 44907; 49 USC 44913 to 44914; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation: 14 CFR 108

Legal Deadline: None

Abstract: The FAA is proposing the screening or bag matching of passenger checked baggage on domestic flights by utilizing an FAA-approved Computer Assisted Passenger Screening (CAPS) system. This is in response to a recommendation from the White House Commission on Aviation Safety and Security (The Commission) "Final Report to President Clinton." The Commission recommended that one of the steps that should be taken to

improve airline passenger security is the implementation by the FAA of a computerized system for profiling airline passengers flying out of airports located in the United States. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/19/99	64 FR 19220
Correction	05/03/99	64 FR 23554
Correction	05/28/99	64 FR 28945
Comment Period Extended	06/11/99	64 FR 31686
NPRM Comment Period End	06/18/99	
Comment Period End	08/17/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lon M. Siro, Civil Aviation Security Office of Policy and Planning, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3414

RIN: 2120–AG51

2369. PARACHUTE OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44701 to 44702; 49 USC 44721

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: This rulemaking proposes to clarify and update the Federal Aviation Regulations by defining terms applicable to parachute operations and issues concerning coordinating parachute operations with air traffic control, tandem parachute operations, and packing and equipment requirements for foreign parachutists when parachuting in the United States. Also, this proposed action is necessary to reflect recent airspace reclassification and parachuting equipment applications.

Timetable:

Action	Date	FR Cite
NPRM	04/13/99	64 FR 18302
NPRM Comment Period End	07/12/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATA-91-202R.

ANALYSIS: Regulatory Evaluation, 04/13/99, 64 FR 18302.

Agency Contact: Ellen Crum, Air Traffic Rules Procedures Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-8783

RIN: 2120–AG52

2370. FLIGHT PLAN REQUIREMENTS FOR HELICOPTER OPERATIONS UNDER INSTRUMENT FLIGHT RULES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This rulemaking is needed because current rules discourage helicopter operations under Instrument Flight Rules (IFR) in marginal weather conditions. This rulemaking would increase safety by allowing helicopter operators access into the IFR system commensurate with the unique flight characteristics of helicopters. This rulemaking project is a recommendation of the Aviation Rulemaking Advisory Committee, forwarded to the FAA on November 18, 1997.

Timetable:

Action	Date	FR Cite
NPRM	09/02/98	63 FR 46834
NPRM Comment Period End	10/02/98	
SNPRM	07/01/99	64 FR 35902
SNPRM Comment Period End	08/02/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ANALYSIS: Regulatory Evaluation, 07/01/99, 64 FR 35902.

Agency Contact: William H. Wallace, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3771

RIN: 2120–AG53

2371. +POLICY REGARDING AIRPORT RATES AND CHARGES

Priority: Other Significant

Legal Authority: 49 USC 47129

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A statement of policy, Policy Regarding Airport Rates and Charges (Policy Statement), which was required by Congress as part of the DOT Authorization Act of 1994, was published in the Federal Register (61 FR 31994) on June 21, 1996. That Policy Statement announced DOT and FAA policy on the fees charged by Federally-assisted airports to air carriers and other aeronautical users. This proposed action requests comments on replacement provisions for the portions of the Policy Statement vacated by the United States Court of Appeals for the District of Columbia Circuit. The Court disallowed a portion of the policy that had to do with historic cost valuation of airport property. DOT and FAA are beginning this proceeding in order to carry out its responsibility to establish reasonableness guidelines for airport fees. This policy is significant due to substantial industry interest.

Timetable:

Action	Date	FR Cite
Advance Notice of Proposed Policy	08/12/98	63 FR 43228
Comment Period End	10/13/98	
Comment Period Extended	12/22/98	63 FR 70834
Comment Period End	01/31/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Cite per reference in Abstract paragraph, United States Court of Appeals for the District

DOT—FAA

Final Rule Stage

of Columbia Circuit in Air Transport Association of America v. Department of Transportation, 119 F.3d 38 (D.C. Cir. 1997), as modified on rehearing, Order of Oct. 15, 1997. Previous RIN for the Policy Statement published in the Federal Register is 2120-AF90.

Agency Contact: Barry Molar, Manager, Airport Compliance Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3446

RIN: 2120–AG58

2372. LICENSING AND TRAINING OF PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS OUTSIDE THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707 to 44711; 49 USC 45102 to 45104; 49 USC 45301 to 45303

CFR Citation: 14 CFR 61; 14 CFR 141; 14 CFR 142

Legal Deadline: None

Abstract: The FAA is issuing a final rule versus an NPRM because the FAA does not believe there is any interest by the public and any delay could be detrimental to U.S. Pilot Schools and Training Centers. This rulemaking is needed to remove language restricting licensing for persons outside the U.S. who are not U.S. citizens and remove language restricting the operation of airmen training institutions outside the U.S. Efforts between the FAA, Joint Aviation Authorities (JAA), and European Civil Aviation Commission have identified these subject areas as obstructionist to harmonization efforts and detrimental to U.S. pilot schools, which seek to continue to train students from the JAA member states. The harmonization working groups, set up by the above organizations, are expected to recommend that the JAA remove similarly restrictive language from its Joint Aviation Regulations.

Timetable:

Action	Date	FR Cite
Final Rule	10/05/98	63 FR 53532
Final Rule Effective	10/05/98	
Disposition of Comments	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-338R.

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3844

RIN: 2120–AG66

2373. +GRAND CANYON NATIONAL PARK; LIMITS ON AIR TOUR OPERATIONS

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The FAA, in cooperation with the National Park Service, is proposing to limit the number of air tour operations that can be conducted in Grand Canyon National Park. This rulemaking is consistent with the National mandate of Pub. L. 100-91 to substantially restore the natural quiet in the Park. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37304
Notice of Public Meeting	07/20/99	64 FR 38851
Correction	08/24/99	64 FR 46155
NPRM Comment Period End	09/07/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-98-376R.

ANALYSIS: Regulatory Evaluation, 07/09/99, 64 FR 37304..

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8321

RIN: 2120–AG73

2374. +MODIFICATION OF THE AIRSPACE FOR GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The FAA is proposing to modify the airspace of the Special Flight Rules Area (SFRA), Grand Canyon National Park, to add a corridor for quiet technology aircraft and to extend the eastern boundary of the SFRA to accommodate Native American concerns. This rulemaking is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37296
Notice of Public Meeting	07/20/99	64 FR 38851
NPRM Comment Period End	09/07/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ATA-98-482R.

ANALYSIS: Regulatory Evaluation, 07/09/99, 64 FR 37296.

Agency Contact: Joseph White, Airspace and Air Traffic Management Program, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG74

2375. • REDUCED VERTICAL SEPARATION MINIMUM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC

DOT—FAA

Final Rule Stage

44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The FAA proposes to amend part 91, Appendix G to allow the use of reduced vertical separation minimum (RVSM) in the Pacific oceanic airspace. RVSM is the separation of aircraft by 1,000 feet in the vertical dimension at flight levels (FL) between FL 290 and FL 410. Section 91.706 requires that operators of civil U.S. registry aircraft be qualified, equipped, and trained to use RVSM. Similar International Civil Aviation Organization Standards and Recommended Practices provides similar requirements for International operators. As of April 1999, 20 U.S. operators and 1,500 aircraft have been approved to use RVSM.

Timetable:

Action	Date	FR Cite
NPRM	07/08/99	64 FR 37018
Correction	07/28/99	64 FR 40791
NPRM Comment Period End	09/07/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-98-252R.

ANALYSIS: Regulatory Evaluation, 07/08/99, 64 FR 37018

Agency Contact: Roy Grimes, Technical Programs Division, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3755

RIN: 2120–AG82

2376. • HIGH DENSITY RULE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40103; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action requests comments concerning a proposed interpretation of the FAA's rules relating to High Density Traffic Airports. The FAA is considering changing it's interpretation of the term operator to allow one code share partner to provide extra section back-up using the other partner's arrival or departure reservation (slot). Delta Airlines has asked FAA for an interpretation of the extra sections provisions of the FAA's slot rules to allow them to back up a Delta Shuttle flight operated for them by their code share partner, using the partner's slot. In the past the FAA has interpreted its rules to deny one carrier the use of another carrier's slot. However, in the light of current code sharing practices the FAA believes that it is a reasonable interpretation of the language of the regulation to allow a code share partner to provide extra section back-up using the slot of the partner operating the first slot.

Timetable:

Action	Date	FR Cite
Proposed Interpretation; Request for Comments	07/02/99	64 FR 35963
Comment Period End	07/12/99	
Comment Period Reopened	08/13/99	64 FR 44145
Comment Period End	09/13/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorelei Peter, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3134

RIN: 2120–AG85

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Long-Term Actions

2377. +FUEL SYSTEM VENT FIRE PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44721; 49 USC 44722; 49 USC 44901

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require fuel vent system protection during post-crash ground fires. This proposed rule would apply to air carriers, air taxi operators, and commercial operators of transport category airplanes, as well as the manufacturers of such airplanes. This action is considered significant because of substantial public interest and the safety implications.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	
NPRM	02/02/95	60 FR 6632
NPRM Comment Period End	06/02/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket 24251. Formerly entitled Implementation of SAFER Propulsion System Recommendations. Project Number: ANM-82-050R.

ANALYSIS: Regulatory Evaluation, 02/02/95, 60 FR 6632

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2116

RIN: 2120–AA49

2378. AIRWORTHINESS STANDARDS; CRASH-RESISTANT FUEL SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 40 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action proposes changes to the airworthiness standards to improve the crash resistance of fuel systems on normal, utility, acrobatic, and commuter category airplanes. The FAA has determined that improved crash resistance of these fuel systems is necessary to prevent deaths and injuries due to fire in survivable crashes. The proposed design changes would limit fuel spillage near ignition sources and would provide additional time for the survivors to evacuate the airplane.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	
NPRM	02/28/90	55 FR 7280
NPRM Comment Period End	06/28/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Formerly titled "Amend Part 23 To Include Requirements for Crash-Resistant Fuel Systems." Project Number: ACE-82-005R.

ANALYSIS: Regulatory Evaluation, 02/28/90, 55 FR 728

Agency Contact: Norman Vetter, Standards Office, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106
Phone: 816 426-5688

RIN: 2120–AA57

2379. IFR ALTITUDES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44719; 49 USC 44721; 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40113; 49 USC 40114

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which prescribes altitudes for the operation of aircraft under instrument flight rules (IFR) on Federal airways, jet routes, area navigation low or high routes, or other direct routes for which a minimum en route IFR altitude is designated in 14 CFR part 95. In addition, mountainous areas and changeover points are designated. These regulations are an established body of technical requirements that are issued routinely and frequently to maintain operational efficiency. Total actions expected—350. 10/00/99 - 10/00/2000.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA63

2380. AIRWORTHINESS DIRECTIVES

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: The FAA issues type certificates for "products," which are aircraft, engines, propellers, and some appliances. The FAA issues a regulation called an "Airworthiness Directive" (AD) to address an unsafe condition in a type certificated product, if that unsafe condition is likely to exist or develop in products of the same type design. Part 39 of title 14 requires each operator of a product affected by an AD to comply with the terms of the AD, in order to operate that product; the AD may mandate operational limitations, maintenance, or alterations for the affected product. The vast majority of routine and frequent Airworthiness Directives are nonsignificant. Total actions expected-550. 10/00/99 to 10/00/2000.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Jack McGrath, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9580

RIN: 2120–AA64

2381. STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS

Priority: Routine and Frequent

Legal Authority: 49 USC 40103; 49 USC 40106; 49 USC 40113 to 40114; 49 USC 40120; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 44721 to 44722; 49 USC 106(g)

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Standard Instrument Approach Procedures (SIAP) provide for instrument letdown to airports in the United States. They are a nonsignificant body of regulations that are complex and technical in nature and require routine and frequent rulemaking to maintain efficiency. The FAA issues, revises, and cancels SIAPs by adopting amendments that are incorporated into 14 CFR part 97. Contemporaneously with publication in the Federal Register, the SIAPs are made available to the Aeronautical Charting and Cartography Office in the Department of Commerce, and other publishers of aeronautical charts where they are published as approach procedure charts or "approach plates". These charts are made available to the members of the aviation community for use by pilots in making instrument approaches. Total actions expected—2,300. 10/00/99 - 10/00/2000.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Louis C. Cusimano, General Aviation and Commercial Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8212

RIN: 2120–AA65

2382. AIRSPACE ACTIONS

Priority: Routine and Frequent

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; EO 10854

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: This is a nonsignificant body of regulations which designates airspace areas, airways, routes, and reporting points to facilitate safe navigation. These regulations are technical in nature and are issued routinely and frequently to maintain operational efficiency. Total actions expected—400. 10/00/98 through 10/00/99.

Timetable:

Action	Date	FR Cite
Actions Will Continue Through	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pat Crawford, Manager, Airspace Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9255

RIN: 2120–AA66

2383. LOW FUEL QUANTITY ALERTING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require a means to alert the flight crew of potentially unsafe low fuel quantities. There have been several fuel depletion incidents involving loss of power or thrust on all engines that could have resulted in forced landings and injury or loss of life. Most of these incidents resulted from improper fuel management techniques. This proposed amendment would require new transport category airplane designs to incorporate a low fuel quantity alert system that would allow for correction of certain fuel management errors or provide the flightcrew the opportunity to make a safe landing prior to engine fuel starvation.

Timetable:

Action	Date	FR Cite
NPRM	05/12/87	52 FR 17890
NPRM Comment Period End	09/09/87	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. 25213. Project Number: ANM-83-039R.

ANALYSIS: Regulatory Evaluation, 05/12/87, 52 FR 178

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2112

RIN: 2120–AB46

2384. AIRCRAFT ENGINES: FUEL AND INDUCTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This action would add a new section 33.35(f) to the Federal Aviation Regulations which would incorporate a requirement for the fuel mixture and throttle controls to automatically move to a position allowing continued safe flight if either control becomes disconnected.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	51 FR 7224
ANPRM Comment Period End	04/29/86	
NPRM	10/20/92	57 FR 47934
NPRM Comment Period End	02/17/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANE-85-002R. Former title: Engine Fuel and Induction Systems.

ANALYSIS: Regulatory Evaluation, 10/20/92, 57 FR 47934

Agency Contact: Locke Easton, Engine and Propeller Standards Staff, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803
Phone: 617 273-7088

RIN: 2120–AB76

2385. REVIEW OF PART 47, AIRCRAFT REGISTRATION, AND PART 49, RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44713; 49 USC 45302; 49 USC 46104; 49 USC 46301

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

Abstract: This notice would propose to update parts 47 and 49 of the Federal Aviation Regulations to reflect changes in the law, legal interpretations, other recent rulemaking actions, and the FAA's current aircraft registry practices. The intent of these proposed changes is to articulate, modernize, and simplify

the existing regulations rather than alter established procedures.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-201R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AC17

2386. INSTALLATION OF CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: NPRM, Statutory, February 3, 1989.

Abstract: This preliminary action was initiated to determine the feasibility of installing, in all air carrier aircraft, crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident. This notice solicited public participation in identifying and selecting a regulatory course of action by inviting interested persons to submit specific comments and arguments concerning this proposed regulatory action. Originally this rulemaking was considered significant. However, because there is no substantial public interest, this rulemaking is no longer significant.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/89	54 FR 18824
ANPRM Comment Period End	10/30/89	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-89-005R.

Agency Contact: Mike Dostert, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2132

RIN: 2120–AC87

2387. +DRUG ENFORCEMENT ASSISTANCE

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 5121 to 5124; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44702 to 44703; 49 USC 44704; 49 USC 44709 to 44710; 49 USC 44713; 49 USC 46101 to 46110; 49 USC 46301 to 46316; 49 USC 46501 to 46502; 49 USC 46504 to 46507; 49 USC 47106; 49 USC 47111

CFR Citation: 14 CFR 13; 14 CFR 47

Legal Deadline: Final, Statutory, September 18, 1989.

Abstract: This action would revise certain requirements concerning registration of aircraft, certification of pilots, and penalties associated with registration and certification violations. This notice also announced new procedures for processing major repair and alteration forms which pertain to fuel system modifications. Actions announced in this notice respond to the FAA Drug Enforcement Assistance Act. The requirements and adopted procedures are intended to assist law enforcement agencies in their efforts to stop drug trafficking in general aviation aircraft. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/12/90	55 FR 9270
NPRM Comment Period End	05/11/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project No. AFS-89-035R.

ANALYSIS: Regulatory Evaluation, 03/12/90, 55 FR 927

Agency Contact: Sharon Ashford, Registry Modernization Staff, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AD16

2388. +SOLE RADIO NAVIGATION SYSTEM; MINIMUM STANDARDS FOR CERTIFICATION

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: Final, Statutory, September 30, 1989.

Abstract: The FAA is withdrawing a previously published Advance Notice of Proposed Rulemaking (ANPRM) that proposed to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft conducting Instrument Flight Rules en route and terminal area operations, including nonprecision approach, in controlled airspace of the United States. This rulemaking was considered to be significant because of a congressional mandate. However, the provision was repealed in 1994 as part of the recodification of Title 49. The provision was originally enacted as section 310(c) in FAA's 1987 Reauthorization bill, Pub. L. No. 100-123.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/90	55 FR 2206
ANPRM Comment Period End	05/22/90	
NPRM	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-89-215R. This project was formerly entitled Sole Means Radio Navigation System.

Agency Contact: James Crowling, Flight Standards Service, Department of Transportation, Federal Aviation

Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-5215

RIN: 2120–AD26

2389. AIRPLANE ENGINE COWLING RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards for transport category airplanes to require improved cowling retention devices. A review of a number of inflight incidents where engine cowlings were lost revealed that the largest single cause of such losses was improper latching of the cowlings. If adopted, this proposal would provide additional design standards to detect improperly latched cowlings and ensure the integrity of the latching system.

Timetable:

Action	Date	FR Cite
NPRM	09/19/89	54 FR 38610
NPRM Comment Period End	03/19/90	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-87-004R.

Agency Contact: Mike McRae, Airframe and Propulsion Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2116

RIN: 2120–AD34

2390. 1-G STALLING SPEED AS A BASIS FOR COMPLIANCE WITH PART 25 OF THE FEDERAL AVIATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 25; 14 CFR 36

Legal Deadline: None

Abstract: This action would amend the Federal Aviation Regulations to redefine the airplane reference stalling speed as the 1-g stalling speed in lieu of the minimum stalling speed. It would: (1) provide for a consistent, repeatable reference stalling speed; (2) ensure consistent and dependable maneuvering margins; (3) clarify the requirement for the use of 1-g stalling speeds in determining structural design speeds; (4) increase the head-on gust structural design requirement; and (5) provide for adjusted multiplying factors to maintain essentially equivalent requirements in areas where the use of minimum stalling speed has proven adequate. These changes are needed since the stalling characteristics of modern jet transports as determined by current methods can result in inconsistent reference stalling speeds. These changes may result in a higher level of safety where current methods have resulted in artificially low reference stalling speeds.

Timetable:

Action	Date	FR Cite
NPRM	01/18/96	61 FR 1260
Correction	02/26/96	61 FR 7157
NPRM Comment Period End	05/17/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-86-041R.

ANALYSIS: Regulatory Evaluation, 01/18/96, 61 FR 126

Agency Contact: Don Stimson, Flight Test and Systems Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, WA 98055-4056
Phone: 425 227-1320

RIN: 2120–AD40

2391. +COST OF SERVICES AND TRANSFER OF FEES TO PART 187 FROM PARTS 47, 49, 61, 63, 65, AND 143

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40109; 49 USC 40113 to 40114; 49 USC 44101 to 44108; 49 USC 44110 to 44111; 49 USC 44701; 49 USC 44702; 49 USC 44703 to 44704; 49 USC 44707; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 45102 to 45103; 49 USC 45106; 49 USC 45301

CFR Citation: 14 CFR 47; 14 CFR 49; 14 CFR 61; 14 CFR 63; 14 CFR 65; 14 CFR 143; 14 CFR 187

Legal Deadline: None

Abstract: This action would assess reasonable charges for certain services provided by the FAA. The charges would be set at a level approximating the cost to the Government to provide these services and would be adjusted periodically as the cost of these services change or as prescribed in the Anti-Drug Abuse Act of 1988. The cost of providing services for aircraft registration and recording and replacement of airmen certificates is not being fully recouped in accordance with the changes reflected in the Consumer Price Index of All Urban Consumers, which was published by the Bureau of Labor Statistics of the Department of Labor, or as set by the Anti-Drug Abuse Act of 1988. This rulemaking would also consolidate all service fees by placing them in part 187 of the Federal Aviation Regulations. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-90-347R.

Agency Contact: Sharon Ashford, Registry Modernization Staff, Department of Transportation, Federal Aviation Administration, 6500 South MacArthur Boulevard, Oklahoma City, OK 73125-4939
Phone: 405 954-7038

RIN: 2120–AD91

2392. TYPE CERTIFICATES FOR SOME SURPLUS AIRCRAFT OF THE ARMED FORCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7572; 49 USC 106(g); 49 USC 40105; 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707;

49 USC 44709; 49 USC 44711; 49 USC 44713; 49 USC 44715; 49 USC 45303

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: Following World War II, a substantial number of surplus military airplanes were offered for sale to the public in order to meet an increased demand for civilian-use aircraft not being met by the civil aircraft industry. The current regulation permits both type and airworthiness certification for surplus military aircraft based on the particular aircraft's safety record and condition. As military aircraft have become increasingly complex and sophisticated, that practice is no longer acceptable. This action would remove the regulations for issuing type certificates for these surplus aircraft and eliminate references to obsolete standards. Surplus military aircraft would still be certificated in the normal, utility, acrobatic, commuter, transport, and restricted categories upon compliance with the applicable regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/21/94	59 FR 19114
NPRM Comment Period End	06/20/94	
Comment Period End 08/26/94	07/07/94	59 FR 34779
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Project Number: AIR-91-354R.

ANALYSIS: Regulatory Evaluation, 04/21/94, 59 FR 19114

Agency Contact: Brian Yanez, Policy and Procedures Branch, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-6561

RIN: 2120–AE41

2393. +AIRPORT NOISE COMPATIBILITY PLANNING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 44715; 49 USC 471-1; 49 USC 47501 to 47504; 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 150

Legal Deadline: None

Abstract: This action would revise the requirements for developing noise exposure maps and noise compatibility programs and submitting them for FAA approval. The revisions are intended to expedite and simplify the part 150 process. Under the revised process, the mandatory set of noise abatement measures which are presently required to be considered by each airport sponsor would be limited in scope depending on the characteristics of each airport and its surrounding community. The new process would be supported by appropriate guidance, training, review, standardization, and consultation requirements. This project is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: AEE-90-410R.

Agency Contact: Alan V. Trickey, Policy and Regulations Division, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3496

RIN: 2120–AE64

2394. +ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR EMPLOYEES OF FOREIGN AIR CARRIERS ENGAGED IN SPECIFIED AVIATION ACTIVITIES

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40104 to 40105; 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44902; 49 USC 44903

CFR Citation: 14 CFR 121; 14 CFR 129

Legal Deadline: Final, Statutory, October 28, 1992.

Abstract: The Omnibus Transportation Employee Testing Act of 1991 directs the FAA Administrator to prescribe regulations that require foreign air carriers to establish drug and alcohol testing programs for employees performing safety-sensitive aviation functions. These regulations must be consistent with the international obligations of the United States and take into consideration any applicable laws and regulations of foreign countries. Comments were invited on a variety of issues related to the application of drug and alcohol testing requirements to employees of foreign air carriers operating within the territory of the United States. This action was taken in lieu of a notice of proposed rulemaking to seek the public's view on a variety of issues and to obtain responses to questions that may arise in addressing drug and alcohol testing by foreign air carriers. This action is considered significant because of substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/92	57 FR 59473
ANPRM Comment Period End	02/16/93	
Comment Period End 4/1/93	02/18/93	58 FR 8917
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Project Number: AAM-93-173R

Agency Contact: Patrice M. Kelly, Drug Abatement Division, Office of Aviation Medicine, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8442

RIN: 2120–AE79

2395. AIR TRAFFIC CONTROL RADAR BEACON SYSTEM AND MODE S TRANSPONDER REQUIREMENTS IN THE NATIONAL AIRSPACE SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action would revise the Mode S transponder requirement for all aircraft operating under part 135 and certain aircraft operating under part 121 based on the expected availability of operational capabilities of Mode S ground sensors. For part 121 operators, the action would affect only those aircraft not required to have Traffic Alert and Collision Avoidance System II. An aviation rulemaking advisory committee has recommended that the FAA conduct a study of the installed Mode S ground sensor to determine the extent of the benefits derived and the costs involved in equipage. This action is a relieving action made necessary by the fact that ground sensors are not in place to support the requirement. Further, FAA is studying the need for Mode S transponders in part 135 and certain part 121 operations in light of the fact that transponders may not substantially increase ATC ability to view air traffic.

Timetable:

Action	Date	FR Cite
NPRM	05/23/96	61 FR 26036
NPRM Correction	06/17/96	61 FR 30551
NPRM Comment Period End	07/22/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-297R.

ANALYSIS: Regulatory Evaluation, 05/23/96, 61 FR 26036

Agency Contact: Daniel V. Meier, Jr., Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3749

RIN: 2120–AE81

2396. +REVISION OF EMERGENCY EVACUATION DEMONSTRATION PROCEDURES TO IMPROVE PARTICIPANT SAFETY

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25; 49 CFR 1.47

Legal Deadline: None

Abstract: This action would amend part 25 of the FAR by revising Appendix J, Emergency Evacuation, to allow certain alternative procedures in conducting full-scale emergency evacuation demonstrations for transport category airplanes. This is in response to recommendations from the Aviation Rulemaking Advisory Committee. The changes, which are intended to make full-scale emergency evacuation demonstrations safer for participants and to codify existing practices, would also affect manufacturers and operators of transport category airplanes. This action is considered significant because of substantial public interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	07/18/95	60 FR 36932
Correction	08/25/95	60 FR 44387
NPRM Comment Period End	10/16/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ANM-94-124A

ANALYSIS: Regulatory Evaluation, 07/18/95, 60 FR 36932

Agency Contact: Franklin Tiangsing, Regulations Branch, ANM-114, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2121

RIN: 2120–AF21

2397. +CONTROLLED REST ON THE FLIGHT DECK

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposal would allow part 121 certificate holders who operate aircraft that require three flight crewmembers, two pilots and a flight engineer, to implement a controlled rest on the flight deck program. Under the program, when cockpit workload permits, one flight crewmember at a time would be given the opportunity to sleep for a brief period of time at his or her duty station during the cruise portion of a flight. Before using the controlled rest concept, however, the certificate holder would have to obtain approval for its program from the FAA. This proposal originated as a recommendation from the Aviation Rulemaking Advisory Committee and responds to industry interest in developing a controlled rest program that is approved by the FAA. This rulemaking is considered significant because of substantial public interest.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-92-764A

Agency Contact: James Gardner, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591

Phone: 202 267-9579

RIN: 2120–AF54

2398. OPERATIONAL AND STRUCTURAL DIFFICULTY REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44705; 49 USC 44707; 49 USC 44709 to 44711

CFR Citation: 14 CFR 121; 14 CFR 125; 14 CFR 135; 14 CFR 145

Legal Deadline: None

Abstract: This action would amend the reporting requirements for air carrier certificate holders and certificated domestic and foreign repair stations concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. The proposed rule would clarify and standardize the reporting requirements for the type of information submitted to the FAA, allowing the FAA to identify trends that may affect aviation safety. This action was prompted by an internal FAA review of industry concern over the quality of the data being reported by air carriers. The objective of the proposed rule is to update and improve the reporting system to effectively collect and disseminate clear and concise information, particularly with regard to aging aircraft, to the aviation industry.

Timetable:

Action	Date	FR Cite
NPRM	08/14/95	60 FR 41992
NPRM Comment Period End	11/13/95	
SNPRM	04/15/99	64 FR 18766
SNPRM Comment Period End	06/01/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-95-237A. This is a recommendation from the Aviation Rulemaking Advisory Committee.

ANALYSIS: Regulatory Evaluation, 08/14/95, 60 FR 41992. Regulatory Evaluation, 04/15/99, 64 FR 18766.

Agency Contact: Robert Corcoran, Flight Standards Service, Department of Transportation, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125
Phone: 405 954-6508

RIN: 2120–AF71

2399. REVISION OF HYDRAULICS SYSTEMS AIRWORTHINESS STANDARDS TO HARMONIZE WITH EUROPEAN AIRWORTHINESS STANDARDS FOR TRANSPORT CATEGORY AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This notice proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements. These proposals were developed in cooperation with the Joint Aviation Authorities of Europe and the US and European aviation industries through the Aviation Rulemaking Advisory Committee (ARAC). These changes are intended to benefit the public interest by standardizing certain requirements, concepts, and procedures contained in the airworthiness standards without reducing and potentially enhancing the current level of safety.

Timetable:

Action	Date	FR Cite
NPRM	07/03/96	61 FR 35056
Correction	07/29/96	61 FR 39515
Correction	08/12/96	61 FR 41924
NPRM Comment Period End	10/01/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-97-374A. This action is in response to an Aviation Rulemaking Advisory Committee recommendation. ANALYSIS: Regulatory Evaluation, 07/03/96, 61 FR 35056

Agency Contact: Manhidner Wahi, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2142

RIN: 2120–AF79

2400. BIRD STRIKE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action proposes to develop or revise requirements for the evaluation of transport category airplane structure for in-flight collision with a bird, including the size of the bird and the location of the impact on the airplane. These changes are intended to harmonize the bird strike requirements of the FAR and the Joint Aviation Requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-93-762A. This is an Aviation Rulemaking Advisory Committee project.

Agency Contact: Bill Perrella, Transport Airplane Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056
Phone: 425 227-2116

RIN: 2120–AF80

2401. LICENSE REQUIREMENTS FOR OPERATION OF A LAUNCH SITE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the operation of a launch site. The law requires anyone who proposes to operate a launch site within the U.S., or a U.S. citizen proposing to operate a launch site outside the U.S., to obtain a license from DOT. This action would govern obtaining a license to operate such a launch site. Currently, commercial rocket launches take place from Federal government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to operate a launch site.

Timetable:

Action	Date	FR Cite
NPRM	06/25/99	64 FR 34316
NPRM Comment Period End	09/23/99	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Project Number: AST-96-341R.

The reason this rulemaking was downgraded to Non-Significant is because the cost of $23,000 to industry does not meet the required threshold and the practices proposed are traditional measures and therefore should be non-controversial with the affected industry.

ANALYSIS: Regulatory Evaluation, 06/25/99, 64 FR 34316

Agency Contact: Randy Repcheck, Licensing and Safety Division, AST-200, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-8379

RIN: 2120–AG15

2402. +NOISE LIMITATIONS FOR AIRCRAFT OPERATIONS IN THE VICINITY OF GRAND CANYON NATIONAL PARK

Priority: Other Significant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This rulemaking will establish noise limitations for certain aircraft operated in the vicinity of Grand Canyon National Park. This action is one part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100-91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. The supplemental amendment removes two sections from the December 31, 1996, notice of proposed rulemaking (NPRM) that proposed to establish a corridor through the National Canyon area as an incentive route for quiet technology aircraft. The FAA and NPS have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/31/96	61 FR 69334
NPRM Comment Period End	03/31/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: A final rule, which was published on 12/31/96 (61 FR 69302), establishes new operating restrictions at Grand Canyon National Park. See RIN 2120-AF93 published elsewhere in this Agenda.

ANALYSIS: Regulatory Evaluation, 12/31/96, 61 FR 69334

Agency Contact: Howard Nesbitt, Office of Environmental and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3521

RIN: 2120–AG34

2403. +LICENSING AND SAFETY REQUIREMENTS FOR LAUNCH FROM A NON-FEDERAL LAUNCH SITE

Priority: Other Significant

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 415; 14 CFR 417

Legal Deadline: None

Abstract: This action would establish requirements for licensing the conduct of a launch from a non-Federal launch site. The law requires anyone who proposes to conduct a launch within the United States, or a U.S. citizen proposing to conduct a launch site outside the United States, to obtain a license from DOT. This action would govern obtaining a license to conduct such a launch. Currently, commercial rocket launches take place from Federal Government installations operated by the Department of Defense and NASA. Licensing requirements for those launches are being developed in a related licensing rulemaking (RIN 2120-AF99). In this action, DOT proposes to implement rules regarding obtaining a license to conduct a launch from a commercial launch site, where DOT, rather than NASA or the military has primary responsibility. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: Project Number: AST-97-088R.

ANALYSIS: Regulatory Evaluation, 10/00/2

Agency Contact: Michael Dook, Licensing and Safety Division, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 366-9305

RIN: 2120–AG37

2404. +REVISED STANDARDS FOR CARGO OR BAGGAGE COMPARTMENTS IN TRANSPORT CATEGORY AIRPLANES

Priority: Other Significant

Legal Authority: 49 USC 44715 to 44717; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44705; 49 USC 44711 to 44713

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action upgrades the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments altogether. Compartments that could no longer be designated as Class D would have to meet the standards for Class C or Class E compartments, as applicable. Certain other transport category airplanes that would not have to meet these new standards for type certification would have to meet them for use in air carrier, commuter, on-demand, or commercial service. These improved standards are needed to increase protection from possible in-flight fires. This rulemaking is considered significant because of the safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/13/97	62 FR 32412
NPRM Comment Period End	09/11/97	
Final Rule Request for Comments	02/17/98	63 FR 8032
Final Rule Effective	03/19/98	
Final Rule Comment Period End	06/17/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ANM-97-009R

ANALYSIS: Regulatory Evaluation, 06/13/97, 62 FR 32412

Regulatory Evaluation, 02/17/98, 63 FR 8032

Agency Contact: Charles Huber, Regulations Branch, Transport Airplane Directorate, Aircraft Certification Servi, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2114

RIN: 2120–AG42

2405. COMMERCIAL SPACE TRANSPORTATION REUSABLE LAUNCH VEHICLE AND REENTRY LICENSING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2601

CFR Citation: 14 CFR 401; 14 CFR 404; 14 CFR 406; 14 CFR 413; 14 CFR 417; 14 CFR 431; 14 CFR 433

Legal Deadline: None

Abstract: This action will amend the commercial space transportation licensing regulations by establishing operational requirements for launches of reusable launch vehicles and the authorized conduct of commercial space reentry activities. The proposed rule would respond to advancements in the development of commercial reentry capability and enactment of legislation extending the FAA's licensing authority to reentry activities.

Timetable:

Action	Date	FR Cite
NPRM	04/21/99	64 FR 19626
NPRM Comment Period End	07/20/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AST-98-174R.

Agency Contact: Stewart W. Jackson, Office of the Associate Administrator for Commercial Space Transportation, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7903

RIN: 2120–AG71

2406. • PILOT CERTIFICATES ISSUED OR VALIDATED ON THE BASIS OF A BILATERAL AIR SAFETY AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44707; 49 USC 4709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45302

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This action would allow the FAA to enter into a Bilateral Air Safety Agreement with a foreign country for the conversion and validation of each others' pilot certificates at all pilot certification levels. Currently, the Federal Aviation Regulations only allow a foreign pilot certificate to be converted to an FAA private pilot certificate. This rule will have a positive impact on harmonization efforts underway between the FAA and the Joint Aviation Authorities.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AFS-99-228R.

Agency Contact: Emily White, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-3651

RIN: 2120–AG81

2407. • FAR/JAR HARMONIZATION ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: The FAA will amend part 25 of the Federal Aviation Regulations (FAR) to harmonize certain requirements with the European Joint Aviation Requirements (JAR) 25. These revisions are the result of a cooperative effort with the Joint Aviation Authorities (JAA) of Europe and the U.S. and European aviation industry through the Aviation Rulemaking Advisory Committee. The changes are intended to benefit the public by harmonizing certain requirements, concepts, and procedures contained in the airworthiness standards for transport category airplanes. These actions would achieve common requirements and language between the

FAR and the JAR to reduce industry workload without reducing the level of safety provided by the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number

Agency Contact: Charles Huber, Regulations Branch, Transport Airplane Directorate, Aircraft Certification Servi, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue SW, Renton, WA 98055-4056 Phone: 425 227-2114

RIN: 2120–AG92

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Completed Actions

2408. REVISION OF CERTIFICATION REQUIREMENTS: MECHANICS AND REPAIRMEN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44703; 49 USC 44709 to 44711; 49 USC 45102 to 45103; 49 USC 45301 to 45303

CFR Citation: 14 CFR 65; 14 CFR 66

Legal Deadline: None

Abstract: The NPRM proposed to revise the Federal Aviation Regulations that prescribe the certification and training requirements for mechanics and repairmen. Current regulations prescribing these certification requirements do not reflect the significant technological advances that have occurred in the aviation industry and the enhancements in training and instructional methods that have affected all aviation maintenance personnel. The proposed rule would consolidate and clarify 11 certification, training, experience, and currency requirements for aviation maintenance personnel in a newly established part 66. The proposal would enhance aviation safety by establishing new training programs for aviation maintenance personnel and would decrease the regulatory burden on these personnel by providing alternatives for meeting experience and currency requirements. The majority of the comments received indicated opposition to the proposal. In light of this opposition, the FAA has decided to withdraw the NPRM in its entirety for further internal study.

Timetable:

Action	Date	FR Cite
NPRM	08/17/94	59 FR 42430
NPRM Comment Period End	10/17/94	
NPRM	07/09/98	63 FR 37172
Withdrawal of 8/17/94 NPRM	07/09/98	63 FR 37210
NPRM Correction	08/05/98	63 FR 41743
Extended NPRM Comment Period	10/14/98	63 FR 55290
NPRM Comment Period End	11/06/98	
Extended Comment Period End	01/08/99	
Withdrawn	08/05/99	64 FR 42810

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: AFS-96-492A. This rulemaking is a recommendation from the Aviation Rulemaking Advisory Committee.

ANALYSIS: Regulatory Evaluation, 08/17/94, 59 FR 4243

Agency Contact: Leslie Vipond, Aircraft Maintenance Service, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591 Phone: 202 267-3269

RIN: 2120–AF22

2409. NORMAL CATEGORY ROTORCRAFT MAXIMUM WEIGHT AND PASSENGER SEAT LIMITATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This rulemaking amends the airworthiness standards for normal category rotorcraft by increasing the maximum weight limit from 6,000 to 7,000 pounds and add a passenger seat limitation of nine. These changes offset the increased weight imposed by additional requirements such as recent requirements intended to improve occupant survivability in the event of a crash.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	02/05/94	59 FR 554
NPRM	06/25/98	63 FR 34610
NPRM Comment Period End	09/23/98	
Final Action	08/18/99	64 FR 45092
Correction	08/31/99	64 FR 47563
Final Action Effective	10/18/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ASW-98-200A.

ANALYSIS: Regulatory Evaluation, 06/25/98, 63 FR 3461

Agency Contact: Lance Gant, Rotorcraft Standards Staff, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, ASW-110, FAA, Fort Worth, TX 76193-0110 Phone: 817 222-5114

RIN: 2120–AF33

2410. +COMMERCIAL SPACE TRANSPORTATION LICENSING REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 70101 to 70119

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None

Abstract: The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation authority to license and otherwise regulate commercial launches and the commercial operation of launch sites. In accordance with this authority, delegated to the FAA, the Associate Administrator for Commercial Space Transportation (AST) must ensure that commercial space launch activities are conducted in a manner that does not jeopardize public health and safety and the safety of property, without imposing unnecessary regulatory burdens on the commercial launch industry. The industry has grown in size and complexity since the original regulations were published in 1988, and AST's licensing program continues to evolve to reflect these changes. This rulemaking modifies the current regulations to reflect a streamlined and more mature licensing regime developed over the past few years. Such changes would benefit the industry by reducing regulatory burdens, thus reducing costs. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Request for Comments	10/13/94	59 FR 52020
Comment Period End 12/16/94	12/05/94	59 FR 62359
NPRM	03/19/97	62 FR 13216
NPRM Comment Period End	05/19/97	
Correction	05/23/97	62 FR 28391
Final Action	04/21/99	64 FR 19586
Final Action Effective	06/21/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: This action first appeared in the Agenda under RIN 2105-AB85. However, it was transferred from the Office of the Secretary, Department of Transportation, to the Federal Aviation Administration due to Transfer of Delegations. See 60 FR 62762, December 7, 1995, for information of the delegation.

Project Number: AST-96-142R.

ANALYSIS: Regulatory Evaluation, 03/19/97, 62 FR 13216

Agency Contact: Laura Montgomery, Regulations Division, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3073

RIN: 2120–AF99

2411. PROCEDURES FOR PROTESTS AND CONTRACT DISPUTES; AMENDMENT OF EQUAL ACCESS TO JUSTICE ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(f)

CFR Citation: 14 CFR 17

Legal Deadline: None

Abstract: This rulemaking would formally establish procedures the FAA will use to settle contract disputes and protests.

The FAA Office of Dispute Resolution (ODR) was established as an organization that has broad discretion to resolve protests and contract disputes, utilize administrative or alternative dispute resolution techniques and provide fair and impartial decisions or recommendations, supported by the facts and law. In order for this office to carry out its function, while providing for appropriate due process, it is necessary that certain of its procedures uniformly have the force and effect of law. This would include matters such as the establishment of filing deadlines; the power to issue subpoenas and protective orders; the power to levy sanctions; and the discretion to establish schedules, and to limit discovery, length of presentations, numbers of exhibits, and other similar matters.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45372
NPRM Comment Period End	10/26/98	
Final Action	06/18/99	64 FR 32926
Final Action Effective	06/28/99	
Correction	08/31/99	64 FR 47361

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: Project Number: AGC-96-353R. This entry was formerly titled, "Dispute Resolution Regulations."

ANALYSIS: Regulatory Evaluation, 08/25/98, 63 FR 45372

Agency Contact: Marie Collins, Office of the Chief Counsel, Department of Transportation, Federal Aviation Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6400

RIN: 2120–AG19

2412. PART 93 SUBPART D, ANCHORAGE, AK, TERMINAL AREA

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This action amends regulations regarding the Anchorage, Alaska, Terminal Area by revising the description of the Anchorage, Alaska, Terminal Area and the communication requirements for operating in the area. The final rule will enhance safety and simplify aircraft operating procedures in the Anchorage, Alaska, Terminal Area.

Timetable:

Action	Date	FR Cite
NPRM	10/01/97	62 FR 51564
NPRM Comment Period End	11/17/97	
Final Action	03/29/99	64 FR 14972
Correction	04/09/99	64 FR 17439
Final Action Effective	06/17/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bill Nelson, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-9295

RIN: 2120–AG45

2413. ROTORCRAFT LOAD COMBINATION SAFETY REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This final rule amends the airworthiness standards for rotorcraft load combination (RLC) certification. This action revises the safety requirements for RLC to address advances in technology and to provide an increased improvement in the safety standards for RLC certification and lead to a harmonized international standard.

Timetable:

Action	Date	FR Cite
NPRM	07/13/98	63 FR 37746
NPRM Comment Period End	10/13/98	
Final Action	08/06/99	64 FR 43016
Final Action Effective	10/05/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Project Number: ASW-98-198A.

ANALYSIS: Regulatory Evaluation, 08/06/99, 64 FR 43016.

Agency Contact: Mike Mathias, Rotorcraft Directorate, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193-0111 Phone: 817 222-5123

RIN: 2120–AG59

2414. HARMONIZATION OF CRITICAL PARTS ROTORCRAFT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This action amends the airworthiness standards to define critical parts and to require a critical parts plan. The critical parts plan would establish procedures that would allow for the control of the design, substantiation, manufacture, maintenance, and modification of critical parts.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45130
NPRM Comment Period End	11/23/98	
Final Action	08/24/99	64 FR 46230
Final Action Effective	10/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ASW-98-202A

ANALYSIS: Regulatory Evaluation, 08/24/98, 63 FR 45130
Regulatory Evaluation, 08/24/99, 64 FR 4623

Agency Contact: Carroll Wright, Aircraft Certification Service, Department of Transportation, Federal Aviation Administration, 2601 Meacham Drive, Fort Worth, TX 76137 Phone: 817 222-5120

RIN: 2120–AG60

2415. NOISE CERTIFICATION STANDARDS FOR PROPELLER-DRIVEN SMALL AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44704; 49 USC 44715

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: The FAA is proposing changes to the noise certification standards for propeller-driven small airplanes. These proposals are based on the joint effort of the FAA, the European Joint Aviation Authorities (JAA), and Aviation Rulemaking Advisory Committee (ARAC), to harmonize the US noise and certification regulations and the JAR for propeller-driven small airplanes. The proposed changes would provide nearly uniform noise certification standards for airplanes certificated in the US and in the JAA countries. The harmonization of the noise certification standards would simplify airworthiness approvals for import and export purposes.

Timetable:

Action	Date	FR Cite
NPRM	11/18/98	63 FR 64146
NPRM Comment Period End	01/19/99	
Final Rule	10/13/99	64 FR 55598

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: AEE-94-366A.

ANALYSIS: Regulatory Evaluation, 11/18/99, 63 FR 64146

Agency Contact: Mehmet Marsan, Office of Environment and Energy, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591 Phone: 202 267-7703

RIN: 2120–AG65

2416. NIGHT FLYING TAKEOFF AND LANDING CURRENCY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40106; 49 USC 40109; 49 USC 40113; 49 USC 44502; 49 USC 44514; 49 USC 44701; 49 USC 44719; 49 USC 46301

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: The FAA issued this final rule to recognize the training programs that pilots of certain corporate operators undergo and the aeronautical experience requirements that these pilots possess as they relate to night takeoff and landing currency. Specifically, this rule has recognized alternative methods of compliance for night currency requirements based on previously granted exemptions.

Timetable:

Action	Date	FR Cite
Final Action	04/30/99	64 FR 23526
Final Action Effective	04/30/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Lynch, Flight Standards Service, Department of Transportation, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-3844

RIN: 2120–AG77

2417. • PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE TERRITORY AND AIRSPACE OF SERBIA-MONTENEGRO

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46502; 49 USC 46504; 49 USC 46506; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action prohibits flight operations within the territory and airspace of Serbia-Montenegro by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA unless that person is engaged in the operation of a U.S.-registered aircraft for a foreign air carrier, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier.

Timetable:

Action	Date	FR Cite
Final Action	03/29/99	64 FR 15120
Final Action Effective	03/29/99	
Correction	04/30/99	64 FR 23395

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Catey, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8166

RIN: 2120–AG78

2418. • AIRSPACE AND FLIGHT OPERATIONS REQUIREMENTS FOR KODAK ALBUQUERQUE INTERNATIONAL BALLOON FIESTA; ALBUQUERQUE, NM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 1155; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44722; 49 USC 46306

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action establishes a Special Federal Aviation Regulation, applicable for the periods of October 2 through October 10, 1999, and October 7 through October 15, 2000. This action establishes a temporary flight restriction area for the 1999 and 2000 Kodak Albuquerque International Balloon Fiestas held in Albuquerque, New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/18/99	64 FR 27160
Correction	05/28/99	64 FR 28945
NPRM Comment Period End	07/19/99	
Final Action	08/17/99	64 FR 44814
Effective Dates: 10/2/1999 thru 10/10/1999	10/10/99	
Correction	10/31/99	64 FR 47563
Effective Dates: 10/7/2000 thru 10/15/2000	10/15/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ATA-99-138R.

Agency Contact: Steve Rohring, Office of Air Traffic Airspace Management, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8783

RIN: 2120–AG79

2419. • YEAR 2000 AIRPORT SAFETY INSPECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 14 USC 40113; 49 USC 44701 to 44706; 49 USC 44709; 49 USC 44719

CFR Citation: 14 CFR 139

Legal Deadline: None

Abstract: This action proposes to require operators of airports certificated under part 139 to identify and address any unforeseen problems with date sensitive airfield equipment and systems, after January 1, 2000. Specifically, these airport operators would be required to conduct a one-time readiness check of certain airfield equipment and systems on January 1, 2000, and report the results of these checks to the FAA. In addition, this proposal would temporarily revise the time period these airport operators have to repair or replace certain emergency equipment. These changes would be applicable only from December 31, 1999, to January 5, 2000.

Timetable:

Action	Date	FR Cite
NPRM	07/08/99	64 FR 37026
Correction	07/28/99	64 FR 40791
NPRM Comment Period End	08/09/99	
Final Action	11/03/99	64 FR 60068

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert E. David, Airport Safety and Operations Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591
Phone: 202 267-8721

RIN: 2120–AG83

2420. • AIRWORTHINESS STANDARDS; TRANSPORT CATEGORY ROTORCRAFT PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 704

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This rule amends the airworthiness standards for transport

category rotorcraft by making several nonsubstantive clarification changes to the wording and by correcting various nonsubstantive errors in the performance requirements section. This rule is needed to correct errors in a final rule published on May 10, 1996.

Timetable:

Action	Date	FR Cite
Final Rule; Request for Comments	08/19/99	64 FR 45336
Correction	08/31/99	64 FR 47563
Comment Period End	09/20/99	
Final Action Effective	11/17/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Project Number: ASW-98-017R.

ANALYSIS: Regulatory Evaluation, 10/00/2

Agency Contact: Lance Gant, Rotorcraft Standards Staff, Rotorcraft Directorate, Department of Transportation, Federal Aviation Administration, ASW-110, FAA, Fort Worth, TX 76193-0110
Phone: 817 222-5114

RIN: 2120–AG86

2421. • REVISIONS TO DIGITAL FLIGHT DATA RECORDER REQUIREMENTS FOR AIRBUS AIRPLANES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701 to 44702; 49 USC 44701; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903 to 44904; 49 USC 44912; 49 USC 46105

CFR Citation: 14 CFR 121; 14 CFR 125

Legal Deadline: None

Abstract: This action amends the flight data recorder regulations by adding language to the appendices of parts 121 and 125 allow certain Airbus airplanes to record certain data parameters using resolution and sampling requirements that differ slightly from the current regulation.

Timetable:

Action	Date	FR Cite
Final Action Effective	08/17/99	
Final Rule; Request for Comments	08/24/99	64 FR 46117
Comment Period End	09/17/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gary E. Davis, Flight Standards Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267-3747

RIN: 2120–AG88

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Prerule Stage

2422. HIGHWAY BEAUTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315; 49 USC 1651

CFR Citation: 23 CFR 750

Legal Deadline: None

Abstract: The revision of these subparts will reduce their complexity, recognize the existence of State laws, regulations, and organizations implementing 23 USC 131, and emphasize the position of the State as the initial, primary, and principal focal point regarding the requirement of effective control. Potential costs should be reduced, albeit minimally. The principal benefit will be to give the States greater ability, in the context of the broad requirements of 23 USC 131, to respond to concepts and issues relevant to the States. We have been reviewing these regulations with the intent to focus on changes necessitated by ISTEA and subsequent legislation (NHS Act, etc.)

We have initiated research projects to identify key information States need to administer their OAC programs. We will evaluate that study and incorporate the results in our proposed ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FHWA intends to continue review and analysis of all aspects of the HBA under RIN 2125-AD24 to propose changes to reduce the complexity of the highway beautification regulations and to emphasize the role of the State in its implementation. Intended changes which appeared in a prior Agenda under RIN 2125-AD88 related to the Dire Emergency Supplemental Appropriations Act of 1992 have been suspended and consolidated under this rulemaking.

Agency Contact: Robert A. Johnson, Chief, Program Services Division, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2020

RIN: 2125–AD24

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

2423. COMMERCIAL LEARNER PERMITS AND CDL EFFECTIVENESS

Priority: Substantive, Nonsignificant

Legal Authority: PL 99-570; 49 USC 3102; 49 USC 31136

CFR Citation: 49 CFR 383; 49 CFR 384; 49 CFR 386; 49 CFR 395; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA has reviewed the effectiveness and efficiency of the requirements in the Commercial Driver's License (CDL) program. Areas that may be addressed further include: (a) minimum licensing and information system standards for drivers learning to operate a commercial motor vehicle; and (b) increased flexibility in locations where drivers may obtain training and the final CDL. Other general issues under review include treatment of various types of violations (i.e. railroad grade crossings, serious traffic offenses, etc.), defining terms, responsibilities when hiring new drivers, and processing information related to CDL convictions. Finally, there are issues specifically pertaining to the States under review, such as: (a) flexibility in States sharing test results to assist new drivers in the licensing process; (b) requirements for notification of the licensing State when a driver is convicted; (c) appropriate measures to be taken when a driver is found to be unqualified or disqualified according to Federal standards; and (d) adding a provision for enforcement of violations of an out-of-service order to State responsibilities in 49 CFR 384.

Timetable:

Action	Date	FR Cite
NPRM	08/22/90	55 FR 34478
NPRM Comment Period End	10/22/90	
NPRM Comment Period Extended to 11/30/90	10/23/90	55 FR 42741
SNPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Because other regulatory changes have been made since the NPRM was published in 1990, the FHWA intends to issue a supplemental NPRM to solicit comments on including additional requirements consistent with changes in the CDL program.

ANALYSIS: Regulatory Evaluation, 08/22/90, 55 FR 34478

Agency Contact: David Goettee, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AC54

2424. CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 127; 23 USC 141; 23 USC 315

CFR Citation: 23 CFR 657

Legal Deadline: None

Abstract: The FHWA has resumed consideration of changes in the guidance provided to state agencies for preparing the annual size and weight enforcement plans and certifications. Previous efforts in this area were suspended by the agency in 1994 as a result of a commitment by the Federal Highway Administrator to Congress in June 1994 to conduct a comprehensive study of all aspects of the truck size and weight issue. That study is nearly completed. Accordingly, public comment is again requested on the type of information and data that should be submitted by the states in support of their annual certification of enforcement, and how the FHWA should use the information.

Timetable:

Action	Date	FR Cite
ANPRM	12/16/93	58 FR 65830
ANPRM Comment Period Extended to 05/18/94	03/15/94	59 FR 11956
ANPRM Comment Period End	03/16/94	
Supplemental ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathy Busby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2976

Bob Davis, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2997

RIN: 2125–AC60

2425. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: PL 102-240, sec 4007(b)(2)

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 18, 1993.

Abstract: This action proposes minimum training requirements for operators of multiple trailer combination vehicles and the instructors who train these operators. The training would include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary of Transportation. This action is significant due to public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/93	58 FR 4638
ANPRM Comment Period End	03/16/93	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Redmond, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5014

RIN: 2125–AC92

2426. +TRAINING FOR ENTRY-LEVEL DRIVERS OF COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 102-240, sec 4007

CFR Citation: 49 CFR 383

Legal Deadline: NPRM, Statutory, December 18, 1992.
Final, Statutory, December 18, 1993.

Abstract: This action is in response to section 4007 of the Motor Carrier Act of 1991 (title IV of the Intermodal Surface Transportation Efficiency Act of 1991). The Department has initiated a rulemaking on the need to require training of all entry-level drivers of commercial motor vehicles. The agency has submitted a report to Congress (02/05/96) on the effectiveness of private sector efforts to ensure adequate training of all entry-level drivers. This report included a cost-benefit study of requiring training of entry-level drivers. Public comments have been solicited on the report. This rulemaking action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	06/21/93	58 FR 33874
ANPRM Comment Period End	08/20/93	
Report to Congress	02/05/96	
Notice of Availability	04/25/96	61 FR 18355
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The report is available through the National Technical Information Service (Order No. PB96-141536). For further information, please call 703 487-4650.

Agency Contact: Ron Finn, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0647

RIN: 2125–AD05

2427. +COMMERCIAL DRIVER PHYSICAL FITNESS AS PART OF THE CDL PROCESS

Priority: Other Significant

Legal Authority: 49 USC 2704(a); 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391; 49 CFR 383; 49 CFR 1.48; 49 CFR 391.11; 49 CFR 391.45

Legal Deadline: None

Abstract: The FHWA is proposing to include the certification of fitness to operate a CMV in the commercial driver's license (CDL) process. Incorporating the commercial driver fitness determination into State—administered CDL procedures could allow elimination of the requirement that CMV drivers carry a separate medical certificate. The CDL would be evidence that the CMV driver is physically fit as well as operationally qualified to operate CMVs safely. This action addresses the driver's physical qualifications as they relate to the CDL process; it does not address whether those standards are correct or should be changed. This action is significant due to anticipated substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	07/15/94	59 FR 36338
ANPRM Comment Period End	11/14/94	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: Please note the following notice publications with respect to the advisory committee: 04/29/96 at 61 FR 18713; 07/26/96 at 61 FR 38133; 08/26/96 at 61 FR 43725; 10/07/96 at 61 FR 52401; 11/05/96 at 61 FR 56936; 12/17/96 at 61 FR 66250; and 02/13/97 at 62 FR 6753.

Agency Contact: Teresa Doggett, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AD20

2428. +DEPARTMENT OF TRANSPORTATION NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; PL 102-240; 49 USC 303(c); 49 USC 1602(d); 49 USC 1604(h); 49 USC 1604(i); 49 USC 1610; 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq

CFR Citation: 23 CFR 771; 49 CFR 622; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." Nevertheless, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FHWA and FTA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FHWA and FTA environmental procedures.

In addition, TEA-21 directed the Secretary of Transportation to develop a streamlined and coordinated environmental review process for highway and transit projects involving permits or environmental reviews by other Federal agencies. This rulemaking will implement, in part, the requirements of both ISTEA and TEA-21.

This action is being incorporated into a new RIN 2125-AE64.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Fred Skaer, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2058

RIN: 2125–AD32

DOT—FHWA

Proposed Rule Stage

2429. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31301 et seq; 49 USC 31502; PL 103-311

CFR Citation: 49 CFR 382; 49 CFR 383; 49 CFR 390; 49 CFR 391; 49 CFR 1.48

Legal Deadline: NPRM, Statutory, January, 1999.

Abstract: This action proposes amending FHWA regulations to specify minimum safety information that new or prospective employers must seek from former employers during the investigation of a driver's employment record. This action also proposes to increase the period of time for which carriers must record accident information in the accident register from one to three years. This proposal was mandated by the Hazardous Materials Reauthorization Act of 1994. This rule is also impacted by TEA-21, Section 4014 and given a new statutory deadline of 1/99. Public Law 105-347 may affect this rule because it discusses the release of employment information by consumer reporting agencies currently investigating this issue.

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10548
NPRM Comment Period End	05/13/96	
SNPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Valerie Height, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD66

2430. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; TELEVISION RECEIVERS AND DATA DISPLAY UNITS

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA proposed to amend the provision of the Federal Motor Carrier Safety Regulations (FMCSRs) concerning television viewers or screens in commercial motor vehicles. The FHWA is concerned that the current restrictions on the locations of such devices may have the unintended effect of discouraging the use of certain Intelligent Transportation System (ITS) technologies such as collision avoidance and traveler information systems which could improve the safety and efficiency of commercial vehicle operations. In response to comments to the April 3, 1993, notice of proposed rulemaking (61 FR 14733) to rescind the regulation concerning television viewers or screens, the FHWA is considering an SNPRM to propose retaining an explicit prohibition against television viewers or screens but revising the regulation to ensure that it does not impede the development and use of ITS-related technologies.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14733
NPRM Comment Period End	06/03/96	
SNPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD76

2431. +MOTOR CARRIER REPLACEMENT INFORMATION/REGISTRATION SYSTEM

Priority: Other Significant

Legal Authority: 49 USC 13908

CFR Citation: 49 CFR 36

Legal Deadline: Final, Statutory, January 1, 1998.

Abstract: This action is in response to the requirements of section 103 of the Interstate Commerce Commission Termination Act of 1995, which added 49 USC 13908. This section requires the Secretary to initiate a rulemaking proceeding to replace the current DOT identification number system, single State registration system, the registration/licensing system, and the financial responsibility system, with a single, on-line Federal system. This action is considered significant due to substantial public interest. Statutory deadline not met due to range and depth of issues involved.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: This action is incorporating the issues contained in RIN 2125-AC28.

Agency Contact: Stanley M. Braverman, Office of Motor Carrier and Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AD91

2432. +HOURS OF SERVICE OF DRIVERS (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 93 in Part II of this issue of the **Federal Register**.

RIN: 2125–AD93

2433. REGISTRATION OF FOR-HIRE MOTOR CARRIERS, PROPERTY BROKERS, AND FREIGHT FORWARDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 to 13905; 49 USC 14708; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 385

Legal Deadline: None

Abstract: This action governs registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders. This

action is required by 49 USC 13901 to 13905, which mandates that a registration system be administered by the Secretary of Transportation to replace the former Interstate Commerce Commission's licensing system for motor carriers, property brokers, and freight forwarders. The registration system prescribed in 49 USC 13901 to 13905 is intended to be a temporary and stand-alone procedure while the FHWA undertakes to design and implement the revised system through the 49 USC 13908 rulemaking mandated by Congress to be completed by January 1, 1998.

Timetable:

Action	Date	FR Cite
NPRM	02/13/98	63 FR 7362
NPRM Comment Period End	04/14/98	
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Henry Sandhusen, Chief, Hazardous Materials Routing and Special Studies Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2218

RIN: 2125–AE01

2434. +DEVELOPMENT OF A NORTH AMERICAN STANDARD FOR PROTECTION AGAINST SHIFTING AND FALLING CARGO

Priority: Other Significant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is considering proposing amendments to its regulations concerning cargo securement requirements for commercial motor vehicles engaged in interstate commerce. The FHWA intends to consider adopting new cargo securement guidelines that will be based upon the results of a multi-year comprehensive research program to evaluate current regulations and industry practices. The FHWA is also requesting comments on the process to be used in developing these preliminary cargo securement guidelines. The FHWA recently completed work on this research program with the Canadian Council of Motor Transport Administrators (CCMTA), State and Provincial agencies responsible for motor carrier safety activities, the Commercial Vehicle Safety Alliance (CVSA), and U.S. and Canadian industry groups.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/96	61 FR 54142
ANPRM Comment Period End	12/16/96	
Notice of Meeting	04/21/97	62 FR 19252
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE05

2435. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; HOURS-OF-SERVICE AND CDL EXEMPTIONS

Priority: Other Significant

Legal Authority: PL 104-59, sec 345

CFR Citation: 49 CFR 382; 49 CFR 395

Legal Deadline: None

Abstract: In this action, the FHWA is proposing to clarify its rule incorporating certain exemptions from the hours-of-service and commercial driver's license requirements of the Federal Motor Carrier Safety Regulations, created by section 345 of the National Highway System Designation Act of 1995.

The FHWA is also proposing a monitoring program to measure the safety impact of the exemptions. The FHWA would use information obtained from the monitoring program to determine whether the exemptions granted in the NHS Act should be modified or revoked under the standard provided in the authorizing legislation. The FHWA requests comment on the public interest and safety impacts of the exemptions, as well as in the proposed monitoring program. The final rule that incorporated the exemptions created by section 345 of the NHS Act was issued under RIN 2125-AD83, 4/3/96 (61 FR 14677).

This action is significant because of substantial public interest. The FHWA is reconsidering the need for this action in light of the amendments to its exemption authority in the TEA-21.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2125–AE09

2436. TRAFFIC CONTROL DEVICES, MARKINGS, SIGNALS, AND SYSTEMS FOR RAILROAD-HIGHWAY GRADE CROSSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This document adds new text for the Manual on Uniform Traffic Control Devices (MUTCD) in part III, markings; in part IV, signals; and in part VIII, traffic control systems for railroad-highway grade crossings. The purpose of these amendments is to include metric dimensions and values for the design and installation of traffic control devices and to improve the organization and discussion of the contents of the MUTCD.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	01/06/97	62 FR 691
Comment Period End	08/30/97	
Notice of Proposed Amendments	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOT—FHWA

Proposed Rule Stage

Agency Contact: Linda L. Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE11

2437. MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MEXICAN MOTOR CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31138; 49 USC 31139

CFR Citation: 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend part 387, Minimum Levels of Financial Responsibility for Motor Carriers to clarify and amend the financial responsibility requirement for Mexican motor carriers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2125–AE14

2438. WORK ZONE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 109; 23 USC 110; 23 USC 115; 23 USC 315; 23 USC 320; PL 102-240, sec 1051; PL 104-59, sec 358

CFR Citation: 23 CFR 636; 23 CFR 1.32; 49 CFR 1.48; 23 CFR 630

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulations on traffic safety in highway and street work zones. Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires the Secretary of Transportation (Secretary) to develop and implement a highway work zone safety program which would improve work zone safety at highway construction sites. This action is necessary to update the existing regulation, clarify the current policy, and emphasize important issues affecting the safety of highway workers and highway users. This action proposes to transfer and redesignate the regulations currently found in 23 CFR part 630, subpart J, to a new part 636.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlie L. Sears, Office of Transportation Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AE29

2439. +REVISION OF APPLICATION FORM FOR MEXICAN MOTOR CARRIERS: COMMERCIAL ZONES

Priority: Other Significant

Legal Authority: 49 USC 13907

CFR Citation: 49 CFR 368

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican motor carriers that operate in the U.S. This class of carriers operates in the U.S.-Mexico border commercial zones which existed prior to NAFTA. This action is intended to increase the information available concerning these Mexican property carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of Motor Carrier and Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE31

2440. +REVISION OF APPLICATION FORM FOR MEXICAN MOTOR CARRIERS: NAFTA

Priority: Other Significant

Legal Authority: 5 USC 553; 5 USC 559; 16 USC 1456; 49 USC 13101; 49 USC 13301; 49 USC 13901 et seq; 49 USC 31138; 49 USC 31144

CFR Citation: 49 CFR 365; 49 CFR 1.48

Legal Deadline: None

Abstract: This action proposes collection of some new information and also proposes revisions to the registration application form filed by one of the two classes of Mexican carriers that operate in the U.S. This class of carriers has operations that go beyond the established border commercial zones. This proposed unified application form would be used by both Mexican property and passenger carriers who provide services pursuant to provisions of NAFTA. This action is intended to increase the information available concerning these Mexican carriers' safety profiles. This action is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of Motor Carrier and Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE32

2441. +ACCELERATED SAFETY MONITORING SYSTEM AND COMPLIANCE INITIATIVE FOR MEXICAN MOTOR CARRIERS OPERATING IN THE UNITED STATES

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 31502

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: This action would implement an accelerated safety fitness screen as part of the Motor Carrier Management Information System (MCMIS). A new screening program is being targeted to collect more information on Mexican carriers. The data will be collected and stored using the existing systems and information gathering structures that are used for domestic carriers. The data collected will be used to oversee operations of both classes of Mexican motor carriers, those operating in the U.S.-Mexico border commercial zones and those operating in the U.S. pursuant to the various entry provisions of NAFTA. This action is significant due to anticipated public interest and safety-related issues.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of Motor Carrier and Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE33

2442. SAFETY FITNESS PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 3144

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: The FHWA published a final rule of RIN 2125-AC71 at 62 FR 60035 on November 6, 1997, which incorporated the safety fitness rating methodology (SFRM) into 49 CFR 385 as appendix B. In that document the FHWA identified its ultimate goal as creating a more performance-based means of determining the fitness of carriers to conduct commercial motor vehicle (CMV) operations in interstate commerce. The ANPRM requested comments on the future of a rating system that could be used both in making safety fitness determinations and meeting the demands of shippers, insurers and other present and potential users interested in evaluating motor carrier performance.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38788
ANPRM Comment Period End	09/18/98	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: William Hill, Office of Motor Carrier Research & Standards, Vehicle and Operations Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE37

2443. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; ZERO-BASE REVISION

Priority: Economically Significant

Legal Authority: 49 USC 104; 49 USC 501; 49 USC 504; 49 USC 13101; 49 USC 13301; 49 USC 13902; 49 USC 31101; 49 USC 31132; 49 USC 31136; 49 USC 31301; 49 USC 31502; PL 104-88

CFR Citation: 49 CFR 301 to 399; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is revising the Federal Motor Carrier Safety Regulations (FMCSRs) and related regulations. In 1992, a "Zero-Base Review" was launched to improve the organization, format and clarity of the FMCSRs and collateral regulations. This proposal represents the most recent phase of a six-year "zero-based" review of motor carrier safety regulations to establish more effective, enforceable requirements. This action is the product of that review. It proposes provisions that could affect public safety and potentially raises novel policy issues concerning federalism. The changes proposed here constitute a major rewrite of the FMCSRs, including significant format and organizational changes, as well as a significant decrease in administration, recordkeeping, and paperwork burdens (an estimated reduction of 37 million burden hours). This action is significant under the regulatory policies and procedures of the DOT because of the substantial public interest concerning motor carrier safety issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Previous rulemakings from this comprehensive effort have included removing and redesignating redundant or obsolete safety regulations (RIN 2125-AD55 and RIN 2125-AD28) and more substantive and complex revisions of the FMCSRs (RIN 2125-AD72). This action is also incorporating the issues contained in 2125-AD64.

Agency Contact: Valerie Height, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AE42

2444. ADMINISTRATION OF ENGINEERING AND DESIGN RELATED SERVICES CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 114(a); 23 USC 302; 23 USC 315; 23 USC 402; 41 USC 253; 41 USC 259

CFR Citation: 23 CFR 172; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: This action would amend procurement procedures on administration of engineering and design related services contracts to reflect the changes made by section 307

DOT—FHWA

Proposed Rule Stage

of Public Law 204-59, National Highway System Designation Act and section 1205 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, June 9, 1998.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gary E. Moss, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4654

RIN: 2125–AE45

2445. PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(h); 23 USC 109(i); 49 USC 4331; 49 USC 4332; PL 104-59

CFR Citation: 23 CFR 772

Legal Deadline: None

Abstract: This action proposes to amend the FHWA regulation which specifies the traffic noise prediction method to be used in traffic noise analyses. This revision would allow the use of the FHWA Traffic Noise Model, which was released on March 30, 1998. It would update the specific references to acceptable traffic noise prediction methodology and vehicle noise emission levels. It would also remove references to specific noise prediction and measurement reports and vehicle noise emission levels that have been or will be superseded.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Armstrong, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2073

RIN: 2125–AE51

2446. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE NATIONAL PARK SERVICE, INCLUDING THE PARK ROADS AND PARKWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically in this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal lands Highway, in consultation with the National Park Service (NPS) would develop a rule to meet the transportation planning and management systems requirements pertaining to the NPS including park roads and parkways program. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47749
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6799

RIN: 2125–AE52

2447. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE BUREAU OF INDIAN AFFAIRS, INCLUDING THE INDIAN RESERVATIONS ROAD PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 315; PL 105-178; 23 USC 134; 23 USC 135; 23 USC 204

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically, In this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal Lands Highway, in consultation with the Bureau of Indian Affairs (BIA), would develop a rule to meet the transportation planning and management system requirements pertaining to the BIA, including the Indian reservations road program. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency

interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47746
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6799

RIN: 2125–AE53

2448. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE FISH AND WILDLIFE SERVICE, INCLUDING THE REFUGE ROADS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 134; 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal Land Management agencies are also given the authority to develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program (FLHP). The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically, in this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal Lands Highway, in consultation with the Fish and Wildlife Service (FWS), would develop a rule to meet the transportation planning and management systems requirement pertaining to the FWS, including refuge roads. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47741
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6799

RIN: 2125–AE54

2449. +FEDERAL LANDS HIGHWAY PROGRAM; TRANSPORTATION PLANNING PROCEDURES AND MANAGEMENT SYSTEMS PERTAINING TO THE FOREST SERVICE, INCLUDING THE FOREST HIGHWAYS PROGRAM

Priority: Other Significant

Legal Authority: 23 USC 135; 23 USC 204; 23 USC 315; PL 105-178; 23 USC 134

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FHWA was delegated the authority to serve as the lead agency to develop transportation planning procedures pertaining to the National Park Service, the Forest Service, the Fish and Wildlife Service and the Bureau of Indian Affairs that are consistent with the metropolitan and statewide transportation planning processes. The FHWA and the appropriate Federal land managment agencies are given the authority to develop safety, bridge pavement, and congestion management systems for roads funded under the Federal lands highways program. The roads funded under the FLHP include park roads and parkways, forest highways, refuge roads and Indian reservation roads.

In four related ANPRMs, the FHWA will seek public comment concerning these matters. Specifically in this ANPRM, the FHWA invites comment on an approach to implementing section 1115(d) under which the FHWA's Federal Lands Highway, in consultation with the Forest Service (FS), would develop a rule to meet the transportation planning and management systems requirements pertaining to the FS, including the forest highway program. Each of the ANPRMs is designated as significant under E.O. 12866 and the DOT regulatory policies and procedures because of the high level of interagency interest in the notices and involved programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/99	64 FR 47744
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Schneider, Federal Lands Highway Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-6799

RIN: 2125–AE55

2450. • +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; REQUIREMENTS FOR OPERATORS OF SMALL PASSENGER CARRYING COMMERCIAL MOTOR VEHICLES

Priority: Other Significant

Legal Authority: PL 105-178

CFR Citation: 49 CFR Part 390

Legal Deadline: None

Abstract: In this action, the FHWA is proposing to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that motor carriers operating commercial motor vehicles (CMVs) designed or used to transport between 9 and 15 passengers (including the driver) for compensation, file a motor carrier identification report, mark their CMVs with a USDOT identification number and certain other information, and maintain an accident register. This action is in response to the Transportation Equity Act for the 21st Century (TEA-21). In a separate action,

DOT—FHWA **Proposed Rule Stage**

the FHWA is adopting the statutory definition of a CMV found at 49 USC 31132 to be consistent with sec. 4008(a) of TEA-21, but is exempting the operation of these small, passenger-carrying vehicles from all of the FMCSRs, pending the completion of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/03/99	64 FR 48518
NPRM Comment Period End	11/02/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Minor, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE60

2451. • +STATEWIDE METROPOLITAN PLANNING

Priority: Other Significant

Legal Authority: 23 USC 104(f); 23 USC 134; 23 USC 135; 23 USC 217; 23 USC 315; 42 USC 7410 et seq.; 49 USC 5305-5309

CFR Citation: 23 CFR 450; 49 CFR 613; 49 CFR 1.48(b); 49 CFR 1.51

Legal Deadline: None

Abstract: In this action, the FHWA and the FTA are jointly proposing to revise the regulations governing the development of transportation plans and programs for urbanized (metropolitan) areas and States. These revisions are the product of statutory changes made by the Transportation Equity Act for the 21st Century (TEA-21), which requires a continuous, comprehensive and coordinated process in metropolitan areas and States. The regulation at 23 CFR part 450 is being modified to reflect the impacts of TEA-21. These changes are being proposed in concert with revisions to regulations concerning environmental impact and related procedures.

The intent of these changes is to more effectively link planning regulations and environmental streamlining regulations to facilitate integration of decisions, reduce paperwork and analytical activity, where feasible, and to refine procedures and processes to achieve greater efficiency in decisionmaking.

In addition, the agencies believe that an integrated approach to planning and project development will contribute to more effective and environmentally sound decisions regarding investment choices.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Sheldon M. Edner, Team Leader, Department of Transportation, Federal Highway Administration, Room 3232, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-7660
Email: sheldon.edner@fhwa.dot.gov

RIN: 2125–AE62

2452. • STANDARDS FOR DEDICATED SHORT RANGE COMMUNICATIONS (DSRC) APPLICATIONS FOR USE BY COMMERCIAL VEHICLES IN INTELLIGENT TRANSPORTATION SYSTEMS PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 307; 23 USC 315; 23 USC 502 note; PL 102-240, sec. 6055(b); PL 105-178, sec. 5206(e)

CFR Citation: 23 CFR 1001; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulations to require the use of Dedicated Short Range Communications (DSRC) Standards for ITS commercial vehicle projects using Federal funds. DSRC Systems use microwave communications over very short distances to allow moving vehicles to communicate with fixed roadside locations. In commercial motor vehicle applications, DSRC devices can transfer information regarding vehicle safety, performance, regulatory compliance and credentials from the vehicle to inspection stations. The use of DSRC standards would promote interoperability among, and enable integration of ITS systems for North American commercial vehicle applications, such as electronic clearance, automated weight stations and border crossings. Interoperability would also encourage institutional integration and cooperation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William S. Jones, ITS Joint Program Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2128

RIN: 2125–AE63

2453. • +NEPA AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING; PROTECTION OF PUBLIC PARKS, WILDLIFE AND WATERFOWL REFUGES AND HISTORIC SITES

Priority: Other Significant

Legal Authority: 42 USC 4321 et seq.; 49 USC 303; 23 USC 109; 23 USC 128; 23 USC 134; 23 USC 138; 23 USC 315; ...

CFR Citation: 23 CFR 530; 23 CFR 540

Legal Deadline: None

Abstract: The Federal Highway Administration and the Federal Transit Administration are issuing an NPRM to propose updating and revising the National Environmental Policy Act implementing regulation for FHWA and FTA funded or approved projects. The current regulations were issued in 1987 (23 CFR part 771, August 28, 1987) and experience since that time as well as changes in legislation, most recently by the Transportation Equity Act for the 21st Century (TEA-21), call for an updated approach to implementation of NEPA for FHWA and FTA projects and actions.

Under this proposed rulemaking, the FHWA/FTA regulation for implementing NEPA would be moved to a new part (23 CFR Part 530) and

DOT—FHWA

Proposed Rule Stage

would be revised to further emphasize using the NEPA process to facilitate effective and timely decisionmaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: This action will incorporate the issues contained in RIN 2125-AD32.

Agency Contact: Fred Skaer, Office of Environment and Planning, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2058

RIN: 2125–AE64

2454. • NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE AND STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 109; 23 USC 315; 23 USC 502 note; 23 USC 508; PL 105-178; sec. 5206(e)

CFR Citation: 23 CFR 655; 23 CFR 940; 49 CFR 350

Legal Deadline: None

Abstract: In this action, the FHWA proposes to implement section 5206(e) of the Transportation Equity Act for the 21st Century (TEA-21), to develop an Intelligent Transportation Systems (ITS)regional architecture. The ITS regional architecture would consist of a concept of operations and a conceptual design consistent with the ITS integration strategy using the system engineering process. The effect of this proposal is that all ITS projects would use U.S. DOT adopted standards and U.S. DOT adopted interoperability tests.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Shelley Row, Office of Travel Management, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-8028

RIN: 2125–AE65

2455. • REVISION OF THE MUTCD; REGULATORY SIGNS, TRAFFIC CONTROL FOR LOW VOLUME RURAL ROADS; TRAFFIC CONTROL FOR HIGHWAY-RAIL GRADE CROSSINGS.

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: This document proposes new text for MUTCD in Chapter 2B—Regulatory Signs, Part 5—Traffic Control Device for Low Volume Rural Roads,and Part 8—Traffic Control for Highway-Rail Grade Crossings (update information). The purpose of this rewrite effort is to reformat the text for clarity of intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes included herein are intended to expedite traffic, promote uniformity,improve safety,and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of proposed amendments	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE66

2456. • +REVISION OF COLOR SPECIFICATIONS FOR SIGNS AND PAVEMENT MARKING RETROREFLECTIVE MATERIALS

Priority: Other Significant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: The FHWA is proposing to revise its color specifications for retroreflective sign materials. This revision would include daytime and nighttime specification for both assigned and unassigned colors found in the Manual on Uniform Traffic Control Devices (MUTCD). Color specifications for florescent colors and pavement marking material would also be included.

Timetable:

Action	Date	FR Cite
Notice of proposed amendments	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AE67

2457. • UTILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 109; 23 USC 116; 23 USC 123; 23 USC 315; ...

CFR Citation: 23 CFR 1.23; 23 CFR 1.27; 49 CFR 1.38(b)

Legal Deadline: None

Abstract: The FHWA proposes these changes to conform the utilities regulations to more recent laws, regulations, or guidance and to provide the state transportation departments clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: C. Paul Scott, Federal-Aid Program Branch, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4104

RIN: 2125–AE68

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Final Rule Stage

2458. ACQUISITION OF REAL PROPERTY FOR RIGHTS-OF-WAY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; PL 100-17, sec 126; PL 100-17, sec 146; 42 USC 4601 et seq

CFR Citation: 23 CFR 172; 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720; 23 CFR 740; 23 CFR 620; 23 CFR 635; 23 CFR 645

Legal Deadline: None

Abstract: The Federal Highway Administration (FHWA) is proposing to revise and consolidate several right-of-way regulations to improve the organization of the subject matter and update the content. This action will also implement the Right-of-Way portions of Sections 1301 and 1303 of TEA-21. This action is being incorporated into RIN 2125-AE44.

Timetable:

Action	Date	FR Cite
ANPRM	11/06/95	60 FR 56004
ANPRM Comment Period End	01/05/96	
Interim Final Rule	04/25/96	61 FR 18246
Interim Final Rule Effective	05/28/96	
Final Action (See RIN 2125-AE44)	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Two related rulemaking actions are: (1) a proposed rule entitled "Right-of-Way" which appeared in a prior Agenda under RIN 2125-AB58 and (2) a proposed rule entitled "Property Management; Disposals and Airspace" which appeared in a prior Agenda under RIN 2125-AB60. Those entries have been consolidated into this rulemaking. The FHWA has determined that several right-of-way regulations are duplicated or otherwise covered elsewhere in DOT regulations. Accordingly, the FHWA has decided to remove these provisions from its regulations. RIN 2125-AD87 was completed and changes contemplated in that rulemaking were consolidated into the interim final rule published under this RIN.

ANALYSIS: Regulatory Evaluation

Agency Contact: James E. Ware, Realty Specialist, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2019

RIN: 2125–AC17

2459. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; PERIODIC REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS

Priority: Other Significant

Legal Authority: 49 USC 31502; 49 USC 31103; 49 USC 31136

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: In this rulemaking, the FHWA was considering a requirement for all motor carriers subject to the Federal Motor Carrier Safety Regulations (FMCSRs) to periodically update certain carrier information maintained by the agency in a national interstate motor carrier census file. Consideration was being given to the frequency and methods for updating this information.

The ICC Termination Act of 1995, which added 49 U.S.C. 13908, requires the Secretary to initiate a rulemaking to replace the current DOT identification number system, the single State registration system, the registration/licensing system and the financial responsibility system, with a single, on-line Federal system. This new rulemaking (2125-AD91) will subsume the issues contained in this action (2125-AC28).

Timetable:

Action	Date	FR Cite
ANPRM	07/17/89	54 FR 29912
ANPRM Comment Period End	09/15/89	
To Be Withdrawn	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Please note that this action (2125-AC28) was previously titled "Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking." A new RIN has been assigned for this subject. See 2125-AD49 for further information about motor vehicle marking 1992 Agenda.

ANALYSIS: Regulatory Evaluation

Agency Contact: Neill L. Thomas, Chief, Vehicle and Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5884

RIN: 2125–AC28

2460. REVISION OF MEDICAL EXAMINATION FORM AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: Substantial changes in medical technology and the technology, operating practices, and economics of the motor carrier industry have affected the physical and mental demands on commercial motor vehicle (CMV) drivers and in turn, have rendered portions of the current medical examination form used to assess drivers' physical qualifications outdated, difficult to use, or irrelevant. This action redesigns the existing medical examination form and amends the examination procedures to reflect the latest medical and technological advances.

Timetable:

Action	Date	FR Cite
NPRM	08/05/98	63 FR 41769
NPRM Comment Period End	11/03/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: This action was formerly titled "Qualification of Drivers; Medical Examination Form."

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590

DOT—FHWA — Final Rule Stage

Phone: 202 366-2981

RIN: 2125–AC63

2461. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION: INTERMODAL CARGO CONTAINERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: This rulemaking action addresses the requirements of the Federal Motor Carrier Safety Regulations for securing intermodal cargo containers to trailers.

Timetable:

Action	Date	FR Cite
ANPRM	08/23/93	58 FR 44485
ANPRM Comment Period End	11/22/93	
To Be Withdrawn	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AC74

2462. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL; MOTOR VEHICLE MARKING

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 31502; 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 5113

CFR Citation: 49 CFR 390

Legal Deadline: None

Abstract: The FHWA is proposing to revise its regulations dealing with the identification and marking of commercial motor vehicles (CMVs). Five changes are being proposed which would: (1) Apply the marking requirements to all CMVs operated in interstate commerce, including those common and contract motor carriers of property or passengers formerly authorized by the Interstate Commerce Commission (ICC); (2) require motor carriers to mark both sides of each CMV with a specific legal name or name under which it does business (DBA name); (3) require all new motor carriers to file Form MCS-150 before beginning operations; and (4) move sec. 385.23 to a new section in part 390. The States would also be allowed and encouraged to use USDOT identification numbers to identify intrastate motor carriers. These changes will improve the identification of motor carriers and CMVs, aid enforcement, and enhance data collection and analysis.

Timetable:

Action	Date	FR Cite
NPRM	06/16/98	63 FR 32801
NPRM Comment Period End	08/17/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Phillip J. Forjan, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AD49

2463. RULES OF PRACTICE FOR MOTOR CARRIER PROCEEDINGS; INVESTIGATIONS; DISQUALIFICATIONS AND PENALTIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 104; 49 USC 307

CFR Citation: 49 CFR 301; 49 CFR 302; 49 CFR 303; 49 CFR 304; 49 CFR 385; 49 CFR 386

Legal Deadline: None

Abstract: The FHWA proposes to amend its rules of practice for motor carrier safety, hazardous materials, and other enforcement proceedings, motor carrier safety ratings, driver qualification proceedings and its schedule of penalties for violations of the FMCSRs and the Hazardous Materials Regulations. The FHWA further proposes to add provisions on investigative authority and procedures and general motor carrier responsibilities. These rules would increase the efficiency of the procedures, enhance due process and the awareness of the public and regulated community, and accommodate recent programmatic changes. The rules would apply to all motor carriers, other business entities and individuals involved in motor carrier safety and hazardous materials administrative actions on the effective date of the final rule. The rules would constitute the major part of the administrative/procedural portion of the agency's zero-base revision of the entire FMCSRs. This action is being incorporated into 2125-AE42, "Federal Motor Carrier Safety Regulations; Zero-Base Revision".

Timetable:

Action	Date	FR Cite
NPRM	04/29/96	61 FR 18866
NPRM Comment Period End	07/29/96	
SNPRM	10/21/96	61 FR 54601
SNPRM Comment Period End	11/20/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A final rule published on November 6, 1997, (RIN 2125-AC71), incorporated the proposed provision designated as section 362.107 in the April 29 NPRM. This section with minor changes was incorporated as section 385.17. A final rule regarding adjustments to civil penalties due to inflation was published under a separate rulemaking action (RIN 2105-AC63) on 3/13/98.

Agency Contact: Paul Brennan, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0834

RIN: 2125–AD64

2464. STANDARDS FOR CENTER LINE AND EDGE LINE MARKINGS ON STREETS AND HIGHWAYS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 655

Legal Deadline: None

DOT—FHWA **Final Rule Stage**

Abstract: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655, subpart F, and recognized as the national standard for traffic control on all public roads. The DOT and Related Agencies Appropriations Act of 1992, Pub. L. 102-388, sec. 406, requires that the MUTCD include a national standard to define the roads that must have center line or edge line markings or both. The MUTCD amendments in this action will improve traffic operations and safety, provide national standards and guidance to establish uniform application and use of center line and edge line markings on streets and highways.

Timetable:

Action	Date	FR Cite
NPRM	08/02/96	61 FR 40484
NPRM Comment Period End	05/02/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Ernest D. L. Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD68

2465. FEDERAL-AID HIGHWAY SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 103(b); 23 USC 103(c); 23 USC 315

CFR Citation: 23 CFR 470

Legal Deadline: None

Abstract: This regulatory action amends 23 CFR 470 in accordance with legislation enacted in 1991, 1995, and 1998. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) rescinded the Federal-aid Primary and Secondary and Urban Systems; established an interim National Highway System (NHS); and defined Federal-aid highways. The NHS Designation Act of 1995 (NHS Act) authorized the initial National Highway System and also authorized the Secretary to approve modifications. The Transportation Equity Act for the 21st Century (TEA-21) authorized the initial NHS connectors to major intermodal terminals and recodified 23 U.S.C. 103 (Federal-aid systems). The action also consolidates in appendices all nonregulatory guidance material issued previously by the FHWA on Federal-aid highway systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/19/97	62 FR 33351
Interim Final Rule Effective	07/21/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The FHWA issued an interim final rule with an opportunity for public comment. The FHWA believes that prior notice and opportunity for comment were unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B) because this rule amends existing regulations in accordance with the requirements of the ISTEA and the NHS Act and will simplify administrative procedures, minimize regulatory burdens, and provide flexibility for accomplishing required system actions. This rule amends regulations that the states comply with as part of the Federal-aid highway program. The FHWA has worked closely with the States, and the States have operated under the basic policies covered by this regulation for many years. A number of technical revisions are required as a result of the TEA-21 recodification of 23 U.S.C. 103, including incorporation of the provisions of former 23 U.S.C. 139 (Additions to Interstate System).

Agency Contact: Jill Hochman, Director, Office of Intermodal and Statewide Programs, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0233

RIN: 2125–AD74

2466. +RAILROAD GRADE CROSSING SAFETY

Priority: Other Significant

Legal Authority: PL 102-240; PL 103-311; 49 USC 5101; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 392; 49 CFR 1.48

Legal Deadline: Final, Statutory, February 26, 1995.

Abstract: This action prohibits operators of commercial motor vehicles from driving onto a railroad grade crossing unless there is sufficient space to drive completely through the crossing without stopping. The intent of this action is to reduce the incidence of collisions between trains and CMVs. This action is required by the Hazardous Materials Transportation Authorization Act of 1994 (PL 103-311; sec. 112). This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40691
NPRM Comment Period End	11/27/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Lehrman, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0994

RIN: 2125–AD75

2467. MITIGATION OF IMPACTS TO WETLANDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 4321; 23 USC 109(h); 23 USC 138; 23 USC 315(i); 23 USC 133(b); EO 11990

CFR Citation: 23 CFR 777; 49 CFR 1.48(b)

Legal Deadline: None

DOT—FHWA

Final Rule Stage

Abstract: The FHWA is further supplementing its June 17, 1996, notice of proposed rulemaking (NPRM), Mitigation of Impacts to Wetlands, and June 18, 1997, supplemental notice of proposed rulemaking (SNPRM) on the same subject. The recently enacted Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107) added the term "natural habitat" to those provisions of title 23 , United States Code (U.S.C.), making wetlands mitigation banking efforts eligible for National Highway System (NHS) and Surface Transportation Program (STP) funds. This second SNPRM would update the FHWA's wetlands regulation to make it consistent with the authority established in TEA-21 by including mitigation of impacts to natural habitat, as well as wetlands within the scope of the regulation, specifying that it applies to all projects funded pursuant to the provisions of title 23, U.S.C. This SNPRM would also include a provision requiring that existing mitigation banks be used to provide mitigation for these highway impacts to wetlands and natural habitat when they are available and practicable.

Timetable:

Action	Date	FR Cite
NPRM	06/17/96	61 FR 30553
NPRM Comment Period End	08/16/96	
SNPRM	06/18/97	62 FR 33047
SNPRM Comment Period End	08/18/97	
Second SNPRM	04/07/99	64 FR 16870
SNPRM Comment Period End	06/07/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Additional authority DOT Order 5660.1A

Agency Contact: Paul Garrett, Water and Ecosystems Team, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 303 969-5772
Email: paul.garrett@fhwa.dot.gov

RIN: 2125–AD78

2468. INSPECTION, REPAIR, AND MAINTENANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: This action involves the use of technology to reduce recordkeeping. The FHWA issued a notice (60 FR 46682) requesting comments from motor carriers, vehicle and component manufacturers, technology vendors and the public on the use of advanced driver, vehicle and inspection technology. The FHWA has evaluated comments received and does not believe further action is warranted at this time.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AD82

2469. RAILROAD HIGHWAY PROJECTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 315; 23 USC 109(e); 23 USC 120(c); 23 USC 130

CFR Citation: 23 CFR 140; 23 CFR 646

Legal Deadline: None

Abstract: The FHWA amends its regulations on railroad highway projects. The amendments now require railroads to submit final billings within one year following completion of work, delete the requirements of a State's certification that work was completed, increase the ceiling for lump sum agreements from $25,000 to $100,000 and incorporate changes brought about by ISTEA. The FHWA believes these changes will conform railroad/highway regulations to more recent laws or regulations, and provide State highway agencies clarification and more flexibility in implementing them.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/27/97	62 FR 45326
Comment Period End	10/27/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Robert Winans, Office of Highway Safety Information, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4656

RIN: 2125–AD86

2470. +QUALIFICATIONS OF MOTOR CARRIERS TO SELF-INSURE THEIR OPERATIONS AND FEES TO SUPPORT THE APPROVAL AND COMPLIANCE PROCESS

Priority: Other Significant

Legal Authority: 49 USC 31138; 49 USC 31139; 49 USC 13906

CFR Citation: 49 CFR 1043; 49 CFR 387; 49 CFR 1.48

Legal Deadline: None

Abstract: This action proposes to amend the regulations governing qualifications for motor carriers that seek authorization to self-insure their transportation operations. Also, the FHWA is proposing technical amendments necessitated by the ICC Termination Act of 1995 (Pub. L. 104-88), which transferred the ICC's authority to qualify motor carriers as self-insurers to DOT. The agency is also requesting comments regarding the need for additional backup collateral or security to protect the public against uncompensated losses. The FHWA believes that this will be a significant

DOT—FHWA **Final Rule Stage**

regulatory action because of substantial congressional and public interest in the insurance requirements for motor carriers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/97	62 FR 49654
Correction	09/29/97	62 FR 50892
ANPRM Comment Period End	11/24/97	
NPRM	05/05/99	64 FR 24123
NPRM Comment Period End	07/06/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of Motor Carrier and Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AE06

2471. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; DEFINITION OF COMMERCIAL MOTOR VEHICLE

Priority: Other Significant

Legal Authority: 49 USC 31132; 49 USC 31136; 49 USC 31502; PL 104-88, sec 104(f)

CFR Citation: 49 CFR 390; 49 CFR 391; 49 CFR 392; 49 CFR 393; 49 CFR 395; 49 CFR 396; 49 CFR 1.48

Legal Deadline: Final, Statutory, June 9, 1999.

Abstract: The FHWA is initiating this action to consider whether to amend the definition of commercial motor vehicle in the Federal Motor Carrier Safety Regulations to make those safety regulations applicable to vehicles designed to transport less than 18 passengers including the driver. This rulemaking is significant because of substantial public interest concerning the possible extension of the applicability of the Federal Motor Carrier Safety Regulations (FMCSRs) to a larger portion of motor carrier operations.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/98	63 FR 41766
ANPRM Comment Period End	10/05/98	
Interim Final Rule	09/03/99	64 FR 48510
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Section 4008 of the TEA-21 requires the FHWA to either make the FMCSRs applicable to operators of commercial motor vehicles designed or used to transport more than 8 passengers for compensation, or exempt such entities through a rulemaking proceeding within one year after the enactment of the statute. The FHWA has proposed to regulate the operation of small passenger-carrying CMVs, and has considered the extent to which the regulations should be made applicable to such CMVS.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research & Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE22

2472. EMERGENCY RELIEF PROGRAM — $500,000 DISASTER ELIGIBILITY THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(e); 23 USC 125; 23 USC 315

CFR Citation: 23 CFR 668; 49 CFR 1.48(b)

Legal Deadline: None

Abstract: The FHWA has initiated this rulemaking to evaluate the need to revise the FHWA's regulation pertaining to the $500,000 threshold established to distinguish between heavy maintenance or routine emergency repair and serious damage, which is used as one of the criteria to qualify a disaster under the FHWA emergency relief program for repair of Federal-aid highways. The FHWA has published an ANPRM with the intention of generating discussion and comments on the appropriateness of the current threshold value as well as any additional options regarding establishment of a disaster eligibility threshold. An NPRM has been published, soliciting comments on a proposal to increase the threshold to $700,000.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/98	63 FR 8377
ANPRM Comment Period End	04/20/98	
NPRM	06/07/99	64 FR 30263
NPRM Comment Period End	08/06/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mohan Pillay, Office of Engineering, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4655

RIN: 2125–AE27

2473. TRANSPORTATION OF HOUSEHOLD GOODS; CONSUMER PROTECTION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 49 USC 13301; 49 USC 14104

CFR Citation: 49 CFR 375; 49 CFR 377

Legal Deadline: None

Abstract: The FHWA proposes to amend the regulations governing the transportation of household goods. These regulations protect consumers who ship household goods by motor vehicle. This action is necessary to implement the ICC Termination Act of 1995, (ICCTA), Pub. L. 104-88, 109 Stat. 803, and to update the regulations. The intended effect of this proposal is to make the regulations easier to read and understand, remove an outdated report, address hostage freight problems (situations where non-binding estimates are lower than actual charges and the carrier refuses to deliver freight even after 110 percent of the estimate is paid at the time of delivery), modify a consumer protection publication, consider industry requests to change the rules, and propose conforming and technical amendments.

Timetable:

Action	Date	FR Cite
NPRM	05/15/98	63 FR 27126
NPRM Comment Period End	07/14/98	

DOT—FHWA

Final Rule Stage

Action	Date	FR Cite
NPRM Extension and Reopening of Comment Period	08/12/98	63 FR 43128
NPRM Comment Period End	10/13/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Janet Nunn, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AE30

2474. RIGHT-OF-WAY PROGRAM ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 107; 23 USC 108; 23 USC 111; 23 USC 114; 23 USC 133; 23 USC 142(f)

CFR Citation: 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 645; 23 CFR 620; 23 CFR 635; 23 CFR 630; 23 CFR 712

Legal Deadline: None

Abstract: This action amends right-of-way regulations for federally assisted transportation programs. The regulations are arranged to follow the same sequence as the development and implementation of a Federal-aid project to assist the public and State transportation agency (STA) in locating regulations applicable to a specific point of interest. The amendments should clarify the State-Federal partnership.

Timetable:

Action	Date	FR Cite
NPRM	12/24/98	63 FR 71238
NPRM Comment Period End	03/24/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: RIN 2125-AC17 will be completed in this action.

Agency Contact: James E. Ware, Realty Specialist, Office of Real Estate Services, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2019

RIN: 2125–AE44

2475. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31140 to 31141; 49 USC 31161; 49 USC 31310 to 31311; 49 USC 31502; 49 USC 31100 to 31104; 49 USC 31108

CFR Citation: 49 CFR 350; 49 CFR 1.48

Legal Deadline: Final, Statutory, October 1, 1999.

Abstract: This action would amend the Motor Carrier Safety Assistance Program (MCSAP) as required by the Transportation Equity Act for the 21st Century (TEA-21). The changes will incorporate those applicable provisions. The MCSAP provides grants to the States to enforce the Federal Motor Carrier Safety and Hazardous Materials Regulations or compatible State regulations.

The FHWA must implement these revisions before FY 2000, beginning October 1, 1999. The revisions will include requirement for all participating States to develop performance-based programs. This will allow States to have greater flexibility to design programs addressing national, regional, and State needs in reducing the number and severity of commercial motor vehicle crashes.

Timetable:

Action	Date	FR Cite
NPRM	03/09/99	64 FR 11414
NPRM Comment Period End	05/10/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Agency Contact: James McCauley, National Programs Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0133

RIN: 2125–AE46

2476. FEDERAL MOTOR CARRIER SAFETY REGULATIONS; WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS; RULES AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31315; PL 105-178, sec 4007

CFR Citation: 49 CFR 381

Legal Deadline: Final, Statutory, December 9, 1998.

Abstract: The FHWA is adopting regulations to implement section 4007 of the Transportation Equity Act for the 21st Century (TEA-21), concerning waivers and exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), and the Administration of pilot programs to evaluate innovative alternatives to the regulations. The regulations establish the procedures persons must follow to request waivers and to apply for exemptions from the FMCSRs, and the procedures the FHWA will use to process the requests for waivers and applications for exemptions. The regulations also codify statutory requirements concerning the agency's administration of pilot programs. This rulemaking is intended to provide procedures to ensure the timely processing of requests for waivers and applications for exemptions, and public disclosure of the procedures the agency would use in initiating and managing pilot programs. The FHWA has issued an interim final rule, with an opportunity for public comment after publication in order to meet the statutory deadline for issuance of a final rule (180 days after date of enactment of TEA-21).

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/98	63 FR 67600
Interim Final Rule Effective	12/08/98	
Interim Final Rule Comment Period End	02/08/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards,

DOT—FHWA **Final Rule Stage**

Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE48

2477. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; TOURIST ORIENTED DIRECTIONAL SIGNS, RECREATION AND CULTURAL INTEREST SIGNS, AND TRAFFIC CONTROLS FOR BICYCLE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administrator, and recognized as the national standard for traffic control on all public roads

This document proposes new text for the MUTCD in Chapter 2G-Tourist Oriented Directional Signs (TODS), Chapter 2H-Recreation and Cultural Interest Area Signs, and Part 9, Traffic Controls for Bicycle Facilities. The purpose of this rewrite effort is to reformat the text to clarify intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes to the MUTCD are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	06/24/99	64 FR 33802
Comment Period End	03/24/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE50

2478. +SAFETY FITNESS PROCEDURES—UNSATISFACTORY SAFETY RATINGS

Priority: Other Significant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521 (b)(5)(A); 49 USC 31136; 49 USC 31144; 49 USC 31502

CFR Citation: 49 CFR 385; 49 CFR 1.48

Legal Deadline: None

Abstract: This action would expand the prohibition against interstate operations by carriers with "unsatisfactory" safety ratings. The existing "unsatisfactory" safety rating prohibition, applicable to motor carriers of passengers and hazardous materials, would be extended to all motor carriers. This action would implement section 4009 of the Transportation Equity Act for the 21st Century which prohibits motor carriers found to be unfit according to a safety fitness determination from operating commercial motor vehicles in interstate commerce. This action is considered a significant regulatory action because of the substantial public interest in the provision of safe interstate motor freight and passenger transportation.

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	64 FR 44460
NPRM Comment Period End	09/15/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Debbie Freund, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5541

RIN: 2125–AE56

2479. • REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; WARNING SIGNS AND TRAFFIC CONTROLS FOR HIGHWAY-LIGHT RAIL GRADE CROSSINGS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The Manual on Uniform Traffic Control Devices (MUTCD) is incorporated by reference in 23 CFR part 655. subpart F, approved by the Federal Highway Administrator, and recognized as the national standard for traffic control on all public roads. The FHWA announced its intent to rewrite and reformat the MUTCD on January 10, 1992, at 57 FR 1134. This action proposes new text for the MUTCD in Chapter 2C - Warning Signs and Part 10 - Traffic Controls for Highway-Light Rail Grade Crossings. The purpose of this rewrite effort is to reformat the text for clarity of intended meanings, to include metric dimensions in values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes to the MUTCD are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	06/24/99	64 FR 33806
Comment Period End	03/24/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE58

DOT—FHWA — Final Rule Stage

2480. • SAFETY FITNESS PROCEDURES; AMENDMENTS TO SAFETY FITNESS RATING METHODOLOGY (SFRM) APPENDIX

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 104; 49 USC 504; 49 USC 521(b)(5)(A); 49 USC 5113; 49 USC 31136; 49 USC 31144; 49 USC 31502

CFR Citation: 49 CFR 385; 49 CFR 1.48

Legal Deadline: None

Abstract: This action amends the Safety Fitness Rating Methodology (SFRM) appendix to the safety fitness procedures by updating the list of acute and critical regulations to conform to several regulatory removals and substantive amendments. As a result of earlier rulemaking, several of the citations in the list must be changed to reflect the amendments and revisions to the Federal Motor Carrier Safety Regulations (FMCSRs). The SFRM is used to measure the safety fitness of motor carriers against the safety fitness standard contained in the regulations on safety fitness procedures.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This final action makes corrections to the List of Acute and Critical Regulations under section VII of appendix B to part 385 in the November 6, 1997, final rule concerning safety fitness procedures. Since the amendments to the final rule are simply corrections, the FHWA finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to promulgate this final rule without notice and comment rulemaking and to make it effective on the date of publication in the Federal Register pursuant to 5 U.S.C. 553(d)(3).

Agency Contact: William C. Hill, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE59

2481. • FEDERAL MOTOR CARRIER SAFETY REGULATIONS; TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR Part 391; 49 CFR 1.48

Legal Deadline: None

Abstract: This action makes technical amendments to the Federal Motor Carrier Safety Regulations to provide a new listing for locations of FHWA's resource centers, to update the rules concerning qualifications of drivers who have loss or impairment of limbs by changing the designated official who authorizes and signs the skill performance evaluation (SPE) certificate for such drivers and to remove the reference to "waiver." These amendments are necessitated by an agency organizational restructuring and by changes in the statute. Also, the name of the national program "Handicapped Driver Waiver Program," as it is now known, will be changed to the "SPE Certification Program for Loss or Impairment of Limbs."

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action merely reflects a change in the name of "The Handicapped Driver Waiver Program," a change in the title of the designated official authorized to sign the SPE certificate and the merging of the SPE certificate form into current regulations. As a result, the FHWA has determined that prior notice and opportunity for public comment on this action are unnecessary.

Agency Contact: Teresa Doggett, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AE61

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Long-Term Actions

2482. +QUALIFICATION OF DRIVERS; DIABETES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC 2505; 23 USC 315

CFR Citation: 49 CFR 391.41(b)(3)

Legal Deadline: None

Abstract: The FHWA is considering revising the driver qualification requirements to allow certain insulin-using diabetics to operate commercial motor vehicles in interstate commerce. The FHWA issued a final disposition accepting waiver applications under certain conditions. The deadline for submitting applications was April 30, 1994. The waiver program ended March 31, 1996. It was instituted to permit the FHWA to observe and collect data on the driving experience of a group of insulin-using drivers. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/87	52 FR 45204
ANPRM Comment Period End	12/28/87	
ANPRM Comment Period Extended	02/01/88	
NPRM	10/05/90	55 FR 41028
NPRM Comment Period Extended to 01/03/91	11/01/90	55 FR 46080
NPRM Comment Period End	12/04/90	
Notice of Intent to Issue Waivers: Comment Request	10/21/92	57 FR 48011
Final Action To Accept Waivers	07/29/93	58 FR 40690
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule); 61 FR 17253 (April 19, 1996) (final rule; technical correction). With the closing of the diabetes waiver study (03-31-96), no definitive empirical results were produced. Therefore, the FHWA initiated a retrospective case-referent study to assess the level of risk associated with the operation of commercial motor vehicles by insulin-using diabetic drivers. This is not a waiver study. Further rulemaking on diabetes is deferred until the completion of the retrospective case-referent study, expert panel review and the TEA-21 feasibility study (12-31-99).

Section 4019 of the Transportation Equity Act for the 21st Century (TEA-21), directs the FHWA to determine if it is practical and cost effective to have a program that allows insulin-treated diabetic drivers to operate CMVs in interstate commerce.

The FHWA will establish a panel of medical experts to develop medically-based recommendations for amending the current Federal diabetes standard and for establishing, if appropriate, a screening protocol for qualifying insulin-treated diabetic commercial drivers.

ANALYSIS: Regulatory Evaluation, 10/05/90, 55 FR 41028

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2981

RIN: 2125–AB91

2483. +COMMERCIAL DRIVER'S LICENSE STANDARDS; BIOMETRIC IDENTIFIER

Priority: Other Significant

Legal Authority: PL 100-690, sec 9105

CFR Citation: 49 CFR 383

Legal Deadline: Final, Statutory, December 31, 1990.

Abstract: This action was initiated to improve identification systems for truck and bus drivers as identified by the Congress in the Truck and Bus Regulatory Reform Act of 1988. Alternatives that were considered included retinal eye scans and advanced fingerprint technologies. After (1) further review, (2) a careful analysis of public comments submitted to the ANPRM, and (3) a review of demonstration project results, the FHWA has determined that current technology has not progressed to the point where an identification system could be established nationwide in a cost-effective manner and still provide the benefits for which a system was intended. Therefore, the FHWA has published an informational notice to summarize the results of the pilot study and the comments to the ANPRM to demonstrate how the technologies studied fall short of the demands in a commercial licensing environment. Additional studies are being conducted to assess the current state of the art of technology in biometric identification systems. The public docket will remain open while this research is being conducted. This project is considered significant because of substantial public interest.

The State of California will do a demonstration pilot to determine if fingerprinting can be a viable identifier for CDL purposes. This pilot will be ongoing for 2 years.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/89	54 FR 20875
ANPRM Comment Period End	07/14/89	
Information Notice	03/08/91	56 FR 9925

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State

Agency Contact: Phil Forjan, Transportation Specialist, Office of Motor Carrier Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AC24

2484. TRUCK LENGTH AND WIDTH EXCLUSIVE DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 315; PL 97-424, sec 411; PL 97-424, sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA requested public comment on how, under section 411(h) and 416(b) of the Surface Transportation Act of 1982 (STA) (PL 97-424, 96 Stat. 2097), the Secretary may determine which safety or efficiency-enhancing devices are to be excluded when measuring the length and width of vehicles for compliance with federally mandated dimensions. The present system of employing rulemaking proceedings is too time-consuming and cumbersome to meet the needs of industry and is needlessly burdensome for FHWA. Therefore, a new approach will be proposed.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/89	54 FR 52951
ANPRM Comment Period End	03/26/90	
ANPRM Comment Period Extended	06/01/90	
ANPRM Docket Reopened; Comment Period Extended to 08/21/90	06/22/90	55 FR 25673

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Tom Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AC30

2485. PERIODIC INSPECTION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31131; 49 USC 31137; 49 USC 31142

CFR Citation: 49 CFR 396

Legal Deadline: None

Abstract: The FHWA is proposing to amend its periodic inspection requirements for commercial motor vehicles operated in interstate commerce. The periodic inspection final rule was published on December 7, 1988, at 53 FR 49402, and amended on December 8, 1989, at 54 FR 50722. The December 8, 1989, amendment included a request for comments. In response to the comments received and requests for interpretations from the States and industry, the FHWA has determined that the rule should be amended to clarify the requirements for periodic inspection decals; evidence of the inspector's qualifications; the response time for a motor carrier to transmit a copy of a self-inspection report to an authorized Federal, State or local enforcement official; identity of the motor carrier or other entity offering a vehicle for inspection; and documentation of a State periodic inspection, including proof of inspection on vehicles. The FHWA is also proposing amendments concerning the inspection criteria for brake readjustment limits, brake lining thickness, coupling devices, steering mechanism, tires marked "Not for Highway Use", and regrooved tires on steering axles.

Timetable:

Action	Date	FR Cite
Notice:Request for Comments	03/16/89	54 FR 11020
Final Rule: Delay in Compliance Date	12/08/89	54 FR 50722
Notice: State Inspection Programs	12/08/89	54 FR 50726
Petition: Comment Period End: 07/02/90	05/02/90	55 FR 18355
Notice: State Inspection Programs	09/23/91	56 FR 47982
Denial of Petition	07/02/92	57 FR 29457

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4012

RIN: 2125–AC47

2486. +QUALIFICATION OF DRIVERS; VISION

Priority: Other Significant

Legal Authority: 49 USC 2505; 49 USC 3102

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: As part of a review of the medical qualification standards applicable to interstate CMV drivers, the FHWA requested comments on the need, if any, to amend its driver qualification requirements relating to the vision standard. A temporary waiver program was initiated and was concluded on March 31, 1996, to permit the FHWA to observe and collect data on the driving experience of a group of vision—deficient drivers who meet certain preconditions. Additionally, the FHWA considered further research to develop comprehensive performance-based visual standards for all commercial drivers. Information about the proposed research plan and public hearing on the subject was published in the Federal Register on June 5, 1996, at 61 FR 28547. The FHWA has awarded a contract with a medical center to develop medically-based recommendations for amending the current Federal vision requirements. Recommendations were delivered in October, 1998. These recommendations are being evaluated and considered in deciding what, if any, further proposals should be made concerning the vision standard.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/92	57 FR 6793
ANPRM Comment Period End	04/28/92	
Notice Request for Comments	06/05/96	61 FR 28547
Interim Final Rule	12/08/98	63 FR 67600

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Under RIN 2125-AD73, the FHWA adopted a final rule to allow drivers holding valid waivers from both the vision and diabetes standards to continue to operate in interstate commerce after March 31, 1996. See 61 FR 606 (Jan. 8, 1996) (notice of proposed rulemaking); 61 FR 13338 (March 26, 1996) (final rule) 61 FR 17253 (April 19, 1996) (final rule; technical correction). (See notices published at 57 FR 6793, February 28, 1992; 57 FR 10295, March 25, 1992; 57 FR 22370, June 3, 1992; 59 FR 50887, October 6, 1994; 59 FR 59386, November 17, 1994.

Agency Contact: Sandra L. Zywokarte, Health and Welfare Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-2981

RIN: 2125–AC62

2487. +FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL TRANSPORTATION OF HAZARDOUS MATERIALS

Priority: Other Significant

Legal Authority: 49 USC 5105; 49 USC 5109

CFR Citation: 49 CFR 390.3; 49 CFR 397; 49 CFR 1.48

Legal Deadline: Final, Statutory, November 15, 1991.

Abstract: This rulemaking will implement the statutory requirements of 49 USC 5109 and 49 USC 5105. Section 5109 addresses the establishment of motor carrier safety permit regulations for motor carriers transporting Class A or B explosives, liquefied natural gases, hazardous materials designated as extremely toxic by inhalation, or highway route controlled quantity radioactive materials. Section 5105 requires inspection of vehicles transporting those radioactive materials before each trip. The proposed rule will incorporate those provisions into the safety permit regulations. This action is considered significant because of substantial public and congressional interest and safety implications.

Timetable:

Action	Date	FR Cite
NPRM	06/17/93	58 FR 33418
NPRM Comment Period End	08/16/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4012

RIN: 2125–AC78

2488. +QUALIFICATIONS OF DRIVERS: HEARING DEFICIENCIES

Priority: Other Significant

Legal Authority: 49 USC 3102; 49 USC 2505

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: FHWA is considering amending its driver qualification requirements relating to the hearing standard found at 49 CFR 391.41(b)(11). FHWA believes that a review of the standard is necessary to assess the effect advances in medical science and technology may have on the standard. Such advances may lead to amending the current standard. The FHWA published an ANPRM (FHWA Docket No. MC-93-30) seeking comment on the hearing standard. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/93	58 FR 65634
ANPRM Comment Period Extended to 04/05/94	02/04/94	59 FR 5376
ANPRM Comment Period End	02/14/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: A related notice regarding possible waivers was published at 58 FR 65638 (Dec. 15, 1993). The FHWA has decided not to issue waivers in light of the decision of the U.S. Court of Appeals for the DC Circuit in Advocates for Highway and Auto Safety v. the Federal Highway Administration, No. 92-1411, August 2, 1994. In that case, the FHWA rule allowing commercial drivers with impaired vision in one eye to apply for waivers from the Federal vision standard was struck down because the Court of Appeals held that the agency lacked the data necessary to support its determination that the vision waiver program "is consistent with the safe operation of commercial motor vehicles." The FHWA initiated research in FY 1995 to determine if the hearing requirement is necessary and if so, what criteria it should encompass in relationship to driving tasks. The research was completed in August 1997 and the FHWA is not amending the current hearing standard at this time.

Agency Contact: Albert Alvarez, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4706

RIN: 2125–AD22

2489. PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; SLEEPER BERTHS ON MOTOR COACHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: Comments have been sought on the suitability of existing driver sleeper berth regulations for motor coaches and possible amendment to account for design differences between trucks and motor coaches.

Timetable:

Action	Date	FR Cite
ANPRM	01/12/94	59 FR 1706
ANPRM Comment Period End	03/14/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4012

RIN: 2125–AD25

2490. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (MCSAP) ALLOCATION FORMULA

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 4002

CFR Citation: 49 CFR 350

Legal Deadline: None

Abstract: This action would modify the Motor Carrier Safety Assistance Program (MCSAP) distribution formula to allow States with incompatible intrastate regulations limited participation in the basic grant program beyond October 1, 1994. It does not change the distribution formula pertaining to those States that have achieved compatibility with respect to both interstate and intrastate transportation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/03/94	59 FR 5262
Interim Final Rule Effective	03/07/94	
Interim Final Rule Comment Period End	04/04/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James McCauley, National Programs Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-0133

RIN: 2125–AD30

2491. +HOURS OF SERVICE OF DRIVERS; SUPPORTING DOCUMENT RECORDKEEPING

Priority: Other Significant

Legal Authority: PL 103-311

CFR Citation: 49 CFR 395.8

Legal Deadline: Final, Statutory, February 26, 1996.
NPRM, Statutory, August 26, 1995.

Abstract: A record of duty status is required to be prepared for each day a driver operates a commercial motor vehicle in interstate commerce. All motor carriers are required to maintain the record of duty status for at least 6 months along with all documents that support the accuracy of the record of

duty status. The Hazardous Materials Transportation Authorization Act of 1994 mandates the FHWA to specify what documents must be maintained to support the accuracy of the record of duty status. This rule will implement the statutory mandate that requires the agency to describe the type of supporting documents to be generated and maintained, as well as specify the quantity and length of time to maintain the supporting documents.

The FHWA is analyzing the comments. The FHWA is also analyzing the extent to which the rule overlaps, duplicates, and conflicts with existing regulations. Comments predominantly suggest FHWA delay this action until the FHWA has proposed new hours of service rules and new recordkeeping systems under RIN 2125-AD93.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19457
NPRM Comment Period End	06/19/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD52

2492. ADVANCED CONSTRUCTION OF FEDERAL AID PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104 to 106; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 118; 23 USC 120(e); 23 USC 121(c); 23 USC 125; 23 USC 134; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is amending its regulation on advance construction of Federal-aid highway projects to incorporate changes made by the Dire Emergency Supplemental Appropriations Act, 1992, Pub. L. 102-302, 106 Stat. 248, and to provide more flexible funding arrangements for the States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/95	60 FR 36991
Comment Period End	09/18/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AD59

2493. +ADVANCED TECHNOLOGY IN COMMERCIAL MOTOR VEHICLE OPERATIONS (SECTION 610 REVIEW)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 395

Legal Deadline: None

Abstract: Current Federal Motor Carrier Safety Regulations limit the hours of service of commercial motor vehicle (CMV) drivers in order to reduce fatigue-related accidents. These regulations include substantial recordkeeping requirements to monitor drivers' hours of service. The Federal Highway Administration (FHWA) is considering ways to reduce the recordkeeping burden while maintaining or improving safety. The FHWA will focus on ways to reduce burdens on small entities. As part of this action, a small entities review under 5 USC section 610 will be included. This rulemaking is significant because of the broad industry impacts.

Timetable:

Action	Date	FR Cite
Notice: Request for Information	09/07/95	60 FR 46682
Comment Period End	11/06/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Neill L. Thomas, Chief, Vehicle and Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5884

RIN: 2125–AD65

2494. +TRANSPORTATION OF MIGRANT WORKERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5901 to 5907; 49 USC 31132; 49 USC 31133; 49 USC 31136; 49 USC 31502; 49 USC 31504

CFR Citation: 49 CFR 390; 49 CFR 392; 49 CFR 398; 49 CFR 1.48

Legal Deadline: None

Abstract: The FHWA is considering the continued need, if any, for its specific regulations on the transportation of migrant workers under 49 CFR 398. This action also proposes transferring certain definitions and driving requirements from part 398 to parts 390 and 392. These changes would eliminate redundant regulations in part 398 and enhance the safety of migrant workers transported in interstate commerce. This action is considered significant due to substantial public interest. The FHWA is analyzing whether to add this to the RIN 2125-AE42.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: David Miller, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1790

RIN: 2125–AD81

2495. ELECTRONIC FILING OF SURETY BONDS, TRUST FUND AGREEMENTS, INSURANCE CERTIFICATES; CANCELLATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-88

CFR Citation: 49 CFR 387

Legal Deadline: None

Abstract: This action proposes requiring all filings of surety bonds, trust fund agreements, insurance certificates and cancellations of these instruments to be accomplished electronically. Optional electronic filing has proven economical and efficient for both the FHWA and for electronic filers. Given this success, cost of processing paper filings can no longer be justified. Mandatory electronic filings should not impose any significant costs or burdens on either the FHWA or the filers.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stanley M. Braverman, Office of Motor Carrier and Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 358-7035

RIN: 2125–AD94

2496. GENERAL JURISDICTION OVER FREIGHT FORWARDER SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 13701; 49 USC 13709; 49 USC 13906; 49 USC 14101; 49 USC 14706

CFR Citation: 49 CFR 373

Legal Deadline: None

Abstract: This action gives notice of the FHWA's general jurisdiction over all segments of the freight forwarding industry (not just household good freight forwarders), in accordance with the ICC Termination Act of 1995, proposes changes to existing regulations to comport with those mandated by Congress, and clarifies the FHWA's jurisdiction over freight forwarders in other areas.

Timetable:

Action	Date	FR Cite
NPRM	01/28/97	62 FR 4096
NPRM Comment Period End	03/31/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research & Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE00

2497. +ENGLISH LANGUAGE REQUIREMENT; QUALIFICATIONS OF DRIVERS

Priority: Other Significant

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 391; 49 CFR 1.48

Legal Deadline: None

Abstract: The current regulation is little changed from the original rule adopted in 1936. The American Civil Liberties Union (ACLU) has written to the Department asserting that the regulation, as written, is overly broad and subject to arbitrary enforcement, causing potential interference with constitutional guarantees of due process and equal protection. The ACLU requested an opportunity to submit a comprehensive analysis of this issue. The ANPRM was intended to provide the ACLU with such an opportunity and to open this issue for public comment. The FHWA seeks to modify its current regulation to require drivers to possess the basic functional communication/comprehension ability necessary to ensure safety, consistent with applicable law. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/97	62 FR 45200
ANPRM Comment Period End	10/27/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard H. Singer, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4009

RIN: 2125–AE19

2498. +APPLICATION OF THE NATIONAL TRANSPORTATION COMMUNICATIONS FOR ITS PROTOCOL (NTCIP) STANDARDS IN ITS PROJECTS

Priority: Other Significant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402; PL 102-240

CFR Citation: 23 CFR 625; 23 CFR 655; 49 CFR 1.48

Legal Deadline: None

Abstract: This action would propose amending FHWA regulations to require application of Intelligent Transportation System (ITS) Standards for ITS projects using Federal-aid highway funds. In the ISTEA of 1991, Congress directed the Department to develop and implement standards and protocols to promote widespread use of ITS. The proposed regulations would apply ITS standards to ITS systems, subsystems, devices, equipment and software to be acquired with Federal-aid highway funds, including ITS funds.

However, at this time, the FHWA is postponing this action on ITS Standards until such time as the standards are demonstrated to be viable and mature enough that the public sector risk in use of the standard is minimized.

This action is significant because it represents new and changed policy under DOT Order 2100.5.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William S. Jones, ITS Joint Program Office, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 366-2128

RIN: 2125–AE21

2499. REVISION OF MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; GENERAL PROVISIONS AND TRAFFIC CONTROL FOR SCHOOL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114(a); 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action, new text for the MUTCD, part 1, General Provisions and part 7, Traffic Control for School Areas, is proposed. The purpose of such revision is to reformat the text for clarity of intended meanings, to include metric dimensions and values for the design and installation of traffic control devices, and to improve the overall organization and discussion of the contents in the MUTCD. The proposed changes in this action are intended to expedite traffic, promote uniformity, improve safety, and incorporate technology advances in traffic control device applications.

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendments	12/05/97	62 FR 64324
Comment Period End	09/08/98	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE25

2500. OUT-OF-SERVICE CRITERIA

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 31133; 49 USC 31136; 49 USC 31310; 49 USC 31502; PL 104-59

CFR Citation: 49 CFR 395; 49 CFR 396; 49 CFR 1.48

Legal Deadline: None

Abstract: This action seeks public comment on the "North American Uniform Out-of-Service Criteria" (OOS Criteria). During roadside inspections, Federal, State, and local safety inspectors use the OOS Criteria as a guide in determining whether to place commercial motor vehicles (CMVs), or their drivers, "out of service." Such a status means that the CMVs or drivers are so unsafe that corrections must be undertaken before operations can resume. The FHWA is seeking public comment on the future scope and effect of the OOS Criteria, which are not part of the Federal Motor Carrier Safety Regulations (FMCSRs). In addition, the FHWA is seeking information regarding whether it needs to formalize these guidelines pursuant to a notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/98	63 FR 38791
ANPRM Comment Period End	09/18/98	
Extension of Comment Period	10/09/98	63 FR 54432
Comment Period End	12/08/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Neill L. Thomas, Chief, Vehicle and Operations, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5884

RIN: 2125–AE35

2501. REVISION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES; PART II — SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 109(d); 23 USC 114 (a); 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 655; 23 CFR 1.32; 23 CFR 1.48

Legal Deadline: None

Abstract: Revision of the MUTCD is being done in phases due to the voluminous amount of text. This amendment represents the third phase of the rewrite effort and embraces proposed changes for part II — signs. This action is intended to rewrite and reformat the text for clarity of intended meanings; to include metric dimensions and values for the design and installation of traffic control devices; to improve the overall organization and discussion; and to propose changes that will enhance the mobility of all road users, promote uniformity, improve traffic safety by reducing the potential for run-off-road incidents, and incorporate technology advances in traffic control device application.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 31950
Comment Period End	03/11/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Linda Brown, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2192

RIN: 2125–AE38

2502. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; MUTCD; MINIMUM RETROREFLECTIVITY REQUIREMENTS FOR TRAFFIC SIGNS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101; 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a); PL 102-388

CFR Citation: 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Revisions to the MUTCD are being done in phases due to the voluminous amount of text. This notice of proposed amendment is intended to revise the MUTCD to include a standard for a minimum level of retroreflectivity that must be maintained for traffic signs. This minimum level is to ensure that highway users can detect and read the sign during nighttime conditions. Although the MUTCD states that regulatory and warning signs, and some

guide signs, need to reflectorize, no level of retroreflectivity is specified. In recognition of this situation, the United States Congress directed the U.S. Department of Transportation, through the 1993 Department of Transportation Appropriations Act, to revise the MUTCD to include a standard for minimum levels of retroreflectivity that must be maintained.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Ernest D.L. Huckaby, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-9064

RIN: 2125–AE39

2503. +GENERAL REQUIREMENTS; INSPECTION, REPAIR, AND MAINTENANCE; INTERMODAL CONTAINER CHASSIS AND TRAILERS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 504; 49 USC 31133; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 1.48; 49 CFR 390; 49 CFR 396

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the American Trucking Association, Inc. (ATA) and the ATA Intermodal Conference (the petitioners), the FHWA agreed to consider revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining intermodal container chassis and trailers. These regulations provide the requirements for the inspection, repair and maintenance of commercial motor vehicles. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/99	64 FR 7849
ANPRM Comment Period End	04/19/99	
Comment Period End	05/05/99	64 FR 24128
Comment Period Extended	08/30/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard H. Singer, Mechanical Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4009

RIN: 2125–AE40

2504. • INDIAN RESERVATION ROAD BRIDGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 120 (j) and (k); 23 USC 202; 23 USC 315; PL 105-178, sec 1115; 49 CFR 1.48

CFR Citation: 23 CFR 661

Legal Deadline: None

Abstract: Section 1115 of the Transportation Equity Act for the 21st Century establishes a nationwide priority program for improving deficient Indian reservation road (IRR) bridges and reserves $13 million of IRR funds per year to replace and rehabilitate bridges that are in poor condition. The FHWA, Federal Lands Highway (FLH), and the Bureau of Indian Affairs, Division of Transportation (BIADOT), intend to implement the IRR bridge program (IRRBP) to promptly address the deficient IRR bridges. Toward that end, the FLH and the BIA DOT, in consultation with Indian tribal governments, have developed project selection/fund allocation procedures for uniform application of the legislation. The FHWA is announcing the project selection/fund allocation procedures for the IRRBP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/19/99	64 FR 38565
Interim Final Rule Effective	07/19/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The Administrative Procedure Act (APA), 5 U.S.C. 551 et seq. allows agencies engaged in rulemaking to dispense with prior notice and opportunity for comment when the agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest. The FHWA has determined that prior notice and opportunity for comment are unnecessary because comments regarding the project selection/fund allocation procedures for the IRRBP were solicited in a February 12, 1999, Federal Register notice (64 FR 7229) along with informal meetings on this subject that were held during December 1998. We have reviewed all comments and incorporated changes to the original document where necessary.

Agency Contact: Wade F. Casey, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 Phone: 202 366-9486

RIN: 2125–AE57

Department of Transportation (DOT)
Federal Highway Administration (FHWA)

Completed Actions

2505. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; LIGHTING DEVICES, REFLECTORS, AND ELECTRICAL EQUIPMENT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: Final, Statutory, June 9, 1999.

Abstract: The FHWA has adopted measures for reducing the incidence and severity of collisions with large trailers during conditions of darkness or reduced visibility. Specifically, the agency is proposing requiring the use of retroreflective sheeting or reflex reflectors for certain trailers manufactured prior to December 1, 1993, the effective date of the National Highway Traffic Safety Administration's final rule on conspicuity for newly manufactured trailers. This action is considered significant due to substantial public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2811
ANPRM Comment Period End	03/21/94	
Notice of Intent To Issue NPRM	08/06/96	61 FR 40781
NPRM	06/19/98	63 FR 33611
NPRM Comment Period End	09/17/98	
Final Action	03/31/99	64 FR 15588
Final Action Effective	06/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AD27

2506. NATIONAL STANDARDS FOR TRAFFIC CONTROL DEVICES; METRIC CONVERSION

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 105; 23 USC 109(d); 23 USC 114(a); 23 USC 135; 23 USC 217; 23 USC 307; 23 USC 315; 23 USC 402(a)

CFR Citation: 23 CFR 655; 23 CFR 1.32; 49 CFR 1.48

Legal Deadline: None

Abstract: Based on the National Highway System (NHS) Designation Act of 1995, the Federal Highway Administration (FHWA) no longer requires metric legends on highway signs. After FY 1996, if a State desires to install metric legend signs, the FHWA will not restrict the use of Federal-aid funds. The NHS Designation Act also revises the Metric Conversion Policy to extend the compliance date to September 30, 2000, for having plans, specifications, and estimates (PS&Es) in metric units (prior to September 30, 1996). It is the intent of this rulemaking action to assure that those States and other FHWA partners desiring to convert to metric units will have available a source for formulating their plans in a consistent manner. Therefore, the FHWA is adopting the following two American Association of State Highway and Transportation Officials (AASHTO) publications as its policy for metric conversion: "Guide to Metric Conversion" and "Traffic Engineering Metric Conversion Factors." The FHWA has determined that the interim metric values selected by the AASHTO documents are functionally equivalent to English system measurements previously adopted by notice and comment rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/11/96	61 FR 29624
Comment Period End	08/11/96	
Final Action	06/24/99	64 FR 33751
Final Action Effective	07/16/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The FHWA initiated a phased five-year plan to convert its activities and business operations to the metric system of weights and measures as required by the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007), as amended by sec. 5164 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107, 1451).

Agency Contact: Ernest Huckaby, Office of Highway Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-9064

RIN: 2125–AD63

2507. UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1200

Legal Deadline: None

Abstract: The FHWA has streamlined the Sec. 402 grant approval process by providing a more flexible performance-based system for States to follow in conducting their highway safety programs. In a separate notice (60 FR 47418) the FHWA announced the creation of a pilot highway safety program for FY 1996 State highway programs under 23 USC 402 and the waiver of certain procedures for States that have elected to participate in the pilot program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/97	62 FR 34397
Interim Final Effective	06/26/97	
Final Action	07/28/99	64 FR 40757
Final Action Effective	08/27/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Phyllis Young, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-2159

RIN: 2125–AD79

2508. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; REAR IMPACT GUARDS AND REAR IMPACT PROTECTION

Priority: Other Significant

Legal Authority: PL 102-240, sec 1041(b); 49 USC 31136; 49 USC 31502

DOT—FHWA

Completed Actions

CFR Citation: 49 CFR 393; 49 CFR 1.48

Legal Deadline: None

Abstract: In this action would require that certain trailers and semitrailers with a gross vehicle weight rating (GVWR) greater than 10,000 pounds and manufactured on or after January 26, 1998, be equipped with rear impact guards and meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 223. This action is intended to ensure that the rear impact protection requirements of the FMCSRs are consistent with the FMVSSs and to improve the safety of operation of commercial motor vehicles by reducing the incidence of underride accidents in which the rear end of the trailer strikes and enters the passenger compartment. This action is significant because of the substantial public interest in the prevention of rear underride accidents involving commercial motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	05/14/98	63 FR 26759
NPRM Comment Period End	07/13/98	
Final Action	09/01/99	64 FR 47703
Final Action Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This rule is not considered to be significant under Executive Order 12866, but is significant under DOT Order because the FHWA expects that there will be significant public interest in the prevention of rear-underride accidents involving commercial motor vehicles.

Agency Contact: Larry W. Minor, Mechanical Engineer, Office of Motor Carrier Research and Standards, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4012

RIN: 2125–AE15

2509. COMMERCIAL DRIVER DISQUALIFICATION PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 31301; 49 USC 31136; 49 USC 31502

CFR Citation: 49 CFR 383; 49 CFR 1.48

Legal Deadline: NPRM, Statutory, December 29, 1996.

Abstract: Section 403 of the ICC Termination Act of 1995 (ICCTA) requires the FHWA to issue regulations specifying that commercial motor vehicle drivers who are convicted of violating railroad-highway grade crossing laws or regulations must be disqualified from operating a CMV. The ICCTA also requires that penalties be assessed against employers found to have knowingly allowed, permitted, authorized, or required an employee to operate a CMV in violation of a law or regulation pertaining to railroad-highway grade crossings. This rulemaking proposes disincentives for drivers and motor carriers from engaging in such dangerous operating practices. Such disincentives would include long periods of disqualification from operating CMVs for drivers and monetary fines for employers.

Timetable:

Action	Date	FR Cite
NPRM	03/02/98	63 FR 10180
NPRM Comment Period End	05/04/98	
Final Action	09/02/99	64 FR 48104

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Goettee, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4001

RIN: 2125–AE28

2510. TRUCK SIZE AND WEIGHT; DEFINITIONS; NONDIVISIBLE

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 127; 23 USC 315; 49 USC 31111 to 31114

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: This action modifies the definition of nondivisible load or vehicle to include marked military vehicles. This will allow, but not require, States to issue overweight permits for such vehicles to operate on the Interstate System. States must adopt and enforce Federal weight standards for the Interstate System or risk the loss of certain Federal-aid highway funds. These standards are 20,000 pounds on a single axle, 34,000 pounds on a tandem axle, and the weights specified by the bridge formula, up to a maximum gross vehicle weight of 80,000 pounds. In addition, all States may issue permits allowing nondivisible loads or vehicles that cannot be easily dismantled or divided, to use Interstate highways at weights above the normal Interstate limits.

Timetable:

Action	Date	FR Cite
NPRM	11/20/98	63 FR 64434
NPRM Comment Period End	01/19/99	
Final Action	09/09/99	64 FR 48957

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Klimek, Transportation Specialist, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2212

RIN: 2125–AE43

2511. +CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 105-178, sec 1501 to 1504

CFR Citation: 23 CFR 180

Legal Deadline: None

Abstract: This action is required by the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA). It would establish a new credit assistance program for surface transportation projects; and the process by which the DOT, through the FHWA, the FRA, and the FTA, will administer the credit assistance. TIFIA authorizes DOT to provide secured (direct) loans, lines of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. Projects will be evaluated and selected by the Secretary of Transportation. The Unfunded Mandates Reform Act does not apply to the type of credit assistance involved in the TIFIA. "Federal mandate" as defined in the act, excludes financial assistance of the type involved in the TIFIA program. This action is considered economically significant because of highway, transit, and rail

DOT—FHWA **Completed Actions**

projects to be assisted under the TIFIA program.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 5996
NPRM Comment Period End	03/10/99	
Final Action	06/02/99	64 FR 29742
Final Action Effective	08/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Max Inman, Office of Budget and Finance, Department of Transportation, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2853

RIN: 2125–AE49

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA) **Prerule Stage**

2512. CERTIFICATION REQUIREMENTS OF MULTISTAGE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 567; 49 CFR 568; 49 CFR 1.50

Legal Deadline: None

Abstract: The agency proposed to amend the certification requirements that apply to incomplete vehicles other than chassis-cabs. Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and brake system, but need further manufacturing performed on them to become completed vehicles. The agency proposed to extend the certification requirements currently applying to chassis-cabs to all types of incomplete vehicles. The agency recognizes that manufacturers who build vehicles in more than one stage are faced with somewhat different problems than manufacturers who build vehicles in a single stage, especially when it comes to certifying vehicles to meet Federal Motor Vehicle Safety Standards. The agency held a public meeting to listen to the views of these groups and others with respect to improving the vehicle certification process. The agency now plans to proceed further with this action through a negotiated rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/03/91	56 FR 61392
NPRM Comment Period End	01/31/92	
Announced Public Meeting	11/17/95	60 FR 57694
Notice of Intent	05/20/99	64 FR 27499
Notice of Formation of Advisory Committee	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The agency plans to issue a Notice of Formation to proceed with a negotiated rulemaking for this action.

ANALYSIS: Regulatory Evaluation, 12/03/91, 56 FR 61392

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AE27

2513. REVIEW: PASSENGER-CAR BACK SEAT OCCUPANT PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This notice announces the publication of a Technical Report concerning the back seat lap/shoulder belt requirement. The report's title is the "Effectiveness of Lap/Shoulder Belts in the Back Outboard Seating Positions." The primary objective of this report is to evaluate the effectiveness of lap/shoulder belts for back seat outboard occupants and whether they are more effective than lap belts for these occupants. Other objectives are to determine whether lap belts are effective, whether lap belts are harmful to back seat belt users in specific crash modes, and whether lap/shoulder belts correct the problems found with lap belts. The regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Technical Report	07/22/99	64 FR 39554
Begin Review	07/01/93	
End Review	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The evaluation report indicates that lap/shoulder belts reduce the fatality risk of back seat occupants by 44 percent relative to an unrestrained occupant and by 15 percent relative to an occupant wearing the lap belt only.

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AE95

2514. REVIEW: AMERICAN AUTOMOBILE LABELING ACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The American Automobile Labeling Act requires new passenger cars and light trucks, beginning October 1, 1994, to bear labels providing

DOT—NHTSA **Prerule Stage**

information on the extent to which their parts are of domestic origin. The objective of this review is to determine the extent to which new-vehicle buyers know about, understand and use this information, and to estimate the effect of the labels on vehicle production and sales.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/95	
Collection of Information	07/24/97	62 FR 39886
Comment Period End	09/22/97	
Collection of Information	02/18/98	63 FR 8249
Collection of Information	02/26/98	63 FR 9897
End Review	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AG18

2515. CONVEX CROSS-VIEW MIRRORS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on the issue of rear mounted cross view mirrors on light and medium duty trucks for the purpose of eliminating the blind spot directly behind the vehicle. The petitioner requested that these mirrors be mandated to eliminate backing accidents where children could be seriously injured or killed. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/17/96	61 FR 30586
Comment Period End	10/15/96	
ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG41

2516. UPGRADE ROOF CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to upgrade the roof crashworthiness particularly since a larger percentage of American vehicles consist of light duty and utility vehicles, a class of vehicles more prone to rollover accidents. Petition was granted.

Timetable:

Action	Date	FR Cite
Agency Decision	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AG51

2517. CHILD RESTRAINTS FOR OLDER CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is requesting comments on whether the child restraint standard should be amended to facilitate the production of lap belt-installed booster seats and other child restraints for children weighing over 18 kilograms, such as by allowing use of a tether in some of the compliance tests.

Timetable:

Action	Date	FR Cite
Request for Comment	07/07/99	64 FR 36657
Comment Period End	09/07/99	
Agency Decision	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH14

2518. EJECTION MITIGATION USING ADVANCED GLAZING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to the Intermodal Surface Transportation Efficiency Act of 1991, the agency plans to request comments on the agency's "Ejection Mitigation Using Advanced Glazing: Status Report II."

Timetable:

Action	Date	FR Cite
Request for Comments	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOT—NHTSA

Prerule Stage

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH50

2519. USE OF UNIVERSAL CHILD SEATS IN AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This action responds to a concern expressed by the Federal Aviation Administration (FAA) regarding some new universal child seats that may be equipped with rigid connectors or prongs. FAA believes that if a universal child seat equipped with non-folding, non-retracting rigid connectors or prongs were installed on an aircraft seat, the connectors or prongs might damage the aircraft seat cushions and might protrude into the leg space and egress path of the passenger sitting immediately behind the child seat.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: See RIN 2127-AG50 for the Uniform Child Restraint Anchorage Systems rule.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH56

2520. • SIDE IMPACT PROTECTION TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC S 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC S 30166

CFR Citation: 49 CFR 571.214; 49 CFR 572; 49 CFR 587

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to modify the current US test dummy regulation used in the side impact tests (Side Impact Dummy [SID])to use the specifications for the European dummy (Eurosid-1). The petitioner also requested that the agency establish functional equivalence between the US and European Union (EU) side impact protection regulations.

Timetable:

Action	Date	FR Cite
Decision on Petitions	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH66

2521. • SPECIAL PURPOSE VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.224

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the standard for new trailers and semitrailers with a Gross Vehicle Weight Rating (GVWR) of 4,536 kilograms (10,000 pounds) or more be equipped with a rear impact guard by revising the definition of "special purpose vehicles." These are vehicles with rear mounted liftgates that operate by swinging through the area or reside in any part of the area that is designated for the horizontal member of the rear impact guard.

Timetable:

Action	Date	FR Cite
Response to Petition	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH75

2522. • HEADLAMP GLARE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The current standard sets minimum and maximum intensities for headlamps to ensure that the two most important aspects of head lighting performance are balanced. These often conflicting aspects are (1) to assure the driver of the vehicles sees as much of the roadway possible, while (2) minimizing glare for other drivers using the road. The balance the agency has chosen of these two areas has changed very little since 1970. The agency has been receiving a significant number of public complaints about glare from other vehicles' headlamps. In light of significant technological changes, including improved halogen lamps and high intensity discharge lamps, fleet mix changes (nearly half of all new vehicles sold in 1998 were light trucks, with higher-mounted headlamps), and an increase in the age of the population, the agency wants to reexamine the balance it has chosen between seeing distance and glare to see if it is still appropriate. The agency will ask the public for comments and information to begin exploring this area more fully.

DOT—NHTSA

Prerule Stage

Timetable:

Action	Date	FR Cite
Request for Comments	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Kratzke, Director, Office of Crash Avoidance Standard, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329
Email: skratzke@nhtsa.dot.gov

RIN: 2127–AH81

2523. • STOWABLE OR FOLD-AWAY CHILD RESTRAINT ANCHORAGES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.225

Legal Deadline: None

Abstract: This action proposes requests by petitions for reconsideration to permit stowing and fold-away anchors on vehicles. The proposal would set performance and other requirements for such anchors. This pertains to the requirements established in the final rule published March 5, 1999 (64 FR 10785 RIN 2127-AG50).

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other issued raised by the petitioners are being addressed in RIN 2127-AH65 - Child Restraint Anchorage Systems - Part 1 and RIN 2127-AH86 - Child Restraint Anchorage Systems - Part 2.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH85

2524. • NECK LATERAL BENDING FOR 50% MALE SIDE IMPACT DUMMY HYBRID III (SID/HIII)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to modify the neck lateral bending response specifications for the Side Impact Hybrid Dummy 50th Percentile Male (SID/HIII).

Timetable:

Action	Date	FR Cite
Response to Petition	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AH87

2525. • CHILD RESTRAINT SYSTEMS (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: PL 96-354, sec 610; EO 12866

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is conducting a review of the Child Restraint Systems standard to determine whether this rule should be maintained without change, rescinded, or modified in order to make it more effective or less burdensome in achieving its objectives. This review also is being conducted to determine whether the rule can become more consistent with the objectives of the Regulatory Flexibility Act to achieve regulatory goals while imposing as few burdens as possible on small entities.

Timetable:

Action	Date	FR Cite
Begin Review	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nita Kavalauskas, Office of Regulatory Analysis and Evlauation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-2584
Fax: 202 366-2559

RIN: 2127–AH90

2526. • MOTORCYCLE HEADLAMP SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to modify the motorcycle headlamp system height of upper beam and number of headlamp and light source.

Timetable:

Action	Date	FR Cite
Agency Decision	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH92

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

2527. PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Wood, Division Chief, Rulemaking Division, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AB79

2528. +WHEELCHAIR LIFTS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: With a Supplemental Notice of Proposed Rulemaking (SNPRM), the agency proposes to establish two new safety standards specifying requirements for platform lifts and for buses and multipurpose passenger vehicles equipped with such lifts. The equipment standard would set minimum platform dimensions and would limit the size of platform protrusions and gaps between the platform and either the vehicle floor or the ground. The standard would also require handrails, warning signals and retaining barriers. The proposed vehicle standard would require vehicle manufacturers to install lifts in accordance with the lift manufacturer's instructions and ensure that specific information is made available to lift users. The standards are intended to prevent injuries and fatalities during lift operation and to promote uniformity of Federal standards and guidelines for platform lifts. This action is considered significant due to substantial public interest in transportation of individuals with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	02/26/93	58 FR 11562
NPRM Comment Period End	04/27/93	
SNPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gayle Dalrymple, Safety Engineer, Vehicle Controls and Adapted Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5559

RIN: 2127–AD50

2529. RADIATOR SAFETY CAP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has requested comments on the feasibility of and necessity for rulemaking to require the installation of thermal locking radiator caps or other devices on motor vehicles with water-cooled engines to prevent scalding injuries. Although the notice referred only to thermal locking radiator caps, comments were solicited on any device or technology designed to prevent such scalding injuries. Petition was granted.

Timetable:

Action	Date	FR Cite
Request for Comments	06/10/93	58 FR 32503
Comment Period End	08/09/93	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AE59

2530. UPGRADE FUEL INTEGRITY PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: An advanced notice of proposed rulemaking in 1995 announced the agency's plan to consider upgrading the standard by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. The notice also requested comments on the agency's plan to explore a three-phase approach to upgrading the standard, data, methods, and strategies which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard. Based on the responses to the notice and available data, the agency is proposing to replace the current rear impact test procedures with a more stringent test procedure. The agency is also proposing to replace the standard's current side impact test requirements with the side impact test requirements of Federal Motor Vehicle Safety Standard No. 214, Side Impact Protection.

Timetable:

Action	Date	FR Cite
Request for Comments	12/14/92	57 FR 59041

DOT—NHTSA **Proposed Rule Stage**

Action	Date	FR Cite
Comment Period End	02/12/93	
ANPRM	04/12/95	60 FR 18566
ANPRM Comment Period End	06/12/95	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action will respond to RIN 2127-AE83.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AF36

2531. DOOR LATCH EXEMPTION FOR VEHICLES EQUIPPED WITH WHEELCHAIR LIFTS AND RAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the "Door Locks and Door Retention Components" requirements by exempting vehicles with wheelchair ramps and to establish uniform requirements for vehicles with wheelchair lifts and ramps. These modifications are necessary because of changes in the types of vehicles equipped with wheelchair lifts/ramps and changes in lift/ramp structural designs which have come to pass in recent years. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On 05/31/96 (61 FR 27325), the agency published a grant notice. The agency believes that the suggested changes made by the petitioner merit additional study and research. The agency is currently conducting research to determine if door latch exemptions are still necessary. Simultaneously, the agency is developing a door latch procedure for sliding doors.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AG16

2532. SEAT BELT POSITIONING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing a labeling requirement for seat belt positioning devices. This label would consist of a warning regarding the suitability of these devices for a particular height/weight/age of child.

Timetable:

Action	Date	FR Cite
NPRM	08/13/99	64 FR 44164
NPRM Comment Period End	10/12/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AG49

2533. HYBRID III 95TH PERCENTILE MALE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is examining the possibility of proposing specifications for a new 95th percentile male Hybrid III size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard No. 208. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection in frontal impacts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AG79

2534. SIGNAL LAMPS USED WITH LIGHT EMITTING DIODES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to

revise the requirements for signal lamps equipped with 3 or more light emitting diodes (LED). The current requirements have become design restrictive and a service burden for vehicle and signal lamp manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	06/24/98	63 FR 34350
Extension of Comment Period	08/03/98	63 FR 41222
NPRM Comment Period End	10/09/98	
SNPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG88

2535. MOTORCYCLE MOUNTED REFLEX REFLECTOR HEIGHT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering allowing a lower minimum mounting height for side reflex reflectors on motorcycles. The intent is to harmonize United States lighting safety standards with European and Asian reflector position regulations and improve the flow of trade by creating "windows of harmonization" that will allow manufacturers to market "common" vehicles in global markets.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG92

2536. +ALLOCATION OF FUEL ECONOMY CREDITS

Priority: Other Significant

Legal Authority: 49 USC 32903

CFR Citation: 49 CFR 534

Legal Deadline: None

Abstract: The agency is proposing rulemaking to clarify when and how predecessor and successor automobile manufacturers may use the fuel economy credits of the predecessor or successor. The use of carry forward or carry back credits will be specified for manufacturers that merge. This action is considered significant because it will affect the treatment of the Corporate Average Fuel Economy (CAFE) penalties.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AG97

2537. POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS AND STATE HIGHWAY SAFETY AGENCY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1250; 23 CFR 1251

Legal Deadline: None

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency is proposing to amend certain provisions concerning the State Highway Safety Programs to streamline them and delete obsolete or unnecessary requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AH00

2538. INCORPORATE THE 1996 REVISION OF THE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to incorporate the 1996 revision of the American National Standards Institute (ANSI) standard for safety glazing used in motor vehicles and other minor revisions into the agency's current standard for safety glazing used in motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	08/04/99	64 FR 42330
NPRM Comment Period End	10/04/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOT—NHTSA

Proposed Rule Stage

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH08

2539. HARMONIZATION OF HEAD RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322

CFR Citation: 49 CFR 571.202

Legal Deadline: None

Abstract: The agency is proposing to upgrade the current head restraint requirements to increase safety. The proposal also would, until the upgraded requirements become effective, allow manufacturers to certify their vehicles either to the existing U.S. requirements or to the Economic Commission for Europe (ECE) Regulation No. 25. The upgrade proposes performance requirements intended to assure that the head restraint, if adjusted, will remain locked in specific height positions and calls for the installation of head restraints in rear seats.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH09

2540. MOTORCYCLE BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.122

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering eliminating the requirements for the minimum hand lever force (5 pounds) and the minimum foot pedal force (10 pounds) for fade and water recovery tests.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH15

2541. HEAVY VEHICLE ANTILOCK BRAKE SYSTEM (ABS) PERFORMANCE REQUIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: The agency is proposing performance tests for ABS-equipped single unit trucks and buses. ABS equipment requirements became effective for air-braked single unit trucks, buses, and trailers on March 1, 1998, and for hydraulic-braked trucks and buses becomes effective on March 1, 1999. The agency indicated in prior rulemaking notices that it would consider supplementing these ABS equipment requirements with performance requirements after conducting tests to determine if such testings are practicable and repeatable for trucks and buses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH16

2542. DEFINITION OF COMMUNITY TRANSPORTATION VEHICLES

Priority: Substantive, Nonsignificant

Legal Authority: 9 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency will propose to amend various sections of part 571 to create a new vehicle type, tentatively called community transportation vehicles, that will have to meet the crashworthiness standards applicable to school buses, but will not have to meet some of the crash avoidance standards (i.e., stop arms, flashing lights, etc.). This would allow manufacturers to certify vehicles that will be less expensive and as safe as a school bus for transportation of Head Start students because we have tentatively decided that the school bus crash avoidance features are unnecessary when there is no curb-side pickup.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen Wood, Division Chief, Rulemaking Division, Office of the Chief Counsel, Department of Transportation, National Highway

Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2992

RIN: 2127–AH23

2543. METRIC CONVERSION—PHASE III

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; PL 100-418, sec 5164

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is amending selected Federal motor vehicle safety standards by converting English measurements in those standards to metric measurements. This rulemaking is the third and final in a series that the agency will undertake to implement the Federal policy that the metric system is the preferred system of weights and measures for U.S. trade and commerce. The conversions are not intended to change the stringency of the affected Federal motor vehicles safety standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Noble Bowie, Director, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0842

RIN: 2127–AH27

2544. UPGRADE DOOR RETENTION PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.206

Legal Deadline: None

Abstract: Based upon annual average estimates from the 1988 through 1996 Fatal Analysis Reporting System (FARS) and the National Automotive Sampling System (NASS), there is an annual average of 2,515 fatalities and 1,882 serious injuries due to door ejections. Side door ejections are the second leading cause of ejections in all crashes, superseded only by ejections through fixed glazing. One of the activities of agency rollover research focuses on reducing injuries and fatalities resulting from side door ejections. This research has led the agency to potential significant solutions to mitigating a substantial number of these fatalities and injuries by improving side door retention performance. Therefore, the agency is proposing to upgrade the door retention requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH34

2545. ADMINISTRATIVE REWRITE OF THE LIGHTING REQUIREMENTS OTHER THAN HEADLAMPS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to rewrite the reflective devices and associated equipment requirements to make the standard more readable and understandable. The standard has grown over the last 30 years by the incorporation of dozens of amendments. The document has become unwieldy to use and the agency decided to rewrite it to seperate it into sections that address each lighting function separately. These sections will state the basic performance necessary for each lighting function and for lamp installation on various vehicle types. The rewrite will continue to reference Society of Automotive Engineers (SAE) and other standards and recommended practices for test procedures if too lengthy to incorporate changes. Moreover, it will codify various agency interpretations of its rules to make the standard more explicit and objective. The administrative rewrite of the headlamp regulations can be found under RIN 2127-AG87.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH37

2546. PARKING BRAKE WARNING SYSTEM ON SCHOOL BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to require school buses be equipped with a parking brake warning system that activates when the school bus engine is turned off, the transmission is in neutral, and the parking brake has not been applied. This request for comments notice seeks to obtain information to help the

agency determine the magnitude of the problem and the potential effectiveness of the proposed warning system.

Timetable:

Action	Date	FR Cite
Request for Comments	03/01/99	64 FR 9961
Comment Period End	04/30/99	
Agency Decision	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH57

2547. EXEMPTION FOR INCONSEQUENTIAL DEFECT OR NONCOMPLIANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30113

CFR Citation: 49 CFR 556

Legal Deadline: None

Abstract: Present regulation requires a petitioner to submit data "supporting its petition" which advocates excusing it from its notification and remedial obligations. Because the petitioner may have pertinent data relevant to the agency's decision that would not support granting it, the agency is proposing a clarification that all data pertaining to the subject in the possession of the petitioner be part of the petition. The agency also is proposing the petitioner provide a full and accurate analysis of its petition and certify that it is accurate and complete.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820
Email: tvinson@nhtsa.dot.gov

RIN: 2127–AH58

2548. UPPER INTERIOR IMPACT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: At the request of the manufacturers' organizations, the agency is proposing to amend the upper interior impact requirements (1) to modify the minimum distance between certain targets on vertical surfaces inside a vehicle and (2) add new definitions and test procedures for new-style door frames and vertical seat belt mounting structures.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH61

2549. • COMPLIANCE AND ENFORCEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: The agency is proposing to codify our long-standing general policy that motor vehicles and items of motor vehicle equipment must be cable of satisfying the requirements of each particular standard or regulation with the adjustable components of the vehicle or vehicle equipment adjusted to any position they can occupy while the vehicle is being operated unless the particular standard or regulation specifies otherwise or the manufacturer explicitly warns against placing the equipment or vehicle in that position. The agency is also proposing that where a standard provides manufacturers with more than one compliance option, manufacturers must select which compliance option(s) they are certifying to by the time they certify a vehicle or equipment item.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nicole Fradette, Attorney Advisor, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-2992
Fax: 202 366-3812

RIN: 2127–AH63

2550. • IMPORTATION OF CANADIAN VEHICLES WHICH ARE IN COMPLIANCE WITH FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30141; 49 USC 30147

CFR Citation: 49 CFR 592

Legal Deadline: None

Abstract: The agency is proposing to reduce regulatory burdens associated with importation of Canadian vehicles for resale in the United States when those vehicles already comply in all essential respects with the Federal motor vehicle safety standards. This proposal will enhance safety by revising application procedures to ensure a higher caliber of registered importers and clarifying existing obligations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

DOT—NHTSA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820
Email: tvinson@nhtsa.dot.gov

RIN: 2127–AH67

2551. • ACCELERATOR CONTROL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.124

Legal Deadline: None

Abstract: Pursuant to the March 4, 1995, directive "Regulatory Reinvention Initiative," the agency reviewed this standard and published a "Request for Comment" to obtain information on electronic accelerator controls. After reviewing the comments received on this notice, the agency plans to propose a revision of the standard that will make explicit the application of the standard to electronic accelerator controls and the electric vehicles. The proposal will recognize that electronic engine controls vastly increase the ways manufacturers can achieve fail-safe performance in the event of a disconnection or severance of the accelerator control system and will propose a number of alternative compliance tests for fail-safe performance to avoid design restrictions.

Timetable:

Action	Date	FR Cite
Request for Comments	12/04/95	60 FR 62061
Comment Period End	02/02/96	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-6346
Fax: 202 366-4329
Email: pboyd@nhtsa.dot.gov

RIN: 2127–AH71

2552. • FRONTAL OFFSET PROTECTION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: The agency is considering establishing a Federal motor vehicle safety standard for frontal offset crash testing. The frontal offset test is a crash test for automobiles and light trucks, where the subject vehicles are run into a deformable honeycomb barrier. The barrier contacts only 40 percent of the left front of the vehicle simulating off-center frontal collision. The agency is considering adding the offset test to the frontal occupant protection standard to measure vehicle structural integrity and reduce the number and severity of lower-body injuries.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH73

2553. • THEFT DATA FOR CALENDAR YEAR 1998

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: The action will publish the preliminary data on passenger motor vehicle thefts that occurred in calendar year (CY) 1998 for model year (MY) 1998 vehicles. Publication of this data fulfills the agency's obligation to periodically obtain accurate and timely theft rate data and publish the information for review and comment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH76

2554. • INSURER REPORTING REQUIREMENTS FOR OCTOBER 2000

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency proposes to update its lists of passenger motor vehicle insurers that are required to file reports to the agency on their motor vehicle theft loss experience. If these revised lists are adopted in a final rule, each insurer included must file a report for the 1997 calendar year not later than October 25, 2000. Further, as long as the insurer remains listed, it must submit reports by each subsequent October 25.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

DOT—NHTSA

Proposed Rule Stage

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH77

2555. • LOW-SPEED VEHICLE PERFORMANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.500

Legal Deadline: None

Abstract: Low-speed vehicles (LSV) have a maximum speed of between 20 and 25 miles per hour (mph). These vehicles are required to have certain equipment some of which does not have any performance requirements. The agency is proposing to set performance criteria for the various safety systems and hardware necessary for use on these vehicles.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Stephen Kratzke, Director, Office of Crash Avoidance Standard, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329
Email: skratzke@nhtsa.dot.gov

RIN: 2127–AH80

2556. • INTERIOR TRUNK RELEASE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.401

Legal Deadline: None

Abstract: During the summer of 1998, 11 children died when they were trapped inside car trunks. The agency is proposing to require that trunks have an interior release mechanism that can be operated by children to prevent future tragedies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Congress required the agency to provide a report on the benefits of an interior trunk release no later than December 1999. This proposed rulemaking will follow up on that report.

Agency Contact: Stephen Kratzke, Director, Office of Crash Avoidance Standard, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329
Email: skratzke@nhtsa.dot.gov

RIN: 2127–AH83

2557. • DEFECT REPORTING AND NOTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102 to 30103; 49 USC 30112; 49 USC 30115 to 30121; 49 USC 30166 to 30167

CFR Citation: 49 CFR 573; 49 CFR 576; 49 CFR 577

Legal Deadline: None

Abstract: The agency is proposing to amend its current regulations on Defect and Noncompliance Reports and Defect and Noncompliance Notification. The amendments are intended to implement the investigative and recall provisions by increasing the availability of information regarding safety related defects and noncompliance and by improving notification to consumers of recalls of defective and noncomplying motor vehicle equipment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jonathan D. White, Defects Investigator, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5227

RIN: 2127–AH89

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

2558. +ROLLOVER PROTECTION

Regulatory Plan: This entry is Seq. No. 94 in Part II of this issue of the **Federal Register**.

RIN: 2127–AC64

2559. BRAKE LINING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Petitions from R. Grabowsky and American Trucking Association (ATA) requested initiation of rulemaking concerning brake linings (all vehicles and aftermarket). Mr. Grabowsky petitioned relative to stability, friction level, fade, wear, and identification of linings. ATA petitioned relative to friction level and identification of linings for heavy

vehicles only. Petitions concerned both performance levels and test procedures, and were granted.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steve Kratzke, Director, Office of Crash Avoidance Standards, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4931
Fax: 202 366-4329

RIN: 2127–AC66

2560. SEATING SYSTEMS PERFORMANCE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: Environmental Research and Safety Technologists of Flagstaff, AZ, petitioned the agency to reexamine the seatback performance requirements of the standard in rear impact crashes.

Timetable:

Action	Date	FR Cite
ANPRM	10/04/89	54 FR 40896
ANPRM Comment Period End	12/04/89	
Request for Comments	11/23/92	57 FR 54958
Comment Period End	01/22/93	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Petitions for rulemaking were granted 07/24/89. See a related rulemaking action involving these petitioners under RIN 2127-AC57. The first part of the research is complete. A computer model and a prototype seat were developed. Information on this research is available in the docket along with a report on crash data analysis. The agency is currently evaluating the research results and conducting vehicle seat testing.

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AD08

2561. ELECTRIC VEHICLE SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 1.50; 49 CFR 501.8; 49 CFR 571.305

Legal Deadline: None

Abstract: The agency has proposed to regulate electric vehicles (EVs) with respect to battery electrolyte spillage in a crash or rollover, and electric shock hazard in a crash or rollover, and during repair and maintenance and establish a new Federal motor vehicle safety standard no. 305 titled "Electric-powered vehicles: electrolyte spillage and electric shock protection.

Timetable:

Action	Date	FR Cite
Request for Comments	09/30/94	59 FR 49901
Comment Period End	11/29/94	
NPRM	10/13/98	63 FR 54652
NPRM Comment Period End	11/27/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AF43

2562. REVIEW: ODOMETER FRAUD

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 580

Legal Deadline: None

Abstract: This review involves analysis of the incident rates and costs of odometer fraud and an assessment of State and Federal efforts to combat odometer fraud. To complete this review, the agency has requested permission to collect a sample of odometer readings of registered passenger cars that are less than 10 years old from vehicle dealers, distributors, vehicle title files, and State Department of Motor Vehicle agencies. Congress has directed the agency to conduct this review.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/95	
Collection of Information	09/23/96	61 FR 49809
Comment Period End	11/11/96	
Collection of Information	06/06/97	62 FR 31186
Comment Period End	07/07/97	
End Review	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AF53

2563. ALTERNATIVE GEOMETRIC VISIBILITY REQUIREMENTS FOR LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to harmonize the lighting standard's geometric visibility requirements for

signal lamps and rear side marker color with those of the ECE. Harmonization of the standard worldwide, without reducing safety, would allow manufacturers to reduce costs by producing to a single world vehicle standard rather than several, thus reducing costs and improving the flow of trade. The agency is issuing additional/alternative proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/26/95	60 FR 54833
NPRM Comment Period End	12/26/95	
SNPRM	12/10/98	63 FR 68233
SNPRM Comment Period End	03/10/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: On February 27, 1997 (62 FR 8883), the agency terminated rulemaking in which the agency had asked for comments on whether the performance and installation of front and rear fog lamps should be regulated. In response to these comments, the SAE has established a Fog Lamp Task Force to develop an internationally-acceptable fog lamp standard, on which a Federal standard could be based.

ANALYSIS: Regulatory Evaluation, 10/26/95, 60 FR 54833

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AF75

2564. POWER-OPERATED WINDOWS: ROOF PANELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to amend the test procedure used to demonstrate compliance by adding an alternative testing specification for a non-contact automatic reversal system, in order to provide a more meaningful and realistic method for evaluating the compliance of such systems which do not rely on contact to sense an obstruction. Petition was granted.

Timetable:

Action	Date	FR Cite
NPRM	06/04/96	61 FR 28124
Correction	06/14/96	61 FR 30209
NPRM Comment Period End	08/05/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-6346
Fax: 202 366-4329
Email: pboyd@nhtsa.dot.gov

RIN: 2127–AF83

2565. AUTOMOTIVE FUEL ECONOMY REPORTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 49 USC 32907

CFR Citation: 49 CFR 537

Legal Deadline: None

Abstract: In response to the President's regulatory reinvention initiative, the agency is proposing to remove obsolete reporting requirements. These submission requirements include factors such as "breakover angles" for light trucks, which are essentially never used by NHTSA. Revising this part would reduce the costs to the industry of reporting to NHTSA . This action will not inhibit the agency's ability to comply with its statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/13/96	61 FR 22010
NPRM Comment Period End	07/12/96	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AG00

2566. DEALER NOTIFICATION OF DEFECT OR NONCOMPLIANCE DETERMINATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30102; 49 USC 30103; 49 USC 30111; 49 USC 30112; 49 USC 30115; 49 USC 30116; 49 USC 30118; 49 USC 30119; 49 USC 30120; 49 USC 30163; 49 USC 30165; 49 USC 30166

CFR Citation: 49 CFR 573; 49 CFR 577

Legal Deadline: None

Abstract: The rule will implement an amendment to 49 USC Chapter 301 which prohibits dealers from selling motor vehicles or motor vehicle equipment that have been determined to contain a safety-related defect or noncompliance with a Federal motor vehicle safety standard until the defect or noncompliance is remedied. It will set forth criteria to govern the timing and content of notifications of defects and noncompliances that manufacturers must send to their dealers.

Timetable:

Action	Date	FR Cite
NPRM	09/27/93	58 FR 50314
NPRM Comment Period End	10/27/93	
SNPRM	05/19/99	64 FR 27227
SNPRM Comment Period End	06/18/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

DOT—NHTSA

Final Rule Stage

Agency Contact: Jonathan D. White, Defects Investigator, Office of Defects Investigation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5227

RIN: 2127–AG27

2567. POWER WINDOW SAFETY SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.118

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to require each power operated window, interior partition, and roof panel in a motor vehicle to be equipped with a switch designed so that contact by a form representing a small child's knee would not close window, partition, or panel. The agency is withdrawing the proposal because it could not find sufficient evidence of a safety problem.

Timetable:

Action	Date	FR Cite
NPRM	11/15/96	61 FR 58504
NPRM Comment Period End	01/14/97	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-6346
Fax: 202 366-4329
Email: pboyd@nhtsa.dot.gov

RIN: 2127–AG36

2568. MODIFIED VEHICLES TO ACCOMMODATE A PERSON'S DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30122(c)

CFR Citation: 49 CFR 595

Legal Deadline: None

Abstract: The agency is proposing to establish new conditions under which a vehicle may be modified to accommodate a person's disability so that the modifier will not be subjected to the statutory prohibition against the "making inoperative" requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/28/98	63 FR 51547
NPRM Comment Period End	12/28/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gayle Dalrymple, Safety Engineer, Vehicle Controls and Adapted Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5559

RIN: 2127–AG40

2569. FIFTH PERCENTILE FEMALE DUMMY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: The agency is proposing to adopt the Hybrid III small female size dummy. The notice will specify instrumentation, calibration test procedures, and calibration performance criteria for the Hybrid III small female.

Timetable:

Action	Date	FR Cite
NPRM	09/03/98	63 FR 46981
NPRM Comment Period End	12/02/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rulemaking action is an additional part of the Adverse Side Effects of Air Bags (RIN 2127-AG14).

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AG66

2570. TRANSITION PROCEDURES FROM CURRENT TO NEW NATIONAL DRIVER REGISTER

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 23 USC 401

CFR Citation: 23 CFR 1325

Legal Deadline: Final, Statutory, February 6, 1997.

Abstract: In response to the President's Regulatory Reinvention Initiative, the agency proposed removing the regulation on procedures for transition to the National Driver Register (NDR). It also proposed amending portions of the regulation on participation in the NDR Problem Driver Pointer System (PDPS). These portions pertain to the steps States were to follow to notify the NDR of their interest in participating in the NDR under PDPS. Now that the transition to the new NDR has been completed, the agency will remove these provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/17/96	61 FR 16729
NPRM Comment Period End	06/03/96	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: NPRM incorrectly printed under RIN 2127-AG21.

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590

DOT—NHTSA

Final Rule Stage

Phone: 202 366-4800

RIN: 2127–AG68

2571. +ADVANCED AIR BAGS

Regulatory Plan: This entry is Seq. No. 95 in Part II of this issue of the **Federal Register**.

RIN: 2127–AG70

2572. HYBRID III TYPE 6-YEAR-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing design and performance specifications for a new, more advanced 6-year old child dummy. The agency believes that the new dummy, part of the family of Hybrid III test dummies, is more representative of humans than the existing 6-year old child dummy specified by the agency and allows the assessment of more types of potential injuries. The new dummy is especially needed to evaluate the effects of air bag deployment on children, but would also provide greater and more useful information in a variety of environments to better evaluate child safety.

Timetable:

Action	Date	FR Cite
NPRM	06/29/98	63 FR 35170
Correction	09/03/98	63 FR 46979
NPRM Comment Period End	09/28/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AG76

2573. HYBRID III TYPE 3-YEAR-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new Hybrid III type 3-year-old size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced restraints technologies for crash protection of smaller size children in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4385
NPRM Comment Period End	03/29/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AG77

2574. CRABI 12-MONTH-OLD SIZE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 572; 49 CFR 571.208; 49 CFR 571.213

Legal Deadline: None

Abstract: The agency is proposing specifications for a new CRABI 12-month-old size test dummy for possible use in test procedures being proposed in amendments to Federal Motor Vehicle Safety Standard Nos. 208 and 213. The new test dummy and procedures are being proposed to facilitate the development and introduction of new advanced air bags and other types of advanced forward and rearward facing child restraints technologies, as well as protection of smaller size children in car beds in a variety of automobile crash impacts.

Timetable:

Action	Date	FR Cite
NPRM	03/08/99	64 FR 10965
NPRM Comment Period End	04/22/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley Backaitis, Engineer, Office of Crashworthiness Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4912
Fax: 202 366-4329
Email: sbackaitis@nhtsa.dot.gov

RIN: 2127–AG78

2575. GLARE REDUCTION FROM DAYTIME RUNNING LAMPS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is proposing to amend the lighting standard to reduce glare from daytime running lamps (DRLs). It would do this in three stages. One year after publication of the final rule, DRLs utilizing the upper headlamp beam would not be permitted to exceed 3,000 candela (cd) at any point, thus becoming subject to the maximum candela permitted for DRLs other than headlamps. This same limit would be applied to the upper half of lower beam DRLs two years after publication of the final rule. Finally, four years after publication of the final rule, all DRLs, except lower beam DRLs, would be subject to a flat 1,500 cd limit. Lower beam DRLs would be

DOT—NHTSA

Final Rule Stage

limited to 1,500 cd at horizontal or above. This action is intended to provide the public with all the conspicuity benefits of DRLs while reducing glare and is based on research that has become available since the final rule establishing DRLs was published in 1993.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42348
NPRM Comment Period End	09/21/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG86

2576. ADMINISTRATIVE REWRITE FOR HEADLAMP REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency has proposed to rewrite the sections relating to headlighting. The rewrite is important because of the standard's age and numerous amendments which have made it difficult to read and interpret. The revised standard should reduce burden especially to small manufacturers because of improved clarity. The reorganization of the sections relating to other lamps will be addressed in a separate rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/12/98	63 FR 63258
Comment Period End 4/11/99	02/08/99	64 FR 6021
NPRM Comment Period End	02/10/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AG87

2577. UNIFORM TIRE QUALITY GRADING TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30123

CFR Citation: 49 CFR 575.104

Legal Deadline: None

Abstract: The agency is proposing modifications to the test procedures for tire treadwear under the Uniform Tire Quality Grading (UTQG) Standard. This change is intended to stabilize the unwarranted increases in treadwear grades by modifying the procedures for calibrating and selecting course monitoring tires. No change to the existing treadwear grade levels is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	06/05/98	63 FR 30695
Extension of Comment Period	08/04/98	63 FR 41538
NPRM Comment Period End	10/05/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AG96

2578. PLACEMENT OF WHEELCHAIR RESTRAINTS ON BUSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30117; 49 USC 30166; 49 USC 322; 49 USC 30111; 49 USC 30115

CFR Citation: 49 CFR 571.217

Legal Deadline: None

Abstract: To prevent blocking of the emergency exits, the agency is proposing to add a new section to the standard to not allow the placement of wheelchair securement anchorages or other devices that protrude into the aisle of an emergency exit in all buses.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10604
NPRM Comment Period End	05/04/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH03

2579. TRUCK AIR BRAKING REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing to modify the air brake requirements for five of the ten recommended modifications. These areas are to provide consistency between table I., Stopping Sequence, item 4(b) and S5.7.3(b); provide wording for single-unit vehicles to prevent single-unit axle overloading; clarify emergency brake requirements for trucks and buses; address the misconceptions about the

DOT—NHTSA

Final Rule Stage

wheel lock provisions as they apply to vehicles with tandem axles; and correct two minor typographical errors. The other five recommendations will be denied.

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5259
NPRM Comment Period End	04/05/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH11

2580. TRANSMISSION CONTROL LEVERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.102

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency considered whether to issue a proposal to add requirements for vehicles without conventional mechanical transmission shift levers. The petitioner would like to use new interfaces that do not use the mandated linear sequence of PRNDL for automatic transmission gear selection indicated and to use push button switches, joy stick switches or voice activation as new driver interfaces with the transmission gear selection. This rulemaking will be withdrawn because we resolved the issue in a letter of interpretation to the petitioner, BMW Corp.

Timetable:

Action	Date	FR Cite
Request for Comments	06/04/98	63 FR 30449
Comment Period End	09/02/98	
To Be Withdrawn	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH21

2581. PUBLIC PARTICIPATION IN ACTIVITIES RELATING TO THE AGREEMENT ON GLOBAL TECHNICAL REGULATIONS: STATEMENT OF POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 551

Legal Deadline: None

Abstract: The agency has solicited public comments on a draft statement of policy concerning procedures for facilitating public participation in the agency's activities relating to the implementation of the pending United Nations/Economic Commission for Europe (UN/ECE) Agreement on Global Technical Regulations. On February 3, 1999, the agency held a public workshop to solicit views from the public on the draft policy statement. The agency is considering its next action which will be based on its review of all of the public comments it has received.

Timetable:

Action	Date	FR Cite
Notice of Public Workshop	01/05/99	64 FR 563
Comment Period End	02/18/99	
Agency Decision	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Julie Abraham, Director, Office of International Harmonization, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1455

RIN: 2127–AH29

2582. +SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS

Priority: Other Significant

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1240

Legal Deadline: None

Abstract: Section 1403 of TEA-21 established a new program of incentive grants (under Section 157 of chapter 1 of Title 23) to encourage States to increase seat belt use rates. This rulemaking action establishes the criteria and procedures to be followed to implement this incentive grant program. A State is eligible for an incentive grant if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The " base seat belt use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) The amount of funding each State is awarded will be based on calculations by the Secretary of the annual savings to the Federal Government in medical costs (including savings under the medicare and medicaid programs). According to the statute, on September 1 of each year, beginning in 1998, the Department will determine which States meet the eligibility criteria, and on October 1 of each year, the Department will allocate the incentive grant funds. This rule sets forth the procedures the agency will use to evaluate seat belt use rates and to allocate funds. It was published as an interim final rule with immediate effectiveness because the first evaluations of seat belt use information were required on September 1, 1998, and the first allocations of funds were required on October 1, 1998. In the next action, the agency expects to evaluate and respond to comments, as appropriate.

The statute authorizes a total of $500 million for grants under this section for fiscal years 1999 through 2003. A State may use these grant funds for any project eligible for assistance under

project eligible for assistance under Title 23. If there are any unallocated funds available in FY 1999, the excess amounts will be apportioned to the states for expenditure on the Surface Transportation Program (STP). If there are any unallocated funds available in FY 2000 through FY 2003, the Secretary is directed to allocate the funds to selected States to carry out innovative projects that promote increased seat belt use rates. States will be selected based on plans submitted to the Secretary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/98	63 FR 57904
Interim Final Rule Effective	10/29/98	
Comment Period End	01/29/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Edward Pacchetti, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH38

2583. OCCUPANT PROTECTION INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2003

CFR Citation: 23 CFR 1345

Legal Deadline: None

Abstract: TEA-21 established a new program of incentive grants to encourage States to adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. An interim final rule was published to establish criteria and procedures to be followed to implement this incentive grant program. A State may become eligible to receive a grant under this section by demonstrating that it has implemented at least four of the following six criteria: 1) a law requiring safety belt use by all front seat passengers (and beginning in FY2001, in any seat in the vehicle); 2) a primary safety belt law; 3) minimum fines or penalty points for belt and child seat violations; 4) a special traffic enforcement program; 5) a child passenger protection education program; and 6) a child passenger protection law - requiring minors to be properly secured. The statute authorizes a total of $68 million for grants under this section over 5 years beginning in fiscal year 1999. Each State that qualifies for a grant receives up to 25 % of its FY1997 section 402 apportionment. An interim final rule was published with immediate effectiveness, because its criteria applied to States seeking to receive funds beginning on October 1, 1998. A final rule will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/01/98	63 FR 52592
Interim Final Rule Effective	11/02/98	
Comment Period End	11/30/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Joan Tetrault, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH40

2584. OPEN CONTAINER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1230

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 154 of chapter 1 of title 23) to encourage States to enact Open Container laws. A State which does not have an Open Container law will have certain Federal-aid highway funds transferred to the State's section 402 State and Community Highway Safety grant program. An interim final rule was published to establish the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect an Open Container law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing an Open Container law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing an Open Container Law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

An interim final rule was published with immediate effectiveness because some state legislatures were not scheduled to meet in 2000, so they were preparing their legislative agendas at the time of publication for their 1999 legislative sessions. The states had a need to know what the criteria were to be as soon as possible so they could enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concluded, therefore, that prior notice and opportunity to comment on the rule was both impracticable and contrary to the public interest and found good cause to publish an interim final rule. A final rule will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/98	63 FR 53580
Interim Final Action Effective	11/05/98	
Comment Period End	12/07/98	
Final Action	12/00/99	

DOT—NHTSA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Jennifer Scofield, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH41

2585. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2004

CFR Citation: 23 CFR 1313

Legal Deadline: None

Abstract: An interim final rule was published to implement changes mandated by TEA 21 to the Section 410 impaired driving countermeasures grant program. New incentive grant programs include incentives for graduated licensing programs, anti-drunk driving programs aimed at young adults, increased sanctions for drivers with high blood alcohol levels, and increased alcohol testing for drivers involved in fatal accidents. The rulemaking also established an alternative incentive program in which states may qualify for grants by demonstrating reductions in fatally injured drivers with blood alcohol concentrations above .10. The rulemaking also provided for supplemental grants for those states qualifying for a basic grant. These supplemental grant programs added provisions aimed at reducing operation with suspended licenses and improving detection and conviction of drunk drivers. Appropriated for use in this program were the following: $30.6 million for FY 1998, $28.5 million for FY 1999, $29.3 million for FY 2000, $30.1 million for FY 2001, $38.7 million for FY 2002, and $39.8 million for FY 2003. An interim final rule, with immediate effectiveness, because its criteria applied to States seeking to receive funds beginning on October 1, 1998. A final rule will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/98	63 FR 71687
Interim Final Rule Effective	01/28/99	
Comment Period End	03/01/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH42

2586. STATE HIGHWAY SAFETY DATA IMPROVEMENTS INCENTIVE GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 2005

CFR Citation: 23 CFR 1335

Legal Deadline: None

Abstract: TEA 21 established a new program of incentive grants to encourage States to adopt and implement programs to improve highway safety data. An interim final rule was to establish criteria and procedures to be followed to implement this incentive grant program to encourage States to adopt and implement effective programs to improve the timeliness, accuracy, completeness, uniformity, and accessibility of State data that is needed to identify priorities for national, State, and local highway and traffic and State programs. A State may become eligible to receive a grant under this section by demonstrating that it has met one of the following three options: 1)establish a multi-disciplinary highway safety data and traffic records coordination committee; complete a highway safety data and traffic records assessment or audit within the last five years and initiate development of a multi-year highway safety data and traffic records strategic plan. Upon completion of this option the State may receive $125,000. 2) certify that the State has met the criteria of option 1 and submit a data and traffic record multi-year plan, identifying goals, performance-based measures, and priorities; and specify how incentive funds will be used. Upon completion of this option the State may receive $250,000. 3) the Secretary may award grants of up to $25,000 for 1 year to any State that does not meet the criteria for option 1. In subsequent years a State must submit or update a data and traffic records multi-year plan, identifying goals, performance-based measures and priorities; and the specifics of how incentive funds will be used. The State must certify that the coordinating committee continues to support the multi-year plan and report annually on the progress made to implement the plan. States meeting these conditions in subsequent years may receive $225,000 or more, based on the population and road mileage in the state. A total of $32,000,000 is authorized for fiscal years 1999 through 2002, and all grant amounts are subject to the availability of funds. An interim final rule was published with immediate effectiveness, because its criteria applied to States seeking to receive funds beginning on October 1, 1998. A final rule will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/08/98	63 FR 54044
Interim Final Rule Effective	11/09/98	
Comment Period End	12/07/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Agency Contact: John Oates, Chief, Implementation, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH43

2587. +UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

Priority: Other Significant

Legal Authority: PL 105-178, sec 1403

CFR Citation: 23 CFR 1340

Legal Deadline: Final, Statutory, December 8, 1998.

DOT—NHTSA

Final Rule Stage

Abstract: This rulemaking action establishes the criteria and procedures to be followed by the States to determine their seat belt use rates. Section 1403 of TEA-21 established a new program of incentive grants (under Section 157 of chapter 1 of title 23) that provides funds to States if: (1) The State had a seat belt use rate greater than the national average for the two preceding calendar years, OR (2) The State's seat belt use rate in the previous calendar year was higher than the State's "base seat belt use rate." (The " base seat belt use rate" is defined as the State's highest use rate for any calendar year from 1996 through the calendar year preceding the previous calendar year.) For calendar years 1996 and 1997, the legislation directs the Department to weigh State-submitted use rates to insure national consistency in methods of measurement. For calendar years 1998 and beyond, States must establish their seat belt use rates in accordance with guidelines issued by the Secretary. This rulemaking provides the States with the required guidelines. These uniform criteria replace the "Guidelines for State Observational Surveys of Safety Belt and Motorcycle Helmet Use," published in 1992, and rescinded by this rule.

The results of the survey conducted in accordance with this rule will be used in making allocations of a total of $418 million during fiscal years 2000 through 2003. This rule was published as an interim final rule, with immediate effectiveness, because the criteria applied to surveys that the States were required to conduct being in calendar year 1998. In the next action, the agency expects to evaluate and respond to comments, as appropriate. This rulemaking is significant because it specifies the requirements states must follow to qualify for grant funds totalling almost 500 million dollars for fiscal years 1999-2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/98	63 FR 46389
Interim Final Rule Effective	09/01/98	
Comment Period End	03/01/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: John Oates, Chief, Implementation, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH46

2588. MINIMUM PENALTIES FOR REPEAT OFFENDERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-206, 112 Stat 834

CFR Citation: 23 CFR 1235

Legal Deadline: None

Abstract: Section 5 of the TEA-21 Restoration Act established a new program (under section 164 of chapter 1 of title 23) to encourage States to enact Repeat Intoxicated Driver laws. A State which does not have a Repeat Intoxicated Driver law will have certain Federal-aid highway funds transferred to the States section 402 State and Community Highway Safety grant program. An interim final rule was published to establish the criteria and procedures to be followed to implement this transfer program.

Each State shall have in effect a Repeat Intoxicated Driver law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated (DWI) or driving under the influence (DUI) after a previous conviction for that offense shall (A) receive a driver's license suspension for not less than 1 year; (B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles; (C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and (D) receive (i) for 2nd offense, not less than 30 days community service or 5 days of imprisonment; and (ii) for 3rd and subsequent offense, not less than 60 days community service or 10 days of imprisonment. On October 1, 2000, and October 1, 2001, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, 1-1/2 percent of the Federal-aid highway funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) will be transferred to the State's section 402 apportionment. On October 1, 2002, and each October 1 thereafter, if a State has not enacted and is not enforcing a Repeat Intoxicated Driver law, the transferred amount increases to 3 percent. Funds transferred to section 402 must be used for alcohol-impaired driving countermeasures or enforcement of driving while intoxicated (DWI) or driving under the influence (DUI) and other related laws. A State may elect to use all or part of its transferred funds for activities eligible under the section 152 Hazard Elimination Program. The Federal share of a project funded under this section is 100 percent.

An interim final rule was published with immediate effectiveness, because some state legislatures are not scheduled to meet in the year 2000, so they were preparing their legislative agendas at the time of publication for their 1999 legislative sessions. The states had a need to know what the criteria would be as soon as possible so they could enact conforming legislation and avoid the transfer of funds on October 1, 2000. The agency concluded, therefore, that prior notice and opportunity to comment on the rule was both impracticable and contrary to the public interest and found good cause to publish an interim final rule. A final rule will be published.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/19/98	63 FR 55796
Interim Final Rule Effective	11/18/98	
Comment Period End	12/18/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Jennifer Scofield, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH47

DOT—NHTSA

Final Rule Stage

2589. EXTENSION OF COMPLIANCE DATE FOR ABS MALFUNCTION INDICATOR LAMP

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: In response to a petition for rulemaking received on October 20, 1998, the agency is extending the compliance date of the antilock brake system (ABS) malfunction indicator lamp activation protocol from March 1, 1999, to September 1, 1999. Because the original compliance date is so close, this action is being issued as an interim final rule in order to notify interested parties as quickly as possible of the extension of that compliance date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/99	64 FR 9446
Interim Final Rule Effective	02/26/99	
Comment Period End	04/27/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH55

2590. DYNAMICALLY DEPLOYING HEAD PROTECTION SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: The agency is responding to petitions for reconsideration of the final rule published on August 4, 1998 (63 FR 41466, RIN 2127-AG74). The final rule amended the upper interior impact requirements to allow, but not require, the installation of dynamically deploying head protection systems. The petitioners requested changes to regulation definitions and test procedures.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH60

2591. • BRAKE TESTING PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105; 49 CFR 571.135

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on September 5, 1997 (62 FR 46907, RIN 2127-AG05), the agency is considering amending the procedures for testing brake systems on electric vehicles (EV). These modifications will harmonize the US brake procedures more closely with Europe and allow for evaluation of a unique brake design for electric vehicles.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH64

2592. • REQUIREMENTS FOR LOW-SPEED VEHICLES (LSV)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 565; 49 CFR 571.500

Legal Deadline: None

Abstract: In response to petitions for reconsideration of the final rule published June 17, 1998 (63 FR 33194 RIN 2127-AG58), this technical amendment will establish the same Vehicle Identification Number (VIN) requirements for LSVs as exist for all other motor vehicles. This amendment also announces that States and local government may issue their own performance specifications for equipment on LSVs, if the current standard does not include any performance requirements for that equipment. Finally, the amendment announces the agency's intention to publish, in the near future, a proposal to establish performance requirements for the safety equipment of LSVs.

Timetable:

Action	Date	FR Cite
Technical Amendment	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820
Email: tvinson@nhtsa.dot.gov

RIN: 2127–AH69

2593. • COMPRESSED NATURAL GAS FUEL CONTAINER INTEGRITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

DOT—NHTSA

Final Rule Stage

CFR Citation: 49 CFR 571.304

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on December 3, 1998 (63 FR 66762, RIN 2127-AF51) that deleted the material and manufacturing process requirements in the standard, the agency is amending the burst test performance requirements.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH72

2594. • VEHICLES WITH RAISED ROOFS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on April 27, 1999 (64 FR 22567, RIN 2127-AF40) that made testing more suitable for vehicles with raised or sloped roof structures, the petitioners requested that the agency modify the portion of the rule that pertains to raised roof vehicles, particularly those vehicles used for transporting disabled persons. The petitioners claim that the test plate position requirement for these vehicles causes the plate's rear edge to contact the raised roof structure in a manner which causes abnormal penetration and failure.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AH74

2595. • HIGH-THEFT LINES FOR MODEL YEAR 2001

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will list the vehicle lines that are subject to the parts-marking requirements of the theft prevention standard, as well as, high-theft lines that re exempted from the parts-marking requirements for model year (MY) 2001.

Timetable:

Action	Date	FR Cite
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH78

2596. • BRAKE HOSES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is considering whether to adopt portions of the brake component Federal safety provisions that are now in the Federal Highway Administration regulations into the agency's brake regulation.

Timetable:

Action	Date	FR Cite
Agency Decision	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Patrick Boyd, Division Chief, Vehicle Controls & Adapted Vehicles Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-6346
Fax: 202 366-4329
Email: pboyd@nhtsa.dot.gov

RIN: 2127–AH79

2597. • SCHOOL BUS BODY JOINT STRENGTH

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.221

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on November 5, 1998 (63 FR 59732 RIN 2127-AC19) which extended the applicability of Standard No. 221, school bus body joint strength, to school buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, narrowed an exclusion of maintenance access panels from the requirements of the standard, and revised testing requirements, the agency is considering amending the definition of bus body and allowing for the testing of surrogate bus body joint. Changing the definition could exclude those joints in the van cutaway chassis and enhance the possibility of allowing van cutaways to be manufactured into school buses.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

DOT—NHTSA **Final Rule Stage**

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH84

2598. • CHILD RESTRAINT ANCHORAGE SYSTEMS - PART 2

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.225; 49 CFR 596

Legal Deadline: None

Abstract: This action responds to several petitions for reconsideration concerning long-term testing procedures regarding the strength and other issues of universal child restraint anchors. These requirements were established by the final rule on universal child restraint anchorages published on March 5, 1999 (64 FR 10785, RIN 2127-AG50). An earlier action (RIN 2127-AH65) responded to other issues raised by the petitions.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other issues raised by the petitioners are being addressed in RIN 2127-AH65 - Child Restraint Anchorage Systems - Part 1 and RIN 2127-AH85 - Stowable or Fold-Away Child Restraint Anchorages.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH86

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA) **Long-Term Actions**

2599. +CRASHWORTHINESS RATINGS

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 5

Legal Deadline: None

Abstract: This action would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace. The agency has requested public comments on the National Academy of Sciences (NAS) study titled "Shopping for Safety - Providing Consumer Automotive Safety Information," (TRB Special Report 248) and how that study should be reflected in the agency's decision on whether, and if so, how, to proceed with a crashworthiness rating for automobiles.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025
NPRM Comment Period End	04/22/81	
Request for Comments	05/20/97	62 FR 27648
Comment Period End	08/18/97	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057

RIN: 2127–AA03

2600. +FLAMMABILITY OF INTERIOR MATERIALS—SCHOOL BUSES

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.302

Legal Deadline: None

Abstract: Advance Notice of Proposed Rulemaking requested comments regarding possible upgrade of Standard 302 to reduce the risk of fire to school bus occupants. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/88	53 FR 44627
ANPRM Comment Period End	01/03/89	
Request for Comments	02/26/91	56 FR 7826
Comment Period End	04/29/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AA44

2601. +REVIEW: SIDE IMPACT PROTECTION

Priority: Other Significant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: This standard requires passenger cars manufactured after September 1, 1996, to provide occupant protection when impacted in the side by a moving deformable barrier. The agency will compare the actual risk of occupant injury in side impact crashes of cars meeting the standard to the risk in pre-standard cars. The cost of the standard will also be estimated. This regulation was selected for review because of its costs, potential benefits, and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/94	
End Review	06/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AF54

2602. REVIEW: HEAVY TRUCK CONSPICUITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The agency is initiating a study to evaluate the safety effects of the conspicuity systems requirement (section 5.7) of Federal Motor Vehicle Safety Standard No. 108. To carry out the study, the agency is having special motor vehicle crash data collected by the Florida Highway Patrol and the Pennsylvania State Police.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/95	
Collection of Information	07/01/96	61 FR 33891
Comment Period End	08/30/96	
End Review	06/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AG19

2603. STATE ISSUED IDENTIFICATION DOCUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 656

CFR Citation: 23 CFR 1331

Legal Deadline: NPRM, Statutory, September 30, 1997.

Abstract: The agency issued a notice of proposed rulemaking to implement the requirements contained in section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. This section of the Act entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that a Federal agency may only accept as proof of identity a driver's license or identification document that conforms to specific requirements, in accordance with regulations issued by the Department of Transportation. The agency received over 2000 comments to this notice. The agency's appropriations act imposed a restriction on the use of FY 99 funds to issue a final rule implementing the proposed requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 33220
NPRM Comment Period End	08/03/98	
Comment Period End 10/2/98	08/19/98	63 FR 44415
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800

RIN: 2127–AG91

2604. REVIEW: CHILD SAFETY SEAT REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.213; 49 CFR 588

Legal Deadline: None

Abstract: This evaluation involves analysis of the effectiveness of registering child safety seats to increase response to reports of recalled seats. This regulation was selected for review because of public interest in child passenger safety.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/97	
End Review	03/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560
Fax: 202 366-2559

RIN: 2127–AG93

2605. BUY AMERICAN REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The agency is proposing to exempt certain purchases by grantees

from the requirements of the Department of Transportation's Buy American provisions to streamline and improve the grant process. These proposed exemptions will include small purchases not to exceed the current small purchase threshold.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AG99

2606. REVIEW: AIR BAG ON-OFF SWITCHES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 40 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard allows passenger vehicles to be equipped with an on-off switch for the right front passenger air bag if the rear seat cannot accommodate a rear-facing infant seat. The standard also enables vehicle owners to obtain an on-off switch for their passenger and/or driver air bag if they transport people who should not be exposed to an air bag deployment. The agency will determine, by observation of vehicles in use, the percentage of on-off switches that are being correctly used. This regulation was selected for review because of its public interest and potential benefit.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/98	
End Review	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AH12

2607. REVIEW: REDESIGNED AIR BAGS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: This standard was temporarily amended to make the unbelted test for vehicles with air bags less stringent and, in effect, make it easier for manufacturers to quickly depower their air bags. Redesigned air bags are likely to benefit out-of-position occupants and reduce drivers' arm injuries, but they might be less effective than earlier air bags for some occupants. This regulation was selected for review because of public interest, potential benefits, and possibility of higher risk for some vehicle occupants.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/98	
End Review	12/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles J. Kahane, Chief, Evaluation Division, Office of Plans and Policy, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2560

RIN: 2127–AH13

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Actions

2608. SEAT ADJUSTMENT POSITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: The agency solicited comments on a proposal to amend the performance requirements of the standard to provide that the lap belt angle would be measured for rear adjustable seats with the seats in the rearmost adjustment position. After review of the comments indicated the proposal would have negative safety consequences, the rulemaking was withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	12/04/91	56 FR 63473
Correction	12/17/91	56 FR 65541
NPRM Comment Period End	02/03/92	
Withdrawn	06/01/99	64 FR 29617

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AE22

2609. TEST DEVICE PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.216

Legal Deadline: None

Abstract: In response to petitions for rulemaking, the agency revised the test

procedures to make them more suitable to testing vehicles with highly sloped roofs or raised roofs.

Timetable:

Action	Date	FR Cite
Request for Comment	12/27/94	59 FR 66504
Request for Comments	12/27/94	
Comment Period End	02/10/95	
NPRM	02/27/97	62 FR 8906
NPRM Comment Period End	04/28/97	
Final Action	04/26/99	64 FR 22567
Final Action Effective	10/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AF40

2610. PELVIC RESTRAINTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.209

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency deleted a requirement that the lap belt portion of a safety belt system be designed to remain on the pelvis under all conditions. The requirement was non-objective and the safety need already was addressed by other agency standards.

Timetable:

Action	Date	FR Cite
NPRM	07/07/97	62 FR 36251
NPRM Comment Period End	09/05/97	
Final Action	05/19/99	64 FR 27203
Final Action Effective	07/19/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Clarke Harper, Division Chief, Light Duty Vehicle Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2264
Fax: 202 366-4329
Email: charper@nhtsa.dot.gov

RIN: 2127–AG48

2611. CONSUMER INFORMATION ON TIRE GRADING

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30123

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is eliminating the requirement that new car manufacturers provide their dealers consumer information on the tire grading of new car tires. This action will alleviate a paperwork burden on automobile manufacturers and dealers that has little benefit to consumers.

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27911
NPRM Comment Period End	07/20/98	
Final Action	05/24/99	64 FR 27921
Final Action Effective	09/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AG67

2612. EXTEND PARTICIPATION IN THE NATIONAL DRIVER REGISTER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 303

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: This final rule authorizes the Commandant of the Coast Guard to request and receive information from the National Driver Register (NDR) regarding the motor vehicle driving records of any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard). This final rule establishes the procedures for such individuals to request, and for the Commandant to receive, NDR information.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/02/97	62 FR 63655
Interim Final Rule Effective	12/02/97	
Comment Period End	02/02/98	
Final Action	04/20/99	64 FR 19269
Final Action Effective	05/20/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: This action was inadvertently published under RIN No. 2127-AG21.

Agency Contact: William Holden, Division Chief, Driver Register and Traffic Records Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4800

RIN: 2127–AG90

2613. FUEL ECONOMY CALCULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32904

CFR Citation: 49 CFR 531

Legal Deadline: None

Abstract: Provisions of the North American Free Trade Agreement (NAFTA) Implementation Act of 1993 modified the calculation of average fuel economy by permitting Mexican built passenger cars to be included with United States and Canadian built passenger cars. This was for assigning passenger cars to domestic or import fleets for computation of corporate average fuel economy (CAFE). The revision of the code permits to include

Mexican cars in their fleets during the period January 1, 1997, through January 1, 2004, at the manufacturers' option. This rulemaking provided instructions on making the content declaration and relates to the Environmental Protection Agency's regulation at 40 CFR 600.511.

Timetable:

Action	Date	FR Cite
Final Action	05/19/99	64 FR 27201
Final Action Effective	07/19/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AG95

2614. TIRE IDENTIFICATION SYMBOLS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 574

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency proposed to require that the date of manufacture of a tire be expressed in four digits instead of the currently-required three digits. This will bring the agency's tire date code regulation into harmony with the United Nations' Economic Commission for Europe (ECE) regulation and the International Organization for Standardization (ISO). The agency also proposed to reduce the size of the date code lettering from a minimum of 6 mm to a minimum of 4mm. This will reduce the cost impact to tire manufacturers while still providing a readable date code symbol.

Timetable:

Action	Date	FR Cite
NPRM	10/19/98	63 FR 55832
NPRM Comment Period End	12/18/98	
Final Action	07/08/99	64 FR 36807
Final Action Effective	07/02/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH10

2615. FUNCTIONAL EQUIVALENCE OF HEADLAMP CONCEALMENT WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency concluded that the headlamp concealment requirements of the standard are functionally equivalent from a safety perspective to similar European requirements. Therefore, vehicle manufacturers are now permitted to certify to either the current US performance or to the current European performance.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57638
NPRM Comment Period End	12/28/98	
Final Action	08/23/99	64 FR 45895
Final Action Effective	10/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH18

2616. FUNCTIONAL EQUIVALENCE OF WINDSHIELD WASHING AND WIPING SYSTEMS WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.104

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency determined thatthe windshield washing and wiping requirements of the standard are not functionally equivalent from a safety perspective to similar European requirements. The current US standard requires vehicles to clear 10 to 20% more surface area on the windshield than the corresponding European requirements. This rulemaking was withdrawn because there is no basis for a finding of functional equivalence.

Timetable:

Action	Date	FR Cite
Withdrawn	04/19/99	64 FR 19106

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action also responds to 2127-AH 22.

Agency Contact: Richard Vanlderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH20

2617. FUNCTIONAL EQUIVALENCE OF WINDSHIELD DEFROSTING AND DEFOGGING SYSTEMS WITH EUROPEAN REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.103

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency will determine whether the windshield defrosting and

defogging requirements of the standard are functionally equivalent from a safety perspective to similar European requirements. The current US standard requires vehicles to clear 10 to 20% more surface area on the windshield than the corresponding European requirements. This rulemaking was withdrawn because there is no basis for a finding of functional equivalence.

Timetable:

Action	Date	FR Cite
Withdrawn	04/19/99	64 FR 19106

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action also responds to RIN 2127-AH20.

Agency Contact: Richard VanIderstine, Division Chief, Visibility and Injury Prevention Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5280
Fax: 202 366-4329

RIN: 2127–AH22

2618. EXTENSION OF PASSENGER CAR BRAKE SYSTEM STANDARD TO LIGHT TRUCKS AND VANS (LTVS) WITH GROSS VEHICLE WEIGHT RATING BETWEEN 3,500 AND 4,536 KG

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.135

Legal Deadline: None

Abstract: In a final rule published September 30, 1997 (62 FR 51064 - RIN 2127-AG35), the agency extended the applicability of Federal Motor Vehicle Safety Standard No. 135, Passenger Car Brake Systems, to light trucks and vans (LTVs) with a gross vehicle weight rating (GVWR) of 3,500 kg or less. The rule also stated that the agency would publish a separate notice addressing the appropriateness of extending the requirements of Standard No. 135 to LTVs with a GVWR between 3,500 and 4,536 kg. After reviewing additional brake test data designed to assess the performance of vehicles with the increased GVWR, however, the agency has decided to withdraw rulemaking. Safety benefits resulting from extending the application of Standard No. 135 to LTVs with GVWRs between 3,501 and 4,536 kg are questionable and would be further limited by substantial costs to manufacturers and by low sales volumes.

Timetable:

Action	Date	FR Cite
Withdrawn	04/26/99	64 FR 20245

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH30

2619. MOTOR VEHICLE CONTENT LABELING CALCULATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 32304

CFR Citation: 49 CFR 583

Legal Deadline: None

Abstract: The agency has made several changes in its content labeling regulation to implement provisions included in the Transportation Equity Act of the 21st Century. Content calculation procedures to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information which are now temporary will be made permanent. This flexibility will be available for up to ten percent, by value, of a carline's total parts content from outside suppliers. Outside suppliers of parts will count U.S./Canadian content where it is less than 70 percent. Engine and transmission countries of origin will be determined by including assembly labor. Certain small parts value will be assigned to the country of the assembly plant.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 6021
NPRM Comment Period End	04/09/99	
Final Action	07/28/99	64 FR 40777
Final Action Effective	06/01/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH33

2620. THEFT DATA FOR CALENDAR YEAR 1997

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104(b)(4)

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action publishes the final theft data on passenger motor vehicles that occurred in calendar year (CY) 1997 for model year (MY) 1997 vehicles. The theft data indicates the overall vehicles' theft rate in 1997. Publication of this data fulfills the agency's obligation to periodically obtain accurate and timely data and publish the information.

Timetable:

Action	Date	FR Cite
Request for Comments	02/17/99	64 FR 7945
Final Action	07/29/99	64 FR 41183

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH35

2621. HIGH-THEFT LINES FOR MODEL YEAR 2000

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33104

CFR Citation: 49 CFR 541

Legal Deadline: None

Abstract: This action will list the agency's determination for model year (MY) 2000 high-theft vehicle lines that will be subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and the high-theft lines that will be exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria for MY 2000, pursuant to the statute relating to motor vehicle theft prevention.

Timetable:

Action	Date	FR Cite
Final Action	05/25/99	64 FR 28110
Final Action Effective	05/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH36

2622. +STATE INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

Priority: Other Significant

Legal Authority: PL 105-178, sec 1404

CFR Citation: 23 CFR 1225

Legal Deadline: None

Abstract: Section 1404 of TEA-21 established a new program of incentive grants (under section 163 of chapter 1 of title 23) to encourage States to establish 0.08 percent blood alcohol concentration (BAC) as the legal limit for drunk driving offenses. States can qualify for incentive grant funds if they enact and enforce a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated or an equivalent per se offense. This statutory program was first implemented by an interim final rule. This final rule announced that the interim final rule will remain in effect. It also modified the interim requirements with respect to procedural issues, including the date by which certifications are due.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/03/98	63 FR 46881
Interim Final Rule Effective	09/03/98	
Comment Period End	10/19/98	
Final Action	07/01/99	64 FR 35568
Final Action Effective	08/30/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal

Additional Information: Notice published on August 30, 1999, 64 FR 47110, to correct the effective date of the July 1, 1999, final rule.

Agency Contact: Marlene Markison, Chief, Program Support, Office of State and Community Services, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2121

RIN: 2127–AH39

2623. IMPORTATION OF VEHICLES AND EQUIPMENT SUPPLIERS—TECHNICAL AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178; 49 USC 30114

CFR Citation: 49 CFR 591

Legal Deadline: None

Abstract: The agency amends its regulation on the importation of vehicles and equipment that do not comply with applicable safety standards to include vehicles and equipment that are imported for "Show or Display" as a category the agency may exempt from compliance with the safety standards. The amendment is pursuant to a statutory mandate to include the "Show or Display" category and will not otherwise affect the agency's regulatory requirements.

Timetable:

Action	Date	FR Cite
Final Action	07/14/99	64 FR 37878
Final Action Effective	08/13/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Fax: 202 366-3820
Email: tvinson@nhtsa.dot.gov

RIN: 2127–AH45

2624. ADJUSTMENT OF CIVIL PENALTIES

Priority: Info./Admin./Other

Legal Authority: PL 101-410

CFR Citation: 49 CFR 578

Legal Deadline: None

Abstract: This document adjusts certain civil penalties authorized for violations of statutes that we enforce. The Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires the agency to take this action periodically. The largest adjustments occur in penalties related to violations of the safety and bumper standards.

Timetable:

Action	Date	FR Cite
NPRM	04/06/99	64 FR 16690
NPRM Comment Period End	05/21/99	
Final Action	07/14/99	64 FR 37876
Final Action Effective	08/13/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Taylor Vinson, Senior Attorney, Office of the Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263

Fax: 202 366-3820
Email: tvinson@nhtsa.dot.gov

RIN: 2127–AH48

2625. CERTIFICATION REQUIREMENTS FOR VEHICLE ALTERERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 33101 to 33104

CFR Citation: 49 CFR 567

Legal Deadline: None

Abstract: The agency has amended the vehicle certification regulations that specify requirements for vehicle alterers. This amendment makes the certification requirements for alterers consistent with those for manufacturers by requiring alterers to specify on their certification label, where appropriate, that the vehicle, as altered, conforms to all applicable Federal motor vehicle safety, bumper, and theft prevention standards affected by the alteration.

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6852
NPRM Comment Period End	03/29/99	
Final Action	07/19/99	64 FR 38593
Final Action Effective	09/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Coleman R. Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Email: csachs@nhtsa.dot.gov

RIN: 2127–AH49

2626. +LIGHT TRUCK FUEL ECONOMY STANDARDS FOR MODEL YEAR 2001

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 49 USC 329

CFR Citation: 49 CFR 533

Legal Deadline: None

Abstract: The agency is establishing the fuel economy standards for manufacturers of light truck fleets for model year 2001. At the direction of Congress, the standard is the same as the 20.7 mpg previously established for MY 2000. Therefore, there is no need for a notice of proposed rulemaking. This action is considered significant because of substantial public interest.

Section 322 of the FY 1999 DOT Appropriations Act precludes the agency from expending any funds to prepare, propose, or promulgate any fuel economy standard that differs from those currently in effect. The agency cannot consider any other alternative standards that may result in lower costs, lesser burdens, or more cost-effectiveness for state, local or tribal governments or the private sector. The agency has, therefore, not prepared a written assessment of this rule for the purposes of the Unfunded Mandates Act.

Timetable:

Action	Date	FR Cite
Final Rule	04/07/99	64 FR 16860
Final Action Effective	06/07/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH52

2627. UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC ch 4

CFR Citation: 23 CFR 1200; 23 CFR 1205

Legal Deadline: None

Abstract: The agency established new uniform procedures governing the implementation of State highway safety programs by amending previous requirements to provide a more flexible system under which States are responsible for setting highway safety goals and implementing programs to achieve those goals. These new procedures are issued to provide guidance to the States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/26/97	62 FR 34397
Interim Final Rule Effective	06/26/97	
Comment Period End	08/11/97	
Final Action	07/28/99	64 FR 40757
Final Action Effective	08/27/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal, State, Local

Additional Information: The RIN 2127-AG69 under which the action was originally opened was inadvertently closed in association with another unrelated action.

Agency Contact: John Donaldson, Senior Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AH53

2628. PROCEDURES FOR PARTICIPATION IN AND RECEIVING DATA FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 30301

CFR Citation: 23 CFR 1327

Legal Deadline: None

Abstract: This final rule authorizes the Commandant of the Coast Guard to request and receive information from the National Driver Register (NDR) regarding the motor vehicle driving records of any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of an uniformed service who is assigned to the Coast Guard). This final rule establishes the procedures for such individuals to request, and for the Commandant to receive, NDR information.

Timetable:

Action	Date	FR Cite
Final Action	04/20/99	64 FR 19269
Final Action Effective	05/20/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: This action is the same as Extend Participation in the National Driver Register Program, 2127-AG90.

Agency Contact: Heidi L. Coleman, Assistant Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1834

RIN: 2127–AH54

2629. BUMPER STANDARD REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 301; 49 USC 325

CFR Citation: 49 CFR 571.108; 49 CFR 581

Legal Deadline: None

Abstract: This technical amendment removes from the bumper standard the protective criteria referring to visibility requirements of the lighting standard. This section of the lighting standard no longer exists. The references to SAE standards are also obsolete. A final rule is appropriate.

Timetable:

Action	Date	FR Cite
Final Action	04/05/99	64 FR 16359
Final Action Effective	04/05/99	
Correction	09/10/99	64 FR 49092

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Orron Kee, Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0846
Fax: 202 366-2739

RIN: 2127–AH59

2630. INSURER REPORTING REQUIREMENTS FOR OCTOBER 1999

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 33112

CFR Citation: 49 CFR 544

Legal Deadline: None

Abstract: The agency is proposing to update its lists in the appendices of the passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experience. If these revised appendices are adopted in a final rule, each insurer included in any of these appendices must file a report for the 1996 calendar year not later than October 25, 1999. Further, as long as the insurer remains listed, it must submit reports by each subsequent October 25. Pursuant to the insurer reports and information, the agency requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft.

Timetable:

Action	Date	FR Cite
NPRM	05/14/99	64 FR 26352
NPRM Comment Period End	07/13/99	
Final Rule	10/25/99	64 FR 57393

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: See RIN 2127-AH05 for October 1998 updated appendices.

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH62

2631. • CHILD RESTRAINT ANCHORAGE SYSTEMS - PART 1

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.225; 49 CFR 596

Legal Deadline: None

Abstract: This action responds to some of the issues raised by petitions for reconsideration of the child restraint anchorage system requirements that was published March 5, 1999 (64 FR 10785 RIN 2127-AG50). This document responds to issues concerning the stringency and timing of requirements scheduled to go into effect September 1, 1999. These requirements were established by the March 5, 1999, final rule. We will be responding to further issues raised by the petitions in two other documents.

Timetable:

Action	Date	FR Cite
Final Rule	08/31/99	64 FR 47565
Final Action Effective	09/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Other issues raised by the petitioners are being addressed in RIN . 2127-AH85 - Stowable or Fold-Away Child Restraint Anchorages, and RIN 2127-AH86 - Child Retraint Anchorage Systems - Part 2.

Agency Contact: George Mouchahoir, Team Leader, Special Vehicles and Systems Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4919
Fax: 202 366-4329
Email: gmouchahoir@nhtsa.dot.gov

RIN: 2127–AH65

2632. • LOCATION OF ROLLOVER WARNING LABELS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575.105

Legal Deadline: None

Abstract: This action is in response to a petition for reconsideration of the utility vehicle label final rule published March 9, 1999 (64 FR 11723, RIN 2127-AG53). The agency has amended the utility vehicle and air bag warning label requirements to allow manufacturers to combine the rollover and air bag alert labels in one label. This final rule also prohibits the pictograms of the air bag label and the rollover warning label from touching when both labels are placed on the same side of the sun visor. This final rule provides manufacturers with additional flexibility to determine the location of the air bag and rollover warning labels in sport utility vehicles.

Timetable:

Action	Date	FR Cite
Final Action	08/30/99	64 FR 47119
Final Action Effective	09/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Versailles, Office of Planning and Consumer Programs, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2057

RIN: 2127–AH68

2633. • STOPPING DISTANCE TABLE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency has corrected errors in Table II of the braking standard published on March 10, 1995 (60 FR 13297, RIN 2127-AE21). These errors in the table affected the 30-mph stopping performance requirements for school buses.

Timetable:

Action	Date	FR Cite
Technical Amendment	09/07/99	64 FR 48564
Final Action Effective	10/07/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Soodoo, Division Leader, Vehicle Dynamics Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2720
Fax: 202 366-4329
Email: gsoodoo@nhtsa.dot.gov

RIN: 2127–AH70

2634. • UNIFORM TIRE QUALITY GRADING STANDARDS INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: In response to petitions for reconsideration of a final rule published on May 24, 1999 (64 FR 27921, RIN 2127-AG67) that rescinded the requirement that passenger car manufacturers provide general Uniform Tire Quality Grading Standards (UTQGS) information to purchasers and potential purchasers at the point of sale of new vehicles and instead required that such information be included in owners' manuals, with this notice, the agency has stayed the requirement for the inclusion of UTQGS information into the owner's manual for one year until September 1, 2000. The agency has also clarified an intended change in the May 24, 1999, final rule.

Timetable:

Action	Date	FR Cite
Final Action	09/27/99	64 FR 51920
Final Action Effective	09/27/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Rosalind Proctor, Division Chief, Consumer Programs Division, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4936
Fax: 202 366-4329
Email: rproctor@nhtsa.dot.gov

RIN: 2127–AH82

2635. • LISTING OF NONCONFORMING VEHICLES ELIGIBLE FOR IMPORTATION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 322; 49 USC 30141

CFR Citation: 49 CFR 593

Legal Deadline: None

Abstract: This final action amended the list of vehicles not originally manufactured to conform to all applicable Federal motor vehicle safety standards that the agency has decided to be eligible for importation. This list has been published as an appendix to the regulations that establish the procedures through which the agency makes import eligibility decisions. This amendment will add to the list all vehicles that the agency has decided to be eligible for importation since the list was last published on October 1, 1998.

Timetable:

Action	Date	FR Cite
Final Action	09/27/99	64 FR 51922
Final Action Effective	09/27/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Because this rule only furnishes information and imposes no regulatory requirement, the agency has good cause to dispense with a notice of proposed rulemaking to solicit comments on the rule.

Agency Contact: Coleman R. Sachs, Trial Attorney, Office of Chief Counsel, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5263
Email: csachs@nhtsa.dot.gov

RIN: 2127–AH88

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Prerule Stage

2636. +HOURS OF SERVICE ELECTRONIC RECORDKEEPING PROJECT

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 228

Legal Deadline: None

Abstract: In 1994, the Federal Railroad Administration (FRA) launched a major project to facilitate maintenance of hours-of-service records and submission of "excess service" reports in an electronic, rather than a paper, format. FRA is proposing a model waiver to railroads interested in maintaining electronic records for train and engine service employees. These employees compose the vast majority of those subject to the statutory limitations on hours of service. This project will eventually lead to the formal revision of 49 CFR 228. This is considered significant due to public interest.

Timetable:

Action	Date	FR Cite
Grant or Deny Waiver Application	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Kasminoff, Trial Attorney, Mail Stop 10, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6043

RIN: 2130–AB04

2637. TOURIST AND HISTORIC WORKING GROUP REGULATORY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: None

Legal Deadline: None

Abstract: The Tourist and Historic Working Group of the Railroad Safety Advisory Committee was established to review existing and proposed regulations for their appropriate applicability to one segment of FRA's small business customers, the tourist and historic railroads. In addition, the group is examining FRA's policy with respect to exercise of jurisdiction over railroads off the general system of rail transportation.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/96	
End Review	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking represents a long-term effort to review existing and proposed regulations for their appropriate applicability to tourist and historic railroads. The group was created in April of 1996 and met on June 17 - 18, 1996. Thus far, the group has reviewed the Steam Locomotive standards and FRA's Accident/Incident Reporting standards and provided recommendations regarding their applicability to the tourist and historic railroad industry. (See Notice of Meeting, 61 FR 54698.) The group is anticipated to next review the final rules on Track Safety Standards, Rail Passenger Service: Emergency Preparedness, and Railroad Communications.

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6052

RIN: 2130–AB12

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

2638. +WHISTLE BANS AT HIGHWAY-RAIL GRADE CROSSINGS

Regulatory Plan: This entry is Seq. No. 96 in Part II of this issue of the **Federal Register**.

RIN: 2130–AA71

2639. +LOCOMOTIVE CAB WORKING CONDITIONS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address crew working conditions on locomotives, pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated a variety of locomotive working conditions, including sanitation, noise and temperature, and reported its findings to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues, and established the Locomotive Crew Safety Working Group. The Working Group created a Noise Task Group and a Temperature Task Group, and those task groups are meeting regularly to address employee exposure to noise and temperature extremes. The Working Group has met on several occasions and is addressing sanitation in locomotive cabs. This project is considered significant because of substantial public interest. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM(sanitation)	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

DOT—FRA

Proposed Rule Stage

Additional Information: As originally proposed, this rulemaking addressed both crew working conditions on locomotives and the crashworthiness of locomotives. However, in anticipation of issuing two distinct rulemakings, FRA has separated crashworthiness of locomotives out from the original proposal (RIN 2130-AB23).

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6052

RIN: 2130–AA89

2640. +POSITIVE TRAIN CONTROL

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 220; 49 CFR 236

Legal Deadline: None

Abstract: Consistent with Congressional mandate, FRA has continued its commitment to identifying high risk corridors which may better support PTC investment; supporting PTC technology development, testing and compatibility; and promoting deployment of PTC technology on high risk corridors in the near future. In September, 1997, FRA initiated joint fact finding efforts through the Railroad Safety Advisory Committee (RSAC) Working Group on PTC. The advice and recommendations of RSAC will form the basis for proceeding to an NPRM. The initial rulemaking will address technical standards for PTC, amending 49 CFR part 236.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: FRA has separated out of this rulemaking its action entitled Radio Communication, which revised its radio rules for more flexibility and to include requirements for the presence of radios and/or some means of wireless communication (RIN 2130-AB19).

Agency Contact: Cynthia Walters, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6064

RIN: 2130–AA94

2641. +LOCOMOTIVE CRASHWORTHINESS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: Final, Statutory, March 3, 1995.

Abstract: The agency has proposed to address the crashworthiness of locomotives pursuant to the Rail Safety Enforcement and Review Act (1992). FRA investigated locomotive crashworthiness, as well as a variety of locomotive working conditions (See RIN 2130-AA89) and reported its finding to Congress. On October 31, 1996, the Railroad Safety Advisory Committee (RSAC) accepted a preliminary planning task to schedule handling of these issues. The Locomotive Crew Safety Working Group met on January 23, 1997 to develop task statements that were forwarded to the full RSAC and accepted on June 24, 1997. This project is considered significant because of substantial public interest. FRA is awaiting advice and recommendations from RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
Open Meeting Notice	07/22/94	59 FR 37528
Report to Congress	09/18/96	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking was originally included in RIN 2130-AA89, Locomotive Cab Working Conditions.

Agency Contact: David T. Matsuda, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6046

RIN: 2130–AB23

2642. ROADWAY EQUIPMENT SAFETY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: FRA proposes to publish regulations governing operational and design safety of on-track equipment used by railroads for track maintenance. The regulations would cover self-propelled rail-mounted non-highway machines where light weight exceeds 7500 pounds. This rulemaking was requested by the Brotherhood of Maintenance-of-Way Employees (BMWE) as part of the organization's petition requesting revision of the track safety standards. FRA decided to respond to this portion of the BMWE petition in a rulemaking separate from the track safety standards revision. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: This rulemaking is an off-shoot of the rulemaking to revise the track safety standards. FRA has changed the title of the current entry to the Unified Regulatory Agenda, which was originally entitled "Roadway Maintenance Machine Safety" to more accurately reflect what this action is expected to address.

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6047

RIN: 2130–AB28

2643. +JOINT STATEMENT OF SAFETY POLICY FOR SHARED USE OF GENERAL RAILROAD SYSTEM TRACKAGE BY CONVENTIONAL RAILROAD AND RAIL TRANSIT TRAINS

Priority: Other Significant

Legal Authority: 49 USC 20103

DOT—FRA

Proposed Rule Stage

CFR Citation: 49 CFR 209

Legal Deadline: None

Abstract: The Joint Policy Statement of the Federal Railroad Administration (FRA) and the Federal Transit Administration (FTA) will explain the nature of the most important safety issues related to joint use of the general railroad system by conventional and light rail equipment. It will briefly summarize FRA's exercise of its jurisdiction over these operations, help transit authorities, railroads and other interested parties understand how the respective safety authority of the two agencies will be coordinated, and express both FRA's and FTA's commitment to work together closely to ensure the safety and viability of these operations. It is considered significant because it involves multiple departmental modes. FRA will also issue its own statement of policy elaborating on its safety jurisdiction and providing additional guidance on how approval of shared use may be obtained from FRA.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement	05/25/99	64 FR 28238
Comment Period Extended	07/28/99	64 FR 40931
Extension of Comment Period	10/28/99	64 FR 59046
Comment Period End	10/29/99	
Comment Period End	01/14/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David H. Kasminoff, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6043

RIN: 2130–AB33

2644. EVENT RECORDER CRASHWORTHINESS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: FRA will propose improvements in the crashworthiness of event recorders and will propose additional requirements for data capture and recording for event recorders installed in new and rebuilt locomotives. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Thomas A. Phemister, Trail Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6050

RIN: 2130–AB34

2645. • REVISION TO RAILROAD SAFETY ENFORCEMENT PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 209

Legal Deadline: None

Abstract: This action will revise and update FRA's enforcement procedures to reflect a variety of changes that have taken place since they were last modified. The issues that this action is expected to address include the recodification of the railroad safety laws, changes in internal procedures, and changes in programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John A. Winkle, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6067

RIN: 2130–AB35

2646. • RULES OF PRACTICE

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 211

Legal Deadline: None

Abstract: This action will revise and update FRA's rulemaking procedures, and the procedures for participation in the rulemaking process, such as petitions for rulemaking, petitions for reconsideration, and petitions for waiver. These procedures will be modified to reflect the recodification of the railroad safety laws,and changes in the application of FRA's regulatory procedures that have developed over time.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Colleen A. Brennan, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 493-6028

RIN: 2130–AB36

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Final Rule Stage

2647. LOCAL RAIL FREIGHT ASSISTANCE TO STATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 22101

CFR Citation: 49 CFR 266

Legal Deadline: None

Abstract: This action is to revise the procedures and requirements for the receipt of financial assistance contained in part 266. These changes are required to reflect statutory modifications resulting from the Local Rail Service Reauthorization Act of 1989. The Local Freight Assistance Program has not been reauthorized after FY 1995. However, final regulations are necessary because States continue to submit applications for new projects to be funded from loan funds repaid to States by previous borrowers. FRA is reconsidering the need for these regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/30/90	55 FR 49648
NPRM Comment Period End	12/31/90	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Additional Information: While this action was to be terminated in October of 1995, the agency reconsidered and has decided to move forward with a final rule.

ANALYSIS: Regulatory Evaluation, 11/30/90, 55 FR 49648

Agency Contact: JoAnne McGowan, Chief Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-3290

RIN: 2130–AA60

2648. +FREIGHT CAR SAFETY STANDARDS: MAINTENANCE-OF-WAY EQUIPMENT

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 215

Legal Deadline: None

Abstract: This action proposes to amend the freight car safety standards to subject all maintenance-of-way vehicles to FRA's safety standards, with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This action is considered significant because of substantial public and industry interest.

Timetable:

Action	Date	FR Cite
NPRM	03/10/94	59 FR 11238
NPRM Comment Period End	02/27/95	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The original NPRM comment period ended on 4/11/94 but was twice extended; first, to 11/28/94 (59 FR 49374) and then to 02/27/95 (59 FR 67266). Due to various contentious issues raised during the NPRM comment period, FRA believed it might be advantageous to resolve differences in an open forum. Therefore, on September 30, 1997, FRA formally proposed this rulemaking as a new task (Task 97-8) for the Railroad Safety Advisory Committee (RSAC). After discussion, the RSAC declined to accept the task at that time. Staff turnover, combined with the press of other business, has slowed further action on this rulemaking.

ANALYSIS: Regulatory Evaluation, 03/10/94, 59 FR 11238

Agency Contact: Billie Stultz, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6053

RIN: 2130–AA68

2649. MAINTENANCE, INSPECTION, AND TESTING OF GRADE-CROSSING SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 234

Legal Deadline: Final, Statutory, June 22, 1989.

Abstract: FRA is making technical changes and minor amendments to final regulations which were published on September 30, 1994. These regulations require that railroads take specific and timely actions to protect the travelling public and railroad employees from the hazards posed by malfunctioning highway-rail grade crossing warning systems, and that railroads follow specific standards for maintenance, inspection, and testing of those systems. The amendments clarify issues arising from implementation of this new regulatory program. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/20/96	61 FR 31802
Comment Period End	07/22/96	
Interim Final Rule Effective	08/19/96	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: The final rule, RIN 2130-AA70, was published 9/30/94 (59 FR 50086), and was effective 1/1/95. In response to a petition for reconsideration, FRA conducted a review, together with rail labor and rail management, to address various implementation issues that had surfaced since the rule was enacted. After meeting with these parties in March 1995, FRA issued an Implementation Manual on April 14, 1995. An interim final rule intended to clarify implementation issues by making minor technical amendments was published on June 20, 1996, effective August 19, 1996. Response to the comments on that interim rule may result in further amendment of the rule.

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AA97

DOT—FRA

Final Rule Stage

2650. STATEMENT OF POLICY REGARDING SAFETY OF RAILROAD BRIDGES

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: FRA proposes to publish a policy statement containing maintenance guidelines based on certain common, basic principles that characterize effective bridge management practices. The guidelines are meant to be advisory in nature. They will not have the force of regulations under which FRA ordinarily issues violations and assesses civil penalties.

Timetable:

Action	Date	FR Cite
Statement of Interim Policy	04/27/95	60 FR 20654
Comment Period End	06/26/95	
Final Policy Statement	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AA99

2651. REINVENTION OF REGULATIONS ADDRESSING DISCONTINUANCE OR MODIFICATION OF SIGNAL SYSTEMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 235

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA intends to revise part 235 by reducing the list of circumstances for which signal system discontinuance approval is required. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB05

2652. REINVENTION OF SIGNAL SYSTEM REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20501 to 20505

CFR Citation: 49 CFR 233

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, FRA is amending its signal system reporting requirements (part 233) to reduce signal system reporting burdens on the rail industry. No new costs are expected.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/01/96	61 FR 33871
Comment Period End	07/31/96	
Interim Final Rule Effective	08/30/96	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB06

2653. REINVENTION OF STEAM LOCOMOTIVE INSPECTION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20701

CFR Citation: 49 CFR 230

Legal Deadline: None

Abstract: Pursuant to the President's Regulatory Reform Initiative, and at the initiative of several industry members, FRA has undertaken to modernize part 230 to reflect current operating realities and, perhaps, to allow greater flexibility in the steam locomotive inspection waiver process. On July 24-25, 1996, the agency tasked the revision of these standards to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). (See Notice of RSAC Meeting, July 10, 1996, 61 FR 36415.) On February 17, 1998, the RSAC submitted to FRA consensus recommendations for issuance of an NPRM.

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 51404
NPRM Comment Period End	11/24/98	
Public Hearing - Notice	01/12/99	64 FR 1791
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing was held on February 4, 1999 in Corpus Christi, Texas.

Agency Contact: Paul F. Byrnes, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6032

RIN: 2130–AB07

2654. FLORIDA OVERLAND EXPRESS HIGH SPEED RAIL RULE OF PARTICULAR APPLICABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 243

Legal Deadline: None

Abstract: FRA published a proposed rule of particular applicability for a high speed rail project in Florida. As proposed, the system would operate from Miami to Tampa via Orlando, and would be modeled on the French TGV. A consortium of engineering and design firms, and the state of Florida entered into an agreement to develop the project, which they anticipated would commence operations in 2004. However, FRA has been informed that the State has withdrawn support and funding for the project. Therefore, FRA has suspended work on final standards.

Timetable:

Action	Date	FR Cite
NPRM	12/12/97	62 FR 65478
NPRM Comment Period End	02/10/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: A Public Regulatory Conference was held on November 23, 1998.

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6052

RIN: 2130–AB14

2655. SMALL RAILROADS; POLICY STATEMENT ON ENFORCEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 601 et seq; PL 104-121; 49 USC 20101 et seq

CFR Citation: 49 CFR 209

Legal Deadline: Other, Statutory, March 29, 1997, 180 Days to Final Rule.

Abstract: The Small Business Regulatory Enforcement Act (SBREFA) of 1996 requires, among other things, that Federal agencies establish communication and enforcement programs to address the unique concerns and operations of small entities.

Pursuant to SBREFA, FRA published communication and enforcement policies with respect to small entities in an Interim Statement of Agency Policy and undertook an interim definition of "small entity" in this process. Also, FRA invited comment from the public for the purpose of adopting a new definition of "small entity" in the future. FRA plans to schedule a public meeting in the near future with all interested parties to discuss this issue. Following the public meeting, FRA will issue its Final Statement of Policy

Timetable:

Action	Date	FR Cite
Interim Policy Statement	08/11/97	62 FR 43024
Interim Policy Statement Effective	10/10/97	
Comment Period End	11/30/97	
Final Policy Statement	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local

Additional Information: A public meeting was held on September 28, 1999. (See 64 FR 46468, 8/25/99).

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6052

RIN: 2130–AB15

2656. +POWER BRAKE REGULATIONS: FREIGHT POWER BRAKE REVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 232; 49 CFR 231; 49 CFR 229

Legal Deadline: Final, Statutory, December 31, 1993.

Abstract: Pursuant to the Federal Railroad Safety Enforcement and Review Act of 1992, FRA is revising the power brake rules. After separating proposed revisions regarding freight power brakes from passenger power brakes, FRA tasked the revision of freight power brake standards on April 1-2, 1996 to the Railroad Safety Advisory Committee (RSAC), established by FRA on March 26, 1996 (61 FR 9740). On June 24, 1997, this task was withdrawn from RSAC and FRA is proceeding on its own initiative. This rulemaking is considered significant because of its potential economic impact and congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48294
Notice of Public Hearing	10/08/98	63 FR 54104
Extension of Comment Period	01/21/99	64 FR 3273
NPRM Comment Period End	03/01/99	
Public Meeting - Notice	05/04/99	64 FR 23816
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A portion of the task to revise the power brake rules has been completed. FRA revised the existing power brake regulations to mandate the use of two-way end-of-train telemetry devices, RIN 2130-AA73, in a final rule published on January 2, 1997 (62 FR 278). Furthermore, rules regarding the inspection and testing of passenger equipment and brake systems were developed with the assistance of a passenger equipment standards working group, and a final rule was issued May 12 1999 (64 FR 25540). (See RIN 2130-AA95).

Agency Contact: Thomas Herrmann, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6036

RIN: 2130–AB16

DOT—FRA

Final Rule Stage

2657. USE OF ONE-PERSON CREWS IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of one-person crews, FRA proposes to promulgate an interim final rule to prohibit, except in carefully controlled instances, the use of one-person operations. FRA will require all railroads which propose to use one-person crew operations to enroll in a pilot program and agree to conform to the safety conditions set forth by FRA. The purpose of the pilot program is to determine under what conditions, if any, one-person crew operations can be safely operated.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of one-person crew and remote control operations was held by FRA on December 4 and 5, 1996 (61 FR 58736, November 18, 1996).

Agency Contact: Christine Beyer, Deputy Assistant Chief Counsel, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6052

RIN: 2130–AB18

2658. +REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, ACQUISITIONS OF CONTROL AND START-UP OPERATIONS

Regulatory Plan: This entry is Seq. No. 97 in Part II of this issue of the **Federal Register**.

RIN: 2130–AB24

2659. BRIDGE WORKER SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 214

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will amend the Bridge Worker Safety Rules through promulgation of an interim final rule. The interim final rule will likely prohibit the use of safety belts as fall protection, but would continue to require the use of harnesses, which are more commonly used in present industry practice. The interim final rule would also make technical clarifications to the existing standards. This action is supported by the industry and is consistent with new policies of the Occupational Safety and Health Administration. Data shows that safety belts present unnecessary safety risks, and are generally disfavored by companies involved with working at heights.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gordon Davids, Bridge Engineer, Office of Safety, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-6320

RIN: 2130–AB25

2660. +AMENDMENT OF REGULATIONS GOVERNING RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

Priority: Other Significant

Legal Authority: 45 USC 821 et seq; PL 105-78

CFR Citation: 49 CFR 260

Legal Deadline: None

Abstract: This action would amend the current regulations by replacing the railroad financing programs with a new loan and loan guarantee program. Section 7203 of the Transportation Equity Act for the 21st Century authorizes the Secretary of Transportation to provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures, that include at least one railroad. This is significant because a total of $3.5 billion has been authorized for the program and the rule may have an annual effect on the economy of $100 million or more until the principal cap of $3.5 billion is reached.

Timetable:

Action	Date	FR Cite
NPRM	05/20/99	64 FR 27488
NPRM Comment Period End	06/21/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: JoAnne McGowan, Chief Freight Programs Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 493-3290

RIN: 2130–AB26

2661. PLANNING ACTIVITIES UNDER THE MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 23 USC 322

CFR Citation: 49 CFR 268

Legal Deadline: Other, Statutory, December 9, 1998, See Additional Information.

Abstract: This action is required by section 1218(a) of the Transportation Equity Act for the 21st Century ("TEA 21"). This section, codified at 23 USC 322, provides a total of $55 million for Fiscal Years 1999 through 2001 for preconstruction planning activities, final design, engineering, and construction activities for the deployment of Magnetic Levitation technology ("Maglev Deployment Program"). Section 322 requires FRA to establish Project selection criteria, to solicit applications for funding, to select one or more Projects to receive financial assistance for preconstruction planning activities, and after completion of such activities, to select

one of the Projects to receive financial assistance for final design, engineering, and construction activities. This Interim Final Rule, as amended, solicits applications for the initial planning funds under the Maglev Deployment Program, with a deadline of February 15, 1999 for receipt of applications for preconstruction planning grants. The next amendment of this interim final rule will extend other dates relevant to this program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/13/98	63 FR 54600
Interim Final Rule Effective	11/16/98	
Interim Final Rule Amendment	02/12/99	64 FR 7133
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: 180 days after enactment of section 322 (12/09/98) the Secretary is to solicit applications from states. 90 days after the deadline for receipt of applications, (05/15/99) the Secretary is to evaluate applications and select one or more eligible projects to receive financial assistance for preconstruction planning activities. Potential grantees must know what is expected of them to start the process and for the Secretary to meet these deadlines.

Agency Contact: Neil E. Moyer, Chief, Program Development Division, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6365

RIN: 2130–AB29

2662. ANNUAL ADJUSTMENT OF MONETARY THRESHOLD FOR REPORTING RAIL EQUIPMENT ACCIDENTS/INCIDENTS

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 225

Legal Deadline: None

Abstract: This annual determination establishes the monetary threshold for reporting rail equipment accidents/incidents involving railroad property damage. This action ensures and maintains comparability between different years of data by having the threshold keep pace with fluctuations in equipment and labor costs. It is required by statute. The reporting threshold is based on the formula adopted in a final rule 5/18/96, 61 FR 60632. This agenda entry will be updated each year to show the latest annual determination. Cites for determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Annual Determination	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The 1998 final rule of 12/30/98, 63 FR 71790 established at $6,600 the monetary threshold for accidents/incidents that occur during calendar year 1999. There is no change from calendar year 1998. The 1997 final rule of 2/2/97, 62 FR 63675 increased the monetary threshold from $6,500 to $6,600. The 1996 final rule of 11/29/96, 61 FR 60632 increased the monetary threshold from $6,300 to $6,500.

Agency Contact: Nancy Friedman, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6034

RIN: 2130–AB30

2663. DETERMINATION OF MINIMUM TESTING RATE FOR RANDOM DRUG AND ALCOHOL TESTING

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 219

Legal Deadline: None

Abstract: Each year FRA announces the minimum random drug and alcohol testing rates for the following year for the railroad industry. This determination is based on a review of rail industry drug and alcohol management information system data, as well as data from compliance reviews of rail industry drug and alcohol testing programs. Procedures were established in a final rule 12/2/94, 59 FR 62218. The minimum random drug testing rate continues to be 25 percent of covered railroad employees for 1999. This agenda entry will be updated each year to show the latest annual determination. Cites for determinations already issued are provided below.

Timetable:

Action	Date	FR Cite
Annual Determination	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: In the notice of determination of 12/30/98, 63 FR 71789 the minimum random drug and alcohol testing rate for calendar year 1999 remained at 25 percent of covered railroad employees. In the notice of determination of 2/18/98, 63 FR 8143 the minimum rate remained at 25 percent for calendar year 1998.

Agency Contact: Patricia V. Sun, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6060

RIN: 2130–AB31

2664. TRACK SAFETY STANDARDS AMENDMENT TO ADDRESS GAGE RESTRAINT MEASUREMENT SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: A Gage Restraint Measurement System (GRMS) is a non-destructive performance-based technology that objectively measures track gauge restraint capacity of crossties and rail fasteners by applying known lateral and vertical loads to track structure, measuring the gauge deflection under those loads, and then projecting what the gauge would become under severe track loading conditions. From this data, a gauge widening ratio is calculated as a measure of overall track strength. In the NPRM to revise the Track Safety Standards (62 FR 36138, July 3, 1997), FRA acknowledged that the Track Working Group which helped draft the NPRM was unable to agree upon a proposal that would permit railroads to

DOT—FRA **Final Rule Stage**

use GRMS to determine compliance with crosstie fastener requirements. FRA requested public comments regarding the use of GRMS as an alternative or additional track inspection method. In the final rule revising the Track Safety Standards (63 FR 33992, June 22, 1998), FRA reported that it had received various comments about the use of GRMS and that an amendment to the Track Safety Standards addressing GRMS would be published later in a separate final rule.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: This action was originally contemplated as part of the Track Safety Standards (RIN 2130-AA75) which were issued June 22, 1998 (63 FR 33992).

Agency Contact: Nancy Lummen Lewis, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6047

RIN: 2130–AB32

2665. • REVISED DOCKET FILING PROCEDURES FOR FEDERAL RAILROAD ADMINISTRATION RULEMAKING AND ADJUDICATORY DOCKETS

Priority: Info./Admin./Other

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 211; 49 CFR 235; 49 CFR 238; 49 CFR 240

Legal Deadline: None

Abstract: This action will revise FRA's docket filing procedures. The final rule will reflect the consolidation of FRA's docket operations with those of other Department of Transportation operating elements, and the conversion from a paper based system to an optical imaging system. It will also provide details of new docket filing procedures for FRA regulatory and adjudicatory proceedings, and amend certain FRA rules to provide accurate information to the public regarding filing requirements for FRA proceedings.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark H. Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB37

Department of Transportation (DOT)
Federal Railroad Administration (FRA) **Long-Term Actions**

2666. AMTRAK WASTE DISPOSAL

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-610

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The National and Community Service Act requires the Secretary of Transportation to promulgate such regulations as may be necessary to mitigate the impact of discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Yachmetz, Department of Transportation, Federal Railroad Administration, Office of Safety, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 493-6289

RIN: 2130–AA84

2667. BLUE SIGNAL AND RELATED PROTECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 218

Legal Deadline: None

Abstract: FRA is in the process of reconsidering amendments to its "Blue Signal" regulations, which prescribe minimum requirements for the protection of railroad employees engaged in the inspection, testing, repair, and servicing of rolling equipment. In a final rule issued in 1993, FRA allowed augmentation of a crew by using a "utility" employee, which would increase a railroad's efficient use of its employees under secure procedures to ensure proper coordination within the work group. Based on petitions to reconsider several aspects of its final rule treating this subject, FRA issued amendments to this rule. One of those amendments dealt not with utility employees, but with lone workers. Based on comments received, the agency suspended that amendment and reopened the comment period to further develop this proposal. As resources permit, FRA will issue a proposed rule addressing this issue and other important blue signal issues.

Timetable:

Action	Date	FR Cite
Final Rule Amendments	03/01/95	60 FR 11047
Comment Period End	05/01/95	
Comment Period Reopened	06/09/95	60 FR 30469
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: The final rule on utility employees was published August 16, 1993 (58 FR 43287), RIN 2130-AA77. FRA has changed the title of the current entry to the Unified Regulatory Agenda, which was originally titled "Protection of Utility Employees" to more accurately reflect what this action is expected to address.

Agency Contact: Paul F. Byrnes, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590

Phone: 202 493-6032

RIN: 2130–AA90

2668. CRANE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In response to a petition for rulemaking, FRA will consider whether to adopt regulations governing functional and design safety of on-track railroad cranes used for track maintenance. FRA is awaiting the advice and recommendations of RSAC before taking further regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Edward R. English, Director, Office of Safety Assurance and Compliance, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6321

RIN: 2130–AB27

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Completed Actions

2669. QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 240

Legal Deadline: None

Abstract: Based on petitions to reconsider several aspects of its previous rules addressing locomotive engineer qualifications, the agency is proposing to revise certain aspects of part 240: (1) the application of this rule to service vehicles; and (2) the process for revoking the certification of locomotive engineers.

Timetable:

Action	Date	FR Cite
NPRM	09/22/98	63 FR 50626
NPRM Comment Period End	11/23/98	
Final Action	11/08/99	64 FR 60966
Final Action Effective	01/07/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: On October 31, 1996, FRA tasked the revisions of these qualifications to the Railroad Safety Advisory Committee (RSAC), which the agency established on March 26, 1996 (61 FR 9740). See Notice of RSAC Meeting, 61 FR 54698, Oct. 21, 1996. On May 14, 1998, FRA received the advice and recommendations of the RSAC, which submitted consensus recommendations for issuance of an NPRM.

ANALYSIS: Regulatory Evaluation, 04/09/93, 58 FR 18982

Agency Contact: Alan Nagler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6049

RIN: 2130–AA74

2670. +ENVIRONMENTAL IMPACT AND RELATED PROCEDURES (FRA, FTA, FHWA)

Priority: Other Significant

Legal Authority: 49 USC 322; 42 USC 4332

CFR Citation: 49 CFR 267; 49 CFR 622; 23 CFR 771

Legal Deadline: None

Abstract: The Federal Railroad Administration (FRA) has reconsidered its previous intention to join with the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) in ongoing revisions to the current FHWA/FTA joint environmental regulation found at 23 CFR 771 (see RIN numbers 2132-AA43 (FTA and 2125-AD32 (FHWA)). The complexity of combining the processes of the three operating administrations outweighed the benefits, particularly in light of the very different statutory authorizations supporting the three programs. Instead, FRA has recently updated its own "Procedures for Considering Environmental Impacts" which were published in the Federal Register on May 26, 1999 (64 FR 28545). FRA will continue to pursue improved coordination of environmental reviews among the three operating administrations, particularly for FRA's high speed rail program, through non-regulatory means. The Department is also evaluating revisions to the DOT Order on NEPA to improve the ability of the DOT operating administrations to cooperate on NEPA issues.

Timetable:

Action	Date	FR Cite
Withdrawn	08/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: None

Agency Contact: William R. Fashouer, Senior Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6033

RIN: 2130–AA93

2671. +PASSENGER EQUIPMENT SAFETY STANDARDS

Priority: Other Significant

Legal Authority: 49 USC 20111 to 20113; 49 USC 20301 to 21311; PL 103-440, sec 215; 49 USC 20103; 49 USC 20133

CFR Citation: 49 CFR 238

Legal Deadline: Final, Statutory, November 2, 1997.
Final, Statutory, November 2, 1999.

Abstract: This action established comprehensive Federal safety standards for railroad passenger equipment in the first phase of a two-phased rulemaking effort, pursuant to the Federal Railroad Safety Authorization Act of 1994. This action addressed inspection, testing, and maintenance of passenger

DOT—FRA **Completed Actions**

equipment; equipment design and performance criteria related to passenger and crew survivability in the event of a train accident; and the safe operation of passenger train service, supplementing existing railroad safety standards. This is considered significant due to public interest. A final rule in the first phase of the rulemaking was published in May 1999.

The second phase of the rulemaking will draw on the results of ongoing research and industry-led passenger safety efforts, seeking to make specific improvements in safety. FRA will convene a working group to help develop the rulemaking in this second phase.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/96	61 FR 30672
NPRM	09/23/97	62 FR 49728
Notice of Public Hearing	10/23/97	62 FR 55204
NPRM Comment Period End	11/24/97	
Final Action (First Phase)	05/12/99	64 FR 25540

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: A public hearing on this rulemaking was held on November 21, 1997.

Agency Contact: Daniel Alpert, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6026

RIN: 2130–AA95

2672. USE OF REMOTELY CONTROLLED LOCOMOTIVES IN RAIL OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 229.7

Legal Deadline: None

Abstract: Concerned with the complex and immediate safety issues posed by rail operations involving the use of remotely controlled locomotives, FRA proposed to promulgate an interim final rule to conduct a nationwide pilot program on remote control operations. After further consideration, however, FRA has decided not to pursue this action at this time, and to respond to this issue through non-regulatory means.

Timetable:

Action	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: An Informal Safety Inquiry concerning a proposal by Wisconsin Central Ltd. to expand its use of remote control operations and one-person crews was held by FRA on December 4 and 5, 1997 (61 FR 58736, November 18, 1996).

Agency Contact: Mark Tessler, Trial Attorney, Department of Transportation, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 493-6061

RIN: 2130–AB17

Department of Transportation (DOT)
Federal Transit Administration (FTA) **Prerule Stage**

2673. • BUY AMERICA REQUIREMENTS; PERMANENT WAIVER FOR MICROCOMPUTERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 97-424

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: Section 165(b)(2) of the Surface Transportation Assistance Act of 1982 provides that a waiver of the Buy America requirements may be granted if materials and products being procured are not produced in the United States in sufficient and reasonable quantities and of satisfactory quality. Such a waiver was permanently granted in 1986 for microcomputers, as FTA grantees were experiencing difficulty in purchasing domestically produced microcomputer equipment appropriate to their needs. At that time, FTA reserved the right to reassess the need for a waiver based on the changing market for microcomputers. Since both the international and domestic market for microcomputers has changed since the permanent waiver was issued, FTA is soliciting comments as to whether this waiver should be revoked, modified or retained.

Timetable:

Action	Date	FR Cite
ANPRM	10/08/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Meghan Ludtke, Attorney Advisor, Department of Transportation, Federal Transit Administration, Room 9316, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA68

Department of Transportation (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

2674. +DEPARTMENT OF TRANSPORTATION (FTA, FHWA) AND RELATED PROCEDURES FOR TRANSPORTATION DECISIONMAKING

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5304(e); 42 USC 4321; 23 USC 109; 23 USC 128; 23 USC 138; 23 USC 315; 49 USC 303(c); 33 USC 401; 33 USC 491 et seq; 33 USC 511 et seq; 33 USC 525 et seq; 33 USC 535

CFR Citation: 49 CFR 622; 23 CFR 771; 40 CFR 1500 to 1508; 49 CFR 1.48(b); 49 CFR 1.51; 33 CFR 114.05

Legal Deadline: Final, Statutory, May 18, 1992.

Abstract: The Federal Transit Administration and the Federal Highway Administration currently have a joint environmental regulation at 23 CFR 771, "Environmental Impact and Related Procedures." Nevertheless, each agency's guidance for implementing those regulations is procedurally different. This causes difficulties and inconsistencies for sponsors of transportation projects, particularly where joint FTA and FHWA funds are involved. In the ISTEA, the Congress recognized the importance of providing uniformity and consistency between FTA and FHWA environmental procedures.

In addition, TEA-21 directed the Secretary of Transportation to develop a streamlined and coordinated environmental review process for highway and transit projects involving permits of environmental reviews by other Federal agencies. This rulemaking will implement, in part, the requirements of ISTEA and TEA-21. This action is considered significant because of substantial congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: The corresponding FHWA RIN is 2125-AD32.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA43

2675. +CLEAN FUELS FORMULA GRANT PROGRAM

Priority: Other Significant

Legal Authority: PL 105-178, sec 3008; 49 USC 5308

CFR Citation: 49 CFR 624

Legal Deadline: None

Abstract: Section 3008 of the Transportation Equity Act for the 21st Century establishes the Clean Fuels Formula Grant Program. This grant program will assist transit systems in purchasing or leasing clean fuel vehicles; constructing clean fuel or electrical re-charging facilities; modifying existing garage facilities to accommodate clean fuel vehicles; repowering pre-1993 engines with clean fuel technology which meets the current bus emission standards; and retrofitting or rebuilding pre-1993 engines before their half-life for rebuilding. This provision requires the Secretary to issue an implementing regulation that sets forth eligibility requirements and an apportionment formula for eligible projects. In FY 1999, all funds were apportioned to earmarked projects. This action is considered significant because of considerable congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Scheryl Portee, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Email: scheryl.portee@fta.dot.gov

RIN: 2132–AA64

2676. +STATEWIDE METROPOLITAN PLANNING

Priority: Other Significant

Legal Authority: 49 USC 5305-5309; 23 USC 104(f); 23 USC 134; 42 USC 7410 et seq.

CFR Citation: 49 CFR 613; 49 CFR 1.48(b); 49 CFR 1.51; 23 CFR 450

Legal Deadline: None

Abstract: In this action, FTA and FHWA are jointly proposing to revise the regulations governing the development of transportation plans and programs for urbanized (metropolitan) areas and States. These revisions are the product of statutory changes made by the Transportation Equity Act for the 21st Century (TEA-21), which requires a continuous, comprehensive, and coordinated process in metropolitan areas and States. The regulations at 23 CFR part 450 and 49 CFR part 613 are being modified to reflect the impacts of TEA-21. These changes are being proposed in concert with revisions to regulations concerning environmental impact and related procedures.

The intent of these changes is to more effectively link planning regulations and environmental streamlining regulations to facilitate integration of decisions, reduce paperwork and analytical activity, where feasible, and to refine procedures and processes to achieve greater efficiency in decisionmaking.

In addition, the agencies believe that an integrated approach to planning and project development will contribute to more effective and environmentally sound decisions regarding investment choices. This action is considered significant because of substantial congressional and public interest.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

DOT—FTA **Proposed Rule Stage**

Additional Information: The corresponding FHWA RIN is 2125-AE62.

Agency Contact: Scott Biehl, Assistant Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0952

RIN: 2132–AA66

2677. • STATE SAFETY OVERSIGHT; RAIL FIXED GUIDEWAY SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5330

CFR Citation: 49 CFR 659

Legal Deadline: None

Abstract: On the basis of State Safety Oversight audits that the Federal Transit Administration has been conducting over the past year, the agency will propose several changes to the rule, including requiring states to oversee the safety of rail fixed guideway systems in the planning, design, and construction phases. This regulation was previously reported under RIN 2132-AAA39 and RIN 2132-AA59.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Roy Field, Transit Safety & Security Specialist, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0197

2678. • REQUIREMENT FOR THIRD-PARTY CONTRACTING WITH FTA RECIPIENTS

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 49 CFR 635

Legal Deadline: None

Abstract: Federal Transit Administration grantees must comply with FTA Circular 4220.1D, "Third-Party Contracting Requirements." FTA proposes to put that circular into regulatory form. FTA is undertaking this action based on the belief that procurement regulations will make the third-party contracting process more equitable and understandable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Agency Contact: Michael E. Connelly, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011
Fax: 202 366-3809
Email: michael.connelly@fta.dot.gov

RIN: 2132–AA70

2679. • PREVENTION OF ALCOHOL MISUSE AND DRUG USE IN TRANSIT OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5331

CFR Citation: 49 CFR 655; 49 CFR 1.51

Legal Deadline: None

Abstract: The Federal Transit Administration proposes to combine its current drug (part 653) and alcohol (part 654) testing regulations into a new part 655. FTA will also incorporate various amendments and interpretations since this rule became effective.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Agency Contact: Michael E. Connelly, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011
Fax: 202 366-3809
Email: michael.connelly@fta.dot.gov

RIN: 2132–AA71

Department of Transportation (DOT)
Federal Transit Administration (FTA) **Final Rule Stage**

2680. +BUS TESTING

Priority: Other Significant

Legal Authority: 49 USC 5323(c)

CFR Citation: 49 CFR 665

Legal Deadline: None

Abstract: This regulation implements a statutory provision that requires any new bus model purchased after September 30, 1989, to be tested at a facility established by the Secretary in Altoona, PA. This regulation is significant because of the large amount of public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/25/89	54 FR 22716
NPRM Comment Period End	07/24/89	
Interim Final Rule	08/23/89	54 FR 35158
Comment Period Reopened	11/30/89	54 FR 49297
Interim Final Rule: Second	10/09/90	55 FR 41174
Interim Procedures	09/13/91	56 FR 46572

DOT—FTA

Final Rule Stage

Action	Date	FR Cite
Interim Final Rule New Vehicle Types	07/28/92	57 FR 33394
Interim Final Rule Partial Effectiveness Postponed	10/13/92	57 FR 46814
Interim Final Rule Comment Period Reopened to 01/29/93	01/07/93	58 FR 2989
Interim Final Rule Partial Effectiveness Postponed	02/23/93	58 FR 10989
Notice of Meeting	02/26/93	58 FR 11549
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Former section 12(h) of the FT Act, as amended (now 49 USC 5302(a)(9)), defines a "new bus model" as a bus model which has not been used in mass transportation service in the United States before the date of production of such model, or a bus model which has been used in such service, but which is being produced with a major change in configuration or components. A third interim final rule, published on 07/28/92, added two new categories of buses required to be tested. On 10/13/92 FTA published a notice postponing the application of the interim final rule for these vehicle types until 02/10/93. The FTA's fourth interim final rule, issued on 11/3/93, established four subcategories of small vehicles to facilitate the phase-in of testing. The final rule will add the two tests mandated by ISTEA, brake performance and emissions, to the seven tests currently performed at the bus testing facility. In addition, the final rule will clarify the partial testing with regard to what constitutes a "major change" on a bus that has been fully tested, but is later produced with a change in configuration or component.

ANALYSIS: Regulatory Evaluation, 07/28/92, 57 FR 33394

Agency Contact: Richard Wong, Attorney-Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936

RIN: 2132–AA30

2681. CHARTER SERVICES DEMONSTRATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 102-240, sec 3040

CFR Citation: 49 CFR 604

Legal Deadline: Final, Statutory, September 18, 1992.

Abstract: This rulemaking presents the results and conclusions drawn from the charter services demonstration program, previously reported under RIN 2132-AA40, which was mandated by section 3040 of the Intermodal Surface Transportation Efficiency Act. That provision directed FTA to conduct a demonstration program in four states to permit public operators to provide needed charter services to certain civic and community groups. In addition to setting forth program results, this rulemaking sought recommendations regarding improvements to the charter service regulation. However, based on a review of the comments received, the FTA has determined that there is no justification for changing the rule. Consequently, the agency will be withdrawing the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	06/23/97	62 FR 33793
NPRM Comment Period End	08/22/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Elizabeth S. Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA58

2682. BUY AMERICA REQUIREMENTS; AMENDMENT TO CERTIFICATION PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-178, sec 3020(b)

CFR Citation: 49 CFR 661.11; 49 CFR 661.13

Legal Deadline: None

Abstract: This action would amend FTA's Buy America regulation, 49 CFR 661 in accordance with section 3020(b) of the Transportation Equity Act for the 21st Century. Section 3020(b) allows a bidder on an FTA-funded contract to correct an incomplete certification or a certification of noncompliance with Buy America resulting from an inadvertent or clerical error.

Timetable:

Action	Date	FR Cite
NPRM	02/18/99	64 FR 8051
NPRM Comment Period End	04/19/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Meghan Ludtke, Attorney Advisor, Department of Transportation, Federal Transit Administration, Room 9316, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4011

RIN: 2132–AA62

2683. +MAJOR CAPITAL INVESTMENT PROJECTS

Priority: Other Significant

Legal Authority: 49 USC 5309; PL 105-178, Sec 3009(e)

CFR Citation: 49 CFR 611

Legal Deadline: NPRM, Statutory, October 7, 1998.
Final, Statutory, December 7, 1998.

Abstract: This rulemaking will establish the criteria by which FTA will evaluate major capital investment mass transportation projects and rate those projects in comparison with one another, based on an analyses of alternatives, justifications for projects, and degrees of local financial commitment. This rulemaking will also codify the procedures applicants for Federal transit capital funding must follow in developing fixed guideway ("New Starts") projects. This action is considered significant because of potential public, congressional, and environmental concerns.

DOT—FTA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 17061
Notice of Meeting	05/13/99	64 FR 25864
NPRM Comment Period End	07/06/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard P. Steinmann, Director, Office of Policy Development, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1739

RIN: 2132–AA63

2684. SCHOOL BUS OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5323(f)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: This rulemaking proposes to amend the definition of "tripper" service, which is mass transit service modified to meet the needs of school students and personnel. The amended definition would prohibit the use of certain signage without the express written permission of the FTA Administrator, and provides that tripper buses must stop only at stops that are marked as available to the public.

Timetable:

Action	Date	FR Cite
NPRM	05/03/99	64 FR 23590
NPRM Comment Period End	07/02/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Elizabeth S. Martineau, Attorney Advisor, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1936
Fax: 202 366-3809

RIN: 2132–AA67

2685. • +JOINT STATEMENT OF SAFETY POLICY FOR SHARED USE OF GENERAL RAILROAD SYSTEM TRACKAGE BY CONVENTIONAL RAILROAD AND RAIL TRANSIT SYSTEMS

Priority: Other Significant

Legal Authority: 49 USC 20103

CFR Citation: 49 CFR 209

Legal Deadline: None

Abstract: The Joint Policy Statement of the Federal Transit Administration (FTA) and the Federal Railroad Administration (FRA) will explain the nature of the most important safety issues related to joint use of the general railroad system by conventional and light rail equipment. It will briefly summarize FRA's exercise of its jurisdiction over these operations, help transit authorities, railroads and other interested parties understand how the respective safety authority of the two agencies will be coordinated, and express FTA's and FRA's commitment to work together closely to ensure safety and viability of these operations. It is considered significant because it involves multiple departmental modes.

Timetable:

Action	Date	FR Cite
Proposed Policy Statement	05/25/99	64 FR 28238
Final Policy Statement	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: The corresponding FRA RIN is 2130-AB33.

Agency Contact: Gregory B. McBride, Deputy Chief Counsel, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4063
Fax: 202 366-3809

RIN: 2132–AA73

Department of Transportation (DOT)
Federal Transit Administration (FTA)

Completed Actions

2686. PROPOSED EXPANDED REPORTING OF SAFETY AND SECURITY PORTION OF THE NATIONAL TRANSIT DATABASE

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5335

CFR Citation: 49 CFR 630

Legal Deadline: None

Abstract: The FTA had intended to evaluate Form 405, Transit Safety and Security, of the National Transit Database to determine its future direction. In this evaluation, FTA was to consider the objectives of the form, the current potential usefulness of the data, and the overall strengths and weaknesses of it. Based on the evaluation, FTA would then identify and implement improvements to the collection of Transit Safety and Security data. This initiative has been subsumed, since both the FTA and the Department have determined the need for a more comprehensive review of its data collection procedures, in general. The Department is also reviewing how it collects safety data. Consequently, there is no need to issue this ANPRM and FTA, therefore, is terminating this action.

Timetable:

Action	Date	FR Cite
Withdrawn	08/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: Judy Meade, Director, Office of Safety and Security, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-2896
Fax: 202 366-2979

RIN: 2132–AA60

DOT—FTA

Completed Actions

2687. • +CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: PL 105-178, sec 1501 to 1504

CFR Citation: 49 CFR 80; 49 CFR 261; 49 CFR 640; 23 CFR 180

Legal Deadline: None

Abstract: This action is required by the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA). It would establish a new credit assistance program for surface transportation projects; and the process by which the DOT, through FTA, the FHWA, and the FRA, will administer the credit assistance. TIFIA authorizes DOT to provide secured (direct) loans, line of credit, and loan guarantees to public and private sponsors of eligible surface transportation projects. Projects will be evaluated and selected by the Secretary of Transportation. The Unfunded Mandates Reform Act does not apply to the type of credit assistance involved in the TIFIA program. "Federal mandate" as defined in the act, excludes financial assistance of the type involved in the TIFIA program. The action is considered significant because of the extent to which highway, transit, and rail projects will be assisted under the TIFIA program.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 5996
NPRM Comment Period End	03/10/99	
Final Action	06/02/99	64 FR 29742
Final Action Effective	08/02/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: The corresponding FHWA RIN is 2125-AE49.

Agency Contact: Paul Marx, Office of Budget and Policy, Department of Transportation, Federal Transit Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1734

RIN: 2132–AA72

Department of Transportation (DOT)

Research and Special Programs Administration (RSPA)

Prerule Stage

2688. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY AIRCRAFT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 48 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: Part 175 is being revised and rewritten in order to simplify and clarify the requirements, further align them with the international requirements (ICAO) and eliminate obsolete requirements.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses, Governmental Jurisdictions

Government Levels Affected: None

Additional Information: Docket No. HM-228.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD18

2689. HAZARDOUS MATERIALS: AIR CARRIER EMERGENCY TELEPHONE NUMBER REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: The notice solicits comments on the merits of safety recommendations from the National Transportation Safety Board to require that air carriers transporting hazardous materials have the means, 24 hours per day, to quickly retrieve and provide consolidated specific information about the identify and location of all hazardous materials on an aircraft in a timely manner to emergency responders.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-206C

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC
Phone: 202 366-8553

RIN: 2137–AD29

2690. • HAZARDOUS MATERIALS: CARGO TANK ROLLOVER REQUIREMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: State, Local or Tribal Governments

Legal Authority: 49 USC 5102 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: The purpose of this advance notice of proposed rulemaking is to request comments concerning the need, if any, for amending the Hazardous Materials Regulations with regard to standards for cargo tank rollover protection devices on specification DOT 406, 407 and 412 cargo tank motor vehicles

DOT—RSPA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: HM Docket: HM-213A

Agency Contact: Jennifer Karim, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD34

2691. • HAZARDOUS MATERIALS: ADOPTION OF LATEST IAEA AND OTHER MISCELLANEOUS REVISIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking proposes to harmonize the requirements for the packaging and transportation of Class 7 (radioactive) materials with the International Atomic Energy Agency (IAEA) Regulations for the safe transportation of Radioactive Material and the UN Recommendations.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-230.

Agency Contact: Charles E. Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD40

Department of Transportation (DOT)
Research and Special Programs Administration (RSPA)

Proposed Rule Stage

2692. QUANTITY LIMITATIONS ABOARD AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: This action responded to a petition for rulemaking that proposed to remove the fifty-pound limit on the quantity of hazardous materials that may be stowed in an inaccessible cargo location on passenger-carrying aircraft. Comments to the NPRM indicated that further evaluation is needed. RSPA has decided to withdraw this proposal and consider the petition for rulemaking in its overall revision of 48 CFR Part 175, in HM-228, RIN 2317-AD18.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	
To Be Withdrawn	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: This project was formerly entitled: Limitation Aboard Aircraft. Docket HM-192. A related rulemaking is "Prohibition of Oxidizers Aboard Aircraft," HM-224A, RIN 2127-AC92. The proposal will be considered as part of HM-228, RIN 3217-AD18.

ANALYSIS: Regulatory Evaluation, 02/13/85, 50 FR 6013

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AA85

2693. PIPELINE SAFETY: GAS GATHERING LINE DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: The existing definition of "gathering line" would be clearly defined to eliminate confusion in distinguishing these pipelines from transmission lines in rural areas. The costs should be minimal since the definition will conform to prevailing practices in government and industry.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48505
Request for Comments	03/11/99	64 FR 12147
Electronic Public Meeting	04/13/99	
Extension of Comment Period	04/30/99	64 FR 23256
Comment Period Ends	07/07/99	
SNPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4868 (Formerly PS-122).

ANALYSIS: Regulatory Evaluation, 09/25/91, 56 FR 48505

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AB15

DOT—RSPA

Proposed Rule Stage

2694. DOT 3AL ALUMINUM CYLINDERS; SAFETY PROBLEMS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Certain DOT 3AL cylinders made of aluminum alloy 6351 have been discovered developing cracks during service, and occasionally leaks developed that resulted in loss of contents. The ANPRM was to alert and inform all persons possessing these cylinders of the problems, identify those cylinders at risk, and suggest steps to minimize risks. The NPRM will address the safety issues.

Timetable:

Action	Date	FR Cite
ANPRM	07/10/87	52 FR 26027
ANPRM Comment Period End	08/10/87	
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-176A. Some safety issues originally considered by this action are being addressed with Docket HM-220, RIN 2137-AA92.

ANALYSIS: Regulatory Evaluation

Agency Contact: Charles Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AB51

2695. AREAS UNUSUALLY SENSITIVE TO ENVIRONMENTAL DAMAGE (USAS)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1994.

Abstract: In response to a statutory mandate, this action will establish criteria for identifying areas near hazardous liquid pipelines that are unusually sensitive to environmental damage if a pipeline accident occurs. The criteria are being developed in consultation with the Environmental Protection Agency and other agencies. Criteria for identification of unusually sensitive areas will be pilot-tested in 1999.

Timetable:

Action	Date	FR Cite
Supplemental Notice	06/22/94	59 FR 32178
Extended Comment Period End	06/26/95	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-140. Was originally Docket PS-130B, "Environmentally Sensitive Areas," for part 194. Changed to address part 195. A series of public workshops were conducted in 1996 and 1997. Additional workshops will be scheduled as necessary. Pilot testing of USA guidance is now underway in cooperation with the American Petroleum Institute.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4561

RIN: 2137–AC34

2696. +EMERGENCY FLOW RESTRICTING DEVICES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1996.

Abstract: This rulemaking would specify those circumstances under which operators of hazardous liquid pipelines are required to use emergency flow restricting devices (EFRDs) or other procedures, systems, and equipment to detect and locate pipeline ruptures and minimize releases. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/94	59 FR 2802
ANPRM Comment Period End	04/19/94	
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-133. A public workshop was held on 10/19/95 (60 FR 44822). This action is being coordinated with other rulemakings on onshore oil spill response plans (Docket No. PS-130; RIN 2137-AC30), areas unusually sensitive to environmental damage (Docket No PS-140; RIN 2137-AC34), and pipeline leak detection systems (Docket No. RSPA 97-2362; RIN 2137-AD05). These actions are being pursued in coordination with, and as part of the response to, the EFRD mandate.

First, RSPA has required pipeline operators to develop and carry out onshore oil spill response plans under the Oil Pollution Act of 1990 (Docket No. PS-130; RIN 2137-AC30). The operators have filed response plans under an interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. Work is proceeding on a 'one plan' approach that would allow an operator to file only one oil spill response plan with the various interested agencies. A final rule will be directed toward improving operators' accident response capabilities and minimizing accident consequences.

Second, RSPA published a proposed rule to adopt the American Petroleum Institute's (API) pipeline leak detection system technical standard (Standard API 1130, Computational Pipeline Monitoring) to guide industry implementation of computer-based leak detection systems (Docket No. RSPA-97-2362, RIN 2137-AD06). This proposal would require that operators of hazardous liquid pipelines use API 1130 in conjunction with other information in the design, evaluation, operation, maintenance, and testing of their software-based leak detection systems. This will result in a significant advancement toward the acceptance of leak detection technology on hazardous

DOT—RSPA **Proposed Rule Stage**

liquid pipelines. This is a necessary precedent to the possible adoption of regulations on emergency flow restricting devices.

Third, RSPA is working with the Environmental Protection Agency, the U.S. Coast Guard, and others to develop a definition of "areas unusually sensitive to environmental damage from pipeline spills" (Docket No. PS-140; RIN 2137-AC34). This effort will define areas that are candidates for the application of EFRDs.

Agency Contact: L. Ulrich, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4556

RIN: 2137–AC39

2697. PIPELINE SAFETY: PERIODIC UNDERWATER INSPECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This action would require operators of natural gas and hazardous liquid pipelines to conduct periodic underwater inspections of offshore pipelines and those in navigable waterways. This action would also define what constitutes an exposed underwater pipeline and what constitutes a hazard to navigation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-3001.

Agency Contact: Melaine Barber, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4595

RIN: 2137–AC54

2698. +APPLICABILITY OF THE HAZARDOUS MATERIALS REGULATIONS TO LOADING, UNLOADING, AND STORAGE

Regulatory Plan: This entry is Seq. No. 98 in Part II of this issue of the **Federal Register**.

RIN: 2137–AC68

2699. HAZARDOUS MATERIALS: REQUIREMENTS FOR CARGO TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking proposes to revise and clarify certain manufacturing, maintenance and use requirements pertaining to cargo tank motor vehicles in the Hazardous Materials Regulations. FHWA inspections have resulted in a preliminary determination that these regulations need to be amended to make them more practical, understandable, and enforceable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: HM-213.

Agency Contact: Jennifer Karim, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590 Phone: 202 366-8553 Email: rules@rspa.dot.gov

RIN: 2137–AC90

2700. FURTHER REGULATORY REVIEW; GAS PIPELINE SAFETY STANDARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: This action would change miscellaneous gas pipeline safety standards to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic change. Some of the proposed changes result from RSPA's further review of the standards following its 1995-1996 review under the President's Regulatory Reinvention Initiative. Other changes are based on recommendations by the National Association of Pipeline Safety Representatives (NAPSR) in its November 1992 report on the standards. The proposed changes would reduce costs in the pipeline industry without compromising safety.

NAPSR and the pipeline industry formed a working group to consider the NAPSR proposals and other issues. On May 3, 1999, this group submitted its evaluations of the proposed changes in the gas pipeline safety regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-124. The NAPSR report was published November 9, 1993, at 58 FR 59431, as part of the earlier review of the standards.

Agency Contact: Richard Huriaux, Director, Technology & Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4565

RIN: 2137–AD01

2701. +PIPELINE SAFETY: RECOMMENDATIONS TO CHANGE HAZARDOUS LIQUID PIPELINE SAFETY STANDARDS

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 195

DOT—RSPA

Proposed Rule Stage

Legal Deadline: None

Abstract: In 1995, the National Association of Pipeline Safety Representatives (NAPSR) completed its review of the hazardous liquid pipeline safety regulations. NAPSR provided RSPA with 28 recommendations for changes to 49 CFR part 195, the hazardous liquid pipeline regulations. NAPSR's recommendations are aimed at making the regulations more explicit, understandable, and enforceable. This action would address the need to change Part 195 as NAPSR recommended.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2717.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AD10

2702. HAZARDOUS MATERIALS: REVISIONS TO STANDARDS FOR INFECTIOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposes to amend the Hazardous Materials Regulations to provide for the transport of infectious medical waste in bulk packagings, modify the exceptions for transporting biological products and diagnostic specimens without being subject to the regulations, and revise the definition, hazardous communication, and packaging requirements for other infectious substances to make them consistent with international transportation requirements. RSPA held a public meeting on the rulemaking via the internet.

Timetable:

Action	Date	FR Cite
ANPRM	09/02/98	63 FR 46844
ANPRM Comment Period End	12/01/98	
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-226. DMS Docket No. RSPA- 98-3971.

Agency Contact: Eileen Mack, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD13

2703. TRANSPORTATION OF HAZARDOUS MATERIALS; MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175; 49 CFR 176; 49 CFR 178; 49 CFR 180; 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174

Legal Deadline: None

Abstract: RSPA proposes to make routine, technical, and minor miscellaneous amendments to the Hazardous Materials Regulations based on petitions for rulemaking and RSPA initiative. Because some of the changes are substantive, RSPA will publish an NPRM to obtain public comments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. HM-218. This is a continuation of the rulemakings previously published under the miscellaneous HM-166 rulemaking docket series e.g., HM-166Z, Final Rule; 6/2/94 (59 FR 28487).

Agency Contact: Charles Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD16

2704. +HAZARDOUS MATERIALS TRANSPORTATION: REGISTRATION AND FEE ASSESSMENT PROGRAM

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: RSPA proposes to revise the registration fee structure to collect approximately $14.3 million to fund the Emergency Preparedness Grants Program to train responders. This action would double the registration program receipts and thus the monies available for distribution, primarily for State and tribal hazardous materials emergency response training and planning grants. The additional fees could come from existing registrants (certain shippers and carriers of hazardous materials), from newly required registrants, or from both.

Timetable:

Action	Date	FR Cite
NPRM	04/15/99	64 FR 18786
Public Hearing	05/05/99	
NPRM Comment Period Ends	06/14/99	
Notice of Extension of Comment Period	05/25/99	64 FR 28135
Public Hearing	05/25/99	
Public Hearing	06/22/99	
Public Hearing	06/22/99	
Comment Period End	07/02/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-208C.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590

DOT—RSPA

Proposed Rule Stage

Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD17

2705. HAZARDOUS MATERIALS: REVISION OF REQUIREMENTS FOR CARRIAGE BY RAIL CAR AND MOTOR VEHICLE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This rulemaking is based on a joint petition for rulemaking submitted by the American Trucking Associations, Inc. and the Association of American Railroads. This rulemaking proposes to revise the Hazardous Materials Regulations (HMR) found in 49 CFR parts 174 and 177. The intended impact of the rulemaking is to streamline the requirements of parts 174 and 177, enhance compliance with the HMR and to develop a positive impact on the land surface transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-227.

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD19

2706. HAZARDOUS MATERIALS: REVISIONS TO THE INCIDENT REPORTING REQUIREMENTS AND THE DETAILED HAZARDOUS MATERIALS INCIDENT REPORT DOT FORM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5105 to 5127

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: This rulemaking reviews the hazardous materials incident reporting regulations in 49 CFR part 171 including the hazardous materials incident report (form 5800.1). The goal of this rulemaking is to simplify, update and review the requirements while enhancing the ability of the Research and Special Programs Administration and the DOT modal administrations to gather information vital to increase safety of transporting hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/99	64 FR 13943
Comment Period End	06/21/99	
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: Docket No. HM-229.

Agency Contact: Diane LaValle, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD21

2707. PIPELINE SAFETY: CORROSION CONTROL ON GAS AND HAZARDOUS LIQUID PIPELINES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: The corrosion-control regulations for gas and hazardous liquid pipelines will be revised to incorporate the latest safety standards for corrosion protection of steel pipe. Specific criteria for corrosion protection will be incorporated into the federal pipeline safety regulations, including the adoption of voluntary standards of recognized standards-setting organizations. Comparable standards will be applied to both gas and hazardous liquid pipelines.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	04/07/99	64 FR 16885
NPRM (Hazardous Liquid Pipelines)	12/00/99	
NPRM (Gas Pipelines)	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Docket No. RSPA-97-2762. Notice of public meeting 10/29/97 (62 FR 56141).

Agency Contact: L.M. Furrow, Manager, Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559
Email: gopala.vinjamuri@rspa.dot..gov

RIN: 2137–AD24

2708. PIPELINE SAFETY: GAS AND HAZARDOUS LIQUID PIPELINE REPAIR

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

DOT—RSPA

Proposed Rule Stage

CFR Citation: 49 CFR 485; 49 CFR 487; 49 CFR 713

Legal Deadline: None

Abstract: Gas pipe that is generally corroded over a large area to the extent that wall thickness is unsafe must be replaced, unless in the case of transmission pipe, operating pressure is reduced. Similarly, any damage that impairs the serviceability of high-stress transmission pipe must be replaced, unless it is repaired by a full encirclement welded split sleeve. The proposed rule would permit operators to use alternative corrective methods that have been demonstrated to permanently restore the pressure integrity of corroded or damaged pipe. By allowing the use of less expensive proven technologies, the proposed rule would reduce costs in the gas pipeline industry without reducing safety.

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 16882
Comment Period Ends	06/07/99	
Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-4733

Agency Contact: L.M. Furrow, Manager, Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559
Fax: 202 366-4566
Email: buck.furrow@rspa.dot.gov

RIN: 2137–AD25

2709. PIPELINE SAFETY: PRESSURE TESTING OLDER PIPELINES IN TERMINALS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195.302

Legal Deadline: None

Abstract: Certain older pipelines in terminals and tank farms must be pressure tested before December 7, 2003. Based on a petition, RSPA is reconsidering this testing requirement in light of the risk and low operating stress of these pipelines. RSPA has stayed enforcement of the testing requirement against pipelines designed not to operate above 20 percent of specified minimum yield strength.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-4316. Notice requesting comment 2/10/98 (63 FR 6677) in Docket No. PS-121.

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD26

2710. HAZARDOUS MATERIALS: HAZARD COMMUNICATION REQUIREMENTS — PETITIONS FOR RULEMAKING AND MISCELLANEOUS AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: This rulemaking action would amend the Hazardous Materials Regulations (HMR) to continue improving the hazard communication requirements to better identify hazardous materials in transportation, in response to several petitions for rulemaking and RSPA initiatives. The primary areas that would be addressed are shipping papers, marking, labeling, and placarding requirements. In making improvements to the hazardous materials identification system in the HMR, the proposed action is intended to improve safety for transportation workers, emergency responders, and the public. The effect of the proposed regulatory action would be to simplify, clarify, correct, or provide relief from certain regulatory requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-206B

Agency Contact: Helen Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD28

2711. HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS EXEMPTIONS PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to the hazardous materials exemptions procedures of the hazardous materials procedural regulations and will result in a complete re-write of the exemptions procedures in language that is easier to understand. This action follows a previous rulemaking which involved re-writing the hazardous materials rulemaking procedures. These actions are being taken to update RSPA's procedural regulations in a new question and answer formate that will be more user friendly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Karin V. Christian, Attorney, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590

DOT—RSPA **Proposed Rule Stage**

Phone: 202 366-4400

RIN: 2137–AD30

2712. • +HAZARDOUS MATERIALS SAFETY: TRANSPORTATION OF OXYGEN CYLINDERS ON AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 175

Legal Deadline: None

Abstract: RSPA proposes to amend the Hazardous Materials Regulations to require cylinders of oxygen to be placed in an outer container that meets certain thermal and heat protections requirements when transported on aircraft. This rule has no impact on the use of passenger-owned oxygen cylinders. This rule is significant due to public interest.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: HM Docket HM-224B. A separate rulemaking addressing the use of passenger owned cylinders of oxygen during a flight is under RIN 2105-AC29.

Agency Contact: Diane LaValle, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD33

2713. • PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REQUIREMENTS (1999)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 et seq.

CFR Citation: 49 CFR 190-199

Legal Deadline: None

Abstract: This periodic update revises and updates the pipeline safety regulations to provide clarity and remove unnecessary burdens to the regulated pipeline community. Revisions include updated references to voluntary specifications and standards incorporated by reference in the pipeline safety regulations, and various clarifications and grammatical corrections. These updates reflect the most recent editions of each specification and standard incorporated by reference. These updates enable pipeline operators to utilize current technology, materials, and practices, thereby reducing cost and enhancing economic growth.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-99-6106

Agency Contact: R. Huriaux, Manager - Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AD35

2714. • HARMONIZATION WITH THE UNITED NATIONS RECOMMENDATIONS, INTERNATIONAL MARITIME DANGEROUS GOODS CODE, AND INTERNATIONAL CIVIL AVIATION ORGANIZATION'S TECHNICAL INSTRUCTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: RSPA proposes to amend the Hazardous Materials Regulations (HMR) to maintain alignment with the international standards by incorporating numerous changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air-transport quantity limitations and vessel stowage requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-215D.

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD41

2715. • PIPELINE SAFETY: PRODUCER-OPERATED OUTER CONTINENTAL SHELF GAS AND HAZARDOUS LIQUID PIPELINES THAT CROSS DIRECTLY INTO STATE WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 et seq

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This proposed rule would implement a provision of the December 10, 1996, Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and the Department of Transportation (DOT) regarding Outer Continental Shelf (OCS) Pipelines. This rule would address producer-operated pipelines that cross into State waters without first connecting a transporting operator's facility on the OCS. It is complementary to the Direct Final Rule (DFR) that addressed OCS oil or gas pipelines located upstream of the points at which operating responsibility for the pipelines transfers from a producing operator to a transporting operator (62 FR 61692, November 19, 1997; and 63 FR 126598, March 16, 1998). The proposed rule also would address the procedures by which producer and transportation pipeline operators would petition for permission to operate under either DOT or DOI

DOT—RSPA **Proposed Rule Stage**

regulations governing pipeline design, construction, operation, and maintenance according to the operational circumstances of their respective pipelines.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-99-6132.

Agency Contact: L.E. Herrick, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5523

RIN: 2137–AD42

Department of Transportation (DOT)
Research and Special Programs Administration (RSPA) **Final Rule Stage**

2716. +REQUIREMENTS FOR CYLINDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking proposes amendments to the Hazardous Materials Regulations (HMR) to update and consolidate requirements for the manufacture, maintenance, requalification, repair, and use of compressed gas cylinders. RSPA is proposing changes affecting the manufacture of compressed gas cylinders, certain new DOT specifications for and to revise requirements applicable to the maintenance, requalification, and repair of all DOT specification cylinders (including those cylinders that may no longer be manufactured). RSPA also proposed to simplify the requirements for filling cylinders and consolidate and revise requirements applicable to persons who requalify cylinders. This rulemaking recognizes advances in cylinder manufacturing technology and will clarify and simplify regulatory requirements. This rulemaking, which affects persons who manufacture, requalify, repair, refill and use compressed gas cylinders, is of significant interest to the compressed gas industry.

Timetable:

Action	Date	FR Cite
NPRM	10/30/98	63 FR 58460
NPRM Comment Period End	05/28/99	
Extension of Comment Period	05/28/99	64 FR 28065
Comment Period Closed	09/30/99	
Final Rule	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Formerly entitled Review: Consolidation of Specifications for High-Pressure Seamless Cylinders. Docket No. HM-220.

Agency Contact: Charles Betts, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AA92

2717. +MAPS AND RECORDS OF PIPELINE LOCATIONS AND CHARACTERISTICS; NOTIFICATION OF STATE AGENCIES; PIPE INVENTORY

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, November 1, 1989.

Abstract: This action proposes to equalize as far as possible the requirements that gas and hazardous liquid pipeline operators keep maps and records to show the location and other characteristics of pipelines. Operators would be required to keep an inventory of pipe and periodically report mileage and other facts. In addition, operators would be required to provide certain information to State agencies upon request. This is a significant action because of congressional and State concerns about the need for appropriate public officials to have pipeline information.

Timetable:

Action	Date	FR Cite
Terminate	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: In furtherance of this rulemaking, the Department of Transportation's Office of Pipeline Safety (OPS) is working with other Federal and State agencies and pipeline industry to create a national pipeline mapping system. This system, when complete, will show the location and selected attributes of the major natural gas and hazardous liquid pipelines and liquefied natural gas facilities operating in the United States. OPS will add additional data layers into the system, including layers on population densities, unusually sensitive areas, natural disaster probability and high consequence areas, hydrography, and transportation networks. OPS will use the system to depict pipelines in relation to the public and the environment, and to work with other government agencies and industry during an incident.

A joint government/industry Mapping Quality Action Team (MQAT II) has drafted national pipeline mapping standards that will be used to create the digital pipeline layer. These include

DOT—RSPA **Final Rule Stage**

standards for electronic data submissions, paper map submissions, and metadata (data on the data). The team has also drafted standards that will be used by the pipeline mapping repository receiving the pipeline information. The team is currently pilot testing the draft standards and is working to establish relationships with State agencies, industry, and others to exchange data that meets the standards.

Agency Contact: Christina Sames, Petroleum Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4561

RIN: 2137–AB48

2718. DETERMINING THE EXTENT OF CORROSION ON EXPOSED GAS PIPELINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Gas pipeline operators must now inspect for corrosion on buried metallic pipe that is exposed by excavation. If any corrosion is discovered, this rulemaking would require operators to investigate further to determine the full extent of the corrosion. A similar investigation is already required for hazardous liquid pipelines. NTSB has recommended that this proposal be adopted to establish an equivalent level of safety for gas pipelines. In light of NTSB interest, this rule will be finalized, and other corrosion issues will be addressed in a separate rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/27/89	54 FR 27041
NPRM Comment Period End	09/25/89	
Notice of Availability of Draft Environmental Assessment	05/25/99	64 FR 28136
Final Rule	10/22/99	64 FR 56978

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-107. A separate proceeding to review all corrosion control requirements in 49 CFR parts 192 and 195 is now underway. (Docket No. RSPA-97-2762; 62 FR 44436; Aug. 21, 1997). A notice of availability of the draft environmental assessment was published on May 25, 1999.

ANALYSIS: Regulatory Evaluation, 06/27/89, 54 FR 27041

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4559

RIN: 2137–AB50

2719. PASSAGE OF INTERNAL INSPECTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking established minimum Federal pipeline safety standards requiring that new and replacement gas transmission and hazardous liquid pipelines be designed to accommodate the passage of internal inspection devices. In response to petitions for reconsideration of the final rule, an additional NPRM was issued proposing to limit the rule with respect to new and existing offshore gas transmission lines and the replacement of onshore gas transmission lines in rural areas.

Timetable:

Action	Date	FR Cite
NPRM	11/20/92	57 FR 54745
NPRM Comment Period End	01/19/93	
Final Rule	04/12/94	59 FR 17275
NPRM	09/30/94	59 FR 49896
NPRM Correction	10/19/94	59 FR 52863
Limited suspension of Enforcement	02/07/95	60 FR 7133
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-126. The integrity testing proposal in "Proposals for Pipeline Safety," RIN 2137-AB27, was consolidated, in part, into this rulemaking.

ANALYSIS: Regulatory Evaluation, 04/12/94, 59 FR 17275

Agency Contact: R. Huriaux, Manager - Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-4565

RIN: 2137–AB71

2720. TANK CARS AND CARGO TANK MOTOR VEHICLES: ATTENDANCE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 174; 49 CFR 177

Legal Deadline: None

Abstract: This action establishes standards to allow the use of electronic surveillance and monitoring equipment (signalling systems) for unloading tank cars and to revise other unloading requirements for tank cars. This action would recognize recent technological innovations and improve safety during the loading/unloading of bulk quantities of hazardous materials.

Timetable:

Action	Date	FR Cite
NPRM	09/14/92	57 FR 42466
NPRM Comment Period End	12/14/92	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-212.

ANALYSIS: Regulatory Evaluation, 09/14/92, 57 FR 42466

Agency Contact: Susan Gorsky, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590 Phone: 202 366-8553 Email: rules@rspa.dot.gov

RIN: 2137–AC24

DOT—RSPA

Final Rule Stage

2721. +RESPONSE PLANS FOR ONSHORE OIL PIPELINES

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 194

Legal Deadline: Final, Statutory, August 18, 1992.

Abstract: The interim final rule established regulations requiring response plans for certain onshore oil pipelines. Those regulations are mandated by the Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (Pub. L. 101-380). Pipeline operators filed response plans under this interim final rule, and numerous tabletop exercises and area exercises have been conducted to validate the planning process. The purpose of these requirements is to improve response capabilities and minimize the impact of onshore oil spills from pipelines. This rule is significant because of substantial public and congressional interest.

The final rule will reflect the experience gained under the interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/05/93	58 FR 244
Comment Period End	02/19/93	
Notice of Public Meeting	06/15/94	59 FR 30755
Notice of Public Hearing	11/29/96	61 FR 60679
Correction	01/21/97	62 FR 2989
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. PS-130.

ANALYSIS: Regulatory Evaluation, 01/05/93, 58 FR 244

Agency Contact: James Taylor, Response Plans Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8860

RIN: 2137–AC30

2722. PIPELINE SAFETY: UNDERWATER ABANDONED PIPELINE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, April 24, 1994.

Abstract: This action will require operators of gas and hazardous liquid pipeline facilities to report certain information about abandoned underwater pipelines, including location, size, date of abandonment, and compliance with applicable laws. The information will be available for use by other Federal agencies and state authorities.

Timetable:

Action	Date	FR Cite
NPRM	08/30/99	64 FR 47157
Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-97-2094.

Agency Contact: Melaine Barber, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4595

RIN: 2137–AC33

2723. FILLING OF PROPANE CYLINDERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: The ANPRM solicited comments on the merits of a petition for rulemaking to require registration and training of persons who fill propane cylinders, certification of filling equipment operators, and proof of financial responsibility. The petition would also allow filling of propane cylinders by volume rather than by weight, which is currently required by the hazardous material regulations. A Federal Register notice will terminate rulemaking action in this docket and deny the petition for rulemaking because, based on the comments, there is no safety justification for imposing the costs of a registration, training and financial responsibility program for cylinder fillers.

Timetable:

Action	Date	FR Cite
ANPRM	09/23/96	61 FR 43515
ANPRM Comment Period End	11/21/96	
To Be Withdrawn	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-220C.

Agency Contact: Eileen Mack, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC86

2724. +PROHIBITION OF OXIDIZERS ABOARD AIRCRAFT

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: RSPA has proposed to amend the Hazardous Materials Regulations to prohibit the carriage of oxidizers, including compressed oxygen, aboard passenger-carrying aircraft. The effect of this prohibition would limit oxidizers to accessible locations on cargo aircraft. The December 30, 1996, notice of proposed rulemaking analyzed Class D cargo compartments. The August 20, 1997 supplemental NPRM specifically analyzed the prohibition of oxidizers in Class B and C cargo compartments. This rulemaking is significant due to congressional and public interest in the hazards presented by these materials when transported as cargo on passenger aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68955

DOT—RSPA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	02/28/97	
SNPRM	08/20/97	62 FR 44374
Comment Period End	10/20/97	
Reopen Comment Period	11/28/97	62 FR 63306
Public Hearing	01/14/98	
Comment Period End	02/13/98	
Final Rule	08/19/99	64 FR 45388
Effective Date	03/11/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: HM-224A. See related actions, Prohibition of Oxygen Generators as Cargo in Passenger Aircraft (RIN 2137-AC89), 61 FR 26418 (May 24, 1996), 61 FR 68952 (December 30, 1996), and Hazardous Materials; Shipping Description and Packaging of Oxygen Generators (RIN 2127-AD02), 62 FR 30767 (June 5, 1999), 62 FR 34667 (June 27, 1999).

Agency Contact: Diane LaValle, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC92

2725. PIPELINE SAFETY: ADOPTION OF INDUSTRY STANDARDS FOR LIQUEFIED NATURAL GAS FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60128

CFR Citation: 49 CFR 193

Legal Deadline: None

Abstract: This action would replace most of the existing DOT standards governing the siting, design, and construction of liquefied natural gas facilities with an incorporation by reference of the 1996 edition of the National Fire Protection Association document, ANSI/NFPA 59A, "Production, Storage, and Handling of Liquefied Natural Gas." The action, which is based on an NFPA rulemaking petition, is expected to reduce costs to the gas pipeline industry without compromising safety.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70735
NPRM Comment Period End	03/23/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-3002. Notice of public meeting (63 FR 5918;2/5/98)

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AD11

2726. HAZARDOUS MATERIALS: REVISED AND CLARIFIED HAZARDOUS MATERIALS SAFETY RULEMAKING AND PROGRAM PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 106; 49 CFR 107

Legal Deadline: None

Abstract: This rulemaking will make minor substantive changes to Rulemaking Procedures and Hazardous Materials Program Procedures, 49 CFR parts 106 and 107 of the hazardous materials procedural regulations, and will result in a complete re-write of those parts in language that is easier to understand. This action is being taken in order to update RSPA's hazardous materials procedural regulations and to re-write the current requirements in a new question and answer format that will be more user-friendly. These changes are expected to be of interest to those persons and entities subject to the requirements of the hazardous materials regulations (49 CFR parts 171-180).

Timetable:

Action	Date	FR Cite
NPRM	12/11/98	63 FR 68624
NPRM Comment Period End	02/09/99	
Final Rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Additional Information: Docket No. RSPA-98-3974. (RSP-4)

Agency Contact: Karin Christian, Attorney, Room 8407, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4400
Email: rules@rspa.dot.gov

RIN: 2137–AD20

2727. PIPELINE SAFETY: ENFORCEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 190.209; 49 CFR 190.213

Legal Deadline: None

Abstract: This action will revise RSPA's pipeline safety enforcement procedures to minimize paperwork in uncontested cases where a person pays a proposed civil penalty or agrees to a proposed compliance order. The procedures will be changed to show that both responses are considered offenses in determining any future civil penalty assessments. These changes will streamline the enforcement process.

Timetable:

Action	Date	FR Cite
NPRM	08/12/99	64 FR 43972
Comment Period Ends	10/12/99	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

DOT—RSPA

Final Rule Stage

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-4284. The changes to part 190 modify agency rules of practice and procedure.

Agency Contact: Linda Daugherty, Enforcement Officer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4577
Email: daugherll@rspa.dot.gov

RIN: 2137–AD22

2728. • HAZARDOUS MATERIALS: LIMITED EXTENSION OF REQUIREMENTS FOR LABELING CERTAIN SHIPMENTS OF MATERIALS POISONOUS BY INHALATION (PIH)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 - 5127

CFR Citation: 49 CFR 171; 49 CFR 172

Legal Deadline: None

Abstract: The interim final rule responds to a June 17, 1999 petition for rulemaking. It would delay the implementation date of a new labeling provision for hazard communication relating to shipments of hazardous materials, including ones that are poisonous by inhalation (PIH). RSPA is delaying the mandatory compliance date for use of the new PIH labels for international shipments from October 1, 1999 to October 1, 2001. The good cause for not providing advance notice and comment is that, in the absence of this labeling change, shipments of U.S. export PIH materials with the new U.S. labels will be stopped by foreign officials of countries that do not recognize the new U.S. labeling requirement. The interim final rule is intended to facilitate international commerce and to provide more time for the UN Committee of Experts to consider U.S. proposals on adoption of the new labels and placards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-206D.

Agency Contact: Helen L. Engrum, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD37

2729. • HAZARDOUS MATERIALS: EDITORIAL CORRECTIONS AND CLARIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 178; 49 CFR 179

Legal Deadline: None

Abstract: The purpose of this Final Rule is to correct typographical and other editorial errors and to enhance the clarity of certain unclear provisions in the Hazardous Materials Regulations. No notice and comment are being provided because this rule merely makes editorial, non-substantive changes.

Timetable:

Action	Date	FR Cite
Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-189P.

Agency Contact: Michael Stevens, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, Washington, DC 2059-
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD38

2730. • HAZARDOUS MATERIALS: HAZARDOUS SUBSTANCES - ADDITIONS, REVISIONS AND DELETIONS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5107 to 5127

CFR Citation: 49 CFR 172.101 app A

Legal Deadline: None

Abstract: RSPA is making minor additions, revisions and deletions to the Hazardous Substance Reportable Quantities (RQ) table to reflect changes in title 42 CFR Section 302.4 Table which designates hazardous substances and their reportable quantities under the comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This action is necessary to comply with the Superfund Amendments and Reauthorization Act (SARA) of 1986, which amended the CERCLA regulations of 1980 to mandate RSPA regulate, under the Hazardous Materials Regulations, all hazardous substances designated by the Environmental Protection Agency (EPA).

Timetable:

Action	Date	FR Cite
Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: HM-145L.

Agency Contact: Michael Johnson, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD39

Department of Transportation (DOT)
Research and Special Programs Administration (RSPA)

Long-Term Actions

2731. +SAFEGUARDING FOOD FROM CONTAMINATION DURING TRANSPORTATION

Priority: Other Significant

Legal Authority: 49 USC 5701 to 5714

CFR Citation: 49 CFR 1

Legal Deadline: Final, Statutory, August 1, 1991.

Abstract: The Sanitary Food Transportation Act of 1990 (49 USC 5701 et seq.) requires the Secretary of Transportation, in consultation with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency, to issue regulations concerning the transportation of food, food additives, drugs, devices, and cosmetics in motor and rail vehicles also used to transport nonfood products that could pose an unreasonable danger to human or animal health when so transported. This rulemaking will implement the statutory requirements. This rulemaking is significant because of substantial public and congressional interest. RSPA's next action is undetermined because it has requested personnel resources from Congress necessary to perform these food safety functions.

Timetable:

Action	Date	FR Cite
ANPRM	02/20/91	56 FR 6934
04/29/91	03/21/91	56 FR 11982
NPRM	05/21/93	58 FR 29698
Notice of Public Hearing	05/21/93	
NPRM Comment Period End	10/18/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket FS-1. The Department has resubmitted to Congress legislation proposing to significantly change the responsibilities for this action.

ANALYSIS: Regulatory Evaluation, 05/21/93, 58 FR 29698

Agency Contact: Michael Johnson, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC00

2732. +INCREASED INSPECTION REQUIREMENTS

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This rulemaking would address the need for additional periodic inspection of gas and hazardous liquid pipelines in high-density, environmentally sensitive, or navigable waterway areas. The regulations would prescribe circumstances under which such inspections must be conducted by internal inspection devices or equivalent means. This action is considered significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
Public Workshop	10/18/95	60 FR 44821
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. PS-141.

Agency Contact: L. M. Furrow, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4559

RIN: 2137–AC38

2733. REGULATED GAS AND HAZARDOUS LIQUID GATHERING LINES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: Final, Statutory, October 24, 1995.

Abstract: This action would establish regulations for gas and hazardous liquid gathering lines in rural areas for which there are at present no safety regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Richard Huriaux, Director, Technology & Regulations, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4565

RIN: 2137–AC53

2734. RETENTION OF SHIPPING PAPERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 172; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177

Legal Deadline: None

Abstract: This action proposes to amend the Hazardous Materials Regulations by requiring shippers and carriers to retain a copy of the hazardous material shipping paper or an electronic image of the shipping paper for a period of one year. Retention of shipping papers is a current requirement as specified in 49 U.S.C. 5110(e). RSPA's next action is undetermined because there is pending proposed legislation on this subject that would clarify the time frame for beginning the one year cycle.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-207B.

Agency Contact: Deborah Boothe, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AC64

DOT—RSPA

Long-Term Actions

2735. +HAZARDOUS MATERIALS: SAFETY STANDARDS FOR UNLOADING CARGO TANK MOTOR VEHICLES IN LIQUEFIED COMPRESSED GAS SERVICE

Priority: Other Significant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178; 49 CFR 180

Legal Deadline: None

Abstract: This rulemaking enhances the safety of cargo tank motor vehicles in liquefied compressed gas service by clarifying and revising existing hazardous materials regulations and by adding new requirements and alternatives regarding emergency discharge control systems, hose management, and vehicle attendance requirements. This action affects all operators of cargo tank motor vehicles in liquefied compressed gas service and is expected to generate substantial public interest; it is therefore a significant rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/97	62 FR 44059
NPRM	03/22/99	64 FR 13856
Notice of Negotiated Rulemaking Committe Meeting	04/07/99	64 FR 16882
NPRM Comment Period End	04/21/99	
Final Rule	05/24/99	64 FR 28030
Final Rule Effective	07/01/99	
Final Rule & Response to Petition and Request for Comments	07/08/99	64 FR 36802
Comment Period End	09/07/99	
Response to Comments	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses

Government Levels Affected: None

Additional Information: Docket No. HM-225A. This rulemaking is related to docket HM-225 (DMS Docket No. RSPA 97-2133, RIN 2137-AC97). RSPA established an advisory committee to address issues in this rulemaking (negotiated rulemaking).

Agency Contact: Jennifer Karim, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW, Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD07

Department of Transportation (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2736. +PIPELINE SAFETY: QUALIFICATION OF PIPELINE PERSONNEL

Priority: Other Significant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192; 49 CFR 195

Legal Deadline: None

Abstract: This rulemaking would establish qualification standards for personnel who perform certain operation and maintenance functions on gas or hazardous liquid pipelines. The standards are needed to ensure that pipeline personnel can recognize, and react properly to, dangerous situations.

Timetable:

Action	Date	FR Cite
ANPRM	03/23/87	52 FR 9189
ANPRM Comment Period End	05/07/87	
NPRM	08/03/94	59 FR 39506
Notice of Public Hearing	09/07/94	59 FR 46219
NPRM Comment Period End	10/03/94	
Negotiated Rulemaking Committee	07/02/96	61 FR 34410
NPRM Withdrawn	07/02/96	61 FR 34413
NPRM	10/27/98	63 FR 57269
Notice of Public Meeting	02/02/99	64 FR 5018
Notice of Availability of Draft Environmental Assessment	06/03/99	64 FR 29834
Final Rule	08/27/99	64 FR 46853

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-98-3783. Formerly Docket No. PS-94, Pipeline Operator Qualifications. The proposals regarding certification of personnel and emergency response in "Proposals for Pipeline Safety," RIN 2137-AB27, have been consolidated into this rulemaking. Following withdrawal of an initial NPRM, a negotiated rulemaking committee considered alternatives and, by January 1998, reached consensus on a proposal to require pipeline operators to have and follow a personnel qualification program. A second NPRM based on this proposal was issued in October 1998. A notice of availability of the environmental assessment was published on June 3, 1999.

ANALYSIS: Regulatory Evaluation, 08/03/94, 59 FR 39506

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0918
Email: wymane@rspa.dot.gov

RIN: 2137–AB38

2737. PIPELINE SAFETY: ADOPTION OF INDUSTRY STANDARDS FOR BREAKOUT TANKS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: This action is incorporating by reference the applicable standards for breakout tank design and construction that are contained in American Petroleum Institute Standard 650-653 and other national standards. These standards are already widely followed in the pipeline industry. In developing this regulation, RSPA had the benefit of a Texas A&M study on breakout tanks and input from the pipeline industry and other commenters.

DOT—RSPA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	05/21/98	63 FR 27903
Comment Period End	07/20/98	
Final Action	04/02/99	64 FR 15926
Effective Date Changed	07/28/99	64 FR 40777

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: Docket No. RSPA-97-2095.

ANALYSIS: Regulatory Evaluation, 05/21/98, 63 FR 27908

Agency Contact: Mike Israni, General Engineer, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4571
Email: mike.israni@rpsa.dot.gov

RIN: 2137–AC11

2738. 1998 HARMONIZATION OF HAZARDOUS MATERIALS REGULATIONS WITH INTERNATIONAL STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5101 to 5127

CFR Citation: 49 CFR 171 to 180

Legal Deadline: None

Abstract: This rulemaking maintains harmonization of the Hazardous Materials Regulations (HMR) with international standards.

Because of recent changes to the International Maritime Dangerous Goods Code (IMDG), the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), these revisions are necessary to facilitate the transport of hazardous materials in international commerce.

The first final rule made urgent changes that were necessary to align the HMR with the IMDG and ICAO Technical Instructions. The second final rule addressed all other harmonization proposals contained in the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	63 FR 44312
NPRM Comment Period End	10/02/98	
Final Rule	10/29/98	63 FR 57929
Effective Date	01/01/99	
Final Rule	03/05/99	64 FR 10742
Response to Petitions & Miscellaneous Amendments	08/16/99	64 FR 44426
Federal Register Corrections	08/16/99	64 FR 44576

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: Docket No. HM-215C. comments submitted to RIN 2137-AC47, Docket No. HM-217 were considered in this docket.

ANALYSIS: Regulatory Evaluation, 04/15/98

Agency Contact: Joan McIntyre, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8553
Email: rules@rspa.dot.gov

RIN: 2137–AD15

2739. PIPELINE SAFETY: PERIODIC UPDATES TO PIPELINE SAFETY REGULATIONS (1998)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 60101 to 60125

CFR Citation: 49 CFR 192 to 195

Legal Deadline: None

Abstract: This rulemaking is designed to update the pipeline safety regulations on an annual basis. It will incorporate by reference the latest editions of consensus standards to allow operators to utilize current technology, materials, and practices. In addition, noncontroversial corrections and clarifications will be made. This annual update process is consistent with the President's goal of regulatory reinvention and improvement of customer service.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/17/98	63 FR 7721
Confirmation of Effective Date	03/16/98	63 FR 12659
Removal of Amendment	07/20/98	63 FR 38757
Correction of DFR	07/20/98	63 FR 38758

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: Docket No. RSPA-98-4732

Agency Contact: Eben Wyman, Transportation Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-0918
Email: wymane@rspa.dot.gov

RIN: 2137–AD23

2740. • PIPELINE SAFETY: RANDOM DRUG TESTING RATES

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 5121; 49 USC 60102 to 60104; 49 USC 60108; 49 USC 60117 to 60118; 49 USC 60124

CFR Citation: 49 CFR 199

Legal Deadline: None

Abstract: This proposed rule would have allowed the Administrator of the Research and Special Programs Administration to reduce the random drug testing rate for covered gas and hazardous liquid pipeline employees and contractor personnel from a maximum of 50 percent to as low as 5 percent. Drug testing policies are being considered by a DOT committee. Therefore, this rulemaking is being terminated.

Timetable:

Action	Date	FR Cite
Rulemaking Terminated by Agency	09/29/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

DOT—RSPA — Completed Actions

Government Levels Affected: None

Additional Information: Docket Number RSPA-99-5201.

Agency Contact: Catrina M. Pavlik, Drug and Alcohol Program Manager, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-6199
Fax: 202 366-4566
Email: Catrina.Pavlik@rspa.dot.gov

RIN: 2137–AD32

Department of Transportation (DOT)
Maritime Administration (MARAD)

Proposed Rule Stage

2741. +CARGO PREFERENCE REGULATIONS—CARRIAGE OF AGRICULTURAL EXPORTS

Priority: Other Significant

Legal Authority: 46 App USC 1101; 1114(b), 1122(d), 1241

CFR Citation: 46 CFR 381; 49 CFR 1.66

Legal Deadline: None

Abstract: This action proposes to clarify the Maritime Administration's cargo preference regulations governing the carriage of agricultural exports. The rulemaking will concern, among other issues, (1) incorporating into Part 381 MARAD's existing rules on priority of service of various U.S.-flag services; (2) clarifying how shipper agencies should comply with the existing provisions of the regulations regarding geographic areas and booking cargo on U.S.-flag vessels before foreign flag vessels; (3) redefining certain terms for clarity to bring them in line with commercial practices; and other related issues.

Timetable:

Action	Date	FR Cite
ANPRM	01/28/99	64 FR 4382
ANPRM Comment Period End	03/29/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Harrelson, Director, Office of Cargo Preference, Room 8118, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5515

RIN: 2133–AB37

2742. +ELIGIBILITY OF U.S.-FLAG VESSELS OF 100 FEET OR GREATER TO OBTAIN COMMERCIAL FISHERIES DOCUMENTS

Priority: Other Significant

Legal Authority: PL 105-277, sec 203

CFR Citation: 46 CFR 356

Legal Deadline: Final, Statutory, April 1, 2000.

Abstract: The American Fisheries Act of 1998 (AFA) raises the U.S. ownership standards for U.S.-flag fishing vessels operating in U.S. waters, eliminates exemptions for vessels that cannot meet current citizenship standards, and phases out of operation many of the largest fishing vessels that are thought to be destructive to fishery resources. This action proposes implementing regulations for the AFA. The new regulations for vessels of 100 feet or greater will (1) prohibit certain transfers of ownership or control to noncitizens; (2) identify transactions that will require prior agency approval; and, (3) identify transactions that will not require prior agency approval. This rule is a significant regulatory action because of public and congressional interest.

Timetable:

Action	Date	FR Cite
ANPRM	05/06/99	64 FR 24311
ANPRM Comment Period End	07/01/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: John T. Marquez, Jr., Attorney Advisor, Division of Maritime Assistance Programs, Room 7228, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-5320
Fax: 202 366-7485
Email: john.marquez@marad.dot.gov

RIN: 2133–AB38

Department of Transportation (DOT)
Maritime Administration (MARAD)

Final Rule Stage

2743. PUTTING CUSTOMERS FIRST IN THE TITLE XI PROGRAM: SHIP FINANCING GUARANTEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 app USC 1114(b); 46 app USC 1271 et seq

CFR Citation: 46 CFR 298; 49 CFR 1.66

Legal Deadline: None

Abstract: MARAD is proposing to amend existing regulations and simplify existing administrative practices governing the following areas: 1) the ship financing guarantee process; 2) standards for evaluation and approval of applications; and 3) the process and documentation for closing of commitments to guarantee obligations issued under these regulations. These changes should make the entire process easier for prospective applicants.

Timetable:

Action	Date	FR Cite
ANPRM	02/17/98	63 FR 7745
ANPRM Comment Period End	03/19/98	

DOT—MARAD **Final Rule Stage**

Action	Date	FR Cite
NPRM	08/13/99	64 FR 44152
NPRM Comment Period End	09/13/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mitchell D. Lax, Director, Office of Ship Finance, Department of Transportation, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-1891

RIN: 2133–AB32

2744. • ADMINISTRATIVE WAIVERS OF THE COASTWISE TRADE LAWS FOR ELIGIBLE VESSELS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 46 App USC 1114(b); PL 105-383; 112 Stat. 3445; 46 USC 12106 note

CFR Citation: 49 CFR 1.66; 46 CFR 388

Legal Deadline: None

Abstract: This proposed action seeks public comment on implementation of Title V of the Coast Guard Authorization Act of 1998. The new law authorizes the Secretary of Transportation to waive the U.S.-build and other requirements of the Passenger Services Act and Section 27 of the Merchant Marine Act, 1920, for eligible vessels to be documented with appropriate endorsement for employment in the coastwise trade as small passenger vessels or uninspected passenger vessels authorized to carry no more than 12 passengers for hire. This administrative process will improve the responsiveness of the Federal Government in meeting the needs of many vessel-operating small businesses.

Timetable:

Action	Date	FR Cite
NPRM	07/08/99	64 FR 36831
NPRM Comment Period End	09/07/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Michael Hokana, Office of Ports and Domestic Shipping, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590
Phone: 202 366-0760
Email: michael.hokana@marad.dot.gov

RIN: 2133–AB39

Department of Transportation (DOT)
Bureau of Transportation Statistics (BTS) **Prerule Stage**

2745. MODERNIZING THE PASSENGER ORIGIN-DESTINATION SURVEY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 41708; 49 USC 41709

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: Historically, the source document for the Passenger Origin-Destination Survey was the auditor's coupon of the ticket. Until recently, these coupons provided all the information that was needed for the Survey. In the last few years, the carriers have begun using trip passes in conjunction with the tickets, thereby eliminating some of the data that is required to be reported in the Survey. Other innovations used by the industry, such as change-of-gauge flights and code-sharing, have impacted the Survey and obscured some of the data that is required to be reported, such as change of planes and junction points. This rulemaking will explore whether there are alternative sources for the data and modernize the collection system to keep pace with the industry.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This action is related to and may be affected by RIN 2105-AC71. It is now being administered by the Bureau of Transportation Statistics (BTS) since the Office of Aviation Information has been transferred to BTS from RSPA. (Formerly RIN 2137-AB92)

Agency Contact: M. Clay Moritz, Jr., Acting Chief, Regulations Division, Office of Airline Information, K-25, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA01

Department of Transportation (DOT)
Bureau of Transportation Statistics (BTS) **Proposed Rule Stage**

2746. • AMENDMENT TO THE DEFINITIONS OF REVENUE AND NONREVENUE PASSENGERS

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 329

CFR Citation: 14 CFR 217; 14 CFR 241; 14 CFR 298

Legal Deadline: None

Abstract: This action would revise definitions of revenue passenger and nonrevenue passenger. It would specify that a passenger traveling on a ticket or voucher received as compensation for denied boarding or as settlement of a consumer complaint is considered to be a revenue passenger. The revised definitions will harmonize

DOT—BTS **Proposed Rule Stage**

Departmental regulations with those adopted by the International Civil Aviation Organization(ICAO). This will prevent air carriers from being required to keep two sets of traffic enplanement statistics.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: M. Clay Moritz Jr., Acting Chief, Regulations Division, Office of Airline Information, Department of Transportation, Bureau of Transportation Statistics, K-25, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-4385

RIN: 2139–AA07

Department of Transportation (DOT)
Bureau of Transportation Statistics (BTS) **Completed Actions**

2747. MODERNIZING THE MOTOR CARRIERS OF PROPERTY FINANCIAL DATA COLLECTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 14122 to 14123

CFR Citation: 49 CFR 1420

Legal Deadline: None

Abstract: The motor carriers of property financial data collection program was transferred to DOT from the Interstate Commerce Commission by the ICC Termination Act of 1995 (ICCTA), which went into effect 1/1/96. The Secretary of Transportation has delegated responsibility for this program to BTS. The ICCTA made several modifications to the data collection program and calls on DOT to streamline and simplify reporting requirements. This rulemaking implements the ICCTA by revising the data collection to collect data for current needs while reducing respondent burden. It also adopts a system whereby motor carriers can request exemptions from filing and exemptions from public release of their reports. The supplemental notice requested further comment on public release of data from carrier reports. Most comments strongly opposed adopting the proposal and BTS withdrew it.

Timetable:

Action	Date	FR Cite
Notice: Negotiated Rulemaking	12/09/96	61 FR 64849
Comment Period Extended	01/23/97	62 FR 3492
Comment Period Extended	02/07/97	62 FR 5792
NPRM	11/03/98	63 FR 59263
NPRM Comment Period End	11/25/98	
NPRM Comment Period Extended	11/25/98	63 FR 65163
SNPRM	03/23/99	64 FR 13948
Final Rule	03/23/99	64 FR 13916
SNPRM Comment Period End	04/22/99	
Final Rule Effective	04/22/99	
Withdrawal of SNPRM	07/21/99	64 FR 39111

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: BTS proposed the establishment of a negotiated rulemaking advisory committee in December 1996. However, BTS has determined that this process would not provide a significant advantage over conventional rulemaking. The CFR citation has changed from 49 CFR 1249 to 49 CFR 1420. The regulations were moved from the Surface Transportation Board's CFR Chapter to BTS's chapter and the change reflects this move (63 FR 51292).

Agency Contact: David Mednick, K-2, Department of Transportation, Bureau of Transportation Statistics, 400 Seventh Street SW., Washington, DC 20590
Phone: 202 366-8871

RIN: 2139–AA05

[FR Doc. 99–27969 Filed 11–19–99; 8:45 am]
BILLING CODE 4810–25–F

VOL 64 ISS 224 NOV 22 1999 UMI

ule Stage

oritz Jr.,
vision,

a, Bureau
K-25, 400
ton, DC

d Actions

sis

nesses

l: None

proposed
ated
tee in
FS has
would not
ge over
e CFR
CFR 1249
ons were
sportation
s chapter
nove (63

nick, K-2,
n, Bureau
-00
ton, DC

99; 8:45 am]

federal register

Monday,
November 22, 1999

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

Department of the Treasury (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda and Fiscal Year 2000 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda and fiscal year 2000 regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980) and Executive Order (E.O.) 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for fiscal year 2000.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific entry in the agenda or plan, contact the "Agency Contact" identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda format developed by the Regulatory Information Service Center (RISC). For this edition of the regulatory agenda, the regulatory priorities of the Department of the Treasury are included in the Regulatory Plan, which appears in Part II of this issue of the **Federal Register**.

Dated : October 15, 1999

Richard S. Carro,

Associate General Counsel.

Departmental Offices—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2748	31 CFR ch II Possible Regulation of Access to Accounts at Financial Institutions Through Payment Service Providers	1505-AA74

Departmental Offices—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2749	12 CFR 1805 Community Development Financial Institutions Program	1505-AA75

Financial Crimes Enforcement Network—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2750	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Broker/Dealers	1506-AA21

Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2751	31 CFR 103 Amendment to the Bank Secrecy Act Regulations Regarding Reporting of Cross-Border Transportation of Certain Monetary Instruments	1506-AA15
2752	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Special Reporting and Recordkeeping Requirements—Money Services Businesses (MSBs)	1506-AA19
2753	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Money Services Businesses (MSBs)	1506-AA20
2754	31 CFR 103 Amendments to the Bank Secrecy Act Regulations—Suspicious Activity Reporting—Casinos	1506-AA22

Financial Crimes Enforcement Network—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2755	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Requirement That Financial Institutions Carry Out Anti-Money-Laundering Programs	1506-AA05

VOL 64 ISS 224 NO 22 1999 UMI

Sequence Number
2756
Sequence Number
2757
Sequence Number
2758
2759
2760
2761
Referenc
Sequence Number
2762
2763
2764
2765
2766
2767
Sequence Number
2768
2769
2770
2771
2772
2773
2774

TREAS

Financial Crimes Enforcement Network—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
2756	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Delegation of Authority to Assess Civil Money Penalties on Depository Institutions	1506-AA08

Financial Crimes Enforcement Network—Completed Actions

Sequence Number	Title	Regulation Identification Number
2757	31 CFR 103 Amendment to the Bank Secrecy Act Regulations—Registration Requirement for Certain Non-Bank Financial Institutions—Money Services Businesses (MSBs)	1506-AA09

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2758	31 CFR 205 Rules and Procedures for Efficient Federal-State Funds Transfers (**Reg Plan Seq. No. 99**)	1510-AA38
2759	31 CFR 245 Claims on Account of Treasury Checks	1510-AA51
2760	31 CFR 285.5 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due, Legally Enforceable Nontax Debt	1510-AA65
2761	31 CFR 285.8 Offset of Tax Refund Payment to Collect State Income Tax Obligations	1510-AA78

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Financial Management Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2762	31 CFR 210 Federal Government Participation in the Automated Clearing House	1510-AA17
2763	31 CFR 281 Foreign Exchange Operations	1510-AA48
2764	31 CFR 900 to 904 Federal Claims Collection Standards	1510-AA57
2765	31 CFR 285.7 Salary Offset	1510-AA70
2766	31 CFR 203 Payment of Federal Taxes and the Treasury Tax and Loan Program	1510-AA79
2767	31 CFR 247 Regulations Governing FedSelect Check	1510-AA80

Financial Management Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2768	31 CFR 240 Indorsement and Payment of Checks Drawn on the United States Treasury	1510-AA45
2769	31 CFR 256 Payments Under Judgment and Private Relief Acts	1510-AA52
2770	31 CFR 285.6 Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due Debts Owed to States (Other Than Child Support)	1510-AA66
2771	31 CFR 285.14 Public Dissemination of Identity of Delinquent Debtors	1510-AA72
2772	31 CFR 202 Depositaries and Financial Agents of the Federal Government	1510-AA75
2773	31 CFR 203 Payment of Federal Taxes and the Treasury Tax and Loan Program	1510-AA76
2774	31 CFR 225 Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties	1510-AA77

TREAS

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
2775	31 CFR 285.12 Transfer of Debts to Treasury for Collection	1510-AA68

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2776	27 CFR 7 Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs) **(Reg Plan Seq. No. 100)**	1512-AB37
2777	27 CFR 5.36 (e) Country of Origin Statements on Distilled Spirits Labels	1512-AB72
2778	27 CFR 24 Implementation of Public Law 105-34, Sections 1421 and 1422	1512-AB75
2779	27 CFR 4 Alteration of Labels on Containers of Distilled Spirits, Wine and Beer	1512-AB76
2780	27 CFR 4.21 Labeling of Flavored Wine Products	1512-AB86
2781	27 CFR 4 Amended Standard of Identity for Sherry	1512-AB96
2782	27 CFR 55 Commerce in Explosives (Including Explosives in the Fireworks Industry) **(Reg Plan Seq. No. 101)**	1512-AB48
2783	27 CFR 55 Implementation of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997, Relating to the Establishment of a National Repository for Arson and Explosives Information	1512-AB73
2784	27 CFR 178 Impl. of PL 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY 1999, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act	1512-AB83
2785	27 CFR 178 PL 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY99, Relating to Firearms Disabilities for Non-Immigrant Aliens	1512-AB93

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2786	27 CFR 5 Labeling of Unaged Grape Brandy	1512-AB46
2787	27 CFR 19.11 Distilled Spirits Plant Regulatory Initiative Proposal	1512-AB58
2788	27 CFR 24.278 Implementation of Wine Credit Provisions of Public Law 104-188	1512-AB65
2789	27 CFR 24.178 Implementation of PL 105-34, Section 1417, Related to the Use of Ameliorating Material in Certain Wines	1512-AB78
2790	27 CFR 4 to 5 Prohibition of Alcohol Beverage Containers and Standard of Fill for Distilled Spirits and Wine	1512-AB89
2791	27 CFR 4 Health Claims and Other Health Related Statements in the Labeling and Advertising of Alcohol Beverages	1512-AB97
2792	27 CFR 178 Commerce in Firearms and Ammunition (Omnibus Consolidated Appropriations Act of 1997)	1512-AB64
2793	27 CFR 178 Residency Requirement for Persons Acquiring Firearms	1512-AB66
2794	27 CFR 178 Identification Markings Placed on Firearms	1512-AB84
2795	27 CFR 47 Importation of Arms, Ammunition and Implements of War	1512-AC02
2796	5 CFR 1320.7 (f)(2) Implementation of the Paperwork Reduction Act	1512-AB90
2797	27 CFR 296 Implementation of PL 105-33, Section 9302, Related to the Floor Stocks Tax on Tobacco Products and Cigarette Papers and Tubes	1512-AB95
2798	27 CFR 4 Delegation of Authority in 27 CFR parts 4, 5 and 7	1512-AB98
2799	27 CFR 18 Delegation of Authority in 27 CFR part 18	1512-AB99
2800	27 CFR 10 Delegation of Authority in 27 CFR parts 6, 8, 10 and 11	1512-AC01
2801	27 CFR 200 Balanced Budget Act of 1997-PL 105-33, Restriction on the Importation of Domestic Tobacco Products and Cigarette Papers and Tubes Returned to the United States	1512-AB81
2802	27 CFR 270 Tobacco Products and Cigarette Papers and Tubes Tax Increases for January 1, 2000, and January 1, 2002	1512-AB88
2803	27 CFR 270 Implementation of Public Law 105-33, Section 9302, Related to Change in Tax Computation of Cigarette Papers and the Imposition of Permit Requirements on Roll-Your-Own Tobacco	1512-AB92

VOL 64 ISS 224 NO 22 1999 UMI

TREAS

Bureau of Alcohol, Tobacco and Firearms—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2804	27 CFR 252 Exportation of Liquors	1512-AA98
2805	27 CFR 7 Alcoholic Content Labeling for Malt Beverages	1512-AB17
2806	27 CFR 22.21 Distribution and Use of Tax-Free Alcohol	1512-AB51
2807	27 CFR 20 Distribution of Denatured Alcohol and Rum	1512-AB57
2808	27 CFR 18.56 Production of Volatile Fruit Flavored Concentrate	1512-AB59
2809	27 CFR 21.3 Formulas for Denatured Alcohol and Rum	1512-AB60
2810	27 CFR 24.66 Implementation of Public Law 105-34, Section 1416 Relating to Refund of Tax for Domestic Wine Returned to Bond Regardless of Merchantability (Taxpayer Relief Act of 1997)	1512-AB74
2811	27 CFR 9 American Viticultural Areas	1512-AA07
2812	27 CFR 70 Recodification of Statement of Procedural Rules	1512-AB54
2813	27 CFR 290 Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax	1512-AB03

Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identification Number
2814	27 CFR 4 Net Contents Statement on Wine Labels	1512-AB70
2815	27 CFR 4 Implementation of Public Law 105-34, Sections 908, 910 and 1415, Related to Hard Cider, Semigeneric Wine Designations and Wholesale Liquor Dealer's Signs	1512-AB71
2816	27 CFR 4.91 Petition for Johannisberg Riesling; Proposed Addition of Grape Variety Names for American Wines; Request for Additional Information for Other Proposed Grape Varieties	1512-AB80
2817	27 CFR 47 Implementation of Public Law 104-132, the Antiterrorism and Effective Death Penalty Act of 1996, Relating to the Marking of Plastic Explosives for the Purpose of Detection	1512-AB63
2818	27 CFR 178 Technical Amendments to 27 CFR part 178	1512-AB82
2819	27 CFR 200 Technical Amendments to 27 CFR Part 200	1512-AB91
2820	27 CFR 1 Delegation of Authority in 27 CFR Part 1	1512-AB94
2821	27 CFR 24 Technical Amendments to 27 CFR Parts 24 and 252	1512-AC00

Bureau of the Public Debt—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2822	31 CFR 380 (New) Regulations Governing Collateral Acceptability and Valuation	1535-AA00

Comptroller of the Currency—Prerule Stage

Sequence Number	Title	Regulation Identification Number
2823	12 CFR 3 Capital Rules	1557-AB14

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2824	12 CFR 19 Uniform Rules of Practice and Procedure; Regulation Review	1557-AB43
2825	12 CFR 21 Minimum Security Devices and Procedures	1557-AB71
2826	12 CFR 22.6 Loans in Areas Having Special Flood Hazards	1557-AB74

Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2827	12 CFR 30 app B Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness	1557-AB67
2828	12 CFR 24 Community Development Corporations, Community Development Projects, and Other Public Welfare Investments	1557-AB69
2829	12 CFR 30 Guidelines Establishing Year 2000 Standards for Safety and Soundness for National Bank Transfer Agents and Broker-Dealers	1557-AB73

Comptroller of the Currency—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2830	12 CFR 12 Qualification Requirements for Transactions in Certain Securities	1557-AB54
2831	Rules and Procedures for Claims Against OCC-Appointed Receiverships for Uninsured Financial Institutions	1557-AB59
2832	12 CFR 34 Real Estate Appraisals	1557-AB70
2833	12 CFR 8 Assessment of Fees; National Banks; District of Columbia Banks	1557-AB72

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identification Number
2834	12 CFR 4 Expanded Examination Cycle for Certain Small Financial Institutions	1557-AB56
2835	12 CFR 26 Management Official Interlocks	1557-AB60
2836	12 CFR 1.3(e)(1) Investment Securities; Rules, Policies, and Procedures for Corporate Activities; and Interpretive Rulings	1557-AB61
2837	12 CFR 4 Organization and Functions, Availability and Release of Information, Contracting Outreach Program	1557-AB65

United States Customs Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2838	19 CFR 159 Liquidation; Extension; Suspension	1515-AB66
2839	19 CFR 12 Detention, Seizure, and Forfeiture of "Bootleg" Sound Recording and Music Videos of Live Musical Performances	1515-AB74
2840	19 CFR 142 Reconciliation	1515-AB85
2841	19 CFR 111 Remote Location Filing	1515-AC23
2842	19 CFR 102 NAFTA Preference Override	1515-AC25
2843	19 CFR 134 Country of Origin Marking	1515-AC32
2844	19 CFR 12 Forced or Indentured Child Labor	1515-AC36
2845	19 CFR 143 Informal Entry of Low-Value Duty-Free Merchandise	1515-AC38
2846	19 CFR 12 Amended Bond Procedures for Articles Subject to Exclusion Orders Issued by the U.S. International Trade Commission	1515-AC43
2847	19 CFR 24 Endorsement of Checks Deposited by U.S. Customs Service	1515-AC48
2848	19 CFR 19 Personal Use Limitation for Purchases at Duty-Free Stores	1515-AC50

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2849	19 CFR 134 Country-of-Origin Marking Requirements for Frozen Produce Packages	1515-AB61
2850	19 CFR 24 Interest on Underpayments and Overpayments of Customs Duties, Fees and Interest	1515-AB76

VOL 64 ISS 224 NO 22 1999 UMI

TREAS

United States Customs Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2851	19 CFR 181 North American Free Trade Agreement (NAFTA) — Implementation of Duty-Deferral Program Provisions	1515-AB87
2852	19 CFR 103 Electronic Requests for Confidential Treatment of Export Manifest Data	1515-AB89
2853	19 CFR 12 Entry of Softwood Lumber Shipments From Canada	1515-AB97
2854	19 CFR 171 Petitions for Relief; Seizures, Penalties, and Liquidated Damages	1515-AC01
2855	19 CFR 12 Importation of Chemicals Subject to the Toxic Substances Control Act	1515-AC04
2856	19 CFR 171 Guidelines for the Imposition and Mitigation of Penalties for Violation of 19 USC 1592	1515-AC08
2857	19 CFR 123 Designated Land Border Crossing Locations for Certain Conveyances	1515-AC12
2858	19 CFR 141 Customs Entry Documentation Pursuant to Anticounterfeiting Consumer Protection Act	1515-AC15
2859	19 CFR 162 Penalties for False Drawback Claims	1515-AC21
2860	19 CFR 4 Boarding of Vessels in the United States	1515-AC29
2861	19 CFR 4 Foreign Repairs to American Vessels	1515-AC30
2862	19 CFR 111 Customs Brokers	1515-AC34
2863	19 CFR 4 Vessel Equipment Temporarily Landed for Repair	1515-AC35
2864	19 CFR 24 Expanded Methods of Payment of Duties, Taxes, Interest and Fees	1515-AC40
2865	19 CFR 113 Importation and Entry Bond Conditions Regarding Other Agency Documentation Requirements	1515-AC44
2866	19 CFR 113 Assessment of Liquidated Damages Regarding Imported Merchandise That Is Not Admissible Under the Food, Drug and Cosmetic Act	1515-AC45

United States Customs Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
2867	19 CFR 4 Harbor Maintenance Fee	1515-AA57
2868	19 CFR 24 Donated Cargo Exemption From Harbor Maintenance Fee	1515-AA87
2869	19 CFR 102 Rules of Origin	1515-AB19
2870	19 CFR 113 Automated Surety Interface	1515-AB25
2871	19 CFR 24 Fees Assessed for Defaulted Payments	1515-AB38
2872	19 CFR 12 Textiles and Textile Products Subject to Textile Trade Agreements	1515-AB54
2873	19 CFR 134 Country-of-Origin Marking for Watches	1515-AB68
2874	19 CFR 148 Treatment of Merchandise Imported by Foreign Governments or Designated International Organizations	1515-AB92
2875	19 CFR 12 Determination of the Country of Origin of Textiles and Textile Products	1515-AC00
2876	19 CFR 103 Public Disclosure of Aircraft Manifests	1515-AC13

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
2877	19 CFR 151 Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers	1515-AB60
2878	19 CFR 151 Detention of Merchandise	1515-AB75
2879	19 CFR 19 Customs Bonded Warehouses	1515-AC41
2880	19 CFR 4 Automated Export System (AES)	1515-AC42
2881	19 CFR 12 Import Restrictions Imposed on Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus	1515-AC46
2882	19 CFR 24 Exemption of Originating Mexican Goods From Certain Customs User Fees	1515-AC47
2883	19 CFR 12 Textiles and Textile Products; Denial of Entry	1515-AC49
2884	19 CFR 122 Flights To and From Cuba	1515-AC51

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
2885	26 CFR 601.901 Use of Penalty Mail in the Location and Recovery of Missing Children	1545-AX29

TREAS

Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2886	26 USC 0103 Removal of Temporary Regulations	1545-AV36
2887	26 USC 0110 Qualified Lessee Construction Allowances for Short-Term Leases	1545-AW16
2888	26 USC 0118 Definition of Contribution in Aid of Construction Under Subsection 118(c)(3)(A)	1545-AW17
2889	26 USC 0368 Disregarded Entities	1545-AW36
2890	26 USC 0551 Application of Attribution Rules to Foreign Trusts	1545-AU91
2891	26 USC 0643 Definition of Grantor	1545-AX25
2892	26 USC 0664 Capital Gain Guidance Relating to CRTs	1545-AW35
2893	26 USC 0860L FASIT—Start-up/Operational/Transition	1545-AU94
2894	26 USC 0861 Fringe Benefit Sourcing Under Section 861	1545-AO72
2895	26 USC 0863 Source of Income for Space and Certain Ocean Activities and for International Communications Income	1545-AW50
2896	26 USC 0864 Integrated Financial Transaction	1545-AR20
2897	26 USC 0872 Income Tax—Reciprocal Exemptions for Certain Transportation Income	1545-AJ57
2898	26 USC 0901 Foreign Tax Credit Anti-Abuse Regulation	1545-AV97
2899	26 USC 0953 Foreign Insurance Company—Domestic Election	1545-AO25
2900	26 USC 0960 Coordination of Pre-1987 Deemed Paid Taxes	1545-AT85
2901	26 USC 0988 Section 988—Contingent Debt Instrument	1545-AW33
2902	26 USC 1092 "Straddles - one side larger than the other"	1545-AX16
2903	26 USC 1259 Constructive Sales of Appreciated Financial Positions	1545-AW97
2904	26 USC 1361 Electing Small Business Trust	1545-AU76
2905	26 USC 1397 Qualified Zone Academy Bonds Credit Rate	1545-AX03
2906	26 USC 1503 Applications of Section 1503(d) to Partnerships and Other Items	1545-AR26
2907	26 USC 6038 Information Reporting and Record Maintenance Under Section 6038C	1545-AP10
2908	26 USC 6041 Middleman Regulation Under Sections 6041 and 6045	1545-AW48
2909	26 USC 6048 Section 6048 Regulations	1545-AR25
2910	26 USC 6111 Corporate Tax Shelter Registration	1545-AW26
2911	26 USC 612 Delay Rental Payments	1545-AX06
2912	26 USC 6302 Deposit of Excise Taxes - Revision	1545-AX11
2913	26 USC 7508 Relief for Presidentially Declared Disaster	1545-AV92
2914	26 USC 7701 Changes in Entity Classification: Special Rule for Certain Foreign Eligible Entities	1545-AX39
2915	26 USC 7805 Civil Cause of Action for Certain Unlawful Collection Actions	1545-AU68
2916	26 USC 7805 Special Rules Applicable to Sales of Debt Instrument Between Record Dates and the End of Accrual Periods	1545-AU95
2917	26 USC 7805 Return of Levied Property in Certain Cases	1545-AV01
2918	26 USC 7805 Removal of Temporary Regulations That Provide Rules for Substantiating Travel Expense Deductions for Members of Congress	1545-AV55
2919	26 USC 7805 Merchandise	1545-AW00
2920	26 USC 7805 HIPAA Nondiscrimination Rules	1545-AW02
2921	26 USC 7805 Averaging of Farm Income	1545-AW05
2922	26 USC 7805 Transportation of Persons and Property by Air—Sections 4261 and 4271	1545-AW19
2923	26 USC 7805 Estate Tax Deduction for Qualified Family-Owned Business Interests (QFOBI)	1545-AW21
2924	26 USC 7805 Election To Treat Trust as Estate—Section 645	1545-AW24
2925	26 USC 7805 Section 411(d)(6); Protected Benefits Exceptions	1545-AW27
2926	26 USC 7805 Merchandise Regulation	1545-AW61
2927	26 USC 7805 Relief From Joint and Several Liability on Joint Return	1545-AW64
2928	26 USC 7805 Information Reporting for Payments of Tuition and Interest on Education Loans	1545-AW67
2929	26 USC 7805 Definition of Private Activity Bonds—Refunding Regulations	1545-AW89
2930	26 USC 7805 Certain Asset Transfers to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs)	1545-AW92
2931	26 USC 7805 Transfer of REMIC Residual Interest	1545-AW98
2932	26 USC 7805 Qualified Offers	1545-AW99
2933	26 USC 7805 Allocation of Research Credit	1545-AX05
2934	26 USC 7805 GST Issues	1545-AX08
2935	26 USC 7805 Allocation of Partnership Debt	1545-AX09
2936	26 USC 7805 Highway Vehicle - Definition	1545-AX10
2937	26 USC 7805 Guidance on Cost Recovery in the Entertainment Industry	1545-AX12
2938	26 USC 7805 Definition of Last Known Address	1545-AX13
2939	26 USC 7805 Suspension of Interest and Penalties where Secretary fails to contact taxpayer	1545-AX17
2940	26 USC 7805 Coordination of sections 755 and 1060	1545-AX18

VOL 64 ISS 224 NO 22 1999 UMI

TREAS

Internal Revenue Service—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2941	26 USC 7805 Dollar-Value LIFO Regulations	1545-AX20
2942	26 USC 7805 Definition of Accounting Method	1545-AX21
2943	26 USC 863 Rules for Sourcing Certain Transportaiton Income, Space or Ocean Activity Income and Related Foreign Base Company Shipping Income	1545-AX02
2944	Sections 401(k) and 410(m) Cash or Deferred Arrangements	1545-AX26
2945	Exclusion of Gain on the Sale or Exchange of Principal Residence	1545-AX28
2946	Special Rules for Retroactive Payments Under Section 417(a)(7)(a) for Qualified Retirement Plans.	1545-AX34
2947	351(g) Guidance Project	1545-AX38
2948	Partnership Mergers and Divisions	1545-AX42
2949	401(k) and 401(m) Regulations	1545-AX43
2950	National Principal Contracts and Other Financial Products	1545-AX45
2951	Amendments to 26 U.S.C. section 7430	1545-AX46
2952	Section 1374 Timber	1545-AX50
2953	Address Correction	1545-AX51
2954	Compensation deferred under eligible section 457(b) plans. (Section 457 Regulations)	1545-AX52
2955	Definition of Private Activity Bond	1545-AX55
2956	Alternative Agents of the Group Under Section 1.1502-77T	1545-AX56
2957	Permitted Election Changes Under Section 125	1545-AX59

Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
2958	26 USC 0041 Credit For Increasing Research Activities.	1545-AO51
2959	26 USC 0072 Loans Treated as Distributions	1545-AE41
2960	26 USC 0163 Earnings Stripping Payments	1545-AO24
2961	26 USC 0165 Section 1.163-1(b)(2)	1545-AP33
2962	26 USC 0263A Rules for Property Produced in a Farming Business	1545-AQ91
2963	26 USC 0274 Substantiation of Expenses — Receipt Threshold	1545-AT97
2964	26 USC 0355 Guidance Under Section 355(d)	1545-AW71
2965	26 USC 0356 Warrants and Nonqualified Preferred Stock	1545-AV86
2966	26 USC 0367 Income Tax—Part 1—Stock Transfer Rules	1545-AI32
2967	26 USC 0414 Definition of "Highly Compensated Employee"	1545-AQ74
2968	26 USC 0468B Escrow Funds and Other Similar Funds	1545-AR82
2969	26 USC 0482 Taxation of Global Trading	1545-AP01
2970	26 USC 0529 Qualified State Tuition Programs	1545-AV18
2971	26 USC 0663 Separate Share Rules/Estates	1545-AW57
2972	26 USC 0743 Adjustments Following Sales of Partnership Interests	1545-AS39
2973	26 USC 0832 Determination of Earned Premiums	1545-AU60
2974	26 USC 0861 Charitable Contributions	1545-AP30
2975	26 USC 0864 Allocation and Apportionment of Interest Expense and Certain Other Expenses	1545-AM20
2976	26 USC 0864 Stocks and Securities Safe Harbor Exception	1545-AW13
2977	26 USC 0882 Proposed Regulation Under Sections 882 and 884	1545-AT96
2978	26 USC 0897 Nonrecognition of Corporate Distributions and Reorganizations Under the Foreign Investment in Real Property Tax Act	1545-AK79
2979	26 USC 0898 Conforming Taxable Years of CFCs and FPHCs: 1989 Change	1545-AO22
2980	26 USC 0925 Grouping Rules for Foreign Sales Corporation Transfer Pricing	1545-AX41
2981	26 USC 0936 New Lines of Business Prohibited Under Section 936(j)(9)(B)	1545-AV68
2982	26 USC 0954 Guidance Under Subpart F Relating to Partnerships	1545-AV11
2983	26 USC 0987 Computation of a Branch's Taxable Income; Taxation of Exchange Gain or Loss on Branch Remittances	1545-AM12
2984	26 USC 0988 Mark-to-Market Method of Accounting Under Section 988	1545-AP78
2985	26 USC 1032 Guidance Under Section 1032	1545-AW53
2986	26 USC 1092 Equity Options Without Standard Terms	1545-AV48
2987	26 USC 1275 Inflation-Indexed Securities	1545-AU45
2988	26 USC 1293 General Rules for Making and Maintaining Qualified Electing Fund Elections	1545-AV39
2989	26 USC 1296 Passive Foreign Investment Companies — Special Rules for Foreign Banks and Securities Dealers	1545-AS46

TREAS

Internal Revenue Service—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
2990	26 USC 1296 Definition of the Term "Marketable Stock" Under Section 1296(e)(1)(A)	1545-AW69
2991	26 USC 1361 S Corporation Subsidiaries	1545-AU77
2992	26 USC 1379E Qualified Zone Academy Bonds	1545-AV75
2993	26 USC 1441 Regulations Under Section 1441 Regarding the Electronic Transmission of Withholding Certificates	1545-AV27
2994	26 USC 1441 Regulations Under Section 1441 Regarding Withholding on Sales of Debt Obligations Between Interest Payment Dates	1545-AV41
2995	26 USC 1441 Section 1441 Final Regulations	1545-AX44
2996	26 USC 1441 Changes to Regulation Section 1441	1545-AX53
2997	26 USC 1502 Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV99
2998	26 USC 1502 Acquisition of an S Corporation by a Member of a Consolidated Group	1545-AW32
2999	26 USC 2001 Partnership Returns Required on Magnetic Media	1545-AW14
3000	26 USC 2504 Adequate Disclosure of Gifts	1545-AW20
3001	26 USC 401 New Technology in Retirement Plans	1545-AW78
3002	26 USC 4251 Prepaid Telephone Cards	1545-AV63
3003	26 USC 4958 Clarification of 4958 Excise Taxes	1545-AV60
3004	26 USC 6012 Telefile Voice Signatures Test	1545-AQ68
3005	26 USC 6045 Reporting of Payments to Attorney	1545-AW72
3006	26 USC 6046A 6046A—Returns as to Acquisitions and Dispositions of Foreign Partnership Interests	1545-AK75
3007	26 USC 6104 Private Foundation Disclosure Rules	1545-AW96
3008	26 USC 6402 Revision of Tax Refund Offset Program	1545-AV50
3009	26 USC 7701 Treatment of Obligation-Shifting Transactions	1545-AU19
3010	26 USC 7701 Recharacterizing Financing Arrangements Involving Fast-pay stock	1545-AV07
3011	26 USC 7805 Intangible Asset Amortization	1545-AS77
3012	26 USC 7805 Passthrough of Items to Shareholders	1545-AT52
3013	26 USC 7805 Reporting Requirements for Widely Held Fixed Investment Trusts	1545-AU15
3014	26 USC 7805 Relief From Disqualification for Plans Accepting Rollovers	1545-AU46
3015	26 USC 7805 Legending of REMIC Certificates	1545-AU96
3016	26 USC 7805 Return of Partnership Income—Section 6031	1545-AU99
3017	26 USC 7805 Taxpayer Identification Numbers (TINs) for Adopted Children	1545-AV08
3018	26 USC 7805 Regulations Under Sections 871, 881, and 894 Regarding Payments to Partnerships, and Other Transparent Arrangements	1545-AV10
3019	26 USC 7805 Research Credit II	1545-AV14
3020	26 USC 7805 Treatment of Elective Entity Classification Changes—7701	1545-AV16
3021	26 USC 7805 Remedial Amendment Period	1545-AV22
3022	26 USC 7805 Compliance Monitoring and Miscellaneous Issues Relating to the Low Income Housing Credit	1545-AV44
3023	26 USC 7805 Marital Deduction (Estate of Hubert)	1545-AV45
3024	26 USC 7805 Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers	1545-AV71
3025	26 USC 7805 Substantiation of Business Expenses—Use of Mileage Rates To Substantiate Automobile Expenses	1545-AV87
3026	26 USC 7805 Travel and Tour Activity of Tax-Exempt Organization	1545-AW10
3027	26 USC 7805 Modification of Section 263A Regulations	1545-AW54
3028	26 USC 7805 Increase in Cashout Limit Under Sections 411(a)(7), 411(a)(11), and 417(e)(1)	1545-AW59
3029	26 USC 7805 Qualified Offers	1545-AX00
3030	Permitted Election Changes Under Section 125	1545-AX58

Internal Revenue Service—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3031	05 USC 0552 Statement of Procedural Rules — Part 601.702 Appendix B - Internal Revenue Service - 31 CFR Part 1	1545-AR99
3032	26 USC 0101 The Treatment of Accelerated Death Benefits Under Sections 101, 7702 and 7702A of the Internal Revenue Code	1545-AQ70
3033	26 USC 0141 Definition of "Private Activity Bonds"	1545-AU98
3034	26 USC 0141 Private Activity Bond Rules for Output Facilities	1545-AV47
3035	26 USC 0280G Golden Parachute Payments	1545-AH49

TREAS

Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3036	26 USC 0337 Guidance in Notice 89-37, Which Treats the Receipt of a Corporate Partner's Stock by the Corporate Partner as a Circumvention of General Utilities Repeal	1545-AP52
3037	26 USC 0338 Purchase Price Allocation	1545-AV58
3038	26 USC 0355 Section 355(e) Guidance	1545-AW79
3039	26 USC 0367 Amendment of the Income Tax Regulations Under Section 367 of the Code (Transfers to Foreign Corporations) To Reflect Section 131 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AK74
3040	26 USC 0367 Section 361 Outbound Transfers of Property to Foreign Corporations	1545-AM97
3041	26 USC 0368 Continuity of Interest	1545-AV81
3042	26 USC 0404A Income Tax—Deduction for Certain Foreign Deferred Compensation Plans	1545-AD81
3043	26 USC 0411 Allocation of Accrued Benefits Between Employer and Employee Contributions	1545-AT82
3044	26 USC 0419 Treatment of Funded Welfare Benefit Plans	1545-AG14
3045	26 USC 0460 Accounting for Long-Term Contracts	1545-AQ30
3046	26 USC 0469 Limitations on Passive Activity Losses and Credits—Self-Charged Items	1545-AN64
3047	26 USC 0475 Mark-to-Market Upon Disposition	1545-AS85
3048	26 USC 0475 Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities and Commodities	1545-AW06
3049	26 USC 0482 Intercompany Transfer Pricing for Services	1545-AR32
3050	26 USC 0679 Foreign Grantor Trusts	1545-AO75
3051	26 USC 0842 Foreign Insurance Companies	1545-AL82
3052	26 USC 0863 Source Rules for Payments Made Pursuant to Certain Swap Arrangements	1545-AU89
3053	26 USC 0865 Source Rules for Personal Property Sales	1545-AJ83
3054	26 USC 0865 Allocation of Loss on Disposition of Personal Property	1545-AW09
3055	26 USC 0892 Income of Foreign Governments and International Organizations	1545-AL93
3056	26 USC 0904 Clarification of Treatment of Separate Limitation Losses	1545-AM11
3057	26 USC 0905 Income Tax—Taxpayer's Obligation To File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
3058	26 USC 0924 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction, and Other Special Rules for FSC	1545-AI16
3059	26 USC 0936 Income Tax—Definition of Qualified Possession Source Investment Income for Purposes of Puerto Rico and Possession Tax Credit	1545-AC10
3060	26 USC 0936 CBI Investments of Section 936 Funds	1545-AM91
3061	26 USC 0964 Earnings and Profits of Controlled Foreign Corporations	1545-AM90
3062	26 USC 0964 Use of GAAP Earnings as E&P of Foreign Corporations	1545-AQ55
3063	26 USC 1502 Consolidated Alternative Minimum Tax	1545-AN73
3064	26 USC 1502 Consolidated Returns—Limitations on the Use of Certain Losses and Credits	1545-AV88
3065	26 USC 1502 Intercompany Obligations	1545-AW30
3066	26 USC 2702 GRAT and Notes	1545-AW25
3067	26 USC 404A Application of Grantor Trust Rules to Nonexempt Employees' Trust	1545-AU29
3068	26 USC 4082 Diesel Fuel Excise Tax; Dye Injection Systems and Markers	1545-AT18
3069	26 USC 442 Change of Annual Accounting Period	1545-AX15
3070	26 USC 6039E Information From Passport and Immigration Applicants	1545-AJ93
3071	26 USC 6110 Amendment of 26 USC Section 6110, "Issued" with regard to Chief Counsel Advice.	1545-AX40
3072	26 USC 6205 Interest-Free Adjustments	1545-AQ61
3073	26 USC 6302 Railroad Unemployment Repayment Tax	1545-AN40
3074	26 USC 6311 Payment of Taxes by Credit Card and Debit Card	1545-AW37
3075	26 USC 6695 Retention of Paid Preparers' Signatures	1545-AW52
3076	26 USC 6695 Preparer Due Diligence Requirements for Determining Earned Income Credit Eligibility	1545-AW73
3077	26 USC 7122 Compromises	1545-AW88
3078	26 USC 7502 Timely Mailing Treated as Timely Filing/Electronic Postmark	1545-AW81
3079	26 USC 7520 Valuation Tables	1545-AX07
3080	26 USC 7805 Straddles—Miscellaneous Issues	1545-AT46
3081	26 USC 7805 Effect of the Family and Medical Leave Act on the Operation of Cafeteria Plans	1545-AT47
3082	26 USC 7805 Recomputation of Life Insurance Reserves	1545-AU49
3083	26 USC 7805 Agreements for Payment of Tax Liabilities in Installments	1545-AU97
3084	26 USC 7805 Withdrawal of Notice of Federal Tax Lien	1545-AV00
3085	26 USC 7805 Deposits of Excise Taxes	1545-AV02
3086	26 USC 7805 Electronic Tip Reporting	1545-AV28
3087	26 USC 7805 EIC Eligibility	1545-AV61
3088	26 USC 7805 Required Distributions From Qualified Plans and Individual Retirement Plans	1545-AV82
3089	26 USC 7805 Disclosure of Return Information to the Bureau of the Census	1545-AV84

TREAS

Internal Revenue Service—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3090	26 USC 7805 Interest on Education Loans	1545-AW01
3091	26 USC 7805 Capital Gains and Partnership Provisions	1545-AW22
3092	26 USC 7805 Conversion to the Euro	1545-AW43
3093	26 USC 7805 Section 148—Clarification of the Treatment of Prepayments	1545-AW44
3094	26 USC 7805 Guidance Under Subpart F Relating to Certain Hybrid Transactions	1545-AW63
3095	26 USC 7805 Education Credits	1545-AW65
3096	26 USC 7805 Modifications and Additions to the Unified Partnership Audit Procedures	1545-AW86
3097	26 USC 7805 Notice and Opportunity for Hearing Before Levy	1545-AW90
3098	26 USC 7805 Notice and Opportunity for Hearing Upon Filing of Notice of Lien	1545-AW91
3099	26 USC 7805 Continuation Coverage Requirements Applicable to Group Health Plans	1545-AW94
3100	26 USC 7805 Notice of Contact of Third Parties - Sec 7602(c)	1545-AX04
3101	Guaranteed Investment Contracts	1545-AX22
3102	Extension of Time to Electronically File Information Returns, Limitation of Penalty for Individual's Failure to Pay During Period of Installment Agreement	1545-AX31
3103	Qualified Transporation Fringe Benefits	1545-AX33
3104	Advance Payments	1545-AX36
3105	Related Party Interest Capitalization.	1545-AX37
3106	Section 414(q) Regulation	1545-AX48
3107	Tax on Insurance Companies Other Than Life Insurance Companies	1545-AX54
3108	Modification of the Solely-For-Voting Stock Requirement in Certain Corporate Reorganizations	1545-AX57

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identification Number
3109	26 USC 0079 Section 79, Table I, Update	1545-AN54
3110	26 USC 0337 Corporate Inversion Transactions	1545-AS91
3111	26 USC 0367 Treatment of Section 355 Distributions by U.S. Corporations to Foreign Persons	1545-AU22
3112	26 USC 0367(E)(2) Treatment of Distributions to Foreign Persons Under Section 367(e)(2)	1545-AX30
3113	26 USC 0368 Modification of the Solely-for-Voting Stock Requirement in Certain Corporate Reorganizations	1545-AW55
3114	26 USC 0382 Regulations Under Section 382	1545-AU33
3115	26 USC 0467 Section 467 Rental Agreements	1545-AU11
3116	26 USC 0643 Inbound Grantor Trusts With Foreign Grantors	1545-AU90
3117	26 USC 1502 Regulations Under Section 1502	1545-AU32
3118	26 USC 3221 Exception From Supplemental Tax	1545-AT56
3119	26 USC 6104 Public Disclosure of Material Relating to Tax-Exempt Organizations	1545-AV13
3120	26 USC 6302 Federal Employment Tax Deposits De Minimis Rule	1545-AW28
3121	26 USC 6302 Electronic Fund Transfers of Federal Deposits	1545-AW41
3122	26 USC 7122 Compromises	1545-AW87
3123	26 USC 7805 Section 6038 Information Reporting Requirements with Respect to Controlled Foreign Partnerships	1545-AV69
3124	26 USC 7805 Averaging of Farm Income	1545-AW04
3125	26 USC 7805 Removal of Regulation Providing Guidance Under Subpart F Relating to Partnerships and Branches	1545-AW49
3126	26 USC 7805 Balanced Performance Measurement System	1545-AW80
3127	26 USC 7805 Allocation of Unrecaptured Section 1250 Gain Reported on the Installment Method	1545-AW85
3128	26 USC 7805 Averaging of Farm Income	1545-AX01
3129	Valuation Tables	1545-AX14
3130	Obligation of States and Political Subdivisions	1545-AX23
3131	Furnishing Identifying Number of Income Tax Preparer	1545-AX27
3132	Partnership Mergers and Divisions	1545-AX32

TREAS

Office of Thrift Supervision—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3133	12 CFR 567 Capital Rules	1550-AB11
3134	12 CFR 516 Application Processing	1550-AB14
3135	12 CFR 545 Types of Offices	1550-AB18
3136	12 CFR 545 Directors and Officers	1550-AB19
3137	12 CFR 545 Non-Deposit Investment Products	1550-AB22
3138	12 CFR 563b Conversions	1550-AB24
3139	12 CFR 590 Due on Sale and Usury Preemption	1550-AB25
3140	12 CFR 584 Holding Company Activities	1550-AB29
3141	12 CFR 500 Organizational Regulations	1550-AB30

Office of Thrift Supervision—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3142	12 CFR 584 Exempt Savings and Loan Holding Companies	1550-AB26
3143	12 CFR 570 Year 2000 Safety and Soundness Guidelines	1550-AB27
3144	12 CFR 572 Loans in Areas Having Special Flood Hazards	1550-AB31

Office of Thrift Supervision—Completed Actions

Sequence Number	Title	Regulation Identification Number
3145	12 CFR 563f Management Official Interlocks	1550-AB07
3146	12 CFR 545 Letters of Credit, Suretyship and Guaranty	1550-AB21
3147	12 CFR 528 Nondiscrimination	1550-AB23

Department of the Treasury (TREAS)
Departmental Offices (DO)

Proposed Rule Stage

2748. POSSIBLE REGULATION OF ACCESS TO ACCOUNTS AT FINANCIAL INSTITUTIONS THROUGH PAYMENT SERVICE PROVIDERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 31 USC 321; 31 USC 3332

CFR Citation: 31 CFR ch II

Legal Deadline: None

Abstract: Treasury is seeking comment on whether it should propose regulations regarding arrangements between insured financial institutions and nondepository payment service providers (e.g., check cashers) governing access to Federal electronic payments. Commenters are asked to address the question of whether these arrangements should be federally regulated and, if they should, how those regulations should be structured.

Timetable:

Action	Date	FR Cite
ANPRM	01/08/99	64 FR 1149
ANPRM Comment Period End	04/08/99	
Action		
NPRM	01/00/00	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Roger Bezdek, Senior Advisor for Fiscal Management, Department of the Treasury, Room 2064C, 1500 Pennsylvania Avenue NW, Washington, DC 20220
Phone: 202 622-1807

RIN: 1505–AA74

Department of the Treasury (TREAS)
Departmental Offices (DO)
Final Rule Stage

2749. • COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4703

CFR Citation: 12 CFR part 1805

Legal Deadline: None

Abstract: The rule amends the regulations implementing the Community Development Financial Institutions (CDFI) Program by: (1) making it easier to qualify as a CDFI; (2) affording CDFIs greater flexibility in meeting matching funds requirements; (3) clarifying application content requirements and evaluation criteria; (4) reducing the frequency of previously approved collections of information by replacing quarterly reporting requirements with semi-annual reporting requirements; and (5) making other technical and clarifying changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Interim Final Rule Effective	11/00/99	
Interim Final Rule Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeffrey C. Berg, Legal Counsel, Department of the Treasury, Suite 200 South, CDFI Fund, 601 13th Street NW, Washington, DC 20005
Phone: 202 622-8662
Email: bergj@cdfi.treas.gov

RIN: 1505–AA75

BILLING CODE 4810–25–F

Department of the Treasury (TREAS)
Financial Crimes Enforcement Network (FINCEN)
Proposed Rule Stage

2750. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—BROKER/DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by broker/dealers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA21

Department of the Treasury (TREAS)
Financial Crimes Enforcement Network (FINCEN)
Final Rule Stage

2751. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS REGARDING REPORTING OF CROSS-BORDER TRANSPORTATION OF CERTAIN MONETARY INSTRUMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5312(a)(3), Bank Secrecy Act

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will require reporting of cross-border transportation of certain negotiable instruments.

Timetable:

Action	Date	FR Cite
NPRM	01/22/97	62 FR 3249
NPRM Comment Period End	04/22/97	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA15

2752. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SPECIAL REPORTING AND RECORDKEEPING REQUIREMENTS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5313; 31 USC 5318

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require special currency transaction reporting and recordkeeping by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27909
NPRM Comment Period End	09/30/97	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182
Phone: 703 905-3590

RIN: 1506–AA19

2753. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

TREAS—FINCEN

Final Rule Stage

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This rule will propose to require suspicious activity reporting by certain classes of businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/21/97	62 FR 27900
NPRM Comment Period End	09/30/97	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182 Phone: 703 905-3590

RIN: 1506–AA20

2754. AMENDMENTS TO THE BANK SECRECY ACT REGULATIONS—SUSPICIOUS ACTIVITY REPORTING—CASINOS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 5318(g)

CFR Citation: 31 CFR 103

Legal Deadline: None

Abstract: This NPRM will propose to require suspicious activity reporting by casinos.

Timetable:

Action	Date	FR Cite
NPRM	05/18/98	63 FR 27230
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Stephen R. Kroll, Chief Counsel, Department of the Treasury, Financial Crimes Enforcement Network, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182 Phone: 703 905-3590

RIN: 1506–AA22

Department of the Treasury (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Long-Term Actions

2755. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REQUIREMENT THAT FINANCIAL INSTITUTIONS CARRY OUT ANTI-MONEY-LAUNDERING PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll Phone: 703 905-3590

RIN: 1506–AA05

2756. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DELEGATION OF AUTHORITY TO ASSESS CIVIL MONEY PENALTIES ON DEPOSITORY INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stephen R. Kroll Phone: 703 905-3590

RIN: 1506–AA08

Department of the Treasury (TREAS)
Financial Crimes Enforcement Network (FINCEN)

Completed Actions

2757. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—REGISTRATION REQUIREMENT FOR CERTAIN NON-BANK FINANCIAL INSTITUTIONS—MONEY SERVICES BUSINESSES (MSBS)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 103

Completed:

Reason	Date	FR Cite
Final Rule	08/20/99	64 FR 45438

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephen R. Kroll Phone: 703 905-3590

RIN: 1506–AA09

BILLING CODE 4820–02–F

Department of the Treasury (TREAS)
Financial Management Service (FMS)

Proposed Rule Stage

2758. RULES AND PROCEDURES FOR EFFICIENT FEDERAL-STATE FUNDS TRANSFERS

Regulatory Plan: This entry is Seq. No. 99 in Part II of this issue of the **Federal Register**.

RIN: 1510–AA38

2759. CLAIMS ON ACCOUNT OF TREASURY CHECKS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 321; 31 USC 3328; 31 USC 3331; 31 USC 3343; 31 USC 3702; 31 USC 3712

CFR Citation: 31 CFR 245

Legal Deadline: None

Abstract: 31 CFR part 245 governs the issuance of replacement checks for checks drawn on the United States Treasury when (1) the original check has been lost, stolen, destroyed or mutilated or defaced to such an extent that it is rendered non-negotiable; (2) the original check has been negotiated and paid on a forged or unauthorized indorsement; and (3) the original check has been cancelled pursuant to 31 CFR part 240. The regulation is being revised to update the regulation's definitions to make them consistent with the language of the proposed revisions to the definitions in 31 CFR part 240. Other revisions will govern the use of the Check Forgery Insurance Fund (Fund). The Fund is a revolving fund established to settle payee claims of non-receipt where the original check has been fraudulently negotiated. The Fund ensures that innocent payees, whose Treasury checks have been fraudulently cashed, receive replacement checks in a timely manner.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ella White, Customer Liaison Specialist, Department of the Treasury, Financial Management Service, Room 8D25, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-7475

RIN: 1510–AA51

2760. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE, LEGALLY ENFORCEABLE NONTAX DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3716; 31 USC 321

CFR Citation: 31 CFR 285.5

Legal Deadline: None

Abstract: This rule governs administrative offset of Federal payments by disbursing officials of the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW, Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA65

2761. • OFFSET OF TAX REFUND PAYMENT TO COLLECT STATE INCOME TAX OBLIGATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6402(e)

CFR Citation: 31 CFR 285.8

Legal Deadline: None

Abstract: This rule governs the offset of Federal tax refund payments to collect delinquent State income taxes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW, Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA78

Department of the Treasury (TREAS)
Financial Management Service (FMS)

Final Rule Stage

2762. FEDERAL GOVERNMENT PARTICIPATION IN THE AUTOMATED CLEARING HOUSE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3720; 31 USC 3335; 31 USC 321; 5 USC 5525; 31 USC 3332; 31 USC 3321; 31 USC 3301; 31 USC 3302; 12 USC 391

CFR Citation: 31 CFR 210

Legal Deadline: None

Abstract: This revision of 31 CFR part 210 will reconcile Government Automated Clearing House (ACH) regulations and private industry rules as set forth by the National Automated Clearing House Association, by updating the incorporation of certain industry rules into Federal law for the year 2000.

Timetable:

Action	Date	FR Cite
NPRM	09/30/94	59 FR 50112
Extension of Comment Period	11/25/94	59 FR 60576
NPRM Comment Period End	01/03/95	
NPRM	02/02/98	63 FR 5426
NPRM Comment Period End	05/04/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

TREAS—FMS

Final Rule Stage

Government Levels Affected: Undetermined

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW, Washington, DC 20227
Phone: 202 874-6657

RIN: 1510–AA17

2763. FOREIGN EXCHANGE OPERATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 31 USC 3513; EO 10488; EO 10900; 22 USC 2363

CFR Citation: 31 CFR 281

Legal Deadline: None

Abstract: This regulation governs the administration of the purchase, custody, deposit, transfer, sale and reporting of foreign exchange (including credits and currencies) by executive departments and agencies. Currently, this regulation allows the purchase of foreign currency to an amount which, together with the balance on hand in the bank, may not exceed estimated requirements for a 30-day period. The revised rule allows the purchase of foreign currency to a balance "commensurate with immediate disbursing requirements."

Timetable:

Action	Date	FR Cite
NPRM	01/29/96	61 FR 2750
NPRM Comment Period End	02/28/96	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Maria Guido, Senior Advisor, International Funds Branch, Department of the Treasury, Financial Management Service, Room 5A30, PGCII, 3700 East-West Highway, Hyattsville, MD 20782
Phone: 202 874-8943

RIN: 1510–AA48

2764. FEDERAL CLAIMS COLLECTION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3701; 31 USC 3711; 31 USC 3717; 31 USC 3718; 31 USC 3720B; 31 USC 3716

CFR Citation: 31 CFR 900 to 904

Legal Deadline: None

Abstract: The Federal Claims Collection Standards prescribe basic standards for Federal agencies for collection of non-tax claims. The current standards originally were published in 1984 jointly by the Department of Justice and the General Accounting Office at 4 CFR parts 101-105. The Department of the Treasury has been added as a co-signor by the Debt Collection Improvement Act of 1996 (Act) and the General Accounting Office was removed as a co-signor by the General Accounting Office Act of 1996. This revision, which will move the standards to 31 CFR parts 900-904, is being made to simplify the language of the current standards and to incorporate changes made by the Act concerning such topics as disbursing official offset, cross-servicing of debts, interest and penalties on claims, and contracts for collection services.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68476
NPRM Comment Period End	03/02/98	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW, Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA57

2765. SALARY OFFSET

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514

CFR Citation: 31 CFR 285.7

Legal Deadline: None

Abstract: This rule governs the centralized computer matching of Federal Employee Records for purposes of salary offset to collect non-tax delinquent debt owed the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/28/98	63 FR 23353
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW, Washington, DC 20227
Phone: 202 874-6859

RIN: 1510–AA70

2766. • PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 90; 12 USC 265 to 266; 12 USC 332; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1767; 12 USC 1789a; ...

CFR Citation: 31 CFR 203

Legal Deadline: None

Abstract: This rule proposes to change the Treasury Tax and Loan (TT&L) interest rate from the Federal funds rate, less 25 basis points, to the overnight repurchase agreement rate. The prevailing overnight rate in the repurchase market has closely tracked the Federal funds rate on average during the last two years. Based on these statistics, using the overnight repurchase agreement rate would compensate the Treasury adequately for the use of the TT&L note balances on a basis, which is similar to the market interest rate for collateralized lending.

Timetable:

Action	Date	FR Cite
NPRM	07/30/99	64 FR 41747
NPRM Comment Period End	09/28/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mary Bailey, Financial Program Specialist, Department of the Treasury, Financial Management Service, 401 14th Street SW, Washington, DC 20227

TREAS—FMS **Final Rule Stage**

Phone: 202 874-6590

RIN: 1510–AA79

2767. • REGULATIONS GOVERNING FEDSELECT CHECK

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3321; 31 USC 3325; 31 USC 3327; 12 USC 391

CFR Citation: 31 CFR 247

Legal Deadline: None

Abstract: This action will eliminate the rule that governs the FedSelect check, effective with the termination of the FedSelect check by FMS. The termination of the FedSelect check is targeted for March 2000.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, Department of the Treasury, Financial Management Service, Room 420, 401 14th Street SW, Washington, DC 20227
Phone: 202 874-6657

RIN: 1510–AA80

Department of the Treasury (TREAS)
Financial Management Service (FMS) **Long-Term Actions**

2768. INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 240

Timetable:

Action	Date	FR Cite
NPRM	09/21/95	60 FR 48940
NPRM Comment Period End	11/06/95	
NPRM I	05/30/97	62 FR 29314
NPRM II	12/00/00	
Final Rule (NPRM I)	07/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Ronald E. Brooks
Phone: 202 874-7573
Email: ronald.brooks@fms.sprint.com

RIN: 1510–AA45

2769. PAYMENTS UNDER JUDGMENT AND PRIVATE RELIEF ACTS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 256

Timetable:

Action	Date	FR Cite
NPRM	01/08/96	61 FR 552
NPRM Comment Period End	02/07/96	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Wanda Rogers
Phone: 202 874-6664
Email: wanda.rogers@fms.sprint.com

RIN: 1510–AA52

2770. OFFSET OF FEDERAL PAYMENTS (OTHER THAN TAX REFUND AND FEDERAL BENEFIT PAYMENTS) TO COLLECT PAST-DUE DEBTS OWED TO STATES (OTHER THAN CHILD SUPPORT)

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.6

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA66

2771. PUBLIC DISSEMINATION OF IDENTITY OF DELINQUENT DEBTORS

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.14

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA72

2772. DEPOSITARIES AND FINANCIAL AGENTS OF THE FEDERAL GOVERNMENT

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 202; 31 CFR 380

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657

RIN: 1510–AA75

2773. PAYMENT OF FEDERAL TAXES AND THE TREASURY TAX AND LOAN PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 203; 31 CFR 380

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657

RIN: 1510–AA76

2774. ACCEPTANCE OF BONDS SECURED BY GOVERNMENT OBLIGATIONS IN LIEU OF BONDS WITH SURETIES

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 225; 31 CFR 380

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Cynthia L. Johnson
Phone: 202 874-6657

RIN: 1510–AA77

Department of the Treasury (TREAS)
Financial Management Service (FMS)

Completed Actions

2775. TRANSFER OF DEBTS TO TREASURY FOR COLLECTION

Priority: Substantive, Nonsignificant

CFR Citation: 31 CFR 285.12

Completed:

Reason	Date	FR Cite
Final Rule	04/28/99	64 FR 22905

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gerry Isenberg
Phone: 202 874-6859

RIN: 1510–AA68

BILLING CODE 4810–35–F

Department of the Treasury (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Proposed Rule Stage

ALCOHOL

2776. REVISION OF BREWERY REGULATIONS AND ISSUANCE OF REGULATIONS FOR TAVERNS ON BREWERY PREMISES (BREWPUBS)

Regulatory Plan: This entry is Seq. No. 100 in Part II of this issue of the **Federal Register**.

RIN: 1512–AB37

2777. COUNTRY OF ORIGIN STATEMENTS ON DISTILLED SPIRITS LABELS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1304; 27 USC 205

CFR Citation: 27 CFR 5.36 (e)

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms plans to issue a notice of proposed rulemaking that proposes to amend the regulations at 27 CFR 5.36 (e). The proposed regulations would clarify how the requirement to identify country of origin should be applied to mixtures of imported and domestic spirits.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB72

2778. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTIONS 1421 AND 1422

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 24; 27 CFR 25; 27 CFR 250; 27 CFR 251

Legal Deadline: None

Abstract: This notice implements section 1421 and 1422 of the Taxpayer Relief Act of 1997. This will permit importation in bond of bulk containers of wine and beer.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB75

2779. ALTERATION OF LABELS ON CONTAINERS OF DISTILLED SPIRITS, WINE AND BEER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5301; 26 USC 7805; 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations in 27 CFR parts 4, 5, and 7. The proposed amendments to the regulations will require that a lot identification code be placed on the label or container of all wine, malt beverage and distilled spirits products. The lot identification code will be a mandatory item of information and it will be illegal to remove or alter the codes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel J. Hiland, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB76

2780. LABELING OF FLAVORED WINE PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.21

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) plans to issue a notice of proposed rulemaking that proposes to amend the regulations in part 4 by creating a new standard of identity for flavored wine products. ATF believes that this new standard of identity is necessary in order to avoid consumer confusion between established classes of wines (including varietals and semi-generics) and products that fall outside existing classes because of the addition of flavoring materials.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward Reisman, Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB86

2781. • AMENDED STANDARD OF IDENTITY FOR SHERRY

Priority: Info./Admin./Other

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: ATF is considering a petition to allow certain types of wine to be labeled as "sherry" rather than "light sherry".

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8210 Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB96

FIREARMS

2782. COMMERCE IN EXPLOSIVES (INCLUDING EXPLOSIVES IN THE FIREWORKS INDUSTRY)

Regulatory Plan: This entry is Seq. No. 101 in Part II of this issue of the **Federal Register**.

RIN: 1512–AB48

2783. IMPLEMENTATION OF PUBLIC LAW 104-208, THE OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997, RELATING TO THE ESTABLISHMENT OF A NATIONAL REPOSITORY FOR ARSON AND EXPLOSIVES INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 846(b)

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: ATF is issuing this temporary rule to implement certain provisions of Public Law 104-208, the Omnibus Consolidated Appropriations Act of 1997 (the Act), enacted September 30, 1996. The Act amended the Federal explosives laws in title 18, United States Code, chapter 40, to require all Federal agencies to report to ATF any information involving arson or the suspected criminal misuse of explosives. The Act also authorizes ATF to establish a repository for this information. In addition, the law provides that such repository will contain information on incidents voluntarily reported to ATF by State and local authorities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8230

RIN: 1512–AB73

2784. IMPL. OF PL 105-277, MAKING OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FY 1999, RELATING TO THE PERMANENT PROVISIONS OF THE BRADY HANDGUN VIOLENCE PREVENTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is amending the regulations to implement the provision of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, relating to the permanent provisions of the Brady Handgun Violence Prevention Act. The new law allows a licensed pawnbroker to contact the national instant criminal background check system (NICS) prior to taking or receiving a firearm in pawn. If NICS advises the pawnbroker that receipt or possession of the firearm would be in violation of the law, the licensee must advise local law enforcement within 48 hours after receipt of information.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8230

RIN: 1512–AB83

2785. • PL 105-277, MAKING OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FY99, RELATING TO FIREARMS DISABILITIES FOR NON-IMMIGRANT ALIENS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921-930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: ATF is issuing a temporary rule amending the regulations to implement the provisions of Public Law 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999. The regulations implement the law by prohibiting, with certain exceptions, the transfer to and possession of firearms by aliens admitted to the United States under a nonimmigrant visa. Regulations are also prescribed with regard to applicants for dealer's licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold to nonlicensed individuals, and an amended definition of "antique firearm" to include certain muzzle loading firearms.

TREAS—BATF **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Interim Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8230

RIN: 1512–AB93

Department of the Treasury (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2786. LABELING OF UNAGED GRAPE BRANDY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to permit the use of the word "unaged" as an alternative to "immature," to describe grape brandy which has not been stored in oak containers.

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30015
NPRM Comment Period End	09/11/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8230

RIN: 1512–AB46

2787. DISTILLED SPIRITS PLANT REGULATORY INITIATIVE PROPOSAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 19.11; 27 CFR 19.49; 27 CFR 19.153; 27 CFR 19.201 to 206; 27 CFR 19.311; 27 CFR 19.454; 27 CFR 19.605; 27 CFR 19.770; 27 CFR 19.1001; 27 CFR 19.1003; 27 CFR 19.1010

Legal Deadline: None

Abstract: ATF is proposing changes to the distilled spirits plant regulations to implement the Administration's Reinventing Government effort to reduce the regulatory burden and streamline requirements. ATF believes these proposed changes will benefit distilled spirits plant proprietors and other industry members by enabling them to operate more easily and with less regulatory oversight from the Government. ATF is also requesting comments on the possibility of revising the distilled spirits plant recordkeeping requirements to accomplish the Government's goals through a system that would be based, as much as possible, on proprietors' own recordkeeping methods.

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65720
NPRM Comment Period End	01/29/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Simon, Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB58

2788. IMPLEMENTATION OF WINE CREDIT PROVISIONS OF PUBLIC LAW 104-188

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 26 USC 5041

CFR Citation: 27 CFR 24.278; 27 CFR 24.279

Legal Deadline: None

Abstract: ATF is amending wine regulations to implement a law change which allows certain transferees in bond to deduct small wine producers tax credit. Changes to bond calculation are also included in this regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 29681
Interim Final Rule	06/02/97	62 FR 29663
NPRM Comment Period End	08/01/97	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB65

2789. IMPLEMENTATION OF PL 105-34, SECTION 1417, RELATED TO THE USE OF AMELIORATING MATERIAL IN CERTAIN WINES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-34, sec 1417

CFR Citation: 27 CFR 24.178; 27 CFR 4.21; 27 CFR 4.22

Legal Deadline: None

Abstract: The wine regulations are amended to extend the amelioration

and sweetening limitations of wines made from any fruit or berry.

Timetable:

Action	Date	FR Cite
NPRM	09/16/99	64 FR 50265
Interim Final Rule	09/16/99	64 FR 50252
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Busey, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB78

2790. PROHIBITION OF ALCOHOL BEVERAGE CONTAINERS AND STANDARD OF FILL FOR DISTILLED SPIRITS AND WINE

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4 to 5; 27 CFR 7

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) proposes to amend regulations to clarify the standards of fill for distilled spirits and wine. ATF also proposes to amend regulations to prohibit certain alcohol beverage containers that are likely to mislead consumers as to the identity or character of the distilled spirits, wine or malt beverage products or are likely to be confused with other (non-alcohol) food products.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6486
NPRM Comment Period End	04/12/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Foster, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB89

2791. • HEALTH CLAIMS AND OTHER HEALTH RELATED STATEMENTS IN THE LABELING AND ADVERTISING OF ALCOHOL BEVERAGES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: ATF proposes to amend the regulations to prohibit the appearance on labels or in advertisements of any statement that makes a substantive claim regarding health benefits associated with the consumption of alcohol beverages unless such claim is properly qualified. This notice also addresses the use of directional health-related statements and seeks comments on whether the negative consequences of alcohol consumption or abuse disqualify these products entirely from entitlement to any health-related statements.

Timetable:

Action	Date	FR Cite
NPRM	10/25/99	64 FR 57413
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8230

RIN: 1512–AB97

FIREARMS

2792. COMMERCE IN FIREARMS AND AMMUNITION (OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997)

Priority: Substantive, Nonsignificant

Legal Authority: 18 USC 847; 18 USC 921 to 930

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The Omnibus Consolidated Appropriations Act of 1997 contains amendments to the Gun Control Act of 1986 (18 U.S.C. chapter 44). These amendments add to the category of "prohibited persons" anyone convicted of a "misdemeanor crime of domestic violence". The amendments require individuals acquiring handguns from Federal firearms licenses to certify (in accordance with the Brady Law) that they have not been convicted of such a crime. The amendments also provide for sales between Federal firearms licensees of curio and relic firearms away from their licensed premises.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35551
Interim Final Rule	06/30/98	63 FR 35520
NPRM Comment Period End	09/28/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8230

RIN: 1512–AB64

2793. RESIDENCY REQUIREMENT FOR PERSONS ACQUIRING FIREARMS

Priority: Other Significant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178

Legal Deadline: None

Abstract: The temporary rule amends the regulations to provide for a firearms purchaser's affirmative statement of his or her State of residence on ATF Form 4473 (Firearms Transaction Record) and ATF Form 5300.35 (Statement of Intent to Obtain a Handgun) in acquiring a firearm from a Federal firearms licensee. The temporary rule also amends the regulations to require that aliens purchasing a firearm provide proof of residency through the use of substantiating documentation, such as utility bills or a lease agreement. In addition, the regulations are being amended to require that licensees examine a photo identification document from aliens purchasing firearms. These regulations implement

TREAS—BATF **Final Rule Stage**

President Clinton's March 5, 1997, announcement of firearms initiatives intended to protect the American public from gun violence.

Timetable:

Action	Date	FR Cite
NPRM	04/21/97	62 FR 19446
Interim Final Rule	04/21/97	62 FR 19442
NPRM Comment Period End	07/21/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8230

RIN: 1512–AB66

2794. IDENTIFICATION MARKINGS PLACED ON FIREARMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552(a); 18 USC 847; 18 USC 921 to 930; 44 USC 3504(h)

CFR Citation: 27 CFR 178; 27 CFR 179

Legal Deadline: None

Abstract: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to prescribe minimum height and depth requirements for identification markings placed on firearms by licensed importers and licensed manufacturers. ATF believes that minimum standards are necessary to ensure that firearms are properly identified in accordance with the law. In addition, the proposed standards, if adopted, will facilitate ATF's ability to trace the origin of firearms used in crime.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33450
NPRM Comment Period End	09/21/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8230

RIN: 1512–AB84

2795. • IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2778

CFR Citation: 27 CFR 47

Legal Deadline: None

Abstract: This final rule amends the regulations to implement certain provisions of the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition. The final rule also makes conforming changes and technical amendments to the regulations in Part 47.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Ficaretta, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8230

RIN: 1512–AC02

PROCEDURAL

2796. IMPLEMENTATION OF THE PAPERWORK REDUCTION ACT

Priority: Info./Admin./Other

Legal Authority: 44 USC 3502

CFR Citation: 5 CFR 1320.7 (f)(2)

Legal Deadline: None

Abstract: This final rule adds approved control numbers issued by OMB for collections of information imposed by regulations administered by ATF for parts 4, 5 and 7 of the CFR.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy M. Kern, Writer-Editor, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB90

2797. • IMPLEMENTATION OF PL 105-33, SECTION 9302, RELATED TO THE FLOOR STOCKS TAX ON TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33, sec 9302

CFR Citation: 27 CFR 296

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: This final rule implements section 9302 of the Balanced Budget Act of 1997 (PL 105-33). This Act adds regulations covering the computation and payment of floor stocks tax on taxpaid or tax determined tobacco products and cigarette papers and tubes which are held for sale on January 1, 2000 and January 1, 2002. This rule also provides regulations for conducting inventories and for maintaining required records associated with the floor stocks tax.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	
Final Action Effective	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB95

2798. • DELEGATION OF AUTHORITY IN 27 CFR PARTS 4, 5 AND 7

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: Not Yet Determined

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: This final rule places most ATF authorities contained in 27 CFR parts 4, 5 and 7 with the "appropriate ATF officer" and requires that persons file required documents with the "appropriate ATF officer". Also, this rule removes the definitions of, and references to, specific officers subordinate to the Director.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB98

2799. • DELEGATION OF AUTHORITY IN 27 CFR PART 18

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Not Yet Determined

CFR Citation: 27 CFR 18

Legal Deadline: None

Abstract: This final rule places most ATF authorities contained in 27 CFR part 18, with the "appropriate ATF officer" and requires that persons file documents with "the appropriate ATF officer". Also, this rule removes the definitions of, and references to, specific officers subordinate to the Director.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy M. Kern, Writer-Editor, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AB99

2800. • DELEGATION OF AUTHORITY IN 27 CFR PARTS 6, 8, 10 AND 11

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: Not Yet Determined

CFR Citation: 27 CFR 6; 27 CFR 8; 27 CFR 10; 27 CFR 11

Legal Deadline: None

Abstract: This final rule places most ATF authorities contained in 27 CFR parts 6, 8, 10 and 11, with the "appropriate ATF officer" and requires that persons file documents with the "appropriate ATF officer". Also, this rule removes the definitions of, and references to, specific officers subordinate to the Director.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 Phone: 202 927-8210

RIN: 1512–AC01

TOBACCO PRODUCTS

2801. BALANCED BUDGET ACT OF 1997-PL 105-33, RESTRICTION ON THE IMPORTATION OF DOMESTIC TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES RETURNED TO THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5704(b); 26 USC 5704(d); 26 USC 5754; 26 USC 5702(k); 26 USC 5761; PL 105-33

CFR Citation: 27 CFR 200; 27 CFR 270; 27 CFR 275; 27 CFR 290

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: Restricts the reimportation of tobacco products, cigarette papers and tubes. These products may only be returned for delivery to a manufacturer of tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse.

Requires mandatory export markings on tobacco products, cigarette papers and tubes.

Finally, additional penalties for diversion of tobacco products, cigarette papers and tubes, labeled for export only.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

RIN: 1512–AB81

2802. TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TAX INCREASES FOR JANUARY 1, 2000, AND JANUARY 1, 2002

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33, sec 9302(a)

CFR Citation: 27 CFR 270

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: Amend regulations to reflect new tax rates for tobacco products or cigarette papers and tubes on January 1, 2000, and January 1, 2002.

TREAS—BATF **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB88

2803. IMPLEMENTATION OF PUBLIC LAW 105-33, SECTION 9302, RELATED TO CHANGE IN TAX COMPUTATION OF CIGARETTE PAPERS AND THE IMPOSITION OF PERMIT REQUIREMENTS ON ROLL-YOUR-OWN TOBACCO

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 5701

CFR Citation: 27 CFR 270; 27 CFR 275; 27 CFR 290; 27 CFR 295; 27 CFR 296

Legal Deadline: None

Abstract: Temporary rule and notice of proposed rulemaking to implement Section 9302(c) and (h) of the Balanced Budget Act of 1997.

Changes to the computation of excise tax on cigarette papers and implementation of permit requirements on manufacture of roll-your-own tobacco.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Nancy M. Kern, Writer-Editor, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB92

Department of the Treasury (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF) **Long-Term Actions**

ALCOHOL

2804. EXPORTATION OF LIQUORS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 252

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40887
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	10/15/92	57 FR 47320
ANPRM Comment Period Extended End	12/07/92	
ANPRM	08/09/96	61 FR 41500
ANPRM Comment Period End	12/10/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

RIN: 1512–AA98

2805. ALCOHOLIC CONTENT LABELING FOR MALT BEVERAGES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 7

Timetable:

Action	Date	FR Cite
NPRM	04/19/93	58 FR 21233
Interim Final Rule	04/19/93	58 FR 21228
NPRM Comment Period End	07/19/93	
NPRM Comment Period Extended	07/19/93	58 FR 38543
NPRM Comment Period Extended End	09/17/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Foster
Phone: 202 927-8210

RIN: 1512–AB17

2806. DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 22.21; 27 CFR 22.25 to 22.27; 27 CFR 22.43; 27 CFR 22.59; 27 CFR 22.60; 27 CFR 22.62; 27 CFR 22.63; 27 CFR 22.68; 27 CFR 22.152

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30019
NPRM Comment Period End	08/12/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary A. Wood
Phone: 202 927-8185

RIN: 1512–AB51

2807. DISTRIBUTION OF DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	06/13/96	61 FR 30019
ANPRM Comment Period End	08/12/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mary A. Wood
Phone: 202 927-8185

RIN: 1512–AB57

2808. PRODUCTION OF VOLATILE FRUIT FLAVORED CONCENTRATE

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 18.56

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30017
NPRM Comment Period End	08/12/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary A. Wood
Phone: 202 927-8185

RIN: 1512–AB59

2809. FORMULAS FOR DENATURED ALCOHOL AND RUM

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 21.3; 27 CFR 21.6; 27 CFR 21.11; 27 CFR 21.21; 27 CFR 21.31 to 21.34; 27 CFR 21.56; 27 CFR 21.65; 27 CFR 21.76; 27 CFR 21.91; 27 CFR 21.95 to 21.97

Timetable:

Action	Date	FR Cite
NPRM	07/31/96	61 FR 39929
NPRM Comment Period End	09/30/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary A. Wood
Phone: 202 927-8185

RIN: 1512–AB60

2810. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTION 1416 RELATING TO REFUND OF TAX FOR DOMESTIC WINE RETURNED TO BOND REGARDLESS OF MERCHANTABILITY (TAXPAYER RELIEF ACT OF 1997)

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 24.66; 27 CFR 24.295; 27 CFR 24.312

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary A. Wood
Phone: 202 927-8185

RIN: 1512–AB74

2811. AMERICAN VITICULTURAL AREAS

Priority: Substantive, Nonsignificant

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: This rule establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Timetable:

Buena Vista Lake, CA (contact Jackie White)
NPRM 11/00/99
California Coastal, CA (contact Jackie White)
ANPRM 11/00/99
Chiles Valley, CA (contact Thomas Busey)
NPRM 03/20/98 (63 FR 13583)
Comment Period End 05/19/98
Final Rule 02/17/99 (64 FR 7785)
Oak Knoll District, CA (Joyce Drake)
NPRM 12/00/99
River Junction, CA (contact Teri Byers)
NPRM 12/00/99
San Francisco Bay, CA (contact David Brokaw)
NPRM 10/20/97 (62 FR 54399)
Comment Period End 01/20/98
Final Rule 01/20/99 (64 FR 3015)
Santa Rita Hills, CA (Marsha Baker)
NPRM 09/11/98 (63 FR 48658)
Comment Period End 12/10/98
Final Rule 12/00/99
Yountville, CA (contact Thomas Busey)
NPRM 08/26/98 (63 FR 45427)
Final Rule 03/19/99 (64 FR 13511)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: See Timetable
American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washing DC 20226
Phone: 202 927-8230
Fax: 202 927-8602

RIN: 1512–AA07

PROCEDURAL

2812. RECODIFICATION OF STATEMENT OF PROCEDURAL RULES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 70

Timetable:

Action	Date	FR Cite
NPRM	06/13/96	61 FR 30013
NPRM Comment Period End	08/12/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB54

TOBACCO PRODUCTS

2813. EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 290

Timetable:

Action	Date	FR Cite
ANPRM	09/08/92	57 FR 40889
ANPRM Comment Period End	10/08/92	
ANPRM Comment Period Extended	01/08/93	58 FR 3247
ANPRM Comment Period Extended End	03/09/93	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

RIN: 1512–AB03

2814. NET CONTENTS STATEMENT ON WINE LABELS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4

Completed:

Reason	Date	FR Cite
Withdrawn	06/23/99	64 FR 33448

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta

Phone: 202 927-8230

RIN: 1512–AB70

2815. IMPLEMENTATION OF PUBLIC LAW 105-34, SECTIONS 908, 910 AND 1415, RELATED TO HARD CIDER, SEMIGENERIC WINE DESIGNATIONS AND WHOLESALE LIQUOR DEALER'S SIGNS

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4; 27 CFR 19; 27 CFR 24; 27 CFR 194; 27 CFR 250; 27 CFR 251

Completed:

Reason	Date	FR Cite
Final Rule	09/27/99	64 FR 51896

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marjorie D. Ruhf
Phone: 202 927-8210
Email: mdruhf@atfhq.atf.treas.gov

RIN: 1512–AB71

2816. PETITION FOR JOHANNISBERG RIESLING; PROPOSED ADDITION OF GRAPE VARIETY NAMES FOR AMERICAN WINES; REQUEST FOR ADDITIONAL INFORMATION FOR OTHER PROPOSED GRAPE VARIETIES

Priority: Substantive, Nonsignificant

CFR Citation: 27 CFR 4.91; 27 CFR 4.92

Completed:

Reason	Date	FR Cite
Final Rule	09/13/99	64 FR 49385

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

RIN: 1512–AB80

2817. IMPLEMENTATION OF PUBLIC LAW 104-132, THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996, RELATING TO THE MARKING OF PLASTIC EXPLOSIVES FOR THE PURPOSE OF DETECTION

Priority: Other Significant

CFR Citation: 27 CFR 47; 27 CFR 55

Completed:

Reason	Date	FR Cite
Final Rule	10/14/99	64 FR 55625

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James Ficaretta
Phone: 202 927-8230

RIN: 1512–AB63

2818. TECHNICAL AMENDMENTS TO 27 CFR PART 178

Priority: Info./Admin./Other

CFR Citation: 27 CFR 178

Completed:

Reason	Date	FR Cite
Final Action	04/09/99	64 FR 17291

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Baker
Phone: 202 927-8320

RIN: 1512–AB82

2819. TECHNICAL AMENDMENTS TO 27 CFR PART 200

Priority: Info./Admin./Other

CFR Citation: 27 CFR 200

Completed:

Reason	Date	FR Cite
Final Rule	09/10/99	64 FR 49083

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy M. Kern
Phone: 202 927-8210

RIN: 1512–AB91

2820. • DELEGATION OF AUTHORITY IN 27 CFR PART 1

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 26 USC 203; 26 USC 204; 26 USC 206; 26 USC 211

CFR Citation: 27 CFR 1

Legal Deadline: None

Abstract: This final rule places most ATF authorities contained in 27 CFR part 1, with the "appropriate ATF officer" and requires that persons file required documents with the "appropriate ATF officer". This rule also removes the definitions of, and references to, specific officers subordinate to the Director.

Timetable:

Action	Date	FR Cite
Final Rule	09/15/99	64 FR 49984

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert P. Ruhf, Program Manager, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AB94

2821. • TECHNICAL AMENDMENTS TO 27 CFR PARTS 24 AND 252

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 27 USC 204

CFR Citation: 27 CFR 24; 27 CFR 252

Legal Deadline: None

Abstract: This final rule makes technical amendments and conforming changes to 27 CFR parts 24 and 252. These amendments will revise incorrect information and remove obsolete terms found within parts 24 and 252.

Timetable:

Action	Date	FR Cite
Final Rule	08/27/99	64 FR 46844

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Nancy M. Kern, Writer-Editor, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226
Phone: 202 927-8210

RIN: 1512–AC00

BILLING CODE 4810–31–F

Department of the Treasury (TREAS)
Bureau of the Public Debt (BPD)

Proposed Rule Stage

2822. REGULATIONS GOVERNING COLLATERAL ACCEPTABILITY AND VALUATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 90; 12 USC 2122; 12 USC 3101 to 3102; 26 USC 6302; 31 USC 3336; 31 USC 9303; 31 USC 9301; 31 USC 3301 to 3304; 31 USC 323; 31 USC 321; 12 USC 265 to 266; 12 USC 332; 12 USC 391; 12 USC 1452(d); 12 USC 1464(k); 12 USC 1767; 12 USC 1789a; 12 USC 2013

CFR Citation: 31 CFR 380 (New)

Legal Deadline: None

Abstract: The proposal will only address the eligibility and valuation of required collateral for the payment of certain Federal taxes through Treasury Tax and Loan accounts, to secure deposits of public monies under the control of public officials and to secure an obligation in lieu of a surety bond.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Kurt Eidemiller, Senior Financial Advisor, Government Securities Regulations Staff, Department of the Treasury, Bureau of the Public Debt, Room 315, 999 E Street NW, Washington, DC 20239-0001
Phone: 202 691-3632
Email: govsecreg@bpd.treas.gov

RIN: 1535–AA00

BILLING CODE 4830–01–F

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Prerule Stage

2823. CAPITAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1828 Note; 12 USC 1828(n); 12 USC 1831n Note; 12 USC 1835; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: As part of the OCC's ongoing efforts to develop and refine capital standards to ensure the safety and soundness of the national banking system and to implement statutory requirements, the OCC is amending various provisions of the capital rules for national banks. Specifically, these changes include: (1) collateralized transactions; (2) recourse arrangements and direct credit substitutes; (3) market risk (specific risk); (4) claims on securities firms; and (5) bifurcated capital for complex and noncomplex banks. The OCC is conducting all but the market risk rulemaking jointly with the other Federal banking agencies. The market risk regulation is being done jointly with the FDIC and the FRB.

Timetable:

Bifurcated Capital for Complex and Noncomplex Banks
ANPRM 12/00/1999
Claims on Securities Firms
NPRM 12/00/1999
Collateralized Transactions
NPRM 08/16/1996 (61 FR 42565)
Final Action 12/00/1999
Market Risk (Specific Risk)
Interim Final Rule 12/30/1997 (62 FR 68064)
Final Rule 04/19/1999 (64 FR 19034)
Recourse: Recourse and Direct Credit Substitutes
ANPRM/NPRM 05/25/1994 (59 FR 27116)
NPRM 11/05/1997 (62 FR 59944)
NPRM 12/00/1999

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: ADDITIONAL AGENCY CONTACT: Roger Tufts, Senior Economic Advisor, Capital Policy Division, (202) 874-5070, FAX (202) 874-5417, 250 E Street SW, Washington, DC 20219.

Agency Contact: Ronald Shimabukuro, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: ron.shimabukuro@occ.treas.gov

RIN: 1557–AB14

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Proposed Rule Stage

2824. UNIFORM RULES OF PRACTICE AND PROCEDURE; REGULATION REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554 to 557; 12 USC 93a; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1831o; 12 USC 1972; 12 USC 3102; 12 USC 3108; 12 USC 3909

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The OCC is considering what regulatory actions may be necessary to implement section 112(g)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 to develop joint agency procedures for the suspension and debarment of accountants, upon a showing of good cause, from performing certain audit services.

Timetable:

Action	Date	FR Cite
NPRM - Suspension and Debarment of Accountants	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219

TREAS—OCC **Proposed Rule Stage**

Phone: 202 874-5090
Fax: 202 874-4889
Email: mitchell.plave@occ.treas.gov

RIN: 1557–AB43

2825. MINIMUM SECURITY DEVICES AND PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1882

CFR Citation: 12 CFR 21

Legal Deadline: None

Abstract: The OCC is considering a rulemaking that would amend the OCC's Minimum Security Devices and Procedures regulation to address recent changes made to the definition of the term "branch" in the National Bank Act by the Economic Growth and Paperwork Reduction Act of 1996 (EGRPRA). This amendment would clarify that the regulation applies to automated teller machines (ATMs) and remote service units (RSUs).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karl Betz, Attorney. Department of the Treasury, Comptroller of the Currency, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: karl.betz@occ.treas.gov

RIN: 1557–AB71

2826. • LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Info./Admin./Other

Legal Authority: 12 USC 93a; 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 22.6

Legal Deadline: None

Abstract: The rule amends 12 CFR 22.6(a) by deleting an out-dated cross reference to an appendix to 44 CFR part 65. In May 1998, the Federal Emergency Management Agency (FEMA) amended its regulations at 44 CFR part 65 to remove Appendix A (containing the Standard Flood Hazard Determination Form). 63 Fed. Reg. 27856, May 21, 1998.

The Form continues to be available from FEMA. 64 Fed. Reg. 3104, January 20, 1999.

The amended rule will state that the Standard Flood Hazard Determination Form is available from FEMA and will provide FEMA's address where national banks and the public may obtain the Form.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Lussier, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: jacqueline.lussier@occ.treas.gov

RIN: 1557–AB74

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC) **Final Rule Stage**

2827. INTERAGENCY GUIDELINES ESTABLISHING YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1831p-1

CFR Citation: 12 CFR 30 app B

Legal Deadline: None

Abstract: The guidelines establish Year 2000 safety and soundness standards under section 39 of the Federal Deposit Insurance Act (12 USC 1831p-1) to address the Year 2000 problem. Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), the agencies have already issued several statements providing guidance on important aspects of Year 2000 readiness. The guidelines complement those statements by establishing minimum safety and soundness standards for achieving Year 2000 readiness.

Timetable:

Action	Date	FR Cite
Interim Rule With Request for Comments	10/15/98	63 FR 55480
Interim Rule Effective Date	10/15/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karl Betz, Attorney, Department of the Treasury, Comptroller of the Currency, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: karl.betz@occ.treas.gov

RIN: 1557–AB67

2828. COMMUNITY DEVELOPMENT CORPORATIONS, COMMUNITY DEVELOPMENT PROJECTS, AND OTHER PUBLIC WELFARE INVESTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 24 (Eleventh); 12 USC 93a

CFR Citation: 12 CFR 24

Legal Deadline: None

Abstract: The OCC is proposing to amend 12 CFR part 24 to, among other things, (a) remove the community benefit statement requirement in self-certification letters and investment proposals submitted to the OCC for prior approval; and (b) remove the requirement that no more than 25 percent of the bank's community investment funds projects in a State or metropolitan area other than the States or metropolitan areas in which the bank maintains its main office or has branches.

TREAS—OCC **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	06/10/99	64 FR 31160
NPRM Comment Period End	08/09/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Heidi M. Thomas, Legislative Counsel, Department of the Treasury, Comptroller of the Currency, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: heidi.thomas@occ.treas.gov

RIN: 1557–AB69

2829. • GUIDELINES ESTABLISHING YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS FOR NATIONAL BANK TRANSFER AGENTS AND BROKER-DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1831p-1

CFR Citation: 12 CFR 30

Legal Deadline: None

Abstract: The interim guidelines establish Year 2000 standards for safety and soundness for national bank transfer agents and brokers or dealers. These guidelines describe the essential steps that national banks and, where applicable, national bank operating subsidiaries must take to ensure the Year 2000 readiness of their transfer agent and broker or dealer automated systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/99	64 FR 52638
Interim Final Rule Effective	09/30/99	
Interim Final Rule Comment Period End	11/29/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karl Betz, Attorney, Department of the Treasury, Comptroller of the Currency, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: karl.betz@occ.treas.gov

RIN: 1557–AB73

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC) **Long-Term Actions**

2830. QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 12

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68823
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark J. Tenhundfeld
Phone: 202 874-5090
Fax: 202 874-4889
Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB54

2831. RULES AND PROCEDURES FOR CLAIMS AGAINST OCC-APPOINTED RECEIVERSHIPS FOR UNINSURED FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave
Phone: 202 874-5090
Fax: 202 874-4889
Email: mitchell.plave@occ.treas.gov

RIN: 1557–AB59

2832. REAL ESTATE APPRAISALS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 34

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave
Phone: 202 874-5090
Fax: 202 874-4889
Email: mitchell.plave@occ.treas.gov

RIN: 1557–AB70

2833. • ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 482; 12 USC 3102; 15 USC 78c; 15 USC 78d; 26 DC Code 102

CFR Citation: 12 CFR 8

Legal Deadline: None

Abstract: By statute, the OCC assesses banks to meet the OCC's expenses in carrying out its activities. The rulemaking would propose revising 12 CFR part 8 to capture better the OCC's cost of supervising institutions that currently do not pay the full costs of OCC supervision because their balance sheets do not fully reflect the nature of their business.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchell Plave, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: mitchell.plave@occ.treas.gov

RIN: 1557–AB72

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

2834. EXPANDED EXAMINATION CYCLE FOR CERTAIN SMALL FINANCIAL INSTITUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 1820(d)(8)

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The OCC and the other Federal banking agencies are implementing section 306 of the Riegle Community Development and Improvement Act of 1994, Public Law 103-325 (Sept. 23, 1994), as it applies to Federal branches and agencies of foreign banks. This section permits the Federal banking agencies to examine Federal branches and agencies every 18 months, if a branch or agency meets certain size and condition criteria.

Timetable:

Action	Date	FR Cite
Interim Rule With Request for Comments-18 Month Exam Cycle for Federal Branches and Federal Agencies	08/28/98	63 FR 46117
Interim Rule Effective	08/28/98	
Final Rule	10/22/99	64 FR 56949
Final Rule Effective	10/22/99	
18-Month Exam Cycle for National Banks		
Interim Rule w/Request for Comments 02/12/1997 (62 FR 6449)		
Interim Rule Effective 02/12/1997		
Final Rule 04/02/1998 (63 FR 16378)		
Final Rule Effective 04/02/1998		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark J. Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB56

2835. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3201 et seq

CFR Citation: 12 CFR 26

Legal Deadline: None

Abstract: The rulemaking will amend the current regulations of the OCC and the other Federal banking agencies to conform the regulations to recent changes made to the Depository Institutions Management Interlocks Act (DIMIA). DIMIA was amended to raise the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. DIMIA also was amended to expand the exemptive authority of the OCC and other Federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43051
NPRM Comment Period End	10/13/98	
Final Rule	09/24/99	64 FR 51673
Final Rule Effective	01/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark J. Tenhundfeld, Assistant Director, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: mark.tenhundfeld@occ.treas.gov

RIN: 1557–AB60

2836. INVESTMENT SECURITIES; RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES; AND INTERPRETIVE RULINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1 et seq; 12 USC 24 (seventh); 12 USC 93a

CFR Citation: 12 CFR 1.3(e)(1); 12 CFR 5.3; 12 CFR 5.11; 12 CFR 5.33; 12 CFR 5.35; 12 CFR 5.37; 12 CFR 5.51; 12 CFR 6.64; 12 CFR 7.1012; 12 CFR 7.1016; 12 CFR 7.1017; 12 CFR 7.2005; 12 CFR 7.2008; 12 CFR 7.2020; 12 CFR 7.2023; 12 CFR 7.4000; 12 CFR 7.4003; 12 CFR 7.4004; 12 CFR 7.4005

Legal Deadline: None

Abstract: The OCC will amend 12 CFR part 1 to clarify the extent to which national banks may underwrite, deal in, purchase, and sell Type IV securities that are fully secured by Type I securities. The OCC will amend 12 CFR part 5 to make technical amendments updating the names of offices within the OCC, clarifying certain definitions, and amending references to the CAMEL rating system to reflect the addition of the sixth element of sensitivity to market risk. The OCC will amend 12 CFR part 7 to add new interpretive rulings to reflect developments and clarify provisions in the current rule that have prompted questions.

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 31749
NPRM Comment Period End	08/13/99	
Final Rule	11/04/99	64 FR 60092
Final Rule Effective	12/06/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Lussier, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legislative and Regulatory Activities Division, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: jacqueline.lussier@occ.treas.gov

RIN: 1557–AB61

2837. ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 481; 12 USC 1820(d)(6); 12 USC 1867

CFR Citation: 12 CFR 4

Legal Deadline: None

Abstract: The OCC is amending its disclosure regulation. Among other things, the amendment clarifies that the OCC may make non-public OCC information available to a supervised entity and to other persons, as in the sole discretion of the Comptroller may be necessary or appropriate, without a request for records or testimony.

Timetable:

Action	Date	FR Cite
Interim Rule With Request for Comments	11/10/98	63 FR 62927

TREAS—OCC **Completed Actions**

Action	Date	FR Cite
Interim Rule Effective	11/10/98	
Comment Period End	01/11/99	
Final Rule	06/01/99	64 FR 29214
Final Rule Effective	06/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stuart E. Feldstein, Assistant Director, Department of the Treasury, Comptroller of the Currency, 250 E Street SW, Washington, DC 20219
Phone: 202 874-5090
Fax: 202 874-4889
Email: stuart.feldstein@occ.treas.gov

RIN: 1557–AB65

BILLING CODE 4810–33–F

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS) **Proposed Rule Stage**

2838. LIQUIDATION; EXTENSION; SUSPENSION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1500; 19 USC 1504; 19 USC 1624

CFR Citation: 19 CFR 159

Legal Deadline: None

Abstract: Document would amend the Customs Regulations to implement amendments to section 504 of the Tariff Act of 1930, as amended, which pertains to limitations on the liquidation of entries, that were contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Amendments would allow the reconciliation of entries to be treated as if they were entry summaries, subject to normal liquidation requirements; authorize the electronic transmittal of notices of extension and suspension of liquidation; extend the time period in which Customs must liquidate a suspended entry after the suspension is removed; remove the application of the four-year limitation to suspended entries; and provide that Customs must also inform sureties when an entry is suspended or extended.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Rosoff, Chief, Duty Refund and Determination Branch, Office of Regulations and Rulings, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2077

RIN: 1515–AB66

2839. DETENTION, SEIZURE, AND FORFEITURE OF "BOOTLEG" SOUND RECORDING AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 17 USC 101; 17 USC 601; 17 USC 602; 17 USC 603; 31 USC 9701

CFR Citation: 19 CFR 12; 19 CFR 24; 19 CFR 133

Legal Deadline: None

Abstract: Amendment to provide for the detention, seizure, and forfeiture of unauthorized (bootleg) copies of sound recordings and music videos of live musical performances recorded outside of and imported into the United States, as provided by section 513(a) of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George F. McCray, Attorney, Intellectual Property Rights Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2387

RIN: 1515–AB74

2840. RECONCILIATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1484; 19 USC 1500; 19 USC 1624

CFR Citation: 19 CFR 142; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to allow those elements of an entry, other than those elements relating to the admissibility of the merchandise, that are undetermined at the time an entry summary or an import activity summary is required to be submitted, to be provided to Customs at a later date.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Durant, Director, Commercial Rulings Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AB85

2841. REMOTE LOCATION FILING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1484; 19 USC 1624; 19 USC 1641

CFR Citation: 19 CFR 111; 19 CFR 113; 19 CFR 141; 19 CFR 143

Legal Deadline: None

TREAS—CUSTOMS

Proposed Rule Stage

Abstract: Amendment to allow entry filers to electronically file entries of merchandise with Customs from locations within the United States other than at the port of arrival of the merchandise or the location of examination of the merchandise.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Engelbach, Trade Compliance Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2293

RIN: 1515–AC23

2842. NAFTA PREFERENCE OVERRIDE

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 3314; 19 USC 3592

CFR Citation: 19 CFR 102

Legal Deadline: None

Abstract: Amendment concerns the North American Free Trade Agreement (NAFTA) preference override provision within the NAFTA Marking Rules set forth in part 102 of the Customs Regulations. Amendment would eliminate unintended origin and duty consequences under certain circumstances where the regulation is applied as a result of a claim for NAFTA preference.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel, Attorney, Special Classification and Marking Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1034

RIN: 1515–AC25

2843. COUNTRY OF ORIGIN MARKING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Amendments clarify the country of origin marking rules set forth in part 134 of the Customs Regulations. Amendments promote the concept of informed compliance by the trade and proper field administration of the statutory requirement.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Bell, Division Director, International Trade Compliance Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AC32

2844. FORCED OR INDENTURED CHILD LABOR

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1307; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment of Customs Regulations to provide for the seizure and forfeiture of merchandise that is found to be a prohibited importation under applicable Customs law concerning products of convict labor, forced labor, or indentured labor under penal sanctions. Amendment makes clear that nothing in the regulations precludes Customs from seizing for forfeiture merchandise imported in violation of applicable Federal criminal law dealing with prison-labor goods. Amendment is intended to stop illegal shipments of products of forced or indentured child labor and to punish violators.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen E. Vereb, Senior Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1327

RIN: 1515–AC36

2845. INFORMAL ENTRY OF LOW-VALUE DUTY-FREE MERCHANDISE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1481; 19 USC 1484; 19 USC 1498; 19 USC 1624

CFR Citation: 19 CFR 143

Legal Deadline: None

Abstract: Amendment to permit, with some exceptions, the use of Customs Form 7523, for purposes of informal entry of shipments of duty-free merchandise not exceeding $2,000 in value. Under the amendment, the right to file Customs Form 7523 would no longer be restricted to the importer and the filing would no longer have to be supported by evidence of the right to make entry. By allowing a filing by the carrier or any other party having possession of the imported merchandise, the amendment would have the effect of expediting the release and entry of the merchandise.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry C. Laderberg, Chief, Entry Procedures and Carrier

TREAS—CUSTOMS **Proposed Rule Stage**

Rulings Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2320

RIN: 1515–AC38

2846. AMENDED BOND PROCEDURES FOR ARTICLES SUBJECT TO EXCLUSION ORDERS ISSUED BY THE U.S. INTERNATIONAL TRADE COMMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1337; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Amendment to reflect the statutory provisions regarding bond procedures for the entry of articles subject to exclusion orders issued by the U.S. International Trade Commission. Amendment also includes the text of a new special importation and entry bond in the Customs Regulations. Changes reflect the terms of section 337 of the Tariff Act of 1930, as amended by section 321 of the Uruguay Round Agreements Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Glen E. Vereb, Senior Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1327

RIN: 1515–AC43

2847. • ENDORSEMENT OF CHECKS DEPOSITED BY U.S. CUSTOMS SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 197; 19 USC 198; 19 USC 1202; 19 USC 1450; 19 USC 1624; 19 USC 1648; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment of the Customs Regulations to reflect that Customs employees authorized to accept certain monetary instruments (such as checks) in payment of Customs duties, taxes, and other charges are no longer required to place their names and badge numbers on the instrument and that certain other information must be placed on the front side of the instrument, rather than the reverse side of the instrument. Changes are designed to avoid a conflict with Federal Reserve System regulations that govern the endorsement of checks by banks.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jo Cohen, Acting Director, Financial Management Division, Department of the Treasury, United States Customs Service, Office of Finance, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-6140

RIN: 1515–AC48

2848. • PERSONAL USE LIMITATION FOR PURCHASES AT DUTY-FREE STORES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1555; 19 USC 1624

CFR Citation: 19 CFR 19

Legal Deadline: None

Abstract: Amendment to limit sales at all duty-free stores to quantities appropriate for personal use. Currently, such personal-use limitations on sales apply only at airport stores. Amendment would extend the personal-use quantity restriction to sales at land border and seaport stores. Amendment would provide consistent and uniform treatment to all duty-free stores and is intended primarily to deter diversion and smuggling of conditionally duty-free merchandise, especially tobacco products, sold at duty-free stores.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Creighton W. Goldsmith, Chief Inspector, Department of the Treasury, United States Customs Service, Room No. 2500, 1001 Bishop Street, Pacific Tower, Honolulu, HI 96813
Phone: 808 522-8080
Email: creighton.w.goldsmith@customs.treas.gov

RIN: 1515–AC50

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS) **Final Rule Stage**

2849. COUNTRY-OF-ORIGIN MARKING REQUIREMENTS FOR FROZEN PRODUCE PACKAGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1304; 19 USC 1624

CFR Citation: 19 CFR 134

Legal Deadline: None

Abstract: Requires that the country of origin of imported produce be marked on the front panel of packages of frozen produce in order for the marking to comply with the statutory requirement that marking be in a "conspicuous place."

Timetable:

Action	Date	FR Cite
ANPRM	02/02/95	60 FR 6464
ANPRM Comment Period End	03/20/95	
NPRM	07/23/96	61 FR 38119
NPRM Comment Period End	10/17/97	62 FR 43958
Final Action	12/00/99	

TREAS—CUSTOMS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Bell, Division Director, International Trade Compliance Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2244

RIN: 1515–AB61

2850. INTEREST ON UNDERPAYMENTS AND OVERPAYMENTS OF CUSTOMS DUTIES, FEES AND INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 1202; 19 USC 1505; 19 USC 1624; 31 USC 9701; 19 USC 1500; 19 USC 1504; 19 USC 1315; 19 USC 1514; 19 USC 1515

CFR Citation: 19 CFR 24; 19 CFR 159; 19 CFR 174

Legal Deadline: None

Abstract: Amendment to reflect the provisions of section 505 of the Tariff Act of 1930, as amended by section 642(a) of the North American Free Trade Agreement Implementation Act, regarding the assessment of interest due to underpayments or overpayments to Customs of duties and fees pertaining to imported merchandise, including interest thereon.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/20/99	64 FR 56433
Interim Final Rule Comment Period End	12/20/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Reiley, Financial Officer, Financial Management Division, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1504

RIN: 1515–AB76

2851. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) — IMPLEMENTATION OF DUTY-DEFERRAL PROGRAM PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1481; 19 USC 1484; 19 USC 1202; 19 USC 1315; 19 USC 1624; 19 USC 3314

CFR Citation: 19 CFR 181; 19 CFR 113; 19 CFR 141; 19 CFR 144; 19 CFR 10

Legal Deadline: Final, Statutory, January 1, 1996.

Abstract: Document amends regulations to establish procedural and other requirements that apply to the collection, waiver, and reduction of duties under the duty-deferral program provisions of the North American Free Trade Agreement. The document prescribes the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program either for exportation to another NAFTA country or for entry into a duty-deferral program of another NAFTA country, the procedures that must be followed in filing a claim for a waiver or reduction of duties collected on such merchandise, and the procedures for finalization of duty collections and duty waiver or reduction claims.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/96	61 FR 2908
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Shawn Filion, Commercial Program Specialist, Department of the Treasury, United States Customs Service, Office of Field Operations, North Star Commercial, P.O. Box 400, Buffalo, NY 14225
Phone: 716 551-3053

RIN: 1515–AB87

2852. ELECTRONIC REQUESTS FOR CONFIDENTIAL TREATMENT OF EXPORT MANIFEST DATA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 5 USC 552; 5 USC 552a; 19 USC 66; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 103

Legal Deadline: None

Abstract: Document would amend Customs Regulations concerning export manifest data to enable shippers to request confidential treatment of their name and address information on the Automated Export System.

Timetable:

Action	Date	FR Cite
NPRM	09/12/96	61 FR 48098
NPRM Comment Period End	11/12/96	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carla Brooks, Automated Export System Team, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2246

RIN: 1515–AB89

2853. ENTRY OF SOFTWOOD LUMBER SHIPMENTS FROM CANADA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2416; 19 USC 2171

CFR Citation: 19 CFR 12; 19 CFR 113

Legal Deadline: None

Abstract: Document sets forth amendments establishing additional entry requirements applicable to shipments of softwood lumber from Canada. Amendment involves the collection of certain additional information for purposes of monitoring and enforcing an agreement between the Governments of the United States and Canada regarding trade in softwood lumber.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/26/97	62 FR 8620
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joyce Metzger, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-0792

RIN: 1515–AB97

TREAS—CUSTOMS

Final Rule Stage

2854. PETITIONS FOR RELIEF; SEIZURES, PENALTIES, AND LIQUIDATED DAMAGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1618; 19 USC 1624; 19 USC 1623

CFR Citation: 19 CFR 171; 19 CFR 172; 19 CFR 18; 19 CFR 24; 19 CFR 111; 19 CFR 113; 19 CFR 114; 19 CFR 125; 19 CFR 145; 19 CFR 162; 19 CFR 10; 19 CFR 12

Legal Deadline: None

Abstract: Amendments relating to the filing of petitions in penalty, liquidated damages and seizure cases. Amendments are designed to allow more flexibility and useful contact with Government officials in an effort to administer cases in the most efficient way possible. Amendments promote a more customer-friendly atmosphere and eliminate needless or redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	02/02/98	63 FR 5329
NPRM Comment Period End	04/03/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC01

2855. IMPORTATION OF CHEMICALS SUBJECT TO THE TOXIC SUBSTANCES CONTROL ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 15 USC 2601 et seq; 19 USC 66; 19 USC 1202; 19 USC 1624

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment to the Customs Regulations regarding submission of an importer's certification in connection with the importation of chemical substances subject to the Toxic Substances Control Act. Amendment permits use of a blanket certification for each individual shipment.

Timetable:

Action	Date	FR Cite
NPRM	01/09/90	55 FR 738
NPRM Comment Period End	03/12/90	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: J. Bradley Lund, Operations Officer, Office of Field Operations, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-0192

RIN: 1515–AC04

2856. GUIDELINES FOR THE IMPOSITION AND MITIGATION OF PENALTIES FOR VIOLATION OF 19 USC 1592

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1592; 19 USC 1618; 19 USC 1624

CFR Citation: 19 CFR 171

Legal Deadline: None

Abstract: Revision of guidelines for remitting and mitigating penalties relating to violations of section 592 of the Tariff Act of 1930, as amended. A violation of 592 involves the entry or introduction or attempted entry or introduction of merchandise into the United States by fraud, gross negligence or negligence.

Timetable:

Action	Date	FR Cite
NPRM	10/28/98	63 FR 57628
NPRM Comment Period End	12/28/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Pisani, Attorney, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1203

RIN: 1515–AC08

2857. DESIGNATED LAND BORDER CROSSING LOCATIONS FOR CERTAIN CONVEYANCES

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1202; 19 USC 1431; 19 USC 1433; 19 USC 1459; 19 USC 1624

CFR Citation: 19 CFR 123

Legal Deadline: None

Abstract: Amendment would allow Customs to designate land border crossing locations for certain traffic and merchandise. At ports of entry with multiple crossing points, port directors would have express authority to require by local instructions that certain trucks and other commercial conveyances enter the United States at specific land border crossing locations within the port of entry designated for the processing and clearance of those conveyances.

Timetable:

Action	Date	FR Cite
NPRM	11/17/97	62 FR 61251
NPRM Comment Period End	01/16/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Dore, Program Analyst, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-3274

RIN: 1515–AC12

2858. CUSTOMS ENTRY DOCUMENTATION PURSUANT TO ANTICOUNTERFEITING CONSUMER PROTECTION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1448; 19 USC 1484; 19 USC 1624

CFR Citation: 19 CFR 141

TREAS—CUSTOMS

Final Rule Stage

Legal Deadline: Final, Statutory, January 2, 1997.

Abstract: Document implements section 12 of the Anticounterfeiting Consumer Protection Act of 1996 (ACPA), which was enacted by Congress to protect consumers and American businesses from counterfeit copyrighted and trademarked products. Section 12 of the ACPA concerns the content of entry documentation required by Customs to determine whether the imported merchandise or its packaging bears an infringing trademark. Amendment requires importers to provide on the invoice a listing of all trademarks appearing on imported merchandise and its packaging.

Timetable:

Action	Date	FR Cite
NPRM	09/13/99	64 FR 49423
NPRM Comment Period End	11/12/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Louis Alfano, Customs Officer, Commercial Enforcement, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-0005

RIN: 1515–AC15

2859. PENALTIES FOR FALSE DRAWBACK CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1592; 19 USC 1593a; 19 USC 1618; 19 USC 1624

CFR Citation: 19 CFR 162; 19 CFR 171

Legal Deadline: None

Abstract: Amendment sets forth the procedures to be followed when false drawback claims are filed and penalties are thereby incurred. Amendment implements section 622 of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Provisions track, to the greatest extent possible, the procedures which have been set forth for section 592 of the Tariff Act of 1930, as amended.

Timetable:

Action	Date	FR Cite
NPRM	09/29/98	63 FR 51868
NPRM Comment Period End	11/30/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles D. Ressin, Branch Chief, Penalties Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2344

RIN: 1515–AC21

2860. BOARDING OF VESSELS IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1624; 19 USC 1581(a); 19 USC 288; 19 USC 1441; 19 USC 1448; 19 USC 1446; 19 USC 1486; 46 USC app 3; 46 USC app 91; 46 USC app 883

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amendment regarding the boarding of vessels arriving in ports of the United States. Amendment reflects and implements amendments to the underlying statutory authority, enacted as part of the Customs Modernization Act, as well as policy determinations necessitated as a result of those amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/06/98	63 FR 36379
NPRM Comment Period End	09/04/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1287
Robert E. Watt, Program Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-3654

RIN: 1515–AC29

2861. FOREIGN REPAIRS TO AMERICAN VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1466; 19 USC 1498; 19 USC 1624; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4; 19 CFR 159

Legal Deadline: None

Abstract: Amendment to revise the Customs Regulations regarding the declaration, entry, assessment of duty and processing of petitions for relief from duty for vessels of the United States which undergo foreign shipyard operations. Amendment reflects underlying statutory authority, as well as legal and policy determinations made as a result of judicial decisions and administrative enforcement experience.

Timetable:

Action	Date	FR Cite
NPRM	04/21/99	64 FR 19508
NPRM Comment Period End	07/21/99	64 FR 29975
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1287

RIN: 1515–AC30

2862. CUSTOMS BROKERS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 1641; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 1484; 19 USC 1498

CFR Citation 19 CFR 111

Legal Deadline: None

Abstract: Amendment revises Customs Regulations governing the licensing and

conduct of Customs brokers in the performance of Customs business on behalf of others. Revision includes changes to reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act as well as changes to reflect the recent reorganization of Customs.

Timetable:

Action	Date	FR Cite
NPRM	04/27/99	64 FR 22726
NPRM Comment Period End	07/28/99	64 FR 34748
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry C. Laderberg, Chief, Entry Procedures and Carrier Rulings Branch, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-2320

RIN: 1515–AC34

2863. VESSEL EQUIPMENT TEMPORARILY LANDED FOR REPAIR

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433; 19 USC 1434; 19 USC 1446; 19 USC 1624; 46 USC app 3; 46 USC app 91

CFR Citation: 19 CFR 4

Legal Deadline: None

Abstract: Amendment provides for the temporary landing in the United States of vessel equipment in need of repair, without requiring entry of that equipment under a Temporary Importation Bond (TIB). Such equipment would be permitted to be landed for repair and relading aboard the same vessel, subject to Customs issuance of a special permit or license for the landed equipment under an International Carrier Bond.

Timetable:

Action	Date	FR Cite
NPRM	03/18/99	64 FR 13370
NPRM Comment Period End	05/17/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Larry L. Burton, Attorney, Entry Procedures and Carriers Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1287

RIN: 1515–AC35

2864. EXPANDED METHODS OF PAYMENT OF DUTIES, TAXES, INTEREST AND FEES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1450; 19 USC 1624; 31 USC 9701; 19 USC 197; 19 USC 198

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment to expand the number of ways that Customs will accept payment of duties, taxes, fees, interest and other charges. Currently, the regulations allow for credit or charge cards, which have been authorized by the Commissioner of Customs, to be used at designated Customs-serviced locations with a limitation that this method of payment may only be used by non-commercial entities. Amendment allows payment of duties, taxes, fees, interest and other charges by any electronic technology or charge cards (either debit or credit cards) that are authorized by the Commissioner of Customs and by removing the limitation that these methods of payment may only be used by non-commercial entities.

Timetable:

Action	Date	FR Cite
NPRM	03/17/99	64 FR 13141
NPRM Comment Period End	05/17/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth Dichysyn, Accountant, Accounting Services Division, Department of the Treasury, United States Customs Service, Office of Finance, 6026 Lakeside Boulevard, Indianapolis, IN 46278
Phone: 317 298-1200

RIN: 1515–AC40

2865. IMPORTATION AND ENTRY BOND CONDITIONS REGARDING OTHER AGENCY DOCUMENTATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 19 USC 66; 19 USC 1623; 19 USC 1624

CFR Citation: 19 CFR 113

Legal Deadline: None

Abstract: Amendment with regard to the basic importation and entry bond condition under which, if merchandise is conditionally released to the principal named in the bond, the principal agrees to furnish Customs with any document or evidence as required by law or regulation. Amendment would extend this requirement, and consequently the potential liability for payment of liquidated damages for a breach of the bond condition, to documents and evidence submitted to other Government agencies under laws and regulations of those other agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 42872
NPRM Comment Period End	10/05/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC44

2866. • ASSESSMENT OF LIQUIDATED DAMAGES REGARDING IMPORTED MERCHANDISE THAT IS NOT ADMISSIBLE UNDER THE FOOD, DRUG AND COSMETIC ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1623; 19 USC

TREAS—CUSTOMS **Final Rule Stage**

1448; 19 USC 1484; 19 USC 1499; 7 USC 135h; 21 USC 381; 19 USC 1624

CFR Citation: 19 CFR 12; 19 CFR 113; 19 CFR 141

Legal Deadline: None

Abstract: Amendment of the Customs Regulations to provide for the assessment of liquidated damages equal to the domestic value of the merchandise in the case of merchandise that is not admissible under the provisions of the Food, Drug and Cosmetic Act, and that is not treated, or otherwise disposed of in accordance with that Act. Amendment also provides for liquidated damages of three times the appraised value of the merchandise in the case of merchandise that is restricted or prohibited from entry. Amendments are intended to enhance the effectiveness of the affected regulatory provisions by increasing and clarifying the potential liability for the payment of liquidated damages by principals and sureties on customs bonds.

Timetable:

Action	Date	FR Cite
NPRM	08/02/99	64 FR 41851
NPRM Comment Period End	10/01/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin, Attorney-Advisor, Penalties Branch, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1176

RIN: 1515–AC45

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS) **Long-Term Actions**

2867. HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 24; 19 CFR 146; 19 CFR 178

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/87	52 FR 10198
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0310

RIN: 1515–AA57

2868. DONATED CARGO EXEMPTION FROM HARBOR MAINTENANCE FEE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/92	57 FR 607
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Barbare
Phone: 202 927-0310

RIN: 1515–AA87

2869. RULES OF ORIGIN

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 102; 19 CFR 4.80b(a); 19 CFR 10.12(e); 19 CFR 10.14(b); 19 CFR 10.171(c); 19 CFR 10.191(b)(3); 19 CFR 134.1; 19 CFR 134.35; 19 CFR 177.22(a)

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48448
NPRM Comment Period End	01/09/92	56 FR 61214
NPRM Revising Initial Proposal	05/05/95	60 FR 22312
NPRM Additionally Revising Proposal	07/12/95	60 FR 35878
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra L. Bell
Phone: 202 927-2244

RIN: 1515–AB19

2870. AUTOMATED SURETY INTERFACE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 113

Timetable:

Action	Date	FR Cite
NPRM	01/22/93	58 FR 5680
NPRM Comment Period End	04/22/93	58 FR 16632
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Hundertmark
Phone: 202 927-0355

RIN: 1515–AB25

2871. FEES ASSESSED FOR DEFAULTED PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 24

Timetable:

Action	Date	FR Cite
NPRM	03/23/94	59 FR 13664
NPRM Comment Period End	05/23/94	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Baker
Phone: 202 927-0620

RIN: 1515–AB38

2872. TEXTILES AND TEXTILE PRODUCTS SUBJECT TO TEXTILE TRADE AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AB54

2873. COUNTRY-OF-ORIGIN MARKING FOR WATCHES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 134

TREAS—CUSTOMS — Long-Term Actions

Timetable:

Action	Date	FR Cite
ANPRM	03/20/95	60 FR 14705
ANPRM Comment Period End	05/04/95	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Burton Schlissel
Phone: 202 927-1034

RIN: 1515–AB68

2874. TREATMENT OF MERCHANDISE IMPORTED BY FOREIGN GOVERNMENTS OR DESIGNATED INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 148

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dick Crichton
Phone: 202 927-0162

RIN: 1515–AC00

2875. DETERMINATION OF THE COUNTRY OF ORIGIN OF TEXTILES AND TEXTILE PRODUCTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 12

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis Sequeira
Phone: 202 927-1480

RIN: 1515–AB92

2876. PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 103

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee H. Kramer
Phone: 202 927-1251

RIN: 1515–AC13

Department of the Treasury (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2877. ACCREDITATION OF COMMERCIAL TESTING LABORATORIES; APPROVAL OF COMMERCIAL GAUGERS

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 151; 19 CFR 113

Completed:

Reason	Date	FR Cite
Final Rule	09/07/99	64 FR 48528
Final Rule Effective	10/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ira Reese
Phone: 202 927-1060

RIN: 1515–AB60

2878. DETENTION OF MERCHANDISE

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 151

Completed:

Reason	Date	FR Cite
Final Rule	08/11/99	64 FR 43608
Final Rule Effective	09/10/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeremy Baskin
Phone: 202 927-1176

RIN: 1515–AB75

2879. CUSTOMS BONDED WAREHOUSES

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 19

Completed:

Reason	Date	FR Cite
NPRM	04/07/99	64 FR 16868
NPRM Comment Period End	06/07/99	
Final Rule	10/26/99	64 FR 57564
Final Rule Effective	11/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Edward Bowles
Phone: 202 927-0071

RIN: 1515–AC41

2880. AUTOMATED EXPORT SYSTEM (AES)

Priority: Substantive, Nonsignificant

CFR Citation: 19 CFR 4; 19 CFR 101; 19 CFR 192

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/13/99	64 FR 7422
Final Rule	07/28/99	64 FR 40984
Final Rule Effective	07/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Maritza Castro
Phone: 703 921-7465

RIN: 1515–AC42

2881. • IMPORT RESTRICTIONS IMPOSED ON BYZANTINE ECCLESIASTICAL AND RITUAL ETHNOLOGICAL MATERIAL FROM CYPRUS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment imposes emergency import restrictions on certain ecclesiastical and ritual ethnological material from Cyprus representing the Byzantine period, ranging in date from approximately the 4th century A.D. through approximately the 15th century A.D. These restrictions are imposed, pursuant to a determination of the United States Information Agency issued under the terms of the Convention on Cultural Property Implementation Act, in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export

and Transfer of Ownership of Cultural Property.

Timetable:

Action	Date	FR Cite
Final Rule	04/12/99	64 FR 17529
Final Rule Effective	04/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan E. Sebanler, Customs Officer, Office of Trade Programs, Department of the Treasury, United States Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-0402

RIN: 1515–AC46

2882. • EXEMPTION OF ORIGINATING MEXICAN GOODS FROM CERTAIN CUSTOMS USER FEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58a; 19 USC 58b; 19 USC 58c; 19 USC 66; 19 USC 1202; 19 USC 1450; 19 USC 1624; 19 USC 3332; 31 USC 9701

CFR Citation: 19 CFR 24

Legal Deadline: None

Abstract: Amendment of the Customs Regulations to reflect that goods imported from Mexico that qualify as originating goods under the North American Free Trade Agreement (NAFTA) Implementation Act (the Act) and qualify for marking under the NAFTA Marking Rules will no longer be subject to the merchandise processing fees assessed under 19 U.S.C. 58c(a)(9) and (10). This amendment results from a provision of Title II of the Act, which eliminates application of the fees for originating Mexican goods after June 29, 1999.

Timetable:

Action	Date	FR Cite
Final Rule	08/03/99	64 FR 42031
Final Rule Effective	08/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Howard Duchan, Program Officer, Office of Trade Programs, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-0639

RIN: 1515–AC47

2883. • TEXTILES AND TEXTILE PRODUCTS; DENIAL OF ENTRY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1202; 19 USC 1624; 7 USC 1854

CFR Citation: 19 CFR 12

Legal Deadline: None

Abstract: Amendment of the Customs Regulations to provide that textiles and textile products that are covered by textile trade agreements, negotiated under section 204 of the Agricultural Act of 1956, as amended, will be denied entry if entry documents show that the textiles or textile products have been produced in any factory that is named in a Directive published in the Federal Register by the Committee for the Implementation of Textile Agreements (CITA) as a company found to be illegally transshipping, closed or unable to produce records to verify production. The purpose of this action is to avoid the circumvention of textile trade agreements.

Timetable:

Action	Date	FR Cite
Final Rule	09/02/99	64 FR 48091
Final Rule Effective	09/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William Trujillo, Customs Officer, Department of the Treasury, United States Customs Service, Office of Field Operations, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-1959

RIN: 1515–AC49

2884. • FLIGHTS TO AND FROM CUBA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 19 USC 58b; 19 USC 66; 19 USC 1433; 19 USC 1436; 19 USC 1448; 19 USC 1459; 19 USC 1590; 19 USC 1594; 19 USC 1623; 19 USC 1624; 19 USC 1644; 19 USC 1644a

CFR Citation: 19 CFR 122

Legal Deadline: None

Abstract: Amendment provides that aircraft and passengers departing the United States for, or entering the United States from, Cuba must depart or enter through either the John F. Kennedy International Airport, Jamaica, New York; the Los Angeles International Airport, Los Angeles, California; or the Miami International Airport, Miami, Florida. At present, such aircraft and passengers may depart or enter only through the Miami International Airport. The change is in accordance with a statement by the President and direction from the Department of State and the National Security Council.

Timetable:

Action	Date	FR Cite
Final Rule	10/04/99	64 FR 53627
Final Rule Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Margaret Fearon, Supervisory Customs Inspector, Department of the Treasury, United States Customs Service, Outbound Program, Office of Field Operations, 1300 Pennsylvania Avenue NW, Washington, DC 20229
Phone: 202 927-0494

RIN: 1515–AC51

BILLING CODE 4820–02–F

Department of the Treasury (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

2885. • USE OF PENALTY MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 39 USC 3220; 5 USC 301; 5 USC 552

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: Statement of Procedural Rules: This rule establishes the procedures under which the IRS may use penalty mail to aid in the location and recovery of missing children.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-208301-90

Drafting attorney: Amy Speed (202) 622-3458

CC:EBEO

Agency Contact: Sheldon Schwartz, National Director Tax Forms & Publications, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-5200

RIN: 1545–AX29

2886. REMOVAL OF TEMPORARY REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 5c

Legal Deadline: None

Abstract: This document removes obsolete temporary regulations as part of the President's Regulatory Reinvention Initiative.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-112648-97

Drafting attorney: Beverly A. Baughman (202) 622-4940

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AV36

2887. QUALIFIED LESSEE CONSTRUCTION ALLOWANCES FOR SHORT-TERM LEASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 110

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation describing the information required to be furnished to the Secretary by lessees and lessors involved with construction allowances for short-term leases.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106010-98

Drafting attorney: Paul Handleman (202) 622-3040

Reviewing attorney: Walter Woo (202) 622-3040

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:P&SI

Agency Contact: Paul F. Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4753

RIN: 1545–AW16

2888. DEFINITION OF CONTRIBUTION IN AID OF CONSTRUCTION UNDER SUBSECTION 118(C)(3)(A)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 118

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to provide guidance on the definition of contributions in aid of construction within the meaning of section 118(c)(3)(A).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106012-94

Drafting attorney: Paul Handleman (202) 622-3040

Reviewing attorney: Walter Woo (202) 622-3040

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:P&SI

Agency Contact: Paul F. Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4753

RIN: 1545–AW17

2889. DISREGARDED ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance under section 368 regarding corporate transactions involving disregarded entities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106186-98

TREAS—IRS **Proposed Rule Stage**

Drafting attorney: Reggie Mombrun (202) 622-7750

Reviewing attorney: Mark Jennings (202) 622-7750

Treasury attorney: Karen Gilbreath (202) 622-1788

CC:DOM:COR

Agency Contact: Reggie Mombrun, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW36

2890. APPLICATION OF ATTRIBUTION RULES TO FOREIGN TRUSTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would provide attribution rules for foreign trusts with respect to foreign personal holding companies, foreign passive investment companies and controlled foreign corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-252774-96

Drafting attorney: Kelly Kogan (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

Treasury attorney: Michael Kirsch (202) 622-0871

CC:INTL

Agency Contact: Kelley Kogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AU91

2891. • DEFINITION OF GRANTOR

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 643(a)(7); 26 USC 672(f)(6)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations providing a definition of the term grantor for all purposes of part 1 of subject J, chapter 1 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43323
NPRM Comment Period End	10/12/99	
Hearing	11/02/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-114750-99

Drafting attorney: James Quinn (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Beth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: James A. Quinn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AX25

2892. CAPITAL GAIN GUIDANCE RELATING TO CRTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1(h)(11); 26 USC 664

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide capital gain guidance relating to charitable remainder trusts in light of the changes made to section 1(h) of the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-110896-98

Drafting attorney: Mary Beth Carchia (Collins) (202) 622-3080

Reviewing attorney: Jeffrey Erickson (202) 622-3090

Treasury attorney: Beth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: Mary Beth Carchia, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AW35

2893. FASIT—START-UP/OPERATIONAL/TRANSITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 8606(f); 26 USC 8606(h); 26 USC 7805

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: These regulations will address issues concerning the start-up and operation of a financial asset securitization investment trust, and transitional rules for eligible existing entities that elect to be treated as a FASIT.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/96	61 FR 56648
ANPRM Comment Period End	12/31/96	
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100276-97

Drafting attorney: David L. Meyer (202) 622-3960

Reviewing attorney: Marshall Feiring (202) 622-3960

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: David L. Meyer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3960

RIN: 1545–AU94

2894. FRINGE BENEFIT SOURCING UNDER SECTION 861

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the circumstances in which an allocation of income of an individual for the performance of services both within and without the United States is appropriately made only on the time basis.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-208254-90 (INTL-107-90)

Drafting attorney: David Bergkuist (202) 622-3850

Reviewing attorney: Joan M. Thomsen (202) 622-3850

Treasury attorney: Michael Kirsch (202) 622-0871

CC:INTL

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AO72

2895. SOURCE OF INCOME FOR SPACE AND CERTAIN OCEAN ACTIVITIES AND FOR INTERNATIONAL COMMUNICATIONS INCOME

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to provide source rules for income from space and certain ocean activities under section 863(d). Also, regulations to provide source rules for international communications income under section 863(e).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106030-98

Drafting attorney: Anne Shelburne (202) 874-1490

Reviewing attorney: Steven Musher (202) 874-1490

Treasury attorney: Michael Mundaca (202) 622-1752

CC:INTL

Agency Contact: Anne Shelburne, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza SW, Washington, DC 20024
Phone: 202 874-1490

RIN: 1545–AW50

2896. INTEGRATED FINANCIAL TRANSACTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation addresses whether matched book sale and repurchase transactions conducted by securities dealers qualify as integrated financial transactions under section 1.861-10(c).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209604-93 (INTL-001-93)

Drafting attorney: Roger Brown (202) 622-3810

Reviewing attorney: Jeff Dorfman (202) 622-3870

Treasury attorney: Patrick Brown (202) 622-1781

CC:INTL

Agency Contact: Roger Brown, Special Counsel, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3810

RIN: 1545–AR20

2897. INCOME TAX—RECIPROCAL EXEMPTIONS FOR CERTAIN TRANSPORTATION INCOME

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 883; 26 USC 872

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules with respect to whether a foreign country will be considered to grant a reciprocal Aircraft/Shipping exemption to U.S. corporations for purposes of section 883 of the Code, or to U.S. citizens for purposes of section 872 of the Code. This regulation will also provide rules with respect to whether a foreign corporation satisfies the ownership requirements of section 883(c) and the activity requirements of section 883(a).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-208280-86 (INTL-948-86)

Drafting attorney: Patricia A. Bray (202) 622-3880

Reviewing attorney: John Staples (202) 622-3810

TREAS—IRS

Proposed Rule Stage

Treasury attorney: Michael Mundaca (202) 622-1752

CC:INTL

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AJ57

2898. FOREIGN TAX CREDIT ANTI-ABUSE REGULATION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 901; 26 USC 901(k)(4); 26 USC 904; 26 USC 864(e)(7); 26 USC 7701(l); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will disallow foreign tax credits with respect to foreign taxes generated in certain arrangements from which the reasonably expected economic profits are insubstantial compared to expected foreign tax credits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-103445-98

Drafting attorney: Rebecca I. Rosenberg (202) 622-3850

Reviewing attorney: Barbara Felker (202) 622-3850

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

Agency Contact: Rebecca I. Rosenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AV97

2899. FOREIGN INSURANCE COMPANY—DOMESTIC ELECTION

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 953

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide substantive and procedural rules regarding the election under section 953(d) to treat certain controlled foreign corporations engaged in the insurance business as domestic corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-208980-89 (INTL-765-89)

Drafting attorney: Valerie A. Mark (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AO25

2900. COORDINATION OF PRE-1987 DEEMED PAID TAXES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will state coordination rules for computing deemed paid taxes on distributions and deemed distributions of foreign corporations' earnings and profits from the same pre-1987 year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209786-95 (INTL-037-95)

Drafting attorney: Anne Devereaux (202) 622-3850

Reviewing attorney: Barbara Felker (202) 622-3850

CC:INTL

Agency Contact: Anne Devereaux, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AT85

2901. SECTION 988—CONTINGENT DEBT INSTRUMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 988

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will prescribe the tax treatment of section 988 debt instruments that provide for contingent payments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106486-98

Drafting attorney: Howard Wiener (202) 622-3870

Reviewing attorney: Jeffrey Dorfman (202) 622-3870

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

Agency Contact: Howard Weiner, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW33

2902. "STRADDLES - ONE SIDE LARGER THAN THE OTHER"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1092

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: A "straddle" occurs for purposes of section 1092 of the Internal Revenue Code when a taxpayer enters into two separate positions in financial instruments that "offset" each other. Positions offset each other when, taken together, they substantially diminish the taxpayer's risk of loss. A taxpayer in a "straddle" is subject to various limitations on recognition of loss on the positions until both positions are liquidated. These regulations will deal with the situation in which one position is larger than the other (that is, the dimunition of the risk of loss for one position is only partial).

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107335-99

Drafting attorney: Kenneth Christman (202) 622-3960

Reviewing attorney: Robert Williams (202) 622-3960

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: Kenneth P. Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AX16

2903. CONSTRUCTIVE SALES OF APPRECIATED FINANCIAL POSITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1259

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking regarding principles for determining if a taxpayer has constructively sold an appreciated financial position.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: REG-102191-98

Drafting attorney: Victoria Scotto Balacek (202) 622-3930

Reviewing attorney: Jonathan Zelnik (202) 622-3920

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:INTL

Agency Contact: Victoria Scotto Balacek, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3930

RIN: 1545–AW97

2904. ELECTING SMALL BUSINESS TRUST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1361; 26 USC 641

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides necessary guidance for defining and treating electing small business trusts which are now eligible shareholders of S corporation stock as provided by the Small Business Job Protection Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251701-96

Drafting attorney: James A. Quinn (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:DOM:P&SI

Agency Contact: James A. Quinn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AU76

2905. • QUALIFIED ZONE ACADEMY BONDS CREDIT RATE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulatory action provides rules to determine the credit rate that will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The regulations also provide that the proceeds of qualified zone academy bonds may be used to reimburse certain qualified expenditures.

Timetable:

Action	Date	FR Cite
NPRM	07/01/99	64 FR 35573
Hearing	11/09/99	64 FR 35579
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105327-99

Drafting attorney: Allan Seller (202) 622-3421

Reviewing attorney: Timothy Jones (202) 622-3980

CC:DOM:FI&

Agency Contact: Timothy Jones, Assistant to the Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AX03

TREAS—IRS **Proposed Rule Stage**

2906. APPLICATIONS OF SECTION 1503(D) TO PARTNERSHIPS AND OTHER ITEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Determination of when and how section 1503(d), treatment of dual consolidated losses, will apply to partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-209564-92 (INTL-037-92)

Drafting attorney: Kenneth Allison (202) 622-3860

Reviewing attorney: Charles Besecky (202) 622-3860

Treasury attorney: William Morris (202) 622-1779

CC:INTL

Agency Contact: Kenneth D. Allison, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AR26

2907. INFORMATION REPORTING AND RECORD MAINTENANCE UNDER SECTION 6038C

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 7801; 26 USC 6038C

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will implement the directives of section 6038C.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208265-90 (INTL-102-90)

Drafting attorney: Ginny Y. Chung (202) 622-3870

Reviewing attorney: Paul Epstein (202) 622-3870

Treasury attorney: Patricia Brown (202) 622-1781

CC:INTL

Agency Contact: Ginny Y. Chung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AP10

2908. MIDDLEMAN REGULATION UNDER SECTIONS 6041 AND 6045

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance on the legal obligation to file information returns by (1) an intermediary or middleman who makes payments on behalf of another person, and (2) and investment advisor.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-246249-96

Drafting attorney: Donna Crisalli (202) 622-4920

Reviewing attorney: Robert Berkovsky (202) 622-4920

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:IT&A

Agency Contact: Donna M. Crisalli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AW48

2909. SECTION 6048 REGULATIONS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 6048

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Revision of regulations under section 6048, return as to certain foreign trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-209594-92 (INTL-067-92)

Drafting attorney: Allison Wielobob (202) 622-3880

Reviewing attorney: Elizabeth Karzon (202) 622-3880

Treasury attorney: Michael Kirsch (202) 622-0871

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Allison Wielobob, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AR25

2910. CORPORATE TAX SHELTER REGISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6111

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This regulation project provides guidance on the registration requirements for confidential corporate tax shelters under section 6111(d) of the Internal Revenue Code.

TREAS—IRS **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-110311-98

Drafting attorneys: Mary Beth Carchia (Collins) (202) 622-3080

Jeff Erickson (202) 622-3080

Reviewing attorney: Donna Young (202) 622-3070

CC:DOM:P&SI

Agency Contact: Mary Beth Carchia, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AW26

2911. • DELAY RENTAL PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify that section 1.612-3(c) applies to delay rental payments to the extent that section 263A does not require the payments to be capitalized.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103882-99

Drafting attorney: Brenda Stewart (202) 622-3120

Reviewing attorney: J.H. Makurath (202) 622-3120

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:P&SI

Agency Contact: Brenda M. Stewart, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AX06

2912. • DEPOSIT OF EXCISE TAXES - REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6302

CFR Citation: 26 CFR 40

Legal Deadline: None

Abstract: Amendments to regulations relating to deposits of excise tax.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations, Businesses

Government Levels Affected: None

Additional Information: REG-103827-99

Drafting attorney: Susan Athey (202) 622-3130

Reviewing attorney: Ruth Hoffman (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:P&SI

Agency Contact: Susan Athy, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AX11

2913. RELIEF FOR PRESIDENTIALLY DECLARED DISASTER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, Local or Tribal Governments and the private sector.

Legal Authority: 26 USC 7508; 26 USC 7508A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide that, for any tax, penalty, additional amount, or addition to tax of a taxpayer determined to be affected by a presidentially declared disaster, the IRS may disregard up to 90 days in determining whether certain tax-related deadlines were satisfied and the amount of any credit or refund.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101492-98

Drafting attorney: Beverly Baughman (202) 622-4940

Reviewing attorney: Rochelle Hodes (202) 622-4940

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AV92

2914. • CHANGES IN ENTITY CLASSIFICATION: SPECIAL RULE FOR CERTAIN FOREIGN ELIGIBLE ENTITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Rules relating to certain conversions of foreign eligible entities under the entity classification rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-110385-99

Drafting attorney: Mark Harris (202) 622-3860

TREAS—IRS **Proposed Rule Stage**

Reviewing attorney: Philip Tretiak (202) 622-3860

CC:INTL

Agency Contact: Mark Harris, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AX39

2915. CIVIL CAUSE OF ACTION FOR CERTAIN UNLAWFUL COLLECTION ACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations raise the cap on damages under section 7433 from $100,000 to $1,000,000 and provide that if a taxpayer fails to exhaust the administrative remedies available before the Internal Revenue Service, the court may reduce the award of damages. Additionally, the awarding of damages for violations of the automatic stay are now covered by this regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68242
Second NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-251502-96

Drafting attorney: Kevin B. Connelly (202) 622-3630

Reviewing attorney: Robert A. Miller (202) 622-3640

CC:EL:GL

Agency Contact: Kevin B. Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, CC:EL:GL, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3630

RIN: 1545–AU68

2916. SPECIAL RULES APPLICABLE TO SALES OF DEBT INSTRUMENT BETWEEN RECORD DATES AND THE END OF ACCRUAL PERIODS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides rules to calculate allocation of interest and amount of sale price when debt instrument is sold between a record date and a payment date (so that seller receives first distribution of interest and principal following sale).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-242919-96

Drafting attorney: Kenneth Christman (202) 622-3950

Reviewing attorney: Marshall Feiring (202) 622-3960

CC:DOM:FI&

Agency Contact: Kenneth P. Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU95

2917. RETURN OF LEVIED PROPERTY IN CERTAIN CASES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Section 501(b) of the Taxpayer Bill of Rights 2 amended section 6343 of the Internal Revenue Code to authorize the Secretary to return levied upon property in four enumerated circumstances. The regulations set forth the circumstances in which the Secretary may return property and procedures to implement section 501(b).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-101520-97

Drafting attorney: Kevin Connelly (202) 622-3640

Reviewing attorney: Robert Miller (202) 622-3640

Treasury attorney: Rita Cavanagh (202) 622-1981

Agency Contact: Kevin B. Connelly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, CC:EL:GL, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3630

RIN: 1545–AV01

2918. REMOVAL OF TEMPORARY REGULATIONS THAT PROVIDE RULES FOR SUBSTANTIATING TRAVEL EXPENSE DEDUCTIONS FOR MEMBERS OF CONGRESS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 5

Legal Deadline: None

Abstract: This project will remove temporary income tax regulations section 5e.274-8 (published as TD 7802 in 47 FR 2986). The regulations provide rules for the substantiation of Congress members' travel expenses, and they are currently obsolete.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105513-97

Drafting attorney: Edwin B. Cleverdon (202) 622-4920

Reviewing attorney: Robert A. Berkovsky (202) 622-4920

Reviewing attorney: Linda Kroening (202) 622-4800

CC:DOM:IT&A

Agency Contact: Edwin B. Cleverdon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service,

1111 Constitution Avenue NW,
Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AV55

2919. MERCHANDISE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Define merchandise. Explain need to use inventory accounts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Jan Skelton (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

Agency Contact: Jan Skelton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AW00

2920. HIPAA NONDISCRIMINATION RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 9833

CFR Citation: 26 CFR 54

Legal Deadline: None

Abstract: These regulations provide guidance to group health plans and to the employers maintaining them regarding the prohibition on discriminating against individuals on the basis of a health status related factor in eligibility or premiums.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109707-97

Drafting attorney: Russell Weinheimer (202) 622-4695

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: William Bortz (202) 622-1352

CC:EBEO

These regulations are related to temporary regulations previously published in the Federal Register on April 8, 1997 (REG-253578-96, RIN 1545-AV05).

Agency Contact: Russell Weinheimer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6060

RIN: 1545–AW02

2921. AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1301(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: An individual may elect to "income average" any amount of farm income by adding 1/3 of such elected farm income to each of the three prior years' taxable income and calculating the increase in tax for the prior years. The taxable income of the current year is reduced by the elected farm income and the increase in tax liability for the prior three years is added to the current years tax liability.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Public Hearing	02/15/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121063-97

Drafting attorney: John Moran (202) 622-7697

Reviewing attorney: Peter Frederick (202) 622-3900

Treasury attorney: Lily Kahng (202) 622-0160

CC:DOM:IT&A

Agency Contact: John M. Moran, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7697
Fax: 202 622-6316

RIN: 1545–AW05

2922. TRANSPORTATION OF PERSONS AND PROPERTY BY AIR—SECTIONS 4261 AND 4271

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 4261; 26 USC 4271; 26 USC 7805

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Guidance concerning the excise taxes imposed on the amounts paid for the transportation of persons and property by air.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106167-98

Drafting attorney: Patrick Kirwan (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:P&SI

Agency Contact: Patrick S. Kirwan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AW19

TREAS—IRS **Proposed Rule Stage**

2923. ESTATE TAX DEDUCTION FOR QUALIFIED FAMILY-OWNED BUSINESS INTERESTS (QFOBI)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2057; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will address the estate tax deduction for certain qualified family-owned business interests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106430-98

Drafting attorney: Leslie H. Finlow (202) 622-3120

Reviewing attorney: Christine Ellison (202) 622-3120

Treasury attorney: Beth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: Leslie Finlow, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AW21

2924. ELECTION TO TREAT TRUST AS ESTATE—SECTION 645

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 645; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance regarding the operation of section 645.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106542-98

Drafting attorney: Faith Colson (202) 622-3060

Reviewing attorney: J. Thomas Hines (202) 622-3060

Treasury attorney: Beth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AW24

2925. SECTION 411(D)(6); PROTECTED BENEFITS EXCEPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 411(d)(6)(B)(ii)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will permit certain amendments to qualified retirement plans to be made even though otherwise protected forms of benefit would be affected by the amendments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-109101-98

Drafting attorney: Linda Marshall (202) 622-6030

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: William Bortz (202) 622-1352

CC:EBEO

Agency Contact: Linda S. F. Marshall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW27

2926. MERCHANDISE REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 471; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarify when the requirement to use inventory accounting applies. Clarify the definition of merchandise and provide guidance with respect to when merchandise will be regarded as an income producing factor in a taxpayer's business.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-122333-97

Drafting attorney: Jan Skelton (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

Agency Contact: Jan Skelton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AW61

2927. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6015

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document will provide procedures as are necessary to carry out the provisions of section 6015 including (1) methods for allocation of items other than the methods under section 6015(d)(3) and (2) providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under section 6015(b) or section

6015(c), by the other individual filing the joint return.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: REG-106446-98

Drafting attorney: Bridget Finkenaur (202) 622-7606

Reviewing attorney: Judith Wall (202) 622-4940

Treasury attorney: Lily Kahng (202) 622-0160

CC:DOM:IT&A

Agency Contact: Bridget E. Finkenaur, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW64

2928. INFORMATION REPORTING FOR PAYMENTS OF TUITION AND INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6050

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations relate to the requirements for filing information returns for payments of qualified tuition and related expenses. The regulations relate to the requirements for filing information returns for interest received on qualified education loans. The regulations prescribe magnetic media filing requirements for these information returns.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105316-98

Drafting attorney: Donna Welch (202) 622-4910

Reviewing attorney: John McGreevy (202) 622-4910

Treasury attorney: Susan Brown (202) 622-0999

CC:DOM:IT&A

Agency Contact: Donna Welch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AW67

2929. DEFINITION OF PRIVATE ACTIVITY BONDS—REFUNDING REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations provide guidance of the application of the private loan test and the private business use test and the private payments/security tests to refunding bonds.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-101563-97

Drafting attorney: Barbara Jean League (202) 622-3980

Reviewing attorney: Bruce M. Serchuk (202) 622-3980

CC:DOM:FI&

Agency Contact: Barbara Jean League, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AW89

2930. CERTAIN ASSET TRANSFERS TO REGULATED INVESTMENT COMPANIES (RICS) AND REAL ESTATE INVESTMENT TRUSTS (REITS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 337(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains proposed regulations that implement provisions of the Tax Reform Act of 1986, in accordance with Notice 88-19, 1988-1 C.B. 486.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209135-88

Drafting attorney: Christopher Schoen (202) 622-7750

Reviewing attorney: Bernita Thigpen (202) 622-7720

Treasury attorney: Karen Gilbreath (202) 622-1788

CC:DOM:COR

Agency Contact: Christopher Schoen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AW92

2931. TRANSFER OF REMIC RESIDUAL INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 8606(e)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amend the rules on transfers of non-economic residual interests to clarify the computational component of the safe harbor rule for establishing lack of improper knowledge under existing law.

TREAS—IRS **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-122450-98

Drafting attorney: David L. Meyer (202) 622-3960

Reviewing attorney: Marshall Feiring (202) 622-3930

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: David L. Meyer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3960

RIN: 1545–AW98

2932. QUALIFIED OFFERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed rules regarding the qualified offer rule allowing the recovery of reasonable administrative or litigation costs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121928-98

Drafting attorney: Thomas Moffitt (202) 622-7900

Reviewing attorney: Henry Schneiderman (202) 622-7820

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:DOM:FS

Agency Contact: Thomas D. Moffitt, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7900

RIN: 1545–AW99

2933. • ALLOCATION OF RESEARCH CREDIT

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance on the proper method of computing the research credit for a controlled group. In addition, this regulation will provide guidance on the allocation of the research credit among members of the controlled group.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105606-99

Drafting attorney: Lisa Shuman (202) 622-3120

Reviewing attorney: James Gibbons (202) 622-3120

Treasury attorney: Mark Hoffenberg (202) 622-0869

CC:DOM:P&SI

Agency Contact: Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AX05

2934. • GST ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will resolve issues relating to trusts in existence before September 25, 1985.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103841-99

Drafting attorney: James F. Hogan (202) 622-3090

Reviewing attorney: George Masnik (202) 622-3090

Treasury attorney: Elizabeth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: James F. Hogan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AX08

2935. • ALLOCATION OF PARTNERSHIP DEBT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the allocation of partnership liabilities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103831-99

Drafting attorney: Christopher Kelley (202) 622-3080

Reviewing attorney: Jeffrey Erickson (202) 622-3080

Treasury attorney: James Sowell (202) 622-5723

CC:DOM:P&SI

Agency Contact: Christopher Kelley, Attorney-Advisor, Department of the

Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070
Fax: 202 622-4804

RIN: 1545–AX09

2936. • HIGHWAY VEHICLE - DEFINITION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendments to regulations relating to definition of highway vehicle.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103829-99

Drafting attorney: Bernard Weberman (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:P&SI

Agency Contact: Bernard H. Weberman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AX10

2937. • GUIDANCE ON COST RECOVERY IN THE ENTERTAINMENT INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Application of the income forecast method under section 167(g).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103823-99

Drafting attorney: Bernard P. Harvey (202) 622-3110

Reviewing attorney: Charles B. Ramsey (202) 622-3110

Treasury attorneys: Cristine Turgeon (202) 622-0865

Christopher Ohmes (202) 622-0865

CC:DOM:PS&I

Agency Contact: Bernard P. Harvey, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AX12

2938. • DEFINITION OF LAST KNOWN ADDRESS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This document will provide that the last known address of a taxpayer for purposes of section 6212 includes an address obtained from the United States Postal Service's National Change of Address (NCOA) database.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104939-99

Drafting attorney: Charles A. Hall (202) 622-4940

Reviewing attorney: Rochelle L. Hodes (202) 622-4940

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:DOM:IT&A

Agency Contact: Charles A. Hall, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AX13

2939. SUSPENSION OF INTEREST AND PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6404

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 3305 of the IRS Restructuring and Reform Act of 1998 added a new section 6404(g) to the Internal Revenue Code. These regulations will reflect the change, providing guidance on what constitutes notice to a taxpayer for purposes of suspending interest and/or penalties when the IRS fails to provide the taxpayer with notice of a liability within one year of filing a return.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105236-99

Drafting attorney: Judith Lintz (202) 622-4940

Reviewing attorney: Judith Wall (202) 622-4940

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:DOM:IT&A

Agency Contact: Judith A. Lintz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AX17

2940. • COORDINATION OF SECTIONS 755 AND 1060

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 755; 26 USC 1060

CFR Citation: 26 CFR 1

TREAS—IRS **Proposed Rule Stage**

Legal Deadline: None

Abstract: Regulations will provide rules for determining the fair market value of partnership assets for the purpose of allocating basis adjustments under sections 732(d), 734(b) and 743(b) among partnership assets under section 755, using the residual method of section 1060.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107872-99

Drafting attorney: Matthew Lay (202) 622-3050

Reviewing attorney: Daniel Coburn (202) 622-3050

Treasury attorney: James Sowell (202) 622-5721

CC:DOM:PS&I

Agency Contact: Matthew Lay, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AX18

2941. • DOLLAR-VALUE LIFO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 472

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the dollar-value LIFO method, including the inventory price index computation (IPIC) method.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-107644-98

Drafting attorney: Jeffery Mitchell (202) 622-7804

Reviewing attorney: Eric Pleet (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

Agency Contact: Jeffery G. Mitchell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AX20

2942. • DEFINITION OF ACCOUNTING METHOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 446

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will clarify the definition of a change in method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105228-99

Drafting attorney: Jeffery Mitchell (202) 622-7804

Reviewing attorney: Thomas Luxner (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

Agency Contact: Jeffery G. Mitchell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AX21

2943. • RULES FOR SOURCING CERTAIN TRANSPORTAITON INCOME, SPACE OR OCEAN ACTIVITY INCOME AND RELATED FOREIGN BASE COMPANY SHIPPING INCOME

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 863(c)

Legal Deadline: None

Abstract: To provide guidance to shipping and aircraft companies for application of the source rules for certain income under sections 863(c) and 863(d), and for related space or ocean activity income that is also foreign base company shipping income under section 954(f).

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115557-98

Drafting attorney: Patricia Bray (202) 622-6880

Reviewing attorney: W. Edward Williams (202) 622-3880

Treasury attorney: Michael Mundaca (202) 622-1752

CC:INTL

Agency Contact: Patricia A. Bray, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3880

RIN: 1545–AX02

2944. • SECTIONS 401(K) AND 410(M) CASH OR DEFERRED ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 401

Legal Deadline: None

Abstract: Update and revise regulations on qualified cash or deferred arrangements, "matching"

contributions, and employee contributions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-108639-99

Drafting attorney: Susan Lennon (202) 622-6030

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: Donald Wellington (202) 622-1332

CC:EBEO

Agency Contact: Marjorie Hoffman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030

Susan Lennon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030
Fax: 202 622-4631

RIN: 1545–AX26

2945. • EXCLUSION OF GAIN ON THE SALE OR EXCHANGE OF PRINCIPAL RESIDENCE

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 121

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This notice of proposed rulemaking reflects changes made by the Taxpayer Relief Act of 1997 to sections 121 and 1034 of the Code relating to the exclusion of gain from the sale or exchange of a taxpayer's principal residence.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105235-99

Drafting attorney: Sara P. Shepherd (202) 622-4910

Reviewing attorney: David B. Auclair (202) 622-4910

Treasury attorney: Lily Kahng (202) 622-0160

CC:DOM:IT&A

Agency Contact: Sara P. Shepherd, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AX28

2946. • SPECIAL RULES FOR RETROACTIVE PAYMENTS UNDER SECTION 417(A)(7)(A) FOR QUALIFIED RETIREMENT PLANS.

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 417; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation to provide guidance regarding the special rule in IRC section 417(a)(7)(A), which permits qualified retirement plans to provide written explanation of QJSA after the annuity starting date.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-109481-99

Drafting attorney: Robert M. Walsh (202) 622-6090

Reviewing attorney: Marjorie Hoffman (202) 622-6030

CC:EBEO

Agency Contact: Marjorie Hoffman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030

Robert Walsh, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–AX34

2947. • 351(G) GUIDANCE PROJECT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 351

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The project will provide guidance regarding certain exchanges of or for preferred stock.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-105089-99

Drafting attorney: Richard E. Coss (202) 622-7790

Reviewing attorney: Michael J. Wilder (202) 622-7790

Treasury attorney: Karen Gilbreath (202) 622-1788

CC:DOM:COR

Agency Contact: Richard E. Coss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7790

RIN: 1545–AX38

2948. • PARTNERSHIP MERGERS AND DIVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 708; 26 USC 707; 26 USC 743; 26 USC 752

TREAS—IRS **Proposed Rule Stage**

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide tax consequences regarding mergers and divisions of partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-111119-99

Drafting attorney: Mary Beth Carchia (202) 622-3080

Reviewing attorney: Jeffrey Erickson (202) 622-3070

Treasury attorney: James Sowell (202) 622-5721

CC:DOM:PS&I

Agency Contact: Mary Beth Carchia, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AX42

2949. • 401(K) AND 401(M) REGULATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 401

Legal Deadline: None

Abstract: Update and revise regulations for cash or deferred arrangements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-108639-99

Drafting attorney: Susan Lennon (202) 622-6030

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: Donald Wellington (202) 622-1332

CC:EBEO

Agency Contact: Susan Lennon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030
Fax: 202 622-4631

RIN: 1545–AX43

2950. • NATIONAL PRINCIPAL CONTRACTS AND OTHER FINANCIAL PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 446; 26 USC 1234A; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules under section 446 for the timing of income and deductions of certain contingent payments under notional principal contracts. The regulations will also provide rules under section 1234A for determining the character of payments under notional principal contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106395-99

Drafting attorney: Alexa Dubert (202) 622-3940

Reviewing attorney: Jonathan Zelnik (202) 622-3920

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: Alexa Temple Dubert, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3940

RIN: 1545–AX45

2951. • AMENDMENTS TO 26 U.S.C. SECTION 7430

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed amendments to the Treasury Regulations incorporate the 1997 and 1998 amendments to 26 USC 7430 relating to the awarding of attorney's fees in administrative proceedings. The amendments to 26 USC 7430 were enacted under the Taxpayer Relief Act of 1997 and the IRS Restructuring and Reform Act of 1998.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-111833-99

Drafting attorney: Norma C. Rotunno (202) 622-7900

Reviewing attorneys: Thomas D. Moffitt (202) 622-7900

Henry S. Schneiderman (202) 622-7820

CC:DOM:IT&A

Agency Contact: Norma C. Rotunno, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7900

RIN: 1545–AX46

2952. • SECTION 1374 TIMBER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance under section 1374 regarding sales of timber.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-107602-99

Drafting attorney: Cristian P. Silva (202) 622-7750

Reviewing attorney: Mark S. Jennings (202) 622-7750

CC:DOM:COR

Agency Contact: Cristian Patricio Silva, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AX50

2953. • ADDRESS CORRECTION

Priority: Info./Admin./Other

Legal Authority: 26 USC 25; 26 USC 103

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides that certain elections, revocations of those elections, and information reports, shall no longer be filed at the Philadelphia Service Center, but instead shall be filed at the place or places designated by the Commissioner.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-104459-99

Drafting attorney: David E. White (202) 622-3980

Reviewing attorney: Rebecca Harrigal (202) 622-3980

CC:DOM:FI&

Agency Contact: David E. White, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AX51

2954. • COMPENSATION DEFERRED UNDER ELIGIBLE SECTION 457(B) PLANS. (SECTION 457 REGULATIONS)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 457

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations with respect to deferred compensation plans of state and local governments and tax-exempt entities under section 457 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-105885-99

Drafting attorney: Cheryl E. Press (202) 622-6030

Reviewing attorney: Robert Patchell (202) 622-6030

CC:EBEO

Agency Contact: Cheryl Press, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030
Fax: 202 622-4631

RIN: 1545–AX52

2955. • DEFINITION OF PRIVATE ACTIVITY BOND

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide a definition of private activity bonds applicable to tax-exempt bonds issued by State and local governments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-113007-99

Drafting attorney: Barbara League (202) 622-3980

Reviewing attorney: Bruce Serchuk (202) 622-3980

CC:DOM:FI&

Agency Contact: Barbara Jean League, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AX55

2956. • ALTERNATIVE AGENTS OF THE GROUP UNDER SECTION 1.1502-77T

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project proposes revisions to Temp.Reg. section 1.1502-77T, which supplements the common parent "agency rules" of Treas. Reg. section 1.1502-77. Temp.Reg. section 1.1502-77T presently provides for "alternative agents" for the affiliated group in situations where a common parent corporation ceases to be the common parent of a group. The temporary regulation only applies to the mailing of notices of deficiency and executing waivers of the statute of limitations. Primarily, we propose to revise Temp.Reg. section 1.1502-77T to expand the scope of agency to be as broad as that of the common parent's scope of agency under Treas. Reg. section 1.1502-77(a).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103805-99

Drafting attorney: George R. Johnson (202) 622-7812

Reviewing attorney: Steven J. Hawkin (202) 622-7930

TREAS—IRS **Proposed Rule Stage**

Treasury attorneys: Mark Hoffenberg (202) 622-0869

Karen Gilbreath (202) 622-1788

CC:DOM:FS

Agency Contact: George Robert Johnson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7812
Fax: 202 622-6889

RIN: 1545–AX56

2957. • PERMITTED ELECTION CHANGES UNDER SECTION 125

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations will clarify the circumstances under which an employer may permit a cafeteria plan participant to revoke an existing election with respect to dependent care or adoption assistance coverage, and make a new election during a period of coverage.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-243025-96

Drafting attorney: Janet Laufer (202) 622-6060

Reviewing attorney: Harry Beker (202) 622-6080

Treasury attorney: William Bortz (202) 622-1352

CC:EBEO

Agency Contact: Janet A. Laufer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6060
Fax: 202 622-4084

RIN: 1545–AX59

Department of the Treasury (TREAS)
Internal Revenue Service (IRS) **Final Rule Stage**

2958. CREDIT FOR INCREASING RESEARCH ACTIVITIES.

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 602; 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules describing when computer software which is developed by (or for the benefit of) a taxpayer primarily for the taxpayers internal use can qualify for the credit for increasing research activities.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 81
NPRM Comment Period End	04/22/97	
Hearing	05/13/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209494-90 (PS-16-90)

Drafting attorneys: Leslie Finlow (202) 622-3120

Lisa Shuman (202) 622-3120

• Reviewing attorney: Christine Ellison (202) 622-3120

Treasury attorney: Mark Hoffenberg (202) 622-0869

CC:DOM:P&SI

Agency Contact: Leslie Finlow, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AO51

2959. LOANS TREATED AS DISTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 72

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The loan rules are provided in section 72(p) of the Internal Revenue Code of 1986.

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66233
NPRM Comment Period End	03/20/96	
Hearing	06/28/96	61 FR 20766
Second NPRM	01/02/98	63 FR 42
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209476-82 (EE-106-82)

Drafting tax law Specialist: Vernon S. Carter (202) 622-6070

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: William Bortz (202) 622-1352

CC:EBEO

Agency Contact: Vernon S. Carter, Tax Law Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AE41

TREAS—IRS **Final Rule Stage**

2960. EARNINGS STRIPPING PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation addresses the deductibility of interest under section 163 being limited when paid by a corporation to related persons not subject to U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	06/18/91	56 FR 27907
Hearing	09/25/91	56 FR 27927
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209059-89 (INTL-870-89)

Drafting attorney: Milton M. Cahn (202) 622-3870

Reviewing attorney: Jeffrey L. Dorfman (202) 622-3870

CC:INTL

Agency Contact: Milton M. Cahn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AO24

2961. SECTION 1.163-1(B)(2)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 165

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will finalize all outstanding proposed regulations under section 1.163-1(b)(2).

Timetable:

Action	Date	FR Cite
NPRM	01/21/93	58 FR 5316
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208245-90 (INTL-115-90)

Drafting attorney: Carl M. Cooper (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AP33

2962. RULES FOR PROPERTY PRODUCED IN A FARMING BUSINESS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules provide general rules regarding the application of the uniform capitalization rules to taxpayers engaged in farming.

Timetable:

Action	Date	FR Cite
NPRM	08/22/97	62 FR 44607
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208151-91 (IA-65-91)

Drafting attorney: Jan Skelton (202) 622-4970

Reviewing attorney: Tom Luxner (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

NPRMs were issued in 1987 dealing with 263A. The regulations project was split into several projects. Since substantial changes are being made, another NPRM will be issued with another RIN and project number.

Agency Contact: Jan Skelton, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AQ91

2963. SUBSTANTIATION OF EXPENSES — RECEIPT THRESHOLD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 0274; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation raises the level at which certain expenditures which are required to be substantiated under section 274(d) of the Internal Revenue Code must be documented by a receipt or other evidence.

Timetable:

Action	Date	FR Cite
NPRM	03/25/97	62 FR 14051
NPRM Comment Period End	06/23/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209785-95 (IA-36-95)

Drafting attorney: Donna M. Crisalli (202) 622-4920

Reviewing attorney: George Baker (202) 622-4920

Treasury attorney: Annette Smith (202) 622-0868

CC:DOM:IT&A

Agency Contact: Donna M. Crisalli, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AT97

2964. GUIDANCE UNDER SECTION 355(D)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0355

CFR Citation: 26 CFR 1

Legal Deadline: None

TREAS—IRS **Final Rule Stage**

Abstract: The regulation will provide guidance on transactions under section 355(d).

Timetable:

Action	Date	FR Cite
NPRM	05/03/99	64 FR 23554
NPRM Comment Period Ends	08/02/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106004-98

Drafting attorney: Robert Hawkes (202) 722-7730

Reviewing attorney: Robert Hawkes (202) 622-7530

Treasury attorney: Karen Gilbreath (202) 622-1788

CC:DOM:COR

Agency Contact: Robert Hawkes, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7530

RIN: 1545–AW71

2965. WARRANTS AND NONQUALIFIED PREFERRED STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation is intended to prevent avoidance of the special rule for nonqualified preferred stock under section 1014 of the Taxpayer Relief Act of 1997. Section 1.356-3 of the Income Tax Regulations is amended to provide that, as a general rule, the term "stock or securities" does not include nonqualified preferred stock, or a right to acquire such preferred stock, where the stock or right is received in exchange for stock or a right to acquire stock.

Timetable:

Action	Date	FR Cite
NPRM	01/06/98	63 FR 453
NPRM Comment Period End	04/06/98	
Hearing	05/05/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-121755-97

Drafting attorney: Michael Danbury (202) 622-7978

Reviewing attorney: Bernita Thigpen (202) 622-7720

CC:DOM:COR

Agency Contact: Michael Danbury, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7750

RIN: 1545–AV86

2966. INCOME TAX—PART 1—STOCK TRANSFER RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The extent to which a foreign corporation shall be considered to be a corporation under section 367 in connection with an exchange described in sections 332, 351, 354, 355, 356 or 361.

Timetable:

Action	Date	FR Cite
NPRM	08/26/91	56 FR 41993
NPRM Comment Period End	10/25/91	
Amendment to NPRM	06/19/98	63 FR 33595
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: REG-209035-86 (INTL-178-86)

Drafting attorney: Mark Harris (202) 622-3860

Reviewing attorney: Irwin Halpern (202) 622-3850

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

Agency Contact: Mark Harris, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AI32

2967. DEFINITION OF "HIGHLY COMPENSATED EMPLOYEE"

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 414

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations define the term "highly compensated employee" under section 414(q) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	02/19/88	53 FR 4999
NPRM Comment Period End	04/19/88	
Partially Closed by TD 8548	06/27/94	59 FR 32911
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Additional Information: REG-209558-92 (EE-32-92)

Drafting attorney: Cathy Vohs (202) 622-6030

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: Don Wellylin (202) 622-1332

Temporary and proposed regulations under sections 414(q) and 414(s) were published February 19, 1988 (53 FR 4965); and final regulations under section 414(s) were published September 19, 1991 (56 FR 47659), under project EE-129-86. The regulations under section 414(q) were split off from project EE-129-86. It is anticipated that final regulations under section 414(q) will be published in the future under project EE-32-92.

CC:EBEO

Agency Contact: Cathy A. Vohs, Attorney, Department of the Treasury,

Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AQ74

2968. ESCROW FUNDS AND OTHER SIMILAR FUNDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 0468B

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Further guidance relating to certain escrow funds and other similar funds.

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4801
NPRM Comment Period End	05/03/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209619-93 (IA-17-93)

Drafting attorney: Michael L. Gompertz (202) 622-4940

Reviewing attorney: Linda Kroening (202) 622-4800

CC:DOM:IT&A

Agency Contact: Michael L. Gompertz, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AR82

2969. TAXATION OF GLOBAL TRADING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 864; 26 USC 482; 26 USC 863

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations to improve the taxation of global trading.

Timetable:

Action	Date	FR Cite
ANPRM	08/28/90	55 FR 35152
NPRM	03/06/98	63 FR 11177
NPRM Comment Period End	06/04/98	
Hearing	07/14/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208299-90 (INTL-70-90)

Drafting attorney: Ginny Y. Chung (202) 622-3870

Reviewing attorney: Paul Epstein (202) 622-3870

Treasury attorney: Patricia Brown (202) 622-1781

CC:INTL

Agency Contact: Ginny Y. Chung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AP01

2970. QUALIFIED STATE TUITION PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 529

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance regarding certain reporting requirements and transition rules applicable to qualified state tuition programs (QSTPs). QSTPs must satisfy requirements relating to contributions, refunds, and maintenance of separate accounts for each designated beneficiary in the program. In addition, QSTPs must prohibit investment direction, the use of any interest in the program as security for a loan, excess contributions. The regulations also provide guidance concerning these requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/24/98	63 FR 45019
NPRM Comment Period End	11/23/98	
Hearing	01/06/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: REG-106177-97

Drafting attorney: Monice Rosenbaum (202) 622-6070

Reviewing attorney: James Brokaw (202) 622-6070

Reviewing attorney: Paul Feinberg (202) 622-6000

Treasury attorney: Susan Brown (202) 622-0999

CC:EBEO

Agency Contact: Monice L. Rosenbaum, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AV18

2971. SEPARATE SHARE RULES/ESTATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 663(c); 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will amend section 1.663(c) by adding rules concerning whether a surviving spouse's elective share of the estate of a decedent and a revocable trust treated as part of an estate constitute separate shares of an estate.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 790
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114841-98

Drafting attorney: Laura Howell (202) 622-3060

TREAS—IRS **Final Rule Stage**

Reviewing attorney: J. Tom Hines (202) 622-3060

Treasury attorney: Beth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: Laura Howell, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AW57

2972. ADJUSTMENTS FOLLOWING SALES OF PARTNERSHIP INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 743; 26 USC 751; 26 USC 755; 26 USC 734; 26 USC 732; 26 USC 1017

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance with respect to optional adjustments to the basis of partnership property when partnership interests are sold, the calculation of gain or loss following the sale of a partnership interest, and the allocation of a partner's basis in its partnership interest to distributed properties.

Timetable:

Action	Date	FR Cite
NPRM	01/29/98	63 FR 4408
NPRM Comment Period End	04/29/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-209682-94 (PS-2-94)

Drafting attorney: Matthew Lay (202) 622-3050

Reviewing attorney: David Haglund (202) 622-3050

Treasury attorney: James Sowell (202) 622-5721

CC:DOM:P&SI

Agency Contact: Matthew Lay, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AS39

2973. DETERMINATION OF EARNED PREMIUMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 832

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will address the treatment of certain items for purposes of determining gross written premiums and unearned premiums under section 832(b)(4), including advance premiums. Retrospective premium adjustments, and the determination of written premiums with respect to certain policies with variable exposures.

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 72
Hearing	04/30/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209839-96 (FI-31-96)

Drafting attorney: Gary Geisler (202) 622-3623

Reviewing attorney: Stephen Hooe (202) 622-3762

Treasury attorney: Louise Epstein (202) 622-1778

CC:DOM:FI&

Agency Contact: Gary Geisler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3623

RIN: 1545–AU60

2974. CHARITABLE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 861

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1.861-8(e) will provide new guidance regarding the allocation of charitable deductions to U.S. or foreign source income. A taxpayer will allocate such a deduction solely to U.S. source income if he designated the contribution for U.S. use and reasonably believed that it would be so used. He will allocate such a deduction solely to foreign source income if he knows or has reason to know that it would be used solely outside the United States or that it must necessarily be so used. In all other cases, he would ratably apportion such a deduction.

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10395
Hearing	08/01/91	56 FR 23823
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208246-90 (INTL-116-90)

Drafting attorney: Carl M. Cooper (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

Treasury attorney: P. Ann Fisher (202) 622-1755

CC:INTL

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AP30

2975. ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE AND CERTAIN OTHER EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 864

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations providing rules for the allocation and apportionment of interest expense and certain other expenses for purposes of the foreign tax credit rules and certain other international tax provisions.

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	03/12/91	56 FR 10397
Hearing	06/21/91	56 FR 21640
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208267-86 (INTL-952-86)

Drafting attorney: David F. Bergkuist (202) 622-3850

Reviewing attorney: Irwin Halpern (202) 622-3850

Treasury attorney: Manal Corwin (202) 622-1317

CC:INTL

Agency Contact: David F. Bergkuist, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AM20

2976. STOCKS AND SECURITIES SAFE HARBOR EXCEPTION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulatory action will amend 26 CFR 1 to clarify and update the safe harbor that one is not engaged in a trade or business as a result of trading in stocks and securities. The amendment will provide additional guidance regarding the definitions of stocks and securities.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32164
Hearing	09/09/98	
NPRM Comment Period End	09/10/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106031-98

Drafting attorney: Milton Cahn (202) 622-3870

Reviewing attorney: Paul Epstein (202) 622-3870

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

Agency Contact: Milton M. Cahn, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AW13

2977. PROPOSED REGULATION UNDER SECTIONS 882 AND 884

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 0882; 26 USC 0884

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance relating to the treatment of financial instruments and loans between partners and partnerships for purposes of sections 882 and 884.

Timetable:

Action	Date	FR Cite
NPRM	03/08/96	61 FR 9377
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209805-95 (INTL-054-95)

Drafting attorney: Howard Wiener (202) 622-3870

Reviewing attorney: Paul Epstein (202) 622-3870

CC:INTL

Agency Contact: Howard Wiener, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AT96

2978. NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 897

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide rules concerning the effect of certain distributions including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Regulations will also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	05/05/88	53 FR 16233
Hearing	03/01/89	54 FR 1189
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-209039-87 (INTL-491-87)

Drafting attorney: Robert Lorence (202) 622-3860

Reviewing attorney: Charles P. Besecky (202) 622-3860

CC:INTL

Agency Contact: Robert W. Lorence, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3850

RIN: 1545–AK79

2979. CONFORMING TAXABLE YEARS OF CFCS AND FPHCS: 1989 CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 898; 26 USC 902

CFR Citation: 26 CFR 1

Legal Deadline: None

TREAS—IRS

Final Rule Stage

Abstract: The regulation provides guidance to taxpayers concerning new section 898 of the Internal Revenue Code, added to the Code by the Omnibus Budget Reconciliation Act of 1989. Section 898 requires the taxable years of certain specified foreign corporations to conform to the taxable years of their majority U.S. shareholders.

Timetable:

Action	Date	FR Cite
NPRM	01/05/93	58 FR 290
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208985-89 (INTL-848-89)

Drafting attorney: Jeffrey Vinnik (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

CC:INTL

Agency Contact: Jeffrey L. Vinnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AO22

2980. • GROUPING RULES FOR FOREIGN SALES CORPORATION TRANSFER PRICING

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 925(b); 26 USC 927(d)(2)(B)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Final regulations to provide grouping rules for purposes of Foreign Sales Corporation transfer pricing.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-110605-99

Drafting attorney: Douglas Giblen (202) 874-1490

Reviewing attorney: Elizabeth Beck (202) 874-1490

Treasury attorney: Ann Fisher (202) 622-1755

CC:INTL

Agency Contact: Douglas Giblen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza SW, Washington, DC 20024
Phone: 202 874-1490

RIN: 1545–AX41

2981. NEW LINES OF BUSINESS PROHIBITED UNDER SECTION 936(J)(9)(B)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance for application of section 936(j)(9)(B) and to clarify the meaning of "substantial new line of business."

Timetable:

Action	Date	FR Cite
NPRM	08/19/98	63 FR 160
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-115446-97

Drafting attorney: Daniel Karen (202) 874-1490

Reviewing attorney: Jacob Feldman (202) 622-3810

Treasury attorney: Michael Mundaca (202) 622-1752

CC:INTL

Agency Contact: Daniel S. Karen, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 950 L'Enfant Plaza SW, Washington, DC 20024
Phone: 202 874-1490

RIN: 1545–AV68

2982. GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance under subpart F with regard to transactions involving partnerships.

Timetable:

Action	Date	FR Cite
NPRM	03/26/98	63 FR 14669
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104537-97

Drafting attorney: Valerie Mark (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

Treasury attorney: William Morris (202) 622-1779

CC:INTL

Agency Contact: Valerie A. Mark, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV11

2983. COMPUTATION OF A BRANCH'S TAXABLE INCOME; TAXATION OF EXCHANGE GAIN OR LOSS ON BRANCH REMITTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Branch rules on how to translate branch income. Taxation of exchange gain or loss on branch remittances.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48457
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208270-86 (INTL-965-86)

Drafting attorney: Howard Wiener (202) 622-3870

TREAS—IRS **Final Rule Stage**

Reviewing attorney: Jeffrey Dorfman (202) 622-3870

Treasury attorney: Patricia Brown (202) 622-1781

CC:INTL

Agency Contact: Howard Wiener, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3870

RIN: 1545–AM12

2984. MARK-TO-MARKET METHOD OF ACCOUNTING UNDER SECTION 988

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 989; 26 USC 988

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations allow taxpayers to elect to account for exchange gains and losses under a mark-to-market method of accounting. The regulation also addresses other matters including dual currency bonds, contingent payment bonds denominated in a nonfunctional currency, hyperinflationary instruments and certain hedging transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/17/92	57 FR 9217
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-208202-91 (INTL-015-91)

Drafting attorney: Roger Brown (202) 622-3810

Reviewing attorney: Jeffrey Dorfman (202) 622-3870

CC:INTL

Agency Contact: Roger Brown, Special Counsel, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3810

RIN: 1545–AP78

2985. GUIDANCE UNDER SECTION 1032

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations relate to the treatment of a disposition by a corporation of the stock of another corporation.

Timetable:

Action	Date	FR Cite
NPRM	09/23/98	63 FR 50816
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106221-98

Drafting attorney: Lee A. Dean (202) 622-7550

Treasury attorney: Karen Gilbreath (202) 622-1788

Agency Contact: Lee A. Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 655-7550

RIN: 1545–AW53

2986. EQUITY OPTIONS WITHOUT STANDARD TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1092

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance about the effect of equity options without standard terms upon the definition of a qualified covered call.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34616
NPRM Comment Period End	09/23/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104641-97

Drafting attorney: Pamela Lew (202) 622-3950

Reviewing attorney: Robert Williams (202) 622-3960

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: Pamela Lew, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3950
Fax: 202 622-5699

RIN: 1545–AV48

2987. INFLATION-INDEXED SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1275; 26 USC 1286

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the tax treatment of inflation indexed-bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/06/97	62 FR 694
Hearing	04/30/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-242996-96

Drafting attorney: William E. Blanchard (202) 622-3950

Reviewing attorney: William E. Blanchard (202) 622-3950

Treasury attorney: Jeffrey W. Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: William E. Blanchard, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3950

RIN: 1545–AU45

TREAS—IRS **Final Rule Stage**

2988. GENERAL RULES FOR MAKING AND MAINTAINING QUALIFIED ELECTING FUND ELECTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1293; 26 USC 1295

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide guidance to shareholders of passive foreign investment companies for making timely or retroactive elections under section 1295 to treat the passive foreign investment companies as qualified electing funds.

Timetable:

Action	Date	FR Cite
NPRM	01/02/98	63 FR 39
NPRM Comment Period End	04/02/98	63 FR 41
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-115795-97

Drafting attorney: Margaret Fung (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

Treasury attorney: Michael Mundaca (202) 622-1752

This regulation contains different sections than the proposed regulation issued under RIN 1545-AM41 in December 1996.

CC:INTL

Agency Contact: Margaret Fung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV39

2989. PASSIVE FOREIGN INVESTMENT COMPANIES — SPECIAL RULES FOR FOREIGN BANKS AND SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1297

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance for qualifying foreign banks and securities dealers for the exception to passive income characterization for purposes of the income and asset tests of the PFIC provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/28/95	60 FR 20922
Hearing	09/11/95	60 FR 39902
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-209733-93 (INTL-65-93)

Drafting attorney: Margaret Fung (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

Treasury attorney: Michael Mundaca (202) 622-1752

CC:INTL

Agency Contact: Margaret Fung, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AS46

2990. DEFINITION OF THE TERM "MARKETABLE STOCK" UNDER SECTION 1296(E)(1)(A)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1296; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 1296 allows US persons that hold "marketable stock" in a PFIC to elect to mark such stock to market at the close of each taxable year. Marketable stock includes any stock that is regularly traded on a US securities exchange or "any exchange or market which the Secretary determines has rules adequate to carry out the purposes of this part; or stock in certain PFICs comparable to US regulated investment companies. These regulations define marketable stock for purposes of section 1296.

Timetable:

Action	Date	FR Cite
NPRM	02/02/99	64 FR 5012
Correction to NPRM	03/23/99	64 FR 13939
NPRM Comment Period Ends	05/03/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113744-98

Drafting attorney: Robert Laudeman (202) 622-3840

Reviewing attorney: Phyllis Marcus (202) 622-3840

Treasury attorney: Michael Mundaca (202) 622-1772

CC:INTL

Agency Contact: Robert Laudeman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AW69

2991. S CORPORATION SUBSIDIARIES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 26 USC 1361; 26 USC 7805; 26 USC 1362

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Prior to enactment of the Small Business Job Protection Act of 1996, (SBJPA), S corporations were prohibited from owning 80 percent or more of the stock of another corporation. In addition, an S corporation could not have as a shareholder another corporation. The SBJPA amended the code, allowing S corporations to own 80 percent or more of a C corporation. Furthermore, an S corporation is allowed to own a qualified subchapter S subsidiary. This regulation project interprets section 1308 of the (SBJPA), providing guidance to taxpayers in both situations.

TREAS—IRS **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	04/21/98	63 FR 19864
NPRM Comment Period End	07/21/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-251698-96

Drafting attorney: Jeanne Sullivan (202) 622-3050

Reviewing attorney: Dianna Miosi (202) 622-3050

Treasury attorney: James Sowell (202) 622-5721

CC:DOM:P&SI

Agency Contact: Jeanne Sullivan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3050

RIN: 1545–AU77

2992. QUALIFIED ZONE ACADEMY BONDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide issuers and holders of qualified zone academy bonds (section 1397E of the Code) with formulas for determining the credit rate and maximum maturity of the bonds. The regulations will also provide guidance for the treatment of original issue discount, premium and mid-year sales of the bonds.

Timetable:

Action	Date	FR Cite
NPRM	01/07/98	63 FR 707
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local

Additional Information: REG-119499-97

Drafting attorney: Timothy Jones (202) 622-3980

Reviewing attorney: Rebecca Harrigal (202) 622-3980

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: Timothy Jones, Assistant to the Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AV75

2993. REGULATIONS UNDER SECTION 1441 REGARDING THE ELECTRONIC TRANSMISSION OF WITHHOLDING CERTIFICATES

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 26 USC 7805; 26 USC 6061; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation pertains to the guidance for the electronic transmission of withholding certificates.

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53504
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-107872-97

Drafting attorney: Carl Cooper (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Carl M. Cooper, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV27

2994. REGULATIONS UNDER SECTION 1441 REGARDING WITHHOLDING ON SALES OF DEBT OBLIGATIONS BETWEEN INTEREST PAYMENT DATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance relating to withholding on sales of debt obligations between interest payment dates.

Timetable:

Action	Date	FR Cite
NPRM	10/14/97	62 FR 53503
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114000-97

Drafting attorney: Kate Hwa (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Kate Hwa, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AV41

2995. • SECTION 1441 FINAL REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Extension of section 1441 regulations effective date.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-114332-99

Drafting attorney: Laurie Hatten-Boyd (202) 622-3840

TREAS—IRS **Final Rule Stage**

Drafting attorney: Richard Thomas (202) 622-3278

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Laurie Hatten-Boyd, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AX44

2996. • CHANGES TO REGULATION SECTION 1441

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 1441

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Changes to Treasury Regulation Section 1441.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: REG-104864-99

Drafting attorney: Kate Hwa (202) 622-3840

Reviewing attorney: Philip Garlett (202) 622-3840

CC:INTL

Agency Contact: Kate Hwa, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3840

RIN: 1545–AX53

2997. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: Final, Statutory, June, 1999, Regulations sunset under section 7805(e)(2).
Regulations sunset under section 7805(e)(2).

Abstract: This document amends the effective dates of a prior notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 12717
NPRM Comment Period End	05/07/98	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104005-98

Drafting attorney: Roy Hirschhorn (202) 622-7770

Reviewing attorney: Charles Whedbee (202) 622-7550

Treasury attorney: Karen Gilbreath (202) 622-1788

CC:DOM:COR

Agency Contact: David Kessler, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AV99

2998. ACQUISITION OF AN S CORPORATION BY A MEMBER OF A CONSOLIDATED GROUP

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 1502

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address the one-day year that arises when an affiliated group of corporations filing a consolidated return acquires over 80 percent of the stock of an S corporation. The new regulation will prevent taxpayers from being required to file a tax return for the day of the acquisition.

Timetable:

Action	Date	FR Cite
NPRM	12/17/98	63 FR 69581
Cancellation of Public Hearing	03/29/99	64 FR 14846
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-106219-98

Drafting attorney: Vincent Daly (202) 622-7770

Reviewing attorney: Lewis K. Brickates (202) 622-7770

Treasury attorney: Karen Gilbreath (202) 622-1788

CC:DOM:COR

Agency Contact: Vincent Daly, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7770

RIN: 1545–AW32

2999. PARTNERSHIP RETURNS REQUIRED ON MAGNETIC MEDIA

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6011(e)(2); 26 USC 6721

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: This document will mandate the magnetic media filing of partnership tax returns for partnerships having more than 100 partners under 26 USC 6011(e)(2).

Timetable:

Action	Date	FR Cite
NPRM	10/23/98	63 FR 56878
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: REG-102023-98

Drafting attorney: Bridget Finkenaur (202) 622-4940

Reviewing attorney: Rochelle Hodes (202) 622-4940

TREAS—IRS **Final Rule Stage**

Treasury attorney: James Sowell (202) 622-5721

CC:DOM:IT&A

Agency Contact: Bridget E. Finkenaur, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AW14

3000. ADEQUATE DISCLOSURE OF GIFTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 2001; 26 USC 2504

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None

Abstract: Provide the manner of adequately disclosing a gift by a complete and accurate description of the transaction that will allow the period of assignment to begin to run and make a final determination of the value of the gift for estate and gift tax purposes. This is generally effective for gifts after August 5, 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70701
Correction to NPRM	03/08/99	64 FR 10964
NPRM Comment Period Ends	03/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106177-98

Drafting attorney: William L. Blodgett (202) 622-3090

Reviewing attorney: George Masnik (202) 622-3090

Treasury attorney: Beth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: William L. Blodgett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AW20

3001. NEW TECHNOLOGY IN RETIREMENT PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 401

CFR Citation: 26 CFR 1

Legal Deadline: NPRM, Statutory, December 31, 1998.

Abstract: Guidance relating to the "paperless" administration of qualified retirement plans.

Timetable:

Action	Date	FR Cite
NPRM	12/18/98	63 FR 70071
NPRM Comment Period End	03/31/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-118662-98

Drafting attorney: Catherine Livingston Fernandez (202) 622-6030

Treasury attorney: Michael Doran (202) 622-1341

CC:EBEO

Agency Contact: Catherine Livingston Fernandez, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AW78

3002. PREPAID TELEPHONE CARDS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4251

CFR Citation: 26 CFR 49

Legal Deadline: None

Abstract: Regulations implementation section 1034 of the Taxpayer Relief Act of 1997 pertaining to the application of the communications excise tax to prepaid telephone calls.

Timetable:

Action	Date	FR Cite
NPRM	12/17/98	63 FR 69585
NPRM Comment Period End	03/17/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-118620-97

Drafting attorney: Bernard H. Weberman (202) 622-3130

Reviewing attorney: Ruth Hoffman (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:P&SI

Agency Contact: Bernard H. Weberman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV63

3003. CLARIFICATION OF 4958 EXCISE TAXES

Priority: Other Significant

Legal Authority: 26 USC 4958

CFR Citation: 26 CFR 53; 26 CFR 301

Legal Deadline: None

Abstract: 26 USC 4958 was enacted in section 1311 of Taxpayer Bill of Rights 2, P.L. 104-168, 110 Stat. 1452, July 30, 1996. This section 4958, taxes on excess benefits transactions, is effective for transactions occurring after September 13, 1995. The regulations will clarify certain definitions and rules contained in section 4958.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41486
NPRM Comment Period End	11/02/98	
Hearing	03/16/99	64 FR 5727
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-246256-96

Drafting attorney: Phyllis D. Haney (202) 622-4290

Reviewing attorney: Paul G. Accettura (202) 622-6070

Reviewing attorney: Paul C. Feinberg (202) 622-6000

Treasury attorney: Susan Brown (202) 622-0999

TREAS—IRS **Final Rule Stage**

CC:EBEO

Agency Contact: Phyllis D. Haney, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4290

RIN: 1545–AV60

3004. TELEFILE VOICE SIGNATURES TEST

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6012; 26 USC 6061; 26 USC 6065

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will enable the Internal Revenue Service to accept a voice signature in lieu of a handwritten signature. This will allow the Service to test the feasibility of voice signatures for one year with certain taxpayers who live in the geographic area of the Cincinnati district office. The regulations also address the effect of a taxpayer using a voice signature.

Timetable:

Action	Date	FR Cite
NPRM	01/13/93	58 FR 4125
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209789-95 (IA-39-95)

Drafting attorney: Beverly A. Baughman (202) 622-4940

Reviewing attorney: Rochelle Hodes (202) 622-4940

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AQ68

3005. REPORTING OF PAYMENTS TO ATTORNEY

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 6045

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Information reporting requirements for payments of gross proceeds made in the course of a trade or business to attorneys in connection with legal services.

Timetable:

Action	Date	FR Cite
NPRM	05/21/99	64 FR 27730
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105312-98

Drafting attorney: Katharine Kiss (202) 622-4920

Reviewing attorney: Michael Montemurro (202) 622-4920

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:IT&A

Agency Contact: Katherine A. Kiss, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AW72

3006. 6046A—RETURNS AS TO ACQUISITIONS AND DISPOSITIONS OF FOREIGN PARTNERSHIP INTERESTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6046A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	09/09/98	63 FR 48154
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209060-86 (INTL-879-86)

Drafting attorney: Eliana D. Dolgoff (202) 622-3860

Reviewing attorney: Philip Tretiak (202) 622-3860

Treasury attorney: William Morris (202) 622-1779

Completed in error in the October 1995 Unified Agenda.

CC:INTL

Agency Contact: Eliana D. Dolgoff, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AK75

3007. PRIVATE FOUNDATION DISCLOSURE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6104

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations generally affect private foundations and generally require a private foundation to comply with requests from individuals who seek a copy of the foundation's annual information return for any of the foundation's three most recent taxable years.

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43324
NPRM Comment Period Ends	10/12/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121946-98

Drafting attorney: Michael Blumenfeld (202) 622-6070

Reviewing attorneys: Paul Accetura (202) 622-6070

Paul Feinberg (202) 622-6000

Treasury attorney: Susan Brown (202) 622-0999

CC:EBEO

Agency Contact: Michael Blumenfeld, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6070

RIN: 1545–AW96

3008. REVISION OF TAX REFUND OFFSET PROGRAM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 6402

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Revise the regulations under section 6402 to reflect the administration of the tax refund offset program by the financial management service.

Timetable:

Action	Date	FR Cite
NPRM	08/31/98	63 FR 46205
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-104565-97

Drafting attorney: Beverly Baughman (202) 622-4940

Reviewing attorney: Rochelle Hodes (202) 622-4940

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4940

RIN: 1545–AV50

3009. TREATMENT OF OBLIGATION-SHIFTING TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1,

Legal Deadline: None

Abstract: The regulations recharacterize obligation-shifting transactions. Obligation-shifting transactions are transactions in which the transferee assumes obligations or acquires property subject to obligations under existing lease or similar agreement and the transferor or any other party has already received or retains the right to receive amounts that are allocable to periods after the transfer by recharacterizing obligation-shifting transactions in a manner that clearly reflects the parties' income, the regulators prevent tax avoidance.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68175
NPRM Comment Period End	04/08/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209817-96 (FI-10-96)

Drafting attorney: Diana Inhof (202) 622-3930

Reviewing attorney: Jonathan Zelnik (202) 622-3920

Treasury attorney: Jeffrey Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: Diana Inhof, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3930
Fax: 202 622-4425

RIN: 1545–AU19

3010. RECHARACTERIZING FINANCING ARRANGEMENTS INVOLVING FAST-PAY STOCK

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To prevent tax avoidance, the regulations provide rules concerning fast-pay stock arrangements. A fast-pay stock arrangement is any financing arrangement in which a corporation issues stock (1) with a dividend rate that is structured to decline, or (2) at a premium. For tax purposes, the regulations characterize certain fast-pay stock arrangements in a way that differs from their form. The regulations will apply to taxable years ending after February 26, 1997.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 805
Correction to NPRM	03/03/99	64 FR 10262
Cancellation of Public Hearing	04/05/99	64 FR 16372
NPRM Comment Period Ends	04/06/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104072-97

Drafting attorney: Jonathan Zelnik (202) 622-3920

Reviewing attorney: Marshall Feiring (202) 622-3930

Treasury attorney: Jeff Maddrey (202) 622-1339

CC:DOM:FI&

Agency Contact: Jonathan Zelnik, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3920
Fax: 202 622-4425

RIN: 1545–AV07

3011. INTANGIBLE ASSET AMORTIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; PL 103-66

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations under section 197 and section 167 relating to the amortization of goodwill and certain other intangibles.

TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	06/24/94	59 FR 32670
ANPRM Comment Period End	08/23/94	
NPRM	01/16/97	62 FR 2336
Hearing	05/15/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209709-94 (PS-29-94)

Drafting attorney: John Huffman (202) 622-3110

Reviewing attorney: Susan Reaman (202) 622-3110

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:P&SI

Agency Contact: John Huffman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3110

RIN: 1545–AS77

3012. PASSTHROUGH OF ITEMS TO SHAREHOLDERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance regarding the passthrough of items of an S Corporation to its shareholders, the adjustments to the basis of shareholder stock, and the treatment of distributions by an S Corporation.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	63 FR 44181
NPRM Comment Period End	11/16/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-209446-82 (PS-261-82)

Drafting attorney: Martin Schaffer (202) 622-3070

Reviewing attorney: Donna Young (202) 622-3070

CC:DOM:P&SI

Agency Contact: Martin Schaffer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AT52

3013. REPORTING REQUIREMENTS FOR WIDELY HELD FIXED INVESTMENT TRUSTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 671; 26 USC 7805; 26 USC 6034A; 26 USC 6049(d)(1)

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: Regulations on the reporting requirements for widely held fixed investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	08/13/98	63 FR 43354
Hearing	11/05/98	
NPRM Comment Period End	11/12/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209813-96 (PS-6-96)

Drafting attorney: Faith Colson (202) 622-3060

Reviewing attorney: H. Grace Kim (202) 622-3060

Treasury attorney: Mark Hoffenberg (202) 622-0869

CC:DOM:P&SI

Agency Contact: Faith Colson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3060

RIN: 1545–AU15

3014. RELIEF FROM DISQUALIFICATION FOR PLANS ACCEPTING ROLLOVERS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide relief from disqualification to qualified plans that provide for the acceptance of rollover contributions and inadvertently accept an amount as a rollover contribution that is not in fact eligible for rollover.

Timetable:

Action	Date	FR Cite
NPRM	12/17/98	63 FR 69584
NPRM Comment Period End	03/17/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-245562-96

Drafting attorney: Keneth Griffin (202) 622-6030

Reviewing attorney: Alan Tawshunsky (202) 622-6000

Treasury attorney: Amy Null (202) 622-4879

CC:EBEO

Agency Contact: Keneth Griffin, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6030

RIN: 1545–AU46

3015. LEGENDING OF REMIC CERTIFICATES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6049

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rescind requirements that issuers of REMICs and Collateralized Debt Obligations provide certain information related to accrual of original issue discount on face of certificate; possibly will require information to be provided by other means.

Timetable:

Action	Date	FR Cite
NPRM	05/19/99	64 FR 27221
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-100905-97

Drafting attorney: Kenneth Christman (202) 622-3950

Reviewing attorney: Marshall Feiring (202) 622-3960

CC:DOM:FI&

Agency Contact: Kenneth P. Christman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 Phone: 202 622-3950

RIN: 1545–AU96

3016. RETURN OF PARTNERSHIP INCOME—SECTION 6031

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance regarding partnership returns, to revise exceptions to partnership filing requirement, especially as it applies to foreign partnerships.

Timetable:

Action	Date	FR Cite
NPRM	01/26/98	63 FR 3677
NPRM Comment Period End	04/27/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-209322-82

Drafting attorney: Martin Schaffer (202) 622-3070

Drafting attorney: Guy Bracuti (202) 622-3860

Reviewing attorney: William O'Shea (202) 622-3070

Treasury attorney: James Sowell (202) 622-5721

CC:DOM:P&SI

Agency Contact: Martin Schaffer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 Phone: 202 622-3070

RIN: 1545–AU99

3017. TAXPAYER IDENTIFICATION NUMBERS (TINS) FOR ADOPTED CHILDREN

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6109

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will establish criteria and procedures for the assignment of Taxpayer Identification Numbers (TINs) to children who are in the process of being adopted.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62538
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-103330-97

Drafting attorney: Beverly Baughman (202) 622-4940

Reviewing attorney: Michael Gompertz (202) 622-4940

CC:DOM:IT&A

Agency Contact: Beverly A. Baughman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 Phone: 202 622-4940

RIN: 1545–AV08

3018. REGULATIONS UNDER SECTIONS 871, 881, AND 894 REGARDING PAYMENTS TO PARTNERSHIPS, AND OTHER TRANSPARENT ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 871; 26 USC 881; 26 USC 894

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Guidance under section 894(c) for imposing tax liability on foreign persons deriving US source income through partnerships or other transparent arrangements.

Timetable:

Action	Date	FR Cite
NPRM	07/02/97	62 FR 35755
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-104893-97

Drafting attorney: M. Grace Fleeman (202) 622-3880

Reviewing attorney: Elizabeth Karzon (202) 622-3880

CC:INTL

Agency Contact: M. Grace Fleeman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 Phone: 202 622-3880

RIN: 1545–AV10

3019. RESEARCH CREDIT II

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805; 26 USC 41

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This final regulation will provide rules relating to the proper definition of gross receipts to be used in computing the research credit and rules relating to the definition of qualified research under section 41(d). Further this final regulation will provide rules for electing and revoking the election of the alternative incremental credit under section 41(c)(4).

Timetable:

Action	Date	FR Cite
NPRM	12/02/98	63 FR 66503
Notice of Public Hearing	03/25/99	64 FR 14412
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—IRS

Final Rule Stage

Additional Information: REG-105170-97

Drafting attorneys: Lisa Shuman (202) 622-3120

Leslie Finlow (202) 622-3120

Reviewing attorney: Christine Ellison (202) 622-3120

Treasury attorney: Mark Hoffenberg (202) 622-0869

CC:DOM:P&SI

Agency Contact: Leslie Finlow, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

Lisa Shuman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3120

RIN: 1545–AV14

3020. TREATMENT OF ELECTIVE ENTITY CLASSIFICATION CHANGES—7701

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 7701

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Legal Deadline: None

Abstract: This regulation describes the treatment of conversions by election from partnership to corporation and from corporation to partnership.

Timetable:

Action	Date	FR Cite
NPRM	10/28/97	62 FR 55768
NPRM Comment Period End	01/26/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-105162-97

Drafting attorney: Daniel Carmody (202) 622-3080

Reviewing attorney: Jeffrey Erickson (202) 622-3070

Treasury attorney: James Sowell (202) 622-0685

CC:DOM:P&SI

Agency Contact: Daniel Carmody, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AV16

3021. REMEDIAL AMENDMENT PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 401

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will amend the existing regulations regarding the remedial amendment period to clarify the scope of the Commissioner's authority to provide relief under section 401(b).

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41322
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Additional Information: REG-106043-97

Drafting attorney: Lisa A. Tavares (202) 622-6090

Reviewing attorney: Marjorie Hoffman (202) 622-6030

Treasury attorney: Donald Wellington (202) 622-1332

CC:EBEO

Agency Contact: Lisa A. Tavares, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–AV22

3022. COMPLIANCE MONITORING AND MISCELLANEOUS ISSUES RELATING TO THE LOW INCOME HOUSING CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 42

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will address certain compliance issues and amend existing administrative error regulations under section 1.42-13.

Timetable:

Action	Date	FR Cite
NPRM	01/08/99	64 FR 1143
Correction to NPRM	03/24/99	64 FR 14306
NPRM Comment Period Ends	05/06/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: REG-114664-97

Drafting attorney: Paul Handleman (202) 622-3040

Reviewing attorney: Harold Burghart (202) 622-3040

Treasury attorney: Lily Kahng (202) 622-0160

CC:DOM:P&SI

Agency Contact: Paul F. Handleman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3040
Fax: 202 622-4753

RIN: 1545–AV44

3023. MARITAL DEDUCTION (ESTATE OF HUBERT)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 7805; 26 USC 721

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Valuation of property passing to surviving spouse.

Timetable:

Action	Date	FR Cite
NPRM	12/16/98	63 FR 69248
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

TREAS—IRS **Final Rule Stage**

Additional Information: REG-114663-97

Drafting attorney: Deborah Ryan (202) 622-3090

Reviewing attorney: Katherine Mellody (202) 622-3090

Treasury attorney: Beth Kaufman (202) 622-1776

CC:DOM:P&SI

Agency Contact: Deborah S. Ryan, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AV45

3024. KEROSENE TAX; AVIATION FUEL TAX; TAX ON HEAVY TRUCKS AND TRAILERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 4082; 26 USC 4091; 26 USC 6427; 24 USC 4052

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will describe the kerosene tax and exemptions, credits and refunds relating to the Kerosene tax. The regulations will also describe a special rule for refunds of the aviation fuel tax and a special registration rule for certain sellers of heavy vehicles.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35893
NPRM Comment Period End	09/29/98	
Hearing	11/04/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-119227-97

Drafting attorney: Frank Boland (202) 622-3130

Reviewing attorney: Richard Kocak (202) 622-3130

Treasury attorney: John Parcell (202) 622-2578

CC:DOM:P&SI

Agency Contact: Frank K. Boland, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3130

RIN: 1545–AV71

3025. SUBSTANTIATION OF BUSINESS EXPENSES—USE OF MILEAGE RATES TO SUBSTANTIATE AUTOMOBILE EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 274(d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Clarifies the Commissioner's authority to establish a method under which a taxpayer may elect to use mileage rates to determine the amount of expenses for the business use of an automobile.

Timetable:

Action	Date	FR Cite
NPRM	10/01/98	63 FR 52660
NPRM Comment Period End	12/30/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: REG-122488-97

Drafting attorney: Edwin B. Cleverdon (202) 622-4920

Reviewing attorney: George Baker (202) 622-4920

Treasury attorney: Lillian Kahng (202) 622-0160

CC:DOM:IT&A

Agency Contact: Edwin B. Cleverdon, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4920

RIN: 1545–AV87

3026. TRAVEL AND TOUR ACTIVITY OF TAX-EXEMPT ORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 513

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This document contains regulations clarifying when the travel and tour activities of tax-exempt organizations are substantially related to purposes for which exemption was granted.

Timetable:

Action	Date	FR Cite
NPRM	04/23/98	63 FR 20156
Hearing	02/10/99	63 FR 60316
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: REG-121268-97

Drafting attorney: Robin Ehrenberg (202) 622-6080

Reviewing attorney: Regina Oldak (202) 622-6080

Treasury attorney: Susan Brown (202) 622-0999

CC:EBEO

Agency Contact: Robin Ehrenberg, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6080

RIN: 1545–AW10

3027. MODIFICATION OF SECTION 263A REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263A; 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amend the regulations under section 263A relating to the simplified production and resale methods with historic absorption ratio election.

Timetable:

Action	Date	FR Cite
NPRM	05/24/99	64 FR 27936
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-113910-98

TREAS—IRS **Final Rule Stage**

Drafting attorney: Jennifer Nuding (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

Agency Contact: Jennifer Nuding, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4970

RIN: 1545–AW54

3028. INCREASE IN CASHOUT LIMIT UNDER SECTIONS 411(A)(7), 411(A)(11), AND 417(E)(1)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance relating to the increase from $ 3,500 to $ 5,000 of the limit on distributions from qualified plans that can be made without participant consent, as amended by the Taxpayer Relief Act of 1997.

Timetable:

Action	Date	FR Cite
NPRM	12/21/98	63 FR 70356
NPRM Comment Period End	03/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113694-98

Drafting attorney: Michael Karlan (202) 622-6030

Reviewing attorney: Robert Walsh (202) 622-6090

Treasury attorney: Michael Doran (202) 622-1341

CC:EBEO

Agency Contact: Robert Walsh, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6090

RIN: 1545–AW59

3029. QUALIFIED OFFERS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations regarding the qualified offer rule allowing the recovery of reasonable administrative or litigation costs.

Timetable:

Action	Date	FR Cite
Temporary Regulations	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-121928-98

Drafting attorney: Thomas Moffitt (202) 622-7900

Reviewing attorney: Henry Schneiderman (202) 622-7820

Treasury attorney: Rita Cavanaugh (202) 622-1981

CC:DOM:FS

Agency Contact: Thomas D. Moffitt, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7900

RIN: 1545–AX00

3030. • PERMITTED ELECTION CHANGES UNDER SECTION 125

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Final regulations will clarify the circumstances under which an employer may permit a cafeteria plan participant to revoke an existing election with respect to accident or health coverage, or group term life insurance coverage, and make a new election during a period of coverage.

Timetable:

Action	Date	FR Cite
NPRM	11/07/97	62 FR 60196
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-243025-96

Drafting Attorney: Janet Laufer (202) 622-6060
Reviewing Attorney: Harry Beker (202) 622-6080
Treasury Attorney: William Bortz (202) 622-1352

Agency Contact: Janet A. Laufer, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6060
Fax: 202 622-4084

RIN: 1545–AX58

Department of the Treasury (TREAS)
Internal Revenue Service (IRS) **Long-Term Actions**

3031. STATEMENT OF PROCEDURAL RULES — PART 601.702 APPENDIX B - INTERNAL REVENUE SERVICE - 31 CFR PART 1

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 601; 31 CFR 1

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lori Creswell
Phone: 202 622-4580

RIN: 1545–AR99

3032. THE TREATMENT OF ACCELERATED DEATH BENEFITS UNDER SECTIONS 101, 7702 AND 7702A OF THE INTERNAL REVENUE CODE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59319
NPRM Comment Period End	02/26/93	57 FR 59324
Hearing	03/19/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ann H. Logan
Phone: 202 622-3970

RIN: 1545–AQ70

3033. DEFINITION OF "PRIVATE ACTIVITY BONDS"

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/94	59 FR 67658
NPRM Comment Period End	05/01/95	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Jean League
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AU98

3034. PRIVATE ACTIVITY BOND RULES FOR OUTPUT FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/22/96	63 FR 3296
NPRM Comment Period End	04/22/98	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Allan B. Seller
Phone: 202 622-3421
Fax: 202 622-4437

RIN: 1545–AV47

3035. GOLDEN PARACHUTE PAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/05/89	54 FR 19390
NPRM Comment Period End	07/05/89	
Hearing	11/21/89	54 FR 39548
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robert Misner
Phone: 202 622-6060

RIN: 1545–AH49

3036. GUIDANCE IN NOTICE 89-37, WHICH TREATS THE RECEIPT OF A CORPORATE PARTNER'S STOCK BY THE CORPORATE PARTNER AS A CIRCUMVENTION OF GENERAL UTILITIES REPEAL

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/15/92	57 FR 59324
NPRM Comment Period End	01/20/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Keith E. Stanley
Phone: 202 622-7530

RIN: 1545–AP52

3037. PURCHASE PRICE ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43462
Comment Period Ends	09/20/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Starke
Phone: 202 622-7790

RIN: 1545–AV58

3038. SECTION 355(E) GUIDANCE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/24/99	64 FR 46155
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Brendan O'Hara
Phone: 202 622-7530

RIN: 1545–AW79

3039. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/16/86	51 FR 17990
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Philip L. Tretiak
Phone: 202 622-3860

RIN: 1545–AK74

3040. SECTION 361 OUTBOUND TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

TREAS—IRS

Long-Term Actions

Government Levels Affected: None

Agency Contact: Philip L. Tretiak
Phone: 202 622-3860

RIN: 1545–AM97

3041. CONTINUITY OF INTEREST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/23/98	63 FR 4204
NPRM Comment Period End	05/05/98	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher Schoen
Phone: 202 622-7750

RIN: 1545–AV81

3042. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/07/93	58 FR 27219
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robin Ehrenberg
Phone: 202 622-6080

RIN: 1545–AD81

3043. ALLOCATION OF ACCRUED BENEFITS BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/22/95	60 FR 66532
NPRM Comment Period End	03/21/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet A. Laufer
Phone: 202 622-6060
Fax: 202 622-4084

RIN: 1545–AT82

3044. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/03/85	50 FR 27456
NPRM Comment Period End	09/03/85	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet A. Laufer
Phone: 202 622-6060
Fax: 202 622-4084

RIN: 1545–AG14

3045. ACCOUNTING FOR LONG-TERM CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1; 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	05/05/99	64 FR 24096
Correction to NPRM	06/16/99	64 FR 32305
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Leo F. Nolan
Phone: 202 622-4960

RIN: 1545–AQ30

3046. LIMITATIONS ON PASSIVE ACTIVITY LOSSES AND CREDITS—SELF-CHARGED ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	04/05/91	56 FR 14034
Hearing	09/06/91	56 FR 14040
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Christopher Kelley
Phone: 202 622-3070
Fax: 202 622-4804

RIN: 1545–AN64

3047. MARK-TO-MARKET UPON DISPOSITION

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 397
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert B. Williams
Phone: 202 622-3960

RIN: 1545–AS85

3048. MARK-TO-MARKET ACCOUNTING FOR DEALERS IN COMMODITIES AND TRADERS IN SECURITIES AND COMMODITIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/28/99	64 FR 4374
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jo Lynn Ricks
Phone: 202 622-3920

RIN: 1545–AW06

3049. INTERCOMPANY TRANSFER PRICING FOR SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa G. Sams
Phone: 202 874-1490

RIN: 1545–AR32

3050. FOREIGN GRANTOR TRUSTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Willard W. Yates
Phone: 202 622-3880
Fax: 202 622-4476

RIN: 1545–AO75

3051. FOREIGN INSURANCE COMPANIES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Roger Brown
Phone: 202 622-3810

RIN: 1545–AL82

3052. SOURCE RULES FOR PAYMENTS MADE PURSUANT TO CERTAIN SWAP ARRANGEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Milton M. Cahn
Phone: 202 622-3870

RIN: 1545–AU89

3053. SOURCE RULES FOR PERSONAL PROPERTY SALES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: David A. Juster
Phone: 202 622-3850

RIN: 1545–AJ83

3054. ALLOCATION OF LOSS ON DISPOSITION OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1571
Cancellation of Public Hearing	05/14/99	64 FR 26348
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850

RIN: 1545–AW09

3055. INCOME OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/27/88	53 FR 24100
NPRM Comment Period End	08/26/88	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Juster
Phone: 202 622-3850

RIN: 1545–AL93

3056. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Joan M. Thomsen
Phone: 202 622-3850

RIN: 1545–AM11

3057. INCOME TAX—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 301; 26 CFR 602

Timetable:

Action	Date	FR Cite
NPRM	06/23/88	53 FR 23659
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Joan M. Thomsen
Phone: 202 622-3850

RIN: 1545–AC09

3058. FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION, AND OTHER SPECIAL RULES FOR FSC

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	52 FR 6467
NPRM Comment Period End	05/02/87	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Elizabeth G. Beck
Phone: 202 874-1490

RIN: 1545–AI16

3059. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO AND POSSESSION TAX CREDIT

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

TREAS—IRS **Long-Term Actions**

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: W. Edward Williams Phone: 202 622-3880

RIN: 1545–AC10

3060. CBI INVESTMENTS OF SECTION 936 FUNDS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/13/91	56 FR 21963
Hearing	07/12/91	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: W. Edward Williams Phone: 202 622-3880

RIN: 1545–AM91

3061. EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/25/90	55 FR 2535
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne Devereaux Phone: 202 622-3850

RIN: 1545–AM90

3062. USE OF GAAP EARNINGS AS E&P OF FOREIGN CORPORATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/01/92	57 FR 29246
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Anne Devereaux Phone: 202 622-3850

RIN: 1545–AQ55

3063. CONSOLIDATED ALTERNATIVE MINIMUM TAX

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/92	57 FR 62251
NPRM Comment Period End	03/01/93	
Hearing	04/06/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Martin Scully Phone: 202 622-4960

RIN: 1545–AN73

3064. CONSOLIDATED RETURNS—LIMITATIONS ON THE USE OF CERTAIN LOSSES AND CREDITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 602

Timetable:

Action	Date	FR Cite
NPRM	01/12/98	63 FR 1803
NPRM Comment Period End	04/13/98	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles M. Whedbee Phone: 202 622-7550

RIN: 1545–AV88

3065. INTERCOMPANY OBLIGATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/18/98	63 FR 70354
NPRM Comment Period End	03/22/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Theresa Abell Phone: 202 622-7790

RIN: 1545–AW30

3066. GRAT AND NOTES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/22/99	64 FR 33235
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James F. Hogan Phone: 202 622-3090

RIN: 1545–AW25

3067. APPLICATION OF GRANTOR TRUST RULES TO NONEXEMPT EMPLOYEES' TRUST

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	09/27/96	61 FR 50778
NPRM Comment Period End	12/26/96	
Hearing	01/15/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: M. Grace Fleeman Phone: 202 622-3880

RIN: 1545–AU29

3068. DIESEL FUEL EXCISE TAX; DYE INJECTION SYSTEMS AND MARKERS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 48

Timetable:

Action	Date	FR Cite
NPRM	03/14/96	61 FR 10490
NPRM Comment Period End	06/12/96	

Action	Date	FR Cite
Hearing	06/20/96	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank K. Boland
Phone: 202 622-3130

RIN: 1545–AT18

3069. • CHANGE OF ANNUAL ACCOUNTING PERIOD

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 26 USC 442

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Under what circumstances should taxpayers be allowed to change their annual accounting period, either on an automatic basis or with the prior approval of the Commissioner.

Timetable:

Action	Date	FR Cite
Next Action Undetermined	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-106917-99

Drafting attorney: Martin Scully (202) 622-4960

Reviewing attorney: Roy Hirschhorn (202) 622-4960

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

Agency Contact: Martin Scully, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4960

RIN: 1545–AX15

3070. INFORMATION FROM PASSPORT AND IMMIGRATION APPLICANTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/24/92	57 FR 61373
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ricardo A. Cadenas
Phone: 202 622-3880

RIN: 1545–AJ93

3071. • AMENDMENT OF 26 USC SECTION 6110, "ISSUED" WITH REGARD TO CHIEF COUNSEL ADVICE.

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 105-206, Section 3509

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Notice of Proposed Rulemaking to amend Treasury Regulation Section 301.6110-1, et seq. to define the term "Issued" with regard to Chief Counsel Advice.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-113129-98

Drafting attorney: Deborah Lambert-Dean (202) 622-4570

Reviewing attorney: Donald Squires (202) 622-4570

Treasury attorney: Elizabeth Askey (202) 622-0224

CC:EL:D

Agency Contact: Deborah Lambert-Dean, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4570
Fax: 202 622-9888

RIN: 1545–AX40

3072. INTEREST-FREE ADJUSTMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	57 FR 58423
NPRM Comment Period End	02/08/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AQ61

3073. RAILROAD UNEMPLOYMENT REPAYMENT TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 28374
NPRM Comment Period End	07/12/93	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jean Casey
Phone: 202 622-6060

RIN: 1545–AN40

3074. PAYMENT OF TAXES BY CREDIT CARD AND DEBIT CARD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/15/98	63 FR 69031
NPRM Comment Period End	03/15/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mitchel S. Hyman
Phone: 202 622-3620

RIN: 1545–AW37

3075. RETENTION OF PAID PREPARERS' SIGNATURES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/31/98	63 FR 72218
NPRM Comment Period End	03/31/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marc C. Porter
Phone: 202 622-4940

RIN: 1545–AW52

3076. PREPARER DUE DILIGENCE REQUIREMENTS FOR DETERMINING EARNED INCOME CREDIT ELIGIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/21/98	63 FR 70357
Cancellation of Public Hearing	05/11/99	64 FR 25223

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc C. Porter
Phone: 202 622-4940

RIN: 1545–AW73

3077. COMPROMISES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	07/21/99	64 FR 39106
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Carol A. Campbell
Phone: 202 622-3620

RIN: 1545–AW88

3078. TIMELY MAILING TREATED AS TIMELY FILING/ELECTRONIC POSTMARK

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	01/15/99	64 FR 2606

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles A. Hall
Phone: 202 622-4940

RIN: 1545–AW81

3079. • VALUATION TABLES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7520

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide updated actuarial tables used in valuing interests for income, estate, and gift tax purposes, that are based on one or more measuring lives by use of the most recent mortality experience data.

Timetable:

Action	Date	FR Cite
NPRM	04/30/99	64 FR 23245

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103851-99

Drafting attorney: William Blodgett (202) 622-3090

Reviewing attorney: George Masnik (202) 622-3090

Treasury attorney: Beth Kaufman (202) 622-1766

CC:DOM:P&SI

Agency Contact: William L. Blodgett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AX07

3080. STRADDLES—MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	05/02/95	60 FR 21482

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert B. Williams
Phone: 202 622-3960

RIN: 1545–AT46

3081. EFFECT OF THE FAMILY AND MEDICAL LEAVE ACT ON THE OPERATION OF CAFETERIA PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/21/95	60 FR 66229

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janet A. Laufer
Phone: 202 622-6060
Fax: 202 622-4084

RIN: 1545–AT47

3082. RECOMPUTATION OF LIFE INSURANCE RESERVES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/02/97	62 FR 71

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark S. Smith
Phone: 202 622-3970

RIN: 1545–AU49

3083. AGREEMENTS FOR PAYMENT OF TAX LIABILITIES IN INSTALLMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	12/31/97	62 FR 68241
Second NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin B. Connelly
Phone: 202 622-3630

RIN: 1545–AU97

3084. WITHDRAWAL OF NOTICE OF FEDERAL TAX LIEN

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35102
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kevin B. Connelly
Phone: 202 622-3630

RIN: 1545–AV00

3085. DEPOSITS OF EXCISE TAXES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 40

Timetable:

Action	Date	FR Cite
NPRM	12/29/97	62 FR 67589
NPRM Comment Period End	03/30/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ruth E. Hoffman
Phone: 202 622-3130

RIN: 1545–AV02

3086. ELECTRONIC TIP REPORTING

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Timetable:

Action	Date	FR Cite
NPRM	01/26/98	63 FR 3680
NPRM Comment Period End	04/27/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AV28

3087. EIC ELIGIBILITY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34615
NPRM Comment Period End	09/23/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karin Loverud
Phone: 202 622-6060

RIN: 1545–AV61

3088. REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 67780

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Cheryl Press
Phone: 202 622-6030
Fax: 202 622-4631

RIN: 1545–AV82

3089. DISCLOSURE OF RETURN INFORMATION TO THE BUREAU OF THE CENSUS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	01/25/99	64 FR 3669
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jamie Bernstein
Phone: 202 622-4570

RIN: 1545–AV84

3090. INTEREST ON EDUCATION LOANS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/21/99	64 FR 3257

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John P. Moriarty
Phone: 202 627-4950

RIN: 1545–AW01

3091. CAPITAL GAINS AND PARTNERSHIP PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/09/99	64 FR 43117
NPRM Comment period	09/08/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeanne Sullivan
Phone: 202 622-3050

RIN: 1545–AW22

3092. CONVERSION TO THE EURO

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/29/98	63 FR 40383
NPRM Comment Period End	10/01/98	
Hearing	10/20/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Howard Wiener

Phone: 202 622-3870

RIN: 1545–AW43

3093. SECTION 148—CLARIFICATION OF THE TREATMENT OF PREPAYMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	08/25/99	64 FR 46320
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Barbara Jean League
Phone: 202 622-3980
Fax: 202 622-4437

RIN: 1545–AW44

3094. GUIDANCE UNDER SUBPART F RELATING TO CERTAIN HYBRID TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	07/13/99	64 FR 37677
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840

RIN: 1545–AW63

3095. EDUCATION CREDITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 794
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donna Welch
Phone: 202 622-4910

RIN: 1545–AW65

3096. MODIFICATIONS AND ADDITIONS TO THE UNIFIED PARTNERSHIP AUDIT PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Timetable:

Action	Date	FR Cite
NPRM	01/25/99	64 FR 3886
Cancellation of Public Hearing	04/06/99	64 FR 16640
Correction To NPRM	04/19/99	64 FR 19217
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Honigman
Phone: 202 622-3050

RIN: 1545–AW86

3097. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3462
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AW90

3098. NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3461
Cancellation of Public Hearing	06/11/99	64 FR 31529
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jerome D. Sekula
Phone: 202 622-3610

RIN: 1545–AW91

3099. CONTINUATION COVERAGE REQUIREMENTS APPLICABLE TO GROUP HEALTH PLANS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 54

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5237
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Russell Weinheimer
Phone: 202 622-6060

RIN: 1545–AW94

3100. • NOTICE OF CONTACT OF THIRD PARTIES - SEC 7602(C)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation implements and interprets section 7602(c), concerning third-party contacts, so they can understand how the law will affect them.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-104906-99

Drafting attorney: Bryan Camp (202) 622-3630

Reviewing attorney: Robert Miller (202) 622-3630

Reviewing attorney: Larry Schattner (202) 622-3630

CC:EL:GL

Agency Contact: Bryan Camp, Senior Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224

Phone: 202 622-3630

RIN: 1545–AX04

3101. • GUARANTEED INVESTMENT CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will revise the special rules for guaranteed investment contracts.

Timetable:

Action	Date	FR Cite
NPRM	08/27/99	64 FR 46876
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105565-99

Drafting attorney: Rose Weber (202) 622-3980

Reviewing attorney: Rebecca Harrigal (202) 622-3980

CC:DOM:FI&

Agency Contact: Rose Weber, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3980

RIN: 1545–AX22

3102. • EXTENSION OF TIME TO ELECTRONICALLY FILE INFORMATION RETURNS, LIMITATION OF PENALTY FOR INDIVIDUAL'S FAILURE TO PAY DURING PERIOD OF INSTALLMENT AGREEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 6071(b); 26 USC 6651(h)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provides an extension of one month from February 28 to March 31, of certain information returns that are filed electronically. Further provides that an individual who enters into an installment agreement with regard to a timely filed return will be subject to a reduced failure to pay penalty.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Federal

Additional Information: REG-105279-99

Drafting attorney: Marilyn Brookens (202) 622-4920

Reviewing attorney: Robert Berkovsky (202) 622-4920

Treasury attorney: John Parcell (202) 622-6316

CC:DOM:IT&A

Agency Contact: Marilyn E. Brookens, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4920
Fax: 202 622-6316

RIN: 1545–AX31

3103. • QUALIFIED TRANSPORATION FRINGE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 132(f)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations on qualified transportation fringe benefits under section 132(f).

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-113572-99

Drafting attorney: John Richards (202) 622-6040

Reviewing attorney: Jerry Holmes (202) 622-6040

Treasury attorney: William Bortz (202) 622-1352

CC:EBEO

Agency Contact: John Burnell Richards, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-6040
Fax: 202 622-4817

RIN: 1545–AX33

3104. • ADVANCE PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 451

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice of proposed rulemaking to provide guidance on the treatment of advance payments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105911-99

Drafting attorney: Kimberly Lynn Koch (202) 622-4950

Reviewing attorney: George Wright (202) 622-4950

CC:DOM:IT&A

Agency Contact: Kimberly Lynn Koch, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW, Washington, DC 20224
Phone: 202 622-4950
Fax: 202 622-6316

RIN: 1545–AX36

3105. • RELATED PARTY INTEREST CAPITALIZATION.

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 263A

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation addresses capitalization of interest under section 263A in context of related parties.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

TREAS—IRS **Long-Term Actions**

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-112592-99

Drafting attorney: Grant D. Anderson (202) 622-4970

Treasury attorney: Christine Turgeon (202) 622-0865

CC:DOM:IT&A

Agency Contact: Grant D. Anderson, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave NW, Washington, DC 20224
Phone: 202 622-4970
Fax: 202 622-6316

RIN: 1545–AX37

3106. • SECTION 414(Q) REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 414(q)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Definition of highly compensated employee.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: REG-111277-99

Drafting attorney: Christine L. Keller (202) 622-3567

Reviewing attorney: Mary Oppenheimer (202) 622-3567

CC:EBEO

Agency Contact: Christine L. Keller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3567

RIN: 1545–AX48

3107. • TAX ON INSURANCE COMPANIES OTHER THAN LIFE INSURANCE COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will supplement guidance on what is required in order for a taxpayer to qualify as an insurance company subject to tax under section 831 of the Code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: REG-111660-99

Drafting attorney: Frank Panza (202) 622-4448

Reviewing attorney: Mark Smith (202) 622-3790

Treasury attorney: Louise Epstein (202) 622-1778

CC:DOM:FI&

Agency Contact: Frank Nicholas Panza, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4448
Fax: 202 622-4451

RIN: 1545–AX54

3108. • MODIFICATION OF THE SOLELY-FOR-VOTING STOCK REQUIREMENT IN CERTAIN CORPORATE REORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations relate to the solely-for-voting stock requirement of a "C" reorganization in certain transactions in which the acquiring corporation is an historic shareholder of the target corporation.

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 31770
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-115086-98

Drafting attorney: Marnie Rapaport (202) 622-7550

Rewiewing attorney: Charles Whedbee (202) 622-7550

Treasury attorney: Karen Gilbreath (202) 622-1788

CC:DOM:COR

Agency Contact: Marnie Rapaport, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-7550

RIN: 1545–AX57

Department of the Treasury (TREAS)
Internal Revenue Service (IRS)

Completed Actions

3109. SECTION 79, TABLE I, UPDATE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/13/99	
Final Action Completed by TD 8821	06/03/99	64 FR 29788

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Betty Clary
Phone: 202 622-6070

RIN: 1545–AN54

3110. CORPORATE INVERSION TRANSACTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Closed Without Regulations	08/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth E. Cohen
Phone: 202 622-7790

RIN: 1545–AS91

3111. TREATMENT OF SECTION 355 DISTRIBUTIONS BY U.S. CORPORATIONS TO FOREIGN PERSONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8834	08/09/99	64 FR 43072

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Guy Bracuti
Phone: 202 622-3860

RIN: 1545–AU22

3112. • TREATMENT OF DISTRIBUTIONS TO FOREIGN PERSONS UNDER SECTION 367(E)(2)

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 367(e)(2)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations concern the treatment of distributions to foreign persons under section 367(e)(2) in regard to liquidations under section 332.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8834	08/09/99	64 FR 43072

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-111672-99

Drafting attorney: Guy Bracuti (202) 622-3860

Reviewing attorney: Charles Besecky (202) 622-3860

Treasury attorney: Je Young Baik (202) 622-1773

CC:INTL

Agency Contact: Guy Bracuti, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3860

RIN: 1545–AX30

3113. MODIFICATION OF THE SOLELY-FOR-VOTING STOCK REQUIREMENT IN CERTAIN CORPORATE REORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
NPRM Withdrawn: See 1545-AX57 for further action	06/14/99 09/08/99	64 FR 31770

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marnie Rapaport
Phone: 202 622-7550

RIN: 1545–AW55

3114. REGULATIONS UNDER SECTION 382

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8825	07/02/99	64 FR 36175

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee A. Dean
Phone: 202 655-7550

RIN: 1545–AU33

3115. SECTION 467 RENTAL AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8820	05/18/99	64 FR 26845

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Forest R. Boone
Phone: 202 622-4960

RIN: 1545–AU11

3116. INBOUND GRANTOR TRUSTS WITH FOREIGN GRANTORS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8831	08/10/99	64 FR 43267

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: M. Grace Fleeman
Phone: 202 622-3880

RIN: 1545–AU90

3117. REGULATIONS UNDER SECTION 1502

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8824	07/02/99	64 FR 36116

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lee A. Dean

TREAS—IRS

Completed Actions

Phone: 202 655-7550

RIN: 1545–AU32

3118. EXCEPTION FROM SUPPLEMENTAL TAX

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8832	08/06/99	64 FR 42831

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda S. F. Marshall
Phone: 202 622-6030

RIN: 1545–AT56

3119. PUBLIC DISCLOSURE OF MATERIAL RELATING TO TAX-EXEMPT ORGANIZATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8818	04/09/99	64 FR 17279

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Blumenfeld
Phone: 202 622-6070

RIN: 1545–AV13

3120. FEDERAL EMPLOYMENT TAX DEPOSITS DE MINIMIS RULE

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 31

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8822	06/17/99	64 FR 32408

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Vincent G. Surabian
Phone: 202 622-4940

RIN: 1545–AW28

3121. ELECTRONIC FUND TRANSFERS OF FEDERAL DEPOSITS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 31; 26 CFR 40

Completed:

Reason	Date	FR Cite
Cancellation of Public Hearing	05/04/99	64 FR 23811
Final Action Completed by TD 8828	07/13/99	64 FR 37675

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Vincent G. Surabian
Phone: 202 622-4940

RIN: 1545–AW41

3122. COMPROMISES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 301

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8829	07/21/99	64 FR 39020

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carol A. Campbell
Phone: 202 622-3620

RIN: 1545–AW87

3123. SECTION 6038 INFORMATION REPORTING REQUIREMENTS WITH RESPECT TO CONTROLLED FOREIGN PARTNERSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8817	02/05/99	64 FR 5713

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eliana D. Dolgoff
Phone: 202 622-3860

RIN: 1545–AV69

3124. AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn: See 1545-AW05 for further action	09/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John M. Moran
Phone: 202 622-7697
Fax: 202 622-6316

RIN: 1545–AW04

3125. REMOVAL OF REGULATION PROVIDING GUIDANCE UNDER SUBPART F RELATING TO PARTNERSHIPS AND BRANCHES

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8827	07/13/99	64 FR 37677

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie A. Mark
Phone: 202 622-3840

RIN: 1545–AW49

3126. BALANCED PERFORMANCE MEASUREMENT SYSTEM

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Final Action Completed by TD 8830	08/06/99	64 FR 42834

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael G. Gallagher
Phone: 202 622-7900

RIN: 1545–AW80

3127. ALLOCATION OF UNRECAPTURED SECTION 1250 GAIN REPORTED ON THE INSTALLMENT METHOD

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/22/99	
Final Action Completed by TD 8836	08/23/99	64 FR 45874

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Kassell
Phone: 202 622-4930

RIN: 1545–AW85

3128. AVERAGING OF FARM INCOME

Priority: Substantive, Nonsignificant

CFR Citation: 26 CFR 1

Completed:

Reason	Date	FR Cite
Withdrawn: See 1545-AW05 for further action	09/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John M. Moran
Phone: 202 622-7697
Fax: 202 622-6316

RIN: 1545–AX01

3129. • VALUATION TABLES

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7520

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide updated actuarial tables.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8819	04/30/99	64 FR 23187
Correction to TD 8819	06/22/99	64 FR 33194

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-103851-99

Drafting attorney: William Blodgett (202) 622-3090

CC:DOM:P&SI

Agency Contact: William L. Blodgett, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3090

RIN: 1545–AX14

3130. • OBLIGATION OF STATES AND POLITICAL SUBDIVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulatory action provides rules to determine the credit rate that will permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The regulations also provide that the proceeds of qualified zone academy bonds may be used to reimburse certain qualified expenditures.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8826	07/01/99	64 FR 35573

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105327-99

Drafting attorney: Allan Seller (202) 622-3421

Reviewing attorney: Timothy Jones (202) 622-3980

CC:DOM:FI&

Agency Contact: Allan B. Seller, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3421
Fax: 202 622-4437

RIN: 1545–AX23

3131. • FURNISHING IDENTIFYING NUMBER OF INCOME TAX PREPARER

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would allow income tax return perparers to elect an alternative to the social security number for purposes of identifying themselves on returns they prepare.

Timetable:

Action	Date	FR Cite
Final Action Completed by TD 8835	08/12/99	64 FR 43910

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: REG-105237-99

Drafting attorney: Andrew Keyso (202) 622-4910

Reviewing attorney: George Blaine (202) 622-4910

CC:DOM:IT&A

Agency Contact: Andrew Keyso, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

George Blaine, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-4910

RIN: 1545–AX27

3132. • PARTNERSHIP MERGERS AND DIVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 26 USC 7805; 26 USC 708; 26 USC 707; 26 USC 743; 26 USC 752

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provide tax consequences regarding mergers and divisions of partnerships.

TREAS—IRS **Completed Actions**

Timetable:

Action	Date	FR Cite
Withdrawn: see 1545-AX42 for further action	09/03/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: REG-111119-99 CC:DOM:P&SI

Drafting attorney: Mary Beth Carchia (Collins) (202) 622-3080

Reviewing attorney: Jeffrey Erickson (202) 622-3070

Treasury attorney: Jim Sowell (202) 622-5721

Agency Contact: Mary Beth Carchia, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224
Phone: 202 622-3070

RIN: 1545–AX32

BILLING CODE 4830–01–F

Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS)

Proposed Rule Stage

3133. CAPITAL RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1835; 12 USC 1848; 12 USC 4808

CFR Citation: 12 CFR 567

Legal Deadline: None

Abstract: OTS currently has underway a number of regulatory amendments to its capital standards for savings associations. These amendments will serve to implement section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA). CDRIA requires the Federal banking agencies to make their capital rules and other rules more uniform. The agencies plan to issue (i) a proposed rule that would treat recourse obligations and direct credit substitutes consistently and that would vary the risk-based capital requirement for positions in securitized asset transactions according to relative risk exposure, (ii) an advance notice of proposed rulemaking developing a simplified capital adequacy framework for small, non-complex institutions, (iii) a final rule on risk-based capital standards for collateralized transactions, and (iv) a proposed rule on risk-based capital standards for claims on securities firms. OTS is also preparing miscellaneous amendments updating its capital rules.

Timetable:

Claims on Securities Firms
NPRM 05/00/2000

Collateralized Transactions
NPRM 08/16/1996 (61 FR 42565)
Final Rule 03/00/2000

Miscellaneous Capital Amendments
NPRM 03/00/2000

Recourse Arrangements and Direct Credit Substitutes
ANPRM 05/25/1994 (59 FR 27116)
NPRM 05/25/1994 (59 FR 27116)
NPRM 11/05/1997 (62 FR 59944)
NPRM Correction 11/20/1997 (62 FR 62234)
NPRM Comment Period End 02/03/1998 (62 FR 59944)
NPRM 12/00/1999

Simplified Capital Adequacy Framework for Small, Non-Complex Institutions
ANPRM 02/00/2000

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Additional Agency Contacts: Cathern Smith, Senior Project Manager, Supervision Policy, (202)906-6614, for Collateralized Transactions, and Miscellaneous Capital Amendments; Raynette Gutrick, Attorney, Regulations and Legislation Division, (202) 906-6265, for Collateralized Transactions and Claims on Securities Firms; Michael D. Solomon, listed below, for Recourse Arrangements and Direct Credit Substitutes, Simplified Capital Adequacy Framework, and Claims on Securities Firms; Aaron Kahn, Principal Litigation Counsel, (202) 906-6263, for Recourse Arrangements and Direct Credit Substitutes; and Christine Harrington, Counsel (Banking and Finance), Regulations & Legislation Division, (202) 906-7957, for Simplified Capital Adequacy Framework and Miscellaneous Capital Amendments.

Agency Contact: Michael D. Solomon, Senior Program Manager for Capital Policy, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-5654

RIN: 1550–AB11

3134. APPLICATION PROCESSING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 559; 12 USC 1462a; 12 USC 1463; 12 USC 1464

CFR Citation: 12 CFR 516

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking revising its procedures for submitting certain applications, notices, and other filings to OTS. OTS will draft the new rule in the "plain language" format to make the rule more understandable and workable for the public and OTS.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raynette Gutrick, Attorney, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-6265

Duane Thorkildsen, Director, Office of Examination and Supervision, Department of the Treasury, Office of

Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-6990

RIN: 1550–AB14

3135. TYPES OF OFFICES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1828

CFR Citation: 12 CFR 545

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to amend its definitions of home, branch and agency office, and related notice or application requirements. These provisions are under review to ensure that they meet the modern challenges of how institutions conduct their businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Bennett, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7409

Deborah S. Merkle, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-5688

RIN: 1550–AB18

3136. DIRECTORS AND OFFICERS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to reorganize, revise and streamline its regulations on directors and officers. The rule will address indemnification, board composition requirements, compensation, employment contracts, extensions of credit to outsiders, conflicts of interest, and corporate opportunity.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Additional Agency Contacts: David Permut, Counsel (Banking and Finance), Business Transactions Division, (202) 906-7505.

Agency Contact: Francis E. Raue, Program Analyst, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-5750

Ellen J. Sazzman, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7133

RIN: 1550–AB19

3137. NON-DEPOSIT INVESTMENT PRODUCTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468; 12 USC 1817; 12 USC 1820; 12 USC 1828; 12 USC 3806; 42 USC 4106

CFR Citation: 12 CFR 545; 12 CFR 563

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking updating its regulations on the sale of non-deposit investment products.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robyn Dennis, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-5751

Susan P. Miles, Senior Attorney, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-6798

RIN: 1550–AB22

3138. CONVERSIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 2901; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w

CFR Citation: 12 CFR 563b

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to update and rewrite its mutual to stock conversion regulations in the "plain language" format.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary Jo Johnson, Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-5739

TREAS—OTS **Proposed Rule Stage**

Teresa M. Valocchi, Counsel (Banking and Finance), Business Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7299

RIN: 1550–AB24

3139. DUE ON SALE AND USURY PREEMPTION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1464; 12 USC 1701j-3; 12 USC 1735f-7a

CFR Citation: 12 CFR 590; 12 CFR 591

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking to convert 12 CFR parts 590 and 591 into a "plain language" format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Evelyne Bonhomme, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7052

William J. Magrini, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-5744

RIN: 1550–AB25

3140. • HOLDING COMPANY ACTIVITIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468

CFR Citation: 12 CFR 584

Legal Deadline: None

Abstract: OTS plans to issue a notice of proposed rulemaking that would require certain holding companies to notify OTS before engaging in significant new activities.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Valerie J. Lithotomos, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-6439

Kevin O'Connell, Senior Project Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552
Phone: 202 906-5693

RIN: 1550–AB29

3141. • ORGANIZATIONAL REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462a; 12 USC 1463; 12 USC 1464; 44 USC 3501 et seq.

CFR Citation: 12 CFR 500; 12 CFR 506; 12 CFR 510

Legal Deadline: None

Abstract: OTS plans to rewrite its regulations on OTS organization and other procedural matters in the "plain language" format.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine A. Shepard, Senior Attorney, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7275

RIN: 1550–AB30

Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS)

Final Rule Stage

3142. EXEMPT SAVINGS AND LOAN HOLDING COMPANIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 12 USC 1467a; 12 USC 1468

CFR Citation: 12 CFR 584

Legal Deadline: None

Abstract: OTS has issued a notice of proposed rulemaking that would clarify the circumstances under which certain multiple savings and loan holding companies are able to engage in the same activities as unitary holding companies.

Timetable:

Action	Date	FR Cite
NPRM	02/08/99	64 FR 5982
NPRM Comment Period End	04/09/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donna Deale, Manager, Supervision Policy, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7488

Richard L. Little, Senior Counsel (Banking and Finance), Business

TREAS—OTS **Final Rule Stage**

Transactions Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-6447

RIN: 1550–AB26

3143. YEAR 2000 SAFETY AND SOUNDNESS GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1831p-1

CFR Citation: 12 CFR 570

Legal Deadline: None

Abstract: OTS, in conjunction with the other Federal banking agencies, has issued interim safety and soundness guidelines under section 39 of the Federal Deposit Insurance Act to address the Year 2000 problem.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/98	63 FR 55480
Interim Final Rule Comment Period End	12/14/98	
Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Dickerson, Director, Technology Risk Management, Compliance Policy and Special Examinations Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-6531

Timothy Leary, Counsel (Banking and Finance), Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7170

RIN: 1550–AB27

3144. • LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1462; 12 USC 1462a; 12 USC 1463; 12 USC 1464; 42 USC 4012a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 572

Legal Deadline: None

Abstract: The Federal banking agencies plan to issue a final rule making a technical amendment to the Uniform Flood Insurance regulations.

Timetable:

Action	Date	FR Cite
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine A. Shepard, Senior Attorney, Regulations and Legislation Division, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-7275

Ronald Dice, Program Analyst, Compliance Policy and Specialty Examinations, Department of the Treasury, Office of Thrift Supervision, 1700 G Street NW, Washington, DC 20552
Phone: 202 906-5633

RIN: 1550–AB31

Department of the Treasury (TREAS)
Office of Thrift Supervision (OTS) **Completed Actions**

3145. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 563f

Completed:

Reason	Date	FR Cite
Final Rule	09/24/99	64 FR 51673
Final Rule Effective	01/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Bristol
Phone: 202 906-6461
Joseph Casey
Phone: 202 906-5741

RIN: 1550–AB07

3146. LETTERS OF CREDIT, SURETYSHIP AND GUARANTY

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 545; 12 CFR 560

Completed:

Reason	Date	FR Cite
Final Rule	08/26/99	64 FR 46560
Final Rule Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raynette Gutrick
Phone: 202 906-6265
William J. Magrini
Phone: 202 906-5744

RIN: 1550–AB21

3147. NONDISCRIMINATION

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 528; 12 CFR 571

Completed:

Reason	Date	FR Cite
Withdrawn	07/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Bennett
Phone: 202 906-7409
Richard Riese
Phone: 202 906-6134

RIN: 1550–AB23

[FR Doc. 99–27969 Filed 11–19–99; 8:45 am]
BILLING CODE 6720–01–F

federal register

Monday,
November 22, 1999

Part XVI

Department of Veterans Affairs

Semiannual Regulatory Agenda

Department of Veterans Affairs (VA)

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Chapter I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning October 1999. The purpose in publishing the Department's regulatory agenda is to allow all interested persons the opportunity to participate in VA's regulatory planning.

ADDRESSES: Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Gloria Armstrong at (202) 273-8605.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 "Regulatory Planning and Review" (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the **Federal Register** an agenda of regulations that VA will have under development or review. For this edition of VA's regulatory agenda, we have concluded that we do not have any regulatory submissions for the October 1999 Regulatory Plan. However, the Agency's Statement of Regulatory Priorities does appear in this issue of the **Federal Register**.

Thomas O. Gessel,

Director, Office of Regulations Management.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3148	Exemption from Pharmacy Copay	2900-AJ12
3149	Medical Care and Treatment for which VA Will Not Seek Reimbursement	2900-AJ20
3150	Clothing Allowance	2900-AJ21
3151	Provision of Aids to the Blind	2900-AJ22
3152	Priorities for State Home Grants for Construction, Acquisition, or Renovation	2900-AJ43
3153	Per Diem for Adult Day Health Care of Veterans in State Homes	2900-AJ74
3154	Policy Regarding Participation in National Practitioner Data Bank	2900-AJ76
3155	Aids for the Blind	2900-AJ83
3156	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders	2900-AF23
3157	Schedule for Rating Disabilities—Digestive System	2900-AF24
3158	Revised Definition of Net Value and Revised Criteria for Pre-Foreclosure Debt Waivers	2900-AG20
3159	Individual Unemployability	2900-AH21
3160	Evidence on File at Date of Death	2900-AH42
3161	Ankylosis and Limitation of Motion of Digits of the Hands	2900-AI44
3162	New Criteria for Approval of Courses for Educational Assistance Programs	2900-AI67
3163	Veterans Education: Reporting and Recordkeeping Requirements at Flight Schools	2900-AJ23
3164	Dependents Education: Verification of Pursuit and Continued Enrollment	2900-AJ41
3165	Well Grounded Claims/Duty to Assist	2900-AJ44
3166	Revised Criteria for Monetary Allowance for a Child Born with Spina Bifida Who Is a Child of a Vietnam Veteran	2900-AJ51
3167	Certification Evidence for Proof of Service	2900-AJ55
3168	Claims Based on Effect of Tobacco Products	2900-AJ59
3169	Schedule for Rating Disability: The Spine	2900-AJ60
3170	Education Provisions of the Veterans Programs Enhancement Act of 1998	2900-AJ68
3171	National Service Life Insurance	2900-AJ78
3172	Evidence of Permanent and Total Disability	2900-AJ82
3173	Schedule for Rating Disabilities: Global Assessment of Functioning Scale in the Evaluation of Mental Disorders	2900-AJ84
3174	Benefit of the Doubt	2900-AJ93
3175	Permanent Incapacity for Self-Support	2900-AJ95
3176	Department of Veterans Affairs Acquisition Regulation—Simplified Acquisition Procedures for Health Care Resources	2900-AI71
3177	Contractor Qualifications	2900-AJ05
3178	VA Acquisition Regulation Part 819, Small Business and Small Disadvantaged Business Concerns	2900-AJ36
3179	Universal Product Numbers (UPNs)	2900-AJ45
3180	Construction and Architect-Engineer Contracts	2900-AJ56
3181	Application of Labor Laws to Government Acquisitions	2900-AJ81
3182	Board of Veterans Appeals: Rules of Practice—Subpoenas	2900-AJ58
3183	Notice of Appeal in Simultaneously Contested Claims	2900-AJ73
3184	Headstone and Marker Inscription Policy	2900-AH45
3185	State Cemetery Grants: Aid to States for Establishment, Expansion, and Improvement of Veterans Cemeteries	2900-AH46
3186	Eligibility for Burial of Dependent Adult Children of Eligible Veterans	2900-AI95

VOL 64 ISS 224 NOV 22 1999 UMI

VA

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3187	Use of the Secretary's Authority as Provided by 38 U.S.C. 2402(6)	2900-AJ48
3188	Outer Burial Receptacles	2900-AJ49
3189	Interment or Memorialization in VA National Cemeteries and Certain State Cemeteries—Federal or State Capital Crime	2900-AJ77
3190	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	2900-AJ62

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3191	Per Diem for Nursing Home Care of Veterans in State Homes	2900-AE87
3192	Provision of Drugs and Medicines Prescribed by Non-VA Physicians	2900-AJ24
3193	Advanced Health Care Planning	2900-AJ28
3194	Provision of Drugs and Medicines to Certain Veterans in State Nursing Homes	2900-AJ34
3195	Schedule for Rating Disabilities—The Skin	2900-AF00
3196	Amendments to Training and Rehabilitation Programs	2900-AG00
3197	Vision	2900-AH43
3198	Intervertebral Disc Syndrome	2900-AI22
3199	New Eligibility Criteria for the Montgomery GI Bill—Active Duty, Other Miscellaneous Issues	2900-AI63
3200	Reservist Education: Monthly Verification of Enrollment and Other Reports	2900-AI68
3201	Veterans Training: Increase in Rates Payable under 38 U.S.C. Chapter 31	2900-AI74
3202	Amended Criteria for Approval of Flight Training Courses	2900-AI76
3203	Use of Facilities To Provide Training or Work Experience for Veterans	2900-AJ01
3204	Eligibility Reporting Requirements	2900-AJ09
3205	Dependents Education: Eligibility and Entitlement Standards	2900-AJ19
3206	Veterans' Benefits Act of 1997	2900-AJ25
3207	Cash Value for National Service Life Insurance (NSLI) Term Capped Policies	2900-AJ35
3208	Exclusions from Income	2900-AJ52
3209	Child	2900-AJ54
3210	DIC Benefits for Survivors of Certain Veterans Rated Totally Disabled at Time of Death	2900-AJ65
3211	Modified Eligibility Criteria for the Montgomery GI Bill—Active Duty	2900-AJ69
3212	Servicemembers' Group Life Insurance and Veterans' Group Life Insurance Accelerated Benefits Option	2900-AJ80
3213	Rate Increase for the Educational Assistance Test Program; 1999-2000 Academic Year	2900-AJ87
3214	Increase in Rates Payable under the Montgomery GI Bill—Selected Reserve	2900-AJ88
3215	Increase in Rates Payable under the Montgomery GI Bill—Active Duty	2900-AJ89
3216	Miscellaneous Montgomery GI Bill Eligibility and Entitlement Issues	2900-AJ90
3217	VA Acquisition Regulations Part 801, Legal/Technical Review Requirements	2900-AI96
3218	Sealed Bidding and Competitive Proposals	2900-AI99
3219	VA Acquisition Regulations: Simplified Acquisition Procedures	2900-AJ16
3220	VA Acquisition Regulations; Part 802, Definition of "Head of Contracting Activity"	2900-AJ26
3221	VA Acquisition Regulations: Part 801, VA Contracting Officer Certification Program	2900-AJ33
3222	Board of Veterans Appeals—Rules of Practice—Attorney Fee Matters	2900-AI98
3223	Appeals Regulations, Rules of Practice: Title Change	2900-AJ57
3224	Delegations of Authority—Appeals Regulations and Rules of Practice	2900-AJ66
3225	Case Docketing—Appeals Regulations and Rules of Practice	2900-AJ72
3226	Notification of Representatives in Connection with Motions for Revision of Decisions on Grounds of Clear and Unmistakable Error	2900-AJ75
3227	Board of Veteran's Appeal; Rules of Practice—Motion for Review of Decisions on Grounds of Clear and Unmistakeable Error: Content of Record; Advancement on the Docket	2900-AJ85
3228	Delegation of Authority—Decisionmaking Regarding Discrimination	2900-AJ63
3229	Release of Information from Department of Veterans Affairs Records	2900-AH98
3230	Recognition of Organizations and Accreditation of Representatives	2900-AI93

VA

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3231	Protection of Human Subjects	2900-AJ08
3232	Loan Guaranty: Title Evidence Requirements and Occupancy Requirements for Conveyance of Properties to VA	2900-AE20
3233	Acceptance of Partial Payments; Indemnification of Default	2900-AE60
3234	Schedule for Rating Disabilities—The Orthopedic System	2900-AE91
3235	Medical Evidence That a Disability Has Improved	2900-AH82
3236	Child Custody	2900-AI10
3237	Claims Based on Aggravation of Nonservice-Connected Disability	2900-AI42
3238	Revision of Decision	2900-AI64
3239	Loan Guaranty: Advertising and Solicitation Disclosure Requirements	2900-AJ86
3240	Loan Guaranty: Revision to VA Work Rules for Credit Scored Loans	2900-AJ91
3241	Loan Guaranty: Credit Standards Revision	2900-AJ92
3242	Appeals Regulations; Rules of Practice	2900-AE78
3243	Rules of Practice; Hearings	2900-AG07
3244	Rules of Practice: Medical Opinions; Appeal Processing and Submission of Additional Evidence	2900-AG90
3245	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	2900-AJ11
3246	Operation of Child Care Centers at VA Facilities	2900-AD48

Completed Actions

Sequence Number	Title	Regulation Identification Number
3247	Reconsideration of Denied Claims	2900-AJ03
3248	Medication Prescribing Authority	2900-AJ07
3249	Enrollment and Provisions of Hospital Care and Medical Services	2900-AJ18
3250	Medical Care Collection or Recovery	2900-AJ30
3251	Enrollment—Provision of Hospital and Outpatient Care to Veterans—Priority Category 7	2900-AJ71
3252	Schedule for Rating Disabilities—Diseases of the Ear and Other Sense Organs	2900-AF22
3253	Fibromyalgia	2900-AH05
3254	Service Connection for Dental Conditions for Treatment Purposes	2900-AH41
3255	Veterans Education: Effective Date for the Award of Educational Assistance	2900-AH76
3256	Veterans Education: Advanced Payments and Lump Sum Payments for Educational Assistance	2900-AI31
3257	Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans	2900-AI92
3258	Direct Service Connection (Post-Traumatic Stress Disorder)	2900-AI97
3259	Additional Requirements for Interest Rate Reduction Refinancing Loans	2900-AJ02
3260	Veterans and Dependents Education: Increase in Educational Assistance Rates	2900-AJ37
3261	Reservist Education: Increase in Educational Rates	2900-AJ38
3262	Veterans Education: Effective Date for Discontinuing Educational Assistance	2900-AJ39
3263	Veterans Education: Increased Allowances for the Educational Assistance Test Program	2900-AJ40
3264	Schedule for Rating Disabilities: Disabilities of the Liver	2900-AJ46
3265	Pension Benefits	2900-AJ50
3266	Reinstatement of Benefits Eligibility Based Upon Terminated Marital Relationships	2900-AJ53
3267	Returned and Canceled Checks	2900-AJ61
3268	Surviving Spouses Benefit for Month of Veteran's Death	2900-AJ64
3269	Veterans Education: Montgomery GI Bill—Active Duty—Administrative Error	2900-AJ70
3270	Definitions	2900-AJ94
3271	Purchase Card/Electronic Data Interchange	2900-AI41
3272	VAAR Part 803—Improper Business Practices and Personal Conflict of Interest, and Part 852—Solicitation Provisions in Contract Clauses	2900-AJ06
3273	VA Acquisition Regulation: Taxes	2900-AJ32
3274	VA Acquisition Regulations: Bonds and Insurance	2900-AJ47
3275	National Cemetery Administration Title Changes	2900-AJ79
3276	Delegations of Authority; Federal Tort Claims	2900-AJ31
3277	Entities Authorized To Receive and Distribute Department of Defense Surplus Food	2900-AI82

Department of Veterans Affairs (VA) Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

3148. EXEMPTION FROM PHARMACY COPAY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1521; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This action clearly establishes the base pension rate adjustment for number of dependents as the income threshold as a means to determine exemption from medication copayment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Rhoades, Director, Field Support, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8205
Email: d.rhoades@mail.va.gov

RIN: 2900–AJ12

3149. MEDICAL CARE AND TREATMENT FOR WHICH VA WILL NOT SEEK REIMBURSEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1729

CFR Citation: 38 CFR 17.101

Legal Deadline: None

Abstract: This document proposes to amend VA's medical regulations to provide that, under specified conditions, VA will not seek reimbursement from health insurance carriers or from veterans in the form of copayments for care or services not adjudicated as service connected.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Howard, Senior Program Analyst, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8198

RIN: 2900–AJ20

3150. CLOTHING ALLOWANCE

Priority: Info./Admin./Other

Legal Authority: 38 USC 1162

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language that submission of torn, worn, damaged clothing is not a specific condition for approving clothing allowances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frederick Downs Jr., Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8515

RIN: 2900–AJ21

3151. PROVISION OF AIDS TO THE BLIND

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1162; 38 USC 1710; 38 USC 1714(b)

CFR Citation: 38 CFR 3.810

Legal Deadline: None

Abstract: The regulatory action needs to be amended to contain specific language for furnishing aids for the blind as part of prosthetic services to veterans receiving VA care under the authority of 38 U.S.C. section 1710, as amended by Public Law 104-262 and to those veterans eligible under the authority of 38 U.S.C. 1714(b).

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frederick Downs Jr., Chief, Consultant, Prosthetic and Sensory Aids Strategic Healthcare Group, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington. DC 20420
Phone: 202 273-8515

RIN: 2900–AJ22

3152. PRIORITIES FOR STATE HOME GRANTS FOR CONSTRUCTION, ACQUISITION, OR RENOVATION

Priority: Other Significant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.216; 38 CFR 17.222

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs regulations concerning State homes. VA provides funds to States for projects for the construction, acquisition, or renovation of State veterans nursing homes and State veterans domiciliaries. VA also provides funds for projects for renovating existing State veterans hospital facilities provided that the renovations would not expand a State's capacity to furnish hospital care. This notice of proposed rulemaking requests comments regarding what regulations should be established with respect to the priorities for awarding State home grants for construction, acquisition, or renovation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kathleen Greve, Chief, State Home Construction Program (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8536
Email: kathleen.greve@hg.med.va.gov

RIN: 2900–AJ43

VA — Proposed Rule Stage

3153. PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743

CFR Citation: 38 CFR 51; 38 CFR 58

Legal Deadline: None

Abstract: This document proposes to establish regulations setting forth a mechanism for paying per diem to State homes providing adult day health care to eligible veterans. The intended effect of the proposed regulations is to ensure that veterans receive high quality care in State homes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: L. Nan Stout, Chief, State Home Per Diem Program (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8538
Email: nan.stout@mail.va.gov

RIN: 2900–AJ74

3154. POLICY REGARDING PARTICIPATION IN NATIONAL PRACTITIONER DATA BANK

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1110 to 11152

CFR Citation: 38 CFR 46

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its regulations concerning the reporting of physicians, dentists, and other health care practitioners to the National Practitioner Data Bank (NPDB). These regulations concern malpractice payment reporting and clinical privileges actions reporting. These amendments appear to be necessary to make the reporting process more efficient and fair and to ensure that reporting is accomplished in accordance with the statutory framework.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps Ph.D., Health Science Specialist (10AE), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8473

RIN: 2900–AJ76

3155. AIDS FOR THE BLIND

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1701; 38 USC 1710; 38 USC 1714(b)

CFR Citation: 38 CFR 17; 37 CFR 17.154

Legal Deadline: None

Abstract: This document proposes to establish regulations setting forth the requirements for the provision of mechanical and electronic equipment to aid blind veterans in overcoming the handicap of blindness.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Don Garner, Director of Blind Rehabilitation Service, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8481

Rose Mary McMahon, Executive Assistant, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8482

RIN: 2900–AJ83

VETERANS BENEFITS ADMINISTRATION

3156. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the neurological system.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20169
ANPRM Comment Period End	07/01/91	
NPRM	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AF23

3157. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.114

Legal Deadline: None

VA

Proposed Rule Stage

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate disabilities of the digestive system. This will include updating of diagnostic codes and evaluation criteria for liver diseases, particularly Hepatitis C.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20168
ANPRM Comment Period End	07/01/91	
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 272-7210

RIN: 2900–AF24

3158. REVISED DEFINITION OF NET VALUE AND REVISED CRITERIA FOR PRE-FORECLOSURE DEBT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3720(a); 38 USC 3732(a)

CFR Citation: 38 CFR 36.4301; 38 CFR 36.4323

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its loan guaranty regulations to revise the definition of property improvements for purposes of determining the net value of a foreclosed property and to clarify VA's position on pre-foreclosure debt waivers for liable veterans in cases involving transferee defaults. These changes will account for actual property appraisal procedures and will clarify agency policy on preforeclosure debt waivers. Note: Because the original Notice of Proposed Rulemaking (NPRM) was published on September 22, 1993 (58 FR 49251), VA will republish the NPRM to provide for a new notice and comment period before proceeding with a final rule.

Timetable:

Action	Date	FR Cite
NPRM	09/22/93	58 FR 49251
NPRM Comment Period End	10/22/93	
Second NPRM	12/00/99	
Second NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273-7380

RIN: 2900–AG20

3159. INDIVIDUAL UNEMPLOYABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a); 38 USC 512(a); 38 USC 1110; 38 USC 1131; 38 USC 1155; 38 USC 1502; 38 USC 1521(a)

CFR Citation: 38 CFR 3.321; 38 CFR 3.340; 38 CFR 3.341; 38 CFR 3.342; 38 CFR 4.16; 38 CFR 4.17; 38 CFR 4.18

Legal Deadline: None

Abstract: This action will amend the regulations in part 3 of title 38, United States Code, and in the Schedule for Rating Disabilities in part 4 to provide clear and objective standards for determining whether a veteran is entitled to a total evaluation based on his or her inability to perform substantially gainful employment due to disability.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lorna Fox, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7210

RIN: 2900–AH21

3160. EVIDENCE ON FILE AT DATE OF DEATH

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1000

Legal Deadline: None

Abstract: This action will clarify the definition of "medical evidence on file at time of death" (Hayes v. Brown).

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7210

RIN: 2900–AH42

3161. ANKYLOSIS AND LIMITATION OF MOTION OF DIGITS OF THE HANDS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This document revises the evaluation criteria for ankylosis and limitation of motion of the fingers to ensure that veterans diagnosed with these conditions receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

VA

Proposed Rule Stage

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 272-7210

RIN: 2900–AI44

3162. NEW CRITERIA FOR APPROVAL OF COURSES FOR EDUCATIONAL ASSISTANCE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3680A

CFR Citation: 38 CFR 21.4251; 38 CFR 21.4252; 38 CFR 21.4253; 38 CFR 21.7122; 38 CFR 21.7622

Legal Deadline: None

Abstract: This rule will bring various regulations into agreement with the Veterans Benefits Improvements Act of 1996. It will include new criteria for use in approving courses for the educational programs VA administers; it will include new criteria for VA to use in approving enrollments in courses. It will make other changes for the purposes of clarification.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7187 Email: edubsusl@vba.va.gov

RIN: 2900–AI67

3163. VETERANS EDUCATION: REPORTING AND RECORDKEEPING REQUIREMENTS AT FLIGHT SCHOOLS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136; 38 USC 3002; 38 USC 3034; 38 USC 3202; 38 USC 3241; 38 USC 3452; 38 USC 3471; 38 USC 5101

CFR Citation: 38 CFR 21.4235; 38 CFR 21.4263

Legal Deadline: None

Abstract: Veterans are required by statute to apply for any benefit the Department of Veterans Affairs administers. This proposal will describe the information to be included in an application for educational assistance for the pursuit of flight training. VA believes that, in order to comply with various statutory requirements connected with the educational programs VA administers, flight schools with courses approved for VA training will have to keep some records beyond those required by the Federal Aviation Administration. This proposal will state those recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7187 Email: edubsusl@vba.va.gov

RIN: 2900–AJ23

3164. DEPENDENTS EDUCATION: VERIFICATION OF PURSUIT AND CONTINUED ENROLLMENT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3680; 38 USC 5113

CFR Citation: 38 CFR 21.4135; 38 CFR 21.4138; 38 CFR 21.4204; 38 CFR 21.5130; 38 CFR 21.5131; 38 CFR 21.5133; 38 CFR 21.5200

Legal Deadline: None

Abstract: VA will propose revising the effective dates of reductions in payments of Survivors' and Dependents' Educational Assistance (DEA) and will propose revising the effective dates of reductions in payment of educational assistance under the Post-Vietnam Era Veterans Educational Assistance Program (VEAP). VA also will propose to remove the requirement that an individual must verify his or her continued enrollment in and pursuit of a program of education leading to a standard college degree before VA will make the monthly payment of educational assistance under either DEA or VEAP.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7187 Email: edubsusl@vba.va.gov

RIN: 2900–AJ41

3165. WELL GROUNDED CLAIMS/DUTY TO ASSIST

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.159

Legal Deadline: None

Abstract: This document clarifies VA's policy regarding what action, if any, VA should take to develop information pertaining to benefit claims in adjudication proceedings when presented with claims that are not well grounded.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/98	63 FR 58336
ANPRM Comment Period End	01/28/99	
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald England, Chief Regulations Staff (211), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7217

RIN: 2900–AJ44

3166. REVISED CRITERIA FOR MONETARY ALLOWANCE FOR A CHILD BORN WITH SPINA BIFIDA WHO IS A CHILD OF A VIETNAM VETERAN

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805

CFR Citation: 38 CFR 3.814

VA

Proposed Rule Stage

Legal Deadline: None

Abstract: To revise criteria for evaluation of spina bifida by clarifying them and making them more objective.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 272-7210

RIN: 2900–AJ51

3167. CERTIFICATION EVIDENCE FOR PROOF OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501

CFR Citation: 38 CFR 3.203

Legal Deadline: None

Abstract: To allow the National Service Organization representatives to certify photocopies as proof of service.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald England, Chief Regulations Staff (211), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7217

RIN: 2900–AJ55

3168. CLAIMS BASED ON EFFECT OF TOBACCO PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1103

CFR Citation: 38 CFR 3.300; 38 CFR 3.310

Legal Deadline: None

Abstract: To implement Public Law 105-206, which prohibits service connection for injury or disease attributable to the use of tobacco products by the veteran during the veteran's military service, except for disability or death that is otherwise shown to have been incurred or aggravated during service, or that meets the presumptive requirements of the law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7210

RIN: 2900–AJ59

3169. SCHEDULE FOR RATING DISABILITY: THE SPINE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71a

Legal Deadline: None

Abstract: This amendment will contain additions, deletions, and revisions of terminology pertaining to spinal disabilities based on a systematic review of the medical criteria used to evaluate disabilities of the spine.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 272-7210

RIN: 2900–AJ60

3170. EDUCATION PROVISIONS OF THE VETERANS PROGRAMS ENHANCEMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3241; 38 USC 3485; 38 USC 3537; 38 USC 3677; 38 USC 3684; 38 USC 5101

CFR Citation: 38 CFR 21.4145; 38 CFR 21.4200; 38 CFR 21.4206; 38 CFR 21.4262

Legal Deadline: None

Abstract: This rule will bring VA's educational assistance regulations into agreement with the Veterans Program Enhancement Act of 1998. This will include revising the calculation of the reporting fee paid to educational institutions; making advance payments to work-study students optional rather than mandatory; and revising the approval criteria for on-job training programs offered by the Federal Government or by State or local governments.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7187 Email: edubsusl@vba.va.gov

RIN: 2900–AJ68

3171. NATIONAL SERVICE LIFE INSURANCE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 1901 et seq; 38 USC 1981 et seq

CFR Citation: 38 CFR 8.2; 38 CFR 8.3; 38 CFR 8.4; 38 CFR 8.6; 38 CFR 8.9

Legal Deadline: None

Abstract: National Service Life Insurance regulations are being amended by rewriting and reorganizing

VA — Proposed Rule Stage

the text of four sections into a different format to facilitate better communication of the rules to policyholders and to those who administer the program. This amendment is written in conjunction with Veterans Benefits Administration's (VBA) Plain English initiative and supports an Executive Memorandum which mandates plain language in written Government communications. The proposed regulation contains information currently provided under sections 8.2, 8.3, 8.4, and 8.9, as well as topics covered by the current section 8.6. The material found in these sections and other related information is combined into one new regulation, section 8.2.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George Poole, Chief, Program Administration and Oversight Staff (Insurance Service), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101
Phone: 215 842-2000

RIN: 2900–AJ78

3172. EVIDENCE OF PERMANENT AND TOTAL DISABILITY

Priority: Other Significant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.3(a)

Legal Deadline: None

Abstract: This amendment would allow VA to accept the following types of evidence as establishing that a veteran is permanently and totally disabled, without need for medical evidence: (1) Status as a nursing home patient, (2) SSA determination of total disability, and (3) attainment of age 65.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald England, Chief Regulations Staff (211), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7217

RIN: 2900–AJ82

3173. • SCHEDULE FOR RATING DISABILITIES: GLOBAL ASSESSMENT OF FUNCTIONING SCALE IN THE EVALUATION OF MENTAL DISORDERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 4.125

Legal Deadline: None

Abstract: To assure evaluation of mental disorders is based solely on rating schedule criteria.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AJ84

3174. • BENEFIT OF THE DOUBT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5107(b)

CFR Citation: 38 CFR 3.102

Legal Deadline: None

Abstract: This action proposes to amend 38 CFR part 3 by adding a new subpart D—Universal Adjudication Rules. This new subpart would consist of reorganized sections from existing subpart A. The first of these sections to be reorganized is the general concept of "benefit of the doubt." The intended effect of this amendment is to retain the existing provision but rewritten in a reorganized format using plain language principles and recognizing decisions of the U.S. Court of Appeals for Veterans Claims.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7228
Fax: 202 275-4800

RIN: 2900–AJ93

3175. • PERMANENT INCAPACITY FOR SELF-SUPPORT

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 1115; 38 USC 1311; 38 USC 1313; 38 USC 1314; 38 USC 1521; 38 USC 1541; 38 USC 1542; PL 101-508; PL 102-568

CFR Citation: 38 CFR 3.356

Legal Deadline: None

Abstract: This action proposes to amend 38 CFR part 3 to conform it to the Presidential Memorandum of June 1, 1998, Plain Language in Government Writing, by revising provisions on helpless children in section 3.356 and by incorporating rules on helpless children in VA's Adjudication Procedures Manual, M21-I.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7228
Fax: 202 275-4800

RIN: 2900–AJ95

VA

Proposed Rule Stage

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3176. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION—SIMPLIFIED ACQUISITION PROCEDURES FOR HEALTH CARE RESOURCES

Priority: Info./Admin./Other

Legal Authority: 38 USC 8153

CFR Citation: 48 CFR 801; 48 CFR 806; 48 CFR 812; 48 CFR 837; 48 CFR 852; 48 CFR 873

Legal Deadline: None

Abstract: VA intends to withdraw the proposed rule concerning simplified acquisition procedures for health-care resources published in the Federal Register on November 9, 1998 (63 FR 60256), and to promulgate a new proposed rule concerning simplified acquisition procedures for health-care resources. The new proposed rule document would amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to establish simplified procedures for the competitive acquisition of health-care resources, consisting of commercial services or the use of medical equipment or space, pursuant to 38 U.S.C. 8151-8153. Public Law 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, authorized VA to prescribe simplified procedures for the procurement of health-care resources. The proposed rule would prescribe those procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60256
Second NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI71

3177. CONTRACTOR QUALIFICATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 38 USC 486(c)

CFR Citation: 48 CFR 809

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend VA Acquisition Regulation to update VA debarment and suspension procedures, remove a certification requirement regarding conflict of interest, add a standard provision for use by contracting officers to collect currently required information, update references and titles, delegate authority, reorganize material, and delete obsolete material.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ05

3178. VA ACQUISITION REGULATION PART 819, SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 819

Legal Deadline: None

Abstract: This rule proposes to amend part 819 of the VA Acquisition Regulation (VAAR) to remove obsolete material, to update references and titles, and to amend the VAAR to correspond to the Federal Acquisition Regulation (FAR).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8774
Email: rita.williams@mail.va.gov

RIN: 2900–AJ36

3179. UNIVERSAL PRODUCT NUMBERS (UPNS)

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 811; 48 CFR 852

Legal Deadline: None

Abstract: This rulemaking action would provide new contract clauses whereby Department of Veterans Affairs contracting officers could require contractors to furnish products marked at the case, box, and unit of use levels with Universal Product Numbers (UPNs) for scanning using bar code readers.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no

statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ45

3180. CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801; 48 CFR 832; 48 CFR 836; 48 CFR 843; 48 CFR 846; 48 CFR 852

Legal Deadline: None

Abstract: This rule proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to revise and update section numbers and titles, to make minor grammatical corrections and revisions, to delegate authority, and to update parts 836, Construction and Architect-Engineer Contracts, and 852, Solicitation Provisions and Contract Clauses, all to correspond to the Federal Acquisition Regulation (FAR). The rule would clarify how existing VAAR clauses relating to construction contracts are to be used, remove obsolete or duplicative materials, update the VAAR regarding certified cost or pricing data, and provide agency procedures regarding disclosure of the Government cost estimate on construction contracts. The rule would also remove a "guarantee" clause from the VAAR and provide for VA contracting officers to use the FAR "warranty" clause for construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ56

3181. APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may afffect the private sector under PL 104–4.

Legal Authority: 38 USC 501; 38 USC 4212; PL 105-333, sec 1354

CFR Citation: 48 CFR 822; 48 CFR 852

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs Acquisition Regulation (VAAR) to add a requirement for contractor representation regarding compliance with veterans employment reporting requirements. This amendment is necessary to assist contracting officers in meeting the requirements of Public Law 105-333 (also known as the Veterans Employment Opportunities Act of 1998), section 1354. This section will prohibit agencies from obligating or expending appropriated funds to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(a) if such contractor did not file the required report.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Ramona Jones, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8821
Email: jones@mail.va.gov

RIN: 2900–AJ81

BOARD OF VETERANS APPEALS

3182. BOARD OF VETERANS APPEALS: RULES OF PRACTICE—SUBPOENAS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 5711; 38 USC 5713; 38 USC 7102(a)

CFR Citation: 38 CFR 20.711

Legal Deadline: None

Abstract: VA has the authority to issue subpoenas to compel the attendance of witnesses and/or the production of evidence. This authority has been delegated to Members of the Board through Rule of Practice 711 (38 CFR 20.711), which also sets forth the relevant procedures and generally provides that subpoenas will be issued pursuant to a motion filed with the Board, which is in turn decided by a Board Member or panel of Members.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AJ58

3183. NOTICE OF APPEAL IN SIMULTANEOUSLY CONTESTED CLAIMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 19.192; 38 CFR 20.502

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Appeals

VA

Proposed Rule Stage

Regulation and a Rule of Practice concerning simultaneously contested claims to make them more consistent with an authorizing statute and with each other. The statutory provision is currently implemented in two regulations. 38 U.S.C. 7105A(b) provides that when one contesting party files his or her "formal appeal" the "substance" of the formal appeal will be communicated to the other contesting parties who then have 30 days to file an answering brief or argument.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AJ73

NATIONAL CEMETERY SYSTEM

3184. HEADSTONE AND MARKER INSCRIPTION POLICY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 501; 38 USC 2306

CFR Citation: 38 CFR 1.630; 38 CFR 1.632

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR 1.630 to implement Department of Veterans Affairs (VA) regulations on its inscription policy for use on Government-provided headstones or markers. The amendment formalizes implementation of an all-inclusive inscription policy. This policy change provides for the payment at Government expense of text only, space permitting, for optional inscriptions on all Government headstones or markers. The rule is published as a proposed rule in the Federal Register to provide information to the public on specific changes to VA's inscription policy for Government furnished headstones or markers. A 60-day public comment period is provided. The proposed rule will not have a significant economic impact on a substantial number of small entities and only individual VA beneficiaries could be directly affected.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5183
TDD Phone: 202 273-6697

RIN: 2900–AH45

3185. STATE CEMETERY GRANTS: AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT OF VETERANS CEMETERIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 2408

CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9 (New)

Legal Deadline: None

Abstract: The proposed rule revises 38 CFR part 39 to amend Department of Veterans Affairs (VA) regulations for the State Cemetery Grants Program to implement and update information on program requirements and the application process for participants. The amendment formalizes new standards and provides guidance on how States may obtain funding for grants to expand, establish, or improve State veterans cemeteries. The rule is published as proposed in the Federal Register to provide information to the public on how to apply for Federal funding for State veterans cemeteries. A 60-day public comment period is provided. It is subject to the requirements of the Administrative Procedures Act and E.O. 12866 because the rule is an interpretation of statute. The proposed rule will not have a significant economic impact on a substantial number of small entities; only those States that apply for funding may be direct beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kenneth Greenberg, Program Analyst (402), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5179
TDD Phone: 202 271-6697

RIN: 2900–AH46

3186. ELIGIBILITY FOR BURIAL OF DEPENDENT ADULT CHILDREN OF ELIGIBLE VETERANS

Priority: Other Significant

Legal Authority: 38 USC 2402(5)

CFR Citation: 38 CFR 1.620(c)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend regulations to specify that the eligibility of veterans' adult children for burial in a national cemetery is only for those who have become permanently incapable of self support before attaining the age of 21 years due to a physical or mental disability. Current regulations do not clearly express this requirement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5183
TDD Phone: 202 273-6697

RIN: 2900–AI95

VA

Proposed Rule Stage

3187. USE OF THE SECRETARY'S AUTHORITY AS PROVIDED BY 38 U.S.C. 2402(6)

Priority: Other Significant

Legal Authority: 38 USC 2402(6)

CFR Citation: 38 CFR 1.620(d)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule to define individuals and groups of individuals, who are otherwise not eligible for burial in a VA national cemetery, that would be considered under the Secretary's authority in 38 U.S.C. 2402(6). These new regulations establish a consistent basis for VA to determine those individuals or groups of individuals that VA may consider for eligibility under 38 U.S.C. 2402(6).

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sonja McCombs, Program Analyst (402B1), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5183
TDD Phone: 202 273-6697

RIN: 2900–AJ48

3188. OUTER BURIAL RECEPTACLES

Priority: Other Significant

Legal Authority: 38 USC 501(a); PL 104-275

CFR Citation: 38 CFR 1.629

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is issuing a proposed rule to implement the provisions of Public Law 104-275 regarding outer burial receptacles. The proposal establishes new regulations to notify individuals that they may choose to privately purchase an outer burial receptacle in lieu of using a Government-provided grave liner in VA national cemeteries, where such grave liners are authorized. VA will provide a monetary allowance for the privately purchased outer burial receptacle. The proposed rule establishes the requirements for the allowance to be paid and the manner in which it will be paid.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Greenberg, Program Analyst (402), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5179
TDD Phone: 202 271-6697

RIN: 2900–AJ49

3189. INTERMENT OR MEMORIALIZATION IN VA NATIONAL CEMETERIES AND CERTAIN STATE CEMETERIES—FEDERAL OR STATE CAPITAL CRIME

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 2411; PL 105-116

CFR Citation: 38 CFR 1; 38 CFR 39

Legal Deadline: None

Abstract: Public Law No. 105-116, 111 Stat. 2381 (codified at 38 U.S.C. 2411), provides that, under certain circumstances, the remains of certain persons who committed Federal or State capital crimes may not be interred in a VA national cemetery and the memory of such persons may not be memorialized in VA national cemetery. These statutory provisions also impose conditions on the receipt by a State of a VA grant to the State for veteran's cemetery regarding such interments or memorializations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Greenberg, Program Analyst (402), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5179
TDD Phone: 202 271-6697

RIN: 2900–AJ77

OFFICE OF POLICY AND PLANNING

3190. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS; GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 75; 38 USC 501; PL 98-502

CFR Citation: 38 CFR 41; 38 CFR 49

Legal Deadline: None

Abstract: This document proposes to amend part 41 of VA's regulations to add new subparts to codify revised OMB Circular A-133. The Circular provides standards for consistency and uniformity among Federal agencies for the audits of States, local governments, and nonprofit organizations expending Federal awards. Further, this amendment proposes to add a new part 49 to VA's regulations to bring VA in step with other Federal agencies who have already adopted OMB Circular A-110 as a common rule. The Circular provides for uniform administrative requirements for Federal agencies with grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: David Walton, Office of Planning and Analysis (008), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-5061

RIN: 2900–AJ62

Department of Veterans Affairs (VA) Final Rule Stage

VETERANS HEALTH ADMINISTRATION

3191. PER DIEM FOR NURSING HOME CARE OF VETERANS IN STATE HOMES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1741; 38 USC 1742; 38 USC 1743; 38 USC 8131; 38 USC 8132; 38 USC 8133; 38 USC 8134; 38 USC 8135; 38 USC 8136; 38 USC 8137

CFR Citation: 38 CFR 17.190 to 17.222

Legal Deadline: None

Abstract: This document proposes to establish a new part 51 setting forth a mechanism for paying per diem to State homes providing nursing home care to eligible veterans. Under the proposal, VA would pay per diem to a State for providing nursing home care to eligible veterans in a facility if the Under Secretary for Health recognizes the facility as a State home based on a current VA certification that the facility meets the standards set forth in proposed subpart D. This new part would cover material currently in manuals. Also, it should supersede the regulations currently contained in 38 CFR 17.190 through 17.199 that pertain to payment of per diem for nursing home care in State homes. The standards in proposed subpart D are patterned after the standards of the the Department of Health and Human Services that nursing homes must meet to participate in the Medicare and Medicaid programs (see 42 CFR 483). The standards are intended to set forth minimum requirements necessary to ensure that VA pays per diem for eligible veterans only if the State home provides high quality care. The proposed regulations include application and inspection provisions. The Life Safety Code requires updating to the 1993 edition and various other technical and editorial changes need to be made.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60227
NPRM Comment Period End	01/08/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Agency Contact: L. Nan Stout, Chief, State Home Per Diem Program (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8538
Email: nan.stout@mail.va.gov

RIN: 2900–AE87

3192. PROVISION OF DRUGS AND MEDICINES PRESCRIBED BY NON-VA PHYSICIANS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the "Medical" regulations concerning the criteria for provision of drugs and medicines by non-VA physicians for certain veterans. It is our view that the statutory framework inherently requires that the drugs provided be suitable; i.e., FDA-approved, high quality, and best value. In this regard, we have established a list of suitable drugs and medicines in the VA national formulary. Also, we have established a mechanism for allowing the provision of drugs and medicines not listed in the formulary. These changes are needed to ensure that VA provides only those drugs and medicines intended to be provided under the statutory authority. Also, this document makes nonsubstantive changes for the purpose of avoiding unnecessary duplication.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marsha Goodwin, Geriatrics and Extended Care, Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8533

RIN: 2900–AJ24

3193. ADVANCED HEALTH CARE PLANNING

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.32

Legal Deadline: None

Abstract: This document proposes to amend the VA medical regulations to codify VA policy regarding advance health care planning. The proposed rule sets forth a mechanism for the use of written advance directives; i.e., a VA living will, a VA durable power of attorney for health care, and a State-authorized advance directive. The proposed rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent and the patient is not physically able to sign an advance directive form or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future health care.

Timetable:

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58677
NPRM Comment Period End	01/04/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ruth-Ann Phelps Ph.D., Health Science Specialist (10AE), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8473

RIN: 2900–AJ28

VA

Final Rule Stage

3194. PROVISION OF DRUGS AND MEDICINES TO CERTAIN VETERANS IN STATE NURSING HOMES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

CFR Citation: 38 CFR 17.96

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs medical regulations concerning the provision of drugs and medicines prescribed by non-VA physicians for certain veterans who are permanently housebound or in need of regular aid and attendance. The regulations are amended to allow prescriptions to be filled by non-VA pharmacies in State homes under contract with VA for filling prescriptions for patients in State homes. This is consistent with VA's special relationship with State homes. It will eliminate duplication in services and will help improve timeliness for filling prescriptions in State homes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/98	63 FR 37941
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff Ramirez, Pharmacy Service (119), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8428

RIN: 2900–AJ34

VETERANS BENEFITS ADMINISTRATION

3195. SCHEDULE FOR RATING DISABILITIES—THE SKIN

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None

Abstract: These amendments will contain additions, deletions, and revisions of terminology resulting from a systematic review of the medical criteria used to evaluate skin conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/91	56 FR 20171
ANPRM Comment Period End	07/01/91	
NPRM	01/19/93	58 FR 4969
NPRM Comment Period End	03/22/93	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AF00

3196. AMENDMENTS TO TRAINING AND REHABILITATION PROGRAMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 102-568

CFR Citation: 38 CFR 21.40; 38 CFR 21.260; 38 CFR 21.6005; 38 CFR 21.6042; 38 CFR 21.6050; 38 CFR 21.6052; 38 CFR 21.6054; 38 CFR 21.6056; 38 CFR 21.6058; 38 CFR 21.6420; 38 CFR 21.6501; 38 CFR 21.6503; 38 CFR 21.6505; 38 CFR 21.6507; 38 CFR 21.6523; ...

Legal Deadline: None

Abstract: The Veterans' Benefits Act of 1992 extended the termination date for the program of vocational training for certain pensioners through December 31, 1995, and made permanent the programs protecting health care benefits for pensioners who lose their benefits due to income from work or training and the special counseling and employment services program for veterans with total disability ratings because of individual unemployability. In addition, the law authorizes a 10 percent increase in subsistence allowance for participants in the vocational rehabilitation program and extends eligibility for vocational rehabilitation to veterans with service-connected disability of 10 percent under certain conditions. The change also includes revisions to implement regulatory reform.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David James, Counseling Psychologist (281), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7438
TDD Phone: 202 275-5636

RIN: 2900–AG00

3197. VISION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.75

Legal Deadline: None

Abstract: This action will amend the vision portion of the rating schedule to provide current medical terminology, clarify ambiguous evaluation criteria, and add medical conditions not presently in the rating schedule.

Timetable:

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25246
NPRM Comment Period End	07/12/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420

Phone: 202 272-7210

RIN: 2900–AH43

3198. INTERVERTEBRAL DISC SYNDROME

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.71(a)

Legal Deadline: None

Abstract: This action ensures that veterans diagnosed with intervertebral disc syndrome meet uniform criteria and receive consistent evaluations.

Timetable:

Action	Date	FR Cite
NPRM	02/24/97	62 FR 8204
NPRM Comment Period End	04/25/97	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dr. Caroll McBrine, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 272-7210

RIN: 2900–AI22

3199. NEW ELIGIBILITY CRITERIA FOR THE MONTGOMERY GI BILL—ACTIVE DUTY, OTHER MISCELLANEOUS ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3002; 38 USC 3011; 38 USC 3012; 38 USC 3018; 38 USC 3018C; 38 USC 3452; 38 USC 3680A; PL 104-275, sec 107

CFR Citation: 38 CFR 21.4135; 38 CFR 21.5021; 38 CFR 21.5058; 38 CFR 21.5130; 38 CFR 21.7020; 38 CFR 21.7042; 38 CFR 21.7045; 38 CFR 21.7050; 38 CFR 21.7520

Legal Deadline: None

Abstract: This action will implement various provisions of the National Defense Authorization Act for fiscal year 1997 and the Veterans Benefits Improvement Act of 1996. It will set forth new eligibility criteria that will allow additional individuals to establish eligibility for educational assistance under the Montgomery GI Bill—Active Duty; make permanent certain provisions concerning the approval of courses leading to alternative teacher certification; and make other modifications for the purpose of clarification.

Timetable:

Action	Date	FR Cite
NPRM	11/12/98	63 FR 63253
NPRM Comment Period End	01/11/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AI63

3200. RESERVIST EDUCATION: MONTHLY VERIFICATION OF ENROLLMENT AND OTHER REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16136(b); 38 USC 3680(g); 38 USC 3684; 38 USC 5113

CFR Citation: 38 CFR 21.7635; 38 CFR 21.7654; 38 CFR 21.7656

Legal Deadline: None

Abstract: This rule will expand the current requirement that some reservists receiving educational assistance under the Montgomery GI Bill—Selected Reserve verify their pursuit of a program of education monthly to include those reservists who are pursuing a standard college degree. At the same time, the number of reports VA receives from educational institutions will be reduced. This will be a cost-effective way to reduce overpayments.

Timetable:

Action	Date	FR Cite
NPRM	03/31/98	63 FR 15341
NPRM Comment Period End	06/01/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AI68

3201. VETERANS TRAINING: INCREASE IN RATES PAYABLE UNDER 38 U.S.C. CHAPTER 31

Priority: Routine and Frequent

Legal Authority: 38 USC 3108; 38 USC 3462(e); PL 101-237

CFR Citation: 38 CFR 21.260(b)

Legal Deadline: None

Abstract: By statute, the monthly rates of basic subsistence allowance payable under 38 U.S.C. chapter 31 must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic subsistence allowance payable under 38 U.S.C. chapter 31 for fiscal year 1999 are changed to show a 1.6 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles A. Graffam, Veterans Claims Examiner (281), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7410

RIN: 2900–AI74

3202. AMENDED CRITERIA FOR APPROVAL OF FLIGHT TRAINING COURSES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 16131(g); 38 USC 101(20); 38 USC 3032; 38 USC 3231; 38 USC 3680(g); 38 USC 3690

VA

Final Rule Stage

CFR Citation: 38 CFR 21.4200; 38 CFR 21.4263

Legal Deadline: None

Abstract: This proposal will amend the regulations governing the approval of flight training courses for VA training. It will bring these regulations into agreement with the current 2-year operation requirement that VA is required by statute to apply to approval of enrollments. It will also permit approval of courses offered pursuant to 14 CFR part 142.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/98	63 FR 34127
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AI76

3203. USE OF FACILITIES TO PROVIDE TRAINING OR WORK EXPERIENCE FOR VETERANS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-446

CFR Citation: 38 CFR 21.299

Legal Deadline: None

Abstract: The Veterans Benefits Improvement Act of 1994 authorized the Secretary to use any federally recognized Indian tribe to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay. This change to VA regulations implements this Act.

Timetable:

Action	Date	FR Cite
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Dr. Robert Lawson, Counseling Psychologist (28), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7437

RIN: 2900–AJ01

3204. ELIGIBILITY REPORTING REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-271

CFR Citation: 38 CFR 3.256

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning eligibility verification reports (EVRs) for recipients of pension under programs in effect prior to January 1, 1979. The amendment reduces the number of circumstances under which VA requires such pensioners to furnish annual EVRs. The intended effect of this amendment is to reduce the reporting burden on these beneficiaries, reduce the workload at VA regional offices, and enable VA to use its resources more effectively.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/06/98	63 FR 53593
Interim Final Rule Comment Period End	12/07/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7210

RIN: 2900–AJ09

3205. DEPENDENTS EDUCATION: ELIGIBILITY AND ENTITLEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: PL 90-631, sec 2; PL 97-377, sec 156; 38 USC 501(a); 38 USC 3482; 38 USC 3501; 38 USC 3511; 38 USC 3512; 38 USC 3532; 38 USC 3533; 38 USC 3541; 38 USC 3562; 38 USC 3681; 38 USC 3686; 38 USC 3687; 38 USC 5304

CFR Citation: 38 CFR 3.503; 38 CFR 3.667; 38 CFR 3.707; 38 CFR 3.807; 38 CFR 21.3020; 38 CFR 21.3021; 38 CFR 21.3023; 38 CFR 21.3040; 38 CFR 21.3041; 38 CFR 21.3042; 38 CFR 21.3043; 38 CFR 21.3044; 38 CFR 21.3045; 30 CFR 21.3046; 30 CFR 21.3047; ...

Legal Deadline: None

Abstract: This document will amend Department of Veterans Affairs education regulations to provide a new interpretation of when the eligibility period ends for children eligible for Survivors' and Dependents' Educational Assistance. It will also make changes to clarify many of these regulations and other changes to make the regulations easier to use.

Timetable:

Action	Date	FR Cite
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ19

3206. VETERANS' BENEFITS ACT OF 1997

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-114, sec 404

CFR Citation: 38 CFR 3.29; 38 CFR 3.31; 38 CFR 3.114; 38 CFR 3.216; 38 CFR 3.814

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs adjudication regulations concerning the monetary allowance for children suffering from spina bifida who are children of Vietnam veterans. This amendment is necessary to implement statutory changes contained in the Veterans' Benefits Act of 1997.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

VA

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James E. Adams, Deputy Assistant General Counsel (023), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273-6354

RIN: 2900–AJ25

3207. CASH VALUE FOR NATIONAL SERVICE LIFE INSURANCE (NSLI) TERM CAPPED POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1906

CFR Citation: 38 CFR 8.14(a); 38 CFR 8.18

Legal Deadline: None

Abstract: National Service Life Insurance regulations are being amended to provide for the payment of cash value for all current and future term capped policies, either by lump sum cash payment or by the purchase of paid-up additions (PUA) or a combination of the two. Under current law, policyholders whose policies lapse prior to age 96 do not receive any value reserved to their policies. Providing the options of cash values for individuals who no longer need insurance or paid-up additions for policyholders who want to retain insurance coverage without incurring further expense enables policyholders to choose what is best for them.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: George Poole, Chief, Program Administration and Oversight Staff (Insurance Service), Department of Veterans Affairs, Veterans Benefits Administration, P.O. Box 8079, Philadelphia, PA 19101 Phone: 215 842-2000

RIN: 2900–AJ35

3208. EXCLUSIONS FROM INCOME

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 10602(c)

CFR Citation: 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.272

Legal Deadline: None

Abstract: To exclude from countable income for VA purposes amounts received under the Victims of Crime Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Jacobs, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7210

RIN: 2900–AJ52

3209. CHILD

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101(4); 38 USC 104

CFR Citation: 38 CFR 3.57

Legal Deadline: None

Abstract: To exclude homeschool programs from the Definition of "School Child."

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald England, Chief Regulations Staff (211), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7217

RIN: 2900–AJ54

3210. DIC BENEFITS FOR SURVIVORS OF CERTAIN VETERANS RATED TOTALLY DISABLED AT TIME OF DEATH

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1311; 38 USC 501(a)

CFR Citation: 38 CFR 3.22; 38 CFR 3.54

Legal Deadline: None

Abstract: This is an interpretative rule to clarify the Department of Veterans Affairs' conclusion that 38 U.S.C. 1318 authorizes payment of DIC only in cases where a veteran had, during his or her lifetime, established a right to receive total service-connected disability compensation for the period required by the statute.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven Thornberry, Consultant, Regulations Staff (211B), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7210

RIN: 2900–AJ65

3211. MODIFIED ELIGIBILITY CRITERIA FOR THE MONTGOMERY GI BILL—ACTIVE DUTY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3011; 38 USC 3012; 38 USC 3016

CFR Citation: 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7045

Legal Deadline: None

Abstract: This rule will implement a provision of the Veterans Programs Enhancement Act of 1998 that changes the eligibility criteria for the Montgomery GI Bill—Active Duty.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420 Phone: 202 273-7187 Email: edubsusl@vba.va.gov

RIN: 2900–AJ69

VA

Final Rule Stage

3212. SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE ACCELERATED BENEFITS OPTION

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-368, sec 302

CFR Citation: 38 CFR 9.13

Legal Deadline: None

Abstract: Section 302 of the Veterans Program Enhancement Act of 1998 (Pub. L. 105-368) authorizes the payment of accelerated benefits in the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs, effective February 9, 1999. This rule amends Department of Veterans Affairs (VA) regulations by providing an accelerated benefit option that will permit terminally ill members access to life insurance benefits before they die.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory C. Hosmer, Senior Attorney/Insurance Specialist, Insurance Program Administration & Oversight, Department of Veterans Affairs, P.O. Box 8079, Philadelphia, PA 19101
Phone: 215 842-2000

RIN: 2900–AJ80

3213. • RATE INCREASE FOR THE EDUCATIONAL ASSISTANCE TEST PROGRAM; 1999-2000 ACADEMIC YEAR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 2143

CFR Citation: 38 CFR 21.5820; 38 CFR 21.5822

Legal Deadline: None

Abstract: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 1999-2000 academic year should be increased by 4 percent over the rates payable for the 1998-99 academic year. The regulations dealing with these rates will be amended accordingly.

Timetable:

Action	Date	FR Cite
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ87

3214. • INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16136

CFR Citation: 38 CFR 21.7636

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill-Selected Reserve for fiscal year 2000 will be changed to show a 1.6 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ88

3215. • INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3015

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Legal Deadline: None

Abstract: By statute, the monthly rates of basic educational assistance payable to veterans under the Montgomery GI Bill-Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill-Active Duty for fiscal year 2000 will be changed to show a 1.6 percent increase in these rates.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ89

3216. • MISCELLANEOUS MONTGOMERY GI BILL ELIGIBILITY AND ENTITLEMENT ISSUES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3012

CFR Citation: 38 CFR 21.7042; 38 CFR 21.7044; 38 CFR 21.7073

Legal Deadline: None

Abstract: This document will revise several regulations dealing with eligibility for the Montgomery GI Bill-Active Duty and entitlement under that benefit program. The regulations will be brought into agreement with the governing statutory language.

Timetable:

Action	Date	FR Cite
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

VA

Final Rule Stage

Government Levels Affected: None

Agency Contact: William G. Susling Jr., Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ90

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

3217. VA ACQUISITION REGULATIONS PART 801, LEGAL/TECHNICAL REVIEW REQUIREMENTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801.602-70; 48 CFR 801.602-71; 48 CFR 801.602-72; 48 CFR 801.602-73; 48 CFR 801.602-74; 48 CFR 801.602-75; 48 CFR 815.805-4; 48 CFR 816.102(a); 48 CFR 817.102-1; 48 CFR 817.402; 48 CFR 819.801; 48 CFR 842.000; 48 CFR 842.102; 48 CFR 842.202; 48 CFR 842.1203; ...

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending the Veterans Affairs Acquisition Regulations (VAAR) to remove requirements from the Code of Federal Regulations that have been determined to be VA internal procedures that do not affect the public.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI96

3218. SEALED BIDDING AND COMPETITIVE PROPOSALS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 806

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its Acquisition Regulations. Section 806.401 is amended to remove material which conflicts with the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/11/98	63 FR 11865
NPRM Comment Period End	05/11/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI99

3219. VA ACQUISITION REGULATIONS: SIMPLIFIED ACQUISITION PROCEDURES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 813; 48 CFR 852; 48 CFR 853

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning simplified acquisition procedures. It amends the VAAR to conform to the Federal Acquisition Regulation, to update references and section titles, to reorganize material, and to remove obsolete material. This rule adds a VAAR provision for use by contracting officers when complying with the requirements of FAR 52.102(c)(1) and (c)(2). The rule also requires the use of a FAR provision or a FAR clause when incorporating VAAR provisions or clauses by reference and provides the Internet addresses where FAR or VAAR provisions and clauses may be accessed electronically.

Timetable:

Action	Date	FR Cite
NPRM	06/04/99	64 FR 29981
NPRM Comment Period End	08/03/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ16

3220. VA ACQUISITION REGULATIONS; PART 802, DEFINITION OF "HEAD OF CONTRACTING ACTIVITY"

Priority: Info./Admin./Other

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 802

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning the definition of "Head of the Contracting Activity" (HCA). This

VA

Final Rule Stage

amendment is necessary to ensure that the VAAR provides a single, consistent definition of HCA in order to unambiguously designate such individuals within the agency, by specifying that such individuals be appointed in writing by the Procurement Executive, and by amending the definition at 802.100(a), which specifies HCAs by position title.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8774
Email: rita.williams@mail.va.gov

RIN: 2900–AJ26

3221. VA ACQUISITION REGULATIONS: PART 801, VA CONTRACTING OFFICER CERTIFICATION PROGRAM

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 38 USC 501; 40 USC 486(c)

CFR Citation: 48 CFR 801

Legal Deadline: None

Abstract: This rule amends the Department of Veterans Affairs Acquisition Regulation (VAAR) concerning the VA Contracting Officer Certification Program (COCP). This amendment is necessary to delete information appropriate to an internal directive from the codified regulations. The amendment directs the reader's attention to a specific agency directive for information on the COCP.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rita Williams, Senior Procurement Analyst (95A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-8774
Email: rita.williams@mail.va.gov

RIN: 2900–AJ33

BOARD OF VETERANS APPEALS

3222. BOARD OF VETERANS APPEALS—RULES OF PRACTICE—ATTORNEY FEE MATTERS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 5902; 38 USC 5904; 38 USC 5905

CFR Citation: 38 CFR 20.3; 38 CFR 20.609; 38 CFR 20.610

Legal Deadline: None

Abstract: The Board of Veterans Appeals is amending its rules of practice to end the practice of paying attorney fees from past-due benefits, establish safeguards in case of "disinterested third-party" payees who are individuals, and simplify certain notice procedures. These changes are necessary to permit VA to focus on activities more directly benefiting veterans and their families, i.e., deciding claims and coordinating benefit payments to veterans and their families, and to clarify the situations in which third parties may pay a claimants' legal fees.

Timetable:

Action	Date	FR Cite
NPRM	12/09/97	62 FR 64790
NPRM Comment Period End	02/09/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AI98

3223. APPEALS REGULATIONS, RULES OF PRACTICE: TITLE CHANGE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 20.608; 38 CFR 20.609; 38 CFR 20.610; 38 CFR 20.711

Legal Deadline: None

Abstract: The Board of Veterans' Appeals adjudicates appeals from denials of claims for veterans' benefits filed with the Department of Veterans Affairs (VA). This document amends the Board's Rules of Practice to correct the title of the Board's Chief Counsel.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AJ57

3224. DELEGATIONS OF AUTHORITY—APPEALS REGULATIONS AND RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 512; 38 USC 7101(a); 38 USC 7102; 38 USC 7104

CFR Citation: 38 CFR 19.2; 38 CFR 19.14; 38 CFR 20.102; 38 CFR 20.606(d)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Appeals Regulation and Rules of Practice to update the delegations of authority to Members of the Board and to include the definition of "Chief Members" to whom some authority is delegated.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

VA

Final Rule Stage

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AJ66

3225. CASE DOCKETING—APPEALS REGULATIONS AND RULES OF PRACTICE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7107; PL 103-446, sec 302

CFR Citation: 38 CFR 19.75; 38 CFR 20.704; 38 CFR 20.900

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Appeals Regulations and Rules of Practice to comply with Public Law 105-368, section 1003, "Veterans Programs Enhancement Act of 1998." These changes will reflect the way in which the Board processes cases before it. These procedures will affect several types of cases—those which are advanced on the hearing docket, the order in which they are considered, and a new provision added to permit postponement of consideration of a case in order to afford an appellant a hearing.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AJ72

3226. NOTIFICATION OF REPRESENTATIVES IN CONNECTION WITH MOTIONS FOR REVISION OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7104(d); 38 USC 7111

CFR Citation: 38 CFR 20.1405

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Rules of Practice at 38 CFR part 20 to add procedures for notifying representatives when parties file motions to challenge final Board decisions on the grounds of "clear and unmistakable error" (CUE). The change is required to help assure that veterans have the benefit of representation in connection with CUE motions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/12/99	64 FR 7090
Interim Final Rule Effective	02/12/99	
Interim Final Rule Comment Period End	03/15/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AJ75

3227. • BOARD OF VETERAN'S APPEAL; RULES OF PRACTICE—MOTION FOR REVIEW OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKEABLE ERROR: CONTENT OF RECORD; ADVANCEMENT ON THE DOCKET

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 7104(d); 38 USC 7111

CFR Citation: 38 CFR 20.1403; 38 CFR 20.1405(a); 38 CFR 20.1405(b)

Legal Deadline: None

Abstract: The Board of Veterans' Appeals is amending its Rules of Practice at 38 CFR part 20 to add procedures which would (1) eliminate a provision relating to "constructive notice" as to the record to be reviewed in connection with challenges to Board decisions on the grounds of clear and unmistakable error (CUE) and (2) add a provision to provide for advancing CUE motions on the docket.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman (01C), Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 205 565-5978

RIN: 2900–AJ85

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3228. DELEGATION OF AUTHORITY—DECISIONMAKING REGARDING DISCRIMINATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 553

CFR Citation: 38 CFR 2

Legal Deadline: None

Abstract: This document delegates to certain Department of Veterans Affairs officials authority to make final agency decisions regarding the procedural acceptability of equal employment opportunity discrimination complaints. It also delegates authority to those officials to make final agency decisions which determine whether a breach of an equal employment opportunity complaint settlement agreement has occurred.

Timetable:

Action	Date	FR Cite
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ventris C. Gibson, Deputy Assistant Secretary for Resolution Management (08), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-9437
Email: ventris.gibson@mail.va.gov

RIN: 2900–AJ63

VA

Final Rule Stage

OFFICE OF THE GENERAL COUNSEL

3229. RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS RECORDS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 552; 5 USC 552a; 38 USC 5701

CFR Citation: 38 CFR 1.500 to 1.584

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs regulations governing the confidentiality and release of VA records subject to the Privacy Act, 5 U.S.C. 552a, the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the veterans' records confidentiality statute (section 5701), 38 U.S.C. 5701. The amendments will implement court decisions and executive branch guidance issued since the regulations were originally published. The amendment is part of the Administration's effort to simplify, clarify, and modernize Federal regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/10/98	63 FR 48455
NPRM Comment Period End	11/09/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lorraine M. Johnson, Deputy Assistant General Counsel (024A), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273-6381

RIN: 2900–AH98

3230. RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF REPRESENTATIVES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301; 38 USC 501(a); 38 USC 5901 to 5905

CFR Citation: 38 CFR 14.626 to 14.635

Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to revise and clarify existing procedures and requirements regarding certification or recognition of service organizations and their representatives and other individuals, agents, and attorneys representing claimants for benefits administered by VA. The revisions are designed to improve VA's ability to assure high quality representation of claimants.

Timetable:

Action	Date	FR Cite
NPRM	11/04/98	63 FR 59495
NPRM Comment Period End	01/04/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Richard J. Hipolit, Deputy Assistant General Counsel (022), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273-6329

RIN: 2900–AI93

Department of Veterans Affairs (VA)

Long-Term Actions

VETERANS HEALTH ADMINISTRATION

3231. PROTECTION OF HUMAN SUBJECTS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 16

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Timothy Gerrity Phone: 202 273-8284

RIN: 2900–AJ08

VETERANS BENEFITS ADMINISTRATION

3232. LOAN GUARANTY: TITLE EVIDENCE REQUIREMENTS AND OCCUPANCY REQUIREMENTS FOR CONVEYANCE OF PROPERTIES TO VA

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4320

Timetable:

Action	Date	FR Cite
NPRM	08/06/90	55 FR 31847
NPRM Comment Period End	10/05/90	
NPRM Comment Period Extended	10/05/90	55 FR 35325
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne Phone: 202 273-7380

RIN: 2900–AE20

3233. ACCEPTANCE OF PARTIAL PAYMENTS; INDEMNIFICATION OF DEFAULT

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4202; 38 CFR 4275; 38 CFR 4301; 38 CFR 4315; 38 CFR 4323

Timetable:

Action	Date	FR Cite
NPRM	03/02/94	59 FR 9944
NPRM Comment Period End	05/02/94	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne
Phone: 202 273-7380

RIN: 2900–AE60

3234. SCHEDULE FOR RATING DISABILITIES—THE ORTHOPEDIC SYSTEM

Priority: Other Significant

CFR Citation: 38 CFR 4.71(a)

Timetable:

Action	Date	FR Cite
ANPRM	12/28/90	55 FR 53315
ANPRM Comment Period End	02/26/91	
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine
Phone: 202 272-7210

RIN: 2900–AE91

3235. MEDICAL EVIDENCE THAT A DISABILITY HAS IMPROVED

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.344

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7217

RIN: 2900–AH82

3236. CHILD CUSTODY

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.24(b); 38 CFR 3.24(c); 38 CFR 3.57(d)

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7217

RIN: 2900–AI10

3237. CLAIMS BASED ON AGGRAVATION OF NONSERVICE-CONNECTED DISABILITY

Priority: Other Significant

CFR Citation: 38 CFR 3.310

Timetable:

Action	Date	FR Cite
NPRM	06/04/97	62 FR 30547
NPRM Comment Period End	08/04/97	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Judy Veres
Phone: 202 273-7210

RIN: 2900–AI42

3238. REVISION OF DECISION

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.7; 38 CFR 3.103(a); 38 CFR 3.105(b); 38 CFR 3.321; 38 CFR 3.400; 38 CFR 3.401; 38 CFR 3.800

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7217

RIN: 2900–AI64

3239. • LOAN GUARANTY: ADVERTISING AND SOLICITATION DISCLOSURE REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4227; 38 CFR 36.4365

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to change its regulations by prohibiting advertisements or solicitations from lenders that falsely state or imply that they were issued by or at the direction of VA or any other entity of the United States. This change would also provide that each written advertisement or solicitation from a private lender concerning VA-guaranteed loans include a statement indicating that the lender is a private lender and that the lender does not have an exclusive right to make loans guaranteed by VA. These provisions appear to be necessary to ensure that lenders do not provide misleading information.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AJ86

3240. • LOAN GUARANTY: REVISION TO VA WORK RULES FOR CREDIT SCORED LOANS

Priority: Substantive, Nonsignificant

Legal Authority: 39 USC 501(a)

CFR Citation: 38 CFR 36.4346; 38 CFR 3702(c)(1)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is proposing to change its regulations on the servicing requirements for loan holders to reflect the use of credit scoring models in allocating resources for loan servicing. Credit scoring has proven to be an effective means for holders to determine the risk of loans becoming seriously delinquent. Testing of revised work rules on credit scored loans has shown that lower risk loans usually reinstate, even when fewer resources are allocated to servicing those loans. This change will relax VA's servicing requirements for lower risk loans, so that loan holders can allocate their resources to higher risk loans which need more attention. The change should enable holders and VA to achieve fewer losses with the same resources.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Fyne, Assistant Director for Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273-7380

RIN: 2900–AJ91

3241. • LOAN GUARANTY: CREDIT STANDARDS REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 36.4337

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) reviews its credit standards regulations from time to time and revises them when necessary to reflect changes in the mortgage lending industry and in economic conditions. One change VA may consider is a requirement that first-time homebuyers obtain prepurchase counseling before obtaining VA-guaranteed loans. This is because first-time homebuyers may not have enough experience at handling debt which may increase the likelihood of default. Other changes to the credit standards will be considered as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7368

RIN: 2900–AJ92

BOARD OF VETERANS APPEALS

3242. APPEALS REGULATIONS; RULES OF PRACTICE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision; 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); ...

Timetable:

Action	Date	FR Cite
NPRM	02/03/92	57 FR 4131
NPRM Comment Period End	03/04/92	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 205 565-5978

RIN: 2900–AE78

3243. RULES OF PRACTICE; HEARINGS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 20.702; 38 CFR 20.703; 38 CFR 20.704; 38 CFR 20.707; 38 CFR 20.711; 38 CFR 20.714; 38 CFR 20.716; 38 CFR 20.717; 38 CFR 20.1003; 38 CFR 2.1; 38 CFR 19.75

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Steven L. Keller
Phone: 205 565-5978

RIN: 2900–AG07

3244. RULES OF PRACTICE: MEDICAL OPINIONS; APPEAL PROCESSING AND SUBMISSION OF ADDITIONAL EVIDENCE

Priority: Other Significant

CFR Citation: 38 CFR 19.36; 38 CFR 20.800; 38 CFR 20.801; 38 CFR 20.802; 38 CFR 20.901; 38 CFR 20.1304

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven L. Keller
Phone: 205 565-5978

RIN: 2900–AG90

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3245. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 23

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ellis Jones Hodges
Phone: 202 273-7632

RIN: 2900–AJ11

OFFICE OF THE ASSISTANT SECRETARY FOR ACQUISITION AND FACILITIES

3246. OPERATION OF CHILD CARE CENTERS AT VA FACILITIES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17

Timetable:

Action	Date	FR Cite
NPRM	12/27/89	54 FR 53078
NPRM Comment Period End	01/26/90	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Renee Bruce
Phone: 410 605-7388

RIN: 2900–AD48

Department of Veterans Affairs (VA) — Completed Actions

3247. RECONSIDERATION OF DENIED CLAIMS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.133

Completed:

Reason	Date	FR Cite
Final Action	08/17/99	64 FR 44659
Final Action Effective	08/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Troy Baxley
Phone: 202 273-8301

RIN: 2900–AJ03

3248. MEDICATION PRESCRIBING AUTHORITY

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17

Completed:

Reason	Date	FR Cite
NPRM	05/04/99	64 FR 23812
Withdrawn	05/21/99	64 FR 27733

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald J. Gebhart
Phone: 202 273-8558

RIN: 2900–AJ07

3249. ENROLLMENT AND PROVISIONS OF HOSPITAL CARE AND MEDICAL SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 1710

Completed:

Reason	Date	FR Cite
Final Action	10/06/99	64 FR 54207
Final Action Effective	11/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roscoe G. Butler
Phone: 202 273-8302

RIN: 2900–AJ18

3250. MEDICAL CARE COLLECTION OR RECOVERY

Priority: Other Significant

CFR Citation: 38 CFR 17.101; 38 CFR 17.102

Completed:

Reason	Date	FR Cite
Final Action	04/27/99	64 FR 22676
Final Action Effective	09/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Cleaver
Phone: 202 273-8210

RIN: 2900–AJ30

3251. ENROLLMENT—PROVISION OF HOSPITAL AND OUTPATIENT CARE TO VETERANS—PRIORITY CATEGORY 7

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.36

Completed:

Reason	Date	FR Cite
Withdrawn for Further Consideration	10/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Roscoe G. Butler
Phone: 202 273-8302

RIN: 2900–AJ71

3252. SCHEDULE FOR RATING DISABILITIES—DISEASES OF THE EAR AND OTHER SENSE ORGANS

Priority: Other Significant

CFR Citation: 38 CFR 4.75; 38 CFR 4.76; 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79; 38 CFR 4.80; 38 CFR 4.83; 38 CFR 4.84; 38 CFR 4.85; 38 CFR 4.86; 38 CFR 4.87

Completed:

Reason	Date	FR Cite
Final Action	05/11/99	64 FR 25202

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine
Phone: 202 272-7210

RIN: 2900–AF22

3253. FIBROMYALGIA

Priority: Other Significant

CFR Citation: 38 CFR 4.71(a)

Completed:

Reason	Date	FR Cite
Final Action	06/17/99	64 FR 32410
Final Action Effective	06/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine
Phone: 202 272-7210

RIN: 2900–AH05

3254. SERVICE CONNECTION FOR DENTAL CONDITIONS FOR TREATMENT PURPOSES

Priority: Other Significant

CFR Citation: 38 CFR 3.381

Completed:

Reason	Date	FR Cite
Final Action	06/08/99	64 FR 30392
Final Action Effective	06/08/99	64 FR 30393

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Jacobs
Phone: 202 273-7210

RIN: 2900–AH41

3255. VETERANS EDUCATION: EFFECTIVE DATE FOR THE AWARD OF EDUCATIONAL ASSISTANCE

Priority: Info./Admin./Other

CFR Citation: 38 CFR 21.7131

Completed:

Reason	Date	FR Cite
Final Action	05/04/99	64 FR 23769
Final Action Effective	06/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AH76

3256. VETERANS EDUCATION: ADVANCED PAYMENTS AND LUMP SUM PAYMENTS FOR EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.4138; 38 CFR 21.7140

Completed:

Reason	Date	FR Cite
Final Action	09/30/99	64 FR 52650
Final Action Effective	09/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AI31

3257. LOAN GUARANTY: REQUIREMENTS FOR INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4306a

Completed:

Reason	Date	FR Cite
Final Rule	04/23/99	64 FR 19906
Final Rule Effective	05/24/99	
Final Action	05/26/99	64 FR 28363

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran
Phone: 202 273-7368

RIN: 2900–AI92

3258. DIRECT SERVICE CONNECTION (POST-TRAUMATIC STRESS DISORDER)

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.304(f)

Completed:

Reason	Date	FR Cite
Final Action	06/18/99	64 FR 32807

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7217

RIN: 2900–AI97

3259. ADDITIONAL REQUIREMENTS FOR INTEREST RATE REDUCTION REFINANCING LOANS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 36.4306a

Completed:

Reason	Date	FR Cite
Withdrawn	10/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Finneran
Phone: 202 273-7368

RIN: 2900–AJ02

3260. VETERANS AND DEPENDENTS EDUCATION: INCREASE IN EDUCATIONAL ASSISTANCE RATES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137

Completed:

Reason	Date	FR Cite
Final Action	06/14/99	64 FR 31693

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ37

3261. RESERVIST EDUCATION: INCREASE IN EDUCATIONAL RATES

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7636

Completed:

Reason	Date	FR Cite
Final Action	05/14/99	64 FR 26297
Final Action Effective	05/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ38

3262. VETERANS EDUCATION: EFFECTIVE DATE FOR DISCONTINUING EDUCATIONAL ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7135

Completed:

Reason	Date	FR Cite
Final Action	07/19/99	64 FR 38576
Final Action Effective	07/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ39

3263. VETERANS EDUCATION: INCREASED ALLOWANCES FOR THE EDUCATIONAL ASSISTANCE TEST PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7636; 38 CFR 21.5822

Completed:

Reason	Date	FR Cite
Final Action	08/17/99	64 FR 44660
Final Action Effective	08/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ40

3264. SCHEDULE FOR RATING DISABILITIES: DISABILITIES OF THE LIVER

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4.114

Completed:

Reason	Date	FR Cite
Withdrawn - merged into 2900-AF24	09/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Caroll McBrine
Phone: 202 272-7210

RIN: 2900–AJ46

3265. PENSION BENEFITS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.551

Completed:

Reason	Date	FR Cite
Final Action	06/18/99	64 FR 32807

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7217

RIN: 2900–AJ50

3266. REINSTATEMENT OF BENEFITS ELIGIBILITY BASED UPON TERMINATED MARITAL RELATIONSHIPS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.55

Completed:

Reason	Date	FR Cite
Final Action	06/07/99	64 FR 30244

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Bisset
Phone: 202 273-7210

RIN: 2900–AJ53

3267. RETURNED AND CANCELED CHECKS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.1003

Completed:

Reason	Date	FR Cite
Final Action	10/06/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7217

RIN: 2900–AJ61

3268. SURVIVING SPOUSES BENEFIT FOR MONTH OF VETERAN'S DEATH

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.20

Completed:

Reason	Date	FR Cite
Final Action	06/08/99	64 FR 30391
Final Action Effective	06/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald England
Phone: 202 273-7217

RIN: 2900–AJ64

3269. VETERANS EDUCATION: MONTGOMERY GI BILL—ACTIVE DUTY—ADMINISTRATIVE ERROR

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 21.7135

Completed:

Reason	Date	FR Cite
Final Action	09/27/99	64 FR 51901
Final Action Effective	09/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William G. Susling
Phone: 202 273-7187
Email: edubsusl@vba.va.gov

RIN: 2900–AJ70

3270. • DEFINITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a)

CFR Citation: 38 CFR 3.1; 38 CFR 3.50; 38 CFR 3.57; 38 CFR 3.59

Legal Deadline: None

Abstract: This action proposes to amend the regulations in part 3 of title 38, United States Code, to conform to the Presidential Memorandum of June 1, 1998, Plain Language in Government Writing, by revising the definitions of commonly used terms.

Timetable:

Action	Date	FR Cite
Withdrawn	10/26/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert M. White, Team Leader, Plain Language Regulations Project, Department of Veterans Affairs, Veterans Benefits Administration, 1800 G Street NW, Washington, DC 20420
Phone: 202 273-7228
Fax: 202 275-4800

RIN: 2900–AJ94

3271. PURCHASE CARD/ELECTRONIC DATA INTERCHANGE

Priority: Info./Admin./Other

CFR Citation: 48 CFR 812; 48 CFR 832; 48 CFR 852

Completed:

Reason	Date	FR Cite
Withdrawn from OMB.	05/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald E. Kaliher
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AI41

3272. VAAR PART 803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICT OF INTEREST, AND PART 852—SOLICITATION PROVISIONS IN CONTRACT CLAUSES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 803; 48 CFR 852

Completed:

Reason	Date	FR Cite
Final Action	06/08/99	64 FR 30442
Final Action Effective	06/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rita Williams
Phone: 202 273-8774
Email: rita.williams@mail.va.gov

RIN: 2900–AJ06

3273. VA ACQUISITION REGULATION: TAXES

Priority: Info./Admin./Other

CFR Citation: 48 CFR 829

Completed:

Reason	Date	FR Cite
Final Action	07/19/99	64 FR 38592
Final Action Effective	08/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Donald E, Kaliher
Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ32

3274. VA ACQUISITION REGULATIONS: BONDS AND INSURANCE

Priority: Info./Admin./Other

CFR Citation: 48 CFR 828; 48 CFR 852

Completed:

Reason	Date	FR Cite
Final Action	07/27/99	64 FR 40518
Final Action Effective	07/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald E. Kaliher

VA

Completed Actions

Phone: 202 273-8819
Email: donald.kaliher@mail.va.gov

RIN: 2900–AJ47

3275. NATIONAL CEMETERY ADMINISTRATION TITLE CHANGES

Priority: Info./Admin./Other

CFR Citation: 38 CFR 1; 38 CFR 2; 38 CFR 3; 38 CFR 39

Completed:

Reason	Date	FR Cite
Final Action	06/07/99	64 FR 30244
Final Action Effective	06/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sonja McCombs
Phone: 202 273-5183
TDD Phone: 202 273-6697

RIN: 2900–AJ79

3276. DELEGATIONS OF AUTHORITY; FEDERAL TORT CLAIMS

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 2; 38 CFR 2.6; 38 CFR 14; 38 CFR 14.601; 38 CFR 14.604

Completed:

Reason	Date	FR Cite
Final Action	08/30/99	64 FR 47111
Final Action Effective	08/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: E. Douglas Bradshaw
Phone: 202 273-6481

RIN: 2900–AJ31

3277. ENTITIES AUTHORIZED TO RECEIVE AND DISTRIBUTE DEPARTMENT OF DEFENSE SURPLUS FOOD

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 17.1000(New)

Completed:

Reason	Date	FR Cite
Withdrawn	08/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter Dougherty
Phone: 202 273-5774

RIN: 2900–AI82

[FR Doc. 99–23636 Filed 11–19–99; 8:45 am
BILLING CODE 8320–01–F

VOL 64 ISS 224 NOV 22 1999 UMI

federal register

Monday,
November 22, 1999

Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

Advisory Council on Historic Preservation (ACHP)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Advisory Council on Historic Preservation.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: Final action was taken on the following Advisory Council on Historic Preservation rulemaking after the April 1999 Unified Agenda. No further rulemaking activities are envisioned at this point. This update is submitted herein for publication in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

FOR FURTHER INFORMATION CONTACT: See person listed below for specific agenda information.

Advisory Council on Historic Preservation.

Dated : August 19, 1999

John M. Fowler

Executive Director

Advisory Council on Historic Preservation (ACHP) — Completed Actions

3278. PROTECTION OF HISTORIC PROPERTIES

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 16 USC 470

CFR Citation: 36 CFR 800

Legal Deadline: None

Abstract: The Advisory Council finished the process of revising its regulations in light of its responsibilities under 16 USC 470 and the 1992 amendments to the National Historic Preservation Act, PL 102-575, and in accordance with the National Performance Review's streamlining initiative.

Timetable:

Action	Date	FR Cite
NPRM	10/03/94	59 FR 50396
NPRM Comment Period End	01/03/95	
Second NPRM	09/13/96	61 FR 48580
Second NPRM Comment Period End	11/12/96	
Final Rule	05/18/99	64 FR 27044

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Tribal

Agency Contact: Mr. Javier Marques, Assistant General Counsel, Advisory Council on Historic Preservation, AD-234-1, 1100 Pennsylvania Avenue NW, Washington, DC 20004-2501
Phone: 202 606-8596
Email: jmarques@achp.gov

RIN: 3010–AA04

[FR Doc. 99–23637 Filed 11–19–99; 8:45 am]
BILLING CODE 4310–10–F

federal register

Monday,
November 22, 1999

Part XVIII

Agency for International Development

Semiannual Regulatory Agenda

Agency for International Development (AID)

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Ch. II

Federal Regulations; USAID Regulatory Agenda Semiannual Summary

AGENCY: U.S. Agency for International Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Agency for International Development (USAID) is publishing this agenda as required by Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and the Regulatory Flexibility Act. This agenda reports the status of those regulations currently under review and gives USAID's plan for the issuance of proposed regulations during the next 12 months. It is expected that the information provided in this agenda will enable the public to be more aware of and to participate more effectively in USAID's regulatory process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list in general, contact: Willette L. Smith, Chief, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Washington, DC 20523; telephone (202) 712-5027, e-mail address wsmithusaid.gov.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

SUPPLEMENTARY INFORMATION: Executive Order 12866 and the Regulatory Flexibility Act require the semiannual publication in the **Federal Register** of an agenda of regulations. The Regulatory Flexibility Act applies only to regulations for which a notice of proposed rulemaking was issued on or after September 19, 1980. USAID is required to publish an agenda listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities." The Executive order became effective on September 30, 1993, and it is required that USAID publish a listing of all the regulations it expects to have under active consideration for proposal or review during the coming 1-year period.

Margaret H. Thome,
Director of Administrative Services.

Agency for International Development (AID) — Final Rule Stage

3279. ADMINISTRATION OF GRANTS AND COOPERATIVE AGREEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 226

Legal Deadline: None

Abstract: This regulation will implement the Governmentwide uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations issued by the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/19/95	60 FR 3743
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Organizations

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 7.08-092, 1300 Pennsylvania Avenue NW, Washington, DC 20523-7801
Phone: 202 712-4759
Email: kohara@usaid.gov

RIN: 0412–AA21

3280. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-2)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 712; 48 CFR 727; 48 CFR 742; 48 CFR 752; 48 CFR ch 7, app I

Legal Deadline: None

Abstract: The USAID Acquisition Regulation will be amended to clarify USAID policy on the use of Government facilities and personnel in commercial products, establish an Agency policy regarding contract clauses to clarify withholding requirements under IQC contracts, revise reporting requirements, and coordinate the Agency's academic publication policy with the FAR's Rights in Data coverage by removing it from appendix I into a new part 727. This new AIDAR part will also provide for contractual coverage of Rights in Data in USAID's contracts performed overseas and awarded to U.S. organizations, provide guidance on Rights in Data coverage for overseas contracts with non-U.S. entities, and provide an alternate paragraph to add to the applicable FAR clause to reserve USAID's right to restrict release of data when release may negatively impact the Government's development or diplomatic relationship with the cooperating countries.

Timetable:

Action	Date	FR Cite
NPRM	11/04/98	63 FR 59501
NPRM Comment Period End	01/04/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: The final rule published in the Federal Register on July 29, 1997, at 62 FR 40462 (FR Doc. 97-18603) mistakenly cited this RIN number. It should have used RIN 0412-AA32.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, Room 7.08-082U, M OP/P, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0206
Fax: 202 216-3395

AID **Final Rule Stage**

Email: dhoward@usaid.gov
RIN: 0412–AA30

Agency for International Development (AID) **Completed Actions**

3281. MISCELLANEOUS AMENDMENTS TO THE AIDAR (AIDAR NOTICE 98-1)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 703; 48 CFR 709; 48 CFR 715; 48 CFR 752

Legal Deadline: None

Abstract: The AID Acquisition Regulation (AIDAR) is being amended to add an additional reporting level for violations to be in accordance with Federal Acquisition Regulation (FAR) subpart 3.104; to reflect changes in FAR part 9.5; and to reflect changes in FAR part 15. The AIDAR is also being amended to add a requirement to part 715 for a justification document to support the decision to reject all proposals and cancel the Request for Proposal (RFP) and to add a provision to part 752 on salary supplements for host government employees.

Timetable:

Action	Date	FR Cite
Final Action	04/06/99	64 FR 16647
Final Action Effective	05/06/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Frances M. Maki, Senior Procurement Analyst, Agency for International Development, Room 7.08-094, M OP/P, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0610
Email: fmaki@usaid.gov

RIN: 0412–AA38

3282. RULES AND PROCEDURES APPLICABLE TO COMMODITIES TRANSACTIONS FINANCED BY USAID

Priority: Info./Admin./Other

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 201.03; 22 CFR 201.23(c); 22 CFR 201.31; 22 CFR 201.32; 22 CFR 201.51(c)(4); 22 CFR 201.52(a); 22 CFR 201.67(a)

Legal Deadline: None

Abstract: USAID Regulation 1 is being amended to update Paperwork Reduction Act approval information and to update office names and addresses.

Timetable:

Action	Date	FR Cite
Final Action	04/12/99	64 FR 17535
Final Action Effective	05/12/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathleen O'Hara, Chief, Policy Division, Office of Procurement, Agency for International Development, Room 7.08-092, 1300 Pennsylvania Avenue NW, Washington, DC 20523-7801
Phone: 202 712-4759
Email: kohara@usaid.gov

RIN: 0412–AA41

3283. • REALIGNMENT OF CONTRACTING RESPONSIBILITIES AND AUTHORITIES FROM THE PROCUREMENT EXECUTIVE TO THE DIRECTOR, OFFICE OF PROCUREMENT, AND OTHER MISCELLANEOUS AMENDMENTS (AIDAR CIRCULAR 99-1)

Priority: Substantive, Nonsignificant

Legal Authority: 22 USC 2381

CFR Citation: 48 CFR 701 to 703; 48 CFR 705 to 706; 48 CFR 709; 48 CFR 714; 48 CFR 716; 48 CFR 719; 48 CFR 726; 48 CFR 732 to 734; 48 CFR 749 to 750; 48 CFR 752

Legal Deadline: None

Abstract: Authorities previously delegated to the Agency Procurement Executive have been redelegated to the Director of the Office of Procurement. Many of these authorities are identified in the USAID Acquisition Regulation (AIDAR) 48 CFR chapter 7, which consequently must be amended to reflect the redelegation. Other administrative amendments are being made.

Timetable:

Action	Date	FR Cite
Final Action	08/03/99	64 FR 42040
Final Action Effective	09/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Diane M. Howard, Senior Procurement Analyst, Agency for International Development, Room 7.08-082U, M OP/P, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7801
Phone: 202 712-0206
Fax: 202 216-3395
Email: dhoward@usaid.gov

RIN: 0412–AA42

[FR Doc. 99–23638 Filed 11–19–99; 8:45 am]

BILLING CODE 6116–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XIX

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

Architectural and Transportation Barriers Compliance Board (ATBCB)

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the Agency during the next 12 months. This regulatory agenda may be revised by the Agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004-1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact James J. Raggio, General Counsel, (202) 272-5434 (voice) or (202) 272-5449 (TDD).

James J. Raggio,

General Counsel, Architectural and Transportation Barriers Compliance Board.

Architectural and Transportation Barriers Compliance Board (ATBCB)

Proposed Rule Stage

3284. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: RECREATION FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for recreational facilities.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	02/03/93	58 FR 6949
Notice of Appointment of Advisory Committee Members	06/10/93	58 FR 32511
ANPRM	09/21/94	59 FR 48542
ANPRM Comment Period End	12/20/94	
NPRM	07/09/99	64 FR 37326
NPRM Comment Period End	12/08/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA16

3285. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990; 29 USC 792, Rehabilitation Act

CFR Citation: 36 CFR 1191; 36 CFR 1190

Legal Deadline: None

Abstract: This regulation will revise and update the accessibility guidelines for the Americans with Disabilities Act (ADA) and the Architectural Barriers Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	04/06/94	59 FR 16175
Establishment of Advisory Committee	09/14/94	59 FR 47165
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA20

3286. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: OUTDOOR DEVELOPED AREAS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for outdoor developed areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	04/18/97	62 FR 19084
Establishment of Regulatory Negotiation Committee	06/04/97	62 FR 30546
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

ATBCB **Proposed Rule Stage**

Government Levels Affected: Undetermined

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA22

3287. STANDARDS FOR ACCESSIBLE ELECTRONIC AND INFORMATION TECHNOLOGY

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 29 USC 794d, Rehabilitation Act

CFR Citation: 36 CFR 1194

Legal Deadline: Final, Statutory, February 7, 2000.

Abstract: This regulation will establish standards for accessible electronic and information technology for Federal agencies.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	08/24/98	63 FR 45041
Establishment of Advisory Committee	09/29/98	63 FR 51891
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA25

Architectural and Transportation Barriers Compliance Board (ATBCB) **Final Rule Stage**

3288. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PLAY AREAS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the Americans with Disabilities Act (ADA) Accessibility Guidelines to include requirements for play areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Conduct Regulatory Negotiation	12/22/95	60 FR 66537
Establishment of Regulatory Negotiation Committee	02/14/96	61 FR 5723
NPRM	04/30/98	63 FR 24080
NPRM Comment Period End	07/29/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA21

Architectural and Transportation Barriers Compliance Board (ATBCB) **Long-Term Actions**

3289. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES: PASSENGER VESSELS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1192

Legal Deadline: None

Abstract: This regulation will amend The Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles to include additional requirements for ferries, excursion boats, and other passenger vessels.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee	03/30/98	63 FR 15175
Establishment of Advisory Committee	08/12/98	63 FR 43136
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

ATBCB **Long-Term Actions**

Government Levels Affected: Undetermined

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA11

3290. • AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PUBLIC RIGHTS-OF-WAY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act; 29 USC 792, Rehabilitation Act

CFR Citation: 36 CFR 1190; 36 CFR 1191

Legal Deadline: None

Abstract: This regulation will amend the accessibility guidelines for the Americans with Disabilities Act and the Architectural Barriers Act to include requirements for public rights-of-way.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee	08/12/99	64 FR 43980
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal, Local

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA26

Architectural and Transportation Barriers Compliance Board (ATBCB) **Completed Actions**

3291. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 12204, Americans with Disabilities Act of 1990

CFR Citation: 36 CFR 1191

Legal Deadline: None

Abstract: To amend the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities to include additional requirements for boat and ferry docks.

Timetable:

Action	Date	FR Cite
Withdrawn; Merged With 3014-AA16	09/02/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mr. James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, Suite 1000, 1331 F Street NW, Washington, DC 20004-1111
Phone: 202 272-5434
TDD Phone: 202 272-5449
Fax: 202 272-5447
Email: Raggio@access-board.gov

RIN: 3014–AA12

[FR Doc. 99–23639 Filed 11–19–99; 8:45 am]
BILLING CODE 8150–01–F

federal register

Monday,
November 22, 1999

Part XX

Commission on Civil Rights

Semiannual Regulatory Agenda

Commission on Civil Rights (CCR)

COMMISSION ON CIVIL RIGHTS

45 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: Commission on Civil Rights.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the U.S. Commission on Civil Rights will have under development during the 6-month period from October 1, 1999, through March 31, 2000. The purpose for publishing this agenda is to give notice of any regulatory activity by the Commission in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information on any items in the agenda, contact Stephanie Y. Moore, General Counsel, U.S. Commission on Civil Rights, Room 620, 624 Ninth Street NW., Washington, DC 20425, (202) 376-8351.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 605), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no regulatory impact analysis is required. The Commission has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public nor will the regulations have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required.

Stephanie Y. Moore,

General Counsel.

Commission on Civil Rights (CCR) — Long-Term Actions

3292. COMMISSION ON CIVIL RIGHTS — UPDATE AND REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1975 to 1975f; 5 USC 552(a); 5 USC 552(b)

CFR Citation: 45 CFR 701; 45 CFR 702; 45 CFR 703

Legal Deadline: None

Abstract: The regulation updates and revises most of the Commission's current regulations, specifically 45 CFR 701, 702, 703. 45 CFR 701 identifies the organization and functions of the Commission. 45 CFR 702 specifies the rules on hearings, reports, and meetings of the Commission. 45 CFR 703 identifies the operations and functions of the Commission's State Advisory Committees.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ms. Stephanie Y. Moore, General Counsel, Commission on Civil Rights, Room 632, 624 9th Street NW, Washington, DC 20425-0001 Phone: 202 376-8351

RIN: 3035–AA02

[FR Doc. 99–27049 Filed 11–19–99; 8:45 am]

BILLING CODE 6335–01–F

Monday,
November 22, 1999

Part XXI

Corporation for National and Community Service

Semiannual Regulatory Agenda

Corporation for National and Community Service (CNCS)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Ch. XXV

Executive Order 12866 "Regulatory Planning and Review"

Semiannual Agenda of Regulations

AGENCY: Corporation for National and Community Service.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Corporation will have under development, revision, or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to provide the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Corporation regulations or this semiannual agenda, contact Thomasenia P. Duncan, General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525, (202) 606-5000, ext. 290.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year.

The Corporation for National and Community Service has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory analysis is required under 5 U.S.C. 602.

Dated : August 27, 1999

Wendy Zenker,

Chief Operating Officer.

Corporation for National and Community Service (CNCS) — Long-Term Actions

3293. CLAIMS COLLECTION

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2506

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/28/99	64 FR 4315
Interim Final Rule Comment Period End	03/29/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Suzanne Dupre
Phone: 202 606-5000
Fax: 202 565-2796
Email: sdupre@cns.gov

RIN: 3045–AA20

3294. RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Priority: Info./Admin./Other

CFR Citation: 45 CFR 2505

Timetable:

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25260
NPRM Comment Period End	07/12/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Trinity
Phone: 202 606-5000
Fax: 202 565-2796
Email: ftrinity@cns.gov

RIN: 3045–AA21

Corporation for National and Community Service (CNCS) — Completed Actions

3295. AMERICORPS EDUCATION AWARDS

Priority: Info./Admin./Other

Legal Authority: 42 USC 12601 to 12604

CFR Citation: 45 CFR 2525 to 2529

Legal Deadline: None

Abstract: This rule describes the National Service Trust: who is eligible to receive education awards; how the amount of education awards are determined; the purpose for use; and circumstances under which AmeriCorps participants will receive forbearance and payment of interest expenses as qualified student loans.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/94	59 FR 30709
NPRM	04/09/99	64 FR 17303
NPRM Comment Period End	06/08/99	
Final Rule	07/12/99	64 FR 37411

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Frank Trinity, Associate General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: ftrinity@cns.gov

RIN: 3045–AA09

3296. IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Priority: Info./Admin./Other

Legal Authority: 42 USC 12501 et seq

CNCS

Completed Actions

CFR Citation: 45 CFR 2508

Legal Deadline: None

Abstract: The purpose of this notice of proposed rulemaking is to set forth the basic policies of the corporation governing the maintenance of its system of records which contains personal information of its employees as defined in the Privacy Act. Records included in this rule are those described in the Privacy Act and maintained by the Corporation and/or any component thereof.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10872
Final Rule	04/02/99	64 FR 19293
NPRM Comment Period End	04/05/99	64 FR 10872

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Bill Hudson, Law Office Manager, General Counsel Office, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, DC 20525
Phone: 202 606-5000
Fax: 202 565-2796
Email: whudson@cns.gov

RIN: 3045–AA22

[FR Doc. 99–23640 Filed 11–19–99; 8:45 am]
BILLING CODE 6050–28–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

VOL
64
ISS
2
2
4
NO
22
1999
UMI

Printed on recycled paper

VOL
64
ISS
2
2
4
NO
22
1999
UMI

1-22-99
Vol. 64 No.

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use

11-22-99
Vol. 64 No. 224

federal register

Monday
November 22, 1999

Book 4 of 4 Books

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

OFFICIAL BUSINESS
Penalty for private use, $300

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
4
NO
22
1999
UMI

11-22-99
Vol. 64 No. 2

BOOK 4:
Pages 65009-

11-22-99
Vol. 64 No. 224

BOOK 4:
Pages 65009–65652

federal register

Monday, November 22, 1999
Book 4 of 4 Books

The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

65010 XXII—Environmental Protection Agency
65170 XXIII—Equal Employment Opportunity Commission
65174 XXIV—Federal Emergency Management Agency
65182 XXV—Federal Mediation and Conciliation Service
65184 XXVI—General Services Administration
65198 XXVII—Morris K. Udall Foundation—U.S. Institute for Environmental Conflict Resolution
65200 XXVIII—National Aeronautics and Space Administration
65204 XXIX—National Archives and Records Administration
65212 XXX—NFAH—Institute of Museum and Library Services
65214 XXXI—NFAH—National Endowment for the Arts
65218 XXXII—NFAH—National Endowment for the Humanities
65220 XXXIII—National Science Foundation
65222 XXXIV—Office of Federal Housing Enterprise Oversight
65226 XXXV—Office of Government Ethics
65234 XXXVI—Office of Management and Budget
65240 XXXVII—Office of Personnel Management
65266 XXXVIII—Office of Special Counsel
65268 XXXIX—Panama Canal Commission
65270 XL—Peace Corps
65274 XLI—Pension Benefit Guaranty Corporation
65280 XLII—Presidio Trust
65284 XLIII—Railroad Retirement Board
65290 XLIV—Selective Service System
65292 XLV—Small Business Administration
65302 XLVI—Social Security Administration
65324 XLVII—Tennessee Valley Authority
65326 XLVIII—Department of Defense/General Services Administration/National Aeronautics and Space Administration
65340 XLIX—Commodity Futures Trading Commission
65348 L—Consumer Product Safety Commission
65358 LI—Farm Credit Administration
65366 LII—Farm Credit System Insurance Corporation
65368 LIII—Federal Communications Commission
65414 LIV—Federal Deposit Insurance Corporation
65424 LV—Federal Energy Regulatory Commission
65432 LVI—Federal Housing Finance Board
65440 LVII—Federal Maritime Commission
65446 LVIII—Federal Reserve System
65458 LIX—Federal Trade Commission
65470 LX—National Credit Union Administration
65480 LXI—National Indian Gaming Commission
65484 LXII—Nuclear Regulatory Commission
65504 LXIII—Securities and Exchange Commission
65530 LXIV—Surface Transportation Board
65533 A. Regulatory Flexibility Act Section 610 Review Index
65535 B. Regulatory Flexibility Analysis Index
65547 C. Small Entities Index (Regulatory Flexibility Analysis Not Required)
65561 D. Government Levels Index
65601 E. Subject Index

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XXII

Environmental Protection Agency

Semiannual Regulatory Agenda

Environmental Protection Agency (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

FRL-6436-9

October 1999 Agenda of Regulatory and Deregulatory Actions

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about our:

- Regulations currently under development,
- Reviews of existing regulations, and
- Rulemakings completed or canceled since the last Agenda.

EPA believes that, if the people affected by rules take part in developing them, we will produce rules that are clearer, less burdensome, and more effective.

TO BE PLACED ON THE AGENDA MAILING LIST: If you would like to receive copies of future Agendas, please call Janice Gray at (202) 260-5479; fax: (202) 260-5478; or E-mail at gray.janice@epa.gov There is no charge for the Agenda.

FOR FURTHER INFORMATION CONTACT: We welcome your comments and suggestions. If you have questions or comments about a particular rule, please get in touch with the agency contact listed for that rule. If you have general comments or questions about the EPA's rulemaking process, please direct them to: Philip Schwartz (2136), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; phone: (202) 260-5493, fax: (202) 260-5478, e-mail: schwartz.philip@epa.gov.

You can also get daily, updated information on current EPA rulemakings from our Internet site on environmental regulations. This site includes the text of proposed and final environmental rules issued by the EPA and by other agencies. It also includes an electronic version of this Agenda. The site is at http://www.epa.gov/epahome/rules.html and is part of EPA's large agencywide Internet site that we invite you to visit at http://www.epa.gov. We expect that the EPA web site will be an increasingly important means of communication between EPA and the public. We inaugurated this site about 4 years ago, and it has more than 100,000 documents and files currently available on-line.

Table of Contents

Supplementary Information:
- The Rulemaking Process
- EPA's Regulatory Philosophy and Priorities
- Impacts on Small Entities
- What Actions Are Included in the Agenda?
- How Is the Agenda Organized?
- What Information Is in Agenda Entries?

SUPPLEMENTARY INFORMATION:

The Rulemaking Process

Congress has created a number of requirements that agencies must meet when they issue regulations. These requirements are designed to support the creation of quality regulations and protect the rights of people affected by agencies' rules. These requirements are contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the Congressional Review Act. You can find information on many of these statutes at http://www.law.cornell.edu/uscode/.

President Clinton has also ordered that we meet a number of requirements when we issue regulations. Of particular significance for EPA rulemakings are Executive Orders 12866 (Regulatory Planning and Review), 13045 (Children's Health Protection), 13084 (Consultation and Coordination with Indian Tribal Governments), and 13132(Federalism). You can find information on Executive orders at http://library.whitehouse.gov/.

We encourage you to take part in the rulemaking process to make your views known and help us craft rules that:

- Protect human health,
- Preserve and enhance the environment, and
- Meet environmental goals without being unnecessarily burdensome.

In addition to contacting the expert responsible for developing a particular rule, you also can comment on proposed rules that we publish in the **Federal Register**. Once we have proposed a rule, we will consider your comments and address them before issuing a final rule. To be most effective, comments should contain information and data which support your position, and you should explain why we should incorporate your suggestion in the final rule. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

The Agenda also includes some of our more important guidance documents. While these documents are not legally binding on EPA or outside parties, they will guide our thinking in major policy areas. We invite you to take part in developing these documents.

EPA's Regulatory Philosophy and Priorities

EPA's efforts to develop a system that works better and costs less are focused on five areas: Greater public access to information, more regulatory flexibility to obtain better results; stronger partnerships with States, Tribes, and industries, more compliance assistance, and less paperwork and red tape. To learn more about what we are accomplishing in these areas please refer to the "Statement of Regulatory Priorities" contained in EPA's regulatory plan in part 2 of this issue of the **Federal Register**.

Impacts on Small Entities

Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) requires that we pay particular attention to the impact of regulations on small entities (i.e., small businesses, small governmental jurisdictions, and small nonprofit organizations). The RFA/SBREFA applies to rules we are now developing and requires us to:

1. Convene a Small Business Advocacy Review (SBAR) Panel prior to proposing any rule with the potential to impose a significant economic impact on a substantial number of small entities (RFA section 609). SBREFA also established the EPA's Small Business Advocacy Chair who chairs each SBAR Panel. A SBAR Panel has four members: The Chair, the Chief Counsel for Advocacy of the Small Business Administration, the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, and a senior manager from

the EPA program office responsible for the subject rule. In the case of rules requiring a SBAR Panel, the Agency's small entity outreach prior to the convening of a Panel culminates in the development of a summary document that contains information on the potential impact of a proposed rule on small entities, and particularly on the issues referenced in RFA section 609. This summary then serves as the basis for convening the Panel. The Panel then conducts its review, carries out its own small entity outreach, and prepares a final report based on the comments from the small entity representatives and the Panel's deliberations. The Panel's final report is provided to the EPA Administrator and is made a part of the rulemaking record. Rules listed in the first appendix at the end of the Agenda may require Small Business Advocacy Review Panels.

2. At the proposed and final rule stages of rule development, the Agency must prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements (RFA sections 603 and 604), unless the Administrator certifies that the rule will not have a "significant economic impact on a substantial number of small entities" (RFA section 605). A regulatory flexibility analysis must, among other items specified in the RFA, identify the extent to which small entities will be subject to the rule's requirements and describe any significant alternatives to the rule that accomplish the objectives of applicable statutes and which minimize any significant economic impacts on small entities. We have listed in the first index at the end of the Agenda all rules under development that may require a regulatory flexibility analysis.
3. RFA section 610 requires that an agency review within 10 years of promulgation those regulations that have or will have a significant economic impact on a substantial number of small entities. We undertake these reviews to decide whether we should continue the rule unchanged, amend it, or withdraw it. We announce our forthcoming 610 reviews in the "Prerule" section of the Agenda. We encourage small entities to provide comments on the need to change these rules. We will consider all of your comments as we decide whether to continue, amend, or withdraw these rules. We particularly encourage comments by small entities about how rules could be made clearer, more effective, or remove conflicting or overlapping requirements with other Federal or State regulations. Please direct your comments to the contact person listed in the Agenda entry. If you have general questions about our 610 review program or suggestions for other rules we should review under section 610, please contact Philip Schwartz (2136), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; fax: (202) 260-5478, e-mail: schwartz.philip@epa.gov.

Rules under Development Expected To Have Some Impact on Small Entities, but Not a Significant Impact on a Substantial Number

In the "Small Entities Affected" section, we indicate whether we expect an action will have an impact on small businesses, governments, or nonprofit organizations, but one which is less than a significant impact on a substantial number. In the second index at the end of the Agenda, we list all actions that we believe will not have a significant impact on a substantial number of small entities but which will have some impact on small entities.

What Actions Are Included in the Agenda?

EPA includes regulations and certain major policy documents in the Agenda. We do not generally include minor amendments or the following categories of actions in the Agenda:

- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes.
- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Actions regarding pesticide tolerances and food additive regulations; decision documents defining and establishing registration standards; decision documents and termination decisions for the Special Review Registration process; and data call-in requests made under section 3(c)(2)(B).
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions.
- Under the Clean Water Act: State Water Quality Standards; Deletions from the section 307(a) list of toxic pollutants; Suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); Delegations of NPDES authority to States.
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

The Office of Management and Budget has exempted most of these actions from the Executive Order 12866 review procedures. There is no legal significance to the omission of an item from the Agenda.

How Is the Agenda Organized?

In accordance with E.O. 12866, we publish the EPA Agenda of Regulatory and Deregulatory Actions in April and October of each year as part of the **Unified Agenda of Federal Regulatory and Deregulatory Actions**.

We have organized this Agenda:

- First, by the law that would authorize a particular regulation;
- Second, by the current stage of development (proposal, final, etc.); and
- Third, by the Regulatory Identifier Number assigned by the Regulatory Information Service Center

The following 14 sections deal with 13 laws that EPA administers and a thirteenth broader section called "General" that includes cross–cutting actions, such as rules authorized by multiple statutes and general acquisition rules:

1. General
2. The Clean Air Act (CAA)
3. The Atomic Energy Act (AEA)
4. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
5. The Toxic Substances Control Act (TSCA)
6. The Emergency Planning and Community Right-to-Know Act (EPCRA)
7. Chemical Safety Information, Site Security and Fuels Regulatory Relief Act
8. The Resource Conservation and Recovery Act (RCRA)
9. The Oil Pollution Act (OPA)
10. The Comprehensive Environmental Response, Compensation, and Liability Act Superfund (CERCLA)

11. The Clean Water Act (CWA)
12. The Safe Drinking Water Act (SDWA)
13. The Marine Protection, Research, and Sanctuaries Act (MPRSA)
14. The Shore Protection Act (SPA)

In each of these 14 sections, there are up to 5 headings covering the following stages of rulemaking:

1. Prerulemakings—Prerulemaking actions are intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as advance notices of proposed rulemaking (ANPRMs), significant studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required by section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals.
2. Proposed Rules—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).
3. Final Rules—This section includes rules that are within a year of final promulgation.
4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action is after September 2000.
5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the April 1999 Agenda. It also includes actions that we are no longer considering. If an action appears in the completed section, it will not appear in future Agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of our Regulatory Flexibility Act section 610 reviews in this section of the Agenda.

Actions Listed in the Regulatory Plan

The Plan includes information about the most significant actions that we will publish between October 1, 1999, and September 30, 2000, and about a few rules that we expect to publish after this time period. The Plan is published in part 2 of today's **Federal Register**. Plan entries include all of the Agenda data fields described above, plus up to five other types of information: Statement of Need, Summary of the Legal Basis, Alternatives, Anticipated Costs and Benefits, and a discussion of Risks.

What Information Is in Agenda Entries?

Agenda entries include the following information, where applicable:

Sequence Number: This indicates where the entry appears in the Agenda.

Title: Titles for new entries (those that haven't appeared in previous Agendas) are preceded by a bullet (•). The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below.

Economically Significant: As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. OMB reviews all economically significant rules under E.O. 12866.

Other Significant: A rulemaking that is not economically significant but is considered significant by the agency. This category includes rules that are an EPA priority and rules that EPA anticipates will be reviewed by the Office of Management and Budget under E.O. 12866 because they are likely to:

- create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- materially alter the budgetary impact of entitlements, grants; user fees, or loan programs or the rights or obligations of recipients; or
- raise novel legal or policy issues.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

Informational/Administrative/Other: A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

Also, if we believe that a rule may be "major" as defined in the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA) (5 U.S.C. 804; Pub. L. 104–121) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the "Priority" heading with the statement "Major under 5 U.S.C. 801."

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (P.L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that will be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, the alternatives that the agency is considering to address the problem; and the potential advantages and disadvantages of the action.

Timetable: The dates (and citations) that documents for this action were published in the Federal Register and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of a rule development. The projections in the Agenda are our best estimates as of the date we submit the Agenda for publication. For some entries, the timetable indicates that the date of the next action is "to be determined." Dates in 2000 or later are printed in the same form as other dates, using the last two digits of the year.

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the Regulatory Flexibility Act. Generally, such an analysis is required for

EPA

proposed or final rules that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates which small entities (businesses, governmental jurisdictions, or organizations), if any, may be affected by the rule.

Government Levels Affected: Indicates whether the rule is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any 1 year by State, local, and tribal governments, in the aggregate, or by the private sector. If we expect to exceed the section 202 threshold, we note that in this section.

Reinventing Government: If an action is part of the President's Reinventing Government Initiative, we indicate it in this section.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

SAN Number: A code number that EPA uses to identify and track rulemakings.

RIN: The Regulatory Information Service Center assigns the Regulatory Identifier Number (RIN) to identify and track rulemakings.

The October 1999 EPA Agenda follows.

Dated: September 3, 1999

Richard T. Farrell,

Associate Administrator, Office of Policy and Reinvention.

GENERAL—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3297	SAN No. 4056 Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements	2020-AA39
3298	SAN No. 4180 Rewriting of EPA Regulations Implementing the Freedom of Information Act	2020-AA40
3299	SAN No. 4270 Cross-Media Electronic Reporting (ER) and Recordkeeping Rule	2020-AA41
3300	SAN No. 4292 Proposed Revision to EPA's Implementing NEPA Regulations	2020-AA42
3301	SAN No. 3580 Incorporation of Class Deviations Into EPAAR	2030-AA37
3302	SAN No. 3629 EPA Mentor-Protege Program	2030-AA40
3303	SAN No. 3817 Implementation of Changes to 40 CFR Part 32	2030-AA48
3304	SAN No. 3876 Incrementally Funding Fixed Price Contracts	2030-AA50
3305	SAN No. 4226 Incorporating Informal Clauses (EP) Into the EPAAR	2030-AA66
3306	SAN No. 4319 Revisions to Acquisition Regulation Concerning Conflict of Interest	2030-AA67
3307	SAN No. 4351 Use of Letter Contracts - Notice to Proceed	2030-AA68

GENERAL—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3308	SAN No. 3807 Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA and FIFRA Into One Rule	2020-AA26
3309	SAN No. 3874 Deletion of EPA Acquisition Regulations for Quality Systems for Environmental Programs	2030-AA51
3310	SAN No. 3736 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation **(Reg Plan Seq No. 123)**	2030-AA55
3311	SAN No. 4128 Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule **(Reg Plan Seq No. 124)**	2030-AA56
3312	SAN No. 4185 Electronic Funds Transfer	2030-AA57
3313	SAN No. 4187 EPAAR Coverage on Local Hiring and Training	2030-AA62
3314	SAN No. 3671 Guidelines for Carcinogen Risk Assessment	2080-AA06

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

GENERAL—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3315	SAN No. 3240 Public Information and Confidentiality Regulations	2020-AA21
3316	SAN No. 3933 Environmental Impact Assessment of Nongovernmental Activities in Antarctica	2020-AA34
3317	SAN No. 4191 Revision to EPAAR 1552.211-73, Level of Effort	2030-AA64

EPA

GENERAL—Completed Actions

Sequence Number	Title	Regulation Identification Number
3318	SAN No. 2662 Amendments to Part 22 Consolidated Procedural Rules	2020-AA13
3319	SAN No. 4183 Agency Protest Solicitation Notification	2030-AA58
3320	SAN No. 4184 Contracting by Negotiation	2030-AA59
3321	SAN No. 4186 EPAAR Coverage on Contractor Performance Evaluations	2030-AA61
3322	SAN No. 4188 Service Contracting—Avoiding Improper Personal Services Relationships	2030-AA63

CLEAN AIR ACT (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3323	SAN No. 4328 List of Regulated Substances and Thresholds for Accidental Release Prevention; Petition to Delist Vinyl Acetate	2050-AE70

CLEAN AIR ACT (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3324	SAN No. 2841 NESHAP: Chromium Electroplating Amendment	2060-AH08
3325	SAN No. 1002 NAAQS: Sulfur Dioxide (Response to Remand) **(Reg Plan Seq No. 103)**	2060-AA61
3326	SAN No. 3263 Performance Warranty and Inspection/Maintenance Test Procedures	2060-AE20
3327	SAN No. 3262 Inspection/Maintenance Recall Requirements	2060-AE22
3328	SAN No. 3343 NESHAP: Iron Foundries and Steel Foundries	2060-AE43
3329	SAN No. 3341 NESHAP: Cyanide Chemicals Manufacturing	2060-AE45
3330	SAN No. 3346 NESHAP: Integrated Iron and Steel	2060-AE48
3331	SAN No. 3326 NESHAP: Reinforced Plastic Composites Production	2060-AE79
3332	SAN No. 3452 NESHAP: Miscellaneous Organic Chemical Production and Processes	2060-AE82
3333	SAN No. 3449 NESHAP: Chlorine Production	2060-AE85
3334	SAN No. 3407 Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions	2060-AF00
3335	SAN No. 3470 Requirements for Preparation, Adoption, and Submittal of State Implementation Plans (Guideline on Air Quality Models)	2060-AF01
3336	SAN No. 3551 Amendments to General Provisions Subparts A and B for 40 CFR 63	2060-AF31
3337	SAN No. 3412 Operating Permits: Revisions (Part 70) **(Reg Plan Seq No. 104)**	2060-AF70
3338	SAN No. 3649 Amendments to Method 24 (Water-Based Coatings)	2060-AF72
3339	SAN No. 3613 New Source Performance Standards and Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units	2060-AF91
3340	SAN No. 3568 Environmental Radiation Protection Standards for Yucca Mountain, Nevada **(Reg Plan Seq No. 105)**	2060-AG14
3341	SAN No. 3673 Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	2060-AG20
3342	SAN No. 3747 NESHAP: Boat Manufacturing	2060-AG27
3343	SAN No. 3749 NESHAP: Tire Manufacturing	2060-AG29
3344	SAN No. 3820 NESHAP: Plywood and Composite Wood Products	2060-AG52
3345	SAN No. 3821 NESHAP: Ethylene Processes	2060-AG53
3346	SAN No. 3823 NESHAP: Large Appliance (Surface Coating)	2060-AG54
3347	SAN No. 3824 Metal Furniture (Surface Coatings) NESHAP	2060-AG55
3348	SAN No. 3827 Paper and Other Web Coating NESHAP	2060-AG58
3349	SAN No. 3656 NESHAP/NSPS: Reciprocating Internal Combustion Engine	2060-AG63
3350	SAN No. 3655 NESHAP: Asphalt Roofing and Processing	2060-AG66
3351	SAN No. 3657 NESHAP: Combustion Turbine	2060-AG67
3352	SAN No. 3837 NESHAP: Industrial, Commercial and Institutional Boilers **(Reg Plan Seq No. 106)**	2060-AG69
3353	SAN No. 3906 NESHAP: Metal Can (Surface Coating) Industry	2060-AG96
3354	SAN No. 3905 NESHAP: Metal Coil (Surface Coating) Industry	2060-AG97
3355	SAN No. 3924 NESHAP: Primary Magnesium Refining	2060-AH03
3356	SAN No. 3970 NESHAP: Miscellaneous Cellulose Production	2060-AH11
3357	SAN No. 3969 NESHAP: Municipal Solid Waste Landfills	2060-AH13
3358	SAN No. 3964 NESHAP: Leather Tanning and Finishing Operations	2060-AH17

EPA

Sequence Number
3359
3360
3361
3362
3363
3364
3365
3366
3367
3368
3369
3370
3371
3372
3373
3374
3375
3376
3377
3378
3379
3380
3381
3382
3383
3384
3385
3386
3387
3388
3389
3390
3391
3392
3393
3394
3395
3396
3397
3398

VOL 64 ISS 224 NO 22 1999 UMI

EPA

CLEAN AIR ACT (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3359	SAN No. 3962 NESHAP: Manufacture of Carbon Black	2060-AH19
3360	SAN No. 3903 NESHAP: Vegetable Oil Production	2060-AH22
3361	SAN No. 3986 Consolidated Emission Reporting Rule	2060-AH25
3362	SAN No. 3917 Transportation Conformity Rule Amendment: Clarification of Trading Provisions	2060-AH31
3363	SAN No. 3910 Streamlined Evaporative Test Procedures	2060-AH34
3364	SAN No. 3975 Review of Minor New Sources and Modifications in Indian Country	2060-AH37
3365	SAN No. 3979 Review of Federal Test Procedures for Emissions From Motor Vehicles; Test Procedure Adjustments to Fuel Economy and Emission Test Results	2060-AH38
3366	SAN No. 3971 NESHAP: Organic Liquid Distribution	2060-AH41
3367	SAN No. 4046 Federal Major New Source Review (NSR) Program for Nonattainment Areas	2060-AH53
3368	SAN No. 4022 NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks	2060-AH55
3369	SAN No. 4120 Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import & Export	2060-AH67
3370	SAN No. 4105 NESHAP: Carbon Black Production	2060-AH68
3371	SAN No. 4123 NESHAP: for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule	2060-AH74
3372	SAN No. 4103 NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment Leaks	2060-AH81
3373	SAN No. 4114 NESHAP: Polyvinyl Chloride and CoPolymers Production	2060-AH82
3374	SAN No. 4119 Performance Specification 16 - Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources	2060-AH84
3375	SAN No. 4082 NESHAP: Wet-formed Fiberglass Mat Production	2060-AH89
3376	SAN No. 4003 Technical Change to Dose Methodology for 40 CFR 191, Subpart A	2060-AH90
3377	SAN No. 3479 Amendments to Parts 51, 52, 63, 70 and 71 Regarding the Provisions for Determining Potential To Emit	2060-AI01
3378	SAN No. 4154 Control of Emissions From Nonroad Spark-Ignition Engines Rated Over 19 kW and New Land-Based Recreational Spark-Ignition Engines	2060-AI11
3379	SAN No. 4043 Control of Emissions of Air Pollution From 2004 and Later Model Year Heavy-Duty Highway Engines and Vehicles; Revision of Light-Duty Truck Definition	2060-AI12
3380	SAN No. 4245 Consumer and Commercial Products: Flexible Package Printing Materials: Determination on Control Techniques Guidelines in Lieu of Regulation	2060-AI31
3381	SAN No. 4251 Control of Emissions of Air Pollution from New Compression-Ignition and Spark-Ignition Recreational Marine Engines	2060-AI36
3382	SAN No. 4252 Protection of Stratospheric Ozone: Manufacture of Halon Blends, Intentional Release of Halon, Technical Training and Disposal of Halon and Halon-Containing Equipment - Amendment	2060-AI40
3383	SAN No. 4271 Protection of Stratospheric Ozone: Additional Steps to conform US Methyl Bromide Program to Obligations under the Montreal Protocol and Recent Changes to the CAA	2060-AI41
3384	SAN No. 4253 Protection of Stratospheric Ozone: Process for Exempting Quarantine and Preshipment Methyl Bromide Used in the United States and Baseline Adjustments	2060-AI42
3385	SAN No. 4266 Review National Ambient Air Quality Standards for Carbon Monoxide	2060-AI43
3386	SAN No. 4255 Review of the National Ambient Air Quality Standards for Particulate Matter **(Reg Plan Seq No. 107)**	2060-AI44
3387	SAN No. 4254 Revision to the Definition of Volatile Organic Compound (VOC) to Exclude Tertiary Butyl Acetate	2060-AI45
3388	SAN No. 4243 Standards and Guidelines for Small Municipal Waste Combustion Units	2060-AI51
3389	SAN No. 4284 Revision of Schedule for Standards Under section 112 of the Clean Air Act	2060-AI52
3390	SAN No. 4285 Control of Emissions of Hazardous Pollutants from Motor Vehicles and Motor Vehicle Fuels	2060-AI55
3391	SAN No. 4340 Transportation Conformity Amendments: Response to March 2, 1999, Court Decision **(Reg Plan Seq No. 108)**	2060-AI56
3392	SAN No. 4272 Area Source Title V Operating Permit Deferrals	2060-AI58
3393	SAN No. 4333 Decision on a Petition from the Territory of American Samoa to be Exempted from the Gasoline Anti-dumping Regulations.	2060-AI60
3394	SAN No. 4309 National VOC Emission Standards for Consumer Products; Proposed Amendments	2060-AI62
3395	SAN No. 4287 National Volatile Organic Compound Emission Standard for Architectural Coatings; Proposed Amendments	2060-AI63
3396	SAN No. 4310 NESHAP for the Printing and Publishing Industry; Amendments	2060-AI66
3397	SAN No. 4355 Heavy-Duty Engine Emission Standards and Diesel Fuel Sulfur Control Requirements **(Reg Plan Seq No. 109)**	2060-AI69
3398	SAN No. 4356 Regulation of Fuels and Fuel Additives: Extension of Reformulated Gasoline Program to the Kansas City, KS Former Ozone Nonattainment Area	2060-AI70

EPA

CLEAN AIR ACT (CAA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3399	SAN No. 4313 Petitions to Delist Hazardous Air Pollutants (e.g., MEK, EGBE, Methanol, and MIBK) from Section 112(b)(1) of the Clean Air Act	2060-AI72
3400	SAN No. 4318 Protection of Stratospheric Ozone: Allocation of 2000 Essential-Use Allowances	2060-AI73
3401	SAN No. 4352 Transportation Conformity Amendment: Deletion of Grace Period	2060-AI76
3402	SAN No. 4353 Amendments to the Aerospace Manufacturing and Rework Facilities NESHAP for the Hap and Voc Content Limits for Primer Operations and Stay of Compliance.	2060-AI77
3403	SAN No. 4354 National Emission Standards for Hazardous Air Pollutants for Source Categories - Pharmaceuticals Production; Proposed Amendments	2060-AI78
3404	SAN No. 4273 Proposed Rule to Amend Subpart H, 40 CFR Part 61 for Emissions of Radionuclides Other Than Radon from DOE Facilities	2060-AI81
3405	SAN No. 4304 National Ambient Air Quality Standard for Ozone - Corrections Notice	2060-AI86
3406	SAN No. 4306 Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5	2060-AI87
3407	SAN No. 4348 Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule	2060-AI88
3408	SAN No. 4358 Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment	2060-AI89
3409	SAN No. 4273 Proposed Rule to Amend Subpart H, 40 CFR Part 61 for Emissions of Radionuclides Other Than Radon from DOE Facilities	2060-AI90
3410	SAN No. 4304 National Ambient Air Quality Standard for Ozone - Corrections Notice	2060-AI95
3411	SAN No. 4306 Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5	2060-AI96
3412	SAN No. 4348 Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule	2060-AI97
3413	SAN No. 4358 Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment	2060-AI98

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

CLEAN AIR ACT (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3414	SAN No. 4291 List of Regulated Substances and Thresholds for Accidental Release Prevention; Proposed Amendment; Flammable Hydrocarbon Fuel Exemption	2050-AE72
3415	SAN No. 3259 New Source Review (NSR) Reform **(Reg Plan Seq No. 125)**	2060-AE11
3416	SAN No. 3361 Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower) (Phase 2) **(Reg Plan Seq No. 126)**	2060-AE29
3417	SAN No. 3228 NESHAP: Manufacturing of Amino and Phenolic Resins (Polymers and Resins Group III)	2060-AE36
3418	SAN No. 3304 NESHAP: Phosphate Fertilizers Production	2060-AE44
3419	SAN No. 3340 NESHAP: Primary Copper Smelting	2060-AE46
3420	SAN No. 3078 NESHAP: Secondary Aluminum Industry	2060-AE77
3421	SAN No. 3380 NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater (FINAL) & Amend. to Appendix C of Part 63 & Appendix J of Part 61	2060-AE94
3422	SAN No. 3377 NESHAP: Publicly Owned Treatment Works (POTW)	2060-AF26
3423	SAN No. 3549 NESHAP: Petroleum Refineries—FCC Units, Reformers and Sulfur Plants	2060-AF28
3424	SAN No. 3553 Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations **(Reg Plan Seq No. 127)**	2060-AF34
3425	SAN No. 3556 Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608	2060-AF36
3426	SAN No. 3560 Protection of Stratospheric Ozone: Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants	2060-AF37
3427	SAN No. 3569 Source Specific Federal Implementation Plan for Navajo Generating Station; Four Corners Power Plant	2060-AF42
3428	SAN No. 2915 Methods for Measurement of Visible Emissions—Addition of Methods 203A, 203B, and 203C to Appendix M of Part 51	2060-AF83
3429	SAN No. 3637 Federal Implementation Plan (FIP) To Control Emissions From Sources Located on the Fort Hall Indian Reservation	2060-AF84
3430	SAN No. 3525 Protection of Stratospheric Ozone: Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program	2060-AG12

Sequence Number
3431
3432
3433
3434
3435
3436
3437
3438
3439
3440
3441
3442
3443
3444
3445
3446
3447
3448
3449
3450
3451
3452
3453
3454
3455
3456
3457
3458
3459
3460
3461
3462
3463
3464
3465
3466

References

EPA

CLEAN AIR ACT (CAA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3431	SAN No. 3741 Service Information Availability	2060-AG13
3432	SAN No. 3743 Amendments for Testing and Monitoring Provisions to Part 60, Part 61, and Part 63	2060-AG21
3433	SAN No. 3744 Amendment to Standards of Performance for New Stationary Sources; Monitoring Requirements (PS-1)	2060-AG22
3434	SAN No. 3748 Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry (**Reg Plan Seq No. 128**)	2060-AG28
3435	SAN No. 3819 NSPS: Sewage Sludge Incinerators	2060-AG50
3436	SAN No. 3829 Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)	2060-AG60
3437	SAN No. 3900 Addition of Method 207 to Appendix M of 40 CFR Part 51 Method for Measuring Isocyanates in Stationary Source Emissions	2060-AG88
3438	SAN No. 3958 Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)	2060-AH23
3439	SAN No. 3939 NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins	2060-AH47
3440	SAN No. 4030 Expanded Definitions for Alternative-Fueled Vehicles and Engines Meeting Low-Emission Vehicle Exhaust Emission Standards	2060-AH52
3441	SAN No. 4115 NESHAP: Chromium Electroplating Amendment	2060-AH69
3442	SAN No. 4095 Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport	2060-AH88
3443	SAN No. 4108 NESHAP: Off-Site Waste and Recovery Operations; Final Rule—Settlement Agreement; and NESHAP for Off-Site Waste and Recovery Operations; Technical Amendments	2060-AH96
3444	SAN No. 4077 Protection of Stratospheric Ozone: Reconsideration on the 610 Nonessential Products Ban	2060-AH99
3445	SAN No. 2665 Importation of Nonconforming Vehicles; Amendments to Regulations	2060-AI03
3446	SAN No. 4159 Redefinition of Glycol Ethers Listed as HAPs Under the Clean Air Act, and Hazardous Substances Under CERCLA	2060-AI08
3447	SAN No. 4162 NESHAP: Oil and Natural Gas Production and NESHAP: Natural Gas Transmission and Storage, Amendments	2060-AI13
3448	SAN No. 4165 Optional Certification Streamlining Procedures for LDVs, LDTs, and HDEs	2060-AI15
3449	SAN No. 4078 Control of Emissions of Air Pollution From New Marine Diesel Engines At or Above 37 Kilowatts	2060-AI17
3450	SAN No. 4211 Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards **(Reg Plan Seq No. 129)**	2060-AI23
3451	SAN No. 4219 Hospital/Medical/Infectious Waste Incinerators—Federal Plan (Federal Plan for existing Hospital/Medical/Infectious Waste Incinerators)	2060-AI25
3452	SAN No. 4244 Amendment to Regulations Governing Equivalent Emission Limitations by Permit	2060-AI28
3453	SAN No. 4222 NESHAP: Ethylene Oxide Commercial Sterilization and Fumigation Operations	2060-AI37
3454	SAN No. 3638 Revision of EPA's Radiological Emergency Response Plan	2060-AI49
3455	SAN No. 4066 Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to 5/30/91 and Have Not Been Modified or Reconstructed Since 5/30/91	2060-AI50
3456	SAN No. 4289 Process Wastewater Provisions of the Generic MACT	2060-AI53
3457	SAN No. 4335 Revisions to Promulgation of Federal Implementation Plan for Arizona - Maricopa Nonattainment Area PM-10 Test Methods	2060-AI54
3458	SAN No. 4295 Additional Flexibility Amendments to Inspection Maintenance Program Requirements; Amendments to the Final Rule	2060-AI61
3459	SAN No. 4316 NESHAP for Ethylene Oxide Commercial Sterilization Operations-Monitoring Amendments	2060-AI64
3460	SAN No. 4286 National Emission Standards for Benzene Emissions from Coke By-Product Recovery Plants (Part 61, subpart L)	2060-AI65
3461	SAN No. 4282 Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone (The "NOx SIP Call" rule)	2060-AI71
3462	SAN No. 4315 Source Specific Federal Implementation Plan for Navajo Generating Station; Navajo Nation	2060-AI79
3463	SAN No. 4276 Revision to NOx SIP Call Emission Budgets for Connecticut, Massachusetts and Rhode Island	2060-AI80
3464	SAN No. 4299 Revision to Method 24 for Electrical Insulating Varnishes	2060-AI85
3465	SAN No. 4275 Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning	2060-AI91
3466	SAN No. 4299 Revision to Method 24 for Electrical Insulating Varnishes	2060-AI94

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

EPA

CLEAN AIR ACT (CAA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3467	SAN No. 2937 Field Citation Program	2020-AA32
3468	SAN No. 3139 Location of Selective Enforcement Audits of Foreign Manufactured Vehicles and Engines; Amendment	2060-AD90
3469	SAN No. 3550 NESHAP: Manufacturing of Nutritional Yeast	2060-AF30
3470	SAN No. 3746 NESHAP: Paint Stripping Operations	2060-AG26
3471	SAN No. 3751 NSPS: New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators	2060-AG31
3472	SAN No. 3754 Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard	2060-AG34
3473	SAN No. 3825 NESHAP: Miscellaneous Metal Parts and Products (Surface Coating)	2060-AG56
3474	SAN No. 3826 Plastic Parts (Surface Coating) NESHAP	2060-AG57
3475	SAN No. 3652 NESHAP: Refractories Manufacturing	2060-AG68
3476	SAN No. 3651 NESHAP: Lime Manufacturing	2060-AG72
3477	SAN No. 3899 NESHAP: Friction Products Manufacturing	2060-AG87
3478	SAN No. 3922 Revised Permit Revision Procedures for the Federal Operating Permits Program	2060-AG92
3479	SAN No. 3902 NESHAP: Semiconductor Production	2060-AG93
3480	SAN No. 3909 NESHAP: Fabric Printing, Coating and Dyeing	2060-AG98
3481	SAN No. 3907 NESHAP: Automobile and Light-Duty Truck Manufacturing (Surface Coating)	2060-AG99
3482	SAN No. 3908 Offset Lithographic Printing National VOC Rule	2060-AH00
3483	SAN No. 3919 Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas	2060-AH01
3484	SAN No. 3904 NESHAP: Wood Building Products (Surface Coating)	2060-AH02
3485	SAN No. 3968 NESHAP: Site Remediation	2060-AH12
3486	SAN No. 3967 NESHAP: Spandex Production	2060-AH14
3487	SAN No. 3972 NESHAP: Rocket Engine Test Firing	2060-AH35
3488	SAN No. 3973 NESHAP: Flexible Polyurethane Foam Fabrication Operations	2060-AH42
3489	SAN No. 4045 Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations	2060-AH58
3490	SAN No. 4110 NESHAP: Alumina Processing	2060-AH70
3491	SAN No. 4111 NESHAP: Fumed Silica Production	2060-AH72
3492	SAN No. 4102 NESHAP: Taconite Iron Ore Processing	2060-AH73
3493	SAN No. 4104 NESHAP: Hydrochloric Acid Production Industry	2060-AH75
3494	SAN No. 4116 NESHAP: Ammonium Sulphate Production (Caprolactam By-Product)	2060-AH77
3495	SAN No. 4107 NESHAP: Asphalt/Coal Tar Application on Metal Pipes	2060-AH78
3496	SAN No. 4113 NESHAP: Clay Products Minerals	2060-AH79
3497	SAN No. 4112 NESHAP: Hydrogen Chloride Production	2060-AH80
3498	SAN No. 4098 NESHAP: Uranium Hexafluoride Production	2060-AH83
3499	SAN No. 4096 Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States	2060-AH87
3500	SAN No. 4070 General Conformity Regulations; Revisions	2060-AH93
3501	SAN No. 4240 NESHAP: Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand Alone Semichemical Pulp Mills	2060-AI34
3502	SAN No. 4218 NESHAP: Process Heaters	2060-AI35
3503	SAN No. 3626 Protection of Stratospheric Ozone: Amendment to Transshipment Provision in Final Rule Accelerating the Phaseout of Ozone-Depleting Substances	2060-AI46
3504	SAN No. 4247 Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)	2060-AI47
3505	SAN No. 4274 Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable (7 areas)	2060-AI57
3506	SAN No. 4325 NESHAP: Brick and Structural Clay Products	2060-AI67
3507	SAN No. 4343 NESHAP: Ceramics	2060-AI68
3508	SAN No. 4144 NESHAP: Engine Test Facilities	2060-AI74
3509	SAN No. 4346 NESHAP: Lightweight Aggregate	2060-AI75

Sequence Number
3510
3511
3512
3513
3514
3515
3516
3517
3518
3519
3520
3521
3522
3523
3524
3525
3526
3527
3528
3529
3530
3531
3532
3533
3534
3535
3536
3537
3538
3539
3540
3541
3542
3543
3544
3545
3546
3547
3548
3549
3550
3551

VOL 64 ISS 224 NOV 22 1999 UMI

EPA

CLEAN AIR ACT (CAA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3510	SAN No. 4279 Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act, Section 112(r)(7); Amendments to the Worst-Case Release Scenario Analysis for Regulated	2050-AE71
3511	SAN No. 3105 Integrated NESHAP and Effluent Guidelines: Pulp and Paper	2060-AD03
3512	SAN No. 3461 NESHAP: Mineral Wool Production Industry	2060-AE08
3513	SAN No. 3229 NESHAP: Oil and Natural Gas Production and Natural Gas Transmission and Storage	2060-AE34
3514	SAN No. 3303 NESHAP: Phosphoric Acid Manufacturing	2060-AE40
3515	SAN No. 3345 NESHAP: Steel Pickling, HC1 Process	2060-AE41
3516	SAN No. 3123 NESHAP: Wool Fiberglass Manufacturing Industry	2060-AE75
3517	SAN No. 3079 NESHAP: Portland Cement Manufacturing	2060-AE78
3518	SAN No. 3408 NESHAP: Polyether Polyols Production	2060-AE81
3519	SAN No. 3450 NESHAP: Pesticide Active Ingredient Production (Production of Agricultural Chemicals)	2060-AE84
3520	SAN No. 3467 NESHAP: Primary Lead Smelters	2060-AE97
3521	SAN No. 3378 NESHAP: Acrylic/Modacrylic Fibers Manufacturing	2060-AF06
3522	SAN No. 3465 NESHAP: Polycarbonates Production	2060-AF09
3523	SAN No. 3082 NESHAP: Ferroalloy Production	2060-AF29
3524	SAN No. 3640 Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label	2060-AF93
3525	SAN No. 3808 Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions	2060-AG46
3526	SAN No. 3828 Consumer & Commercial Products: Wood Furniture, Aerospace, Shipbuilding and Ship Repair Coatings: Control Techniques Guidelines in Lieu of Regulations	2060-AG59
3527	SAN No. 3610 Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program	2060-AG79
3528	SAN No. 3868 Federal Operating Permits Program in Indian Country	2060-AG90
3529	SAN No. 3901 Generic MACT for Source Categories (Acrylic Modacrylic Fibers, Polycarbonates, Hydrogen Fluoride, and Acetal Resins)	2060-AG91
3530	SAN No. 3654 NESHAP: Hydrogen Fluoride Production	2060-AG94
3531	SAN No. 3913 Revision to the Light-Duty Vehicle Emission Compliance Procedure (CAP 2000)	2060-AH05
3532	SAN No. 3966 Storage Tank Rule Revisions	2060-AH15
3533	SAN No. 3959 National Air Toxics Program: The Integrated Urban Strategy; Notice	2060-AH21
3534	SAN No. 3983 Protection of Stratospheric Ozone: Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a	2060-AH29
3535	SAN No. 4106 Final Rule To Amend the National Emission Standards for Magnetic Tape Manufacturing Operations	2060-AH71
3536	SAN No. 4073 Air Quality Index Reporting	2060-AH92
3537	SAN No. 4125 Electric Arc Furnace NSPS Amendment	2060-AH95
3538	SAN No. 4130 Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks	2060-AH97
3539	SAN No. 4148 Conformity Pilot	2060-AI14
3540	SAN No. 4206 Protection of Stratospheric Ozone: Incorporation of Montreal Protocol Adjustment for a 1999 Interim Reduction in Class I, Group VI Controlled Substances	2060-AI24
3541	SAN No. 4242 Acid Rain Program Permits Regulations and SO2 Allowance System: Compliance Determination	2060-AI27
3542	SAN No. 4267 Regulation of Fuel and Fuel Additives: Modification of Compliance Baseline	2060-AI29
3543	SAN No. 4246 Consumer and Commercial Products: Revised Schedule for Regulation	2060-AI30
3544	SAN No. 4268 Control of Diesel Fuel Quality	2060-AI32
3545	SAN No. 3961 No Backsliding Rule for PM-10 Nonattainment Areas	2060-AI39
3546	SAN No. 4256 Revisions to Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere	2060-AI48
3547	SAN No. 4277 Direct Final Amendment to Extent the 112j Permit Application Deadline for 7-year MACT Standards to 12/15/99	2060-AI59
3548	SAN No. 4275 Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning	2060-AI82
3549	SAN No. 4275 Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning	2060-AI83
3550	SAN No. 4296 Coke Oven NESHAP Amendment	2060-AI84
3551	SAN No. 4296 Coke Oven NESHAP Amendment	2060-AI93

EPA

ATOMIC ENERGY ACT (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3552	SAN No. 4054 Environmental Radiation Protection Standards for the Disposal of Low-Activity Mixed Radioactive Waste	2060-AH63

ATOMIC ENERGY ACT (AEA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3553	SAN No. 3602 Protective Action Guidance for Drinking Water	2060-AF39

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3554	SAN No. 4170 Pesticides; Procedures for Registration Review Program	2070-AD29

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3555	SAN No. 2687 Data Requirements for Pesticide Registration (Revision)	2070-AC12
3556	SAN No. 4143 Endocrine Disruptor Screening Program	2070-AD26
3557	SAN No. 4173 Data Requirements for Antimicrobial Registrations	2070-AD30
3558	SAN No. 4216 Regulatory Review of Pesticide Emergency Exemption Regulations	2070-AD36
3559	SAN No. 4260 Status of Pesticide-Treated Seeds under FIFRA	2070-AD37

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3560	SAN No. 3432 Pesticide Management and Disposal	2020-AA33
3561	SAN No. 2659 Pesticide Management and Disposal: Standards for Pesticide Containers and Containment	2070-AB95
3562	SAN No. 2684 Exemptions for Plant Pesticides Regulated Under FIFRA and FFDCA	2070-AC02
3563	SAN No. 3222 Ground Water and Pesticide Management Plan **(Reg Plan Seq No. 130)**	2070-AC46
3564	SAN No. 3731 WPS; Pesticide Worker Protection Standard; Glove Amendment	2070-AC93
3565	SAN No. 3890 Tolerances for Pesticide Emergency Exemptions	2070-AD15
3566	SAN No. 4347 Registration of Granular Fertilizer-Pesticide Combination Products	2070-AD40

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3567	SAN No. 2720 Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration	2020-AA29
3568	SAN No. 3892 Registration Requirements for Antimicrobial Pesticide Products; and Other Pesticide Regulatory Changes	2070-AD14
3569	SAN No. 4027 Pesticides; Tolerance Processing Fees	2070-AD23
3570	SAN No. 4175 Pesticide Tolerance Reassessment Program	2070-AD24

Sequence Number
3571
3572
3573
3574
3575
3576
3577
3578
3579
3580
3581
3582
3583
3584
3585
3586
3587
3588

Referenc

Sequence Number
3589
3590
3591
3592
3593
3594
3595
3596
3597
3598
3599
3600
3601
3602

Reference

EPA

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3571	SAN No. 4026 Exemption of Certain Pesticide Substances From FIFRA Requirements	2070-AD21

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3572	SAN No. 1923 Follow-Up Rules on Existing Chemicals	2070-AA58
3573	SAN No. 3494 Test Rules; Generic Entry for Proposed Decisions	2070-AB07
3574	SAN No. 2245 Test Rules; Negotiated Consent Order and Test Rule Procedures	2070-AB30
3575	SAN No. 2563 Test Rule; ATSDR Substances	2070-AB79
3576	SAN No. 2865 Children's Health Test Initiative	2070-AC27
3577	SAN No. 3148 Asbestos Model Accreditation Plan Revisions	2070-AC51
3578	SAN No. 3301 TSCA Inventory Update Rule Amendments **(Reg Plan Seq No. 110)**	2070-AC61
3579	SAN No. 4376 Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures Section 402(a)	2070-AC64
3580	SAN No. 2249 Asbestos Worker Protection Rule Amendments	2070-AC66
3581	SAN No. 3557 Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)	2070-AC83
3582	SAN No. 3243 Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan **(Reg Plan Seq No. 111)**	2070-AD06
3583	SAN No. 3882 Test Rule for Certain Metals	2070-AD10
3584	SAN No. 3894 TSCA Biotechnology Follow-Up Rules	2070-AD13
3585	SAN No. 3990 Multi-Chemical Test Rule; High Production Volume Chemicals	2070-AD16
3586	SAN No. 4176 Chemical Right-to-Know Initiative **(Reg Plan Seq No. 112)**	2070-AD25
3587	SAN No. 4174 TSCA Section 4 Enforceable Consent Agreement for Certain Oxygenated Fuel Additives	2070-AD28
3588	SAN No. 4172 Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))	2070-AD31

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3589	SAN No. 1976 Follow-Up Rules on Non-5(e) New Chemical Substances	2070-AA59
3590	SAN No. 2178 TSCA Section 8(a) Preliminary Assessment Information Rules	2070-AB08
3591	SAN No. 1139 TSCA Section 8(d) Health and Safety Data Reporting Rules	2070-AB11
3592	SAN No. 2150 PCBs; Polychlorinated Biphenyls; Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce	2070-AB20
3593	SAN No. 3495 Chemical-Specific Significant New Use Rules (SNURs) To Extend Provisions of Section 5(e) Orders	2070-AB27
3594	SAN No. 3493 Test Rules; Generic Entry for Final Decisions	2070-AB94
3595	SAN No. 2779 Acrylamide; Ban on Use of Acrylamide for Grouting	2070-AC17
3596	SAN No. 3528 Refractory Ceramic Fibers; Significant New Use Rules on National Program Chemicals	2070-AC37
3597	SAN No. 3021 PCBs; Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule	2070-AC39
3598	SAN No. 3243 Lead; TSCA Section 403; Identification of Dangerous Levels of Lead **(Reg Plan Seq No. 131)**	2070-AC63
3599	SAN No. 3487 Test Rule; Hazardous Air Pollutants (HAPs)	2070-AC76
3600	SAN No. 3118 TSCA Section 8(e) Policy; Notice of Clarification	2070-AC80
3601	SAN No. 3559 Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances	2070-AC84
3602	SAN No. 4179 PCBs; Polychlorinated Biphenyl; Use Authorizations	2070-AD27

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

EPA

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3603	SAN No. 3252 Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use	2070-AC21
3604	SAN No. 3508 Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)	2070-AC72

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3605	SAN No. 3047 Asbestos-Containing Materials in Schools Rule Amendments	2070-AC62
3606	SAN No. 3480 Guidance on Environmentally Preferable Purchasing for Federal Agencies	2070-AC78
3607	SAN No. 3881 Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)	2070-AD11

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3608	SAN No. 4023 TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory **(Reg Plan Seq No. 102)**	2070-AD19

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3609	SAN No. 2425 TRI; Responses to Petitions Received To Add or Delete or Modify Chemical Listings on the Toxic Release Inventory	2070-AC00
3610	SAN No. 2847 TRI; Pollution Prevention Act Information Requirements	2070-AC24
3611	SAN No. 3007 TRI; Chemical Expansion; Finalization of Deferred Chemicals	2070-AC47
3612	SAN No. 4265 TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption	2070-AD39

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3613	SAN No. 3880 TRI; Reporting Threshold Amendment for Certain Persistent and Bioaccumulative Toxic Chemicals (PBTs) **(Reg Plan Seq No. 132)**	2070-AD09
3614	SAN No. 4259 TRI; Lowering of EPCRA Section 313 Reporting Thresholds for Lead and Lead Compounds **(Reg Plan Seq No. 133)**	2070-AD38

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3615	SAN No. 3215 Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	2050-AE17
3616	SAN No. 3994 Response to a Petition Requesting Deletion of Phosmet from the Extremely Hazardous Substances (EHSs) List	2050-AE42
3617	SAN No. 3993 Modification of Threshold Planning Quantity for Isophorone Diisocyanate	2050-AE43

EPA

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)—Long Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3618	SAN No. 3877 TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know	2070-AD08
3619	SAN No. 4015 TRI; Review of Chemicals on the Original TRI List	2070-AD18

CHEMICAL SAFETY INFORMATION, SITE SECURITY AND FUELS REGULATORY RELIEF ACT—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3620	SAN No. 4302 Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities	2050-AE74

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3621	SAN No. 3201 Regulatory Determination on Remaining Wastes From the Combustion of Fossil Fuels	2050-AD91
3622	SAN No. 4093 Reinventing the Land Disposal Restrictions Program	2050-AE53
3623	SAN No. 4230 Revisions to Solid Waste Landfill Criteria—Leachate Recirculation	2050-AE67
3624	SAN No. 4350 Criteria for Municipal Solid Waste Landfills **(Section 610 Review)**	2050-AE75

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3625	SAN No. 3328 Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes **(Reg Plan Seq No. 113)**	2050-AE07
3626	SAN No. 3147 Hazardous Waste Manifest Regulation **(Reg Plan Seq No. 114)**	2050-AE21
3627	SAN No. 3989 Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)	2050-AE41
3628	SAN No. 4028 Standardized Permit for RCRA Hazardous Waste Management Facilities **(Reg Plan Seq No. 115)**	2050-AE44
3629	SAN No. 4017 Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste; Proposed Modifications **(Reg Plan Seq No. 116)**	2050-AE45
3630	SAN No. 4083 Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities	2050-AE49
3631	SAN No. 4091 Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipers	2050-AE51
3632	SAN No. 4092 Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations	2050-AE52
3633	SAN No. 4094 Land Disposal Restrictions; Potential Revisions for Mercury Listed and Characteristic Wastes	2050-AE54
3634	SAN No. 4090 RCRA Appendix VIII Streamlining	2050-AE55
3635	SAN No. 4233 Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)	2050-AE65
3636	SAN No. 4229 Revisions to Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste	2050-AE66
3637	SAN No. 4360 Alternative Land Disposal Restrictions Treatment Standards for Contaminated Soils, Deferral of PCB's as an Underlying Hazardous Constituent in Soil	2050-AE76

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

EPA

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3638	SAN No. 2390 Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities	2050-AB80
3639	SAN No. 2647 RCRA Subtitle C Financial Test Criteria (Revision)	2050-AC71
3640	SAN No. 3066 Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments	2050-AD80
3641	SAN No. 3151 Chlorinated Aliphatics Listing Determination	2050-AD85
3642	SAN No. 3545 Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials	2050-AE23
3643	SAN No. 3886 Review of Toxicity Characteristic Level for Silver Under the Resource Conservation Recovery Act (RCRA)	2050-AE37
3644	SAN No. 4088 Recycled Used Oil Containing PCBs	2050-AE47
3645	SAN No. 4178 180-Day Accumulation Time Under RCRA for Generators of F006 Waste Water Treatment Sludges from the Metal Finishing Industry	2050-AE60

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3646	SAN No. 3189 Final Determination of the Applicability of the Toxicity Characteristic Rule to Petroleum Contaminated Media and Debris from Underground StorageTanks	2050-AD69
3647	SAN No. 3333 Revised Standards for Hazardous Waste Combustion Facilities	2050-AE01
3648	SAN No. 3428 Hazardous Waste Management System: Slag Residues Derived From High Temperature Metals Recovery (HTMR) Treatment of KO61, KO62 and F0006 Wastes	2050-AE15
3649	SAN No. 3668 Hazardous Waste Identification; Recycled Used Oil Management Standards	2050-AE28
3650	SAN No. 3805 Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste	2050-AE32
3651	SAN No. 3856 Management of Cement Kiln Dust (CKD)	2050-AE34
3652	SAN No. 3888 Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions	2050-AE39
3653	SAN No. 4084 RCRA Reporting and Recordkeeping Burden Reduction	2050-AE50
3654	SAN No. 4263 Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris	2050-AE68
3655	SAN No. 4208 Proposed Regulatory Amendments on Recycling of Hazardous Wastes in Fertilizers	2050-AE69

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3656	SAN No. 3237 Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps	2050-AD93
3657	SAN No. 4300 Adequacy of State Permit Programs Under RCRA Subtitle D	2050-AE73

OIL POLLUTION ACT (OPA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3658	SAN No. 2634 Oil Pollution Prevention Regulation: Revisions	2050-AC62

EPA

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3659	SAN No. 3439 National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules	2050-AD75
3660	SAN No. 3423 Reportable Quantity Adjustments for Carbamates	2050-AE12
3661	SAN No. 4177 Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; Revision of 40 CFR Part 35 Subpart O	2050-AE62

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3662	SAN No. 3806 Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M	2050-AE33

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3663	SAN No. 2394 Reporting Exemptions for Federally Permitted Releases of Hazardous Substances	2050-AB82
3664	SAN No. 3885 Streamlining the Preauthorization Mixed Funding for Application and Implementation of Claims Against Superfund	2050-AE38
3665	SAN No. 4201 Criteria for the Designation of Hazardous Substances under CERCLA Section 102(a)	2050-AE63

CLEAN WATER ACT (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3666	SAN No. 4364 Effluent Limitations Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Category **(Section 610 Review)**	2040-AD45
3667	SAN No. 4344 Water Quality Standards for Indian Country Waters	2040-AD46

CLEAN WATER ACT (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3668	SAN No. 2804 Clean Water Act Definition of the Waters of the United States	2040-AB74
3669	SAN No. 3488 Standards for the Use or Disposal of Sewage Sludge (Round II)	2040-AC25
3670	SAN No. 3444 Minimizing Adverse Environmental Impact from Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act	2040-AC34
3671	SAN No. 4207 Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two	2040-AC53
3672	SAN No. 3662 Water Quality Standards Regulation — Revision	2040-AC56
3673	SAN No. 3999 Revisions to NPDES Requirements for Municipal Sanitary Sewer Collection Systems	2040-AD02
3674	SAN No. 4047 Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts	2040-AD08
3675	SAN No. 4051 Establishment of Electronic Reporting for NPDES Permittees	2040-AD11
3676	SAN No. 4153 Effluent Guidelines and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations **(Reg Plan Seq No. 121)**	2040-AD19
3677	SAN No. 4167 Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories **(Reg Plan Seq No. 122)**	2040-AD21
3678	SAN No. 4168 Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category	2040-AD24
3679	SAN No. 4235 Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zone for Bioaccumulative Chemicals of Concern	2040-AD32
3680	SAN No. 4214 Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act	2040-AD34

EPA

CLEAN WATER ACT (CWA)—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3681	SAN No. 4261 Further Revisions to Clean Water Act Definition of Discharge of Dredged Material	2040-AD41

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

CLEAN WATER ACT (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3682	SAN No. 2805 Effluent Guidelines and Standards for the Centralized Waste Treatment Industry	2040-AB78
3683	SAN No. 3204 Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category	2040-AB98
3684	SAN No. 3288 Comparison of Dredged Material to Reference Sediment	2040-AC14
3685	SAN No. 3489 Effluent Guidelines and Standards for Landfills	2040-AC23
3686	SAN No. 3504 Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California	2040-AC44
3687	SAN No. 3663 Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution	2040-AC58
3688	SAN No. 3762 NPDES Streamlining Rule — Round II	2040-AC70
3689	SAN No. 3701 Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act	2040-AC76
3690	SAN No. 3767 Reformatting of Effluent Guidelines and Standards in 40 CFR Parts 401 through 471	2040-AC79
3691	SAN No. 3785 NPDES Comprehensive Storm Water Phase II Regulations **(Reg Plan Seq No. 134)**	2040-AC82
3692	SAN No. 3714 Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring	2040-AC92
3693	SAN No. 3713 Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures	2040-AC93
3694	SAN No. 3155 Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One	2040-AC95
3695	SAN No. 4041 Effluent Guidelines and Standards for Industrial Waste Combustors	2040-AD03
3696	SAN No. 4145 Total Maximum Daily Load (TMDL) Program Regulations Revisions **(Reg Plan Seq No. 136)**	2040-AD22
3697	SAN No. 4192 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment	2040-AD23
3698	SAN No. 4195 Water Quality Standards for Alabama—Phase I	2040-AD25
3699	SAN No. 4193 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance — Revision of Polychlorinated Biphenyls (PCBs) Criteria	2040-AD27
3700	SAN No. 4234 EPA Review and Approval of State and Tribal Water Quality Standards	2040-AD33
3701	SAN No. 4294 Total Maximum Daily Load (TMDL) - NPDES and WQS Regulations Revisions **(Reg Plan Seq No. 137)**	2040-AD36
3702	SAN No. 4332 Recognition Awards Under the Clean Water Act	2040-AD44
3703	SAN No. 4217 Facility Response Plan Regulation for Certain Non-Transportation-Related Facilities that Handle, Store, or Transport Vegetable Oils and Animal Fats	2050-AE64

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

CLEAN WATER ACT (CWA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3704	SAN No. 2806 Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2	2040-AB79
3705	SAN No. 3234 Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information	2040-AC26
3706	SAN No. 3618 Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC54
3707	SAN No. 3661 Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance	2040-AC55
3708	SAN No. 3702 Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act	2040-AC75
3709	SAN No. 3786 NPDES Streamlining Rule — Round III	2040-AC84
3710	SAN No. 3833 Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category	2040-AC90

EPA

CLEAN WATER ACT (CWA)—Long Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3711	SAN No. 3921 Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System	2040-AC97
3712	SAN No. 4049 Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act	2040-AD09
3713	SAN No. 4050 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II	2040-AD10
3714	SAN No. 4099 Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two	2040-AD12
3715	SAN No. 4086 Revisions to Effluent Guidelines and Standards for Synthetic-Based Drilling Fluids in the Oil and Gas Extraction Point Source Category	2040-AD14
3716	SAN No. 4264 Water Quality Standards for Alabama—Phase II	2040-AD35
3717	SAN No. 4357 Uniform National Discharge Standards for Vessels of the Armed Forces - Phase II	2040-AD39
3718	SAN No. 4280 Effluent Guidelines for the Construction and Development Industry	2040-AD42

CLEAN WATER ACT (CWA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3719	SAN No. 2501 NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal	2040-AB39
3720	SAN No. 3209 Effluent Guidelines and Standards for the Industrial Laundries Point Source Category	2040-AB97
3721	SAN No. 3497 Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One	2040-AC29
3722	SAN No. 3617 Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act	2040-AC63
3723	SAN No. 3804 Streamlining 301(h) Waiver Renewal Requirements	2040-AC89
3724	SAN No. 3925 Uniform National Discharge Standards for Armed Forces Vessels—Phase I	2040-AC96
3725	SAN No. 4039 Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment	2040-AD05
3726	SAN No. 4048 Test Procedures for the Analysis of Mercury Under the Clean Water Act	2040-AD07
3727	SAN No. 4133 Effluent Guidelines and Standards for the Ore Mining and Dressing Point Source Category, Gold Placer Mine Subcategory **(Completion of a Section 610 Review)**	2040-AD13

SAFE DRINKING WATER ACT (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3728	SAN No. 2281 National Primary Drinking Water Regulations: Radon **(Reg Plan Seq No. 117)**	2040-AA94
3729	SAN No. 2340 National Primary Drinking Water Regulations: Ground Water Rule **(Reg Plan Seq No. 118)**	2040-AA97
3730	SAN No. 2807 National Primary Drinking Water Regulations: Arsenic **(Reg Plan Seq No. 119)**	2040-AB75
3731	SAN No. 4147 Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule **(Reg Plan Seq No. 120)**	2040-AD18
3732	SAN No. 4212 Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants	2040-AD31

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

SAFE DRINKING WATER ACT (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3733	SAN No. 2778 Revisions to the Underground Injection Control Regulations for Class V Injection Wells	2040-AB83
3734	SAN No. 3440 National Primary Drinking Water Regulations: Lead and Copper	2040-AC27
3735	SAN No. 3563 Reformatting of Drinking Water Regulations	2040-AC41
3736	SAN No. 3992 National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters	2040-AC98
3737	SAN No. 4044 National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements	2040-AD04
3738	SAN No. 4009 Public Water System Public Notification Regulation **(Reg Plan Seq No. 135)**	2040-AD06

EPA

SAFE DRINKING WATER ACT (SDWA)—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3739	SAN No. 4152 Drinking Water State Revolving Fund Regulations	2040-AD20
3740	SAN No. 4236 Update of State Underground Injection Control Programs	2040-AD40
3741	SAN No. 4281 Revision to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR).	2040-AD43

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

SAFE DRINKING WATER ACT (SDWA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3742	SAN No. 3176 National Primary Drinking Water Regulations: Sulfate	2040-AC07
3743	SAN No. 3238 National Primary Drinking Water Standards for Aldicarb	2040-AC13
3744	SAN No. 3761 Streamlining Drinking Water Monitoring Requirements	2040-AC73
3745	SAN No. 4341 Long Term 2 Enhanced Surface Water Treatment Rule	2040-AD37
3746	SAN No. 4342 Stage 2 Disinfectants/Disinfection Byproducts Rule	2040-AD38

SAFE DRINKING WATER ACT (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identification Number
3747	SAN No. 4131 Drinking Water Unregulated Contaminant Monitoring Program	2040-AD15
3748	SAN No. 4146 Filter Backwash Recycling Regulation	2040-AD17
3749	SAN No. 4257 National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides	2040-AD29
3750	SAN No. 4221 National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium	2040-AD30

MARINE PROTECTION RESEARCH AND SANCTUARY ACT (MPRSA)—Long Term Actions

Sequence Number	Title	Regulation Identification Number
3751	SAN No. 2737 Revisions to Ocean Dumping Regulations for Dredged Material	2040-AB62

SHORE PROTECTION ACT (SPA)—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3752	SAN No. 2820 Shore Protection Act, Section 4103(b) Regulations	2040-AB85

Environmental Protection Agency (EPA)

Proposed Rule Stage

General

3297. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Priority: Other Significant

Legal Authority: PL 101-507; PL 102-389; PL 101-549 sec 1001; 42 USC 9605(f); PL 100-590; EO 12432; EO 12138; EO 11625

CFR Citation: 40 CFR 33

Legal Deadline: None

Abstract: The regulation will codify revisions to the Agency's program for the utilization of Small, Minority and Women's Business Enterprises in procurements under assistance agreements (i.e., grants and cooperative agreements awarded by EPA as well as grants and cooperative agreements awarded by other agencies under interagency agreements with EPA). The revisions are necessary to ensure consistency with the Supreme Court's decision in Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097 (1995), and were identified as part of the Administration's recent review of affirmative action programs. They include: 1) placing greater emphasis on requiring assistance agreement recipients to submit documentation supporting proposed fair share procurement objectives for Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) based on the availability of qualified MBEs and WBEs in the relevant geographic market; 2) authorizing or requiring recipients and their prime contractors to take reasonable race/gender-conscious measures (e.g. bidding credits) in the event that race/gender-neutral efforts prove inadequate to meet fair share objectives; and 3) administering statutory MBE/WBE objectives as a national goal, allowing smaller or larger fair share objectives for particular grants or cooperative agreements based on the availability standard.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4056

Agency Contact: Mark Gordon, Environmental Protection Agency, General Counsel and Enforcement Counsel, 1230, Washington, DC 20460
Phone: 202 260-8886

Rebecca Neer, Environmental Protection Agency, General Counsel and Enforcement Counsel, 1230, Washington, DC 20460
Phone: 202 280-4841

RIN: 2020–AA39

3298. REWRITING OF EPA REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 40 CFR 2

Legal Deadline: None

Abstract: This document sets forth proposed revisions to the Agency's regulations under the Freedom of Information Act (FOIA). The FOIA regulations have been streamlined and condensed, in accordance with the principles of the National Performance Review, with more user-friendly language wherever possible. These revisions also reflect the principles established by President Clinton and Attorney General Reno in their FOIA Policy Memoranda of October 4, 1993. Additionally, the regulations have been updated to reflect developments in the case law and to include updated cost figures to be used in calculating and charging fees. These proposed revisions also contain new provisions implementing the Electronic Freedom of Information Act Amendments of 1996. These revisions will simplify and expedite responses to FOIA requests.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Additional Information: SAN No. 418

Agency Contact: John Heinz, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2377, Washington, DC 20460
Phone: 202 260-5460
Fax: 202 260-0020
Email: heinz.john@epa.gov

Alan Margolis, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2377, Washington, DC 20460
Phone: 202 260-5459

RIN: 2020–AA40

3299. CROSS-MEDIA ELECTRONIC REPORTING (ER) AND RECORDKEEPING RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 105-277; PL 104-13

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Cross-Media Electronic Reporting (ER) and Recordkeeping Rule will provide a uniform legal framework for paperless ER, including electronic signature/certification, across all EPA's environmental compliance programs. The rule will both remove current legal requirements for paper that create obstacles to ER and provide for enforceable mechanisms to assure the legal validity and authenticity of electronic documents and associated electronic signatures, whether transmitted as reports or maintained as records. This rule is important because the legal and electronic signature issues remain the chief obstacle to implementation of ER, and affect the overall enforceability of environmental programs both federally and under state delegation/authorization. Also, the Government Paperwork Elimination Act of 1998 requirements and the Administrator's Reinventing Environmental Information (REI) Action Plan goal of universal ER availability by 2003 can only be met if this rulemaking has active participation by the AA-ships and moves on a fast track.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 427

Agency Contact: Evi Huffer, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2137, Washington, DC 20460
Phone: 202 564-0004
Email: huffer.evi@epa.gov

David Schwarz, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2137, Washington, DC 20460
Phone: 202 260-2710
Email: schwarz.david@epa.gov

RIN: 2020–AA41

3300. • PROPOSED REVISION TO EPA'S IMPLEMENTING NEPA REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 42 USC 4321

CFR Citation: 40 CFR Part 6

Legal Deadline: None

Abstract: The proposed revision is necessary to clarify and update EPA's National Environmental Policy Act (NEPA) regulation. The revision would clarify Agency responsibilities for: Congressionally funded special appropriation projects and EPA funded grant programs. The revision would clarify public involvement procedures and organization responsibilities. The proposal would revise the list of actions which are categorically excluded from analyses. The revision is also needed to incorporate a number of Executive Orders and other cross-cutting requirements into the NEPA process.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4292

Agency Contact: Joseph Montgomery, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2252A, Washington, DC 20460
Phone: 202 564-7157
Fax: 202 564-0070
Email: montgomery.joseph@epa.gov

Marguerite Duffy, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2252A, Washington, DC 20460
Phone: 202 564-7148

RIN: 2020–AA42

3301. INCORPORATION OF CLASS DEVIATIONS INTO EPAAR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1537; 48 CFR 1552

Legal Deadline: None

Abstract: The Agency has approved a number of class deviations (e.g. changes to reporting requirements and monthly progress reports) to the EPAAR since its promulgation in April 1994. This proposed rule would incorporate most of the class deviations to the EPAAR.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 358

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4368
Email: smith.frances@epamail.epa.gov

RIN: 2030–AA37

3302. EPA MENTOR-PROTEGE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1544; 48 CFR 1552

Legal Deadline: None

Abstract: This proposed rule will amend EPA's Acquisition Regulation (EPAAR) to establish a Mentor-Protege Program. Participating prime contractors serving as mentors will provide technical and managerial support to protege small disadvantaged business subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 362

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4368
Email: smith.frances@epamail.epa.gov

RIN: 2030–AA40

3303. IMPLEMENTATION OF CHANGES TO 40 CFR PART 32

Priority: Info./Admin./Other

Legal Authority: EO 12549; EO 12689 and FASA

CFR Citation: 40 CFR 32

Legal Deadline: None

Abstract: Periodically OMB amends the Government-wide Common Rule for suspension and debarment of contractors and assistance participants who threaten the integrity of Federal programs because of criminal misconduct or poor performance. All agencies must issue changes to their individual codified versions to conform to the Common Rule. Recently, the Interagency Suspension and Debarment Coordinating Committee prepared recommendations for comprehensive changes to the Common Rule to conform to changes made in the Federal Acquisition Regulation (FAR) as a result of the Federal Acquisition Streamlining Act (FASA). In addition, several other proposals to improve or change the rule were recommended by various agencies. In December 1996, OMB declined to implement the changes at that time due to differences with some agencies about some changes unrelated to those occasioned by FASA.

Among other things, FASA replaced the small purchase threshold ($25,000)

with the simplified acquisition amount ($100,000). That change unintentionally exposed certain EPA programs to participation by contractors who may have been debarred for serious misconduct already. OMB has agreed to permit agencies to amend the coverage section of their individual agency rules to reduce or eliminate exposure to suspended or debarred persons.

EPA intends to issue a notice of proposed rulemaking to amend 40 CFR 32.110 to reduce EPA exposure to such consequences.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3817

This is an assistance-related statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Robert Meunier, Environmental Protection Agency, Administration and Resource Management, 3901R, Washington, DC 20460
Phone: 202 564-5399
Fax: 202 565-2469

RIN: 2030–AA48

3304. INCREMENTALLY FUNDING FIXED PRICE CONTRACTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1532

Legal Deadline: None

Abstract: This proposed rule will add subpart 1532.7, Contract Funding, to the Environmental Protection Agency's Acquisition Regulation (EPAAR). It also will revise part 1552 of the EPAAR to include a clause for incrementally funding fixed price contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3876

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4368
Email: smith.frances@epamail.epa.gov

RIN: 2030–AA50

3305. INCORPORATING INFORMAL CLAUSES (EP) INTO THE EPAAR

Priority: Info./Admin./Other

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390, as amended

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule is being promulgated to amend the EPAAR to incorporate Environmental Protection (EP) clauses into the EPAAR. There are a large number of EP clauses being used by contracting officers. This promulgation will capture those EP clauses that have not been submitted for public comment. Most of the EP clauses are used in contracts on a case-by-case basis. The contractor concurs with use of such clauses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. The agency has not yet determined whether there is a paperwork burden associated with this action.

Additional Information: SAN No. 4226

Agency Contact: Paul Schaffer, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4366
Email: schaffer.paul@epa.gov

RIN: 2030–AA66

3306. • REVISIONS TO ACQUISITION REGULATION CONCERNING CONFLICT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The purpose of this rule is to revise the Agency's conflict of interest (COI) acquisition regulations. The specific revisions involve more stringent requirements for submission of relevant information from Agency contractors and potential contractors regarding their relationships with parent companies, affiliates, subsidiaries, and sister companies. Current Agency regulations do not require the submission of this level of information. Receipt and evaluation of this information is critical in order for the Agency to decide whether or not COI situations exist and how they are to be handled. This revised rule will also codify several COI clauses that have been developed since the issuance of the previous rule in 1994.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 431

Sectors Affected: 5413 Architectural, Engineering and Related Services; 5416 Management, Scientific and Technical Consulting Services; 54162 Environmental Consulting Services; 5417 Scientific Research and Development Services; 562 Waste Management and Remediation Services

Agency Contact: Bruce M. Bakaysa, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460

EPA—General **Proposed Rule Stage**

Phone: 202 564-4373
Fax: 202 565-2552
Email: bakaysa.bruce@epa.gov

Cal McWhirter, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4379
Fax: 202 565-2552
Email: McWhirter.cal@epa.gov

RIN: 2030–AA67

3307. • USE OF LETTER CONTRACTS - NOTICE TO PROCEED

Priority: Info./Admin./Other

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulations (EPAAR) to provide for the use, in certain response action situations, of a letter contract known as a Notice to Proceed (NTP) and to identify the limited circumstances under which such a contractual instrument may be used.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4351

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4368
Fax: 202 564-2475
Email: smith.frances@epamail.epa.gov

RIN: 2030–AA68

Environmental Protection Agency (EPA)
General **Final Rule Stage**

3308. CONSOLIDATION OF GOOD LABORATORY PRACTICE STANDARDS (GLPS) REGULATIONS CURRENTLY UNDER TSCA AND FIFRA INTO ONE RULE

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 15 USC 2601 et seq

CFR Citation: 40 CFR 160; 40 CFR 792

Legal Deadline: None

Abstract: On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. Although the TSCA and FIFRA GLPS contain identical provisions, they were published as separate rules to account for statutory and program differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences between TSCA and FIFRA, such as differences in records retention requirements. EPA believes it will be able to address the differences of those programs without duplicating the entire GLP standard in two places.

This action is intended to consolidate EPA's GLPS into one rule. Program-specific requirements will be addressed in either separate sections of the consolidated rule, or in separate rules as is determined appropriate. This action is not intended to change the requirements, applicability, or enforceability of GLPS with respect to any statute.

EPA has received comments from stakeholders regarding the understandability of many aspects of the GLPS, and over the years has issued numerous clarifications. EPA believes that some clarifications, if included directly in the rule, would make the rule easier to understand and enhance compliance. Therefore, EPA intends to include such clarifications where appropriate in this rulemaking. Finally, in the interest of maintaining consistency between EPA's and Food and Drug Administration's regulations, EPA will determine any modifications that have occurred to the FDA GLP rule and consider incorporation of such changes into the EPA rule. This action will serve to reduce the total regulatory text in the Code of Federal Regulations by an estimated 10 pages, by consolidating 23 pages of text to approximately 13. In the process it will provide a generic GLP rule that may be used by other programs in the Agency.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3456
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3807

Agency Contact: David Stangel, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2225A, Washington, DC 20460
Phone: 202 564-4162
Fax: 202 564-0028

RIN: 2020–AA26

3309. DELETION OF EPA ACQUISITION REGULATIONS FOR QUALITY SYSTEMS FOR ENVIRONMENTAL PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 1546.2

Legal Deadline: None

Abstract: EPA is deleting the quality assurance requirements in its Acquisition Regulation (EPAAR) because the Federal Acquisition

VOL 64 ISS 224 NO 22 1999 UMI

Regulation (FAR) contains coverage on this subject.

Timetable:

Action	Date	FR Cite
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3874

Agency Contact: Linda Avellar, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4356
Email: avellar.linda@epamail.epa.gov

RIN: 2030–AA51

3310. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (STATE) GRANT REGULATION

Regulatory Plan: This entry is Seq. No. 123 in Part II of this issue of the **Federal Register**.

RIN: 2030–AA55

3311. REVISION TO 40 CFR 35 SUBPART A AND PROMULGATION OF PERFORMANCE PARTNERSHIP (TRIBAL) GRANT RULE

Regulatory Plan: This entry is Seq. No. 124 in Part II of this issue of the **Federal Register**.

RIN: 2030–AA56

3312. ELECTRONIC FUNDS TRANSFER

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1532.11

Legal Deadline: None

Abstract: This rule complies with the revised Federal Acquisition Regulations (FAR) coverage regarding implementation of the Debt Collection Improvement Act. Because the revised FAR offers choices in implementation, each agency must communicate with its vendor community its choices. This rule will let our vendor community know that EPA will require the use of FAR Clause 52.232-34, Payment by Electronic Funds Transfer (Non-CCR), as prescribed in FAR 32.1105(a)(2). Within the Clause, under (c) the payment office shall be inserted as the prescribed designated office. Further inserted shall be that the required EFT information shall be provided no later than 15 days prior to submission of the first request for payment.

Timetable:

Action	Date	FR Cite
Direct Final Rule	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4185

Agency Contact: Calvin McWhirter, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4379
Fax: 202 565-2552
Email: mcwhirter.calvin@epa.gov

RIN: 2030–AA57

3313. EPAAR COVERAGE ON LOCAL HIRING AND TRAINING

Priority: Other Significant

Legal Authority: 5 USC 301 sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1526; 48 CFR 1552

Legal Deadline: None

Abstract: This rule will amend the EPA Acquisition Regulation (EPAAR) to include part 1526, Other Socioeconomic Programs, and to revise part 1552, Solicitation Provisions and Contract Clauses. The purpose is to provide an incentive for prime contractors to utilize local hiring and provide training to local hires in specific geographical locations where contractual requirements will be performed. This incentive will support economic development in areas where EPA contracts are performed.

Timetable:

Action	Date	FR Cite
NPRM	12/09/98	63 FR 67845
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4187

Agency Contact: Frances Smith, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4368
Email: smith.frances@epamail.epa.gov

RIN: 2030–AA62

3314. GUIDELINES FOR CARCINOGEN RISK ASSESSMENT

Priority: Info./Admin./Other

Legal Authority: Not applicable

CFR Citation: None

Legal Deadline: None

Abstract: The Agency will use these guidelines to evaluate suspect carcinogens in line with the policies and procedures established in the statutes administered by the EPA. These guidelines revise and replace EPA Guidelines for Carcinogen Risk Assessment published at 51 FR 33992, September 24, 1986. These guidelines provide EPA staff and decision-makers with the directions and perspectives necessary to develop and use risk assessments. The guidelines also provide the general public with basic information about the Agency's approaches to risk assessment.

To develop guidelines the Agency must find a balance between consistency and innovation. Consistent risk assessments provide consistent bases to support regulatory decision-making. On the other hand, innovation is necessary so the Agency will base its decisions on

EPA—General **Final Rule Stage**

current scientific thinking. In balancing these and other science policies, the Agency relies on input from the general scientific community through established scientific peer review processes. The guidelines incorporate basic principles and science policies based on evaluation of the currently available information. The revisions place increased emphasis on the role of carcinogenic mechanisms in risk assessment and clearer explication of underlying assumptions in risk assessment.

These guidelines will have minimal to no impact on small businesses or State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
Reproposed Guidelines	04/23/96	61 FR 17960
Implementation Policy	06/25/96	61 FR 32799
Final Guidelines	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3671

Agency Contact: William Wood, Environmental Protection Agency, Office of Research and Development, 8103, Washington, DC 20460
Phone: 202 564-3358

RIN: 2080–AA06

Environmental Protection Agency (EPA) **Long-Term Actions**

General

3315. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 7 USC 136 et seq; 33 USC 1251 et seq; 42 USC 300(f) et seq; 42 USC 6901 et seq; 42 USC 7401 et seq; 42 USC 9601 et seq; 42 USC 11001 et seq; 15 USC 2601 et seq; 42 USC 4912; 33 USC 1414; 21 USC 346; 15 USC 2005

CFR Citation: 40 CFR 2; 40 CFR 57; 40 CFR 122; 40 CFR 123; 40 CFR 145; 40 CFR 233; 40 CFR 260; 40 CFR 270; 40 CFR 271; 40 CFR 281; 40 CFR 350; 40 CFR 403; 40 CFR 85; 40 CFR 86

Legal Deadline: None

Abstract: EPA regulations at 40 CFR part 2, subpart B, provide procedures for handling and disclosing information claimed as CBI. Although these regulations have succeeded in protecting business information, changes in Agency workload, practice, and statutory authority have outstripped the ability of these regulations to cut down on unnecessary procedures, expedite activities involving confidential business information, and simplify the regulations. In addition, EPA would consolidate confidentiality provisions from other parts of 40 CFR.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60446
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 324

Agency Contact: Alan Margolis, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2379, Washington, DC 20460
Phone: 202 260-5459

RIN: 2020–AA21

3316. ENVIRONMENTAL IMPACT ASSESSMENT OF NONGOVERNMENTAL ACTIVITIES IN ANTARCTICA

Priority: Other Significant

Legal Authority: 16 USC 2401 et seq, as amended; 16 USC 2403(a); PL 104-227

CFR Citation: 40 CFR 8

Legal Deadline: Final, Statutory, October 2, 1998.

Abstract: The purpose of this action is to develop regulations for: (1) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty and (2) coordination of the review of information regarding environmental impact assessment received by the United States from other parties under the Protocol on Environmental Protection. The Office of Federal Activities (OECA/OFA) will use the decisionmaking process of the National Environmental Policy Act (NEPA) to analyze the environmental setting; the types of nongovernmental activities, including tourism, to be addressed by the regulations; their potential for impact; and the alternatives available under rulemaking for environmental impact assessments for nongovernmental activities. An interim final rule, 40 CFR part 8, promulgated April 30, 1997, and on July 15, 1998 extended through the 2000-2001 austral summer, will be replaced by a final rule. The interim final rule was effective immediately so that the U.S. could ratify the Protocol and implement its obligations under the Protocol as soon as it entered into force. These rules are being developed in coordination with other Federal agencies with specific interests in and expertise with Antarctica including the Department of State, National Science Foundation, National Oceanic and Atmospheric Administration, U.S. Coast Guard, Marine Mammal Commission, Department of Justice, and the Council on Environmental Quality.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/97	62 FR 23538
Extension of Effective Date Interim Rule	04/15/98	63 FR 18323
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: SAN No. 3933

Legal Description: The Interim Final Rule, effective 7/14/98, through the year 2000-2001 austral summer.

Agency Contact: Joseph Montgomery, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2252A, Washington, DC 20460
Phone: 202 564-7157
Fax: 202 564-0072
Email: montgomery.joseph@epa.gov

EPA—General **Long-Term Actions**

Katherine Biggs, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2252A, Washington, DC 20460
Phone: 202 564-7144
Fax: 202 564-0072
Email: biggs.katherine@epa.gov

RIN: 2020–AA34

3317. REVISION TO EPAAR 1552.211-73, LEVEL OF EFFORT

Priority: Info./Admin./Other

Legal Authority: 5 USC 301 Sec 205(c); 63 Stat 390 as amended

CFR Citation: 48 CFR 1552

Legal Deadline: None

Abstract: This rule will revise EPAAR 1552.211-73, Level of Effort, to define more concisely the services being acquired, and to more accurately reflect the relationship between services provided and fee payments.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4191

Agency Contact: Larry Wyborski, Environmental Protection Agency, Administration and Resource Management, 3802R, Washington, DC 20460
Phone: 202 564-4369
Email: wyborski.larry@epamail.epa.gov

RIN: 2030–AA64

Environmental Protection Agency (EPA) **Completed Actions**

General

3318. AMENDMENTS TO PART 22 CONSOLIDATED PROCEDURAL RULES

Priority: Info./Admin./Other

CFR Citation: 40 CFR 22

Completed:

Reason	Date	FR Cite
NPRM	02/25/98	63 FR 9465
Final Action	07/23/99	64 FR 40176

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Scott Garrison
Phone: 202 260-0569

RIN: 2020–AA13

3319. AGENCY PROTEST SOLICITATION NOTIFICATION

Priority: Other Significant

CFR Citation: 48 CFR 1533; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Direct Final Rule	04/08/99	64 FR 17109

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Avellar
Phone: 202 564-4356
Email: avellar.linda@epamail.epa.gov

RIN: 2030–AA58

3320. CONTRACTING BY NEGOTIATION

Priority: Other Significant

CFR Citation: 48 CFR 1503; 48 CFR 1515; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Final Action	08/31/99	64 FR 47409

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Louise Senzel
Phone: 202 564-4367
Email: senzel.louise@epamail.epa.gov

RIN: 2030–AA59

3321. EPAAR COVERAGE ON CONTRACTOR PERFORMANCE EVALUATIONS

Priority: Other Significant

CFR Citation: 48 CFR 1509; 48 CFR 1552

Completed:

Reason	Date	FR Cite
Final Action	04/26/99	64 FR 20201
Tech Amend	07/29/99	64 FR 41042

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frances Smith
Phone: 202 564-4368
Email: smith.frances@epamail.epa.gov

RIN: 2030–AA61

3322. SERVICE CONTRACTING—AVOIDING IMPROPER PERSONAL SERVICES RELATIONSHIPS

Priority: Other Significant

CFR Citation: 48 CFR 1537; 48 CFR 1552

Completed:

Reason	Date	FR Cite
NPRM	01/20/99	64 FR 3060
Final Action	06/08/99	64 FR 30443

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jean Rellins
Phone: 202 564-4434
Fax: 202 565-2551
Email: rellins.jean@epa.gov

RIN: 2030–AA63

Environmental Protection Agency (EPA) — **Prerule Stage**

Clean Air Act (CAA)

3323. • LIST OF REGULATED SUBSTANCES AND THRESHOLDS FOR ACCIDENTAL RELEASE PREVENTION; PETITION TO DELIST VINYL ACETATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412(r)(3-4) CAA 112 (r)(3-4); 42 USC 7412(b)(3) CAA 112 (b)(3)

CFR Citation: 40 CFR Part 68

Legal Deadline: Other, Statutory, November 15, 1999, See additional information.

Abstract: The Agency received a petition dated May 15, 1998 requesting deletion of vinyl acetate from the CAA 112(r) List of Regulated Substances for Accidental Release Prevention. The Agency is re-evaluating whether the chemical meets the statutory criteria for listing under CAA 112(r)(4). If the Agency decides that the chemical should be deleted, it will propose to delete the chemical by rulemaking. If the Agency decides that the chemical should stay on the list, it will publish a notice in the Federal Register denying the petition and explaining the basis of the denial. Any owner or operator of a stationary source that has greater than threshold quantity of a listed substance, must submit a Risk Management Plan to EPA by June 21, 1999 and update the plan every five years.

Timetable:

Action	Date	FR Cite
Notice	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 4328

Legal Deadline Cont: Section 68.120 states that "within 18 months of receipt of a petition; the Administrator shall publish in the Federal Register a notice either denying the petition or granting the petition and proposing a listing." Therefore, the Agency must publish a notice by November 15, 1999.

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

Agency Contact: Kathy Franklin, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-2250

Sicy Jacob, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-7249
Fax: 202 260-0927

RIN: 2050–AE70

Environmental Protection Agency (EPA) — **Proposed Rule Stage**

Clean Air Act (CAA)

3324. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Other Significant

Legal Authority: 42 USC 7402 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Final standards under section 112(d) for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR 63, subpart N) were promulgated on January 25, 1995. Since promulgation, the Agency has determined that a class of chromium electroplating operations were inadvertently excluded from regulation. Specifically, the final standards do not apply to sources engaged in continuous chromium electroplating of steel sheet used to make cans and other containers. It is the Agency's intent to regulate all facilities engaged in chromium electroplating. Therefore, the Agency plans to amend the chromium electroplating rule to extend its applicability to continuous chromium electroplating operations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 2841

Agency Contact: Philip B. Mulrine, Environmental Engineer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5289
Email: mulrine.phil@epa.gov

Alfred E. Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5602

RIN: 2060–AH08

3325. NAAQS: SULFUR DIOXIDE (RESPONSE TO REMAND)

Regulatory Plan: This entry is Seq. No. 103 in Part II of this issue of the **Federal Register**.

RIN: 2060–AA61

3326. PERFORMANCE WARRANTY AND INSPECTION/MAINTENANCE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7541; 42 USC 7601

CFR Citation: 40 CFR 51; 40 CFR 85

Legal Deadline: None

Abstract: This action establishes a new short test procedure for use in I/M programs required by the Clean Air Act Amendments of 1990. Vehicles that are tested and failed using this procedure and that meet eligibility requirements established by the act would be eligible for free warranty repair from the manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3263

Agency Contact: Eugene Tierney, Environmental Protection Agency, Air

and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 734 214-4456

RIN: 2060–AE20

3327. INSPECTION/MAINTENANCE RECALL REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7511(a)(2)(b); 42 USC 7511(a)(2)(b)(2)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action specifies requirements for enhanced I/M programs to establish a program to ensure compliance with recall notices. This is pursuant to the Clean Air Act Amendments of 1990.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3262

Agency Contact: Eugene Tierney, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 734 214-4456

RIN: 2060–AE22

3328. NESHAP: IRON FOUNDRIES AND STEEL FOUNDRIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000, See Additional Information.

Abstract: Iron foundries and steel foundries have been identified by the EPA as potentially significant sources of air emissions of manganese compounds, lead compounds, and other substances that are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act, as amended in November of 1990. As such, these industries may be source categories for which national emission standards may be warranted.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3343

EPA is required to promulgate standards for all of the source categories listed in accordance with section 112(e) by November 15, 2000.

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5602
Email: vervaert.al@epa.gov

Jim Maysilles, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-3265
Fax: 919 541-5600
Email: maysilles.jim@epa.gov

RIN: 2060–AE43

3329. NESHAP: CYANIDE CHEMICALS MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Cyanide compounds are among the pollutants listed as hazardous air pollutants in section 112 of the Clean Air Act Amendments of 1990. As a consequence, the EPA has determined that sources that manufacture cyanide compounds may reasonably be anticipated to emit cyanide compounds in quantities sufficient to qualify them as major sources. Three source categories that either produce hydrogen cyanide or use it in the production of other chemicals, specifically cyanuric chloride and sodium cyanide, are on the initial list of HAP emitting source categories selected for regulation. The results of an assessment of the three source categories conducted by the Agency indicated that cyanuric chloride is an unstable intermediate product and is incorrectly listed. Also every facility producing sodium cyanide also produces hydrogen cyanide. As result of this analysis, the cyanuric chloride source category was delisted and the sodium and hydrogen cyanide source categories will be compressed into one cyanide source category. In addition, this new cyanide category was switched from the list of categories scheduled to be regulated in 1997 to the list of categories scheduled for regulation in 2000.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3341

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

Agency Contact: Keith Barnett, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5605
Email: barnett.keith@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

RIN: 2060–AE45

3330. NESHAP: INTEGRATED IRON AND STEEL

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAP). The EPA has determined that integrated iron and steel mills emit several of the 188 HAP listed (including compounds of chromium, lead, manganese, toluene, and polycyclic organic matter) in quantities

sufficient to designate them as major sources. As a consequence, integrated iron and steel facilities are among the HAP-emitting source categories selected for regulation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Rule	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3346

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5602
Email: vervaert.al@epa.gov

Phil Mulrine, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5289
Fax: 919 541-5600
Email: mulrine.phil@epa.gov

RIN: 2060–AE48

3331. NESHAP: REINFORCED PLASTIC COMPOSITES PRODUCTION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: Project is to develop a NESHAP for the source category which involves the manufacture of composite products involving thermoset resins and re-enforcements. Some of the specific products in the source category are tubs/showers, auto/truck parts, appliances, furniture, piping, construction materials, sporting goods using such materials, and intermediate compounds such as bulk molding compound and sheet molding compounds. The most common HAP in the resins used is styrene, which is present in polyester and vinylester resins as a monomer. Styrene is listed as a candidate urban area source HAP. So is methylene chloride, which is sometimes used for cleaning, and xylenes, which may appear in some mold release formulas. All HAP, except for methylene chloride, are also VOC's.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3326

Agency Contact: Keith Barnett, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5605
Email: barnett.keith@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

RIN: 2060–AE79

3332. NESHAP: MISCELLANEOUS ORGANIC CHEMICAL PRODUCTION AND PROCESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This regulation will cover organic chemical manufacturing processes not covered by the HON or other MACT standards. The regulation will control process vents (continuous and batch, including mixing operations), equipment leaks, storage tanks, wastewater, solvent recovery, and heat exchange systems.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3452

Sectors Affected: 32551 Paint and Coating Manufacturing; 325992 Photographic Film, Paper, Plate and Chemical Manufacturing

Agency Contact: Randy McDonald, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5402
Email: mcdonald.randy@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

RIN: 2060–AE82

3333. NESHAP: CHLORINE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: The chlorine production source category includes facilities engaged in the production of chlorine and sodium hydroxide (caustic) by one of the following electrolytic processes: diaphragm cell, membrane cell, and mercury cell. Hazardous air pollutants emitted include chlorine, hydrogen chloride, and mercury. None of the facilities are major sources on their own. However, several are co-located with major sources (e.g., pulp and paper plants, polymer plants, synthetic organic chemical plants, etc.). Emissions of chlorine and hydrogen chloride are very minor and the Agency is evaluating whether regulation of these HAPs is warranted. Relative to mercury, which is among five pollutants listed for regulation under section 112(c)(6) due to their persistent and bioaccumulative effects, the Agency intends to subject to regulation under section 112(d)(2) all mercury cell facilities regardless of major source status.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 344

VOL 64 ISS 224 NOV 22 1999 UMI

EPA—Clean Air Act (CAA) — Proposed Rule Stage

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5602
Email: vervaert.al@epa.gov

Iliam Rosario, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5308
Fax: 919 541-5600
Email: rosario.iliam@epa.gov

RIN: 2060–AE85

3334. METHOD 301: FIELD VALIDATION OF POLLUTION MEASUREMENT METHODS FOR VARIOUS MEDIA; REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; PL 101-549; 42 USC 7410 et seq

CFR Citation: 40 CFR 60; 40 CFR 63

Legal Deadline: None

Abstract: After promulgation of Method 301, questions were raised about the statistical calculations and the procedure for determining the quality of the data. This rule will clarify those rule provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State

Additional Information: SAN No. 3407

Agency Contact: Gary McAlister, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-1062
Email: mcalister.gary@epa.gov

RIN: 2060–AF00

3335. REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF STATE IMPLEMENTATION PLANS (GUIDELINE ON AIR QUALITY MODELS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410 CAAA sec 110(a)(2); CAAA sec 165(e); CAAA sec 172(a); CAAA sec 172(c); 42 USC 7601 CAAA sec 301(a)(1); CAAA sec 320

CFR Citation: 40 CFR 51.112; 40 CFR 51.160; 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: This action proposes revisions to the Guideline on Air Quality Models, published as appendix W to 40 CFR part 51. Such models are used to predict ambient concentrations of pollutants for programs ranging from Prevention of Significant Deterioration (PSD) to State Implementation Plans (SIPs) for controlling air pollution sources. Appendix W to 40 CFR part 51 fulfills a Clean Air Act mandate for EPA to specify models for air management purposes. This proposed rulemaking enhances appendix W with new and/or improved techniques.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 347

Agency Contact: Tom Coulter, Environmental Protection Agency, Air and Radiation, MD-14
Phone: 919 541-0832

RIN: 2060–AF01

3336. AMENDMENTS TO GENERAL PROVISIONS SUBPARTS A AND B FOR 40 CFR 63

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549; 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63.1; 40 CFR 63.51

Legal Deadline: None

Abstract: The General Provisions (subpart A) were promulgated on March 16, 1994 (59 FR 12408). The General Provisions create the technical and administrative framework and establish general procedures and criteria for implementing MACT standards. On May 16, 1994, six litigants filed petitions for EPA to review certain provisions of the General Provisions. Subpart B, the procedures for implementing section 112(j), were promulgated on May 26, 1994. In June, 1994 litigants filed petitions for EPA to review the promulgated procedures. As a result of the litigation, it is anticipated that a number of technical and administrative amendments to subpart A and B will be proposed.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3551

Agency Contact: James Szykman, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-2452
Email: szykman.jim@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AF31

3337. OPERATING PERMITS: REVISIONS (PART 70)

Regulatory Plan: This entry is Seq. No. 104 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF70

3338. AMENDMENTS TO METHOD 24 (WATER-BASED COATINGS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The determination of volatile organic compounds (VOCs) content of a surface coating by reference Method 24 involves determination of its water content and calculation of its VOC content as the difference of the two measurements (volatile content minus water content). Method 24 is inherently less precise for water-based coatings than it is for solvent-based coatings and the imprecision increases as water content increases. This action will amend Method 24 by adding a direct measurement procedure for measuring

VOC content of water-based coatings. This amendment will improve the precision of Method 24 for water-based coatings.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 364

Agency Contact: Candace Sorrell, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-1064
Email: sorrell.candace@epa.gov

RIN: 2060–AF72

3339. NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline: NPRM, Judicial, November 15, 1999.

Abstract: Section 129 of the Clean Air Act Amendments requires the Agency to finalize New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Commercial and Industrial Solid Waste Incinerators (CISWIs). Negotiations have been completed with the litigants to grant an extension to the Agency. The Agency has agreed to propose standards by November 1999, and promulgate standards by November 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3613

Agency Contact: Richard Crume, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5294
Email: crume.richard@epa.gov

Amanda Aldridge, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

RIN: 2060–AF91

3340. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA

Regulatory Plan: This entry is Seq. No. 105 in Part II of this issue of the **Federal Register**.

RIN: 2060–AG14

3341. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION OF SECTION 608 SALES RESTRICTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7671(g) CAA sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of chlorofluorocarbons, hydrochlorofluorocarbons, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board. This action has no impact on small business and State, local, and tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3673

Agency Contact: Vera Au, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-2216
Fax: 202 565-2093

RIN: 2060–AG20

3342. NESHAP: BOAT MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the boat manufacturing industry. The most abundant pollutant emitted by this industry is styrene, which is listed as a hazardous air pollutant in the 1990 Clean Air Act. The Agency will study the various hazardous air pollutants emitted by the industry and will evaluate pollution prevention and abatement techniques which can reduce emissions from these pollutants.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3747

Sectors Affected: 336611 Ship Building and Repairing; 336612 Boat Building

Agency Contact: Mark Morris, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5416

EPA—Clean Air Act (CAA) **Proposed Rule Stage**

Email: morris.mark@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

RIN: 2060–AG27

3343. NESHAP: TIRE MANUFACTURING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This is a 10-year MACT covering the HAP emissions from the manufacturing of Rubber tires. The emission sources associated with the rubber compound mixing (banbury); extruding; calendaring; building; curing and finishing are covered in this MACT. Forty one facilities have been initially identified. This includes approximately 35 facilities of at least 10 tpy and 26 facilities of at least 25 tpy. Emissions are primarily associated with rubber processing and the use of HAP bearing solvent and cements. Several facilities have eliminated through substitution much of the HAP bearing solvent and cements. However, evaluation of the MACT and separation of the rubber processing emissions from HAP bearing solvents and cement will reduce the number of affected facilities to about 30. In addition, the tire cord coating operations will also be included. Typically these facilities are separate non-colocated operations. The major pollutant associated with tire cord is formaldehyde. There are approximately 12 affected major facilities

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 374

Agency Contact: Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5674
Fax: 919 541-0942
Email: wyatt.susan@epa.gov

Tony Wayne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5439
Fax: 919 541-0942
Email: wayne.tony@epa.gov

RIN: 2060–AG29

3344. NESHAP: PLYWOOD AND COMPOSITE WOOD PRODUCTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7412(d)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAP) by establishing maximum achievable control technology (MACT) for facilities manufacturing wood panels and engineered wood products. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, the drying of wood and binders. The scope of the affected source category has not been determined; however, this rule is anticipated to apply to the manufacture of products involving wood and some kind of binder or bonding agent. This project may include, but is not limited to, facilities that manufacture waferboard, hardboard fiber board (MDF), oriented strandboard (OSB), medium density fiberboard, particleboard, strawboard, hardwood and softwood plywood, glue-laminated lumber, laminated veneer lumber, and engineered wood products. The source category may also include lumber drying kilns at sawmills which are located on the same site as a facility that manufactures any of the wood products mentioned above. The project may also include some coatings operations. The name of the source category was formerly Plywood and Particleboard MACT.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 382

Sectors Affected: 32121 Veneer, Plywood, and Engineered Wood Product Manufacturing

Agency Contact: Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5395

Mary Tom Kissell, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-4516
Email: kissell.mary@epa.gov

RIN: 2060–AG52

3345. NESHAP: ETHYLENE PROCESSES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act requires development of emission standards for all major sources emitting any of the 188 hazardous air pollutants (HAPs) identified in section 112(b) of the CAA. Ethylene Processes is listed as a category of major sources based on process knowledge emissions of benzene and butadiene. This action will explore alternatives controlling the release of HAPs from the following process areas located at ethylene process facilities: process streams, storage, equipment leaks and other fugitive sources, and wastewater operations. There are no anticipated impacts on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

EPA—Clean Air Act (CAA) — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3821

Agency Contact: Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5396
Email: lassiter.penny@epa.gov

Warren Johnson, Jr., Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5124
Fax: 919 541-3470
Email: johnson.warren@epa.gov

RIN: 2060–AG53

3346. NESHAP: LARGE APPLIANCE (SURFACE COATING)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will apply to surface coating of large appliance products and parts for household, commercial, or recreational use. This regulation will reduce nationwide emissions of HAPs from surface coating of large appliances, a measure required by section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3823

Sectors Affected: 335222 Household Refrigerator and Home Freezer Manufacturing; 335221 Household Cooking Appliance Manufacturing; 335224 Household Laundry Equipment Manufacturing; 335212 Household Vacuum Cleaner Manufacturing; 333298 All Other Industrial Machinery Manufacturing; 335228 Other Major Household Appliance Manufacturing; 336391 Motor Vehicle Air-Conditioning Manufacturing; 333415 Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing; 333319 Other Commercial and Service Industry Machinery Manufacturing

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Mohamed Serageldin, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-2379
Fax: 919 541-5689
Email: serageldin.mohamed@epa.gov

RIN: 2060–AG54

3347. METAL FURNITURE (SURFACE COATINGS) NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will apply to surface coating of metal furniture products and parts for household or commercial use. This regulation will reduce nationwide emissions of HAPs from surface coating of metal furniture products and parts, which is required under section 112 of the Clean Air Act.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal

Additional Information: SAN No. 3824

Sectors Affected: 337124 Metal Household Furniture Manufacturing; 33636 Motor Vehicle Fabric Accessories and Seat Manufacturing; 337215 Showcase, Partition, Shelving, and Locker Manufacturing; 337127 Institutional Furniture Manufacturing; 332116 Metal Stamping; 332612 Wire Spring Manufacturing; 337215 Showcase, Partition, Shelving, and Locker Manufacturing

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Mohamed Serageldin, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-2379
Fax: 919 541-5689
Email: serageldin.mohamed@epa.gov

RIN: 2060–AG55

3348. PAPER AND OTHER WEB COATING NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59; 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action would result in the reduction of hazardous air pollutants (HAPs) emitted by the paper and other web coating industries. The Agency will study the various HAP and VOC pollutants emitted by the industry and will evaluate pollution prevention and control techniques which can reduce these emissions. There are likely to be small businesses in the paper and other web coating industry, but at this time it is not known how many of these small businesses will be subject to these rules.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: SAN No. 3827

Agency Contact: Daniel Brown, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5305
Email: brown.dan@epa.gov

Dianne Byrne, Environmental Protection Agency, Air and Radiation,

(A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AG58

3349. NESHAP/NSPS: RECIPROCATING INTERNAL COMBUSTION ENGINE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 101-549; 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The stationary reciprocating internal combustion engine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. The EPA will gather information on HAP emissions from internal combustion engines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions, if any. The EPA will also gather information for NOx, SO2, CO, and PM and decide whether standards are required to reduce these emissions. The EPA will use information that has already been developed, if possible, by gathering information by working with State/local agencies, vendors, manufacturers of internal combustion engines, owners and operators of internal combustion engines, and environmentalists. Some small businesses that use internal combustion engines may be directly impacted as well as a few small government entities who produce their own power. The number of small entities that would be affected is not known at this time.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3656

Agency Contact: Sims Roy, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5263
Email: roy.sims@epa.gov

Amanda Aldridge, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

RIN: 2060–AG63

3350. NESHAP: ASPHALT ROOFING AND PROCESSING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The CAA required EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the asphalt roofing and processing industry may be reasonably anticipated to emit one of the pollutants listed in section 112(b) of the CAA. As a consequence, the source category is included on the initial list of HAP-emitting categories scheduled for standards promulgation within ten years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emission standards may be proposed and promulgated according to the mandated schedule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Interim Final	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3655

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Juan Santiago, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-1084
Fax: 919 541-5600
Email: santiago.juan@epa.gov

RIN: 2060–AG66

3351. NESHAP: COMBUSTION TURBINE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 44 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The combustion turbine source category is listed as a major source of hazardous air pollutants (HAPs) under section 112 of the Clean Air Act (CAA). A major source is one which emits more than 10 tons/yr of one HAP or more than 25 tons/yr of a combination of 189 HAPs. Combustion turbines also emit NOx, SO2, CO, and PM. Combustion turbines are already regulated for NOx and SO2 emissions under section 111 of the CAA. The EPA will gather information on HAP emissions from combustion turbines and determine the appropriate maximum achievable control technology (MACT) to reduce HAP emissions, if any. The EPA will also gather information to revise the 1979 NSPS for NOx and SO2 and decide whether CO and PM standards are required for combustion turbines. The EPA information that has already been developed will be used if possible and additional information will be gathered by working with State/local agencies, vendors, manufacturers of combustion turbines, owners and operators of combustion turbines, and environmentalists. The number of small

entities that would be affected is not known at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 3657

Agency Contact: Sims Roy, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5263
Email: roy.sims@epa.gov

Amanda Aldridge, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

RIN: 2060–AG67

3352. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS

Regulatory Plan: This entry is Seq. No. 106 in Part II of this issue of the **Federal Register**.

RIN: 2060–AG69

3353. NESHAP: METAL CAN (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the metal can industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions. The Agency will also determine what, if any, impact the rule would have on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Additional Information: SAN No. 3906

Agency Contact: George F. Smith, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-1549
Fax: 919 541-5689
Email: smith.george@epa.gov

Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919-541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AG96

3354. NESHAP: METAL COIL (SURFACE COATING) INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants emitted by the metal coil surface coating industry. The Agency will study what pollutants are emitted and evaluate the control techniques, including pollution prevention, that are used to reduce these emissions. The Agency will also determine what, if any, impact the rule would have on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3905

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

3355. NESHAP: PRIMARY MAGNESIUM REFINING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 60

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act (Act), as amended November 1990, requires the EPA to regulate categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b). The EPA has determined that sources that manufacture primary magnesium may reasonably be anticipated to emit several of the 189 HAPs listed (including chlorine and hydrochloric acid) in quantities sufficient to designate them as a major source. As a consequence, primary magnesium refining is among the HAP emitting source categories selected for regulation and is in the group of categories for which final rules are scheduled to be promulgated by November 15, 2000 (58 FR 63941, December 3, 1993).

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3924

Agency Contact: Iliam Rosario, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5308
Fax: 919 541-5600
Email: rosario.iliam@epa.gov

Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AH03

Rhea Jones, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-2940
Fax: 919 541-5689
Email: jones.rhea@epa.gov

RIN: 2060–AG97

3356. NESHAP: MISCELLANEOUS CELLULOSE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (NESHAPs) by establishing maximum achievable control technology (MACT) for facilities manufacturing cellulose ether, carboxymethyl cellulose ether, methyl cellulose ether, cellulose food casing, cellulosic sponges, producing rayon, and producing cellophane. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, product washing operations, material storage tanks, and film drying. The scope of the rule has not been determined.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3970

Project combined with SAN 3963

Sectors Affected: 325221 Cellulosic Organic Fiber Manufacturing; 326113 Unsupported Plastics Film and Sheet (except Packaging) Manufacturing

Agency Contact: Bill Schrock, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5032
Fax: 919 541-3470
Email: schrock.bill@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5396
Email: lassiter.penny@epa.gov

RIN: 2060–AH11

3357. NESHAP: MUNICIPAL SOLID WASTE LANDFILLS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants (HAP) by establishing maximum achievable control technology (MACT) for municipal solid waste landfills. MACT standards are under development to reduce the release of HAP from all industries to protect the public health and environment. The scope of the rule has not been determined. This project is now scheduled to start in fiscal year 1998. The initial stage of this project is to gather preliminary information on landfills to establish a presumptive MACT. That work will be followed by development of a regulatory package to propose and promulgate a MACT standard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 396

Sectors Affected: 92411 Air and Water Resource and Solid Waste Management; 562212 Solid Waste Landfill

Agency Contact: Michele Laur, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5256
Fax: 919 541-0246
Email: laur.michele@epa.gov

Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5395
Fax: 919 541-0246
Email: hustvedt.ken@epa.gov

RIN: 2060–AH13

3358. NESHAP: LEATHER TANNING AND FINISHING OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act requires EPA to develop air emission standards for facilities that emit any of the 189 hazardous air pollutants. This action will develop a MACT standard for sources involved in leather tanning and finishing operations. Facilities involved in these operations release over 1.7 million pounds of hazardous air pollutants per year. Regulation of these facilities will result in a reduction of the emissions of hazardous air pollutants, several of which are highly toxic.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3964

Sectors Affected: 31611 Leather and Hide Tanning and Finishing

Agency Contact: Bill Schrock, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5032
Fax: 919 541-3470
Email: schrock.bill@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5396
Email: lassiter.penny@epa.gov

RIN: 2060–AH17

3359. NESHAP: MANUFACTURE OF CARBON BLACK

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63 YY

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The purpose of this regulatory action is to develop a

Maximum Achievable Control Technology Standard for the manufacture of carbon black. This standard will meet the Clean Air Act Amendments of 1990 requirement to regulate sources of hazardous air pollutants. Three hazardous air pollutants identified in the 1990 Clean Air Act Amendments are emitted by the carbon black process. These are carbon disulfide, carbonyl sulfide, and hydrogen cyanide.

Carbon black is a product used primarily in the manufacture of automobile tires. There are approximately 22 carbon black facilities located in the nation. Of these it is currently estimated there are 20 major sources that will be subject to this regulation. This rule is not expected to have impacts on small business.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3962

Sectors Affected: 325182 Carbon Black Manufacturing

Agency Contact: John Schaefer, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0296
Fax: 919 541-3470
Email: schaefer.john@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5396
Email: lassiter.penny@epa.gov

RIN: 2060–AH19

3360. NESHAP: VEGETABLE OIL PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: This action develops National Emission Standards for Hazardous Air Pollutants (NESHAP) for vegetable oil production facilities as authorized under section 112(d) of the Clean Air Act (Act). The action is based on the determination that vegetable oil production plants emit organic hazardous air pollutants (HAPs) listed in section 112(b) of the Act. On July 16, 1992, EPA listed vegetable oil production as a source for which NESHAP are to be promulgated. On December 3, 1993, EPA published a schedule for promulgating NESHAP for vegetable oil production plants by November 15, 2000. NESHAP developed under section 112(d) apply to both new and existing facilities. NESHAP for existing facilities are to be based on the average emission limitation achieved by the best performing 12 percent of existing sources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3903

Sectors Affected: 311223 Other Oilseed Processing; 311222 Soybean Processing; 311225 Fats and Oils Refining and Blending; 311225 Fats and Oils Refining and Blending

Agency Contact: James Durham, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5672
Fax: 919 541-0246
Email: durham.jim@epa.gov

K.C. Hustvedt, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5395
Fax: 919 541-0246
Email: hustvedt.ken@epa.gov

RIN: 2060–AH22

3361. CONSOLIDATED EMISSION REPORTING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)

CFR Citation: 12 CFR 120.2(d)(4); 40 CFR 51.321 to 51.323

Legal Deadline: None

Abstract: Three sections of the Clean Air Act and its amendments require State agencies to report emission estimates to EPA. Some of these sections contain obsolete wording, inconsistent instructions, and duplicate reporting requirements. This rule will consolidate the requirements into one area, eliminate obsolete wording, eliminate duplicate reporting requirements, and provide options for collecting and reporting data. There will be no impact on small businesses. State agencies will continue to report the same or reduced amounts of data to EPA. The rule will provide for flexibility in collecting and reporting data. There will be no effect on local agencies.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3986

Agency Contact: Steven Bromberg, Environmental Protection Agency, Air and Radiation, MD-14
Phone: 919 541-1000
Fax: 919 541-0684
Email: bromberg.steve@epa.gov

RIN: 2060–AH25

3362. TRANSPORTATION CONFORMITY RULE AMENDMENT: CLARIFICATION OF TRADING PROVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 to 7671 CAA sec 176(c)

CFR Citation: 40 CFR 51; 40 CFR 93

Legal Deadline: None

Abstract: The transportation conformity rule, promulgated in November 1993, ensures that transportation and air quality planning are consistent with Clean Air Act air quality standards. The Open Market Trading Guidance provides guidance to states for establishing a method to

quantify emissions reductions (called discrete emissions reductions or DERs) that can be traded among parties and how such trading should occur. This action will amend the transportation conformity rule to clarify how emissions trading could be reconciled in the conformity process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local, Federal

Additional Information: SAN No. 3917

Agency Contact: Laura Voss, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 734 214-4858
Email: voss.laura@epamail.epa.gov

RIN: 2060–AH31

3363. STREAMLINED EVAPORATIVE TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86 (Revision)

Legal Deadline: None

Abstract: This action will streamline the test procedure used to establish compliance with evaporative emission requirements for light duty vehicles and trucks. The current test procedure requires both two and three day diurnal emission tests, as well as running-loss testing. The revisions will delete the three day requirement and add flexibilities for running-loss compliance. This will enable manufacturers to save significant resources without any decrease in environmental benefits.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 391

Agency Contact: Lynn Sohacki, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 734 214-4851

RIN: 2060–AH34

3364. REVIEW OF MINOR NEW SOURCES AND MODIFICATIONS IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7410

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: As required by the Clean Air Act's New Source Review (NSR) provisions, the EPA is proposing Federal regulations governing preconstruction permitting of minor and major stationary sources of air pollution in Indian country. Pursuant to the Tribal Air Rule, eligible Indian Tribes may receive EPA authorization to develop and implement such programs. The Federal NSR permitting programs would be effective throughout Indian country and would be implemented by EPA if eligible Indian Tribes do not elect, or do not receive authorization, to manage such programs. The proposed Federal minor NSR rule would require sources in Indian country, with certain exceptions, to obtain a permit prior to construction if they are: (1) new minor sources, (2) existing minor sources undergoing modification, or (3) existing major sources undergoing minor modification. The proposed rule also would allow new or existing stationary sources to accept enforceable limits on their production capacity or hours of operation in order to be considered minor sources and avoid being subject to other Clean Air Act requirements such as the title V operating permit program. The proposed Federal major NSR rule would require sources in nonattainment areas in Indian country to obtain a permit prior to construction if they are: (1) new major sources, or (2) existing major sources undergoing major modification. These rules would not impose any mandates on Tribal governments to implement NSR permitting programs. Tribal governments may be affected, however, insofar as they own or operate sources that must obtain a permit from the EPA under the final Federal permitting program regulations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Tribal, Federal

Additional Information: SAN No. 3975

Agency Contact: Michele Dubow, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-3803
Fax: 919 541-5509
Email: dubow.michele@epa.gov

Sara Terry, Environmental Protection Agency, Air and Radiation, MD-11, Research Triangle Park, NC 27711
Phone: 919 541-7576
Fax: 919 541-7925
Email: terry.sara@epa.gov

RIN: 2060–AH37

3365. REVIEW OF FEDERAL TEST PROCEDURES FOR EMISSIONS FROM MOTOR VEHICLES; TEST PROCEDURE ADJUSTMENTS TO FUEL ECONOMY AND EMISSION TEST RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-549

CFR Citation: 40 CFR 86; 40 CFR 600

Legal Deadline: None

Abstract: This action considers potential adjustments to fuel economy and emission test results to compensate for test procedure changes previously adopted; it applies to light-duty vehicles and light-duty trucks. This aspect of the previous rulemaking (SAN 3323, RIN 2060-AE27) was deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 397

Agency Contact: R. W. Nash, Environmental Protection Agency, Air and Radiation, VPCD, Ann Arbor, MI 48105

EPA—Clean Air Act (CAA) — Proposed Rule Stage

Phone: 743 214-4412

RIN: 2060–AH38

3366. NESHAP: ORGANIC LIQUID DISTRIBUTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This project is to develop national emission standards for hazardous air pollutants by establishing maximum achievable control technology (MACT) for facilities distributing organic liquids. MACT standards are under development to reduce the release of hazardous air pollutants (HAPs) from all industries to protect the public health and environment. The EPA has not determined the scope of this project. However, this project should include but is not limited to those activities associated with the storage and distribution of organic liquids other than gasoline at sites that serve as distribution points from which organic liquids may be obtained for further use and processing.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3971

Agency Contact: Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5395
Fax: 919 541-0246
Email: hustvedt.ken@epa.gov

Martha Smith, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-2421
Fax: 919 541-0246
Email: smith.martha@epa.gov

RIN: 2060–AH41

3367. FEDERAL MAJOR NEW SOURCE REVIEW (NSR) PROGRAM FOR NONATTAINMENT AREAS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 52.10; 40 CFR 52.24; 40 CFR 51.165; 40 CFR 124

Legal Deadline: None

Abstract: The Clean Air Act (Act) (title I, part D) requires that construction permit programs for new or modified major stationary sources of air pollution be established for areas not attaining the NAAQS. This action will add Federal rules at 40 CFR 52.10 for permitting the construction of new or modified major stationary sources in certain nonattainment areas where State, local, or tribal rules in whole or in part are not in place that meet the statutory permitting requirements. These rules will basically incorporate the requirements for State nonattainment NSR permit programs, codified at 40 CFR 51.165(a), with supplemental provisions added to make explicit the permit requirements of section 173 of the Act and certain long-standing policies regarding nonattainment NSR permitting. This action will also change 40 CFR 52.24 to specify that the requirements of 40 CFR 52.10 govern any permits issued in certain nonattainment areas where acceptable nonattainment NSR rules are not in place. Changes to 40 CFR part 124 will specify that the permit processing, public participation, and permit appeal requirements that otherwise apply to Federal PSD permitting will also apply, in most cases, to Federal nonattainment NSR permitting under 40 CFR 52.10.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4046

Agency Contact: David Svendsgaard, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-2380
Fax: 919 541-5509
Email: svendsgaard.dave@epa.gov

RIN: 2060–AH53

3368. NESHAP: COKE OVENS: PUSHING, QUENCHING, AND BATTERY STACKS

Priority: Other Significant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: There are currently 25 active domestic coke plants, 20 of which are furnace coke plants and 5 of which are foundry coke plants. Coke oven batteries used to produce metallurgical coke at these plants emit hazardous air pollutants (HAPs) such as coke oven emissions and polycyclic organic matter listed in section 112 of the Clean Air Act (CAA).

This action will establish a National Emission Standard for Hazardous Air Pollutants (NESHAP) for three specific operations associated with coke ovens, namely pushing, quenching, and battery stacks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4022

Sectors Affected: 324199 All Other Petroleum and Coal Products Manufacturing; 331111 Iron and Steel Mills

Agency Contact: Lula Melton, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-2910
Email: melton.lula@epa.gov

Al Vervaert, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AH55

EPA—Clean Air Act (CAA) — Proposed Rule Stage

3369. PROTECTION OF STRATOSPHERIC OZONE: ALLOWANCE SYSTEM FOR CONTROLLING HCFC PRODUCTION, IMPORT & EXPORT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 82.8

Legal Deadline: None

Abstract: The Stratospheric Protection Division currently oversees an allowance allocation system for the class I ozone-depleting substances. An allowance allocation system for class II ozone-depleting substances or hydrochloroflurocarbons (HCFCs) had not been established prior to 1998 because consumption figures had hovered around 80% of the cap imposed by the Montreal Protocol in 1992. The HCFC consumption figures for 1998 indicate that the US is within 92% of the cap. Since the US is in danger of violating this cap if high HCFC consumption rates continue into 1999, the system for allocating allowances must be in place as soon as possible in order to control HCFC consumption for all four quarters of 2000.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/99	64 FR 16373
Interim Final Rule	11/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4120

Additional deadline: Montreal Protocol. The Protocol requires compliance with a formulary cap of all Parties' consumption of HCFCs.

The ANPRM is available on the Internet at: http://www.epa.gov/fedrgstr/ EPA-AIR/1999/April/ Day-05/a8258.htm

Agency Contact: Vera Au, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-2216
Fax: 202 565-2095
Email: au.vera@epa.gov

Sue Stendebach, Environmental Protection Agency, Air and Radiation, 6205-J, Washington, DC 20460
Phone: 202 564-9117
Fax: 202 565-2093
Email: stendebach.sue@epa.gov

RIN: 2060–AH67

3370. NESHAP: CARBON BLACK PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: The purpose of this action is to develop a Maximum Achievable Control Technology (MACT) Standard for the production of carbon black. The Clean Air Amendments of 1990 require this action to be promulgated by November 15, 2000. The production of carbon black results in the release to the air of three hazardous air pollutants (HAPs) identified by the Act: carbon disulfide, carbonyl sulfide, and hydrogen cyanide. Health effects of these chemicals include acute effects such as nausea, headache, increased rate of respiration, eye and skin irritation and other effects. Chronic effects can include cardiovascular and respiratory effects. Additionally carbon disulfide has been observed to cause reproductive effects such as congenital malformations, embryotoxicity, and functional and behavioral disturbances in animal studies. Carbon black is widely used as a reinforcing agent for rubber. It is also used as a colorant for printing ink, painting, paper and plastics. By far the largest use of carbon black is in the manufacture of automotive tires. There are 21 carbon black facilities in the Nation. Carbon black is manufactured by burning hydrocarbons in a limited supply of air. This produces a black smoke containing extremely small carbon black particles which can be separated from the combustion gases to form a fluffy powder of intense blackness.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4105

Sectors Affected: 325182 Carbon Black Manufacturing

Agency Contact: John Schaefer, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0296
Fax: 919 541-3470
Email: schaefer.john@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5396

RIN: 2060–AH68

3371. NESHAP: FOR SOURCE CATEGORY: PULP AND PAPER PRODUCTION; AMENDMENTS TO THE PROMULGATED RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.440 to 63.459 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to clarify sections of the promulgated pulp and paper industry maximum achievable control technology (MACT) standards where commenters have indicated that the wording is confusing or changes are needed. This action will also correct any typographical errors noted. This action will contain guidance and amended rule language.

Timetable:

Action	Date	FR Cite
Final Rule Interpretations and technical amendment	09/16/98	63 FR 49455
Direct Final Rule Amendment	12/28/98	63 FR 71385
NPRM Amendment	12/28/98	63 FR 71408
Final Action Interpretations and technical amendment	04/12/99	64 FR 17555
NPRM	11/00/99	
Final Rule	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4123

Agency Contact: Stephen Shedd, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5397
Fax: 919 541-0246
Email: shedd.steve@epa.gov

Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5395
Fax: 919 541-0246
Email: hustvedt.ken@epa.gov

RIN: 2060–AH74

3372. NESHAP: ORGANIC HAZARDOUS AIR POLLUTANTS FROM THE SYNTHETIC ORGANIC CHEMICAL INDUSTRY (SOCMI) & OTHER PROCESSES SUBJECT TO THE NEGOTIATED REGULATION FOR EQUIPMENT LEAKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.100 to 63.152

Legal Deadline: None

Abstract: The actions will amend the HON that was first promulgated on April 22, 1994, to clarify applicability of process vent requirements. The changes to the rule will clarify the EPA's intent regarding the meaning of the term process vent and address the way these provisions are to be implemented through the permit rule. The need for this action became apparent recently when it was learned that industry was interpreting the definition more narrowly than we intended, and thus, not identifying all process vents subject to the HON. These amendments will clarify the rule to ensure consistent interpretations of the term process vent while preserving the intended applicability of the requirements. These clarifications will not increase or lower or otherwise affect emissions or environmental protection. Additionally, the actions may clarify additional sections of the HON and correct any typographical errors noted. These actions may contain guidance as well as amended rule language.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4103

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Jan Meyer, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5254
Fax: 919 541-5689
Email: meyer.jan@epa.gov

RIN: 2060–AH81

3373. NESHAP: POLYVINYL CHLORIDE AND COPOLYMERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the administrator of the EPA. The EPA has determined that some plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the polyvinyl chloride industry, to be promulgated by November 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4114

Agency Contact: Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5396
Email: lassiter.penny@epa.gov

Warren Johnson,Jr., Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5124
Fax: 919 541-3470
Email: johnson.warren@epa.gov

RIN: 2060–AH82

3374. PERFORMANCE SPECIFICATION 16 - SPECIFICATIONS AND TEST PROCEDURES FOR PREDICTIVE EMISSION MONITORING SYSTEMS IN STATIONARY SOURCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7411 CAA section 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Performance Specification 16 is being proposed to provide performance criteria for predictive emission monitoring systems. Predictive systems represent a new technology that uses process information or parameters to predict pollutant emissions instead of directly measuring them. The Agency is allowing their use in recently-promulgated rules and they are being considered by a number of regulated facilities. The specification lists the requirements for acceptable systems that are met by passing tests that compare the monitoring system with standardized methods and audit gases to determine system accuracy and stability. Performance Specification 16 will primarily apply to facilities whose emissions can be predicted from process parameters such as combustion processes (including gas turbines and internal combustion engines).

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 411

Sectors Affected: 33241 Power Boiler and Heat Exchanger Manufacturing; 333611 Turbine and Turbine Generator Set Unit Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing; 333618 Other Engine Equipment Manufacturing

EPA—Clean Air Act (CAA)

Proposed Rule Stage

Agency Contact: Foston Curtis, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-1063

William H. Lamason, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-5374

RIN: 2060–AH84

3375. NESHAP: WET-FORMED FIBERGLASS MAT PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The CAA required the EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emissions sources. The wet-formed fiberglass mat production industry is not included in the initial list of categories for standards development but information available to the Administrator suggests that the industry is a major source of HAP emissions and, as such, emission standards shall be developed for this industry. The standards are to be technology-based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the wet-formed fiberglass mat production industry may be reasonably expected to emit one of the pollutants listed in section 112(b) of the CAA. The purpose of this action is to include the industry in the source category list and to pursue a regulatory development program such that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 4082

Agency Contact: Juan Santiago, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-1084
Fax: 919 541-5600
Email: santiago.juan@epa.gov

Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

RIN: 2060–AH89

3376. TECHNICAL CHANGE TO DOSE METHODOLOGY FOR 40 CFR 191, SUBPART A

Priority: Routine and Frequent

Legal Authority: 42 USC 2021 Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 190(B); 40 CFR 191(A)

Legal Deadline: None

Abstract: This action is a technical change to the dose methodology for subpart A, Environmental Standards for Management and Storage, of 40 CFR 191, Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes. The current methodology is outdated. The new method, which would be employed as a result of this action, is consistent with recent radiation protection standards as well as Federal Guidance reports issued by EPA. No significant impacts from this action are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4003

Agency Contact: Ray Clark, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9198
Fax: 202 565-2065

RIN: 2060–AH90

3377. AMENDMENTS TO PARTS 51, 52, 63, 70 AND 71 REGARDING THE PROVISIONS FOR DETERMINING POTENTIAL TO EMIT

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action proposes to amend regulations already established to implement the new Federal air toxics program under section 112, including the General Provisions, the Federal operating permit program under title V, and the major source preconstruction programs under parts C and D of title I.

The proposed rule will address issues related to the determination of a stationary source's potential to emit in response to three court decisions.

This action resulted from splitting of RINs 2060-AC98 and 2060-AC63.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 347

Agency Contact: Carol Holmes, Environmental Protection Agency, Air and Radiation, OECA (2242A), Washington, DC 20460
Phone: 202 260-8709

Lynn Hutchinson, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-5795
Fax: 919 541-5509
Email: hutchinson.lynn@epa.gov

RIN: 2060–AI01

3378. CONTROL OF EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES RATED OVER 19 KW AND NEW LAND-BASED RECREATIONAL SPARK-IGNITION ENGINES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 to 7671(q)

EPA—Clean Air Act (CAA)

Proposed Rule Stage

CFR Citation: 40 CFR 94

Legal Deadline: NPRM, Judicial, September 30, 2000.
Final, Judicial, December 31, 2001.

Abstract: Emissions from large spark-ignition engines are currently unregulated. EPA and CARB are cooperating in an effort to set emission standards for these engines to substantially reduce their contribution to the emission inventory.

Timetable:

Action	Date	FR Cite
Proposed Finding	02/08/99	64 FR 6008
NPRM	09/00/00	
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4154

Sectors Affected: 333924 Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing; 42183 Industrial Machinery and Equipment Wholesalers; 335312 Motor and Generator Manufacturing

Agency Contact: Don Kopinski, Environmental Protection Agency, Air and Radiation, OMS EPCD, Ann Arbor, MI 48105
Phone: 734 214-4229
Email: kopinski-don@epa.gov

Alan Stout, Environmental Protection Agency, Air and Radiation, EPCD, Ann Arbor, MI 48105
Phone: 734 214-4805
Email: stout.alan@epamail.epa.gov

RIN: 2060–AI11

3379. CONTROL OF EMISSIONS OF AIR POLLUTION FROM 2004 AND LATER MODEL YEAR HEAVY-DUTY HIGHWAY ENGINES AND VEHICLES; REVISION OF LIGHT-DUTY TRUCK DEFINITION

Priority: Other Significant

Legal Authority: 42 USC 7401 to 7601; 42 USC 7521

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will focus on the emission standards and related requirements for control of air pollution from 2004 and later model year highway heavy-duty engines. It will include an assessment of the feasibility of the requirements for these engines promulgated in 1997 plus further consideration of a number of issues left open in the rule including potential diesel fuel changes, diesel particulate control, and other initiatives to control emissions in use.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4043

Agency Contact: Christopher Lieske, Environmental Protection Agency, Air and Radiation, EPCD, Ann Arbor, MI 48105
Phone: 313 668-4584
Email: lieske.christopher@epamail.epa.gov

Glenn W. Passavant, Environmental Protection Agency, Air and Radiation, EPCD, Ann Arbor, MI 48105
Phone: 734 214-4408
Email: passavant.glenn@epamail.epa.gov

RIN: 2060–AI12

3380. CONSUMER AND COMMERCIAL PRODUCTS: FLEXIBLE PACKAGE PRINTING MATERIALS: DETERMINATION ON CONTROL TECHNIQUES GUIDELINES IN LIEU OF REGULATION

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In accordance with Section 183(e) of the Clean Air Act, EPA identified flexible package printing materials as a category of consumer and commercial products prioritized for regulation to reduce VOC emissions in ozone nonattainment areas. Section 183(e)(3)(C) gives EPA the authority to issue CTG in lieu of regulation if the Administrator determines that CTG are substantially as effective as regulation in reducing VOC emissions in ozone nonattainment areas. This action will put forward EPA's proposed determination under section 183(e)(3)(C).

Timetable:

Action	Date	FR Cite
NPRM Propose Determination	04/00/00	
Final Action Final Determination/CTG	03/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4245

Agency Contact: Dan Brown, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5305
Fax: 919 541-5689
Email: brown.dan@epa.gov

Dianne Byrne, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AI31

3381. CONTROL OF EMISSIONS OF AIR POLLUTION FROM NEW COMPRESSION-IGNITION AND SPARK-IGNITION RECREATIONAL MARINE ENGINES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7547(a)

CFR Citation: 40 CFR 94

Legal Deadline: Final, Judicial, October 31, 2000.
NPRM, Judicial, November 23, 1999.

Abstract: This NPRM will establish numerical emission limits for compression-ignition and spark-ignition engines used on marine recreational vessels. This action will complete EPA's emission control program for marine engines (commercial engines and spark-ignition outboard and personal watercraft engines are covered in separate rules).

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	11/00/00	

EPA—Clean Air Act (CAA) Proposed Rule Stage

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4251

Agency Contact: Holly Pugliese, Environmental Protection Agency, Air and Radiation, Ann Arbor, MI 48108
Phone: 734 214-4288
Email: pugliese.holly@epa.gov

Jean Marie Revelt, Environmental Protection Agency, Air and Radiation, Ann Arbor, MI 48105
Phone: 734 214-4822
Email: revelt.jean-marie@epa.gov

RIN: 2060–AI36

3382. PROTECTION OF STRATOSPHERIC OZONE: MANUFACTURE OF HALON BLENDS, INTENTIONAL RELEASE OF HALON, TECHNICAL TRAINING AND DISPOSAL OF HALON AND HALON-CONTAINING EQUIPMENT - AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671 to 7671(q)

CFR Citation: 40 CFR 82.250 to 82.270

Legal Deadline: None

Abstract: EPA promulgated a final rule (63 FR 11084, March 5, 1998) concerning numerous aspects of the handling and processing of halons, a group of gaseous or easily vaporized hydrocarbons that are used in a wide range of fire and explosion protection applications. Halons are Class I ozone-depleting substances regulated under Title VI of the Clean Air Act (Act). Following publication of this rule, members of the regulated community and other stakeholders requested clarifications to two technical provisions of this rule, and other, editorial, clarifications. The two technical clarifications relate to (1) EPA's requirements regarding the efficiency of equipment used during halon recovery and recycling activities, and (2) EPA's requirements regarding technician training. SPD therefore will consider adding substantive or editorial clarifications, and/or additional preamble discussion, to address these issues. These changes are expected to be fully consistent with the original scope and intent of the March 5, 1998 regulation. By providing greater clarity and specificity to the requirements as requested by members of the regulated community and other stakeholders, EPA will better ensure achievement of the environmental objectives of this action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4252

Agency Contact: Lisa Chang, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9742
Fax: 202 565-2096
Email: chang.lisa@epa.gov

RIN: 2060–AI40

3383. PROTECTION OF STRATOSPHERIC OZONE: ADDITIONAL STEPS TO CONFORM US METHYL BROMIDE PROGRAM TO OBLIGATIONS UNDER THE MONTREAL PROTOCOL AND RECENT CHANGES TO THE CAA

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: This rulemaking will propose remaining phaseout steps for methyl bromide, adjust phaseout data, and establish additional exemptions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4271

Agency Contact: Tom Land, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9185
Fax: 202 565-2095
Email: land.tom@epamail.epa.gov

RIN: 2060–AI41

3384. PROTECTION OF STRATOSPHERIC OZONE: PROCESS FOR EXEMPTING QUARANTINE AND PRESHIPMENT METHYL BROMIDE USED IN THE UNITED STATES AND BASELINE ADJUSTMENTS

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7671 to 7671(q)

CFR Citation: 40 CFR 82.1 to 82.13

Legal Deadline: None

Abstract: The Montreal Protocol exempts quarantine and preshipment from the methyl bromide production and import baseline; therefore, a regulation must be promulgated to allow for the exemption in EPA's current allowance system.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4253

Agency Contact: Tom Land, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9185
Fax: 202 565-2093
Email: land.tom@epa.gov

RIN: 2060–AI42

3385. REVIEW NATIONAL AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Priority: Other Significant

Legal Authority: Clean Air Act Title I

CFR Citation: 40 CFR 50

Legal Deadline: Final, Statutory, May 31, 2001, Clean Air Act requires reviews every five years.

Abstract: Review of the national ambient air quality standards (NAAQS) for carbon monoxide (CO) every 5 years is mandated by the Clean Air Act. This review assesses the available scientific data about the health and environmental effects of CO and translates the science into terms that can be used in making recommendations about whether or how the standards should be changed. The last review of the CO NAAQS was completed in 1994 with a final decision

that revisions were not appropriate at that time.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4266

Agency Contact: David McKee, Environmental Protection Agency, Air and Radiation, MD-15
Phone: 919 541-5288
Fax: 919 541-0237
Email: mckee.david@epa.gov

Harvey Richmond, Environmental Protection Agency, Air and Radiation, MD-15
Phone: 919 541-5271
Fax: 919 541-0237

RIN: 2060–AI43

3386. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Regulatory Plan: This entry is Seq. No. 107 in Part II of this issue of the **Federal Register**.

RIN: 2060–AI44

3387. REVISION TO THE DEFINITION OF VOLATILE ORGANIC COMPOUND (VOC) TO EXCLUDE TERTIARY BUTYL ACETATE

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Title I

CFR Citation: 40 CFR 51.100(s)

Legal Deadline: None

Abstract: The definition of VOC is proposed to be revised to add tertiary butyl acetate to the list of negligibly reactive compounds. This is a deregulatory action that will remove tertiary butyl acetate from the necessity to be controlled as a VOC in SIPs for attaining the ozone standard. This is not expected to have a significant impact on small businesses or local governments.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4254

Agency Contact: William L. Johnson, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Pa, NC 27711
Phone: 919 541-5245
Email: johnson.williaml@epa.gov

Diane McConkey, Environmental Protection Agency, Air and Radiation, 7426GG, Washington, DC 20460
Email: McConkey.Diane@epa.gov

RIN: 2060–AI45

3388. STANDARDS AND GUIDELINES FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS

Priority: Other Significant

Legal Authority: 42 USC 7509 CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 direct the Environmental Protection Agency (EPA) to set standards of performance and emission guidelines for new and existing municipal waste combustors under Sections 111 and 129; to base these standards and guidelines on maximum achievable control technology; and to include emission limits for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, mercury, lead, cadmium, and dioxins and dibenzofurans. The standards for large municipal waste combustors were adopted in 1995. This rule would establish standards for small MWC units.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4243

Agency Contact: Walt Stevenson, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5264
Email: stevenson.walt@epa.gov

Amanda Aldridge, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

RIN: 2060–AI51

3389. • REVISION OF SCHEDULE FOR STANDARDS UNDER SECTION 112 OF THE CLEAN AIR ACT

Priority: Info./Admin./Other

Legal Authority: 42 USC 7412 Clean Air Act sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Section 112 of the Clean Air Act requires the EPA to publish a list of major and area source categories which emit one or more of the hazardous air pollutants listed in section 112. An initial list of source categories was finalized in July 1992, and contained 174 categories. Section 112 further requires the Agency to prioritize the listed categories such that standards are promulgated for 40 source categories within 2 years of enactment, 25% of all initially listed categories within 4 years, 50% within 7 years, and 100% within 10 years. The schedule for the promulgation of emissions standards was published in December 1993.

This action revises the list of source categories and the corresponding schedule for emission standards. This is in accordance with the statute, which requires the Agency to periodically amend the list in response to public comment or new information, and no less often than every eight years. The list was last updated on February 12, 1998 and the schedule was last updated on May 17, 1999.

Timetable:

Action	Date	FR Cite
Notice	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

EPA—Clean Air Act (CAA)

Proposed Rule Stage

Additional Information: SAN No. 4284

Agency Contact: Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5396
Email: lassiter.penny@epa.gov

Maria Noell, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5607
Fax: 919 541-3470
Email: noell.maria@epa.gov

RIN: 2060–AI52

3390. • CONTROL OF EMISSIONS OF HAZARDOUS POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS

Priority: Other Significant

Legal Authority: PL 101-549 sec 202(l)(2)

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Judicial, April 28, 1999. Final, Judicial, december 22, 2000.

Abstract: This action will: (1) describe the hazardous air pollutants emitted from motor vehicles and motor vehicle fuels; (2) discuss the Agency's existing and planned emission control programs to reduce emissions of these pollutants; and (3) explore the need for additional controls. Any additional control programs will be undertaken and tiered separately from this action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Rule	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4285

Agency Contact: Jean Marie Revelt, Environmental Protection Agency, Air and Radiation, Ann Arbor, MI 48105
Phone: 734 214-4822
Email: revelt.jean-marie@epa.gov

RIN: 2060–AI55

3391. • TRANSPORTATION CONFORMITY AMENDMENTS: RESPONSE TO MARCH 2, 1999, COURT DECISION

Regulatory Plan: This entry is Seq. No. 108 in Part II of this issue of the **Federal Register**.

RIN: 2060–AI56

3392. • AREA SOURCE TITLE V OPERATING PERMIT DEFERRALS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq.

CFR Citation: 40 CFR 63.320; 40 CFR 63.340; 40 CFR 63.360; 40 CFR 63.468; 40 CFR 63.541

Legal Deadline: None

Abstract: These amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP; Part 63) for ethylene oxide sterilizers (subpart O), dry cleaning facilities (subpart M), halogenated solvent cleaning (subpart T), chromium plating (subpart N), and secondary lead smelting (subpart X) would continue the existing deferral for area sources affected by these subparts from the need to obtain Parts 70 or 71 operating permits. The deferrals would extend for 5 years, until December 9, 2005. Without these amendments, area sources would become subject to Part 70 or 71 permitting. This amendment is an administrative action and would have no impact on the enforcement and implementation of the NESHAP themselves. There are no compliance costs associated with this action.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4272

Agency Contact: Rick Colyer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5262
Email: colyer.rick@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AI58

3393. • DECISION ON A PETITION FROM THE TERRITORY OF AMERICAN SAMOA TO BE EXEMPTED FROM THE GASOLINE ANTI-DUMPING REGULATIONS.

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7625-1(a)(1) CAAA

CFR Citation: 40 CFR 80.90 to 80.130

Legal Deadline: None

Abstract: EPA will decide whether to grant American Samoa's petition to be exempted from meeting the regulations at 40 CFR 80 that require all conventional gasoline sold in the U.S. to not be more polluting than it was in 1990—called the "gasoline anti-dumping regulations." These regulations were promulgated to prevent gasoline refiners and distributors from "dumping" pollutants into conventional gasoline that are prohibited in the manufacture of reformulated gasoline. American Samoa (and other U.S. territories) are allowed under Clean Air Act (CAA) section 325(a) to petition the Administrator for exemption from certain CAA requirements if such compliance is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or other local factors deemed significant.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4333

Agency Contact: Marilyn W. McCall, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
Phone: 202 564-9029
Fax: 202 564-2085
Email: mccall.mwinstead@epa.gov

Lori Stewart, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
Phone: 202 564-9035

RIN: 2060–AI60

3394. • NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS; PROPOSED AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: Amendments to the consumer products rule are being proposed to clarify and correct the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 43

Agency Contact: Bruce Moore, Environmental Engineer, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5460
Email: moore.bruce@epa.gov

Dianne Byrne, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AI62

3395. • NATIONAL VOLATILE ORGANIC COMPOUND EMISSION STANDARD FOR ARCHITECTURAL COATINGS; PROPOSED AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59 (Revision)

Legal Deadline: None

Abstract: Amendments to the architectural coatings rule are being proposed to clarify and correct the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 4287

Agency Contact: Linda Herring, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5358
Email: herring.linda@epa.gov

Dianne Byrne, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AI63

3396. • NESHAP FOR THE PRINTING AND PUBLISHING INDUSTRY; AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA 112

CFR Citation: 40 CFR 63

Legal Deadline: NPRM, Judicial, March 1, 1995.
Final, Statutory, November 15, 1994.

Abstract: The amendments will clarify the rule and ensure it reflects the EPA's intent.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 431

Agency Contact: David Salman, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-0859
Email: salman.dave@epamail.epa.gov

Dianne Byrne, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AI66

3397. • HEAVY-DUTY ENGINE EMISSION STANDARDS AND DIESEL FUEL SULFUR CONTROL REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 109 in Part II of this issue of the **Federal Register**.

RIN: 2060–AI69

3398. • REGULATION OF FUELS AND FUEL ADDITIVES: EXTENSION OF REFORMULATED GASOLINE PROGRAM TO THE KANSAS CITY, KS FORMER OZONE NONATTAINMENT AREA

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: EPA is issuing a notice of proposed rulemaking to revise the reformulated gasoline (RFG) regulations to include the Kansas City, KS former ozone nonattainment area in the federal RFG program.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4356

Agency Contact: Karen Smith, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
Phone: 202 564-9674
Fax: 202 565-2085
Email: smith.karen@epa.gov

RIN: 2060–AI70

3399. • PETITIONS TO DELIST HAZARDOUS AIR POLLUTANTS (E.G., MEK, EGBE, METHANOL, AND MIBK) FROM SECTION 112(B)(1) OF THE CLEAN AIR ACT

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Section 112(b)(3)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Agency has received 4 petitions to remove certain pollutants (i.e., methanol, methyl ethyl ketone,

ethylene glycol butyl ether, and methyl isobutyl ketone) from the list of hazardous air pollutants (HAPs) under Section 112(b) of the Clean Air Act. The Agency must review the petitions and either grant or deny the petition within 18 months of the date the complete petition was received. If the Agency grants a petition, a notice of proposed rulemaking will be published in the Federal Register, allowing the opportunity for public comment. If the Agency denies a petition, a notice of denial will be published in the Federal Register providing an explanation for such denial. If the Agency accepts a petition and ultimately removes the pollutant from the HAP list then sources emitting such pollutants would not be required to meet MACT emissions standards for the pollutant. If on the other hand, the Agency denies the petition, then MACT standards would be issued as currently planned under Section 112(c) and 112(d) of the Clean Air Act for sources emitting such pollutants.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 4313

Agency Contact: Karen Martin, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5274
Email: martin.karen@epa.gov

Chuck French, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0467
Email: french.chuck@epa.gov

RIN: 2060–AI72

3400. • PROTECTION OF STRATOSPHERIC OZONE: ALLOCATION OF 2000 ESSENTIAL-USE ALLOWANCES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671-7671(q)

CFR Citation: 40 CFR 82

Legal Deadline: Final, Statutory, January 1, 2000, Allocations for the year 2000 must be published in the Federal Register by this date.

Abstract: This proposed rule will set essential-use allowances for 2000 under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). Essential-use allowances permit a person to obtain controlled ozone-depleting substances, such as chloroflourocarbons (CFCs), as an exemption to the January 1, 1996 regulatory phaseout of production and import. Essential-use allowances are allocated to a person for exempted production or importation of a specific quantity of a controlled substance solely for the designated essential purpose.

Timetable:

Action	Date	FR Cite
NPRM	11/02/99	64 FR 59141
Comment Period End	12/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4318

Sectors Affected: 325412 Pharmaceutical Preparation Manufacturing; 927 Space Research and Technology

Agency Contact: Erin Birgfeld, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9079
Fax: 202 565-2095
Email: birgfeld.erin@epa.gov

RIN: 2060–AI73

3401. • TRANSPORTATION CONFORMITY AMENDMENT: DELETION OF GRACE PERIOD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401-7671q

CFR Citation: 40 CFR 93.102(d)

Legal Deadline: Final, Judicial, December 31, 1999.

Abstract: This action would delete a provision of the transportation conformity rule that was overturned by the U.S. Court of Appeals. In 1995, EPA amended the conformity rule so that new nonattainment areas would have a one-year grace period before transportation conformity began applying. In 1997, the court overturned this grace period. This action would formally delete the provision from the transportation conformity rule in compliance with the court ruling. In addition, this action will discuss some issues that we raised in a Petition for Reconsideration of the original transportation conformity rule (finalized November 24, 1993). This action would not change the conformity rule in response to these issues. EPA is required by court settlement to finalize this action by December 31, 1999. EPA entered into settlement in 1998 in response to litigation by the Environmental Defense Fund. This action will have no practical impact for areas that are subject to conformity, because the provision that will be deleted was overturned—and therefore has not been implemented—since 1997. Transportation conformity is a Clean Air Act requirement for transportation plans, programs, and projects to conform to state air quality plans. Conformity to a state air quality plan means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4352

Agency Contact: Kathryn Sargeant, Environmental Protection Agency, Air and Radiation, RSPD, Washington, DC 20460
Phone: 734 214-4441
Fax: 734 214-4052
Email: sargeant.kathryn@epa.gov

RIN: 2060–AI76

3402. • AMENDMENTS TO THE AEROSPACE MANUFACTURING AND REWORK FACILITIES NESHAP FOR THE HAP AND VOC CONTENT LIMITS FOR PRIMER OPERATIONS AND STAY OF COMPLIANCE.

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.745(c)(1)-(2)

Legal Deadline: None

Abstract: This rule was promulgated on September 1, 1995 with an initial compliance date of September 1, 1998. EPA granted compliance extensions; however these extensions will expire September 1, 1999. This proposal would stay the compliance date of the substantive and associated compliance assurance requirements for the organic HAP content and VOC content levels for primer applications operations. This proposed stay would remain in effect until the date we amend the rule, at which point we would publish new compliance dates for these requirements. Based on recent information submitted to the us by one of the commercial aircraft manufacturers, expressing significant technical concerns about the ability to achieve the primer coating content standard for commercial exterior primers, we are proposing amendments to the Aerospace National Emissions Standards for Hazardous Air Pollutants (NESHAP) that will change the organic HAP and VOC level content standard related to the use of commercial exterior primers.

Timetable:

Action	Date	FR Cite
NPRM Stay of Compliance	11/00/99	
Final Rule Stay of Compliance	11/00/99	
NPRM Amendment	11/00/99	
Final Rule Amendment	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4353

Sectors Affected: 336411 Aircraft Manufacturing

Agency Contact: James Szykman, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-2452
Email: szykman.jim@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AI77

3403. • NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES - PHARMACEUTICALS PRODUCTION; PROPOSED AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR part 63

Legal Deadline: None

Abstract: The final rule was promulgated on September 21, 1998. On November 20, 1998, a petition to review the final rule was filed by the Pharmaceutical Research and Manufacturers Association with the Court of Appeals for the District of Columbia Circuit. This action proposes amendments to the rule per the settlement agreement. The amendments include several clarifications, changes to key definitions, changes to the alternative standard requirements, and changes in the administrative requirements. There are no anticipated incremental impacts due to these amendments, in fact, the impacts of the rule have been reduced due to the streamlining of the monitoring, reporting and recordkeeping requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4354

Agency Contact: Randy McDonald, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5402
Fax: 919 541-3470
Email: mcdonald.randy@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5396
Fax: 919 541-3047
Email: lassiter.penny@epa.gov

RIN: 2060–AI78

3404. • PROPOSED RULE TO AMEND SUBPART H, 40 CFR PART 61 FOR EMISSIONS OF RADIONUCLIDES OTHER THAN RADON FROM DOE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-95; 42 USC 7412 CAAA 112(g) or (q)

CFR Citation: 40 CFR 61.93(a); 40 CFR 61.93(b)(2)(ii)

Legal Deadline: None

Abstract: Abstract: Section 112(g) of the Clean Air Act Amendments requires reviewing existing standards and revising if appropriate to comply with emission standards under CAAA. This is mandatory for Subpart H and must be reviewed by the year 2000. Therefore, at this time, Subpart H has been reviewed and determined that two necessary changes need to be made because of advancements in science and technology. The changes are as follows in the 40 CFR 61, Sections 61.93(a) and 61.93(b)(2)(ii): Section 61.93(a) to state: "To determine compliance with the standard radionuclide emissions shall be determined and effective dose equivalent values to members of the public calculated using EPA approved sampling procedures, computer models or other procedures for which EPA has granted prior approval." This new statement would eliminate actually stating the names of any computer models, as how Subpart H is written now. Section 61.93(b)(2)(ii) to state: "The effluent stream shall be directly monitored continuously with an in-line detector or representative samples of the effluent stream shall be withdrawn continuously from the sampling site following the guidance presented in ANSIN13.1-1999 "Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities" (including the guidance presented in appendix A of ANSIN13.1; incorporated by reference Section 61.18) [Note: some Grandfather language will appear as well]. Currently, Subpart H cites ANSIN13.1-1969 as the sampling guide to use. This document is 30 years old and scientifically outdated. ANSIN13.1-1999 has been approved and would be most appropriate to replace ANSIN13.1-1969 in Subpart H at this time.

EPA—Clean Air Act (CAA)

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4273

Agency Contact: Robin Anderson, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9385
Fax: 202 565-2065
Email: anderson.robin@epa.gov

RIN: 2060–AI81

3405. • NATIONAL AMBIENT AIR QUALITY STANDARD FOR OZONE - CORRECTIONS NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7409; 42 USC 7601(a)

CFR Citation: 40 CFR 50.9 (a)

Legal Deadline: None

Abstract: This action corrects the Code of Federal Regulations to include an alternative pollutant-monitoring method that was inadvertently left out when the National Ambient Air Quality Standards for Ozone were revised in 1979. This amendment will assure that States have the flexibility in choice of monitoring methods that was originally intended.

Timetable:

Action	Date	FR Cite
Notice	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4304

Agency Contact: Brenda Millar, Environmental Protection Agency, Air and Radiation, MD-14
Phone: 919 541-4036
Fax: 919 541-1903
Email: millar.brenda@epa.gov

Nash Gerald, Environmental Protection Agency, Air and Radiation, MD-14
Phone: 919 541-5652
Fax: 919 541-1903
Email: gerald.nash@epa.gov

RIN: 2060–AI86

3406. • DEVELOPMENT OF REFERENCE METHOD FOR THE DETERMINATION OF SOURCE EMISSIONS OF FILTERABLE FINE PARTICULATE MATTER AS PM2.5

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51 App M

Legal Deadline: None

Abstract: Under this action, EPA is initiating the publication of a reference test method that can be used to quantify that portion of particulate matter emissions that are solid at stack conditions and are equal to or less than 2.5 uM in aerodynamic diameter. This test method is to be used in conjunction with existing and future reference methods which are designed to quantify condensable particulate and particulate precursors. Condensable particulate is that portion of particulate matter emissions that are gaseous at stack conditions but which quickly condense to a solid form when released to the atmosphere. Particulate precursors are gaseous compounds which become solids as a result of chemical reactions in the atmosphere. This test method supports the amended National Ambient Air Quality Standard (NAAQS) for particulate matter which was promulgated on July 18, 1997. The NAAQS was revised by adding new standards for particulate of 2.5 uM aerodynamic diameter. An important foundation element of State efforts to attain the NAAQS will be the development of reliable inventories of baseline particulate and particulate precursor emissions. The emission inventories developed should be based upon credible source tests of individual facilities or emission factors developed from credible source tests. At the present time there is no reference test method available for quantifying the filterable particulate matter of 2.5 uM aerodynamic diameter from emission sources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4306

Sectors Affected: 21231 Stone Mining and Quarrying; 221112 Fossil Fuel Electric Power Generation; 3212 Veneer, Plywood and Engineered Wood Product Manufacturing; 32411 Petroleum Refineries; 3251 Basic Chemical Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 3311 Iron and Steel Mills and Ferroalloy Manufacturing; 3313 Alumina and Aluminum Production and Processing; 3314 Nonferrous Metal (except Aluminum) Production and Processing; 3315 Foundries

Agency Contact: Ronald E. Myers, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-5407
Fax: 919 541-1039
Email: myers.ron@epa.gov

Tom Logan, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-2580
Fax: 919 541-1039
Email: logan.tom@epa.gov

RIN: 2060–AI87

3407. • INSPECTION MAINTENANCE PROGRAM REQUIREMENTS FOR FEDERAL FACILITIES; AMENDMENT TO THE FINAL RULE

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; 23 USC 101

CFR Citation: 40 CFR 51 (revision); 40 CFR 93 (new)

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) has had oversight and policy development authority for Inspection and Maintenance (I/M) programs since the passage of the Clean Air Act (CAA) in 1970. The 1977 amendments to the CAA mandated I/M for certain areas with long-term air quality problems and the 1990 amendments set forth standards for implementation of I/M programs. EPA used the statutory requirements of the Act, including I/M requirements for Federal facilities, to promulgate regulations which states would use in the development of their I/M State Implementation Plans (SIPs). Those rule requirements effectively gave states certain authorities over the

EPA—Clean Air Act (CAA) **Proposed Rule Stage**

Federal government. The Department of Justice has now ruled that Federal sovereign immunity was not fully waived under the CAA for those requirements and EPA should amend its rule to remove the requirement that states include those elements in their SIPs. EPA is proposing to: 1) Amend the Federal facilities I/M requirements by removing that section. 2) Correct existing I/M SIP approval actions which include these elements. 3) Establish new Federal facilities I/M program requirements which Federal Facilities in I/M program areas must meet in order to comply with the Act. 4) Designate for each state which section of the Act Federal agencies must comply with based on how that state promulgated its I/M regulations. These changes will have minimal to no impact on the states as no new requirements are being created. The states are under no obligation, legal or otherwise, to modify existing SIPs meeting the previously applicable requirements as a result of this action, nor will emissions reduction credit be affected. However, the changes will clarify for affected Federal facilities what they must do to meet the CAA requirements by establishing new regulations per those requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4348

Agency Contact: Buddy Polovick, Environmental Protection Agency, Air and Radiation
Phone: 734 214-4928
Fax: 734 214-4052
Email: polovick.buddy@epa.gov

Sara Schneeberg, Environmental Protection Agency, Air and Radiation
Phone: 202 564-5592

RIN: 2060–AI88

3408. • REGULATION OF FUELS AND FUEL ADDITIVES: REFORMULATED GASOLINE ADJUSTMENT

Priority: Other Significant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 80.45

Legal Deadline: None

Abstract: The proposed regulation would allow CO reductions (associated with oxygen in the gasoline above 2.0 wt %) to be used to offset increases in VOC emissions. The change would allow gasoline that has ethanol as an oxygenate to have a slightly higher Reid Vapor Pressure (RVP), which would alleviate some cost burdens for complying with Phase II of the RFG program. The change would therefore address the concern of the ethanol industry that such gasoline would otherwise be "locked out" of the market.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4358

Agency Contact: Barry Garelick, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
Phone: 202 564-9028
Fax: 202 565-2075
Email: garelick.barry@epa.gov

Lori Stewart, Environmental Protection Agency, Air and Radiation
Phone: 202 564-9028
Fax: 202 565-2084
Email: stewart.lori@epa.gov

RIN: 2060–AI89

3409. • PROPOSED RULE TO AMEND SUBPART H, 40 CFR PART 61 FOR EMISSIONS OF RADIONUCLIDES OTHER THAN RADON FROM DOE FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 95-95; 42 USC 7412 CAAA 112(g) or (q)

CFR Citation: 40 CFR 61.93(a); 40 CFR 61.93(b)(2)(ii)

Legal Deadline: None

Abstract: Abstract: Section 112(g) of the Clean Air Act Amendments requires reviewing existing standards and revising if appropriate to comply with emission standards under CAAA. This is mandatory for Subpart H and must be reviewed by the year 2000. Therefore, at this time, Subpart H has been reviewed and determined that two necessary changes need to be made because of advancements in science and technology. The changes are as follows in the 40 CFR 61, Sections 61.93(a) and 61.93(b)(2)(ii): Section 61.93(a) to state: "To determine compliance with the standard radionuclide emissions shall be determined and effective dose equivalent values to members of the public calculated using EPA approved sampling procedures, computer models or other procedures for which EPA has granted prior approval." This new statement would eliminate actually stating the names of any computer models, as how Subpart H is written now. Section 61.93(b)(2)(ii) to state: "The effluent stream shall be directly monitored continuously with an in-line detector or representative samples of the effluent stream shall be withdrawn continuously from the sampling site following the guidance presented in ANSIN13.1-1999 "Guide to Sampling Airborne Radioactive Materials in Nuclear Facilities" (including the guidance presented in appendix A of ANSIN13.1; incorporated by reference Section 61.18) [Note: some Grandfather language will appear as well]. Currently, Subpart H cites ANSIN13.1-1969 as the sampling guide to use. This document is 30 years old and scientifically outdated. ANSIN13.1-1999 has been approved and would be most appropriate to replace ANSIN13.1-1969 in Subpart H at this time.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4273

Agency Contact: Robin Anderson, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9385
Fax: 202 565-2065
Email: anderson.robin@epa.gov

RIN: 2060–AI90

EPA—Clean Air Act (CAA)

Proposed Rule Stage

3410. • NATIONAL AMBIENT AIR QUALITY STANDARD FOR OZONE - CORRECTIONS NOTICE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7409; 42 USC 7601(a)

CFR Citation: 40 CFR 50.9 (a)

Legal Deadline: None

Abstract: This action corrects the Code of Federal Regulations to include an alternative pollutant-monitoring method that was inadvertently left out when the National Ambient Air Quality Standards for Ozone were revised in 1979. This amendment will assure that States have the flexibility in choice of monitoring methods that was originally intended.

Timetable:

Action	Date	FR Cite
Notice	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4304

Agency Contact: Brenda Millar, Environmental Protection Agency, Air and Radiation, MD-14
Phone: 919 541-4036
Fax: 919 541-1903
Email: millar.brenda@epa.gov

Nash Gerald, Environmental Protection Agency, Air and Radiation, MD-14
Phone: 919 541-5652
Fax: 919 541-1903
Email: gerald.nash@epa.gov

RIN: 2060–AI95

3411. • DEVELOPMENT OF REFERENCE METHOD FOR THE DETERMINATION OF SOURCE EMISSIONS OF FILTERABLE FINE PARTICULATE MATTER AS PM2.5

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51 App M

Legal Deadline: None

Abstract: Under this action, EPA is initiating the publication of a reference test method that can be used to quantify that portion of particulate matter emissions that are solid at stack conditions and are equal to or less than 2.5 uM in aerodynamic diameter. This test method is to be used in conjunction with existing and future reference methods which are designed to quantify condensable particulate and particulate precursors. Condensable particulate is that portion of particulate matter emissions that are gaseous at stack conditions but which quickly condense to a solid form when released to the atmosphere. Particulate precursors are gaseous compounds which become solids as a result of chemical reactions in the atmosphere. This test method supports the amended National Ambient Air Quality Standard (NAAQS) for particulate matter which was promulgated on July 18, 1997. The NAAQS was revised by adding new standards for particulate of 2.5 uM aerodynamic diameter. An important foundation element of State efforts to attain the NAAQS will be the development of reliable inventories of baseline particulate and particulate precursor emissions. The emission inventories developed should be based upon credible source tests of individual facilities or emission factors developed from credible source tests. At the present time there is no reference test method available for quantifying the filterable particulate matter of 2.5 uM aerodynamic diameter from emission sources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4306

Sectors Affected: 21231 Stone Mining and Quarrying; 221112 Fossil Fuel Electric Power Generation; 3212 Veneer, Plywood and Engineered Wood Product Manufacturing; 32411 Petroleum Refineries; 3251 Basic Chemical Manufacturing; 327 Nonmetallic Mineral Product Manufacturing; 3311 Iron and Steel Mills and Ferroalloy Manufacturing; 3313 Alumina and Aluminum Production and Processing; 3314 Nonferrous Metal (except Aluminum) Production and Processing; 3315 Foundries

Agency Contact: Ronald E. Myers, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-5407
Fax: 919 541-1039
Email: myers.ron@epa.gov

Tom Logan, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-2580
Fax: 919 541-1039
Email: logan.tom@epa.gov

RIN: 2060–AI96

3412. • INSPECTION MAINTENANCE PROGRAM REQUIREMENTS FOR FEDERAL FACILITIES; AMENDMENT TO THE FINAL RULE

Priority: Other, Significant

Legal Authority: 42 USC 7401 et seq; 23 USC 101

CFR Citation: 40 CFR 51 (revision); 40 CFR 93 (new)

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) has had oversight and policy development authority for Inspection and Maintenance (I/M) programs since the passage of the Clean Air Act (CAA) in 1970. The 1977 amendments to the CAA mandated I/M for certain areas with long-term air quality problems and the 1990 amendments set forth standards for implementation of I/M programs. EPA used the statutory requirements of the Act, including I/M requirements for Federal facilities, to promulgate regulations which states would use in the development of their I/M State Implementation Plans (SIPs). Those rule requirements effectively gave states certain authorities over the Federal government. The Department of Justice has now ruled that Federal sovereign immunity was not fully waived under the CAA for those requirements and EPA should amend its rule to remove the requirement that states include those elements in their SIPs. EPA is proposing to: 1) Amend the Federal facilities I/M requirements by removing that section. 2) Correct existing I/M SIP approval actions which include these elements. 3) Establish new Federal facilities I/M program requirements which Federal Facilities in I/M program areas must meet in order to comply with the Act. 4) Designate for each state which section of the Act Federal agencies must comply with based on how that state promulgated its I/M regulations. These changes will have minimal to no impact on the states as no new

EPA—Clean Air Act (CAA) **Proposed Rule Stage**

requirements are being created. The states are under no obligation, legal or otherwise, to modify existing SIPs meeting the previously applicable requirements as a result of this action, nor will emissions reduction credit be affected. However, the changes will clarify for affected Federal facilities what they must do to meet the CAA requirements by establishing new regulations per those requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4348

Agency Contact: Sara Schneeberg, Environmental Protection Agency, Air and Radiation
Phone: 202 564-5592
Buddy Polovick, Environmental Protection Agency, Air and Radiation, Washington, DC 20460
Phone: 734 214-4928
Fax: 734 214-4052
Email: polovick.buddy@epa.gov

RIN: 2060–AI97

3413. • REGULATION OF FUELS AND FUEL ADDITIVES: REFORMULATED GASOLINE ADJUSTMENT

Priority: Other, Significant

Legal Authority: Not Yet Determined

CFR Citation: 40 CFR 80.45

Legal Deadline: None

Abstract: The proposed regulation would allow CO reductions (associated with oxygen in the gasoline above 2.0 wt %) to be used to offset increases in VOC emissions. The change would allow gasoline that has ethanol as an oxygenate to have a slightly higher Reid Vapor Pressure (RVP), which would alleviate some cost burdens for complying with Phase II of the RFG program. The change would therefore address the concern of the ethanol industry that such gasoline would otherwise be "locked out" of the market.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4358

Agency Contact: Barry Garelick, Environmental Protection Agency, Air and Radiation, 6406J, Washington, DC 20460
Phone: 202 564-9028
Fax: 202 565-2075
Email: garelick.barry@epa.gov

Lori Stewart, Environmental Protection Agency, Air and Radiation, 6406J
Phone: 202 564-9028
Fax: 202 565-2084
Email: stewart.lori@epa.gov

RIN: 2060–AI98

Environmental Protection Agency (EPA) **Final Rule Stage**

Clean Air Act (CAA)

3414. • LIST OF REGULATED SUBSTANCES AND THRESHOLDS FOR ACCIDENTAL RELEASE PREVENTION; PROPOSED AMENDMENT; FLAMMABLE HYDROCARBON FUEL EXEMPTION

Priority: Other Significant

Legal Authority: 42 USC 7412(r)

CFR Citation: 40 CFR 68 (Revision)

Legal Deadline: None

Abstract: EPA proposed to modify the list of regulated substances and threshold quantities rule promulgated under section 112(r) of the Clean Air Act. EPA proposed 67,000 pounds or less of a listed flammable hydrocarbon fuel (propane, butane, ethane, propylene, methane) be exempt from threshold quantity determination when handled in a process that is not manufacturing the fuel or connected to, or co-located with another covered process at the facility. This rule change is meant to provide relief to fuel users such as farms, hospitals, restaurants, hotels, etc. EPA also issued an interim stay of the effective date of the Risk Management Program rule as it applies to flammable hydrocarbon fuels, including propane, butane, ethane, propylene, and methane in quantities no greater than 67,000 pounds in a process.

Timetable:

Action	Date	FR Cite
Final Rule Administrative Stay of Effectiveness	05/28/99	64 FR 29167
NPRM	05/28/99	64 FR 29171
Final Action See additional information.	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4291

EPA will be doing a rule that will impact this rulemaking effort. See RIN 2050-AE74, SAN 4302.

Sectors Affected: 111 Crop Production; 523 Securities, Commodity Contracts and Other Intermediation and Related Activities; 722 Foodservices and Drinking Places; 112 Animal Production

Agency Contact: Sicy Jacob, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-7249
Fax: 202 260-0927
Email: jacob.sicy@epa.gov

John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-4043
Fax: 202 260-0927
Email: ferris.john@epa.gov

RIN: 2050–AE72

3415. NEW SOURCE REVIEW (NSR) REFORM

Regulatory Plan: This entry is Seq. No. 125 in Part II of this issue of the **Federal Register**.

RIN: 2060–AE11

EPA—Clean Air Act (CAA) Final Rule Stage

3416. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER) (PHASE 2)

Regulatory Plan: This entry is Seq. No. 126 in Part II of this issue of the **Federal Register**.

RIN: 2060–AE29

3417. NESHAP: MANUFACTURING OF AMINO AND PHENOLIC RESINS (POLYMERS AND RESINS GROUP III)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997.

Abstract: Section 112 of the amended Clean Air Act requires development of emission standards for all major sources, and selected area sources, emitting any of the 188 hazardous air pollutants listed in section 112(b) of the Act. Amino, and phenolic resins productions have been listed as categories of major sources based on documented emissions of phenol and/or formaldehyde. The purpose of the NESHAP for the Manufacturing of Amino and Phenolic Resins (Polymers and Resins Group III) project is to initiate the regulatory process for sources engaged in the production of amino, and phenolic resins, and to ultimately develop a NESHAP based on candidate Maximum Achievable Control Technology.

Timetable:

Action	Date	FR Cite
NPRM	12/14/98	63 FR 68831
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3228

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

Agency Contact: Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

John Schaefer, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0296
Fax: 919 541-3470
Email: schaefer.john@epa.gov

RIN: 2060–AE36

3418. NESHAP: PHOSPHATE FERTILIZERS PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 1997, Clean Air Act Amendments of 1990.

Abstract: EPA is required to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAAA and, to establish dates for the promulgation of emission standards for each of the listed categories of HAP emission sources and develop emission standards for each source of HAPs so that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the phosphate fertilizer production industry emits several of the 189 HAPs listed in section 112(b) of the CAAA. The purpose of this action is to pursue a regulatory development program that would ensure that emission standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	12/27/96	61 FR 68430
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3304

Agency Contact: Ken Durkee, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5425
Fax: 919 541-5600
Email: durkee.ken@epa.gov

Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Research Triangle Park, NC 27711
Phone: 919 541-5596
Email: crowder.jim@epa.gov

RIN: 2060–AE44

3419. NESHAP: PRIMARY COPPER SMELTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The primary copper smelting industry is known to emit a number of the hazardous air pollutants listed in section 112 of the Clean Air Act. The industry is comprised of seven smelters located in four states. All have extensive control systems for oxides of sulfur and HAPs. However, fugitive emissions may cause several smelters to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	04/20/98	63 FR 19582
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 334

Agency Contact: Eugene Crumpler, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0881
Fax: 919 541-5600
Email: crumpler.eugene@epa.gov

Al Verveart, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AE46

3420. NESHAP: SECONDARY ALUMINUM INDUSTRY

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Judicial, December 15, 1999.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the Act, to publish a schedule establishing a date

for the promulgation of emission standards for each of the listed categories of HAP emission sources, and develop emission standards for each source of HAPs such that the schedule is met. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the secondary aluminum industry may reasonably be anticipated to emit several of the 188 HAPs listed in section 112(b) of the Act. As a consequence, the source category is included on the initial list of HAP emitting categories and is on the list of categories scheduled for standards promulgation within seven years of enactment of the Act. The purpose of this action is to pursue a regulatory development program that would help to ensure that emission standards may be promulgated. Emission standards for this category were proposed on February 11, 1999.

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6946
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 3078

Sectors Affected: 331314 Secondary Smelting and Alloying of Aluminum

Agency Contact: Juan Santiago, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-1084
Fax: 919 541-5600
Email: santiago.juan@epa.gov

Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

RIN: 2060–AE77

3421. NSPS: SYNTHETIC ORGANIC CHEMICALS MANUFACTURING INDUSTRY - WASTEWATER (FINAL) & AMEND. TO APPENDIX C OF PART 63 & APPENDIX J OF PART 61

Priority: Other Significant

Legal Authority: CAAA

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This rule will develop a new source performance standard to control air emissions of volatile organic compounds from wastewater treatment operations of the synthetic chemical manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	09/12/94	59 FR 46780
Supp NPRM-1st	10/11/95	60 FR 52889
Supp NPRM-2nd Appendix J to Part 60	12/09/98	63 FR 67988
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 338

Sectors Affected: 3251 Basic Chemical Manufacturing

Agency Contact: Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5395

Mary Kissell, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-4516
Fax: 919 541-0246
Email: kissell.mary@epa.gov

RIN: 2060–AE94

3422. NESHAP: PUBLICLY OWNED TREATMENT WORKS (POTW)

Priority: Other Significant

Legal Authority: 42 USC 7412(e)(5) CAAA sec 112(e)(5); 42 USC 7412(n)(3) CAAA sec 112(n)(3)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Judicial, October 15, 1999.

Abstract: This rule will specify maximum achievable control technology for publicly owned treatment works (POTW), also known as sewage/wastewater treatment plants, or water reclamation facilities. Hazardous air pollutant emissions from the headworks, primary and secondary treatment, solids handling, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66084
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: SAN No. 3377

Agency Contact: Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5395

Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0884
Fax: 919 541-0246
Email: lucas.bob@epa.gov

RIN: 2060–AF26

3423. NESHAP: PETROLEUM REFINERIES—FCC UNITS, REFORMERS AND SULFUR PLANTS

Priority: Other Significant

Legal Authority: 42 USC 7401 et seq; PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: Final, Judicial, November 15, 1999.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires EPA to develop national emission standards for hazardous air pollutants (NESHAPs). EPA promulgated NESHAP rules for petroleum refineries on August 18, 1995 (RIN 2060-AD94). This action covers three process vents not covered under RIN 2060-AD94. These are the catalyst regeneration vents from fluid catalytic cracking units (FCCU) and catalytic reformers and the tail gas vents from sulfur recovery plants.

Timetable:

Action	Date	FR Cite
NPRM	09/11/98	63 FR 48889
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

EPA—Clean Air Act (CAA)

Final Rule Stage

Additional Information: SAN No. 354

Sectors Affected: 32411 Petroleum Refineries

Agency Contact: Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5395

Bob Lucas, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0884
Fax: 919 541-0246
Email: lucas.bob@epa.gov

RIN: 2060–AF28

3424. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS

Regulatory Plan: This entry is Seq. No. 127 in Part II of this issue of the **Federal Register**.

RIN: 2060–AF34

3425. PROTECTION OF STRATOSPHERIC OZONE: SUPPLEMENTAL RULE REGARDING A RECYCLING STANDARD UNDER SECTION 608

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq CAA sec 608

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: This rule will amend the recordkeeping aspects of the technician certification program, clarify aspects of a sales restriction, and adopt an updated version of ARI standard 740. The rule will also clarify the distinction between major and non-major repairs and amend several definitions including small appliances. The rule also addresses the transfers of unreclaimed refrigerant between majority-owned and majority-controlled subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM 1	02/29/96	61 FR 7858
NPRM	11/01/96	61 FR 56493
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3556

Additional SANs 3895, 3896. This rule will address a potential adoption of a more flexible method for cleaning refrigerants for refrigerant transferred between appliances with different ownership with a potential adoption of a 3rd party certification program for labs.

Agency Contact: Michael Forlini, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9475
Fax: 202 564-9665

RIN: 2060–AF36

3426. PROTECTION OF STRATOSPHERIC OZONE: REFRIGERANT RECYCLING RULE AMENDMENT TO INCLUDE SUBSTITUTE REFRIGERANTS

Priority: Other Significant

Legal Authority: 42 USC 7671(g) CAA sec 608; 42 USC 7401 et seq

CFR Citation: 40 CFR 82(F)

Legal Deadline: None

Abstract: This action would facilitate fulfillment of the statutory mandate to apply the venting prohibition to substitute refrigerants. The action would provide regulations covering recovery/recycling equipment, recovery/recycling practices, and applicable certifications that would be required to accomplish compliance with the venting prohibition. Requirements would parallel those of the current section 608 regulations, expanding applicability, where appropriate, to substitute refrigerants.

Timetable:

Action	Date	FR Cite
NPRM	06/11/98	63 FR 32044
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 356

Agency Contact: Julius Banks, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9870
Fax: 202 565-2095
Email: banks.julius@epa.gov

RIN: 2060–AF37

3427. SOURCE SPECIFIC FEDERAL IMPLEMENTATION PLAN FOR NAVAJO GENERATING STATION; FOUR CORNERS POWER PLANT

Priority: Other Significant

Legal Authority: 42 USC 1740

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Four Corners Plant, respectively. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48731
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 356

Agency Contact: Douglas McDaniel, Environmental Protection Agency, Air and Radiation, Region09, San Francisco, CA 94105-3901
Phone: 415 744-1246

Colleen McKaughan, Environmental Protection Agency, Air and Radiation
Phone: 520 498-0118

RIN: 2060–AF42

3428. METHODS FOR MEASUREMENT OF VISIBLE EMISSIONS—ADDITION OF METHODS 203A, 203B, AND 203C TO APPENDIX M OF PART 51

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401(b)(1); 42 USC 7410; 42 USC 7470 to 7479; 42 USC 7501 to 7508; 42 USC 7601(a)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking adds Test Methods 203A, 203B, and 203C to 40 CFR part 51, appendix M (entitled Example Test Methods for State Implementation Plans). These methods

describe procedures for estimating the opacity of visible emissions. States have requested that EPA promulgate these methods so that they can use them in State Implementation Plans in enforcing visible emissions regulations from Stationary Sources.

Timetable:

Action	Date	FR Cite
NPRM	11/22/93	58 FR 61639
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2915

Agency Contact: Peter Westlin, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-2707
Fax: 919 541-1058
Email: westlin.peter@epa.gov

RIN: 2060–AF83

3429. FEDERAL IMPLEMENTATION PLAN (FIP) TO CONTROL EMISSIONS FROM SOURCES LOCATED ON THE FORT HALL INDIAN RESERVATION

Priority: Other Significant

Legal Authority: CAA, title I

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: EPA will propose Federal rulemaking for sources located on the Reservation to implement the intent of the Clean Air Act (CAA) title I program to bring about attainment of the PM-10 NAAQS both on and off the Fort Hall Indian Reservation.

Timetable:

Action	Date	FR Cite
NPRM	02/12/99	64 FR 7307
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3637

Agency Contact: Steve Body, Environmental Protection Agency, Air and Radiation, Region10, Seattle, WA 98101
Phone: 206 553-0782

RIN: 2060–AF84

3430. PROTECTION OF STRATOSPHERIC OZONE: UPDATE OF THE SUBSTITUTES LIST UNDER THE SIGNIFICANT NEW ALTERNATIVES POLICY (SNAP) PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671(k) CAA sec 612

CFR Citation: 40 CFR 9; 40 CFR 82

Legal Deadline: None

Abstract: Section 612 of the Clean Air Act requires EPA to identify alternatives to Class I and II ozone depleting substances and to publish lists of acceptable and unacceptable substitutes. Producers of substitutes must notify EPA at least 90 days before alternatives are introduced into interstate commerce. Unlike acceptable alternatives (see Notices), substitutes which are deemed by EPA to be unacceptable or acceptable subject to use restrictions must go through notice and comment rulemaking. Substitute lists are updated intermittently depending on the volume of notifications.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/92	57 FR 1984
NPRM	05/12/93	58 FR 28094
Final Rule	03/18/94	59 FR 13044
Notice 1	08/26/94	59 FR 44240
NPRM 1	09/26/94	59 FR 49108
Notice 2	01/13/95	60 FR 3318
Final Rule 1	06/13/95	60 FR 31092
Notice 3	07/28/95	60 FR 38729
NPRM 2	10/02/95	60 FR 51383
Notice 4	02/08/96	61 FR 4736
NPRM 3	05/22/96	61 FR 25604
Final Rule 2	05/22/96	61 FR 25585
Notice 5	09/05/96	61 FR 47012
Final Rule 3	10/16/96	61 FR 54030
Notice 6	03/10/97	62 FR 10700
NPRM 4	05/21/97	62 FR 27874
Notice 7	06/03/97	62 FR 30275
NPRM 5	02/03/98	63 FR 5491
Notice 8	02/24/98	63 FR 9151
Notice 9	05/22/98	63 FR 28251
Interim Final Rule 7	01/26/99	64 FR 3861
Interim Final Rule 8	01/26/99	64 FR 3865
NPRM 6	02/18/99	64 FR 8038
ANPRM 9	02/18/99	64 FR 8043
Final Rule 5	04/28/99	64 FR 22981
Notice 10	06/08/99	64 FR 30410
Final Rule 6	11/00/99	
Notice 11	11/00/99	
NPRM 9	03/00/00	
Final Rule 9	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3525

(Generic SAN)

Agency Contact: Kelly Davis, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-2303
Fax: 202 565-2096

RIN: 2060–AG12

3431. SERVICE INFORMATION AVAILABILITY

Priority: Other Significant

Legal Authority: 42 USC 7521(m)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This rule will require manufacturers of automobiles to provide necessary information needed to make use of emission control diagnostic systems as well as that needed to make emission-related diagnosis and repairs by any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines. This will allow independent service repair garages, individual owners, parts manufacturers, etc., to have access to emission control information to better service automobiles and ensure clean air compliance requirements.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3741

Agency Contact: David Dickinson, Environmental Protection Agency, Air and Radiation, Washington, DC 20460
Phone: 202 564-9296
Email: dickinson.david@epamail.epa.gov

RIN: 2060–AG13

EPA—Clean Air Act (CAA)

Final Rule Stage

3432. AMENDMENTS FOR TESTING AND MONITORING PROVISIONS TO PART 60, PART 61, AND PART 63

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7410 to 7412; 42 USC 7414; 42 USC 7416

CFR Citation: 40 CFR 60; 40 CFR 61; 40 CFR 63

Legal Deadline: None

Abstract: This rulemaking will amend the emission test methods and performance specifications in appendices A and B of part 60, appendix B of part 61, and appendix A of part 63 by revising the method format to conform with Environmental Monitoring Management Council (EMMC) guidelines. Conformance to the guidelines will promote consistency among inter-program methods. In addition, minor technical and printing errors in the methods will be corrected. Similar errors in various subparts of part 60 will also be corrected. Performance specification 15 is also being proposed in this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/27/97	62 FR 45369
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3743

Agency Contact: Foston Curtis, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-1063
Fax: 919 541-1039
Email: curtis.foston@epa.gov

Bill Lamason, Environmental Protection Agency, Air and Radiation, MD-19, RTP, NC 27711
Phone: 919 541-5374

RIN: 2060–AG21

3433. AMENDMENT TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES; MONITORING REQUIREMENTS (PS-1)

Priority: Substantive, Nonsignificant

Legal Authority: CAA sec 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action proposes to clarify and update requirements for source owners and operators who must install and use continuous stack or duct opacity monitoring equipment. This action also proposes amendments regarding design and performance validation requirements for continuous opacity monitoring system (COMS) equipment in appendix B, PS-1. These amendments to subpart A and PS-1 will not change the affected facilities' applicable emission standards or requirement to monitor. The amendments will: (1) clarify owner and operator and monitor vendor obligations, (2) reaffirm and update COMS design and performance requirements, and (3) provide EPA and affected facilities with equipment assurances for carrying out effective monitoring. The specifications shall apply to all COMS's installed or replaced after the date of promulgation. Following promulgation, a source owner, operator, or manufacturer will be subject to these performance specifications if installing a new COMS, relocating a COMS, replacing a COMS, re-certifying a COMS that has undergone substantial refurbishing, or has been specifically required to re-certify the COMS with these revisions.

Timetable:

Action	Date	FR Cite
NPRM	11/24/94	59 FR 60585
Supplemental NPRM	09/23/98	63 FR 50824
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3744

Agency Contact: Solomon Ricks, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-5242
Fax: 919 541-1039
Email: ricks.solomon@epa.gov

RIN: 2060–AG22

3434. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY

Regulatory Plan: This entry is Seq. No. 128 in Part II of this issue of the **Federal Register**.

RIN: 2060–AG28

3435. NSPS: SEWAGE SLUDGE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401-7626

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Agency has decided to delist this source category because investigation has revealed that there are no major sources in this category. Instead, potential emissions standards, specifically TCDD, TCDF and co-planar PCB emissions, will be addressed under the authority of Section 405(d) of the Clean Water Act. A delisting notice will be published in the first quarter of 2000.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/97	62 FR 1868
Delisting Notice	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 381

Sectors Affected: 22132 Sewage Treatment Facilities

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5602
Email: vervaert.al@epa.gov

Eugene Crumpler, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0881
Fax: 919 541-5600
Email: crumpler.eugene@epa.gov

RIN: 2060–AG50

EPA—Clean Air Act (CAA) — Final Rule Stage

3436. REVISIONS TO THE REGULATION FOR APPROVAL OF STATE PROGRAMS AND DELEGATION OF FEDERAL AUTHORITIES 112(L)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7412 CAA Sec 112(l)

CFR Citation: 40 CFR 63(E)

Legal Deadline: None

Abstract: Guidance in the form of rulemaking is being developed in accordance with the requirements of section 112(l) of the Clean Air Act Amendments of 1990 for the approval of State air toxic programs and the delegation of Federal authorities to the States for the implementation and enforcement of section 112 emission standards and other requirements. This regulatory document will provide some flexibility to States in the following areas: minimum requirements for EPA approval of State air toxics regulations that are equivalent to or more stringent than the Federal standards and minimum requirements for EPA approval of State air toxics programs that are equivalent to or more stringent than the Federal program. Specific issues that will be addressed include: alternative work practice standards; alternative monitoring, recordkeeping, and reporting; alternative test method approval process; equivalency by permits; and mechanisms and requirements for approval of State air toxics programs. Additionally, the Partial Approval and Delegable Authorities rulemakings will be added to this rulemaking. The Partial Approval language will provide flexibility to States by allowing States to accept delegation of parts of standards. This will allow them to implement and enforce these provisions on a smaller scale. The delegable authorities rulemaking will clarify what authorities EPA has delegated to States when the part 63, subpart A, general provisions have been delegated.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 1880
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal

Additional Information: SAN No. 382

Agency Contact: Tom Driscoll, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-5135
Fax: 919 541-5509
Email: Driscoll.Tom@epa.gov

Kathy Kaufman, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-0102
Fax: 919 541-5509
Email: Kaufman.Kathy@epa.gov

RIN: 2060–AG60

3437. ADDITION OF METHOD 207 TO APPENDIX M OF 40 CFR PART 51 METHOD FOR MEASURING ISOCYANATES IN STATIONARY SOURCE EMISSIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: The Clean Air Act Amendments of 1990 listed certain isocyanate compounds as hazardous air pollutants (HAPs). The Agency does not have any published test methods that would measure air emissions of these isocyanate compounds from stationary sources. This action would add a validated test method to measure isocyanate emissions to appendix M of part 51. Test methods in part 51 can be adopted by any State for use in any regulation that requires the measurement of any of the isocyanate compounds on the HAP list. This action would not impose any new regulatory requirements that do not already exist. It should benefit State governments by providing them with a validated test procedure for measuring the emissions of isocyanate compounds.

Timetable:

Action	Date	FR Cite
NPRM	12/08/97	62 FR 64532
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3

Agency Contact: Gary McAlister, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-1062
Fax: 919 541-1039
Email: mcalister.gary@epa.gov

RIN: 2060–AG88

3438. ADDITION OF OPACITY METHOD TO APPENDIX M OF 40 CFR PART 51 (METHOD 203)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This rulemaking proposes to add a method, Method 203, for the measurement of opacity from stationary sources, to appendix M (Example Test Methods for State Implementation Plans) in 40 CFR part 51. This action provides States with an instrumental test method which can be used in determining, on a continuous basis, compliance with stationary source opacity emission limitations.

Timetable:

Action	Date	FR Cite
NPRM	10/07/92	57 FR 46114
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3958

Agency Contact: Solomon Ricks, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-5242
Fax: 919 541-1039
Email: ricks.solomon@epa.gov

RIN: 2060–AH23

3439. NESHAP: GROUP I POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS AND GROUP IV POLYMERS AND RESINS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.480 to 63.506 (Revision); 40 CFR 63.1310 to 63.1335 (Revision)

EPA—Clean Air Act (CAA)

Final Rule Stage

Legal Deadline: None

Abstract: During the development of the National Emission Standard for Hazardous Air Pollutants (NESHAP) for elastomers (Group I polymers and resins) and thermoplastics (Group IV polymers and resins) (RINs 2060-AD56 and 2060-AE37), many of the provisions contained in the Hazardous Organic NESHAP (HON) were referenced directly by these polymers and resins regulations due to similarities in processes, emission characteristics, and control technologies. On January 17, 1997, the EPA promulgated changes to the HON to remove ambiguity, to clearly convey EPA intent, and to make the rule easier to understand and implement in response to industry petitions. It is necessary to make parallel changes to the polymers and resins NESHAP; otherwise inconsistencies will exist for NESHAPs regulating similar source categories. An ANPRM was published in the Federal Register on 11/25/96 (61 FR 59849), to explain the nature of changes planned.

Subsequently, six litigants have petitioned for review of the elastomers and thermoplastics regulations. Four companies have petitioned EPA to reconsider specific provisions in the thermoplastics regulation. Revisions will be proposed to parallel HON changes and to resolve petitioners' issues. There are no impacts anticipated for small businesses or State/local/tribal governments.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/96	61 FR 59849
NPRM	03/09/99	64 FR 11559
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 393

Sectors Affected: 325211 Plastics Material and Resin Manufacturing

Agency Contact: Bob Rosensteel, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5608
Fax: 919 541-3470
Email: rosensteel.bob@epa.gov

Penny Lassiter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

RIN: 2060–AH47

3440. EXPANDED DEFINITIONS FOR ALTERNATIVE-FUELED VEHICLES AND ENGINES MEETING LOW-EMISSION VEHICLE EXHAUST EMISSION STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities. This action will, for vehicles and engines meeting LEV emission standards, broaden the definition of the term dedicated fuel system, broaden the criteria for engine families, and provide an exemption from certification fees. This action is not a deregulatory action. This action will provide another means for small business to remain active entities in supplying alternatively fueled vehicles to the market place. The above three changes are intended to reduce the cost of complying with the requirements of certification, and small business will benefit from these changes. This action will enhance the ability for the regulated industry to provide alternatively fueled vehicles to the consumer in support of the Executive Order 13031.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 403

Agency Contact: Clifford Tyree, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 668-4310
Email: tyree.clifford@epa.gov

RIN: 2060–AH52

3441. NESHAP: CHROMIUM ELECTROPLATING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63 (Revision)

Legal Deadline: None

Abstract: Since the promulgation of the chromium electroplating NESHAP we have been informed of several sources that are experiencing difficulty in complying with the concentration limit for new sources even though they have installed and operate composite mesh pad scrubber technology similar or identical to that used as the basis for the MACT emission limit. These sources operate new state-of-the-art plating tanks not encountered during rule development which feature enclosing hoods that completely cover the surface of the plating tank. This covered tank design allows for effective capture and ventilation at substantially lower exhaust air flow rates than otherwise encountered with more conventional exterior hooding. Although these sources exceed the new source standard concentration limit of 0.015 mg/dscm, actual mass rate emissions are more than 50 percent lower than would otherwise be achieved with more conventional hooding and higher ventilation rates. The chromium electroplating standard will be amended to include this alternative type of control system.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4115

Sectors Affected: 332813 Electroplating, Plating, Polishing, Anodizing and Coloring

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5602
Email: vervaert.al@epa.gov

Phil Mulrine, Environmental Protection Agency, Air and Radiation, MD-13

EPA—Clean Air Act (CAA)

Final Rule Stage

Phone: 919 541-5289
Fax: 919 541-5600
Email: mulrine.phil@epa.gov

RIN: 2060–AH69

3442. FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING ON SECTION 126 PETITIONS FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 USC 7426

CFR Citation: 40 CFR 52; 40 CFR 75; 40 CFR 97

Legal Deadline: None

Abstract: Section 126 of the CAA allows States to petition EPA for a finding that emissions from stationary sources in other States significantly contribute to nonattainment problems in the petitioning State. If EPA approves a petition, EPA would establish Federal requirements for the sources. In April 1999, EPA finalized action on 8 petitions submitted by Northeastern States for purposes of mitigating interstate transport of NOx, one of the main precursors of ground-level ozone. EPA determined that portions of the petitions were approvable under the 1-hour and/or 8-hour ozone standards. EPA deferred granting the approvable parts of the petitions as long as States and EPA stayed on schedule to meet the requirements of the NOx SIP call, a rulemaking that also addresses NOx transport. EPA committed to promulgating a NOx trading program for sources that would be affected by section 126 findings. The April rule established certain general parameters of the trading program and also included a default remedy if EPA failed to promulgate the trading program prior to the approval of any petitions. Subsequently, two court rulings have affected the section 126 rulemaking. In one ruling, the court remanded the 8-hour standard. In a separate action, the court granted a motion to stay the NOx SIP call SIP submission deadline. In response, EPA proposed to amend two aspects of the April 30 final rule—to decouple the approval of the petitions from the NOx SIP call deadlines and to stay the 8-hour portion of the rule. EPA intends to issue a final rule by the end of the year which will grant the approvable portions of the petitions with respect to the 1-hour standard, promulgate a NOx cap-and-trade program as the control remedy, and indefinitely stay the 8-hour portion of the rule.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/98	63 FR 24058
NPRM	09/30/98	63 FR 52213
NPRM	10/21/98	63 FR 56292
Supplemental NPRM	03/03/99	64 FR 10342
Final Action	05/25/99	64 FR 28250
Interim Fin. Stay	06/24/99	64 FR 33956
NPRM Amendments	06/24/99	64 FR 33962
Final Action Amendments	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 4095

Sectors Affected: 221112 Fossil Fuel Electric Power Generation

Agency Contact: Carla Oldham, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Pa, NC 27711
Phone: 919 541-3347
Email: oldham.carla@epamail.epa.gov

RIN: 2060–AH88

3443. NESHAP: OFF-SITE WASTE AND RECOVERY OPERATIONS; FINAL RULE—SETTLEMENT AGREEMENT; AND NESHAP FOR OFF-SITE WASTE AND RECOVERY OPERATIONS; TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The actions will amend the Off-Site Waste and Recovery Operations rule that was promulgated on July 1, 1996, based on the settlement agreement with the Chemical Manufacturers Association, the Hazardous Waste Management Association, and the Environmental Technology Council. The changes to the rule will clarify the EPA's intent and do not increase or lower or otherwise affect emissions or environmental protection. Additionally, the actions will clarify sections of the promulgated off-site waste and recovery operations regulation and correct any typographical errors noted. These actions will contain guidance and amended rule language. The comment period ended 7/19/99. We received comments on the direct final and are considering whether or not to withdraw the direct final action.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/20/99	64 FR 38950
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4108

Sectors Affected: 32731 Cement Manufacturing; 32411 Petroleum Refineries; 325412 Pharmaceutical Preparation Manufacturing; 562112 Hazardous Waste Collection

Agency Contact: Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5395
Fax: 919 541-0246
Email: hustvedt.ken@epa.gov

Elaine Manning, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5499
Fax: 919 541-0246
Email: manning.elaine@epa.gov

RIN: 2060–AH96

3444. PROTECTION OF STRATOSPHERIC OZONE: RECONSIDERATION ON THE 610 NONESSENTIAL PRODUCTS BAN

Priority: Other Significant

Legal Authority: 42 USC 7414; 42 USC 7601; 42 USC 7671-7671(q)

CFR Citation: 40 CFR 82(C)

Legal Deadline: None

Abstract: This action would propose to extend the current class I and class II bans on the sale and distribution of nonessential uses of ozone-depleting substances where sufficient substitutes are already readily available. As part of the initial 1993 rulemaking, EPA

banned the use of ozone-depleting substances in aerosols, pressurized dispensers, and foams where substitutes were available. Since that rulemaking was issued, the phaseout of production and consumption of class I substances has become effective and the Significant New Alternatives Policy (SNAP) Program under section 612 has been promulgated. The phaseout of newly manufactured class I substances and the identification of new acceptable substitutes for both class I and class II applications provide compelling reasons to reconsider the initial decisions regarding both product-specific exemptions and the decision to limit the ban's effect on major sectors that traditionally used ozone-depleting substances. Most domestic manufacturers have already incorporated the non-ozone-depleting substances in their products. The continued availability and use of ozone-depleting substances in parts and products manufactured abroad, which are sold or incorporated into larger products that are then sold into interstate commerce in the United States, negatively affects the competitiveness of domestic manufacturers who use substitute substances in their production. Therefore, it is appropriate to reconsider the applicability of the class I ban to both specific products and product categories. Amending these requirements would limit the potential use of ozone-depleting substances in applications where substitutes are available and thus, further protect the stratospheric ozone layer.

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 21772
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4077

Agency Contact: Cindy Newberg, Environmental Protection Agency, Air and Radiation, 6205J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9729
Fax: 202 565-2095
Email: newberg.cindy@epa.gov

RIN: 2060–AH99

3445. IMPORTATION OF NONCONFORMING VEHICLES; AMENDMENTS TO REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7522 CAA sec 203; 42 USC 7525 CAA sec 206; 42 USC 7541 CAA sec 207; 42 USC 7542 CAA sec 208; 42 USC 7601 CAA sec 301; 42 USC 7522 CAA sec 203; 42 USC 7550 CAA sec 216; 42 USC 7601 CAA sec 301

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This action will amend the regulations in 40 CFR part 85, subpart P to allow entry into the U.S. of vehicles which are originally sold in Canada and which are identical to their U.S. counterparts, without obtaining a certificate of conformity from EPA. This action is in response to a petition for review of import rules. The final rule also will address certain other issues in part 85, subpart P and subpart R, including: 1) formalizing a long-standing EPA policy regarding the importation of owned vehicles that are proven to be identical to a vehicle certified for sale in the U.S., 2) establishing new emission standards applicable to imported nonconforming vehicles, 3) clarifying the regulatory language that concerns exclusions and exemptions from meeting Federal emission requirements, and 4) providing several minor clarifications to the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/24/94	59 FR 13912
Supplemental NPRM	02/12/96	61 FR 5840
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2665

Agency Contact: Len Lazarus, Environmental Protection Agency, Air and Radiation, 6405J, Washington, DC 20460
Phone: 202 564-9281

RIN: 2060–AI03

3446. REDEFINITION OF GLYCOL ETHERS LISTED AS HAPS UNDER THE CLEAN AIR ACT, AND HAZARDOUS SUBSTANCES UNDER CERCLA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; 42 USC 9602; 42 USC 9603; 42 USC 9604; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 63 (Revision); 40 CFR 302 (Revision)

Legal Deadline: None

Abstract: The proposed action will redefine the glycol ethers category of hazardous air pollutants (HAPs) regulated under the Clean Air Act and hazardous substances under the Comprehensive Emergency Response, Compensation, and Liability Act. The new definition will omit specific compounds of high molecular weight used as surfactants by the soap and detergent industry. These compounds have low volatility, so only minor amounts are emitted during manufacture and use of soaps and detergents. The compounds also have low toxicity, so the small amounts that are released are extremely unlikely to cause any harm to health or the environment. The proposal will reduce the burden of environmental regulations on soap and detergent manufacturers, and will have no adverse environmental impact.

Timetable:

Action	Date	FR Cite
NPRM	01/12/99	64 FR 1780
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 4159

Development, implementation, and enforcement of emission standards by Federal and State government for the soap and detergent industry will be somewhat simplified by the omission of compounds of high molecular weight and low volatility.

Sectors Affected: 325611 Soap and Other Detergent Manufacturing

Agency Contact: Roy L. Smith, Dr., Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5362

EPA—Clean Air Act (CAA) — Final Rule Stage

Fax: 919 541-0237
Email: smith.roy@epa.gov

Karen Martin, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5274
Email: martin.karen@epa.gov

RIN: 2060–AI08

3447. NESHAP: OIL AND NATURAL GAS PRODUCTION AND NESHAP: NATURAL GAS TRANSMISSION AND STORAGE, AMENDMENTS

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Hazardous air pollutants (HAPs) known to be emitted from oil and gas production, storage, and transmission facilities include benzene, toluene, ethyl benzene, and xylene isomers (collectively referred to as BTEX), along with 2,2,4-trimethylpentane and n-hexane. Potential HAP emission sources are glycol dehydrator reboilers (stand-alone and co-located); condensate storage vessels; and equipment leaks at natural gas processing plants. Amendments to promulgated rule 64 FR 32609.

Timetable:

Action	Date	FR Cite
Final Amendment Defer Area Source	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4162

Agency Contact: Kent C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5395
Fax: 919 541-0246
Email: hustvedt.ken@epa.gov

Greg Nizich, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-3078
Email: nizich.greg@epa.gov

RIN: 2060–AI13

3448. OPTIONAL CERTIFICATION STREAMLINING PROCEDURES FOR LDVS, LDTS, AND HDES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2001; 15 USC 2002; 15 USC 2003; 15 USC 2005; 15 USC 2006; 15 USC 213; 42 USC 7521; 42 USC 7522; 42 USC 7524; 42 USC 7525; 42 USC 7541; 42 USC 7542; 42 USC 7549; 42 USC 7550; 42 USC 7552

CFR Citation: 40 CFR 86; 40 CFR 88

Legal Deadline: None

Abstract: This action will ease the burden of certification for both Original Equipment Manufacturers (OEMs) and after-market conversion entities that meet Clean-Fuel Vehicle requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/20/98	63 FR 38767
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4165

Agency Contact: Clifford Tyree, Environmental Protection Agency, Air and Radiation, NFEVL, Ann Arbor, MI 48105
Phone: 313 668-4310
Email: tyree.clifford@epa.gov

RIN: 2060–AI15

3449. CONTROL OF EMISSIONS OF AIR POLLUTION FROM NEW MARINE DIESEL ENGINES AT OR ABOVE 37 KILOWATTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7547(a)

CFR Citation: 40 CFR 89

Legal Deadline: NPRM, Judicial, November 25, 1998.
Final, Judicial, November 26, 1999.

Abstract: The ANPRM notifies and invites comments from the public on EPA's plans to propose stringent standards for control of emissions of oxides of nitrogen, hydrocarbons, and particulate matter from diesel marine engines at or above 37 kilowatts. The ANPRM contains a broad outline of EPA's plans for defining a national emission control program for these engines, including engine categories to be covered, emission standard levels being considered, and potential compliance programs. Results of a Nonroad Engine and Vehicle Emission Study conducted by EPA indicated the need for regulation of categories or classes of new nonroad engines and vehicles that are significant contributors to ozone or CO in NAAQS nonattainment areas. Such a finding led to control of emissions from various nonroad sources. This action outlines a strategy to control emissions from one nonroad source: diesel marine engines. If the emission control program discussed in the ANPRM is implemented, EPA would expect to see NOx and PM reductions comparable to their land-based counterparts on a per engine basis, for marine engines which are derivatives of land-based engines.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/98	63 FR 68507
NPRM	12/11/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4078

This was previously listed as RIN 2060-AH65.

Sectors Affected: 336399 All Other Motor Vehicle Parts Manufacturing; 335312 Motor and Generator Manufacturing

Agency Contact: Paul Machiele, Environmental Protection Agency, Air and Radiation, EPCD, Ann Arbor, MI 48105
Phone: 734 214-4264

Alan Stout, Environmental Protection Agency, Air and Radiation, EPCD, Ann Arbor, MI 48105
Phone: 734 214-4805
Email: stout.alan@epamail.epa.gov

RIN: 2060–AI17

3450. TIER II LIGHT-DUTY VEHICLE AND LIGHT-DUTY TRUCK EMISSION STANDARDS AND GASOLINE SULFUR STANDARDS

Regulatory Plan: This entry is Seq. No. 129 in Part II of this issue of the **Federal Register**.

RIN: 2060–AI23

EPA—Clean Air Act (CAA)

Final Rule Stage

3451.
HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS—FEDERAL PLAN (FEDERAL PLAN FOR EXISTING HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7411 CAA sec 111; 42 USC 7509 CAA sec 129; 42 USC 7601 CAA sec 301(a)(d)

CFR Citation: 40 CFR 60.27

Legal Deadline: Final, Statutory, September 30, 1999, CAA Section 129(b)(3).

Abstract: The Clean Air Act Amendments of 1990 directed the Environmental Protection Agency (EPA) to set emission guidelines for existing incinerators combusting hospital waste, medical waste, and infectious waste under sections 111 and 129. On 9/15/97, the EPA promulgated emission guidelines for Hospital/Medical/Infectious Waste Incinerators (HMIWI) under the authority of section 111(d) and section 129 of the Clean Air Act (see 62 FR 48348). This action is a follow-on activity to the 1997 HMIWI rulemaking which applies to existing HMIWI. In accordance with section 129, States with affected sources must submit a State Plan by 9/15/98 describing how the State will implement the emission guidelines for existing HMIWI. In this proposed HMIWI Federal Plan rulemaking, EPA becomes the implementing authority in those instances where the State or local agency has failed to submit a plan or a plan has not yet been approved. Therefore, consistent with section 129(b)(3) of the Act, EPA is proposing a plan that applies to HMIWI in any State, tribe or locale that has not submitted an approvable plan within the time allotted. This action makes no changes to the requirements in the 1997 rule, and is intended to fulfill EPA's duty under section 129(b)(3) to promulgate a Federal Plan as a gap-filling measure until the State fulfills its statutory obligations. When the State submits an approvable State Plan, the Federal Plan will no longer apply to units in that State.

Timetable:

Action	Date	FR Cite
NPRM	07/06/99	64 FR 36425
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 421

Agency Contact: Lalit Banker, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-3310
Fax: 919 541-2664
Email: banker.lalit@epa.gov

RIN: 2060–AI25

3452. AMENDMENT TO REGULATIONS GOVERNING EQUIVALENT EMISSION LIMITATIONS BY PERMIT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA Section 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action delayed a permit requirement triggered by the Agency's failure to promulgate all of the 7 year MACT standards by the 112(j) hammer date of May 15, 1999. The Agency was sued due to the fact that not all of the 7 year standards were promulgated by the statutory deadline of November 15, 1997. The settlement agreement requires that all remaining 7 year standards will be promulgated by December 2000. This action will delay the permit requirements triggered by the Section 112(j) hammer until the remaining standards are promulgated.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4244

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-0837
Email: markwordt.david@epa.gov

Jim Szykman, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5674

RIN: 2060–AI28

3453. NESHAP: ETHYLENE OXIDE COMMERCIAL STERILIZATION AND FUMIGATION OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412 CAA Section 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action suspended the National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operation (EO NESHAP) requirements for chamber exhaust and aeration room vents. The suspension allows affected sources subject to the EO NESHAP to defer compliance with the NESHAP requirements for chamber exhaust and aeration room vents for one year until December 6, 1999. This suspension does not affect the requirement for sources subject to the EO NESHAP to comply with provisions for sterilizer vents by December 6, 1998. This action does not change the level of the standards or the intent of the NESHAP promulgated in 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/04/98	63 FR 66990
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4222

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-0837
Email: markwordt.david@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AI37

EPA—Clean Air Act (CAA) — Final Rule Stage

3454. REVISION OF EPA'S RADIOLOGICAL EMERGENCY RESPONSE PLAN

Priority: Substantive, Nonsignificant

Legal Authority: PL 96-295 Sec 304; EO 12777

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The U.S. Environmental Protection Agency (EPA) Radiological Emergency Response Plan (RERP) establishes a framework for timely, coordinated EPA action to protect public health and safety and the environment in response to a peacetime radiological incident. The original EPA RERP was approved in 1986. This new revision updates authorities, responsibilities, capabilities, and procedures for implementing effective radiological emergency response actions by EPA Offices. The RERP presents the EPA organizational structure and concept of operations for responding to radiological incidents as a participant in a Federal multi-agency response using the Federal Radiological Emergency Response Plan (FRERP) and the Federal Response Plan (FRP), and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This revision incorporates recent changes to the FRERP and NCP, and many other policy updates. In short, this revision ensures that EPA maintains a comprehensive strategy to provide organized, effective assistance to State and local governments in the event of a radiological emergency.

Timetable:

Action	Date	FR Cite
Final Plan	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3638

Was previously listed in the Regulatory Agenda as RIN 2060-AF85.

Agency Contact: Craig Conklin, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9222

RIN: 2060–AI49

3455. FEDERAL PLAN REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION PRIOR TO 5/30/91 AND HAVE NOT BEEN MODIFIED OR RECONSTRUCTED SINCE 5/30/91

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401-7642

CFR Citation: 40 CFR 62.14350 (New)

Legal Deadline: None

Abstract: On 3-12-96, the EPA promulgated emission guidelines for control of non-methane organic compound air emissions from existing municipal solid waste (MSW) landfills, under the authority of section 111(d) of the Clean Air Act (61 FR 9905). State agencies were required to develop and submit a Plan for implementing the emission guidelines by 12-12-96. Indian tribes may, but are not required, to submit a Tribal Plan. In the event, however, that a State, locality, or Indian Tribe should fail to submit an approvable Plan in accordance with the Clean Air Act, EPA is required to prescribe a Plan for these areas and enforce the provisions of such a Plan. The time lines for such action are specified in 40 CFR 60 subpart B. Under this action, EPA is initiating a Federal Plan that regulates existing MSW landfills in States, localities, and Indian Tribes that have not submitted an approvable plan within the time allotted. This action makes no changes to the requirements in the original rule, and is intended as a gap-filling measure until the State, locality, or Indian Tribe can receive the necessary administrative approvals. When the State, locality, or Indian Tribe submits an approvable Plan, the federal Plan will be amended to no longer apply to existing MSW landfills in these areas.

Timetable:

Action	Date	FR Cite
NPRM	12/16/98	63 FR 69364
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, Tribal, Federal

Additional Information: SAN No. 4066

Agency Contact: Mary Ann Warner, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-1192
Fax: 919 541-2664
Email: warner.maryann@epa.gov

RIN: 2060–AI50

3456. • PROCESS WASTEWATER PROVISIONS OF THE GENERIC MACT

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: Not Yet Determined

Legal Deadline: Final, Judicial, November 15, 1999.

Abstract: The Generic MACT wastewater provisions were reproposed and published on June 29, 1999 in response to public comment on the Generic MACT proposed rule. The Acrylic/Modacrylic, Polycarbonates, and Acetal Resins source categories are addressed by these wastewater provisions. The promulgation package is under a court-ordered deadline of November 15, 1999.

Timetable:

Action	Date	FR Cite
NPRM	06/29/99	64 FR 34950
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 428

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-0837
Email: markwordt.david@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AI53

3457. • REVISIONS TO PROMULGATION OF FEDERAL IMPLEMENTATION PLAN FOR ARIZONA - MARICOPA NONATTAINMENT AREA PM-10 TEST METHODS

Priority: Other Significant

Legal Authority: 42 USC 7410(c) Clean Air Act sec 110(c)

CFR Citation: 40 CFR 52.123; 40 CFR 52.124; 40 CFR 52.127; 40 CFR 52.128

EPA—Clean Air Act (CAA)

Final Rule Stage

Legal Deadline: None

Abstract: EPA promulgated a Federal implementation plan (FIP) to address the moderate area PM-10 requirements for the Phoenix PM-10 nonattainment area. Specifically, for both the annual and 24-hour PM-10 standards, EPA is promulgating a demonstration that reasonably available control measures (RACM) will be implemented as soon as possible, a demonstration that it is impracticable for the area to attain the standards by the statutory attainment deadline, and a demonstration that reasonable further progress (RFP) is being met.

As part of the FIP, EPA is promulgating a fugitive dust rule to control PM-10 emissions from vacant lots, unpaved parking lots, and unpaved roads, and is also promulgating an enforceable commitment to ensure that RACM for agricultural sources will be proposed by September 1999, finalized by April 2000, and implemented by June 2000.

In addition, EPA made its disapproval of the Arizona moderate area plan's RACM, RFP, and impracticability demonstrations final, because those demonstrations do not adequately address the Act's moderate area PM-10 requirements.

EPA recently established a new standard for PM-2.5 and also revised the PM-10 standards; however, this action does not address those standards.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4335

Agency Contact: Karen Irwin, Environmental Protection Agency, Air and Radiation, Air-4, San Francisco, CA 94105
Phone: 415 744-1903

RIN: 2060–AI54

3458. • ADDITIONAL FLEXIBILITY AMENDMENTS TO INSPECTION MAINTENANCE PROGRAM REQUIREMENTS; AMENDMENTS TO THE FINAL RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; 23 USC 101

CFR Citation: 40 CFR part 51

Legal Deadline: Other, Statutory, August 13, 1999, Must be published by 8/13/99 to avoid application of 2:1 offset sanctions in Louisiana.

Abstract: The Environmental Protection Agency (EPA) has had oversight and policy development responsibility for Inspection and Maintenance programs since the passage of the Clean Air Act (CAA) in 1970. The 1977 amendments to the CAA mandated I/M for certain areas with long-term air quality problems and the 1990 amendments to the Clean Air Act set forth standards for implementation of the I/M programs. EPA is proposing several minor substantive amendments and revisions to the I/M requirements published on November 5, 1992 (40 CFR part 51, subpart S. EPA believes these amendments and revisions are necessary to bring existing rule up-to-date with current technological developments, policy decisions and statutory requirements, also providing states additional flexibility to tailor their Inspection and Maintenance programs to meet future needs. Among these future needs are: The need to accommodate an aging fleet that is rapidly turning over to newer, cleaner, and more durable vehicle technologies; the desire to maximize program efficiency and customer convenience by capitalizing on newer vehicle testing options such as on-board diagnostic (OBD) system testing; and the need to assess the role of I/M programs in areas that will attain the one-hour National Ambient Air Quality Standards (NAAQS) and begin to look at how to attain, or maintain, the new, eight-hour NAAQS. These amendments are authorized by the CAA provisions that EPA's guidance for such programs be "from time to time revised" and are also in response to the 1995 National Highway System Designation Act's I/M provisions. It is important to note that this action will not increase the existing burden on states; the proposed changes represent an opportunity for states to take advantage of additional options and flexibilities. Furthermore, states are under no obligation, legal or otherwise, to modify existing plans meeting the previously applicable requirements as a result of this action.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 55195
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4295

Agency Contact: David Sosnowski, Environmental Protection Agency, Air and Radiation, RSPD, Ann Arbor, MI 48105
Phone: 734 214-4823
Fax: 734 214-4052
Email: Sosnowski.David@epa.gov

RIN: 2060–AI61

3459. • NESHAP FOR ETHYLENE OXIDE COMMERCIAL STERILIZATION OPERATIONS-MONITORING AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The proposed amendments will correct technical problems associated with both the compliance testing and monitoring requirements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4316

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711

EPA—Clean Air Act (CAA) — Final Rule Stage

Phone: 919 541-0837
Email: markwordt.david@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AI64

3460. • NATIONAL EMISSION STANDARDS FOR BENZENE EMISSIONS FROM COKE BY-PRODUCT RECOVERY PLANTS (PART 61, SUBPART L)

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Section 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: Coke by-product plants are designed to separate and recover coal tar derivatives (by-products) that evolve from coal during the coking process of a coke oven battery. The predominant pollutant emitted from coke by-product recovery plans is benzene. Other HAPs emitted include naphthalene, phenol, toluene, and xylene.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4286

Agency Contact: Lula Melton, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-2910
Email: melton.lula@epa.gov

Al Vervaert, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AI65

3461. • TECHNICAL AMENDMENT TO THE FINDING OF SIGNIFICANT CONTRIBUTION AND RULEMAKING FOR CERTAIN STATES FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OF OZONE (THE "NOX SIP CALL" RULE)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(D); 42 USC 7410(k)(5)

CFR Citation: 40 CFR 51 (Revision)

Legal Deadline: None

Abstract: This rule will amend the final NOx SIP call rule promulgated on October 27, 1998. That rule set NOx emission budgets for a number of eastern and midwestern states in order to reduce overall NOx emissions that contribute to smog in the eastern half of the country. This amendment is a technical adjustment to some of the emission budgets promulgated in that rule.

Timetable:

Action	Date	FR Cite
Final Tech. Amend.	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4282

Federal, State and local governments are affected by the final NOx SIP call. However, this technical amendment will not affect those governments in and of itself.

Legal Deadline: Statutory Other — EPA is under active litigation for the SIP call. In addition, the SIPs submittal due date of 9/30/99 was stayed until further order by the court. The States still need the revised budgets for planning & public hearing purposes.

Agency Contact: Kimber Scavo, Environmental Protection Agency, Air and Radiation, 15
Phone: 919 541-3354
Fax: 919 541-0824
Email: scavo.kimber@epa.gov

Greg Stella, Environmental Protection Agency, Air and Radiation, 14
Phone: 919 541-3649
Fax: 919 541-0684
Email: stella.greg@epa.gov

RIN: 2060–AI71

3462. • SOURCE SPECIFIC FEDERAL IMPLEMENTATION PLAN FOR NAVAJO GENERATING STATION; NAVAJO NATION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 49 CFR 123

Legal Deadline: None

Abstract: EPA proposes to federalize standards from the Arizona and New Mexico State Implementation Plans (SIPS) applicable to the Navajo generating station. Where necessary, EPA's proposed emission standards modify the standards extracted from the States' regulatory programs to ensure comprehensive emission control and Federal consistency.

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48725
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4315

Agency Contact: Douglas McDaniel, Environmental Protection Agency, Air and Radiation, Region 9, San Francisco, CA 94105-3901
Phone: 415 744-1246

Colleen McKaughan, Environmental Protection Agency, Air and Radiation
Phone: 520 498-0118

RIN: 2060–AI79

3463. • REVISION TO NOX SIP CALL EMISSION BUDGETS FOR CONNECTICUT, MASSACHUSETTS AND RHODE ISLAND

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(D); 42 USC 7410(k)(5)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: On October 27, 1998, EPA published a final rule (the "OTAG SIP Call") making a finding of significant contribution and assigning statewide NOx emission budgets to 22 States and the District of Columbia for purposes of reducing regional transport of ozone and its precursor, NOx. Subsequent to the promulgation of the SIP call, EPA and the States of Connecticut,

EPA—Clean Air Act (CAA)

Final Rule Stage

Massachusetts and Rhode Island signed a memorandum of understanding that obligated EPA to propose to redistribute the budgets assigned to the three States in a different way. This action carries out that obligation. This redistribution will not lead to an increase in the overall budget for the three States.

Timetable:

Action	Date	FR Cite
Final Action Direct Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4276

Agency Contact: Kathryn Petrillo, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9093
Fax: 202 565-2141
Email: petrillo.kathryn@epa.gov

Kevin Culligan, Environmental Protection Agency, Air and Radiation, 6204J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9172
Email: culligan.kevin@epa.gov

RIN: 2060–AI80

3464. • REVISION TO METHOD 24 FOR ELECTRICAL INSULATING VARNISHES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7601

CFR Citation: 40 CFR 60 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to revise Method 24 to allow the use of American Society for Testing and Materials' Method D6053-96 to measure the volatile organic content of electrical insulating varnishes. Method 24 as currently written is not applicable to these types of coatings. This action will ensure consistency in testing these coatings for determining compliance with current regulations. We do not anticipate any impact on small business or State/local/Tribal governments.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 42

Agency Contact: Candace B. Sorrell, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-1064
Fax: 919 541-1039
Email: Sorrell.candace@epa.gov

Bill Lamason, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-5374
Fax: 919 541-1039

RIN: 2060–AI85

3465. • AMENDMENT TO NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: HALOGENATED SOLVENT CLEANING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.468(j)

Legal Deadline: None

Abstract: This amendment to the halogenated solvent cleaning NESHAP would permanently exempt batch cold solvent cleaning machines that use halogenated solvent from the Part 71 Federal operating permit program and would defer Part 71 operating permit requirements until December 9, 1999 for all other non-major halogenated solvent cleaning machines. States are already authorized to exempt/defer such sources from their Part 70 operating permit requirements. Without this amendment, non-major halogenated cleaning machines would have to obtain a Part 71 Federal operating permit in areas that do not have Part 70 programs in place. For example, EPA believes that numerous sources located in Indian country would need to submit permit applications by March 2000 and obtain title V permits, absent this rulemaking. This amendment is an administrative action and would have no impact on the enforcement and implementation of the NESHAP itself. There are no compliance costs associated with this action. This action relieves sources of regulatory requirements under the title V program.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/13/99	64 FR 37683
Withdrawal of Direct Final Rule	10/18/99	64 FR 56173
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 4275

Agency Contact: Candace Carraway, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-3189
Fax: 919 541-5509
Email: carraway.candace@epa.gov

RIN: 2060–AI91

3466. • REVISION TO METHOD 24 FOR ELECTRICAL INSULATING VARNISHES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401; 42 USC 7411; 42 USC 7414; 42 USC 7416; 42 USC 7601

CFR Citation: 40 CFR 60 (Revision)

Legal Deadline: None

Abstract: The purpose of this action is to revise Method 24 to allow the use of American Society for Testing and Materials' Method D6053-96 to measure the volatile organic content of electrical insulating varnishes. Method 24 as currently written is not applicable to these types of coatings. This action will ensure consistency in testing these coatings for determining compliance with current regulations. We do not anticipate any impact on small business or State/local/Tribal governments.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4299

N/A

Agency Contact: Candace B. Sorrell, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-1064

EPA—Clean Air Act (CAA) **Final Rule Stage**

Fax: 919 541-1039
Email: Sorrell.candace@epa.gov

Bill Lamason, Environmental Protection Agency, Air and Radiation, MD-19
Phone: 919 541-5374

Fax: 919 541-1039

RIN: 2060–AI94

Environmental Protection Agency (EPA)
Clean Air Act (CAA) **Long-Term Actions**

3467. FIELD CITATION PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 7413(d) CAA sec 113(d)

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: The Clean Air Act Amendments give EPA the authority to issue on-the-spot field citations for minor violations of the Clean Air Act, with penalties of up to $5,000 per day of violation. Section 113(d) of the Act requires the field citation program to be implemented through regulations which provide the informal hearing procedures. These hearing procedures are not required to be as rigorous as those imposed by the Administrative Procedures Act (APA), but nevertheless must provide due process. Agency guidance providing appropriate penalties for specific minor violations will be prepared for EPA employees and made available to the regulated community. Training on the issuance of field citations will also be developed.

Timetable:

Action	Date	FR Cite
NPRM	05/03/94	59 FR 22776
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 2937

Agency Contact: Cary Secrest, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2242A, Washington, DC 20460
Phone: 202 564-8661

RIN: 2020–AA32

3468. LOCATION OF SELECTIVE ENFORCEMENT AUDITS OF FOREIGN MANUFACTURED VEHICLES AND ENGINES; AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7525 CAA sec 206(b)

CFR Citation: 40 CFR 86G (Revision); 40 CFR 86K (Revision)

Legal Deadline: None

Abstract: This action would consider an amendment to the existing regulations to include ports of entry as a location for EPA selection of foreign produced vehicles and engines for SEA emissions testing at laboratories in the U.S. While the regulations do not specify EPA authority to conduct such port selections, the increased flexibility provided by port selections warrants amending the regulations. Presently, EPA must travel overseas to conduct SEA audits of foreign manufactured vehicles and engines, even though most manufacturers now have access to laboratory facilities in the U.S. The benefits include a reduction in Agency cost since fewer overseas trips would be necessary. Also, EPA would be able to conduct more audits of foreign manufactured vehicles and engines.

Separate from the provisions proposed in this NPRM for amendments to allow port selection for SEAs, EPA is also proposing to make two other amendments to 40 CFR part 86. The first would amend current Selective Enforcement Auditing regulations to change the minimum annual limit of Selective Enforcement Audits per manufacturer to two (2) per year. Currently, the minimum annual limit is one audit per manufacturer. Under the proposed amendments EPA would be able to perform a second audit on those manufacturers that might otherwise be limited to one audit.

The second additional proposed amendment to part 86 would delete from subparts A and E references to the Agency representation in certain types of administrative hearings. The two provisions state that the Office of General Counsel will represent the Agency in administrative procedures governing hearings on certification for light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles. The Agency is proposing to delete these two provisions in order to be consistent with other hearing procedures in part 86.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 313

Agency Contact: Richard Gezelle, Environmental Protection Agency, Air and Radiation, 6403J, Washington, DC 20460
Phone: 202 564-9267

RIN: 2060–AD90

3469. NESHAP: MANUFACTURING OF NUTRITIONAL YEAST

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112(d)

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act requires major sources of hazardous air pollutants to achieve emission reduction based on the maximum achievable control technology (MACT). This regulatory action will establish this level of control for both new and existing sources in the nutritional yeast manufacturing industry. This industry is currently comprised of 10 sources of 5 different manufacturers located in 8 different states. The only known HAP emission from this source is acetaldehyde. It is produced as a by-product during the fermentation process. The proposed regulatory options set maximum emission limits of acetaldehyde, which will be achievable by improved process control to reduce formation of this by-product.

Timetable:

Action	Date	FR Cite
NPRM	10/10/98	63 FR 55812
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 355

Sectors Affected: 311999 All Other Miscellaneous Food Manufacturing

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-0837
Email: markwordt.david@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AF30

3470. NESHAP: PAINT STRIPPING OPERATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that paint stripping operations emit at least one of the HAPs listed in section 112(b) of the Act, specifically methylene chloride. As a result, the source category is included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is unknown now whether this action will impact small businesses.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3746

Agency Contact: Jaime Pagan, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5340
Email: pagan.jaime@epa.gov

Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AG26

3471. NSPS: NEW SOURCE PERFORMANCE STANDARDS AND EMISSION GUIDELINES FOR OTHER SOLID WASTE INCINERATORS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7509 CAA sec 129

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: Section 129 of the Clean Air Act of 1990 requires the Agency to promulgate New Source Performance Standards (NSPS) and Emission Guidelines (EG) for solid waste incinerators. Section 129 specifically required the Administrator to publish a schedule for regulating Other Solid Waste Incinerators (OSWI). A notice in the Federal Register was published on November 2, 1993 that announced that the Administrator would promulgate OSWI standards by November 15, 2000. The notice also listed what classes of incinerators would be covered by the OSWI standards. Because it is believed that these OSWI emit significant amounts of air pollution that cause public health and environmental problems, the Administrator intends to promulgate the NSPS and EG for OSWI in accordance with section 129. Standards will be set for the following pollutants: particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead cadmium, mercury, and dioxins and dibenzofurans.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/94	59 FR 66850
NPRM	11/00/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Local

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 3751

Agency Contact: Amanda Aldridge, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

Richard Crume, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5294
Fax: 919 541-5450
Email: crume.richard@epa.gov

RIN: 2060–AG31

3472. PETROLEUM SOLVENT DRY CLEANERS MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Clean Air Act Amendments and to establish and meet dates for promulgation of emission standards for each of the listed

categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The EPA has determined that the petroleum solvent dry cleaning industry emits several HAPs listed in section 112(b) of the Act; these HAPs are: chlorobenzene, cumene, ethyl benzene, polycyclic organic matter, toluene, and xylene. As a result, the source category is included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Clean Air Act Amendments of 1990. The purpose of this action is to begin a regulatory development program such that any emission standards may be promulgated according to the mandated schedule. It is anticipated that this action will impact small business, but the extent of that impact has not yet been determined.

Timetable:

Action	Date	FR Cite
NPRM	03/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3754

Agency Contact: Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5674
Fax: 919 541-0942
Email: wyatt.susan@epa.gov

Tony Wayne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5439
Fax: 919 541-0942
Email: wayne.tony@epa.gov

RIN: 2060–AG34

3473. NESHAP: MISCELLANEOUS METAL PARTS AND PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This regulation will control emissions of hazardous air pollutants (HAPs) from operations that apply surface coatings to metal parts and products. Although this rule would cover a wide variety of coating operations, it would not apply to specific coating operations for which regulations have been developed (e.g., plastic parts coating, can coating, large appliance coating, etc.). This regulation is required under section 112 of the Clean Air Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3825

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Bruce Moore, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5460
Fax: 919 541-5689
Email: moore.bruce@epa.gov

RIN: 2060–AG56

3474. PLASTIC PARTS (SURFACE COATING) NESHAP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action would address the hazardous air pollutants (HAP) emissions from the coating of plastic parts. Pollution prevention approaches will be considered. Specific sectors of the plastic parts industry to be included in this action have not yet been determined.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3826

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Kim Teal, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5580
Fax: 919 541-5689
Email: teal.kim@epa.gov

RIN: 2060–AG57

3475. NESHAP: REFRACTORIES MANUFACTURING

Priority: Other Significant

Legal Authority: 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act requires EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the Act and to establish and meet dates for promulgation of emission standards for each of the listed categories of HAP emission sources. The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The refractory manufacturing source category is included on the initial list of HAP-emitting categories scheduled for promulgation within ten years of enactment of the Clean Air Act Amendments of 1990. Testing conducted and information obtained to date indicate 22 major sources exist in this source category. The EPA has determined that the refractory manufacturing industry emits chromium, ethylene glycol, phenol, methanol, hydrochloric acid, formaldehyde, polycyclic organic matte (POM) and hydrogen fluoride; eight of

the 189 HAPs listed in section 112 of the Act. The Agency estimates approximately 146 facilities will be affected by this rulemaking. Impacts on small businesses and on State/local/tribal governments will be assessed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3652

Agency Contact: Susan Zapata, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5167
Email: zapata.susan@epa.gov

Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

RIN: 2060–AG68

3476. NESHAP: LIME MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7401 et seq; 44 USC 350 et seq; 5 USC 605

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Section 112 of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some lime manufacturing plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the lime manufacturing industry.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3651

Sectors Affected: 32741 Lime Manufacturing

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Joseph Wood, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5446
Fax: 919 541-5600
Email: wood.joe@epa.gov

RIN: 2060–AG72

3477. NESHAP: FRICTION PRODUCTS MANUFACTURING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 91-190 sec 203; 42 USC 7412 CAA sec 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The friction products manufacturing source category includes any facility that manufactures or remanufactures friction products such as brakes, brake pads, disk pads, and clutch pads, including facilities that use non-asbestiform mineral fibers and asbestos replacement material. Hazardous air pollutants (HAPs) are emitted from solvents contained in the adhesives used to bond the friction material to the automobile part. During 1998, the Agency collected current information from owners/operators regarding business size, quantities of pollutants, processes, air pollution control devices, and workplace practices in the industry. Some of the HAPs reported include phenol, toluene, methyl chloroform, chlorobenzene, o-cresol, formaldehyde, n-hexane, hydrogen cyanide, methanol, methylene chloride, methylisobutyl carbon, 1,1,1-trichloroethane, trichloroethylene, chloroethylether, ethylbenzene, xylenes, and methylethylketone. Owners/operators reported that these particular HAPs are emitted during heated processes such as curing, bonding, and debonding processes. It is expected that substantial reductions in these emissions can be achieved at the floor levels of controls under section 112(b). Based on this information and any needed new information to be developed by EPA and the industry, the Agency plans to propose and promulgate a maximum achievable control technology (MACT) standard for existing sources and new sources.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 38

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5602
Email: vervaert.al@epa.gov

Kevin Cavender, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-2364
Fax: 919 541-5600
Email: cavender.kevin@epa.gov

RIN: 2060–AG87

3478. REVISED PERMIT REVISION PROCEDURES FOR THE FEDERAL OPERATING PERMITS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7661(a)(d)(3)

CFR Citation: 40 CFR 71.7

Legal Deadline: None

Abstract: The proposed regulatory change would streamline permit revisions procedures for stationary air sources that are subject to the Federal operating permits program.

The Agency does not anticipate any significant impact on small businesses and State/local/tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3922

Agency Contact: Scott Voorhees, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-5348
Fax: 919 541-5509
Email: voorhees.scott@epa.gov

Steve Hitte, Environmental Protection Agency, Air and Radiation, MD-12, RTP, NC 27711
Phone: 919 541-0886
Fax: 919 541-5509
Email: hitte.steve@epa.gov

RIN: 2060–AG92

3479. NESHAP: SEMICONDUCTOR PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This rule will establish a MACT (maximum available control technology) for semiconductor production facilities. There are currently 3 major sources that would be affected by the NESHAP. This action will result in little or no additional emission reduction but will establish a Federal MACT level for large facilities. EPA is evaluating whether there will continue to be major sources in this category before proceeding with rule development.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local

Additional Information: SAN No. 3902

Agency Contact: Susan Wyatt, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5674
Fax: 919 541-0942
Email: wyatt.susan@epa.gov

Tony Wayne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5439
Fax: 919 541-0942
Email: wayne.tony@epa.gov

RIN: 2060–AG93

3480. NESHAP: FABRIC PRINTING, COATING AND DYEING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted from fabric printing, coating, and dyeing. The Agency will identify and study the types and sources of HAP emissions from these processes, and evaluate pollution prevention and other control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: SAN No. 3

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Vinson Hellwig, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-2317
Fax: 919 541-5689
Email: hellwig.vinson@epa.gov

RIN: 2060–AG98

3481. NESHAP: AUTOMOBILE AND LIGHT-DUTY TRUCK MANUFACTURING (SURFACE COATING)

Priority: Economically Significant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This action will result in the reduction of hazardous air pollutants (HAPs) emitted from the coatings used by the automobile and light-duty truck manufacturing industry. The Agency will study the HAP emitted by the industry and will evaluate pollution prevention and other control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: SAN No. 3907

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Dave Salman, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-0859
Fax: 919 541-5689
Email: salman.dave@epa.gov

RIN: 2060–AG99

3482. OFFSET LITHOGRAPHIC PRINTING NATIONAL VOC RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 59

Legal Deadline: None

Abstract: This action will result in the reduction of volatile organic compound (VOC) emissions from offset lithographic printing.

Timetable:

Action	Date	FR Cite
NPRM	03/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: SAN No. 3908

Agency Contact: Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

Daniel Brown, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5305
Fax: 919 541-5689
Email: brown.dan@epa.gov

RIN: 2060–AH00

3483. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY: PERMIT APPLICATION REVIEW PROCEDURES FOR NON-FEDERAL CLASS I AREAS

Priority: Other Significant

Legal Authority: 42 USC 7670 to 7479 CAA sec 160-169

CFR Citation: 40 CFR 51.166; 40 CFR 52.21

Legal Deadline: None

Abstract: Under the Clean Air Act's prevention of significant deterioration (PSD) program, a State or tribe may redesignate their lands as class I areas to provide enhanced protection for their air quality resources. This rule will clarify the PSD permit review procedures for new and modified major stationary sources near these non-Federal class I areas. EPA seeks to develop clarifying PSD permit application procedures that are effective, efficient, and equitable.

Timetable:

Action	Date	FR Cite
ANPRM	05/16/97	62 FR 27158
NPRM	10/00/00	
Final Rule	10/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 391

Agency Contact: David LaRoche, Environmental Protection Agency, Air and Radiation, 6102, Washington, DC 20460
Phone: 202 260-7652
Fax: 202 260-8509
Email: laroche.david@epa.gov

RIN: 2060–AH01

3484. NESHAP: WOOD BUILDING PRODUCTS (SURFACE COATING)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This action will result in the reduction of hazardous air pollutants (HAP) emitted by the wood building product surface coating industry. The Agency will study the various HAP emitted by the industry and evaluate pollution prevention and control techniques which can reduce these emissions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/01	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3904

Agency Contact: Paul Almodovar, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-0283
Fax: 919 541-5689
Email: almodovar.paul@epa.gov

Dianne Byrne, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AH02

3485. NESHAP: SITE REMEDIATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq; PL 101-549 104 Stat. 2399

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This rule will specify maximum achievable control technology for site remediation. Hazardous air pollutant emissions from spills of organic liquids, the excavation, transportation, and treatment of contaminated soils and groundwater, and other operations will be considered in developing the rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3968

Agency Contact: Martha Smith, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-2421
Email: smith.martha@epa.gov

JoLynn Collins, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5671
Fax: 919 541-0246
Email: collins.jolynn@epa.gov

RIN: 2060–AH12

3486. NESHAP: SPANDEX PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project is to develop national emission standards for hazardous air pollutants by establishing maximum achievable control technology (MACT) for facilities producing spandex. MACT standards are under development to reduce the release of hazardous air pollutants (HAP) from all industries to protect the public health and environment. Emissions of HAP from this industry have been associated with, but are not limited to, fiber washing operations, material storage tanks, fugitive

emissions, and polymer drying. Only five U.S. spandex facilities have been identified.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 3967

Agency Contact: Mary Kissell, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-4516
Fax: 919 541-0246
Email: kissell.mary@epa.gov

K.C. Hustvedt, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5395
Fax: 919 541-0246
Email: hustvedt.ken@epa.gov

RIN: 2060–AH14

3487. NESHAP: ROCKET ENGINE TEST FIRING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: As required by section 112(c) of the Clean Air Act, the Environmental Protection Agency has developed a list of categories of sources of hazardous air pollutants (HAP's). The HAP's are listed in section 112(b) of the Clean Air Act. The Rocket Engine Test Firing source category and the Engine Test Facilities source category are included on EPA's list of sources of HAP's. The Rocket Engine Test Firing source category includes facilities engaged in test firing of rocket engines using solid or liquid propellants. The Engine Test Facilities source category includes any facility engaged in the testing of stationary or mobile engines, including turbines and reciprocating engines.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 3972

Agency Contact: George F. Smith, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-1549
Email: smith.george@epa.gov

Amanda Aldridge, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

RIN: 2060–AH35

3488. NESHAP: FLEXIBLE POLYURETHANE FOAM FABRICATION OPERATIONS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7412 CAAA 112

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA) requires development of emission standards for sources emitting any of the hazardous air pollutants (HAP) listed in section 112(b) of the CAA. Flexible Polyurethane Foam Fabrication Operations is listed as a category of major sources based on documented emissions of the following HAP: methylene chloride, trichlorethane, hydrogen cyanide, and hydrogen chloride. This source category covers emissions from various polyurethane foam bonding operations, including foam gluing and flame lamination. This action will explore alternatives for reducing HAP emissions from the following emission sources located at foam fabrication plants: process vents, raw material storage and transfer operations, and equipment leaks. Ultimately, a NESHAP for this source category will be developed based on Maximum Achievable Control Technology.

Timetable:

Action	Date	FR Cite
NPRM	03/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3973

Sectors Affected: 326299 All Other Rubber Product Manufacturing; 326199 All Other Plastics Product Manufacturing

Agency Contact: Penny Lassiter, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

Maria Noell, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5607
Fax: 919 541-3470
Email: noell.maria@epa.gov

RIN: 2060–AH42

3489. RULEMAKING TO MODIFY THE LIST OF SOURCE CATEGORIES FROM WHICH FUGITIVE EMISSIONS ARE CONSIDERED IN MAJOR SOURCE DETERMINATIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 7602 CAA sec 302(j)

CFR Citation: 40 CFR 51; 40 CFR 52; 40 CFR 70; 40 CFR 71

Legal Deadline: None

Abstract: This rulemaking will modify the list of source categories for which fugitive emissions are to be considered in major source determinations under the New Source Review (Prevention of Significant Deterioration and Nonattainment New Source Review) and title V programs. As provided by section 302(j) of the Act, EPA adopted rules on August 7, 1980 that require, for specific source categories, the inclusion of fugitive emissions when determining if a stationary source is a major source. In its 1980 rulemaking, EPA identified one such specific source category as those stationary source

categories being regulated, as of August 7, 1980, under sections 111 or 112 of the Clean Air Act. Moreover, EPA indicated that at the time of any future rulemaking proposing to regulate additional categories of sources under sections 111 or 112, the EPA would conduct a parallel rulemaking under section 302(j) to determine whether fugitive emissions from sources within these source categories needed to be considered in determining whether the sources were major stationary sources. EPA did not conduct these parallel rulemakings as intended and is now conducting a rulemaking pursuant to section 302(j) to address the source categories which became subject to section 111 and 112 standards after August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4045

Agency Contact: Joanna Swanson, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-5282
Fax: 919 541-5509
Email: swanson.joanna@epa.gov

RIN: 2060–AH58

3490. NESHAP: ALUMINA PROCESSING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The CAA required the EPA to publish an initial list of all categories of major and area sources of hazardous air pollutants (HAPs) listed in section 112(b) of the CAA and to establish and meet dates for promulgation of emissions standards for each of the listed categories of HAP emissions sources. The standards are to be technology based and are to require the maximum degree of reduction determined to be achievable by the Administrator. The EPA has determined that the alumina processing industry may be reasonably expected to emit one of the pollutants listed in section 112(b) of the CAA. As a consequence, the source category is included on the initial list of HAP emitting categories scheduled for standards promulgation within 10 years of enactment of the CAA Amendments of 1990. The purpose of this action is to pursue a regulatory development program such that emissions standards may be proposed and promulgated for this industry.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 411

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Juan Santiago, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-1084
Fax: 919 541-5600
Email: santiago.juan@epa.gov

RIN: 2060–AH70

3491. NESHAP: FUMED SILICA PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12866; 42 USC 7412 CAAA Section 112

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: Fumed silica is produced at four facilities is three states. There is no NSPS for the source category. Based on preliminary results of a screening study, the source category emits chlorine, HCl, and chlorinated organics.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4111

Sectors Affected: 325188 All Other Basic Inorganic Chemical Manufacturing

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Jeff Telander, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5427
Fax: 919 541-5600
Email: telander.jeff@epa.gov

RIN: 2060–AH72

3492. NESHAP: TACONITE IRON ORE PROCESSING

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7412 CAA 112; PL 91-190 sec 203

CFR Citation: Not Yet Determined

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The taconite iron ore processing source category is comprised of nine facilities operating in the United States. Seven facilities are located in Minnesota and two are located in Michigan. The expected sources of HAP emissions for this source category include: fossil fuel combustion sources, and possibly the handling and transfer of mined ore containing naturally occurring inorganic compounds. Anticipated HAP emissions released from these sources primarily include: formaldehyde, manganese, nickel, arsenic, and chromium. The quantities of HAP released are expected to exceed major source levels.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4102

There are nine taconite processing facilities in the U.S.; seven are located in Minnesota and two are located in Michigan. The MACT standard for this industry group will be shared between EPA and the State of Minnesota. State regulations currently in place include both air emissions limitations and prohibition of effluent discharge to Great Lakes waters, and both air and water monitoring requirements. Other existing Federal regulations may be affected under RCRA and TSCA.

Sectors Affected: 21221 Iron Ore Mining

Agency Contact: Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5602
Email: vervaert.al@epa.gov

Conrad Chin, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-1512
Fax: 919 541-5600
Email: chin.conrad@epa.gov

RIN: 2060–AH73

3493. NESHAP: HYDROCHLORIC ACID PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857 et seq; 44 USC 350 et seq; 5 USC 605; EO 12291; EO 12866

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some hydrochloric acid plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) will be developed for the hydrochloric acid production industry.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4104

Sectors Affected: 325211 Plastics Material and Resin Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Joseph Wood, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5446
Fax: 919 541-5600
Email: wood.joe@epa.gov

RIN: 2060–AH75

3494. NESHAP: AMMONIUM SULPHATE PRODUCTION (CAPROLACTAM BY-PRODUCT)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: This project is to develop national emissions standards for hazardous air pollutants (NESHAP) by establishing emissions limitations for hazardous air pollutants (HAP) which can be emitted by the three known sources in this category. The emissions limitations are to be based upon the application of the maximum achievable control technology (MACT). The purpose of the NESHAP is to reduce emissions of HAP to protect public health and the environment. The project is scheduled to begin in the fall of 1997. The initial stage of this project is to gather information on the industry processes, emissions of HAP and available emissions control technologies. That work will be followed by the development, proposal and promulgation of NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Federal

Additional Information: SAN No. 4116

Sectors Affected: 325311 Nitrogenous Fertilizer Manufacturing

Agency Contact: Jeff Telander, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5427
Fax: 919 541-5600
Email: telander.jeff@epa.gov

Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596

RIN: 2060–AH77

3495. NESHAP: ASPHALT/COAL TAR APPLICATION ON METAL PIPES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the application of asphalt or coal tar to metal pipes may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the asphalt/coal tar application on metal pipes industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4107

Sectors Affected: 332812 Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Bill Neuffer, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5435
Fax: 919 541-5600
Email: neuffer.bill@epa.gov

RIN: 2060–AH78

3496. NESHAP: CLAY PRODUCTS MINERALS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The Clean Air Act (CAA), as amended in 1990, requires the EPA to (1) publish an initial list of all categories of major and area sources of the hazardous air pollutants (HAPs) listed in section 112(b) of the CAA, (2) promulgate a schedule establishing a date for the promulgation of emission standards for each of the listed categories of HAPs emission sources, and (3) develop emission standards for each source of HAPs. These standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator. The Agency has determined that the clay products manufacturing industry may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the CAA. As a consequence, a regulatory development program is being pursued for the clay products manufacturing industry to promulgate emission standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4113

Sectors Affected: 327124 Clay Refractory Manufacturing; 327123 Other Structural Clay Product Manufacturing

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Jeff Telander, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5427
Fax: 919 541-5600
Email: telander.jeff@epa.gov

RIN: 2060–AH79

3497. NESHAP: HYDROGEN CHLORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 1857

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Title III of the Clean Air Act Amendments of 1990 requires the EPA to develop emission standards for each major source category of hazardous air pollutants (HAPs). The standards are to be technology-based and are to require the maximum degree of emission reduction determined to be achievable by the Administrator of the EPA. The EPA has determined that some plants may be major sources for one or more HAPs. As a consequence, a regulation (emission standards) is being developed for the hydrogen chloride industry, to be promulgated by November 15, 2000.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
Final Action	11/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Additional Information: SAN No. 4112

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 325211 Plastics Material and Resin Manufacturing

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5425

Joseph Wood, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5446

RIN: 2060–AH80

3498. NESHAP: URANIUM HEXAFLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This project will develop national emissions standards for hazardous air pollutants (NESHAP) by establishing emissions limitations for hazardous air pollutants (HAP) which can be emitted by the two known sources in this category. The emissions limitations are to be based upon the application of the maximum achievable control technology (MACT). The purpose of the NESHAP is to reduce emissions of HAP to protect public health and the environment. The project will begin in 2000. Initially, information on the industry processes and emissions of HAP will be analyzed to identify available emissions control technologies. That work will be followed by the development, proposal and promulgation of NESHAP.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4098

Sectors Affected: 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum)

Agency Contact: Ken Durkee, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5425
Fax: 919 541-5600
Email: durkee.ken@epa.gov

Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

RIN: 2060–AH83

3499. FEDERAL IMPLEMENTATION PLANS (FIPS) TO REDUCE THE REGIONAL TRANSPORT OF OZONE IN THE EASTERN UNITED STATES

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 USC 7410

CFR Citation: 40 CFR 52; 40 CFR 97; 40 CFR 98

Legal Deadline: None

Abstract: This action proposes Federal Implementation Plans (FIPs) which require nitrogen oxides (NOx) emissions decreases in 22 States and the District of Columbia. The intended effect is to reduce the transport of ozone (smog) pollution and one of its main precursors — NOx — across State boundaries in the eastern half of the United States. On October 27, 1998, EPA published a final rule (NOx SIP Call) which allowed States 12 months to develop, adopt, and submit revisions to their State Implementation Plans (SIPs) to address the transport problem. The Administrator is required to promulgate a FIP within 2 years of: (1) finding that a State has failed to make a required submittal or (2) finding that a submittal is not complete or (3) disapproving a SIP submittal. On May 25, 1999, the 12 month NOx SIP Call deadline was indefinitely stayed by the Court of Appeals for the District of Columbia Circuit. EPA is currently considering the implications of this court decision.

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56393
Final Action (On hold pending court action)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 4096

Sectors Affected: 331111 Iron and Steel Mills; 32731 Cement Manufacturing; 325311 Nitrogenous Fertilizer Manufacturing

Agency Contact: Doug Grano, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Pa, NC 27711
Phone: 919 541-3292
Email: grano.doug@epamail.epa.gov

RIN: 2060–AH87

3500. GENERAL CONFORMITY REGULATIONS; REVISIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7401-7671

CFR Citation: 40 CFR 51.850 to 51.860; 40 CFR 93.150 to 93.160

Legal Deadline: None

Abstract: Section 176(c) of the Clean Air Act prohibits Federal entities from taking actions which do not conform to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). In November 1993, EPA promulgated two sets of regulations to implement section 176(c). First, on November 24, EPA promulgated the Transportation Conformity Regulations to establish the criteria and procedures for determining that transportation plans, programs, and projects which are funded under title 23 U.S.C. or the Federal Transit Act conform with the SIP. Then, on November 30, EPA promulgated regulations, known as the General Conformity Regulations, to ensure that other Federal actions also conformed to the SIPs. Since 1993, EPA has amended the transportation conformity rule three times in response to stakeholders' requests. The EPA is working on a separate revision to address transportation conformity in transitional areas which will be final by December 1998. The EPA has not reviewed or revised the General Conformity Regulations since their 1993 promulgation. Several Federal agencies have identified concerns over the implementation of the General Conformity Regulations, including the requirements for areas designated nonattainment for the newly promulgated NAAQS. In conjunction with an ad hoc work group of representatives from several Federal agencies, EPA will review the implementation of the General Conformity Regulations. The EPA will then propose and promulgate any appropriate revision to those regulations.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 407

Agency Contact: Annie Nikbakht, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Pa, NC 27711
Phone: 919 541-5246
Email: nikbakht.annie@epa.gov

RIN: 2060–AH93

3501. NESHAP: CHEMICAL RECOVERY COMBUSTION SOURCES AT KRAFT, SODA, SULFITE AND STAND ALONE SEMICHEMICAL PULP MILLS

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 42 USC 7412 CAAA sec 112; 42 USC 7414 CAAA sec 114; 42 USC 7601 CAAA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306-308; 33 USC 1317; 33 USC

CFR Citation: 40 CFR 63; 40 CFR 430

Legal Deadline: None

Abstract: The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. On April 15, 1998, the EPA promulgated an integrated regulation for the pulp and paper industry that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. At the same time, the EPA proposed MACT standards for the chemical recovery combustion sources. The regulations were developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach. Next steps will be to issue final standards for chemical recovery combustion sources.

Timetable:

Action	Date	FR Cite
Final Rule MACT for Combustion Sources	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 4240

(Air), SAN No. 2712 (Water), SAN No. 4050 (Water Phase II),

ADDITIONAL AGENCY CONTACT: Jeff Telander (NESHAP Phase II - Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elaine Manning (NESHAP Phase III - Nonchemical and other Pulp and Paper Mills)

See also RIN 2040-AB53

Agency Contact: Donald F. Anderson, Environmental Protection Agency, Air and Radiation, 4303, Washington, DC 20460
Phone: 202 260-7189
Email: anderson.donaldf@epamail.epa.gov

Jeff Telander, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5427
Fax: 919 541-5600
Email: telander.jeff@epa.gov

RIN: 2060–AI34

3502. NESHAP: PROCESS HEATERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: The Clean Air Act, as amended in 1990, requires EPA to develop emission standards for sources of hazardous air pollutants (HAPs). Process heaters is among the potential source categories to be regulated under section 112 of the CAA. Emissions of HAPs will be addressed by this rulemaking for both new and existing sources. The standards for the NESHAP are to be technology-based and are to require the maximum achievable control technology (MACT) as described in section 112 of the CAA.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 4218

Agency Contact: Bill Maxwell, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5430
Fax: 919 541-5450
Email: maxwell.bill@epa.gov

Amanda Aldridge, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

RIN: 2060–AI35

3503. PROTECTION OF STRATOSPHERIC OZONE: AMENDMENT TO TRANSSHIPMENT PROVISION IN FINAL RULE ACCELERATING THE PHASEOUT OF OZONE-DEPLETING SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: Clean Air Act Title VI

CFR Citation: 40 CFR 82

Legal Deadline: None

Abstract: Amends current rule to require those transshipping goods with ozone-depleting substances through the U.S. to notify EPA of the specifics of the transshipment.

Timetable:

Action	Date	FR Cite
NPRM Reproposal	05/10/95	60 FR 25010
Supplemental NPRM	06/00/01	
Final Action	06/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 3626

Agency Contact: Sue Stendebach, Environmental Protection Agency, Air and Radiation, 6205 J, Washington, DC 20460
Phone: 202 564-9117

RIN: 2060–AI46

3504. REVISIONS TO AIR POLLUTION EMERGENCY EPISODE REQUIREMENTS (SUBPART H, 40 CFR PART 51)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7410(a)(2)(G); 42 USC 7603

CFR Citation: 40 CFR 51.150 to 51.153; 40 CFR 51 Appendix L

Legal Deadline: None

Abstract: 40 CFR part 51.150-51.153 require States to have contingency plans to prevent air pollution levels from reaching the significant harm level (SHL) for CO, O3, SO2, NOx, and PM. Appendix L provides example guidance to the States on appropriate courses of action to take at each episode stage (i.e., alert, warning, and emergency) to ensure the SHL is not reached. These requirements were developed in the

requirements were developed in the 1970's, based on the NAAQS from that era. Since that time, ambient air quality levels have decreased nationwide. Today, many areas/sources that no longer need episode plans must still develop them. This rule would update and simplify the criteria used to determine which areas would require episode plans. Areas with no more than one exceedance of the Alert level over the past 5 years would not need to develop emergency episode plans. Sources with the potential to cause exceedances of the SHL due to a process/control equipment malfunction would need to develop source contingency plans to prevent (and to respond to) such malfunctions. Appendix L would also be revised to reflect the revised program requirements. The result will be a sensible, credible program replacing an outdated program.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4247

Agency Contact: Ted Creekmore, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Pa, NC 27711
Phone: 919 541-5699
Email: creekmore.ted@epa.gov

John Silvasi, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Pa, NC 27711
Phone: 919 541-5666
Email: silvasi.john@epa.gov

RIN: 2060–AI47

3505. • IDENTIFICATION OF ADDITIONAL OZONE AREAS ATTAINING THE 1-HOUR STANDARD AND TO WHICH THE 1-HOUR STANDARD IS NO LONGER APPLICABLE (7 AREAS)

Priority: Routine and Frequent

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 81 (Revision)

Legal Deadline: None

Abstract: EPA proposes to identify several additional ozone areas where the 1-hour standard is no longer applicable. This proposed action is based upon analysis of quality-assured, ambient air quality monitoring data showing no violations of the 1-hour ozone standard. Determinations for this notice were based upon the most recent data available, i.e., 1996-1998. The EPA has previously taken final action regarding the applicability of the 1-hour standard for other areas on June 5, 1998 and July 22, 1998.

Timetable:

Action	Date	FR Cite
NPRM	06/09/99	64 FR 30937
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4274

Agency Contact: Annie Nikbakht, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5246
Fax: 919 541-0824
Email: nikbakht.annie@epa.gov

Barry Gilbert, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5238
Fax: 919 541-0824
Email: gilbert.barry@epa.gov

RIN: 2060–AI57

3506. • NESHAP: BRICK AND STRUCTURAL CLAY PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: The brick and structural clay products manufacturing source category primarily includes facilities that manufacture structural brick from clay, shale, or a combination of the two. Other structural clay products that are included in the source category include clay pipe, adobe brick, chimney pipe, flue liners, drain titles, roofing tiles, and sewer tiles. The manufacture of brick and structural clay products involves mining, grinding, screening and blending of the raw materials followed by forming, cutting or shaping, drying, firing, cooling, storage, and shipping of the final product.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	02/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4325

Split from RIN 2060-AH79.

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327124 Clay Refractory Manufacturing; 327122 Ceramic Wall and Floor Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Mary Johnson, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5025
Fax: 919 541-5600
Email: johnson.mary@epa.gov

RIN: 2060–AI67

3507. • NESHAP: CERAMICS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: Ceramics are defined as a class of inorganic, nonmetallic solids that are subject to high temperature in manufacture and/or use. The most common ceramics are composed of oxides, carbides, and nitrides. Sillicides, borides, phosphides, tellurides, and selenides also comprise ceramics. Ceramic processing generally involves high temperatures, and the resulting materials are heat resistent or refractory. The general classifications of traditional ceramics are pottery, whiteware, earthenware, stoneware, chinaware, porcelain, and technical ceramics. The hazardous air pollutants

emitted from ceramics production include hydrogen fluoride, hydrochloric acid, beryllium compounds, and other metallic HAP compounds.

Timetable:

Action	Date	FR Cite
NPRM	05/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4343

Split from RIN 2060-AH79

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327124 Clay Refractory Manufacturing; 327122 Ceramic Wall and Floor Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing

Agency Contact: Susan Zapata, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-5167
Email: zapata.susan@epa.gov

Jim Crowder, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

RIN: 2060–AI68

3508. • NESHAP: ENGINE TEST FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: None

Abstract: As required by section 112(c) of the Clean Air Act, the Environmental Protection Agency has developed a list of categories of sources of hazardous air pollutants (HAP's). The HAP's are listed in section 112(b) of the Clean Air Act. The Engine Test Facilities source category are included on EPA's list of sources of HAP's. The Engine Test Facilities source category includes any facility engaged in the testing of stationary or mobile engines, including turbines and reciprocating engines. Aircraft engine testing consists of facilities which perform testing on uninstalled aircraft engines. Non-aerospace engine test facilities consists of facilities which perform testing on uninstalled engines such as automotive engines, stationary turbines, IC engines, and diesel engines.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 4144

Split from RIN 2060-AH35

Agency Contact: Amanda Aldridge, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5268
Fax: 919 541-5450
Email: aldridge.amanda@epa.gov

Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5251
Fax: 919 541-5450
Email: porter.fred@epa.gov

RIN: 2060–AI74

3509. • NESHAP: LIGHTWEIGHT AGGREGATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63

Legal Deadline: Final, Statutory, November 15, 2000.

Abstract: This standard is being developed separately, but lightweight aggregate is part of the clay products source category. Lightweight aggregate kilns that burn hazardous waste would be subject to the hazardous waste combustion MACT.

Timetable:

Action	Date	FR Cite
NPRM	01/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4346

Split from RIN 2060-AH7

Sectors Affected: 327121 Brick and Structural Clay Tile Manufacturing; 327124 Clay Refractory Manufacturing; 327122 Ceramic Wall and Floor Tile Manufacturing; 327123 Other Structural Clay Product Manufacturing

Agency Contact: Jim Crowder, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov

Joe Wood, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-5446
Fax: 919 541-5600
Email: wood.joe@epa.gov

RIN: 2060–AI75

Environmental Protection Agency (EPA)
Clean Air Act (CAA)

Completed Actions

3510. • ACCIDENTAL RELEASE PREVENTION REQUIREMENTS: RISK MANAGEMENT PROGRAMS UNDER THE CLEAN AIR ACT, SECTION 112(R)(7); AMENDMENTS TO THE WORST-CASE RELEASE SCENARIO ANALYSIS FOR REGULATED

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412(r)

CFR Citation: 40 CFR 68 (Revision)

Legal Deadline: None

Abstract: As a result of a settlement agreement between EPA and the American Petroleum Institute/Chlorine Institute, EPA is taking a final action to modify 40 CFR Section 68.25. This action will revise the requirements for stationary sources to conduct worst-case release scenario analysis for flammable substances that are normally gases at ambient temperature but are handled as liquids due to refrigeration. This regulatory change represents a technical amendment to make the treatment of refrigerated flammables consistent with that of refrigerated toxics. EPA is also clarifying its interpretation of Clean Air Act sections 112(l) and 112(r)(11), which discuss state delegation and state authorities, as they relate to Department of Transportation requirements under the Hazardous Materials Transportation Act. The Agency will publish a parallel proposed rule with these changes in the same Federal Register as this direct final rule.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 26702
Final Action Direct Final Rule	05/26/99	64 FR 28695

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4279

No adverse comments were received on proposed rule. Direct final rule in effect.

Sectors Affected: 32411 Petroleum Refineries; 32511 Petrochemical Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing

Agency Contact: Sicy Jacob, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-7249
Fax: 202 260-0927
Email: jacob.sicy@epa.gov

John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-4043
Fax: 202 260-0927
Email: ferris.john@epa.gov

RIN: 2050–AE71

3511. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER

Priority: Economically Significant

CFR Citation: 40 CFR 63; 40 CFR 430

Completed:

Reason	Date	FR Cite
Final Action - NESHAP Phases I & III and Effluent Guidelines Phase I	04/15/98	63 FR 18504

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Penny Lassiter
Phone: 919 541-5396
Donald F. Anderson

RIN: 2060–AD03

3512. NESHAP: MINERAL WOOL PRODUCTION INDUSTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/01/99	64 FR 29490

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jim Crowder
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov
Mary Johnson
Phone: 919 541-5025
Fax: 919 541-5600
Email: johnson.mary@epa.gov

RIN: 2060–AE08

3513. NESHAP: OIL AND NATURAL GAS PRODUCTION AND NATURAL GAS TRANSMISSION AND STORAGE

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
NPRM	02/06/98	63 FR 6288
Final Action	06/17/99	64 FR 32609

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Kent C. Hustvedt
Phone: 919 541-5395
Greg Nizich
Phone: 919 541-3078
Email: nizich.greg@epa.gov

RIN: 2060–AE34

3514. NESHAP: PHOSPHORIC ACID MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/10/99	64 FR 31358

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Jim Crowder
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov
Ken Durkee
Phone: 919 541-5425
Fax: 919 541-5600
Email: durkee.ken@epa.gov

RIN: 2060–AE40

3515. NESHAP: STEEL PICKLING, HC1 PROCESS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
NPRM	09/18/97	62 FR 49052
Final Action	06/22/99	64 FR 33200

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Al Vervaert

Phone: 919 541-5602
Email: vervaert.al@epa.gov
Jim Maysilles
Phone: 919 541-3265
Fax: 919 541-5600
Email: maysilles.jim@epa.gov

RIN: 2060–AE41

3516. NESHAP: WOOL FIBERGLASS MANUFACTURING INDUSTRY

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/14/99	64 FR 31695

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jim Crowder
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov
Mary Johnson
Phone: 919 541-5025
Fax: 919 541-5600
Email: johnson.mary@epa.gov

RIN: 2060–AE75

3517. NESHAP: PORTLAND CEMENT MANUFACTURING

Priority: Other Significant

CFR Citation: 40 CFR 63 Subpart LLL

Completed:

Reason	Date	FR Cite
Final Action	06/14/99	64 FR 31898

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Jim Crowder
Phone: 919 541-5596
Fax: 919 541-5600
Email: crowder.jim@epa.gov
Joseph Wood
Phone: 919 541-5446
Fax: 919 541-5600
Email: wood.joe@epa.gov

RIN: 2060–AE78

3518. NESHAP: POLYETHER POLYOLS PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/01/99	64 FR 29419

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robert Rosensteel
Phone: 919 541-5608
Fax: 919 541-3470
Email: rosensteel.bob@epa.gov
Penny Lassiter
Phone: 919 541-5396
Fax: 919 541-6470
Email: lassiter.penny@epa.gov

RIN: 2060–AE81

3519. NESHAP: PESTICIDE ACTIVE INGREDIENT PRODUCTION (PRODUCTION OF AGRICULTURAL CHEMICALS)

Priority: Other Significant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
NPRM	11/10/97	62 FR 60565
Final Rule	06/23/99	64 FR 33449

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lalit Banker
Phone: 919 541-5420
Email: banker.lalit@epa.gov
Penny Lassiter
Phone: 919 541-5396
Fax: 919 541-3470
Email: lassiter.penny@epa.gov

RIN: 2060–AE84

3520. NESHAP: PRIMARY LEAD SMELTERS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
NPRM	04/17/98	63 FR 19200
Final Action	06/04/99	64 FR 30193

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Kevin Cavender
Phone: 919 541-2364
Email: cavender.kevin@epa.gov
Al Vervaert
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AE97

3521. NESHAP: ACRYLIC/MODACRYLIC FIBERS MANUFACTURING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/30/99	64 FR 34853

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Susan Wyatt
Phone: 919 541-5674
Fax: 919 541-0942
Email: wyatt.susan@epa.gov
Tony Wayne
Phone: 919 541-5439
Fax: 919 541-0942
Email: wayne.tony@epa.gov

RIN: 2060–AF06

3522. NESHAP: POLYCARBONATES PRODUCTION

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/30/99	64 FR 34853

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Penny Lassiter
Phone: 919 541-5396
Email: lassiter.penny@epa.gov
Mark Morris
Phone: 919 541-5416
Fax: 919 541-3470
Email: morris.mark@epa.gov

RIN: 2060–AF09

3523. NESHAP: FERROALLOY PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
NPRM	08/04/98	63 FR 41508
Final Action	05/20/99	64 FR 27450

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Conrad Chin
Phone: 919 541-1512
Email: chin.conrad@epa.gov
Al Vervaert
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AF29

3524. SUPPLEMENTAL RULE TO REQUIRE CERTAIN PRODUCTS MADE WITH HCFCS TO BEAR WARNING LABEL

Priority: Other Significant

CFR Citation: 40 CFR 82(F)

Completed:

Reason	Date	FR Cite
Withdrawn Agency plans no further action.	08/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sue Stendebach
Phone: 202 564-9117
TDD Phone: 202 565-2906
Fax: 202 233-9665
Email: stendebach.sue@epa.gov

RIN: 2060–AF93

3525. ACID RAIN PROGRAM: CONTINUOUS EMISSION MONITORING (CEM) RULE REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 75 (Revision); 40 CFR 72 (Revision)

Completed:

Reason	Date	FR Cite
NPRM	05/21/98	63 FR 28032
Final Action	05/26/99	64 FR 28564

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Monika Chandra
Phone: 202 564-9781
Email: chandra.monika@epamail.epa.gov

RIN: 2060–AG46

3526. CONSUMER & COMMERCIAL PRODUCTS: WOOD FURNITURE, AEROSPACE, SHIPBUILDING AND SHIP REPAIR COATINGS: CONTROL TECHNIQUES GUIDELINES IN LIEU OF REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 59

Completed:

Reason	Date	FR Cite
NPRM	08/22/97	62 FR 44672
Final Action	07/13/99	64 FR 37773

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Daniel Brown
Phone: 919 541-5305
Email: brown.dan@epa.gov
Dianne Byrne
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov

RIN: 2060–AG59

3527. TRANSPORTATION CONFORMITY RULE AMENDMENT AND SOLICITATION FOR PARTICIPATION IN THE PILOT PROGRAM

Priority: Other Significant

CFR Citation: 40 CFR 51; 40 CFR 93

Completed:

Reason	Date	FR Cite
NPRM	07/09/96	61 FR 35994
Final Action	03/18/99	64 FR 13476

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Meg Patulski
Phone: 734 214-4842
Email: patulski.meg@epamail.epa.gov

RIN: 2060–AG79

3528. FEDERAL OPERATING PERMITS PROGRAM IN INDIAN COUNTRY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 71.4

Completed:

Reason	Date	FR Cite
NPRM	03/21/97	62 FR 13748
Final Action	02/19/99	64 FR 8247

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Candace Carraway
Phone: 919 541-3189
Fax: 919 541-5509

RIN: 2060–AG90

3529. GENERIC MACT FOR SOURCE CATEGORIES (ACRYLIC MODACRYLIC FIBERS, POLYCARBONATES, HYDROGEN FLUORIDE, AND ACETAL RESINS)

Priority: Other Significant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
Final Action	06/30/99	64 FR 34853

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: David Markwordt
Phone: 919 541-0837
Fax: 919 541-0942
Email: markwordt.david@epa.gov
Susan Wyatt
Phone: 919 541-5674
Fax: 919 541-0942
Email: wyatt.susan@epa.gov

RIN: 2060–AG91

3530. NESHAP: HYDROGEN FLUORIDE PRODUCTION

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63

Completed:

Reason	Date	FR Cite
NPRM	10/14/98	63 FR 5177
Final Action	06/30/99	64 FR 34853

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Rick Colyer
Phone: 919 541-5262
Email: colyer.rick@epa.gov
Susan Wyatt
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AG94

3531. REVISION TO THE LIGHT-DUTY VEHICLE EMISSION COMPLIANCE PROCEDURE (CAP 2000)

Priority: Other Significant

CFR Citation: Not Yet Determined

EPA—Clean Air Act (CAA)

Completed Actions

Completed:

Reason	Date	FR Cite
NPRM	07/23/98	63 FR 39653
Final Action	05/04/99	64 FR 2390

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Hormes
Phone: 734 214-4502
Email: hormes.linda@epa.gov

RIN: 2060–AH05

3532. STORAGE TANK RULE REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60 (Revision); 40 CFR 61 (Revision); 40 CFR 63 (Revision); 40 CFR 264 (Revision); 40 CFR 265 (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn The Agency plans no further action.	09/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Mark Morris
Phone: 919 541-5416
Fax: 919 541-3470
Email: morris.mark@epa.gov

RIN: 2060–AH15

3533. NATIONAL AIR TOXICS PROGRAM: THE INTEGRATED URBAN STRATEGY; NOTICE

Priority: Other Significant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Final Strategy	07/19/99	64 FR 38705

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura McKelvey
Phone: 919 541-5497
Email: mckelvey.laura@epa.gov
Susan Wyatt
Phone: 919 541-5674
Email: wyatt.susan@epa.gov

RIN: 2060–AH21

3534. PROTECTION OF STRATOSPHERIC OZONE: SERVICING OF MOTOR VEHICLE AIR CONDITIONERS: STANDARDS FOR EQUIPMENT THAT RECOVERS AND RECYCLES REFRIGERANTS OTHER THAN CFC-12 AND HFC-134A

Priority: Other Significant

CFR Citation: 40 CFR 82(B) (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn The Agency plans no further action.	09/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Christine Dibble
Phone: 202 564-9147
Fax: 202 565-2095
Email: dibble.christine@.epa.gov

RIN: 2060–AH29

3535. FINAL RULE TO AMEND THE NATIONAL EMISSION STANDARDS FOR MAGNETIC TAPE MANUFACTURING OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 63.703(c)(4); 40 CFR 63.705

Completed:

Reason	Date	FR Cite
Direct Final Rule	04/09/99	64 FR 17460

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michele Aston
Phone: 919 541-2363
Fax: 919 541-0942
Email: aston.michele@epa.gov
Gail Lacy
Phone: 919 541-5261
Fax: 919 541-5689
Email: lacy.gail@epa.gov

RIN: 2060–AH71

3536. AIR QUALITY INDEX REPORTING

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR part 58.50; 40 CFR part 58 Appendix G

Completed:

Reason	Date	FR Cite
NPRM	12/09/98	63 FR 67818
Final Action	08/04/99	64 FR 42530

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Terence Fitz-Simons
Phone: 919 541-0889
Email: fitz-simons.terence@epa.gov
Susan Stone
Phone: 919 541-1146
Email: stone.susan@epa.gov

RIN: 2060–AH92

3537. ELECTRIC ARC FURNACE NSPS AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60 (Revision)

Completed:

Reason	Date	FR Cite
Direct Final Rule	03/02/99	64 FR 10105

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Kevin Cavender
Phone: 919 541-2364
Email: cavender.kevin@epa.gov
Al Vervaert
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AH95

3538. ACID RAIN PROGRAM: PROPOSED REVISION OF TEST METHOD 1, 2, AND 2F FOR MEASURING VOLUMETRIC FLOW IN STACKS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 60; 40 CFR 60 (Appendix A) "Test Method 1 and 2" 40 CFR 75

Completed:

Reason	Date	FR Cite
Final Action	05/14/99	64 FR 26484

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: John Schakenbach
Phone: 202 564-9158
Elliot Lieberman

Phone: 202 564-9136
RIN: 2060–AH97

3539. CONFORMITY PILOT

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 51; 40 CFR 93
Completed:

Reason	Date	FR Cite
NPRM	07/09/96	61 FR 35994
Final Rule	03/18/99	64 FR 13476

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Meg Patulski
Phone: 734 214-4842
Email: patulski.meg@epamail.epa.gov
RIN: 2060–AI14

3540. PROTECTION OF STRATOSPHERIC OZONE: INCORPORATION OF MONTREAL PROTOCOL ADJUSTMENT FOR A 1999 INTERIM REDUCTION IN CLASS I, GROUP VI CONTROLLED SUBSTANCES

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 82
Completed:

Reason	Date	FR Cite
NPRM	02/25/99	64 FR 9290
Final Action	06/01/99	64 FR 29240

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Tom Land
Phone: 202 564-9185
Fax: 202 565-2093
Email: land.tom@epamail.epa.gov
RIN: 2060–AI24

3541. ACID RAIN PROGRAM PERMITS REGULATIONS AND SO2 ALLOWANCE SYSTEM: COMPLIANCE DETERMINATION

Priority: Other Significant
CFR Citation: 40 CFR 72; 40 CFR 73
Completed:

Reason	Date	FR Cite
NPRM	08/03/98	63 FR 41357
Final Rule	05/13/99	64 FR 25834

Regulatory Flexibility Analysis Required: No
Government Levels Affected: Federal
Agency Contact: Donna Deneen
Phone: 202 564-9089
Email: deneen.donna@epa.gov
RIN: 2060–AI27

3542. REGULATION OF FUEL AND FUEL ADDITIVES: MODIFICATION OF COMPLIANCE BASELINE

Priority: Substantive, Nonsignificant
CFR Citation: 40 CFR 80.101(f)(4)(ii)
Completed:

Reason	Date	FR Cite
Direct Final Rule	06/09/99	64 FR 30904
NPRM	06/09/99	64 FR 30930

Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Patrice Simms
Phone: 202 260-1298
Email: simms.patrice@epa.gov
Christine Brunner
Phone: 734 214-4287
Fax: 734 214-4051
Email: brunner.christine@epa.gov
RIN: 2060–AI29

3543. CONSUMER AND COMMERCIAL PRODUCTS: REVISED SCHEDULE FOR REGULATION

Priority: Substantive, Nonsignificant
CFR Citation: Not Yet Determined
Completed:

Reason	Date	FR Cite
Final Action	03/18/99	64 FR 13422

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State, Local, Tribal, Federal
Agency Contact: Jan Meyer
Phone: 919 541-5254
Email: meyer.jan@epa.gov
Dianne Byrne
Phone: 919 541-5342
Fax: 919 541-5689
Email: byrne.dianne@epa.gov
RIN: 2060–AI30

3544. CONTROL OF DIESEL FUEL QUALITY

Priority: Substantive, Nonsignificant
CFR Citation: Not Yet Determined
Completed:

Reason	Date	FR Cite
ANPRM	06/16/99	64 FR 32209

Regulatory Flexibility Analysis Required: Yes
Government Levels Affected: None
Agency Contact: Don Kopinski
Phone: 734 214-4229
Fax: 734 214-4781
Email: kopinski.don@epa.gov
Paul Machiele
Phone: 734 214-4264
Fax: 734 214-4050
Email: machiel.paul@epa.gov
RIN: 2060–AI32

3545. NO BACKSLIDING RULE FOR PM-10 NONATTAINMENT AREAS

Priority: Other Significant
CFR Citation: 40 CFR 51
Completed:

Reason	Date	FR Cite
Withdrawn Pursuant to court decision to vacate this rule.	08/30/99	

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State, Local, Tribal, Federal
Agency Contact: Robin Dunkins
Phone: 919 541-5335
Email: dunkins.robin@epa.gov
RIN: 2060–AI39

3546. REVISIONS TO REFERENCE METHOD FOR THE DETERMINATION OF FINE PARTICULATE MATTER AS PM2.5 IN THE ATMOSPHERE

Priority: Substantive, Nonsignificant
CFR Citation: 42 CFR 50 (Revision)
Completed:

Reason	Date	FR Cite
Direct Final Rule	04/22/99	64 FR 19740

Regulatory Flexibility Analysis Required: No
Government Levels Affected: State, Local
Agency Contact: Tim Hanley
Phone: 919 541-4417
Fax: 919 541-1903
Email: hanley.tim@epa.gov
Mike Papp
Phone: 919 541-2408
Fax: 919 541-1903
Email: papp.mike@epa.gov
RIN: 2060–AI48

EPA—Clean Air Act (CAA) Completed Actions

3547. • DIRECT FINAL AMENDMENT TO EXTENT THE 112J PERMIT APPLICATION DEADLINE FOR 7-YEAR MACT STANDARDS TO 12/15/99

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401

CFR Citation: 40 CFR part 63.51

Legal Deadline: None

Abstract: In cases where EPA misses a statutory deadline for promulgating Federal air-toxic emission standards, Section 112j of the Clean Air Act requires sources to apply case-by-case emissions standards via a permitting process. These permits must be applied for 18 months after EPA misses its statutory deadline. In this case, EPA has missed the deadline for a number of standards due in 1997, and the 112j permit applications are due in May of 1999. EPA expects to promulgate the late standards by this November, and therefore wants to avoid making sources take this extra permitting step. Therefore, in this action, EPA is extending the permit deadline until after the November date by which we expect to promulgate the Federal standards.

Timetable:

Action	Date	FR Cite
NPRM	04/16/99	64 FR 18862
Direct Final Rule Withdrawal	05/14/99	64 FR 26311
Final Action	05/14/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4277

Agency Contact: David Markwordt, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Pa, NC 27711
Phone: 919 541-0837
Email: markwordt.david@epa.gov

Jim Szykman, Environmental Protection Agency, Air and Radiation, (A OPE), SA-6, Washington, DC 20522-0602
Phone: 919 541-5674

RIN: 2060–AI59

3548. • AMENDMENT TO NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: HALOGENATED SOLVENT CLEANING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.468(j)

Legal Deadline: None

Abstract: This amendment to the halogenated solvent cleaning NESHAP would permanently exempt batch cold solvent cleaning machines that use halogenated solvent from the Part 71 Federal operating permit program and would defer Part 71 operating permit requirements until December 9, 1999 for all other non-major halogenated solvent cleaning machines. States are already authorized to exempt/defer such sources from their Part 70 operating permit requirements. Without this amendment, non-major halogenated cleaning machines would have to obtain a Part 71 Federal operating permit in areas that do not have Part 70 programs in place. For example, EPA believes that numerous sources located in Indian country would need to submit permit applications by March 2000 and obtain title V permits, absent this rulemaking. This amendment is an administrative action and would have no impact on the enforcement and implementation of the NESHAP itself. There are no compliance costs associated with this action. This action relieves sources of regulatory requirements under the title V program.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/13/99	64 FR 37683

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 4275

Agency Contact: Candace Carraway, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-3189
Fax: 919 541-5509
Email: carraway.candace@epa.gov

RIN: 2060–AI82

3549. • AMENDMENT TO NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS: HALOGENATED SOLVENT CLEANING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7401 et seq

CFR Citation: 40 CFR 63.468(j)

Legal Deadline: None

Abstract: This amendment to the halogenated solvent cleaning NESHAP would permanently exempt batch cold solvent cleaning machines that use halogenated solvent from the Part 71 Federal operating permit program and would defer Part 71 operating permit requirements until December 9, 1999 for all other non-major halogenated solvent cleaning machines. States are already authorized to exempt/defer such sources from their Part 70 operating permit requirements. Without this amendment, non-major halogenated cleaning machines would have to obtain a Part 71 Federal operating permit in areas that do not have Part 70 programs in place. For example, EPA believes that numerous sources located in Indian country would need to submit permit applications by March 2000 and obtain title V permits, absent this rulemaking. This amendment is an administrative action and would have no impact on the enforcement and implementation of the NESHAP itself. There are no compliance costs associated with this action. This action relieves sources of regulatory requirements under the title V program.

Timetable:

Action	Date	FR Cite
Direct Final Rule	07/13/99	64 FR 37683

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 4275

Agency Contact: Candace Carraway, Environmental Protection Agency, Air and Radiation, MD-12
Phone: 919 541-3189
Fax: 919 541-5509
Email: carraway.candace@epa.gov

RIN: 2060–AI83

EPA—Clean Air Act (CAA) **Completed Actions**

3550. • COKE OVEN NESHAP AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63.303 (Revision)

Legal Deadline: None

Abstract: It is necessary to amend the existing coke oven rule that controls emissions from charging operations and topside and door leaks at coke plants to cover a new nonrecovery coke oven (Thyssen Still Otto) design. For new nonrecovery facilities that charge from the side, the existing coke oven rule states "for charging operations, the owner or operator shall install, operate, and maintain an emission control system for the capture and collection of emissons from the charging operation." However, Thyssen Still Otto nonrecovery ovens are top-charged and are operated continuously under negative pressure, including during charging. Installing an emission control system, such as a baghouse for charging would not improve on the inherent and highly efficient emission control achieved absent add-on controls of these nonrecovery ovens. This amendment will add an alternative visible emission standard instead of the equipment standard.

Timetable:

Action	Date	FR Cite
Withdrawn The Agency plans no further action.	09/10/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4296

Agency Contact: Lula Melton, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-2910
Fax: 919 541-5600
Email: melton lula@epa.gov

Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AI84

3551. • COKE OVEN NESHAP AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 7412

CFR Citation: 40 CFR 63.303 (Revision)

Legal Deadline: None

Abstract: It is necessary to amend the existing coke oven rule that controls emissions from charging operations and topside and door leaks at coke plants to cover a new nonrecovery coke oven (Thyssen Still Otto) design. For new nonrecovery facilities that charge from the side, the existing coke oven rule states "for charging operations, the owner or operator shall install, operate, and maintain an emission control system for the capture and collection of emissons from the charging operation." However, Thyssen Still Otto nonrecovery ovens are top-charged and are operated continuously under negative pressure, including during charging. Installing an emission control system, such as a baghouse for charging would not improve on the inherent and highly efficient emission control achieved absent add-on controls of these nonrecovery ovens. This amendment will add an alternative visible emission standard instead of the equipment standard.

Timetable:

Action	Date	FR Cite
Withdrawn The Agency plans no further action.	09/10/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4296

Agency Contact: Lula Melton, Environmental Protection Agency, Air and Radiation, MD-13
Phone: 919 541-2910
Fax: 919 541-5600
Email: melton.lula@epa.gov

Al Vervaert, Environmental Protection Agency, Air and Radiation, MD-13, RTP, NC 27711
Phone: 919 541-5602
Email: vervaert.al@epa.gov

RIN: 2060–AI93

Environmental Protection Agency (EPA) **Proposed Rule Stage**

Atomic Energy Act (AEA)

3552. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR THE DISPOSAL OF LOW-ACTIVITY MIXED RADIOACTIVE WASTE

Priority: Other Significant

Legal Authority: 42 USC 2021 Atomic Energy Act of 1954; Reorganization Plan No. 3 of 1970; Nuclear Waste Policy Act of 1982

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: This action is directed to the disposal of low-activity radioactive wastes in disposal facilities that meet the design requirements for RCRA-C disposal cells. The wastes to be disposed of in these cells are intended to be mixed wastes, consisting of a chemically hazardous component and low levels of radioactivity. These wastes are anticipated to arise in the commercial sector from various sources. The rule is intended to increase disposal options for these wastes and offer a streamlined regulatory process which melds hazardous chemical protection and radioactivity protection requirements while protecting public health and safety. The rule is permissive in the sense that the disposal method proposed is not a mandated disposal method, but rather an alternative to existing disposal methods. The U.S. Nuclear Regulatory Commission is anticipated to be the implementing Agency for the application of this rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4054

EPA—Atomic Energy Act (AEA) **Proposed Rule Stage**

Agency Contact: Mary Kruger, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9310
Fax: 202 565-2062
Email: kruger.mary@epa.gov
RIN: 2060–AH63

Environmental Protection Agency (EPA) **Long-Term Actions**
Atomic Energy Act (AEA)

3553. PROTECTIVE ACTION GUIDANCE FOR DRINKING WATER

Priority: Other Significant

Legal Authority: 42 USC 2021(h) AEA of 1954 sec 274(h); Reorganization Plan No. 3 of 1970; PL 96-295 sec 304; EO 12241

CFR Citation: 41 CFR 351

Legal Deadline: None

Abstract: This action will result in Federal protective action guidance (PAG) for State and local officials to use in the event of a nuclear accident to protect the general public from the adverse health effects associated with the ingestion of drinking water that is contaminated with radioactive material. As soon as the draft guidance is developed it will be submitted to the PAG Subcommittee of the Federal Radiological Preparedness Coordinating Committee (FRPCC) for review and comment. Members of the PAG subcommittee include representatives from DOE, DOD, FEMA, NRC, HHS, USDA, DOT, and the Conference of Radiation Control Program Directors (CRCPD). When a consensus among the representatives is reached, the guidance is recommended to the full FRPCC for endorsement. After that endorsement is obtained a notice of the availability of a revised EPA 400-R-92-001, Manual of Protective Action Guides and Protective Actions for Nuclear Incidents will be published in the Federal Register. This action is temporarily delayed until the FDA's revised PAGs for Food can be evaluated.

Timetable:

Action	Date	FR Cite
Notice Notice of Submission to FRPCC for Endorsement	04/00/01	
Notice Notice of Availability	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3602

Agency Contact: Charles Blue, Environmental Protection Agency, Air and Radiation, 6602J, 401 M Street SW, Washington, DC 20460
Phone: 202 564-9488

RIN: 2060–AF39

Environmental Protection Agency (EPA) **Prerule Stage**
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3554. PESTICIDES; PROCEDURES FOR REGISTRATION REVIEW PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a)(g); 7 USC 136(w)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Agency is establishing procedures to implement section 3(g) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) which provides for periodic review of pesticide registrations. The goal of these regulations is to review a pesticide's registration every 15 years.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 417

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing; 32519 Other Basic Organic Chemical Manufacturing

Agency Contact: Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

Vivian Prunier, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 308-9341
Fax: 703 308-5884
Email: prunier.vivian@epa.gov

RIN: 2070–AD29

Environmental Protection Agency (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

3555. DATA REQUIREMENTS FOR PESTICIDE REGISTRATION (REVISION)

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a) to 136(y)

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update the data requirements specifically necessary for the Agency to evaluate the registrability of pesticide products. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2687

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Agency Contact: Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

Paul Parsons, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 308-9073
Fax: 703 305-5884
Email: parsons.paul@epa.gov

RIN: 2070–AC12

3556. ENDOCRINE DISRUPTOR SCREENING PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346(a) FFDCA; 7 USC 136 FIFRA; 15 USC 2603 TSCA; 42 USC 300(a)(17) SDWA

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Statutory, August 3, 1998, EDSP must be Developed.
Final, Statutory, August 3, 1999, Agency must Implement.
Other, Statutory, August 3, 2000, Agency must report to Congress on EDSP.

Abstract: This final policy statement will set forth EPA's Endocrine Disruptor Screening Program. EPA published a proposed policy statement setting forth the Screening Program on December 28, 1998. In the final policy statement, EPA will describe the screens and tests that it will require as part of the Program. It also will describe the universe of chemicals that will be included in the program, the priority setting mechanism that used to determine the order in which those chemicals will be tested, and certain issues related to implementing the Program. The major actions in 2000 and 2001 will be the standardization and validation of assays in the screening battery and the completion of the priority setting system.

Timetable:

Action	Date	FR Cite
Notice Outline of Screening Program	08/11/98	63 FR 42852
Notice Proposed Screening Program & Request for Comment	12/28/98	63 FR 71542
NPRM Proposed Procedural Rule	06/00/00	
Notice Final Screening Program	12/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 4143

Agency Contact: Gary Timm, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7101, Washington, DC 20460
Phone: 202 260-1859
Fax: 202 260-8850
Email: timm.gary@epa.gov

Anthony Maciorowski, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7101, Washington, DC 20460
Phone: 202 260-3048
Fax: 202 260-8850
Email: maciorowski.anthony@epa.gov

RIN: 2070–AD26

3557. DATA REQUIREMENTS FOR ANTIMICROBIAL REGISTRATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136a, 136c, 136w

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will update and revise its pesticide data requirements for antimicrobial products. The data requirements specify the data that are required for EPA to evaluate the registrability of a pesticide product. The revisions will clarify all data requirements to reflect current practice. Procedural and explanatory sections of the current regulations will be amended to make them consistent with the revised data requirements and new use indexing.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4173

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32551 Paint and Coating Manufacturing; 32561 Soap and Cleaning Compound Manufacturing; 32519 Other Basic Organic Chemical Manufacturing

Agency Contact: Paul Parsons, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 308-9073
Fax: 703 305-5884
Email: parsons.paul@epa.gov

RIN: 2070–AD30

3558. REGULATORY REVIEW OF PESTICIDE EMERGENCY EXEMPTION REGULATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing

EPA—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — Proposed Rule Stage

Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136(p)

CFR Citation: 40 CFR 166

Legal Deadline: None

Abstract: EPA will propose revisions to its regulations on emergency exemptions under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act. Emergency exemptions allow temporary use of a pesticide not in accordance with registration requirements when emergency conditions exist. In the 1995 Presidential Reinvention Initiative, EPA identified a number of issues and options for change, which have been refined through informal discussions with States, user groups, and other stakeholders. EPA is considering revisions in four areas: 1) Options for increased authority for States to administer certain aspects of the exemption process, or increased use by EPA of multi-year exemptions, or some combination of these; 2) the use of emergency exemptions to address pesticide resistance; 3) the possibility of granting of exemptions based upon reduced risk considerations; and 4) definitions of emergency situation and significant economic loss, which affect whether an exemption may be granted.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4216

Sectors Affected: 9241 Administration of Environmental Quality Programs

Agency Contact: Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

Robert A. Forrest, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7505C, Washington, DC 20460
Phone: 703 308-9376

RIN: 2070–AD36

3559. STATUS OF PESTICIDE-TREATED SEEDS UNDER FIFRA

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(w) FIFRA sec. 25(a) and 25(b)

CFR Citation: 40 CFR 152.25

Legal Deadline: None

Abstract: EPA is considering whether a revision to its regulation on treated articles to specifically address seeds treated with pesticides is needed. Currently, pesticide-treated seeds are considered treated articles that are exempt from FIFRA only if the treating pesticide is registered in the United States for use on the specific crop, and if the purpose of the treatment is to protect the seed itself. EPA and the Canadian Pest Management Regulatory Agency will work together under the auspices of the North American Free Trade Agreement to harmonize policies and practices pertaining to pesticide-treated seed. Harmonization will facilitate the import and export of treated seeds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 426

Sectors Affected: 111 Crop Production; 11511 Support Activities for Crop Production

Agency Contact: Jean M. Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Email: frane.jean@epa.gov

RIN: 2070–AD37

Environmental Protection Agency (EPA) — Final Rule Stage
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3560. PESTICIDE MANAGEMENT AND DISPOSAL

Priority: Other Significant

Legal Authority: 7 USC 136 et seq

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: This action develops procedures for mandatory and voluntary recall actions under section 19(b) of FIFRA and would establish criteria for acceptable storage and disposal plans which registrants may submit to this Agency to become eligible for reimbursement of storage costs. This action establishes procedures for indemnification of owners of suspended and canceled pesticides for disposal.

Timetable:

Action	Date	FR Cite
NPRM	05/05/93	58 FR 26856
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3432

Agency Contact: David Stangel, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2225A, Washington, DC 20460
Phone: 202 564-4162

RIN: 2020–AA33

3561. PESTICIDE MANAGEMENT AND DISPOSAL: STANDARDS FOR PESTICIDE CONTAINERS AND CONTAINMENT

Priority: Other Significant

Legal Authority: 7 USC 136(q) FIFRA sec 19; 7 USC 136(a) FIFRA sec 3; 7 USC 136(w) FIFRA sec 25

CFR Citation: 40 CFR 165; 40 CFR 156

Legal Deadline: Final, Statutory, December 24, 1991.

EPA—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — Final Rule Stage

Abstract: FIFRA sec. 19 gives EPA authority to regulate the management of pesticides and their containers, including storage, transportation and disposal. As proposed, this rule would establish standards for removal of pesticides from containers and for rinsing containers; facilitate the safe use, refill, reuse, and disposal of pesticide containers by establishing standards for container design, labeling and refilling; and establish requirements for containment of stationary bulk containers and for containment of pesticide dispensing areas.

Timetable:

Action	Date	FR Cite
NPRM (Container Design & Residue Removal & Bulk Containment)	02/11/94	59 FR 6712
Supplemental NPRM	10/21/99	64 FR 56918
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 265

Agency Contact: Nancy Fitz, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-7385
Fax: 703 308-3259
Email: fitz.nancy@epa.gov

Jude Andreasen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 308-9342
Fax: 703 308-3259
Email: andreasen.jude@epa.gov

RIN: 2070–AB95

3562. EXEMPTIONS FOR PLANT PESTICIDES REGULATED UNDER FIFRA AND FFDCA

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136 et seq; 21 USC 346(a) et seq

CFR Citation: 40 CFR 152.20; 40 CFR 174

Legal Deadline: None

Abstract: Substances that plants produce to protect themselves against pests are pesticides under FIFRA if humans intend to use them to destroy, prevent, repel or mitigate any pest. The Agency designates these substances, along with the genetic material necessary to produce them, plant-pesticides. This rulemaking will exempt several categories of plant-pesticides from FIFRA and FFDCA regulations; confirms that plants used as biological control agents are exempt from regulation under FIFRA; and establishes a new part in title 40 of the CFR, part 174, which consolidates regulations specific for plant-pesticides in one part of the CFR. The proposed consolidation is expected to benefit the public by providing greater focus, enhanced clarity and ease of use. These actions will reduce burden on both the regulated community and EPA.

Timetable:

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM Request for Comment on Alternate Name	04/23/99	64 FR 19958
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2684

Agency Contact: Janet Andersen, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7501W, Washington, DC 20460
Phone: 703 308-8712
Email: andersen.janet@epa.gov

Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

RIN: 2070–AC02

3563. GROUND WATER AND PESTICIDE MANAGEMENT PLAN

Regulatory Plan: This entry is Seq. No. 130 in Part II of this issue of the **Federal Register**.

RIN: 2070–AC46

3564. WPS; PESTICIDE WORKER PROTECTION STANDARD; GLOVE AMENDMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 136(w)

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: Since the issuance of the 1992 WPS and the January 1, 1995 implementation, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address the concerns with the WPS. As a result, there may be a need to make further changes of a minor nature to the WPS rule. EPA will take such actions as rules, policy statements or other documents as appropriate, and provide Regulatory Agenda entries when actions are planned.

Timetable:

Action	Date	FR Cite
NPRM	09/09/97	62 FR 47544
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 3731

Sectors Affected: 1111 Oilseed and Grain Farming; 1112 Vegetable and Melon Farming; 1113 Fruit and Tree Nut Farming; 1114 Greenhouse, Nursery and Floriculture Production; 1131 Timber Tract Operations; 115112 Soil Preparation, Planting, and Cultivating

EPA—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — Final Rule Stage

Agency Contact: Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

John R. MacDonald, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-7370
Fax: 703 308-2962
Email: macdonald.john@epa.gov

RIN: 2070–AC93

3565. TOLERANCES FOR PESTICIDE EMERGENCY EXEMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346(a)

CFR Citation: 40 CFR 176

Legal Deadline: Final, Statutory, August 3, 1997.

Abstract: This regulation will set out policies and procedures under which EPA will establish food tolerances associated with the use of pesticides under emergency exemptions. Emergency exemptions are issued for temporary use of pesticides where emergency conditions exist. Under the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act, EPA must establish time-limited tolerances for such pesticides if the use is likely to result in residues in food. EPA expects to describe the procedures to be used, and the criteria for establishing tolerances.

Timetable:

Action	Date	FR Cite
NPRM	06/03/99	64 FR 29823
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 38

Sectors Affected: 111 Crop Production; 112 Animal Production; 92614 Regulation of Agricultural Marketing and Commodities

Agency Contact: Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

Ellen Kramer, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-6475
Fax: 703 305-5884
Email: kramer.ellen@epa.gov

RIN: 2070–AD15

3566. • REGISTRATION OF GRANULAR FERTILIZER-PESTICIDE COMBINATION PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136a

CFR Citation: 40 CFR 152.43

Legal Deadline: None

Abstract: This final rule will allow the registration of multiple products consisting of granular pesticide-fertilizer combinations under a single registration. The result of this regulatory change will be to streamline the registration process for such products, reduce paperwork burdens and costs for producers of pesticide-fertilizer combination products.

Timetable:

Action	Date	FR Cite
Final Action Direct final rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4347

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Agency Contact: Dan Kenny, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7505C, Washington, DC 20460
Phone: 703 305-7546
Email: kenny.dan@epa.gov

Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Email: frane.jean@epa.gov

RIN: 2070–AD40

Environmental Protection Agency (EPA) — Long-Term Actions
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3567. POLICY OR PROCEDURES FOR NOTIFICATION TO THE AGENCY OF STORED PESTICIDES WITH CANCELLED OR SUSPENDED REGISTRATION

Priority: Other Significant

Legal Authority: 7 USC 136 FIFRA sec 6

CFR Citation: 40 CFR 168

Legal Deadline: None

Abstract: This policy will clarify the requirements of section 6(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The policy will provide procedures for certain persons who possess canceled or suspended pesticides to notify the EPA and State and local officials of (1) such possessions; (2) the quantity possessed; and (3) the place the pesticide is stored.

Timetable:

Action	Date	FR Cite
NPRM	03/28/91	56 FR 13042
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 272

Agency Contact: David Stangel, Environmental Protection Agency, General Counsel and Enforcement Counsel, 2225A, Washington, DC 20460
Phone: 202 569-4162

RIN: 2020–AA29

3568. REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDE PRODUCTS; AND OTHER PESTICIDE REGULATORY CHANGES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 136(a)(h); 7 USC 136(w)

CFR Citation: 40 CFR 152; 40 CFR 156

Legal Deadline: NPRM, Statutory, May 1, 1997.

Abstract: This regulation will specify antimicrobial registration reforms that will reduce to the extent possible the review time for antimicrobial pesticides. The regulation will clarify criteria for completeness of applications, and will specify or refer to a definition of the various classes of antimicrobial pesticide use patterns and the associated data and labeling requirements that would be consistent with the degree and type of risk presented by each class. EPA will evaluate the feasibility and cost-effectiveness of various registration process reforms, including registrant certification, and expansion of the current notification procedures. The regulation will also include labeling standards for public health antimicrobial products. This regulation will also implement some general provisions of FIFRA pertaining to all pesticides, including labeling requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: SAN No. 3892

Legal Description: The Final Rule is due 240 days after close of comment period.

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing; 32561 Soap and Cleaning Compound Manufacturing; 32551 Paint and Coating Manufacturing; 32531 Fertilizer Manufacturing; 32519 Other Basic Organic Chemical Manufacturing; 42291 Farm Supplies Wholesalers; 42269 Other Chemical and Allied Products Wholesalers

Agency Contact: Jean M. Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Email: frane.jean@epa.gov

RIN: 2070–AD14

3569. PESTICIDES; TOLERANCE PROCESSING FEES

Priority: Substantive, Nonsignificant

Legal Authority: 21 USC 346(a)

CFR Citation: 40 CFR 180.33

Legal Deadline: None

Abstract: In 1996, the Food Quality Protection Act amended the Federal Food, Drug, and Cosmetic Act to require EPA to charge tolerance fees that, in the aggregate, will cover all costs associated with processing tolerance actions, including filing a tolerance petition, and establishing, modifying, leaving in effect, or revoking a tolerance or tolerance exemption. Since 1983 (the last time a cost analysis was conducted), factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, and the increasing complexity of scientific review of petitions have resulted in costs substantially exceeding the fees currently charged. This proposed rule will adjust the fee structure and fee amounts for tolerance actions.

Timetable:

Action	Date	FR Cite
NPRM	06/09/99	64 FR 31039
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 4027

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Agency Contact: Jean Frane, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

Carol Peterson, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7506C, Washington, DC 20460
Phone: 703 305-6598
Fax: 703 305-5884
Email: peterson.carol@epa.gov

RIN: 2070–AD23

3570. PESTICIDE TOLERANCE REASSESSMENT PROGRAM

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 21 USC 346(a)(q)

CFR Citation: 40 CFR 180; 40 CFR 185; 40 CFR 186

Legal Deadline: Other, Statutory, August 3, 1999, See additional information.

Abstract: EPA will reassess pesticide tolerances and exemptions for raw and processed foods established prior to August 3, 1996, to determine whether they meet the reasonable certainty of no harm standard of the Federal Food, Drug and Cosmetic Act (FFDCA). FFDCA sec. 408(q), as amended by the Food Quality Protection Act (FQPA). FQPA requires that EPA conduct this reassessment on a phased 10-year schedule. Based on its reassessment, EPA will take a series of regulatory actions to modify or revoke tolerances.

Timetable:

Action	Date	FR Cite
Pesticide specific actions ongoing	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4175

LEGAL DEADLINE CONT: EPA is required to complete reassessments on a phased schedule of: 33% by August 3, 1999, 66% by August 3, 2002, and 100% by August 3, 2006. The Agency will continue to access pesticide tolerances throughout year.

Sectors Affected: 32532 Pesticide and Other Agricultural Chemical Manufacturing

Agency Contact: Joseph Nevola, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7508C, Washington, DC 20460

EPA—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) — Long-Term Actions

Phone: 703 308-8037
Email: nevola.joseph@epa.gov

Robert McNally, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7508C, Washington, DC 20460
Phone: 703 308-8085
Fax: 703 308-8041
Email: mcnally.robert@epa.gov

RIN: 2070–AD24

Environmental Protection Agency (EPA) — Completed Actions
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

3571. EXEMPTION OF CERTAIN PESTICIDE SUBSTANCES FROM FIFRA REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 152.25(g)(1)

Completed:

Reason	Date	FR Cite
Withdrawn No further action planned at this time.	08/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Sheryl Reilly
Phone: 703 308-8265
Email: reilly.sheryl@epa.gov
Jean Frane
Phone: 703 305-5944
Fax: 703 305-5884
Email: frane.jean@epa.gov

RIN: 2070–AD21

Environmental Protection Agency (EPA) — Proposed Rule Stage
Toxic Substances Control Act (TSCA)

3572. FOLLOW-UP RULES ON EXISTING CHEMICALS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2607 TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has established a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support planned or ongoing risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 8 to require reporting of appropriate needed information by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below.

Timetable:

Action	Date	FR Cite
NPRM 2 & 4-Pentanedione SNUR	09/27/89	54 FR 39548
NPRM Chloranil	05/12/93	58 FR 27980
NPRM Benzidine-based Chemical Substances	08/30/95	60 FR 45119
Final Action Benzidine-based Chemical Substances	10/07/96	61 FR 52287
NPRM Flame Retardant Chemicals	12/00/99	
NPRM Amendment to Benzidine-based Chemical Substances SNUR	03/00/00	
NPRM 2 & 4-Pentanedione SNUR (Reproposal)	05/00/00	
Final Action Final Chloranil SNUR	10/00/00	
NPRM Certain Chemical Substances No Longer in Production SNUR	10/00/00	
NPRM Heavy Metal-Based Pigments in Aerosol Spray Paints SNUR	10/00/00	
NPRM Methylcyclopentane SNUR	05/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 1923

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

Agency Contact: Barbara Leczynski, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-1864
Fax: 202 260-1096
Email: leczynski.barbara@epa.gov

Mary Dominiak, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-7768
Fax: 202 260-1096
Email: dominiak.mary@epa.gov

RIN: 2070–AA58

3573. TEST RULES; GENERIC ENTRY FOR PROPOSED DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 700 to 799

Legal Deadline: None

Abstract: EPA is proposing to require testing via rule, or will obtain testing through negotiated enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so. These chemicals have been designated for priority testing consideration by the ITC, recommended for testing consideration (for which the 12-month statutory requirement does not apply), or they have been identified for testing consideration by other EPA program offices and through EPA review processes.

EPA—Toxic Substances Control Act (TSCA) — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM ITC II Chemicals (ITC List 28)	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3494

NPRM must be published within one year of ITC designation.

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

Keith Cronin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8157
Fax: 202 401-3672
Email: cronin.keith@epa.gov

RIN: 2070–AB07

3574. TEST RULES; NEGOTIATED CONSENT ORDER AND TEST RULE PROCEDURES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: This action will amend the testing consent order and test rule development process to increase efficiency. The consent order process was adopted by the Agency in June 1986. Based on experience to date, the Agency needs to make changes in the process to reduce the resources required for consent order negotiation. This rule would propose appropriate procedural changes. Obsolete provisions will be eliminated for test rule development activities.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Interim Final Rule	06/30/86	51 FR 23706
Interim Final Rule (Technical Modification)	09/01/89	54 FR 36311
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2245

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

David R. Williams, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3468
Fax: 202 401-3672
Email: williams.daver@epa.gov

RIN: 2070–AB30

3575. TEST RULE; ATSDR SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 9604(i) CERCLA 104(i); 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of eight chemicals (benzene, chloroethane, methylene chloride, perchloroethylene, hydrogen cyanide, sodium cyanide, toluene, and trichloroethylene) to fulfill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(i).

Under CERCLA, ATSDR is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 2563

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

Robert Jones, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8150
Fax: 202 401-3672
Email: jones.robert@epa.gov

RIN: 2070–AB79

EPA—Toxic Substances Control Act (TSCA) — Proposed Rule Stage

3576. CHILDREN'S HEALTH TEST INITIATIVE

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12; 15 USC 2625 TSCA 26

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA will hold public meetings to involve stakeholders in the design and development of a voluntary program to test commercial chemicals to which children may have a high likelihood of exposure. The purpose of the voluntary testing program is to obtain toxicity data needed to assess the risk of childhood exposure to commercial chemicals. The information which is developed in the course of the stakeholder involvement process towards developing a voluntary testing program may also be considered in the development of a test rule. If an adequate voluntary children's health testing program fails to emerge from the stakeholder involvement process, EPA will proceed with development of a test rule under section 4 of the Toxic Substances Control Act (TSCA). The purpose of any future Children's Health initiatives or test rules, is to improve our understanding of the risks posed to children's health by chemicals to which they may be exposed in the home, school, and the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 2865

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

Catherine Roman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8155
Fax: 202 401-3672
Email: roman.catherine@epa.gov

RIN: 2070–AC27

3577. ASBESTOS MODEL ACCREDITATION PLAN REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2646 TSCA sec 206

CFR Citation: 40 CFR 763

Legal Deadline: Final, Statutory, November 28, 1992.

Abstract: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) amended TSCA to require that EPA revise its asbestos model accreditation plan (MAP) to extend training and accreditation requirements to include persons performing certain asbestos-related work in public or commercial buildings, to increase the minimum number of training hours required for accreditation purposes and to effect other changes necessary to implement the amendments. The upcoming notice of proposed rulemaking (NPRM) will improve harmony of the existing interim final MAP with the Occupational Safety and Health Administration's regulations to the extent consistent with applicable EPA statutes, and provide clarifications.

Timetable:

Action	Date	FR Cite
Model Plan	05/13/92	57 FR 20438
Interim Fin	02/03/94	59 FR 5236
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3148

See related entry 2070-AC62.

Sectors Affected: 611519 Other Technical and Trade Schools

Agency Contact: Cindy Fraleigh, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3933
Fax: 202 260-1724
Email: fraleigh.cindy@epa.gov

Tony baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3036
Fax: 202 260-1724
Email: baney.tony @epa.gov

RIN: 2070–AC51

3578. TSCA INVENTORY UPDATE RULE AMENDMENTS

Regulatory Plan: This entry is Seq. No. 110 in Part II of this issue of the **Federal Register**.

RIN: 2070–AC61

3579. LEAD-BASED PAINT ACTIVITIES RULES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE—BUILDING AND STRUCTURES SECTION 402(A)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: PL 102-550 sec 402; PL 102-550 sec 404; 15 USC 2603 TSCA Title IV

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, April 28, 1994.

Abstract: The Residential Lead-based Paint Hazard Reduction Act of 1992 mandates EPA promulgate regulations governing lead-based paint (LBP) activities to ensure that individuals engaged in such activities are properly trained, that LBP training programs are accredited, and that contractors engaged in such activities are certified. In addition, EPA must promulgate a Model State program which may be adopted by any State which seeks to administer and enforce a State Program. EPA promulgated regulations for training and certification of training programs for LBP activities and child occupied facilities in 1996. Regulations for LBP activities in public and commercial buildings and bridges and

other structures are still under development.

Timetable:

Action	Date	FR Cite
NPRM 1 (Residential)	09/02/94	59 FR 45872
Final Action 1 (Residential)	08/29/96	61 FR 45778
Int Final Rule Minor Amendment to Grant Provisions	08/04/98	63 FR 41430
NPRM 2 (Buildings & Structures)	09/00/00	
Final Action 2 (Buildings & Structures)	10/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4376 (formerly tracked under SAN 3244)

See discussion of related rules in Reg. Plan entry (RIN 2070-AD06).

Sectors Affected: 611519 Other Technical and Trade Schools; 23411 Highway and Street Construction

Agency Contact: Ellie Clark, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov

Todd Holderman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-6917
Fax: 202 260-0770
Email: holderman.todd@epa.gov

RIN: 2070–AC64

3580. ASBESTOS WORKER PROTECTION RULE AMENDMENTS

Priority: Substantive, Nonsignificant

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 15; 15 USC 2614 TSCA sec 15; 15 USC 2615 TSCA sec 16

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is proposing to amend the Asbestos Abatement Projects, Worker Protection Rule (WPR), by incorporating certain revisions that were made to the Occupational Safety and Health Administration (OSHA) asbestos workplace standards issued since EPA's WPR was promulgated in 1987 to the extent that the OSHA revisions are consistent with applicable EPA statutes. The proposal would generally extend the coverage provided under the OSHA Asbestos Standard for Construction to State and local government employees who are not covered by OSHA or EPA approved State plans. EPA also proposes to delegate authority to grant or deny State exclusions under the WPR to EPA Regional Administrators and to add compliance and enforcement requirements for State exclusions. In addition, EPA is proposing to amend the Asbestos-Containing Materials in Schools Rule by relocating certain worker protection provisions relating to schools, which are currently contained in that rule, to the WPR.

Timetable:

Action	Date	FR Cite
NPRM (1)	11/01/94	59 FR 54746
NPRM (2)	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 224

Sectors Affected: 92111 Executive Offices; 92311 Administration of Education Programs; 92312 Administration of Public Health Programs; 92411 Air and Water Resource and Solid Waste Management

Agency Contact: Cindy Fraleigh, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-1537
Fax: 202 260-1724
Email: fraleigh.cindy@epa.gov

Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3936
Fax: 202 260-1724
Email: baney.tony@epa.gov

RIN: 2070–AC66

3581. LEAD-BASED PAINT ACTIVITIES; TRAINING AND CERTIFICATION FOR RENOVATION AND REMODELING SECTION 402(C)(3)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: PL 102-550 Sec 402(c)(3); 15 USC 2603 TSCA Title IV

CFR Citation: 40 CFR 745

Legal Deadline: Final, Statutory, October 31, 1996.

Abstract: Under section 402(c)(2) of TSCA Title IV, EPA conducted a study of the extent to which persons engaged in renovation and remodeling activities in target housing are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard. EPA must use the results of this study and consult with interested parties to determine which categories of renovation and remodeling activities require training and certification. EPA must then revise the training and certification regulations originally developed for individuals performing lead-based paint abatement under section 402(c)(a) of TSCA Title IV to apply them to the renovation and remodeling categories. If EPA determines that any category does not require certification, EPA must publish an explanation of the basis for that determination.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	
Final Action	08/00/01	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3557

Sectors Affected: 23321 Single Family Housing Construction; 23322 Multifamily Housing Construction; 23521 Painting and Wall Covering Contractors; 23551 Carpentry

Contractors; 23599 All Other Special Trade Contractors; 54138 Testing Laboratories; 53111 Lessors of Residential Buildings and Dwellings; 531311 Residential Property Managers

Agency Contact: Ellie Clark, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov

Mike Wilson, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-4664
Fax: 202 260-0770
Email: wilson.mike@epa.gov

RIN: 2070–AC83

3582. LEAD; OVERVIEW OF RULEMAKINGS UNDER TSCA SECTION 402, LEAD-BASED PAINT ACTIVITIES FOR THE REGULATORY PLAN

Regulatory Plan: This entry is Seq. No. 111 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD06

3583. TEST RULE FOR CERTAIN METALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12; 15 USC 2625 TSCA 26; 42 USC 9604(i) CERCLA 104(i)

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring manufacturers and processors of certain metals (beryllium, chromium, manganese, mercury, nickel, and selenium) to fill data needs identified by the Agency for Toxic Substances and Disease Registry (ATSDR), the National Toxicology Program (NTP), and EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 104(I).

Under CERCLA, ATSDR is to establish a list of priority hazardous substances found at superfund sites, develop toxicological profiles for the hazardous substances, identify priority data needs, and establish a research program obtaining the necessary data. This action is a component of ATSDR's research program.

Data from this action would provide specific information about the substances for the public and scientific community. The information would be used in conducting comprehensive public health assessments of populations living near hazardous waste sites. Scientific data improves the quality of risk assessments used by EPA, other Federal agencies, and State and local governments. The risk assessments affect standards, guidelines, listing/delisting, and other decisions affecting public health and the environment.

The metals listed here, including cadmium, are also hazardous air pollutants (HAPs) under the Clean Air Act (CAA) section 112. Data from this action would also be used to implement several provisions of section 112 of the CAA, including determining risks remaining after the application of technology based on standards under section 112(d) of the CAA, estimating the risks associated with accidental releases, and determining whether or not substances should be removed from the CAA section (b)(1) list of HAPs (delisting).

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3882

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

Robert Jones, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8150
Fax: 202 401-3672
Email: jones.robert@epa.gov

RIN: 2070–AD10

3584. TSCA BIOTECHNOLOGY FOLLOW-UP RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2604 TSCA 5(a)

CFR Citation: 40 CFR 720; 40 CFR 725 (Revision)

Legal Deadline: None

Abstract: As a follow-up to the final Biotechnology rule under the Toxic Substances Control Act (TSCA), EPA plans to address two actions. (1) Intergeneric Scope of Oversight: OPPT currently defines new microorganisms which are subject to reporting under TSCA section 5 as those resulting from the deliberate combination of genetic material originally isolated from microorganisms classified in different taxonomic genera. Such microorganisms are referred to as intergeneric microorganisms. EPA indicated in its 1994 proposed biotechnology regulations that it may reconsider its interpretation of new microorganism in a later rulemaking, based on the more current state of scientific knowledge about the manner in which genetic material is exchanged among microorganisms in the environment. (2) TSCA Oversight of Transgenic Plants: Certain transgenic plants which express products or which are used for purposes subject to EPA jurisdiction under TSCA may be used for commercial purposes in the United States without oversight by EPA. Such uses include: plants used as intermediates to produce industrial grade oils; and plants used for phytoremediation (cleanup of contaminated soils). Section 5 of TSCA requires that new chemical substances be reviewed by the Agency prior to their introduction into commerce. In its

proposed rule, 59 FR 45526 (September 1, 1994), EPA stated that it was reserving jurisdiction over certain transgenic plants and animals: Plants and animals could also be chemical substances under TSCA. EPA is reserving authority under TSCA to screen transgenic plants and animals in the future as needed, 59 FR 45526, 45527 (September 1, 1994). This action will address whether EPA should exercise jurisdiction under TCSA over products produced by transgenic plants, and/or certain plants.

Timetable:

Action	Date	FR Cite
PolicyStatement 2 TSCA Plants Oversight Policy	06/00/00	
NPRM (1) Intergeneric Scope of Oversight	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3894

Sectors Affected: 325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing

Agency Contact: Flora Chow, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3725
Fax: 202 260-0118
Email: chow.flora@epa.gov

Jim Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-1857
Fax: 202 260-0118
Email: giamporcaro.david@epa.gov

RIN: 2070–AD13

3585. MULTI-CHEMICAL TEST RULE; HIGH PRODUCTION VOLUME CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611-12; 15 USC 2625-26

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: This action is related to Vice President Gore's challenge to industry on the eve of Earth Day, April 21, 1998, to come forward quickly with needed test data on high production volume (HPV) chemicals. This challenge encompasses approximately 2,800 chemicals which are manufactured (including imported) in the aggregate at more than 1 million pounds on an annual basis. The data needed on these chemicals are: acute toxicity, repeat dose toxicity, developmental and reproductive toxicity; mutagenicity; ecotoxicity and environmental fate. This rule will require testing and recordkeeping requirements for those chemicals for which industry does not voluntarily agree to provide testing in a timely manner. The action is part of the Chemical Right-to-Know Initiative, which is described in the Regulatory Plan. Industry has volunteered to conduct needed testing on about 1,100 of these HPV chemicals. The first rule will propose testing for 400 HPV chemicals. Future rules will encompass the remaining chemicals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3990

See also the Regulatory Plan entry entitled Chemical Right-to-Know Initiative (RIN 2070-AD25; SAN 4176).

Sectors Affected: 32411 Petroleum Refineries; 325 Chemical Manufacturing

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

Keith Cronin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8157
Fax: 202 401-3672
Email: cronin.keith@epa.gov

RIN: 2070–AD16

3586. CHEMICAL RIGHT-TO-KNOW INITIATIVE

Regulatory Plan: This entry is Seq. No. 112 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD25

3587. TSCA SECTION 4 ENFORCEABLE CONSENT AGREEMENT FOR CERTAIN OXYGENATED FUEL ADDITIVES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603; 15 USC 2611; 15 USC 2625

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: Methyl tertiary butyl ether (MTBE) is commonly found at concentrations above the current EPA draft lifetime health advisory for drinking water at many point source-gasoline release sites. MTBE is significantly more persistent than benzene, toluene, ethyl-benzene and xylenes (BTEX) in the subsurface. Releases of fuel oxygenates occur during manufacture, distribution, storage, and use, particularly from point sources such as underground storage tanks, pipelines and refueling facilities. The Toxic Release Inventory (TRI) estimates that MTBE releases in the United States exceeded 3.3 million pounds in 1994. EPA has not established water quality criteria for fuel oxygenates for protection of freshwater or marine aquatic life. The American Petroleum Institute (API) recently completed a search and evaluation of extant literature on acute and chronic toxicity of oxygenates for aquatic organisms and provided the results to EPA. From the data gaps identified through that effort, testing to fill critical needs is expected to be conducted within a year of the API submission. Current actions should provide an appropriate basis for later determining whether additional effects testing or research is needed.

Most of the testing and research on the toxicity of oxygenates has been concerned on the effects of inhaled MTBE in laboratory and human volunteers. Virtually no information exists on the effects of ingested oxygenates on humans, with the notable exception of the extensive database on the health effects of ingested alcohol. The lack of an

EPA—Toxic Substances Control Act (TSCA) **Proposed Rule Stage**

adequate health effects database has made it difficult to develop a final drinking water Health Advisory or derive an oral Reference Dose (RfD) for MTBE and other oxygenates. Further subchronic and chronic data are necessary to develop a final Health Advisory. This action, would be a cooperative effort between EPA and Industry to conduct a testing program, to develop the needed data.

Timetable:

Action	Date	FR Cite
Notice Solicit Interested Parties	12/00/99	
Notice ECA	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 4174

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Charles M. Auer, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3749
Fax: 202 260-8168
Email: auer.charles@epa.gov

George Semeniuk, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-2134
Fax: 202 401-3672
Email: semeniuk.george@epa.gov

RIN: 2070–AD28

3588. LEAD-BASED PAINT; NOTIFICATION OF COMMENCEMENT OF ABATEMENT ACTIVITIES (SECTION 402(A))

Priority: Info./Admin./Other

Legal Authority: PL 102-550; 15 USC 2603 TSCA 4

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Section 402 of TSCA directs EPA to establish regulations containing standards for performing lead-based paint activities. One of the standards EPA developed, codified at 40 CFR section 745.227(e)(4), requires notification to EPA of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal, State, or local order. This rule establishes requirements for the notification of commencement of lead-based paint abatement activities. These provisions include uniform procedures to notify the Agency of routine and emergency lead-based paint abatement activities. The rule will also prohibit lead-based paint abatement activities from starting on any date other than the one contained in the notification. This information is necessary to provide enforcement personnel with information for compliance activities and to prioritize inspections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4172

This action has been split off from the action entitled Fees for Accreditation and Certification of Lead-Based Paint Activities (SAN 3881; 2070-AD11).

Agency Contact: Ellie Clark, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov

Mike Wilson, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-4664
Fax: 202 260-0770
Email: wilson.mike@epa.gov

RIN: 2070–AD31

Environmental Protection Agency (EPA)
Toxic Substances Control Act (TSCA) **Final Rule Stage**

3589. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICAL SUBSTANCES

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA regulates the commercial development of new chemicals that have completed premanufacture notice (PMN) review. In a PMN review, the Agency assesses whether or not a chemical's manufacture, import, process, distribution, use, or disposal outside the activities described in the PMN may present an unreasonable risk. EPA will issue Significant New Use Rules (SNURs) requiring 90-day notification to EPA from any manufacturer, importer, or processor who would engage in activities that are designated as significant new uses. Under the Expedited Follow-up Rule (EFUR) which became effective on October 12, 1989, EPA will identify such new chemicals and publish them in a batch SNUR 3-4 times per year. Chemicals that were subject to a proposed SNUR before the effective date of the EFUR or do not qualify under the EFUR, may be regulated individually by notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	06/11/86	51 FR 21199
NPRM 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/08/87	52 FR 46496
NPRM Aluminum Cross-linked Sodium Carboxymethyl-cellulose	06/11/93	58 FR 32628
Final Action Alkyl & Sulfonic Acid & Ammonium Salt (84-1056)	12/00/99	

EPA—Toxic Substances Control Act (TSCA) **Final Rule Stage**

Final Action 1-Decanimine-N-Decyl-N-Methyl-N-Oxide (86-566)	12/00/99
Final Action Aluminum Cross-linked Sodium Carboxymethyl-cellulose	12/00/99

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 1976

Sectors Affected: 325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-1857
Fax: 202 260-0118
Email: alwood.jim@epa.gov

Flora Chow, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3725
Fax: 202 260-0118
Email: chow.flora@epa.gov

RIN: 2070–AA59

3590. TSCA SECTION 8(A) PRELIMINARY ASSESSMENT INFORMATION RULES

Priority: Routine and Frequent

Legal Authority: 15 USC 2607(a) TSCA sec 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: These rules add chemicals to the list of chemicals and designated mixtures subject to the requirements of the Toxic Substances Control Act section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. These data will also support risk assessment and test rule decisions.

Timetable:

Action	Date	FR Cite
Final Action 37th ITC List	02/28/96	61 FR 7421
Final Action 38th ITC List	10/29/96	61 FR 55871
Final Action 38th ITC List - Stay	12/11/96	61 FR 65186
Final Action 38th ITC List - Stay/Technical Amendments	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	12/00/99	
Final Action 39th ITC List	12/00/99	
Final Action 41st ITC List	12/00/99	
Final Action 42nd ITC List	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 2178

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Paul Campanella, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3948
Fax: 202 401-3672
Email: campanella.paul@epa.gov

John R. Harris, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8154
Fax: 202 401-3672
Email: harris.john@epa.gov

RIN: 2070–AB08

3591. TSCA SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULES

Priority: Routine and Frequent

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(d) TSCA sec 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: These rules require manufacturers, importers and processors to submit unpublished health and safety data on chemicals added to the requirements of the Toxic Substances Control Act section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716). These chemicals have been identified by the Office of Pollution Prevention and Toxics, other EPA offices, and other Federal agencies, as well as recommended for testing consideration by the Interagency Testing Committee.

Timetable:

Action	Date	FR Cite
Final 38th ITC List	10/29/96	61 FR 55871
Final 38th ITC List - Stay	12/11/96	61 FR 65186
Final 38th ITC List - Stay/Technical Amendment	01/07/98	63 FR 684
Final Action 38th ITC List - Revocation	12/00/99	
Final Action 43rd ITC List	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 113

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Paul Campanella, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3948
Fax: 202 401-3672
Email: campanella.paul@epa.gov

John Harris, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8154
Fax: 202 401-3672
Email: harris.john@epa.gov

RIN: 2070–AB11

EPA—Toxic Substances Control Act (TSCA)

Final Rule Stage

3592. PCBS; POLYCHLORINATED BIPHENYLS; EXEMPTIONS FROM THE PROHIBITIONS AGAINST MANUFACTURING, PROCESSING, AND DISTRIBUTION IN COMMERCE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2605 TSCA sec 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA) provides that the Administrator may grant, by rule, exemptions from the prohibitions against manufacturing, processing and distribution in commerce of PCBs upon finding that 1) no unreasonable risk to health or the environment will occur, and 2) good faith efforts have been made by the petitioner to develop a substitute for PCB which does not pose an unreasonable risk of injury to health or the environment. In addition, the Interim Procedural Rules were amended to require certain petitioners to reapply for EPA approval to continue PCB activities previously approved by EPA.

Timetable:

Action	Date	FR Cite
NPRM (1) Group I	12/06/94	59 FR 62875
Final Action Group I	02/00/00	
NPRM (2) Group II	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal

Additional Information: SAN No. 215

Sectors Affected: 211 Oil and Gas Extraction; 31-33 Manufacturing; 5133 Telecommunications; 2211 Electric Power Generation, Transmission and Distribution; 622 Hospitals; 6113 Colleges, Universities and Professional Schools; 921 Executive, Legislative, Public Finance and General Government

Agency Contact: Peter Gimlin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3972
Fax: 202 260-1724
Email: gimlin.peter@epa.gov

Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3933
Fax: 202 260-1724
Email: baney.tony@epa.gov

RIN: 2070–AB20

3593. CHEMICAL-SPECIFIC SIGNIFICANT NEW USE RULES (SNURS) TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Priority: Routine and Frequent

Legal Authority: 15 USC 2604 TSCA sec 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that uncontrolled manufacture, import, processing, distribution, use or disposal of a premanufacture notification (PMN) substance may present an unreasonable risk, it may issue a section 5(e) consent order to limit these activities. However, such orders apply only to the PMN submitter. Once the new substance is entered on the Toxic Substances Control Act (TSCA) chemical inventory, others can manufacture, import or process the substance without controls. Therefore, EPA extends the controls to apply to others by designating manufacture, import or processing of the substances for uses without the specified controls as significant new uses. Under the Expedited Follow-Up Rule, which became effective on October 10, 1989 (54 FR 31314), EPA routinely publishes batch SNURs containing routine section 5(e) and non-5(e) SNURs. However, certain activities, such as modifications, withdrawals, revocations, and SNURs upon which comments are received in the direct final publication process, are subject to notice and comment rulemaking and are listed below.

Timetable:

Action	Date	FR Cite
NPRM Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	05/27/93	58 FR 30744
NPRM Aromatic Amino Ether (P90-1840)	06/06/94	59 FR 29255
NPRM Alkenyl Ether of Alkanetriol Polymer (93-458)	12/19/94	59 FR 65289
NPRM Certain Chemical Substances (91-1299/95-1667 91-1298 95-1297	06/26/97	62 FR 34421
NPRM Certain Chemical Substances	09/09/98	63 FR 48157
Final Action Aromatic Amino Ether (P90-1840)	12/00/99	
Final Action Alkenyl Ether of Alkanetriol Polymer (93-458)	12/00/99	
Final Action Certain Chemical Substances	12/00/99	
Final Action Batch SNUR: 84-660/-704 & 84-105/-106/-107 & 85-433	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3495

Sectors Affected: 325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing

Agency Contact: James Alwood, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-1857
Fax: 202 260-0118
Email: alwood.jim@epa.gov

Flora Chow, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3725
Fax: 202 260-0118
Email: chow.flora@epa.gov

RIN: 2070–AB27

3594. TEST RULES; GENERIC ENTRY FOR FINAL DECISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790-799

Legal Deadline: None

Abstract: EPA is requiring testing via rules, or will obtain testing through enforceable consent agreements (ECAs) or publish a notice which provides the reasons for not doing so for chemicals

listed herein. These chemicals have been designated for priority testing consideration by the ITC or recommended for testing consideration (for which the 12-month statutory requirement does not apply). The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other Federal or other EPA offices through EPA review processes.

Timetable:

Action	Date	FR Cite
ANPRM Aryl Phosphates (ITC List 2)	12/29/83	48 FR 57452
NPRM Brominated Flame Retardants	06/25/91	56 FR 29140
NPRM Aryl Phosphates (ITC List 2)	01/17/92	57 FR 2138
Final Action-ECA DiBasic Esters (CPSC)	08/05/99	64 FR 42692
Final Action-ECA Aryl Phosphates (ITC List 2)	12/00/99	
Final Action ITC Chemicals (ITC List 28)	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3493

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

David R. Williams, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3468
Fax: 202 401-3672
Email: williams.daver@epa.gov

RIN: 2070–AB94

3595. ACRYLAMIDE; BAN ON USE OF ACRYLAMIDE FOR GROUTING

Priority: Other Significant

Legal Authority: 15 USC 2605 TSCA sec 6; 15 USC 2607 TSCA sec 8

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: On October 2, 1991, EPA proposed a regulation of acrylamide and NMA grouts based on the unreasonable risk associated with their usage. EPA's rule would prohibit the manufacture, distribution in commerce, and use of acrylamide grout. In February 1996, EPA reopened the record for 30 days to take additional comments, specifically to seek data on the durability of acrylamide and NMA grouts. The Agency has reviewed the comments and expects to promulgate the final rule in the Winter of 1999/2000.

Timetable:

Action	Date	FR Cite
NPRM	10/02/91	56 FR 49863
Notice Reopening Record for Comments on Durability of NMA	02/28/96	61 FR 7454
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 277

Agency Contact: John Bowser, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-1771
Fax: 202 260-1096
Email: bowser.john@epa.gov

Charlie Auer, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3759
Fax: 202 260-8168
Email: auer.charles@epa.gov

RIN: 2070–AC17

3596. REFRACTORY CERAMIC FIBERS; SIGNIFICANT NEW USE RULES ON NATIONAL PROGRAM CHEMICALS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 2604 TSCA 5; 15 USC 2605 TSCA 6

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under the Toxic Substances Control Act (TSCA) sections 5 and/or 6 to require reporting by the manufacturers, importers and/or processors of these chemicals. Proposed rules may be published on at least the chemicals listed on the timetable below.

Timetable:

Action	Date	FR Cite
NPRM Refractory Ceramic Fiber	03/21/94	59 FR 13294
Final Action Refractory Ceramic Fiber	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3528

Sectors Affected: 327999 All Other Miscellaneous Nonmetallic Mineral Product Manufacturing

Agency Contact: Peter Gimlin, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3972
Fax: 202 260-1724
Email: gimlin.peter@epa.gov

Cindy Fraleigh, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3933
Fax: 202 260-1724
Email: fraleigh.cindy@epa.gov

RIN: 2070–AC37

EPA—Toxic Substances Control Act (TSCA) — Final Rule Stage

3597. PCBS; POLYCHLORINATED BIPHENYLS (PCBS) TRANSFORMER RECLASSIFICATION RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605 TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: This rule would relax the regulatory requirements for reclassifying PCB transformers to a lower regulatory status by modifying the current reclassification requirements of 50 degree centigrade temperature and 90-day testing. Results of a preliminary analysis indicate that many transformers never reach the required temperature during operation, but retrofitting still successfully reduces PCB concentration. Safety risks to employees and to the general public occur in mandating the continued adherence to the current regulations. EPA may also address the reclassification of voltage regulators.

Timetable:

Action	Date	FR Cite
NPRM	11/18/93	58 FR 60970
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 3021

Sectors Affected: 211 Oil and Gas Extraction; 31-33 Manufacturing; 5133 Telecommunications; 2211 Electric Power Generation, Transmission and Distribution; 622 Hospitals; 6113 Colleges, Universities and Professional Schools; 921 Executive, Legislative, Public Finance and General Government

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3933
Fax: 202 260-1724
Email: baney.tony@epa.gov

Tom Simons, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3933
Fax: 202 260-1724
Email: simons.tom@epa.gov

RIN: 2070–AC39

3598. LEAD; TSCA SECTION 403; IDENTIFICATION OF DANGEROUS LEVELS OF LEAD

Regulatory Plan: This entry is Seq. No. 131 in Part II of this issue of the **Federal Register**.

RIN: 2070–AC63

3599. TEST RULE; HAZARDOUS AIR POLLUTANTS (HAPS)

Priority: Other Significant

Legal Authority: 15 USC 2603 TSCA 4; 42 USC 7412 CAA 112; 42 USC 7403 CAA 103; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 790 to 799

Legal Deadline: None

Abstract: EPA is proposing health effects testing under TSCA section 4 in support of programs and activities required under section 112 of the Clean Air Act (CAA), governing Hazardous Air Pollutants (HAPs). Section 112 of the CAA directs EPA to determine the risk to health and the environment remaining after application of technology-based emissions standards to major and area sources. Section 112 also sets forth a mechanism for revising and modifying the statutory list of 189 HAPs under section 112(b), and requirements for an accidental release control program. These data will also be important for the right-to-know program given the large release of these chemicals to the atmosphere. In order to implement these and other programs and requirements under section 112, EPA must identify the health and environment effects of potential concern from exposure to HAPs, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs. In addition, under section 103(d), EPA is required to conduct a research program on the short- and long-term effects of air pollutants on human health, ascertain the minimum data needed to adequately characterize those health and environmental effects, and assess the risks posed by HAPs.

Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33178
Supplemental NPRM	12/24/97	62 FR 67466
Supplemental NPRM	04/21/98	63 FR 19694
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3487

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: David R. Williams, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3468
Fax: 202 401-3672
Email: williams.daver@epa.gov

Richard Leukroth, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-0321
Fax: 202 401-3672
Email: leukroth.rich@epa.gov

RIN: 2070–AC76

3600. TSCA SECTION 8(E) POLICY; NOTICE OF CLARIFICATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2607(e) TSCA sec 8(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The TSCA section 8(e) Notice of Clarification and Solicitation of Public Comment would amend certain aspects of the 1978 TSCA section 8(e) Statement of Interpretation and Enforcement Policy (1978 Policy Statement). The 1978 Policy Statement describes the types of information that EPA considers reportable under section 8(e), the substantial risk reporting provision of TSCA, and describes the

procedures for reporting such information to EPA. This clarification effort derives from a review of the existing section 8(e) guidance done in the context of questions raised by companies considering participating in the section 8(e) Compliance Audit Program (CAP). As a result of this review, EPA determined that parts of the 1978 Policy Statement concerning the reportability of information on widespread and previously unsuspected distribution in environmental media and emergency incidents of environmental contamination needed some refinement. The subject Federal Register action solicited comment on refined reporting guidance concerning widespread and previously unsuspected distribution in environmental media and provides additional circumstances where information is not reportable because it is considered known to the Administrator. Finally, the notice solicited comments on changes to the section 8(e) reporting deadline and reaffirmed the standards for claims of confidentiality for information contained in a notice of substantial risk under section 8(e).

Timetable:

Action	Date	FR Cite
NPRM	07/13/93	58 FR 37735
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: SAN No. 3118

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Richard Hefter, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7403, Washington, DC 20460
Phone: 202 260-3470
Fax: 202 260-1216
Email: hefter.richard@epa.gov

Tery O'Bryan, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7403, Washington, DC 20460
Phone: 202 260-3483
Fax: 202 260-1216
Email: obryan.terry@epa.gov

RIN: 2070–AC80

3601. NOTICE OF TSCA SECTION 4 REIMBURSEMENT PERIOD AND TSCA SECTION 12(B) EXPORT NOTIFICATION PERIOD SUNSET DATES FOR TSCA SECTION 4 SUBSTANCES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2603 TSCA 4; 15 USC 2611 TSCA 12

CFR Citation: 40 CFR 707; 40 CFR 790; 40 CFR 791; 40 CFR 799

Legal Deadline: None

Abstract: EPA is developing a list of substances that are or have been subject to TSCA section 4 testing actions which required testing under rules or Enforceable Consent Orders. EPA will identify sunset, or termination dates that will identify: (1) the end of section 4 reporting requirements (40 CFR 790); (2) the end of the reimbursement period under which persons subject to test rules are subject to an obligation to reimburse test sponsors (40 CFR 791); and (3) the end of the period during which export notification requirements under TSCA section 12(b) are triggered.

Timetable:

Action	Date	FR Cite
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Additional Information: SAN No. 355

Sectors Affected: 325 Chemical Manufacturing; 32411 Petroleum Refineries

Agency Contact: Frank Kover, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-8130
Fax: 202 401-3672
Email: kover.frank@epa.gov

David R. Williams, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7405, Washington, DC 20460
Phone: 202 260-3468
Fax: 202 401-3672
Email: williams.daver@epa.gov

RIN: 2070–AC84

3602. PCBS; POLYCHLORINATED BIPHENYL; USE AUTHORIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 2605(e) TSCA sec 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: The notice of proposed rulemaking that was published on December 6, 1994, covered the manufacture (including import), processing, distribution in commerce, export use, disposal, and marking of PCBs. On June 29, 1998, EPA issued a final rule involving the disposal related provisions. Other provisions, e.g., certain use authorizations and import provisions, were to be addressed in separate actions. This rulemaking addresses a use authorization for certain non-liquid PCB applications, which although currently in use have never been authorized under the PCB regulations at 40 CFR part 761.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/91	56 FR 26738
NPRM	12/06/94	59 FR 62788
Final Action 1 PCB Disposal Provisions	06/29/98	63 FR 35384
Notice: Use Authorizations - Data Availability	11/00/99	
Final Action 2 Use Authorizations	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 417

EPA—Toxic Substances Control Act (TSCA) — Final Rule Stage

Sectors Affected: 211 Oil and Gas Extraction; 31-33 Manufacturing; 5133 Telecommunications; 622 Hospitals; 6113 Colleges, Universities and Professional Schools; 921 Executive, Legislative, Public Finance and General Government

Agency Contact: Tony Baney, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3933
Fax: 202 260-1724
Email: baney.tony@epa.gov

Peggy Reynolds, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3965
Fax: 202 260-1724
Email: reynolds.peggy@epa.gov

RIN: 2070–AD27

Environmental Protection Agency (EPA) — Long-Term Actions
Toxic Substances Control Act (TSCA)

3603. LEAD; REGULATORY INVESTIGATION UNDER THE TOXIC SUBSTANCES CONTROL ACT (TSCA) TO REDUCE LEAD (PB) CONSUMPTION AND USE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 15 USC 2605 TSCA 6

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: This action initiates a regulatory investigation under the Toxic Substances Control Act (TSCA) section 6 to determine if uses of lead (Pb) present an unreasonable risk to human health and the environment. The investigation will involve examination of the potential sources of human or other exposure to lead throughout the life cycle. Based on information gathered EPA may propose TSCA section 6(a) rules to control existing or new uses of Pb which pose an unreasonable risk to human health or the environment, and to explore the desirability and feasibility of discouraging overall consumption of Pb in general. Currently, EPA has ongoing regulatory investigation on one specific use of lead: fishing sinkers. EPA is exploring a combination of approaches to address human health and wildlife exposure to lead fishing sinkers including voluntary initiatives and education campaigns. EPA is developing materials to explain the dangers of lead through misuse and improper handling of lead sinkers. EPA is working with States to generally distribute such materials and to include information on lead hazards to human health and wildlife in State fishing guidelines booklets.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
NPRM Proposed Ban of Fishing Sinkers	03/09/94	59 FR 11122
Final Action Fishing Sinkers	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: SAN No. 3252

Agency Contact: Ellie Clark, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov

Tova Spector, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3467
Fax: 202 260-0770
Email: spector.tova@epa.gov

RIN: 2070–AC21

3604. LEAD; MANAGEMENT AND DISPOSAL OF LEAD-BASED PAINT DEBRIS SECTION 402(A)

Priority: Other Significant

Legal Authority: 15 USC 2601 to 2671; 42 USC 6901 to 6992

CFR Citation: 40 CFR 745

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume architectural components (e.g., doors and windows) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances and the Office of Solid Waste have initiated a joint rulemaking to address the disposal of these architectural components. This rulemaking would develop disposal standards for these components under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal standards for LBP architectural components and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to lead-based paint debris which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM TSCA Proposal	12/18/98	63 FR 70189
Comment Extension of Comment Period	02/12/99	64 FR 7158
Comment Extension of Comment Period	02/12/99	64 FR 7159
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

EPA—Toxic Substances Control Act (TSCA) **Long-Term Actions**

Additional Information: SAN No. 3508

This SAN and RIN includes RCRA companion rule: Temporary Suspension of Toxicity Characteristic Rule for Specified Lead-Based Paint Debris.

Sectors Affected: 233 Building, Developing and General Contracting; 23321 Single Family Housing Construction; 23332 Commercial and Institutional Building Construction; 23521 Painting and Wall Covering Contractors; 23542 Drywall, Plastering, Acoustical and Insulation Contractors; 23511 Plumbing, Heating and Air-Conditioning Contractors; 23594 Wrecking and Demolition Contractors; 23592 Glass and Glazing Contractors; 54138 Testing Laboratories; 562111 Solid Waste Collection

Agency Contact: Ellie Clark, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov

Dave Topping, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7404, Washington, DC 20460
Phone: 202 260-7737
Fax: 202 260-0770
Email: topping.dave@epa.gov

RIN: 2070–AC72

Environmental Protection Agency (EPA)
Toxic Substances Control Act (TSCA) **Completed Actions**

3605. ASBESTOS-CONTAINING MATERIALS IN SCHOOLS RULE AMENDMENTS

Priority: Other Significant

CFR Citation: 40 CFR 763

Completed:

Reason	Date	FR Cite
Withdrawn-No Further Action Planned	08/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Cindy Fraleigh
Phone: 202 260-1537
Fax: 202 260-1724
Email: fraleigh.cindy@epa.gov

RIN: 2070–AC62

3606. GUIDANCE ON ENVIRONMENTALLY PREFERABLE PURCHASING FOR FEDERAL AGENCIES

Priority: Info./Admin./Other

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
NPRM	09/29/95	60 FR 50722
Final Action	08/20/99	64 FR 45811

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Eun-Sook Goidel
Phone: 202 260-3296
Fax: 202 260-0178
Email: goidel.eun-sook@epa.gov
Julie Shannon
Phone: 202 260-2736
Fax: 202 260-0178
Email: shannon.julie@epa.gov

RIN: 2070–AC78

3607. LEAD-BASED PAINT; FEES FOR ACCREDITATION AND CERTIFICATION ACTIVITIES SECTION 402(A)(3)

Priority: Info./Admin./Other

CFR Citation: 40 CFR 745

Completed:

Reason	Date	FR Cite
Direct Final Rule	09/02/98	63 FR 46668
NPRM	09/02/98	63 FR 46734
Direct Final Rule Withdrawn	10/16/98	63 FR 55547
Final Action	06/09/99	64 FR 31092

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Ellie Clark
Phone: 202 260-3402
Fax: 202 260-0770
Email: clark.ellie@epa.gov
Mike Wilson
Phone: 202 260-4664
Email: wilson.mike@epa.gov

RIN: 2070–AD11

Environmental Protection Agency (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA) **Prerule Stage**

3608. TRI; ADDITION OF OIL AND GAS EXPLORATION AND PRODUCTION TO THE TOXIC RELEASE INVENTORY

Regulatory Plan: This entry is Seq. No. 102 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD19

Environmental Protection Agency (EPA) **Proposed Rule Stage**

Emergency Planning and Community Right-to-Know Act (EPCRA)

3609. TRI; RESPONSES TO PETITIONS RECEIVED TO ADD OR DELETE OR MODIFY CHEMICAL LISTINGS ON THE TOXIC RELEASE INVENTORY

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013 EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: See Additional Information.

Abstract: These actions grant or deny petitions received to add or delete or modify chemicals on the list of toxic chemicals under section 313 of the Emergency Planning and Community Right to Know Act (EPCRA) that are subject to reporting under the Toxic Chemical Release Reporting Rule. The actions cover individual chemicals or groups of chemicals for which petitions have been received.

Timetable:

Action	Date	FR Cite
Notice DBNPA (Request to Delete)	10/27/95	60 FR 54949
Notice of Denial Phosphoric Acid (Request to Delete)	01/23/98	63 FR 3566
Notice of Denial Methyl Ethyl Ketone (MEK) (Request to Delete)	03/30/98	63 FR 15195
NPRM Chromite Ore (Request to Delete)	02/23/99	64 FR 8774
NPRM Chromite Ore from Transvaal Reg. of S.A.	02/23/99	64 FR 8775
Notice of Denial Acetonitrile (Request to Delete)	03/05/99	64 FR 10597
Final Response DBNPA (Request to Delete)	11/00/99	
Final Action Chromite ore from Transvaal	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2425

Statutory deadline: Within 180 days of receipt the Agency must either initiate rulemaking or explain why not in the Federal Register. Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Agency Contact: Daniel R. Bushman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-3882
Fax: 202 401-8142
Email: bushman.daniel@epa.gov

Maria Doa, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

RIN: 2070–AC00

3610. TRI; POLLUTION PREVENTION ACT INFORMATION REQUIREMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11013 Pollution Prevention Act

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: Section 6607(b) of the Pollution Prevention Act of 1990 (PPA) (Pub. L. 101-508) requires the addition of several data elements to the Toxic Chemical Release Inventory (TRI) reporting requirements as promulgated under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (Pub. L. 99-499). Section 313 of EPCRA requires owners or operators of certain facilities that manufacture, process, or otherwise use listed toxic chemicals to annually report their releases of these chemicals to each environmental medium. The PPA mandates that section 313 covered facilities also report on source reduction and recycling activities relating to the toxic chemicals beginning with the 1991 reporting year. Since 1991 covered facilities have been providing this information to EPA in section 8, Source Reduction and Recycling Activities, of EPA Form R. On September 25, 1991 (56 FR 48475), EPA proposed regulations which would provide definitions and instructions for reporting the PPA data elements on the EPA Form R. In this action, EPA will amend certain aspects of the September 25, 1991, proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	09/25/91	56 FR 48475
Supplemental NPRM	12/00/99	
Response Combustion for Energy Recovery (Request to Modify)	03/00/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2847

Affected Sectors Include: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Agency Contact: Maria Doa, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

Sara Hisel McCoy, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460

EPA—Emergency Planning and Community Right-to-Know Act (EPCRA) **Proposed Rule Stage**

Phone: 202 260-9592
Fax: 202 401-8142
Email: hisel-mccoy.sara@epa.gov

RIN: 2070–AC24

3611. TRI; CHEMICAL EXPANSION; FINALIZATION OF DEFERRED CHEMICALS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: On November 30, 1994, EPA added 286 chemicals and chemical categories to the EPCRA section 313 list, including 39 chemicals as part of two delineated categories. Each chemical and chemical category was found to meet the statutory criteria described in EPCRA section 313(d)(2)(A)-(C). At this time, EPA deferred final action on 40 chemicals and one chemical category until a later date. These were deferred because the comments received on them raised difficult technical or policy issues which required additional time to address. EPA chose not to delay final action on the 286 chemicals and chemical categories because of the additional time needed to address the issues surrounding the smaller group of 40 chemicals and one chemical category; rather, EPA believed it to be in the spirit of community right-to-know to proceed with the final rulemaking of the additional chemicals and chemical categories.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Final Finalizes Listing of 286 Chemicals and Chemical Categories	11/30/94	59 FR 61432
Supplemental NPRM Deferred Chemicals	12/00/00	
Final Action Deferred Chemicals	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3007

Includes SIC codes: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Sectors Affected: 42269 Other Chemical and Allied Products Wholesalers

Agency Contact: Daniel R. Bushman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-3882
Fax: 202 401-8142
Email: bushman.daniel@epa.gov

Maria Doa, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

RIN: 2070–AC47

3612. TRI; REVISIONS TO THE OTHERWISE USE ACTIVITY EXEMPTIONS AND THE COAL EXTRACTION ACTIVITIES EXEMPTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 42 USC 11001 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The Toxics Release Inventory (TRI) requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 pounds of a listed chemical. In determining amounts of listed chemicals that are manufactured, processed or otherwise used, facilities may be entitled to consider specific exemptions from reporting. EPA is presently reviewing a group of these exemptions. The categories of exemptions presently being reconsidered by EPA are the structural component exemption, the routine janitorial and facility grounds maintenance exemption, the personal use exemption, the motor vehicle maintenance exemption, and the intake water/air exemption. Also known as the otherwise use exemptions because they are limited to otherwise use activities, these exemptions are expressly provided for at 40 CFR 372.38(c). EPA is also considering changes to the coal mining extraction exemption provided for at 40 CFR 372.38(g).

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Additional Information: SAN No. 4265

By Statute and Regulation, this rule will affect SIC codes 20-39, 10 (except SIC codes 1011, 1081, 1094), 12 (except SIC code 1241), 4911, 4931, 4939, 4953, 5169, 5171, and 7389.

Agency Contact: Lawrence A. Reisman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-2301
Fax: 202 401-8142
Email: reisman.larry@epa.gov

Maria Doa, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 401-8142
Fax: 202 260-9592
Email: doa.maria@epa.gov

RIN: 2070–AD39

Environmental Protection Agency (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Final Rule Stage

3613. TRI; REPORTING THRESHOLD AMENDMENT FOR CERTAIN PERSISTENT AND BIOACCUMULATIVE TOXIC CHEMICALS (PBTS)

Regulatory Plan: This entry is Seq. No. 132 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD09

3614. TRI; LOWERING OF EPCRA SECTION 313 REPORTING THRESHOLDS FOR LEAD AND LEAD COMPOUNDS

Regulatory Plan: This entry is Seq. No. 133 in Part II of this issue of the **Federal Register**.

RIN: 2070–AD38

Environmental Protection Agency (EPA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

Long-Term Actions

3615. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT: AMENDMENTS AND STREAMLINING RULE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048; 42 USC 11021; 42 USC 11022

CFR Citation: 40 CFR 355; 40 CFR 370

Legal Deadline: None

Abstract: This rule will address the remaining issues from the proposed rule of June 8, 1998. (Reporting thresholds for gasoline and diesel fuel at retail gas stations were included in a separate final rule; 64 FR 7031, February 11, 1999.) This rule will include: reporting thresholds for rock salt, sand, gravel and other chemicals that pose minimal risk; plain language rewrite; and may consider reporting thresholds for facilities with some similarities to gas stations (motor pools, marinas, etc.) and guidance on approaches to State flexibility.

Timetable:

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31268
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3215

Agency Contact: Sicy Jacob, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-7249
Fax: 202 260-0927
Email: jacob.sicy@epa.gov

John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-4043
Fax: 202 260-0927
Email: ferris.john@epa.gov

RIN: 2050–AE17

3616. RESPONSE TO A PETITION REQUESTING DELETION OF PHOSMET FROM THE EXTREMELY HAZARDOUS SUBSTANCES (EHSS) LIST

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: EPA has received a petition to remove Phosmet from the extremely hazardous substance (EHS) list under the Emergency Planning and Community Right-to-Know Act (EPCRA). This rulemaking will address the petitioner's claims.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3994

Agency Contact: Sicy Jacob, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-7249
Fax: 202 260-0927
Email: jacob.sicy@epa.gov

John Ferris, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-4043
Fax: 202 260-0927
Email: ferris.john@epa.gov

RIN: 2050–AE42

3617. MODIFICATION OF THRESHOLD PLANNING QUANTITY FOR ISOPHORONE DIISOCYANATE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 11002; 42 USC 11004; 42 USC 11048

CFR Citation: 40 CFR 355

Legal Deadline: None

Abstract: On October 12, 1994 (59 FR 51816), EPA proposed to modify the listing of several chemicals on the extremely hazardous substances (EHS) list under the Emergency Planning and Community Right-to-Know Act. One petitioner requested the removal of isophorone diisocyanate (IPDI). EPA rejected the petitioner's request. However, in the review of the petition, EPA noticed that there was an error in the setting of the threshold planning quantity (TPQ) for IPDI, and proposed to correct the error in the October 12, 1994 notice of proposed rulemaking. The other modifications to the EHS list were made final on May 7, 1996; however, the TPQ for IPDI was not included in that final rule. This rule will finalize the TPQ for IPDI.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3993

Sectors Affected: 325 Chemical Manufacturing

Agency Contact: Kathy Franklin, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-2250
Fax: 202 260-0927
Email: franklin.kathy@epa.gov

RIN: 2050–AE43

3618. TRI; DATA EXPANSION AMENDMENTS; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 11013 EPCRA; 42 USC 11023; 42 USC 11048; 42 USC 11076; 42 USC 13106

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) required reporting from manufacturing facilities on the releases and other waste management activities including waste treatment and disposal methods. This requirement was imposed under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(g). Information on waste management practices, including recycling, energy recovery, and source reduction activities, were added to TRI pursuant to the 1990 passage of the Pollution Prevention Act. EPA is currently considering whether additional data elements related to a mass balance/materials accounting program should be considered for incorporation into the TRI database. The additional data elements included for consideration include: quantity brought on site; quantity produced on site; quantity consumed on site; quantity contained in or as product; quantity stored on site as waste; and beginning and ending raw materials inventory. The issue of collecting mass balance/materials accounting information has been debated for over a decade. Congress, in enacting EPCRA, directed the National Academy of Sciences (NAS) to study this issue further. NAS recommended that the issue of adding materials accounting data merited further analysis. Because of competing priorities, this project is currently on hold. No activities are planned for 2000.

Timetable:

Action	Date	FR Cite
NPRM	10/01/96	61 FR 51322
NPRM	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 3877

SECTORS AFFECTED: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and, Solvent Recovery Services (SIC code 7389).

Agency Contact: Maria Doa, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142
Email: doa.maria@epa.gov

Sara Hisel-McCoy, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-7937
Fax: 202 401-8142
Email: hisel-mccoy.sara@epa.gov

RIN: 2070–AD08

3619. TRI; REVIEW OF CHEMICALS ON THE ORIGINAL TRI LIST

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1101 et seq

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: When TRI was established by Congress in 1986, the statutory language placed 309 chemicals and 20 categories of chemicals on the TRI list; that is referred to as the original TRI list. The chemicals on the original list were taken from two existing lists of toxic substances: the Maryland Chemical Inventory Report List of Toxic or Hazardous Substances, and the New Jersey Environmental Hazardous Substances list. This action constitutes. the first systematic review of toxicology and environmental data for all the chemicals on the original TRI list to determine whether data for those chemicals conform with the statutory criteria for listing of chemicals on TRI. Chemicals for which data do not meet the statutory criteria will be delisted.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Rule	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 4015

AFFECTED SECTORS: Manufacturing industries in SIC codes 20-39 plus the following industries and SIC codes: Metal Mining (SIC code 10 except SIC codes 1011, 1081, and 1094); Coal Mining (SIC code 12 except SIC code 1241); Electric Utilities (SIC codes 4911, 4931, 4939); Commercial Hazardous Waste Treatment (SIC code 4953); Chemicals and Allied Products-Wholesale (SIC code 5169); Petroleum Bulk Terminals and Plants (SIC code 5171); and Solvent Recovery Services (SIC code 7389).

Agency Contact: Daniel R. Bushman, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-3882
Fax: 202 401-8142
Email: bushman.daniel@epa.gov

Maria Doa, Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances, 7408, Washington, DC 20460
Phone: 202 260-9592
Fax: 202 401-8142

EPA—Emergency Planning and Community Right-to-Know Act (EPCRA) **Long-Term Actions**

Email: doa.maria@epa.gov
RIN: 2070–AD18

Environmental Protection Agency (EPA) **Final Rule Stage**
Chemical Safety Information, Site Security and Fuels Regulatory Relief Act

3620. • AMENDMENTS TO THE LIST OF REGULATED SUBSTANCES AND THRESHOLDS FOR ACCIDENTAL RELEASE PREVENTION; FLAMMABLE SUBSTANCES USED AS FUEL OR HELD FOR SALE AS FUEL AT RETAIL FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-40

CFR Citation: 40 CFR 68

Legal Deadline: None

Abstract: On August 5, 1999 the President signed the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Public Law 106-40). This Act, among other things, prohibits EPA from regulating flammable substances under Clean Air Act (CAA) Section 112(r) when those substances are used as fuel or held for retail sale as fuel. This rulemaking will conform the existing rules implementing CAA Section 112(r) to the portions of Public Law 106-40 related to flammable fuels.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4302

Agency Contact: James Belke, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-7314
Fax: 202 260-0927
Email: belke.james@epa.gov

Breeda Reilly, Environmental Protection Agency, Solid Waste and Emergency Response, 5104, Washington, DC 20460
Phone: 202 260-0716
Fax: 202 260-0927
Email: reilly.breeda@epa.gov

RIN: 2050–AE74

Environmental Protection Agency (EPA) **Prerule Stage**
Resource Conservation and Recovery Act (RCRA)

3621. REGULATORY DETERMINATION ON REMAINING WASTES FROM THE COMBUSTION OF FOSSIL FUELS

Priority: Other Significant

Legal Authority: 42 USC 6921(b)(3)(C) RCRA sec 3001(b)(3)(C)

CFR Citation: Not Yet Determined

Legal Deadline: Other, Judicial, March 10, 2000, Regulatory Determination for Phase II Remaining Wastes.

Abstract: On December 1, 1992, the Agency determined that additional study of four large-volume wastes — fly ash, bottom ash, boiler slag and flue gas emission control wastes — from the combustion of coal by electric utility power plants was not necessary. A Final Regulatory Determination on these wastes was signed on August 2, 1993 and published in the Federal Register on August 9, 1993. The Agency also determined that for the remaining fossil-fuel combustion wastes, additional data collection is necessary to make a Regulatory Determination on these wastes. A Final Regulatory Determination will be made by March 10, 2000. These remaining wastes include: (1) fly ash, bottom ash, boiler slag, and flue gas emission control wastes from the combustion of coal by electric utility power plants when such wastes are mixed with, co-disposed, co-treated, or otherwise co-managed with other wastes generated in conjunction with the combustion of coal or other fossil fuels, and (2) any other wastes subject to section 8002(n) of RCRA other than those subject to the August 1993 regulatory determination referenced above.

Timetable:

Action	Date	FR Cite
Notice of Availability	02/12/93	58 FR 8273
Regulatory Determination (Phase I Four Fossil Fuel Wastes)	08/09/93	58 FR 42466
Regulatory Determination (Phase II Remaining Wastes)	03/10/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 3201

Agency Contact: Dennis Ruddy, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-8430
Fax: 703 308-8686
Email: ruddy.dennis@epa.gov

RIN: 2050–AD91

3622. REINVENTING THE LAND DISPOSAL RESTRICTIONS PROGRAM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The Land Disposal Restrictions (LDR) program was established to minimize threats posed by the land disposal of untreated hazardous wastes. The program has been in place for a number of years and now regulates all but the most recently listed hazardous wastes. The Agency is now examining the LDR program, exploring past accomplishments, current issues, and

future possibilities. The goals of the examination are to make the LDR program cheaper, smarter, cleaner, and more flexible. The Agency will develop an Advance Notice of Proposed Rulemaking (ANPRM) to present initial thinking and the results of some activities taken as part of the ongoing LDR Reinvention Project so that the public will have an opportunity to comment. A proposed and final rule will follow.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/00	
NPRM	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: SAN No. 4093

Sectors Affected: 325 Chemical Manufacturing; 331 Primary Metal Manufacturing; 2122 Metal Ore Mining; 32411 Petroleum Refineries

Agency Contact: Josh Lewis, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-7877
Fax: 703 308-8433
Email: lewis.josh@epa.gov

RIN: 2050–AE53

3623. REVISIONS TO SOLID WASTE LANDFILL CRITERIA—LEACHATE RECIRCULATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6944; 42 USC 6949

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: The Agency is reviewing and evaluating the technology of leachate recirculation in municipal solid waste landfills (MSWLFs). If sufficient data is found to justify a change in the regulations, we will propose to revise the regulations to allow leachate recirculation in units constructed with alternative liner designs resulting in a significant cost savings to some facilities.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/00	
NPRM	02/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 423

Sectors Affected: 562 Waste Management and Remediation Services

Agency Contact: Deborah Hanlon, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-5824
Fax: 703 308-8686
Email: hanlon.deborah@epa.gov

Dwight Hlustick, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-8647
Fax: 703 308-8686
Email: hlustick.dwight@.epa.gov

RIN: 2050–AE67

3624. • CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 5 USC 610

CFR Citation: 40 CFR 258

Legal Deadline: None

Abstract: The Agency promulgated the Solid Waste Disposal Facility Criteria; Final Rule on October 9, 1991 (56 FR 50978). These Criteria established new national minimum standards for municipal solid waste landfills (MSWLFs). The rule provides considerable flexibility for all MSWLFs and contains a special exemption from the criteria's design and groundwater monitoring requirements for owners and operators of certain small MSWLF units. Small MSWLFs are defined as units that dispose of less than twenty (20) tons of municipal solid waste daily.

The small landfill exemption in Part 258 was originally invalidated by the United States Court of Appeals for the District of Columbia Circuit. However, in enacting the Land Disposal Program Flexibility Act of 1996 (LDPFA), Congress gave the statutory mandate for the exemption. The LDPFA reinstated the exemption from groundwater monitoring for qualifying small MSWLFs and EPA codified this requirement on September 25, 1996 (61 FR 50410). The LDPFA also directed the Agency to provide additional flexibility to small MSWLFs in the form of the minimum frequency of daily cover, the minimum frequency of monitoring for methane in landfill gas, and the infiltration barriers in the final cover. These requirements were codified on July 29, 1997 (62 FR 40708).

EPA delayed the effective date for compliance with the Financial Assurance requirements of the MSWLF rules until April 10, 1998 by a series of regulatory actions. The delayed effective date allowed EPA to codify the provisions from the LDPFA and to finalize new options for Financial Assurance tailored for local governments (61 FR 60328, November 27, 1996) and for Corporate Owners and Operators (63 FR 17706, April 10, 1998).

This new entry in the regulatory agenda announces that EPA will review the Part 258 regulations pursuant to section 610 of the Regulatory Flexibility Act (5 USC 610). EPA solicits comments on the following factors; (1) the continued need for the rule, (2) the nature of complaints or comments received concerning the rule from the public since promulgation; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

It is the Agency's view that there is a continued need for the rule; however, the Agency welcomes suggestions for reducing any unnecessary burden on small entities resulting from these rules. As detailed above, the Agency has made continuing efforts to minimize the burden on the owners and operators of small MSWLFs. This review is a major component in further improvements and, if possible, further reductions in burden. EPA will also welcome comments on any other aspect of the rule.

Timetable:

Action	Date	FR Cite
Begin Review	11/00/99	

EPA—Resource Conservation and Recovery Act (RCRA) — Prerule Stage

Action	Date	FR Cite
End Comment Time	02/00/00	
End Review	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 4350

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-1999-MLFN-FFFFF to : RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA,HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically to: rcra-docket@epa.gov. Comments in electronic format should also be identified by the docket number F-1999-MLFN-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments will be available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703-603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. For information on accessing paper and/or electronic copies of the document, see the Supplementary Information section.

For Further Information Contact: For general information, contact the RCRA Hotline at 800 424-9346 or TDD 800 553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412-9810 or TDD 703 412-3323.

For information on specific aspects of this notice, contact Dwight Hlustick, Office of Solid Waste (5306W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, 703-308-8647, [hlustick.dwight@epa.gov]

Supplementary Information: The fact sheet is available in electronic format on the Internet at http://www.epa.gov/epaoswer/non-hw/muncpl/landfill.htm>

Agency Contact: Dwight Hlustick, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-8647
Fax: 703 308-8686
Email: hlustick.dwight@epa.gov

RIN: 2050–AE75

Environmental Protection Agency (EPA) — Proposed Rule Stage
Resource Conservation and Recovery Act (RCRA)

3625. HAZARDOUS WASTE IDENTIFICATION RULE (HWIR): IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Regulatory Plan: This entry is Seq. No. 113 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE07

3626. HAZARDOUS WASTE MANIFEST REGULATION

Regulatory Plan: This entry is Seq. No. 114 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE21

3627. REMOVAL OF REQUIREMENT TO USE SW-846 METHODS (TEST METHODS FOR EVALUATING SOLID WASTE: PHYSICAL/CHEMICAL METHODS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934 to 6939; 42 USC 6974; 42 USC 9601; 42 USC 9614(c)

CFR Citation: 40 CFR 258; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 279

Legal Deadline: None

Abstract: The EPA Office of Solid Waste (OSW) has been actively working to break down the barriers that the environmental monitoring community faces when trying to use new monitoring techniques. As a first step, OSW has accelerated its review process for new methods by eliminating several unnecessary internal review steps, and by streamlining the internal approval process for each new method. However, there are currently 32 citations in title 40 of the Code of Federal Regulations (CFR) where the use of SW-846 methods is required. As a second step for speeding up the approval process, OSW plans to remove the requirements to use SW-846 methods for other than method defined parameters (i.e., where the method defines the regulations, such as the Toxicity Characteristic Leaching Procedure) from 40 CFR. This will likely lead to an even more streamlined approval process since SW-846 will then be able to be handled strictly as guidance and not need the regulatory process for approval. This additional streamlining will permit new, more cost-effective methods to attain public and regulatory authority acceptance in much less time, allowing required monitoring to be done more cheaply, faster and, in some cases, more accurately.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 398

Agency Contact: Barry Lesnik, Environmental Protection Agency, Solid Waste and Emergency Response, 5307W, Washington, DC 20460
Phone: 703 308-0476

EPA—Resource Conservation and Recovery Act (RCRA) **Proposed Rule Stage**

Fax: 703 308-0511
Email: lesnik.barry@epa.gov

RIN: 2050–AE41

3628. STANDARDIZED PERMIT FOR RCRA HAZARDOUS WASTE MANAGEMENT FACILITIES

Regulatory Plan: This entry is Seq. No. 115 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE44

3629. HAZARDOUS WASTE STORAGE AND DISPOSAL REGULATION RELATED TO LOW LEVEL MIXED WASTE; PROPOSED MODIFICATIONS

Regulatory Plan: This entry is Seq. No. 116 in Part II of this issue of the **Federal Register**.

RIN: 2050–AE45

3630. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; INORGANIC CHEMICAL INDUSTRY WASTES; AND CERCLA HAZARDOUS SUBSTANCE DESIGNATION AND REPORTABLE QUANTITIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 6901 to 6992(k)

CFR Citation: 40 CFR 261; 40 CFR 263; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, August 30, 2000.
Final, Judicial, October 31, 2001.

Abstract: EPA, under an Environmental Defense Fund settlement agreement, will amend, if necessary, the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) to reduce hazards to human health and the environment from inorganic chemical industry wastes. The wastes covered under this listing document include: sodium dichromate production wastes, wastes from the dry process for manufacturing phosphoric acid, phosphorus trichloride production wastes, phosphorus pentasulfide production wastes, wastes from the production of sodium phosphate from wet process phosphoric acid, sodium chlorate production wastes, antimony oxide production wastes, cadmium pigments production wastes, barium carbonate production wastes, potassium dichromate production wastes, phenyl mercuric acetate production wastes, boric acid production wastes, inorganic hydrogen cyanide production wastes, and titanium dioxide production wastes (except for chloride process waste solids). This action is proposed under the authority of sections 3001(e)(2) of RCRA which directs EPA to make a hazardous waste listing determination for inorganic chemical wastes. After an extensive study of the waste streams of the above chemical industry processes, including characterization of the wastes generated and a risk assessment evaluating plausible mismanagement scenarios, EPA will propose which of the above wastes, if any, should be listed as a hazardous waste under 40 CFR part 261.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4083

Sectors Affected: 32518 Other Basic Inorganic Chemical Manufacturing; 325131 Inorganic Dye and Pigment Manufacturing; 325312 Phosphatic Fertilizer Manufacturing; 31611 Leather and Hide Tanning and Finishing; 313 Textile Mills; 325611 Soap and Other Detergent Manufacturing

Agency Contact: Gwen DiPietro, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8285
Fax: 703 308-0522
Email: dipietro.gwen@epa.gov

Max Diaz, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0439
Fax: 703 308-0522
Email: diaz.max@epa.gov

RIN: 2050–AE49

3631. MODIFICATIONS TO RCRA RULES ASSOCIATED WITH SOLVENT-CONTAMINATED SHOP TOWELS AND WIPERS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6921

CFR Citation: 40 CFR 261; 40 CFR 268

Legal Deadline: None

Abstract: This action would modify RCRA rules that impact the management of solvent-contaminated shop towels and wipes. Solvent-contaminated shop towels and wipes are used throughout industry for equipment cleaning and other related facility operations. The spent shop towels and wipes can be hazardous wastes when the solvent used is either a characteristic or listed solvent. An examination of industry use and management practices reveals that many facilities may use only small amounts of solvent on their disposable wipes, and use small numbers of wipes daily — suggesting that these materials may sometimes pose little or no risk to human health and the environment if disposed in municipal landfills. Similarly, situations exist where both disposable wipes and reusable shop towels are not being managed according to prescribed Federal and States' rules and policies. Problems with this issue have persisted since the late 1980s.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 4091

Sectors Affected: 323 Printing and Related Support Activities; 325 Chemical Manufacturing; 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 336 Transportation Equipment Manufacturing; 337 Furniture and Related Product Manufacturing; 441 Motor Vehicle and Parts Dealers; 811

Repair and Maintenance; 812 Personal and Laundry Services

Agency Contact: Jim O'Leary, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8827
Fax: 703 308-0514
Email: oleary.jim@epa.gov

RIN: 2050–AE51

3632. GLASS-TO-GLASS RECYCLING OF CATHODE RAY TUBES (CRTS): CHANGES TO HAZARDOUS WASTE REGULATIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6923; 42 USC 6924; 42 USC 6925

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This action will revise the existing Federal hazardous waste regulations to remove unnecessary regulatory barriers to glass-to-glass recycling of Cathode Ray Tubes (CRTs). A CRT is the main component of a television or computer monitor. A CRT is made largely of specialized glasses, some of which contain lead to protect the user from X-rays inside the CRT. Due to the lead, when they are disposed of or reclaimed, some CRTs are hazardous wastes under the Federal Resource Conservation and Recovery Act (RCRA) regulations. Glass-to-glass recycling involves the return of used CRT glass to manufacturing of new CRTs.

This action is planned in response to a June 9, 1998 recommendation on CRT recycling from the Common Sense Initiative (CSI) Council to the Environmental Protection Agency (EPA). CSI is a consensus-based process for developing cleaner, cheaper, smarter environmental improvements that includes representatives of: industry; environmental groups; community groups; environmental justice groups; labor; and, Federal, State, local, and tribal governments. The recommendation involves minimizing RCRA requirements for glass-to-glass recycling while retaining appropriate controls to ensure protection of human health and the environment. The goal of the recommendation is to facilitate an increase in glass-to-glass recycling, thereby minimizing disposal of lead, increasing resource recovery, and enhancing protection of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4092

Sectors Affected: 334411 Electron Tube Manufacturing

Agency Contact: Javier Garcia, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-2628
Fax: 703 308-0514
Email: garcia.javiera@.epa.gov

RIN: 2050–AE52

3633. LAND DISPOSAL RESTRICTIONS; POTENTIAL REVISIONS FOR MERCURY LISTED AND CHARACTERISTIC WASTES

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: The data and information gathered by the Advance Notice of Proposed Rulemaking (ANPRM) process are being used to provide the bases of the proposed revised treatment standards for some forms of mercury hazardous wastes in this Notice of Proposed Rulemaking (NPRM). The ANPRM solicited data and comments on treatment data that the Agency has gathered on the treatment of mercury wastes. Some forms of mercury wastes are now required to be treated by either incineration or retorting. Both of these forms of treatment have the potential to emit mercury via air emissions. Also, some information suggests that certain waste types which are required to be retorted are not amenable to that form of treatment. Information on mercury treatment alternatives, especially stabilization, has been requested. There also is a shrinking demand for mercury, which brings up concerns about requiring recovery of mercury wastes.

Timetable:

Action	Date	FR Cite
ANPRM	05/28/99	64 FR 28949
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: SAN No. 4094

Sectors Affected: 3353 Electrical Equipment Manufacturing; 325181 Alkalies and Chlorine Manufacturing; 32551 Paint and Coating Manufacturing; 3254 Pharmaceutical and Medicine Manufacturing

Agency Contact: Mary Cunningham, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8453
Fax: 703 308-8466
Email: cunningham.mary@epa.gov

RIN: 2050–AE54

3634. RCRA APPENDIX VIII STREAMLINING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action will propose to modify the list of chemicals found in Appendix VIII of 40 CFR part 261 by: (1) rearranging the Appendix into groups of chemicals according to their frequency of expected occurrence in wastes; (2) clarifying ambiguous entries currently on the Appendix such as those marked not otherwise specified; and (3) deleting those chemicals for which the risk from potential exposure is considered to be minimal.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

EPA—Resource Conservation and Recovery Act (RCRA) Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4

Agency Contact: Monica A. Barron, Dr., Environmental Protection Agency, Solid Waste and Emergency Response, 5307W, Washington, DC 20460
Phone: 703 308-0483
Fax: 703 308-0509
Email: barron.monica@epa.gov

RIN: 2050–AE55

3635. LAND DISPOSAL RESTRICTIONS; TREATMENT STANDARDS FOR SPENT POTLINERS FROM PRIMARY ALUMINUM REDUCTION (K088)

Priority: Other Significant

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6924

CFR Citation: 40 CFR 268; 40 CFR 271

Legal Deadline: None

Abstract: K088 wastes contain, among other hazardous constituents of concern, significant amounts of cyanide and fluoride. Unless the fluoride is immobilized or recovery and the cyanide is destroyed there is significant potential to contaminate surface water and groundwater. Treatment standards based on the best demonstrated available technology (vitrification) are necessary to substantially diminish the toxicity of the waste and the likelihood of the constituents migrating.

On September 21, 1998, the Agency promulgated interim treatment standards for spent potliners from primary aluminum reduction (EPA hazardous waste K088). In this rule, the Agency committed to establishing final treatment standards within the next two years. The Agency needs to gather data, review treatment technologies and develop treatment standards for arsenic and fluoride based on this new analysis. In addition, the Agency must evaluate alternative treatment technologies for the thermal destruction of K088. In particular, the Agency will assess the effectiveness of vitrification on K088 waste. Vitrification treatment enables K088 to be treated while generating a product from the vitrified K088. EPA, however, needs to determine whether control technologies are appropriate for the vitrification units.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4233

Sectors Affected: 3334 Ventilation, Heating, Air-Conditioning and Commercial Refrigeration Equipment Manufacturing

Agency Contact: Nick Vizzone, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8460
Fax: 703 308-8433
Email: vizzone.nick@epa.gov

John Austin, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-0436
Fax: 703 308-8433
Email: austin.john@epa.gov

RIN: 2050–AE65

3636. REVISIONS TO GUIDELINES FOR THE STORAGE AND COLLECTION OF RESIDENTIAL, COMMERCIAL, AND INSTITUTIONAL SOLID WASTE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6907; 42 USC 6912; 42 USC 6944

CFR Citation: 40 CFR 243

Legal Deadline: None

Abstract: EPA promulgated Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste in 1976. These guidelines referenced safety standards that are now obsolete. The Agency was petitioned to incorporate current safety standards. Two sections are revised. The revisions amend the requirements for waste containers used for the storage of both solid waste and materials that have been separated for the purpose of recycling. The safety requirements for mobile equipment and stationary compactors are revised.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Direct Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 422

Sectors Affected: 562 Waste Management and Remediation Services

Agency Contact: Dwight Hlustick, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-8647
Fax: 703 308-8686
Email: hlustick.dwight@epa.gov

Deborah Hanlon, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-5824
Fax: 703 308-8686
Email: hanlon.deborah@epa.gov

RIN: 2050–AE66

3637. • ALTERNATIVE LAND DISPOSAL RESTRICTIONS TREATMENT STANDARDS FOR CONTAMINATED SOILS, DEFERRAL OF PCB'S AS AN UNDERLYING HAZARDOUS CONSTITUENT IN SOIL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6924 (G)(4)(M)

CFR Citation: 40 CFR 268

Legal Deadline: None

Abstract: EPA is proposing to temporarily defer applicability of a portion of the rule applying Land Disposal Restrictions under the Resource Conservation and Recovery Act (RCRA) to underlying hazardous constituents in soils contaminated with certain hazardous constituent. Specifically, EPA is proposing to temporarily defer the requirement that polychlorinated biphenyls (PCBs) be considered an underlying hazardous constituent when present in soils which either exhibit the Toxicity Characteristic for metals, or contain a hazardous waste that is listed due to metal content.

EPA—Resource Conservation and Recovery Act (RCRA)

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 436

Agency Contact: Ernie Brown, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460
Phone: 703 308-8608
Fax: 703 308-8638
Email: brown.ernie@epa.gov

RIN: 2050–AE76

Environmental Protection Agency (EPA)
Resource Conservation and Recovery Act (RCRA)

Final Rule Stage

3638. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6924 RCRA sec 3004(u); 42 USC 6924 RCRA sec 3004(v)

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: Past and present waste management practices at Resource Conservation and Recovery Act (RCRA) treatment, storage or disposal facilities have resulted in releases of hazardous constituents from some waste management units. These releases may cause contamination of soils, groundwater, surface water, and air. This regulation provides a framework for investigating and remediating releases at RCRA facilities as necessary to protect human health and the environment.

The Agency has issued the corrective action regulations in several phases. A proposal for corrective action at RCRA facilities was issued in July 1990. In February 1993, regulations concerning Corrective Action Management Units (CAMU) and Temporary Units were issued. An advance notice of proposed rulemaking (ANPRM) was published on May 1, 1996. The final phase would have included assessing comments on the ANPRM, and striking the appropriate balance between finalizing certain provisions of the July 1990 proposal and issuing guidance for the corrective action program. However, the Agency plans no further action on this effort.

Timetable:

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	05/01/96	61 FR 19432
Notice Published Partial Withdrawal of Proposed Rulemaking	10/07/99	64 FR 54604
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 23

Agency Contact: Barbara Foster, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460
Phone: 703 308-7057
Fax: 703 308-8638
Email: foster.barbara@epa.gov

RIN: 2050–AB80

3639. RCRA SUBTITLE C FINANCIAL TEST CRITERIA (REVISION)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 6926 RCRA sec 3006

CFR Citation: 40 CFR 264; 40 CFR 265; 40 CFR 280; 40 CFR 761

Legal Deadline: None

Abstract: The revised financial responsibility test is intended to improve the current test in predicting which firms will enter bankruptcy and not be able to cover their financial obligations for liability and closure costs of hazardous waste treatment, storage and disposal facilities. A bankrupt firm may be unable to afford the proper closure of a facility which would require the government to incur response costs at the facility. The rule would also qualify owners and operators of RCRA Treatment, Storage, and Disposal Facilities which must currently use more expensive ways, such as surety bonds or letters of credit, of demonstrating financial assurance, to use the less expensive corporate financial responsibility test for more of their obligations. The combined savings from screening out riskier firms and making the test more available to viable firms would be approximately $19 million annually in public and private costs. These regulatory amendments would have no effect on local or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	07/01/91	56 FR 30201
NPRM	10/12/94	59 FR 51523
Notice Notice of Data Availability	02/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Additional Information: SAN No. 2647

Agency Contact: Dale Ruhter, Environmental Protection Agency, Solid Waste and Emergency Response, 5303W, Washington, DC 20460
Phone: 703 308-8192
Fax: 703 308-8638
Email: ruhter.dale@epa.gov

RIN: 2050–AC71

EPA—Resource Conservation and Recovery Act (RCRA) Final Rule Stage

3640. LISTING DETERMINATION OF WASTES GENERATED DURING THE MANUFACTURE OF AZO, ANTHRAQUINONE, AND TRIARYLMETHANE DYES AND PIGMENTS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 6921 RCRA sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, June 30, 1999, Dyes II (deferred wastes): met deadline.
Final, Judicial, June 30, 2000, Dyes I 5/1/00; Dyes II 6/30/00.
Other, Judicial, December 12, 1999, Dyes I Notice of Data Avaliability.

Abstract: This action addresses the potential human health and environmental risks posed by wastes from the manufacture of dyes and pigments, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. If listed under RCRA, these wastes would also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined at this time. EPA proposed listing decisions for most wastes in 1994 (Dyes-I), and deferred decisions on several others. Two deferred waste streams (filter aids, triarylmethane, and sludges) are subject to separate deadlines for proposed and final action (Dyes II rulemaking). The Dyes II NPRM was published on July 23, 1999. The rule proposed in 1994 was incomplete because it did not contain information confidential by industry. Therefore, a NODA will be necessary, when EPA is able to release an adequate record. The deadlines are based on recent settlement discussions with plaintiffs in EDF v. Browner, Civil Action No. 89-0598 D.D.C.

Timetable:

Action	Date	FR Cite
NPRM Dyes I	12/22/94	59 FR 66072
NPRM Dyes II (deferred wastes)	07/23/99	64 FR 40192
Notice Dyes I (Notice of Data Availability)	12/00/99	
Final Action Dyes I	05/00/00	
Final Action Dyes II (deferred wastes)	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3066

Agency Contact: Sue Slotnick, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8462
Fax: 703 308-0514
Email: slotnick.sue@epa.gov

Narendra Chaudhari, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0454

RIN: 2050–AD80

3641. CHLORINATED ALIPHATICS LISTING DETERMINATION

Priority: Other Significant

Legal Authority: 42 USC 6921 RCRA sec 3001; 42 USC 9602 Superfund (CERCLA) sec 102

CFR Citation: 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, July 31, 1999.
Final, Judicial, September 30, 2000.

Abstract: This action addresses the potential risks posed by wastes from the production of chlorinated aliphatics, and determines whether these wastes should be listed as hazardous wastes under RCRA to control any potentially unacceptable risks. Any wastes newly listed as hazardous also will be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined.

Timetable:

Action	Date	FR Cite
NPRM	08/25/99	64 FR 46475
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3151

Agency Contact: Ross Elliott, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8748
Fax: 703 308-0514
Email: elliott.ross@epa.gov

RIN: 2050–AD85

3642. REVISIONS TO THE COMPREHENSIVE GUIDELINE FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) RCRA sec 6002(e)

CFR Citation: 40 CFR 247

Legal Deadline: None

Abstract: RCRA section 6002 and E.O. 13101 require EPA to prepare guidelines in the Federal Register which designate items that are or can be made with recovered materials and to issue recommendations for government procurement of these items. Once designated, procuring agencies are required to purchase these items with the highest percentage of recovered materials practicable. Government procurement of EPA-designated items containing recovered materials fosters markets for recovered materials and, thereby, closes the recycling loop. To date, EPA has designated 36 items under two Comprehensive Procurement Guidelines (CPG1 and CPG2) and proposed to designate 19 more items under CPG3. EPA has also issued a Recovered Materials Advisory Notice (RMAN) with each CPG which provides recommendations on buying the designated items. The E.O. requires EPA to update the CPG every two years. The new actions would (1) finalize the designation of items and recommendations proposed in CPG3; (2) propose to designate new items in CPG4; and (3) issue final item designations in CPG4.

EPA—Resource Conservation and Recovery Act (RCRA) — Final Rule Stage

Timetable:

Action	Date	FR Cite
Notice -- Paper Products Recovered Materials Advisory Notice	06/08/98	63 FR 31214
Notice -- Recovered Materials Advisory Notice I Update	06/08/98	63 FR 31217
NPRM (CPG3 and RMAN 3)	08/26/98	63 FR 45558
Final Action (CPG3 and RMAN 3)	11/00/99	
NPRM (CPG4 and RMAN 4)	03/00/00	
Final Action (CPG4 and RMAN 4)	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3545

Agency Contact: Terry Grist, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-7257
Fax: 703 308-7257
Email: grist.terry@epa.gov

RIN: 2050–AE23

3643. REVIEW OF TOXICITY CHARACTERISTIC LEVEL FOR SILVER UNDER THE RESOURCE CONSERVATION RECOVERY ACT (RCRA)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261; 40 CFR 268

Legal Deadline: None

Abstract: This action is a technical review of the possible risks associated with management of silver-bearing wastes and economic impacts of this regulation, which is being conducted in response to petitions submitted to the Agency to re-assess the toxicity characteristic level for silver. EPA will address all potential pathways for risks from silver-bearing wastes, including possible ecological effects.

Silver is on the toxicity characteristic list because it was a regulated drinking water contaminant. In January 1991, the Agency deleted the primary drinking water maximum contaminant level (MCL) for silver based on consideration that the major effect is cosmetic and that silver is unlikely to occur in drinking water supplies. The petitioners, users of silver materials and silver waste generators, requested the Agency to re-evaluate the basis for silver's inclusion in the TC.

The Agency believes that before a decision can be made to delete or modify the toxicity characteristic level for silver, a more complete assessment of risks posed by management of silver-bearing wastes must be conducted.

Timetable:

Action	Date	FR Cite
Initial Study Complete	06/30/97	
Peer Review Complete	10/30/98	
Final Study Complete	06/30/99	
Final Action Under Final Study	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3886

Agency Contact: Jan Young, Environmental Protection Agency, Solid Waste and Emergency Response, 5307W, Washington, DC 20460
Phone: 703 308-1568
Fax: 703 308-0511
Email: young.jan@epa.gov

Ingrid Rosencrantz, Environmental Protection Agency, Solid Waste and Emergency Response, 5307W, Washington, DC 20460
Phone: 703 605-0709
Fax: 703 308-0511
Email: rosencrantz.ingrid@epa.gov

RIN: 2050–AE37

3644. RECYCLED USED OIL CONTAINING PCBS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9601; 42 USC 9614(c); 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6974

CFR Citation: 40 CFR 261; 40 CFR 279

Legal Deadline: None

Abstract: The direct final rule, published May 6, 1998, eliminates errors and clarifies ambiguities in the used oil management standards. Specifically, the rule clarifies (1) when used oil contaminated with polychlorinated biphenyls (PCBs) is regulated under the used oil management standards and when it is not, (2) that the requirements applicable to releases of used oil apply in States that are not authorized for the RCRA base program, (3) that mixtures of conditionally exempt small quantity generator (CESQG) wastes and used oil are subject to the used oil management standards irrespective of how that mixture is to be recycled, and (4) that the initial marketer of used oil that meets the used oil fuel specification need only keep a record of a shipment of used oil to the facility to which the initial marketer delivers the used oil. This rule also amends three incorrect references to the pre-1992 used oil specifications in the provisions which address hazardous waste fuel produced from, or oil reclaimed from, oil bearing hazardous wastes from petroleum refining operations.

EPA received relevant adverse comments on three of the amendments included in the May 6, 1998 direct final rule: the amendments to 40 CFR 261.5(j) (mixtures of conditionally exempt small quantity generator waste and used oil), 40 CFR 279.10(i) (applicability of the used oil management standards to used oil contaminated with polychlorinated biphenyls (PCBs)), and 40 CFR 279.74(b) (recordkeeping requirements for marketers of used oil that meets the used oil fuel specification). On July 14, 1998, the Agency removed these three amendments and reinstated the regulatory text that existed prior to the May 6, 1998 direct final rule. EPA will promulgate a final rule addressing the comments received and finalizing the three amendments, as appropriate.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/06/98	63 FR 24963
NPRM	05/06/98	63 FR 25006
Removal (removal of 3 amendments)	07/14/98	63 FR 37780
Final Action	01/00/00	

EPA—Resource Conservation and Recovery Act (RCRA) **Final Rule Stage**

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Additional Information: SAN No. 4088

Agency Contact: Tom Rinehart, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-4309
Fax: 703 308-0514
Email: rinehart.tom@epa.gov

RIN: 2050–AE47

3645. 180-DAY ACCUMULATION TIME UNDER RCRA FOR GENERATORS OF F006 WASTE WATER TREATMENT SLUDGES FROM THE METAL FINISHING INDUSTRY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6922

CFR Citation: 40 CFR 262

Legal Deadline: None

Abstract: EPA is preparing to to take final action on its proposal to allow generators of F006 waste (sludges from the treatment of electroplating wastewaters) up to 180 days (or up to 270 days, if applicable) to accumulate F006 waste without a RCRA permit or interim status, provided that F006 waste generators: 1) recycle the F006 waste by metals recovery, 2) accumulate no more than 16,000 kilograms of F006 waste at any one time, 3) have implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery, and 4) comply with the applicable management standards. EPA believes that the 180-day accumulation time would minimize economic barriers to recycling of F006 waste through metals recovery, thus providing generators of F006 waste with an incentive to choose metals recovery over treatment and land disposal as their waste management option for F006 waste. This action is part of the Agency's efforts under the Common Sense Initiative (CSI) for the Metal Finishing Industry to identify and to implement cleaner, cheaper, and smarter opportunities for environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	02/01/99	64 FR 4818
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4178

Agency Contact: Chip Vitarelli, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8286
Fax: 703 308-0514
Email: vitarelli.chip@epa.gov

RIN: 2050–AE60

Environmental Protection Agency (EPA) **Long-Term Actions**

Resource Conservation and Recovery Act (RCRA)

3646. FINAL DETERMINATION OF THE APPLICABILITY OF THE TOXICITY CHARACTERISTIC RULE TO PETROLEUM CONTAMINATED MEDIA AND DEBRIS FROM UNDERGROUND STORAGETANKS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6921 RCRA sec 3001

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: In the final hazardous waste Toxicity Characteristic (TC) rule published in June 1990, EPA decided to temporarily defer application of the TC rule to petroleum-contaminated media and debris, such as soils and groundwater, that result from underground storage tank (UST) corrective actions. This rule is part of the Agency's commitment to make a final determination regarding the UST temporary deferral. The temporary deferral was, in part, based on the Agency's concern that without such a deferral, UST cleanup procedures would be adversely affected, resulting in delays in remedial action and increases in remediation costs. Since this action is deregulatory, there are no adverse effects on small businesses, or on State, local, or tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	02/12/93	58 FR 8504
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Additional Information: SAN No. 318

Agency Contact: Sammy Ng, Environmental Protection Agency, Solid Waste and Emergency Response, 5401G, Washington, DC 20460
Phone: 703 603-9900
Fax: 202 260-9163
Email: ng.sammy@epa.gov

RIN: 2050–AD69

3647. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES

Priority: Other Significant

Legal Authority: 42 USC 6924 RCRA sec 3004; 42 USC 6925 RCRA sec 3005; 42 USC 7412 CAA sec 112; 42 USC 7414 CAA sec 114

CFR Citation: 40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270

Legal Deadline: NPRM, Judicial, January 31, 2001.

Abstract: Under the Clean Air Act (CAA) Amendments of 1990, EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be

adequately protective given that the standards do not take into account indirect pathways of exposure and that there have been advances both in risk assessment and control technologies since promulgation of the current standards.

Consequently, the Agency established new emissions standards for HWCs for cement kilns, LWAKs and incenerators under joint CAA and RCRA authority. This will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste combustion industry. The Agency is in the process of developing a proposal to address boilers and other industrial furnaces.

Timetable:

Action	Date	FR Cite
NPRM Cement Kilns & Lightweight Aggregate Kilns & Incinerators	04/19/96	61 FR 17358
Final Action MACT Fasttrack	06/19/98	63 FR 33782
Final Action Cement Kilns & LWAKs & Incinerators (Final-Phase I)	09/30/99	64 FR 52828
NPRM Boilers & Other Industrial Furnaces	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: SAN No. 3333

Agency Contact: David Hockey, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8846
Fax: 703 308-8433
Email: hockey.david@epa.gov

RIN: 2050–AE01

3648. HAZARDOUS WASTE MANAGEMENT SYSTEM: SLAG RESIDUES DERIVED FROM HIGH TEMPERATURE METALS RECOVERY (HTMR) TREATMENT OF KO61, KO62 AND F0006 WASTES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6905 RCRA sec 2002; 42 USC 6921; 42 USC 6922; 42 USC 6924; 42 USC 6934; 42 USC 6938; 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6922 RCRA sec 3002; 42 USC 6924 RCRA sec 3004

CFR Citation: 40 CFR 261; 40 CFR 266

Legal Deadline: None

Abstract: EPA assessed the potential risks to human health and the environment from the use of slag residues (slags) resulting from high temperature metals recovery (HTMR) treatment of specified hazardous wastes (i.e., electric arc furnace dust, steel finishing pickle liquor, and electroplating sludges). This assessment was used as a basis for the proposed rule to reclassify these slags as nonhazardous when they meet certain exclusion levels and are managed and used in a certain manner. EPA needs to reevaluate the proposed rule due to significant issues raised by public commenters. There is currently no deadline for final action on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	12/29/94	59 FR 67256
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3428

Agency Contact: Narendra Chaudhari, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0454
Fax: 703 308-0514
Email: chaudhari.narendra@epa.gov

RIN: 2050–AE15

3649. HAZARDOUS WASTE IDENTIFICATION; RECYCLED USED OIL MANAGEMENT STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9601; 42 USC 9614(c); 42 USC 6905; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6974

CFR Citation: 40 CFR 279

Legal Deadline: None

Abstract: EPA is reviewing whether the provision of the used oil management standards which governs mixtures of recycled used oil and characteristic hazardous waste, 40 CFR 279.10(b)(2) (the used oil mixture rule), is consistent with the United States Court of Appeals for the District of Columbia Circuit's decision in Chemical Waste Management, Inc. v. EPA. The decision, which concerned a challenge to portions of EPA's land disposal restrictions, held that EPA could not authorize certain wastes exhibiting the hazardous characteristics of ignitability, reactivity, or corrosivity to be diluted to eliminate the characteristic and then be land-disposed unless the hazardous constituents in the waste were adequately treated to minimize threats to human health and the environment.

The used oil mixture rule provides that a mixture of hazardous waste and used oil destined for recycling, if the mixture is hazardous solely because it exhibits a hazardous waste characteristic, is regulated under the used oil management standards. Under the used oil mixture rule, such a decharacterized mixture, therefore, is not subject to the hazardous waste regulations, including those relating to land disposal restrictions. Further analysis is necessary to determine whether mixtures of used oil destined for recycling and characteristic hazardous wastes differ significantly from other mixtures containing characteristic wastes in terms of potential threat to human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: SAN No. 3668

Agency Contact: Mike Svizzero, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-0046
Fax: 703 308-0514
Email: svizzero.mike@epa.gov

RIN: 2050–AE28

3650. PAINT MANUFACTURING WASTES LISTING: HAZARDOUS WASTE MANAGEMENT SYSTEM: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6926; 42 USC 6938; 42 USC 9602; 42 USC 9603; 42 USC 9604; 33 USC 1321; 33 USC 1361

CFR Citation: 40 CFR 261; 40 CFR 271; 40 CFR 302

Legal Deadline: NPRM, Judicial, January 28, 2001.
NPRM, Statutory, February 8, 1986.
Final, Judicial, March 30, 2002.

Abstract: This action addresses the potential risks posed by wastes from the production of paints, and determines whether these wastes should be listed as hazardous under RCRA to control any potentially unacceptable risks. Any new wastes listed as hazardous will also be added to the CERCLA list of hazardous substances. This action will be implemented by EPA and States authorized under RCRA. Impacts on local governments are not expected, and small business impacts are undetermined. Specific wastes to be addressed are water/caustic cleaning wastes, solvent cleaning wastes, emission control dusts/sludges, wastewater treatment sludges, and off-spec product.

Timetable:

Action	Date	FR Cite
NPRM	01/00/01	
Final Action	03/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3805

Agency Contact: David Carver, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8603
Fax: 703 308-0514
Email: carver.david@epa.gov

RIN: 2050–AE32

3651. MANAGEMENT OF CEMENT KILN DUST (CKD)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6912(a) RCRA sec 2002(a); 42 USC 6921(a) RCRA sec 3001(a)

CFR Citation: 40 CFR 259; 40 CFR 261; 40 CFR 264; 40 CFR 266

Legal Deadline: None

Abstract: CKD is a high volume material by-product of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from hazardous waste regulation under RCRA Subtitle C by the Bevill Amendment, which modified Section 3001 of RCRA to exempt certain special wastes until further studies could be completed and any applicable regulations were promulgated. In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. In the regulatory determination EPA committed to develop additional tailored regulations under RCRA Subtitle C and, if necessary, the Clean Air Act. As part of its regulatory development effort, the Office of Solid Waste within EPA's Office of Solid Waste and Emergency Response has initiated further studies and has held informal discussions with stakeholders interested in regulations under RCRA Subtitle C for the management of CKD. The regulations will be tailored to protect human health and the environment while limiting burden on the regulated community.

Timetable:

Action	Date	FR Cite
NPRM	08/20/99	64 FR 45631
Final Action	02/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3856

Agency Contact: William Schoenborn, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-8483
Fax: 703 308-8686
Email: schoenborn.william@epa.gov

RIN: 2050–AE34

3652. MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT; CODIFICATION OF WASTE MANAGEMENT PROVISIONS

Priority: Other Significant

Legal Authority: 42 USC 14303

CFR Citation: 40 CFR 271; 40 CFR 273

Legal Deadline: None

Abstract: The purpose of this rule is to codify into the Code of Federal Regulations certain provisions of the Mercury-Containing and Rechargeable Battery Management Act that impact the May 11, 1995 Universal Waste Rule (40 CFR Part 273). The Act was signed by the President on May 13, 1996 and became immediately effective nationwide on the date of signature. Specifically, one provision of the law requires the collection, storage, and transportation of the following types of batteries be managed according to standards established in the Universal Waste Rule: used rechargeable batteries, lead-acid batteries not covered by 40 CFR part 266 or the equivalent requirements of an approved state program, rechargeable alkaline batteries, certain mercury-containing batteries banned from domestic sale, and used consumer products containing rechargeable batteries that are not easily removable. The law prohibits State imposed requirements that are not identical to those found in the Federal Universal Waste Rule, but allows States to adopt and enforce identical standards and to implement and enforce collection, storage, and transport requirements identical to those included in the universal waste rule if the standards are approved by the EPA Administrator.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/00	
NPRM	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3888

Agency Contact: Bryan Groce, Environmental Protection Agency,

Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8750
Fax: 703 308-0522
Email: groce.bryan@epa.gov

RIN: 2050–AE39

3653. RCRA REPORTING AND RECORDKEEPING BURDEN REDUCTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-13; 42 USC 6907; 42 USC 6912(a); 42 USC 6921 to 6927; 42 USC 6930; 42 USC 6934; 42 USC 6935; 42 USC 6937 to 6939; 42 USC 6944; 42 USC 6949(a); 42 USC 6974

CFR Citation: Not Yet Determined

Legal Deadline: See Additional Information.

Abstract: To meet the goals of the Paperwork Reduction Act of 1995, the Office of Solid Waste (OSW) plans to reduce its Subtitle C reporting and recordkeeping burden on the regulated community, states, and the public. On June 18, 1999, OSW published for review and comment a Notice of Data Availability (NODA) with our burden reduction ideas, and their associated burden reduction estimates. After reviewing the comments OSW receives on the NODA, OSW will publish a proposed rule to implement as many of these ideas as warranted.

Timetable:

Action	Date	FR Cite
Notice	06/18/99	64 FR 32859
NPRM	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4084

Legal Deadline information: The Paperwork Reduction Act requires reduction of record keeping and reporting burden by 2001.

Sectors Affected: 562 Waste Management and Remediation Services; 325 Chemical Manufacturing; 331 Primary Metal Manufacturing; 332 Fabricated Metal Product Manufacturing; 334 Computer and Electronic Product Manufacturing; 323 Printing and Related Support Activities; 324 Petroleum and Coal Products Manufacturing; 326 Plastics and Rubber Products Manufacturing

Agency Contact: Laurie Solomon, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8443
Fax: 703 308-8433
Email: solomon.laurie@epa.gov

Robert Burchard, Environmental Protection Agency, Solid Waste and Emergency Response, 5302W, Washington, DC 20460
Phone: 703 308-8450
Fax: 703 308-7905
Email: burchard.robert@epa.gov

RIN: 2050–AE50

3654. SUSPENSION OF TEMPORARY TOXICITY CHARACTERISTIC RULE FOR SPECIFIC LEAD-BASED PAINT DEBRIS

Priority: Other Significant

Legal Authority: 42 USC 6905; 42 USC 6912(a); 42 USC 6921; 42 USC 6922; 42 USC 6938

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: Currently, waste derived from lead-based paint (LBP) abatements that exhibits the characteristics of toxicity is managed under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. Other Federal agencies (Department of Housing and Urban Development, Department of Health and Human Services) and several States and advocacy groups have expressed concern that the costs associated with the disposal of large volume of such debris (e.g., doors, windows and demolition debris) may interfere with abatement activities. EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and the Office of Solid Waste have proposed a joint rulemaking to address the disposal of this debris. (See also RIN 2070-AC72 .) The final rule being prepared by OPPTS would develop disposal and management standards for this debris under the Toxic Substances Control Act (TSCA) title IV, (the definition of abatement under TSCA title IV, section 401(1)(B), includes disposal). The TSCA regulations would establish appropriate disposal and management standards for LBP debris and identify recycling and incineration activities that would be controlled or prohibited. To minimize duplication of waste management requirements, EPA is developing a companion RCRA rule to suspend temporarily hazardous waste management regulations applicable to LBP debris, which will be subject to the new TSCA standards.

Timetable:

Action	Date	FR Cite
NPRM RCRA Temporary Suspension	12/18/98	63 FR 70233
Final Action RCRA Temporary Suspension	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4263

Sectors Affected: 23321 Single Family Housing Construction; 23332 Commercial and Institutional Building Construction; 23542 Drywall, Plastering, Acoustical and Insulation Contractors; 23561 Roofing, Siding and Sheet Metal Contractors; 23594 Wrecking and Demolition Contractors; 23592 Glass and Glazing Contractors; 56291 Remediation Services; 23599 All Other Special Trade Contractors; 23511 Plumbing, Heating and Air-Conditioning Contractors; 23531 Electrical Contractors; 23552 Floor Laying and Other Floor Contractors; 23311 Land Subdivision and Land Development; 562111 Solid Waste Collection; 562112 Hazardous Waste Collection; 562119 Other Waste Collection; 48411 General Freight Trucking, Local; 48421 Used Household and Office Goods Moving; 48422 Specialized Freight (except Used Goods) Trucking, Local; 56221 Waste Treatment and Disposal; 54138 Testing Laboratories; 23551 Carpentry Contractors; 48412 General Freight Trucking, Long-Distance; 56292 Materials Recovery Facilities; 23322 Multifamily Housing Construction;

23521 Painting and Wall Covering Contractors

Agency Contact: Rajani Joglekar, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-8806
Fax: 703 308-0522
Email: joglekar.rajani@epa.gov

RIN: 2050–AE68

3655. PROPOSED REGULATORY AMENDMENTS ON RECYCLING OF HAZARDOUS WASTES IN FERTILIZERS

Priority: Other Significant

Legal Authority: 42 USC 1006 et seq

CFR Citation: 40 CFR 261; 40 CFR 266; 40 CFR 268; 40 CFR 271

Legal Deadline: None

Abstract: This rulemaking is intended to revise the current RCRA regulations that apply to recycling of hazardous wastes in the manufacture of fertilizers. Exemptions from RCRA standards are currently provided for some hazardous wastes used in this manner, while other hazardous wastes that may be more suitable as fertilizer ingredients are subject to stringent regulatory requirements that can discourage legitimate recycling practices. This rulemaking effort is intended to establish a more consistent regulatory framework for this practice, to remove current regulatory disincentives to legitimate recycling of hazardous wastes in fertilizer products, and to establish a set of standards for contaminant concentrations in hazardous waste-derived fertilizers that are more appropriate to fertilizers and which are protective of human health and the environment.

These regulatory revisions will directly affect companies that manufacture zinc micronutrient fertilizers from hazardous wastes, and is likely to benefit such manufacturers that are small businesses by removing regulatory disincentives to recycling.

Timetable:

Action	Date	FR Cite
NPRM	11/00/00	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4208

Sectors Affected: 331492 Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum); 32531 Fertilizer Manufacturing; 331419 Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum); 331111 Iron and Steel Mills; 562112 Hazardous Waste Collection; 32531 Fertilizer Manufacturing

Agency Contact: Dave Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, 5301W, Washington, DC 20460
Phone: 703 308-0603
Fax: 703 308-0513
Email: fagan.david@epa.gov

Charlotte Mooney, Environmental Protection Agency, Solid Waste and Emergency Response, 5304W, Washington, DC 20460
Phone: 703 308-7025
Fax: 703 308-0514
Email: mooney.charlotte@epa.gov

RIN: 2050–AE69

Environmental Protection Agency (EPA)
Resource Conservation and Recovery Act (RCRA)

▲ Completed Actions

3656. HAZARDOUS WASTE MANAGEMENT SYSTEM; MODIFICATION OF THE HAZARDOUS WASTE PROGRAM; HAZARDOUS WASTE LAMPS

Priority: Other Significant

CFR Citation: 40 CFR 273

Completed:

Reason	Date	FR Cite
NPRM	07/27/94	59 FR 38288
Final Action	07/06/99	64 FR 36451

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Marilyn Goode
Phone: 703 308-8800
Fax: 703 308-0522
Email: goode.marilyn@epa.gov
Marybeth Sheridan
Phone: 703 308-4941
Fax: 703 308-0522
Email: sheridan.marybeth@epa.gov

RIN: 2050–AD93

3657. • ADEQUACY OF STATE PERMIT PROGRAMS UNDER RCRA SUBTITLE D

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 6945 RCRA sec 4005; 42 USC 6912 RCRA sec 2002

CFR Citation: 40 CFR 239

Legal Deadline: None

Abstract: This rule establishes criteria and procedures for EPA to use to determine whether State municipal solid waste (MSW) landfill permit programs and State permit programs relating to non-municipal, non-hazardous waste disposal units that receive conditionally exempt small quantity generator (CESQG) waste are adequate to ensure compliance with the Federal revised criteria in 40 CFR parts 258 and 257, subpart B, respectively. While the Federal revised criteria apply to all MSW landfills and non-municipal, non-hazardous waste disposal units receiving CESQG waste, States with permit programs deemed adequate under this rule can provide some flexibility on certain requirements to owners and operators who meet the revised criteria's performance standards. In providing this flexibility, this action offers an opportunity to reduce the regulatory burden on State and local governments and on landfill owners and operators.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2584
Final Action	10/23/98	63 FR 57025
Direct Final Rule	06/08/99	64 FR 30434
NPRM	06/08/99	64 FR 30465

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

EPA—Resource Conservation and Recovery Act (RCRA) — Completed Actions

Government Levels Affected: State, Tribal

Additional Information: SAN No. 43

Agency Contact: Karen Rudek, Environmental Protection Agency, Solid Waste and Emergency Response, 5306W, Washington, DC 20460
Phone: 703 308-1682
Fax: 703 308-8686
Email: rudek.karen@epa.gov

RIN: 2050–AE73

Environmental Protection Agency (EPA) — Final Rule Stage
Oil Pollution Act (OPA)

3658. OIL POLLUTION PREVENTION REGULATION: REVISIONS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1321 CWA sec 311(j)(1)(C)

CFR Citation: 40 CFR 112

Legal Deadline: None

Abstract: Following a major inland oil spill with substantial environmental impacts (i.e., Ashland Oil in Floreffe, PA, in January 1988), an interagency task force recommended steps to improve EPA's oil spill prevention program (40 CFR part 112). This program requires oil storage facilities to prevent and contain discharges that could reach waters of the United States. On October 22, 1991, the Agency proposed revisions to implement some of the task force recommendations and on February 17, 1993, the Agency proposed further clarifications and technical changes to the spill prevention regulations. On December 2, 1997, EPA supplemented the 1991 and 1993 proposed revisions with a proposal to reduce burdens associated with the oil spill prevention program by reducing the recordkeeping provisions or exempting some facilities from some recordkeeping requirements. This rule will take final action on the 1991, 1993, and 1997 proposals.

Timetable:

Action	Date	FR Cite
NPRM	10/22/91	56 FR 54612
NPRM	02/17/93	58 FR 8824
Supplemental NPRM	12/02/97	62 FR 63812
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2634

Agency Contact: Hugo Fleischman, Environmental Protection Agency, Solid Waste and Emergency Response, 5203G, Washington, DC 20460
Phone: 703 603-8769
Fax: 703 603-9116
Email: fleischman.hugo@epa.gov

RIN: 2050–AC62

Environmental Protection Agency (EPA) — Proposed Rule Stage
Comprehensive Environmental Response, Compensation and Liability Act

3659. NATIONAL PRIORITIES LIST FOR UNCONTROLLED HAZARDOUS WASTE SITES: PROPOSED AND FINAL RULES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 9605 Superfund (CERCLA) sec 105

CFR Citation: 40 CFR 300.425

Legal Deadline: None

Abstract: This action will revise the sites included on the National Priorities List (NPL) of uncontrolled waste sites in the National Contingency Plan (NCP). CERCLA requires that the Agency revise the NPL at least annually. Periodic revisions will allow EPA to include sites on the NPL with known or threatened hazardous substance releases and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
NPRM 24	03/06/98	63 FR 11340
Final Action 20	03/06/98	63 FR 11332
NPRM 25	07/28/98	63 FR 40247
Final Action 21	07/28/98	63 FR 40182
Final Action (Tex-Tin Corp)	09/18/98	63 FR 49855
NPRM 26	09/29/98	63 FR 51882
Final Action 22	09/29/98	63 FR 51848
NPRM 27	01/19/99	64 FR 2950
Final Action 23	01/19/99	64 FR 2942
NPRM (Midnight Mine)	02/16/99	64 FR 7564
NPRM 28	04/23/99	64 FR 19968
NPRM (Almeda)	05/10/99	64 FR 24990
Final Action 24	05/10/99	64 FR 24949
NPRM 29	07/22/99	64 FR 39886
Final Action 25	07/22/99	64 FR 39878
NPRM 30	10/22/99	64 FR 56992
Final Action	10/22/99	64 FR 56966
NPRM	01/00/00	
Final Action	01/00/00	
NPRM	04/00/00	
Final Action	04/00/00	
Final Action	07/00/00	
NPRM	07/00/00	
NPRM	10/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 343

Agency Contact: Yolanda Singer, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-8835
Fax: 703 603-9100
Email: singer.yolanda@epa.gov

RIN: 2050–AD75

3660. REPORTABLE QUANTITY ADJUSTMENTS FOR CARBAMATES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9602(a); 42 USC 11004

CFR Citation: 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: EPA has listed carbamate waste streams as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). RCRA listed wastes, by statute, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and are assigned a one pound statutory reportable quantity (RQ) unless EPA adjusts them. These substances also become subject to reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) with a one pound threshold. EPA, in this action, will propose RQ adjustments for the carbamates. Most RQ adjustments are expected to be greater than one pound. Raising the RQs for these substances would decrease the burden on 1) the regulated community for complying with the reporting requirements under CERCLA and EPCRA; 2) Federal, State, and local authorities for program implementation; and 3) Federal, State, or local authorities, if they release hazardous substances at the RQ level or greater.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3423

Agency Contact: Frank Avvisato, Environmental Protection Agency, Solid Waste and Emergency Response, 5202G, Washington, DC 20460
Phone: 703 603-8949
Fax: 703 603-9100
Email: avvisato.frank@epa.gov

RIN: 2050–AE12

3661. COOPERATIVE AGREEMENTS AND SUPERFUND STATE CONTRACTS FOR SUPERFUND RESPONSE ACTIONS; REVISION OF 40 CFR PART 35 SUBPART O

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9601 to 9675

CFR Citation: 40 CFR 35 Subpart O

Legal Deadline: None

Abstract: 40 CFR Part 35 Subpart O is the Superfund Administrative Regulation that governs awarding of Superfund cooperative agreements (CAs) to States, Indian Tribes, and political subdivisions. Subpart O covers State-lead, site-specific cooperative agreements for non-time-critical removal, preremedial, remedial, and enforcement actions, and site-specific management assistance for federal-lead projects. Also covered by Subpart O are non-site-specific Core Program Cooperative Agreements to build state infrastructure. The requirements for Superfund State Contracts, financial administration, property, procurement, reporting, recordkeeping, and closeout are provided in Subpart O.

Subpart O was promulgated 6/5/1990, and became effective on 7/5/1990. Many changes in the administration of the Superfund program have occurred over the past eight years which could be better reflected in Subpart O. The six categories of CAs presently used in Subpart O could provide greater flexibility to accommodate the new types of CAs that have developed. For example, the number of Block Funding Reform pilots, begun in 1997, to consolidate several of the cooperative agreements offered in Subpart O, has grown to about 16 for Fiscal Year 1998, and has generated at least 60 approved deviation requests from Subpart O and 40 CFR Part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements promulgated shortly after the promulgation of Subpart O). These pilot projects offer considerable administrative relief to States, Tribes, and EPA by reducing reporting requirements, broadening scope changes without amendment, increasing the ability to move monies within and among CAs, and relaxing application requirements regarding site-specific identification of cooperative agreement funds to certain activities, while maintaining site-specific drawdown requirements needed for cost recovery and Superfund accounting. Subpart O also needs to be conformed with Part 31. Differences between these two companion regulations were not institutionalized at the time of promulgation.

EPA plans to examine the feasibility of grant authority, institutionalize the combining of CA types, create more flexible reporting requirements, permit greater scope changes without amendment, provide more flexible money movement within and among CAs, and other advances in State/Tribal/EPA interaction.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: SAN No. 4177

Agency Contact: Kirby Biggs, Environmental Protection Agency, Solid Waste and Emergency Response, 5204W, Washington, DC 20460
Phone: 703 308-8506
Fax: 703 308-8433
Email: biggs.kirby@epa.gov

Stephen Caldwell, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 308-8808

RIN: 2050–AE62

Environmental Protection Agency (EPA) — **Final Rule Stage**

Comprehensive Environmental Response, Compensation and Liability Act

3662. GRANTS FOR TECHNICAL ASSISTANCE RULE REFORM—40 CFR PART 35 SUBPART M

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9617(e) Superfund (CERCLA) sec 117

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: The revisions to the Technical Assistance Grants (TAG) Rule are intended to simplify the application and administrative processes. The new TAG Rule would eliminate the requirement that budget periods may not exceed 3 years. Budget periods would be negotiated with TAG applicants so that they have flexibility to synchronize the period of time during which the recipient anticipates having a technical advisor involved with the schedule of work at a site. In addition, the new rule would eliminate the 20 percent ceiling for administrative costs of a grant so that recipients do not need to differentiate between programmatic and administrative cost. The Agency proposed to eliminate the distinction between sole and multiple applicants under the rule, since both must meet identical criteria. The requirement that the applicant demonstrate that there is an actual or potential health threat posed to group members by the site would also be deleted since EPA believes that there is a potential health threat at all Superfund sites. EPA also believes that all Superfund sites pose potential economic and recreational threats to adjacent communities, and that there is no need for the applicant to provide evidence of those threats. Furthermore, EPA may already have sufficient information from various sources concerning the potential health, economic, and recreational threats posed by Superfund sites. The proposed rule also included a new provision that if finalized would allow communities to receive cash advances of up to $5,000.

Timetable:

Action	Date	FR Cite
NPRM	08/24/99	64 FR 46233
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3806

Agency Contact: Lois Gartner, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-8889
Fax: 703 603-9100
Email: gartner.lois@epa.gov

RIN: 2050–AE33

Environmental Protection Agency (EPA) — **Long-Term Actions**

Comprehensive Environmental Response, Compensation and Liability Act

3663. REPORTING EXEMPTIONS FOR FEDERALLY PERMITTED RELEASES OF HAZARDOUS SUBSTANCES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1361; 42 USC 9602; 42 USC 11004

CFR Citation: 40 CFR 117; 40 CFR 302; 40 CFR 355

Legal Deadline: None

Abstract: This action would clarify the definition of federally permitted release under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Federally permitted releases of hazardous substances are exempt from CERCLA reporting and liability, and from reporting under section 304 of the Emergency Planning and Community Right-to-Know Act.

Timetable:

Action	Date	FR Cite
NPRM	07/19/88	53 FR 27268
Supplemental Notice	07/11/89	54 FR 29306
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 2394

Agency Contact: Lynn Beasley, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-9086

RIN: 2050–AB82

3664. STREAMLINING THE PREAUTHORIZATION MIXED FUNDING FOR APPLICATION AND IMPLEMENTATION OF CLAIMS AGAINST SUPERFUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 9601

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: Current regulations at 40 CFR part 307 provide for the preauthorization of claims against the Superfund in instances where the Agency makes a determination that mixed funding is appropriate. This process has been labeled by many stakeholders as overly burdensome. The Agency has reviewed the current process in order to identify areas in which burdens may be lessened and requirements may be streamlined. As a result, the Agency is considering a proposal to amend the current regulation to: streamline the application process by eliminating duplicative information requirements; minimize the requirements related to management, oversight, and reporting of the cleanup, by removing the requirement to be guided by the Federal Acquisition Requirements, and replacing the requirement of maximum free and open competition with a bright-line standard; allow claimants to provide independent certification of claims and supporting documentation; streamline the actual payment process by taking advantage of the electronic funds transfer process; ensure that cost recovery concerns are addressed by requiring claimants, within a settlement document, to reimburse the Fund for costs not recovered (only in the event cost recovery is initiated), due to claimants' failure to provide adequate

EPA—Comprehensive Environmental Response, Compensation and Liability Act **Long-Term Actions**

documentary support or upon a determination that response costs expended (and claimed) were not reasonable or not incurred consistent with the National Contingency Plan; and ensure proper accounting by requiring offsets for funds owed to the Agency by claimants.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3885

Agency Contact: Seth Bruckner, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-8766
Fax: 703 603-9100
Email: bruckner.seth@epa.gov

RIN: 2050–AE38

3665. CRITERIA FOR THE DESIGNATION OF HAZARDOUS SUBSTANCES UNDER CERCLA SECTION 102(A)

Priority: Other Significant

Legal Authority: 42 USC 9602

CFR Citation: 40 CFR 302.4

Legal Deadline: None

Abstract: This action will address the development of evaluation criteria for the designation of substances as hazardous under CERCLA. It is necessary to develop evaluation criteria because the Agency has the authority under CERCLA 102(a) to designate substances as hazardous; however, the Agency does not have criteria to do so. To date the only substances designated as CERCLA hazardous substances are as a result of their appearance on other Acts' lists defined under CERCLA 101(14). Using CERCLA designation criteria the Agency may establish CERCLA hazardous substances independently from other Acts, in the interest of public health and the environment.

The purpose of this action is to have well thought-out criteria for designating hazardous substances that may be applied to individual substances for evaluation and decision as to whether or not the substance should be appropriately designated a CERCLA 102(a) hazardous substance. The Agency already has the authority to designate substances as hazardous; in this action, criteria will be developed to implement that authority.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4201

Agency Contact: Lynn Beasley, Environmental Protection Agency, Solid Waste and Emergency Response, 5204G, Washington, DC 20460
Phone: 703 603-9086
Fax: 703 603-9104
Email: beasley.lynn@epa.gov

RIN: 2050–AE63

Environmental Protection Agency (EPA) **Prerule Stage**
Clean Water Act (CWA)

3666. • EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR THE ORGANIC CHEMICALS, PLASTICS AND SYNTHETIC FIBERS CATEGORY (SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 5 USC 610

CFR Citation: 40 CFR 414

Legal Deadline: None

Abstract: In November 1987, EPA established effluent limitations guidelines and standards for the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) industrial category (52 FR 42522, November 5, 1987), under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act. In 1993, EPA issued amendments to the final rule (58 FR 36872, July 9, 1993) to respond to the U.S. Fifth Circuit Court of Appeals' remand decisions on the OCPSF regulation. The 1993 amendments resulted in little change to the number or extent of small business impacts. The 1987 final rule incorporated special provisions (i.e., less stringent regulations) to minimize the economic impact for a subset of small plants, and the 1993 amendments maintained those provisions. EPA conducted a regulatory flexibility analysis for the final rule and concluded (for the 1987 rulemaking and again for the 1993 amendments) that the effluent limitations are economically achievable for the industry as a whole, although some small businesses would experience a significant economic impact. The analysis estimated impacts in terms of plant and product line closures and profit and sales impacts. As reported in the 1993 amendments, EPA projected the following small business impacts: for direct dischargers, EPA projected significant impacts for 77 percent of the small plants; for indirect dischargers, EPA projected significant impacts for 63 percent of the small plants.

Today's new action is a notice that EPA will review the 1987 OCPSF regulation pursuant to section 610 of the Regulatory Flexibility Act (5 USC 610). The purpose of this review is to determine whether the OCPSF effluent guidelines should be continued without change, or should be amended or rescinded, to minimize economic impacts on small entities while still complying with the provisions of the Clean Water Act. EPA solicits comment on the continued need for the rule; the complexity of the rule; the extent to which it overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and the degree to which technology, economic conditions, or other relevant factors have changed since the rule was promulgated.

EPA continues to view the effluent limitations for the OCPSF category as a necessary component of the comprehensive program to restore and maintain the quality of our Nation's

EPA—Clean Water Act (CWA)

Prerule Stage

waters. EPA intends to continue to require compliance with the regulation. Until and unless the Agency modifies the rule, the discharges described in 40 CFR 414.11 remain subject to the final rule.

Timetable:

Action	Date	FR Cite
Begin Review	11/00/99	
End Comment Period	01/00/00	
End Review	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4364

Agency Contact: Elwood Forsht, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7190
Fax: 202 260-7185
Email: forsht.elwood@epa.gov

RIN: 2040–AD45

3667. • WATER QUALITY STANDARDS FOR INDIAN COUNTRY WATERS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: EPA is considering whether to promulgate a national rule containing core federal water quality standards (WQS) to support tailored, site-specific decisions for all Indian country waters that do not have EPA-approved Tribal standards. EPA is contemplating this rule as a first step towards ensuring that the core Clean Water Act (CWA) framework for protecting water quality is in place for all such waters. The core federal water quality standards would establish: use designations consistent with CWA section 101(a) goals and other provisions of the CWA; narrative water quality criteria for protecting the designated uses; and an antidegradation policy designed to protect water quality. Such standards would provide a basis for EPA (in consultation with a Tribe) to affect pollution discharges occurring upstream from Tribal waters; provide a legally enforceable basis for including water quality based limitations or conditions in permits or certifications for discharges within Indian country; and provide the basis for EPA to establish Total Maximum Daily Loads (TMDLs) for Indian country waters. A federal promulgation would not prevent Tribes from developing their own standards.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	
NPRM	07/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Tribal, Federal

Additional Information: SAN No. 4344

Agency Contact: Fred Leutner, Environmental Protection Agency, Water, 4305, Washington, DC 20460
Phone: 202 260-1542
Fax: 202 260-9830
Email: leutner.fred@epa.gov

RIN: 2040–AD46

Environmental Protection Agency (EPA)
Clean Water Act (CWA)

Proposed Rule Stage

3668. CLEAN WATER ACT DEFINITION OF THE WATERS OF THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1361 CWA sec 501; 33 USC 1362 CWA sec 502

CFR Citation: 40 CFR 232

Legal Deadline: None

Abstract: This action involves joint rulemaking by EPA and the Department of the Army to amend the regulatory definition of waters of the United States in two respects. First, the proposal would clarify the basis for asserting Clean Water Act (CWA) jurisdiction over isolated intra-state waters and wetlands. Second, the proposal would clarify what types of artificial waters excavated out of dry land are generally not considered to be subject to jurisdiction under the CWA. The existing regulations contain language asserting jurisdiction over isolated intra-state waters, but that regulatory provision has been the subject of litigation, and, within the confines of the Fourth Circuit, found to be invalid (US v. Wilson, 133 F.3d 251 (4th Cir., 1998)). Revision of the regulatory language is necessary to address that decision, improve regulatory clarity, and provide more specificity regarding CWA jurisdiction over intra-state isolated waters and wetlands. With regard to artificial waters excavated out of dry land, preambles to past regulations have discussed what types of such waters would be considered to generally be non-jurisdictional for CWA purposes, and the proposed revision would amend the regulations in a manner consistent with those past statements of Agency policy. The rulemaking would apply to entities (e.g., industrial, commercial, governmental) that discharge pollutants, including dredged or fill material, to isolated intra-state surface waters or wetlands, or which have created artificial waters from dry land. Significant impacts on small entities or state/local/tribal governments are not anticipated, as the proposed regulatory revisions would be consistent with current Agency practice and policy in carrying out CWA mandates.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 2804

Agency Contact: John Goodin, Environmental Protection Agency, Water, 4502F, Washington, DC 20460
Phone: 202 260-9910
Email: goodin.john@epa.gov

John Lishman, Environmental Protection Agency, Water, 4502F, Washington, DC 20460

EPA—Clean Water Act (CWA) — Proposed Rule Stage

Phone: 202 260-9180
Email: lishman.john2@epa.gov

RIN: 2040–AB74

3669. STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE (ROUND II)

Priority: Other Significant

Legal Authority: 33 USC 1361(a) CWA sec 501(a); 33 USC 1345 CWA sec 405

CFR Citation: 40 CFR 503 (Revisions)

Legal Deadline: NPRM, Judicial, December 15, 1999.
Final, Judicial, December 15, 2001, Pollutant list for Round II.

Abstract: Section 405 of the Clean Water Act (CWA) requires EPA to develop and publish regulations providing guidelines for the use and disposal of sewage sludge. The rules, among other things, are to identify uses for sewage sludge, including disposal, and concentrations of pollutants which interfere with such use or disposal. The statute requires EPA to develop the regulations in two phases and periodically revise existing regulations. In November 1992, EPA promulgated regulations (58 FR 9247) for the first round of pollutants identified in sewage sludge. EPA is required by consent decree to propose and promulgate sewage sludge regulations for a second round of pollutants before the end of 2001. EPA currently is considering only dioxins, dibenzofurans and coplanar-PCBs for regulation in the second round regulations. These regulations will establish requirements for sewage sludge when the sewage sludge is applied to the land, placed on surface disposal sites, or fired in a sewage sludge incinerator. The regulation may impact Federal, State, and local governments. The impact on small entities, including small businesses, is undetermined at this time.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3488

Agency Contact: Alan B. Rubin, Environmental Protection Agency, Water, 4304, Washington, DC 20460
Phone: 202 260-7589
Fax: 202 260-1036
Email: rubin.alan@epa.gov

RIN: 2040–AC25

3670. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES UNDER SECTION 316(B) OF THE CLEAN WATER ACT

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1316 CWA sec 306; 33 USC 1326 CWA sec 316; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 125 (New); 40 CFR 401 (Revised)

Legal Deadline: NPRM, Judicial, July 2, 1999.
Final, Judicial, August 31, 2001.

Abstract: EPA is currently developing regulations for proposal under section 316(b) of the Clean Water Act (CWA). This regulation will apply to the intake of water and not the discharge. Section 316(b) provides that any standard established pursuant to sections 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impact. A primary purpose of section 316(b) is to minimize the impingement and entrainment of fish and other aquatic organisms by cooling water intake structures. Impingement refers to the trapping of fish and other aquatic life in cooling water intake screens. Entrainment occurs when aquatic organisms, eggs and larvae are sucked into the cooling system, through the heat exchanger, and then pumped back out.

Timetable:

Action	Date	FR Cite
NPRM New Facilities	10/00/00	
Final Action New Facilities	05/00/02	
NPRM Existing Facilities	05/00/02	
Final Action Existing Facilities	04/00/04	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3444

The Concent Decree required that EPA propose regulations implementing section 316(b) by July 2, 1999, and take final action with respect to these regulations by August 13, 2001. However, EPA has moved for an order modifying the Concent Decree to extend these deadlines. The modification would provide that the Administrator sign proposed regulations addressing newly constructed facilities that plan to utilize cooling water intake structures by October 5, 2000, and take final action with respect to those regulations by May 16, 2002. Also on May 16, 2002, EPA would sign proposed regulations addressing existing facilities that utilize cooling water intake structures, and take final action with respect to those regulations by April 1, 2004. At this writing, the Court has not acted on EPA's motion.

Sectors Affected: 211112 Natural Gas Liquid Extraction; 221111 Hydroelectric Power Generation; 322121 Paper (except Newsprint) Mills; 32213 Paperboard Mills; 32411 Petroleum Refineries; 325311 Nitrogenous Fertilizer Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 331111 Iron and Steel Mills; 331221 Cold-Rolled Steel Shape Manufacturing; 331222 Steel Wire Drawing; 33121 Iron and Steel Pipes and Tubes Manufacturing from Purchased Steel; 331315 Aluminum Sheet, Plate and Foil Manufacturing; 331521 Aluminum Die-Castings; 331524 Aluminum Foundries; 331525 Copper Foundries; 337214 Nonwood Office Furniture Manufacturing

Agency Contact: J. T. Morgan, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-6015
Email: morgan.james@epa.gov

Deborah Nagle, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-2656

RIN: 2040–AC34

EPA—Clean Water Act (CWA) Proposed Rule Stage

3671. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE —PHASE TWO

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1361 CWA sec 501(a); 33 USC 1345 CWA sec 405

CFR Citation: 40 CFR 503 (Revision)

Legal Deadline: None

Abstract: EPA is amending the Round I Final Sewage Sludge Use or Disposal Regulation in two phases. Phase Two will address issues presented by judicial remand of specific requirements in the final Round 1 rule (part 503) and requests for reconsideration and will modify certain technical requirements. The proposed changes will impact Federal, State, local and tribal governments, as well as small businesses and small governmental jurisdictions. EPA expects that these changes will increase flexibility and thus reduce the regulatory burden.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	
Final Action	07/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4207

Agency Contact: Alan B. Rubin, Environmental Protection Agency, Water, 4304, Washington, DC 20460
Phone: 202 260-7589
Fax: 202 260-1036
Email: rubin.alan@epa.gov

RIN: 2040–AC53

3672. WATER QUALITY STANDARDS REGULATION — REVISION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313 CWA sec 303(c)

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Water quality standards set by States and Indian tribes establish the water quality goals for surface waters of the U.S. and the means by which attainment of these goals will be measured and assured. They are the foundation for protecting water quality and related public health and welfare and the ecological health of the nation's waters. The Federal water quality standards regulation at 40 CFR Part 131 governs the development, review and revision of water quality standards under section 303(c) of the Clean Water Act by States and Indian Tribes, and the review and approval of water quality standards by EPA. Based upon the Federal, State, Tribal and local experience gained in the program over the last 20 years, EPA's proposed revisions to 40 CFR 131 are intended to strengthen the water quality standards regulation thus enhancing water quality management on a watershed basis, and focusing Federal, State and Tribal resources on the areas of greatest concern. Program areas identified for revision include: establishing and refining designated uses, developing and implementing water quality criteria, antidegradation policies and procedures and mixing zone policies and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	07/07/98	63 FR 36741
NPRM	09/00/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3662

Agency Contact: Susan Gilbertson, Environmental Protection Agency, Water, 4305, Washington, DC 20460
Phone: 202 260-1188
Email: gilbertson.sue@epa.gov

RIN: 2040–AC56

3673. REVISIONS TO NPDES REQUIREMENTS FOR MUNICIPAL SANITARY SEWER COLLECTION SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501(a)

CFR Citation: 40 CFR 122.41; 40 CFR 122.42

Legal Deadline: None

Abstract: Under a Presidential directive dated May 29, 1999, EPA is to develop within one year, a strong national regulation to prevent the 40,000 (plus) annual sanitary sewer overflows from contaminating our Nation's beaches and jeopardizing the health of our Nation's families. In response, EPA is developing a notice of proposed rulemaking that will propose a broad-based reevaluation framework for sanitary sewer collection systems under the NPDES program. The Agency is proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems. The standard requirements would address reporting requirements for SSOs, recordkeeping and capacity assurance, management, operation and maintenance requirements for municipal sanitary sewer collection systems; public notice requirements for SSOs; and a prohibition on SSOs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
Final Action	05/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3999

Note: This rule was formerly known as "Revisions to NPDES Requirements for Complaince Reporting and Collection System Discharges."

Agency Contact: Sharie Centilla, Environmental Protection Agency, Water, 4203, Washington, DC 20460

EPA—Clean Water Act (CWA) **Proposed Rule Stage**

Phone: 202 260-6052
Email: centilla.sharie@epa.gov

Kevin Weiss, Environmental Protection Agency, Water, 4201, Washington, DC 20460
Phone: 202 260-9524
Email: weiss.kevin@epa.gov

RIN: 2040–AD02

3674. TEST PROCEDURES FOR THE ANALYSIS OF CRYPTOSPORIDIUM AND GIARDIA UNDER THE SAFE DRINKING WATER AND CLEAN WATER ACTS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h)CWA 304(h); 33 USC 1361CWA 501(a); 42 USC 300(f) SDWA 1412; 42 USC 300(g)(1) SDWA 1413; 42 USC 300(g)(2) SDWA 1414; 42 USC 300(g)(3) SDWA 1415; 42 USC 300(g)(4) SDWA 1416; 42 USC 300(g)(5) SDWA 1445; 42 USC 300(j)(4) SDWA 1450; 42 USC 300(j)(9)

CFR Citation: 40 CFR 136; 40 CFR 141

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR Part 136 and the analytical methods under 40 CFR Part 141 to approve EPA Method 1622 for the detection of Cryptosporidium and Giardia in ambient waters and finished drinking water by filtration of a 10-L sample in laboratory, separation of target organisms from other debris using immunomagnetic separation, and detection of the organisms using immunofluorescence assay and differential interference contrast microscopy and confirmation examination of the organisms using vital dye stains. This method would be used by public water systems to collect occurrence and treatment data to characterize Cryptosporidium and Giardia in drinking water. EPA expects that EPA Method 1622 would increase recovery and would provide better precision than the method included in an earlier EPA rulemaking, thus providing for more reliable data.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4047

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-1639
Email: gomez-taylor.maria@epamail.epa.gov

William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AD08

3675. ESTABLISHMENT OF ELECTRONIC REPORTING FOR NPDES PERMITTEES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304(i); 33 USC 1318 CWA 308; 33 USC 1342 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 122.22; 40 CFR 122.41(k); 40 CFR 122.41(j); 40 CFR 122.41(i); 40 CFR 122.63; 40 CFR 403.12g

Legal Deadline: None

Abstract: EPA is proposing changes to its NPDES regulations to allow reports and other information to be submitted electronically. When EPA promulgated the current NPDES regulations, the Agency did not anticipate the need or technologies for electronic reporting. Consequently, the current regulations do not specifically address use of electronic reporting technologies. The proposed rule would establish criteria for electronic reporting and a specific process and conditions for electronic reporting of discharge monitoring reports (DMR) to EPA that are intended to achieve reliable and secure electronic reporting in the NPDES program. The proposal addresses electronic signature, certification, and record keeping requirements that permittees would follow when submitting forms to EPA electronically. The rule will not require electronic reporting.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4051

Agency Contact: Brian Frazer, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-0101
Fax: 202 260-1460
Email: frazer.brian@epa.gov

RIN: 2040–AD11

3676. EFFLUENT GUIDELINES AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, SWINE AND POULTRY SUBCATEGORIES, AND NPDES REGULATION FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

Regulatory Plan: This entry is Seq. No. 121 in Part II of this issue of the **Federal Register**.

RIN: 2040–AD19

3677. EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR THE FEEDLOTS POINT SOURCE CATEGORY, DAIRY AND BEEF CATTLE SUBCATEGORIES

Regulatory Plan: This entry is Seq. No. 122 in Part II of this issue of the **Federal Register**.

RIN: 2040–AD21

3678. REVISIONS TO EFFLUENT GUIDELINES AND STANDARDS FOR THE COAL MINING POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 434

Legal Deadline: NPRM, Judicial, December 31, 1999.
Final, Judicial, December 31, 2001.

Abstract: Coal mining discharges are covered by existing effluent guidelines

at 40 CFR part 434. This new regulatory action will revise the existing regulations to address two new subcategories: Coal Remining and Western Alkaline Coal Mining. The existing regulations do not cover remining operations, which, when appropriately planned and regulated, will improve effluent quality from abandoned mine lands while reclaiming them and prevent disturbance of unexploited lands. Advances in treatment technologies and Best Management Practices pertinent to coal mines in the arid West show promise of being more protective of water quality.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	12/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4168

EPA has submitted an unopposed motion to the Court requesting an extension of the 12/31/99 deadline for the proposal to 3/00/00.

Sectors Affected: 21211 Coal Mining

Agency Contact: Joe Vitalis, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7172
Fax: 202 260-7185
Email: vitalis.joseph@epa.gov

RIN: 2040–AD24

3679. AMEND THE FINAL WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM TO PROHIBIT MIXING ZONE FOR BIOACCUMULATIVE CHEMICALS OF CONCERN

Priority: Other Significant

Legal Authority: 33 USC 1268 CWA 118

CFR Citation: 40 CFR 132

Legal Deadline: None

Abstract: EPA is proposing to amend the final Water Quality Guidance for the Great Lakes System (Guidance) to prohibit mixing zones for bioaccumulative chemicals of concern (BCCs) in the Great Lakes System, subject to a limited exception for existing discharges. For existing discharges, the regulation would prohibit mixing zones for BCCs after 10 years from the publication date of the final rule. New discharges of BCCs would be subject to the mixing zone prohibition immediately upon commencing discharge. EPA had promulgated this mixing zone provision on March 23, 1995, as part of the Water Quality Guidance for the Great Lakes System required by section 118(c)(2) of the Clean Water Act. The provision was vacated by the U.S. Court of Appeals for the District of Columbia Circuit in the case of American Iron & Steel Institute v. EPA, 115 F.3d 979 (D.C. Cir. 1997), and was remanded to the Agency for further consideration. This action reflects EPA's reconsideration of the factual record in response to that remand.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4235

Agency Contact: Mark Morris, Environmental Protection Agency, Water, 4301, Washington, DC 20460
Phone: 202 260-0312
Fax: 202 260-5394
Email: morris.markl@epa.gov

RIN: 2040–AD32

3680. TEST PROCEDURES FOR THE ANALYSIS OF E. COLI AND ENTEROCOCCI UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136.3

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR Part 136 to approve microbiological methods for monitoring ambient water. Ambient water contamination is determined by the presence of bacterial indicators. In 1986, EPA issued a revision to its bacteriological ambient water quality criteria recommendations to include new indicator bacteria, E.coli and enterococci. To support the ambient water quality criteria for bacteria, EPA is planning to promulgate several analytical methods for monitoring E.coli and enterococci in ambient water. This proposed regulation would approve test procedures to be available for use by testing laboratories.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4214

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-1639
Email: gomez-taylor.maria@epamail.epa.gov

William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AD34

3681. • FURTHER REVISIONS TO CLEAN WATER ACT DEFINITION OF DISCHARGE OF DREDGED MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344

CFR Citation: 40 CFR 232.2; 33 CFR 232.2(d)(1)(iii)

Legal Deadline: None.

Abstract: This action involves joint rulemaking by EPA and the Department of the Army to clarify the regulatory definition of "discharge of dredged material" under the Clean Water Act Section 404. This action is being taken in follow-up to a final rule that was promulgated in May 1999 to comply with a court decision. The May 1999 rule clarified that incidental fallback is not regulated under the definition of

EPA—Clean Water Act (CWA) **Proposed Rule Stage**

"discharge of dredged material." Further clarification of the definition of "discharge of dredged material" is now being undertaken in order to help ensure that the waters of the U.S., including wetlands, continue to receive the protection they need and to help reduce ambiguity for the regulated community and ensure consistent application of the regulatory definition.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: SAN No. 4261

Affected Sectors; Question ı 20: The proposed rulemaking addresses discharge of dredged material into waters of the United States in general, and thus is not industry-specific.

Agency Contact: John Lishman, Environmental Protection Agency, Water, 4502-F, Washington, DC 20460
Phone: 202 260-9180
Fax: 202 260-7546
Email: Lishman.John@epa.gov

John Goodin, Environmental Protection Agency, Water, 4502-F, Washington, DC 20460
Phone: 202 260-9910
Fax: 202 260-7546
Email: Goodin.John@epa.gov

RIN: 2040–AD41

Environmental Protection Agency (EPA) **Final Rule Stage**

Clean Water Act (CWA)

3682. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1342 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 437

Legal Deadline: Final, Judicial, October 14, 1999.

Abstract: Centralized Waste Treatment facilities receive hazardous and non-hazardous waste from off-site for treatment or recovery operations (excluding solvent recovery). EPA is developing technology-based effluent limitations and pretreatment standards to control the discharge of pollutants from these facilities. This rule was formerly titled Waste Treatment, Phase I.

Timetable:

Action	Date	FR Cite
NPRM	01/27/95	60 FR 5464
Notice of Data Availability	09/16/96	61 FR 48805
NPRM Reproposal	01/13/99	64 FR 2279
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2805

Sectors Affected: 562219 Other Nonhazardous Waste Treatment and Disposal

Agency Contact: Jan Matuszko, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-9126
Email: matuszko.jan@epa.gov

RIN: 2040–AB78

3683. EFFLUENT GUIDELINES AND STANDARDS FOR THE TRANSPORTATION EQUIPMENT CLEANING CATEGORY

Priority: Other Significant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1317 CWA sec 307; 33 USC 1314 CWA sec 304; 33 USC 1361 CWA sec 501; 33 USC 1316 CWA sec 306

CFR Citation: 40 CFR 442

Legal Deadline: NPRM, Judicial, May 15, 1998.
Final, Judicial, June 15, 2000.

Abstract: EPA is developing effluent limitation guidelines and pretreatment standards for transportation equipment cleaning facilities, which clean the interiors of tank trucks, rail tank cars, intermodal tank containers, ocean/sea tankers, tank barges, closed-top hopper trucks, closed-top hopper rail cars, and closed-top hopper barges.

Timetable:

Action	Date	FR Cite
NPRM	06/25/98	63 FR 34685
Notice of Data Availability	07/20/99	64 FR 38863
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3204

Sectors Affected: 562998 All Other Miscellaneous Waste Management Services

Agency Contact: John Tinger, (Landfills), Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-4992
Email: tinger.john@epa.gov

RIN: 2040–AB98

3684. COMPARISON OF DREDGED MATERIAL TO REFERENCE SEDIMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344 CWA sec 404

CFR Citation: 40 CFR 230

Legal Deadline: None

Abstract: This action would revise the testing provisions of the Clean Water Act section 404(b)(1) Guidelines to provide for comparisons between dredged material proposed for discharge and reference sediment. Reference sediment would be defined as sediment that reflects conditions at the disposal site had no dredged material disposal ever occurred there. Because the disposal site itself is currently used as the point of comparison, this action would make a technical improvement in assessing cumulative impacts and help make dredged material testing under section 404 more consistent with that conducted for ocean disposal, which

EPA—Clean Water Act (CWA)

Final Rule Stage

currently employs a reference sediment approach. This action is not expected to have a significant impact on state, local, or tribal governments or small business, as the action will be limited to Corps projects and permit applications for which dredged material testing is necessary, and because the effect of the action will be limited to changing the location of an otherwise collected sample.

Timetable:

Action	Date	FR Cite
NPRM	01/04/95	60 FR 419
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 3288

Agency Contact: John Goodin, Environmental Protection Agency, Water, 4502F, Washington, DC 20460
Phone: 202 260-9910
Email: goodin.john@epa.gov

RIN: 2040–AC14

3685. EFFLUENT GUIDELINES AND STANDARDS FOR LANDFILLS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 445

Legal Deadline: Final, Judicial, November 30, 1999.

Abstract: EPA proposed effluent guidelines and standards for landfills regulated under Subtitle C or Subtitle D of the Resource Conservation and Recovery Act (RCRA) which discharge directly to surface waters, and landfills regulated under Subtitle C of RCRA which discharge indirectly to Publicly Owned Treatment Works (POTWS). The proposal did not apply to wastewater discharges of contaminated groundwater. The proposal also did not apply to discharges of wastewater associated with landfills operated in conjunction with other industrial or commercial operations which only receive waste from off-site facilities under the same corporate structure (intra-company facility) and/or receive waste generated on-site (captive facility) so long as the landfill wastewater is commingled for treatment with other process wastewaters. After reviewing public comments, EPA will revise the analysis and issue final standards. This rule was formerly titled Waste Treatment Industry, Phase II and Effluent Guidelines and Standards for Landfills and Incinerators.

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6425
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 348

Sectors Affected: 562211 Hazardous Waste Treatment and Disposal; 562212 Solid Waste Landfill

Agency Contact: Mike Ebner, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-5397
Email: ebner.michael@epa.gov

RIN: 2040–AC23

3686. ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS FOR THE STATE OF CALIFORNIA

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313 CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: Final, Statutory, November 3, 1997.

Abstract: Several municipal entities and one industry in California sued the California State Water Resources Control Board (SWRCB) in State court over whether the SWRCB's water quality control plans for inland surface waters and enclosed bays and estuaries were adopted in compliance with authorizing State law. The court issued its final decision in March 1994; the Court agreed with the plaintiffs and found that the plans could not remain in effect. The SWRCB was ordered to rescind its plans which contain the State's numeric criteria for priority toxic pollutants. In the absence of State criteria, the Clean Water Act requires the Administrator to promulgate water quality criteria for priority toxic pollutants where EPA has issued section 304(a) criteria guidance when the discharge of such pollutants could reasonably be expected to interfere with the State's designated uses.

Timetable:

Action	Date	FR Cite
NPRM	08/05/97	62 FR 42160
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3504

Agency Contact: Matt Mitchell, Environmental Protection Agency, Water, Region IX, San Francisco, CA 94105
Phone: 415 744-2007
Email: mitchell.matthew@epa.gov

William Morrow, Environmental Protection Agency, Water, 4305, Washington, DC 20460
Phone: 202 260-3657
Email: morrow.william@epa.gov

RIN: 2040–AC44

3687. STREAMLINING THE GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1314 CWA sec 304; 33 USC 1317 CWA sec 307; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: The National Pretreatment Program was established in 1972. The Office of Water is exploring ways to reduce federally mandated activities under the program that don't result in benefits to the environment and to improve program efficiencies. For example, this rule will consider appropriate exclusions or variable requirements for numerous smaller

facilities that contribute insignificant amounts of pollutants.

Timetable:

Action	Date	FR Cite
NPRM	07/22/99	64 FR 39564
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3663

Agency Contact: Patrick Bradley, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-6963
Email: bradley.patrick@epamail.epa.gov

Jeff Smith, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-5586
Fax: 202 260-1460
Email: smith.jeff@epa.gov

RIN: 2040–AC58

3688. NPDES STREAMLINING RULE — ROUND II

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1312 CWA sec 302; 33 USC 1316 CWA sec 306; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125; 40 CFR 22; 40 CFR 117; 40 CFR 125; 40 CFR 144; 40 CFR 270; 40 CFR 271

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, the Office of Wastewater Management plans to issue a comprehensive rulemaking package revising certain NPDES requirements in parts 122, 123 and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Some of these revisions include: 1) consolidating regulatory definitions; 2) removal of part 124, subpart F, non-adversary panel hearings; 3) possible removal of storm water group application requirements; 4) streamlining permit termination procedures; and 5) removing part 124 evidentiary hearing procedures.

This rulemaking is expected to affect entities who operate the NPDES program or who are regulated by it. This includes small businesses and State and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	61 FR 65268
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3762

Agency Contact: Howard Rubin, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-2051
Fax: 202 260-1460
Email: rubin.howard@epa.gov

RIN: 2040–AC70

3689. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF CYANIDE UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve a new procedure for the analysis of cyanide under the Clean Water Act. Cyanide is a toxic pollutant as defined in the Clean Water Act section 307 and total cyanide is a priority pollutant listed at 40 CFR part 423, appendix A. The term total cyanide refers to all forms of cyanide, including those forms that are readily bioavailable such as free and weakly bound cyanide and those forms that are less bioavailable because the cyanide is strongly bound to a metal ion. EPA Method 335.1, Cyanides Amenable to Chlorination (CATC), is currently approved for the measurement of free and weakly complexed forms of cyanides. EPA Method 335.1 calls for hour-long distillation, chlorination requiring an hour, and two separate aliquots of a given sample distilled and analyzed independently to determine the CATC levels. In order to improve the accuracy and reduce the cost of cyanide measurements, EPA proposed a new test procedure for the determination of cyanides.

Timetable:

Action	Date	FR Cite
NPRM	07/07/98	63 FR 36809
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3701

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AC76

3690. REFORMATTING OF EFFLUENT GUIDELINES AND STANDARDS IN 40 CFR PARTS 401 THROUGH 471

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1361 CWA sec 502; 33 USC 1342 CWA sec 402

EPA—Clean Water Act (CWA)

Final Rule Stage

CFR Citation: 40 CFR 405 to 471 (Revision)

Legal Deadline: None

Abstract: This regulatory action will recodify the existing Effluent Limitations and Standards in 40 CFR parts 401 through 471, without making any changes in the requirements therein. The purpose of this action is to enable the Federal, State, and local regulators and the regulated community to more easily read, understand and implement the regulations.

Timetable:

Action	Date	FR Cite
Direct Final Rule	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3767

Agency Contact: Hugh Wise, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7177
Fax: 202 260-7185
Email: wise.hugh@epa.gov

RIN: 2040–AC79

3691. NPDES COMPREHENSIVE STORM WATER PHASE II REGULATIONS

Regulatory Plan: This entry is Seq. No. 134 in Part II of this issue of the **Federal Register**.

RIN: 2040–AC82

3692. INCREASED METHOD FLEXIBILITY FOR TEST PROCEDURES APPROVED FOR CLEAN WATER ACT COMPLIANCE MONITORING

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304 (h); 33 USC 1361(a) CWA 501 (a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would highlight the flexibility already contained in the 600 and 1600 series of EPA Methods that are currently approved for Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. These methods typically contain a statement that, in recognition of advances that are occurring in analytical technology, and to allow the analyst to overcome sample matrix interferences, the analyst is permitted certain options to improve separations or lower the costs of measurements. These options include alternate extraction, concentration, cleanup procedures, and changes in columns and detectors. The methods further require the analyst to demonstrate that the method modifications will not adversely affect the quality of data by generating quality control results that meet the specifications contained in the method. Despite this stated flexibility, the Agency has found that many NPDES and pretreatment permitting authorities are not aware of this flexibility when issuing or enforcing NPDES and pretreatment permits. Therefore, this regulatory action will highlight the existing method flexibility and clarify EPA's position regarding its application. This action will also extend this flexibility to other methods currently approved under 40 CFR part 136. The purpose of extending this flexibility to other methods is to (1) increase consistency between methods, (2) provide for increased recognition of advances in analytical technology, and (3) reduce costs associated with analytical measurements.

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3714

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AC92

3693. PERFORMANCE BASED MEASUREMENT SYSTEM (PBMS) PROCEDURES AND GUIDANCE FOR CLEAN WATER ACT TEST PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action will establish the use of performance-based measurement procedures and guidance for use in Clean Water Act compliance monitoring under 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants. The new procedures would include guidance concerning the format, content, quality assurance/quality control, and data validation requirements for use of test methods. This regulatory action would also describe increased program guidance in the form of a clearinghouse, technical bulletins, and/or guidance documents geared towards clarifying technical and policy issues associated with the use of test methods approved for use in the program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/97	62 FR 14975
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3713

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AC93

EPA—Clean Water Act (CWA) **Final Rule Stage**

3694. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE ONE

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation would approve test procedures to be used in measuring this group of compounds under the NPDES Program unless the Regional Administrator approves an alternative procedure. EPA plans to segment the rulemaking into two phases to accommodate different amounts of data for the long list of compounds.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3155

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AC95

3695. EFFLUENT GUIDELINES AND STANDARDS FOR INDUSTRIAL WASTE COMBUSTORS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 444

Legal Deadline: Final, Judicial, November 30, 1999.

Abstract: EPA proposed effluent guidelines and standards for commercial industrial waste combustion facilities in February 1998. Hazardous waste incinerators, boilers, industrial furnaces, and non-hazardous waste incinerators are all examples of facilities included in the scope of the project. The proposal applied only to commercial industrial waste combustors and not to sewage sludge incinerators, medical waste incinerators, municipal waste combustors or other solid waste combustors. Furthermore, EPA did not include within the scope of the proposal industrial waste combusters that only burn off-site wastes from facilities within the same corporate structure (intra-company wastes) or industrial waste combustors that only burn wastes generated on-site. After reviewing public comments, EPA will issue final standards. This rule was formerly titled Waste Treatment Industry, Phase II: Landfills and Incinerators.

Timetable:

Action	Date	FR Cite
NPRM	02/06/98	63 FR 6391
Notice of availability	05/17/99	64 FR 26714
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4041

(Formerly part of SAN 3489, RIN 2040-AC23)

Sectors Affected: 562211 Hazardous Waste Treatment and Disposal

Agency Contact: Samantha Lewis, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7149
Fax: 202 260-7185
Email: lewis.samantha@epa.gov

RIN: 2040–AD03

3696. TOTAL MAXIMUM DAILY LOAD (TMDL) PROGRAM REGULATIONS REVISIONS

Regulatory Plan: This entry is Seq. No. 136 in Part II of this issue of the **Federal Register**.

RIN: 2040–AD22

3697. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY; MONITORING AMENDMENT

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1342 CWA sec 402; 33 USC 1318 CWA sec 308; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: The Agency proposed to amend the Pulp and Paper Cluster Rules to provide for a certification in lieu of monitoring for one or more pollutants, including chloroform, for mills using certain processes. Basically, this amendment would apply to elemental chlorine-free mills, allowing them to submit a certification based on process changes and operational controls to demonstrate compliance with the existing limitations.

Timetable:

Action	Date	FR Cite
NPRM	04/15/98	63 FR 18796
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 4192

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

Agency Contact: Troy Swackhammer, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7128
Fax: 202 260-7185
Email: swackhammer.j-troy@epa.gov

RIN: 2040–AD23

EPA—Clean Water Act (CWA) Final Rule Stage

3698. WATER QUALITY STANDARDS FOR ALABAMA—PHASE I

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313 CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: Final, Statutory, June 3, 1998.

Abstract: Under the CWA, States have primary authority in developing water quality standards for waters within their jurisdiction. EPA maintains oversight authority in that States must submit their water quality standards to EPA for review and approval or disapproval. If a State's water quality standards are not consistent with the requirements of the CWA and its supporting regulations, and are subsequently disapproved by EPA, the State must revise the disapproved water quality standards. If the State does not revise the disapproved water quality standards, the CWA authorizes the EPA Administrator to promulgate Federal water quality standards to supersede those disapproved provisions in the water quality standards.

On March 5, 1998, EPA proposed water quality standards applicable to nine stream segments to replace those provisions in Alabama's water quality standards that were disapproved in 1986 and in 1991. Specifically, EPA proposed use designations consistent with those specified in section 101(a) of the CWA to replace the State's assigned Agricultural and Industrial Water Supply use. The effect of the proposed standards is to replace the State-adopted water quality criteria, which protect only for fish survival, with water quality criteria based on protection of propagation of fish, aquatic life, and wildlife.

Timetable:

Action	Date	FR Cite
NPRM	03/05/98	63 FR 10799
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4195

Agency Contact: William Morrow, Environmental Protection Agency, Water, 4305, Washington, DC 20460
Phone: 202 260-3657
Email: morrow.william@epa.gov

Fritz Wagener, Environmental Protection Agency, Water, Atlanta, GA 30303
Phone: 404 562-9267

RIN: 2040–AD25

3699. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE — REVISION OF POLYCHLORINATED BIPHENYLS (PCBS) CRITERIA

Priority: Other Significant

Legal Authority: 33 USC 1251

CFR Citation: 40 CFR 131

Legal Deadline: Final, Judicial, September 27, 1999.

Abstract: EPA is revising the rule promulgated on December 22, 1992, (National Toxics Rule or NTR) that established water quality criteria for twelve States and the District of Columbia and Puerto Rico, that had not adopted sufficient chemical-specific numeric criteria for toxic pollutants necessary to comply with the Clean Water Act. Among the criteria promulgated in the NTR were human health criteria for polychlorinated biphenyls (PCBs). EPA has proposed and taken comments on revisions to the human health criteria for PCBs in the NTR, based on the Agency's reassessment of the cancer potency of PCBs.

Timetable:

Action	Date	FR Cite
NPRM	04/02/98	63 FR 16182
Final Action	11/09/99	64 FR 61181

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4193

Agency Contact: Cindy Roberts, Environmental Protection Agency, Water, 4304, Washington, DC 20460
Phone: 202 260-2787
Email: roberts.cindy@epa.gov

RIN: 2040–AD27

3700. EPA REVIEW AND APPROVAL OF STATE AND TRIBAL WATER QUALITY STANDARDS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1251 et seq

CFR Citation: 40 CFR 131.21(c)

Legal Deadline: Other, Judicial, July 1, 1999, See additional information.

Abstract: EPA's water quality standards (WQS) regulation currently provides that State and Tribal WQS are in effect once adopted by the State or authorized Tribe and remain in effect, even if EPA disapproves them, until the State or Tribe revises them or EPA promulgates a federal rule to supersede the State or Tribal WQS. EPA's regulation is based on its longstanding interpretation of the CWA. In July, 1997, the U.S. District Court for the Western District of Washington held that the clear meaning of section 303(c)(3) of the CWA was that State water quality standards do not go into effect under the CWA until approved by EPA (Alaska Clean Water Alliance v. Clark; No. C96-1762R). Because EPA's existing regulation remains in effect, and the court has issued no injunction against applying it, EPA's interim policy is to continue to follow our regulation (except in Alaska) until the regulation is changed. EPA's proposed rule would: 1) Delete 131.21(c) and replace it with new language which explains that standards do not become the applicable WQS for CWA purposes until approved by EPA, and that previously approved standards remain the CWA standards until EPA approves State or Tribal revisions or promulgates replacement WQS; and, 2) Provide that the new rule would only apply to WQS adopted after the effective date of the final rule. EPA's proposed rule will only address administrative aspects of the WQS approval process. This proposed rule will not speak to any of the substantive program issues currently being addressed in the WQS Advance Notice of Proposed Rulemaking (63 FR 36741). Likewise, this proposed rule will not overlap with any of the TMDL program issues being addressed in the TMDL rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37072
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

EPA—Clean Water Act (CWA) **Final Rule Stage**

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 4234

Legal Deadline: Settlement Agreement: July 1, 1999 Proposal; April 1, 2000 Final.

Agency Contact: William Morrow, Environmental Protection Agency, Water, 4305, Washington, DC 20460
Phone: 202 260-3657
Fax: 202 260-9830
Email: morrow.william@epa.gov

Cathy Winer, Environmental Protection Agency, Water, 2355, Washington, DC 20460
Phone: 202 260-7719
Fax: 202 260-7702
Email: winer.cathy@epa.gov

RIN: 2040–AD33

3701. • TOTAL MAXIMUM DAILY LOAD (TMDL) - NPDES AND WQS REGULATIONS REVISIONS

Regulatory Plan: This entry is Seq. No. 137 in Part II of this issue of the **Federal Register**.

RIN: 2040–AD36

3702. • RECOGNITION AWARDS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

Legal Authority: CWA 501(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Environmental Protection Agency (EPA) is formalizing the eligibility requirements, nominations process, application provisions and selection criteria for the annual Clean Water Act (CWA) Awards known as the National Wastewater Management Excellence Awards Program. Section 501(e) of the CWA authorizes the Administrator, on behalf of the U.S. Government to recognize outstanding technological achievements or innovative processes, methods or devices in waste treatment and pollution abatement programs. The rule establishes regulations under which the recognition may be applied for and granted. Though the Agency has been making presentations for several years, this action would minimize the number of inquiries concerning the awards program's winners and their qualifications. The program currently includes awards for Operations and Maintenance, Beneficial Use of Biosolids, Storm Water Management, Pretreatment, and Combined Sewer Overflow Controls. Awards for other programs may be added later. EPA is formalizing the CWA awards program using a direct final rulemaking because the Agency does not expect adverse comments. Unless the Agency receives comments requiring a response during the public comment period associated with an identical companion proposed rule published elsewhere in the Federal Register on the same date, the formalized eligibility requirements, nominations process, application provisions and selection criteria will become effective without further notice.

Timetable:

Action	Date	FR Cite
NPRM companion of Direct Final Rule	05/00/00	
Direct Final Rule	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4332

Note: This rule was formerly known as "National Wastewater Management Excellence Awards Program."

Agency Contact: Maria Campbell, Environmental Protection Agency, Water, 4204, Washington, DC 20460
Phone: 202 260-5815

RIN: 2040–AD44

3703. FACILITY RESPONSE PLAN REGULATION FOR CERTAIN NON-TRANSPORTATION-RELATED FACILITIES THAT HANDLE, STORE, OR TRANSPORT VEGETABLE OILS AND ANIMAL FATS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1361; 33 USC 2720; EO 12777 (October 18 1991); PL 105-276

CFR Citation: 40 CFR 112 (Revision)

Legal Deadline: None

Abstract: This regulation would modify the existing regulations as they apply to facilities that handle, store, or transport vegetable oils and animal fats. The Facility Response Plan (FRP) rule applies only to high-risk facilities that transfer large volumes of oil over water or store 1 million gallons or more of oil and meet additional criteria. Because worst-case discharges from these facilities could cause substantial harm to the environment, facility owners and operators are required to prepare and implement response plans. The rule applies to a small number of vegetable oil/animal fat facilities (an estimated 50 to 100, based on information provided by industry). The current rule already provides greater flexibility to vegetable oil/animal fat facilities in the development of these plans than what is required for petroleum facilities. The EPA FY1999 Appropriation (P.L. 105-276) directs the Agency to issue regulations amending 40 CFR Part 112 (Oil Pollution Prevention) to comply with the requirements of the Edible Oil Regulatory Reform Act (EORRA). EORRA requires agencies to differentiate between vegetable oils and animal fats and other classes of oils, based on properties and effects, in issuing regulations.

Timetable:

Action	Date	FR Cite
ANPRM	04/08/99	64 FR 17227
NPRM	04/08/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Additional Information: SAN No. 4217

Sectors Affected: 311222 Soybean Processing; 311223 Other Oilseed Processing; 311225 Fats and Oils Refining and Blending; 311613 Rendering and Meat By-product Processing; 311711 Seafood Canning; 311712 Fresh and Frozen Seafood Processing

Agency Contact: Barbara Davis, Environmental Protection Agency, Solid Waste and Emergency Response, 5203G, Washington, DC 20460
Phone: 703 603-8823
Fax: 703 603-9126
Email: davis.barbara@epa.gov

RIN: 2050–AE64

Environmental Protection Agency (EPA)
Clean Water Act (CWA)

Long-Term Actions

3704. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES 1 AND 2

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1317 CWA sec 308; 33 USC 1317 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 438

Legal Deadline: NPRM, Judicial, October 31, 2000.
Final, Judicial, December 31, 2002.

Abstract: EPA is developing effluent limitations guidelines for facilities that generate wastewater while processing metal parts; metal products; and machinery, including manufacture, assembly, rebuilding, repair, and maintenance. A proposed rule in 1995 covered seven industrial groups: aircraft, aerospace, hardware, ordnance, stationary industrial equipment, mobile industrial equipment, and electronic equipment. EPA has consolidated this rulemaking with a second phase, and coverage will include additional industrial groups such as: bus and truck, household equipment, instruments, motor vehicles, office machines, precious metals and jewelry, railroads, job shops, printed circuit boards, and ships and boats. The deadlines and timetable apply to the consolidated Phase 1 and 2 rulemaking.

Timetable:

Action	Date	FR Cite
NPRM (Phase 1)	05/30/95	60 FR 28210
NPRM (Consolidated Phase 1 and 2)	10/00/00	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2806

Sectors Affected: 332 Fabricated Metal Product Manufacturing; 333 Machinery Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance and Component Manufacturing; 336 Transportation Equipment Manufacturing; 337 Furniture and Related Product Manufacturing; 339 Miscellaneous Manufacturing

Agency Contact: Shari Zuskin, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7130
Email: zuskin.shari@epa.gov

RIN: 2040–AB79

3705. REVISION OF NPDES INDUSTRIAL PERMIT APPLICATION REQUIREMENTS AND FORM 2C—WASTEWATER DISCHARGE INFORMATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1342 CWA sec 402

CFR Citation: 40 CFR 122.21

Legal Deadline: None

Abstract: All existing manufacturing, commercial, mining, and silvicultural operations requiring a National Pollutant Discharge Elimination System (NPDES) permit must submit an application in order to obtain a permit. The existing industrial application form has not been revised since 1984 and needs to be updated to reflect statutory and related regulatory changes in the NPDES and water quality standards program. The purpose of this action would be to revise and consolidate existing application forms and requirements for industries, and to streamline the permit application process for these facilities. The Agency seeks to establish a unified process that minimizes the need for additional information from applicants while providing permit writers the necessary information, including toxics data, to ensure that permits adequately address concerns of permittees and environmental protection. The Agency will seek to allow the use of existing data to the extent possible and to avoid unnecessary reporting. The Agency is also considering how to utilize electronic data submission. Although these forms will increase the burden on permittees not already required to provide these data, many other permittees are already required to submit the data. The Agency is reviewing ways to minimize the need for information from small dischargers, including tribal facilities. EPA will also seek to minimize and reduce the burden on States through improvements to the application forms.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3234

Agency Contact: Jeff Lape, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-6057
Email: lape.jeff@epa.gov

RIN: 2040–AC26

3706. GUIDELINES ESTABLISHING WHOLE EFFLUENT TOXICITY WEST COAST TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1313 CWA 303; 33 USC 1314(h) CWA 304(h); 33 USC 1314(a)(8) CWA 304(a)(8); 33 USC 1361 CWA 501

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This rule would amend 40 CFR part 136, by adding test procedures to measure chronic whole effluent toxicity using species indigenous to West Coast marine waters for the analysis of pollutants under the Clean Water Act. State, local and tribal governments and small businesses on the West Coast are already using variations of these methods in NPDES permits.

Timetable:

Action	Date	FR Cite
NPRM	01/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3618

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AC54

3707. WATER QUALITY STANDARDS; ESTABLISHMENT OF NUMERIC CRITERIA FOR PRIORITY TOXIC POLLUTANTS; STATES' COMPLIANCE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1313 CWA sec 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: EPA is revising its rule promulgated on December 22, 1992, (National Toxics Rule or NTR) that established water quality criteria for 14 States that had failed to fully comply with section 303(c)(2)(B) of the Clean Water Act. The NTR promulgated total recoverable metals criteria for 11 of these 14 States. In May 1995, EPA amended the materials criteria to reflect EPA's new policy to use dissolved metals criteria because they more accurately reflect the bioavailable fraction of waterborne metals for aquatic life. The interim final rule was deregulatory in nature, but is not expected to impact the health of aquatic life in the water column. EPA expects the rule to result in less stringent permit limits and therefore a potential cost savings in wastewater treatment for dischargers of metals in the covered States. This action makes the interim final rule final and is also deregulatory in nature.

Timetable:

Action	Date	FR Cite
Interim Final	05/04/95	60 FR 22229
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 3661

Agency Contact: Cindy Roberts, Environmental Protection Agency, Water, 4304, Washington, DC 20460
Phone: 202 260-2787
Email: roberts.cindy@epa.gov

RIN: 2040–AC55

3708. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF TRACE METALS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve new EPA methods for the determination of trace metals at EPA's water quality criteria levels. These methods are necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the State's designated water quality standard. Because the methods currently approved under 40 CFR part 136 were designed to support primarily technology-based permitting needs, and because these technology-based levels are as much as 280 times higher than water quality-based criteria for metals, approval of new EPA test procedures is necessary.

Timetable:

Action	Date	FR Cite
NPRM	08/00/01	
Final Action	08/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3702

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AC75

3709. NPDES STREAMLINING RULE — ROUND III

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1312 CWA sec 302; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 122; 40 CFR 123; 40 CFR 124

Legal Deadline: None

Abstract: On February 21, 1995, President Clinton issued a directive requesting that Federal agencies review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA plans to issue several rulemaking packages to revise NPDES requirements in parts 122, 123, and 124 to eliminate redundant regulations, provide clarification, and remove or streamline unnecessary procedures. Revisions under consideration in this rule include adding additional permit modifications that can be considered minor modifications at 122.63, and changes to requirements concerning EPA's review of State permits. Other revisions may be considered as work on this rule progresses. This rulemaking is expected to affect entities which implement the NPDES program or are regulated by it. This includes small businesses and State, tribal and local governments. Most of these effects are expected to be deregulatory or streamlining in nature.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
Final Action	10/00/01	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3786

Agency Contact: Thomas Charlton, Environmental Protection Agency, Water, 4203, Washington, DC 20460
Phone: 202 260-6960

RIN: 2040–AC84

3710. EFFLUENT GUIDELINES AND STANDARDS FOR IRON AND STEEL MANUFACTURING POINT SOURCE CATEGORY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1362 CWA sec 502; 33 USC 1342 CWA sec 402

CFR Citation: 40 CFR 420

Legal Deadline: Final, Judicial, April 30, 2002.
NPRM, Judicial, October 31, 2000.

Abstract: EPA will propose amendments to the effluent limitations guidelines and standards regulations for the Iron and Steel Manufacturing Point Source Category to reflect significant industry changes related to consolidation and modernization within the U.S. steelmaking industry as well as advances in manufacturing technologies, in-process pollution prevention, water conservation practices, and end-of-pipe wastewater treatment.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
Final Action	04/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 3833

Sectors Affected: 331111 Iron and Steel Mills; 331221 Cold-Rolled Steel Shape Manufacturing; 331222 Steel Wire Drawing; 33121 Iron and Steel Pipes and Tubes Manufacturing from Purchased Steel; 324199 All Other Petroleum and Coal Products Manufacturing

Agency Contact: George Jett, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7151
Fax: 202 260-7185
Email: jett.george@epa.gov

RIN: 2040–AC90

3711. SELENIUM CRITERION MAXIMUM CONCENTRATION FOR WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1268 CWA sec 118

CFR Citation: 40 CFR 132

Legal Deadline: None

Abstract: This rulemaking proposes to establish a new acute aquatic life criterion for selenium in the final Water Quality Guidance for the Great Lakes System (the Guidance) that was published on March 23, 1995 (60 FR 15366). The proposed new criterion takes into account data showing that selenium's two most prevalent oxidation states, selenite and selenate, present differing potentials for aquatic toxicity, as well as new data indicating that all forms of selenium are additive. The new approach produces a different selenium acute criterion (also called the Criterion Maximum Concentration, or CMC) depending upon the relative proportions of selenite, selenate, and other forms of selenium that are present. This effort is on hold until a larger effort to amend the national water quality criteria guidance for selenium is complete. Once that effort is completed EPA will reevaluate the need for this action to amend the final Water Quality Guidance for the Great Lakes System and take appropriate action.

Timetable:

Action	Date	FR Cite
NPRM	11/14/96	61 FR 58444
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Tribal, Federal

Additional Information: SAN No. 3921

Agency Contact: Mark Morris, Environmental Protection Agency, Water, 4301, Washington, DC 20460
Phone: 202 260-0312
Fax: 202 260-5394
Email: morris.markl@epa.gov

RIN: 2040–AC97

3712. TEST PROCEDURES FOR THE ANALYSIS OF CO-PLANAR AND MONO-ORTHO-SUBSTITUTED POLYCHLORINATED BIPHENYLS (PCBS) UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1251 et seq CWA 304(h); 33 USC 1314(h) CWA 501(a); 33 USC 1361(a)

CFR Citation: 40 CFR 136; 40 CFR 503

Legal Deadline: None

Abstract: This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR parts 136 and 503 to approve EPA Method 1668 for the congener-specific determination of co-planar and mono-ortho-substituted polychlorinated biphenyls (PCBs) in effluent ambient water and sludge. This method is necessary for the implementation of water quality-based permits under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act. Water quality-based permits are necessary when technology-based controls do not allow a particular water body to meet the State's designated water quality standard. At present there is no EPA analytical method for determination of these PCBs, therefore, approval of a new EPA test procedure is necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/01	
Final Action	06/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 404

Agency Contact: Maria Gomez-Taylor, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-1639
Email: gomez-taylor.maria@epamail.epa.gov

William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AD09

3713. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY, PHASE II

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1317 CWA 307; 33 USC 1318 CWA 308; 33 USC 1318 CWA 402; 33 USC 1361 CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: EPA will consider revising the technology-based effluent limitations guidelines and standards for 8 of the 12 subcategories for this industrial category: Unbleached Kraft; Semi-Chemical; Mechanical Pulp; Non-Wood Chemical Pulp; Secondary Fiber Deink; Secondary Fiber Non-Deink; Fine and Lightweight Papers from Purchased Pulp; and Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp. EPA proposed guidelines and standards for these subcategories as part of the Pulp and Paper Rules (also known as the Cluster Rules) in December 1993. The Agency intends to develop these revised effluent limitations in close coordination with the Office of Air Quality Planning and Standards.

Timetable:

Action	*Date	FR Cite
NPRM	12/17/93	58 FR 66078
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 405

Sectors Affected: 3221 Pulp, Paper, and Paperboard Mills

Agency Contact: J. Troy Swackhammer, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7128
Email: swackhammer.j-troy@epa.gov

RIN: 2040–AD10

3714. GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF MISCELLANEOUS METALS, ANIONS, AND VOLATILE ORGANICS UNDER THE CLEAN WATER ACT, PHASE TWO

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1314(h) CWA 304(h); 33 USC 1361(a) CWA 501(a)

CFR Citation: 40 CFR 136

Legal Deadline: None

Abstract: This regulatory action will amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR Part 136 to approve new procedures for the analysis of miscellaneous metals, anions, and volatile organics under the Clean Water Act (CWA). These methods are used for implementing water quality based permits under the National Pollutant Discharge Elimination System (NPDES) of the CWA. This regulation will approve test procedures to be used in measuring this group of compounds under the NPDES unless the Regional Administrator approves an alternative procedure. This rulemaking will constitute the second of two segments of rulemaking initially proposed as one action.

Timetable:

Action	Date	FR Cite
NPRM	10/18/95	60 FR 53988
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 408

Agency Contact: William A. Telliard, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AD12

3715. REVISIONS TO EFFLUENT GUIDELINES AND STANDARDS FOR SYNTHETIC-BASED DRILLING FLUIDS IN THE OIL AND GAS EXTRACTION POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1311 CWA sec 301; 33 USC 1314 CWA sec 304; 33 USC 1316 CWA sec 306; 33 USC 1317 CWA sec 307; 33 USC 1318 CWA sec 308; 33 USC 1342 CWA sec 402; 33 USC 1361 CWA sec 501

CFR Citation: 40 CFR 435

Legal Deadline: NPRM, Judicial, December 31, 1998.
Final, Judicial, December 31, 2000.

Abstract: This regulatory action will establish effluent limitations for the use of synthetic-based drilling fluids (SBF). Although oil and gas extraction is covered by existing effluent guidelines, the SBFs are a new technology not addressed in the guidelines, and applying the existing regulations which were developed for water-based and oil-based drilling fluids is not appropriate. The use of SBFs presents an opportunity for environmental gain. On a drilling performance basis, SBFs replace oil-based drilling fluids, but unlike oil-based drilling fluids, SBFs are free of aromatic hydrocarbon priority pollutants, exhibit greatly reduced toxicity, biodegrade relatively rapidly, and do not bioaccumulate. Compared to water-based drilling fluids, SBFs have reduced aquatic toxicity and lower discharge volumes resulting in lower toxic metals discharge. To realize the potential environmental gain, new guidelines specific to the SBFs are necessary to minimize the wastestream volume and control potential contaminants, toxicity, biodegradation, and bioaccumulation.

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5487
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4086

Sectors Affected: 21111 Oil and Gas Extraction

Agency Contact: Ron Kirby, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7168
Fax: 202 260-7185
Email: kirby.ronald@epa.gov

RIN: 2040–AD14

3716. WATER QUALITY STANDARDS FOR ALABAMA—PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1313 CWA 303

CFR Citation: 40 CFR 131

Legal Deadline: None

Abstract: Under the CWA, States have primary authority in developing water quality standards for waters within their jurisdiction. EPA maintains oversight authority in that States must submit their water quality standards to EPA for review and approval or disapproval. If a State's water quality standards are not consistent with the requirements of the CWA and its supporting regulations, and are subsequently disapproved by EPA, the State must revise the disapproved water quality standards. If the State does not revise the disapproved water quality standards, the CWA authorizes the EPA Administrator to promulgate Federal water quality standards to supersede those disapproved provisions in the water quality standards. EPA is developing a proposed federal rulemaking to determine the appropriate use designations for five waterbodies in Alabama subject to outstanding EPA disapprovals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	06/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Additional Information: SAN No. 4264

Agency Contact: William Morrow, Environmental Protection Agency, Water, 4305, Washington, DC 20460
Phone: 202 260-3657
Fax: 202 260-9830
Email: morrow.william@epa.gov

Fritz Wagener, Environmental Protection Agency, Water, Region IV, Atlanta, GA 30303
Phone: 404 562-9267

RIN: 2040–AD35

3717. • UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES - PHASE II

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1322; 33 USC 1361

CFR Citation: 40 CFR 1700

Legal Deadline: Final, Statutory, May 31, 2001.

Abstract: This action is phase II of implementing regulations on Uniform National Discharge Standards for Vessels of the Armed Forces. In 1996 the Clean Water Act was amended to create section 312(n), "Uniform National Discharge Standards for Vessels of the Armed Forces." Section 312(n) directs EPA and DOD to work together to provide Armed Forces vessels with a nationally uniform set of discharge standards, which preempt State discharge standards for these vessels. The purpose of the statute is to allow DOD to plan, design and build environmentally sound vessels, to encourage innovative pollution control technology, and to improve operational flexibility. EPA and DOD jointly promulgated Phase I of these regulations, 40 CFR part 1700, on May 10, 1999 (64 FR 25126). The Phase I rulemaking concluded that 25 discharges from Armed Forces vessels would require control devices. Some of these discharges have the potential to introduce oil or other organics into receiving waters (such as bilge water); some have the potential to introduce copper or other metals (such as fire main); and some have the potential to introduce nonindigenous invasive aquatic species (such as ballast water). Phase II will establish performance standards for control devices for these 25 discharges. Once DOD implements rules for achieving the standards set in phase II, covered discharges from Armed Forces will be required to meet these standards, and will not be subject to discharge standards established by States.

Timetable:

Action	Date	FR Cite
NPRM	03/00/01	
Final Action	01/00/02	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Additional Information: SAN No. 4357

Agency Contact: Gregory Stapleton, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-0141
Fax: 202 260-7185
Email: stapleton.gregory@epa.gov

RIN: 2040–AD39

3718. • EFFLUENT GUIDELINES FOR THE CONSTRUCTION AND DEVELOPMENT INDUSTRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1316 CWA 306; 33 USC 1361 CWA 501

CFR Citation: Not Yet Determined

Legal Deadline: NPRM, Judicial, December 31, 2000.
Final, Statutory, December 31, 2002.

Abstract: The effluent guidelines will apply to construction activities associated with new development, as well as to those associated with re-development activities. The regulations will address storm water runoff from construction sites during the active phase of construction, as well as post-construction runoff. Construction activity is a major source of sediment and other pollutants discharged to the nation's waters. Industries potentially affected by this rulemaking include land developers, home builders, builders of commercial and industrial property, and other private and public sector construction site owners and operators. EPA will develop design criteria for erosion and sediment controls and storm water best management practices (BMPs). These requirements will be implemented in NPDES storm water permits issued to construction site owners and operators.

EPA—Clean Water Act (CWA) **Long-Term Actions**

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
Final Action	12/00/02	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 428

Sectors Affected: 23 Construction

Agency Contact: Eric Strassler, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7150
Fax: 202 260-7185
Email: strassler.eric@epa.gov

RIN: 2040–AD42

Environmental Protection Agency (EPA) **Completed Actions**

Clean Water Act (CWA)

3719. NPDES WASTEWATER PERMIT APPLICATION FORMS AND REGULATORY REVISIONS FOR MUNICIPAL DISCHARGES AND SEWAGE SLUDGE USE OR DISPOSAL

Priority: Other Significant

CFR Citation: 40 CFR 122.21(j); 40 CFR 122.21(q); 40 CFR 501.15(a); 40 CFR 124.8(b); 40 CFR 123.25(a); 40 CFR 123.43(b)

Completed:

Reason	Date	FR Cite
NPRM	12/06/95	60 FR 62545
Final Action	08/04/99	64 FR 42433

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Robin Danesi
Phone: 202 260-2991
Fax: 202 260-1460
Email: danesi.robin@epa.gov

RIN: 2040–AB39

3720. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES POINT SOURCE CATEGORY

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 441

Completed:

Reason	Date	FR Cite
Notice of withdrawal of NPRM	08/18/99	64 FR 45072

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marta Jordan
Phone: 202 260-0817
Fax: 202 260-7185
Email: jordan.marta@epa.gov

RIN: 2040–AB97

3721. AMENDMENTS TO ROUND I FINAL SEWAGE SLUDGE USE OR DISPOSAL RULE—PHASE ONE

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 503 (Revision)

Completed:

Reason	Date	FR Cite
NPRM	10/25/95	60 FR 54771
Final Action	08/04/99	64 FR 42551

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Alan B. Rubin
Phone: 202 260-7589
Fax: 202 260-1036
Email: rubin.alan@epa.gov

RIN: 2040–AC29

3722. GUIDELINES ESTABLISHING OIL AND GREASE TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136

Completed:

Reason	Date	FR Cite
NPRM	01/23/96	61 FR 1730
Notice of Data Availability	10/02/97	62 FR 51621
Final Action	05/14/99	64 FR 26315

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: William A. Telliard
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AC63

3723. STREAMLINING 301(H) WAIVER RENEWAL REQUIREMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 125(g)

Completed:

Reason	Date	FR Cite
No further action planned on this rule.	11/10/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: David Redford
Phone: 202 260-9179

RIN: 2040–AC89

3724. UNIFORM NATIONAL DISCHARGE STANDARDS FOR ARMED FORCES VESSELS—PHASE I

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 1700 "(New)"

Completed:

Reason	Date	FR Cite
NPRM	08/25/98	63 FR 45298
Final Action	05/10/99	64 FR 25126

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Ronald Jordan
Phone: 202 260-7115

RIN: 2040–AC96

3725. EFFLUENT GUIDELINES AND STANDARDS FOR THE PULP, PAPER, AND PAPERBOARD CATEGORY; INCENTIVES AMENDMENT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 430

EPA—Clean Water Act (CWA)

Completed Actions

Completed:

Reason	Date	FR Cite
NPRM	04/15/98	63 FR 18795
Final Action	07/07/99	64 FR 36580

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Mark Perez
Phone: 202 260-2275
Fax: 202 260-7185
Email: perez.mark@epa.gov

RIN: 2040–AD05

3726. TEST PROCEDURES FOR THE ANALYSIS OF MERCURY UNDER THE CLEAN WATER ACT

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 136

Completed:

Reason	Date	FR Cite
NPRM	05/26/98	63 FR 28868
Final Action	06/08/99	64 FR 30417

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Maria Gomez-Taylor
Phone: 202 260-1639
Email: gomez-taylor.maria@epamail.epa.gov
William A. Telliard
Phone: 202 260-7134
Fax: 202 260-7185
Email: telliard.william@epa.gov

RIN: 2040–AD07

3727. EFFLUENT GUIDELINES AND STANDARDS FOR THE ORE MINING AND DRESSING POINT SOURCE CATEGORY, GOLD PLACER MINE SUBCATEGORY (COMPLETION OF A SECTION 610 REVIEW)

Priority: Info./Admin./Other

Legal Authority: 33 USC 1311; 33 USC 1316; 33 USC 1361; 5 USC 610

CFR Citation: 40 CFR 440

Legal Deadline: None

Abstract: In 1988, EPA issued final effluent guidelines for the Gold Placer Mine Subcategory of the Ore Mining and Dressing Point Source Category. In the April 27, 1998 issue of the Regulatory Agenda, EPA announced the review of the Placer Mine effluent guidelines under Section 610 of the Regulatory Flexibility Act, and solicited public comment on whether additional changes to that rule would further reduce impacts on small entities while still accomplishing the objectives of the statute authorizing the rule. We did not receive any comments. In addition to soliciting public comment, EPA also reviewed the rule and related factors to determine whether the Placer Mine effluent guidelines should be continued without change, or should be amended or rescinded, to minimize economic impacts on small entities while still complying with the provisions of the Clean Water Act. EPA completed its review and concludes that the effluent limitations for the Gold Placer Mine Subcategory are a necessary component of the comprehensive program to restore and maintain the quality of our Nation's waters and should be continued in effect without change. With this notice, EPA concludes its section 610 review of this rule.

Completed:

Reason	Date	FR Cite
Final Rule	05/24/88	53 FR 18764
End Review Rule to remain unchanged.	09/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: SAN No. 4133

Sectors Affected: 212221 Gold Ore Mining

Agency Contact: Ron Kirby, Environmental Protection Agency, Water, 4303, Washington, DC 20460
Phone: 202 260-7168
Fax: 202 260-7185
Email: kirby.ronald@epa.gov

RIN: 2040–AD13

Environmental Protection Agency (EPA)
Safe Drinking Water Act (SDWA)

Proposed Rule Stage

3728. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Regulatory Plan: This entry is Seq. No. 117 in Part II of this issue of the **Federal Register**.

RIN: 2040–AA94

3729. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUND WATER RULE

Regulatory Plan: This entry is Seq. No. 118 in Part II of this issue of the **Federal Register**.

RIN: 2040–AA97

3730. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ARSENIC

Regulatory Plan: This entry is Seq. No. 119 in Part II of this issue of the **Federal Register**.

RIN: 2040–AB75

3731. LONG TERM 1 ENHANCED SURFACE WATER TREATMENT/FILTER BACKWASH RULE

Regulatory Plan: This entry is Seq. No. 120 in Part II of this issue of the **Federal Register**.

RIN: 2040–AD18

3732. USE OF SCREENING PROCEDURES FOR COMPLIANCE MONITORING OF DRINKING WATER CONTAMINANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300(f) SDWA 1401; 42 USC 300(g)(1) SDWA 1412; 42 USC 300(j)(4) SDWA 1445

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: The 1996 Safe Drinking Water Act (SDWA) Amendments require EPA to review new analytical methods that may be used for regulated contaminants screening or analysis, including screening methods. After this review, EPA may approve such methods that are deemed more accurate or cost-effective than established

EPA—Safe Drinking Water Act (SDWA) **Proposed Rule Stage**

reference methods for use in compliance monitoring or the monitoring of unregulated contaminants. In this regulatory effort, EPA proposes to integrate the use of screening methods in the overall scheme of drinking water compliance monitoring. Efforts will be made to keep the proposal consistent with the Office of Water plan for Performance Based Methods (PBMS). EPA will identify regulated contaminates, types of monitoring and specific areas within each monitoring framework which are amenable to the use of screening methods. A logical application of screening procedures would be in a tiered monitoring mode where Tier 1 (screening phase) would identify the principal problem areas while Tier 2 would use sampling and analysis to more carefully identify and quantify specific contaminants. EPA would identify specific screening methods which are available for use based on their performance characteristics, tolerance to sample interferences, validation for drinking water analysis and correlation of results with traditional instrumental methods. The use of screening methods is expected to make drinking water compliance monitoring cheaper and faster, and provide flexibility to the Public Water Systems in the choice of analytical methods. Laboratory acceptance limits and other method performance requirements that were specified under previous rules will not be changed in this rule making. This proposal would only add new analytical methods and/or analytical approaches and would not withdraw or modify previously approved methods.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	04/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4212

Agency Contact: Dr. Richard Reding, Environmental Protection Agency, Water, U.S.EPA Facilities, Cincinnati, OH 45268
Phone: 513 569-7961
Fax: 513 569-7191
Email: reding.richard@epa.gov

Dr. Jitendra Saxena, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-9579
Fax: 202 260-3762
Email: saxena.jitendra@epa.gov

RIN: 2040–AD31

Environmental Protection Agency (EPA) **Final Rule Stage**
Safe Drinking Water Act (SDWA)

3733. REVISIONS TO THE UNDERGROUND INJECTION CONTROL REGULATIONS FOR CLASS V INJECTION WELLS

Priority: Other Significant

Legal Authority: 42 USC 300(h) SDWA 1421 to 1425

CFR Citation: 40 CFR 144; 40 CFR 145; 40 CFR 146

Legal Deadline: NPRM, Judicial, July 18, 1998.
Final, Judicial, November 29, 1999.

Abstract: This rule is formerly known as Management of Class V Injection Wells under Part C of the Safe Drinking Water Act (SWDA). The EPA proposed changes to the Class V Underground Injection Control (UIC) regulations that would add new requirements for categories of Class V wells that pose a high risk when located in ground water-based source water protection areas being delineated by States under the 1996 Amendments to the Safe Drinking Water Act. EPA proposed these new requirements to address three categories of wells that it has identified as posing a high risk of ground water contamination based on available information. Class V wells that may be impacted by the regulation include motor vehicle waste disposal wells, industrial waste disposal wells, and large-capacity cesspools in ground water-based source water protection areas. Targeting the requirements to those wells will achieve substantial protection of underground sources of drinking water.

Timetable:

Action	Date	FR Cite
NPRM	08/28/95	60 FR 44652
NPRM 2 Reproposal	07/29/98	63 FR 40585
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 2778

Sectors Affected: 4411 Automobile Dealers; 4412 Other Motor Vehicle Dealers; 447 Gasoline Stations; 484 Truck Transportation; 485 Transit and Ground Passenger Transportation; 532 Rental and Leasing Services; 8111 Automotive Repair and Maintenance; 7212 RV (Recreational Vehicle) Parks and Recreational Camps

Agency Contact: Robyn Delehanty, Environmental Protection Agency, Water, 4606, Washington, DC 20460
Phone: 202 260-1993
Fax: 202 401-2345
Email: delehanty.robyn@epa.gov

RIN: 2040–AB83

3734. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LEAD AND COPPER

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300(f) SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA will promulgate revisions to the National Primary Drinking Water Regulations for Lead and Copper published June 7, 1991. The basic lead and copper regulations will remain intact; however, EPA will promulgate minor revisions to refine specific requirements and improve implementation of the rule. Some of these revisions are deregulatory in nature, in that they will lessen monitoring requirements for public water systems which have consistently shown very low levels of lead and copper at the tap. EPA also plans to promulgate changes that will provide many community water systems more flexibility in the delivery of lead public

EPA—Safe Drinking Water Act (SDWA)

Final Rule Stage

education requirements, and allow States to invalidate inappropriate samples. Other revisions would promote consistent national implementation by clarifying the monitoring requirements that apply in different circumstances. Finally, EPA plans to respond to a remand in American Water Works Association v. EPA, on portions of the Lead and Copper regulation by promulgating a revised definition of control as it applies to lead service line replacement and to address the current exemption of transient non-community water systems from coverage under the rule. Nationally, EPA estimates the changes will not affect the cost or benefits of the Lead and Copper Rule significantly. State governments may experience a minor increase in costs as a result of these revisions. Many local and tribal governments and small businesses that operate public water systems should experience a small decrease in annual costs.

Timetable:

Action	Date	FR Cite
NPRM	04/12/96	61 FR 16348
NOA	04/22/98	63 FR 20038
NOA	08/18/98	63 FR 44214
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 344

Agency Contact: Judy Lebowich, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-7595

RIN: 2040–AC27

3735. REFORMATTING OF DRINKING WATER REGULATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300(f) SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: This rule reformats the current drinking water regulations to make them easier to understand and follow. This rule is not intended to change any of the regulatory requirements. The rule affects State, local and tribal governments in that it makes the rules easier to implement and thus facilitates their jobs.

Timetable:

Action	Date	FR Cite
Direct Final Rule	03/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 3563

Agency Contact: Evelyn Washington, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-3029

RIN: 2040–AC41

3736. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIUM, URANIUM, ALPHA, BETA AND PHOTON EMITTERS

Priority: Other Significant

Legal Authority: 42 USC 300(f) SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Final, Judicial, November 18, 2000, for Uranium. Other, Judicial, November 30, 2000, See additional information.

Abstract: Standards for radium, alpha, and beta and photon emitters were promulgated in 1976. They were included in the list of 83 contaminants for regulation (because they had MCLs but not MCLGs), along with uranium and radon, in the 1986 Safe Drinking Water Act (SDWA) Amendments. Regulations for uranium, radium 226, radium 228, and gross alpha and beta particles were proposed on July 18, 1991. The 1991 proposal was to raise the standard for radium 226/228 from combined level of 5 pCi/l to a separate standard of 20 pCi/l, and proposed uranium at 20 ug/l. Pursuant to court order, EPA will take final action on proposed uranium regulations by November, 2000, and final action on radium, alpha, beta, and photon emitters or state reasons for not taking final action by November, 2000.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM	07/18/91	56 FR 33050
NODA	11/00/99	
Final Action	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3992

Judicial Deadline Description: Final or rationale for not taking final action on Radium, Alpha, Beta and Photon emitters.

Agency Contact: David Huber, Environmental Protection Agency, Water, 4607, Washington, DC 20460 Phone: 202 260-9566 Fax: 202 260-3762 Email: huber.david@epa.gov

RIN: 2040–AC98

3737. NATIONAL PRIMARY AND SECONDARY DRINKING WATER REGULATIONS: ANALYTICAL METHODS FOR CHEMICAL AND MICROBIOLOGICAL CONTAMINANTS AND REVISIONS TO LABORATORY CERTIFICATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 300(f) SDWA 1401; 42 USC 300(g)(1) SDWA 1412

CFR Citation: 40 CFR 141; 40 CFR 143

Legal Deadline: None

Abstract: In this rule, EPA approves the use of updated versions of 25 American Society for Testing and Materials (ASTM), 54 Standard Methods for Examination of Water and Wastewater (Standard Methods) and 13 Environmental Protection Agency (EPA) analytical methods for compliance determinations of chemical contaminants in drinking water. EPA is also approving use of a new medium and two new methods for simultaneous determination of total coliforms and E. coli., a new method for determination of lead, six new methods for determination of magnesium, and two new methods for determination of acid herbicides. In addition, the Agency is making several technical corrections or clarifications to the regulations,

amending the regulation to change the composition of Performance Evaluation (PE) samples, requiring a successful PE sample analysis each year for chemical analyses, and requiring method specific laboratory certification criteria for reporting compliance data.

Timetable:

Action	Date	FR Cite
NPRM	07/31/98	63 FR 41133
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Organizations, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4044

Two previous listed rules in the Regulatory Agenda have been merged into this rule. These rules are the National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides; SAN 4257; RIN: 2040-AD29 and the National Primary and Secondary Drinking Water Regulations: Analytical Methods for Microbes, Lead and Magnesium; SAN 4221; RIN: 2040-AD30. These are listed as completed" elsewhere in the Agenda.

Agency Contact: Dr. Jitendra Saxena, Environmental Protection Agency, Water, 4603, Washington, DC 20460
Phone: 202 260-9579
Email: saxena-jitendra@epa.gov

Dr. Richard Reding, Environmental Protection Agency, Water, U.S.EPA Facilities, Cincinnati, OH 45268
Phone: 513 569-7961
Fax: 513 569-7191
Email: reding.richard@epa.gov

RIN: 2040–AD04

3738. PUBLIC WATER SYSTEM PUBLIC NOTIFICATION REGULATION

Regulatory Plan: This entry is Seq. No. 135 in Part II of this issue of the **Federal Register**.

RIN: 2040–AD06

3739. DRINKING WATER STATE REVOLVING FUND REGULATIONS

Priority: Other Significant

Legal Authority: 42 USC 300j-12 SWDA 1452 (g)(3)

CFR Citation: 40 CFR 35

Legal Deadline: None

Abstract: The Safe Drinking Water Act (SDWA) Amendments of 1996 established a Drinking Water State Revolving Fund (DWSRF) program to assist public water systems in financing the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to further the public health objectives of the Act. The SWDA amendments authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to States, which in turn provide low cost loans and other types of assistance to eligible systems. A State determines the portion of the funds from the capitalization grant to conduct set-aside activities and the remaining grant monies are deposited into the project Fund to finance infrastructure projects. Each State has considerable flexibility, with minimum Federal requirements imposed, to determine the design of its DWSRF program and to direct funding toward its most pressing compliance and public health needs. This regulation is intended to codify the DWSRF Final Guidelines published in February, 1997 which explain: what States must do to receive a DWSRF capitalization grant; what States may do with Federal capitalization grant funds; what States may do with funds the law intends for activities other than project construction (set-asides); and the roles of both the States and EPA in managing and administering the program. The DWSRF program helps to ensure that the Nation's drinking water supplies remain safe and affordable, that drinking water systems that receive funding are properly operated and maintained, and that permanent institutions exist in each State to provide financial support for drinking water needs.

Timetable:

Action	Date	FR Cite
Interim Final	03/00/00	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Local, State

Additional Information: SAN No. 4152

Agency Contact: Kimberley Roy, Environmental Protection Agency, Water, 4606, Washington, DC 20460
Phone: 202 260-2794
Fax: 202 401-2345
Email: roy.kimberley@epa.gov

RIN: 2040–AD20

3740. • UPDATE OF STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Priority: Info./Admin./Other

Legal Authority: 42 USC 300h-1 SDWA Section 1422; 42 USC 300h-4 SDWA Section 1425

CFR Citation: 40 CFR 147 (Revision)

Legal Deadline: None

Abstract: EPA provides a place in its regulations where all the State UIC programs are summarized. Included in this summarization are all the authorities and regulations used by the States to implement the UIC program, as well as all other documents that are relevant to the program. The primary reason for the codification of this descriptive information is to clarify which State requirements in a primacy State EPA can enforce directly. This effort is an update of the existing Part 147 and should have no impact on the regulated community.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: SAN No. 4236

Agency Contact: Mario Salazar, Environmental Protection Agency, Water, 4606, Washington, DC 20460
Phone: 202 260-2363
Fax: 202 260-0732
Email: salazar.mario@epa.gov

Bruce Kobelski, Environmental Protection Agency, Water, 4606, Washington, DC 20460
Phone: 202 260-7275
Fax: 260 202-4656

RIN: 2040–AD40

EPA—Safe Drinking Water Act (SDWA)

Final Rule Stage

3741. • REVISION TO THE INTERIM ENHANCED SURFACE WATER TREATMENT RULE (IESWTR) AND THE STAGE 1 DISINFECTANTS AND DISINFECTION BYPRODUCTS RULE (DBPR).

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 300(f)-300(j) SWDA 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: This action will make minor revisions to the IESWTR and the DBPR which were published December 16, 1998. The primary purpose of this Direct Final Rule is to revise the compliance date of both rules. A key outcome of this change will be to shift the monitoring periods to coincide with standard quarters, which will facilitate the implementation of both rules. This action will also extend the use of new analytical methods for Total Trihalomethanes (TTHM), that are included in these rules, for compliance with existing drinking water regulations. The revisions also include a few minor changes to the regulatory language which will clarify interpretation of the regulatory requirements. EPA intends to publish technical corrections to these two rules concurrent with this direct final rule.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4281

Agency Contact: Heather L. Shank-Givens, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-0063
Fax: 202 401-6135
Email: givens.heather@epa.gov

RIN: 2040–AD43

Environmental Protection Agency (EPA)
Safe Drinking Water Act (SDWA)

Long-Term Actions

3742. NATIONAL PRIMARY DRINKING WATER REGULATIONS: SULFATE

Priority: Other Significant

Legal Authority: 42 USC 300(f) SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: Other, Statutory, August 6, 2001, Decision whether or not to regulate.

Abstract: Sulfate is on the list of 83 contaminants required to be regulated under the Safe Drinking Water Act (SDWA) of 1986. The contaminant was deferred from the Phase V regulation in order to allow the EPA time to focus on implementation issues arising from the proposal concerning the risk of sulfate in drinking water to specific subpopulations. Sulfate can cause diarrhea in infants and in adults not acclimated to high sulfate-containing water, such as travelers. Persons who are acclimated to high sulfate-containing water suffer no adverse effects from its consumption. Sulfate occurs naturally in soil and is also found in surface water as a result of acid rain. Sulfate is also used as a reagent in steel and copper industries and in the manufacture of copper sulfate, a fungicide/algicide. An estimated 2,000 systems—serving a population of 200,000 residents, 1 million travelers, and 30,000 infants—are likely to be affected by this regulation. Most of the affected systems serve populations of less than 3,000 and are transient systems not in service year-round. EPA proposed but never finalized several options for compliance which would be an alternative to central treatment and less costly. The 1996 amendments to the SDWA call for a definitive study to resolve remaining health risk questions. Thereafter, EPA is to make a determination whether or not to regulate sulfate. EPA and the Centers for Disease Control have conducted the health risk study for sulfate. The results of the study will serve as the basis for the Agency's determination on whether to regulate sulfate.

Timetable:

Action	Date	FR Cite
NPRM	12/20/94	59 FR 65578
Notice Sulfate Study	02/11/99	64 FR 7028
Final Action Decision to regulate or not	08/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3176

Agency Contact: Irene Dooley, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-9531
Fax: 202 260-3762
Email: dooley.irene@epa.gov

James Taft, Environmental Protection Agency, Water, 4603, Washington, DC 20460
Phone: 202 260-5519
Email: taft.james@epa.gov

RIN: 2040–AC07

3743. NATIONAL PRIMARY DRINKING WATER STANDARDS FOR ALDICARB

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 300(f) SDWA sec 1412

CFR Citation: 40 CFR 141; 40 CFR 142

Legal Deadline: None

Abstract: EPA promulgated MCLs for aldicarb, aldicarb sulfoxide, and aldicarb sulfone in the Phase II rulemaking in 1991 at levels of 7 ug/l each. In response to an administrative petition from the manufacture Rhone-Poulenc, the Agency issued an administrative stay of the effective date. EPA will reexamine risk assessment and occurrence data on aldicarb. EPA will then make a determination of what further action may be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3238

Agency Contact: Corry Westbrook, Environmental Protection Agency, Water, 4603, Washington, DC 20460 Phone: 202 260-3228

RIN: 2040–AC13

3744. STREAMLINING DRINKING WATER MONITORING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 300(f)(4) SDWA sec 1445

CFR Citation: 40 CFR 141.2; 40 CFR 141.23; 40 CFR 142.14; 40 CFR 142.16; 40 CFR 142.18

Legal Deadline: Final, Statutory, August 6, 1998.

Abstract: The current drinking water monitoring requirements vary by contaminant (e.g., inorganic vs. organic), the source of the supply (i.e., surface water vs. ground water) and by system size. After an initial series of samples, the sampling frequency increases or decreases based on the results of the initial series. Because there are numerous permutations to the possible frequencies at any one sampling point, the requirements are difficult to understand. And because the requirements presume all systems are contaminated, many systems have conducted expensive monitoring without finding any contamination. EPA intends to simplify and improve the cost effectiveness of the current requirements for chemical contaminants by reducing the number of variables upon which the sampling frequencies turn, by providing greater latitude for State discretion in customizing the sampling frequencies to local circumstances (i.e., vulnerability to contamination) and by consolidating subsections wherever possible. The Agency issued a Federal Register Notice on July 30, 1998 indicating that the monitoring requirements had been reviewed and that no changes were being made at that time. The Agency, however, is evaluating additional data to determine whether any changes may be necessary in the future and looking at other options to streamline the regulations.

Timetable:

Action	Date	FR Cite
ANPRM	07/03/97	62 FR 36099
Notice of Review	07/30/98	63 FR 40709
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 3761

Agency Contact: Ed Thomas, Environmental Protection Agency, Water, 4606, Washington, DC 20460 Phone: 202 260-0910

RIN: 2040–AC73

3745. • LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 40 USC 300g-1(b)

CFR Citation: 40 CFR 9; 40 CFR 141 to 142

Legal Deadline: NPRM, Statutory, February 28, 2001.
Final, Statutory, May 31, 2002.

Abstract: The Long Term 2 Enhanced Surface Water Treatment Rule LT2ESWTR) will control risk from microbial pathogens in drinking water. It is being developed simultaneously with the Stage 2 Disinfectants and Disinfection Byproducts Rule (DBPR) which will address risk caused by the use of disinfectants in drinking water. This rule could affect all public water systems that use surface water as a source. Promulgating the LT2ESWTR and the Stage 2 DBPR as a paired rulemaking is necessary to ensure that adequate protection from microbial risk is maintained while EPA manages risk from disinfection byproducts. EPA is required to promulgate the Stage 2 DBPR by May, 2002, under the 1996 Safe Drinking Water Act amendments. In developing the LT2ESWTR, EPA will analyze a significant body of new survey data on microbial pathogens in source and finished waters, as well as data on parameters which could serve as indicators of microbial risk. This survey data, which was collected under the Information Collection Rule (ICR), Supplemental Surveys to the ICR, and additional research projects, will provide a substantially more comprehensive and complete picture of the occurrence of waterborne pathogens than was available previously. EPA will also use significant new data on the efficiency of treatment processes for the removal and inactivation of microorganisms, as well as new information on the toxicity of certain pathogens, to determine effective regulatory requirements for controlling microbial risk. On March 30, 1999 EPA established a committee of stakeholders under the Federal Advisory Committee Act (FACA) to assist in the development of these rules. The FACA committee is scheduled to make recommendations on rule options to EPA in April, 2000.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4341

Agency Contact: Dan Schmelling, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-1439
Fax: 202 401-6135
Email: schmelling.dan@epa.gov

Thomas Grubbs, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-7270
Fax: 202 401-6135
Email: grubbs.thomas@epa.gov

RIN: 2040–AD37

EPA—Safe Drinking Water Act (SDWA) — Long-Term Actions

3746. • STAGE 2 DISINFECTANTS/DISINFECTION BYPRODUCTS RULE

Priority: Economically Significant. Major under 5 USC 801.

Unfunded Mandates: This action may affect State, local or tribal governments and the private sector.

Legal Authority: 40 USC 300g-1(b)

CFR Citation: 40 CFR 9; 40 CFR 141 to 142

Legal Deadline: NPRM, Statutory, February 28, 2001.
Final, Statutory, May 22, 2002.

Abstract: The 1996 Safe Drinking Water Act Amendments require EPA to promulgate a Stage 2 Disinfectants/Disinfection Byproducts Rule (Stage 2 DBPR) by May, 2002. EPA plans to propose this rule in February, 2001. The Regulation, along with a Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) that will be promulgated simultaneously, is intended to expand existing public health protections and address concerns about risk trade-offs between pathogens and disinfection byproducts. This rule could affect all public water systems that add a disinfectant to the drinking water during any part of the treatment process although the impacts may be limited to community water systems (CWSs) and non-transient non-community water systems (NTNCWSs). Promulgating the LT2ESWTR and the Stage 2 DBPR as a paired rulemaking is necessary to ensure that adequate protection from microbial risk is maintained while EPA manages risk from disinfection byproducts. EPA is required to promulgate the Stage 2 DBPR by May, 2002, under the 1996 Safe Drinking Water Act amendments. In developing the Stage 2 DBPR, EPA will analyze a significant body of new survey data on source water quality parameters and disinfection byproduct formation and occurrence. This survey data, which was collected under the Information Collection Rule (ICR), Supplemental Surveys to the ICR, and additional research projects, will provide a substantially more comprehensive and complete picture of the occurrence of DBPs than was available previously. EPA will also use new information on the health effects of exposure to DBPs to determine effective regulatory requirements for controlling risk. On March 30, 1999 EPA established a committee of stakeholders under the Federal Advisory Committee Act (FACA) to assist in the development of these rules. The FACA committee is scheduled to make recommendations on rule options to EPA in April, 2000.

Timetable:

Action	Date	FR Cite
NPRM	02/00/01	
Final Action	05/00/02	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local, Tribal, Federal

Additional Information: SAN No. 4342

Agency Contact: Jennifer McLain, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-0431
Fax: 202 401-6135
Email: mclain.jennifer@epa.gov

Thomas Grubbs, Environmental Protection Agency, Water, 4607, Washington, DC 20460
Phone: 202 260-7270
Fax: 202 401-6135
Email: grubbs.thomas@epa.gov

RIN: 2040–AD38

Environmental Protection Agency (EPA) — Completed Actions
Safe Drinking Water Act (SDWA)

3747. DRINKING WATER UNREGULATED CONTAMINANT MONITORING PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141.35(a) to (d); 40 CFR 141.40(a) to (n)

Completed:

Reason	Date	FR Cite
NPRM	04/30/99	64 FR 23397
Final Action	09/17/99	64 FR 50555

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Charles Job
Phone: 202 260-7084
Fax: 202 260-3762
Yvette Selby
Phone: 202 260-4050

RIN: 2040–AD15

3748. FILTER BACKWASH RECYCLING REGULATION

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 40 CFR 141; 40 CFR 142

Completed:

Reason	Date	FR Cite

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Steve Potts
Phone: 202 260-5015
Fax: 202 410-6135
Email: potts.steve@epa.gov

RIN: 2040–AD17

3749. NATIONAL PRIMARY AND SECONDARY DRINKING WATER REGULATIONS: ANALYTIC METHODS FOR ORGANIC, INORGANIC AND MICROBIOLOGICAL CONTAMINANTS AND PESTICIDES

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141; 40 CFR 143

Completed:

Reason	Date	FR Cite
Direct Final Rule	09/03/98	63 FR 47097
NPRM	09/03/98	63 FR 47115
Direct Final Withdrawn	12/31/98	63 FR 72200

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Jitendra Saxena
Phone: 202 260-9579
Email: saxena-jitendra@epa.gov

RIN: 2040–AD29

EPA—Safe Drinking Water Act (SDWA) **Completed Actions**

3750. NATIONAL PRIMARY DRINKING WATER REGULATIONS: ANALYTICAL METHODS FOR MICROBIAL, LEAD AND MAGNESIUM

Priority: Substantive, Nonsignificant

CFR Citation: 40 CFR 141.21; 40 CFR 141.23

Completed:

Reason	Date	FR Cite
NPRM	01/14/99	64 FR 2538

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal, Federal

Agency Contact: Paul S. Berger
Phone: 202 260-3039
Email: berger.paul@epa.gov

RIN: 2040–AD30

Environmental Protection Agency (EPA) **Long-Term Actions**

Marine Protection Research and Sanctuary Act (MPRSA)

3751. REVISIONS TO OCEAN DUMPING REGULATIONS FOR DREDGED MATERIAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 33 USC 1401 et seq MPRSA

CFR Citation: 40 CFR 225; 40 CFR 227; 40 CFR 228

Legal Deadline: None

Abstract: This rulemaking would revise the regulations applicable to the ocean dumping of dredged material. Issuance of these regulations would respond to the decision in National Wildlife Federation v. Costle, 629 F. 2d. 118 (DC Cir.1980) and incorporate program experience gained since the issuance of the current regulations in 1977. The revisions will make necessary technical changes and will improve the clarity of the regulations, with supporting technical guidance on disposal site selection, site management, and site monitoring. These revisions will clarify issues that have caused delays in the evaluation of permit applications. The regulations will improve environmental assessments of permit applications, and improve the protection of benthic communities in the vicinity of a dump site. The regulations will affect local governments if they are responsible for maintenance of navigable waters by dredging and request a permit for disposal of dredged material in the ocean.

Timetable:

Action	Date	FR Cite
NPRM	12/00/02	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local, Federal

Additional Information: SAN No. 2737

Agency Contact: David Redford, Environmental Protection Agency, Water, 4504F, Washington, DC 20460
Phone: 202 260-9179

RIN: 2040–AB62

Environmental Protection Agency (EPA) **Final Rule Stage**

Shore Protection Act (SPA)

3752. SHORE PROTECTION ACT, SECTION 4103(B) REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 2601 Shore Protection Act of 1988; PL 100-6-88 4103(b)

CFR Citation: 40 CFR 237

Legal Deadline: None

Abstract: This rule will implement the Shore Protection Act (SPA) and is designed to prevent the deposit of municipal and commercial waste into U.S. Coastal Waters. This rule establishes minimum waste handling practices for vessels and waste handling facilities involved in the transport of municipal or commercial wastes in the coastal waters of the U.S. The rule may require certain vessels and waste handling facilities to develop an operation and maintenance manual that identifies procedures to prevent, report, and clean up deposits of waste into coastal waters. Local governments and businesses involved with the vessel transportation and shore side handling of these wastes would be affected by this rule. Currently no tribes are known to be involved in waste handling of this type; therefore none would be affected by this rule. In regards to small businesses, EPA has provided guidance on development of operation and maintenance manuals and encourages the use and documentation of existing industry practices that meet or exceed the EPA proposed minimum waste handling standards. All indications are that this regulation as proposed would have a minimal economic impact. This regulation will result in reduction of municipal and commercial wastes deposited in coastal waters.

Timetable:

Action	Date	FR Cite
NPRM	08/30/94	59 FR 44798
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local

Additional Information: SAN No. 282

Agency Contact: James Woodley, Environmental Protection Agency, Water, 4504F, Washington, DC 20460
Phone: 202 260-1998

EPA—Shore Protection Act (SPA) **Final Rule Stage**

Email: woodley.james@epamail.epa.gov

RIN: 2040–AB85

[FR Doc. 99–27970 Filed 11–19–99; 8:45 am

BILLING CODE 6560–50–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XXIII

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

Equal Employment Opportunity Commission (EEOC)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) is publishing its semiannual regulatory agenda pursuant to Executive Order 12866, 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. chapter 6. The agenda lists all regulations that are scheduled for review or development during the next 12 months or that have been finalized since the publication of the last agenda.

FOR FURTHER INFORMATION CONTACT: Ellen J. Vargyas, Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507; telephone (202) 663-7197.

SUPPLEMENTARY INFORMATION: The Commission has identified nine current and projected regulations for inclusion in this regulatory agenda. Five of these items are completed and four are currently under development or review by Commission staff.

For this edition of EEOC's regulatory agenda, the most important significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents and are denoted by bracketed bold references, which direct the reader to the appropriate sequence numbers in part II.

Signed in Washington, DC, this 2nd day of September 1999.

For the Commission.

Ida L. Castro,

Chairwoman.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3753	Federal Sector Equal Employment Opportunity **(Reg Plan Seq No. 138)**	3046-AA57

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3754	Waivers of Rights and Claims: Tender Back of Consideration **(Reg Plan Seq No. 139)**	3046-AA68

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3755	Procedures—The Age Discrimination in Employment Act	3046-AA54
3756	Disparate Impact under the Age Discrimination in Employment Act (ADEA)	3046-AA64

Completed Actions

Sequence Number	Title	Regulation Identification Number
3757	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees	3046-AA56
3758	Procedures for Collection of Debts by Administrative Offset	3046-AA65
3759	Federal Sector Equal Employment Opportunity Procedures	3046-AA66
3760	Availability of Records	3046-AA67
3761	Coordination of Functions: Memorandum of Understanding Between EEOC and Department of Labor, Office of Federal Contract Compliance Programs	3046-AA69

Equal Employment Opportunity Commission (EEOC) — Proposed Rule Stage

3753. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Regulatory Plan: This entry is Seq. No. 138 in Part II of this issue of the **Federal Register**.

RIN: 3046–AA57

Equal Employment Opportunity Commission (EEOC) — Final Rule Stage

3754. WAIVERS OF RIGHTS AND CLAIMS: TENDER BACK OF CONSIDERATION

Regulatory Plan: This entry is Seq. No. 139 in Part II of this issue of the **Federal Register**.

RIN: 3046–AA68

Equal Employment Opportunity Commission (EEOC) — Long-Term Actions

3755. PROCEDURES—THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628, sec 115, Civil Rights Act of 1991

CFR Citation: 29 CFR 1626

Legal Deadline: None

Abstract: Section 115 of the Civil Rights Act of 1991 deleted references to the Portal to Portal Act from the private suit provisions of the Age Discrimination in Employment Act (ADEA) and replaced them with a requirement that suit be filed no later than 90 days after termination of proceedings or dismissal of a charge by EEOC. Accordingly, section 1626.7(a) is being deleted and section 1626.15(b) is being revised because they were both based upon the Portal to Portal Act. New sections are being added concerning termination of EEOC proceedings and the issuance of notices of the new 90-day limitation period.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA54

3756. DISPARATE IMPACT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 628

CFR Citation: 29 CFR 1625.7 (Revision); 29 CFR 1625.23 (New)

Legal Deadline: None

Abstract: The Commission proposes to issue legislative regulations to reaffirm and clarify its long-standing interpretive rule regarding the availability of the disparate impact theory under the ADEA. The proposed rule also would set forth the nature and order of proof in such disparate impact cases.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph N. Cleary, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW, Washington, DC 20507
Phone: 202 663-4647
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA64

Regulation Identification Number

3046-AA57

Regulation Identification Number

3046-AA68

Regulation Identification Number

3046-AA54
3046-AA64

Regulation Identification Number

3046-AA56
3046-AA65
3046-AA66
3046-AA67

3046-AA69

Equal Employment Opportunity Commission (EEOC) **Completed Actions**

3757. PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION BY PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 1603

Completed:

Reason	Date	FR Cite
Final Action	05/27/99	64 FR 28743

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Thomas J. Schlageter
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA56

3758. PROCEDURES FOR COLLECTION OF DEBTS BY ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

CFR Citation: 29 CFR 1650

Completed:

Reason	Date	FR Cite
Final Action	05/28/99	64 FR 28916

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA65

3759. FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY PROCEDURES

Priority: Other Significant

CFR Citation: 29 CFR 1614

Completed:

Reason	Date	FR Cite
Final Action	07/12/99	64 FR 37644

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Thomas J. Schlageter
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA66

3760. AVAILABILITY OF RECORDS

Priority: Info./Admin./Other

CFR Citation: 29 CFR 1610

Completed:

Reason	Date	FR Cite
Final Action	08/19/99	64 FR 45164

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas J. Schlageter
Phone: 202 663-4669
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA67

3761. COORDINATION OF FUNCTIONS: MEMORANDUM OF UNDERSTANDING BETWEEN EEOC AND DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Final Notice	04/12/99	64 FR 17664

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Carol Miaskoff
Phone: 202 663-4689
TDD Phone: 202 663-7026
Fax: 202 663-4639

RIN: 3046–AA69

[FR Doc. 99–23641 Filed 11–19–99; 8:45 am]
BILLING CODE 6570–01–F

ed Actions

ysis

ed: None
. Schlageter

UM OF
EN EEOC
BOR,
ITRACT

gnificant
rmined

FR Cite
64 FR 17664

ysis

d: Federal
skoff

-99; 8:45 am]

federal register

Monday,
November 22, 1999

Part XXIV

Federal Emergency Management Agency

Semiannual Regulatory Agenda

Federal Emergency Management Agency (FEMA)

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Emergency Management Agency publishes its semiannual regulatory agenda in April and October to inform interested parties of progress on FEMA regulations. The agenda lists regulations that will be under development or review during the period October 1, 1999 to April 30, 2000.

ADDRESSES: For information about specific regulations, please contact the person listed as the agency contact in the agenda.

FOR FURTHER INFORMATION CONTACT: For general information of FEMA's regulatory agenda, contact H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3340, (FAX) (202) 646-4536 or e-mail Crane.Miller@fema.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" directs each executive agency to publish only such regulations as the law requires, are necessary to interpret the law, or are necessary by compelling public need. We and other Federal departments and agencies publish an agenda of regulations semiannually in order to give you adequate notice of agency rulemaking activities. We also publish a regulatory agenda of rules likely to be significant regulatory actions when that is appropriate.

To fulfill the requirements of Executive Order 12866, this agenda describes current and projected regulatory actions and rules that will be under review or development from October 1, 1999 to April 30, 2000. This agenda also contains information of regulations on which we completed action since the last FEMA semiannual agenda was published Monday, April 26, 1999 at 64 FR 22068 to 22074.

We invite your comments on the agenda, including comments by State and local governments. Comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (FAX) (202) 646–4536 or e–mail rules@fema.gov. Please refer to the title of the rule that you are inquiring about, or commenting on and to the rule's Regulation Identifier Number (RIN) found at the end of each agenda entry.

The agenda is not limited to significant regulatory actions and it contains information about FEMA regulations to be developed, reviewed, or published in the next 12 months, except for routine flood elevation determinations, listings of eligible communities under the National Flood Insurance Program, listings of suspended communities and similar designations under the National Flood Insurance Program, and FEMA organizational and management matters.

Dated: September 15, 1999.

Ernest B. Abbott,

General Counsel

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3762	Flood Mitigation Assistance Program	3067-AC45
3763	Criminal and Civil Penalties Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act	3067-AC61
3764	National Dam Safety Program; Assistance for State Programs	3067-AC64
3765	Disaster Assistance; Fire Suppression Assistance	3067-AC68
3766	Disaster Assistance; Hazard Mitigation Grant Program	3067-AC69
3767	Production or Disclosure of Information	3067-AC75
3768	Taxpayer Identification Numbers	3067-AC76
3769	Debt Collection	3067-AC77
3770	National Flood Insurance Program: Inspection of Insured Structures by Communities	3067-AC79
3771	Debt Collection	3067-AC84
3772	Fee for Services To Support FEMA's Offsite Radiological Emergency Preparedness Program	3067-AC87
3773	Disaster Assistance; Insurance Requirements for the Public Assistance Program	3067-AC90
3774	National Urban Search and Rescue Response System	3067-AC93
3775	Administration of Grants: Audits of States, Local Governments, and Non-Profit Organizations	3067-AC98
3776	National Flood Insurance Program; Insurance Coverage and Rates	3067-AD00
3777	National Flood Insurance Program; Revisions to the Standard Flood Insurance Policy	3067-AD01
3778	National Flood Insurance Program; Insurance Coverage and Rates	3067-AD02
3779	Organizational Units, Functions and Delegations of Authority	3067-AD03

Completed Actions

Sequence Number	Title	Regulation Identification Number
3780	Group Flood Insurance Policy for Individual and Family Grant Program	3067-AC35
3781	Organization, Functions and Delegation of Authorities	3067-AC66

VOL 64 ISS 224 NO 22 1999 UMI

FEMA

Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3782	Enforcement Under Title IX of the Education Amendments of 1972	3067-AC71
3783	Disaster Assistance; Cost-share Adjustment	3067-AC72
3784	National Earthquake Hazards Reduction Program	3067-AC78
3785	Extensions of Application Period for Temporary Housing Assistance	3067-AC82
3786	Conduct at the Mount Weather Emergency Assistance Center and at the National Emergency Training Center	3067-AC83
3787	National Flood Insurance Program; Write-Your-Own Expense Allowance	3067-AC86
3788	Procedures and Fee for Processing Map Changes	3067-AC88
3789	Disaster Assistance; Redesign of Public Assistance Project Administration	3067-AC89
3790	Removal of Certain Parts of 44 CFR	3067-AC91
3791	National Flood Insurance Program; Determining the Write-Your-Own Expense Allowance	3067-AC92
3792	Disaster Assistance; Factors Considered When Evaluating a Governor's Request for a Major Disaster Declaration	3067-AC94
3793	National Flood Insurance Program; Revision of Appendix B to 44 CFR 62	3067-AC95
3794	Extension of Filing Date for Discrimination Complaints	3067-AC99

Federal Emergency Management Agency (FEMA) — Long-Term Actions

3762. FLOOD MITIGATION ASSISTANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4104c; 42 USC 4104d

CFR Citation: 44 CFR 78

Legal Deadline: None

Abstract: This interim final rule implements secs. 553 and 554 of the National Flood Insurance Reform Act of 1994 to provide grants under the National Flood Mitigation Fund to States and communities for planning assistance and for mitigation projects that reduce the risk of flood damages to structures covered under contracts for flood insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/20/97	62 FR 13346
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Gil Jamieson, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4090

RIN: 3067–AC45

3763. CRIMINAL AND CIVIL PENALTIES UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5157(d); PL 101-410; 28 USC 2461; PL 104-134, sec 31001(s)

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would increase the maximum civil penalty under the Robert T. Stafford Disaster Relief and Emergency Assistance Act from $5,000 to $5,500.

Timetable:

Action	Date	FR Cite
NPRM	02/10/97	62 FR 5957
NPRM Comment Period End	04/11/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, Room 840, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3340
Fax: 202 646-4536
Email: crane.miller@fema.gov

RIN: 3067–AC61

3764. NATIONAL DAM SAFETY PROGRAM; ASSISTANCE FOR STATE PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-303

CFR Citation: 44 CFR 145

Legal Deadline: None

Abstract: This rule would provide direction and guidance for financial assistance to State dam safety programs to improve and enhance the safety of dams throughout the United States.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Harold Andress, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-2801

RIN: 3067–AC64

3765. DISASTER ASSISTANCE; FIRE SUPPRESSION ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq; 42 USC 5187

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would simplify the fire eligibility process and would change the Federal cost share for fire suppression grants.

Timetable:

Action	Date	FR Cite
NPRM	11/24/97	62 FR 62542
NPRM Comment Period End	01/23/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Curtis Carleton, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4535
Email: curtis.carleton@fema.gov

RIN: 3067–AC68

3766. DISASTER ASSISTANCE; HAZARD MITIGATION GRANT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would revise the categories of projects eligible for funding under the Hazard Mitigation Grant Program. It emphasizes nonstructural flood mitigation measures to reduce the number of floodprone structures and clarifies that major structural flood control projects will not be considered for funding under the grant program.

Timetable:

Action	Date	FR Cite
NPRM	05/01/98	63 FR 24143
NPRM Comment Period End	07/01/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert F. Shea, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3619

RIN: 3067–AC69

3767. PRODUCTION OR DISCLOSURE OF INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231

CFR Citation: 44 CFR 5

Legal Deadline: None

Abstract: This rule would give the public access to Government information and records maintained in an electronic format, provide for expedited processing of certain requests, establish an "electronic reading room," require edited material to be estimated or indicated in an agency's delay in processing requests, and require FEMA to make an agency reference guide on the Freedom of Information Act (FOIA) available.

Timetable:

Action	Date	FR Cite
NPRM	08/28/98	63 FR 45982
NPRM Comment Period End	10/27/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra Jackson, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3840

RIN: 3067–AC75

3768. TAXPAYER IDENTIFICATION NUMBERS

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 7701(c)

CFR Citation: 44 CFR 6

Legal Deadline: None

Abstract: This rule would implement the Debt Collection Improvement Act requirement that any person doing business with a Federal agency must provide the agency with the person's taxpayer identification number.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3340
Fax: 202 646-4536
Email: crane.miller@fema.gov

RIN: 3067–AC76

3769. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: Under this rule FEMA will refer delinquent debts owed to this Agency to the Department of the Treasury for collection under the Governmentwide Treasury Offset Program and for tax-refund offsets at the same time. FEMA amends its administrative offset regulations to allow administrative offset against delinquent debtor States and units of general local government. FEMA also amends its regulations to change the method for calculating interest, penalty and administrative charged assessed on delinquent debts and to make States and units of general local government subject to such changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/08/98	63 FR 1063
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3340
Fax: 202 646-4536
Email: crane.miller@fema.gov

RIN: 3067–AC77

3770. NATIONAL FLOOD INSURANCE PROGRAM: INSPECTION OF INSURED STRUCTURES BY COMMUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would establish a pilot program for voluntary inspections to verify that structures comply with the community and floodplain management ordinance, and to verify

that NFIP-insured structures are properly rated.

Timetable:

Action	Date	FR Cite
NPRM	04/26/99	64 FR 22072
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico Jr., Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3422

RIN: 3067–AC79

3771. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A

CFR Citation: 44 CFR 11

Legal Deadline: None

Abstract: This rule would implement policies used by FEMA to collect debts under the Debt Collection Act of 1982, including measures to collect and to compromise or terminate collection action.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3340
Fax: 202 646-4536
Email: crane.miller@fema.gov

RIN: 3067–AC84

3772. FEE FOR SERVICES TO SUPPORT FEMA'S OFFSITE RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-65

CFR Citation: 44 CFR 354

Legal Deadline: None

Abstract: This rule revises 44 CFR 354 to establish the policies and administrative basis for FEMA to assess fees on NRC licensees to recover the full amount of the funds obligated by FEMA to provide services for offsite radiological emergency planning and preparedness beginning in FY 1999.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/15/98	63 FR 69001
Interim Final Rule Effective	12/15/98	
Interim Final Rule Comment Period End	02/16/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Vanessa E. Quinn, PTE Directorate, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3664
Email: vanessa.quinn@fema.gov

RIN: 3067–AC87

3773. DISASTER ASSISTANCE; INSURANCE REQUIREMENTS FOR THE PUBLIC ASSISTANCE PROGRAM

Priority: Other Significant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 206

Legal Deadline: None

Abstract: This rule would amend the insurance requirements under FEMA's Public Assistance Program to require subgrantees to assume a higher level of responsibility and risk for damage to their facilities.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Curtis Carleton, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4535
Email: curtis.carleton@fema.gov

RIN: 3067–AC90

3774. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 5121 et seq

CFR Citation: 44 CFR 208

Legal Deadline: None

Abstract: This rule would prescribe policies and procedures pertaining to FEMA's National Urban Search and Rescue Response System.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Local

Agency Contact: Mark Russo, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-4097
Email: mark.russo@fema.gov

RIN: 3067–AC93

3775. • ADMINISTRATION OF GRANTS: AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: OMB Circ A-133; 43 FR 41943

CFR Citation: 44 CFR 14

Legal Deadline: None

Abstract: This rule implements the Single Audit Act of 1984, as amended, on an agency-wide basis within FEMA. It requires recipients of financial assistance from FEMA to comply with OMB Circular A-133, which sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Richard L. Skinner, Deputy Inspector General, Federal Emergency Management Agency, Washington, DC 20472

FEMA — **Long-Term Actions**

Phone: 202 646-3910
Fax: 202 646-3298
Email: rick.skinner@fema.gov

RIN: 3067–AC98

3776. • NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE COVERAGE AND RATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule adds an endorsement to the Standard Flood Insurance Policy that will establish a permanent procedure for honoring claims for buildings damaged by continuous lake flooding from closed basin lakes or under imminent treat of flood damage from those closed basin lakes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/02/99	64 FR 41825
Interim Final Rule Effective	08/02/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico Jr., Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3422

RIN: 3067–AD00

3777. • NATIONAL FLOOD INSURANCE PROGRAM; REVISIONS TO THE STANDARD FLOOD INSURANCE POLICY

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 62

Legal Deadline: None

Abstract: This rule makes a number of changes to the Standard Flood Insurance Policy (SFIP) to update the SFIP and to make it easier to read.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico Jr., Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3422

RIN: 3067–AD01

3778. • NATIONAL FLOOD INSURANCE PROGRAM; INSURANCE COVERAGE AND RATES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4001 et seq

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: This rule would apply full-risk premium rates under the NFIP to structures that have suffered multiple flood losses and whose owners decline an offer of funding to eliminate or reduce future flood damage.

Timetable:

Action	Date	FR Cite
NPRM	08/05/99	64 FR 42632
NPRM Comment Period End	09/07/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Howard Leikin, Special Assistant, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-2784
Email: howard.leikin@fema.gov

RIN: 3067–AD02

3779. • ORGANIZATIONAL UNITS, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Priority: Info./Admin./Other

Legal Authority: Reorg. Plan No. 3 of 1978

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This rule revises 44 CFR part 7 to reflect changes in FEMA's organizational structure, functions of a new directorate and a new office, and delegations of authority.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3340
Fax: 202 646-4536
Email: crane.miller@fema.gov

RIN: 3067–AD03

Federal Emergency Management Agency (FEMA) — **Completed Actions**

3780. GROUP FLOOD INSURANCE POLICY FOR INDIVIDUAL AND FAMILY GRANT PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Final Rule	07/30/99	64 FR 41305

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger
Phone: 202 646-3642
Email: larry.zensinger@fema.gov

RIN: 3067–AC35

FEMA

Completed Actions

3781. ORGANIZATION, FUNCTIONS AND DELEGATION OF AUTHORITIES

Priority: Info./Admin./Other

CFR Citation: 44 CFR 2

Completed:

Reason	Date	FR Cite
Withdrawn	09/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Crane Miller
Phone: 202 646-3340
Fax: 202 646-4536
Email: crane.miller@fema.gov

RIN: 3067–AC66

3782. ENFORCEMENT UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 19

Completed:

Reason	Date	FR Cite
Withdrawn	09/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pauline C. Campbell
Phone: 202 646-4122

RIN: 3067–AC71

3783. DISASTER ASSISTANCE; COST-SHARE ADJUSTMENT

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Final Rule	04/21/99	64 FR 19496
Final Rule Effective	05/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local

Agency Contact: Patricia Stahlschmidt
Phone: 202 646-4066
Email: patricia.stahlschmidt@fema.gov

RIN: 3067–AC72

3784. NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 361

Completed:

Reason	Date	FR Cite
Withdrawn	09/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Theodore J. Litty
Phone: 202 646-4286
Email: ted.litty@fema.gov

RIN: 3067–AC78

3785. EXTENSIONS OF APPLICATION PERIOD FOR TEMPORARY HOUSING ASSISTANCE

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Final Rule	08/27/99	64 FR 46852
Final Rule Effective	09/27/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurence W. Zensinger
Phone: 202 646-3642
Email: larry.zensinger@fema.gov

RIN: 3067–AC82

3786. CONDUCT AT THE MOUNT WEATHER EMERGENCY ASSISTANCE CENTER AND AT THE NATIONAL EMERGENCY TRAINING CENTER

Priority: Info./Admin./Other

CFR Citation: 44 CFR 15

Completed:

Reason	Date	FR Cite
Final Rule	06/10/99	64 FR 31136
Final Rule Effective	07/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ronald P. Face
Phone: 301 447-1223
Email: ron.face@fema.gov
John L. Matticks
Phone: 540 542-2001
Email: john.matticks@fema.gov

RIN: 3067–AC83

3787. NATIONAL FLOOD INSURANCE PROGRAM; WRITE-YOUR-OWN EXPENSE ALLOWANCE

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 62

Completed:

Reason	Date	FR Cite
Withdrawn	09/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Claudia I. Murphy
Phone: 202 646-2775
Email: claudia.murphy@fema.gov

RIN: 3067–AC86

3788. PROCEDURES AND FEE FOR PROCESSING MAP CHANGES

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 72

Completed:

Reason	Date	FR Cite
Final Rule	09/23/99	64 FR 51461
Final Rule Effective	09/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Matthew B. Miller
Phone: 202 646-3461
Email: matt.miller@fema.gov

RIN: 3067–AC88

3789. DISASTER ASSISTANCE; REDESIGN OF PUBLIC ASSISTANCE PROJECT ADMINISTRATION

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Final Rule	10/12/99	64 FR 55158
Final Rule Effective	11/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa M. Howard
Phone: 202 646-4240
Email: melissa.howard@fema.gov

RIN: 3067–AC89

FEMA

Completed Actions

3790. REMOVAL OF CERTAIN PARTS OF 44 CFR

Priority: Info./Admin./Other

CFR Citation: 44 CFR 14; 44 CFR 77; 44 CFR 80 to 83; 44 CFR 152; 44 CFR 207; 44 CFR 220 to 222; 44 CFR 301; 44 CFR 303; 44 CFR 306; 44 CFR 308; 44 CFR 320; 44 CFR 324; 44 CFR 325; 44 CFR 328; 44 CFR 333; ...

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/19/99	64 FR 8048
Final Rule	05/25/99	64 FR 28103
Final Rule Effective	06/24/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: H. Crane Miller
Phone: 202 646-3340
Fax: 202 646-4536
Email: crane.miller@fema.gov

RIN: 3067–AC91

3791. NATIONAL FLOOD INSURANCE PROGRAM; DETERMINING THE WRITE-YOUR-OWN EXPENSE ALLOWANCE

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 62

Completed:

Reason	Date	FR Cite
Final Rule	05/21/99	64 FR 27705
Final Rule Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Claudia I. Murphy
Phone: 202 646-2775
Email: claudia.murphy@fema.gov

RIN: 3067–AC92

3792. DISASTER ASSISTANCE; FACTORS CONSIDERED WHEN EVALUATING A GOVERNOR'S REQUEST FOR A MAJOR DISASTER DECLARATION

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 206

Completed:

Reason	Date	FR Cite
Final Rule	09/01/99	64 FR 47697
Final Rule Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia Stahlschmidt
Phone: 202 646-4066
Email: patricia.stahlschmidt@fema.gov

RIN: 3067–AC94

3793. NATIONAL FLOOD INSURANCE PROGRAM; REVISION OF APPENDIX B TO 44 CFR 62

Priority: Substantive, Nonsignificant

CFR Citation: 44 CFR 62

Completed:

Reason	Date	FR Cite
NPRM	08/05/99	64 FR 42633
NPRM Comment Period End	09/07/99	
Final Rule	10/18/99	64 FR 56174

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles M. Plaxico
Phone: 202 646-3422

RIN: 3067–AC95

3794. • EXTENSION OF FILING DATE FOR DISCRIMINATION COMPLAINTS

Priority: Substantive, Nonsignificant

Legal Authority: FEMA Reg 5 issued under sec. 602; 42 USC 2000d-1; 42 USC 1855 to 1885g

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This rule extends the filling deadline for discrimination complaints from 90 to 180 days from the alleged discriminatory act.

Timetable:

Action	Date	FR Cite
Final Rule	07/16/99	64 FR 38308
Final Rule Effective	08/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan Clive, Equal Rights Officer, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472
Phone: 202 646-3957
Email: alan.clive@fema.gov

RIN: 3067–AC99

[FR Doc. 99–25670 Filed 11–19–99; 8:45 am]
BILLING CODE 6718–01–F

federal register

Monday,
November 22, 1999

Part XXV

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

Federal Mediation and Conciliation Service (FMCS)

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Semiannual Regulatory Agenda

AGENCY: Federal Mediation and Conciliation Service (FMCS).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Federal Mediation and Conciliation Service's (FMCS) regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that FMCS expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of FMCS' current and future regulatory activities.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Jane A. Lorber, General Counsel, Office of the General Counsel, Federal Mediation and Conciliation Service, at (202) 606-5444. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Dated: September 1, 1999

Vella Traynham,

Deputy Director, FMCS.

Federal Mediation and Conciliation Service (FMCS) — Proposed Rule Stage

3795. PUBLIC INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 5 USC 552 et seq

CFR Citation: 29 CFR 1401 (Revision)

Legal Deadline: None

Abstract: The proposed revision to FMCS' Public Information regulations is intended to incorporate the recent Amendments to the Freedom of Information Act into FMCS' portion of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	
NPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Ms. Jane Lorber, General Counsel, Federal Mediation and Conciliation Service, Room 603, 2100 K Street NW, Washington, DC 20427-0001
Phone: 202 606-5444
Fax: 202 606-5345
Email: jlorber@fmcs.gov

RIN: 3076–AA06

[FR Doc. 99–24741 Filed 11–19–99; 8:45 am]

BILLING CODE 6732–01–F

Monday,
November 22, 1999

Part XXVI

General Services Administration

Semiannual Regulatory Agenda

General Services Administration (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 1, 101, 102, 105, 300, 301, 302, 303, and 304

48 CFR Ch. 5

October 1999 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since April 1999. This agenda was developed under the guidelines in an Office of Management and Budget memorandum, dated July 21, 1999. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated.

FOR FURTHER INFORMATION CONTACT: Sharon A. Kiser, Federal Acquisition Policy Division, (202) 501-4755.

SUPPLEMENTARY INFORMATION:

GSA's Regulatory Plan

For this edition of GSA's regulatory agenda, the Statement of Regulatory and Deregulatory Priorities is included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**.

Dated: August 31, 1999.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3796	Nondiscrimination on the Basis of Sex and Education for Individuals Receiving or Benefiting from Federal Financial Assistance	3090-AG58
3797	Records Management, Standard and Optional Forms Management, and Interagency Reports Management	3090-AG02
3798	Telecommunications Management	3090-AG03
3799	Federal Advisory Committee Management	3090-AG49
3800	Inclusion of Tax Adjustment Provision in GSAR	3090-AH03
3801	Official Use of Government Passenger Carriers Between Residence and Place of Employment	3090-AH08
3802	Utilization, Donation, and Disposal of Foreign Gifts and Decorations	3090-AH09
3803	Sale, Abandonment, or Destruction of Personal Property	3090-AH10
3804	Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property	3090-AH11
3805	Federal Property Management Regulations, Part 101-17, Assignment and Utilization of Space	3090-AG31
3806	Federal Property Management Regulations, Part 101-20, Management of Buildings and Grounds	3090-AG32
3807	Federal Property Management Regulations, Part 101-21, Federal Buildings Fund	3090-AG33

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3808	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs	3090-AE32
3809	Reissuance of the General Services Administration Acquisition Regulation (GSAR)	3090-AE90
3810	Governmentwide Real Property Policy	3090-AF95
3811	Annual Real Property Inventories	3090-AG55
3812	Streamlining Administration of Federal Supply Service (FSS) Multiple Award Schedule (MAS) Contracts	3090-AG81
3813	FTR Amendment (Unassigned); Relocation Allowances	3090-AG93
3814	Revision to Clause 552.270.4, Historic Preference	3090-AH01
3815	FTR Amendment (Unassigned); Conference Management	3090-AH02
3816	Clarification on the Use of Selection Criteria for Architect-Engineer Procurements	3090-AH07

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3817	GSA Privacy Act	3090-AH05
3818	FTR Amendment (Unassigned); Acceptance of Payment from a Non-Federal Source for Travel Expenses	3090-AE19
3819	Criteria for Reporting Excess Personal Property	3090-AF39
3820	Donation of Federal Surplus Personal Property to Nonprofit Providers of Assistance for Impoverished Families and Individuals	3090-AG63

GSA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
3821	Federal Management Regulation (FMR)	3090-AG83
3822	FTR Interim Rule 8; Mandatory Use of Travel Charge Card	3090-AG92
3823	FTR Interim Rule 7 - Income Tax Reimbursement Allowance (ITRA)	3090-AG99
3824	Location of Federal Facilities in Urban Areas	3090-AF94
3825	Utilization and Disposal of Real Property	3090-AG53
3826	Increase Smoke Development Rating	3090-AG69

Completed Actions

Sequence Number	Title	Regulation Identification Number
3827	Motor Vehicle Management	3090-AG12
3828	Negotiation Procedures for Acquisition of Leasehold Interests in Real Property; CHGE 79	3090-AG70
3829	User Fees; Network Registration Services	3090-AG79
3830	Donation Requirements for Firearms	3090-AG80
3831	The Composition of the Evaluation Board for Architect-Engineer Procurements	3090-AG82
3832	Guidelines for Making Purchase or Lease Determinations and Use of Private Inspection, Testing, and Grading Services	3090-AG84
3833	Excess Personal Property Reporting Requirements	3090-AG85
3834	FTR Amendment 84; Airline Contract City-Pair Fares, Property Management Services, and Technical Corrections	3090-AG87
3835	FTR Amendment 83; Travel and Relocation Expenses Test Programs	3090-AG88
3836	FTR Amendment 80 - 1998 Edition; Relocation Income Tax (RIT) Allowance Tax Tables	3090-AG91
3837	FTR Amendment; Income Tax Reimbursement Allowance	3090-AG94
3838	FTR Amendment 79 - 1998 Edition; Maximum Per Diem Rates in Michigan, New Jersey, New York, South Carolina, and West Virginia	3090-AG95
3839	Small Business Subcontracting Program; CHGE 82	3090-AG96
3840	Change in Consumer Price Index Minimal Value	3090-AG97
3841	FTR Amendment 82; Maximum Per Diem Rates in Colorado, Georgia, and New York	3090-AG98
3842	FTR Amendment 81; Per Diem Rates in Florida, Massachusetts, and Minnesota	3090-AH00
3843	FTR Amendment 86; Agency Requirements for Payment of Expenses Connected with Death of Certain Employees	3090-AH04
3844	FTR Amendment 85, Maximum Per Diem Rates in California, Illinois, New Jersey, North Carolina, Utah, and Virginia	3090-AH06
3845	Federal Building Fund, Billing Procedures for Reimbursable Charges	3090-AG35
3846	Utilization and Disposal of Real Property	3090-AG39

General Services Administration (GSA)

Proposed Rule Stage

OFFICE OF GENERAL COUNSEL

3796. NONDISCRIMINATION ON THE BASIS OF SEX AND EDUCATION FOR INDIVIDUALS RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Other Significant

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6

Legal Deadline: None

Abstract: This rule enforces title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of the sex and education of an individual receiving or benefiting from Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James M. Taylor, Acting Associate Administrator, Office of Equal Employment Opportunity, General Services Administration, Washington, DC 20405
Phone: 202 501-3852

RIN: 3090–AG58

GSA — Proposed Rule Stage

OFFICE OF GOVERNMENTWIDE POLICY

3797. RECORDS MANAGEMENT, STANDARD AND OPTIONAL FORMS MANAGEMENT, AND INTERAGENCY REPORTS MANAGEMENT

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-11; 41 CFR 102-193; 41 CFR 102-194; 41 CFR 102-195

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-11 and moves it into the Federal Management Regulation at 102-193, 102-194, and 102-195. The revised regulation updates coverage concerning records management, standard and optional forms management, and interagency reports management. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41000
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: R. Stewart Randall, Program Analyst, IT Management Practices Division (MKM), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-4469
Fax: 202 501-0657
Email: stewart.randall@gsa.gov

RIN: 3090–AG02

3798. TELECOMMUNICATIONS MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 40 USC 1424(b)

CFR Citation: 41 CFR 101-35; 41 CFR 102-117

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-35 to update GSA's telecommunications management policy and moves it into the Federal Management Regulation at 102-117. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/07/96	61 FR 41003
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: James Cademartori, Configuration Manager, Federal Telecommunications Service, General Services Administration, 7980 Boeing Court, Third Floor, Vienna, VA 22182-3988
Phone: 703 760-7545
Email: james.cademartori@gsa.gov

RIN: 3090–AG03

3799. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC app; EO 12024

CFR Citation: 41 CFR 101-6; 41 CFR 102-3

Legal Deadline: None

Abstract: This rulemaking revises FPMR subpart 101-6.10 and moves it into the Federal Management Regulation (FMR) at 102-3. The revised regulation, which implements GSA's responsibilities under the Federal Advisory Committee Act, has not been revised since 1989 and has become outdated as a result of significant decisions issued by the Supreme Court and other Federal Courts. In addition, the revised regulation is expected to provide more comprehensive and effective guidance for agency personnel in their attempts to involve the public in Federal decisionmaking consistent with the principles contained in the Act.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/97	62 FR 31550
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James L. Dean, Director, Committee Mgt. Secretariat (MC), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 273-3565
Email: james.dean@gsa.gov

RIN: 3090–AG49

3800. • INCLUSION OF TAX ADJUSTMENT PROVISION IN GSAR

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking proposes to establish a provision at GSAR 552.270-74, Tax Adjustment. The provision outlines the methodology for calculating real esate taxes for use in solicitations for offers for acquisition of leasehold interests in real property.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822

RIN: 3090–AH03

3801. • OFFICIAL USE OF GOVERNMENT PASSENGER CARRIERS BETWEEN RESIDENCE AND PLACE OF EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 1344

CFR Citation: 41 CFR 101-6.4

Legal Deadline: None

Abstract: This rulemaking revises FPMR subpart 101.6.4 to a plain language, question and answer format and moves it into the Federal Management Regulation. Also, incidental use of Government passenger

GSA

Proposed Rule Stage

carriers as authorized by section 503 of the Ethics Reform Act of 1989 will be addressed in the revised coverage.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AH08

3802. • UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 7342

CFR Citation: 41 CFR 101-49

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-49 and moves it into the Federal Management Regulation. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha S. Caswell, Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AH09

3803. • SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-45; 41 CFR 102-38

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-45 to streamline sales requirements and moves it into the Federal Management Regulation at 41 CFR 102-38. The regulation is being rewritten in a plain language, question and answer format to make it easier to use and understand.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha S. Caswell, Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AH10

3804. • UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 484(m)

CFR Citation: 41 CFR 101-48; 41 CFR 102-42

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-48 and moves it into the Federal Management Regulation at 102-42. The regulation is being rewritten in a plain language, question and answer format to make the regulation easier to use and understand.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha S. Caswell, Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AH11

PUBLIC BUILDINGS SERVICE

3805. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-17, ASSIGNMENT AND UTILIZATION OF SPACE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This proposed rule revises the methods by which GSA-controlled space is identified and measured, eliminates the specific physical description of the components of standard level alterations, and substitutes budget guidelines for alterations, thereby providing tenant agencies flexibility in designing space to meet their mission needs. It also introduces new guidelines for establishing the funding responsibilities of both GSA and tenant agencies associated with moves. The regulation also revises coverage related to location of Federal facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

GSA — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pamela M. Wessling, Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Email: pamela.wessling@gsa.gov

RIN: 3090–AG31

3806. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-20, MANAGEMENT OF BUILDINGS AND GROUNDS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: New procedures for establishing rent charges were recently developed as part of GSA's reinvention efforts. This proposed rule revises part 101-20 to support the implementation of GSA's new space and related services pricing practices included in part 101-21.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Linda Osgood, Acting Director, Business Guidance and Practices Division (PX), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1354
Fax: 202 501-3296
Email: Linda.Osgood@gsa.gov

RIN: 3090–AG32

3807. FEDERAL PROPERTY MANAGEMENT REGULATIONS, PART 101-21, FEDERAL BUILDINGS FUND

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c), sec 205(c), 63 Stat 390

CFR Citation: 41 CFR 101-21

Legal Deadline: None

Abstract: Part 101-21 of the FPMR prescribes policies and procedures applicable to the furnishing of, and charges for, space and services by GSA in Government-owned and leased buildings. New procedures for establishing these charges were recently developed as part of GSA's reinvention efforts. The purpose of this proposed rule is to implement these new procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Pamela M. Wessling, Assistant Commissioner, Office of Portfolio Management (PT), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-0638
Email: pamela.wessling@gsa.gov

RIN: 3090–AG33

General Services Administration (GSA) — Final Rule Stage

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

3808. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 41 CFR 101-8.3

Legal Deadline: None

Abstract: The General Services Administration (GSA) proposes this regulation to implement the above-cited law. This regulation would amend GSA's regulation for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Federal

Agency Contact: James M. Taylor, Acting Associate Administrator, Office of Equal Employment Opportunity, General Services Administration, Washington, DC 20405
Phone: 202 501-3852

RIN: 3090–AE32

OFFICE OF GOVERNMENTWIDE POLICY

3809. REISSUANCE OF THE GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION (GSAR)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 501 to 570

Legal Deadline: None

Abstract: GSA is revising the General Services Administration Acquisition Regulation (GSAR) in its entirety. GSA has rewritten the GSAR into plain

GSA

Final Rule Stage

language, included only regulatory material, and removed internal agency guidance. GSA has also updated the GSAR to reflect recent changes to the Federal Acquisition Regulation (FAR). GSA intends the reissued GSAR to be simpler to understand and less burdensome for contractors and offerors, GSA contracting personnel, and contracting personnel in other agencies that have been delegated contracting authority.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/09/99	64 FR 37199
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Additional Information: RFA: Y

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822

RIN: 3090–AE90

3810. GOVERNMENTWIDE REAL PROPERTY POLICY

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-16; 41 CFR 102-71

Legal Deadline: None

Abstract: This rulemaking revises FPMR part 101-16 and moves it into the Federal Management Regulation at 102-71 through 82. The regulation describes the current real property policies applicable to GSA and Federal agencies to whom GSA real property operations have been delegated. The policies contained in this regulation have been separated from their procedural components and reflect the way that real property operations are currently conducted. The regulation is being rewritten in a plain language, question and answer format to make it easier to understand and use.

Timetable:

Action	Date	FR Cite
NPRM	08/07/97	62 FR 42444
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AG55

3811. ANNUAL REAL PROPERTY INVENTORIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-3; 41 CFR 102-84

Legal Deadline: None

Abstract: This rulemaking revises FPMR part 101-3 and moves it into the Federal Management Regulation at 102-84. The revised regulation is being rewritten in a plain language, question and answer format and will enable Federal agencies to more effectively manage their inventory of real property assets.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Stanley C. Langfeld, Director, Real Property Policy Div. (MPR), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405
Phone: 202 501-1737

RIN: 3090–AG55

3812. STREAMLINING ADMINISTRATION OF FEDERAL SUPPLY SERVICE (FSS) MULTIPLE AWARD SCHEDULE (MAS) CONTRACTS

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking will update the use of "maximum order" in GSAR 552.238-6, Price Reductions; remove the requirement for contracting officer pre-approval of item deletions under Federal Supply Service (FSS) Multiple Award Schedules (MAS); revise the requirement that FSS MAS contractors publish paper copies of modifications to their MAS price lists within 15 days to instead allow electronic posting of modifications and quarterly publication of paper supplements; and allow procuring contracting officers in FSS to authorize administrative contracting officers to issue show cause or cure notices.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/01/99	64 FR 4788
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822

RIN: 3090–AG81

3813. FTR AMENDMENT (UNASSIGNED); RELOCATION ALLOWANCES

Priority: Other Significant

Legal Authority: 5 USC 5738; 20 USC 905(a); EO 11609, 36 FR 13747, 3 CFR, 1971 to 1975 Comp., p. 586

CFR Citation: 41 CFR 302

Legal Deadline: None

Abstract: This final rule amends the FTR to revise chapter 302 regarding

relocation allowances in the plain language style of regulation writing. This style of writing is a continuation of GSA's effort to make the FTR easier to understand and use.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG93

3814. • REVISION TO CLAUSE 552.270.4, HISTORIC PREFERENCE

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking proposes to update GSAR clause 552.270-4, Historic Preference, that is used in the acquisition of leasehold interests. E.O. 13006 requires that Federal agencies give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. As a result of the requirements of the E.O., clause 552.270-4 will be revised to establish the order of precedence.

Timetable:

Action	Date	FR Cite
NPRM	06/30/99	64 FR 35122
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822

RIN: 3090–AH01

3815. • FTR AMENDMENT (UNASSIGNED); CONFERENCE MANAGEMENT

Priority: Other Significant

Legal Authority: 5 USC 5707

CFR Citation: 41 CFR 301-74

Legal Deadline: None

Abstract: This rulemaking proposes to amend the FTR to establish guides for conference management and, because conferences need to be treated differently from routine temporary duty travel, to allow reimbursement of an amount limited to an increase of up to 25 percent of the applicable maximum lodging ceiling.

Timetable:

Action	Date	FR Cite
NPRM	09/15/99	64 FR 50051
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AH02

3816. • CLARIFICATION ON THE USE OF SELECTION CRITERIA FOR ARCHITECT-ENGINEER PROCUREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 536

Legal Deadline: None

Abstract: This rulemaking proposes to eliminate unnecessary restrictions to competition in GSA's use of geographic limitations in the evaluation process for Architect-Engineer procurements.

Timetable:

Action	Date	FR Cite
NPRM	08/17/99	64 FR 44683
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822

RIN: 3090–AH07

General Services Administration (GSA) — Long-Term Actions

CHIEF PEOPLE OFFICER

3817. • GSA PRIVACY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105

Legal Deadline: None

Abstract: This rulemaking updates GSA's privacy policy and procedures and provides current organizational citations, privacy-related responsibilities, and the names and addresses of persons to contact concerning the GSA Privacy Act Program and systems of records.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

GSA

Long-Term Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jinaita Kanarchuk, Program Specialist, General Services Administration, Information Management Division (CAI), Office of the Chief People Officer, General Services Administration, Washington, DC 20405
Phone: 202 501-1452
Email: Jinaita.Kanarchuk@gsa.gov

RIN: 3090–AH05

OFFICE OF GOVERNMENTWIDE POLICY

3818. FTR AMENDMENT (UNASSIGNED); ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701 to 5709; 31 USC 1353; 40 USC 486(c)

CFR Citation: 41 CFR 301-1; 41 CFR 304-1

Legal Deadline: None

Abstract: This amendment finalizes the interim rule governing the acceptance of payment for travel, subsistence, and related expenses from a non-Federal source. This rule supersedes Interim Rule 4, published at 57 FR 53283, November 9, 1992, with request for comments. The economic impact of this amendment is favorable on all Federal agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/92	57 FR 53283
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AE19

3819. CRITERIA FOR REPORTING EXCESS PERSONAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43; 41 CFR 102-36

Legal Deadline: None

Abstract: This rulemaking revises FPMR 101-43 and moves it into the Federal Management Regulation at 102-36. The regulation revises criteria for reporting excess personal property to GSA, redefines terms, and updates addresses associated with reporting excess personal property. The rule will provide Federal agencies relief from certain reporting requirements and make identification of property which is to be reported easier for both the reporting and requisitioning activities. The rule is being rewritten in a plain language, question and answer format to make it easier to use and understand.

This regulation was erroneously reported as completed in the April 1997 Unified Agenda. It remains in effect through January 15, 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/15/97	62 FR 2022
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha S. Caswell, Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AF39

3820. DONATION OF FEDERAL SURPLUS PERSONAL PROPERTY TO NONPROFIT PROVIDERS OF ASSISTANCE FOR IMPOVERISHED FAMILIES AND INDIVIDUALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44

Legal Deadline: None

Abstract: This regulation establishes policies and procedures for donating Federal surplus personal property to nonprofit organizations that provide food, clothing, housing, or other assistance to families or individuals with incomes below the poverty line.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/19/98	63 FR 8351
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha S. Caswell, Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AG63

3821. FEDERAL MANAGEMENT REGULATION (FMR)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101; 41 CFR 102

Legal Deadline: None

Abstract: This interim rule establishes the Federal Management Regulation (FMR) as a replacement for the Federal Property Management Regulations (FPMR). The FMR is written in plain language and appears in a question and answer format to make the regulation easier to understand and use. Non-regulatory material that had been in the FPMR will not be in the FMR. Such material will become available in customer service guides issued by responsible offices within GSA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/21/99	64 FR 39083
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Rodney P. Lantier, Director, Regulatory Secretariat (MVRS), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-2647

RIN: 3090–AG83

3822. FTR INTERIM RULE 8; MANDATORY USE OF TRAVEL CHARGE CARD

Priority: Other Significant

Legal Authority: 5 USC 5701

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This rulemaking amended the FTR to add policy for (1) mandatory use of the Government contractor-issued individually billed charge card for official travel and exemptions to the mandatory use of the card; (2) requiring reimbursement to employees within 30 days after submission of a proper travel voucher; and (3) collection of undisputed delinquent amounts owned to the contractor issuing the Government contractor-issued individually billed charge card. This amendment is pursuant to Pub. L. 105-264 (Oct. 19, 1998), Travel and Transportation Reform Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/16/99	64 FR 38528
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG92

3823. • FTR INTERIM RULE 7 - INCOME TAX REIMBURSEMENT ALLOWANCE (ITRA)

Priority: Other Significant

Legal Authority: 5 USC 5707

CFR Citation: 41 CFR 301-11

Legal Deadline: None

Abstract: This rulemaking amended the FTR to add authority to implement sections of the Travel and Transportation Reform Act of 1998, which authorize Federal agencies to reimburse Federal, State, and local income taxes incurred as a result of long-term official travel. It also allows for the reimbursement of penalty and interest payments due to incorrect withholdings by the employee's agency for tax years 1993 and 1994.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/18/99	64 FR 32812
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG99

PUBLIC BUILDINGS SERVICE

3824. LOCATION OF FEDERAL FACILITIES IN URBAN AREAS

Priority: Other Significant

Legal Authority: 40 USC 481; 40 USC 6017; 7 USC 1924; 40 USC 490; 40 USC 531; 42 USC 3601; 42 USC 4321; 42 USC 4201; EO 12072; EO 12411; EO 12512; PL 100-678; EO 13005; EO 13006

CFR Citation: 41 CFR 101-17

Legal Deadline: None

Abstract: This rulemaking provides new guidance in Federal Property Management Regulations (FPMR) 101-17 concerning the location of Federal facilities in urban areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/07/96	61 FR 9110
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Linda Osgood, Acting Director, Business Guidance and Practices Division (PX), General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-1354
Fax: 202 501-3296
Email: Linda.Osgood@gsa.gov

RIN: 3090–AF94

3825. UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47

Legal Deadline: None

Abstract: This rulemaking amends the FPMR pertaining to the disposal of Government-owned improvements and improvements that agencies may dispose of through abandonment, destruction, or donation without prior GSA concurrence. It also bases the determination on a current estimate of value instead of original acquisition cost.

Timetable:

Action	Date	FR Cite
NPRM	06/20/97	62 FR 33580
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Q. Martin, Director, Redeployment Services Div. (PRD), Public Buildings Service, General Services Administration, Washington, DC 20405
Phone: 202 501-0084

RIN: 3090–AG53

GSA

Long-Term Actions

3826. INCREASE SMOKE DEVELOPMENT RATING

Priority: Other Significant

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: This proposed rule will amend the Federal Property Management Regulations to increase the allowable smoke development rating to 450 and eliminate the flame resistant requirement. The increased smoke development rating will bring this requirement into agreement with the three model building codes and the Life Safety Code, as well as the proposed International Building Code.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stewart Levy, Senior Fire Engineer, General Services Administration, Public Buildings Service, Washington, DC 20405
Phone: 202 501-4077
Email: stewart.levy@gsa.gov

RIN: 3090–AG69

General Services Administration (GSA)

Completed Actions

3827. MOTOR VEHICLE MANAGEMENT

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-38; 41 CFR 102-34

Completed:

Reason	Date	FR Cite
Final Action	11/02/99	64 FR 59592

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG12

3828. NEGOTIATION PROCEDURES FOR ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY; CHGE 79

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 503; 48 CFR 515; 48 CFR 552; 48 CFR 570

Completed:

Reason	Date	FR Cite
Incorporated in RIN 3090-AE90	07/09/99	64 FR 37199

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby
Phone: 202 501-3822

RIN: 3090–AG70

3829. USER FEES; NETWORK REGISTRATION SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-37

Completed:

Reason	Date	FR Cite
Final Action	06/16/99	64 FR 32196

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Mary J. Mitchell
Phone: 202 501-1667
Email: mary.mitchell@gsa.gov

RIN: 3090–AG79

3830. DONATION REQUIREMENTS FOR FIREARMS

Priority: Other Significant

CFR Citation: 41 CFR 101-42

Completed:

Reason	Date	FR Cite
Final Action	07/21/99	64 FR 40772

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Martha S. Caswell
Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AG80

3831. THE COMPOSITION OF THE EVALUATION BOARD FOR ARCHITECT-ENGINEER PROCUREMENTS

Priority: Other Significant

CFR Citation: 48 CFR 536

Completed:

Reason	Date	FR Cite
Withdrawn	08/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby
Phone: 202 501-3822

RIN: 3090–AG82

3832. GUIDELINES FOR MAKING PURCHASE OR LEASE DETERMINATIONS AND USE OF PRIVATE INSPECTION, TESTING, AND GRADING SERVICES

Priority: Other Significant

CFR Citation: 41 CFR 101-25; 41 CFR 101-31; 41 CFR 101-38

Completed:

Reason	Date	FR Cite
Final Action	06/29/99	64 FR 34733

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon A. Kiser
Phone: 202 501-2164
Email: shari.kiser@gsa.gov

RIN: 3090–AG84

3833. EXCESS PERSONAL PROPERTY REPORTING REQUIREMENTS

Priority: Other Significant

CFR Citation: 41 CFR 101-43

Completed:

Reason	Date	FR Cite
Incorporated into RIN 3090-AG80	07/28/99	64 FR 40772

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Martha S. Caswell

GSA

Completed Actions

Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AG85

3834. FTR AMENDMENT 84; AIRLINE CONTRACT CITY-PAIR FARES, PROPERTY MANAGEMENT SERVICES, AND TECHNICAL CORRECTIONS

Priority: Other Significant

CFR Citation: 41 CFR 301; 41 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	05/28/99	64 FR 29162

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG87

3835. FTR AMENDMENT 83; TRAVEL AND RELOCATION EXPENSES TEST PROGRAMS

Priority: Other Significant

CFR Citation: 41 CFR 300

Completed:

Reason	Date	FR Cite
Final Action	05/27/99	64 FR 28880

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG88

3836. FTR AMENDMENT 80 - 1998 EDITION; RELOCATION INCOME TAX (RIT) ALLOWANCE TAX TABLES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 302

Completed:

Reason	Date	FR Cite
Final Action	04/08/99	64 FR 17105

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG91

3837. FTR AMENDMENT; INCOME TAX REIMBURSEMENT ALLOWANCE

Priority: Other Significant

CFR Citation: 41 CFR 302

Completed:

Reason	Date	FR Cite
Incorporated into RIN 3090-AG99	06/18/99	64 FR 32812

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG94

3838. • FTR AMENDMENT 79 - 1998 EDITION; MAXIMUM PER DIEM RATES IN MICHIGAN, NEW JERSEY, NEW YORK, SOUTH CAROLINA, AND WEST VIRGINIA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701-5709

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule amended the FTR to add per diem localities in Michigan, New Jersey, New York, and West Virginia and to increase the maximum lodging amount in Charleston, South Carolina.

Timetable:

Action	Date	FR Cite
Final Action	04/05/99	64 FR 16352
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG95

3839. • SMALL BUSINESS SUBCONTRACTING PROGRAM; CHGE 82

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 552

Legal Deadline: None

Abstract: This rulemaking updated the use of GSAR provisions 552.219-72, 552.219-73, and 552.219-74 to conform with FAR subpart 19.7, The Small Business Subcontracting Program. FAR 19.7 requires inclusion of HUBZone concerns in the subcontracting plan for compliance with FAR subpart 19.13, Historically Underutilized Business Zone (HUBZone) Program.

Timetable:

Action	Date	FR Cite
Final Action	03/31/99	64 FR 15306
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Marjorie Ashby, Management Analyst, Office of Acquisition Policy (MVP), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3822

RIN: 3090–AG96

3840. • CHANGE IN CONSUMER PRICE INDEX MINIMAL VALUE

Priority: Substantive, Nonsignificant

Legal Authority: 40 U3C 486(c); 5 USC 7342

CFR Citation: 41 CFR 101-49

Legal Deadline: None

Abstract: This rulemaking increased the Consumer Price Index minimal value to mean $260 or less as of January 1, 1999, in accordance with Pub. L. 95-105. Pub. L. 95-105 requires that at 3-year intervals following January 1, 1981, minimal value be redefined by the Administrator of General Services, after consultation with the Secretary of State, to reflect changes in the Consumer Price Index for the immediately preceding 3-year period.

GSA

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/99	
Final Action	03/22/99	64 FR 13700

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Martha S. Caswell, Director, Personal Property Management Policy Division, General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 501-3828
Fax: 202 501-0657
Email: martha.caswell@gsa.gov

RIN: 3090–AG97

3841. • FTR AMENDMENT 82; MAXIMUM PER DIEM RATES IN COLORADO, GEORGIA, AND NEW YORK

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701-5709

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule amended the FTR to increase the maximum lodging amounts in Colorado, Georgia, and New York.

Timetable:

Action	Date	FR Cite
Final Action	05/27/99	64 FR 28879

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AG98

3842. • FTR AMENDMENT 81; PER DIEM RATES IN FLORIDA, MASSACHUSETTS, AND MINNESOTA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701-5709

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule amended the FTR to combine certain localities and increase the maximum lodging amounts in Florida, Massachusetts, and Minnesota and remove a per diem locality from Massachusetts.

Timetable:

Action	Date	FR Cite
Final Action	05/27/99	64 FR 28878

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AH00

3843. • FTR AMENDMENT 86; AGENCY REQUIREMENTS FOR PAYMENT OF EXPENSES CONNECTED WITH DEATH OF CERTAIN EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC 5721-5738; 5 USC 5741-5742

CFR Citation: 41 CFR 303-70

Legal Deadline: None

Abstract: This final rule amends the FTR provisions pertaining to payment by the Government of expenses connected with the death of certain employees while performing official Government travel. It also amends the FTR regarding transportation of the remains of a member of the employee's immediate family who dies while residing with the employee outside the continental United States or in transit thereto or therefrom.

Timetable:

Action	Date	FR Cite
Final Action	08/23/99	64 FR 45890

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AH04

3844. • FTR AMENDMENT 85, MAXIMUM PER DIEM RATES IN CALIFORNIA, ILLINOIS, NEW JERSEY, NORTH CAROLINA, UTAH, AND VIRGINIA

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5701-5709

CFR Citation: 41 CFR 301

Legal Deadline: None

Abstract: This final rule amended the FTR to combine, add, and remove certain localities and increase the maximum lodging amounts in California, Illinois, New Jersey, North Carolina, Utah, and Virginia.

Timetable:

Action	Date	FR Cite
Final Action	07/19/99	64 FR 38587

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William T. Rivers, Acting Director, Travel and Transportation Management Policy Division (MTT), General Services Administration, Office of Governmentwide Policy, Washington, DC 20405
Phone: 202 208-7631
Email: bill.rivers@gsa.gov

RIN: 3090–AH06

3845. FEDERAL BUILDING FUND, BILLING PROCEDURES FOR REIMBURSABLE CHARGES

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-21

Completed:

Reason	Date	FR Cite
Incorporated into RIN 3090-AG33	08/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Linda Osgood
Phone: 202 501-1354
Fax: 202 501-3296
Email: Linda.Osgood@gsa.gov

RIN: 3090–AG35

GSA

Completed Actions

3846. UTILIZATION AND DISPOSAL OF REAL PROPERTY

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 101-47

Completed:

Reason	Date	FR Cite
Final Action	06/14/99	64 FR 31731

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: John Q. Martin
Phone: 202 501-0084

RIN: 3090–AG39

[FR Doc. 99–23642 Filed 11–19–99; 8:45 am
BILLING CODE 6820–34–F

VOL 64 ISS 224 NO 22 1999 UMI

Actions

federal register

Monday,
November 22, 1999

Part XXVII

Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution

Semiannual Regulatory Agenda

Morris K. Udall Foundation
U.S. Institute for Environmental Conflict Resolution (MKU-USIECR)

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

United States Institute for Environmental Conflict Resolution

Semiannual Regulatory Agenda

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (including the United States Institute for Environmental Conflict Resolution).

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for development during the next twelve months. It is issued pursuant to Executive Order 12866 and the Regulatory Flexibility Act.

FOR FURTHER INFORMATION CONTACT: Ellen K. Wheeler, General Counsel, Morris K. Udall Foundation, 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701; telephone (520) 670-5299.

SUPPLEMENTARY INFORMATION: With this publication, the Foundation satisfies the requirement of Executive Order 12866 that it publish an agenda of rules that we expect to issue. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) also requires publication of an agenda identifying rules that will have significant economic effects on a substantial number of small entities; the Foundation certifies that these proposed rules will not have a significant impact on small entities. The CFR citations are not yet determined.

Dated: September 2, 1999

Ellen K. Wheeler,

General Counsel.

Morris K. Udall Foundation
U.S. Institute for Environmental Conflict Resolution (MKU-USIECR)

Long-Term Actions

3847. • PRIVACY ACT IMPLEMENTATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 5 USC 552a; 20 USC 5601 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation implements the Privacy Act of 1974, 5 USC 552a, by establishing procedures by which individuals may determine if a system of records maintained by the Morris K. Udall Foundation, including the U.S. Institute for Environmental Conflict Resolution, contains records pertaining to them, and procedures for access to such records to review, amend, or correct them.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
Phone: 520 670-5299
Fax: 520 670-5530
Email: usiecr@ecr.gov

RIN: 3320–AA00

3848. • CONFIDENTIALITY IN DISPUTE RESOLUTION PROCEEDINGS

Priority: Info./Admin./Other

Legal Authority: 5 USC 571 et seq; 20 USC 5601 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule implements section 574 of title 5, United States Code, and provides that communications prepared for a dispute resolution proceeding in which the U.S. Institute for Environmental Conflict Resolution is involved as a third-party neutral will be confidential, except in certain specified circumstances.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
Phone: 520 670-5299
Fax: 520 670-5530
Email: usiecr@ecr.gov

RIN: 3320–AA01

3849. • FREEDOM OF INFORMATION ACT IMPLEMENTATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 20 USC 5601 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This regulation implements the Freedom of Information Act, 5 USC 552, and prescribes rules governing the availability to the public of documents and records of the Morris K. Udall Foundation, including the U.S. Institute for Environmental Conflict Resolution.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Ellen K. Wheeler, General Counsel, Morris K. Udall Foundation-U.S. Institute for Environmental Conflict Resolution, Suite 3350, 110 South Church Avenue, Tucson, AZ 85701
Phone: 520 670-5299
Fax: 520 670-5530
Email: usiecr@ecr.gov

RIN: 3320–AA02

[FR Doc. 99–25671 Filed 11–19–99; 8:45 am]
BILLING CODE 6820–FN–F

federal register

Monday,
November 22, 1999

Part XXVIII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

National Aeronautics and Space Administration (NASA)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported. .

ADDRESSES: Director, Management Assessment Division (Code JM), Office of Management Systems, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: June Flickinger, (202)358-2876.

SUPPLEMENTARY INFORMATION: OMB guidelines dated July 21,1999, "October 1999 Unified Agenda of Federal Regulatory and Deregulatory Actions," and Executive Order 12866 "Regulatory Planning and Review" require a regulatory agenda of those regulations under development and review be published in the **Federal Register** each April and October.

Dated: August 26, 1999.

Danalee Green,

Director, Management Assessment Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3850	Meritorious Claims Arising from the Conduct of NASA Functions under 42 USC 2473(c)(13)	2700-AC35

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3851	Cross-Waiver of Liability	2700-AB51

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3852	Tracking and Data Relay Satellite System; Use and Reimbursement Policy for Non-U.S. Government Users	2700-AA29
3853	Miscellaneous Administrative Changes to the NASA Federal Acquisition Regulation Supplement (NFS)	2700-AC33
3854	Grant and Cooperative Agreement Handbook	2700-AC34
3855	NASA Standards of Conduct	2700-AC37

Completed Actions

Sequence Number	Title	Regulation Identification Number
3856	Availability of Agency Records to Members of the Public	2700-AC36

National Aeronautics and Space Administration (NASA) — Proposed Rule Stage

3850. MERITORIOUS CLAIMS ARISING FROM THE CONDUCT OF NASA FUNCTIONS UNDER 42 USC 2473(C)(13)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 2473; 31 USC 3104

CFR Citation: 14 CFR 1267

Legal Deadline: None

Abstract: This proposed rule would establish NASA policies and procedures for meritorious claims, other than Federal Tort Claims Act claims or claims otherwise covered under 14 CFR part 1261, arising from the conduct of NASA functions and pursuant to 203(c)(13) of the National Aeronautics and Space Act of 1958, as amended (42 USC 2473(c)(13)).

NASA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Bernard J. Roan, Senior Attorney, National Aeronautics and Space Administration, Office of Associate General Counsel, (Contracts), Washington, DC 20546
Phone: 202 358-2072

RIN: 2700–AC35

National Aeronautics and Space Administration (NASA)

Final Rule Stage

3851. CROSS-WAIVER OF LIABILITY

Priority: Info./Admin./Other

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1266

Legal Deadline: None

Abstract: This provides technical amendments to implement the cross-waiver of liability provision of the intergovernmental agreement of the International Space Station and to refine and clarify contractual cross-waivers in NASA agreements involving launch services.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jay Steptoe, Associate General Counsel, National Aeronautics and Space Administration, Office of General Counsel, Code G, Washington, DC 20546
Phone: 202 358-2432

RIN: 2700–AB51

National Aeronautics and Space Administration (NASA)

Long-Term Actions

3852. TRACKING AND DATA RELAY SATELLITE SYSTEM; USE AND REIMBURSEMENT POLICY FOR NON-U.S. GOVERNMENT USERS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

CFR Citation: 14 CFR 1215

Timetable:

Action	Date	FR Cite
Final Action for CY 1993 Rate Change	05/15/92	57 FR 20746
Final Action for CY 1994 Rate Change	09/28/93	58 FR 50515
Final Action for CY 1995 Rate Change	10/31/94	59 FR 54385
Final Action for CY 1997 Rate Change	05/15/95	60 FR 25843
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joseph LaCurto
Phone: 202 358-2044

RIN: 2700–AA29

3853. MISCELLANEOUS ADMINISTRATIVE CHANGES TO THE NASA FEDERAL ACQUISITION REGULATION SUPPLEMENT (NFS)

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

CFR Citation: 48 CFR 1801 to 1872

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Celeste M. Dalton
Phone: 202 358-1645
Email: cdalton@hq.nasa.gov

RIN: 2700–AC33

3854. GRANT AND COOPERATIVE AGREEMENT HANDBOOK

Priority: Substantive, Nonsignificant

CFR Citation: 14 CFR 1260; 14 CFR 1274

Timetable:

Action	Date	FR Cite
ANPRM	12/29/98	63 FR 71609
ANPRM Comment Period End	09/10/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeff Lupis
Phone: 202 358-0462

RIN: 2700–AC34

3855. • NASA STANDARDS OF CONDUCT

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 42 USC 2473 (c) (1)

CFR Citation: 14 CFR 1207.102

Legal Deadline: None

Abstract: Changes in references that are obsolete because of superseding Office of Government Ethics regulations and internal Agency reorganization.

Deletion of Section to conform with superseding regulaton (15 CFR 2640); revision of remainder to reflect organization changes.

This action is not required by action or court order. The changes are being made to recind or amend NASA regulations that have already been published, pursuant to 42 USC 2473 (c) (1).

Because the Agency is conforming with Office of Government Ethics regulations (5 CFR 2640), there are no alternatives to revision.

NASA — **Long-Term Actions**

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Sectors Affected: 001 None

Agency Contact: Richard Andrew Falcon, Senior Attorney, National Aeronautics and Space Administration, Code GG, Office of General Counsel, Washington, DC

Phone: 202 358-2028
Fax: 202 358-4355
Email: afalcon@hq.nasa.gov

RIN: 2700–AC37

National Aeronautics and Space Administration (NASA) — **Completed Actions**

3856. AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Priority: Other Significant

CFR Citation: 14 CFR 1206 Revision

Completed:

Reason	Date	FR Cite
Final Action	07/22/99	64 FR 39404

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia M. Riep-Dice
Phone: 202 358-1764
Email: priepdic@hq.nasa.gov

RIN: 2700–AC36

[FR Doc. 99–23643 Filed 11–19–99; 8:45 am]
BILLING CODE 7510–01–F

VOL 64 ISS 224 NO 22 1999 UMI

federal register

Monday,
November 22, 1999

Part XXIX

National Archives and Records Administration

Semiannual Regulatory Agenda

National Archives and Records Administration (NARA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Archives and Records Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since April 1999.

This agenda was developed under the guidelines in OMB's Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, dated July 21, 1999. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to participate in the rulemaking process. Some of the regulations listed in the agenda are considered significant under Executive Order 12866 "Regulatory Planning and Review."

For this edition of NARA's regulatory agenda, the most significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

FOR FURTHER INFORMATION CONTACT: Nancy Allard, Regulatory Contact, Policy and Planning Staff, (301) 713-7360, ext. 226.

Dated: September 1, 1999.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3857	NARA Facilities	3095-AA06
3858	Creation and Maintenance of Federal Records	3095-AA61
3859	Records Declassification	3095-AA67
3860	NARA Freedom of Information Act Regulations	3095-AA72
3861	Limitations on Testimony by NARA Employees	3095-AA75
3862	Collection of Debts Owed to the United States by NARA Employees	3095-AA76
3863	NARA Reproduction Fees	3095-AA87
3864	Standards for Agency Recordkeeping Requirements	3095-AA88
3865	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance	3095-AA89
3866	Storage Standards for Archival Records	3095-AA90
3867	National Historical Publications and Records Commission Grant Regulations	3095-AA93
3868	Elimination of Requirement To Rewind Computer Tapes	3095-AA94

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3869	Debt Collection	3095-AA77
3870	Agency Records Centers **(Reg Plan Seq No. 140)**	3095-AA81
3871	Presidential Library Facilities	3095-AA82
3872	Storage of Federal Records **(Reg Plan Seq No. 141)**	3095-AA86

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Completed Actions

Sequence Number	Title	Regulation Identification Number
3873	Researcher Registration and Research Room Procedures	3095-AA69
3874	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments	3095-AA78
3875	Nixon Presidential Materials	3095-AA91
3876	Classified National Security Information—Multiple Agency Review	3095-AA92
3877	Classified National Security Information — Safeguarding Classified National Security Information	3095-AA95

National Archives and Records Administration (NARA) — Proposed Rule Stage

3857. NARA FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2110

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: NARA is updating its regulations on the use of NARA facilities and property to remove obsolete material and to clarify existing provisions, and to add provisions for the new facility in College Park, Maryland (Archives II).

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA06

3858. CREATION AND MAINTENANCE OF FEDERAL RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3301; 44 USC 3314

CFR Citation: 36 CFR 1222

Legal Deadline: None

Abstract: This regulation adds a requirement for agencies to protect against the removal of Federal records by issuing written procedures for removal of nonrecord and personal materials.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Marie Allen, Director, Lifecycle Management Division, National Archives and Records Administration, Room 2200, NWML, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7110
Email: marie.allen@arch2.nara.gov

RIN: 3095–AA61

3859. RECORDS DECLASSIFICATION

Priority: Other Significant

Legal Authority: 44 USC 2101 to 2118; 5 USC 552; EO 12600; EO 12958; EO 12356

CFR Citation: 36 CFR 1254; 36 CFR 1260

Legal Deadline: None

Abstract: NARA plans to revise its regulations on mandatory review and declassification of its archival holdings to reflect the provision of EO 12958, Classified National Security Information. The revised regulations will affect Federal agencies as well as the public.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA67

3860. NARA FREEDOM OF INFORMATION ACT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 44 USC 2101 to 2118; EO 12600

CFR Citation: 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: NARA is updating its FOIA regulations governing NARA-created (administrative) records and records accessioned into the National Archives of the United States to reflect organizational and procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	02/00/00	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA72

3861. LIMITATIONS ON TESTIMONY BY NARA EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 44 USC 2104; 44 USC 2108 to 2109; 44 USC 2112; 44 USC 2201 to 2207

CFR Citation: 36 CFR 1201; 36 CFR 1250; 36 CFR 1254

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures with respect to testimony by NARA staff and/or production of information and records in legal proceedings not involving the United States or NARA as a named party.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	
NPRM Comment Period End	07/00/00	
Final Action	08/00/00	
Final Action Effective	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001

Phone: 301 713-6025
Email:
christopher.runkel@arch2.nara.gov

RIN: 3095–AA75

3862. COLLECTION OF DEBTS OWED TO THE UNITED STATES BY NARA EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001 Debt Collection Improvement Act of 1996

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for handling collection, compromise, and terminations of debts owed to the United States by NARA employees, including by salary and administrative offset. The regulation implements the Federal Claims Collection Act as amended by the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	
Final Action	07/00/00	
Final Action Effective	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Email:
christopher.runkel@arch2.nara.gov

RIN: 3095–AA76

3863. NARA REPRODUCTION FEES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104 (a); 44 USC 2118 (c)

CFR Citation: 36 CFR 1258

Legal Deadline: None

Abstract: NARA proposes to revise its schedule of fees for reproduction of records created by other Federal agencies and transferred to the custody of the Archivist of the United States; donated historical materials; Presidential records and Presidential historical materials transferred to the custody of the Archivist; and records filed with the Office of the Federal Register. The fees are being changed to reflect current costs of providing the reproductions. This rule will affect members of the public and Federal agencies who order reproductions from NARA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	02/00/00	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kathryn Yeager, Management and Program Analyst, National Archives and Records Administration, 8601 Adelphi Road (NAT), College Park, MD 20740-6001
Phone: 301 713-6405
Email: kathryn.yeager@arch2.nara.gov

RIN: 3095–AA87

3864. STANDARDS FOR AGENCY RECORDKEEPING REQUIREMENTS

Priority: Other Significant

Legal Authority: 44 USC 2904; 44 USC 2905; 44 USC 3101; 44 USC 3102; 44 USC 3303

CFR Citation: 36 CFR 1220; 36 CFR 1222; 36 CFR 1228; 36 CFR 1234

Legal Deadline: None

Abstract: This regulation expands the current emphasis on electronic mail records to records created with all office automation applications, clarifies the records management requirements for electronic records maintained by contractors, and addresses records generated or received using newer electronic technologies.

Timetable:

Action	Date	FR Cite
NPRM	08/00/00	
NPRM Comment Period End	10/00/00	
Final Action	12/00/00	
Final Action Effective	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA88

3865. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 20 USC 1681; 20 USC 1682; 20 USC 1683; 20 USC 1685; 20 USC 1686; 20 USC 1687; 20 USC 1688

CFR Citation: 36 CFR 1211

Legal Deadline: None

Abstract: NARA is joining with other Federal agencies to issue a common rule that provides the enforcement of Title IX of the Education Amendments of 1972, as amended. Title IX prohibits discrimination on the basis of sex in education programs or activities that receive Federal financial assistance. The regulation will apply to NARA's National Historical Publications and Records Commission grant programs.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58568
NPRM Comment Period End	12/28/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA89

3866. STORAGE STANDARDS FOR ARCHIVAL RECORDS

Priority: Other Significant

Legal Authority: 44 USC 2104 (a); 44 USC 2110

CFR Citation: 36 CFR 1290

NARA

Proposed Rule Stage

Legal Deadline: None

Abstract: NARA intends to issue regulations that specify the preservation requirements for storage areas where archival records are stored. These requirements will address environmental controls, and other measures needed to ensure the long-term preservation of archival records. This regulation will apply to new NARA archival facilities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA90

3867. • NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION GRANT REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2504

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: To rewrite the regulations into plain language and to make other updates and clarifications.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	02/00/00	
Final Action Effective	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Nancy Copp, Management and Program Analyst, National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room 111, Washington, DC 20408-0001
Phone: 202 501-5603
Fax: 202 501-5601
Email: nancy.copp@arch1.nara.gov

RIN: 3095–AA93

3868. • ELIMINATION OF REQUIREMENT TO REWIND COMPUTER TAPES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104a; 44 USC 2904c

CFR Citation: 36 CFR 1234.30(g)(3)

Legal Deadline: None

Abstract: This rule eliminates the requirement for Federal agencies to rewind under controlled tension all tapes containing unscheduled or permanent records every 3 and 1/2 years.

36 CFR 1234.28 requires that, "[a]gencies shall rewind under controlled tension all tapes containing unscheduled and permanent records every 3 and 1/2 years." This requirement originally concerned open-reel tapes. After tape cartridges became commonplace, computer centers generally did not periodically rewind cartridges. In addition, recent electrical engineering studies have questioned whether open-reel tapes should be periodically rewound. The process of rewinding tapes may actually harm them, and would outweigh the benefits associated with storing tapes rewound under controlled tension.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	12/00/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA94

National Archives and Records Administration (NARA)

Final Rule Stage

3869. DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5514; 31 USC 3701 to 3719; PL 104-134, sec 31001

CFR Citation: 36 CFR 1201

Legal Deadline: None

Abstract: This regulation will establish NARA's policies and procedures for implementing the Debt Collection Improvement Act of 1996. It provides for the collection, compromise, or termination of debts owed to the United States and NARA by adopting the Federal Claims Collection Standards promulgated by the General Accounting Office and Department of Justice.

Timetable:

Action	Date	FR Cite
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Christopher M. Runkel, Deputy General Counsel, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-6025
Email: christopher.runkel@arch2.nara.gov

RIN: 3095–AA77

3870. AGENCY RECORDS CENTERS

Regulatory Plan: This entry is Seq. No. 140 in Part II of this issue of the **Federal Register**.

RIN: 3095–AA81

NARA — Final Rule Stage

3871. PRESIDENTIAL LIBRARY FACILITIES

Priority: Substantive, Nonsignificant

Legal Authority: 44 USC 2104(a); 44 USC 2112

CFR Citation: 36 CFR 1281

Legal Deadline: None

Abstract: NARA is issuing regulations relating to the acceptance of a Presidential library facility by the Archivist of the United States from a non-Federal group or institution. The regulations will address requirements in the Presidential Libraries Act of 1986 for architectural and design standards, certifications, and reporting to Congress.

Timetable:

Action	Date	FR Cite
NPRM	08/25/98	63 FR 45203
NPRM Comment Period End	10/26/98	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA82

3872. STORAGE OF FEDERAL RECORDS

Regulatory Plan: This entry is Seq. No. 141 in Part II of this issue of the **Federal Register**.

RIN: 3095–AA86

National Archives and Records Administration (NARA) — Completed Actions

3873. RESEARCHER REGISTRATION AND RESEARCH ROOM PROCEDURES

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 1254

Completed:

Reason	Date	FR Cite
Interim Final Rule	04/23/99	64 FR 19899
Final Rule	04/23/99	
Final Rule Effective	05/24/99	
Final Action Effective	05/24/99	
Interim Final Rule Comment Period End	06/22/99	
Final Action	09/09/99	64 FR 48960

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA69

3874. ADMINISTRATIVE REQUIREMENTS FOR GRANTEES TO REFLECT SINGLE AUDIT ACT AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 1207; 36 CFR 1210

Completed:

Reason	Date	FR Cite
Interim Final Rule	08/29/97	62 FR 45937
Interim Final Rule Effective	09/29/97	
Interim Final Rule Comment Period End	10/28/97	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Nancy Allard
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA78

3875. NIXON PRESIDENTIAL MATERIALS

Priority: Substantive, Nonsignificant

CFR Citation: 36 CFR 1275

Completed:

Reason	Date	FR Cite
NPRM	07/14/99	64 FR 37922
NPRM Comment Period End	09/13/99	
Final Action	10/21/99	64 FR 56678
Final Action Effective	11/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy Allard
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA91

3876. • CLASSIFIED NATIONAL SECURITY INFORMATION—MULTIPLE AGENCY REVIEW

Priority: Substantive, Nonsignificant

Legal Authority: EO 12958

CFR Citation: 32 CFR 2001

Legal Deadline: None

Abstract: This Information Security Oversight Office (ISOO) rule establishes a uniform referral standard that Federal agencies must use for multi-agency declassification review. It includes guidelines for referring, redacting, and properly marking information that is subject to the automatic declassification provisions of E.O. 12958.

Timetable:

Action	Date	FR Cite
Final Action	09/13/99	64 FR 49388
Final Action Effective	10/13/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA92

NARA

Completed Actions

3877. • CLASSIFIED NATIONAL SECURITY INFORMATION — SAFEGUARDING CLASSIFIED NATIONAL SECURITY INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12958

CFR Citation: 32 CFR 2004

Legal Deadline: None

Abstract: This Information Security Oversight Office (ISOO) regulation sets forth requirements for the safeguarding of classified national security information.

Timetable:

Action	Date	FR Cite
Final Action	09/24/99	64 FR 51853
Final Action Effective	10/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Nancy Allard, Regulatory Contact, National Archives and Records Administration, Room 4100, NPLN, 8601 Adelphi Road, College Park, MD 20740-6001
Phone: 301 713-7360
Email: nancy.allard@arch2.nara.gov

RIN: 3095–AA95

[FR Doc. 99–24742 Filed 11–19–99; 8:45 am]

BILLING CODE 7515–05–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XXX

National Foundation on the Arts and the Humanities

Institute of Museum and Library Services
Semiannual Regulatory Agenda

Institute of Museum and Library Services (IMLS)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Ch. XI

Regulatory Agenda

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act, the Institute of Museum and Library Services publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 606-5414.

Nancy Weiss,

General Counsel.

Institute of Museum and Library Services (IMLS) — Long-Term Actions

3878. NATIONAL LEADERSHIP DEMONSTRATION GRANTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-208, sec 262, Museum and Library Services Act

CFR Citation: 45 CFR 1180

Legal Deadline: None

Abstract: Regulations will be published to provide guidelines on IMLS National Demonstration Leadership Grants to enhance quality of library services nationwide and to provide coordination between museums and libraries.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue NW., Washington, DC 20506
Phone: 202 606-5414
Fax: 202 606-1077
Email: nweiss@imls.fed.us

RIN: 3137–AA08

[FR Doc. 99–25672 Filed 11–19–99; 8:45 am]

BILLING CODE 7036–01–F

VOL 64 ISS 224 NO 22 1999 UMI

federal register

Monday,
November 22, 1999

Part XXXI

National Foundation on the Arts and the Humanities

National Endowment for the Arts
Semiannual Regulatory Agenda

National Endowment for the Arts (NEA)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Regulatory Agenda

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605) and Executive Order 12866, the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Hope O'Keeffe, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call (202) 682-5418.

L. Hope O'Keeffe,

Acting General Counsel.

National Endowment for the Arts (NEA) — Final Rule Stage

3879. COLLECTION OF CLAIMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a; 31 USC 3701

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (Pub. L. 97-365) and the 1983 amendments (Pub. L. 97-452), both of which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716 to 3718) to authorize, among other things, charging of interest penalties and administrative costs and the use of administrative offset, private collection agencies, and credit agencies by the Government. The amendments also implement Governmentwide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: RIN 3135-AA04 was merged with RIN 3135-AA01 on 01/29/91.

Agency Contact: Hope O'Keeffe, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue NW, Washington, DC 20506
Phone: 202 682-5418
Fax: 202 682-5496
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA01

National Endowment for the Arts (NEA) — Long-Term Actions

3880. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES; EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 45 CFR 1140

Timetable:

Action	Date	FR Cite
ANPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
Fax: 202 682-5496
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA10

3881. NONDISCRIMINATION ON THE BASIS OF SEX IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES — IMPLEMENTATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Priority: Other Significant

CFR Citation: 45 CFR 1155

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
Fax: 202 682-5496
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA15

National Endowment for the Arts (NEA)

Completed Actions

3882. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
Withdrawn	09/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Hope O'Keeffe
Phone: 202 682-5418
Fax: 202 682-5496
Email: okeeffeh@arts.endow.gov

RIN: 3135–AA08

3883. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Completed:

Reason	Date	FR Cite
Withdrawn	09/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen L. Elias
Phone: 202 682-5418
TDD Phone: 202 682-5496
Fax: 202 682-5572
Email: eliask@arts.endow.gov

RIN: 3135–AA13

[FR Doc. 99–23644 Filed 11–19–99; 8:45 am]
BILLING CODE 7537–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XXXII

National Foundation on the Arts and the Humanities

National Endowment for the Humanities
Semiannual Regulatory Agenda

National Endowment for the Humanities (NEH)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, and Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993, the National Endowment for the Humanities is required to publish, in April and October of each year, an agenda of proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Attorney-Advisor, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 606-8322.

Juan E. Mestas,

Deputy Chairman, National Endowment for the Humanities.

National Endowment for the Humanities (NEH) — Long-Term Actions

3884. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1110; 45 CFR 1173

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Willie McGhee
Phone: 202 606-8233
TDD Phone: 202 606-8282
Fax: 202 606-8243
Email: wmcghee@neh.gov

RIN: 3136–AA11

3885. IMPLEMENTATION OF TITLE IX OF THE EDUCATION ACT AMENDMENTS OF 1972

Priority: Substantive, Nonsignificant

CFR Citation: 41 CFR 1171

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Virginia R. Canter
Phone: 202 606-8322
Fax: 202 606-8600
Email: gcanter@neh.gov

RIN: 3136–AA14

3886. POST-EMPLOYMENT RESTRICTIONS FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA16

3887. PRIVACY ACT REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1115

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA18

3888. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 8501

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA21

3889. STANDARDS OF CONDUCT OF EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 1105

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laura S. Nelson
Phone: 202 606-8322
TDD Phone: 202 606-8282
Fax: 202 606-8600
Email: lnelson@neh.gov

RIN: 3136–AA22

[FR Doc. 99–23645 Filed 11–19–99; 8:45 am]

BILLING CODE 7536–01–F

federal register

Monday,
November 22, 1999

Part XXXIII

National Science Foundation

Semiannual Regulatory Agenda

National Science Foundation (NSF)

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Regulatory Agenda

AGENCY: National Science Foundation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Science Foundation is publishing its October 1999 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (3 CFR 1993 Comp., p. 638), the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Office of Management and Budget Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions (July 21, 1999).

FOR FURTHER INFORMATION CONTACT: For further information on a particular item, call or write the individual identified as agency contact. General comments or inquiries about this agenda may be directed to Leslie Crawford, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1060.

Dated: September 3, 1999.

Leslie Crawford,

Legal Analyst.

National Science Foundation (NSF) — Proposed Rule Stage

3890. AVAILABILITY OF RECORDS AND INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 45 CFR 612

Legal Deadline: Other, Statutory, October 2, 1997, Other deadline is for compliance with new Electronics Freedom of Information Act.

Abstract: The agency is updating rules to incorporate changes made by Electronic FOI Amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: D. Matthew Powell, Assistant General Counsel, National Science Foundation, Room 1265, 4201 Wilson Boulevard, Arlington, VA 22230 Phone: 703 306-1060

RIN: 3145–AA31

3891. PRIVACY ACT REGULATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552a Privacy Act

CFR Citation: 45 CFR 613

Legal Deadline: None

Abstract: This is a review of agency Privacy Act regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: D. Matthew Powell, Assistant General Counsel, National Science Foundation, Room 1265, 4201 Wilson Boulevard, Arlington, VA 22230 Phone: 703 306-1060

RIN: 3145–AA32

National Science Foundation (NSF) — Long-Term Actions

3892. ENVIRONMENTAL ASSESSMENT PROCEDURES FOR PROPOSED NATIONAL SCIENCE FOUNDATION ACTIONS IN ANTARCTICA

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 641

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149
Email: aeisenst@nsf.gov

RIN: 3145–AA33

3893. ENFORCEMENT AND HEARING PROCEDURES; TOURISM GUIDELINES

Priority: Substantive, Nonsignificant

CFR Citation: 45 CFR 673

Timetable:

Action	Date	FR Cite
NPRM	06/04/98	63 FR 30438
NPRM Comment Period End	08/03/98	
Interim Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anita Eisenstadt
Phone: 703 306-1060
Fax: 703 306-0149
Email: aeisenst@nsf.gov

RIN: 3145–AA36

[FR Doc. 99–24743 Filed 11–19–99; 8:45 am]

BILLING CODE 7555–01–F

Monday,
November 22, 1999

Part XXXIV

Office of Federal Housing Enterprise Oversight

Semiannual Regulatory Agenda

Office of Federal Housing Enterprise Oversight (OFHEO)

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

12 CFR Ch. XVII

Semiannual Agenda

AGENCY: Office of Federal Housing Enterprise Oversight

ACTION: Semiannual regulatory agenda

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12866 ("Regulatory Planning and Review," September 30, 1993), which require the publication of a semiannual agenda of regulations.

FOR FURTHER INFORMATION CONTACT: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552, (202) 414-3800.

Dated: September 8, 1999

Mark A. Kinsey,

Acting Director, Office of Federal Housing Enterprise Oversight.

Office of Federal Housing Enterprise Oversight (OFHEO) — Proposed Rule Stage

3894. RISK-BASED CAPITAL

Priority: Economically Significant

Legal Authority: 12 USC 4513; 12 USC 4611-12; 12 USC 4614; 12 USC 4618; 12 USC 4514

CFR Citation: 12 CFR 1750

Legal Deadline: Final, Statutory, December 1, 1994.

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) is directed by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq., to develop a risk-based capital regulation for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises). To discharge this responsibility, OFHEO must develop and implement a risk-based capital "stress test" that determines the amount of capital that an Enterprise must hold in order to maintain positive capital throughout a hypothetical ten-year period of economic stress. This Notice of Proposed Rulemaking is the second of two notices of proposed rulemaking pertaining to the risk-based capital regulation. The first notice described the methodology and rationale OFHEO used to identify the proposed benchmark loss experience, which is used to determine Enterprise credit losses during the stress test, and proposed the use of OFHEO's House Price Index in the stress test. The second notice specifies the interest rate risk and other components of the stress test, as well as the overall structure of the test. The comment period regarding the second NPR closes March 10, 2000.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/95	60 FR 7468
ANPRM Comment Period End	05/09/95	
NPRM	06/11/96	61 FR 29592
NPRM Comment Period Extended	08/19/96	61 FR 42824
Second NPRM	04/13/99	64 FR 18083
Second NPRM Comment Period Extended	06/14/99	64 FR 31756
Second NPRM Comment Period Extended to	03/10/00	64 FR 56274

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anne E. Dewey, General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW, Washington, DC 20552
Phone: 202 414-3800

RIN: 2550–AA02

3895. • IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Priority: Info./Admin./Other

Legal Authority: 5 USC 504

CFR Citation: 12 CFR 1735

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) will issue a proposed regulation describing the procedures that eligible parties must follow in order to receive an award of fees and other expenses in adversary adjudications before OFHEO.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Isabella W. Sammons, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552
Phone: 202 414-3790

RIN: 2550–AA08

3896. • RELEASING INFORMATION; ELECTRONIC FREEDOM OF INFORMATION AMENDMENT

Priority: Info./Admin./Other

Legal Authority: 5 USC 301, 552; 12 USC 4513, 4522, 4639; EO 12600; 3 CFR, 1987 Comp., p. 235

CFR Citation: 12 CFR 1710

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) will issue a proposed regulation to implement the Electronic Freedom of Information Act Amendments of 1996. The proposed regulation will make provision for expedited processing of Freedom of Information Act (FOIA) requests upon a showing of compelling need and for electronic dissemination of documents released under the FOIA. It will also revise OFHEO's FOIA fee schedule.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dorothy J. Acosta, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552

OFHEO **Proposed Rule Stage**

Phone: 202 414-3748
RIN: 2550–AA09

Office of Federal Housing Enterprise Oversight (OFHEO) **Final Rule Stage**

3897. RULES OF PRACTICE AND PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 12 USC 4513(b)(1); 12 USC 4631 to 4641; 28 USC 2641 note

CFR Citation: 12 CFR 1780

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a proposed regulation setting forth rules of practice and procedure related to OFHEO's statutory enforcement provisions found in subtitle C of title XIII of the Housing and Community Development Act of 1992, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4501 et seq. The final regulation will describe procedures for answering notices of charges, filing and service of papers, the designation of a presiding officer, the conduct of formal hearings, access to agency process of parties afforded a hearing, and various time requirements. In addition, the final regulation will set rules of practice, including debarment, suspension and other sanctions, for persons who practice before OFHEO.

Timetable:

Action	Date	FR Cite
NPRM	09/24/98	63 FR 51031
NPRM Comment Period End	12/23/98	
Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David A. Felt, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552
Phone: 202 414-3750

RIN: 2550–AA04

3898. DEBT COLLECTION

Priority: Info./Admin./Other

Legal Authority: 5 USC 5514; 26 USC 6402(d); 31 USC 3701 to 3720A

CFR Citation: 12 CFR 1730

Legal Deadline: None

Abstract: The Office of Federal Housing Enterprise Oversight (OFHEO) issued a final regulation, effective October 18, 1999, that sets forth procedures for use by OFHEO in collecting debts owed to the Federal Government. It includes procedures for collection of debts through salary offset, administrative offset, and tax refund offset.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/99	64 FR 34968
Interim Final Rule Comment Period End	08/30/99	
Final Rule	09/16/99	64 FR 50246
Final Rule Effective	10/18/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Isabella W. Sammons, Associate General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street NW., Washington, DC 20552
Phone: 202 414-3790

RIN: 2550–AA07

[FR Doc. 99–24744 Filed 11–19–99; 8:45 am]
BILLING CODE 4220–$$–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XXXV

Office of Government Ethics

Semiannual Regulatory Agenda

Office of Government Ethics (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, October 1999

AGENCY: Office of Government Ethics.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from October 1, 1999, through September 30, 2000. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda under Executive Order 12866 "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this October 1999 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-related. Furthermore, the Office of Government Ethics rulemakings are not included in The Regulatory Plan.

This publication in the **Federal Register** does not impose a binding obligation on the Office of Government Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-208-8000, extension 1110; TDD: 202-208-8025; FAX: 202-208-8037.

Approved: August 24, 1999.

Stephen D. Potts,

Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3899	Office of Government Ethics Gift Acceptance Authority and Organizational Update	3209-AA21
3900	Privacy Act Rules of the Office of Government Ethics	3209-AA18
3901	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12
3902	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09
3903	Post-Employment Conflict of Interest Restrictions	3209-AA14

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3904	Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture	3209-AA00
3905	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3906	Executive Agency Ethics Training Programs	3209-AA07

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3907	Office of Government Ethics Procedures on Requests for Testimony by OGE Employees and Documentary Production Relating to Official Information and Records	3209-AA23
3908	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3909	Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees	3209-AA13

Completed Actions

Sequence Number	Title	Regulation Identification Number
3910	Office of Government Ethics Electronic Freedom of Information Act Updating Amendments	3209-AA22

Office of Government Ethics (OGE)

Proposed Rule Stage

3899. OFFICE OF GOVERNMENT ETHICS GIFT ACCEPTANCE AUTHORITY AND ORGANIZATIONAL UPDATE

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2600

Legal Deadline: None

Abstract: This regulation will implement the agency gift acceptance authority of the Office of Government Ethics as set forth in the 1996 OGE Authorization Act. In addition, various provisions of OGE's part 2600 organization and functions regulation will be updated to reflect changes in OGE's organizational structure. This regulation will be written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: James P. O'Sullivan, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA21

3900. PRIVACY ACT RULES OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	
NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Elaine Newton, Office of the General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA18

3901. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 209; EO 12674; EO 12731

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, USC, prohibiting the private supplementation of the Government salary of executive branch officers and employees. This regulation is being written in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Arielle H. Grill, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA12

3902. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 208; EO 12674; EO 12731

CFR Citation: 5 CFR 2640

Legal Deadline: None

Abstract: This regulation interprets section 208(a) of title 18, USC, which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 USC 208(b)). It also lists and describes interests considered too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 USC 208(b)(2). Such interests are exempt from the restrictions of 18 USC 208(a), generally requiring disqualification. The regulation also provides guidance to executive branch agencies as to the kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 USC 208(a) pursuant to 18 USC 208(b)(1). In addition, guidance is provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 USC 208(b)(3). A separate interim final rule, published in 1995 exempting certain financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits from the general prohibition in section 208(a), was incorporated in the overall final rule. A set of additional proposed exemptions will be issued.

Timetable:

Action	Date	FR Cite
Govt. Interests and Social Security and Veterans' Benefits Exemptions Interim Final Rule	08/28/95	60 FR 44706
Overall NPRM	09/11/95	60 FR 47208

OGE

Proposed Rule Stage

Action	Date	FR Cite
Overall NPRM Comment Period End	11/13/95	
Overall Final Rule	12/18/96	61 FR 66830
Correction	01/09/97	62 FR 1361
Overall Final Rule Effective	01/17/97	
Correction	04/29/97	62 FR 23127
Proposed Exemption Amendments	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Judy H. Mann, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA09

3903. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207; EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Government Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current post-employment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR Cite
Interim Final Rule for One-Year Restriction of Section 207(c)	02/01/91	56 FR 3951
Designation of Senior Employees and Separate Agency Components	01/28/92	57 FR 3115
Designation of Additional Separate Agency Component	04/07/92	57 FR 11673
Amendment to Prior Post-Employment Regulation (Part 2637)	12/31/92	57 FR 62467
Amendment to Interim Final Rule (Part 2641)	06/21/93	58 FR 33755
Technical Amendment to Authority Citation of 5 CFR Part 2637	12/30/93	58 FR 69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR 34755
Exempted Senior Employee and Agency Separate Component Designation Update	05/16/97	62 FR 26915
Correction: Post-Employment Reg. Update	06/11/97	62 FR 31865
Agency Separate Component Designation Update	02/05/99	64 FR 5709
Overall NPRM	06/00/00	
Overall NPRM Comment Period End	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Julia Loring Eirinberg, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA14

Office of Government Ethics (OGE)

Final Rule Stage

3904. EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); PL 101-410; PL 104-134, sec 31001; 28 USC 2461 note; 26 USC 1043; EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agency-specific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees. This regulation also has a subpart dealing with certificates of divestiture.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendment to Interim Final Rule	09/01/93	58 FR 46096

OGE **Final Rule Stage**

Action	Date	FR Cite
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Proposed Amendments -- Certificates of No New Interests for Confidential Filers	01/15/97	62 FR 2048
Final Amendment -- Certificates of No New Interests for Confidential Filers	06/24/97	62 FR 33972
Updating Amendment to Part 2634	09/17/97	62 FR 48746
Clarifying Amendment to Section 2634.906	03/31/98	63 FR 15273
Minor Amdt. to Part 2634 (Transfer of Inactive in Lieu of Honoraria Charitable Paymts. Reporting)	08/12/98	63 FR 43067
Paperwork Revisions to Appendixes A, B, and C	11/02/98	63 FR 58619
Technical Amendments to Part 2634	12/18/98	63 FR 69991
Technical Corrections to Part 2634	01/14/99	64 FR 2421
Proposed Gifts Reporting Waiver Amendments	05/13/99	64 FR 25849
Inflation Adjustments to Civil Monetary Penalties as Reflected in Part 2634	08/30/99	64 FR 47095
Final Gifts Reporting Waiver Amendments	09/14/99	64 FR 49639
Technical Amendments to Categories of Value Reporting and Gifts/ Reimbursements Thresholds	12/00/99	
Certificates of Divestiture Revisions (Subpart J)	12/00/00	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA00

3905. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635

Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this ethical conduct standards regulation generally superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period was in effect until November 1, 1996, or until individual concerned agencies issued supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR Cite
NPRM	07/23/91	56 FR 33778
NPRM Comment Period End	09/20/91	
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR 35006
Correction	10/27/92	57 FR 48557
Correction	11/04/92	57 FR 52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR 4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR 6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR 31415
Minor Correction to One Citation	10/03/95	60 FR 51667
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	12/27/95	60 FR 66857
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	08/07/96	61 FR 40950
Final Rule on Widely Attended Gatherings	08/20/96	61 FR 42965
Correction to Final Rule on Widely Attended Gatherings	09/16/96	61 FR 48733
Interim Rule on Gifts From Political Organizations	09/27/96	61 FR 50689
Final Rule on Gifts From Political Organizations	03/17/97	62 FR 12531
Updating Amendments to Part 2635	09/17/97	62 FR 48746
Proposed Amendments Re: Gifts (Subpart B)	08/04/98	63 FR 41476
Further Minor Proposed Amendments to Part 2635 / Seeking Employment and Outside Activities	08/26/98	63 FR 45415
Amendments to Subpart B Gifts From Outside Sources	12/18/98	63 FR 69992
Technical Corrections to Part 2635	01/14/99	64 FR 2421
Final Amendments to Part 2635 / Seeking Employment and Outside Activities	03/17/99	64 FR 13063
Interim Rule on Travel Expenses for Certain Unofficial Teaching, Speaking, and Writing	12/00/99	
Final Technical Amendment to Nonsponsor Widely Attended Gathering Gift Dollar Ceiling	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA04

OGE — Final Rule Stage

3906. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2638.701 to 2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under section 301(b) and (c) of E.O. 12674, as modified by E.O. 12731. The Office of Government Ethics is rewriting the entire training regulation in "plain language."

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612
Interim Amendments to Liberalize Certain Training Requirements	03/16/94	59 FR 12145
Interim Final Rule Comment Period End	05/16/94	
Interim Amendments To Refine Certain Training Requirements	03/12/97	62 FR 11307
Correction to Interim Training Reg. Amendments	03/19/97	62 FR 13213
Correction to Interim Training Reg. Amendments	03/27/97	62 FR 14737
Interim Amendments To Refine Certain Training Requirements Comment Period End	04/11/97	62 FR 11307
Most Interim Amendments To Refine Certain Training Requirements Effective	06/10/97	62 FR 13213
Interim Amendment To Rewrite Regulation in "Plain Language" and Restructure Its Provisions	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Arielle H. Grill, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA07

Office of Government Ethics (OGE) — Long-Term Actions

3907. OFFICE OF GOVERNMENT ETHICS PROCEDURES ON REQUESTS FOR TESTIMONY BY OGE EMPLOYEES AND DOCUMENTARY PRODUCTION RELATING TO OFFICIAL INFORMATION AND RECORDS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2608 (New)

Legal Deadline: None

Abstract: This proposed rule would set forth proposed OGE procedures for responding to subpoenas and other requests and demands for testimony by OGE employees and documentary production relating to official OGE information and records (Touhy regulations).

Timetable:

Action	Date	FR Cite
NPRM	12/00/00	
NPRM Comment Period End	02/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Karen Kimball, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA23

3908. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with sections 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding certain financial interests, designation of subunits and prior approval for outside employment, which are needed for certain agencies to round out the executive branchwide ethical standards for their employees.

OGE

Long-Term Actions

Timetable:

Action	Date	FR Cite
FTC Employees (5 CFR Ch. XLVII) Interim Final Rule	05/27/93	58 FR 30695
OPIC Employees (5 CFR Ch. XXXIII) Interim Final Rule	06/17/93	58 FR 33319
Treasury Employees (5 CFR Ch. XXI) NPRM	08/03/93	58 FR 41193
ICC Employees (5 CFR Ch. XL) Final Rule	08/06/93	58 FR 41989
PRC Employees (5 CFR Ch. XLVI) Final Rule	08/12/93	58 FR 42839
DoD Employees (5 CFR Ch. XXVI) Interim Final Rule	09/10/93	58 FR 47619
CFTC Employees (5 CFR Ch. XLI) Final Rule	10/12/93	58 FR 52637
IAF Employees (5 CFR Ch. LXIII) Final Rule	01/27/94	59 FR 3771
5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/94	59 FR 4779
NRC Employees (5 CFR Ch. XLVIII) Final Rule	04/13/94	59 FR 17457
FDIC Employees (5 CFR Ch. XXII) NPRM	07/12/94	59 FR 35480
NASA Employees (5 CFR Ch. LIX)	09/28/94	59 FR 49335
FRTIB Employees (5 CFR Ch. LXXIV)	10/06/94	59 FR 50816
Education Employees (5 CFR Ch. LIII)	01/30/95	60 FR 5816
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	02/02/95	60 FR 6390
OMB Employees (5 CFR Ch. LXXVII) Final Rule	03/07/95	60 FR 12396
USPS Employees (5 CFR Ch. LX)	03/27/95	60 FR 15700
Eximbank Employees (5 CFR Ch. LII)	04/07/95	60 FR 17625
FDIC Employees (5 CFR Ch. XXII)	04/25/95	60 FR 20171
Treasury Employees (5 CFR Ch. XXI) Final Rule	05/05/95	60 FR 22249
FCSIC Employees (5 CFR Ch. XXX)	06/12/95	60 FR 30773
FCA Employees (5 CFR Ch. XXXI)	06/12/95	60 FR 30778
HUD Employees (5 CFR Ch. LXV)	06/30/95	60 FR 34420
OPIC Employees (5 CFR Ch. XXXIII) Final Rule	07/21/95	60 FR 37555
USPS Employees (5 CFR Ch. LX) Final Rule	09/11/95	60 FR 47240
FCA Employees (5 CFR Ch. XXXI) Final Rule	09/13/95	60 FR 47453
OGE Concurrence in FCA Employees (5 CFR Ch. XXXI) Final Rule	12/06/95	60 FR 62319
BGFRS Employees (5 CFR Ch. LVIII)	12/19/95	60 FR 65249
Further 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	12/27/95	60 FR 66857
FCSIC Employees (5 CFR Ch. XXX) Final Rule	02/06/96	61 FR 4349
EEOC Employees (5 CFR Ch. LXII)	02/26/96	61 FR 7065
TVA Employees (15 CFR Ch. LXIX)	05/06/96	61 FR 20117
DOE Employees (5 CFR Ch. XXIII)	07/05/96	61 FR 35085
FDIC Employees (5 CFR Ch. XXII) Amendment	07/09/96	61 FR 35915
HUD Employees (5 CFR Ch. LXV)	07/09/96	61 FR 36246
OPM Employees (5 CFR Ch. XXXV)	07/16/96	61 FR 36993
HHS Employees (5 CFR Ch. XLV)	07/30/96	61 FR 39756
FMSHRC Employees (5 CFR Ch. LXXIV)	07/31/96	61 FR 39869
DOT Employees (5 CFR Ch. L)	07/31/96	61 FR 39901
EPA Employees (5 CFR Ch. LIV)	08/02/96	61 FR 40500
NARA Employees (5 CFR Ch. LXVI)	08/05/96	61 FR 40505
Further Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension (by OGE)	08/07/96	61 FR 40950
FERC Employees (5 CFR Ch. XXIV)	08/23/96	61 FR 43411
BGFRS Employees (5 CFR Ch. LVIII) Final Rule	10/16/96	61 FR 53827
FCC Employees (5 CFR Ch. XXIX)	10/31/96	61 FR 56109
GSA Employees (5 CFR Ch. LVII)	11/01/96	61 FR 56399
DOL Employees (5 CFR Ch. XLII)	11/06/96	61 FR 57281
DOJ Employees (5 CFR Ch. XXVIII)	11/25/96	61 FR 59811
NSF Employees (5 CFR Ch. XLIII)	11/25/96	61 FR 59815
CPSC Employees (5 CFR Ch. LXXI)	12/13/96	61 FR 65457
FDIC Employees (5 CFR Ch. XXII) Amendment	01/27/97	62 FR 3771
NLRB Employees (5 CFR Ch. LXI)	02/12/97	62 FR 6445
DOJ Employees (5 CFR Ch. XXVIII) Final Rule	05/02/97	62 FR 23941
DOJ Employees (5 CFR Ch. XXVIII) Final Rule Correction	06/11/97	62 FR 31865
OPM Employees (5 CFR Ch. XXXV) Interim Rule Correction	06/17/97	62 FR 32859
EEOC Employees (5 CFR Ch. LXII) Final Rule	07/08/97	62 FR 36447
OPM Employees (5 CFR Ch. XXXV) Final Rule	08/11/97	62 FR 42897
DOI Employees (5 CFR Ch. XXV)	10/16/97	62 FR 53713
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/15/98	63 FR 18501
DOI Employees (5 CFR Ch. XXV) Interim Final Rule Correction	04/24/98	63 FR 20447
DOI Employees (5 CFR Ch. XXV) Final Rule	06/24/98	63 FR 34258
FTC Employees (5 CFR Ch. XLVII) Final Rule Amendments	08/12/98	63 FR 43069
Final Action	01/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert W. Cobb, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA15

3909. LIMITATIONS ON OUTSIDE EARNED INCOME, EMPLOYMENT AND AFFILIATIONS FOR CERTAIN NONCAREER EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); PL 101-410; 28 USC 2461 note; PL 104-134, sec 31001; EO 12674; EO 12731

CFR Citation: 5 CFR 2636

Legal Deadline: None

Abstract: The regulation had, in pertinent part, implemented, effective

OGE — **Long-Term Actions**

January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees and hence determined to be eviscerated as to all other Federal employees by the Office of Legal Counsel of the Justice Department). In addition, the regulation continues to implement the limitation on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. The regulation has now been amended in light of the above-noted litigation and other pertinent developments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Additional Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Further Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Removal of Subpart B of Part 2636	08/12/98	63 FR 43067
Technical Corrections to Part 2636	01/14/99	64 FR 2421
Inflation Adjustment to Civil Monetary Penalty As Reflected in Part 2636	08/30/99	64 FR 47095
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA13

Office of Government Ethics (OGE) — **Completed Actions**

3910. OFFICE OF GOVERNMENT ETHICS ELECTRONIC FREEDOM OF INFORMATION ACT UPDATING AMENDMENTS

Priority: Other Significant

Legal Authority: 5 USC 552; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2604

Legal Deadline: None

Abstract: This amendatory rule implemented for OGE the changes made to the Freedom of Information Act (FOIA) by the 1996 Electronic FOIA Amendments as well as made certain other updating revisions to the OGE FOIA regulation.

Timetable:

Action	Date	FR Cite
Proposed Amendments to OGE FOIA Regulation	12/03/98	63 FR 66769
Final Action	05/25/99	64 FR 28089

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917
Phone: 202 208-8000
TDD Phone: 202 208-8025
Fax: 202 208-8037

RIN: 3209–AA22

[FR Doc. 99–23646 Filed 11–19–99; 8:45 am]
BILLING CODE 6341–01–F

federal register

Monday,
November 22, 1999

Part XXXVI

Office of Management and Budget

Semiannual Regulatory Agenda

Office of Management and Budget (OMB)

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III and 48 CFR Ch. 99

Federal Regulations; OMB Circulars, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for OMB Circulars, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards Board (CASB) Cost Accounting Standards.

OMB Circulars and OFPP Policy Letters are published in accordance with OMB's internal procedures for implementing Executive Order 12866 (October 4, 1993, 58 FR 51735). OMB policy guidelines are issued under authority derived from several sources including: subtitles I, II, and V of title 31, United States Code; Executive Order 11541; and other specific authority as cited. OMB Circulars and OFPP Policy Letters communicate guidance, instructions of a continuing nature to executive branch agencies. As such, most OMB Circulars and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of public interest, they are generally published in the **Federal Register** in both proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of "prerule," "proposed rule," and "final rule" stages.

CASB Cost Accounting Standards are issued under authority derived from 41 U.S.C. 422. Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President's budget and legislative programs and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Clarence C. Crawford, (202) 395-3060, at the above address.

Dated: October 5, 1999

Clarence C. Crawford,

Associate Director for Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3911	Revision of OMB Circular A-127 To Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies	0348-AB46

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3912	Revision to OMB Circular No. A-125, "Prompt Pay"	0348-AB47
3913	Policies on Management of Federal Information Resources (OMB Circular No. A-130)	0348-AB36
3914	Cost Principles for Educational Institutions (OMB Circular A-21)	0348-AB50
3915	Cost Accounting Standards Administration	0348-AB25
3916	Subcontracting Plans	0348-AB31
3917	Goals for Procurement Contracts	0348-AB51

Completed Actions

Sequence Number	Title	Regulation Identification Number
3918	Revision to OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	0348-AB49
3919	Procedures for Participating in the Census Bureau Reconciliation and the OMB Appeal Processes for the Development of the Census 2000 Address List	0348-AB48

Office of Management and Budget (OMB) — Proposed Rule Stage

3911. REVISION OF OMB CIRCULAR A-127 TO IMPLEMENT THE FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT (FFMIA) AND TO REFLECT UPDATED FINANCIAL MANAGEMENT POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, Chief Financial Officer's Act of 1990; PL 104-208, Federal Financial Management Improvement Act of 1996; 31 USC 3111

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Federal Financial Management Improvement Act (FFMIA) of 1996 requires that financial management systems at each Federal agency covered by the CFOs Act, substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The revisions are to incorporate this and other policy updates since the 1993 issuance of the last revision to A-127.

Timetable:

Action	Date	FR Cite
Proposed Revision	10/00/99	
Final Revision	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Jean Holcombe, Office of Federal Financial Management, Office of Management and Budget, Room 6025, NEOB, 725 17th Street NW, Washington, DC 20503
Phone: 202 395-5048
Email: jholcombe@omb.eop.gov

RIN: 0348–AB46

Office of Management and Budget (OMB) — Final Rule Stage

3912. REVISION TO OMB CIRCULAR NO. A-125, "PROMPT PAY"

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC ch 39

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The final rule will replace OMB Circular A-125 "Prompt Pay." These revised "Prompt Pay" rules incorporate provisions of the Debt Collection Improvement Act of 1996 and OMB is adopting them as codified regulations at a new part 1315 of title 5, CFR. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	06/17/98	63 FR 33000
Comments Due	08/17/98	
Final Revision	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Thomas Stack, Chief, Credit and Cash Management Branch, Office of Management and Budget, Room 9201, NEOB, 725 17th Street NW, Washington, DC 20503
Phone: 202 395-1457
Email: tstack@omb.eop.gov

RIN: 0348–AB47

3913. POLICIES ON MANAGEMENT OF FEDERAL INFORMATION RESOURCES (OMB CIRCULAR NO. A-130)

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-106

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: OMB Circular A-130, Management of Federal Information Resources, establishes policies for the management of Federal information resources and provides certain procedures and analytical guidelines for implementing specific aspects of these policies. OMB is reviewing the Circular for consistency with the Information Technology Management Reform Act (ITMRA) of 1996, Public Law 104-106. This proposed revision is consistent with the National Performance Reviews reinventing government efforts.

Timetable:

Action	Date	FR Cite
Proposed Revision	05/00/00	
Final Revision	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jasmeet Seehra, Senior Policy Analyst, Office of Management and Budget, Room 10236, NEOB, 725 17th Street NW, Washington, DC 20503
Phone: 202 395-3785

RIN: 0348–AB36

3914. • COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS (OMB CIRCULAR A-21)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 503 et seq, Chief Financial Officer's Act of 1990; 31 USC 1111

CFR Citation: None

Legal Deadline: None

Abstract: OMB's proposal for a standard format to submit rate proposals by educational institutions under OMB Circular A-21.

Timetable:

Action	Date	FR Cite
Proposed Revision	08/12/99	64 FR 44062
Final Revision	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Gilbert Tran, Technical Manager, Office of Management and Budget, Room 6025, NEOB, Office of Federal Financial Management, 725 17th Street NW, Washington, DC 20503
Phone: 202 395-3993

OMB **Final Rule Stage**

Fax: 202 395-4915
Email: hai__ m.__ tran@omb.eop.gov

RIN: 0348–AB50

3915. COST ACCOUNTING STANDARDS ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 422

CFR Citation: 48 CFR 99

Legal Deadline: None

Abstract: The Cost Accounting Standards Board is proposing to revise its rules concerning cost accounting practice changes.

Timetable:

Action	Date	FR Cite
ANPRM	04/25/95	60 FR 20252
ANPRM Comment Period End	07/10/95	
NPRM	09/18/96	61 FR 49196
NPRM Comment Period End	12/02/96	
NPRM Comment Period Extended to 09/12/1997	07/14/97	62 FR 37654
NPRM Comment Period Extended to 10/19/1999	08/20/99	64 FR 45700
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Rudolph J. Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-3254
Fax: 202 395-5105

RIN: 0348–AB25

3916. SUBCONTRACTING PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637(d); PL 103-355, sec 1091; 41 USC 405

CFR Citation: 48 CFR 19.7

Legal Deadline: None

Abstract: OFPP proposes to issue a Policy Letter that covers subcontracting plans. This Policy Letter supersedes and cancels OFPP Policy Letter 80-1, 80-2, Supplement No. 1 to 80-2, and 80-4.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	09/26/95	60 FR 49644
Second Proposed Policy Letter	04/02/99	64 FR 16001
Final Policy Letter	05/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Gerich, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-6811
Fax: 202 395-5105

RIN: 0348–AB31

3917. • GOALS FOR PROCUREMENT CONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-355, sec 7106; PL 105-135, sec 603; 41 USC 405

CFR Citation: None

Legal Deadline: None

Abstract: OFPP proposes to issue guidance on implementing government-wide goals for procurement contracts awarded to small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small businesses. This Policy Letter supersedes and cancels OFPP Policy Letter 91-1.

Timetable:

Action	Date	FR Cite
Proposed Policy Letter	04/02/99	64 FR 16003
Final Policy Letter	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael Gerich, Deputy Associate Administrator, Office of Management and Budget, Office of Federal Procurement Policy, Washington, DC 20503
Phone: 202 395-6811
Fax: 202 395-5105

RIN: 0348–AB51

Office of Management and Budget (OMB) **Completed Actions**

3918. REVISION TO OMB CIRCULAR A-110, UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-277

CFR Citation: None

Legal Deadline: None

Abstract: Public Law 105-277 directs OMB to amend section 36 of OMB Circular A-110 to require Federal awarding agencies "to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act."

Timetable:

Action	Date	FR Cite
Proposed Revision	02/04/99	64 FR 5684
Clarifying Changes to Proposed Revision	08/11/99	64 FR 43786
Final Revision	10/08/99	64 FR 54926

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

OMB

Completed Actions

Agency Contact: F. James Charney, Office of Management and Budget, Room 6025, NEOB, 725 17th Street NW, Washington, DC 20503
Phone: 202 395-3993
Email: fcharney@omb.eop.gov

RIN: 0348–AB49

3919. PROCEDURES FOR PARTICIPATING IN THE CENSUS BUREAU RECONCILIATION AND THE OMB APPEAL PROCESSES FOR THE DEVELOPMENT OF THE CENSUS 2000 ADDRESS LIST

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-430, The Census Address List Improvement Act of 1994

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Office of Management and Budget and the Bureau of the Census are providing notice of the final procedures and schedule for developing the address information that will be used in conducting Census 2000.

Timetable:

Action	Date	FR Cite
Proposed Notice	03/27/98	63 FR 14978
Final Notice	06/30/99	64 FR 35548

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: Federal, Local, Tribal

Agency Contact: Katherine Wallman, Chief, Statistical Policy Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10201, NEOB, 725 17th Street NW, Washington, DC 20503
Phone: 202 395-3093
Email: kwallman@omb.eop.gov

RIN: 0348–AB48

[FR Doc. 99–27050 Filed 11–19–99; 8:45 am]

BILLING CODE 3110–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XXXVII

Office of Personnel Management

Semiannual Regulatory Agenda

Office of Personnel Management (OPM)

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following Office of Personnel Management (OPM) regulations are scheduled for development or review from October 1, 1999, through September 30, 2000. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606-1973.

SUPPLEMENTARY INFORMATION: For this edition of OPM's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

U.S. Office of Personnel Management.

Janice R. Lachance,
Director.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
3920	Availability of Official Information	3206-AG92

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3921	Appointments of Persons With Disabilities **(Reg Plan Seq No. 145)**	3206-AI94
3922	Personnel Records	3206-AH24
3923	Employment in the Excepted Service	3206-AH83
3924	Career and Career-Conditional Appointment Under Special Authorities	3206-AG90
3925	Noncompetitive Appointments of Corporation for National Service Employees	3206-AH48
3926	Noncompetitive Appointment of Former Peace Corps and Vista Volunteers	3206-AI18
3927	Probation on Initial Appointment to a Competitive Position	3206-AI47
3928	Merit Promotion and Internal Placement	3206-AI20
3929	Clarification of Hiring Authorities	3206-AI46
3930	Amendment to Selective Service Registration Requirements	3206-AI52
3931	Other Than Full-Time Employment (Part-Time, Seasonal, Intermittent)	3206-AI22
3932	Re-Employment Rights	3206-AI19
3933	Performance Appraisal in the Senior Executive Service **(Reg Plan Seq No. 142)**	3206-AI57
3934	Classification Appeals of General Schedule Employees	3206-AH38
3935	Superior Qualifications Appointments	3206-AI00
3936	Locality-Based Comparability Payments	3206-AI81
3937	Prevailing Rate Systems; Abolishment of the King, Washington, Nonappropriated Fund Wage Area	3206-AI75
3938	Prevailing Rate Systems; Redefinition of the Southern and Western Colorado and Denver, Colorado Appropriated Fund Wage Areas	3206-AI85
3939	Job Grading Reviews and Appeals of Federal Wage System Employees	3206-AI14
3940	Grade and Pay Retention	3206-AI88
3941	Payment During Evacuation	3206-AI78
3942	Severance Pay: Miscellaneous	3206-AH12
3943	Pay Administration Under the Fair Labor Standards Act (FLSA)	3206-AI15
3944	Reemployment of Military and Civilian Retirees To Meet Exceptional Employment Needs	3206-AI32
3945	Miscellaneous Leave Regulations	3206-AI44
3946	Absence and Leave: Sick Leave **(Reg Plan Seq No. 143)**	3206-AI76
3947	Federal Employees' Health and Counseling Programs	3206-AI07
3948	Agency Use of Appropriated Funds for Child Care Costs for Lower Income Families **(Reg Plan Seq No. 144)**	3206-AI93
3949	Retirement; CSRS and FERS Amendments Relating to Health Care Professionals	3206-AG57
3950	Retirement; Credit for Military Service	3206-AG58
3951	Retirement; Service Credit	3206-AH37
3952	Retirement; Waiver of Military Retired Pay To Enhance Civil Service Retirement Annuity	3206-AH74

Sequence Number	
3953	
3954	
3955	
3956	
3957	
3958	
3959	
3960	
3961	

References

Sequence Number	
3962	
3963	
3964	
3965	
3966	
3967	
3968	
3969	
3970	
3971	
3972	
3973	
3974	
3975	
3976	
3977	
3978	
3979	
3980	
3981	
3982	
3983	
3984	
3985	
3986	
3987	
3988	
3989	
3990	
3991	
3992	
3993	
3994	
3995	
3996	
3997	

VOL 64 ISS 224 NO 22 1999 UMI

OPM

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
3953	Retirement; Elimination of the Hearing Requirement During Enforcement of Statutory Bar to Annuity After Conviction of Certain Offenses	3206-AH76
3954	Retirement; Debt Collection	3206-AE72
3955	Retirement; Court Orders Awarding Survivor Annuities; Correcting or Supplementing the First Order Dividing Marital Property	3206-AG28
3956	Retirement; General Administration	3206-AI83
3957	Retirement; FERS Elections of Coverage	3206-AG96
3958	Federal Employees' Group Life Insurance Program: Miscellaneous Changes and Clarifications	3206-AG63
3959	Federal Employees Health Benefits Program: Waiver of 5-Year Requirement for Continuing FEHB Coverage Into Retirement	3206-AI62
3960	Debarments, Civil Monetary Penalties, and Assessments Imposed Against Providers	3206-AD76
3961	Federal Employees' Group Life Insurance Federal Acquisition Regulation	3206-AI65

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
3962	Administrative Claims Under the Federal Tort Claims Act	3206-AI70
3963	Excepted Service Promotion and Internal Placement	3206-AI51
3964	Time-in-Grade Restrictions	3206-AG06
3965	Promotion and Internal Placement; Accelerated Qualifications	3206-AG19
3966	Job Listings; Full Consideration of Displaced Defense Employees	3206-AF36
3967	Federal Employment Priority Consideration for DC Employees	3206-AI28
3968	Career Transition Assistance for Surplus and Displaced Federal Employees	3206-AI39
3969	Interagency Career Transition Assistance for Displaced Panama Canal Zone Employees	3206-AI56
3970	Positions Restricted to Preference Eligibles	3206-AI69
3971	Official Duty Station Determinations for Pay Purposes	3206-AH84
3972	Miscellaneous Changes in Compensation Regulations	3206-AH11
3973	Prevailing Rate Systems; Changes in Federal Wage System Survey Jobs	3206-AH81
3974	Holiday and Premium Pay	3206-AH86
3975	Prevailing Rate Systems; Definition of Napa County, CA to a Nonappropriated Fund Wage Area	3206-AI86
3976	SES Performance Awards	3206-AI59
3977	Voluntary Separation Incentive Repayment Waivers	3206-AG20
3978	Firefighter Pay	3206-AI50
3979	Pay Administration; Back Pay, Holidays, Overtime Pay for Travel, and Physicians' Comparability Allowance	3206-AI61
3980	Retention Allowances	3206-AI31
3981	Cost-of-Living Allowances in Nonforeign Areas: Survey Results	3206-AI38
3982	Emergency Leave Transfer Program	3206-AI03
3983	Family and Medical Leave	3206-AI35
3984	Retirement Coverage for DC Financial Control Board Employees	3206-AG78
3985	Retirement; Coverage—Nonappropriated Fund Instrumentalities	3206-AH57
3986	Coverage for Certain Employees of DC	3206-AI02
3987	Retirement, Health, and Life Insurance Coverage for Certain Employees of the District of Columbia Under the District of Columbia Courts and Justice Technical Corrections Act of 1998	3206-AI55
3988	Retirement; Nuclear Materials Couriers	3206-AI66
3989	Retirement; Law Enforcement Officers and Firefighters	3206-AI41
3990	Retirement; State Income Tax Withholding Instrumentalities	3206-AH62
3991	Retirement; FERS Basic Annuity	3206-AE73
3992	Federal Employees' Group Life Insurance Program	3206-AI54
3993	Federal Employees' Group Life Insurance Program: Life Insurance Improvements	3206-AI64
3994	Federal Employees Health Benefits Program: Payment of Premiums for Periods of Leave Without Pay or Insufficient Pay	3206-AG66
3995	Appointment, Pay, and Removal of Administrative Law Judges	3206-AI08
3996	FEHB Program OPM and DoD FEHB Program Demo Project	3206-AI67
3997	Employment in the Senior Executive Service	3206-AI58

OPM

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3998	Interagency Placement Program	3206-AI24
3999	Reemployment Priority List	3206-AI34
4000	Performance Management Reform	3206-AF57
4001	Suitability	3206-AC19
4002	Personnel Security and Related Programs	3206-AC21
4003	Investigations	3206-AB92
4004	Federal Employees Health Benefits Program: Effective Dates	3206-AI37

Completed Actions

Sequence Number	Title	Regulation Identification Number
4005	Appointment of Non-Status Employees (USERRA)	3206-AI23
4006	Statutory Bar to Appointments a Person Who Failed to Register Under Selective Law	3206-AI72
4007	Clarification of Various Staffing Provisions	3206-AH49
4008	Reduction in Force Service Credit; Retention Records	3206-AI09
4009	Restoration to Duty From Military Service or Compensable Injury	3206-AG02
4010	Demonstration Project Authority	3206-AI40
4011	Prevailing Rate Systems; Abolishment of Lubbock Nonappropriated Fund Wage Area	3206-AH88
4012	Prevailing Rate Systems: Abolishment of the Orlando, FL, Appropriated Fund Wage Area	3206-AI04
4013	Prevailing Rate Systems; Abolishment of Kansas City, MO, Special Wage Schedule for Printing Positions	3206-AI11
4014	Prevailing Rate Systems; Redefinition of the Orlando, FL, Appropriated Fund Wage Area	3206-AI13
4015	Prevailing Rate Systems; Environmental Differential Pay for Working at High Altitudes	3206-AI36
4016	Prevailing Rate Systems; Redefinition of the Wyoming and Eastern South Dakota Appropriated Fund Wage Areas	3206-AI60
4017	Prevailing Rate Systems; Change in Survey Cycle for the Southwestern Michigan Appropriated Fund Wage Area	3206-AI68
4018	Prevailing Rate Systems; Redefinition of the Eastern South Dakota and Wyoming Appropriated Fund Wage Area	3206-AI74
4019	Lump-Sum Payments for Annual Leave	3206-AF38
4020	Agency Determinations on Payment of Relocation Costs	3206-AH50
4021	Absence and Leave; Use of Restored Annual Leave	3206-AI71
4022	Federal Equal Opportunity Recruitment Program (FEORP)	3206-AH98
4023	Disabled Veterans Affirmative Action Program (DVAAP)	3206-AH99
4024	Retirement; Determinations of Marital Status for Survivor Annuities	3206-AG60
4025	Voluntary Early Retirement Authority	3206-AI25
4026	Retirement; National Guard Technicians: Adjustments to Annuity	3206-AI42
4027	Federal Employees' Group Life Insurance Program: Court Orders	3206-AI49
4028	Federal Employees Health Benefits Program: Contributions and Withholding	3206-AI33
4029	FEHB and DoD Demonstration Project	3206-AI63
4030	Authorization of Solicitations During the Combined Federal Campaign	3206-AI53
4031	Voting Rights Program	3206-AI77

Office of Personnel Management (OPM) **Prerule Stage**

3920. AVAILABILITY OF OFFICIAL INFORMATION

Priority: Info./Admin./Other

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: The proposed rulemaking will make minor changes to subpart A of 5 CFR 294, Availability of Official Information Act. The rulemaking will provide additional information on the definition of terms used in the search and review process, update office addresses , and clarify that any written request that meets the specified marking and content requirements will be recognized as an official FOIA request. These changes are designed to benefit the public by providing updated information on where to direct FOIA requests, and improve the wording of the regulation to fully and accurately meet the provisions of the FOIA. There will be no significant change to the existing operational procedures in place at OPM.

OPM **Prerule Stage**

Timetable:

Action	Date	FR Cite
ANPRM	02/00/00	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary Beth Smith-Toomey, Office of the Chief Information Officer, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001
Phone: 202 606-8358
Fax: 202 606-3251
Email: mbtoomey@opm.gov

RIN: 3206–AG92

Office of Personnel Management (OPM) **Proposed Rule Stage**

3921. • APPOINTMENTS OF PERSONS WITH DISABILITIES

Regulatory Plan: This entry is Seq. No. 145 in Part II of this issue of the **Federal Register**.

RIN: 3206–AI94

3922. PERSONNEL RECORDS

Priority: Info./Admin./Other

Legal Authority: 5 USC 552; 5 USC 4315; EO 12107; 5 USC 1103; 5 USC 1104; 5 USC 1302; EO 9830; 5 USC 2951; 5 USC 3301

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: The regulatory changes will update the requirements for maintaining employee personnel records and clarify requirements for maintaining employee medical records.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Linda Brick, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, Personnel Records and Systems, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1126
Fax: 202 606-1719
Email: lmbrick@opm.gov

RIN: 3206–AH24

3923. EMPLOYMENT IN THE EXCEPTED SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 8151; EO 10577

CFR Citation: 5 CFR 302

Legal Deadline: None

Abstract: The revised regulations will make it easier for agencies to understand how to run the excepted service employment system, and thus create better and more efficient employment procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AH83

3924. CAREER AND CAREER-CONDITIONAL APPOINTMENT UNDER SPECIAL AUTHORITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3304(d); 5 USC 8151; 5 USC 11219; EO 10577; EO 12034; EO 12721; 22 USC 2506; 22 USC 3651; 22 USC 3652

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Revises a group of special appointment authorities to clarify requirements and to eliminate obsolete provisions. Also adds authorities for specific noncompetitive appointments authorities by law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AG90

3925. NONCOMPETITIVE APPOINTMENTS OF CORPORATION FOR NATIONAL SERVICE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 12651f

CFR Citation: 5 CFR 315; 5 CFR 316

Legal Deadline: None

Abstract: Permits permanent and indefinite employees of the Corporation for National Service to receive noncompetitive appointments in the competitive service. Implements National and Community Service Trust Act of 1993.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AH48

Regulation Identification Number

3206-AI24
3206-AI34
3206-AF57
3206-AC19
3206-AC21
3206-AB92
3206-AI37

Regulation Identification Number

3206-AI23
3206-AI72
3206-AH49
3206-AI09
3206-AG02
3206-AI40
3206-AH88
3206-AI04
3206-AI11
3206-AI13
3206-AI36
3206-AI60
3206-AI68
3206-AI74
3206-AF38
3206-AH50
3206-AI71
3206-AH98
3206-AH99
3206-AG60
3206-AI25
3206-AI42
3206-AI49
3206-AI33
3206-AI63
3206-AI53
3206-AI77

ule Stage

ct FOIA
ording of
curately
DIA. There
to the
es in place

OPM

Proposed Rule Stage

3926. NONCOMPETITIVE APPOINTMENT OF FORMER PEACE CORPS AND VISTA VOLUNTEERS

Priority: Substantive, Nonsignificant

Legal Authority: EO 11103; 42 USC 5055

CFR Citation: 5 CFR 315

Legal Deadline: None

Abstract: Updates authority that grants former Peace Corps and Vista volunteers an eligibility for noncompetitive appointment to the Federal Competitive Service. Eliminates reference to the abolished ACTION agency.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Carmichael, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI18

3927. PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION

Priority: Other Significant

Legal Authority: 5 USC 3321

CFR Citation: 5 CFR 315, subpart H

Legal Deadline: None

Abstract: This regulation will permit agencies to use a competitive service probationary period of up to 3 years, when the work of the position cannot be properly evaluated in only 1 year. It will also establish 1 year as the minimum probationary period.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI47

3928. MERIT PROMOTION AND INTERNAL PLACEMENT

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 316; 5 CFR 335

Legal Deadline: None

Abstract: In an effort to streamline selection procedures and provide agencies with greater flexibility, the Office of Personnel Management (OPM) is proposing to revise the regulations covering merit promotion and internal placement. These regulations will provide a framework within which agencies may develop merit-based programs for internal selections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI20

3929. CLARIFICATION OF HIRING AUTHORITIES

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330; 5 CFR 332; 5 CFR 333; 5 CFR 337

Legal Deadline: None

Abstract: In an effort to consolidate and streamline existing hiring authorities and to clarify existing competitive examining authorities, the Office of Personnel Management is proposing to revise the regulations covering the operation and administration of these authorities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

Raleigh M. Neville, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI46

3930. AMENDMENT TO SELECTIVE SERVICE REGISTRATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Delegates to agencies determination whether a Federal job applicant's failure to register with the Selective Service was knowing and willful. This change is authorized by an amendment to 5 USC 3328.

Timetable:

Action	Date	FR Cite
NPRM	03/29/99	64 FR 14842
NPRM Comment Period End	04/28/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI52

OPM

Proposed Rule Stage

3931. OTHER THAN FULL-TIME EMPLOYMENT (PART-TIME, SEASONAL, INTERMITTENT)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301

CFR Citation: 5 CFR 340; 5 CFR 110

Legal Deadline: None

Abstract: Grants agencies and employees more flexibility by clarifying agency authority to schedule part-time employees on a pay period, rather than weekly, basis; define job sharing; modify seasonal employment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Diane Tyrrell, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 9th Floor, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI22

3932. RE-EMPLOYMENT RIGHTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3582; 5 USC 3301; PL 103-296

CFR Citation: 5 CFR 352

Legal Deadline: None

Abstract: Updates provisions to conform to law allowing employees assigned to international organizations under certain conditions to maintain FERS and FICA retirement coverage; current regulations only mention CSRS retirement.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mike Mahoney, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI19

3933. PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

Regulatory Plan: This entry is Seq. No. 142 in Part II of this issue of the **Federal Register**.

RIN: 3206–AI57

3934. CLASSIFICATION APPEALS OF GENERAL SCHEDULE EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 511, subparts F and G

Legal Deadline: None

Abstract: The position classification appeals regulations require updating to reflect current organization nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663
Email: madrummo@opm.gov

RIN: 3206–AH38

3935. SUPERIOR QUALIFICATIONS APPOINTMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5333

CFR Citation: 5 CFR 531

Legal Deadline: None

Abstract: Revises regulations concerning the appointment of superior candidates above the minimum rate of pay for General Schedule positions. Clarifies and modifies what agencies should consider when making these superior qualifications appointments.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI00

3936. • LOCALITY-BASED COMPARABILITY PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304

CFR Citation: 5 CFR 531, subpart F

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing proposed regulations to clarify and redefine the limitations on locality rates of pay for categories of non-General Schedule employees approved by the President's Pay Agent to receive locality pay. This proposed change was prompted by a recent Executive Order that delegated the President's authority to determine such limitations to the President's Pay Agent. The proposed regulations will ensure that all employees receiving locality pay are treated consistently.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Email: payleave@opm.gov

RIN: 3206–AI81

3937. • PREVAILING RATE SYSTEMS; ABOLISHMENT OF THE KING, WASHINGTON, NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 53343

OPM

Proposed Rule Stage

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) plans to issue a proposed rule that would abolish the King, Washington, nonappropriated fund (NAF) Federal Wage System (FWS) wage area, establish a new Snohomish, WA, NAF FWS wage area, and remove Whatcom County, WA, as an area of application.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI75

3938. • PREVAILING RATE SYSTEMS; REDEFINITION OF THE SOUTHERN AND WESTERN COLORADO AND DENVER, COLORADO APPROPRIATED FUND WAGE AREAS

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) plans to issue a proposed rule that would redefine Eagle, Garfield, Lake, Pitkin, Rio Blanco, and Routt counties, Colorado, from areas of application of the Southern and Western Colorado appropriated fund Federal Wage System (FWS) wage area to areas of application of the Denver wage area, and redefine Mesa County, CO, from the area of application of the Southern and Western Colorado FWS wage area to the area of application of the Utah FWS wage area. In addition, we plan to propose to change the wage area name of the Southern and Western Colorado FWS area to Southern Colorado.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI85

3939. JOB GRADING REVIEWS AND APPEALS OF FEDERAL WAGE SYSTEM EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 532, subpart G

Legal Deadline: None

Abstract: The job grading reviews and appeals regulations require updating to reflect current organization nomenclature following a reorganization within OPM.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	03/00/00	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663
Email: madrummo@opm.gov

RIN: 3206–AI14

3940. • GRADE AND PAY RETENTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5361; 5 USC 5366

CFR Citation: 5 CFR 536

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing proposed regulations giving agencies discretionary authority to grant pay retention to certain employees moving to positions under pay systems other than the General Schedule or the Federal Wage System. This new flexibility would allow agencies to prevent eligible employees from suffering a reduction in pay that would otherwise result from a management action.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI88

3941. • PAYMENT DURING EVACUATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5527; EO 10982; 3 CFR 1959-1963, p. 502

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing proposed regulations to raise the age requirement for payment of the maximum per diem rate for a dependent of an evacuated employee from age 11 to age 12. This would apply to evacuations in the United States because of natural disasters or for military or other reasons that create an imminent danger to life. The proposed change would make OPM regulations consistent with Department of Defense evacuation regulations, which require that an evacuated dependent of a uniformed member be 12 years of age

or older to receive the maximum per diem rate. This change in OPM regulations was requested by DoD.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James R. Weddel, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI78

3942. SEVERANCE PAY: MISCELLANEOUS

Priority: Other Significant

Legal Authority: 5 USC 5595

CFR Citation: 5 CFR 550, subpart G

Legal Deadline: None

Abstract: The proposed regulation would clarify or revise the severance pay rules relating to such issues as the creditability of service and the definition of "involuntary separation."

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: D. Bryce Baker, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Email: payleave@opm.gov

RIN: 3206–AH12

3943. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT (FLSA)

Priority: Info./Admin./Other

Legal Authority: 5 USC 5112

CFR Citation: 5 CFR 551, subparts A, B, C

Legal Deadline: None

Abstract: The FLSA regulations require revision to correct minor inconsistencies in terminology and phrasing, one incomplete citation, and one incorrect reference.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Melissa Drummond, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2530
Fax: 202 606-2663
Email: madrummo@opm.gov

RIN: 3206–AI15

3944. REEMPLOYMENT OF MILITARY AND CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5532; 5 USC 8344; 5 USC 8643

CFR Citation: 5 CFR 553

Legal Deadline: None

Abstract: Establishes criteria for granting exceptions for key positions in temporary organizations established by law or Executive order. This rule will also expand and clarify the criteria used in exercising this authority.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Larry Lorenz, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI32

3945. MISCELLANEOUS LEAVE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing miscellaneous changes to the leave regulations in 5 CFR part 630. The proposed changes will include clarifying provisions on the Federal leave sharing program, home leave and transfer of leave from/to the U.S. Postal Service; updating regulations to comply with new legislation requiring a lump-sum payment for annual leave for employees transferring from a Department of Defense (DoD) base that is closing to another position; clarifying leave entitlements for employees who are under 90-day appointments or assigned part-time and intermittent work schedules; and other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI44

3946. • ABSENCE AND LEAVE: SICK LEAVE

Regulatory Plan: This entry is Seq. No. 143 in Part II of this issue of the **Federal Register**.

RIN: 3206–AI76

OPM — Proposed Rule Stage

3947. FEDERAL EMPLOYEES' HEALTH AND COUNSELING PROGRAMS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 7361; 5 USC 7362

CFR Citation: 5 CFR 792

Legal Deadline: None

Abstract: OPM is proposing to remove the following sentence which appears in this part, "If an employee fails to participate in any rehabilitative program or, having participated, the employee fails to bring conduct or performance up to a satisfactory level, the agency shall evaluate the employee accordingly and initiate the appropriate performance-based or adverse action." This sentence confuses or misleads agency management in dealing with employees who have an alcohol or drug abuse problem and whose job performance or conduct is affected as a result of their problem. Some agency officials believe that this sentence guarantees Federal employees, with these problems, two chances to avoid disciplinary and/or corrective action.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Frank T. Cavanaugh, Office of Workforce Relations, Employee Health Services Branch, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-1166
Email: ftcavana@opm.gov

RIN: 3206–AI07

3948. • AGENCY USE OF APPROPRIATED FUNDS FOR CHILD CARE COSTS FOR LOWER INCOME FAMILIES

Regulatory Plan: This entry is Seq. No. 144 in Part II of this issue of the **Federal Register**.

RIN: 3206–AI93

3949. RETIREMENT; CSRS AND FERS AMENDMENTS RELATING TO HEALTH CARE PROFESSIONALS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8461(g)

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the special retirement provisions applicable to certain health care professionals employed by the Veterans Health Service and other designated agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG57

3950. RETIREMENT; CREDIT FOR MILITARY SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); 38 USC 4331

CFR Citation: 5 CFR 8347(a); 5 CFR 8461(g); 5 CFR 842.306; 5 CFR 842.307

Legal Deadline: None

Abstract: These regulations implement changes in the treatment of certain military service under CSRS and FERS required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Christopher H. Ziebarth, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG58

3951. RETIREMENT; SERVICE CREDIT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, subpart C

Legal Deadline: None

Abstract: These regulations would provide that no retirement credit could be granted for periods of service for which retirement deductions were refunded and not repaid even when the refund was paid based on an erroneous separation.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH37

3952. RETIREMENT; WAIVER OF MILITARY RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8332(c)(4); 5 USC 8347(a); 5 USC 8411(c)(5)

CFR Citation: 5 CFR 831, subpart C; 5 CFR 842, subpart C

Legal Deadline: None

Abstract: These regulations implement provisions of the National Defense Authorization Act for Fiscal Year 1997. The Act changed the statutory requirements for allowing credit under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) for military service in certain situations. CSRS or FERS credit based on a waiver of military retired pay after January 1,

OPM **Proposed Rule Stage**

1997 is no longer permitted to adversely affect a former spouse with a court order on file affecting the military retired pay.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH74

3953. RETIREMENT; ELIMINATION OF THE HEARING REQUIREMENT DURING ENFORCEMENT OF STATUTORY BAR TO ANNUITY AFTER CONVICTION OF CERTAIN OFFENSES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart K

Legal Deadline: None

Abstract: These regulations will eliminate the requirement that OPM conduct a hearing before applying the statutory bar to annuity when an individual has been convicted of certain offenses.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Brown, Retirement and Insurance Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH76

3954. RETIREMENT; DEBT COLLECTION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 835(e)

Legal Deadline: None

Abstract: These regulations will amend the Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) regulations by consolidating and updating existing regulations in three different subparts of the CSRS regulations and 5 CFR 845 in the FERS regulations to eliminate duplication of the provisions governing debt collection. This item is for subpart E of the new part 835; which will address collections of Government claims from payments made by OPM.

Timetable:

Action	Date	FR Cite
NPRM	10/05/92	57 FR 45753
NPRM	11/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AE72

3955. RETIREMENT; COURT ORDERS AWARDING SURVIVOR ANNUITIES; CORRECTING OR SUPPLEMENTING THE FIRST ORDER DIVIDING MARITAL PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 838

Legal Deadline: None

Abstract: These regulations would establish standards for determining which supplemental or correcting court orders are not "modifications" and the procedures applicable to such orders. They also provide for the continuation of the former spouse's survivor coverage and the reduction in the retiree's annuity until the State court decides the extent of the former spouse's rights to retirement benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG28

3956. • RETIREMENT; GENERAL ADMINISTRATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 841

Legal Deadline: None

Abstract: These regulations would allow an agency to retain the individual retirement record when an employee transfers within the same agency even though the employee would be serviced by another intra-agency payroll.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AI83

3957. RETIREMENT; FERS ELECTIONS OF COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347(a); 5 USC 8461(g); PL 99-335, sec 301(d)(3)

CFR Citation: 5 CFR 846

Legal Deadline: None

Abstract: These regulations implement title III of the Federal Employees

OPM

Proposed Rule Stage

Retirement System (FERS) Act of 1986, as amended, dealing with the election of FERS coverage by employees under the Civil Service Retirement System and certain other employees. The regulations contain regulatory and interpretative rules concerning employees' eligibility to elect FERS coverage, procedures for electing FERS coverage, and basic benefits based on the service for employees who elect FERS coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/21/87	52 FR 19235
Interim Final Rule	09/13/93	58 FR 47821
Interim Final Rule	06/18/98	63 FR 33231
NPRM	04/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG96

3958. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: MISCELLANEOUS CHANGES AND CLARIFICATIONS

Priority: Info./Admin./Other

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations include a group of changes to FEGLI regulations that will clarify procedures for signing and witnessing designations of beneficiary, accepting designations of beneficiary by facsimile, accepting DNA evidence to establish paternity, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: kjleibac@opm.gov

RIN: 3206–AG63

3959. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: WAIVER OF 5-YEAR REQUIREMENT FOR CONTINUING FEHB COVERAGE INTO RETIREMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would broaden OPM's authority to waive the participation requirements for continuing health benefits coverage into retirement when it is to the advantage of the Government to do so.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Terry D. Schleicher, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: terryschl@juno.com

RIN: 3206–AI62

3960. DEBARMENTS, CIVIL MONETARY PENALTIES, AND ASSESSMENTS IMPOSED AGAINST PROVIDERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8902a

CFR Citation: 5 CFR 890, subpart J

Legal Deadline: None

Abstract: These regulations will implement section 2 of Pub.L. 105-266, which amends 5 U.S.C. section 8902a, authorizing OPM to debar health care providers who have committed certain types of legal offenses or program-related violations, from participation in the Federal Employees Health Benefits Program (FEHBP) and to levy monetary penalties and assessments against individuals who have improperly obtained payments of FEHBP funds. This legislation removes unnecessary administrative constraints on the agency, provides more flexible and less time consuming procedures, and will improve OPM's administration of sanctions against unfit health care providers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/89	54 FR 43939
NPRM	02/04/93	58 FR 7052
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: J. David Cope, Debarring Official, Office of the Inspector General, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2851
Fax: 202 606-2153
Email: jdcope@opm.gov

RIN: 3206–AD76

3961. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE FEDERAL ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716; 40 USC 486(C)

CFR Citation: 48 CFR 1.301

Legal Deadline: None

Abstract: This proposed regulation would revise the existing Federal Employees' Group Life Insurance Federal Acquisition Regulation (LIFAR) by updating and revising policy regulation with respect to the acquisition and administration of life insurance contract(s) for Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Neuner, Retirement and Insurance Services, Insurance Policy and Information

OPM **Proposed Rule Stage**

Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: scneuner@opm.gov
RIN: 3206–AI65

Office of Personnel Management (OPM) **Final Rule Stage**

3962. • ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT

Priority: Info./Admin./Other

Legal Authority: 28 USC 2672; 28 CFR 177

CFR Citation: 5 CFR 177

Legal Deadline: None

Abstract: OPM is proposing to revise and update its regulations on administrative claims under the Federal Tort Claims Act, due to agency reorganizations and changes in internal delegation of authority.

Timetable:

Action	Date	FR Cite
NPRM	06/22/99	64 FR 33226
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gloria Clark, Office of Personnel Management, Office of General Counsel, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-1700
Fax: 202 606-2609
Email: gvclark@opm.gov

RIN: 3206–AI70

3963. EXCEPTED SERVICE PROMOTION AND INTERNAL PLACEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; PL 105-339

CFR Citation: 5 CFR 213; 5 CFR 335

Legal Deadline: None

Abstract: The Office of Personnel Management will issue final regulations implementing the provisions of the Veterans Employment Opportunities Act of 1998.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/03/98	63 FR 66705
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI51

3964. TIME-IN-GRADE RESTRICTIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Eliminates requirement that employees serve 1 year in grade to be eligible for promotion above the GS-5 level. This is separate from the qualifications requirement for 1 year experience at the next lowest grade or equivalent for promotion.

Timetable:

Action	Date	FR Cite
NPRM	06/15/94	59 FR 30717
NPRM Comment Period End	01/10/95	60 FR 2546
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tina Vay, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AG06

3965. PROMOTION AND INTERNAL PLACEMENT; ACCELERATED QUALIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3329

CFR Citation: 5 CFR 316; 5 CFR 335; 5 CFR 338

Legal Deadline: None

Abstract: OPM will issue final regulations on Accelerated Qualifications only to authorize agencies to establish intensive training programs for acquiring qualifications at an accelerated rate. A new regulatory proposal on Merit Promotion will be developed.

Timetable:

Action	Date	FR Cite
NPRM	02/20/96	61 FR 6324
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Jacobs, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AG19

3966. JOB LISTINGS; FULL CONSIDERATION OF DISPLACED DEFENSE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3329; PL 102-484, sec 4432

CFR Citation: 5 CFR 330; 5 CFR 335

Legal Deadline: None

Abstract: Requires agencies to report to OPM announcements of vacancies for which they will accept applications from outside their own work forces. Requires agencies to give full consideration to displaced DOD employees, Pub. L. 102-484, 5 U.S.C. 3329.

OPM — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/93	58 FR 18139
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-0023

RIN: 3206–AF36

3967. FEDERAL EMPLOYMENT PRIORITY CONSIDERATION FOR DC EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-33

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: Requires agencies to accord priority consideration to displaced District of Columbia, Department of Corrections employees separated as a result of the closure of the Lorton Correctional complex.

Timetable:

Action	Date	FR Cite
NPRM	08/04/98	63 FR 41387
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-0023

RIN: 3206–AI28

3968. CAREER TRANSITION ASSISTANCE FOR SURPLUS AND DISPLACED FEDERAL EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations to extend the 9/30/99 sunset date for the Government's current career transition assistance programs which assist Federal employees displaced from their jobs by downsizing.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40506
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-0023

RIN: 3206–AI39

3969. INTERAGENCY CAREER TRANSITION ASSISTANCE FOR DISPLACED PANAMA CANAL ZONE EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 22 USC 1232

CFR Citation: 5 CFR 330

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations that provide certain displaced Panama Canal Zone employees with interagency priority consideration for vacant competitive service positions in the continental United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/07/99	64 FR 24503
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI56

3970. • POSITIONS RESTRICTED TO PREFERENCE ELIGIBLES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3310

CFR Citation: 5 CFR 330, subpart D

Legal Deadline: None

Abstract: Interim regulations that update agencies obligations to provide positive placement assistance to veterans who are separated from restricted positions that are contracted out under OMB Circular A-76.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/27/99	64 FR 40505
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI69

3971. OFFICIAL DUTY STATION DETERMINATIONS FOR PAY PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5305; 5 USC 5304; 5 USC 5941; EO 10000; PL 101-509, sec 404

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 591

Legal Deadline: None

Abstract: These regulations clarify the location-based pay entitlements of Federal employees who are detailed or temporarily assigned to work at a new location. In particular, the regulations provide that, for employees receiving limited relocation allowances under 5 U.S.C. 5737 during temporary assignments, the new location is the official duty station for pay purposes

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/09/97	62 FR 25423

OPM **Final Rule Stage**

Action	Date	FR Cite
Interim Final Rule	07/08/97	
Comment Period End		
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Email: payleave@opm.gov

RIN: 3206–AH84

3972. MISCELLANEOUS CHANGES IN COMPENSATION REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5304; 5 USC 5365; 5 USC 5753; 5 USC 5527; 5 USC 5596; 5 USC 5941; 5 USC 5754; 5 USC 5307; 5 USC 5338; 5 USC 5548; 5 USC 5595; 5 USC 6101; Fair Labor Standards Act of 1938 (as amended), section 4(f); 5 USC 5941

CFR Citation: 5 CFR 530; 5 CFR 531; 5 CFR 536; 5 CFR 550; 5 CFR 551; 5 CFR 575; 5 CFR 610; 5 CFR 591

Legal Deadline: None

Abstract: This proposed regulation would correct or clarify various regulatory provisions dealing with the compensation of Federal employees.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 64880
NPRM Comment Period End	01/25/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jeanne D. Jacobson, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Email: payleave@opm.gov

RIN: 3206–AH11

3973. PREVAILING RATE SYSTEMS; CHANGES IN FEDERAL WAGE SYSTEM SURVEY JOBS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management plans regulatory actions to change certain Federal Wage System (FWS) appropriated fund survey jobs to make them more useful survey tools. These changes were recommended by the Federal Prevailing Rate Advisory Committee.

Timetable:

Action	Date	FR Cite
NPRM	04/26/99	64 FR 20221
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AH81

3974. HOLIDAY AND PREMIUM PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5548; 5 USC 6133; 29 USC 204(f)

CFR Citation: 5 CFR 523; 5 CFR 550; 5 CFR 551; 5 CFR 610

Legal Deadline: None

Abstract: The regulations implement recent changes in law which provide authority for compensatory time off for prevailing rate (wage) employees in lieu of overtime pay and agency flexibility in determining the "in lieu of" holiday for employees on compressed work schedules when the actual holiday for the employee is on a nonworkday. A current regulation is also corrected to comply with a provision of law authorizing use of alternative work schedules for civilian nonappropriated fund employees of the Armed Services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/97	62 FR 2835
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James R. Weddel, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AH86

3975. • PREVAILING RATE SYSTEMS; DEFINITION OF NAPA COUNTY, CA TO A NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) plans to issue a rule to define Napa County, California, as an area of application to the Solano, CA, nonappropriated fund Federal Wage System wage area.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI86

3976. SES PERFORMANCE AWARDS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5385

OPM

Final Rule Stage

CFR Citation: 5 CFR 534, subpart D

Legal Deadline: None

Abstract: The change at 5 CFR 534, subpart D, will reflect the statutory change to the SES performance award pool configuration that was mandated in the Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277), enacted on October 21, 1998.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Anne Kirby, Office of Executive Resources Management, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-1610

RIN: 3206–AI59

3977. VOLUNTARY SEPARATION INCENTIVE REPAYMENT WAIVERS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-226

CFR Citation: 5 CFR 550

Legal Deadline: None

Abstract: Public Law 103-226 authorizes OPM to waive repayment of a voluntary separation incentive payment if a former employee who accepted the incentive payment is reemployed by an executive agency of the U.S. within 5 years of separation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/09/94	59 FR 55807
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Greg Keller, Employment Service, Federal Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960

RIN: 3206–AG20

3978. FIREFIGHTER PAY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5545b

CFR Citation: 5 CFR 410; 5 CFR 550; 5 CFR 551; 5 CFR 591; 5 CFR 630; 5 CFR 870

Legal Deadline: None

Abstract: Regulations to change the method of computing pay for Federal firefighters.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/23/98	63 FR 64589
NPRM Comment Period End	01/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Herzberg, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI50

3979. PAY ADMINISTRATION; BACK PAY, HOLIDAYS, OVERTIME PAY FOR TRAVEL, AND PHYSICIANS' COMPARABILITY ALLOWANCE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5596(c); 5 USC 6101(c); 5 USC 5542(c); Sec. 4(f) of the Fair Labor Standards Act of 1938, as amended; 5 USC 5948; EO 12109

CFR Citation: 5 CFR 550; 5 CFR 551; 5 CFR 595; 5 CFR 610

Legal Deadline: None

Abstract: The Office of Personnel Management is issuing interim regulations to reflect recent changes in law which (1) clarify that back pay awards are subject to a 6-year statute of limitations unless a shorter limitation period applies; (2) change the designation of holidays for certain Federal employees working overseas; and (3) increase the maximum physicians' comparability allowance from $20,000 to $30,000 per year for employees who have served as a physician for more than 24 months.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James R. Weddel, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI61

3980. RETENTION ALLOWANCES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5754

CFR Citation: 5 CFR 575

Legal Deadline: None

Abstract: These regulations provide agencies with discretionary authority to pay retention allowances of up to 10 percent of an employee's rate of basic pay (or up to 25 percent with OPM approval) to a group or category of employees in certain limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/98	63 FR 34119
NPRM Comment Period End	08/24/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Shields, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Email: payleave@opm.gov

RIN: 3206–AI31

3981. COST-OF-LIVING ALLOWANCES IN NONFOREIGN AREAS: SURVEY RESULTS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 5941

CFR Citation: 5 CFR 591

Legal Deadline: None

OPM **Final Rule Stage**

Abstract: The Office of Personnel Management will issue regulations implementing any increases in nonforeign area cost-of-living allowance (COLA) rates indicated by COLA survey results. Section 5941 of title 5, United States Code, provides for the payment of nonforeign area cost-of-living allowances (COLAs) in Alaska, Hawaii, and other nonforeign overseas areas. The Office of Personnel Management conducts living-cost surveys to set COLA rates. Reductions in nonforeign area COLA rates are prohibited by the Treasury, Postal Service, and General Government Appropriations Act, 1992, as amended, through December 31, 2000, and will not be proposed during the restricted period. OPM is also broadening the composition of the Miscellaneous Expense Category to allow the addition of other types of expenses to that category.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/21/98	63 FR 56430
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kurt M. Springmann, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2838
Fax: 202 606-4264
Email: cola@opm.gov

RIN: 3206–AI38

3982. EMERGENCY LEAVE TRANSFER PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6391

CFR Citation: 5 CFR 630, subpart K

Legal Deadline: None

Abstract: Section 9004 of Pub. L. 105-18, June 12, 1997, added section 6391 to title 5, United States Code, to provide that in the event of a major disaster or emergency, as declared by the President, that results in severe adverse effects for a substantial number of employees, the President may direct the Office of Personnel Management (OPM) to establish an emergency leave transfer program under which an employee in any Executive agency may donate annual leave for transfer to employees of his or her agency or to employees in other agencies who are adversely affected by such disaster or emergency. The Act also permits agency leave banks established under 5 U.S. C. 6362 to donate leave under an emergency leave transfer program established by OPM.

Timetable:

Action	Date	FR Cite
NPRM	11/03/97	62 FR 59301
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI03

3983. FAMILY AND MEDICAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6381 to 6387

CFR Citation: 5 CFR 630, subpart L

Legal Deadline: None

Abstract: Under the Family and Medical Leave Act of 1993 (FMLA) most Federal employees are entitled to a total of 12 workweeks of unpaid leave during any 12-month period for certain family and medical needs. These regulations clarify the requirements of the FMLA and ensure that both employees' and agencies' rights are protected and their responsibilities fulfilled.

Timetable:

Action	Date	FR Cite
NPRM	08/13/98	63 FR 43325
NPRM Comment Period End	10/13/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI35

3984. RETIREMENT COVERAGE FOR DC FINANCIAL CONTROL BOARD EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-8

CFR Citation: 5 CFR 831; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the District of Columbia Financial Responsibility and Management Assistance Act of 1995. They establish standards by which some former Federal employees may carry civil service retirement coverage to employment with the DC Financial Control Board.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/15/96	61 FR 58457
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kenneth Brown, Retirement and Insurance Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG78

3985. RETIREMENT; COVERAGE—NONAPPROPRIATED FUND INSTRUMENTALITIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 841; 5 CFR 842; 5 CFR 843; 5 CFR 844; 5 CFR 847

Legal Deadline: Final, Statutory, August 9, 1996.

Abstract: These regulations implement the provisions of Pub. L. 104-106 which allow certain employees who have been employed by non-appropriated fund instrumentalities under the jurisdiction

OPM

Final Rule Stage

of the armed forces to obtain retirement credit under limited circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/09/96	61 FR 41714
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cynthia Reinhold, Retirement and Insurance Service, Office of Retirement Policy Development, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH57

3986. COVERAGE FOR CERTAIN EMPLOYEES OF DC

Priority: Info./Admin./Other

Legal Authority: 5 USC 8347(a); 5 USC 8361(g); PL 105-33, sec 11202(f), 11232(e), 11246(b)

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These regulations implement provisions of the National Capital Revitalization and Self-Government Improvement Act of 1997 that require that nonjudicial employees of the District of Columbia Courts, and under certain conditions, the District of Columbia Corrections Trustee and the District of Columbia Pretrial Services, Defense Service, Parole, Adult Probation and Offender Supervision Trustee and their respective employees be considered Federal employees for purposes of Federal retirement, health, and life insurance coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/97	62 FR 50995
Comment Period End	12/01/97	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AI02

3987. RETIREMENT, HEALTH, AND LIFE INSURANCE COVERAGE FOR CERTAIN EMPLOYEES OF THE DISTRICT OF COLUMBIA UNDER THE DISTRICT OF COLUMBIA COURTS AND JUSTICE TECHNICAL CORRECTIONS ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-274

CFR Citation: 5 CFR 831; 5 CFR 837; 5 CFR 842; 5 CFR 846; 5 CFR 870; 5 CFR 890

Legal Deadline: None

Abstract: These interim regulations implement the District of Columbia Courts and Justice Technical Corrections Act of 1998. The effect of these regulations is to extend Federal retirement, health insurance, and life insurance coverage to employees of the Public Defender Service of the District of Columbia under section 7 of the Act, and to exclude certain former employees of the District of Columbia who are hired by the Department of Justice or by the Court Services and Offender Supervision Agency from Federal retirement coverage if they elect, under section 3 of the Act, to continue their coverage under a retirement system for employees of the District of Columbia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/99	64 FR 15286
Interim Final Rule Comment Period End	06/29/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert Girouard, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AI55

3988. RETIREMENT; NUCLEAR MATERIALS COURIERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831; 5 CFR 841; 5 CFR 842

Legal Deadline: None

Abstract: These regulations implement the provisions of Pub. L. 105-261 which authorize immediate retirement benefits at age 50 for Federal employees who have completed 20 years of Federal civilian service as a nuclear materials courier with the Department of Energy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth R. Brown, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AI66

3989. RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8347; 5 USC 8461

CFR Citation: 5 CFR 831, subpart I; 5 CFR 842, subpart H

Legal Deadline: None

Abstract: These interim regulations will amend the CSRS Law Enforcement Officer and Firefighter regulations and the FERS Law Enforcement Officer, Firefighter, and Air Traffic Controller regulations governing agency and OPM law enforcement officer and firefighter retirement coverage and service credit determinations. These interim regulations will clarify that the authority of an agency head to deny law enforcement officer and firefighter retirement coverage may be delegated to any level within the agency.

OPM

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kenneth Brown, Retirement and Insurance Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AI41

3990. RETIREMENT; STATE INCOME TAX WITHHOLDING INSTRUMENTALITIES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8345; 5 USC 8347; 5 USC 8461; 5 USC 8469

CFR Citation: 5 CFR 831, subpart S; 5 CFR 841, subpart J

Legal Deadline: None

Abstract: These regulations modify existing regulations to reflect changes designed to expand and streamline the process of withholding State income tax from CSRS and FERS annuities.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33429
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AH62

3991. RETIREMENT; FERS BASIC ANNUITY

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8461

CFR Citation: 5 CFR 842, subparts B, C, D, E, F, G

Legal Deadline: None

Abstract: These final regulations will amend FERS Basic Annuity regulations governing Eligibility (subpart B), Credit for Service (subpart C), Computations (subpart F), and Alternative Forms of Annuity (subpart G). These regulations have been published at various times in interim final form, and have been affected by statutory changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/87	52 FR 2061
Interim Final Rule	01/16/87	52 FR 2067
Interim Final Rule	02/11/87	52 FR 4473
Interim Final Rule	02/11/87	52 FR 4479
Interim Final Rule	05/14/87	52 FR 18193
Interim Final Rule	04/08/88	53 FR 11635
Interim Final Rule	02/09/90	55 FR 4598
Final Rule	12/27/90	55 FR 53136
Interim Final Rule	02/19/91	56 FR 6549
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos, Retirement and Insurance Service, Retirement Policy Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AE73

3992. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: Final, Statutory, April 24, 1999.

Abstract: This interim regulation revises 5 CFR part 870 to incorporate changes as a result of the Federal Employees Group Life Insurance Improvement Act. It changes the premium rates for all coverage categories, expands the age bands from age 60 and above for Option C, and changes the birthday rule applicable to optional insurance coverage when moving from one premium-rated age band to another. The revisions allow for new expanded coverage options with associated rate changes to be effective April 24, 1999. New Option C age band rates to be effective April 24, 2000, and open enrollment changes to be effective on the first day of the pay period on or after April 23, 2000.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/99	64 FR 22543
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon Neuner, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: scneuner@opm.gov

RIN: 3206–AI54

3993. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: LIFE INSURANCE IMPROVEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-311

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: These regulations implement Pub. L. 105-311, which makes numerous changes to the FEGLI Program, including covering foster children under Option C, increasing the amount of Option C coverage available, allowing for the election of unreduced Options B and C at retirement, allowing for direct payment of premiums when pay is insufficient for premium withholdings, and providing for a demonstration project for the portability of Option B.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Leibach, Retirement and Insurance Service, Office of Insurance Programs, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: kjleibac@opm.gov

RIN: 3206–AI64

OPM — Final Rule Stage

3994. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: PAYMENT OF PREMIUMS FOR PERIODS OF LEAVE WITHOUT PAY OR INSUFFICIENT PAY

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Regulations that establish a requirement that Federal agencies counsel employees entering nonpay status, or whose pay is insufficient to cover their FEHB premium payments, of the options of continuing or terminating their FEHB coverage, and if continuing, of paying premiums directly on a current basis or incurring a debt to be withheld from future salary. These regulations are intended to ensure employees are fully aware of these alternatives.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/96	61 FR 37807
Interim Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon Neuner, Retirement and Insurance Services, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: scneuner@opm.gov

RIN: 3206–AG66

3995. APPOINTMENT, PAY, AND REMOVAL OF ADMINISTRATIVE LAW JUDGES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1104(a)(2); 5 USC 1305; 5 USC 3105; 5 USC 3323(b); 5 USC 3344; 5 USC 4301(2)(D); 5 USC 5372; 5 USC 7521

CFR Citation: 5 CFR 930

Legal Deadline: None

Abstract: Revises several areas pertaining to the appointment, pay, and removal of ALJs.

Timetable:

Action	Date	FR Cite
NPRM	02/23/98	63 FR 8874
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Armando E. Rodriguez, Employment Service, Diversity Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-1059
TDD Phone: 912 744-2299

RIN: 3206–AI08

3996. • FEHB PROGRAM OPM AND DOD FEHB PROGRAM DEMO PROJECT

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 8913

CFR Citation: 48 CFR 1600

Legal Deadline: None

Abstract: The purpose of the regulation is to implement the portion of Public Law 105-261 which amended chapter 55 of title 10 and chapter 89 of title 5 U.S.C. to establish a demonstration project under which certain Medicare eligible and other DoD beneficiaries can enroll in a health benefit plan under the Federal Employees Health Benefits Program during the fall 1999 Open Season. The demonstration project will run for a period of three years from January 1, 2000 through December 31, 2002.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/06/99	64 FR 36271
Interim Final Rule Effective	07/06/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael W. Kaszynski, Retirement and Insurance Services, Office of Personnel Management, Insurance Policy and Information Division, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-0004
Fax: 202 606-0633
Email: mwkaszyn@opm.gov

RIN: 3206–AI67

3997. EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 317

Legal Deadline: None

Abstract: Proposed revision of SES regulations at 5 CFR 317, subpart E, will focus on (1) emphasizing the importance of executive leadership qualifications in agency SES selection criteria, (2) strengthening the SES merit staffing process, and (3) providing for delegating Qualifications Review Board Administration to agencies via individual delegation agreements.

Timetable:

Action	Date	FR Cite
NPRM	07/30/99	64 FR 41334
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marcia K. Staten, Office of Executive Resources Management, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-1832

RIN: 3206–AI58

Office of Personnel Management (OPM) **Long-Term Actions**

3998. INTERAGENCY PLACEMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1302; 5 USC 3310; 5 USC 3315

CFR Citation: 5 CFR 330; 5 CFR 351; 5 CFR 332

Legal Deadline: None

Abstract: Implemented Interagency Placement Program, which superseded Displaced Employee Program and Interagency Placement Program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/27/94	59 FR 32871
Final Action	09/00/01	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-0023

RIN: 3206–AI24

3999. REEMPLOYMENT PRIORITY LIST

Priority: Other Significant

Legal Authority: 5 USC 1315; 5 USC 8151

CFR Citation: 5 CFR 330, subpart B

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing regulations covering the operation and administration of the Reemployment Priority List (RPL). The RPL provides competitive service employees separated by reduction in force with the first opportunity for reemployment in their former agency over candidates who do not work for the agency. The RPL also provides the same priority to former employees who were separated or downgraded because of a compensable injury or disability and have fully recovered more than one year after compensation began. These proposed regulations would update RPL procedures in order to assist agencies in providing displaced employees with maximum reemployment opportunities.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jacqueline Yeatman, Employment Service, Workforce Restructuring Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0960
Fax: 202 606-0023

RIN: 3206–AI34

4000. PERFORMANCE MANAGEMENT REFORM

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 43; 5 USC 45

CFR Citation: 5 CFR 430; 5 CFR 451

Legal Deadline: None

Abstract: Regulatory changes to comply with legislative reforms in support of the National Performance Review (NPR) recommendations that decentralize performance management and incentive awards programs to the agencies.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Colchao, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Performance and Compensation and, Systems Design, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2720
Email: bwcolcha@opm.gov

RIN: 3206–AF57

4001. SUITABILITY

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
NPRM	01/05/96	61 FR 394
NPRM	01/28/99	64 FR 4336
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-4000
Phone: 202 606-1042

RIN: 3206–AC19

4002. PERSONNEL SECURITY AND RELATED PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we see no significant issues arising from implementation of these changes.

OPM — Long-Term Actions

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Interim Final Rule	09/16/94	59 FR 47527
Interim Final Rule Effective Date	10/17/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-4000
Phone: 202 606-1042

RIN: 3206–AC21

4003. INVESTIGATIONS

Priority: Other Significant

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: With the abolishment in December 1993 of the Federal Personnel Manual (FPM), certain policies and procedures enunciated in the FPM must be considered for publication in another format. Since all of these policies and procedures are important to continued program operations, they will be incorporated in the Code of Federal Regulations. The Office of Management and Budget (OMB) has determined that these regulations are significant and require OMB review prior to publication. However, we foresee no significant issues arising from implementation of these changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/23/91	56 FR 18650
Begin Review	10/01/93	
Interim Final Rule	09/16/94	59 FR 47527

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard A. Ferris, Associate Director, Investigations Service, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-4000
Phone: 202 606-1042

RIN: 3206–AB92

4004. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: EFFECTIVE DATES

Priority: Info./Admin./Other

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: This proposed regulation would adopt January 1st as the effective date for all open season new enrollment in the Federal Employees Health Benefits Program.

Timetable:

Action	Date	FR Cite
NPRM	08/31/98	63 FR 46180
NPRM Comment Period End	09/30/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Terry D. Schleicher, Retirement and Insurance Service, Insurance Policy and Information Division, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0004
Email: terryschl@juno.com

RIN: 3206–AI37

Office of Personnel Management (OPM) — Completed Actions

4005. APPOINTMENT OF NON-STATUS EMPLOYEES (USERRA)

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 213

Completed:

Reason	Date	FR Cite
Final Action	06/11/99	64 FR 31485
Final Action Effective	07/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AI23

4006. • STATUTORY BAR TO APPOINTMENTS A PERSON WHO FAILED TO REGISTER UNDER SELECTIVE LAW

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 3328

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Changed the telephone number listed for agencies to contact the Selective Service System.

Timetable:

Action	Date	FR Cite
Final Action	05/27/99	64 FR 28713
Final Action Effective	05/27/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Janice Reid, Employment Service, Staffing Reinvention Office, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-0830

RIN: 3206–AI72

4007. CLARIFICATION OF VARIOUS STAFFING PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 330.403; 5 CFR 213.103(a); 5 CFR 300.501; 5 CFR 315.603(a); 5 CFR 315.608; 5 CFR 332.301; 5 CFR 338.202(3)

Completed:

Reason	Date	FR Cite
Merged With RIN: 3206-AI46	08/31/99	

OPM

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AH49

4008. REDUCTION IN FORCE SERVICE CREDIT; RETENTION RECORDS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 351

Completed:

Reason	Date	FR Cite
Final Action	04/07/99	64 FR 16797
Final Action Effective	05/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas A. Glennon
Phone: 202 606-0960
Fax: 202 606-2329

RIN: 3206–AI09

4009. RESTORATION TO DUTY FROM MILITARY SERVICE OR COMPENSABLE INJURY

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 353

Completed:

Reason	Date	FR Cite
Final Action	06/11/99	64 FR 31485
Final Action Effective	07/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Raleigh M. Neville
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AG02

4010. DEMONSTRATION PROJECT AUTHORITY

Priority: Info./Admin./Other

CFR Citation: 5 CFR 470

Completed:

Reason	Date	FR Cite
Withdrawn	09/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Joan Jorgenson
Phone: 202 606-1315
Email: jmjorgen@opm.gov

RIN: 3206–AI40

4011. PREVAILING RATE SYSTEMS; ABOLISHMENT OF LUBBOCK NONAPPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	06/22/99	64 FR 33175
Final Action Effective	07/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AH88

4012. PREVAILING RATE SYSTEMS: ABOLISHMENT OF THE ORLANDO, FL, APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	04/13/99	64 FR 17941
Final Action Effective	05/13/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI04

4013. PREVAILING RATE SYSTEMS; ABOLISHMENT OF KANSAS CITY, MO, SPECIAL WAGE SCHEDULE FOR PRINTING POSITIONS

Priority: Info./Admin./Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	06/22/99	64 FR 33175
Final Action Effective	07/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI11

4014. PREVAILING RATE SYSTEMS; REDEFINITION OF THE ORLANDO, FL, APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	04/13/99	64 FR 17941
Final Action Effective	05/13/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI13

4015. PREVAILING RATE SYSTEMS; ENVIRONMENTAL DIFFERENTIAL PAY FOR WORKING AT HIGH ALTITUDES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Final Action	04/02/99	64 FR 15915
Final Action Effective	04/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mark Allen
Phone: 202 606-2848
Fax: 202 606-4264
Email: maallen@opm.gov

RIN: 3206–AI36

4016. PREVAILING RATE SYSTEMS; REDEFINITION OF THE WYOMING AND EASTERN SOUTH DAKOTA APPROPRIATED FUND WAGE AREAS

Priority: Info./Admin./Other

CFR Citation: 5 CFR 532

Completed:

Reason	Date	FR Cite
Merged With RIN 3206-AI74	09/07/99	

OPM

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI60

4017. • PREVAILING RATE SYSTEMS; CHANGE IN SURVEY CYCLE FOR THE SOUTHWESTERN MICHIGAN APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing an interim rule to change the full-scale survey cycle of the Southwestern Michigan appropriated fund Federal Wage System wage area from odd to even-numbered fiscal years.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/03/99	64 FR 23531
Interim Final Rule Comment Period End	06/02/99	
Final Action	10/01/99	64 FR 53179
Final Action Effective	11/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI68

4018. • PREVAILING RATE SYSTEMS; REDEFINITION OF THE EASTERN SOUTH DAKOTA AND WYOMING APPROPRIATED FUND WAGE AREA

Priority: Info./Admin./Other

Legal Authority: 5 USC 5343

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: The Office of Personnel Management (OPM) is issuing a proposed rule that would redefine Jackson County, South Dakota, from the area of application of the Eastern South Dakota appropriated fund Federal Wage System (FWS) wage area to the area of application of the Wyoming FWS wage area, and redefine Teton County, Wyoming, from the area of application of the Wyoming FWS ware area to the area of application of the Montana FWS wage area.

Timetable:

Action	Date	FR Cite
NPRM	06/23/99	64 FR 33427
NPRM Comment Period End	07/23/99	
Final Action	10/04/99	64 FR 53179
Final Action Effective	11/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jennifer Hopkins, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW., Washington, DC 20415
Phone: 202 606-2848
Fax: 202 606-4264
Email: jdhopkin@opm.gov

RIN: 3206–AI74

4019. LUMP-SUM PAYMENTS FOR ANNUAL LEAVE

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 550, subpart L

Completed:

Reason	Date	FR Cite
Final Action Effective	07/07/99	
Final Action	07/08/99	64 FR 36763
Final Action Effective	09/07/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: JoAnn Perrini
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AF38

4020. AGENCY DETERMINATIONS ON PAYMENT OF RELOCATION COSTS

Priority: Other Significant

CFR Citation: 5 CFR 572

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Carmichael
Phone: 202 606-0830
Fax: 202 606-0023

RIN: 3206–AH50

4021. • ABSENCE AND LEAVE; USE OF RESTORED ANNUAL LEAVE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: The Office of Personnel Management is proposing regulations to aid agencies and employees involved in Year 2000 (Y2K) computer conversion efforts. The regulations provide that excess annual leave forfeited by employees who are unable to schedule and use their leave as a result of Y2K computer conversion efforts will be deemed to have been scheduled in advance and therefore eligible for restoration.

Timetable:

Action	Date	FR Cite
NPRM	06/13/99	64 FR 31735
NPRM Comment Period End	07/14/99	
Final Action	08/25/99	64 FR 46257
Final Action Effective	08/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: JoAnn Perrini, Workforce Compensation and Performance Service, Office of Personnel Management, Office of Compensation Administration, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-2858
Fax: 202 606-0824
Email: payleave@opm.gov

RIN: 3206–AI71

4022. FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM (FEORP)

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 720

OPM

Completed Actions

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Armando E. Rodriguez
Phone: 202 606-1059
TDD Phone: 912 744-2299

RIN: 3206–AH98

4023. DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 720

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Armando E. Rodriguez
Phone: 202 606-1059
TDD Phone: 912 744-2299

RIN: 3206–AH99

4024. RETIREMENT; DETERMINATIONS OF MARITAL STATUS FOR SURVIVOR ANNUITIES

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 831; 5 CFR 842; 5 CFR 843

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Panagakos
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AG60

4025. VOLUNTARY EARLY RETIREMENT AUTHORITY

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 831; 5 CFR 842

Completed:

Reason	Date	FR Cite
Final Action	10/04/99	64 FR 53581
Final Action Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Greg Keller
Phone: 202 606-0960

RIN: 3206–AI25

4026. RETIREMENT; NATIONAL GUARD TECHNICIANS: ADJUSTMENTS TO ANNUITY

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 831

Completed:

Reason	Date	FR Cite
Withdrawn	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Patricia A. Rochester
Phone: 202 606-0299
Email: combox@opm.gov

RIN: 3206–AI42

4027. FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM: COURT ORDERS

Priority: Substantive, Nonsignificant

CFR Citation: 5 CFR 870

Completed:

Reason	Date	FR Cite
Interim Final Rule	04/06/99	64 FR 16601
Final Action	10/08/99	64 FR 54761
Final Action Effective	10/08/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Leibach
Phone: 202 606-0004
Email: kjleibac@opm.gov

RIN: 3206–AI49

4028. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: CONTRIBUTIONS AND WITHHOLDING

Priority: Info./Admin./Other

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Final Action	04/01/99	64 FR 15633
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Bonnie R. Rose
Phone: 202 606-0004
Email: brrose@opm.gov

RIN: 3206–AI33

4029. FEHB AND DOD DEMONSTRATION PROJECT

Priority: Info./Admin./Other

CFR Citation: 5 CFR 890

Completed:

Reason	Date	FR Cite
Interim Final Rule	07/06/99	64 FR 36237
Withdrawn - Duplicate of RIN 3206-AI67	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael W. Kaszynski
Phone: 202 606-0004
Fax: 202 606-0633
Email: mwkaszyn@opm.gov

RIN: 3206–AI63

4030. AUTHORIZATION OF SOLICITATIONS DURING THE COMBINED FEDERAL CAMPAIGN

Priority: Info./Admin./Other

CFR Citation: 5 CFR 950

Completed:

Reason	Date	FR Cite
Final Action	05/19/99	64 FR 27169
Final Rule Effective	06/18/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Becky Kumar
Phone: 202 606-1700

RIN: 3206–AI53

4031. • VOTING RIGHTS PROGRAM

Priority: Other Significant

Legal Authority: 5 USC 1103; 42 USC 1973

CFR Citation: 45 CFR 801

Legal Deadline: None

OPM **Completed Actions**

Abstract: The Office of Personnel Management is establishing two new offices for filing applications or complaints under the Voting Rights Act of 1965, as amended. This designation is necessary to enforce the voting guarantees of the Fourteenth and Fifteenth amendments to the Constitution. This amendment establishes Leake County, Mississippi, and Chickasaw County, Mississippi, as new offices for filing applications or complaints.

Timetable:

Action	Date	FR Cite
Final Action Effective	08/02/99	
Final Action	08/03/99	64 FR 42039

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Suznne Selden, Office of the General Counsel, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415
Phone: 202 606-1700

RIN: 3206–AI77

[FR Doc. 99–29936 Filed 11–19–99; 8:45 am]
BILLING CODE 6325–01–F

VOL 64 ISS 224 NO 22 1999 UMI

d Actions

l: None

den, Office
e of
E Street

99; 8:45 am]

federal register

Monday,
November 22, 1999

Part XXXVIII

Office of Special Counsel

Semiannual Regulatory Agenda

Office of Special Counsel (OSC)

OFFICE OF SPECIAL COUNSEL

5 CFR Ch. VIII

Semiannual Regulatory Agenda

AGENCY: U.S. Office of Special Counsel.

ACTION: Semiannual regulatory agenda.

SUMMARY: The U.S. Office of Special Counsel is publishing its October 1999 regulatory agenda pursuant to Executive Order 12866 "Regulatory Planning and Review" (58 FR 51735; October 4, 1993) and the Regulatory Flexibility Act (5 U.S.C. 601-612). The agenda lists all regulations scheduled for review or development from October 1, 1999, through September 30, 2000.

FOR FURTHER INFORMATION CONTACT: Marion S. Berman Bowytz, (202) 653-8971.

Dated: August 31, 1999.

Elaine Kaplan,

Special Counsel.

Office of Special Counsel (OSC) — Proposed Rule Stage

4032. PUBLIC INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 1820 (Revision)

Legal Deadline: Final, Statutory, October 2, 1997.

Abstract: OSC will revise its regulation governing the disclosure of information under the Freedom of Information Act (FOIA) to incorporate changes required by the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA).

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marion S. Berman Bowytz, Attorney, Office of Special Counsel, Suite 300, 1730 M Street NW., Washington, DC 20036-4505
Phone: 202 653-8971
Fax: 202 653-5161

RIN: 3255–AA01

4033. • INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 1212

CFR Citation: 5 CFR 1810 (Revision)

Legal Deadline: None

Abstract: OSC will revise its description of complaint examination and investigation policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marion S. Berman Bowytz, Attorney, Office of Special Counsel, Suite 300, 1730 M Street NW., Washington, DC 20036-4505
Phone: 202 653-8971
Fax: 202 653-5161

RIN: 3255–AA02

[FR Doc. 99–23647 Filed 11–19–99; 8:45 am]
BILLING CODE 7405–01–F

VOL 64 ISS 224 NO 22 1999 UMI

federal register

Monday,
November 22, 1999

Part XXXIX

Panama Canal Commission

Semiannual Regulatory Agenda

Panama Canal Commission (PANAMA)

PANAMA CANAL COMMISSION

35 CFR Ch. I

Semiannual Regulatory Agenda, October 1999

AGENCY: Panama Canal Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the rulemaking activities of the Panama Canal Commission.

FOR FURTHER INFORMATION CONTACT: For general information, contact John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, Balboa, Ancon, Repulic of Panama, 011-507-272-7511.

SUPPLEMENTARY INFORMATION: Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the Agency's regulatory review and development process. This agenda was prepared pursuant to guidelines established by the Office of Management and Budget.

Dated: September 23, 1999.

Joseph W. Cornelison,

Deputy Administrator, Panama Canal Commission.

Panama Canal Commission (PANAMA) — Completed Actions

4034. PANAMA CANAL COMMISSION ACQUISITION REGULATION

Priority: Other Significant

CFR Citation: 48 CFR 35

Completed:

Reason	Date	FR Cite
Withdrawn	09/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Theodore G. Lucas
Phone: 507 272-2755
Email: tglucas@pancanal.com

RIN: 3207–AA44

4035. MARINE ACCIDENTS INVESTIGATIONS CONTROL RESPONSIBILITIES

Priority: Other Significant

CFR Citation: 35 CFR 117

Completed:

Reason	Date	FR Cite
Withdrawn	09/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William J. Connolly
Phone: 202 634-6441
Email: wo@pancanal.com

RIN: 3207–AA48

4036. REGULATIONS OF THE SECRETARY OF THE ARMY (PANAMA CANAL EMPLOYMENT SYSTEM) PERSONNEL POLICY; REGULATIONS OF THE SECRETARY OF THE ARMY PANAMA CANAL EMPLOYMENT POLICY

Priority: Info./Admin./Other

CFR Citation: 35 CFR 251; 35 CFR 253

Completed:

Reason	Date	FR Cite
Withdrawn	09/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: William J. Connolly
Phone: 202 634-6441
Email: wo@pancanal.com

RIN: 3207–AA49

4037. PART 121 INSPECTION AND REGISTRATION OF VESSELS

Priority: Substantive, Nonsignificant

CFR Citation: 35 CFR 121

Completed:

Reason	Date	FR Cite
Withdrawn	09/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles Morris
Phone: 202 634-6441
Email: wo@pancanal.com

RIN: 3207–AA50

[FR Doc. 99–25673 Filed 11–19–99; 8:45 am]

BILLING CODE 3640–04–F

federal register

Monday,
November 22, 1999

Part XL

Peace Corps

Semiannual Regulatory Agenda

Peace Corps (PEACE)

PEACE CORPS

22 CFR Ch. III

Regulatory Agenda

AGENCY: Peace Corps.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 6-month period from October 1, 1999, through March 31, 2000. The purpose of publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Nancy H. Hendry, General Counsel, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692-2150.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 entitled "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 601-612, executive agencies are required to publish in the **Federal Register** semiannual regulatory agendas in April and October of each year. The regulations being considered by the Peace Corps are not "significant" rules within the meaning of Executive Order 12866, and no regulatory impact analysis is required. In addition, the Peace Corps has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The Agency has also determined that the regulations will not impose compliance costs or reporting burdens on the public.

Dated: August 10, 1999.

Susan C. Shalhoub,

Associate General Counsel, Peace Corps.

Peace Corps (PEACE) — Long-Term Actions

4038. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504 — HANDICAPPED DISCRIMINATION PROHIBITION

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 312

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination on the basis of handicap in programs or activities conducted by executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/91	56 FR 50684
NPRM Comment Period End	12/09/91	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Suite 1842W, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA03

4039. SUPPLEMENTAL STANDARDS OF CONDUCT FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: EO 12674; 5 CFR 2635.105

CFR Citation: 22 CFR 307; 5 CFR 67 (New)

Legal Deadline: None

Abstract: The Office of Government Ethics has issued Governmentwide standards of conduct which pertain to all executive branch employees, including Peace Corps employees. The Peace Corps, pursuant to section 2635.105, plans to issue its own Supplemental Agency Regulations.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Suite 1842W, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA09

4040. ELIGIBILITY AND STANDARDS FOR PEACE CORPS VOLUNTEER SERVICE RE: PROCEDURES — APPEALS

Priority: Substantive, Nonsignificant

Legal Authority: 75 Stat 612, secs 4(b), 5(a), and 22; 22 USC 2504; EO 12137, May 16, 1979; International Security & Development Coop. Act of 1981, sec 601; 95 Stat 1519 and 1540

CFR Citation: 22 CFR 305

Legal Deadline: None

Abstract: The Peace Corps is reviewing its Eligibility and Standards for Peace Corps Service, specifically with regard to establishing and publishing an appeals procedure for administrative and medical deselection. 42 USC 5057(c)(1), as amended, no longer provides authority for the listed Agenda item. Therefore, 42 USC 5057, as above, shall be deleted from future printings of the Unified Agenda.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: RFA: N

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Suite 1842W, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150

Fax: 202 692-2151

RIN: 0420–AA10

4041. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURE

Priority: Info./Admin./Other

Legal Authority: 22 USC 2503; 5 USC 553 and 554

CFR Citation: 22 CFR 306; 45 CFR 1225

Legal Deadline: None

Abstract: The Peace Corps is promulgating its own regulations regarding the Volunteer Discrimination Complaint Procedure to replace the current cross-reference to ACTION's regulations applicable to Peace Corps Volunteers, which appear in 45 CFR part 1225.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Additional Information: RFA: N

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Suite 1842W, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA11

4042. RESPONSIBILITIES AND ETHICAL STANDARDS FOR PEACE CORPS EMPLOYEES

Priority: Info./Admin./Other

Legal Authority: 5 USC 7301; 5 USC app Ethics in Government Act of 1978; EO 12674; 5 CFR 2635.105; 5 CFR 2635.403; 5 CFR 2635.803

CFR Citation: 22 CFR 307

Legal Deadline: None

Abstract: The Peace Corps, in compliance with the Office of Government Ethics, is issuing its own agency-specific regulations for employees of the Peace Corps. These regulations are in addition to the Supplemental Standards of Ethical Conduct for Peace Corps Employees, which supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Nancy H. Hendry, General Counsel, Peace Corps, Suite 1842W, Office of General Counsel, 1111 20th Street NW, Washington, DC 20526-0001
Phone: 202 692-2150
Fax: 202 692-2151

RIN: 0420–AA12

[FR Doc. 99–23648 Filed 11–19–99; 8:45 am]
BILLING CODE 6051–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XLI

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

Pension Benefit Guaranty Corporation (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to (202) 326-4024. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Pension Benefit Guaranty Corporation's Statement of Regulatory Priorities is included in part II.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4043	Premium Self-Audit	1212-AA93

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4044	Filing Rules	1212-AA89
4045	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35
4046	Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets **(Reg Plan Seq No. 146)**	1212-AA55
4047	Lump Sum Payment Assumptions	1212-AA92
4048	Assessment of and Relief from Penalties	1212-AA95

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4049	Valuation of Benefits; Use of Single Set of Assumptions for All Benefits	1212-AA91
4050	Payment of Premiums	1212-AA94

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4051	Payment of Premiums	1212-AA58

PBGC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4052	Calculation and Payment of Unfunded Nonguaranteed Benefits	1212-AA54
4053	Miscellaneous Statutory Amendments	1212-AA79
4054	Treatment of Substantial Cessation of Operations	1212-AA84

Pension Benefit Guaranty Corporation (PBGC) — Prerule Stage

4043. PREMIUM SELF-AUDIT

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302; 29 USC 1307

CFR Citation: 29 CFR 4007

Legal Deadline: None

Abstract: The PBGC is considering whether to set up a premium "self-audit" program under which pension plans' premium payments could be reviewed by the plans' own independent auditors using "agreed-upon procedures" specified by the PBGC. The aim of the program would be to limit the need for full-scale PBGC audits for participating plans while improving voluntary compliance with premium payment rules.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/00	
ANPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA93

Pension Benefit Guaranty Corporation (PBGC) — Proposed Rule Stage

4044. FILING RULES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 4000

Legal Deadline: None

Abstract: The PBGC's rules governing the date of filing vary, depending on the regulation involved and the method of filing used (e.g., mail postmarked by the United States Postal Service, metered mail, commercial delivery service, facsimile). The PBGC intends to clarify and simplify its filing rules and to provide greater flexibility in methods of filing (including by electronic means).

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
NPRM Comment Period End	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA89

4045. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: 29 CFR 4022

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042 of ERISA, it pays benefits to participants pursuant to plan provisions and section 4022 of ERISA. This regulation will fill gaps in the rules and otherwise clarify matters that had been handled on a case-by-case basis in the past.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA35

PBGC — **Proposed Rule Stage**

4046. ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS

Regulatory Plan: This entry is Seq. No. 146 in Part II of this issue of the **Federal Register**.

RIN: 1212–AA55

4047. LUMP SUM PAYMENT ASSUMPTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302; 29 USC 1322; 29 USC 1341; 29 USC 1344; 29 USC 1362; 29 USC 1301(a)

CFR Citation: 29 CFR 4022; 29 CFR 4044

Legal Deadline: None

Abstract: The PBGC is considering delinking the lump sum interest rates it uses for PBGC payments from those used for private-sector payments. The PBGC intends to make available indefinitely the PBGC rates based on the current rate-setting methodology (or a surrogate for those rates). However, the PBGC may in the future change the way it sets the rates it uses for its own payments.

Timetable:

Action	Date	FR Cite
Notice of Intent to Propose Rulemaking	10/26/98	63 FR 57228
NIPR Comment Period End	12/28/98	
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA92

4048. • ASSESSMENT OF AND RELIEF FROM PENALTIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 28 USC 2461 note; 29 USC 1302(b)(3); 29 USC 1303(a); 29 USC 1306; 29 USC 1307; 29 USC 1371

CFR Citation: 29 CFR 4003; 29 CFR 4007; 29 CFR 4071

Legal Deadline: None

Abstract: The PBGC has issued a number of policy statements about penalties over the last few years. For the convenience of the public, the PBGC proposes to replace those policy statements with an updated set of penalty policies codified in its regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA95

Pension Benefit Guaranty Corporation (PBGC) — **Final Rule Stage**

4049. VALUATION OF BENEFITS; USE OF SINGLE SET OF ASSUMPTIONS FOR ALL BENEFITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301(a); 29 USC 1302; 29 USC 1322; 29 USC 1341; 29 USC 1344; 29 USC 1350; 29 USC 1362

CFR Citation: 29 CFR 4022; 29 CFR 4044; 29 CFR 4050; 29 CFR 4281

Legal Deadline: None

Abstract: The Pension Benefit Guaranty Corporation is proposing to amend its regulations to provide for the use of a single set of valuation assumptions — those currently used by the PBGC to value benefits to be paid as annuities — for purposes of allocating assets to benefits under section 4044 of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	10/26/98	63 FR 57229
NPRM Comment Period End	12/28/98	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA91

4050. PAYMENT OF PREMIUMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1303(a); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 4007

PBGC

Final Rule Stage

Legal Deadline: None

Abstract: The PBGC is proposing to amend its regulation on Payment of Premiums to encourage self-correction of premium underpayments. The amendments make it easier to qualify for "safe-harbor" relief from late payment penalty charges and codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5 percent per month to 1 percent per month if a premium payor corrects an underpayment before PBGC notification).

Timetable:

Action	Date	FR Cite
NPRM	04/27/99	64 FR 22589
NPRM Comment Period End	06/28/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA94

Pension Benefit Guaranty Corporation (PBGC)

Long-Term Actions

4051. PAYMENT OF PREMIUMS

Priority: Other Significant

CFR Citation: 29 CFR 4006; 29 CFR 4007

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to 11/16/92	09/17/92	57 FR 42910
Final Action Extending Premium Due Dates	12/14/98	63 FR 68684
Final Action Extending Premium Due Dates Effective	02/12/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Deborah C. Murphy
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA58

4052. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority: Other Significant

CFR Citation: 29 CFR 4022 subpart C

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Peter H. Gould
Phone: 202 326-4020
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA54

4053. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 4000 et seq

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA79

4054. TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 29 CFR 4062

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James L. Beller
Phone: 202 326-4024
TDD Phone: 800 877-8339
Fax: 202 326-4112

RIN: 1212–AA84

[FR Doc. 99–24745 Filed 11–19–99; 8:45 am]
BILLING CODE 7708–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XLII

Presidio Trust

Semiannual Regulatory Agenda

Presidio Trust (PRESIDIO)

PRESIDIO TRUST

36 CFR Ch. X

Semiannual Agenda of Regulations Pursuant to Executive Order 12866

AGENCY: The Presidio Trust.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Presidio Trust (Trust) is a wholly-owned Government corporation created by Congress pursuant to title I of the Omnibus Parks and Public Lands Act of 1996, Public Law 104-333, 110 Stat. 4097. The Trust is charged with managing a portion of the former U.S. Army base known as The Presidio of San Francisco, California. Pursuant to law, administrative jurisdiction of approximately 80 percent of this property was transferred from the National Park Service (NPS), Department of the Interior (DOI), to the Trust as of July 1, 1998.

This regulatory agenda describes the regulations that the Trust will be proposing, developing, and reviewing between October 1, 1999, and March 31, 2000. This information is published in order to notify the public of the Trust's regulatory activities so that interested persons may participate in the Trust's rulemaking process.

FOR FURTHER INFORMATION CONTACT: For further information about the Trust's regulatory agenda or rulemaking process, contact Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052; telephone: 415-561-5300.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601), executive agencies must publish a semiannual regulatory agenda in the **Federal Register** in April and October of each year.

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. section 601 *et seq.*, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities nor will they impose compliance costs or reporting burdens on the public. Accordingly, no regulatory flexibility analysis is required under 5 U.S.C. 602.

Dated: September 29, 1999.

James E. Meadows,

Executive Director.

Presidio Trust (PRESIDIO) — Long-Term Actions

4055. INTERIM MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106

CFR Citation: 36 CFR 1001; 36 CFR 1002; 36 CFR 1004; 36 CFR 1005

Legal Deadline: None

Abstract: This interim final rule governs the use and management of the area administered by the Presidio Trust, and is designed to ensure continuity during the transfer of the management of the Presidio from the National Park Service (NPS) to the Presidio Trust. The rule is derived from the NPS's regulations for managing conduct at the Presidio during the four years when the Presidio was under the NPS's jurisdiction. These regulations cover public use and recreational activities; the protection of natural, cultural, and archeological resources; vehicle and traffic safety; and commercial and private operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/98	63 FR 35694
Interim Final Rule Comment Period End	08/31/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: kcook@presidiotrust.gov

RIN: 3212–AA00

4056. MANAGEMENT OF THE PRESIDIO

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106; 5 USC 552; 5 USC 552a; 28 USC 2672

CFR Citation: 36 CFR 1001 to 1009

Legal Deadline: None

Abstract: This proposed rule, published in the Federal Register on September 18, 1998, at 63 FR 50024, revises and expands upon the interim final rule adopted when the Presidio was transferred from the National Park Service to the Presidio Trust (Trust). The interim final rule was published on June 30, 1998, and can be found at 63 FR 35694. These proposed rules cover general provisions (part 1001); public use and recreational activities and protection of natural, cultural, and archeological resources (part 1002); vehicle and traffic safety (part 1003); and commercial operations (part 1004) and have been revised to be consistent with existing regulations, conform with laws in neighboring jurisdictions, and simplify the language and organization of the regulations. The remaining proposed regulations address rights-of-way (part 1005); Presidio Trust symbols (part 1006); requests under the Freedom of Information and Privacy Acts (parts 1007 and 1008); and administrative claims under the Federal Tort Claims Act (part 1009).

By notice published on January 19, 1999, in the Federal Register at 64 FR 2870, the Trust held in abeyance until further notice a portion of the proposed rules: 36 CFR 1001, 1002, 1003, 1004, and 1006. Any future action on these rules will be noticed in the Federal Register and subject to additional public comment. In the interim, the Trust's final interim regulations at 36 CFR 1001, 1002, 1004, and 1005 remain in effect. The public comment period for proposed rule 36 CFR 1005 closed on January 8, 1999. Public comment on the remaining proposed rules, 36 CFR 1007, 1008, and 1009, closed on November 17, 1998, and the Trust issued final regulations on December 30, 1998, effective January 29, 1999.

These regulations can be found at 63 FR 71771.

Timetable:

FOIA; Privacy Act; Federal Tort Claims Act
NPRM 09/18/1998 (63 FR 50024)
NPRM Comment Period End 11/17/1998 (63 FR 50024)
Final Action 12/30/1998 (63 FR 71771)
Final Action Effective 01/29/1999 (63 FR 71771)

General; Resource Protection; Traffic Safety; Comm. Operations
NPRM 09/18/1998 (63 FR 50024)
NPRM Comment Period End 11/17/1998 (63 FR 50024)
Comment Period Extended to 01/08/1999 (63 FR 64023)
Partial Abeyance of Proposed Rule 01/19/1999 (64 FR 2870)
Further Action 00/00/0000

Rights-of-Way
NPRM 09/18/1998 (63 FR 50024)
NPRM Comment Period End 11/17/1998 (63 FR 50024)
Comment Period Extended to 01/08/1999 (63 FR 64023)
Final Action 00/00/0000

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: kcook@presidiotrust.gov

RIN: 3212–AA01

4057. MANAGEMENT OF THE PRESIDIO: ENVIRONMENTAL QUALITY

Priority: Other Significant

Legal Authority: PL 104-333, sec 101 to 106; 42 USC 4321 et seq; 40 CFR 1507.3

CFR Citation: 36 CFR 1010

Legal Deadline: None

Abstract: This proposed rule contains regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA), as amended, pursuant to the Council on Environmental Quality's regulations at 40 CFR 1500 to 1509. Areas covered by these regulations include requirements for Environmental Assessments (EA) and Environmental Impact Statements (EIS), actions typically requiring EAs or EISs, and the preparation of EAs and EISs. These regulations also address public involvement in the Trust's environmental review process and the manner in which environmental issues will be considered by the Trust in its decisionmaking processes.

Timetable:

Action	Date	FR Cite
Interim Policy Statement	09/14/98	63 FR 49142
NPRM	07/23/99	64 FR 39951
Comment Period Extended to 10/05/99	09/23/99	64 FR 51488
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen A. Cook, General Counsel, Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052
Phone: 415 561-5300
Email: kcook@presidiotrust.gov

RIN: 3212–AA02

[FR Doc. 99–27051 Filed 11–19–99; 8:45 am]
BILLING CODE 4310–4R–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XLIII

Railroad Retirement Board

Semiannual Regulatory Agenda

Railroad Retirement Board (RRB)

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, (312) 751-4513, FAX (312) 751-7102, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: No Regulatory Plan entries have been included for this edition of the Railroad Retirement Board's semiannual regulatory agenda. Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda.

Dated: September 2, 1999

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4058	Plan of Operation During a National Emergency	3220-AB36
4059	Remuneration	3220-AB38
4060	Registration for Railroad Unemployment Benefits; Determination of Daily Benefit Rate; Sickness Benefits; Duration of Normal and Extended Benefits	3220-AB39
4061	Family Relationships	3220-AB40
4062	Determining Disability	3220-AB41
4063	Determining Disability	3220-AB42
4064	Evidence Required for Payment	3220-AB43

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4065	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act	3220-AA51
4066	Employees Under the Railroad Retirement Act	3220-AA52
4067	Reduction and Non-Payment of Annuities by Reason of Work	3220-AA61
4068	Voluntary Quit	3220-AA75
4069	Determining Disability	3220-AA99
4070	Requests for Reconsideration and Appeals Within the Board	3220-AB03
4071	Creditable Railroad Compensation	3220-AB23
4072	Finality of Decisions Regarding Unemployment and Sickness Insurance Benefits	3220-AB25
4073	General Administration	3220-AB35

Railroad Retirement Board (RRB)

Proposed Rule Stage

4058. PLAN OF OPERATION DURING A NATIONAL EMERGENCY

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 375

Legal Deadline: None

Abstract: The Board proposes to update its plan of operation during a national emergency to reflect recent reorganizations within the Board.

Timetable:

Action	Date	FR Cite
NPRM	08/17/99	64 FR 44670
NPRM Comment Period End	10/18/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB36

4059. REMUNERATION

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

RRB

Proposed Rule Stage

CFR Citation: 20 CFR 322

Legal Deadline: None

Abstract: The Railroad Retirement Board is amending part 322 of its regulations to reflect statutory changes that may affect the payment of unemployment or sickness benefits to railroad employees under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB38

4060. REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS; DETERMINATION OF DAILY BENEFIT RATE; SICKNESS BENEFITS; DURATION OF NORMAL AND EXTENDED BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 322(i); 45 USC 362(l)

CFR Citation: 20 CFR 325; 20 CFR 330; 20 CFR 335; 20 CFR 336

Legal Deadline: None

Abstract: The Board amends its regulations to incorporate amendments made to the Railroad Unemployment Insurance Act by Public Law 104-251.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB39

4061. FAMILY RELATIONSHIPS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 222

Legal Deadline: None

Abstract: The Board amends its regulations to clarify how it uses appropriate State law, particularly State inheritance laws, to determine when an individual is the child of the employee.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB40

4062. • DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231f(b)

CFR Citation: 20 CFR 220.143

Legal Deadline: None

Abstract: The amendment to 220.143 updates earnings guidelines used to determine when a disabled individual is presumptively engaged in substantial gainful activity.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB41

4063. • DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231a; 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220.186

Legal Deadline: None

Abstract: The Board proposes to amend section 220.186 of its disability regulations to eliminate continuing disability review of disability annuitants in cases where medical improvement is not expected.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB42

4064. • EVIDENCE REQUIRED FOR PAYMENT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 219.6

Legal Deadline: None

Abstract: The Board amends section 219.6 to permit the use of non-certified copies of documents, or facsimile copies of records or documents that are required to establish eligibility for benefits under the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

RRB — Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB43

Railroad Retirement Board (RRB) — Long-Term Actions

4065. EMPLOYERS UNDER THE RAILROAD RETIREMENT ACT; EMPLOYERS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 202; 20 CFR 301

Legal Deadline: None

Abstract: The Board is considering revisions to existing parts 202 and 301 of the RRB's regulations defining entities covered as employers under the Railroad Retirement and Railroad Unemployment Insurance Acts to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA51

4066. EMPLOYEES UNDER THE RAILROAD RETIREMENT ACT

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 203

Legal Deadline: None

Abstract: The Board is considering revising existing part 203 of the RRB's regulations defining individuals covered as employees under the Railroad Retirement Act to reflect case-by-case adjudications that have occurred since the regulations were originally adopted. The Board will seek input from rail employers and rail labor on the need to revise the regulations as well as on the revisions to be made. In addition, any revisions will be referred for review and comment to the Internal Revenue Service, which administers a companion statute, the Railroad Retirement Tax Act.

Timetable:

Action	Date	FR Cite
NPRM	01/05/89	54 FR 318
NPRM Comment Period End	02/06/89	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State, Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA52

4067. REDUCTION AND NON-PAYMENT OF ANNUITIES BY REASON OF WORK

Priority: Other Significant

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board (Board) amends 20 CFR part 230 to explain how annuity deductions on account of work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	08/16/95	60 FR 42482
NPRM Comment Period End	09/25/95	60 FR 43999
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA61

4068. VOLUNTARY QUIT

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 362(l)

CFR Citation: 20 CFR 328

Legal Deadline: None

Abstract: A new part 328 is added to explain when unemployment insurance benefits are not payable because the employee voluntarily left employment.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA75

4069. DETERMINING DISABILITY

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 231a; 45 USC 231f

CFR Citation: 20 CFR 220.114

Legal Deadline: None

Abstract: Section 114 of part 220 is being amended to expand the Board's description of the manner in which symptoms, including pain, are evaluated for purposes of determining disability.

Timetable:

Action	Date	FR Cite
NPRM	09/11/95	60 FR 47122
NPRM Comment Period End	11/13/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AA99

4070. REQUESTS FOR RECONSIDERATION AND APPEALS WITHIN THE BOARD

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 45 USC 231f(b)(5); 45 USC 231g; 45 USC 355

CFR Citation: 20 CFR 260

Legal Deadline: None

Abstract: The RRB is amending its regulations to provide for its field offices to make timeliness determinations on requests for reconsideration of decisions of the RRB's various adjudicating units.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB03

4071. CREDITABLE RAILROAD COMPENSATION

Priority: Other Significant

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211.3

Legal Deadline: None

Abstract: The RRB amends its regulations regarding the creditability of pay for time lost to prohibit the crediting of pay for time lost beyond the date of a judgment or settlement, or in the absence of a judgment or settlement, beyond the date of payment. The Labor Member of the RRB dissents from this proposal and recommends allowing the crediting of pay for time lost in these circumstances when the accompanying railroad retirement taxes are paid on the compensation.

Timetable:

Action	Date	FR Cite
NPRM	12/04/97	62 FR 61488
NPRM Comment Period End	02/02/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB23

4072. FINALITY OF DECISIONS REGARDING UNEMPLOYMENT AND SICKNESS INSURANCE BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 45 USC 355; 45 USC 361(l)

CFR Citation: 20 CFR 349

Legal Deadline: None

Abstract: This new part explains when the RRB will reopen a final determination on a claim for benefits under the Railroad Unemployment Insurance Act.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB25

4073. GENERAL ADMINISTRATION

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 45 USC 231f(b)(5); 45 USC 362(l)

CFR Citation: 20 CFR 200

Legal Deadline: None

Abstract: The Board proposes to amend its regulations which describe its organization and general course of operations to reflect recent reorganizations.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas W. Sadler, Senior Attorney, Bureau of Law, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611
Phone: 312 751-4513
TDD Phone: 312 751-4701
Fax: 312 751-7102

RIN: 3220–AB35

[FR Doc. 99–23649 Filed 11–19–99; 8:45 am]

BILLING CODE 7905–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XLIV

Selective Service System

Semiannual Regulatory Agenda

Selective Service System (SSS)

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 app. U.S.C. 451 *et seq.*). This information will allow the public to participate in the System's decisionmaking at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425; telephone (703) 605-4012.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12866. Selective Service regulations appear in 32 CFR chapter XVI.

Dated: August 9, 1999.

Gil Coronado,

Director of Selective Service.

Selective Service System (SSS)

Long-Term Actions

4074. SELECTIVE SERVICE REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 50 USC app 451 et seq, Military Selective Service Act

CFR Citation: 32 CFR ch XVI

Legal Deadline: None

Abstract: Various sections of 32 CFR chapter XVI will be revised to increase clarity of expression or change procedures for registrant processing.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Dr. Henry N. Williams, General Counsel, Selective Service System, 5th Floor, 1515 Wilson Boulevard, Arlington, VA 22209-2425 Phone: 703 605-4012

RIN: 3240–AA01

[FR Doc. 99–23650 Filed 11–19–99; 8:45 am]

BILLING CODE 8015–01–F

VOL 64 ISS 224 NOV 22 1999 UMI

federal register

Monday,
November 22, 1999

Part XLV

Small Business Administration

Semiannual Regulatory Agenda

Small Business Administration (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The entries below represent the Small Business Administration's (SBA) 41st semiannual regulatory agenda. Although not a regulatory agency, the SBA drafted the agenda to meet both the criteria and the spirit of the regulatory review process. SBA publishes this agenda pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, SBA encourages the public to contact the individual agency official referenced in each entry.

For information concerning SBA's overall Regulatory Review and Development Program or general semiannual agenda questions, contact David R. Kohler, Deputy General Counsel, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205–6638.

SUPPLEMENTARY INFORMATION: The SBA agenda is designed to increase public knowledge of all anticipated SBA regulatory activities. Publication may encourage increased public participation in the review and development process.

SBA's agenda is divided into three parts. Part I, Proposed Rules, includes those rules which likely will be proposed during the next 12 months. Part II, Final Rules, includes proposed rules which probably will be finalized during the agenda period. Part III, Completed Actions, includes regulations completed or withdrawn and reviews completed since the preceding agenda.

Publication of the agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Further, regulatory action not listed on the agenda is not precluded.

For this edition of SBA's regulatory agenda, the most important significant regulatory actions are included in **The Regulatory Plan**, which appears in part II of this issue of the **Federal Register**. **The Regulatory Plan** entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Finally, SBA regulations are developed in a manner that promotes economic growth without imposing unnecessary regulatory burdens on the public.

Dated: September 23, 1999.

Aida Alvarez,

Administrator.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4075	Surety Bond Guarantee	3245-AE13

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4076	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration	3245-AC96
4077	Record Disclosure and Privacy Regulations	3245-AE03
4078	Small Business Development Center Program Revisions	3245-AE05
4079	Small Business Size Standards; North American Industry Classification System	3245-AE07
4080	PLP Lenders' Responsibilities for Servicing and Liquidating Loans	3245-AE09
4081	Servicing of Guaranteed Loans	3245-AE10
4082	Small Business Lending Company Oversight Regulations **(Reg Plan Seq No. 147)**	3245-AE14
4083	Small Business Size Standards; Accounting, Auditing, and Bookkeeping Services	3245-AE16
4084	Small Business Size Standards; Help Supply Services	3245-AE17
4085	Small Business Size Standards; Electric Services	3245-AE18
4086	Common Rule on Title IX of the Civil Rights Act	3245-AE19
4087	Business Loan Programs—Multi-Lender Securitizations **(Reg Plan Seq No. 148)**	3245-AE26
4088	HUBZone Program Technical Amendments	3245-AE28
4089	Small Business Size Standards; Net Income Computation for the Small Business Investment Company	3245-AE29
4090	Small Business Size Standards; Mapping Services	3245-AE30
4091	8(a) Business Development/Application of Benchmarks	3245-AE37
4092	8(a) Business Development/Program Improvement and Technical Amendments	3245-AE38
4093	Business Loan Program; Modifications to CDC Operations **(Reg Plan Seq No. 149)**	3245-AE39
4094	New Markets Venture Capital Program **(Reg Plan Seq No. 150)**	3245-AE40
4095	Local Economic Development and For-Profit CDCs **(Reg Plan Seq No. 151)**	3245-AE41

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

SBA

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4096	Amendment to SBA's Regulations Regarding Administrative Offset	3245-AD90
4097	Contract Bundling Procurement Strategy	3245-AE04
4098	Small Business Size Standards; Health Care Industries	3245-AE06
4099	SBIC Program Reform	3245-AE08
4100	Small Business Size Standards; General Building Contractors, Heavy Construction, Dredging and Surface Clean-up Activities, Special Trade Contractors, Gargage and Refuse Collection	3245-AE23
4101	Small Business Size Standards; Arrangement of Transportation of Freight and Cargo	3245-AE27

Completed Actions

Sequence Number	Title	Regulation Identification Number
4102	Business Loan Policy: Unguaranteed Portions of Loans, Securitization, Sales, and Pledges	3245-AD84
4103	Small Business Size Standards; Engineering Services, Architectural Services, and Surveying and Mapping Services	3245-AD89
4104	Revisions to PCLP Regulations	3245-AE11
4105	Minority Enterprise Development	3245-AE20
4106	Minority Enterprise Development	3245-AE21
4107	Minority Enterprise Development	3245-AE22
4108	Small Business Investment Companies (LMI)	3245-AE24
4109	Disaster Mitigation Pilot Loan Program	3245-AE25

Small Business Administration (SBA)

Prerule Stage

4075. SURETY BOND GUARANTEE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 3; 15 USC 687b, 687c, 694a, 694b; PL 105-135

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: Program regulations will be revised to include policy and procedural modifications. Planned regulatory changes pertain to both the prior approval and the preferred surety bond programs.

Timetable:

Action	Date	FR Cite
ANPRM	09/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert J. Moffitt, AA/Office of Surety Guarantees, Small Business Administration, 409 Third Street SW, Washington, DC 20416 Phone: 202 205-6540

RIN: 3245–AE13

Small Business Administration (SBA)

Proposed Rule Stage

4076. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE SMALL BUSINESS ADMINISTRATION

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 684; 15 USC 637(a)(18); 15 USC 637(a)(19); EO 12674

CFR Citation: 5 CFR 5400

Legal Deadline: None

Abstract: This rule is part of SBA's regulatory streamlining effort. The SBA and the Office of Government Ethics are jointly issuing this rule, which is designed to establish uniform standards of ethical conduct for the officers and employees of the SBA. The rule will be published at 5 CFR ch XLIV and will supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (57 FR 35006; Aug. 7, 1992). The rule is necessary to supplement the standards issued by OGE because it addresses ethical issues which are unique to SBA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

SBA

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robinson S. Nunn, Chief Counsel for Ethics, Small Business Administration, 409 Third Street SW, 7th Floor, Washington, DC 20416
Phone: 202 205-6642

RIN: 3245–AC96

4077. RECORD DISCLOSURE AND PRIVACY REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-231; 5 USC 552

CFR Citation: 13 CFR 102

Legal Deadline: None

Abstract: This proposed regulation will amend 13 CFR section 102 part A, governing disclosure of information, to implement the Electronic Freedom of Information Act Amendments of 1996.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
NPRM Comment Period End	06/00/00	
Final Action	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Beverly Linden, Chief, Freedom of Information Act Office, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 401-8200

RIN: 3245–AE03

4078. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM REVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 648

CFR Citation: 13 CFR 130

Legal Deadline: None

Abstract: SBA is revising its SBDC regulations to reflect programmatic changes contained in Public Law 105-305.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Johnnie L. Albertson, AA/SBDCs, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6766

RIN: 3245–AE05

4079. SMALL BUSINESS SIZE STANDARDS; NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM

Priority: Other Significant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed regulation will amend our current regulations to convert SBA's size standards from the Standard Industrial Classification system to conform with OMB's new North American Industry Classification system.

Timetable:

Action	Date	FR Cite
NPRM	10/22/99	64 FR 57187
NPRM Comment Period End	12/21/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE07

4080. PLP LENDERS' RESPONSIBILITIES FOR SERVICING AND LIQUIDATING LOANS

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.453

Legal Deadline: None

Abstract: SBA is amending 13 CFR to provide PLP lenders guidance on submitting liquidation plans.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE09

4081. SERVICING OF GUARANTEED LOANS

Priority: Other Significant

Legal Authority: 15 USC 634(b); 15 USC 634(b)(7)

CFR Citation: 13 CFR 120.512

Legal Deadline: None

Abstract: SBA is amending 13 CFR section 120.512 to require a lender, after SBA honors its guarantee, to service and liquidate the loan and continue to hold the loan instruments unless SBA indicates otherwise. SBA is also amending this regulation for other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE10

4082. SMALL BUSINESS LENDING COMPANY OVERSIGHT REGULATIONS

Regulatory Plan: This entry is Seq. No. 147 in Part II of this issue of the **Federal Register**.

RIN: 3245–AE14

SBA

Proposed Rule Stage

4083. SMALL BUSINESS SIZE STANDARDS; ACCOUNTING, AUDITING, AND BOOKKEEPING SERVICES

Priority: Other Significant

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This proposed rule seeks public input on the present size standard of $6 million in average annual revenues.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/99	64 FR 29813
ANPRM Comment Period End	07/06/99	
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE16

4084. SMALL BUSINESS SIZE STANDARDS; HELP SUPPLY SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: NPRM, Statutory, June, 1999.

Abstract: This rule proposes to change the size standard for help supply services. The proposed revision would better define the size of businesses that the SBA believes should be eligible for Federal small business assistance programs in this industry.

Timetable:

Action	Date	FR Cite
NPRM	10/15/99	64 FR 55873
NPRM Comment Period End	12/14/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE17

4085. SMALL BUSINESS SIZE STANDARDS; ELECTRIC SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121.201

Legal Deadline: None

Abstract: This rule will revise the size standard for Electrical Services (Standard Industrial Classification 4911). The current size standard is 4 million megawatts.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	
Final Action	10/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE18

4086. COMMON RULE ON TITLE IX OF THE CIVIL RIGHTS ACT

Priority: Other Significant

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 USC 2000(e)

CFR Citation: 13 CFR 113

Legal Deadline: None

Abstract: The Department of Justice, in consultation with other agencies, has drafted a proposed common rule to implement title IX of the Education Amendments of 1972, as amended. Each agency that provides financial assistance for educational or training services must adopt this rule. When final, this rule will become part of SBA's regulations and appear as subpart B of 13 CFR part 113.

Timetable:

Action	Date	FR Cite
NPRM	10/29/99	64 FR 58584
NPRM Comment Period End	12/28/99	
Final Action	12/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Erline M. Patrick, AA/Equal Employment Opportunity and Civil Rights Compliance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6750

RIN: 3245–AE19

4087. • BUSINESS LOAN PROGRAMS—MULTI-LENDER SECURITIZATIONS

Regulatory Plan: This entry is Seq. No. 148 in Part II of this issue of the **Federal Register**.

RIN: 3245–AE26

4088. • HUBZONE PROGRAM TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135, sec. 601; 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 126

Legal Deadline: None

Abstract: This regulation describes and explains the HUBZone program and its general applicability.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

SBA

Proposed Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michael McHale, Assistant Administrator, Procurement Policy & Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6465

RIN: 3245–AE28

4089. • SMALL BUSINESS SIZE STANDARDS; NET INCOME COMPUTATION FOR THE SMALL BUSINESS INVESTMENT COMPANY

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-9

CFR Citation: 13 CFR 121.301(c)(1)

Legal Deadline: None

Abstract: This rule will incorporate statutory change to the method of computing net income to determine the eligibility of non-taxpaying small businesses for the Small Business Investment Company Program.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE29

4090. • SMALL BUSINESS SIZE STANDARDS; MAPPING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121.201

Legal Deadline: None

Abstract: This will establish a size standard for Mapping Services, a component of Standard Industrial Classification 8713, Surveying and Mapping Services. The current size standard is $4 million. The size standard for surveying services would not be affected by this action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE30

4091. • 8(A) BUSINESS DEVELOPMENT/APPLICATION OF BENCHMARKS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: The proposed rule provides guidance to Federal agencies on applying benchmarking principles to the 8(a) Business Development Program to comply with the Supreme Court's decision in Adarand Constructors, Inc., v. Pena, 515 U.S. 200, 115 S. Ct. 2097 (1995).

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE37

4092. • 8(A) BUSINESS DEVELOPMENT/PROGRAM IMPROVEMENT AND TECHNICAL AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 631

CFR Citation: 13 CFR 124; 13 CFR 134

Legal Deadline: None

Abstract: This rule makes technical amendments to the 8(a) program that would clarify the final rule published on June 30, 1998. The rule also proposes several substantive amendments to improve the 8(a) program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE38

4093. • BUSINESS LOAN PROGRAM; MODIFICATIONS TO CDC OPERATIONS

Regulatory Plan: This entry is Seq. No. 149 in Part II of this issue of the **Federal Register**.

RIN: 3245–AE39

4094. • NEW MARKETS VENTURE CAPITAL PROGRAM

Regulatory Plan: This entry is Seq. No. 150 in Part II of this issue of the **Federal Register**.

RIN: 3245–AE40

SBA — **Proposed Rule Stage**

4095. • LOCAL ECONOMIC DEVELOPMENT AND FOR-PROFIT CDCS

Regulatory Plan: This entry is Seq. No. 151 in Part II of this issue of the **Federal Register**.

RIN: 3245–AE41

Small Business Administration (SBA) — **Final Rule Stage**

4096. AMENDMENT TO SBA'S REGULATIONS REGARDING ADMINISTRATIVE OFFSET

Priority: Info./Admin./Other

Legal Authority: 31 USC 3711; 31 USC 3720; 5 USC 5574; 31 USC 3716; 15 USC 634(b)(6)

CFR Citation: 13 CFR 140

Legal Deadline: None

Abstract: SBA intends to amend its regulations to include references to administrative offset and other remedies that the Treasury Department may use on behalf of SBA to collect debt pursuant to the Debt Collection Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	01/22/99	64 FR 3454
NPRM Comment Period End	02/22/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Arnold Rosenthal, Assistant Administrator for Borrowers and Lender Servicing, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6481

RIN: 3245–AD90

4097. CONTRACT BUNDLING PROCUREMENT STRATEGY

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135

CFR Citation: 13 CFR 121; 13 CFR 125

Legal Deadline: Final, Statutory, September 30, 1998.

Abstract: This regulation will implement new statutory authority regarding duties and responsibilities of contracting officers and SBA in cases of bundled contracts.

Timetable:

Action	Date	FR Cite
NPRM	01/13/99	64 FR 2153
NPRM Comment Period End	03/15/99	
Interim Final Rule	10/25/99	64 FR 57366
Interim Final Rule Comment Period End	12/27/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Judith A. Roussel, AA/Government Contracting, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6412

RIN: 3245–AE04

4098. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE INDUSTRIES

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This regulation proposes changes to SBA's size standards for the health care industries.

Timetable:

Action	Date	FR Cite
NPRM	05/04/99	64 FR 23798
NPRM Comment Period End	07/06/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE06

4099. SBIC PROGRAM REFORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 634(b)(6); 15 USC 661 et seq; 15 USC 6833; 15 USC 687; PL 105-135

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: This proposed rule would increase the maximum leverage amount for SBICs based on changes in the Consumer Price Index, permit SBICs with participating securities to make quarterly tax distributions, establish regulatory guidelines for Limited Liability Companies, make minor changes in the definition of private capital, and other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	04/14/99	64 FR 18375
NPRM Comment Period End	05/14/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

SBA

Final Rule Stage

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Leonard Fagan, Investment Division, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AE08

4100. • SMALL BUSINESS SIZE STANDARDS; GENERAL BUILDING CONTRACTORS, HEAVY CONSTRUCTION, DREDGING AND SURFACE CLEANUP ACTIVITIES, SPECIAL TRADE CONTRACTORS, GARGAGE AND REFUSE COLLECTION

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 637(a); 15 USC 644(c); PL 105-135

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: The Small Business Administration (SBA) proposes a size standard of $25.0 million in average annual receipts for all industries in General Building Contractors (Standard Industrial Classification (SIC) Major Group 15) and for all industries except Dredging and Surface Cleanup Activities in Heavy Construction Other Than Building Construction (SIC Major Group 16); $20.0 million for Dredging and Surface Cleanup Activities (part of SIC 1629, Heavy Construction, Not Elsewhere Classified (NEC)); $10.5 Million for all Special Trade Contractors industries (SIC Major Group 17); and $9.0 million for Garbage and Refuse Collection, Without Disposal (part of SIC 4212, Local Trucking Without Storage), and Refuse Systems (SIC 4953). The proposed revisions are being made to adjust these industries' size standards for the effects of inflation since the time they were established in the mid-1980s.

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40311
NPRM Comment Period End	09/24/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE23

4101. • SMALL BUSINESS SIZE STANDARDS; ARRANGEMENT OF TRANSPORTATION OF FREIGHT AND CARGO

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: This rule will modify the way average annual receipts are calculated for firms in the Arrangement of Transportation of Freight and Cargo industry (SIC code 4731).

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40314
NPRM Comment Period End	09/24/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AE27

Small Business Administration (SBA)

Completed Actions

4102. BUSINESS LOAN POLICY: UNGUARANTEED PORTIONS OF LOANS, SECURITIZATION, SALES, AND PLEDGES

Priority: Other Significant

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)

CFR Citation: 13 CFR 120.420

Legal Deadline: None

Abstract: This rule modifies present regulations to permit depository as well as nondepository lenders to borrow against and securitize the unguaranteed portion of SBA guaranteed loans.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/96	61 FR 60649
ANPRM Comment Period End	12/29/96	
NPRM	02/26/97	62 FR 8640
NPRM Comment Period End	03/28/97	
Interim Final Rule	04/02/97	62 FR 15601
Interim Final Rule Effective	04/02/97	
Public Hearing (05/28/97)	05/12/97	62 FR 25874
Second NPRM	05/18/98	63 FR 27219
Second NPRM Comment Penod End	07/17/98	
Final Action	02/10/99	64 FR 6503

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RFA: Y

Agency Contact: James W. Hammersley, Director for Secondary Market Sales, Small Business Administration, 8th Floor, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6490

RIN: 3245–AD84

SBA

Completed Actions

4103. SMALL BUSINESS SIZE STANDARDS; ENGINEERING SERVICES, ARCHITECTURAL SERVICES, AND SURVEYING AND MAPPING SERVICES

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6); 15 USC 644(c); PL 104-486, sec 108; 15 USC 637(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Proposal to increase small business size standards in the Engineering Services, Architectural Services, and Surveying and Mapping Services industries. The proposed revisions are being made to better define the size of business in those industries the SBA believes should be eligible for Federal small business assistance programs.

Timetable:

Action	Date	FR Cite
NPRM	02/03/98	63 FR 5480
NPRM Comment Period End	05/06/98	
Final Action	05/14/99	64 FR 26275

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Gary M. Jackson, AA/Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6618

RIN: 3245–AD89

4104. REVISIONS TO PCLP REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-135; 15 USC 601 et seq

CFR Citation: 13 CFR 120

Legal Deadline: Final, Statutory, May 2, 1998.

Abstract: This interim final rule implements Public Law 105-135, enacted on December 2, 1997, with respect to SBA financing in the pilot Premier Certified Lenders Program (PCLP). The interim final rule extends the pilot to October 1, 2000, and expands the authority of a Certified Development Company (CDC) participating in the PCLP (Premier CDC).

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/05/98	63 FR 24739
Final Action	05/14/99	64 FR 26273

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jane Palsgrove Butler, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6485

RIN: 3245–AE11

4105. MINORITY ENTERPRISE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637

CFR Citation: 13 CFR 124.206(a)

Legal Deadline: None

Abstract: This regulation would allow an appeal on denial of program admission to SBA's Office of Hearings and Appeals (OHA), if based on a negative finding of social disadvantage, economic disadvantage, ownership, control, business potential for success, or any combination of these five criteria.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE20

4106. MINORITY ENTERPRISE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637

CFR Citation: 13 CFR 124.505(a)

Legal Deadline: None

Abstract: This regulation would allow the Administrator to delegate appeal authority to the Minority Enterprise Development Office.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE21

4107. MINORITY ENTERPRISE DEVELOPMENT

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 637

CFR Citation: 13 CFR 124.206(a)

Legal Deadline: None

Abstract: This regulation would allow an appeal on denial of program admission to SBA's Office of Hearings and Appeals (OHA), if based on a negative finding of social disadvantage, economic disadvantage, ownership, control, business potential for success, or any combination of these five criteria.

Timetable:

Action	Date	FR Cite
Withdrawn	08/11/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jose Gutierrez, AA/Minority Enterprise Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6459

RIN: 3245–AE22

SBA

Completed Actions

4108. • SMALL BUSINESS INVESTMENT COMPANIES (LMI)

Priority: Other Significant

Legal Authority: 15 USC 681; 15 USC 683; 15 USC 687(c); 15 USC 687b; 15 USC 687d; ...

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: To encourage small business investment companies (SBICs) to invest in inner cities and rural areas and in businesses that serve such areas, this regulation will introduce a new SBIC investment category called low and moderate income investments (LMI).

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6256
NPRM Comment Period End	03/11/99	
Final Action	09/30/99	64 FR 52641

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Leonard Fagan, Investment Division, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6510

RIN: 3245–AE24

4109. • DISASTER MITIGATION PILOT LOAN PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-24

CFR Citation: 13 CFR 123

Legal Deadline: None

Abstract: This regulation will implement a pilot program authorized by Congress in 1999. It will allow SBA to make low interest, fixed-rate loans to small businesses to use mitigation measures in support of Project Impact, a formal mitigation program established by the Federal Emergency Management Agency (FEMA).

Timetable:

Action	Date	FR Cite
NPRM	07/07/99	64 FR 36617
NPRM Comment Period End	08/06/99	
Final Action	09/03/99	64 FR 48275

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Bernard Kulik, Associate Administrator for Disaster Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205-6734

RIN: 3245–AE25

[FR Doc. 99–27052 Filed 11–19–99; 8:45 am]
BILLING CODE 8025–01–F

VOL 64 ISS 224 NOV 22 1999 UMI

federal register

Monday,
November 22, 1999

Part XLVI

Social Security Administration

Semiannual Regulatory Agenda

Social Security Administration (SSA)

SOCIAL SECURITY ADMINISTRATION

Office of the Commissioner

20 CFR Ch. III

Semiannual Unified Regulatory Agenda

AGENCY: Social Security Administration

ACTION: Semiannual regulatory agenda

SUMMARY: Executive Order 12866, entitled Regulatory Planning and Review, issued September 30, 1993, and the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) require each Federal agency to publish semiannually a brief description of all regulatory actions then under development or review, expected to be under development or review for the next 12 months, or completed since the previous publication of the agenda. Our last agenda of regulations was published on April 26, 1999.

FOR FURTHER INFORMATION CONTACT: For further information about a specific regulatory action, contact the person identified as the agency contact for that action. Comments or inquiries of a general nature should be directed to Georgia E. Myers, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401; Telephone (410) 965-3632.

SUPPLEMENTARY INFORMATION: For this edition of the Social Security Administration's (SSA) regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference which directs the reader to the appropriate Sequence Number in Part II.

SSA has responsibility for the old–age, survivors, and disability insurance programs under title II of the Social Security Act (the Act) and the Supplemental Security Income (SSI) program under title XVI of the Act. We are not a regulatory agency. For the most part, our regulations do not impose burdens on the private sector or on State, local or tribal governments. Our regulations document the rules under which we make eligibility determinations and set forth both the responsibilities of the Agency towards the public and beneficiary's rights and responsibilities under the programs we administer.

Our regulatory efforts can be placed into one of the following three categories: 1) legislative implementation; 2) program improvements to provide better service to SSA customers; and 3) improvements or clarifications to fulfill commitments made as part of the President's Regulatory Reinvention initiative.

We continue to seek legislative improvements for the programs we administer. However, because of the complexity of our programs, statutory language is rarely detailed enough to govern the actions of agency adjudicative decision–makers. Supporting regulations are often required. In some instances, the Congress directs SSA to issue implementing regulations. For other legislative provisions, SSA regulations provide program information to applicants for benefits, current beneficiaries and their legal counsels.

Included in our Agenda is an item, which will amend our regulations to provide more choices for people with disabilities who seek Return–to–Work services so that they may become self–sufficient. This proposed regulation parallels provisions of legislation, The Work Incentives Improvement Act of 1999, presently pending in Congress.

An area in which we are working hard to deliver high quality service is our disability determination process. Several of our agenda items support improvements to disability program administration. In addition, we have announced a prototype involving a combination of modifications to the disability determination process. The prototype incorporates multiple modifications to the disability determinations procedures employed by State Disability Determination Services which have been shown to be effective in earlier tests. The prototype incorporates a series of changes that improve the initial disability determination process by: providing greater decisional authority to the disability examiner and more effective use of the expertise of the medical consultant; ensuring appropriate development and explanation of key issues; increasing opportunities for claimant interaction with the decision maker before a determination is made; and simplifying the appeals process by eliminating the reconsideration step.

Two of our agenda items implement elements of a major agency initiative known as "process unification." Process unification is designed to produce one set of adjudicative standards for all levels of disability review within SSA. Weight of Disability Determination Service Medical Consultant Opinions will define the weight to be given to opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts in claims at the hearing level for disability benefits under titles II and XVI of the Act. Assessment of Residual Functional Capacity will clarify the guidelines in our regulations used in determining whether an individual under age 50 lacks the capacity to perform less than a full range of sedentary work.

The Agenda contains several other regulations intended to improve the processing of disability claims including a final rule regarding sources of evidence for establishing the existence of a medically determinable impairment, a proposed rule to reflect advances in medical practices such as organ transplantation, and a proposed rule to add a new medical listing for individuals age 18 or older who have non–mosaic Down syndrome.

SSA is committed to enhancing the service that we provide to our customers by reducing the time it takes them to receive a hearing and decision. We believe that the new Hearings Process Improvement (HPI) Initiative will enhance the timeliness of decisions, and improve customer service by effectively utilizing the staffing resources that are dedicated to this goal. The Hearings Process Improvement Initiative is part of SSA's overall plan for managing the disability process. One very important HPI initiative listed in the Agenda item, Expansion of the Use of Video Teleconference Technology in Hearings before Administrative Law Judges (ALJs) of the Social Security Administration, is expected to improve customer service by providing faster access to a hearing before an ALJ by removing the need for the claimant (and representative, if any) and the ALJ to be physically present at the same location.

We remain committed to improving stewardship of the SSI program, for which we have had responsibility since

the program
efficiently a
this Agenda
Collection o
Overpaymer
Benefits, wh
the debt coll
authorized b

Eliminatir
Security's pr
SSA. SSA's
tolerance fo
that we will
deterring fra
initiative ref

Sequence Number	
4110	

Sequence Number	
4111	
4112	
4113	
4114	
4115	
4116	
4117	
4118	
4119	
4120	
4121	
4122	
4123	
4124	
4125	
4126	
4127	
4128	
4129	

References

SSA

the program's inception in 1974, as efficiently and effectively as possible. In this Agenda is a proposed rule, Collection of SSI (Title XVI) Overpayment Debts from Title II Benefits, which will implement one of the debt collection tools recently authorized by legislation.

Eliminating fraud and abuse in Social Security's programs is a vital goal of SSA. SSA's Strategic Plan asserts zero tolerance for fraud and abuse, and states that we will increase our attention on deterring fraudulent activities. This initiative reflects SSA's idea that we must remain vigilant if we are to fulfill our role as capable stewards of the public trust. To further this goal, in this Agenda are proposed revisions to our rules based on legislation pending in Congress, which would provide us with additional tools to strengthen the integrity of the Social Security and SSI programs, and a final rule implementing legislation to preclude eligibility for SSI benefits for certain fugitives and probation and parole violators.

Consistent with the President's Regulatory Reinvention Initiative, we are working diligently to improve our program benefit regulations and to develop partnerships with large segments of the community of stakeholders interested in Social Security programs. The remainder of our Unified Agenda items reflect such improvements and clarifications.

The October 1999 regulatory agenda for the Social Security Administration follows.

Dated: September 30, 1999

Georgia E. Myers,

Acting SSA Regulations Officer

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4110	Assignment of Social Security Administration Numbers (SSN) for Non-Work Purposes (751P)	0960-AF05

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4111	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payment Under Title II and XVI of the Social Security Act (295P)	0960-AD22
4112	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Fees for Representation of Claimants (296P)	0960-AD23
4113	Modification of Private Printing and Prescribed Applications and Other Forms (530P)	0960-AE15
4114	Supplemental Security Income; Plans for Achieving Self-Support (506P)	0960-AE17
4115	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements with State, Local, and Indian Tribal Governments (547P)	0960-AE25
4116	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary To Collect a Delinquent Debt Owed to the Social Security Administration) (721P)	0960-AE89
4117	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II Debts Owed by Former Beneficiaries) (722P)	0960-AE90
4118	Charging Interest (Charging Interest on Delinquent Debts) (723P)	0960-AE91
4119	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)	0960-AE92
4120	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P)	0960-AE93
4121	Testimony By Employees and the Production of Records in Legal Proceedings (732P)	0960-AE95
4122	Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Clarification of "Age" as a Vocational Factor (736F)	0960-AE96
4123	OASDI and SSI; Expansion of the Use of Video Teleconference Technology in Hearings Before Administrative Law Judges of the Social Security Administration (737P) **(Reg Plan Seq No. 152)**	0960-AE97
4124	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Addition of Medical Criteria for Evaluating Down Syndrome in Adults (743P)	0960-AF03
4125	Assessing Attorney Representatives for Direct Payment (763P) **(Reg Plan Seq No. 153)**	0960-AF08
4126	Anti-Fraud Provisions (765P) **(Reg Plan Seq No. 154)**	0960-AF09
4127	Work Incentives Improvement Act (767P) **(Reg Plan Seq No. 155)**	0960-AF11
4128	Amount of Student-Earned Income Exclusion	0960-AF12
4129	Title XVI, Cross-Program Recovery (746P)	0960-AF13

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

SSA

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4130	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs, Determining Disability and Blindness; Substantial Gainful Activity Guides (147F)	0960-AB73
4131	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F) **(Reg Plan Seq No. 156)**	0960-AE42
4132	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Evaluating Opinion Evidence (624F) **(Reg Plan Seq No. 157)**	0960-AE56
4133	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)	0960-AE59
4134	Denial of SSI Benefits for Fugitive Felons and Probation and Parole Violators (660F)	0960-AE77
4135	Reduction of Title II Benefits Under the Family Maximum Provisions in Cases of Dual Entitlement (692F)	0960-AE85
4136	20 CFR Parts 401, 402, 404, 410, 416 and 422—Revised as of April 1, 1999; Correction (745F)	0960-AF04
4137	Cost of Living Increases in Primary Insurance Amounts (759F)	0960-AF14

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4138	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System (143F)	0960-AB01
4139	Old-Age, Survivors, and Disability Insurance Program; Medical Criteria for Evaluating Mental Disorders and Traumatic Brain Injury in Adults (222F)	0960-AC74
4140	Election of Benefits Based on Age by Disabled Widow, Widower, and Surviving Divorced Spouse Beneficiaries (343P)	0960-AD56
4141	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Hemic and Lymphatic System, and Malignant Neoplastic Diseases (399P)	0960-AD67
4142	Revised Medical Criteria for Determination of Disability, Endocrine System (436P)	0960-AD78
4143	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income, Medical and Other Evidence of Your Impairment(s) and Definition of Medical Consultant (469F)	0960-AD91
4144	Old-Age, Survivors, and Disability Insurance Program; Contributions for Support (475P)	0960-AD92
4145	Computation of SSI Benefits for the First Three Months of Payment (476P)	0960-AD93
4146	Definition of "Largest Benefit Amount" for Simultaneous Entitlement to Child's Benefits (481P)	0960-AD95
4147	Repeal of Facility of Payment Provision (508F)	0960-AE02
4148	Administrative Review Process; Administrative Res Judicata and Related Rules (526P)	0960-AE11
4149	OASDI; Nonpayment of Benefits to Incarcerated Individuals and Individuals Confined in Criminal Cases, Pursuant to Conviction or by Court Order Based on Findings of Insanity (531P)	0960-AE16
4150	Old-Age, Survivors, and Disability Insurance Benefits; Replacing Social Security Number Cards (543F)	0960-AE18
4151	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) (554F)	0960-AE27
4152	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Indian Tribal Governments (555F)	0960-AE28
4153	Restrictions on Lobbying in Connection with the Award of Grants, Contracts, and Cooperative Agreements (556F)	0960-AE29
4154	Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts (512F)	0960-AE40
4155	Supplemental Standards for Ethical Conduct for Employees of the Social Security Administration (601P)	0960-AE48
4156	Deeming of Income From an Ineligible Spouse to an Eligible Individual and an Eligible Child (606P)	0960-AE50
4157	Effectuation of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, in Programs Receiving Financial Assistance by SSA (617F)	0960-AE63
4158	Availability of Information and Records to the Public—Charging Fees for Providing Personal Information (618P)	0960-AE64
4159	Coverage of Employees of State and Local Governments; Office of Management and Budget (OMB) Control Number (280F)	0960-AE69
4160	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker to Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)	0960-AE73
4161	Enforcement of Nondiscrimination in Social Security Programs or Activities (661P)	0960-AE78
4162	Adding New SSI Income and Resource Exclusion (VA Payments to Certain Vietnam Veterans' Children with Spina Bifida) to Lists of Exclusions Provided by Other Federal Statutes (664F)	0960-AE79
4163	Privacy and Disclosure of Official Records and Information (711P)	0960-AE88

VOL 64 ISS 224 NO 22 1999 UMI

SSA

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4164	Revised Medical Criteria for Determination of Disability, Appendix 1 to Subpart P—Listing of Impairments (740P)	0960-AE99

Completed Actions

Sequence Number	Title	Regulation Identification Number
4165	Procedure To Review Complaints of Alleged Misconduct on the Part of Administrative Law Judges (341P)	0960-AD54
4166	Federal OASDI and SSI for the Aged, Blind, and Disabled; Benefit Reforms for Individuals Disabled Based on Drug Addiction or Alcoholism (496F)	0960-AD96
4167	Determining Disability and Blindness; Eliminating the Lower Substantial Gainful Activity Earnings Guideline Amounts (603P)	0960-AE49
4168	Implementing Modifications to Prehearing Procedures and Decisions by Adjudication Officers (616P)	0960-AE55
4169	Revised Medical Criteria for Determination of Disability, Deletion of Obesity Listing (620F)	0960-AE65
4170	Effective Date of Application for Supplemental Security Income (SSI) Benefits (642F)	0960-AE71
4171	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)	0960-AE75
4172	Standards of Conduct 20 CFR Part 430—Personnel (672F)	0960-AE81
4173	Employer ID Numbers for State and Local Government Employment (691F)	0960-AE84
4174	Increase in Substantial Gainful Activity (738F)	0960-AE98
4175	Federal Old-Age Survivor's and Disability Insurance; Determining Disability and Blindness; Extension of Expiration Dates for Several Body Systems Listings (741F)	0960-AF02
4176	Administrative Review Process; Prehearing Proceedings and Decisions by Attorney Advisors; Extension of Expiration Date (761F)	0960-AF07

Social Security Administration (SSA)

Prerule Stage

4110. • ASSIGNMENT OF SOCIAL SECURITY ADMINISTRATION NUMBERS (SSN) FOR NON-WORK PURPOSES (751P)

Priority: Other Significant

Legal Authority: 42 USC 405; 42 USC 432; 42 USC 902(a)(5); 42 USC 1320b-1; 42 USC 1320b-13

CFR Citation: 20 CFR 422.104

Legal Deadline: None

Abstract: SSA is providing advance notice of proposed rulemaking regarding when we will assign an SSN to an alien who is legally in the United States (U.S.) but not under authority of law permitting him or her to work in the U.S. We are considering a proposal to assign an SSN to an alien who is legally in the U.S. but does not have authorization to work only if there is a Federal statute or regulation that requires the alien to furnish an SSN to receive a federally-funded benefit or service. Under such a proposal, we would no longer assign an SSN to an alien if the alien's sole reason for applying for the SSN is to satisfy a State or local statute or regulation that requires an individual to furnish an SSN in order to receive a benefit or service. The intent of such a proposed change would be to reduce the possibility of fraud through misuse of SSNs.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/99	64 FR 55217
ANPRM Comment Period End	12/13/99	
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: State

Agency Contact: Nancy Grace, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7911

Fran O. Thomas, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-9822

RIN: 0960–AF05

Social Security Administration (SSA) — Proposed Rule Stage

4111. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; REPRESENTATIVE PAYMENT UNDER TITLE II AND XVI OF THE SOCIAL SECURITY ACT (295P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 401(j); 42 USC 404(f); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405(k); 42 USC 421; 42 USC 425; 42 USC 902(a)(5); 42 USC 405 note; 42 USC 421 note; 42 USC 1383(a)(2); 42 USC 1383(d)(1)

CFR Citation: 20 CFR 404.902; 20 CFR 404.2011; 20 CFR 404.2022; 20 CFR 404.2024; 20 CFR 404.2025; 20 CFR 404.2030; 20 CFR 404.2041; 20 CFR 404.2050; 20 CFR 416.611; 20 CFR 416.622; 20 CFR 416.624; 20 CFR 416.625; 20 CFR 416.630

Legal Deadline: None

Abstract: Effective stewardship of SSA programs requires mechanisms to assure that benefits are used to meet the needs of beneficiaries who are not able to manage their own benefits due to legal incompetence or medical infirmity. Congress determined that improvements to the representative payment procedures were needed to assure program integrity as part of Public Law 101-508. Any costs associated with these regulations are reflected in the President's budget as part of legislative implementation. These regulations are required to further our program integrity efforts.

Timetable:

Action	Date	FR Cite
NPRM	03/15/94	59 FR 11949
NPRM Comment Period End	05/16/94	
Second NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

Betsy Byrd, Program Policy Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7981

RIN: 0960–AD22

4112. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; FEES FOR REPRESENTATION OF CLAIMANTS (296P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 101-508, sec 5106

CFR Citation: 20 CFR 404.1703; 20 CFR 404.1713; 20 CFR 404.1720; 20 CFR 404.1715 to 404.1717; 20 CFR 404.1725; 20 CFR 416.1503; 20 CFR 416.1513; 20 CFR 416.1520; 20 CFR 416.1515 to 416.1517; 20 CFR 416.1525

Legal Deadline: None

Abstract: We propose to amend the regulations to reflect section 5106(a) of Public Law 101-508 which modifies the manner in which past-due benefits are calculated and the process by which SSA approves fees charged by persons representing claimants before the Agency.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AD23

4113. MODIFICATION OF PRIVATE PRINTING AND PRESCRIBED APPLICATIONS AND OTHER FORMS (530P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 312

CFR Citation: 20 CFR 422.527

Legal Deadline: None

Abstract: This regulation will implement section 312 of Public Law 103-296 which expands prohibitions on the use of certain letters and symbols and also the reproduction for a fee of forms and publications of SSA and HHS.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE15

4114. SUPPLEMENTAL SECURITY INCOME; PLANS FOR ACHIEVING SELF-SUPPORT (506P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-296, sec 203; 42 USC 1383b(d)

CFR Citation: 20 CFR 416.1180; 20 CFR 416.1181; 20 CFR 416.1182; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226

Legal Deadline: None

Abstract: These regulations revise our rules on plans to achieve self-support (PASS) to take into account the time period an individual will need for completion of his or her PASS and other factors determined to be appropriate.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

SSA

Proposed Rule Stage

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE17

4115. REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION; CERTAIN GRANTS AND AGREEMENTS WITH STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS (547P)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 7505; 41 USC 403(11)

CFR Citation: 20 CFR 435.000

Legal Deadline: None

Abstract: These proposed regulations migrate the HHS grants regulation at 45 CFR part 74 into a new SSA regulation at 20 CFR 435 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Tribal

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE25

4116. FEDERAL SALARY OFFSET (WITHHOLDING A PORTION OF A FEDERAL EMPLOYEE'S SALARY TO COLLECT A DELINQUENT DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (721P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 5 USC 5514

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent title II debts owed by former beneficiaries who are currently Federal employees. The debt collection will be accomplished by the partial reduction of the employee's disposable salary.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

RIN: 0960–AE89

4117. PRIVATE COLLECTION AGENCIES (USING PRIVATE COLLECTION AGENCIES TO HELP SSA COLLECT DELINQUENT TITLE II DEBTS OWED BY FORMER BENEFICIARIES) (722P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 31 USC 3718

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to refer delinquent title II debts owed by former beneficiaries to private collection agencies for further debt collection efforts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

RIN: 0960–AE90

4118. CHARGING INTEREST (CHARGING INTEREST ON DELINQUENT DEBTS) (723P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 902; 31 USC 3717

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: Under this initiative, the Social Security Administration (SSA) will charge interest and penalties on qualifying, delinquent title II debts owed by former beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

RIN: 0960–AE91

4119. ADMINISTRATIVE WAGE GARNISHMENT (TO REPAY A DEBT OWED TO THE SOCIAL SECURITY ADMINISTRATION) (724P)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 42 USC 405; 42 USC 1383; 31 USC 3720D

SSA

Proposed Rule Stage

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: This initiative will enable the Social Security Administration (SSA) to collect qualifying, delinquent titles II and XVI debts owed by former beneficiaries who are now employed (as other than Federal employees). Administrative wage garnishment allows SSA to direct an employer to deduct a percentage of the disposable wages earned by the worker/debtor, and to send that amount to SSA as payment toward the delinquent debt. Administrative wage garnishment does not require a court judgment to impose the withholding order.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

RIN: 0960–AE92

4120. SELF-SUFFICIENCY INCENTIVES FOR TITLE II AND TITLE XVI PROGRAM BENEFICIARIES (725P)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.2101 to 404.2127; 20 CFR 416.2201 to 416.2227

Legal Deadline: None

Abstract: These proposed changes will amend our regulations to provide increased choice for people with disabilities who seek vocational rehabilitation services and support so that they may return to work by establishing the Ticket to Work and Self-Sufficiency (Ticket) Program. These proposed regulations will also strengthen public-private partnerships to encourage support and assistance for people with disabilities to become employed. They will also eliminate disincentives to work activity for people with disabilities: by eliminating work activity as a basis for conducting a continuing disability review for beneficiaries who are using a Ticket, or who have received Social Security disability benefits for at least 24 months; and by providing for reinstatement of Social Security disability benefits at the beneficiary's request within 5 years of the termination of benefits due to work activity, if the beneficiary has to stop working.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal, State

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

Kenneth McGill, Director, Social Security Administration, Office of Employment Support, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3988

RIN: 0960–AE93

4121. TESTIMONY BY EMPLOYEES AND THE PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS (732P)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 9701; 42 USC 1306; 42 USC 902(a)(5)

CFR Citation: 20 CFR 403

Legal Deadline: None

Abstract: The Social Security Administration (SSA) is proposing to establish procedures governing the appearance of SSA employees as witnesses and the production of official documents in legal proceedings, to which SSA is not a party, in response to requests for such documents or testimony. The proposed rule provides procedures, requirements and information concerning how SSA will handle these matters and expressly prohibits any disclosure or testimony except as approved by the Commissioner. The proposed rule would conserve and ensure more efficient use of SSA resources in meeting the Agency's mission, promote consistency in decisions, minimize the possibility of involving SSA in issues not related to its mission, maintain the impartiality of SSA, protect sensitive and confidential information and the deliberative processes of SSA, and enhance SSA's ability to respond efficiently to requests involving such legal proceedings. When published in final, the rule would replace other regulations currently applicable to SSA under 45 CFR part 2.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

Brad Howard, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-1817

RIN: 0960–AE95

4122. FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED; CLARIFICATION OF "AGE" AS A VOCATIONAL FACTOR (736F)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 423; 42 USC 902(a)(5); 42 USC 1382c; 42 USC 1383(d)

CFR Citation: 20 CFR 404.1563; 20 CFR 404.1568(d)(4) (New); 20 CFR 416.963; 20 CFR 416.968(d)(4) (New); 20 CFR 404 subpart P, app 2

Legal Deadline: None

SSA

Proposed Rule Stage

Abstract: We propose to revise our regulations to clarify our consideration of "age" as a vocational factor at the last step of our sequential evaluation process for determining whether an individual is disabled. We also propose to better explain how we consider transferability of skills for individuals who are of "advanced age" (age 55 or older) in deciding whether such individuals can make an adjustment to other work. These proposed regulations will also update the age category of "closely approaching retirement age" throughout our rules.

Timetable:

Action	Date	FR Cite
NPRM	08/04/99	64 FR 42310
NPRM Comment Period End	10/04/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

Elaine Tocco, Vocational Policy Specialist, Social Security Administration, Office of Disability, Vocational Policy Branch, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-6356

RIN: 0960–AE96

4123. OASDI AND SSI; EXPANSION OF THE USE OF VIDEO TELECONFERENCE TECHNOLOGY IN HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES OF THE SOCIAL SECURITY ADMINISTRATION (737P)

Regulatory Plan: This entry is Seq. No. 152 in Part II of this issue of the **Federal Register**.

RIN: 0960–AE97

4124. • FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; ADDITION OF MEDICAL CRITERIA FOR EVALUATING DOWN SYNDROME IN ADULTS (743P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: We are proposing to add a new listing 10.06 to part A of appendix 1, subpart P of part 404, the Listing of Impairments (the Listings). The new listing would provide for the evaluation of Down syndrome for individuals age 18 and over. We currently have a listing for Down syndrome only in part B, listing 110.06, for individuals who have not attained age 18. In our current listings, section 10.00 is reserved for future use. Accordingly, we also propose to add the heading "Multiple Body Systems" to this section to contain the new listing. The heading conforms to the corresponding heading of section 110.00 in part B of the Listings.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

Michelle Hungerman, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-2289

RIN: 0960–AF03

4125. • ASSESSING ATTORNEY REPRESENTATIVES FOR DIRECT PAYMENT (763P)

Regulatory Plan: This entry is Seq. No. 153 in Part II of this issue of the **Federal Register**.

RIN: 0960–AF08

4126. • ANTI-FRAUD PROVISIONS (765P)

Regulatory Plan: This entry is Seq. No. 154 in Part II of this issue of the **Federal Register**.

RIN: 0960–AF09

4127. • WORK INCENTIVES IMPROVEMENT ACT (767P)

Regulatory Plan: This entry is Seq. No. 155 in Part II of this issue of the **Federal Register**.

RIN: 0960–AF11

4128. • AMOUNT OF STUDENT-EARNED INCOME EXCLUSION

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 416.1112(c)(3)

Legal Deadline: None

Abstract: This proposed regulation would update the amount of the student-earned-income exclusion (SEIE) to $1,290 a month, not to exceed $5,200 a year; and adjust the SEIE for inflation annually, using the consumer price index.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steve Fear, Social Security Administration, Office of Policy, 500 E Street, SW, Washington, DC 20254
Phone: 202 358-6121

RIN: 0960–AF12

4129. • TITLE XVI, CROSS-PROGRAM RECOVERY (746P)

Priority: Substantive, Nonsignificant

Legal Authority: Not Yet Determined

CFR Citation: 20 CFR 404.401; 20 CFR 416.558; 20 CFR 416.570; 20 CFR 416.572

SSA

Proposed Rule Stage

Legal Deadline: None

Abstract: We propose to revise our regulations dealing with the recovery of overpayments under the Supplemental Security Income (SSI) Program to permit SSA to recover SSI overpayments by adjusting the amount of Social Security benefits payable to the individual under title II of the Act. This collection practice would be limited to individuals who are not currently eligible to receive an SSI cash benefit. Also, the amount of the title XVI overpayment recoverable in a month would be limited to 10 percent of the amount payable under title II unless the overpaid person (or his or her spouse) willfully misrepresented or concealed material information about the overpayment. In that case, the entire title II benefit amount would be adjusted to recover the overpayment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

Edward Johns, Financial Management Analyst, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-0392

RIN: 0960–AF13

Social Security Administration (SSA)

Final Rule Stage

4130. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS, DETERMINING DISABILITY AND BLINDNESS; SUBSTANTIAL GAINFUL ACTIVITY GUIDES (147F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 98-460, sec 10; PL 99-643; PL 100-203; PL 101-508; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: These final regulations will clarify how the Social Security Administration evaluates a person's work activity to determine whether work is substantial gainful activity and whether an individual is entitled to a trial work period. These regulations also reflect statutory changes with respect to the trial work period and the re-entitlement period.

Timetable:

Action	Date	FR Cite
NPRM	03/06/95	60 FR 12166
NPRM Comment Period End	05/15/95	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AB73

4131. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; REVISION TO MEDICAL-VOCATIONAL GUIDELINES (599F)

Regulatory Plan: This entry is Seq. No. 156 in Part II of this issue of the **Federal Register**.

RIN: 0960–AE42

4132. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED; EVALUATING OPINION EVIDENCE (624F)

Regulatory Plan: This entry is Seq. No. 157 in Part II of this issue of the **Federal Register**.

RIN: 0960–AE56

4133. DEDICATED ACCOUNTS AND INSTALLMENT PAYMENTS FOR CERTAIN PAST DUE SSI BENEFITS (622F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381; 42 USC 1381a; 42 USC 1382(c); 42 USC 1382(e); 42 USC 1383(a) to 1383(d); 42 USC 1383(g)

CFR Citation: 20 CFR 416.545; 20 CFR 416.546; 20 CFR 416.640

Legal Deadline: Final, Statutory, November 22, 1996.

Abstract: These regulations reflect amendments to the Social Security Act made by sections 213 and 221 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Section 213 requires the establishment of accounts in financial institutions for the payment of past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement exceeding 6 months' benefits to representative payees on behalf of children under age 18. These accounts will be dedicated for certain purposes by restrictions on the use of such past-due benefits.

Section 221 requires past-due SSI benefits after reimbursement to a State for Interim Assistance Reimbursement which equals or exceeds 12 months' benefits to be paid in installments, with certain exceptions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/20/96	61 FR 67203
Interim Final Rule Comment Period End	02/18/97	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

SSA

Final Rule Stage

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-1713

RIN: 0960–AE59

4134. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS (660F)

Priority: Other Significant

Legal Authority: 42 USC 902(a)(5); 42 USC 1382; 42 USC 1383

CFR Citation: 20 CFR 416.202; 20 CFR 416.708; 20 CFR 416.1331

Legal Deadline: None

Abstract: These final regulations carry out section 202(a) of Public Law 104-193, which prohibits payment of SSI benefits to individuals who are fleeing to avoid prosecution for a crime which is a felony; or fleeing to avoid custody or confinement after conviction for a crime which is a felony; or violating a condition of probation or parole imposed under Federal or State law.

Timetable:

Action	Date	FR Cite
NPRM	06/12/98	63 FR 32161
NPRM Comment Period End	08/11/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-1713

RIN: 0960–AE77

4135. REDUCTION OF TITLE II BENEFITS UNDER THE FAMILY MAXIMUM PROVISIONS IN CASES OF DUAL ENTITLEMENT (692F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 422(b); 42 USC 423(e); 42 USC 424a; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.402; 20 CFR 404.403

Legal Deadline: None

Abstract: We propose to revise our regulation to reflect the adoption by the Social Security Administration of the holding in Parisi by Cooney v. Chater as national policy. This policy has been an Acquiescence Ruling, which applied in the First Circuit. The policy is that, when determining the benefits for auxiliaries or survivors after reduction for the family maximum, dually entitled beneficiaries will be considered only to the extent that such persons actually receive a benefit. In Parisi, a child's benefits had been lowered due to the entitlement of another auxiliary on that Social Security number (SSN), even though the other auxiliary did not receive benefits on that same SSN but rather received benefits on another SSN.

Timetable:

Action	Date	FR Cite
Interim Final Rule With Comments	10/27/99	64 FR 57774
Interim Final Rule Comment Period End	12/27/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-1713

Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-2468

RIN: 0960–AE85

4136. • 20 CFR PARTS 401, 402, 404, 410, 416 AND 422—REVISED AS OF APRIL 1, 1999; CORRECTION (745F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5)

CFR Citation: 20 CFR 401.20; 20 CFR 402.35; 20 CFR 404.401; 20 CFR 404.403; 20 CFR 404.450; 20 CFR 404.457; 20 CFR 404.1275; 20 CFR 404.1408; 20 CFR 404.1410; 20 CFR 410.240; 20 CFR 410.601; 20 CFR 416.428; 20 CFR 416.702; 20 CFR 416.929; 20 CFR 416.993; 20 CFR 416.1104; 20 CFR 416.1202; 20 CFR 416.1323; 20 CFR 416.1336; 20 CFR 416.1442; 20 CFR 416.1801; 20 CFR 416.2045; 20 CFR 416.2096; 20 CFR 422.125; 20 CFR 422.130; 20 CFR 422.135

Legal Deadline: None

Abstract: We are correcting several invalid cross-references and typographical errors in 20 CFR parts 401, 402, 410, 416 and 422, chapter III.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-3298

RIN: 0960–AF04

4137. • COST OF LIVING INCREASES IN PRIMARY INSURANCE AMOUNTS (759F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402(a); 42 USC 405(a); 42 USC 415; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.273 to 404.275

Legal Deadline: None

Abstract: This final rule revises our rules dealing with automatic cost-of-living increases to primary insurance amounts under title II of the Social Security Act. The revisions eliminate the restriction that we could only grant cost-of-living increases based on rises in the Consumer Price Index (CPI) or the Average Wage Index (AWI) if either the CPI or AWI increased by 3 percent or more during the prescribed measuring period. The 3 percent restriction was removed by legislation enacted in 1986.

Timetable:

Action	Date	FR Cite
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

SSA — Final Rule Stage

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

Jeff Kunkel, Actuary, Social Security Administration, Office of the Actuary, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3013

RIN: 0960–AF14

Social Security Administration (SSA) — Long-Term Actions

4138. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM (143F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 405; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Listings 1.00 and 101.00 of appendix 1 to the disability regulations at 20 CFR 404.1501 through 404.1599 describe those musculoskeletal impairments that are considered severe enough to prevent a person from doing any gainful activity or, for a child claiming SSI payments under title XVI, that causes marked and severe functional limitations. Comprehensive revisions to these listings are being made to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The SSI program incorporates by reference and uses the same medical criteria as the old-age, survivors, and disability insurance program.

Timetable:

Action	Date	FR Cite
NPRM	12/21/93	58 FR 67574
NPRM Comment Period End	02/22/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

RIN: 0960–AB01

4139. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS AND TRAUMATIC BRAIN INJURY IN ADULTS (222F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1382c; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 404.1528; 20 CFR 416.920a; 20 CFR 416.928

Legal Deadline: None

Abstract: On July 18, 1991, we published a Notice of Proposed Rulemaking (NPRM) (56 FR 33130) that proposed more extensive revisions to the regulations and the mental disorders listings than are in these final rules. The proposed rules included comprehensive revisions to the regulations on the evaluation of mental disorders in sections 404.1520a and 416.920a and the adult mental disorders listings, as well as the aforementioned proposed guidelines for evaluating traumatic brain injury in section 11.00 of the listings. The proposed revisions also included both new and revised rules for the evaluation of mental disorders in children claiming disability benefits under the Supplemental Security Income (SSI) Program. Although the NPRM reflected advances in medical knowledge, treatment, and methods of evaluating mental impairments that were up-to-date at the time it was published, there have been additional advances since then that impact on many of the revisions we had proposed. There have also been changes in the SSI law and regulations regarding the evaluation of disability in children. Consequently, we are withdrawing the proposed revisions in the 1991 NPRM that are not finalized by these regulations and will publish a new NPRM at a later date that will provide the public with another opportunity to comment.

Timetable:

Action	Date	FR Cite
NPRM	07/18/91	56 FR 33130
NPRM Comment Period End	09/18/91	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AC74

4140. ELECTION OF BENEFITS BASED ON AGE BY DISABLED WIDOW, WIDOWER, AND SURVIVING DIVORCED SPOUSE BENEFICIARIES (343P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.335; 20 CFR 404.336; 20 CFR 404.337

Legal Deadline: None

Abstract: We propose to amend our regulations to permit the election of benefits based on age by widows,

widowers and surviving divorced spouses (hereinafter, collectively widows) who are at least age 60 and who are already entitled to widow's benefits based on disability. This proposal would allow the widow to choose which of the two types of widow's benefits is more advantageous.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AD56

4141. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; HEMIC AND LYMPHATIC SYSTEM, AND MALIGNANT NEOPLASTIC DISEASES (399P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 7.00 and 107.00 (hemic and lymphatic system), and 13.00 and 113.00 (malignant neoplastic diseases) of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments that are considered severe enough to prevent a person from doing any gainful activity, or for a child claiming SSI payments under title XVI, that causes marked and severe functional limitations. We are proposing revisions to these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment. The Supplemental Security Income Program incorporates and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

RIN: 0960–AD67

4142. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, ENDOCRINE SYSTEM (436P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: Sections 9.00 and 109.00 of appendix 1 to subpart P of part 404 of the Disability Regulations (404.1501 through 404.1599) describe those impairments that are considered severe enough to prevent a person from doing any gainful activity, or in the case of a child claiming SSA payments under title XVI, that cause marked and severe functional limitations. We are proposing to revise the criteria in these sections to reflect advances in medical knowledge, treatment, and methods of evaluating endocrine impairments. The Supplemental Security Income Program incorporates and uses the same medical criteria as the Old-Age, Survivors and Disability Insurance Program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AD78

4143. FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME, MEDICAL AND OTHER EVIDENCE OF YOUR IMPAIRMENT(S) AND DEFINITION OF MEDICAL CONSULTANT (469F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 902(a)(5); 42 USC 1383; 42 USC 405

CFR Citation: 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 416.912; 20 CFR 416.913

Legal Deadline: None

Abstract: We will add speech-language pathologists, licensed podiatrists, and licensed or certified school psychologists to the list of acceptable medical sources in our current regulations. These sources will assist us in establishing the existence of impairments within their areas of expertise. We will also revise the definition of the term "medical consultant" to clarify what we mean by an acceptable medical source.

Timetable:

Action	Date	FR Cite
NPRM	10/09/98	63 FR 54417
NPRM Comment Period End	12/08/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AD91

4144. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; CONTRIBUTIONS FOR SUPPORT (475P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 423; 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.366

Legal Deadline: None

Abstract: To provide more uniformity in our decisionmaking, we are proposing to amend our rules on the contributions for support that must be provided by the insured to certain categories of claimants for child's benefits.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-1713

RIN: 0960–AD92

4145. COMPUTATION OF SSI BENEFITS FOR THE FIRST THREE MONTHS OF PAYMENT (476P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.320

Legal Deadline: None

Abstract: SSI eligibility and payment are calculated by taking into account income received by the applicant/recipient. Two calculations must be made for each month. The first is the eligibility computation and is based on the current (payment) month's income. The second is the payment computation, which, under retrospective monthly accounting, is based (usually) on the income of a prior month called the budget month. Generally the budget month is 2 months prior to the payment month. The transitional computation for the first 3 months of SSI payment is an exception to the general rule described above. While the eligibility computation continues to apply to the current month's income, the budget month on which each of the first 3 months' payments are based is the first month of eligibility. This policy was intended to facilitate the transition into the 2 month retrospective accounting cycle and to avoid penalizing the recipient for income received prior to initial SSI eligibility. However, the policy also has the effect of counting income which is only received in one month more than one time. In Jones v. Shalala, the Ninth Circuit Court of Appeals ruled that SSA's transitional computation for the first 3 months of eligibility is not permissible because it will result in the triple counting of nonrecurring income received only in the first month of eligibility. The proposed policy addresses the triple counting of nonrecurring income.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401 Phone: 410 965-1713

RIN: 0960–AD93

4146. DEFINITION OF "LARGEST BENEFIT AMOUNT" FOR SIMULTANEOUS ENTITLEMENT TO CHILD'S BENEFITS (481P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 403; 42 USC 403(a); 42 USC 403(b); 42 USC 404(a); 42 USC 404(e); 42 USC 405(a); 42 USC 405(c); 42 USC 416; 42 USC 422(b); 42 USC 423; 42 USC 424a; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.304; 20 CFR 404.353b; 20 CFR 404.407d

Legal Deadline: None

Abstract: Section 202(k)(2)(A) of the Act (42 U.S.C. 402(k)(2)(A)) contains the statutory requirements for determining the earnings record on which SSA will pay a person, who is simultaneously entitled to child's insurance benefits on the earnings records of more than one worker. Generally, the child's benefits will be paid on the earnings record that yields the highest primary insurance amount (PIA). However, under certain circumstances, the child's benefits will be paid on the earnings record that yields a lower PIA if that record produces the "largest benefit" to which the child could be entitled under section 202(d) without the application of the reduction under the "family maximum" provisions. In implementing section 202(k)(2)(A), SSA has determined the "largest benefit" under section 202(k)(2)(A) by comparing the original benefit amount (i.e., 50 percent of the PIA of a living worker and 75 percent of the PIA of a deceased worker) calculated on the dependent and/or survivor claim of the child on the earnings record of each worker without applying any reductions or deductions. The United States District Court for the Northern District of Alabama in Agee v. Sullivan rejected this interpretation and held that SSA must compare the amounts payable to the child under each earnings record after considering all applicable deductions and reductions other than the reduction under the family maximum provisions. Legal support for both interpretations can be found in the statutory language and legislative history of section 202(k)(2)(A). We have found current regulations implementing section 202(k)(2)(A) to be ambiguous. We propose to amend these regulations to reflect the longstanding SSA interpretation, rather than the interpretation adopted by the district court in the Agee decision.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401

Phone: 410 965-1713

Bill Hilton, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-2468

RIN: 0960–AD95

4147. REPEAL OF FACILITY OF PAYMENT PROVISION (508F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 403

CFR Citation: 20 CFR 404.402(b); 20 CFR 404.458

Legal Deadline: None

Abstract: This regulation will reflect section 309 of Public Law 103-296 which repeals the facility of payment provision under which Social Security benefits subject to the family maximum would not be redistributed in certain cases and provides that the reduction for the family maximum will be made prior to a temporary suspension for work when the non-working auxiliary resides in a separate household from the working auxiliary.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE02

4148. ADMINISTRATIVE REVIEW PROCESS; ADMINISTRATIVE RES JUDICATA AND RELATED RULES (526P)

Priority: Other Significant

Legal Authority: 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 421; 42 USC 401(j); 42 USC 425; 42 USC 405 note; 42 USC 421 note; 42 USC 1383; 42 USC 1383b; 42 USC 1382c; 42 USC 902(a)(5); 42 USC 404(f)

CFR Citation: 20 CFR 404.903a (New); 20 CFR 404.903b (New); 20 CFR 404.950; 20 CFR 404.957; 20 CFR 404.967; 20 CFR 416.1403a (New); 20 CFR 416.1403b (New); 20 CFR 416.1450; 20 CFR 416.1457; 20 CFR 416.1467

Legal Deadline: None

Abstract: These proposed changes will amend our regulations governing the administrative review process for the Social Security and Supplemental Security Income (SSI) programs to update our procedures and to reflect and implement sections 205(b)(3)(A) and 1631(c)(1)(B)(i) of the Act, as added by section 5107 of Public Law 101-508. Section 5107 specifies certain cases in which our policy on administrative res judicata may not be applied to deny a claimant's subsequent application for benefits under the Social Security or SSI Program. In general, section 5107 provides that an individual's failure to timely request review of an adverse determination (initial or reconsidered) under the Social Security or SSI Program may not be used by us as a basis for a denial of the claimant's subsequent application for benefits under the same program, if the failure to request review was due to certain circumstances specified in the statute.

We are also proposing to amend our regulations to expand and clarify our policy on administrative res judicata and on collateral estoppel.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Stan Axel, Social Insurance Specialist, Social Security Administration, Office of Program Benefits, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-7927

Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

RIN: 0960–AE11

4149. OASDI; NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES, PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY (531P)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 402(x); 42 USC 405; 42 USC 902

CFR Citation: 20 CFR 404.468

Legal Deadline: None

Abstract: The regulation will implement section 4 of Public Law 103-387 which modifies and expands the current prisoner nonpayment provisions.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE16

4150. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS; REPLACING SOCIAL SECURITY NUMBER CARDS (543F)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 422.103

Legal Deadline: None

Abstract: These final rules will support our pilot test for replacing social security number cards when we receive a request by telephone. We will test replacing the card based on information

furnished by telephone, without requiring additional documentation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/95	60 FR 32444
Interim Final Rule Comment Period End	08/21/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniel T. Bridgewater, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3298

RIN: 0960–AE18

4151. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS) (554F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(11); 41 USC 701 et seq

CFR Citation: 20 CFR 436.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 76 into a new SSA regulation at 20 CFR part 436 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE27

4152. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS (555F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 41 USC 403(ii)

CFR Citation: 20 CFR 437.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 92 into a new SSA regulation at 20 CFR part 437 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE28

4153. RESTRICTIONS ON LOBBYING IN CONNECTION WITH THE AWARD OF GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS (556F)

Priority: Info./Admin./Other

Legal Authority: 5 USC 301; 31 USC 1352

CFR Citation: 20 CFR 438.000

Legal Deadline: None

Abstract: This final regulation migrates the HHS grants regulation at 45 CFR part 93 into a new SSA regulation at 20 CFR part 438 now that SSA is an independent agency.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE29

4154. ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS (512F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.211(c); 20 CFR 404.430(c); 20 CFR 404.1047 to 1048; 20 CFR 404, subpart C, app 1; 20 CFR 404.403(d); 20 CFR 404.408ff; 20 CFR 404.1048(c); 20 CFR 404.1918(b)

Legal Deadline: None

Abstract: Section 321(g) of Public Law 103-296 designated 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and the earnings test exempt amounts. The provision is effective for the contribution and benefit base and for the earnings test exempt amount for taxable years ending after 1994. Section 102 of Public Law 104-121, however, established a schedule of earnings test exempt amounts for persons at or above the normal retirement age for 1996 through 2002. Thereafter the provision calculates the increase in this exempt amount in the same manner as provided by Public Law 103-296, but designates 2002 as the base year.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE40

SSA

Long-Term Actions

4155. SUPPLEMENTAL STANDARDS FOR ETHICAL CONDUCT FOR EMPLOYEES OF THE SOCIAL SECURITY ADMINISTRATION (601P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC APP (Ethics in Government Act of 1978); 5 USC 7301; 5 USC 7353

CFR Citation: 5 CFR ch LXXXI (New)

Legal Deadline: None

Abstract: The Social Security Administration (SSA), with the concurrence of the Office of Government Ethics (OGE), proposes to issue regulations for officers and employees of SSA that supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch, which became effective February 3, 1993. The proposed rule specifies procedural and substantive requirements that are necessary to address ethical issues unique to SSA. There were no alternatives considered for these proposed rules. Any costs or savings will be insignificant.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

Stuart M. Besser, Attorney, Social Security Administration, Office of the General Counsel, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3194

RIN: 0960–AE48

4156. DEEMING OF INCOME FROM AN INELIGIBLE SPOUSE TO AN ELIGIBLE INDIVIDUAL AND AN ELIGIBLE CHILD (606P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382c(f); 42 USC 1383; 42 USC 1382b; 42 USC 1382j

CFR Citation: 20 CFR 416.1160 (c)(3)(iii); 20 CFR 416.1165 (g)(1); 20 CFR 416.1166

Legal Deadline: None

Abstract: This rule would revise the method used under the SSI program to determine income for a child who lives with both parents where one parent is ineligible for SSI because of income deemed from an ineligible spouse. Instead of deeming any excess income from the ineligible spouse to the child, referred to as "pass-through deeming," we would deem income to the child using the method we use where neither parent files for SSI. Under current rules, "pass-through" deeming has had the unintended effect of deeming more income than would have been deemed if the regular rules for deeming from ineligible parents who do not file for SSI are used.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE50

4157. EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, THE REHABILITATION ACT OF 1973, AND THE AGE DISCRIMINATION ACT OF 1975, IN PROGRAMS RECEIVING FINANCIAL ASSISTANCE BY SSA (617F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 902(a)(5); 5 USC 301; 20 USC 1405; 21 USC 1174; 29 USC 794; 42 USC 290dd-2; 42 USC 2000d-1; 42 USC 6101

CFR Citation: 20 CFR 431

Legal Deadline: None

Abstract: Prior to March 31, 1995, SSA was an operating component of HHS and the general regulatory authority for SSA programs and administration was vested in the Secretary of Health and Human Services (the Secretary) based on section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). The SSIPIA established SSA as an independent agency in the Executive Branch of the Federal Government effective March 31, 1995, and vested general regulatory authority in the Commissioner of Social Security (the Commissioner). Under section 106(b) of SSIPIA, HHS regulations in effect immediately prior to March 31, 1995, which relate to functions now vested in the Commissioner by reason of SSA's independence, continue to apply to SSA until such time as they are modified, suspended, terminated or repealed by the Commissioner. SSA is promulgating regulations at 20 CFR part 431 which are based in large measure upon the HHS regulations at 45 CFR parts 80, 81, 84, 85, 90, and 91. These SSA regulations reflect changes necessary to adapt the HHS regulations to SSA procedures. Upon SSA's rules becoming final regulations, the HHS regulations will cease to have application to SSA in accordance with section 106(b) of SSIPIA.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE63

4158. AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC—CHARGING FEES FOR PROVIDING PERSONAL INFORMATION (618P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 8 USC 1360; 18 USC 1905; 26 USC 6103; 30 USC 923(b); 31 USC 9701; 42 USC 405; 42 USC 902(a)(5); 42 USC 1306

CFR Citation: 20 CFR 402

Legal Deadline: None

Abstract: These proposed rules will, in general, provide that SSA will not charge fees for personal information if it is to be used for a publicly administered program whose purpose is compatible with a Social Security Act program.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE64

4159. COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS; OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NUMBER (280F)

Priority: Info./Admin./Other

Legal Authority: 42 USC 405; 42 USC 410; 42 USC 418; 42 USC 902(a)(5); 42 USC 418 note

CFR Citation: 20 CFR 404.1215; 20 CFR 404.1203; 20 CFR 404.1204; 20 CFR 404.1214; 20 CFR 404.1216; 20 CFR 404.1220; 20 CFR 404.1225; 20 CFR 404.1237; 20 CFR 404.1239; 20 CFR 404.1242; 20 CFR 404.1243; 20 CFR 404.1247; 20 CFR 404.1249; 20 CFR 404.1251; 20 CFR 404.1265; ...

Legal Deadline: None

Abstract: SSA regulations providing Social Security coverage for the services of employees of State and local governments and interstate instrumentalities were published in the Federal Register on August 29, 1988 (53 FR 32972). Those regulations included sections, which contained information collection and recordkeeping requirements, which were not effective until they were approved by OMB. This document notifies the public that the information collection and recordkeeping requirements were approved by OMB and provides the OMB control number. This document also adds an OMB approval number to section 404.1215.

Timetable:

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

RIN: 0960–AE69

4160. DETERMINING DISABILITY AND BLINDNESS; PROVIDING FOR USE OF A SINGLE DECISIONMAKER TO MAKE DETERMINATIONS OF DISABILITY UNDER TITLES II AND XVI OF THE SOCIAL SECURITY ACT (668P)

Priority: Other Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 421; 42 USC 405(a); 42 USC 405(b); 42 USC 902(a); 42 USC 1382c; 42 USC 1383b

CFR Citation: 20 CFR 404.1546; 20 CFR 404.1615; 20 CFR 416.946; 20 CFR 416.1015

Legal Deadline: None

Abstract: We propose to amend our rules to provide for a single decisionmaker who will make determinations of disability under title II and title XVI of the Act after consultation with a medical or psychological consultant, as appropriate. The decisionmaker would have the authority to request, review, and evaluate evidence and to make the disability determination without having the medical consultant sign the disability determination forms.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Lawrence V. Dudar, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-5995

RIN: 0960–AE73

4161. ENFORCEMENT OF NONDISCRIMINATION IN SOCIAL SECURITY PROGRAMS OR ACTIVITIES (661P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 42 USC 902(a)(5); 42 USC 1302; PL 103-296

CFR Citation: 20 CFR 431.100; 20 CFR 431.105; 20 CFR 431.110; 20 CFR 431.115; 20 CFR 431.120; 20 CFR 431.125; 20 CFR 431.200; 20 CFR 431.205; 20 CFR 431.210; 20 CFR 431.215; 20 CFR 431.220; 20 CFR 431.225; 20 CFR 431.230; 20 CFR 431.235; 20 CFR 431.240; ...

Legal Deadline: None

Abstract: These proposed regulations are intended to ensure that individuals are not subjected to discrimination on the basis of disability, race, color, national origin, sex, age, or religion in any program or activity conducted by SSA.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

RIN: 0960–AE78

4162. ADDING NEW SSI INCOME AND RESOURCE EXCLUSION (VA PAYMENTS TO CERTAIN VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA) TO LISTS OF EXCLUSIONS PROVIDED BY OTHER FEDERAL STATUTES (664F)

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1805(d)

CFR Citation: 20 CFR 416.1182, app; 20 CFR 416.1236

Legal Deadline: None

Abstract: Public Law 104-204 provides that a Department of Veterans Affairs monthly allowance paid to children of Vietnam veterans for disabilities resulting from spina bifida will not be considered income or resources in determining eligibility for or the

SSA — **Long-Term Actions**

amount of benefits under any Federal or federally assisted program. These regulations update the lists of exclusions from income and resources under the SSI program that are in statutes other than the Social Security Act.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 966-5121

RIN: 0960–AE79

4163. PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION (711P)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 5 USC 552a; 42 USC 1306(a); 42 USC 902(a)(5)

CFR Citation: 20 CFR 401.30; 20 CFR 401.45; 20 CFR 401.55; 20 CFR 401.150; 20 CFR 401.180

Legal Deadline: None

Abstract: We propose to revise our privacy and disclosure rules to describe the role and function of the Privacy Officer; describe safeguards against inappropriate disclosure of personal information by electronic means (e.g., through the Internet); revise our special procedures on access to medical records; permit disclosures to certain government agencies for various administrative purposes related to income-maintenance and health-maintenance programs; permit disclosures of Social Security number information to government agencies under specific circumstances; and clarify our rules on disclosure under legal process from courts.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Suzanne DiMarino, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1769

Tom Price, Social Insurance Specialist, Social Security Administration, Office of Disclosure Policy, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-6011

RIN: 0960–AE88

4164. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, APPENDIX 1 TO SUBPART P—LISTING OF IMPAIRMENTS (740P)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425; 42 USC 902(a)(5); PL 104-193, sec 211(b)

CFR Citation: 20 CFR 404 subpart P, app 1

Legal Deadline: None

Abstract: We are proposing to make a number of discrete revisions to the Listing of Impairments listings, appendix 1 to subpart P, parts A and B, of part 404 of our regulations, in order to reflect advances in medical practices, to clarify certain listing criteria, to remove a few rarely-used listings, and to add new listings to address current medical practices such as organ transplantation. We are also proposing to remove some technical references which have become obsolete and proposing to reword some listings to update medical terminology. We use these listings to adjudicate claims for disability under titles II and XVI of the Social Security Act when we evaluate claims of individuals at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

Carolyn Kiefer, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-9104

RIN: 0960–AE99

Social Security Administration (SSA) — **Completed Actions**

4165. PROCEDURE TO REVIEW COMPLAINTS OF ALLEGED MISCONDUCT ON THE PART OF ADMINISTRATIVE LAW JUDGES (341P)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 422.700 to 713 (New)

Completed:

Reason	Date	FR Cite
No Further Action Planned	09/09/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine
Phone: 410 966-5121

RIN: 0960–AD54

SSA

Completed Actions

4166. FEDERAL OASDI AND SSI FOR THE AGED, BLIND, AND DISABLED; BENEFIT REFORMS FOR INDIVIDUALS DISABLED BASED ON DRUG ADDICTION OR ALCOHOLISM (496F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.315; 20 CFR 404.316; 20 CFR 404.321; 20 CFR 404.332; 20 CFR 404.335; 20 CFR 404.337; 20 CFR 404.350; 20 CFR 404.352; 20 CFR 404.402; 20 CFR 404.470; 20 CFR 404.480; 20 CFR 404.902; 20 CFR 404.1535; 20 CFR 404.1536; 20 CFR 404.1537; ...

Completed:

Reason	Date	FR Cite
No Further Action Planned	08/19/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg
Phone: 410 965-1713

RIN: 0960–AD96

4167. DETERMINING DISABILITY AND BLINDNESS; ELIMINATING THE LOWER SUBSTANTIAL GAINFUL ACTIVITY EARNINGS GUIDELINE AMOUNTS (603P)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.1574; 20 CFR 416.974

Completed:

Reason	Date	FR Cite
Merged With RIN 0960-AF10	08/31/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence V. Dudar
Phone: 410 965-5995

RIN: 0960–AE49

4168. IMPLEMENTING MODIFICATIONS TO PREHEARING PROCEDURES AND DECISIONS BY ADJUDICATION OFFICERS (616P)

Priority: Other Significant

CFR Citation: 20 CFR 404.943 (New); 20 CFR 416.1443 (New)

Completed:

Reason	Date	FR Cite
No Further Action Planned	08/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Lois A. Berg
Phone: 410 965-1713

RIN: 0960–AE55

4169. REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY, DELETION OF OBESITY LISTING (620F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.1500, app 1

Completed:

Reason	Date	FR Cite
Final Rule	08/24/99	64 FR 46122
Final Rule Effective	10/25/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert J. Augustine
Phone: 410 966-5121

RIN: 0960–AE65

4170. EFFECTIVE DATE OF APPLICATION FOR SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS (642F)

Priority: Economically Significant

CFR Citation: 20 CFR 416.211; 20 CFR 416.305; 20 CFR 416.315; 20 CFR 416.330; 20 CFR 416.335; 20 CFR 416.420; 20 CFR 416.421; 20 CFR 416.501; 20 CFR 416.502; 20 CFR 416.520; 20 CFR 416.1801; 20 CFR 416.200; 20 CFR 416.203; 20 CFR 416.1335; 20 CFR 416.1902; ...

Completed:

Reason	Date	FR Cite
Final Rule	06/15/99	64 FR 31969
Final Rule Effective	08/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lois A. Berg
Phone: 410 965-1713
Loretta Tabacca
Phone: 410 965-1713

RIN: 0960–AE71

4171. REFLECT A REQUIREMENT OF THE SOCIAL SECURITY ACT THAT THE COMMISSIONER DISREGARD EVIDENCE IN CERTAIN SITUATIONS INVOLVING FRAUD OR SIMILAR FAULT UNDER TITLES II OR XVI OF THE ACT (671P)

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Completed:

Reason	Date	FR Cite
No Further Action Planned	07/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Lois A. Berg
Phone: 410 965-1713

RIN: 0960–AE75

4172. STANDARDS OF CONDUCT 20 CFR PART 430—PERSONNEL (672F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 430.201; 20 CFR 430.202; 45 CFR 73

Completed:

Reason	Date	FR Cite
Discontinued	08/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Suzanne DiMarino
Phone: 410 965-1769

RIN: 0960–AE81

4173. EMPLOYER ID NUMBERS FOR STATE AND LOCAL GOVERNMENT EMPLOYMENT (691F)

Priority: Substantive, Nonsignificant

CFR Citation: 20 CFR 404.1220; 20 CFR 422.112

Completed:

Reason	Date	FR Cite
Final Rule	06/21/99	64 FR 33015
Final Rule Effective	07/21/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Robert J. Augustine
Phone: 410 966-5121
Paul Guillet
Phone: 410 965-7882

RIN: 0960–AE84

SSA

Completed Actions

4174. INCREASE IN SUBSTANTIAL GAINFUL ACTIVITY (738F)

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 20 CFR 404.1574(b); 20 CFR 416.974(b)

Completed:

Reason	Date	FR Cite
Final Rule	04/15/99	64 FR 18566
Correction	04/28/99	64 FR 22903
Final Rule Effective	07/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State

Agency Contact: Jack Baumel
Phone: 410 965-9834
Lawrence V. Dudar
Phone: 410 965-5995

RIN: 0960–AE98

4175. • FEDERAL OLD-AGE SURVIVOR'S AND DISABILITY INSURANCE; DETERMINING DISABILITY AND BLINDNESS; EXTENSION OF EXPIRATION DATES FOR SEVERAL BODY SYSTEMS LISTINGS (741F)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 422(c); 42 USC 423; 42 USC 425; 42 USC 902(a)(5)

CFR Citation: 20 CFR 404.1500, app 1

Legal Deadline: None

Abstract: SSA adjudicates claims at the third step of its sequential evaluation process for evaluating disability using the Listing of Impairments (the Listings) under the Social Security and supplemental security income (SSI) programs. This final rule extends the dates on which several body system listings will no longer be effective. We have made no revisions to the medical criteria in these listings; they remain the same as they now appear in the Code of Federal Regulations. These extensions will ensure that we continue to have medical evaluation criteria in these listings to adjudicate claims for disability based on impairments in these body systems at step three of our sequential evaluation process.

Timetable:

Action	Date	FR Cite
Final Rule	06/03/99	64 FR 29786
Final Rule Effective	06/03/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah Barnes, Social Insurance Specialist, Social Security Administration, Office of Disability, 6401 Security Boulevard, Baltimore, MD 21235
Phone: 410 965-4171

Lois A. Berg, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-1713

RIN: 0960–AF02

4176. • ADMINISTRATIVE REVIEW PROCESS; PREHEARING PROCEEDINGS AND DECISIONS BY ATTORNEY ADVISORS; EXTENSION OF EXPIRATION DATE (761F)

Priority: Substantive, Nonsignificant

Legal Authority: 31 USC 3720A; 42 USC 401(j); 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405 Note; 42 USC 421; 42 USC 421 Note; 42 USC 425; 42 USC 902(a)(5); 42 USC 1383; 42 USC 1883b; PL 97-455, sec 5; PL 98-460, sec 5

CFR Citation: 20 CFR 404.942; 20 CFR 416.1442

Legal Deadline: None

Abstract: These final rules extend the time period set out in our regulations during which attorney advisors in our Office of Hearings and Appeals (OHA) may conduct certain prehearing proceedings and, where the documentary record developed as a result of these proceedings warrants, issue decisions that are wholly favorable to the parties to the hearing in claims for Social Security or Supplemental Security Income (SSI) benefits based on disability. We are extending the date at which these rules will no longer be effective from April 1, 2000, until April 2, 2001.

Timetable:

Action	Date	FR Cite
Final Rule	09/27/99	64 FR 51892
Final Rule Effective	10/27/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Daniel T. Bridgewater, Social Insurance Specialist, Social Security Administration, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235-6401
Phone: 410 965-3298

RIN: 0960–AF07

[FR Doc. 99–27053 Filed 11–19–99; 8:45 am]
BILLING CODE 4190–29–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part XLVII

Tennessee Valley Authority

Semiannual Regulatory Agenda

Tennessee Valley Authority (TVA)

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Semiannual regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates few regulations. TVA will submit a proposed regulation which would revise the requirements applicable to the construction and maintenance of obstructions in the Tennessee River system and codify policies related to management of shoreline land under the jurisdiction of TVA. TVA is therefore publishing a regulatory agenda in voluntary compliance with Executive Order 12866.

FOR FURTHER INFORMATION CONTACT: For further information, please contact the persons listed.

Edward S. Christenbury,

General Counsel.

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4177	Approval of Construction and Regulation of Structures in the Tennessee River System and Shoreline Management	3316-AA19

Tennessee Valley Authority (TVA) — Long-Term Actions

4177. APPROVAL OF CONSTRUCTION AND REGULATION OF STRUCTURES IN THE TENNESSEE RIVER SYSTEM AND SHORELINE MANAGEMENT

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 831 to 831dd

CFR Citation: 18 CFR 1304 (Revision)

Legal Deadline: None

Abstract: This action would revise the requirements applicable to construction and maintenance of obstructions in the Tennessee River System to better describe the types of facilities that would be considered for approval. It also would codify policies related to management of certain shoreline lands under the jurisdiction, custody, and control of TVA.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Teresa C. McDonough, Specialist-Land Policy, Land Management, Tennessee Valley Authority, 17 Ridgeway Road, Norris, TN 37828
Phone: 423 632-1542

RIN: 3316–AA19

[FR Doc. 99–24746 Filed 11–19–99; 8:45 am]

BILLING CODE 8120–08–F

Monday,
November 22, 1999

Part XLVIII

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Federal Acquisition Regulation (FAR) Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Duarte, FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of Federal Acquisition Circulars (FACs).

Dated: September 2, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4178	FAR Case 99-010, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings	9000-AI40
4179	FAR Case 99-004, Executive Agent	9000-AI42
4180	FAR Case 98-609, Federal Supply Schedules Small Business Opportunities	9000-AI48

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4181	FAR Case 98-614, Veterans' Employment	9000-AI46
4182	FAR Case 97-613, Application of the Davis-Bacon Act to Construction Contracts with Options To Extend the Term of the Contract	9000-AI47

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4183	FAR Case 89-093, Implementation of the Anti-Lobbying Statute	9000-AD76
4184	FAR Case 91-078, Small Business Subcontracting Reporting	9000-AG04
4185	FAR Case 94-753, Travel Costs	9000-AG27
4186	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act	9000-AH25
4187	FAR Case 97-024, Foreign Acquisition	9000-AH30
4188	FAR Case 95-013, Government Property	9000-AH60
4189	FAR Case 96-023, Clause Flowdown-Commercial Items	9000-AH69
4190	Federal Acquisition Regulation; Progress Payments	9000-AH70
4191	FAR Case 97-032, Relocation Costs	9000-AH96
4192	FAR Case 97-304, Electronic Commerce in Federal Procurement	9000-AI10
4193	FAR Case 98-611, Evaluation Boards	9000-AI13
4194	FAR Case 97-033, Pollution Control and Clean Air and Water	9000-AI19
4195	FAR Case 98-400, Progress Payments and Related Financing Policies	9000-AI27
4196	FAR Case 98-011, SBA 8(a) Business Development Program	9000-AI33
4197	FAR Case 98-017, Review of Award Fee Determination (Burnside-ott)	9000-AI35

FAR

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4198	FAR Case 98-605, Service Contract Act, Commercial Item Subcontracts	9000-AI36
4199	FAR Case 99-600, Nondisplacement of Qualified Workers—Commercial Items	9000-AI38
4200	FAR Case 98-604, Ocean Transportation by U.S.-Flag Vessels	9000-AI39
4201	FAR Case 98-304, Commercial Items-Nongovernmental Purposes	9000-AI41
4202	FAR Case 98-010, A-76 Cost Comparison	9000-AI43

Completed Actions

Sequence Number	Title	Regulation Identification Number
4203	FAR Case 97-603, Empowerment Contracting	9000-AH58
4204	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement	9000-AH59
4205	FAR Case 97-031, Value Engineering Change Proposals	9000-AH84
4206	FAR Case 96-018, Use of Brand Name Item Descriptions	9000-AH85
4207	FAR Case 97-038, Evaluation of Proposals for Professional Services	9000-AI07
4208	FAR Case 98-007, Competition under Multiple Award Task and Delivery Order Contracts	9000-AI08
4209	FAR Case 98-004, OMB Circular A-119	9000-AI12
4210	FAR Case 97-003, Taxpayer Identification Numbers (TINS)	9000-AI14
4211	FAR Case 98-602, Javits-Wagner-O'Day Proposed Revisions	9000-AI16
4212	FAR Case 98-002, Conditionally Accepted Items	9000-AI17
4213	FAR Case 97-307, HUBZone Program	9000-AI20
4214	FAR Case 98-014, Increased Payment Protection	9000-AI21
4215	FAR Case 97-043, Cost-Reimbursement Architect-Engineer Contracts	9000-AI22
4216	FAR Case 98-003, Cost Accounting Standards Post-Award Notification	9000-AI23
4217	FAR Case 98-006, Interest and Other Financial Costs	9000-AI24
4218	FAR Case 97-030, Conforming Late Offer Treatment	9000-AI25
4219	FAR Case 98-606, Option Clause Consistency	9000-AI26
4220	FAR Case 98-603, Contractor Liability for Loss of and/or Damages to Household Goods	9000-AI28
4221	FAR Case 98-013, Very Small Business Concerns	9000-AI29
4222	FAR Case 98-301, Compensation for Senior Executives	9000-AI32
4223	FAR Case 98-023, Application of the Brooks Act	9000-AI34
4224	FAR Case 98-306, Restrictions on Acquisition of Information Technology	9000-AI37
4225	FAR Case 99-001, Use of Competitive Proposals	9000-AI44
4226	FAR Case 98-300, Determination of Price Reasonableness and Commerciality	9000-AI45

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

4178. • FAR CASE 99-010, CONTRACTOR RESPONSIBILITY, LABOR RELATIONS COSTS, AND COSTS RELATING TO LEGAL AND OTHER PROCEEDINGS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 9.104-1; 48 CFR 31.205-21; 48 CFR 31.205-47

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify coverage and give examples of suitable contractor responsibility considerations. The rule also makes unallowable the costs of attempting to influence employee decisions regarding unionization. In addition, the rule makes unallowable those legal expenses related to defense of judicial or administrative proceedings brought by the Federal Government when a contractor is found to have violated a law or regulation, or the proceeding is settled by consent or compromise, except to the extent specifically provided as part of the settlement agreement. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37360
NPRM Comment Period End	11/08/99	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI40

4179. • FAR CASE 99-004, EXECUTIVE AGENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 17.500

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to add another example of an interagency acquisition that is not subject to the Economy Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866 and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	08/12/99	64 FR 44100
NPRM Comment Period End	10/12/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI42

4180. • FAR CASE 98-609, FEDERAL SUPPLY SCHEDULES SMALL BUSINESS OPPORTUNITIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 8; 48 CFR 38

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to enhance the participation of small business concerns under the Federal Supply Schedules Program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/14/99	64 FR 49948
NPRM Comment Period End	11/15/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI48

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

4181. • FAR CASE 98-614, VETERANS' EMPLOYMENT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 13; 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement sections 7 and 8 of the Veterans Employment Opportunities Act of 1998 (Pub. L. 105-339). Section 7 expands and improves veterans' employment emphasis under Federal contracts. Section 8 amends the veterans' employment reporting requirements. This rule also implements the Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) final rule amending 41 CFR part 60-250, Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans and Veterans of the Vietnam Era, which clarifies DOL implementation of the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755

FAR

Final Rule Stage

Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI46

4182. • FAR CASE 97-613, APPLICATION OF THE DAVIS-BACON ACT TO CONSTRUCTION CONTRACTS WITH OPTIONS TO EXTEND THE TERM OF THE CONTRACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1; 48 CFR 22; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement the requirement of Department of Labor (DOL) All Agency Memorandum No. 157 (AAM 157), as clarified in the Federal Register on November 20, 1998. The rule requires incorporation of the current Davis-Bacon Act wage determination at the exercise of each option period in construction contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI47

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

4183. FAR CASE 89-093, IMPLEMENTATION OF THE ANTI-LOBBYING STATUTE

Priority: Substantive, Nonsignificant

Legal Authority: PL 101-121, Sec 319

CFR Citation: 48 CFR 3; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 319 of Pub. L. 101-121, which added a new section 1352 to title 31 U.S.C. entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions." Section 319 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Section 319 also requires that each person who requests or receives a Federal contract, grant, or cooperative agreement, in excess of $100,000, or a loan or Federal commitment to insure or guarantee a loan, in excess of $150,000, must disclose lobbying with other than appropriated funds.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/90	55 FR 3190
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AD76

4184. FAR CASE 91-078, SMALL BUSINESS SUBCONTRACTING REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 53.219

Legal Deadline: None

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend FAR 53.219 to authorize the addition of a column to the Standard Form 295, Summary Subcontract Report, to report the number of subcontracts awarded to small business concerns, small disadvantaged business concerns, and women-owned small business enterprises. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/26/94	59 FR 49037
NPRM Comment Period End	11/25/94	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067

Email: laurie.duarte@gsa.gov

RIN: 9000–AG04

4185. FAR CASE 94-753, TRAVEL COSTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 103-355

CFR Citation: 48 CFR 31.205-46

Legal Deadline: Final, Statutory, October 1, 1995, The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

Abstract: This rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 U.S.C. 22 by section 2191 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

Timetable:

Action	Date	FR Cite
NPRM	12/14/94	59 FR 64542
NPRM Comment Period End	02/13/95	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AG27

4186. FAR CASE 96-308, IMPLEMENTATION OF COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEM ACQUISITION PROVISIONS OF THE FEDERAL ACQUISITION REFORM ACT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: PL 104-106, sec 4203

CFR Citation: 48 CFR 2.101; 48 CFR 3.104-10(c); 48 CFR 3.503; 48 CFR 12.301; 48 CFR 12.7; 48 CFR 15.106-1; 48 CFR 19.508; 48 CFR 25.605; 48 CFR 27.409; 48 CFR 52.212-4; 48 CFR 52.212-00

Legal Deadline: NPRM, Statutory, September 7, 1996, The Federal Acquisition Streamlining Act eliminated the statutory requirement to the travel cost principle concerning the Federal Travel Regulations. No regulatory implementation was required.

Abstract: The Federal Acquisition Regulatory Council solicited comments regarding the implementation of section 4203 of the Federal Acquisition Reform Act (Pub. L. 104-106)(the Act) with respect to Commercially Available Off-the-Shelf Item Acquisitions. The Act requires the FAR to list provisions of law that are inapplicable to contracts for the acquisition of commercially available off-the-shelf items. Certain laws have already been determined to be inapplicable to all commercial items as a result of the implementation of the Federal Acquisition Streamlining Act of 1994 (see FAR 12.503).

Timetable:

Action	Date	FR Cite
ANPRM	05/13/96	61 FR 22010
ANPRM Comment Period End	06/28/96	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH25

4187. FAR CASE 97-024, FOREIGN ACQUISITION

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 15.106-1; 48 CFR 25; 48 CFR 52.225-1 to 52.225-18

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to rewrite guidance and clauses on foreign acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/28/98	63 FR 51642
NPRM Comment Period End	11/27/98	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH30

4188. FAR CASE 95-013, GOVERNMENT PROPERTY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: The rule amends the Federal Acquisition Regulation (FAR) to simplify procedures and eliminate requirements related to the management and disposition of Government property in the possession of contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	06/02/97	62 FR 30186
NPRM Comment Period End	08/15/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH60

4189. FAR CASE 96-023, CLAUSE FLOWDOWN-COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52.244-6

Legal Deadline: None

Abstract: This rule proposes amendments to the clause at FAR 52.244-6, Subcontracts for Commercial Items and Commercial Comments, to clarify that contractors are required to include, in subcontracts at any tier for commercial items or commercial components, the FAR clauses and provisions listed in the clause at FAR 52.244-6 and such other clauses and provisions as may be required by addenda, to the extent they are applicable or necessary to establish the reasonableness of prices under FAR part 15. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	09/23/97	62 FR 49903
NPRM Comment Period End	11/24/97	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH69

4190. FEDERAL ACQUISITION REGULATION; PROGRESS PAYMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 137

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: The Director of Defense Procurement, Department of Defense, has established a special interagency team with participants from the OUSD (Comptroller), the Military Departments, the DLA, the DCAA, the DFAS, the DOE, and the NASA that will review and rewrite FAR part 32 and part 52 provisions regarding Progress Payments to make them easier to understand and to minimize the burdens imposed on contractors and contracting officers. The Director of Defense Procurement will provide a forum for an exchange of ideas and information with Government and industry personnel by holding at least one public meeting, soliciting public comments, and publishing notices of public meetings in the Federal Register. Discussion will focus on draft revisions of FAR part 32, subpart 32.5, Progress Payments Based on Costs, and associated contract clauses and forms.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/97	62 FR 23740
ANPRM Comment Period End	05/30/97	
Second ANPRM	03/05/98	63 FR 11074
ANPRM Comment Period End	04/06/98	
NPRM	02/10/99	64 FR 6758
NPRM Comment Period End	04/12/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Michele P. Peterson, Executive Editor, Defense Acquisition Regulations Council, DOD/GSA/NASA (FAR), Room 3C800, DOD (PDUSD(A&T) DP CPF, Defense Pentagon, Washington, DC 20301-3060
Phone: 703 695-7197

RIN: 9000–AH70

4191. FAR CASE 97-032, RELOCATION COSTS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2301 to 2331; 42 USC 2473(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove the ceilings imposed on certain types of relocation costs; to permit reimbursement of relocation costs on an appropriate lump-sum basis; and to make allowable payments for spouse employment assistance and payments for increase employee income and social security taxes incident to allowable reimbursed relocation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and this is not a major rule under 5 U.S.C. 804

Timetable:

Action	Date	FR Cite
NPRM	05/25/99	64 FR 28330
NPRM Comment Period End	07/26/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH96

4192. FAR CASE 97-304, ELECTRONIC COMMERCE IN FEDERAL PROCUREMENT

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-85, sec 850

CFR Citation: 48 CFR 2; 48 CFR 4; 48 CFR 5; 48 CFR 13; 48 CFR 14; 48 CFR 32

Legal Deadline: Final, Statutory, May 16, 1998.

Abstract: This rule amends the Federal Acquisition Regulation to implement section 850 of the National Defense Act for FY 1998 (Pub. L. 105-85) to eliminate the preference for electronic commerce within Federal Acquisition Computer Network. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/30/98	63 FR 58590
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI10

4193. FAR CASE 98-611, EVALUATION BOARDS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36.602-2

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to revise the coverage at 36.602-2, Evaluation Boards, to specifically state that only individuals experienced in architecture, engineering, construction, and acquisition of architect-engineering services will serve as members of evaluation boards. This regulatory action is not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI13

4194. FAR CASE 97-033, POLLUTION CONTROL AND CLEAN AIR AND WATER

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 1.106; 48 CFR 12.503; 48 CFR 12.504; 48 CFR 23.1; 48 CFR 52.223-1; 48 CFR 52.223-2

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove language pertaining to pollution control and clean air and water. The Environmental Protection Agency (EPA) is in the process of improving the communications systems relied on to identify facilities that may not be used in the performance of Government contracts because of their involvement in criminal violations of the Clean Air Act (CAA) or Clean Water Act (CWA). With these anticipated improvements, EPA will be able to provide more up-to-date information about CAA and CWA criminal convictions for publication in the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Nonprocurement Programs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/13/99	64 FR 26264
NPRM Comment Period End	07/12/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI19

4195. FAR CASE 98-400, PROGRESS PAYMENTS AND RELATED FINANCING POLICIES

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to reduce the burdens imposed on contractors

and contracting officers by the progress payment type of financing; to permit the use of performance-based payments in contracts for research and development and contracts awarded through competitive negotiation procedures; to expand the use of subcontractor performance-based or commercial financing payments; and to simplify and clarify related provisions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	02/10/99	64 FR 6757
NPRM Comment Period End	04/12/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI27

4196. • FAR CASE 98-011, SBA 8(A) BUSINESS DEVELOPMENT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC ch 137; 40 USC 486(c); 42 USC 2473(c)

CFR Citation: 48 CFR 12; 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement revisions made to Small Business Administration (SBA) regulations pertaining to its 8(a) Business Development (8(a)BD) Program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/17/99	64 FR 32742
Interim Final Rule Effective	06/17/99	
Interim Final Rule Comment Period End	08/16/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI33

4197. • FAR CASE 98-017, REVIEW OF AWARD FEE DETERMINATION (BURNSIDE-OTT)

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 16; 48 CFR 48; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement rulings of the United States Court of Appeals and the United States Court of Federal Claims. The rulings are that the Contract Disputes Act applies to all disputes arising under Government contracts unless a more specific statute provides for other remedies arising from a contract dispute. This regulatory action was not subject to Office of Managment and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	05/06/99	64 FR 24472
NPRM Comment Period End	07/06/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI35

4198. • FAR CASE 98-605, SERVICE CONTRACT ACT, COMMERCIAL ITEM SUBCONTRACTS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 12.504(a)(10)

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to delete the Service Contract Act from the list of statutes not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI36

4199. • FAR CASE 99-600, NONDISPLACEMENT OF QUALIFIED WORKERS—COMMERCIAL ITEMS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to add the clause title, Nondisplacement of Qualified Workers, to the clause concerning Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items. This addition would permit inclusion of the clause, by reference, in solicitations and contracts for commercial services, when determined appropriate by the contracting officer. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32738
NPRM Comment Period End	08/16/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI38

4200. • FAR CASE 98-604, OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 47.504; 48 CFR 52.212-5; 48 CFR 52.213-4; 48 CFR 52.247-64

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to clarify application of the preference for U.S.-flag vessels. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/12/99	64 FR 37640
NPRM Comment Period End	09/10/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI39

4201. • FAR CASE 98-304, COMMERCIAL ITEMS-NONGOVERNMENTAL PURPOSES

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-261

CFR Citation: 48 CFR 2; 48 CFR 52

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement section 803(a)(2)(D) of the Strom Thurmond National Defense Authorization Act for fiscal year 1999 by revising the definition of "commercial item" to provide specific guidance on the meaning and appropriate application of the term "purposes other than Government purposes at 41 U.S.C. 403(12)(A). This rule was not subject to Office of Management and Budget review under section 6(b) of Executive Order 12866 "Regulatory Planning and Review," dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40694
NPRM Comment Period End	09/27/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI41

4202. • FAR CASE 98-010, A-76 COST COMPARISON

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 7.3

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to provide guidance on public-private competitions where the award decision is based on a trade off among cost or price and non-cost or price factors, rather than on the basis of lowest price. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

FAR

Long-Term Actions

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov
RIN: 9000–AI43

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

4203. FAR CASE 97-603, EMPOWERMENT CONTRACTING

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 48 CFR 12.301; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 26.3; 48 CFR 36.602; 48 CFR 52.226

Completed:

Reason	Date	FR Cite
Withdraw	07/26/99	64 FR 40494

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal, Tribal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH58

4204. FAR CASES 97-004A AND 97-004B, REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT

Priority: Economically Significant. Major under 5 USC 801.

CFR Citation: 48 CFR 5.207; 48 CFR 6.203; 48 CFR 12.303; 48 CFR 14.206; 48 CFR 15.605; 48 CFR 15.608; 48 CFR 15.1002; 48 CFR 19; 48 CFR 52.219; 48 CFR 53; 48 CFR 1.106; 48 CFR 15.3; 48 CFR 52.212; 48 CFR 53.219; 48 CFR 53.302-312

Completed:

Reason	Date	FR Cite
Final Action	07/02/99	64 FR 36222

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH59

4205. FAR CASE 97-031, VALUE ENGINEERING CHANGE PROPOSALS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 48; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51846
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected. Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH84

4206. FAR CASE 96-018, USE OF BRAND NAME ITEM DESCRIPTIONS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 11.104; 48 CFR 11.104-1; 48 CFR 11.104-2; 48 CFR 11.106; 48 CFR 13.106-2; 48 CFR 13.602; 48 CFR 52.211

Completed:

Reason	Date	FR Cite
Final Action	06/17/99	64 FR 32741
Final Action Effective	08/16/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AH85

4207. FAR CASE 97-038, EVALUATION OF PROPOSALS FOR PROFESSIONAL SERVICES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 15.305; 48 CFR 37.115

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51841
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI07

4208. FAR CASE 98-007, COMPETITION UNDER MULTIPLE AWARD TASK AND DELIVERY ORDER CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 16

Completed:

Reason	Date	FR Cite
Final Action	06/17/99	64 FR 32746
Final Action Effective	08/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI08

4209. FAR CASE 98-004, OMB CIRCULAR A-119

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 11; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51834
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte

FAR

Completed Actions

Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI12

4210. FAR CASE 97-003, TAXPAYER IDENTIFICATION NUMBERS (TINS)

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 1.106; 48 CFR 4.203; 48 CFR 4.901 to 4.905; 48 CFR 13.106-3; 48 CFR 14.201-6; 48 CFR 15.209; 48 CFR 52.204-3; 48 CFR 52.214-2; 48 CFR 52.215-4

Completed:

Reason	Date	FR Cite
Final Action	06/17/99	64 FR 32741
Final Action Effective	06/17/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI14

4211. FAR CASE 98-602, JAVITS-WAGNER-O'DAY PROPOSED REVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 8; 48 CFR 42

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51833
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI16

4212. FAR CASE 98-002, CONDITIONALLY ACCEPTED ITEMS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 46

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51845
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI17

4213. FAR CASE 97-307, HUBZONE PROGRAM

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5.207; 48 CFR 6.205; 48 CFR 6.302-5; 48 CFR 7.105; 48 CFR 8.404; 48 CFR 12.301; 48 CFR 13.003; 48 CFR 13.005; 48 CFR 14.206; 48 CFR 14.502; 48 CFR 15.503; 48 CFR 19; 48 CFR 52; 48 CFR 53

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51830
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI20

4214. FAR CASE 98-014, INCREASED PAYMENT PROTECTION

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 28; 48 CFR 52

Completed:

Reason	Date	FR Cite
Withdrawn	10/28/99	64 FR 58282

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI21

4215. FAR CASE 97-043, COST-REIMBURSEMENT ARCHITECT-ENGINEER CONTRACTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 36; 48 CFR 44; 48 CFR 49; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51844
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI22

4216. FAR CASE 98-003, COST ACCOUNTING STANDARDS POST-AWARD NOTIFICATION

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51849
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI23

4217. FAR CASE 98-006, INTEREST AND OTHER FINANCIAL COSTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51844
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI24

4218. FAR CASE 97-030, CONFORMING LATE OFFER TREATMENT

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 12; 48 CFR 14; 48 CFR 15; 48 CFR 52

FAR

Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51837
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI25

4219. FAR CASE 98-606, OPTION CLAUSE CONSISTENCY

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 17; 48 CFR 52

Completed:

Reason	Date	FR Cite
Final Action	09/24/99	64 FR 51842
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI26

4220. FAR CASE 98-603, CONTRACTOR LIABILITY FOR LOSS OF AND/OR DAMAGES TO HOUSEHOLD GOODS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 47.207-7(e); 48 CFR 52.247-23(c)

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/19/99	64 FR 7736
Withdrawn	07/28/99	64 FR 40998

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI28

4221. FAR CASE 98-013, VERY SMALL BUSINESS CONCERNS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5; 48 CFR 8; 48 CFR 12; 48 CFR 19; 48 CFR 52

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End	05/03/99	64 FR 10535
Final Action	09/24/99	64 FR 51829
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: Yes

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI29

4222. FAR CASE 98-301, COMPENSATION FOR SENIOR EXECUTIVES

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 31

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End	05/03/99	64 FR 10547
Final Action	09/24/99	64 FR 51843
Final Action Effective	09/24/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal

Agency Contact: Laurie Duarte
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI32

4223. • FAR CASE 98-023, APPLICATION OF THE BROOKS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to remove a reference to the National Imagery and Mapping Agency (NIMA). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	06/17/99	64 FR 32746
Final Action Effective	08/16/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI34

4224. • FAR CASE 98-306, RESTRICTIONS ON ACQUISITION OF INFORMATION TECHNOLOGY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 39

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement Division A, section 101(h), title VI, section 622 of the Omnibus Appropriations and Authorization Act for fiscal year 1999. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	06/17/99	64 FR 32747
Final Action Effective	08/16/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is no paperwork burden associated with this action.

FAR

Completed Actions

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI37

4225. • FAR CASE 99-001, USE OF COMPETITIVE PROPOSALS

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473(c)

CFR Citation: 48 CFR 6

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to delete the requirement for contracting officers to explain in writing their rationale for choosing to use competitive proposals rather than sealed bidding. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Final Action	09/24/99	64 FR 51832
Final Action Effective	11/23/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI44

4226. • FAR CASE 98-300, DETERMINATION OF PRICE REASONABLENESS AND COMMERCIALITY

Priority: Substantive, Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC ch 137; 42 USC 2473

CFR Citation: 48 CFR 12; 48 CFR 13; 48 CFR 15

Legal Deadline: None

Abstract: This rule amends the Federal Acquisition Regulation (FAR) to implement sections 803 and 808 of the Strom Thurmond National Defense Authorization Act for fiscal year 1999 (Pub. L. 105-261). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/24/99	64 FR 51835
Interim Final Rule Effective	09/24/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions, Businesses

Government Levels Affected: Federal

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Laurie Duarte, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (MVRS-FAR Secretariat), 18th and F Streets NW, Washington, DC 20405
Phone: 202 501-4755
Fax: 202 501-4067
Email: laurie.duarte@gsa.gov

RIN: 9000–AI45

[FR Doc. 99–23651 Filed 11–19–99; 8:45 am]
BILLING CODE 6820–EP–F

VOL 64 ISS 224 NO 22 1999 UMI

Monday,
November 22, 1999

Part XLIX

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

Commodity Futures Trading Commission (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. For this edition of the Commission's regulatory agenda, the Commission's Statement of Regulatory Priorities appears in part II of this issue of the **Federal Register**. At this time, the Commission has no Regulatory Plan entries for the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Ms. Barbara Webster Black, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5130, bblack@cftc.gov.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.[1] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides:

"Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission's October 1999 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on September 8, 1999, by the Commission.

Jean A. Webb,

Secretary to the Commission.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4227	Insider Trading—Regulation 1.59	3038-AB35

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4228	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4229	Denomination of Customer Funds and Location of Depositories	3038-AB31
4230	Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term "Commodity Pool Operator"	3038-AB34
4231	Definition of a Principal	3038-AB36
4232	Rule 4.7: Exemption From Certain Part 4 Requirements With Respect to Qualified Eligible Participants and Qualified Eligible Clients	3038-AB37
4233	Performance Disclosures for Commodity Trading Advisors and Commodity Pool Operators	3038-AB39
4234	Special Reporting Required of Certain Commodity Pool Operators—Regulations 4.7, 4.12, and 4.27	3038-AB40
4235	Contingent EFP Prohibition	3038-AB41
4236	Registration Exemptions Pertaining to the Offer and Sale of Foreign Futures and Foreign Options Contracts to Customers Located in the United States	3038-AB45
4237	Direct Foreign Order Transmittal	3038-AB46

[1] The Commission published its definition of small entity to be used in connection with rulemaking proceedings on April 30, 1982 (47 FR 18618). Pursuant to that definition, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. See 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, the listing of a rule in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or the Commission is considering or will consider in the near future.

CFTC

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4238	Revised Procedures for Commission Review and Approval of Applications for Contract Market Designation and of Related Contract Terms and Conditions	3038-AB42
4239	Trade Options on the Enumerated Agricultural Commodities	3038-AB43
4240	Market Rule Review Procedures	3038-AB44
4241	Use of Electronic Signatures	3038-AB47

Completed Actions

Sequence Number	Title	Regulation Identification Number
4242	Automated Access to Foreign Boards of Trade From Within the United States	3038-AB30
4243	Revision of Federal Speculative Position Limits and Associated Rules	3038-AB32
4244	Economic and Public Interest Requirements for Contract Market Designation	3038-AB33
4245	Alternative Procedures for Non-Domestic Persons; Disclosure	3038-AB38

Commodity Futures Trading Commission (CFTC) — Prerule Stage

4227. INSIDER TRADING—REGULATION 1.59

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 9

CFR Citation: 17 CFR 1.59

Legal Deadline: None

Abstract: The proposed regulatory amendment would clarify the use of the terms self-regulatory employee and governing board or committee member for the purpose of Regulation 1.59. The proposed amendment also would clarify the scope of the trading prohibition in Regulation 1.59(b)(1)(i).

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	
ANPRM Comment Period End	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David P. Van Wagner, Acting Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5481
Email: dvanwagner@cftc.gov

RIN: 3038–AB35

Commodity Futures Trading Commission (CFTC) — Proposed Rule Stage

4228. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant. Issues to be addressed include whether commissions or fees can be charged to customers if their accounts are transferred other than at their request.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5439
Email: lpatent@cftc.gov

RIN: 3038–AA77

4229. DENOMINATION OF CUSTOMER FUNDS AND LOCATION OF DEPOSITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 6; 7 USC 6a; 7 USC 6b; 7 USC 6c; 7 USC 6d; 7 USC 6e; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6l

CFTC — Proposed Rule Stage

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is proposing rules requesting public comment on how to address the risks relating to holding segregated funds offshore or in foreign currencies.

Timetable:

Action	Date	FR Cite
Concept Release	12/30/97	62 FR 67841
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: France M. T. Maca, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5482
Email: fmaca@cftc.gov

RIN: 3038–AB31

4230. EXCLUSION FOR CERTAIN OTHERWISE REGULATED PERSONS FROM THE DEFINITION OF THE TERM "COMMODITY POOL OPERATOR"

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a(4); 7 USC 6k to 6o; 7 USC 12a

CFR Citation: 17 CFR 4.5

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is considering proposing an amendment to Rule 4.5 by adding a plan defined as a Church plan in section 3(33) of title I of the Employee Retirement Income Security Act of 1974 to the employee benefit plans that the rule currently provides shall not be construed to be commodity pools.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Barbara Stern Gold, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5450
Email: bgold@cftc.gov

RIN: 3038–AB34

4231. DEFINITION OF A PRINCIPAL

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6m; 7 USC 6n; 7 USC 12a

CFR Citation: 17 CFR 3.1; 17 CFR 4.10

Legal Deadline: None

Abstract: The Commission will undertake a rulemaking to modify the definition of a "principal" for purposes of firm registration and disclosure under part 4 of the Commission's rules. The focus will be upon which officers of a firm should be considered principals for these purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5439
Email: lpatent@cftc.gov

RIN: 3038–AB36

4232. RULE 4.7: EXEMPTION FROM CERTAIN PART 4 REQUIREMENTS WITH RESPECT TO QUALIFIED ELIGIBLE PARTICIPANTS AND QUALIFIED ELIGIBLE CLIENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6l to 6o; 7 USC 12a; 7 USC 23

CFR Citation: 17 CFR 4.7

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission intends to propose amendments to Rule 4.7 that would make more persons eligible for treatment as qualified eligible participants or qualified eligible clients under the rule, e.g., principals of the commodity pool operator or commodity trading advisor who have been employed in the financial services industry for a specified number of years.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Helene D. Schroeder, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5424
Fax: 202 418-5528
Email: hschroeder@cftc.gov

RIN: 3038–AB37

4233. PERFORMANCE DISCLOSURES FOR COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.25; 17 CFR 4.35

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing amendments to the requirements concerning the presentation of rate of return data by commodity trading advisors and commodity pool operators. The Commission's proposed rules address computational and disclosure matters relating to participating in commodity trading advisor programs on a partially-funded basis.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/98	63 FR 33297
ANPRM Comment Period End	09/16/98	
NPRM	08/02/99	64 FR 41843

CFTC — Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	10/01/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert B. Wasserman, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5092
Fax: 202 418-5528
Email: rwasserman@cftc.gov

RIN: 3038–AB39

4234. • SPECIAL REPORTING REQUIRED OF CERTAIN COMMODITY POOL OPERATORS—REGULATIONS 4.7, 4.12, AND 4.27

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 6l

CFR Citation: 17 CFR 4.7; 17 CFR 4.12; 17 CFR 4.27 (proposed)

Legal Deadline: None

Abstract: The proposed regulatory amendments would require large commodity pools or "hedge funds" to file quarterly financial reports and risk information. These data would be published to enable the public and regulatory bodies to assess the potential financial systemic risk posed by such funds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tobey Kaczensky, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
Phone: 202 418-5460
Fax: 202 418-5520
Email: tkaczensky@cftc.gov

RIN: 3038–AB40

4235. • CONTINGENT EFP PROHIBITION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 6b; 7 USC 6c; 7 USC 6

CFR Citation: 17 CFR 1.38a

Legal Deadline: None

Abstract: The proposed regulatory amendment would clarify the distinctions between transitory and contingent EFPs and would prohibit the execution of contingent EFPs as transactions not allowed under Section 4c of the Commodity Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Riva Spear Adriance, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
Phone: 202 418-5494
Fax: 202 418-5536
Email: radriance@cftc.gov

RIN: 3038–AB41

4236. • REGISTRATION EXEMPTIONS PERTAINING TO THE OFFER AND SALE OF FOREIGN FUTURES AND FOREIGN OPTIONS CONTRACTS TO CUSTOMERS LOCATED IN THE UNITED STATES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2(a)(1)(A); 7 USC 4(b); 7 USC 4c

CFR Citation: 17 CFR 30.1; 17 CFR 30.4; 17 CFR 30.10

Legal Deadline: None

Abstract: The Commission proposes to codify some of the interpretations and positions that its staff has taken regarding registration requirements under Part 30 of the Commission's rules, which governs, generally, the solicitation and sale of foreign futures and foreign options contracts to customers located in the United States. The Commission proposes to modify Rule 30.4(a) by clarifying that foreign futures and options brokers, including those with U.S. bank branches, are not required to register as futures commission merchants (FCMs) pursuant to Rule 30.4, or seek Rule 30.10 relief, if they fall generally into the following categories: (1) those that carry customer omnibus accounts for U.S. FCMs; (2) those that carry U.S. affiliate accounts which are proprietary to the foreign futures and options broker; and (3) those that carry U.S. accounts which are proprietary to a U.S. FCM. In addition, proposed Rule 30.10(a) will specify representations that must be made by a foreign futures and options broker that has U.S. bank branches in order to obtain a Rule 30.10 comparability exemption or to come within the registration exception of Rule 30.4.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46613
NPRM Comment Period End	10/25/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Susan A. Elliott, Senior Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
Phone: 202 418-5464
Fax: 202 418-5528
Email: selliott@cftc.gov

RIN: 3038–AB45

4237. • DIRECT FOREIGN ORDER TRANSMITTAL

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6(b), 6c; 7 USC 12a

CFR Citation: 17 CFR 30.12

Legal Deadline: None

Abstract: Under proposed Rule 30.12, certain unregistered foreign futures and options brokers (FFOBs) would be permitted to accept orders directly from

CFTC — Proposed Rule Stage

certain sophisticated U.S. foreign futures and options customers for execution through the customer's futures commission merchant's (FCM) customer omnibus account. In addition, proposed Rule 30.12 would permit an unregistered FFOB to directly accept and execute these orders and give up the trades to another unregistered FFOB carrying the FCM's customer omnibus account. The proposed rule would require participating FCMs to satisfy minimum financial requirements and comply with certain procedural safeguards. The permissible means by which foreign orders could be transmitted to an FFOB by the customer are telephone, facsimile, and electronic message.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46618
NPRM Comment Period End	10/25/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Andrew V. Chapin, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
Phone: 202 418-5465
Fax: 202 418-5547
Email: achapin@cftc.gov

RIN: 3038–AB46

Commodity Futures Trading Commission (CFTC) — Final Rule Stage

4238. • REVISED PROCEDURES FOR COMMISSION REVIEW AND APPROVAL OF APPLICATIONS FOR CONTRACT MARKET DESIGNATION AND OF RELATED CONTRACT TERMS AND CONDITIONS

Priority: Other Significant

Legal Authority: 7 USC 6; 7 USC 6c; 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 12a

CFR Citation: 17 CFR 5

Legal Deadline: None

Abstract: The Commission is proposing a two-year pilot program to permit the listing of futures and option contracts on U.S. exchanges prior to Commission review and approval. This procedure, together with changes the CFTC recently proposed to its review and approval procedures for existing contract rules will significantly increase U.S. exchanges' flexibility in listing new contracts to respond to perceived competitive threats and in amending existing contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40533
NPRM Comment Period End	08/26/99	
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5260
Fax: 202 418-5527
Email: parchitzel@cftc.gov

RIN: 3038–AB42

4239. • TRADE OPTIONS ON THE ENUMERATED AGRICULTURAL COMMODITIES

Priority: Other Significant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6; 7 USC 7; 7 USC 9; 7 USC 11; 7 USC 12; 7 USC 13a; 7 USC 16a; 7 USC 19; 7 USC 21; 7 USC 23; 5 USC 552; 7 USC 4a; 7 USC 6a to 6p; 7 USC 7a to 7b; 7 USC 8; 7 USC 9a; 7 USC 12a; 7 USC 13a-1; 7 USC 13b; 7 USC 13c; 5 USC 552b

CFR Citation: 17 CFR 3; 17 CFR 32; 17 CFR 33

Legal Deadline: None

Abstract: In June 1998, CFTC rules lifting the ban on agricultural trade options became effective. The Commission is proposing to revise these rules. In particular, the CFTC is proposing to streamline the disclosure, registration, customer notification, and reporting requirements currently imposed on agricultural trade option merchants.

Timetable:

Action	Date	FR Cite
NPRM	08/31/99	64 FR 47452
NPRM Comment Period End	09/30/99	
Final Action	11/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5260
Fax: 202 418-5527
Email: parchitzel@cftc.gov

RIN: 3038–AB43

4240. • MARKET RULE REVIEW PROCEDURES

Priority: Other Significant

Legal Authority: 7 USC 1a; 7 USC 8; 7 USC 9; 7 USC 12; 7 USC 13a; 7 USC 16; 7 USC 19; 7 USC 21; 7 USC 23; 7 USC 24; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 6; 7 USC 6a to 6p; 7 USC 7; 7 USC 7a to 7b; 7 USC 12a; 7 USC 12c; 7 USC 13a-1; 7 USC 16a

CFR Citation: 17 CFR 1

Legal Deadline: None

Abstract: The CFTC is proposing to amend its contract market rule review and approval procedures to allow for additional categories of exchange rule amendments to be approved automatically, upon adoption by the exchange, and to permit such amendments to be submitted to the Commission in a single, weekly, summary filing rather than in individual submissions. For certain other rules, the review time would be

reduced to three days. The proposed rules also reorganize, in a clearer and more accessible format, the Commission's rules on expedited approval procedures for proposed rule amendments to exchange contract terms and conditions. The proposed rules will necessitate the filing of fewer individual submissions by U.S. exchanges with the Commission and will reduce unnecessary burdens associated with the Commission's review and approval of proposed exchange rules.

Timetable:

Action	Date	FR Cite
NPRM	07/15/99	64 FR 38159
NPRM Comment Period End	08/16/99	
Final Action	11/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Richard A. Shilts, Director, Market Analysis, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
Phone: 202 418-5260
Fax: 202 418-5527
Email: rshilts@cftc.gov

RIN: 3038–AB44

4241. • USE OF ELECTRONIC SIGNATURES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6b, 6c; 7 USC 6l, 6o; 7 USC 12a; 7 USC 23

CFR Citation: 17 CFR 1.3(tt); 17 CFR 1.4

Legal Deadline: None

Abstract: The Commission is proposing to amend its regulations to permit futures commission merchants, introducing brokers, commodity pool operators, and commodity trading advisors to accept electronic signatures in lieu of handwritten signatures where Commission rules require registrants to obtain a document signed by a customer, client, or pool participant.

Timetable:

Action	Date	FR Cite
NPRM	08/30/99	64 FR 47151
NPRM Comment Period End	10/29/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581
Phone: 202 418-5545
Fax: 202 418-5547
Email: ccummings@cftc.gov

RIN: 3038–AB47

Commodity Futures Trading Commission (CFTC) Completed Actions

4242. AUTOMATED ACCESS TO FOREIGN BOARDS OF TRADE FROM WITHIN THE UNITED STATES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 17 CFR 1.71; 17 CFR 30.11

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/23/99	64 FR 14159
Comment Period Extended	04/30/99	64 FR 22588
Withdrawn	06/18/99	64 FR 32829

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lawrence B. Patent
Phone: 202 418-5439
Email: lpatent@cftc.gov

RIN: 3038–AB30

4243. REVISION OF FEDERAL SPECULATIVE POSITION LIMITS AND ASSOCIATED RULES

Priority: Other Significant

CFR Citation: 17 CFR 1; 17 CFR 17; 17 CFR 18; 17 CFR 150

Completed:

Reason	Date	FR Cite
Final Action	05/05/99	64 FR 24038
Final Action Effective	07/06/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul M. Architzel
Phone: 202 418-5260
Fax: 202 418-5527
Email: parchitzel@cftc.gov

RIN: 3038–AB32

4244. ECONOMIC AND PUBLIC INTEREST REQUIREMENTS FOR CONTRACT MARKET DESIGNATION

Priority: Other Significant

CFR Citation: 17 CFR 5

Completed:

Reason	Date	FR Cite
Final Action	06/01/99	64 FR 29217
Final Action Effective	08/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Paul M. Architzel
Phone: 202 418-5260
Fax: 202 418-5527
Email: parchitzel@cftc.gov

RIN: 3038–AB33

4245. ALTERNATIVE PROCEDURES FOR NON-DOMESTIC PERSONS; DISCLOSURE

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 30.5; 17 CFR 30.6

Completed:

Reason	Date	FR Cite
Final Action	05/28/99	64 FR 28910
Final Action Effective	06/28/99	

Regulatory Flexibility Analysis Required: No

CFTC **Completed Actions**

Government Levels Affected: None

Agency Contact: Susan A. Elliott

Phone: 202 418-5464
Fax: 202 418-5528

Email: selliott@cftc.gov

RIN: 3038–AB38

[FR Doc. 99–24747 Filed 11–19–99; 8:45 am]
BILLING CODE 6351–01–F

VOL 64 ISS 224 NO 22 1999 UMI

federal register

Monday,
November 22, 1999

Part L

Consumer Product Safety Commission

Semiannual Regulatory Agenda

Consumer Product Safety Commission (CPSC)

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866.

DATES: The Commission welcomes comments on each subject area of the agenda, particularly from small entities. Written comments concerning the agenda should be received in the Office of the Secretary by December 31, 1999.

ADDRESSES: Comments on the regulatory flexibility agenda should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504-0800, or delivered to the Office of the Secretary, Room 502, 4330 East West Highway, Bethesda, Maryland 20814. Comments should be captioned "Regulatory Flexibility Agenda." Comments may also be filed by telefacsimile to (301) 504-0127 or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Stephen Lemberg, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504-0980, ext. 2218. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated that is likely to have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the nature of the rule, and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda is also required to contain the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish twice each year a regulatory agenda of regulations under development or review during the next year and states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda published below lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, DC 20207.

For this edition of the Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated: September 1, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4246	Amendment of the Standard for the Flammability of Clothing Textiles	3041-AB68
4247	Petition CP 97-1 Requesting Development of a Safety Standard for Escalators	3041-AB70
4248	Petition CP 99-1 Requesting a Ban of, or Warnings and Instructions for, Steel Electricians' Fish Tapes	3041-AB83
4249	Petition CP 99-2 Requesting Safety Standard for Bleachers and Grandstands	3041-AB84

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4250	Flammability Standard for Upholstered Furniture **(Reg Plan Seq No. 158)**	3041-AB35

CPSC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4251	Baby Walkers	3041-AB40
4252	Requirements for Child-Resistant Packaging of Household Products Containing Petroleum Distillates or Other Hydrocarbons	3041-AB57
4253	Amendment of Safety Regulations for Cribs	3041-AB67
4254	Dive Sticks	3041-AB82

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4255	Requirements for Child-Resistance of Multi-Purpose Lighters **(Reg Plan Seq No. 159)**	3041-AB66
4256	Amendment of Laundering Procedures in Flammability Standards for Children's Sleepwear, Carpets and Rugs, and Mattress Pads	3041-AB69
4257	Requirements for Bunk Beds **(Reg Plan Seq No. 160)**	3041-AB75

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4258	Petition HP 93-1 Requesting Development of a Rule To Ban Certain Backyard Playsets	3041-AB47
4259	Petition HP 99-1 for a Ban of Polyvinyl Chloride in Toys and Other Products Intended for Children 5 Years of Age and Under	3041-AB79
4260	Petition FP 99-1 Requesting Labeling Rule for Polyurethane Foam in Upholstered Furniture	3041-AB81

Completed Actions

Sequence Number	Title	Regulation Identification Number
4261	Child Resistant Packaging of Consumer Products Containing Methacrylic Acid	3041-AB78
4262	Proposed Revocation of Amendments to the Standards for Flammability of Children's Sleepwear; Labeling for Tight-Fitting Sleepwear; Correction of Amendments to the Children's Sleepwear Standard	3041-AB80

Consumer Product Safety Commission (CPSC)

Prerule Stage

4246. AMENDMENT OF THE STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1610

Legal Deadline: None

Abstract: The Standard for the Flammability of Clothing Textiles prohibits the manufacture, importation, or sale of clothing, and fabrics and related materials intended for use in clothing, which are dangerously flammable because of rapid and intense burning. The standard prescribes the apparatus, procedure, and criteria to be used for testing to determine compliance with that standard. The standard was made mandatory by the Flammable Fabrics Act of 1953 (Pub. L. 83-88, 67 Stat. 111; June 30, 1953). Some of the equipment and procedures specified by the standard, particularly those for laundering and cleaning of test specimens, have become obsolete, unavailable, or unrepresentative of current practices. The staff is preparing a briefing package describing modifications of the standard that may be needed to assure that the test in the standard is conducted with equipment and procedures representative of conditions to which garments currently are exposed. After consideration of the briefing package, the Commission will

decide whether to begin a proceeding for amendment of the standard.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to Commission	12/00/99	
Commission Decision	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB68

4247. PETITION CP 97-1 REQUESTING DEVELOPMENT OF A SAFETY STANDARD FOR ESCALATORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Scott and Diana Anderson requests development of a safety standard for escalators. The petition asserts that escalators are associated with unreasonable risks of serious injuries resulting from entrapment of feet, toes, and other body parts in openings between the moving stairs and the sides of the escalators. On May 22, 1997, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The industry is conducting research to support possible improvements to the escalator code to address side-wall entrapments. The staff is preparing a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Notice To Solicit Comments on Petition	05/22/97	62 FR 28005
Comment Period End	07/21/97	
Industry Completes Report and Makes Recommendations to Improve Code	09/30/99	
Staff Sends Briefing Package to Commission	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Patricia Hackett, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB70

4248. • PETITION CP 99-1 REQUESTING A BAN OF, OR WARNINGS AND INSTRUCTIONS FOR, STEEL ELECTRICIANS' FISH TAPES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 U.S.C. 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from John C. Stein requesting a ban of, or the requirement of warnings and instructions for, steel electricians' fish tapes. The petition asserts that steel electricians' fish tapes are associated with electrocution and injury resulting from the use of steel, which conducts electricity. On June 7, 1999, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff will prepare a briefing package for consideration by the Commission.

Timetable:

Action	Date	FR Cite
Petition Docketed	05/19/99	
Notice	06/07/99	64 FR 30323
Comment Period End	08/07/99	
Staff Sends Briefing Package to Commission	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Mohammed Khan, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB83

4249. • PETITION CP 99-2 REQUESTING SAFETY STANDARD FOR BLEACHERS AND GRANDSTANDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrtative Procedure Act; 15 USC 2051 Consumer Product Safety Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from Representatives Bill Luther and Jim Ramstad requests that the Commission develop a safety standard for bleachers and grandstands. The petitioners assert that there have been several recent incidents of children falling through gaps in bleacher seats at basketball and hockey arenas. They request that the Commission set a national standard that would include minimum spacing requirements for gaps between bleacher guardrails and between seats and footboards and other safety features for new bleachers. They also request guidelines for retrofitting older facilities. On August 26, 1999, the Commission published a notice in the Federal Register to solicit comments on the petition from all interested persons. The staff will prepare a briefing package for the Commission to consider.

Timetable:

Action	Date	FR Cite
Petition Docketed	08/10/99	
Notice	08/26/99	64 FR 46657
Comment Period End	10/25/99	
Staff Sends Briefing Package to Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Scott Heh, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB84

Consumer Product Safety Commission (CPSC) **Proposed Rule Stage**

4250. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Regulatory Plan: This entry is Seq. No. 158 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB35

4251. BABY WALKERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act; 15 USC 1262 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On August 2, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in the issuance of mandatory design or performance requirements for baby walkers. A baby walker is a device that supports a child so that the child can use his or her feet to move about before or while learning to walk. Typically, a baby walker consists of a fabric seat that has leg openings and is mounted to a rigid plastic deck. The deck is attached to a base that is mounted on wheels to allow mobility. In 1994, an estimated 25,500 children younger than 15 months of age were treated in hospital emergency rooms for injuries associated with baby walkers. The majority of these injuries resulted from falls down stairs. Among the options under consideration by the Commission are mandatory performance or design requirements to reduce risks of injury associated with baby walkers, particularly those resulting to children from falls down stairs.

In response to the Commission's work in this area, the industry approved revisions to the voluntary standard for baby walkers in 1996 to address the hazard of falling down stairs. The American Society for Testing and Materials (ASTM) standard contains performance requirements to address risks of injury to children from falls down stairs associated with baby walkers. The staff is currently assessing the extent of industry conformance with that voluntary standard, designated "Standard Consumer Safety Specification for Infant Walkers," SF 977-96, published by ASTM. The staff will send that information to the Commission together with options for Commission action, including withdrawal of the ANPRM or further regulatory proceedings.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/94	59 FR 39309
ANPRM Comment Period End	10/03/94	
Staff Provided Technical Recommendations to Revise Voluntary Standard	12/16/94	
Revised Voluntary Standard Approved	10/01/96	
Voluntary Certification Program Began	06/30/97	
Staff Began Monitoring Conformance to Revised Voluntary Standard	05/03/99	
Staff Completes Monitoring Conformance	12/00/99	
Staff Sends Briefing Package to Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Barbara Jacobson, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207 Phone: 301 504-0477

RIN: 3041–AB40

4252. REQUIREMENTS FOR CHILD-RESISTANT PACKAGING OF HOUSEHOLD PRODUCTS CONTAINING PETROLEUM DISTILLATES OR OTHER HYDROCARBONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14(a)

Legal Deadline: None

Abstract: Some household products containing ten percent or more by weight of petroleum distillates are subject to requirements for child-resistant packaging by regulations issued under the Poison Prevention Packaging Act and codified at 16 CFR 1700.14(a). These products include liquid furniture polish (section 1700.14(a)(2)), lighter fluid (section 1700.14(a)(7)), and prepackaged solvents for paint (section 1700.14(a)(15)). However, many other household products containing petroleum distillates are not required to be in child-resistant packaging. On February 26, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to initiate a proceeding which may result in mandatory requirements for child-resistant packaging of other household products containing petroleum distillates or other hydrocarbons. On April 28, 1997, the Commission extended the period for receipt of written comments on the ANPRM until July 11, 1997. In the Federal Register of July 21, 1997, the Commission reopened the comment period through September 1, 1997. The Commission will consider comments received in response to the ANPRM before deciding whether to propose requirements for child-resistant packaging of additional household products containing petroleum distillates or other hydrocarbons. The staff sent a briefing package to the Commission on August 11, 1999.

Timetable:

Action	Date	FR Cite
ANPRM	02/26/97	62 FR 8659
Extension of ANPRM Comment Period	04/28/97	62 FR 22897
ANPRM Comment Period End	05/12/97	62 FR 8659
Comment Period End	07/11/97	62 FR 22897
Reopening of ANPRM Comment Period	07/21/97	62 FR 38948
Comment Period End	09/01/97	
Staff Sent Briefing Package to Commission	08/11/99	
Commission Decision	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dr. Suzanne Barone, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207 Phone: 301 504-0477

RIN: 3041–AB57

CPSC

Proposed Rule Stage

4253. AMENDMENT OF SAFETY REGULATIONS FOR CRIBS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553 Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1508; 16 CFR 1509

Legal Deadline: None

Abstract: On December 16, 1996, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in amendment of the safety regulations for full-size and non-full-size cribs, 16 CFR parts 1508 and 1509. Among the regulatory alternatives under consideration is amendment of the regulations to add tests to assure that slats will not disengage from the side panels of cribs. The Commission began this proceeding after considering information about incidents in which crib slats disengaged from the side panels of cribs, creating a risk that children may become entrapped between the remaining slats or fall out of the crib. At the urging of CPSC staff, in April 1999, the voluntary standard for cribs designated "Specification for Full Size Baby Cribs (ASTM F1169-99)" and published by the American Society for Testing and Materials (ASTM) was revised to include performance requirements for crib slats. The Commission will consider written comments received in response to the ANPRM and assess conformance with the voluntary standard before deciding whether to continue the proceeding by publication of a notice of proposed rulemaking (NPRM) or terminate further proceedings in reliance on the voluntary standard.

Timetable:

Action	Date	FR Cite
Staff Recommended Revisions to Voluntary Standard	09/30/96	
ANPRM	12/16/96	61 FR 65996
ANPRM Comment Period End	02/14/97	
Revisions to Voluntary Standard Approved	04/10/99	
Voluntary Certification Program Begins	03/00/00	
Staff Begins Monitoring Conformance to Revised Voluntary Standard	06/00/00	
Staff Completes Monitoring Conformance	To Be Determined	
Staff Sends Briefing Package to Commission	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah Tinsworth, Project Manager, Consumer Product Safety Commission, Directorate for Epidemiology, Washington, DC 20207
Phone: 301 504-0470

RIN: 3041–AB67

4254. • DIVE STICKS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: On July 16, 1999 the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding that may result in a ban of dive sticks with certain characteristics that cause them to be hazardous. Dive sticks are one of several types of devices used for underwater retrieval activities in swimming pools. They are typically made of rigid plastic, and are or can be weighted so that when dropped into water they sink and stand upright on the bottom. Many dive sticks have a cylindrically-shaped profile, while some have novel shapes like sharks or other sea creatures. Such dive sticks are constructed in such a manner that children can become impaled on them when they jump into shallow water where the dive sticks are oriented in an upright position. This impalement has resulted in serious injuries.

The Commission will consider written comments received in response to the ANPRM before deciding whether to continue the proceeding by publication of a notice of proposed rulemaking (NPRM).

Timetable:

Action	Date	FR Cite
ANPRM	07/16/99	64 FR 38387
ANPRM Comment Period End	09/14/99	
Staff Sends Briefing Package to Commission	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Scott Heh, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB82

Consumer

4255. REQUI RESISTANCE LIGHTERS

Regulatory P 159 in Part II **Federal Regis**

RIN: 3041–AE

4256. AMEND PROCEDURE STANDARDS SLEEPWEAR AND MATTRI

Priority: Subs Major status u undetermined

Legal Author Flammable Fa

CFR Citation: 1616; 16 CFR CFR 1632

Legal Deadlin

Abstract: Fla children's sle and mattress for washing a before testing retardants use not be remove or cleaning. T

Consumer

4258. PETITIO DEVELOPME CERTAIN BA

Priority: Subs Major status u undetermined

Legal Author Administrativ 1261 Federal

CFR Citation:

Legal Deadlin

Abstract: A p York City Dep Affairs reques develop a rul playsets. The backyard play risks of injury not meet the voluntary stan playground eq the American Materials (AS

Consumer Product Safety Commission (CPSC) — Final Rule Stage

4255. REQUIREMENTS FOR CHILD-RESISTANCE OF MULTI-PURPOSE LIGHTERS

Regulatory Plan: This entry is Seq. No. 159 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB66

4256. AMENDMENT OF LAUNDERING PROCEDURES IN FLAMMABILITY STANDARDS FOR CHILDREN'S SLEEPWEAR, CARPETS AND RUGS, AND MATTRESS PADS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1191 Flammable Fabrics Act

CFR Citation: 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Legal Deadline: None

Abstract: Flammability standards for children's sleepwear, carpets and rugs, and mattress pads contain procedures for washing and drying specimens before testing to assure that flame retardants used in these products will not be removed by repeated laundering or cleaning. The laundering procedures in all of these standards currently require use of a detergent and washing methods that are no longer representative of those used for home laundering. In November 1998 the staff provided the Commission with a briefing package concerning the laundering procedures in these standards. It included modifications that may be needed to assure that the effect of laundering on the flammability of the products covered by these standards is assessed with equipment and methods currently used by consumers. Supplemental information on a suggested laundering procedure was submitted by the staff in February 1999. The Commission published proposed amendments to the standards, to represent more realistic laundering conditions.

Timetable:

Action	Date	FR Cite
Briefing Package to Commission	11/18/98	
NPRM for Sleepwear	03/17/99	64 FR 13126
NPRM for Carpets and Rugs	03/17/99	64 FR 13132
NPRM for Mattresses and Mattress Pads	03/17/99	64 FR 13137
NPRM for Sleepwear Comment Period End	06/01/99	64 FR 13126
NPRM for Carpets and Rugs Comment Period End	06/01/99	64 FR 13132
NPRM for Mattresses and Mattress Pads Comment Period End	06/01/99	64 FR 13137
Staff Sends Briefing Package to Commission	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB69

4257. REQUIREMENTS FOR BUNK BEDS

Regulatory Plan: This entry is Seq. No. 160 in Part II of this issue of the **Federal Register**.

RIN: 3041–AB75

Consumer Product Safety Commission (CPSC) — Long-Term Actions

4258. PETITION HP 93-1 REQUESTING DEVELOPMENT OF A RULE TO BAN CERTAIN BACKYARD PLAYSETS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1261 Federal Hazardous Substances Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the New York City Department of Consumer Affairs requests the Commission to develop a rule to ban certain backyard playsets. The petition asserts that backyard playsets present unreasonable risks of injury to children if they do not meet the requirements of a voluntary standard for home playground equipment published by the American Society for Testing and Materials (ASTM); are not accompanied with adequate information about ground surfacing; or lack specific features described in the petition. On May 21, 1996, the Commission denied those parts of the petition requesting issuance of a rule to ban any backyard playset that does not conform to all requirements of the ASTM voluntary standard; that has an accessible height that exceeds six feet above protective surfacing; that does not have adequate fall zones under climbing structures; or that does not provide adequate space between any item of swinging equipment and any other item of swinging or stationary equipment. The Commission deferred a decision on those parts of the petition requesting a rule to ban backyard playsets that are not accompanied with instructions to use and maintain specified ground surfacing; that do not have handrails on all platforms that are 30 inches or higher above protective surfacing; that have swing seats made of wood, metal, plastic, or other hard material capable of inflicting serious injury to the head; that have free-swinging ropes; and that are unanchored playsets with swings. The staff will transmit additional information to the Commission concerning revisions of the voluntary standard. The Commission will then decide whether to grant, deny, or continue to defer the remaining requests in the petition.

Timetable:

Action	Date	FR Cite
Partial Denial of Petition	05/21/96	
Revisions to Voluntary Standard Completed	07/10/98	
Staff Began Monitoring Conformance to Voluntary Standard	08/10/99	
Staff Completes Monitoring Conformance	To Be Determined	

Action	Date	FR Cite
Staff Sends Additional Information to Commission	To Be	Determined
Commission Decision	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: John D. Preston, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0494

RIN: 3041–AB47

4259. PETITION HP 99-1 FOR A BAN OF POLYVINYL CHLORIDE IN TOYS AND OTHER PRODUCTS INTENDED FOR CHILDREN 5 YEARS OF AGE AND UNDER

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 1261 to 1278 Federal Hazardous Substances Act

CFR Citation: 16 CFR 1500

Legal Deadline: None

Abstract: The National Environmental Trust and 11 other organizations petitioned the Commission to ban polyvinyl chloride (PVC) in toys and other articles intended for the use of children 5 years and under, based upon concerns they have about the potential for health risks from phthalates (especially diisononyl phthalate, (DINP)), lead, and cadmium that can be in PVC. A Federal Register notice was issued on December 22, 1998, requesting comment on the petition. Comments were due on February 22, 1999.

The Commission is establishing a Chronic Hazard Advisory Panel (CHAP) of independent scientists to study issues related to the chronic toxicity and risk, including the risk of cancer, associated with exposure to (DINP) in children's PVC products. The Commission is also planning an extensive exposure study to obtain a broader range of data from which to better define the amount of time children mouth products that could contain phthalates. Following completion of this work, the staff will send a briefing package to the Commission recommending that the Commission grant, deny, or defer the petition.

Timetable:

Action	Date	FR Cite
Notice Advising of Receipt of Petition	12/22/98	63 FR 70756
Initiated Formation of CHAP	02/16/99	
Comment Period End	02/22/99	
Awarded Contract for Child Observation Study	09/30/99	
Staff Sends Briefing Package to Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Marilyn L. Wind Ph.D., Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB79

4260. PETITION FP 99-1 REQUESTING LABELING RULE FOR POLYURETHANE FOAM IN UPHOLSTERED FURNITURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 1191 Flammable Fabrics Act

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: A petition from the National Association of State Fire Marshals (NASFM) requests the Commission to require labels under the Flammable Fabrics Act warning that polyurethane foam in upholstered furniture poses a fire hazard. NASFM asserts that polyurethane foam in upholstered furniture poses an unreasonable risk of fire because once ignited it burns rapidly and emits toxic gases. NASFM asks the Commission to require that upholstered furniture manufacturers and retailers provide flammability warnings to the public. On April 6, 1999, the Commission published a Federal Register notice to solicit public comments on the petition.

The Commission has another ongoing rulemaking proceeding related to the risk of fire associated with upholstered furniture (RIN 3041-AB40) that may bear on the disposition of this petition. In 1994, CPSC published an ANPRM announcing the agency's intent to consider a possible rule or other alternatives to address the risk of upholstered furniture fires ignited by small open-flame sources, e.g., lighters, matches and candles. Such a rule could affect fabrics or other furniture components, including filling materials such as polyurethane foam. The Commission staff is evaluating the technical issues raised in the polyurethane foam petition as part of the larger regulatory development effort. The Commission's consideration of the petition will, therefore, be incorporated into the decision on how to proceed on the small open-flame matter.

Timetable:

Action	Date	FR Cite
Issuance of Federal Register Notice To Solicit Comments	04/06/99	64 FR 16711
Comment Period End	06/07/99	
Staff Sends Briefing Package to Commission	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Dale R. Ray, Project Manager, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207
Phone: 301 504-0962

RIN: 3041–AB81

4261. CHILD
OF CONSUM
CONTAINING

Priority: Sub

Legal Autho
Prevention P

CFR Citation

Legal Deadli

Abstract: Ur
Poison Preve
Commission
packaging st
home use. M
chemical use
and etching
applying arti
acid is assoc
injury on cor
mucous mem
transmitted
Commission'
November 19
to publish a
rulemaking
The Federal
published De
sent the Fed
letter request
approximate
on January 1
received five
proposed rul
injury data a
briefing pack
May 21, 199
to publish a
resistant pac
products con
percent meth
19, 2000. Th
was publishe

Timetable:

Action
NPRM
NPRM Comme Period End
Staff Sends Op Package to Commission
Final Rule

VOL 64 ISS 224 NOV 22 1999 UMI

Consumer Product Safety Commission (CPSC)

Completed Actions

4261. CHILD RESISTANT PACKAGING OF CONSUMER PRODUCTS CONTAINING METHACRYLIC ACID

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1471 Poison Prevention Packaging Act

CFR Citation: 16 CFR 1700.14

Legal Deadline: None

Abstract: Under section 2(b) of the Poison Prevention Packaging Act, the Commission can require a special packaging standard for cosmetics for home use. Methacrylic acid is a chemical used as a primer for cleaning and etching fingernails prior to applying artificial nails. Methacrylic acid is associated with severe corrosive injury on contact with skin, eyes, and mucous membranes. The staff transmitted a briefing package for the Commission's consideration in November 1998. The Commission voted to publish a notice of proposed rulemaking (NPRM) in December 1998. The Federal Register notice was published December 30, 1998. The staff sent the Federal Register notice and a letter requesting comment to a list of approximately 150 concerned parties on January 11, 1999. The Commission received five comments on the proposed rule. The staff updated the injury data and forwarded a final rule briefing package to the Commission on May 21, 1999. the Commission voted to publish a final rule requiring child-resistant packaging for household products containing more than 5 percent methacrylic acid, effective June 19, 2000. The Federal Register notice was published on June 18, 1999.

Timetable:

Action	Date	FR Cite
NPRM	12/30/98	63 FR 71800
NPRM Comment Period End	03/15/99	
Staff Sends Option Package to Commission	05/21/99	
Final Rule	06/18/99	64 FR 32799

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan C. Aitkin, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207
Phone: 301 504-0477

RIN: 3041–AB78

4262. PROPOSED REVOCATION OF AMENDMENTS TO THE STANDARDS FOR FLAMMABILITY OF CHILDREN'S SLEEPWEAR; LABELING FOR TIGHT-FITTING SLEEPWEAR; CORRECTION OF AMENDMENTS TO THE CHILDREN'S SLEEPWEAR STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: PL 105-276

CFR Citation: 16 CFR 1615; 16 CFR 1616

Legal Deadline: NPRM, Statutory, January 19, 1999.
Final, Statutory, July 1, 1999, The Commission's Fiscal Year 1999 appropriations legislation required the Commission to propose to revoke the sleepwear amendments and to either revoke, maintain, or modify them.

Abstract: The Standards for the Flammability of Children's Sleepwear (sizes 0 to 6x and sizes 7 to 14) were amended in September 1996 to exclude from the definition of "children's sleepwear" (1) garments sized nine months or smaller and (2) tight-fitting garments sized larger than nine months. The garments, termed "tight or snug-fitting," must not exceed maximum dimensions specified for each garment size. Several technical amendments were needed to clarify provisions of the standards, especially how the specified dimensions are to be measured on these garments. On January 19, 1999 the Commission issued technical changes to clarify the points where garment measurements should be made. However, pursuant to the 1999 appropriations bill, Public Law 105-276, on January 19, 1999 the Commission proposed for comment a revocation of the September 9, 1996 amendments and all subsequent amendments. Based on all available information, the Commission was required to take final action by July 1, 1999. On June 28, 1999 the Commission issued Federal Register notices (1) withdrawing the proposed revocation, (2) issuing mandatory labeling requirements for tight-fitting sleepwear, and (3) correcting references in 16 CFR Part 1615.

Timetable:

Amendments - Proposed Revocation
- Proposed Revocation Issued 01/19/1999 (64 FR 2867)
- Comment Period End 03/22/1999
- Briefing Package to Commission 06/03/1999
- Proposed Revocation Withdrawn 06/28/1999 (64 FR 34597)

Labeling of Tight-Fitting Sleepwear
- Final Rule 06/28/1999 (64 FR 34533)
- Effective Date 06/28/2000

References in Amendments - Correction
- Correction of References Issued 06/28/1999 (64 FR 34533)

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: On September 8, 1999, the Commission published a notice in the Federal Register (64 FR 48704) that corrected the illustrations of the required labeling of tight-fitting sleepwear and revised the font requirements to allow either Arial or Helvetica font.

Agency Contact: Margaret Neily, Project Manager, Consumer Product Safety Commission, Directorate for Engineering Sciences, Washington, DC 20207
Phone: 301 504-0508

RIN: 3041–AB80

[FR Doc. 99–23652 Filed 11–19–99; 8:45 am]
BILLING CODE 6355–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LI

Farm Credit Administration

Semiannual Regulatory Agenda

Farm Credit Administration (FCA)

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit Administration (FCA), as an independent regulatory agency, in compliance with Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1999 through April 2000.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. FCA regulations, which apply to Farm Credit banks and associations and certain other federally chartered entities, generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act. The FCA, as an independent regulatory agency, is exempt from certain provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: September 3, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4263	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Mission-Related Investments)	3052-AB92
4264	Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations and Funding Operations (OFIs—Risk-Weighting of Loans at FCBs)	3052-AB96

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4265	Federal Agricultural Mortgage Corporation Risk-Based Capital Regulation	3052-AB56
4266	Loan Policies and Operations (Comprehensive Borrower Rights)	3052-AB69
4267	Organization (Reorganization Authorities for System Institutions)	3052-AB86
4268	Organization; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Stock Issuance)	3052-AB91
4269	Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Loan Participations and Purchases)	3052-AB93
4270	Disclosure to Shareholders (Annual Report)	3052-AB94
4271	Regulatory Burden (Phase II)	3052-AB97

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4272	Statement on Regulatory Burden	3052-AB85
4273	Organization; Loan Policies and Operations; General Provisions; Chartered Territories (Customer Choice)	3052-AB87
4274	Loan Policies and Operations; Flood Insurance Requirements	3052-AB89
4275	Standards of Conduct (Plain Language Revision)	3052-AB95

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4276	Organization and Functions (FCA Organization)	3052-AB82
4277	Eligibility and Scope of Financing	3052-AB90

FCA

Completed Actions

Sequence Number	Title	Regulation Identification Number
4278	Loan Policies and Operations; Leasing; General Provisions; Accounting and Reporting Requirements (Leasing Authorities)	3052-AB63
4279	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (Investment Management)	3052-AB76
4280	Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations (FCB Assistance to Associations/Transfer of Capital)	3052-AB80
4281	Releasing Information	3052-AB84

Farm Credit Administration (FCA)

Prerule Stage

4263. • FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (MISSION-RELATED INVESTMENTS)

Priority: Other Significant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2146; 12 USC 2154; 12 USC 2154a; 12 USC 2160; 12 USC 2202b; 12 USC 2211; 12 USC 2243; 12 USC 2252; 12 USC 2278b; 12 USC 2278b-6; 12 USC 2279aa; 12 USC 2279aa-3; 12 USC 2279aa-4; 12 USC 2279aa-6; 12 USC 2279aa-7; 12 USC 2279aa-8; 12 USC 2279aa-10; 12 USC 2279aa-12

CFR Citation: 12 CFR 615

Legal Deadline: None

Abstract: This regulation would develop safety and soundness regulations for mission-related investment activity. Mission-related investment activities are those that directly relate to agriculture, increase the flow of funds to farmers, ranchers, cooperatives, and rural areas, or otherwise support the ongoing mission of the Farm Credit System.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Laurie A. Rea, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: real@fca.gov

RIN: 3052–AB92

4264. • LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS AND FUNDING OPERATIONS (OFIS—RISK-WEIGHTING OF LOANS AT FCBS)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2076; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; 12 USC 2121; 12 USC 2122; 12 USC 2124; 12 USC 2128; 12 USC 2129; 12 USC 2131; 12 USC 2132; 12 USC 2141; 12 USC 2146; 12 USC 2149; 12 USC 2154; 12 USC 2154a; 12 USC 2160; 12 USC 2183; 12 USC 2184; 12 USC 2199; ...

CFR Citation: 12 CFR 614; 12 CFR 615

Legal Deadline: None

Abstract: The regulation would revise the current risk-weighting requirements for OFI direct loans and other related changes necessary for the safety and soundness of Farm Credit Banks.

Timetable:

Action	Date	FR Cite
ANPRM	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: carpenterd@fca.gov

RIN: 3052–AB96

Farm Credit Administration (FCA) — **Proposed Rule Stage**

4265. FEDERAL AGRICULTURAL MORTGAGE CORPORATION RISK-BASED CAPITAL REGULATION

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2279bb-1; 12 USC 2279aa-11(a)(1)(B)(ii)

CFR Citation: 12 CFR 650

Legal Deadline: None

Abstract: This regulation will establish risk-based capital requirements for the Federal Agricultural Mortgage Corporation (also known as Farmer Mac). The law says these regulatory requirements will be used to determine the amount of capital needed to survive a 10-year period of both unfavorable credit and interest rate conditions. The law includes additional details on the level of unfavorable conditions to be included in the requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office and Policy and and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Carl Clinefelter, Director, Office of Secondary Market Oversight, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4280
TDD Phone: 703 883-4444
Fax: 703 883-5784
Email: clinefelterc@fca.gov

RIN: 3052–AB56

4266. LOAN POLICIES AND OPERATIONS (COMPREHENSIVE BORROWER RIGHTS)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096; 12 USC 2121

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This rulemaking would revise borrower rights regulations to provide clarification and remove unnecessary burdens.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov.

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Gaylon Dykstra, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: dykstrag@fca.gov

RIN: 3052–AB69

4267. ORGANIZATION (REORGANIZATION AUTHORITIES FOR SYSTEM INSTITUTIONS)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2021; 12 USC 2071; 12 USC 2091; 12 USC 2121; 12 USC 2142; 12 USC 2183; 12 USC 2203; 12 USC 2209; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a to 2279f-1; 12 USC 2279aa5(e)

CFR Citation: 12 CFR 611

Legal Deadline: None

Abstract: This rulemaking would establish regulations under which a bank or large association within the Farm Credit System can terminate its charter as provided for in the Farm Credit Act of 1971, as amended.

Timetable:

Action	Date	FR Cite
NPRM	11/05/99	64 FR 60370
NPRM Comment Period End	02/03/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: markowitza@fca.gov

RIN: 3052–AB86

4268. • ORGANIZATION; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (STOCK ISSUANCE)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2018; 12 USC 2019; 12 USC 2020; 12 USC 2021; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC

FCA — Proposed Rule Stage

2075; 12 USC 2076; 12 USC 2091; 12 USC 2093; 12 USC 2121; 12 USC 2122; 12 USC 2128; 12 USC 2132; 12 USC 2142; 12 USC 2146; 12 USC 2154; 12 USC 2154a; 12 USC 2160; 12 USC 2183; 12 USC 2202b; 12 USC 2203; 12 USC 2208; 12 USC 2209; 12 USC 2211; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2278b; 12 USC 2278b-6; 12 USC 2279a—2279f-1; 12 USC 2279aa; 12 USC 2279aa-3; 12 USC 2279aa-4; 12 USC 2279aa-5(e); 12 USC 2279aa-6; 12 USC 2279aa-7; 12 USC 2279aa-8; 12 USC 2279aa-10; 12 USC 2279aa-12; 12 USC 2011

CFR Citation: 12 CFR 611; 12 CFR 615

Legal Deadline: None

Abstract: Would consider permitting Farm Credit System institutions, including service corporations, to issue additional amounts of certain classes of stock and would allow service corporations to issue non-voting stock to non-System institutions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Dale L. Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: aultmand@fca.gov

RIN: 3052–AB91

4269. • LOAN POLICIES AND OPERATIONS; FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (LOAN PARTICIPATIONS AND PURCHASES)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2279a-2; 12 USC 2279b; 12 USC 2279c-1; 12 USC 2279f; 12 USC 2279f-1; 12 USC 2279aa; 12 USC 2279aa-5; 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128; 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; 12 USC 2121; 12 USC 2122; 12 USC 2124; 12 USC 2128; 12 USC 2129; 12 USC 2131; 12 USC 2141; 12 USC 2149; 12 USC 2183; 12 USC 2184; 12 USC 2199; 12 USC 2201; 12 USC 2202; 12 USC 2202a; 12 USC 2202c; 12 USC 2202d; 12 USC 2202e; 12 USC 2206; 12 USC 2206a; 12 USC 2207; 12 USC 2211; 12 USC 2212; 12 USC 2213; 12 USC 2214; 12 USC 2219a; 12 USC 2219b; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a; ...

CFR Citation: 12 CFR 614; 12 CFR 615

Legal Deadline: None

Abstract: This regulation would remove regulatory restrictions affecting the System's ability to purchase interests in eligible loans and address any technical changes necessary.

Timetable:

Action	Date	FR Cite
NPRM	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: carpenterd@fca.gov

RIN: 3052–AB93

4270. • DISCLOSURE TO SHAREHOLDERS (ANNUAL REPORT)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 2252; 12 USC 2254; 12 USC 2279a-11

CFR Citation: 12 CFR 620

Legal Deadline: None

Abstract: The regulation would consider eliminating the requirement that FCBs distribute their financial reports to the stockholders of their associations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Robert Edward Donnelly, Senior Accountant, Farm Credit Administration, Office of Policy and Analysis, 1501 Farm Credit Drive, McLean, VA 22102-4943
Phone: 703 883-4450
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: donnellyr@fca.gov

RIN: 3052–AB94

FCA — Proposed Rule Stage

4271. • REGULATORY BURDEN (PHASE II)

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2252; EO 12866

CFR Citation: 12 CFR 600 to 650

Legal Deadline: None

Abstract: The regulation would address comments received from the Regulatory Burden Notice published in August 1998. Would specifically inform the public of the Agency's rationale for retaining certain regulations due to statutory requirements or safety and soundness concerns.

Timetable:

Action	Date	FR Cite
Notice	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Eric Howard, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: howarde@fca.gov

RIN: 3052–AB97

Farm Credit Administration (FCA) — Final Rule Stage

4272. STATEMENT ON REGULATORY BURDEN

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2252; EO 12866

CFR Citation: 12 CFR 600 to 650

Legal Deadline: None

Abstract: The FCA is requesting commenters to identify regulations and policies that duplicate other requirements, are ineffective, or impose burdens that are greater than the benefits received. The FCA is committed to continually updating its regulations and policies so they remain useful to the Farm Credit System and the public without sacrificing safety and soundness.

Timetable:

Action	Date	FR Cite
Notice of Intent	08/18/98	63 FR 64013
Comment Period Extension Notice	11/18/98	63 FR 64013
Direct Final Rule	08/09/99	64 FR 43046
Direct Final Rule Effective	10/14/99	64 FR 55621
Comment Period End	09/08/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Eric Howard, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: howarde@fca.gov

RIN: 3052–AB85

4273. ORGANIZATION; LOAN POLICIES AND OPERATIONS; GENERAL PROVISIONS; CHARTERED TERRITORIES (CUSTOMER CHOICE)

Priority: Other Significant

Legal Authority: 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2096

CFR Citation: 12 CFR 611; 12 CFR 614; 12 CFR 618

Legal Deadline: None

Abstract: This rulemaking would provide additional flexibility for borrowers to obtain financing from System institutions of their choice and to otherwise deregulate lending restrictions on FCS entities.

Timetable:

Action	Date	FR Cite
NPRM	11/09/98	63 FR 60219
Comment Period Extension Notice	12/16/98	63 FR 69229
NPRM Comment Period End	02/08/99	
Comment Period End	05/10/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

FCA — Final Rule Stage

Agency Contact: S. Robert Coleman, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: colemanr@fca.gov

RIN: 3052–AB87

4274. • LOAN POLICIES AND OPERATIONS; FLOOD INSURANCE REQUIREMENTS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128; 12 USC 2011; 12 USC 2013; 12 USC 2014; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2071; 12 USC 2073; 12 USC 2074; 12 USC 2075; 12 USC 2091; 12 USC 2093; 12 USC 2094; 12 USC 2097; 12 USC 2121; 12 USC 2122; 12 USC 2124; 12 USC 2128; 12 USC 2129; 12 USC 2131; 12 USC 2141; 12 USC 2149; 12 USC 2183; 12 USC 2184; 12 USC 2199; 12 USC 2201; 12 USC 2202; 12 USC 2202a; 12 USC 2202c; 12 USC 2202d; 12 USC 2202e; 12 USC 2206; 12 USC 2206a; 12 USC 2207; 12 USC 2211; 12 USC 2212; 12 USC 2213; 12 USC 2214; 12 USC 2219a; 12 USC 2219b; 12 USC 2243; 12 USC 2244; 12 USC 2252; 12 USC 2279a; 12 USC 2279a-2; 12 USC 2279b; 12 USC 2279c-1; 12 USC 2279f; 12 USC 2279f-1; 12 USC 2279aa; 12 USC 2279aa-5; PL 100-233

CFR Citation: 12 CFR 614

Legal Deadline: None

Abstract: This technical amendment would remove regulatory reference to Federal Emergency Management Agency's standard flood hazard determination form and make other technical amendments needed.

Timetable:

Action	Date	FR Cite
Direct Final Rule	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy Analysis, 703-883-4125, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Tong-Ching Chang, Staff Accountant, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4483

RIN: 3052–AB89

4275. • STANDARDS OF CONDUCT (PLAIN LANGUAGE REVISION)

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 2243; 12 USC 2252; 12 USC 2254

CFR Citation: 12 CFR 612

Legal Deadline: None

Abstract: The regulation would revise existing Standards of Conduct regulations so they are written in "Plain Language."

Timetable:

Action	Date	FR Cite
Direct Final Rule	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENTS: reg-comm@fca.gov

Agency Contact: Dale L. Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: aultmand@fca.gov

RIN: 3052–AB95

Farm Credit Administration (FCA) — Long-Term Actions

4276. ORGANIZATION AND FUNCTIONS (FCA ORGANIZATION)

Priority: Info./Admin./Other

CFR Citation: 12 CFR 600

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Patricia W. DiMuzio
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: dimuziop@fca.gov

RIN: 3052–AB82

4277. • ELIGIBILITY AND SCOPE OF FINANCING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2013; 12 USC 2015; 12 USC 2017; 12 USC 2018; 12 USC 2019; 12 USC 2073; 12 USC 2075; 12 USC 2093; 12 USC 2122; 12 USC 2128; 12 USC 2129; 12 USC 2143; 12 USC 2206a; 12 USC 2211; 12 USC 2212; 12 USC 2213; 12 USC 2243; 12 USC 2252

CFR Citation: 12 CFR 613

Legal Deadline: None

Abstract: This rule amends the eligibility and scope of financing regulations for farm-related service

FCA — Long-Term Actions

businesses and rural homeowners in response to the Court of Appeals' ruling in Independent Bankers Association of America v. Farm Credit Administration, 164 F.3d 661 (D.C. Cir., 1999).

Timetable:

Action	Date	FR Cite
Direct Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: FEDERAL REGISTER LIAISON: Cindy R. Nicholson, Technical Editor, Regulation and Policy Division, Office of Policy and Analysis, 703-883-4498, nicholsonc@fca.gov

AGENCY WEBSITE: www.fca.gov

PUBLIC AFFAIRS: info-line@fca.gov

REGULATION COMMENT: reg-comm@fca.gov

Agency Contact: Richard A. Katz, Senior Attorney, Farm Credit Administration, Office of General Counsel, 1501 Farm Credit Drive, McLean, VA 22102-5090
Phone: 703 883-4020
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: katzr@fca.gov

RIN: 3052–AB90

Farm Credit Administration (FCA) — Completed Actions

4278. LOAN POLICIES AND OPERATIONS; LEASING; GENERAL PROVISIONS; ACCOUNTING AND REPORTING REQUIREMENTS (LEASING AUTHORITIES)

Priority: Other Significant

CFR Citation: 12 CFR 614; 12 CFR 616; 12 CFR 618; 12 CFR 621

Completed:

Reason	Date	FR Cite
Final Rule	06/28/99	64 FR 34514
Final Rule Effective	08/06/99	64 FR 43049

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Hays
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: haysj@fca.gov

RIN: 3052–AB63

4279. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (INVESTMENT MANAGEMENT)

Priority: Other Significant

CFR Citation: 12 CFR 615

Completed:

Reason	Date	FR Cite
Final Rule	05/28/99	64 FR 28884
Final Rule Effective	07/15/99	64 FR 38110

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Laurie A. Rea
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: real@fca.gov

RIN: 3052–AB76

4280. FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS (FCB ASSISTANCE TO ASSOCIATIONS/TRANSFER OF CAPITAL)

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 615

Completed:

Reason	Date	FR Cite
Final Rule	09/15/99	64 FR 49959
Final Rule Effective	10/21/99	64 FR 56675

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dale L. Aultman
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: aultmand@fca.gov

RIN: 3052–AB80

4281. RELEASING INFORMATION

Priority: Info./Admin./Other

CFR Citation: 12 CFR 602

Completed:

Reason	Date	FR Cite
NPRM Comment Period End	04/07/99	64 FR 10954
Final Rule	08/02/99	64 FR 41770
Final Rule Effective	10/07/99	64 FR 54511

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John J. Hays
Phone: 703 883-4498
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: haysj@fca.gov

RIN: 3052–AB84

[FR Doc. 99–23653 Filed 11–19–99; 8:45 am]
BILLING CODE 6705–01–F

VOL 64 ISS 224 NO 22 1999 UMI

federal register

Monday,
November 22, 1999

Part LII

Farm Credit System Insurance Corporation

Semiannual Regulatory Agenda

Farm Credit System Insurance Corporation (FCSIC)

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Ch. XIV

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation), in response to Executive Order 12866, sets forth the following agenda of regulations which it will have under development and review during the period of October 1999 through April 2000.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Technical Editor, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4498, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Corporation regulations which apply to Farm Credit banks and associations generally do not and will not have a substantial impact on "small entities" as that term is defined in the Regulatory Flexibility Act. The Corporation, as an independent regulatory agency, is not subject to all of the provisions of Executive Order 12866. It participates in this joint publication to further the public interest by including the Corporation in a single source of information concerning current and projected rulemaking and reviews of existing regulations, pursuant to section 4 of the Executive Order 12866.

Dated: September 3, 1999.

Vivian L. Portis,

Secretary, Farm Credit System Insurance Corporation Board.

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4282	Enforcement of Nondiscrimination on the Basis of Handicap	3055-AA01
4283	Referral of Known and Suspected Criminal Violations	3055-AA02
4284	Farm Credit System Reform Act of 1996	3055-AA04

Farm Credit System Insurance Corporation (FCSIC) — Long-Term Actions

4282. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1406

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: nicholsd@fca.gov

RIN: 3055–AA01

4283. REFERRAL OF KNOWN AND SUSPECTED CRIMINAL VIOLATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 1417

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: nicholsd@fca.gov

RIN: 3055–AA02

4284. FARM CREDIT SYSTEM REFORM ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

CFR Citation: 12 CFR 1400 to 1410

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dorothy L. Nichols
Phone: 703 883-4380
TDD Phone: 703 883-4444
Fax: 703 734-5784
Email: nicholsd@fca.gov

RIN: 3055–AA04

[FR Doc. 99–23654 Filed 11–19–99; 8:45 am]
BILLING CODE 6710-01–F

Monday,
November 22, 1999

Part LIII

Federal Communications Commission

Semiannual Regulatory Agenda

Federal Communications Commission (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions — October 1999

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, in April and October, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. See 5 U.S.C. 602. The Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maura McGowan, Telecommunications Specialist, Office of Communications Business Opportunities, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, (202) 418-0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number — assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (e.g., Docket No. 96-1 or Docket No. 99-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "MM Docket No. 98-222," which indicates that the responsible Bureau is the Mass Media Bureau. A docket number consisting of only five digits (e.g., Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) — issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified, during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) — issued by the Commission when it is proposing a specific change to Commission Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

Further Notice of Proposed Rulemaking (FNPRM) — issued by the Commission when additional comment in the proceeding is sought.

Memorandum Opinion and Order (MO&O) — issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number — assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report and Order (R&O) — issued by the Commission to state a new or amended rule or state that the Commission Rules and Regulations will not be revised.

Magalie Roman Salas,
Secretary,
Federal Communications Commission.

CABLE SERVICES BUREAU—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4285	Cable Television Rate Regulation	3060-AF41
4286	Cable Television Rate Regulation: Cost of Service	3060-AF48
4287	Customer Service Standards	3060-AF69
4288	Cable Home Wiring	3060-AG02
4289	Over-the-Air Reception Devices	3060-AG24
4290	Closed Captioning	3060-AG26
4291	Cable Act Reform	3060-AG27
4292	Competitive Availability of Navigation Devices	3060-AG28
4293	Telecommunications Act of 1996, Pole Attachment Provisions	3060-AG71
4294	Digital Must Carry	3060-AG91
4295	Horizontal Ownership Limits	3060-AH09

Sequence Number
4296
4297
4298
4299
4300
4301
4302
4303
4304
4305
4306
4307
4308
4309
4310
4311
4312
4313
4314
4315
4316
4317
4318
4319
4320
4321
4322
4323
4324
4325
4326
4327
4328
4329

Sequence Number
4330
4331
4332
4333

VOL 64 ISS 224 NOV 22 1999 UMI

FCC

COMMON CARRIER BUREAU—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4296	Rules and Policies Regarding Calling Number Identification Services (CC Docket 91-281)	3060-AF07
4297	Administration of the North American Numbering Plan	3060-AF50
4298	Use of N11 Codes and Other Abbreviated Dialing Arrangements	3060-AF51
4299	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060-AF85
4300	Toll Free Service Access Codes	3060-AG11
4301	Implementation of Section 273 of the Telecommunications Act of 1996; Notice of Proposed Rulemaking	3060-AG36
4302	Implementation of Non-Accounting Safeguards, Sec. 271 & 272 of Communications Act of 1996 & Regulatory Treatment of LEC Provisions of Interexchange Svcs. Orig. in LEC Local Exch. Area	3060-AG37
4303	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996	3060-AG42
4304	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	3060-AG43
4305	Telemessaging, Electronic Publishing, and Alarm Monitoring Services	3060-AG44
4306	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, As Amended	3060-AG45
4307	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996	3060-AG46
4308	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (LEC Tariff Streamlining Provisions)	3060-AG47
4309	Regulatory Treatment of LEC Provision of Interexchange Service Originating in the LEC's Local Exchange Area	3060-AG48
4310	Access Charge Reform	3060-AG49
4311	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order	3060-AG50
4312	Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities	3060-AG58
4313	Enhanced 911 Services for Wireline	3060-AG60
4314	Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)	3060-AG61
4315	In the Matter of Inside Wire, Third Report and Order	3060-AG63
4316	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers	3060-AG65
4317	Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services	3060-AG72
4318	Notice of Proposed Rulemaking Regarding Detariffing of Interstate Exchange Access Services for Non-Incumbent Local Exchange Carriers	3060-AG73
4319	In the Matter of the Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996	3060-AG75
4320	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities	3060-AG76
4321	Toll Fraud	3060-AG77
4322	1998 Biennial Regulatory Review/Review of Accounting and Cost Allocation Requirements	3060-AG98
4323	Biennial Review of ARMIS Reporting Requirements	3060-AG99
4324	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, Operator Services, and Directory Assistance	3060-AH00
4325	Access Charge Reform for Rate-of-Return Local Exchange Carriers	3060-AH01
4326	Deployment of Wireline Services Offering Advanced Telecommunications Capability	3060-AH03
4327	Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers	3060-AH18
4328	SBC Communications, Inc. Petition for Biennial Review	3060-AH19
4329	1998 Biennial Regulatory Review - Review of Depreciation Requirements for Incumbent Local Exchange Carriers	3060-AH20

COMMON CARRIER BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4330	Integrated Services Digital Network (ISDN)	3060-AG08
4331	Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996	3060-AG62
4332	Elimination of Part 41: Telegraph and Telephone Franks	3060-AH04
4333	Streamlined Contributor Reporting Requirements	3060-AH06

FCC

COMPLIANCE AND INFORMATION BUREAU—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4334	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System	3060-AF21
4335	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines	3060-AF65
4336	In the Matter of Amendment of the Commission's Rules Concerning the Inspection of Radio Installations on Large Cargo and Small Passenger Ships	3060-AG13
4337	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference	3060-AH07

OFFICE OF ENGINEERING AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4338	Closed Captioning for DTV Receivers; ET Docket No. 99-254	3060-AH24
4339	Wireless Medical Telemetry Service; ET Docket 99-255	3060-AH27

OFFICE OF ENGINEERING AND TECHNOLOGY—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4340	Cable System Compatibility With TV Receivers and VCRs	3060-AF38
4341	Wind Profiler Radar Systems	3060-AF45
4342	Millimeter Wave Spectrum Allocation	3060-AF61
4343	Digital Equipment Deregulation	3060-AF73
4344	MSS Spectrum Allocation	3060-AF75
4345	Medical Care Telemetry Devices	3060-AG18
4346	Unlicensed NII at 5 GHz	3060-AG19
4347	Allocation of 455-456 MHz and 459-460 MHz	3060-AG89
4348	Dedicated Short Range Communications of Intelligent Transportation Services	3060-AG94
4349	Regulations for RF Lighting Devices	3060-AG95
4350	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU	3060-AG96
4351	Uniden Scanners/Cellular Radio Signals	3060-AG97
4352	Industry Coordination Committee System for Broadcast Digital Television Service	3060-AH13
4353	3650-3700 Government Transfer Band	3060-AH14
4354	Radionavigation Service at 31.8 - 32.2 GHz	3060-AH15
4355	Certification of Equipment in the 24.05-24.25 GHz Band at Field Strengths Up to 2500 mV/m	3060-AH16
4356	Fixed Satellite Service and Terrestrial System in the KU-Band	3060-AH17
4357	Spread Spectrum Devices; ET Docket No. 99-254	3060-AH25
4358	50-71 GHz Realignment; ET Docket No. 99-261	3060-AH26

OFFICE OF GENERAL COUNSEL—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4359	Amendment of the Commission's Ex Parte Rules in Joint Board Proceedings	3060-AH02

Sequence Number
4360
4361
4362
4363
4364
4365
4366
4367
4368
4369
4370
4371
4372

Sequence Number
4373

Sequence Number
4374
4375
4376
4377
4378
4379
4380
4381
4382
4383
4384
4385
4386
4387

Sequence Number
4388

VOL 64 ISS 224 NO 22 1999 UMI

FCC

INTERNATIONAL BUREAU—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4360	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures; IB Docket No. 95-117	3060-AD70
4361	Satellite Communications — NGO MSS; CC Docket No. 92-166	3060-AF42
4362	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band; IB Docket No. 96-132	3060-AF89
4363	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB No. 95-59	3060-AF92
4364	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band; IB Docket No. 95-91; GEN Docket No. 90-357	3060-AF93
4365	Redesignation of the 27.5-29.5 GHz Frequency Band; CC Docket No. 92-297	3060-AF94
4366	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States; IB Docket No. 96-111; CC Docket No. 93-23	3060-AG31
4367	Streamlining Regulations Related to International Common Carriers	3060-AG84
4368	Redesignation of the 17.7-19.7 GHz band, Blanket Licensing of Sat Earth Stations (17.7-20.2 GHz & 27.5-30 GHz) & Allocation in the 17.3-17.8 & 24.75-25.25 GHz bands for Broadcast Satellite-Service Use	3060-AH21
4369	Allocation and Designation of Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz bands).Allocations: fixed & mobile 40.5-42.5 GHz;Wireless Srv 46.9-47 GHz; Gov Operations 37-38 & 40-40.5 GHz	3060-AH23
4370	The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band; IB Docket No. 99-81; RM-9328	3060-AH28
4371	In the Matter of Policies for the Direct Broadcast Satellite Service; IB Docket No. 98-21	3060-AH29
4372	1998 Biennial Regulatory Review — Review of Accounts Settlement in Maritime Mobil Maritime Mobile Satellite Radio Services and Withdrawal of the Commission as Accounting Authority; IB Doc No. 98-96	3060-AH30

INTERNATIONAL BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4373	1998 Biennial Regulatory Review - Reform of the International Settlements Policy and Associated Filing Requirements; IB Docket No. 98-148	3060-AH22

MASS MEDIA BUREAU—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4374	Transfer of Control of Non-Stock Entities MM Docket 89-77	3060-AE31
4375	Local Television Ownership Rule (MM Docket No. 91-221)	3060-AF79
4376	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)	3060-AF80
4377	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)	3060-AF81
4378	Attribution of Broadcast Interests (MM Docket Nos. 94-150, 92-51, 87-154)	3060-AF82
4379	Minor Modifications of Broadcast Licenses Without Prior Construction Permit	3060-AG30
4380	Newspaper/Broadcast Cross-Ownership	3060-AG53
4381	National Television Ownership Rules (MM Docket Nos. 96-222, 91-221, 87-8)	3060-AG54
4382	Competitive Bidding for Broadcast Services	3060-AG78
4383	1998 Biennial Review of Broadcast Ownership	3060-AG79
4384	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes	3060-AG80
4385	Review of Technical Rules in Parts 73 and 74	3060-AG81
4386	Review of Broadcast and Cable EEO Rules and Policies	3060-AH10
4387	Low Power FM Radio	3060-AH11

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identification Number
4388	Advanced Television Service (MM Docket 87-268)	3060-AE24

FCC

MASS MEDIA BUREAU—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4389	Main Studio/Public File Requirements for Broadcasters (MMB Docket 97-138)	3060-AG68

OFFICE OF MANAGING DIRECTOR—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4390	Assessment and Collection of Regulatory Fees for FY 1999	3060-AG92

WIRELESS TELECOMMUNICATIONS BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4391	Calling Party Pays Service Offering in the Commercial Mobile Radio Services	3060-AH31

WIRELESS TELECOMMUNICATIONS BUREAU—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4392	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations	3060-AF14
4393	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service	3060-AF26
4394	Refarming	3060-AF35
4395	Future Development of 800 MHz SMR; Competitive Bidding Wide Area	3060-AF47
4396	Resale and Roaming Obligations Pertaining to Commercial Mobile Radio Services	3060-AF58
4397	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules	3060-AF99
4398	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules	3060-AG00
4399	39 GHz Channel Plan	3060-AG16
4400	Implementation of Section 309(j) of the Communications Act, Competitive Bidding Broadband PCS F Block Rules	3060-AG21
4401	Amendment of Part 90 of the FCC's Rules To Provide for the Use of the 220-222 MHz Band	3060-AG23
4402	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems	3060-AG34
4403	Wireless Communications Services	3060-AG56
4404	In the Matter of the Communications Assistance for Law Enforcement Act (CALEA), Notice of Proposed Rulemaking	3060-AG74
4405	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements	3060-AG85
4406	Multiple Access Systems; WT Docket No.97-81	3060-AG86
4407	Amendment of Part I of the Commission's Rules—Competitive Bidding Procedures	3060-AG87
4408	Amendment to Part 27 of the FCC's Rules To Revise Rules for Services in the 2.3GHz Band and To Include Licensing of Services in the 47 Ghz Band	3060-AG93
4409	Amendment of Part 90 of the Commission's Rules To Adopt Regulations for Automatic Vehicle Monitoring Systems Second Report and Order	3060-AH12
4410	Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules	3060-AH32
4411	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended	3060-AH33
4412	1998 Biennial Regulatory Review Spectrum Aggregation Limits for Wireless Telecommunications Carriers	3060-AH34

Federal Communications Commission (FCC) **Long-Term Actions**

CABLE SERVICES BUREAU

4285. CABLE TELEVISION RATE REGULATION

Priority: Other Significant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted rate regulations to implement Section 623 of the Cable Act of 1992 to ensure that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment. Reconsideration requested. The 14th Order on Reconsideration addresses petitions on issues governing regulated services by cable systems.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
R&O and FNPRM	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
3rd R&O	11/30/93	58 FR 63087
Order on Recon, 4th R&O, and 5th NPRM	04/15/94	59 FR 17943
3rd Order on Recon	04/15/94	59 FR 17961
5th Order on Recon and FNPRM	10/13/94	59 FR 51869
4th Order on Recon	10/21/94	59 FR 53113
6th Order on Recon, 5th R&O, and 7th NPRM	12/06/94	59 FR 62614
7th Order on Recon	01/25/95	60 FR 4863
9th Order on Recon	02/27/95	60 FR 10512
8th Order on Recon	03/17/95	60 FR 14373
6th R&O and 11th Order on Recon	07/12/95	60 FR 35854
13th Order on Recon	10/05/95	60 FR 52106
12th Order on Recon	10/26/95	60 FR 54815
10th Order on Recon	04/08/96	61 FR 15388
Order on Recon of the 1st R&O and Further NPRM	04/15/96	61 FR 16447
MO&O	02/12/97	62 FR 6491
Report on Cable Industry Prices	02/24/97	62 FR 8245
R&O	03/31/97	62 FR 15118
14th Order on Recon	10/15/97	62 FR 53572

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson, Policy and Rules Division, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7039
Fax: 202 418-7172
Email: nstevens@fcc.gov

RIN: 3060–AF41

4286. CABLE TELEVISION RATE REGULATION: COST OF SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 543

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The Commission has established rules pursuant to which cable operators may set rates for regulated cable service in accordance with traditional cost-of-service principles, as modified to take account of unique characteristics of the cable industry. These rules are the subject of pending petitions for reconsideration. In addition, the Commission is considering comments received in response to a Further Notice of Proposed Rulemaking concerning the rate of return that should be applied in cost-of-service cases.

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
2nd NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087
2nd R&O/1st Order on Recon/FNPRM	03/08/96	61 FR 9361
Correction in FR	03/22/96	61 FR 11749

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson, Policy and Rules Division, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7039
Fax: 202 418-7172
Email: nstevens@fcc.gov

RIN: 3060–AF48

4287. CUSTOMER SERVICE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i) to 154(j); 47 USC 303; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: NPRM, Statutory, April 3, 1993.

Abstract: The Commission has adopted customer service standards for cable operators nationwide to implement the provisions of the Cable Act of 1992. Such standards shall include, at a minimum, cable systems office hours, telephone availability, installations, outages, service calls, and communication between the cable operator and subscriber, including billing and refunds.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61038
R&O	04/19/93	58 FR 21107

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson, Policy and Rules Division, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7039
Fax: 202 418-7172
Email: nstevens@fcc.gov

RIN: 3060–AF69

4288. CABLE HOME WIRING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 544(i)

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: On October 6, 1997, the FCC adopted a Report and Order and Second Notice of Proposed Rulemaking (FCC 97-7360) that amends its cable inside wiring rules to enhance competition in the video distribution marketplace. The Second FNPRM seeks comment on, among other things, whether there are circumstances where

the FCC should adopt restrictions on exclusive contracts in order to further promote competition in the MDU marketplace. A Petition for Review was filed in the U.S. Circuit Court of Appeals for the 8th Circuit on November 24, 1997. The FCC has received petitions for reconsideration and has requested the 8th Circuit to hold the pending court case in abeyance until the Commission takes action on the pending petitions. The Court granted the Commission's request.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
NPRM	02/01/96	61 FR 3657
1st Order on Recon & FNPRM	02/16/96	61 FR 6210
FNRPM	09/03/97	62 FR 46453
R&O and 2d FNPRM	11/14/97	62 FR 60165.

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Nancy Stevenson, Policy and Rules Division, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7039
Fax: 202 418-7172
Email: nstevens@fcc.gov

RIN: 3060–AG02

4289. OVER-THE-AIR RECEPTION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: PL 104-104, sec 207

CFR Citation: 47 CFR 25; 47 CFR 1

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The FCC has prescribed regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through antennas designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite service. Petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
R&O & FNPRM	03/15/96	61 FR 10710
NPRM	04/18/96	61 FR 16890
R&O, MO&O, FNPRM	09/04/96	61 FR 46557
Order on Recon	12/07/98	63 FR 67422
Second Report and Order	12/23/98	63 FR 71027

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Darryl Cooper, Attorney, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1039
Fax: 202 418-7172
Email: dcooper@fcc.gov

RIN: 3060–AG24

4290. CLOSED CAPTIONING

Priority: Other Significant

Legal Authority: 47 USC 613

CFR Citation: 47 CFR 79

Legal Deadline: None

Abstract: The FCC adopted regulations to ensure that video programming is accessible to persons with hearing disabilities through closed captioning. The rules were adopted in August 1997 and modified in response to petitions for reconsideration in September 1998. The FNPRM adopted in January 1998 seeks comment on appropriate rules and policies to ensure the accessibility of televised emergency information to persons with hearing disabilities.

Timetable:

Action	Date	FR Cite
NOI	12/15/95	60 FR 65052
Order	01/29/96	61 FR 2781
Order	03/12/96	61 FR 9963
Report	08/14/96	61 FR 42249
NPRM	02/03/97	62 FR 4959
Order	03/24/97	62 FR 13853
R&O	09/16/97	62 FR 48487
FNRPM	01/21/98	63 FR 3070
Order	10/20/98	63 FR 726116
Order	06/23/99	64 FR 33424

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Marcia Glauberman, Statistician, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7046
Fax: 202 418-7172

RIN: 3060–AG26

4291. CABLE ACT REFORM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 522; 47 USC 543; 47 USC 544; 47 USC 548; 47 USC 552

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: This proceeding implements the cable reform section of the Telecommunications Act of 1996. It addresses several issues, including the cable rate complaint process, effective competition and subscriber notifications.

Timetable:

Action	Date	FR Cite
Order & NPRM	04/30/96	61 FR 19013
Report & Order	07/02/99	64 FR 35948
Correction in FR	08/06/99	64 FR 42855

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Nancy Stevenson, Policy and Rules Division, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7039
Fax: 202 418-7172
Email: nstevens@fcc.gov

RIN: 3060–AG27

4292. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 549

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: The FCC has adopted rules to address the mandate expressed in Section 629 of the Communications Act to ensure the commercial availability of "navigation devices", the equipment used to access video programming and

FCC—CABLE SERVICES BUREAU

Long-Term Actions

other services from multichannel video programming systems. Petitions for reconsideration were resolved in a recent order.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011
R&O	07/15/98	63 FR 38089
Order on Reconsideration	06/02/99	64 FR 29599

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Horan, Attorney, Federal Communications Commission, 445 12th Street, S.W.
Phone: 202 418-2486
Fax: 202 418-7172
Email: thoran@fcc.gov

RIN: 3060–AG28

4293. TELECOMMUNICATIONS ACT OF 1996, POLE ATTACHMENT PROVISIONS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 224; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 1.1401 to 1.1416

Legal Deadline: Final, Statutory, February 8, 1998.

Abstract: In this proceeding, the Commission continues its implementation of section 703 of the Telecommunications Act of 1996 (1996 Act), by amending the Commission's rules relating to pole attachments. The Commission is required to prescribe regulations, no later than two years after the date of enactment of the 1996 Act, to govern the charges for pole attachments used by cable operators and telecommunications carriers to provide telecommunications services, when the parties fail to resolve a dispute over such charges. The new R&O, FCC 98-20, released Feb 6, 1998, prescribes regulations to govern these charges. Petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
NPRM	08/18/97	62 FR 43963
R&O	03/12/98	63 FR 12013

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State

Agency Contact: Cheryl King, Attorney Advisor, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2284
Fax: 202 418-7172
Email: cking@fcc.gov

RIN: 3060–AG71

4294. DIGITAL MUST CARRY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 534

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Section 614(b)(4)(B) of the Communications Act requires that, at the time the Commission prescribes standards for advanced television, it should "initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of those broadcast signals of local commercial television stations which have been changed to conform with such modified standards." The FCC has issued an NPRM pursuant to the requirements of that Section.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 42330

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ben Golant, Staff Attorney, Federal Communications Commission, Consumer Protection and Competition Division, Cable Services Bureau, 445 12th Street, SW, Washington, DC 20554
Phone: 202 418-7111
Fax: 202 418-7172
Email: bgolant@fcc.gov

RIN: 3060–AG91

4295. HORIZONTAL OWNERSHIP LIMITS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 533

CFR Citation: 47 CFR 76

Legal Deadline: None

Abstract: Section 613 of the Communications Act requires the Commission to "prescribe rules and regulations through cable systems owned by such a person, or in which such a person has an attributable interest." On June 26, 1998, the Commission issued a Second Memorandum Opinion & Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 98-138, in this matter. Among other things, the Further Notice seeks comment on whether, in light of evolving market conditions, 30 percent should remain the appropriate horizontal ownership limit, whether the Commission should revise the rules to consider the presence in the market of all multi-channel video programming providers rather than cable operators alone, and whether to base the limit on actual subscribers rather than on homes passed.

Timetable:

Action	Date	FR Cite
Second MO&O on Recon and FNPRM	07/14/98	63 FR 37790

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Darryl Cooper, Attorney, Federal Communications Commission, Cable Services Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1039
Fax: 202 418-7172
Email: dcooper@fcc.gov

RIN: 3060–AH09

Federal Communications Commission (FCC) **Long-Term Actions**

COMMON CARRIER BUREAU

4296. RULES AND POLICIES REGARDING CALLING NUMBER IDENTIFICATION SERVICES (CC DOCKET 91-281)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(f); 47 USC 201

CFR Citation: 47 CFR 64.1600 to 64.1604

Legal Deadline: Final, Judicial, January 1, 1997, The R&O set effective date of 12/1/95 for carriers to pass CPN, provide per call blocking, & provide unblocking if blocking is offered. Numerous other deadlines for when stays, waivers expire. The R&O set effective date of 12/1/95 for carriers to pass CPN, provide per call blocking, & provide unblocking if blocking is offered. Numerous other deadlines for when stays, waivers expire.

Abstract: The Report and Order and Further Notice found that a Federal model for interstate delivery of calling party number (CPN) is in the public interest and that the model must protect calling party privacy. The Second Report and Order confirms this finding, addresses 53 petitions for reconsideration of the Report and Order and adopts rules that: ensure the interstate delivery of calling party number; ensure that callers can activate a per-call privacy mechanism (by dialing *67) to block display of their numbers to called parties; and ensure that if State policies permit and customers select to have per-line blocking, callers can activate a per-call unblocking mechanism (by dialing *82) to display their numbers to called parties. Further, the Second Report and Order adopts rules to ensure that for other services that use calling party number or calling name, when a caller requests privacy, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party. These rules became generally effective December 1, 1995. Hotel and motel lines, public payphones, party lines, and call return services must comply with these rules by January 1, 1997. The Commission has granted several temporary stays and waivers of these rules. The Third Notice of Proposed Rulemaking seeks comments on whether the caller ID rules should be extended to Private Branch Exchange systems and private payphones. The Fourth Notice of Proposed Rulemaking seeks comments on whether local exchange carriers without blocking software should be exempted from the caller ID rules and required not to pass CPN. BellSouth has petitioned to Commission to reconsider the rules established in the Second Report and Order that applied the caller ID rules to call return services, hotel and motel lines, and public payphones. The 3rd Report and Order, released March 25, 1997, clarified that called ID rules do apply to call return services and party lines. Siemens petitioned for reconsideration of caller ID rules as to equipment manufacturers. The network services division of the Common Carrier Bureau granted a stay of the FCC's rules for private branch exchange (PBX) manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	09/26/91	56 FR 57300
FNPRM	04/18/94	59 FR 18349
R&O	04/18/94	59 FR 18318
Second R&O and Third NPRM	06/02/95	60 FR 28775
Order	10/30/95	
Order	11/30/95	
Order & Fourth NPRM	11/30/95	60 FR 63491
Third R&O	06/23/97	62 FR 34015
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: The title of this item was revised when the status was changed from RM 7397 to CC Docket 91-281. The RM was a public notice calling for comments and, upon receipt of comments and replies, was terminated in favor of the NPRM under CC Docket 91-281.

Agency Contact: Jared Carlson, Attorney, Network Services Division, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-2350
Email: jcarlson@fcc.gov

RIN: 3060–AF07

4297. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 403; 47 USC 152 to 155; 47 USC 3 to 4; 47 USC 207 to 209; 47 USC 225 to 227; 47 USC 251 to 252; 47 USC 271; 47 USC 332; 47 USC 218

CFR Citation: 47 CFR 151; 47 CFR 154; 47 CFR 201 to 205; 47 CFR 403; 47 CFR 52.1 to 52.99

Legal Deadline: None

Abstract: The Report and Order lays the foundation for the fair and effective administration of numbering in the United States. The Report and Order establishes a model for administration of numbering resources in a competitive environment. In this model, the FCC will set broad policy objectives, be the final arbiter of domestic numbering disputes and work closely with other members of the North American Numbering Plan (NANP), the states, industry and consumers to ensure fair and effective number administration. The Report and Order creates the North American Number Council (NANC) under the Federal Advisory Committee Act. In the Third Report and Order, released on October 9, 1997, the Commission affirmed the NANC's selection of Lockheed Martin IMS as the new NANP administrator. The NANP administrator is a nongovernmental entity that is not aligned with any particular telecommunications industry segment, and upon selection and following a transition period, assumed Bellcore's current NANP administrator functions and the central office code administration functions currently handled by the dominant local exchange carrier in each area code. The rules were expanded to accommodate the requirements of the Telecommunications Act of 1996. See FCC 96-337, released August 8, 1996.

Timetable:

Action	Date	FR Cite
NOI	11/10/92	57 FR 53462
NPRM	05/10/94	59 FR 24103
R&O	07/28/95	60 FR 58737
2d R&O	09/06/96	61 FR 47284
3rd R&O	10/09/97	62 FR 55179
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeannie Grimes, Senior Paralegal, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2313

FCC—COMMON CARRIER BUREAU

Long-Term Actions

Fax: 202 418-2345
Email: jgrimes@fcc.gov

RIN: 3060–AF50

4298. USE OF N11 CODES AND OTHER ABBREVIATED DIALING ARRANGEMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In 1992, the FCC released a Notice of Proposed Rulemaking in CC Docket 92-105 proposing that local exchange carriers (LECs) be required to make N11 codes available for access to information service providers. In this proposal, LECs could establish any reasonable assignment criteria for such allocation, including "first come, first served." The FCC's General Counsel released a letter indicating it found no regulatory or legal obstacles to assignment of N11 codes for information services. On February 19, 1997, the FCC released a First Report and Order and Further Notice of Proposed Rulemaking in that Docket (FCC 97-51) which allows incumbent LECs, in addition to the states and Bell Communications Research (Bellcore), to continue to perform the N11 code administration functions that they performed at the time of enactment of the 1996 Act amendments to the 1934 Act, until further FCC action. The FCC concludes that: (1) 311 should be assigned as a national number for access to non-emergency police calls; (2) 711 should be assigned as a national number for access to telecommunications relay services (TRS); (3) all providers of telephone exchange service must be able to have their customers call 611 and 811 to reach their repair and business service offices; and (4) a LEC may not itself offer enhanced services using a 411 code or any other N11 code, unless that LEC offers access to the code on a reasonable nondiscriminatory basis to competing enhanced service providers in the local service area for which it is using the code to facilitate distribution of their enhanced services. In the FNPRM, the FCC asks for comment on: (1) the technical feasibility of implementing 711 for TRS access; (2) the possibility of developing an N11 gateway offering access to multiple TRS providers; (3) whether with such access, TRS calls would still be answered within mandatory minimum answer times; (4) whether such a gateway would be consistent with section 255; and (5) whether other important disability services could be accessed thereby; (6) the possibility of providing both voice and text TRS services through the same abbreviated TRS code; (7) the proprietary nature of N11 codes; and (8) an FCC proposal to transfer administration of N11 codes at the local level from incumbent LECs to the North American Numbering Plan (NANP) administrator. Petitions for reconsideration or clarification on the order have been filed. Comments and replies were filed on March 31 and April 30, 1997, respectively. On June 16, 1999, the Commission released a Public Notice announcing that it will hold a public forum on September 8th, 1999, on 711 access to TRS. The goal of the forum is to identify steps that must be taken to implement 711 access to TRS as well as obstacles to implementation and how those obstacles can be resolved.

Timetable:

Action	Date	FR Cite
NPRM	05/29/92	57 FR 22681
First R&O	02/26/97	62 FR 8633
FNPRM	02/26/97	62 FR 8671
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Helene Schrier Nankin, Attorney, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-1466
Email: hnankin@fcc.gov

RIN: 3060–AF51

4299. IMPLEMENTATION OF THE UNIVERSAL SERVICE PORTIONS OF THE 1996 TELECOMMUNICATIONS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 et seq as amended

CFR Citation: 47 CFR 54

Legal Deadline: NPRM, Statutory, March 8, 1996.
Final, Statutory, May 8, 1997, Federal-State Joint Board R&O released May 8, 1997.
Other, Statutory, November 8, 1996, Federal-State Joint Board R&O released May 8, 1997.
Federal-State Joint Board R&O released May 8, 1997.

Abstract: As required by the Telecommunications Act of 1996, the Commission sought comment on proposals for reforming universal service. On November 8, 1996, the Federal-State Joint Board on Universal Service issued a recommended decision on changes to the universal service support mechanisms. In addition, on January 10, 1997, the Commission issued an NPRM and NOI on changes to the Board of Directors of the National Exchange Carrier Association (NECA), regarding the administration of universal service. On May 8, 1997, the Commission, at the direction of Congress, released its order implementing the universal service portions of the 1996 Act. On December 30, 1997, the Commission issued the 4th Order on Reconsideration which made changes and clarifications to the May 8 Order. On June 22, 1998, the Commission issued the 5th Order on Reconsideration which revised the collection levels for the schools and libraries support mechanism through June 30, 1999, and revised the collection levels for the rural health care support mechanism through December 31, 1998. The 5th Order on Reconsideration also revised the priority with which schools and libraries and rural health care providers will receive support. On October 28, 1998, the Commission issued the 5th Report and Order, in which it adopted the model platform for its forward-looking economic cost methodology, which will be used to determine support for non-rural carriers beginning July 1, 1999. On November 21, 1998, the Commission issued the 8th Order on Reconsideration in which it consolidated the administration of universal service into a single entity known as the Universal Service Administrative Company or USAC. On November 25, 1998, the Federal-State Joint Board on Universal Service issued its Second Recommended Decision in which the Joint Board made certain recommendations to the Commission regarding the high cost support mechanism.

On May 28th, 1999, the Commission issued the 13th Order on Reconsideration in which it adopted

the principles of a federal high cost support mechanism that conformed to the Second Recommended decision and in which it sought further comment on specific elements of the support methodology. In the 13th Order on Reconsideration, the Commission also decided to implement the new high cost support mechanism on January 1, 2000 instead of July 1, 1999 as previously planned. On May 28, 1999, the Commission also issued a Further Notice of Proposed Rulemaking in which it sought comment on proposed input values to be used in the forward-looking model to determine non-rural LECs' cost of providing supported services in high cost areas. On August 5, 1999, the Commission adopted a Further Notice of Proposed Rulemaking in which it sought comment to ascertain the availability of, and to understand the possible impediments to, deployment and subscribership in unserved and underserved areas of the nation, including tribal lands and other insular areas.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	03/08/96	61 FR 10499
Recommended Decision Federal-State Joint Board, Universal Service	11/08/96	61 FR 63778
First R&O Implement Schools/Libraries Admin. Prov., S.254, 1996 Act	05/08/97	62 FR 32862
Second R&O Implement of Universal Service Provisions of 1996 Telecom Act	05/08/97	
Order on Recon	07/10/97	62 FR 40742
R&O & 2d Order on Recon	07/18/97	62 FR 41294
Order on Recon, 2d R&O, & FNPRM	08/15/97	62 FR 47404
3rd R&O	10/14/97	62 FR 56118
2d Order on Recon, CC Docket 97-21	11/26/97	62 FR 65036
4th Order on Recon	12/30/97	62 FR 2093
5th Order on Recon	06/22/98	63 FR 43088
5th R&O	10/28/98	63 FR 63993
8th Order on Recon	11/21/98	
2d Recommended Decision	11/25/98	
Final Order Changes to the Board of Directors of NECA	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Agency Contact: Irene Flannery, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, N.W., Washington, DC 20554
Phone: 202 418-7400
Email: iflanner@fcc.gov

RIN: 3060–AF85

4300. TOLL FREE SERVICE ACCESS CODES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 201 et seq; 47 USC 154(i); 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proceeding assures that toll free numbers are allocated on an efficient, fair, and orderly basis.

Timetable:

Action	Date	FR Cite
NPRM	10/05/95	60 FR 57157
Second R&O	04/25/97	62 FR 20126
Fourth R&O and MO&O	03/30/98	63 FR 16440

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Martin Schwimmer, Attorney, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-2334
Email: mschwimm@fcc.gov

RIN: 3060–AG11

4301. IMPLEMENTATION OF SECTION 273 OF THE TELECOMMUNICATIONS ACT OF 1996; NOTICE OF PROPOSED RULEMAKING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 273; 47 USC 151; 47 USC 153; 47 USC 154; 47 USC 157; 47 USC 201 to 209; 47 USC 218; 47 USC 251; 47 USC 403

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rulemaking implements provisions of the Telecommunications Act of 1996 relating to the manufacturing of telecommunications equipment and customer premises equipment by the Bell Operating Companies and their affiliates.

Timetable:

Action	Date	FR Cite
NPRM	12/11/96	62 FR 3638
NPRM Comment Period End	01/24/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Gregory Cooke, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2320
Email: gcooke@fcc.gov

RIN: 3060–AG36

4302. IMPLEMENTATION OF NON-ACCOUNTING SAFEGUARDS, SEC. 271 & 272 OF COMMUNICATIONS ACT OF 1996 & REGULATORY TREATMENT OF LEC PROVISIONS OF INTEREXCHANGE SVCS. ORIG. IN LEC LOCAL EXCH. AREA

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 271; 47 USC 272; 47 USC 303(r)

CFR Citation: 47 CFR 61.41; 47 CFR 61.58; 47 CFR 63.71; 47 CFR 64.702; 47 CFR 1.720; 47 CFR 1.721; 47 CFR 1.735

Legal Deadline: None

Abstract: On March 24, 1998, the FCC released an Order staying the provision for the April 18, 1998 deadline by which independent LECs that provide for in-region, interstate interexchange services on an integrated basis must comply with the FCC's requirement that they provide these services through a separate affiliate. To insure that independent LECs do not incur compliance costs while the possibility of changes to the requirement still exists, the Order stays the the portion of the rule that provides the deadline for compliance until 60 days after release of a Commission reconsideration order addressing this issue. The Second Report and Order in the Proprietary Network Information

FCC—COMMON CARRIER BUREAU

Long-Term Actions

(CPNI) proceeding (CC Docket No. 96-115) resolved CPNI issues raised in this proceeding that had been deferred, including obligations in connection with sections 272 and 274 of the 1996 Act.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39392
FNPRM	01/21/97	62 FR 2991
1st R&O	01/21/97	62 FR 2927
2nd Order on Recon.	07/07/97	62 FR 36216
Order	04/06/98	63 FR 16696
Second R&O	04/24/98	63 FR 20326
Erratum	06/25/98	63 FR 34603
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Egler, Policy Program Planning Division, Federal Communications Commission, Policy and Program Planning Division, CCB, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1580

RIN: 3060–AG37

4303. POLICIES AND RULES GOVERNING INTERSTATE PAY-PER-CALL AND OTHER INFORMATION SERVICES PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 228

CFR Citation: 47 CFR 64.1501; 47 CFR 64.1504; 47 CFR 64.1510

Legal Deadline: None

Abstract: The Commission has received comments on proposed rules designed to implement the 1996 Telecommunications Act with respect to information services to prevent abusive and deceptive practices by entities that might try to circumvent the statutory requirements. The proposed rules address generally the use of dialing sequences other than the 900 service access code to provide information services.

Timetable:

Action	Date	FR Cite
NPRM	06/20/96	61 FR 31481
NPRM Comment Period End	09/16/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mary Romano, Industry Analyst, Enforcement Division, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0960
Email: mromano@fcc.gov

RIN: 3060–AG42

4304. TELECOMMUNICATIONS CARRIERS' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION AND OTHER CUSTOMER INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 222; 47 USC 275; 47 USC 303(r)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On October 31,1996, the FCC released a Second Report & Order in CC Docket no. 96-61, in which the Commission determined that the statutory forbearance criteria in Section 10 of the Telecommunications Act of 1996 are met for the Commission to no longer file tariffs pursuant to Section 203 for their interstate, domestic, interexchange services. The Commission therefore ordered all nondominant interexchange carriers to cancel their tariffs for interstate, domestic, interexchange services within nine months from the effective date of the Second Report & Order. In addition, the Second Report & Order requires nondominant interexchange carriers to make public information concerning rates, terms, and conditions for all their interstate, domestic, interexchange services. This disclosure requirement, along with an annual certification requirement, was adopted to facilitate enforcement of the geographic rate averaging and rate integration requirements of Section 254(g) of the Communications Act, as ammended.

Timetable:

Action	Date	FR Cite
NPRM	05/28/96	61 FR 26483
Public Notice	02/25/97	62 FR 8414
FNPRM	02/27/98	
2d R&O	02/27/98	
2d R&O	04/28/98	63 FR 20326
FNPRM	04/28/98	63 FR 20364
Order on Reconsideration	08/16/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Margaret Egler, Policy Program Planning Division, Federal Communications Commission, Policy and Program Planning Division, CCB, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1580

RIN: 3060–AG43

4305. TELEMESSAGING, ELECTRONIC PUBLISHING, AND ALARM MONITORING SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 260; 47 USC 274; 47 USC 275; 47 USC 303(r)

CFR Citation: 47 CFR 64; 47 CFR 1

Legal Deadline: None

Abstract: On February 7, 1997, the Commission released an Order that implements the telemessaging and electronic publishing provisions of the Telecommunications Act of 1996 (1996 Act), sections 260 and 274, respectively. Section 260 delineates the conditions under which incumbent local exchange carriers (LECs) may offer telemessaging services. Section 274 permits Bell Operating Companies (BOCs) to provide electronic publishing services only through a "separated affiliate" or an "electronic publishing joint venture" that meets certain separation, nondiscrimination, and joint marketing requirements. On March 25, 1997, the Commission released a Second Report and Order implementing the alarm monitoring service provisions set forth in section 275 of the 1996 Act. Among other things, the Order concludes that Ameritech is the only BOC that qualifies for grandfathering treatment under section 275(a)(2) of the 1996 Act, and also finds that incumbent LECs, including BOCs, that provide basic telecommunications services or information services that are used by third parties to provide alarm monitoring services are not engaged in the provision of alarm monitoring

service. The Order also finds that the Computer III/ONA requirements continue to govern the provision of alarm monitoring services and telemessaging. The Order also concludes that section 260(a) of the Act imposes nondiscrimination requirements on incumbent LEC provision of telemessaging services that are in addition to those found in sections 201 and 202.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39385
FNPRM	02/20/97	62 FR 7744
1st R&O	02/20/97	62 FR 7690
2nd R&O	04/04/97	62 FR 16093

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Ann Stevens, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1543

RIN: 3060–AG44

4306. POLICY AND RULES CONCERNING THE INTERSTATE, INTEREXCHANGE MARKETPLACE; IMPLEMENTATION OF SECTION 254(G) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 214(e); 47 USC 215; 47 USC 218; 47 USC 220

CFR Citation: 47 CFR 64.702(e); 47 CFR 61

Legal Deadline: None

Abstract: On March 25, 1996, the Commission released an NPRM seeking comment on its proposal that nondominant interexchange carriers should no longer file tariffs. On October 29, 1996, the Commission adopted the Second Report and Order in which it determined that the statutory forbearance criteria in section 10 of the Communications Act were met for complete detariffing of the interstate, domestic, interexchange services offered by nondominant interexchange carriers. The Commission determined that such carriers would no longer be allowed to file tariffs pursuant to section 203 of the Communications Act for such services, with limited exceptions. The Commission maintained the tariffing requirement for the international portion of bundled domestic and international service offerings. It further required nondominant interexchange carriers to: (1) file an annual certification stating that they are in compliance with the requirements of section 254(g); (2) maintain supporting documentation on the rates, terms, and conditions of their interstate, domestic, interexchange services that they could submit to the Commission within ten business days upon request; and (3) make publicly available information concerning current rates, terms, and conditions for all of their interstate, domestic interexchange services. Several parties appealed, requesting a stay of the 2nd R&O pending review by the D.C. Circuit. On 2/13/1997, the Circuit granted certain motions. The result was that nondominant interexchange carriers were required to file tariffs for their interstate, domestic, interexchange service. On 8/20/1997, the FCC released an Order On Reconsideration in which it modified the 2d R&O by:(1) adopting permissive detariffing for interstate, domestic, interexchange direct-dial services to which end users obtain access by dialing an access code; (2) adopting permissive detariffing for the 1st 45 days of service to new customers that contact the local exchange carrier to choose their primary interexchange carrier; and (3) eliminating the requirement that nondominant interexchange carriers make publicly available information concerning current rates and terms for most interstate, domestic interexchange services.

In the Second Order on Reconsideration, the Commission considered again whether nondominant interexchange carriers (IXCs) should be required to make available to the public information concerning the rates, terms and conditions for all their interstate, domestic, interexchange services. Like other common carriers, IXCs historically have been required to file tariffs with the appropriate regulatory body (this Commission, in the case of interstate services) establishing the rates, terms, and conditions of service. The tariff does not simply serve as a public source of such information; under the judicially created "filed-rate" doctrine, the tariffed rate for a service is the only lawful rate that the carrier may charge for that service. Even if a carrier intentionally misrepresents its rate and a customer relies on the misrepresentation, the carrier cannot be held to the promised rate if it conflicts with the tariffed rate. When a single carrier dominated the interstate interexchange market, tariffing was an effective tool for ensuring compliance with various common carrier requirements, including rules that require nondiscrimination among customers.

Timetable:

Action	Date	FR Cite
NPRM	04/03/96	61 FR 14717
R&O, Sec. 254(g) Requirements of Communications Act	08/16/96	61 FR 42558
2nd R&O	11/22/96	61 FR 59340
Order on Reconsideration	11/04/97	62 FR 59583
Second Order on Reconsideration	04/22/99	64 FR 19722

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Kearney, Attorney-Advisor, Federal Communications Commission, Policy and Program Planning Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1580

RIN: 3060–AG45

4307. IMPLEMENTATION OF THE SUBSCRIBER SELECTION CHANGES PROVISION OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 201; 47 USC 258

CFR Citation: 47 CFR 64.1150; 47 CFR 64.1160; 47 CFR 64.1170; 47 CFR 64.1190; 47 CFR 64.1180; 47 CFR 64.1100

Legal Deadline: None

Abstract: This Order establishes new rules and policies implementing section 258 of the Communications Act of 1934 (ACT), as amended by the Telecommunications Act of 1996, which makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of

telecommunications exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." The rules provide, among other things, that any telecommunications carrier that violates such verification procedures and that collects charges for telephone exchange service or telephone toll service from a subscriber, shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by the subscriber after such violation. In the FNPRM we seek comment on several proposals to further strengthen our slamming rules, including a proposal to require unauthorized carriers to remit to authorized carriers certain amounts in addition to the amount paid by slammed subscribers, as well as proposals for preventing the confusion and slamming that results from resellers using the same carrier identification codes (CICs) as their facilities-based carriers.

Timetable:

Action	Date	FR Cite
FNPRM	08/14/97	62 FR 43493
MO&O on Recon	08/14/97	
FNPRM Comment Period End	09/30/97	
Second FNPRM	12/17/98	
Second Report & Order	12/17/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kimberly Parker, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7393
Email: kparker@fcc.gov

RIN: 3060–AG46

4308. IMPLEMENTATION OF SECTION 402(B)(1)(A) OF THE TELECOMMUNICATIONS ACT OF 1996 (LEC TARIFF STREAMLINING PROVISIONS)

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154

CFR Citation: 47 CFR 1.773(a); 47 CFR 61.58

Legal Deadline: Final, Statutory, February 8, 1997, The Act of 1996 provides that streamlining provisions apply to any charge, classification, regulation, or practice filed on or after one year after date of enactment of the Act (i.e., 2/8/97).
The Act of 1996 provides that streamlining provisions apply to any charge, classification, regulation, or practice filed on or after one year after date of enactment of the Act (i.e., 2/8/97).

Abstract: In this Report and Order, the FCC adopted rules to implement the specific streamlining requirements of the Telecommunications Act of 1996. Petitions for reconsideration were filed.

Timetable:

Action	Date	FR Cite
NPRM	09/24/96	61 FR 49987
NPRM Comment Period End	10/24/96	
R&O	02/07/97	62 FR 5757

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joi Nolen, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1520

RIN: 3060–AG47

4309. REGULATORY TREATMENT OF LEC PROVISION OF INTEREXCHANGE SERVICE ORIGINATING IN THE LEC'S LOCAL EXCHANGE AREA

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 220; 47 USC 271; 47 USC 272; 47 USC 303(r)

CFR Citation: 47 CFR 61.3(o); 47 CFR 61.3(t)

Legal Deadline: None

Abstract: On April 18, 1997, the Commission released a Second Report and Order in CC Docket No. 96-149 and a Third Report and Order in CC Docket No. 96-61 (Classification Order), in which the Commission revised its regulatory treatment of BOCs' and independent LECs' provision of domestic, interstate, long distance services and international services. The Classification Order revises the Commission's approach to defining product and geographic markets so as to be more in accord with the 1992 Department of Justice/Federal Trade Commission Horizontal merger Guidelines; classifies the BOCs' long distance affiliates as "non-dominant" in the provision of long distance services that originate in the areas in which a BOC provides local telephone services; and also classifies independent LECs as non-dominant in the provision of in-region long distance services, but requires independent LECs to provide their in-region long distance services through separate affiliates that satisfy certain separation requirements. Finally, the Classification Order classifies the BOCs and independent LECs as non-dominant in the provision of interstate, domestic, and long distance services that originate outside of the areas in which they provide local telephone services, and it eliminates the requirement that the BOCs and independent LECs provide those out-of-region services through separate affiliates. On June 27, 1997, the Commission released an Order on Reconsideration, which made minor modifications to the Classification Order, including changing the effective date of the Classification Order to 70 days after its publication in the Federal Register. On March 24, 1998, the FCC released an Order staying the provision for the April 18, 1998 deadline by which independent LECs that provide in-region, interstate, interexchange services on an integrated basis must comply with the FCC's requirement that they provide these services through a separate affiliate. To ensure that separate LECs do not incur compliance costs while the possibility of changes to the requirement still exists, the Order stays the portion of the rule that provides the deadline for compliance until 60 days after the release of an FCC reconsideration order addressing this issue.
The Second Order on Reconsideration amended the Commission's rules to allow independent LECs that provide in-region, long distance services solely on a resale basis to do so through a separate corporate division rather than a separate legal entity.

Timetable:

Action	Date	FR Cite
NPRM	07/29/96	61 FR 39379
Order on Recon	07/03/97	62 FR 35974

Action	Date	FR Cite
2nd R&O	07/03/97	
Order	04/06/98	63 FR 16696
2nd Order on Reconsideration & MO&O	08/16/99	64 FR 44423

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Andrea Kearney, Attorney-Advisor, Federal Communications Commission, Policy and Program Planning Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1580

RIN: 3060–AG48

4310. ACCESS CHARGE REFORM

Priority: Economically Significant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 403; 47 USC 403; 47 USC 553

CFR Citation: 47 CFR 61.41 to 61.49; 47 CFR 69

Legal Deadline: None

Abstract: On December 24, 1996, the Commission initiated a rulemaking to revise its access charge rules to make them compatible with a competitive market envisioned by the Telecommunications Act of 1996. On May 7, 1997, the Commission adopted revised access charge rate structure rules and adjusted the price cap productivity factor. The Commission also adopted a market-based approach to reducing overall access charge levels and moving such levels toward forward-looking economic costs. The Commission adopted a Further Notice of Proposed Rulemaking seeking comment on proposals to allow presubscribed interexchange carrier charges on special access lines and adjust the allocation of General Support Facilities costs recovered through interstate access charges. On July 10, 1997, on its own motion, and on October 9, 1997, in response to reconsideration petitions, the Commission revised or clarified certain parts of the rules adopted in the May 1997 Access Charge Reform Order. On November 26, 1997, the Commission adopted rules requiring price cap carriers to adjust the allocation of General Support Facilities costs and to reduce their price cap indices to ensure that regulated access rates do not recover those costs which are related to nonregulated services. On October 1, 1998, the Commission delayed until July 1, 1999, certain increases to the ceilings for the presubscribed interexchange carrier charge (PICC). On October 5, 1998, the Commission issued a Public Notice inviting parties to update and refresh the record on certain access reform issues. Reconsideration petitions filed in response to the Access Charge Reform Order, if not yet addressed, will be addressed in future reconsideration orders. On May 27,1999, the Commission initiated a further rulemaking, seeking comment on how to adjust interstate access charges in conjunction with the removal from access charges of implicit universal service support for non-rural local exchange carriers. On August 5, 1999, the Commission adopted rules implementing the market-based approach to access charge reform, pursuant to which incumbent price cap local exchange carriers receive progressively greater pricing flexibility as competition develops. The Commission also initiated a further notice of proposed rulemaking, seeking comment on additional pricing flexibility, proposed changes to the rate structure for local switching and tandem-switched transport, and the need to constrain access charges imposed by competitive local exchange carriers. Reconsideration petitions filed in response to the November 1977 General Support Facilities Order will be addressed in a future reconsideration order.

Timetable:

Action	Date	FR Cite
NPRM	01/31/97	62 FR 04670
NPRM Comment Period End	02/13/97	
FNPRM	06/06/97	62 FR 31040
R&O	06/11/97	62 FR 31868
Second Report & Order	06/11/97	62 FR 31939
Order on Reconsideration	07/29/97	62 FR 40460
Second Order on Reconsideration	10/29/97	62 FR 56121
Third Report & Order	12/15/97	62 FR 65619
Public Notice	10/09/98	63 FR 54430
Third Order on Reconsideration	10/15/98	63 FR 55334
Fourth Report & Order and FNPRM	06/09/99	64 FR 30949
Fifth Report & Order and FNPRM	08/27/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Tamara Preiss, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1530

RIN: 3060–AG49

4311. IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996, SECOND REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151 to 155; 47 USC 157; 47 USC 201 to 205; 47 USC 207 to 209; 47 USC 218

CFR Citation: 47 CFR 51; 47 CFR 52

Legal Deadline: Final, Statutory, August 8, 1996.

Abstract: The Second Report and Order and Memorandum Opinion and Order implemented the dialing parity, nondiscriminatory access, network disclosure, and number administration provisions of the Telecommunications Act of 1996. The Order also denied the Petition for Expedited Declaratory Ruling on the area code relief plan for Dallas and Houston filed with the FCC by the Texas Public Utilities Commission on May 9, 1996. Finally, this Order addresses petitions for clarification or reconsideration in the matters of proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech and the Administration of the North American Numbering Plan. On July 19, 1999, the Commission released an order denying the petition for reconsideration of the Local Competition Second Report and Order and Memorandum Opinion and Order filed by Beehive Telephone Company, Inc., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston Ordered by the Public Utilities Commission of Texas, and

FCC—COMMON CARRIER BUREAU

Long-Term Actions

Administration of the North American Numbering Plan, First Order on Reconsideration, CC Docket No. 96-98, FCC 99-170, 1999 WL 507245 (1999). Other petitions for reconsideration or clarification of the Local Competition Second Report and Order and Memorandum Opinion and Order regarding numbering administration under section 251(e)(1) of the Act, 47 U.S.C. section 251(e)(1), dialing parity and nondiscriminatory access under section 251(b)(3) of the Act, 47 U.S.C. section 251(b)(3), and network disclosure under section 251(c)(1) of the Act, 47 U.S.C. section 251(c)(1), are currently pending before the Commission.

Timetable:

Action	Date	FR Cite
NPRM	04/25/96	61 FR 18311
NPRM Comment Period End	06/03/96	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: Gregory Cooke, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2320
Email: gcooke@fcc.gov

RIN: 3060–AG50

4312. IMPLEMENTATION OF SECTION 255 OF THE TELECOMMUNICATIONS ACT OF 1996; ACCESS TO TELECOMMUNICATION SERVICES AND EQUIPMENT, AND CUSTOMER PREMISE EQUIPMENT, FOR PERSONS WITH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 255

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This proceeding is initiated to implement the provisions of section 255 of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services to persons with disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/96	61 FR 50465
NPRM	04/02/98	63 FR 28456
NPRM Comment Period End	08/14/98	
First Report & Order	07/14/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local

Agency Contact: Ellen Blackler, Special Asst. to Bureau Chief, Federal Communications Commission, 445 12th Street, S.W.
Phone: 202 418-1500
Fax: 202 418-7247
Email: eblackler@fcc.gov

RIN: 3060–AG58

4313. ENHANCED 911 SERVICES FOR WIRELINE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201; 47 USC 222; 47 USC 251

CFR Citation: 47 CFR 64.706; 47 CFR 64.708; 47 CFR 68.228; 47 CFR 68.2; 47 CFR 68.3; 47 CFR 68.3(a); 47 CFR 68.308; 47 CFR 68.310

Legal Deadline: None

Abstract: The rules generally will assist state governments in drafting legislation that will ensure that multi-line telephone systems are compatible with the enhanced 911 network.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Alan Thomas, Attorney, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-2338
Email: aathomas@fcc.gov

RIN: 3060–AG60

4314. ADMINISTRATION OF THE NORTH AMERICAN NUMBERING PLAN, CARRIER IDENTIFICATION CODES (CICS)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201 to 205; 47 USC 251(e)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: In 1994, the FCC released a Notice of Proposed Rulemaking (NPRM) in CC Docket No.92-237 addressing various issues relating to NANP administration, including carrier identification codes (CICs). On April 30, 1996, the FCC issued a Public Notice to refresh the record in this Docket. On April 11, 1997, the FCC released a Second Report and Order affirming its tentative conclusion in the NPRM of the industry's plan to convert 3-digit FBD CICs to 4-digit. On October 9, 1997, the FCC released the CICs' Further Notice of Proposed Rulemaking seeking comments on the definition of "entity" used to determine who may receive a CIC, and on CIC conservation issues. On October 22, 1997, the Commission released CIC's Order on Reconsideration, Order on Application For Review, and Second FNPRM. The Order on Application For Review denied VarTec Telecom Inc.'s Application For Review of the CCB's decision to deny VarTec's Motion for Stay of the CIC's Second Report and Order. The Second Further Notice of Proposed Rulemaking tentatively concludes that eventually all LEC end offices should be required to provide equal access. In December 1997 and January 1998, the CCB's Network Service Division released five Orders addressing petitions for waiver filed by small LECs, requesting extension of the January 1, 1998 deadline for conversion of switches to 4-digit. On January 28, 1998, the Network Services Division released an Order addressing a petition filed by a LEC seeking a waiver of five-digit CIC dialing during the permissive dialing period.

Timetable:

Action	Date	FR Cite
2d R&O	04/18/97	62 FR 19056
FNPRM	10/22/97	62 FR 54817

FCC—COMMON CARRIER BUREAU

Long-Term Actions

Action	Date	FR Cite
Order on Recon	10/28/97	62 FR 55762
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Ward, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th St., S.W., Washington, DC 20554
Phone: 202 418-2345
Email: doward@fcc.gov

RIN: 3060–AG61

4315. IN THE MATTER OF INSIDE WIRE, THIRD REPORT AND ORDER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 155

CFR Citation: 47 CFR 68.3; 47 CFR 68.213(c)

Legal Deadline: None

Abstract: This action addresses a proposal for enhanced wire quality standards for simple inside telephone wiring. The action will also address whether the demarcation point rule should apply to complex wiring and whether the demarcation point may be located away from a building.

Timetable:

Action	Date	FR Cite
NPRM	06/17/97	62 FR 36476
NPRM Comment Period End	08/01/97	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Susan Magnotti, Senior Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0871
Email: smagnott@fcc.gov

RIN: 3060–AG63

4316. AMENDMENT OF RULES GOVERNING PROCEDURES TO BE FOLLOWED WHEN FORMAL COMPLAINTS ARE FILED AGAINST COMMON CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 208; 47 USC 260; 47 USC 271; 47 USC 274; 47 USC 275

CFR Citation: 47 CFR 0.291; 47 CFR 1.47; 47 CFR 1.720 to 1.736

Legal Deadline: None

Abstract: In this proceeding the FCC revised the procedural rules governing the filing of formal complaints with the FCC. The objectives of the Order focused on promoting settlement efforts enhancing the contents of pleadings and streamlining complaint procedures generally. The rule amendments require parties (1) to engage in pre-filing activities, including settlement discussions and information exchange; (2) eliminate delays in service of formal complaints on carriers; (3) improve the format and content of pleadings; (4) eliminate pleading opportunities that are not useful or necessary; and (5) streamline the discovery process. See Report and Order dated 11/25/97. Final Action anticipated by 12/99. In this proceeding, the FCC also adopted procedures to govern the "Accelerated Docket," in which complaints are resolved on an expedited basis, using tools such as pre-filing settlement conferences supervised by the Commission, as well as minitrials.

Timetable:

Action	Date	FR Cite
NPRM	12/26/96	61 FR 67978
Report & Order	11/25/97	63 FR 990
Second Report & Order	07/14/98	63 FR 41433
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Anita Cheng, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0960

RIN: 3060–AG65

4317. COMPUTER III FURTHER REMAND PROCEEDINGS: BELL OPERATING COMPANY PROVISION OF ENHANCED SERVICES

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 160; 47 USC 161; 47 USC 202 to 205; 47 USC 251; 47 USC 271; 47 USC 272; 47 USC 274 to 276

CFR Citation: 47 CFR 51; 47 CFR 53; 47 CFR 64

Legal Deadline: None

Abstract: On January 30, 1998, the FCC released a Further Notice of Proposed Rulemaking (FNRPM) proposing to streamline the safeguards under which the Bell Operating Companies (BOCs) provide information (or enhanced) services, such as voice mail and electric messaging. The FCC sought comment on tentative conclusions relating to nonstructural safeguards, Comparably Efficient Interconnection (CEI) plans, and network information disclosure rules, among other things. Finally, the FNPRM sought to build a record on which to respond to a partial remand of certain orders by the Court of Appeals for the Ninth Circuit. On February 25, 1999, the Commission adopted a Report and Order which streamlined the Commission's CEI and network information disclosure rules. Although the BOCs must continue to comply with their CEI obligations, they are no longer required to obtain pre-approval of their CEI plans and amendments from the Commission before initiating or altering an intra-LATA information service. Instead, the Commission requires the BOCs to post their CEI plans on their publicly accessible Internet sites, and to notify the Common Carrier Bureau upon such posting. The Commission removed the network information disclosure rules set forth in the Computer II and Computer III proceedings, with the narrow exception of the Computer II rules that require carriers to disclose changes that could affect how customer premises equipment (CPE) is attached to the network.

Timetable:

Action	Date	FR Cite
NPRM	02/26/98	63 FR 9749
Order	03/24/99	64 FR 14141
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

FCC—COMMON CARRIER BUREAU

Long-Term Actions

Government Levels Affected: Undetermined

Agency Contact: Staci Pies, Attorney-Advisor, Federal Communications Commission, Policy and Program Planning Division, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1580

RIN: 3060–AG72

4318. NOTICE OF PROPOSED RULEMAKING REGARDING DETARIFFING OF INTERSTATE EXCHANGE ACCESS SERVICES FOR NON-INCUMBENT LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 160; 47 USC 151 to 154

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Federal Communications Commission proposes to establish mandatory detariffing for non-incumbent local exchange carrier providers of interstate exchange access services pursuant to a notice of proposed rulemaking issued by the FCC on June 19, 1997.

Timetable:

Action	Date	FR Cite
NPRM	06/19/97	62 FR 38244
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Hunt, Attorney Adviser, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1520
Email: dhunt@fcc.gov

RIN: 3060–AG73

4319. IN THE MATTER OF THE TELECOMMUNICATIONS RELAY SERVICES, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE TELECOMMUNICATIONS ACT OF 1996

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225

CFR Citation: 47 CFR 64.604

Legal Deadline: None

Abstract: This item will address the requirement that telecommunications relay services be capable of handling any type of call normally provided by common carriers, including coin-sent paid calls.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Helene Schrier Nankin, Attorney, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-1466
Email: hnankin@fcc.gov

RIN: 3060–AG75

4320. IN THE MATTER OF TELECOMMUNICATIONS RELAY SERVICES AND SPEECH-TO-SPEECH SERVICES FOR INDIVIDUALS WITH HEARING AND SPEECH DISABILITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225; 47 USC 255; 47 USC 610

CFR Citation: 47 CFR 64.601; 47 CFR 64.603; 47 CFR 64.604; 47 CFR 64.605

Legal Deadline: None

Abstract: In the NPRM, the FCC proposes ways to improve the Telecommunications Relay Services and extend services to more people with disabilities. The NPRM seeks comment on the following tentative conclusions: (1) the costs of speech-to-speech (STS) services and video relay interpreting (VRI) service should be recoverable from the TRS Fund; (2) all common carriers providing voice transmission services must insure that STS services are available throughout their service areas within two years of adoption of final rules in this proceeding; (3) the FCC should strengthen the current TRS minimum standards, including its speed-of-answer rules; and (4) the FCC should amend the TRS enforcement rules to improve the FCC's oversight of certified state TRS programs and its ability to compel compliance with the Federal mandatory minimum standards for TRS. The NPRM was released on May 20, 1998. Comments and reply comments were filed.

Timetable:

Action	Date	FR Cite
NPRM	05/20/98	63 FR 32798
NPRM Comment Period End	09/14/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: State

Agency Contact: Marilyn Jones, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2357
Fax: 202 418-0484
Email: majones@fcc.gov

RIN: 3060–AG76

4321. TOLL FRAUD

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 201 to 205; 47 USC 403; 47 USC 258

CFR Citation: 47 CFR 64.1900

Legal Deadline: None

Abstract: The NPRM proposes to address issues related to the prevention of toll fraud.

Timetable:

Action	Date	FR Cite
NPRM	12/02/93	58 FR 65163
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: David Ward, Attorney, Federal Communications Commission, Common Carrier Bureau, 445 12th St., S.W., Washington, DC 20554
Phone: 202 418-2345
Email: doward@fcc.gov

RIN: 3060–AG77

4322. 1998 BIENNIAL REGULATORY REVIEW/REVIEW OF ACCOUNTING AND COST ALLOCATION REQUIREMENTS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 220; 47 USC 152; 47 USC 161

CFR Citation: 47 CFR 32.11; 47 CFR 64.903; 47 CFR 904; 47 CFR 32.2114; 47 CFR 32.2115; 47 CFR 32.2116; 47 CFR 32.6114; 47 CFR 32.6115; 47 CFR 32.6116; 47 CFR 32.5280; 47 CFR 32.16; 47 CFR 32.2000(b)

Legal Deadline: Final, Statutory, December 31, 1998.

Abstract: This NPRM proposes to modify the FCC's cost allocation and accounting rules as part of the biennial review process. Specifically, it proposes (1) to raise the threshold significantly for Class A accountings, thus allowing mid-sized carriers currently required to use Class A accounts to use the more streamlined Class B accounts; (2) to establish less burdensome cost allocation manual (CAM) procedures for the mid-sized incumbent local exchange carriers (LECs) and to reduce the frequency with which independent audits of the cost allocations are required; and (3) to make several changes to the uniform system of accounts to reduce accounting requirements and to eliminate or consolidate accounts..

Timetable:

Action	Date	FR Cite
NPRM	06/17/98	63 FR 45208
NPRM Comment Period End	09/04/98	
Report & Order	06/30/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Timothy Peterson, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1575

RIN: 3060–AG98

4323. BIENNIAL REVIEW OF ARMIS REPORTING REQUIREMENTS

Priority: Other Significant. Major under 5 USC 801.

Legal Authority: 47 USC 219; 47 USC 220; 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 215; 47 USC 218; 47 USC 403

CFR Citation: 47 CFR 43.21

Legal Deadline: Final, Statutory, December 31, 1998.

Abstract: The FCC proposes as part of its biennial regulatory review to reduce reporting requirement for incumbent local exchange carriers with annual operating revenues in excess of the annual indexed revenue threshold, currently $109 million. These modifications are designed to minimize the reporting burden on carriers, improve the quality and use of the reported financial and operating data, and reduce the costs of collection, verification, and distribution of the data. Eliminating the existing requirement to file paper reports and distribute ARMIS data by electronic means are two additional goals of this proposal.

Timetable:

Action	Date	FR Cite
ANPRM	07/17/98	63 FR 44220
ANPRM Comment Period End	09/04/98	
Report & Order	06/30/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mika Savir, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0384
Email: msavir@fcc.gov

RIN: 3060–AG99

4324. PERFORMANCE MEASUREMENTS AND REPORTING REQUIREMENTS FOR OPERATIONS SUPPORT SYSTEMS, INTERCONNECTION, OPERATOR SERVICES, AND DIRECTORY ASSISTANCE

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 251; 47 USC 303

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On April 17, 1998, the FCC released an NPRM seeking comment on a set of model performance measurements and reporting requirements for OSS, interconnection, and access to operator services and to directory assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 27021

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: John Stanley, Attorney-Advisor, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1496

RIN: 3060–AH00

4325. ACCESS CHARGE REFORM FOR RATE-OF-RETURN LOCAL EXCHANGE CARRIERS

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 553; 47 USC 303(r); 47 USC 151; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 251; 47 USC 254(g); 47 USC 403; ...

CFR Citation: 47 CFR 61.1; 47 CFR 36.372; 47 CFR 69.2; 47 CFR 69.4; 47 CFR 36.111; 47 CFR 69.110; 47 CFR 69.112; 47 CFR 69.120; 47 CFR 69.125; 47 CFR 69.153(c); 47 CFR 69.307(c)

Legal Deadline: None

Abstract: In order to make the access charge rules compatible with a competitive marketplace as envisioned by the Telecommunications Act of 1996, the FCC on May 26, 1998, initiated a rulemaking to revise interstate access charge rules applicable to incumbent local exchange carriers subject to rate-of-return regulation. The NPRM proposes to permit rate-of-return LECs to adjust their subscriber line charge ceilings on non-primary residential and multi-line business lines to the level necessary to recover their average per-line interstate-allocated common line costs, subject to an inflation-adjusted $9.00 ceiling. The NPRM also proposes to permit rate-of-return LECs to recover common line revenues through a presubscribed interexchange carrier charge. The NPRM also proposes that per-minute residual carrier common line and residual transport interconnection charges will be eliminated as the presubscribed interexchange carrier charge ceilings increase. The NPRM seeks comment on proposals to allow presubscribed interexchange carrier

charges on special access lines and to adjust the allocation of General Support Facilities costs recovered through interstate access charges to ensure that regulated access rates do not recover costs related to nonregulated services. The NPRM proposes that rate-of-return local exchange carriers recover marketing costs allocated to the interstate jurisdiction from end users on a per-line basis. In addition, to establish a new switched access rate element to accommodate a new service offering, the streamlined petition provisions of section 69.4(g) are proposed.

Timetable:

Action	Date	FR Cite
NPRM	06/20/98	63 FR 38774
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: Lynne Milne, Attorney, Federal Communications Commission, 445 12th Street, S.W., CCB-Competitive Pricing Division, Washington, DC 20554
Phone: 202 418-7055
TDD Phone: 202 418-0484
Fax: 202 418-1567
Email: lmilne@fcc.gov

RIN: 3060–AH01

4326. DEPLOYMENT OF WIRELINE SERVICES OFFERING ADVANCED TELECOMMUNICATIONS CAPABILITY

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 153; 47 USC 154; 47 USC 201; 47 USC 202; 47 USC 271; 47 USC 272; 47 USC 303(r); 47 USC 160

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: On March 31, 1999, the Commission released a First Report and Order and Further Notice of Proposed Rulemaking (NPRM), in CC Docket No. 98-147, adopting several measures to enable competitive providers of advanced services such as high-speed internet access, to deploy new technologies on a faster, more cost-effective basis to consumers. This order is intended to create marketplace conditions conducive to the nationwide deployment of advanced telecommunications services consistent with the goals of section 706. Because the Commission concluded that the record does not sufficiently address long-term spectrum compatibility issues, the Commission adopted a companion Further NPRM that seeks comment on issues related to developing long-term standards and practices for spectrum compatibility and management. In the Further NPRM, the Commission also tentatively concludes that it is technically feasible for two different carriers sharing a single line to provide traditional voice service and advanced services. The Further Notice seeks comment on the operational, pricing, legal and policy ramifications of mandating such line sharing at the federal level.

Timetable:

Action	Date	FR Cite
NPRM	08/07/98	63 FR 45140
Order	08/07/98	63 FR 45134
R&O and Further NPRM	04/30/99	64 FR 23229
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Staci Pies, Attorney-Advisor, Federal Communications Commission, Policy and Program Planning Division, Common Carrier Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1580

RIN: 3060–AH03

4327. PRESCRIBING THE AUTHORIZED RATE OF RETURN FOR INTERSTATE SERVICES OF LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 201(b); 47 USC 151; 47 USC 154; 47 USC 202 to 205; 47 USC 218 to 220; 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 65.301

Legal Deadline: None

Abstract: This Notice initiates a proceeding to represcribe the authorized rate of return for interstate access services provided by ILECs. It marks the first prescription proceeding since we revised the rules governing procedures and methodologies for prescribing and enforcing the rate of return for ILECs not subject to price cap regulation, and the first prescription proceeding since the Commission adopted its price cap rules for local exchange carriers. In this Notice, we seek comment on the methods by which we could calculate the ILECs' cost of capital. In the Notice, we propose corrections to errors in the codified formulas for the cost of debt and cost of preferred stock and seek comment on whether this proceeding warrants a change in the low-end formula adjustment for local exchange carriers subject to price caps.

Timetable:

Action	Date	FR Cite
NPRM	10/05/98	63 FR 55988
NPRM Comment Period End	04/08/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas G. David, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7116
Email: tdavid@fcc.gov

RIN: 3060–AH18

4328. SBC COMMUNICATIONS, INC. PETITION FOR BIENNIAL REVIEW

Priority: Other Significant

Legal Authority: 47 USC 219; 47 USC 220; 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r); 47 USC 4(i); 47 USC 4(j); 47 USC 403; 47 USC 161

CFR Citation: 47 CFR 65.101; 47 CFR 65.820(d); 47 CFR 61; 47 CFR 64.901 to 904; 47 CFR 32.27; 47 CFR 0; 47 CFR 1; 47 CFR 13; 47 CFR 22; 47 CFR 24; 47 CFR 26; 47 CFR 27; 47 CFR 80; 47 CFR 87; 47 CFR 90; ...

Legal Deadline: None

Abstract: The Commission seeks comment on proposals to modify its rules for rates of return, cash working capital studies, affiliate transaction rules, cost allocation rules, detariffing of certain services, and to consolidate wireless radio rules.

Timetable:

Action	Date	FR Cite
NPRM	11/24/98	63 FR 68418

FCC—COMMON CARRIER BUREAU

Long-Term Actions

Action	Date	FR Cite
NPRM Comment Period End	01/25/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Anthony John Dale, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2260
Email: adale@fcc.gov

RIN: 3060–AH19

4329. 1998 BIENNIAL REGULATORY REVIEW - REVIEW OF DEPRECIATION REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 220(h); 47 USC 161; 47 USC 151; 47 USC 154; 47 USC 201 to 205; 47 USC 215; 47 USC 218; 47 USC 403

CFR Citation: 47 CFR 43.43; 47 CFR 32.2000

Legal Deadline: None

Abstract: In this Notice of Proposed Rulemaking, we propose to reduce or streamline further our depreciation prescription process by permitting summary filings and eliminating the prescription of depreciation rates for incumbent LECs, provided that the carrier uses depreciation factors that are within the ranges adopted by the Commission, expanding the prescribed range for the digital switching plant account, and eliminating salvage from the depreciation process. We also seek comment on whether we should permit carriers to set their own depreciation rates if they are willing to waive the automatic low-end adjustment. These proposed modifications are designed to minimize the reporting burden on carriers and to provide incumbent LECs with a greater flexibility to adjust their depreciation rates while allowing the Commission to maintain adequate oversight.

Timetable:

Action	Date	FR Cite
NPRM	10/14/98	63 FR 56900
NPRM Comment Period End	12/08/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas G. David, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7116
Email: tdavid@fcc.gov

RIN: 3060–AH20

Federal Communications Commission (FCC)
COMMON CARRIER BUREAU

Completed Actions

4330. INTEGRATED SERVICES DIGITAL NETWORK (ISDN)

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 to 205

CFR Citation: 47 CFR 69

Legal Deadline: None

Abstract: On May 30, 1995, the Commission released a Notice of Proposed Rulemaking seeking comment on the application of Subscriber Line Charges (SLCs) to services that provide multiple voice-grade-equivalent channels over a single facility. These services, such as integrated services digital network (ISDN) service, permit customers to obtain digital transmission over existing copper wire, through the use of advanced equipment. In addition to obtaining multiple channels over a single local loop or T-1 facility, these services can transmit data at higher speeds and with greater accuracy. Also on May 30, 1995, the Common Carrier Bureau released a Public Notice stating that, pending Commission action in the rulemaking, the Bureau generally would not initiate enforcement action against LECs that are not complying with existing Commission rules regarding the application of SLCs to ISDN service.

Timetable:

Action	Date	FR Cite
NPRM	05/30/95	60 FR 21274
First R&O	06/11/97	62 FR 31868
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Aaron Goldschmidt, Staff Attorney, Federal Communications Commission, Competitive Pricing Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7146

RIN: 3060–AG08

4331. IMPLEMENTATION OF SECTION 402(B)(2)(A) OF THE TELECOMMUNICATIONS ACT OF 1996

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 160; 47 USC 201 to 205; 47 USC 214; 47 USC 218; 47 USC 403; 47 USC 571

CFR Citation: 47 CFR 63

Legal Deadline: None

Abstract: On June 30, 1999, the Commission adopted deregulatory rules under section 214 of the Act. The final rules (1) grant "blanket" market entry authority for all new lines of all domestic carriers, (2) codify statutory exemptions from section 214 for line "extensions" and video programming systems, and (3) provide that domestic service dicontinuances will be approved automatically, in 31 days for non-dominant carriers and 60 days for dominant carriers, unless the Commission notifies the carriers otherwise.

Timetable:

Action	Date	FR Cite
NPRM	01/13/97	62 FR 4965
NPRM Comment Period End	03/17/97	
Final Action	06/30/99	64 FR 39938

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

FCC—COMMON CARRIER BUREAU

Completed Actions

Public Compliance Cost: ; Yearly Recurring Cost: $133,300

Agency Contact: Martin Schwimmer, Attorney, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-2334
Email: mschwimm@fcc.gov

RIN: 3060–AG62

4332. ELIMINATION OF PART 41: TELEGRAPH AND TELEPHONE FRANKS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 47 USC 11; 47 USC 201; 47 USC 210; 47 USC 218

CFR Citation: 47 CFR 41

Legal Deadline: None

Abstract: In an Order, the FCC has eliminated part 41 of the FCC's rules. Part 41 governed the issuance of franks for interstate and foreign telegraph and telephone service by communications common carriers. The Commission concluded that competition among service providers renders part 41's restrictions unnecessary to protect competitors or consumers. The Order is part of the FCC's Biennial Review of its regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/21/98	63 FR 4157
NPRM Comment Period End	09/10/98	
Final Action	12/22/98	64 FR 13916

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott Bergmann, Attorney-Adviser, Federal Communications Commission, Industry Analysis Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0940
Email: sbergman@fcc.gov

RIN: 3060–AH04

4333. STREAMLINED CONTRIBUTOR REPORTING REQUIREMENTS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 11; 47 USC 201; 47 USC 218; 47 USC 225; 47 USC 251; 47 USC 254

CFR Citation: 47 CFR 1.47; 47 CFR 52.16; 47 CFR 52.17; 47 CFR 52.32; 47 CFR 54.705; 47 CFR 54.709; 47 CFR 54.711; 47 CFR 54.713

Legal Deadline: None

Abstract: The FCC issued a Report and Order that simplifies the filing requirements associated with the Telecommunications Relay Services Fund, Federal universal service support mechanisms, the cost recovery mechanism for the North American Numbering Plan administration, and the cost mechanism for long-term local number portability administration. This proceeding is part of the FCC's 1998 Biennial Review of its regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/25/98	63 FR 54090
NPRM Comment Period End	11/16/98	
Final Action	07/14/99	64 FR 41320

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Scott Bergmann, Attorney-Adviser, Federal Communications Commission, Industry Analysis Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0940
Email: sbergman@fcc.gov

RIN: 3060–AH06

Federal Communications Commission (FCC)
COMPLIANCE AND INFORMATION BUREAU

Long-Term Actions

4334. IN THE MATTER OF AMENDMENT OF PART 73, SUBPART G, OF THE COMMISSION'S RULES REGARDING THE EMERGENCY ALERT SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 544; 47 USC 606

CFR Citation: 47 CFR 11; 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: The Commission has adopted new rules that replace the old Emergency Broadcast System (EBS) with a new Emergency Alert System (EAS) to alert the public in emergencies. The Report and Order adopted requires broadcast stations and many cable TV systems to participate, and streamlines operational procedures for system participants. It also removes the old part of the Commission's rules concerning EBS in its entirety and incorporates the new rules into a new part of the FCC's CFR. The purpose of the new rules is to prescribe how existing communications services such as broadcasting, cable, and other public service providers will function under the technical standards and operational procedures of the new system. Reconsideration has been requested. Additionally, with the Report and Order, the Commission issued a Further Notice of Proposed Rulemaking seeking comments regarding whether the Multipoint Distribution Service (MDS), Satellite Master Antenna TV (SMATV) system and Video Dial Tone should also be required to participate in EAS. It also sought comments on several cable issues such as whether a defined class of small cable systems should be exempted from participation in EAS, and how the Commission should define small cable systems. The FCC subsequently adopted a Second Report and Order to modify EAS as it applied to cable systems; address whether other video providers should be required to participate in the system; and adopt rules to address issues of concern to persons with hearing disabilities. The FCC also issued a Second Further NPRM requesting comment regarding rules that would require cable systems to prevent the interruption of local broadcast station emergency programming when activating their EAS equipment during voluntary state

or local activations. In the Third Report and Order, the FCC declined to adopt rules that would require cable systems to prevent the interruption of local broadcast station emergency programming.

Timetable:

Action	Date	FR Cite
NPRM	10/09/91	
NPRM/FNPRM	09/17/92	57 FR 53874
FNPRM	12/28/94	59 FR 67104
R&O	12/28/94	59 FR 67090
MO&O	11/06/95	60 FR 55996
Second FNPRM	03/04/98	63 FR 15806
Second R&O	09/24/98	63 FR 29660
Third R&O	02/08/99	64 FR 5950
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local

Agency Contact: Frank Lucia, Acting Chief, Emergency Alert System Staff, Federal Communications Commission, Compliance and Information Bureau, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-1220

RIN: 3060–AF21

4335. IN THE MATTER OF THE COMMISSION'S FORFEITURE POLICY STATEMENT AND AMENDMENT OF SECTION 1.80 OF THE RULES TO INCORPORATE THE FORFEITURE GUIDELINES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 503

CFR Citation: 47 CFR 1

Legal Deadline: None

Abstract: The FCC amended its regulations regarding monetary forfeitures by adding a note to section 1.80 of the Commission's Rules, 48 CFR 1.80, to incorporate guidelines for assessing monetary forfeitures for Communications Act and Rules violations.

Timetable:

Action	Date	FR Cite
NPRM	02/23/95	60 FR 10056
NPRM Comment Period End	03/17/95	
R&O Adopted, Recon. Pending	06/19/97	62 FR 43474
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Pamera Hairston, Chief, Compliance Division, Compliance and Information Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1150

RIN: 3060–AF65

4336. IN THE MATTER OF AMENDMENT OF THE COMMISSION'S RULES CONCERNING THE INSPECTION OF RADIO INSTALLATIONS ON LARGE CARGO AND SMALL PASSENGER SHIPS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 80; 47 CFR 0

Legal Deadline: None

Abstract: The FCC issued a proposed rulemaking proposing to amend current Rules regarding the inspection of ships for compliance with the Communications Act and the International Convention for the Safety of Life at Sea. The Commission sought to streamline ship inspection procedures, remove unnecessary rules, improve service to the maritime community, and preserve maritime safety. The Commission proposed that its role in ship inspections be completely replaced by the private sector. The FCC proposed rules that specify what class of FCC license is required for each ship inspection. It also proposed that GMDSS-equipped ships must be inspected by an FCC-licensed technician with a GMDSS Radio Maintainer License. The FCC adopted a Report and Order which requires that large cargo and small passenger ships arrange for an inspection of such ships by an FCC-licensed technician. The FCC adopted the Report and Order to incorporate, in its rules, changes to the Communications Act related to the inspection of ships and to improve the FCC's ship inspection process. The rules will increase the eligibility of competent private sector inspectors to conduct inspections of cargo vessels and small passenger vessels required to be inspected by the FCC without adversely affecting safety, and thus provide greater convenience for the maritime industry.

Timetable:

Action	Date	FR Cite
Order Comment Period Extended to 7/1/96	06/04/95	60 FR 28122
NOI	06/20/95	
NPRM	05/09/96	61 FR 21151
NPRM Comment Period End	06/09/96	
R&O	04/20/98	63 FR 29656
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: George R. Dillon, Compliance & Information Bureau, Federal Communications Commission, Compliance and Information Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1113

RIN: 3060–AG13

4337. AMENDMENT OF PART 2, SUBPART K OF THE FCC'S RULES REGARDING THE IMPORTATION OF RADIO FREQUENCY DEVICES CAPABLE OF CAUSING HARMFUL INTERFERENCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 157(a); 47 USC 302; 47 USC 303(b); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The FCC adopted an Order and Notice of Proposed Rule Making which changes from the Compliance

FCC—COMPLIANCE AND INFORMATION BUREAU

Long-Term Actions

and Information Bureau to the Office of Engineering and Technology the responsibility for reviewing and deciding upon waiver requests regarding imported uncertified devices. Importers will now seek a waiver of the limit on uncertified devices that can be brought into the U.S. for demos, sales, and sales conventions. The Order and NPRM seek comments on proposals that would (1) eliminate the requirement that parties importing radio frequency devices file a copy of the form 740 with the FCC, and (2) eliminate a loophole in one of the FCC's "import conditions rules" that allow the importation and sale in the U.S. of uncertified equipment if the buyer promises not to use it in the United States.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 35901
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Federal, State, Local

Agency Contact: David Sturdivant, Engineer, Compliance Division, Compliance and Information Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1227
Email: dsturdiv@fcc.gov

RIN: 3060–AH07

Federal Communications Commission (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Proposed Rule Stage

4338. • CLOSED CAPTIONING FOR DTV RECEIVERS; ET DOCKET NO. 99-254

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303(u); 47 USC 330(b)

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposes to amend Part 15 of the rules to adopt technical standards for the display of closed captions on digital television (DTV) receivers. We also propose to require the inclusion of closed captioning decoder circuitry in DTV receivers. The proposals will help ensure access to digital programming for people with disabilities.

Timetable:

Action	Date	FR Cite
NPRM	08/02/99	64 FR 41897
NPRM Comment Period End	11/15/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Additional Information: ET Docket No. 99-254

Agency Contact: Neal McNeil, Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2408
Email: nmcneil@fcc.gov

RIN: 3060–AH24

4339. • WIRELESS MEDICAL TELEMETRY SERVICE; ET DOCKET 99-255

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; ...

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 90; 47 CFR 95

Legal Deadline: None

Abstract: The Commission proposes to amend Parts 2 and 95 of the rules to allocate spectrum and to establish rules for a Wireless Medical Telemetry Service. This action is intended to allow potentially life critical medical telemetry equipment, which currently operates on a secondary basis, unprotected from interference, to operate on a blanket licensed, interference protected basis.

Timetable:

Action	Date	FR Cite
NPRM	08/02/99	64 FR 41891
NPRM Comment Period End	10/18/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Hugh L. Van Tuyl, Federal Communications Commission, OET, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7506

RIN: 3060–AH27

Federal Communications Commission (FCC)
OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

4340. CABLE SYSTEM COMPATIBILITY WITH TV RECEIVERS AND VCRS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 624

CFR Citation: 47 CFR 76

Legal Deadline: Other, Statutory, October 4, 1993, In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 17, a report to Congress is mandated by October 1993. In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 17, a report to Congress is mandated by October 1993.

Abstract: Implementation of section 17 of the Cable Television Consumer Protection and Competition Act of 1992; compatibility between cable systems and consumer electronic equipment.

Timetable:

Action	Date	FR Cite
NOI	01/29/93	58 FR 7205
Technical Report	10/31/93	
NPRM	12/01/93	58 FR 65153
R&O	05/04/94	59 FR 25339
MO&O	04/26/96	61 FR 18508
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Doc. 93-7

Agency Contact: Alan Stillwell, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2925
Email: astillwe@fcc.gov

RIN: 3060–AF38

4341. WIND PROFILER RADAR SYSTEMS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Amendment of section 2.106 of the Commission's Rules to allocate spectrum for Wind Profiler Systems. Allocation of this spectrum for wind profilers will facilitate the automated collection of weather information, including data on severe storms that threaten life or property that is not obtainable in any other manner.

Timetable:

Action	Date	FR Cite
NPRM	04/01/93	58 FR 19644
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Additional Information: ET DOC. 93-5

Agency Contact: Sean White, Federal Communications Commission, OET, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2453
Email: swhite@fcc.gov

RIN: 3060–AF45

4342. MILLIMETER WAVE SPECTRUM ALLOCATION

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 4; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 154; 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 15; 47 CFR 21

Legal Deadline: None

Abstract: The Third R&O adopted rules that will encourage the commercial development and use of millimeter wave frequencies above 40 Mhz, and adopted rules to establish a spectrum etiquette for unlicensed operation in the 59-64 GHz band.

Timetable:

Action	Date	FR Cite
NPRM	11/08/94	59 FR 61304
Public Notice	06/23/95	60 FR 35166
2nd NPRM	03/29/96	61 FR 14041
1st R&O	04/02/96	61 FR 14500
Comment Period End	05/28/96	
Reply Comments	06/27/96	
2nd R&O	08/02/97	62 FR 43116
MO&O	08/27/97	62 FR 45330
4th NPRM	08/27/97	62 FR 45380
Public Notice on Recon	10/02/97	62 FR 51661
3rd Report & Order	08/07/98	63 FR 42276
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Doc. 94-124

Agency Contact: John Reed, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2455
Email: jreed@fcc.gov

RIN: 3060–AF61

4343. DIGITAL EQUIPMENT DEREGULATION

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: Action to explore possibility of more efficient and flexible approach to authorization of certain digital equipment. (Item will incorporate IBM/CBEMA CPU boards, Gen. Doc. 90-413.)

Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 15116
R&O	05/14/96	61 FR 31044
Order	06/19/97	62 FR 33368
MO&O	08/04/97	62 FR 41879
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Doc. 95-1

Agency Contact: Anthony Serafini, Federal Communications Commission, OET, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2456
Email: aserafin@fcc.gov

RIN: 3060–AF73

4344. MSS SPECTRUM ALLOCATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 304

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: Amendment of part 2.106 of the Commission's rules to allocate spectrum at 2 GHz for use by the Mobile Satellite Service.

Timetable:

Action	Date	FR Cite
NPRM	01/31/95	60 FR 11644
Order	03/08/95	60 FR 13687
R&O and FNPRM	04/22/97	62 FR 19538
1st R&O	04/22/97	62 FR 19509
MO&O	12/17/98	63 FR 69606
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Doc. 95-18

Agency Contact: Sean White, Federal Communications Commission, OET,

FCC—OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2453
Email: swhite@fcc.gov

RIN: 3060–AF75

4345. MEDICAL CARE TELEMETRY DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Report and Order amends part 15 of the rules to expand the availability of frequencies and to increase the permitted power for unlicensed biomedical telemetry devices operating on VHF television channels within health care facilities.

Timetable:

Action	Date	FR Cite
NPRM	01/25/96	61 FR 3367
NPRM Comment Period End	04/16/96	
Reply Comments	05/16/96	
R&O	10/30/97	62 FR 58656

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: State, Local

Additional Information: ET Docket No. 95-177

Agency Contact: Anthony Serafini, Federal Communications Commission, OET, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2456
Email: aserafin@fcc.gov

RIN: 3060–AG18

4346. UNLICENSED NII AT 5 GHZ

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The MO&O amends the rules to permit fixed, point to point unlicensed National Information Infrastructure (U-NII) devices in the 5.725-5.285 GHz band to operate with one-watt maximum transmitter output power and directional antennas of up to 23 db:gain. It clarifies the rules regarding unwanted emissions and specifies these limits in terms of absolute radiated power levels. These actions will add to the flexibility and capability of U-NII operations without causing an increase in harmful interference to incumbent operations sharing the same spectrum.

Timetable:

Action	Date	FR Cite
NPRM	05/06/96	61 FR 24749
R&O	01/31/97	62 FR 4649
Public Notice	03/17/97	62 FR 12641
MO&O	07/31/98	63 FR 40831

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: RM-8468 and RM-8653 ET Docket 96-102

Agency Contact: Tom Derenge, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2451
Email: tderenge@fcc.gov

RIN: 3060–AG19

4347. ALLOCATION OF 455-456 MHZ AND 459-460 MHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 303; 47 USC 154(i)

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The FCC proposes to amend its rules to allocate the 455-456 MHz and 459-460 MHz bands to the Mobile Satellite Services (Earth-to-Space) (MSS Uplinks) on a primary basis for non-voice, non-geostationary satellite services (NVNG MSS).

Timetable:

Action	Date	FR Cite
NPRM	10/31/97	62 FR 58932
Comment Period End	11/30/97	
Reply Comment Period End	12/15/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Additional Information: See ET Docket No. 97-214.

Agency Contact: Tom Derenge, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2451
Email: tderenge@fcc.gov

RIN: 3060–AG89

4348. DEDICATED SHORT RANGE COMMUNICATIONS OF INTELLIGENT TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 90

Legal Deadline: None

Abstract: The FCC proposes to allocate 75 megahertz of spectrum for use by Dedicated Short Range Communications of Intelligent Transportation Systems (ITS). DSRC systems are being designed that require a short range, wireless link to transfer information between vehicles and roadside systems. ITS services are expected to improve traveler safety, decrease traffic congestion, and facilitate reduction of air pollution and conservation of fossil fuels. This action furthers the goal of the U.S. Congress, the Department of Transportation, and the ITS industry to improve the efficiency of the nation's transportation infrastructure and facilitate the growth of the ITS industry. See ET Docket 98-95.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 35558
Comment Period End	09/14/98	
Reply Comment Period End	10/31/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Tom Derenge, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2451
Email: tderenge@fcc.gov

RIN: 3060–AG94

4349. REGULATIONS FOR RF LIGHTING DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 18

Legal Deadline: None

Abstract: The FCC proposes to update the regulations for RF lighting devices. This action is taken in response to new developments in RF lighting technology. Recent developments and advances in RF lighting technology offer potential economic and environmental benefits for consumers and industry. The current FCC rules do not easily accommodate these advancements, and thus hinder the further development and implementation of these promising new products. See ET Docket No. 98-42.

Timetable:

Action	Date	FR Cite
ANPRM	04/24/98	63 FR 20362
First Report & Order	07/12/99	64 FR 37417

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Anthony Serafini, Federal Communications Commission, OET, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2456
Email: aserafin@fcc.gov

RIN: 3060–AG95

4350. EQUIPMENT AUTHORIZATION STREAMLINE II/MUTUAL RECOGNITION AGREEMENTS AND THE GMPCS MOU

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 25; 47 CFR 68

Legal Deadline: None

Abstract: The Commission proposes to amend the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. It also proposes rule changes to implement a mutual recognition agreement (MRA) for product approvals with the European Community (EC) and to allow for similar agreements with other foreign trade parties. These actions are intended to eliminate the need for manufacturers to wait for approval from the FCC before marketing equipment in the United States, thereby reducing the time needed to bring a product to market.

Timetable:

Action	Date	FR Cite
NPRM	06/10/98	63 FR 31685
R&O	02/02/99	64 FR 4984

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Additional Information: GEN Docket No 98-68

Agency Contact: Hugh L. Van Tuyl, Federal Communications Commission, OET, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7506

RIN: 3060–AG96

4351. UNIDEN SCANNERS/CELLULAR RADIO SIGNALS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 304; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 15

Legal Deadline: None

Abstract: The FCC proposes to amend the rules to further prevent scanning receivers from receiving radio telephone calls. ET Docket No. 98-76

Timetable:

Action	Date	FR Cite
ANPRM	06/10/98	63 FR 31684
Report & Order	04/27/99	64 FR 22559

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rodney P. Conway, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2904
Email: rconway@fcc.gov

RIN: 3060–AG97

4352. INDUSTRY COORDINATION COMMITTEE SYSTEM FOR BROADCAST DIGITAL TELEVISION SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 336

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: We seek comment on the establishment of an industry coordination committee to assist the Commission in the implementation of digital television (DTV) service. This committee system would evaluate proposed changes to the DTV Table of Allotments and perform other related functions.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6296
Comment Period End	03/29/99	
Reply Comment Period End	04/28/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: ET Docket No. 99-34

Agency Contact: Alan Stillwell, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2925
Email: astillwe@fcc.gov

RIN: 3060–AH13

4353. 3650-3700 GOVERNMENT TRANSFER BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

FCC—OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

CFR Citation: 47 CFR 2

Legal Deadline: None

Abstract: The Commission proposes to allocate the 3650-3700 MHz band to the non-Government fixed service on a primary basis. We envision that this spectrum will be used to provide a broad range of new fixed point-to-point and point-to-multipoint services directly linking residences, businesses, and other fixed locations to an ever developing array of networks.

Timetable:

Action	Date	FR Cite
ANPRM	01/14/99	64 FR 2462
ANPRM Comment Period End	03/01/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-237

Agency Contact: Thomas Mooring, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2450
Email: tmooring@fcc.gov

RIN: 3060–AH14

4354. RADIONAVIGATION SERVICE AT 31.8 - 32.2 GHZ

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 2; 47 CFR 87

Legal Deadline: None

Abstract: The Commission proposes to amend Parts 2 and 87 of the Commission's rules in order to delete the unused non-government radionavigation service allocation at 31.8-32.3 GHz and to also remove this frequency segment from the list of available frequencies set forth in the rules for the Aviation Services.

Timetable:

Action	Date	FR Cite
ANPRM	11/30/98	63 FR 65726
ANPRM Comment Period End	01/04/99	
R&O	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-197

Agency Contact: Thomas Mooring, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2450
Email: tmooring@fcc.gov

RIN: 3060–AH15

4355. CERTIFICATION OF EQUIPMENT IN THE 24.05-24.25 GHZ BAND AT FIELD STRENGTHS UP TO 2500 MV/M

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposes to amend Part 15 of our rules to allow the operation of fixed point-to-point transmitters in the 24.05-24.25 GHz band at field strength of up to 2500 mV/m.

Timetable:

Action	Date	FR Cite
ANPRM	09/21/98	63 FR 50185
ANPRM Comment Period End	01/04/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-156

Agency Contact: Neal McNeil, Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2408
Email: nmcneil@fcc.gov

RIN: 3060–AH16

4356. FIXED SATELLITE SERVICE AND TERRESTRIAL SYSTEM IN THE KU-BAND

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 157; 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 25

Legal Deadline: None

Abstract: The Commission proposes to permit non-geostationary satellite orbit (NGSO) fixed satellite service (FSS) operations in certain segments of the Ku-band and proposes rules and policies to govern such operations.

Timetable:

Action	Date	FR Cite
ANPRM	01/12/99	64 FR 1786
Order	02/16/99	64 FR 07577
ANPRM Comment Period End	03/15/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 98-206

Agency Contact: Tom Derenge, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2451
Email: tderenge@fcc.gov

RIN: 3060–AH17

4357. • SPREAD SPECTRUM DEVICES; ET DOCKET NO. 99-254

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 15

Legal Deadline: None

Abstract: The Commission proposes to amend Part 15 rules regarding the operation of non-licensed spread spectrum systems. The NPRM proposes to revise the rules for frequency hopping systems operating in the 2.4 GHz band (2400-2483.5 MHz) to allow for wider operational bandwidths. This action is taken to facilitate the continued development of spread spectrum technology, particularly for high data rate wireless applications.

FCC—OFFICE OF ENGINEERING AND TECHNOLOGY

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	07/20/99	64 FR 38877
NPRM Comment Period End	11/02/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Neal McNeil, Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2408
Email: nmcneil@fcc.gov

RIN: 3060–AH25

4358. • 50-71 GHZ REALIGNMENT; ET DOCKET NO. 99-261

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 302; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 2.106

Legal Deadline: None

Abstract: The Commission proposes to amend the United States Table of Frequency Allocations with respect to the 50-71 GHz band. The allocations proposed would provide additional spectrum to the inter-satellite service and to the fixed and mobile services, while continuing to provide an acceptable environment for passive spaceborne sensor measurements of atmospheric temperature.

Timetable:

Action	Date	FR Cite
NPRM	08/11/99	64 FR 43643
NPRM Comment Period End	09/22/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Mooring, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554
Phone: 202 418-2450
Email: tmooring@fcc.gov

RIN: 3060–AH26

Federal Communications Commission (FCC)
OFFICE OF GENERAL COUNSEL

Long-Term Actions

4359. AMENDMENT OF THE COMMISSION'S EX PARTE RULES IN JOINT BOARD PROCEEDINGS

Priority: Info./Admin./Other. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 303(r); 47 USC 403

CFR Citation: 47 CFR 1.1206

Legal Deadline: None

Abstract: The FCC proposes to amend its ex parte rules to facilitate communications by the states in Joint Board proceedings and proceedings before the FCC involving a recommendation from a Joint Board.

Timetable:

Action	Date	FR Cite
NPRM	07/15/98	63 FR 38142
NPRM Comment Period End	08/31/98	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David S. Senzel, Attorney-Advisor, Federal Communications Commission, OGC, Washington, DC 20554
Phone: 202 418-1760

RIN: 3060–AH02

Federal Communications Commission (FCC)
INTERNATIONAL BUREAU

Long-Term Actions

4360. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES; IB DOCKET NO. 95-117

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 47 USC 154; 47 USC 701 to 744; 47 USC 554; 47 USC 303; 47 USC 4

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: On February 10, 1997, the FCC adopted rules and policies that streamlined the application and licensing requirements of part 25 of its rules, which deals with communication satellites and earth stations. The streamlined rules waived the construction permit requirement for satellite space stations; changed the license term for temporary fixed earth stations; and adjusted or changed the rules concerning minor modifications and basic requirements for satellite service applications. The streamlined rules also resulted in the creation of a new application form, FCC Form 312. Form 312 eliminated from the International Bureau's use, the FCC Form 493, FCC Form 430, FCC Form 702, and FCC Form 704. Petitions for reconsideration were filed in this matter. In March 1997 the Commission released a Public Notice concerning these petitions, which are presently pending before the International Bureau.

Timetable:

Action	Date	FR Cite
NPRM	09/09/95	60 FR 46252
R&O, Recon Pending	02/10/97	62 FR 5924
Public Notice/Petitions For Recon	03/26/97	62 FR 14430
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

FCC—INTERNATIONAL BUREAU

Long-Term Actions

Government Levels Affected: Local, State, Federal

Procurement: This is a procurement-related action for which there is a statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Frank Peace, Electronics Engineer, Federal Communications Commission, 7-A430, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-0730
Fax: 202 418-7270
Email: fpeace@fcc.gov

RIN: 3060–AD70

4361. SATELLITE COMMUNICATIONS — NGO MSS; CC DOCKET NO. 92-166

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 303

CFR Citation: 47 CFR 25; 47 CFR 93; 47 CFR 2

Legal Deadline: None

Abstract: The Commission adopted rules in 1994 for a voice-and-data mobile satellite service (MSS) in the 1610-1626.5 MHz and 2483.5-2500 MHz frequency bands. Licenses have been issued for five systems. The Commission issued a decision in 1996 ruling on petitions for reconsideration of the Report and Order and making some changes in the rules. Several petitions for further reconsideration are still pending.

Timetable:

Action	Date	FR Cite
NPRM	03/14/94	59 FR 11746
NPRM Comment Period End	06/04/94	
R&O	10/21/94	59 FR 53294
Begin Review	12/01/94	
First Recon Order	03/12/96	61 FR 9944

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: William Bell, Staff Attorney, Federal Communications Commission, Room 586, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-0741
Email: bbell@fcc.gov

RIN: 3060–AF42

4362. ESTABLISHING RULES AND POLICIES FOR THE USE OF SPECTRUM FOR MOBILE SATELLITE SERVICE IN THE L-BAND; IB DOCKET NO. 96-132

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 316; 47 USC 403

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission seeks to develop a record and to solicit comments on the proposed policies. The proposed policies are designed to ensure that sufficient spectrum is available to operate a viable and independent U.S.-licensed mobile satellite service system in the L-band. The proposed policies, to the extent possible, also seek to make any additional spectrum coordinated internationally available for mobile satellite service systems. The proposed policies impose no additional burdens. In order to be effective, these rules must apply to all licenses and thus there is no significant alternative.

Timetable:

Action	Date	FR Cite
NPRM	06/18/96	61 FR 40772
NPRM Comment Period End	09/23/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Jennifer Gilsenan, Staff Attorney, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-0757
Email: jgilsena@fcc.gov

RIN: 3060–AF89

4363. PREEMPTION OF LOCAL ZONING REGULATION OF SATELLITE EARTH STATIONS; IB NO. 95-59

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 165(j); 47 USC 303(r)

CFR Citation: 47 CFR 25.104; 47 CFR 1.4000

Legal Deadline: None

Abstract: The Commission adopted rules in March and August of 1996 to preempt regulations that restricted the installation and use of certain over-the-air reception devices. Staff work on the reconsideration of the March 1996 Report and Order is assigned to the International Bureau; work on the September 1996 Report and Order is assigned to the Cable Services Bureau.

Timetable:

Action	Date	FR Cite
NPRM	05/15/95	60 FR 28077
NPRM Comment Period End	08/15/95	
FNPRM	03/15/96	61 FR 10710
R&O	03/18/96	61 FR 10896
R&O, Recon Pending	09/04/96	61 FR 46559

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Selina Khan, Attorney, Federal Communications Commission, 6-B459, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7282
Fax: 202 418-0748
Email: skhan@fcc.gov

RIN: 3060–AF92

4364. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310-2360 MHZ FREQUENCY BAND; IB DOCKET NO. 95-91; GEN DOCKET NO. 90-357

Priority: Routine and Frequent. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 151(i); 47 USC 154(j); 47 USC 157; 47 USC 309(j)

CFR Citation: 47 CFR 25.144

Legal Deadline: None

Abstract: The Commission is proposing rules to govern satellite digital establishment and regulation of new digital audio radio services. Previously, the Office of Engineering and Technology allocated the spectrum on

which the activities herein of the International Bureau are based. Since the spectrum allocation is completed, the Office of Engineering and Technology has no further role. See 62 FR 11083 and 62 FR 24073.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 35166
R&O, Recon Pending	03/11/97	62 FR 11083
FNPRM Terrestrial Repeater Licensing	04/18/97	62 FR 19095

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Rockie Patterson, Engineer, Federal Communications Commission, 6-B524, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-1183
Fax: 202 418-0748
Email: rpatters@fcc.gov

RIN: 3060–AF93

4365. REDESIGNATION OF THE 27.5-29.5 GHZ FREQUENCY BAND; CC DOCKET NO. 92-297

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 301; 47 USC 302

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 1; 47 CFR 2

Legal Deadline: None

Abstract: The Commission adopted a band plan which designates band segments in the 27.5-30.0 GHz frequency band for several types of wireless systems. This decision clears the way for licensing local multipoint distribution service (LMDS) providing fixed satellite service (FSS) systems and feeder limits for certain mobile satellite service systems. The commercialization of this spectrum enables consumers to receive emerging domestic and global technology via multiple service providers. In October 1997, the Commission adopted a Third Report and Order promulgating satellite service rules in this frequency band. These rules include many of the rules already in place. In Part 25 of the fixed satellite service, including financial and technical requirements, additional rules were also adopted for satellites operating in the Ka-band.

Timetable:

Action	Date	FR Cite
NPRM	07/13/95	60 FR 43740
NPRM Comment Period End	09/07/95	
R&O Band Plan	08/28/96	61 FR 44177
3rd R&O	11/18/97	62 FR 61488

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Jennifer M. Gilsenan, Staff Attorney, Federal Communications Commission, 6-A520, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-0757
Fax: 202 418-0748
Email: jgilsena@fcc.gov

RIN: 3060–AF94

4366. AMENDMENT OF POLICY TO ALLOW NON-U.S. LICENSED SPACE STATIONS TO PROVIDE SERVICE IN THE UNITED STATES; IB DOCKET NO. 96-111; CC DOCKET NO. 93-23

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154 (i); 47 USC 303; 47 USC 308

CFR Citation: 47 CFR 25.113; 47 CFR 25.115; 47 CFR 25.130; 47 CFR 25.131; 47 CFR 25.137

Legal Deadline: None

Abstract: The FCC adopted a Report and Order establishing a public interest framework for evaluating requests by non-U.S. satellites to serve the U.S. market. The Order implements the WTO Agreement under which the U.S. committed to allow foreign suppliers to provide basic telecommunications services, including satellite services in the U.S. The FCC adopted a presumption in favor of entry for non-U.S. satellites licensed in WTO member countries providing WTO-covered services. The FCC adopted an effective competitive opportunities (ECO-SAT) test for non-U.S. satellites licensed in non-WTO countries providing WTO-covered services, as well as for any commercial non-U.S. satellite providing services for which the U.S. did not make market commitments in the WTO Agreement. The FCC also established entry requirements for intergovernmental satellite organizations and their affiliates. In addition, the FCC adopted other public interest standards regarding spectrum availability and eligibility and operating requirements, as well as establishing access and filing procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/14/96	61 FR 32398
NPRM Comment Period End	08/16/96	
FNPRM	07/29/97	62 FR 40494
R&O	12/04/97	62 FR 64167
Petitions For Recon	01/05/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Tania Hanna, Attorney-Advisor, International Bureau, Federal Communications Commission, 6-C427, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0762
Fax: 202 418-0748

RIN: 3060–AG31

4367. STREAMLINING REGULATIONS RELATED TO INTERNATIONAL COMMON CARRIERS

Priority: Other Significant

Legal Authority: 47 USC 151; 47 USC 154(j); 47 USC 214; 47 USC 203(r); 47 USC 307; 47 USC 309; 47 USC 310; 47 USC 34 to 39

CFR Citation: 47 CFR 1; 47 CFR 43; 47 CFR 63; 47 CFR 64

Legal Deadline: None

Abstract: The Commission has reviewed its rules applicable to international common carriers with the goal of streamlining its procedures whenever possible. In particular, the Commission has eliminated the requirement for prior approval of pro forma assignments and transfers of control. The Commission reduced the waiting period for granting new streamlined applications from 35 to 14 days. It also expanded the class of applications eligible for streamlined processing.

FCC—INTERNATIONAL BUREAU

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39793
NPRM Comment Period End	08/24/98	
Report And Order	04/10/99	64 FR 19057

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Susan O'Connel, Attorney-Advisor, Federal Communications Commission, 6-A746, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1484
Fax: 202 418-2824
Email: soconnel@fcc.gov

RIN: 3060–AG84

4368. • REDESIGNATION OF THE 17.7-19.7 GHZ BAND, BLANKET LICENSING OF SAT EARTH STATIONS (17.7-20.2 GHZ & 27.5-30 GHZ) & ALLOCATION IN THE 17.3-17.8 & 24.75-25.25 GHZ BANDS FOR BROADCAST SATELLITE-SERVICE USE

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154 (j); 47 USC 301; 47 USC 303; ...

CFR Citation: 47 CFR 25.115; 47 CFR 25.138; 47 CFR 25.208

Legal Deadline: None

Abstract: This item addresses how the 17.7-19.7 GHz band is to be shared among various services, including the Fixed Satellite Service, the Fixed Services, and the Broadcast Satellite Service. The item also addresses the blanket licensing of Fixed Satellite Service Earth Stations in the Ka band. Finally, it addresses a new allocation for the Broadcast Satellite Service.

Timetable:

Action	Date	FR Cite
NPRM	10/08/98	63 FR 54100
NPRM Comment Period	12/07/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Richard Engelman, Chief, Planning and Negotiations Div., International Bureau, Federal Communications Commission, 7-A760, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2157
Fax: 202 418-0398
Email: rengelma@fcc.gov

RIN: 3060–AH21

4369. • ALLOCATION AND DESIGNATION OF SPEC FOR FIXED-SAT SRV (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHZ BANDS).ALLOCATIONS: FIXED & MOBILE 40.5-42.5 GHZ;WIRELESS SRV 46.9-47 GHZ; GOV OPERATIONS 37-38 & 40-40.5 GHZ

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 301; 47 USC 302; 47 USC 303(e); 47 USC 303(f); ...

CFR Citation: 47 CFR 2.106; 47 CFR 25.202

Legal Deadline: None

Abstract: This item adopts a plan for non-government operations in the 36.0 - 51.4 GHz portion of the V-band, establishing priorities for different services in different parts of this band.

Timetable:

Action	Date	FR Cite
NPRM	04/04/97	62 FR 16129
Final Action	12/17/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local, Tribal

Agency Contact: Charles Breig, Senior Engineer, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2156
Fax: 202 418-0398
Email: cbreig@fcc.gov

RIN: 3060–AH23

4370. • THE ESTABLISHMENT OF POLICIES AND SERVICE RULES FOR THE MOBILE SATELLITE SERVICE IN THE 2 GHZ BAND; IB DOCKET NO. 99-81; RM-9328

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 310; 47 USC 319

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is proposing to amend the regulations covering the 1.6/2.4 GHz Mobile Satellite Service (MSS) to incorporate the rules for the 2 GHz MSS. The Notice of Proposed Rulemaking also seeks comment on non-service link issues, service rules, and frequency coordination. The actions are necessary to establish service rules for the 2 GHz MSS and to obtain comment on policies for the 2GHz MSS. The effect of amending the 1.6/2.4 GHz MSS rules to include 2GHz MSS is to simplify and harmonize the rules for the types of satellite services.

Timetable:

Action	Date	FR Cite
NPRM	04/07/99	64 FR 16880
NPRM Comment Period End	07/26/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Christopher John Murphy, Attorney-Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554
Phone: 202 418-2373
Fax: 202 418-0748
Email: cmurphy@fcc.gov

Howard Griboff, Attorney-Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554
Phone: 202 418-0657
Fax: 202 418-0748

RIN: 3060–AH28

FCC—INTERNATIONAL BUREAU — Long-Term Actions

4371. • IN THE MATTER OF POLICIES FOR THE DIRECT BROADCAST SATELLITE SERVICE; IB DOCKET NO. 98-21

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 25

Legal Deadline: None

Abstract: This proceeding streamlines and simplifies the Commission's rules governing direct broadcast satellite (DBS) Service. It also harmonizes the rules for DBS with those of other satellite services.

Timetable:

Action	Date	FR Cite
NPRM	03/06/98	63 FR 11202
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Selina Khan, Attorney, Federal Communications Commission, 6-B459, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7282
Fax: 202 418-0748
Email: skhan@fcc.gov

RIN: 3060–AH29

4372. • 1998 BIENNIAL REGULATORY REVIEW — REVIEW OF ACCOUNTS SETTLEMENT IN MARITIME MOBIL MARITIME MOBILE SATELLITE RADIO SERVICES AND WITHDRAWAL OF THE COMMISSION AS ACCOUNTING AUTHORITY; IB DOC NO. 98-96

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 154 (j); 47 USC 201; 47 USC 202; 47 USC 203; 47 USC 204; 47 USC 205; 47 USC 303(r)

CFR Citation: 47 CFR 3.10(e)

Legal Deadline: None

Abstract: The FCC has decided to withdraw from acting as an accounting authority for the settlement of accounts in the maritime mobile and maritime mobile-satellite (ship-to-shore) radio services, and to rely solely upon the various privately owned accounting authorities the FCC has authorized. In that connection the FCC amended section 3.10(e) of its rules to specify that private accounting authorities must serve the public non-discriminatorily. (action 7-13-99) The Commission is gathering comment to develop a plan to ensure a smooth transition to private accounting authorities. Comments are due 10/25/99.

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39800
Report & Order	07/28/99	64 FR 40774
Further NPRM	07/28/99	64 FR 40808
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: John F Copes, Attorney-Advisor, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1478
Fax: 202 418-2824
Email: jcopes@fcc.gov

RIN: 3060–AH30

Federal Communications Commission (FCC)
INTERNATIONAL BUREAU — Completed Actions

4373. • 1998 BIENNIAL REGULATORY REVIEW - REFORM OF THE INTERNATIONAL SETTLEMENTS POLICY AND ASSOCIATED FILING REQUIREMENTS; IB DOCKET NO. 98-148

Priority: Other Significant

Legal Authority: 47 USG 151; 47 USC 152; 47 USC 154 (i); 47 USC 201; 47 USC 205; 47 USC 214; 47 USC 303(r); 47 USC 309

CFR Citation: 47 CFR 43; 47 CFR 63; 47 CFR

Legal Deadline: None

Abstract: The Commission reformed its longstanding international settlements policy and deregulated inter-carrier settlement arrangements between the U.S. carriers and foreign non-dominant carriers on competitive routes. In this proceeding, the Commission eliminated the international settlements policy and contract filing requirements for arrangements with foreign carriers that lack market power; eliminated the international settlements policy for arrangements with all carriers on routes where rates to terminate U.S. calls are at least 25 percent lower than the relevant settlement rate benchmark previously adopted by the FCC; changed its contact filing requirements to permit U.S. carriers to file arrangements on a confidential basis with foreign carriers with market power on routes where the international settlements policy is removed; simplified accounting rate filing requirements; and eliminated the flexibility policy in recognition that the reforms to the international settlements policy render the flexibility policy largely superfluous.

Timetable:

Action	Date	FR Cite
NPRM	08/18/98	63 FR 44224
Final Action	06/29/99	64 FR 34734

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Lisa Choi, Attorney-Advisor, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1384
Fax: 202 418-2824
Email: lchoi@fcc.gov

RIN: 3060–AH22

Federal Communications Commission (FCC) **Long-Term Actions**

MASS MEDIA BUREAU

4374. TRANSFER OF CONTROL OF NON-STOCK ENTITIES MM DOCKET 89-77

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Commission will consider proposals concerning the treatment of corporations and other organizational structures that are not traditional commercial corporations.

Timetable:

Action	Date	FR Cite
NOI	03/16/89	54 FR 15957

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Mania K. Baghdadi, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: mbaghda@fcc.gov

RIN: 3060–AE31

4375. LOCAL TELEVISION OWNERSHIP RULE (MM DOCKET NO. 91-221)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); PL 104-104, 202(c)(2); PL 104-104, 202(d); 47 USC 303

CFR Citation: 47 CFR 73.3555

Legal Deadline: None

Abstract: On August 5, 1999, the Commission adopted a Report and Order, which amended its local TV multiple ownership rule and radio/TV cross-ownership rule, and adopted a grandfathering policy for certain TV local marketing agreements. Pursuant to the new rules, common ownership of up to two TV stations and at least one radio station is permitted under certain circumstances. These circumstances generally require that a certain number of specified media "voices" remain post-merger. Common ownership would also be permitted pursuant to several new presumptive waivers. Under the new Local Marketing Agreement (LMA) grandfathering policy, LMAs that do not meet the new local TV multiple ownership rule are grandfathered until the biennial review in 2004, if they were entered into before November 5, 1996 (date of the Second Further Notice). At the time of the 2004 biennial review, they will be assessed on a case-by-case basis. LMAs entered into after that time must terminate within two years. Under a similar grandfathering policy, waivers of the radio/TV cross-ownership rule that were conditioned on the outcome of the Report and Order but which do not meet the new rule are grandfathered until the biennial review in 2004, if they were entered into as of July 29, 1999 (date of the sunshine notice for the Report and Order). At the time of the 2004 biennial review, they will be assessed on a case-by-case basis.

Timetable:

Action	Date	FR Cite
NOI	07/11/91	56 FR 40847
NPRM	06/24/92	57 FR 28163
FNPRM	02/02/95	60 FR 6490
R&O	03/27/95	60 FR 15688
2nd FNPRM	12/19/96	61 FR 66978
Report & Order	09/17/99	64 FR 50651

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Eric Bash, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: ebash@fcc.gov

RIN: 3060–AF79

4376. FILING OF TELEVISION NETWORK AFFILIATION CONTRACTS (MM DOCKET NO. 95-40)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 73.3613(a)

Legal Deadline: None

Abstract: This proceeding considers changes to the requirement that stations file their network affiliation agreements with the commission.

Timetable:

Action	Date	FR Cite
NPRM	04/19/95	60 FR 19564

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Judith Herman, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2163
Email: jherman@fcc.gov

RIN: 3060–AF80

4377. RULES GOVERNING BROADCAST TELEVISION ADVERTISING (MM DOCKET NO. 95-90)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 154(j); 47 USC 301; 47 USC 303(r); 47 USC 313; 47 USC 314

CFR Citation: 47 CFR 73.658(h); 47 CFR 73.658(i)

Legal Deadline: None

Abstract: This proceeding considers changes to two rules regulating broadcast television advertising. The first advertising rule prohibits a broadcast television network from influencing or controlling the rates its affiliates set for the sale of their non-network advertising time.

Timetable:

Action	Date	FR Cite
NPRM	07/05/95	60 FR 34959

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: pgordon@fcc.gov

RIN: 3060–AF81

4378. ATTRIBUTION OF BROADCAST INTERESTS (MM DOCKET NOS. 94-150, 92-51, 87-154)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303

CFR Citation: 47 CFR 21.912; 47 CFR 73.3555; 47 CFR 73.3526; 47 CFR 73.3613; 47 CFR 74.931; 47 CFR 76.501

Legal Deadline: None

Abstract: On August 5, 1999, the Commission adopted a Report and Order in the Attribution proceeding. In the R&O, the Commission adopted a new Equity/Debt Plus attribution rule under which a holder of a financial interest, whether equity or debt or both, in excess of 33% of the total assets of a licensee will have an attributable interest in that licensee if it is either a major program supplier to that licensee or if it has another media interest - broadcast, cable or newspaper - in the same market. Under the new rules, TV Local Marketing Agreements will be attributed where they involve time brokerage of another television station in the same market for more than 15% of the brokered station's broadcast hours per week. The Report and Order also eliminates the cross-interest policy, retains the 5% voting stock benchmark for active investors, raises the voting stock benchmark for passive investors from the existing 10% benchmark to 20%, applies limited partnership insulation criteria to Limited Liability Companies and applies the revised broadcast attribution criteria to the cable and Multipoint Distribution Service and broadcast-cable cross-ownership rules. Also amended are rules relating to commercial stations' public inspection files (requiring maintaining of radio and television joint sales agreements and time brokerage agreements) and relating to filing of contracts with the Commission (to require the filing of attributable television time brokerage agreements).

Timetable:

Action	Date	FR Cite
NPRM	02/02/95	60 FR 6483
FNPRM	12/20/96	61 FR 67275
Report & Order	08/05/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Mania K. Baghdadi, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: mbaghda@fcc.gov

RIN: 3060–AF82

4379. MINOR MODIFICATIONS OF BROADCAST LICENSES WITHOUT PRIOR CONSTRUCTION PERMIT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 47 USC 154(i); 47 USC 155(c)(1); 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding will implement the Commission's new authority to eliminate the present requirement for a construction permit for a broadcast station in certain instances where the changed facilities would not have an adverse impact on other broadcast facilities. In these instances, licensees or permittees will be able to initiate the change without prior authority and file a license application to cover the change afterwards.

Timetable:

Action	Date	FR Cite
NPRM	04/08/96	61 FR 15439
R&O	09/30/97	62 FR 51052
Petition for Reconsideration	10/30/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dale Bickel, Engineer, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2700
Email: dbickel@fcc.gov

RIN: 3060–AG30

4380. NEWSPAPER/BROADCAST CROSS-OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: On October 1, 1996, the Commission released a Notice of Inquiry seeking comment on the possible revision of its standards for waiver of the newspaper/broadcast cross-ownership rule (Section 73.3555(d)) with respect to newspaper/radio combinations. The Notice solicits comment on whether the Commission should adopt objective criteria for evaluating such waiver requests and, if so, what those criteria should be.

Timetable:

Action	Date	FR Cite
NOI	10/15/96	61 FR 53694

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kim Matthews, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: kmatthew@fcc.gov

RIN: 3060–AG53

FCC—MASS MEDIA BUREAU

Long-Term Actions

4381. NATIONAL TELEVISION OWNERSHIP RULES (MM DOCKET NOS. 96-222, 91-221, 87-8)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: In the August 6, 1999, Report and Order in MM Docket Nos. 96-222, 91-221, and 87-8, In the Matter of Broadcast Television National Ownership Rules; Review of the Commission's Regulations Governing Television Broadcasting; Television Satellite Stations Review of Policy and Rules, the Commission makes a small change in the national broadcast television multiple ownership rule, Section 73.3555(e) of our rules. It slightly modifies how to calculate a broadcast television station group owner's aggregate national audience reach for the purposes of determining compliance with the 35% cap set by the rule. A station's audience reach is defined as the number of TV households within its market. Previously, satellite stations were exempted from the count. In addition, because local marketing agreements (LMAs) were not attributable, a time-brokered station was also exempted from the calculation. The modified rules state that a market will not be double-counted if an entity has an attributable interest in more than one station in that market. However, if the entity has an attributable interest in a station in another market (even if it is through an attributable LMA or through a parent/satellite relationship), then that second market will be counted toward the entity's national aggregate audience. In addition, the Commission is changing its market definition from Arbitron ADIs (Areas of Dominant Influence) to the analytically similar Nielsen DMAs (Designated Market Areas). These changes are consistent with our ongoing effort to ensure that our rules continue to serve the public interest without imposing unnecessary regulatory burdens. These modifications in no way alter the obligation of each broadcast licensee to serve the needs and interests of its community.

Timetable:

Action	Date	FR Cite
NPRM	12/19/96	61 FR 66987
Report & Order	08/05/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: pgordon@fcc.gov

RIN: 3060–AG54

4382. COMPETITIVE BIDDING FOR BROADCAST SERVICES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 309(j); 47 USC 309(l)

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: On April 20, 1999, the Commission issued a Memorandum Opinion and Order in which it revised the applicability of the "anti-collusion rule" for future broadcast auctions. The anti-collusion rule prohibits bidders for the same facility from communicating with each other after they file their Form 175's to participate in the auction. The revised rule permits bidders for secondary television facilities and major changes to AM radio facilities to discuss possible engineering settlements to resolve the mutual exclusivity between their applications. The Commission also refined the eligibility standards for applicants to qualify for the New Entrant Bidding Credit which allows bidders to reduce the amount of their final bid in the auction. The Commission decided to follow the broadcast attribution rules and standards when determining whether a bidder qualifies for a New Entrant Bidding Credit.

On August 5, 1999, the Commission adopted a Memorandum Opinion and Order further refining the eligibility standards for the New Entrant Bidding Credit. The Commission concluded that it is appropriate to attribute the mass media interests of investors holding more than a 33% equity and/or debt interest in a broadcast auction bidder claiming a New Entrant Bidding Credit, even if such an interest is non-voting.

Timetable:

Action	Date	FR Cite
NPRM	12/12/97	62 FR 65392
NPRM Comment Period End	01/26/98	
NOI	03/31/98	63 FR 15353
Report & Order	08/18/98	63 FR 48615
Memorandum Opinion & Order	05/07/99	64 FR 24523
Memorandum Opinion & Order	08/18/99	64 FR 44856

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Shaun Maher, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554
Phone: 202 418-7240
Email: smaher@fcc.gov

RIN: 3060–AG78

4383. 1998 BIENNIAL REVIEW OF BROADCAST OWNERSHIP

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-104, sec 202(h)

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: This proceeding initiates a review of all the broadcast ownership rules as required by section 202(h) of the Telecommunications Act of 1996. Section 202(h) of the Act requires the FCC to review its broadcast ownership rules to determine "whether any of such rules are necessary in the public interest as the result of competition." It further directs the FCC to "repeal or modify any regulation it determines to be no longer in the public interest."

Timetable:

Action	Date	FR Cite
NOI	03/31/98	63 FR 15353

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kim Matthews, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554

FCC—MASS MEDIA BUREAU

Long-Term Actions

Phone: 202 418-2130
Email: kmatthew@fcc.gov

RIN: 3060–AG79

4384. 1998 BIENNIAL REVIEW-STREAMLINING OF MASS MEDIA APPLICATIONS, RULES, AND PROCESSES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 309; 47 USC 310; 47 USC 308; 47 USC 303; 47 USC 4(i); 47 USC 4(j)

CFR Citation: 47 CFR 73; 47 CFR 1

Legal Deadline: None

Abstract: With this Report and Order, the Commission adopted an electronic filing mandate for key Mass Media Bureau broadcast application and reporting forms after a phase-in period. The Commission revised the requirements for extending the construction periods of broadcast stations, selling unbuilt construction permits, and submitting ownership reports for commercial and noncommercial stations. The Commission modified the reporting requirements on the Annual Ownership Report form to include a section on the race and gender of individuals with attributable interests in broadcast licenses. The Commission instituted a formal program of both pre- and post-application grant random audits.

Timetable:

Action	Date	FR Cite
NPRM	04/17/98	63 FR 19226
R&O	12/18/98	63 FR 70040
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Michael Wagner, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2700
Email: mwagner@fcc.gov

RIN: 3060–AG80

4385. REVIEW OF TECHNICAL RULES IN PARTS 73 AND 74

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 319; 47 USC 307

CFR Citation: 47 CFR 73; 47 CFR 74

Legal Deadline: None

Abstract: With the First Report and Order in this proceeding the Commission streamlined several of its technical rules that will result in making the application process simpler, faster, and more efficient. Specifically, the Commission adopted rules to (1) extend first come/first served processing to applications for minor changes to AM, noncommercial educational FM and FM translator facilities; (2) expand the definition of "minor change" in these service to conform more closely to the commercial FM definition, which includes all changes except changes in community of license and certain changes in frequency; and (3) permit the filing of up to four related and simultaneously filed FM station minor change construction permit applications.

Timetable:

Action	Date	FR Cite
NPRM	06/22/98	63 FR 33892
Report & Order	04/21/99	64 FR 19498
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Peter Doyle, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2700
Email: pdoyle@fcc.gov

RIN: 3060–AG81

4386. REVIEW OF BROADCAST AND CABLE EEO RULES AND POLICIES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 334; 47 USC 336; 47 USC 634

CFR Citation: 47 CFR 73; 47 CFR 76

Legal Deadline: None

Abstract: With this Notice of Proposed Rulemaking, the Commission seeks comments concerning the Commission's proposed Equal Employment Opportunity (EEO) rules, and policies that would be consistent with the D.C. Circuit's decision in Lutheran Church-Missouri Synod v. FCC. This rulemaking proposes to initiate a new broadcasting EEO rule and to change the Commission's cable EEO rules, to emphasize recruitment outreach programs and provide that entities are not to use racial, ethnic, or gender preferences in hiring. This rulemaking also proposes to include the possibility of granting administrative relief to small entities that meet proposed qualifying factors.

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66104
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Hope Cooper, Federal Communications Commission, 445 12th Street S.W., Washington, DC 20554
Phone: 202 418-1450
Email: hcooper@fcc.gov

RIN: 3060–AH10

4387. LOW POWER FM RADIO

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: With this Notice of Proposed Rulemaking, the Commission explores the possible establishment of new classes of FM radio service to respond to the increasing demand by the public for additional outlets of popular expression which could increase the diversity of voices, views, and sources of information and entertainment available to the American public. This proceeding will explore the appropriate technical parameters for such a service. The Commission will also examine potentially conflicting demands for such a service and the means to accommodate any such conflicting demands to the extent possible and

FCC—MASS MEDIA BUREAU **Long-Term Actions**

appropriate. In addressing these issues, we are and will remain mindful of the technical requirements necessary to protect existing radio services and are concerned with preserving the excellent technical quality of radio service available today which has been fostered and maintained by our existing rules. The Commission has received comment from a wide range of existing and potential users of the FM spectrum regarding the nature and extent of different and possibly conflicting demands for this spectrum, and technical analysis to assist us in best resolving those conflicts for the benefit of the public.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7577
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Paul Gordon, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: pgordon@fcc.gov

RIN: 3060–AH11

Federal Communications Commission (FCC) **Completed Actions**

MASS MEDIA BUREAU

4388. ADVANCED TELEVISION SERVICE (MM DOCKET 87-268)

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 403; 47 USC 301; 47 USC 303; 47 USC 336

CFR Citation: 47 CFR 73

Legal Deadline: None

Abstract: The Advanced Television Service proceeding commenced in July 1987, with the adoption of the first Notice of Inquiry. The purpose of the proceeding is to address the technical, legal, economic and policy issues presented by the development of new, advanced and, now, digital television ("DTV"). As it has evolved since the inception of this proceeding, DTV will be capable of delivering television programs with significantly improved video and audio quality — including two or more high definition programs simultaneously or five or more standard definition programs simultaneously — or downloading data at the rate of over 19 million bytes per second. This data could be used to transmit directly to the home, entire newspapers or telephone books in a matter of seconds, to download computer programs, and for other data applications. This system will provide consumers with improved picture and sound, spectrum efficiency that will allow for the introduction of new radio services and unprecedented interoperability with computers and other telecommunications devices.

Beginning with the 1987 Notice of Inquiry, the Commission has sought public comment on a number of occasions and on a variety of issues. When it became clear in 1993 that any advanced television system would be digital, the Commission issued three Further Notices of Inquiry and has issued decisions in response to them. In its Fourth Report and Order, the Commission adopted, with modification, the Advanced Television Systems committee DTV Standard. This decision supplied the certainty that many broadcasters, equipment manufacturers and consumers need to invest in new technology while at the same time preserving the flexibility to accommodate innovation and experimentation. The Fifth Report and Order adopted an accelerated DTV construction schedule and rules to promote the success of free, universally available, local broadcast television in a digital world. These actions were intended to help preserve free, widely accessible programming that serves the public interest, and to attract consumers swiftly to digital broadcast service, thus allowing the NTSC spectrum to be recovered and turned to use for other beneficial purposes more rapidly. The accelerated construction schedule will enable consumers in the ten largest markets to begin receiving digital television service no later than May 1, 1999, and will require all commercial broadcast stations to complete construction and begin digital broadcasting by May 1, 2002. Noncommercial stations will have an additional year in which to commence their digital broadcasts. The Fifth Report and Order also required DTV licensees to provide at least one free digital programming service of resolution comparable to today's television service. Additionally, the Commission issued a DTV license to all eligible licensees and permittees in the form of an appendix to the Fifth Report and Order. By issuing these DTV licenses with the Fifth Report and Order, the Commission has frozen initial eligibility and allowed the completion of the Table of Allotments. Finally, the Sixth Report and Order adopted a Table of Allotments for digital television, rules for initial DTV allotments, technical criteria for the allotment of additional DTV frequencies, procedures for assigning DTV frequencies and plans for spectrum recovery.

Timetable:

Action	Date	FR Cite
Tentative Decision/Further NOI	09/01/88	53 FR 38747
R&O	08/24/90	55 FR 39275
FNPRM	10/24/91	56 FR 58207
Second R&O & FNPRM	04/09/92	57 FR 21744
Third R&O & FNPRM	09/17/92	57 FR 53588
Fourth FNPRM & Third NOI	07/28/95	60 FR 42130
Fifth FNPRM	05/29/96	61 FR 26864
Sixth FNPRM	08/21/96	61 FR 43209
Fourth R&O	03/25/97	62 FR 14006
Sixth R&O	05/14/97	62 FR 26884
Fifth R&O	05/16/97	62 FR 26996
Reconsideration	07/11/97	62 FR 37145
Fifth MO&O	03/20/98	63 FR 13546
Sixth MO&O	04/01/98	63 FR 15774
Second MO&O on 5th & 6th R&O	01/28/99	64 FR 4322

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: Mania K. Baghdadi, Federal Communications Commission, Mass Media Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130

FCC—MASS MEDIA BUREAU

Completed Actions

Email: mbaghda@fcc.gov

RIN: 3060–AE24

4389. MAIN STUDIO/PUBLIC FILE REQUIREMENTS FOR BROADCASTERS (MMB DOCKET 97-138)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307

CFR Citation: 47 CFR 73.1125; 47 CFR 73.3526; 47 CFR 73.3527

Legal Deadline: None

Abstract: On reconsideration, the Commission amended rules to require only stations whose main studios are located outside the city limits of their communities of license to provide by mail copies of documents requested by telephone. The Commission also revised rules to limit the required mailing area for these documents requested by phone to the geographic service area of the station in question. The Commission defined the geographic service area as the grade B contour for TV stations and the protected service contours for radio stations. The Commission also amended the rule to exempt from the mailing requirement requests for documents from the political file.

Timetable:

Action	Date	FR Cite
NPRM	06/12/97	62 FR 32061
Report & Order	07/28/98	63 FR 49487
Memorandum Opinion & Order	07/02/99	64 FR 35941

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Victoria McCauley, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2130
Email: vmccaule@fcc.gov

RIN: 3060–AG68

Federal Communications Commission (FCC)
OFFICE OF MANAGING DIRECTOR

Long-Term Actions

4390. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1999

Priority: Economically Significant. Major under 5 USC 801.

Legal Authority: 47 USC 159

CFR Citation: 47 CFR 1.1151 et seq

Legal Deadline: None

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, requires the FCC to recover the costs of its activities by assessing and collecting annual regulatory fees from beneficiaries of these activities. The FCC has issued a Notice of Proposed Rulemaking to address how the FCC plans to implement the fee requirements for FY 1999, and a Report and Order implementing the FY 1999 Regulatory Fee Schedule.

Timetable:

Action	Date	FR Cite
NPRM	04/06/99	64 FR 16661
R&O	07/01/99	64 FR 35831
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Organizations

Government Levels Affected: None

Agency Contact: Terry Johnson, Federal Communications Commission, Office of Managing Director, Washington, DC 20554
Phone: 202 418-0445
Fax: 202 418-2826
Email: tjohnson@fcc.gov

RIN: 3060–AG92

Federal Communications Commission (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Proposed Rule Stage

4391. • CALLING PARTY PAYS SERVICE OFFERING IN THE COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 157; 47 USC 201; 47 USC 202; 47 USC 303(r); 47 USC 332

CFR Citation: 47 CFR 20

Legal Deadline: None

Abstract: The NPRM proposes a uniform nationwide system to notify consumers that they are placing a call to a wireless phone subscriber who has elected to have the caller pay for the airtime and other charges associated with the call. The notification would include the per minute charges that will apply, as well as the name of the wireless carrier that terminates the call.

Timetable:

Action	Date	FR Cite
NPRM	07/16/99	64 FR 38313
NPRM Comment Period End	10/18/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Dr. Joseph Albert Levin, Sr. Economist, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0640
Fax: 202 418-7247
Email: jlevin@fcc.gov

RIN: 3060–AH31

Federal Communications Commission (FCC)
WIRELESS TELECOMMUNICATIONS BUREAU

Long-Term Actions

4392. AMENDMENT OF PART 80 OF THE COMMISSION'S RULES CONCERNING VHF MARITIME OPERATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 80

Legal Deadline: None

Abstract: Amendment of the Maritime Radio Service Rules to encourage growth and improve the regulatory structure in VHF maritime communications.

Timetable:

Action	Date	FR Cite
NOI/NPRM	11/05/92	57 FR 57717
First R&O	04/26/95	60 FR 34198
FNPRM	04/26/95	60 FR 35507
Second FNPRM	06/17/97	62 FR 37533
Second R&O	06/17/97	62 FR 40281
3rd R&O & MO&O	07/06/98	63 FR 40059
MO&O	04/26/99	64 FR 26885
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: WT Docket No. 92-257.

Agency Contact: Scott Stone, Federal Communications Commission, Wireless Telecom Bureau - PSPWD, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0680

RIN: 3060–AF14

4393. RULEMAKING TO AMEND PART 1 AND PART 21 TO REDESIGNATE THE 27.5-29.5 GHZ BAND AND TO ESTABLISH RULES AND POLICIES FOR LOCAL MULTI-POINT DISTRIBUTION SERVICE

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 307; 47 USC 553; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 25; 47 CFR 21; 47 CFR 101

Legal Deadline: None

Abstract: The goal of this proceeding, a Third Order On Reconsideration, is to pave the way for the auctioning and licensing of the Local Multipoint Distribution Service, a fixed broadband point-to-point wireless service that has significant potential in offering a broad range of one-way and two-way voice-video and data service capabilities, and a substantial amount of capacity that is larger than is currently available in wireless services. This Order was adopted and released on February 11, 1998.

Timetable:

Action	Date	FR Cite
NPRM	12/10/92	58 FR 6400
NPRM Comment Period End	04/15/93	
Third NPRM	07/13/95	60 FR 43740
1st R&O & 4th NPRM	07/29/96	61 FR 39425
Fifth NPRM	03/11/97	62 FR 16514
Second R&O	03/11/97	62 FR 23148
Third Order on Recon	03/03/98	63 FR 9443
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Additional Information: WTB Docket No. 92-297.

Agency Contact: Barbara Reideler, Attorney Advisor, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1310

Jay Whaley, Attorney, Federal Communications Commission
Phone: 202 418-1310

RIN: 3060–AF26

4394. REFARMING

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: Replacement of part 90 by part 88 to revise private land mobile services and modify policies governing these services.

Timetable:

Action	Date	FR Cite
NPRM	01/08/92	57 FR 54034
R&O	06/15/95	60 FR 37152
MO&O	12/23/96	62 FR 2027
Second R&O	02/20/97	62 FR 18834
NPRM	09/30/98	63 FR 65568
Second MO&O	04/06/99	64 FR 36258
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Local, State

Additional Information: WTB Docket No. 92-235.

Agency Contact: Ira Keltz, Federal Communications Commission, Wireless Telecom Bureau - PSPWD, 445 12th Street, S,W,, Washington, DC 20554
Phone: 202 418-0680

RIN: 3060–AF35

4395. FUTURE DEVELOPMENT OF 800 MHZ SMR; COMPETITIVE BIDDING WIDE AREA

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 153; 47 USC 303; 47 USC 309(j); 47 USC 332

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This proceeding adopts service rules and competitive bidding rules for 800 MHz SMR spectrum. It also proposes licensing rules and auction procedures for lower 80 SMR and general category channels.

Timetable:

Action	Date	FR Cite
NPRM	05/13/93	58 FR 33062
FNPRM	10/20/94	59 FR 6011
Eighth R&O	02/16/96	61 FR 6138
First R&O	02/16/96	
Second FNPRM	02/16/96	61 FR 6212
Second R&O	06/23/97	62 FR 41190
MO&O	06/23/97	62 FR 41225
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: Local, State

Agency Contact: Gary D. Michaels, Attorney-Advisor, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660
Fax: 202 418-0890
Email: gmichael@fcc.gov

RIN: 3060–AF47

4396. RESALE AND ROAMING OBLIGATIONS PERTAINING TO COMMERCIAL MOBILE RADIO SERVICES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: PL 103-66, Sec 6002 Omnibus Budget Reconciliation Act of 1993

CFR Citation: 47 CFR 20; 47 CFR 22

Legal Deadline: None

Abstract: On an interim basis, the First Report and Order extends to broadband PCS and covered SMR providers the cellular rule that prohibits restricting resale of communications services. The new rules sunset five years after the last group of initial licensees for currently allocated broadband PCS spectrum is awarded. The rules also eliminate all exceptions to the rule that allowed cellular licensees to restrict resale by competing with fully operational cellular licensees in the same geographic market. The Commission successfully adopted a Second Report and Order and Third Notice of Proposed Rulemaking in this proceeding. The Second Report and Order extends the Commission's cellular rules on manual roaming by any individual whose handset is capable of accessing the network of a cellular, broadband PCS, or covered SMR provider. The Third NPRM, among other things, sought comment on whether the Commission should adopt rules requiring cellular, broadband PCS, and covered SMR providers to provide automatic roaming in their coverage areas, and whether both automatic and manual roaming requirements should sunset five years after the initial grant of PCS licenses.

Timetable:

Action	Date	FR Cite
NPRM	07/13/94	59 FR 35664
NOI	07/13/94	
NPRM Comment Period End	09/29/94	
NPRM	04/04/95	60 FR 20949
NPRM Comment Period End	07/14/95	
First R&O	07/12/96	61 FR 38399
Second R&O and Third NPRM	08/15/96	61 FR 44026

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal, State

Agency Contact: Paul D'Ari, Chief, Policy and Rules Division, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7240
Email: pdari@fccc.gov

Jane Phillips, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1761

RIN: 3060–AF58

4397. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; NARROWBAND PCS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: Report and Order and FNPRM to modify the competitive bidding rules for participation by designated entities in narrowband PCS.

Timetable:

Action	Date	FR Cite
3rd MO&O	08/16/94	59 FR 44058
FNPRM	04/23/97	62 FR 27569
R&O	04/23/97	62 FR 27507

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Alice Elder, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2168
Email: aelder@fcc.gov

RIN: 3060–AF99

4398. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING; IVDS COMPETITIVE BIDDING RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 95

Legal Deadline: None

Abstract: Tenth Report and Order modifies the competitive bidding rules for the upcoming auction of IVDS: (1) eliminates bidding credits available to women- and minority-owned IVDS applicants; (2) extends two levels of bidding credits to small businesses based on a two-tiered small business definition; (3) clarifies the attribution rules for affiliates of IVDS applicants; and (4) increases the amount of the upfront payments required to participate in the IVDS auction.

Timetable:

Action	Date	FR Cite
R&O	04/25/94	59 FR 24947
FNPRM	08/06/96	61 FR 49103
R&O	11/15/96	61 FR 60198
FNPRM	09/30/98	63 FR 52215
NPRM Comment Period End	10/30/98	
MO&O	11/09/98	63 FR 54073

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Allen, Staff Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660
Fax: 202 418-1159

Mark Bollinger, Deputy Chief, Auctions and Industry Analysis Division, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660
Fax: 202 418-1159

RIN: 3060–AG00

4399. 39 GHZ CHANNEL PLAN

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 154; 47 USC 524

CFR Citation: 47 CFR 2; 47 CFR 1; 47 CFR 101

Legal Deadline: None

Abstract: This proceeding amends the FCC's rules to facilitate more effective use of the 39 GHz band.

Timetable:

Action	Date	FR Cite
NPRM	01/26/96	61 FR 2465
NPRM Comment Period End	02/12/96	

FCC—WIRELESS TELECOMMUNICATIONS BUREAU

Long-Term Actions

Action	Date	FR Cite
Order	02/22/96	61 FR 6809
Reply Comments	02/27/96	
Order	05/01/96	61 FR 19236
2d NPRM	01/21/98	63 FR 3075
R&O	02/06/98	63 FR 6079
MO&O	07/14/99	64 FR 45891

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Additional Information: ET Docket No. 95-183, RM-8553; PP Docket No. 93-253

Agency Contact: Jennifer Burton, Attorney, Federal Communications Commission, Wireless Telecom. Bureau- PSPWD, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7581
Email: jburton@fcc.gov

Christina Clearwater, Attorney, Federal Communications Commission, Room 5604, Wireless Telecom. Bureau, Auctions Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-2143
Email: cclearwa@fcc.gov

RIN: 3060–AG16

4400. IMPLEMENTATION OF SECTION 309(J) OF THE COMMUNICATIONS ACT, COMPETITIVE BIDDING BROADBAND PCS F BLOCK RULES

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 24

Legal Deadline: None

Abstract: NPRM to modify the competitive bidding rules for the Broadband PCS F Block. Report and Order, adopted 6/21/96, modified the PCS/cellular rule and the cellular spectrum cap.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Audrey Bashkin, Staff Attorney, Federal Communications Commission, Wireless Telecom. Bureau, Auctions Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660
Email: abashkin@fcc.gov

RIN: 3060–AG21

4401. AMENDMENT OF PART 90 OF THE FCC'S RULES TO PROVIDE FOR THE USE OF THE 220-222 MHZ BAND

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154(i); 47 USC 303(d); 47 USC 303(r); 47 USC 332; 47 USC 309(j)

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This action addressed Petitions For Reconsideration or clarification of two Orders concerning the 220-222 MHz radio service (220 MHz service). On January 26, 1996, the FCC adopted final rules in the 220 MHz Report and Order, which enabled 220 MHz licensees to modify their licenses to relocate their authorized base stations within FCC-specified parameters. In the 220 MHz Third Report and Order, adopted on February 19, 1997, the FCC established rules to govern the future operation and licensing of the 220 MHz service. In the Fourth Report and Order, adopted on June 23, 1997, the FCC repealed the "40-mile Rule" contained in Section 90.739(a) of the rules. In the Fifth Report and Order, adopted August 4, 1998, the FCC adopted geographic partitioning and spectrum disaggregation rules for the 220-222 MHz service.

Timetable:

Action	Date	FR Cite
ANPRM	11/28/89	55 FR 328
ANPRM Comment Period End	03/15/90	
R&O	03/14/91	56 FR 19598
NPRM	01/12/92	57 FR 4180
NPRM Comment Period End	03/02/92	
FNPRM	08/28/95	60 FR 46566
Third R&O	04/03/97	62 FR 15978
Fifth NPRM	04/03/97	62 FR 16004
Fourth Report & Order	09/02/97	62 FR 46211
MO&O	05/14/98	63 FR 32580
Fifth Report & Order	09/15/98	63 FR 49291

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Scott Mackoul, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7240

RIN: 3060–AG23

4402. REVISION OF THE COMMISSION'S RULES TO ENSURE COMPATIBILITY WITH ENHANCED 911 EMERGENCY CALLING SYSTEMS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 134(i); 47 USC 201; 47 USC 208; 47 USC 215; 47 USC 303; 47 USC 309

CFR Citation: 47 CFR 20

Legal Deadline: None

Abstract: This Second Report & Order requires that analog cellular phones include a separate capability for processing all calls that permits those calls to be handled, where necessary, by either cellular carrier in the area. The goal of this proceeding is to afford the public a reliable, responsive E911 service in the best possible interest of public health and safety.

Timetable:

Action	Date	FR Cite
R&O	07/26/96	61 FR 40348
FNPRM	07/26/96	61 FR 40374
MO&O	01/16/98	63 FR 2631
Second Report & Order	06/28/99	64 FR 34564

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Additional Information: Additional Contact: Martin Liebman, Engineer, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington DC 20554, 202-418-131

Agency Contact: Dan Grosh, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1310

Won Kim, Attorney, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554
Phone: 202 418-1310

RIN: 3060–AG34

4403. WIRELESS COMMUNICATIONS SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 301; 47 USC 302; 47 USC 303; 47 USC 307; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 2; 47 CFR 27; 47 CFR 97

Legal Deadline: Final, Statutory, September 30, 1997.

Abstract: Proposal to establish a new "Wireless Communications Service" in the 2305-2320 and 2345-2360 MHz bands. Thirty megahertz of spectrum will be made available for the provision of fixed mobile, radiolocation services, or satellite Digital Audio Radio Services.

Timetable:

Action	Date	FR Cite
NPRM	11/20/96	61 FR 59048
NPRM Comment Period End	12/16/96	
R&O	03/03/97	62 FR 9636
Public Notice	03/13/97	62 FR 12959
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Additional Information: GN Docket 96-228

Agency Contact: Julie Buchanan, Staff Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660

Paul D'Ari, Chief, Policy and Rules Division, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7240
Email: pdari@fccc.gov

RIN: 3060–AG56

4404. IN THE MATTER OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT (CALEA), NOTICE OF PROPOSED RULEMAKING

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 229; 47 USC 1001 to 1008

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The FCC shall prescribe such rules as are necessary to implement the requirements of the Communications Assistance for Law Enforcement Act.

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 63302
Order	01/13/98	63 FR 01943
FNPRM	11/16/98	63 FR 63639
Report & Order	01/29/99	
Order	03/29/99	64 FR 14834
Second Report & Order	08/26/99	
Third Report & Order	08/26/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Paul D'Ari, Chief, Policy and Rules Division, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-7240
Email: pdari@fccc.gov

RIN: 3060–AG74

4405. DEVELOPMENT OF OPERATIONAL, TECHNICAL, AND SPECTRUM REQUIREMENTS FOR PUBLIC SAFETY COMMUNICATIONS REQUIREMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 337(a); 47 USC 151; 47 USC 154; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 303; 47 USC 403

CFR Citation: 47 CFR 90

Legal Deadline: None

Abstract: This item takes steps toward developing a flexible regulatory framework to meet vital current and future public safety communications needs.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 60199
First R&O and 3rd NPRM	08/06/98	63 FR 58645
Third NPRM	08/06/98	63 FR 58685
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Procurement: This is a procurement-related action for which there is no statutory requirement. There is a paperwork burden associated with this action.

Agency Contact: Michael Wilhelm, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0870

RIN: 3060–AG85

4406. MULTIPLE ACCESS SYSTEMS; WT DOCKET NO.97-81

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 302; 47 USC 303

CFR Citation: 47 CFR 101

Legal Deadline: None

Abstract: This NPRM proposes to amend the FCC's rules regarding multiple address systems (MAS) in the microwave service. It proposes a flexible regulatory framework for spectrum allocations that will provide opportunities for the development of competitive new service offerings.

Timetable:

Action	Date	FR Cite
NPRM	01/19/97	62 FR 11407
Order	09/17/98	63 FR 53350
FNPRM	05/18/99	64 FR 38617
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Shellie Blakeney, Attorney, Federal Communications Commission, Wireless Telecommunications Bureau - PSPWD, 445 12th Street, S.W., Washington, DC 20554

Phone: 202 418-0680

RIN: 3060–AG86

4407. AMENDMENT OF PART I OF THE COMMISSION'S RULES—COMPETITIVE BIDDING PROCEDURES

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 202; 47 USC 303; 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 21; 47 CFR 24; 47 CFR 24; 47 CFR 27; 47 CFR 90; 47 CFR 95

Legal Deadline: None

Abstract: This proceeding proposes to amend and modify the competitive bidding rules for all auctionable services. It was released on December 31, 1997 and published in the Federal Register on January 15, 1998.

Timetable:

Action	Date	FR Cite
NPRM	03/21/97	62 FR 13570
NPRM Comment Period End	04/16/97	
2d FNPRM	01/07/98	63 FR 770
3d R&O	01/15/98	63 FR 2315

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Leora Hochstein, Staff Attorney, Federal Communications Commission, Wireless Telecom. Bureau, Auctions Division, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660
Fax: 202 418-1159
Email: lhochste@fcc.gov

RIN: 3060–AG87

4408. AMENDMENT TO PART 27 OF THE FCC'S RULES TO REVISE RULES FOR SERVICES IN THE 2.3GHZ BAND AND TO INCLUDE LICENSING OF SERVICES IN THE 47 GHZ BAND

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 309; 47 USC 310; 47 USC 368

CFR Citation: 47 CFR 27

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking proposes service, licensing, and competitive bidding rules for the 47.2-48.2 GHz band. The FCC proposes to amend the part 27 Rules to include rules for the 47.2-48.2 band and to codify and conform certain rules for the 2.3 GHz band to provide for consistent regulation of part 27 services.

Timetable:

Action	Date	FR Cite
NPRM	06/30/98	63 FR 44822
NPRM Comment Period End	10/13/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Eli Johnson, Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1310

RIN: 3060–AG93

4409. AMENDMENT OF PART 90 OF THE COMMISSION'S RULES TO ADOPT REGULATIONS FOR AUTOMATIC VEHICLE MONITORING SYSTEMS SECOND REPORT AND ORDER

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 47 USC 154; 47 USC 251; 47 USC 252; 47 USC 303; 47 USC 309; 47 USC 332

CFR Citation: 47 CFR 1; 47 CFR 90

Legal Deadline: None

Abstract: This Second Report and Order adopts rules and procedures governing competitive bidding for multilateration Location and Monitoring Service (LMS) frequencies. Was released July 14, 1998. Was published in Federal Register, July 30, 1998, 63 FR 40659. Became effective September 28, 1998.

Timetable:

Action	Date	FR Cite
NPRM	09/16/97	62 FR 52078
NPRM Comment Period End	11/20/97	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This FNPRM sought comment on the LMS auction following the general competitive bidding procedures of Part 1, Subpart Q; the establishment of a small business definition for LMS; whether small business provisions are sufficient to promote participation by businesses owned by minorities, women or rural telephone companies; partitioning and disaggregation (released 9/16/97) 63 FR 52078 published 10/6/97.

Agency Contact: Ken Burnley, Staff Attorney, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660
Email: kburnley@fcc.gov

RIN: 3060–AH12

4410. • SERVICE RULES FOR THE 746-764 AND 776-794 MHZ BANDS, AND REVISIONS TO PART 27 OF THE COMMISSION'S RULES

Priority: Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 1; 47 USC 4(i); 47 USC 7; 47 USC 10; 47 USC 201; 47 USC 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 307; 47 USC 308; 47 USC 309 (j); 47 USC 309(k); 47 USC 310; 47 USC 311; 47 USC 315; 47 USC 317; 47 USC 324; 47 USC 331; 47 USC 332; 47 USC 336

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: Proposes service rules for licensing and auction of commercial services in spectrum to be vacated by UHF television licensees.

Timetable:

Action	Date	FR Cite
NPRM	07/07/99	64 FR 36686

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Stan Wiggins, Attorney Advisor, Federal Communications Commission, Policy

Division Wireless Telecom. Bureau, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-1310
Email: swiggins@fcc.gov

RIN: 3060–AH32

4411. • IMPLEMENTATION OF SECTIONS 309(J) AND 337 OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED

Priority: Substantive, Nonsignificant

Legal Authority: 47 USC 154(i); 47 USC 303(r); 47 USC 309(j)

CFR Citation: 47 CFR 1; 47 CFR 22; 47 CFR 24; 47 CFR 26; 47 CFR 27; 47 CFR 73; 47 CFR 74; 47 CFR 80; 47 CFR 87

Legal Deadline: None

Abstract: This NPRM commences a proceeding to implement 309(j) and 337 of the Communications Act, as amended by the Balanced Budget Act of 1997, which was signed into law on 8/5/97. This notice seeks comment on changes to the Commission's rules and policies to implement the revised auction authority.

Timetable:

Action	Date	FR Cite
NPRM	05/03/99	64 FR 23571
NPRM Comment Period End	08/02/99	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions

Government Levels Affected: State, Local

Agency Contact: Gary D. Michaels, Attorney-Advisor, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554
Phone: 202 418-0660
Fax: 202 418-0890
Email: gmichael@fcc.gov

RIN: 3060–AH33

4412. • 1998 BIENNIAL REGULATORY REVIEW SPECTRUM AGGREGATION LIMITS FOR WIRELESS TELECOMMUNICATIONS CARRIERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 47 USC 154; 47 USC 161; 47 USC 332

CFR Citation: 20 CFR 20; 22 CFR 942

Legal Deadline: None

Abstract: The Commission is re-evaluating whether it should retain, modify, or repeal the spectrum aggregation limits and the cellular cross-interest rule in light of changes occurring in the wireless telecommunications market.

Timetable:

Action	Date	FR Cite
NPRM	12/10/98	63 FR 70727

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: David Krech, Attorney-Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554
Phone: 202 418-7240
Fax: 202 418-7447
Email: dkrech@fcc.gov

RIN: 3060–AH34

[FR Doc. 99–27054 Filed 11–19–99; 8:45 am
BILLING CODE 6712–01–F

federal register

Monday,
November 22, 1999

Part LIV

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

Federal Deposit Insurance Corporation (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (the FDIC) is hereby publishing items for the October 1999 Regulatory Agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations." The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

A number of the actions identified in this agenda have been developed following regulatory reviews required by the Riegle Community and Regulatory Improvement Act of 1994 (CDRI), or to implement other recent statutory mandates. Many of the FDIC's regulatory actions are coordinated with other Federal regulators of financial institutions, primarily the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve system (FRS), and the Office of Thrift Supervision (OTS). In some cases, the FDIC also coordinates with the National Credit Union Administration (NCUA).

Interested persons may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

Robert E. Feldman,
Executive Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4413	12 CFR 340 Restrictions on Sale of Assets by the FDIC	3064-AB37
4414	12 CFR 308 Program Fraud Civil Remedies	3064-AB41
4415	12 CFR 307 Notification of Assumption of Deposits and Change of Insured Status	3064-AB88
4416	12 CFR 360 Receivership Rules	3064-AB92
4417	12 CFR 361 Minority and Women Outreach Program—Contracting	3064-AC21
4418	12 CFR 366 Contractor Conflict of Interest	3064-AC29
4419	12 CFR 327 Assessments	3064-AC31

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4420	12 CFR 325 Capital Maintenance — Recourse Arrangements and Direct Credit Substitutes	3064-AB31
4421	12 CFR 325 Capital Maintenance — Collateralized Transactions	3064-AB78
4422	12 CFR 342 Qualification Requirements for the Recommendation or Sale of Certain Securities	3064-AB85
4423	12 CFR 328 Advertisement of Membership	3064-AB99
4424	12 CFR 343 Insured State Nonmember Banks Which Are Municipal Securities Dealers	3064-AC04
4425	12 CFR 325 Risk-Based Capital Standards: Claims on Securities Firms	3064-AC17
4426	12 CFR 362 Activities of Insured State Banks and Insured Savings Associations	3064-AC20
4427	12 CFR 339 Loans in Areas Having Special Flood Hazards	3064-AC24
4428	12 CFR 360 Treatment by the FDIC as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation	3064-AC28
4429	12 CFR 308 Technical Amendments to FDIC Regulations Relating to Rules of Practice and Procedure and Deposit Insurance Coverage	3064-AC30

FDIC

Sequence Number
4430
4431

Sequence Number
4432
4433
4434
4435
4436
4437

Federal

4413. RES
ASSETS
Priority: S
Legal Aut
204
CFR Citat
Legal Dea
Abstract:
implemen
Resolutio
Completi
assets hel
of liquida
depository
to persons
the Act, c
the institu
Timetable

Action
NPRM
NPRM Com Period En
Final Action

Regulator
Required:
Small Ent
Governm
Agency C
of Resolut
Federal D
Washingt
Phone: 20
RIN: 3064

FDIC

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4430	12 CFR 308 Censure, Suspension, and Debarment of Independent Public Accountants	3064-AA64
4431	12 CFR 327 Assessments — Assessment Base	3064-AB46

Completed Actions

Sequence Number	Title	Regulation Identification Number
4432	12 CFR 361 Formal Minority- and Women-Owned Business and Law Firm Certification Program	3064-AB95
4433	12 CFR 348 Management Interlocks Act	3064-AC08
4434	12 CFR 347 Foreign Activities of Insured State Nonmember Banks	3064-AC15
4435	12 CFR 364 Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness	3064-AC18
4436	12 CFR 303 Filing Procedures and Delegations of Authority	3064-AC22
4437	12 CFR 331 Asset and Liability Backup Program	3064-AC23

Federal Deposit Insurance Corporation (FDIC) — Proposed Rule Stage

4413. RESTRICTIONS ON SALE OF ASSETS BY THE FDIC

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 340

Legal Deadline: None

Abstract: This regulatory action implements provisions in the Resolution Trust Corporation Completion Act of 1993 that require assets held by the FDIC in the course of liquidating federally insured depository institutions not to be sold to persons who, in ways specified in the Act, contributed to the demise of the institution.

Timetable:

Action	Date	FR Cite
NPRM	09/21/99	64 FR 51084
NPRM Comment Period End	12/20/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steve Trout, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-4231

RIN: 3064–AB37

4414. PROGRAM FRAUD CIVIL REMEDIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; PL 103-204

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: The Program Fraud Civil Remedies Act (PFCRA) requires specified Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims and statements. The Resolution Trust Corporation Completion Act of 1993 subjects the FDIC to the requirements of the PFCRA. An interagency task force was established by the President's Council on Integrity and Efficiency to develop model regulations for implementing the PFCRA. This regulatory action adopts, with minor variations, the model regulations set forth by the Council's task force.

Timetable:

Action	Date	FR Cite
NPRM	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark A. Mellon, Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429
Phone: 202 898-3854

RIN: 3064–AB41

4415. NOTIFICATION OF ASSUMPTION OF DEPOSITS AND CHANGE OF INSURED STATUS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 307

Legal Deadline: None

Abstract: This rulemaking clarifies reporting and disclosure requirements already applicable to insured depository institutions. Due to comments received, a second NPRM on this subject was issued rather than finalizing the rule proposed in May 1997. It implements the results of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/14/97	62 FR 26431
NPRM Comment Period End	07/14/97	
Second NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

FDIC

Proposed Rule Stage

Agency Contact: Rodney D. Ray, Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429
Phone: 202 898-3556

RIN: 3064–AB88

4416. RECEIVERSHIP RULES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 to 1821

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking establishes uniform rules governing the payment and priority of post-insolvency interest payments from all receiverships administered by the FDIC and makes other technical and clarifying changes to part 360.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mitchell Glassman, Deputy Director, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6525

RIN: 3064–AB92

4417. MINORITY AND WOMEN OUTREACH PROGRAM—CONTRACTING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1833e(c)

CFR Citation: 12 CFR 361

Legal Deadline: None

Abstract: This rulemaking proposes a statement of policy to utilize the Federal Affirmative Action Contracting Program, set forth in the Federal Acquisition Regulations, 48 CFR parts 19 and 52, providing contracting incentives to small disadvantaged businesses and proposes to amend its regulations establishing an outreach program for minority- and women-owned businesses as well as small disadvantaged businesses.

Timetable:

Action	Date	FR Cite
NPRM	08/06/99	64 FR 42862
NPRM Comment Period End	10/05/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Martin Blumenthal, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 736-0756

RIN: 3064–AC21

4418. • CONTRACTOR CONFLICT OF INTEREST

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819; 12 USC 1822(f)(3); 12 USC 1822(f)(4)

CFR Citation: 12 CFR 366

Legal Deadline: None

Abstract: This rulemaking clarifies that Part 366 does not pertain to FDIC contractors who intend to purchase assets from the FDIC. Conflicts of interest regarding contractors that intend to purchase assets from the FDIC will be covered by an FDIC circular regarding the sale of assets to restricted contractors.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Richard M. Handy, Assistant Executive Secretary (Ethics), Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-7271

RIN: 3064–AC29

4419. • ASSESSMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1441; 12 USC 1441b; 12 USC 1813; 12 USC 1815; 12 USC 1817-1819; PL 104-208; 12 USC 1812

CFR Citation: 12 CFR 327

Legal Deadline: None

Abstract: This rulemaking proposes several changes to FDIC's regulations governing assessments. The FDIC proposes to change the reporting date used to determine the capital component of the assessment risk classification assigned to FDIC-insured depository institutions. The proposal is to move that date closer by one calendar quarter to the assessment period for which the capital component is assigned. The FDIC is further proposing to shorten from 30 days to 15 days the prior notice that the FDIC sends to institutions advising them of their assessment risk classification for the following semiannual assessment period. The same reduction is proposed for the invoice sent by the FDIC each quarter showing the amount of the assessment payment due for the next quarterly collection. At the other end of the process, the FDIC is proposing to increase from 30 days to 90 days the time within which an institution may request review of its assessment risk classification.

Timetable:

Action	Date	FR Cite
NPRM	09/08/99	64 FR 48719
NPRM Comment Period End	10/25/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James W. Thornton, Senior Banking Analyst, Division of Insurance, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6707

RIN: 3064–AC31

Federal Deposit Insurance Corporation (FDIC) — Final Rule Stage

4420. CAPITAL MAINTENANCE — RECOURSE ARRANGEMENTS AND DIRECT CREDIT SUBSTITUTES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: The FDIC, the FRS, the OCC, and the OTS (Agencies) are revising their risk-based capital standards to address the regulatory capital treatment of recourse arrangements and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk. One portion of the NPRM addressing the risk-based capital treatment of low-level recourse transactions is required to be published as a separate final rule by CDRI.

In addition, the Agencies published, in an ANPRM, a preliminary proposal to use credit ratings to match the risk-based capital assessment more closely to an institution's relative risk of loss in certain asset securitizations. The Agencies are also seeking comment on the need for a similar system for unrated asset securitizations and on how such a system would be designed. The Agencies intend that any final rules adopted in connection with these regulatory actions that result in increased risk-based capital requirements would apply only to transactions that are consummated after the effective dates of such final rules.

A second NPRM combining the issues raised in the ANPRM on credit ratings, and the NPRM on recourse and direct credit substitutes was published in November 1997 (62 FR 59944).

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	
Credit Ratings		
ANPRM 05/25/1994 (59 FR 27116)		
Recourse/Direct Credit Substitutes		
NPRM 05/25/1994 (59 FR 27116)		
Final Action 02/00/2000		
Synthesis of Credit Ratings/Recourse/Direct Credit Substitutes		
NPRM 11/05/1997 (62 FR 59944)		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-8906

RIN: 3064–AB31

4421. CAPITAL MAINTENANCE — COLLATERALIZED TRANSACTIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1818; 12 USC 1819; 12 USC 1828; 12 USC 1831; 12 USC 3907; 12 USC 3909; 12 USC 4808; PL 102-233; PL 102-242

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rule was developed in consultation with the OCC, the FRS, and the OTS (Agencies). It amends FDIC's risk-based capital standards to make the standards uniform with the Agencies' treatments for transactions supported by collateral. The effect of the proposal is to allow banks to hold less capital for certain transactions collateralized by cash or qualifying securities. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	08/16/96	61 FR 42565
NPRM Comment Period End	10/15/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-8904

RIN: 3064–AB78

4422. QUALIFICATION REQUIREMENTS FOR THE RECOMMENDATION OR SALE OF CERTAIN SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1831

CFR Citation: 12 CFR 342

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, and the FDIC. It establishes qualifications for those banks that sell certain securities directly to retail customers through their employees without having to register as a broker under the Securities Exchange Act. More particularly, this action establishes filing requirements for banks, and registration, testing, and continuing education requirements for bank securities representatives consistent with the professional qualification requirements for broker-dealers and registered representatives under the Securities Exchange Act and rules thereunder, and the rules of the securities self-regulatory organizations.

Timetable:

Action	Date	FR Cite
NPRM	12/30/96	61 FR 68824
NPRM Comment Period End	02/28/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: William A. Stark, Assistant Director, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429 Phone: 202 898-6972

RIN: 3064–AB85

4423. ADVERTISEMENT OF MEMBERSHIP

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818; 12 USC 1819; 12 USC 1828

CFR Citation: 12 CFR 328

Legal Deadline: None

Abstract: This regulatory action consolidates provisions relating to display of official signs; extends the official advertising statement that is currently required for insured banks to all insured depository institutions; streamlines exceptions to the use of the statement; prohibits use of the statement in advertisements concerning nondeposit investment products; and delegates authority to approve translations of the statement to certain FDIC officials. In addition, this action solicits comment on issues relating to advertisement of membership in the FDIC over a computer network such as the Internet. This action is the result of a CDRI section 303(a) review.

FDIC — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/11/97	62 FR 06142
NPRM Comment Period End	04/14/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marc J. Goldstrom, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8807

RIN: 3064–AB99

4424. INSURED STATE NONMEMBER BANKS WHICH ARE MUNICIPAL SECURITIES DEALERS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)

CFR Citation: 12 CFR 343

Legal Deadline: None

Abstract: This rulemaking proposes to rescind the regulation that requires insured state nonmember banks which are municipal securities dealers to file with the FDIC certain information about those persons who are or seek to be associated with these dealers as municipal securities principals or municipal securities representatives. This action is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	05/16/97	62 FR 26994
NPRM Comment Period End	07/15/97	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Keith Ligon, Chief, Policy Unit, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3618

RIN: 3064–AC04

4425. RISK-BASED CAPITAL STANDARDS: CLAIMS ON SECURITIES FIRMS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1815(a); 12 USC 1815(b); 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1818(c); 12 USC 1818(t); 12 USC 1819 (Tenth); 12 USC 1828(c); 12 USC 1828(d); 12 USC 1828(i); 12 USC 1828(n); 12 USC 1828(o); 12 USC 1831o; 12 USC 1835

CFR Citation: 12 CFR 325

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the FDIC and OTS. This interim rule would revise the FDIC's risk-based capital standards set forth in the Basle Accord. This revision would permit claims on certain securities firms to receive the same preferential risk-weighting that is applied to claims on banks.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen G. Pfeifer, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8904

RIN: 3064–AC17

4426. ACTIVITIES OF INSURED STATE BANKS AND INSURED SAVINGS ASSOCIATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 375a(4); 12 USC 375b; 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1820(d)(10); 12 USC 1821(f); 12 USC 1818; 12 USC 1819 (Tenth); 12 USC 1828(m); 12 USC 1831a; 12 USC 1831e

CFR Citation: 12 CFR 362; 12 CFR 337

Legal Deadline: None

Abstract: This rulemaking proposes to add safety and soundness standards to govern insured State nonmember banks that engage in the public sale, distribution or underwriting of stocks, bonds, debentures, notes or other securities through a subsidiary if those activities are permissible for a national bank subsidiary but are not permissible for the national bank itself. In addition, the rulemaking proposes to require that insured State nonmember banks file a notice before commencing any activities permissible for the parent national bank itself. The rulemaking also proposes to remove and reserve the provisions addressing "Securities Activities of Subsidiaries of Insured State Banks: Bank Transactions with Affiliated Securities Companies."

Timetable:

Action	Date	FR Cite
NPRM	12/01/98	63 FR 66339
NPRM Comment Period End	02/01/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC20

4427. • LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4012a; 42 USC 4104a; 42 USC 4104b; 42 USC 4106; 42 USC 4128

CFR Citation: 12 CFR 339

Legal Deadline: None

Abstract: This rulemaking makes a technical amendment to the flood insurance regulations of the Federal banking agencies. It is necessary due to the elimination by the FEMA of reference to the Standard Flood Hazard Determination Form from its regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark A. Mellon, Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429

FDIC — **Final Rule Stage**

Phone: 202 898-3854

RIN: 3064–AC24

4428. • TREATMENT BY THE FDIC AS CONSERVATOR OR RECEIVER OF FINANCIAL ASSETS TRANSFERRED BY AN INSURED DEPOSITORY INSTITUTION IN CONNECTION WITH A SECURITIZATION OR PARTICIPATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1821(d)(1); 12 USC 1821(d)(11); 12 USC 1821(e)(1); 12 USC 1821(e)(8)(D)(1); 12 USC 1823(c)(4); 12 USC 1823(e)(2); PL 101-73

CFR Citation: 12 CFR 360

Legal Deadline: None

Abstract: This rulemaking resolves issues regarding the treatment by the FDIC, as receiver or conservator, of financial assets transferred by an insured depository institution in connection with a securitization or in the form of a participation.

Timetable:

Action	Date	FR Cite
NPRM	09/09/99	64 FR 48968
NPRM Comment Period End	11/08/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael Krimminger, Senior Policy Analyst, Division of Resolution and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-8950

RIN: 3064–AC28

4429. • TECHNICAL AMENDMENTS TO FDIC REGULATIONS RELATING TO RULES OF PRACTICE AND PROCEDURE AND DEPOSIT INSURANCE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 504; 5 USC 554-557; 12 USC 93(b); 12 USC 164; 12 USC 505; 12 USC 1815(e); 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1828; 12 USC 1829; 12 USC 1829b; 12 USC 1831i; 12 USC 1831o; 12 USC 1831p-1; 12 USC 1832(c); 12 USC 1884(b)

CFR Citation: 12 CFR 308; 12 CFR 330

Legal Deadline: None

Abstract: This rulemaking amends various sections of Rules of Practice and Procedure governing administrative enforcement proceedings. The amendments are generally technical in nature and are necessary to ensure that the rules are consistent with statutory provisions and procedural changes that have occurred since the rules were first adopted. The FDIC also is making a conforming, technical amendment to its deposit insurance regulations that was inadvertently omitted from changes made to the deposit insurance regulations effective on April 1, 1999.

Timetable:

Action	Date	FR Cite
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Andrea Winkler, Counsel, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3764

RIN: 3064–AC30

Federal Deposit Insurance Corporation (FDIC) — **Long-Term Actions**

4430. CENSURE, SUSPENSION, AND DEBARMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 308

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Doris L. Marsh
Phone: 202 898-8905

RIN: 3064–AA64

4431. ASSESSMENTS — ASSESSMENT BASE

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 327

Timetable:

Action	Date	FR Cite
ANPRM	10/05/94	59 FR 50710
ANPRM Comment Period End	02/02/95	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frederick S. Carns
Phone: 202 898-3930

RIN: 3064–AB46

4432. FORMAL MINORITY- AND WOMEN-OWNED BUSINESS AND LAW FIRM CERTIFICATION PROGRAM

Priority: Info./Admin./Other

Legal Authority: 12 USC 1819; 12 USC 1822

CFR Citation: 12 CFR 361

Legal Deadline: None

Abstract: This rulemaking replaces the self-certification program for minority- and women-owned businesses wishing to do business with the FDIC, with a more formal program for certification. The rulemaking is the result of a CDRI section 303(a) review.

Timetable:

Action	Date	FR Cite
NPRM	04/14/97	62 FR 18059
NPRM Comment Period End	06/13/97	
Withdrawn	08/06/99	64 FR 42861

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Judith M. Wood, Chief, MWOP, Office of Diversity and Economic Opportunity, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 416-2456

RIN: 3064–AB95

4433. MANAGEMENT INTERLOCKS ACT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 93a; 12 USC 3201 to 3208

CFR Citation: 12 CFR 348

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the OTS and the FDIC. It conforms the management interlocks rules to recent statutory changes, modernizes and clarifies the rules, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 43052
Final Rule	09/24/99	64 FR 51673
Final Rule Effective	01/01/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Curtis L. Vaughn, Examination Specialist, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6759

RIN: 3064–AC08

4434. FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1813; 12 USC 1815; 12 USC 1817; 12 USC 1819; 12 USC 1820; 12 USC 1828; 12 USC 3103; 12 USC 3104; 12 USC 3105; 12 USC 3108; PL 98-181

CFR Citation: 12 CFR 347

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, and the FDIC. It implements the provisions related to an extended examination cycle for U.S. branches and agencies of foreign banks set out in section 2214 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/28/98	63 FR 46118
Interim Final Rule Comment Period End	10/27/98	
Final Rule	10/22/99	64 FR 56949
Final Rule Effective	10/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Walter, Chief, International Branch, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-3540

RIN: 3064–AC15

4435. INTERAGENCY GUIDELINES ESTABLISHING YEAR 2000 STANDARDS FOR SAFETY AND SOUNDNESS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819 (Tenth); 12 USC 1831p-1

CFR Citation: 12 CFR 364

Legal Deadline: None

Abstract: This rulemaking is sponsored jointly by the OCC, the FRS, the OTS, and the FDIC. It provides interim guidelines establishing Year 2000 safety and soundness standards for insured depository institutions pursuant to section 39 of the Federal Deposit Insurance Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/15/98	63 FR 55480
Interim Final Rule Comment Period End	12/14/98	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank Hartigan, Year 2000 Project Manager, Division of Supervision, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6867

RIN: 3064–AC18

4436. • FILING PROCEDURES AND DELEGATIONS OF AUTHORITY

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 378; 12 USC 1813; 12 USC 1815; 12 USC 1816; 12 USC 1817; 12 USC 1818; 12 USC 1820; 12 USC 1823; 12 USC 3104; 12 USC 3108; 12 USC 3207; 15 USC 1601-1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: This rulemaking amends mutual-to-stock conversion procedures by delegating authority from the FDIC's Board of Directors to the Director and Deputy Director of the Division of Supervision to act on certain requests for the waiver of the depositor vote requirements.

Timetable:

Action	Date	FR Cite
Final Rule	04/26/99	64 FR 20141
Final Rule Effective	05/26/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John Lane, Assistant Director, Federal Deposit Insurance Corporation, Division of Supervision, Washington, DC 20429

FDIC — Completed Actions

Phone: 202 898-3671

RIN: 3064–AC22

4437. • ASSET AND LIABILITY BACKUP PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1819(a)(Tenth); 12 USC 1818(u); 12 USC 1818(b); 12 USC 1821

CFR Citation: 12 CFR 331

Legal Deadline: None

Abstract: This rulemaking requires asset and liability backup programs for limited deposit account and loan account information in a limited number of institutions to facilitate timely and accurate restoration of key financial records in the event that an FDIC-insured depository institution (insured depository institution) experiences a Year 2000 computer problem and is placed in receivership.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/99	64 FR 30869
Interim Final Rule Effective	07/09/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: James Crum, Manager, Information Systems Section, Division of Resolution and Receiverships, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898-6698

RIN: 3064–AC23

[FR Doc. 99–25674 Filed 11–19–99; 8:45 am]
BILLING CODE 6714–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LV

Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

Federal Energy Regulatory Commission (FERC)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with guidance issued by the Office of Management and Budget (OMB), the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 20 rulemakings listed, 12 are current or projected rulemakings, and 8 are completed actions.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Federal Energy Regulatory Commission's Statement of Regulatory Priorities is included in part II.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See the various dates listed for each specific rulemaking.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

David P. Boergers,

Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4438	Depreciation Accounting	1902-AB85
4439	Designation of Corporate Officials or Other Persons to Receive Service	1902-AB90

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4440	Treatment of Responses to FERC Form No. 580 Interrogatories	1902-AB57
4441	Revised Filing Requirements under Part 33 of the Commission's Regulations	1902-AB73
4442	Regulation of Short-Term Natural Gas Transportation Services	1902-AB74
4443	Regulation of Interstate Natural Gas Transportation Services	1902-AB76
4444	Regional Transmission Organizations	1902-AB77
4445	Open Access Same-Time Information System and Standards of Conduct	1902-AB78
4446	Regulations under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf	1902-AB84
4447	Revision of FERC Form No. 6: Annual Report of Oil Pipeline Companies	1902-AB87
4448	Records Retention Project	1902-AB88
4449	Electronic Filing	1902-AB89

Completed Actions

Sequence Number	Title	Regulation Identification Number
4450	Complaint Procedures	1902-AB75
4451	Revision to Oil Pipeline Regulations	1902-AB79
4452	Regulations Governing Off-the-Record Communications	1902-AB80
4453	Collaborative Procedures for Energy Facility Applications	1902-AB81
4454	Revision of Existing Regulations under Part 157 and Related Sections of the Commission's Regulations under the Natural Gas Act	1902-AB82
4455	Landowner Notification, Residential Area Designation, and Other Environmental Filing Requirements	1902-AB83
4456	Determining the Need for New Interstate Natural Gas Pipeline Facilities	1902-AB86
4457	Electronic Service of Documents	1902-AB91

Federal Energy Regulatory Commission (FERC) — Proposed Rule Stage

4438. • DEPRECIATION ACCOUNTING

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7102 to 7352; 42 USC 7651 to 7651o

CFR Citation: 18 CFR part 101

Legal Deadline: None

Abstract: The Commission proposes to amend its regulations to set forth uniform standards, based on the straight-line method of depreciation and the assets' estimated useful service lives, for determining depreciation for accounting purposes. (Docket No. RM99-7-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/04/99	64 FR 42304
NPRM Comment Period End	10/04/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gregory Berson, Office of Finance, Accounting and Operations, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 219-2603
Fax: 202 219-2632
Email: gregory.berson@ferc.fed.us

RIN: 1902–AB85

4439. • DESIGNATION OF CORPORATE OFFICIALS OR OTHER PERSONS TO RECEIVE SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 App USC 1 to 85

CFR Citation: 18 CFR 385

Legal Deadline: None

Abstract: The Commission is proposing to add a new section to its regulations to require that all entities regulated by the Commission designate a corporate official or other person to receive service of certain types of pleadings where a person to receive service has not otherwise been designated under the Commission's regulations. (Docket No. RM99-9-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/04/99	64 FR 42307
NPRM Comment Period End	10/04/99	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Faerberg, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-1275
Fax: 202 208-0017
Email: david.faerberg@ferc.fed.us

RIN: 1902–AB90

Federal Energy Regulatory Commission (FERC) — Long-Term Actions

4440. TREATMENT OF RESPONSES TO FERC FORM NO. 580 INTERROGATORIES

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301 to 305; 5 USC 551 to 557; 15 USC 79; 16 USC 791a to 828c; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 141; 18 CFR 388

Legal Deadline: None

Abstract: The Commission proposes to: Codify an existing requirement for certain public utilities to file responses to FERC Form No. 580 interrogatories; provide for the filing of both hard copy and electronic copy; and provide that responses will not qualify for claims of privilege. (Docket No. RM94-5-000.)

Timetable:

Action	Date	FR Cite
NPRM	12/01/93	58 FR 63312
NPRM Comment Period End	03/04/94	59 FR 1690
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gary Cohen, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-2046

RIN: 1902–AB57

4441. REVISED FILING REQUIREMENTS UNDER PART 33 OF THE COMMISSION'S REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 33

Legal Deadline: None

Abstract: The Commission has proposed to amend 18 CFR part 33 to update the filing requirements for applications under part 33, including applications for public utility mergers. (Docket No. RM98-4-000.)

Timetable:

Action	Date	FR Cite
NPRM	04/24/98	63 FR 20340
NPRM Comment Period End	08/24/98	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kimberly D. Bose, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-2294

RIN: 1902–AB73

Regulation Identification Number

1902-AB85
1902-AB90

Regulation Identification Number

1902-AB57
1902-AB73
1902-AB74
1902-AB76
1902-AB77
1902-AB78

1902-AB84
1902-AB87
1902-AB88
1902-AB89

Regulation Identification Number

1902-AB75
1902-AB79
1902-AB80
1902-AB81

1902-AB82
1902-AB83
1902-AB86
1902-AB91

4442. REGULATION OF SHORT-TERM NATURAL GAS TRANSPORTATION SERVICES

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 et seq; 15 USC 3301 to 3432; 42 USC 7101 to 7532; 43 USC 1331 to 1356

CFR Citation: 18 CFR 161; 18 CFR 250; 18 CFR 284

Legal Deadline: None

Abstract: The Commission has proposed an integrated package of revisions to its regulations governing interstate natural gas pipelines to reflect the changes in the market for short-term transportation services on pipelines. Under the regulations proposed, cost-based regulation would be eliminated for short-term transportation and replaced by regulatory policies intended to maximize competition in the short-term transportation market, to mitigate the ability of firms to exercise residual monopoly power, and to foster greater innovation in pipeline services and permit pipelines and shippers to better allocate the risks of long-term contracts. The regulatory model that the Commission proposed satisfies the Commission's statutory obligation by achieving the appropriate balance between the benefits to be garnered from efficient trading in the short-term market and the protection needed against the exercise of market power. (Docket No. RM98-10-000.)

Timetable:

Action	Date	FR Cite
NPRM	08/11/98	63 FR 42982
Order Granting Extension of Time	10/16/98	63 FR 55563
Order Granting Extension of Time	12/30/98	63 FR 71806
Comment Period End	04/22/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Goldenberg, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-2294

RIN: 1902–AB74

4443. REGULATION OF INTERSTATE NATURAL GAS TRANSPORTATION SERVICES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 717 et seq; 15 USC 3301 to 3432; 42 USC 7101 to 7532; 43 USC 1331 to 1356

CFR Citation: 18 CFR ch 1

Legal Deadline: None

Abstract: The Commission is seeking comments on its long-term regulatory policies for interstate natural gas transportation services in view of the changes that have taken place in the natural gas industry in recent years. (Docket No. RM98-12-000.)

Timetable:

Action	Date	FR Cite
Notice of Inquiry	08/11/98	63 FR 42974
Order Granting Extension of Time	10/16/98	63 FR 55563
Order Granting Extension of Time	12/30/98	63 FR 71806
Comment Period End	04/22/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Ingrid Olson, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-2015

RIN: 1902–AB76

4444. REGIONAL TRANSMISSION ORGANIZATIONS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 791 to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: The Commission has proposed to amend its regulations under the Federal Power Act to facilitate and encourage the formation of Regional Transmission Organizations (RTOs). The Commission proposed that each public utility that owns, operates or controls facilities for the transmission of electric energy in interstate commerce make certain filings with respect to forming and participating in an RTO. The Commission also proposed certain minimum characteristics and functions that must be satisfied in order to be considered to be an RTO. (Docket No. RM99-2-000.)

Timetable:

Action	Date	FR Cite
Notice of Intent to Consult	12/01/98	63 FR 66158
NPRM	05/13/99	64 FR 31390
NPRM Comment Period End	09/29/99	64 FR 40533
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Undetermined

Agency Contact: Brian Gish, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0996

RIN: 1902–AB77

4445. OPEN ACCESS SAME-TIME INFORMATION SYSTEM AND STANDARDS OF CONDUCT

Priority: Info./Admin./Other

Legal Authority: 16 USC 791 to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352

CFR Citation: 18 CFR 37

Legal Deadline: None

Abstract: The Commission proposes to adopt a set of uniform business practices implementing policies on transmission price negotiation and improving interactions over OASIS nodes. (Docket No. RM95-9-003.)

Timetable:

Action	Date	FR Cite
NPRM	02/03/99	64 FR 5206
NPRM Comment Period End	04/05/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marvin Rosenberg, Economist, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-1283

RIN: 1902–AB78

4446. REGULATIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT GOVERNING THE MOVEMENT OF NATURAL GAS ON FACILITIES ON THE OUTER CONTINENTAL SHELF

Priority: Other Significant

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 43 USC 1334(e) and (f); 49 USC 60502; 49 USC app 1 to 85

CFR Citation: 18 CFR 330; 18 CFR 385

Legal Deadline: None

Abstract: The Commission is proposing requiring offshore natural gas transportation service providers to make available information regarding affiliations with shippers served and the conditions under which all shippers are served. These reporting requirements will assist the Commission and interested persons in determining whether gas transportation services conform with OCSLA's open access and nondiscrimination mandates. (Docket NO. RM99-5-000.)

Timetable:

Action	Date	FR Cite
Notice of Intent	06/05/98	63 FR 30675
NPRM	07/13/99	64 FR 37718
NPRM Comment Period End	08/27/99	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Gordon Wagner, Attorney Advisor, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 219-0122

RIN: 1902–AB84

4447. • REVISION OF FERC FORM NO. 6: ANNUAL REPORT OF OIL PIPELINE COMPANIES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 7101 to 7352; 49 USC 60502; 49 USC app. 1 to 85

CFR Citation: 18 CFR 357

Legal Deadline: None

Abstract: The Commission is proposing to revise the FERC Form No. 6 to better meet current and future regulatory requirements and industry needs. (Docket No. RM99-10-000.)

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Donna Alane Culbertson, Project Manager, Office of Finance, Accounting and Operations, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 219-1102
Fax: 202 219-0125
Email: donna.culbertson@ferc.fed.us

RIN: 1902–AB87

4448. • RECORDS RETENTION PROJECT

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 717 to 717w; 16 USC 792 et seq.; 42 USC 7101 to 7352; 49 USC 1 to 27; EO 12009; 15 USC 3301 to 3432

CFR Citation: 18 CFR 125; 18 CFR 225; 18 CFR 356

Legal Deadline: None

Abstract: The Commission is proposing to revise its record retention regulations for public utilities, licensees, natural gas companies, and oil pipeline companies to clarify its regulations and bring them up to date. (Docket No. RM99-8-000.)

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Marybeth Haley Schumann, Auditor, Office of Finance, Accounting and Operations, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-2332
Fax: 202 219-0125
Email: marybeth.schumann@ferc.fed.us

RIN: 1902–AB88

4449. • ELECTRONIC FILING

Priority: Other Significant

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 App USC 1 to 85

CFR Citation: 18 CFR Part 385

Legal Deadline: None

Abstract: The Commission is implementing electronic filing of documents with the Commission. The Commission is conducting a pilot project that allows selected participants in Commission proceedings to submit specified categories of documents electronically. Ultimately, paper filings by regulated entities will be eliminated, with limited exceptions. (Docket No. PL98-1-001.)

Timetable:

Action	Date	FR Cite
Pilot Project	09/21/99	64 FR 51116
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Wilbur Miller, Staff Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0953

FERC — Long-Term Actions

Email: wilbur.miller@ferc.fed.us
RIN: 1902–AB89

Federal Energy Regulatory Commission (FERC) — Completed Actions

4450. COMPLAINT PROCEDURES

Priority: Other Significant

CFR Citation: 18 CFR 1b; 18 CFR 343; 18 CFR 385

Completed:

Reason	Date	FR Cite
Final Rule	04/08/99	64 FR 17087
Order on Rehearing	08/11/99	64 FR 43600

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: David Faerberg
Phone: 202 208-1275
Fax: 202 208-0017
Email: david.faerberg@ferc.fed.us

RIN: 1902–AB75

4451. REVISION TO OIL PIPELINE REGULATIONS

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 3; 18 CFR 341; 18 CFR 342; 18 CFR 343; 18 CFR 346; 18 CFR 357; 18 CFR 362; 18 CFR 385

Completed:

Reason	Date	FR Cite
Final Rule	08/16/99	64 FR 44400
Final Rule Effective	09/15/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Travis R. Smith
Phone: 202 208-0696

RIN: 1902–AB79

4452. REGULATIONS GOVERNING OFF-THE-RECORD COMMUNICATIONS

Priority: Other Significant

CFR Citation: 18 CFR 385

Completed:

Reason	Date	FR Cite
Final Rule	09/22/99	64 FR 51222
Final Rule Effective	10/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: David R. Dickey
Phone: 202 208-2140

RIN: 1902–AB80

4453. COLLABORATIVE PROCEDURES FOR ENERGY FACILITY APPLICATIONS

Priority: Other Significant

CFR Citation: 18 CFR 4; 18 CFR 153; 18 CFR 157; 18 CFR 375

Completed:

Reason	Date	FR Cite
Final Rule	09/22/99	64 FR 51209
Final Rule Effective	10/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Richard Hoffmann
Phone: 202 208-0066

RIN: 1902–AB81

4454. REVISION OF EXISTING REGULATIONS UNDER PART 157 AND RELATED SECTIONS OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

Priority: Substantive, Nonsignificant

CFR Citation: 18 CFR 2; 18 CFR 157; 18 CFR 284; 18 CFR 375; 18 CFR 380; 18 CFR 381; 18 CFR 385

Completed:

Reason	Date	FR Cite
Final Rule	05/14/99	64 FR 26572
Final Rule Effective	06/14/99	
Final Rule Correction	07/09/99	64 FR 37037

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McGehee
Phone: 202 208-2257

RIN: 1902–AB82

4455. LANDOWNER NOTIFICATION, RESIDENTIAL AREA DESIGNATION, AND OTHER ENVIRONMENTAL FILING REQUIREMENTS

Priority: Other Significant

CFR Citation: 18 CFR 380

Completed:

Reason	Date	FR Cite
NPRM	05/21/99	64 FR 27717
NPRM Comment Period End	06/21/99	
Final Rule	10/25/99	64 FR 57374

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John S. Leiss
Phone: 202 208-1106

RIN: 1902–AB83

4456. • DETERMINING THE NEED FOR NEW INTERSTATE NATURAL GAS PIPELINE FACILITIES

Priority: Other Significant

Legal Authority: 15 USC 717 to 717w

CFR Citation: 18 CFR Part 2

Legal Deadline: None

Abstract: This policy statement is intended to provide guidance as to how the Commission will evaluate proposals for certificating major new pipeline construction proposals. One key element of the policy is that a project must not rely on subsidies from existing customers. With a policy favoring incremental pricing, the market will decide whether a project is financially viable. Moreover, under this policy, construction projects that will have adverse effects on relevant interests (the applicant's existing customers, existing pipelines that serve the market and their captive customers, landowners, and communities) can be approved only if on balance the benefits outweigh the harm. (Docket No. PL99-3-000.)

Timetable:

Action	Date	FR Cite
Policy Statement	09/22/99	64 FR 51309

FERC

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Robert Christin, Asst. Gen. Counsel for Pipeline Certificates, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-1022

RIN: 1902–AB86

4457. • ELECTRONIC SERVICE OF DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 551 to 557; 15 USC 717 to 717z; 15 USC 3301 to 3432; 16 USC 791a to 825r; 16 USC 2601 to 2645; 31 USC 9701; 42 USC 7101 to 7352; 49 USC 60502; 49 App. USC 1 to 85

CFR Citation: 18 CFR 385.2010(f)

Legal Deadline: None

Abstract: The Commission amended its rules to allow participants in Commission proceedings to serve documents upon one another by electronic means. Electronic service is permitted where the sending and receiving participants agree, by means that are mutually agreeable. (Docket No. RM99-6-000.)

Timetable:

Action	Date	FR Cite
Final Rule	06/11/99	64 FR 31493

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Wilbur Miller, Staff Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426
Phone: 202 208-0953
Email: wilbur.miller@ferc.fed.us

RIN: 1902–AB91

[FR Doc. 99–24748 Filed 11–19–99; 8:45 am]

BILLING CODE 6717–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LVI

Federal Housing Finance Board

Semiannual Regulatory Agenda

Federal Housing Finance Board (FHFB)

FEDERAL HOUSING FINANCE BOARD

12 CFR Ch. IX

Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Federal Housing Finance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Housing Finance Board (Finance Board) hereby publishes items for the Unified Agenda of Federal Regulatory and Deregulatory Actions, as required by section 4 of Executive Order 12866. These items reflect the status of the regulatory agenda of the Finance Board as of November 1, 1999. The Finance Board is an independent agency in the executive branch of the Government that is charged by statute with supervising and regulating the nation's Federal Home Loan Bank (Bank) System and the Financing Corporation (FICO). The Bank System consists of: Twelve regional Banks that are each owned by their member financial institutions and that provide wholesale credit to members and certain nonmembers to be used for mortgage lending and related activities; and the Office of Finance (OF), which issues Bank System consolidated obligations. FICO is a corporate entity separate from the Bank System that oversees outstanding debt issued to assist in resolving the savings and loan crisis of the 1980s. The Finance Board has an ongoing need to adopt various regulations dealing with the Agency's internal administration and with Bank System and FICO issues.

For this edition of the Finance Board's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

ADDRESSES: Executive Secretariat, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2837.

FOR FURTHER INFORMATION CONTACT: Eric M. Raudenbush, Senior Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006, (202) 408-2932; e-mail: raudenbushe@fhfb.gov.

By the Federal Housing Finance Board.

Elaine L. Baker,

Executive Secretary.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4458	Devolution of Governance Authorities to the FHLBanks	3069-AA64
4459	Financial Statements of the Banks	3069-AA81
4460	FHLBank Financial Management and Mission Achievement Regulation **(Reg Plan Seq No. 161)**	3069-AA84
4461	Reorganization of Federal Housing Finance Board Regulations	3069-AA87
4462	Restructuring the Office of Finance	3069-AA88
4463	Third-Party Collateral Eligible To Secure Advances	3069-AA89

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4464	Availability of Unpublished Information	3069-AA79
4465	Advance Participations/Transfer of Advances	3069-AA80
4466	Amendment of Affordable Housing Program Regulations	3069-AA82
4467	Amendment of Advances Regulation	3069-AA83

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4468	Compensation of FHLBank and Office of Finance Officers and Employees	3069-AA62
4469	FHLBank System Mission Regulation	3069-AA65
4470	Caps on Base Salaries of FHLBank Presidents	3069-AA74

FHFB

Completed Actions

Sequence Number	Title	Regulation Identification Number
4471	Technical Amendments to Affordable Housing Program Regulation	3069-AA73
4472	Collateral Eligible To Secure FHLBank Advances	3069-AA77
4473	Joint and Several Liability of the FHLBanks	3069-AA78
4474	Mandatory Excess Capital Stock Redemption; Prohibited Stock Dividends	3069-AA85
4475	Procedures	3069-AA86

Federal Housing Finance Board (FHFB)

Proposed Rule Stage

4458. DEVOLUTION OF GOVERNANCE AUTHORITIES TO THE FHLBANKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b; 12 USC 1432(a)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Finance Board intends to publish one or more proposed rules to amend its regulations to devolve corporate governance authority with respect to certain matters from the Finance Board to the Banks and to set forth guidelines regarding the exercise of these authorities.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Deborah F. Silberman, General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2570
Fax: 202 408-2580
Email: silbermand@fhfb.gov

RIN: 3069–AA64

4459. FINANCIAL STATEMENTS OF THE BANKS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1422b(a)(1)

CFR Citation: 12 CFR 937.2; 12 CFR 941.5

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to amend part 937 of its regulations. The amendment would devolve to the OF the function of preparing the Bank System's annual and quarterly reports. Part 941 would also be amended to list the preparation of the Bank System's financial reports as an enumerated function of the OF.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: When the Finance Board's interim final rule on the Availability of Unpublished Information was published in the August 13, 1999 issue of the Federal Register (64 FR 44103), the RIN number was mistakenly listed as "3069-AA81." The correct RIN number for that rule is 3069-AA79.

Agency Contact: Eric E. Berg, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2589
Fax: 202 408-2580
Email: berge@fhfb.gov

RIN: 3069–AA81

4460. FHLBANK FINANCIAL MANAGEMENT AND MISSION ACHIEVEMENT REGULATION

Regulatory Plan: This entry is Seq. No. 161 in Part II of this issue of the **Federal Register**.

RIN: 3069–AA84

4461. • REORGANIZATION OF FEDERAL HOUSING FINANCE BOARD REGULATIONS

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

Legal Authority: 12 USC 1422b

CFR Citation: 12 CFR 900 to 996

Legal Deadline: None

Abstract: The Finance Board issued a proposed rule to reorganize and renumber its rules, to delete obsolete regulations, to achieve greater consistency with current stylistic conventions of the CFR, and to prepare for the anticipated incorporation of a new financial management and mission achievement regulation (RIN 3069-AA84).

Timetable:

Action	Date	FR Cite
NPRM	09/27/99	64 FR 52148

FHFB

Proposed Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	12/26/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Deborah F. Silberman, General Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2570
Fax: 202 408-2580
Email: silbermand@fhfb.gov

RIN: 3069–AA87

4462. • RESTRUCTURING THE OFFICE OF FINANCE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 1422b

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Finance Board intends to restructure the Office of Finance to facilitate the conduct of more joint activities of the Banks through the office.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment Period End	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Charlotte A. Reid, Special Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2510
Fax: 202 408-2580
Email: reidc@fhfb.gov

RIN: 3069–AA88

4463. • THIRD-PARTY COLLATERAL ELIGIBLE TO SECURE ADVANCES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1430

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Finance Board intends to publish a proposed rule to amend its Advances regulation to clarify the circumstances under which a Bank may accept as collateral for advances assets held by a member's affiliate.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
NPRM Comment Period End	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Senior Attorney-Adviser, Federal Housing Finance Board, 7th Floor, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580
Email: raudenbushe@fhfb.gov

RIN: 3069–AA89

Federal Housing Finance Board (FHFB)

Final Rule Stage

4464. AVAILABILITY OF UNPUBLISHED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301; 12 USC 1422b(a)(1)

CFR Citation: 12 CFR 905

Legal Deadline: None

Abstract: The Finance Board published an interim final rule to add a new part to its regulations governing the availability of unpublished Finance Board information. The rule describes the procedures that must be followed when requesting unpublished Finance Board information either by document or by testimony of current or former Finance Board employees or agents and the practices and procedures the Finance Board will use in responding to such requests.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/99	64 FR 44103
Interim Final Rule Comment Period End	10/12/99	
Final Action	12/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: When this interim final rule was published in the August 13, 1999 issue of the Federal Register (64 FR 44103), the RIN number was mistakenly listed as "3069-AA81."

Agency Contact: Janice A. Kaye, Attorney Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2505
Fax: 202 408-2580
Email: kayej@fhfb.gov

RIN: 3069–AA79

4465. ADVANCE PARTICIPATIONS/TRANSFER OF ADVANCES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1430(d)

CFR Citation: 12 CFR 935.16

Legal Deadline: None

Abstract: The Finance Board published a proposed rule to amend its Advances regulation to approve the sale and purchase of whole advances between Banks in the event the member to which the advance was made originally has ceased to exist as a result of a merger or other business combination with and into a member of the purchasing Bank, or has become a member of the purchasing Bank.

FHFB — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	08/16/99	64 FR 44444
NPRM Comment Period End	09/15/99	
Final Action	12/00/99	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jane S. Converse, Senior Attorney Advisor, OGC, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2976
Fax: 202 408-2580
Email: conversej@fhfb.gov

RIN: 3069–AA80

4466. AMENDMENT OF AFFORDABLE HOUSING PROGRAM REGULATIONS

Priority: Other Significant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board intends to finalize an interim final rule that made certain technical changes to its Affordable Housing Program regulation to resolve operational issues that have arisen since its promulgation in 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/05/99	64 FR 24025
Interim Final Rule Effective	06/04/99	
Interim Final Rule Comment Period End	07/06/99	
Final Action	02/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AA82

4467. AMENDMENT OF ADVANCES REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1422a(a)(3); 12 USC 1422b(a)(1); 12 USC 1426; 12 USC 1429; 12 USC 1430; 12 USC 1430b; 12 USC 1431

CFR Citation: 12 CFR 935.15(b)

Legal Deadline: None

Abstract: The Finance Board intends to finalize an interim final rule to amend its Advances regulation to prohibit the Banks from charging a fee to a member in lieu of redeeming the member's excess capital stock held in the Bank.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/06/99	64 FR 16788
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AA83

Federal Housing Finance Board (FHFB) — **Long-Term Actions**

4468. COMPENSATION OF FHLBANK AND OFFICE OF FINANCE OFFICERS AND EMPLOYEES

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 932; 12 CFR 941

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley
Phone: 202 408-2990
Fax: 202 408-2580
Email: crowleyn@fhfb.gov

RIN: 3069–AA62

4469. FHLBANK SYSTEM MISSION REGULATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

CFR Citation: 12 CFR 937

Timetable:

Action	Date	FR Cite
ANPRM	04/09/97	62 FR 17108
ANPRM Comment Period End	06/09/97	62 FR 25563
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mitchell Berns
Phone: 202 408-2562
Fax: 202 408-2854
Email: bernsm@fhfb.gov

Deborah F. Silberman
Phone: 202 408-2570
Fax: 202 408-2580
Email: silbermand@fhfb.gov

RIN: 3069–AA65

4470. CAPS ON BASE SALARIES OF FHLBANK PRESIDENTS

Priority: Substantive, Nonsignificant

CFR Citation: 12 CFR 932

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil R. Crowley
Phone: 202 408-2990
Fax: 202 408-2580
Email: crowleyn@fhfb.gov

RIN: 3069–AA74

Federal Housing Finance Board (FHFB) **Completed Actions**

4471. TECHNICAL AMENDMENTS TO AFFORDABLE HOUSING PROGRAM REGULATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1430(j)

CFR Citation: 12 CFR 960

Legal Deadline: None

Abstract: The Finance Board finalized, with several changes, an interim final rule that made technical and other amendments to its Affordable Housing Program regulation to resolve several minor issues that had arisen since its promulgation in 1997.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/98	63 FR 27668
Final Action	04/29/99	64 FR 23014
Final Action Effective	06/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AA73

4472. COLLATERAL ELIGIBLE TO SECURE FHLBANK ADVANCES

Priority: Other Significant

Legal Authority: 12 USC 1430

CFR Citation: 12 CFR 935

Legal Deadline: None

Abstract: The Finance Board issued a final rule amending its Advances regulation to permit Banks to accept as security for advances both federally-guaranteed loans (to the extent of the guarantee), irrespective of such loans' delinquency status, and securities representing an equity interest in eligible mortgage or government securities collateral.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	02/08/98	
NPRM	12/08/98	63 FR 67625
Final Action	04/06/99	64 FR 16618
Final Action Effective	04/15/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Eric M. Raudenbush, Senior Attorney-Adviser, Federal Housing Finance Board, 7th Floor, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2932
Fax: 202 408-2580
Email: raudenbushe@fhfb.gov

RIN: 3069–AA77

4473. JOINT AND SEVERAL LIABILITY OF THE FHLBANKS

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1422a; 12 USC 1422b; 12 USC 1431

CFR Citation: 12 CFR 910

Legal Deadline: None

Abstract: The Finance Board plans to issue a final rule to codify guidelines implementing statutory requirements regarding the joint and several liability of the Banks for System debt.

Timetable:

Action	Date	FR Cite
NPRM	02/11/99	64 FR 6819
NPRM Comment Period End	04/12/99	
Final Action	10/12/99	64 FR 55125
Final Action Effective	11/12/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Charlotte A. Reid, Special Counsel, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2510
Fax: 202 408-2580
Email: reidc@fhfb.gov

RIN: 3069–AA78

4474. • MANDATORY EXCESS CAPITAL STOCK REDEMPTION; PROHIBITED STOCK DIVIDENDS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1422a(a)(3); 12 USC 1422b(a)(1); 12 USC 1426; 12 USC 1430; 12 USC 1436

CFR Citation: 12 CFR 933.23; 12 CFR 934.17; 12 CFR 935.15(b)

Legal Deadline: None

Abstract: The Finance Board published an ANPRM requesting comment on whether: (1) the Banks should be prohibited from paying stock dividends; (2) the Banks should be required to unilaterally redeem members' excess capital stock; and (3) members should be allowed to purchase excess capital stock. This rulemaking has been superseded by the Finance Board's rulemaking on financial management and mission achievement.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/99	64 FR 16792
ANPRM Comment Period End	05/06/99	
Merged With RIN 3069-AA84	07/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sharon B. Like, Senior Attorney-Advisor, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2930
Fax: 202 408-2580
Email: likes@fhfb.gov

RIN: 3069–AA85

4475. • PROCEDURES

Priority: Info./Admin./Other

Legal Authority: 12 USC 1422b; 12 USC 1438(b)

CFR Citation: 12 CFR 902; 12 CFR 903

Legal Deadline: None

Abstract: The Finance Board adopted uniform procedures governing applications for approvals or waivers, requests for no-action letters or regulatory interpretations, and petitions for case-by-case determination or review of disputed supervisory determinations. This is necessary and in the public interest to ensure expeditious processing of submissions and promote consistency and clarity in the responses.

Timetable:

Action	Date	FR Cite
Final Action	06/09/99	64 FR 30880
Final Action Effective	06/09/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen H. Crosby, Director, Office of Strategic Planning,

FHFB **Completed Actions**

Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006
Phone: 202 408-2983
Fax: 202 408-2895
Email: crosbyk@fhfb.gov

RIN: 3069–AA86

[FR Doc. 99–25675 Filed 11–19–99; 8:45 am]
BILLING CODE 6725–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LVII

Federal Maritime Commission

Semiannual Regulatory Agenda

Federal Maritime Commission (FMC)

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Regulatory Plan and Unified Agenda

AGENCY: Federal Maritime Commission.

ACTION: Regulatory plan and semiannual regulatory agenda.

SUMMARY: Pursuant to section 4(b) of E.O. 12866 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission anticipates having under consideration, during the period from October 1, 1999, to September 30, 2000, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: Bryant L. VanBrakle, Secretary, 800 North Capitol Street NW., Washington, DC 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 4(b) of Executive Order 12866 also requires agencies to publish a regulatory agenda. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's unified regulatory agenda. The agenda does not necessarily include all petitions for rulemakings which are under staff review.

In addition, the Commission maintains a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda. This will be made available to the public, including the press and interested persons.

The Commission currently has no actions under consideration that constitute "significant regulatory actions" under the definition in Executive Order 12866. This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Federal Maritime Commission's Statement of Regulatory Priorities is included in part II.

Bryant L. VanBrakle,
Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4476	Docket No. 99-13 - The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984	3072-AC11

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4477	Docket No. 99-10 - Ocean Common Carriers Subject to the Shipping Act of 1984	3072-AC09

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4478	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)	3072-AB75
4479	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)	3072-AB80
4480	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)	3072-AB97

Completed Actions

Sequence Number	Title	Regulation Identification Number
4481	Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries (Docket No. 98-28)	3072-AC06
4482	Carrier Automated Tariff Systems (Docket No. 98-29)	3072-AC07
4483	Service Contracts Subject to the Shipping Act of 1984 (Docket No. 98-30)	3072-AC08
4484	Docket No. 99-12 - Termination of Dial-Up Service Contract Filing System	3072-AC10

Federal Maritime Commission (FMC)

Prerule Stage

4476. • DOCKET NO. 99-13 - THE CONTENT OF OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC app 1701 et seq; PL 105-258

CFR Citation: 46 CFR 535

Legal Deadline: None

Abstract: The FMC is issuing this Inquiry to solicit comments concerning the appropriate content of agreements filed with the Commission pursuant to the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998. The comments received will assist the Commission in preparing a proposal to update or refine the existing content standards.

Timetable:

Action	Date	FR Cite
Notice of Inquiry	08/03/99	64 FR 42057
Inquiry Comment Period End	10/04/99	
Final Action	01/00/00	
Final Action Effective	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Florence A. Carr, Director, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5787
Email: florence@fmc.gov

RIN: 3072–AC11

Federal Maritime Commission (FMC)

Final Rule Stage

4477. • DOCKET NO. 99-10 - OCEAN COMMON CARRIERS SUBJECT TO THE SHIPPING ACT OF 1984

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 21 USC 862; 31 USC 9701; 46 USC app 1701 to 1710; 46 USC app 1712; PL 105-258; PL 105-383; 46 USC app 1714 to 1718

CFR Citation: 46 CFR 515; 46 CFR 520; 46 CFR 530; 46 CFR 535

Legal Deadline: None

Abstract: The FMC proposes to amend its regulations implementing the Shipping Act of 1984 to clarify the definition of "ocean common carrier" to reflect the Commission's current interpretation of the term. As a result, only ocean common carriers that operate vessels in at least one U.S. trade will be subject to these rules.

Timetable:

Action	Date	FR Cite
Proposed Rule	06/25/99	64 FR 34183
Comment Period End	08/24/99	
Final Action	11/00/99	
Final Action Effective	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Thomas Panebianco, General Counsel, Federal Maritime Commission. 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5740
Email: thomas__ p@fmc.gov

RIN: 3072–AC09

Federal Maritime Commission (FMC)

Long-Term Actions

4478. COLOADING PRACTICES AND POSSIBLE SECTION 16 EXEMPTION FOR COLOADING (DOCKET NOS. 93-22 AND 94-26)

Priority: Substantive, Nonsignificant

CFR Citation: 46 CFR 514.15; 46 CFR 580.5; 46 CFR 581.1; 46 CFR 581.3

Timetable:

Action	Date	FR Cite
NPRM	11/24/93	58 FR 62077
NPRM Comment Period End	03/11/94	59 FR 5974
Notice of Inquiry (Docket No. 94-26)	11/09/94	59 FR 55826
Comment Period End for NOI (Docket No. 94-26)	12/27/94	
NOI Comment Period Extended to 01/23/95	12/28/94	59 FR 66880
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Email: thomas__ p@fmc.gov

RIN: 3072–AB75

4479. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONPERFORMANCE OF TRANSPORTATION AND INQUIRY INTO ALTERNATIVE FORMS (DOCKET NO. 94-06; FURTHER NOTICE OF PROPOSED RULEMAKING)

Priority: Other Significant

CFR Citation: 46 CFR 540.5; 46 CFR 540.9

Timetable:

Action	Date	FR Cite
NPRM	03/31/94	59 FR 15149
NPRM Comment Period End	05/02/94	
Comment Period Extended to	06/10/94	59 FR 23182
Comment Period Extended to	06/24/94	59 FR 30567
Notice of Inquiry (Docket No. 94-21)	10/14/94	59 FR 52133
Clarification of Notice of Inquiry	11/02/94	59 FR 54878
Comment Period End for Notice of Inquiry	11/28/94	59 FR 52133
Further NPRM (Docket No. 94-06)	06/26/96	61 FR 33059
Discontinuance of Proceeding for Docket No. 94-21	07/03/96	61 FR 39940

FMC — Long-Term Actions

Further NPRM Comment Period End	08/26/96	61 FR 33059
Comment Period Extended to	09/25/96	61 FR 43209
Comment Period Extended to	10/15/96	61 FR 50265
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Austin L. Schmitt
Phone: 202 523-5796
Email: austins@fmc.gov

RIN: 3072–AB80

4480. PORT RESTRICTIONS AND REQUIREMENTS IN THE UNITED STATES/JAPAN TRADE (DOCKET NO. 96-20)

Priority: Other Significant

CFR Citation: 46 CFR 586

Timetable:

Action	Date	FR Cite
NPRM	11/13/96	61 FR 58160
Comment Period Extended to 01/20/97	12/27/96	61 FR 68200
NPRM Comment Period End	01/13/97	
Final Rule - Report Due 08/26/1999 and Every 180 Days Thereafter	03/04/97	62 FR 9696
Final Rule Effective	04/14/97	
Status Reports and Comments Due 08/05/97	04/16/97	62 FR 18433
Amendment to Final Rule	04/16/97	62 FR 18532
Final Rule Effectiveness Extended to 09/04/97	04/16/97	62 FR 18533
Status Reports and Comments Due 07/01/97	04/16/97	
Amendment to Final Rule - Denial of Petition	10/20/97	62 FR 54396
Final Rule Effectiveness Suspended 11/13/97	11/19/97	62 FR 61648
Final Rule	06/07/99	64 FR 30245
Final Rule Effective	06/07/99	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas Panebianco
Phone: 202 523-5740
Email: thomas__ p@fmc.gov

RIN: 3072–AB97

Federal Maritime Commission (FMC) — Completed Actions

4481. LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES (DOCKET NO. 98-28)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 21 USC 862; 31 USC 9701; 46 USC app 1702; 46 USC app 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714; 46 USC app 1716; 46 USC app 1718

CFR Citation: 46 CFR 510; 46 CFR 515; 46 CFR 583

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to add new regulations establishing licensing and financial responsibility requirements for ocean transportation intermediaries (OTIs) in accordance with the Shipping Act of 1984, as modified by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. The rule proposes a sliding-scale bond amount for different categories of OTIs, establishes certain requirements for making claims against a surety, specifies what will be included in the term "transportation-related activities" that are covered by a bond, and solicits views on different options for what would qualify for OTI operations "in the United States." This latter point is relevant since only OTIs in the U.S. must be licensed.

Timetable:

Action	Date	FR Cite
NPRM	12/22/98	63 FR 70710
NPRM Comment Period End	01/21/99	
Final Rule and Interim Final Rule	03/08/99	64 FR 11156
Comments on Interim Rule Due	03/23/99	
Confirmation of Interim Final Rule and Correction	04/29/99	64 FR 23019
Final Rule Effective	05/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
Email: austins@fmc.gov

RIN: 3072–AC06

4482. CARRIER AUTOMATED TARIFF SYSTEMS (DOCKET NO. 98-29)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 46 USC app 1701 to 1702; 46 USC app 1707 to 1709; 46 USC app 1712; 46 USC app 1716; PL 105-258; PL 105-383, sec 424

CFR Citation: 46 CFR 514; 46 CFR 520

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to add new regulations establishing the requirements for carrier automated tariff systems in accordance with the Shipping Act of 1984, as modified by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. The rule sets forth the requirements for publishing automated tariff systems that are accurate and accessible. At the same time, the FMC is repealing its current rules regarding tariffs and service contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/21/98	63 FR 70368

FMC

Completed Actions

Action	Date	FR Cite
Correction to Proposed Rule	01/15/99	64 FR 2615
NPRM Comment Period End	01/20/99	
Final Rule and Interim Final Rule	03/08/99	64 FR 11218
Comments on Interim Final Rule Due	03/23/99	
Adoption of Final Rule	04/29/99	64 FR 23020
Final Rule Effective	05/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
Email: austins@fmc.gov

RIN: 3072–AC07

4483. SERVICE CONTRACTS SUBJECT TO THE SHIPPING ACT OF 1984 (DOCKET NO. 98-30)

Priority: Substantive, Nonsignificant

Legal Authority: 46 USC app 1704 to 1705; PL 105-258

CFR Citation: 46 CFR 514; 46 CFR 530

Legal Deadline: Final, Statutory, March 1, 1999.

Abstract: The FMC proposes to revise its regulations governing service contracts between shippers and ocean common carriers to reflect changes made to the Shipping Act of 1984 (1984 Act), as modified by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998. Specifically, the FMC proposes to revise its regulations implementing section 8(c) of the 1984 Act and create a new regulation which would govern only service contract filings. The FMC proposes to establish new rules for service contract filing and essential terms publication, revise its regulations to include the newly permitted agreement and multiple shipper-party service contracts, and make other conforming changes. The FMC is also proposing an electronic filing system for service contracts, which is intended to reduce the filing burden on parties and accommodate the efficient processing and review of what is predicted to be a large number of filed contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/23/98	63 FR 71062
NPRM Comment Period End	01/22/99	
Interim Final Rule	03/08/99	64 FR 11186
Comments on Interim Final Rule Due	04/01/99	
Final Rule Effective	05/01/99	
Confirmation of Interim Final Rule with Changes	05/04/99	64 FR 23782

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
Email: austins@fmc.gov

RIN: 3072–AC08

4484. • DOCKET NO. 99-12 - TERMINATION OF DIAL-UP SERVICE CONTRACT FILING SYSTEM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC app 1704 to 1705; 5 USC app 1707; 5 USC app 1716

CFR Citation: 46 CFR 530

Legal Deadline: None

Abstract: This final rule implements the FMC's full transition to the internet-based service contract filing system and removes all references to the dial-up filing system.

Timetable:

Action	Date	FR Cite
Final Rule	07/29/99	64 FR 41041
Final Rule Effective	10/01/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Austin L. Schmitt, Director, Bureau of Tariffs, Certification, and Licensing, Federal Maritime Commission, 800 North Capitol Street NW, Washington, DC 20573
Phone: 202 523-5796
Email: austins@fmc.gov

RIN: 3072–AC10

[FR Doc. 99–24749 Filed 11–19–99; 8:45 am]
BILLING CODE 6730–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LVIII

Federal Reserve System

Semiannual Regulatory Agenda

Federal Reserve System (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period October 1, 1999, through April 1, 2000. The next agenda will be published in April 2000.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its October 1999 agenda as part of the October 1999 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The Agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the Agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Barbara R. Lowrey,
Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4485	Regulation: C — Home Mortgage Disclosure (Docket Number: R-1001)	7100-AC51
4486	Regulation: T — Credit by Brokers and Dealers; Regulation: U — Credit by Banks; and Regulation: X — Borrowers of Securities Credit (Docket Number: R-0995)	7100-AC45
4487	Section 303 Regulatory Review **(Section 610 Review)**	7100-AC09

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4488	Regulation: B — Equal Credit Opportunity (Docket Number: R-1008) **(Section 610 Review)**	7100-AC54
4489	Regulation: B — Equal Credit Opportunity; and Regulation: Z — Truth in Lending (Docket Numbers: R-1040 and R-1043)	7100-AC46
4490	Regulation: D — Reserve Requirements of Depository Institutions (Docket Number: R-0956)	7100-AC11
4491	Regulation: E — Electronic Fund Transfers (Docket Numbers: R-0919 and R-1041)	7100-AC06
4492	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-0930)	7100-AC13
4493	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket Number: R-0985)	7100-AB77
4494	Regulation: K — International Banking Operations (Docket Number: R-0994)	7100-AC47
4495	Regulation: L — Management Official Interlocks (Docket Number: R-1013)	7100-AC56
4496	Regulation: M — Consumer Leasing (Docket Number: R-1042)	7100-AC53
4497	Regulation: CC — Availability of Funds and Collection of Checks (Docket Number: R-1034)	7100-AC60
4498	Regulation: DD — Truth in Savings (Docket Number: R-1044)	7100-AC34
4499	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)	7100-AC42
4500	Applicability of Section 23A to the Purchase of Securities from Certain Affiliates and to Loans and Extensions of Credit Made by a Member Bank to a Third Party (Docket Nos: R-1015 & R-1016)	7100-AC52
4501	Rules Regarding Availability of Information (Docket Number: R-0917)	7100-AC22

FRS

Completed Actions

Sequence Number	Title	Regulation Identification Number
4502	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System (Docket Number: R-0950)	7100-AC14
4503	Regulation: H — Membership of State Banking Institutions; Regulation: K — International Banking Operations; and Regulation: Y — Bank Holding Companies (Docket Number: R-1019)	7100-AC59
4504	Regulation: H — Membership of State Banking Institutions in the Federal Reserve System; and Regulation: Y — Bank Holding Companies and Change in Bank Control (Docket No: R-0947 & R-0948)	7100-AC29
4505	Regulation: CC — Availability of Funds and Collection of Checks (Docket Number: R-1027)	7100-AC58
4506	Regulation: CC — Availability of Funds and Collection of Checks (Docket Number: R-1031)	7100-AC57

Federal Reserve System (FRS)

Proposed Rule Stage

4485. REGULATION: C — HOME MORTGAGE DISCLOSURE (DOCKET NUMBER: R-1001)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 2801

CFR Citation: 12 CFR 203

Legal Deadline: None

Abstract: In March 1998, pursuant to requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation C, which implements the Home Mortgage Disclosure Act (HMDA) (63 FR 12329, March 12, 1998). Regulation C requires most mortgage lenders located in metropolitan statistical areas to report annually to Federal agencies and disclose to the public information about their home purchase and home improvement lending activity. The review will determine whether Regulation C should be revised to address technological and other developments; better balance consumer protections and industry burden; and delete obsolete provisions. To gather information necessary for this review and to ensure the participation of interested parties, the Board solicited comment on several specific issues, while also soliciting comment generally on potential revisions to the regulation.

It is not anticipated that any proposed notice of rulemaking would have a significant economic impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action during the fourth quarter of 1999.

Timetable:

Action	Date	FR Cite
Board requested comment	03/12/98	63 FR 12329
Further Board action by	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jane Jensen Gell, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-3667

RIN: 7100–AC51

4486. REGULATION: T — CREDIT BY BROKERS AND DEALERS; REGULATION: U — CREDIT BY BANKS; AND REGULATION: X — BORROWERS OF SECURITIES CREDIT (DOCKET NUMBER: R-0995)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78G, Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 220; 12 CFR 221; 12 CFR 224

Legal Deadline: None

Abstract: As part of the regular review of its regulations and in accordance with requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 610(c) of the Regulatory Flexibility Act of 1994, the Board is conducting a review of its margin regulations. In order to complete this review, the Board approved issuing for public comment an advance notice of proposed rulemaking and request for comment in December 1997 (63 FR 2840, January 16, 1998). The advance notice highlights issues raised by commenters in response to previous requests for comment that had not been addressed by the Board in the course of its periodic review. It also provides an opportunity to further harmonize the treatment of bank and nonbank lenders under the revised Regulation U adopted by the Board at the same time as the advance notice. The advance notice also invites comment on all areas of the regulations.

Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	01/16/98	63 FR 2840
Further Board action by	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Scott Holz, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-2966

RIN: 7100–AC45

FRS

Proposed Rule Stage

4487. SECTION 303 REGULATORY REVIEW (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4803(a)(1); 5 USC 610

CFR Citation: 12 CFR ch II

Legal Deadline: Other, Statutory, September 23, 1996, Progress Report due to Congress.

Abstract: In response to the requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, as modified by section 402 of the Credit Union Membership Access Act of 1998, the Board is reviewing its regulations for purposes of streamlining improving efficiency, reducing unnecessary costs, and removing inconsistencies and outmoded/duplicative requirements. The Board is also working jointly with the other banking agencies to make uniform regulations and guidelines implementing common statutory and supervisory policies. A regulatory review timetable was published in the Federal Register in October 1995 (60 FR 53546 October 16, 1995). Progress reports were sent to the Congress in September 1996 and August 1999. Within the next twelve months, it is expected that the Board will seek public comment during the course of the reviews of the regulations/policy statements/other regulatory guidance listed below. Reviews already proposed for public comment appear elsewhere in the Agenda.

Items below indicated with an asterisk will also be reviewed by the Board in accordance with the periodic review requirements of section 610 of the Regulatory Flexibility Act:

Regulations H and Y, Appendices, Capital Adequacy Guidelines.

*Regulation Z, Truth in Lending.

*Regulation DD, Truth in Savings.

Timetable:

Action	Date	FR Cite
Board action expected during the next twelve months	08/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Barbara R. Lowrey, Associate Secretary, Federal Reserve System, Office of the Secretary
Phone: 202 452-3742

RIN: 7100–AC09

Federal Reserve System (FRS)

Final Rule Stage

4488. REGULATION: B — EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-1008) (SECTION 610 REVIEW)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1691

CFR Citation: 12 CFR 202

Legal Deadline: None

Abstract: In March 1998, pursuant to requirements of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, section 610(c) of the Regulatory Flexibility Act of 1994 and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board approved issuing for public comment an advance notice of proposed rulemaking for Regulation B (63 FR 12326, March 12, 1998) which implements the Equal Credit Opportunity Act (ECOA). The ECOA makes it unlawful for creditors to discriminate against an applicant in any aspect of a credit transaction on the basis of race, color, religion, national origin, gender, marital status, age, and other specified bases.

In June 1999, following review of the public comments on the advance notice, the Board approved for public comment a proposed rule amending Regulation B (64 FR 44582, August 16, 1999). Major revisions in the proposal include removing the general prohibition against obtaining information about applicant characteristics such as national origin or gender, although such information still generally may not be considered in extending credit; adding a disclosure requirement for creditors that voluntarily collect data on applicant characteristics; requiring creditors to retain certain records for preapproved credit solicitations; and extending the record retention period for most business credit applications.

Based on the regulatory flexibility analysis, it is not expected that the proposal will have a significant impact on small entities. Although there would be a new disclosure requirement for creditors that voluntarily request information about applicant characteristics, a model form is proposed to ease compliance. Also, there is a new requirement to retain certain records for preapproved credit solicitations. For business reasons, many institutions already retain some of the preapproved credit solicitation information being sought. In addition, compliance burdens should be minimized by the fact that creditors may use a variety of methods, such as electronic storage, to retain records.

Following review of the public comments, the Board is expected to take further action in the first quarter of 2000.

Timetable:

Action	Date	FR Cite
Board requested comment on advance notice	03/12/98	63 FR 12326
Board requested comment on proposed rule	08/16/99	64 FR 44582
Further Board action by	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Natalie E. Taylor, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC54

FRS

Final Rule Stage

4489. REGULATION: B — EQUAL CREDIT OPPORTUNITY; AND REGULATION: Z — TRUTH IN LENDING (DOCKET NUMBERS: R-1040 AND R-1043)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1601 et seq; 12 USC 4301 et seq

CFR Citation: 12 CFR 202; 12 CFR 213; 12 CFR 226; 12 CFR 230

Legal Deadline: None

Abstract: In March 1998, the Board issued for public comment proposals to amend its consumer regulations, B (Equal Credit Opportunity) and Z (Truth in Lending), to permit electronic communications to substitute generally for oral or written disclosures documentation and notices required under the individual regulations (63 FR 14548, March 25, 1998). Comment was also requested on similar amendments to Regulations M (Consumer Leasing) and DD (Truth in Savings) described in separate entries in the Agenda (see Docket Numbers: R-1042 and R-1044). At the same time, similar amendments to Regulation E, proposed as part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, were adopted as an interim rule (Docket Number: R-1002; RIN: 7100-AC06). The Board identified the use of electronic communication between consumers and financial institutions as an area that offered an opportunity to reduce regulatory compliance burden without adversely affecting consumer protections.

In August 1999, based on comments received in response to the March proposals, the Board approved publishing for comment additional proposals on electronic communications to provide more detailed guidance on using electronic communications to deliver disclosures to consumers and others. Following review of the public comments, the Board is expected to take further action within the next six months. It is not anticipated that the proposals would have a significant economic impact on small institutions.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14548
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 46988
Further Board action by	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael Hentrel, Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC46

4490. REGULATION: D — RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (DOCKET NUMBER: R-0956)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(a); 12 USC 248(c); 12 USC 371a; 12 USC 461; 12 USC 601; 12 USC 611; 12 USC 3105

CFR Citation: 12 CFR 204

Legal Deadline: None

Abstract: In December 1996, the Board issued for public comment a proposed rule that would revise and clarify the definition of "savings deposit" consistent with comments received in connection with the Board's June 1996 proposal to simplify Regulation D. The proposal would also make conforming changes to the definition of "transaction account" (61 FR 96054, December 31, 1996). No substantive change in the regulation is intended. It is not expected that the proposal will have a significant adverse impact upon a substantial number of small entities. Following review of the public comments, the Board is expected to take further action within the next year.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/96	61 FR 69054
Further Board action by	08/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Rick Heyke, Senior Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3688

RIN: 7100–AC11

4491. REGULATION: E — ELECTRONIC FUND TRANSFERS (DOCKET NUMBERS: R-0919 AND R-1041)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1693 et seq

CFR Citation: 12 CFR 205

Legal Deadline: None

Abstract: In May 1996, the Board issued for public comment proposed amendments to Regulation E imposing modified requirements on stored-value products in systems that track individual transactions, cards, or consumers and providing an exemption for cards on which a maximum value of $100 can be stored (Docket Number: R-0919; 61 FR 19696, May 2, 1996).

The Board also proposed, and subsequently adopted in September 1998, an extension of the error resolution time limits for new accounts. The proposal also included permitting electronic communications to substitute generally for oral or written disclosures, documentation, and notices required under Regulation E.

The proposals were part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 and section 610(c) of the Regulatory Flexibility Act of 1994. It is not expected that the proposals would have a significant economic impact on small institutions.

In March 1998, following review of the public comments, the Board issued an interim rule, with request for comments, to permit electronic communications to substitute for disclosures, documentation, and notices under Regulation E (Docket Number: R-1002; 63 FR 14528, March 25, 1998).

In August 1999, based on public comments received, the Board approved publishing an additional proposal for comment on the electronic communications rule to provide more detailed guidance on the use of electronic communications to deliver disclosures to consumers. The interim rule remains in effect until Board consideration of a final rule. Following

review of the public comments, the Board is expected to take further action within the next six months. Action on the stored-value card amendment is expected by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	05/02/96	61 FR 19696
Board adopted interim rule on electronic communications	03/25/98	63 FR 14528
Board adopted final rule on new accounts	09/29/98	63 FR 52115
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 49699
Further Board action by	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John C. Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC06

4492. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0930)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831(o); 12 USC 1831p-1; 12 USC 3105

CFR Citation: 12 CFR 208 app A

Legal Deadline: None

Abstract: In August 1996, the Board issued for public comment a proposal to revise the risk-based capital treatment for certain collateralized transactions (61 FR 42565, August 16, 1996). Under the Board's existing risk-based capital treatment, the portion of a transaction that is supported by qualifying collateral (that is, cash or OECD government securities) is risk-weighted at 20 percent. Transactions that are fully supported by collateral with a positive margin may be eligible for a zero percent risk weight. Generally, the proposal would permit a portion of a transaction that is fully supported with a positive margin of collateral to be eligible for a zero percent risk weight. The portion that is to be continuously collateralized must be specified by the parties.

This proposal was developed on an interagency basis and, if adopted, would eliminate one of the substantive differences among the agencies with regard to the risk-based capital treatment for collateralized transactions. It would implement part of the Riegle Community Development and Regulatory Improvement Act of 1994, which requires the agencies to make uniform regulations and guidelines implementing common supervisory policies. The effect of the proposal would be to allow institutions to hold less capital for certain collateralized transactions. It is not expected to have a significant economic impact on a substantial number of small entities.

Following review of the public comments and development of an interagency final rule, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	08/16/96	61 FR 42565
Further Board action by	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Connolly, Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3621

RIN: 7100–AC13

4493. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0985)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1817(j)(13); 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831i

CFR Citation: 12 CFR 208 app A; 12 CFR 225 app A

Legal Deadline: None

Abstract: In May 1994, the Board issued for public comment two proposals on the capital treatment of recourse arrangements and direct credit substitutes. The first proposal: (1) formally defines recourse and direct credit substitutes; (2) reduces the risk-based capital charge for low-level recourse arrangements to the maximum amount of possible loss under the recourse obligation up to the effective capital charge; and (3) requires the same risk-based capital charge for first-loss direct credit substitutes as is currently applied to recourse transactions (59 FR 27115, May 25, 1994). The second proposal, an advance notice of proposed rulemaking, sought public comment on an approach to assessing risk-based capital on banking organizations' risk exposures associated with certain asset securitizations. Under this approach, the capital charge would be based upon the relative risk of loss.

Subsequent to the issuance of this proposal, the Board issued a regulation limiting the amount of risk-based capital an insured depository institution is required to hold for assets transferred with recourse to the maximum amount of recourse for which the institution is contractually liable (60 FR 8177, February 13 1995).

In November 1997, the Board requested public comment on a revised proposal that sets forth the definitions and capital treatments discussed above (62 FR 59944, November 5, 1997). In addition, the proposal requests comment on several alternative approaches to assessing capital against

asset securitizations, including the use of internal bank information.

Small entities would be affected by the final rule and the two proposals only to the extent that they engage in extending recourse arrangements and direct credit substitutes or purchasing asset-backed securities. It is not expected that the proposals will have a significant economic impact on small institutions. Following review of the public comments, the Board is expected to take further action in the fall of 1999.

Timetable:

Action	Date	FR Cite
Board requested comment	05/25/94	59 FR 27115
Board adopted one aspect of the proposal	02/13/95	60 FR 8177
Board requested comment on a revised proposal	11/05/97	62 FR 59944
Further Board action by	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas R. Boemio, Senior Supervisory Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-2982

RIN: 7100–AB77

4494. REGULATION: K — INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0994)

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 12 USC 221 et seq; 12 USC 248(i); 12 USC 248(k); 12 USC 1818; 12 USC 1835a; 12 USC 1841 et seq; 12 USC 3101 et seq; 12 USC 3109 et seq

CFR Citation: 12 CFR 211

Legal Deadline: None

Abstract: In December 1997, consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the International Banking Act of 1978, and section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Board reviewed and proposed for public comment a number of changes to Regulation K, which governs international banking operations (62 FR 68424, December 31, 1997). Subpart A of Regulation K governs the foreign investments and activities of all member banks. The proposed amendments include streamlined foreign branching procedures for U.S. banking organizations, authorization of expanded activities in foreign branches of U.S. banks, and expansion of the authority of U.S. banking organizations to engage in equity dealing and underwriting and to make venture capital investments outside the United States. Subpart B of Regulation K governs the U.S. activities of foreign banking organizations. The proposed amendments include revisions aimed at streamlining the applications procedures applicable to foreign banks seeking to expand operations in the United States, changes to provisions regarding the qualification of certain foreign banking organizations for exemption from the nonbanking prohibitions of section 4 of the Bank Holding Company Act, and implementation of provisions of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 that affect foreign banks. In addition, a number of technical and clarifying amendments to subparts A and B, as well as to subpart C which governs export trading companies, and certain amendments to the Board's Rules Regarding Delegation of Authority have been proposed.

The proposed amendments are not expected to have a significant economic impact on a substantial number of small entities. Following review of the public comments, the Board is expected to take further action by year-end.

Timetable:

Action	Date	FR Cite
Board requested comment	12/31/97	62 FR 68424
Further Board action by	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kathleen M. O'Day, Associate General Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3786

RIN: 7100–AC47

4495. REGULATION: L — MANAGEMENT OFFICIAL INTERLOCKS (DOCKET NUMBER: R-1013)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq

CFR Citation: 12 CFR 212

Legal Deadline: None

Abstract: In August 1998, the Board, along with the other Federal depository institution regulatory agencies, approved issuing for public comment a proposal to amend regulations, including the Board's Regulation L, governing depository institution management interlocks to reflect certain statutory changes (63 FR 43051, August 11, 1998). In addition to implementing these statutory changes, the agencies also proposed a small market share exemption for institutions that, on a combined basis, control less than 20 percent of the deposits in a community or relevant metropolitan statistical area. The exemption is intended to enlarge the pool of management talent upon which depository institutions may draw and thereby enhance the competitiveness of these institutions.

It is not anticipated that the proposal will have a significant impact on a substantial number of small entities subject to the Board's regulation. Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	08/11/98	63 FR 43051
Further Board action by	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Corsi, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3275

RIN: 7100–AC56

4496. REGULATION: M — CONSUMER LEASING (DOCKET NUMBER: R-1042)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 1667

CFR Citation: 12 CFR 213

FRS

Final Rule Stage

Legal Deadline: None

Abstract: As part of the Board's overall review of its regulations under section 610(c) of the Regulatory Flexibility Act of 1994 and section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, the Board determined that the use of electronic communications to deliver information to consumers that is required by Federal consumer financial services and fair lending laws could effectively reduce regulatory compliance burden without adversely affecting consumer protections. In March 1998, the Board approved issuing for public comment a proposal to amend Regulation M that would allow lessors to deliver by electronic communication the disclosures required by the Consumer Leasing Act and the Board's regulation, if the consumer agrees to such delivery (63 FR 14538, March 25, 1998). In addition, the proposal contained several technical amendments that were subsequently adopted in September 1998. In August 1999, based on public comments received in response to the March proposal, the Board approved publishing an additional proposal for comment to provide more detailed guidance on the use of electronic communications to deliver disclosures to consumers.

It is not anticipated that the rule will have any significant impact on small entities. The rule relieves compliance burden and gives lessors flexibility in providing disclosures. Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14538
Board adopted technical amendments	09/29/98	63 FR 52107
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 49713
Further Board action by	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kyung Cho-Miller, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC53

4497. • REGULATION: CC — AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-1034)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In February 1999, the Board requested public comment on options for amending provisions in Regulation CC governing when paying or returning banks may send notices in lieu of returning the original checks (64 FR 9105, February 24, 1999). The proposal is intended to provide more flexibility to check system participants to experiment with methods to return checks electronically without causing significant burden to depository institutions. The proposal would affect all depository institutions, regardless of size, who participate in the check collection system, and public comment has specifically been requested on the burdens associated with certain aspects of the proposal.

Following review of the public comments, the Board is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	02/24/99	64 FR 9105
Further Board action by	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Stephanie Martin, Managing Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3198

RIN: 7100–AC60

4498. REGULATION: DD — TRUTH IN SAVINGS (DOCKET NUMBER: R-1044)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4301 et seq

CFR Citation: 12 CFR 230

Legal Deadline: None

Abstract: Sections 261 to 275 of the Federal Deposit Insurance Corporation Improvement Act of 1991 require depository institutions to provide a schedule of terms, rates, and fees for deposit accounts offered by the institution. The law also sets forth rules for advertisements for deposit accounts.

In September 1996, the Congress amended the Truth in Savings Act (TISA) as a part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The amendments repeal the definition of "indoor lobby sign," eliminate any disclosure requirements for nonrenewing time accounts with terms less than 30 days, and exempt certain credit unions from coverage. In March 1998, the Board issued for public comment a proposal that would implement the statutory changes (63 FR 14533, March 25, 1998), and the changes were subsequently adopted in September 1998. The proposal would also allow depository institutions to deliver by electronic communication disclosures required by TISA and the Board's regulation, if the consumer agrees to such delivery. It is not expected that there will be a significant economic impact on small institutions.

In August 1999, based on public comments received on the electronic communications proposal, the Board approved publishing an additional proposal for comment to provide more detailed guidance on the use of electronic communications to deliver disclosures to consumers. The Board also approved publishing an interim rule permitting the electronic delivery of Regulation DD disclosures on periodic statements. Following review of the public comments, the Board is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	03/25/98	63 FR 14533
Board adopted statutory changes	09/29/98	63 FR 52106
Board approved publishing additional proposal on electronic communications	09/14/99	64 FR 49740
Further Board action by	02/00/00	

FRS

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Kyung Cho-Miller, Staff Attorney, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452-2412

RIN: 7100–AC34

4499. APPLICABILITY OF SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT TO TRANSACTIONS BETWEEN A MEMBER BANK AND ITS SUBSIDIARIES (DOCKET NUMBER: R-0977)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c(b)(1)(E)

CFR Citation: 12 CFR 250.243

Legal Deadline: None

Abstract: Sections 23A and 23B of the Federal Reserve Act restrict the ability of a member bank to fund an affiliate through direct investment, loans, or other transactions. In July 1997, the Board issued for public comment a proposal to apply sections 23A and 23B to transactions between a member bank and any subsidiary that engages in activities that are impermissible for the bank itself and that Congress has not previously exempted from coverage by section 23A (62 FR 37744, July 15, 1997). The proposed treatment is largely consistent with the existing treatment of these subsidiaries by the other banking agencies, which have applied sections 23A and 23B in some form to transactions between a bank and such subsidiaries. The issuance of the proposals will avoid the application of sections 23A and 23B on an ad hoc basis by different agencies, which could result in confusion and inconsistencies.

The proposal is not expected to have a significant economic impact on a substantial number of small businesses. Following review of the public comments, the Board is expected to take further action during the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	07/15/97	62 FR 37744
Further Board action by	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Federal

Agency Contact: Pamela G. Nardolilli, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC42

4500. APPLICABILITY OF SECTION 23A TO THE PURCHASE OF SECURITIES FROM CERTAIN AFFILIATES AND TO LOANS AND EXTENSIONS OF CREDIT MADE BY A MEMBER BANK TO A THIRD PARTY (DOCKET NOS: R-1015 & R-1016)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 371c

CFR Citation: 12 CFR 250

Legal Deadline: None

Abstract: In June 1998, the Board issued for public comment two proposed rules to exempt certain transactions from the restrictions of section 23A of the Federal Reserve Act (63 FR 32766, June 16, 1998). Section 23A restricts the ability of a member bank to fund its affiliates through direct investment, loans, or certain other transactions (covered transactions). These proposals are in response to concerns raised by organizations when the Board earlier proposed removal of certain firewalls between insured depository institutions and their section 20 securities affiliates. Several petitioners stated then that, although the removal of the firewalls was welcomed, section 23A continued to limit certain transactions with their section 20 subsidiaries that do not raise significant safety and soundness issues and impede the efficient operation of the insured depository institutions.

In Docket Number: R-1015, the Board is proposing to expand the kind of assets that may be eligible for the (d)(6) exemption to include securities that, although not so widely traded as to warrant publication of their activity in publications of general circulation, are actively traded and whose price can be obtained from independent reliable sources, if the securities are purchased from a registered broker-dealer.

In Docket Number: R-1016, the Board is proposing to grant two exemptions from section 23A for certain loans and extension of credit made by an insured depository institution to customers that use the proceeds to purchase certain securities from or through the depository institution's registered broker-dealer affiliate. The first exemption would apply when the affiliate is acting solely as a broker or riskless principal in the securities transaction. The second exemption would apply when the extension of credit is made pursuant to a pre-existing line of credit that was not established for the purposes of buying securities from or through an affiliate.

Following review of the public comments, the Board is expected to take further action by year-end. It is not anticipated that the proposals will have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
Board requested comment	06/16/98	63 FR 32766
Further Board action by	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Pamela Nardolilli, Senior Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3289

RIN: 7100–AC52

4501. RULES REGARDING AVAILABILITY OF INFORMATION (DOCKET NUMBER: R-0917)

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552; 12 USC 248(i); 12 USC 248(k); 12 USC 321 et seq; 12 USC 611 et seq; 12 USC 1442; 12 USC 1817(a)(2)(A); 12 USC 1817(a)(8); 12 USC 1818(u); 12 USC 1818(v); 12 USC 1821(o); 12 USC 1821(t); 12 USC 1830; 12 USC 1844; 12 USC 1951 et seq

CFR Citation: 12 CFR 261

Legal Deadline: None

Abstract: In February 1996, the Board issued for public comment proposed amendments to its Rules Regarding Availability of Information (61 FR 7436, February 28, 1996). The proposed amendments, although primarily technical in nature, are intended to improve the Board's efficiency in processing requests for the disclosure

FRS — Final Rule Stage

of publicly available information as well as confidential supervisory information. It is not anticipated that the proposed amendments will have a significant economic impact on a substantial number of small entities subject to the regulation.

In light of the passage of time since the Board's February 1996 proposal was issued for public comment, the Board will make changes in that proposal based on the comments received and will reissue revised proposed amendments for further comment. The February 1996 proposal deals primarily with the discretionary authority of the Board's General Counsel to produce information. These amendments are part of the Board's overall review of its regulations as required by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. Further Board action on the remainder of the regulation is expected within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	02/28/96	61 FR 7436
Further Board action by	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Karen Appelbaum, Counsel, Federal Reserve System, Legal Division
Phone: 202 452-3389

RIN: 7100–AC22

Federal Reserve System (FRS) — Completed Actions

4502. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (DOCKET NUMBER: R-0950)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 248(c); 12 USC 611; 12 USC 1814; 12 USC 1823(j): 12 USC 1828(o); 12 USC 1831o; 12 USC 1831p-1; 12 USC 1818; 12 USC 371d; 12 USC 461; 12 USC 321 to 338a; 12 USC 481 to 486; 12 USC 601; 12 USC 36; 12 USC 248(a)

CFR Citation: 12 CFR 208

Legal Deadline: None

Abstract: In December 1996, the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency jointly published for comment a proposed regulation establishing a professional qualification program for banks that engage in retail recommendations and sales of certain securities using their own employees (61 FR 68824, December 30, 1996). The proposed regulation will establish qualification testing registration and continuing education requirements for bank employees that act in the capacity of bank securities representatives. The proposed requirements will be based on the professional qualification rules of the securities self-regulatory organizations. It is not anticipated that the proposal would have a significant economic impact on a substantial number of small banks. Further consideration of the proposal by the Board is not expected during the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	12/30/96	61 FR 68824
Board action not expected during the next six months	09/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Angela Desmond, Senior Counsel, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-3497

RIN: 7100–AC14

4503. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS; REGULATION: K — INTERNATIONAL BANKING OPERATIONS; AND REGULATION: Y — BANK HOLDING COMPANIES (DOCKET NUMBER: R-1019)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1818(s)(1); 12 USC 1831p-1(a)(2)

CFR Citation: 12 CFR 208; 12 CFR 211; 12 CFR 225

Legal Deadline: None

Abstract: In December 1998, the Board approved issuing for public comment a proposal to require domestic and foreign banking organizations supervised by the Board to develop and maintain "Know Your Customer" programs (63 FR 67516, December 7, 1998). As proposed, the regulations would have required each banking organization to develop a program designed to determine the identity of its customers; determine its customers' sources of funds; determine, understand, and monitor the normal and expected transactions of its customers; and report appropriately any transactions of its customers that were determined to be suspicious, in accordance with the Board's existing suspicious activity reporting regulations. The proposal was intended to protect the reputation of the bank, facilitate the bank's compliance with all applicable statues and regulations (including the Bank Secrecy Act and the suspicious activity reporting requirements of 12 CFR 208.20) and with safe and sound banking practices, and protect the bank from becoming a vehicle for or a victim of illegal activities perpetrated by its customers. By requiring banking organizations to determine the identity of their customers, as well as to obtain knowledge regarding the legitimate activities of their customers, it is believed that the proposed regulation would reduce the likelihood that banking organizations would become unwitting participants in illicit activities conducted or attempted by their customers.

In March 1999, after considering the issues raised by the public comments, and in view of the strong opposition to the proposed regulation, the Board, along with the Comptroller of the

Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, all of whom issued similar regulations, withdrew the notice of proposed rulemaking (64 FR 15310, March 31, 1999).

Timetable:

Action	Date	FR Cite
Board requested comment	12/07/98	63 FR 67516
Board withdrew the proposal	03/31/99	64 FR 15310

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard Small, Assistant Director, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 452-5235

RIN: 7100–AC59

4504. REGULATION: H — MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM; AND REGULATION: Y — BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NO: R-0947 & R-0948)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 36; 12 USC 248(a); 12 USC 248(c); 12 USC 321 to 338a; 12 USC 371d; 12 USC 461; 12 USC 481 to 486; 12 USC 601; 12 USC 611; 12 USC 1814; 12 USC 1816; 12 USC 1818; 12 USC 1823(j); 12 USC 1828(o); 12 USC 1831o

CFR Citation: 12 CFR 208 app A; 12 CFR 208 app B; 12 CFR 225 app A; 12 CFR 225 app D

Legal Deadline: None

Abstract: In October 1997, the Board issued for public comment proposals to revise the Federal Reserve's risk-based capital treatment for junior liens on 1- to 4-family residential properties and for investments in mutual funds (62 FR 55686, October 27, 1997). The proposals also simplify the Federal Reserve's leverage capital guidelines for banks and make the leverage capital guidelines for bank holding companies consistent with the definition of a well-capitalized bank holding company for expedited applications purposes.

The proposals were issued on an interagency basis as part of the efforts under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 to make interagency guidelines uniform. In June 1998, following review of the public comments, the Board adopted the proposed revisions to the bank holding company leverage ratio (63 FR 30369, June 4, 1998). In February 1999, the Board approved final rules amending the risk-based and leverage capital standards for state member banks (Regulation H) and the risk-based capital standards for bank holding companies (Regulation Y) (64 FR 10194, March 2, 1999). The amendments will not have a significant economic impact on a substantial number of small entities subject to the Board's regulation.

Timetable:

Action	Date	FR Cite
Board requested comment	10/27/97	62 FR 55686
Board adopted bank holding company proposal	06/04/98	63 FR 30369
Board adopted remaining proposals	03/02/99	64 FR 10194

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Kirk Odegard, Senior Financial Analyst, Federal Reserve System, Division of Banking Supervision and Regulation
Phone: 202 530-6225

RIN: 7100–AC29

4505. REGULATION: CC — AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-1027)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In December 1998, the Board issued for public comment proposed amendments to Regulation CC to allow banks that consummate a merger on or after July 1, 1998, and before June 1, 1999, greater time to implement software changes related to the merger (63 FR 66499, December 2, 1998). Comment was requested on the need for this amendment and whether the proposed liberalization of the regulation's merger transaction provisions was adequate to avoid contention for programming and testing resources necessary to manage banks' Year 2000 readiness efforts that otherwise would be created by these requirements.

The proposed amendments are intended to provide relief to banks involved in mergers, including small institutions, by reducing required changes to their automation environment during the period surrounding the century rollover and should not have a negative economic impact on small institutions. In March 1999, following review of the public comments, the Board adopted the amendments substantially as proposed (64 FR 14577, March 26, 1999).

Timetable:

Action	Date	FR Cite
Board requested comment	12/02/98	63 FR 66499
Board adopted amendments	03/26/99	64 FR 14577

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jean Anderson, Staff Attorney, Federal Reserve System, Legal Division
Phone: 202 452-3707

RIN: 7100–AC58

4506. REGULATION: CC — AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (DOCKET NUMBER: R-1031)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4001 et seq

CFR Citation: 12 CFR 229

Legal Deadline: None

Abstract: In December 1998, the Board issued an advance notice of proposed rulemaking on the potential benefits and drawbacks of a modification to Regulation CC that would shorten the maximum hold for many nonlocal checks from five to four business days (63 FR 69027, December 15, 1998). This proposed modification would have allowed a depositary bank to retain a five-day schedule for categories of nonlocal checks for which it certifies that it does not receive a sufficient proportion of returned checks within four business days. The objective of the proposal was to provide bank customers with faster funds availability when appropriate, in accordance with the Expedited Funds Availability Act.

FRS **Completed Actions**

In July 1999, following review of the public comments, the Board concluded that return times for nonlocal checks do not support a reduced availability schedule for nonlocal checks in the aggregate at this time. The Board also determined that, currently, the costs and potential risks would outweigh the likely benefits of establishing subcategories of nonlocal checks for availability purposes. Therefore, the Board decided not to propose any specific regulatory changes at this time to reduce the nonlocal check availability schedule (64 FR 37708, July 13, 1999).

Timetable:

Action	Date	FR Cite
Board requested comment	12/15/98	63 FR 69027
Board terminated proposed rulemaking	07/13/99	64 FR 37708

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jack Walton, Manager, Federal Reserve System, Division of Reserve Bank Operations and Payment Systems
Phone: 202 452-2660

RIN: 7100–AC57

[FR Doc. 99–23655 Filed 11–19–99; 8:45 am]
BILLING CODE 6210–01–F

VOL 64 ISS 224 NO 22 1999 UMI

federal register

Monday,
November 22, 1999

Part LIX

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, title II of Pub. L. 104-121, 110 Stat. 847. The Commission's agenda observes guidelines and procedures issued July 21, 1999, by the Office of Management and Budget in accordance with the provisions of President Clinton's Executive Order No. 12866 "Regulatory Planning and Review" of September 30, 1993 (58 FR 51735; October 4, 1993). This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Federal Trade Commission's Statement of Regulatory Priorities is included in part II.

The Commission has responded to the optional information requirement to identify rulemakings that are likely to have some impact on small entities but are not subject to the requirements of the Regulatory Flexibility Act. The current rulemakings that are likely to have some impact on small entities include: (1) The Regulations Under the Smokeless Tobacco Health Education Act of 1986, 16CFR part 307; (2)the Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, 16CFR part 308; (3) the Children's Online Privacy Protection Rule, 16 CFR part 312; (4) the Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods as amended, 16 CFR part 423; (5) the Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 CFR part 436; (6) the Trade Regulation Rule on Funeral Industry Practices, 16 CFR part 453; (7) the Trade Regulation Rule on Ophthalmic Practice Rules, 16 CFR part 456; and (8) the Trade Regulation Rule on Labeling and Advertising of Home Insulation, 16 CFR part 460. The agency also is conducting a review of the 900-Number Rule as required by the Rule itself. Most of the other reviews listed on the following agenda are being conducted as part of the Commission's plan, begun in 1992, to review and seek information about all of its regulations and guides, including their costs and benefits, and regulatory and economic impact, every ten years. These reviews incorporate and expand upon the review required by the Regulatory Flexibility Act. The Commission's ten-year program is also consistent with the President's March 4, 1995 Regulatory Reform Initiative, directing agencies to conduct a review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff, based upon information now available. Each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for, or the substance of, a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda. In most instances, the dates of future events are listed by month, not by a specific day. The acquisition of new information, changes of circumstances, or changes in the law may alter this information.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, contact the contact person listed for each particular proceeding. Comments or inquiries of a general nature about the agenda should be directed to Cynthia Hogue Levy, Attorney, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, telephone: (202) 326-2158; e-mail: clevy@ftc.gov.

By direction of the Commission.

Donald S. Clark,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4507	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4508	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
4509	Trade Regulation Rule on Funeral Industry Practices	3084-AA82

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4510	Premerger Notification Rules and Report Form	3084-AA23
4511	Regulatory Review	3084-AA47
4512	The Care Labeling Rule	3084-AA54
4513	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4514	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA78
4515	Trade Regulation Rule on Ophthalmic Practice Rules	3084-AA80
4516	Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products	3084-AA81

FTC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4517	Appliance Labeling Rule	3084-AA83
4518	Children's Online Privacy Protection Rule Pursuant to the Children's Online Privacy Protection Act of 1998	3084-AA84

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4519	Amended Federal Deposit Insurance Corporation Improvement Act	3084-AA44

Completed Actions

Sequence Number	Title	Regulation Identification Number
4520	Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions	3084-AA72
4521	Rule Governing the Pre-Sale Availability of Written Warranty Terms	3084-AA73
4522	Rule Governing Informal Dispute Settlement Procedures	3084-AA75

Federal Trade Commission (FTC)

Prerule Stage

4507. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 4401

CFR Citation: 16 CFR 307

Legal Deadline: None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertising for smokeless tobacco. The Commission published an NPRM on February 14, 1995, seeking public comment on whether the regulations governing the rotation schedule for utilitarian objects should be amended. The 60-day comment period expired on April 14, 1995. The Commission amended the smokeless tobacco regulations to permit rotation of the mandated health warnings on utilitarian items and promotional materials based on either the date the item or material is ordered from a supplier or the date it is disseminated to the public, provided the production of such items is carried out in a manner consistent with ordinary business practices. On a separate point, the Coalition on Smoking or Health petitioned the Commission to enforce the Smokeless Tobacco Act by requiring smokeless tobacco health warnings on sponsored racing cars, banners, flags, and other related objects bearing smokeless tobacco product brand names, logos, or selling messages. On October 26, 1993, the Commission issued an NPRM and proposed a requirement that sponsored auto racing vehicles and all other event-related objects that bear the brand name or selling message of smokeless tobacco products display health warning labels. Staff is reviewing the impact of the final Food and Drug Administration Rule on tobacco products and the State Attorneys' General omnibus settlement as applicable to event and team sponsorship. In FY99, the Commission will undertake a periodic review of the regulations. It will seek information concerning the regulatory and economic impact of the Rule, in order to decide whether it should be modified or rescinded.

Timetable:

Action	Date	FR Cite
Recommendation to the Commission Regarding ANPRM (Regulatory Review)	11/00/99	
ANPRM (Regulatory Review)	12/00/99	
Comment Period End (Regulatory Review)	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Nancy S. Warder, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3048
Email: nwarder@ftc.gov

RIN: 3084–AA48

4508. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

Regulation Identification Number

3084-AA48
3084-AA60
3084-AA82

Regulation Identification Number

3084-AA23
3084-AA47
3084-AA54
3084-AA63
3084-AA78
3084-AA80
3084-AA81

FTC

Prerule Stage

CFR Citation: 16 CFR 460

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (R-Value Rule) became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products. Specifically, the Rule requires manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-Value). The Rule also establishes uniform standards for testing, information disclosure and substantiation of product performance claims. As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for this Rule, possible conflicts between the Rule and state, local and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. The Commission is considering the comments received in two parts. In part I, the Commission reviewed comments that addressed the current benefits, burdens and need for the Rule and determined to retain the Rule. The Commission also adopted non-substantive amendments that: (1) allow the optional use of the additional R-value test procedure; and (2) require use in the future of revised, current versions of other test procedures cited in the Rule. In part II, the Commission will consider the comments recommending that the Commission adopt substantive revisions to the Rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Comment Period End	06/06/95	
Commission Action/Part I	03/28/96	61 FR 13659
Commission Action/ANPRM	09/01/99	64 FR 48024
Comment Period End	11/15/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Kent C. Howerton, Division of Enforcement, Federal Trade Commission, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3013
Email: khowerton@ftc.gov

RIN: 3084–AA60

4509. TRADE REGULATION RULE ON FUNERAL INDUSTRY PRACTICES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 45; 15 USC 46(g); 15 USC 57(a)

CFR Citation: 16 CFR 453

Legal Deadline: None

Abstract: The Funeral Industry Practices Rule, which became effective in 1984, requires sellers of funeral goods and services to give price lists to consumers who visit a funeral home, and to disclose price and other information to callers who request it over the telephone. The Rule enables consumers to select and purchase only the goods and services they want, and requires funeral providers to seek authority before performing some services such as embalming. The Rule also requires funeral providers to make disclosures regarding any required purchases and prohibits misrepresentations regarding requirements and other aspects of funeral goods and services. In its 1994 review of the Rule, the Commission determined to retain the Rule and amended it to prohibit funeral providers from charging a "casket handling fee" in addition to any non-declinable basic-services fee and deleted certain affirmative telephone disclosure requirements. The Commission responded to requests to address emerging issues in the funeral industry by beginning a review of the Rule in 1998. The Commission previously had determined to schedule a review of the Rule in 1999, in accordance with its ten-year schedule for reviewing all Commission rules and guides. The Commission published a notice soliciting public comment earlier this year. In response to requests of industry members and consumer groups, the Commission determined to extend the comment period. Commission staff will conduct a public workshop conference this Fall to discuss and explore openly issues raised in written comments.

Timetable:

Action	Date	FR Cite
Recommendation to Commission Regarding Initial Notice for Comment	04/17/99	
Initial Notice for Public Comment	05/05/99	64 FR 24249
Close of Comment Period (Extended)	08/11/99	
Public Workshop	11/18/99	
Recommendation to Commission	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Mercedes Kelley, Attorney, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3665
Email: mkelley@ftc.gov

Myra Howard, Attorney, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-2047
Email: mhoward@ftc.gov

RIN: 3084–AA82

Federal Trade Commission (FTC)

Proposed Rule Stage

4510. PREMERGER NOTIFICATION RULES AND REPORT FORM

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801 to 803

Legal Deadline: None

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and reduce the paperwork burden on the business community. In March 1996, the Commission promulgated rules amending the Rule's treatment of acquisitions of goods or realty made in the ordinary course of business and adding new exemptions for acquisitions of realty and carbon-based mineral reserves. In addition, on August 9, 1995, the Commission published a final rule that removed 16 CFR part 800, the transitional rule addressing the treatment of acquisitions consummated before, and notification filed on or before September 5, 1978. On June 25, 1998, the Commission issued a Final Rule with a request for comments amending Rule 802.70, Acquisitions subject to order. This amendment reduces the burden on parties by exempting from the HSR filing requirements divestitures included in consent agreements that have been accepted by the Commission for public comment, or filed by the Commission or the Department of Justice with the District Court and that are subject to public comment but are not final orders. The comment period ended July 27, 1998. No comments were received. The Commission proposed modifications to the Premerger Notification and Report Form on June 14, 1994. 59 FR 30545. Based on comments received in response to the Notice, as well as other input from interested parties, the enforcement agencies are continuing their review of the Form. If warranted, the Commission may propose further modifications and/or republish the 1994 proposed modifications and offer an additional comment period before changing the Form.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
NPRM (Ordinary Course)	09/24/85	50 FR 38742
NPRM (HSR Form Changes)	06/14/94	59 FR 30545
NPRM (Ordinary Course)	07/28/95	60 FR 38930
Part 800 Repealed	08/09/95	60 FR 40704
Final Rule (Ordinary Course)	03/28/96	61 FR 13666
Final Rule Effective (Ordinary Course)	04/29/96	
Final Rule with Request for Comments (802.70)	06/25/98	63 FR 34592
Comment Period End (802.70)	07/27/98	
NPRM (HSR Form Changes)	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Melea Epps, Staff Attorney, Federal Trade Commission, Pre-Merger Notification Office, Washington, DC 20580
Phone: 202 326-2705
Email: mepps@ftc.gov

RIN: 3084–AA23

4511. REGULATORY REVIEW

Priority: Other Significant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 1 et seq

Legal Deadline: None

Abstract: The Commission is conducting a program to review all current rules and guides to identify any that should be modified or rescinded. Under the review program, the Commission will review a portion of its rules and guides each year, on a revolving ten-year schedule. On January 25, 1999, the Commission published a notice in the Federal Register listing the rules and guides to be reviewed during 1999 and the staff contact person for information about each review. 64 FR 3668. The Commission thereafter published separate notices in the Federal Register for the rules and guides to be reviewed during 1999, soliciting comments about their costs and benefits and regulatory and economic impact. Early next year, the Commission will publish a list of additional rules and guides it will review in 2000. No determination about whether to modify or rescind a rule, regulation, guide or interpretation or any other procedural option should be inferred from the Commission's decision to publish a request for comments. In certain instances, the reviews may also address other specific matters or issues, such as proposed amendments.

Timetable:

Action	Date	FR Cite
Notice of Rules and Guides to Review in 1999	01/25/99	64 FR 3668
Notice of Rules and Guides to Review in 2000	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Kent C. Howerton, Division of Enforcement, Federal Trade Commission, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3013
Email: khowerton@ftc.gov

RIN: 3084–AA47

4512. THE CARE LABELING RULE

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 423

Legal Deadline: None

Abstract: The Care Labeling Rule requires manufacturers and importers of textile wearing apparel to attach cleaning instructions stating what regular care is needed for the ordinary use of the product and requires that the manufacturer or importer possess a

FTC

Proposed Rule Stage

reasonable basis for the care instructions. On July 1, 1997, a conditional exemption became effective, allowing the use of the symbol system developed by the American Society for Testing and Materials on care labels. On December 28, 1995, the Commission published an ANPRM relating to possible substantive changes in connection with methods of cleaning that can or should be listed on the care label, reasonable basis requirements, and definitions of water temperatures. An NPRM relating to these possible substantive changes was published on May 8, 1998; the comment period ended on July 27, 1998. The NPRM proposed that the Rule be amended as follows: "If an item of textile wearing apparel can be successfully washed and finished by a consumer at home, the label must provide an instruction for washing." The NPRM also proposed that the Rule be amended to allow for labeling for the relatively new process known as "professional wet cleaning." Finally, the NPRM proposed a change in the definition of "reasonable basis" in the Rule, and in the definitions of water temperature. A workshop for interested parties to discuss the issues raised by the NPRM was held on January 29, 1999. A final rule and/or a second NPRM will be published in the near future.

Timetable:

Action	Date	FR Cite
ANPRM	12/28/95	60 FR 67102
ANPRM Comment Period End	03/13/96	
Final Conditional Exemption	05/29/97	62 FR 29006
Recommendation to Commission/NPRM	01/23/98	
NPRM	05/08/98	63 FR 25417
Comment Period End	07/27/98	
Workshop	01/29/99	
Recommendation to Commission/NPRM and Final Rule	01/00/00	
Final Rule and/or Second NPRM	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Constance Vecellio, Care Labeling Rule Coordinator, Division of Enforcement, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-2966
Email: cvecellio@ftc.gov

RIN: 3084–AA54

4513. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 436

Legal Deadline: None

Abstract: The Federal Trade Commission's Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre-sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the past three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. On February 28, 1997, the Commission published an Advance Notice of Proposed Rulemaking (ANPRM) contemplating amendments that would address any new technologies and market practices and at the same time, reduce any unnecessary regulatory burden. Specifically, the Commission requested comments on whether to revise the Rule to more closely align Federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. Six public workshops were held in five cities during 1997 to promote discussions about the issues; allow the public to make statements on the record; and assist Commission staff in drafting a proposed amended Rule. The Commission extended the comment period to December 31, 1997. The ANPR procedure has been completed and staff has forwarded a recommendation to the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/97	62 FR 9115
Comment Period End	12/31/97	62 FR 28824
Recommendation to Commission	03/26/99	
NPRM	10/22/99	64 FR 57293
NPRM Comment Period End	12/21/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: State

Additional Information: RFA: N

Agency Contact: Steven Toporoff, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3135
Email: stoporoff@ftc.gov

RIN: 3084–AA63

4514. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 5701 et seq; 15 USC 5714(1)

CFR Citation: 16 CFR 308

Legal Deadline: None

Abstract: Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) to curtail certain unfair and deceptive practices perpetrated by some pay-per-call businesses, and to encourage the growth of the legitimate pay-per-call industry. TDDRA mandated that the FTC promulgate a rule to curb these practices; the 900-Number Rule became effective on November 1, 1993. TDDRA granted the Commission limited jurisdiction over common carriers for purposes of the 900-Number Rule. The Rule requires that advertisements for 900-numbers contain certain disclosures; that anyone who calls a 900-number service be given the opportunity to hang up at the conclusion of the preamble without incurring any charge for the call; and establishes procedures for resolving billing disputes for 900-number calls and other telephone-billed purchases. The Rule itself required the Commission to initiate a review of the

Rule prior to November 1997. As part of this review, the Commission published a notice in the Federal Register on March 12, 1997, requesting comments on, among other things, the economic impact of, and the continuing need for, the 900-Number Rule and the effect on the Rule of any technological or industry changes. The Commission also sought comments, pursuant to authority granted under the Telecommunications Act of 1996, on whether to expand the Rule to govern other similar audio information and entertainment services. Staff held a workshop on June 19-20, 1997, during which members of the industry discussed issues raised in the comments, including billing and collection issues and possible ways to expand the definition of "pay-per-call services." Many commenters reported that the 900-Number Rule has been successful in reducing the abuses that led to the passage of TDDRA. Despite the success of the Rule in correcting the abuses in the 900-number industry, complaints about other types of audiotext services (accessed via dialing patterns other than 900 numbers) are being reported. The majority of complaints now involve 800 numbers, international numbers, or other dialing patterns that do not use the 900-number prefix. Many consumer and law enforcement agencies also have been receiving complaints from consumers who have discovered unexplained charges (in some cases, recurring charges) on their telephone bills for services that were never authorized, ordered, received, or used, a practice known as "cramming." On October 30, 1998, the Commission published an NPRM that would expand the definition of "pay-per-call" services beyond 900 numbers and that would implement measures to combat telephone bill cramming. The proposed revisions would (1) require the express authorization of the person to be billed for the purchase of any "telephone-billed purchases" that cannot be blocked by 900-number blocking; (2) prohibit vendors from billing consumers for monthly or other recurring charges for pay-per-call services unless the vendor had entered into a "presubscription agreement" with the person to be billed and had sent the consumer a written copy of the agreement; and (3) give consumers legal recourse to dispute unauthorized charges crammed on phone bills and have those charges removed. The comment period was extended to March 10, 1999, and the workshop-conference was held on May 20-21, 1999. At the workshop, participants discussed issues raised by the comments, such as the meaning of "express authorization" and the requirements for a presubscription agreement. Staff plans to forward a recommendation to the Commission for a final rule later this year.

Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11750
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	
Recommendation to Commission	09/08/98	
NPRM	10/30/98	63 FR 58524
Comment Period End	01/08/99	
Public Workshop-Conference	02/25/99	
Comment Period Extended	03/10/99	
Public Workshop-Conference Date Rescheduled	05/20/99	
Recommendation for Final Rule to Commission	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Adam Cohn, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3411
Email: acohn@ftc.gov

Marianne K. Schwanke, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3165
Email: mschwanke@ftc.gov

RIN: 3084–AA78

4515. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 456

Legal Deadline: None

Abstract: The Trade Regulation Rule on Ophthalmic Practice Rules, also known as the "Prescription Release Rule," provides that an optometrist or ophthalmologist must give the patient, at no extra cost, a copy of the eyeglass prescription immediately after the examination is completed. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist, and from placing on the prescription, or delivering to the patient, certain disclaimers or waivers of liability. The Rule does not require an optometrist or ophthalmologist to release a contact lens prescription to a patient after an eye exam. As part of its systematic review of all Commission rules and guides, the Commission has requested comments on the economic impact of, and the continuing need for, this Rule, possible conflict between the Rule and State, local, or other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. Staff is preparing a memorandum to the Commission summarizing the comments received and making recommendations as to whether the Commission should revise, repeal, or retain the rule.

Timetable:

Action	Date	FR Cite
Request for Comments	04/03/97	62 FR 15865
Notice of Comment Period Extension	05/29/97	62 FR 29088
Comment Period End	06/02/97	
Comment Period End	09/02/97	
Recommendation to Commission	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Denise Owens, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3277
Email: dowens@ftc.gov

RIN: 3084–AA80

4516. TRADE REGULATION RULE CONCERNING POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ("Amplifier Rule" or "Rule") was promulgated in 1974 to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. The Amplifier Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes. The Rule makes it an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency or distortion characteristics. The Rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids.

As part of its systematic review of all Commission rules and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, this Rule; possible conflict between the Rule and State, local and other Federal laws; and the effect on the Rule of any technological, economic, or other industry changes. Based upon the regulatory review, the Commission determined that the Rule applies to self-powered speakers for use with home computers and home sound systems but that the Rule should not be extended to automobile sound systems. The Commission also determined to issue an Advance Notice of Proposed Rulemaking seeking comment on whether it should initiate a rulemaking proceeding to amend the Rule to reduce the preconditioning power output requirement from one-third of rated power to a lower figure, such as one-eighth of rated power; exempt sellers who make power output claims in media advertising from the requirement to disclose total rated harmonic distortion and the associated power bandwidth and impedance ratings; and clarify the manner in which the Rule's testing procedures apply to self-powered subwoofer-satellite combination speaker systems. The comment period for the ANPRM ended on September 8, 1998. Based on the ANPRM record, and the staff's recommendation, the Commission has determined to initiate a rulemaking proceeding by issuing an NPRM to seek further public comment on the aforementioned issues.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/97	62 FR 16500
Comment Period End	06/06/97	
Recommendation to Commission	05/08/98	
ANPRM	07/09/98	63 FR 37238
Final Rule (Nonsubstantive Technical Changes)	07/09/98	63 FR 37234
Comment Period End	09/08/98	
Recommendation to Commission	04/27/99	
NPRM	07/19/99	64 FR 38610
Comment Period End	09/17/99	
Recommendation to Commission	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Neil Blickman, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3038
Email: nblickman@ftc.gov

RIN: 3084–AA81

4517. APPLIANCE LABELING RULE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 6294 sec 324

CFR Citation: 16 CFR 305

Legal Deadline: None

Abstract: The Commission issued the Appliance Labeling Rule on November 19, 1979, pursuant to section 324 of title III of the Energy Policy and Conservation Act of 1975, 42 USC 6294. The Rule requires manufacturers to disclose energy information about major household appliances to enable consumers who purchase appliances to compare the energy use or efficiency of competing models. The Rule applies to most types of major household appliance categories, including the category of "clothes washers." There are also requirements that apply to fluorescent light ballasts, certain types of lighting products, and certain plumbing products. When the Commission published the Rule in 1979, the clothes washer category in appendix F was divided into subcategories "Standard" and "Compact." In 1994, the Commission amended appendix F to create additional subdivisions of "Top Loading" and "Front Loading." These subdivisions were created primarily to allow consumers to compare the energy efficiency of washers within those subdivisions. The technologies of the two types of washers were different and front-loading clothes washers were generally much more energy-efficient than top-loading clothes washers. Also, most consumers who shopped for one type of machine were not interested in purchasing the other type of machine. Since that time, consumer research has shown that a significant portion of consumers who shop for clothes washers now consider both types of machines. Also, technological advances in the clothes washer industry have begun to soften the distinction between front-loading and top-loading subdivisions. The Department of Energy (DOE), which is responsible for establishing standardized tests for these appliances, is considering eliminating the separate categories from its testing and standards program, and has requested that the Commission consider eliminating the top-loading and front-loading subcategories. Eliminating these subcategories would also be consistent with the Canadian EnerGuide appliance labeling program, and thus, the North American Free Trade Agreement (NAFTA) goals of reducing or eliminating non-tariff barriers to trade, e.g., labeling requirements). Therefore, the Commission requested public comments on a proposal to eliminate the top-loading and front-loading categories.

FTC

Proposed Rule Stage

The Commission also has requested public comments on a proposal to grant manufacturers of qualifying appliances a conditional exemption from the Rule's prohibition against including any information not specified by the Rule to be placed on the EnergyGuide labels required by the Rule. Manufacturers of all covered appliances must disclose specific energy consumption or efficiency information in the form of an EnergyGuide label that is affixed to the product. No other marks may appear on or adjoin this label except as stated by the Rule. Currently, the ENERGY STAR Program, developed by the Environmental Protection Agency (EPA) in conjunction with DOE allows an ENERGY STAR logo to be placed on qualifying products or on an ENERGY STAR label or fact sheet associated with the product. The initials EPA and DOE both appear on the logo, the use of which indicates significantly better energy performance than a specified norm (DOE's minimum efficiency standards, in the case of appliances and HVAC equipment), or the incorporation of a specific energy saving feature on the product. The conditional exemption would allow a single, combined label (an "augmented" EnergyGuide) only on appliances and equipment that meet the ENERGY STAR Program qualification criteria. Among other things, a single label would allow manufacturers to reduce their costs, and would be less confusing to consumers than multiple labels relating to energy use. The Commission is also proposing a non-substantive amendment to the Rule to include the words "Federal Trade Commission" on all EnergyGuide labels so that consumers and others will be clear as to the identity of the agency with the authority to enforce the Rule.

Timetable:

Action	Date	FR Cite
NPRM (Clothes Washers)	11/02/98	63 FR 58671
NPRM (Conditional Exemption)	11/24/98	63 FR 64921
Comment Period End (Conditional Exemption)	12/17/98	
Comment Period End (Clothes Washers)	01/08/99	
Recommendation to Commission (Conditional Exemption)	12/00/99	
Recommendation to Commission (Clothes Washers)	01/00/00	
Commission Action (Conditional Exemption)	02/00/00	
Commission Action (Clothes Washers)	02/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3035
Email: jmills@ftc.gov

RIN: 3084–AA83

4518. • CHILDREN'S ONLINE PRIVACY PROTECTION RULE PURSUANT TO THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT OF 1998

Priority: Other Significant

Legal Authority: PL 105-277, Sec. 1301-1308

CFR Citation: 16 CFR 312

Legal Deadline: Final, Statutory, October 21, 1999, Promulgation of Rule.

Abstract: Congress enacted the Children's Online Privacy Protection Act ("COPPA" or "the Act") on October 21, 1998, to provide a means for parents to control the flow of their children's personal information over the Internet. The Act directs the FTC to adopt regulations, within one year after enactment of the Act, that prohibit unfair and deceptive acts and practices in connection with the collection and use of personal information from and about children on the Internet. Earlier this year, the Commission published an NPRM and solicited public comment on a proposed rule. The proposed rule, with certain exceptions, requires commercial web sites and online service providers directed to children who knowingly collect personal information from children to obtain verifiable parental consent before collecting, using, or disclosing such information. The proposed rule asserts that "[a]n operator must make reasonable efforts to obtain verifiable parental consent, taking into consideration available technology. Any method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent." Operators subject to the proposed rule are required to post prominent links on their websites to a notice of how they collect and use personal information from children. Under the proposed rule, parents must be given the opportunity to prohibit operators from disclosing their child's personal information to third parties. In addition, the Act requires operators to give parents the opportunity to review and make changes to any personal information provided by their child, and, at any time, require the operator to delete their child's information and prevent the operator from any further collection of personal information. The COPPA contains a requirement that operators not condition a child's participation in online activities on the provision of more personal information than is reasonably necessary to participate in those activities. Operators are also required under the Act to establish procedures to protect the confidentiality, security, and integrity of the personal information they collect online from children. In addition, the Act establishes a safe harbor program for industry groups or others who wish to create self-regulatory programs to govern participants' compliance with the Act. Operators who participate in such Commission-approved programs will, in most circumstances, be subject to the review and disciplinary procedures provided in those guidelines in lieu of formal Commission investigation and law enforcement proceedings. Because an initial review of the more than 120 public comments indicated to the agency that the issue of how web sites can obtain "verifiable parental consent" warrants additional discussion and information gathering, a public workshop was scheduled for July 20, 1999. Staff has reviewed the public comments and information from the public workshop and has forwarded a recommendation to the Commission. The Commission recently issued a final rule which becomes effective next spring.

Timetable:

Action	Date	FR Cite
NPRM	04/27/99	64 FR 22750
Comment Period Ends	06/11/99	
Public Workshop	07/20/99	

FTC

Proposed Rule Stage

Action	Date	FR Cite
Request for Comments to an Initial Regulatory Flexibility Analysis (IRFA)	07/27/99	64 FR 40525
Comment Period for IFRA Ends	08/06/99	
Recommendation to Commission	09/22/99	
Commission Action	10/20/99	
Effective Date for New Rule	04/21/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Toby Milgrom Levin, Attorney, Federal Trade Commission, Division of Advertising Practices, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3156
Email: tlevin@ftc.gov

RIN: 3084–AA84

Federal Trade Commission (FTC)

Long-Term Actions

4519. AMENDED FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

CFR Citation: Not Yet Determined

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State

Agency Contact: Carole Reynolds
Phone: 202 326-3230
Email: creynolds@ftc.gov

RIN: 3084–AA44

Federal Trade Commission (FTC)

Completed Actions

4520. RULE GOVERNING DISCLOSURE OF WRITTEN CONSUMER PRODUCT WARRANTY TERMS AND CONDITIONS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 701

Legal Deadline: None

Abstract: The Rule Governing the Disclosure of Written Consumer Product Warranty Terms and Conditions (Rule 701) requires warrantors to disclose the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00. Rule 701 specifies the information that must appear in the written warranty, as well as the exact language that must be used for certain items. Under Rule 701, the information must be disclosed in simple, easily understood, and concise language in a single document. In addition to specifying the information that must appear in a written warranty, Rule 701 also requires that, in instances where the warrantor uses a warranty registration or owner registration card, the warranty must disclose whether that registration card is a condition precedent to warranty coverage. Finally, the Rule provides that, in connection with "seal of approval" programs, the disclosures are not required in the actual seal itself, if they are made in a general circulation publication. As part of its systematic review of all Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for the Rule, possible conflict between the Rule and State, local, and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. After reviewing the record, the Commission determined to retain Rule 701 unchanged.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14688
Recommendation to Commission	02/04/99	
Final Action	04/22/99	64 FR 19700

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Carole I. Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3115
Email: cdanielson@ftc.gov

RIN: 3084–AA72

4521. RULE GOVERNING THE PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 702

Legal Deadline: None

Abstract: The Rule Governing the Pre-Sale Availability of Written Warranty Terms, 16 CFR part 702 (Rule 702) published as a final rule in 1975 and amended in 1987, requires sellers and warrantors to make the terms of a written warranty available to the consumer prior to sale. Among other things, the Rule requires sellers to make warranty information readily available by either (1) displaying it in close proximity to the product, or (2) furnishing it on request and posting signs in prominent locations advising consumers that warranty information is available. The Rule requires warrantors to provide materials to enable sellers to comply with the Rule's requirements. It also sets out the methods by which warranty information can be made available prior to the sale of the product in instances where the product is sold through catalogs, mail order, or door-to-door. As part of its systematic review of all Commission regulations and guides, the Commission sought comments on, among other things, the economic

impact of, and the continuing need for the rule, possible conflict between the rule and State, local, and other Federal laws and the effect on the rule of any technological, economic, or other industry changes. After reviewing the record, the Commission determined to retain Rule 702 unchanged.

Timetable:

Action	Date	FR Cite
Begin Review	04/03/96	61 FR 14688
Recommendation to Commission	02/04/99	
Final Action	04/22/99	64 FR 19700

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Carole I. Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3115
Email: cdanielson@ftc.gov

RIN: 3084–AA73

4522. RULE GOVERNING INFORMAL DISPUTE SETTLEMENT PROCEDURES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 703

Legal Deadline: None

Abstract: The Rule Governing Informal Dispute Settlement Procedures (Rule 703) establishes minimum requirements for those informal settlement mechanisms (IDSM) that are incorporated by the warrantor into its consumer product warranty. By incorporating the IDSM into the warranty, the warrantor requires the consumer to use the IDSM before pursuing any legal remedies in court. Among other things, the Rule sets out the member qualifications, general operating procedures, and recordkeeping requirements of such IDSMs. The Rule also prescribes the duties of the warrantor in making consumers aware of the IDSM and how to use it, as well as the warrantor's duties to comply with the IDSM's requests and decisions. The Rule also requires IDSMs that operate under Rule 703 to submit annual audits to the Federal Trade Commission to determine their compliance with the Rule. As part of its systematic review of all Commission regulations and guides, the Commission requested comments on, among other things, the economic impact of, and the continuing need for, the Rule; whether there are changes that might be made to the Rule that would increase consumer benefits or which might minimize cost to firms subject to its requirements; the degree to which it may conflict with other State, local, and other Federal laws; and the effect on the rules of any technological, economic, or other industry changes. After reviewing the record, the Commission determined to retain Rule 703 unchanged.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/97	
Comment Period Extended	06/13/97	62 FR 32338
Comment Period End	08/01/97	
Recommendation to Commission	02/04/99	
Final Action	04/22/99	64 FR 19700

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carole I. Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580
Phone: 202 326-3115
Email: cdanielson@ftc.gov

RIN: 3084–AA75

[FR Doc. 99–25676 Filed 11–19–99; 8:45 am]
BILLING CODE 6750–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LX

National Credit Union Administration

Semiannual Regulatory Agenda

National Credit Union Administration (NCUA)

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Regulatory Agenda

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of current and projected rulemakings, reviews of existing regulations, and completed actions as of August 20, 1999, to be included in this agenda in the Unified Agenda of Federal Regulatory and Deregulatory Actions.

DATES: This information is current as of August 20, 1999.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

FOR FURTHER INFORMATION CONTACT: For each regulation listed, the person(s) named in the listing at the above address, unless otherwise noted, or listed telephone number.

SUPPLEMENTARY INFORMATION: The purpose of this agenda is to enable credit unions and the public to follow regulatory development and review at NCUA, and participate in that process more effectively. Entries for the Agenda appear in one of five possible categories: prerule stage; proposed rule stage; final rule stage; long-term actions; or completed actions.

The agenda is published pursuant to NCUA Interpretive Ruling and Policy Statement Number 87–2 ("Developing and Reviewing Government Regulations," 54 FR 35231; September 18, 1987), which sets out NCUA's policy and procedures for developing and reviewing its regulations. NCUA's policy is to ensure that its regulations impose only minimum required burdens on credit unions, consumers, and the public; are appropriate for the size of the financial institutions it regulates; are issued only after full public participation; and are clear and understandable. Further, NCUA undertakes to review all regulations every three years to clarify and simplify existing regulations and eliminate redundant and unnecessary provisions. Executive Order 12866, signed by President Clinton on September 30, 1993, requires independent executive agencies such as NCUA to publish a regulatory agenda.

Approved by the NCUA Board on August 30, 1999.

Becky Baker,

Secretary of the Board.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4523	Federal Credit Union Insurance and Group Purchasing Activities	3133-AC07

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4524	Federal Credit Union Ownership of Fixed Assets	3133-AB90
4525	Leasing	3133-AC13
4526	Share Overdraft Accounts Without a Written Lending Agreement	3133-AC26
4527	Federal Credit Union Chartering, Field of Membership Modifications and Conversions	3133-AC27
4528	Corporate Credit Unions	3133-AC28
4529	Prompt Correction Action	3133-AC30
4530	Trustees and Custodians of Pension Plan	3133-AC32

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4531	Management Official Interlocks	3133-AB93
4532	Prompt Corrective Action	3133-AC14
4533	Share Insurance and Appendix	3133-AC23
4534	Credit Union Service Organization	3133-AC29
4535	Secondary Capital	3133-AC31

NCUA

Completed Actions

Sequence Number	Title	Regulation Identification Number
4536	Member Business Loans	3133-AB91
4537	Federal Credit Union Bylaws	3133-AB94
4538	Change in Official or Senior Executive Officer in Credit Unions That Are Newly Chartered or Are in Troubled Condition	3133-AC03
4539	Fidelity Bond and Insurance Coverage of Federal Credit Unions	3133-AC04
4540	Charitable Contributions	3133-AC15
4541	Credit Union Service Organizations	3133-AC16
4542	Statutory Lien	3133-AC17
4543	Supervisory Committee Audits and Verifications	3133-AC18
4544	Organization and Operations of Federal Credit Unions Safe Deposit Box Service	3133-AC19
4545	Truth in Savings	3133-AC20
4546	Conversion of Insured Credit Unions to Mutual Savings Banks	3133-AC21
4547	Requirements for Insurance	3133-AC22
4548	Loan Interest Rates	3133-AC25

National Credit Union Administration (NCUA) — Prerule Stage

4523. FEDERAL CREDIT UNION INSURANCE AND GROUP PURCHASING ACTIVITIES

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1757(16); 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 721

Legal Deadline: None

Abstract: The regulation sets forth the rules governing Federal credit union insurance and group purchasing activities.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC07

National Credit Union Administration (NCUA) — Proposed Rule Stage

4524. FEDERAL CREDIT UNION OWNERSHIP OF FIXED ASSETS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1754(4)

CFR Citation: 12 CFR 701.36

Legal Deadline: None

Abstract: The current rule establishes a specific limitation on a federal credit union's investment in fixed assets at 5 percent of shares and retained earnings when a federal credit union's assets exceed $1 million. The proposal anticipates using a new fixed asset threshold based on a federal credit union's net capital. In addition, fixed asset waiver requests would need to be documented more fully than at present.

Timetable:

Action	Date	FR Cite
NPRM	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AB90

4525. LEASING

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1756

CFR Citation: 12 CFR 714

Legal Deadline: None

Abstract: The NCUA Board is proposing to update and redesignate its longstanding policy statement on leasing, Interpretive Ruling and Policy Statement 83-3, as an NCUA regulation. Interpretive Ruling and Policy Statement 83-3 authorizes federal credit unions to engage in either direct or indirect leasing and either open-end or closed-end leasing of personal property to their members if such lease financing arrangements are the functional equivalent of secured loans. Also, the proposed regulation formalizes NCUA's position, stated in legal opinion letters, that a federal credit union does not have to own the lease property in indirect leasing if certain requirements are satisfied.

NCUA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57950
NPRM Comment Period End	01/27/99	
Second NPRM	10/15/99	64 FR 55866
Second NPRM Comment Period End	12/14/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul Marshall Peterson, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6570
Fax: 703 518-6569
Email: ogc@ncua.gov

RIN: 3133–AC13

4526. • SHARE OVERDRAFT ACCOUNTS WITHOUT A WRITTEN LENDING AGREEMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; ...

CFR Citation: 12 CFR 701.21

Legal Deadline: None

Abstract: NCUA Board proposes to amend its lending regulation to permit Federal credit unions to advance money to members to cover account deficits without having a credit application from the member on file if the credit union has a written overdraft policy.

Timetable:

Action	Date	FR Cite
NPRM	09/30/99	64 FR 52694
NPRM Comment Period End	11/29/99	
Final Rule	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Regina M. Metz, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC26

4527. • FEDERAL CREDIT UNION CHARTERING, FIELD OF MEMBERSHIP MODIFICATIONS AND CONVERSIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1752(5); 12 USC 1755-57; 12 USC 1759; 12 USC 1761b-c; 12 USC 1766-67; ...

CFR Citation: 12 CFR 701.1

Legal Deadline: None

Abstract: The regulation sets forth all the requirements to chartering and field of membership. The NCUA Board is considering issuing a proposal that would require Federal credit unions to have a business plan that sets forth the credit unions' efforts to serve low-income members. The NCUA Board is also considering issuing proposed amendments to clarify existing policy. These amendments would mostly be technical in nature.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC27

4528. • CORPORATE CREDIT UNIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1762; 12 USC 1766(a); 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: NCUA requests public comment on revisions to the rule governing corporate credit unions. As part of its regulatory review process, NCUA has identified provisions for further clarification or revision. Comments on these issues will assist NCUA in its regulatory review process.

Timetable:

Action	Date	FR Cite
ANPRM	07/28/99	64 FR 40787
ANPRM Comment Period Ends	11/26/99	
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC28

4529. • PROMPT CORRECTION ACTION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1790d

CFR Citation: 12 CFR 702.102; 12 CFR 702.103

Legal Deadline: Final, Statutory, August 7, 2000, Imposed by Credit Union Membership Access Act 301(d(2)(B).

Abstract: The Credit Union Membership Access Act amended the Federal Credit Union Act to require NCUA to define credit unions which are "complex" by reason of their portfolio or assets and liabilities and to develop a risk-based net worth requirement to apply to "complex" credit unions which are either "well capitalized" or "adequately capitalized" under NCUA's system of prompt corrective action. Under the proposed rule, the risk-based net worth requirement takes the form of a basis points addition to the 6 percent net worth ratio. As mandated by statute, a credit union that is either "adequately capitalized" or "well capitalized" whose net worth net ratio does not meet its risk-based net worth requirement will be downgraded to "undercapitalized."

NCUA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	08/00/00	
Final Action Effective	01/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven W. Widerman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC30

4530. • TRUSTEES AND CUSTODIANS OF PENSION PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 12 USC 1757(6); 12 USC 1757(17)

CFR Citation: 12 CFR 724; 12 CFR 745

Legal Deadline: None

Abstract: Amendments of sections 724 and 745 to permit Federal credit unions in Puerto Rico to offer Individual Retirement Accounts and to clarify that they will be separately insured.

Timetable:

Action	Date	FR Cite
NPRM	10/15/99	64 FR 55871
NPRM Comment Period End	12/14/99	
Final Action	03/00/00	
Final Action Effective	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dianne M. Salva, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC32

National Credit Union Administration (NCUA)

Final Rule Stage

4531. MANAGEMENT OFFICIAL INTERLOCKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 3201 et seq; 12 USC 1757

CFR Citation: 12 CFR 711

Legal Deadline: None

Abstract: An amendment to the current regulation will conform it to the recent changes made to the Depository Institutions Management Interlocks Act (the Interlocks Act). The amendment to the Interlocks Act raised the asset threshold for the prohibition against interlocks involving an institution with at least $1 billion in total assets and an institution with at least $500 million in total assets. Also, the amendment of the Interlocks Act expanded the exemptive authority of the OCC and other federal banking agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57945
NPRM Comment Period End	01/27/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dianne M. Salva, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AB93

4532. PROMPT CORRECTIVE ACTION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1790(d)

CFR Citation: 12 CFR 702

Legal Deadline: Final, Statutory, May 4, 1999.

Abstract: A new provision of the Federal Credit Union Act, as added by the Credit Union Membership Access Act, requires the NCUA Board to adopt, by regulation, a system of prompt corrective actions to be taken by the NCUA when a federally insured credit union becomes undercapitalized. The system will be indexed to each of five capital categories which the new provision establishes for federally insured credit unions. Much of the system of prompt corrective action either is already prescribed by the new provision itself or is required to be comparable with the system Congress established for other federally insured financial institutions in 1991.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/98	63 FR 57938
ANPRM Comment Period End	01/27/99	
NPRM	05/18/99	64 FR 27090
NPRM Comment Period End	08/16/99	
Extension of Comment Period to 08/31/99	08/17/99	64 FR 44663
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Steven W. Widerman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: ogc@ncua.gov

Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6360
Email: ei@ncua.gov

RIN: 3133–AC14

4533. SHARE INSURANCE AND APPENDIX

Priority: Info./Admin./Other

Legal Authority: 12 USC 1766; 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 745

Legal Deadline: None

Abstract: This regulation describes the insurance coverage of various types of

NCUA — Final Rule Stage

member accounts. NCUA simplified this regulation to increase members' understanding of their insurance coverage.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/22/99	64 FR 19685
Interim Final Rule Effective	04/22/99	
Interim Final Rule Comment Period End	07/15/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC23

4534. • CREDIT UNION SERVICE ORGANIZATION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1756; 12 USC 1757(5)(D) and (7)(I); 12 USC 1766; 12 USC 1782; 12 USC 1784-86

CFR Citation: 12 CFR 712

Legal Deadline: None

Abstract: The interim final rule provides a grandfather exemption for real estate brokerage services if a credit union service organization was providing that service prior to April 1, 1998, and requests comment on that exemption and whether real estate brokerage services should be reinstated as a permissible credit union service organization service.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/22/99	64 FR 33187
Interim Final Rule Effective	07/22/99	
Interim Final Rule Comment Period End	08/20/99	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC29

4535. • SECONDARY CAPITAL

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1755-57; 12 USC 1759; 12 USC 1761a-b; 12 USC 1766-67; ...

CFR Citation: 12 CFR 701.34

Legal Deadline: None

Abstract: The NCUA is amending its regulation regarding secondary capital accounts in low-income designated credit unions to specify that interest on these accounts may be accrued in the account, paid directly to the investor, or paid into a separate account from which an investor may make withdrawals. The NCUA believes that these changes will clarify the permissible alternatives and provide additional flexibility for low-income designated credit unions.

Timetable:

Action	Date	FR Cite
NPRM	07/28/99	64 FR 40786
NPRM Comment Period End	09/27/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC31

National Credit Union Administration (NCUA) — Completed Actions

---

4536. MEMBER BUSINESS LOANS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701; 12 CFR 722; 12 CFR 723; 12 CFR 741

Legal Deadline: None

Abstract: On November 19, 1998, the NCUA issued an interim final rule concerning member business loans and appraisals for federally insured credit unions as well as implementing recent statutory limitations regarding member business loans. The interim final rule was published in the Federal Register on November 27, 1998 (63 Federal Register 65532). The NCUA Board requested comments on the interim final rule by November 30, 1998. Upon request, the Board extended the comment period for an additional 60 days to January 29, 1999. The NCUA Board issued a final rule on May 19, 1999 (64 Federal Register 28721).

Timetable:

Action	Date	FR Cite
NPRM	08/01/97	62 FR 41313
NPRM Comment Period End	09/30/97	
Interim Final Rule	11/27/98	63 FR 65532
Final Action	05/19/99	64 FR 28721

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540

NCUA

Completed Actions

Email: ogc@ncua.gov

RIN: 3133–AB91

4537. FEDERAL CREDIT UNION BYLAWS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1758

CFR Citation: None

Legal Deadline: None

Abstract: The proposed changes consolidate the two manuals that currently contain the Federal credit union bylaws into one manual and eliminate or modernize several bylaws. This action is necessary because several of the bylaws had become outdated or obsolete. The proposal is intended to update and clarify the Federal credit union bylaws.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/97	62 FR 11778
ANPRM Comment Period End	06/12/97	62 FR 19702
NPRM	01/04/99	64 FR 187
NPRM Comment Period End	04/05/99	
Final Action	10/14/99	64 FR 55760
Final Action Effective	10/14/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AB94

4538. CHANGE IN OFFICIAL OR SENIOR EXECUTIVE OFFICER IN CREDIT UNIONS THAT ARE NEWLY CHARTERED OR ARE IN TROUBLED CONDITION

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789; 12 USC 1784

CFR Citation: 12 CFR 701.14

Legal Deadline: None

Abstract: The NCUA Board amends its regulation dealing with newly chartered and troubled credit unions that require prior notice of the appointment or employment of directors and senior officers. The amendment clarifies when the notice period commences and when the new director or senior officer may begin service.

Timetable:

Action	Date	FR Cite
NPRM	11/05/98	63 FR 59742
NPRM Comment Period End	02/03/99	
Final Action	05/27/99	64 FR 28715
Final Action Effective	06/28/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Margaret McPartlin, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC03

4539. FIDELITY BOND AND INSURANCE COVERAGE OF FEDERAL CREDIT UNIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755; 12 USC 1756; 12 USC 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766; 12 USC 1767; 12 USC 1782; 12 USC 1787; 12 USC 1789; 12 USC 1784

CFR Citation: 12 CFR 701.20; 12 CFR 713; 12 CFR 741

Legal Deadline: None

Abstract: The final rule updates, clarifies, revises and redesignates NCUA's regulation that addresses the requirements for surety bond coverage for losses caused by credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union, e.g. vandalism. The final rule recasts the rule in plain English format and adds several previously approved bond forms to the regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/04/99	64 FR 58
NPRM Comment Period End	03/05/99	
Final Action	05/27/99	64 FR 28718

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Allan Meltzer, Associate General Counsel, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC04

4540. CHARITABLE CONTRIBUTIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a to 1761b; 12 USC 1766; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.25

Legal Deadline: None

Abstract: The NCUA incorporated into its regulations the agency's long-standing interpretation that Federal credit unions are authorized, within limits, to make charitable contributions and donations.

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57942
NPRM Comment Period End	01/27/99	
Final Action	04/21/99	64 FR 19443
Effective Date	05/21/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC15

4541. CREDIT UNION SERVICE ORGANIZATIONS

Priority: Info./Admin./Other

Legal Authority: 12 USC 1756; 12 USC 1757(5)(D) and (7)(I); 12 USC 1766; 12 USC 1782; 12 USC 1784; 12 USC 1785 to 1786

CFR Citation: 12 CFR 712

Legal Deadline: None

NCUA

Completed Actions

Abstract: The final rule deletes a provision preventing Federal credit unions from investing in or lending to Credit Union Service Organizations in which non-credit union depository institutions are co-investors or lenders; revises a provision limiting Credit Union Service Organization investments in non-Credit Union Service Organization service providers; deletes a provision preventing Federal credit unions from investing in the debentures of a Credit Union Service Organization; and clarifies how the NCUA measures the limit on a Federal credit union investment in or loans to Credit Union Service Organizations. In addition, the final rule clarifies the meaning of cyber financial services. The changes decrease the regulatory burden for Federal credit unions investing in or lending to Credit Union Service Organizations.

Timetable:

Action	Date	FR Cite
NPRM	11/30/98	63 FR 65714
NPRM Comment Period End	03/01/99	
Final Action	06/22/99	64 FR 33184

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC16

4542. STATUTORY LIEN

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.39

Legal Deadline: None

Abstract: The NCUA final rule updates, clarifies, and converts to a regulation the provisions of its existing Interpretive Ruling and Policy Statement 82-5 which implements the Federal Credit Union Act's authority to establish a statutory lien. Like the Interpretative Ruling and Policy Statements, the rule permits a Federal credit union to impress a statutory lien upon the shares and dividends of a member, and enforces that lien to satisfy the member's outstanding indebtedness to the credit union, even when such indebtedness is not secured by shares.

Timetable:

Action	Date	FR Cite
NPRM	10/29/98	63 FR 57943
NPRM Comment Period End	01/27/99	
Final Action	10/22/99	64 FR 56953
Final Action Effective	11/22/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven W. Widerman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC17

4543. SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701; 12 CFR 713; 12 CFR 741

Legal Deadline: None

Abstract: The Credit Union Membership Access Act has amended certain audit and financial reporting requirements of the Federal Credit Union Act. The NCUA solicited public comment on proposed rules implementing those amendments. The amendments specify the minimum annual audit a credit union is required to obtain according to its charter type and asset size, the licensing authority required of persons performing certain audits, the auditing principles which apply to certain audits and the accounting principles which must be followed in reports filed with the NCUA Board.

Timetable:

Action	Date	FR Cite
NPRM	01/06/99	64 FR 776
NPRM Comment Period End	03/08/99	
Final Action	07/29/99	64 FR 41029

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Steven W. Widerman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC18

4544. ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS SAFE DEPOSIT BOX SERVICE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1752(5); 12 USC 1798; 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a; 12 USC 1761b; 12 USC 1766 to 1767; 12 USC 1782; 12 USC 1784; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.30

Legal Deadline: None

Abstract: The NCUA Board removed its rule governing safe deposit box service. This revision eliminated an unnecessary section from the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/04/99	64 FR 57
NPRM Comment Period End	03/05/99	
Final Action	05/27/99	64 FR 28717

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Regina M. Metz, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC19

NCUA

Completed Actions

4545. TRUTH IN SAVINGS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 4311

CFR Citation: 12 CFR 707

Legal Deadline: None

Abstract: NCUA amended part 707 of its regulations to implement certain statutory changes in the Truth in Savings Act. These amendments: modify the rules governing indoor lobby signs; eliminate subsequent disclosure requirements for automatically renewable term share accounts with terms of one month or less; repeal Truth in Saving's civil liability provisions as of September 30, 2001; and permit disclosure of an annual percentage yield equal to the contract dividend rate for term share accounts with maturities greater than one year that do not compound but require dividend distributions at least annually.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/29/98	63 FR 71573
Final Action	06/21/99	64 FR 33009

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC20

4546. CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1766; 12 USC 1785(b)

CFR Citation: 12 CFR 708a

Legal Deadline: None

Abstract: The NCUA revised its rules governing the conversion of insured credit unions to mutual savings banks or savings associations. These revisions will simplify the charter conversion process and reduce regulatory burden for insured credit unions that choose to convert. NCUA made the revisions in compliance with recent federal legislation requiring the changes.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/27/98	63 FR 65532
Final Action	05/27/99	64 FR 28733

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Frank S. Kressman, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428
Phone: 703 518-6540
Email: ogc@ncua.gov

RIN: 3133–AC21

4547. REQUIREMENTS FOR INSURANCE

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1782a

CFR Citation: 12 CFR 741.4

Legal Deadline: Final, Statutory, January 1, 2000.

Abstract: A new provision of section 202 of the Federal Credit Union Act, added by the Credit Union Membership Act, requires NCUA to amend its regulations requiring federally insured credit unions to file a certified statement showing the total amount of insured shares in the credit union at the end of a relevant reporting period. The certified statement would show both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the National Credit Union Share Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	05/26/99	64 FR 28415
Comment Period End	07/26/99	
Final Action	10/18/99	64 FR 56148
Final Action Effective	01/01/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Dennis C. Winans, Chief Financial Officer, Office of the Chief Financial Officer, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6570
Fax: 703 518-6439

RIN: 3133–AC22

4548. LOAN INTEREST RATES

Priority: Info./Admin./Other

Legal Authority: 12 USC 1752(5); 12 USC 1766; 12 USC 1755 to 1757; 12 USC 1759; 12 USC 1761a; ...

CFR Citation: 12 CFR 701.21

Legal Deadline: None

Abstract: The NCUA Board continues an 18 percent federal credit union loan rate ceiling for the period from March 9, 1999, through September 8, 2000. Loans and lines of credit balances existing prior to May 18, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

Timetable:

Action	Date	FR Cite
Final Rule	02/08/99	64 FR 5927
Final Action Effective	03/09/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Daniel Gordon, Senior Investment Officer, Office of Investment Services, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314
Phone: 703 518-6620
Email: oei@ncua.gov

RIN: 3133–AC25

[FR Doc. 99–23656 Filed 11–19–99; 8:45 am]
BILLING CODE 7535–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LXI

National Indian Gaming Commission

Semiannual Regulatory Agenda

National Indian Gaming Commission (NIGC)

NATIONAL INDIAN GAMING COMMISSION

25 CFR Ch. III

Semiannual Regulatory Agenda

AGENCY: National Indian Gaming Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The National Indian Gaming Commission today is publishing an agenda of its open and anticipated rulemaking actions. The agenda is a general announcement to the public intended to provide notice of rulemaking actions in which the public may wish to participate. In the near future, the Commission intends to issue Notices of Proposed Rulemaking or Advance Notices of Proposed Rulemaking for the classification, review, and approval of games and devices used in tribal gaming; rules concerning practice before the Commission; rules concerning hearings and appeals procedures; rules concerning enforcement; rules concerning definitions; rules revising the scope and review of management contracts; rules concerning net gaming revenue; rules revising tribal background investigation submission requirements and timing; rules concerning administrative fees; rules concerning public health and safety compliance; rules concerning compulsory process and testimony of employees; rules revising Freedom of Information Act Procedures; rules concerning gaming facility licensing standards; and rules concerning technical amendments to the Minimum Internal Control Standards. The Commission invites questions and public comment on individual agenda items.

FOR FURTHER INFORMATION CONTACT: Penny J. Coleman, National Indian Gaming Commission, 1441 L Street NW., 9th Floor, Washington, DC 20005, (202) 632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12866 "Regulatory Planning and Review" and the Regulatory Flexibility Act, 5 U.S.C. 605, executive agencies are required to publish semiannual regulatory agendas in the **Federal Register** in April and October of each year.

The regulations being considered by the Commission are not "significant" rules within the meaning of E.O. 12866, and no Regulatory Impact Analysis is required. The Commission also has determined, under the Regulatory Flexibility Act, that the regulations under consideration will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Flexibility Analysis is required. The proposed rules are not covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104–4), as they are not Federal mandates that may result in an expenditure of $100 million or more in any one year by State, local, or tribal governments, in the aggregate, or the private sector. Further, these proposed rules are not considered major under 5 U.S.C. 801 enacted by Public Law 104–121, and, therefore, are not subject to section 801's 60-day deferral requirement.

For this edition of the National Indian Gaming Commission's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Montie R. Deer,

Chairman of the National Indian Gaming Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4549	Practice Before the Commission	3141-AA07
4550	Game Classification **(Reg Plan Seq No. 162)**	3141-AA12
4551	Environment and Public Health and Safety **(Reg Plan Seq No. 163)**	3141-AA17

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4552	Compulsory Process and Testimony of Employees	3141-AA20

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4553	Hearings and Appeals Procedure	3141-AA08
4554	Enforcement	3141-AA09
4555	Definitions	3141-AA10
4556	Management Contracts	3141-AA13

NIGC

Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4557	Net Gaming Revenue	3141-AA14
4558	Tribal Background Investigation Submission Requirements and Timing	3141-AA15
4559	Administrative Fees	3141-AA16
4560	Freedom of Information Act Procedures (Amendments)	3141-AA21
4561	Gaming Facility Licensing Standards	3141-AA23
4562	Technical Amendments to the Minimum Internal Control Standards	3141-AA24

National Indian Gaming Commission (NIGC) — Proposed Rule Stage

4549. PRACTICE BEFORE THE COMMISSION

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706(b)(10)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rule will establish guidelines and procedures for attorneys and nonattorneys who represent tribes or private companies before the Commission.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: William F. Grant, Staff Attorney, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
Phone: 202 632-7003
Fax: 202 632-7066
Email: william__ grant@ios.doi.gov

RIN: 3141–AA07

4550. GAME CLASSIFICATION

Regulatory Plan: This entry is Seq. No. 162 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA12

4551. ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Regulatory Plan: This entry is Seq. No. 163 in Part II of this issue of the **Federal Register**.

RIN: 3141–AA17

National Indian Gaming Commission (NIGC) — Final Rule Stage

4552. COMPULSORY PROCESS AND TESTIMONY OF EMPLOYEES

Priority: Substantive, Nonsignificant

Legal Authority: 25 USC 2706; 5 USC 552; 5 USC 552a

CFR Citation: 25 CFR 516

Legal Deadline: None

Abstract: The purpose of these rules is to establish a procedure for the testimony of employees of the National Indian Gaming Commission in any judicial or administrative proceeding.

Timetable:

Action	Date	FR Cite
NPRM	07/15/99	64 FR 38164
NPRM Comment Period End	08/16/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard B. Schiff, Senior Attorney, National Indian Gaming Commission, Suite 9100, 1441 L Street NW., Washington, DC 20005
Phone: 202 632-7003

RIN: 3141–AA20

National Indian Gaming Commission (NIGC) — Long-Term Actions

4553. HEARINGS AND APPEALS PROCEDURE

Priority: Other Significant

CFR Citation: 25 CFR 522; 25 CFR 523; 25 CFR 524; 25 CFR 533; 25 CFR 535; 25 CFR 539; 25 CFR 573; 25 CFR 575; 25 CFR 577

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Richard B. Schiff
Phone: 202 632-7003

RIN: 3141–AA08

4554. ENFORCEMENT

Priority: Other Significant

CFR Citation: 25 CFR 573

NIGC

Long-Term Actions

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003

RIN: 3141–AA09

4555. DEFINITIONS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 502

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003

RIN: 3141–AA10

4556. MANAGEMENT CONTRACTS

Priority: Other Significant

CFR Citation: 25 CFR 531; 25 CFR 533; 25 CFR 536

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003

RIN: 3141–AA13

4557. NET GAMING REVENUE

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 571; 25 CFR 573

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003

RIN: 3141–AA14

4558. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority: Other Significant

CFR Citation: 25 CFR 556; 25 CFR 558

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003

RIN: 3141–AA15

4559. ADMINISTRATIVE FEES

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 514

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Penny J. Coleman
Phone: 202 632-7003

RIN: 3141–AA16

4560. FREEDOM OF INFORMATION ACT PROCEDURES (AMENDMENTS)

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 517.3; 25 CFR 517.6; 25 CFR 517.8

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jeanne McLaughlin
Phone: 202 632-7003

RIN: 3141–AA21

4561. GAMING FACILITY LICENSING STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 522.4(b)(6); 25 CFR 522.6(b)

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Tribal

Agency Contact: Mai Dinh
Phone: 202 632-7003

RIN: 3141–AA23

4562. TECHNICAL AMENDMENTS TO THE MINIMUM INTERNAL CONTROL STANDARDS

Priority: Substantive, Nonsignificant

CFR Citation: 25 CFR 542

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Tribal

Agency Contact: Mai Dinh
Phone: 202 632-7003

RIN: 3141–AA24

[FR Doc. 99–24750 Filed 11–19–99; 8:45 am]
BILLING CODE 7565–01–F

federal register

Monday,
November 22, 1999

Part LXII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

Nuclear Regulatory Commission (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354 "The Regulatory Flexibility Act" and Executive Order 12866 "Regulatory Planning and Review." The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on April 26, 1999 (64 FR 22380).

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555–0001. Single copies of the NRC agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. Customers may call (202) 512–2249.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7162, e-mail dlm1@nrc.gov. Persons outside the Washington, DC, metropolitan area may call, toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual agenda on April 26, 1999 (64 FR 22380). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through September 2, 1999. The date for the next scheduled action under the heading "Timetable" is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The EDO initiated a procedure for review of the regulations being prepared by staff offices that report to him to ensure that staff resources are allocated most effectively to achieve NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

The NRC agenda lists rulemaking actions. Of these, two rulemaking items are considered to be priority or major as defined in section 3(f) of Executive Order 12866. Five rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

For this edition of NRC's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

Dated at Rockville, Maryland, this 2nd day of September 1999.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4563	Availability of Official Records	3150-AC07
4564	Domestic Licensing of Special Nuclear Material — Revision	3150-AF22
4565	Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material	3150-AG03
4566	Clarifications and Addition of Flexibility	3150-AG15
4567	List of Approved Spent Fuel Storage Casks: Addition of the Transnuclear Cask	3150-AG18
4568	List of Approved Spent Fuel Storage Casks: Revision, NUHOMS 24-P and NUHOMS 52-B	3150-AG19
4569	Fire Protection; Elimination of Requirement for Non-Combustible Penetration Seal Material and Other Minor Changes	3150-AG22
4570	Lessons Learned from Design Certification	3150-AG24

Sequence Number
4571
4572
4573
4574
4575
4576
4577
4578
4579
4580
4581

Reference

Sequence Number
4582
4583
4584
4585
4586
4587
4588
4589
4590
4591
4592

Sequence Number
4593
4594
4595
4596
4597
4598
4599

Sequence Number
4600
4601
4602
4603

VOL 64 ISS 224 NO 22 1999 UMI

NRC

Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4571	Protection Against Discrete Radioactive Particles	3150-AG25
4572	ECCS Evaluations Models **(Reg Plan Seq No. 164)**	3150-AG26
4573	Amend the Certificates of Compliance No. 72-1007 for the VSC-24 Dry Spent Fuel Storage Cask	3150-AG29
4574	List of Approved Spent Fuel Storage Casks: Addition of the Transnuclear Dry Shielded Canister (TN-68)	3150-AG30
4575	List of Approved Spent Fuel Storage Casks: Addition of the Holtec Dry Shielded Canister - HISTORM	3150-AG31
4576	List of Approved Spent Fuel Storage Casks: Addition of the NAC - UMS Cask	3150-AG32
4577	Storage of Greater Than Class C Waste	3150-AG33
4578	List of Approved Spent Fuel Storage Casks: Addition of the TN West Amendment 2 (TNW) Spent Fuel Storage Cask System	3150-AG34
4579	List of Approved Spent Fuel Storage Casks: Addition of the Transtor Storage Cask	3150-AG35
4580	Revision of Certificates of Compliance for the VSC-24 Dry Spent Fuel Storage Cask, Amendment 2	3150-AG36
4581	Addition of Certificates for the NAC International (NAC) Multi-Purpose Canister (MPC) Cask System (NAC-MPC System)	3150-AG37

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4582	Industry Codes and Standards; Amended Requirements	3150-AE26
4583	Fitness for Duty	3150-AF12
4584	Submittal Procedures for Documents	3150-AF61
4585	Medical Uses of Byproduct Material	3150-AF74
4586	Modification to Event Reporting Requirements for Power Reactors	3150-AF98
4587	Disposal of High-Level Radioactive Waste in a Proposed Geologic Repository at Yucca Mountain, Nevada	3150-AG04
4588	Use of Potassium Iodide (KI) by the General Public After a Severe Accident at a Nuclear Power Plant	3150-AG11
4589	Revised Source Term Use at Operating Reactors	3150-AG12
4590	Application for Specific Licenses	3150-AG13
4591	Energy Compensation Sources for Well Logging	3150-AG14
4592	Design Certification for AP600	3150-AG23

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4593	Addition of Radon-222 and Technetium-99 Values to Table S-3 and Revisions Resulting From Consideration of Higher-Burnup Fuel	3150-AA31
4594	Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
4595	Disposal by Release Into Sanitary Sewerage	3150-AE90
4596	Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors	3150-AF79
4597	Emergency Planning Requirements for Permanently Shutdown Nuclear Power Plant Sites and Non-Power Reactors	3150-AF92
4598	Geological and Seismological Characteristics of Spent Fuel Storage Systems	3150-AG16
4599	Allow Use of Personnel Dosimeters That Are Processed Using a New Dosimeter Readout Technology	3150-AG21

Completed Actions

Sequence Number	Title	Regulation Identification Number
4600	Standardized Plant Designs, Early Review of Site Suitability Issues; Clarifying Amendments	3150-AE25
4601	Nuclear Regulatory Commission Acquisition Regulation	3150-AF52
4602	Initial Operator License Examination Requirements	3150-AF62
4603	Audit Frequency for Emergency Planning and Security	3150-AF63

NRC

Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
4604	Miscellaneous Changes to Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste	3150-AF80
4605	Respiratory Protection and Controls To Restrict Internal Exposure	3150-AF81
4606	Certification Renewal Amendment Process	3150-AF85
4607	Expand Applicability To Include Additional Parties	3150-AF93
4608	Changes, Tests, and Experiments	3150-AF94
4609	Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants	3150-AF95
4610	Codes and Standards; IEEE National Consensus Standard	3150-AF96
4611	Conformance to National Policies for Access to and Protection of Classified Information	3150-AF97
4612	Elimination of Reporting Requirement and 30-Day Hold of Independent Spent Fuel Storage or Monitored Retrievable Storage Installations in Loading Spent Fuel After Preoperational Testing	3150-AG02
4613	Environmental Impacts of High-Level Waste Transportation	3150-AG05
4614	Requirements for the Possession of Industrial Devices Containing Byproduct Material	3150-AG06
4615	Availability of Public Records at NRC Public Document Rooms	3150-AG07
4616	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999	3150-AG08
4617	List of Approved Spent Fuel Storage Casks: Addition of the HOLTEC Cask	3150-AG17
4618	Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings; Clarification of Participants	3150-AG27
4619	Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings: Minor Amendments	3150-AG28

Nuclear Regulatory Commission (NRC) — Proposed Rule Stage

4563. AVAILABILITY OF OFFICIAL RECORDS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and Agency practice. The amendment would reaffirm that 10 CFR 2.790(c) provides submitters of information a qualified right to have their information returned upon request. This amendment would inform the public of three additional circumstances where information would not be returned to the applicant, i.e., information which has been made available to an advisory committee or was received at an advisory committee meeting, information discussed at an open Commission meeting under the Government in Sunshine Act and information that is subject to a pending Freedom of Information Act request, as well as other administrative matters.

The proposed amendment would also address the NRC's procedures for handling copyrighted information, including reproduction and distribution according to normal Agency practice. The NRC, in receiving submittals and making its normal distributions, routinely photocopies submittals, makes microfiche of the submittals, and ensures that these fiche are distributed to the Public Document Room, Local Public Document Rooms, all appropriate internal offices, and made available to the National Technical Information Service. This broad distribution and reproduction is made to increase public understanding of the peaceful uses of atomic energy. The proposed rule would not prevent submitters from applying 10 CFR 2.790(b)(1) procedures to information that contains trade secrets or privileged or confidential commercial or financial information (proprietary information), and it is recognized that some information in those categories may be copyrighted. Proprietary information status exempts this material from public disclosure and is not to be confused with handling pursuant to copyright designation. A revised proposed rule will be issued for public comment.

Timetable:

Action	Date	FR Cite
NPRM	12/23/92	57 FR 61013
NPRM Comment Period End	03/08/93	
NPRM (Revision)	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine M. Holzle, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1560
Email: cmh@nrc.gov

RIN: 3150–AC07

4564. DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL — REVISION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 2282

CFR Citation: 10 CFR 70

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide a risk-informed performance-

based regulation for certain licensees authorized to possess a critical mass of special nuclear material. Concurrent with this amendment, companion support guidance documents are being developed for issuance. The proposed rule would require affected licensees to conduct an integrated safety analysis to identify potential accidents at the facility and the items relied on for safety. While the NRC believes that fuel facilities operate with an adequate degree of safety, the safety bases for licensing and inspection may have significant uncertainties. Performance of an ISA would narrow these uncertainties and provide increased confidence in the margin of safety at fuel cycle facilities.

Timetable:

Action	Date	FR Cite
NPRM	07/30/99	64 FR 41338
NPRM Comment Period End	10/13/99	
Final Action	08/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Andrew Persinko, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6522
Email: axp1@nrc.gov

RIN: 3150–AF22

4565. REQUIREMENTS FOR CERTAIN GENERALLY LICENSED INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 170; 10 CFR 171

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations for certain industrial devices containing byproduct material to include more specific provisions for a registration and accounting program including associated fees and modification of the quarterly transfer reporting requirements for manufacturers and initial distributors of these industrial devices. The rule would also consider other recommendations made by an NRC Agreement State Working Group in NUREG-1551, such as additional labeling requirements. The proposed rule is intended to ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material and allow NRC to account for devices which have been distributed for use under the general license. Better awareness on the part of general licensees of their responsibilities would help to ensure that the general licensees comply with the requirements for proper handling and disposal of generally licensed devices and should help reduce the potential for incidents that could result in unnecessary radiation exposure to the public as well as contamination of property.

Timetable:

Action	Date	FR Cite
NPRM	07/26/99	64 FR 40295
NPRM Comment Period End	10/12/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6264
Email: crm@nrc.gov

RIN: 3150–AG03

4566. CLARIFICATIONS AND ADDITION OF FLEXIBILITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to clarify the applicability of part 72 for general and site-specific licensees and would allow general licensees to clearly determine which part 72 requirements are applicable to their activities. Consequently, the staff has received several inquiries from prospective applicants requesting an interpretation of certain provisions of part 72. Clarification of which regulations are applicable to site-specific and general licensees would reduce the uncertainty for potential licensees, and lessen the need for legal interpretation by NRC legal staff. The proposed rulemaking would also allow applicants for site-specific licenses to use cask designs previously approved under part 72, subpart K, without having to submit a separate safety analysis for the cask design. Under the current regulations, the adequacy of the design of these previously approved storage casks could be at issue, particularly during the hearing process, in each site-specific license application. This rulemaking precludes the staff having to expend considerable resources in repeatedly re-examining and defending technical issues already resolved during the public rulemaking process. This process requests public comments which are addressed in the final rulemaking. The rulemaking also allows the initiation of storage cask construction provided that certain conditions are met. The staff has allowed this construction, via exemption, before a Certificate of Compliance is issued if the construction is performed under an NRC approved quality assurance program and the applicant bears all risk associated with early construction.

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 59677
NPRM Comment Period End	01/18/00	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Anthony J. DiPalo, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6191
Email: ajd@nrc.gov

RIN: 3150–AG15

NRC

Proposed Rule Stage

4567. LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE TRANSNUCLEAR CASK

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the Transnuclear TN-32 cask system to the List of Approved Spent Fuel Storage Casks. This proposed rule would allow the holders of power reactor operating licenses to store spent fuel in the TN-32 cask system under a general license.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 45923
NPRM Comment Period End	11/08/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG18

4568. LIST OF APPROVED SPENT FUEL STORAGE CASKS: REVISION, NUHOMS 24-P AND NUHOMS 52-B

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations containing the list of approved spent fuel storage cask designs to add an amended version of certificate of compliance number (CoC No.) 1004 to this list. The amended revision reflects a change of ownership of this certificate from VECTRA Technologies, Inc. to Transnuclear West, Inc. as well as an amendment to the certificate. This rulemaking would also implement a Director's Decision, in response to a petition filed by the Toledo Coalition for Safe Energy, et al., regarding the cask design, approved by CoC No. 1004 in which the Director determined that a rulemaking should be conducted to require a fabrication inspection of dry shielded canister shell welds.

Timetable:

Action	Date	FR Cite
NPRM	07/29/99	64 FR 41050
NPRM Comment Period End	10/12/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG19

4569. FIRE PROTECTION; ELIMINATION OF REQUIREMENT FOR NON-COMBUSTIBLE PENETRATION SEAL MATERIAL AND OTHER MINOR CHANGES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to eliminate the requirement for non-combustible penetration seal material. Based on a detailed review, as documented in section 7 of NUREG-1552, supp. 1, the NRC staff found that section III-M of appendix R applied only to 15 nuclear power plants. For 14 of these plants, the requirements of section III-M had been resolved by the licensees or were no longer applicable. In SECY-96-146, the staff recommended the deletion of the non-combustibility criterion for penetration seal material from section III-M of appendix R. The Commission approved the staff's recommendation in a June 30, 1998, SRM. Additional minor changes involve the deletion of schedule requirements and a footnote that are no longer applicable.

Timetable:

Action	Date	FR Cite
NPRM	08/18/99	64 FR 44860
NPRM Comment Period End	11/01/99	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Daniele Oudinot, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3731
Email: dho@nrc.gov

RIN: 3150–AG22

4570. LESSONS LEARNED FROM DESIGN CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 52

Legal Deadline: None

Abstract: The proposed rule would amend the regulatory infrastructure to prepare for future applicants and involve changes to licensing procedures. The proposed rule entitled, "Standardized Plant Designs, Early Review of Sites Suitability Issues; Clarifying Amendments," (RIN 3150-AE25) will be subsumed into this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3145
Email: jnw@nrc.gov

RIN: 3150–AG24

NRC

Proposed Rule Stage

4571. PROTECTION AGAINST DISCRETE RADIOACTIVE PARTICLES

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to establish a 300 Rad dose constraint, a 500 Rad capping limit, and calculational procedures for dealing with the "hot particle" issue (small particles found in nuclear reactors and some material facilities that, because of their high activity and small size, provide high localized doses to the skin). The skin dose limits in the revised part 20 have been shown by research results to be inapplicable to hot particles on or very near the skin. Furthermore, there are significant differences in the applicable dose limit recommendations of the International Commission on Radiological Protection (ICRP) and National Council on Radiation Protection and Measurements (NCRP). Brookhaven National Laboratory has provided the technical basis for the rulemaking by conducting hot particle exposures on live swine skin to establish the threshold dose(s) for ulceration.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan K. Rocklein, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555
Phone: 301 415-3883
Email: akr@nrc.gov

RIN: 3150–AG25

4572. ECCS EVALUATIONS MODELS

Regulatory Plan: This entry is Seq. No. 164 in Part II of this issue of the **Federal Register**.

RIN: 3150–AG26

4573. • AMEND THE CERTIFICATES OF COMPLIANCE NO. 72-1007 FOR THE VSC-24 DRY SPENT FUEL STORAGE CASK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to revise the Pacific Sierra Nuclear Associates (PSNA) VSC-24 cask system listing within the List of Approved Spent Fuel Storage Casks in 10 CFR 72.214 so that holders of operating power reactor licenses can use this cask under a general license. Otherwise, holders of power reactor operating licenses would have to obtain a specific license to use these casks. The modified cask would store spent fuel with control components. The currently approved VSC-24 cask cannot store spent fuel with control components.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG29

4574. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE TRANSNUCLEAR DRY SHIELDED CANISTER (TN-68)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the Transnuclear TN-68 cask system to the List of Approved Spent Fuel Storage Casks. This amendment would allow the holders of power reactor operating licenses to store spent fuel in the TN-68 cask system under a general license. The staff evaluated the Transnuclear Safety Analysis Report (SAR) submittal and is preparing a preliminary Safety Evaluation Report (SER) on the Transnuclear SAR and the Transnuclear TN-68 cask systems. The NRC is proposing to approve the Transnuclear TN-68 cask system, for storage of spent fuel under the conditions specified in the proposed certificate of compliance. This cask, when used in accordance with the conditions specified in the certificate of compliance and NRC regulations, would meet the requirements of part 72; thus, adequate protection of the public health and safety would be ensured.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 45920
NPRM Comment Period End	11/08/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG30

4575. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE HOLTEC DRY SHIELDED CANISTER - HISTORM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

NRC — Proposed Rule Stage

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the Holtec International (HISTORM) cask to the list of approved spent fuel storage casks. This amendment would allow the holders of power reactor operating licenses to store spent fuel in the HISTORM cask system under a general license. The staff evaluated the Holtec International Safety Analysis Report (SAR) submittals and is preparing a preliminary Safety Evaluation Report (SER) on the Holtec International SAR and the Holtec International HISTORM cask systems. The NRC is proposing to approve the Holtec International HISTORM cask system, for storage of spent fuel under the conditions specified in the proposed certificate of compliance. This cask, when used in accordance with the conditions specified in the certificate of compliance and NRC regulations, would meet the requirements of part 72, thus, adequate protection of the public health and safety would be ensured.

Timetable:

Action	Date	FR Cite
NPRM	09/22/99	64 FR 51271
NPRM Comment Period End	12/06/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG31

4576. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE NAC - UMS CASK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the NAC-UMS cask system to the List of Approved Spent Fuel Storage Casks. This amendment would allow the holders of power rector operating licenses to store spent fuel in the NAC-UMS cask system under a general license. The staff evaluated the NAC-UMS Safety Analysis Report (SAR) submittal and is preparing a preliminary Safety Evaluation Report (SER) on the NAC-UMS SAR and the NAC-UMS cask systems. The NRC is proposing to approve the NAC-UMS cask system, for storage of spent fuel under the conditions specified in the proposed certificate of compliance. This cask, when used in accordance with the conditions specified in the certificate of compliance and NRC regulations, would meet the requirements of part 72; thus, adequate protection of the public health and safety would be ensured.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG32

4577. • STORAGE OF GREATER THAN CLASS C WASTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to expand the scope of part 72 to include storage of Greater than Class C (GTCC) waste, that is, waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55(a)(2)(iv). It is anticipated that the decommissioning activities at nuclear power plants will generate relatively small volumes of GTCC waste. However, because there are currently no disposal options for GTCC waste, utilities must store these wastes under their part 50 licenses pending development of a disposal facility. The Department of Energy has the responsibility for developing a national strategy for disposal of GTCC waste. Based on current plans, this disposal capability will not likely be available for many years. This rule would allow independent spent fuel storage installations to store GTCC waste similar to storage of spent fuel and facilitate the likely eventual transfer to a permanent geologic repository. This proposed rule will respond to a petition for rulemaking submitted by the Portland General Electric Company (PRM-72-2).

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	
Final Action	03/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6196
Email: mfh@nrc.gov

RIN: 3150–AG33

4578. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE TN WEST AMENDMENT 2 (TNW) SPENT FUEL STORAGE CASK SYSTEM

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in

the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the TN West Amendment 2 (TNW) Spent Fuel Storage Cask System to the List of Approved Spent Fuel Storage Casks in 10 CFR 72.214 so that holders of operating power reactor licenses can use this cask under a general license. Otherwise, holders of power reactor operating licenses would have to obtain a specific license to use these casks.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG34

4579. • LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE TRANSTOR STORAGE CASK

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the Transtor-Storage cask system to the list of approved spent fuel storage casks. This rulemaking would allow the holders of power reactor operating licenses to store spent fuel in the Transtor- Storage cask system under a general license. The NRC staff evaluated the Transtor-Storage Safety Analysis Report (SAR) submittals and is preparing a preliminary Safety Evaluation Report (SER) on the Transtor-Storage SAR and the Transtor-Storage cask systems. The NRC is proposing to approve the Transtor-Storage cask system for storage of spent fuel under the conditions specified in the proposed certificate of compliance. This cask, when used in accordance with the conditions specified in the certificate of compliance and NRC regulations, will meet the requirements of part 72; thus, adequate protection of the public health and safety will be ensured.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	
Final Action	07/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG35

4580. • REVISION OF CERTIFICATES OF COMPLIANCE FOR THE VSC-24 DRY SPENT FUEL STORAGE CASK, AMENDMENT 2

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to revise the Pacific Sierra Nuclear Associates (PSNA) VSC-24, amendment 2 cask system listing so that holders of operating power reactor licenses can use the cask under a general license. Otherwise, holders of power reactor operating licenses would have to obtain a specific license to use these casks. The modified cask will store spent fuel with control components. The currently approved VSC-24 cask cannot store spent fuel with control components.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
Final Action	05/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG36

4581. • ADDITION OF CERTIFICATES FOR THE NAC INTERNATIONAL (NAC) MULTI-PURPOSE CANISTER (MPC) CASK SYSTEM (NAC-MPC SYSTEM)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5801

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to add the NAC International (NAC) Multi-Purpose Canister cask system (NAC-MPC system) to the List of Approved Spent Fuel Storage Casks in 10 CFR 72.214 so that holders of operating power reactor licenses can use this cask under a general license. Otherwise, holders of power reactor operating licenses would have to obtain a specific license to use these casks.

Timetable:

Action	Date	FR Cite
NPRM	08/23/99	64 FR 45918
NPRM Comment Period End	11/08/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

NRC — Proposed Rule Stage

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG37

Nuclear Regulatory Commission (NRC) — Final Rule Stage

4582. INDUSTRY CODES AND STANDARDS; AMENDED REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations that incorporate by reference section III of the ASME Boiler and Pressure Vessel Code (ASME BPV Code) for construction of Class 1, 2, and 3 components in nuclear power plants, and use of section XI of the ASME BPV Code for inservice inspection (ISI) and inservice testing (IST) of those components. The rulemaking includes expedited implementation of section XI appendix VIII, Performance Demonstration for Ultrasonic Examination Systems. In addition, the rule incorporates by reference the ASME Operation and Maintenance (OM) Code to replace the section XI requirements for IST. The latter action is made necessary by the ASME Code changes that transferred all responsibility for IST from section XI to the ASME Operation and Maintenance Committee.

Timetable:

Action	Date	FR Cite
NPRM	12/03/97	62 FR 63892
NPRM Comment Period End	03/03/98	
NPRM Comment Period Extended to	04/03/98	63 FR 3673
Final Action	09/22/99	64 FR 51370
Final Action Effective	11/22/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Thomas Scarbrough, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2794
Email: tgs@nrc.gov

RIN: 3150–AE26

4583. FITNESS FOR DUTY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 26

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations that establish fitness-for-duty requirements. The proposed rule would change the frequency at which licensees are required to audit their fitness-for-duty programs from annually to biennially. This proposed rule would also address the petition for rulemaking submitted by Virginia Electric and Power Company (VEPCO) (PRM-26-1), and address the Regulatory Review Group items on audit frequency and annual submittal of data.

Timetable:

Action	Date	FR Cite
NPRM	05/09/96	61 FR 21105
NPRM Comment Period End	08/07/96	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Garmon West Jr., Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1044
Email: rpr@nrc.gov

RIN: 3150–AF12

4584. SUBMITTAL PROCEDURES FOR DOCUMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 19; 10 CFR 61; 10 CFR 62; 10 CFR 72; 10 CFR 73; 10 CFR 71; 10 CFR 70; 10 CFR 74; 10 CFR 140; 10 CFR 75; 10 CFR 150; 10 CFR 36; 10 CFR 39; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 52; 10 CFR 55; 10 CFR 60; 10 CFR 20; 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 34; 10 CFR 35

Legal Deadline: None

Abstract: The final rule would permit voluntary electronic submission of documents and provide procedures for submitting documents electronically. In addition, the Agency-wide Documents Access and Management System (ADAMS) is scheduled to become operational in FY 2000. Amending the regulations to permit electronic submission will facilitate the electronic capture of externally generated documents into ADAMS. The rulemaking would address and improve the document control and records management issues which are of concern to the NRC, its applicants, licensees, and members of the public by improving the process of communication, dissemination, and storage of records. In addition, the rulemaking would incorporate minor corrections to the current regulations regarding the submission of documents to the NRC, e.g., organizational, name, and phone number changes. This rulemaking is consistent with existing legislative and regulatory initiatives, such as the Paperwork Reduction Elimination Act of 1998, to reduce the information collection burden on the public and to make information more readily accessible to the public.

NRC

Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Undetermined

Agency Contact: Michael D. Collins, Nuclear Regulatory Commission, Office of the Chief Information Officer, Washington, DC 20555-0001
Phone: 301 415-2488
Email: mdc1@nrc.gov

RIN: 3150–AF61

4585. MEDICAL USES OF BYPRODUCT MATERIAL

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 35

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to reflect a more risk-based approach to the regulation of the medical uses of byproduct material. Performance-oriented requirements would allow licensees the flexibility to develop procedures appropriate to their uses of byproduct material. The revision would address training and experience requirements for authorized users, RSOs, and physicists. This rulemaking would include development of associated guidance.

Timetable:

Action	Date	FR Cite
ANPRM	08/06/97	62 FR 42219
ANPRM Comment Period End	03/01/98	
NPRM	08/13/98	63 FR 43516
NPRM Comment Period End	12/16/98	63 FR 64829
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Cathy Haney, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6825
Email: cxh@nrc.gov

RIN: 3150–AF74

4586. MODIFICATION TO EVENT REPORTING REQUIREMENTS FOR POWER REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The advance notice of proposed rulemaking (ANPRM) was published to request public comment on the Commission's event reporting requirements for nuclear power reactors contained in sections 50.72 and 50.73. The rulemaking would reduce or eliminate the reporting burden associated with events of little or no risk or safety significance, and better align the rules with the NRC's current needs, including revising reporting requirements based on importance to risk and extending the required reporting times consistent with the need for prompt NRC action.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/98	63 FR 39522
ANPRM Comment Period End	09/21/98	
NPRM	07/06/99	64 FR 36291
NPRM Comment Period End	09/20/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dennis P. Allison, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6835
Email: dpa@nrc.gov

RIN: 3150–AF98

4587. DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE IN A PROPOSED GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 063

Legal Deadline: Other, Statutory, Energy Policy Act of 1992. Energy Policy Act of 1992.

Abstract: The proposed rule would establish regulations as directed by statute (Energy Policy Act of 1992) for the disposal of high-level waste at Yucca Mountain. The proposed rule would state that the more generic requirements in the existing part 60 do not apply and cannot be the subject of litigation in any NRC licensing proceeding for Yucca Mountain.

Timetable:

Action	Date	FR Cite
NPRM	02/22/99	64 FR 8640
NPRM Comment Period End	06/30/99	64 FR 24092
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tim McCartin, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6681
Email: tjm3@nrc.gov

RIN: 3150–AG04

4588. USE OF POTASSIUM IODIDE (KI) BY THE GENERAL PUBLIC AFTER A SEVERE ACCIDENT AT A NUCLEAR POWER PLANT

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to require that consideration be given to include potassium iodide (KI) in conjunction with sheltering and evacuation as a protective measure for the general public. The proposed rule would address two petitions for rulemaking submitted by Peter Crane (PRM-50-63 and PRM-50-63A).

NRC

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/14/99	64 FR 31737
NPRM Comment Period End	09/14/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Michael T. Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3224
Email: mtj1@nrc.gov

RIN: 3150–AG11

4589. REVISED SOURCE TERM USE AT OPERATING REACTORS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 021; 10 CFR 050

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow holders of operating licenses for nuclear power plants to voluntarily replace the traditional source term used in design basis accident analyses with a revised source term. This revised source term was developed from the results of a major research effort to obtain a better understanding of fission-product transport and release mechanisms in light-water reactors under severe accident conditions. This action would allow interested licensees to pursue cost beneficial licensing actions to reduce regulatory burden without compromising the margin of safety of the facility. The Commission is also proposing to amend its regulations to revise certain sections to conform with the final rule published on December 11, 1996 (61 FR 65157).

Timetable:

Action	Date	FR Cite
NPRM	03/11/99	64 FR 12117
NPRM Comment Period End	05/25/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen LaVie, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1081
Email: sfl@nrc.gov

RIN: 3150–AG12

4590. APPLICATION FOR SPECIFIC LICENSES

Priority: Info./Admin./Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2111; 42 USC 2112; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2234; 42 USC 2236; 42 USC 2237; 42 USC 2282; 42 USC 5841; 42 USC 5842; 42 USC 5846; 42 USC 5851

CFR Citation: 10 CFR 030

Legal Deadline: None

Abstract: The direct final rule will amend the Commission's regulations to include specific information on an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source. The information that licensees are required to provide is the identity of the source or device, by manufacturer and model number, as registered with the Commission under section 32.210, or with an Agreement State. The proposed revision to section 30.32(g) will eliminate the prescriptive requirements associated with supplying specific information about the source or device and instead will require the licensee to commit to using only sealed sources or devices that are registered with the NRC under section 32.210, or with an Agreement State.

Timetable:

Action	Date	FR Cite
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Jayne M. McCausland, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6219
Email: jmm2@nrc.gov

RIN: 3150–AG13

4591. ENERGY COMPENSATION SOURCES FOR WELL LOGGING

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 039

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to allow small energy compensation sources (ECS) used for well logging to be treated differently than the traditional larger well logging sources. Since part 39 was written, the industry has developed new technology that allows logging operations to be done concurrently with drilling. Even newer technology separates the ECS and the logging tool from the larger logging source to allow easier retrieval of the logging source in the event the drill stem becomes unretrievable. This technology requires an additional small source (less than 0.0001 Curie) versus the normal 3 to 20 Curie well logging sources. Many requirements in part 39 are not appropriate or necessary for protecting public health and safety and the environment for ECSs. However, because part 39 did not envision these small sources, the requirements were not written to allow variations in the requirements based on the source. The rulemaking would modify the regulations in part 39 to define an ECS and provide appropriate regulations for their use in well logging. The change would reduce regulatory burden with minimal impact to public health and safety. In addition, there are other

NRC — **Final Rule Stage**

sections that would be changed to improve, clarify, and update part 39.

Timetable:

Action	Date	FR Cite
NPRM	04/19/99	64 FR 19089
NPRM Comment Period End	07/05/99	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mark Haisfield, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6196
Email: mfh@nrc.gov

RIN: 3150–AG14

4592. DESIGN CERTIFICATION FOR AP600

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 52

Legal Deadline: None

Abstract: The proposed rule would amend the Commission's regulations to provide certification of the Westinghouse AP600 standard plant design. Design certification regulations are initiated by an applicant for design certification pursuant to subpart B of part 52. A major purpose of part 52 is to achieve early resolution of safety issues and provide a more stable and predictable licensing process.

Timetable:

Action	Date	FR Cite
NPRM	05/20/99	64 FR 27625
NPRM Comment Period End	08/03/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3145
Email: jnw@nrc.gov

RIN: 3150–AG23

Nuclear Regulatory Commission (NRC) — **Long-Term Actions**

4593. ADDITION OF RADON-222 AND TECHNETIUM-99 VALUES TO TABLE S-3 AND REVISIONS RESULTING FROM CONSIDERATION OF HIGHER-BURNUP FUEL

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 51

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	
Second NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Sandra D. Frattali
Phone: 301 415-3703
Email: sdf@nrc.gov

RIN: 3150–AA31

4594. CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	09/06/85	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Harry S. Tovmassian
Phone: 301 415-3092
Email: hst@nrc.gov

RIN: 3150–AB01

4595. DISPOSAL BY RELEASE INTO SANITARY SEWERAGE

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 20

Timetable:

Action	Date	FR Cite
ANPRM	02/25/94	59 FR 9146
ANPRM Comment Period End	05/26/94	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Anthony M. Huffert
Phone: 301 415-6416
Email: amh1@nrc.gov

RIN: 3150–AE90

4596. FINANCIAL PROTECTION REQUIREMENTS FOR PERMANENTLY SHUTDOWN NUCLEAR POWER REACTORS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 50; 10 CFR 140

Timetable:

Action	Date	FR Cite
NPRM	10/30/97	62 FR 58690
NPRM Comment Period End	01/13/98	
NPRM (Revision)	09/23/98	63 FR 50815
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard F. Dudley
Phone: 301 415-1116
Email: rfd@nrc.gov

RIN: 3150–AF79

4597. EMERGENCY PLANNING REQUIREMENTS FOR PERMANENTLY SHUTDOWN NUCLEAR POWER PLANT SITES AND NON-POWER REACTORS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 50

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

NRC — Long-Term Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Richard F. Dudley
Phone: 301 415-1116
Email: rfd@nrc.gov

RIN: 3150–AF92

4598. GEOLOGICAL AND SEISMOLOGICAL CHARACTERISTICS OF SPENT FUEL STORAGE SYSTEMS

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 072

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Markley L. Au
Phone: 301 415-6181
Email: mla@nrc.gov

RIN: 3150–AG16

4599. ALLOW USE OF PERSONNEL DOSIMETERS THAT ARE PROCESSED USING A NEW DOSIMETER READOUT TECHNOLOGY

Priority: Substantive, Nonsignificant

CFR Citation: 10 CFR 020; 10 CFR 034; 10 CFR 036; 10 CFR 039

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Donald O. Nellis
Phone: 301 415-6257
Email: don@nrc.gov

RIN: 3150–AG21

Nuclear Regulatory Commission (NRC) — Completed Actions

4600. STANDARDIZED PLANT DESIGNS, EARLY REVIEW OF SITE SUITABILITY ISSUES; CLARIFYING AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50; 10 CFR 52; 10 CFR 140

Legal Deadline: None

Abstract: The proposed rule would have amended the Commission's regulations by deleting Appendices M, N, O, and Q from 10 CFR part 50. This proposed rule has been subsumed by the proposed rule, "Lessons Learned from Design Certification," (RIN 3150-AG24), and has been incorporated into that rule.

Timetable:

Action	Date	FR Cite
Merged With RIN 3150-AG24	06/30/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Jerry N. Wilson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3145
Email: jnw@nrc.gov

RIN: 3150–AE25

4601. NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 41 USC 251 note; 42 USC 251 note; 40 USC 1401 note

CFR Citation: 48 CFR 20

Legal Deadline: None

Abstract: The final rule amends the Nuclear Regulatory Commission Acquisition Regulation (NRCAR) for the procurement of goods and services within the NRC to satisfy the particular needs of the agency. The final rule incorporates streamlining and simplification methods identified under the NRC's Procurement Reinvention Laboratory (PRL) and legislated under the Federal Acquisition Streamlining Act of 1994 (FASA), the Federal Acquisition Reform Act of 1996 (FARA), and the Information Technology Management Reform Act (ITMRA) of 1996. The intent of the FASA, FARA, and ITMRA is to streamline procurement processes within the Federal Government. Implementing instructions are needed for some of these processes. In addition, the NRC's PRL requires the NRC to streamline and simplify procedures in the NRCAR wherever possible.

Timetable:

Action	Date	FR Cite
NPRM	12/08/98	63 FR 67726
NPRM Comment Period End	02/22/99	
Final Action	09/10/99	64 FR 49322
Final Action Effective	10/12/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Procurement: This is a procurement-related action for which there is no statutory requirement. There is no paperwork burden associated with this action.

Agency Contact: Mary Lynn Scott, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-6179
Email: mls2@nrc.gov

RIN: 3150–AF52

NRC

Completed Actions

4602. INITIAL OPERATOR LICENSE EXAMINATION REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 55

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to require power reactor facility licensees to prepare the written examinations and operating tests, and to proctor and grade the written examinations, that the NRC uses to license operators and senior operators at those facilities. The final rule also requires the NRC to review and approve each examination and test before it is given and preserve the NRC's authority to prepare the examinations and tests, as necessary, to maintain examination quality and staff proficiency.

Timetable:

Action	Date	FR Cite
Final Action	04/23/99	64 FR 19868
Final Action Effective	10/20/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Siegfried Guenther, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1056
Email: sxg@nrc.gov

RIN: 3150–AF62

4603. AUDIT FREQUENCY FOR EMERGENCY PLANNING AND SECURITY

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by changing the frequency with which licensees conduct independent reviews, and audits of their safeguard contingency plans, security programs and emergency preparedness programs. The final rule requires that licensees conduct program reviews and audits at least every 24 months. The rule also clarifies the necessity for more frequent, focused audits to be based on an assessment by the licensee against performance indicators or a significant change in personnel, procedures, equipment, or facilities. The rule promotes performance-based, rather than compliance-based, review and audit activities. Also, the rule clarifies that programs must be reviewed and audited following a significant change in personnel, procedures, or equipment as soon as reasonably practicable, but no later than 12 months after the changes. These audits ensure that changes have not adversely affected the operation of the particular program element or function in question. This final rule also addresses PRM-50-59 and PRM-50-60 submitted by Virginia Electric and Power Company.

Timetable:

Action	Date	FR Cite
Final Action	03/29/99	64 FR 14814
Final Action Effective	04/28/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dr. Sandra D. Frattali, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3703
Email: sdf@nrc.gov

RIN: 3150–AF63

4604. MISCELLANEOUS CHANGES TO LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to correct a number of inconsistencies and clarify the applicability of several sections of part 72. The final rule differentiates the requirements for the storage of spent fuel under wet and dry conditions, clarifies requirements for the content and submission of various reports and specifies that quality assurance records must be maintained as permanent records when identified with activities and items important to safety. This action is necessary to facilitate NRC inspections to verify compliance with reporting requirements to ensure the protection of public health and safety and the environment.

Timetable:

Action	Date	FR Cite
Final Action	06/22/99	64 FR 33178
Final Action Effective	08/23/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Markley L. Au, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6181
Email: mla@nrc.gov

RIN: 3150–AF80

4605. RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2236

CFR Citation: 10 CFR 20

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to incorporate into part 20 an industry standard developed by the American National Standards Institute (ANSI) standard Z88.2-1992, "American

NRC

Completed Actions

National Standard Practice for Respiratory Protection."

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38511
NPRM Comment Period End	09/30/98	
Final Action	10/07/99	64 FR 54543
Final Action Effective	02/04/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Alan K. Roecklein, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3883
Email: akr@nrc.gov

RIN: 3150–AF81

4606. CERTIFICATION RENEWAL AMENDMENT PROCESS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 2297b-11; 42 USC 2297f; 42 USC 5841; 42 USC 5842; 42 USC 5845; 42 USC 5846; 42 USC 2243(a); 42 USC 5851; 42 USC 2243(f); 42 USC 2152

CFR Citation: 10 CFR 76

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations that apply to gaseous diffusion plants. This final rule modifies the process for certificate renewals, establishes a process for certificate amendment comparable to the process currently used to amend a fuel cycle license, revises the appeal process for amendments, eliminates the significant designation for amendments, simplifies the criteria for persons who are eligible to file a petition for review of an amendment action, removes references to the initial application because the initial certificates have been issued, and lengthens the time periods associated with filing a petition for review.

Timetable:

Action	Date	FR Cite
Final Action	08/17/99	64 FR 44645
Final Action Effective	09/16/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: John Telford, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC 20555-0001
Phone: 301 415-6229
Email: jlt@nrc.gov

RIN: 3150–AF85

4607. EXPAND APPLICABILITY TO INCLUDE ADDITIONAL PARTIES

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 72

Legal Deadline: None

Abstract: The final rulemaking corrects a weakness in section 72.11 by expanding its scope to include holders of and applicants for certificates of compliance; fabricators, designers, and vendors of casks; their employees; and the employees of their contractors, subcontractors, and consultants. The correction clarifies that they may be subject to enforcement action for submitting to the NRC information that is not complete and accurate in all material respects. Because of these limited specific requirements in part 72 for parties other than licensees, the Commission has been unable to issue notices of violation to other parties involved in ISFSI safety-related functions. The staff believes there may be safety consequences resulting from this weakness. The ability to issue notices of violation to these parties would improve the effectiveness of the NRC's inspection and enforcement programs in assuring compliance with the Commission's regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/23/98	63 FR 39526
NPRM Comment Period End	10/06/98	
Final Action	10/15/99	64 FR 56114
Final Action Effective	12/14/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: None

Agency Contact: Anthony J. DiPalo, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6191
Email: ajd@nrc.gov

RIN: 3150–AF93

4608. CHANGES, TESTS, AND EXPERIMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations concerning authority of licensees for production or utilization facilities to make changes to their facilities or procedures, without prior NRC approval. The rule clarifies the criteria that determine when prior approval is needed.

Timetable:

Action	Date	FR Cite
NPRM	10/21/98	63 FR 56098
NPRM Comment Period End	12/21/98	
Final Action	10/04/99	64 FR 53582
Final Action Effective	02/01/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Eileen McKenna, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-2189
Email: emm@nrc.gov

RIN: 3150–AF94

4609. REQUIREMENTS FOR MONITORING THE EFFECTIVENESS OF MAINTENANCE AT NUCLEAR POWER PLANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to require that safety assessments be taken into account before performing maintenance activities.

Timetable:

Action	Date	FR Cite
NPRM	09/30/98	63 FR 52201
NPRM Comment Period End	12/14/98	
Final Action	07/19/99	64 FR 38551

NRC

Completed Actions

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Final action effective 120 days after reissuance of revision 3 to Regulatory Guide 1.160.

Agency Contact: Richard Correia, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-1009
Email: rpc@nrc.gov

RIN: 3150–AF95

4610. CODES AND STANDARDS; IEEE NATIONAL CONSENSUS STANDARD

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to incorporate by reference IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations," a national consensus standard for power, instrumentation, and control portions of safety systems in nuclear power plants. This action is necessary to endorse the latest version of this national consensus standard in NRC's regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/13/99	64 FR 17944
Final Action Effective	05/13/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Satish K. Aggarwal, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6005
Email: ska@nrc.gov

RIN: 3150–AF96

4611. CONFORMANCE TO NATIONAL POLICIES FOR ACCESS TO AND PROTECTION OF CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2165; 42 USC 220; 42 USC 2273; 42 USC 5841; EO 12829; EO 12958; EO 10865

CFR Citation: 10 CFR 02; 10 CFR 10; 10 CFR 11; 10 CFR 25; 10 CFR 95

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by conforming NRC regulations to national requirements for the protection of and access to classified National Security Information and Restricted Data, including revised personnel security due process procedures; a new requirement for a facility clearance for those licensees or others who require access to classified information at a facility other than their own; additional information on the scope and reporting requirements for the Foreign Ownership, Control or Influence (FOCI) program; a requirement for a foreign visitor control program; a change to the period between reinvestigations for "L" and "R" access authorizations from five years to ten years; a change to the fee schedules due to a change in the investigative requirements for "Q", "L", "U", and "R" access authorizations; changes to the security classification markings to conform to Executive Order 12958; and greater specificity as to when particular reports are required. Additionally, the term "classified matter protection plans" has been added to part 2.790 for the purpose of clarity. Also, the final rule includes administrative matters such as modified definitions to reflect a change in responsibility for certain decisions from the Executive Director for Operations to the Deputy Executive Director for Management Services and revisions to a number of definitions in all four parts to reflect a change in the name of the Division of Security to the Division of Facilities and Security.

Timetable:

Action	Date	FR Cite
Final Action	04/01/99	64 FR 15636
Final Action Effective	05/03/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: James J. Dunleavy, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555-0001
Phone: 301 415-7404
Email: jjd1@nrc.gov

RIN: 3150–AF97

4612. ELIMINATION OF REPORTING REQUIREMENT AND 30-DAY HOLD OF INDEPENDENT SPENT FUEL STORAGE OR MONITORED RETRIEVABLE STORAGE INSTALLATIONS IN LOADING SPENT FUEL AFTER PREOPERATIONAL TESTING

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations by shortening or eliminating the 30-day delay for the loading of spent reactor fuel into an Independent Spent Fuel Storage Installation following completion of preoperational testing.

Timetable:

Action	Date	FR Cite
Final Action	04/12/99	64 FR 17510
Final Action Effective	05/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Gordon Gundersen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6195
Email: geg1@nrc.gov

RIN: 3150–AG02

4613. ENVIRONMENTAL IMPACTS OF HIGH-LEVEL WASTE TRANSPORTATION

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 051

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to reflect the generic and cumulative environmental impacts of transportation of high-level waste (HLW) in the vicinity of a HLW repository. This rulemaking addresses the environmental impacts of the use

of higher burn-up fuel. Further, the impact of plant-associated traffic on local highway service levels during the renewal term is changed from Category 1 to Category 2 as it should have been designated in the initial license renewal rulemaking, based on the analysis described in NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (May 1996).

Timetable:

Action	Date	FR Cite
NPRM	02/26/99	64 FR 9884
NPRM Comment Period End	04/27/99	
Final Action	09/03/99	64 FR 48496
Final Action Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Donald P. Cleary, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-3903
Email: dpc@nrc.gov

RIN: 3150–AG05

4614. REQUIREMENTS FOR THE POSSESSION OF INDUSTRIAL DEVICES CONTAINING BYPRODUCT MATERIAL

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 031

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations for the possession of industrial devices containing byproduct material to include a clear and explicit requirement that device users provide information in a timely manner in response to requests made by the NRC.

Timetable:

Action	Date	FR Cite
Final Action	08/04/99	64 FR 42269
Final Action Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Catherine R. Mattsen, Nuclear Regulatory Commission, Office of Nuclear Material Safety and, Safeguards, Washington, DC 20555-0001
Phone: 301 415-6264
Email: crm@nrc.gov

RIN: 3150–AG06

4615. AVAILABILITY OF PUBLIC RECORDS AT NRC PUBLIC DOCUMENT ROOMS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 001; 10 CFR 002; 10 CFR 007; 10 CFR 009; 10 CFR 050; 10 CFR 052; 10 CFR 060; 10 CFR 062; 10 CFR 072; 10 CFR 075; 10 CFR 076; 10 CFR 100; 10 CFR 110

Legal Deadline: None

Abstract: The final rule revises references to the NRC Public Document Room (PDR) and Local Public Document Rooms (LPDRs) in the Commission's regulations. The rule announces the NRC's establishment of an all electronic recordkeeping system under the Agencywide Documents Access and Management System(ADAMS), and the discontinuance of placement of paper records and microfiche in the PDR and the LPDRs. The rule reflects the Commission's decision to discontinue funding of the NRC LPDR program, and the substitution of the NRC Website as the primary location for public access to NRC publicly available documents once ADAMS becomes operational.

The PDR in Washington, DC still keeps pre-ADAMS paper and microfiche records onsite and available to the public for reviewing, and copying for a fee. The PDR has computer terminals available for the public to access new documents on the NRC Website. The public may obtain copies of records by printing them from the NRC Internet Website or by ordering them from the PDR. Copies of records may be ordered from the PDR directly from the NRC Website, or by using current ordering methods: in-person at the PDR, mail, e-mail, fax or by calling the PDR Reference Services on the toll-free 800 telephone number. Bibliographic descriptions of documents currently identified in the PDR's Bibliographic Retrieval System and in the Nuclear Documents System will be posted on the NRC Website, allowing the public to also order copies of pre-ADAMS paper and microfiche records.

Timetable:

Action	Date	FR Cite
NPRM	05/07/99	64 FR 24531
NPRM Comment Period End	06/21/99	
Final Action	09/09/99	64 FR 48942
Final Action Effective	10/12/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Russell A. Powell, Nuclear Regulatory Commission, Office of the Chief Information Officer, Washington, DC 20555-0001
Phone: 301 415-6527
Email: rap1@nrc.gov

RIN: 3150–AG07

4616. REVISION OF FEE SCHEDULES; 100 PERCENT FEE RECOVERY, FY 1999

Priority: Economically Significant. Major under 5 USC 801.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 170; 10 CFR 171

Legal Deadline: Other, Statutory, September 30, 1999, Collection of Fees.

Abstract: The rulemaking amends the licensing, inspection, and annual fees charged to NRC licensees and applicants for an NRC license. The amendments are necessary to recover approximately 100 percent of the NRC budget authority for fiscal year 1999 less the amounts appropriated from the Nuclear Waste Fund and the General Fund. The Omnibus Budget Reconciliation Act of 1990, as amended, requires that the NRC accomplish the 100 percent recovery through the assessment of fees. The

dollar amount to be recovered for FY 1999 is approximately $449.6 million. The Act requires that the fees for FY 1999 must be collected by September 30, 1999.

Timetable:

Action	Date	FR Cite
NPRM	04/01/99	64 FR 15876
NPRM Comment Period End	05/03/99	
Final Action	06/10/99	64 FR 31447
Final Action Effective	08/09/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: State, Local

Agency Contact: Glenda C. Jackson, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555-0001
Phone: 301 415-6057
Email: gcj@nrc.gov

RIN: 3150–AG08

4617. LIST OF APPROVED SPENT FUEL STORAGE CASKS: ADDITION OF THE HOLTEC CASK

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 072

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations to add the HOLTEC International Hi-Star 100 cask system (Hi-Star) to the List of Approved Spent Fuel Storage Casks. This rulemaking allows the holders of power reactor operating licenses to store spent fuel in the Hi-Star cask system under a general license.

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1542
NPRM Comment Period End	03/29/99	
Final Action	09/03/99	64 FR 48259
Final Action Effective	10/04/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555-0001
Phone: 301 415-6324
Email: spt@nrc.gov

RIN: 3150–AG17

4618. INFORMAL HEARING PROCEDURES FOR ADJUDICATIONS IN MATERIALS AND OPERATOR LICENSING PROCEEDINGS; CLARIFICATION OF PARTICIPANTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations governing participation in adjudicatory proceedings conducted under its Rules of Practice to clarify that federally-recognized Indian tribal governments are entitled to participate in these proceedings on the same basis as other governmental units.

Timetable:

Action	Date	FR Cite
Final Action	06/01/99	64 FR 29212
Final Action Effective	08/02/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles E. Mullins, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1606
Email: cem@nrc.gov

RIN: 3150–AG27

4619. INFORMAL HEARING PROCEDURES FOR ADJUDICATIONS IN MATERIALS AND OPERATOR LICENSING PROCEEDINGS: MINOR AMENDMENTS

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Legal Deadline: None

Abstract: The final rule amends the Commission's regulations governing the filing and service of pleadings in "informal" materials and operator licensing proceedings conducted under its Rules of Practice. This action is necessary to correct a cross-reference error in the provision concerning the method of filing documents and to change the method of service of pleadings on the NRC staff.

Timetable:

Action	Date	FR Cite
Final Action	06/01/99	64 FR 29213
Final Action Effective	06/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Charles E. Mullins, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555-0001
Phone: 301 415-1606
Email: cem@nrc.gov

RIN: 3150–AG28

[FR Doc. 99–23657 Filed 11–19–99; 8:45 am]
BILLING CODE 7590–01–F

VOL
64
ISS
2
2
4
NO
22
1999
UMI

federal register

Monday,
November 22, 1999

Part LXIII

Securities and Exchange Commission

Semiannual Regulatory Agenda

Securities and Exchange Commission (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

Release Nos. 33–7739, 34–41874, 35–27074, 39–2375, IC–24007, IA–1826, File No. S7–20–998

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions, pursuant to the Regulatory Flexibility Act. Information in the agenda was accurate on September 14, 1999, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries. The Commission provides notice under Section 610 of the Regulatory Flexibility Act, which requires a review of certain rules and public notice of the intent to perform those reviews, at the end of the calendar year in a separate **Federal Register** publication, and on its web site, www.sec.gov.

DATES: Public comments are due by December 30, 1999.

ADDRESSES: Persons wishing to submit written comments should file three copies of their comments with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-20-99 and will be available for public inspection and copying at the Commission's Public Reference Room, Room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT: Anne H. Sullivan, Office of the General Counsel, 202-942-0954.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980)) requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda, and that an agency is not required to consider or act on any matter which is included in the agenda (5 U.S.C. 602(d)). The agenda includes new entries, entries carried over from previous publications, and rulemaking actions which have been completed (or withdrawn) since publication of the last agenda.

The RFA also requires agencies to review rules which have a significant economic impact on a substantial number of small entities within ten years, and to provide public notice of the intent to perform those reviews (5 U.S.C. 610(a)). The Commission provides that notice annually by separate publication in the **Federal Register** at the end of the calendar year. In addition, the 1998 notice of rules which the Commission is reviewing in 1999 is published on the Commission's web site, at www.sec.gov/rules.

The following abbreviations for the acts administered by the Commission are used in the agenda:

"Securities Act" – Securities Act of 1933

"Exchange Act" – Securities Exchange Act of 1934

"PUHCA" – Public Utility Holding Company Act of 1935

"Investment Company Act" – Investment Company Act of 1940

"Investment Advisers Act" – Investment Advisers Act of 1940

The Commission's regulatory flexibility agenda is set forth below. The Commission invites public comment on the agenda and on the individual agenda entries.

Dated: September 14, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

DIVISION OF CORPORATION FINANCE—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4620	International Accounting Standards	3235-AH65

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4621	Asset-Backed Securities Disclosure	3235-AF74
4622	Regulation of Securities Offerings	3235-AG83
4623	Definitions for Purposes of the Private Litigation Reform Act of 1995	3235-AG89
4624	Definition of "Qualified Purchaser"	3235-AH15
4625	Householding of Proxy and Information Statements	3235-AH66

VOL 64 ISS 224 NO 22 1999 UMI

Sequence Number
4626
4627
4628
4629
Sequence Number
4630
4631
4632
Sequence Number
4633
4634
4635
4636
4637
4638
4639
4640
4641
4642
4643
4644
4645
4646
4647
4648
4649
4650
4651
4652
4653
4654
Sequence Number
4655
4656
4657
4658
4659

SEC

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4626	Streamlining Rule 144	3235-AH13
4627	Financial Statements and Periodic Reports for Related Issuer Guarantors	3235-AH52
4628	Addressing Abuses of Form S-8 by Companies Using Consultants To Raise Capital	3235-AG94
4629	Revisions to Rules Governing Options Disclosure Document	3235-AH31

DIVISION OF CORPORATION FINANCE—Completed Actions

Sequence Number	Title	Regulation Identification Number
4630	Regulation of Extraordinary Corporate Transactions	3235-AG84
4631	Exemptions for International Tender and Exchange Offers	3235-AD97
4632	International Disclosure Standards	3235-AH62

DIVISION OF INVESTMENT MANAGEMENT—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4633	Form ADV Uniform Application for Investment Adviser Registration	3235-AD21
4634	Books and Records To Be Maintained by Investment Advisers	3235-AH24
4635	Custody or Possession of Funds or Securities of Clients	3235-AH26
4636	Form ADV-W Notice of Withdrawal From Registration as Investment Adviser	3235-AH27
4637	Principal Transactions With Investment Advisory Clients	3235-AH34
4638	Political Contributions by Certain Investment Advisers	3235-AH72
4639	Role of Independent Directors of Investment Companies	3235-AH75
4640	Certain Broker-Dealers Not Deemed To Be Investment Advisers	3235-AH78
4641	Shareholder Report and Financial Statement Revisions	3235-AG64
4642	Proposed Amendments in Investment Company Advertising Rules	3235-AH19
4643	Exemption for Subsidiaries Organized To Finance Operations of Domestic or Foreign Companies; Certain Prima Facie Investment Companies	3235-AE95
4644	Deposits of Securities in Securities Depositories	3235-AG71
4645	Acquisition by Investment Company of Interest in Repurchase Agreement or Refunded Security To Be Treated as Acquisition of Underlying Securities	3235-AH56
4646	Exemption for the Acquisition of Securities During the Existence of an Underwriting Syndicate	3235-AH57
4647	Mutual Fund After-Tax Returns	3235-AH77
4648	Affiliate Transaction Rule Amendments	3235-AH80
4649	Mergers of Certain Affiliated Investment Companies	3235-AH81
4650	Amendments To Form N-SAR, Semiannual Report of Registered Investment Companies	3235-AF93
4651	Amendments to the Cash Solicitation Rule	3235-AH33
4652	Further EDGAR System Modernization	3235-AH79
4653	PUHCA: Exemption for Certain Acquisitions of Foreign Utility Companies	3235-AF78
4654	Status of Subsidiary Companies Formed To Hold Interests in Foreign Utility Companies	3235-AF79

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4655	Temporary Exemption for Certain Investment Advisers	3235-AH02
4656	Investment Company Names	3235-AH11
4657	Delivery of Disclosure Documents to Households	3235-AG98
4658	Transactions in Certain Canadian Retirement Savings Accounts	3235-AH32
4659	Custody of Investment Company Assets Outside the United States; Custody of Investment Company Assets With a Foreign Securities Depository	3235-AH55

SEC

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4660	Insurance Products: New Form N-6 for Registration of Separate Accounts Offering Variable Life Insurance Contracts	3235-AG37

DIVISION OF INVESTMENT MANAGEMENT—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4661	Insurance Products: Equity Index Insurance Products Concept Release	3235-AH23

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identification Number
4662	Certain Investment Company Directors Not Considered Interested Persons Because of Ownership of Index Fund Securities	3235-AH63
4663	Political Contributions by Investment Advisers	3235-AH64
4664	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records To Be Maintained by Investment Advisers	3235-AG27
4665	Reports of Significant Events	3235-AH50
4666	EDGAR System (Modernization)	3235-AH70
4667	Amendments to Rule 8f-1 and Deregistration Form N-8F, and Rule 101 of Regulation S-T	3235-AG29

DIVISION OF MARKET REGULATION—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4668	Net Capital Rule: Customer Protection Rule	3235-AH05
4669	Risk Assessment Recordkeeping and Reporting Requirement	3235-AH06
4670	Exemption of Certain Foreign Brokers and Dealers	3235-AH17
4671	Untimely Announcement of Record Dates	3235-AH38
4672	Automated Submission of Trading Data by Certain Exchange Members, Brokers, and Dealers Under the Securities Exchange Act of 1934	3235-AH69
4673	Purchases of Certain Equity Securities by the Issuers and Others	3235-AH37
4674	Exemption From Exchange Act Section 11(d)(1) for Securities of Foreign Issuers Sold on an Installment Basis	3235-AH58
4675	Net Capital Rule Concept Release	3235-AH29

DIVISION OF MARKET REGULATION—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4676	Net Capital Requirements for Brokers or Dealers	3235-AD79
4677	Market Risk Haircuts for Instruments Subject to Interest Rate Risk	3235-AG18
4678	Amendments to Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934	3235-AH04
4679	Proposed Amendments to Transfer Agent Rules	3235-AG24
4680	Revised Transfer Agent Form and Related Rule	3235-AH44
4681	Proposed Amendments to the Intermarket Trading System (ITS) Plan To Expand the ITS/Computer Assisted Execution System Linkage to All Listed Securities and Eliminate the Unanimous Vote	3235-AH49
4682	Exemption of the Securities of the Republic of Portugal Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities	3235-AH76
4683	Tender and Reorganization Agents	3235-AH53

SEC

Sequence Number
4684
4685
4686
4687
4688
4689
4690
4691
4692
4693
4694
4695
4696
4697
4698
4699

SEC

DIVISION OF MARKET REGULATION—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4684	Net Capital Requirements for Brokers or Dealers — Definition of the Term Nationally Recognized Statistical Rating Organization	3235-AH28
4685	Amendment to Rule 9b-1 Under the Securities Exchange Act Relating to the Options Disclosure Document	3235-AH30
4686	Initiation or Resumption of Quotations Without Specified Information	3235-AH40
4687	Recordkeeping Requirements for Transfer Agents	3235-AH74

DIVISION OF MARKET REGULATION—Long Term Actions

Sequence Number	Title	Regulation Identification Number
4688	Amendment to Rule 11Ac1-1	3235-AH00
4689	Large Trader Reporting System	3235-AE42
4690	Destruction of Cancelled Securities Certificates	3235-AH54

DIVISION OF MARKET REGULATION—Completed Actions

Sequence Number	Title	Regulation Identification Number
4691	Amendment to Form BDW and Amendment to Exchange Act Rule 15b6-1 and Amendments to Rules 15b1-1, 15b3-1, 15Ba2-2, 15 Bc3-1, 15Ca1-1, and 15Cc1-1	3235-AG69
4692	Purchases of Certain Equity Securities by the Issuer and Others	3235-AH48
4693	Broker-Dealer Registration and Reporting	3235-AH73
4694	Proposed Amendments to National Market System Plan	3235-AH51
4695	Year 2000 Operational Capability Requirements of Registered Broker-Dealers and Transfer Agents	3235-AH61
4696	Exemption of the Securities of the Kingdom of Sweden Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities	3235-AH68

OFFICES AND OTHER PROGRAMS—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4697	Selective Disclosure and Insider Trading	3235-AH82
4698	Audit Committee Disclosure	3235-AH83

OFFICES AND OTHER PROGRAMS—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules	3235-AH71

Securities and Exchange Commission (SEC)
DIVISION OF CORPORATION FINANCE

Prerule Stage

4620. INTERNATIONAL ACCOUNTING STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR part 210; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission publish a release that would solicit comment on whether the Commission should recognize accounting standards promulgated by the International Accounting Standards Committee for purposes of cross-border offerings and listings by foreign companies.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: David A. Sirignano, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2870

RIN: 3235–AH65

Securities and Exchange Commission (SEC)
DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4621. ASSET-BACKED SECURITIES DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Division of Corporation Finance is considering whether to recommend to the Commission amendments to revise rules and forms which would specify disclosure requirements for asset-backed securities transactions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Mark Green, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-1940

RIN: 3235–AF74

4622. REGULATION OF SECURITIES OFFERINGS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The Commission has proposed rules that would reform the registration process under the Securities Act and alter certain requirements in the periodic reporting process under the Exchange Act. The proposed rules cover, among other topics, prospectus delivery requirements, communications around the time of an offering and the integration of public and private offerings. The Division will recommend that the Commission repropose this initiative to reflect public comment on the proposals.

Timetable:

Action	Date	FR Cite
Notice With Request for Comments	07/31/96	61 FR 40044
Notice Comment Period End	09/30/96	
NPRM	12/04/98	63 FR 67174
Comment Period Extended	03/30/99	64 FR 15143
NPRM Comment Period End	04/05/99	63 FR 67174
Extended Comment Period End	06/30/99	
Reproposal	07/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Anita T. Klein, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2950

RIN: 3235–AG83

4623. DEFINITIONS FOR PURPOSES OF THE PRIVATE LITIGATION REFORM ACT OF 1995

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 230.177(New); 17 CFR 230.178(New); 17 CFR 230.17a(New); 17 CFR 240.3b-12(New); 17 CFR 240.3b-13(New)

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission issue proposed rules that will define the terms "outside director," "limited liability company," "partnership," and "direct participation investment program." These definitions are deemed necessary in view of changes to the Securities Act and Exchange Act made in the Private Securities Litigation Reform Act of 1995.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elliot B. Staffin, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2829

RIN: 3235–AG89

SEC—DIVISION OF CORPORATION FINANCE

Proposed Rule Stage

4624. DEFINITION OF "QUALIFIED PURCHASER"

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose a definition of the term "qualified purchaser" as used in section 18 of the Securities Act of 1933. Under that section, securities offered or sold to "qualified purchasers" are "covered securities," and thus, exempt from state regulation.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: John Reynolds, Division of Corporation Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW, Washington, DC 20549 Phone: 202 942-2950

RIN: 3235–AH15

4625. HOUSEHOLDING OF PROXY AND INFORMATION STATEMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240.14a-3; 17 CFR 240.14c-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose revisions to the proxy rules to permit companies, brokers, banks and similar intermediaries to deliver a single copy of proxy or information statements to more than one investor if they share the same address.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Division of Corporation Finance, Securities and Exchange Commission Phone: 202 942-2900

RIN: 3235–AH66

Securities and Exchange Commission (SEC) DIVISION OF CORPORATION FINANCE

Final Rule Stage

4626. STREAMLINING RULE 144

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.144

Legal Deadline: None

Abstract: The Commission has proposed revisions to Rule 144, Rule 145 and Form 144 to make the rules and form easier to understand and apply. The proposed amendments would, among other things, add a bright line test to the Rule 144 definition of affiliate, eliminate the Rule 144 manner of sale requirements, increase the Form 144 filing thresholds, and codify certain interpretive positions. The proposals also would eliminate the presumptive underwriter provisions of Rule 145.

Timetable:

Action	Date	FR Cite
NPRM	02/20/97	62 FR 9246
NPRM Comment Period End	04/29/97	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Elizabeth M. Murphy, Division of Corporation Finance, Securities and Exchange Commission Phone: 202 942-2900

RIN: 3235–AH13

4627. FINANCIAL STATEMENTS AND PERIODIC REPORTS FOR RELATED ISSUER GUARANTORS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR 210; 17 CFR 240

Legal Deadline: None

Abstract: The Commission proposed rules that would specify the financial statements and periodic reports for related issuers and guarantors. The proposals would largely reflect staff interpretations under SAB 53.

Timetable:

Action	Date	FR Cite
NPRM	03/05/99	64 FR 10579
NPRM Comment Period End	05/04/99	
Final Action	10/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Michael G. Hyatte, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW, Washington, DC 20549 Phone: 202 942-2900

RIN: 3235–AH52

4628. ADDRESSING ABUSES OF FORM S-8 BY COMPANIES USING CONSULTANTS TO RAISE CAPITAL

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w

CFR Citation: 17 CFR 239.16b; 17 CFR 228.402; 17 CFR 229.402; 17 CFR 230.101; 17 CFR 230.405; 17 CFR 239.13

Legal Deadline: None

Abstract: The Commission proposed additional amendments to Form S-8 requirements to further deter the misuse of that form. The proposals would add a timeliness requirement for filings under the Exchange Act in order

SEC—DIVISION OF CORPORATION FINANCE

Final Rule Stage

to use the form. In addition, a company formed by merger of a non-public company into an Exchange Act reporting company with only nominal assets at the time of merger would have to wait until it had filed an Exchange Act annual report containing audited financial statements reflecting the merger before it could use Form S-8. The Commission also extended the comment period on the proposal in Release No. 33-7506 to require disclosure in Part II of Form S-8 of the names of consultants who will receive securities, the number of securities to be issued to each of them, and the specific services that each will provide.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9648
NPRM Comment Period End	04/27/98	
Final Rule	03/08/99	64 FR 11103
Second NPRM	03/08/99	64 FR 11118
Final Rule Effective	04/07/99	64 FR 11103
Second NPRM Comment Period End	05/07/99	64 FR 11118
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AG94

4629. REVISIONS TO RULES GOVERNING OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.135b

Legal Deadline: None

Abstract: The Commission proposed amendments to provide that an options disclosure document prepared in accordance with Rule 9b-1 under the Exchange Act is not a prospectus and accordingly will not be subject to civil liability under section 12(a)(2) of the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
NPRM Comment Period End	07/31/98	
Final Action	04/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Lavan, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2900

RIN: 3235–AH31

Securities and Exchange Commission (SEC)
DIVISION OF CORPORATION FINANCE

Completed Actions

4630. REGULATION OF EXTRAORDINARY CORPORATE TRANSACTIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n

CFR Citation: 17 CFR 240

Legal Deadline: None

Abstract: The Commission proposed rules designed to adapt the regulatory scheme applicable to extraordinary corporate transactions such as mergers, tender offers and going private transactions to the realities of today's securities marketplace, as well as promote uniform disclosure in connection with such transactions. The Commission also proposed changes to shareholder communications rules to facilitate communications to and among securityholders.

Timetable:

Action	Date	FR Cite
NPRM	12/04/98	63 FR 67331
NPRM Comment Period End	04/05/99	
Final Action	11/10/99	64 FR 61408

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: James J. Moloney, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920

RIN: 3235–AG84

4631. EXEMPTIONS FOR INTERNATIONAL TENDER AND EXCHANGE OFFERS

Priority: Substantive, Nonsignificant. Major under 5 USC 801.

Legal Authority: 15 USC 77b; 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 77sss; 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79t; 15 USC 80a-37

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260

Legal Deadline: None

Abstract: The Commission adopted amendments to facilitate the extension of international tender offers, rights offers and business combinations to U.S. holders. The amendments provide exemptions from the tender offer rules, securities registration requirements, and trust indenture provisions.

Timetable:

Action	Date	FR Cite
ANPRM	06/12/90	55 FR 23751
ANPRM Comment Period End	09/21/90	
NPRM	06/14/91	56 FR 27582
Reproposal	12/15/98	63 FR 69136
NPRM Comment Period End	02/16/99	
Final Action	11/10/99	64 FR 61381

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Laura B. Badian, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2920
Fax: 202 942-9638

RIN: 3235–AD97

SEC—DIVISION OF CORPORATION FINANCE

Completed Actions

4632. INTERNATIONAL DISCLOSURE STANDARDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq

CFR Citation: 17 CFR part 210; 17 CFR 230.405; 17 CFR 240.36-4; 17 CFR 249.220f

Legal Deadline: None

Abstract: The Commission adopted revisions to the disclosure requirements for foreign private issuers to conform to the international disclosure standards endorsed by the International Organization of Securities Commissions in September 1998. The proposals also change the definition of "foreign private issuer" to give clearer guidance on how foreign companies should determine whether their shareholders are U.S. residents.

Timetable:

Action	Date	FR Cite
NPRM	02/09/99	64 FR 6267
NPRM Comment Period End	04/12/99	
Final Action	10/05/99	64 FR 53900
Final Action Effective	09/30/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Sandra Folsom Kinsey, Division of Corporation Finance, Securities and Exchange Commission
Phone: 202 942-2990

RIN: 3235–AH62

Securities and Exchange Commission (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4633. FORM ADV UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3(c)(1); 15 USC 80b-4

CFR Citation: 17 CFR 275.203-1; 17 CFR 275.204-1; 17 CFR 279.1

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending revising Form ADV and related rules to: (1) improve disclosure of information on advisers' disciplinary history; and (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Hamilton Price, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0531

RIN: 3235–AD21

4634. BOOKS AND RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending that the Commission update the books and records requirements for investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jeffrey O. Himstreet, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0533

RIN: 3235–AH24

4635. CUSTODY OR POSSESSION OF FUNDS OR SECURITIES OF CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 275.206(4)-2

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending a proposal to the Commission to revise the custody rule under the Investment Advisers Act of 1940.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jennifer Sawin, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0532

RIN: 3235–AH26

4636. FORM ADV-W NOTICE OF WITHDRAWAL FROM REGISTRATION AS INVESTMENT ADVISER

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-3; 15 USC 80b-11

CFR Citation: 17 CFR 279.2

Legal Deadline: None

Abstract: The Division of Investment Management is considering revising Form ADV-W to reflect amendments to the Investment Advisers Act of 1940 enacted as part of the Investment Advisers Supervision Coordination Act,

title III of the National Securities Markets Improvement Act of 1996.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Lori Hamilton Price, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0531

RIN: 3235–AH27

4637. PRINCIPAL TRANSACTIONS WITH INVESTMENT ADVISORY CLIENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6a

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering recommending that the Commission revise the conditions under which investment advisers may enter into principal transactions with their clients.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Karen Goldstein, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH34

4638. • POLITICAL CONTRIBUTIONS BY CERTAIN INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 206(4); 15 USC 211(a); 15 USC 204

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: The Commission has proposed new rule 206(4)-5, which would prohibit an investment adviser from providing advisory services for compensation to a government client for two years after the adviser or any of its partners, executive officers, or solicitors make a contribution to certain elected officials or candidates.

The Commission also has proposed rule amendments which would require a registered adviser that has government clients to maintain certain records of the political contributions made by the adviser or any of its partners, executive officers, or solicitors.

Timetable:

Action	Date	FR Cite
NPRM	08/10/99	64 FR 43556
NPRM Comment Period End	11/01/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Karen Goldstein, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0716

RIN: 3235–AH72

4639. • ROLE OF INDEPENDENT DIRECTORS OF INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-8; 15 USC 80a-24(a); 15 USC 80a-20(a); 15 USC 80a-29(e); 15 USC 80a-30; 15 USC 80a-37; 15 USC 78n; 15 USC 78w(a)(1); 15 USC 77e; 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77(s)(a); ...

CFR Citation: 17 CFR 270.2a19-1; 17 CFR 270.2a19-3; 17 CFR 270.10f-3; 17 CFR 270.12b-1; 17 CFR 270.15a-4; 17 CFR 270.17a-7; 17 CFR 270.17d-1; 17 CFR 270.17e-1; 17 CFR 270.17g-1; 17 CFR 270.18f-3; 17 CFR 270.23c-3; ...; 17 CFR 270.30d-1; 17 CFR 270.31a-2; 17 CFR 274.11A; 17 CFR 274.11a-1; 17 CFR 274.11b; 17 CFR 240.14a-101; 17 CFR 270.17a-8

Legal Deadline: None

Abstract: The Commission proposed amendments to rules under the Investment Company Act to enhance the independence and effectiveness of investment company (fund) boards of directors and to better enable shareholders to assess the independence of directors. The Commission also proposed amendments that would require funds to disclose in their proxy statements, annual reports, and registration statements more information regarding fund directors, including, among other things, directors' potential conflicts of interest.

Timetable:

Action	Date	FR Cite
NPRM	11/03/99	64 FR 59826

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Jennifer B. McHugh, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH75

4640. • CERTAIN BROKER-DEALERS NOT DEEMED TO BE INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-2(a)(11)(F)

CFR Citation: 17 CFR 275.202(a)(11)(F)-1

Legal Deadline: None

Abstract: The Division is considering recommending to the Commission that it publish for comment a new rule under the Investment Advisers Act of 1940 that would exempt from the definition of investment adviser those broker-dealers offering nondiscretionary, full-service brokerage programs so long as the investment advice provided is solely incidental to the brokerage services and other conditions are satisfied.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: James David Fielder, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0530

RIN: 3235–AH78

4641. SHAREHOLDER REPORT AND FINANCIAL STATEMENT REVISIONS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77j; 15 USC 80a-29

CFR Citation: 17 CFR 210; 17 CFR 270.30d-1

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose revisions to the shareholder report and financial statement requirements for investment companies to improve the quality of updates and simplify investment company financial statement presentation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maura McNulty, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0621

RIN: 3235–AG64

4642. PROPOSED AMENDMENTS IN INVESTMENT COMPANY ADVERTISING RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77e; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 80a-8; 15 USC 80a-22; 15 USC 80a-24(g); 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 230.482; 17 CFR 230.134

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose to amend Rule 482, to permit advertisements that are not subject to restrictions limiting the content to information "the substance of which" is in a fund's prospectus. The Division is also considering whether to recommend that the Commission propose to amend Rule 134 to rescind provisions of Rule 134 that apply only to investment companies.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Heather A. Seidel, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0721

RIN: 3235–AH19

4643. EXEMPTION FOR SUBSIDIARIES ORGANIZED TO FINANCE OPERATIONS OF DOMESTIC OR FOREIGN COMPANIES; CERTAIN PRIMA FACIE INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); 15 USC 77s; 15 USC 78w

CFR Citation: 17 CFR 270.3a-5; 17 CFR 270.3a-1; 17 CFR 230.489; 17 CFR 239.43

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to expand Rule 3a-5 to permit, among other things, finance subsidiaries of U.S. banks and insurance companies to rely on the rule. The staff also is considering whether to recommend that the Commission propose amendments to Rule 3a-1 to eliminate a requirement that has prevented certain holding companies of foreign banks and foreign insurance companies from relying on that rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Jace F. Hahn, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AE95

4644. DEPOSITS OF SECURITIES IN SECURITIES DEPOSITORIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-4

Legal Deadline: None

Abstract: Rule 17f-4 governs the use of securities depositories as custodians of the assets of management investment companies. The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments that would, among other things, update and simplify the rule's compliance requirements to reflect changes in commercial law, expand the types of entities that may be used as securities depositories, and permit investment company officers to authorize depository arrangements.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG71

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

4645. ACQUISITION BY INVESTMENT COMPANY OF INTEREST IN REPURCHASE AGREEMENT OR REFUNDED SECURITY TO BE TREATED AS ACQUISITION OF UNDERLYING SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.2a-7; 17 CFR 270.12d3-1

Legal Deadline: None

Abstract: The Commission proposed a new rule that would permit investment companies to "look through" specific repurchase agreements to the securities that collateralize them, and to "look through" specific pre-refunded bonds to escrowed securities, for certain purposes under the Investment Company Act. The Commission also proposed conforming amendments to Rule 2a-7 and Rule 12d3-1.

Timetable:

Action	Date	FR Cite
NPRM	09/29/99	64 FR 52476
NPRM Comment Period End	11/23/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Cynthia Gurnee Pugh, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH56

4646. EXEMPTION FOR THE ACQUISITION OF SECURITIES DURING THE EXISTENCE OF AN UNDERWRITING SYNDICATE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-30(a); 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.10f-3; 17 CFR 270.17a-10 (New)

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend that the Commission propose amendments to Rule 10f-3 under the Investment Company Act to permit investment companies to purchase government securities from a non-affiliated underwriter in syndicates involving an underwriter affiliated with the investment company's investment adviser.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Curtis A. Young, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH57

4647. • MUTUAL FUND AFTER-TAX RETURNS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is evaluating whether to recommend that the Commission issue a rule proposal to require that mutual funds disclose after-tax returns.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Martha Bronaugh Peterson, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0641

RIN: 3235–AH77

4648. • AFFILIATE TRANSACTION RULE AMENDMENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-6(c)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Division of Investment Management is considering recommending to the Commission amendments to rules to expand the circumstances in which funds may engage in transactions with affiliates.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Penelope Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH80

4649. • MERGERS OF CERTAIN AFFILIATED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(a); 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17a-8

Legal Deadline: None

Abstract: Rule 17a-8 under the Investment Company Act exempts from the prohibitions of section 17(a) mergers, consolidations or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors, or common officers, provided that certain conditions are met. The Division of Investment Management is considering recommending to the Commission that it expand the rule to include other affiliate relationships.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Robin S. Gross, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AH81

4650. AMENDMENTS TO FORM N-SAR, SEMIANNUAL REPORT OF REGISTERED INVESTMENT COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 249.330; 17 CFR 274.101

Legal Deadline: None

Abstract: The Division of Investment Management is considering whether to recommend that the Commission amend Form N-SAR, the semiannual report for registered investment companies, to update the items of the form.

Timetable:

Action	Date	FR Cite
NPRM	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Carolyn A. Miller, Office of Financial Analysis, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0510

RIN: 3235–AF93

4651. AMENDMENTS TO THE CASH SOLICITATION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-4; 15 USC 80b-6; 15 USC 80-11(a)

CFR Citation: 17 CFR 275.206(4)-3

Legal Deadline: None

Abstract: The staff of the Division of Investment Management is considering whether to recommend revisions to the cash solicitation rule.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Arthur B. Laby, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH33

4652. • FURTHER EDGAR SYSTEM MODERNIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 78c; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a); 15 USC 78ll; 15 USC 77sss; 15 USC 79c; 15 USC 79e; 15 USC 79f; 15 USC 79g; 15 USC 79j; 15 USC 79l; 15 USC 79m; 15 USC 79n; 15 USC 79q; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-30; 15 USC 80a-37

CFR Citation: 17 CFR 232.101 to 601

Legal Deadline: None

Abstract: The Commission is continuing to modernize the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. The staff is considering recommending that the Commission propose new rules to implement various aspects of modernization and that the Commission update the EDGAR rules generally.

Timetable:

Action	Date	FR Cite
NPRM	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Ruth Armfield Sanders, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0633

RIN: 3235–AH79

4653. PUHCA: EXEMPTION FOR CERTAIN ACQUISITIONS OF FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79c; 15 USC 79c(b); 15 USC 79(c)(3); 15 USC 79(t); 15 USC 79(n); 15 USC 79z-5b(b)

CFR Citation: 17 CFR 250.55; 17 CFR 259.5so (Revision)

Legal Deadline: None

Abstract: The proposed rule is intended to provide a safe harbor for the acquisition of one or more foreign utility companies by a registered holding company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Reproposal	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry Eisenstein, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0552

RIN: 3235–AF78

4654. STATUS OF SUBSIDIARY COMPANIES FORMED TO HOLD INTERESTS IN FOREIGN UTILITY COMPANIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 79(t)

CFR Citation: 17 CFR 250.56 (New)

Legal Deadline: None

Abstract: The proposed rule clarifies that a subsidiary of a registered holding company that is engaged exclusively in the business of owning an interest in one or more foreign utility companies will be deemed to be a foreign utility company.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 13719
NPRM Comment Period End	04/14/93	
Reproposal	01/00/00	

SEC—DIVISION OF INVESTMENT MANAGEMENT

Proposed Rule Stage

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Harry Eisenstein, Office of Public Utility Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0552

RIN: 3235–AF79

Securities and Exchange Commission (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

4655. TEMPORARY EXEMPTION FOR CERTAIN INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.15a-4

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 15a-4 under the Investment Company Act. The rule permits a person, under certain circumstances, to serve temporarily as an investment adviser to an investment company under a contract that the investment company's shareholders have not approved. The amendments would, among other things, expand the exemption provided under the rule to include temporary advisory contracts entered into as a result of a merger or similar business combination.

Timetable:

Action	Date	FR Cite
NPRM	07/28/98	63 FR 40231
NPRM Comment Period End	09/30/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Penelope Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH02

4656. INVESTMENT COMPANY NAMES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 104-290, sec 208

CFR Citation: 17 CFR 270.35d-1 (New)

Legal Deadline: None

Abstract: The Commission proposed a rule that would require a registered investment company with a name that suggests certain investments to invest at least 80 percent of its assets in the types of investments suggested by its name.

Timetable:

Action	Date	FR Cite
NPRM	02/27/97	62 FR 10955
NPRM Comment Period End	06/09/97	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Francoise Haan, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0695

RIN: 3235–AH11

4657. DELIVERY OF DISCLOSURE DOCUMENTS TO HOUSEHOLDS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37; 15 USC 80a-29(e); 15 USC 77s(a); 15 USC 78l; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 270.30d-1; 17 CFR 270.30d-2; 17 CFR 240.14a-3; 17 CFR 240.14c-3; 17 CFR 240.14c-7; 17 CFR 230.154

Legal Deadline: None

Abstract: The Commission proposed for public comment a new rule under the Securities Act of 1933 to allow issuers and broker-dealers to satisfy the Act's prospectus delivery requirements, for two or more investors sharing the same address, by sending a single prospectus, subject to certain conditions. The Commission proposed similar amendments to the rules under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 that govern the delivery of annual and (in the case of investment companies) semiannual reports to shareholders. The proposed rule and rule amendments are intended to reduce the waste and inconvenience of duplicate documents sent to investor households and to save costs for issuers.

Timetable:

Action	Date	FR Cite
NPRM	11/13/97	62 FR 61933
NPRM Comment Period End	02/02/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Penelope Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG98

4658. TRANSACTIONS IN CERTAIN CANADIAN RETIREMENT SAVINGS ACCOUNTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-1 et seq; 15 USC 77a et seq; 15 USC 78o et seq

CFR Citation: 17 CFR 230.237; 17 CFR 240.12g3-2; 17 CFR 270.7d-2

Legal Deadline: None

Abstract: The Commission proposed for public comment two new rules and rule amendments that would provide exemptions from the registration requirements of the Securities Act, the Investment Company Act, and the Exchange Act for the offer and sale of securities of foreign issuers to certain Canadian retirement plans, such as Registered Retirement Savings Plans, Registered Retirement Income Funds, or similar plans.

SEC—DIVISION OF INVESTMENT MANAGEMENT

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/26/99	64 FR 14648
NPRM Comment Period End	05/28/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Curtis A. Young, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH32

4659. CUSTODY OF INVESTMENT COMPANY ASSETS OUTSIDE THE UNITED STATES; CUSTODY OF INVESTMENT COMPANY ASSETS WITH A FOREIGN SECURITIES DEPOSITORY

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-17(f); 15 USC 80a-06(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17f-5

Legal Deadline: None

Abstract: Rule 17f-5 governs the custody of the assets of registered management investment companies outside the United States. The Commission proposed amendments to rule 17f-5 and a new rule 17f-7 to establish new standards governing the maintenance of investment company assets with foreign securities depositories. The Commission also has extended the compliance date for certain amendments to rule 17f-5 that had been adopted in 1997.

Timetable:

Action	Date	FR Cite
NPRM	04/29/99	64 FR 24489
NPRM Comment Period End	07/15/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas M. J. Kerwin, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AH55

4660. INSURANCE PRODUCTS: NEW FORM N-6 FOR REGISTRATION OF SEPARATE ACCOUNTS OFFERING VARIABLE LIFE INSURANCE CONTRACTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 80a-1 et seq; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 80a-8; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission proposed a new Form N-6 to be used for separate accounts offering variable life insurance contracts to register under both the Investment Company Act and the Securities Act. Currently, most insurance company separate accounts are organized as unit investment trusts (UITs) and register their interests on Form S-6. Form S-6 was developed for UITs generally, and not specifically for insurance company separate accounts that offer interests in variable life insurance contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/13/98	63 FR 13988
NPRM Comment Period End	07/01/98	
Final Action	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Keith Carpenter, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0679

RIN: 3235–AG37

Securities and Exchange Commission (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Long-Term Actions

4661. INSURANCE PRODUCTS: EQUITY INDEX INSURANCE PRODUCTS CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq

CFR Citation: 17 CFR 230.151

Legal Deadline: None

Abstract: The Commission issued a release requesting public comment on the structure of equity index insurance products, the manner in which they are marketed, and any other matters the Commission should consider in addressing Federal securities law issues raised by equity index insurance products.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/97	62 FR 45359
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Undetermined

Agency Contact: Kevin M. Kirchoff, Office of Insurance Products, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0672

RIN: 3235–AH23

Securities and Exchange Commission (SEC)
DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

4662. CERTAIN INVESTMENT COMPANY DIRECTORS NOT CONSIDERED INTERESTED PERSONS BECAUSE OF OWNERSHIP OF INDEX FUND SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80a-37(a); 15 USC 80a-6(c)

CFR Citation: 17 CFR 270.2a19-3

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Agenda because it will be considered in connection with RIN 3235-AH75.

Timetable:

Action	Date	FR Cite
Merged With RIN 3235-AH75	10/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Robin Gross Lehv, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AH63

4663. POLITICAL CONTRIBUTIONS BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 80b-6(4); 15 USC 80b-4; 15 USC 80b-11(a)

CFR Citation: 17 CFR 275

Legal Deadline: None

Abstract: This item was proposed under RIN 3235-AH72.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: Federal, State, Local

Agency Contact: Arthur B. Laby, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0523

RIN: 3235–AH64

4664. REQUIREMENTS RELATING TO CODES OF ETHICS WITH RESPECT TO REGISTERED INVESTMENT COMPANIES; RECORDS TO BE MAINTAINED BY INVESTMENT ADVISERS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37; 15 USC 80b-4; 15 USC 80b-6(4); 15 USC 80b-11(a); 15 USC 80a-6(c); 15 USC 80a-39; 15 USC 80b-2(a)(17); 15 USC 80b-3; 15 USC 80b-5(e); 15 USC 80b-3a; 15 USC 80b-6a

CFR Citation: 17 CFR 270.17j-1; 17 CFR 275.204-2

Legal Deadline: None

Abstract: The Commission adopted amendments to Rule 17j-1 under the Investment Company Act, Rule 204-2 under the Investment Advisers Act, and investment company registration forms under the Investment Company Act and the Securities Act. The amendments to Rule 17j-1 (i) enhance fund board of directors' oversight of personal investment activities of fund personnel, (ii) require access persons to report their securities holdings to their employers when they become access persons and annually thereafter, and (iii) require investment personnel to preclear investments in initial public offerings and limited offerings (such as private placements). Amendments to Rule 204-2 under the Investment Advisers Act expand the list of securities exempt from the recordkeeping requirements of that rule. The amendments to fund registration forms require funds to disclose the policies of the funs; its investment adviser and principal underwriter regarding personal investment activities, ethics and to file copies of their codes of ethics with the Commission.

Timetable:

Action	Date	FR Cite
NPRM	09/14/95	60 FR 47844
NPRM Comment Period End	11/13/95	
Final Action	08/20/99	64 FR 46821
Final Action Effective	10/29/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Penelope Saltzman, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0690

RIN: 3235–AG27

4665. REPORTS OF SIGNIFICANT EVENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 80a-1 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some subsequent point.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Maura McNulty, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0621

RIN: 3235–AH50

4666. EDGAR SYSTEM (MODERNIZATION)

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77f, 77g, 77h, 77j, and 77s(a); 15 USC 78c, 78l, 78m, 78n, 78o(d), 78w(a), and 78ll; 15 USC 77sss; 15 USC 79c, 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, and 79t; 15 USC 80a-8, 80a-29, 80a-30, and 80a-37

CFR Citation: 17 CFR 230.485 to 230.487; 17 CFR 230.495; 17 CFR 230.497; 17 CFR 232.10 to 232.11; 17 CFR 232.101 to 232.102; 17 CFR 232.104 to 232.106; 17 CFR 232.302 to 232.307; 17 CFR 232.310; 17 CFR 239.14 to 239.17b; 17 CFR 240.14a-101; 17 CFR 270.8b-23; 17 CFR 270.8b-32; 17 CFR 270.101; 17 CFR 274.5; 17 CFR 274.11 to 274.11c; ...

Legal Deadline: None

SEC—DIVISION OF INVESTMENT MANAGEMENT

Completed Actions

Abstract: The Commission adopted rules relating to the modernization of the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. The EDGAR system is now able to accept filings in Hypertext Markup Language as well as documents submitted in the American Standard Code for Information Interchange format. Filers will have the option of accompanying their required filings with unofficial copies in Portable Document Format. The new rules and amendments to existing rules reflect changes to filing requirements resulting from EDGAR modernization, as well as certain other changes to clarify or update the rules.

Timetable:

Action	Date	FR Cite
NPRM	03/16/99	64 FR 12908
NPRM Comment Period End	04/15/99	
Final Action	05/21/99	64 FR 27888
Final Action Effective	06/28/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Ruth Armfield Sanders, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0633

RIN: 3235–AH70

4667. AMENDMENTS TO RULE 8F-1 AND DEREGISTRATION FORM N-8F, AND RULE 101 OF REGULATION S-T

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 80a-37(a)

CFR Citation: 17 CFR 274.218; 17 CFR 270.8F-1; 17 CFR 232.101

Legal Deadline: None

Abstract: The Commission amended Form N-8F and rule 8f-1 under the Investment Company Act of 1940, the form and rule that govern the deregistration of certain investment companies. The amendments simplify and reorganize Form N-8F and expand the circumstances in which investment companies may use the form. The Commission also amended Regulation S-T to require that investment companies file Form N-8F on the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system.

Timetable:

Action	Date	FR Cite
NPRM	12/16/98	63 FR 69236
NPRM Comment Period End	02/05/99	
Final Action	04/15/99	64 FR 19469
Final Action Effective	06/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robin Gross Lehv, Division of Investment Management, Securities and Exchange Commission
Phone: 202 942-0640

RIN: 3235–AG29

Securities and Exchange Commission (SEC)
DIVISION OF MARKET REGULATION

Proposed Rule Stage

4668. NET CAPITAL RULE: CUSTOMER PROTECTION RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78h; 15 USC 78g

CFR Citation: 12 CFR 220; 17 CFR 240.3a12-11; 17 CFR 240.15c2-5; 17 CFR 240.15c3-1; 17 CFR 240.15c3-3

Legal Deadline: None

Abstract: The Division is considering recommending that the Commission propose amendments to Rules 3a12-11, 15c2-5, 15c3-1, and 15c3-3 under the Exchange Act reflecting changes to section 8 of the Act and to Regulation T under the Act.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
Fax: 202 942-9553
Email: mcgowant@sec.gov

RIN: 3235–AH05

4669. RISK ASSESSMENT RECORDKEEPING AND REPORTING REQUIREMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a(h)

CFR Citation: 17 CFR 240.17h-1T; 17 CFR 240.17h-2T

Legal Deadline: None

Abstract: The Risk Assessment Recordkeeping and Reporting Requirements, which became effective September 30, 1992 following notice and comment, were adopted as temporary rules pursuant to the Market Reform Act of 1990. These rules contain recordkeeping and reporting requirements with regard to material associated persons of broker-dealers. The Commission plans to propose final rules replacing the temporary rules during 2000.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
Fax: 202 942-9553
Email: mcgowant@sec.gov

RIN: 3235–AH06

4670. EXEMPTION OF CERTAIN FOREIGN BROKERS AND DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78j; 15 USC 78o; 15 USC 78q; 15 USC 78u

CFR Citation: 17 CFR 240.15a-6

SEC—DIVISION OF MARKET REGULATION

Proposed Rule Stage

Legal Deadline: None

Abstract: Exchange Act Rule 15a-6, which was adopted to exempt conditionally foreign broker-dealers from registration in response to the internationalization of the securities markets, is premised in large part on the willingness of U.S. broker-dealers to take responsibility for resulting trades. The Commission is considering revising the rule to focus instead on the types of securities that are sold by foreign broker-dealers, to allow U.S. institutional customers to take advantage of the efficiencies of foreign markets.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara A. Stettner, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0146
Fax: 202 942-9625
Email: stettnerb@sec.gov

RIN: 3235–AH17

4671. UNTIMELY ANNOUNCEMENT OF RECORD DATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78j; 15 USC 78w

CFR Citation: 17 CFR 240.10b-17

Legal Deadline: None

Abstract: Pursuant to a petition of the NASD, the staff is considering recommending that the Commission consider amending Exchange Act Rule 10b-17 to clarify that it applies to distributions made to holders of direct participation program interests.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Barbara Ferrara, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0084
Email: ferrarab@sec.gov

RIN: 3235–AH38

4672. AUTOMATED SUBMISSION OF TRADING DATA BY CERTAIN EXCHANGE MEMBERS, BROKERS, AND DEALERS UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a; 15 USC 78c; 15 USC 78j; 15 USC 78mm; 15 USC 78w; 15 USC 78q

CFR Citation: 17 CFR 240.17a-25

Legal Deadline: None

Abstract: The Securities and Exchange Commission is proposing Rule 17a-25 which would set forth the obligations of registered broker-dealers to submit securities trading data in an automated format when requested by the Commission staff for enforcement and other regulatory purposes. The proposed rule would improve the Commission's capacity to use electronic submissions of trading data to analyze transactions by entities that trade through multiple accounts maintained at multiple broker-dealers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Anitra Cassas, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0089
Fax: 202 942-9695
Email: cassasa@sec.gov

RIN: 3235–AH69

4673. PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUERS AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78i(a)(6); 15 USC 78j(b); 15 USC 78m(e); 15 USC 78o(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: The Commission will be proposing to simplify and update Rule 10b-18's provisions in light of market development since the Rule's adoption. Rule 10b-18 is a safe harbor from liability under the anti-manipulation provisions of sections 9(a)(2) and 10(b) of the Exchange Act, and Rule 10b-5 thereunder, for issuer purchases of its common stock made in compliance with Rule 10b-18's timing, price and volume conditions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joan Collopy, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772
Fax: 202 942-9695
Email: collopyj@sec.gov

RIN: 3235–AH37

4674. EXEMPTION FROM EXCHANGE ACT SECTION 11(D)(1) FOR SECURITIES OF FOREIGN ISSUERS SOLD ON AN INSTALLMENT BASIS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78a et seq; 15 USC 78c; 15 USC 78k; 15 USC 78w; 15 USC 78jj

CFR Citation: 17 CFR 240.11d1-3

Legal Deadline: None

Abstract: The proposed rule sets forth a uniform set of conditions that, if met, would provide an automatic exemption from section 11(d)(1) of the Securities Exchange Act, for international offerings of foreign issuers done on an installment basis if: (1) this sale is part of a foreign government offering, or (2) the sale meets certain minimum market volume criteria and the foreign issuer meets a minimum market capitalization, or (3) the shares offered in the United States are exempt from registration and will be sold only to qualified institutionsal buyers or institutional accredited investors.

SEC—DIVISION OF MARKET REGULATION

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: George Lavdas, Special Counsel, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0736
Fax: 202 942-9645
Email: lavdasg@sec.gov

RIN: 3235–AH58

4675. NET CAPITAL RULE CONCEPT RELEASE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission published a concept release soliciting comments on how the net capital rule may incorporate statistical models to calculate net capital requirements. This concept release also solicited comments and ideas on how the net capital rule could be further modified.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/97	62 FR 68011
ANPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
NPRM	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
Fax: 202 942-9553
Email: mcgowant@sec.gov

RIN: 3235–AH29

Securities and Exchange Commission (SEC) DIVISION OF MARKET REGULATION

Final Rule Stage

4676. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission has proposed amendments to Exchange Act Rule 15c3-1, the net capital rule, that could raise the minimum net capital requirement for certain introducing broker-dealers, for other classes of broker-dealers that never receive customer securities, and for broker-dealers that make markets in securities.

Timetable:

Action	Date	FR Cite
NPRM	12/02/92	57 FR 57027
Interim Final Rule	12/02/92	57 FR 56973
NPRM Comment Period End	02/05/93	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
Fax: 202 942-9553
Email: mcgowant@sec.gov

RIN: 3235–AD79

4677. MARKET RISK HAIRCUTS FOR INSTRUMENTS SUBJECT TO INTEREST RATE RISK

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78o(c)(3); 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: As part of its comprehensive review of Exchange Act Rule 15c3-1, the net capital rule, the Commission proposed for comment an amendment to the net capital rule revising the percentage deductions from net worth, or haircuts, applicable to interest rate products when calculating net capital. Under the proposal, haircuts on government securities, investment grade corporate securities, certain mortgage-backed securities, interest rate swaps, and other interest rate-related derivative instruments would be determined by treating these instruments as part of a single portfolio.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/93	58 FR 27486
ANPRM Comment Period End	12/12/93	
NPRM	12/30/97	62 FR 67996
NPRM Comment Period End	03/30/98	
Extension of Comment Period to	05/04/98	63 FR 11173
Interim Final Rule	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
Fax: 202 942-9553
Email: mcgowant@sec.gov

RIN: 3235–AG18

4678. AMENDMENTS TO RULES 17A-3 AND 17A-4 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; ...

CFR Citation: 17 CFR 240 (Revision)

Legal Deadline: None

Abstract: The Commission reproposed for comment amendments to the broker-dealer books and records rules which are designed to clarify and expand recordkeeping requirements with respect to purchase and sale documents, customer records, associated person records, customer complaints, and certain other matters.

Timetable:

Action	Date	FR Cite
NPRM	10/28/96	61 FR 55593
NPRM Comment Period End	03/31/97	
Reproposed	10/09/98	63 FR 54404
Comment Period End	11/09/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
Fax: 202 942-9553
Email: mcgowant@sec.gov

RIN: 3235–AH04

4679. PROPOSED AMENDMENTS TO TRANSFER AGENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 240.17Ad-2(a); 17 CFR 240.17Ad-2(c); 17 CFR 240.17Ad-2(e)(1); 17 CFR 240.17Ad-2(e)(2); 17 CFR 240.17Ad-10; 17 CFR 240.17Ad-12

Legal Deadline: None

Abstract: The Commission has proposed amendments to certain transfer agent rules regarding turnaround time, recordkeeping, and safekeeping of funds. The proposed amendments to the transfer agent rules are designed to minimize disruptions, particularly in the National Clearance and Settlement System for securities, that may be caused by poor turnaround performance, substandard or inaccurate recordkeeping practices, and inadequate safekeeping procedures.

Timetable:

Action	Date	FR Cite
NPRM	12/08/94	59 FR 63662
NPRM Comment Period End	02/06/95	
Final Action	06/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Jerry Carpenter, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4187
Fax: 202 942-9695
Email: carpenterj@sec.gov

RIN: 3235–AG24

4680. REVISED TRANSFER AGENT FORM AND RELATED RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78g-l

CFR Citation: 17 CFR 240.17Ac2-2; 17 CFR 240.17a-24; 17 CFR 249b.102

Legal Deadline: None

Abstract: The Securities and Exchange Commission (Commission) proposed amendments to Rule 17Ac2-2 and related Form TA-2 and its proposal to rescind Rule 17a-24 under the Securities Exchange Act. The amendments would make technical corrections and provide greater clarity to Form TA-2. Accordingly, the amendments are designed to clarify filing requirements and instructions; eliminate or change ambiguous terms and phrases; delete certain redundant or unnecessary questions; and add questions that would help the Commission to more effectively monitor the transfer agent industry.

Timetable:

Action	Date	FR Cite
NPRM	03/23/99	64 FR 15310
NPRM Comment Period End	05/17/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Lori Rae Bucci, Office of Risk Management and Control, Division Market Regulation, Securities and Exchange Commission
Phone: 202 942-0742
Fax: 202 942-9695
Email: buccil@sec.gov

RIN: 3235–AH44

4681. PROPOSED AMENDMENTS TO THE INTERMARKET TRADING SYSTEM (ITS) PLAN TO EXPAND THE ITS/COMPUTER ASSISTED EXECUTION SYSTEM LINKAGE TO ALL LISTED SECURITIES AND ELIMINATE THE UNANIMOUS VOTE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78K-1(a)(3)(B)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission proposed amendments to the plan governing the operation of the Intermarket Trading System (ITS Plan) to expand the ITS/Computer Assisted Execution System (CAES) linkage to all listed securities, including non-Rule 19c-3 securities. The amendments would also eliminate the requirement that amendments to the ITS Plan be approved by a unanimous vote of all participants; instead, a two-thirds supermajority of the participants would be required for amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/30/98	63 FR 40748
NPRM Comment Period End	08/31/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

Agency Contact: Christine Richardson, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0748
Fax: 202 942-9695
Email: richardsonch@sec.gov

RIN: 3235–AH49

4682. • EXEMPTION OF THE SECURITIES OF THE REPUBLIC OF PORTUGAL UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR PURPOSES OF TRADING FUTURES CONTRACTS ON THOSE SECURITIES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77z-2; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78j-1; 15 USC 78k; 15 USC 78k-1; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 78mm; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11; 15 USC 78a et seq; 15 USC 18c(a)(12); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3a12-8

Legal Deadline: None

Abstract: The Commission proposed for comment an amendment to Rule 3a12-8 that would designate debt obligations issued by the Republic of Portugal as "exempted securities" for the purpose of marketing and trading futures contracts on those securities in the United States. This amendment is intended to permit futures trading on the sovereign debt of Portugal.

Timetable:

Action	Date	FR Cite
NPRM	07/29/99	64 FR 41056
NPRM Comment Period End	08/30/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Additional Information: Statutory basis for Rule 3a12-8 in particular: 15 USC 78a et seq, particularly sections 3(a)(12) and 23(a), 15 USC 78c(a)(12) and 78w(a).

RIN: 3235–AH76

4683. TENDER AND REORGANIZATION AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78k-1(a)(1)(B); 15 USC 78n(d)(4); 15 USC 78o(c)(3); 15 USC 78o(c)(6); 15 USC 78q-1(a); 15 USC 78q-1(d)(1); 15 USC 78w(a)

CFR Citation: 17 CFR 240.17Ad-14

Legal Deadline: None

Abstract: The Commission proposed amendments to rule 17Ad-14 under the Securities Exchange Act of 1934. The amendments would require the establishment of book-entry accounts in connection with reorganization events and would provide securities depositories with three business days after the expiration of a tender offer, exchange offer, or reorganization event in which to deliver physical securities certificates.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47209
NPRM Comment Period End	11/03/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Michael Rae, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4187
Fax: 202 942-9695
Email: raem@sec.gov

RIN: 3235–AH53

4684. NET CAPITAL REQUIREMENTS FOR BROKERS OR DEALERS — DEFINITION OF THE TERM NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78c; 15 USC 78o; 15 USC 78q; 15 USC 78w

CFR Citation: 17 CFR 240.15c3-1

Legal Deadline: None

Abstract: The Commission issued a release proposing amendments to the net capital rule that would define the term Nationally Recognized Statistical Rating Organization (NRSRO) for purposes of the net capital rule and set forth the process for applying for NRSRO designation.

Timetable:

Action	Date	FR Cite
NPRM	12/30/97	62 FR 68018
NPRM Comment Period End	03/02/98	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: This proposal was based in part on comments received in response to a concept release (RIN 3235-AG41; 59 FR 46314), which is now combined in this rulemaking.

Agency Contact: Thomas K. McGowan, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4886
Fax: 202 942-9553
Email: mcgowant@sec.gov

RIN: 3235–AH28

4685. AMENDMENT TO RULE 9B-1 UNDER THE SECURITIES EXCHANGE ACT RELATING TO THE OPTIONS DISCLOSURE DOCUMENT

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78i; 15 USC 78w

CFR Citation: 17 CFR 240.9b-1

Legal Deadline: None

SEC—DIVISION OF MARKET REGULATION

Final Rule Stage

Abstract: The Commission proposed to amend Exchange Act Rule 9b-1, which requires that an Options Disclosure Document (ODD) be sent to a customer opening an options account. The proposed amendment would refine certain language of the Rule so that it more clearly reflects the regulatory standards it was designed to establish. In paragraph (a)(3) of the Rule, the definition of "Options Disclosure Document" will be amended to explicitly state that amendments and supplements to the ODD are included as part of the ODD. Paragraphs (c)(2) and (c)(3) will be amended to better reflect the type of information appropriately included in the ODD. Paragraphs (c)(4) and (c)(7) will be similarly amended.

Timetable:

Action	Date	FR Cite
NPRM	07/01/98	63 FR 36136
NPRM Comment Period End	07/31/98	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Kevin Ehrlich, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0778
Email: ehrlichk@sec.gov

RIN: 3235–AH30

4686. INITIATION OR RESUMPTION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78j(b); 15 USC 78o(q); 15 USC 78q(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-11

Legal Deadline: None

Abstract: As part of its efforts to respond to fraud in the microcap securities market, the Commission reproposed for comment amendments to Rule 15c2-11. These amendments would require broker-dealers to: have more issuer information before publishing priced quotations; review updated information periodically when publishing priced quotations; and make issuer information more widely available. The amendments also would expand the issuer's information that a broker-dealer must review for a non-reporting issuer. Finally the amendments would exclude from the rule securities that satisfy any one of three alternative thresholds.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9661
NPRM Comment Period End	04/27/98	
Reproposal	03/08/99	64 FR 11124
Reproposal Comment Period End	04/07/99	
Reproposal Comment Period Extended	05/08/99	64 FR 18393
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Florence E. Harmon, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0773
Fax: 202 942-0553
Email: harmonf@sec.gov

RIN: 3235–AH40

4687. • RECORDKEEPING REQUIREMENTS FOR TRANSFER AGENTS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1(a)(2); 15 USC 78q-1(d)

CFR Citation: 17 CFR 240.17Ad-7(f)

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 17Ad-7 under the Securities Exchange Act of 1934 to allow registered transfer agents to use microfiche and to use electronic storage media to preserve the records that they are required to retain.

Timetable:

Action	Date	FR Cite
NPRM	06/02/99	64 FR 29608
NPRM Comment Period End	07/02/99	
Final Action	03/00/00	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David Karasik, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-4187
Fax: 202 942-9695
Email: karasikd@sec.gov

RIN: 3235–AH74

Securities and Exchange Commission (SEC)
DIVISION OF MARKET REGULATION

Long-Term Actions

4688. AMENDMENT TO RULE 11AC1-1

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11; 15 USC 78i; 15 USC 78k; 15 USC 78l; 15 USC 78n; 15 USC 78p; 15 USC 78o; 15 USC 80a-23; 15 USC 80a-20; 15 USC 79t; 15 USC 79q; 15 USC 78ll(d); 15 USC 78x; 15 USC 78w; 15 USC 78s; 15 USC 80a-37; 15 USC 80a-29; 15 USC 78q; 15 USC 78m; 15 USC 78k-1; 15 USC 78j; 15 USC 78f; 15 USC 78d; 15 USC 78c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78k; ...

CFR Citation: 17 CFR 240.11Ac1-1(a)(25)

Legal Deadline: None

Abstract: The Commission proposed amendments to Rule 11Ac1-1 under the

SEC—DIVISION OF MARKET REGULATION

Long-Term Actions

Exchange Act to require both exchange and over-the-counter market makers to provide continuous two-sided quotations when they account for more than 1 percent of the aggregate trading volume of a security included on the Nasdaq Stock Market.

Timetable:

Action	Date	FR Cite
NPRM	08/29/96	61 FR 48333
NPRM Comment Period End	10/29/96	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: Undetermined

Agency Contact: Constance Kiggins, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0059
Fax: 202 942-9643
Email: kigginsc@sec.gov

RIN: 3235–AH00

4689. LARGE TRADER REPORTING SYSTEM

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77c to 77d; 15 USC 77s; 15 USC 77ttt; 15 USC 78c to 78d; 15 USC 78i to 78j; 15 USC 78l to 78p; 15 USC 78s; 15 USC 78w; 15 USC 78x; 15 USC 79q; 15 USC 79t; 15 USC 80a-29; 15 USC 80a-37

CFR Citation: 17 CFR 240.13h-1

Legal Deadline: None

Abstract: The Commission has published for comment reproposed Exchange Act Rule 13h-1, which would require large traders to disclose accounts to the Commission, and would require broker-dealers to maintain and report large trader transaction records to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	02/17/94	59 FR 7917
NPRM Comment Period End	04/18/94	

Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: RFA: N

Agency Contact: Alton Harvey, Division of Market Regulation, Office of Market Supervision, Securities and Exchange Commission
Phone: 202 942-4167
Fax: 202 942-9697
Email: harveya@sec.gov

RIN: 3235–AE42

4690. DESTRUCTION OF CANCELLED SECURITIES CERTIFICATES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78q-1

CFR Citation: 17 CFR 240.17Ad-19

Legal Deadline: None

Abstract: The Commission is considering proposing Rule 17Ad-19 to establish regulations for the destruction of securities certificates and to require each transfer agent to establish written procedures for the storage and destruction of cancelled securities certificates.

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Thomas C. Etter Jr., Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW, Washington, DC 20549
Phone: 202 942-0178
Fax: 202 942-9695
Email: ettert@sec.gov

RIN: 3235–AH54

Securities and Exchange Commission (SEC)
DIVISION OF MARKET REGULATION

Completed Actions

4691. AMENDMENT TO FORM BDW AND AMENDMENT TO EXCHANGE ACT RULE 15B6-1 AND AMENDMENTS TO RULES 15B1-1, 15B3-1, 15BA2-2, 15 BC3-1, 15CA1-1, AND 15CC1-1

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77j; 15 USC 77d; 15 USC 77s; 15 USC 77z-2; 15 USC 77j; 15 USC 77g; 15 USC 77eee; 15 USC 77nnn; 15 USC 77ggg; 15 USC 78k-1; 15 USC 78k; 15 USC 78j-1; 15 USC 78f; 15 USC 78d; 15 USC 77g; 15 USC 77j; 15 USC 77z-2; 15 USC 77eee; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78i; 15 USC 78j; 15 USC 78l

CFR Citation: 17 CFR 240; 17 CFR 249; 17 CFR 249.501a

Legal Deadline: None

Abstract: The Commission adopted amendments to Form BDW, the uniform request for withdrawal from broker-dealer registration under the Securities Exchange Act. The amendments are designed to implement recommended changes to the Central Registration Depository System, a computer system operated by the National Association of Securities Dealers, Inc. that maintains registration information regarding registered broker-dealers and their registered personnel for use by the Commission, the self-regulatory organizations, and state securities regulators. The amendments include certain clarifying amendments to Form BDW, including new instructions for filing Form BDW electronically with the Central Registration Depository. The Commission also has proposed revisions to rules governing the withdrawal of broker-dealer registration under the Securities Exchange Act. Specifically, the revisions permit broker-dealers that are withdrawing from registration to consent to an extension of the effective date of their withdrawal. The revisions also permit the Commission to extend the effective date for such periods as the Commission may determine. In addition, the rules governing the filing of Form BDW have been revised to provide for electronic filing of these forms.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 37701
NPRM Comment Period End	08/19/96	

SEC—DIVISION OF MARKET REGULATION

Completed Actions

Action	Date	FR Cite
Final Action	04/30/99	64 FR 25143
Final Action Effective	06/09/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONTINUED: 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 78mm; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

Agency Contact: Brian R. Baysinger, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0073
Fax: 202 942-9645
Email: baysingerb@sec.gov

RIN: 3235–AG69

4692. PURCHASES OF CERTAIN EQUITY SECURITIES BY THE ISSUER AND OTHERS

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78i(a)(2); 15 USC 78j(b)

CFR Citation: 17 CFR 240.10b-18

Legal Deadline: None

Abstract: In response to a petition for rulemaking filed by the New York Stock Exchange Inc., the Commission proposed to modify the timing condition in current Rule 10b-18 to extend the manipulation safe harbor to issuer bids for and purchase of its common stock: (1) that are effected either (i) from the reopening of trading until the close of trading following, and on the same day as, a market-wide trading suspension, or (ii) at the next day's opening, if the market-wide trading suspension is in effect at the scheduled close of trading; and (2) that comply with the manner, pricing and volume conditions in Rule 10b-18.

Timetable:

Action	Date	FR Cite
NPRM	11/06/98	63 FR 59911
NPRM Comment Period End	12/07/98	
Final Action	04/30/99	64 FR 25143
Final Action Effective	06/09/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Additional Information: LEGAL AUTHORITY CONTINUED: 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 78mm; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

Agency Contact: Barbara A. Stettner, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0146
Fax: 202 942-9625
Email: stettnerb@sec.gov

RIN: 3235–AH73

4693. • BROKER-DEALER REGISTRATION AND REPORTING

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77z-2; 15 USC 77eee; 15 USC 77ggg; 15 USC 77nnn; 15 USC 77sss; 15 USC 77ttt; 15 USC 78c; 15 USC 78d; 15 USC 78f; 15 USC 78i; 15 USC 78j; 15 USC 78j-1; 15 USC 78k; 15 USC 78k-1; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78p; 15 USC 78q; 15 USC 78s; 15 USC 78u-5; 15 USC 78w; 15 USC 78x; 15 USC 78ll(d); 15 USC 78mm; 15 USC 79q; 15 USC 79t; 15 USC 80a-20; 15 USC 80a-23; 15 USC 80a-29; 15 USC 80a-37; 15 USC 80b-3; 15 USC 80b-4; 15 USC 80b-11

CFR Citation: 17 CFR 240; 17 CFR 249

Legal Deadline: None

Abstract: The SEC adopted technical amendments to Form BD, the uniform broker-dealer registration form, that accomodate electronic filing in "Web CRD," the new, Internet-based Central Registration Depository System.

Timetable:

Action	Date	FR Cite
NPRM	05/10/99	64 FR 25153
NPRM Comment Period End	06/09/99	
Final Rule	07/12/99	64 FR 37586
Final Rule Effective	07/30/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Joan Collopy, Office of Risk Management, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0772
Fax: 202 942-9695
Email: collopyj@sec.gov

RIN: 3235–AH48

4694. PROPOSED AMENDMENTS TO NATIONAL MARKET SYSTEM PLAN

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 78k-1(a)(3)

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission proposed for public comment on its own initiative alternative amendments to the plan governing the operation of the Intermarket Trading System. The proposed amendments would have provided for the linkage of the Pacific Exchange Inc. ("PCX") Application of the Optimark System to the ITS system, and were prepared by the Pacific Exchange and the New York Stock Exchange.

The Commission is withdrawing this item from the Unified Agenda because the Commission does not expect to consider the item within the next 12 months, but the Commission may consider the item further at some subsequent point.

Timetable:

Action	Date	FR Cite
NPRM	07/22/98	63 FR 39306
NPRM Comment Period End	08/21/98	
Withdrawn	10/01/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Christine Richardson, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0748
Fax: 202 942-9695
Email: richardsonch@sec.gov

RIN: 3235–AH51

SEC—DIVISION OF MARKET REGULATION

Completed Actions

4695. YEAR 2000 OPERATIONAL CAPABILITY REQUIREMENTS OF REGISTERED BROKER-DEALERS AND TRANSFER AGENTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 78c(b); 15 USC 78o(b) and (c); 15 USC 78q; 15 USC 78w(a); 15 USC 78q(a); 15 USC 78q-1(d); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15b7-3T; 17 CFR 240.17a-9T; 17 CFR 240.17Ad-21T

Legal Deadline: None

Abstract: The Commission adopted rules that are intended to protect investors and the securities markets by reducing the potential systemic risk as a result of computer system failure related to the Year 2000 at registered broker-dealers and non-bank transfer agents.

Timetable:

Action	Date	FR Cite
NPRM	03/11/99	64 FR 12127
NPRM Comment Period End	04/10/99	
Final Action	08/03/99	64 FR 42012
Final Action Effective	08/30/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: Robert Long, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0097
Fax: 202 942-9695
Email: longrob@sec.gov

RIN: 3235–AH61

4696. EXEMPTION OF THE SECURITIES OF THE KINGDOM OF SWEDEN UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR PURPOSES OF TRADING FUTURES CONTRACTS ON THOSE SECURITIES

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 77c; 15 USC 77nnn; 15 USC 77sss; 15 USC 78c; 15 USC 78i; 15 USC 78j-1; 15 USC k-1; 15 USC 78m; 15 USC 78o; 15 USC 78n; 15 USC 79q; 15 USC 78mm; 15 USC 78dll(D); 15 USC 78x; 15 USC 78w; 15 USC 78u-5; 15 USC 78s; 15 USC 78q; 15 USC 80b-11; 15 USC 80b-4; 15 USC 80b-3; 15 USC 80a-37; 15 USC 80a-29; 15 USC 80a-23; 15 USC 80a-20; 15 USC 79t; 15 USC 78p; 15 USC 78l; 15 USC 78k; 15 USC 78f; 15 USC 78d; 15 USC 77ttt; 15 USC 78j; 15 USC 77ggg; 15 USC 77d; 15 USC 77g; 15 USC 77j; 15 USC 77s; 15 USC 77z-2; 15 USC 77eee

CFR Citation: 17 CFR 240.3a12-8

Legal Deadline: None

Abstract: The Commission amended Rule 3a12-8 to designate debt obligations issued by the Kingdom of Sweden as "Exempted Securities" for the purpose of marketing and trading futures contracts on those securities in the United States. This amendment is intended to permit futures trading on the sovereign debt of Sweden.

Timetable:

Action	Date	FR Cite
NPRM	03/01/99	64 FR 9948
NPRM Comment Period End	03/31/99	
Final Action	06/02/99	64 FR 29550
Final Action Effective	06/02/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Joshua Kans, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission
Phone: 202 942-0079
Fax: 202 942-9645
Email: kansj@sec.gov

RIN: 3235–AH68

Securities and Exchange Commission (SEC)

Proposed Rule Stage

OFFICES AND OTHER PROGRAMS

4697. • SELECTIVE DISCLOSURE AND INSIDER TRADING

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq.; 15 USC 78a et seq.

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The staff is considering whether to recommend new rules concerning selective disclosure of material, nonpublic information by issuers, and addressing several issues under insider trading law.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Richard Levine, General Counsel Office, Securities and Exchange Commission
Phone: 202 942-0890
Fax: 202 942-9625

RIN: 3235–AH82

4698. • AUDIT COMMITTEE DISCLOSURE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 15 USC 77a et seq; 15 USC 78a et seq; 15 USC 79a et seq; 15 USC 80a et seq

CFR Citation: 17 CFR 210; 17 CFR 228; 17 CFR 229; 17 CFR 240

Legal Deadline: None

Abstract: The Commission is proposing amendments to Rule 10-10 of Regulation S-X, Rule 310 of Regulation S-B, and Item 7 of Schedule 14A under the Securities Exchange Act of 1934, and adopting new Item 306 of Regulations S-K and S-B. These amendments and new item are intended to improve disclosure relating to the functioning of corporate audit committees and enhance the reliability and credibility of financial statements of public companies.

Timetable:

Action	Date	FR Cite
NPRM	10/14/99	64 FR 55648
NPRM Comment Period End	11/29/99	
Final Action	01/00/00	

Regulatory Flexibility Analysis Required: Undetermined

Government Levels Affected: None

Agency Contact: Meredith Mitchell, Senior Counselor, Office of the General Counsel, Securities and Exchange Commission

SEC—OFFICES AND OTHER PROGRAMS — Proposed Rule Stage

Phone: 202 942-0900
RIN: 3235–AH83

Securities and Exchange Commission (SEC) — Final Rule Stage
OFFICES AND OTHER PROGRAMS

4699. AMENDMENTS TO THE FREEDOM OF INFORMATION ACT, PRIVACY ACT, AND CONFIDENTIAL TREATMENT RULES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 552; 5 USC 552a; 15 USC 77f(d); 15 USC 77s; 15 USC 77ggg(a); 15 USC 78m(F); 15 USC 78w; 15 USC 79t; 15 USC 79v(a); 15 USC 77sss; 15 USC 80a-37; 15 USC 80a-44(a); 15 USC 80a-44(b); 15 USC 80b-10; 15 USC 80b-11

CFR Citation: 17 CFR 200.80; 17 CFR 200.83; 17 CFR 200.303; 17 CFR 200.306; 17 CFR 200.308; 17 CFR 200.310; 17 CFR 200.312

Legal Deadline: None

Abstract: The Commission proposes to amend its rules to implement recent statutory and case law requirements relating to access to Commission records. The proposed amendments would also conform the rules to current Commission practice and correct typographical errors.

Timetable:

Action	Date	FR Cite
NPRM	04/22/99	64 FR 19732
NPRM Comment Period End	06/21/99	
Final Action	12/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected: Federal, State, Local, Tribal

Agency Contact: Betty Lopez, SEC Operations Center, Securities and Exchange Commission, MS 0-5, 6432 General Green Way, Alexandria, VA 22312-2413
Phone: 202 942-4327

RIN: 3235–AH71

[FR Doc. 99–24751 Filed 11–19–99; 8:45 am
BILLING CODE 8010–01–F

VOL 64 ISS 224 NO 22 1999 UMI

federal register

Monday,
November 22, 1999

Part LXIV

Surface Transportation Board

Semiannual Regulatory Agenda

Surface Transportation Board (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

STB Ex Parte No. 536 (Sub-No. 7)

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) Current and projected rulemakings; and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule, including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules which will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its October 1999 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Unified Agenda of Federal Regulatory and Deregulatory Actions is coordinated by the Office of Management and Budget pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: August 20, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn and Commissioner Burkes.

Vernon A. Williams,

Secretary.

Long-Term Actions

Sequence Number	Title	Regulation Identification Number
4700	Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision, STB Ex Parte No. 282 (Sub-No. 15)	2140-AA03
4701	Safe Implementation of Board-Approved Transactions, STB Ex Parte No. 574	2140-AA50

Completed Actions

Sequence Number	Title	Regulation Identification Number
4702	Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings, STB Ex Parte No. 527 (Sub-No. 2)	2140-AA54

Surface Transportation Board (STB)

Long-Term Actions

4700. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, STB EX PARTE NO. 282 (SUB-NO. 15)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Board is considering whether to expand the "nonconnecting carrier" class exemption to embrace all transactions subject to the statutory consolidation provision, except: (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly controlled railroads serving any interchange points.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	
Internal Review of Comments	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW, Washington, DC 20423-0001
Phone: 202 565-1609
Fax: 202 565-1695
Email: dettmarj@stb.dot.gov

RIN: 2140–AA03

4701. SAFE IMPLEMENTATION OF BOARD-APPROVED TRANSACTIONS, STB EX PARTE NO. 574

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 553; 5 USC 559; 49 USC 721; 49 USC 10901; 49 USC 10902; 49 USC 11323; 49 USC 11324; 49 USC 11325; 42 USC 4332

CFR Citation: 49 CFR 244; 49 CFR 1106

Legal Deadline: None

Abstract: The Surface Transportation Board and the Federal Railroad Administration (FRA) have proposed complementary regulations establishing procedures for the development and implementation of safety integration plans (SIPs) by railroads proposing to engage in certain merger, consolidation, or acquisition of control transactions with another railroad. Under the proposed rules, railroads seeking to consummate a Board-covered transaction would be required to file a written document with the FRA and the Board explaining how each step in implementing a contemplated transaction would be performed safely.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/97	62 FR 64193
ANPRM Comment Period End	02/19/98	
NPRM	12/31/98	63 FR 72225
NPRM Comment Period End	03/01/99	
Internal Review of Comments	To Be	Determined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Evelyn Kitay, Attorney, Surface Transportation Board, 1925 K Street NW, Washington, DC 20423-0001
Phone: 202 565-1563
Fax: 202 565-1695
Email: kitaye@stb.dot.gov

RIN: 2140–AA50

Surface Transportation Board (STB)

Completed Actions

4702. • EXPEDITED PROCEDURES FOR PROCESSING RAIL RATE REASONABLENESS, EXEMPTION AND REVOCATION PROCEEDINGS, STB EX PARTE NO. 527 (SUB-NO. 2)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 10502; 49 USC 10704

CFR Citation: 49 CFR 1121

Legal Deadline: None

Abstract: The Board has clarified the procedures under 49 CFR Part 1121 regarding when additional information or public comments will be sought in exemption proceedings.

Timetable:

Action	Date	FR Cite
NPRM	06/25/99	64 FR 34185
NPRM Comment Period End	07/26/99	
Final Action	08/26/99	64 FR 46594
Final Action Effective	09/25/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: John J. Sado, Attorney, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423-0001
Phone: 202 565-1642
TDD Phone: 202 565-1695
Fax: 202 565-9002
Email: sadoj@stb.dot.gov

RIN: 2140–AA54

[FR Doc. 99–23658 Filed 11–19–99; 8:45 am]

BILLING CODE 4915–00–F

VOL
64
ISS
2
2
4
NO
22
999
UMI

A. IND

Secti
for the p
entities.
review i
requirem
agencies
pleted se
The
quence
informati
Unified

Seq. No.	
21	Th ti 6
1003	In H A G c
1004	Se it S
1005	St s (F
1007	St s t
1008	St s (F
1009	St s F v
1010	Fo (F
1011	Fo (F (F
1012	Fo ((c
1013	W I c t

A. INDEX TO ENTRIES THAT AGENCIES HAVE DESIGNATED FOR SECTION 610 REVIEW

Section 610(c) of the Regulatory Flexibility Act (5 U.S.C. 601) requires each agency to have a plan for the periodic review of its rules that have significant economic impact on a substantial number of small entities. Each agency must publish annually in the **Federal Register** a list of the rules that it plans to review in the next year. Some agencies use The Regulatory Plan and the Unified Agenda to fulfill this requirement. Those agencies indicate such entries by appending "(Section 610 Review)" to the titles. Some agencies have also indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews.

The following index lists the regulatory actions for which agencies included this designation. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

Seq. No.	Title
	ED
21	The State Vocational Rehabilitation Services Program **(Section 610 Review)**
1003	Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions **(Completion of a Section 610 Review)**
1004	Secretary's Recognition of Accrediting Agencies **(Completion of a Section 610 Review)**
1005	Student Assistance General Provisions (Return of Title IV Aid) **(Completion of a Section 610 Review)**
1007	Student Assistance General Provisions (Consumerism) **(Completion of a Section 610 Review)**
1008	Student Assistance General Provisions (Cohort Default Rates) **(Completion of a Section 610 Review)**
1009	Student Assistance General Provisions (Student Eligibility) **(Completion of a Section 610 Review)**
1010	Federal Perkins Loan Program **(Completion of a Section 610 Review)**
1011	Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program **(Completion of a Section 610 Review)**
1012	Federal Family Education Loan (FFEL) Program (Lenders and Guaranty Agencies) **(Completion of a Section 610 Review)**
1013	William D. Ford Federal Direct Loan Program (Repayment Incentives) **(Completion of a Section 610 Review)**
1017	Institutional Eligibility Under the Higher Education Act of 1965, as Amended **(Completion of a Section 610 Review)**
1019	Student Assistance General Provisions; Federal Work-Study Programs; Federal Supplemental Education Opportunity Grant Programs; Federal Pell Grant Program **(Completion of a Section 610 Review)**
1022	Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan Program; and Federal Perkins Loan Program **(Completion of a Section 610 Review)**
	HHS
1110	Investigational Use New Animal Drug Regulations **(Section 610 Review)**
1233	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-F) **(Section 610 Review)**
1352	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 2000 Rates (HCFA-1053-P) **(Section 610 Review)**
	DOJ
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
	DOL
63	Government Contractors: Nondiscrimination and Affirmative Action Obligations, Executive Order 11246 (ESA/OFCCP) **(Section 610 Review)**
2105	Training and Retraining of Miners **(Rulemaking Resulting From a Section 610 Review)**
2132	Control of Hazardous Energy Sources (Lockout/Tagout) **(Section 610 Review)**
2133	Occupational Exposure to Ethylene Oxide **(Section 610 Review)**
2137	Grain Handling Facilities **(Section 610 Review)**
2138	Cotton :Dust **(Section 610 Review)**
	DOT
93	Hours of Service of Drivers **(Section 610 Review)**
2209	Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**
2248	Barges Carrying Bulk Liquid Hazardous Material (USCG-1999-5117) **(Section 610 Review)**
2315	Certification Procedures for Products and Parts **(Section 610 Review)**
2493	Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**
2525	Child Restraint Systems **(Section 610 Review)**
	EPA
3624	Criteria for Municipal Solid Waste Landfills **(Section 610 Review)**

Seq. No.	Title
3666	Effluent Limitations Guidelines and Standards for the Organic Chemicals, Plastics and Synthetic Fibers Category **(Section 610 Review)**
3727	Effluent Guidelines and Standards for the Ore Mining and Dressing Point Source Category, Gold Placer Mine Subcategory **(Completion of a Section 610 Review)**
	FRS
4487	Section 303 Regulatory Review **(Section 610 Review)**
4488	Regulation: B — Equal Credit Opportunity (Docket Number R-1008) **(Section 610 Review)**

VOL 64 ISS 224 NO 22 999 JMI

B.

The
those rul
meet that
Unified A
The
the Act
small bus
of the en
Informati
this issue

Seq. No.	
1	Nati
7	Spe gr C Sy
12	Egg tic
14	Sub th P
15	Elim P
172	Live of
177	Fed a
246	Len G
250	Dai g
255	Kan
293	Gua S
295	Den q
298	Nat ti
409	Rul
411	Irra u
413	Nut a
418	Ant s
419	Rec D a
424	San M
430	Exp n

B. INDEX TO ENTRIES FOR WHICH A REGULATORY FLEXIBILITY ANALYSIS IS REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for The Regulatory Plan and the Unified Agenda

The following index lists the regulatory actions in this publication for which agencies believe that the Act may require a Regulatory Flexibility Analysis because the rule is likely to have such effects on small businesses, small governmental jurisdictions, or small organizations. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

Small Businesses

Seq. No.	Title
	USDA
1	National Organic Program
7	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
12	Egg Products Inspection Regulations
14	Substances Approved for Use in the Preparation of Meat and Poultry Products
15	Elimination of Requirements for Partial Quality Control Programs
172	Livestock Mandatory Reporting Act of 1999
177	Federal Milk Order Consolidation and Reform
246	Lender Buyback of Repurchased Guaranteed Loans
250	Dairy Market Loss Assistance Program
255	Karnal Bunt
293	Guaranteed Rural Housing Loan Single Family
295	Denying Credit to Applicants Delinquent on Any Federal Debt
298	National Flood Insurance Regulations
409	Rules of Practice
411	Irradiation of Meat and Meat Products
413	Nutrition Labeling of Ground Beef and Hamburger
418	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry
419	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products
424	Sanitation Requirements for Official Meat and Poultry Establishments
430	Export Sales Reporting Requirement
441	Species Surplus to Domestic Manufacturing Needs
442	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations
444	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber
468	Business and Industry Direct Loan Program
470	Affirmative Fair Housing Marketing Plan
471	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock
492	RUS Approval of Additions and Extensions to Electric Plants
	DOC
18	Chemical Weapons Convention Regulations
566	Administration of State Log Exports Ban
594	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish
598	Amendment to the Observer Program
601	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl
602	Regulatory Amendment To Establish a Program for the Collection and Use of Fees in the Individual Fishing Quota Program
604	Establish "Central Registry for Limited Access System Permits"
608	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish
612	Fishing Capacity Reduction Program
614	Adjustment of Management Program: Bottomfish Fisheries in the Hawaiian Islands
616	Amendment 9 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic
618	Regulatory Amendment To Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear
623	Regulatory Amendment To Allow "Stacking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries
624	Amendment 14 to the Pacific Coast Salmon Plan
625	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet
627	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits
628	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
631	Fishery Management Plan (FMP) for Calico Scallop Fishery in the South Atlantic Region
636	Regulatory Amendment To Reinstate 6000 Pound Trip Limit of Halibut in Area Northeast of the Bering Sea

Small Businesses—Cont.

Seq. No.	Title
639	Regulatory Amendment To Establish Total Allowable Catch Limits for the Gulf Groups of King and Spanish Mackerel for the 1999-2000 Fishing Year
641	Fishery Management Plan Amendment To Revise CDQ Regulations
642	Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region
646	Fishery Management Plan Amendment to Rebuild C. Bairdi Stocks
647	Enhanced Measures To Mitigate Seabird Bycatch in the Alaska Hook-and-Line Fisheries
650	PR/FR Vessel Monitoring System for Aleutian Island Atka Mackerel Fishery
651	Alaska Groundfish Fishery Management Plan Amendment To Revise Improved Retention/Improved Utilization Program (IR/IU)
653	Scallop License Limitation Program
654	Recordkeeping and Reporting Requirements for 2000
655	Regulatory Amendment To Change the Regulations Implementing the North Pacific Observer Program
661	FMP Amendment 53 to Require Full Retention of Demersal Shelf Rockfish
674	Resubmission of a Previously Disapproved Measure (Greater Amberjack Trip Limit) Originally Contained in Amendment 9 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region
678	Implementation of Western Pacific Coral Reef Ecosystem Fishery Management Plan (FMP)
679	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific.
683	Regulatory Amendment to Establish Total Allowable Catch Limits for the Atlantic Groups of King and Spanish Mackerel for the 1999-2000 Fishing Year
692	Regulatory Amendment to Implement an Observer Program for Vessels Delivering Shore-side; Pacific Coast Groundfish
711	Amendment 1 to the Fishery Management Plan for Corals and Reef-Associated Plants and Invertebrates for Puerto Rico and the U.S. Virgin Islands
712	Implement Regulations Under ACFCMA To Provide for Coordinated Management of the American Lobster Resource Throughout Its Range, End Overfishing, and Rebuild the American Lobster Stock
715	Implementation of a Fishery Management Plan for Monkfish
716	Amendment 16A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico
723	Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region
724	Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region
725	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan
729	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species
738	Emergency Interim Rule to Close Red Porgy Fishery of the South Atlantic Region
755	Sea Turtle Conservation; Shrimp Trawling Requirements
768	Regulatory Amendment To Implement Bycatch Reduction Measures
770	Rulemaking To Establish the North Pacific Loan Program
775	Observer Funding Policy
789	Sea Turtle Monitoring and Conservation Measures for Non-shrimp Fisheries
790	Proposed Rule To Require Certain Fish From Mexico To Retain Heads and Tails Intact in Order To Protect the Endangered Totoaba
793	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
801	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ
802	Fishery Management Plan (FMP) for Atlantic Highly Migratory Species, Amendment 1 to the Billfish FMP and Consolidation of Regulations
806	Implementation of Amendment 5 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region
809	Western Pacific Crustacean Fisheries; Bank-Specific Harvest Guidelines
813	Amend the Bluefin Statistical Document To Allow for the Attachment of Re-export Certificates
822	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries
823	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
825	Regulatory Amendment To Establish Total Allowable Catch Limits for the Atlantic and Gulf of Mexico Groups of King and Spanish Mackerel for the 1998-99 Fishing Year
827	Regulatory Amendment To Adjust the Gulf of Mexico Red Snapper TAC and Associated Management Measures Under the Framework Procedure of the FMP for the Reef Fish Resources of the Gulf of Mexico
832	Regulatory Amendment - Pacific Coast Groundfish Fishery; Final 1999 ABC, OY and Tribal and Nontribal Allocations for Pacific Whiting
838	Revise BSAI Bycatch Management Program for Chinook Salmon
845	Amendment 45 to Extend Allocation of Pollock to the CDQ Program
850	Taking and Importing of Marine Mammals: Tuna Purse Seine Vessel Observer Expenses
853	Final Policies for Safe Harbor and Candidate Conservation Agreements

DOD

890	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
893	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns

Small Businesses—Cont.

Seq. No.	Title
	HHS
27	Standards for Privacy of Individually Indentifiable Health Information
28	Hearing Aids; Professional and Patient Labeling; Conditions for Sale
29	Labeling for Human Prescription Drugs; Revised Format
30	Pharmacy and Physician Compounding of Drug Products
31	CGMPs for Blood and Blood Components: Notification of Consignees and Transfusion Recipients Receiving Blood and Blood Components at Increased Risk of Transmitting HCV Infection
32	Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Supplements
33	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices
40	National Standard Health Care Provider Identifier (HCFA-0045-F)
43	Security and Electronic Signature Standards (HCFA-0049-F)
44	Health Insurance Reform: Standards for Electronic Transactions (HCFA-0149-F)
45	National Standard Employer Identifier (HCFA-0047-F)
1123	Registration of Foreign Establishments and Product Listing
1140	Food Labeling: Trans Fatty Acids in Nutrition Labeling and Nutrient Content Claims
1158	New Animal Drug Approval Process; Implementation of Title I of the Generic Animal Drug and Patent Term Restoration Act (GADPTRA)
1159	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1184	Structure/Function
1186	Food Labeling Review
1187	Medical Foods
1190	Reinventing FDA Food Regulations
1202	Dietary Supplement Regulations in Response to DSHEA
1203	Over-the-Counter Human Drugs; Labeling Requirements
1231	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1236	National Standard for Identifiers of Health Plans (HCFA-4145-P)
1237	State Child Health; Implementing Regulations for the State Children's Health Insurance Program (HCFA-2006-P)
1254	Utilization Control and Discontinued Review Activities; Medicaid (HCFA-2101-FC)
1255	Update of Ratesetting Methodology, Payment Rates and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective for Calendar Year 2000 (HCFA-1885-F)
1270	Omnibus Nursing Home Reform Requirements (HCFA-3488-F)
1280	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1293	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)
1294	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (HCFA-1809-F)
1297	CLIA Program: Categorization of Waived Tests (HCFA-2225-FC)
1298	Liability for Third Parties To Pay for Services (HCFA-2080-P)
1299	Definition of Skilled Nursing Facility (SNF) for Coverage of Durable Medical Equipment (DME) and Home Health (HCFA-1834-P)
1302	CLIA Program; Cytology Proficiency Testing (HCFA-2233-N)
1314	Waiver of Staffing Requirements for End Stage Renal Disease (ESRD) Facilities Participating in an Experiment (HCFA-2236-GNC)
1316	Revisions to Conditions for Coverage for Ambulatory Surgical Centers (HCFA-3887-P)
1317	Disclosure of Peer Review Organization Information in Response to Beneficiary Complaints (HCFA-3241-P)
1318	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1320	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1326	Medicaid: Medical Child Support (HCFA-2081-P)
1329	Surety Bond Requirements for Comprehensive Outpatient Rehab. Facilities, Rehab. Agencies, Community Mental Health Centers, and Independent Diagnostic Testing Facilities (HCFA-6005-P)
1352	Changes to the Hospital Inpatient Prospective Payment System and Fiscal Year 2000 Rates (HCFA-1053-P) **(Section 610 Review)**
1356	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-F)
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997
1392	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians
	DOI
55	Valuation of Oil From Indian Leases
56	Valuation of Oil From Federal Mineral Leases
57	Surface Management (Locatable Minerals)
1533	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making
1552	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule
1576	Export of American Ginseng Harvested in 1994-1996
1583	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20
1597	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting

Small Businesses—Cont.

Seq. No.	Title
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1750	Refunds and Recoupment of Overpayments on OCS
1751	Takes vs. Entitlements Reporting
1752	Accounting Relief for Marginal Properties
1753	Chronic Erroneous Reporting
1765	Royalty Payment Liability
1766	Credit Adjustments
1767	Prepayment of Royalties
1770	Valuation of Gas From Indian Leases
1771	Administrative Appeals Process
1772	Electronic Reporting
1775	Change to Delegated State Audit Functions
1786	Central Valley Project of California — Purposes, Uses, and Allocation of Water Supplies
1787	Recovering the Value of Rights of Use and Related Administrative Costs
1809	Location Recording, and Maintenance of Mining Claims and Sites
	DOJ
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1869	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities
1898	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act
1912	Filing Factual Statements About Alien Prostitutes
1974	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification
2008	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law
2014	Implementation of Sections 104 and 109 of the Communications Assistance for Law Enforcement Act
2026	Bulletproof Vest Partnership Grant Act of 1998

Seq. No.	Title
	DOL
65	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
70	National Medical Support Notice
71	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)
74	Amendments to Employee Benefit Plan Claims Procedures Regulation
77	Verification of Dust Control Plan and Continuous Monitoring
78	Determination of Concentration of Respirable Coal Mine Dust
79	Diesel Particulate Matter (Exposure of Underground Coal Miners)
80	Diesel Particulate Matter (Exposure of Underground Metal and Nonmetal Miners)
81	Ergonomics Programs: Preventing Musculoskeletal Disorders
82	Safety and Health Programs (for General Industry and the Maritime Industries)
84	Steel Erection (Part 1926) (Safety Protection for Ironworkers)
85	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)
86	Occupational Exposure to Tuberculosis
2032	Equal Access to Justice Act
2079	Civil Penalty for Failure To Furnish Certain Plan Documents
2081	Small Pension Plan Security Amendments
2085	Limitation of Liability for Insurers and Others Under Part 4 of Title I of ERISA and Section 4975 of the Internal Revenue Code
2091	Electronic Disclosure of Employee Benefit Plan Information
2100	Occupational Exposure to Coal Mine Dust (Lowering Exposure Limit)
2101	Belt Entry Use as Intake Aircourse To Ventilate Working Sections
2102	Metal/Nonmetal Impoundments
2103	Surface Haulage
2104	Improving and Eliminating Regulations
2105	Training and Retraining of Miners **(Rulemaking Resulting From a Section 610 Review)**
2108	Safety Standards for Self-Rescue Devices in Underground Coal Mines; Safety Standards for Self-Rescue Devices in Category I through V Gassy Underground Metal and Nonmetal Mines
2109	Hazard Communication
2111	Longwall Equipment (Including High-Voltage)
2112	Requirements for Approval of Flame-Resistant Conveyor Belts
2114	Air Quality, Chemical Substances, and Respiratory Protection Standards
2116	Independent Laboratory Testing
2118	Safety Standard Revisions for Underground Anthracite Mines
2120	Respirable Crystalline Silica Standard
2122	Noise Standard
2124	Safety Standards for Underground Coal Mine Ventilation—Preshift Examination Intervals
2125	Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines
2128	Department of Labor Acquisition Regulation
2148	Standards Improvement (Miscellaneous Changes) for General Industry, Marine Terminals, and Construction Standards (Phase II)
	DOT
91	Flight Crewmember Duty Period Limitations, Flight Time Limitations, and Rest Requirements
92	Terrain Awareness and Warning System
93	Hours of Service of Drivers **(Section 610 Review)**
96	Whistle Bans at Highway-Rail Grade Crossings
98	Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage
2209	Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**
2236	Policy Statement on Airline Preemption
2242	Domestic Passenger Manifest Information
2254	Towing Vessel Safety (Fire Suppression Systems and Other Measures for Towing Vessels) (CGD 97-064)

Small Businesses—Cont.

Seq. No.	Title
2318	Retrofit of Improved Seats in Air Carrier Transport Category Airplanes
2355	Type Certification Procedures for Changed Products
2365	Air Tour Operations in the State of Hawaii
2366	Screening of Checked Baggage on Flights Within the United States
2373	Grand Canyon National Park; Limits on Air Tour Operations
2404	Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes
2411	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations
2435	Federal Motor Carrier Safety Regulations; Hours-of-Service and CDL Exemptions
2462	Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking
2469	Railroad Highway Projects
2491	Hours of Service of Drivers; Supporting Document Recordkeeping
2505	Parts and Accessories Necessary for Safe Operation; Lighting Devices, Reflectors, and Electrical Equipment
2512	Certification Requirements of Multistage Vehicles
2525	Child Restraint Systems **(Section 610 Review)**
2542	Definition of Community Transportation Vehicles
2550	Importation of Canadian Vehicles Which Are in Compliance With Federal Motor Vehicle Safety Standards
2636	Hours of Service Electronic Recordkeeping Project
2648	Freight Car Safety Standards: Maintenance-of-Way Equipment
2655	Small Railroads; Policy Statement on Enforcement Program
2656	Power Brake Regulations: Freight Power Brake Revisions
2659	Bridge Worker Safety Standards
2660	Amendment of Regulations Governing Railroad Rehabilitation and Improvement Financing
2667	Blue Signal and Related Protections
2687	Credit Assistance for Surface Transportation Projects

Seq. No.	Title
	TREAS
100	Revision of Brewery Regulations and Issuance of Regulations for Taverns on Brewery Premises (Brewpubs)
101	Commerce in Explosives (Including Explosives in the Fireworks Industry)
2972	Adjustments Following Sales of Partnership Interests
	VA
3162	New Criteria for Approval of Courses for Educational Assistance Programs
3163	Veterans Education: Reporting and Recordkeeping Requirements at Flight Schools
3199	New Eligibility Criteria for the Montgomery GI Bill—Active Duty, Other Miscellaneous Issues
3200	Reservist Education: Monthly Verification of Enrollment and Other Reports
3202	Amended Criteria for Approval of Flight Training Courses
	ATBCB
3284	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3288	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
	EPA
117	National Primary Drinking Water Regulations: Radon
118	National Primary Drinking Water Regulations: Ground Water Rule
119	National Primary Drinking Water Regulations: Arsenic
120	Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule
129	Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards
3315	Public Information and Confidentiality Regulations
3381	Control of Emissions of Air Pollution from New Compression-Ignition and Spark-Ignition Recreational Marine Engines

Seq. No.	Title
3442	Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport
3499	Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States
3544	Control of Diesel Fuel Quality
3579	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures Section 402(a)
3581	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
3682	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3733	Revisions to the Underground Injection Control Regulations for Class V Injection Wells
3745	Long Term 2 Enhanced Surface Water Treatment Rule
3746	Stage 2 Disinfectants/Disinfection Byproducts Rule
3748	Filter Backwash Recycling Regulation
	GSA
3808	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs
3809	Reissuance of the General Services Administration Acquisition Regulation (GSAR)
	OMB
3916	Subcontracting Plans
3917	Goals for Procurement Contracts
	SBA
4075	Surety Bond Guarantee
4079	Small Business Size Standards: North American Industry Classification System
4080	PLP Lenders' Responsibilities for Servicing and Liquidating Loans
4081	Servicing of Guaranteed Loans
4084	Small Business Size Standards: Help Supply Services
4096	Amendment to SBA's Regulations Regarding Administrative Offset
4097	Contract Bundling Procurement Strategy
4098	Small Business Size Standards: Health Care Industries

Small Businesses—Cont.

Seq. No.	Title
4099	SBIC Program Reform
4100	Small Business Size Standards; General Building Contractors, Heavy Construction, Dredging and Surface Cleanup Activities, Special Trade Contractors, Gargage and Refuse Collection
4102	Business Loan Policy: Unguaranteed Portions of Loans, Securitization, Sales, and Pledges
4103	Small Business Size Standards; Engineering Services, Architectural Services, and Surveying and Mapping Services

FAR

4182	FAR Case 97-613, Application of the Davis-Bacon Act to Construction Contracts with Options To Extend the Term of the Contract
4183	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4184	FAR Case 91-078, Small Business Subcontracting Reporting
4186	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
4188	FAR Case 95-013, Government Property
4203	FAR Case 97-603, Empowerment Contracting
4204	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
4205	FAR Case 97-031, Value Engineering Change Proposals
4206	FAR Case 96-018, Use of Brand Name Item Descriptions
4213	FAR Case 97-307, HUBZone Program
4221	FAR Case 98-013, Very Small Business Concerns
4226	FAR Case 98-300, Determination of Price Reasonableness and Commerciality

FCC

4285	Cable Television Rate Regulation
4286	Cable Television Rate Regulation: Cost of Service
4287	Customer Service Standards
4288	Cable Home Wiring
4290	Closed Captioning
4291	Cable Act Reform
4292	Competitive Availability of Navigation Devices
4293	Telecommunications Act of 1996, Pole Attachment Provisions
4295	Horizontal Ownership Limits
4299	Implementation of the Universal Service Portions of the 1996 Telecommunications Act
4303	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996
4307	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996
4308	Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (LEC Tariff Streamlining Provisions)
4311	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order
4312	Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4313	Enhanced 911 Services for Wireline
4316	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4318	Notice of Proposed Rulemaking Regarding Detariffing of Interstate Exchange Access Services for Non-Incumbent Local Exchange Carriers
4325	Access Charge Reform for Rate-of-Return Local Exchange Carriers
4328	SBC Communications, Inc. Petition for Biennial Review
4332	Elimination of Part 41: Telegraph and Telephone Franks
4333	Streamlined Contributor Reporting Requirements
4334	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4335	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4337	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4338	Closed Captioning for DTV Receivers; ET Docket No. 99-254
4339	Wireless Medical Telemetry Service; ET Docket 99-255
4340	Cable System Compatibility With TV Receivers and VCRs
4341	Wind Profiler Radar Systems
4342	Millimeter Wave Spectrum Allocation
4343	Digital Equipment Deregulation
4344	MSS Spectrum Allocation
4345	Medical Care Telemetry Devices
4346	Unlicensed NII at 5 GHz
4349	Regulations for RF Lighting Devices
4350	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU
4351	Uniden Scanners/Cellular Radio Signals
4352	Industry Coordination Committee System for Broadcast Digital Television Service
4353	3650-3700 Government Transfer Band
4355	Certification of Equipment in the 24.05-24.25 GHz Band at Field Strengths Up to 2500 mV/m
4356	Fixed Satellite Service and Terrestrial System in the KU-Band
4357	Spread Spectrum Devices; ET Docket No. 99-254
4360	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures; IB Docket No. 95-117
4361	Satellite Communications — NGO MSS; CC Docket No. 92-166
4362	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band; IB Docket No. 96-132
4363	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB No. 95-59
4364	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band; IB Docket No. 95-91; GEN Docket No. 90-357
4365	Redesignation of the 27.5-29.5 GHz Frequency Band; CC Docket No. 92-297
4366	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States; IB Docket No. 96-111; CC Docket No. 93-23

Small Businesses—Cont.

Seq. No.	Title
4368	Redesignation of the 17.7-19.7 GHz band, Blanket Licensing of Sat Earth Stations (17.7-20.2 GHz & 27.5-30 GHz) & Allocation in the 17.3-17.8 & 24.75-25.25 GHz bands for Broadcast Satellite-Service Use
4369	Allocation and Designation of Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz bands).Allocations: fixed & mobile 40.5-42.5 GHz;Wireless Srv 46.9-47 GHz; Gov Operations 37-38 & 40-40.5 GHz
4370	The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band; IB Docket No. 99-81; RM-9328
4371	In the Matter of Policies for the Direct Broadcast Satellite Service; IB Docket No. 98-21
4372	1998 Biennial Regulatory Review — Review of Accounts Settlement in Maritime Mobil Maritime Mobile Satellite Radio Services and Withdrawal of the Commission as Accounting Authority; IB Doc No. 98-96
4374	Transfer of Control of Non-Stock Entities MM Docket 89-77
4375	Local Television Ownership Rule (MM Docket No. 91-221)
4376	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)
4377	Rules Governing Broadcast Television Advertising (MM Docket No. 95-90)
4378	Attribution of Broadcast Interests (MM Docket Nos. 94-150, 92-51, 87-154)
4379	Minor Modifications of Broadcast Licenses Without Prior Construction Permit
4380	Newspaper/Broadcast Cross-Ownership
4381	National Television Ownership Rules (MM Docket Nos. 96-222, 91-221, 87-8)
4382	Competitive Bidding for Broadcast Services
4383	1998 Biennial Review of Broadcast Ownership
4384	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4386	Review of Broadcast and Cable EEO Rules and Policies
4387	Low Power FM Radio
4388	Advanced Television Service (MM Docket 87-268)
4389	Main Studio/Public File Requirements for Broadcasters (MMB Docket 97-138)
4390	Assessment and Collection of Regulatory Fees for FY 1999
4391	Calling Party Pays Service Offering in the Commercial Mobile Radio Services
4392	Amendment of Part 80 of the Commission's Rules Concerning VHF Maritime Operations
4393	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4394	Refarming
4395	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4396	Resale and Roaming Obligations Pertaining to Commercial Mobile Radio Services
4397	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; Narrowband PCS Competitive Bidding Rules
4398	Implementation of Section 309(j) of the Communications Act, Competitive Bidding; IVDS Competitive Bidding Rules
4399	39 GHz Channel Plan
4400	Implementation of Section 309(j) of the Communications Act, Competitive Bidding Broadband PCS F Block Rules
4401	Amendment of Part 90 of the FCC's Rules To Provide for the Use of the 220-222 MHz Band
4402	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4404	In the Matter of the Communications Assistance for Law Enforcement Act (CALEA), Notice of Proposed Rulemaking
4405	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
4406	Multiple Access Systems; WT Docket No.97-81
4407	Amendment of Part I of the Commission's Rules—Competitive Bidding Procedures
4408	Amendment to Part 27 of the FCC's Rules To Revise Rules for Services in the 2.3GHz Band and To Include Licensing of Services in the 47 Ghz Band
4409	Amendment of Part 90 of the Commission's Rules To Adopt Regulations for Automatic Vehicle Monitoring Systems Second Report and Order
4410	Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules
4411	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended
4412	1998 Biennial Regulatory Review Spectrum Aggregation Limits for Wireless Telecommunications Carriers

FMC

4481	Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries (Docket No. 98-28)

FRS

4488	Regulation: B — Equal Credit Opportunity (Docket Number: R-1008) **(Section 610 Review)**

NRC

4564	Domestic Licensing of Special Nuclear Material — Revision
4584	Submittal Procedures for Documents
4601	Nuclear Regulatory Commission Acquisition Regulation
4607	Expand Applicability To Include Additional Parties
4616	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999

SEC

4622	Regulation of Securities Offerings
4623	Definitions for Purposes of the Private Litigation Reform Act of 1995
4624	Definition of "Qualified Purchaser"
4625	Householding of Proxy and Information Statements
4626	Streamlining Rule 144
4630	Regulation of Extraordinary Corporate Transactions
4631	Exemptions for International Tender and Exchange Offers
4638	Political Contributions by Certain Investment Advisers
4639	Role of Independent Directors of Investment Companies
4656	Investment Company Names

Small Businesses—Cont.

Seq. No.	Title
4657	Delivery of Disclosure Documents to Households
4659	Custody of Investment Company Assets Outside the United States; Custody of Investment Company Assets With a Foreign Securities Depository
4664	Requirements Relating to Codes of Ethics With Respect to Registered Investment Companies; Records To Be Maintained by Investment Advisers
4667	Amendments to Rule 8f-1 and Deregistration Form N-8F, and Rule 101 of Regulation S-T
4668	Net Capital Rule: Customer Protection Rule
4669	Risk Assessment Recordkeeping and Reporting Requirement
4670	Exemption of Certain Foreign Brokers and Dealers
4671	Untimely Announcement of Record Dates
4673	Purchases of Certain Equity Securities by the Issuers and Others
4674	Exemption From Exchange Act Section 11(d)(1) for Securities of Foreign Issuers Sold on an Installment Basis
4675	Net Capital Rule Concept Release
4676	Net Capital Requirements for Brokers or Dealers
4677	Market Risk Haircuts for Instruments Subject to Interest Rate Risk
4678	Amendments to Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934
4680	Revised Transfer Agent Form and Related Rule
4681	Proposed Amendments to the Intermarket Trading System (ITS) Plan To Expand the ITS/Computer Assisted Execution System Linkage to All Listed Securities and Eliminate the Unanimous Vote
4683	Tender and Reorganization Agents
4684	Net Capital Requirements for Brokers or Dealers — Definition of the Term Nationally Recognized Statistical Rating Organization
4686	Initiation or Resumption of Quotations Without Specified Information
4687	Recordkeeping Requirements for Transfer Agents
4691	Amendment to Form BDW and Amendment to Exchange Act Rule 15b6-1 and Amendments to Rules 15b1-1, 15b3-1, 15Ba2-2, 15 Bc3-1, 15Ca1-1, and 15Cc1-1
4692	Purchases of Certain Equity Securities by the Issuer and Others
4693	Broker-Dealer Registration and Reporting
4694	Proposed Amendments to National Market System Plan
4695	Year 2000 Operational Capability Requirements of Registered Broker-Dealers and Transfer Agents

Small Governmental Jurisdictions

Seq. No.	Title
	USDA
12	Egg Products Inspection Regulations
270	Importation of Pork and Pork Products From Yucatan and Sonora, Mexico
298	National Flood Insurance Regulations
345	Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages
468	Business and Industry Direct Loan Program
489	Community Facility Loans—Timber-Dependent Communities
490	Solid Waste Management Grants
491	Technical Assistance and Training Grants
	DOC
18	Chemical Weapons Convention Regulations
624	Amendment 14 to the Pacific Coast Salmon Plan
678	Implementation of Western Pacific Coral Reef Ecosystem Fishery Management Plan (FMP)
679	Adjustment of Management Program: Bottomfish Fisheries in the Western Pacific.
793	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
853	Final Policies for Safe Harbor and Candidate Conservation Agreements
	DOD
890	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
	HHS
27	Standards for Privacy of Individually Indentifiable Health Information
1231	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1237	State Child Health; Implementing Regulations for the State Children's Health Insurance Program (HCFA-2006-P)
1309	Medicaid Hospice Care (HCFA-2016-P)
1318	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1320	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1326	Medicaid: Medical Child Support (HCFA-2081-P)
1357	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities. (HCFA-1913-IFC)
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997
1392	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians
	DOI
55	Valuation of Oil From Indian Leases
56	Valuation of Oil From Federal Mineral Leases
57	Surface Management (Locatable Minerals)
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making

Small Governmental Jurisdictions—Cont.

Seq. No.	Title
1597	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1600	Revisions to the Federal Aid Administrative Requirements
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1736	Tribal Self-Governance
1776	Royalty in Kind for Oil and Gas
1786	Central Valley Project of California — Purposes, Uses, and Allocation of Water Supplies
	DOJ
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1946	Petitioning Requirements for the H Nonimmigrant Classification
1974	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification
2012	Violent Crime and Drug Emergency Areas
	DOL
65	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
81	Ergonomics Programs: Preventing Musculoskeletal Disorders
86	Occupational Exposure to Tuberculosis
2059	Disaster Unemployment Assistance Program, Amendment to Regulations
2105	Training and Retraining of Miners **(Rulemaking Resulting From a Section 610 Review)**
	STATE
2198	Establishing of Registry in State Department for Information About Execution of International Wills
	DOT
93	Hours of Service of Drivers **(Section 610 Review)**
2209	Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**
2236	Policy Statement on Airline Preemption
2355	Type Certification Procedures for Changed Products
2428	Department of Transportation NEPA and Related Procedures for Transportation Decisionmaking
2469	Railroad Highway Projects
2660	Amendment of Regulations Governing Railroad Rehabilitation and Improvement Financing
2670	Environmental Impact and Related Procedures (FRA, FTA, FHWA)
2674	Department of Transportation (FTA, FHWA) and Related Procedures for Transportation Decisionmaking
2687	Credit Assistance for Surface Transportation Projects
	ATBCB
3284	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3288	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
	EPA
117	National Primary Drinking Water Regulations: Radon
118	National Primary Drinking Water Regulations: Ground Water Rule
119	National Primary Drinking Water Regulations: Arsenic
120	Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule
3442	Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport
3499	Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States
3579	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures Section 402(a)
3581	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
3745	Long Term 2 Enhanced Surface Water Treatment Rule
3746	Stage 2 Disinfectants/Disinfection Byproducts Rule
3748	Filter Backwash Recycling Regulation
	GSA
3808	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs
	NARA
3874	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3881	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities — Implementation of Title IX of the Education Amendments of 1972
	OMB
3916	Subcontracting Plans
3917	Goals for Procurement Contracts
3919	Procedures for Participating in the Census Bureau Reconciliation and the OMB Appeal Processes for the Development of the Census 2000 Address List
	FAR
4182	FAR Case 97-613, Application of the Davis-Bacon Act to Construction Contracts with Options To Extend the Term of the Contract

Small Governmental Jurisdictions—Cont.

Seq. No.	Title
4183	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4203	FAR Case 97-603, Empowerment Contracting
4204	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
4226	FAR Case 98-300, Determination of Price Reasonableness and Commerciality
	FCC
4285	Cable Television Rate Regulation
4286	Cable Television Rate Regulation: Cost of Service
4287	Customer Service Standards
4289	Over-the-Air Reception Devices
4291	Cable Act Reform
4299	Implementation of the Universal Service Portions of the 1996 Telecommunications Act
4312	Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4313	Enhanced 911 Services for Wireline
4316	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4334	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4335	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4337	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4349	Regulations for RF Lighting Devices
4353	3650-3700 Government Transfer Band
4363	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB No. 95-59
4368	Redesignation of the 17.7-19.7 GHz band, Blanket Licensing of Sat Earth Stations (17.7-20.2 GHz & 27.5-30 GHz) & Allocation in the 17.3-17.8 & 24.75-25.25 GHz bands for Broadcast Satellite-Service Use
4369	Allocation and Designation of Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz bands).Allocations: fixed & mobile 40.5-42.5 GHz;Wireless Srv 46.9-47 GHz; Gov Operations 37-38 & 40-40.5 GHz
4384	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4386	Review of Broadcast and Cable EEO Rules and Policies
4393	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4395	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4402	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4405	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
4411	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended
	NRC
4584	Submittal Procedures for Documents
4607	Expand Applicability To Include Additional Parties
4616	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999

Small Organizations

Seq. No.	Title
	USDA
167	Processed Fruits and Vegetables: Qualified Through Verification (QTV)
177	Federal Milk Order Consolidation and Reform
195	Small Farmer Outreach Training and Technical Assistance Program
295	Denying Credit to Applicants Delinquent on Any Federal Debt
298	National Flood Insurance Regulations
442	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations
468	Business and Industry Direct Loan Program
471	Business and Industry Guaranteed Loan Program—Financing Cooperative Stock
490	Solid Waste Management Grants
491	Technical Assistance and Training Grants
	DOC
624	Amendment 14 to the Pacific Coast Salmon Plan
811	Amendment 13 to the Pacific Coast Salmon Plan
823	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
853	Final Policies for Safe Harbor and Candidate Conservation Agreements
	DOD
883	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5)
890	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
	HHS
27	Standards for Privacy of Individually Indentifiable Health Information
39	HHA Surety Bond (HCFA-6001-P)
1159	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1231	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1237	State Child Health; Implementing Regulations for the State Children's Health Insurance Program (HCFA-2006-P)
1278	Requirements for Certain Health Insuring Organizations and OBRA '90 Technical Amendments (HCFA-1018-F)
1280	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1293	Revision of Medicare/Medicaid Hospital Conditions of Participation (HCFA-3745-F)
1309	Medicaid Hospice Care (HCFA-2016-P)

Small Organizations—Cont.

Seq. No.	Title
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 **DOI**
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making
1552	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1786	Central Valley Project of California — Purposes, Uses, and Allocation of Water Supplies
1809	Location Recording, and Maintenance of Mining Claims and Sites **DOJ**
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1869	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities
1937	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program
1946	Petitioning Requirements for the H Nonimmigrant Classification
1974	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification
2008	Foreign Agents Registration Act; Regulations Revised and Clarified To Reflect Changes in the Law **DOL**
65	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
71	Revision of the Form 5500 Series and Implementing and Related Regulations Under the Employee Retirement Income Security Act of 1974 (ERISA)
81	Ergonomics Programs: Preventing Musculoskeletal Disorders
85	Recording and Reporting Occupational Injuries and Illnesses (Simplified Injury/Illness Recordkeeping Requirements)
86	Occupational Exposure to Tuberculosis
2032	Equal Access to Justice Act
2091	Electronic Disclosure of Employee Benefit Plan Information **DOT**
92	Terrain Awareness and Warning System
93	Hours of Service of Drivers **(Section 610 Review)**
2355	Type Certification Procedures for Changed Products
2462	Federal Motor Carrier Safety Regulations; General; Motor Vehicle Marking
2687	Credit Assistance for Surface Transportation Projects **ATBCB**
3284	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3288	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas **EPA**
117	National Primary Drinking Water Regulations: Radon
118	National Primary Drinking Water Regulations: Ground Water Rule
119	National Primary Drinking Water Regulations: Arsenic
120	Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule
3748	Filter Backwash Recycling Regulation
3809	Reissuance of the General Services Administration Acquisition Regulation (GSAR) **NEA**
3881	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities — Implementation of Title IX of the Education Amendments of 1972 **OMB**
3916	Subcontracting Plans
3917	Goals for Procurement Contracts **FAR**
4183	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4184	FAR Case 91-078, Small Business Subcontracting Reporting
4186	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
4203	FAR Case 97-603, Empowerment Contracting
4204	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
4213	FAR Case 97-307, HUBZone Program **FCC**
4312	Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4313	Enhanced 911 Services for Wireline
4316	Amendment of Rules Governing Procedures To Be Followed When Formal Complaints Are Filed Against Common Carriers
4334	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4335	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4338	Closed Captioning for DTV Receivers; ET Docket No. 99-254
4339	Wireless Medical Telemetry Service; ET Docket 99-255
4349	Regulations for RF Lighting Devices

Small Organizations—Cont.	
Seq. No.	Title
4357	Spread Spectrum Devices; ET Docket No. 99-254
4363	Preemption of Local Zoning Regulation of Satellite Earth Stations; IB No. 95-59
4368	Redesignation of the 17.7-19.7 GHz band, Blanket Licensing of Sat Earth Stations (17.7-20.2 GHz & 27.5-30 GHz) & Allocation in the 17.3-17.8 & 24.75-25.25 GHz bands for Broadcast Satellite-Service Use
4369	Allocation and Designation of Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz bands).Allocations: fixed & mobile 40.5-42.5 GHz;Wireless Srv 46.9-47 GHz; Gov Operations 37-38 & 40-40.5 GHz
4374	Transfer of Control of Non-Stock Entities MM Docket 89-77
4384	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4386	Review of Broadcast and Cable EEO Rules and Policies
4390	Assessment and Collection of Regulatory Fees for FY 1999
4402	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
	NRC
4584	Submittal Procedures for Documents
4607	Expand Applicability To Include Additional Parties
4616	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999

VOL 64 ISS 224 NO 22 1999 UMI

C. INDEX TO ENTRIES THAT MAY AFFECT SMALL ENTITIES WHEN A REGULATORY FLEXIBILITY ANALYSIS IS NOT REQUIRED

The Regulatory Flexibility Act (5 U.S.C. 601) requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities. Agencies meet that requirement by including the information in their submissions for The Regulatory Plan and the Unified Agenda. Some agencies have chosen to identify additional regulatory actions that may have some impact on small entities even though a Regulatory Flexibility Analysis may not be required.

The following index lists the regulatory actions in this publication for which agencies have chosen to indicate that some impact on small entities is likely even though a Regulatory Flexibility Analysis may not be required. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

Small Businesses

Seq. No.	Title
	USDA
9	Food Stamp Program: Revisions to the Retail Food Store Definition and Program Authorization Guidance
10	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
11	Reform of Regulations on Imported Livestock and Poultry Products
169	Blueberry Research, Promotion, and Information Order
170	Olive Oil Research, Promotion, and Information Order
274	Requiring Treatment of Solid Wood Packing Material From China
329	Regulations Under Packers and Stockyards Act (Price Reporting)
331	Regulations Issued Under Packers and Stockyards Act (Feed Weight)
336	Food Stamp Program: Retailer Application Processing
342	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations
348	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
356	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
384	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
390	Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties
401	Labeling of Food Under the Voluntary Nutrition Labeling Program; 1996 Retail Survey Compliance Results
420	Reworking of Meat and Poultry Carcasses Accidentally Contaminated During Evisceration
451	Sale and Disposal of National Forest System Timber; Timber Export and Substitution Restrictions
472	Rural Business Opportunity Grants
473	Rural Venture Capital Demonstration Program
474	Rural and Rural Area Under the Rural Community Advancement Program
505	Agriculture Acquisition Regulation (AGAR); Contractor Employment of Migrant and Seasonal Agricultural Workers
508	New Restrictions on Lobbying
	DOC
530	Solicitation Provisions and Contract Causes: Women-Owned Small Business Sources
555	Definition Harmonization
556	Rewrite of Support Documents section in 748 and other editorial changes.
560	Revisions to the Commerce Control List: Clarifications of Missile Technology and Nuclear Non-proliferation Controls for Export Control Classification Number 2B009
561	Exports to the Government of Serbia
629	Regulatory Amendment To Establish Program for Collection and Use of Fees in Community Development Quota Program
640	Regulatory Amendment under the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico to Establish Red Snapper TAC and Associated Management Measures for 2000
669	Amendment 12 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic
673	Framework Regulatory Amendment for the Atlantic Highly Migratory Species (HMS) Fisheries
676	Simplification of Capital Construction Fund rules.
680	Prohibit Use of Set Net Gear to Harvest Groundfish in Certain Portions of the Exclusive Economic Zone Waters Seaward of California
681	1999 Quotas for the Purse Seine Fisheries in the Eastern Pacific Ocean
682	Atlantic Highly Migratory Species Fisheries; Minimum Size Adjustments for Atlantic Billfish
686	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
698	Section 4(d) of ESA Protective Regulations for Johnson Seagrass, a Threatened Species
708	Coastal Zone Management Act Consistency Regulations
733	Fishing Participation in 1999 in Non-Salmon Fishery
735	Effects of Spotter Aircraft Assistance in Atlantic Bluefin Tuna (BFT) Fishery
741	Atlantic Bluefin Tuna Fishery Regulatory Adjustment Purse Seine Category Allocation Limit
756	Pacific Offshore Cetacean Take Reduction Plan

Small Businesses—Cont.

Seq. No.	Title
817	Management of U.S. Purse Seine Fishery in the Eastern Pacific Ocean
834	Fleet Capacity Limits for U.S. Purse Seine Fishery in the Eastern Pacific Ocean
865	Consideration of Interlocutory Rulings at Final Hearing in Interference Processings
	DOD
905	Contractor Use of Nonimmigrant Aliens—Guam (DFARS Case 97-D318)
909	Manufacturing Technology Program (DFARS 98-D306)
914	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)
918	Commercial Ball or Roller Bearings—Components of Noncommercial Items (DFARS Case 97-D028)
919	Veterans Employment Emphasis (DFARS Case 97-D314)
920	Uniform Procurement Instrument Identification (DFARS Case 97-D033)
921	Contracting for Commercial Construction (DFARS Case 98-D013)
929	Utilization of Indian Organizations and Indian-Owned Economic Enterprises (DFARS Case 1999-D300)
935	Antiterrorism Training (DFARS Case 96-D016)
940	DD Form 2631, Performance Evaluation (A-E) (DFARS Case 97-D035)
946	Electronic Funds Transfer (DFARS Case 98-D012)
948	Evaluation of Duty (DFARS Case 98-D030)
954	DoD Purchases Through Other Agencies (DFARS Case 98-D311)
	HHS
34	Shell Eggs: Warning, Notice and Safe Handling Labeling Statements and Refrigeration Requirements
37	Medicare Program: Prospective Payment System for Inpatient Rehabilitation Hospital Services (HCFA-1069-P)
42	Medicare Program; Prospective Payment System for Hospital Outpatient Services (HCFA-1005-F)
46	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
47	Home Health Prospective Payment System (HCFA-1059-P)
1150	Postmarketing Studies for Human Drugs and Licensed Biological Products: Status Reports
1153	Current Good Manufacturing for Blood and Blood Components; Blood Labeling Standards; Direct Final Rule
1193	Establishment Registration and Listing of Human Cellular and Tissue-Based Products
1233	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-F) **(Section 610 Review)**
1234	Criteria for Medicare Coverage of Heart, Liver, and Lung Transplants (HCFA-3835-ANPRM)
1240	Medicare Program; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Intent To Form Negotiated Rulemaking Committee (HCFA-3250-P)
1251	Additional Supplier Standards (HCFA-6004-F)
1273	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1281	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)
1295	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)
1296	Distinct Part Requirements for Nursing Homes and Prohibition of Financial Screening of Applicants for Nursing Home Admission (HCFA-3815-P)
1301	Hospice Care—Conditions of Participation (HCFA-3844-P)
1307	Revision to Accrual Basis of Accounting Policy (HCFA-1876-F)
1310	Provider and Supplier Billing When Medicare Is Secondary Payor to Liability Insurance (HCFA-1848-P)
1312	Elimination of Certain Requirements for Peer Review Organizations in the Utilization and Quality Review Process and a Change in the Length of Peer Review Organization Contracts (HCFA-3235-FC)
1313	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1315	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1322	Portability and Nondiscrimination in the Group Health Insurance Market (HCFA-2890-F)
1341	Replacement of Reasonable Charge Methodology by Fee Schedules (HCFA-1010-P)
1344	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-IFC)
1346	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-P)
1364	Prospective Payment System and Consolidated Billing for Home Health Agencies (HCFA-1059-P)
1365	Medicare and Medicaid Programs: Hospital Conditions of Participation; Patients' Rights (HCFA-3018-IFC)
1367	Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2000 (HCFA-1065-P)
1387	Technical Revision of Head Start Regulations to Make Them Conform to Recent Statutory Revisions
	HUD
1416	Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)
	DOI
1543	Policy on General Conservation Permits
1664	National Wildlife Refuges: Administrative Provisions
1684	Convention on International Trade in Endangered Species of Wild Fauna and Flora; Addition of Bigleaf Mahogany to List of Controlled Species
1687	Policy on National Wildlife Refuge System and Compensatory Mitigation Under the Section 10/404 Program

Small Businesses—Cont.

Seq. No.	Title
1688	Migratory Bird Hunting; Approval of Nontoxic Shot
	DOJ
1871	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities
1887	Implementation of the Methamphetamine Control Act; Regulation of Pseudoephedrine, Phenylpropanolamine, and Combination Ephedrine Drug Products; Reports of Certain Transactions to Nonregulated Persons
1921	Progressive Clearance Stopovers
1923	Availability of Material Under Freedom of Information Act and Privacy Act
1926	American Competitiveness and Workforce Improvement Act
1973	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor
	DOL
87	Employer Payment for Personal Protective Equipment
	DOT
90	Overflights of Units of the National Park System
2210	Computer Reservations System Regulations Comprehensive Review
2211	Aviation Data Requirements Review and Modernization Program
2213	Substance Abuse Professional Definition Change
2224	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
2228	Fees and Charges for Special Services: Reinvention
2232	Participation by Disadvantaged Business Enterprises in Airport Concessions
2239	Accessibility of Passenger Vessels to Individuals With Disabilities
2243	Enforcement Policy: Unfair Exclusionary Conduct in the Air Transportation Industry
2244	New Restrictions on Lobbying
2251	Numbering of Undocumented Barges (CGD 93-091) (USCG-1998-3798)
2253	Carriage of Bulk Solid Materials Requiring Special Handling (CGD 97-037)
2255	Pollution Prevention for Oceangoing Ships and Certain Vessels in Domestic Service (CGD 97-072)
2256	Salvage and Firefighting Equipment; Vessel Response Plans (USCG-1998-3417)
2257	Deep Water Ports (USCG 1998-4441)
2259	Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (USCG-1999-5040)
2260	Certification of Navigation Lights on Recreational Vessels (CGD 97-060)
2261	Vessel Documentation (USCG-1998-4784)
2262	Revised Blood Alcohol Concentration (BAC) Limit (USCG-1998-4593)
2263	Frequency of Inspection, Hull Examination Alternative for Certain Passenger Vessels, and Underwater Surveys for Passenger Vessels (USCG-1999-4976)
2264	Vessel Traffic Service Lower Mississippi/Automatic Identification System Carriage Requirement (USCG-1998-4399)
2265	Vapor Control Systems (USCG-1999-5150)
2274	Permits for the Transportation of Municipal and Commercial Wastes (CGD 89-014)
2277	Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (CGD 92-026)(USCG-1998-4302)
2278	Amendments to Hull Identification Number Regulations (CGD 92-065)
2280	Regattas and Marine Parades (CGD 95-054)
2282	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015) (USCG-1998-4623)
2284	Fire Protection Measures for Towing Vessels (USCG-1998-4445)
2287	Update of Standards from American Society for Testing and Materials (ASTM) (USCG-1999-5151)
2288	Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK (CGD17-99-002)
2289	Traffic Separation Schemes: Off San Francisco, in the Santa Barbara Channel, in the Approaches to Los Angeles-Long Beach, California (USCG-1999-5700)
2293	Discharge-Removal Equipment for Vessels Carrying Oil (USCG-1998-4858)
2294	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)
2295	Escort Vessels for Certain Tankers (CGD 91-202)
2296	Regatta Regulations
2297	Drawbridge Regulations
2298	Escort Vessels in Certain U.S. Waters (CGD 91-202a)
2301	Propeller Injury Prevention Aboard Rental Boats (CGD 95-041)
2302	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)(USCG-1998-3423)
2304	Emergency Response Plans for Passenger Vessels (USCG-1998-3473)
2305	Emergency Control Measures for Tank Barges (USCG-1998-4443)
2306	Improvements to Maritime Safety Puget Sound-Area Waters (USCG-1998-4501)
2308	Tank Level or Pressure Monitoring Devices (CGD 90-071)
2311	Revise Fees to Number Undocumented Vessels in Alaska (USCG-1998-3386)
2312	Chemical Testing; Management Information System Reporting Requirements (USCG-1998-4469)
2314	Year 2000 (Y2K) Reporting Requirements for Vessels and Marine Facilities (USCG-1999-3917)
2316	Part 145 Review: Repair Stations
2317	Improved Survival Equipment for Inadvertent Water Landings
2319	Corrosion Control Program
2320	Flight Operational Quality Assurance Program
2321	Air Tour Standards
2326	Duration Between Examinations for First- and Second-Airman Medical Certificates
2327	Fees for Aeromedical Education Training Services
2328	False and Misleading Statements Regarding Aircraft Parts
2330	Civil Penalties: Streamlined Enforcement Test and Evaluation Program; Security; Drug and Alcohol Abatement
2331	Revision of Air Carrier Crewmember and Training Regulations

Small Businesses—Cont.

Seq. No.	Title
2332	Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements
2343	Objects Affecting Navigable Airspace
2345	Revision of Part 108, Airplane Operator Security
2346	Revision of Part 107, Airport Security
2347	Aging Aircraft Safety
2348	Aircraft Ground Deicing and Anti-Icing Program
2352	Training and Checking in Ground Icing Conditions
2354	Suspension of Certain Aircraft Operations From the Transponder With Automatic Pressure Altitude Reporting Capability Requirement
2356	Miscellaneous Cabin Safety Changes
2358	Bird Ingestion Standards
2359	Revision of Certification Requirements: Aircraft Dispatchers
2364	Protection of Voluntarily Submitted Information
2369	Parachute Operations
2370	Flight Plan Requirements for Helicopter Operations Under Instrument Flight Rules
2374	Modification of the Airspace for Grand Canyon National Park
2377	Fuel System Vent Fire Protection
2378	Airworthiness Standards; Crash-Resistant Fuel Systems
2380	Airworthiness Directives
2383	Low Fuel Quantity Alerting System
2384	Aircraft Engines: Fuel and Induction Systems
2385	Review of Part 47, Aircraft Registration, and Part 49, Recording of Aircraft Titles and Security Documents
2386	Installation of Crashworthy Fuselage Fuel Tanks and Fuel Lines
2387	Drug Enforcement Assistance
2388	Sole Radio Navigation System; Minimum Standards for Certification
2391	Cost of Services and Transfer of Fees to Part 187 From Parts 47, 49, 61, 63, 65, and 143
2392	Type Certificates for Some Surplus Aircraft of the Armed Forces
2394	Anti-Drug and Alcohol Misuse Prevention Programs for Employees of Foreign Air Carriers Engaged in Specified Aviation Activities
2395	Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System
2397	Controlled Rest on the Flight Deck
2398	Operational and Structural Difficulty Reports
2399	Revision of Hydraulics Systems Airworthiness Standards To Harmonize With European Airworthiness Standards for Transport Category Airplanes
2400	Bird Strike
2401	License Requirements for Operation of a Launch Site
2402	Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park
2408	Revision of Certification Requirements: Mechanics and Repairmen
2410	Commercial Space Transportation Licensing Regulations
2413	Rotorcraft Load Combination Safety Requirements
2419	Year 2000 Airport Safety Inspection
2423	Commercial Learner Permits and CDL Effectiveness
2425	Minimum Training Requirements for Operators and Training Instructors of Multiple Trailer Combination Vehicles
2426	Training for Entry-Level Drivers of Commercial Motor Vehicles
2427	Commercial Driver Physical Fitness as Part of the CDL Process
2429	Safety Performance History of New Drivers
2430	Parts and Accessories Necessary for Safe Operation; Television Receivers and Data Display Units
2431	Motor Carrier Replacement Information/Registration System
2433	Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders
2434	Development of a North American Standard for Protection Against Shifting and Falling Cargo
2437	Minimum Levels of Financial Responsibility for Mexican Motor Carriers
2439	Revision of Application Form for Mexican Motor Carriers: Commercial Zones
2440	Revision of Application Form for Mexican Motor Carriers: NAFTA
2441	Accelerated Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States
2442	Safety Fitness Procedures
2443	Federal Motor Carrier Safety Regulations; Zero-Base Revision
2459	Federal Motor Carrier Safety Regulations; General; Periodic Registration Requirements for Motor Carriers
2460	Revision of Medical Examination Form and Procedures
2461	Parts and Accessories Necessary for Safe Operation: Intermodal Cargo Containers
2463	Rules of Practice for Motor Carrier Proceedings; Investigations; Disqualifications and Penalties
2466	Railroad Grade Crossing Safety
2470	Qualifications of Motor Carriers To Self-Insure Their Operations and Fees To Support the Approval and Compliance Process
2471	Federal Motor Carrier Safety Regulations; Definition of Commercial Motor Vehicle
2473	Transportation of Household Goods; Consumer Protection Regulations
2476	Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs; Rules and Procedures
2482	Qualification of Drivers; Diabetes
2483	Commercial Driver's License Standards; Biometric Identifier
2484	Truck Length and Width Exclusive Devices
2485	Periodic Inspection Requirements
2486	Qualification of Drivers; Vision
2487	Federal Motor Carrier Safety Regulations; General Transportation of Hazardous Materials
2488	Qualifications of Drivers: Hearing Deficiencies
2489	Parts and Accessories Necessary for Safe Operation; Sleeper Berths on Motor Coaches
2493	Advanced Technology in Commercial Motor Vehicle Operations **(Section 610 Review)**
2495	Electronic Filing of Surety Bonds, Trust Fund Agreements, Insurance Certificates; Cancellations
2496	General Jurisdiction Over Freight Forwarder Service
2497	English Language Requirement; Qualifications of Drivers
2500	Out-of-Service Criteria
2503	General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers
2508	Parts and Accessories Necessary for Safe Operation; Rear Impact Guards and Rear Impact Protection
2509	Commercial Driver Disqualification Provisions
2516	Upgrade Roof Crashworthiness
2521	Special Purpose Vehicles
2529	Radiator Safety Cap

Small Businesses—Cont.

Seq. No.	Title
2531	Door Latch Exemption for Vehicles Equipped With Wheelchair Lifts and Ramps
2532	Seat Belt Positioning Devices
2551	Accelerator Control Systems
2555	Low-Speed Vehicle Performance Requirements
2557	Defect Reporting and Notification
2592	Requirements for Low-Speed Vehicles (LSV)
2593	Compressed Natural Gas Fuel Container Integrity
2594	Vehicles with Raised Roofs
2596	Brake Hoses
2597	School Bus Body Joint Strength
2609	Test Device Placement
2619	Motor Vehicle Content Labeling Calculation
2625	Certification Requirements for Vehicle Alterers
2633	Stopping Distance Table
2634	Uniform Tire Quality Grading Standards Information
2637	Tourist and Historic Working Group Regulatory Review
2639	Locomotive Cab Working Conditions
2640	Positive Train Control
2641	Locomotive Crashworthiness
2642	Roadway Equipment Safety
2644	Event Recorder Crashworthiness
2649	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems
2651	Reinvention of Regulations Addressing Discontinuance or Modification of Signal Systems
2652	Reinvention of Signal System Reporting Requirements
2653	Reinvention of Steam Locomotive Inspection Regulations
2657	Use of One-Person Crews in Rail Operations
2664	Track Safety Standards Amendment To Address Gage Restraint Measurement Systems
2668	Crane Safety Standards
2669	Qualification and Certification of Locomotive Engineers
2671	Passenger Equipment Safety Standards
2672	Use of Remotely Controlled Locomotives in Rail Operations
2680	Bus Testing
2681	Charter Services Demonstration Program
2682	Buy America Requirements; Amendment to Certification Procedures
2688	Hazardous Materials: Revision of Requirements for Carriage by Aircraft
2689	Hazardous Materials: Air Carrier Emergency Telephone Number Requirements
2690	Hazardous Materials: Cargo Tank Rollover Requirements
2692	Quantity Limitations Aboard Aircraft
2693	Pipeline Safety: Gas Gathering Line Definition
2694	DOT 3AL Aluminum Cylinders; Safety Problems
2695	Areas Unusually Sensitive to Environmental Damage (USAs)
2696	Emergency Flow Restricting Devices
2697	Pipeline Safety: Periodic Underwater Inspections
2699	Hazardous Materials: Requirements for Cargo Tanks
2700	Further Regulatory Review; Gas Pipeline Safety Standards
2701	Pipeline Safety: Recommendations To Change Hazardous Liquid Pipeline Safety Standards
2702	Hazardous Materials: Revisions to Standards for Infectious Substances
2703	Transportation of Hazardous Materials; Miscellaneous Amendments
2704	Hazardous Materials Transportation: Registration and Fee Assessment Program
2705	Hazardous Materials: Revision of Requirements for Carriage by Rail Car and Motor Vehicle
2706	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form
2710	Hazardous Materials: Hazard Communication Requirements — Petitions for Rulemaking and Miscellaneous Amendments
2711	Hazardous Materials: Revised and Clarified Hazardous Materials Exemptions Procedures
2716	Requirements for Cylinders
2717	Maps and Records of Pipeline Locations and Characteristics; Notification of State Agencies; Pipe Inventory
2718	Determining the Extent of Corrosion on Exposed Gas Pipelines
2719	Passage of Internal Inspection Devices
2720	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements
2722	Pipeline Safety: Underwater Abandoned Pipeline Facilities
2723	Filling of Propane Cylinders
2724	Prohibition of Oxidizers Aboard Aircraft
2725	Pipeline Safety: Adoption of Industry Standards for Liquefied Natural Gas Facilities
2726	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures
2731	Safeguarding Food From Contamination During Transportation
2732	Increased Inspection Requirements
2733	Regulated Gas and Hazardous Liquid Gathering Lines
2734	Retention of Shipping Papers
2735	Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service
2736	Pipeline Safety: Qualification of Pipeline Personnel
2737	Pipeline Safety: Adoption of Industry Standards for Breakout Tanks
2738	1998 Harmonization of Hazardous Materials Regulations With International Standards
2742	Eligibility of U.S.-Flag Vessels of 100 Feet or Greater To Obtain Commercial Fisheries Documents
2743	Putting Customers First in the Title XI Program: Ship Financing Guarantees
2744	Administrative Waivers of the Coastwise Trade Laws for Eligible Vessels
2746	Amendment to the Definitions of Revenue and Nonrevenue Passengers
2747	Modernizing the Motor Carriers of Property Financial Data Collections

TREAS

2803	Implementation of Public Law 105-33, Section 9302, Related to Change in Tax Computation of Cigarette Papers and the Imposition of Permit Requirements on Roll-Your-Own Tobacco
2903	Constructive Sales of Appreciated Financial Positions
2912	Deposit of Excise Taxes - Revision
2949	401(k) and 401(m) Regulations
2952	Section 1374 Timber
2957	Permitted Election Changes Under Section 125
3027	Modification of Section 263A Regulations
3030	Permitted Election Changes Under Section 125
3096	Modifications and Additions to the Unified Partnership Audit Procedures

Small Businesses—Cont.

Seq. No.	Title
3102	Extension of Time to Electronically File Information Returns, Limitation of Penalty for Individual's Failure to Pay During Period of Installment Agreement
3107	Tax on Insurance Companies Other Than Life Insurance Companies
3128	Averaging of Farm Income
	VA
3176	Department of Veterans Affairs Acquisition Regulation—Simplified Acquisition Procedures for Health Care Resources
	EPA
110	TSCA Inventory Update Rule Amendments
111	Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan
112	Chemical Right-to-Know Initiative
122	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
126	Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower) (Phase 2)
131	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
132	TRI; Reporting Threshold Amendment for Certain Persistent and Bioaccumulative Toxic Chemicals (PBTs)
133	TRI; Lowering of EPCRA Section 313 Reporting Thresholds for Lead and Lead Compounds
134	NPDES Comprehensive Storm Water Phase II Regulations
135	Public Water System Public Notification Regulation
3297	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3298	Rewriting of EPA Regulations Implementing the Freedom of Information Act
3302	EPA Mentor-Protege Program
3304	Incrementally Funding Fixed Price Contracts
3306	Revisions to Acquisition Regulation Concerning Conflict of Interest
3312	Electronic Funds Transfer
3316	Environmental Impact Assessment of Nongovernmental Activities in Antarctica
3317	Revision to EPAAR 1552.211-73, Level of Effort
3319	Agency Protest Solicitation Notification
3320	Contracting by Negotiation
3321	EPAAR Coverage on Contractor Performance Evaluations
3322	Service Contracting—Avoiding Improper Personal Services Relationships
3324	NESHAP: Chromium Electroplating Amendment
3326	Performance Warranty and Inspection/Maintenance Test Procedures
3327	Inspection/Maintenance Recall Requirements
3331	NESHAP: Reinforced Plastic Composites Production
3332	NESHAP: Miscellaneous Organic Chemical Production and Processes
3336	Amendments to General Provisions Subparts A and B for 40 CFR 63
3339	New Source Performance Standards and Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units
3344	NESHAP: Plywood and Composite Wood Products
3346	NESHAP: Large Appliance (Surface Coating)
3349	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3360	NESHAP: Vegetable Oil Production
3364	Review of Minor New Sources and Modifications in Indian Country
3367	Federal Major New Source Review (NSR) Program for Nonattainment Areas
3369	Protection of Stratospheric Ozone: Allowance System for Controlling HCFC Production, Import & Export
3372	NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment Leaks
3375	NESHAP: Wet-formed Fiberglass Mat Production
3378	Control of Emissions From Nonroad Spark-Ignition Engines Rated Over 19 kW and New Land-Based Recreational Spark-Ignition Engines
3379	Control of Emissions of Air Pollution From 2004 and Later Model Year Heavy-Duty Highway Engines and Vehicles; Revision of Light-Duty Truck Definition
3394	National VOC Emission Standards for Consumer Products; Proposed Amendments
3395	National Volatile Organic Compound Emission Standard for Architectural Coatings; Proposed Amendments
3418	NESHAP: Phosphate Fertilizers Production
3421	NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater (FINAL) & Amend. to Appendix C of Part 63 & Appendix J of Part 61
3423	NESHAP: Petroleum Refineries—FCC Units, Reformers and Sulfur Plants
3441	NESHAP: Chromium Electroplating Amendment
3444	Protection of Stratospheric Ozone: Reconsideration on the 610 Nonessential Products Ban
3447	NESHAP: Oil and Natural Gas Production and NESHAP: Natural Gas Transmission and Storage, Amendments
3449	Control of Emissions of Air Pollution From New Marine Diesel Engines At or Above 37 Kilowatts
3451	Hospital/Medical/Infectious Waste Incinerators—Federal Plan (Federal Plan for existing Hospital/Medical/Infectious Waste Incinerators)
3456	Process Wastewater Provisions of the Generic MACT
3459	NESHAP for Ethylene Oxide Commercial Sterilization Operations-Monitoring Amendments
3470	NESHAP: Paint Stripping Operations
3472	Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard
3473	NESHAP: Miscellaneous Metal Parts and Products (Surface Coating)
3474	Plastic Parts (Surface Coating) NESHAP
3475	NESHAP: Refractories Manufacturing
3477	NESHAP: Friction Products Manufacturing
3481	NESHAP: Automobile and Light-Duty Truck Manufacturing (Surface Coating)
3488	NESHAP: Flexible Polyurethane Foam Fabrication Operations

Small Businesses—Cont.

Seq. No.	Title
3493	NESHAP: Hydrochloric Acid Production Industry
3496	NESHAP: Clay Products Minerals
3501	NESHAP: Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand Alone Semichemical Pulp Mills
3506	NESHAP: Brick and Structural Clay Products
3507	NESHAP: Ceramics
3509	NESHAP: Lightweight Aggregate
3511	Integrated NESHAP and Effluent Guidelines: Pulp and Paper
3512	NESHAP: Mineral Wool Production Industry
3513	NESHAP: Oil and Natural Gas Production and Natural Gas Transmission and Storage
3517	NESHAP: Portland Cement Manufacturing
3518	NESHAP: Polyether Polyols Production
3529	Generic MACT for Source Categories (Acrylic Modacrylic Fibers, Polycarbonates, Hydrogen Fluoride, and Acetal Resins)
3534	Protection of Stratospheric Ozone: Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3555	Data Requirements for Pesticide Registration (Revision)
3557	Data Requirements for Antimicrobial Registrations
3560	Pesticide Management and Disposal
3561	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3562	Exemptions for Plant Pesticides Regulated Under FIFRA and FFDCA
3569	Pesticides; Tolerance Processing Fees
3570	Pesticide Tolerance Reassessment Program
3572	Follow-Up Rules on Existing Chemicals
3573	Test Rules; Generic Entry for Proposed Decisions
3574	Test Rules; Negotiated Consent Order and Test Rule Procedures
3575	Test Rule; ATSDR Substances
3576	Children's Health Test Initiative
3577	Asbestos Model Accreditation Plan Revisions
3583	Test Rule for Certain Metals
3584	TSCA Biotechnology Follow-Up Rules
3585	Multi-Chemical Test Rule; High Production Volume Chemicals
3587	TSCA Section 4 Enforceable Consent Agreement for Certain Oxygenated Fuel Additives
3588	Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))
3590	TSCA Section 8(a) Preliminary Assessment Information Rules
3591	TSCA Section 8(d) Health and Safety Data Reporting Rules
3592	PCBs; Polychlorinated Biphenyls; Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce
3594	Test Rules; Generic Entry for Final Decisions
3595	Acrylamide; Ban on Use of Acrylamide for Grouting
3596	Refractory Ceramic Fibers; Significant New Use Rules on National Program Chemicals
3597	PCBs; Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule
3599	Test Rule; Hazardous Air Pollutants (HAPs)
3600	TSCA Section 8(e) Policy; Notice of Clarification
3601	Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances
3602	PCBs; Polychlorinated Biphenyl; Use Authorizations
3603	Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use
3604	Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)
3605	Asbestos-Containing Materials in Schools Rule Amendments
3607	Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)
3609	TRI; Responses to Petitions Received To Add or Delete or Modify Chemical Listings on the Toxic Release Inventory
3610	TRI; Pollution Prevention Act Information Requirements
3611	TRI; Chemical Expansion; Finalization of Deferred Chemicals
3612	TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption
3618	TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know
3619	TRI; Review of Chemicals on the Original TRI List
3622	Reinventing the Land Disposal Restrictions Program
3631	Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipers
3639	RCRA Subtitle C Financial Test Criteria (Revision)
3641	Chlorinated Aliphatics Listing Determination
3642	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3649	Hazardous Waste Identification; Recycled Used Oil Management Standards
3653	RCRA Reporting and Recordkeeping Burden Reduction
3654	Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris
3668	Clean Water Act Definition of the Waters of the United States
3669	Standards for the Use or Disposal of Sewage Sludge (Round II)
3670	Minimizing Adverse Environmental Impact from Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
3671	Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two
3674	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3678	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3679	Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zone for Bioaccumulative Chemicals of Concern
3680	Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act
3681	Further Revisions to Clean Water Act Definition of Discharge of Dredged Material
3683	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3685	Effluent Guidelines and Standards for Landfills
3687	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution

Small Businesses—Cont.

Seq. No.	Title
3688	NPDES Streamlining Rule — Round II
3689	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3692	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring
3693	Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures
3694	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3704	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3705	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
3706	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3708	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3709	NPDES Streamlining Rule — Round III
3710	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category
3712	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3713	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3714	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3718	Effluent Guidelines for the Construction and Development Industry
3719	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
3721	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3722	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3726	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3732	Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants
3734	National Primary Drinking Water Regulations: Lead and Copper
3736	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3737	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements
3742	National Primary Drinking Water Regulations: Sulfate
3743	National Primary Drinking Water Standards for Aldicarb
3744	Streamlining Drinking Water Monitoring Requirements
3747	Drinking Water Unregulated Contaminant Monitoring Program
3749	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3750	National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium
3752	Shore Protection Act, Section 4103(b) Regulations
	SBA
150	New Markets Venture Capital Program
151	Local Economic Development and For-Profit CDCs
4083	Small Business Size Standards; Accounting, Auditing, and Bookkeeping Services
4085	Small Business Size Standards; Electric Services
4086	Common Rule on Title IX of the Civil Rights Act
4088	HUBZone Program Technical Amendments
4089	Small Business Size Standards; Net Income Computation for the Small Business Investment Company
4090	Small Business Size Standards; Mapping Services
4091	8(a) Business Development/Application of Benchmarks
4092	8(a) Business Development/Program Improvement and Technical Amendments
4101	Small Business Size Standards; Arrangement of Transportation of Freight and Cargo
4105	Minority Enterprise Development
4106	Minority Enterprise Development
4107	Minority Enterprise Development
4108	Small Business Investment Companies (LMI)
4109	Disaster Mitigation Pilot Loan Program
	SSA
153	Assessing Attorney Representatives for Direct Payment (763P)
155	Work Incentives Improvement Act (767P)
	FAR
4180	FAR Case 98-609, Federal Supply Schedules Small Business Opportunities
4185	FAR Case 94-753, Travel Costs
4195	FAR Case 98-400, Progress Payments and Related Financing Policies
4210	FAR Case 97-003, Taxpayer Identification Numbers (TINS)
	FERC
4453	Collaborative Procedures for Energy Facility Applications
	FMC
4478	Coloading Practices and Possible Section 16 Exemption for Coloading (Docket Nos. 93-22 and 94-26)
4479	Financial Responsibility Requirements for Nonperformance of Transportation and Inquiry Into Alternative Forms (Docket No. 94-06; Further Notice of Proposed Rulemaking)
4480	Port Restrictions and Requirements in the United States/Japan Trade (Docket No. 96-20)

Small Businesses—Cont.

Seq. No.	Title
	FRS
4498	Regulation: DD — Truth in Savings (Docket Number: R-1044)
	FTC
4507	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986
4508	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation
4509	Trade Regulation Rule on Funeral Industry Practices
4512	The Care Labeling Rule
4513	Trade Regulation Rule on Franchising and Business Opportunity Ventures
4514	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992
4515	Trade Regulation Rule on Ophthalmic Practice Rules
4518	Children's Online Privacy Protection Rule Pursuant to the Children's Online Privacy Protection Act of 1998
4520	Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions
4521	Rule Governing the Pre-Sale Availability of Written Warranty Terms
	SEC
4655	Temporary Exemption for Certain Investment Advisers
4661	Insurance Products: Equity Index Insurance Products Concept Release
4666	EDGAR System (Modernization)
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

Small Governmental Jurisdictions

Seq. No.	Title
	USDA
348	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
356	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
508	New Restrictions on Lobbying
	DOC
698	Section 4(d) of ESA Protective Regulations for Johnson Seagrass, a Threatened Species
708	Coastal Zone Management Act Consistency Regulations
	HHS
46	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
1273	Survey · Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1313	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1315	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1330	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)
1371	Family Child Care Program Option for Head Start Programs
1373	Program Performance Standards for the Operation of Head Start Programs
1377	Construction of Head Start Facilities
1383	Head Start Appeal Timelines
1387	Technical Revision of Head Start Regulations to Make Them Conform to Recent Statutory Revisions
	HUD
1416	Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)
1450	RESPA: Disclosure of Fees Paid to Retail Lenders (Brokers) (FR-3780)
1461	Community Development Block Grant Program; Clarification of the Nature of Required CDBG Expenditure Documentation (FR-4449)
	DOJ
59	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards
1870	Nondiscrimination on the Basis of Disability in State and Local Government Services
1871	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities
2025	Grants Program for Indian Tribes
	DOT
2211	Aviation Data Requirements Review and Modernization Program
2232	Participation by Disadvantaged Business Enterprises in Airport Concessions
2278	Amendments to Hull Identification Number Regulations (CGD 92-065)
2280	Regattas and Marine Parades (CGD 95-054)
2294	Claims Procedures Under the Oil Pollution Act of 1990 (CGD 91-035)
2296	Regatta Regulations
2297	Drawbridge Regulations
2304	Emergency Response Plans for Passenger Vessels (USCG-1998-3473)
2325	Passenger Facility Charges
2371	Policy Regarding Airport Rates and Charges
2380	Airworthiness Directives
2392	Type Certificates for Some Surplus Aircraft of the Armed Forces
2393	Airport Noise Compatibility Planning
2401	License Requirements for Operation of a Launch Site
2423	Commercial Learner Permits and CDL Effectiveness
2427	Commercial Driver Physical Fitness as Part of the CDL Process
2451	Statewide Metropolitan Planning
2464	Standards for Center Line and Edge Line Markings on Streets and Highways
2483	Commercial Driver's License Standards; Biometric Identifier
2499	Revision of Manual on Uniform Traffic Control Devices; General Provisions and Traffic Control for School Areas

Small Governmental Jurisdictions—Cont.

Seq. No.	Title
2501	Revision of the Manual on Uniform Traffic Control Devices; Part II — Signs
2502	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs
2647	Local Rail Freight Assistance to States
2676	Statewide Metropolitan Planning
2678	Requirement for Third-Party Contracting with FTA Recipients
2679	Prevention of Alcohol Misuse and Drug Use in Transit Operations
2680	Bus Testing
2681	Charter Services Demonstration Program
2682	Buy America Requirements; Amendment to Certification Procedures
2684	School Bus Operations
2688	Hazardous Materials: Revision of Requirements for Carriage by Aircraft
2692	Quantity Limitations Aboard Aircraft
2694	DOT 3AL Aluminum Cylinders; Safety Problems
2699	Hazardous Materials: Requirements for Cargo Tanks
2704	Hazardous Materials Transportation: Registration and Fee Assessment Program
2705	Hazardous Materials: Revision of Requirements for Carriage by Rail Car and Motor Vehicle
2706	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form
2711	Hazardous Materials: Revised and Clarified Hazardous Materials Exemptions Procedures
2716	Requirements for Cylinders
2720	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements
2723	Filling of Propane Cylinders
2724	Prohibition of Oxidizers Aboard Aircraft
2726	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures
2731	Safeguarding Food From Contamination During Transportation
2734	Retention of Shipping Papers
2738	1998 Harmonization of Hazardous Materials Regulations With International Standards

Seq. No.	Title
	TREAS
3102	Extension of Time to Electronically File Information Returns, Limitation of Penalty for Individual's Failure to Pay During Period of Installment Agreement
	VA
3190	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
	CNCS
3293	Claims Collection
	EPA
111	Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan
112	Chemical Right-to-Know Initiative
123	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
124	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
130	Ground Water and Pesticide Management Plan
131	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
132	TRI; Reporting Threshold Amendment for Certain Persistent and Bioaccumulative Toxic Chemicals (PBTs)
134	NPDES Comprehensive Storm Water Phase II Regulations
135	Public Water System Public Notification Regulation
3297	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3298	Rewriting of EPA Regulations Implementing the Freedom of Information Act
3334	Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions
3349	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3357	NESHAP: Municipal Solid Waste Landfills

Seq. No.	Title
3364	Review of Minor New Sources and Modifications in Indian Country
3367	Federal Major New Source Review (NSR) Program for Nonattainment Areas
3388	Standards and Guidelines for Small Municipal Waste Combustion Units
3395	National Volatile Organic Compound Emission Standard for Architectural Coatings; Proposed Amendments
3422	NESHAP: Publicly Owned Treatment Works (POTW)
3436	Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)
3471	NSPS: New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators
3561	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3570	Pesticide Tolerance Reassessment Program
3572	Follow-Up Rules on Existing Chemicals
3577	Asbestos Model Accreditation Plan Revisions
3580	Asbestos Worker Protection Rule Amendments
3588	Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))
3592	PCBs; Polychlorinated Biphenyls; Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce
3595	Acrylamide; Ban on Use of Acrylamide for Grouting
3597	PCBs; Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule
3601	Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances
3602	PCBs; Polychlorinated Biphenyl; Use Authorizations
3604	Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)
3605	Asbestos-Containing Materials in Schools Rule Amendments
3607	Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)

Small Governmental Jurisdictions—Cont.

Seq. No.	Title
3612	TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption
3642	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3653	RCRA Reporting and Recordkeeping Burden Reduction
3654	Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris
3668	Clean Water Act Definition of the Waters of the United States
3669	Standards for the Use or Disposal of Sewage Sludge (Round II)
3670	Minimizing Adverse Environmental Impact from Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
3671	Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two
3673	Revisions to NPDES Requirements for Municipal Sanitary Sewer Collection Systems
3674	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3679	Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zone for Bioaccumulative Chemicals of Concern
3680	Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act
3681	Further Revisions to Clean Water Act Definition of Discharge of Dredged Material
3685	Effluent Guidelines and Standards for Landfills
3687	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
3688	NPDES Streamlining Rule — Round II
3689	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3692	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring
3693	Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures
3694	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3704	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3706	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3708	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3709	NPDES Streamlining Rule — Round III
3710	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category
3712	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3714	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3718	Effluent Guidelines for the Construction and Development Industry
3719	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
3721	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3722	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3723	Streamlining 301(h) Waiver Renewal Requirements
3726	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3732	Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants
3734	National Primary Drinking Water Regulations: Lead and Copper
3736	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3737	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements
3742	National Primary Drinking Water Regulations: Sulfate
3743	National Primary Drinking Water Standards for Aldicarb
3744	Streamlining Drinking Water Monitoring Requirements
3747	Drinking Water Unregulated Contaminant Monitoring Program
3749	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3750	National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium
3751	Revisions to Ocean Dumping Regulations for Dredged Material
3752	Shore Protection Act, Section 4103(b) Regulations
	SSA
155	Work Incentives Improvement Act (767P)
	FAR
4207	FAR Case 97-038, Evaluation of Proposals for Professional Services
	FERC
4453	Collaborative Procedures for Energy Facility Applications
	SEC
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

Small Organizations

Seq. No.	Title
	USDA
3	Child and Adult Care Food Program: Improving Management and Program Integrity

Small Organizations—Cont.

Seq. No.	Title
472	Rural Business Opportunity Grants
508	New Restrictions on Lobbying
	DOC
686	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
	DOD
920	Uniform Procurement Instrument Identification (DFARS Case 97-D033)
	HHS
37	Medicare Program: Prospective Payment System for Inpatient Rehabilitation Hospital Services (HCFA-1069-P)
46	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
47	Home Health Prospective Payment System (HCFA-1059-P)
48	The Children's Health Insurance Program: Implementing the Balanced Budget Act of 1997 (HCFA-2006-P)
1233	End Stage Renal Disease (ESRD) Conditions for Coverage (HCFA-3818-F) **(Section 610 Review)**
1295	Home Health Agency (HHA) Conditions of Participation (HCFA-3819-F)
1301	Hospice Care—Conditions of Participation (HCFA-3844-P)
1313	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1315	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1347	Hospital Conditions of Participation: Laboratory Services (HCFA-3014-P)
1364	Prospective Payment System and Consolidated Billing for Home Health Agencies (HCFA-1059-P)
1371	Family Child Care Program Option for Head Start Programs
1373	Program Performance Standards for the Operation of Head Start Programs
1377	Construction of Head Start Facilities
1383	Head Start Appeal Timelines
1387	Technical Revision of Head Start Regulations to Make Them Conform to Recent Statutory Revisions
	HUD
1416	Lead-Based Paint Poisoning Prevention in Certain Residential Structures (FR-3482)
	DOI
1543	Policy on General Conservation Permits
1687	Policy on National Wildlife Refuge System and Compensatory Mitigation Under the Section 10/404 Program
	DOJ
1871	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities
1923	Availability of Material Under Freedom of Information Act and Privacy Act
	DOT
2211	Aviation Data Requirements Review and Modernization Program
2278	Amendments to Hull Identification Number Regulations (CGD 92-065)
2280	Regattas and Marine Parades (CGD 95-054)
2282	Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan (CGD 95-015) (USCG-1998-4623)
2296	Regatta Regulations
2380	Airworthiness Directives
2392	Type Certificates for Some Surplus Aircraft of the Armed Forces
2664	Track Safety Standards Amendment To Address Gage Restraint Measurement Systems
2681	Charter Services Demonstration Program
2688	Hazardous Materials: Revision of Requirements for Carriage by Aircraft
2690	Hazardous Materials: Cargo Tank Rollover Requirements
2692	Quantity Limitations Aboard Aircraft
2694	DOT 3AL Aluminum Cylinders; Safety Problems
2699	Hazardous Materials: Requirements for Cargo Tanks
2702	Hazardous Materials: Revisions to Standards for Infectious Substances
2703	Transportation of Hazardous Materials; Miscellaneous Amendments
2704	Hazardous Materials Transportation: Registration and Fee Assessment Program
2705	Hazardous Materials: Revision of Requirements for Carriage by Rail Car and Motor Vehicle
2706	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form
2711	Hazardous Materials: Revised and Clarified Hazardous Materials Exemptions Procedures
2716	Requirements for Cylinders
2720	Tank Cars and Cargo Tank Motor Vehicles: Attendance Requirements
2723	Filling of Propane Cylinders
2724	Prohibition of Oxidizers Aboard Aircraft
2726	Hazardous Materials: Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures
2731	Safeguarding Food From Contamination During Transportation
2734	Retention of Shipping Papers
2735	Hazardous Materials: Safety Standards for Unloading Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service
2738	1998 Harmonization of Hazardous Materials Regulations With International Standards
2742	Eligibility of U.S.-Flag Vessels of 100 Feet or Greater To Obtain Commercial Fisheries Documents
2744	Administrative Waivers of the Coastwise Trade Laws for Eligible Vessels
	TREAS
2903	Constructive Sales of Appreciated Financial Positions
2912	Deposit of Excise Taxes - Revision
3102	Extension of Time to Electronically File Information Returns, Limitation of Penalty for Individual's Failure to Pay During Period of Installment Agreement

Small Organizations—Cont.

Seq. No.	Title
	VA
3190	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
	AID
3279	Administration of Grants and Cooperative Agreements
	CNCS
3293	Claims Collection
	EPA
111	Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan
123	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
124	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
131	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
134	NPDES Comprehensive Storm Water Phase II Regulations
135	Public Water System Public Notification Regulation
3297	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3298	Rewriting of EPA Regulations Implementing the Freedom of Information Act
3316	Environmental Impact Assessment of Nongovernmental Activities in Antarctica
3584	TSCA Biotechnology Follow-Up Rules
3588	Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))
3601	Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances
3602	PCBs; Polychlorinated Biphenyl; Use Authorizations
3604	Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)
3605	Asbestos-Containing Materials in Schools Rule Amendments
3607	Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)
3653	RCRA Reporting and Recordkeeping Burden Reduction
3654	Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris
3674	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3680	Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act
3688	NPDES Streamlining Rule — Round II
3689	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3692	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring
3693	Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures
3694	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3706	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3708	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3712	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3714	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3722	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3726	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3732	Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants
3734	National Primary Drinking Water Regulations: Lead and Copper
3736	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3737	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements
3742	National Primary Drinking Water Regulations: Sulfate
3743	National Primary Drinking Water Standards for Aldicarb
3744	Streamlining Drinking Water Monitoring Requirements
3747	Drinking Water Unregulated Contaminant Monitoring Program
	SSA
155	Work Incentives Improvement Act (767P)
	FERC
4453	Collaborative Procedures for Energy Facility Applications
	SEC
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

VOL
64
ISS
2
2
4
NO
22
1999
UMI

Exec
the Unfu
regulatio
the Interg
of unfun
include i
regulator
The
effects o
entry ide
Service C

Seq. No.	
1	Nati
3	Chil gr ar
4	FSP si si R
5	FSP ca 10
6	Foo si si R
7	Spe gr C Sy
8	Foo R ar
10	FSP th W Ac
15	Elim Pa
177	Fede ar
181	Part Ag gr
195	Sma ar gr
255	Kam
293	Gua Si

D. INDEX TO ENTRIES THAT MAY AFFECT GOVERNMENT LEVELS

Executive Order 12866 entitled "Regulatory Planning and Review" (October 4, 1993; 58 FR 51735) and the Unfunded Mandates Reform Act of 1995 (P.L. 104-4) direct agencies to assess the effects of Federal regulations on State, local, and tribal governments. In addition, Executive Order 12875 entitled "Enhancing the Intergovernmental Partnership" (October 26, 1993; 58 FR 58093) directs agencies to reduce the imposition of unfunded mandates upon State, local, and tribal governments. In keeping with these efforts, agencies include in their submissions for The Regulatory Plan and the Unified Agenda information on whether their regulatory actions have an effect on various levels of government.

The following index lists the regulatory actions in this publication that agencies believe may have effects on State, local, tribal, or Federal levels of government. The Sequence Number (Seq. No.) of the entry identifies the location of the entry in this edition. For further information, see the Regulatory Information Service Center's Introduction to The Regulatory Plan and the Unified Agenda in Part II of this issue.

State Government

Seq. No.	Title
	USDA
1	National Organic Program
3	Child and Adult Care Food Program: Improving Management and Program Integrity
4	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
5	FSP: State Flexibility and Certification Provisions of Public Law 104-193
6	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
7	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
8	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards
10	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
15	Elimination of Requirements for Partial Quality Control Programs
177	Federal Milk Order Consolidation and Reform
181	Part 1946 Mediation; Subpart A—Agricultural Loan Mediation Program
195	Small Farmer Outreach Training and Technical Assistance Program
255	Karnal Bunt
293	Guaranteed Rural Housing Loan Single Family
298	National Flood Insurance Regulations
334	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions
335	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem
337	Disclosure of Free and Reduced-Price Eligibility Information Under the School Nutrition and Child and Adult Care Food Programs
338	Food Stamp Program: Welfare Reform Matching, Fair Hearings and Recipient Service Rule
340	Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools: Provision 2 and Provision 3
341	Food Stamp Program Regulatory Review: Certification of Eligible Households
342	Part 240, Cash In Lieu of Donated Foods and Part 250, Food Distribution Regulations
347	Food Distributions Programs: Commodity Acceptability Report
348	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
349	FSP: Civil Rights Data Collections
350	FDPIR: Income Deduction and Miscellaneous Provision Rule
351	Commodity Supplemental Food Program: Plain Language, Program Accountability, and Program Flexibility
352	Food Stamp Program: Payment Adjustments
354	Child and Adult Care Food Program: Authority To Collect Overclaims
355	Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs
356	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
357	Food Stamp Program: Anticipating Income and Reporting Changes
358	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies
359	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household
360	Amendments to the Infant Meal Pattern
363	Summer Food Service Program: Program Meal Service During the School Year
364	Implementation of Legislative Reforms in the Summer Food Service Program
365	WIC: Bloodwork Requirements
366	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives
368	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
369	Food Distribution Program: Regulatory Implementation of Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193, 110 Stat 2105)

State Government—Cont.

Seq. No.	Title
370	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
372	Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations
374	Child Nutrition Programs: Reimbursement for Snacks in Afterschool Care Programs
375	WIC: Local Agency Expenditure Reports
376	WIC: Certification Integrity
377	WIC: WIC Funding Provisions of Public Law 105-336
378	Food Distribution Program: Deletion of Requirement to Evaluate State-Run Commodity Distribution and Warehousing Systems Every Three Years
381	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994
383	Food Stamp Provisions of the Balanced Budget Act of 1997
384	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
385	Food Stamp Program: 1995 Quality Control Technical Amendments
386	School Nutrition Programs: Technical and Nondiscretionary Amendments
388	Consolidation of National School Lunch Program, School Breakfast Program and Summer Food Service Program Into a Comprehensive School Meal Program
389	WIC: Food Package Adjustments and Corrections
391	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program
392	Implementation of Legislative Changes in the Child and Adult Care Food Program
393	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments
395	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC
396	Maximum Allotments for 48 States & DC & Income Eligibility Standards for 48 States, DC, AK, GU and VI
397	FSP: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands
418	Ante-Mortem and Post-Mortem Inspection of Livestock and Poultry
419	Requirements for Disposition and Disposal of Inspected Raw Meat and Poultry Products
465	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
506	Department of Agriculture Priorities and Administrative Guideline for Donation of Excess Research Equipment
508	New Restrictions on Lobbying

DOC

Seq. No.	Title
525	Regulations To Implement the Economic Development Administration Reform Act of 1998
527	Economic Adjustment Program—Revolving Loan Fund (FLF) Grants
566	Administration of State Log Exports Ban
600	Regulatory Amendment to Establish permit and Reporting Requirements for Pelagic Troll and Handline Vessels Fishing off Pacific Remote Islands of the United States
603	Amend the Foreign Fishing Regulations to Implement the Provisions of a Pacific Insular Area Fishery Agreement
624	Amendment 14 to the Pacific Coast Salmon Plan
627	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits
628	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
686	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
704	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act
708	Coastal Zone Management Act Consistency Regulations
710	Policies and Procedures Regarding Program Evaluation and Competitive Funding Requirements Within the Office of Oceanic and Atmospheric Research
725	Implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan
751	General Authorization for Scientific Research Involving Level B Harassment
760	Sea Turtle Conservation Regulations; Summer Flounder Fishery
793	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
801	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ
811	Amendment 13 to the Pacific Coast Salmon Plan
822	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries
823	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
853	Final Policies for Safe Harbor and Candidate Conservation Agreements

DOD

Seq. No.	Title
895	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)
899	Closed, Transferred, and Transferring Ranges Containing Military Munitions

DOE

Seq. No.	Title
22	Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment
1029	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps
1032	State and Local Incentives Program: Alternative Fuels
1034	Energy Efficiency Standards for Lamp Ballasts

State Government—Cont.

Seq. No.	Title
1035	Energy Efficiency Standards for Water Heaters
1049	Energy Efficiency Standards for Residential Furnaces, Boilers and Mobile Home Furnaces
1052	Energy Efficiency Standards for Clothes Dryers and Dishwashers
1053	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment
1055	Energy Efficiency Standards for Fluorescent and Incandescent Lamps
1057	Alternative Fuel Transportation Program: P-Series Fuels
1065	Redesign and Revision of Wholesale Power Rates and Resolution of Certain Transmission-Related Issues
1072	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)
1073	Payments for Special Burdens and in Lieu of Taxes

HHS

27	Standards for Privacy of Individually Indentifiable Health Information
28	Hearing Aids; Professional and Patient Labeling; Conditions for Sale
30	Pharmacy and Physician Compounding of Drug Products
34	Shell Eggs: Warning, Notice and Safe Handling Labeling Statements and Refrigeration Requirements
43	Security and Electronic Signature Standards (HCFA-0049-F)
45	National Standard Employer Identifier (HCFA-0047-F)
46	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
48	The Children's Health Insurance Program: Implementing the Balanced Budget Act of 1997 (HCFA-2006-P)
1112	Substances Prohibited From Use in Animal Food or Feed
1159	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1176	FDA Export Reform and Enhancement Act of 1996; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Later Export
1186	Food Labeling Review
1187	Medical Foods
1190	Reinventing FDA Food Regulations
1195	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2
1202	Dietary Supplement Regulations in Response to DSHEA
1214	National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Reporting Adverse and Negative Actions
1231	Public Health Service Standards for the Protection of Research Misconduct Whistleblowers
1232	Standards of Compliance for Abortion-Related Services in Family Planning Service Projects
1237	State Child Health; Implementing Regulations for the State Children's Health Insurance Program (HCFA-2006-P)
1240	Medicare Program; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Intent To Form Negotiated Rulemaking Committee (HCFA-3250-P)
1244	Medicare/Medicaid and CLIA Programs: Clinical Laboratory Improvement Amendments of 1988 Exemption of Laboratories in the State of California (HCFA-2245-N)
1252	Requirements for Enrollment of Medicaid Recipients Under Cost Effective Employer-Based Group Health Plans (HCFA-2047-FC)
1254	Utilization Control and Discontinued Review Activities; Medicaid (HCFA-2101-FC)
1262	Medicaid Program; Home and Community-Based Services (HCFA-2010-FC)
1272	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)
1273	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1274	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (HCFA-2028-F)
1280	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1281	Medicaid Payment for Covered Outpatient Drugs Under Rebate Agreements (HCFA-2046-FC)
1282	Referral to Child Support Enforcement Agencies of Medicaid Families (HCFA-2051-F)
1283	Medicaid: Outstationed Intake Locations for Certain Low-Income Pregnant Women, Infants, and Children Under Age 19 (HCFA-2052-F)
1285	Revised Medicaid Management Information Systems (HCFA-2038-FN)
1292	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (HCFA-2082-P)
1294	Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships—Expanded to Designated Health Services (HCFA-1809-F)
1298	Liability for Third Parties To Pay for Services (HCFA-2080-P)
1308	Medicaid; Estate Recoveries (HCFA-2083-P)
1309	Medicaid Hospice Care (HCFA-2016-P)
1313	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1315	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1318	Medicaid Program; Amendment to the Preadmission Screening and Annual Resident Review Program (HCFA-2107-P)
1319	Medically Needy Determinations Under Welfare Reform (HCFA-2109-IFC)
1320	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1321	Revision to the Definition of an Unemployed Parent (HCFA-2106-FC)
1326	Medicaid: Medical Child Support (HCFA-2081-P)
1330	State Plan Requirements for Durable Medical Equipment Providers (HCFA-2007-P)
1332	Elimination of Application of Federal Financial Participation Limits (HCFA-2111-IFC)

State Government—Cont.

Seq. No.	Title
1342	External Quality Review of Medicaid Managed Care Organizations (HCFA-2015-P)
1344	Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies (HCFA-3006-IFC)
1353	Case Management (HCFA-2027-F)
1356	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-F)
1359	Medicare Program State Allotments for Payments of Medicare Part B Premium for Qualifying Individuals: Federal Fiscal Year for 1999 (HCFA-2032-N)
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997
1369	Bonus To Reward High Performance States Under the Temporary Assistance for Needy Families Block Grant
1370	Child Support Enforcement for Indian Tribes
1371	Family Child Care Program Option for Head Start Programs
1372	National Medical Support Notice
1374	Safeguarding Child Support and Expanded FPLS Information
1375	Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, MEPA Implementation, and ASFA Implementation
1378	Methodology for Determining Whether an Increase in a State's Child Poverty Rate is the Result of the TANF Program
1379	Requirements for the Tribal Programs
1380	Child Support Enforcement Program Omnibus Conforming Regulation
1381	Refugee Resettlement Program: Refugee Cash and Medical Assistance Programs
1382	Incentive Payments and Audit Penalties to States and Political Subdivisions
1383	Head Start Appeal Timelines
1384	Welfare-to-Work Data Collection
1385	State Self Assessments To Determine Compliance With Federal Regulations
1389	Temporary Assistance for Needy Families (TANF)
1390	Bonus to Reward Decrease in Illegitimacy Ratio
1391	Implementation of AFCARS Corrective Action and Penalties and CAPTA Amendments
1392	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians

HUD

Seq. No.	Title
1393	Common Rule: Nondiscrimination in Educational Activities (FR-4301)
1396	Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)
1402	Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs (FR-4485)
1409	Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)
1412	Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)
1415	Sanctions for Underreporting of Income in the Assisted Housing Programs (FR-4334)
1419	Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities; Miscellaneous Amendments (FR-4326)
1475	Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)

DOI

Seq. No.	Title
56	Valuation of Oil From Federal Mineral Leases
57	Surface Management (Locatable Minerals)
58	Oil and Gas Leasing and Operations
1523	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1526	Revised Statute 2477 Rights-of-Way
1527	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act
1528	Administrative and Audit Requirements and Cost Principles for Assistance Programs, Seat Belt Usage
1529	Special Deposits
1538	National Boating Infrastructure Grant Program
1540	Administration of the National Coastal Wetlands Conservation Grant Program
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making
1550	Endangered and Threatened Wildlife and Plants: Critical Habitat Designation for the Western Snowy Plover
1551	Critical Habitat Proposal for Virgin River Fishes
1572	Endangered and Threatened Wildlife and Plants
1574	Endangered and Threatened Wildlife and Plants
1575	Endangered and Threatened Wildlife and Plants; Reclassification of the Loch Lomond Coyote Thistle
1576	Export of American Ginseng Harvested in 1994-1996
1578	Endangered and Threatened Wildlife and Plants: Tropical Birds
1579	Endangered and Threatened Wildlife and Plants: Four Southwestern California Plants
1580	Seizure and Forfeiture Procedures
1581	Critical Habitat Designation for the Lost River and Shortnose Suckers
1582	Endangered and Threatened Wildlife and Plants: Least Chub
1583	Revision of Migratory Bird Hunting Regulations, 50 CFR Part 20
1594	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana
1597	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1599	Export of American Alligator for the 1998-2000 Harvest Seasons
1600	Revisions to the Federal Aid Administrative Requirements
1601	Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for Blackburn's Sphinx Moth from the Hawaiian Islands

State Government—Cont.

Seq. No.	Title
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1624	Importation, Exportation and Transportation of Wildlife Concerning International Mail, Pet Birds, Border Ports, Shellfish and Fishery Products Exemption
1669	Migratory Bird Special Purpose Canada Goose Permit
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1698	World Heritage Convention
1706	Land and Water Conservation Fund of Assistance to States; Post-Completion Compliance Responsibilities
1730	Land Acquisitions for Gaming
1748	Class III Gaming Procedures
1751	Takes vs. Entitlements Reporting
1752	Accounting Relief for Marginal Properties
1753	Chronic Erroneous Reporting
1754	Oil and Gas Drilling Operations
1755	Exploration or Development and Production Plans
1763	Reviewing Exploration Plans and Development and Production Plans for Coastal Zone Consistency
1767	Prepayment of Royalties
1775	Change to Delegated State Audit Functions
1776	Royalty in Kind for Oil and Gas
1779	Dam Safety Rules
1781	Definition and Criteria for Valid Existing Rights
1784	Ownership and Control—Redesign
1785	Enhancing AML Reclamation
1786	Central Valley Project of California — Purposes, Uses, and Allocation of Water Supplies
1810	Alaska Native Veterans Allotments
1820	Land Classification

Seq. No.	Title
	DOJ
59	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards
60	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1870	Nondiscrimination on the Basis of Disability in State and Local Government Services
1871	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities
1875	Nondiscrimination on the Basis of Disability in State and Local Government Services
1899	Operation of the National Instant Criminal Background Check System
1900	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
1901	Federal Convicted Offender DNA Database Program
1902	FBI Criminal Justice Information Services Division Systems and Procedures
1905	Expansion of Expedited Removal of Certain Criminal Aliens Held in Federal, State, and Local Jails
1910	Definition of the Term "Lawfully Present" for Purposes of Eligibility for Public Benefits
1915	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1918	Control of Aliens Departing From the United States
1939	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
1956	Early Release for Removal of Criminal Aliens in State Custody for Nonviolent Offenses
1960	Verification of Eligibility for Public Benefits
1961	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service
1969	Powers of the Attorney General To Authorize State or Local Law Enforcement Officers To Carry Out Immigration Enforcement
1972	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands
1973	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor
1974	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification
1979	Deportability and Inadmissibility on Public Charge Grounds
1998	Regulations Pertaining to Adjudications Processing
2007	Federal Claims Collection Standards (FCCS)
2012	Violent Crime and Drug Emergency Areas
2017	Operation of the National Instant Criminal Background Check System
2018	Federal Convicted Offender DNA Database Program
2019	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
2022	FBI Criminal Justice Information Services Division Systems and Procedures
2026	Bulletproof Vest Partnership Grant Act of 1998
	DOL
65	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
66	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
67	Birth and Adoption Unemployment Compensation
68	Welfare-to-Work (WTW) Grants
69	Workforce Investment Act of 1998
82	Safety and Health Programs (for General Industry and the Maritime Industries)
86	Occupational Exposure to Tuberculosis
87	Employer Payment for Personal Protective Equipment

State Government—Cont.

Seq. No.	Title
2034	Process for Electing State Employment Statistics Agency Representatives for Consultations With Department of Labor
2039	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206
2041	Records To Be Kept by Employers Under the Fair Labor Standards Act
2043	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act
2044	Implementation of the 1996 Amendments to the Fair Labor Standards Act
2045	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act
2054	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation
2056	Application of the Fair Labor Standards Act to Domestic Service
2058	Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century
2059	Disaster Unemployment Assistance Program, Amendment to Regulations
2060	Federal-State Unemployment Compensation Program; Unemployment Insurance Performance System
2065	Federal-State Unemployment Compensation Program; Confidentiality and Disclosure of Information in State Records
2068	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement
2069	Labor Certification Process for the Permanent Employment of Aliens in the United States
2071	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration
2073	Airline Deregulation: Employee Benefit Program
2105	Training and Retraining of Miners **(Rulemaking Resulting From a Section 610 Review)**
2109	Hazard Communication
2114	Air Quality, Chemical Substances, and Respiratory Protection Standards
2122	Noise Standard
2125	Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines
2127	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998
2129	Audits of States, Local Governments, and Nonprofit Organizations
2130	Audit Requirements for Grants, Contracts, and Other Agreements
2131	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance
2156	Respiratory Protection (Proper Use of Modern Respirators)

STATE

Seq. No.	Title
2199	Hague Intercountry Adoption Convention Implementation

DOT

Seq. No.	Title
93	Hours of Service of Drivers **(Section 610 Review)**
96	Whistle Bans at Highway-Rail Grade Crossings
98	Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage
2209	Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**
2224	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
2236	Policy Statement on Airline Preemption
2244	New Restrictions on Lobbying
2428	Department of Transportation NEPA and Related Procedures for Transportation Decisionmaking
2431	Motor Carrier Replacement Information/Registration System
2451	Statewide Metropolitan Planning
2458	Acquisition of Real Property for Rights-of-Way
2460	Revision of Medical Examination Form and Procedures
2469	Railroad Highway Projects
2475	Motor Carrier Safety Assistance Program (MCSAP)
2483	Commercial Driver's License Standards; Biometric Identifier
2484	Truck Length and Width Exclusive Devices
2491	Hours of Service of Drivers; Supporting Document Recordkeeping
2492	Advanced Construction of Federal Aid Projects
2494	Transportation of Migrant Workers
2501	Revision of the Manual on Uniform Traffic Control Devices; Part II — Signs
2502	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs
2537	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency
2570	Transition Procedures From Current to New National Driver Register
2582	Safety Incentive Grants for Use of Seat Belts
2583	Occupant Protection Incentive Grants
2584	Open Container Requirements
2585	Alcohol-Impaired Driving Countermeasures Incentive Grants
2586	State Highway Safety Data Improvements Incentive Grants
2587	Uniform Criteria for State Observational Surveys of Seat Belt Use
2588	Minimum Penalties for Repeat Offenders
2592	Requirements for Low-Speed Vehicles (LSV)
2603	State Issued Identification Documents
2612	Extend Participation in the National Driver Register Program
2622	State Incentives To Prevent Operation of Motor Vehicles by Intoxicated Persons
2627	Uniform Procedures for State Highway Safety Programs
2628	Procedures for Participation in and Receiving Data From the National Driver Register Problem Driver Pointer System
2649	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems
2661	Planning Activities Under the Magnetic Levitation Transportation Technology Deployment Program

State Government—Cont.

Seq. No.	Title
2673	Buy America Requirements; Permanent Waiver for Microcomputers
2674	Department of Transportation (FTA, FHWA) and Related Procedures for Transportation Decisionmaking
2676	Statewide Metropolitan Planning
2677	State Safety Oversight; Rail Fixed Guideway Systems
2678	Requirement for Third-Party Contracting with FTA Recipients
2679	Prevention of Alcohol Misuse and Drug Use in Transit Operations
2682	Buy America Requirements; Amendment to Certification Procedures
2684	School Bus Operations
2686	Proposed Expanded Reporting of Safety and Security Portion of the National Transit Database
2687	Credit Assistance for Surface Transportation Projects
2707	Pipeline Safety: Corrosion Control on Gas and Hazardous Liquid Pipelines
2739	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1998)
	TREAS
99	Rules and Procedures for Efficient Federal-State Funds Transfers
2761	Offset of Tax Refund Payment to Collect State Income Tax Obligations
2767	Regulations Governing FedSelect Check
2770	Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due Debts Owed to States (Other Than Child Support)
2967	Definition of "Highly Compensated Employee"
2970	Qualified State Tuition Programs
3021	Remedial Amendment Period
3022	Compliance Monitoring and Miscellaneous Issues Relating to the Low Income Housing Credit
3034	Private Activity Bond Rules for Output Facilities
3102	Extension of Time to Electronically File Information Returns, Limitation of Penalty for Individual's Failure to Pay During Period of Installment Agreement
3121	Electronic Fund Transfers of Federal Deposits

Seq. No.	Title
	VA
3152	Priorities for State Home Grants for Construction, Acquisition, or Renovation
3153	Per Diem for Adult Day Health Care of Veterans in State Homes
3162	New Criteria for Approval of Courses for Educational Assistance Programs
3185	State Cemetery Grants: Aid to States for Establishment, Expansion, and Improvement of Veterans Cemeteries
3190	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
3191	Per Diem for Nursing Home Care of Veterans in State Homes
3199	New Eligibility Criteria for the Montgomery GI Bill—Active Duty, Other Miscellaneous Issues
3230	Recognition of Organizations and Accreditation of Representatives
3273	VA Acquisition Regulation: Taxes
	ACHP
3278	Protection of Historic Properties
	ATBCB
3284	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3285	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities
3288	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
3290	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Public Rights-of-Way
	CNCS
3293	Claims Collection
	EPA
102	TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory

Seq. No.	Title
103	NAAQS: Sulfur Dioxide (Response to Remand)
104	Operating Permits: Revisions (Part 70)
107	Review of the National Ambient Air Quality Standards for Particulate Matter
108	Transportation Conformity Amendments: Response to March 2, 1999, Court Decision
111	Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan
113	Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes
114	Hazardous Waste Manifest Regulation
115	Standardized Permit for RCRA Hazardous Waste Management Facilities
116	Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste; Proposed Modifications
117	National Primary Drinking Water Regulations: Radon
118	National Primary Drinking Water Regulations: Ground Water Rule
119	National Primary Drinking Water Regulations: Arsenic
120	Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule
121	Effluent Guidelines and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
122	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
123	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
125	New Source Review (NSR) Reform
127	Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations
128	Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry
129	Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards
130	Ground Water and Pesticide Management Plan

State Government—Cont.

Seq. No.	Title
131	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
132	TRI; Reporting Threshold Amendment for Certain Persistent and Bioaccumulative Toxic Chemicals (PBTs)
133	TRI; Lowering of EPCRA Section 313 Reporting Thresholds for Lead and Lead Compounds
134	NPDES Comprehensive Storm Water Phase II Regulations
135	Public Water System Public Notification Regulation
136	Total Maximum Daily Load (TMDL) Program Regulations Revisions
137	Total Maximum Daily Load (TMDL) - NPDES and WQS Regulations Revisions
3297	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3299	Cross-Media Electronic Reporting (ER) and Recordkeeping Rule
3324	NESHAP: Chromium Electroplating Amendment
3326	Performance Warranty and Inspection/Maintenance Test Procedures
3328	NESHAP: Iron Foundries and Steel Foundries
3329	NESHAP: Cyanide Chemicals Manufacturing
3330	NESHAP: Integrated Iron and Steel
3331	NESHAP: Reinforced Plastic Composites Production
3333	NESHAP: Chlorine Production
3334	Method 301: Field Validation of Pollution Measurement Methods for Various Media; Revisions
3335	Requirements for Preparation, Adoption, and Submittal of State Implementation Plans (Guideline on Air Quality Models)
3336	Amendments to General Provisions Subparts A and B for 40 CFR 63
3339	New Source Performance Standards and Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units
3343	NESHAP: Tire Manufacturing
3344	NESHAP: Plywood and Composite Wood Products
3346	NESHAP: Large Appliance (Surface Coating)
3347	Metal Furniture (Surface Coatings) NESHAP
3348	Paper and Other Web Coating NESHAP
3349	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3350	NESHAP: Asphalt Roofing and Processing
3354	NESHAP: Metal Coil (Surface Coating) Industry
3355	NESHAP: Primary Magnesium Refining
3356	NESHAP: Miscellaneous Cellulose Production
3357	NESHAP: Municipal Solid Waste Landfills
3358	NESHAP: Leather Tanning and Finishing Operations
3359	NESHAP: Manufacture of Carbon Black
3360	NESHAP: Vegetable Oil Production
3361	Consolidated Emission Reporting Rule
3366	NESHAP: Organic Liquid Distribution
3367	Federal Major New Source Review (NSR) Program for Nonattainment Areas
3368	NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks
3371	NESHAP: for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule
3372	NESHAP. Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment Leaks
3373	NESHAP: Polyvinyl Chloride and CoPolymers Production
3374	Performance Specification 16 - Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources
3375	NESHAP: Wet-formed Fiberglass Mat Production
3387	Revision to the Definition of Volatile Organic Compound (VOC) to Exclude Tertiary Butyl Acetate
3388	Standards and Guidelines for Small Municipal Waste Combustion Units
3392	Area Source Title V Operating Permit Deferrals
3393	Decision on a Petition from the Territory of American Samoa to be Exempted from the Gasoline Antidumping Regulations.
3394	National VOC Emission Standards for Consumer Products; Proposed Amendments
3396	NESHAP for the Printing and Publishing Industry; Amendments
3398	Regulation of Fuels and Fuel Additives: Extension of Reformulated Gasoline Program to the Kansas City, KS Former Ozone Nonattainment Area
3401	Transportation Conformity Amendment: Deletion of Grace Period
3405	National Ambient Air Quality Standard for Ozone - Corrections Notice
3406	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3407	Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule
3408	Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment
3410	National Ambient Air Quality Standard for Ozone - Corrections Notice
3411	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3412	Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule
3413	Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment
3417	NESHAP: Manufacturing of Amino and Phenolic Resins (Polymers and Resins Group III)
3418	NESHAP: Phosphate Fertilizers Production
3419	NESHAP: Primary Copper Smelting
3420	NESHAP: Secondary Aluminum Industry
3421	NSPS: Synthetic Organic Chemicals Manufacturing Industry - Wastewater (FINAL) & Amend. to Appendix C of Part 63 & Appendix J of Part 61
3422	NESHAP: Publicly Owned Treatment Works (POTW)
3426	Protection of Stratospheric Ozone: Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants
3435	NSPS: Sewage Sludge Incinerators
3436	Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)
3438	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)

State Government—Cont.

Seq. No.	Title
3439	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3441	NESHAP: Chromium Electroplating Amendment
3443	NESHAP: Off-Site Waste and Recovery Operations; Final Rule—Settlement Agreement; and NESHAP for Off-Site Waste and Recovery Operations; Technical Amendments
3446	Redefinition of Glycol Ethers Listed as HAPs Under the Clean Air Act, and Hazardous Substances Under CERCLA
3447	NESHAP: Oil and Natural Gas Production and NESHAP: Natural Gas Transmission and Storage, Amendments
3451	Hospital/Medical/Infectious Waste Incinerators—Federal Plan (Federal Plan for existing Hospital/Medical/Infectious Waste Incinerators)
3452	Amendment to Regulations Governing Equivalent Emission Limitations by Permit
3453	NESHAP: Ethylene Oxide Commercial Sterilization and Fumigation Operations
3458	Additional Flexibility Amendments to Inspection Maintenance Program Requirements; Amendments to the Final Rule
3459	NESHAP for Ethylene Oxide Commercial Sterilization Operations-Monitoring Amendments
3461	Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone (The "NOx SIP Call" rule)
3463	Revision to NOx SIP Call Emission Budgets for Connecticut, Massachusetts and Rhode Island
3469	NESHAP: Manufacturing of Nutritional Yeast
3470	NESHAP: Paint Stripping Operations
3472	Petroleum Solvent Dry Cleaners Maximum Achievable Control Technology (MACT) Standard
3473	NESHAP: Miscellaneous Metal Parts and Products (Surface Coating)
3474	Plastic Parts (Surface Coating) NESHAP
3476	NESHAP: Lime Manufacturing
3477	NESHAP: Friction Products Manufacturing
3478	Revised Permit Revision Procedures for the Federal Operating Permits Program
3479	NESHAP: Semiconductor Production
3480	NESHAP: Fabric Printing, Coating and Dyeing
3481	NESHAP: Automobile and Light-Duty Truck Manufacturing (Surface Coating)
3482	Offset Lithographic Printing National VOC Rule
3483	Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas
3486	NESHAP: Spandex Production
3488	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3489	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3490	NESHAP: Alumina Processing
3493	NESHAP: Hydrochloric Acid Production Industry
3494	NESHAP: Ammonium Sulphate Production (Caprolactam By-Product)
3495	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3496	NESHAP: Clay Products Minerals
3497	NESHAP: Hydrogen Chloride Production
3498	NESHAP: Uranium Hexafluoride Production
3500	General Conformity Regulations; Revisions
3504	Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)
3505	Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable (7 areas)
3506	NESHAP: Brick and Structural Clay Products
3507	NESHAP: Ceramics
3509	NESHAP: Lightweight Aggregate
3511	Integrated NESHAP and Effluent Guidelines: Pulp and Paper
3512	NESHAP: Mineral Wool Production Industry
3513	NESHAP: Oil and Natural Gas Production and Natural Gas Transmission and Storage
3514	NESHAP: Phosphoric Acid Manufacturing
3515	NESHAP: Steel Pickling, HC1 Process
3516	NESHAP: Wool Fiberglass Manufacturing Industry
3517	NESHAP: Portland Cement Manufacturing
3518	NESHAP: Polyether Polyols Production
3520	NESHAP: Primary Lead Smelters
3521	NESHAP: Acrylic/Modacrylic Fibers Manufacturing
3523	NESHAP: Ferroalloy Production
3525	Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions
3526	Consumer & Commercial Products: Wood Furniture, Aerospace, Shipbuilding and Ship Repair Coatings: Control Techniques Guidelines in Lieu of Regulations
3527	Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program
3529	Generic MACT for Source Categories (Acrylic Modacrylic Fibers, Polycarbonates, Hydrogen Fluoride, and Acetal Resins)
3530	NESHAP: Hydrogen Fluoride Production
3532	Storage Tank Rule Revisions
3534	Protection of Stratospheric Ozone: Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3536	Air Quality Index Reporting
3537	Electric Arc Furnace NSPS Amendment
3538	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3543	Consumer and Commercial Products: Revised Schedule for Regulation
3545	No Backsliding Rule for PM-10 Nonattainment Areas
3546	Revisions to Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere
3550	Coke Oven NESHAP Amendment
3551	Coke Oven NESHAP Amendment
3558	Regulatory Review of Pesticide Emergency Exemption Regulations
3560	Pesticide Management and Disposal
3561	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3565	Tolerances for Pesticide Emergency Exemptions

State Government—Cont.

Seq. No.	Title
3567	Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration
3570	Pesticide Tolerance Reassessment Program
3573	Test Rules; Generic Entry for Proposed Decisions
3575	Test Rule; ATSDR Substances
3577	Asbestos Model Accreditation Plan Revisions
3579	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures Section 402(a)
3580	Asbestos Worker Protection Rule Amendments
3581	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
3583	Test Rule for Certain Metals
3584	TSCA Biotechnology Follow-Up Rules
3585	Multi-Chemical Test Rule; High Production Volume Chemicals
3588	Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))
3594	Test Rules; Generic Entry for Final Decisions
3595	Acrylamide; Ban on Use of Acrylamide for Grouting
3597	PCBs; Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule
3599	Test Rule; Hazardous Air Pollutants (HAPs)
3602	PCBs; Polychlorinated Biphenyl; Use Authorizations
3604	Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)
3605	Asbestos-Containing Materials in Schools Rule Amendments
3607	Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)
3609	TRI; Responses to Petitions Received To Add or Delete or Modify Chemical Listings on the Toxic Release Inventory
3610	TRI; Pollution Prevention Act Information Requirements
3611	TRI; Chemical Expansion; Finalization of Deferred Chemicals
3612	TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption
3618	TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know
3619	TRI; Review of Chemicals on the Original TRI List
3620	Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities
3623	Revisions to Solid Waste Landfill Criteria—Leachate Recirculation
3627	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3630	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3631	Modifications to RCRA Rules Associated With Solvent-Contaminated Shop Towels and Wipers
3632	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3635	Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)
3636	Revisions to Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste
3637	Alternative Land Disposal Restrictions Treatment Standards for Contaminated Soils, Deferral of PCB's as an Underlying Hazardous Constituent in Soil
3638	Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities
3639	RCRA Subtitle C Financial Test Criteria (Revision)
3640	Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments
3641	Chlorinated Aliphatics Listing Determination
3642	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3644	Recycled Used Oil Containing PCBs
3645	180-Day Accumulation Time Under RCRA for Generators of F006 Waste Water Treatment Sludges from the Metal Finishing Industry
3647	Revised Standards for Hazardous Waste Combustion Facilities
3649	Hazardous Waste Identification; Recycled Used Oil Management Standards
3650	Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste
3651	Management of Cement Kiln Dust (CKD)
3652	Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions
3653	RCRA Reporting and Recordkeeping Burden Reduction
3654	Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris
3655	Proposed Regulatory Amendments on Recycling of Hazardous Wastes in Fertilizers
3656	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps
3657	Adequacy of State Permit Programs Under RCRA Subtitle D
3658	Oil Pollution Prevention Regulation: Revisions
3659	National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules
3661	Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; Revision of 40 CFR Part 35 Subpart O
3662	Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M
3669	Standards for the Use or Disposal of Sewage Sludge (Round II)
3670	Minimizing Adverse Environmental Impact from Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
3671	Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two
3672	Water Quality Standards Regulation — Revision
3673	Revisions to NPDES Requirements for Municipal Sanitary Sewer Collection Systems
3674	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts

State Government—Cont.

Seq. No.	Title
3678	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3679	Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zone for Bioaccumulative Chemicals of Concern
3680	Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act
3682	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3683	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3685	Effluent Guidelines and Standards for Landfills
3686	Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California
3687	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
3688	NPDES Streamlining Rule — Round II
3689	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3692	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring
3693	Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures
3694	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3695	Effluent Guidelines and Standards for Industrial Waste Combustors
3697	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment
3698	Water Quality Standards for Alabama—Phase I
3699	Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance — Revision of Polychlorinated Biphenyls (PCBs) Criteria
3700	EPA Review and Approval of State and Tribal Water Quality Standards
3702	Recognition Awards Under the Clean Water Act
3704	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3705	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
3706	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3707	Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance
3708	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3709	NPDES Streamlining Rule — Round III
3710	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category
3711	Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System
3712	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3713	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3714	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3715	Revisions to Effluent Guidelines and Standards for Synthetic-Based Drilling Fluids in the Oil and Gas Extraction Point Source Category
3716	Water Quality Standards for Alabama—Phase II
3718	Effluent Guidelines for the Construction and Development Industry
3719	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
3721	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3722	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3723	Streamlining 301(h) Waiver Renewal Requirements
3724	Uniform National Discharge Standards for Armed Forces Vessels—Phase I
3725	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment
3726	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3732	Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants
3733	Revisions to the Underground Injection Control Regulations for Class V Injection Wells
3734	National Primary Drinking Water Regulations: Lead and Copper
3736	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3737	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements
3739	Drinking Water State Revolving Fund Regulations
3741	Revision to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR).
3742	National Primary Drinking Water Regulations: Sulfate
3743	National Primary Drinking Water Standards for Aldicarb
3744	Streamlining Drinking Water Monitoring Requirements
3745	Long Term 2 Enhanced Surface Water Treatment Rule
3746	Stage 2 Disinfectants/Disinfection Byproducts Rule
3747	Drinking Water Unregulated Contaminant Monitoring Program
3748	Filter Backwash Recycling Regulation
3749	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3750	National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium

State Government—Cont.

Seq. No.	Title
3751	Revisions to Ocean Dumping Regulations for Dredged Material
	EEOC
139	Waivers of Rights and Claims: Tender Back of Consideration
3755	Procedures—The Age Discrimination in Employment Act
3757	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees
	FEMA
3762	Flood Mitigation Assistance Program
3764	National Dam Safety Program; Assistance for State Programs
3765	Disaster Assistance; Fire Suppression Assistance
3769	Debt Collection
3783	Disaster Assistance; Cost-share Adjustment
	GSA
3808	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs
3830	Donation Requirements for Firearms
	NARA
3861	Limitations on Testimony by NARA Employees
3865	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance
3867	National Historical Publications and Records Commission Grant Regulations
3874	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3881	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities — Implementation of Title IX of the Education Amendments of 1972

Seq. No.	Title
	RRB
4066	Employees Under the Railroad Retirement Act
	SSA
149	Substantial Gainful Activity Guidelines and Related Changes (766P)
155	Work Incentives Improvement Act (767P)
4110	Assignment of Social Security Administration Numbers (SSN) for Non-Work Purposes (751P)
4115	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements with State, Local, and Indian Tribal Governments (547P)
4119	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
4120	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P)
4160	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker to Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)
4163	Privacy and Disclosure of Official Records and Information (711P)
4171	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)
4173	Employer ID Numbers for State and Local Government Employment (691F)
4174	Increase in Substantial Gainful Activity (738F)
	FCC
4285	Cable Television Rate Regulation
4286	Cable Television Rate Regulation: Cost of Service
4287	Customer Service Standards
4289	Over-the-Air Reception Devices
4291	Cable Act Reform
4293	Telecommunications Act of 1996, Pole Attachment Provisions
4311	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order
4312	Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4313	Enhanced 911 Services for Wireline
4320	In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities
4325	Access Charge Reform for Rate-of-Return Local Exchange Carriers
4334	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4335	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4337	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4345	Medical Care Telemetry Devices
4347	Allocation of 455-456 MHz and 459-460 MHz
4350	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU
4360	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures; IB Docket No. 95-117
4368	Redesignation of the 17.7-19.7 GHz band, Blanket Licensing of Sat Earth Stations (17.7-20.2 GHz & 27.5-30 GHz) & Allocation in the 17.3-17.8 & 24.75-25.25 GHz bands for Broadcast Satellite-Service Use
4369	Allocation and Designation of Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz bands).Allocations: fixed & mobile 40.5-42.5 GHz;Wireless Srv 46.9-47 GHz; Gov Operations 37-38 & 40-40.5 GHz
4384	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes

State Government—Cont.

Seq. No.	Title
4386	Review of Broadcast and Cable EEO Rules and Policies
4388	Advanced Television Service (MM Docket 87-268)
4393	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4394	Refarming
4395	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4396	Resale and Roaming Obligations Pertaining to Commercial Mobile Radio Services
4402	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4405	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
4411	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended
	FERC
4452	Regulations Governing Off-the-Record Communications
4453	Collaborative Procedures for Energy Facility Applications
	FRS
4499	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)
	FTC
4513	Trade Regulation Rule on Franchising and Business Opportunity Ventures
4519	Amended Federal Deposit Insurance Corporation Improvement Act
	NIGC
162	Game Classification
	NRC
4616	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999
	SEC
4663	Political Contributions by Investment Advisers
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

Local Government

Seq. No.	Title
	USDA
3	Child and Adult Care Food Program: Improving Management and Program Integrity
4	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
5	FSP: State Flexibility and Certification Provisions of Public Law 104-193
6	Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
7	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
8	Food Stamp Program: Food Stamp Recipient Claim Establishment and Collection Standards
10	FSP: Nondiscretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
177	Federal Milk Order Consolidation and Reform
293	Guaranteed Rural Housing Loan Single Family
295	Denying Credit to Applicants Delinquent on Any Federal Debt
298	National Flood Insurance Regulations
334	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions
335	Provisions of Computer Matching and Privacy Protection Act of 1988, Amendments of 1990, and Implementation of the Disqualified Recipient Subsystem
337	Disclosure of Free and Reduced-Price Eligibility Information Under the School Nutrition and Child and Adult Care Food Programs
338	Food Stamp Program: Welfare Reform Matching, Fair Hearings and Recipient Service Rule
340	Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools: Provision 2 and Provision 3
341	Food Stamp Program Regulatory Review: Certification of Eligible Households
347	Food Distributions Programs: Commodity Acceptability Report
348	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
349	FSP: Civil Rights Data Collections
351	Commodity Supplemental Food Program: Plain Language, Program Accountability, and Program Flexibility
352	Food Stamp Program: Payment Adjustments
355	Direct Certification in National School Lunch, School Breakfast, and Special Milk Programs
356	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
357	Food Stamp Program: Anticipating Income and Reporting Changes
358	Food Stamp Program: Payment of Certain Administrative Costs of State Agencies
360	Amendments to the Infant Meal Pattern
363	Summer Food Service Program: Program Meal Service During the School Year
365	WIC: Bloodwork Requirements
366	National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives
370	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
374	Child Nutrition Programs: Reimbursement for Snacks in Afterschool Care Programs
375	WIC: Local Agency Expenditure Reports

Local Government—Cont.

Seq. No.	Title
376	WIC: Certification Integrity
377	WIC: WIC Funding Provisions of Public Law 105-336
378	Food Distribution Program: Deletion of Requirement to Evaluate State-Run Commodity Distribution and Warehousing Systems Every Three Years
381	Child and Adult Care Food Program: Child Nutrition and WIC Reauthorization Act Amendments and Healthy Meals for Healthy Americans Act of 1994
383	Food Stamp Provisions of the Balanced Budget Act of 1997
384	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
386	School Nutrition Programs: Technical and Nondiscretionary Amendments
388	Consolidation of National School Lunch Program, School Breakfast Program and Summer Food Service Program Into a Comprehensive School Meal Program
389	WIC: Food Package Adjustments and Corrections
391	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program
392	Implementation of Legislative Changes in the Child and Adult Care Food Program
393	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments
395	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC
396	Maximum Allotments for 48 States & DC & Income Eligibility Standards for 48 States, DC, AK, GU and VI
397	FSP: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands
465	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
468	Business and Industry Direct Loan Program
472	Rural Business Opportunity Grants
474	Rural and Rural Area Under the Rural Community Advancement Program
489	Community Facility Loans—Timber-Dependent Communities
490	Solid Waste Management Grants
491	Technical Assistance and Training Grants
506	Department of Agriculture Priorities and Administrative Guideline for Donation of Excess Research Equipment
508	New Restrictions on Lobbying

DOC

525	Regulations To Implement the Economic Development Administration Reform Act of 1998
527	Economic Adjustment Program—Revolving Loan Fund (FLF) Grants
566	Administration of State Log Exports Ban
600	Regulatory Amendment to Establish permit and Reporting Requirements for Pelagic Troll and Handline Vessels Fishing off Pacific Remote Islands of the United States
624	Amendment 14 to the Pacific Coast Salmon Plan
708	Coastal Zone Management Act Consistency Regulations
793	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
811	Amendment 13 to the Pacific Coast Salmon Plan
823	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
853	Final Policies for Safe Harbor and Candidate Conservation Agreements

DOD

895	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)

DOE

22	Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment
1029	Energy Efficiency Standards for Central Air Conditioners and Heat Pumps
1032	State and Local Incentives Program: Alternative Fuels
1034	Energy Efficiency Standards for Lamp Ballasts
1035	Energy Efficiency Standards for Water Heaters
1039	Alternate Fueled Vehicle Acquisition Requirements for Private and Local Government Fleets
1049	Energy Efficiency Standards for Residential Furnaces, Boilers and Mobile Home Furnaces
1052	Energy Efficiency Standards for Clothes Dryers and Dishwashers
1053	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment
1055	Energy Efficiency Standards for Fluorescent and Incandescent Lamps
1065	Redesign and Revision of Wholesale Power Rates and Resolution of Certain Transmission-Related Issues
1073	Payments for Special Burdens and in Lieu of Taxes

HHS

27	Standards for Privacy of Individually Indentifiable Health Information
43	Security and Electronic Signature Standards (HCFA-0049-F)
46	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
48	The Children's Health Insurance Program: Implementing the Balanced Budget Act of 1997 (HCFA-2006-P)
1195	Exemption From Preemption of State and Local Cigarette and Smokeless Tobacco Requirements; Applications for Exemption Submitted by Various State Governments; Group 1; Group 2
1237	State Child Health; Implementing Regulations for the State Children's Health Insurance Program (HCFA-2006-P)

Local Government—Cont.

Seq. No.	Title
1272	Protection of Income and Resources for Community Spouses of Institutionalized Individuals (HCFA-2023-P)
1273	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1274	Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services (HCFA-2028-F)
1292	Medicaid: Optional Coverage of TB-Related Services for Individuals Infected With Tuberculosis (HCFA-2082-P)
1309	Medicaid Hospice Care (HCFA-2016-P)
1313	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1315	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1353	Case Management (HCFA-2027-F)
1356	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-F)
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997
1371	Family Child Care Program Option for Head Start Programs
1372	National Medical Support Notice
1374	Safeguarding Child Support and Expanded FPLS Information
1376	Standards for Safe Transportation
1377	Construction of Head Start Facilities
1383	Head Start Appeal Timelines
1386	Priority for Previously Selected Head Start Agencies

HUD

Seq. No.	Title
1393	Common Rule: Nondiscrimination in Educational Activities (FR-4301)
1396	Limited Denial of Participation in HUD Programs; Clarifying Amendments (FR-3975)
1402	Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs (FR-4485)
1403	One-Strike Screening and Eviction for Drug Abuse and Other Criminal Activity (FR-4495)
1409	Clarifying Amendments to Consolidated Submission for Community Planning and Development Programs (FR-4333)
1412	Multifamily Housing Mortgage and Housing Assistance Restructuring Program (Mark to Market) and Renewal of Expiring Section 8 Project-Based Assistance (FR-4298)
1415	Sanctions for Underreporting of Income in the Assisted Housing Programs (FR-4334)
1419	Regulations Governing the Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities; Miscellaneous Amendments (FR-4326)
1438	Mortgage Insurance Premium Reduction in Central Cities (FR-4284)
1461	Community Development Block Grant Program; Clarification of the Nature of Required CDBG Expenditure Documentation (FR-4449)
1462	Emergency Shelter Grants Program (FR-4330)
1475	Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)
1507	Public Housing Drug Elimination Program — Formula Allocation (FR-4451)

DOI

Seq. No.	Title
57	Surface Management (Locatable Minerals)
58	Oil and Gas Leasing and Operations
1523	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1526	Revised Statute 2477 Rights-of-Way
1527	Administrative and Audit Requirements and Cost Principles for Assistance Programs; Buy American Act
1528	Administrative and Audit Requirements and Cost Principles for Assistance Programs, Seat Belt Usage
1529	Special Deposits
1538	National Boating Infrastructure Grant Program
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making
1587	Taxonomic Change From Subspecies to Vertebrate Population Segment for the Virgin River Chub
1594	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1669	Migratory Bird Special Purpose Canada Goose Permit
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1698	World Heritage Convention
1730	Land Acquisitions for Gaming
1748	Class III Gaming Procedures
1786	Central Valley Project of California — Purposes, Uses, and Allocation of Water Supplies

DOJ

Seq. No.	Title
59	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards
60	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities—Implementation of Title IX of the Education Amendments of 1972
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1870	Nondiscrimination on the Basis of Disability in State and Local Government Services

Local Government—Cont.

Seq. No.	Title
1871	Nondiscrimination on the Basis of Disability in State and Local Government Services; Public Accommodations and Commercial Facilities; Accessibility Standards; Recreation Facilities
1875	Nondiscrimination on the Basis of Disability in State and Local Government Services
1900	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
1902	FBI Criminal Justice Information Services Division Systems and Procedures
1905	Expansion of Expedited Removal of Certain Criminal Aliens Held in Federal, State, and Local Jails
1915	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1918	Control of Aliens Departing From the United States
1939	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
1960	Verification of Eligibility for Public Benefits
1961	Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service
1969	Powers of the Attorney General To Authorize State or Local Law Enforcement Officers To Carry Out Immigration Enforcement
1972	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands
1973	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor
1974	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification
1979	Deportability and Inadmissibility on Public Charge Grounds
2012	Violent Crime and Drug Emergency Areas
2019	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
2020	Police Recruitment Program Guidelines
2022	FBI Criminal Justice Information Services Division Systems and Procedures
2026	Bulletproof Vest Partnership Grant Act of 1998

DOL

Seq. No.	Title
65	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
66	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
68	Welfare-to-Work (WTW) Grants
69	Workforce Investment Act of 1998
86	Occupational Exposure to Tuberculosis
87	Employer Payment for Personal Protective Equipment
2039	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206
2041	Records To Be Kept by Employers Under the Fair Labor Standards Act
2044	Implementation of the 1996 Amendments to the Fair Labor Standards Act
2045	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act
2054	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation
2056	Application of the Fair Labor Standards Act to Domestic Service
2058	Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century
2068	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement
2071	Establishment of Fees for Immigration Programs Administered by the Employment and Training Administration
2105	Training and Retraining of Miners **(Rulemaking Resulting From a Section 610 Review)**
2109	Hazard Communication
2114	Air Quality, Chemical Substances, and Respiratory Protection Standards
2122	Noise Standard
2125	Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines
2127	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998
2129	Audits of States, Local Governments, and Nonprofit Organizations
2130	Audit Requirements for Grants, Contracts, and Other Agreements
2131	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance
2156	Respiratory Protection (Proper Use of Modern Respirators)

STATE

Seq. No.	Title
2199	Hague Intercountry Adoption Convention Implementation

DOT

Seq. No.	Title
93	Hours of Service of Drivers **(Section 610 Review)**
96	Whistle Bans at Highway-Rail Grade Crossings
98	Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage
2209	Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**
2224	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
2232	Participation by Disadvantaged Business Enterprises in Airport Concessions
2236	Policy Statement on Airline Preemption
2244	New Restrictions on Lobbying
2458	Acquisition of Real Property for Rights-of-Way
2469	Railroad Highway Projects
2475	Motor Carrier Safety Assistance Program (MCSAP)
2491	Hours of Service of Drivers; Supporting Document Recordkeeping
2494	Transportation of Migrant Workers

Local Government—Cont.

Seq. No.	Title
2501	Revision of the Manual on Uniform Traffic Control Devices; Part II — Signs
2502	National Standards for Traffic Control Devices; MUTCD; Minimum Retroreflectivity Requirements for Traffic Signs
2537	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency
2592	Requirements for Low-Speed Vehicles (LSV)
2627	Uniform Procedures for State Highway Safety Programs
2649	Maintenance, Inspection, and Testing of Grade-Crossing Signal Systems
2655	Small Railroads; Policy Statement on Enforcement Program
2673	Buy America Requirements; Permanent Waiver for Microcomputers
2674	Department of Transportation (FTA, FHWA) and Related Procedures for Transportation Decisionmaking
2675	Clean Fuels Formula Grant Program
2676	Statewide Metropolitan Planning
2677	State Safety Oversight; Rail Fixed Guideway Systems
2678	Requirement for Third-Party Contracting with FTA Recipients
2679	Prevention of Alcohol Misuse and Drug Use in Transit Operations
2682	Buy America Requirements; Amendment to Certification Procedures
2684	School Bus Operations
2686	Proposed Expanded Reporting of Safety and Security Portion of the National Transit Database
2687	Credit Assistance for Surface Transportation Projects
2707	Pipeline Safety: Corrosion Control on Gas and Hazardous Liquid Pipelines
2739	Pipeline Safety: Periodic Updates to Pipeline Safety Regulations (1998)
	TREAS
2967	Definition of "Highly Compensated Employee"
2992	Qualified Zone Academy Bonds
3021	Remedial Amendment Period
3022	Compliance Monitoring and Miscellaneous Issues Relating to the Low Income Housing Credit
3034	Private Activity Bond Rules for Output Facilities
3102	Extension of Time to Electronically File Information Returns, Limitation of Penalty for Individual's Failure to Pay During Period of Installment Agreement
3121	Electronic Fund Transfers of Federal Deposits
	VA
3190	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
3191	Per Diem for Nursing Home Care of Veterans in State Homes
3273	VA Acquisition Regulation: Taxes
	ATBCB
3284	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3285	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities
3288	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
3290	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Public Rights-of-Way
	CNCS
3293	Claims Collection
	EPA
103	NAAQS: Sulfur Dioxide (Response to Remand)
107	Review of the National Ambient Air Quality Standards for Particulate Matter
108	Transportation Conformity Amendments: Response to March 2, 1999, Court Decision
111	Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan
114	Hazardous Waste Manifest Regulation
117	National Primary Drinking Water Regulations: Radon
118	National Primary Drinking Water Regulations: Ground Water Rule
119	National Primary Drinking Water Regulations: Arsenic
120	Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule
121	Effluent Guidelines and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
123	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
127	Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations
129	Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards
130	Ground Water and Pesticide Management Plan
131	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
134	NPDES Comprehensive Storm Water Phase II Regulations
135	Public Water System Public Notification Regulation
3297	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3299	Cross-Media Electronic Reporting (ER) and Recordkeeping Rule
3326	Performance Warranty and Inspection/Maintenance Test Procedures
3328	NESHAP: Iron Foundries and Steel Foundries
3329	NESHAP: Cyanide Chemicals Manufacturing
3339	New Source Performance Standards and Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units
3344	NESHAP: Plywood and Composite Wood Products
3349	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3350	NESHAP: Asphalt Roofing and Processing
3356	NESHAP: Miscellaneous Cellulose Production
3357	NESHAP: Municipal Solid Waste Landfills
3358	NESHAP: Leather Tanning and Finishing Operations

Local Government—Cont.

Seq. No.	Title
3362	Transportation Conformity Rule Amendment: Clarification of Trading Provisions
3364	Review of Minor New Sources and Modifications in Indian Country
3366	NESHAP: Organic Liquid Distribution
3367	Federal Major New Source Review (NSR) Program for Nonattainment Areas
3368	NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks
3371	NESHAP: for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule
3372	NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment Leaks
3375	NESHAP: Wet-formed Fiberglass Mat Production
3388	Standards and Guidelines for Small Municipal Waste Combustion Units
3392	Area Source Title V Operating Permit Deferrals
3393	Decision on a Petition from the Territory of American Samoa to be Exempted from the Gasoline Antidumping Regulations.
3394	National VOC Emission Standards for Consumer Products; Proposed Amendments
3396	NESHAP for the Printing and Publishing Industry; Amendments
3398	Regulation of Fuels and Fuel Additives: Extension of Reformulated Gasoline Program to the Kansas City, KS Former Ozone Nonattainment Area
3401	Transportation Conformity Amendment: Deletion of Grace Period
3406	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3411	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3420	NESHAP: Secondary Aluminum Industry
3422	NESHAP: Publicly Owned Treatment Works (POTW)
3426	Protection of Stratospheric Ozone: Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants
3435	NSPS: Sewage Sludge Incinerators
3436	Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)
3438	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)
3439	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3443	NESHAP: Off-Site Waste and Recovery Operations; Final Rule—Settlement Agreement; and NESHAP for Off-Site Waste and Recovery Operations; Technical Amendments
3446	Redefinition of Glycol Ethers Listed as HAPs Under the Clean Air Act, and Hazardous Substances Under CERCLA
3451	Hospital/Medical/Infectious Waste Incinerators—Federal Plan (Federal Plan for existing Hospital/Medical/Infectious Waste Incinerators)
3453	NESHAP: Ethylene Oxide Commercial Sterilization and Fumigation Operations
3455	Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to 5/30/91 and Have Not Been Modified or Reconstructed Since 5/30/91
3471	NSPS: New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators
3476	NESHAP: Lime Manufacturing
3478	Revised Permit Revision Procedures for the Federal Operating Permits Program
3479	NESHAP: Semiconductor Production
3481	NESHAP: Automobile and Light-Duty Truck Manufacturing (Surface Coating)
3488	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3489	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3490	NESHAP: Alumina Processing
3493	NESHAP: Hydrochloric Acid Production Industry
3495	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3496	NESHAP: Clay Products Minerals
3499	Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States
3504	Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)
3506	NESHAP: Brick and Structural Clay Products
3507	NESHAP: Ceramics
3509	NESHAP: Lightweight Aggregate
3511	Integrated NESHAP and Effluent Guidelines: Pulp and Paper
3512	NESHAP: Mineral Wool Production Industry
3515	NESHAP: Steel Pickling, HC1 Process.
3516	NESHAP: Wool Fiberglass Manufacturing Industry
3517	NESHAP: Portland Cement Manufacturing
3518	NESHAP: Polyether Polyols Production
3520	NESHAP: Primary Lead Smelters
3525	Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions
3527	Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program
3534	Protection of Stratospheric Ozone: Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3536	Air Quality Index Reporting
3537	Electric Arc Furnace NSPS Amendment
3538	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3543	Consumer and Commercial Products: Revised Schedule for Regulation
3545	No Backsliding Rule for PM-10 Nonattainment Areas
3546	Revisions to Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere
3561	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3570	Pesticide Tolerance Reassessment Program
3577	Asbestos Model Accreditation Plan Revisions
3579	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures Section 402(a)

Local Government—Cont.

Seq. No.	Title
3580	Asbestos Worker Protection Rule Amendments
3581	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
3583	Test Rule for Certain Metals
3584	TSCA Biotechnology Follow-Up Rules
3585	Multi-Chemical Test Rule; High Production Volume Chemicals
3588	Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))
3595	Acrylamide; Ban on Use of Acrylamide for Grouting
3602	PCBs; Polychlorinated Biphenyl; Use Authorizations
3604	Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)
3605	Asbestos-Containing Materials in Schools Rule Amendments
3607	Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)
3620	Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities
3623	Revisions to Solid Waste Landfill Criteria—Leachate Recirculation
3627	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3630	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3632	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3635	Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)
3636	Revisions to Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste
3642	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3652	Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions
3654	Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris
3656	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps
3658	Oil Pollution Prevention Regulation: Revisions
3659	National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules
3661	Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; Revision of 40 CFR Part 35 Subpart O
3662	Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M
3669	Standards for the Use or Disposal of Sewage Sludge (Round II)
3670	Minimizing Adverse Environmental Impact from Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
3671	Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two
3673	Revisions to NPDES Requirements for Municipal Sanitary Sewer Collection Systems
3674	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3678	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3680	Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act
3682	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3683	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3685	Effluent Guidelines and Standards for Landfills
3687	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
3688	NPDES Streamlining Rule — Round II
3689	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3692	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring
3693	Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures
3694	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3695	Effluent Guidelines and Standards for Industrial Waste Combustors
3697	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment
3702	Recognition Awards Under the Clean Water Act
3704	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3705	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
3706	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3708	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3709	NPDES Streamlining Rule — Round III
3710	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category
3712	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3713	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3714	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3718	Effluent Guidelines for the Construction and Development Industry

Local Government—Cont.

Seq. No.	Title
3719	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
3721	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3722	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3723	Streamlining 301(h) Waiver Renewal Requirements
3724	Uniform National Discharge Standards for Armed Forces Vessels—Phase I
3726	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3732	Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants
3733	Revisions to the Underground Injection Control Regulations for Class V Injection Wells
3734	National Primary Drinking Water Regulations: Lead and Copper
3736	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3737	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements
3739	Drinking Water State Revolving Fund Regulations
3741	Revision to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR).
3742	National Primary Drinking Water Regulations: Sulfate
3743	National Primary Drinking Water Standards for Aldicarb
3744	Streamlining Drinking Water Monitoring Requirements
3745	Long Term 2 Enhanced Surface Water Treatment Rule
3746	Stage 2 Disinfectants/Disinfection Byproducts Rule
3747	Drinking Water Unregulated Contaminant Monitoring Program
3748	Filter Backwash Recycling Regulation
3749	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3750	National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium
3751	Revisions to Ocean Dumping Regulations for Dredged Material
3752	Shore Protection Act, Section 4103(b) Regulations
	EEOC
139	Waivers of Rights and Claims: Tender Back of Consideration
3755	Procedures—The Age Discrimination in Employment Act
3757	Procedures for Complaints of Employment Discrimination by Previously Exempt State and Local Government Employees
	FEMA
3762	Flood Mitigation Assistance Program
3769	Debt Collection
3774	National Urban Search and Rescue Response System
3783	Disaster Assistance; Cost-share Adjustment
	GSA
3830	Donation Requirements for Firearms
	NARA
3861	Limitations on Testimony by NARA Employees
3865	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance
3867	National Historical Publications and Records Commission Grant Regulations
3874	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3881	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities — Implementation of Title IX of the Education Amendments of 1972
	OMB
3919	Procedures for Participating in the Census Bureau Reconciliation and the OMB Appeal Processes for the Development of the Census 2000 Address List
	SSA
4115	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements with State, Local, and Indian Tribal Governments (547P)
4119	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
4163	Privacy and Disclosure of Official Records and Information (711P)
	FCC
4285	Cable Television Rate Regulation
4286	Cable Television Rate Regulation: Cost of Service
4287	Customer Service Standards
4289	Over-the-Air Reception Devices
4291	Cable Act Reform
4312	Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4313	Enhanced 911 Services for Wireline
4334	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4335	In the Matter of the Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules To Incorporate the Forfeiture Guidelines
4337	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4345	Medical Care Telemetry Devices

Local Government—Cont.

Seq. No.	Title
4360	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures; IB Docket No. 95-117
4368	Redesignation of the 17.7-19.7 GHz band, Blanket Licensing of Sat Earth Stations (17.7-20.2 GHz & 27.5-30 GHz) & Allocation in the 17.3-17.8 & 24.75-25.25 GHz bands for Broadcast Satellite-Service Use
4369	Allocation and Designation of Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz bands).Allocations: fixed & mobile 40.5-42.5 GHz;Wireless Srv 46.9-47 GHz; Gov Operations 37-38 & 40-40.5 GHz
4384	1998 Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes
4386	Review of Broadcast and Cable EEO Rules and Policies
4393	Rulemaking To Amend Part 1 and Part 21 To Redesignate the 27.5-29.5 GHz Band and To Establish Rules and Policies for Local Multi-Point Distribution Service
4394	Reframing
4395	Future Development of 800 MHz SMR; Competitive Bidding Wide Area
4402	Revision of the Commission's Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems
4405	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements
4411	Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended
	FERC
4452	Regulations Governing Off-the-Record Communications
4453	Collaborative Procedures for Energy Facility Applications
	NRC
4616	Revision of Fee Schedules; 100 Percent Fee Recovery, FY 1999

Seq. No.	Title
	SEC
4663	Political Contributions by Investment Advisers
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

Tribal Government

Seq. No.	Title
	USDA
1	National Organic Program
7	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Delivery Systems Integrity
295	Denying Credit to Applicants Delinquent on Any Federal Debt
298	National Flood Insurance Regulations
334	Special Supplemental Food Program for Women, Infants, and Children (WIC): Miscellaneous Provisions
347	Food Distributions Programs: Commodity Acceptability Report
348	WIC Farmers Market Nutrition Program (FMNP): Expansion Funds Allocation Formula
350	FDPIR: Income Deduction and Miscellaneous Provision Rule
351	Commodity Supplemental Food Program: Plain Language, Program Accountability, and Program Flexibility
356	WIC: Requirements for and Evaluation of WIC Program Requests for Bids for Infant Formula Rebate Contracts
359	Food Distribution Program on Indian Reservations: Definition of Indian Tribal Household
365	WIC: Bloodwork Requirements
370	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
372	Food Distribution Program on Indian Reservations: Disqualification Penalties for Intentional Program Violations
375	WIC: Local Agency Expenditure Reports
376	WIC: Certification Integrity
377	WIC: WIC Funding Provisions of Public Law 105-336
384	Special Supplemental Food Program for Women, Infants, and Children (WIC): Food Cost Containment Requirements
389	WIC: Food Package Adjustments and Corrections
391	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program
393	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
394	Commodity Supplemental Food Program: Program Streamlining, Flexibility, and Miscellaneous Amendments
395	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Soy-Base Beverages (Soymilk) in WIC
465	Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
468	Business and Industry Direct Loan Program
472	Rural Business Opportunity Grants
506	Department of Agriculture Priorities and Administrative Guideline for Donation of Excess Research Equipment
	DOC
525	Regulations To Implement the Economic Development Administration Reform Act of 1998
527	Economic Adjustment Program—Revolving Loan Fund (FLF) Grants
600	Regulatory Amendment to Establish permit and Reporting Requirements for Pelagic Troll and Handline Vessels Fishing off Pacific Remote Islands of the United States
624	Amendment 14 to the Pacific Coast Salmon Plan
703	Designation of the Cook Inlet, Alaska, Stock of Beluga Whale as Depleted Under the Marine Mammal Protection Act (MMPA) and Response to Petitions
758	Marketing and Reporting Beluga Whales
811	Amendment 13 to the Pacific Coast Salmon Plan

Tribal Government—Cont.

Seq. No.	Title
823	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
832	Regulatory Amendment - Pacific Coast Groundfish Fishery; Final 1999 ABC, OY and Tribal and Nontribal Allocations for Pacific Whiting
853	Final Policies for Safe Harbor and Candidate Conservation Agreements
	DOD
899	Closed, Transferred, and Transferring Ranges Containing Military Munitions
	DOE
1065	Redesign and Revision of Wholesale Power Rates and Resolution of Certain Transmission-Related Issues
	HHS
27	Standards for Privacy of Individually Indentifiable Health Information
43	Security and Electronic Signature Standards (HCFA-0049-F)
46	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
1215	Contracts Under the Indian Self-Determination Act
1216	Indian Child Protection and Family Violence Prevention Act Minimum Standards of Character
1217	Currently Effective Indian Health Service Eligibility Regulations
1320	Medicaid Program; Coverage and Payment for Federally Qualified Health Center Services (HCFA-2043-P)
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997
1370	Child Support Enforcement for Indian Tribes
1371	Family Child Care Program Option for Head Start Programs
1372	National Medical Support Notice
1376	Standards for Safe Transportation
1377	Construction of Head Start Facilities
1379	Requirements for the Tribal Programs
1383	Head Start Appeal Timelines
1386	Priority for Previously Selected Head Start Agencies
1389	Temporary Assistance for Needy Families (TANF)
1392	Grants for State and Community Programs on Aging, Intrastate Funding Formulas; Training, Research and Discretionary Programs; Vulnerable Elder Rights; and Grants to Indians and Native Hawaiians
	HUD
1494	Revision to Construction Cost Limits for Native American Housing (FR-4517)
	DOI
55	Valuation of Oil From Indian Leases
1523	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1529	Special Deposits
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making
1594	Endangered and Threatened Wildlife and Plants; Proposed Reintroduction of a Nonessential Experimental Population of Grizzly Bears in Idaho and Montana
1598	Importation, Exportation, Transportation of Wildlife
1600	Revisions to the Federal Aid Administrative Requirements
1606	Exportation of Marine Mammal Products for Cultural Exchange
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1698	World Heritage Convention
1721	Arrangement With States, Territories, or Other Agencies for Social Welfare and Relief of Distress of Indians
1726	Certificates of Degree of Indian Blood
1730	Land Acquisitions for Gaming
1733	Preference in Employment
1735	Indian Tribal Justice Support
1736	Tribal Self-Governance
1748	Class III Gaming Procedures
1755	Exploration or Development and Production Plans
1770	Valuation of Gas From Indian Leases
1783	Indian Lands
1810	Alaska Native Veterans Allotments
	DOJ
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1899	Operation of the National Instant Criminal Background Check System
1900	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
1901	Federal Convicted Offender DNA Database Program
1902	FBI Criminal Justice Information Services Division Systems and Procedures
1915	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1939	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
2012	Violent Crime and Drug Emergency Areas
2017	Operation of the National Instant Criminal Background Check System
2018	Federal Convicted Offender DNA Database Program
2019	Implementation of the Pam Lychner Sexual Offender Tracking and Identification Act
2022	FBI Criminal Justice Information Services Division Systems and Procedures
2025	Grants Program for Indian Tribes
2026	Bulletproof Vest Partnership Grant Act of 1998

Tribal Government—Cont.

Seq. No.	Title
	DOL
66	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
68	Welfare-to-Work (WTW) Grants
69	Workforce Investment Act of 1998
86	Occupational Exposure to Tuberculosis
2054	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation
2072	Indian and Native American Welfare-to-Work Program
2105	Training and Retraining of Miners **(Rulemaking Resulting From a Section 610 Review)**
2109	Hazard Communication
2114	Air Quality, Chemical Substances, and Respiratory Protection Standards
2122	Noise Standard
2125	Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines
2127	Implementation of the Nondiscrimination and Equal Opportunity Requirements of the Workforce Investment Act of 1998
2131	Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting From Federal Financial Assistance
2156	Respiratory Protection (Proper Use of Modern Respirators)
	STATE
2199	Hague Intercountry Adoption Convention Implementation
	DOT
98	Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage
2209	Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**
2537	Political Subdivision Participation in State Highway Safety Programs and State Highway Safety Agency
2583	Occupant Protection Incentive Grants
2585	Alcohol-Impaired Driving Countermeasures Incentive Grants
2586	State Highway Safety Data Improvements Incentive Grants
2622	State Incentives To Prevent Operation of Motor Vehicles by Intoxicated Persons
2627	Uniform Procedures for State Highway Safety Programs
2673	Buy America Requirements; Permanent Waiver for Microcomputers
2678	Requirement for Third-Party Contracting with FTA Recipients
2679	Prevention of Alcohol Misuse and Drug Use in Transit Operations
	TREAS
3021	Remedial Amendment Period
3121	Electronic Fund Transfers of Federal Deposits
	VA
3203	Use of Facilities To Provide Training or Work Experience for Veterans
	ACHP
3278	Protection of Historic Properties
	ATBCB
3284	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Recreation Facilities
3285	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities
3288	Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Play Areas
3290	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Public Rights-of-Way
	CNCS
3293	Claims Collection
	EPA
107	Review of the National Ambient Air Quality Standards for Particulate Matter
108	Transportation Conformity Amendments: Response to March 2, 1999, Court Decision
111	Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan
114	Hazardous Waste Manifest Regulation
117	National Primary Drinking Water Regulations: Radon
118	National Primary Drinking Water Regulations: Ground Water Rule
119	National Primary Drinking Water Regulations: Arsenic
120	Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule
121	Effluent Guidelines and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
122	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
124	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
127	Implementation of Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations
129	Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards
130	Ground Water and Pesticide Management Plan
131	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
134	NPDES Comprehensive Storm Water Phase II Regulations
135	Public Water System Public Notification Regulation
136	Total Maximum Daily Load (TMDL) Program Regulations Revisions
137	Total Maximum Daily Load (TMDL) - NPDES and WQS Regulations Revisions
3297	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3299	Cross-Media Electronic Reporting (ER) and Recordkeeping Rule

Tribal Government—Cont.

Seq. No.	Title
3328	NESHAP: Iron Foundries and Steel Foundries
3344	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3346	NESHAP: Large Appliance (Surface Coating)
3347	Metal Furniture (Surface Coatings) NESHAP
3349	NESHAP/NSPS: Reciprocating Internal Combustion Engine
3350	NESHAP: Asphalt Roofing and Processing
3356	NESHAP: Miscellaneous Cellulose Production
3357	NESHAP: Municipal Solid Waste Landfills
3358	NESHAP: Leather Tanning and Finishing Operations
3364	Review of Minor New Sources and Modifications in Indian Country
3366	NESHAP: Organic Liquid Distribution
3367	Federal Major New Source Review (NSR) Program for Nonattainment Areas
3368	NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks
3375	NESHAP: Wet-formed Fiberglass Mat Production
3392	Area Source Title V Operating Permit Deferrals
3393	Decision on a Petition from the Territory of American Samoa to be Exempted from the Gasoline Antidumping Regulations.
3394	National VOC Emission Standards for Consumer Products; Proposed Amendments
3401	Transportation Conformity Amendment: Deletion of Grace Period
3406	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3408	Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment
3411	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3413	Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment
3420	NESHAP: Secondary Aluminum Industry
3436	Revisions to the Regulation for Approval of State Programs and Delegation of Federal Authorities 112(l)
3438	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)
3439	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3451	Hospital/Medical/Infectious Waste Incinerators—Federal Plan (Federal Plan for existing Hospital/Medical/Infectious Waste Incinerators)
3453	NESHAP: Ethylene Oxide Commercial Sterilization and Fumigation Operations
3455	Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to 5/30/91 and Have Not Been Modified or Reconstructed Since 5/30/91
3465	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3476	NESHAP: Lime Manufacturing
3478	Revised Permit Revision Procedures for the Federal Operating Permits Program
3483	Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas
3488	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3489	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3490	NESHAP: Alumina Processing
3493	NESHAP: Hydrochloric Acid Production Industry
3495	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3496	NESHAP: Clay Products Minerals
3499	Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States
3504	Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)
3506	NESHAP: Brick and Structural Clay Products
3507	NESHAP: Ceramics
3509	NESHAP: Lightweight Aggregate
3512	NESHAP: Mineral Wool Production Industry
3515	NESHAP: Steel Pickling, HC1 Process
3516	NESHAP: Wool Fiberglass Manufacturing Industry
3517	NESHAP: Portland Cement Manufacturing
3518	NESHAP: Polyether Polyols Production
3520	NESHAP: Primary Lead Smelters
3525	Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions
3534	Protection of Stratospheric Ozone: Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3536	Air Quality Index Reporting
3537	Electric Arc Furnace NSPS Amendment
3538	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3543	Consumer and Commercial Products: Revised Schedule for Regulation
3545	No Backsliding Rule for PM-10 Nonattainment Areas
3548	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3549	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3558	Regulatory Review of Pesticide Emergency Exemption Regulations
3561	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3570	Pesticide Tolerance Reassessment Program
3573	Test Rules; Generic Entry for Proposed Decisions
3575	Test Rule; ATSDR Substances
3577	Asbestos Model Accreditation Plan Revisions
3579	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures Section 402(a)
3580	Asbestos Worker Protection Rule Amendments
3581	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
3583	Test Rule for Certain Metals

Tribal Government—Cont.

Seq. No.	Title
3584	TSCA Biotechnology Follow-Up Rules
3585	Multi-Chemical Test Rule; High Production Volume Chemicals
3588	Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))
3594	Test Rules; Generic Entry for Final Decisions
3595	Acrylamide; Ban on Use of Acrylamide for Grouting
3599	Test Rule; Hazardous Air Pollutants (HAPs)
3602	PCBs; Polychlorinated Biphenyl; Use Authorizations
3604	Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)
3605	Asbestos-Containing Materials in Schools Rule Amendments
3607	Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)
3620	Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities
3623	Revisions to Solid Waste Landfill Criteria—Leachate Recirculation
3627	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3630	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3632	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3635	Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)
3636	Revisions to Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste
3640	Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments
3641	Chlorinated Aliphatics Listing Determination
3650	Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste
3653	RCRA Reporting and Recordkeeping Burden Reduction
3654	Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris
3656	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps
3657	Adequacy of State Permit Programs Under RCRA Subtitle D
3658	Oil Pollution Prevention Regulation: Revisions
3661	Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; Revision of 40 CFR Part 35 Subpart O
3662	Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M
3667	Water Quality Standards for Indian Country Waters
3671	Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two
3672	Water Quality Standards Regulation — Revision
3673	Revisions to NPDES Requirements for Municipal Sanitary Sewer Collection Systems
3674	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3678	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3679	Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zone for Bioaccumulative Chemicals of Concern
3680	Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act
3687	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
3688	NPDES Streamlining Rule — Round II
3689	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3692	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring
3693	Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures
3694	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3700	EPA Review and Approval of State and Tribal Water Quality Standards
3702	Recognition Awards Under the Clean Water Act
3705	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
3706	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3708	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3709	NPDES Streamlining Rule — Round III
3711	Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System
3712	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3714	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3719	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
3721	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3722	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3723	Streamlining 301(h) Waiver Renewal Requirements
3726	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3732	Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants

Tribal Government—Cont.

Seq. No.	Title
3733	Revisions to the Underground Injection Control Regulations for Class V Injection Wells
3734	National Primary Drinking Water Regulations: Lead and Copper
3736	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3737	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements
3741	Revision to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR).
3742	National Primary Drinking Water Regulations: Sulfate
3743	National Primary Drinking Water Standards for Aldicarb
3744	Streamlining Drinking Water Monitoring Requirements
3745	Long Term 2 Enhanced Surface Water Treatment Rule
3746	Stage 2 Disinfectants/Disinfection Byproducts Rule
3747	Drinking Water Unregulated Contaminant Monitoring Program
3748	Filter Backwash Recycling Regulation
3749	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3750	National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium
	FEMA
3762	Flood Mitigation Assistance Program
	GSA
3830	Donation Requirements for Firearms
	NARA
3865	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance
3867	National Historical Publications and Records Commission Grant Regulations
3874	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
	NEA
3881	Nondiscrimination on the Basis of Sex in Federally Assisted Programs and Activities — Implementation of Title IX of the Education Amendments of 1972
	OMB
3919	Procedures for Participating in the Census Bureau Reconciliation and the OMB Appeal Processes for the Development of the Census 2000 Address List
	SSA
4115	Requirements for Awards and Subawards to Institutions of Higher Education; Certain Grants and Agreements with State, Local, and Indian Tribal Governments (547P)
4119	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
4163	Privacy and Disclosure of Official Records and Information (711P)
	FAR
4203	FAR Case 97-603, Empowerment Contracting
	FCC
4313	Enhanced 911 Services for Wireline
4368	Redesignation of the 17.7-19.7 GHz band, Blanket Licensing of Sat Earth Stations (17.7-20.2 GHz & 27.5-30 GHz) & Allocation in the 17.3-17.8 & 24.75-25.25 GHz bands for Broadcast Satellite-Service Use
4369	Allocation and Designation of Spec for Fixed-Sat Srv (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz bands).Allocations: fixed & mobile 40.5-42.5 GHz;Wireless Srv 46.9-47 GHz; Gov Operations 37-38 & 40-40.5 GHz
	FERC
4452	Regulations Governing Off-the-Record Communications
4453	Collaborative Procedures for Energy Facility Applications
	NIGC
162	Game Classification
163	Environment and Public Health and Safety
4549	Practice Before the Commission
4553	Hearings and Appeals Procedure
4554	Enforcement
4555	Definitions
4556	Management Contracts
4557	Net Gaming Revenue
4558	Tribal Background Investigation Submission Requirements and Timing
4559	Administrative Fees
4561	Gaming Facility Licensing Standards
4562	Technical Amendments to the Minimum Internal Control Standards
	SEC
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

Federal Government

Seq. No.	Title
	USDA
4	FSP: Personal Responsibility Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
5	FSP: State Flexibility and Certification Provisions of Public Law 104-193
15	Elimination of Requirements for Partial Quality Control Programs
295	Denying Credit to Applicants Delinquent on Any Federal Debt
298	National Flood Insurance Regulations
338	Food Stamp Program: Welfare Reform Matching, Fair Hearings and Recipient Service Rule
357	Food Stamp Program: Anticipating Income and Reporting Changes

Federal Government—Cont.

Seq. No.	Title
368	Electronic Benefit Transfer (EBT) Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996
370	Special Supplemental Nutrition Program for WIC: Implementation of WIC-Related Provisions of PL 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996
375	WIC: Local Agency Expenditure Reports
377	WIC: WIC Funding Provisions of Public Law 105-336
385	Food Stamp Program: 1995 Quality Control Technical Amendments
391	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Disqualification of WIC Vendors Who Are Disqualified From the Food Stamp Program
393	WIC: Food and Nutrition Services and Administration (NSA) Funding Formula Rule
396	Maximum Allotments for 48 States & DC & Income Eligibility Standards for 48 States, DC, AK, GU and VI
397	FSP: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands
424	Sanitation Requirements for Official Meat and Poultry Establishments
441	Species Surplus to Domestic Manufacturing Needs
444	Sale and Disposal of National Forest System Timber; Extension of Timber Sale Contracts To Permit Urgent Removal of Other Timber
451	Sale and Disposal of National Forest System Timber; Timber Export and Substitution Restrictions
460	Small Business Timber Sale Set-Aside Recomputation Basis
461	Disposal of National Forest Timber: Timber Sale Contract Revisions

DOC

18	Chemical Weapons Convention Regulations
19	Licensing of Private Remote-Sensing Satellite Systems
520	Reporting Value on Shipper's Export Declaration for Inland Freight and Insurance Charges
521	Reporting the Value of Repairs and Replacement Parts on the Shipper's Export Declaration
522	Notation of the Shipper's Export Declaration Filing Exemption Statement on Manifest Documents
523	Amendment to the Foreign Trade Statistical Regulations: Provisions for Filing Shippers Export Data Electronically Using the Automated Export System (AES)
524	New Canadian Province Import Codes for Territory of Nunavut
592	Rulemaking for the Incidental Taking of Marine Mammals During World-wide Deployment of the U.S. Navy's Low Frequency Active Sonar
594	Regulatory Amendment To Implement Permit, Reporting, and Recordkeeping Requirements for Processing Vessels Over 125 Feet and Their Catcher Vessels: Pacific Coast Groundfish
600	Regulatory Amendment to Establish permit and Reporting Requirements for Pelagic Troll and Handline Vessels Fishing off Pacific Remote Islands of the United States
601	Amendment 10 to the Pacific Coast Groundfish FMP Regarding Salmon Bycatch in Groundfish Trawl
608	Regulatory Amendment To Implement Observer Requirements for Processing Vessels Over 125 Feet: Pacific Coast Groundfish
618	Regulatory Amendment To Change the Limited Entry, Sablefish Fishery Season Structure Fixed Gear
623	Regulatory Amendment To Allow "Stacking" of Multiple Limited Entry Permits in the Pacific Coast Groundfish Fisheries
624	Amendment 14 to the Pacific Coast Salmon Plan
625	Regulatory Amendment To Fund Purchase of Limited Entry Trawl Permits To Reduce Excess Capacity in Pacific Coast Groundfish Fleet
627	Regulatory Amendment To Allow Limited Entry Trawlers To Retain Groundfish Taken in Excess of Cumulative Trip Limits
628	Regulatory Amendment To Allocate Lingcod and Bocaccio Rockfish Between Commercial and Recreational Groundfish Fisheries
642	Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region
686	Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan
692	Regulatory Amendment to Implement an Observer Program for Vessels Delivering Shore-side; Pacific Coast Groundfish
704	Revision of Federal Consistency Regulations Under the Coastal Zone Management Act
708	Coastal Zone Management Act Consistency Regulations
710	Policies and Procedures Regarding Program Evaluation and Competitive Funding Requirements Within the Office of Oceanic and Atmospheric Research
714	Guidelines for the Description, Identification, Conservation, and Enhancement of Essential Fish Habitat
723	Comprehensive Amendment Addressing Sustainable Fishery Act Definitions and Other Required Provisions in Fishery Management Plans of the South Atlantic Region
724	Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans of the South Atlantic Region
729	Regulatory Amendment To Implement a Limited Access Program That Requires Species Endorsements To Participate in Fisheries Targeting Certain Groundfish Species
751	General Authorization for Scientific Research Involving Level B Harassment
752	Endangered and Threatened Species: Take of Threatened Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) Coho Salmon
755	Sea Turtle Conservation; Shrimp Trawling Requirements
759	Designate Critical Habitat
760	Sea Turtle Conservation Regulations; Summer Flounder Fishery
791	Taking of Marine Mammals Incidental to Fisheries-Related Research
793	Final Rule To Amend Marine Mammal Regulations To Authorize Incidental Takings of Marine Mammals by Harassment as Authorized by Public Law 103-238
801	Regulatory Amendment To Extend California Gillnet Regulations to the EEZ
811	Amendment 13 to the Pacific Coast Salmon Plan
822	Regulatory Amendment To Allocate Certain Groundfish Species Between the Trawl and Fixed Gear Commercial Groundfish Fisheries

Federal Government—Cont.	
Seq. No.	Title
823	1999-2000 Management Measures for Commercial, Recreational, and Treaty Indian Salmon Fisheries Off the Coasts of Washington, Oregon, and California
851	Designated Critical Habitat; Central California Coast and Southern Oregon/Northern California Coast Coho Salmon
853	Final Policies for Safe Harbor and Candidate Conservation Agreements
873	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements
874	Acquisition and Protection of Foreign Rights in Inventions
	DOD
877	Personnel and General Claims
884	Collection From Third Party Payers of Reasonable Costs of Healthcare Services
885	Personnel Security Policies for Granting Access to Classified Information
886	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity
887	National Policy on Technical Surveillance Countermeasures
888	Screening the Ready Reserve (DoD Directive 1200.7)
890	Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996 (Pub. L. 104-307)
893	DLA Acquisition Regulation; Small Business and Small Disadvantaged Business Concerns
894	DLA Acquisition Regulation; Fuel Allocation Procedures
895	Military Assistance for Civil Disturbances (MACDIS) (DoD Directive 3025.12)
898	Restoration Advisory Board (RABs)
899	Closed, Transferred, and Transferring Ranges Containing Military Munitions
901	Rewrite of DFARS Part 225 (DFARS Case 98-D028)
902	Domestic Source Restrictions—Commercial Items (DFARS Case 1999-D301)
903	Acquisitions for Foreign Military Sales (DFARS Case 1999-D020)
904	Contract Administration and Audit Services (DFARS Case 98-D003)
905	Contractor Use of Nonimmigrant Aliens—Guam (DFARS Case 97-D318)
906	Reform of Affirmative Action in Federal Government Procurement (DFARS Case 98-D007)
907	Reform of Affirmative Action in Federal Procurement DFARS—Phase II (DFARS Case 98-D021)
908	People's Republic of China (DFARS Case 98-D305)
909	Manufacturing Technology Program (DFARS 98-D306)
910	Debarment Investigation Reports (DFARS Case 1999-D013)
911	Designation of Payment Offices (DFARS Case 1999-D010)
912	Paying Offices (DFARS Case 1999-D004)
913	References to Federal Acquisition Regulation 52.203.1, Officials Not To Benefit (DFARS Case 1999-D018)
914	Incremental Funding, Fixed Price Contracts (DAR Case 90-037)
915	Demilitarization (DFARS Case 92-D024)
916	Acquisition of Commercial Items (DFARS Case 95-D712)
917	DFARS Commercially Available Off-the-Shelf Items (DFARS Case 96-D316)
918	Commercial Ball or Roller Bearings—Components of Noncommercial Items (DFARS Case 97-D028)
919	Veterans Employment Emphasis (DFARS Case 97-D314)
920	Uniform Procurement Instrument Identification (DFARS Case 97-D033)
921	Contracting for Commercial Construction (DFARS Case 98-D013)
922	Cargo Preference—Subcontracts for Commercial Items (DFARS Case 98-D014)
923	Congressional Medal of Honor (DFARS Case 98-D304)
924	Weighted Guidelines and Performance-Based Payments (DFARS Case 99-D001)
925	Overseas Use of the Purchase Card (DFARS Case 99-D002)
926	Streamlined Payment Practices (DFARS Case 98-D026)
927	Disclosure of Information (DFARS Case 1999-D015)
928	Military Packaging and Marking (DFARS Case 1999-D016)
929	Utilization of Indian Organizations and Indian-Owned Economic Enterprises (DFARS Case 1999-D300)
930	Foreign Military Sales Customer Observation in Contract Preparation and Negotiations (DFARS Case 1999-D005)
931	General Property, Plant, and Equipment (DFARS Case 1999-D019)
932	Transportation Acquisition Policy (DFARS Case 1999-D009)
933	Randolph Sheppard (DFARS Case 1999-D021)
934	IR&D/B&P Costs for FY96 and Beyond (DFARS Case 95-D040)
935	Antiterrorism Training (DFARS Case 96-D016)
936	Distribution of Contract Financing Payment (DFARS Case 97-D011)
937	FAR Part 30 Deviations (DFARS Case 97-D016)
938	Single Process Initiative (DFARS Case 97-D014)
939	Employment Prohibition on Persons Convicted of Fraud (DFARS Case 97-D020)
940	DD Form 2631, Performance Evaluation (A-E) (DFARS Case 97-D035)
941	Multiyear Contracting (DFARS Case 97-D308)
942	Television-Audio Support Activity (T-ASA) (DFARS Case 98-D008)
943	Fiscal Year 2000 Contract Action Reporting Requirements (DFARS Case 98-D017)
944	Revisions to DD Form 1707, Instructions to Offerors or Quoters (DFARS Case 98-D020)
945	Flexible Progress Payments (DFARS Case 98-D400)
946	Electronic Funds Transfer (DFARS Case 98-D012)
947	Restructuring Savings Repricing Clause (DFARS Case 98-D019)
948	Evaluation of Duty (DFARS Case 98-D030)
949	Para-Aramid Fibers and Yarns (DFARS Case 98-D310)
950	Singapore Accession to GPA (DFARS Case 98-D029)
951	Applicability of DFARS Buy American Clauses to Simplified Acquisitions (DFARS Case 98-D031)
952	Improved Accounting for Defense Contract Services (DFARS Case 98-D312)
953	Taxpayer Identification Numbers and Commercial and Government Entity Codes (DFARS Case 98-D027)
954	DoD Purchases Through Other Agencies (DFARS Case 98-D311)
955	Revisions to DD Form 1425, Specifications and Standards Requisition (DFARS Case 98-D022)

Federal Government—Cont.

Seq. No.	Title
956	Electronic Publication of DFARS (DFARS Case 98-D024)
957	Limitation on the Use of Price Preference Upon Achievement of Contract Goal for Small and Disadvantaged Businesses (DFARS Case 98-D307)
958	DD Form 1057, Work Stoppage (DFARS Case 99-D003)
959	Contracts Crossing Fiscal Years (DFARS Case 1999-D008)
960	Oral Attestation (DFARS Case 1999-D006)
961	Short Form Research Contract Clauses (DFARS Case 1999-D014)
962	Fiscal Year 2000 DD Form 350 Revisions (DFARS Case 1999-D011)
963	Contract Actions for Leased Equipment (DFARS Case 1999-D012)

DOE

25	Radiation Protection of the Public and the Environment
1042	Energy Efficiency Code for New Federal Residential Low Rise Buildings
1043	Energy Code for New Federal Commercial and Multi-Family High Rise Residential Buildings
1057	Alternative Fuel Transportation Program: P-Series Fuels
1065	Redesign and Revision of Wholesale Power Rates and Resolution of Certain Transmission-Related Issues
1072	Annotation of Land Records for Remediated Properties in the Uranium Mill Tailings Remedial Action Project (UMTRA)
1074	General Guidelines for the Recommendation of Sites for Nuclear Waste Repository

HHS

27	Standards for Privacy of Individually Indentifiable Health Information
30	Pharmacy and Physician Compounding of Drug Products
33	Fruit and Vegetable Juices: Development of HACCP and Label Warning Statements for Juices
34	Shell Eggs: Warning, Notice and Safe Handling Labeling Statements and Refrigeration Requirements
43	Security and Electronic Signature Standards (HCFA-0049-F)
46	Medicaid Managed Care; Regulatory Program To Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997 (HCFA-2001-P)
1144	Citizen Petitions; Actions That Can Be Requested by Petition; Summary Denial; and Referral for Other Administrative Action
1159	Prescription Drug Marketing Act of 1987; Policy Information, Guidance, and Clarifications
1162	Current Good Manufacturing Practice; Amendment of Certain Requirements for Finished Pharmaceuticals
1169	Informed Consent for Human Drugs and Biologics; Determination That Informed Consent Is Not Feasible
1186	Food Labeling Review
1187	Medical Foods
1202	Dietary Supplement Regulations in Response to DSHEA
1237	State Child Health; Implementing Regulations for the State Children's Health Insurance Program (HCFA-2006-P)
1244	Medicare/Medicaid and CLIA Programs: Clinical Laboratory Improvement Amendments of 1988 Exemption of Laboratories in the State of California (HCFA-2245-N)
1273	Survey Requirements and Alternative Sanctions for Home Health Agencies (HCFA-2169-F)
1280	Alternative Sanctions for Psychiatric Hospitals (HCFA-2191-P)
1298	Liability for Third Parties To Pay for Services (HCFA-2080-P)
1313	Determination of Substandard Care in SNFs and NFs (HCFA-2240-P)
1315	Individual Market Health Ins. Reform Portability From Group to Indiv. Coverage; Federal Rules for Access in the Indiv. Market; State Alternative Mechanisms to Federal Rules (HCFA-2882-F)
1322	Portability and Nondiscrimination in the Group Health Insurance Market (HCFA-2890-F)
1346	Rural Health Clinics: Amendments to Participation Requirements and Payment Provisions, and Establishment of a Quality Assessment and Improvement Program (HCFA-1910-P)
1356	GME: Incentive Payments Under Plans for Voluntary Reduction in Number of Residents (HCFA-1001-F)
1357	Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities. (HCFA-1913-IFC)
1359	Medicare Program State Allotments for Payments of Medicare Part B Premium for Qualifying Individuals: Federal Fiscal Year for 1999 (HCFA-2032-N)
1368	Medicaid Managed Care; Regulatory Program to Implement Certain Medicaid Provisions of the Balanced Budget Act of 1997
1372	National Medical Support Notice
1379	Requirements for the Tribal Programs
1389	Temporary Assistance for Needy Families (TANF)

HUD

1428	Limitation on Distributions (FR-4532)
1435	Update of the Model Energy Code (MEC) (FR-4272)
1475	Economic Opportunities for Low- and Very-Low-Income Persons (FR-2898)

DOI

57	Surface Management (Locatable Minerals)
58	Oil and Gas Leasing and Operations
1523	Nondiscrimination on the Basis of Sex in Federally Assisted Education Programs or Activities
1530	Appealing Administrative Actions of the Office of the Special Trustee
1533	Proposed Special Rule With the Reclassification of the Vicuna From Endangered to Threatened
1542	Policy for Evaluation of Conservation Efforts in Endangered Species Decision-Making
1552	Reclassification of Yacare Caiman From Endangered to Threatened With Special Rule
1580	Seizure and Forfeiture Procedures
1597	Proposed Approval of Selected State Programs Allowing the Export of Ginseng Harvested in 1997-1999
1621	Eagle Permits; Permits for Falconry Purposes; Permits To Take Golden Eagle Nests
1622	Migratory Bird Permits; Specific Permit Provisions; Import and Export Permits; Banding or Marking Permits; and Scientific Collecting Permits

Federal Government—Cont.

Seq. No.	Title
1623	Migratory Bird Permits; Introduction, General Requirements and Exceptions
1672	Migratory Bird Hunting; Nontoxic Shot; Approval of Tin Shot as Nontoxic for Waterfowl and Coot Shooting
1673	Migratory Bird Permits; Federal Falconry Standards; Determination That Vermont and West Virginia Meet or Exceed Federal Falconry Standards
1698	World Heritage Convention
1736	Tribal Self-Governance
1751	Takes vs. Entitlements Reporting
1752	Accounting Relief for Marginal Properties
1753	Chronic Erroneous Reporting
1754	Oil and Gas Drilling Operations
1763	Reviewing Exploration Plans and Development and Production Plans for Coastal Zone Consistency
1767	Prepayment of Royalties
1775	Change to Delegated State Audit Functions
1776	Royalty in Kind for Oil and Gas
1779	Dam Safety Rules
1781	Definition and Criteria for Valid Existing Rights
1784	Ownership and Control—Redesign
1786	Central Valley Project of California — Purposes, Uses, and Allocation of Water Supplies
1811	Conservation; Helium Leasing
1818	Coalbed Methane Development
1829	Wild and Scenic Rivers

DOJ

Seq. No.	Title
61	Revised Grounds of Inadmissibility, Waivers for Immigrants and Nonimmigrants, and Exceptions
62	Reduction of the Number of Acceptable Documents and Other Changes to Employment Verification Requirements **(Section 610 Review)**
1877	Amendment to Nondiscrimination in Federally Assisted Programs and Activities—Implementation of Title VI of the Civil Rights Act of 1964
1878	Amendment to Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964
1880	Sale by Federal Departments or Agencies of Chemicals Usable to Manufacture a Controlled Substance
1892	Discipline of Attorneys and Representatives
1899	Operation of the National Instant Criminal Background Check System
1901	Federal Convicted Offender DNA Database Program
1902	FBI Criminal Justice Information Services Division Systems and Procedures
1905	Expansion of Expedited Removal of Certain Criminal Aliens Held in Federal, State, and Local Jails
1907	Inspection of Persons Applying for Admission
1908	Employment Authorization Document Applications and Process
1909	Inspection of Persons Applying for Admission; Transit Without Visa (TWOV) and International-to-International Agreements Liquidated Damages
1910	Definition of the Term "Lawfully Present" for Purposes of Eligibility for Public Benefits
1912	Filing Factual Statements About Alien Prostitutes
1915	Use of Parole for Humanitarian Reason or Significant Public Benefit and Report to Congress
1934	Nonimmigrant Classes; B Visitor for Business or Pleasure
1936	Admission of Certain Nurses Seeking Nonimmigrant Classification Under the H-1A Category
1937	Fees for Participation in Dedicated Commuter Lanes at Selected Ports of Entry; Collection of Fees Under the Dedicated Commuter Lane Program
1938	Adjustment of Status to That of Person Admitted for Permanent Residence; Temporary Removal of Certain Restrictions on Eligibility
1939	Nonimmigrant Classes; S Classification; Law Enforcement Initiatives; Alien Witnesses
1940	90-Day Modified Inspection of Alien Crew Members
1941	Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; Self-Petitioning for Certain Battered or Abused Alien Spouses and Children
1942	Miscellaneous Modifications to Naturalization Regulations
1944	Orphan Petitions; Petitions To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Change in Definition of Child
1948	Suspension of Privilege To Transport Aliens to the United States
1956	Early Release for Removal of Criminal Aliens in State Custody for Nonviolent Offenses
1960	Verification of Eligibility for Public Benefits
1967	Suspension of Deportation and Special Rule Cancellation of Removal for Certain Nationals of Guatemala, El Salvador, and Former Soviet Bloc Countries
1971	Filing of Proposals for Designation as a Regional Center Approved To Participate in the Immigrant Investor Pilot Program
1972	Nonimmigrant Visa Exemption for Nationals of the British Virgin Islands Entering the United States Through St. Thomas, United States Virgin Islands
1973	Delegation of the Adjudication of Certain H-2A Petitions to the Department of Labor
1974	Implementing Certain Portions of the American Competitiveness and Workforce Improvement Act (ACWIA) Relating to the H-1B Nonimmigrant Classification
1979	Deportability and Inadmissibility on Public Charge Grounds
1984	Adjustment of Small Volume Application Fees of the Immigration Examinations Fee Account
1986	Visa Waiver Pilot Program
1987	Adjustment of Status to That of Person Admitted for Permanent Residence: Conditional Residents and Fiance(e)s
1988	Update to Transit Without Visa (TWOV) Listing
1989	Employer Sanctions Modifications
1995	Authorizing Suspension of Employment Authorization Requirements on the Basis of Severe Economic Hardship for F-1 Students and Emergent Circumstances
1997	Expansion of Direct Mail Program
1998	Regulations Pertaining to Adjudications Processing
2004	Revision of 28 CFR Part 15 Pertaining to the Defense of Certain Suits Against Federal Employees To Conform to the Federal Employees Liability Reform and Tort Compensation Act
2007	Federal Claims Collection Standards (FCCS)
2009	Designation of Agencies To Receive and Investigate Reports Required Under the Protection of Children From Sexual Predators Act
2012	Violent Crime and Drug Emergency Areas

Federal Government—Cont.

Seq. No.	Title
2013	False Claims Amendments Act of 1986—Civil Investigative Demands
2017	Operation of the National Instant Criminal Background Check System
2018	Federal Convicted Offender DNA Database Program
2021	Whistleblower Protection for Federal Bureau of Investigation Employees
2022	FBI Criminal Justice Information Services Division Systems and Procedures

DOL

65	Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity" (ESA/W-H)
66	Procedures for Predetermination of Wage Rates (29 CFR Part 1) and Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5)
69	Workforce Investment Act of 1998
86	Occupational Exposure to Tuberculosis
87	Employer Payment for Personal Protective Equipment
2033	Supplemental Standards of Ethical Conduct for Employees of the Department of Labor
2034	Process for Electing State Employment Statistics Agency Representatives for Consultations With Department of Labor
2039	Regulations to Implement the Federal Acquisition Streamlining Act of 1994, 29 CFR Parts 4 and 5, 41 CFR Parts 50-201 and 50-206
2041	Records To Be Kept by Employers Under the Fair Labor Standards Act
2043	Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects Under the Fair Labor Standards Act
2044	Implementation of the 1996 Amendments to the Fair Labor Standards Act
2045	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Part 5) Definition of "Site of the Work" Under the Davis-Bacon Act
2048	Service Contract Act Exemption for Certain Commercial Service Contracts
2053	Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models
2054	Minimum Wage and Overtime Violations—Civil Money Penalties (29 CFR 578); Child Labor Violations—Civil Money Penalties (29 CFR 579); Adjustment of Civil Money Penalties for Inflation
2055	Enforcement of Contractual Obligations for Temporary Alien Agricultural Workers Admitted Under Section 216 of the Immigration and Nationality Act
2056	Application of the Fair Labor Standards Act to Domestic Service
2058	Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century
2059	Disaster Unemployment Assistance Program, Amendment to Regulations
2068	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring, and Enforcement
2069	Labor Certification Process for the Permanent Employment of Aliens in the United States
2073	Airline Deregulation: Employee Benefit Program
2109	Hazard Communication
2114	Air Quality, Chemical Substances, and Respiratory Protection Standards
2116	Independent Laboratory Testing
2156	Respiratory Protection (Proper Use of Modern Respirators)

STATE

2185	Revision to Department of State Acquisition Regulation (DOSAR)
2199	Hague Intercountry Adoption Convention Implementation

DOT

93	Hours of Service of Drivers **(Section 610 Review)**
98	Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage
2209	Update of Drug and Alcohol Procedural Rules **(Completion of a Section 610 Review)**
2228	Fees and Charges for Special Services: Reinvention
2236	Policy Statement on Airline Preemption
2302	Implementation of the National Invasive Species Act of 1996 (CGD 97-068)(USCG-1998-3423)
2410	Commercial Space Transportation Licensing Regulations
2411	Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations
2431	Motor Carrier Replacement Information/Registration System
2473	Transportation of Household Goods; Consumer Protection Regulations
2475	Motor Carrier Safety Assistance Program (MCSAP)
2491	Hours of Service of Drivers: Supporting Document Recordkeeping
2494	Transportation of Migrant Workers
2603	State Issued Identification Documents
2612	Extend Participation in the National Driver Register Program
2687	Credit Assistance for Surface Transportation Projects
2706	Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form

TREAS

99	Rules and Procedures for Efficient Federal-State Funds Transfers
2756	Amendment to the Bank Secrecy Act Regulations—Delegation of Authority to Assess Civil Money Penalties on Depository Institutions
2759	Claims on Account of Treasury Checks
2760	Offset of Federal Payments (Other Than Tax Refund and Federal Benefit Payments) to Collect Past-Due, Legally Enforceable Nontax Debt
2761	Offset of Tax Refund Payment to Collect State Income Tax Obligations
2763	Foreign Exchange Operations
2764	Federal Claims Collection Standards
2765	Salary Offset
2767	Regulations Governing FedSelect Check
2768	Indorsement and Payment of Checks Drawn on the United States Treasury

Federal Government—Cont.

Seq. No.	Title
2769	Payments Under Judgment and Private Relief Acts
2771	Public Dissemination of Identity of Delinquent Debtors
2772	Depositaries and Financial Agents of the Federal Government
2773	Payment of Federal Taxes and the Treasury Tax and Loan Program
2774	Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties
2775	Transfer of Debts to Treasury for Collection
2784	Impl. of PL 105-277, Making Omnibus Consolidated and Emergency Supplemental Appropriations for FY 1999, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act
2803	Implementation of Public Law 105-33, Section 9302, Related to Change in Tax Computation of Cigarette Papers and the Imposition of Permit Requirements on Roll-Your-Own Tobacco
2822	Regulations Governing Collateral Acceptability and Valuation
2966	Income Tax—Part 1—Stock Transfer Rules
3021	Remedial Amendment Period
3102	Extension of Time to Electronically File Information Returns, Limitation of Penalty for Individual's Failure to Pay During Period of Installment Agreement

ACHP

3278	Protection of Historic Properties

ATBCB

3285	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities
3287	Standards for Accessible Electronic and Information Technology
3290	Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities: Public Rights-of-Way

EPA

102	TRI; Addition of Oil and Gas Exploration and Production to the Toxic Release Inventory
103	NAAQS: Sulfur Dioxide (Response to Remand)
105	Environmental Radiation Protection Standards for Yucca Mountain, Nevada
107	Review of the National Ambient Air Quality Standards for Particulate Matter
108	Transportation Conformity Amendments: Response to March 2, 1999, Court Decision
110	TSCA Inventory Update Rule Amendments
111	Lead; Overview of Rulemakings Under TSCA Section 402, Lead-Based Paint Activities for the Regulatory Plan
113	Hazardous Waste Identification Rule (HWIR): Identification and Listing of Hazardous Wastes
114	Hazardous Waste Manifest Regulation
115	Standardized Permit for RCRA Hazardous Waste Management Facilities
116	Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste; Proposed Modifications
117	National Primary Drinking Water Regulations: Radon
118	National Primary Drinking Water Regulations: Ground Water Rule
119	National Primary Drinking Water Regulations: Arsenic
120	Long Term 1 Enhanced Surface Water Treatment/Filter Backwash Rule
121	Effluent Guidelines and Standards for the Feedlots Point Source Category, Swine and Poultry Subcategories, and NPDES Regulation for Concentrated Animal Feeding Operations
122	Effluent Limitations Guidelines and Standards for the Feedlots Point Source Category, Dairy and Beef Cattle Subcategories
123	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (State) Grant Regulation
124	Revision to 40 CFR 35 Subpart A and Promulgation of Performance Partnership (Tribal) Grant Rule
125	New Source Review (NSR) Reform
126	Nonroad Spark-Ignition Engines At or Below 19 Kilowatts (25 Horsepower) (Phase 2)
128	Consolidated Federal Air Rule for the Synthetic Organic Chemical Manufacturing Industry
129	Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards
130	Ground Water and Pesticide Management Plan
131	Lead; TSCA Section 403; Identification of Dangerous Levels of Lead
132	TRI; Reporting Threshold Amendment for Certain Persistent and Bioaccumulative Toxic Chemicals (PBTs)
133	TRI; Lowering of EPCRA Section 313 Reporting Thresholds for Lead and Lead Compounds
134	NPDES Comprehensive Storm Water Phase II Regulations
135	Public Water System Public Notification Regulation
136	Total Maximum Daily Load (TMDL) Program Regulations Revisions
137	Total Maximum Daily Load (TMDL) - NPDES and WQS Regulations Revisions
3297	Utilization of Small, Minority and Women's Business Enterprises in Procurement Under Assistance Agreements
3299	Cross-Media Electronic Reporting (ER) and Recordkeeping Rule
3315	Public Information and Confidentiality Regulations
3318	Amendments to Part 22 Consolidated Procedural Rules
3326	Performance Warranty and Inspection/Maintenance Test Procedures
3327	Inspection/Maintenance Recall Requirements
3328	NESHAP: Iron Foundries and Steel Foundries
3329	NESHAP: Cyanide Chemicals Manufacturing
3335	Requirements for Preparation, Adoption, and Submittal of State Implementation Plans (Guideline on Air Quality Models)
3339	New Source Performance Standards and Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units
3344	NESHAP: Plywood and Composite Wood Products
3344	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3356	NESHAP: Miscellaneous Cellulose Production
3358	NESHAP: Leather Tanning and Finishing Operations
3362	Transportation Conformity Rule Amendment: Clarification of Trading Provisions
3364	Review of Minor New Sources and Modifications in Indian Country
3366	NESHAP: Organic Liquid Distribution

Federal Government—Cont.

Seq. No.	Title
3367	Federal Major New Source Review (NSR) Program for Nonattainment Areas
3368	NESHAP: Coke Ovens: Pushing, Quenching, and Battery Stacks
3371	NESHAP: for Source Category: Pulp and Paper Production; Amendments to the Promulgated Rule
3372	NESHAP: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Industry (SOCMI) & Other Processes Subject to the Negotiated Regulation for Equipment Leaks
3376	Technical Change to Dose Methodology for 40 CFR 191, Subpart A
3381	Control of Emissions of Air Pollution from New Compression-Ignition and Spark-Ignition Recreational Marine Engines
3388	Standards and Guidelines for Small Municipal Waste Combustion Units
3392	Area Source Title V Operating Permit Deferrals
3393	Decision on a Petition from the Territory of American Samoa to be Exempted from the Gasoline Antidumping Regulations.
3394	National VOC Emission Standards for Consumer Products; Proposed Amendments
3395	National Volatile Organic Compound Emission Standard for Architectural Coatings; Proposed Amendments
3396	NESHAP for the Printing and Publishing Industry; Amendments
3398	Regulation of Fuels and Fuel Additives: Extension of Reformulated Gasoline Program to the Kansas City, KS Former Ozone Nonattainment Area
3401	Transportation Conformity Amendment: Deletion of Grace Period
3404	Proposed Rule to Amend Subpart H, 40 CFR Part 61 for Emissions of Radionuclides Other Than Radon from DOE Facilities
3406	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3407	Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule
3408	Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment
3409	Proposed Rule to Amend Subpart H, 40 CFR Part 61 for Emissions of Radionuclides Other Than Radon from DOE Facilities
3411	Development of Reference Method for the Determination of Source Emissions of Filterable Fine Particulate Matter as PM2.5
3412	Inspection Maintenance Program Requirements for Federal Facilities; Amendment to the Final Rule
3413	Regulation of Fuels and Fuel Additives: Reformulated Gasoline Adjustment
3418	NESHAP: Phosphate Fertilizers Production
3425	Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608
3426	Protection of Stratospheric Ozone: Refrigerant Recycling Rule Amendment To Include Substitute Refrigerants
3430	Protection of Stratospheric Ozone: Update of the Substitutes List Under the Significant New Alternatives Policy (SNAP) Program
3438	Addition of Opacity Method to Appendix M of 40 CFR Part 51 (Method 203)
3439	NESHAP: Group I Polymers and Resins and Group IV Polymers and Resins and Group IV Polymers and Resins
3442	Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport
3445	Importation of Nonconforming Vehicles; Amendments to Regulations
3451	Hospital/Medical/Infectious Waste Incinerators—Federal Plan (Federal Plan for existing Hospital/Medical/Infectious Waste Incinerators)
3453	NESHAP: Ethylene Oxide Commercial Sterilization and Fumigation Operations
3455	Federal Plan Requirements for Municipal Solid Waste Landfills that Commenced Construction Prior to 5/30/91 and Have Not Been Modified or Reconstructed Since 5/30/91
3459	NESHAP for Ethylene Oxide Commercial Sterilization Operations-Monitoring Amendments
3465	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3467	Field Citation Program
3476	NESHAP: Lime Manufacturing
3478	Revised Permit Revision Procedures for the Federal Operating Permits Program
3483	Prevention of Significant Deterioration of Air Quality: Permit Application Review Procedures for Non-Federal Class I Areas
3488	NESHAP: Flexible Polyurethane Foam Fabrication Operations
3489	Rulemaking To Modify the List of Source Categories From Which Fugitive Emissions Are Considered in Major Source Determinations
3490	NESHAP: Alumina Processing
3493	NESHAP: Hydrochloric Acid Production Industry
3494	NESHAP: Ammonium Sulphate Production (Caprolactam By-Product)
3495	NESHAP: Asphalt/Coal Tar Application on Metal Pipes
3496	NESHAP: Clay Products Minerals
3498	NESHAP: Uranium Hexafluoride Production
3499	Federal Implementation Plans (FIPs) To Reduce the Regional Transport of Ozone in the Eastern United States
3500	General Conformity Regulations: Revisions
3504	Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)
3506	NESHAP: Brick and Structural Clay Products
3507	NESHAP: Ceramics
3509	NESHAP: Lightweight Aggregate
3511	Integrated NESHAP and Effluent Guidelines: Pulp and Paper
3512	NESHAP: Mineral Wool Production Industry
3514	NESHAP: Phosphoric Acid Manufacturing
3516	NESHAP: Wool Fiberglass Manufacturing Industry
3518	NESHAP: Polyether Polyols Production
3520	NESHAP: Primary Lead Smelters
3524	Supplemental Rule To Require Certain Products Made With HCFCs To Bear Warning Label
3525	Acid Rain Program: Continuous Emission Monitoring (CEM) Rule Revisions
3527	Transportation Conformity Rule Amendment and Solicitation for Participation in the Pilot Program

Federal Government—Cont.

Seq. No.	Title
3529	Generic MACT for Source Categories (Acrylic Modacrylic Fibers, Polycarbonates, Hydrogen Fluoride, and Acetal Resins)
3534	Protection of Stratospheric Ozone: Servicing of Motor Vehicle Air Conditioners: Standards for Equipment That Recovers and Recycles Refrigerants Other Than CFC-12 and HFC-134a
3536	Air Quality Index Reporting
3537	Electric Arc Furnace NSPS Amendment
3538	Acid Rain Program: Proposed Revision of Test Method 1, 2, and 2F for Measuring Volumetric Flow in Stacks
3541	Acid Rain Program Permits Regulations and SO2 Allowance System: Compliance Determination
3543	Consumer and Commercial Products: Revised Schedule for Regulation
3545	No Backsliding Rule for PM-10 Nonattainment Areas
3548	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3549	Amendment to National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning
3550	Coke Oven NESHAP Amendment
3551	Coke Oven NESHAP Amendment
3552	Environmental Radiation Protection Standards for the Disposal of Low-Activity Mixed Radioactive Waste
3554	Pesticides; Procedures for Registration Review Program
3555	Data Requirements for Pesticide Registration (Revision)
3556	Endocrine Disruptor Screening Program
3557	Data Requirements for Antimicrobial Registrations
3558	Regulatory Review of Pesticide Emergency Exemption Regulations
3560	Pesticide Management and Disposal
3561	Pesticide Management and Disposal: Standards for Pesticide Containers and Containment
3562	Exemptions for Plant Pesticides Regulated Under FIFRA and FFDCA
3564	WPS; Pesticide Worker Protection Standard; Glove Amendment
3565	Tolerances for Pesticide Emergency Exemptions
3566	Registration of Granular Fertilizer-Pesticide Combination Products
3567	Policy or Procedures for Notification to the Agency of Stored Pesticides With Cancelled or Suspended Registration
3568	Registration Requirements for Antimicrobial Pesticide Products; and Other Pesticide Regulatory Changes
3569	Pesticides; Tolerance Processing Fees
3570	Pesticide Tolerance Reassessment Program
3571	Exemption of Certain Pesticide Substances From FIFRA Requirements
3572	Follow-Up Rules on Existing Chemicals
3573	Test Rules; Generic Entry for Proposed Decisions
3575	Test Rule; ATSDR Substances
3576	Children's Health Test Initiative
3577	Asbestos Model Accreditation Plan Revisions
3579	Lead-Based Paint Activities Rules; Training, Accreditation, and Certification Rule and Model State Plan Rule—Building and Structures Section 402(a)
3580	Asbestos Worker Protection Rule Amendments
3581	Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
3583	Test Rule for Certain Metals
3584	TSCA Biotechnology Follow-Up Rules
3585	Multi-Chemical Test Rule; High Production Volume Chemicals
3588	Lead-Based Paint; Notification of Commencement of Abatement Activities (Section 402(a))
3592	PCBs; Polychlorinated Biphenyls; Exemptions From the Prohibitions Against Manufacturing, Processing, and Distribution in Commerce
3594	Test Rules; Generic Entry for Final Decisions
3595	Acrylamide; Ban on Use of Acrylamide for Grouting
3597	PCBs; Polychlorinated Biphenyls (PCBs) Transformer Reclassification Rule
3599	Test Rule; Hazardous Air Pollutants (HAPs)
3601	Notice of TSCA Section 4 Reimbursement Period and TSCA Section 12(b) Export Notification Period Sunset Dates for TSCA Section 4 Substances
3602	PCBs; Polychlorinated Biphenyl; Use Authorizations
3603	Lead; Regulatory Investigation Under the Toxic Substances Control Act (TSCA) To Reduce Lead (Pb) Consumption and Use
3604	Lead; Management and Disposal of Lead-Based Paint Debris Section 402(a)
3605	Asbestos-Containing Materials in Schools Rule Amendments
3606	Guidance on Environmentally Preferable Purchasing for Federal Agencies
3607	Lead-Based Paint; Fees for Accreditation and Certification Activities Section 402(a)(3)
3609	TRI; Responses to Petitions Received To Add or Delete or Modify Chemical Listings on the Toxic Release Inventory
3610	TRI; Pollution Prevention Act Information Requirements
3611	TRI; Chemical Expansion; Finalization of Deferred Chemicals
3612	TRI; Revisions to the Otherwise Use Activity Exemptions and the Coal Extraction Activities Exemption
3618	TRI; Data Expansion Amendments; Toxic Chemical Release Reporting; Community Right-to-Know
3619	TRI; Review of Chemicals on the Original TRI List
3620	Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities
3623	Revisions to Solid Waste Landfill Criteria—Leachate Recirculation
3627	Removal of Requirement To Use SW-846 Methods (Test Methods for Evaluating Solid Waste: Physical/Chemical Methods)
3630	Identification and Listing of Hazardous Waste; Inorganic Chemical Industry Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities
3632	Glass-to-Glass Recycling of Cathode Ray Tubes (CRTs): Changes to Hazardous Waste Regulations
3635	Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)

Federal Government—Cont.

Seq. No.	Title
3636	Revisions to Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste
3637	Alternative Land Disposal Restrictions Treatment Standards for Contaminated Soils, Deferral of PCB's as an Underlying Hazardous Constituent in Soil
3638	Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities
3639	RCRA Subtitle C Financial Test Criteria (Revision)
3640	Listing Determination of Wastes Generated During the Manufacture of Azo, Anthraquinone, and Triarylmethane Dyes and Pigments
3641	Chlorinated Aliphatics Listing Determination
3642	Revisions to the Comprehensive Guideline for Procurement of Products Containing Recovered Materials
3645	180-Day Accumulation Time Under RCRA for Generators of F006 Waste Water Treatment Sludges from the Metal Finishing Industry
3650	Paint Manufacturing Wastes Listing: Hazardous Waste Management System: Identification and Listing of Hazardous Waste
3651	Management of Cement Kiln Dust (CKD)
3652	Mercury-Containing and Rechargeable Battery Management Act; Codification of Waste Management Provisions
3653	RCRA Reporting and Recordkeeping Burden Reduction
3654	Suspension of Temporary Toxicity Characteristic Rule for Specific Lead-Based Paint Debris
3655	Proposed Regulatory Amendments on Recycling of Hazardous Wastes in Fertilizers
3656	Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps
3658	Oil Pollution Prevention Regulation: Revisions
3659	National Priorities List for Uncontrolled Hazardous Waste Sites: Proposed and Final Rules
3661	Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; Revision of 40 CFR Part 35 Subpart O
3662	Grants for Technical Assistance Rule Reform—40 CFR Part 35 Subpart M
3667	Water Quality Standards for Indian Country Waters
3669	Standards for the Use or Disposal of Sewage Sludge (Round II)
3670	Minimizing Adverse Environmental Impact from Cooling Water Intake Structures Under Section 316(b) of the Clean Water Act
3671	Amendments to Round I Final Sewage Sludge Use or Disposal Rule —Phase Two
3672	Water Quality Standards Regulation — Revision
3673	Revisions to NPDES Requirements for Municipal Sanitary Sewer Collection Systems
3674	Test Procedures for the Analysis of Cryptosporidium and Giardia Under the Safe Drinking Water and Clean Water Acts
3678	Revisions to Effluent Guidelines and Standards for the Coal Mining Point Source Category
3679	Amend the Final Water Quality Guidance for the Great Lakes System to Prohibit Mixing Zone for Bioaccumulative Chemicals of Concern
3680	Test Procedures for the Analysis of E. Coli and Enterococci Under the Clean Water Act
3682	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry
3683	Effluent Guidelines and Standards for the Transportation Equipment Cleaning Category
3684	Comparison of Dredged Material to Reference Sediment
3685	Effluent Guidelines and Standards for Landfills
3686	Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California
3687	Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution
3688	NPDES Streamlining Rule — Round II
3689	Guidelines Establishing Test Procedures for the Analysis of Cyanide Under the Clean Water Act
3692	Increased Method Flexibility for Test Procedures Approved for Clean Water Act Compliance Monitoring
3693	Performance Based Measurement System (PBMS) Procedures and Guidance for Clean Water Act Test Procedures
3694	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One
3695	Effluent Guidelines and Standards for Industrial Waste Combustors
3697	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Monitoring Amendment
3698	Water Quality Standards for Alabama—Phase I
3699	Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance — Revision of Polychlorinated Biphenyls (PCBs) Criteria
3700	EPA Review and Approval of State and Tribal Water Quality Standards
3702	Recognition Awards Under the Clean Water Act
3704	Effluent Guidelines and Standards for the Metal Products and Machinery Category, Phases 1 and 2
3705	Revision of NPDES Industrial Permit Application Requirements and Form 2C—Wastewater Discharge Information
3706	Guidelines Establishing Whole Effluent Toxicity West Coast Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3707	Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance
3708	Guidelines Establishing Test Procedures for the Analysis of Trace Metals Under the Clean Water Act
3709	NPDES Streamlining Rule — Round III
3710	Effluent Guidelines and Standards for Iron and Steel Manufacturing Point Source Category
3711	Selenium Criterion Maximum Concentration for Water Quality Guidance for the Great Lakes System

Federal Government—Cont.

Seq. No.	Title
3712	Test Procedures for the Analysis of Co-Planar and Mono-Ortho-Substituted Polychlorinated Biphenyls (PCBs) Under the Clean Water Act
3713	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, Phase II
3714	Guidelines Establishing Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two
3715	Revisions to Effluent Guidelines and Standards for Synthetic-Based Drilling Fluids in the Oil and Gas Extraction Point Source Category
3716	Water Quality Standards for Alabama—Phase II
3717	Uniform National Discharge Standards for Vessels of the Armed Forces - Phase II
3718	Effluent Guidelines for the Construction and Development Industry
3719	NPDES Wastewater Permit Application Forms and Regulatory Revisions for Municipal Discharges and Sewage Sludge Use or Disposal
3721	Amendments to Round I Final Sewage Sludge Use or Disposal Rule—Phase One
3722	Guidelines Establishing Oil and Grease Test Procedures for the Analysis of Pollutants Under the Clean Water Act
3723	Streamlining 301(h) Waiver Renewal Requirements
3724	Uniform National Discharge Standards for Armed Forces Vessels—Phase I
3725	Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category; Incentives Amendment
3726	Test Procedures for the Analysis of Mercury Under the Clean Water Act
3732	Use of Screening Procedures for Compliance Monitoring of Drinking Water Contaminants
3733	Revisions to the Underground Injection Control Regulations for Class V Injection Wells
3734	National Primary Drinking Water Regulations: Lead and Copper
3736	National Primary Drinking Water Regulations: Radium, Uranium, Alpha, Beta and Photon Emitters
3737	National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements
3741	Revision to the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection Byproducts Rule (DBPR).
3742	National Primary Drinking Water Regulations: Sulfate
3743	National Primary Drinking Water Standards for Aldicarb
3744	Streamlining Drinking Water Monitoring Requirements
3745	Long Term 2 Enhanced Surface Water Treatment Rule
3746	Stage 2 Disinfectants/Disinfection Byproducts Rule
3747	Drinking Water Unregulated Contaminant Monitoring Program
3748	Filter Backwash Recycling Regulation
3749	National Primary and Secondary Drinking Water Regulations: Analytic Methods for Organic, Inorganic and Microbiological Contaminants and Pesticides
3750	National Primary Drinking Water Regulations: Analytical Methods for Microbial, Lead and Magnesium
3751	Revisions to Ocean Dumping Regulations for Dredged Material

EEOC

Seq. No.	Title
138	Federal Sector Equal Employment Opportunity
139	Waivers of Rights and Claims: Tender Back of Consideration
3759	Federal Sector Equal Employment Opportunity Procedures
3761	Coordination of Functions: Memorandum of Understanding Between EEOC and Department of Labor, Office of Federal Contract Compliance Programs

GSA

Seq. No.	Title
3797	Records Management, Standard and Optional Forms Management, and Interagency Reports Management
3798	Telecommunications Management
3799	Federal Advisory Committee Management
3800	Inclusion of Tax Adjustment Provision in GSAR
3801	Official Use of Government Passenger Carriers Between Residence and Place of Employment
3802	Utilization, Donation, and Disposal of Foreign Gifts and Decorations
3803	Sale, Abandonment, or Destruction of Personal Property
3804	Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property
3805	Federal Property Management Regulations, Part 101-17, Assignment and Utilization of Space
3806	Federal Property Management Regulations, Part 101-20, Management of Buildings and Grounds
3807	Federal Property Management Regulations, Part 101-21, Federal Buildings Fund
3808	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs
3810	Governmentwide Real Property Policy
3811	Annual Real Property Inventories
3812	Streamlining Administration of Federal Supply Service (FSS) Multiple Award Schedule (MAS) Contracts
3813	FTR Amendment (Unassigned); Relocation Allowances
3814	Revision to Clause 552.270.4, Historic Preference
3815	FTR Amendment (Unassigned); Conference Management
3816	Clarification on the Use of Selection Criteria for Architect-Engineer Procurements
3818	FTR Amendment (Unassigned); Acceptance of Payment from a Non-Federal Source for Travel Expenses
3819	Criteria for Reporting Excess Personal Property
3820	Donation of Federal Surplus Personal Property to Nonprofit Providers of Assistance for Impoverished Families and Individuals
3821	Federal Management Regulation (FMR)
3822	FTR Interim Rule 8; Mandatory Use of Travel Charge Card
3823	FTR Interim Rule 7 - Income Tax Reimbursement Allowance (ITRA)
3824	Location of Federal Facilities in Urban Areas
3825	Utilization and Disposal of Real Property
3827	Motor Vehicle Management
3828	Negotiation Procedures for Acquisition of Leasehold Interests in Real Property; CHGE 79
3829	User Fees; Network Registration Services

Federal Government—Cont.

Seq. No.	Title
3830	Donation Requirements for Firearms
3831	The Composition of the Evaluation Board for Architect-Engineer Procurements
3834	FTR Amendment 84; Airline Contract City-Pair Fares, Property Management Services, and Technical Corrections
3835	FTR Amendment 83; Travel and Relocation Expenses Test Programs
3836	FTR Amendment 80 - 1998 Edition; Relocation Income Tax (RIT) Allowance Tax Tables
3837	FTR Amendment; Income Tax Reimbursement Allowance
3838	FTR Amendment 79 - 1998 Edition; Maximum Per Diem Rates in Michigan, New Jersey, New York, South Carolina, and West Virginia
3839	Small Business Subcontracting Program; CHGE 82
3840	Change in Consumer Price Index Minimal Value
3841	FTR Amendment 82; Maximum Per Diem Rates in Colorado, Georgia, and New York
3842	FTR Amendment 81; Per Diem Rates in Florida, Massachusetts, and Minnesota
3843	FTR Amendment 86; Agency Requirements for Payment of Expenses Connected with Death of Certain Employees
3844	FTR Amendment 85, Maximum Per Diem Rates in California, Illinois, New Jersey, North Carolina, Utah, and Virginia
3845	Federal Building Fund, Billing Procedures for Reimbursable Charges
3846	Utilization and Disposal of Real Property

NARA

140	Agency Records Centers
141	Storage of Federal Records
3858	Creation and Maintenance of Federal Records
3859	Records Declassification
3861	Limitations on Testimony by NARA Employees
3862	Collection of Debts Owed to the United States by NARA Employees
3864	Standards for Agency Recordkeeping Requirements
3866	Storage Standards for Archival Records
3868	Elimination of Requirement To Rewind Computer Tapes
3869	Debt Collection
3874	Administrative Requirements for Grantees To Reflect Single Audit Act Amendments
3876	Classified National Security Information—Multiple Agency Review
3877	Classified National Security Information — Safeguarding Classified National Security Information

OGE

3899	Office of Government Ethics Gift Acceptance Authority and Organizational Update
3900	Privacy Act Rules of the Office of Government Ethics
3901	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees
3902	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)
3903	Post-Employment Conflict of Interest Restrictions
3904	Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture
3905	Standards of Ethical Conduct for Employees of the Executive Branch
3906	Executive Agency Ethics Training Programs
3907	Office of Government Ethics Procedures on Requests for Testimony by OGE Employees and Documentary Production Relating to Official Information and Records
3908	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics
3909	Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees
3910	Office of Government Ethics Electronic Freedom of Information Act Updating Amendments

OMB

3911	Revision of OMB Circular A-127 To Implement the Federal Financial Management Improvement Act (FFMIA) and To Reflect Updated Financial Management Policies
3912	Revision to OMB Circular No. A-125, "Prompt Pay"
3914	Cost Principles for Educational Institutions (OMB Circular A-21)
3918	Revision to OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations
3919	Procedures for Participating in the Census Bureau Reconciliation and the OMB Appeal Processes for the Development of the Census 2000 Address List

PEACE

4038	Implementation of Rehabilitation Act of 1973, Part 504 — Handicapped Discrimination Prohibition
4039	Supplemental Standards of Conduct for Peace Corps Employees
4040	Eligibility and Standards for Peace Corps Volunteer Service Re: Procedures — Appeals
4041	Volunteer Discrimination Complaint Procedure
4042	Responsibilities and Ethical Standards for Peace Corps Employees

RRB

4059	Remuneration
4060	Registration for Railroad Unemployment Benefits; Determination of Daily Benefit Rate; Sickness Benefits; Duration of Normal and Extended Benefits
4061	Family Relationships
4063	Determining Disability
4064	Evidence Required for Payment
4065	Employers Under the Railroad Retirement Act; Employers Under the Railroad Unemployment Insurance Act
4066	Employees Under the Railroad Retirement Act
4070	Requests for Reconsideration and Appeals Within the Board
4071	Creditable Railroad Compensation
4072	Finality of Decisions Regarding Unemployment and Sickness Insurance Benefits

SSS

4074	Selective Service Regulations

Federal Government—Cont.

Seq. No.	Title
	SBA
4076	Supplemental Standards of Ethical Conduct for Employees of the Small Business Administration
4077	Record Disclosure and Privacy Regulations
4106	Minority Enterprise Development
	SSA
153	Assessing Attorney Representatives for Direct Payment (763P)
156	Federal Old-Age, Survivors, and Disability Insurance; Determining Disability and Blindness; Revision to Medical-Vocational Guidelines (599F)
157	Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind and Disabled; Evaluating Opinion Evidence (624F)
4116	Federal Salary Offset (Withholding a Portion of a Federal Employee's Salary To Collect a Delinquent Debt Owed to the Social Security Administration) (721P)
4117	Private Collection Agencies (Using Private Collection Agencies to Help SSA Collect Delinquent Title II Debts Owed by Former Beneficiaries) (722P)
4118	Charging Interest (Charging Interest on Delinquent Debts) (723P)
4119	Administrative Wage Garnishment (To Repay a Debt Owed to the Social Security Administration) (724P)
4120	Self-Sufficiency Incentives for Title II and Title XVI Program Beneficiaries (725P)
4133	Dedicated Accounts and Installment Payments for Certain Past Due SSI Benefits (622F)
4160	Determining Disability and Blindness; Providing for Use of a Single Decisionmaker to Make Determinations of Disability Under Titles II and XVI of the Social Security Act (668P)
4163	Privacy and Disclosure of Official Records and Information (711P)
4168	Implementing Modifications to Prehearing Procedures and Decisions by Adjudication Officers (616P)
4171	Reflect a Requirement of the Social Security Act That the Commissioner Disregard Evidence in Certain Situations Involving Fraud or Similar Fault Under Titles II or XVI of the Act (671P)
4174	Increase in Substantial Gainful Activity (738F)
4176	Administrative Review Process; Prehearing Proceedings and Decisions by Attorney Advisors; Extension of Expiration Date (761F)
	FAR
4178	FAR Case 99-010, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings
4179	FAR Case 99-004, Executive Agent
4180	FAR Case 98-609, Federal Supply Schedules Small Business Opportunities
4181	FAR Case 98-614, Veterans' Employment
4182	FAR Case 97-613, Application of the Davis-Bacon Act to Construction Contracts with Options To Extend the Term of the Contract
4183	FAR Case 89-093, Implementation of the Anti-Lobbying Statute
4184	FAR Case 91-078, Small Business Subcontracting Reporting
4185	FAR Case 94-753, Travel Costs
4186	FAR Case 96-308, Implementation of Commercially Available Off-the-Shelf Item Acquisition Provisions of the Federal Acquisition Reform Act
4187	FAR Case 97-024, Foreign Acquisition
4188	FAR Case 95-013, Government Property
4189	FAR Case 96-023, Clause Flowdown-Commercial Items
4190	Federal Acquisition Regulation; Progress Payments
4191	FAR Case 97-032, Relocation Costs
4192	FAR Case 97-304, Electronic Commerce in Federal Procurement
4193	FAR Case 98-611, Evaluation Boards
4194	FAR Case 97-033, Pollution Control and Clean Air and Water
4195	FAR Case 98-400, Progress Payments and Related Financing Policies
4196	FAR Case 98-011, SBA 8(a) Business Development Program
4197	FAR Case 98-017, Review of Award Fee Determination (Burnside-ott)
4198	FAR Case 98-605, Service Contract Act, Commercial Item Subcontracts
4199	FAR Case 99-600, Nondisplacement of Qualified Workers—Commercial Items
4200	FAR Case 98-604, Ocean Transportation by U.S.-Flag Vessels
4201	FAR Case 98-304, Commercial Items-Nongovernmental Purposes
4202	FAR Case 98-010, A-76 Cost Comparison
4203	FAR Case 97-603, Empowerment Contracting
4204	FAR Cases 97-004A and 97-004B, Reform of Affirmative Action in Federal Procurement
4205	FAR Case 97-031, Value Engineering Change Proposals
4206	FAR Case 96-018, Use of Brand Name Item Descriptions
4207	FAR Case 97-038, Evaluation of Proposals for Professional Services
4208	FAR Case 98-007, Competition under Multiple Award Task and Delivery Order Contracts
4209	FAR Case 98-004, OMB Circular A-119
4210	FAR Case 97-003, Taxpayer Identification Numbers (TINS)
4211	FAR Case 98-602, Javits-Wagner-O'Day Proposed Revisions
4212	FAR Case 98-002, Conditionally Accepted Items
4213	FAR Case 97-307, HUBZone Program
4214	FAR Case 98-014, Increased Payment Protection
4215	FAR Case 97-043, Cost-Reimbursement Architect-Engineer Contracts
4216	FAR Case 98-003, Cost Accounting Standards Post-Award Notification
4217	FAR Case 98-006, Interest and Other Financial Costs
4218	FAR Case 97-030, Conforming Late Offer Treatment
4219	FAR Case 98-606, Option Clause Consistency
4220	FAR Case 98-603, Contractor Liability for Loss of and/or Damages to Household Goods
4221	FAR Case 98-013, Very Small Business Concerns
4222	FAR Case 98-301, Compensation for Senior Executives
4223	FAR Case 98-023, Application of the Brooks Act
4224	FAR Case 98-306, Restrictions on Acquisition of Information Technology

Federal Government—Cont.

Seq. No.	Title
4225	FAR Case 99-001, Use of Competitive Proposals
4226	FAR Case 98-300, Determination of Price Reasonableness and Commerciality
	FCC
4311	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order
4312	Implementation of Section 255 of the Telecommunications Act of 1996; Access to Telecommunication Services and Equipment, and Customer Premise Equipment, for Persons With Disabilities
4313	Enhanced 911 Services for Wireline
4325	Access Charge Reform for Rate-of-Return Local Exchange Carriers
4334	In the Matter of Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Alert System
4337	Amendment of Part 2, Subpart K of the FCC's Rules Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
4341	Wind Profiler Radar Systems
4350	Equipment Authorization Streamline II/Mutual Recognition Agreements and the GMPCS MOU
4360	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures; IB Docket No. 95-117
4361	Satellite Communications — NGO MSS; CC Docket No. 92-166
4362	Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the L-Band; IB Docket No. 96-132
4366	Amendment of Policy To Allow Non-U.S. Licensed Space Stations To Provide Service in the United States; IB Docket No. 96-111; CC Docket No. 93-23
4370	The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band; IB Docket No. 99-81; RM-9328
4372	1998 Biennial Regulatory Review — Review of Accounts Settlement in Maritime Mobil Maritime Mobile Satellite Radio Services and Withdrawal of the Commission as Accounting Authority; IB Doc No. 98-96
4376	Filing of Television Network Affiliation Contracts (MM Docket No. 95-40)
4382	Competitive Bidding for Broadcast Services
4388	Advanced Television Service (MM Docket 87-268)
4396	Resale and Roaming Obligations Pertaining to Commercial Mobile Radio Services
4408	Amendment to Part 27 of the FCC's Rules To Revise Rules for Services in the 2.3GHz Band and To Include Licensing of Services in the 47 Ghz Band
	FERC
4452	Regulations Governing Off-the-Record Communications
4453	Collaborative Procedures for Energy Facility Applications
	FRS
4499	Applicability of Sections 23A and 23B of the Federal Reserve Act to Transactions Between a Member Bank and Its Subsidiaries (Docket Number: R-0977)
	SEC
4663	Political Contributions by Investment Advisers
4699	Amendments to the Freedom of Information Act, Privacy Act, and Confidential Treatment Rules

VOL
64
ISS
2
2
4
NO
22
999
JMI

Accountants:
Debarment
Accounting:
Audits of s
institu
Cost accou
Cost princi
Credit unio
Customs S
DEA.....
DFARS co
DFARS co
DOI cost re
Food Stam
Foreign ex
Funds tran
FCC cost a
FMS claim
Ginnie Ma
Governmen
DFARS
Performa
Taxpaye
Internation
Mark-to-ma
Medicare p
OASDI cal
and ea
PBGC calc
PBGC pren
Revision o
Small busi
Account
Unified Pa
Administrati
See also C
E
E
F
P
S
Advisory c
Aviation e
ATF.....
Block gran
Board of V
Case doc
Delegatio
Notificat
and
Simultan
BATF proc
BLM proce
Code of Co
DIO.....
DOE:
Economi
DOI .....
DOJ:
Federal
National
Equal Acc
EEOC.....
EPA.....
Federal Ac
Federal Cr

E. SUBJECT INDEX TO THE UNIFIED AGENDA

A

Accountants:
Debarment and suspension 2824, 4430
Accounting:
Audits of state and local governments and non-profit institutions 1407, 1411, 2129, 2246, 3190, 3874
Cost accounting standards 2014, 3915
Cost principles 934
Credit union audits and verifications 4543
Customs Service fees and interest 2850
DEA 1884
DFARS contract administration and audit services 904
DFARS contract services 952
DOI cost recovery 1795, 1796
Food Stamp Program EBT system audit requirements 373
Foreign exchange operations 2763
Funds transfers to State governments 99
FCC cost allocation and accounting rules 4322
FMS claims 2759, 2769
Ginnie Mae financial reporting 1472
Government payments:
DFARS modification 953
Performance-based payments 924, 4438
Taxpayer identification numbers 953
International accounting standards 4620
Mark-to-market 2984, 3047, 3048
Medicare program 1304
OASDI calculations of the contribution and benefit base and earnings test exempt amounts 4154
PBGC calculation and payment of benefits 4052
PBGC premium self-audit 4043
Revision of OMB Circular A-127 3911
Small business size standards:
Accounting, auditing and bookkeeping services 4083
Unified Partnership Audit Procedures 3096
Administrative practice and procedure:
See also Claims
Environmental impact statements
Equal access to justice
Freedom of information
Privacy
Sunshine Act
Advisory committees 1826, 3799
Aviation economic proceedings rules of practice 2212
ATF 2818, 2821
Block grants 1101
Board of Veterans' Appeals:
Case docketing 3225
Delegations of authority 3224
Notification of representatives in connection with clear and unmistakable error motions 3226
Simultaneously contested claims 3183
BATF procedures 2812
BLM procedures 1825
Code of Conduct 4165
DIO 2819
DOE:
Economic development transfers of real property 1070
DOI 1527, 1528
DOJ:
Federal Convicted Offender DNA Database 2018
National Instant Criminal Background Check System 2017
Equal Access to Justice Act 1109, 3895
EEOC 3761
EPA 3560, 3567
Federal Advisory Committee Act 3799
Federal Crop Insurance Corporation 327
Administrative practice and procedure—Continued
FCC's ex parte rules in Joint Board proceedings 4359
FDA 1110
Advisory opinions and guidelines 1122
Citizen petitions 1144
FEMA 3790
FERC 4438, 4445, 4450
FERC off-the-record communications 4452
FHFB unpublished information 4464
FTC regulatory review 4511
FWS seizure and forfeiture procedures 1580
Government in the Sunshine Act 3294
Hazardous materials 2711
Hearing and appeal procedures:
Administrative law judges 1894
Adverse actions against Head Start agencies 1383
Army Corps of Engineers 969, 973
Aviation economic proceedings 2228, 2229
Board of Immigration Appeals 1896
Bureau of Indian Affairs 1741
Bureau of Land Management 1800
DOL 2035, 2040
FCIC procedures 317
Immigration proceedings 1894
Indian affairs 1525
Medicaid State Plan amendments 1300
Medicare claims appeal 1324
Medicare enrollment 1238
Minerals Management Service 1771
Minority Enterprise Development Office 4106
National Forest System 459
National Indian Gaming Commission 4549, 4553
NRC 4618, 4619
Office of the Special Trustee 1530
Office of Federal Housing Enterprise Oversight 3897
Office of Government Ethics 3900
Office of Personnel Management 3934, 3953, 3962
Office of Trust Funds Management 1530
Peace Corps 4040
Public lands cases 1524
PTO 865
Reclamation Bureau 1787
RRB 4070
Social Security Administration 4148, 4168
SBA 4107
Transportation proceedings 2463
Treasury Department 2824
Veterans Affairs 3238, 3242
INS 1956
IRS 3031, 3083
MARAD 2743
National Credit Union Administration 4536
NHTSA global technical regulations statement of policy 2581
NIGC:
Compulsory process and testimony of employees 4552
NRC 4584
OMB 3918
OPM 3955
OTS 3136
Panama Canal Commission:
Removal of Secretary of the Army as prescribing authority 4036
Peace Corps volunteer discrimination complaints 4041
Registration of drug producers 1189
Research and Special Programs Administration 2726
Rulemaking:
DOT 2226

Administrative practice and procedure—Continued
Rulemaking—Continued
EPA 3544
FCA 4273
FCC 4295, 4329, 4386, 4409
FERC 4455
INS 1904
IRS 3038, 3078
NRC 4566, 4588
USDA 253
RRB 4061
Social Security Administration 4136, 4176
Testimony of employees and production of records in legal proceedings 4121
USAID commodities transactions 3282
USDA 506
VA 3174, 3190, 3227, 3270
Adoption and foster care:
Adoption and Safe Families Act 1391
Intercountry adoption 2199
State performance requirements 1375
Adult education:
Ineligibility of F-1 foreign students 1913
Advertising:
Air carriers, prices 2222
Direct-to-consumer promotion 1117
Home insulation 4508
Investment companies 4642
Smokeless tobacco health warnings 4507
Television 4377
Unfair or deceptive practices 4514, 4516
Aged:
See also Medicaid
Medicare
Public assistance programs
Supplemental Security Income (SSI)
AOA rules revisions 1392
Food assistance programs 5, 381
Nondiscrimination:
Air travel 2216
DOL programs 2126
Employment 3755, 3756
Agricultural commodities:
See also Acreage allotments
Commodity futures
Crop insurance
Fruits
Grains
Marketing agreements
Marketing quotas
Nuts
Oilseeds
Price support programs
Surplus agricultural commodities
Vegetables
specific commodities
Accelerated Production Flexibility Contract payments 234
Cargo preference regulations 2741
CCC Export Credit Guarantee Program 252, 432
Exports 433, 435
Fair Labor Standards Act exemptions 2043
Kiwifruit 176
Mark-to-market accounting 3048
Noninsured crop disaster assistance program 223
Nonrecourse marketing assistance loans for crambe 235
Overseas market development 434
Speculative limits for futures contracts 4243
Sugarcane 194
Warehouses for CCC storage contracts 199
Agricultural research:
Agricultural Research, Extension, and Education Reform Act:
Matching funds requirement 289
Stakeholder input to formula funds 288
Animal embryos and semen 269
Agricultural research—Continued
Biotechnology Risk Assessment Research Grants Program administrative provisions 286
Donation of excess research equipment 506
Agriculture:
See also Agricultural commodities
Agricultural research
Fertilizers
Food assistance programs
Foods
Forests and forest products
Irrigation
Migrant labor
Pesticides and pests
Range management
Rural areas
Acquisition regulations 505, 507, 509
ASCS program ineligibility 193
Collateral requirements for emergency loans 239
Cooperative marketing associations 217
CFSA state and county committees 196
Disaster assistance 207, 251
Farm reconstitution regulations 219
Farm Service Agency:
Disaster set-aside program second installment 231
Low documentation loans 238
Real estate appraisals and chattel appraisals 236
Regulatory streamlining of direct farm loan programs 232
Small Hog Operation Payment Program 237
Hog imports from Europe 276
Horse protection requirements 260
Income taxes 2962
Nondiscrimination in USDA-conducted programs and activities 464
Pseudorabies in swine 279
Quarantine and inspection service user fees 261
State mediation programs 181
Technical assistance and training 294, 472, 491
USDA lobbying restrictions 508
Worker protection standards 3564
Aid to Families with Dependent Children:
See also Public assistance programs
Work Incentive Programs (WIN)
Temporary Assistance for Needy Families 1321, 1381, 1389
Unemployed parent 1321
Air carriers:
See also Air rates and fares
Air taxis
Charter flights
Airline deregulation benefit provisions 2073
Anti-drug and alcohol misuse prevention programs 2394
Aviation data requirements 2211
Aviation exemption procedures 2219
Baggage liability 2220, 2225
Cargo limit 2692
Competitiveness 2210, 2236
Computer reservations system 2210
Computer Assisted Passenger Screening (CAPS) system 2368
Damage of expensive mobility aids 2247
Direct flight, definition 2217
Fees charged by airports 2371
Flight diversions within metropolitan areas 2218
Hazardous materials transportation:
Emergency telephone number requirements 2689
Interstate authority 2236
Landing gear shock absorption test requirements 2334
Non-age discrimination 2216
Overbooking of flights 2227
Passengers:
Airline counter notices 2221
Aliens with fraudulent documents 1948
Facility charges 2325

Air carriers—Continued
Passengers—Continued
Ground travel expense when diverted....2218
Manifest information....1909, 2242
Oxygen use....2241
Passenger Origin-Destination Survey....2745
Pilots:
National Driver Register records....2570, 2628
Night flying takeoff and landing training....2416
Price advertising....2222
Repair station requirements....2316, 2398
Safety and security-related information....2364
Seats, crashworthiness standards....2318
Security measures....2360
Smoking ban....2238
Tariff filing requirements....2245
Universal child seats....2519
Air pollution control:
See also Motor vehicle pollution
Acid rain:
Allowance allocations....3525, 3541
Acid Rain Program:
Permits regulations....3541
Acrylic/modacrylic fiber manufacturing....3521
Aerospace industry....3402, 3526
Agricultural chemicals....3519
Air quality modeling....3335
Air quality resources:
Class I area designations....3483
Air quality standards....103, 3385
Air storage tanks....3532
Aluminum industry....3420
Asphalt roofing and processing....3350
Baker's yeast manufacturing industry....3469
Boat manufacturing industry....3342
Boilers....106
Carbon monoxide....3385
Chemicals....128, 3332, 3333
Chlorofluorocarbons (CFCs)....1120, 3534
Chromium emissions....3324, 3475
Clean fuels formula grant program....2675
Clean Air Act....108, 3339, 3389, 3399, 3425, 3426, 3437, 3500, 3512
Consumer products....3380, 3543
Copper smelters....3419
Cyanide chemical manufacturing....3329
Dioxin emission measurement....3334
Dry cleaners....3472
Electric arc furnaces....3537
Emergency episode requirements....3504
Emission control diagnostic systems....3431
Emission standards:
Coke ovens....3356, 3357, 3358, 3364, 3368, 3460, 3485, 3488, 3531, 3550, 3551
Halogenated solvents....3465, 3485, 3531, 3548, 3549
Hydrogen fluoride production....3356, 3357, 3358, 3364, 3485, 3486, 3488, 3530, 3531
New marine engines....3356, 3357, 3358, 3364, 3381, 3449, 3485, 3486, 3488, 3531
Non-road spark-ignition engines....3378, 3531
Permit requirements....3356, 3357, 3358, 3364, 3452, 3485, 3486, 3488, 3531, 3547
Potential to emit....3356, 3357, 3358, 3377, 3485, 3488, 3531
Semiconductor facilities....3356, 3357, 3358, 3364, 3479, 3485, 3486, 3488, 3531
Emissions monitoring program....3360, 3363, 3365, 3432, 3433, 3438, 3525, 3533
Emissions reporting....3361
Emissions trades....3362
Essential uses....1120
Ethylene processing....3345, 3453
Fabric printing, coating and dyeing industry....3480
Ferroalloy industry....3523
Fugitive emissions....3489
Gas turbines....3351
General provisions amendments....3336
Glycol ethers....3446
Halons....3382
Hazardous air pollutants....106, 126, 3331, 3332, 3333, 3333, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3356, 3357, 3358, 3359, 3360, 3366, 3399, 3402, 3420, 3439, 3470, 3472, 3473, 3474, 3475, 3476, 3485, 3486, 3487, 3488, 3511, 3513, 3516, 3517, 3518, 3519, 3520, 3521, 3522, 3526, 3533, 3599
Hazardous air pollutants source categories....3487, 3529
Hazardous waste combustion facilities....3647
Highway diesel fuel quality....3544
Hospital/medical/infectious waste incinerators....3451
HCFC allowance distribution system....3369
Indian reservations....3429
Inspection/maintenance programs....3327, 3407, 3412, 3458
Internal combustion engines....3349
Iron and steel industry....3328, 3330
Large appliance coating industry....3346
Lead smelters....3520
Lime manufacturing industry....3476
Measurement regulation....3334
Metal parts and products coating industry....3347, 3353, 3354, 3473
Methyl bromide....3383, 3384
Mineral wool production industry standards....3512
Municipal landfills....3357, 3455
Municipal waste combustion units....3388
MACT standards....3356, 3357, 3359, 3366, 3452, 3479, 3485, 3486, 3488, 3529, 3530, 3547
National Strategy for Urban Area Sources of Toxic Air Emissions....3533
Navajo nation lands....3427
New source performance standards....3471
New source review....125
New stationary sources....3364, 3433
No backsliding rule for nonattainment areas....3545
Non-metallic minerals processing....3355
NESHAP:
Alumina processing....3490
Asphalt/coal tar application....3495
Carbon black....3359, 3370
Cellulose production....3356
Chemical recovery combustion sources....3501
Chromium electroplating....3441
Chromium emissions....3324
Clay products manufacturing....3496, 3506
Elastomers....3439
Ethylene oxide commercial sterilization and fumigation operations....3453, 3459
Fabric printing, coating and dyeing industry....3480
Fumed silica production....3491
Hydrochloric acid production....3493
Hydrogen chloride production....3497
Iron and steel industry....3492
Leather tanning....3358
Magnetic tape manufacturing....3535
Metal parts and products coating industry....3353, 3354
Metal pipes....3495
Natural gas production....3447
Non-metallic minerals processing....3355
Off-site waste and recovery operations....3443
Oil production....3447
Organic liquids....3366
Polyurethane foam production....3488
Polyvinyl chloride production....3373
Predictive emission monitoring....3374
Process heaters....3502
Pulp and paper production....3371, 3501
Site remediation....3485
Spandex....3486
Synthetic organic chemical manufacturing industry....3372

Air pollution control—Continued
NESHAP—Continued
Thermoplastics 3439
Uranium hexafluoride production 3498
Vegetable oil production 3360
Wet-formed fiberglass mat production 3375
Opacity measurement of emissions 3428, 3438
Operating permits:
Indian reservations 104, 3478, 3528
Ozone 127, 3341, 3346, 3347, 3348, 3425, 3426, 3430, 3473, 3474, 3526
Ozone and ozone precursors:
National ambient air quality standards 3367, 3405, 3410
Pollutant standards index 3536
Significant harm level programs 3536
Transport 3442, 3461, 3499
Paint stripper users 3470
Paper, film and foil coating industry 3348
Particulate matter 107, 127, 3546
Penalties for violations 3467
Petroleum refineries 3423, 3513
Phosphate fertilizer production 3418
Phosphoric acid manufacturing 3514
Plastic composites manufacturing 3331
Plastic parts industry 3474
Plywood and particle board manufacturing 3344
Polycarbonates 3522
Polyether polyol production 3518
Polymers and resins 3417
Portland cement manufacturing 3517
Power plants 3538
Process heaters 106, 3502
Publically owned treatment works study 3422
Pulp and paper mills 3511
PCB manufacturing 3592
Sewage sludge incinerators 3435
Shipbuilding industry 3526
Solid waste incinerators 3471
State implementation plans 125, 127, 3427, 3436, 3527
Steel pickling processes 3515
Stratospheric ozone protection 3369, 3382, 3383, 3384, 3444, 3503, 3540
Sulfur oxides 103
Synthetic organic chemicals manufacturing 3421
Test rules 3538
Tire manufacturing 3343
Transportation Conformity Pilot Program 3539
Vapor control systems 2265
Volatile organic compounds 3346, 3347, 3348, 3387, 3394, 3395, 3402, 3421, 3464, 3466, 3473, 3474, 3481, 3482, 3484, 3526
Waste incinerators performance standards 3339
Wood furniture industry 3484, 3526
Wool fiberglass manufacturing industry 3516
Air rates and fares:
Aviation data requirements 2211
Rebating international fares 2237
Air transportation:
See also Air carriers
Air rates and fares
Air taxis
Air traffic control
Aircraft
Airmen
Airports
Airspace
Aviation safety
Charter flights
Military air transportation
Navigation (air)
Aviation economics 2228, 2229
Excise taxes 2922
Hazardous substances 2688
Inspection of stopover passengers 1921
Air transportation—Continued
Unfair exclusionary conduct 2243
Aircraft:
Aircraft parts 2328
Airworthiness directives and standards 2344, 2356, 2377, 2378, 2379, 2380, 2381, 2383, 2384
Bird ingestion standards 2358
Bird strike requirements 2400
Cargo restrictions:
Oxidizers and organic peroxides 2724
Child restraint systems 2329
Corrosion control program 2319
Deicing and anti-icing program 2348
Dispatcher certification 2359
Emergency exits 2351
Enhanced ground proximity warning system 92
Fire safety standards for cargo/baggage compartments 2404
FAA registration fees 2391
Hazardous material recognition training 2335
Improved seats retrofit 2318
Maintenance:
Aging aircraft 2347, 2398
Certification of mechanics and repairmen 2408
Repair assessments 2357
Manifests public disclosure 2876
Noise control 2415
Non-DOD aircraft use of Navy aviation facilities 975
Parachutes 2369
Registration 2385
Rocket engines 3487
Rotorcraft:
Airworthiness standards 2413, 2414
Flight plan requirements 2370
Maximum gross weight limitation 2409
Snowplanes 1701
Surplus military 2392
Titles and security documents 2385
Transponders 2354, 2395
Transport category:
Airworthiness directives and standards 2337, 2399, 2420
Emergency evacuation demonstration procedures 2396
Engine cowling retention devices 2389
Fuel tank ignition source review 2332
Low speed stall 2390
Repair assessments 2357
Turbine-powered and turboprop:
Bird ingestion standards 2358
Type certification procedures 2355
Voyageurs National Park operations 1700
Water landing survival equipment 2317
Wildfire Suppression Aircraft Transfer Act 890
Airmen:
Aeromedical education training services 2327
Civil penalty assessment procedures 2349
Controlled rest on the flight deck 2397
Drug abuse 2387
Drug and alcohol testing 2324
Flight attendants:
English language proficiency 2350
Flight operational quality assurance program participation 2320
FAA certification fees 2391
Ground deicing/anti-icing procedures 2352
Medical examinations 2326
National Driver Register records 2570, 2628
Night flying takeoff and landing training 2416
Rest and duty requirements 91
Training and certification 2331, 2352, 2372
Airports:
Allocation of slots 2367
Anchorage, Alaska, terminal area 2412
Concessions:
Disadvantaged business enterprise participation 2232
Elimination of overbooking signs 2227

Airports—Continued
Fees charged to air carriers 2371
Land use compatibility planning 2393
Landing systems 2361
Security 2346
Transponder requirement suspension 2354
Airspace:
Air traffic services and aeronautical studies:
Fees 2362
Grand Canyon National Park:
Air tour operations 2373
Modifications 2374
Landing systems 2361
Los Angeles, CA 2353
National Park Service overflights:
Grand Canyon National Park 2402
NOAA overflight regulation 705
Objects affecting navigable airspace 2343
Regulations, routine issue of 2382
Alcohol abuse:
See also Alcoholism
Air carrier employees 2394
Railroad employee testing 2663
Transportation industry 2209, 2230, 2324, 2679
Alcohol and alcoholic beverages:
See also Beer
Gasohol
Liquors
Wine
Country of origin statements 2777
Denatured alcohol and rum:
Distribution and use 2807
Formulas and technical amendments 2809
Distilled spirits plants regulatory streamlining 2787
Prohibition of containers 2790
Tax-free alcohol 2806
Veterans Affairs acquisition regulations 3273
Wine 2788
Aliens:
See also Citizenship and naturalization
Immigration
Migrant labor
Refugees
Accompanying definition 2207
Adjustment of status 1895, 1938, 1959, 1962, 1987
Age requirements for fingerprinting 1917
American Competitiveness and Workforce Improvement Act 1872, 1926
Arrival/departure management system 1918
Arriving aliens definition 1957
Asylum 1920, 1958
Failure to appear for interview with asylum officer 1924
Battered and abused spouses and children 1916, 1941
Bonding pilot program 1994
Border crossing card fees 2208
Border crossing cards 2195
Border crossing identification documents 1922, 1970
Criminal convictions 1956, 1991
Cuban 1962, 1981
Deportation proceedings:
Entrepreneurs 1945, 1956
Suspension 1893, 1967
Employment 62, 1908, 1973, 1989
Use on government contract projects 905, 1973
Employment authorization fee 1976
Employment eligibility verification 1978
Expedited exclusion procedures 1991
F-1 foreign students 1913
Family Unity Program 1951
Fingerprinting 1961
Foreign group health plans 1306
Habitual residence 1949
Haitian nationals 1975
Health care workers 1952, 2003
Aliens—Continued
Hungarian parolees 1953
Immigrant investors 1992
Inadmissability 61
IR status 2193
Juveniles 1904, 1963, 1965
Labor certification process 2062, 2067, 2069, 2071
Mail order brides 1916
Nicaraguan 1962
Nonimmigrant classes:
Admission into the U.S. 1946, 1972
American Competitiveness and Workforce Improvement Act 1925, 1974
Corporate reorganizations 1911
Disclosure of information 1943
Documentation 2191
Honoraria and incidental expenses 2205
Law enforcement initiatives 1939
Overstay of nonimmigrant status 2000
Temporary workers 2053, 2062, 2067, 2074
Visitors for business 1934
Waiver for firearm prohibition 2006
Orphan petitions 1944
Parent-child relationships 1944
Permanent residence 1895
Permanent resident status 1953, 1959, 1962
Polish parolees 1953
Prostitution 1912
Public assistance programs:
Food Stamp Program 5, 369, 1414, 1960
Medicaid 1414, 1960
Sponsor reimbursement 1414, 1947, 1960
Religious workers 1966
Removal orders 1955
Student employment 1995
SSA regulations 1910
Temporary protected status 1976, 1990
Temporary workers 1936, 2055
Termination of DV registration at NVX 2182
Transit without visa 2186
Visa ineligibility 2206
Withholding of removal 1958
Animal biologics:
Direct-to-consumer promotion 1117
Animal diseases:
Pseudorabies in swine 279
Scrapie 257
Animal drugs:
See also Animal biologics
Animal Drug Availability Act 1110
Approval process 1158
Direct-to-consumer promotion 1117
Feed directives 1171, 1174
Import tolerance levels 1197
Investigational use 1110
New drug applications 1182
Presubmission conferences for applicants 1142
Registration of foreign establishments and product listing 1123
Substantial evidence definition 1204
Supplemental manufacturing changes 1134
Animal welfare:
Dogs and cats 281
Horse protection requirements 260
Inspection, licensing, and procurement 272
Interstate movement to slaughter 267
Marine mammals 262, 701

Animals:
See also Animal diseases
Animal drugs
Animal feeds
Animal foods
Animal welfare
Livestock
Pets
Wildlife
specific animals
Imports 269
Hogs from Europe 276
Pet ownership in public housing 1495
Antidumping:
Reformulated gasoline program requirements:
Compliance baseline modification 3542
Sunset reviews 533
Archives and records:
See also Classified information
Freedom of information
Health records
Privacy
Reporting and recordkeeping requirements
Facilities 3857
NARA:
Storage standards 3866
Researcher registration 3873
Return of Nixon Presidential materials 3875
Armed forces:
See also Armed forces reserves
Conscientious objectors
Federal buildings and facilities
Military academies
Military law
Military personnel
Selective Service System
Air Force:
Academy nominations and appointments 982
Army Corps of Engineers:
Administrative appeals process 969, 973
Environmental quality requirements 966
ESA scope of analysis 967
Permit regulations 971
Wetland Delineator Certification Program 972
Coast Guard:
Access to National Driver Register 2612, 2628
ASTM standards 2287
Commercial diving operations 2258
Deep water ports 2257
Drug testing reporting requirements 2312
Escort requirements for vessels in U.S. waters 2298
Facility response plans for hazardous substances 88
Facility response plans for non-petroleum oils 2286
Fees for undocumented vessel numbering 2311
Marine Safety and Environmental Protection 2254, 2255, 2302, 2310
Merchant mariners 2300, 2310
Numbering of undocumented barges 2251
Propeller injury prevention 2301
Regatta and parade permits 2280
Regulated navigation areas 2299
Tank barge emergency control measures 2305
Tank vessel response plans for hazardous substances 89
Tonnage regulations 2285
Towing vessel fire protection measures 2284
Towing vessel operators 2281
CHAMPUS 985, 986, 987, 989, 990, 991, 992, 996
Military records correction 965
Navy:
Freedom of Information Act program 977, 981
National Environmental Policy Act implementation 976
Non-DOD aircraft use of Navy aviation facilities 975
Reemployment 3944
Armed forces—Continued
Selective service regulation 4074
Surplus aircraft 2392
Armed forces reserves:
National Guard technicians:
Retirement 4026
Ready Reserve 888
Arms and munitions:
Brady Bill regulations 546, 2784, 2792
Curio and relic 546, 2792
Dual-use items 546, 564
Enhanced Proliferation Control Initiative 546, 565
Excise taxes 546
Explosives safety 546, 899
Export controls 18, 546, 546
Federal surplus donation requirements 3830
Handguns 546, 2792
Identification markings 2794
International traffic 2204
National Instant Criminal Background Check System 546, 2017
Persons prohibited from receiving firearms 546, 2785, 2792
Residency requirements for purchasers 546, 2793
Waiver for firearm prohibition on nonimmigrant visa holders 2006
Asbestos:
Model accreditation plan 3577
Authority delegations:
Banks 2756
Bureau of Indian Affairs 1741
Civil penalty issuance 1891
DOA 2196
DOJ 2013
DOL 2042, 2067
EPA revisions 3436
FEMA 3779, 3781
HHS:
OIG 1099, 1105
HUD 1433
Immigration judges 1891
INS 2194
Panama Canal Commission:
Removal of Secretary of the Army as prescribing authority 4036
Personnel and general claims settlement 877
Surface Transportation Board 4701
VA 3248, 3276
Aviation safety:
Aging aircraft 2347
Air tour and sightseeing operations 2365
Aircraft improved seats retrofit 2318
Airplane operator security 2345
Airspace system, exemption of regulations 2344
Airworthiness directives and standards 2356, 2380, 2399
Alcohol misuse prevention program 2394
Anti-drug programs 2394
Bird ingestion standards 2358
Bird strike requirements 2400
Civil penalty assessment procedures 2349
Commission on Aviation Safety and Security 2242
Corrosion control program 2319
Crash-resistant fuel systems 2378
Crashworthy fuel tanks and lines 2386
Deicing and anti-icing program 2348
Emergency evacuation demonstration procedures 2396
Engine fuel and induction systems 2384
Enhanced ground proximity warning system 92
Flight operational quality assurance program information 2320
Flight rules 2379, 2381
Foreign air carriers:
Security programs 2360
Freight:
Passenger aircraft cargo 2363
Fuel tank ignition source review 2332

Aviation safety—Continued
Fuel tank vent protection 2377
Hazards to air navigation 2343
Information and records disclosed by industry 2364
Low-fuel-quantity alerting system 2383
Maintenance personnel certification 2408
Oxygen use by air carrier passengers 2241
Parachute operations 2369
Pilot rest and duty requirements 91, 2397
Repair assessments 2357
Reporting and recordkeeping requirements 2364, 2398
Rotorcraft 2413, 2414
Rotorcraft weight limitation 2409
Transponder requirement 2395
Type certification procedures 2355
Water landing survival equipment 2317
AIDS:
AIDS Healthcare Foundation START Program 1241
NIH AIDS Research Loan Program 1218

B

Bank deposit insurance:
Assessments 4419, 4431
Credit unions:
Requirements 4547
Share insurance 4533
DIMIA compliance 3145, 4433
FDIC:
Advertisement of membership 4423
FDIC contractors:
Women- and minority-owned businesses 4432
Nonmember banks 4424, 4434, 4519
Notice of insured status 4415
Program fraud civil remedies 4414
Receivership rules 4416
Risk-based capital standards 4420, 4425
Year 2000 safety and soundness guidelines 4435, 4437
Bankruptcy:
Group health plans 1306
RCRA financial responsibility 3639
Banks, banking:
See also Bank deposit insurance
Credit
Electronic funds transfers
Federal Reserve System
Federal home loan banks
Foreign banking
National banks
Savings associations
Anti-money laundering programs 2755
Automated Clearing House Method 2762
Bank holding companies 4503
Bank Secrecy Act 2750, 2751, 2752, 2753, 2756, 2757
Casino reporting 2754
Checks drawn on the U.S. Treasury 2768
Collateral eligibility and valuation 2772, 2773, 2774, 2822
Community development corporation and project investments 2828
Consumer regulations review 4489
Conversions 3138
Insured credit unions to mutual savings banks 4546
Cross-border transportation of negotiable instruments 2751
Deposit accounts 4498
Due on sale 3139
DIMIA compliance 3145, 4433
EDGAR system modernization 4652, 4666
Farm credit:
Borrower rights 4266
Charters 4267
Farm Credit System Reform Act 4284
Federal Agricultural Mortgage Corporation risk-based capital regulation 4265
FCA rulemaking 4273, 4277
FCB assistance to associations 4280
Banks, banking—Continued
Farm credit—Continued
FCSIC nondiscrimination enforcement 4282
FCSIC referral of criminal violations 4283
Leasing regulation 4278
Financial institutions:
Payment service providers 2748
Financial services transactions survey 514
Foreign investments 4494
Foreign subsidiary exemptions 4643
Funds availability and collection of checks 4505, 4506
Information disclosure 2837
International banking operations 4503
International banks 4494
Investment management 4279
Leveraged capital 4504
Management interlocks 2835, 4495
Membership of state banking institutions 4503
Minimum capital ratios 2823
Minimum security devices and procedures 2825
Non-bank financial institutions 2757
Non-deposit investment products 2830, 3137
Non-sufficient funds (NSF) 2836
Proxy and information statements 4625
Recourse arrangements and direct credit substitutes 4493
Regulation CC 4497, 4505, 4506
Regulation DD 4498
Regulation H 4503, 4504
Regulation K 4503
Regulation U 4486
Regulation Y 4503, 4504
Restrictions on sale of assets 4413
Risk-based capital standards 3894, 4421, 4492, 4493, 4504
Securities brokers and dealers:
Automated submission of trading data 4672
Operational capability 4695
Qualifications for banks and securities representatives 4422
Securities of nonmember banks 4424
Time accounts 4498
Types of offices 3135
Usury preemption 3139
Year 2000 safety and soundness guidelines 2827, 2829, 3143, 4435

Barley:
Official testing service for protein analysis 333
Beer:
Brewery regulations 100
Exports 2804
Imports 2778
Labeling 2779
Malt beverage labeling 2805
Bicycles:
Traffic control manual revision 2477
Use in Delaware Water Gap NRA 1703
Biologics:
See also Animal biologics
Blood
Adverse experience reporting 1119
Cellular therapy products 1179
Direct-to-consumer promotion 1117
General safety test exceptions 1179
Informed consent regulations 1169
Interstate shipment 1108
Labeling 1133, 1178
Licensing 1205
Postmarketing studies 1150
Registration of foreign establishments and product listing 1123
Blind:
See also Medicaid
Public assistance programs
Supplemental Security Income (SSI)
Aids to blind veterans 3151, 3155

Blood:
Current good manufacturing practices....31, 1153
Errors and accidents reporting....1160
Hepatitis C virus....31
Hospital conditions of participation....1347
Safety standards....1124, 1160
Bonds:
Private activity....2929, 2955, 3033, 3034
Qualified zone academy....2905, 2992, 3130
Secured by government obligations....2774
Boycotts:
Foreign boycott provisions....563
Bridges;
Drawbridge operation....2297
Railroad safety regulations....2650
Worker safety standards....2659
Brokers:
Automated submission of trading data....4672
Large trader records....4689
Net capital requirements....4676, 4684
Operational capability....4695
Proxy and information statements....4625
Quotation requirements....4686
Reporting and recordkeeping requirements....4691, 4693
Buildings:
See also Federal buildings and facilities
Access for individuals with disabilities....59, 1871, 1875, 1876, 3284, 3290, 3291
Asbestos....3577
Indoor air quality....2162
Slum/blight prevention and elimination....1458
Buses:
See also Motor carriers
Motor vehicles
Antilock brakes....2541
Brake systems....2579
School:
Flammability of interior materials....2600
Parking brake warning system....2546
Sleeper berths on motor coaches....2489
Testing guidelines....2680
Wheelchair restraints....2578
Business and industry:
See also Accounting
Advertising
Antitrust
Bankruptcy
Competitiveness
Concessions
Confidential business information
Holding companies
Indians-business and finance
Labeling
Labor
Minority businesses
Packaging and containers
Relocation assistance
Small businesses
Taxes
Trade adjustment assistance
Trade names
Trade practices
Trademarks
Warranties
specific industries
Acrylic/modacrylic fiber manufacturing:
Air pollution control....3521
Aerospace industry:
Air pollution control....3526
Airport concessions:
Disadvantaged business enterprise participation....2232
Alcohol:
Wine....2788, 3704
Aluminum industry:
Air pollution control....3420
Business and industry—Continued
Asphalt roofing and processing industry:
Air pollution control....3350
Baker's yeast manufacturing:
Air pollution control....3469
Boat manufacturing industry:
Air pollution control....3342
Cellulose manufacturing....3356
Cement manufacturing:
Air pollution control....3517
Chemicals:
Air pollution control....3332, 3333, 3421, 3519
Control of PMNs....3593
Hazardous wastes listing....3640, 3641
Manufacture....110, 128, 3572, 3589, 3590, 3591
Pollution standards....3592
Polychlorinated biphenyls....3602
Construction....2134
Dry cleaning....4512
Air pollution control....3472
Effluent guidelines....3720
Economic development....525
Effluent guidelines....3666, 3683, 3685, 3704, 3710, 3720
Ethylene processing:
Air pollution control....3345, 3453
Explosives....101
EPA operating permits....104
Fastener Quality Act....586
Ferroalloy industry:
Air pollution control....3523
Financial services transactions survey....514
Financing cooperative stock....471
Franchising and business opportunity ventures....4513
Friction products....3477
Health products:
Human cellular and tissue-based products....1125, 1126, 1137
Housing....1475
Industrial disposal wells....3704, 3733
Industrial laundries:
Effluent guidelines....3720
Industrial technology partnerships....872
Iron manufacturing:
Effluent guidelines....3710
Large appliance coating industry:
Air pollution control....3346
Leather tanning and finishing....3358
Lime manufacturing industry:
Air pollution control....3476
Manufacturing technology program....909
Metal finishing industry:
Water pollution control....3645
Metal parts and products coating industry:
Air pollution control....3347, 3473
Motor vehicle manufacturing:
Air bags....95
Air pollution control....3431, 3481
Consumer information....2611
Content labeling calculation....2619
Emission standards....126, 3531
Fuel economy credits....2536
Metric conversion....2543
National Pollutant Discharge Elimination System permits....3705
National Type Evaluation Program....588
Paint manufacturing:
Hazardous waste management....3650
Paper, film and foil coating industry:
Air pollution control....3348
Pharmaceuticals:
Discontinuation of life-saving products....1137
Manufacturing changes....1181
Radiopharmaceuticals....1139
Plastic parts industry:
Air pollution control....3474

Business and industry—Continued
Plywood and particle board manufacturing:
Air pollution control....3344
Polyether polyol production:
Air pollution control....3518
Polyurethane foam production:
Air pollution control....3488
Printing/publishing....3396, 3482
Pulp, paper and paperboard....3501, 3511
Spandex....3486
Steel manufacturing:
Effluent guidelines....3710
Tax credit for increasing research activities....3019
Tires:
Manufacture....3343, 3359
Transportation equipment cleaning:
Effluent guidelines....3683
Vegetable oil production....3360
Wood furniture industry:
Air pollution control....3526
Wool fiberglass manufacturing:
Air pollution control....3516

C

Cable television:
Cable Act reform....4291
Cost of service....4286
Customer service standards....4287
Digital must carry....4294
EEO rules and policies....4386
Home wiring rights....4288
Horizontal ownership limits....4295
Pole attachments....4293
Rates....4285
TV and VCR compatibility....4340
Cancer:
Carcinogen risk assessment....3314
NCI Clinical Cancer Education Program....1220
Women's Health and Cancer Rights Act....1242, 2093
Cargo vessels:
See also Maritime carriers
Barges:
Bulk liquid hazardous material....2248
Numbering of undocumented barges....2251, 2282
Vapor control systems....2265
Carriage of bulk solid materials requiring special handling....2253
Handling of explosive and other dangerous cargoes....2277
Overfill and tank monitoring devices....2308
Tank vessels:
Escorts....2295
Foreign....2249
Oil pollution prevention....2295
Response plans....89
Towing vessel safety measures....2254
Cemeteries:
National Cemetery Administration title changes....3275
VA burial benefits....3184, 3185; 3187, 3188
Provisions for capital crimes....3189
Census data:
Census 2000 address list....3919
Correction....517
Release authorizations....518
Special services and studies....516, 519
Charter flights:
Passengers stranded by....2215
Chemicals:
See also Drugs
Fertilizers
Hazardous substances
Pesticides and pests
specific chemicals

Chemicals—Continued
Acrylamide....3595
Air pollution control....128, 3421
Arsenic in drinking water....119
Assessment information rule....3590
Chemical inventory reporting....3615
Domestic Chemical Diversion Act....1883
Drinking water regulations....3743
Endocrine Disruptor Screening and Testing Program....3556
Health and safety reporting rule....3591
High-production-volume (HPV) chemicals....3585
Hydrogen chloride....1889
New use rules for PMNs....3593
Ozone depleting:
Halons....3382
Methyl bromide....3383, 3384
Refrigerant recycling....3425, 3426, 3534
Sales restrictions....3341
Substitutes....3430
Transshipment provision....3503
Polychlorinated biphenyls....3592, 3602, 3699
Polymers and resins....3439
Polyvinyl chloride in toys....4259
Potassium iodide use after a nuclear accident....4588
Right-to-Know initiative....112
Screening Information Data Set (SIDS)....3585
Special surveillance list of chemicals, products, materials, and equipment....1890
Test rules....3573, 3576, 3594, 3596, 3601
Toxic substances....3572, 3609, 3634
Toxic substances in new chemicals....3589
Toxicity profiles....3575
Toxics Release Inventory....3610, 3611
Coal....3612
Lead....133
Otherwise use activity exemptions....3612
Traceable Reference Materials Program....589
Use inventory rule....110
Used in manufacture of controlled substances....1880
Child labor:
Forced or indentured....2844
Hazardous occupations....64
Schooling, health, and well-being....64
Violation penalties....2054
Child support:
Eligibility for Food Stamp Program....4
Health care coverage....70
Medicaid referrals....1282
National medical support notice....1372
Non-performance TANF penalty....1382
Payments to Indian tribes....1370
Personal Responsibility and Work Opportunity Reconciliation Act....1380
Safeguarding information....1374
Child welfare:
See also Adoption and foster care
Aid to Families with Dependent Children
Child labor
Child support
Day care
Maternal and child health
Adverse actions against Head Start agencies....1383
Child poverty rate:
State determination methodology....1378
Illegitimacy rate reduction bonus for grants....1390
Indian child protection programs....1216
Medical child support....1326
Protection of Children From Sexual Predators Act:
Designation of agencies to receive and investigate reports....2009

Child welfare—Continued
State performance requirements 1375
SSA benefits 4144, 4146
Temporary Assistance for Needy Families:
High performance bonus 68, 1369
Work requirements 68, 1389
Title IV-D compliance 1385
Cigars and cigarettes:
See also Smoking
Cigarette lighter safety standards 159
Permit requirements for roll-your-own tobacco 2803
Reimportation of products 2801
Sale and distribution requirements 1194
State and local requirement exemptions 1195
Tax computation for cigarette papers 2803
Tax increase 2802
Citizenship and naturalization:
See also Aliens
Immigration
Adjustment of status and removal of eligibility restrictions 1938
Age requirements for fingerprinting 1917
Civil defense:
See also Disaster assistance
Military assistance to civil agencies 895
Civil rights:
See also Equal educational opportunity
Equal employment opportunity
Fair housing
Religious discrimination
Commission on Civil Rights regulations update 3292
Common rule on title IX of the Civil Rights Act 4086
Economic Development Administration guidelines 526
Education 3885
Equal Credit Opportunity Act 4488
Food Stamp Program data collections 349
Nondiscrimination:
Activities assisted by the NEA 494, 2126, 2216, 3880, 4041
Activities assisted by the NEH 494, 2126, 2216, 3880, 3884, 4041
Farm Credit System Insurance Corporation 494, 2126, 2216, 4282
Federally assisted programs 60, 494, 1393, 1877, 1878, 2126, 2131, 2216, 3245, 3865, 4161
Housing 1404, 2216
HIPAA rules 2095, 2126, 2216, 2920
Individuals with disabilities 59, 494, 1875, 1876, 2126, 2216, 3808, 4038, 4041, 4161
USDA-conducted programs and activities 464, 2126, 2216
Older individuals 1392
Peace Corps Volunteer Discrimination Complaint Procedure 4041
Persons with life-threatening illnesses 1167
Claims:
Collection by the NEA 3879
Collection by HUD 1395
Corporation for National and Community Service debt collection 3293
Debt Collection Improvement Act 2764
EEOC 139
False drawback 2859
False Claims Amendments Act of 1986 2013
Federal claims collection standards 2764
Federal tort claims 1858, 3276
Federal Claims Collection Standards 2007
Food Stamp Program 8
FMS payments 2759, 2769
Government employees 4011
HUD 1480
Medical care benefits 74
Medicare suppliers 1251
Meritorious 3850
Public land rights-of-way 1526
Veterans 3165, 3276
Claims—Continued
Attorney fees 3165, 3222, 3276
Classified information:
Access 885, 1059
Conformance to national policies for access and protection 4611
Nuclear material 1059
NARA records declassification 3859, 3876
OMB policies 3913
Storage 886
Uniform system for national security information 1086
Coal:
Abandoned refuse sites 1777
Coal management 1803, 1827
Coalbed methane development 1818
Regulation streamlining 1803
Toxics Release Inventory 3612
Coastal zone:
See also Continental shelf
Flood plains
Seashores
Administrative appeals process 969
Biological test methods for pollutants 3706
Development and production plans 1763
Exploration plans 1763
Shore protection 2274
TVA shoreline management 4177
Waste deposit prevention 3752
Wetlands:
Conservation program 200, 1540
Minimal effects exemptions 503
Coastal Zone:
Fees for appeals 704
Wetlands:
Privately owned 2467
Colleges and universities:
See also Medical and dental schools
Military academies
Student aid
Agricultural Research, Extension, and Education Reform Act:
Matching funds requirement 289
Stakeholder input to formula funds 288
DOD support of historically black colleges, universities, and institutions 882
DOD University Research Initiative Support Program 897
DOT grants 2224
Grants administration 529, 1019, 3918
Grants to Indian colleges 1734
Institutional eligibility under the Higher Education Act 1017
Loan programs 1021, 1022, 1023
Multicultural Scholars Program 282
Commodity futures:
Bulk transfers or liquidations 4228
Commodity trading advisors and pool operators:
Performance disclosures 4233
Commodity Pool Operator exclusions 4230
Contract market designation 4238, 4244
Denomination of customer funds 4229
Foreign boards of trade in the U.S. 4242
Insider trading regulations 4227
Location of depositories 4229
Non-domestic persons disclosure requirements 4245
Principal, definition 4231
Qualified eligible participants and clients 4232
Speculative limits for contracts 4243
Common carriers:
See also Air carriers
Communications common carriers
Freight forwarders
Maritime carriers
Motor carriers
Railroads
Coloading practices by NVOCCs 4478

Common carriers—Continued
DOT registration system....2433
Freight forwarders:
FHWA general jurisdiction....2496
Communicable diseases:
Correctional management....1842
Medicaid coverage of tuberculosis-related services....1292
Communications:
See also Communications common carriers
Communications equipment
Defense communications
Motion pictures
News media
Recordings
Telecommunications
Attribution of broadcast interests....4378
Authorized rate of return for interstate services of local exchange carriers....4327
Broadcast station construction permits....4379
Certification of equipment in the 24.05-24.25 GHz band....4355
Channelization of 37.0-38.6 GHz band....4399
Competitive bidding for broadband PCS....4400
Competitive bidding for narrowband PCS....4397
Competitive bidding for IVDS....4398
Competitive bidding process....4407
Depreciation requirements for incumbent local exchange carriers....4329
Digital audio broadcasting....4403
Digital equipment deregulation....4343
Emergency Broadcast System....4334
Forfeitures for violations....4335
FCC cost allocation and accounting rules....4322
Government transfer band....4353
Horizontal ownership limits....4295
International common carriers....4367
Low power FM Radio....4387
Maritime....4392
Mutual recognition agreement for product approvals....4350
North American Numbering Plan administration....4297
Private Land Mobile Services....4394
Radionavigation service at 31.8 - 32.2 GHz....4354
Reallocation of 28 GHz band....4393
Redesignation of 27.5-29.5 GHz band....4365
Relocation of base stations for 200 MHz licenses....4401
Revision of 47.2-48.2 GHz band rules....4408
RF lighting devices....4349
Satellite:
Dedicated short range communications of intelligent transportation systems....4348
Digital audio radio service....4364
Earth stations....4363
Fixed satellite service in the ku-band....4356
MSS spectrum allocation....4344, 4362, 4370
Sharing of 27.5-29.5 GHz band....4365
Spacing and applications....4360
Tracking and data relay....3852
Voice and data mobile satellite service....4361
Spectrum allocation....4348
SBC Communications, Inc. petition for biennial review....4328
Transfer of control of non-stock entities....4374
TV:
Advanced systems....4388
Advertising practices....4377
Cable television rates....4285
Cable Act....4286, 4291
Competitive availability of navigation devices....4292
Digital television service....4338, 4352
EEO rules and policies....4386
Filing of network affiliation contracts....4376
Medical care telemetry devices....4345
Over-the-air reception devices....4289
Station ownership....4375, 4381
Communications—Continued
TV—Continued
Video programming accessibility....4290
Vehicle location and monitoring systems....4409
Video teleconference technology....152
Wide area SMR licensing....4395
Wind Profiler Radar Systems....4341
Communications common carriers:
Application of subscriber line charges to ISDN service....4330
Toll free service access codes....4300
Communist countries:
Export controls....1598
Community action programs:
Community transition program....1075
Empowerment zones and enterprise communities....463
Community development:
See also Community action programs
Grant programs-housing and community development
Urban renewal
Banks' investment funds....2828
Combining other government assistance with CPD assistance....1463
Environmental regulations....297
Fisheries....602, 677
Rural venture capital demonstration....473
Competitiveness:
Agricultural commodities competitive markets....433
Air carriers....2236
American Automobile Labeling Act....2514
American Competitiveness and Workforce Improvement Act:
Amendments....1926
Nonimmigrant aliens....1925, 1974
Cable television companies....4288
Communications Act....4397, 4398, 4400
Government research....798
GSA regulations....3809
Telecommunications marketplace....4342
Television marketplace....4285, 4292, 4388
Trade adjustment assistance....2063, 2070
Computer technology:
Accessible electronic and information technology standards....3287
Automated submission of trading data....4672
Automated surety interface....2870
Cytology specimens....1302
De minimis exclusion for technology and software....570
Digital equipment deregulation....4343
Electronic filing....2841
Electronic filing of bonds, agreements, certificates and cancellations....2495
Electronic publication of DFARS....956
Electronic records....2636, 3299, 3856, 3858
Electronic requests for confidential treatment of export manifest data....2852
Electronic submission of adverse drug reaction reports....1131
Electronic submission of documents....4584
Electronic submission of fisheries reports....766
Electronic transactions standards for health plans....44
Encryption software....562, 574, 577
Exports....537, 553, 571, 573, 585
EDGAR system modernization....4652, 4666
Internet....4423
Domain Name System....857, 3829
MMS electronic reporting....1772
Software classification....1188
Stored-value cards....4491
Condominiums:
Mortgages....1442
Confidential business information:
Customs regulations....2852
EPA regulations....3315
FDA communications with State and foreign government officials....1175

Confidential business information—Continued
PTO regulations 869
SEC regulations 4699
Conflict of interests:
See also Political activities (Government employees)
CHAMPUS requirements 988
Ethical conduct 3886, 3888, 3908
DOL employees 2033
Ethics programs 3906
Exemptions 3902
Financial disclosure 3904
Investment companies 4664
Judges 4165
OGE Privacy Act rules 3900
Physician referrals 1294
Post-government employment 3903
Salary supplementation 3901
Standards of conduct 511, 3905, 4039, 4042, 4172
Construction industry:
Confined spaces for construction 1432, 2164
Hazardous energy control 1432, 2171
Material bulletins 1422
Noise abatement 2445
RUS construction work plan loan eligibility 498
Safety and health programs 1432, 2170
Safety standards 84, 1432
Scaffold safety standards 1432, 2136
Seismic safety requirements 479
Consumer protection:
See also Labeling
Trade practices
Truth in lending
Baby walkers 4251
Backyard play sets standard 4258
Bunk bed requirements 160
Cable home wiring rights 4288
Child-resistant packaging 4252, 4261
Cigarette lighters 159
Crib safety standards 4253
Disclosures 4514, 4516
Flammability standards:
Children's sleepwear 4262
Clothing textiles 4246, 4256
Upholstered furniture 158, 4256, 4260
Household goods transportation 2473
Infant formula quality control 1185
Informal Dispute Settlement Mechanisms (IDSM) 4522
Lead-based paint 111, 131, 1416, 3588
Notices to passengers 2221
Over-the-counter drugs 1203
Polyvinyl chloride in toys 4259
Premerger notification 4510
Product warranties 4520, 4521
RESPA amendments 1450, 1451
Continental shelf:
Exploration or development and production plans 1755
Leasing 1773
Minerals prospecting 1756
Offshore transportation 4446
Oil and gas worker training 1762
Oil, gas and sulphur operations 1761, 1773
Copper:
Drinking water regulations 3734
Cost principles:
DEAR amendments 1078
Cotton:
Classification services user fees 178
Upland Cotton User Marketing Certificate Program 216
Countervailing duties:
Sunset reviews 533
Courts:
Civil contempt of court commitments 1856
Damage awards 2915
Immigration proceedings 1892
Credit:
See also Banks, banking
Credit unions
Mortgages
Truth in lending
Capital treatment of recourse arrangements and direct credit substitutes 4420
Debt collection 3769, 3879
Administrative offsets 1395, 2760, 2770, 3769
Administrative offsets by the OFHEO 3898
Administrative offsets by the SBA 3769, 4096
Administrative offsets by EEOC 3758, 3769
Debt Collection Improvement Act 3769, 3869
FEMA 3771
Matching of Federal employee records for salary offset 2765, 3769
Salary offsets 3898
Tax refund offsets 1395, 3769, 3898
Transfer of referral of delinquent nontax debts 2775, 3769
Delinquent debtors:
Public dissemination of identity 2771
Direct line of credit 203
Equal credit opportunity 4488
Farm Credit System charter termination 4267
Partners and partnership 2935, 2977
Credit unions:
Audits and verifications 4543
Business loans:
Streamlining 4536
Bylaws revisions 4537
Change in official or senior executive officer 4538
Charitable contributions 4540
Conversion to mutual savings banks 4546
DIMIA compliance 4531
Fidelity bond requirements 4539
Insurance and group purchasing activities 4523
Insurance coverage 4539
Insurance requirements 4547
Leasing 4525
Loan interest rates 4548
Newly chartered 4538
Ownership of fixed assets 4524
Prompt corrective action 4529, 4532
Safe deposit box service 4544
Service organizations 4534, 4541
Share insurance 4533
Statutory lien 4542
Troubled condition 4538
Truth in Savings Act amendments 4545
Crime:
See also Counterfeiting
Drug abuse
Forgery
Fraud
Juvenile delinquency
Aliens:
In-transit passengers 1909
Arson reporting 2783
Civil contempt of court commitments 1856
Criminal fine collection 2011
Criminal history record information 2022
Databases of convicted offenders 2017, 2018
Denial of SSI benefits to felons and probation and parole violators 4134
Domestic violence 2792
Financial institution reporting requirements 2755
Forest System lands 439
FCSIC referral of criminal violations 4283
Prostitution 1912
Protection of Children From Sexual Predators Act:
Designation of agencies to receive and investigate reports 2009
Sex offender registration programs 1900, 2019
Sex offender release notification 1854

Crime—Continued
United Nations Convention Against Torture 1977
Violence against women on campuses 2029
Violent crime and drug emergency areas 2012
Crop insurance:
Administrative regulations 317, 318, 321, 324, 325, 326, 327
Application for 305
Civil penalties 310
Florida fruit tree provisions 311
Grains 306, 307
Group Risk Plan 323
High risk land 304
Highly erodible land and wetlands 319, 320
Insurance by written agreement 316
Movement or assumption of policies 308
Nonstandard classification system 321
Premiums 322
Reinsurance agreements 309
Wheat 306
Crystalline fructose:
Marketing allotment program 194
Crystalline silica:
Occupational exposure 2120, 2147
Cultural exchange programs:
Au pair regulation 2200
Short-term scholars 2201
Summer work/travel 2202
Customs duties and inspection:
See also Antidumping
Countervailing duties
Imports
Accreditation of commercial testing laboratories 2877
Agricultural quarantine and inspection service user fees 261
Aircraft manifests 2876
Bond procedures for articles subject to exclusion orders 2846
Bonded warehouses 2879
Commercial gaugers approval 2877
Counterfeited trademarks 2858
Country of origin determinations 2869
Country of origin marking 2843, 2849, 2873, 2875
Cultural property regulations 2850
Customs brokers 2862
Detention of merchandise 2878
Duty-free treatment for imports from foreign governments 2874
Electronic filing of entries of merchandise 2841
Evaluation of duty 948
Export manifest data 2852
Fee and interest 2850
Payment methods 2864
Fees assessed for defaulted payments 2871
Harbor maintenance fees 2867, 2868
Illegal entry:
Penalties 2856
Importation and entry bond conditions 2865
Inventory accounts 2919
Low-value duty-free merchandise 2845
Merchandise definition 2919
North American Free Trade Agreement 2842, 2851
Ports of entry 2857
Products of forced or indentured child labor 2844
Reconciliation regulation 2840
Seizures, penalties and liquidated damages 2854
Tariffs:
Filing requirements 2245
Liquidation of entries 2838
Toxic substances 2855
Unauthorized sound recordings and music videos 2839
CHAMPUS:
Active Duty Dependents Dental Plan in overseas areas 993
Dual compensation/conflict of interest program 988
CHAMPUS—Continued
TRICARE program:
Prime enrollment 995
TRICARE Program:
Eligibility requirements revisions 994

D

Dairy products:
Dairy Indemnity Payment Program 249
Dairy Market Loss Assistance Program 250
Quotas 436
Recourse loans 222
Transportation and storage 414
Day care:
Food program 354
VA facilities 3246
Debarment and suspension:
Accountants 2824
EPA changes 3303
Social Security Administration 4151
Dental health:
Active Duty Dependents Dental Plan 993
Veterans' disability rating 3254
Diabetes:
Qualification of diabetic truck drivers 2482
Disaster assistance:
See also Civil defense
Emergency medical services
American Indian livestock feed assistance 214
Cost-share adjustments 3783
Declaration process 3783
Eligible forage crops 210
Farmers 207, 316, 318
Set-aside program second installment 231
Fire suppression assistance 3765
Fisheries 814
Floods 1418, 3762, 3780
Disaster Reserve Flood Compensation Program 187, 1418
Governor's request for a major disaster declaration 3792
Hazard Mitigation Grant Program 3766
Individual assistance programs:
Robert T. Stafford Disaster Relief and Emergency Assistance Act 3763
Map change procedures and fee 3788
Mount Weather Emergency Assistance Center 3786
National Emergency Training Center 3786
National Flood Insurance Program:
Inspections 3770
Write-Your-Own expense allowance 3787, 3791, 3793
National Urban Search and Rescue Response System 3774
Noninsured crop disaster assistance program 223
Public lands damage repairs 1828
Public Assistance Disaster Grant Program:
Insurance requirements 3773
Redesign 3789
Removal of parts of 44 CFR 3790
Tax relief 2913
Temporary housing assistance 3785
Unemployment assistance 2059
Drug abuse:
See also Alcohol abuse
Disincentives for inmates 1832
Drug-free workplace 4151
Narcotic addict treatment 1164
Treatment programs 1832
Violent crime and drug emergency areas 2012
Drug testing:
Coast Guard requirements 2312
Railroad employees 2663
Transportation personnel 2209, 2223, 2324, 2394
Drug traffic control:
Controlled substances:
Disposer definition and registration 1882
Freight forwarding facilities 1885

Drug traffic control—Continued
Diversion control fee account 1884
Domestic Chemical Diversion Act 1883
FAA regulations 2387
Hydrochloric gas thresholds 1886
Iodine thresholds 1886
Drugs:
See also Animal drugs
Antibiotics
Biologics
Over-the-counter drugs
Prescription drugs
specific drugs
Adverse drug experiences 1168
Adverse drug reaction reports 1119, 1131
Aluminum containing 1165
Bioavailability and bioequivalence requirements 1163
Bulk drug substances 1180
Chemicals used in manufacture of controlled substances 1880
Comprehensive Methamphetamine Control Act 1887
Current good manufacturing practice 1162, 1170
Debarment certification regulations 1191
Drug Master File 1166
Drugs for life-threatening illnesses 1167
Habit-forming drugs 1130
Informed consent regulations 1169
Inhalation solution products 1168
Insulin-containing products 1132
Investigational new drugs 1115, 1129, 1167, 1192
Labeling 1111, 1170
Life-saving products 1137
Manufacturing changes 1181
Medicaid drug rebate program 1281
Narcotic addict treatment 1164
New drug applications 1128, 1141, 1166
Patent holder notification for new drugs 1172
Pediatric studies 1138
Pharmacy compounding 30, 1136, 1180
Phenylpropanolamine 1888
Postmarketing studies for human drugs 1150
Progestational 1178
Providing controlled substances to ocean vessels 1879
Pseudoephedrine 1888
Public Housing Drug Elimination Program 1507
Radiopharmaceuticals 1121, 1139, 1206
Registration for distributors 1888
Registration of foreign establishments and product listing 1123
Registration of producers 1189
Repackaging approval requirements 1148
Rubber-containing 1111
Stability testing 1149

E

Economic statistics:
Foreign Trade Statistical Regulations changes 515, 520, 521, 522, 523
Education:
See also Adult education
Bilingual education
Colleges and universities
Education of disadvantaged
Education of individuals with disabilities
Educational facilities
Educational research
Educational study programs
Elementary and secondary education
Equal educational opportunity
Indians-education
Libraries
School breakfast and lunch programs
School construction
Schools
Student aid
Students
Teachers
Vocational education
Acquisition and transfer of excess personal property 466
Administrative regulations 1001
Aeromedical education 2327
Direct grant programs 1001
Direct loan programs 1011, 1013, 1021, 1022, 1023, 1024
Distance Learning and Telemedicine Loan and Grant Program 497
Donation of excess USDA research equipment 506
ED general administrative regulations 1000
Grant programs 1006, 1019
Inmate occupational educational programs 1833
National Security Education Program 883
National Service Trust 3295
Nondiscrimination in programs receiving Federal assistance 3865
NIH scholarships 1219
NIH service payback obligation 1226
Police Corps reimbursements of educational expenses 2027
Prison postsecondary education programs 1830
Public Safety Officers' Educational Assistance Program 2030
Qualified state tuition programs 2970
Records exempted from the Privacy Act 999
Teacher quality enhancement grant programs 1014, 1018
Training programs 3782
Veterans:
Advanced and lump sum payments 3162, 3256
Election of benefits 3162
Flight training 3163, 3202
Montgomery G.I. Bill 3162, 3199, 3214, 3215, 3255, 3260
Montgomery G.I. Bill administrative errors 3269
Montgomery G.I. Bill eligibility criteria 3211, 3216
Payment suspension and discontinuation 3262
Reservists 3200, 3261, 3263
Survivors and dependents 3164, 3205
Veterans Programs Enhancement Act 3170
Education of disadvantaged:
Head Start program:
Facilities construction and renovation 1377
Family care as an option 1371
Performance standards 1373
Regulation revision 1387
Safe transportation of children 1376
Head Start Program:
Regulations 1386
Education of individuals with disabilities:
Children 1026
Rehabilitation services 1027

Educational facilities:
Authorization to enroll F-1 students....1913
FmHA programs....195
Grants administration....3279
Educational research:
Human subjects protection....998, 1227
Eggs and egg products:
Refrigeration and labeling....34
Safe handling labeling statements....34
Salmonella enteritidis....34, 428
Transportation and storage....414
Voluntary shell-egg grading program....174
Elections:
See also Campaign funds
Political activities (Government employees)
Political candidates
Political committees and parties
Voting rights
Indian tribal governments....1716, 1717
Electric power:
See also Electric power plants
Electric power rates
Electric utilities
Rural electrification....476, 481, 484, 486, 487, 488, 494
Worker safety....2169
Electric power plants:
Additions and extensions....492
Emissions....3538
Electric utilities:
Additions and extensions....492
Indian electric power utilities....1740
National Forest System....438
Private activity bond rules....3034
Small business size standards....4085
Standards and specifications....483, 2119
Electronic funds transfers:
Defense contract payments....946
Electronic benefit transfer systems....368
Food Stamp Program audit requirements....373
Federal agency disbursements....3312
Federal tax payments....3121
FRS Regulation E revision....4491
Elementary and secondary education:
Ineligibility of F-1 foreign students....1913
Emergency medical services:
Emergency Medical Treatment and Labor Act....1351
Employee benefit plans:
See also Pensions
Cafeteria plans....2957, 3030, 3081
Claims....74
Collective bargaining agreement definition....2075
Defined contribution plans....2098
Electronic disclosure....2091
Family and medical leave....3081
Plan documents filing penalties....2079
Plan documents filing requirements....2077
Plan documents requested by Secretary of Labor....2078
Reporting and recordkeeping requirements....71, 2089, 2098
Soft dollar interpretive bulletin....2092
Voluntary Fiduciary Correction Program....2094
Employment:
See also Equal employment opportunity
Government employees
Manpower
Aliens....62, 1908, 1914, 1950, 1973, 1976, 1989, 1995, 2053, 2069, 2074
Eligibility verification....1978, 2053, 2069, 2074
Failure to appear for interview with asylum officer....1924, 2053, 2069, 2074
American Competitiveness and Workforce Improvement Act:
Amendments....1926
Nonimmigrant aliens....1925, 1974
BIA regulations elimination....1720
Community transition program....1075
Employment—Continued
Definitions for salary basis....65
Domestic services....2056
Employment authorization fee....1976
Federal Acquisition Streamlining Act amendments....2039
Lower income persons....1475
State employment statistics agency representatives....2034
Verification of employment....1914, 1950
Work provisions of Personal Responsibility and Work Opportunity Reconciliation Act....6
Workforce investment systems....69, 2127
Employment taxes:
De minimis rule....3120
Unemployment repayment....3073
Endangered and threatened species:
See also Marine mammals
Addresses for submissions of permit applications....1613
Alabama sturgeon....1564, 1679
Aquatic snails....1557
Arkansas River shiner....1654
Army Corps of Engineers scope of analysis....967
Asian bonytongue....1660
Blackburn's sphinx moth....1601
Bull trout....1638, 1668
Campeloma....1557
Canada lynx....1556, 1655
Captive breeding....1571
Captive-bred exotic birds....1658
Cheetah....1626
Chiricahua leopard frog....1656
Coastal cutthroat trout....1563
Coho salmon....752, 759
Columbia white-tailed deer....1562
Conservation activities....700, 853, 1542
Convention on International Trade in Endangered Species of Wild Flora and Fauna....1544, 1588, 1684
Cowhead Lake tui chub....1633
Critical habitat....699, 737, 749, 757, 780, 851, 1537, 1547, 1550, 1551, 1570, 1574, 1581, 1682, 1683, 1690
CITES decisions....1532, 1545
Dismal Swamp southeastern shrew....1555
Eagles....1535, 1665
Florida panther....1549
Freshwater mussels....1636
Freshwater snails....1636
Gray wolf....1612, 1648
Green iguana....1640
Grizzly bears....1594, 1649
Hawaiian damselflies....1646
Hawaiian pomace flies....1645
Incidental take regulations....792, 853
Indiana bat....1662
Intercross progeny policy and definitions....1549
Invertebrate species in Bexar County, Texas....1653
Johnson seagrass....698, 699
Kauai Cave amphipod....1608
Kauai Cave wolf spider....1608
Koala....1610
Least chub....1582
List, reclassify, or delist....1552, 1572, 1574, 1575, 1587, 1589, 1643
Listing of U.S. species in CITES Appendix III....1641
Loch Lomond coyote thistle....1575
Lost River suckers....1581
Mariana fruit bat....1631
Morelet's crocodile....1642
Mussels....1595
Newcomb's snail....1604
Northern spotted owl....1586
Northern Idaho ground squirrel....1632
Oahu elepaio....1614
Pecos pupfish....1619
Peregrine falcon....1678
Permit requirements and exemptions....1544, 1666

Endangered and threatened species—Continued
Plants:
Bigleaf mahogany 1659, 1684
California plants 1579
Camatta Canyon amole 1628
Colorado butterfly plant 1634
Desert milk vetch 1671
Desert Yellowhead 1559
Devil's River minnow 1676
Fender's blue butterfly 1616
Gentner's fritilaria 1627
Hawaii 1667
Howell's spectacular thelypody 1615
Ione buckwheat 1603
Ione manzanita 1603
Keck's sidalcea 1605
Kincaid's lupine 1616
Kneeland prairie penny cress 1618
Larkspurs 1602
Lloyd's hedgehog cactus, removal 1592
Mountain plover 1561
Nipomo Mesa lupine 1629
Pariette cactus 1644
Puzzle sunflower 1677
Rough popcornflower 1611
Wenatchee Mountains checker-mallow 1553
Wilamette daisy 1616
Yreka phlox 1630
Zapata bladderpod 1617
Prebles Meadow Jumping Mouse 1558
Regulations consolidation 855
Riparian brush rabbit 1609
Riparian woodrat 1609
Safe harbors 1666
Santa Ana suckers 1560
Scaleshelled mussel 1565, 1680
Sea turtles 789
Short-tailed albatross 1554
Shortnose suckers 1581
Snake River chinook salmon 693, 757
Tibetan antelope 1661
Tropical birds 1578
Vicuna 1533
Virgin River fishes 1551, 1587
West Coast steelhead 1637
Western snowy plover 1550
Wet Canyon talussnail 1647
Yacare caiman 1552
Energy:
See also Coal
Electric power
Energy conservation
Fuel economy
Geothermal energy
Natural gas
Nuclear energy
Petroleum
Pipelines
Solar energy
Alternative fuels 1032, 1039, 1045, 1057, 3440
Conduct of DOE employees 1092
DEAR amendments 1084
Cost principles 1078
Management and operating clauses 1082
Mentor-Protigi Program 1077
Part 970 rewrite 1081
Purchasing by management and operating contractors 1088
DEAR technical amendments 1087
DOD fuel allocation procedures 894
Environmental Filing Requirements 4455
Fluorescent lamps exemption from Hazardous Waste Management 3656
Fuel excise taxes 3068
Energy—Continued
FERC reporting requirements 4440
Landowner notification 4455
Open Access Same-Time Information System 4445
Part 33 filing requirements 4441
Privacy Act regulations 1063
Regional transmission organizations 4444
Residential Area Designation 4455
State energy program 1046
Uranium mill sites 1072
Wastes from fossil fuel combustion 3621
Energy conservation:
See also Fuel economy
Appliance efficiency standards 1029, 1034, 1035, 1049
Appliance Labeling Rule 4517
Efficiency standards:
Central air conditioners 22
Clothes dryers 1052
Clothes washers 22
Direct heating equipment 1053
Dishwashers 1041, 1052
Electric motors, 200 hp 1054
Fluorescent and incandescent lamps 1055
Fluorescent lamp ballasts 22
Heat pumps 22
High intensity discharge lamps 1050
Pool heaters 1053
Water heaters 22
Electric motor vehicles 1030
Electric motors 1056
Federal buildings 1042, 1043
Model Energy Code update 1435
Residential energy-efficiency rating guidelines 1048
Test procedures 1031
Commercial package boilers 1040
Testing requirements:
Commercial air conditioning equipment 1038
Commercial heating equipment 1037
Commercial water heaters 1036
Electric motors, small 1051
Electronic distribution transformers 1044
High intensity discharge lamps 1050
Environmental impact statements:
Antarctic impact assessment 3316
DOT regulations 2280, 2428, 2467, 2670
Hazardous materials transportation 4613
Environmental protection:
See also Air pollution control
Environmental impact statements
Natural resources
Noise control
Pesticides and pests
Reclamation
Waste treatment and disposal
Water pollution control
Acquisition regulation:
Informal clauses 3305
Antarctic Science, Tourism and Conservation Act 3892, 3893
Antarctic Treaty 3316
Chemicals 110, 3576, 3585, 3596
Class deviations incorporation into EPAAR 3301
Coastal waste deposit prevention 3752
Cooperative agreements and Superfund state contracts 3661
Cross-media electronic reporting and recordkeeping rule 3299
Designation of hazardous substances under CERCLA 3665
EPA acquisition regulations 3303
Federal water resource development 966
Forest Service special uses program 449, 450
FAR regulations 4194
Grant programs 123
Grants administration 1064
HUD 1398, 1419
Locatable mineral mining 57

Environmental protection—Continued
National Environmental Policy Act 445, 764, 3300, 3882
National Environmental Policy Act implementation 976
National Forest System 455, 461
National Science Foundation 3892
Pesticides 3555, 3558
Presidio 4057
Protocol on Environmental Protection 3316
Radiological Emergency Response Plan 3454
Radon 4593
Restoration of DOD facilities 898
Rural economic development 297
Toxics Release Inventory:
Coal 3612
Lead 133
Otherwise use activity exemptions 3612
Transit projects 2453, 2674
Equal access to justice:
DOL 2032
HHS 1109
Equal educational opportunity:
DOD support of historically black colleges, universities, and institutions 882
Education Act Amendments of 1972 3885
Federally assisted education programs 60, 510, 1523, 3796, 3881
Equal employment opportunity:
Aged 3755
Broadcast and cable television rules and policies 4386
Complaint processing 138
Coordination of functions in complaint processing 3761
Discrimination complaint procedures 3755, 3757
Delegation of authority 3228
Disparate impact theory 3756
Government contractors 63, 4417
Government employees 138, 3757
Indians 1733
Individuals with disabilities 138
Special disabled veterans and veterans of the Vietnam era 2047
Waiver of rights and claims 139
Workforce Investment Act 2127
Estate taxes:
Adequate disclosure of gifts 3000
Qualified family-owned business interests 2923
Excise taxes:
Alcohol 2788, 2815
Cigarette papers 2803
Deposits 2912, 3085
Diesel fuel 3068
Excess benefits transactions 3003
Kerosene 3024
Prepaid telephone cards 3002
Transportation of persons and property by air 2922
Wine 2810
Explosives:
See also Hazardous materials transportation
Hazardous substances
Criminal misuse reporting 2783
Export controls 546
Exports and reexports 548
Exports and reexports of explosive detection systems 551
Fireworks 101
Handling at waterfront facilities 2277
Military munitions 899
Plastic explosives 2817
Exports:
Administration regulations 543, 552, 554, 556, 557, 558, 561, 578, 580, 581, 582, 583
Agricultural commodities 430, 433, 435
Cargo preference regulations 2741
Alligator skins 1599
American ginseng 1576
Ammunition 546
Automated Export System 523, 2880
Exports—Continued
Bluefin tuna re-export certificates 813
Chemical Weapons Convention 18, 545
Chemicals 3601
Clearance requirements 538
Commerce Control List 541, 543, 549, 550, 560
Communication intercepting devices 541
Computer technology 537, 543, 553, 573, 585
CCC Export Credit Guarantee Program 432
De minimis exclusion for technology and software 570
Distilled spirits, wine, and beer 2804
Encryption policy 562, 577
Encryption software 574
Enhanced Proliferation Control Initiative 565
Explosive detection systems 551
Explosives 546, 548
Exporter definition 515
Firearms 546
Foreign boycott provisions 563
Ginseng 1597
High-performance computers 571
Humanitarian donations 568
India 571
Investigational new drugs 1115
Libya 567, 584
License exceptions 568
Licensing 544
Manifest data 2852
Marine mammal products 1598, 1606
Medical products containing biological agents 549
Missile technology controls 560, 575
North Korea 539, 2231
Nuclear equipment and materials 542, 571
OETCA regulations update 534
Pakistan 571
Reexports 548, 551, 567, 584
Reporting and recordkeeping requirements 430, 556, 1173
River otters 1650
Shipper's export declaration 520, 521, 522
Technology 545
Timber from western states 566, 1812
Tobacco 2813
Veterinary user fees 256
Wassenaar Arrangement review 550
Wassenaar Arrangement List of Dual-Use Items 547, 555, 576
Wildlife 1539, 1588, 1624

F

Fair housing:
Civil penalties for violations 1476
Complaint processing:
Plain language revision and reorganization 1477
Compliance requirements 290
Performance standards 1474
Enforcement agency certification and funding 1473
Occupancy standards 1514
Fair Housing:
Compliance requirements 470
Family planning:
Abortion-related services compliance standards 1232
Illegitimacy rate reduction bonus 1390
Federal buildings and facilities:
Access for individuals with disabilities 59, 1875, 1876, 3285
Outdoor developed areas 3286
Play areas 3288
Energy performance standards 1042, 1043
GSA regulations 3805, 3806, 3807, 3845
Military range assessment 899
Presidential library facilities 3871
Property management 3824
Federal home loan banks:
Advances collateral 4463, 4472
Advances participations/transfer of advances 4465
Advances regulation amendment 4467

Federal home loan banks—Continued
Eligible collateral 4472
Employee selection and compensation 4468
Financial management regulation....161
Financial statements....4459
Joint and several liability of banks....4473
Mission fulfillment....4469
President base salary caps....4470
Federal Reserve System:
Affiliate funding 4500
Capital:
Leveraged....4504
Risk-based....4504
Consumer regulations review 4489, 4496
Electronic funds transfers 4491
Equal credit opportunity 4488
Margin regulations review 4486
Public availability of information....4501
Reserve requirements:
Depository institutions 4490
Securities brokers and dealers:
Qualifications for banks and securities representatives 4502
State banks 4492
Streamlining regulations 4487
Transaction between a member bank and its subsidiaries 4499
Year 2000 safety and soundness guidelines 4435
Feed grains:
Scales and weighing....331
Fire prevention:
Aircraft:
Cargo/baggage compartments 2404
Crash-resistant fuel systems 2378
Fuel tank vent protection 2377
Fuel tanks and lines....2386
Towing vessels....2284
Underground coal mines....2111
Firefighters:
Payment regulations 3978
Retirement....3989
Fish:
See also Fisheries
Seafood
Definition of harm 754
Endangered and threatened 697, 718, 752, 753, 754, 790, 1551, 1563, 1581, 1582, 1587, 1619, 1633, 1637, 1638, 1654, 1660, 1668, 1676, 1679
Farm-raised fin fish 278
FWS permit applications 1639
Listing of U.S. species in CITES Appendix III 1641
Restoration programs....1600
Trip limits 636
Fisheries:
Alaska....609, 634, 635, 652, 766, 767, 781, 826
Aleutian Island Atka Mackerel 650
American lobster....712
Atlantic bluefin tuna....735, 741, 842, 846
Atlantic bluefish 597, 657
Atlantic herring 590, 599, 685
Atlantic mackerel 613, 659
Atlantic sea scallop 836
Atlantic sturgeon 819
Atlantic surf clams 660
Atlantic tuna 802
Atlantic Coast:
Exclusive Economic Zone (EEZ)....666, 801
Atlantic Ocean 595
Bering Sea/Aleutian Islands....610, 636, 648, 649, 672, 815, 826, 837, 838
Black sea bass 656, 658
Bottomfish....614
Butterfish....659
Capacity reduction program....612
Fisheries—Continued
Conservation efforts....677, 700
Corals and coral reefs....607, 711
Crab....635
Crab community development quota reserves....776
Critical habitat....749, 757, 759, 851
Crustacean....626, 644
Disaster relief 814
Dolphin encirclement prohibition 852
Dolphin mortality limit 848
Eastern Tropical Pacific 795
Flounder....789
Groundfish....601, 610, 614, 623, 625, 627, 628, 634, 635, 652, 680, 691, 729, 736, 766, 767, 774, 778, 781, 784, 815, 822, 835, 836
Gulf of Alaska....610, 649, 736, 815, 837
Gulf of Mexico....755, 777, 843
Halibut 636, 662, 772, 778
Hawaiian Islands 732, 809
Incidental take regulations 750, 791, 792, 850, 852
King Crabs 648
License Limitation Program....635, 648, 652, 653
List for 2000....645
Lobster 713, 732, 769, 809
Marine mammal deterrence 750
Marine mammal programs....694, 695, 794, 804
Marine mammal taking 701
Marine Mammal Protection Act....795
Monkfish 715
National Undersea Research Program 798
North Pacific 598
North Pacific EEZ 733
Ocean quahogs 660
Pacific Coast....799, 823
Pelagic....600, 606, 777, 800
Pollock 620, 649, 672, 837
Puerto Rico....596, 711
Red snapper 617, 843
Reef fish 596, 617, 716, 777
Rockfish....661, 799
Sablefish 618
Salmon 697, 718, 753, 811
Scales performance criteria....634
Scientific research 751
Scup....656, 658
Sea turtle conservation....755, 760
Shrimp 755, 807, 808
Spotter aircraft use 735
Squid 659
Stone crab....713
Summer flounder 656, 658, 760
Swordfish 812
Tanner crabs....601
Tanner Crabs....648
Tilefish 595
Tuna 813, 850, 852
U.S. Virgin Islands 596, 711
Washington coastal tribal fisheries....832
Western Pacific region....626, 800
Whiting....832
Yellowfin tuna 795
Fishery management plans:
Administrative:
Bycatch reduction measures 620, 768, 807, 808
Essential fish habitats....714, 727, 820
Fishery Management Councils....603, 605, 739, 827
Gulf of Mexico....716
Redefinition of terms 714
Alaska....637, 651, 653, 661, 788, 820
American Fisheries Act amendment 638
Atlantic:
Atlantic Coast....613, 663, 769, 825
South Atlantic....613, 639, 674, 713, 723, 724, 738, 743, 782, 825

Fishery management plans—Continued
Atlantic salmon....830
Bering Sea/Aleutian Islands....675, 774, 786, 787
Black sea bass....686, 727
C. bairdi stocks rebuilding....646
Calico scallop....631
Caribbean....633
Chinook salmon....664, 838
Crab....641, 788
CDQ regulations amendment....641, 845
Exclusive Economic Zones (EEZ)....603, 734
Flounder....727
Framework adjustment....829, 836
Full retention of demersal shelf rockfish....661
Groundfish....651, 675, 692, 734, 778, 786, 787, 788
Gulf of Alaska....611, 675, 774, 786
Gulf of Mexico....616, 617, 632, 639, 640, 643, 667, 669, 684, 713, 728, 782, 783, 808, 825, 827, 841, 844
Hawaiian Islands....614, 644
Highly migratory species....671, 673, 682, 717, 739, 744, 831
Improved retention/improved utilization program....651
King mackerel....639, 663, 669, 683
King Crabs....646, 826
North right whales....856
North Pacific....601
Northeast multispecies....591, 619, 688, 690, 715, 722, 740, 742, 745, 746, 747, 824, 829, 835, 840
Northern anchovy....725, 833
Pacific Coast....624, 692, 726, 734, 811
Pacific Insular Area Fishing Agreements....603
Pelagic sargassum....642
Red snapper....640, 827, 841, 844
Reef fish....667, 684, 827, 841
Salmon:
Overfishing definition....637
Scallops....653, 788, 826
Scup....686, 727
Sea scallop....591, 687, 748, 836
Shrimp....643
Sitka Sound halibut....720
South Atlantic....616, 631, 642, 669, 807
Spanish mackerel....639, 683
Spiny dogfish....719
Tanner Crabs....646, 826
Tuna....817
Western Pacific....600, 606, 607, 677, 678, 679, 806, 821
Fishing:
Alaska....647
Bycatch reduction measures....647, 736, 768, 838
Catch limits....630, 639, 658
Coastal Zone Management Act....704, 708
Compensatory fishing....615
Conservation programs....603, 611, 612, 614, 714, 803, 811, 813
Data collection program....594
Gillnets....801
Glacier Bay National Park....1709
Management measures....632, 823, 824
North Pacific Loan Program....770
Optimum yield specifications....832
Participation credit....733
Permit requirements and exemptions....603, 604, 803, 853
Quotas:
Atlantic Bluefish....657
Community Development Quota Program fees....629
Halibut....609, 610, 816
Individual fishing quota survivorship provision....828
Northern anchovy....833
Ocean quahogs....660
Sablefish....609, 610
Surf clams....660
Quotas and harvest guidelines....602
Recreational measures....630, 656, 777, 844
Reporting and recordkeeping....654, 668, 721
Snake River chinook salmon....693, 757
Fishing—Continued
Sport fishing:
Sport Fish Restoration Program....1591
Subsistence management regulations....1675
Fishing vessels:
American Samoa boundaries....621
Charter boats....773
Commercial fisheries documents for US-flag vessels....2269, 2742
Compensatory fishing....615
Foreign vessels....603
Framework adjustment....835
Inshore/offshore reallocation....771
Licenses....810
Limited entry permits....603, 604, 623, 625, 729
Longline vessels....800
North Pacific Observer Program....655
Observer policy....598, 608, 692, 775, 850
Ownership requirements....805
Pacific offshore cetacean take reduction plan....756
Permit consistency....818
Purse seine fleet capacity limits....834
Scallop vessels....835, 836
Standard definitions....765
Trawlers....627
Tuna vessels....847
Vessel name on licenses....731
Vessel Monitoring System....650, 812
Flammable materials:
Flammability standards....4246, 4256
Children's sleepwear....4262
Upholstered furniture....158, 4260
Flood control:
Impoundment regulations....2102
Flood insurance:
Contracts....3762
Group Flood Insurance Policy....3780
HUD programs....1418, 1453
National Flood Insurance Act of 1994....298
National Flood Insurance Program:
Write-Your-Own expense allowance....3791, 3793
Flood plains:
Administrative appeals process....969
Wetlands:
Conservation program....197, 1408
Minimal effects exemptions....503
Privately owned....2467
Wetlands Reserve Program....200, 1408
Food additives:
ASTM standards....1151
Cured pork products....422
Flavoring agents:
Volatile fruit flavored concentrates....2808
Regulatory reinvention....1190
Food assistance programs:
See also Food stamps
School breakfast and lunch programs
Child and adult care....3, 354, 360, 381
Meal supplements for teenagers in low-income areas....374
Personal Responsibility and Work Opportunity Reconciliation Act....392
Commodity Supplemental Food Program....351, 394
DOD surplus food distribution....3277
Food delivery systems....7
Funding formula....393
Indian reservations....350, 359, 372
National School Lunch Program....342, 355, 379
Older individuals....1392
Paperwork reduction....347
Soy-base beverages....395
State Technical Committees....504
Summer Food Service Program....363, 364
TEFAP....369
Women, infants, and children:
Certification integrity....376

Food assistance programs—Continued
Women, infants, and children—Continued
Disqualification of vendors 391
Eligibility 365
Farmers Market Nutrition Program 348
Food delivery systems 7, 334, 356, 384
Food packaging 389
Funding provisions 377
Local agency expenditure reports 375
Personal Responsibility and Work Opportunity Reconciliation Act 370
Soy-base beverages 395
Food labeling:
Fruit and vegetable juices 33
Meat and poultry 405, 413
Medical foods 1187
Ovine carcasses 425
Review of regulations 1186
Trans fatty acids 1140
Voluntary nutrition labeling program 401
Food stamps:
Audit requirements 373
Balanced Budget Act provisions 383
Civil rights data collections 349
Claims establishment and collection 8
Computer matching 335
Disqualifiers and noncompliance penalties 4
Electronic benefits transfer system 343, 368, 371
Eligibility provisions:
Income standards 5, 10, 396
Employment and training programs 383
Employment and training requirements 6
Failure to comply with Federal, State, or local work program 4
Minimum and maximum allotments 10, 396, 397
Monthly reporting and retrospective budgeting 357
Noncitizen eligibility 5
Personal Responsibility and Work Opportunity Reconciliation Act 4, 5, 6, 10, 68
Program revisions and eliminations 382
Quality control 385
Regulatory review 338, 341
Reporting provisions 357
Retail food stores 9
Retailer application processing 336
Retailer integrity, fraud reduction, and penalties 390
State agencies administrative and management requirements 5, 338, 341
State agencies reimbursement 358
Wholesale food concerns 9
Food Stamps:
State agencies administrative and management requirements 343
Foods:
See also Animal foods
Bakery products
Beverages
Cacao
Cereals (food)
Dairy products
Dietary foods
Fish
Food additives
Food assistance programs
Food grades and standards
Food labeling
Food packaging
Frozen foods
Fruits
Meat and meat products
Nutrition
Nuts
Oil and fats
Poultry and poultry products
Seafood
Sugar
Vegetables
specific foods
Fruit and vegetable juices 33
HACCP programs 13, 33
Infant formula quality control 1185
Organic 1
Pesticide residues 3570
Regulatory reinvention 1190
Transportation in vehicles used for nonfood products 2731
Foreign banking:
Foreign activities of insured state nonmember banks 4434
Income taxation 2989
Foreign currencies:
Acquisition regulations 2763
Foreign investments in U.S.:
Income taxation 2900
Foreign relations:
See also Citizenship and naturalization
Cultural exchange programs
Foreign Service
Foreign aid
Foreign claims
Foreign trade
Immigration
International boundaries
Passports and visas
Treaties
specific countries
Direct transactions of U.S. reporter with foreign affiliate 513
Duty-free treatment for imports from foreign governments 2874
Fishery regulations 603
International accounting standards 4620
International wills registry 2198
Organization for Economic Cooperation and Development (OECD) 3585
USML revisions 2188

Foreign trade:
See also Competitiveness
Customs duties and inspection
Exports
Fairs and expositions
Imports
Maritime carriers
Trade adjustment assistance
Trade agreements
Bond procedures for articles subject to exclusion orders 2846
Boycott provisions 563
Canada:
Softwood lumber 2853
Disclosure standards for foreign issuers 4632
Earnings and profits 3062
Exempted securities issued by the Kingdom of Sweden 4696
Federal employee foreign rights in inventions 874
Filing of informational materials 2008
Financial services transactions survey 514
Foreign boards of trade computer terminals in the U.S. 4242
Foreign Trade Statistical Regulations changes 515, 520, 521, 522, 523
Motor vehicles 3468
Overseas use of purchase cards 925
Port restrictions:
Japanese vessels 4480
Textile labeling 4512
Forests and forest products:
See also National forests
Assistance to timber-dependent communities 489
Environmental analysis policy and procedure revisions 445
Forestry Incentive Program 502
Imported wood packing materials 2
Treatment requirements for material from China 274
Indian allotments 453
Management planning 17
Migrant and seasonal workers 505
Mineral fractions, sale 440
Softwood lumber from Canada 2853
Special uses authorizations 450
Special uses permit actions 449
Stewardship Incentive Program 456
Timber sales:
Cancellation 455
Contracts 444, 461
Export controls 566, 1812
Noncompetitive sale 448
Small business set-aside recomputation 460
Surplus species 441
Unmanufactured wood from Mexico 275
Fraud:
Civil remedies 4414
Debarment of health care providers 3960
Fraudulent commercial driver's licenses 2483
Government procurement employment prohibitions 939
Health care fraud and abuse 1102
Microcap securities market 4686
Odometer fraud 2562
OASDI 4171
Title I property insurance 1424
Toll fraud 4321
Freedom of information:
See also Confidential business information
Amendments 4560
Chemical inventory reporting 3615
Department of the Army 964
Department of the Navy 981
DOD 889
DOE 1062
DOI 1522
Freedom of information—Continued
DOJ 1836, 1923
DOL 2031
Electronic communication 2031
Electronic Freedom of Information Act 1394, 1923, 3298, 3760, 3767, 3856, 3890, 3896, 4077
EEOC records 3760
EPA 3298
Farm Credit Administration 4281
FEMA 3767
FMCS 3795
HHS 1106
INS 1923
IRS 3031
NARA organizational and procedural changes 3860
NASA 3856
NRC public document rooms 4615
Office of the Special Counsel 4032
OGE electronic amendments 3910
OPM 3920
Public information 528, 4563
Regulations revision 977, 1522
Sex offender registration programs 2019
Social Security Administration 4158
SEC amendments 4699
Tax-exempt organization information 3119
Veterans Affairs 3229
Freight:
See also Hazardous materials transportation
Air carrier baggage liability limit 2225
Passenger aircraft cargo:
Oxygen generators 2363
Protection against shifting and falling cargo 2434
Frozen foods:
Country of origin marking 2849
Fruits:
Florida fruit tree crop insurance provisions 311
Grain-fruit products 387
Import restrictions 264, 271, 280
Irradiation phytosanitary treatment 258
Fuel additives:
Oxygenated 3587
Fuel economy:
Calculations 2613
Fuel economy credits 2536
Light trucks and light duty vehicles 3365
Light trucks, model year 2001 2626
Reporting requirements 2565
Funeral industry:
Practices rule 4509

G

Gambling:
NIGC definitions 4555
NIGC hearings and appeals 4549, 4553
Tribal land acquisitions 1730
Gases:
See also Helium
Natural gas
Coalbed methane development 1818
Gasohol:
Motor vehicle use 1032
Geothermal energy:
Regulation simplification 1802
Goats:
Interstate movement 257
Government contracts:
See also Government procurement
Acquisition regulations:
USAID 3280
Affirmative action 63, 907, 2046, 2050, 4417
Airline contract city-pair fares 3834
Audits 2130
Bundled contracts 4097

Government contracts—Continued
Buy American Act 1527
Commodity Credit Corporation storage contracts....199
Commodity Credit Corporation suspension and debarment 224
Construction 63, 66, 4182
Contract financing payments 936
Contract reform 1089
Contractors:
Criminal history record information access 2022
DOD placement assistance program....892
DOE contract security personnel....1058
DOE employee protection program....1069
Government property management and disposition....4188
Legal services 1480
Local hiring and training....3313
Performance evaluations....3321
Project management 1076
Qualifications 3177
Training 935
Use of nonimmigrant aliens 905
Veterans employment report....919, 2181, 4181
Waivers 2051
Work for others by DOE contractors 1080
Debarment and suspension....224, 910, 3303
Defense contracts:
Commercial construction....921
Congressional Medal of Honor fraud 923
DFARS modification....903, 911, 913, 923, 924, 928, 930, 931, 932, 952, 953, 955, 959, 960, 961, 962, 963
Electronic funds transfers....946
Electronic publication of DFARS....956
Manufacturing technology program....909
People's Republic of China....908
Performance-based payments 924
Purchases through other agencies....954
Specifications and Standards Requisition Form....955
Demilitarization requirements 915
Dispute resolution:
FAA procedures 2411
DD form revisions....943, 944
DD Form 1057 work stoppage revision 958
DD Form 2631 Performance Evaluation revision 940
DEAR amendments....1084
Management and operating clauses 1082
Mentor-Protigi Program 1077
DOD support of historically black colleges, universities, and institutions....882
DOE nuclear weapons facilities worker training....1071
Empowerment contracting 4203
EPA acquisition regulations....3303
EPA protest solicitation notification 3319
EPA Mentor-Protege Program 3302
Farm Service Agency....201
Federal Acquisition Regulations:
DEAR amendments 1081
DEAR technical amendments....1087
Federal Acquisition Streamlining Act....2039
Fees and incentives 1089
Finance rules....945
Fixed price 914
Fraud 939
Guarantees of performance 1090
Highway engineering and design related services....2444
Indians....1719, 1783
Labor standards....66
Lobbying restrictions....508, 2244
Multiple award indefinite delivery contracts 4208
Multiyear contracting 941
National Park Service concession contracts....1697
Negotiation 3320
Nondiscrimination 63, 2046, 2049, 2050, 3865
Nuclear safety management 25
Penalty payments....3318
Government contracts—Continued
Professional services....4207
Progress payments 4190
Property management services and technical corrections 3834
Repricing clause....947
Research and development 1223
Rights to inventions....873
Shipbuilding capability preservation agreements 980
Site of work wages....2045
Subcontracting:
Commercial items 922
Subcontractors 4189
Taxpayer identification numbers....3768
Uncompensated overtime....4207
Voluntary consensus standards 4209
VAAR:
Application of labor laws 3181
Construction and architect-engineer contracts....3180
Government employees:
See also Conflict of interests
Foreign Service
Military personnel
Political activities (Government employees)
Absence and leave:
Annual leave....3945, 3983, 4019, 4021
Administrative law judges 3995
Appeals....3939
Authorization of solicitations 4030
Availability of official information....3920
Career and career conditional employment 3924
Career transition assistance....3968
Panama Canal Zone Employees 3969
Child care at VA facilities....3246
Clarification of staffing provisions 4007
Classification appeals....3934
Compensatory time off 3974
Corporation for National Service:
Noncompetitive appointments 3925
Cost-of-living allowances:
Nonforeign areas 3981
Defense of tort suits....2004
Defense personnel 892, 3966
Disabled Veterans Affirmative Action Program....4023
District of Columbia employees:
Benefits 3986
Retirement, health, and life insurance coverage....3987
Emergency leave transfer program....3982
Employment discrimination 138, 3757
Employment priority for displaced employees....3967
Excepted service:
Operational procedures 3923
Promotion and internal placement 3963
Family and medical leave 3983
Federal Competitive Service appointments of volunteers 3926
Federal Equal Opportunity Recruitment Program 4022
Financial disclosure requirements....3904
Foreign rights in inventions....874
Gift acceptance authority of OGE 3899
Health and counseling program....3947
Health benefits:
Contributions and withholding....4028
Debarment of health care providers....3960
Demonstration project 3996, 4029
Effective dates 4004
FEHBP changes 3959, 3994
Hiring authorities....3929
Holiday and premium pay 3974
Holiday designation for overseas employees....3979
Income tax reimbursement allowance for travel or transportation....3837
Interagency placement program....3998
Panama Canal Zone Employees 3969

Government employees—Continued
Intermittent 3931
Investigations 4003
Job grading reviews 3939
Life insurance 3958
Court orders 4027
Federal Acquisition Regulation 3961
Regulation revisions 3992, 3993
Merit promotion and internal placement 3928
Nondiscrimination in USDA-conducted programs and activities 464
NARA recordkeeping requirements 3858
Part-time 3931
Pay administration 3972
Pay rates:
Administration 3943, 3979
Appropriated fund wage areas 3938, 4012, 4014, 4016, 4017, 4018
Back pay 3979
Environmental differential pay 4015
Federal Wage System (FWS) survey jobs 3973
Nonappropriated fund wage areas 3937, 3975, 4011
Official duty station determinations 3971
Overtime pay for travel 3979
Physicians' comparability allowance 3979
Printing positions 4013
Superior qualifications appointments 3935
Performance appraisal 3759
Senior Executive Service 142
Performance Management and Recognition System 4000
Personnel records 3922
Probation on initial appointment to competitive position 3927
Promotion and internal placement 3963, 3965
Reduction in force service credit 4008
Reemployment 3944, 3999, 4005
Relocation costs 3971, 4020, 4191
Relocation income tax allowance tax tables 3836
Restoration to duty 4009
Retention allowances 3980
Retention records 4008
Retirement:
Bar of benefits after conviction 3932, 3953
Court orders awarding survivor annuities 3932, 3955
Coverage for non-appropriated fund instrumentalities 3932, 3985
Credit for military service 3932, 3950, 3952
D.C. Financial Control Board employees 3932, 3984
Debt collection 3932, 3954
Determinations of marital status for survivor annuities 3932, 4024
Divorced spouses 3932, 3952
FERS basic annuity 3932, 3991
FERS coverage elections 3932, 3957
Health care professionals 3932, 3949
Nuclear materials couriers 3988
Service credit 3932, 3951
State income tax withholding 3932, 3990
Voluntary early retirement 4025
Salary offset for claims collection 3862
Salary offset for debt collection 2765, 4116, 4119
Salary supplementation 3901
Seasonal 3931
Security standards 4002
Selective Service registration requirements 3930, 4006
Senior Executive Service:
Employment requirements 3997
Performance appraisal 142
Performance Awards 3976
Severance pay 3942
Standards of conduct 511, 1092, 3855, 3883, 3886, 3888, 3889, 3905, 3906, 3909, 4039, 4042, 4076, 4155
Subpoenas 3907
Suitability standards 4001

Government employees—Continued
Surplus or displaced 3967, 3968
Temporary change of station 3971
Testimony 3861, 3907, 4121
Time-in-grade restrictions 3964
Training 3782
Travel regulations 3815, 3818, 3823, 3838, 3841, 3842, 3844
Voluntary separation incentive repayment waivers 3977
Government procurement:
See also Government contracts
Accession of Singapore to GPA 950
Acquisition regulations 935, 2203, 4601
Buy American clauses 951
Commercially available off-the-shelf items 4186
DFARS modification 901, 902, 912, 927, 929, 933, 951
DOD activity names and addresses update 956
DOE 1083
EPA protest solicitation notification 3319
Foreign acquisitions 4187
HUD 1479
NASA 3853
Overseas use of purchase cards 925
Panama Canal Commission 4034
Purchase card use 926
Purchase cards and electronic data interchange 935, 3271, 4601
Purchasing by management and operating contractors 1088
Quality of environmental data 3309
Real property policies 935, 3810, 4601
USAID 935, 3280, 3281
Veterans Affairs 3176, 3178, 3179, 3217, 3218, 3219, 3220, 3221, 3272, 3273, 3274
Affirmative action 4204, 4205
Affirmative action reform 906
Architect-engineer services 3816, 3831
Ball and roller bearings 918
Brand name purchase descriptions 4206
Buy American Act 1527
Clean air and water amendment 4194
Commercial items acquisition 902, 916, 917, 4198, 4201
Compensation for senior executives 4222
Conditionally accepted items 4212
Contractors:
Contractor liability for loss of and/or damages to household goods 4220
Cost Accounting Standards post-award notification 4216
Financing policies 4195
Interest in Other Financial Costs 4217
Local hiring and training 3313
Performance evaluations 3321
Progress payments 4195
Women- and minority-owned businesses 530, 4417, 4432
Contracts:
Conforming late offer treatment 4218
Cost-reimbursement architect-engineer contracts 4215
Increased payment protection 4214
Incrementally funding fixed price contracts 3304
Multiple Award Schedule 3812
Negotiation 3320
NFS contracts 444, 455, 461
Option clause consistency 4219
Personal services 3322
Cost comparison guidance 876, 4202
Costs:
Cost principles 934, 1078
Travel 4185
Demilitarization requirements 915
DOL 2128
Electronic commerce 4192
Environmentally preferable products 3606
Evaluation boards 4193
EPA acquisition regulation:
Informal clauses 3305

Government procurement—Continued
Foreign currency use 2763
Fuel 894
GSA regulations 3809, 3810, 3832
HUBZone Program 4213
Javits-Wagner-O'Day Revisions 4211
Level of effort 3317
Lobbying restrictions 4183
Multiple award indefinite delivery contracts 4208
Part 30 deviations 937
Pollution control 4194
Prompt payment 3912
Protest at the level above the contracting officer 531
Protests 3319
Recycled products 1079, 3642
Single process initiative 938
Small business subcontracting 4184
Small businesses 893, 4204
Price evaluation adjustment 957
Small, minority, and women's business utilization 3297
State Department regulations 2203
Streamlining legislation implementation 4185
Subcontracting 3916, 4184
Taxpayer identification numbers 3768
Taxpayer Identification Numbers 4210
Television-audio support activity 942
Textiles:
Para-aramid fibers and yarns 949
Uniform Procurement Instrument Identification numbers 920
Universal product numbers 3179
Very Small Business Pilot Program 4221
Voluntary consensus standards 4209
Government property:
See also Federal buildings and facilities
Government property management
Surplus Government property
Donation of excess USDA research equipment 506
Donation of surplus personal property 3820
Donation requirements for firearms 3830
Economic development transfers of real property by DOE 1070
Federal surplus property used for self-help housing 1429
Motor vehicles 3827
Regulations replacement 3821
Sale 890
Telephone systems 3798
Government property management:
Contribution in aid of construction 2888
Federal facilities in urban areas 3824
Negotiation procedures for leasehold interests acquisition 3828
Qualified lessee construction allowances for short-term leases 2887
Real property 3811, 3825, 3846
Regulations replacement 3821
Reporting excess personal property 3819
Smoke development rating increase 3826
Space and related services:
Alterations 3805, 3845
Assignment 3805
Rents and leases 3806, 3807
Utilization 3805
Government publications:
Prohibitions against reproduction 1098
Grains:
See also Feed grains
specific grains
Crop insurance 306, 307
Divider tolerances 330
Grain-fruit products 387
Reinspection or appeal inspection for grade 328
Grant programs:
Block grants:
Administration regulations 1101
Grant programs—Continued
Block grants—Continued
Temporary Assistance for Needy Families 68, 1369, 1389
Community Food Project 284
DOI 1528
Grant and Cooperative Agreement Handbook revision 3854
Highway safety incentive grants 2586
Illegitimacy rate reduction bonus requirements 1390
Juvenile Accountability Incentive Block Grant program 2028
Library services 3878
Motor vehicle safety incentive grants 2582, 2583, 2584, 2585, 2587, 2622
Multifamily housing:
Rehabilitation program 1443
National Boating Infrastructure Grant Program 1538
National Dam Safety Program 3764
National Earthquake Hazard Reduction Program 3784
Public Assistance Disaster Grant Program:
Insurance requirements 3773
Redesign 3789
Research grants 1223
Rights to inventions 873
Single Audit Act Amendments 1407, 2246, 3874
Small Business Innovation Research Program administrative provisions 285
State cemetery grants 3185
Welfare-to-Work Grants Program 68
Grant programs-agriculture:
Administrative provisions and requirements 284, 287, 465
Biotechnology Risk Assessment Research Grants Program administrative provisions 286
Community facility grants 489
Lobbying restrictions 508
Rural economic development 467
Technical assistance and training 195, 294, 472, 491
Water and waste disposal programs 477
Grant programs-education:
Acquisition and transfer of excess personal property 466
Administrative regulations 1000
Combating violence against women on campuses 2029
DOD University Research Initiative Support Program 897
Federal Pell Grant Program 1019
Federal Supplemental Education Opportunity Grant Program 1006, 1019
Federal Work-Study Programs 1006, 1019
FmHA programs 195
Head Start program:
Funding 1377, 1386
Performance standards 1373
Regulation revision 1387
Hispanic programs 283
Indian colleges 1734
Multicultural Scholars Program 282
National Leadership Demonstration Grants 3878
National Security Education Program 883
Projects with industry 1028
Teacher quality enhancement programs 1014, 1018
Grant programs-environmental protection:
Cooperative agreements and Superfund state contracts 3661
Drinking Water State Revolving Fund 3739
Environmental management program 1064
EPA technical assistance grants 3662
Flood mitigation assistance programs 3762
Performance Partnership Grants 123, 124
Solid waste management grants 490
Grant programs-health:
AIDS Healthcare Foundation START Program 1241
AOA rules revisions 1392
Grant programs-housing and community development:
Community development block grants:
Community revitalization strategy 1460
CDBG sanctions 1464
Expenditure documentation requirement 1461

Grant programs-housing and community development—Continued
Community development block grants—Continued
Program income 1466
Prohibition for employment relocation activities 1468
Streamlining 1467
Consolidated Plan 1409
Emergency Shelter Grants Program 1462
Empowerment zones and enterprise communities 463
HUD-owned multifamily properties 1445
Slum/blight prevention and elimination 1458
State homes for veterans 3152
Grant programs-natural resources:
Carey Act grants 1798
Marine mammal protection:
Rescission of administrative procedures 1593
National Undersea Research Program 798
Railroad grants 1797
Wildlife Restoration Programs 1600
Grant programs-science and technology:
NCI construction grants 1230
Grant programs-transportation:
Approval process 2507
Buy American Act 2605
Clean fuels formula grant program 2675
Motor Carrier Safety Assistance Program 2475, 2490
Uniform administrative requirements 2224
Grant programs-Indians:
BIA regulations revision 1720
Construction of jails 2025
Grants administration:
Audit requirements 2130, 3775
Demonstration project authority 4010
Lobbying restrictions 2244
National Coastal Wetlands Conservation Grant Program 1540
National Research Initiative Competitive Grants Program 287
Social Security Administration 4115, 4151, 4152, 4153
Uniform administrative requirements 529, 2224, 3279, 3918, 4152
Grazing lands:
Classifications 1820
Indian land 1731
National Forest System 453

H

Harbors:
Handling of explosive and other dangerous cargoes 2277
Maintenance fees 2867
Hawaiian Natives:
Grants for services provided to older individuals 1392
Hazardous materials transportation:
See also Pipeline safety
Air carrier emergency telephone number requirements 2689
Aircraft carriage 2688
Barge requirements 2248, 2265
Cargo tank requirements 2690, 2699
Coast Guard regulations 88, 89, 2305
Environmental impacts 4613
FAA material recognition training 2335
Hazard communication requirements 2710
Hazardous Waste Manifest rule 114
High-level waste 4613
Incident reporting 2706
Intergovernmental relations 98, 2714
Mercury-containing and rechargeable batteries 3652
Miscellaneous amendments 2703
Motor carriers 2463, 2487, 2491, 2705
Oxidizers and organic peroxides 2724
Rail transport 2705
Registration and fee assessment program 2704
Shipping papers retention 2734
Tank cars 2720
Train responders 2704
Hazardous substances:
See also Explosives
Flammable materials
Hazardous materials transportation
Hazardous waste
Poison prevention
Radioactive materials
Air pollutants 83, 106, 126, 3324, 3328, 3329, 3330, 3331, 3332, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3353, 3354, 3355, 3356, 3357, 3358, 3359, 3360, 3366, 3399, 3402, 3403, 3417, 3418, 3419, 3420, 3422, 3423, 3435, 3439, 3469, 3470, 3471, 3472, 3473, 3474, 3475, 3476, 3477, 3480, 3481, 3484, 3485, 3486, 3488, 3511, 3512, 3513, 3514, 3515, 3516, 3517, 3518, 3519, 3520, 3521, 3522, 3523, 3526, 3529, 3533, 3599, 4512
Aluminum:
Spent potliners from primary reduction 3635
Aluminum cylinders safety problems 2694
Asbestos 3577, 3580, 3605
Beryllium 26
Carcinogen risk assessment 3314
Chemical test rules 3594, 3599, 3601
Chemicals:
Import of toxic chemicals 2135, 2855, 3575, 3609, 3618
Chromium 2163, 3475
Crystalline silica 2120, 2147
Designation under CERCLA 3665
Drinking water regulations 3732, 3750
Drinking water testing methods 3749
Energy sources 2132
Environmentally preferable products guidelines 3606
Ethylene oxide 2133, 3459
Exemptions procedures revision and clarification 2711
Exposure limits for air contaminants 83
Extremely Hazardous Substances List 3616, 3617
Federally permitted releases 3663
Flammable and combustible liquids 2167
Glycol ethers 3446
High-pressure seamless cylinders 2716
International standards 2738
Isocyanates 3437, 3617
Lead 111, 131, 1416, 3520, 3579, 3581, 3588, 3607, 3734
Mercury-containing and rechargeable batteries 3652
Metals 3583
Metalworking fluids 2166
Method 24 amendment 3338
Microorganisms 3584
MSHA protection standards 2114
Oxygen use by air carrier passengers 2241
Ozone depleting substances 3503
Pesticides 3561, 3565, 3568, 3574
Emergency exemption regulations 3558, 3565
EPA consolidation of GLPS regulations 3308, 3565
Field testing 3565
Produced by transgenic plants 3561, 3562, 3565, 3574
Worker protection standards 3564, 3565
Pipeline safety standards 2696, 2697, 2717, 2718, 2732, 2733
Polychlorinated biphenyls 3597
Procedural and rulemaking changes 2726
Propane cylinders:
Requirements for filing equipment operators 2723
Radon 117
Reporting and recordkeeping requirements 3600
Sulfur oxides 103
Surface coatings 3338
Toxicological profiles:
Metals 3583
Toxics Release Inventory:
Chemicals 102, 132, 3610, 3611, 3618, 3619
Coal 3612
Lead 133
Otherwise use activity exemptions 3612
Water pollution control 3686, 3689, 3708
Hazardous waste:
Carbamates 3660

Hazardous waste—Continued
Cathode ray tubes 3632
Cement kiln dust 3651
Cleanups 3662
Disposal facilities:
Combustion facilities 3647
Low level mixed waste 116
Radioactive waste 3552
Effluent limitation guidelines 3666, 3682
Groundwater contamination 3485, 3733
Hospital/medical/infectious waste incinerators 3451
Identification and listing 113, 3630, 3649, 3650
Land disposal:
Restrictions 3633, 3648
Spent potliners from primary aluminum reduction 3635
Lead 3604
Lead-based paint debris 3654
Manifest regulations 114
Medical waste 2702
Mercury 3633
Paint manufacturing 3650
Permit program 115
Polychlorinated biphenyls 3644
Radioactive waste 4595
Dose methodology 3376
Site recommendation 1074
Yucca Mountain, NV 105, 4587
Recycled used oil 3644, 3649
Recycling 3632
Recycling in fertilizers 3655
Silver-bearing waste 3643
Solid waste 3623, 3636
Solvents 3631
Spent solvents 3649
Toxic waste site 3575
Toxicity characteristic rule 3646
Training programs accreditation 2161
Treatment and disposal:
Fluorescent lamps 3656
Triarylmethane dye and pigments 3640
Uncontrolled sites on the NPL 3659
Health care:
See also Emergency medical services
Medicaid
Medicare
Adult day health care for veterans 3153
Anti-kickback provisions 1095, 1096, 1100, 1107
AIDS Healthcare Foundation START Program 1241
Cancer patients 1220
Distance Learning and Telemedicine Loan and Grant Program 497
Fraud and abuse 1102
Health supply services:
Small business size standards 4084
Home health agencies 1295
Medicare conditions of participation 1344
Human cellular and tissue-based products 1125, 1126, 1193
Indian Health Service eligibility regulations 1217
Revised OIG sanction authorities 1105
Risk-sharing arrangements 1100
State self assessments for compliance 1385
Underserved areas 1210
Veterans 3193
Women's Health and Cancer Rights Act 1242, 2093
Health facilities:
See also Hospitals
Nursing homes
Ambulatory surgical centers (ASCs) 1255, 1316
Federally Qualified Health Centers (FQHC) 1096, 1320
Long-term care 1277
Payments of claims on insured mortgages 1427
Physician referrals for health services 1294
Renal dialysis facilities 1286
Skilled nursing facilities 1336
Health facilities—Continued
Surety bond requirements 1329
Health insurance:
See also Black lung benefits
Medicare
Access:
Employees of firms with less than 51 employees 1315
Individual coverage after loss of group coverage 1315
Pre-existing condition exclusions 1315
Child health insurance 48, 1372
Continuing coverage notice 2076
CHAMPUS:
Coverage of transplants 987
Payment for ambulatory care 986
TRICARE Prime enrollment 995
COBRA continuation coverage 1252, 3099
District of Columbia employees 3987
Electronic signatures 43
Electronic transactions standards for health plans 44
Employer based group health plans 1252, 2076
Continuation coverage requirements 2076, 3099
Employer identification number 45
Enforcement of legislative requirements 1245
Exemption from State regulation 2075
Government employees 3959, 3994, 3996, 4004, 4028, 4029
Health plan identifiers 1236
Health Insurance Portability and Accountability Act 40, 72, 73, 1236, 1323
Minimum requirements for group health plans 72, 73, 1322, 1323
OIG penalties 72, 73, 1099, 1323
HIPAA nondiscrimination rules 2095, 2920
Medicare supplemental insurance 1343
Multiple employer welfare arrangements 2089
Portability 1315
Provider identifiers 40
Security of individual health information 43
Small Business Job Protection Act:
Limitation of liability 2085
State Children's Health Insurance Program 1237
Summary plan description regulations 76
Third Party Collection Program 884
Universal health care identifier 1339
Health maintenance organizations (HMOs):
Medicaid requirements 1278
Medicare contract eligibility 41
Third party liability 1298
Health professions:
Alien health care workers 1952, 2003
Audiologists 1303
Cytology proficiency testing 1302
CHAMPUS provider certification requirements 992
Education:
Nursing and allied health science programs 1275
National Practitioner Data Bank 1213
National Practitioner Data Bank reporting policy 3154
Nurses:
Anesthetists 1275
Nonimmigrant aliens 1936
NIH traineeships 1224
Optometrists and ophthalmologists 4515
Pathologists 1303
Physicians:
Comparability allowance 3979
Health services referrals 1294
Hearing evaluation performance 28
VA medical opinions rules 3244
Professional shortage areas 1210
Provider identifiers 40
Retirement provisions 3949
Health records:
Disclosure of confidential PRO information for research 1288
OPM recordkeeping requirements 3922

Health records—Continued
Prescription Release Rule....4515
Privacy and disclosure of SSA records and information....4163
Privacy Act exempt record system....1103
Universal health care identifier....1339
Health Care:
Veterans....3176, 3235
Heart disease:
CHAMPUS coverage of transplants....987
Hepatitis C virus:
Blood donors and recipients....31
Hospital conditions of participation....1347
Highway safety:
Accident reporting requirements....2429
Diabetic interstate truck drivers....2482
Highway safety data improvements incentive grants....2586
Highway-rail grade crossings....2436, 2455, 2466
Motor carrier regulations....2430, 2443, 2462, 2463, 2468, 2475, 2476, 2493, 2602
State programs....2507, 2537
Traffic control devices:
Bicycle safety facilities....2477
Manual revision....2455, 2477, 2501
Recreation and cultural interest signs....2477
School areas....2499
Tourist oriented directional signs....2477
Traffic signs....2502
Work zone safety....2438
Highways and roads:
See also Bridges
Carpools
Highway safety
Motor carriers
Motor vehicle safety
Motor vehicles
Parking
Beautification costs....2422
Emergency relief program disaster eligibility threshold....2472
Engineering and design related services contracts....2444
Environmental impact and related procedures....2428, 2453, 2467, 2527, 2674
Federal aid projects....2465, 2492, 2498
Federal Lands Highway Program:
Forest highways program....2449
Indian reservations road program....2447
Park roads and parkways program....2446
Refuge roads program....2448
Funding....2464
Intelligent Transportation System....2454, 2498
National Highway System....2465
Railroad highway projects....2469
Right-of-way regulations....2458, 2474
Snowmobile and snowplane routes....1701
Traffic noise abatement....2445
Traffic surveillance and control....2479, 2506
Transborder traffic controls and fees....1937
Historic preservation:
Paleontological resources....1821
Regulatory revisions....3278
World Heritage Convention....1698
Hogs:
Imports from Europe....276
Pseudorabies indemnity payment....279
Small Hog Operation Payment Program....237
Holding companies:
Exemption for certain acquisitions....4653
Exemption for subsidiary companies....4654
Multiple savings and loan holding companies....3142
Homeless:
Food Stamp Program....10
Women, infants, and children....370
Homesteads:
Disposal of reserved minerals....1794
Horses:
Horse Industry Organizations:
Protection requirements....260
Interstate movement to slaughter....267
Hospice care:
Community Health Accreditation Program, Inc....1363
Joint Commission for Accreditation of Healthcare Organizations....1362
Medicare conditions of participation....1301
Medicare payments....1335
Medicare policies....1350
Hospitals:
See also Peer Review Organizations (PROs)
Clinical diagnostic laboratory services....1240, 1268
Conditions of participation:
Laboratory services....1347
CHAMPUS payment for ambulatory care....986
Diagnostic procedures....1253
DOT grants....2224
Grants administration....529, 3279, 3918
Length of hospital stay after birth of child....75
Medicare conditions of participation....1293, 1365
Medicare payment....37
Mortgages....1456
Outpatient services....1253
Payments of claims on insured mortgages....1427
Psychiatric....1280
Voluntary reduction in number of residents....1356
Household appliances:
Amplifiers....4516
Appliance Labeling Rule....4517
Energy efficiency....22, 1029, 1034, 1035, 1041, 1047, 1049
Surface coating of large appliance products and parts....3346
Housing:
See also Condominiums
Fair housing
Home improvement
Homeless
Housing standards
Low and moderate income housing
Manufactured homes
Mortgage insurance
Mortgages
Public housing
Relocation assistance
Assistance applications....1496
Capital advance duration....1447
Claim reform....1441
Disposition of HUD-owned assets in revitalization areas....1430
Employment opportunities....1475
Energy-efficiency rating guidelines....1048
Federal surplus property used for self-help housing....1429
HOME Investment Partnerships Program:
Streamlining....1401, 1410, 1467
Indians....1470, 1505
Dwelling Construction and Equipment Costs....1494, 1520
Lead-based paint....1416, 3604
Limited denial of participation in HUD programs....1396, 1405
Loan Guarantee Program....1465
Model Energy Code update....1435
Multifamily:
Multifamily Assisted Housing Reform Act program violations....1397, 1406
Nondiscrimination based on disability....1404
Rehabilitation grants....1443
Tenant participation....1444
Uniform physical condition standards and physical inspection requirements....50, 1420
OFHEO information regulation....3897
OFHEO interim debt collection regulation....3898
Quality assurance review of independent public auditors....1484
Rental agreements....3115

Housing—Continued
Resident survey information privacy requirements 1483
Rural:
Farm labor housing 292, 303
Loan policies 296
Loans and grants 292, 293, 295, 297, 301
Multiple-family housing 292
Rental housing 292, 301
Sale of property 1441, 2945
Single-family:
Officer Next Door Program 1446
Streamlining regulations 292
Title I property insurance 1424, 1437
Housing standards:
Manufactured home construction and safety standards program 1448
Material bulletins 1422, 1434
Uniform physical condition standards and physical inspection requirements 1420
Human research subjects:
In vitro fertilization 1225
Protection of human subjects 998, 1227, 3231
Student rights 997
Hunting:
Migratory birds 1583, 1590
Pig frogs 1702

I

Immigration:
See also Aliens
Citizenship and naturalization
Adjudication processing 1998
Asylum procedures 1915
Failure to appear for interview with asylum officer 1924
Availability of material under Freedom of Information and Privacy Acts 1923
Border crossing identification documents 1922, 1970
Cancellation of removal 1893
Check points within the U.S. 1954
Commercial delivery service as form of personal service 2002
Direct mail program 1997
Discipline of attorneys in immigration proceedings 1892
Employer sanctions fines 1968
Employment eligibility verification 1978
Examination fees schedule 1964, 1984
Fee payment methods 2001, 2183
Immigrant Investor Pilot Program 1971
Immigration and Nationality Technical Amendments Act of 1994 provisions 1942
In-transit passengers 1909
Inadmissability 61
Inspection of stopover passengers 1921
Jurisdictional changes 1920
Local law enforcement officer enforcement 1969
Overtime liability for inspection services 1907
Petitions for employment based immigrants 1935
Preinspected automated lanes (PAL) 1954
Promises of benefits 1945
Regulation changes regarding Soviet Union, Czechoslovakia, Germany, and Vietnam 1988
Special immigrant juvenile petitions 1904
Sponsor obligations and penalties 1947, 2190
Suspension of deportation 1893
United Nations Convention Against Torture 1977
Imports:
See also Antidumping
Countervailing duties
Customs duties and inspection
Oil imports
Trade adjustment assistance
Animal embryos and semen 269
Beer and wine 2778
Blood products 1176
Imports—Continued
Captive-bred exotic birds 1658
Chemicals:
Blanket certifications 2855, 3572, 3590, 3591
Control of PMN chemicals 3593
Dairy product quotas 431, 436
Domestic tobacco products, cigarette papers and tubes 2801
Duty-free entry 2845
Duty-free treatment for imports from foreign governments 2874
Evaluation of duty 948
Export Reform and Enhancement Act 1176
Fish 790
Forests and forest products 263
Fruits and vegetables 258, 264, 271, 280
Hogs from Europe 276
Importation and entry bond conditions 2865
Marine mammal products 696
Mexican pork 270
Mexican poultry products 273, 423
Motor vehicles 2623, 3445
List of nonconforming vehicles eligible 2623, 2635
Ozone-depleting substances 3540
Plants 266
Radio frequency devices 4337
Registration and product listing 1123
Ruminants 265
Softwood lumber from Canada 2853
Textiles 2872
Para-aramid fibers and yarns 949
Unmanufactured wood from Mexico 275
Veterinary user fees 256
Wheat:
End-Use Certificate Program 248
Wildlife 1539, 1624
Wood packing materials 2
Treatment requirements for material from China 274
Income taxes:
Accelerated death benefits 3032
Accounting:
Mark-to-market 2984
Partnerships 2940
Acquisitions 3037
Alternative minimum tax 3063
Annuities 3118
Asset ownership 3067
Balanced performance measurement system 3126
Bonds:
Inflation-indexed 2987
Private activity 2929, 2955, 3033
Branch remittances 2983
Branches:
Foreign taxes 3125
Hybrid transactions 3094
Business expenses 3025
Capital gains 3127
Capitalization 2962
Caribbean Basin countries 3060
Charitable contributions 2974
Collections 2915
Installment agreements 3083, 3102, 3127
Levied property 2917
Liens 3084
Compromises 3077, 3122
Consolidated returns:
Intercompany obligations 3065
Losses and deductions 2997, 3064, 3117
Constructive sales of appreciated financial positions 2903
Controlled groups 3114
Conversion to the Euro 3092
Corporate acquisitions:
Tax period after acquisition of S corporation 2998
Corporate income tax 3063

Income taxes—Continued
Corporate inversion transactions 3110
Corporations 3111
C corporations 2991, 3113
Continuity of interest requirement 3041
Disposition of stock of another corporation 2985
Disregarded entitites 2889
S corporations 2904, 2991
Stock ownership after a merger 3114
Tax shelter registration 2910
Debt:
Collateralized debt obligations 3015
Debt instruments 2901, 2916
Deemed paid taxes 2900
Disaster relief 2913
Earned income tax credit eligibility 3076
Earned income tax credit recertification requirements 3087
Education credits 3095
Elective entity classification changes 3020
Electronic funds transfers 3121
Electronic tip reporting 3086
Electronic transmissions 2993
Employee benefits:
Cafeteria plans 2957, 3030, 3081
Funded welfare benefit plans 3044
Loans treated as distributions 2959
Equity options without standard terms 2986
Escrow funds 2968
Expenditures documentation 2963
Farm income 2921, 3128
Farming businesses 3124
Foreign corporations 2900, 2979, 3039, 3040, 3061
Earnings and profits 2900, 3040, 3061, 3062
Foreign deferred compensation plans 3042
Foreign governments 3055
Foreign grantor trusts 3050, 3116
Foreign insurance companies 2899, 3051
Foreign investment companies 2988, 2989
Foreign partnerships 3006, 3123
Foreign tax credit 2898, 3057, 3058
Foreign Investment in Real Property Act 2978
Fringe benefit income allocation 2894
Functional currency 3061
General utilities repeal 3036
Golden parachute payments 3035
Grantor trust rules 3066, 3067
Group health plans, continuation coverage 3099
Highly compensated employee 2967, 3106
Income:
Gross income 3109
Income averaging 2921, 3124, 3128
Income from ocean and space activities 2895
Information disclosure 3089
Intangible amortization 3011
Intercompany transfer pricing 3049
Interest:
Educational loans 2928
Interest deductions 2960
Interest expense 2975
Interest-free adjustments 3072
International communications income 2895
International organizations 3055
International tax 2966
Inventory accounting 2926
Joint returns 2927
Long-term contracts 3045
Losses:
Disposition of personal property 3054
Separate limitation 3056
Marketable stock 2990
Middleman payments 2908
Mileage rates 3025
Multiple party financing 3009
Offset programs 2760, 2770

Income taxes—Continued
Partnerships:
Capital gains 3091
Foreign investments 2982, 3018
Foreign taxes 3125
Hybrid transactions 3094
Returns required on magnetic media 2999
Sales of interests 2982
Section 1503(d) applications 2906, 2982
Unified audit procedures 3096
Withholding 2982
Payments:
Credit and debit cards 3074
Middleman payments 2908
Prepayments 3093
Source of payments 3052
Payments to attorneys 2951, 3005
Personal property sales 3053
Preferred stock 2965
Premiums 2973
Preparer due diligence requirements 3076
Private foundation disclosure rules 3007
Procedure and administration 2961, 3031
Purchase price allocation 3037
Qualified offers 2932, 3029
Qualified plans 3014
Cashout limits 3028
Protected benefits exceptions 2925
Real estate mortgage investment conduits 2931, 3015
Real Estate Investment Trusts 2930
Receipts for expenditures 2963
Reconsideration of Rev. Rule 69-302 3082
Regulated Investment Companies 2930
Reimbursement allowance:
Travel or transportation 3823, 3837
Relocation allowance payments for government employees 4191
Relocation allowance tax tables 3836
Remedial amendment period 3021
Removal of temporary regulations 2886
Rental agreements 3115
Reporting and recordkeeping requirements 2907
Research credit 2933, 2958
Resident status 3070
Retention of paid preparers' signatures 3075
Retirement plans 3001, 3043, 3088
Rollover contributions 3014
Sale of debt obligations 2994
Section 1502 3117
Section 197 regulations 3011
Section 263A 3027
Section 355 distributions 3111
Section 355(d) 2964
Section 355(e) Guidance 3038
Section 382 3114
Section 42 3022
Section 6048 regulations 2909
Section 6159 3083
Section 6320 3098
Section 6323 3084
Section 6330 3097
Section 6343 2917
Section 882 2977
Section 884 2977
Securities 2896, 3047
Shareholders 3110
Short taxable years 3114
Straddles 2902
Miscellaneous issues 3080
Stripping transactions 3009
Substantial new line of business 2981
Supplemental tax exemptions 3118
Swap transactions 3052
Tax credits:
Puerto Rico 3059

Income taxes—Continued
Tax treaties....2897
Tax-exempt organizations:
Public disclosure of information....3119
Taxpayer Bill of Rights....2917, 3083, 3084
Taxpayer Identification Numbers....4210
Timely mailing treated as timely filing/electronic postmark....3078
Travel expenses for members of Congress....2918
Trusts:
Charitable remainder trusts....2892, 3088
Financial asset securitization investment trusts (FASIT)....2893, 3088
Foreign trusts....2890, 3088, 3116
Grantor trusts....3088, 3116
Non-exempt employees....3067, 3088
Trusts and estates....2904, 2924, 3013
Voice signatures....3004
Withholding certificates....2993
Indians:
See also Indians-arts and crafts
Indians-business and finance
Indians-claims
Indians-education
Indians-enrollment
Indians-judgment funds
Indians-lands
Indians-law
Indians-tribal government
Appealing administrative actions of the Office of the Special Trustee....1530
Certificates of degree of Indian blood....1726
Child support enforcement....1370
Cultural exchange of marine mammal products between Natives....1606
Eagle permits....1665
Electric power utilities....1740
Enrollment application process....1747
Fishing management....693, 832
Food assistance programs....350, 359, 369, 372
Housing....1505, 1506
Dwelling Construction and Equipment Costs....1494, 1520
Indian affairs hearings and appeals....1525
Indian Child Protection and Family Violence Prevention Act....1216
Indian Health Service eligibility regulations....1217
Indian Judgement Funds....1712
National Indian Gaming Commission....162, 163, 4552, 4556, 4557, 4558, 4559, 4560, 4562
Native American Housing Assistance and Self Determination Act....1470
NIGC definitions....4555
Official Insignia of Native American Tribes....860
Preference in employment....1733
Social welfare and relief of distress....1721
Treaty fishing rights:
Columbia River access sites....1745
Welfare reform:
Financial assistance and social services....1729
Tribal program requirements....1379
Welfare-to-Work Program....2072
Indians-arts and crafts:
Importation of marine mammal products....696
Indians-business and finance:
Gaming authorizations....4557
Gaming operations....162, 1748, 4561, 4562
Indian monies and BIA special deposits....1529
Indian Business Development Program discontinuation....1742
Loans, grants, and employment assistance....1720, 1724, 1725
Tribal revenue allocation....1743
Indians-education:
Academic and dormitory standards....1718
Adult vocational training....1723
Contracts under the Johnson-O'Malley Act....1719
Indians-education—Continued
Grants to colleges....1734
School construction contracts....1722
School improvement program....1713
Indians-land:
Debt settlement for tribal land acquisition loans....182
Indians-lands:
Acquisitions....1728
Acquisitions for gaming....1730
Air pollution control implementation....3427, 3429, 3483, 3528
Alaska Native Veterans allotments....1810
Allotments....1816
EPA new source reviews....3364
Federal Lands Highway Program....2447
Fishing sites on Columbia River....1746
Grazing permits....1731, 1732
Irrigation projects....1739
Lead and zinc mining operations, Oklahoma....1738
Migratory bird hunting....1681
Mining leases....1714, 1737, 1766
Mining regulations....1783
Mortgages and deeds of trust....1727
Municipal solid waste landfills....3455
National Forest System lands....453
Oil and gas leasing....55
Surface exploration, mining, and reclamation of lands....1715
Water pollution control requirements....3700, 3736
Indians-law:
Construction of jails....2025
Courts of Indian Offenses....1744
Hearings and appeals....1741, 4549, 4553
Indian Tribal Justice Act....1735
NIGC enforcement regulations....4554
Indians-tribal government:
Adoptions....1391
Election procedures....1716, 1717
Grants for services provided to older individuals....204, 1392
Indian Tribal Justice Act....1735
Performance Partnership Grants....124
Self-determination....1719
Self-governance program procedures....1736
Tribal background investigations....4558
Individuals with disabilities:
See also Blind
Disability benefits
Education of individuals with disabilities
Medicaid
Medicare
Public assistance programs
Supplemental Security Income (SSI)
Vocational rehabilitation
Accessibility guidelines for buildings and facilities....59, 1875, 1876, 3284, 3285, 3291
Outdoor developed areas....3286
Play areas....3288
Public accommodations and commercial facilities....1869
Accessibility guidelines for children's environments....1876
Accessibility guidelines for telecommunications equipment and customer premises equipment....4312
Clarification of age as a vocational factor....4122
Contractor and subcontractor obligations....2046, 2047
Damage of mobility aids in air travel....2247
Disability ratings:
The spine....3169
Employment discrimination complaints....138
Evidence of permanent and total disability....3172
Housing....1404
Motor vehicle modifications....2568
Motor vehicle wheelchair lifts and ramps....2528, 2531
Nondiscrimination....2049, 3808, 4038, 4161
Farm Credit System Insurance Corporation....4161, 4282
Federally assisted programs....2131
Public accommodations and commercial facilities....1869
Passenger vessel access....2239, 3289

Individuals with disabilities—Continued
Schedule for rating disabilities....3156, 3157, 3252
Telecommunications relay services....4319, 4320
Transportation....1713, 2240
Video programming accessibility....4290
Widow's benefits....4140
Infants and children:
See also Adoption and foster care
Aid to Families with Dependent Children
Child welfare
Youth
Air bags....95
Aircraft child restraints....2329, 2519
Baby walker safety requirements....4251
Backyard play sets standard....4258
Bunk bed requirements....160
Child nutrition programs....386
Cigarette lighter safety standards....159
Crib safety standards....4253
Determining family relationships....4061
Flammability of children's sleepwear....4262
Food assistance programs....3, 7, 355, 360, 381, 395
Food stamp program....338
Household chemicals, child-resistant packaging....4252
Individuals with disabilities....1026, 1876
Infant formula....1185
Lead poisoning....111, 131, 1416, 3588, 3607
Length of hospital stay after birth of child....75, 1355
Medicaid program....1274
Nutrition education participant contacts....334
Polyvinyl chloride in toys....4259
School breakfast and lunch programs....337
School child definition....3209
Special immigrant juvenile petitions....1904
Sulfate in drinking water....3742
Summer Food Service Program....363
Supplemental food program....384
Certification integrity....376
Funding provisions....377
Local agency expenditure reports....375
VA pensions for veteran or surviving spouse....3236
Welfare services....1375
Insurance:
See also Bank deposit insurance
Crime insurance
Crop insurance
Flood insurance
Health insurance
Insurance companies
Life insurance
Mortgage insurance
Pension insurance
Surety bonds
Unemployment compensation
War risk insurance
Credit unions:
Requirements....4547
Share insurance....4533
Equity index insurance products....4661
FCSIC regulation....4284
Marine accident insurance....4035
Motor vehicle reporting requirements....2554, 2630
Motor vehicle verification procedures....2015
Passenger vessel operators....4479
Public Assistance Disaster Grant Program requirements....3773
Insurance companies:
Foreign subsidiary exemptions....4643
Intergovernmental relations:
See also Grant programs
Revenue sharing
Administration of grants and cooperative agreements....458, 1001
Air carrier regulation....2236
Air pollution control implementation....104, 125, 127, 3427, 3436, 3527
Intergovernmental relations—Continued
Alternative fuels incentives program....1032
BIA arrangement for social welfare and relief of distress....1721
BIA schools....1718
Child support non-performance TANF penalty....1382
Education programs....283
Employee benefit plan exemption from State regulation....2075
Employer-based group health plans....1252
EPA effluent guidelines and standards....3690
EPA water monitoring requirements....3744
EPA water quality standards....3708
EPA water regulations streamlining....3709
EPA Hazardous Waste Manifest rule....114
EPA State implementation plans (SIPs)....3438
EPA-California water quality standards....3686
Federal payments to State veterans homes....3191
Federal Assistance Funds transfers to State governments....99
Federal-State Unemployment Compensation Program....2060
Flood assistance program....3762
Food assistance programs....3, 7, 348, 364, 381, 386, 395
Sharing information with INS....348, 370, 395
Food stamps....5, 8, 338
Food Security Act....504
Hazardous materials transportation....98, 2714
Highway management....2422
Highway projects....2464, 2465, 2492
Highway safety data improvements incentive grants....2586
Highway safety programs....2475, 2507, 2537
HCFA State Plan Amendment reconsideration process....1300
Local rail freight assistance....2647
Medicaid:
Administrative costs....46, 1332, 1333
Eligibility....46, 1319, 1332, 1333
Motor vehicle safety incentive grants....2582, 2583, 2584, 2585, 2587, 2622
National Dam Safety Program....3764
National Earthquake Hazard Reduction Program....3784
National Instant Criminal Background Check System....2017
Nuclear accident protection....3553
Oil spill response....2276
Payments to State and local governments....1806
Performance Partnership Grants....123, 124
Railroad highway projects....2469
State employment statistics agency representatives for consultations with DOL....2034
State habitat conservation strategies....853, 1666
State issued identification documents....2603
State Children's Health Insurance Program....1237
Transportation right-of-way regulations....2474
USDA:
Entitlement programs....465
State mediation programs....181
Water supply....3736
Intermodal transportation:
Environmental impact and related procedures....2428
International boundaries:
Border boat landing program:
Landing cards....1999
Border crossing card fees....2208
Border crossing cards....2195
Dedicated commuter lanes....1937, 1993
Ports of entry....1993
Inventions and patents:
Fees....859, 861
Foreign rights in inventions....874
Interlocutory rulings at final hearing in interference processessings....865
Mineral patent applications....1822
New drug patent holder notification....1172
Nonprofit organizations....873
Patent applications....862, 867, 868, 869

Inventions and patents—Continued
Patent business goals....858
Small businesses....873
Third-party participation....870
Inventions and Patents:
Licensing government-owned inventions....875
Patent practitioners....863
Investigations:
Civil investigative demands....2013
Government personnel....4003
Investment companies:
Advertising rules....4642
Asset transfers....2930
Codes of ethics....4664
Custody of assets outside the U.S....4659
Deregistration form....4667
Directors with ownership of index fund securities....4662
Disclosure requirements....4641
Form N-SAR....4650
Names....4656
Private investment companies....4624
Registration form....4650
Repurchase agreements....4645
Securities acquisition....4646
Securities depositories as custodians of assets....4644
Taxation....2989
Investments:
See also Brokers
Commodity futures
Foreign investments in U.S.
Investment companies
Securities
United States investments abroad
Canadian....4658
Cash solicitation rule....4651
Economic development....525
Financial services transactions survey....514
Investment advisers....4637
Political contributions....4638, 4663
Non-deposit investment products....2830
Non-mortgage investments by GSEs....1399
Proxy and information statements....4625
Registration forms....4633
Taxation....3110
U.S. direct investment abroad survey....512
Irrigation:
Project operation and maintenance....1739

J

Juices:
Food safety assessment programs....33
Juvenile delinquency:
Family Unity Program....1951, 2028

K

Kidney diseases:
CHAMPUS coverage of transplants....987
Dialysis services....1286
Medicare eligibility....1233

L

Labeling:
See also Food labeling
Packaging and containers
American Automobile Labeling Act....2514
Animal drugs....1204
Antibiotics resistance labeling....1146
Appliance Labeling Rule....4517
Beer....2779
Building materials....1434
Country of origin statements....2777
Dietary supplements....1202
Distilled spirits....2777, 2779
Dolphin-safe tuna....849
Labeling—Continued
Drugs....29
Electric motors....1056
Hearing aids....28
Home insulation....4508
HCFCs....3524
Insulin-containing products....1132
Malt beverages....2805
Motor vehicle content calculations....2619
Over-the-counter drugs....1203
Parenteral drug products containing aluminum....1165
Pesticides....3561
Polyurethane foam in upholstered furniture....4260
Pregnancy labeling category for prescription drugs....1133, 1178
Prescription drugs....1130
Rubber-containing drugs....1111
Surgeon and patient examination gloves....1199
Textiles....4512
Unaged grape brandy....2786
Wine....2779, 2814
Specialty products and flavored wines....2780
Labor:
See also Child labor
Employee benefit plans
Employment
Equal employment opportunity
Homeworkers
Labor management relations
Manpower
Migrant labor
Occupational safety and health
Retirement
Unemployment compensation
Wages
Contractor labor disputes....958
Davis-Bacon helper regulations....66
DOA authority to approve H-2A petitions for agricultural laborers....2196
DOL user fees....2042
Fair Labor Standards Act:
Exemptions....2043
Small Business Job Protection Act....2044
State employment statistics agency representatives for consultations with DOL....2034
Trade adjustment assistance....2063, 2070
Labor management relations:
Collective bargaining agreement definition....2075
Reporting by labor relations consultants and others....2057
Laboratories:
Accreditation....166, 2877
Clinical laboratories regulation....1244, 1268, 1297
Cytology proficiency testing....1302
EPA consolidation of GLPS regulations....3308
Hospital conditions of participation....1347
Special surveillance list of chemicals, products, materials, and equipment....1890
Testing of mining equipment....2116
Law:
See also Administrative practice and procedure
Courts
Indians-law
Lawyers
Military law
International wills registry....2198
Judges, Code of Conduct....4165
Qualified offers....2932, 3029
Suits against Federal employees....2004
Law enforcement:
See also Drug traffic control
Wiretapping and electronic surveillance
Armor vest purchase....2026
Communications Assistance for Law Enforcement Act....1898, 2014, 4404
Criminal fine collection....2011

Law enforcement—Continued
Criminal history record information 2022
Fish and Wildlife Service....1580
Forest Service....446
Immigration....1969
Motor vehicle theft 2015
National Indian Gaming Commission 4554
National Instant Criminal Background Check System 2017
Officer Next Door Program....1446
Police Corps reimbursements of educational expenses 2027
Police Recruitment Program guidelines 2020
Public Safety Officers' Educational Assistance Program 2030
Retirement....3989
Sex offender registration programs....2019
U.S. Marshals Service fees 2005
Use of aliens in critical initiatives....1939
Lawyers:
Debarment 1191
Disciplinary procedures 1892
Practice before the National Indian Gaming Commission 4549
Lead poisoning:
Hazard abatement 111
Paint....111, 131, 1416, 3579, 3581, 3588, 3607
Reducing lead consumption and use 3603
Lead Poisoning:
Paint....3604
Libraries:
FDA....1141
National Agricultural Library fee schedule....179
Presidential library facilities....3871
Life insurance:
Accelerated death benefits 3032
Court orders 4027
District of Columbia employees....3987
Government employees 3958
Court orders....4027
Federal Acquisition Regulation....3961
Regulation revisions 3992, 3993
Variable life insurance contracts 4660
Veterans....3171, 3207
Group Life Insurance accelerated benefit option 3212
Liquor:
Dealer signs 2815
Labeling 2779
Liquors:
Exports....2804
Standards of fill 2790
Unaged grape brandy....2786
Livestock:
See also Grazing lands
Meat and meat products
Meat inspection
Poultry and poultry products
specific animals
Animal drug residue levels....1197
Current good manufacturing practice for medicated feeds 1143
Emergency assistance 202
Free choice medicated feed....1196
Liquid medicated feed....1196
Livestock feed assistance 214
Price reporting 329
Loan programs:
Lobbying restrictions 2244
Revision of RTB loan documents 480
Revision of RUS Telecommunications Program 480
RUS construction work plan loan eligibility 498
Seismic safety requirements for new building construction 479
Surface transportation projects....2511, 2687
Loan programs-agriculture:
Account servicing....198
Loan programs-agriculture—Continued
Business and Industry Guaranteed Loan Program 468, 469, 471
Buyback of repurchased guaranteed loans....246
Civil rights of borrowers....494
Collateral requirements for emergency loans....239
Community facility loans....489
Community programs....291, 302
Cotton 220
Debt settlement 209
Depreciation rates and procedures 486
Farm Credit Administration:
Borrower rights....4266
Federal Agricultural Mortgage Corporation risk-based capital regulation 4265
Leasing regulations 4278
Farm Loan Program:
Collection activities 218
Debt settlement 185, 192, 229
Low documentation loans 238
Real estate appraisals and chattel appraisals 236
Regulatory streamlining....232
Small Hog Operation Payment Program 237
FCSIC regulation....4284
Housing 470
Interest subsidy for guaranteed borrowers....247
Loan changes....295
Loan deficiency payment programs....220
Loans secured by real estate and property....228
Lobbying restrictions 508
Nonrecourse marketing assistance loans for crambe....235
Regulation streamlining 232
Rural economic development 297, 467
Rural electrification 476, 481, 484, 487, 488
Rural housing....296, 301
Rural telephone system 485
State mediation programs 181
Warehouse receipt requirements 220
Water and waste disposal programs 477
Loan programs-business:
Fishermen....770
Rural areas....474
Loan programs-education:
Distance Learning and Telemedicine Loan and Grant Program 497
Federal Family Education Loan Program 1011, 1012, 1020, 1021, 1022
Federal Perkins Loan Program....1006, 1010, 1022
Interest....3090
Medical research....1221, 1222
William D. Ford Federal Direct Loan Program....1011, 1013, 1022, 1023, 1024
Loan programs-health:
NIH AIDS Research Loan Program 1218
Loan programs-housing and community development:
Loan Guarantee Program 1465
Rural areas....293
Title I property insurance programs....1424, 1437
Loan programs-veterans:
Acceptance of partial payments....3233
Loan refinancing....3259
Property improvements definition 3158
Title evidence requirements 3232
Loan programs-Indians:
BIA program elimination 1720
Housing loan guarantees 1505
Indian Lands Acquisition loans....182
Mortgage loans 1470
Lobbying:
Filing of informational materials....2008
Foreign Agents Registration Act 2008
Restrictions 508, 1527, 2244, 4153
Longshore and harbor workers:
Foreign prohibitions 2184
Safety and health regulations....2157

Low and moderate income housing:
See also Public housing
Rent subsidies
Affordable Housing Program amendments 4466, 4471
Section 8 ....1412, 1508
Amendments 1503, 1504
Assistance contracts renewal 1519
Lease termination 1497
Management assessment program 1493
Moderate rehabilitation comparability 1509
Payments programs 1431, 1508
Statutory merger 1518
Lung diseases:
See also Black lung benefits
Tuberculosis
CHAMPUS coverage of transplants 987
Diesel particulate 79

M

Manpower training programs:
Nondiscrimination 2126
Q2 visas for Irish nationals in work/training program 2197
Workforce investment systems 69
Manufactured homes:
Construction and safety 300, 1432, 1448
Marine mammals:
See also Endangered and threatened species
Animal welfare standards 262
Captive holding and transport 694
Dolphins 848, 849, 852
Exports of products for cultural exchange 1606
Harbor porpoise 829
Incidental taking 701, 750, 791, 792, 793, 850, 852, 854, 1584
Pacific walrus 1541
Polar bear 1541
Level B harrassment 1651
Marine mammal products created by Alaskan natives 696
Marine Mammal Protection Act 703, 795, 804, 848, 1584, 1585
North right whales 794, 856
Permits for activities otherwise prohibited 1625
Photography permits 695
Research authorization 751
Serious injury definition 622
Steller sea lion conservation 649, 837
Marine resources:
See also Fisheries
Competitive funding requirements 710
Criteria for water quality 3711
Critical habitat 718, 753
Endangered and threatened species 698, 699, 1557, 1560
Gulf of the Farallones National Marine Sanctuary 762
Marine Mammal Protection Act:
Rescission of administrative procedures 1593
Monterey Bay National Marine Sanctuary 796
National Environmental Policy Act 764
National Marine Sanctuaries Act 706
NOAA overflight regulation 705
Olympic Coast National Marine Sanctuary 763
Program evaluation 710
Regulations consolidation 855
Research program 797
Thunder Bay National Marine Sanctuary 761
Marine safety:
See also Vessels
ASTM standards 2287
Blood alcohol concentration limit 2262
Casualty reporting 2249
FCC inspection of radio installations on ships 4336
Houseboats 2301
Maritime training course approval procedures 2310
Navigation lights on recreational vessels 2260
Panama Canal Commission insurance requirements 4035
Puget Sound-Area waters 2306
Safety/security zone regulations 2273, 2291
Marine safety—Continued
Salvage and firefighting equipment 2256
Towing vessels 2254, 2281
Uninspected passenger vessels 2259
Maritime carriers:
See also Cargo vessels
Passenger vessels
Seamen
Vessels
Automated tariff systems 4482
Cargo preference regulations:
Agricultural exports 2741
Communications 4392
Great Lakes load line certificate 2282
Japanese vessels 4480
Merchant mariners 2300
Non-vessel-operating common carriers 4478
Ocean transportation intermediaries 4481
Service contracts 4483, 4484
USCG user fees 2309
Marketing quotas:
Crystalline fructose 194
Peanuts 212, 233
Sugar 194
Tobacco 184, 186, 190, 191, 211, 226, 227, 245
Mass transportation:
Bus testing guidelines 2680
Major capital investment mass transportation projects 2683
School bus operations 2684
Measurement standards:
See also Metric system
Gaseous fuels:
Propane cylinders 2723
Meat and meat products:
See also Meat inspection
Stockyards
Advanced meat/bone separation machinery 412
Cured pork products 422
Disposition and disposal requirements 419
Export sales reporting 430
HACCP regulations for rendered products 1198
Irradiation 411
Labeling 405, 413, 416, 425
Meat recovery systems 412
Ruminant imports 265
Sanitation requirements 424
Transportation and storage 414
Meat inspection:
Ante-mortem and post-mortem inspection 418
Contaminated 420
Fee increase 429
Food additives 14
GRAS substances 14
HACCP programs 13, 415
Labeling 408
Partial quality control programs 15
Performance standards:
Bacon 400
Processing procedures 408
Ready-to-eat products 399, 426
Residue chemistry analyses 427
Rules of practice 409
Medicaid:
See also Peer Review Organizations (PROs)
Public assistance programs
Ambulatory surgical centers (ASCs) 1255
Case management services 1353
Clinical laboratories regulation 1244
Community Health Accreditation Program, Inc. 1249, 1363
Drug rebate program 1281
Early and Periodic Screening, Diagnostic, and Treatment services 1274
Eligibility:
AFDC children 1321

Medicaid—Continued
Eligibility—Continued
Medically needy....1319
Non-U.S. citizens....1333
Employer-based group health plans....1252
Estate recoveries....1308
Federal financial participation income limits....1332
Federally Qualified Health Centers (FQHC)....1320
Health insuring organizations....1278
Health maintenance organizations....1278
Home and community-based services....1262
Hospice care....1309
Joint Commission for Accreditation of Healthcare Organizations....1248, 1362
Low-income pregnant women....1283
Managed care....46, 1342
Civil penalties....1093
Medicaid Management Information System....1285
Medical child support....1326
Nursing facilities:
Substandard care....1313
Nursing home benefits....1270, 1270
Outstation intake locations....1283
Penalties, sanctions, exclusions and overpayments....1099
Psychiatric hospital sanctions....1280
Quarterly listing....1358, 1361
Referral to child support enforcement agencies....1282
Skilled nursing facilities....1277
State plan requirements:
Plans of care....1254
State Children's Health Insurance Program....1237
Third party liability....1298
Tuberculosis-related services....1292
Medical and dental schools:
NIH scholarships....1219
Medical devices:
Computer software programs....1188
Exports of medical products containing biological agents....549
Hearing aids....28
Intermittent positive pressure machine....1289
Intraocular lenses....1354
Liability limitations....1305
Medical care telemetry devices....4339, 4345
Medicare coverage....1299
Payment limits....1349
Restricted devices promotion....1117
Standards....1151
Surety bond requirements....38, 1329, 1330
Surgeon and patient examination gloves....1199
Medical research:
Classification of sheep as minor species....1182
Contraception and infertility....1221, 1222
Disclosure of confidential PRO information for research....1288
National Research Service Awards....1226
NCI construction grants....1230
NIH service payback obligation....1226
Peer review....1223
Radiopharmaceuticals....1121
Medicare:
See also Peer Review Organizations (PROs)
Accelerated payments....1243
Additional supplier standards....1251
Advanced refunding of debt....1334
Allowable costs:
FICA and other payroll taxes....1307
Ambulatory surgical centers (ASCs)....1255, 1316
Anti-kickback safe harbor provisions....1094, 1097
Appeals:
Coverage....1324
Payment determinations....1290
Audiologists....1303
Bone mass measurements....1338
Medicare—Continued
Catastrophic Coverage Act....1272
Clinical diagnostic laboratory services....1240
Clinical laboratories regulation....1244
Community Health Accreditation Program, Inc....1249, 1363
Competitive medical plans:
Appeal protections....1324
Computer errors, recovery of overpayments....1271
Consolidated billing....1357
Contract eligibility....41
Contract performance evaluation....1287
Contractors:
Integrity Program....1323
Millennium compliance....1345
Cost reports....1304
CHAMPUS benefits....991
Demonstration project....3996, 4029
Dialysis services....1233, 1286
Durable medical equipment:
Fee schedules....1311
Payment limits....1349
End-stage renal disease:
Demonstration waivers....1314
Fee schedules:
Ambulance services....36
Durable medical equipment....1311
Payment limits....1349
Physicians....1331, 1367
Reasonable charge methodology....1341
Health care prepayment plans:
Appeal protections....1324
Health maintenance organizations:
Appeal protections....1324
Home health agencies:
Conditions of participation....1295, 1344
Definition....1299
Prospective Payment System....1364
Survey and sanctions....1273
Hospice care....1301, 1335, 1350
Hospital conditions of participation....1293, 1365
Income protection for community spouse....1272
Integrity Program....1323
Joint Commission for Accreditation of Healthcare Organizations....1248, 1362
Liability insurance....1310
Loan repayments....1334
Medical equipment....1289
Medical services coverage decisions....1348
Medicare+Choice plans....1337
Civil penalties....1093
Mentally ill or retarded persons....1318
Organ procurement and transplantation rules....1234
Ownership changes....1291
Penalties, sanctions, exclusions and overpayments....1291
Physicians:
Fee schedules....1325, 1367
Volume performance standard rates of increase....1325
Physicians' referrals....1294, 1327
Prospective Payment System....1357
Prosthetic Devices:
Payment limits....1349
Provider agreement and supplier participation:
Billing numbers....35
Provider reimbursement disbursement and appeals....1279
Provider-sponsored organizations solvency standards....1337
Psychiatric hospital sanctions....1280
Quarterly listing....1358, 1361
Religious non-medical health care institutions coverage....1264
Rural health clinics....1346
Screening Pap smears....1276
Secondary payer....1284, 1306, 1310
Skilled nursing facilities....1277, 1296, 1299, 1318
Cost limits....1336

Medicare—Continued
Prospective Payment System....1357, 1366
Substandard care....1313, 1318
Speech-language pathologists....1303
State allotments:
Part B....1359
Suggestion system....1266
Surety bond requirements....38, 1329, 1330
Telephone request for payment determinations review....1290
User fees....1328
Vision care....1354
Mental health programs:
Group health plan benefit parity....1355, 2087
Medicaid and Medicare sanctions for psychiatric hospitals....1280
Metals:
Emission standards for ferroalloy industry....3523
EPA trace metal analysis....3708
High temperature metal recovery residues....3648
Lead and zinc mining, Oklahoma....1738
Waste water treatment sludges from metal finishing....3645
Metric system:
Conversion....2506
Motor vehicle safety standards....2543
Migrant labor:
Forestry service contracts....505
Job service complaint system....2068
Labor standards....2055
Transportation of workers....2494
Military personnel:
See also Armed forces
Armed forces reserves
Appointment of non-status employees....4005
Claims settlement....877
Compensation for beneficiaries of the Vietnamese Commandos Compensation Commission....900
Former spouse payments from retired pay....896
Informed consent for human drugs and biologics....1169
Reemployment....3944
Restoration to duty....4009
Retirement regulations....3950
Milk:
See also Milk marketing orders
Child and adult care food program....360
Milk marketing orders:
Consolidation and reform....177
Mine safety and health:
See also Black lung benefits
Air quality standards....2114
Belt entry....2101
Coal Mine Workers' Compensation regulations....2040
Confined-space hazards....2115
Crystalline silica....2120
Hazard communication....2109
Metal and nonmetal mines:
Electrical standards....2119
Metal/nonmetal impoundments....2102
Methane safety standards....2123
Noise control standard....2122
Regulation elimination and improvement....2104
Respirable coal dust....78, 2100
Surface haulage equipment....2103
Testing of equipment by independent laboratories....2116
Training and retraining of miners....2125
Training of miners....2105
Underground coal mines:
Diesel particulate....79
Dust control plan verification....77
Flame-resistant conveyor belts....2112
High-voltage longwall equipment....2111
Roof-bolting machines....2117
Safety standard revisions....2118
Ventilation....2124
Underground mines:
Diesel particulate....80
Mine safety and health—Continued
Underground mines—Continued
Self-contained self-rescuer life approvals and training....2108
Mineral resources:
See also Coal
Metals
Oil and gas reserves
Public lands-mineral resources
Coal:
Coal management....1803
Disposal of mineral materials....1808
Fractions sale....440
Management of solid minerals other than coal....1823
Mineral patent applications....1822
Mining leases on Indian lands....1714, 1766
Surface exploration, mining, and reclamation of Indian lands....1715
Mineral royalties:
Credit adjustments....1766
Indian lands, Osage Reservation....1737
Interest and late payments....1750
Offsets, recoupments, and refunds....1750, 1765
Mines:
See also Mine safety and health
Miners
Reclamation
Surface mining
Underground mining
Abandoned....1777
Backfilling and grading....1778
Indian lands....1714, 1737
Lead and zinc mining, Oklahoma....1738
Locatable minerals....57
Recordation and annual fee collection procedures....1809
Water pollution control....3678
Minimum wages:
Records to be kept by employers....2041, 2044
Violation penalties....2054
Minority businesses:
Government contracting....4417
Minority Enterprise Development....4105, 4106, 4107
Mortgage insurance:
Home Equity Conversion Mortgage program....1442
Mortgage Insurance Certificates....1433
Premium reduction....1438
Single-family....1433
Direct endorsement and automated underwriting....1439
Floodplains....1453
Informed consumer choice disclosure....1455
Roster removal procedures....1436
Statements of policy....1452
Mortgages:
See also Mortgage insurance
Broker disclosure requirements....1450
Builder warranty for high ratio mortgages....1454
Escrow account statement itemization....1457
Federal home loan bank advance collateral....4472
GNMA....1470
Home mortgage disclosure....4485
Homebuyer downpayment sources....1440
Hospitals....1456
Indian lands....1727
Model Energy Code update....1435
Multifamily housing....1412
Real estate appraisals....2832
Real estate mortgage investment conduits....2931
Risk-based capital regulation....3894
RESPA amendments....1450
Payments for referrals....1451
Single-family appraisal assessment....1426
Motor carriers:
See also Buses
Brake systems....2579

Motor carriers—Continued
Commercial vehicles:
Antilock brake systems....2541
Definition....2471
Duty status records....2491
Inspection, repair, and maintenance....2503
Intermodal container chassis and trailers....2503
Marking requirements....2462
Safety fitness procedures....2442
Data display units....2430
Drivers:
Diabetic....2482
Disqualification....2509
Hours of service regulations....93, 2435
Licensing....2423, 2435, 2483
Qualification requirements....2425, 2427, 2460, 2486, 2488
Safety performance history....2429
Training....2426
Electronic filing of bonds, agreements, certificates and cancellations....2495
English language requirement....2497
Federal safety regulations:
Administrative actions....2463
Recordkeeping requirements....2493
Waivers, exemptions, and pilot programs....2476
Zero-base revision....2443
Financial data collections....2747
FAA compliance activities:
Fees....2470
Hazardous materials transportation....2463, 2487, 2705
Heavy truck conspicuity....2602
Household goods transportation....2473
Information, licensing and registration systems:
Development of a single, on-line Federal system....2431
Inspection, repair, and maintenance....2468
Insurance....2470
Intermodal cargo containers....2461
Marking of vehicles....2459
Medical examinations....2460
Mexican....2439, 2440, 2441, 2613
Migrant workers transportation....2494
Motor Carrier Safety Assistance Program....2475, 2490
Out-of-service criteria....2500
Periodic inspections....2485
Railroad grade crossing safety....2466
Rear underride protection....2508
Safety fitness procedures:
Unsatisfactory ratings....2478
Tank cars:
Manufacturing, maintenance and use requirements....2699
Television receivers....2430
Transport of foods, drugs, and cosmetics....2731
Truck length and width....2484
Truck size and weight....2424
Nondivisible....2510
Motor vehicle pollution:
After-market conversion entities certification....3448
Alternative fuels....1032
Emissions standards....126, 129, 3379
Emissions testing....3468
Gasoline:
Reformulated....3398, 3413, 3542
Highway diesel fuel quality....3544
Imported vehicles emissions standards....3445
Inspection/maintenance programs....3326, 3458
Low emission vehicles program....3440
Original equipment manufacturers certification....3448
Motor vehicle safety:
See also Highway safety
Add-on devices....2532
Brake systems:
Air brakes....2579
Antilock brake system malfunction indicator lamp....2589
Light vehicles....2618
Motor vehicle safety—Continued
Brake systems—Continued
Linings....2559
Motorcycles....2540
Bumper standard requirements....2629
Certifications:
Vehicle alterers....2625
Child restraint systems....2517, 2523, 2525, 2598, 2604, 2631
Community transportation vehicles....2542
Crashworthiness ratings....2599
Drunk driving prevention....2584, 2585, 2588, 2622
Ejection mitigation using advanced glazing....2518
Electric vehicles....2561, 2591
Financial responsibility....2437
Fire performance requirements....2530
Foreign vehicles....2437
Lamps and reflective devices:
Administrative rewrite of requirements....2545
Daytime running lamps....2575
European regulations....2615
Geometric visibility requirements for lamps....2563
Large trailers....2505
Motorcycles....2526, 2535
Performance and test requirement modifications....2576
Signal lamps....2534
Mining industry....2103
Mirrors:
Convex cross view mirrors....2515
Motor Carrier Safety Assistance Program....2475, 2490
National Highway System Designation Act....2435
NHTSA global technical regulations statement of policy....2581
Occupant crash protection:
Air bags....95, 2533, 2572, 2573, 2574, 2606, 2607
Door retention....2544
Dynamically deploying head protection systems....2590
Head/neck protection....2539
Safety incentive grants....2583
Side impact protection....2601
Upper interior impact....2548
Pelvic restraints....2610
Power window switches....2567
Power-operated windows compliance testing....2564
Radiator safety cap....2529
Rollover protection....94
Roof crashworthiness....2516, 2594
Roof crush compliance testing....2609
Safety fitness procedures....2442
Unsatisfactory ratings....2478
Safety glazing....2538
School buses:
Flammability of interior materials....2600
Parking brake warning system....2546
Seat belts:
Rear seats....2513, 2532
Safety incentive grants....2582
Seat adjustment position....2532, 2608
Use surveys....2587
Seating systems:
Performance....2560
Shifting and falling cargo....2434
Sleeper berths on motor coaches....2489
State highway safety programs....2627
Test dummies:
Child dummies....2572, 2573, 2574
CRABI 12-month size....2574
Hybrid III....2524, 2533, 2569, 2572, 2573
Tires:
Identification symbols....2614
Test procedures....2577
Traffic control for school areas....2499
Traffic control manual revision....2477
Trailer conspicuity....2505
Transmission control levers....2580

Motor vehicle safety—Continued
Transporting Head Start participants 1376
Wheelchair lifts 2528
Windshield defrosting and defogging systems:
European regulations 2617
Windshield wiping and washing systems:
European regulations 2616
Motor vehicles:
See also Buses
Fuel economy
Motor carriers
Motor vehicle safety
Traffic regulations
Air conditioning system 3534
Alternatively fueled vehicles 3440
American Automobile Labeling Act 2514
Cargo tank motor vehicles 2720
Certification requirements for vehicle alterers 2625
Certification requirements of multistage vehicles 2512
Community transportation vehicles 2542
Dealer notification by manufacturer 2566
Defects 2566
Domestic origin of parts 2514
Driver training 2425
Electric 1030
Imports 2623, 3445
Inconsequential defects 2547
Insurance:
Insurer's reporting requirements 2554, 2630
Light trucks 3363
Fuel economy for model year 2001 2626
Location and monitoring systems 4409
Modifications for individuals with disabilities 2568
National Driver Register 2612, 2628
National Stolen Passenger Motor Vehicle Information System 1897, 2015
Noncompliance exemption 2547
Odometer fraud 2562
Open alcohol containers 2584
Snowmobiles 1701
State issued identification documents 2603
Theft data 2553, 2620
Theft prevention 2621
Truck size and weight:
Nondivisible 2510
Wheelchair lifts and ramps 2531
Musculoskeletal disorders:
Ergonomic protection standards 81, 4138
Music:
Unauthorized sound recordings and music videos 2839

N

National banks:
Capital regulations 2823
Commercial mortgage-backed securities:
Real estate appraisal requirements 2832
Minimum security devices and procedures 2825
Safety and soundness standards 4426
Treatment of financial contracts by receivers 2831
Uniform rules of practice and procedure 2824
Year 2000 safety and soundness guidelines 2829, 4435
National defense:
See also Armed forces
Arms and munitions
Civil defense
Classified information
Defense communications
Emergency powers
Military air transportations
Strategic and critical materials
Technical surveillance countermeasures 887
National forests:
Crime prevention 439
Employee appeals 459
National forests—Continued
Federal Lands Highway Program 2449
Fire prevention 439
Grazing permits 462
Hydroelectric uses 438
Small business land use 443
Special use authorizations 442
Transportation system 447
Visitor services 457
National parks:
Aircraft overflights 90, 2402
Alaska:
Glacier Bay National Park 1709
Appalachian National Scenic Trail 1705
Concession contracts 1697
Delaware Water Gap NRA Bicycle Trail 1703
Denali National Park 1694
Federal Lands Highway Program 2446
Grand Canyon National Park:
Air tour operations 2373
Airspace modifications 2374
Grand Teton National Park:
Snowmobiles and snowplanes 1701
Information collection activities 1707
John D. Rockefeller, Jr. Memorial Parkway:
Snowmobiles and snowplanes 1701
Kaloko-Honokohou National Historic Park 1710
National Natural Landmarks Program 1708
Park police insignia 1691
Personal watercraft use 1704
Presidio:
Environmental quality 4057
Management 4055, 4056
Public nudity 1710, 1711
Resource protection 1692, 1693
Rights-of-way 1699
Snowmobile use 1701, 1705
Solid waste sites 1696
Vehicles and traffic safety 1695
Visitor use 1692
Voyageurs National Park:
Aircraft operations 1700
National Parks:
Big Cypress National Preserve:
Frogging 1702
Natural gas:
See also Oil and gas exploration
Oil and gas reserves
Pipelines
Collaborative procedures for facilities 4453
Liquefied natural gas:
Safety standards 2725
Motor vehicle fuel 1032
Private activity bond rules 3034
Reformulated gasoline 3542
Regulation revision 4454
Transportation on Outer Continental Shelf 4446
Natural resources:
See also Coastal zone
Continental shelf
Energy
Environmental protection
Fish
Forests and forest products
Marine resources
Mineral resources
National forests
Public lands
Reclamation
Recreation and recreation areas
Soil conservation
Water resources
Wildlife
Antarctic Science, Tourism and Conservation Act 3893

Natural resources—Continued
Damage assessments 707, 1521
National Natural Landmarks Program 1708
Wetlands 1408
Minimal effects exemptions 503
Navigation (air):
Airspace regulations 705, 2353, 2382
Airspace system, exemption of regulations 2344
Instrument flight rules 2379
Objects affecting navigable airspace 2343
Sole Means Radio Navigation System 2388
Standard instrument approach procedures 2381
Transponder requirement 2354, 2395
Navigation (water):
Delaware Bay 2283
Offshore pipeline hazards 2697
Prince William Sound 2295
Puget Sound 2295
Regulated navigation areas 2299
News media:
See also Newspapers and magazines
Radio
Television
Newspapers:
Radio cross-ownership 4380
Noise control:
Airports 2393
Construction 2445
Highway traffic 2445
Mining industry 2122
Overflights of national parks 90, 2402
Small airplanes 2415
Nonprofit organizations:
Cultural property regulations 2850
DOT grants 2224
Food assistance programs 364
Grants administration 529, 3279, 3918
Rights to inventions 873
Nuclear energy:
See also Nuclear materials
Nuclear power plants and reactors
Energy compensation sources for well logging 4591
NRC document control and distribution 4584
Payments for special burdens and in lieu of taxes 1073
Prior approval procedures 4608
Requirements for certificate holders, applicants, contractors, and subcontractors 4607
Nuclear materials:
Adjudicatory proceedings 4618, 4619
Emergency response worker training 1071
Export controls 542, 560, 571
Industrial devices containing byproducts 4565, 4614
Licensing 4564
Application for specific licenses 4590
Nuclear fuel 4593
Retirement benefits for couriers 3988
Spent fuel 1074, 4573, 4574, 4575, 4576, 4578, 4579, 4580, 4581, 4612
Nuclear power plants and reactors:
ASME codes and standards 4582
Decommissioning:
Financial assurance requirements 4596
Design and site suitability 4600
Design certification:
AP600 4592
Changes to licensing procedures 4570
Emergency core cooling system evaluations models 164
Emergency planning requirements for shutdown sites 4597
Emergency preparedness 4603
Emissions 3538
Fee schedules 4616
Fire protection 4569
Gaseous diffusion plants 4606
IEEE National Consensus Standard 4610
Nuclear power plants and reactors—Continued
Licensing 4584
Maintenance activities 4609
Nuclear occurrence 4594
NRC regulation amendments:
Clarifications and addition of flexibility 4566
Operator examinations 4602
Operator licensing proceedings 4618, 4619
Personnel:
Fitness-for-Duty Program 4583
Potassium iodide use after a nuclear accident 4588
Radiation safety:
Discrete radioactive particles protection 4571
Personnel dosimeters 4599
Reporting requirements 4586
Safety assessments 4609
Safety regulations 24, 25
Source term use 4589
Spent fuel storage 4612
Geological and seismological characteristics 4598
HOLTEC Cask 4575, 4617
Transnuclear Cask 4567, 4574
VECTRA NUHOMS Cask 4568
Three Mile Island 4594
Waste disposal 4577, 4595
Nursing homes:
See also Health facilities
Civil penalties 1360
Medicare and Medicaid benefits 1270, 1296, 1366
Mentally ill or retarded residents 1318
Notice requirements 1360
Skilled nursing facility definition 1299
Veterans 3152
Nutrition:
See also Food assistance programs
Foods
Dietary supplement labeling 1202
Food labeling 401, 405, 413, 1186
Medical food labeling 1187
Parenteral drug products containing aluminum 1165
School meals 386

O

Occupational safety and health:
See also Mine safety and health
Workers' compensation
Air quality 83, 2162
Beryllium exposure 26, 2172
Cargo handling 2157
Chemicals 2135
Child labor regulations 64
Construction industry 2164
Consultation agreements 2155
Cotton dust 2138
Crystalline silica exposure 2147
Electric power 2169
Energy sources 2132
Ergonomic standards 81
Ethylene oxide 2133
Fall protection 84, 2134, 2174
Fire brigades 2180
Flammable and combustible liquids 2167
Glycol ethers 2160
Grain handling facilities 2137
Hazardous energy sources (lockout/tagout) 2171
Hazardous waste handling 2161, 2180
Hexavalent chromium exposure 2163
Metalworking fluids 2166
Nationally Recognized Testing Laboratories Program:
Fees 2145
Personal protective equipment 87
Plain language revision of existing standards 2149, 2175, 2179
Power tool standards 2146
Reporting and recordkeeping requirements 85, 2168, 2173

Occupational safety and health—Continued
Respiration protection 2156
Safety and health management program 82
Scaffolds 2158
Shipyard standards 2143, 2158, 2159, 2165
Steel erection activities 84
Tuberculosis exposure 86
Walking working surfaces 2174
Oil and gas exploration:
Addition to Toxics Release Inventory 102
Drilling operations 1754
Incidental taking of marine mammals 701, 1541
Leasing 1804, 1815
Leasing and operations regulations 58, 1804
Oil valuation 56
Operations within national parks 1693
State audit functions 1775
Offshore facilities:
Deep water emergency well control operations 1768
Outer continental shelf 2252
Outer Continental Shelf 1762, 2273
Reporting and recordkeeping requirements 1751, 1753
Royalty in kind for oil and gas 1776
Royalty relief 1767, 1769
Royalty reporting standards 1752, 1767
Worker training 1762
Oil and gas reserves:
Alaska petroleum reserve 1804
Regulation clarification 1761
Oil pollution:
ASTM standards 2287
Discharge-removal equipment 2293
Oil spill response 88, 2276, 2294, 2305, 2721
Prevention 2255, 3658, 3703
Tank vessels 2267, 2295
Old-age, Survivors, and Disability Insurance:
Acceptable medical sources 4143
Calculation of the contribution and benefit base and earnings test exempt amounts 4154
Disability determinations:
Adjudication officers 4168, 4169
Residual functional capacity 156, 4169
Single decisionmaker 4160
Drug addiction or alcoholism 4166
Fees for representation of claimants 4112
Fraud 4171
Hemic and lymphatic system, disability criteria 4141
Incarcerated individuals and individuals confined in criminal cases 4149
Malignant neoplastic diseases, disability criteria 4141
Mental disorders, evaluation criteria 4139
Musculoskeletal system, disability criteria 4138
Replacing social security number cards 4150
Representative payee reforms 4111
Speech and language impairments 4143
Substantial gainful activity 4130, 4167
Old-Age, Survivors, and Disability Insurance:
Disability determinations:
Clarification of age as a vocational factor 4122
Revised medical criteria for determination of disability 4164
Substantial gainful activity 4174
Video teleconference technology 152
Organization and functions:
Advisory committees 1826, 3799
Consolidated Farm Service Agency 196
Farm Credit Administration 4268, 4276
Federal Advisory Committee Act 3799
Federal Housing Finance Board 4458, 4461, 4462
FEMA 3779, 3781
OCC 2837
Panama Canal Commission:
Removal of Secretary of the Army as prescribing authority 4036
Organization and functions—Continued
Public housing agencies 1512, 1515
RRB 4073
Over-the-counter drugs:
Adverse experience reporting 1116
Ephedrine drug products 1887
Labeling requirements 1203

P

Packaging and containers:
See also Food packaging
Labeling
Child-resistant 4252, 4261
Country of origin marking 2849, 2873
Drug repackaging approval requirements 1148
Printing materials control guidelines 3380
Smokeless tobacco health warnings 4507
Passenger vessels:
See also Maritime carriers
Access for individuals with disabilities 2239, 3289
Emergency response plans 2304
Financial responsibility requirements 4479
Hull examination alternative 2263
Inspection frequency 2263
Inspection of alien crew members 1919, 1940
Safety 2259
Underwater surveys 2263
Passports and visas:
Authority to issue 2194
B visas 2187
DOA authority to approve H-2A petitions for agricultural laborers 2196
F-1 foreign students 1913
Nonimmigrant visas:
Alien witnesses and informants 2192
Exemptions 1972
Voiding and cancellation 2000
Waiver for firearm prohibition 2006
Q2 visas for Irish nationals in work/training program 2197
Transit without visa 2186
Visa ineligibility 2206
Visa waiver pilot program:
Countries eligible 2189
Visa Waiver Pilot Program 1986
Peanuts:
Aflatoxin 221, 230
Contracting additional peanuts by type and segregation 213
Marketing quotas 212
Poundage quota and price support 183, 225, 233, 252
Regulation clarification 206
Peer review organizations (PROs):
Contracts 1340
Peer Review Organizations (PROs):
Beneficiary complaints 1317
Medicare regulations changes 1269, 1287, 1288, 1312
Penalties:
See also Seizures and forfeitures
Air pollution control 3467
Civil 2097, 2349, 2655, 2756, 3763
Inflation adjustment 2016, 2097, 2349, 2655, 3763
Medicaid managed care organizations 1093, 2097, 2349, 2655
Medicare+Choice Organizations 1093, 2097, 2349, 2655
Nursing homes 1360, 2097, 2349, 2655
Test and evaluation program 2330, 2655
Criminal fine collection 2011
Customs duties and inspection 2856
False drawback claims 2859
Food stamp program 390
Food Stamp Program 4
FHA program violations 1406, 1476
Immigration 1891
Inflation adjustment 2054
Labor Department 2054, 2079

Penalties—Continued
Marketing quotas 211, 212
Nuclear weapons contractors 1071
OIG 1099
Pensions:
See also Pension insurance
Railroad retirement
Social security
Adequate consideration definition 2096
Audit requirements 2081
Civil penalties for breach of fiduciary duties 2097
Employer liability 4052
ERISA:
Cessation of operations 4054
Employee benefit plans 2085
Health Insurance Portability and Accountability Act 73
Filing and issuance rules 4044
GATT provisions affecting accrued benefits 3043
Lump sum benefits 4047
Medication copayments 3148
Paperless administration of retirement plans 3001
Payroll deduction programs for contribution to individual retirement accounts 2099
Premium payments 4050, 4051
PBGC premium self-audit 4043
Reporting and notification requirements 71, 4053
Single-employer plans:
Premium payments 4053
Valuation 146
Trusteed plans, payment of benefits 4045
Valuation of plan benefits 146, 4049
Veterans 3204, 3265
Pesticides and pests:
See also Plant diseases and pests
Antimicrobial pesticides 3557, 3565, 3568
Boll Weevil Eradication Program 193
Canceled or suspended 3560, 3567
Data requirements 3555
Disposal and storage guidelines 3560, 3561, 3567
Drinking water testing methods 3749
Emergency exemption regulations 3558
Endocrine Disruptor Screening and Testing Program 3556
Forests and forest products 263
FIFRA exemptions 3559, 3571
Groundwater protection 130
Importation of non-indigenous organisms 254
National Laboratory Accreditation Program 166
Negotiated consent/procedural test rule 3574
Pesticide tolerance reassessment program 3570
Pesticide-treated seeds 3559
Registration review program 3554
Residue in agricultural products:
Emergency exemptions 3565
Scientific research 3308
Storage and disposal 3560, 3561, 3567
Tolerance fees 3569
Transgenic plants 3562
Worker protection standards 3564
Petroleum:
See also Fuel additives
Gasoline
Oil and gas exploration
Oil and gas reserves
Oil imports
Oil pollution
Oils and fats
Petroleum allocation
Petroleum price regulations
Pipelines
Air pollution from petroleum solvent dry cleaners 3472
Air pollution from production facilities 3513
DOD contracting 893
Electrical standards update for facilities 1774
Gas valuation 1770
Petroleum—Continued
Locations for electrical installations at facilities 1764
Oil pipeline regulations 4451
Oil valuation 55, 56
Onshore oil pipelines 2721
Refineries 3423
Toxicity characteristic rule 3646
Pipeline safety:
Aluminum cylinders 2694
Breakout tanks 2737
Corrosion control 2707
Corrosion determinations 2718
Emergency flow restricting devices 2696
Enforcement procedures 2727
Environmentally-sensitive and high-density population areas 2695
Gas gathering lines 2693, 2733
Gas pipeline repair 2708
Hazardous liquid pipelines 2701
Hazardous liquids gathering lines 2733
Increased inspection requirements 2732
Inspection devices 2719
Liquefied natural gas 2725
Maps and records of location 2717
Operator qualifications 2736
Periodic updates to regulations 2739
Permanent underwater inspections 2697
Pressure testing 2709
Regulatory review 2700
Pipelines:
See also Natural gas
Pipeline safety
Natural Gas Transportation System 4442, 4443
Oil pipeline regulations 4447, 4451
Onshore oil pipelines 2721
Underwater abandoned pipeline facilities 2722
Plant diseases and pests:
Accreditation of private seed laboratories 255
Plants:
See also Plant diseases and pests
Seeds
Endangered and threatened 1553, 1559, 1561, 1579, 1589, 1602, 1603, 1605, 1611, 1615, 1616, 1617, 1618, 1627, 1628, 1629, 1630, 1634, 1644, 1659, 1667, 1671, 1677
Exports 1576
Imports 266
Listing of U.S. species in CITES Appendix III 1641
Noxious weeds:
Categories and priorities 253
Restrictions on interstate movement 277
Plastics materials and synthetics:
Air pollution control regulations 3331
Poison prevention:
See also Lead poisoning
Child-resistant packaging 4252, 4261
Political activities (Government employees):
Honoraria donated to charities 3909
Poultry and poultry products:
Disposition and disposal requirements 419
Food additives 14
HACCP regulations for rendered products 1198
Mexican imports 273, 423
Sanitation requirements 424
Transportation and storage 414
Poultry inspection:
Ante-mortem and post-mortem inspection 418
Contaminated 420
Fee increase 429
HACCP programs 13, 415
Labeling 408
Partial quality control programs 15
Performance standards:
Processing procedures 332, 408, 417
Ready-to-eat products 399, 426

Poultry inspection—Continued
Residue chemistry analyses 427
Rules of practice 409
Prescription drugs:
Antibiotics 1127, 1128
Resistance labeling 1146
Direct-to-consumer promotion 1117
Fixed-combination dosage form 1147
Generic drug exclusivity for abbreviated new drug applications 1183
Labeling 29, 1130, 1133, 1178
Prescribed for veterans by non-VA physicians 3192, 3194
PDMA policy information, guidance, and clarifications 1159
Price controls:
FCC 4285
Price support programs:
Peanuts 183, 225, 233, 252
Tobacco 184, 186, 190, 191, 226, 227, 245
Prisoners:
Administrative remedy program 1831, 1837
Classification and program review 1834, 1857
Drug abuse treatment 1847
Disincentives and enhanced incentives 1832
Early release considerations 1847
Eligibility for FPI work program 1862
Good conduct time 1846
Intensive confinement center programs 1847
Legal activities 1841
Literacy program 1843
Military prisoners 1853
Nudity and sexually explicit material or information 1845
Occupational educational programs 1833
Over-the-counter medications 1852
OASDI benefits 4149
Personal property of inmates 1861
Prohibited acts 1849
Psychiatric treatment and medication 1853
Special mail procedures 1863, 1865
Telephone regulations and financial responsibility 1860
Victim and/or witness notification in State custody transfers 1851
Visitors 1848, 1864
Volunteer community service projects 1839
Prisons:
Acceptance of donations 1866
Commissary account deposit procedures 1855
Commissary privileges 1844
Cost of incarceration fee 1867
Employment priority for displaced employees 3967
Federal Prison Industries standards and procedures 1868
Federal Prison Industries work program 1862
Incoming publications 1841
Infectious disease management 1842
Intensive confinement centers 1840
Postsecondary education programs 1830
Smoking/no smoking areas 1850
Telephone privileges 1844
Privacy:
See also Confidential business information
Databases of convicted offenders 2017, 2018
Education Department records exclusions 999
Federal-State Unemployment Compensation program records 2065
Food Stamp Program 335
Peer Review Organizations (PROs) 1317
Privacy Act:
Crop insurance 305, 3891
CNCS records 3296
DOC amendments 528
DOE records 1063, 3891
DOJ implementation 1836, 1923
Privacy—Continued
Privacy Act—Continued
Healthcare Integrity and Protection Data Bank record system 1103
Inspector General investigative files 3887, 3891
INS regulations 1923
NARA procedures 3891
OGE procedures 3891, 3900
SEC amendments 4699
Resident survey information 1483
Return of Nixon Presidential materials 3875
School breakfast and lunch programs 337
Social security records and information 4163
Public assistance programs:
See also Aid to Families with Dependent Children
Child welfare
Food assistance programs
Medicaid
Supplemental Security Income (SSI)
Aliens 1960
BIA arrangement for social welfare and relief of distress 1721
Eligibility of immigrants 1947
Individual Development Accounts 1388
Personal Responsibility and Work Opportunity Reconciliation Act 4, 5, 10, 68, 369
Temporary Assistance for Needy Families 1389
Welfare reform:
Tribal program requirements 1379
Welfare-to-Work Program 1384, 2072
Public health:
See also Immunization
Meat inspection
Waste treatment and disposal
Air pollution effects 3599
Blood and blood products 1160
Carcinogen risk assessment 3314
Parenteral drug products containing aluminum 1165
Radiological Emergency Response Plan 3454
Safeguarding food during transport 2731
Water contamination 118, 120, 3556
Public housing:
See also Low and moderate income housing
Rent subsidies
Admission and occupancy 1402, 1508, 1514
Capital Fund allocation formula 54
Comprehensive Improvement Assistance Program funding 1516
Conversion of distressed projects to tenant-based assistance 1502
Conversion to vouchers 1501
Designated housing regulations 1489
Development regulations revisions 1512
Drug Elimination Program 1507
Eligibility:
Noncitizens 1414, 1508
Indians 1506
Joint venture and corsortia formation 1500
Mixed finance partnership development:
Streamlining 1513
Operating Fund allocation formula 51
Pet ownership 1495
Public Housing Agency Plan 1510
Revitalization potential 1517
Tenant income reporting 1415
Uniform physical condition standards and physical inspection requirements 1420

Public lands:
See also Grazing lands
Homesteads
National forests
National parks
National trails system
Public lands-classification
Public lands-grants
Public lands-mineral resources
Public lands-rights-of-way
Public lands-sales
Public lands-withdrawal
Reclamation
BLM application procedures....1825
Color of title and omitted lands:
Regulatory simplification....1801
Damage repairs....1828
Definitions....1824
Desert land entries....1793
Highway discretionary funds....2464
Indian allotments....1816
Land and Water Conservation Fund....1706
Leases....1791
Payments to State and local governments....1806
Permit and easements....1791
Policy and management....1791, 1792
Recreational use permits....1807
Revenues management....1789
Subsistence hunting and fishing....1675
Wilderness area management....1814
Public lands-classification:
Regulations removal and updating....1820
Public lands-grants:
Carey Act grants....1798
Railroad grants....1797
Public lands-mineral resources:
Coalbed methane development....1818
Disposal of mineral materials....1808
Disposal of reserved minerals....1794
Leasing....1766
Management of solid minerals other than coal....1823
Mining operations....57
Oil and gas leasing....1815
Performance standards....58
Valuation of oil....55, 56
User fees....1795
Public lands-rights-of-way:
Administrative process and standards....1526
Regulations removal....1796
Public lands-sales:
Segregation and opening of lands....1799
Public lands-withdrawal:
Streamlining of operations....1819

R

Radiation protection:
See also Radioactive materials
Contractors and subcontractors....25
Discrete radioactive particles protection....4571
Dose methodology....3376
Drinking water....3553
Medical byproduct use....4585
Occupational radiation protection....4605
Offsite Radiological Emergency Preparedness Program fees....3772
Personnel dosimeters....4599
Radiological Emergency Response Plan....3454
Yucca Mountain, NV....105, 4587
Radio:
See also Communications
Allocation of 455-456 MHz and 459-460 MHz....4347
Broadcast ownership....4383
Certification of equipment in the 24.05-24.25 GHz band....4355
Radio—Continued
Competitive bidding for narrowband PCS....4397
Competitive bidding process....4382, 4407
Digital audio radio service in the 2310-2360 MH band....4364
FM radio....4385
Low power....4387
Government transfer band....4353
Imports of radio frequency devices....4337
Inspection of radio installations on ships....4336
Interconnection obligations of CMRS....4396
Main Studio/Public File Requirements for Broadcasters....4389
Mass media applications, rules, processes....4384
Millimeter wave technology....4342
Multiple access systems....4406
Newspaper cross-ownership....4380
Public safety communications requirements....4405
Radionavigation service at 31.8 - 32.2 GHz....4354
Railroad standards and procedures....2640
Reallocation of 28 GHz band....4393
Redesignation of 27.5-29.5 GHz band....4365
Sole Means Radio Navigation System....2388
Specialized Mobile Radio Systems....4395
Station ownership....4375
Uniden scanners and cellular radio signals interference....4351
Wireless information networks....4346, 4403
Radioactive materials:
See also Nuclear materials
Radiation protection
Medical use....1121
Railroad employees:
See also Railroad retirement
Railroad unemployment insurance
Drug and alcohol testing....2663
Locomotive engineers....2669
Safety regulations....2667
Railroad retirement:
Annuity:
Deductions by reason of work....4067
Exemption from supplemental tax....3118
Creditability of pay....4071
Disability determination....4062, 4063, 4069, 4070
Eligibility:
Children and stepchildren....4061
Employee status....4066
Employer status....4065
National emergency plan....4058
Remuneration....4059
RRB general administration....4073
Trial work period, redefined....4069
Railroad safety:
Brakes....2656
Bridge maintenance guidelines....2650
Bridge worker safety standards....2659
Consolidations, mergers, acquisitions of control and start-up operations....97
Crane safety standards....2668
Event recorder crashworthiness....2644
Freight cars....2648, 2656
Grade crossing and signal systems....2436, 2466, 2649
High speed rail....2654
Hours of service recordkeeping....2636
Locomotives:
Cab working conditions....2639
Crashworthiness....2641
Remotely controlled....2672
Steam locomotives....2653
Monetary threshold for reporting rail equipment accidents/incidents....2662
Passenger equipment standards....2671
Pilot programs:
One-person crews....2657

Railroad safety—Continued
Pilot programs—Continued
Remotely controlled locomotives....2672
Radio communications and train control....2640
Safety integration plans....97
Shared use of railroad system trackage....2643, 2685
Signal systems....2651, 2652
Track maintenance....2642
Track standards:
Gage restraint measurement systems....2664
Utility employee protection....2667
Whistle bans at grade crossings....96
Railroad unemployment insurance:
Benefits amendments....4060
Employee status....4066
Employer status....4065
Finality of decisions....4072
Repayment tax....3073
Voluntary quit....4068
Railroads:
See also Railroad employees
Railroad retirement
Railroad safety
Railroad unemployment insurance
Assistance to States....2647
BLM railroad grants....1797
Consolidation procedures....4700
Environmental impact and related procedures....2428, 2670
Hazardous materials transportation....2705
Magnetic levitation transportation technology deployment program....2661
Overtime liability for immigration inspections....1907
Railroad highway projects....2469
Rehabilitation and improvement financing....2660
Small businesses or entities....2655
STB authority....4701
Tank cars....2720
Tourist and historic railroads:
Regulatory review....2637
Transport of foods, drugs, and cosmetics....2731
Waste disposal on AMTRAK....2666
Real property acquisition:
Farm real estate:
Real estate appraisals and chattel appraisals....236
Highway construction....2458
Reclamation:
See also Mines
Surface mining
Acreage limitation....1788
Backfilling and grading....1778
Financing....1785
Indian lands....1715
Recreation and recreation areas:
See also Fishing
Hunting
National forests
National parks
National trails system
Rivers
Seashores
Wilderness areas
Access for individuals with disabilities....1871, 3291
Presidio:
Environmental Quality....4057
Management....4055, 4056
Wildlife refuges....1596
Recycling:
Cathode ray tubes....3632
DEAR amendment....1079
Government purchase of recovered materials....3642
Refrigerant....3425, 3426, 3534
Refugees:
See also Aliens
Admission procedures....1915, 1982
Refugees—Continued
Refugee Resettlement Program....1381
Relocation assistance:
Cost ceiling....4191
Relocation allowances....3813
Relocation expense test program....3835
Streamlining....1417
Rent subsidies:
HOPWA Assistance options and technical changes....1459
Tenant income reporting....1415
Reporting and recordkeeping requirements:
Adverse experience reporting....1119
Air carriers....2242, 2347, 2398
Automotive fuel economy reports....2565
ARMIS reporting requirements....4323
Bank Secrecy Act implementation...2750, 2751, 2752, 2753, 2755, 2757
Blood and blood products....1160
Carbamates....3660
Casinos....2754
Chemical inventory reporting....110, 3615
Coast Guard drug testing reporting requirements....2312
Credit union audits and verifications....4543
Criminal databases:
Federal Convicted Offender DNA Database....2018
National Instant Criminal Background Check System....2017
CDBG program:
Expenditure documentation....1461
Prohibition for employment relocation activities....1468
Defined contribution plans....2098
Direct transactions of U.S. reporter with foreign affiliate....513
DEA....1882, 1883
DOI....1751, 1753, 1767
DOL....2041, 2057
DOT....2468
Electronic records management....3864
NASA....3856
Electronic signatures....2333
Excess government property....3833
Export information....515
Export Reform and Enhancement Act....1176
Exports....556, 1173
EPA....3301
Cross-media electronic reporting and recordkeeping rule....3299
Emissions reporting requirements....3361
Fisheries....654, 668, 766, 781, 784
Fishing....721, 769
Food assistance programs....364
Food Stamp Program....336, 357
FAA....2328
FCC....4376
FDA....1193
FDA adverse drug experiences....1116
FERC....4440, 4448, 4449
GSA's role in records management....3797
Hazardous material releases....3663
Hazardous materials incident reporting....2706
Hazardous materials transportation....2734
Hazardous substances....3600
Health care fraud and abuse....1102
Honoraria donated to charities....3909
Human cellular and tissue-based products....1126, 1193
Importation and entry bond conditions....2865
Infant formula testing....1185
Information collection requests....3653
Investment advisers....4634
Investment companies....4641, 4664, 4665, 4667
INS:
Commercial delivery service as form of personal service....2002
Material availability requirements....1923
IRS....2963

Reporting and recordkeeping requirements—Continued
Mortgage broker fees....1450
Motor carriers....2429, 2491, 2493
Motor vehicle insurers....2554, 2630
Multiple employer welfare arrangements....2089
MMS electronic reporting....1772
National Practitioner Data Bank....1213, 3154
Nuclear power plants....4586
NARA:
Facility standards for records centers....140
Records center....141
Reproduction fees....3863
Storage standards....3866
NOAA....694
NPDES permittee reporting....3675
Occupational injuries and illnesses....85
Occupational safety and health....2173
Outcome and Assessment Information Set data....1344
Ozone-depleting substances importation....3540
OSHA:
Employer certifications....2168
Paperwork reduction....347, 2796
Pension plans....71, 4053
Personal property....3819
Personnel records....3922
Pesticides....3308, 3567
Privacy Act exempt record system from the Healthcare Integrity and Protection Data Bank....1103
Rail equipment accidents/incidents....2662
Railroad employees....2636, 2652
Records, nonrecord materials, and personal papers....3858
Rural electrification loans....476
RCRA....3653
Securities:
Broker-dealers....4640, 4669, 4678, 4691, 4693
Large trader reporting system....4621, 4689
Life insurance contracts....4660
Related issuers and guarantors....4627
Transfer agent services....4679, 4680, 4687
Sugar....215
Sugar and crystalline fructose marketing allotment....194
SSA:
Production of records in legal proceedings....4121
Telecommunications operations support systems....4324
Telecommunications relay services contributors....4333
Tenant income reporting....1415
Tobacco exports....2813
Toxic chemical test rules....3601
Toxics Release Inventory....102, 132, 133, 3610, 3611, 3612, 3619
U.S. partners of controlled foreign partnerships....3123
Underwater abandoned pipeline facilities....2722
Uranium mill sites....1072
Vessel documentation....2261
Vessel numbering system....2251
VA....3163, 3200
Wassenaar arrangement....547, 576
Welfare-to-Work Program....1384
Research:
See also Agricultural research
Educational research
Human research subjects
Medical research
Agricultural Research, Extension, and Education Reform Act:
Matching funds requirement....289
Stakeholder input to formula funds....288
Biotechnology....3584
Conformity assessment activities....587
Credit for increasing research activities....3019
DOD University Research Initiative Support Program....897
EPA consolidation of GLPS regulations....3308
Incidental taking of marine mammals....791
Marine mammals....751
Marine resources....710, 797
Misconduct....1231
Research—Continued
National Undersea Research Program....798
North Pacific Fisheries Research Plan....598
NARA registration requirement....3873
Retirement:
See also Pensions
Railroad retirement
Social security
Canadian....4658
District of Columbia employees....3987
Firefighters....3989
FEHB coverage....3959
Government employees....3949, 3950, 3955, 3957, 3984, 4024, 4025
Law enforcement officers....3989
National Guard technicians....4026
Nuclear materials couriers....3988
Paperless administration of retirement plans....3001
Uniformed Services Former Spouses' Protection Act....896
Rights-of-way:
See also Public lands-rights-of-way
Acquisition of real property for....2458
Regulation revision....1699
Rivers:
Colorado River Basin Salinity Control Program....200
National Wild and Scenic Rivers System....1829
Tennessee River System....4177
Rural areas:
Business and industrial loan programs....467, 474
Community development:
Rural venture capital demonstration....473
Community facility loans....299, 489
Construction work plan loan eligibility....498
Distance Learning and Telemedicine Loan and Grant Program....497
Economic development loans and grants....297
Electric borrowers....487, 488, 492
Electric loans....476, 481, 484, 486, 494
Empowerment zones....463
Enterprise communities....463
Farm labor housing....303
Housing:
Loans, grants, and programs....292, 293, 296
Manufactured housing....300
Pipeline safety standards....2733
Regulation streamlining....292
Revision of RUS Telecommunications Program....480
Seismic safety requirements for new building construction....479
Small farmer outreach training....195
Special equipment contract....482
Technical assistance grants and programs....195, 294, 472
Telecommunications system construction policies....478, 493, 495, 499
Water and waste disposal loans and grants....477
Water and waste disposal program regulations....496

S

Safety:
See also Aviation safety
Consumer protection
Fire prevention
Hazardous substances
Highway safety
Marine safety
Mine safety and health
Motor vehicle safety
Occupational safety and health
Pipeline safety
Poison prevention
Radiation protection
Railroad safety
Air tour and sightseeing operations....2321
Escalator safety standard....4247

Safety—Continued
Outer continental shelf platforms....2252
Source term use at operating nuclear reactors....4589
Space launch activities....2410
Satellites:
See also Space transportation and exploration
Communications:
Allocation of 455-456 MHz and 459-460 MHz....4347
Dedicated short range communications of intelligent transportation systems....4348
Digital audio radio service....4364
Earth stations....4363
Fixed satellite service in the ku-band....4356
MSS spectrum allocation....4344, 4362, 4370
Sharing of 27.5-29.5 GHz band....4365
Voice and data mobile satellite service....4361
Licensing....19
Savings associations:
Application processing....3134
Capital standards....3133
Exempt holding companies....3142
Letters of credit, suretyship, and guaranty....3146
Safety and soundness standards....4426
Year 2000 safety and soundness guidelines....4435
Scholarships and fellowships:
National Institutes of Health....1219
Service fellowships....1228
School breakfast and lunch programs:
Amendments....379, 386
Consolidation of programs....388
Eligibility....340
Formulated grain-fruit products....387
Menu planning....366
Release of eligibility information....337
Schools:
See also Colleges and universities
Educational facilities
Private schools
School construction
Asbestos....3580, 3605
Asbestos model accreditation plan....3577
Indian School Equalization Program....1713
School child definition....3209
Science and technology:
Conformity assessment activities....587
De minimis exclusion for technology and software....570
Deemed export rule....569
DOD support of historically black colleges, universities, and institutions....882
DOT monitoring of motor carriers....2493
Private sector industrial technology partnerships....872
Rights to inventions....873
Service fellowships....1228
Technology exports....545
Seafood:
See also Fish
Fisheries
Import regulations....790
Transportation and storage....414
Seamen:
Merchant marine training, certification, and watchkeeping....2300
Securities:
See also Bonds
Government securities
Broker-dealers....4670, 4678
Automated submission of trading data....4672
Foreign....4670
Operational capability....4695
Quotation requirements....4686
Cancelled security certificate destruction....4690
Company registration and regulation of capital formation....4622, 4628
Conduit financing transactions....3010
Custody or possession of funds or securities....4635
Customer Protection Rule....4668
Depositories....4644
Deregistration form amendments....4667
Direct participation program interests....4671
Disclosure requirements....4621, 4641
Extraordinary corporate transactions....4630
International standards....4632
Equity securities....4673, 4692
Exemptions for the Kingdom of Sweden....4696
EDGAR system modernization....4652, 4666
Form S-8....4628
Haircuts on....4677
Holding companies....3140, 4653, 4654
Income taxation....3047
Insurance products....4660
Integrated financial transactions....2896
Intermarket Trading System Plan....4681, 4694
International disclosure standards....4632
International transactions....4674
Investment advisers....4634, 4636, 4637, 4655
Political contributions....4663
Investment companies....4641, 4644, 4656, 4664, 4665, 4667
Directors with ownership of index fund securities....4662
Large trader reporting system....4689
Margin regulations review....4486
Mark-to-market accounting....3048
Marketable stock....2990
Mortgage-backed securities:
Real estate appraisal requirements....2832
Multijurisdictional tender offers....4631
National bank subsidiary activities....4426
Net capital requirements....4675, 4676, 4684
Options disclosure document....4629, 4685
Preferred stock....2965, 3010
Private Securities Litigation Reform Act:
Definition of terms....4623
Qualified purchaser....4624
Registration....4660
Registration form amendments....4691
Regulation T....4668
Related issuers and guarantors....4627
Reorganization events....4683
Reporting and recordkeeping requirements....4669, 4678, 4679
Annual reports and prospectuses....4657, 4669, 4678
Rule amendments....4699
Rule 11Ac1-1....4688
Rule 15a-4....4655
Rule 15c2-5, 15c3-1, 15c3-3....4668
Rule 17a-3 and 17a-4....4678
Rule 3a12-11....4668
Rules 30d-1 and 30d-2....4657
Safe harbor:
Exceptions....2976
Section 8....4668
Streamlining....4626
Tender and reorganization agents....4683
Transfer agent services....4679, 4680, 4687
Operational capability....4695
Two-sided quotations....4688
Security measures:
See also Classified information
Classified national security information....1086, 3876, 3877
DOE contractors....1058
Private Remote Sensing Space Systems....19
Technical surveillance countermeasures....887
Terrorist activity:
Airplanes....2345
Airports....2346
Wassenaar Arrangement review....550
Seeds:
Pesticide-treated....3559
Testing and certification....173

Seizures and forfeitures:
Customs regulations 2839, 2854
FCC regulations 4335
Selective Service System:
Registration requirements 3930, 4006
Sewage disposal:
Incinerator emissions standards 3435
Sewer collection systems 3673
Sludge use and disposal 3669, 3671, 3721
Sex discrimination:
Federally assisted programs 60, 510, 1393, 1523, 3245, 3796, 3865, 3881
Sheep:
Interstate movement 257
Medical research classifications 1182
Shipbuilding industry:
Air pollution control 3526
Safety and health regulations 2143, 2165
Small business:
Lending company expansion and oversight 147
Premier Certified Lenders Program 4104
Small businesses:
See also Minority businesses
Administrative offset by SBA 4096
Bundled contracts 4097
Common rule on title IX of the Civil Rights Act 4086
Construction businesses 4098
DEAR amendments:
Mentor-Protigi Program 1077
DOD contracting 893
Economic development 525
Government procurement:
Affirmative action reform 4205
Price evaluation adjustment 957
Government subcontracting 3839, 4184
Guaranteed loans servicing 4081
Health care industries 4098
HUBZone program 3917, 4088, 4213
Liquidation plans 4080
Loans:
SBA guaranty 4102
Minority Enterprise Development 4105, 4106, 4107
National forest land use 443
North American Industry Classification System 4079
Penalties 2655
Privacy regulations 4077
Record disclosure 4077
Rights to inventions 873
Size standards:
Accounting, auditing and bookkeeping services 4083
Architecture and engineering 4079, 4098, 4103
Construction 4079, 4098, 4100, 4103
Electric services 4085
Health supply services 4084
Refuse systems 4079, 4098, 4103
Small Business Development Center Program revisions 4078
Small Business Innovation Research Program administrative provisions 285
SBA standards of conduct 4076
SBIC Program reform 4099
Timber sales:
Set-aside recomputation 460
Trusts 2904
Very Small Business Pilot Program 4221
Women-owned businesses:
Solicitation provisions and contract causes 530
Smoking:
Air carrier prohibition 2238
Workplace air quality 2162
Social security:
See also Aid to Families with Dependent Children
Child welfare
Medicaid
Medicare
Public assistance programs
Supplemental Security Income
Unemployment compensation
Contributions for support 4144
Coverage:
Employees of State and local governments 4159
Debarment and suspension 4151
Debt collection 4116, 4117, 4119
Disability determinations:
Endocrine system and obesity 4169
Medical consultants' opinions 157
Drug-free workplace requirements 4151
Dually entitled beneficiaries 4135
Employer ID numbers for State and local government employment 4173
Facility of payment provision 4147
Freedom of information regulations 4158
Grants administration 4115, 4151, 4152, 4153
HHS regulation migration to SSA 4115, 4151, 4152, 4153, 4157
Interest and penalties on debts 4118
Maximum family benefit 4147
Medical equipment liability 1305
Misuse of symbols, emblems, or names 4113
Replacing social security number cards 4150
Review process 4148
Self-sufficiency incentives 4120
SSA employees:
Ethical conduct 4155
Third Party Collection Program 884
Widow's benefits 4140
Social Security:
Alien applicants 1910
Disability determinations:
Clarification of age as a vocational factor 4122
Earnings records determinations 4146
Publications:
Prohibitions against reproduction 1098
Revised medical criteria for determination of disability 4164
Substantial gainful activity determination 4174
SSA employees:
Testimony 4121
Video teleconference technology 152
Soil conservation:
Conservation Reserve Program 201, 241
Highly erodible land and wetlands 197, 501
Space transportation and exploration:
Commercial launch activities 2410
DOT licenses 2401, 2403
Reusable launch vehicles 2405
Cross-waiver of liability 3851
Financial responsibility requirements for licensed reentry activities 2336
Licenses 2410
Non-U.S. licensed space stations 4366
Reentry licensing regulations 2405
Tracking and data relay satellite system:
Non-government users 3852
Statistics:
See also Census data
Economic statistics
Health statistics
State employment statistics agency representatives for consultations with DOL 2034
Students:
Student rights in research, experimental programs, and testing 997
Sugar:
Marketing allotment program 194

Sugar—Continued
Reporting and recordkeeping requirements....215
Superfund:
Claims application streamlining....3664
Cooperative agreements and state contracts....3661
Grants for technical assistance....3662
Reportable quantity adjustments for carbamates....3660
Supplemental Security Income (SSI):
Acceptable medical sources....4143
Computation of benefits....4145
Denial of benefits....4134
Disability determinations:
Clarification of age as a vocational factor....4122
Drug abuse or alcoholism....4166
Endocrine system and obesity....4142, 4169
Medical consultants' opinions....157
Effective date of application for benefits....4170
Eligibility:
Non-U.S. citizens....1333
Fees for representation of claimants....4112
Income:
Children of Vietnam veterans....4162
Deeming from ineligible parents....4156
Payment of past-due benefits....4133
Personal Responsibility and Work Opportunity Reconciliation Act....4170
Plans to achieve self-support....4114
Representative payee reforms....4111
Revised medical criteria for determination of disability....4164
Speech and language impairments....4143
Substantial gainful activity....4130, 4174
Video teleconference technology....152
Surety bonds:
Automated surety interface....2870
Health facilities....39, 1329
Medical device suppliers....38, 1329, 1330
SBA policy and procedure modifications....4075
Surface mining:
See also Coal
Mine safety and health
Coal:
Abandoned coal refuse sites....1777
Backfilling and grading....1778
Dam safety rules....1779
Rights....1781
Subsidence resulting from underground mining....1782
Electronic forms filing....1780
Indian lands....1715, 1783
Ownership and control....1784
Reclamation....1785

T

Taxes:
See also Customs duties and inspection
Employment taxes
Estate taxes
Excise taxes
Gift taxes
Income taxes
Interest equalization tax
Tax treaties
Breweries....100
Collateral eligibility and valuation....2773
DOE policy on making payments in lieu of taxes....1073
Escrow funds....2968
Foreign trade....2969
Passive activity losses and credits....3046
Procedure and administration:
Statement....3031
Teachers:
DOD placement assistance program....892
Quality enhancement grant programs....1014, 1018
Technical assistance:
Environmental Protection Agency grants....3662
Telecommunications:
See also Radio
Satellites
Telegraph
Telephone
Television
Advanced telecommunications facilities and services....4326
Application of subscriber line charges to ISDN service....4330
ARMIS reporting requirements....4323
Bell Operating Companies and affiliates:
Enhanced services....4317
Equipment manufacture....4301
Telemessaging, electronic publishing and alarm....4305
Carrier identification codes....4314
Communication intercepting devices....541
Communications Assistance for Law Enforcement Act....2014, 4404
Complaint procedures....4316
Detariffing of interstate exchange access services....4318
Distance Learning and Telemedicine Loan and Grant Program....497
Equipment manufacture....4301
North American Numbering Plan....4314
Out-of-region interstate, interexchange services:
Tariff filing requirements....4306
Performance measurements and reporting requirements....4324
Pole attachments....4293
Protection of Children From Sexual Predators Act:
Designation of agencies to receive and investigate reports....2009
Regulatory fee assessment and collection....4390
Relay services....4319, 4320
Revision of RUS Telecommunications Program....480
Rural areas....478, 493
Special equipment contract....482
Telecommunications relay services contributor reporting requirements....4333
Telecommunications Act:
Access charge reform....4310
Access charge return....4325
Customer proprietary network information (CPNI)....4304
Individuals with disabilities....4312
Interstate pay-per-call and other information services....4303
Local competition provisions....4311
LEC provision of interexchange services....4309
Non-accounting safeguards....4302
Review of policies and rules....4306
Streamlining requirements....4308
Telemessaging, electronic publishing and alarm monitoring....4305
Unauthorized changes of long distance carriers....4307
Uniden scanners and cellular radio signals interference....4351
Wireless information networks....4346
Telephone:
Advertising....4514
Caller ID standards....4296
Dial Equipment Minutes Weighting Program....4299
Enhanced 911 emergency calling systems....4313, 4402
Inside wiring....4315
LEC definition and exemptions from Section 214....4331
Part 41 elimination....4332
Rural Telephone Bank....485
Telecommunications system construction policies....495
Toll free service access codes....4300
Uniden scanners and cellular radio signals interference....4351
Universal Service Fund....4299
900-number service....4514
911 codes and other abbreviated dialing arrangements....4298
Television:
See also Cable television

Television—Continued
Advanced systems 4388
Advertising 4377
Broadcast ownership 4383
Competitive availability of navigation devices 4292
Digital television service 4352
EEO rules and policies 4386
Filing of network affiliation contracts 4376
Main Studio/Public File Requirements for Broadcasters 4389
Mass media applications, rules, processes 4384
Medical care telemetry devices 4339, 4345
Over-the-air reception devices 4289
Station ownership 4375, 4381
Video programming:
Accessibility 4290
Terrorism:
Antiterrorism and Effective Death Penalty Act 2817
Contractor training 935
Textiles:
Customs regulations 2872, 2875, 2883
Flammability standards 4246, 4256
Labeling 4512
Tires:
Uniform tire quality grading 2611
Tobacco:
See also Cigars and cigarettes
Exports 2813
Marketing quotas 184, 186, 190, 191, 226, 227
Price support programs 184, 186, 190, 191, 226, 227
Regulation clarification 205
Reimportation of products 2801
Smokeless tobacco:
Health warnings 4507
Sale and distribution requirements 1194
State and local requirement exemptions 1195
Tax increase 2802
Veterans Affairs acquisition regulations 3273
Veterans' claims based on effect of tobacco products 3168
Trade adjustment assistance:
TAA program amendments 2063
Workers transitional adjustment assistance 2070
Trade agreements:
Endangered species 1588
Market development 434
Accession of Singapore to GPA 950
North American Free Trade Agreement 2070, 2842, 2851
Textile trade agreements 2872
Trade practices:
Consumer product warranties 4520, 4521
Franchising and business opportunity ventures 4513
Telephone service 4514
Trademarks:
Fees 859, 861
Official Insignia of Native American Tribes 860
Registration to practice before the PTO in patent cases 864
Trademark Law Treaty 871
Transportation:
See also Air transportation
Bridges
Common carriers
Freight
Highways and roads
Intermodal transportation
Mass transportation
Noise control
Pipelines
Railroads
Space transportation and exploration
Vessels
Air pollution control conformity 108, 3401, 3527
Buy America requirements 2682
Civil penalties 2624
Transportation—Continued
Dedicated short range communications of intelligent transportation systems 4348
Disadvantaged business enterprise participation in airport concessions 2232
Drug testing of transportation personnel 2209, 2223
DOT rulemaking procedure 2226
Environmental review 2674, 3362
Hazard communication requirements 2710
Head Start participants 1376
Individuals with disabilities 2240, 3289
Interstate movement of equines to slaughter 267
Interstate movement of noxious weeds 277
Interstate shipment of biological materials 1108
National Transit Database 2686
Planning 2676
Pre-employment alcohol testing 2230
Surface transportation projects:
Credit assistance 2511, 2687
Transportation Conformity Pilot Program 3539
Transportation Equity Act amendment 2058
Transshipment of ozone depleting substances 3503
Water pollution control 3703
Wildlife 1539, 1624
Travel:
See also Passports and visas
Travel and transportation expenses
Travel restrictions
Air tour and sightseeing operations 2321
Travel and transportation expenses:
Deductions for members of Congress 2918
FTR amendment 3815, 3823, 3834, 3838, 3841, 3842, 3844
Government employees 4185
Travel expense test program 3835
Treaties:
See also Tax treaties
Trade agreements
Antarctic Treaty 3316
Chemical Weapons Convention 18
Compacts of Free Association 1949
Montreal Protocol 3383, 3384, 3540
World Heritage Convention 1698
Tuberculosis:
Correctional management 1292, 1842
Occupational exposure 86

U

Underground mining:
See also Mine safety and health
Subsidence resulting from 1782
Ventilation 77, 2124
Unemployment compensation:
See also Railroad unemployment insurance
Confidentiality and disclosure of State records 2065
Disaster unemployment assistance 2059
Performance system 2060
United States investments abroad:
Foreign utilities 4653, 4654
Uranium:
Mill sites 1072, 4593
NRC regulations amendments 4604
Utilities:
See also Electric utilities
Natural gas
Water supply
Exemption for certain acquisitions 4653
Exemption for subsidiary companies 4654
Filing of responses to FERC Form No. 580 interrogatories 4440

V

Vegetables:
Import restrictions 280
Irradiation phytosanitary treatment 258

Venereal diseases:
Correctional management....1842
Vessels:
See also Anchorage grounds
Cargo vessels
Fishing vessels
Marine safety
Maritime carriers
Navigation (water)
Nuclear vessels
Oceanographic research vessels
Oil Pollutions
Passenger vessels
Alternate Compliance Program....2313
Anchorage area regulations....2288, 2292
Armed forces vessels:
Uniform national discharge standards....3724
Automatic Identification System....2264
Ballast water exchange guidelines....2302
Blood alcohol concentration limit for operators....2262
Boarding....2860
Certificates of origin....2278
Coast Guard escort requirements....2298
Commercial diving operations....2258
Controlled substances....1879
Discharge-removal equipment....2293
Documentation....2261
Emissions standards for new marine engines....3381
Foreign repairs to American vessels....2861
Government contracting....2039
Inspection requirements....4037
National Boating Infrastructure Grant Program....1538
Navigation lights on recreational vessels....2260
Outer continental shelf....2252
Overtime liability for immigration inspections....1907
Panama Canal:
Insurance requirements....4035
Port restrictions and fees:
Japanese vessels....4480
Regattas and marine parades....2280, 2296
Registration requirements....4037
Safety/security zone regulations....2291
Salvage and firefighting equipment....2256
Ship financing guarantees....2743
Standard measurement system exemption....2285
Temporarily landed for repair....2863
Towing vessel operators....2281
Vessel identification system....2275, 2278
Vessel Traffic Service....2264, 2290
Veterans:
Acquisition regulations:
Application of labor laws....3181
Construction and architect-engineer contracts....3180
Purchase cards and electronic data interchange....3176, 3178, 3217, 3220, 3221, 3271, 3273, 3274
Adult day health care in state homes....3153
Advanced health care planning....3193
Affirmative action and nondiscrimination obligations of contractors and subcontractors....2047, 2049
Allotments for Alaska Natives....1810
Allowance for children with spinal bifida....3166
Appeals regulations....3222, 3223, 3238, 3242, 3243
Case docketing....3225
Delegations of authority....3224
Notification of representatives in connection with clear and unmistakable error motions....3226, 3227
Simultaneously contested claims....3183
Blind....3151, 3155
Burial benefits....3184, 3185, 3186, 3187, 3188
Provisions for capital crimes....3189
Checks:
Returned and canceled benefit checks....3267
Child care centers....3246
Children's benefits....3206, 4162
Veterans—Continued
School child definition....3209
Claims based on aggravation of nonservice-connected disability....3237
Claims based on effect of tobacco products....3168
Clothing allowance....3150
Compensation for beneficiaries of the Vietnamese Commandos Compensation Commission....900
Custody of school age or adult disabled children....3236
Denial of claims:
Reconsiderations....3247
Disability rating:
Dental disabilities....3254
Digestive system....3157
Evidence of permanent and total disability....3172
Eye, ear, and other sense organs....3197, 3252
Fibromyalgia....3253
Individual unemployability....3159
Liver diseases....3264
Medical evidence of improvement....3235
Neurological conditions and convulsive disorders....3156
Orthopedic system....3234
Skin conditions....3195
Systemic conditions....3254
The spine....3169
Total disability....3196
Disabled Veterans Affirmative Action Program....4023
Education:
Advanced and lump sum payments....3256
Course approval requirements....3162, 3199, 3202
Flight training....3163, 3202
Montgomery G.I. Bill....3199, 3214, 3215, 3255, 3260
Montgomery G.I. Bill administrative errors....3269
Montgomery G.I. Bill eligibility criteria....3211, 3216
Reservists....3200, 3261, 3263
Survivors and dependents....3164, 3205
Veterans Programs Enhancement Act....3170
Equal employment opportunity discrimination complaints:
Delegation of authority....3228
Evidence requirements....3160
Food assistance programs....3277
Freedom of Information Act....3229
Group Life Insurance accelerated benefit option....3212
Income exclusions....3208
Insurance....3207
Loan guaranty:
Acceptance of partial payments....3233
Conveyance of property to the VA....3232
Interest rate reduction refinancing loans....3257
Property improvements definition....3158
Loan refinancing....3259
Medical benefits:
Adjunct conditions definition....3149
Drugs and medicines....3192, 3194
Enrollment and provisions of hospital care and medical services....3249, 3251
Medical care collection or recovery....3250
Medical evaluations:
Ankylosis....3161
Intervertebral disc syndrome....3198
Limitation in hand movement....3161
Medical opinions rules....3244
Medication copayments....3148
Medication prescribing authority....3248
National Cemetery Administration title changes....3275
National Practitioner Data Bank reporting policy....3154
National Service Life Insurance....3171
Pensions....3204, 3236, 3265
Post-traumatic stress disorder....3258
Proof of service....3167
Prosthetic services....3151
Recognition of organizations and accreditation of representatives for claimants....3230
Rehabilitation programs....3196

Veterans—Continued
Rules of Practice:
Subpoenas....3182
Title change....3223
Special disabled veterans and veterans of the Vietnam era....2047
State homes....3152, 3191
Survivor benefits....3266
DIC benefits....3210
Spouses....3268
Veterans employment report....919, 4181
Vocational training programs....3201, 3203
Well grounded claims/duty to assist....3165
Vocational rehabilitation:
Self-sufficiency incentives....4120
State programs....1027
Veterans....3203
Volunteers:
DOL regulation....2039
National Service Trust....3295
Peace Corps....3926, 4040, 4041, 4042
Prison inmate community service projects....1839
Vista....3926

W

Wages:
See also Employee benefit plans
Minimum wages
Appropriated fund wage areas....3938, 4012, 4014, 4016, 4017, 4018
Back pay....3979
Domestic services....2056
Federal construction contracts....66
Federal Acquisition Streamlining Act amendments....2039
Government printing positions....4013
Hazardous duty pay....4015
Hourly compensation:
Computer-related occupations....2044
Overtime....2041
Overtime pay for travel....3979
Pay administration....3979
Pay and leave administration....3972
Physicians' comparability allowance....3979
Salary basis....65
Severance pay....3942
Site of work....2045
Tipped employees....2044
Warehouses:
Commodity Credit Corporation storage....199
Cotton....208, 244
Tobacco auction warehouses....211
Warranties:
Disclosure of terms and conditions....4520
Informal Dispute Settlement Mechanisms (IDSM)....4522
Pre-sale availability of written warranty terms....4521
Waste treatment and disposal:
See also Hazardous waste
Recycling
Sewage disposal
Armed forces vessels....3724
Effluent guidelines....3666, 3682, 3685, 3695, 3713, 3725
Financial test criteria....3639
Fossil fuel combustion wastes....3621
Iron and steel manufacturing....3710
Land disposal:
Restrictions....3622, 3635, 3637, 3648
Lead-based paint debris....3654
Metal machinery and equipment wastewater....3704
Municipal waste combustion units....3388
Nuclear waste disposal....4595
Ocean dumping....3751
Passenger vehicle waste discharge....2666
Permit applications....3705, 3719
Radioactive waste....105
Recoverable metals criteria....3707
Recycling of hazardous waste in fertilizers....3655
Rural loans and grants....477
Rural program regulations....496
Sewer grouting....3595
Shore Protection Act....3752
Sludges from metal finishing industry....3645
Solid waste disposal:
Grant programs....490
Guideline revisions....3623, 3636
Landfill criteria....3623, 3624
Landfills and incinerators....3451, 3455, 3471, 3685
Municipal landfills....3357, 3657
Physical/chemical evaluation methods....3627
Streamlining regulations....3688
Toxics Release Inventory....3618
Underground storage tanks:
Toxicity characteristic rule....3646
Uniform national discharge standards....3724
Vessels transporting waste....2274
Water pollution control:
See also Oil pollution
Waste treatment and disposal
Biological test methods....3706
Clean Water Act....3668, 3684, 3689, 3706, 3707, 3708, 3722, 3723
Test procedures....3668, 3680, 3692, 3693, 3694, 3706, 3708, 3714
Cyanide criteria....3689
Effluent guidelines:
Animal feeding operations....121, 122
Coal mining....3678
Industrial waste combustors....3695
Industrial wastewater....3456, 3704, 3720
Iron and steel manufacturing....3710
Landfills and incinerators....3685
Mining....3727
Oil and gas extraction....3715
Pulp, paper and paperboard....3501, 3511, 3697, 3713, 3725
Regulations reformatting....3690
Transportation equipment cleaning....3683
Great Lakes....3679, 3711
Marine pollution:
Discharge-removal equipment carriage and inspection....2293
Emergency control measures for tank barges....2305
Facility response plans for hazardous substances....88
Facility response plans for non-petroleum oils....2286
Facility response plans for vegetable oils and animal fats....3703
Ocean dumping....3751
Oil or hazardous substances....2276, 2294
Tank monitoring devices....2308
Tank vessels....89
Microbiological test methods....3680, 3749, 3750
NPDES permits....3673, 3709
NPDES permittee reporting....3675
Oil and grease test procedures....3722
Permit applications....3705, 3719
Pretreatment regulations....3687
Publicly owned treatment works renewal process....3723
Radon....117
Recoverable metals criteria....3707
Sewer collection systems....3673
Sludge management programs....3641, 3645, 3669, 3721
Stormwater runoff....134
Test procedures for the analysis of pollutants....3674, 3712, 3726
Total maximum daily loads....136, 137
Trace metals criteria....3708
Vapor control systems....2265
Water quality standards....3672, 3686, 3692, 3693, 3694, 3699
Alabama....3698, 3716
Criteria for acute aquatic life....3672, 3692, 3693, 3694, 3699, 3711

Water pollution control—Continued
Mixing zone elimination and phase-out provision....3679
State and tribal standards....3700
Water resources:
See also Water bank program
Water supply
Watersheds
Army Corps of Engineers environmental quality requirements....966
Best technology available for cooling water intake structures....3670
Colorado River Basin....200, 1790
Land and Water Conservation Fund....1706
National Invasive Species Act....2302
Water Bank Program....200
Water supply:
See also Dams
Irrigation
Reservoirs
Carcinogen risk assessment....3314
Central Valley Project of California....1786
Colorado River Basin....1790
Drinking water:
Aldicarb and atrazine....3743
Arsenic....119
Contaminant level goals (MCLGs)....3736
Contaminants....117, 120, 3553, 3680, 3732, 3737, 3749, 3750
Copper....3734
Disinfectants....118, 3741, 3746
Endocrine Disruptor Screening and Testing Program....3556
Filter backwash recycling....3748
Injection wells....3733
Lead....3734
Monitoring requirements....3744
Oxygenated fuel additives....3587
Public notification requirements....135
Radionuclides....3736
Regulations reformatting....3735
Rural program regulations....496
State revolving fund....3739
Sulfate....3742
Unregulated contaminant monitoring program....3747
Groundwater protection....130
Storage and marketing....1790
Waterways:
See also Bridges
Harbors
Rivers
Facility response plans for hazardous substances....88
Facility response plans for non-petroleum oils....2286
Facility response plans for vegetable oils and animal fats....3703
Weather:
Wind Profiler Radar Systems....4341
Wheat:
Crop insurance....306
Diseases....255
End-Use Certificate Program....248
Whistleblowing:
FBI employees....1903, 2021
Research misconduct....1231
Wildlife:
See also Marine mammals
Wildlife refuges
Albatross....1554
Aviation bird encounter regulations....2358, 2400
Brush-tailed possum....1607
Captive bred....1571
Eagles....1535, 1621, 1665
Endangered and threatened....1550, 1551, 1552, 1558, 1562, 1578, 1586, 1587, 1589, 1604, 1655, 1661
Wildlife—Continued
Exotic birds:
Importation....1658
Exportation....1539
Falcons....1621, 1673
FWS permit applications....1639
Importation....1539
Injurious....1531, 1607
Management and protection....1584, 1585
Marine sanctuary program....761
Migratory birds:
Canada goose permits....1669
Hunting regulations....1583, 1590, 1681, 1688
List revision....1573
Permits....1622, 1623, 1652, 1673
Tin shot....1672
Permit procedures....1577
Restoration programs....1600
River otter exports....1650
Seabirds....647, 763
Transport standards for reptiles and amphibians....1536
Transportation....1539
Wildlife refuges:
Alaska....1620
Disturbance regulations....1670
Federal Lands Highway Program....2448
Hunting and fishing regulations....1674
National Wildlife Refuge System....1534
Public entry and use....1596, 1620, 1814
Wine:
Ameliorating materials....2789
Exports....2804
Grape variety names....2816
Imports....2778
Labeling....2779, 2814, 2815
Labeling of specialty products and flavored wines....2780
Standards of fill....2790
Tax refund....2810
Viticultural areas....2811
Women:
See also Minority businesses
Sex discrimination
In vitro fertilization....1225
Length of hospital stay after birth of child....75, 1355
Nutrition education participant contacts....334
Violence against women on campuses....2029
Women-owned businesses:
Government contracting....4417
Government subcontracting....4184
Solicitation provisions and contract causes....530
Women's Health and Cancer Rights Act....1242, 2093
Women, infants, and children:
Funding formula....393
Supplemental food program:
Administrative requirement changes....370
Certification integrity....376
Food delivery systems....7, 384
Food packaging....389
Funding provisions....377
Local agency expenditure reports....375
Soy-base beverages....395
Workers' compensation:
Coal miners....2040
Third Party Collection Program....884

Y

Youth:
See also Infants and children
Juvenile delinquency
AmeriCorps participants....3295
Meal supplements for teenagers in low-income areas....374

.....1658
.....1539
621, 1673
.....1639
.....1539
531, 1607
584, 1585
.....761

.....1669
681, 1688
.....1573
652, 1673
.....1672
.....1577
.....1600
.....1650
..647, 763
.....1536
.....1539

.....1620
.....1670
.....2448
.....1674
.....1534
620, 1814

.....2789
.....2804
.....2816
.....2778
814, 2815
.....2780
.....2790
.....2810
.....2811

.....1225
..75, 1355
.....334
.....2029

.....4417
.....4184
.....530
242, 2093

.....393

.....370
.....376
.....7, 384
.....389
.....377
.....375
.....395

.....2040
.....884

.....3295
.....374

VOL
64
ISS
2
2
4
NO
22
999
UMI

VOL
64
ISS
2
2
4
NO
22
1999
UMI

Printed on recycled paper

VOL
64
ISS
2
2
5
NO
23
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11–23–99
Vol. 64

United Sta
Governme
Printing Of
SUPERINTENDE
OF DOCUMENT
Washington, DC

OFFICIAL BUSIN
Penalty for pnvat

11–23–99
Vol. 64 No. 225

Federal Register

Tuesday
November 23, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

********************3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
5
NO
23
1999
UMI

11-23-99
Vol. 64
Pages 65

11–23–99
Vol. 64 No. 225
Pages 65653–66094

federal register

Tuesday
November 23, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche — **202–512–1800**
Assistance with public subscriptions — **512–1806**
General online information — **202–512–1530; 1–888–293–6498**
Single copies/back copies:
Paper or fiche — **512–1800**
Assistance with public single copies — **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche — **523–5243**
Assistance with Federal agency subscriptions — **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 7, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 225

Tuesday, November 23, 1999

Agricultural Marketing Service
PROPOSED RULES
Sheep and lamb promotion, research, and information order, 65665

Agriculture Department
See Agricultural Marketing Service

Army Department
See Engineers Corps
NOTICES
Meetings:
Army Education Advisory Committee, 65687–65688

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
District of Columbia, 65675
South Carolina, 65675
Virginia, 65675

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
PROPOSED RULES
Over-the-counter derivatives; concept release; withdrawn, 65669

Defense Department
See Army Department
See Engineers Corps

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65688–65689

Employment and Training Administration
NOTICES
Adjustment assistance:
Buffalo Color Corp., 65727
Damacus Steel Casting Co., 65727
Eagle Geophysical, Inc., et al., 65727
Georgia Pacific Corp. et al., 65728
Glenoit Corp., 65728
Golden Sunlight Mines, Inc., 65729
Grand Rapids Diecast, 65729
Natchiq, Inc., et al., 65729–65730
Paramount Headwear, Inc., 65730
Purcell Services, Ltd., 65730
Samedan Oil Corp., 65730
Southeastern Apparel Finishing, Inc., 65730–65731
Sparrow Blouse Co. et al., 65731
Walls Industries, Inc., 65731–65732
Wyman-Gordon Forgings, 65732
Adjustment assistance and NAFTA transitional adjustment assistance:
Fort James Corp., 65726–65727
NAFTA transitional adjustment assistance:
Crescent/U.S. Mat, LLC, 65732–65733
Purcell Services, Ltd., 65733
Walls Industries, Inc., 65733

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board—
Hanford Site, WA, 65689–65690
Oak Ridge Reservation, TN, 65690

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Columbia County, PA; Bloomsburg local flood protection project; feasibility study, 65688

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Source-specific plans—
Salt River Pima-Maricopa Indian Community, AZ, 65660–65664
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Source-specific plans—
Salt River Pima-Maricopa Indian Community, AZ, 65673–65674
NOTICES
Administrative consent orders:
Gates Corp., 65696
Air programs:
State implementation plans; adequacy status for transportation conformity purposes—
Arizona, 65696–65697
Water pollution; discharge of pollutants (NPDES):
Maine et al.; non-contact cooling water discharges: general permits, 65697–65712

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Aircraft certification:
Intermixed engines or nacelles; 90-day rule applicability, 65655–65656
Class E airspace, 65656–65657
PROPOSED RULES
Airworthiness directives:
Pilatus Aircraft Ltd., 65666–65668
Class E airspace, 65668–65669

Federal Communications Commission
NOTICES
Rulemaking proceedings; petitions filed, granted, denied, etc., 65712

Federal Energy Regulatory Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65690–65691
Environmental statements; notice of intent:
Transcontinental Gas Pipe Line Corp. et al., 65694–65696
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 65691
Columbia Gas Transmission Corp., 65691
East Tennessee Natural Gas Co.; correction, 65766
Iroquois Gas Transmission System, L.P.; correction, 65766
Natural Gas Pipeline Co. of America, 65691–65692
Tennessee Gas Pipeline Co., 65692
Tennessee Power Co.; correction, 65766
Texas Gas Transmission Corp., 65692–65693
Transcontinental Gas Pipe Line Corp., 65693
Williston Basin Interstate Pipeline Co., 65693–65694
Wyoming Interstate Co., Ltd., 65694

Federal Financial Institutions Examination Council
NOTICES
Uniform retail credit classification and account management policy, 65712–65713

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 65761–65762

Food and Drug Administration
RULES
Food additives:
Adjuvants, production aids, and sanitizers—
3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, 65657–65658
PROPOSED RULES
Food for human consumption:
Beverages—
Fruit and vegetable juices and juice products; HACCP procedures for safe and sanitary processing and importing, 65669–65671
NOTICES
Meetings:
2000 FDA Science Forum—FDA and the Science of Safety: New Perspectives, 65713–65714
Blood donor suitability; donor deferrals; workshop, 65714
Nucleic acid testing implementation; blood and plasma donor screening; workshop, 65714–65715
Reports and guidance documents; availability, etc.:
Creutzfeldt-Jakob Disease and new variant; measures to reduce possible risk of transmission by blood and blood products; industry guidance, 65715–65716
New drug application (NDA) or approved new drug application (ANDA), changes; industry guidance, 65716–65717

General Accounting Office
NOTICES
Financial management systems:
Joint financial management improvement program—
Guaranteed loan and grant financial systems; requirements, 65713

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 65717

Housing and Urban Development Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 65717–65720
Submission for OMB review; comment request, 65720–65721
Public and Indian housing:
Public Housing Assessment System—
Manual submissions and extension requests; clarification, 65721–65722

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Sisseton-Wahpeton Sioux Tribe, ND, 65722
Standing Rock Sioux Tribe, ND, 65722
Three Affiliated Tribes, ND, 65722

Interior Department
See Indian Affairs Bureau
See Minerals Management Service
See National Park Service
See Reclamation Bureau

Internal Revenue Service
NOTICES
Senior Executive Service:
Performance Review Board; membership, 65762

International Trade Administration
NOTICES
Antidumping:
Non-frozen apple juice concentrate from—
China, 65675–65681
Export trade certificates of review, 65681–65682

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
See Occupational Safety and Health Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65726

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Central Gulf of Mexico—
Lease sales, 65723

Mine Safety and Health Administration
PROPOSED RULES
Coal mine safety and health:
Samples used to determine respirable dust level when quartz is present; program policy letter, 65671–65673

National Archives and Records Administration
NOTICES
Electronic copies previously covered by General Records Schedule 20; records schedules availability and comment request, 65733–65734

National Oceanic and Atmospheric Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Climate variability and human health, 65682–65686
Meetings:
Pacific Fishery Management Council, 65686–65687
Permits:
Marine mammals, 65687

National Park Service
NOTICES
Environmental statements; availability, etc.:
Lake Roosevelt National Recreation Area, WA, 65723
Meetings:
National Park System Advisory Board, 65723–65724
National Historic Landmark Theme Studies:
Earliest Americans, 65724
National Register of Historic Places:
Pending nominations, 65724–65725

National Skill Standards Board
NOTICES
Meetings, 65734–65735

National Transportation Safety Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65735

Northeast Dairy Compact Commission
NOTICES
Meetings, 65735

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
Schiager, Keith J., Ph.D.; withdrawn, 65665–65666
NOTICES
Meetings; Sunshine Act, 65737–65738
Applications, hearings, determinations, etc.:
Indiana Michigan Power Co., 65735–65737

Occupational Safety and Health Administration
PROPOSED RULES
Occupational safety and health standards:
Ergonomics program, 65767–66078

Pension Benefit Guaranty Corporation
RULES
Waivers for major disaster area residents due to severe weather:
Hurricanes Floyd and Irene; various States, 65658–65660

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 65738–65739

Presidential Documents
PROCLAMATIONS
Government agencies and employees:
Classified National Security Information; amendment (EO 13142), 66089–66090
Special observances:
Family Caregivers Week, National (Proc. 7254), 66087
Family Week, National (Proc. 7253), 66085–66086
Farm-City Week, National (Proc. 7252), 66083
Smokeout Day, National Great American (Proc. 7251), 66079–66082
Thanksgiving Day (Proc. 7255), 66091–66094
ADMINISTRATIVE ORDERS
Migration and Refugee Assistance Act of 1962; availability of funds (Presidential Determination No. 2000-07), 65653

Public Debt Bureau
See Fiscal Service

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration

Reclamation Bureau
NOTICES
Meetings:
Bay-Delta Advisory Council, 65725–65726

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 65760–65761

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Exemption applications—
Davis Variable Account Fund, Inc., et al., 65752–65758
Pacific Live Insurance Co. et al., 65746–65752
Applications, hearings, determinations, etc.:
American Century Mutual Funds, Inc., et al., 65739–65744
MediaBay, Inc., 65744
Public utility holding company filings, 65744–65745
Starwood Financial Trust, 65745–65746

Small Business Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 65758
Submission for OMB review; comment request, 65758–65759

Surface Transportation Board
NOTICES
Rail carriers:
Waybill data; release for use, 65761

Transportation Department
See Federal Aviation Administration
See Research and Special Programs Administration
See Surface Transportation Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65759

Treasury Department
See Fiscal Service
See Internal Revenue Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65761

Veterans Affairs Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65762–65765

Separate Parts In This Issue

Part II
Department of Labor, Occupational Safety and Health Administration, 65767–66078

Part III
The President, 66079–66090

Part IV
The President, 66091–66094

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

VOL 64 ISS 225 NO 23 1999 UMI

CFR PA
A cumulat
Reader Ai
3 CFR
Proclamati
7251
7252
7253
7254
7255
Administra
Presidenti
Determi
No. 2000-
Executive
12958 (An
13142)
13142
7 CFR
Proposed
1280
10 CFR
Proposed
20
14 CFR
21
71
Proposed
39
71
17 CFR
Proposed
34
35
21 CFR
178
Proposed
120
29 CFR
4003
4007
4011
4041
4041A
4043
4050
Proposed
1910
30 CFR
Proposed
70
71
90
40 CFR
49
52
Proposed
49
52

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:
7251.....66081
7252.....66083
7253.....66085
7254.....66087
7255.....66093

Administrative Orders:
Presidential
Determinations
No. 2000-07.....65653

Executive Orders:
12958 (Amended by
13142).....66090
13142.....66090

7 CFR

Proposed Rules:
1280.....65665

10 CFR

Proposed Rules:
20.....65665

14 CFR
21.....65655
71.....65656

Proposed Rules:
39.....65666
71.....65668

17 CFR

Proposed Rules:
34.....65669
35.....65669

21 CFR
178.....65657

Proposed Rules:
120.....65669

29 CFR
4003.....65658
4007.....65658
4011.....65658
4041.....65658
4041A.....65658
4043.....65658
4050.....65658

Proposed Rules:
1910.....65768

30 CFR

Proposed Rules:
70.....65671
71.....65671
90.....65671

40 CFR
49.....65660
52.....65660

Proposed Rules:
49.....65673
52.....65673

VOL
64
ISS
2
2
5
NO
23
1999
UMI

Federal R
Vol. 64, N
Tuesday,

Title 3–

The Pr

[FR Doc. 99
Filed 11–22
Billing code

Federal Register
Vol. 64, No. 225
Tuesday, November 23, 1999

Presidential Documents

Title 3—

The President

Presidential Determination No. 2000–07 of November 10, 1999

Presidential Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $40 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the unexpected urgent refugee and migration needs, including those of refugees, displaced persons, conflict victims, and other persons at risk, due to the Timor and North Caucasus crises. These funds may be used, as appropriate, to provide contributions to international, governmental, and nongovernmental organizations.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the use of funds under this authority, and to arrange for the publication of this determination in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, November 10, 1999.

[FR Doc. 99–30535
Filed 11–22–99; 8:45 a.m.]
Billing code 4710–10–M

VOL
64
ISS
2
2
5
NO
23
1999
UMI

Rule

This sectio
contains r
applicabili
are keyed
Federal R
50 titles pu

The Code
the Superi
new books
REGISTE

DEPART

Federal

14 CFR P

Applicab
Intermix
Nacelles

AGENCY:
Adminis

ACTION: S

SUMMARY
continue
limit for
type desi
date requ
contiguo
Aviation
received
the use o
Decembe
provides
need to u
airplane
including

FOR FURT
Mr. Thon
Division
Environm
Independ
Washingt
267–893

SUPPLEME

Backgrou

In 198
of Ameri
on behalf
exemptio
for a corr
would all
airplane
not confo
On Janua
a Notice
(NPRM) (
amend th
change" i

Rules and Regulations

Federal Register
Vol. 64, No. 225
Tuesday, November 23, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

Applicability of 90-Day Rule for Intermixed Airplane Engines and/or Nacelles

AGENCY: Federal Aviation Administration, DOT.

ACTION: Statement of policy.

SUMMARY: This document clarifies the continued applicability of the 90-day limit for certain changes in airplane type designs after the final compliance date requiring an all Stage 3 fleet in the contiguous United States. The Federal Aviation Administration (FAA) has received numerous inquiries regarding the use of the 90-day limit after December 31, 1999. This document provides guidance to operators that need to use that provision of the airplane type certification regulations, including the limits of its use.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Connor, Manager, Noise Division (AEE–100), Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8933, fax (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Background

In 1980, the Air Transport Association of America (ATA) petitioned the FAA on behalf of its member operators for an exemption from 14 CFR 21.93(b), and for a corresponding rule change that would allow unlimited intermix of airplane engines and/or nacelles that do not conform to specified noise levels. On January 26, 1981, the FAA published a Notice of Proposed Rulemaking (NPRM) (46 FR 8347), proposing to amend the definition of "acoustical change" in the aircraft noise certification rules as it applies to turbojet engine-powered, large transport category airplanes. The NPRM proposed permitting the temporary installation and use (intermix) of airplane engines having different noise levels, provided that the affected airplane is brought back into conformance with an acoustically certificated configuration for that airplane type within 90 days of the initial change.

The final rule revising § 21.93(b)(2)(iii) was published on January 7, 1982 (47 FR 756). The regulation provided relief to operators and manufacturers without resulting in a significant noise impact by allowing the unlimited intermix of engines and/or nacelles for maintenance purposes for up to a period of 90 days without triggering the acoustical change requirement of § 21.93. The change did not affect any other applicable requirements for certification of type design or airworthiness, or for operating the affected airplanes.

The Stage 3 transition regulations contained in 14 CFR part 91 were promulgated in 1991 to implement the Airport Noise and Capacity Act of 1990. The law requires that after December 31, 1999, no person may operate to or from any airport in the contiguous United States any airplane with a maximum certificated weight of more than 75,000 pounds unless that airplane has been shown to comply with Stage 3 noise levels. The FAA issued a notice in the **Federal Register** (64 FR 51430, September 23, 1999) and has sent several letters to operators reminding them of the prohibition against the operation of Stage 2 airplanes after December 31, 1999.

Since the law places a ban on the operation of Stage 2 airplanes after December 31, 1999, several operators have inquired whether the relief provided in § 21.93(b)(2)(iii) will continue to be available, or if the State 3 transition requirements eliminate that option for airplanes operated in the contiguous United States.

Essentially, § 21.93(b)(2)(iii) allows an operator to operate a turbojet powered airplane with a mix of engines (for which compliance with the acoustical change provisions of 14 CFR part 36 have not been shown) for a period not to exceed 90 days. In a typical case, the operator of a multi-engine Stage 3 airplane would use this provision to install one Stage 2 engine while the Stage 3 engine is in repair. Another common situation occurs when a Stage 3 engine incurs a minor damage that changes its noise characteristics and can continue safe operation, but cannot be immediately repaired. Thus, the regulation refers to "time-limited engine and/or nacelle changes." The rule allows the intermix without the configuration being considered an "acoustical change" that would otherwise invoke considerable certification requirements.

When the FAA changed the rule in 1981, it determined that these occasional changes would not have a substantial impact on overall airplane operating noise levels if the use was limited to 90 days. The first 90 days of such a configuration is not considered an acoustical change; over 90 days, an operator must demonstrate that the intermix meets the acoustical change provision of 14 CFR part 36, or it must bring the airplane into compliance with an acoustically certificated configuration for that airplane type.

The 1981 rule change also specifically noted that the 90-day allowance was intended for maintenance purposes (47 FR 758). Recently, the FAA has received information that some operators may be using this provision to maximize the size of their operating fleets—essentially, operators may not have a sufficient number of engines to maintain their entire fleets in Stage 3 configuration. To remedy the situation, operators may be trading out Stage 2 and Stage 3 engines every 90 days or so and "invoking" § 21.93(b)(2)(iii) to maintain their status as having Stage 3 compliant aircraft. This situation came to the attention of the FAA when operators inquired whether they would be able to continue this practice after the December 31, 1999, compliance deadline.

The FAA stresses that the § 21.93(b)(2)(iii) provision was designed to assist operators with unplanned engine damage or maintenance events. The rule was never intended to be used to demonstrate "paper-only" compliance with Stage 3 noise requirements on a continuing basis, either before or after the statutory final compliance date. While the FAA considered removing the 90-day allowance to prevent these "musical engine" activities, the agency also

realized the value of the provision for its intended purposes and the substantial workload that would be generated for both the agency and the operators if the provision were removed.

Accordingly, the FAA has determined that the 90-day period allowed by § 21.93(b)(2)(iii) will continue to be available after December 31, 1999. The affected operators are reminded that the 90-day period provision is only valid for maintenance purposes. Those airplanes using intermixed engines and/or nacelles will continue to be considered Stage 3 for compliance purposes as long as the reason for the configuration is maintenance-related. The FAA warns operators that the swapping of engines between airplanes will be closely monitored. If, for example, an engine is removed from a Stage 3 configured airplane, and replaced with an intermix engine operated under § 21.93(b)(2)(iii), careful attention will be paid by the FAA to the status of the removed engine. If the removed engine is reinstalled on a different airplane, the FAA will monitor whether any required maintenance or repair was first accomplished, as stated by the agency when the rule was adopted.

If operators are found to be abusing § 21.93(b)(2)(iii) in order to meet Stage 3 compliance requirements, operators will face enforcement action and the agency will consider removing the allowance or requiring prior approval for its use. A chronic lack of spare engines or a determination that an operator does not have sufficient engines available to operate a Stage 3 fleet at one time is not considered an acceptable reason for using § 21.93(b)(2)(iii).

Operators may use § 21.93(b)(2)(iii) to intermix engines only when maintenance must be performed on an engine and no conforming engine for the configuration is available. Engine removals that invoke § 21.93(b)(2)(iii) will be carefully monitored by the FAA.

Issued in Washington, DC on November 17, 1999.

James D. Erickson,

Director of Environment and Energy.

[FR Doc. 99–30502 Filed 11–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–01]

Amendment of Class E Airspace, Lewiston, ID; Establishment of Class E Airspace, Grangeville, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Lewiston, ID, Class E airspace and establishes additional controlled airspace at Grangeville, ID, to accommodate the development of two new Standard Instrument Approach Procedures (SIAP) utilizing the Global Positioning System (GPS) at the Idaho County Airport, Grangeville, ID.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 99–ANM–01, 1601 Lind Avenue, SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On August 31, 1999, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by revising the Lewiston, ID, Class E airspace area and establishing additional controlled airspace at Grangeville, ID (64 FR 47449). This rule provides the additional airspace necessary to encompass the new SIAP's to the Idaho County Airport, Grangeville, ID. This amendment provides additional airspace at Lewiston, ID, to encompass newly established waypoints in order to satisfy current criteria standards associated with SIAP holding patterns. This rule also allows for the establishment of airspace at Grangeville, ID, providing controlled airspace for the final approach phase of flight for the newly established SIAP's. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Lewiston, ID, and establishes Class E airspace at Grangeville, ID by providing the additional airspace necessary to fully contain new flight procedures at Idaho County Airport. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) at the Idaho County Airport and between the terminal and en route transition stages.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp. p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ANM ID E5 Grangeville, ID [New]

Idaho County Airport, Grangeville, ID
(Lat. 45°56′33″ N, long. 116°07′27″ W)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Idaho County Airport.

* * * * *

ANM ID E5 Lewiston, ID [Revised]

Lewiston-Nez Perce County Airport, Lewiston, ID
(Lat. 46°22′28″ N, long. 117°00′55″ W)
Nez Perce VOR/DME
(Lat. 46°22′54″ N, long. 116°52′10″ W)
Walla Walla VOR/DME
(Lat. 46°05′13″ N, long. 118°17′33″ W)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 46°29′25″ N, long. 117°34′09″ W; to lat. 46°30′45″ N, long 117°00′49″ W; to lat. 46°34′25″ N, long. 117°04′44″ W; thence via the 14.4-mile arc centered on the Nez Perce VOR/DME to lat. 46°27′00″ N, long. 116°32′09″ W; to lat. 46°25′30″ N, long. 116°26′03″ W; to lat 46°13′20″ N, long. 116°30′04″ W; to lat. 46°14′33″ N, long. 116°35′15″ W; thence via the Nez Perce VOR/DME 14.4-mile arc to lat. 46°09′00″ N, long. 116°46′54″ W; to lat. 46°17′00″ N, long 116°49′14″ W; to lat. 46°18′05″ N. long. 117°00′15″ W; to lat. 46°17′42″ N, long. 117°22′04″ W; to lat. 46°10′30″ N, long. 117°26′24″ W; to lat. 46°12′00″ N, long. 117°35′44″ W; north to point of beginning; that airspce extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 46°00′00″ N. long. 116°00′04″ W; to lat. 46°00′00″ N, long. 116°19′00″ W; to lat. 45°39′00″ N, long. 116°10′03″ W; to lat. 45°30′00″ N, long. 116°14′03″ W; to lat. 45°23′00″ N, long. 116°21′03″ W; to lat. 45°25′00″ N, long. 116°34′04″ W; to lat. 45°30′00″ N, long. 116°46′04″ W; to lat. 46°00′00″ N, 116°56′04″ W; thence west along lat. 46°00′00″ N to the Walla Walla VOR/DME 16.6-mile radius, thence north along the Walla Walla VOR/DME 16.6-mile radius until intercepting V–536, thence northeast along V–536 and southeast along V–2 until intercepting long. 115°15′04″ W, thence south along long. 115°15′04″ W, until intercepting V–187, thence southeast along V–187 until intercepting long. 116°00′00″ W, thence south along long. 116°00′00″ W, to lat. 46°15′00″ N, to lat. 46°00′00″ N, long. 115°50′00″ W, thence to the point of beginning; excluding all Federal airways.

* * * * *

Issued in Seattle, Washington, on November 5, 1999.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99–30503 Filed 11–22–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 98F–0825]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to expand the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polymers intended for use in contact with food. This action responds to a petition filed by Dover Chemical Corp.

DATES: This regulation is effective November 23, 1999. Submit written objections and requests for a hearing by December 23, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 6, 1998 (63 FR 53679), FDA announced that a food additive petition (FAP 8B4627) had been filed by Dover Chemical Corp., 3676 Davis Rd. NW., Dover, OH 44622. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizer for polymers* (21 CFR 178.2010) to expand the safe use of 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, which may contain not more than 2 percent by weight of triisopropanolamine, as an antioxidant and/or stabilizer for polymers intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 8B4627 (63 FR 53679). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before December 23, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for "3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane" under the headings "Substances" and "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * *	* * *
3,9-Bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane (CAS Reg. No. 154862–43–8), which may contain not more than 2 percent by weight of triisopropanolamine (CAS Reg. No. 122–20–3).	For use only: 1. At levels not to exceed 0.15 percent by weight of all polymers, except as specified below. 2. At levels not to exceed 0.2 percent by weight of polycarbonate resins complying with § 177.1580 of this chapter. 3. At levels not to exceed 0.3 percent by weight of polyetherimide resins complying with § 177.1595 of this chapter.
* * * *	* * *

Dated: October 28, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–30523 Filed 11–22–99; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4003, 4007, 4011, 4041, 4041A, 4043, and 4050

Disaster Relief in Response to Hurricanes Floyd and Irene

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of disaster relief.

SUMMARY: The Pension Benefit Guaranty Corporation is waiving certain penalties and extending certain deadlines in response to the major disasters declared by the President of the United States on account of Hurricanes Floyd and Irene.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1001 *et seq.*). Under ERISA and the PBGC's regulations, a number of deadlines must be met in order to avoid the imposition of penalties or other consequences.

The President of the United States issued declarations, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*), that major disasters exist in the States of Connecticut, Delaware, Florida, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Vermont, and Virginia because of Hurricane Floyd, Hurricane Irene, or both.

Relief From Certain Deadlines and Penalties

The PBGC is providing relief from certain deadlines and penalties. In general, this relief is applicable with respect to plans for which the administrator's or sponsor's principal place of business, or the office of a service provider, bank, insurance company, or other person maintaining information necessary to meet the applicable deadlines, is located in an area that has been (or will be) designated a major disaster area on account of Hurricanes Floyd or Irene (a "designated disaster area"). However, the extension (discussed below) for filing requests for reconsideration or appeals is applicable to any aggrieved person who is residing in, or whose principal place of business is within, a designated disaster area, or with respect to whom the office of the service provider, bank, insurance company, or other person maintaining the information necessary to file the request for reconsideration or appeal, is within such an area.

Premiums

The PBGC will waive the late payment penalty charge with respect to any premium payment required to be made on or after September 15, 1999, and before November 30, 1999, if the payment is made by November 30, 1999. The PBGC is not permitted by law to waive late payment interest charges. (ERISA section 4007(b); 29 CFR 4007.7 and 4007.8(b)(3).)

Section 4071 Penalties

For any of the following notices that is required to be filed with the PBGC on or after September 15, 1999, and before November 30, 1999, in order to avoid the assessment of section 4071 penalties, the PBGC will not assess a section 4071 penalty if the notice is filed by November 30, 1999:

(1) Post-distribution certification for single-employer plans (PBGC Form 501 or 602; ERISA section 4041(b)(3)(B) or (c)(3)(B); 29 CFR 4041.29 or 4041.50)),

(2) Notice of termination for multiemployer plans (ERISA section 4041A; 29 CFR 4041A.11),

(3) Notice of plan amendments increasing benefits by more than $10 million (ERISA section 307(e)),

(4) Missing participants information for single-employer plans (Schedule MP (including Attachments A and B) to PBGC Forms 501 and 602; ERISA section 4050; 29 CFR 4050.6), and

(5) Premium declarations (PBGC Forms 1 (including Schedule A) and 1–ES; ERISA section 4007; 29 CFR 4007.3).

The PBGC will not assess a section 4071 penalty for a failure to provide certain supporting information and documentation when a notice of failure to make required contributions totaling more than $1 million (including interest) is timely filed, if the timely filed notice includes at least items 1 through 7 and items 11 and 12 of Form 200; the responses to items 8 through 10, with the certifications in items 11 and 12, may be filed late (PBGC Form 200; ERISA section 302(f)(4); 29 CFR 4043.81). This relief applies to notices required to be filed with the PBGC on or after September 15, 1999, and before November 30, 1999, provided that all supporting information and documentation are filed by November 30, 1999.

The PBGC is not automatically forgoing assessment of penalties under section 4071 for failure to comply with other information submission requirements, but relief may be granted in individual cases. For example, 29 CFR 4010.11 provides for waivers and extensions for financial and actuarial information reporting under 29 CFR Part 4010.

Reportable Events Notices

With respect to a reportable event for which a post-event notice is required to be filed under subpart B of the PBGC's regulation on Reportable Events (29 CFR 4043.20 through 4043.35) on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4043.4(d)) extending to November 30, 1999, the time within which to provide certain supporting information and documentation when a notice of the reportable event is timely filed, if the timely filed notice includes at least the information specified on the front of PBGC Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b)(1) through (5); the extension applies to the information specified on the back of Form 10 or, if Form 10 is not filed, the information specified in 29 CFR 4043.3(b)(6) through (8) and in paragraph (b) of the regulation section that describes the event.

The PBGC is not providing automatic extensions for advance notices of reportable events described in subpart C of the Reportable Events regulation (29 CFR 4043.61 through 4043.68), but waivers and extensions for such notices may be granted individually pursuant to 29 CFR 4043.4(d).

Standard and Distress Termination Notices and Distribution of Assets

With respect to a standard termination for which the standard termination notice is required to be filed, or the distribution of plan assets is required to be completed, on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4041.4) extending to November 30, 1999, the time within which the standard termination notice must be filed (and, thus, the time within which notices of plan benefits must be provided) and the time within which the distribution of plan assets must be completed.

With respect to a distress termination for which the distress termination notice is required to be filed on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4041.4) extending to November 30, 1999, the time within which the termination notice must be filed. With respect to a distress termination for which notices of benefit distribution must be provided or plan assets must be distributed on or after September 15, 1999, and before November 30, 1999, as a result of the PBGC's issuance of a distribution notice, the PBGC is (pursuant to 29 CFR 4041.4) extending to November 30, 1999, the time within which such actions must be taken. In addition, as noted above, the PBGC is providing relief from penalties for late filing of the post-distribution certification.

Participant Notices

For Participant Notices that are required to be issued on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4011.8) extending the due date to November 30, 1999.

Requests for Reconsideration or Appeals

For persons who are aggrieved by certain agency determinations and for whom a request for reconsideration or an appeal is required to be filed on or after September 15, 1999, and before November 30, 1999, the PBGC is (pursuant to 29 CFR 4003.4(b)) extending the time for filing to November 30, 1999.

Designated Disaster Areas

When this notice was prepared, the following counties had been designated by the Federal Emergency Management Agency (pursuant to 44 CFR 206.40(b)) as areas affected by one or both of these disasters:

In the state of Connecticut: Fairfield, Hartford, and Litchfield counties.

In the state of Delaware: New Castle county.

In the state of Florida: Brevard, Broward, Collier, Dade, Duval, Flagler, Glades, Hendry, Highlands, Indian River, Martin, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Polk, St. Johns, St. Lucie, Seminole, and Volusia counties.

In the state of Maryland: Anne Arundel, Calvert, Caroline, Cecil, Charles, Harford, Kent, Queen Anne's, Somerset, St.Mary's, and Talbot counties.

In the state of New Hampshire: Belknap, Cheshire, and Grafton counties.

In the state of New Jersey: Bergen, Essex, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, and Union counties.

In the state of New York: Albany, Dutchess, Essex, Greene, Nassau, Orange, Putnam, Rockland, Rensselaer, Schenectady, Schoharie, Suffolk, Ulster, Warren, and Westchester counties.

In the state of North Carolina: Alamance, Anson, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Chatham, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lee, Lenoir, Martin, Montgomery, Moore, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Tyrrell, Union, Vance, Wake, Warren, Washington, Wayne, and Wilson counties.

In the state of Pennsylvania: Bucks, Chester, Delaware, Lancaster, Montgomery, Philadelphia, and York counties.

In the state of South Carolina: Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marlboro, Marion, Orangeburg, Richland, Sumter, and Williamsburg counties.

In the state of Vermont: Bennington, Caledonia, Essex, Lamoille, Orange, Orleans, Rutland, Washington, Windham, and Windsor.

In the state of Virginia: Accomack, Brunswick, Caroline, Chesterfield, Dinwiddie, Essex, Fairfax, Gloucester, Greensville, Hanover, Halifax, Henrico, Isle of Wight, James City, King, King & Queen, King George, King William, Lancaster, Lunenburg, Mathews,

Mecklenburg, Middlesex, New Kent, Northhampton, Northumberland, Prince George, Richmond, Southampton, Suffolk, Surry, Sussex, Westmoreland, and York counties, and the cities of Charles City, Chesapeake, Colonial Heights, Emporia, Franklin, Hampton, Hopewell, Portsmouth, Newport News, Norfolk, Richmond, Virginia Beach, Williamsburg, and Poquoson.

Applying for Waivers/Extensions

A submission to the PBGC to which a waiver or an extension is applicable under this notice should be marked in bold print "HURRICANE FALL 1999, [name of county], [name of state]" at the top center.

Issued in Washington, DC, this 17th day of November 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–30467 Filed 11–22–99; 8:45 am]

BILLING CODE 7708–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 52

[TRI–FIP–003a; FRL–6479–8]

Source Specific Federal Implementation Plan for Tri-Cities Landfill; Salt River Pima-Maricopa Indian Community

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating a direct final, source-specific Federal Implementation Plan (FIP) to regulate emissions from a proposed gas-to-energy project at the Tri-Cities landfill. This facility is located on the reservation of the Salt River Pima-Maricopa Indian Community (SRPMIC), within the Phoenix area designated by EPA as nonattainment for CO, PM–10, and ozone. This facility will be owned and operated by the Salt River Project (SRP) under the terms of an agreement and lease entered into with the SRPMIC.

DATES: This direct final rule is effective on January 24, 2000 unless adverse or critical comments are received by December 23, 1999. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be addressed to: Steve Branoff, Air Division (AIR–3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Steve Branoff, Air Division (AIR–3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1290.

SUPPLEMENTARY INFORMATION:

I. EPA's Authority To Promulgate a FIP in Indian Country

The Clean Air Act Amendments of 1990 greatly expanded the role of Indian tribes in implementing the provisions of the Clean Air Act in Indian country. Section 301(d) of the Act authorizes EPA to issue regulations specifying the provisions of the Clean Air Act for which Indian tribes may be treated in the same manner as states. EPA promulgated the final rule under section 301(d) of the Act, entitled "Indian Tribes: Air Quality Planning and Management," on February 12, 1998. 63 FR 7254. This rule is generally referred to as the "Tribal Authority Rule" or "TAR."

In the preamble to the proposed [1] and final TAR, EPA discussed generally the legal basis under the CAA by which EPA and tribes are authorized to regulate sources of air pollution in Indian country. EPA concluded that the CAA constitutes a statutory grant of jurisdictional authority to eligible Indian tribes that allows them to develop CAA programs for EPA approval in the same manner as states for all air resources within the exterior boundaries of a reservation. 63 FR 7254–7259; 59 FR 43958–43960. In addition, the CAA authorizes eligible tribes to develop CAA programs for non-reservation areas over which a tribe can demonstrate jurisdiction under Federal Indian law. 63 FR 7258–7259.

EPA also concluded that the CAA authorizes EPA to protect air quality throughout Indian country. See 63 FR 7262; 59 FR 43960–43961 (citing to CAA sections 101(b)(1), 301(a), and 301(d)); see also 63 FR 8247, 8250 (citing to CAA sections 301(d)(4) and 301(d)(2)(B)). In fact, in promulgating the TAR, EPA specifically provided that, pursuant to the discretionary authority explicitly granted to EPA under sections 301(a) and 301(d)(4) of the Act, EPA:

> shall promulgate without unreasonable delay such federal implementation plan provisions as are necessary or appropriate to protect air quality, consistent with the provisions of sections 304(a) and 301(d)(4), if a tribe does not submit a tribal implementation plan meeting the completeness criteria of 40 CFR part 51, appendix V, or does not receive EPA approval of a submitted tribal implementation plan.

63 FR 7273 (codified at 40 CFR 49.11(a)). [2]

It is EPA's policy to aid tribes in developing comprehensive and effective air quality management programs by providing technical and other assistance to them. EPA recognizes, however, that just as it required many years to develop state and federal programs to cover lands subject to state jurisdiction, it will also require time to develop tribal and federal programs to cover Indian country. 59 FR 43961.

The Salt River Pima-Maricopa Indian Community has expressed an interest in seeking authority under the TAR to regulate sources of air pollution located on the Reservation under the Clean Air Act. EPA has been informed by the SRPMIC that it will not be ready to apply under the TAR for Clean Air Act permitting responsibilities before the desired date of construction of the proposed gas-to-energy project at the Tri-Cities landfill.

Therefore, in this FIP, EPA is exercising its discretionary authority under section 301(a) and 301(d) of the CAA and 40 CFR 49.11(a) to promulgate such FIP provisions as are necessary or appropriate to regulate the Tri-Cities landfill project. Given the fact that this project will be a new source of greater than 100 tons per year of CO emissions within the boundaries of a designated CO nonattainment area, EPA believes that the FIP provisions are both necessary and appropriate to protect air quality on the Reservation.

II. EPA Action

The Tri-Cities landfill is located within the Phoenix area which EPA has designated as serious nonattainment for three pollutants: CO, PM–10, and ozone. The proposed project involves the installation of electricity-producing equipment at the Tri-Cities landfill. This equipment would run on the landfill gas currently being collected and flared at this facility. Based on the preliminary emissions data submitted to EPA by SRP, this equipment would be considered a major source of CO emissions, according to the definition of "major source" in section 302(j) of the

[1] *See* 59 FR 43956 (August 25, 1994).

[2] In the preamble to the final TAR, EPA explained that it believed it was inappropriate to treat tribes in the same manner as states with respect to section 110(c) of the Act, which directs EPA to promulgate a FIP within two years after EPA finds a state has failed to submit a complete state plan or within two years after EPA disapproval of a state plan. EPA promulgated 40 CFR 49.11(a) to clarify that EPA will continue to be subject to the basic requirement to issue any necessary or appropriate FIP provisions for affected tribal areas within some reasonable time. See 63 FR 7264–7265.

Act, since it would have a potential to emit more than 100 tons per year of CO.

Since this project would be a major source of CO emissions located within an area designated by EPA as serious nonattainment for CO, EPA believes that it is appropriate to apply the requirements of section 173 of the Act. Thus, in order to obtain a nonattainment New Source Review (NSR) preconstruction permit, this project will be required to meet the requirements found at the end of this notice with respect to CO emissions. These requirements include: the use of emissions controls which constitute the Lowest Achievable Emissions Rate (LAER), the requirement to obtain emissions reductions to offset the potential emissions of CO, preparation of an alternative siting analysis, and demonstration that all other sources under the same ownership or operation on the Reservation are in compliance with all requirements under the Clean Air Act.

All requirements included in this rulemaking have been taken directly from existing EPA permit regulations or from the Clean Air Act. In addition to the requirements of section 173 of the Act listed above, this FIP incorporates requirements from 40 CFR 51.165, which have been adapted to reflect that this source is located in Indian country. This FIP also incorporates by reference the public participation requirements of 40 CFR part 124, which are the regulations implemented by EPA when issuing permits for major sources of air pollution under the Prevention of Significant Deterioration (PSD) program. Therefore, this FIP does not establish any new requirements for the review of new or modified major sources located in nonattainment areas, except insofar as it gives EPA the authority to permit a major source in a nonattainment area that is in Indian country.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this FIP should adverse comments be filed. This rule will be effective January 24, 2000 without further notice unless the Agency receives adverse comments by December 23, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on January 24, 2000 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. The federal implementation plan for the Tri-Cities landfill promulgated today does not impose any new requirements on small entities. See Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 04–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed rules and for final rules for which EPA published a notice of proposed rulemaking, if those rules contain "federal mandates" that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If section 202 requires a written statement, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why EPA did not adopt that alternative. The provisions of section 205 do not apply when they are inconsistent with applicable law. Section 204 of UMRA requires EPA to develop a process to allow elected officers of state, local, and tribal governments (or their designated, authorized employees), to provide meaningful and timely input in the development of EPA regulatory proposals containing significant Federal intergovernmental mandates.

EPA has determined that this FIP contains no federal mandates on state, local or tribal governments, because it will not impose any enforceable duties on any of these entities. EPA further has determined that this FIP is not likely to result in the expenditure of $100 million or more by the private sector in any one year. Although the FIP would impose enforceable duties on an entity in the private sector, the costs are expected to be minimal. Consequently, sections 202, 204, and 205 of UMRA do not apply to this FIP.

Before EPA establishes any regulatory requirements that might significantly or uniquely affect small governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the FIP will not significantly or uniquely affect small governments, because it imposes no requirements on small governments. Therefore, the requirements of section 203 do not apply to this FIP. Nonetheless, EPA worked closely with representatives of the Tribe in the development of today's action.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all "collections of information" by EPA. The Act defines "collection of information" as a requirement for "answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *" 44 U.S.C. 3502(3)(A). Because the FIP only applies

to one company, the Paperwork Reduction Act does not apply.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This executive order applies to any rule that: (1) is determined to be "economically significant" as that term is defined in Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This FIP is not subject to Executive Order 13045 because it implements previously promulgated health or safety-based federal standards.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and EPA's position supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

As stated above, the FIP will not create a mandate on state, local or tribal governments because it will not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule. Nonetheless, EPA worked closely with representatives of the Tribe during the development of today's action.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

The FIP does not impose substantial direct compliance costs on the communities of Indian tribal governments. The FIP imposes obligations only on the owner or operator of the project. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

As discussed above, EPA worked closely with representatives of the Tribe during the development of today's action.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 24, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

K. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the

process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB) in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

List of Subjects

40 CFR Part 49

Environmental protection, Air pollution control, Carbon monoxide, Indians, New source review, Reporting and recordkeeping requirements.

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Indians, New source review, Reporting and recordkeeping requirements.

Dated: November 16, 1999.

Carol M. Browner,

Administrator.

Title 40, Chapter I of the Code of Federal Regulations is hereby amended as follows:

PART 49—TRIBAL CLEAN AIR ACT AUTHORITY

1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Part 49 is hereby amended by adding § 49.22 to read as follows:

§ 49.22 Federal Implementation Plan for Tri-Cities landfill, Salt River Pima-Maricopa Indian Community.

(a) *Applicability.* This section applies to the owner or operator of the project located on the Reservation of the Salt River Pima Maricopa Indian Community (SRPMIC) in Arizona, including any new owner or operator in the event of a change in ownership of the project.

(b) *Definitions.* The following definitions apply to this section. Except as specifically defined herein, terms used in this section retain the meaning accorded them under the Clean Air Act.

Actual emissions means the actual rate of emissions of a pollutant from an emissions unit as determined in paragraphs (1)–(3) of this definition:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. EPA shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) EPA may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

Begin actual construction means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

Building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (*i.e.*, which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0065 and 003–005–00176–0, respectively).

Commence as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has: (1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

Construction means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

EPA means United States Environmental Protection Agency, Region 9.

Fugitive emissions means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Lowest achievable emission rate means the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in any State, Tribal, or federal implementation plan for such class or category of stationary source, unless the owner or operator of the project demonstrates that such limitations are not achievable; or

(2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

Major stationary source means a stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant

subject to regulation under the Act. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this project whether it is a major stationary source.

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Project means the construction of electricity-generating engines owned and operated by the Salt River Project at the Tri-Cities landfill, which are fueled by collected landfill gas.

Secondary emissions means emissions which would occur as a result of the construction or operation of a major stationary source, but do not come from the major stationary source itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction of operation of the major stationary source. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Stationary source means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

(c) *Requirement to submit an application.* The owner or operator of the project shall submit an application for a permit to construct to EPA which contains all information necessary to perform any analysis or make any determination as required by this Federal Implementation Plan.

(d) *Source obligations.* (1) The owner or operator of the project shall not begin actual construction on the project without obtaining a nonattainment New Source Review permit regulating emissions of air pollutants. The EPA Region 9 Regional Administrator has the authority to issue such a permit. Any permit issued by EPA shall ensure that the project meets the following requirements:

(i) By the time the project is to commence operation, the owner or operator of the project must have obtained sufficient reductions in actual emissions from existing facilities within the same nonattainment area which satisfy the requirements of section 173 of the Clean Air Act, to offset the potential to emit of the project;

(ii) The owner or operator of the project must comply with the lowest achievable emissions rate;

(iii) The owner or operator of the project must demonstrate that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) located on the reservation of the SRPMIC are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Act; and

(iv) The owner or operator of the project has provided an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location or construction.

(2) If the owner or operator constructs or operates the project not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or if the owner or operator subject to this section commences construction after January 24 , 2000 without applying for and receiving approval under this section, then the owner or operator shall be subject to appropriate enforcement action.

(3) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Administrator may extend the 18-month period upon a satisfactory showing that an extension is justified.

(4) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Federal implementation plan and any other requirements under Tribal or Federal law.

(e) *Public participation.* (1) When issuing a permit for the project, the EPA Region 9 Regional Administrator shall follow the procedures for decision making for PSD permits contained in 40 CFR part 124, including the requirements for public notice, consideration of and response to public comment, and the opportunity for public hearing.

(2) Within 30 days after the EPA Region 9 Regional Administrator has issued a final permit decision, any person who filed comments on the draft permit or participated in the public hearing, if one has been held, may petition the Environmental Appeals Board to review any condition of the permit. Review of the permit decision will be governed by the regulations for review of PSD permits contained in 40 CFR part 124.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

2. Subpart D is hereby amended by adding § 52.142 to read as follows:

§ 52.142 Federal Implementation Plan for Tri-Cities landfill, Salt River Pima-Maricopa Indian Community.

The Federal Implementation Plan regulating emissions from an Energy Project at the Tri-Cities landfill located on the Salt River Pima-Maricopa Indian Community near Phoenix, Arizona is codified at 40 CFR 49.22.

[FR Doc. 99–30401 Filed 11–22–99; 8:45 am]
BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 64, No. 225
Tuesday, November 23, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[No. LS–99–13]

Sheep and Lamb Promotion, Research, and Information Order

AGENCY: Agricultural Marketing Service; USDA.

ACTION: Invitation to submit proposals.

SUMMARY: Interested parties are invited to submit proposals for a sheep and lamb promotion, research, and information order (order), or parts of an order as provided for by the Commodity Promotion, Research, and Information Act of 1996 (Act). The Act authorizes national industry-funded programs for promotion, research, and information regarding agricultural commodities. Interested parties are also invited to submit views on whether it would be beneficial to hold a public meeting during an ensuing comment period to discuss the proposals.

DATES: Proposals must be received by December 23, 1999.

ADDRESSES: Proposals (two copies) should be mailed to: Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2627–S; Livestock and Seed Program; Agricultural Marketing Service, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, DC 20250–0251.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch on 202/720–1115.

SUPPLEMENTARY INFORMATION: The Act (7 U.S.C. 7401–7425) authorizes the development, financing, and carrying out of an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities. Any nationwide sheep and lamb program would be funded by mandatory assessments paid by industry and would be administered by a board, composed of industry representatives appointed by the Secretary of Agriculture (Secretary).

A order issued by the Secretary, based on public input, would form the basis for a national program designed to benefit the sheep and lamb industry. Since the Act provides that an order may be prepared by the Secretary or submitted by an association of producers or any other person that may be affected by the issuance of the order, notice is hereby given that the Department of Agriculture (Department) will accept written proposals for a sheep and lamb promotion, research, and information order, or for various provisions thereof.

Proposals should include: (1) The proposed order language; (2) a description of the proposed order provisions; (3) an explanation of the nature and purpose of the proposed order provisions; (4) references to the section of the Act that would be implemented by an order provision; and (5) any other pertinent information concerning a proposal that would assist in the process of implementing the Act.

The Act itself provides for authority to tailor a program according to the individual needs of an industry. Provision is made for permissive terms in an order in section 516 of the Act, and other sections provide for alternatives. For example, section 514 of the Act provides for orders applicable to: (1) Producers; (2) first handlers and other persons in the marketing chain, as appropriate; and (3) importers (if imports are subject to assessment). Section 516 authorizes an order to provide for exemption of de minimis quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports. In addition, section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within 3 years after assessments first begin under the order. An order also may provide for its approval in a referendum to be based upon: (1) A majority of those persons voting; (2) persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. Section 515 of the Act provides for establishment of a board from among producers, first handlers, and others in the marketing chain as appropriate and importers, if importers are subject to assessment.

The Department will only publish for public comment in the **Federal Register** proposals that are consistent with and would effectuate the purposes of the Act.

List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Sheep and lamb products, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7401–7425.

Dated: November 18, 1999.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 99–30596 Filed 11–19–99; 1:33 pm]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM–20–21]

Keith J. Schiager, Ph.D.; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing, at the petitioner's request, a petition for rulemaking (PRM–20–21) (58 FR 47676, September 10, 1993) filed by Keith J. Schiager, Ph.D., on behalf of the University of Utah, Salt Lake City, Utah. In PRM–20–21, the petitioner requested that the Commission amend its regulations in 10 CFR Part 20 that became mandatory for all licensees on January 1, 1994, to permit additional methods for disposal of certain low-level radioactive wastes. The petitioner stated that the regulations that became

mandatory for all licensees on January 1, 1994, are too restrictive and prevent many research institutions from pursuing certain types of research that cannot be conducted effectively without the use of radioactive materials. In withdrawing his petition, the petitioner stated that he concurred with the staff view expressed in a letter dated October 1, 1999 that the essence of the petition was addressed in part by the proposed changes to 10 CFR Part 35.

ADDRESSES: A copy of the petitioner's letter, dated October 5, 1999, requesting the withdrawal of the petition is available for public inspection at the NRC Public Document Room located at 2120 L Street NW. (Lower Level), Washington, DC 20012–7082, telephone: (202) 634–3273.

FOR FURTHER INFORMATION CONTACT: James A. Smith, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6459, e-mail jas4@nrc.gov.

SUPPLEMENTARY INFORMATION: On September 10, 1993 (58 FR 47676), the NRC published in the **Federal Register** a notice of receipt of a petition for rulemaking PRM–20–21 that requested NRC to permit the disposal of certain low-level radioactive wastes containing very low concentrations of short-lived radionuclides. Based upon the petitioner's letter dated October 5, 1999, the NRC is withdrawing this petition for rulemaking. The basis for this withdrawal is that the current NRC rulemaking for 10 CFR Part 35, "Medical Use of Byproduct Material," with respect to the decay in storage disposal requirements in 10 CFR 35.92, will address many of the concerns in the petition. In addition, on a case-by-case basis, based upon an analysis and the determination by NRC staff of the procedures and technologies proposed by the licensee, the incineration of other flammable and bio-hazardous waste contaminated with isotopes other than carbon-14 and tritium may be allowed through license conditions that require the effluent and disposal of the ash to meet the requirements in 10 CFR Part 20.

Dated at Rockville, Maryland, this 17th day of November, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–30468 Filed 11–22–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–64–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The proposed AD would require replacing the stick pusher capstan and the stick pusher servo with parts of improved design. The proposed AD is the result of mandatory continuing airworthiness information, (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent improper operation of the stick pusher system caused by the existing design configuration, which could result in loss of control of the airplane during a stall.

DATES: Comments must be received on or before December 23, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–64–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 610 33 51. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–64–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–64–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA of Switzerland reports high tolerances found in the current stick pusher system design. These tolerances were found during Pilatus's follow-on testing of the Models PC–12 and PC–12/45 airplanes.

The stick pusher system is incorporated to meet certification stall requirements. Higher tolerances can lead to a higher control column force than was provided for during the original design of the aircraft. Higher control forces will not allow the stick pusher system to operate properly in preventing a stall. This condition, if not corrected in a timely manner, could result in loss of control of the airplane during a stall.

Relevant Service Information

Pilatus has issued Service Bulletin No. 22–003, dated June 24, 1999, which specifies replacing the stick pusher capstan and the stick pusher servo with parts of improved design. The procedures to accomplish these actions are included in the applicable maintenance manual.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 99–406, dated August 16, 1999, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus PC–12 and PC–12/45 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the stick pusher capstan and the stick pusher servo with parts of improved design. Accomplishment of the proposed action would be required in accordance with the applicable maintenance manual, as specified in Pilatus Service Bulletin No. 22–003, dated June 24, 1999.

Cost Impact

The FAA estimates that 69 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Pilatus will provide parts free of charge until March 2000. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $33,120, or $480 per airplane.

Regulatory Impact

The proposed rule does not have Federalism implications as defined in Exectutive Order No. 13132. This means it would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft Ltd.: Docket No. 99–CE–64–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, manufacturer serial number (MSN) 101 through MSN 180, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent improper operation of the stick pusher system caused by the existing design configuration, which could result in the loss of control of the airplane during a stall, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, replace the stick pusher capstan and stick pusher servo with parts of improved design, in accordance with the applicable maintenance manual, as specified in Pilatus Service Bulletin No. 22–003, dated June 24, 1999. The new part numbers (P/N) are as follows:

(1) *Stick Pusher Capstan:* P/N 978.61.11.124 (or FAA-approved equivalent part number); and

(2) *Stick Pusher Servo:* P/N 978.61.11.103 (or FAA-approved equivalent part number).

(b) As of the effective date of this AD, no person may install, on any of the affected airplanes, a stick pusher capstan or stick pusher servo that is not of the part number specified in paragraphs (a)(1) and (a)(2) of this AD, respectively.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to Pilatus Service Bulletin No. 22–003, dated June 24, 1999, should be directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 610 33 51. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Swiss AD HB 99–406, dated August 16, 1999.

Issued in Kansas City, Missouri, on November 15, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30521 Filed 11–22–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AEA–16]

Establishment of Class E Airspace; Brownsville, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Brownsville, PA. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 294 helicopter Point in Space approach, has been developed for Brownsville Hospital Brownsville, PA. Controlled airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach. This action proposes to establish Class E airspace to include the Point in Space approach to Brownsville Hospital. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before December 23, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 99–AEA–16, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111 John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–AEA–16." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Brownsville, PA, A GPS Point in Space Approach (SIAP) has been developed for Brownsville Hospital Heliport, Brownsville, PA. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration order 7400.9G dated September 10, 1999, and effective September 16, 1999, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5, Brownsville, PA

Brownsville Hospital Heliport, PA
(Lat. 400013.11, long. 795141.97)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Brownsville Hospital Heliport.

* * * * *

Issued in Jamaica, New York on November 17, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–30501 Filed 11–22–99; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 34 and 35

Concept Release Concerning Over-the-Counter Derivatives

AGENCY: Commodity Futures Trading Commission.

ACTION: Concept release; withdrawal.

SUMMARY: On May 12, 1998, the Commission issued a concept release reexamining its approach to the over-the-counter derivatives market. The Commission has decided to withdraw the concept release.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5100.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission issued a concept release concerning over-the-counter derivatives on May 12, 1998 (63 FR 26114). In light of the comments received, the Commission has determined to withdraw the concept release from further consideration.

Issued in Washington, DC on November 17, 1999 by the Commission.

Jean A. Webb,

Secretary of the Commission.

Concurring Remarks of Commissioner Spears Withdrawal of Concept Release on Over-the-Counter Derivatives

The Commission's May 1998 Concept Release on Over-the-Counter Derivatives has been widely perceived, both within the derivatives industry and among other financial regulators, as indicating an intent to expand the Commission's regulatory reach with respect to OTC derivatives. In view of that perception and any legal uncertainty it may have created, I agree to withdrawal of the Concept Release. However, as one of the Commissioners who signed off on issuing the Concept Release, I also wish to make clear my intent in originally approving publication of that document.

The Concept Release was published in May of 1998. At that time, five years had passed since the last major Commission action involving OTC derivatives (the 1993 swaps, hybrids and energy exemptions). As noted in the Release's preamble, the OTC derivatives market had experienced a number of significant changes during that five-year period. In light of those changes, I viewed the Release strictly as an appropriate information gathering document. Thus, as stated in the preamble, the Release was published in hopes that the comments received would "* * * constitute an important source of relevant data and analysis that [would] assist [the Commission] in determining whether its current regulatory approach continues to be appropriate or requires modification." [1] More importantly, the preamble also clearly states:

> The Commission has *no preconceived result in mind.* The Commission is open both to evidence in support of easing current restrictions and evidence indicating a need for additional safeguards. The Commission also welcomes comment on the extent to which certain matters are being or can be adequately addressed through self-regulation * * * [2] [emphasis supplied]

Concurring Remarks of Commissioner Erickson

I concur with the Commission's decision to withdraw the Concept Release on Over-the-Counter Derivatives because, in my view, the document has been rendered moot by subsequent events. The Commission published the Concept Release in May 1998, it asked the public to comment on a number of questions, and the public did so. No rules or orders were proposed and nothing related to the Concept Release currently is pending before the Commission. Moreover, representatives of the four federal financial regulators that comprise the President's Working Group on Financial Markets stated that they would use the comments received by the Commission to inform their study of OTC derivatives. I assume the public comments assisted the Working Group in preparing its report, which was issued on November 9, 1999.

I am concerned, however, about the potential precedent established by today's Commission action for future Commission actions, future Commissions, and, more broadly, for other federal agencies. I have reviewed 31 comment letters submitted to the Commission in response to the Concept Release and have examined related testimony given by various interested parties before several House and Senate committees. I am struck by the fact that despite the opposition the release provoked in some segments of the industry and among other regulators, nothing I saw cast any doubt on the substantive validity of the questions themselves. In fact, it seems to me that the Concept Release framed many of the issues we are currently discussing and, I believe, sparked the current dialogue regarding whether our existing regulatory structure fits today's financial markets.

I am not willing to concede that it was wrong for the Commission to ask questions about the application of its existing regulations in an evolving market. In fact, I believe it is our duty as an agency to constantly examine and re-examine the vitality and effectiveness of our regulatory scheme, and we should not be expected to defer to anyone else in fulfilling this duty. I am troubled that on a going-forward basis, the Commission may feel obliged to delegate to others its judgment about what kinds of questions are acceptable to ask about its own regulations.

Nonetheless, I am hopeful that through today's action this Commission will rededicate itself to addressing the derivatives industry issues unique to our time.

[FR Doc. 99–30513 Filed 11–22–99; 8:45 am]

BILLING CODE 6351–01–M

[1] 63 FR 26114, May 12, 1998.

[2] *Id.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 120

[Docket No. 97N–0511]

RIN 0910–AA43

Hazard Analysis and Critical Control Point (HACCP); Procedures for the Safe and Sanitary Processing and Importing of Juice; Availability of New Data and Information and Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening to January 24, 2000, the comment period for the proposal to require the application of hazard analysis and critical control point (HACCP) principles to the processing of fruit and vegetable juices and juice products (the juice HACCP proposal) that published in the **Federal Register** of April 24, 1998 (63 FR 20450). The agency is reopening the comment period for the juice

HACCP proposal in order to receive comment and other information on four specific issues: internalization and survival of pathogens in produce used to produce juice, especially citrus fruit; application and measurement of the 5-log reduction standard; current methods used by juice processors to monitor the application of heat treatment to juice; and certain economic matters related to juice regulation. FDA is also announcing the availability of new data and other information about the safe processing of juice and juice products, and is requesting comment on the new data and other information.

DATES: Written comments must be received by January 24, 2000.

ADDRESSES: Submit written comments and requests for single copies of the transcripts to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Shellee Anderson, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5023.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 24, 1998 (63 FR 20450), FDA proposed regulations to ensure the safe and sanitary processing of fruit and vegetable juices. In addition, in the **Federal Register** of July 8, 1998 (63 FR 37030), FDA published a final rule requiring that juice products not specifically processed to destroy harmful bacteria (i.e., processed to achieve a 5–log (105) reduction in the most resistant pathogen of public health significance) bear a warning statement informing consumers of the potential risk of foodborne illness associated with the product (the warning statement rule). The compliance date for the warning statement rule was September 8, 1998, for apple juice and apple cider; the compliance date for juices other than apple juice or apple cider was November 5, 1998.

Interested persons were initially given until July 8, 1998, to comment on the HACCP proposal. On July 8, 1998 (63 FR 37057), in response to requests, the HACCP proposal comment period was extended to August 7, 1998. FDA subsequently reopened the comment period on December 17, 1998 (63 FR 69579) until January 19, 1999, to receive comments on data and other information that were presented at or developed as a result of two technical scientific workshops sponsored by FDA regarding implementation of the agency's warning statement requirement for fruit and vegetable juices and juice products and to receive comments and other information regarding the application of the 5–log pathogen reduction standard.

As noted, in the HACCP proposal, FDA proposed to require that juice processors include in their HACCP plans control measures that will produce at least a 5-log reduction in the pertinent pathogen. The agency did not propose a specific intervention technology (e.g., pasteurization), but instead proposed a flexible 5-log performance standard that theoretically could be met through cumulative steps and, at least for some fruit (e.g., oranges), through surface treatments. In the preamble to the proposed rule, FDA stated that pathogens are not reasonably likely to be present in the interior of sound whole oranges or other citrus fruits, and further, that the acidic nature of citrus fruits may further inactivate any pathogens that may be present (63 FR 20450 at 20478). In the proposal, FDA noted that steps such as culling, washing, brushing, and sanitizing the surface of fruit, followed by extraction that minimized contact with the peel, could be used cumulatively to attain the 5-log reduction, as long as processors could validate the reduction under their HACCP systems.

Comments to the proposed rule, as well as new information available to FDA, have questioned the assumption that pathogens are not likely to be found in the interior of citrus fruit and have further suggested that surface treatment of fruit alone may not be adequate to ensure the safety of juice. In addition, FDA has undertaken research that suggests that, under certain conditions, pathogens could be internalized into citrus fruit and could survive once inside the fruit (Ref. 1). Specifically, the FDA studies show that the temperature differential between warm citrus fruit and cool wash water containing dye causes uptake of the dye into the fruit (Ref. 2). FDA believes that this dye study suggests that pathogens could likewise be drawn into the fruit through the stem scar or imperceptible cracks and holes if warm fruit is washed in cold water during preprocessing or possibly while the fruit is on the tree during a heavy rain storm. These susceptible fruits appear to be intact and would not necessarily be culled out and thus, could be processed into juice.

FDA has also reviewed the published literature and certain unpublished information relevant to pathogen infiltration and survival in produce and has summarized this information in a background document (Ref. 3). This information, in addition to data gathered by FDA (Ref. 1), suggests that there is potential for internalization of pathogens in apparently intact fruit. Based on this information, FDA has concerns that citrus fruit may not be impervious to penetration by pathogens, as was originally assumed in the proposed HACCP rule and the final labeling rule.

The Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture will soon announce a 3-day meeting (December 8 through 10, 1999) of the National Advisory Committee on Microbiological Criteria for Foods (NACMCF); during days one and two of that meeting, NACMCF will focus on juice safety. FDA intends to provide the members of NACMCF with a copy of the summary document, Potential for Infiltration, Survival, and Growth of Human Pathogens within Fruits and Vegetables, as well as a report of the results of the recent FDA studies concerning the internalization and survival of microorganisms in citrus, Preliminary Studies on the Potential for Infiltration, Growth and Survival of *Salmonella enterica* serovar Hartford and *Escherichia coli* O157:H7 within Oranges, for their consideration prior to the December meeting. At the December meeting, FDA will be asking NACMCF to consider performance criteria for fresh juice, and specifically, to make recommendations about the efficacy of surface treatments in ensuring the safety of citrus juices.

II. Request for Comments

In order for FDA to make sound decisions regarding the application of HACCP principles to the processing of juice, the agency should have before it the most complete administrative record possible. To that end, FDA is requesting additional comment in four separate areas: (1) Internalization and survival of pathogens in produce used to produce juice, especially citrus fruit; (2) application and measurement of the 5-log reduction standard; (3) current methods used by juice processors to monitor the application of heat treatment to juice; and (4) certain economic matters related to juice regulation. In addition, FDA is requesting comment on the new data and other information being added to the administrative record of this rulemaking.

First, concerning internalization and survival of pathogens, FDA is requesting comment, and supporting data or other information, on the following questions:

(1) One assumption underlying the HACCP proposal is that there is no

internalization of pathogens in citrus fruit. Is this assumption valid?

(2) Is internalization of pathogens into citrus fruit theoretically possible?

(3) If internationalization of pathogens into citrus fruit is theoretically possible, is such internalization likely to result in a public health risk?

(4) If internalization does occur and it results in a public health risk, are there techniques to assure that internalization of pathogens does not occur? What are they?

Second, comments to the proposed HACCP rule requested that FDA clarify at what point in the production process a processor should begin to measure attainment of the 5–log pathogen reduction. In light of the new data and information on pathogen internalization and survival, FDA's current view is that for any juice made from fruit for which there is a potential for pathogens to be internalized, measurement of the 5–log reduction must begin where preventive treatment has intimate contact with pathogens. This means that the 5–log reduction must be achieved after the juice has been extracted. Accordingly, in terms of the application of the 5–log reduction, FDA requests comment on the following:

(1) FDA's current view is that the 5-log pathogen reduction must begin where the preventative treatment has intimate contact with the pathogens. FDA is particularly interested in any data or other information about scientifically validated procedures for a 5–log reduction that address FDA's concerns about pathogen internalization and that begin earlier in the process than the juice expression step.

(2) The ability of processors to achieve the desired level of public health protection if processors: (a) Use cumulative steps that are separated in time or location, or (b) do not package product immediately after attaining the 5–log reduction.

(3) For firms producing fresh juice, the costs and economic feasibility of achieving a 5-log pathogen reduction using the approach reflected in FDA's current thinking.

(4) The benefits to processors of using this enhanced 5-log pathogen reduction approach in terms of improved shelf-life or other any benefit.

Third, FDA is aware that the majority of juice processors already apply some sort of heat treatment to the juice that they produce. Under a HACCP system, the application of heat is a critical control point (CCP) in terms of controlling microbiological hazards. FDA requests comments that describe the monitoring methods that juice processors currently use to assure that the heat treatment is adequately delivered so as to control pathogens.

Fourth, FDA also specifically requests comment on several economic issues, as follows:

(1) The agency is aware that some consumers prefer to consume raw (i.e., unprocessed) juice. FDA requests comment from these consumers concerning how much they would be willing to pay for a gallon of raw juice. FDA also requests information from raw juice processors on the percent of annual profit that firms derive from the sale of raw juice.

(2) The agency developed a preliminary regulatory impact analysis and a small entity analysis that estimate benefits and costs associated with the HACCP proposal. These analyses were published in the **Federal Register** of May 1, 1998 (63 FR 24254). FDA requests comment on impacts, costs, and benefits on businesses with fewer than 500 employees.

(3) FDA requests comment on the ways in which processors that have already implemented HACCP have done so in a manner that is different from the provisions of the proposed rule.

Finally, as noted above, FDA has prepared a summary of certain data and information regarding internalization and survival of pathogens in produce. The agency has also prepared reports of the agency's recent research. FDA is announcing the availability of the following: (1) Two documents summarizing new data on internalization and survival of microorganisms in citrus (Refs. 1 and 2); and (2) a review of published and unpublished information on internalization and survival of microorganisms in fruits and vegetables (Ref. 3). FDA is also announcing the availability for public comment of the transcripts from a July 15 to 16, 1999, FDA-sponsored technical scientific workshop on apple cider.

To be considered, written comments must be received by January 24, 2000, by the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Walderhaug, M. O., S. Edelson-Mammel, A. DeJesus, B. S. Eblen, A. J. Miller, and R. L. Buchanan. "Preliminary Studies on the Potential for Infiltration, Growth and Survival of *Salmonella enterica* Serovar Hartford and *Escherichia coli* O157:H7 Within Oranges." U.S. Food and Drug Administration, November 8, 1999.

2. Merker, R., S. Edelson-Mammel, V. Davis, R. L. Buchanan. "Preliminary Experiments on the Effect of Temperature Differences on Dye Uptake by Oranges and Grapefruit. U.S. Food and Drug Administration, November 4, 1999.

3. Potential for Infiltration, Survival, and Growth of Human Pathogens within Fruits and Vegetables, U.S. Food and Drug Administration, November 3, 1999.

Dated: November 16, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–30525 Filed 11–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 70, 71 and 90

Proposed Program Policy Letter on Samples Used To Determine the Respirable Dust Level When Quartz Is Present

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for comments.

SUMMARY: The Mine Safety and Health Administration (MSHA) requests comments on a draft Program Policy Letter (PPL) regarding the samples that are used to determine the reduced respirable coal mine dust standard when more than 5.0 percent of quartz is present in the mine atmosphere. Under the PPL, the samples used to determine a reduced standard would be MSHA samples exclusively rather than a combination of MSHA and mine operator samples. MSHA is publishing this Notice to afford an opportunity for interested persons to comment on the draft PPL before it is issued.

DATES: Submit comments on or before December 23, 1999.

ADDRESSES: Send comments on the proposed policy—

(1) By mail to MSHA, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203;

(2) By facsimile to MSHA, Office of Standards, Regulations, and Variances, 703–235–5551; or

(3) By electronic mail to comments@msha.gov. If possible, please

supplement written comments with computer files on disk; contact the Agency with any format questions.

FOR FURTHER INFORMATION CONTACT: Ronald J. Schell, Division of Health, Coal Mine Safety and Health, (703) 235–1358. You may obtain copies of this Notice in alternative formats by calling the MSHA Office of Standards, Regulations, and Variances at (703) 235–1910. The alternative formats available are large print or electronic file on a computer disk. The proposed rule also is available on the Internet at http://www.msha.gov/REGSINFO.HTM.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements associated with transmitting mine operator quartz samples to us (MSHA) are approved by the Office of Management and Budget (OMB) under OMB control number 1219–0011. The Program Policy Letter (PPL) would reduce the number of mine operator samples submitted. The paperwork burden on the mine operators would be further reduced since mine operators would no longer be required to complete and submit the dust data cards that accompany quartz samples.

II. Background

We (MSHA) update our policies for enforcement of safety and health regulations through PPLs. PPLs explain or clarify how regulations work or apply in a particular situation. Once adopted, the policy statements are published in the MSHA Program Policy Manual and given wide distribution.

By this Notice, we are affording you the opportunity to comment on a draft PPL that would change the current policy for determining how the respirable coal mine dust standard is set when respirable dust samples indicate more than 5.0 percent quartz is present in the mine environment. Under this revised policy, only samples taken by MSHA, rather than a combination of MSHA and mine operator samples, would be used to establish the reduced standard due to the presence of quartz.

The text of the draft PPL follows the discussion of the draft policy below. We will consider all timely submitted comments before finalizing the PPL.

III. Discussion of Draft Policy

The standard set out in 30 CFR parts 70 and 71 requires that the average concentration of respirable coal mine dust be continuously maintained at or below 2.0 milligrams per cubic meter of air (2.0 mg/^{3}). However, when the respirable dust in the mine atmosphere of the active workings contains more than 5.0 percent quartz, the 2.0 mg/m^3 standard must be lowered under a formula set forth in 30 CFR 70.101, 71.101 and 90.101.[1] That formula provides that the reduced standard be computed by dividing the percent of quartz into the number ten.

Under existing policy, MSHA samples can be averaged with mine operator samples to determine the percent of quartz in the mine environment. That policy is outlined in Chapter 1 of MSHA's Coal Mine Health Inspection Procedures Handbook. That policy provides that if an MSHA respirable dust sample indicates the presence of quartz in excess of 5.0 percent the mine operator is notified of the result and provided an opportunity to collect an optional respirable dust sample from the affected area or occupation. If the operator collects such a sample, and provided it has sufficient weight gain, the percent quartz in that sample is averaged with the results of the MSHA sample to determine the percent of quartz present in the mine environment. If no optional sample is submitted, the reduced standard is established based on the MSHA sample.

When an operator sample is submitted and the results of the MSHA and operator samples differ by more than ± 2.0 percent, the mine operator is provided the option of taking a second respirable coal mine dust sample. If the mine operator takes the second optional sample, the results are averaged with the results of the other two samples. When the average percent quartz in the three samples is greater than 5.0 percent, that average is used to compute the reduced respirable dust standard.

The current policy of allowing mine operators the option of taking up to two additional samples to determine the percent of quartz in the mine atmosphere began in 1986. The policy was implemented to address the concern of mine operators that reduced standards were being established based on a single MSHA sample which may not be representative of the level of quartz in the mine. During that time period, MSHA sampled each mechanized mining unit annually. Accordingly, operators were concerned that reduced standards were being established based on that single inspection and remained in place until MSHA conducted another inspection the following year. As a result, the current policy was put into effect to allow mine operators to take up to two additional samples which would be averaged with the MSHA sample to determine the percent of quartz.

The report of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers, which was issued in October 1996, found that one of MSHA's highest priorities should be to restore confidence in the respirable coal mine dust sampling program. To achieve this objective, the Advisory Committee recommended that we assume responsibility for all compliance sampling from mine operators. We are working toward implementation of that recommendation. As part of our plan, we are proposing to issue this PPL which would establish MSHA sampling as the exclusive basis for determining the reduced standard, rather than using a combination of MSHA and mine operator sampling.

Under the proposed PPL, we would require three valid MSHA samples to set a reduced standard. In the near future, we intend to sample MMUs at underground coal mines each bimonthly period, and sample surface mines twice each year. When initial samples show potential overexposure to quartz, we will sample at a greater frequency to ensure that miners will be protected. This represents a significant increase in MSHA sampling that will allow us to determine the reduced standard based on multiple MSHA samples.

Since MSHA intends to sample at underground mines on a bimonthly basis and at each surface mine twice each year, the proposed PPL would continue to address the mine operators' previous concern that a reduced standard not be established on the results of a single MSHA sample. Instead, the standards would always be based on the average of three MSHA samples. This PPL would also address another concern of mine operators that their samples may be voided because there is insufficient weight gain on the filter to conduct a quartz analysis. Since MSHA cassettes are pre- and post-weighed, samples taken on these cassettes can be analyzed for quartz at a very low weight gain. Since all samples would be MSHA samples under this PPL, preweighed filters would be used in all instances.

As previously mentioned, the proposed PPL also addresses the recommendations of the Advisory Committee that compliance action be based solely on MSHA sampling results and reduces the burden and cost on mine operators to take and submit samples to MSHA. Under the PPL, we would average the percent of quartz

[1] Under MSHA regulations, the standard for intake air and for miners who have exercised rights under Part 90 is 1.0 mg/m^3. Those standards are also lowered if quartz exceeds 5.0 percent.

present in the three most recent MSHA respirable coal mine dust samples to determine the respirable coal mine dust standard when quartz is present. MSHA would also begin reporting quartz levels to the tenth of a percent (truncating to the tenth). This is the result of the improved accuracy of the quartz analysis system related to the use of respirable dust sampling filters pre-weighed to the thousandth of a milligram (0.001 mg.)

While MSHA intends to use agency samples alone to establish reduced standards, we recognize that there will be a transition period at mines that currently have greater than 5.0 percent quartz in the mine atmosphere. The transition period will last until MSHA has taken three samples under this PPL. During this transition, on an entity (MMU, DA, or DWP) currently on a reduced standard, a new standard will be established by averaging the results of the first two MSHA samples taken under this PPL with the quartz level associated with the current reduced standard. Where we have taken fewer than two samples under this PPL, the existing reduced standard will continue to apply.

For example, assume an MMU has a reduced standard of 1.0 mg/m^3 with 10.0 percent of quartz. If our first sample under the new policy results in a quartz percentage of 7.2 percent, the existing 1.0 mg/m^3 would continue to apply. If the next MSHA sample indicates a quartz percentage of 16.1 percent quartz, the average quartz would be (10.0 + 7.2 + 16.1) ÷ 3 or 11.1. This results in a 0.9 mg/m^3 reduced standard (10/11.1 = 0.9).

For sampling entities (MMU, DWP, DA) not currently on a reduced standard, we would collect three separate samples and analyze them for quartz content to determine if a reduced standard was necessary.

IV. Draft Program Policy Letter

Subject

Change in the existing policy for 30 CFR 70.101, 71.101 and 90.101.

Scope

This Program Policy Letter (PPL) applies to mine operators, including independent contractors, and Mine Safety and Health Administration (MSHA) enforcement personnel.

Purpose

This PPL changes the way that a reduced standard is established when respirable coal mine dust samples contain quartz in excess of 5.0 percent in the mine environment. Only samples taken by MSHA, rather than a combination of MSHA and mine operator samples, will be used to establish the reduction in the respirable coal mine dust standard due to the presence of quartz.

Policy

Respirable Dust Standard When Quartz is Present.

The lowering of the respirable dust standard when more than 5.0 percent of quartz is present will be based on the average percent of quartz in the three most recent MSHA respirable dust samples (Example 1). The standard at a sampling entity on a reduced standard on the effective date of the PPL will be based on the quartz level associated with the existing standard and the results of the first two MSHA samples taken under this PPL. Where we have taken fewer than two samples under this PPL, the existing reduced standard will continue to apply (Example 2).

Example 1—Mine "A" MMU 001–0 is on the 2.0 mg/m^3 standard. Our first sample under the new policy results in a quartz level of 10.2 percent, the existing 2.0 mg/m^3 would continue to apply. The next MSHA sample indicates a quartz level of 12.1 percent, the 2.0 mg/m^3 standard would continue to apply. The third MSHA sample indicates a quartz level of 11.3 percent. The new standard established would be based on (10.2 + 12.1 + 11.3) ÷ 3 or 11.2 percent quartz. This results in a 0.9 mg/m^3 standard (10/11.2 = 0.9).

Example 2—Mine "B" MMU 002–0 is on a reduced standard of 1.0 mg/m^3 with 10.0 percent of quartz. MSHA's first sample results in a quartz percentage of 7.2 percent, the existing 1.0 mg/m^3 standard would continue to apply. The next MSHA sample indicates a quartz percentage of 16.1 percent. The new standard established would be based on (10.0 + 7.2 + 16.1) ÷ 3 or 11.1 percent quartz. This results in a 0.9 mg/m^3 standard (10/11.1 = 0.9).

Effective Date of a New Reduced Standard

a. A new lower standard due to quartz is effective seven days after the date that we mail the notice of the lower standard to the mine operator. This provides notice of the new reduced standard to the mine operator and allows changes in dust control to be made to achieve compliance prior to sampling.

b. A new higher standard for quartz is effective on the date that we mail the notice of the higher standard.

c. Where the effective date of the new standard for quartz occurs during the time that the mine operator is conducting required sampling for respirable coal mine dust, the higher of the two standards will be effective during the required sampling. (The required samples are bimonthly sampling, requests from MSHA for five additional samples, and abatement samples.) The new standard will be effective when the required sampling is completed, with one exception. When abatement sampling shows continued noncompliance, the new standard becomes effective before any additional sampling is conducted.

Example—A mechanized mining unit (MMU) has a standard of 2.0 mg/m^3. A new lower standard of 1.7 mg/m^3 is in the process of being set. However, the mine operator has taken at least one bimonthly sample before the effective date of the change. The higher standard (2.0 mg/m^3) applies. The new lower standard (1.7 mg/m^3) becomes effective at the completion of the bimonthly sampling requirement.

Example—We request a mine operator to submit five additional samples for a designated area. The existing standard is 1.7 mg/m^3. A new higher standard of 2.0 mg/m^3 is in the process of being set. However, the mine operator has taken at least one additional sample before being notified of the change.

The higher standard (2.0 mg/m^3) applies. The new higher standard (2.0 mg/m^3) becomes effective on the date of the mailing.

Effective Date

After considering comments from the public and making appropriate revisions, we anticipate that this PPL would take effect 30 days from the date of publication of the final PPL and would be incorporated into MSHA's Program Policy Manual.

Authority: Section 103(a) of the Federal Mine Safety and Health Act of 1977.

Dated: November 16, 1999.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 99–30495 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 52

[TRI–FIP–003b; FRL–6479–9]

Source Specific Federal Implementation Plan for Tri-Cities Landfill; Salt River Pima-Maricopa Indian Community

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to promulgate a source-specific Federal Implementation Plan (FIP) to regulate emissions from a proposed gas-to-energy project at the Tri-Cities landfill. This facility is located on the reservation of the Salt River Pima-Maricopa Indian Community (SRPMIC), within the portion of Maricopa County designated as nonattainment for CO, PM–10, and ozone. In the final rules section of this **Federal Register**, the EPA is promulgating this FIP as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by December 23, 1999.

ADDRESSES: Written comments should be addressed to: Steve Branoff, Air Division (AIR–3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Steve Branoff, Air Division (AIR–3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1290.

SUPPLEMENTARY INFORMATION: This document concerns a proposed project at the Tri-Cities landfill located on the reservation of the Salt River Pima-Maricopa Indian Community. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: November 16, 1999.

Carol Browner,

Administrator.

[FR Doc. 99–30402 Filed 11–22–99; 8:45 am]

BILLING CODE 6560–50–P

VOL 64 ISS 225 NO 23 1999 UMI

Notices

Federal Register
Vol. 64, No. 225
Tuesday, November 23, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 12:30 p.m. on December 15, 1999, at the U.S. Commission on Civil Rights, 5th Floor Conference Room, 624 9th Street NW, Washington, DC 20425. The Committee will review staff's draft project proposal and start developing issues and questions for prospective panelists as discussed in the proposal.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Lewis Anthony, 202–483–3262, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 16, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–30400 Filed 11–22–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the South Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission which was to have convened at 1 p.m. and adjourned at 5 p.m. on November 18, 1999, at the Adam's Mark Hotel, 1200 Hampton Street, Columbia, South Carolina, has been canceled.

The original notice for the meeting was announced in the **Federal Register** on Monday, November 1, 1999, FR Doc. 99–28441, 64 FR, No. 210, p. 58807.

Persons desiring additional information should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004).

Dated at Washington, DC, November 16, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–30428 Filed 11–18–99; 11:29 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 4 p.m. on December 15, 1999, at the Radisson Ft. Magruder Hotel, 6945 Pocahontas Trail (on Route 60, 2 miles south of Route 199), Williamsburg, Virginia 23185. The purpose of the meeting is to plan for release of a report and a series of forums on civil rights issues, and to hear from invited guests on local civil rights issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 16, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–30429 Filed 11–22–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–855]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 23, 1999.

FOR FURTHER INFORMATION CONTACT: Sally Hastings, Craig Matney, Annika O'Hara or Vincent Kane, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3454, (202) 482–1778, (202) 482–3798, or (202) 482–2815, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to the regulations at 19 CFR part 351 (April 1, 1998).

Preliminary Determination

We preliminarily determine that certain non-frozen apple juice concentrate ("NFAJC") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value

("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on July 6, 1999 (64 FR 36330), the following events have occurred:

On July 22, 1999, the United States International Trade Commission ("ITC") notified the Department of its affirmative preliminary injury determination in this case.

On June 11, and July 14, 1999, we received entries of appearance by counsel on behalf of 12 producers/exporters of the subject merchandise: Yantai North Andre Juice Co., Ltd. (North Andre); Shaanxi Haisheng Fresh Fruit Juice Co., Ltd. (Haisheng); Sanmenxia Lakeside Fruit Juice Co., Ltd. (Lakeside); Shandong Zhonglu Juice Group Co., Ltd. (Zhonglu); Yantai Oriental Juice Co., Ltd. (Oriental); Qingdao Nannan Foods Co., Ltd. (Nannan); Xianyang Fuan Juice Co., Ltd. (Fuan); Xian Asia Qin Fruit Co., Ltd. (Asia Fruit); Shaanxi Machinery & Equipment Import & Export Corporation (SAAME); Shaanxi Foreign Economic & Trade Development Corporation (SFETDC); Changsha Industrial Products & Minerals Import & Export Corporation (Changsha); and Shandong Foodstuffs Imports & Export Corporation (Shandong Foodstuffs).

In response to a request from the Department, on July 22, 1999, the 12 producers/exporters listed above provided company-specific volumes of exports of the subject merchandise to the United States for the period October 1, 1998 through March 31, 1999. On July 27 and 29, 1999, the Department sent letters to the Chinese Chamber of Commerce for the Import and Export of Foodstsuffs, Native produce and Animal By-Products ("China Chamber"), with copies to the Ministry of Foreign Trade and Economic Cooperation ("MOFTEC") and the Embassy of the PRC in Washington, DC, requesting: (1) the total quantity of NFAJC exported to the United States by the PRC during the POI; (2) the names of all companies (other than the 12 already identified) that exported NFAJC to the United States during the POI and the quantity that each exported; and (3) for those exporters which are not also the producers, the names of the producers that supply them. On August 11, 1999, the China Chamber provided total PRC NFAJC exports to the United States for the October 1998 through March 1999 period and the requested company-specific export and contact information for 18 additional exporters.

Given the large number of exporters involved, we determined it necessary to limit the number of respondents in this investigation to the five largest producers/exporters based on their volumes of exports to the United States (see August 17, 1998, Decision Memorandum to the Acting Deputy Assistant Secretary, Import Administration). We selected the following five companies as mandatory respondents: North Andre; Haisheng; Oriental; Nannan; and SAAME. On August 17, 1999, the Department issued the full antidumping questionnaire to these five producers/exporters. On August 18, 1999, we issued a questionnaire concerning quantity and value of sales of NFAJC, and company structure, ownership, and affiliations ("separate rates questionnaire") to the remaining identified producers/exporters through their counsel or through the China Chamber (with copies to MOFTEC and the Embassy of the PRC), and requested that they assist in distributing it to all exporters who might request separate rates (see PRC-Wide Rate section below). On August 18, 1999, Lakeside and Zhonglu requested that they be allowed to participate as voluntary respondents in this investigation. On September 9, 1999, we accepted Lakeside and Zhonglu as voluntary respondents because both companies were suppliers of a mandatory respondent and were, therefore, already required to participate in this investigation. Counsel withdrew its appearance on behalf of SFETDC on August 23, 1999.

On September 15, 1999, the Department invited interested parties to comment on surrogate country selection and to provide publicly available information for valuing the factors of production. We received responses from both the petitioners and the respondents on September 27, 1999. Respondents and petitioners filed rebuttal comments on surrogate values on October 4 and 6, 1999, respectively.

On September 21 and October 5, 1999, the Department received sections A, C, and D questionnaire responses from the five mandatory and the two voluntary respondents: North Andre; Haisheng; Oriental; Nannan; SAAME; Lakeside; and Zhonglu. Fuan, Asia Fruit, Changsha, and Shandong Foodstuffs provided responses to the separate rates questionnaire on September 21, 1999. We issued supplemental questionnaires to respondents in October and received supplemental responses in October and November 1999. Between October 14 and 20, 1999, we received comments on the responses from the petitioners.

Critical Circumstances

On September 7, 1999, pursuant to the allegation of critical circumstances contained in the petition, the Department requested information regarding shipments of NFAJC from the seven respondents participating in this investigation. Each respondent provided the requested information on October 5, 1999. On November 3, 1999, the Department issued its preliminary determination that critical circumstances exist with respect to SAAME, Lakeside, Haisheng, North Andre, Nannan, and for all other exporters covered by this investigation. We found that critical circumstances do not exist with respect to Oriental and Zhonglu. For a complete discussion of our analysis, see *Memorandum to Deputy Assistant Secretary Richard W. Moreland*, dated November 3, 1999, on file in Room B–099 of the Department's headquarters and the *Preliminary Determination of Critical Circumstances: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 64 FR 61835 (November 15, 1999).

Scope of Investigation

For purposes of this investigation, the product covered by the scope is all non-frozen concentrated apple juice with a Brix scale of 40 or greater, whether or not containing added sugar or other sweetening matter, and whether or not fortified with vitamins or minerals. Excluded from the scope of this investigation are: frozen concentrated apple juice; non-frozen concentrated apple juice that has been fermented; and non-frozen concentrated apple juice to which spirits have been added.

The petitioners originally excluded from the scope of this investigation NFAJC fortified with vitamins or minerals. However, on September 24, 1999, the petitioners requested that the Department expand the scope to include NFAJC fortified with vitamins or minerals. The petitioners made this request based on their concern that circumvention might occur if NFAJC with vitamins and minerals were excluded from the scope of the investigation. To substantiate this claim, they provided an affidavit attesting to the fact that a buyer/seller of Chinese NFAJC had been told that Chinese exporters were considering the possibility of fortifying NFAJC with vitamins or minerals as one way to avoid the payment of antidumping duties.

On September 28, 1999, the respondents objected to the inclusion of NFAJC with vitamins and minerals stating that the ITC's preliminary determination was made with respect to NFAJC that did not include added vitamins and minerals. The respondents also cited to the antidumping and countervailing duty investigations of pasta from Turkey and Italy ("*Pasta*"), where the Department chose to retain the original scope rather than expand it at the request of the petitioners to include pasta in packages of more than five pounds. (*See*, Memorandum to Susan G. Esserman, Assistant Secretary for Import Administration from Barbara Stafford, Deputy Assistant Secretary for Investigations, dated October 10, 1995, entitled "Antidumping and Countervailing Duty Investigations of Pasta from Italy and Turkey—Scope Issue")

In this case, we have preliminarily determined to include NFAJC with vitamins and minerals for the following reasons. First, the petitioners have provided evidence that circumvention may occur unless the scope is expanded. Second, the ITC will have the opportunity to examine this issue in its final determination (if necessary). Finally, the courts have given the Department discretion in defining the scope. "* * * the Department may fashion the scope of an order so as to prevent circumvention by parties in the future "employing inventive import strategies."' (*NTN Bearing Corp. of America* v. *United States*, 747 F. Supp. 726, 731 (CIT 1990). Although we have preliminarily included NFAJC with vitamins and minerals in the scope of this investigation, we will continue to investigate this matter for our final determination.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 2009.70.20. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of this investigation ("POI") corresponds to the exporters' two most recent fiscal quarters prior to the filing of the petition, *i.e.*, October 1, 1998 through March 31, 1999.

Nonmarket Economy Country and Market Oriented Industry Status

The Department has treated the PRC as a nonmarket economy ("NME") country in all past antidumping investigations (*see, e.g., Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998) ("*Mushrooms*")). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act).

The respondents in this investigation have not requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME.

Separate Rates

All of the respondents have provided the requested company-specific separate rates information and have stated that for each company, there is no element of government ownership or control.

The Department's separate rate test is not concerned, in general, with macroeconomic/border-type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14726 (March 20, 1995) ("*Honey*").

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of *De Jure* Control

The respondents have placed on the record a number of documents to demonstrate absence of *de jure* government control, including the "Foreign Trade Law of the People's Republic of China" ("Foreign Trade Law"), the "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People" ("Industrial Enterprises Law"), the "Law of the People's Republic of China on Chinese-Foreign Cooperative Joint Ventures' ("Joint Ventures Law"), and the "Administrative Regulations of the People's Republic of China Governing the Registration of Legal Corporations."

In prior cases, the Department has analyzed the Foreign Trade Law and found that it establishes an absence of *de jure* control. (*See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 54472 (October 24, 1995); *see also Mushrooms*.) We have no new information in this proceeding which would cause us to reconsider this determination. For the purposes of this investigation and in prior cases, the Department has also analyzed the Industrial Enterprises Law and found that this law establishes mechanisms for private control of companies which indicate an absence of *de jure* control. *See Pure Magnesium from the People's Republic off China: Final Results of New Shipper Review*, 63 FR 3085, 3086 (January 21, 1998).

According to the respondents, NFAJC exports are not affected by quota allocations or export license requirements. The producers/exporters claim to have the autonomy to set the price at whatever level they wish through independent price negotiations with their foreign customers without government interference.

Accordingly, we preliminarily determine that there is an absence of *de jure* government control over export pricing and marketing decisions of the respondents.

2. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (*See Mushrooms*.) Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export

functions: (1) Whether the export prices are set by, or subject to the approval of, a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Mushrooms*).

Each of the 11 respondents in this investigation has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds from export sales and uses profits according to its business needs without any restrictions. Additionally, these 11 respondents have stated that they do not coordinate or consult with other exporters regarding their pricing. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that all responding exporters have met the criteria for the application of separate rates.

Antidumping Deposit Rate for Those Producers/Exporters That Responded Only to the Separate Rates Questionnaire

For those PRC producers/exporters that responded to our separate rates questionnaire but did not respond to the full antidumping questionnaire (because they were not selected to respond or because they did not submit a voluntary response), we have calculated a weighted-average margin based on the rates calculated for those producers/exporters that were selected to respond, except that we did not include the rate for North Andre which was zero. (*See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026 (April 30, 1996) ("*Bicycles from the PRC*")).

PRC-Wide Rate

Information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC. As noted in the case history section above, all exporters were given the opportunity to respond to the separate rates questionnaire. Based upon our knowledge of PRC exporters and the fact that U.S. import statistics show that responding companies did not account for all imports into the United States from the PRC, we have preliminarily determined that PRC exporters of NFAJC failed to respond to our questionnaire.

Section 776(a)(2) of the Act provides that "if an interested party or any other person—(A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

Section 776(b) of the Act further provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The producers/exporters that decided not to respond to the separate rates questionnaire failed to act to the best of their ability in this investigation. Absent a response, we must presume government control of these companies (*see, e.g., Bicycles from the PRC*). Moreover, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

In accordance with our standard practice, as adverse facts available, we are assigning to those companies that did not respond to the Department's separate rates questionnaire the higher of: (1) The highest margin stated in the notice of initiation; or (2) the highest margin calculated for any respondent in this investigation (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Japan*, 63 FR 40434 (July 29, 1998)). In this case, the adverse facts available margin is 54.55 percent, which is the highest margin calculated for a respondent in this investigation (Lakeside).

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316 (1994) (SAA), states that "corroborate" means to determine that the information used has probative value. *See* SAA at 870.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. In an investigation, if the Department chooses as facts available a calculated dumping margin of another respondent, it is not necessary to question the reliability of that calculated margin. With respect to relevance, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin may not be appropriate, the Department will attempt to find a more appropriate basis for facts available (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)). In this investigation, there is no indication that the highest calculated margin is unreliable or irrelevant and, hence, inappropriate to use as adverse facts available. Thus, the Department has preliminarily determined the PRC-wide rate to be 54.55 percent.

Fair Value Comparisons

To determine whether sales of the subject merchandise by North Andre, Haisheng, Lakeside, Zhonglu, Oriental, Nannan and SAAME for export to or within the United States were made at LTFV, we compared the EP or the CEP, as appropriate, to the NV, as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs and CEPs to the NVs.

Export Price

For North Andre, Haisheng, Lakeside, Zhonglu, Nannan and SAAME, we used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise appropriate. We calculated EP based on packed CIF, C&F, FOB or delivered prices to the first unaffiliated purchaser in the United States. Where appropriate,

we made deductions from the starting price (gross unit price) for billing adjustments, inland freight from the plant/warehouse to the port of export, marine insurance, ocean freight, U.S. duty, U.S. brokerage and handling, and U.S. inland freight. Because certain domestic inland freight expenses, ocean freight and marine insurance were paid in RMB, we based these charges on surrogate rates from India. (*See* "Normal Value" section for further discussion.)

Constructed Export Price

For certain sales by Haisheng and all sales by Oriental, we used CEP methodology in accordance with sections 772(b), (c) and (d) of the Act, because sales to the first unaffiliated purchaser in the United States took place after importation. For these companies, we calculated CEP based on ex-dock, ex-warehouse, CIF or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made deductions for billing adjustments, inland freight in the PRC, ocean freight, marine insurance, U.S. duty, U.S. inland freight, and U.S. warehousing. Also, where appropriate, we deducted direct and indirect selling expenses related to commercial activity in the United States. Pursuant to section 772(d)(3) of the Act, where applicable, we made an adjustment for CEP profit. We did not adjust for CEP profit for Oriental because Oriental's U.S. sales were consignment sales made through unaffiliated consignment agents. For these sales, we deducted the commission paid to the consignee.

Normal Value

Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. Regarding the first criterion, the Department has determined that India, Pakistan, Sri Lanka, Egypt, Indonesia, and the Philippines are countries comparable to the PRC in terms of overall economic development (*see* memorandum from Jeff May, Director, Office of Policy, to Susan Kuhbach, Senior Director, AD/CVD Enforcement, Office 1, September 15, 1999) ("Surrogate Memorandum")).

Regarding the second criterion (related to significant production of comparable merchandise), the petitioners have alleged that India is a significant producer of apples, at least among the countries at a comparable level of economic development to the PRC. Moreover, the petitioners claim, since there is little use for low quality apples except to make NFAJC, most countries that produce apples also produce NFAJC.

The respondents have argued that none of the countries found by the Department to be economically comparable to the PRC is a significant producer of NFAJC. Therefore, instead of relying on one of those countries, the respondents urge the Department to use Turkey, a country which they claim is a major producer of NFAJC, as the surrogate. Of the countries that are significant producers of NFAJC, according to the respondents, Turkey is closest to the PRC in terms of economic development. In addition to the fact that Turkey is a significant producer of comparable merchandise, the respondents also argue that the Department has publicly available information on many key factor values in Turkey. This is in contrast to India, where much of the factor value data submitted by the petitioners is proprietary.

Regarding the petitioners' argument that India should be used as the surrogate country, the respondents disagree, claiming that the major input into NFAJC (juice apples) is subsidized. The respondents point to the Department's Surrogate Memorandum which, in naming the economically comparable countries that could be used as surrogates, states "we know of no direct subsidies on the production or sale of any input used in the production of the subject merchandise * * *" To the contrary, the respondents claim, India subsidizes its apple producers through a price support scheme known as the Market Intervention Scheme ("MIS"). Thus, even if India's level of apple production led the Department to view India as a significant producer of comparable merchandise, India should not be used because the key input into NFAJC in India is subsidized.

For purposes of the preliminary determination, we have used India as our surrogate. First, we note that India is economically comparable to the PRC, while Turkey is not. Second, we have been able to develop publicly available factor values in India without relying on proprietary information submitted by the petitioners.

The surrogate country memorandum language to which the respondents cite concerns the Department's reluctance to use factor prices that may not, in some sense, reflect "fair market value." The meaning of "fair market value" in this context is necessarily broad, and certainly not limited to the price prevailing in a perfectly competitive, distortion-free market, since markets the world over, particularly agricultural markets, are distorted by any number of government measures and policies such as taxes, tariffs and price/income support schemes. The concept of "fair market value" in this context is not so broad, however, that it covers all government market interventions, and the Department therefore "draws a line" with government subsidies that tend to enable producers to lower their price to the point where they (the prices) may not reflect fair market value. In such cases, the Department considers alternative factor price data. There is, however, no need to do so in this case for two reasons: (1) The MIS is a price support scheme, similar to those employed in many agricultural product markets around the world; and (2) as such, the MIS does not raise the fair market value concerns discussed above.

Although we have used India as the surrogate for this preliminary determination, we are considering this matter further for the final determination. First, we note the respondents' claim that juice apples are not internationally traded inputs. According to the respondents, the freight costs of transporting juice apples would be greater than the value of the apples themselves. Such a situation may lead the Department to place greater emphasis on the significant producer criterion that on the economically comparable criterion in making its surrogate selection. (*See*, Preamble to § 351.408 of the Department's Proposed Rule, 61 FR 7308, 7344, February 27, 1996) Second, although the respondents have claimed that Turkey should be considered a significant producer of NFAJC, the information they have submitted in support of this claim is limited. The petitioners' information regarding production of NFAJC is also lacking. We acknowledge that the Department, itself, has had difficulty in developing this information. However, better information on NFAJC production would be useful. Third, key factor values from India are lacking in several respects. As discussed further below, we have used a juice apple price taken from the annual report of a single apple juice producer. However, we prefer to use input prices that reflect the actions of many buyers and sellers. (*See*, Preamble to § 351.408 of the Department's Regulations, 62 FR 27296, 27366) Finally, we have relied on broadly aggregated data for factory overhead, SG&A, and profit. We would prefer, instead, to use data from producers of

identical or comparable merchandise in the surrogate country. (*See*, § 351.408(c)(4)) While the petitioners have placed information on the record regarding an Indian producer of apple juice, that information is proprietary and, hence, its use would be contrary to our policy of relying on publicly available data, where possible. (*See*, § 351.408(c)(1)).

We invite parties to address these issues for the final determination.

2. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the companies in the PRC which either produced and exported NFAJC to the United States or produced NFAJC for exporters that exported NFAJC to the United States during the POI. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian values, except as noted below.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. For those values not contemporaneous with the POI and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*.

As appropriate, we adjusted input prices to make them delivered prices. Where a producer did not report the distance between the material supplier and the factory, we used, as facts available, either the distance to the nearest seaport (if an import value was used as the surrogate value for the factor) or the farthest distance reported for a supplier. Where distances were reported and the surrogate value was based on Indian import statistics, we added to the surrogate value a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the PRC factory, or from the domestic supplier to the factory. This adjustment is in accordance with the CAFC's decision in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed.Cir. 1997).

For a detailed analysis of surrogate values, see the "Factors of Production" Memorandum from the Team to the file (FOP memo) dated November 8, 1999.

Juice Apples: We valued apples using the price paid by Himachal Pradesh Horticultural Produce Marketing and Processing Corporation, as reported in the introduction to that company's 1998–99 financial statement. Because that value is contemporaneous with the POI, no adjustment was necessary.

Processing Agents: We valued all of the processing agents, except for one (PVPP), using Indian import statistics for the period April 1997 through March 1998. PVPP was not reported in the Indian import statistics. For that processing agent, we used an October 1999 price quote from a U.S. chemical company.

Labor: We valued labor using the method described in 19 CFR 351.408(c)(3).

Electricity and Coal: To value electricity, we used the 1995 electricity rates reported in the publication *Energy Prices and Taxes*, 4th quarter 1998. We based the value of coal on Indian import statistics.

Factory Overhead, SG&A, and Profit: We derived ratios for factory overhead, SGA, and profit, using 1992–93 data from the "Expenditures and Appropriations" category of the accounts of "Processing and Manufacture—Foodstuffs, Textiles, Tobacco, Leather and Products Thereof" from the *Reserve Bank of India Bulletin*, January 1997.

Packing Materials: We calculated values for plastic bags, plastic liners , and labels using Indian import statistics from the period April 1997–March 1998. We converted values from a per kilogram to a per piece basis where necessary. For steel drums, we could not find a reliable Indian value. Therefore, we used a 1994 Indonesian price.

Inland Freight Rates: To value truck freight rates, we used a 1994 rate from *The Times of India* inflated to be contemporaneous with the POI. With regard to rail freight, we based our calculation on information from the *Indian Railway Conference Association*. We calculated an average per kilometer per metric ton rate.

International Freight: We used a 1996 price quote from a U.S. shipping company. Where the PRC producer/exporter used a market economy shipper and paid for the shipping in a market economy currency, we calculated an average price for shipping paid by that producer/exporter.

Marine Insurance: We used a June 1998 prices quote from a U.S. insurance provider.

By-products: Certain respondents reported by-products resulting from production of the subject merchandise. For those respondents that reported their production of apple essence/aroma, we have offset the cost of materials with a by-product credit. The value for apple essence/aroma was calculated as a simple average of the various prices reported at the July 1999 ITC hearing and November 1999 price quotes provided to the Department by two U.S. brokers of food products. Certain respondents claimed proprietary treatment for other by-products. Since we lacked surrogate values for these other by-products, we have not adjusted for them in this preliminary determination.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, except for imports from North Andre whose antidumping margin is zero. In addition, for all exporters except Oriental and Zhonglu, we are directing Customs to suspend liquidation of any unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date, which is 90 days prior to the date on which this notice is published in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
Yantai North Andre Juice Co., Ltd	0.00	Yes.
Shaanxi Haisheng Fresh Fruit Juice Co., Ltd	18.58	Yes.
Sanmenxia Lakeside Fruit Juice Co., Ltd	54.55	Yes.

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
Shandong Zhonglu Co., Ltd	9.85	No.
Yantai Oriental Juice Co., Ltd	14.97	No.
Qingdao Nannan Foods Co., Ltd	44.24	Yes.
Shaanxi Machinery & Equipment Import & Export Corp	35.29	Yes.
Xian Asia Qin Fruit Co., Ltd	28.71	Yes.
Xian Yang Fuan Juice Co., Ltd	28.71	Yes.
Changsa Industrial Products & Minerals Import and Export Co., Ltd	28.71	Yes.
Shandong Foodstuffs Import and Export Corporation	28.71	Yes.
PRC-wide rate	54.55	Yes.

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in six copies must be submitted to the Assistant Secretary for Import Administration no later than January 6, 2000, and rebuttal briefs no later than January 11, 2000. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on January 13, 2000, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination not later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: November 15, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–30551 Filed 11–22–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, Application No. 99–00004.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to USXT, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1997).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305 (a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

I. Export Trade

1. Products

All Products, including, but not limited to U.S. coal; water treatment equipment, solid and medical waste treatment equipment, and other environmental-related products; food processing equipment, commodities and livestock; and educational materials and systems.

2. Services

All Services, including, but not limited to general management services, engineering services, pollution abatement services, and other services related to the Products.

3. Technology Rights

All intellectual property rights associated with Products or Services, including, but not limited to: Patents, trademarks, service marks, trade names, copyrights, neighboring (related) rights, trade secrets, know-how, and *sui generis* forms of protection for databases and computer programs.

4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, buf not limited to: Professional services in the areas of government relations and assistance with state and federal export programs, foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; grantsmanship; documentation and services related to

compliance with customs requirements; insurance and financing; bonding; warehousing; export trade promotion; trade show exhibitions and organization; organizational development; management and labor strategies; transfer of technology, transportation; and facilitating the formation of shippers' associations.

II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

III. Export Trade Activities and Methods of Operation

USXT may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;

2. Engage in promotion and marketing activities and collect and distribute information on trade opportunities in Mexico, Latin America, and all other Export Markets;

3. Enter into exclusive and/or non-exclusive agreements with distributors, foreign buyers, and/or sales representatives in Export Markets;

4. Enter into exclusive or non-exclusive sales agreements with Suppliers, Export Intermediaries, or other persons for the sale of Products and Services;

5. Enter into exclusive or non-exclusive agreements with Suppliers, Export Intermediaries, or other persons for licensing Technology Rights in Export Markets;

6. Allocate the sales, export orders and/or divide Export Markets among Suppliers, Export Intermediaries, or other persons for the sale and maintenance of Products and Services;

7. Allocate the licensing of Technology Rights in Export Markets among Suppliers, Export Intermediaries, or other persons;

8. Establish the price of Products and Services for sale in Export Markets;

9. Establish the fee for licensing of Technology Rights in Export Markets, as well as maintenance and financing commitments;

10. Negotiate, enter into, and/or manage licensing agreements and long-term purchase arrangements involving the export of Technology Rights;

11. Facilitate the gathering of information and access to grants and funding from public and nongovernmental sources that may assist in the promotion of export activity for goods and services.

IV. Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, USXT will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. USXT will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

V. Definitions

1. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. "Supplier" means a person who produces, provides, or sells a Product and/or a Service.

VI. Protection Provided by the Certificate

This Certificate protects USXT and its directors, officers, and employees acting on its behalf from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

VII. Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

VIII. Other Conduct

Nothing in this Certificate prohibits USXT from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

IX. Disclaimer

The issuance of this Certificate to USXT by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary or by the Attorney General concerning either (a) The viability or quality of the business plans of USXT or (b) The legality of such business plans of USXT under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country. The application of this Certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)", 50 FR 1786 (January 11, 1985).

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, US Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: November 18, 1999.

Morton Schnabel,

Director Office of Export Trading Company Affairs.

[FR Doc. 99–30548 Filed 11–22–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990929268–9268–01]

RIN: 0648–ZA72

Joint Announcement on Climate Variability and Human Health

AGENCY: Office of Global Programs, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: With the intent of stimulating integrated multidisciplinary studies and enhancing institutional coordination and collaboration, and recognizing the interdisciplinary nature of the research as well as the limited funding currently available, National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency (EPA), National Aeronautics and Space Administration (NASA), the National

Science Foundation (NSF), in collaboration with interested private sector partners, in this case, the Electric Power Research Institute (EPRI), announce our interest in receiving research proposals to improve our understanding of the human health consequences related to climate variability and enhance the integration of useful climate information into public health policy and decision-making. This joint announcement is intended to support the formation of multidisciplinary teams working in close collaboration on integrated projects to illuminate pathways by which climate may affect human health, and which explore the potential for applying climate forecast information in the public health arena. Climate refers to climate variability across time scales. Understanding how short term climate variability affects human health may improve our knowledge of potential consequences of, and adaptation to, longer term changes in the climate system.

EPRI is a tax-exempt non-profit organization under 26 U.S.C. 501 (c)(3). EPRI provides science and technology-based solutions of value to its global energy customers. To carry out its mission, EPRI manages programs of scientific research, technology development, and product implementation. Collaborative funding of research can reduce the costs of developing solutions to common environmental issues. EPRI provides science and technology information to characterize issues and develop solutions to address consequences. EPRI's participation in this Joint Announcement is subject to NOAA Office of Global Programs entering into a Memorandum of Understanding with EPRI.

Relevance of This Joint Announcement

In 1995, the White House along with the National Academy of Sciences (NAS) elevated the climate and health issue through their jointly sponsored Conference on Human Health and Global Climate Change. Since then, several multi-agency sponsored workshops such as the American Academy of Microbiology Colloquium on Climate Variability and Human Health: An Interdisciplinary Perspective, and the workshop on Climate Change and Vectorborne and other Infectious Disease: A Research Agenda, have begun to define research needs in this emerging discipline. The NAS National Research Council (NRC) Pathways report recognizes that climate may have important impacts on human health but that further study is necessary, and that such studies must also address issues of social vulnerability and adaptability. The NRC also is conducting a study on Climate, Ecology, Infectious Disease, and Health.

Over the past several years as interest in this new field has grown, research and analysis have demonstrated a connection between climate and health in some cases. Yet it is well recognized that more research is required. This coupled with an evolving capacity to understand and predict natural changes in the climate system, and a desire to provide climate forecast information for social benefit, particularly in the public health sector, has driven demand for improved understanding of the relationship between climate variability and human health.

Both the scientific research results and recommendations stemming from various meetings highlight the complexity of the research questions and the need for a coordinated multi-agency and interdisciplinary approach. The very nature of the research required cuts across disciplinary boundaries, and spans a range of agency missions and mandates and private sector interests. The NOAA Office of Global Programs is interested in the production and application of predictive climate information; EPA is concerned with the impacts of climate change and variability on human health; and NASA's interests include remote sensing observations, research, data, information and technologies for public health. Moreover, NSF focuses on broadly based fundamental research to improve understanding of the Earth system, and EPRI addresses key research gaps in climate change and human health. This announcement is offered as an experimental mechanism to fill critical gaps in climate variability and human health research and to coordinate funding of overlapping agency and institutional interests in such research. Other private sector organizations interested in jointly funding research through this announcement process should contact the NOAA Program Officer: Juli Trtanj (301) 427–2089, ext. 134, or internet: trtanj@ogp.noaa.gov. Research projects will be funded for a one, two or three year period.

Program Objectives

The overarching goal of this announcement is to develop and demonstrate the feasibility of new approaches or field studies that investigate or validate well-formed hypotheses or models of climate variability and health interactions. This announcement is offered as part of an interagency effort to build an integrated climate and health community. Proposed research submitted under this announcement is encouraged to build on existing research activities, programs, research sites and facilities, or data sets.

Requirements and General Guidance

Research teams must include, at a minimum, one investigator each from the public health or medical response, ecology, and climate communities working in close collaboration on an integrated project. Research proposals submitted under this announcement are strongly encouraged to include components addressing either the adaptation or vulnerability of human and public health systems to climate variability, or an economic analysis of using predictive climate information, or both. The funding partners will look favorably on research activities that involve end-users from the public health arena (*i.e.*, local public health officials, regional or international health organizations, other public health or disaster management agencies and institutions) and which address the means by which their research results can be used by public health policy and decision-makers. Investigators are encouraged to demonstrate that they will disseminate research results through formal presentation during at least one professional meeting and publication in a peer-reviewed journal.

Investigators should also plan to participate in an annual meeting of researchers funded under this announcement. This meeting will be organized by the funding partners and is intended to facilitate mid-point discussions of research and methodology as well as presentations of final research results. The participation of other team members, particularly new researchers at the graduate and postdoctoral level, is highly encouraged. An interim progress report will be required.

DATES: Unless otherwise noted, strict deadlines by which NOAA OGP must receive proposals for submission to the FY 2000 process are: Pre-proposals must be received by OGP no later than December 17, 1999, and full proposals must be received no later than March 3, 2000. Applicants who have not received a response to their pre-proposal within four weeks should contact the program office: Juli Trtanj (301) 427–2089, ext. 134 or internet: trtanj@ogp.noaa.gov.

The time from target date to grant award varies. We anticipate that review of full proposals will occur in April or May 2000 for most approved projects. July 1, 2000 may be used as the earliest

proposed start date on the proposal, unless otherwise directed by the appropriate Program Officer. Applicants should be notified of their status within six months of full proposal submission. All proposals must be submitted in accordance with the guidelines below. Failure to heed the guidelines may result in proposals being returned without review.

ADDRESSES: All submissions should be directed to: Office of Global Programs (OGP); National Oceanic and Atmospheric Administration; 1100 Wayne Avenue, Suite 1225; Silver Spring, MD 20910–5603.

FOR FURTHER INFORMATION CONTACT: Irma duPree at the above address or phone (301) 427–2089, ext. 107, fax: (301) 427–2072, Internet: duPree@ogp.noaa.gov

SUPPLEMENTARY INFORMATION:

1. Funding Availability

NOAA, EPA, NASA, NSF and EPRI believe that the research on the relationship between climate variability and human health will benefit significantly from a strong partnership with outside investigators. Current plans assume that over 50% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Total funding is anticipated to be $1,500,000 with funding per proposal not to exceed $150,000 per year. Funding may be provided by NOAA, EPA, NASA, NSF, or EPRI.

This Program Announcement is for projects to be conducted up to a three-year period by investigators both inside and outside of NOAA, EPA, NASA, NSF, and EPRI. The funding instrument for extramural awards will be a grant unless it is anticipated that any of the funding entities will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaboration between a funding entity or funding entity scientist, and a recipient scientist or technician and/or contemplation by NOAA, EPA, NASA or NSF of detailing Federal personnel to work on proposed projects. NOAA, EPA, NASA, and NSF will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to NOAA are not available under this announcement. Matching share is not required by this program.

As part of a public-private sector partnership in climate, ecology and human health, EPRI is interested in funding projects of interest to the participating Federal Agencies. Such projects must otherwise have qualified for Federal funding under this announcement.

2. Eligibility

Participation in this competition is open to all institutions eligible to receive support from NOAA, EPA, NASA, and NSF. Extramural eligibility is not limited and is encouraged with the objective of developing a strong partnership with the academic community and users of climate forecast information. Universities, non-profit organizations, for profit organizations, state and local governments, and Indian Tribes are included among entities eligible for funding under this announcement. Civil servants in U.S. Government research laboratories are eligible to apply, but may not request civil service salary reimbursement. Funding for foreign institutions is not available under this announcement. Applications will also be reviewed by EPRI to ensure coordination in funding between public and private sectors.

3. Program Authority

NOAA Authority: 49 U.S.C. 44720 (b); 33 U.S.C. 883d, 883e; 15 U.S.C. 2904; 15 U.S.C. 2931 *et seq.*; (CFDA No. 11.431)—Climate and Atmospheric Research.

EPA Authority: 42 U.S.C. 7403(a); 42 U.S.C. 7403(b); 42 U.S.C. 7403(g); 15 U.S.C. 2907(a); (CFDA No. 66.500—Office of Research and Development.

NSF Authority: 42 USC 1861–75; (CFDA No. 47.050)–GEOSCIENCES.

NASA Authority: 15 U.S.C. 2932(a); 15 U.S.C. 2932(b); 15 U.S.C. 2932(e2); 15 U.S.C. 2936; (CFDA No. 43–999).

Guidelines for Submission

1. Pre-proposals

(a) Pre-proposals should be no longer than five pages in length and include the names and institutions of all investigators, a statement of the problem, description of data and methodology including names of data sets and types of models or analysis, a general budget for the project, and a description of intended use of results for public health policy and decision making. As an attachment, please include a one to two page biographical sketch for each investigator.

(b) The Program Officers will evaluate the pre-proposals.

(c) Submission of pre-proposals is not a requirement, but it is in the best interest of the applicants and their institutions.

(d) Facsimile and email submissions are acceptable for pre-proposals only.

(e) Projects deemed unsuitable during pre-proposal review will not be encouraged to submit full proposals.

(f) Investigators who are not encouraged to submit full proposals will not be precluded from submitting full proposals.

2. Criteria for Evaluation

Below are the criteria for evaluation that will be used for making award decisions. Pre-proposals will be evaluated on likely ability to meet these criteria.

(a) Scientific Merit—60% (to include: methodology, proof of data quality and availability, experience of team and team members, and relevant peer-reviewed publications)

(b) Responsiveness to announcement—20%

(c) Explicit multidisciplinary participation and collaboration—10%

(d) Potential for use by climate, ecology and health community or public/environmental health community—10%

3. Selection Procedures and Review Process

All proposals, including those submitted by participating agency employees, will be evaluated in accordance with the above evaluation criteria by (a) independent peer mail review, and/or (b) independent peer panel review. Each proposal will then be given a rating based on these evaluations. Both agency and non-agency experts in the field may be used in this process. Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

The Program Officers will not be voting members of an independent peer panel. Each Program Officer will individually rank the proposals considering the recommendations and evaluations of the independent peer panel and the program policy factors listed below. The Federal Agency Program Officers will then make the funding selections taking into account these rankings, the panel review and evaluations, and program policy factors listed below. Proposals are usually awarded in the numerical order they are ranked based on the independent peer mail review or the independent peer panel review. However, the Program Officers may consider the following program policy factors: (a) Whether the proposed research will contribute to the

overall development of an integrated climate, ecology and health community; (b) whether proposals do not substantially duplicate other projects that are currently funded by NOAA, other Federal agencies or funding sources or are approved for funding by NOAA, other Federal agencies or funding sources; (c) whether proposals do not substantially duplicate other proposals submitted in response to this announcement; (d) whether proposals funded maximize use of available funds; and (e) whether proposal costs fall within remaining funds available. As a result of this review, the Program Officers may decide to select an award out of order. The Program Officers will also determine the total duration of funding and the amount of funding for each selected proposal.

Federal agency employees are subject to statutes pertaining to non-disclosure and confidentiality requirements protecting proprietary information that may be contained in applications submitted for potential funding. Non-Federal evaluators have agreed in writing to similar non-disclosure and confidentiality provisions. Please note, however, that should EPRI or another participating private organization which jointly funds research under this notice select an application for funding, none of the participating Federal agencies is responsible for any unauthorized disclosure of information that may occur or any dispute that may arise.

4. Proposal Submission

The following forms are required in each application, with original signatures on each federal form. Failure to comply with these provisions will result in proposals being returned without review.

(a) Full Proposals: (1) Proposals submitted to the NOAA Climate and Global Change Program must include the original and two unbound copies of the proposal. (2) Investigators are required to submit 3 copies of the proposal; however, the normal review process requires 20 copies. Investigators are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5x11″), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed. (3) Proposals must be limited to 30 pages (numbered), including budget, investigators' vitae, and all appendices. Appended information may not be used to circumvent the page length limit. Federally mandated forms are not included within the page count. (4) Proposals should be sent to the NOAA Office of Global Programs at the above address. (5) Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

(b) Required Elements: All proposals must include the following elements:

(1.) *Signed title page:* The title page must be signed by the Principal Investigator (PI) and the institutional representative. If more than one investigator is listed on the title page, please identify the lead investigator. The PI and institutional representative should be identified by full name, title, organization, telephone number, and address. The total amount of Federal funds being requested should be listed for each budget period.

(2.) *Abstract:* An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost and budget period.

(3.) *Results from prior research:* The results of related research activities should be described, including their relation to the currently proposed work. Reference to each prior research award should include the title, agency or institution, award number, PIs, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4.) *Statement of work:* The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, and relevance to the announcement. Benefits of the proposed project to the general public and the scientific community should also be discussed. A summary of proposed work must be included clearly indicating that the proposed work is achievable. The statement of work, including references but excluding figures and other visual materials, must not exceed 15 pages of text. Investigators wishing to submit group proposals that exceed the 15-page limit should discuss this possibility with the appropriate Program Officer prior to submission. In general, proposals from 3 or more investigators may include a statement of work containing up to 15 pages of overall project description plus up to 5 additional pages for individual project descriptions.

(5.) *Budget Justification:* A brief description of the expenses listed on the budget and how they address the proposed work. Itemized justification must include salaries, equipment, publications, supplies, tuition, travel, etc.

(6). *Budget:* The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work. Non-Federal Applicants must submit a Standard Form 424 (4–92) "Application for Federal Assistance", including a detailed budget using the Standard Form 424a (4–92), "Budget Information—Non-Construction Programs". The form is included in the standard NOAA application kit. Additional text to justify expenses should be included as necessary. Federal researchers should contact Irma duPree at 301–427–2089 (ext. 107), for guidance regarding the types of forms required for submission. Additionally, Federal researchers should provide, with their application, the appropriate statutory authority which allows their agency to receive funds from another Federal agency to complete the work outlined in their proposal.

(7.) *Vitae.* Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to 10–15 of the most recent and relevant publications with up to five other relevant papers.

(8.) *Current and pending support:* For each investigator, submit a list that includes project title, supporting agency with grant number, investigator months, dollar value, and duration. Requested values should be listed for pending support.

(9.) *List of suggested reviewers:* The cover letter may include a list of individuals qualified and suggested to review the proposal. It also may include a list of individuals that applicants would prefer to not review the proposal. Such lists may be considered at the discretion of the Program Officers.

(c) Other requirements:

(1.) Applicants may obtain a standard NOAA application kit from the Program Office.

Primary applicant certification—All primary applicants must submit a completed Form CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying". Applicants are also hereby notified of the following:

(i). Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension," and the related section of the certification form prescribed above applies;

(ii). Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section

605) are subject to 15 CFR part 26, Subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(iii). Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions", and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(iv). Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL,"Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

(d) Lower Tier Certifications:

(1.) Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF–LLL, "Disclosure of Lobbying Activities" Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(2.) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(3.) Pre-award Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover pre-award costs.

(4.) This program is subject to the requirements of 15 CFR part 14, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations", and 15 CFR part 24, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", as applicable. Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

(5.) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(6.) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(7.) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (i) The delinquent account is paid in full, (ii) A negotiated repayment schedule is established and at least one payment is received, or (iii) Other arrangements satisfactory to the Department of Commerce are made.

(8.) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9.) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(e) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(f) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the NOAA Climate and Global Change Program. The NOAA Climate and Global change Program does not have direct TDD (Telephonic Device for the Deaf) capabilities, but can be reached through the State of Maryland supplied TDD contact number, 800–735–2258, between the hours of 8:00 am–4:30 p.m. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number.

Classification: The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046. This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: November 17, 1999.

David L. Evans,

Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 99–30509 Filed 11–22–99; 8:45 am]

BILLING CODE 3510–KB–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111599B]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) and Coastal Pelagic Species Advisory Subpanel (CPSAS) will hold public meetings.

DATES: The CPSMT meeting will begin Thursday, December 9, 1999, in La Jolla, CA at 10 a.m. and will continue until 5 p.m. The CPSAS meeting will begin on Tuesday, December 14, 1999, in Long Beach, CA at 10 a.m. and may go into the evening until business for the day is completed.

ADDRESSES: The meeting in La Jolla will be held at NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, Room D–203, La Jolla, CA. The meeting in Long Beach will be held at the NMFS Southwest Region Office, 501 West Ocean Blvd, Suite 4200, Long Beach, CA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dr. Doyle Hanan, (619) 546–7170, for persons wishing to attend.

SUPPLEMENTARY INFORMATION: The primary purpose of the CPSMT meeting is to review the Pacific sardine biomass estimate and harvest guideline for 2000. Time permitting, the CPSMT will also discuss market squid maximum sustainable yield (MSY) and bycatch in coastal pelagic species fisheries. The primary purpose of the CPSAS meeting is to review documents developed by the CPSMT.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: November 18, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30559 Filed 11–22–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111799B]

Marine Mammals; Photography Permit (File No. 963–1535)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Mr. John Hyde, Wild Things Photography, P.O. Box 34517, 4474 Julep Street, Juneau, AK 99803, has applied in due form for a permit to take harbor seals (*Phoca vitulina*) for purposes of commercial photography.

DATES: Written comments must be received on or before December 23, 1999.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, NMFS, 709 W 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, AK 99802 (907–586–7235).

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of § 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild. NMFS is currently working on proposed regulations to implement this provision. However, in the meantime, NMFS has received and is processing this request as a "pilot" application for Level B Harassment of non-listed and non-depleted marine mammals for photographic purposes.

The applicant seeks authorization to inadvertently harass up to 10 harbor seals (*Phoca vitulina*) during the course of filming activities in Glacier Bay National Park, Alaska, over a one year period.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 17, 1999.

Jeannie K. Drevenak,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–30558 Filed 11–22–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Meeting Notice

AGENCY: U.S. Army Training and Doctrine Command (TRADOC).

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name of Committee: Distance Learning/Training Technology Subcommittee of the Army Education Advisory Committee.

Dates: 8–9 December 1999.

Place: Fort Eustis, Virginia (Bldg. 1737).

Time: 0830–1630 on 8 December 1999; 0830–1500 on 9 December 1999.

Proposed Agenda: Initial starting point of meeting will include a review of the briefing to the Secretary of the Army in June of 1999. Issues and comments of The Honorable Louis Caldera will be examined and discussed. Updates on The Army Distance Learning Program (TADLP) and infrastructure will follow this review. Student Management issues will be the focus for the remainder of the two day meeting.

Purpose of the Meeting: Subcommittee members will begin their second term with discussions of Student Management.

FOR FURTHER INFORMATION CONTACT: All communications regarding this subcommittee should be addressed to Mr. Richard Karpinski, at Commander, Headquarters TRADOC, ATTN: ATTG-CF (Mr. Karpinski), Fort Monroe, VA 23651–5000; telephone number (757) 728–5531.

SUPPLEMENTARY INFORMATION: Meeting of the advisory committee is open to the public. Because of restricted meeting space, attendance will be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to

attend. Contact Mr. Karpinski (757–728–5531) for meeting agenda and specific locations.

Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentations or oral statements at the meeting.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–30549 Filed 11–22–99; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Feasibility Study and Draft Environmental Impact Statement (DEIS) for the Bloomsburg Local Flood Protection Project in Columbia County, PA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Baltimore District, U.S. Army Corps of Engineers, is initiating the Bloomsburg Local Flood Protection Feasibility Study in Columbia County, Pennsylvania. This study will include an evaluation of levee/floodwall alignment alternatives to provide adequate protection to the Town of Bloomsburg. The level of protection will be determined through an assessment of flood damages; degree of adverse impacts to the cultural, environmental, and socio-economic surroundings, and a benefit-cost ratio. A DEIS will be prepared that will document existing conditions, project actions, and project impacts. The Town of Bloomsburg is the non-Federal sponsor.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be addressed to Ms. Stacey Underwood, Study Team Leader, Baltimore District; U.S. Army Corps of Engineers, ATTN: CENAB–PL–P, P O. Box 1715; Baltimore, Maryland 21203–1715, telephone (410) 962–4977. E-mail address: stacey.m.underwood@usace.army.mil

SUPPLEMENTARY INFORMATION:

1. The authorization for the Bloomsburg Reconnaissance Study was the U.S. House of Representatives, Committee on Transportation and Infrastructure resolution, dated September 12, 1996.

2. The Bloomsburg Reconnaissance Study produced by the Corps in 1998 determined that there was both Federal and non-Federal interest in pursuing a feasibility study and implementation of a local flood protection project.

3. In June 1999, the Corps and the Town of Bloomsburg executed a feasibility cost-sharing agreement. The study area is the Town of Bloomsburg, located in central Columbia County, Pennsylvania, approximately 50 miles southwest of Wilkes-Barre. Bloomsburg is situated at the confluence of Fishing Creek and the Susquehanna River.

4. Environmental issues will focus on, but are not limited to, effects on air quality, wetlands, water quality; fish and wildlife resources (including threatened and endangered species); hazardous, toxic, and radioactive waste; aesthetic resources; and cultural resources (including archaeological sites and historic architecture). Benefits, costs, and impacts will be examined in detail to determine whether a flood protection structure is justified and the appropriate alignment for such a structure. The team will evaluate the environmental impacts (both adverse and beneficial) of the proposed actions.

5. The decision to implement these actions will be based on an evaluation of the probable impact of the proposed activities on the public interest, and will also be based on the national concern for protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal will be balanced against the project's reasonably foreseeable costs. The Pennsylvania Department of Environmental Protection and the Baltimore District are preparing a DEIS that will describe the impacts of the proposed project on environmental and cultural resources in the study area and the overall public interest. The DEIS will be in accordance with NEPA and will document all factors that may be relevant to the proposal, including the cumulative effects thereof. If applicable, the DEIS will also apply guidelines issued by the Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act of 1977 (Public Law 95–217).

6. The public involvement program will include workshops, meetings, and other coordination with interested private individuals and organizations, as well as with concerned Federal, state and local agencies. Coordination letters and newsletters will be sent to appropriate agencies, organizations, and individuals on an extensive mailing list. Additional public information will be provided through print media, mailings, radio and television announcements.

7. Other participants that will be involved in the study and DEIS process in addition to the Corps, the Pennsylvania Department of Environmental Protection, and the Town of Bloomsburg include the following: the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, U.S. Forest Service, U.S. Geological Survey, Natural Resource Conservation Service, and U.S. National Park Service. The Baltimore District invites potentially affected Federal, state, and local agencies, and other organizations and entities to participate in this study.

8. The Bloomsburg Local Flood Protection Feasibility Study and DEIS are tentatively scheduled for public review in December 2001.

Robert W. Lindner,

Chief, Planning Division.

[FR Doc. 99–30550 Filed 11–22–99; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 23, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader,

Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 17, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services.

Type of Review: New.

Title: Special Education Elementary Longitudinal Study (SEELS).

Frequency: Biennially.

Affected Public: Individuals or households; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses—31,095;
Burden Hours—17,049.

Abstract: SEELS will provide the first national picture of the experiences and outcomes of students in special education ages 6 through 12 at the outset of the study. The study will inform special education policy development and support Government Performance and Results Act (GPRA) measurement and Individuals with Disabilities Education Act (IDEA) reauthorization. Data will be collected three times over a five-year period from the parents, teachers and principals of sample students.

Written comments of the information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *OCIO__IMG__Issues@ed.gov* or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Sheila Carey at 202–708–6287 or electronically mail her at internet address sheila__carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Elementary and Secondary Education.

Title: Core Alcohol and Other Drug Survey.

Frequency: Annually.

Affected Public: Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses—216,750;
Burden Hours—144,500.

Abstract: The Core Alcohol and Other Drug Survey is being conducted as a national probability sample in order for the Department to obtain national statistics on alcohol and other drug use and violence at public and private, two- and four-year institutes of higher education.

Requests for copies of this information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 703–426–9692 or by e-mail at *kathy__axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–30439 Filed 11–23–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, December 2, 1999: 8:30 a.m.–5 p.m.; Friday, December 3, 1999: 8:30 a.m.–4 p.m.

ADDRESSES: Doubletree Hotel, Lloyd Center, 1000 N.E. Multnomah Street, Portland, OR 97232, 503–281–6111.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

—Tutorial on 100 Area Cleanup: Promote understanding of the direction of 100 Area cleanup, including contrasts of land use focus, and risk assessments, regulations, and cleanup standards. Also, to promote understanding of trustee and tribal expectations on 100 Area cleanup, and to identify Hanford Advisory Board values on the cleanup.

—Consider advice on DOE budget reprogramming for Hanford.

—Update on the progress of Tri-Party Agreement negotiations, including major elements of the new Core Agreement.

Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling her at (509) 373–5647.

Issued at Washington, DC on November 18, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–30478 Filed 11–22–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, December 1, 1999: 6–9:30 p.m.

ADDRESSES: Garden Plaza Hotel 215 South Illinois Street Oak Ridge, TN

FOR FURTHER INFORMATION CONTACT: Carol Davis, Federal Coordinator/Ex-Officio Officer, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, (423) 576–0418.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Status of Report of the Management and Integration of the Department of Energy/Oak Ridge Operations Environmental Management Program. Presented by Mr. Joe Nemec, President, Bechtel Jacobs Company, LLC.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carol Davis at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Carol Davis, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (423) 576–0418.

Issued at Washington, DC on November 18, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–30479 Filed 11–22–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC00–585–001, FERC–585]

Information Collection Submitted for Review and Request for Comments

November 17, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received one comment in response to an earlier **Federal Register** notice of July 23, 1999 (64 FR 39973) and has made this notation in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received on December 23, 1999.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street NW Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–585 "Reporting of Electric Shortages and Contingency Plans under PURPA 206".

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* OMB No. 1902–0138. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. There are no changes to the reporting burden. This is a mandatory collection requirement.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the provisions of Title II, Section 206 of the Public Utility Regulatory Policies Act of 1978 which amended Section 202 of the Federal Power Act (FPA) by adding subsection (g). (16 U.S.C. 824a). These statutes provide the Commission with the authority and responsibility to require public utilities to report to the Commission, and appropriate State agencies, any anticipated shortages of electric energy or capacity which would affect the utility's ability to serve its wholesale customers and to report and periodically revise, their contingency plans for such occurrences which would equitably accommodate both retail and wholesale customers. The information reported under Commission identifier FERC–585 enables the Commission and appropriate State agencies to exercise electric continuity of service oversight in accordance with the Act as referenced above. Without this information, the Commission and State agencies would be unable to: (1) Examine and approve or modify utility actions, (2) prepare a response to anticipated disruptions in electric energy, and (3) ensure equitable treatment of all public utility customers

under the shortage situations. If the information were not collected there would be no information available to determine whether violations of the law have occurred.

5. *Respondent Description:* The respondent universe currently comprises on average, 7 public utilities.

6. *Estimated Burden:* 511 total burden hours, 7 respondents, 1 response annually, 73 hours per response (average).

7. *Estimated Cost Burden to Respondents:* 511 hours + 2,080 hours per year × $109,889 per year=$26,997, average cost per respondent=$3,857.

Statutory Authority: Sections 202(g) of the Federal Power Act (FPA), 16 U.S.C. 824a.

David P. Boergers,

Secretary.

[FR Doc. 99–30482 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–68–00]

Colorado Interstate Gas Company; Notice of GRI Filing

November 17, 1999.

Take notice on November 15, 1998, Colorado Interstate Gas Company (CIG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fifteenth Revised Sheet No. 10 and Twenty-eighth Revised Sheet No. 11, with an effective date January 1, 2000.

CIG states the purpose of this filing is to permit CIG to collect Gas Research Institute (GRI) charges associated with its transportation pursuant to the Commission's order issued September 29, 1999 in Docket No. RP99–323–000.

CNG states that copies of the filing were served upon the company's jurisdictional firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30488 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–23–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

November 17, 1999.

Take notice that on November 12, 1999, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–1046, filed in Docket No. CP00–023–000 a request pursuant to Sections 157.205, and 157.216, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon certain natural gas facilities located in Greene County, Pennsylvania under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance).

Columbia request authority to abandon one point of delivery to Columbia Gas of Pennsylvania, Inc. (CGP) and 11.78 miles of 12-inch and 41 feet of 4-inch pipeline. CGP does not object to the abandonment of the delivery point.

Any questions regarding this application should be directed to Fredric J. George at (304) 357–2359, Attorney, Columbia Gas Transmission Corporation, P.O. Box 1273 Charleston, West Virginia 25325–1273.

Any person or the Commissions staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–30484 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–18–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

November 17, 1999.

Take notice that on November 12, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 224J.02, to be effective November 4, 1999.

Natural states that the purpose of this filing is to comply with the Commission's order issued November 4, 1999 at Docket No. RP00–18 (Complaint Order). The Complaint Order directed Natural to revise its Tariff so that Natural would post a reserve price matrix for bids in Recourse Rate form, at discounted levels, and to provide additional material regarding the treatment of surcharges in its valuation of auction bids in the auction to which the complaint in this docket was directed.

Natural requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet submitted to become effective November 4, 1999, the date of the Complaint Order.

Natural states that copies of the filing are being mailed to its customers, interested state regulatory agencies and all parties set out on the official service list at Docket Nos. RP99–176 and RP00–18.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to

be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30489 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–328–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

November 17, 1999.

Take notice that on November 12, 1999, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets listed in Appendices A and B of its filing. Tennessee requests that the attached tariff sheets be made effective October 15, 1999 or November 1, 1999, as discussed in the filing.

Tennessee states that the attached tariff sheets are submitted in compliance with the Commission's Order issued October 15, 1999 in Docket No. RP99–328 (October 15th Order). Tennessee Gas Pipeline Company, 89 FERC (¶61,051 (1999). In the October 15th Order, the Commission approved subject to conditions tariff revisions that would an opportunity for Rate Schedule NET shippers to convert to open access service under Rate Schedule NET 284.

Tennessee states that the tariff sheets incorporate the requirements: to implement extended receipt and delivery service for Rate Schedule NET 284; to extend the window within which shippers can convert to Rate Schedule NET 284 to a 6 month period beginning on October 15, 1999; to clarify which definition of "transportation path" it is using for section 4.4 of the NET 284 rate schedule; to ensure that fuel charges will apply only to the quantities actually scheduled; to include a list of Rate Schedule NET 284 shippers, their rate zone segments and their applicable fuel percentages; and to extend the conversion opportunity to Rate Schedule T–180 shippers.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30487 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–66–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

November 17, 1999.

Take notice that on November 12, 1999, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets for inclusion in Tennessee's, with an effective date of December 13, 1999:

Third Revised Sheet No. 351A
Third Revised Sheet No. 654
Second Revised Sheet No. 655
Original Sheet No. 656A

Tennessee states that the proposed revised tariff sheets will provide its customers with the option of delegating only selected contracts to their designated Blanket Agent. Tennessee further states that a customer may elect to retain one or more of its contracts while delegating all rights and responsibilities for one or more of its remaining contracts to the Blanket Agent. The choice of which contracts to keep or delegate is at the customer's discretion.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30492 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–475–001]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 17, 1999.

Take notice that on November 12, 1999, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective November 1, 1999.

Substitute Third Revised Sheet No. 193
Substitute Original Sheet No. 193A

Texas Gas states that the tariff sheets are being filed in compliance with Commission Order dated October 27, 1999 (89 FERC ¶ 61,096) in the above referenced docket. The Order accepted previously filed tariff sheets which conformed with the policies of the Commission as stated in Tennessee Gas Pipeline Company, 86 FERC ¶ 61,290 (1999) by allowing both the releasing shipper who retains some capacity in a zone and the replacement shipper who acquires some capacity in a zone to have access to all secondary points in that zone and to eliminate abuses of Texas Gas' capacity release program that permit shippers to multiply their use of capacity in excess of their contract demand. The instant filing revises tariff language to more clearly state the intended nomination/renomination and confirmation procedures as directed by the Order.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission,

888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30486 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–64–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 17, 1999.

Take notice that on November 12, 1999 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets, which tariff sheets and their proposed effective dates are detailed in Appendix A attached to the filing.

Transco states that the purpose of the instant filing is to update certain Delivery Point Entitlement (DPE) tariff sheets in accordance with the provisions of Section 19 of the General Terms and Conditions of Transco's Third Revised Volume No. 1 Tariff. Specifically, such tariff sheets have been revised to include changes associated with (1) completed incremental capacity expansions, (2) the addition or removal of certain services and (3) miscellaneous adjustments.

Transco states that copies of the filing are being mailed to each of its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30490 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–65–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 17, 1999.

Take notice that on November 12, 1999 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets, which tariff sheets are enumerated in Appendix A attached to the filing, with an effective date of November 1, 1999.

Transco states that the purpose of the instant filing is to track rate changes attributable to transportation service purchased from CNG Transmission Corporation (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedules GSS and LSS. This filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule LSS and Section 3 of Transco's Rate Schedule GSS. Transco states that Included in Appendix B attached to the filing are the explanations and details regarding the computation of the revised Rate Schedule GSS and LSS rate changes.

Transco states that copies of the filing are being mailed to each of its GSS and LSS customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers.

Secretary.

[FR Doc. 99–30491 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP92–236–018]

Williston Basin Interstate Pipeline Company; Notice of Compliance Filing

November 17, 1999.

Take notice that on November 12, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, certain revised tariff sheets in compliance with the Commission's October 13, 1999 Letter Order in the above-referenced docket.

Williston Basin states that on August 6, 1999, it filed with the Commission its "Settlement Agreement Between the State Agencies and Williston Basin Interstate Pipeline Company" (Settlement Agreement). In its October 13, 1999 Letter Order, the Commission stated that the Settlement Agreement satisfies all issues in this proceeding, obviates the need for further litigation, and ordered Williston Basin to file revised tariff rates that are in agreement with the terms of the Settlement Agreement.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30485 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–67–000]

Wyoming Interstate Company, Ltd.; Notice of GRI Filing

November 17, 1999.

Take notice on November 15, 1999, Wyoming Interstate Company, Ltd. (WIC), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, First Revised Sheet No. 4C, with an effective date of January 1, 2000.

WIC states the purpose of this filing is permit WIC to collect Gas Research Institute (GRI) charges associated with its transportation pursuant to the Commission's order issued September 29, 1999 in Docket No. RP99–323–000.

WIC states that copies of the filing were served upon the company's jurisdictional firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30493 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP–99–392–000, CP00–17–000 and CP00–19–000]

Transcontinental Gas Pipe Line Corporation, South Carolina Public Service Authority; Notice of Intent To Prepare an Environmental Assessment for the Proposed Southcoast Expansion Project and Request for Comments on Environmental Issues

November 17, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the SouthCoast Expansion Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Corporation (Transco) in Choctaw, Marengo, Coosa, Coweta, and Chilton Counties, Alabama and Walton, Gwinnett, and Henry Counties, Georgia.[1] These facilities would consist of about 44.3 miles of various diameter pipeline and 31,500 horsepower (hp) of compression. In addition, Santee Cooper, a power generating company, would construct about 5 miles of 16-inch-diameter pipeline to its planned power generating plant in Anderson County, South Carolina. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. There, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

[1] Tranco's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Summary of the Proposed Project

Transco wants to expand the capacity of its facilities in Alabama and Georgia to transport an additional 204,099 million British thermal units per day of natural gas to twelve shippers including one electric generating plant. Transco seeks authority to construct and operate:

- 11.31 miles of 42-inch-diameter loop and a pig launcher and receiver in Choctaw County, Alabama;
- 13.94 miles of 48-inch-diameter loop and to relocate an existing pig receiver in Marengo County, Alabama;
- 19.01 miles of 24-inch-diameter loop (North Georgia Loop) and a pig launcher and receiver in Walton and Gwinnett Counties, Georgia;
- A new 15,000 horsepower (hp) gas turbine-powered compressor unit at Compressor Station 105 in Coosa County, Alabama;
- A new 16,500 hp electric motor driven compressor unit and gas coolers at Compressor Station 115 in Coweta County, Alabama;
- A rewheeled Compressor Unit 16 at Compressor Station 120 in Henry County, Georgia; and
- New suction piping at Compressor Station 100 in Chilton County, Alabama, to allow sufficient gas flow to Compressor Unit 10.

In addition, South Carolina Public Service Authority (Santee Cooper), a power generating company plans to construct about 2.1 miles of 16-inch-diameter pipeline to its planned power generating plant called the John S. Rainey Generating Station in Anderson County, South Carolina including associated water pipelines and intake/discharge facilities near the plant. It would also construct about two approximately 30 mile-long 230 kilowatt electric transmission lines from the power plant to an existing Greenwood County, South Carolina switching station near Hodges, South Carolina.

The general location of the project facilities is shown in appendix 2. If you are interested in obtaining maps of a specific portion of the project, write to the Office of External Affairs and include the form in appendix 4.

Land Requirements for Construction

Construction of the proposed facilities would require about 577.7 acres of land. Following construction, about 107.5 acres would be maintained as new permanent right-of-way and aboveground facility sites. The remaining 470.2 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scooping". The main goal of the scooping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Endangered and threatened species
- Public safety
- Land use
- Cultural resources
- Air quality and noise
- Hazardous waste

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scooping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section beginning on page 5.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Transco. This preliminary list of issues may be changed based on your comments and our analysis.

- 69 perennial streams would be crossed in Alabama and Georgia.
- Two waterbodies over 100 feet wide would be crossed in Alabama, the Tombigbee River and Tuckabum Creek. The Tombigbee River would be directionally drilled and Tuckabum Creek would be crossed by the open-cut method.
- Three federally listed endangered or threatened species may occur in the project area. Several state listed endangered or threatened species may be affected.
- About 33.2 acres of wetlands would be disturbed during construction and about 9.8 acres of wetlands would be maintained as permanent right-of-way.
- About 252.9 acres of forest land would be cleared.
- Cultural resources sites may potentially be impacted by the project.
- Fourteen residences would be located within 50 feet of the construction work area on the 24-inch-diameter North Georgia Loop.

Also, we have made a preliminary decision to not address the impacts of nonjurisdictional Santee Cooper electric power plant, the related water pipeline facilities, and the electric transmission lines. Environmental review of these nonjurisdictional facilities is being conducted by the United States Army Corps of Engineers. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2;
- Reference Docket No. CP99–392–000; and
- Mail your comments so that they will be received in Washington, DC on or before December 17, 1999.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scooping process, you may want to become an official party to the proceeding known as an "intervenor". Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the "RIMS" link to information in this docket number. Click on the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemaking. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS

helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 99–30483 Filed 11–22–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6479–6]

Notice of Proposed Administrative Order on Consent Under the Resource Conservation and Recovery Act, as Amended, 42 U.S.C. 6973, Gates Corporation, Boone, IA; Docket No. RCRA–7–99–0019

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative order on consent, Gates Corporation, Boone, Iowa; and opportunity for public meeting and public comment.

SUMMARY: Notice is hereby given that a proposed administrative order on consent regarding Gates Corporation was signed by the United States Environmental Protection Agency (EPA) on September 30, 1999. The facility that is the subject of this consent order is the Gates Rubber Company, located in Boone, Iowa. EPA will receive public comments and requests for a public meeting in the affected area on the proposed settlement. If a public meeting is to be held, additional notice will be provided; otherwise, no public meeting is currently scheduled.

DATES: EPA will receive, on or before December 23, 1999, written comments relating to the proposed administrative order on consent and requests for a public meeting in the affected area.

ADDRESSES: Comments should be addressed to Robert Richards, Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, Kansas 66101 and should refer to *Gates Corporation, Boone, Iowa Docket No. RCRA–7–99–0019.*

The proposed consent order may be examined or obtained in person or by mail at the office of the United States Environmental Protection Agency, Region VII, 901 N. 5th Street, Kansas City, KS 66101, (913) 551–7502.

SUPPLEMENTARY INFORMATION: Respondent (Gates Corporation) owns and operates a facility under the name of Gates Rubber Company (Facility), located at 2121 Industrial Park Blvd., Boone, Iowa. Respondent assembles hydraulic hoses at the Facility. As a result of business operations, Respondent generates solid and hazardous waste. Solvent contamination was initially identified during a geotechnical exploration on the Facility property in May 1997. Tetrachloroethylene (PCE) has been identified in the soil and groundwater at the Facility and is believed to have originated from an above ground storage tank that was previously used at the Facility. Several other volatile hydrocarbons have also been identified in the soil and/or groundwater media. The release of PCE into the environment at the facility is enough to contaminate the groundwater to a level that exceeds the EPA established maximum contaminant level for PCE in drinking water. The continued migration of the contaminants off the Facility property may threaten human health and the environment.

Respondent has agreed to undertake all actions required by the terms and conditions of the consent order, including submission of work plans and reports pursuant to EPA guidance, implementation of additional work deemed to be necessary by EPA and documentation of financial assurance.

This is a proposed order subject to public comment. The EPA may withdraw its consent to this order if comments received during the comment period or at any requested public meeting disclose facts or considerations which indicate this order is inappropriate, improper or inadequate.

Dated: October 28, 1999.

Dennis Grams,

Regional Administrator, Region VII.

[FR Doc. 99–30404 Filed 11–22–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[AZ–016–COLMP; FRL–6480–2]

Adequacy Status of the Pima County Submitted CO Limited Maintenance Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found that Pima County submitted CO Limited Maintenance Plan is adequate for conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted SIPs cannot be used for conformity determinations until EPA has affirmatively found them adequate. As a result of our finding, Pima County is not required to use a motor vehicle emissions budget from the submitted CO Limited Maintenance Plan for future conformity determinations. This determination is effective December 8, 1999.

DATES: These budgets are effective December 8, 1999.

FOR FURTHER INFORMATION CONTACT: The finding and, if any comments are received, the response to comments are available at EPA's conformity website: *http://www.epa.gov/oms/traq,* (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Karina O'Connor, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1247 or *oconnor.karina@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a letter to the Arizona Department of Environmental Quality on September 30, 1999 stating that the Pima County submitted CO Limited Maintenance Plan is adequate for conformity purposes. This finding has also been announced on EPA's conformity website: *http://www.epa.gov/oms/traq,* (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled "Conformity Guidance on Implementation of March 2, 1999

Conformity Court Decision"). We followed this guidance in making our adequacy determination.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 15, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 99–30514 Filed 11–22–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6472–7]

Draft NPDES General Permits For Non-Contact Cooling Water Discharges in the States of Maine, Massachusetts, and New Hampshire

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notices of Draft NPDES General Permits—MEG250000, MAG250000, AND NHG250000.

SUMMARY: The Director of the Office of Ecosystem Protection, EPA-New England, is issuing Notice of Draft National Pollutant Discharge Elimination System (NPDES) general permits for non-contact cooling water discharges to certain waters of the States of Maine, Massachusetts, and New Hampshire for the purpose of reissuing the current permit which expired on May 31, 1999. These general NPDES permits establish notice of intent (NOI) requirements, effluent limitations, standards, prohibitions and management practices for the non-contact cooling water discharges. Owners and/or operators of facilities discharging non-contact cooling water including those currently authorized to discharge under the expired general permit will be required to submit to EPA-New England, a notice of intent to be covered by the appropriate general permit and will receive a written notification from EPA of permit coverage and authorization to discharge under one of the general permits. The eligibility requirements are discussed in detail under Section D.3.b and the reader is strongly urged to go to that section before reading further. This general permit does not cover new sources as defined under 40 CFR 122.2.

DATES: For comment period: interested persons may submit comments on the draft general permits as part of the administrative record to the Environmental Protection Agency, New England Region, at the address given in the preceding section no later than December 23, 1999. The general permit shall be effective on the date specified in the final general permit published in the **Federal Register** and will expire five years from the final publication of the **Federal Register**.

ADDRESSES: The draft permit is based on an administrative record available for public review at the Environmental Protection Agency, Office of Ecosystem Protection (CMA), 1 Congress Street, Suite 1100, Boston, Massachusetts 02114–2023. The following FACT SHEET AND SUPPLEMENTARY INFORMATION section sets forth principal facts and the significant factual, legal, and policy questions considered in the development of the draft permits. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday excluding holidays from: Suprokash Sarker, Office of Ecosystem Protection, Environmental Protection Agency, 1 Congress Street, Suite 1100, Boston, MA 02114—2023, telephone: 617–918–1693

Table of Contents

Fact Sheet and Supplemental Information
I. Introduction
II. Coverage of General Permits
III. Exclusions
IV. Permit Basis and Other Conditions of the General NPDES Permit
A. Effluent Limitations
B. Antidegradation Provisions
C. Monitoring and Reporting Requirements
D. Endangered Species
E. Standard Permit Condition
F. The State (401) Certification
G. The Coastal Zone Management Act
H. Environmental Impact Statement Requirements
I. National Historic Preservation Act of 1996
J. Essential Fish Habitat
V. Other Legal Requirements
A. Executive Order 12866
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
Part I—Draft Permits
A. Maine General Permit
B. Massachusetts General Permit
C. New Hampshire General Permit
D. Common Elements For All Permits
1. Description of Noncontact Cooling Water
2. Conditions of the General Permits
a. Geographic Area
b. Notification by Permittees
3. Administrative Aspects
a. Request to be Covered
b. Eligibility to Apply
E. Monitoring and Reporting
F. Additional General Permit Conditions
Part II—Standard Conditions

Changes From the Previous Permit

- States of MA and NH—pH control and non-toxic chemical additives may be allowed.
- States of MA and NH—change in monitoring requirements for flow, temperature and pH.
- State of MA—addition of monitoring requirement for total residual chlorine if potable water is used in the non-contact cooling water.
- State of NH—limits of pH flexibility is added.
- All States—commingling of non-contact cooling water effluent is allowed so long as the effluent can be monitored before it mixes with other streams of wastewater.
- Notification and eligibility to apply are transferred from Fact Sheet and Supplemental Information to Part I, Permit Section I.D.

Fact Sheet and Supplementary Information

I. Introduction

The Director of the Office of Ecosystem Protection, EPA-New England, is issuing draft general permits for non-contact cooling water discharges to certain waters of the States of Maine, Massachusetts, and New Hampshire. This notice contains Part I for the draft general NPDES permits and Part II, Standard Conditions.

II. Coverage of General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit unless such a discharge is otherwise authorized by the Act. Although such permits to date have generally been issued to individual discharges, EPA's regulations authorize the issuance of "general permits" to categories of discharges (see 40 CFR 122.28). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures.

A. The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;

2. Discharge the same types of wastes;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring requirements; and

5. In the opinion of the Director, are more appropriately controlled under a

general permit than under individual permits.

B. The similarity of the discharges prompted EPA to issue the April 28, 1994 general permit. When reissued, this permit will enable facilities currently covered under the expired general permit to maintain compliance with the Act and will extend environmental and regulatory controls to new dischargers and avoid a backlog of individual permit applications. Violations of a condition of a general permit constitute a violation of the Clean Water Act and subjects the discharger to the penalties in section 309 of the Act.

III. Exclusions

EPA has determined that this general permit will not be available for facilities subject to section 316(b) of the Clean Water Act or for those facilities choosing to apply section 316(a) of the Clean Water Act to their permit.

EPA has also determined that this general permit will not be available to "New Source" dischargers as defined in 40 CFR 122.2 due to the site specific nature of the environmental review required by the National Environmental Policy Act of 1969 (NEPA), 33 U.S.C. 4321 *et seq.* for those facilities. "New Sources" must comply with New Source Performance Standards (NSPS) and are subject to the NEPA process in 40 CFR 6.600. Consequently EPA has determined that it would be more appropriate to address "New Sources" through the individual permit process.

Any owner or operator authorized by a general permit may request to be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting a NPDES permit application together with reasons supporting the request. The Director may also require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Director to take this action. However, individual permits will not be issued for sources discharging non-contact cooling water covered by these general permits unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Director may consider the issuance of individual permits when:

A. The discharger is not in compliance with the terms and conditions of the general permit;

B. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

C. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general NPDES permit;

D. A Water Quality Management plan or Total Maximum Daily Load (TMDL) containing requirements applicable to such point sources is approved;

E. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary; or

F. The discharge(s) is a significant contributor of pollution.

In accordance with 40 CFR 122.28(b)(3)(iv), the applicability of the general permit is automatically terminated on the effective date of the individual permit.

IV. Permit Basis and Other Conditions of the General NPDES Permit

A. Effluent Limitations

1. Statutory Requirements

Section 301(a) of the Clean Water Act (CWA or the Act), 33 U.S.C. 1311(a), makes it unlawful to discharge pollutants to waters of the United States without a permit. Section 402 of the Act, 33 U.S.C. 1342, authorizes EPA to issue NPDES permits allowing discharges that will meet certain requirements, including CWA sections 301, 304, and 401 (33 U.S.C. 1331, 1314, and 1341). Those statutory provisions state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) Meet standards reflecting specified levels of technology-based treatment requirements; (2) comply with State Water Quality Standards; and (3) comply with other state requirements adopted under authority retained by states under CWA section 510, 33 U.S.C. 1370.

EPA is required to consider technology and water quality requirements when developing permit limits. 40 CFR part 125 subpart A sets the criteria and standards that EPA must use to determine which technology-based requirements, requirements under section 301(b) of the Act and/or requirements established on a case-by-case basis under section 402(a)(1) of the Act, should be included in the permit.

The Clean Water Act requires that all discharges, at a minimum, must meet effluent limitations based on the technology-based treatment requirements for dischargers to control pollutants in their discharge. Section 301(b)(1)(A) of the Act requires the application of Best Practicable Control Technology Currently Available (BPT) with the statutory deadline for compliance being July 1, 1977, unless otherwise authorized by the Act. Section 301(b)(2) of the Act requires the application of Best Conventional Control Technology (BCT) for conventional pollutants, and Best Available Technology Economically Achievable (BAT) for non-conventional and toxic pollutants. The compliance deadline for BCT and BAT is as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated and in no case later than March 31, 1989.

2. Technology-Based Effluent Limitations

EPA has not promulgated National Effluent Guidelines for non-contact cooling water discharges. EPA believes that the limits established to meet the Water Quality Standards discussed below are sufficient to satisfy BAT/BCT described in Section 304(b) of the Act.

3. Water Quality Based Effluent Limitations

Under section 301(b)(1)(C) of the Act discharges are subject to effluent limitations based on water quality standards. Receiving stream requirements are established according to numerical and narrative standards adopted under state and/or federal law for each stream use classification. Section 401 of the CWA requires that EPA obtain State certification which ensures that all water quality standards and other appropriate requirements of state law will be satisfied. Regulations governing State certification are set forth in 40 CFR 124.53 and 124.55.

The States of Maine, Massachusetts, and New Hampshire have narrative criteria in their water quality regulations (See Maine Title 38, Article 4–A, Section 420 and Section 464.4.A.(4); Massachusetts 314 CMR 4.05(5)(e); and New Hampshire Part Env–Ws 430.50(a) that prohibits toxic discharges in toxic amounts. The permit does not allow for the addition of materials or chemicals in amounts which would produce a toxic effect to any aquatic life.

Non-contact cooling water discharges do not contain or come in contact with raw materials, intermediate products, finished products, or process wastes. Therefore, it could be assumed that the discharges do not contain toxic or hazardous pollutants or oil and grease. Nevertheless, toxic effects may still occur as a result of toxic source water or due to dissolution of the piping in the cooling water systems. Any non-contact cooling water discharges which would violate water quality criteria established for toxic or hazardous pollutants would

not qualify for this general permit and an individual permit would be required.

Water quality standards applicable to non-contact cooling water discharges covered by this general permit include pH and temperature. The limitations for pH and temperature are based upon limitations in the existing permit in accordance with the antibacksliding requirements found in 40 CFR 122.44(1). The permittees have been able to achieve consistent compliance with all these limitations.

The state of New Hampshire may consider a change in pH under certain conditions. The following language reveals when pH can be changed for the state of New Hampshire :

The pH limits in the draft permit remain unchanged from the existing permit, however, language has been added to this draft permit allowing for a change in pH limit(s) under certain conditions as per State Permit Conditions (PART I.C.2.a.). A change would be considered if the applicant can demonstrate to the satisfaction of NHDES–WD that the in-stream pH standard will be protected when the discharge is outside the permitted range, then the applicant or NHDES–WD may request (in writing) that the permit limits be modified by EPA to incorporate the results of the demonstration.

Anticipating the situation where NHDES–WD grants a formal approval changing the pH limit(s) to outside the 6.5 to 8.0 Standard Units (S.U.), EPA has added a provision to this draft permit (See New Hampshire Part I.C.1.g.). That provision will allow EPA to modify the pH limit(s) using a certified letter approach. This change will be allowed as long as it can be demonstrated that the revised pH limit range does not alter the naturally occurring receiving water pH. Reference Part I.C.2.a. STATE PERMIT CONDITIONS in that permit. However, the pH limit range cannot be less restrictive than found in the applicable National Effluent Limitation Guideline for the facility or to a default range of 6.0 to 9.0 S.U. in the situation of no applicable guideline, whichever is more stringent.

If the State approves results from a pH demonstration study, this permit's pH limit range can be relaxed in accordance with 40 CFR 122.44(l)(2)(i)(B) because it will be based on new information not available at the time of this permit's issuance. This new information includes results from the pH demonstration study that justifies the application of a less stringent effluent limitation. EPA anticipates that the limit determined from the demonstration study as approved by the NHDES–WD will satisfy all effluent requirements for this discharge category and will comply with New Hampshire's Surface Water Quality Regulations amended on September 30, 1996.

B. Antidegradation Provisions

The conditions of the permit reflect the goal of the CWA and EPA to achieve and maintain water quality standards. The environmental regulations pertaining to the State Antidegradation Policies which protect the State's surface waters from degradation of water quality are found in the following provisions: Maine Title 38, Article 4–A, Section 464.4.F.; Massachusetts Water Quality Standards 314 CMR 4.04 *Antidegradation Provisions;* and New Hampshire RSA 485–A:8, VI Part Env-Ws 430.31 through 430.45.

This general permit does not apply to any new or increased discharge to any outstanding national resource water or the territorial seas. It also does not apply to any new or increased discharge to other waters unless the discharge is shown to be consistent with the state's antidegradation policies. This determination shall be made in accordance with the appropriate State Antidegradation implementation procedures. EPA will not authorize these discharges under the general permit until it receives a favorable antidegradation review and certification from the States.

C. Monitoring and Reporting Requirements

Effluent limitations and monitoring requirements which are included in the general permit describe the requirements to be imposed on the facilities to be covered.

Facilities covered by the final general permits will be required to submit to EPA, New England Region and the appropriate State authority, a Discharge Monitoring Report (DMR) containing effluent data. The frequency of reporting is determined in accordance with each State's provisions (see the individual State permits).

The monitoring requirements have been established to yield data representative of the discharge under authority of section 308(a) of the Act and 40 CFR 122.41(j), 122.44(i) and 122.48, and as certified by the State.

D. Endangered Species

The proposed limits are sufficiently stringent to assure water quality standards, both for aquatic life protection and human health protection, will be met. The effluent limitations established in these permits ensure protection of aquatic life and maintenance of the receiving water as an aquatic habitat. The Region finds that adoption of the proposed permits is unlikely to adversely affect any threatened or endangered species or its critical habitat. EPA is seeking written concurrence from the United States Fish and Wildlife Service and National Marine Fisheries Service on this determination.

E. Standard Permit Condition

40 CFR 122.41 and 122.42 must be complied with. Specific language will be provided to permittees in Part II of the permit

F. The State (401) Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA. The section 401 certification process is underway in all States. In addition, EPA and the Commonwealth of Massachusetts jointly issue the final permit.

G. The Coastal Zone Management Act

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*, and its implementing regulations (15 CFR part 930) require that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. In the case of general permits, EPA has the responsibility for making the consistency certification and submitting it to the state for concurrence. EPA has requested the MEDEP, Division of Water Resource Regulation, 17 State House, Augusta, ME 04333; the Executive Office of Environmental Affairs, MACZM, 100 Cambridge Street, Boston, MA 02202; and the Office of State Planning, New Hampshire Coastal Program, 2½ Bacon Street, Concord, NH 03301, to provide a consistency concurrence that the proposed general permit is consistent with the ME, MA and NH Coastal Zone Management Program respectively.

H. Environmental Impact Statement Requirements

The general permits do not authorize discharges from any new sources as defined under 40 CFR 122.2. Therefore, the National Environmental Policy Act, 33 U.S.C. 4321 *et seq.*, does not apply

to the issuance of these general NPDES permits.

I. National Historic Preservation Act of 1966

16 U.S.C. 470 *et seq.* Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.* are not authorized to discharge under this permit.

J. Essential Fish Habitat

The proposed limits are sufficiently stringent to assure state water quality standards, both for aquatic life protection and human health protection, will be met. The effluent limitations established in these permits ensure protection of aquatic life and maintenance of the receiving water as an aquatic habitat. The Region finds that adoption of the proposed permits is unlikely to adversely affect any threatened or endangered species or its critical habitat. EPA is seeking written concurrence from the United States Fish and Wildlife Service and National Marine Fisheries Service on this determination.

V. Other Legal Requirements

A. Executive Order 12866

EPA has determined that this general permit is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*, and assigned OMB control number 2040–0086 (NPDES permit application) and 2040–0004 (Discharge Monitoring Reports).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. The permit issued today, however, is not a "rule" subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the Regulatory Flexibility Act.

D. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their "regulatory actions" (defined to be the same as "rules" subject to the RFA) on tribal, state and local governments and the private sector. The permit issued today, however, is not a "rule" subject to the RFA and is therefore not subject to the requirements of UMRA.

Dated: September 10, 1999.

John P. DeVillars,

Regional Administrator, Region I.

Part I—Draft General Permits Under the National Pollutant Discharge Elimination System (NPDES)

Note: The following three draft general permits have been combined for purposes of this **Federal Register**. Part I A, Part I B and Part I C contain general permits for the states of ME, MA, and NH respectively. Part I.D. is common to all three permits.

A. Maine General Permit, Permit No. MEG250000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*; the "CWA"), operators of industrial facilities discharging non-contact cooling water located in Maine are authorized to discharge to all waters of the State unless otherwise restricted by Title 38, Article 4–A, Water Classification Program, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. No discharge into lakes is authorized by this permit. The permit allows non-contact cooling water to be commingled with other discharges as long as the non-contact cooling water can be monitored separately for compliance.

This permit shall become effective when issued.

This permit and the authorization to discharge expire at midnight, five years from the effective date of the **Federal Register** publication and supersedes the permit issued on April 28, 1994.

Signed this day of

Linda M. Murphy,

Director, Office of Ecosystem Protection, Environmental Protection Agency, Boston, MA 02114.

Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge non-contact cooling water.

a. Each outfall discharging non-contact cooling water shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristic	Discharge limitations—other units (specify)		Monitoring requirements	
	Avg. monthly	Max. daily	Measurement frequency	Sample type
Flow (See .A.1.h and Fig. I.)	Report	Report	Monthly	Total Daily.
Temperature (See A1.h and Fig. I)	Report	Report	Monthly	Grab.
Total Residual Chlorine (See .A.1.i.)		Report	Quarterly	Grab.

b. The discharge shall not cause a violation of the water quality standards.

c. Non-contact cooling water may be discharged only into Class B, C, SB, and SC waters that have a drainage area larger than ten (10) square miles in accordance with Maine State Law. See Part I.A.1.h. for details for determining if the specific discharge(s) have acceptable dilution and can be covered by the General Permit Program.

d. The pH of the effluent shall not be less than 6.0 standard units nor greater than 8.5 standard units any time unless these values are exceeded due to natural causes or as a result of an approved treatment process. pH shall be monitored monthly with 4 grabs, reporting maximum and minimum values.

e. There shall be no discharge of floating solids or visible foam in other than trace amounts.

f. Samples taken in compliance with the monitoring requirements specified above shall be taken at a location that provides a representative analysis of the effluent just prior to discharge to the receiving water or if the effluent is commingled with another permitted discharge, prior to such commingling.

g. Water Treatment Additives—non-toxic water treatment additives are chemicals used in cooling water systems primarily to control corrosion or prevent deposition of scale forming materials which do not exhibit any residual toxic effect on the receiving waters. No treatment additives may be used until specifically reviewed and authorized by MEDEP. Non-toxic water treatment additives are allowed in non-contact cooling water systems. The State of Maine will review each identified chemical to determine its acceptability. Additives used to control biological growth in such cooling systems are prohibited due to their inherent toxicity to aquatic life.

The following water treatment additive biological and chemical data must be supplied in the letter of intent to be covered by this general permit:

(1) Name and manufacture of each additive used,

(2) Maximum and average daily quantity of each additive used on a monthly basis, and

(3) The vendor's reported aquatic toxicity of additive (NOAEL and/or LC_{50} in % for typically acceptable aquatic test organisms)

All substitutions to the accepted water treatment chemicals must be approved by the State prior to their usage.

h. Discharge Temperature and Volume.

The temperature and total volume of the discharge from each facility shall not exceed 120 °F and 3.0 million gallons per day (MGD). The acceptability of the discharge from each facility must be determined using the graph on Figure I. The intersection of the maximum effluent temperature and the dilution ratio shall be in the "acceptable" range shown on Figure I, titled "Effluent Temperature/Dilution Graph" for coverage by the General Permit. If the intersection falls within the "non-acceptable" area, the facility must be covered by an individual NPDES Permit, not the General Permit.

The effluent temperature is the maximum daily temperature. The dilution factor is the sum of the 7Q10 low stream flow at the facility site and the daily maximum effluent flow divided by the daily maximum effluent flow. For facilities with multiple outfalls, the daily maximum effluent flow shall be the sum of the flow from all outfalls.

i. Total Residual Chlorine.

Potable water supply sources used for cooling water supply shall not contain Total Residual Chlorine (TRC) at concentration levels that induce a toxic impact upon aquatic life within the receiving waters. The instream waste concentration of TRC based on the ratio of the effluent flow stream flow to the 7Q10 low flow of the stream shall be less than the appropriate water quality criteria (acute = 19 ug/l, chronic = 11 ug/l for fresh water and acute = 13 ug/l, chronic = 7.5 ug/l for marine water) for the receiving waterway.

BILLING CODE 6560-50-P

FIGURE 1

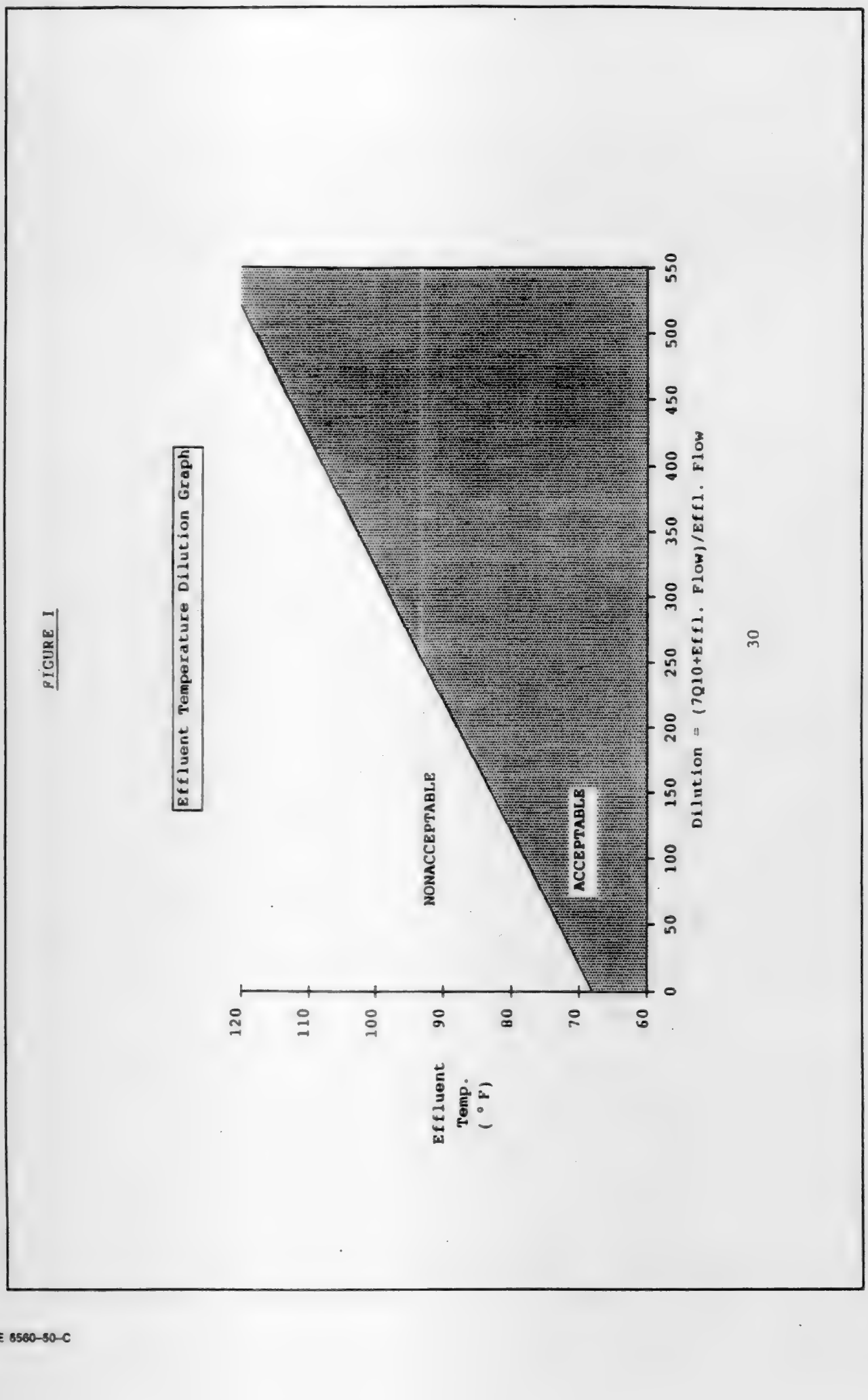

BILLING CODE 6560–50–C

B. Massachusetts General Permit, Permit No. MAG250000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*; the "CWA"), and the Massachusetts Clean Waters Act, as amended, (M.G.L. Chap. 21, §§ 26–53), operators of facilities located in Massachusetts, which discharge non-contact cooling water to the classes of waters as designated in the Massachusetts Water Quality Standards, 314 CMR 4.00 *et seq.*; are authorized to discharge to all waters, unless otherwise restricted, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

The permit allows non-contact cooling water to be commingled with other discharges as long as the noncontact cooling water can be monitored separately for compliance.

This permit shall become effective when issued.

This permit and the authorization to discharge expire at midnight, five years from the effective date of the **Federal Register** publication and supersedes the permit issued on April 28, 1994.

Signed this _____ day of _____

Linda M. Murphy,

Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Boston, MA 02114.

Glenn Haas,

Director, Division of Watershed Management, Department of Environmental Protection, Commonwealth of Massachusetts, Boston, MA.

Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge non-contact cooling water.

a. Each outfall discharging non-contact cooling water shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristic	Discharges limitations other units (specify)		Monitoring requirements	
	Avg. monthly	Max. daily	Measurement frequency	Sample type
Flow	.....	1.0 MGD*	Monthly	Total daily.
Temperature***				
Warm water fishery**	(Class A and B) Report	83°F (28.3°C)	Monthly	4 grabs, report maximum and average.
Cold water fishery**	(Class A and B) Report	68°F (20°C)	Monthly	4 grabs, report maximum and average.
	(Class SA and SB) Report.	85°F (29.4°C)	Monthly	4 grabs, report maximum and average.
pH	(see Part I.B.1.i or j)		Monthly	4 grabs report maximum & minimum values.
LC_{50} & C–NOEC, %	(see Part I.B.1.k)		.....	24-hour composite.
Total Residual Chlorine (For potable water supply only).	Report (µg/l)	Report (µg/l)	Quarterly	4 grabs, report maximum and average.

Notes to Table

* The State with EPA concurrence may allow coverage under the general permit for discharges greater than 1.0 MGD when it determines that such discharge is consistent with all the terms and conditions of the permit on a case by case basis without violating surface water quality standards.

** The definition of a cold or warm water fishery can be found in the Massachusetts Surface Water Quality Standards, 314 CMR 4.02.

b.*** The discharge shall not cause a violation of the water quality standards.

c.*** The rise in temperature due to a discharge to Class A waters shall not exceed 1.5°F (0.8°C); and natural seasonal and daily variations shall be maintained (314CMR4.05(3)(a)2).

d.*** The rise in temperature due to a discharge to Class B waters shall not exceed 3°F (1.7°C) in rivers and streams designated as cold water fisheries nor 5°F (2.8°C) in rivers and streams designated as warm water fisheries (based on the minimum expected flow for the month); in lakes and ponds the rise shall not exceed 3°F (1.7°C) in the epilimnion (based on the monthly average of maximum daily temperature); and natural seasonal and daily variations shall be maintained (314 CMR 4.05(3)(b)2).

e.*** The rise in temperature due to a discharge to Class SA waters shall not exceed 1.5°F (0.8°C); and natural seasonal and daily variations shall be maintained (314 CMR 4.05(4)(a)2).

f.*** The rise in temperature due to a discharge to Class SB waters shall not exceed 1.5°F (0.8°C) during the summer months (July through September) nor 4°F (2.2°C) during the winter months (October through June); and natural seasonal and daily variations shall be maintained 314 CMR 4.05(4)(b)2.

*** Samples shall be taken immediately upstream and downstream of the discharge, (allowing for reasonable mixing), once per quarter to ensure that receiving water temperature rise limits are being complied with.

g. There shall be no discharge of floating solids or visible foam in other than trace amounts.

h. Samples taken in compliance with the monitoring requirements specified above shall be taken at a location that provides a representative analysis of the effluent just prior to discharge to the receiving water or if the effluent is commingled with another discharge, prior to such commingling.

i. The pH of the effluent for discharges to Class A and Class B waters shall be in the range of 6.5–8.3 standard units and not more than 0.5 units outside of the background range. There shall be no change from background conditions that would impair any uses assigned to the receiving water Class.

j. The pH of the effluent for discharges to Class SA and Class SB waters shall be in the range of 6.5–8.5 standard units and not more than 0.2 units outside of the normally occurring range. There shall be no change from background conditions that would impair any uses assigned to the receiving water Class.

k. Chronic (and modified acute) toxicity test(s) shall be performed on the non-contact cooling water discharge by the permittee upon request by EPA and/or MADEP. Testing shall be performed in accordance with EPA toxicity protocol to be provided at the time of the request. The test shall be performed on a 24-hour composite sample to be taken during normal facility operation. The results of the test (C–NOEC and LC_{50}) shall be

forwarded to State and EPA within 30 days after completion.

l. This permit does not allow for the addition of any chemical for any purpose to the non-contact cooling water except for non-toxic neutralization chemicals. The Commonwealth of Massachusetts will review each identified neutralization chemical to determine its acceptability. In addition, additives used to control biological growth, corrosion, and/or scale in cooling water are prohibited due to their inherent toxicity to aquatic life.

For each non-toxic neutralization chemical used the following data must be supplied with the Notice Of Intent letter to be covered by this general permit.

(1) Name and manufacturer,

(2) Maximum and average daily quantity used on a monthly basis as well as the maximum and average daily expected concentrations (mg/l) in the cooling water, and

(3) The vendor's reported aquatic toxicity (NOAEL and/or LC_{50} in % for typically acceptable aquatic organism).

All substitutions of nontoxic neutralization chemicals must be approved by the State in writing prior to their usage. All written substitution requests must contain the information required in Part I.B.1.l.(1)–(3) immediately above.

m. Flow equalization must be installed for all new discharges.

2. State Permit Conditions

1. This Discharge Permit is issued jointly by the U.S. Environmental Protection Agency (EPA) and the Department of Environmental Protection under Federal and State law, respectively. As such, all the terms and conditions of this permit are hereby incorporated into and constitute a discharge permit issued by the Director of the Massachusetts Division of Watershed Management pursuant to M.G.L. Chap. 21, § 43.

2. Each Agency shall have the independent right to enforce the terms and conditions of this Permit. Any modification, suspension or revocation of this Permit shall be effective only with respect to the Agency taking such action, and shall not affect the validity or status of this Permit as issued by the other Agency, unless and until each Agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this Permit is declared, invalid, illegal or otherwise issued in violation of State law such permit shall remain in full force and effect under Federal law as an NPDES Permit issued by the U.S. Environmental Protection Agency. In the event this Permit is declared invalid, illegal or otherwise issued in violation of Federal law, this Permit shall remain in full force and effect under State law as a Permit issued by the Commonwealth of Massachusetts.

C. New Hampshire General Permit, Permit No. NHG250000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*; the "CWA"), operators of industrial facilities discharging non-contact cooling water located in New Hampshire are authorized to discharge to all waters, unless otherwise restricted by State Water Quality Standards, New Hampshire RSA 485–A:8, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. The permit allows non-contact cooling water to be commingled with other discharges as long as the non-contact cooling water can be monitored separately for compliance.

This permit shall become effective when issued.

This permit and the authorization to discharge expire at midnight, five years from the effective date of the **Federal Register** publication and supersedes the permit issued on April 28, 1994.

Signed this _____ day of _____

Linda M. Murphy,

Director, Office of Ecosystem Protection, Environmental Protection Agency, Boston, MA 02114.

Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge non-contact cooling water.

a. Each outfall discharging non-contact cooling water shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristic	Discharge limitations—other units (specify)		Monitoring requirements	
	Avg. monthly	Max. daily	Measurement frequency	Sample type
Flow, gpd	Report	Report	1/Week	Estimate or Totalizer.
Temperature—cold water fishery*	Report	68°F (20 °C)	3/Week	Grab.
warm water fishery*	Report	83°F (28.3 °C)	3/Week	Grab.
pH	(see Part I.C.1.g)		1/Week	Grab.
LC_{50} & C–NOEC, %	(see Part I.C.1.f)			24-hour composite.

* As determined by the New Hampshire Fish and Game Department.

b. The discharge shall not cause a violation of the water quality standards of the receiving water.

c. This permit does not allow the addition of any chemical for any purpose to the water except for non-toxic neutralization chemicals. The State of New Hampshire will review each identified neutralization chemical to determine its acceptability. In addition, additives used to control biological growth, corrosion, and/or scale in cooling water are prohibited due to their inherent toxicity to aquatic life.

For each non-toxic neutralization chemical used the following data must be supplied with the Notice Of Intent letter to be covered by this general permit.

(1) Name and manufacturer,

(2) Maximum and average daily quantity used on a monthly basis as well as the maximum and average daily expected concentrations (mg/l) in the cooling water, and

(3) The vendor's reported aquatic toxicity (NOAEL and/or LC_{50} in percent for typically acceptable aquatic organism(s)).

All substitutions of non-toxic neutralization chemicals must be approved by the State in writing prior to their usage. All written substitution requests must contain the information required in Part I.C.1.c.(1)–(3) immediately above.

d. There shall be no discharge of oil, floating solids, foam, debris or other visible pollutants.

e. Samples taken in compliance with the monitoring requirements specified above shall be taken at a location that provides a representative analysis of the effluent just prior to discharge to the receiving water or, if the effluent is commingled with another permitted discharge, prior to such commingling.

f. One chronic (and modified acute) toxicity test shall be performed on the non-contact cooling water discharge by the permittee upon request by EPA and/

or the NHDES. Testing shall be performed in accordance with EPA toxicity protocol to be provided at the time of the request. The test shall be performed on a 24-hour composite sample to be taken during normal facility operation. The results of the test (C–NOEC and LC_{50}) shall be forwarded to the State and EPA within 30 days after completion.

g. The permittee may submit a written request to the EPA requesting a change in the permitted pH limit range to be not less restrictive than any applicable federal effluent guideline for the facility or to a default range of 6.0 to 9.0 S.U. in the situation of no applicable guideline, whichever is more stringent. The permittee's written request must include the State's letter containing an original signature (no copies). The State's letter shall state that the permittee has demonstrated to the State's satisfaction that as long as discharges to the receiving water from a specific outfall are within a specific numeric pH range the naturally occurring receiving water pH will be unaltered. That letter must specify for each outfall the associated numeric pH limit range. Until written notice is received by certified mail from the EPA indicating the pH limit range has been changed, the permittee is required to meet the permitted pH limit range in the respective permit.

2. State Permit Conditions

a. The permittee shall comply with the following conditions which are included as State Certification requirements.

(1.) The pH range for class B waters shall be 6.5–8.0 S.U. or as naturally occurs in the receiving water. The 6.5–8.0 S.U. range must be achieved in the final effluent unless the permittee can demonstrate to Division that: (1) The range should be widened due to naturally occurring conditions in the receiving water or (2) the naturally occurring source water pH is unaltered by the permittees operation. The scope of any demonstration project must receive prior approval from the Division.

b. This NPDES Discharge Permit is issued by the U.S. Environmental Protection Agency under Federal and State law. Upon final issuance by the EPA, the New Hampshire Department of Environmental Services, Surface Water Quality Bureau, may adopt this Permit, including all terms and conditions, as a state permit pursuant to RSA 485–A:13.

D. Common Elements for All Permits

1. Description of Non-Contact Cooling Water Discharges

Non-contact cooling water is water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water discharges are similar in composition even though they are not generated by a single industrial category or point source. For further definition of noncontact cooling water see 40 CFR 401.11 (n).

2. Conditions of the General NPDES Permit

a. Geographic Areas

Maine (Permit No. MEG250000). All of the discharges to be authorized by the general NPDES permit for dischargers located in the State of Maine are into all waters of the State unless otherwise restricted by Title 38, Article 4–A, Water Classification Program (or as revised).

Massachusetts (Permit No. MAG250000). All of the discharges to be authorized by the general NPDES permit for dischargers in the Commonwealth of Massachusetts are into all waters of the Commonwealth unless otherwise restricted by the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 (or as revised), including 314 CMR 4.04(3) *Protection of Outstanding Resource Waters.*

New Hampshire (Permit No. NHG250000). All of the discharges to be authorized by the general NPDES permit for dischargers in the State of New Hampshire are into all waters of the State of New Hampshire unless otherwise restricted by the State Water Quality Standards, New Hampshire RSA 485–A:8 (or as revised).

b. *Notification by Permittees.* Operators of facilities whose discharge, or discharges, are non-contact cooling water and whose facilities are located in the geographic areas described in Part I.D.2. above, may submit to the Regional Administrator, EPA—New England, a notice of intent to be covered by the appropriate general permit. Notifications must be submitted by permittees who are seeking coverage under this permit for the first time and by those permittees who received coverage under the expired permit. This written notification must include for each individual facility, the owner's and/or operator's legal name, address and telephone number; the facility name, address, contact name and telephone number; the number and type of facilities (SIC code) to be covered; the facility location(s); a topographic map (or other map if a topographic map is not available) indicating the facility location(s)and discharge point(s); latitude and longitude of outfall(s); the name(s) of the receiving waters into which discharge will occur; the source of noncontact cooling water i.e., river intake, municipal water supply or private well etc.; an antidegradation review where necessary see Section IV. B of the Fact Sheet); new and increased discharges of non-contact cooling water that may adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat are not authorized under this general permit (see Section IV. D of the Fact Sheet); and if required, a special list of water treatment chemicals used by the facility. The notice must be signed in accordance with the signatory requirements of 40 CFR 122.22.

Facilities located in Maine, Massachusetts and New Hampshire that intend to be covered under this general permit must also submit a formal certification with the notice of intent that no chemical additives except those used for pH adjustment are used in their non-contact cooling water systems. If non-toxic neutralization chemicals are used, each shall be listed in the Notice of Intent letter.

Each facility must certify that the discharge for which it is seeking coverage under this general permit consists solely of non-contact cooling water and any authorized water treatment chemicals. If the discharge of non-contact cooling water subsequently mixes with other wastewater (e.g. stormwater) prior to discharging to a receiving water, the permittee must certify that the monitoring it will provide under this general permit will be only for contact cooling water. An authorization to discharge under this general permit, where the non-contact cooling water discharges to a municipal or private storm drain owned by another party, does not convey any rights or authorization to connect to that drain.

Each facility must also submit a copy of the notice of intent to each State authority as appropriate (see individual state permits for appropriate authority and address).

The facilities authorized to discharge under the final general permit will receive written notification from EPA, New England Region, with State concurrence. Failure to submit to EPA, New England Region , a notice of intent to be covered and/or failure to receive from EPA written notification of permit coverage means that the facility is not authorized to discharge under this general permit.

3. Administrative Aspects

a. Request to be covered:

A facility is not covered by any of these general permits until it meets the following requirements. First, it must send a notice of intent to EPA and the appropriate State indicating it meets the requirements of the permit and wants to be covered. And second, it must be notified in writing by EPA that it is covered by this general permit.

b. Eligibility to Apply: Any facility operating under an effective (unexpired) individual NPDES permit may request that the individual permit be revoked and that coverage under the general permit be granted, as outlined in 40 CFR 122.28(b)(3)(v). If EPA revokes the individual permit, the general permit would apply to the discharge.

Facilities with expired individual permits that have been administratively continued in accordance with 40 CFR 122.6 may apply for coverage under this general permit. When coverage is granted the expired individual permit automatically will cease being in effect. Proposed new dischargers may apply for coverage under this general permit and must submit the NOI 90 days prior to the discharge.

Facilities with coverage under the current general permit issued on April 28, 1994, effective on May 31, 1994 and expired on May 31, 1999 need to apply for coverage under this general permit within 60 days from the effective date of the permit. Failure to submit a Notice of Intent within 60 days for continuation of the discharge will be considered discharging without a permit as of the expiration date of the expired permit (May 31, 1999) for enforcement purposes. A Notice of Intent is not required if the permittee submits a Notice of Termination of discharge before the sixty days expires.

c. Continuation of this General Permit after expiration: If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and in effect as to any particular permittee as long as the permittee submits a new Notice of Intent two (2) months prior to the expiration date in the permit. However, once this permit expires EPA cannot provide written notification of coverage under this general permit to any permittee who submits Notice of Intent to EPA after the permit's expiration date. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

(1) Reissuance of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or

(2) The permittee's submittal of a Notice of Termination; or

(3) Issuance of an individual permit for the permittee's discharges; or

(4) A formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

E. Monitoring and Reporting

Maine and Massachusetts: Monitoring results obtained during the previous 3 months shall be summarized for each quarter and reported on separate Discharge Monitoring Report Form(s) postmarked no later than the 15th day of the month following the completed reporting period. The reports are due on the 15th day of January, April, July and October. The first report may include less than 3 months information.

New Hampshire: Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report Form(s) postmarked no later than the 15th day of the month following the completed reporting period. The reports are due on the 15th day of the month following the reporting period.

The reports as stated above should be sent to EPA and the States at the following addresses :

1. EPA

Submit original signed and dated DMRs and all other reports required herein at the following addressee: U.S. Environmental Protection Agency, Water Technical Unit (SEW), Post Office Box 8127, Boston, MA 02114.

2. Massachusetts Department of Environmental Protection

a. The Regional Offices wherein the discharge occurs, shall receive a copy of the DMRs required herein:

Massachusetts Department of Environmental Protection, Western Regional Office, Post Office Box 2410 Springfield, MA 01103
Massachusetts Department of Environmental Protection, Southeastern Regional Office, 20 Riverside Drive, Lakeville, MA 02347
Massachusetts Department of Environmental Protection, Northeastern Regional Office, 205A Lowell Street, Wilmington, MA 01887
Massachusetts Department of Environmental Protection, Central Regional Office, 627 Main Street Worcester, Massachusetts 01608

b. Copies of all toxicity tests and other notifications, except DMRs required by this permit shall also be submitted to the State at: Massachusetts Department of Environmental Protection, Division of Watershed Management 627 Main Street, Worcester, MA 01608.

c. Copies of the State Application Form BRP WM 11, Appendix A-Request for General Permit coverage, may be obtained at the DEP website at (*www.state.magnet.us/dep*); by telephoning the DEP Info Service Center (Permitting) at (617)–338–2255 or 1–800–462–0444 in 508, 413, 978 and 781 area codes; or from any DEP Regional Service Center located in each Regional Office.

3. Maine Department of Environmental Protection

Signed copies of all reports required by this permit shall be sent to the State at: Maine Department of Environmental Protection, Division of Water Resource Regulation, 17 State House, Augusta, ME 04333.

4. New Hampshire Department of Environmental Services

Signed copies of all reports required by this permit shall be sent to the State at: New Hampshire Department of Environmental Services, Surface Water Quality Bureau, P.O. Box 95, 6 Hazen Drive, Concord, New Hampshire 03302–0095.

F. Additional General Permit Conditions.

1. Termination of Operations

Operators of facilities and/or operations authorized under this permit shall notify the Director upon the termination of discharges. The notice must contain the name, mailing address, and location of the facility for which the notification is submitted, the NPDES permit number for the non-contact cooling water discharge identified by the notice, and an indication of whether the non-contact cooling water discharge has been eliminated or the operator of the discharge has changed. The notice must be signed in accordance with the signatory requirements of 40 CFR 122.22.

2. When the Director May Require Application for an Individual NPDES Permit

a. The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit. Any interested person

may petition the Director to take such action. Instances where an individual permit may be required include the following:

(1) The discharge(s) is a significant contributor of pollution;

(2) The discharger is not in compliance with the conditions of this permit;

(3) A change has occurred in the availability of the demonstrated technology of practices for the control or abatement of pollutants applicable to the point source;

(4) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(5) A Water Quality Management Plan or Total Maximum Daily Load containing requirements applicable to such point source is approved;

(6) Discharge to the territorial sea;

(7) Discharge to outstanding natural resource water;

(8) The point source(s) covered by this permit no longer:

(a) Involves the same or substantially similar types of operations;

(b) Discharges the same types of wastes;

(c) Requires the same effluent limitations or operating conditions;

(d) Requires the same or similar monitoring; and

(e) In the opinion of the Director, is more appropriately controlled under a general permit than under an individual NPDES permit.

b. The Director may require an individual permit only if the permittee authorized by the general permit has been notified in writing that an individual permit is required, and has been given a brief explanation of the reasons for this decision.

3. When an Individual NPDES Permit May Be Requested.

a. Any operator may request to be excluded from the coverage of this general permit by applying for an individual permit.

b. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

Part II, Standard Conditions

Section A. General Requirements

1. Duty To Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under section 405 (d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

b. The CWA provides that any person who violates sections 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any of such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the CWA is subject to a civil penalty not to exceed $25,000 per day for each violation. Any person who *negligently* violates such requirements is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both. Any person who *knowingly* violates such requirements is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

Note: See 40 CFR 122.41(a)(2) for additional enforcement criteria.

c. Any person may be assessed an administrative penalty by the Administrator for violating sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA. Administrative penalties for Class I violations are not to exceed $10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $25,000. Penalties for Class II violations are not to exceed $10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $125,000.

2. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

3. Duty To Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator, upon request, copies of records required to be kept by this permit.

4. Reopener Clause

The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA in order to bring all discharges into compliance with the CWA.

5. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA, or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

6. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges.

7. Confidentiality of Information

a. In accordance with 40 CFR part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, *EPA may make the information available to the public without further notice.* If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

b. Claims of confidentiality for the following information *will* be denied:

(i) The name and address of any permit applicant or permittee;

(ii) Permit applications, permits, and effluent data as defined in 40 CFR 2.302(a)(2).

c. Information required by NPDES application forms provided by the Regional Administrator under § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

8. Duty To Reapply

If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain a new permit. The permittee shall submit a new notice of intent at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Administrator. (The Regional Administrator shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

9. State Authorities

Nothing in Part 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

10. Other Laws

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, and local laws and regulations.

Section B. Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need To Halt or Reduce Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Duty To Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. Bypass

a. *Definitions.*

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. *Bypass not exceeding limitations.* The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs B.4.c and 4.d of this section.

c. *Notice.*

(1) *Anticipated bypass.*

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) *Unanticipated bypass.*

The permittee shall submit notice of an unanticipated bypass as required in Paragraph D.1.e (24-hour notice).

d. *Prohibition of bypass.*

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c)(i) The permittee submitted notices as required under Paragraph 4.c of this section.

(ii) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in Paragraph 4.d of this section.

5. Upset

a. *Definition.* "Upset" means an exceptional incident in which there is unintentional and temporary non-compliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Paragraph B.5.c of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. *Conditions necessary for a demonstration of upset.* A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in Paragraphs D.1.a and 1.e (24-hour notice); and

(4) The permittee complied with any remedial measures required under B.3. above.

d. *Burden of proof.* In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

Section C. Monitoring and Records

1. Monitoring and Records

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain

records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application *except for the information concerning storm water discharges which must be retained for a total of 6 years.* This retention period may be extended by request of the Regional Administrator at any time.

c. Records of monitoring information shall include:

(1) The date, exact place, and time of sampling or measurements;

(2) The individual(s) who performed the sampling or measurements;

(3) The date(s) analyses were performed;

(4) The individual(s) who performed the analyses;

(5) The analytical techniques or methods used; and

(6) The results of such analyses.

d. Monitoring results must be conducted according to test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.

e. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

2. Inspection and Entry

The permittee shall allow the Regional Administrator, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. Reporting Requirements

a. *Planned changes.* The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject to the effluent limitations in the permit, nor to the notification requirements under 40 CFR 122.42(a)(1).

(3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. *Anticipated noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c. *Transfers.* This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See § 122.61; in some cases, modification or revocation and reissuance is mandatory.)

d. *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Regional Administrator for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Administrator.

(3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

e. *Twenty-four hour reporting.*

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances.

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See § 122.41(g))

(b) Any upset which exceeds any effluent limitation in the permit.

(c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Administrator in the permit to be reported within 24 hours. (See § 122.44(g))

(3) The Regional Administrator may waive the written report on a case-by-case basis for reports under Paragraph D.1.e if the oral report has been received within 24 hours.

f. *Compliance Schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any

compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

g. *Other noncompliance.* The permittee shall report all instances of noncompliance not reported under Paragraphs D.1.d, D.1.e and D.1.f of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph D.1.e of this section.

h. *Other information.* Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, it shall promptly submit such facts or information.

2. Signatory Requirement

a. All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (See § 122.22)

b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

3. Availability of Reports

Except for data determined to be confidential under Paragraph A.8. above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in section 309 of the CWA.

Section E. Other Conditions

1. *Definitions* for purposes of this permit are as follows:

Administrator means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

Applicable standards and limitations means all State, interstate, and Federal standards and limitations to which a "discharge" or a related activity is subject to, including water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

Application means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions.

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For total and/or fecal coliforms, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average weekly discharge limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Best Professional Judgement (BPJ) means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT) or other appropriate standard based on an evaluation of the available technology to achieve a particular pollutant reduction.

Composite Sample—A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample continuously collected proportionally to flow over that same time period.

Continuous Discharge means a "discharge" which occurs without interruption throughout the operating hours of the facility except for infrequent shutdowns for maintenance, process changes, or similar activities.

CWA or "The Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92–500, as amended by Pub. L. 95–217, Pub. L. 95–576, Pub. L. 96–483 and Pub. L. 97–117; 33 U.S.C. 1251 *et seq.*

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the daily discharge is calculated as the average measurement of the pollutant over the day.

Director means the person authorized to sign NPDES permits by EPA and/or the State.

Discharge Monitoring Report Form (DMR) means the EPA standard national form, including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees. DMRs must be used by "approved States" as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Discharge of a pollutant means:

(a) Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or

(b) Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

This term does not include an addition of pollutants by any "indirect discharger."

Effluent limitation means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

Effluent limitations guidelines means a regulation published by the

Administrator under section 304(b) of CWA to adopt or revise "effluent limitations."

EPA means the United States "Environmental Protection Agency."

Grab Sample—An individual sample collected in a period of less than 15 minutes.

Hazardous Substance means any substance designated under 40 CFR part 116 pursuant to section 311 of CWA.

Maximum daily discharge limitation means the highest allowable "daily discharge."

Municipality means a city, town, borough, county, parish, district, association, or other public body created by of under State law and having jurisdiction over disposal or sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under section 208 of CWA.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

New discharger means any building, structure, facility, or installation:

(a) From which there is or may be a "discharge of pollutants";

(b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979,

(c) Which is not a "new source"; and

(d) Which has never received a finally effective NPDES permit for discharges at that "site".

This definition includes an "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR 125.122(a)(1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

New source means any building, structure, facility, or installation from which there is or may be a "discharge of pollutants," the construction of which commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such.

(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

NPDES means "National Pollutant Discharge Elimination System."

Non-Contact Cooling Water is water used to reduce temperature which does not come in direct contact with any raw material, intermediate product, a waste product or finished product.

Owner or operator means the owner or operator of any "facility or activity" subject to regulation under the NPDES programs.

Permit means an authorization, license, or equivalent control document issued by EPA or an "approved State."

Person means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

Point source means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(a) Sewage from vessels; or

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

Primary industry category means any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al.* v. *Train*, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in appendix A of 40 CFR part 122.

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Regional Administrator means the Regional Administrator, EPA, Region I, Boston, Massachusetts.

State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands.

Secondary Industry Category means any industry category which is not a "primary industry category."

Toxic pollutant means any pollutant listed as toxic in appendix D of 40 CFR Part 122, under section 307(a)(l) of CWA.

Uncontaminated storm water is precipitation to which no pollutants have been added and has not come into direct contact with any raw material, intermediate product, waste product or finished product.

Waters of the United States means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate "wetlands."

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a) (d) of this definition;

(f) The territorial sea; and

(g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)–(f) of this definition.

Whole Effluent Toxicity (WET) means the aggregate toxic effect of an effluent measured directly by a toxicity test.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

2. Abbreviations when used in this permit are defined below:

cu. M/day or M3/day—cubic meters per day
mg/l—milligrams per liter
ug/l—micrograms per liter
lbs/day—pounds per day
kg/day—kilograms per day
Temp. °C—temperature in degrees Centigrade
Temp. °F—temperature in degrees Fahrenheit
Turb.—turbidity measured by the Nephelometric Method (NTU)
pH—a measure of the hydrogen ion concentration
CFS—cubic feet per second
MGD—million gallons per day
Oil & Grease—Freon extractable material
ml/l—milliliter(s) per liter
Cl_2—total residual chlorine

[FR Doc. 99–30515 Filed 11–22–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2372]

Petition for Reconsideration of Action in Rulemaking Proceeding

November 10, 1999.

Petition for Reconsideration has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW, Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to this petition must be filed by December 8, 1999. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b) of the Commission's Rules, FM Table of Allotments (MM Docket No. 98–135, RM–9300, RM–9383)

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–30440 Filed 11–22–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Uniform Retail Credit Classification and Account Management Policy; Extension of Implementation Period

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Final notice; extension of implementation period.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC), on behalf of the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS), collectively referred to as the Agencies, is extending the implementation period for the Uniform Retail Credit Classification and Account Management Policy. The Uniform Retail Credit Classification and Account Management Policy is a supervisory policy used by the Agencies for uniform classification and treatment of retail credit loans in financial institutions.

DATES: November 23, 1999.

FOR FURTHER INFORMATION CONTACT:

FRB: David Adkins, Supervisory Financial Analyst, (202) 452–5259, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

FDIC: James Leitner, Examination Specialist, (202) 898–6790, Division of Supervision. For legal issues, Michael Phillips, Counsel, (202) 898–3581, Supervision and Legislation Branch, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

OCC: Daniel L. Pearson, National Bank Examiner, Credit Risk Division, (202) 874–5170; or Ron Shimabukuro, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

OTS: Donna M. Deale, Manager, Supervision Policy (202) 906–7488; or Karen A. Osterloh, Assistant Chief Counsel, Regulations and Legislation Division, Chief Counsel's Office, (202) 906–6639, Office of Thrift Supervision, 1700 G Street NW, Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background Information

On February 10, 1999, the FFIEC published final revisions to the Uniform Retail Credit Classification and Account Management Policy (64 FR 6655). The Agencies undertook a review of the 1980 policy as part of their review of all written policies mandated by section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994. The Agencies determined that the 1980 policy should be revised due to changes that have taken place within the industry. In general, the final policy statement:

- Established a uniform charge-off policy for open-end credit at 180 days delinquency and closed-end credit at 120 days delinquency.
- Provided uniform guidance for loans affected by bankruptcy, fraud, and death.
- Established guidelines for re-aging, extending, deferring, or rewriting past due accounts.
- Classified certain delinquent residential mortgage and home equity loans.
- Broadened recognition of partial payments that qualify as full payments.

Implementation Period

The final policy became effective for manual adjustments to an institution's policies and procedures as of the June 30, 1999, Call Report or Thrift Financial Report (Reports), as appropriate. In addition, the final policy allowed institutions until the December 31, 2000, Reports to make changes involving programming resources. At the time of publishing the final policy, the Agencies were primarily concerned about drawing away programming resources from the Year 2000

compliance effort. The Agencies recognize that the staggered implementation date imposes a shorter adjustment period on banks that are less automated. Additionally, the Agencies received recommendations from the industry, subsequent to the publication of the policy in the **Federal Register**, to delay the implementation of the policy for all financial institutions to December 31, 2000.

In order to allow all institutions to meet the implementation deadlines within the same time period, including those that are not highly automated, the FFIEC is modifying the effective date. This notice extends the implementation date for manual changes to the December 31, 2000, Call Report or Thrift Financial Report. Institutions that have already implemented manual changes to meet the revised guidelines may continue to use their revised policies and procedures, but are not required to do so.

Dated: November 17, 1999.

Keith J. Todd,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 99–30433 Filed 11–22–99; 8:45 am]

BILLING CODE 6210–01–P; 6714–01–P; 6720–01–P; 4810–33–P

GENERAL ACCOUNTING OFFICE

[Document Nos. JFMIP–SR–99–12 and 99–13]

Joint Financial Management Improvement Program (JFMIP)—Federal Financial Management System Requirements (FFMSR)

AGENCY: Joint Financial Management Improvement Program (JFMIP), GAO.

ACTION: Notice of document availability.

SUMMARY: The JFMIP is seeking public comment on two exposure drafts titled, (1) "Guaranteed Loan System Requirements," and (2) "Grant Financial System Requirements," both dated October 19, 1999. The guaranteed loan document is being issued to update a December 1993 document. This is the first time that a requirements document has been issued for grants. The drafts incorporate: (1) statutory and regulatory changes; (2) technological changes; and (3) JFMIP documentation changes. The document is designed to provide financial managers with Governmentwide mandatory requirements for financial systems in order to process and record financial events effectively and efficiently, and to provide complete, timely, reliable, and consistent information for decision makers and the public.

DATES: Comments are due on both documents by Friday, December 17, 1999.

ADDRESSES: Copies of the exposure draft have been mailed to Agency Senior Financial Officials and are available on the JFMIP website: *www.financenet.gov/fed/jfmip/jfmip.htm.*

Comments should be addressed to JFMIP, 441 G Street NW., Room 3111, Washington, DC 20548.

JFMIP Relocation: We are working to relocate JFMIP, by the middle of November, 1999, to 1990 K St., Suite 430. We are working closely with the GAO, where JFMIP is currently located, to ensure a smooth transition of U.S. Postal and electronic mail services. When the exact date of the location is known, information will be posted on the JFMIP Homepage.

FOR FURTHER INFORMATION CONTACT: Dennis Mitchell, 202–512–5994 or via Internet: *mitchelld.jfmip@gao.gov.*

SUPPLEMENTARY INFORMATION: The Federal Financial Management Improvement Act (FFMIA) of 1996 mandated that agencies implement and maintain systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The FFMIA statute codified the JFMIP financial systems requirements documents as a key benchmark that agency systems must meet in order to be substantially in compliance with systems requirements provisions under FFMIA. To support the requirements outlined in the FFMIA, we are updating requirements documents that are obsolete and publishing additional requirements documents.

Comments received will be reviewed and the exposure draft will be revised as necessary. Publication of the final requirements will be mailed to agency senior financial officials and will be available on the JFMIP website.

Karen Cleary Alderman,

Executive Director, Joint Financial Management Improvement Program.

[FR Doc. 99–30434 Filed 11–22–99; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

The 2000 FDA Science Forum—FDA and the Science of Safety: New Perspectives

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA), Office of Science is announcing the following meeting entitled "The 2000 FDA Science Forum—FDA and the Science of Safety: New Perspectives." The forum is devoted to the presentation and sharing of data, knowledge, and ideas among the diverse disciplines of risk management. The forum will bring FDA scientists together with industry, academia, government agencies, consumer groups, and the public to explore the scientific and practical issues related to the safety evaluation and risk management of FDA-regulated products.

Date and Time: The forum will be held on Monday, February 14, 2000, from 8:30 a.m. to 7 p.m., and Tuesday, February 15, 2000, from 8:30 a.m. to 4:30 p.m.

Location: Washington Convention Center, rms. 29 to 32 (lower level), and Hall C (upper level), 900 Ninth St. NW., Washington, DC 20001.

Contact: American Association of Pharmaceutical Scientists, 703–548–3000, or Donna L. Mentch, Food and Drug Administration, Office of Science (HF–33), 5600 Fishers Lane, Rockville, MD 20857, 301–827–3340, e-mail: dmentch@oc.fda.gov.

Registration: Attendees may register from 7 a.m. to 5 p.m. on February 14, 2000, and from 8 a.m. to 1 p.m. on February 15, 2000. Fees, registration, and program information are also available at www.aaps.org/edumeet/fdasf/index.html or from the contact persons listed above. Attendance will be limited; therefore, interested parties are encouraged to register early.

SUPPLEMENTARY INFORMATION: The meeting is cosponsored by FDA's Office of Science, the American Association of Pharmaceutical Scientists, FDA's Office of Women's Health, and FDA's Chapter of Sigma Xi the Scientific Research Society. Speakers and panelists will address emerging issues in the safety assessment of foods, human and animal drugs, biologics, and medical devices. Plenary lectures and discussion groups will provide perspectives on the following topics:

(1) Walking and Talking: The Art and Science of Risk Communication;

(2) Contemporary Issues in Risk Assessment;
(3) Postmarket Surveillance—Beyond Passive Surveillance;
(4) The Food Safety Initiative—The Risk Perspective;
(5) New Scientific Perspectives: Women's Health and the Science of Gender Differences; and
(6) Risk Assessment in Action.

If you need special accommodations due to a disability, please contact the American Association of Pharmaceutical Scientists at least 3 weeks in advance.

Dated: November 17, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–30527 Filed 11–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Donor Suitability Workshop; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing a public workshop entitled "Blood Donor Suitability Workshop." The purpose of the public workshop is to provide an open forum for discussion of specific donor suitability issues associated with donor deferrals.

Date and Time: The public workshop will be held on December 9, 1999, 8 a.m. to 5 p.m.

Location: The public workshop will be held at 5630 Fishers Lane, rm. 1066, Rockville, MD 20857.

Contact: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6129, FAX 301–827–2843.

For information regarding the public workshop and registration: Therese Burke, Laurel Consulting Group, 1815 Fort Meyer Dr., suite 300, Arlington, VA 22209, 703–351–7676, FAX 703–528–0716, E-mail: tburke@lcgnet.com.

Registration: Early registration is recommended on or before November 26, 1999. Mail or fax registration information (including name, title, firm name, address, telephone, and fax number) to Therese Burke (address above). Registration at the site will be done on a space available basis on the day of the workshop, beginning at 7:30 a.m. There is no registration fee for the workshop. If you need special accommodations due to a disability, please contact Therese Burke at least 7 days in advance.

Agenda: FDA is holding a public workshop to gather scientific data on specific donor suitability issues affecting donor deferrals and to evaluate how these donor deferrals may affect the nation's blood supply. The three key topics to be discussed at the workshop include: (1) Donor deferral registries, including deferral registries that are used in-house, at mobile collection sites, as well as registries shared by several facilities; (2) minimum donor weight and adjustment of blood volume based on body weight; and (3) deferral of donors who have a history of cancer.

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857, approximately 15 working days after the public workshop at a cost of 10 cents per page. The public workshop transcript will also be available on the Center for Biologics Evaluation and Research website at http://www.fda.gov/cber/minutes/workshop-min.htm.

Dated: November 17, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–30522 Filed 11–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Workshop on Implementation of Nucleic Acid Testing; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing a public workshop entitled "Implementation of Nucleic Acid Testing." The purpose of the public workshop is to discuss the progress in implementation of nucleic acid testing for screening blood and plasma donors.

Date and Time: The public workshop will be held on December 14, 1999, from 8 a.m. to 5 p.m.

Location: The public workshop will be held at the National Institutes of Health, Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD 20892.

Contacts:

For information regarding this notice: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6129, FAX 301–827–2843.

For information regarding registration: Jennifer Gormley, Laurel Consulting Group, 1815 Fort Meyer Dr., suite 300, Arlington, VA 22209, 703–351–7676, FAX: 703–528–0716, e-mail: jgormley@lcgnet.com.

Registration: Early registration is recommended on or before Friday, November 26, 1999. Mail or fax registration information (including name, title, firm name, address, telephone, and fax number) to Jennifer Gormley (address above). Registration at the site will be on a space available basis on the day of the workshop, beginning at 7:30 a.m. There is no registration fee for the workshop. If you need special accommodations due to a disability, please contact Jennifer Gormley at least 7 days in advance.

Agenda: FDA is holding a public workshop to evaluate progress in the implementation of nucleic acid testing (NAT) for screening blood and plasma donors. The goals of the public workshop are to: (1) Examine technological advances and current experience with testing plasma pools for hepatitis C virus (HCV), hepatitis B virus (HBV) and human immunodeficiency virus (HIV); (2) discuss issues in the implementation of NAT; (3) evaluate the application of NAT to other transmitted viruses; and (4) monitor progress towards single donation testing. The scientific information obtained from these discussions will provide FDA with a better understanding of the utility of nucleic acid testing of plasma pools in reducing the residual risk of infectious disease transmission from window period donations. In addition, FDA will be able to evaluate progress towards single unit testing by NAT for future implementation in screening blood and plasma donors.

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. In addition, the transcript will be placed on the FDA web site at www.fda.gov/cber/minutes/workshop-min.htm.

Dated: November 17, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–30524 Filed 11–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0318]

Guidance for Industry: Revised Precautionary Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) and New Variant Creutzfeldt-Jakob Disease (nvCJD) by Blood and Blood Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document (dated November 1999) entitled "Guidance for Industry: Revised Precautionary Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) and New Variant Creutzfeldt-Jakob Disease (nvCJD) by Blood and Blood Products." The guidance document provides comprehensive current recommendations, including new recommendations concerning nvCJD, to all registered blood and plasma establishments and all establishments engaged in manufacturing plasma derivatives. The guidance document is intended to replace the FDA guidance entitled "Revised Precautionary Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) by Blood and Blood Products," dated August 1999.

DATES: Written comments may be submitted at any time. The guidance is released for immediate implementation. For the purposes of this guidance document, FDA interprets immediate implementation to mean as soon as feasible, but not later than April 17, 2000.

ADDRESSES: Submit written requests for single copies of the guidance document entitled "Guidance for Industry: Revised Precautionary Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) and New Variant Creutzfeldt-Jakob Disease (nvCJD) by Blood and Blood Products" to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 3019827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance document entitled "Guidance for Industry: Revised Precautionary Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) and New Variant Creutzfeldt-Jakob Disease (nvCJD) by Blood and Blood Products." This guidance document is intended to replace the FDA guidance entitled "Revised Precautionary Measures to Reduce the Possible Risk of Transmission of Creutzfeldt-Jakob Disease (CJD) by Blood and Blood Products" dated August 1999 (64 FR 44739, August 17, 1999). The guidance document provides comprehensive current recommendations, including new recommendations concerning nvCJD, to all registered blood and plasma establishments and all establishments engaged in manufacturing plasma derivatives.

FDA issued the August 1999 guidance for immediate implementation, and the agency requested that comments on the guidance document be submitted within 60 days of the notice of availability that published in the **Federal Register** announcing the guidance document. After reviewing the comments received, FDA has revised the August 1999 guidance document by issuing this guidance document. Significant changes made to the August 1999 draft guidance document since the 60-day comment period closed are as follows:

(1) A new recommended deferral for donors who have injected bovine insulin since 1980 unless it has been established that the product was not manufactured since 1980 from cattle in the United Kingdom;

(2) Removal of the deferral for recipients of human-pituitary derived gonadotropins;

(3) A change in the suggested question to exclude donors with dura mater transplants;

(4) In the case of travel to the United Kingdom, a change in the recommended frequency for donor questioning, now specified to take place only once for the donor;

(5) An exception to consignee notification for the purpose of retrieval, quarantine, and destruction of blood components if there is definite knowledge that the plasma given to a consignee will no longer exist in the form of unpooled units; and

(6) Additional clarification with regard to recipient tracing and notification in cases where the donor has CJD, nvCJD or risk factors for CJD.

This guidance document is released for immediate implementation. For the purpose of this guidance document, FDA interprets immediate implementation to mean as soon as feasible, but not later than April 17, 2000. FDA recognizes that the scientific technology for determining individuals at risk for CJD and nvCJD, and detecting the infectious agents in tissues and in products, is continuing to advance, and that there may be a need for future updating of the relevant guidance.

The guidance document represents the agency's current thinking on precautionary measures to reduce the possible risk and to assure that blood and blood products are not adulterated or misbranded, within the meaning of the Federal Food, Drug, and Cosmetic Act, and are safe, pure and potent within the meaning of the Public Health Service Act. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

Interested persons, may at any time, submit to the Dockets Management Branch (address above) written comments regarding this guidance document. Two copies of any comments are to be submitted, except that

individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

A copy of the guidance document may be obtained through FDA's Internet site at http://www.fda.gov/cber/guidelines.htm.

Dated: November 16, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–30526 Filed 11–22–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0529]

Guidance for Industry on Changes to an Approved NDA or ANDA; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Changes to an Approved NDA or ANDA." This guidance is intended to assist applicants in determining how they should report changes to an approved new drug application (NDA) or abbreviated new drug application (ANDA).

DATES: Written comments may be submitted at any time.

ADDRESSES: Copies of this guidance are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of this guidance for industry to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist the office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nancy B. Sager, Center for Drug Evaluation and Research (HFD–357), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5633; e-mail: pac314__70@cder.fda.gov, for questions about content of the guidance.

SUPPLEMENTARY INFORMATION: On November 21, 1997, the President signed the Food and Drug Administration Modernization Act (the Modernization Act) (Public Law 105–115). Section 116 of the Modernization Act amended the Food, Drug, and Cosmetic Act (the act) by adding section 506A (21 U.S.C. 356a), which provides requirements for making and reporting manufacturing changes to an approved application and for distributing a drug product made with such changes.

FDA is announcing the availability of a guidance for industry entitled "Changes to an Approved NDA or ANDA Application." The purpose of this guidance is to provide recommendations to holders of NDA's and ANDA's who intend to make postapproval changes in accordance with section 506A of the act. This guidance covers recommended reporting categories for postapproval changes for drugs, other than specified biotechnology and specified synthetic biological products. Recommendations are provided for postapproval changes in: (1) Components and composition, (2) manufacturing sites, (3) manufacturing process, (4) specifications, (5) package, (6) labeling, (7) miscellaneous changes, and (8) multiple related changes. This guidance does not provide recommendations on the specific information that should be developed by the applicant to assess the effect of the change on the identity, strength (e.g., assay, content uniformity), quality (e.g., physical, chemical, and biological properties), purity (e.g., impurities and degradation products), or potency (e.g., biological activity, bioavailability, and bioequivalence) of a product as they may relate to the safety or effectiveness of the product.

In the **Federal Register** of June 28, 1999 (64 FR 34660), FDA announced the availability of a draft version of this guidance and gave interested persons an opportunity to submit comments through August 27, 1999. All comments received during the comment period have been carefully reviewed and incorporated in this revised guidance, where appropriate.

The agency received multiple comments on three specific issues. First, some comments objected to the agency's proposal to include as an example of an annual report change "Any change made to comply with an official compendium that is consistent with FDA requirements and that provides the same or greater level of assurance of the identity, strength, quality, purity, or potency of the material being tested as the analytical procedure described in the approved application." The agency has revised this example as recommended in the comments to state "Any change made to comply with an official compendium." Second, the agency has removed from the guidance the recommendation "list all changes included in the supplement or annual report in the cover letter." These issues, however, are still under consideration with regard to FDA's proposal to amend its regulations entitled *Supplements and other changes to an approved application* at § 314.70 (21 CFR 314.70), which published in the **Federal Register** of June 28, 1999 (64 FR 34608). If necessary, FDA will revise this guidance to make it consistent with the final rule for § 314.70.

Third, the agency received comments requesting that the phrase "change that may affect sterility assurance," which is used throughout the guidance, be revised to, for example, "change that may significantly affect sterility assurance" or "change that may adversely affect sterility assurance." FDA did not revise the guidance as suggested because the phrase as proposed in the guidance is consistent with the phrasing used in existing regulations (e.g., 21 CFR 601.12(b)(2)(vi)). If during the review of the comments on the proposed rule to amend § 314.70 FDA decides to revise this phrasing, this guidance will be revised to make it consistent with the final rule for § 314.70.

This guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on how it will apply the requirements of section 506A of the act for NDA and ANDA products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

FDA has established an e-mail address where an applicant can send questions about the content of the guidance, such as requesting clarification of information in the guidance or requesting guidance on the reporting category of particular change it wants to implement. The e-mail address is: pac314__70@cder.fda.gov.

This guidance document contains collections of information that require clearance by the Office of Management

and Budget (OMB) under the Paperwork Reduction Act of 1995. In a notice published in the **Federal Register** (64 FR 59776; November 3, 1999), FDA announced that this collection of information has been submitted to OMB for emergency processing. This notice also solicited comments on the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless a currently valid OMB control number has been displayed.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 16, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–30481 Filed 11–18–99; 1:55 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments Are Invited On

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The Impact of the State Child Health Insurance Program on Selected Community Health Centers and Maternal Health Programs: NEW

This study proposes to determine the impact of SCHIP implementation on the insurance status of children served by two HRSA programs—community health centers (CHCs) and health departments' maternal and child health (MCH) programs—as well as the impact of SCHIP on these grantee organizations.

Transactional data will be reviewed in up to 21 HRSA grantee organizations from seven states and will extract encounter-level administrative data (encrypted individual code, date of birth, gender, dates of service, CPT–4 codes, and insurance status) at time of each service for 1997, 1998, and 1999.

Up to 20 former CHC or MCH patients (or their parents or guardians in the case of minors) will be surveyed by phone or mail in each site.

These will be patients for whom retrospective data are available but who are no longer active users of the HRSA grantees.

The estimated response burden is as follows:

TRANSACTIONAL DATA EXTRACTION

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Community Health Centers or Maternal and Child Health Program	21	2	42	5	210
Telephone/Mail Interviews/Surveys					
Former Users	420	1	420	.50	210
Total	441		462		420

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: November 16, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–30528 Filed 11–22–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4541–N–03]

Notice of Proposed Information Collection: Comment Request Fair Housing Assistance Program SuperNOFA Application Kit

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement concerning the *Fair Housing Assistance Program* (FHAP) will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: January 24, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lauretta Dixon, Department of Housing

and Urban Development, 451 7th Street, SW, Room 5230, Washington, DC 20410. Telephone number (202) 708–0800.

FOR FURTHER INFORMATION CONTACT: Lauretta Dixon, Department of Housing and Urban Development, 451 7th Street, SW, Room 5230, Washington, DC 20410. Telephone number (202) 708–0800 (This is not a toll-free number). Hearing or speech-impaired individuals may access this number TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8399.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Notice of Submission of Proposed Information Collection to OMB

Title: Fair Housing Assistance Program SuperNOFA Application Kit and Reporting/Recordkeeping Requirements:

Office: Fair Housing and Equal Opportunity.

Description of the need for the information and proposed use: The information required by the application kit will assist projects and activities that increase compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. In addition, it will help the Department to provide funds to public and private agencies involved in administering programs to prevent or eliminate discriminatory housing practices. This program will carry out these fair housing enforcement activities under the Civil Rights Partnership Component (CRPC) of the FHAP. The information collected from quarterly and final reports will enable the Department to evaluate the performance of agencies that receive funding and determine the impact of the program on preventing and eliminating discriminatory housing practices. These grants are authorized under Section 561 of the Housing and Community Development Act of 1967 (42 U.S.C. 3616 note, established the Fair Housing Assistance Program (FHAP) and the implementing regulations are found at 24 CFR part 115.

Agency form numbers, if applicable: SF–269A, SF–424/A/B/M: SF–LLL, HUD 2880, HUD 2992, HUD–27053, HUD–50070, & HUD–50071:

Members of affected public: 85.

Reporting Burden

The Department estimates that the application kit, quarterly report, and final report, will have the following reporting burdens:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application Development	85		1		53		4505

The number of respondents is based on the total number of applications received under CRPC. The number of hours per response is an average based on grantee estimates of time to review instructions, search existing data sources, prepare required responses to the application kit, and assemble exhibits.

Quarterly Report	20	4	12	960
Final Report	20	4	20	1600

Estimates are based on 20 of 85 applications funded, thus, 20 respondents will report 4 times annually on program performance and financial status. Hours per response are average based on grantee estimates of time to review instructions, search existing data sources, gather and maintain the data needed, and complete or respond to and review the collection of information. Actual time may vary because of differences in activity, size, or complexity of grant, and depending on whether grantee automates format.

Status of the proposed information collection: Extension.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 18, 1999.

Ivy L. Davis,

Deputy Director, Office of Programs.

[FR Doc. 99–30530 Filed 11–22–99; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4446–N–11]

Notice of Proposed Information Collection: Comment Request, Relocation and Real Property Acquisition Recordkeeping Collection

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: January 24, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Shelia E. Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Janice P. Olu, (202) 708–1367, extension 4587. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended.

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Relocation and Real Property Acquisition.

Recordkeeping Collection: Requirements Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as Amended (URA), Implementing Regulations at 49 CFR Part 24, and Related HUD Program Regulations.

OMB Control Number, if applicable: 2506–0121.

Description of the need for the information and proposed use: Agencies that acquire real property or displace property occupants must collect information to process claims, make payments and document compliance with 49 CFR Part 24 and HUD program rules. Expanded URA coverage and new HUD-assisted programs have increased the overall reporting burden.

Agency form numbers, if applicable: none.

Members of affected public: State and local governments, nonprofit organizations, partnerships, corporations and associations.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: number of respondents—60,000 (10,000 displacements; 40,000 non-displacements; 10,000 acquisition); number of hours—170,000 (10,000 displacements at 4 hours each; 40,000 non-displacements at 2 hours each; 10,000 acquisitions 5 hours each); frequency of response—once.

Status of the proposed information collection: Reinstatement of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 16, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 99–30531 Filed 11–22–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4446–N–12]

Notice of Proposed Information Collection: Comment Request, Optional Relocation Payment Claim Forms

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: January 24, 2000.

ADDRESSES: Interested persons are invited to subject comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Shelia E. Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Janice P. Olu, (202) 708–1367, extension 4587. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended.

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Optional Relocation Payment claim Forms

OMB Control Number, if applicable: 2506–0016

Description of the need for the information and proposed use: Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the Housing and Community Development act of 1974, as amended, displaced persons must make "proper application" for relocation assistance payments for which they are eligible. HUD optional claim forms are used by all displaced persons to apply for payments for moving expenses and by residential

occupants to apply for replacement housing payments.

Agency form numbers, if applicable: HUD–40054, HUD–400055, HUD–400056, HUD–400057, HUD–400058, HUD–400061 and HUD–40072.

Members of affected public: State and local governments, nonprofit organizations, partnerships, corporations and associations.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Number of respondents—10,000 (9,000 residential occupants and 1,000 non-residential occupants); frequency of response—once; hours of response—5,750 (9,000 residential occupants at .5 hours each, plus 1,000 non residential occupants at 1.25. hours each).

Status of the proposed information collection: Reinstatement of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 16, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 99–30532 Filed 11–22–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–54]

Alaska Native/Native Hawaiian Institutions Assisting Communities; Notice of Proposed Information Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 29, 1999.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20410 (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; telephone (202) 708–1305 (This is not a toll-free number) or e-mail Wayne__Eddins@HUD.gov. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to a proposed Notice of Funding Availability for the Alaska Native/Native Hawaiian Institutions Assisting Communities (AN/NHIAC). HUD seeks to implement this initiative as soon as possible and plans to include it in HUD's SuperNOFA.

AN/NHIAC is a new program which provides funds to Alaska Native and Native Hawaiian institutions of higher education to undertake Community Development Block Grant Program-eligible activities in order to expand their role and effectiveness in helping their communities with neighborhood revitalization, housing, and economic development. In this fiscal year, approximately six (6) grants will be awarded.

Submission of the information required under this information collection is mandatory in order to compete for and receive the benefits of the program. All materials submitted are subject to the Freedom of Information Act and can be disclosed upon request. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB Control number, when assigned, will be announced by a separate notice in the **Federal Register**.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35):

(1) *Title of the information collection proposal:*

Notice of Funding Availability and Application Kit—Alaska Native/Native Hawaiian Institutions Assisting Communities Program (AN/NHIAC

(2) *Summary of the information collection:*

Each applicant for AN/NHIAC would be required to submit current information, as listed below:

1. Transmittal letter signed by the Chief Executive of the institution.
2. HUD Form 424 (Application for Assistance) and OMB Standard 424B (Non-Construction Assurances).
3. One page abstract.
4. Statement of Work.
5. Narrative statement addressing the factors for award.
6. HUD Form 50070, Drug-free Workplace certification.
7. HUD Form 50071, Certification of Payments to Influence certain Federal Transactions.
8. SF–LLL, Disclosure of Lobbying Activities (if applicable)
9. HUD–2880, Applicant/Recipient Disclosure Form.
10. Certification of Consistency with the Consolidated Plan.
11. EZ/EC Certification (if applicable).
12. Financial management and audit information.
13. HUD–30005, Budget.

(3) *Description of the need for the information and its proposed use:*

To appropriately determine which Alaska Native and Native Hawaiian Institutions of Higher Education should be awarded AN/NHIAC grants, certain information is necessary about the applicant's plan, budget, past and future capabilities, and the institutional commitment to the program.

(4) *Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:*

Respondents will be Alaska native and Native Hawaiian Institutions of Higher Education, as defined in Title III, Part A, Section 317 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1998 (Pub. L. 105–244). Grantees will also be expected to prepare and submit-annual monitoring reports and a final report.

The estimated number of respondents submitting applications is 18. The proposed frequency of the response to the collection of information for applications is one-time because the application need be submitted only once per grant cycle. The estimated number of respondents to the monitoring requirements is six (6).

(5) Estimate of the total reporting and recordkeeping burden that will result from the collection of information:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application	18	18	80	1,440
Semi-annual Reports	6	12	16	192
Final Reports	6	6	16	96
Recordkeeping	6	6	16	96
Total				1,824

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 17, 1999.

Wayne Eddins,

Office of the Chief Information Officer.

[FR Doc. 99–30533 Filed 11–22–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4497–N–03]

Notice Clarifying Manual Submissions and Extension Requests Under the Public Housing Assessment System (PHAS)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, and Office of the Director of the Real Estate Assessment Center, HUD.

ACTION: Notice.

SUMMARY: This notice provides additional information to public housing agencies, and members of the public, regarding HUD's process for approving a PHA's request for manual submission of a PHA's unaudited year-end financial, management operations and/or resident service and satisfaction information, and a PHA's request for an extension for the submission of its unaudited year-end financial and/or management operations information under the PHAS.

FOR FURTHER INFORMATION CONTACT: For further information contact Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024–2135; telephone Customer Service Center at 1–888–245–4860 (this is a toll free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at 1–800–877–8339. This information is available from the Real Estate Assessment Center (REAC) Internet Site at http://www.hud.gov/reac.

SUPPLEMENTARY INFORMATION:

1. Purpose of This Notice

The purpose of this notice is to provide additional information about HUD's process for approving a PHA's request for the manual submission of a PHA's unaudited year-end financial, management operations and/or resident service and satisfaction information, as well as a PHA's request for an extension for the submission of its unaudited year-end financial and/or management operations information under the Public Housing Assessment System (PHAS). HUD published two notices in the **Federal Register** on June 23, 1999, regarding the Public Housing Assessment System, Management Operation Scoring Process, and the Public Housing Assessment System, Resident Service and Satisfaction Scoring Process (64 FR 33708 and 64 FR 33712, respectively). Both notices addressed how a PHA may request approval for manual submission of management operations and/or resident service and satisfaction information (see 64 FR 33708 and 64 FR 33712). For the convenience of PHAs, this notice repeats the information concerning the process for requesting approval of manual submission of management operations and/or resident service and satisfaction information.

In addition to the two notices referenced above, HUD's final rule on Uniform Financial Reporting Standards for HUD Housing Programs, published September 1, 1998 (63 FR 46582), provided in § 5.801(b)(2), that with respect to year-end financial information required to be submitted electronically in accordance with the requirements of § 5.801, HUD would consider non-electronic submission if HUD determined that the burden or cost of electronic reporting is excessive. PHAs that would like to submit year-end financial information manually may request manual submission in accordance with the process provided for manual submission of management operations and/or resident service and satisfaction information.

In addition to requests for manual submission, HUD's final rule on Uniform Financial Reporting Standards for HUD Housing Programs, published September 1, 1998 (63 FR 46582), provided in the preamble to the rule that HUD would consider extensions of submission due date for all entities submitting their first financial reports. The preamble provides that requests for extensions are to be directed to HUD's Real Estate Assessment Center (REAC). The preamble, however, did not describe the process for making such requests (see 63 FR 46588). This notice, published today, provides a process for a PHA to request an extension for the submission of its year-end financial information, similar to that for which requests for manual submissions of information are to be made.

2. Manual Submission of Unaudited Year-End Financial, Management Operations and/or Resident Service and Satisfaction Information

Under the PHAS, a PHA is required to electronically submit its unaudited year-end financial, management operations and/or resident service and satisfaction information. If a PHA does not have this capability in-house, the PHA should consider utilizing local resources, such as the library or another local government entity that has internet access. In the event local resources are not available, a PHA may go to the nearest HUD Public Housing program office and assistance will be given to the PHA to transmit its year-end financial, management operations and/or resident service and satisfaction information.

As provided in the June 23, 1999, notices, REAC will consider manual submission requests of unaudited year-end financial, management operations and/or resident service and satisfaction information. A PHA may request approval to submit its unaudited year-end financial, management operations and/or resident service and satisfaction information manually if the PHA can support the claim that the electronic submission requirement poses an administrative and/or cost burden.

As stated in the notice published on June 23, 1999 (64 FR 33708), a PHA that seeks approval to manually submit its information to REAC on unaudited year-end financial information, management operations and/or resident service and satisfaction information must ensure that the REAC receives its written

request for manual submission 60 calendar days prior to the submission due date for each of these information components (unaudited year-end financial information, management operations information, and resident service and satisfaction information). A PHA must forward its manual submission request in writing, to the Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024–2135, Attention: Manual Submission PHA Finance Team.

For PHAs with a fiscal year-end date of September 30, 1999, REAC will not require that manual submission requests must be submitted 60 calendar days prior to the submission due date for the information. REAC requests, however, that these PHAs forward their manual submission requests to the above-mentioned address as soon as possible, prior to their submission due date. A PHA's written request for a manual submission must include a justification as to why the electronic submission of information will pose an administrative and/or cost burden on the PHA.

The REAC will respond to the PHA's request and will forward its determination in writing to the PHA. Approvals are for the PHA's current reporting period *only*.

3. Extension Requests for the Submission of Year-End Financial and Management Operations Information

HUD will consider extension requests for the electronic submission of a PHA's unaudited financial and/or management operations information. To receive an extension, a PHA must ensure that the REAC receives the PHA's extension request (electronic or written) 15 calendar days before the submission due date of its unaudited year-end financial and/or management operations information. REAC will only consider requests for extensions relative to financial reporting if a PHA can demonstrate that it is unable to meet the requirements referenced in the Uniform Financial Reporting Standards for HUD Housing Programs (24 CFR Part 5, Subpart H) as a result of unusual circumstances beyond its control.

The extension request (electronic or written) must include a justification as to why the PHA cannot submit the information by the submission due date. The REAC will respond to the PHA's request and will forward its determination (electronic or written) to the PHA.

An electronic extension request may be submitted by contacting the REAC's Customer Service Center at http://www.hud.gov/reafin.html.

Dated: November 17, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

Donald J. LaVoy,

Acting Director, Real Estate Assessment Center.

[FR Doc. 99–30529 Filed 11–22–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amended gaming compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amended Gaming Compact between the Sisseton-Wahpeton Sioux Tribe and the State of North Dakota, which was executed on September 29, 1999.

DATES: This action is effective November 23, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066

Dated: November 1, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30553 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amended gaming compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amended Gaming Compact between the Standing Rock Sioux Tribe and the State of North Dakota, which was executed on September 29, 1999.

DATES: This action is effective on November 23, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 1, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30554 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amended gaming compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amended Gaming Compact between the Three Affiliated Tribes and the State of North Dakota, which was executed on September 29, 1999.

DATES: This action is effective on November 23, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 1, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30555 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Assessment Prepared for Proposed Central Gulf Sale 175 on the Gulf of Mexico Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the environmental assessment on proposed central Gulf of Mexico lease sale 175.

SUMMARY: The Minerals Management Service (MMS) has prepared an environmental assessment (EA) for the proposed annual Lease Sale 175 for the Central Planning Area of the Gulf of Mexico Outer Continental Shelf.

In this EA, MMS has reexamined the potential environmental effects of the proposed action and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final Environmental Impact Statement (FEIS) for Lease Sales 169, 172, 175, 178, and 182 was prepared.

In summary, no new significant impacts were identified for proposed Lease Sale 175 that were not already assessed in the FEIS for Lease Sales 169, 172, 175, 178, and 182. As a result, MMS determined that a supplemental EIS is not required and prepared a Finding of No New Significant Impact.

If you wish to comment, you may mail or hand-carry written comments to the Department of the Interior, Minerals Management Service, Regional Director (MS 5410), Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at number below. You may obtain single copies of the EA from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 or by calling 1–800–200–GULF.

Dated: November 17, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–30442 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Final General Management Plan/ Environmental Impact Statement, Lake Roosevelt National Recreation Area, Washington

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of abbreviated Final Environmental Impact Statement.

SUMMARY: The National Park Service (NPS) announces the availability of a Final General Management Plan/ Environmental Impact Statement (GMP/ EIS) for Lake Roosevelt National Recreation Area, Washington. The final GMP/EIS proposes a new plan for managing the national recreation area that would emphasize maintaining the existing visitor experience by increasing the capacity of existing facilities where feasible and by redirecting other increases in visitation to less used facilities.

Approximately 1,400 copies of the draft GMP/EIS were distributed to the public. The review and comment period began on November 1, 1998, and ended January 31, 1999. All comments received were reviewed and considered by the NPS in the preparation of the final GMP/EIS. This document is in an abbreviated format and contains a series of corrections and revisions describing changes to the text of the draft, copies of substantive comment letters received from all agencies and organizations, and responses to all substantive comments. A copy of the draft is needed to understand the corrections and revisions.

SUPPLEMENTARY INFORMATION: The no-action period on this final GMP/EIS will expire 30 days after the Environmental Protection Agency has accepted the document and published a notice of availability in the **Federal Register**. Following the no-action period, a record of decision to implement the proposed action will be signed. All who submitted substantive comments on the draft GMP/EIS will receive a copy of the final. In addition, the document has been placed on the NPS website at http://www.nps.gov. Public reading copies of the final GMP/EIS will be available for review at the following locations: Office of Public Affairs, National Park Service, 1849 C St., NW, Washington, DC 20240; Lake Roosevelt National Recreation Area headquarters, 1008 Crest Drive, Coulee Dam, WA, 99116; National Park Service, Fort Spokane District Office, 44303 SR 25N, Davenport, WA 99122; and National Park Service, Kettle Falls District Office, 1368 Kettle Park Road, Kettle Falls, WA 99141. For further information, contact Superintendent, Lake Roosevelt National Recreation Area, 1008 Crest Drive, Coulee Dam, WA 99116–1259, phone (509) 633–9441, ext. 110.

Dated: November 8, 1999.

William C. Walters,

Deputy Regional Director, Pacific West Region.

[FR Doc. 99–30432 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Landmarks Committee

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the National Landmarks Committee of the National Park System Advisory Board will be held at 9 a.m. on the following date and at the following location.

DATES: December 13, 1999.

LOCATION: Main Hearing Room (Room 100); First Floor; 800 North Capitol Street, NW; Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Patricia Henry, National Register, History, and Education (2280); National Park Service, 1849 C Street, NW; Room NC–400; Washington, DC 20240. Telephone (202) 343–8163.

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the National Landmarks Committee of the National Park System Advisory Board is to evaluate nominations of historic properties in order to advise the full National Park System Advisory Board (meeting on December 14–15, 1999) of the qualifications of properties being proposed for National Historic Landmark (NHL) designation, and to recommend to the National Park System Advisory Board those properties that the

Landmarks Committee finds meet the criteria for designation as National Historic Landmarks. The members of the National Landmarks Committee are:

Mr. Parker Westbrook, CHAIR
Dr. Allyson Brooks
Dr. Ian W. Brown
Mr. S. Allen Chambers, Jr.
Dr. Elizabeth Clark-Lewis
Mr. Jerry L. Rogers
Dr. Richard Guy Wilson
Ms. Marie Ridder

The meeting will include presentations and discussions on the national historic significance and the historic integrity of a number of properties being nominated for National Historic Landmark designation. The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file for consideration by the committee written comments concerning nominations and matters to be discussed pursuant to 36 CFR part 65.

Comments should be submitted to Carol D. Shull, Chief, National Historic Landmarks Survey and Keeper of the National Register of Historic Places; National Register, History, and Education (2280); National Park Service; 1849 C Street, NW; Room NC–400; Washington, DC 20240.

The committee will consider the following nominations:

Colorado
Shenandoah-Dives Mill
Connecticut
Grove Street Cemetery
Florida
Whitehall (Henry M. Flagler House)
Georgia
Fort James Jackson
Illinois
Arthur Heurtley House
Maine
Kennebec Arsenal
Maryland
Sotterley
Bollman Truss Railroad Bridge
Massachusetts
Nathan & Polly Johnson House
Mississippi
Fort St. Pierre Site
New Jersey
Abel and Mary Nicholson House
New York
Stonewall
Pennsylvania
Gettysburg NMP Visitor Center/ Cyclorama Building
South Carolina
James and Mary Boykin Chesnut House
Texas
Highland Park Shopping Village
Virginia
George Washington's Boyhood Home Site

The committee will consider the following boundary expansion:

Florida
Okeechobee Battlefield

The committee will consider the following withdrawal of designation:

Missouri
USS Inaugural

The following properties will be on the agenda if written waivers to the 60-day notification period are received from the owners and the highest elected local official.

California
Rancho Camulos
Pennsylvania
Emmanuel Episcopal Church
Georgia
Herndon House

Dated: November 17, 1999.

Carol D. Shull,

Chief, National Historic Landmarks Survey and Keeper of the National Register of Historic Places; National Park Service, Washington, DC.

[FR Doc. 99–30477 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Earliest Americans National Historic Landmark Theme Study

AGENCY: National Park Service, Interior.

ACTION: Notice of theme study.

SUMMARY: Notice is hereby given that the National Park Service, in cooperation with the Society for American Archaeology is preparing a National Historic Landmark Theme Study on the history of the Earliest Americans. The purpose of this study is to develop a historic context on the story of America's first inhabitants and to identify and prioritize potential National Historic Landmarks.

FOR FURTHER INFORMATION CONTACT: John H. Sprinkle, Jr., Ph.D., National Register, History and Education (2280), National Park Service, 1849 C Street, NW, Room NC 400, Washington, DC 20240. Telephone 202–343–8166.

Dated: November 16, 1999.

Carol D. Shull,

Chief, National Historic Landmarks Survey, and Keeper of the National Register of Historic Places.

[FR Doc. 99–30476 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 13, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by December 8, 1999.

Carol D. Shull,

Keeper of the National Register.

Arkansas

Pulaski County

Little Rock US Post Office and Courthouse, 600 W. Capitol Ave., Little Rock, 99001540

Colorado

Jefferson County

Office of Civil Defense Emergency Operations Center, Denver Federal Center, Lakewood, 99001541

Prowers County

Paulsen Farm, 39035 Rd. 7, Lamar vicinity, 99001542

Maryland

Washington County

Good—Hartle Farm, 13357 Little Antietam Rd., Hagerstown vicinity, 99001543

Michigan

Baraga County

US–41 (old)—Backwater Creek Bridge, (Highway Bridges of Michigan MPS), Abandoned US–41 over Backwater Creek, Barage Township, 99001508

Cheboygan County

Cheboygan Bascule Bridge, (Highway Bridges of Michigan MPS), US 23 over Cheboygan R., Cheboygan, 99001509

Crawford County

M–27—Au Sable River Bridge, (Highway Bridges of Michigan MPS), M–72 over Au Sable R., Grayling, 99001510

Delta County

County Road I–39— Rapid River Bridge. (Highway Bridges of Michigan MPS), Cty. Rd. I–39 ober Rapid R., Masonville Township, 99001511

Genesee County

Beach-Garland Street—Flint River Bridge, (Highway Bridges of Michigan MPS), Beach and Garland Sts. over Flint R., Flint, 99001513

West Second Street—Swartz Creek Bridge, (Highway Bridges of Michigan MPS), West

Second St. over Swartz Creek, Flint, 99001512

Gogebic County

Main Street—Black River Bridge, (Highway Bridges of Michigan MPS), Main St. over Black R., Bessemer Township, 99001514

Planter Road—Jackson Creek Bridge, (Highway Bridges of Michigan MPS), Planter Rd. over Jackson Creek, Wakefield Township, 99001515

Gratiot County

Lincoln Road—Pine River Bridge, (Highway Bridges of Michigan MPS), Lincoln Rd. over Pine R., Seville vicinity, 99001516

Houghton County

County Road C11—Pike River Bridge, (Highway Bridges of Michigan MPS), Cty. Rd. C11 over Pike R., Chassell, 99001517

Iron County

Chicagon Mine Road—Chicagon Creek Bridge, (Highway Bridges of Michigan MPS), Chicagon Mine Rd. over Chicagon Creek, Bates Township, 99001521

Forest Route 157—Tamarack River Bridge, (Highway Bridges of Michigan MPS), Forest Rte. 157 over Tamarack R., Stambaugh Township, 99001520

Mansfield Road—Michigamme River Bridge, (Highway Bridges of Michigan MPS), Mansfield Rd. over Michigamme R., Mansfield Township, 99001519

US 2—Iron River Bridge, (Highway Bridges of Michigan MPS), US 2 over Iron River, Iron River, 99001518

Kent County

Business Route M–21—Plaster Creek Bridge, (Highway Bridges of Michigan MPS), Bus. Rte. M–21 over Plaster Creek, Wyoming, 99001522

Division Avenue—Plaster Creek Bridge, (Highway Bridges of Michigan MPS), Division Ave. over Plaster Creek, Grand Rapids, 99001523

Downtown Lowell Historic District, (Highway Bridges of Michigan MPS), Roughly along Main St. bet. Hudson and Washington, Lowell, 99001539

Keweenaw County

M 26—Cedar Creek Culvert, (Highway Bridges of Michigan MPS), M 26 over Cedar Creek, Eagle Harbor Township, 99001526

M26—Silver River Culvert, (Highway Bridges of Michigan MPS), M 26 over Silver River, Eagle Harbor Township, 99001527

US 41—Fanny Hooe Creek Bridge, (Highway Bridges of Michigan MPS), US 41 over Fanny Hooe Creek, Grant Townsbip, 99001525

Mackinac County

Mackinac Trail—Carp River Bridge, (Highway Bridges of Michigan MPS), Mackinac Trail over Carp R., St. Ignace Township, 99001528

Marquette County

County Road 557—West Branch Escanaba River Bridge (Highway Bridges of Michigan MPS), Cty. Rd. 557 over West Branch of Escanaba R., Wells Township, 99001529

M 95 (old)—Michigamme River Bridge (Highway Bridges of Michigan MPS), Old M 95 over Michigamme R., Republic Township, 99001531

Truck Line Bridge No. 1 (Highway Bridges of Michigan MPS), Old US 41 over Peshekee R., Michigamme Township, 99001530

Midland County

Ball Road—Little Salt Creek Bridge (Highway Bridges of Michigan MPS), Ball Rd. over Little Salt Creek, Jasper Township, 99001533

North Saginaw Road—Salt River Bridge (Highway Bridges of Michigan MPS), North Saginaw Rd. over Salt R., Jerome Township, 99001532

Oceana County

US 31—Pentwater River Bridge (Highway Bridges of Michigan MPS), US 31 over Pentwater R., Weare Township, 99001534

Ottawa County

Fruitport Road—Pettys Bayou Bridge (Highway Bridges of Michigan MPS), Fruitport Rd. over Pettys Bayou, Spring Lake Township, 99001535

Presque Isle County

Ocqueoc Falls Highway—Ocqueoc River Bridge (Highway Bridges of Michigan MPS), Ocqueoc Falls Highway over Ocqueoc R., Ocqueoc, 99001536

Saginaw County

Mower Road—Cole Drain Bridge (Highway Bridges of Michigan MPS), Mower Rd. over Cole Drain, Spaulding Township, 99001537

Schoolcraft County

Ten Curves Road—Manistique River Bridge (Highway Bridges of Michigan MPS), Ten Curves Rd. over Manistique R., Gemfask Township, 99001538

New Jersey

Hunterdon County

Ringoes Historic District, Old York, John Ringo, Wertsville and Boss Rds., and Larison Ln., East Amwell Township, 99001544

New York

Steuben County

Mallory Mill, Pulteney St., Hammondsport, 99001545

Utah

Salt Lake County

Anderson, Alfred C. and Annie L. Olsen, House (Sandy City MPS), 8850 South 60 East, Sandy, 99001556

Anderson, Charles M. and Fannie M. Allsop, House (Sandy City MPS), 498 E. Locust St., Sandy, 99001558

Anderson, Y. Martin and Hannah Nelson, House (Sandy City MPS), 8832 South 90 East, Sandy, 99001549

Christopherson, William, House (Sandy City MPS), 8847 South 360 East, Sandy, 99001554

Mickelson, Hyrum and Mary A. Terry Peterson, House (Sandy City MPS), 8850 South 120 East, Sandy, 99001551

Ostler, John Thomas and Myrtle Bodell, House (Sandy City MPS), 589 East 8800 South, Sandy, 99001552

Pierson, Peter and Ingrid C. Larson, House (Sandy City MPS), 31 East 8680 South, Sandy, 99001548

Van Cam, Louis E. and Florence Jensen, House (Sandy City MPS), 407 East 8800 South, Sandy, 99001555

[FR Doc. 99–30431 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council Meeting; Policy Group Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council (BDAC) will meet on December 14, 1999 to discuss CALFED governance, the water management strategy, the draft preferred alternative and implementation issues. The Policy Group will meet on December 15, 1999 to discuss CALFED water management strategy and CALFED long-term governance. These meetings are open to the public. Interested persons may make oral statements to BDAC or Policy Group, or may file written statements for consideration.

DATES: The BDAC meeting will be held from 9:00 a.m. to 5:00 p.m. on Tuesday, December 14, 1999. The Policy Group will be held from 9:00 a.m. to 5:00 p.m. on Wednesday, December 15, 1999.

ADDRESSES: The BDAC will meet at the Sterling Hotel, 1300 H Street, Sacramento, CA (916) 448–1300. The Policy Group will meet at Sacramento Convention Center, 1400 J Street, Rooms 302 and 303, Sacramento, CA, (916) 264–5291.

FOR FURTHER INFORMATION CONTACT: For the Bay-Delta Advisory Council Meeting, Eugenia Laychak, CALFED Bay-Delta Program, at (916) 657–2666. For the Policy Group Meeting, Mary Selkirk, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working

together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: November 17, 1999.

Lester A. Snow,

Regional Director, Mid-Pacific Region.

[FR Doc. 99–30446 Filed 11–22–99; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 17, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA MSHA, OHSA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov). Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: ETA Summaries Unemployment Insurance Trust Fund Activities.

OMB Number: 1205–0154.

Frequency: Monthly.

Affected Public: State, Local, or Tribal govt.

Number of Respondents: 53.

Estimated Time Per respondent: 30 to 60 minutes.

Total Burden Hours: 2226.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0

Description: Collection of State financial activity operating the Unemployment Insurance program.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–30466 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,471 and NAFTA–3084]

Fort James Corporation Packaging Division Portland, OR; Notice of Revised Determination on Reconsideration

By letter of August 13, 1999, the petitioner requested administrative reconsideration of the Department's negative determinations for Trade Adjustment Assistance (TAA) and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) for the workers and former workers of the subject firm.

Workers of the subject firm are engaged in employment related to the production of paper food packaging, primarily frozen food packaging.

On July 30, 1999, the workers were denied TAA because the "contributed importantly" test of Section 222(3) of the Group Eligibility Requirements of the Trade Act of 1974, as amended, was not met. A survey of the subject firm's major customers revealed that none of the customers increased import purchases of food packaging while reducing purchases from the subject firm.

On that same date, the same worker group was denied eligibility to apply for NAFTA–TAA based on the finding that criteria (3) and (4) of the worker group eligibility requirements of paragraph (a)(1) of Section 250 of the Trade Act of 1974, as amended were not met. There was no shift in production from the worker's firm to Mexico or Canada. Other investigation findings showed that there were no company or customer imports of food packaging from Mexico or Canada.

The Department has obtained new information from one of the subject firm's major declining customers showing increased import purchases of frozen food packaging from Canada while reducing purchases from Fort James.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that workers of Fort James

Corporation, Packaging Division, Portland, Oregon, were adversely affected by increased imports from Canada of articles like or directly competitive with paper food packaging like or directly competitive with the articles produced at the subject firm.

All workers of Fort James Corporation, Packaging Division, Portland, Oregon, separated from employment on or after June 10, 1998 through two years from the issuance of this certification, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974, and

All workers of Fort James Corporation, Packaging Division, Portland, Oregon, separated from employment on or after April 5, 1998 through two years from the issuance of this certification, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of November 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30460 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,612]

Buffalo Color Corporation, Buffalo, NY; Notice of Revised Determination on Reconsideration

By letter of October 12, 1999, the company requested administrative reconsideration of the Department's denial of eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA).

On September 29, 1999, the workers producing indigo paste and powder were denied TAA because the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974, as amended, was not met. The notice will soon be published in the **Federal Register**.

The company presented new evidence regarding increasing imports of indigo powder from China. The Department has confirmed the company's claim.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Buffalo Color Corporation, Buffalo, New York, were adversely affected by increased imports of articles like or directly competitive with those produced at the subject firm.

All workers of Buffalo Color Corporation, Buffalo, New York, who became totally or partially separated from employment on or after July 20, 1998 through two years from the date of this issuance are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 5th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30450 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,434]

Damacus Steel Casting Company, New Brighton, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Damacus Steel Casting Company, New Brighton, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–36,434; Damacus Steel Casting Company, New Brighton, Pennsylvania (November 5, 1999)

Signed at Washington, DC this 5th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30462 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,773, et al.]

Eagle Geophysical, Inc., Eagle Geophysical Management, Eagle Geophysical Offshore, Eagle Geophysical Front End, Houston, TX., et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on September 29, 1999, applicable to workers of Eagle Geophysical, Inc., Houston, Texas. The notice was published in the **Federal Register** on November 4, 1999 (64 FR 60231).

At the request of the company, the Department reviewed the certification for workers at the subject firm. The workers are engaged in activities related primarily to the exploration of crude oil and natural gas for unaffiliated producers. New information shows that Eagle Geophysical Management, Eagle Geophysical Offshore and Eagle Geophysical Front End are subsidiaries of Eagle Geophysical. Information also shows that work separations occurred at these divisions operating at various locations in Louisiana, Mississippi, California and Texas. The workers gather seismic data related to the exploration for crude oil and natural gas at Eagle Geophysical, Inc., Houston, Texas.

Accordingly, the Department is amending the certification to cover the workers of Eagle Geophysical Management, Eagle Geophysical Offshore and Eagle Geophysical Front End operating at various locations in Louisiana, Mississippi, California and Texas.

The intent of the Department's certification is to include all workers of Eagle Geophysical who are adversely affected by increased imports.

The amended notice applicable to TA–W–36,773 is hereby issued as follows:

All workers of Eagle Geophysical, Inc., Eagle Geophysical Management, Eagle Geophysical Offshore and Eagle Geophysical Front End, subsidiaries of Eagle Geophysical, Inc., Houston Texas (TA–W–36,773) and at various locations in Louisiana (TA–W–36,773A), Mississippi (TA–W–36,773B), California (TA–W–36,773C) and Texas, excluding Houston (TA–W–36,773D), who became totally or partially separated from employment on or after July 19, 1998 through September 29, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 15th day of November 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30458 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than December 3, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 3, 1999.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 25th day of October, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 10/25/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,977	Georgia Pacific Corp (Wkrs)	Bemidji, MN	10/13/1999	Hard Board.
36,978	Curtiss Wright Flight (IAM)	Fairfield, NJ	10/09/1999	Flight Systems.
36,979	OMCO Mould (AFGWU)	Winchester, IN	10/02/1999	Moulds, Blanks and Related Finish Equip.
36,980	Brockway Mould (AFGWU)	Brockport, Pa	10/02/1999	Moulds, Blanks and Related Finished Equip.
36,981	Penn Mould Industries (AFGWU)	Washington, PA	10/02/1999	Mold Equip for Glass Bottles.
36,982	Robetex, Inc (Comp)	Lumberton, NC	10/08/1999	Woven Polypropelene.
36,983	Arrow Ace Die Cutting (Wkrs)	Bronx, NY	09/08/1999	Die Cut Products.
36,984	Rheem Air Conditioning (Wkrs)	Greenville, AL	10/08/1999	Heat and Air Conditioning Units.
36,985	SMF, Inc (Wkrs)	Danville, IL	10/01/1999	Under Carriage for Off Road Equip.
36,986	Matsushita Home Appliance (Wkrs)	Winchester, KY	10/09/1999	Vacuum Cleaners and Microwaves.
36,987	ITW Paslode (Wkrs)	Augusta, AR	10/07/1999	Strip, Coil, Ring Shank.
36,988	Siebe Automotive (Comp)	Carthage, TN	10/08/1999	Metal Formed Bellows.
36,989	Mobile Energy Services (Comp)	Mobile, AL	10/07/1999	Provides Service.
36,990	Bayer Clothing Group (Comp)	Clearfield, PA	10/05/1999	Men's Clothing.
36,991	Piezo Crystal (Wkrs)	Carlisle, PA	10/13/1999	Crystals Used in Oscillators.
36,992	Audiopak, Inc (Comp)	Winchester, VA	10/15/1999	Audio Cassette Liners.
36,993	Modern Manufacturing Co (Wkrs)	Los Angeles, CA	10/12/1999	Plumbing Parts.
36,994	Belle Knitting Mills (Wkrs)	Brooklyn, NY	10/12/1999	Christmas Decorations.
36,995	Whistler Automation Prod (Comp)	Novi, MI	10/12/1999	Radio Controls for Garage Door.
36,996	High Plains, Inc (Comp)	Dickinson, ND	10/02/1999	Wireline Service for Oilfield.
36,997	Best Form Intimates (UNITE)	Johnstown, PA	10/05/1999	Ladies' Underwear.
36,998	Atlanta Attachment Co (Comp)	Lawrenceville, GA	10/13/1999	Automation Dewing Devices.
36,999	Drew Technologies (Comp)	Lancaster, OH	10/14/1999	Shoes.
37,000	Van Leer (Wkrs)	Jersey City, NJ	10/15/1999	Chocolate.
37,001	AMP, Inc (Wkrs)	Harrisburg, PA	10/17/1999	Electronic and Electrical Connectors.

[FR Doc. 99–30457 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,970]

Glenoit Corporation, Jacksboro, TN; Notice of Affirmative Determination Regarding Application for Reconstruction

By letter of August 25, 1999, the Union of Needletrades, Industrial and Textile Employees. AFL–CIO, CLC (UNITE) requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers and former workers of the subject firm. The denial notice was signed on July 28, 1999, and published in the **Federal Register** on September 29, 1999 (64 FR 52538).

UNITE presents evidence that survey of the subject firm customers was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 16th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30459 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-36,357]

Golden Sunlight Mines Incorporated, Whitehall, MT; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Golden Sunlight Mines, Incorporated, Whitehall, Montana. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-36,357; Golden Sunlight Mines, Incorporated, Whitehall, Montana (November 5, 1999)

Signed at Washington, DC this 5th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99-30461 Filed 11-22-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-36,814]

Grand Rapids Diecast, Grand Rapids, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 13, 1999, applicable to workers of Grand Rapids Diecast located in Walker, Michigan. The notice was published in the **Federal Register** on November 4, 1999 (64 FR 60231).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that the Department incorrectly identified the subject firm location. The investigation conducted for the subject firm was conducted on behalf of the workers at the zinc plated plumbing fixture facility located in Grand Rapids, Michigan. Walker, Michigan, is the Corporate headquarters and warehouse of the subject firm and is not the subject of the investigation.

The Department is amending the certification determination to correctly identify the city to read Grand Rapids, Michigan.

The amended notice applicable to TA-W-36,814 is hereby issued as follows:

All workers of Grand Rapids Diecast, Grand Rapids, Michigan who became totally or partially separated from employment on or after August 27, 1998 through October 13, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99-30451 Filed 11-22-99; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-35,893, et al.]

Natchiq, Inc., Anchorage, AK, et al.; Notice of Negative Determination Regarding Application for Reconsideration

By application dated September 9, 1999, a company official (the petitioner) requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of Natchiq, Incorporated and Alaska Petroleum Contractors, both companies with locations in Anchorage, Alaska and Houston, Texas. The denial notice was signed on July 26, 1999 and published in the **Federal Register**, on August 11, 1999 (64 FR 43723).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) It it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner states that perhaps the TAA petition was filed prematurely, and provided employment date for May through August 1998 and May through August 1999; revenues for May through August 1998 and May through August 1999 as well as the forecast revenues for the full year 1999.

The petitioner states that while hundreds of workers were being laid off due to capital expenditure cuts, they were hiring a significant number of employees for a one-year project. That resulted in the revenues and employment numbers being skewed.

The petitioner adds that the workers at Natchiq perform all executive and administrative service functions for their entities, including Alaska Petroleum Contractors. The workers at Alaska Petroleum Contractors include construction, fabrication, maintenance, and project management personnel, including general labor, welders, pipefitters, ironworkers, and clerical for oil industry clients.

The petition filed with the Department by the company on behalf of workers of the subject firms was dated March 8, 1999. The petition investigation for Natchiq, Incorporated and Alaska Petroleum Contractors was conducted for full years 1997 and 1998, and the partial year period of January through April for 1998 and 1999. Upon receipt of the petition, the Department is required to examine the criteria for certification for the representative base period consisting of the four quarters immediately preceding the date of the petition. Therefore, the Department could not conduct its investigation for a period ending August 1999 when the petition was dated March 1999.

The TAA petition, filed on behalf of workers of Natchiq, Incorporated, Anchorage, Alaska and Houston, Texas was denied because the workers provided a service and did not produce an article within the meaning of Section 222(3) of the worker group eligibility requirements of the Trade Act of 1974, as amended.

The TAA petition, filed on behalf of workers of Alaska Petroleum Contractors, Anchorage, Alaska and Houston, Texas was denied because criteria (1) and (2) of the worker group eligibility requirements of Section 222 of the Trade Act of 1974, as amended were not met. Revenues and employment increased during the relevant time period.

Conclusion

After review of the application investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 10th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30453 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,628, et al.]

Paramount Headwear, Inc., Bourbon, MI, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (15 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 8, 1999, applicable to workers of Paramount Headwear, Inc., Bourbon, Missouri. The notice was published in the **Federal Register** on November 4, 1999 (64 FR 60231).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations will occur at Paramount Headwear's Ellington, Missouri facility when it closes in December, 1999. The workers are engaged in the production of headwear.

Accordingly, the Department is amending the certification to cover workers at Paramount Headwear, Inc., Ellington, Missouri.

The intent of the Department's certification is to include all workers of Paramount Headwear, Inc. adversely affected by increased imports.

The amended notice applicable to TA–W–36,628 is hereby issued as follows:

All workers of Paramount Headwear, Inc., Bourbon, Missouri (TA–W–36,628) and Ellington, Missouri (TA–W–36,628B) engaged in employment related to the production of headwear who became totally or partially separated from employment on or after July 20, 1998 through October 8, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington DC this 8th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30447 Filed 11–22–99; 8'45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,938]

Purcell Services, Ltd., Prudhoe Bay, AK; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, and investigation was initiated on October 12, 1999 in response to a worker petition on behalf of workers at Purcell Services, Ltd., Prudhoe Bay, Alaska.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 10th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30463 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,678, et al.]

Samedan Oil Corporation, Denver, CO., et al.; Notice of Negative Determination Regarding Application for Reconsideration

By application dated September 16, 1999, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers of the subject firm to apply for trade adjustment assistance. The denial notice, applicable to workers of Samedan Oil Corporation in Denver, Colorado and Oklahoma City, Oklahoma was signed on August 25, 1999 and published in the **Federal Register** on October 14, 1999 (64 FR 55750).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If if appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner states that two workers, a drilling foreman and a field clerk, were separated from employment at the Oklahoma City, Oklahoma facility of the subject firm. The petitioner asserts that since these workers should be considered engaged in employment related to the production of crude oil, all workers of the subject firm should be eligible to apply for TAA.

The TAA petition investigation for workers of the subject firm showed that the workers separated from employment performed office related services and did not produce an article within the meaning of criterion (3) of the Group Eligibility Requirements of Section 222 of the Trade Act of 1974, as amended.

Review of the investigation file shows that two workers of the subject firm separated from employment does not constitute a significant number or proportion of the workers in the workers' firm as required in criterion (1) of the Group Eligibility Requirements of Section 222 of the Trade Act of 1974, as amended.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 5th day of November 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30454 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,956]

Southeastern Apparel, Finishing, Inc., Johnson City, TN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 18, 1999, in response to a worker petition which was filed on behalf of workers at Southeastern Apparel Finishing, Inc., Johnson City, Tennessee.

The petitioner has written, stating a desire to withdraw the petition at this time. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 4th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30464 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the data on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 3, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 3, 1999.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 1st day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 11/01/1999]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,002	Sparrow Blouse Co., (UNITE)	Nazareth, PA	10/14/1999	Athletic Sportswear.
37,003	Oxford of Monroe, (Comp)	Monroe, GA	10/19/1999	Men's Slacks.
37,004	Chester County Sportswear (Comp)	Henderson, TN	10/15/1999	Men's and Ladies' Slacks.
37,005	Crowley Garment Mfg Co. (UNITE)	Crowley, LA	10/17/1999	Men's and Boys' Trousers.
37,006	Kim Michaels, Inc (Wkrs)	Hammonton, NJ	10/12/1999	Ladies' Skirts.
37,007	Metlakatla Forest Prod. (Comp)	Metlakatla, AK	10/07/1999	Dimensional Lumber.
37,008	Elsie Undergarment Corp. (Wkrs)	Hialeah, FL	10/05/1999	Slips, Sport Briefs, Panties.
37,009	Ref-Chem Corp (Comp)	Odessa, TX	10/18/1999	Engineering and Design for Petroleum.
37,010	Raytheon Systems Corp. (Wkrs)	Orangeburg, SC	10/11/1999	Electronic Assemblies for Radar.
37,011	Cooper Energy Service (Wkrs)	Grove City, PA	10/13/1999	Pistons.
37,012	Townwear Garment Co., Inc. (Comp)	Blairsville, GA	10/20/1999	Assembled Garments.
37,013	William F. Groce, Inc (Wkrs)	Selinsgrove, PA	10/18/1999	Silk and Synthetic Yarn.
37,014	John H. Montgomery (Wkrs)	Spartanburg, SC	10/20/1999	Greige Fabric.
37,015	Forester, Inc., Diamond (Comp)	Strong, ME	10/20/1999	Wood Clothes Pins.
37,016	Deluxe Corp (Wkrs)	Springfield, MA	10/07/1999	Bank Checks.
37,017	Hilton Corporate Casuals (Wkrs)	Camden, AL	10/21/1999	Shirts and Blouses.
37,018	Lovingston Manufacturing (Wkrs)	Harrisonburg, VA	10/20/1999	Children's Clothing.
37,019	Thomas MWD (Wkrs)	New Iberia, LA	10/22/1999	Oil Drilling Services.
37,020	Motorola Cable Products (Comp)	Mansfield, MA	10/18/1999	Cables.
37,021	Endrill Corp/Endrill Mud (Comp)	Tuscola, TX	10/20/1999	Oil and Gas Services.
37,022	Mark Twain Apparel (Wkrs)	Jamestown, TN	10/13/1999	Ladies' Blouses.
37,023	Cerplex Group (Wkrs)	Corvallis, OR	10/21/1999	Hewlett Packard Printers.
37,024	Napier Co. (Wkrs)	Meriden, CT	10/22/1999	Costume Jewelry.
37,025	Exxon Corp. (Wkrs)	Irving, TX	10/20/1999	Oil and Gas.

[FR Doc. 99–30456 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,563, et al.]

Walls Industries, Inc., Merkel Walls Industries, Merkel, TX, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 23, 1999, applicable to workers of Walls Industries, Inc., Merkel Walls Industries, Merkel, Texas. The notice was published in the **Federal Register** on September 29, 1999 (64 FR 52540).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the subject firms' Big Smith Division, Miami, Oklahoma location and the Cutting Department, Sweetwater, Texas when they closed in October, 1999. Workers at the Big Smith Division, Miami,

Oklahoma location were engaged in the production of insulated clothing. Workers employed in the Cutting Department at Sweetwater Walls Industries, Sweetwater, Texas performed cutting operations for the subject firm. Based on these new findings, the Department is amending the certification to cover workers at the Big Smith Division, Miami, Oklahoma and the Cutting Department, Sweetwater, Texas locations.

The intent of the Department's certification is to include all workers of Walls Industries, Inc. adversely affected by increased imports.

The amended notice applicable to TA–W–36,563 is hereby issued as follows:

All workers of Walls Industries, Inc., Merkel Walls Industries, Merkel, Texas (TA–W–36,563), Big Smith Division, Miami, Oklahoma (TA–W–36,563B) and Sweetwater Walls Industries, Inc., Cutting Department, Sweetwater, Texas (TA–W–36,563C) who became totally or partially separated from employment on or after July 6, 1998 through July 23, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 10th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30465 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,481]

Wyman-Gordon Forgings, Houston, TX; Notice of Revised Determination on Reconsideration

By letter dated September 7, 1999, the International Association of Machinists and Aerospace Workers, AFL–CIO (IAM), South Texas District Lodge 37, requested administrative reconsideration of the Departments negative determination applicable to workers of the subject firm.

The initial investigation resulted in a negative determination issued on July 30, 1999, based on the finding that criteria (2) and (3) of the group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, were not met for workers of Wyman-Gordon Forgings, Houston, Texas, engaged in employment related to the production of aerospace forgings and extruded products. The denial notice was published in the **Federal Register** on September 29, 1999 (64 FR 52539).

The IAM asserts that the petition was filed for workers engaged employment related to the work and the associated machinery being sent to Mexico from Houston, specifically part numbers 732, 733 and 734 discs which were high volume items produced at the subject firm plant.

The Department has obtained new evidence showing that the sales of aerospace products at the Houston plant have declined. Other new findings on reconsideration show that the production of aerospace products shifted from the subject firm plant in Houston are being imported to the Untied States.

The IAM did not present evidence that disputes the Department's finding that increased imports of articles like or directly competitive with extruded products produced by the workers of the subject firm contributed to worker separations.

The workers producing aerospace and extruded products are separately identifiable.

Conclusion

After careful review of the additional facts obtained on reconsideration. I conclude that increased imports of aerospace products contributed importantly to the declines in sales or production and to the total or partial separation of workers of Wyman-Gordon Forgings, Houston, Texas. In accordance with the provisions of the Act. I make the following determination:

All workers of Wyman-Gordon Forgings, Houston, Texas, engaged in employment related to the production of aerospace products, who became totally or partially separated from employment on or after June 7, 1998 through two years from the date of this certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and

I further determine that after reconsideration. I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers engaged in employment related to extruded products at Wyman-Gordon Forgings, Houston, Texas.

Signed at Washington, DC this 15th day of November 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30455 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03069; et al.]

Crescent/U.S. Mat, LLC, Art Advantage Division, Hot Springs Plant, Hot Springs, SD, et al.; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on April 12, 1999, applicable to workers of Crescent/U.S. Mat, LLC, Art Advantage Division, Hot Springs Plant, Hot Springs, South Dakota. The notice was published in the **Federal Register** on May 11, 1999 (64 FR 25374).

At the request of the Sate agency, the Department reviewed the certification for workers at the subject firm. New findings show that worker separations will occur at the Rapid City Administrative Officers and Warehouse, Rapid City, South Dakota location of Crescent/U.S. Mat, LLC, Art Advantage Division, when it closes in December 1999. The Rapid City, South Dakota location is the administrative offices and warehouse for the subject firms' production facility in Hot Springs, South Dakota which closed in August 1999. The workers were engaged in the production of pre-cut picture frame mats.

The intent of the Department's certification is to include all workers of Crescent/U.S. Mat LLC adversely affected by imports from Mexico.

Accordingly, the Department is amending the certification to cover workers at Crescent/U.S. Mat, LLC, Rapid City Administrative Offices and Warehouse, Rapid City, South Dakota.

The amended notice applicable to NAFTA—03069 is hereby issued as follows:

All workers of Crescent/U.S. Mat, Hot Springs Plant, Hot Springs, South Dakota (NAFTA–03069) and Rapid City Administrative Offices and Warehouse, Rapid City, South Dakota (NAFTA–03069A) who became totally or partially separated from employment on or after March 30, 1998 through April 12, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30452 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03487]

Purcell Services, Ltd., Prudhoe Bay, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on October 4, 1999 in response to a petition filed on behalf of workers at Purcell Services, Ltd., Prudhoe Bay, Alaska.

In a letter dated October 19, 1999, the petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC., this 10th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30448 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03298, et al.]

Walls Industries, Inc., Merkel Walls Industries, Merkel, TX, et al.; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on July 23, 1999, applicable to workers of Walls Industries, Inc., Merkel Walls Industries, Merkel, Texas. The notice was published in the **Federal Register** on August 11, 1999 (64 FR 43725).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the subject firms' Big Smith Division, Miami, Oklahoma location and the Cutting Department, Sweetwater, Texas when they closed in October, 1999. Workers at the Big Smith Division, Miami, Oklahoma location were engaged in the production of insulated clothing. Workers employed in the Cutting Department at Sweetwater Walls Industries, Sweetwater, Texas performed cutting operations for the subject firm. Based on these new findings, the Department is amending the certification to cover workers at the Big Smith Division, Miami, Oklahoma and the Cutting Department, Sweetwater, Texas locations.

The intent of the Department's certification is to include all workers of Walls Industries, Inc. who were adversely affected by a shift of production to Mexico.

The amended notice applicable to NAFTA—03298 is hereby issued as follows:

All workers of Walls Industries, Inc., Merkel Walls Industries, Inc., Merkel, Texas (NAFTA—03298), Big Smith Division, Miami, Oklahoma (NAFTA–03298B) and Sweetwater Walls Industries, Inc., Cutting Department, Sweetwater, Texas (NAFTA–03298C) who became totally or partially separated from employment on or after July 6, 1998 through July 23, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 10th day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–30449 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules for Electronic Copies Previously Covered by General Records Schedule 20; Availability and Request for Comments

AGENCY: Office of Records Services, National Archives and Records Administration,—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal.

This request for comments pertains solely to schedules for electronic copies of records created using word processing and electronic mail where the recordkeeping copies are already scheduled. (Electronic copies are records created using word processing or electronic mail software that remain in storage on the computer system after the recordkeeping copies are produced.)

These records were previously approved for disposal under General Records Schedule 20, Items 13 and 14. Pursuant to NARA Bulletin 99–04, agencies must submit schedules for the electronic copies associated with program records and administrative records not covered by the General Records Schedules. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a). To facilitate review of these schedules, their availability for comment is announced in **Federal Register** notices separate from those used for other records disposition schedules.

DATES: Requests for copies must be received in writing on or before January 7, 2000. On request, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums concerning a proposed schedule. These, too, may be requested. Requesters will be given 30 days to submit comments.

Some schedules submitted in accordance with NARA Bulletin 99–04 group records by program, function, or organizational element. These schedules do not include descriptions at the file series level, but, instead, provide citations to previously approved schedules or agency records disposition manuals (see Supplementary Information section of this notice). To facilitate review of such disposition requests, previously approved schedules or manuals that are cited may be

requested in addition to schedules for the electronic copies. NARA will provide the first 100 pages at no cost. NARA may charge $.20 per page for additional copies. These materials also may be examined at no cost at the National Archives at College Park (8601 Adelphi Road, College Park, MD).

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports and/or copies of previously approved schedules or manuals should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. Routine administrative records common to most agencies are approved for disposal in the General Records Schedules (GRS), which are disposition schedules issued by NARA that apply Government-wide.

In the past, NARA approved the disposal of electronic copies of records created using electronic mail and word processing via General Records Schedule 20, Items 13 (word processing documents) and 14 (electronic mail). However, NARA has determined that a different approach to the disposition of electronic copies is needed. In 1998, the Archivist of the United States established an interagency Electronic Records Work Group to address this issue and pursuant to its recommendations, decided that agencies must submit schedules for the electronic copies of program records and administrative records not covered by the GRS. On March 25, 1999, the Archivist issued NARA Bulletin 99–04, which tells agencies what they must do to schedule electronic copies associated with previously scheduled program records and certain administrative records that were previously scheduled under GRS 20, Items 13 and 14.

Schedules submitted in accordance with NARA Bulletin 99–04 only cover the electronic copies associated with previously scheduled series. Agencies that wish to schedule hitherto unscheduled series must submit separate SF 115s that cover both recordkeeping copies and electronic copies used to create them.

In developing SF 115s for the electronic copies of scheduled records, agencies may use either of two scheduling models. They may add an appropriate disposition for the electronic copies formerly covered by GRS 20, Items 13 and 14, to every item in their manuals or records schedules where the recordkeeping copy has been created with a word processing or electronic mail application. This approach is described as Model 1 in Bulletin 99–04. Alternatively, agencies may group records by program, function, or organizational component and propose disposition instructions for the electronic copies associated with each grouping. This approach is described as Model 2 in the Bulletin. Schedules that follow Model 2 do not describe records at the series level.

For each schedule covered by this notice the following information is provided: name of the Federal agency and any subdivisions requesting disposition authority; the organizational unit(s) accumulating the records or a statement that the schedule has agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency; the control number assigned to each schedule; the total number of schedule items; the number of temporary items (the record series proposed for destruction); a brief description of the temporary electronic copies; and citations to previously approved SF 115s or printed disposition manuals that scheduled the recordkeeping copies associated with the electronic copies covered by the pending schedule. If a cited manual or schedule is available from the Government Printing Office or has been posted to a publicly available Web site, this too is noted.

Further information about the disposition process is available on request.

Schedule Pending

Department of Labor, Office of Assistant Secretary for Administration and Management (N9–174–00–02, 7 items, 7 temporary items). Electronic copies of records created using electronic mail and word processing that relate to Department of Labor issuances, including manuals, handbooks, Secretary's orders, notices, and temporary directives. Also included are electronic copies of drafts, working files, concurrence forms, and indexes that pertain to issuances. This schedule follows Model 1 as described in the **SUPPLEMENTARY INFORMATION** section of this notice. Recordkeeping copies of these files are included in Disposition Job No. N1–174–93–2.

Dated: November 17, 1999.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 99–30557 Filed 11–22–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SKILL STANDARDS BOARD

Notice of Open Meeting

AGENCY: National Skill Standards Board.

ACTION: Notice of open meeting.

SUMMARY: The National Skill Standards Board was established by an Act of Congress, the National Skill Standards Act, Title V, Public Law 103–227. The 27-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a national system of voluntary skill standards and certification through voluntary partnerships which have the full and balanced participation of business, industry, labor, education and other key groups.

TIME & PLACE: The meeting will be held from 8:30 a.m. to approximately 12:00 p.m. on Friday, December 10, 1999, at The Holiday Inn Hotel and Suites, 625 First Street Alexandria, VA 22314.

AGENDA: The agenda for the Board Meeting will include Board and Committee updates and presentations from representatives of the Sales & Service Voluntary Partnership (SSVP) and Manufacturing Skill Standards Council (MSSC).

PUBLIC PARTICIPATION: The meeting, from 8:30 a.m. to 12:00 p.m., is open to the public. Seating is limited and will be

available on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities should contact Leslie Donaldson at (202) 254–8628 if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Dave Wilcox, Executive Deputy Director at (202) 254–8628.

Signed at Washington, DC, this 17th day of November, 1999.

Edie West,

Executive Director, National Skill Standards Board.

[FR Doc. 99–30494 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL TRANSPORTATION SAFETY BOARD

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

The National Transportation Safety Board intends to submit the following (see below) public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the paperwork reduction Act of 1995 (Public Law 104–13, 44 U.S.C. Chapter 35). OMB approval is being requested concurrently with this submission. A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling the National Transportation Safety Board Departmental Clearance officer, Larry Crabill (202) 314–6224. Comments and questions about the ICR listed below should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Transportation Safety Board, Office of Management and Budget, Room 10102,725 17th Street, NW., Washington, DC 20503.

Agency: National Transportation Safety Board.

Title: Part 145 Maintenance Repair Facilities Questionnaire.

OMB Number: New.

Frequency: Once.

Affected Public: Federal Aviation Administration certificated air Carriers.

Number of Respondents: 120.

Estimated time per respondent: 60 minutes.

Total Burden Hours: 120.

Description: The National Transportation Safety Board is currently conducting a study examining the oversight practices of certificated air carriers who use contract repair facilities for aircraft maintenance. The Federal Aviation Administration (FAA) inspects air carrier maintenance operations and also certifies maintenance repair facilities that provide contract work. This study will look at the oversight practices used by both the air carriers and the FAA. In conjunction with the study, the National Transportation Safety Board is seeking clearance to obtain data from air carriers to identify their oversight practices.

Dated: November 18, 1999.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99–30496 Filed 11–22–99; 8:45 am]

BILLING CODE 7533–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider matters relating to administration and enforcement of the price regulation, including the reports and recommendations of the Commission's standing Committees. The Commission will also hold its deliberative meeting to consider whether to implement a supply management program. The deliberative meeting was postponed at the September 1, 1999, October 6, 1999 and November 10, 1999 meetings.

DATES: The meeting is scheduled for 10:00 a.m. on Wednesday, December 1, 1999.

ADDRESSES: The meeting will be held at The Centennial Inn, Armenia White Room, 96 Pleasant Street, Concord, New Hampshire (I–93 Exit 14).

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, VT 05602. Telephone (802) 229–1941.

Authority: 7 U.S.C. 7256.

Dated: November 17, 1999.

Kenneth M. Becker,

Executive Director.

[FR Doc. 99–30443 Filed 11–22–99; 8:45 am]

BILLING CODE 1650–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316]

Indiana Michigan Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–58 and DPR–74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Power Plant, Units 1 and 2, located in Berrien County, Michigan.

The proposed amendments would revise Technical Specification (T/S) Surveillance Requirement 4.5.1.c to require verification that power is removed from each emergency core cooling system accumulator isolation valve operator instead of verification that each accumulator isolation valve breaker is removed from the circuit. In addition, the proposed license amendments would revise T/S 3.5.1 to change "pressurizer pressure" to "reactor coolant system pressure" in the applicability and action statement requirements. The Bases for T/S 3/4.5.1 will also be revised to reflect both changes. Additionally, administrative changes are proposed to the page format.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

The ECCS [emergency core cooling system] accumulators are used to mitigate the consequences of an accident after the event has occurred and do not initiate any accident previously evaluated. Demonstrating how power is removed from the valve operator does not initiate an accident. Inadvertently closing the valves cannot initiate an accident. Therefore, there is no significant increase in the probability of occurrence of an accident previously evaluated.

The ECCS accumulators will still perform their function of injecting borated water into the reactor coolant loops following a large break loss-of-coolant accident, as described in Section 14.3.1 of the Updated Final Safety Analysis Report (UFSAR). A spurious closure of an accumulator outlet isolation valve is not a credible event. Performing T/S Surveillance Requirement 4.5.1.c provides assurance that one of the two actions required for spurious closure of the valve is precluded. The proposed change to the surveillance continues to provide assurance that power will be removed from each accumulator isolation valve operator so that the valves remain open. The consequences of accidents previously evaluated remained bounded because the accumulators will still function as assumed in the UFSAR accident analysis. Therefore, there is no significant increase in the consequences of any accident previously evaluated.

Changing "pressurizer pressure" to "RCS [reactor coolant system] pressure" has no significant effect on the applicability of the T/S requirements. RCS pressure and pressurizer pressure instrumentation measure a similar parameter in the primary coolant system. Since the RCS is a closed-loop fluid system, pressure instruments should indicate approximately the same value. There is no significant difference between the instrument readings because they are corrected for range, height, and accuracy. There is no significant change in the margin of pressure between when the accumulators are required to be aligned at 1000 psig and the upper limit specified in T/S 3.5.1.d of 658 psig.

The proposed format changes are administrative and have no impact on plant operation.

Therefore, the proposed changes do not increase the probability of occurrence or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to T/S 3/4.5.1 and the associated Bases do not involve any physical changes to the plant, but do change the way the plant is operated by changing the method for ensuring spurious closure of the accumulator isolation valve will not occur. The proposed change to T/S Surveillance Requirement 4.5.1.c does not create any new operator actions. The position of the accumulator isolation valve remains open in Modes 1, 2, and 3 with RCS pressure greater than 1000 psig, which meets its design safety function. The proposed change does not increase the possibility of the accumulator valve repositioning. In order for repositioning to happen, the operator must close the molded-case circuit breaker coupled with either an active single failure or deliberate operator action in the control room. The proposed change of verifying that power is removed from the accumulator isolation valve provides the same level of protection. Two positive actions are required for the accumulator isolation valve to reposition.

The proposed format changes are administrative and have no impact on plant operation.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

T/S Surveillance Requirement 4.5.1.c provides requirements that ensure that a single action will not cause an inadvertent closure of the accumulator isolation valves. The proposed change continues to ensure that two positive actions, an operator action to restore the breaker and a single failure, are required for valve closure.

Changing "pressurizer pressure" to "RCS pressure" does not impact operation of the accumulators. The proposed changes do not impact the nitrogen cover pressure as stated in T/S 3.5.1.c. The accumulators would not be expected to inject borated water until RCS pressure lowers to 658 psig (the upper limit specified in T/S 3.5.1.d). The change does not affect when this would occur after an accident. Therefore, changing "pressurizer pressure" to "RCS pressure" has no impact on plant operation.

The proposed format changes are administrative and have no impact on plant operation.

Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 23, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the

petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to David. W. Jenkins, Esq., American Electric Power, Nuclear Generation Group, One Cook Place, Bridgman, MI 49106, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 5, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 18th day of November, 1999.

John F. Stang,

Sr. Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–30469 Filed 11–22–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of November 22, 29, December 6, and 13, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 22

Wednesday, November 24.
9:25 a.m.—Affirmation Session (Public Meeting) (if needed).

Week of November 29—Tentative

There are no meetings scheduled for the Week of November 29.

Week of December 6—Tentative

Wednesday, December 8.
9:25 a.m.—Affirmation Session (Public Meeting) (if needed).

Week of December 13—Tentative

Wednesday, December 15
9:25 a.m.—Affirmation Session (Public Meeting) (If needed).
9:30 a.m.—Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: Dr. John Larkins, 301–415–7360).

Thursday, December 16
9 a.m.—Meeting on NRC Response to Stakeholders' Concerns Location: (NRC Auditorium, Two White Flint North).
9:30 a.m.—Briefing on Status of RES Programs, Performance, and Plans (Including Status of Thermo-Hydraulics) (Public Meeting) (Contact: Jocelyn Mitchell, 301–415–5289).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292. Contact Person for more information: Bill Hill (301) 415–1661.

ADDITIONAL INFORMATION: By a vote of 5–0 on November 19, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of SECY–99–261—North Atlantic Energy Service Corp. (Seabrook Station, Unit 1) And Northeast Nuclear Energy Co. (Millstone Station, Unit 3), Docket Nos. 50–443–LT & 50–423–LT (consolidated), Joint Motion to Terminate Proceeding" (PUBLIC MEETING) be held on November 19, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet

at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: November 19, 1999.

William M. Hill, Jr.,

SECY, Tracking Officer, Office of the Secretary.

[FR Doc. 99–30634 Filed 11–19–99; 2:40 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Director, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on October 21, 1999, (64 FR 56816). Individual authorities established or revoked under Schedules A and B and established under Schedule C between September 1, 1999, and September 30, 1999, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, 1999, has also been published.

Schedule A

One Schedule A authority was established during September 1999.

Department of Justice

(A) General (2) positions at GS–15 and below on the staff of an Office of a Special Counsel. Effective September 30, 1999.

No Schedule A authorities were revoked during September 1999.

Schedule B

No Schedule B authorities were established or revoked during September 1999.

Schedule C

The following Schedule C authorities were established during September 1999:

Commodity Futures Trading Commission

Administrative Assistant to the Chairman. Effective September 10, 1999.

Governmental Affairs Officer to the Chairman. Effective September 24, 1999.

Council on Environmental Quality

Special Assistant for Outreach and Strategic Planning to the Chief of Staff. Effective September 7, 1999.

Department of Agriculture

Confidential Assistant to the Administrator, Food Safety and Inspection Service. Effective September 8, 1999.

Special Assistant to the Deputy Chief Information Officer. Effective September 15, 1999.

Department of the Air Force (DOD)

Confidential Assistant to the Secretary of the Air Force. Effective September 10, 1999.

Department of Commerce

Senior Advisor to the Assistant Secretary for Economic Development Administration. Effective September 10, 1999.

Senior Advisor for Communications to the Under Secretary for Export Administration. Effective September 14, 1999.

Senior Advisor to the Assistant Secretary and Commissioner, Patent and Trademark Office. Effective September 24, 1999.

Executive Director for Electronic Commerce Coordination to the Chief of Staff. Effective September 29, 1999.

Special Assistant to the Deputy Assistant Secretary, Intergovernmental Affairs, Office of the Secretary. Effective September 29, 1999.

Confidential Assistant to the Director, Office of Business Liaison. Effective September 30, 1999.

Department of Defense

Personal and Confidential Assistant to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. Effective September 7, 1999.

Special Assistant to the Assistant Secretary for Legislative Affairs. Effective September 10, 1999.

Defense Fellow to the Special Assistant for White House Liaison. Effective September 23, 1999.

Defense Fellow to the Special Assistant for White House Liaison. Effective September 30, 1999.

Department of Education

Special Assistant to the Inspector General. Effective September 3, 1999.

Confidential Assistant to the Assistant Secretary, Office of Legislative and Congressional Affairs. Effective September 8, 1999.

Confidential Assistant to the Assistant Secretary, Postsecondary Education. Effective September 24, 1999.

Department of Energy

Deputy Director, Scheduling and Advance to the Director, Scheduling and Advance. Effective September 8, 1999.

Special Assistant to the Director, Office of Scheduling and Advance. Effective September 8, 1999.

Special Assistant to the Secretary of Energy. Effective September 8, 1999.

Daily Scheduler to the Director, Office of Scheduling and Advance. Effective September 8, 1999.

Advisor to the Chief of Staff. Effective September 8, 1999.

Special Assistant to the Director, Office of Scheduling and Advance. Effective September 8, 1999.

Director, Consumer Information to the Director, Management and Administration. Effective September 8, 1999.

Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy. Effective September 10, 1999.

Senior Policy Advisor to the Director of Management and Administration. Effective September 10, 1999.

Director, Office of Materials Management Policy to the Director, Office of Policy. Effective September 29, 1999.

Department of Health and Human Services

Executive Director, President's Advisory Commission and White House Initiative on Asian Americans and Pacific Islanders to the Principal Deputy Assistant Secretary for Health. Effective September 24, 1999.

Department of Housing and Urban Development

Special Assistant to the Director, Office of Special Actions. Effective September 3, 1999.

Advance Coordinator to the Director, Executive Scheduling. Effective September 15, 1999.

Advance Coordinator to the Director, Executive Scheduling. Effective September 24, 1999.

Department of the Interior

Communications Director, Office of the Deputy Secretary to the Deputy Secretary. Effective September 15, 1999.

Deputy Director, Office of Intergovernmental Affairs to the Deputy Chief of Staff. Effective September 24, 1999.

Department of Justice

Special Assistant to the Deputy Director, Policy and Management. Effective September 30, 1999.

Department of Labor

Special Assistant to the Deputy Under Secretary for International Labor Affairs. Effective September 2, 1999.

Senior Public Affairs Advisor to the Assistant Secretary for Public Affairs. Effective September 2, 1999.

Special Assistant to the Assistant Secretary for Policy. Effective September 15, 1999.

Special Assistant to the Assistant Secretary. Effective September 15, 1999.

Special Assistant to the Assistant Secretary for Public Affairs. Effective September 24, 1999.

Department of State

Special Assistant to the Under Secretary for Public Diplomacy and Public Affairs. Effective September 13, 1999.

Special Assistant to the Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs. Effective September 14, 1999.

Special Assistant to the Chairman. Effective September 14, 1999.

Department of the Treasury

Public Affairs Specialist to the Deputy Assistant Secretary Public Affairs. Effective September 10, 1999.

Public Affairs Specialist to the Director, Office of Public Affairs. Effective September 24, 1999.

Associate to the Deputy Assistant Secretary for Management Operations. Effective September 27, 1999.

Department of Veterans Affairs

Executive Assistant to the Secretary of Veterans Affairs. Effective September 24, 1999.

Equal Employment Opportunity Commission

Special Assistant to the Chairwoman. Effective September 13, 1999.

Special Assistant (Speech Writer) to the Director, Office of Communications and Legislative Affairs. Effective September 15, 1999.

National Aeronautics and Space Administration

Commercialization Specialist to the Associate Administrator for Public Affairs. Effective September 8, 1999.

Office of Personnel Management

Special Assistant (White House Liaison) to the Chief of Staff. Effective September 29, 1999.

Securities and Exchange Commission

Legislative Affairs Specialist to the Director, Legislative Affairs. Effective September 22, 1999.

Secretary to the Director, Division of Investment Management. Effective September 24, 1999.

Small Business Administration

Director for Intergovernmental Affairs to the Associate Administrator for Commerce and Public Liaison. Effective September 21, 1999.

United States Tax Court

Trial Clerk to the Judge. Effective September 17, 1999.

Trial Clerk to the Judge. Effective September 17, 1999.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–30444 Filed 11–22–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24137; 812–11820]

American Century Mutual Funds, Inc., et al.; Notice of Application

November 16, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act") under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act, and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: American Century Mutual Funds, Inc.; American Century World Mutual Funds, Inc.; American Century Premium Reserves, Inc.; American Century Capital Portfolios, Inc.; American Century Strategic Asset Allocations, Inc.; American Century Quantitative Equity Funds; American Century Target Maturities Trust; American Century Government Income Trust; American Century Investment Trust; American Century Municipal Trust; American Century California Tax-Free and Municipal Funds; American Century International Bond Funds (collectively, the "Retail Funds"); American Century Variable Portfolios, Inc. (the "Insurance Fund"); American Century Investment Management, Inc. ("American Century"); any person controlling, controlled by, or under common control with American Century (together with American Century, an "American Century Adviser"); and any open-end management investment company registered under the Act for which an American Century Adviser serves as investment adviser.[1]

FILING DATES: The application was filed on October 25, 1999. Applicants have agreed to file an amendment, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 13, 1999 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, American Century Investments, 1665 Charleston Road, Mountain View, CA 94043.

[1] All existing Funds (defined below) that currently intend to rely on the order have been named as applicants, and any other existing or future Funds that subsequently rely on the order will comply with the terms and conditions in the application.

VOL 64 ISS 225 NO 23 1999 UMI

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Nadya Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC, 20549–0102. (tel. 202–942–8090).

Applicants' Representations

1. The Retail Funds and the Insurance Fund are registered under the Act as open-end management investment companies. The Retail Funds are organized as Maryland corporations, Massachusetts business trusts, and a California corporation. The Insurance Fund is organized as a Maryland corporation. The Retail Funds and the Insurance Fund have, respectively, sixty-six and six separate portfolios (each a "Fund"). American Century is registered as an investment adviser under the Investment Advisers Act of 1940. American Century is a wholly-owned subsidiary of American Century Companies, Inc. Each Fund has entered into an investment advisory agreement with American Century. American Century also provides administrative services to the Funds.

2. Each Fund and American Century have obtained an order under section 17(d) and rule 17d–1 permitting the Funds and certain other registered investment companies to deposit uninvested cash balances that remain at the end of a trading day in one or more joint trading accounts (each a "Joint Account") to be used to enter into short-term investments. The Funds and American Century also obtained an order to permit them to invest their cash balances in one or more of the Funds that are money market funds that comply with rule 2a–7 of the Act (the "Money Market Funds").

3. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments, either directly or through the Joint Account. Other Funds may borrow money from the same or other banks for temporary purposes to satisfy redemption requests or to cover unanticipated cash shortfalls such as a trade "fail" in which cash payment for a portfolio security sold by a Fund has been delayed. Currently, the Funds have credit arrangements with their custodians (*i.e.*, overdraft protection) under which the custodians may, but are not obligated to, lend money to the Funds to meet the Funds' temporary cash needs. In addition, the Funds have a small, limited-purpose committed line of credit which could be drawn upon to meet redemptions.

4. If the Funds were to borrow money from their custodians under their current arrangements or under other credit arrangements with a bank, the Funds would pay interest on the borrowed cash at a rate which would be significantly higher than the rate that would be earned by other (non-borrowing) Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential represents the bank's profit for serving as a middleman between a borrower and lender. Other bank loan arrangements, such as committed lines of credit, would require the Funds to pay substantial commitment fees in addition to the interest rate to be paid by the borrowing Fund.

5. Applicants request an order that would permit the Funds to enter into lending agreements ("Interfund Lending Agreements") under which the Funds would lend money directly to and borrow money directly from each other through a credit facility for temporary purposes ("Interfund Loan"). Applicants believe that the proposed credit facility would substantially reduce the Funds' potential borrowing costs and enhance their ability to earn higher rates of interest on short-term lendings. Although the proposed credit facility would substantially reduce the Funds' need to borrow from banks, the Funds might also continue to maintain committed lines of credit or other borrowing arrangements with banks. The funds also would continue to maintain overdraft protection currently provided by their custodians.

6. Applicants anticipate that the credit facility would provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

7. Applicants also propose using the credit facility when a sale of securities fails due to circumstances such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if the Fund has undertaken to purchase a security with the proceeds from securities sold. When the Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Alternatively, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. User of the credit facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

8. While borrowing arrangements with banks will continue to be available to cover unanticipated redemptions and sales fails, under the proposed credit facility a borrowing Fund would pay lower interest rates than those offered by banks on short term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash through the Joint Account in repurchase agreements or in the Money Market Funds. Thus, applicants believe that the proposed credit facility would benefit both borrowing and lending Funds.

9. The interest rate charged to the Funds on any Interfund Loan (the "Interfund Loan Rate") would be the average of the Repo Rate and the Bank Loan Rate, as defined below. The Repo Rate for any day would be the highest rate available from investments in overnight repurchase agreements through the Joint Account. The Bank Loan Rate for any day would be calculated by an American Century Adviser each day an Interfund Loan is made according to a formula established by the directors of the Funds (the "Directors") designed to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based upon a publicly available rate (*e.g.*, Federal Funds plus 25 basis points) and would vary with this rate so as to reflect changing bank loan rates. Each Fund's Directors periodically would review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent

modifications to the formula would be subject to the approval of each Fund's Directors.

10. The credit facility would be administered by American Century's money market investment professionals (including the portfolio manager for the Money Market Funds and fund accounting department (collectively, the "Cash Management Team"). Under the proposed credit facility, the portfolio managers for each participating Fund may provide standing instructions to participate daily as a borrower or lender. As ion the case of the Joint Account, the American Century Adviser on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. Once it had determined the aggregate amount of cash available for loans and borrowing demand, the Cash Management Team would allocate loans among borrowing Funds without any further communication from portfolio managers (other than the Money Market Fund portfolio manager on the Cash Management Team). Applicants expect far more available uninvested cash each day than borrowing demand. All allocations will require approval of at least one member of the Cash Management Team who is not the Money Market Funds' portfolio manager. After the American Century Adviser has allocated cash for Interfund Loans, it will invest any remaining cash in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the portfolio manager of the Money Market Funds. The Money Market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions.

11. The Cash Management Team would allocate borrowing demand and cash available for lending among the Funds on what the Team believed to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Fund's Directors, including a majority of Directors who are not "interested persons" of the funds, as defined in section 2(a)(19) of the Act ("Independent Directors"), to ensure that both borrowing and lending Funds participate on an equitable basis.

12. The American Century Adviser would (i) Monitor the Interfund Loan Rates charged and the other terms and conditions of the loans, (ii) Ensure compliance with each Fund's investment policies and limitations, (iii) Ensure equitable treatment of each Fund, and (iv) Make quarterly reports to the Directors concerning any transactions by the Fund under the credit facility and the interest rates charged.

13. The American Century Adviser would administer the credit facility as part of its duties under its existing management or advisory and service contract with each Fund and would receive no additional fee as compensation for its services. The American Century Adviser of companies affiliated with it may collect standard ricing, recordkeeping, bookkeeping and accounting fees applicable to repurchase and lending transactions generally, including transactions effected through the credit facility. Fees would be no higher than those applicable for comparable bank loan transactions.

14. Each Fund's participation in the proposed credit facility will be consistent with its organizational documents and its investment policies and limitations. The prospectus of each Fund discloses that the Fund may borrow money for temporary purposes in amounts up to 25% of its total assets. Each non-Money Market Fund may mortgage or pledge securities ad security for borrowings in amounts up to 15% of its net assets. Each of the Money Market Funds may mortgage or pledge securities only to secure permitted borrowings. As a fundamental policy, each Fund may lend securities or other assets if, as a result, no more than 25% of its total assets would be lent to other parties.

15. The prospectus of each Fund currently discloses that Funds advised by American Century intend to seek permission form the SEC to borrow money from or lend money to each other. If applicants' requested order is granted, the statement of additional information of each Fund will disclose all material facts about intended participation in the credit facility.

16. In connection with the credit facility, applicants request an order under (i) section 6(c) of the act granting relief from sections 18(f) and 21(b) of the Act; (ii) section 12d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting relief from sections from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an "affiliated person" of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having an American Century Adviser as their common investment adviser.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with potential adverse interests to and influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because (i) an American Century Adviser would administer the program as a disinterested fiduciary (*e.g.*, a fiduciary with no financial interest in the amount or the number of transactions generated by the facility); (ii) all Interfund Loans

would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through the Joint Account or in the Money Market funds; (iii) the Interfund Loans would not involve a greater risk than such other investments; (iv) the lending Fund would receive interest at a rate higher than it could obtain through such other investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b) and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed credit facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Funds or shareholders, and that the American Century Adviser would receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank; provided, that immediately after any such borrowing there is an asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term "senior security" includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined credit facility and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon applications for exemptive relief from section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by an unfair advantage to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The Interfund Loan Rates to be charged to the funds under the credit facility will be the average of the Repo Rate and Bank Loan Rate.

2. On each business day, the American Century Adviser will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) More favorable to the lending Fund than the Repo Rate; (b) More favorable to the lending Fund than the yield on the Money Market Funds ("MMF Yield") (for those Funds that invest in the Money Market Funds); and (c) More favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) Will be at an interest rate equal to or lower than any outstanding bank loan, (b) Will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) Will have a maturity no longer than any outstanding bank loan (and in any event not over seven days), and (d) Will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund

may not borrow through the credit facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 25% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) Repay all its outstanding Interfunds Loans, (b) Reduce its outstanding indebtedness to 10% or less of its total assets, or (c) Secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No equity, taxable bond or Money Market Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 5%, 7.5% or 10%, respectively, of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold to cover either shareholder redemptions or sales fails, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the credit facility, as measured on the day the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions and 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by the lending Fund and may be repaid on any day by the borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Cash Management Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without intervention of the portfolio manager of the Fund (except the portfolio manager of the Money Market Funds acting in her or his capacity as a member of the Cash Management Team). All allocations will require approval of at least one member of the Cash Management Team who is not the Money Market Funds' portfolio manager. The Cash Management Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the extent that the portfolio manager of the Money Market Funds has access to loan demand data). The American Century Adviser will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the portfolio manager of the Money Market Funds.

13. An American Century Adviser will monitor the Interfund Loan Rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Directors concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit thereunder.

14. The Directors of each Fund, including a majority of the Independent Directors: (a) Will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting such transactions; (b) Will establish the Bank Loan Rate formula used to determine the Interfund Loan Rate and review no less frequently than annually the continuing appropriateness of such Bank Loan Rate formula; and (c) Will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and such default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, the American Century Adviser will promptly refer such loan for arbitration to an independent arbitrator selected by the Directors of any Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[2] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Directors setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and commercial bank borrowings, the MMF Yield, and such other information presented to the Fund's Directors in connection with the review required by conditions 13 and 14.

17. The American Century Adviser will prepare and submit to the Directors for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operations of the credit facility, the American Century Adviser will report on the operations of the credit facility at the Directors' quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund shall prepare an annual report that evaluates any American Century Adviser's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report

[2] If the dispute involves Funds with separate Boards of Directors, the Directors of each Fund will select an independent arbitrator that is satisfactory to each party.

shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be higher than the Repo Rate, and the MMF Yield, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Directors; and (e) That the Interfund Loan Rate does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless, it has fully disclosed in its statement of additional information all material facts about its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30436 Filed 11–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (MediaBay, Inc. (Formerly Audio Book Club, Inc.), Common Stock, No Par Value) File No. 1–13469

November 17, 1999.

MediaBay, Inc. (formerly audio Book Club, Inc.) ("Company) has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the security specified above ("Security") from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

The Security has been listed for trading on the Amex since October 23, 1997, and, pursuant to a Registration Statement on Form 8–A filed with the Commission which became effective on November 12, 1999, has been designated for quotation as a National Market Security on the Nasdaq Stock Market, Inc. ("Nasdaq"). Trading in the shares of the Security on the Nasdaq commenced at the opening of business on November 15, 1999.

On July 13, 1999, the Company's Board of Directors unanimously approved a resolution authorizing the withdrawal of the Security from listing on the Amex in conjunction with a commencement of trading on the Nasdaq. The Company, in application to the Commission, explained its desire to transfer trading in the security from the Amex to the Nasdaq by citing the ability of multiple market makers on the Nasdaq to provide better liquidity for the Security, as well as better visibility for the Company, than the auction market system of the Amex had done.

The Company has complied with Amex Rule 18 by filing with the Exchange a certified copy of the resolution adopted by its Board of Directors authorizing the withdrawal of the Security from listing on the Amex, and by setting forth in detail to the Exchange the reasons and supporting facts for such proposed withdrawal. The amex has in turn informed the Company that it would not interpose any objection to the Company's application to withdraw its Security from listing and registration on the Exchange.

The Company's application relates solely to withdrawal of its Security from listing and registration on the Exchange and shall not affect the Security's designation for quotation on the Nasdaq. By reason of Section 12(g) of the Act and the rules and regulations of the Commission thereunder, the company shall continue to be obligated by the reporting requirements under Section 13 of the Act.

Any interested person may, on or before December 8, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–30544 Filed 11–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27102]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

November 16, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by December 10, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 10, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Conectiv, a registered holding company, and Conectiv's subsidiaries, Delmarva Power & Light Company ("Delmarva"), Conectiv Resource Partners, Inc., Conectiv Energy Supply, Inc., King Street Assurance, Ltd., and Conectiv Energy, Inc., all located at 800 King Street, Wilmington, Delaware 19899; Delmarva Capital Investments, Inc., Conectiv Services, Inc., Conectiv Communications, Inc., Delmarva Services Company, DCI I, Inc., DCI II, Inc., DCTC–Burney, Inc., Conectiv Operating Services Co., Conectiv Solutions, LLC, and Conectiv Plumbing

LLC, all located at 252 Chapman Road, P.O. Box 6066, Newark, Delaware 19714; Atlantic City Electric Company ("Atlantic"), 6801 Black Horse Pike, Egg Harbor Township, New Jersey 08234; Atlantic Generation, Inc., Atlantic Generation, Inc., Atlantic Southern Properties, Inc., ATE Investment, Inc., Conectiv Thermal Systems, Inc., Binghamton Limited, Inc., Binghamton Limited, Inc., Pedrick Gen., Inc., Vineland Limited, Inc., Vineland General, Inc., Atlantic Jersey Thermal Systems, Inc., and ATS Operating Services, Inc., all located at 5100 Harding Highway, Mays Landing, New Jersey 08330 (collectively, "Applicants") have filed a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 32 and 33 of the Act and rules 43(a), 45, 46(a), 53 and 54 under the Act to an application-declaration originally filed under the Act.

By order dated February 26, 1998 (HCAR No. 26833), and supplemented August 21, 1998 (HCAR No. 26907), September 28, 1998 (HCAR 26921), October 21, 1998 (HCAR No. 26930), and November 13, 1998 (HCAR No. 26941) (the "Financing Orders"), the Commission authorized Conectiv and its subsidiaries to effect certain financing transactions. The Financing Orders authorized Conectiv: (1) To issue short term debt aggregating no more than $800 million, less any amount of short term debt issued by Delmarva under its authorization in the Financing Orders to issue up to $275 million of short term debt; (2) to issue up to $250 million of long term debt; and (3) to issue common stock which, when aggregated with any long term debt issued, does not exceed $500 million. The Commission reserved jurisdiction in the Financing Orders over the issuance by Conectiv of an additional $250 million of long term debt.

Financings authorized in the Financing Orders are subject, among other things, to the limitation that Conectiv's consoliated common equity will be at least 30% of its total consolidated capitalization ("Common Equity Ratio"), as adjusted to reflect subsequent events that affect capitalization ("Common Equity Condition").

Applicants now request the following:

1. An extension of the effective period for all authorizations contained in the Financing Orders to March 31, 2002 ("Authorization Period").

2. An increase in the amount of short term debt that Conectiv is authorized to have outstanding during the Authorization Period, from $800 million to $1.3 billion, less any short term debt issued by Delmarva.

3. A modification in the Common Equity Condition to state that the Common Equity Ratio would be at least twenty percent, as adjusted to reflect subsequent events that affect capitalization.

4. An increase in the level of long term debt for which authorization is requested from $500 million to $1 billion.[1] Conectiv asks that the Commission reserve jurisdiction over the issuance and sale of this additional amount of long term debt. Conectiv states that when any of the additional $500 million requested is authorized and issued, the proceeds will be used to pay down short term debt.

5. Elimination of the $25 million maximum limit on borrowings by Conectiv's direct and indirect nonutility subsidiaries from the Conectiv system money pool ("Money Pool").

6. Addition of King Street Assurance, Ltd., a new subsidiary of Conectiv Solutions, Inc., that was formed as an insurance company in Bermuda to reinsure appliance warranties, to the Money Pool.

7. Ability to issue securities to acquire up to $350 million in interests in exempt wholesale generators, as that term is defined in section 32 ("EWGs"), through the Authorization Period.[2] Conectiv projects that, as of March 31, 2002, a $350 million investment in EWGs would be approximately 145% of its average retained earnings for the preceding four quarters. Conectiv states that this investment would be seventy five percent of its average consolidated retained earnings if the amount of retained earnings of Atlantic that was not consolidated into Conectiv under the method of accounting use for the acquisition of Atlantic by Conectiv were added to Conectiv's retained earnings for each of those quarters.[3]

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30437 Filed 11–22–99; 8:45 am]

BILLING CODE 8010–01–M

[1] The Commission reserved jurisdiction in the Financing Orders over the issuance and sale by Conectiv of $250 million of the $500 million in long term debt requested earlier in this filing. The request made in this post-effective amendment would increase the amount subject to this reservation from $250 million to $750 million.

[2] Rule 53(a) permits Conectiv to issue securities to fund the acquisition of EWGs if the aggregate investment does not exceed fifty percent of its average consolidated retained earnings as reported for the four most recent quarterly periods. However, under rule 52(b)(2), if average consolidated retained earnings have decreased by ten percent from the average for the previous four quarterly periods and the aggregate investment in EWGs exceeds two percent of the total capital invested in utility operations, rule 53(a) does not apply. Conectiv projects that, as a result of expected write-downs due to electric industry restructuring, it may not be able to satisfy the requirements of rule 53(b)(2) by the end of January 2000 and, accordingly, would not be able to rely on the "safe harbor" provision in rule 53(a).

[3] By order dated February 25, 1998 (HCAR No. 26832), Conectiv was authorized to acquire all of the outstanding common stock of Delmarva and Atlantic ("Merger"). Because Conectiv was required to use the "purchase" method of accounting for the Merger, it could not include Atlantic's retained earnings in its own consolidated retained earnings.

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw from Listing and Registration; (Starwood Financial Trust, Class A Shares of Beneficial Interest, Par Value $1.00) File No. 1–10150

November 17, 1999.

Starwood Financial Trust ("Trust"), has filed an application with the Securities Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the security specified above (the "Trust Shares") from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

On November 3, 1999, the Trust completed an incorporation merger whereby it (1) converted from a Maryland real estate investment trust to a Maryland corporation, (2) changed its name from Starwood Financial Trust to Starwood Financial Inc. ("New Corporation"), and (3) converted the Trust Shares, as well as its Class B shares of beneficial interest, into common stock of the New Corporation ("New Corporation Stock"). At 12:01 A.M. on November 4, 1999, a subsidiary of the New Corporation merged with and into TriNet Corporate Realty Trust, Inc. ("TriNet"), with TriNet surviving as a wholly owned subsidiary of the New Corporation.

The Trust Shares have been listed on the Amex and, pursuant to a Registration Statement on Form 8–A filed with the Commission which became effective on November 2, 1999, the New Corporation Stock has been listed on the New York Stock Exchange, Inc. ("NYSE"). Trading in the New Corporation Stock commenced on the NYSE at the opening of business on November 4, 1999.

The Trust has complied with Amex Rule 18 by filing with the Exchange a certified copy of the preambles and resolutions adopted by the Board of Trustees on June 15, 1999, authorizing the withdrawal of the Trust Shares from listing on the Exchange and by setting forth in detail to the Amex the reasons for such proposed withdrawal and the facts in support thereof. The Amex has advised the trust that it would not interpose any objection to the withdrawal of the Trust Shares from listing on the Exchange.

The Trust's application relates solely to the withdrawal of the Trust Shares from listing on the Amex and shall have no effect upon the continued listing and registration of the New Corporation Stock on the NYSE. Moreover, by reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the New Corporation shall continue to be obligated to file reports with the Commission under Section 13 of the Act.

Any interested person may, on or before December 8, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–30545 Filed 11–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24140; File No. 812–11766]

Pacific Life Insurance Company, et al.; Notice of Application

November 17, 1999.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an amended order pursuant to Section 6(c) of the Investment Company Act of 1940 ("1940 Act"), granting exemptive relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(B)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order amending an order previously issued to permit shares of the Pacific Select Fund (the "Fund") and shares of any other existing or future investment company that is designed to fund insurance products and for which Pacific Life Insurance Company, or any of its affiliates, may serve as investment manager, investment adviser, sub-adviser, administrator, manager, principal underwriter or sponsor (the Fund and such other investment companies being hereinafter referred to, collectively, as the "Insurance Funds"), or shares of any current or future series of any Insurance Fund, to be sold to and held by: (1) Separate accounts funding variable annuity contracts and scheduled premium and flexible premium variable life insurance contracts issued by both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans ("Qualified Plans" or "Plans") held outside of the separate account context.

Applicants

Pacific Life Insurance Company (formerly Pacific Mutual Life Insurance Company) ("Pacific Life"), Pacific Life & Annuity Company (formerly PM Group Life Insurance Company) ("PL&A"), Pacific Select Separate Account of Pacific Life Insurance Company (formerly Pacific Select Separate Account of Pacific Mutual Life Insurance Company ("Pacific Select Account"), Pacific Select Exec Separate Account of Pacific Life Insurance Company ("Pacific Select Exec Account"), Pacific Select Exec Separate Account of Pacific Life & Annuity Insurance Company ("PL&A Account") (each a "Separate Account"), and the Pacific Select Fund (collectively, the "Applicants").

FILING DATES: The application was filed on August 25, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on December 13, 1999 and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Robin Yonis Sandlaufer, Esq., Pacific Life Insurance Company, 700 Newport Center Drive, Newport Beach, California 92660.

FOR FURTHER INFORMATION CONTACT: Paul G. Cellupica, Senior Counsel, or Mark Amorosi, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (202–942–8090).

Applicants' Representations

1. The Fund is an open-end management investment company organized as a Massachusetts business trust. The Fund issues shares in multiple series. Additional series of the Fund and additional Insurance Funds may be established in the future.

2. Pacific Life serves as the investment adviser to the Fund. Pacific Mutual Distributors, Inc. ("PMD") serves as the Fund's distributor.

3. Pacific Life is a life insurance company based in California. Pacific Life is authorized to conduct life insurance and annuity business in the District of Columbia and all states except New York. Pacific Life is a subsidiary of Pacific LifeCorp, a holding company which, in turn, is a subsidiary of Pacific Mutual Holding Company, a mutual holding company.

4. PL&A is a life insurance company based in Arizona. PL&A, a wholly-owned subsidiary of Pacific Life, is authorized to conduct life insurance and annuity business in New York and certain other states.

5. The Pacific Select Account is registered as a unit investment trust under the 1940 Act, and currently is comprised of fourteen subaccounts called Variable Accounts. The assets in each Variable Account are invested in shares of the corresponding portfolios of the Fund, each of which pursues different investment objectives and policies. The assets of the Pacific Select Account may not be charged with any liabilities arising out of any other business conducted by Pacific Life, but the obligations of the Pacific Select Account, including benefits related to variable life insurance, are obligations of Pacific Life. The Pacific Select Account funds individual flexible premium variable life insurance policies.

6. The Pacific Select Exec Account is registered as a unit investment trust under the 1940 Act, and currently is comprised of 22 subaccounts called Variable Accounts. The assets in eighteen of the Variable Accounts are invested in shares of the corresponding portfolios of the Fund, and the assets of four of the Variable Accounts are invested in shares of the corresponding portfolios of M Fund, Inc., an open-end investment company of the series type registered under the 1940 Act. The Pacific Select Exec Account will not be charged with any liabilities arising out of any other business conducted by Pacific Life, but the obligations of the Pacific Select Exec Account, including liabilities related to variable life insurance, are obligations of Pacific Life. The Pacific Select Exec Account funds individual flexible premium variable life insurance policies.

7. The Pl&A Account is registered as a unit investment trust under the 1940 Act and currently is comprised of eighteen subaccounts called Variable Accounts. The assets in each of the Variable Accounts are invested in shares of the corresponding portfolios of the Fund. The PL&A Account will not be charged with any liabilities arising out of any other business conducted by PL&A, but the obligations of the PL&A Account, including liabilities related to variable life insurance, are obligations of PL&A. The PL&A Account funds individual flexible premium variable life insurance policies.

8. An order was issued by the Commission on September 30, 1987 ("Prior Order") which, among other things, granted exemptions from sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and paragraph (b)(15) of Rule 6e–3(T) to the extent necessary to permit the Fund to be offered to the Pacific Select Account, other registered and unregistered separate accounts of Pacific Life or other affiliated life insurers that offer variable annuity contracts and flexible premium variable life insurance policies, and to separate accounts of unaffiliated life insurers offering variable annuity contracts or scheduled or flexible premium variable life insurance contracts.

9. Pacific Life and/or its affiliates have purchased shares of certain Portfolios of the Fund in connection with initial capital investments. Apart from the investments for initial capital, the Fund currently offers its shares only to separate accounts of Pacific Life, and therefore serves as an investment medium only for persons who own a variable annuity contract or flexible premium variable life insurance policy issued or administered by Pacific Life. The Insurance Funds, however, intend to offer shares of certain of their existing and future series to Qualified Plans. Further, the Insurance Funds may in the future offer shares of their existing and future series to separate accounts of Pacific Life or its affiliates to serve as the investment vehicle for scheduled premium variable life insurance contracts. The Prior Order, however, would not permit the Insurance Funds to offer their shares to separate accounts funding flexible premium variable life insurance policies issued by Pacific Life or its affiliates if the Insurance Funds also offered their shares to Qualified Plans. Furthermore, the Prior Order would not permit the Insurance Funds to offer their shares to Qualified Plans, separate accounts of other insurance companies or separate accounts funding variable annuity contracts issued by Pacific Life or its affiliates if the Insurance Funds also offered their shares to separate accounts funding scheduled premium variable life insurance policies issued by Pacific Life or its affiliates.

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order pursuant to Section 6(c) of the 1940 Act amending the Prior Order to grant exemptions from the provisions of sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder (including any comparable provisions of a permanent rule that replaces Rule 64–3(T)), to the extent necessary to permit shares of each existing and future series of each Insurance Fund to be sold to and held by (1) separate accounts funding variable annuity contracts and scheduled premium and flexible premium variable life insurance contracts issued by both affiliated and unaffiliated life insurance companies; and (2) qualified pension and retirement plans ("Qualified Plan" or "Plans") held outside of the separate account context.

2. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally exempt any person, security, or transaction, or class or classes of persons, securities or transactions, from any provision of the 1940 Act, or the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust ("Trust Account"), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions granted to a separate account by Rule 6e–2(b)(15) are available only where the management investment company underlying the Trust Account ("underlying fund") offers its shares "*exclusively* to variable life insurance separate accounts of the life insurer or of any affiliated life insurance company * * *." (emphasis added). For these purposes, a variable life insurance separate account refers to a separate account that funds scheduled premium variable life insurance contracts. Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity or a flexible premium variable life insurance separate account of the same company or of any affiliated life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company is referred to herein as "mixed funding." In addition, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. The use of a common management company as the underlying investment medium for variable life insurance separate accounts of one insurance company and separate accounts funding variable contracts of one or more unaffiliated life insurance companies is referred to herein as "shared funding." Moreover, because the relief under Rule 6e–2(b)(15) is available only where shares are offered *exclusively* to separate accounts, additional exemptive relief may be necessary if the shares of the Insurance Funds are also to be sold Qualified Plans.

4. In connection with the funding of flexible premium variable life insurance contracts issued through a Trust Account, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions granted to a separate

account by Rule 6e–3(T) are available only where the Trust Account's underlying fund offers its shares "*exclusively* to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company, or which offer their shares to any such life insurance company in consideration solely for advances made by the life insurer in connection with the operation of the separate account * * *." (emphasis added). Therefore, Rule 6e–3(T) permits mixed funding with respect to a flexible premium variable life insurance separate account, subject to certain conditions. However, Rule 6e–3(T) does not permit shared funding because the relief granted by Rule 6e–3(T)(b)(15) is not available with respect to a flexible premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to separate accounts (including variable annuity and flexible premium and scheduled premium variable life insurance separate accounts) of unaffiliated life insurance companies. Because the relief under Rule 6e–3(T) is available only where shares are offered *exclusively* to separate accounts, or to life insurers in connection with the operation of a separate account, additional exemptive relief may be necessary if the shares of the Insurance Funds are also to be sold to Qualified Plans.

5. The relief granted by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) is in no way affected by the purchase of the Insurance Funds' shares by Qualified Plans. However, in that the relief under rules 6e–2(b)(15) and 6e–3(T)(b)(15) is available only where shares are offered *exclusively* to separate accounts, additional exemptive relief may be necessary if the shares of the Insurance Funds are also to be sold to Qualified Plans. Applicants therefore request relief in order to have the participating insurance companies enjoy the benefits of the relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15). Applicants assert that if the Insurance Funds were to sell shares only to Qualified Plans and/or separate accounts funding variable annuity contracts, no exemptive relief would be necessary. None of the relief provided for in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) relates to Qualified Plans or to a registered investment company's ability to sell its shares to a Qualified Plan. It is only because some of the separate accounts that may invest in the Insurance Funds may themselves be investment companies that rely upon Rules 6e–2 and 6e–3(T) and that desire to have the relief continue in place, that the Applicants are applying for the requested relief. If and when a material irreconcilable conflict between the separate accounts arises in this context, the participating insurance companies must take whatever steps are necessary to remedy or eliminate the conflict, including eliminating the Insurance Funds as an eligible investment. Applicants have concluded that the inclusion of Qualified Plans as eligible shareholders should not increase the risk of material irreconcilable conflicts among shareholder. However, Applicants further assert that even if a material irreconcilable conflict involving the Qualified Plans arose, the Qualified Plans, unlike the separate accounts, could redeem their shares and make alternative investments. Applicants thus argue that allowing limited investment by Qualified Plans in the Insurance Funds should not increase the opportunity for conflicts of interest.

6. Since the Prior Order was issued, regulations under the Internal Revenue Code ("the Code") have been issued that permit shares of an investment company to be offered directly to Qualified Plans outside of the separate account context as well as to insurance company separate accounts. Section 817(h) of the Code imposes certain diversification standards on the underlying assets of separate accounts funding variable annuity contracts and variable life contracts. The Code provides that such contracts shall not be treated as an annuity contract or life insurance contract for any period (and any subsequent period) for which the separate account investments are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued Regulations (Treas. Reg. 1.817–5) that established diversification requirements for the investment portfolios underlying variable annuity and variable life contracts. The Regulations provide that, in order to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations also contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts.

7. In general, Section 9(a) of the 1940 Act disqualifies any person convicted of certain offenses, and any company affiliated with that person, from acting or serving in various capacities with respect to a registered investment company. More specifically, paragraph (3) of Section 9(a) provides that it is unlawful for any company to serve as investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a) (1) or (2).

8. Rule 6e–2(b)(15) (i) and (ii) and Rule 6e–3(T)(b)(15) (i) and (ii) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations discussed above on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management investment company. The relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permits the life insurer to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) are participating in the management or administration of the fund.

9. The partial relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of Section 9 limits, in effect, the amount of monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Those Rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies in that organization. It is also unnecessary to apply Section 9(a) to the many individuals in various unaffiliated

insurance companies (or affiliated companies of participating insurance companies) that may utilize the Insurance Funds as the funding medium for variable contracts. There is no regulatory purpose in extending the monitoring requirements to embrace a full application of Section 9(a)'s eligibility restrictions because of mixed funding or shared funding and sales to Qualified Plans. Applying the monitoring requirements of Section 9(a) because of investment by separate accounts of other participating insurance companies or Qualified Plans would be unjustified and would not serve any regulatory purpose. Furthermore, the increased monitoring costs would reduce the net rates of return realized by contractworkers and Qualified Plan participants. Finally, because the Qualified Plans are not investment companies and will not be deemed affiliates by virtue of their shareholdings, no additional relief is required with respect to Qualified Plans. Rules 6e–2 and 6e–3(T) provide relief from the eligibility restrictions of Section 9(a) only for officers, directors or employees of participating insurance companies or their affiliates. The eligibility restrictions of Section 9(a) will still apply to any officers, directors or employees of the Adviser or an affiliate who participate directly in the management or administration of an Insurance Fund. The monitoring described above would not benefit contractowners and Plan participants and would only increase costs, thus reducing net rates of return.

10. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from Sections 13(a), 15(a), and 15(b) of the 1940 Act, to the extent that those sections have been deemed by the Commission to require "pass-through" voting with respect to management investment company shares held by a separate account, to permit the insurance company to disregard the voting instructions of its contractowners in certain limited circumstances. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A)(*1*) provide that the insurance company may disregard the voting instructions of its contractowners in connection with the voting of shares of an underlying fund if such instructions would require such shares to be voted to cause such companies to make (or refrain from making) certain investments which would result in changes in the subclassification or investment objectives of such companies or to approve or disapprove any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of such Rules). Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(*2*) provide that the insurance company may disregard contractowners' voting instructions if the contractowners initiate any change in such company's investment policies, principal underwriter, or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii)(B) and (C) of such Rules).

11. Rule 6e–2 recognizes that a variable life insurance contract is an insurance contact; it has important elements unique to insurance contracts; and it is subject to extensive state regulation of insurance. In adoting Rule 6e–29(b)(15)(iii), the Commission expressly recognized that state insurance regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters. The Commission also expressly recognized that state insurance regulators have authority to require an insurer to draw from its general account to cover costs imposed upon the insurer by a change approved by contractowners over the insurer's objection. The Commission therefore deemed such exemptions necessary "to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer." In this respect, flexible premium variable life insurance contracts are identical to scheduled premium variable life insurance contracts; therefore, Rule 6e–3(T)'s corresponding provisions undoubtedly were adopted in recognition of the same factors.

12. Applicants maintain that the Insurance Funds' sale of shares to Qualified Plans will not have any impact on the relief requests. Shares of the Insurance Funds sold to Qualified Plans would be held by the trustees of such Plan. The exercise of voting rights by Qualified Plans, whether by the trustees, by participants, or by investment managers engaged by the Plans, does not present the type of issues respecting the disregard of voting rights that are presented by variable life separate accounts. With respect to Qualified Plans, which are not registered as investment companies under the 1940 Act, there is no requirement to pass through voting rights to Plan participants. Indeed, to the contrary, applicable law expressly reserves voting rights associated with certain types of Plan assets to certain specified persons. If a named fiduciary to a Qualified Plan appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Qualified Plan nay have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Certain Qualified Plans, however, may provide for the trustee(s), an investment adviser, or another named fiduciary to exercise voting rights in accordance with instructions from participants. If a Qualified Plan does not provide participants with the right to give voting instructions, Applicants do not see any potential for material irreconcilable conflicts of interest between or among variable contractowners and Plan participants with respect to voting of the respective Portfolio's shares. Accordingly, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

13. Applicants state that prohibitions on mixed and shared funding might reflect some concern with possible divergent interests among different classes of investors. In this regard, applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. A particular state insurance regulatory body could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. The fact that different participating insurance companies may be domiciled in different states does not create a significantly different or enlarged problem.

14. Applicants further assert that shared funding is, in this respect, no different than the use of the same investment company as the funding vehicle for affiliated participating insurance companies, which Rules 6e–2(b)(15) and 6e–3(T)(b)(15) permit under various circumstances. Affiliated participating insurance companies may be domiciled in different states and be subject to differing state law requirements. Affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements.

15. Applicants submit that the right under Rules 6e–2(b)(15) and 6e–3(T)(b)(15) of the insurance company to disregard contractowners' voting instructions does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Under Rules 6e–2(b)(15) and 6e–3(T)(b)(15), an insurer can disregard contractowner voting instructions only with respect to certain specified items and under certain specified conditions. Affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by contractowners. The potential for disagreement is limited by the requirements in Rules 6e–2 and 6e–3(T) that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations. However, a particular participating insurance company's disregard of voting instructions nevertheless could conflict with the majority of contractowner voting instructions. The participating insurance company's action could arguably be different than the determination of all or some of the other participating insurance companies (including affiliated insurers) that the contractowners' voting instructions should prevail, and could either preclude a majority vote approving the change or could represent a minority view. If the participating insurance company's judgment represents a minority position or would preclude a majority vote, the participating insurance company may be required, at an Insurance Fund's election, to withdraw its separate account's investment in the Insurance Fund, and no charge or penalty would be imposed as a result of such withdrawal.

16. With respect to voting rights, it is possible to provide an equitable means of giving such voting rights to contractowners and to Qualified Plans. The transfer agent for the Insurance Funds will inform each shareholder, including each separate account and each Qualified Plan, of its share ownership in an Insurance Fund. Each participating insurance company will then solicit voting instructions in accordance with the "pass-through" voting requirement. Investment by Qualified Plans in any Insurance Fund will similarly present no conflict. The likelihood that voting instructions of insurance company separate account holders will ever be disregarded or that the possible withdrawal referred to immediately above will occur is extremely remote and this possibility will be known, through prospectus disclosure or disclosure in a Statement of Additional Information to any Qualified Plan choosing to invest in an Insurance Fund. Moreover, even if a material irreconcilable conflict involving Qualified Plans arises, the Plans may simply redeem their shares and make alternative investments. Votes cast by the Qualified Plans, of course, cannot be disregarded but must be counted and given effect.

17. Applicants submit that there is no reason why the investment policies of an Insurance Fund, or a series thereof, would or should be materially different from what they would or should be if such Insurance Fund or series funded only variable annuity contracts or variable life insurance polices, whether flexible premium or scheduled premium policies. Each type of insurance product is designed as a long-term investment program. Similarly, the investment strategy of Qualified Plans—long-term investment—coincides with that of variable contracts and should not increase the potential for conflicts. Each Insurance Fund, or series thereof, will be managed to attempt to achieve its investment objective, and not to favor or disfavor any particular participating insurance company or type of insurance product or other investor. There is no reason to believe that different features of various types of contracts will lead to different investment policies for different types of variable contracts. The sale and ultimate success of all variable insurance products depends, at least in part, on satisfactory investment performance, which provides an incentive for the participating insurance company to seek optimal investment performance.

18. Furthermore, Applicants assert that no one investment strategy can be identified as appropriate to a particular insurance product. Each pool of variable annuity and variable life insurance contractowners is composed of individuals of diverse financial status, age, insurance and investment goals. A fund supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers. Permitting mixed and shared funding will provide economic justification for the growth of the Insurance Funds. In addition, permitting mixed and shared funding will facilitate the establishment of additional series serving diverse goals. The broader base of contractowners can also be expected to provide economic justification for the creation of additional series of each Insurance Fund with a greater variety of investment objectives and policies.

19. Applicants note that Section 871(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, "qualified pension or retirement plans" and separate accounts to share the same underlying management investment company. Therefore, neither the Code, the Treasury Regulations nor Revenue Rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life separate accounts all invest in the same management investment company.

20. Applicants submit that the ability of the Insurance Funds to sell their respective shares directly to Qualified Plans does not create a "senior security," as such term is defined under Section 18(g) of the 1940 Act, with respect to any contractowner as opposed to a participant under a Qualified Plan. As noted above, regardless of the rights and benefits of contractowners or participants under the Qualified Plans, the Qualified Plans and the separate accounts have rights only with respect to their respective shares of the insurance Funds. They can only redeem such shares at their net asset value. No shareholder of any of the Insurance Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

21. Applicants submit that various factors have limited the number of insurance companies that offer variable annuities and variable life insurance policies. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of name recognition by the public of certain participating insurance companies as investment experts. In particular, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the variable contract business on their own. Use of the Insurance Funds as a common investment medium for variable contracts and Qualified Plans would help alleviate these concerns, because participating insurance companies and Qualified Plans will

benefit not only from the investment and administrative expertise of Pacific Life, or any other investment adviser to an Insurance Fund or series, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Therefore, making the Insurance Funds available for mixed and shared funding and permitting the purchase of Insurance Fund shares by Qualified Plans may encourage more insurance companies to offer variable contracts, and this should result in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation.

23. Mixed and shared funding also may benefit variable contractowners by eliminating a significant portion of the costs of establishing and administering separate funds. Furthermore, granting the requested relief should result in an increased amount of assets available for investment by the insurance Funds. This may benefit variable contractowners by promoting economies of scale, by permitting increased safety through greater diversification, or by making the addition of new portfolios more feasible.

Applicants' Conditions

Applicants consent to the following conditions if an order is granted:

1. A majority of the Board of Trustees or Board of Directors (The "Board") of each Insurance Fund shall consist of persons who are not "interested persons" of the Insurance Fund, as defined by Section 2(a)(19) of the 1940 Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or director, then the operation of this condition shall be suspended: (i) For a period of 45 days if the vacancy or vacancies may be filled by the Board; (ii) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor the Insurance Fund for the existence of any material irreconcilable conflict among and between the interests of the contractowners of all separate accounts and of Plan participants investing in the Insurance Funds, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (1) An action by any state insurance regulatory authority; (ii) a change in applicable federal or state insurance, tax, or securities laws of regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax or securities regulatory authorities; (iii) an administrative or judicial decision in any relevant proceeding; (iv) the manner in which the investments of any Insurance Fund or series are being managed; (v) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners and Plan trustees or participants; and (vi) a decision by a participating insurance company to disregard the voting instructions of countractowners; or (vii) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Plan participants.

3. Any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of an Insurance Fund and any participating insurance company (collectively, "Participants") will report any potential or existing conflicts to the Board. Participants will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each participating insurance company to inform the Board whenever contractowner voting instructions are disregarded and, if pass-through voting is applicable, an obligation by each Qualified Plan that is a Participant to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all Participants investing in an Insurance Fund under their agreements governing participation in the Insurance Fund, and such agreements shall provide that such responsibilities will be carried out with a view only to the interests of the contractowners or, if applicable, Plan participants.

4. If it is determined by a majority of the Board of an Insurance Fund, or a majority of its disinterested trustees or directors, that a material irreconcilable conflict exists, the relevant participating insurance companies and Qualified Plans shall, at their expense or, at the discretion of the investment adviser to an Insurance Fund, at that investment adviser's expense, and to the extent reasonably practicable (as determined by a majority of the disinterested trustees or directors), take whatever steps are necessary to remedy or eliminate the material irrconcilable conflict, up to and including: (i) Withdrawing the assets allocable to some or all of the separate accounts from the relevant Insurance Fund or any series therein and reinvesting such assets in a different investment medium (including another series, if any, of such Insurance Fund); (ii) in the case of participating insurance companies, submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity contractowners or variable life insurance contractowners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (iii) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a participating insurance company's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the participating insurance company may be required, at the Insurance Fund's election, to withdraw its separate account's investment in the Insurance Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the Insurance Fund, to withdraw its investment in the Insurance Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all participating insurance companies and Qualified Plans under their agreements governing participation in the Insurance Fund, and these responsibilities will be carried out with a view only to the interests of the contractowners or, as applicable, Plan participants.

5. For the purposes of Condition 4, a majority of the disinterested members of the Board shall determine whether or not any proposed actions adequately remedies any material irreconcilable conflict, but in no event will the

Insurance Fund or its investment adviser be required to establish a new funding medium for any variable contract. No participating insurance company shall be required by Condition 4 to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of contractowners materially adversely affected by the material irreconcilable conflict. No Qualified Plan shall be required by Condition 4 to establish a new funding medium for such Qualified Plan if (a) a majority of Plan participants materially and adversely affected by the material irreconcilable conflict vote to decline such offer or (b) pursuant to governing Plan documents and applicable law, the Plan makes such decision without Plan participant vote.

6. The Board's determination of the existence of a material irreconcilable conflict and its implications shall be made known promptly in writing to all Participants.

7. Participating insurance companies will provide pass-through voting privileges to all variable contractowners whose contracts are funded through a registered separate account for so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contractowners. Accordingly, such participating insurance companies will vote shares of each Insurance Fund or series thereof held in their registered separate accounts in a manner consistent with timely voting instructions received from such contractowners. Each participating insurance company will vote shares of each Insurance Fund or series held in its registered separate accounts for which no timely voting instructions are received, as well as shares held by any such registered separate account, in the same proportion as those shares for which voting instructions are received. Participating insurance companies shall be responsible for assuring that each of their separate accounts investing in an Insurance Fund calculates voting privileges in a manner consistent with all other participating insurance companies. The obligation to vote an Insurance Fund's shares and to calculate voting privileges in a manner consistent with all other registered separate accounts investing in an Insurance Fund shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Insurance Fund. Each Plan will vote as required by applicable law and governing Plan documents.

8. An Insurance Fund will notify all participating insurance companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Insurance Fund shall disclose in its prospectus or statement of additional information that: (a) Shares of the Insurance Fund are offered to insurance company separate accounts which fund both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) due to differences of tax treatment or other considerations, the interests of various contractowners participating in the Insurance Fund and the interests of Qualified Plans investing in the Insurance Fund might at some time be in conflict; and (c) the Board will monitor the Insurance Fund for any material conflicts and determine what action, if any, should be taken.

9. All reports received by the Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying Participants of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

10. If and to the extent that Rule 6e–2 and Rule 6e–3(T) under the 1940 Act are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in the Application, then each Insurance Fund and/or the Participants, as appropriate, shall take steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent applicable.

11. Each Insurance Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of that Insurance Fund), and in particular each Insurance Fund will either provide for annual meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Fund is not one of the trusts described in Section 16(c) of the 1940 Act) as well as with Sections 16(a) and, if and when applicable, 16(b). Further, each Insurance Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

12. The Participants shall at least annually submit to the Board of an Insurance Fund such reports, materials or data as the Board may reasonably request so that it may fully carry out the obligations imposed upon it by the conditions contained in the Application and said reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of a Participant to provide these reports, materials and data to the Board of the Insurance Fund when it so reasonably requests shall be a contractual obligation of all Participants under their agreements governing participation in each Insurance Fund.

13. If a Qualified Plan should become an owner of 10% or more of the assets of an Insurance Fund, the Insurance Fund shall require such Plan to execute a participation agreement with such Insurance Fund which includes the conditions set forth herein to the extent applicable. A Qualified Plan will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the shares of any Insurance Fund.

Conclusion

For the reasons and upon the facts stated above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30546 Filed 11–22–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24139; File No. 812–11572]

Davis Variable Account Fund, Inc., et al.; Notice of Application

November 17, 1999.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940 (the "1940 Act") granting relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit shares of any

current or future series of the Davis Variable Account Fund, Inc. (the "Fund") and shares of any other investment company that is designed to fund variable insurance products and for which the Davis Selected Advisers, L.P. (the "Adviser"), or any of its affiliates, may serve now or in the future, as investment adviser, administrator, manager, principal underwriter or sponsor (the Fund and such other investment companies referred to collectively as the "Insurance Products Funds") to be offered and sold to, and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated insurance companies ("Participating Insurance Companies"); qualified pension and retirement plans outside of the separate account context ("Qualified Plans"); and the Adviser or any of its affiliates (representing seed money investments in the Insurance Products Funds).

APPLICANTS: Davis Variable Account Fund, Inc. and Davis Selected Advisers, L.P.

FILING DATE: The application was filed on April 9, 1999, and was amended and restated on June 25, 1999, July 8, 1999 and October 22, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 13, 1999, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, 124 E. Marcy, Santa Fe, New Mexico 87501, Attention: Thomas Tays, Secretary.

FOR FURTHER INFORMATION CONTACT: Lorna MacLeod, Attorney, or Mark Amorosi, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, NW, Washington, DC 20549 (202–942–8090).

Applicants' Representations

1. The Fund is a Maryland corporation that is registered under the 1940 Act as an open-end management investment company. The Fund currently consists of three series. The Fund may in the future issue shares of additional series.

2. The Adviser, a Colorado limited partnership, is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser for the Fund.

3. Shares of the Fund are offered to separate accounts of Participating Insurance Companies to serve as investment vehicles for variable annuity and variable life insurance contracts (including single premium, scheduled premium, modified single premium and flexible premium contracts) (collectively, "Variable Contracts"). These separate accounts either will be registered as investment companies under the 1940 Act or will be exempt from such registration.

4. The Participating Insurance Companies will establish their own separate accounts and design their own Variable Contracts. Each Participating Insurance Company will have the legal obligation of satisfying all applicable requirements under the federal securities laws. The role of the Insurance Products Funds will be limited to that of offering their shares to separate accounts of Participating Insurance Companies and to Qualified Plans and fulfilling the conditions set forth in the application and described later in this notice. Each Participating Insurance Company will enter into a fund participation agreement with the Insurance Products Fund in which the Participating Insurance Company invests.

Applicant's Legal Analysis

1. Applicants request that the Commission issue an order under Section 6(c) of the 1940 Act granting exemptions from Sections 9(a), 13(a), 15(a) and 15(b) thereof and Rules 6e–2(b)(15) and 63–3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Insurance Products Funds to be offered and sold to, and held by (1) variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company ("mixed funding"); (2) separate accounts of unaffiliated life insurance companies (including both variable annuity and variable life separate accounts) ("shared funding"); (3) qualified pension and retirement plans outside the separate account context; and (4) the Adviser or any of its affiliates (representing seed money investments in the Insurance Products Funds).

2. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require "pass-through" voting with respect to an underlying investment company's shares. These exemptions are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to variable life insurance separate accounts of the life insurer or any affiliated life insurance company. Therefore, the relief granted by Rule 6e–2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of a management investment company that also offers its shares to a variable annuity separate account of the same insurance company or an affiliated insurance company. The relief granted by Rule 6e–2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of an underlying management investment company that also offers its shares to a variable annuity separate account of the same insurance company or an affiliated insurance company or to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. The relief granted by Rule 6e–2(b)(15) also is not available if the shares of the Insurance Products funds also are sold to Qualified Plans.

3. In connection with the funding of flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require "pass-through" voting with respect to an underlying investment company's shares. These exemptions are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or any affiliated life insurance company, offering either scheduled premium variable life

insurance contracts or flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. Therefore, the exemptions provided by Rule 6e–3(T)(b)(15) are available if the underlying fund is engaged in mixed funding, but are not available if the fund is engaged in shared funding or if the fund sells its shares to Qualified Plans.

4. Applicants state that the current tax law permits the Insurance Products Funds to increase their asset base through the sale of shares to Plans. Section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the underlying assets of Variable Contracts. The Code provides that such contracts shall not be treated as an annuity contract or life insurance contract for any period (and any subsequent period) during which the investments are not adequately diversified in accordance with regulations prescribed by the Treasury Department. Treasury regulations provide that, to meet the diversification requirements, all of the beneficial interests in an investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations do contain certain exceptions to this requirement, however, one of which permits shares of an investment company to be held by the trustee of a "qualified pension or retirement plan" as defined by Revenue Ruling 94–62 without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts (Treas. Reg. § 1.817.5(f)(3)(iii)).

5. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) preceded the issuance of these Treasury regulations. Applicants assert that, given the then current tax law, the sale of shares of the same underlying fund to separate accounts and to Plans could not have been envisioned at the time of the adoption of Rules 64–2(b)(15) and 6e–3(T)(b)(15).

6. Applicants request relief for a class or classes of persons and transactions consisting of Participating Insurance Companies and their scheduled premium variable life insurance separate accounts and flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such separate accounts) investing in any of the Insurance Products Funds.

7. Section 6(c) authorizes the Commission to grant exemptions from the provisions of the 1940 Act, and rules thereunder, if and to the extent that an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Disqualification

8. Section 9(a)(3) of the 1940 Act provides that it is unlawful for any company to act as investment adviser to or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2). Rules 6e–2(b)(15)(i) and (ii), and 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of eligibility restrictions to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company.

9. Applicants state that the relief from Section 9(a) provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants assert that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals who do not directly participate in the administration or management of the Insurance Products Funds, who are employed by the various unaffiliated insurance companies (or affiliated companies of Participating Insurance Companies) that may utilize the Insurance Products Funds as the funding medium for Variable Contracts. Applicants do not expect the Participating Insurance Companies to play any role in the management or administration of the Insurance Products Funds. Applicants assert, therefore, that applying the restrictions of Section 9(a) to individuals employed by Participating Insurance Companies serves no regulatory purpose.

10. Applicants state that the relief requested should not be affected by the proposed sale of Insurance Products Funds to Qualified Plans because the Plans are not investment companies and will not be deemed affiliates solely by virtue of their shareholdings.

Pass-Through Voting

11. Applicants submit that Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume the existence of a "pass-through voting" requirement with respect to management investment company shares held by a separate account. Applicants state that Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirements in limited situations, assuming the limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder are observed. More specifically, Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contract owners in connection with the voting of shares of an underlying investment company if such instructions would require such shares to be voted to cause an underlying investment company to make, or refrain from making, certain investments which would result in changes in the sub-classification or investment objectives of such company, or to approve or disapprove any contract between an investment company and its investment adviser, when required to do so by an insurance regulatory authority. In addition, Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that an insurance may disregard contract owners' voting instructions with regard to changes initiated by the contract owners in the investment company's investment policies, principal underwriter or investment adviser, provided that in the case of changes involving investment policies or the investment adviser, the Participating Insurance Company makes certain good faith determinations.

12. Shares of the Insurance Products funds sold to Qualified Plans will be held by the trustees of such Plans as required by Section 403(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"). Section 403(a) also provides that the trustees must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) When the Qualified Plan expressly provides that the trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Plan and not contrary to

ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, the Qualified Plan trustees have exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Qualified Plans may have their trustees or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Where a Qualified Plan does not provide Qualified Plan participants with the right to give voting instructions, Applicants state that they do not see any potential for irreconcilable material conflicts of interest between or among Variable Contract holders and Plan participants with respect to voting of the respective Insurance Products Funds shares. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to Qualified Plans since the Plans are not entitled to pass-through voting privileges. Even if a Qualified Plan were to hold a controlling interest in an Insurance Products Fund, the Applicants do not believe that such control would disadvantage other investors in such Insurance Products Fund to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, the Applicants submit that investment in an Insurance Products Fund by a Qualified Plan will not create any of the voting complications occasioned by mixed funding or shared funding.

13. Applicants state that some of the Qualified Plans may provide for the trustee(s), an investment adviser(s) or another named fiduciary to exercise voting rights in accordance with instructions from Qualified Plan participants. Applicants state that, in such cases, the purchase of shares by such Qualified Plans does not present any complications not otherwise occasioned by mixed or shared funding.

Conflicts of Interest

14. Applicants state that no increased conflict of interest would be presented by the granting of the requested relief. Applicants submit that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. In this regard, Applicants note that when different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of other insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. The possibility, however, is no different or greater than exists when a single insurer and its affiliates offer their insurance products in several states, as is currently permitted.

15. Applicants state that affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions set forth in the application and later in this notice (which are adapted from the conditions included in Rule 6e–3(T)(b)(15)) are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Insurance Products Funds.

16. Applicants also assert that affiliation does not eliminate the potential, if any exits, for divergent judgments as to when a Participating Insurance Company could disregard Variable Contract owner voting instructions. The potential for disagreement is limited by the requirements that disregarding voting instructions be reasonable and based on specified good faith determinations. However, if the Participating Insurance Company's decision to disregard Variable Contract owner voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Insurance Products Fund, to withdraw its separate account's investment in that Insurance Products Fund and no charge or penalty will be imposed upon the Variable Contract owners as a result of such withdrawal.

17. Applicants submit that there is no reason why the investment policies of an Insurance Products Fund with mixed funding would or should be materially different from what those policies would or should be if such Insurance Products Fund or series thereof funded only variable annuity or variable annuity or variable life insurance contracts. In this regard, Applicants note that a fund's adviser is legally obligated to manage the fund in accordance with the fund's investment objectives, policies and restrictions as well as any guidelines established by the fund's Board. Applicants submit that no one investment strategy can be identified as appropriate to a particular insurance product or to a Plan. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. A fund supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers. Applicants submit that permitting mixed and shared funding will provide economic support for the continuation of the Insurance Products Funds. In addition, permitting mixed and shared funding also will facilitate the establishment of additional series of Insurance Product Funds serving diverse goals.

18. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation § 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, "qualified pension or retirement plans" and insurance company separate accounts to share the same underlying investment company. Therefore, Applicants assert that neither the Code, nor the Treasury regulations, nor the revenue rulings thereunder present any inherent conflicts of interest if the Qualified Plans, variable annuity separate accounts, and variable life insurance separate accounts all invest in the same management investment company.

19. While there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans, Applicants state that the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account of the Participating Insurance Company or Qualified Plan cannot net purchase payments to make the distributions, the separate account or Qualified Plan will redeem shares of the Insurance Products funds at their respective net asset values. The Qualified Plan will then make distributions in accordance with

the terms of the Plan and the Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract.

20. Applicants submit that the ability of the Insurance Products Funds to sell their respective shares directly to Qualified Plans does not create a "senior security," as such term is defined under Section 18(g) of the 1940 Act, with respect to any Variable Contract owner as opposed to a participant under a Qualified Plan. As noted above, regardless of the rights and benefits of participants under the Qualified Plans, or Variable Contract owners under their Variable Contracts, the Qualified Plans and the separate accounts of Participating Insurance Companies have rights only with respect to their respective shares of the Insurance Products Funds. They can redeem such shares at their net asset value. No shareholder of any of the Insurance Products Funds has any preference over any other shareholder with respect to distribution of assets or payments of dividends.

21. Applicants assert that there are no conflicts between the Variable Contract owners and the Plan participants with respect to state insurance commissioners' veto powers over investment objective. The basic premise of shareholder voting is that not all shareholders may agree with a particular proposal. Furthermore, unlike separate accounts, which must engage in complex transactions to accomplish redemptions and transfers, trustees of Qualified Plans can quickly redeem shares from Insurance Products Funds and reinvest in other funding vehicles without the same regulatory impediments or, as in the case with most Qualified Plans, even hold cash or other liquid assets pending suitable alternative investment. Applicants maintain that even if there should arise issues where the interests of Variable Contract owners and the interests of participants in Plans are in conflict, the issues can be almost immediately resolved because the trustees of the Plans can, on their own, redeem shares out of the Insurance Products Funds.

22. Applicants submit that mixed and shared funding should provide benefits to Variable Contract owners by eliminating a significant portion of the costs of establishing and administering separate funds. Participating Insurance Companies will benefit not only from the investment and administrative expertise of the Adviser and any sub-advisers, but also from the cost efficiencies and investment flexibility afforded by a larger pool of assets. Mixed and shared funding also would permit a greater amount of assets available for investment by the Insurance Product Funds, thereby promoting economics of scale, by permitting increased safety through greater diversification and by making the addition of new series more feasible. Therefore, making the Insurance Products Funds available for mixed and shared funding will encourage more insurance companies to offer Variable Contracts, and this should result in increased competition with respect to both Variable Contract design and pricing, which can be expected to result in more product variation and lower charges.

23. Applicants assert that there is no significant legal impediment to permitting mixed and shared funding. Separate accounts organized as unit investment trusts historically have been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Applicants do not believe that mixed and shared funding, and sales to Qualified Plans, will have any adverse federal income tax consequences.

Applicants' Conditions

Applicants have consented to the following conditions:

1. A majority of each Insurance Products Fund's Board of Trustees or Directors (each, a "Board") shall consist of persons who are not "interested persons" thereof, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any Board member, then the operation of this condition shall be suspended: (a) For a period of 45 days, if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days, if a vote of shareholder is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Insurance Products Fund's Board will monitor the fund for the existence of any material irreconcilable conflict between and among the interests of the Variable Contract owners of all separate accounts and of Plan participants and Qualified Plans investing in the Insurance Products Funds, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the funds are being managed; (e) a difference in voting instructions given by variable annuity contract owners, variable life insurance contract owners and trustees of the Plans; (f) a decision by a Participating Insurance Company to disregard the voting instructions of Variable Contract owners; or (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Plan participants.

3. The Adviser (or any other investment adviser of an Insurance Products Fund), and Participating Insurance Company and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of an Insurance Products Fund (collectively, "Participants") will report any potential or existing conflicts to the Board of any relevant Insurance Products Fund. Participants will be obligated to assist the appropriate Board in carrying out its responsibilities under these conditions by providing the Board will all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever Variable Contract owner voting instructions are disregarded and, if pass-through voting is applicable, an obligation by each Qualified Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts and to assist the Boards will be contractual obligations of all Participating Insurance Companies and Qualified Plans investing in the Insurance Products Funds under their respective agreements governing participation in the Insurance Products Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of Variable Contract owners and, if applicable, Plan participants.

4. If a majority of an Insurance Products Funds's Board members, or a majority of the disinterested Board members, determine that a material irreconcilable conflict exists, the relevant Participating Insurance Companies and Qualified Plans, at their expense and to the extent reasonably practicable (as determined by a majority

of the disinterested Board members), shall take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, including: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Insurance Products Fund or any of its series and reinvesting such assets in a difference investment medium, which may include another series of the Insurance Products Funds; (b) in the case of Participating Insurance Companies, submitting the question as the whether such segregation should be implemented to a vote of all affected Variable Contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity or variable life insurance contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Variable Contract owners the option of making such a change; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard Variable Contract owner voting instructions, and this decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Insurance Products Fund, to withdraw its separate accounts's investment in such fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the Insurance Products Fund, to withdraw its investment in such fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and Qualified Plans under their agreements governing participation in the Insurance Products Funds and these responsibilities shall be carried out with a view only to the interests of the Variable Contract owners and, as applicable, Plan participants.

5. For purposes of Conditions 4, a majority of the disinterested members of the applicable Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will an Insurance Products Fund or the Adviser (or any other investment adviser of the Insurance Products Funds) be required to establish a new funds medium for any Variable Contract. No Participating Insurance Company shall be required by Condition 4 to establish a new funding medium for any Variable Contract if a majority of Variable Contract owners materially affected by the material irreconcilable conflict vote to decline such offer. No Qualified Plan shall be required by Condition 4 to establish a new funding medium for such Qualified Plan if (a) a majority of Plan participants materially and adversely affected by the material irreconcilable conflict vote to decline such offer or (b) pursuant to governing plan documents and applicable law, the Plan makes such decision without Plan participant vote.

6. Participants will be informed promptly in writing of a Board's determination of the existence of an irreconcilable material conflict and its implications.

7. Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners. Accordingly, such Participating Insurance Companies, where applicable, will vote shares of the Insurance Products Fund held in their separate accounts in a manner consistent with voting instructions timely received from Variable Contract owners. In addition, each Participating Insurance Company will vote shares of the Insurance Products Fund held in its separate accounts for which it has not received timely voting instructions from contract owners, as well as shares it owns, in the same proportion as those shares for which it has received voting instructions. Participating Insurance Companies will be responsible for assuring that each of their separate accounts investing in an Insurance Products Fund calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to vote an Insurance Products Fund's shares and calculate voting privileges in a manner consistent with all other separate accounts investing in the Insurance Products Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Insurance Products Fund. Each Plan will vote as required by applicable law and governing Plan documents.

8. As long as the Commission continues to interpret the Act as requiring pass-through voting privileges for Variable Contract owners, the Adviser (or any of its affiliates) will vote its shares of any series of any Insurance Products Fund in the same proportion as all Variable Contract owners having voting rights with respect to that series; provided, however, that the Adviser (or any of its affiliates) shall vote its shares in such other manner as may be required by the Commission or its staff.

9. All reports of potential or existing conflicts received by a Board, and all Board action with regard to (a) determining the existence of a conflict, (b) notifying Participants of a conflict, and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the meetings of the appropriate Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

10. Each Insurance Products Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Insurance Products Fund shall disclose in its prospectus that: (a) Its shares may be offered to insurance company separate accounts that fund both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) differences in tax treatment or other considerations may cause the interests of various Variable Contract owners participating in the Insurance Products Fund and the interests of Qualified Plans investing in the Insurance Products Fund to conflict; and (c) the Board will monitor the Insurance Products Fund for any material conflicts and determine what action, if any, should be taken.

11. Each Insurance Products Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, the persons having a voting interest in the shares of the Insurance Products Funds). In particular, each such Insurance Products Fund either will provide for annual shareholder meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although none of the Insurance Products Funds shall be one of the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the

1940 Act. Further, each Insurance Products Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Board members and with whatever rules the commission may promulgate with respect thereto.

12. If and to the extent that Rule 6e–2 or Rule 6e–3(T) under the 1940 Act is amended, or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in the application, then the Insurance Products Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 or Rule 6e–3(T), as amended, or proposed Rule 6e–3 as adopted, to the extent such Rules are applicable.

13. The Participants, at least annually, shall submit to each Board such reports, materials or data as each Board may reasonably request so that such Boards may fully carry out the obligations imposed upon them by the conditions stated in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of the Participants to provide these reports, materials and data upon reasonable request of a Board shall be a contractual obligation of all Participants under the agreements governing their participation in the Insurance Products Funds.

14. If a Qualified Plan or Plan Participant shareholder should become an owner of 10% or more of the assets of an Insurance Products Fund, such Plan will execute a participation agreement with such fund which includes the conditions set forth herein to the extent applicable. A Qualified Plan or Plan participant will execute an application containing an acknowledgement of this condition upon such Plan's initial purchase of the shares of any Insurance Products fund.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30547 Filed 11–22–99; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before January 24, 2000.

ADDRESSES: Send all comments regarding whether this information collections are necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, S.W., Suite 8300.

FOR FURTHER INFORMATION CONTACT: Sandra Johnston, Program Analyst, 202–205–7528 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: "Personal Financial Statement".
Form No: 413.
Description of Respondents: Small Businesses Loan Applicants.
Annual Responses: 160,000.
Annual Burden: 240,000.

Title: "Survey of Job Creation and Retention Among DELTA Loan Recipients".
Form No: 1989.
Description of Respondents: Small firms, which receive a SBA DELTA Loan.
Annual Responses: 500.
Annual Burden: 83.

Title: "Reporting and Recordkeeping Requirements".
Form No: N/A.
Description of Respondents: Small Business Lending Companies.
Annual Responses: 60.
Annual Burden: 960.

Title: "Business Loan Reconsideration Request".
Form No: N/A.
Description of Respondents: Individuals Seeking a Reconsideration of a Declined Business Loan.
Annual Responses: 1,800.
Annual Burden: 3,600.

Title: "Reporting and Recordkeeping for Lenders".
Form No: N/A.
Description of Respondents: Small Business Lending Companies.
Annual Responses: 2,400.
Annual Burden: 2,400.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–30536 Filed 11–22–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before January 24, 2000.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Dean R. Koppel, Industrial Specialist, Office of Government Contracting, Small Business Administration, 409 3rd Street, S.W., Suite 8800.

FOR FURTHER INFORMATION CONTACT: Dean R. Koppel, Industrial Specialist, 202–205–7322 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: "Contact Progress Report of Certificates of Competency".
Form No: 104A.
Description of Respondents: Small Business Contractors.
Annual Responses: 7,500.
Annual Burden: 3,500.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–30537 Filed 11–22–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before December 23, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Application for Small Business Size Determination.

Form No: 355.

Frequency: On Occasion.

Description of Respondents: Small Businesses.

Annual Responses: 10,500.

Annual Burden: 42,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–30538 Filed 11–22–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3501, *et seq.*) this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 1, 1999 (64 FR 47775).

DATES: Comments on this notice must be received on or before December 23, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Torlanda Archer, Office of the Secretary, Office of Aviation Analysis, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Phone Number: (202) 366–2396. Copies of these collections can also be obtained.

SUPPLEMENTARY INFORMATION:

Office of the Secretary

Title: Public Charters—14 CFR part 380.

OMB Control Number: 2106–0005.

Affected Public: Public Charter Operators.

Type of Request: Reinstatement, with changes of a previously approved collection for which approval has expired.

Form(s): OMB 2106–0005.

Abstract: In 14 CFR 380 (adopted 1979) of its Special Regulations the Department established the terms and conditions governing the furnishing of public charters in air transportation by direct air carriers and public charter operators. Public charter operators arrange transportation for groups of persons on aircraft chartered from direct air carriers. This arrangement is less expensive for the travelers than individually buying a ticket. Further, the charter operator books hotel rooms, tours, etc., at destination for the convenience of the traveler. Part 380 exempts charter operators from certain provisions of the U.S. Code in order that they may provide this service.

A primary goal of Part 380 is to seek protection for the consumer. Accordingly, the rule stipulates that the charter operator must file evidence (a prospectus) with the Department for each charter program certifying that it has entered into a binding contract with a direct carrier to provide air transportation and that it has also entered into agreements with Department-approved financial institutions for the protection of the charter participants' funds. The prospectus must be approved by the Department prior to the operator's advertising, selling or operating the charter. The forms (OST Forms 4532, 4533, 4534 and 4535) that comprise the operator's filing are the information collection at issue here.

In September 1992, the Department issued a notice of proposed rulemaking (NPRM) (57 FR 42864), 9–16–92 to propose, among other revisions, that charter operators need no longer file prospectuses. The NPRM was in response to comments that prospectus filings were burdensome and unnecessary. However, the majority of respondents to the NPRM have urged the Department to retain the existing prospectus filing.

On May 22, 1998 the Department of Transportation published a Final Rule amending its charter air transportation regulations to update the rules, make changes reflecting current operating procedures and including certain specific modifications.

With these exceptions, the Department decided not to adopt many of the rule changes proposed in the NPRM. The Final Rule includes a full discussion of comments offered to the NPRM and the reasons for adopting or not adopting proposed changes in the rule. No comments have been received on the Final Aviation Charter Rules.

Estimated Annual Burden Hours: 1,343 hours.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention OST Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection techniques or other forms of information technology. Comments to OMB are best assured of having their effect if OMB receives them within 30 days of publication.

Issued in Washington, DC, on November 15, 1999.

Michael Robinson,

Information Resource Management, U.S. Department of Transportation.

[FR Doc. 99–30498 Filed 11–22–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Application for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 23, 1999.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (see Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW, Washington, DC 20590 or at http://dms.dot.gov.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 17, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12368–N	RSPA–1999–6458	Occidental Chemical Corp., Dallas, TX ...	49 CFR 179.13	To authorize the transportation in commerce of DOT 111A100W1 two-compartment tank cars containing Chromium trioxide, anhydrous, Division 5.1, that exceed the gross weight limitation. (mode 2)
12370–N	RSPA–1999–6461	Eurotainer, Somerset, NJ	49 CFR 172.101, 173.242(c)	To authorize the transportation in commerce of Division 4.2 and 6.1 hazardous materials in IM–101 portable tanks. (modes 1, 2, 3)
12373–N	RSPA–1999–6504	GE Electric Energy Rentals (GEER), Schenectady, NY.	49 CFR 173.306(e)(1)	To authorize the transportation of used refrigerating machines containing a group A1 refrigerant. (mode 1)

[FR Doc. 99–30499 Filed 11–22–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (*e.g.* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before December 8, 1999.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC or at http://dms.dot.gov.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on November 17, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of exemption
10180–M		Fireboy-Xintex, Incorporated Grand Rapids, MI [1]	10180
11548–M		Akzo Nobel Chemicals, Inc. Chicago, IL [2]	11548
11598–M		Metalcraft, Inc. Baltimore, MD [3]	11598
11749–M		Union Tank Car Company East Chicago, IN [4]	11749
11865–M	RSPA–1977–2452	ACCU Chem Conversion, Inc. City of Industry, CA [5]	11865
11941–M	RSPA–1997–2897	Union Tank Car Company East Chicago, IN [6]	11941
12132–M	RSPA–1998–4415	Carleton Technologies, Inc. Orchard Park, NY [7]	12132
12328–M	RSPA–1999–6102	Certitank LLC Coatesville, PA [8]	12328
12362–M	RSPA–99–6487	U.S. Department of Defense Falls Church, VA [9]	12362

[1] To modify the exemption to include rail freight and passenger-carrying aircraft as authorized modes of transportation for DOT Specification cylinders equipped with pressure relief device systems for transportation of Division 2.2 gases.

[2] To modify the exemption to include rail freight and cargo vessel as authorized modes for the transportation in commerce of various hazardous materials in DOT specification compressed gas cylinders, except for Specification 8 and 3HT type.

[3] To modify the exemption to allow for: Passenger-carrying aircraft as an authorized mode of transportation; the addition of DOT 4BW cylinders as authorized packaging; the transportation of an additional Division 2.2 material.

[4] To modify the exemption to change the requirements for shippers holding party status and the need for them to maintain a copy of the exemption at their facilities.

[5] To modify the exemption to authorize the transportation of certain Class 3 materials in rail cars.

[6] To modify the exemption to revise the requirements for inspector qualification and facility certification for retesting tank cars used in chlorine service.

[7] To modify the exemption to allow for a design change of the hermetically sealed high pressure gas cylinder containing Division 1.4S argon gas.

[8] To reissue the exemption originally issued on an emergency basis authorizing the rebuilding or modification and sale of certain DOT Specification 4B, 4BA, and 4BW cylinders.

[9] To reissue the exemption originally issued on an emergency basis authorizing limited maintenance and repair operations to vehicles stowed below deck in the same cargo holds as Class 1 explosives aboard LMSR vessels.

[FR Doc. 99–30500 Filed 11–22–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Steptoe & Johnson on behalf of CSX Transportation (WB567—11/12/99), for permission to use certain data from the Board's Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

CONTACT: James A. Nash, (202) 565–1542.

Vernon A. Williams,

Secretary.

[FR Doc. 99–30540 Filed 11–22–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 17, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 23, 1999 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0048.

Form Number: FMS Form 3144.

Type of Review: Extension.

Title: Minority Bank Deposit Program Certification Form for Admission.

Description: A financial institution who wants to participate in the MBDP must complete this form. The approved application certifies the institution as minority and is admitted into the program. Once in the program, the institution may receive assistance and guidance from Federal agencies, State and local governments and private sector organizations.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 150.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 75 hours.

Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–30497 Filed 11–22–99; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: ACH Vendor/Miscellaneous Payment Enrollment Form

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the "ACH Vendor Miscellaneous Payment Enrollment Form."

DATES: Written comments should be received on or before January 24, 2000.

ADDRESSES: Direct all written comments to Financial Management Service, 3700 East West Highway, Programs Branch, Room 144, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Fred Lehnhoff, Program Assistance Division, Room 412D, 401–14th St., SW, Washington, DC 20227, (202) 874–6976.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: ACH Vendor/Miscellaneous Payment Enrollment Form.

OMB Number: 1510–0056.

Form Number: SF 3881.

Abstract: This form is used to collect payment data from vendors doing business with the Federal Government. The Treasury Department, Financial Management Service, will use the information to electronically transmit payments to vendors' financial institutions.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 200,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 50,000.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Bettsy H. Lane,

Assistant Commissioner, Federal Finance.

[FR Doc. 99–30435 Filed 11–22–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Regional Commissioners are as follows:

Charles Fowler III, National Director, EEO and Diversity

Wilford V. Oveson, National Taxpayer Advocate

David R. Williams, Chief, Communications and Liaison

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Charles O. Rossotti,

Commissioner of Internal Revenue.

[FR Doc. 99–30507 Filed 11–22–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of Senior Executive Service, Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1999.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, M:ES, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 622–6320, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in the National Office are as follows:

Daniel Black, National Director of Appeals

Paul Cosgrave, Chief Information Officer

Dale Hart, Regional Commissioner Midstates Region

David Mader, Chief, Management and Finance

Thomas Smith, Program Executive for Organization Performance Management

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Charles O. Rossotti,

Commissioner of Internal Revenue.

[FR Doc. 99–30508 Filed 11–22–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 23, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–

8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–NEW."

SUPPLEMENTARY INFORMATION:

Title: Census of Enrollment Status and Health of Veterans.

a. Veterans Short Form 36, VA Form 10–21034.

b. Core Assessments, VA Form 10–21034a.

c. Diet/Physical Activity Module, VA Form 10–21034b.

d. Satisfaction Module, VA Form 10–21034c.

e. Smoking/Alcohol Module, VA Form 10–21034d.

f. Social Support Module, VA Form 10–21034e.

g. Utilization/Insurance Module, VA Form 10–21034f.

h. Census of Enrollment Status, VA Form 10–21034g.

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: The information provided on the Census of Health of Veterans form is to be foremost for clinical purposes by doctors and health care providers in the routine care of the patient. Administrators and policy makers will use the information to characterize individual physician practices, hospitals and Vertically Integrated Services Networks. The information on Census of Enrollment form is used to develop the characteristics of the new VA enrolled population.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 10, 1999 at pages 43423–43424.

Affected Public: Individuals or households.

Estimated Annual Burden: 754,050 hours.

a. Veterans Short Form 36, VA Form 10–21034—300,000 hours.

b. Core Assessments, VA Form 10–21034a—300,000 hours.

c. Diet/Physical Activity Module, VA Form 10–21034b—25,000 hours.

d. Satisfaction Module, VA Form 10–21034c—25,000 hours.

e. Smoking/Alcohol Module, VA Form 10–21034d—25,000 hours.

f. Social Support Module, VA Form 10–21034e—25,000 hours.

g. Utilization/Insurance Module, VA Form 10–21034f—25,000 hours.

h. Census of Enrollment Status—4,050 hours.

Estimated Average Burden Per Respondent—24 minutes.

a. Census of Health of Veterans—15 minutes.

b. Census of Enrollment Status—9 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents—3,027,000.

a. Veterans Short Form 36, VA Form 10–21034—1,000,000.

b. Core Assessments, VA Form 10–21034a—1,000,000.

c. Diet/Physical Activity Module, VA Form 10–21034b—200,000.

d. Satisfaction Module, VA Form 10–21034c—200,000.

e. Smoking/Alcohol Module, VA Form 10–21034d—200,000.

f. Social Support Module, VA Form 10–21034e—200,000.

g. Utilization/Insurance Module, VA Form 10–21034f—200,000.

h. Census of Enrollment Status—27,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–NEW" in any correspondence.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30470 Filed 11–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0090]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 23, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0090."

SUPPLEMENTARY INFORMATION:

Title: Application for Voluntary Service, VA Form 10–7055.

OMB Control Number: 2900–0090.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The VA Form 10–7055 is used to assist personnel in selection, screening, and placement of volunteers in the nationwide VA Voluntary Service Program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 22, 1999 at page 33344.

Affected Public: Individuals or Households, Not-for-profit institutions.

Estimated Annual Burden: 7,500 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 30,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to "OMB Control No. 2900–0090" in any correspondence.

Dated: November 2, 1999.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 99–30471 Filed 11–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0108]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 23, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8135 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0108."

SUPPLEMENTARY INFORMATION:

Title: Report of Income from Property or Business, VA Form 21–4185.

OMB Control Number: 2900–0108.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used to derive net income from property or business. The information is used to determine whether the beneficiary is eligible for VA benefits and, if eligibility exists, to determine the proper rate of benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 11, 1999 at page 43816.

Affected Public: Individuals or households.

Estimated Annual Burden: 29,500 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 59,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0108" in any correspondence.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30472 Filed 11–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0241]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 23, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0241."

SUPPLEMENTARY INFORMATION:

Title: Request for determination of Reasonable Value (Used Manufactured Home), VA Form 26–8728.

OMB Control Number: 2900–0241.

Type of Review: Extension of a currently approved collection.

Abstract: The information is submitted to VA by buyers, owners/sellers, lenders, and manufactured home dealers to obtain appraisals of used manufactured home units proposed for guaranteed financing. Without the information, VA could not establish the reasonable value of such units.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 10, 1999 at pages 43424–43425.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Annual Burden: 38 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 225.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 12035, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0241" in any correspondence.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30473 Filed 11–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0319]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 23, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of

Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0319."

SUPPLEMENTARY INFORMATION:

Title: Fiduciary Agreement, VA Form 21–4703.

OMB Control Number: 2900–0319.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: VA Form 21–4703 is used as a legally binding contract between VA and a Federally appointed fiduciary. VA benefits are paid to a fiduciary on behalf of a beneficiary who is determined to be incompetent by VA rating, minority, or finding of legal disability by a court of proper jurisdiction.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published August 3, 1999 at pages 42172–42173.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Annual Burden: 1,390 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Once Annually.

Estimated Number of Respondents: 16,676.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0319" in any correspondence.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30474 Filed 11–22–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0353]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 23, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8135 or FAX (202) 273–5981. Please refer to "OMB Control No. 2900–0353."

SUPPLEMENTARY INFORMATION:

Title: Certification of Lessons Completed, VA Forms 22–6553b and 22–6553b–1.

OMB Control Number: 2900–0353.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 22–6553b and 22–6553b–1 are used to determine the number of lessons completed by the student and serviced by the correspondence school, and if necessary to determine the date of completion or termination of correspondence training. Without this information, the VA would be unable to determine the proper payment or the student's training status. These forms are considered to be one and the same.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 5, 1999 at pages 42762–42763.

Affected Public: Individuals or households, Business or other for-profit.

Estimated Annual Burden: 2,031 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Quarterly.

Estimated Number of Respondents: 4,036.

Estimated Number of Responses: 12,188.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to "OMB Control No. 2900–0353" in any correspondence.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30475 Filed 11–22–99; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 64, No. 225

Tuesday, November 23, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–36–000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

Correction

In notice document 99–29280 appearing on page 61101, in the issue of Tuesday, November 9, 1999, the docket number is corrected to read as set forth above.

[FR Doc. C9–29280 Filed 11–22–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–48–000]

Iroquois Gas Transmission System, L.P.; Notice of Request for Waiver of FERC Gas Tariff

Correction

In notice document 99–29288 beginning on page 61101, in the issue of Tuesday, November 9, 1999, the docket number is added to read as set forth above.

[FR Doc. C9–29288 Filed 11–22–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–12–000]

Tennessee Power Company; Notice of Complaint

Correction

In notice document 99–29664 appearing on page 61865, in the issue of Monday, November 15, 1999, the docket number is added to read as set forth above.

[FR Doc. C9–29664 Filed 11–22–99; 8:45 am]

BILLING CODE 1505–01–D

VOL 64 ISS 225 NO 23 1999 UMI

Federal Register

Tuesday
November 23, 1999

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910
Ergonomics Program; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–777]

RIN No. 1218–AB36

Ergonomics Program

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; request for comments; scheduling of informal public hearing.

SUMMARY: The Occupational Safety and Health Administration is proposing an ergonomics program standard to address the significant risk of work-related musculoskeletal disorders (MSDs) confronting employees in various jobs in general industry workplaces. General industry employers covered by the standard would be required to establish an ergonomics program containing some or all of the elements typical of successful ergonomics programs: management leadership and employee participation, job hazard analysis and control, hazard information and reporting, training, MSD management, and program evaluation, depending on the types of jobs in their workplace and whether a musculoskeletal disorder covered by the standard has occurred. The proposed standard would require all general industry employers whose employees perform manufacturing or manual handling jobs to implement a basic ergonomics program in those jobs. The basic program includes the following elements: management leadership and employee participation, and hazard information and reporting. If an employee in a manufacturing or manual handling job experiences an OSHA-recordable MSD that is additionally determined by the employer to be covered by the proposed standard, the employer would be required to implement the full ergonomics program for that job and all other jobs in the establishment involving the same physical work activities. The full program includes, in addition to the elements in the basic program, a hazard analysis of the job; the implementation of engineering, work practice, or administrative controls to eliminate or substantially reduce the hazards identified in that job; training the employees in that job and their supervisors; and the provision of MSD management, including, where appropriate, temporary work restrictions and access to a health care provider or other professional if a covered MSD occurs. General industry employers whose employees work in jobs other than manual handling or manufacturing and experience an MSD that is determined by the employer to be covered by the standard would also be required by the proposed rule to implement an ergonomics program for those jobs.

The proposed standard would affect approximately 1.9 million employers and 27.3 million employees in general industry workplaces, and employers in these workplaces would be required in the first year after promulgation of the standard to control approximately 7.7 million jobs with the potential to cause or contribute to covered MSDs. OSHA estimates that the proposed standard would prevent about 3 million work-related MSDs over the next 10 years, have annual benefits of approximately $9.1 billion, and impose annual compliance costs of approximately $900 per covered establishment and annual costs of $150 per problem job fixed.

OSHA is scheduling informal public hearings to provide interested parties the opportunity to orally present information and data related to the proposed rule.

DATES: *Written comments.* Written comments, including materials such as studies and journal articles, must be postmarked by February 1, 2000. If you submit comments by facsimile or electronically through OSHA's internet site, you must transmit those comments by February 1, 2000.

Notice of intention to appear at the informal public hearing. Notices of intention to appear at the informal public hearing must be postmarked by January 24, 2000. If you submit your notice to intention to appear by facsimile or electronically through OSHA's Internet site, you must transmit the notice by January 24, 2000.

Hearing testimony and documentary evidence: If you will be requesting more than 10 minutes for your presentation, or if you will be submitting documentary evidence at the hearing, you must submit the full testimony and all documentary evidence you intend to present at the hearing, postmarked by February 1, 2000.

Informal pubic hearing. The hearing in Washington, DC, is scheduled to begin at 9:30 a.m., February 22, 2000 at the Frances Perkins Building, U.S. Department of Labor. The hearing in Washington, DC, is scheduled to run for 4 weeks. It will be followed by a hearing March 21–31, 2000, in Portland OR, and April 11–21, 2000, in Chicago, IL. Time and location for the regional hearings will be announced later in the **Federal Register**.

ADDRESSES: *Written comments: Mail:* Submit duplicate copies of written comments to: OSHA Docket Office, Docket No. S–777, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–2625, Washington, DC 20210, telephone (202) 693–2350.

Facsimile: If your written comments are 10 pages or less, you may fax them to the Docket Office. The OSHA Docket Office fax number is (202) 693–1648.

Electronic: You may also submit comments electronically through OSHA's Homepage at *www.osha.gov*. Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit them separately in duplicate to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, and subject, so that we can attach them to your electronic comments.

Notice of intention to appear: Mail: Notices of intention to appear at the informal public hearing may be submitted by mail in quadruplicate to: Ms. Veneta Chatman, OSHA Office of Public Affairs, Docket No. S–777, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–3647, Washington, DC 20210, Telephone: (202) 693–2119.

Facsimile: You may fax your notice of intention to appear to Ms. Chatmon at (202) 693–1634.

Electronic: You may also submit your notice of intention to appear electronically through OSHA's Homepage at *www.osha.gov*.

Hearing testimony and documentary evidence: You must submit in quadruplicate your hearing testimony and the documentary evidence you intend to present at the informal public hearing to Ms. Chatmon at the address above. You may also submit your hearing testimony and documentary evidence on disk (3½ inch) in WP 5.1, 6.0, 6.1, 8.0 or ASCII,

provided you also send the original hardcopy at the same time.

Informal public hearing: The informal public hearing to be held in Washington DC will be located in the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. The locations of regional hearings in Portland, OR, and Chicago, IL, will be announced in a later **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: OSHA's Ergonomics Team at (202) 693–2116, or visit the OSHA Homepage at *www.osha.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

The preamble and proposed standard are organized as follows:

I. Introduction
II. Events Leading to the Proposed Standard
III. Pertinent Legal Authority
IV. Summary and Explanation
V. Health Effects
VI. Risk Assessment
VII. Significance of Risk
VIII. Summary of the Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis
IX. Unfunded Mandates
X. Environmental Impacts
XI. Additional Statutory Issues
XII. Federalism
XIII. State Plan States
XIV. Issues
XV. Public Participation
XVI. OMB Review under the Paperwork Reduction Act of 1995
XVII. List of Subjects in 29 CFR Part 1910
XVIII. The Proposed Standard

References to the rulemaking record are in the text of the preamble. References are given as "Ex." followed by a number to designate the reference in the docket. For example, "Ex. 26–1" means exhibit 26–1 in Docket S–777. A list of the exhibits and copies of the exhibit are available in the OSHA Docket Office.

I. Introduction

A. Overview

The preamble to this proposed ergonomics program standard discusses the data and events leading OSHA to propose the standard, the Agency's legal authority for proposing this rule, requests for information on a number of issues, and a section describing the significance of the ergonomic-related risks confronting workers in manufacturing, manual handling, and other general industry jobs. The preamble also contains a summary of the Preliminary Economic and Initial Regulatory Flexibility Analysis, a summary of the responses OSHA has made to the findings and recommendations of the Small Business Regulatory Fairness Enforcement Act Panel convened for this rule, a description of the information collections associated with the standard, and a detailed explanation of the Agency's rationale for proposing each provision of the proposed standard.

B. The Need for an Ergonomics Standard

Work-related musculoskeletal disorders (MSDs) currently account for one-third of all occupational injuries and illnesses reported to the Bureau of Labor Statistics (BLS) by employers every year. These disorders thus constitute the largest job-related injury and illness problem in the United States today. In 1997, employers reported a total of 626,000 lost workday MSDs to the BLS, and these disorders accounted for $1 of every $3 spent for workers' compensation in that year. Employers pay more than $15–$20 billion in workers' compensation costs for these disorders every year, and other expenses associated with MSDs may increase this total to $45–$54 billion a year. Workers with severe MSDs can face permanent disability that prevents them from returning to their jobs or handling simple, everyday tasks like combing their hair, picking up a baby, or pushing a shopping cart.

Thousands of companies have taken action to address and prevent these problems. OSHA estimates that 50 percent of all employees but only 28 percent of all workplaces in general industry are already protected by an ergonomics program, because their employers have voluntarily elected to implement an ergonomics program. (The disparity in these estimates shows that most large companies, who employ the majority of the workforce, already have these programs, and that smaller employers have not yet implemented them.) OSHA believes that the proposed standard is needed to bring this protection to the remaining employees in general industry workplaces who are at significant risk of incurring a work-related musculoskeletal disorder but are currently without ergonomics programs.

C. The Science Supporting the Standard

A substantial body of scientific evidence supports OSHA's effort to provide workers with ergonomic protection (see the Health Effects, Preliminary Risk Assessment, and Significance of Risk sections of this preamble, below). This evidence strongly supports two basic conclusions: (1) There is a positive relationship between work-related musculoskeletal disorders and workplace risk factors, and (2) ergonomics programs and specific ergonomic interventions can reduce these injuries.

For example, the National Research Council/National Academy of Sciences found a clear relationship between musculoskeletal disorders and work and between ergonomic interventions and a decrease in such disorders. According to the Academy, "Research clearly demonstrates that specific interventions can reduce the reported rate of musculoskeletal disorders for workers who perform high-risk tasks" (Work-Related Musculoskeletal Disorders: The Research Base, ISBN 0–309–06327–2 (1998)). A scientific review of hundreds of peer-reviewed studies involving workers with MSDs by the National Institute for Occupational Safety and Health (NIOSH) also supports this conclusion.

The evidence, which is comprised of peer-reviewed epidemiological, biomechanical and pathophysiological studies as well as other published evidence, includes:

- More than 2,000 articles on work-related MSDs and workplace risk factors;
- A 1998 study by the National Research Council/National Academy of Sciences on work-related MSDs;
- A critical review by NIOSH of more than 600 epidemiological studies (1997);
- A 1997 General Accounting Office report of companies with ergonomics programs; and
- Hundreds of published "success stories" from companies with ergonomics programs;

Taken together, this evidence indicates that:

- High levels of exposure to ergonomic risk factors on the job lead to an increased incidence of work-related MSDs;

- Reducing these exposures reduces the incidence and severity of work-related MSDs;
- Work-related MSDs are preventable; and
- Ergonomics programs have demonstrated effectiveness in reducing risk, decreasing exposure and protecting workers against work-related MSDs.

As with any scientific field, research in ergonomics is ongoing. The National Academy of Sciences is undertaking another review of the science in order to expand on its 1998 study. OSHA will examine this and all research results that become available during the rulemaking process, to ensure that the Agency's ergonomics program standard is based on the best available and most current evidence. However, more than enough evidence already exists to proceed with a proposed standard. In the words of the American College of Occupational and Environmental Medicine, the world's largest occupational medical society, "there is an adequate scientific foundation for OSHA to proceed with a proposal and, therefore, no reason for OSHA to delay the rulemaking process * * *."

D. Employer Experience Supporting the Standard

Employers with companies of all sizes have had great success in using ergonomics programs as a cost-effective way to prevent or reduce work-related MSDs, keeping workers on the job, and boosting productivity and workplace morale. A recent General Accounting Office (GAO) study of several companies with ergonomics programs found that their programs reduced work-related MSDs and associated costs (GAO/HEHS–97–163). The GAO also found that the programs and controls selected by employers to address ergonomic hazards in the workplace were not necessarily costly or complex. As a result, the GAO recommended that OSHA use a flexible regulatory approach in its ergonomics standard that would enable employers to develop their own effective programs. The standard being proposed today reflects this recommendation and builds on the successful programs that thousands of proactive employers have found successful in dealing with their ergonomic problems.

E. Information OSHA is Providing to Help Employers Address Ergonomic Hazards

Much literature and technical expertise already exists and is available to employers, both through OSHA and a variety of other sources. For example:

- Information is available from OSHA's ergonomics Web page, which can be accessed from OSHA's World Wide Web site at *http://www.osha.gov* by scrolling down and clicking on "Ergonomics";
- Many publications, informational materials and training courses are available from OSHA through Regional Offices, OSHA-sponsored educational centers, OSHA's state consultation programs for small businesses, and through the Web page;
- Publications on ergonomics programs are available from NIOSH at 1–800–35–NIOSH. NIOSH is also a "link" on the OSHA ergonomics Web page;
- OSHA's state consultation programs will provide free on-site consultation services to employers requesting help in implementing their ergonomics programs; and
- OSHA is developing a series of compliance assistance materials and will make them available before a final ergonomics standard becomes effective.

II. Events Leading to the Proposed Standard

In proposing this standard, OSHA has relied upon its own substantial experience with ergonomics programs, the experience of private firms and insurance companies, and the results of research studies conducted during the last 30 years. Those experiences clearly show that: (1) Ergonomics programs are an effective way to reduce occupational MSDs; (2) ergonomics programs have consistently achieved that objective; (3) OSHA's proposal is consistent with these programs; and (4) the proposal is firmly grounded in the OSH Act and OSHA policies and experience. The primary lesson to be learned is that employers with effective, well-managed ergonomics programs achieve significant reductions in the severity and number of work-related MSDs their employees experience. These programs also generally improve productivity and employee morale and reduce employee turnover and absenteeism (see Section VIII of this preamble and Chapters IV (Benefits) and V (Costs of Compliance) of OSHA's Preliminary Economic Analysis (Ex. 28–1).

OSHA's long experience with ergonomics is apparent from the chronology below. As this table shows, the Agency has been actively involved in ergonomics for more than 20 years.

OSHA Ergonomics Chronology

Early 1980s	OSHA begins discussing ergonomic interventions with labor, trade associations and professional organizations. OSHA issues citations to Hanes Knitwear and Samsonite for ergonomic hazards.
August 1983	The OSHA Training Institute offers its first course in ergonomics.
May 1986	OSHA begins a pilot program to reduce back injuries through review of injury records during inspections and recommendations for job redesign using NIOSH's Work Practices Guide for Manual Lifting.
October 1986	The Agency publishes a Request for Information on approaches to reduce back injuries resulting from manual lifting. (57 FR 34192)
July 1990	OSHA/UAW/Ford corporate-wide settlement agreement commits Ford to reduce ergonomic hazards in 96 percent of its plants through a model ergonomics program.
August 1990	The Agency publishes "Ergonomics Program Management Guidelines for Meatpacking Plants."

OSHA Ergonomics Chronology—Continued

Fall 1990	OSHA creates the Office of Ergonomics Support and hires more ergonomists.
November 1990	OSHA/UAW/GM sign agreement bringing ergonomics programs to 138 GM plants employing more than 300,000 workers. Throughout the early 90s, OSHA signed 13 more corporate-wide settlement agreements to bring ergonomics programs to nearly half a million more workers.
July 1991	OSHA publishes "Ergonomics: The Study of Work," as part of a nationwide education and outreach program to raise awareness about ways to reduce musculoskeletal disorders.
July 1991	More than 30 labor organizations petition Secretary of Labor to issue an Emergency Temporary Standard.
January 1992	OSHA begins a special emphasis inspection program on ergonomic hazards in the meatpacking industry.
April 1992	Secretary of Labor denies petition.
August 1992	OSHA publishes an Advance Notice of Proposed Rulemaking on ergonomics.
1993	OSHA conducts a survey of general industry and construction employers to obtain information on the extent of ergonomics programs in industry and other issues.
March 1995	OSHA begins a series of meetings with stakeholders to discuss approaches to a draft ergonomics standard.
January 1997	OSHA/NIOSH conference on successful ergonomic programs held in Chicago.
April 1997	OSHA introduces the ergonomics web page on the Internet.
February 1998	OSHA begins a series of national stakeholder meetings about the draft ergonomics standard under development.
March 1998	OSHA releases a video entitled "Ergonomic Programs That Work."
February 1999	OSHA begins small business (Small Business Regulatory Enforcement Fairness Act (SBREFA)) review of its draft ergonomics rule, and makes draft regulatory text available to the public.
April 1999	OSHA's Assistant Secretary receives the SBREFA report on the draft ergonomics program proposal, and the Agency begins to address the concerns raised in that report.
November 1999	OSHA publishes proposed ergonomics program standard.

A. Regulatory and Voluntary Guidelines Activities

In 1989, OSHA issued the *Safety and Health Program Management Guidelines* (54 FR 3904, Jan. 26, 1989), which are voluntary program management guidelines to assist employers in developing effective safety and health programs. These program management guidelines, which are based on the widely accepted industrial hygiene principles of management commitment and employee involvement, worksite hazard analysis, hazard prevention and control, and employee training, also serve as the foundation for effective ergonomics programs. In August 1990, OSHA issued the *Ergonomics Program Management Guidelines for Meatpacking Plants* (Ex. 2–13), which utilized the four program components from the safety and health management guidelines, supplemented by other ergonomics-specific program elements (*e.g.*, medical management). The ergonomic guidelines were based on the best available scientific evidence, the best practices of successful companies with these programs, advice from the National Institute for Occupational Safety and Health (NIOSH), the scientific literature, and OSHA's experience with enforcement actions. Many commenters in various industries have said that they have implemented their ergonomics programs primarily on the basis of the OSHA ergonomics guidelines (Exs. 3–50, 3–61, 3–95, 3–97, 3–113, 3–121, 3–125), and there has been general agreement among stakeholders that these program elements should be included in any OSHA ergonomics standard (Exs. 3–27, 3–46, 3–51, 3–61, 3–89, 3–95, 3–113, 3–119, 3–160, 3–184).

OSHA has also encouraged other efforts to address the prevention of work-related musculoskeletal disorders. For example, OSHA has actively participated in the work of the ANSI Z–365 Committee, which was tasked with the development of a consensus standard for the control of cumulative trauma disorders.

1. Petition for Emergency Temporary Standard

On July 31, 1991, the United Food and Commercial Workers Union (UCFW), along with the AFL–CIO and 29 other labor organizations, petitioned OSHA to take immediate action to reduce the risk to employees from exposure to ergonomic hazards (Ex. 2–16). The petition

requested that OSHA issue an emergency temporary standard (ETS) on "Ergonomic Hazards to Protect Workers from Work-Related Musculoskeletal Disorders (Cumulative Trauma Disorders)" under section 6(c) of the Act. The petitioners also requested, consistent with section 6(c), that OSHA promulgate, within 6 months of issuance of the ETS, a permanent standard to protect workers from cumulative trauma disorders in both general industry and construction.

OSHA concluded that, based on the statutory constraints and legal requirements governing issuance of an ETS, there was not a sufficient basis to support issuance of an ETS. Accordingly, on April 17, 1992, OSHA decided not to issue an ETS on ergonomic hazards (Ex. 2–29). OSHA agreed with the petitioners, however, that available information, including the Agency's experience and information in the ETS petition and supporting documents, supported the initiation of a rulemaking, under section 6(b)(5) of the Act, to address ergonomic hazards.

2. Advance Notice of Proposed Rulemaking

At the time OSHA issued the *Ergonomic Program Management Guidelines for Meatpacking Plants*, (Ex. 2–13), the Agency also indicated its intention to begin the rulemaking process by asking the public for information about musculoskeletal disorders (MSDs). The Agency indicated that this could be accomplished through a Request for Information (RFI) or an Advance Notice of Proposed Rulemaking (ANPR) consistent with the Administration's Regulatory Program. Subsequently, OSHA formally placed ergonomics rulemaking on the regulatory agenda (Ex. 2–17) and decided to issue an ANPR on this topic.

In June 1991, OSHA sent a draft copy of the proposed ANPR questions for comment to 232 parties, including OSHA's advisory committees, labor organizations (including the petitioners), trade associations, occupational groups, and members of the ergonomics community (Ex. 2–18). OSHA requested comments on what questions should be presented in the ANPR. OSHA received 47 comments from those parties. In addition, OSHA met with the Chemical Manufacturers Association, Organization Resources Counselors, Inc., and the AFL–CIO and several of its member organizations. OSHA reviewed the comments and submissions received and incorporated relevant suggestions and comments into the ANPR.

On August 3, 1992, OSHA published the ANPR in the **Federal Register** (57 FR 34192), requesting information for consideration in the development of an ergonomics standard. OSHA received 290 comments in response to the ANPR. Those comments have been carefully considered by the Agency in developing the proposed ergonomics program standard.

3. Outreach to Stakeholders

In conjunction with the process of developing the proposed ergonomics rule, OSHA has established various communication and outreach efforts since publication of the ANPR. These efforts were initiated in response to requests by individuals who would be affected by the rule (stakeholders) that they be provided with the opportunity to present their concerns about an ergonomics rule and that they be kept apprised of the efforts OSHA was making in developing a proposed rule. For example, in March and April 1994, OSHA held meetings with industry, labor, professional and research organizations covering general industry, construction, agriculture, healthcare, and the office environment. A list of those attending the meetings and a record of the meetings has been placed in the public record of this rulemaking (Ex. 26–1370).

In March, 1995, OSHA provided a copy of the draft proposed ergonomics rule and preamble to these same organizations. Thereafter, during April 1995, OSHA met again with these groups to discuss whether the draft proposed rule had accurately responded to the concerns raised earlier. A summary of the comments has been placed in the public record (Ex. 26–1370).

During 1998, OSHA met with nearly 400 stakeholders to discuss ideas for a proposed standard. The meetings were held in February, July and September of 1998. The first series of meetings was held in Washington, DC and focused on general issues, such as the scope of the standard and what elements of an ergonomics program should be included in a standard. The second series of meetings was held in Kansas City and Atlanta and focused on what elements and activities should be included in an ergonomics program standard. The third set of meetings was held in Washington, DC and emphasized revisions to the elements of the proposal based on previous stakeholder input. A summary of those meetings has been placed on the OSHA web site and in the public docket (Ex. 26–1370). After OSHA released a working draft of the proposed ergonomics standard to members of the Small Business Regulatory Enforcement Fairness Act Panel for review under that Act, the draft was posted on the OSHA web site (February 9, 1999).

4. Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel

In accordance with SBREFA and to gain insight from employers with small businesses, OSHA, the Office of Management and Budget (OMB), and the Small Business Administration (SBA) created a Panel to review and comment on a working draft of the ergonomics program standard. As required by SBREFA, the Panel sought the advice and recommendations of potentially affected Small Entity Representatives (SERs). A total of 21 SERs from a variety of industries participated in the effort. The working draft, supporting materials (a brief summary of a preliminary economic analysis and risk assessment and other materials) were sent to the SERs for their review. On March 24–26, 1999, representatives from OSHA, SBA, and OMB participated in a series of discussions with the SERs to answer questions and receive comments from the SERs. The SERs also provided written comments, which served as the basis of the Panel's final report (Ex. 23). The final SBREFA Panel Report was submitted to the Assistant Secretary on April 30, 1999. The findings and recommendations made by the Panel are addressed in the proposed rule, preamble, and economic analysis (see the discussion in Section VIII, Summary of the Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis).

B. Other OSHA Efforts in Ergonomics

In 1996, OSHA developed a strategy to address ergonomics through a four-pronged program including training, education, and outreach activities; study and analysis of the work-related hazards that lead to MSDs; enforcement; and rulemaking.

1. Training, Education, and Outreach

a. Training. The OSHA ergonomics web page has been an important part of the Agency's education and outreach effort. Other OSHA efforts in training, education and outreach include the following:

- Grants to train workers and employees about hazards and hazard abatement;
- Training courses in ergonomics;

- One day training for nursing home operators in each of five targeted states;
- Booklets on ergonomics, ergonomics programs, and computer workstations; and
- Videotapes on ergonomics programs in general industry and specifically in nursing homes.

OSHA has awarded almost $3 million for 25 grants addressing ergonomics, including lifting hazards in healthcare facilities and hazards in the red meat and poultry industries. These grants have enabled workers and employers to identify ergonomic hazards and implement workplace changes to abate the hazards.

Some grant program highlights follow.

- The United Food and Commercial Workers International Union (UFCW) conducted joint labor-management ergonomics training at a meatpacking plant that resulted in a major effort at the plant to combat cumulative trauma disorders. The program was so successful that management asked the UFCW to conduct the ergonomics training and work with management at some of its other facilities.
- The University of California at Los Angeles (UCLA) and the Service Employees International Union (SEIU) both had grants for preventing lifting injuries in nursing homes. SEIU developed a training program that was used by UCLA to train nursing home workers in California. UCLA also worked with some national back injury prevention programs. At least one of the nursing home chains has replicated the program in other states.
- Mercy Hospital in Des Moines, Iowa, had a grant to prevent lifting injuries in hospitals. It trained over 3,000 hospital workers in Des Moines and surrounding counties. It had a goal of reducing lost work days by 15 percent. The goal was surpassed, and, six months after the training, none of those trained had had a lost workday due to back injury.
- Hunter College in New York City is training ergonomics trainers for the United Paperworkers International Union. The trainers then return to their locals and conduct ergonomics training for union members. As a result of this training, changes are being made at some workplaces. Examples include purchasing new equipment that eliminates or reduces workers' need to bend or twist at the workstation, rotating workers every two hours with a ten-minute break before each rotation, and modifying workstations to reduce worker strain.

b. Education and Outreach. To provide a forum to discuss ergonomic programs and to augment information in the literature with the experience of companies of different sizes and from a variety of industries, OSHA and NIOSH sponsored the first in a series of conferences that brought industry, labor, researchers, and consultants together to discuss what works in reducing MSDs. The 1997 OSHA and NIOSH conference was followed by 11 more regional conferences across the country. OSHA and NIOSH held the second national conference on ergonomics in March of 1999. More than 200 presentations were given at the conferences on how companies have successfully reduced MSDs. Presentations were made by personnel from large and small companies in many different industries.

Other examples of successful ergonomics programs have come from OSHA's Voluntary Protection Program (VPP). The VPP program was established by OSHA to recognize employers whose organizations have exemplary workplace safety health programs. Several sites that have been accepted into VPP have excellent ergonomics programs.

2. Ergonomics Best Practices Conferences

During the period from Sept. 17, 1997 through Sept. 29, 1999, OSHA and its Regional Education Centers co-sponsored 11 Ergonomics Best Practices conferences. These Conferences were designed to provide good examples of practical and inexpensive ergonomics interventions implemented by local companies. The concept was that if OSHA and its Regional partners could initiate the development of a network of local employers, contractors, and educators to provide practical information to solve ergonomics problems, it would be assisting employers in providing a workplace for employees that would be "free of recognized health and safety hazards." To date, attendance has exceeded 2,400 participants, including employers, contractors, and employees. Finally, OSHA has made numerous outreach presentations to labor, trade, industry and professional organizations during the development of the proposed rule.

3. Studies and Analyses

Throughout the 1990s and continuing to the present, OSHA staff have monitored the ergonomics literature, developed analyses, and reviewed the work of other Federal and non-Federal agencies and organizations related to ergonomics issues. In some cases, OSHA staff have conducted site visits to observe ergonomics programs at first hand. Much of the information learned through these activities is reflected in the material in this preamble.

The most important reports and studies to appear in the last few years are listed below. OSHA has reviewed each of these documents in detail, and findings from them that are relevant to the discussions in this preamble are referenced in the text. Important recent studies that have supported the conclusion that ergonomic interventions and programs are a successful way to reduce MSDs:

- Elements of Ergonomics Programs, NIOSH, 1998 (Ex. 26–2);
- Musculoskeletal Disorders and Workplace Factors, NIOSH, 1997 (Ex. 26–1);
- Worker Protection: Private Sector Ergonomics Programs Yield Positive Results, GAO 1997 (Ex. 26–5); and
- Work-related Musculoskeletal Disorders, NRC 1998 (Ex. 26–37).

Other reports that support the use of ergonomic interventions in the context of an ergonomics program include:

- ASC Z–365 draft, Control of Cumulative Trauma Disorders, June 1997; and
- Applied Ergonomics, case studies, Volume 2 (case studies from the OSHA/NIOSH conference 1999).

In addition, in 1994, OSHA conducted eight site visits to companies that have implemented ergonomic controls. These site visits were at the invitation of companies in industries including meatpacking, manufacturing, and automotive manufacturing. In conjunction with three of these site visits, OSHA also held "town meetings" with other industry, labor and professional representatives in the geographical area. These meetings allowed OSHA to learn about other ergonomic programs that have been implemented by companies in the same area as well as issues regarding an OSHA ergonomics rule.

4. Enforcement

In the absence of a federal OSHA ergonomics standard, OSHA has addressed ergonomics in the workplace under the authority of section 5(a)(1) of the OSHAct. This section is referred to as the General Duty Clause and requires employers to provide work and a work environment free from recognized hazards that are causing or are likely to cause death or serious physical harm.

OSHA has successfully issued over 550 ergonomics citations under the General Duty Clause. Only one case has been decided by the Occupational Safety and Health Review Commission. In the majority of these cases, employers have realized that the implementation of ergonomics programs is in their best interest for the reduction of injuries and illnesses. Examples of companies cited under the General Duty Clause for ergonomics hazards and which then realized a substantial reduction in injuries and illnesses after implementing ergonomics programs include: the Ford Motor Company, Empire Kosher, Sysco Foods, and Kennebec Nursing Home.

When serious physical harm cannot be documented in the work environment but hazards have been identified by OSHA, Compliance Officers both discuss the hazards with the employer during the closing conference of an inspection and write a letter to the employer. These letters are called "ergonomic hazard alert letters." As of June 1, 1999, approximately 260 letters had been sent to employers. Ergonomic hazard alert letters have been sent to employers in approximately 50% of OSHA ergonomic inspections.

Since ergonomic solutions vary from one industry to another, OSHA has provided both general and industry-specific training to compliance officers. There are currently three main ergonomic courses offered to OSHA compliance staff: Introduction to Ergonomics, Ergonomics in Nursing Homes, and Ergonomics Compliance (an advanced ergonomics course). Over 600 compliance staff have been trained in just the past three years. These courses cover three weeks of material.

In addition, OSHA has appointed one Area Office Ergonomic Coordinator and a Regional Ergonomic Coordinator in every region. These coordinators meet monthly to discuss recent case developments and the scientific literature on ergonomics, share knowledge of ergonomic solutions, and ensure that enforcement resources are provided to compliance staff for enforcement. A PhD level, professionally certified ergonomist serves as the National Ergonomics Enforcement Coordinator in OSHA's Directorate of Compliance Programs.

5. Corporate Wide Settlement Agreements

Among the companies that were cited for MSD hazards, 13 companies covering 198 facilities agreed to enter into corporate-wide settlement agreements with OSHA. These agreements were primarily in the meat processing and auto assembly industries, but there were also agreements with telecommunications, textile, warehousing grocery, and paper companies. As part of these settlement agreements, the companies agreed to develop ergonomics programs based on OSHA's Meatpacking Guidelines (Ex. 2–13) and to submit information on the progress of their program.

OSHA held a workshop in March 1999, in which 10 companies described their experience under their settlement agreement and with their ergonomics programs. All the companies that reported results to OSHA showed a substantially lower severity rate for MSDs since implementing their programs (Ex. 26–1420). In addition, most companies reported lower workers' compensation costs, as well as higher productivity and product quality. A report from the March 1999 workshop on corporate wide settlement agreements summarizing the results from 13 companies involved in the agreements has been placed in the docket (Ex. 26–1420). Only 5 of the 13 companies consistently reported the number of MSD cases or MSD case rates. All five companies that reported data on MSD-related lost workdays showed a significant decline in the number of lost workdays. None of the companies that reported severity statistics showed an increase in lost workdays as a result of the ergonomics program.

C. Summary

As this review of OSHA's activities in the last 20 years shows, the Agency has considerable experience in addressing ergonomics issues. OSHA has also used all of the tools authorized by the Act—enforcement, consultation, training and education, compliance assistance, the Voluntary Protection Programs, and issuance of voluntary guidelines—to encourage employers to address musculoskeletal disorders, the single largest occupational safety and health problem in the United States today. These efforts, and the voluntary efforts of employers and employees, have led to a recent 5-year decline in the number of reported lost workday ergonomics injuries. However, in 1997, more than 626,000 such injuries and illnesses were still reported. Promulgation of an ergonomics program standard will add the only tool the Agency has so far not deployed against this hazard—a mandatory standard—to these other OSHA and employer-driven initiatives. Over the first 10 years of the standard's implementation, OSHA predicts that more than 3 million lost workday musculoskeletal disorders will be prevented in general industry. Ergonomics programs can lead directly to improved product quality by reducing errors and rejection rates. In an OSHA survey of more than 3,000 employers, 17 percent of employers with ergonomics programs reported that their programs had improved product quality. In addition, a large number of case studies reported in the literature describe quality improvements. Thus, in addition to better saftey and health for workers, the standard will save employers money, improve product quality, and reduce employee turnover and absenteeism.

III. Pertinent Legal Authority

The purpose of the Occupational Safety and Health Act ("OSH Act"), 29 U.S.C. 651 *et seq.*, is "to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources." 29 U.S.C. 651(b). To achieve this goal Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 655(b) (authorizing promulgation of standards pursuant to notice and comment), 654(b) (requiring employers to comply with OSHA standards).

A safety or health standard is a standard "which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment or places of employment." 29 U.S.C. 652(8).

A standard is reasonably necessary or appropriate within the meaning of Section 652(8) if:

- A significant risk of material harm exists in the workplace and the proposed standard would substantially reduce or eliminate that workplace risk;
- It is technologically and economically feasible;
- It is cost effective;
- It is consistent with prior Agency action or supported by a reasoned justification for departing from prior Agency action;
- It is supported by substantial evidence; and
- If this standard is preceded by a national consensus standard, it is better able to effectuate the purposes of the OSH Act than the standard it supersedes.

International Union, UAW v. *OSHA (LOTO II)*, 37 F.3d 665 (D.C. Cir. 1994); 58 FR 16612—16616 (March 30, 1993).

OSHA has generally considered an excess risk of 1 death per 1000 workers over a 45-year working lifetime as clearly representing a significant risk. *Industrial Union Dept.* v. *American Petroleum Institute (Benzene)*, 448 U.S. 607, 646 (1980); *International Union* v. *Pendergrass (Formaldehyde)*, 878 F.2d 389, 393 (D.C. Cir. 1989); *Building and Construction Trades Dept., AFL–CIO* v. *Brock (Asbestos)*, 838 F.2d 1258, 1264–65 (D.C. Cir. 1988).

A standard is technologically feasible if the protective measures it requires already exist, can be brought into existence with available technology, or can be created with technology that can reasonably be expected to be developed. *American Textile Mfrs. Institute* v. *OSHA (Cotton Dust)*, 452 U.S. 490, 513 (1981), *American Iron and Steel Institute* v. *OSHA (Lead II)*, 939 F.2d 975, 980 (D.C. Cir. 1991).

A standard is economically feasible if industry can absorb or pass on the costs of compliance without threatening the industry's long-term profitability or competitive structure. See *Cotton Dust*, 452 U.S. at 530 n. 55; *Lead II*, 939 F.2d at 980.

A standard is cost effective if the protective measures it requires are the least costly of the available alternatives that achieve the same level of protection. *Cotton Dust*, 453 U.S. at 514 n. 32; *International Union, UAW* v. *OSHA (LOTO III)*, 37 F.3d 665, 668 (D.C. Cir. 1994).

All standards must be highly protective. See 58 FR 16612, 16614–15 (March 30, 1993); *LOTO III*, 37 F.3d at 669. However, health standards must also meet the "feasibility mandate" of section 6(b)(5) of the OSH Act, 29 U.S.C. 655(b)(5). Section 6(b)(5) requires OSHA to select "the most protective standard consistent with feasibility" that is needed to reduce significant risk when regulating health hazards. *Cotton Dust*, 452 U.S. at 509.

Section 6(b)(5) also directs OSHA to base health standards on "the best available evidence," including research, demonstrations, and experiments. 29 U.S.C. 655(b)(5). OSHA shall consider "in addition to the attainment of the highest degree of health and safety protection * * * the latest scientific data * * * feasibility and experience gained under this and other health and safety laws." *Id.*

Section 6(b)(7) authorizes OSHA to include among a standard's requirements labeling, monitoring, medical testing and other information gathering and transmittal provisions, as appropriate. 29 U.S.C. 655(b)(7).

Finally, whenever practical, standards shall "be expressed in terms of objective criteria and of the performance desired." *Id.*

IV. Summary and Explanation

Based on the best currently available evidence, OSHA has preliminarily concluded that the requirements of the proposed Ergonomics Program Standard are reasonably necessary and appropriate to provide adequate protection from hazards that are reasonably likely to cause or contribute to work-related musculoskeletal disorders.

In developing this proposed rule, OSHA has carefully considered the large body of scientific articles and studies, as well as other data that OSHA has collected since the initiation of the Agency's ergonomic efforts more than a decade ago. In particular, OSHA has carefully considered the large number of pathophysiological, biomechanical and epidemiologic studies on MSD hazards, including those that were reviewed by NIOSH and NRC/NAS in their comprehensive studies in 1997 and 1998, respectively. Examples of other data OSHA has carefully considered in developing the proposed rule include case studies, papers, and "best practices" about ergonomics programs and controls that have been successfully implemented by a number of establishments.

OSHA also met with more than 400 stakeholders in several informal meetings during the development of the proposed rule, and considered the major points raised by the stakeholders during these meetings. In addition, the proposed rule has undergone the Panel review process required by the Small Business Regulatory Enforcement Fairness Act (SBREFA) 5 U.S.C. Chapter 8. All of the information developed to assist the small entity representatives (SERs) involved in the SBREFA process, the comments of the representatives, and the Panel's report and recommendations to OSHA have been placed in the rulemaking record (Ex. 23). Moreover, in conjunction with the SBREFA process, OSHA released a draft, on the OSHA web page, of the proposed rule and carefully considered stakeholder comments on that draft.

When a final standard is published, OSHA will undertake a number of outreach and compliance assistance activities. These will be particularly beneficial to small businesses. Outreach and compliance assistance activities OSHA intends to make available include:

- Publication of booklets summarizing the standard and providing specific information about different ways in which employers can comply with the standard;
- Development of computer-based materials to help small businesses identify and respond to MSDs and MSD hazards;
- Development of a Small Entity Compliance Guide, as required by SBREFA; and
- Development of a compliance directive that answers compliance-related questions about the standard.

In this summary and explanation for the proposed rule, OSHA has provided a number of examples of practices and controls that the Agency believes will work to reduce MSDs and exposure to MSD hazards. Although these certainly are not the only ways employers could comply with the proposed rule, the discussion provides information that employers can use or adapt for their workplaces. OSHA has used a variety of methods to help stakeholders understand the proposed requirements. For example, the summary and explanation includes a number of tables, exhibits and figures to show data, examples, requirements and ways to comply with the requirements. To make the preamble easier to use, the discussion of each provision of the proposed rule begins with a reprint of that provision from the proposed rule. In addition, the summary and explanation is included at the beginning of the preamble so stakeholders understand what the proposed rule would require when they examine other sections of the preamble, such as the information on the costs and impacts of the proposed rule.

OSHA believes that this proposed ergonomics program standard fulfills a promise President Clinton and Vice-President Gore made in the 1995 National Performance Reveiw document, "The New OSHA: Reinventing Worker Safety and Health." That document promised that OSHA would address the issue of ergonomics by working with business and labor to develop a flexible, plain-language ergonomics standard. The standard being proposed today reflects OSHA's commitment to common-sense rulemaking.

Does This Standard Apply to Me? (§§ 1910.901–1910.904)

The discussion of "Does this standard apply to me?" (*i.e.*, Scope of the proposed ergonomics program rule) is divided into three parts. Part A explains what employers and jobs the proposed standard covers. Part B discusses the definitions of the covered jobs and the other sections related to the Scope of the standard. Part C addresses OSHA's authority to limit the scope of the ergonomics program standard.

A. Industries, Employers and Jobs This Standard Covers

1. How Serious Is the Problem of Work-Related MSDs?

The problem of occupational musculoskeletal disorders (MSDs) is serious and widespread, and the scope of the proposed standard is also broad, so that it will capture a substantial portion of these MSDs. Lost workday MSDs constitute one-third of all job-related injuries and illnesses reported to BLS every year.

a. MSD cases. Since 1993, the first year BLS began reporting data on musculoskeletal disorders, private industry employers have reported more than 620,000 MSDs every year that have been serious enough to result in days away from work for the employee, according to the Bureau of Labor Statistics (BLS). (These MSDs are referred to in this preamble as "lost-workday MSDs" or "LWD MSDs.") MSDs now account for one-third of all reported LWD injuries and illnesses. The total number of reported MSDs, lost-time and non-lost-time MSDs combined, is much higher. The combined total is estimated to be almost three times higher than the number of LWD MSDs. (BLS data indicate that about two-thirds of all injuries and illnesses do not involve days away from work.)

b. Annual MSD rates. In addition, BLS data shows that annual incidence rates for LWD MSDs are high. In 1996, LWD MSD rates were as high as 36.58 per 1,000 full-time employees (FTE) (SIC 45—Transportation by Air). For a number of 2-digit industry sectors, LWD MSD rates exceeded 10 per 1,000 FTE. And only three industry sectors had an annual rate of less than 1 LWD MSD per 1,000 FTE. (A detailed discussion of LWD MSD cases and rates by industry and occupation are presented in the Preliminary Risk Assessment Section VI.)

c. Lifetime MSD rates. The lifetime rates for LWD MSDs are substantially higher. The estimated probability that a worker will experience at least 1 work-related MSD during a working lifetime (45 years) ranges from 24 to 813 per 1,000 FTE, depending on the industry sector. In addition, it is possible for a worker to experience more than one MSD in a working lifetime. There is evidence in the record indicating that many employees working in establishments without an ergonomics program have suffered more than one serious MSD (Exs. 26–23, 26–24, 26–25, 26–26, 26–1263, 26–1370). For example, a number of employees have had multiple surgeries for carpal tunnel syndrome (CTS). The expected number of MSDs that will occur during a working lifetime among 1,000 FTE workers who begin working in an industry at the same time ranges from 24 to 1,646, for various general industry sectors (see Section VII, Significance of Risk).

d. MSD costs. Each year MSDs alone account for about $15–20 billion in workers' compensation costs, which is roughly $1 of every $3 spent for workers' compensation. The average costs for MSD cases are higher than those for other injuries. For example, the average per case costs for carpal tunnel syndrome cases are $8,070, which is more than double the $4,000 average per case costs for all other injuries and illnesses (Exs. 26–43, 26–1286). According to Liberty Mutual Insurance Company, low-back pain is the most prevalent and costly work-related MSD in the nation. Low-back pain MSDs account for 15% of all Liberty Mutual workers' compensation claims and 23% of the costs of these claims (Ex. 26–54).

e. MSDs widespread. Data and other evidence show that the problem of work-related MSDs is widespread. Stakeholders have told OSHA that MSDs and MSD hazards are found in every industry in the nation (Ex. 3–59, 3–183, 3–184, 3–217). And each year employers in every industry report substantial numbers of LWD MSDs. In 1997, more than 626,000 LWD MSDs were reported in private industry, about 567,000 of which were in general industry. (See Section VI, Preliminary Risk Assessment, for a more detailed discussion of the number and rates of MSDs reported to the Bureau of Labor Statistics.)

2. Why and How Is OSHA Limiting the Scope of the Proposed Ergonomics Program Standard?

Although these and other data indicate that the problem of MSDs is serious and widespread, for several reasons OSHA believes it is prudent to proceed with the ergonomics rulemaking in phases. Regulating workplace exposure to MSD hazards presents special problems. In particular, the analysis and control of MSD hazards involves complex issues, because most often several ergonomic risk factors combine to create an MSD hazard, and these risk factors occur in many different combinations. The multi-factoral nature of MSD hazards also makes the development of a rule to address these hazards more complex, because it requires more Agency resources for the rulemaking, for additional analyses, and for materials for effective outreach and training.

OSHA applied two general principles in determining the scope of the first phase of the Ergonomics Program Standard. OSHA decided to focus on those areas where: (1) The problems are severe, and (2) the solutions are well-understood.

These principles are consistent with statutory factors governing OSHA rulemakings, including the criteria in section 6(g) of the OSH Act that OSHA must consider when setting rulemaking priorities. 29 U.S.C. 655(g). They are also consistent with the feasibility and substantial evidence requirements in the OSH Act. 29 U.S.C. 655(b)(5).

Applying these principles, OSHA made two basic decisions on the scope of the first phase of the Ergonomics Program Standard. OSHA first decided to limit the proposed standard to general industry because that is where the Agency has the most data and evidence on ergonomics solutions. And OSHA decided to focus on three areas within general industry where the problem is likely to be severe.

a. General industry. The vast majority of the large body of evidence and data showing that ergonomics programs and control interventions are successful in reducing MSDs pertains to general industry. (Exs. 26–1, 26–37). For example, the vast majority of studies reviewed in the NIOSH and NRC/NAS reports pertain to general industry. Almost all of the studies on the effectiveness of ergonomics programs and control interventions focused on general industry (see Section VI, Preliminary Risk Assessment). The vast majority of the success stories OSHA has gathered on the accomplishments of employers with ergonomics programs pertain to general industry employers. (See discussion of Job Hazard Analysis and Control below in this section, and the Preliminary Economic Analysis, for control scenarios and success stories.)

Evidence on ergonomic solutions from OSHA's own experience dealing with MSD hazards is also primarily derived from general industry. For example, all of OSHA's ergonomics enforcement experience under the General Duty Clause is in general industry. This includes more than 550 uncontested cases and 13 corporate settlement agreements covering 198 facilities.

Information about ergonomic solutions that OSHA has derived from the hundreds of ergonomics consultations the Agency pertains primarily to general industry. OSHA's ergonomics guidance and outreach efforts have been directed to general industry because most of the data and information are there. For example, the ergonomics program management guidelines OSHA published in 1990 focused on the red meat industry (Ex. 26–3). OSHA's other major ergonomics initiative targeted the nursing homes industry, a service industry within the general industry sector.

OSHA recognizes that MSD problems are also serious in the construction, maritime and agricultural industries. In 1996 alone, employers in these industries reported more than 60,000 LWD MSD. In the Construction—Special Trades industry sector (SIC 17), more than 35,000 LWD MSDs were reported, and the incidence rate was 11.57 per 1,000 FTE. OSHA intends to conduct rulemaking for those sectors at a later date. However, at this time the Agency has less well-developed data on ergonomics solutions in the construction, maritime and agriculture industries, and these industries have unique characteristics that warrant separate rulemakings. (Part C discusses the characteristics in those industries.)

b. Covered jobs. Within general industry, OSHA is applying the proposed rule to the following three areas where the problem is especially likely to be severe:

- Manufacturing production jobs;
- Manual handling jobs requiring forceful exertions; and
- Jobs where "OSHA recordable" MSDs meeting the screening criteria are reported.

Manufacturing and manual handling jobs. Data and other evidence in the record indicate that in these jobs MSD hazards are especially likely to be present. (In the proposed rule MSD hazards are defined as "physical work activities and/or physical work conditions in which risk factors are present, that are reasonably likely to cause or contribute to a covered MSD."). BLS data and evidence in the record indicate that there is a heavy concentration of reported MSDs and MSD hazards in manual handling and manufacturing jobs. These jobs account for about 60% of all reported MSDs that are severe enough to have resulted in days away from work, even though manufacturing and manual handling jobs employ less than 28% of the general industry workforce, according to BLS.

For many occupations involving manufacturing or manual handling, MSD rates are high. In 1996, LWD MSD rates for occupations involving manufacturing and manual handling were as high as 30.4 and 42.4 per 1,000 FTE, respectively. For example, among nursing aides, orderlies and attendants, the LWD MSD rate was 31.6 per 1,000, and about 58,400 cases were reported. (For the entire health services industry sector, which involves a variety of patient handling tasks, more than 103,000 LWD MSDs were reported, or almost 15% of all private industry cases.)

The fact that manufacturing production and manual handling jobs account for the largest share of workers' compensation costs is another indication that there is likely to be a high concentration of MSD hazards in those jobs. MSDs of the back are one of the most costly workplace injuries and account for a very large percentage of permanent occupational disability cases and costs. As mentioned above, according to Liberty Mutual Insurance Company (1988, Ex. 26–54), MSDs of the back are the most prevalent and costly work-related MSD in the nation.

Other general industry jobs in which covered MSDs occur. In general industry jobs other than manufacturing and manual handling, exposure to MSD hazards is more variable, depending on particular work activities and conditions. There are, however, a very large number of MSDs reported outside manufacturing and manual handling jobs. An employer's report of a work-related MSD that is serious enough to result in work restrictions, days away from work or medical treatment, is a logical indicator that MSD hazards are likely to be present in a job. OSHA is therefore extending coverage to jobs in which covered MSDs occur. This scope of coverage will reach jobs in which MSD hazards are likely to be present while excluding other jobs unless and until a covered MSD occurs in them.

Evidence of the severity of the MSD problem outside of manufacturing and manual handling includes the following. In 1996, about 230,000 LWD MSDs were reported in jobs other than manufacturing and manual handling. The annual LWD MSD rates that year exceeded 1 per 1,000 in all but three general industry sectors that typically do not involve manufacturing or manual handling jobs.

A significant percentage of carpal tunnel syndrome (CTS) cases, the type of MSD generally requiring the most extensive recovery time, is found in jobs other than manufacturing or manual handling. In 1996, CTS cases resulted in the highest median number of days away from work for any injury or illness: 25 days for CTS compared to 5 days for all injuries and illnesses combined. That year, more than 57% of lost-workday CTS cases involved more than 20 days away from work, and more than 42% of all lost-workday CTS cases involved more than 30 days away from work. For amputations and fractures, 32% and 36% of cases, respectively, involved more than 30 days away from work.

In conclusion, although the proposed rule applies to only three categories within general industry, it will capture those jobs in which 90% of LWD MSDs have been reported in recent years in private industry. And because there are so many well-recognized ergonomic solutions to MSD problems in general industry, OSHA believes the proposed standard should substantially reduce MSD hazards as well as the number and severity of work-related MSDs in covered industries. OSHA requests comment on the scope of the proposed rule, particularly on whether and to what extent the scope of the rule should be expanded or reduced.

B. Definitions of Manufacturing Jobs, Manual Handling Jobs and Jobs With MSDs and Explanation of Other Scope Sections

Part B discusses the Scope sections of the proposed rule. The first section explains the definitions of the jobs the proposed rule covers: manufacturing jobs, manual handling jobs, and jobs with covered MSDs. The second section discusses the other sections of the Scope of the proposed rule (§§ 1910.901–1910.904).

1. Definitions of Covered Jobs

The proposed rule is job-based, and the scope of the proposed rule is defined in terms of jobs: manufacturing jobs, manual handling jobs, and jobs in which an employee has experienced a covered MSD. The proposed rule applies

to employers who have any of these jobs, but only to the extent that their workplaces have such jobs. Where employers do not have manual handling or manufacturing jobs that have given rise to a covered MSD, the Ergonomics Program Standard would not apply at all.

a. Why is OSHA using a job-based approach for defining the scope of the proposed rule? OSHA is proposing a job-based approach for defining the scope and application of the ergonomics standard because this approach focuses on areas where MSD hazards are likely to be present, is relatively easy to apply, and appears to be more cost-effective than other approaches. OSHA believes employers should be able to determine whether the standard applies to them without having to do a job hazard analysis for all jobs in their workplace. In addition, the three job categories addressed by the scope should include most jobs in which MSD hazards are present.

Easy to apply. The three job categories OSHA is proposing to cover should help employers quickly focus on the areas where they need to be looking for ergonomic problems. Employers should know whether they have manufacturing production jobs or jobs where employees are regularly handling heavy loads. In addition, it should not be difficult for employers to determine whether they have OSHA recordable MSDs, since most of them are already familiar with recording work-related illnesses and injuries in order to comply with the OSHA recordkeeping rule, 29 CFR Part 1904. Even employers who do not keep OSHA 200 logs should not have difficulty identifying whether any of their employees has been injured to the extent that they require medical treatment, restricted work, transfer to an alternative duty job, or time away from work to recuperate.

"Proxy" for MSD hazards. These three job categories are appropriate because each is an accurate and reasonable proxy for an increased risk of exposure to ergonomic hazards that are reasonably likely to cause or contribute to serious physical harm, that is, to a covered MSD. For example, manufacturing production jobs frequently involve repetition of the same task throughout the workday, without much variation. A large body of evidence, which is discussed in greater detail in the Health Effects section (Section V), shows that employees who have frequent and/or prolonged exposure to highly repetitive motions (particularly when they are carried out in combination with high force and/or awkward postures) have a much higher risk of developing an MSD as compared to employees with lower levels of exposure (See *e.g.*, NIOSH, 1997, Ex. 26–1; Bernard, 1993, Ex. 26–439; Higgs *et al.* 1992, Ex. 26–1232; Burt *et al.* 1990, Ex. 26–698; deKrom *et al.* 1990, Ex. 26–41; Silverstein *et al.* 1987, Ex. 26–34; Armstrong *et al.* 1987, Ex. 26–48). The high incidence rates in manufacturing production occupations confirm this. OSHA is not saying that all manufacturing jobs present MSD hazards. OSHA is saying that manufacturing jobs present an increased risk of such hazards, and it is therefore logical to cover them in the proposed standard.

The same is true for manual handling jobs. Manual handling jobs typically involve regular lifting of heavy loads. A large body of evidence shows that doing forceful exertions repeatedly or for a prolonged period of time significantly increases the risk of developing an MSD of the back (*See e.g.*, NIOSH, 1997, Ex. 26–1; Holmstrom *et al.*, 1992, Ex. 26–36; Punnett *et al.*, 1991, Ex. 26–36; Liles *et al.*, 1984, Ex. 26–33). Occupations and industries where these hazards are present have very high LWD MSD rates and a large number of cases. As mentioned above, in 1996, nurses aides, orderlies and health care attendants, who spend much of their time doing patient lifting tasks, had an annual LWD MSD rate of 31.6 per 1,000 FTE, and the health services industry alone accounted for almost 15% of all LWD MSD cases. Finally, the report of an MSD that is serious enough to warrant recording on the OSHA 200 log is a logical indicator that MSD hazards may be present, especially since assessing the work-relatedness of the MSD for the purposes of this standard involves a determination by the employer about whether the MSD has a connection to the activities and conditions of the job.

More practical and less-burdensome. Although not a perfect indicator of the presence of MSD hazards, reliance on the these job categories to determine the scope of the proposed standard is more practical than other approaches. Using this approach, employers do not have to do a job hazard analysis of their facility or use a checklist to screen all of their jobs, and do not have to measure the total weights lifted by an employee or the number of repetitions made, to determine whether the standard applies to them. Thus, the job-based approach does not require employers to spend much time and resources reviewing the standard to determine whether they are covered or reviewing jobs where no hazard exists. OSHA believes that determining in the first instance whether the standard applies should require nothing more of employers than a common sense determination as to whether they have manufacturing productions jobs, forceful manual handling jobs, or jobs with OSHA recordable MSDs. OSHA anticipates that employers should be able to make this determination based on existing knowledge rather than on formal job analysis.

OSHA agrees with stakeholder and SBREFA Panel comments to the effect that the scope should be easy to understand. Accordingly, to help employers understand the scope of the rulemaking, the definitions of manufacturing and manual handling jobs include examples of jobs that would typically be included in and excluded from the definition (see § 1910.945).

b. What about other methods for defining scope? OSHA believes the job-based approach is superior to other ways of defining coverage, because, on balance, it is the most accurate of the cost-effective approaches to reducing MSD hazards. OSHA presents alternative approaches below and requests comment on this issue.

Preliminary job hazard analysis. OSHA considered requiring all general industry employers to do an initial job hazard analysis for all jobs in the workplace to identify those jobs where MSD hazards are present. That approach is similar to the approach OSHA uses in other health standards. In those standards, employers make an initial assessment about the presence of hazardous substances in the workplace (*i.e.*, "Do I have operations that involve formaldehyde in my workplace?"). Requiring a preliminary job hazard analysis to screen for ergonomic hazards is analogous to this initial assessment for toxic substances. Although conducting a preliminary analysis is the most thorough and accurate way to initially determine whether MSD hazards are present, it is more resource-intensive for employers. To the extent that doing an initial job hazard analysis would require employers to expend considerable resources and efforts where no MSD hazards are present, it would not be cost-effective. In contrast, the practical design of the proposed job-based approach allows employers to make common sense determinations about whether the proposed rule applies, rather than requiring that the determination be based on a formal job hazard analysis. At the same time, since evidence in the record shows that MSD hazards are likely to be present in these jobs and that these three categories account for such a large proportion of all

reported MSDs, using the three job categories is a reasonably accurate approach.

Specification. OSHA also could have used a specification approach in the proposed rule, defining coverage by specific measurements such as weight limits, number of repetitions, or number of hours performing a certain job or task demand. A number of studies have identified exposure-response relationships in particular circumstances (Holmstrom *et al.* 1992, Ex. 26–36 ; Punnett *et al.* 1991, Ex. 26–39; de Krom *et al.* 1990, Ex. 26–41; Liles *et. al.* 1984, Ex. 26–33), and a number of models exist for equating safe levels of exposure (*e.g.*, NIOSH Lifting Index, Ex. 26–572; Snook "Push-Pull" tables, Ex. 26–1008).

Specification approaches, however, are more likely to be overinclusive or underinclusive. See *International Union, UAW* v. *OSHA (LOTO II)*, 37 F.3d 665 (D.C. Cir. 1994). For example, if the proposed rule were to cover any task that required lifting a certain weight (*e.g.*, more than 40 pounds), the proposed rule might not cover a number of very hazardous lifting tasks in which MSDs are reasonably likely to occur. This is because the weight limit might not adequately consider the impact of other factors on the force required to complete a lift. To illustrate, a task requiring an employee to lift 40 pounds may be safe if twisting, bending or reaching is not involved, but it could be unsafe if long horizontal reaches or bending is required.

On the other hand, a proposed rule that defined coverage in terms of a weight limit that takes other ergonomic risk factors into account could be overinclusive because the recommended lift weight could vary greatly with each lifting task. For example, a lifting task that does not involve any risk factors other than force would be treated the same as a lift involving many risk factors. However, to expand a specification approach to make it more precise (*i.e.*, so that it was not underinclusive or overinclusive) would necessarily make the approach more complex. It would require employers to determine what risk factors are present in order to determine their impact on the weight limit, and thus would essentially require a basic job hazard analysis simply to make a decision about whether they are subject to the rule.

Checklist. OSHA could also have used a checklist approach for defining coverage under the proposed ergonomics standard. A simple checklist has advantages: it can be administered by a person with limited training and is simple and fast to administer. However, some checklists are not designed to capture complex situations and thus might be underinclusive. For example, a simple checklist that omits questions that are important to a particular job might erroneously exclude a hazardous job or treat it as no more hazardous than another job. On the other hand, making a checklist more thorough and accurate would make it harder to use and more costly and complex.

Industry. Finally, OSHA could have defined the coverage of the standard purely by industry (*i.e.*, industries with the highest MSD rates), as some stakeholders have recommended. For several reasons, however, OSHA believes that this approach would not be as accurate as the proposed approach in focusing the standard on areas where the problem is severe. Regardless of the industry in which employees work, they face a significant risk of material harm when they are exposed to physical work activities and conditions that are reasonably likely to cause or contribute to a covered MSD. For example, in an industry where manual handling is rarely performed or is restricted to a small group of employees, the overall incidence rate for the industry is likely to be low. But even if the overall industry incidence rate is low, those employees who do perform manual handling and are exposed to MSD hazards are at significant risk of material health impairment. Conversely, an industry-based approach would result in low-hazard jobs in a covered industry being included, while employees performing identical jobs in other industries would be excluded. Defining coverage by industry, therefore, would make the standard both underinclusive and overinclusive.

In addition, using industry incidence rates is not necessarily an accurate measure of the prevalence of MSD hazards. For example, even where large numbers of MSDs are reported in an industry, the rate may still be low because the industry employs so many workers, some of whom are not exposed to the same degree to MSD hazards. In part, this is due to the fact that available industry classifications were established for purposes other than occupational safety and health analysis. Therefore, the courts recognized that such classifications "appear essentially irrelevant" to the task of regulating hazards. *LOTO II*, 37 F.3rd at 670.

In the remainder of this discussion, OSHA will describe the specific provisions of the proposed standard that deal with Scope.

c. *Manufacturing jobs.* Section 1910.901 Does this standard apply to me?

This standard applies to employers in general industry whose employees work in manufacturing jobs or manual handling jobs, or report musculoskeletal disorders ("MSDs") that meet the criteria of this standard. This standard applies to the following jobs:

(a) Manufacturing jobs. Manufacturing jobs are production jobs in which employees perform the physical work activities of producing a product and in which these activities make up a significant amount of their worktime:

There are many kinds of jobs in manufacturing firms (*e.g.*, production, professional and technical, maintenance, repair, sales, etc.), some of which do not have exposure to MSD hazards. The proposed rule focuses on manufacturing jobs involving the physical work activities of production because these jobs present an increased risk of MSD hazards.

Production jobs. The manufacturing jobs the proposed rule covers are production jobs in manufacturing, those that directly involve production work tasks; they are the hands on jobs of processing, assembling, or fabricating finished or semi-finished products (durable and non-durable). Production work involves the range of tasks from handling raw materials or components through packaging the final product to leave the production facility. Manufacturing production jobs are frequently referred to as assembly line, production line, paced work, piecework, or factory jobs.

Evidence in the record indicates that MSDs reported in manufacturing are heavily concentrated in production jobs. All of the manufacturing occupations, as defined by the BLS, with high LWD MSD rates are production jobs. In 1996, for instance, the manufacturing jobs with the highest LWD MSD rates were the following production occupations:

- Machine feeders and offbearers 34.6 per 1,000 FTE
- Punching and stamping machine operators 30.4 per 1,000 FTE
- Sawing machine operators 18.9 per 1,000 FTE
- Furnace, kiln, oven operators (except food) 18.0 per 1,000 FTE
- Grinding, abrading, polishing machine operators 17.9 per 1,000 FTE
- Assemblers 16.2 per 1,000 FTE

The rate for each of these manufacturing production occupations substantially exceeded and in some cases was 5 times as high as the rate for all manufacturing injuries and illnesses combined (10.3 per 1,000 FTE). These rates were also more than 4 times higher than the LWD rate for all injuries and illnesses combined (2.5 per 1,000 FTE).

MSDs reported in manufacturing are heavily concentrated in production jobs because these are the jobs that are likely to involve significant exposure to the combinations of ergonomic risk factors that are associated with significantly elevated risks of harm. Studies show that production work tasks, which frequently involve highly repetitive tasks and are often combined with high force and awkward postures, are the jobs in manufacturing that are most closely associated with significantly-elevated risks of harm (See *e.g.*, NIOSH, 1997, Ex. 26–1; Bernard *et al.* 1993, Ex. 26–439; Higgs *et al.* 1992, Ex. 26–1232; Silverstein *et al.* 1987, Ex. 26–34; Armstrong *et al.* 1987, Ex. 26–48).

Duration. The manufacturing production jobs that the proposed standard covers are those in which employees perform production tasks for a "significant amount" of their worktime. In general, significant amount means that performing production tasks is a key or characteristic element of the employee's job. It will probably be obvious that employees are performing production tasks for a significant amount of their worktime. The purpose of the significant amount of the worktime aspect of the definition of manufacturing jobs is to reinforce that the definition is intended to include jobs in which production work is characteristic of the job, while excluding jobs in which an employer might, on rare occasions, perform production tasks. This is illustrated by the examples of jobs that are and are not typically included in the definition (see discussion of § 1910.945).

Evidence in the record, including that discussed in the Health Effects section (Section V), indicates that MSD hazards may be present where production work is performed for a significant amount of time. Job tasks that require the use of the same muscles or motions for long periods of time increase the likelihood of both localized and general fatigue. In general, the longer the period of continuous exertion, the longer the recovery or rest time required (NIOSH , 1997, Ex. 26–1). Studies show that one of the biggest contributors to the occurrence of MSDs in manufacturing production jobs is lack of adequate recovery time (Exs. 26–1, 26–1275). Inadequate recovery time may be the result of the length of time work tasks are performed (deKrom *et al.* 1990, Ex. 26–102), or the frequency with which job cycles are performed.

For example, the risk of developing carpal tunnel syndrome (CTS) increases steadily with increases in daily exposure to flexed or extended wrist postures (deKrom *et al.* 1990. Ex. 26–102). The odds ratio for wrist disorders for a group of employees exposed to flexed wrist postures between 8–19 hours a week (*i.e.*, an average of 1 to <4 hours per day) was 3, while that for employees exposed to these postures for between 20–40 hours a week (*i.e.*, an average of 4 to 10 hours per day) was 9 (deKrom *et al.* 1990, Ex. 26–102).

Other studies reach the same general conclusions. Researchers who reviewed the literature found that exposure to a combination of repetitive motions and either high forces, awkward postures or vibrating tools, or to various combinations of risk factors, for more than 4 hours a day puts workers at high risk of developing MSDs (Exs. 26–1163, 26–1352). (The relationship between duration of exposure to repetitive tasks and the occurrence of MSDs is discussed in greater detail in the Section V, Health Effects, of this preamble.) Although adverse effects have been reported following extremely high levels of exposure for very short durations (Hagberg, 1981, Ex. 26–955), studies show that exposure to workplace risk factors for less than 2 hours normally permits sufficient recovery time for the muscles, nerves and tendons in most workers to prevent chronic adverse health effects (Punnett *et al.*, 1991, Ex. 26–39; Punnet, 1998, Ex. 26–38)).

To clarify further the definition of manufacturing job, the proposed rule includes a list of examples of jobs that typically are included in and excluded from the proposed definition. This list is intended to be a practical guide about the kinds of jobs that OSHA intends to include as manufacturing production jobs. Table IV–1 includes this list:

Table IV–1

EXAMPLES OF JOBS THAT TYPICALLY ARE MANUFACTURING JOBS	EXAMPLES OF JOBS THAT TYPICALLY ARE NOT MANUFACTURING JOBS

• Assembly line jobs producing:
  • Products (durable and non-durable)
  • Subassemblies
  • Components and parts
• Paced assembly jobs (assembling and disassembling)
• Piecework assembly jobs (assembling and disassembling) and other time critical assembly jobs
• Product inspection jobs (*e.g.*, testers, weighers)
• Meat, poultry, and fish cutting and packing
• Machine operation
• Machine loading/unloading
• Apparel manufacturing jobs
• Food preparation assembly line jobs
• Commercial baking jobs
• Cabinetmaking
• Tire building
	• Administrative jobs
	• Clerical jobs
	• Supervisory/managerial jobs that do not involve production work
	• Warehouse jobs in manufacturing facilities
	• Technical and professional jobs
	• Analysts and programmers
	• Sales and marketing
	• Procurement/purchasing jobs
	• Customer service jobs
	• Mail room jobs
	• Security guards
	• Cafeteria jobs
	• Grounds keeping jobs (*e.g.*, gardeners)
	• Jobs in power plant in manufacturing facility
	• Janitorial
	• Maintenance
	• Logging jobs
	• Production of food products (*e.g.*, bakery, candy and other confectionary products) primarily for direct sale on the premises to household customers

d. Manual handling jobs.

(b) Manual handling jobs. Manual handling jobs are jobs in which employees perform forceful lifting/lowering, pushing/pulling, or carrying. Manual handling jobs include only those jobs in which forceful manual handling is a core element of the employee's job;

Note: Although each manufacturing and manual handling job must be considered on the basis of its actual physical work activities and conditions, the definitions section of this standard (§ 1910.945) includes a list of jobs that are typically included in and excluded from these definitions.

The second group of jobs OSHA is proposing to cover are manual handling jobs. Manual handling is the forceful movement (*i.e.*, lifting, lowering, pushing, pulling, carrying) of materials, equipment, objects, people or animals. The movement may be done by hand, as in lifting an object or pushing hand carts or pallets. The movement can also be done with the help of automated equipment or aids, such as forklift trucks, storage and retrieval systems, conveyors, and mechanical lift devices; such assisted handling would be considered manual handling as long as the movement still required forceful exertions by the employee.

The vast majority of MSDs reported in manual handling jobs are back disorders (*i.e.*, overexertions). For example, the jobs with the highest rate of time-loss injuries due to overexertion are those in nursing and personal care facilities, where employees are required to do frequent patient handling and lifting. Manual handling tasks are also associated with back pain in 25–70% of all worker's compensation claims (Snook and Ciriello, 1991, Ex. 26–1008; Cust *et al.*, 1972, Ex. 26–1194). There is also strong and consistent evidence that MSDs of the lower back are associated with work-related lifting and forceful exertions (see Section V below).

Most employees handle and move objects occasionally at the workplace. A number of stakeholders have expressed concern that the ergonomics standard would apply to any lifting, lowering, pushing, pulling or carrying tasks (collectively referred to as lifting) that employees do. That is not OSHA's intention, and the proposed definition of manual handling jobs clarifies that. Table IV–2 contains the examples of jobs from the definition that typically would be included in and excluded from the proposed rule:

Forceful lifting. Manual handling jobs are defined to include only those jobs that require forceful manual handling tasks. Force is the mechanical effort required to carry out a specific movement (NIOSH Elements of Ergonomics Programs, 1997, Ex. 26–2). Forceful exertions place higher loads on the muscles, tendons, ligaments, and joints (NIOSH 1997, Ex. 26–1; see also section V, Health Effects, of this preamble. Increasing the force required to lift a load also means increasing body demands (*i.e.*, greater muscle exertion is necessary to sustain the increased effort), and imposing greater compressive forces on the spine (Marras *et al.* 1995). As force increases, muscles fatigue more quickly. Prolonged or recurrent exertions of this type can also lead to MSDs where there is not adequate time for rest or recovery (NIOSH 1997, Ex. 26–1).

Studies indicate employees who perform forceful manual handling tasks face a significant risk of developing an MSD (See Health Effects, Chapter V). The majority of epidemiologic studies (13 of 18 studies) in the 1997 NIOSH review show that odds ratios are higher—in the range of 5.2 to 11—for employees who have high exposure to force and lifting. (These results are consistent with biomechanical and other laboratory evidence regarding the effects of lifting and dynamic motion on back tissues.) NIOSH also found that the high odds ratios for employees with high exposure were "unlikely to be caused by confounding or other effects of lifestyle covariates" (NIOSH 1997, Ex. 26–1).

Table IV–2

EXAMPLES OF JOBS THAT TYPICALLY ARE MANUAL HANDLING JOBS	EXAMPLES OF JOBS/TASKS THAT TYPICALLY ARE NOT MANUAL HANDLING JOBS
• Patient handling jobs (*e.g.*, nurses aides, orderlies, nurse assistants) • Package sorting, handling and delivering • Hand packing and packaging • Baggage handling (*e.g.*, porters, airline baggage handlers, airline check-in) • Warehouse manual picking and placing • Beverage delivering and handling • Stock handling and bagging • Grocery store bagging • Grocery store stocking • Garbage collecting	• Administrative jobs • Clerical jobs • Supervisory/managerial jobs that do not involve manual handling tasks or work • Technical and professional jobs • Jobs involving unexpected manual handling • Lifting object or person in emergency situation (*e.g.*, lifting or carrying injured co-worker) • Jobs involving manual handling that is so infrequent it does not occur on any predictable basis (*e.g.*, filling in on a job due to unexpected circumstances, replacing empty water bottle, lifting of box of copier paper) • Jobs involving manual handling that is done only on an infrequent "as needed" basis (*e.g.*, assisting with delivery of large or heavy package, filling in once for an absent employee) • Jobs involving minor manual handling that is incidental to the job (*e.g.*, carrying briefcase to meeting, carrying baggage on work travel)

Core element. Manual handling jobs are jobs in which manual handling tasks are a core element of the employee's job. A core element of a job refers to the tasks or physical work activities that are a key function of a job. Manual handling tasks may be a core element because they are a basic or essential function of a job. They may be a core element because they are frequently repeated or performed for a period of time. The following are examples of jobs in which manual handling would typically be considered a core element:

• Jobs where the basic purpose is to lift loads. These types of jobs include furniture moving, package and product delivery, and airline baggage handling;

• Jobs where lifting or pushing/pulling is an essential function of the job. Patient lifting, for example, is an essential element of nurse aide or health aide jobs and pushing is an essential element for orderlies;

• Jobs where manual handling is a regular element of the job cycle. These types of jobs typically include bringing supplies to a production workstation, loading machines for processing, and moving partially assembled products to the next workstation or onto or off a conveyor;

• Jobs where forceful exertions comprise a significant amount of the employee's work time. These jobs typically include warehousing, stocking and garbage collection;

• Jobs where employees end up doing manual handling on a routine or regular basis even if manual handing is not included in their job description. These jobs typically include unloading supplies or products that are delivered on a regular basis.

Including the concept of core element in the definition of covered manual handling jobs serves several purposes. First, it helps to ensure that employer attention is focused on those manual handling jobs for which data indicate that MSD hazards are most likely to be present: manual handling jobs with high MSD rates and numbers of cases. Studies indicate that manual handling jobs in which employees do forceful exertions repeatedly or for an appreciable period of time are associated with elevated risks of harm. For example, studies show a positive association between duration of exposure to workplace risk factors during manual handling and back pain (Wild 1995, Exs. 26–1104, 26–1105, 26–1106; Liles *et al.* 1984, Ex. 26–33). Studies also show that odds ratios for back MSDs increase significantly as daily duration of exposure to forceful manual handling increases (Holmstrom *et al.* 1992, Ex. 26–36; Punnett *et al.* 1991, Ex. 26–39; Liles *et al.* 1984, Ex. 26–33). Other studies indicate that the rate and duration of continuous lifting significantly reduces the worker's lifting capacity, making the worker more susceptible to MSDs associated with lifting (Snook and Ciriello, 1991, Ex. 26–1008).

Second, OSHA used core element rather than a duration component because, while duration and frequency play a role in determining whether the manual handling job imposes a risk of harm, studies show that employees can be at risk of developing an MSD at relatively short durations of lifting if the tasks involve extreme force (Hagberg 1981, Ex. 26–955) (see Section V of the preamble).

Finally, core element is a reasonable, shorthand way to inform employers that OSHA does not intend to cover manual handling that is so isolated or so incidental to the job that it is not reasonably likely to lead to an MSD. These types of jobs are not associated with high numbers or rates of MSDs.

OSHA requests information and comments about whether the Ergonomics Program Standard should include manual handling jobs. If so, how should manual handling jobs be defined? Should the definition use a flexible approach or be based on quantitative methods such as the NIOSH Lifting Equation?

c. Jobs with MSDs.

(c) Jobs with a musculoskeletal disorder. Jobs with an MSD are those jobs in which an employee reports an MSD that meets all of these criteria:

(1) The MSD is reported after [the effective date];

(2) The MSD is an *OSHA recordable MSD*, or one that would be recordable if you were required to keep OSHA injury and illness records; and

(3) The MSD also meets the screening criteria in § 1910.902.

Note to § 1910.901(c): In this standard, the term covered MSD refers to a musculoskeletal disorder that meets the requirements of this section.

The final group of jobs this standard proposes to cover are those in which an employee reports a musculoskeletal disorder (MSD).

What is an MSD? Musculoskeletal disorders are injuries or disorders of the:

- Muscles
- Tendons
- Joints
- Spinal discs
- Nerves
- Ligaments
- Cartilage

MSDs develop as a result of repeated exposure to ergonomic risk factors. The proposed rule covers the following ergonomics risk factors:

- Force (including dynamic motions)
- Repetition
- Awkward or static postures
- Contact stress
- Vibration
- Cold temperatures

MSDs covered by the proposed standard do not include injuries to muscles, nerves, tendons, ligaments, or other musculoskeletal tissues that are caused by accidents such as slips, trips, falls, being struck by objects, or other similar accidents.

Table IV–3 contains examples of MSDs that may develop as a result of exposure to the ergonomic risk factors the proposed rule covers:

Table IV–3

EXAMPLES OF MUSCULOSKELETAL DISORDERS THE ERGONOMICS PROGRAM STANDARD WOULD COVER IF CONDITIONS OF THE STANDARD ARE MET
• Carpal tunnel syndrome
• Epicondylitis
• Herniated spinal discs
• Tarsal tunnel syndrome
• Raynaud's phenomenon
• Sciatica
• Ganglion cyst
• Tendinitis
• Rotator cuff tendinitis
• DeQuervain's disease
• Carpet layers knee
• Trigger finger
• Low back pain

The presence of MSD signs and/or symptoms is usually the first indication that an employee may be developing an MSD. The proposed rule defines both terms.

MSD signs are objective physical findings that an employee may be developing an MSD.

MSD symptoms, on the other hand, are physical indications that an employee may be developing an MSD. Symptoms can vary in severity, depending on the amount of exposure to MSD hazards. Often symptoms appear gradually, for example, as muscle fatigue or pain at work that disappears during rest. Usually symptoms become more severe as exposure continues. For example, tingling in the fingers that formerly occurred only when the employee was doing a repetitive task subsequently continues even when the employee is off work or at rest. If the employee continues to be exposed, symptoms may increase to the point that they interfere with performing the job. For example, as exposure continues the employee's grip strength (*e.g.*, ability to hold or grip an object or exert pressure with the hand) may decrease to the point where the employee has difficulty holding tools or gripping objects. Finally, pain may become so severe that the employee is unable to perform physical work activities). Table IV–4 includes examples of MSD signs and symptoms that OSHA is proposing to cover in this standard:

Table IV–4

EXAMPLES OF MSD SIGNS AND SYMPTOMS	
MSD SIGNS	MSD SYMPTOMS
• Deformity • Decreased grip strength • Decreased range of motion • Loss of function	• Numbness • Tingling • Pain • Burning • Stiffness • Cramping

What MSDs does this standard cover? The proposed rule does not cover all MSDs, and thus a report of an MSD would not automatically require the employer to set up an ergonomics program or to provide MSD management. The proposed rule only covers those MSDs that meet all of the following requirements:

- They are "OSHA recordable" MSDs, and
- They are reported after the effective date of the standard, and
- They meet the screening criteria in § 1910.902 (*i.e.*, physical work activities and/or conditions are reasonably likely to cause the type of MSD reported and are a core element of the job and/or make up a significant amount of the employee's worktime).

OSHA recordable MSDs are those that meet the recording criteria of the OSHA recordkeeping rule, 29 CFR Part 1904. These MSDs must be recorded on the OSHA injury and illness logs, or are MSDs that would have to be recorded if the employer were obligated to keep such logs.

The OSHA recordkeeping rule does not require that every MSD be recorded.

The OSHA Meatpacking Guidelines explain what MSDs employers must record under the recordkeeping rule. A recordable MSD is a work-related MSD that results in one or more of the following:

- A diagnosis of an MSD by a HCP; or
- At least one positive physical finding, or
- An MSD symptom plus:
  - Medical treatment,
  - Restricted duty,
  - One or more lost work days, or
  - Transfer/rotation to another job.

Positive physical finding. A positive physical finding is a report of any of the MSD signs listed above that is observable

by the employer and/or HCP. It is also a positive result on a medical test (*i.e.*, Finkelstein's, Phalen's or Tinel's test) conducted by an HCP. Because a positive physical finding is able to be observed by others, unlike a symptom, OSHA considers positive physical findings to be a recordable MSD, even if the employee has not missed work, been placed on work restrictions, or received medical treatment for the problem.

MSD symptom plus other action. Under OSHA's recordkeeping rule, MSD symptoms are recordable if they have resulted in medical treatment beyond first aid, restricted duty, one or more days away from work or transfer/rotation to another job. For example, where an employer responds to an employee report of symptoms (*e.g.*, numbness in the fingers or pain in the wrist) by putting the employee in a light duty job or by directing the employee to stay at home to rest the injured area, the event must be recorded.

When an employee requires medical treatment to obtain relief from and resolve MSD signs or symptoms, the condition is a recordable MSD. Conservative medical treatment of MSDs, for example, may include prescription anti-inflammatories, splints or braces to immobilize movement of the injured area while at rest or sleeping, and/or physical therapy.

There are several reasons why OSHA is proposing to use an OSHA recordable MSD as an initial trigger, rather than other incident triggers (*e.g.*, MSD rates, any report of MSD signs or symptoms, accepted workers' compensation claims) to determine coverage. First, using an OSHA recordable should not be difficult or burdensome for most employers because they are familiar with this definition from their OSHA injury and illness logs. This is why many stakeholders said they supported using an OSHA recordable MSD in the ergonomics rule. Using the same definition for both rules (the recordkeeping and ergonomics rules) would reduce employer burdens in complying with the ergonomics rule because employers would not have to develop or learn a new recordkeeping system. In addition, it would reduce paperwork burdens because the OSHA logs would satisfy both the ergonomics rule and also the OSHA recordkeeping requirement.

Second, a number of stakeholders support using an OSHA recordable MSD because they believe it is a reasonable, objective definition. For example, a number of stakeholders oppose using any report of MSD symptoms because they are concerned that such reports may be subjective, and, unless the symptoms are persistent, may not really mean that an injury is present. These stakeholders also said that an OSHA recordable is more objective than other measures, such as the results of discomfort surveys.

Third, limiting coverage to jobs with a high incidence rate would have limited value. The typical job has between 1 to 10 employees, *i.e.*, between 1 and 10 employees in a given establishment perform the same job. Even if one of these employees has an MSD, the annual rate would be an unacceptably high incidence rate of 10%. For all except rare situations in which there are more than 100 employees with the same job, defining the trigger in terms of a rate is not fundamentally different from a one-incident trigger (see the discussion in Chapter VII of the Preliminary Economic Analysis, Ex. 28–1).

Defining coverage in terms of a job with a workers' compensation award would result in unequal treatment of employees and employers covered by the ergonomics standard. State workers' compensation laws vary significantly and the same MSD may not be compensable in all States. For example, some States compensate an injured employee only if MSD hazards are the predominant cause of the MSD or if there is clear and convincing evidence that the MSD hazard caused the MSD. In Virginia, a number of MSDs are not compensable (*e.g.*, rotator cuff syndrome). Moreover, defining an MSD in terms of workers' compensation claims puts employers who willingly acknowledge the work-relatedness of an MSD at a disadvantage compared to those employers who discourage claims and challenge compensation awards.

Finally, using an OSHA recordable MSD as the initial trigger would make the ergonomics rule more protective than using a number of the other MSD measures. Using an OSHA recordable MSD would require employers to respond to every MSD that is sufficiently important to warrant recording. In contrast, using multiple MSDs or incidence rates would mean that the ergonomics rule would not require some employers to provide protection or MSD management for the first employee who reports an MSD, even if the MSD is clearly work related or has resulted in severe permanent damage. (See OSHA's Initial Regulatory Flexibility Analysis in Chapter VII of the Preliminary Economic Analysis, Ex. 28–1, for an analysis of the potential impacts of alternative triggers.)

OSHA requests information and comment on its proposal to base coverage on the occurrence of an OSHA recordable MSD and an employer determination that the recordable also meets the screening criteria, as well as on alternative definitions of the term MSD that would be as protective as the proposed definition.

Reported after effective date. OSHA is also proposing to limit the MSDs that the standard would cover to those that are reported after the standard becomes effective, which is 60 days after the final Ergonomics Program Standard is published in the **Federal Register**. Coverage of the standard would not be triggered for MSDs that occurred before that date.

f. Screening criteria. The last requirement is that MSDs meet the criteria in § 1910.902. If the criteria are not met, the employer has no further obligation under the proposed rule.

Section 1910.902 Does this standard allow me to rule out some MSDs?

Yes. The standard only covers those OSHA recordable MSDs that also meet these screening criteria:

(a) The physical work activities and conditions in the job are reasonably likely to cause or contribute to the type of MSD reported; and

(b) These activities and conditions are a core element of the job and/or make up a significant amount of the employee's worktime.

The screening criteria limit coverage of the proposed standard to jobs where exposure to MSD hazards is reasonably likely to cause or contribute to the type of MSD reported, and the job activities are a core element of the job and/or make up a significant amount of the employee's worktime. Because MSD hazards are physical work activities or conditions that are reasonably likely to cause MSDs, normally the occurrence of a recordable MSD is a good indicator that an MSD hazard is present. However, there are occasions in which MSDs result from idiosyncratic or unusual work circumstances. While work-related, such an MSD may not evince underlying hazards of the type an ergonomics program is designed to address. For example, if an employee who routinely does heavy lifting incurs work-

related low back pain, that is precisely the type of MSD the work activities of the job are reasonably likely to have contributed to and would be the type of MSD hazard the ergonomics program is designed to control. If the same employee reports carpal tunnel syndrome, however, the situation is different. Of course, the condition may not be work-related. Even if it is, however, it is likely to be related to physical work circumstances or reactions that would not normally be taken into account in designing ergonomic controls. Because the occurrence of a recordable MSD is not a good proxy for an underlying hazard in this circumstance, the MSD would not be a covered MSD for purposes of this standard. For the reasons described in the explanation of manufacturing and manual handling jobs above, covered MSDs are limited to those that have a good nexus with the physical work activities and conditions of the job; that is, the physical work activities and conditions that are reasonably likely to result in the occurrence of an MSD are (1) a core element of the job, and/or (2) make up a significant amount of the employee's worktime.

2. Other Sections on Scope

Section 1910.903 Does this standard apply to the entire workplace or to other workplaces in the company?

No. This standard is job-based. It only applies to jobs specified in § 1910.901 not to your entire workplace or to other workplaces in your company.

Section 1910.903 specifies that the ergonomics rule would apply only to those jobs OSHA explicitly identified as covered jobs and ensures that the presence of a covered job does not bring the rest of the workplace under the ergonomics standard. This means that employers would not have to develop an ergonomics program that covers all jobs and employees in the workplace merely because one job in the workplace is covered by the ergonomics standard. Other jobs in the workplace would only be included under the standard if they meet the definition of a covered job or if they involve the same physical work activities and conditions as the job in which the employee experienced the covered MSD.

Some stakeholders recommended that if an ergonomics program is required in a workplace, it should cover the entire workplace. They said that a whole-workplace approach would be easier because it would eliminate the need to determine whether certain jobs are covered by the ergonomics rule or involve the same physical work activities and MSD hazards as the covered job (Ex. 26–1370). Some said that a facility-wide program achieves greater employee buy in and support for the ergonomics program. It would also create employee goodwill because all employees would be part of the program and would be provided protection, as opposed to a situation in which employees working side-by-side would not necessarily both be covered by the ergonomics program. Finally, stakeholders said they found that developing a facility-wide program was as a more efficient use of resources, because it eliminated duplication of efforts such as training. For these reasons, they said, many employers have taken this approach in their own workplaces.

OSHA agrees with stakeholders that there are advantages to facility-wide ergonomic programs and OSHA encourages employers to consider a facility-wide approach. However, OSHA is not proposing to require a workplace-wide approach because the risk factors are not present in every job to the extent that an MSD is reasonably likely to occur. The job-based coverage of the proposed rule ensures that employers focus first on the jobs where intervention is needed the most; that is, jobs in which the employees' exposure to the risk factors is significant enough that MSDs are occurring or reasonably likely to occur if exposure continues unabated. In any event, if other jobs in the workplace are or become problem jobs, those employees would also be included in the program required by the standard and would thus be provided protection from MSD hazards. Job-based coverage assures that employers are not required to expend resources on jobs in which there is little likelihood that MSD hazards are present.

The remaining half of section 1910.903 informs employers that their program for addressing problem jobs does not have to be applied corporate-wide. That is, the existence of a problem job in one workplace does not mean that employers have to set up an ergonomics program in every facility owned by the company in which that job is performed. OSHA is proposing to limit employer obligations to the facility in which the problem job is identified. At the same time, OSHA recognizes that a number of employers have developed corporate-wide ergonomics programs. OSHA notes that while the general program and protocols of such corporate programs are applied to all workplaces, job hazard analyses and determinations about whether and what actions are needed in specific jobs are usually made at the workplace level.

OSHA notes that, although the ergonomics rule would not apply corporate-wide, the employer will need to take action in other company-owned facilities if they have any of the problem jobs this standard covers (*e.g.*, if a covered MSD occurs there).

Section 1910.904 Are there areas this standard does not cover?

Yes. This standard does not apply to agriculture, construction or maritime operations.

OSHA is proposing to exclude firms engaged in agriculture, construction and maritime operations from the scope of the first phase of this ergonomics rulemaking. OSHA acknowledges that LWD MSD rates are also high in firms engaged in agriculture, construction and maritime operations. However, the unique problems (*e.g.*, jobs of very short duration, no fixed workstations) and the more limited information available on effective ergonomic controls in these workplaces have convinced OSHA that it must, for resource and priority-setting reasons, limit this first phase to general industry. OSHA has preliminarily decided to address the MSD hazards in firms engaged in these operations in a separate rulemaking. (OSHA's reasoning is discussed in detail in Part C below.)

OSHA intends to develop a separate ergonomics rule that can be tailored to the conditions that are unique to firms in these industries. In addition, OSHA believes that the experience it gains from the first phase will provide valuable assistance in developing an effective ergonomics rule for agriculture, construction and maritime.

OSHA requests comments and information about whether firms engaged in agriculture, construction and maritime operations should be included in this ergonomics standard at this time. In particular, OSHA requests comments and information about whether, for example, manual handling operations in agriculture, construction and maritime should be included in this first phase of the ergonomics rulemaking.

C. Authority and Reasons for Limiting Coverage of the Proposed Ergonomics Standard.

This section discusses OSHA's authority under the OSH Act to promulgate the ergonomics standard sequentially, and its reasons for limiting the proposed ergonomics standard at this time to the three types of jobs discussed above. This discussion focuses on the following questions:

- What authority and reasons support promulgating the Ergonomics Program Standard sequentially, and limiting the first phase to manufacturing jobs, manual handling jobs, and other jobs where an OSHA recordable MSD is reported?
- What authority and reasons support exclusion of the agriculture, construction and maritime industries from the proposed ergonomics standard?

1. Section 6(g)—OSHA Authority to Limit the Scope of Rulemakings

The OSH Act authorizes OSHA to use a phased approach to rulemaking, including focusing first on areas where the problem is severe and solutions are well-known. Section 6(g) of the OSH Act, 29 U.S.C. 655, permits OSHA to set priorities in establishing standards, including limiting the scope of particular standards and promulgating standards in phases. Section 6(g) provides:

> In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Secretary shall also give due regard to the recommendations of the Secretary of Health, Education, and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards.

In proposing the addition of section 6(g) to the OSH Act, Senator Jacob Javits explained that its purpose was "to relieve the Secretary of the necessity of waiting to promulgate whatever standards he wishes across the board [by] allowing him to yield to more urgent demands before he tries to meet others. * * *" Legislative History, 505.

The courts have broadly interpreted section 6(g) as "clearly permit[ting] the Secretary to set priorities for the use of the agency's resources." *United Steelworkers of America* v. *Auchter (Hazard Communication)*, 763 F.2d 728, 738 (3rd Cir. 1985); *Forging Industry Association v. OSHA (Noise)*, 773 F.2d 1436, 1455 (4th Cir. 1985); *United States Steelworkers* v. *Marshall (Lead)*, 647 F.2d 1189, 1309–1310 (D.C. Cir. 1980), cert. denied, 453 U.S. 913 (1981); *National Congress of Hispanic American Citizens* v. *Usery (Hispanic II)*, 626 F.2d 882 (D.C. Cir. 1979); *National Congress of Hispanic American Citizens* v. Usery (Hispanic I), 554 F.2d 1196, 1199 (D.C. Cir. 1977). Section 6(g) authorizes OSHA to "alter priorities and defer action due to legitimate statutory considerations," *Hispanic II*, 626 F.2d at 888 n. 30. In the PELs rulemaking, for example, the court upheld OSHA's decision to exclude exposure monitoring and medical surveillance provisions from the rule as being "purely a matter of regulatory priority." *AFL–CIO* v. *OSHA (PELs)*, 965 F.2d 962, 985 (11th Cir. 1992).

Section 6(g) also permits OSHA "to promulgate standards sequentially." Hazard Communication, 763 F.2d at 738. See, *PELs*, 965 F.2d at 985 . For example, the courts have upheld OSHA's decisions to issue standards for general industry first and thereafter to develop separate rules for those other industries that may have unique problems requiring special consideration (*e.g.*, mobile jobs of very short duration in the construction industry). *Lead*, 647 F.2d at 1309–10. (See Confined Spaces standard, 29 CFR 1910.146.) Section 6(g) also authorizes OSHA to "act in its legislative capacity 'to focus on only *one aspect of a larger problem*.'" *Lead*, 647 F.2d at 1310 (citing Chief Justice Burger concurring in Benzene, 448 U.S. at 663 (1980)) (emphasis added). In the PELs rulemaking, OSHA limited the standard solely to revising exposure limits and excluded ancillary provisions designed to provide further protection even though most other health standards included such provisions. See, *PELs*, 965 F.2d at 985.

Although OSHA's discretionary authority under section 6(g) is quite broad, it is not absolute:

> The scope of an agency's discretion is bounded by law; an agency cannot justify a decision by reference to its discretionary authority, if the decision lies beyond the scope of agency's discretion. (citations omitted) A statute may define as off-limits to an agency a particular basis for a decision, just as it may foreclose a particular result altogether. *Farmworkers Justice Fund, Inc.* v. *Brock (Field Sanitation)*, 811 F.2d 613, 620 (D.C. Cir.), vacated as moot, 811 F.2d 890 (1987).

The Supreme Court has made clear that an agency's decision will be set aside if it relied on factors which the Congress did not intend it to consider. *Motor Vehicle Manufacturers Assn.* v State Farm Mutual Automobile Insurance Co., 463 U.S. 29, 43 (1983). In section 6(g), Congress established factors OSHA must consider in setting its priorities: OSHA must give "due regard to the urgency of the need" for a standard in, among others, particular industries, occupations, workplaces, or work environments.[1] The court in Hazard Communication said that this language suggests a statutory standard by which to measure the exercise of OSHA's discretion. Hazard Communication, 763 F.2d at 738. Authorizing rulemaking priority for the most severe hazards also comports with the criteria of section 6(c), which authorizes OSHA to pursue expedited rulemaking (*i.e.*, emergency temporary standard) but only where employees are exposed to "grave dangers." *Hispanic II*, 626 F.2d at 889 n.36.

The Third Circuit has held that there is another limit on OSHA's 6(g) authority depending on where OSHA is in the rulemaking process. Hazard Communication, 763 F.2d at 738. The court said that, in situations where OSHA is setting priorities for future rulemaking, the agency has great latitude under section 6(g) to address greater hazards first. *Id.* However, the court held that where OSHA has decided to promulgate a standard to address an issue it is not enough for the agency to declare that it has selected certain industries or jobs for coverage because they present greater hazards. *Id.* Where significant risk exists in other industries and a standard is feasible there as well, OSHA may exclude those industries only if covering them would "seriously impede the rulemaking process." *Id.*

The standard in question, Hazard Communication (29 CFR 1910.1200), only required employers to provide employees with information and training about hazardous chemicals in the workplace, based on analyses generally conducted by the chemical manufacturer or importer. The standard did not require employers to analyze jobs, implement controls, or provide medical management. The court apparently believed that there was no substantial question about the feasibility of the rule, and therefore no question about whether the rule could be expanded without impeding the rulemaking process. It is not clear the court would have reached the same result or announced the same principle if the standard

[1] See also, *Hispanic I*, 554 F.2d at 1199 ("The Act has built in flexibilities that the Secretary may use, such as * * * the priorities between the various occupations that require standards. * * *").

in question had posed more complex scientific and feasibility issues. In any event, OSHA's decision to limit the proposed standard is consistent with the Hazard Communication decision because, as discussed below, expansion of the rule at this time to include construction, maritime and agriculture would seriously impede the rulemaking process.

2. Focus on Jobs Where Problems Are Severe and Solutions Are Well-Understood

OSHA has developed a general principle, based on the underlying legislative intent and the case law interpreting section 6(g), that it proposes to follow in determining what jobs should be covered in the first phase of this rulemaking. As mentioned above, that principle is: Focus on areas where problems are severe and solutions are well-understood. OSHA's decision, based on this guiding principle, to cover manufacturing, manual handling and general industry jobs where there are MSDs is consistent with the language and legislative intent of section 6(g).

3. Reasons for Excluding Agriculture, Construction and Maritime Industries From the Proposed Standard

Some stakeholders recommended that the proposed rule be expanded to include all industries. They said that the number and rates of MSDs in the construction industry are very high. They added that incidence rates for some construction industries are higher than for some manufacturing industries that are to be covered in the first phase. However, for the reasons set forth below, OSHA is not proposing that the first phase of the Ergonomics Program Standard cover these other industries.

a. Unique problems. OSHA acknowledges that employees in the agriculture, construction and maritime industries face significant risk of harm due to exposure to MSD hazards. In 1996, for example, almost 65,000 employees in these industries reported MSDs that were serious enough to result in days away from work, according to OSHA's analysis of BLS data (Ex. 1413). This means that 10% of all reported lost-workday MSDs occurred in just three industry sectors. Nonetheless, consistent with its discretion under section 6(g), OSHA proposes to exclude these industries from this proposal and to give them special consideration in subsequent rulemaking. *Lead*, 647 F.2d at 1310.

First, work conditions and factors present in agricultural, construction and maritime activities often are quite different from those of general industry. To illustrate, much of construction work involves or is affected by an interaction among several factors. These factors include the following aspects or conditions of work:

- Consisting primarily of jobs of short duration;
- Under a variety of adverse environmental and workplace conditions (*e.g.*, cold, heat, confined spaces, heights);
- At non-fixed workstations or non-fixed work sites;
- On multi-employer work sites;
- Involving the use of "day laborers" and other short-term "temporary workers,";
- Involving situations in which employees provide their own tools and equipment; and
- Involving employees who may be trained by unions or other outside certifying organizations.

While some of these factors may be present at times in other industries, they are continuously present in construction. OSHA may need to develop an ergonomics standard that takes this range of special conditions into account. For example, OSHA may also need to revise job hazard analysis and hazard control provisions in the current proposal so they are effective for industries where jobs are of such short duration that they may be completed before analysis and control can be implemented. These and other unique work conditions also are present in agricultural and maritime activities. For example, in longshoring, quite often workers are obtained from union hiring halls where they have been trained and certified in the use of certain machinery.

In addition, as compared to the very large body of evidence that exists for general industry, OSHA's experience with and information about ergonomic solutions in the agriculture, construction and maritime industries are relatively limited. OSHA believes that the information it does have will support the promulgation of an ergonomics standard in these industries in the second phase of this rulemaking. However, the Agency needs more time to gather and analyze this evidence to develop an effective ergonomics standard for agriculture, construction and maritime. For example, OSHA must gather and examine information on the types of ergonomic controls that would work in an industry with a high number of non-fixed workstations.

Because of the unique problems in these industries, it could take considerably more time to gather the needed information. And after waiting until an equivalent body of evidence is gathered and analyzed for these industries, the evidence might still show that separate ergonomics rules are warranted for construction, agriculture and maritime in any event.

b. Substantially impede the rulemaking. Implicit in setting rulemaking priorities based on the urgency of the need for action is whether a standard can be issued in a time frame that is responsive to the urgent need. Another reason OSHA is proposing to limit the ergonomics rule to general industry is that OSHA believes that expanding the rule to cover agriculture, construction and maritime would seriously delay addressing the urgent need for protection in the covered jobs. This is because information and experience on ergonomics in these industries is more limited than is the case in general industry. Expanding the scope could place substantial additional burdens on an already complex rulemaking. For example, if OSHA must first gather and analyze evidence for every industry before it may propose an ergonomics standard, 90% of the employees who already have been injured and for whom a standard can be promulgated now may be forced to wait for their urgently needed protection until OSHA is also able to provide it to the remaining employees exposed to MSD hazards. Also, expanding the scope of this proposed standard could strain OSHA's limited resources to the detriment not only of the ergonomics rulemaking but to other OSHA priorities as well, including other priorities for the construction, maritime and agricultural industries.

On the other hand, focusing on areas where a large body of evidence of effective ergonomics programs and control interventions exists should help OSHA to respond quickly to urgent situations where worker protection is needed now. Limiting the scope of the proposed rule at this time is thus fully consistent with OSHA's obligations under section 6(g).

By contrast, in agriculture, construction and maritime, the information on ergonomics programs and interventions is more limited. Only now is NIOSH conducting a study on ergonomic problems and interventions in the shipyard

industry, and the results of that study are not expected for more than a year.

How Does This Standard Apply to Me? (§§ 1910.905–1910.910)

OSHA's proposed ergonomics program standard has several unique features. First, it is a job-based standard. As the preamble sections for 1910.901 through 1910.904 of the proposed standard make clear, the standard applies to general industry employers whose employees: (1) Work in manual handling jobs; (2) work in manufacturing jobs; and (3) work in other general industry jobs and experience a musculoskeletal disorder (MSD) that is covered by this standard. Second, employers within the scope of the standard are required only to implement the ergonomics program required by the standard for those jobs specifically listed above; they are not required to have a program for all of the jobs in their workplace. Third, the requirements of the standard apply differently to different general industry employers, because the standard is also risk based. That is, for employers whose employees perform manual handling or manufacturing jobs—jobs which together account for a disproportionate share (60%) of all reported work-related MSDs—employers are required to implement only those elements of the proposed standard that will prepare them to deal with a covered MSD should one occur. Thus, employers whose employees work in these high-risk jobs must put several of the required program elements in place even *before* their employees experience a covered MSD, because the likelihood that they will do so is great. If an employee in a manual handling or manufacturing job subsequently experiences a covered MSD, the employer would then be required to implement the remaining elements of the ergonomics program required by the standard, including job hazard analysis and control, MSD management, training, and program evaluation.

For general industry employers without manual handling or manufacturing jobs in their workplace, however, the proposed standard would not require action until an employee actually experiences such an MSD. In other words, for general industry employers with other types of jobs, the event that "triggers" coverage by the standard is the occurrence of an MSD that the employer determines to be covered. As explained above in the summary and explanation for sections 1910.901 through 1910.904, such an MSD could occur in any general industry job, *e.g.*, grocery store cashier, newspaper reporter, secretary, cafeteria worker, restaurant server, computer programmer, mail sorter, janitor, etc. Relying on the occurrence of a covered MSD to trigger the standard's coverage for non-manual handling, non-manufacturing jobs is consistent with the risk-based design of the standard: The occurrence of an MSD that is determined by the employer to be, first, an OSHA-recordable MSD, second, an MSD that has occurred in a job in which the physical work activities are reasonably likely to cause or contribute to the type of MSDs reported, and third, an MSD that has occurred in a job where the physical work activities and conditions are a core element of the job and/or make up a significant amount of the employee's worktime. The scope provisions of the standard (sections 1910.901 through 1910.904) also indicate that employers whose employees engage in construction, agricultural, or maritime operations are not covered by the scope of the rule.

Sections 1910.905 through 1910.910 of the proposed standard, titled "How does this standard apply to me?," determine how various elements of the proposal would apply to these three different groups of general industry employers, depending on the jobs their employees perform and/or whether their employees experience a musculoskeletal disorder that is covered by the standard. These sections of the proposal thus contain the internal "action levels" or "triggers" that OSHA has built into the standard to tailor its requirements to the extent of the ergonomics problem present in a given workplace.

Specifically, these sections of the proposal contain the following requirements:

- Section 1910.905 describes the elements of a complete ergonomics program;
- Section 1910.906 establishes the requirements of the program that apply to all general industry employers that have manual handling or manufacturing production jobs in their workplaces;
- Section 1910.907 sets forth the requirements of the rule applying to general industry employers whose employees experience a covered MSD in jobs other than manual handling or manufacturing;
- Section 1910.908 establishes the criteria general industry employers wishing to avail themselves of the proposed standard's "grandfather" clause must meet in order to qualify for grandfather status;
- Section 1910.909 provides general industry employers with a Quick Fix option, which would allow them to avoid setting up an ergonomics program for any problem job that they can fix completely within a short period of time, provided that they also meet the other requirements delineated in this section; and
- Section 1910.910 specifies the requirements applying to employers whose Quick Fix controls have not eliminated MSD hazards in the problem jobs they tried to address through the Quick Fix option.

The following paragraphs explain OSHA's rationale for each of these sections of the proposed rule.

Section 1910.905 What are the elements of a complete ergonomics program?

In this standard, a full ergonomics program consists of these six program elements:

- Management Leadership and Employee Participation;
- Hazard Information and Reporting;
- Job Hazard Analysis and Control;
- Training;
- MSD Management; and
- Program Evaluation.

OSHA is proposing in this standard that employers implement an ergonomics program that contains well-recognized program elements. OSHA is not alone in believing that all of these core elements are essential to the effective functioning of ergonomics programs. Many private sector companies, OSHA stakeholders, insurers, employee and employer associations, safety and health professionals, and other Federal agencies (*e.g.*, NIOSH, GAO) have endorsed these elements as key to ergonomic program effectiveness. Evidence of the widespread acceptance of these program elements and their effectiveness is reflected in the following documents, regulatory actions, and sources of expert opinion: [1]

[1] There is no provision for WRP in the OSHA safety and health program guidelines, state safety and health programs, nor the ASSE program; of these, the OSHA guidelines and ASSE program are voluntary.

• They track OSHA's 1989 voluntary *Safety and Health Program Management Guidelines* (54 FR 3904), which were well received and widely adopted by employers and other stakeholders;

• State safety and health program regulations, most of which address ergonomic issues. Of the 32 states that encourage or mandate workplace safety and health programs, 21 have provisions corresponding to the core elements in this proposal;

• OSHA's Ergonomics Program Management Guidelines for Meatpacking Plants (Ex. 2–13), which includes all of these core elements. Facilities that have developed programs based on the meatpacking guidelines have experienced dramatic reductions in the severity and number of MSDs (Ex. 26–1420);

• Consensus among occupational safety and health professionals that these are the elements needed in an effective safety and health program. (see, *e.g.*, the American Society of Safety Engineers Safety and Health Program Manual). The core elements in this proposal are also similar to the components in the approach used by the Accredited Standards Committee in developing the draft consensus standard, "Control of Cumulative Trauma Disorders" for the American National Standards Institute (Z–365);

• A study by the General Accounting Office of ergonomics programs, which found that effective programs include the same set of core elements as OSHA has proposed; and

• The 1997 NIOSH document titled "Element of Ergonomics Programs," which outlines the "approach most commonly recommended for identifying and correcting ergonomic problems." Thus, OSHA finds that these elements are the ones needed for an effective ergonomics program and represent the tried and true mainstream approach to ergonomic programs.

The core elements in this proposal will allow employers to manage all aspects of the process of protecting workers from MSDs and are a way of organizing that process into parts that can be meaningfully understood and implemented. All of the elements are important, although many safety and health professionals believe that management leadership and employee participation are the keystone of an effective ergonomics program (OSHA/NIOSH conference 1997). OSHA believes that all of the elements are necessary to achieve the overall goal of managing MSDs and ensuring that MSD hazards are systematically and routinely prevented, eliminated, or controlled.

Many OSHA stakeholders and respondents to the ergonomics ANPR published in 1992 (57 FR 34192) have endorsed the program approach. For example, the M & M Protection Center (Ex. 3–51) stated: "Generic components described in the ANPR and in the Meat Packing Guidelines are feasible and necessary elements of an ergonomic hazards control strategy. These form a practical foundation from which to build a more industry-specific program."

Another commenter, Arvin Industries, Inc. (Ex. 3–46) emphasized the value of the program approach to companies engaged in different businesses:

> The use of the * * * [program] approach has been shown to provide effective solutions and a significant reduction in ergonomics hazards in jobs in many different industries.

Employees, represented by the AFL–CIO (Ex. 3–184), urged OSHA to include all of the program elements in the Meatpacking Guidelines in any future ergonomics standard:

> The AFL–CIO strongly supports the inclusion of the listed elements in OSHA's proposed ergonomics standard.

OSHA has been responsive to these commenters by including the six core elements listed above in the ergonomics program required by the proposed standard for jobs where the hazards present are such as to pose a reasonable likelihood of lending to a covered MSD, or have already caused or contributed to such an MSD.

The summary and explanation sections of the preamble for each program element describe OSHA's reasoning for including each element in the proposed program.

Section 1910.906 How does this standard apply to manufacturing and manual handling jobs?

> You must:
>
> a. Implement the first two elements of the ergonomics program (Management Leadership and Employee Participation, and Hazard Information and Reporting) even if no MSD has occurred in those jobs.
>
> b. Implement the other program elements when either of the following occurs in those jobs (unless you eliminate MSD hazards using the Quick Fix option in section 1910.909):
>
> 1. A covered MSD is reported; or
>
> 2. Persistent MSD symptoms are reported plus:
>
> i. You have knowledge that an MSD hazard exists in the job;
>
> ii. Physical work activities and conditions in the job are reasonably likely to cause or contribute to the type of MSD symptoms reported; and
>
> iii. These activities and conditions are a core element of the job and/or make up a significant amount of the employer's worktime.
>
> **Note To § 1910.906:** "Covered MSD" refers to MSDs that meet the criteria in § 1910.901(c). As it applies to manufacturing and manual handling jobs, "covered MSDs" also refers to persistent symptoms that meet the criteria of this section.

This section of the rule sets out the requirements applying to general industry employers whose employees perform the high-risk jobs of manual handling or product manufacturing. As discussed in the Risk Assessment and Benefits chapter of the preamble and Preliminary Economic Analysis, respectively, these two jobs account for 60% of all reported general industry MSDs but employ only 28% of all general industry employees. Section 1910.901(a) defines manufacturing jobs as production jobs in which employees perform the physical work activities of producing a product and in which these activities make up a significant amount of their worktime, and section 1910.902(b) defines manual handling jobs as those in which employees perform forceful lifting/lowering, pushing/pulling, or carrying and in which such forceful manual handling is a core element of the employee's job.

Examples of jobs that are typically manufacturing jobs include assembly line jobs, product inspection jobs, and jobs involving machine operation, meat packing, and tire building, among others. Examples of manual handling jobs are those involving patient handling, baggage handling, grocery store stocking, garbage collecting, and janitorial work, among others. Examples of other jobs that would typically be considered manual handling or manufacturing jobs, and examples of those that would not be so classified, can be found in proposed section 1910.945, Definitions.

Paragraphs (a) and (b) of section 1910.906 mandate that employers whose operations involve manual handling or manufacturing jobs, as defined by the proposed standard, implement the first two elements of the ergonomics program required by the standard in these jobs. These elements are:

(1) Management leadership and employee participation, and (2) hazard information and reporting. Each general industry employer whose operations involve either or both of these types of jobs would be required to implement these two program elements in these jobs within one year of the standard's effective date (see proposed section 1910.942). Compliance with these two elements is required even if no employee in these jobs has experienced a covered MSD. As discussed above, OSHA is requiring that these basic elements of an ergonomics program be in place in these jobs because of the high-risk nature of the physical work activities associated with these jobs. Having these elements in place ensures that employers and employees are informed and aware of MSD hazards and the signs and symptoms of MSDs and have established the management structure and employee participation mechanisms necessary to respond quickly if the need arises.

This section of the proposal also requires employers with manual handling or manufacturing jobs to comply with the other elements of an ergonomics program, including MSD management, job hazard analysis and control, training, and program evaluation, if an employee in a manual handling or manufacturing job experiences an MSD that the employer determines, in accordance with proposed sections 1910.901 (c) and 1910.902, to be covered by the proposed standard. As explained in the summary and explanation for those sections, a covered MSD, as defined by this standard, is one that occurs after the effective date of the standard, is an OSHA-recordable MSD (as defined by OSHA's recordkeeping rule, 29 CFR part 1904), and is determined by the employer to have occurred in a job in which the physical work activities and conditions are reasonably likely to have caused or contributed to the type of MSD reported, or to have aggravated a pre-existing MSD. For manufacturing or manual handling jobs, it is important to note that covered MSDs also include: (1) Reports by employees of persistent symptoms of MSDs (persistent is defined as lasting for 7 consecutive days), (2) where the employer has knowledge that such jobs pose MSD hazards to employees, (3) where the job is one in which the physical work activities and conditions of the job are reasonably likely to cause or contribute to the type of MSD reported, and (4) where the activities and conditions are a core element of the job and/or make up a significant amount of the employee's worktime. By "have knowledge," OSHA means that the employer has been provided with information that MSD hazards exist in that job by personnel from an insurance company, or by a consultant, a health care professional, or a person working for the employer who has the requisite training to identify and analyze MSD hazards. Inclusion of this action trigger in the proposed standard is consistent with OSHA's risk-based approach, because the occurrence of persistent symptoms, such as constant pain, tingling, or numbness, coupled with information from a knowledgeable source that the employee's job is one that poses an ergonomic hazard, is strong evidence that the job is one that is reasonably likely to cause or contribute to a covered MSD. OSHA believes that employers generally accept and rely on information from these sources because they are perceived of as unbiased, knowledgeable, and aware of conditions in the employer's specific workplace.

Section 1910.906 of the proposal would allow employers whose work involves manufacturing or manual handling operations to limit their ergonomics program for those jobs to two elements, management commitment/employee participation, and hazard information and reporting, until a problem job (*i.e.*, one held by an employee who has experienced a covered MSD, or a job in the workplace that has the same physical activities and conditions as the job held by such an employee) has been identified. If no covered MSD occurs in the manufacturing or manual handling job, the employer is not required to implement the other elements of the program.

By requiring employers whose employees work in manual handling or manufacturing jobs to implement the first two elements of an ergonomics program even before a covered MSD occurs among the employees in that job, OSHA is requiring these employers to establish a basic surveillance system for MSDs. This basic system consists, under the management leadership element, of assigning responsibilities for the ergonomics program to managers, supervisors, and employees so that these individuals know what their role in the program is, providing these individuals with the information, resources, information and training they need to carry out these responsibilities effectively, and communicating with employers on a regular basis about the program and their concerns about ergonomics issues. In addition, the employer must, as part of management leadership, make sure that its existing policies and procedures do not discourage employee reporting of MSDs or participation in the program. By following these requirements, employers will have established the management process necessary to a functioning ergonomics program: management at the workplace will have a basic system in place to ensure that employee concerns about MSDs are being expressed and responded to, program responsibilities are understood, resources have been made available to the program, and no barriers stand in the way of early and full employee reporting.

The employee participation component of this first program element is the other side of the basic surveillance system the standard requires employers with these two kinds of high-risk jobs to implement. To comply with the employee participation provisions of the standard, employers must set up a way for employees and their designated representatives to report MSD signs and symptoms to the employer, receive prompt responses to these reports, have access to a copy of the ergonomics standard (either through posting or by providing hand copies to employees) and to information about the employer's ergonomics program, and ways to participate in the development, implementation, and evaluation of the ergonomics program.

By implementing these provisions, the second half of the first program element will be put in place: employees will know how to report MSDs and their signs and symptoms, they will expect to receive responses to those reports from management, they will understand their employers' ergonomics program, and they will know how they can participate effectively in making the program a success.

Section 1910.906 also requires, at paragraph (b), that employers with these jobs comply with all of the other elements of an ergonomics program—job hazard analysis and control, MSD management, training, and program evaluation—if a covered MSD occurs in a manual handling or manufacturing job. (As discussed above, for these jobs, persistent MSD symptoms are considered covered MSDs if they also meet the criteria specified in paragraph (b)(2) of this section.) There is one exception to compliance with paragraph (b) of this section: employers who choose the proposed rule's Quick Fix option (described below) do not have to implement the other program elements.

Section 1910.907 How does this standard apply to other jobs in general industry?

In other jobs in general industry, you must comply with all of the program elements in the standard when a covered MSD is reported (unless you eliminate the MSD hazards using the Quick Fix option).

As discussed earlier in this section of the preamble, employers with other jobs (*i.e.*, jobs that do *not* involve either manufacturing or manual handling) are not required by the proposed rule to take any action until and unless a covered MSD occurs in such a job. Thus, for most employers in general industry in a given year, no action is required by the standard. However, if a covered MSD occurs in one of these "other" jobs, it becomes a "problem job," as defined in the standard, and the full ergonomics program must be implemented for that job and all jobs in the workplace that involve the same physical work activities.

OSHA has included section 1910.907 in the proposed standard to provide employees who have experienced a covered MSD in these other jobs with the same program protections afforded to manual handling and manufacturing employees who have suffered a covered MSD.

Section 1910.908 How does this standard apply if I already have an ergonomics program?

If you already have an ergonomics program for the jobs this standard covers, you may continue that program, even if it differs from the one this standard requires, provided you show that:

a. Your program satisfies the basic obligation section of each program element in this standard, and you are in compliance with the recordkeeping requirements of this standard (§§ 1910.939 and 1910.940);

b. You have implemented and evaluated your program and controls before [the effective date]; and

c. The evaluation indicates that the elements are functioning properly and that you are in compliance with the control requirements in § 1910.921.

This section of the proposed standard is a limited grandfather clause that is designed to permit employers who have already implemented and evaluated an ergonomics program in those jobs covered by the standard to continue their program, if: it has been shown to eliminate or materially reduce MSD hazards according to § 1910.921, it has the core elements of the program OSHA is requiring, and it meets the basic obligation of each of the core elements in the proposed rule.

By requiring that grandfathered programs meet the conditions set out in paragraphs (a) through (c) of section 1910.908, OSHA is affirming the importance of each of the core elements, as well as recordkeeping, to the proper functioning of an effective ergonomics program. OSHA is also emphasizing the importance the Agency places on the basic obligation sections of the proposed standard (sections 1910.911, 1910.914, 1910.917, 1910.923, 1910.929, and 1910.936). These sections establish the basic requirements employers must follow to implement each core element but do so in less detail than the implementing requirements that follow the basic obligation section for each core element. OSHA believes that the requirements identified in the basic obligations sections of the proposal are the minimum requirements needed to effectively implement the core element to which they pertain. In other words, although OSHA is proposing to grant grandfather status to effective ergonomics programs, it believes that the requirements set forth in each basic obligation section must be present in an ergonomics program for that element to be effective. Thus, employers whose existing programs meet the conditions of the limited grandfather clause in section 1910.908 are free not to implement the more detailed provisions that follow the basic obligation section, provided that they comply fully with the basic obligation section's provisions.

OSHA has several reasons for including the standard's core elements in any ergonomics program that is grandfathered in under the standard. OSHA's reasoning is discussed below.

First, except for WRP, the core elements (management leadership and employee participation, hazard identification and assessment, hazard prevention and control, MSD management, training, and evaluation) are included in the safety and health programs recommended or used by many different organizations (the ergonomics standard uses slightly different terminology for some of these elements):

- OSHA's VPP, SHARP, and consultation programs;
- The safety and health programs mandated by 18 states;
- The safety and health programs recommended by insurance companies for their insureds (many of which give premium discounts for companies that implement these programs or impose surcharges on those that do not);
- The safety and health programs recommended by the National Federation of Independent Business, the Synthetic Organic Chemical Manufacturers Association, the Chemical Manufacturers Association, the American Society of Safety Engineers, and many others;
- The strong recommendations of OSHA's Advisory Committees (NACOSH, ACCSH, and MACOSH), which consider these program elements essential to effective worker protection programs.

Second, OSHA believes, and most stakeholders agree, that enforcement of the standard will be more consistent and more equitable, as well as less time-consuming, for employers and compliance officers alike, if the test of an employer's program is whether the program contains the core elements, rather than whether it is effective. The term effectiveness is subject to many different interpretations. Effectiveness can be measured in many different ways (*e.g.*, decreases in the number of MSDs, decreases in the severity of MSDs, increases in product quality, decreases in insurance premiums, decreases in the number of claims, decreases in turnover, decreases in absenteeism, increases in productivity, increases in the number of MSDs reported early, etc.), several of which have built-in incentives to discourage reporting of MSDs (as discussed in the Significance of Risk (Section VII) section of the preamble, underreporting of MSDs is already extensive. In addition, there are no data that would allow OSHA to evaluate or to choose among these various effectiveness measures. OSHA solicits comments on measures of program effectiveness that are not susceptible to underreporting and that can be used reliably and simply by establishments of all sizes. For example, are there measures of effectiveness that OSHA could use as a measure of effectiveness when determining whether to allow a program to be grandfathered in?

In addition, evaluating programs using the core elements test is administratively simpler, both for OSHA personnel and employers. The Agency is in the process of validating a measurement tool for compliance officers and employers to use in assessing the effectiveness of ergonomics programs. This tool, which is based on the consultation program's Form 33, has been tested for face validity and is being tested for construct validity at the present time; OSHA intends to disseminate it to employers, so that both OSHA personnel and employers will be operating from the same "sheet of music." OSHA believes that use of a tool based on the core

elements rather than on unproven measures of effectiveness will thus benefit OSHA, workers, and their employers.

OSHA is including WRP, or equivalent protections against wage loss, as a requirement for all programs because, without it, OSHA believes that there will be increased pressure on employees not to report once an enforceable standard is in place. There is strong evidence that such underreporting is currently taking place (see the table summarizing the many articles on this topic in Section VII of the preamble), as well as evidence that protecting workers from wage loss increases reporting (the Krueger studies). OSHA's purpose in proposing a WRP provision in this standard is to ensure employee participation and free and full reporting of MSDs and MSD hazards. The ergonomics standard depends, more heavily than any OSHA health standard promulgated to date, on employee reporting for its effectiveness. Absent such reporting, the standard will not achieve its worker protection goals. The success of the standard, like that of the many effective ergonomics programs our stakeholders have told us about, depends on it.

The proposed grandfather clause is also limited in its applicability to programs that are in place and have been evaluated and found to be working properly by the effective date of the standard. OSHA believes that this provision is appropriate because it will encourage employers to be proactive and establish programs to protect their employees before the effective date. It will require these programs to have been evaluated before they qualify for grandfather status, which will avoid a last minute rush to implement programs before the effective date and ensure that those programs allowed under the grandfather clause are mature, fully functioning programs. It will also avoid the administrative and compliance problems that would arise if OSHA permitted employers to establish ergonomics programs that differ from the one in the standard even after the effective date.

OSHA seeks comment on all aspects of the grandfather clause provisions, particularly on the protectiveness and appropriateness of including such a provision in a final standard.

Section 1910.909 May I do a Quick Fix instead of setting up a full ergonomics program?

Yes. A Quick Fix is a way to fix a problem job quickly and completely. If you eliminate MSD hazards using a Quick Fix, you do not have to set up the full ergonomics program this standard requires. You must do the following when you Quick Fix a problem job:

(a) Promptly make available the MSD management this standard requires;

(b) Consult with employee(s) in the problem job about the physical work activities or conditions of the job they associate with the difficulties, observe the employee(s) performing the job to identify whether any risk factors are present, and ask employee(s) for recommendations for eliminating the MSD hazard;

(c) Put in Quick Fix controls within 90 days after the covered MSD is identified, and check the job within the next 30 days to determine whether the controls have eliminated the hazard;

(d) Keep a record of the Quick Fix controls; and

(e) Provide the hazard information this standard requires to employee(s) in the problem job within the 90-day period.

Note to § 1910.909: If you show that the MSD hazards only pose a risk to the employee with the covered MSD, you may limit the Quick Fix to that individual employee's job.

OSHA is permitting employers who meet all the requirements of this section to refrain from setting up the full ergonomics program otherwise required. For example, employers can avoid the training and program requirements of the standard if they can eliminate the MSD hazard in the problem job (including other jobs meeting the "same job" definition in the standard) quickly.

The Quick Fix option is designed for those problem jobs where the hazard can be readily identified, the solution is obvious, and the solution can be implemented within 90 days after the covered MSD is identified. OSHA has heard repeatedly from stakeholders and others that a large number of jobs will fall into this category. The proposed Quick Fix process differs from the job hazard analysis and control process described in sections 1910.917 through 1910.922, which is appropriate for MSD hazards and jobs requiring iterative changes or extensive analysis to resolve.

The proposed rule requires that employees in problem jobs receive MSD management, including work restriction protection, for their injuries without regard to whether the job is controlled using the Quick Fix option or the full job hazard analysis and control approach. In addition, employee(s) in problem jobs that are fixed through the Quick Fix process must be involved in the Quick Fix process, just as they are involved in the full job hazard analysis and control process. In other words, employers choosing the Quick Fix option must demonstrate management leadership and implement employee participation for the problem job, but would not have to continue these elements after the job is fixed (unless they are employers with manual handling or manufacturing jobs).

The Quick Fix controls must be implemented within 90 days to qualify for this option. OSHA believes that this period is sufficient for employers to identify appropriate engineering controls, to eliminate the MSD hazards entirely, and to order and implement those controls. Again, this time period is consistent with the principal concept behind Quick Fix: that the problem job be fixed quickly, simply and completely. Examples of Quick Fixes include purchasing an adjustable VDT workstation, placing a box under the work surface of an employee who must bend down to see the work, and tilting the work surface toward the employee to prevent long reaches.

As stated in paragraph (b) of this section, if the employer can demonstrate that the MSD hazard that caused or contributed to the MSD only poses a risk to the particular employee with the MSD, the employer may limit the Quick Fix to that individual employee's job. In other words, in this limited case, the employer would not be required to fix the jobs of others in the problem job, because the hazard is one unique to the employee rather than the job. For example, a very tall employee might only need to have the work surface raised, and a very small employee might only need to have the work surface repositioned closer to his or her body.

Paragraph (c) of section 1910.109 requires employers using the Quick Fix option to evaluate the controls within 30 days to be sure that they have eliminated the hazard. One of the best ways to determine whether the Quick Fix has worked is to ask the injured employee. Employers typically can tell almost immediately that the MSD hazard has been eliminated; however, it may take a week or two for the symptoms to resolve.

NIOSH recommends that employers wait a minimum of two weeks before evaluating control effectiveness, because employees need time to acclimate to the changes. NIOSH

also recommends, and the proposed standard would require, that employers not wait longer than 30 days to evaluate controls, to enable changes to be made if they are not working.

Paragraph (d) of section 1910.909 requires employers who avail themselves of this option to keep records of the Quick Fix controls they implement. This means that employers must document the controls they have implemented, when they are implemented, and the results of the 30-day evaluation. These records are essential to document the employer's choice of this option and to support the employer's decision not to implement the other components of the ergonomics program.

Section 1910.910 What must I do if the Quick Fix does not work?

You must set up the complete ergonomics program if either of these occurs:

(a) The Quick Fix controls do not eliminate the MSD hazards within the Quick Fix deadline (within 120 days after the covered MSD is identified); or

(b) Another covered MSD is reported in that job within 36 months.

Exception: If a second covered MSD occurs in that job resulting from different physical work activities and conditions, you may use the Quick Fix a second time.

This section requires employers who have chosen the Quick Fix option but have not been successful in eliminating the MSD hazards in the job to implement the full ergonomics program. The employer must implement the full ergonomics program for a job either where the Quick Fix fails to eliminate MSD hazards within 120 days, or if another covered MSD occurs in that job within 36 months after implementing the Quick Fix.

This paragraph of the proposed standard contains an exception: where an employer has implemented a Quick Fix in a job and another covered MSD occurs in that job, the employer may may use the Quick Fix approach a second time if the second covered MSD is one caused or contributed to by work activities that are different from those that caused or contributed to the first covered MSD in that job. The exception to section 1910.910 would apply when, for example, a particular job requires the employee to perform a manufacturing assembly or data entry job for a significant amount of their worktime and also to perform forceful lifting as a core element of the job. In such a situation, an employee in that job could experience a case of carpal tunnel syndrome, and the employer could use a Quick Fix to control the MSD hazard. If any employee in the same job subsequently (*e.g.*, 2 years later) develops a lower back injury, the exception to section 1910.910 would permit the employer to use a Quick Fix to address the manual handling hazard. However, the proposed standard would only permit the Quick Fix option to be used twice in the same job because, if covered MSDs continue to occur in the same job, job hazard analysis and control, as well as the other provisions of the full program, must be implemented.

Evidence of the failure of the Quick Fix approach could take two forms: the evaluation performed within 30 days of the implementation of the Quick Fix reveals that the control has not eliminated the hazard (*e.g.*, the employee reports that his/her signs or symptoms have worsened) or an employee in that job suffers a covered MSD to which the exception does not apply. Where the Quick Fix option has failed, the employer would be required to move into the full program, *i.e.*, job hazard analysis and control, training, and program evaluation.

Management Leadership and Employee Participation (§§ 1910.911–1910.913)

Sections 1910.911–913 of the proposed standard describe and explain the proposed requirements for the management leadership and employee participation element of the Ergonomics Program standard. These two program components are critical to the successful implementation of an ergonomics program in any workplace. The importance of management leadership is well-recognized (Exs. 26-17; 26–10; 26–27; 26–22; 26–18; 26–13; 26–14). Likewise, the importance of employee participation in ergonomics program success is also well-documented (Exs. 26–30; 26–17; 26–4; 26–21; 26–19; 26–10; 26–15; 26–16; 26–20; 26–27; 26–22; 26–11; 26–12; 26-18; 26–13; 26–14).

Management leadership and employee participation are complementary (Exs. 2–12; 2–13). Management leadership and commitment provides the motivating force and the resources for organizing and controlling activities within an organization (Ex. 2–12). In effective ergonomics programs, management regards the protection of employee health and safety as a fundamental value of the organization, and incorporates objectives for the success of this program into its broader company goals (Ex. 2–12). Employee participation provides the means through which workers develop and express their own commitment to safe and healthful work, as well as sharing in the overall success of the company (Ex. 2–12).

OSHA has decided to include a management leadership component in its proposed Ergonomics Program standard because the importance of management leadership has been emphasized throughout the literature on ergonomics programs (Exs. 2–13; 26–2; 26–5; 26–9; 26–17; 26–10; 26–27; 26–22; 26–18; 26–13; 26–14). For example, OSHA's Ergonomics Program Management Guidelines for Meatpacking Plants ("Meatpacking Guidelines") states that an "effective ergonomics program includes a commitment by the employer to provide the visible involvement of top management, so that all employees, from management to line workers, fully understand that management has a serious commitment to the program" (Ex. 2–13, p. 2). NIOSH also emphasizes management commitment in its primer, Elements of Ergonomics Programs (Ex. 26–2). According to NIOSH, the "occupational safety and health literature stresses management commitment as a key and perhaps controlling factor in determining whether any worksite hazard control effort will be successful" (Ex. 26–2, p. 6). Adams (Ex. 26–9, p. 182) states simply that "to launch an ergonomics process, management support is key." In its report titled, "Worker Protection: Private Sector Ergonomics Programs Yield Positive Results," the Government Accounting Office (GAO) also found management commitment to be a key component for program success (Ex. 26–5). The GAO found that "management commitment demonstrates the employer's belief that ergonomic efforts are essential to a safe and healthy work environment for all employees' (Ex. 26–5, letter:3.1).

In response to questions raised in OSHA's Advance Notice of Proposed Rulemaking (ANPR) (Ex. 1), a number of comments were received that addressed the issue of management commitment for a successful ergonomics program (Exs. 3-136; 3–173; 3–124; 3–27). For example, the American Automobile Manufacturers Association stated that an ergonomics program should incorporate "employer commitment in writing to health and safety," and that management commitment is an "essential part of any

successful program" (Ex. 3–173, p. 2). Ms. Anne Tramposh, Vice President of Advantage Health Systems, Inc., also wrote of the importance of management commitment (Ex. 3–124, p. 5). She stated:

> At the risk of over-generalizing this issue, we have found that companies lacking management commitment will not truly implement the comprehensive multi-disciplinary program approach that is needed to address the "Ergonomic Disorders" problem. These companies tend to look for band-aids, not solutions.
>
> On the other hand, companies with strong top management commitment, that literally cringe at [the] thought that they may be injuring their employees, will seek the root causes of the problem. They will dedicate financial and personnel resources to the program. They will not quit when the "going gets tough" and more employees are reporting injuries (at the beginning of a program).
>
> Any standard or regulation for this problem must ensure top management commitment. The Ergonomic Disorder problem will not go away without it.

Another statement of support for management commitment was provided by Mr. Stephen Rohrer, Section Head, EG&G Energy Measurements, Inc. (Ex. 3–27). In explaining the ergonomics program at his company, Mr. Rohrer stated, "[O]ne of the key components of the program was obtaining upper management support for ergonomics. This was accomplished by a policy statement placing ergonomics at the same level of importance as the company's production processes' (Ex. 3–27, p. 2).

OSHA believes that employee participation is as important for program success as management leadership. OSHA's Meatpacking Guidelines (Ex. 2–13) recommend employee involvement as essential to the identification of existing and potential hazards and the development and implementation of effective hazard abatement. NIOSH found that promoting employee participation to improve workplace conditions has several benefits, including: enhanced worker motivation and job satisfaction; added problem-solving capabilities; greater acceptance of change; and greater knowledge of the work and organization (Exs. 26–2; 26–4). Employee participation also helps to secure employee buy-in to the ergonomics program.

Section 8 of the OSH Act also recognizes the value of employee involvement in workplace safety and health. For example, this section of the Act spells out specific requirements for employee involvement in the observation of employee monitoring to identify employee exposure to workplace hazards, obtaining and reviewing records, receiving information, and reporting hazards.

Active employee participation is especially important in the proposed Ergonomics Program standard because this standard, more than most OSHA standards, depends for its effectiveness on the voluntary reporting of MSD signs and symptoms by employees. To ensure that employees voluntarily participate when the signs and symptoms of MSDs first arise, OSHA believes they must be active participants in program development, implementation, and evaluation, and must be sure that they will not be discriminated against for such participation (see the discussion of proposed section 1910.911 below). Also, when it came to the issue of employee participation, many of OSHA's stakeholders said that this element is essential to program success (Exs. 26–23; 26–24).

Additionally, OSHA received many comments in response to its ANPR that support the idea of employee participation in ergonomics programs (Exs. 3–27; 3–66; 3–94; 3–96; 3–98; 3–124; 3–136; 3–155; 3–173). For example, Mr. James Torgerson, Director-Corporate Safety, Sara Lee Corporation, stated (Ex. 3–66, p. 4):

> Further, it is our belief that employee involvement in the development and implementation of a company's ergonomic program is desirable for both the company and for the employees. We believe that employers should be encouraged to consider where employee involvement can best be utilized in their individual program. For example, employees can be used as a resource to assist in identifying and resolving ergonomic problems. Mandatory joint labor/management committees, however, should not be part of the standard.

Dr. Tom Leamon, Vice President, Liberty Mutual Insurance Company, also commented on the need for an employee participation requirement (Ex. 3–96). He stated, "[t]he effectiveness of regulations would be enhanced by a provision for worker participation, in particular the identification of potential problems and solutions and providing this information to the management decision process within the unit" (Ex. 3–96, p. 2).

Additionally, Mr. Steve Trawick, Director, Health and Safety, United Paperworkers International Union and Mr. Daniel Kass, Director of the Hunter College Center for Occupational and Environmental Health, clearly stated their support of employee participation in ergonomics programs. In response to the ANPR, they wrote "[e]mployee involvement is crucial to the success of the ergonomic program. Workers know jobs in the plant better than anyone and can offer invaluable input in the analysis and decision making process" (Ex. 3–136, p. 4).

However, OSHA is aware that there is opposition to the inclusion of the management commitment and employee participation provisions in the proposed Ergonomics Program standard. For example, several stakeholders have expressed concern about the implementation and enforceability of the management leadership requirements, asserting that they amount to micro-management of their business. Clearly, OSHA does not intend this proposed program element to be a form of micro-management. Precisely to avoid this unwanted outcome, the requirements for management leadership and employee participation have been proposed in performance oriented language. Thus, employers covered by this standard may manage their leadership of the ergonomics program in whatever ways work best for their workplaces, as long as the basic requirements are satisfied.

Additional opposition to this proposed provision was expressed in a stakeholder meeting held in Washington, DC, when one participant stated that legislation of employer commitment and employee participation is problematic because it is not clear what these provisions require (Ex. 26–23). Other stakeholders have stated that, in their opinion, employee participation is not needed in successful programs (Ex. 26–23). Still others have argued that employee participation, as proposed by OSHA, is in violation of the National Labor Relations Act (NLRA) (Ex. 26–23).

Regarding conflicts with the NLRA, testimony presented by Henry L. Solano, Solicitor of Labor, Department of Labor, before the Subcommittee on Workforce Protections Committee on Education and the Workforce in the House of Representatives on May 13, 1999 (Ex. 26–29), clearly states that "the interplay of the OSH Act and the National Labor Relations Act (NLRA) does not present an obstacle to progress in this area [of employee participation in promoting a safe and healthful workplace]." Mr. Solano identified many ways in which employers can involve their employees in safety and health matters without raising any concern that

they may be violating Section 8(a)(2) of the NLRA. OSHA is proposing to require employee participation but not to specify the form that participation is to take. There are several lawful forms of employee participation that have been upheld or described with approval by the National Labor Relations Board (NLRB) in the course of deciding cases under Section 8(a)(2).

According to Mr. Solano (Ex. 26–29, pp. 11–12), brainstorming groups are one such example. A group of employees that brainstorms about MSD hazards, for example, presents management with a list of ideas or suggestions. Management independently considers the ideas and suggestions and may or may not act on them. An information-gathering committee that gathers and presents information to the employer, who may or may not take action based on the information, is also a lawful form of employee participation (Ex. 26–29, p. 12). Granting rights to individual employees, such as rights to report problems and make recommendations is consistent with Section 8(a)(2). Additionally, employers have the option to assign safety-related duties to employees as part of their job description (Ex. 26–29, pp. 12–13, 14). Other forms of employee participation that have been approved by the NLRB include safety conferences and all-employee committees in which all employees participate (Ex. 26–29, pp. 13–14). Although in his testimony Mr. Solano was specifically addressing safety and health programs in general, his discussion of lawful forms of employee participation applies equally to ergonomics programs. Another mechanism is a joint labor-management committee established in compliance with the NLRA by bargaining between the employer and the union representing the employees. Thus, employers complying with the proposed standard's employee participation provisions have many lawful ways of doing so.

OSHA notes that the proposed management leadership provisions of the rule have been written in performance language to allow individual employers to implement them as appropriate to conditions in their workplace. This approach avoids the over specification that some stakeholders were concerned about. On the second point, the importance of employee involvement to program effectiveness, the discussion below makes clear that OSHA, and many stakeholders, safety and health professionals, and ergonomists agree that this element is the key to program success. OSHA has also been careful to structure the proposed rule's employee participation requirements so that they are entirely consonant with the case law based on the NLRA. The proposed rule does not, for example, mandate any particular method—such as employee committees—for ensuring employee participation. This leaves employers free to involve employees in the program in ways that do not violate the NLRA but will further meaningful employee participation.

Section 1910.911 What is my basic obligation?

You must demonstrate management leadership of your ergonomics program. Employees (and their designated representatives) must have ways to report "MSD signs" and "MSD symptoms;" get responses to reports; and be involved in developing, implementing and evaluating each element of your program. You must not have policies or practices that discourage employees from participating in the program or from reporting MSD signs or symptoms.

Section 1910.911 of the proposed Ergonomics Program standard provides employers with an answer to the question "What is my basic obligation?" First, employers would be required to demonstrate management leadership of their ergonomics program. Management leadership is demonstrated through personal concern for employee health and safety, as evidenced by the priority placed on the ergonomics program. OSHA believes that, to be effective, the demonstration of management leadership must be active rather than passive. Leadership that is limited to a "paper program," such as having written policies and procedures neatly packaged in a three-ring binder that sits on a shelf, would not be viewed by OSHA as meeting the intention of this provision. On the other hand, management leadership that is known throughout the organization via active engagement in the ergonomics process, with appropriate follow-through on commitments, would meet OSHA's intention. Employers who comply with the requirements of Section 1910.911 would certainly be fulfilling the leadership portion of the standard. Employers may further demonstrate leadership, if they so choose, by participating in plant walkarounds, holding meetings with employees on ergonomic issues, and monitoring reports on program effectiveness.

Second, proposed section 1910.911 would also obligate employers to create ways for employees, and their designated representatives, to report MSD signs and symptoms, get responses to reports, and be involved in the program. OSHA has vigorously advocated employee participation in workplace safety and health issues for many years and is pleased by the growing recognition of the importance of employee participation by private-sector companies, trade associations, safety and health professionals, and employees themselves. OSHA supports employee participation because employees have the most direct interest in their safety and health on the job, they have an in-depth knowledge of the operations and tasks they conduct at the worksite, they often have excellent ideas on how to solve health and safety problems, and their interest in the program is vital to its success. If employees do not report their injuries and illnesses or recognized job-related hazards, any workplace program intended to promote safety and health will fail.

Congress also recognized the importance of employee participation in safety and health activities when it enacted the Occupational Safety and Health Act in 1970. In section 2 of the Act, titled "Congressional Findings and Purpose," Congress declared that its goal of assuring safe and healthful workplaces was to be achieved by joint employer-employee efforts to reduce hazards and implement effective programs for providing safe and healthful working conditions. Additionally, Congress acknowledged that employers and employees have separate roles and rights connected with the achievement of safe and healthful working conditions. Thus, the Act offers employees opportunities to become involved in setting standards, variance processes, enforcement, and training. To assist employees in exercising these rights, Congress gave employees access to a wide variety of information. Employees were also given rights to file complaints and to participate actively in OSHA inspections, hazard abatement verification, citation contests, and the observation of the monitoring of toxic substances.

The value of employee participation in ergonomics programs has been recognized by other federal agencies. The GAO concluded in 1997 that effective ergonomics programs must include both management commitment and employee involvement as two of the core elements necessary to ensure that ergonomics hazards are identified and controlled to protect workers (Ex. 26–5). According to the GAO (Ex. 26–5), some of the ways in which employee participation can be demonstrated include:

- Creating committees or teams to receive information on ergonomic problem areas, analyze the problems, and make recommendations for corrective action;
- Establishing a procedure to encourage prompt and accurate reporting of signs and symptoms of MSDs by employees so that these symptoms can be evaluated and, if warranted, treated;
- Undertaking campaigns to solicit employee reports of potential problems and suggestions for improving job operations or conditions; and
- Administering periodic surveys to obtain employee reactions to workplace conditions so that employees may point out or confirm problems.

NIOSH also recognizes the benefits of employee involvement in the publication Elements of Ergonomics Programs (Ex. 26–2). According to NIOSH (Ex. 26–2, p. 8) these benefits include:

- Enhanced worker motivation and job satisfaction;
- Added problem-solving capabilities;
- Greater acceptance of change; and
- Greater knowledge of the work and organization.

Further, NIOSH recommends that employees be encouraged to provide input on defining job hazards, controlling job hazards, and how best to implement controls (Ex. 26–2). Forms of employee involvement described by NIOSH (Ex. 26–2, pp. 8–9) include:

- Joint labor-management safety and health committees;
- Department or area work groups; and
- Direct individual employee input.

However, NIOSH clearly states that "[n]o single form or level of worker involvement fits all situations or meets all needs. Much depends on the nature of the problems to be addressed, the skills and abilities of those involved, and the company's prevailing practices for participative approaches in resolving workplace issues" (Ex. 26–2, p. 9).

Employee involvement, along with management commitment, is also one of the major elements included in OSHA's Safety and Health Program Management Guidelines, published in January 1989 (54 FR 3904–3916). Issued with strong public support, the guidelines state, "[e]mployee involvement provides the means through which workers develop and/or express their own commitment to safety and health protection, for themselves and for their fellow workers" (54 FR 3909). At that time, OSHA stated that "* * * employee involvement in decisions affecting their safety and health results in better management decisions and more effective protection" (54 FR 3907). OSHA continues to believe that employee participation plays a crucial role in protecting the safety and health of employees and must be an integral part of any ergonomics program.

A recommendation for employee involvement was included in OSHA's "Meatpacking Guidelines" as the complement to management commitment (Ex. 2–13, pp. 2–3). The Guidelines recommended:

> An effective program includes a commitment by the employer to provide for and encourage employee involvement in the ergonomics program and in decisions that affect worker safety and health, including the following:
>
> 1. An employee complaint or suggestion procedure that allows workers to bring their concerns to management and provide feedback without fear of reprisal.
>
> 2. A procedure that encourages prompt and accurate reporting of signs and symptoms of [MSDs] by employees so that they can be evaluated and, if warranted, treated.
>
> 3. Safety and health committees that receive information on ergonomic problem areas, analyze them, and make recommendations for corrective action.
>
> 4. Ergonomic teams or monitors with the required skills to identify and analyze jobs for ergonomic stress and recommend solutions.

Third, section 1910.911 of the proposed standard informs employers that policies or practices that discourage employees from reporting MSD signs or symptoms or from participating in the program would not be allowed. Such actions on the part of the employer would undermine the intention of § 1910.911. As discussed above, OSHA believes that meaningful employee participation in the ergonomics program is essential both to identify existing and potential MSD hazards, and to develop and implement an effective solution to abate these hazards.

In the ANPR, OSHA requested comments related to early reporting of MSD signs or symptoms (question D2), the developing and implementing of ergonomics programs including involvement on the ergonomics team (question A6), and the benefits of an ergonomics program (question A7). In response to this request, OSHA received information that supports the proposed requirements in Section 1910.911. For example, Mr. Rohrer of EG&G Energy Measurements, Inc. commented (Ex. 3–27, p. 3):

> The main benefits of this [ergonomics] program are educating employees and empowering employees to recognized ergonomic problems in their work environment while helping to provide solutions to those problems. The program invites employees to make known work problems without fear of retribution from management, even in a period of size restructuring. One of the program philosophies is quite simple—a problem can't be solved unless it's identified.

Additionally, Mr. John Clark, International Representative, International Union, UAW provided this comment (Ex. 3–155, p. 3):

> The structured participation of workers is needed for several reasons. Complaints of symptoms will not be freely given if workers fear reprisal by management. Workers know their job best and must be brought into the process of redesign. The close relationship of this activity to work standards and productivity issues requires prior understandings and continuing oversight. The program must maintain an emphasis on the prevention of pain and suffering, not a cost benefit calculation, and that requires worker involvement.

Section 1910.912 What must I do to provide management leadership?

> You must:
>
> (a) Assign and communicate responsibilities for setting up and managing the ergonomics program so managers, supervisors and employees know what you expect of them and how you will hold them accountable for meeting those responsibilities;
>
> (b) Provide those persons with the authority, "resources," information and training necessary to meet their responsibilities;
>
> (c) Examine your existing policies and practices to ensure they encourage and do not discourage reporting and participation in the ergonomics program; and (d) Communicate "periodically" with employees about the program and their concerns about MSDs.

Proposed section 1910.912 provides employers with answers to the following question: "What must I do to provide management leadership?" This section explains four management leadership responsibilities that employers

would have under the proposed ergonomics standard. First, as stated in paragraph (a), employers must assign and communicate responsibilities for setting up and managing the ergonomics program so that managers, supervisors and employees know what is expected of them and how they will be held accountable for meeting those responsibilities. Although proposed paragraph (a) would require that ergonomics program responsibilities be assigned, it does not specify who should be assigned to carry out what responsibility. OSHA believes that the employer is in the best position to decide who should have responsibility for the various parts of the process of implementing an ergonomics program, and the proposal gives the employer great leeway in making these decisions.

The proposed rule also does not describe how safety and health responsibility is to be allocated. In larger workplaces, where responsibilities are described in writing, the allocation might be accomplished through official statements, such as job descriptions or individual annual objectives. In very small worksites, oral instruction would suffice as long as everyone knows who has been assigned what responsibilities. In fact, in all cases, the key factor is that those to whom responsibility has been assigned understand that responsibility and take it seriously.

Individuals with responsibility for the ergonomics program must understand how they will be held accountable for meeting these responsibilities. OSHA has not specified how employers should accomplish this proposed requirement. Again, OSHA believes that employers are in the best position to decide how accountability should be determined and evaluated. Some employers may chose to incorporate accountability measures into performance appraisals. For example, one study reports that supervisor performance evaluations had been modified to include an assessment of whether or not ergonomic problems had been addressed (Ex. 26–28).

Second, as stated in proposed paragraph (b), employers must provide individuals assigned responsibilities in the ergonomics program with the authority, resources, information and training necessary to meet their responsibilities. Providing adequate authority, resources, information and training necessary to carry out program responsibilities demonstrates management leadership. If, for example, an employee is assigned responsibility for evaluating a potential MSD hazard, that employee would need access to relevant information about the job creating the potential hazard, adequate knowledge to competently evaluate the job, sufficient time to evaluate the job, and the authority to recommend changes to the job if it is found to present MSD hazards.

Authority, as used in this provision of the proposed standard, means the delegated ability to take action. Such delegated authority is essential if decisions are to be made in a timely manner and progress is to be made in accomplishing ergonomic program goals. Individuals assigned a particular responsibility under the ergonomics program must have the authority they need to discharge those responsibilities.

Resources, as defined in this proposed standard (see § 1910.945, which contains definitions of key terms), are the provisions necessary to develop, implement and maintain an effective ergonomics program. Resources include money (such as the funds needed to purchase equipment to perform job hazard analysis, develop training materials, and implement controls), personnel and the work time to conduct program responsibilities, such as job hazard analysis or training. The resources needed to meet program responsibilities under this standard will vary with circumstances.

The proposed standard would also require employers to provide individuals with assigned responsibility for the ergonomics program with the information and training they need to meet their responsibilities. For individuals involved in ergonomics program implementation and management, employers would be required to provide information and training so that these individuals understand and know, at a minimum:

- The ergonomics program and their role in it.
- How to identify and analyze MSD hazards.
- How to identify, evaluate, and implement measures to control MSD hazards.
- How to evaluate the effectiveness of ergonomics programs.

Sections 1910.923–928 of the proposed rule provides additional information about proposed requirements for ergonomics program training.

Proposed paragraph (b) is written to allow broad discretion for employers to decide just what authority, resources, information, and training are needed for the specific responsibilities assigned. The employer is, however, required by this paragraph to provide the authority, resources, information and training necessary to discharge the responsibility the employer has assigned.

Problems in fulfilling program responsibilities are often caused by lack of the necessary authority or resources to accomplish those responsibilities. For example, an employee may be assigned the responsibility for evaluating MSD hazards and getting those hazards corrected. However, if the same hazards are found on repeat inspections, it may be that the employee lacked the authority to require correction or that no training or inadequate training in the evaluation of MSD hazards has been provided. In both of these examples, the employer has not provided the authority, resources, information and training necessary for the employee to meet his or her assigned responsibilities.

Third, as stated in proposed paragraph (c), employers would be required to examine their existing policies and practices to ensure that they encourage the reporting of MSD signs and symptoms and do not discourage reporting and participation in the ergonomics program. The intent of this proposed provision is to inform employers that they are prohibited by the proposed rule from taking actions that might undermine or otherwise interfere with the reporting of MSD signs and symptoms or ergonomics program participation by their employees.

OSHA has included this provision in the proposed standard because the Agency believes that such protection is needed to encourage early reporting of the symptoms and signs of MSDs and meaningful employee participation in the ergonomics program. OSHA believes that employees in all workplaces should be encouraged by their employers to report injuries, illnesses, and hazards of all kinds—not just those related to ergonomic issues—because only full and frank reporting allows employers to identify hazards and do something about them. In workplaces where employees are discouraged, either implicitly or explicitly, from participating fully in all aspects of safety and health in the workplace, deaths, injuries, and illnesses will continue to occur, employers will continue to pay high workers' compensation premiums, worker morale will suffer, and product quality will be below par. Encouraging employee

participation, and particularly the reporting of MSD signs and symptoms, is especially important under the proposed ergonomics rule because the success of the program depends on such reporting. That is, the standard is structured so that employee reports of MSD signs and symptoms trigger employer actions.

OSHA is aware that some employers discourage reporting unintentionally, and that this can happen even in workplaces where an ergonomics program has been implemented in good faith. For example, employers may be discouraging full and early reporting if they have:

- A policy that every employee who reports MSD signs or symptoms must rest at home without pay.
- A policy that requires drug testing of every employee who reports an injury.
- A supervisory practice of withholding overtime work for anyone who reports MSD signs or symptoms.
- A policy that prohibits the use of sick leave if an employee is off work because of a work-related injury.

It should be noted that OSHA does not consider that having a drug testing policy is, in and of itself, a violation of the standard. However, if the drug testing policy was applied in a discriminatory way, or had a chilling effect on employees' willingness to report, the Agency would evaluate the situation on a case-by-case basis.

Because the underreporting of occupational illnesses and injuries is a widely recognized problem, and is especially serious in the case of ergonomic injuries and illnesses (see discussion of underreporting in the Significance of Risk section (Section VII of this preamble), the purpose of this proposed provision is to ensure that employees in jobs covered by the standard will not be discouraged from reporting problems to their employers. For example, the use of incentive or award programs that focus on achieving low numbers or rates of reported MSDs may discourage early reporting. Such programs, although sometimes intended to improve employee safety and health, may inadvertently lead to the underreporting of MSD cases and thus actually increase unsafe working conditions. Programs that offer financial rewards, such as individual or group performance bonuses, management promotions, or safety game awards ("safety bingo"), or provide personal recognition of individual employees ("safe employee of the month") to employees, groups, or supervisors if they achieve a zero or low incidence of reportable injuries or illnesses may put considerable pressure on workers not to report and thus discourage reporting, whether intentionally or unintentionally.

OSHA's objective is that employees feel free to report MSD signs and symptoms as early as possible, because doing so prevents pain and suffering, averts disability, and reduces employer costs. To achieve this objective, all MSDs must be reported so that they can be assessed to determine whether they are covered by the standard. Thus, the Agency's concern is with the proper reporting of MSD injuries and illnesses, not on the design of the employer's incentive program. If such programs have the effect of discouraging reporting or employee participation, however, employers would not be in compliance with this section of the standard. Thus, because these programs have the potential to discourage reporting, employers should take special care to ensure that they do not do so.

In comments submitted to OSHA in response to requests made in the ANPR, Martin Marietta Energy Systems, Inc., among others, stated that incentive programs may pose possible barriers to early reporting (Ex. 3–151). The International Union of Electrical, Salaried, Machine and Furniture Workers urged OSHA to discourage practices that inhibit early reporting, and specifically pointed to the use of safety contests (Ex. 3–183).

OSHA is not prohibiting the use of safety incentive or award programs, and nothing in the proposed rule would do so. However, OSHA is encouraging employers who wish to use such programs to design them to reward safe work practices, such as active participation in the ergonomics program, the identification of MSD hazards in the workplace, and the reporting of the early signs and symptoms of MSDs, rather than to reward employees for having fewer MSDs or lower rates of MSDs. The differences in these two kinds of programs—those that focus on safe work practices and those that stress fewer reported MSDs—is that the former, when coupled with appropriate supervisory feedback to employees, may actually reinforce and encourage the kinds of safe practices and participation that employers need to enhance safety and health, while the latter too often encourage employees not to report.

OSHA would not consider incentive programs to be "illegal" under this rule except where they are applied in a discriminatory way or have a chilling effect on employees' willingness to report. OSHA's practice is to evaluate the recordkeeping system, and the accuracy and completeness of reporting, when it inspects facilities. If no underreporting is apparent, OSHA does not inquire about any incentive programs that may be in place at the facility. However, if there does appear to be underreporting, OSHA evaluates the situation further to determine what is contributing to the underreporting. OSHA would not cite the employer under this standard for having an incentive program unless it was discouraging reporting or participation in the program (§ 1910.912 (c)). OSHA would cite employers for failure to record OSHA recordable injuries and illnesses, but such a citation would be for a violation of the recordkeeping rule, not the ergonomics rule.

It is OSHA's experience that incentive or award programs are not needed to motivate employees who are active participants in workplace safety and health programs, such as the ergonomics program proposed by this standard. Employees involved in effective workplace programs already receive feedback from their co-workers, supervisors, and managers on safe work practices, regularly provide such feedback to others, and are "rewarded" by being full participants in achieving a safe and healthful workplace.

Likewise, only informed employees can truly participate effectively in a workplace ergonomics program. Employees who have received adequate information and training on ergonomic hazards in their workplace can act as "another pair of eyes and ears" for their employers. Informed and trained employees can contribute to a workplace culture that values safety and health.

Fourth, proposed paragraph (d) would require that employers "communicate 'periodically' with employees about the program and their concerns about MSDs." Periodic communication between an employer and his or her employees means a regular, two-way exchange of information in which employees receive information about the employer's ergonomics program and its progress, and the employer receives information about MSDs that is of concern to the employees. Although OSHA does not specify a time period for these communications, the frequency of this exchange of information should accurately reflect the needs of a given workplace. For example, OSHA would expect more frequent communication during the start-up

phase of an ergonomics program, when MSD signs or symptoms are reported, and prior to the implementation of workplace changes. At a minimum, communications must be often and timely enough to ensure that employees have the information necessary to protect themselves from MSDs, and have effective input into the operation of the ergonomics program.

Employers will be able to demonstrate this communication by periodically checking to see whether their employees have accurate information about the process for reporting MSD signs or symptoms. Employees should be able to state the various steps of this process, or at a minimum, the first step in the reporting process. Additionally, employers will be able to inspect the reports themselves (if they are in writing) to determine whether employees are actually reporting MSD signs or symptoms and if they are reporting them early.

Section 1910.913 What ways must employees have to participate in the ergonomics program?

Employees (and their designated representatives) must have:

(a) A way to report MSD signs and symptoms;

(b) Prompt responses to their reports;

(c) Access to this standard and to information about the ergonomics program; and

(d) Ways to be involved in developing, implementing and evaluating each element of the ergonomics program.

Proposed section 1910.913 of the ergonomics program standard informs employers of OSHA's specific requirements for employee participation. It provides an answer to the question, "What ways must employees have to participate in the ergonomics program?" Proposed paragraph (a) contains the requirement that employees, and their designated representatives, if the employees are represented by a union or unions, must have a way to report MSD signs and symptoms. This proposed provision requires employers to establish a clear process for reporting MSD signs and symptoms and to make that process known to his or her employees, so that reports are received in a timely and systematized manner. For example, employees must know whom to make reports to. These reporting systems may be either formal or informal, depending on the nature and size of the affected employee population. The intention of this provision is for a means of communication to be available and for employees to know how to have access to the system.

Prompt answers to employee reports are necessary so that employees know that their reports have been received and considered. Paragraph (b) of section 1910.913 of the proposed ergonomics program standard requires that employees and their designated representative(s), where applicable, receive prompt responses to their reports. OSHA believes that a timely and good faith response is essential to reinforce the reporting and information exchange process. Quick responses to employee reports are a way to demonstrate management leadership of the ergonomics program. The requirements in proposed paragraphs (a) and (b) of section 1910.913 are the complements to proposed section 1910.916, which requires employers to identify at least one person to receive and respond promptly to employee reports of MSD signs or symptoms, and to take the action this standard requires.

Proposed paragraph (c) of section 1910.913 states that employees, and their designated representative(s), if applicable, must have "access to this standard and to information about the ergonomics program." Such information includes: the assignment of responsibilities under the program; job hazard analysis results; hazard control plans; and records of reports related to the occurrence of covered MSDs and the identification of MSD hazards; ergonomic program evaluation results; and lists of alternative duty jobs. Additionally, employees must be provided with access to a copy of this Ergonomics Program standard. Employers can comply with this provision by posting a copy of the standard on the bulletin board. OSHA believes that employees must have this information to meaningfully participate in the ergonomics program. However, employee access to information does not include access to confidential or private information the employer may have that is of a personal nature, such as medical records.

Assuring employee access to information related to their safety and health on the job is not unique to this proposed standard. Employers are already obligated to provide employees with access to their exposure and medical records by the requirements set forth in OSHA's standard "Access to Employee Exposure and Medical Records" (29 CFR 1910.1020). Additionally, OSHA requires employers covered by the Process Safety Management standard (29 CFR 1910.119) to provide employee access to process hazard analyses and all other information required to be developed under that standard.

Paragraph (d) of section 1910.913 proposes that employees and their designated representatives, if applicable, must have "ways to be involved in developing, implementing and evaluating each element of the ergonomics program." Element of ergonomics program refers to elements that are required by this standard, as listed in proposed section 1910.905. OSHA believes that employees must be involved in these important elements of an ergonomics program in order for the program to be effective. For example, when it comes to job hazard analysis and control, no one knows the job better than the employee(s) who does the job on a regular basis. Employees are also most likely to have valuable input regarding the most effective and inexpensive solutions to MSD hazards related to their jobs.

For example, employees must have input in the development, implementation, and evaluation of ergonomic training programs, where training is required under this standard. Employees themselves are the best advisors regarding effective training program content and level of understanding for sometimes complex training material. Obviously, in workplaces where the primary language of some of the employees to be trained is not English, employees must play a critical role in assuring that the training material is presented in language that is understood by the employees. In many cases, that language will be English, because many workers will have acquired a good understanding of English. The standard intends, however, that the training program content be understood by all employees who are required to receive training.

Employees must also be involved in evaluating the effectiveness of the ergonomics program and the control measures that are implemented. OSHA believes that the employees who perform jobs that have MSD hazards are in the best position to know whether or not the ergonomics program and control measures are effective as implemented or if they need to be modified. To effectively eliminate MSD hazards, employers and employees must form a partnership, with each contributing his or her unique expertise to achieve the goals of the ergonomics program.

The nature, form, and extent of how employers must provide employees with opportunities to participate will vary among workplaces. Each workplace and workforce is different, and what will be effective will vary, depending on such factors as:

- The nature of the MSD hazards;
- The number and type of problem jobs in the workplace;
- Past experience with employee participation programs;
- The presence or absence of a union;
- The general safety and health culture of the workplace;
- Relevant state or local laws; and
- The employer's financial resources.

OSHA proposes to provide great latitude to each employer, in consultation with employees, to find the optimal means for achieving the participation required by this proposed standard in their workplace.

Hazard Information and Reporting (§§ 1910.914–1910.916)

Proposed sections 1910.914–1910.916 would require employers whose employees work in manufacturing or manual handling operations, or in jobs in which a covered MSD has occurred, to provide employees in those jobs with basic information about musculoskeletal disorders (MSDs), including their signs and symptoms and how to recognize them. Some signs and symptoms of MSD problems are obvious, such as trigger finger, while others, such as the early stages of tendinitis, may be more subtle. However, explaining the nature of the problem, the characteristic signs and symptoms, and the importance of early reporting is a necessary component of any ergonomics program.

The proposed requirements in these sections are designed to ensure that employers with high-risk employees, such as those in manual handling and manufacturing jobs, have a system in place that will respond appropriately if a covered MSD is reported. In order for employees to report the first signs or symptoms of an MSD, they must recognize those signs and symptoms and understand the urgency of reporting them to the employer promptly. To achieve this end, the proposed rule requires employers to establish a system that includes an MSD reporting system. These sections also require that employers provide pertinent information to employees in problem jobs; this information must address the signs and symptoms of MSDs and common MSD hazards.

These sections stress the importance of early reporting to ensure that employees with MSD signs or symptoms receive help before serious damage occurs. Additionally, the early reporting of MSDs helps to avoid the development of MSD signs or symptoms in other employees in the workplace in the same job. Receiving reports from employees and reviewing available information is an easy and straightforward way to identify problem jobs. For example, employers who follow up on employee reports of MSD signs or symptoms, such as undue strain, localized fatigue, discomfort, or pain that does not go away after overnight rest will be able to take preventive action at the earliest stages.

OSHA's proposed reporting system is a tool for secondary prevention of MSDs. Its purpose is to identify employees with covered MSDs before they would otherwise seek health care for their signs or symptoms. Thus, by design, the reporting system should be highly sensitive, *i.e.*, identify both those employees who definitely have a covered MSD as well as those who, upon further evaluation, are found not to have a covered MSD. OSHA believes this approach is appropriate because certain requirements of this proposed rule are triggered by the occurrence of a covered MSD. Reporting all signs or symptoms of MSDs will help to ensure that covered MSDs are properly identified.

It is important to note that reporting of all signs or symptoms of MSDs through this system does not mean that all of these cases will turn out, on further investigation, to be OSHA recordable cases. Once an employee reports signs or symptoms of an MSD, his or her case would need to be evaluated for OSHA recordability. If the case is determined to be an OSHA recordable MSD and in addition meets the screening criteria (see § 1910.902), it is a covered MSD as defined by the proposed standard.

The information that employers would be required to provide to employees under these sections is general information about MSDs and common MSD hazards. This information, for example, would not have to be specific about the precise conditions or MSD hazards of a particular job. Job-specific training that results from a job hazard analysis is only required if the requirements in the sections that address training (§§ 1910.9 23–928) are triggered by the occurrence of a covered MSD. Examples of the "big picture" information that would be required by section 1910.915 include: general hazards associated with MSDs; what musculoskeletal disorders are and the signs and symptoms they cause; the importance of early reporting of MSD signs and symptoms to full recovery; and information about the systems in place to handle employee reporting of MSD signs and symptoms. The intent of this section is to make employees aware of MSDs and common MSD hazards.

In debates over the OSH Act before its passage, Senator Williams stressed that the hidden nature of harmful physical agents made employee awareness of these hazards critically important to providing them with adequate protection from excessive exposure (Legislative History, at 415). MSD hazards are an example of harmful physical agents. This observation continues to be true today, and is particularly apparent in the case of MSDs, which are widely underreported, in part because neither employers nor employees make the link between workplace risk factors and the signs and symptoms of MSDs.

Section 1910.914 What is my basic obligation?

You must set up a way for employees to report MSD signs and symptoms and to get prompt responses. You must evaluate employee reports of MSD signs and symptoms to determine whether a covered MSD has occurred. You must periodically provide information to employees that explains how to identify and report MSD signs and symptoms.

Proposed section 1910.914 informs employers of what they are required to do to facilitate employee reporting of MSD signs and symptoms. There are three proposed obligations under this section. First, employers would be required to: "set up a way for employees to report MSD signs and symptoms and to get prompt responses." By using the word "way," OSHA has created flexibility for employers to use either formal or informal approaches to establishing a reporting system. Large employers may decide that a formal system of reporting that includes written documentation is appropriate to ensure that nothing falls through the cracks. Employers with fewer than 10 employees, on the other hand, may find that oral reporting systems are adequate. Many employers may already have reporting systems in place that can be adapted to accommodate the requirements of the proposed Ergonomics Program standard. However, regardless of how methods are tailored to meet the needs

of a specific workplace and workforce, the process must be systematic and accessible to all employees.

The MSD signs and symptoms to be reported are defined in the section of this standard that covers key terms (§ 1910.945). Signs of MSDs are defined as "objective physical findings that an employee may be developing an MSD." Examples of signs of MSDs include:

- Decreased range of motion;
- Decreased grip strength;
- Loss of function; and
- Deformity.

Symptoms of MSDs are more subjective physical experiences that an employee may report that indicate he or she may be developing an MSD. Examples of MSD symptoms in the affected body part include:

- Numbness;
- Burning;
- Pain;
- Cramping;
- Tingling; and
- Stiffness.

Symptoms can vary in their severity, depending on the amount of exposure an employee has had. Often symptoms may appear gradually and be evidenced as muscle fatigue or pain at work that disappears during rest. Usually symptoms become more severe as exposure continues. For example, at first tingling may continue during rest, then numbness or pain may make it difficult to perform the job, and finally pain may be so severe that the employee is unable to perform physical work activities.

There are several reasons why OSHA believes the proposed reporting system is important for a successful ergonomics program. First, an important trigger in this proposed standard is the occurrence of an MSD. In order for an employer to be made aware of MSDs in his or her workplace, employees must have a mechanism for reporting this information. Second, if an accessible reporting system is not made available to employees, they will be discouraged from reporting MSD signs and symptoms and the ergonomics program will fail. A reporting system that is well-known to employees is one way to ensure employee participation in the ergonomics program.

Section 1910.914 further proposes that "you must evaluate employee reports of MSD signs and symptoms to determine whether a covered MSD has occurred." This requirement has been written to allow maximum flexibility for employers. In order to determine whether an employee who has experienced MSD signs or symptoms actually has a covered MSD, many employers will choose to have employees who report MSD signs or symptoms evaluated by an ergonomist or health care professional. Other employers will use ergonomics committee members or other staff with appropriate training. Some employers may have a health care professional available on-site for employee evaluations, and others may use a contract provider to whom employees are referred. Regardless of who does this evaluation, employers would be required to take reports of MSD signs or symptoms seriously and to provide employees, when appropriate, with early assessment and access to prompt and effective evaluation at no cost to the employees. When the occurrence of a covered MSD is confirmed, employers would be responsible for providing MSD management of that MSD to the affected employee. Proposed employer obligations for MSD management are found in sections 1910.929–1910.935 and are discussed below in connection with those sections of the proposed standard.

As part of their basic obligation, employers would also be required to "periodically provide information to employees that explains how to identify and report MSD signs and symptoms." The information that would be required to be communicated to fulfill the basic obligation under this section (§ 1910.914) differs from the information to be provided through the training provisions contained in sections 1910.923–1910.928 of the proposed rule. The information to be shared with employees under this section is general information related to MSDs, MSD hazards, and the ergonomics program. Employees need access to this information in order to be alert to the onset of MSD signs or symptoms and to effectively participate in the ergonomics program, as well as to protect themselves while at work.

In order to provide employers with maximum flexibility, the time intervals for these activities have not been specified in the proposed rule. However, in the section on key terms in this standard (§ 1910.945), OSHA states that "periodically means that a process or activity, such as records review or training, is performed on a regular basis that is appropriate for the conditions in the workplace." By using the term "regular basis," OSHA provides employers with a flexible definition that is adaptable to an employer's specific situation. OSHA proposes that information for employees be provided periodically because retention of information diminishes over time.

The section on key terms in this standard, § 1910.945, further defines "periodically" to mean "that the process or activity is conducted as often as needed, such as when significant changes are made in the workplace that may result in increased exposure to MSD hazards." Examples of significant changes in the workplace include the introduction of new equipment, new processes, or new production demands that may increase the likelihood that employees will be exposed to MSD hazards.

Section 1910.915 What information must I provide to employees?

You must provide this information to current and new employees:

(a) Common MSD hazards;

(b) The signs and symptoms of MSDs, and the importance of reporting them early;

(c) How to report MSD signs and symptoms; and

(d) A summary of the requirements of this standard.

Proposed section 1910.915 informs employers of the specific information they must provide to current and new employees in manufacturing operations, manual handling operations and other jobs with covered MSDs. The provision of this information to employees is necessary to facilitate their active participation in the ergonomics program. Additionally, since the identification of problem jobs is triggered by employee reporting of a covered MSD, informed employees are critical to assure the accuracy of the reporting system, regardless of whether the system is written or oral.

OSHA considers "current" employees to be those in either manufacturing operations, manual handling operations, or other problem jobs at the time this standard becomes effective. "New" employees include newly hired employees, as well as those who are new to manufacturing and manual handling operations or other jobs with covered MSDs, but not necessarily new to the company.

At a minimum, OSHA would require that employers provide their employees with information that covers four topics. First, proposed paragraph (a) would require that employers provide information to current and new employees in manufacturing operations, manual handling operations, and other jobs with covered MSDs so they know about the "common MSD hazards." By using the word "common" OSHA means general, as opposed to job specific, MSD hazards.

Second, as stated in paragraph (b), employees must know "the signs and symptoms of MSDs, and the importance of reporting them early." A discussion of MSD signs and symptoms and the importance of early reporting can be found in the summary and explanation of section 1910.914.

The ultimate goal of early reporting of signs and symptoms is to identify MSDs while they are still reversible in order to prevent pain, suffering, and disability due to MSD hazards. Such a goal creates a win-win environment for both employers and employees. Employees are assured that their health and safety will be protected, and employers will benefit from the decreased occurrence and costs of covered MSDs in their workforce.

Third, proposed paragraph (c) would require employers to provide information to their employees in manufacturing operations, manual handling operations and other jobs with covered MSDs so they know how to report MSD signs and symptoms. OSHA does not specify how this information must be shared. It can be communicated either in writing or orally, depending on the nature of the work environment. However, employers must be sure that their affected employees understand how to access this reporting system. This requirement complements the obligation set forth in section 1910.914, which states that employers must set up a way for employees to report MSD signs and symptoms.

Fourth, proposed paragraph (d) would require employers to provide "a summary of the requirements of this standard" to their employees in manufacturing operations, manual handling operations, and other jobs with covered MSDs. OSHA believes that employees are entitled to information about the ergonomic program elements and specific requirements contained in this standard. Moreover, employees must have this information to meaningfully participate in the ergonomics program.

OSHA believes that there are many practical ways that employers would be able to accomplish these proposed requirements. One method that aids the understanding of somewhat technical information is to allow employees an opportunity to ask questions about information presented to them and receive answers to their questions. There are many ways that question and answer sessions can be incorporated into the work schedule. Examples include question and answer sessions that are: organized classroom style; part of regularly scheduled meetings with employees and their supervisors; an outgrowth of informal talks with employees; and incorporated into safety meetings. OSHA believes that merely arranging for employees to view a videotape on common MSD hazards, without an opportunity for discussion or questions and answers, is unlikely to ensure that the necessary information has been effectively communicated.

Another method critical to employee understanding of information related to common MSD hazards and the signs and symptoms of MSDs is to provide the information in the language and at levels the employees comprehend. Commercially available information related to common MSD hazards and MSD signs and symptoms is often available in languages other than English and at various comprehension levels. When purchasing prepared informational materials, employers must consider language and comprehension when making their selections. For employers with predominantly non-English speaking workers, an effective alternative to commercially prepared informational material may be selecting and training a worker who speaks both English and the predominant language of the workforce to deliver MSD hazard information. For employers with workers who cannot read, employers would be required to provide information orally or through visual displays or graphics.

OSHA recognizes that retention periods for information, especially technical information, can sometimes be short, and that it often takes multiple presentations of information before it is effectively understood, processed, and applied. Therefore, OSHA would expect employers to be creative in meeting these proposed obligations. Some additional ideas that employers may consider include: posting information in conspicuous locations as a continuous reminder; frequently changing the message conveyed in the posted information so that it doesn't become stale and invisible; using plain language and terms to communicate the information; incorporating visually appealing pictures or displays; and setting up interactive displays of model work stations so employees can experiment with equipment while they are not engaged in production or service provision.

Section 1910.916 What must I do to set up a reporting system?

You must:

(a) Identify at least one person to receive and respond to employee reports, and to take the action this standard requires.

(b) Promptly respond to employee reports of MSD signs or symptoms in accordance with this standard.

Proposed section 1910.916 advises employers of what they must "do to set up a reporting system." This section contains two requirements that employers must meet. First, proposed paragraph (a) would require that employers "identify at least one person to receive and respond to employee reports, and to take the action this standard requires." These proposed requirements provide additional support and encouragement for employees to report MSD signs and symptoms. If employees are expected to report MSD signs and symptoms, there must be at least one person assigned the responsibility to receive and respond to the reports and act upon them.

The employer may decide who the person or persons to receive such reports should be and how many persons are needed. In many places of employment, all front-line supervisors have the responsibility to receive and respond to reports of work-related injuries and illness. In other workplaces, a safety officer or safety committee has the responsibility to receive and respond to such reports. In still other companies an occupational health nurse may be available to receive and respond to reports of MSD signs and symptoms.

Small employers, on the other hand, may choose to carry out these responsibilities themselves instead of delegating them to others. For example, a small employer could simply make sure that all employees are encouraged to report MSD signs and symptoms directly to him or her. In response to those reports, that same small employer would then also be the designated individual to ensure that the appropriate action, as required by this standard, is initiated when the employee has a covered MSD. In the proposed standard the

choice of designee is left to the employer, because OSHA recognizes that various employers may elect to implement this provision differently.

Second, proposed paragraph (b) of this section would require employers to " promptly respond to employee reports of MSD signs or symptoms in accordance with this standard." The summary and explanation for most of this requirement has been previously discussed in section 1910.914, which covers the employer's basic obligation. Any employee reports of MSD signs or symptoms must be taken seriously by the employer; if a covered MSD has occurred, the employee's job is a problem job, and the employer must then comply with the job hazard analysis and control provisions of sections 1910.917 through 1910.922. Such reports may also indicate that an element(s) of the ergonomics program is not properly functioning. Thus, employers must critically evaluate employee reports of MSD signs or symptoms and determine what actions must be taken to comply with the requirements of this proposed Ergonomics Program standard.

Job Hazard Analysis and Control (§§ 1910.917–1910.922)

This part of the Summary and Explanation discusses the proposed requirements for Job Hazard Analysis and Control (§§ 1910.917–1910.922). It describes the proposed requirements, provides information on the process of job hazard analysis and control, and presents examples of controls that have been used effectively by employers to eliminate or materially reduce MSD hazards.

Job hazard analysis and control is the heart of any ergonomics program because it is the first step in eliminating or materially reducing MSD hazards. Through job hazard analysis, employers identify and assess where and how employees' physical capabilities have been exceeded in a given job. It does this by identifying what aspects of the physical work activities and conditions of the job and what ergonomics risk factors may be causing or contributing to the MSD hazards.

Once MSD hazards have been identified, the next step is to eliminate or control them. An effective hazard control process involves identifying and implementing control measures to obtain an adequate balance between worker capabilities and work requirements so that MSDs are not reasonably likely to occur (Karwowski and Salvendy, *Ergonomics in Manufacturing,* 1998, Ex. 26–1419).

OSHA is proposing a flexible approach to the analysis and control of MSD hazards. A flexible approach helps to ensure that the required job hazard analysis and control process is appropriate for a diverse range of employers and is applicable to a variety of different jobs. For example, OSHA believes that both small and large employers will be able to use the job hazard analysis and control provisions of the standard and will be able to comply with them.

Section 1910.917 What is my basic obligation?

You must analyze the problem job to identify the "ergonomic risk factors" that result in MSD hazards. You must eliminate the MSD hazards, reduce them to the extent feasible, or materially reduce them using the incremental abatement process in this standard. If you show that the MSD hazards only pose a risk to the employee with the covered MSD, you may limit the job hazard analysis and control to that individual employee's job.

OSHA is proposing that employers analyze jobs in which a covered MSD is reported. (In the proposed rule these jobs are called "problem jobs.") If employers determine, through the job hazard analysis, that there are physical work activities and work conditions in the problem job that are reasonably likely to be causing or contributing to the covered MSD, they would be required to implement controls to achieve one of these control endpoints: eliminate MSD hazards, reduce hazards to the extent feasible, or materially reduce the hazard (following the incremental abatement process in § 1910.922). (The control endpoints in this basic obligation section would also apply to those ergonomics programs that might be grandfathered in under § 1910.908.)

1. Covered MSDs

OSHA is proposing to limit employers' obligation to analyze and control MSD hazard requirements to jobs in which covered MSDs have been reported after the date the Ergonomics Program Standard becomes effective. This means that the only employers who would have to analyze and control jobs are those who have determined that a covered MSD has occurred in their workplace.

Many stakeholders support limiting job hazard analysis and control to jobs in which there is an identified MSD hazard, such as an injury (Exs. 3–56, 3–99, 3–114, 3–133, 3–161, 26–1370). Other stakeholders suggested that an ergonomics rule should require employers to analyze and control any job in which employees are exposed to MSD hazards (Exs. 3–141, 3–183, 3–184). OSHA requests comment on whether job hazard analysis and control should be limited to jobs with covered MSDs or expanded to include jobs in which employees are exposed to MSD hazards, even if no injuries have been reported.

2. Problem Jobs

OSHA is proposing that employers must do hazard analysis and control in problem jobs. The requirement that employers analyze jobs with covered MSDs is not limited to the injured employee's job or workstation. It also includes the workstations of others in that job in the establishment who are exposed to the same physical work activities and conditions and thus the same MSD hazards. If the job is performed on more than one work shift in the establishment, the analysis must include employees from the other shifts who are to exposed the same physical work activities and conditions and thus the same MSD hazards. Including in the analysis other employees who perform the same physical work activities is an important proactive measure for preventing other employees from developing the type of MSD that has already occurred at least once among employees who are doing the same type of tasks. (However, the employer would not be required to analyze the same job performed at other establishments of the company.)

OSHA is proposing that the analysis must include all jobs involving the same physical work activities and conditions as those where a covered MSD has occurred, regardless of whether those jobs have the same job title. Using job titles/classifications to determine which jobs are analyzed is not necessarily relevant in terms of safety and health concerns. First, jobs involving the same physical work activities and conditions may have different titles if there are working supervisors/managers, a seniority system, or different work shifts. For example, "Fabricator II" on the overnight shift may be performing the same physical work activities as "Junior Fabricator" or "Apprentice Fabricator" on the day shift. If so, they all may be at increased risk of developing an MSD.

Second, relying on job titles may group together employees who have the same title but whose jobs are quite different. For example, all "assembler" jobs on an auto assembly line may not involve the same physical work activities or conditions. One assembler may bolt on a door, another puts on the bumper, while the third one installs the

dashboard. Analyzing these jobs as one group may not be helpful because the physical work activities may be so different that the employees are not exposed to the same risk factors and, as a result, the same controls will not work.

Although employees in jobs in the workplace must be included in job hazard analysis if their jobs involve the same physical work activities and conditions, OSHA recognizes that jobs may not have the same activities and conditions just because employees use the same equipment or are working on the same product. For example, employees do not have to be included if their physical work activities differ in terms of activities and conditions. For example, VDT users may not be considered to be in the same job where one user does inputting for more than 4 hours a day at a modular VDT workstation and the other uses the VDT on the desk only to read and send e-mail messages. These two employees have significantly different levels of exposure to ergonomic risk factors. The fact that employees are working on the same motorcycle assembly line does not necessarily mean they are performing the same assembly job. One employee on that line may be screwing on the shock absorbers, where he is exposed to awkward postures and force, while another employee is exposed to forceful lifting and lowering while putting on the wheels.

On the other side of the same job issue, where employers show that the problem is limited to the employee who reported the MSD, they may limit job hazard analysis and control to addressing the MSD hazards that are affecting that individual employee. They also may limit the remaining elements of their program, such as training, to that individual employee.

Evidence in the record suggests that there are likely to be situations in which the physical work activities or conditions only pose a risk to the reporting employee. For example, an employee in a commercial bakery may report a back or shoulder MSD related to extended reaches involved in sorting rolls. However, other employees who have performed the job for several years do not have (and never have had) difficulties performing the physical work activities of the job. In this case, an employer might conclude that the problem is limited to the injured employee. In this situation, the employer could limit the response (*e.g.*, analysis, control, training) to physical work activities and conditions confronting that injured employee.

Another example might involve manufacturing assembly line job where an employee is much shorter than other employees. The employee reports persistent shoulder and elbow pain, which the employer observes is caused by having to reach higher than the other employees to perform the job tasks. This may also be an appropriate case for the employer to focus the analysis and control efforts on the employee who reported the problem.

Section 1910.918 What must I do to analyze a problem job?

You must:

(a) Include in the job hazard analysis all of the employees in the problem job or those who represent the range of physical capabilities of employees in the job;

(b) Ask the employees whether performing the job poses physical difficulties, and, if so, which physical work activities or conditions of the job they associate with the difficulties;

* * * * *

An ergonomics job hazard analysis is the employer's process for pinpointing the work-related causes of MSDs. It involves examining the workplace conditions and individual elements or tasks of a job to identify and assess the ergonomic risk factors that are reasonably likely to be causing or contributing to the reported MSDs (Ex. 26–2). Job hazard analysis can also be a preventive measure. That is, it is used to identify jobs and job tasks where MSDs and MSD hazards are reasonably likely to develop in the future.

Job hazard analysis is an essential element in the effective control of MSD hazards. In many situations, the causes of MSD hazards are apparent after discussions with the employee and observation of the job, but in other jobs the causes may not be readily apparent. In part, this is because most MSD hazards involve exposure to a combination of risk factors (*i.e.*, multifactoral hazard). For example, it may not be clear in a repetitive motion job whether exposure to repetition, force or awkward postures is the risk factor that is causing the problem.

The job hazard analysis is also important to pinpoint where the risk of harm exists and to rule out aspects of the job that do not put employees at risk. In this sense, a job hazard analysis is an efficient way to help employers focus their resources on the most likely causes of the problem so that the control strategy they select has a reasonable expectation of eliminating or materially reducing the MSD hazards. It also provides employers with the information they need to target their efforts to those jobs or tasks that may pose the most severe problems.

In this proposed standard, the job hazard analysis also serves another purpose. It is a systematic method for confirming whether the employer's initial determination that the MSD is work-related was correct. This is an important step for those employers whose ergonomics programs include early intervention when employees report MSDs. For example, a number of employers said that they provide MSD management first (*i.e.*, immediate restricted work activity whenever an employee reports MSD signs or symptoms), and afterward look to see whether they need to take action to fix the job. For these employers, the job hazard analysis includes two parts: first, after careful examination the employee is determined by the analysis to be exposed to ergonomic risk factors to the extent that a covered MSD is reasonably likely to occur; and second, the employers has determined that no job fix is needed. The job hazard analysis steps in such a case help employers who have an effective reporting and MSD management system and who have relied on a preliminary determination to trigger medical intervention not to go further than is necessary to address the hazard.

The proposed rule does not require that employers use a particular method for identifying and analyzing MSD hazards. Employers are free to select the method or process that best fits the conditions of their workplaces, and there are many different approaches currently in use (see, for example, Exs. 26–2, 26–5). Some employers use simple and fairly informal procedures to analyze their problem jobs. This is especially true for employers who have only limited or isolated problems. For example, the United States General Accounting Office reported that the job hazard analysis process for the ergonomics programs they reviewed often focused only on the particular job element that was thought to be the problem (Ex. 26–5). For other employers, the process may be very detailed or more formalized. For example, their process may include job-task breakdown, videotaping or photographing the job, job or hazard checklists, employee questionnaires, use of measuring tools, or biomechanical calculations (Ex. 26–2). For example, checklists, together with other screening methods such as walk-through observational surveys, and worker and

supervisory interviews, employee symptom or discomfort surveys, are recognized ergonomic evaluation methods (Exs. 26–2, 26–3, ANSI Z–365 Draft, 1997, Ex. 26–1264). A few of these methods are described in this section. Information on other methods of job hazard analysis are included in the public docket of this rulemaking. (Exs. 26–2, 26–5). According to this information and stakeholder comments, the job hazard analysis methods employers use have the following steps or activities in common. OSHA has designed the proposed job hazard analysis requirements around these steps:

- Obtaining information about the specific tasks or actions the job involves;
- Obtaining information about the job and problems in it from employees who perform the job;
- Observing the job;
- Identifying specific job factors; and
- Evaluating those factors (*e.g.*, duration, frequency and magnitude) to determine whether they are causing or contributing to the problem (Ex. 26–2, 26–5, 26–1370).

The proposed rule requires that the hazard analysis and control of problem jobs be conducted by person(s) who have received training in the process of analyzing and controlling MSD hazards (See § 1910.925).

1. Paragraph (a)

Paragraph (a) of proposed § 1910.918 would require that, if the employer does not show that the MSD hazards only pose a risk to the employee who has the covered MSD, the employer must do a job hazard analysis for other employees in the problem job as well as for the injured employee. Doing a job hazard analysis for all employees in a problem job ensures that employers have available the most complete information about the causes of the problem when they are identifying and assessing ways to control MSD hazards. Having this information also helps to ensure that the controls employers select will eliminate or materially reduce MSD hazards for all employees in the job.

At the same time, OSHA is aware that conducting a job hazard analysis that covers all employees in a problem job may be burdensome for some employers. For example, some employers may have large numbers of employees who perform the same job at one workplace (*e.g.*, telephone operators, customer service representatives, catalog sales representatives, data processors, nurses aides, package handlers, sorting and delivery persons). Conducting a job hazard analysis for each one of these employees could be time and resource intensive. In addition, if the controls are likely to be the same for all of the employees in a particular job, continuing to conduct job hazard analyses after a certain point may have diminishing returns.

Doing job hazard analysis for all employees also may be difficult in jobs that do not have fixed workstations (*e.g.*, beverage delivery, package delivery, furniture moving, appliance delivery, home repair, visiting nurse, home health aide). Some of these jobs may have constantly changing work conditions, all of which it may not be possible to analyze.

Therefore, OSHA is proposing in paragraph (a) that employers not be required to conduct a job hazard analysis for each employee in a problem job. Under the Ergonomics Program Standard, employers would be allowed to limit the number of employees' jobs that they analyze, provided that the jobs they do analyze represent the range of physical capabilities of all of the employees who currently are in the job. The intention of this provision is to reduce the job hazard analysis burdens on employers, who would otherwise have to do many individual hazard analyses, while at the same time ensuring that the process accurately identifies and does not underestimate the exposure of employees to the MSD hazards in the problem job.

To ensure that the job hazard analysis is an accurate estimate of exposure, employers would be required to do a job hazard analysis for a sufficient number of employees in the job (from all work shifts) for the analysis to be representative of all of the employees in the problem job in terms of their physical work activities. To illustrate, to get an accurate estimate of exposure to MSD hazards of all employees in an assembly line job, an employer may have to include the following employees in the hazard analysis group:

- Shortest employees in the job because they are likely to have to make the longest reaches or to have a working surface that is too high,
- Tallest employees because they may have to maintain the most excessive awkward postures (*e.g.*, leaning over the assembly line, reaching down with the arms) while performing tasks,
- Employees with the smallest hands because they may have to exert considerably more force to grip and operate hand and power tools,
- Employees who work in the coldest areas of the workplace because they may have to exert more force to perform repetitive motions, and
- Employees who wear bifocals because they may be exposed to awkward postures (*e.g.*, bending neck back to see).

2. Paragraph (b)—"Ask employees"

Paragraph (b) of this section would require employers to consult with employees as part of the job hazard analysis process. Talking or consulting with employees in a problem job helps to ensure that the employer has the complete picture about the problems in a job, especially if the job hazard analysis includes only a limited number of employees. Where the job hazard analysis is limited, consulting with all employees during the hazard analysis and control process is an effective way to gain employee acceptance and minimize resistance to change when implementing controls and job modifications become necessary. Nonetheless, for the reasons discussed in paragraph (a) of this section, OSHA is not proposing to require that employers consult with every employee during the job hazard analysis process, provided that employers consult with at least those employees whose jobs are being analyzed.

Many employers have told OSHA that talking with employees is a quick and easy way to find out what kind of problems are in the job (Ex. 26–1370). They said that talking with employees is often the best way to identify the causes of the problem and to identify the most cost-effective solutions to it (Ex. 26–1370).

Many stakeholders have said that employee input at the job hazard analysis stage is essential (Ex. 26–1370). A comment from Johnson & Johnson sums up this opinion:

> Hazards cannot be addressed efficiently without an accurate evaluation of the situation. The line employee is one of the best sources of this information * * * [they are] local process experts (Ex. 3–232).

Discussions with employers who have set up ergonomics programs, pursuant to corporate settlement agreements with OSHA, also confirm the necessity of employee input in the

job hazard analysis (Ex. 26–1420). A number of these employers said that employees need to be involved in the analysis and control process because "no one knows the job better than the person who does it" (Ex. 26–1420). Other stakeholders echo this belief, saying that employees have the best understanding of what it takes to perform each task in a job, and thus, what parts of the job are the hardest to perform or pose the biggest difficulties:

"Job analysis should include input from the workers themselves. The employees can best tell what conditions cause them pain, discomfort, and injuries. They often have easy and practical suggestions on how such problems can be alleviated." American Federation of State, County and Municipal Employees (Ex. 3–164).

Involving employees, in addition to helping to ensure that the job hazard analysis is correct, can make the job hazard analysis and control process more efficient. Employees can help employers pinpoint the causes of problems more quickly and, according to a number of stakeholders, employees often come up with some of the best practical, no-cost or cost-effective, solutions (Ex. 26–1370). The American Health Care Association agrees:

Employers and employees alike who work in the industry are in the best possible position to identify risk factors in their workplace and to develop prevention methods that concentrate on the significant problems unique to their particular industry's environment (Ex. 3–112).

There are many different ways in which employers can comply with the requirement to ask employees about the problem job, and OSHA does not intend to require employers to use a certain method. Employers are free to use any method to get information from employees about the problems in the job. Employers may do something as simple as informally talking with employees while observing the job being performed. Consulting with employees in the problem job can be made part of a regular staff or production meeting or "toolbox chat." Employers may ask employees through surveys/questionnaires and more formal employee interviews. Many employers have developed very effective tools for gathering important job information from employees who do the job.

AMP Inc., a manufacturer of electronic components, with 300 employees, uses a one-page "Ergonomic Evaluation Form" that asks employees to answer simple "yes/no" questions about the employee's ease and comfort when performing certain job tasks. After the company's ergonomics team (comprised of line employees) reviews the form, a member of the team interviews the employee. (Ex. 26–5).

Paragraph (b) would require that employers ask employees whether performing the job poses physical difficulties. This language should not be interpreted as requiring employers to conduct symptom or discomfort surveys. Rather, the intention of this provision is for employers to ask employees to help identify the physical work activities, job conditions and ergonomic risk factors that may be making the job difficult to perform.

Section 1910.918 What must I do to analyze a problem job?

You must:

* * * * *

(c) Observe the employees performing the job to identify which of the following physical work activities, workplace conditions and ergonomic risk factors are present:

PHYSICAL WORK ACTIVITIES AND CONDITIONS	ERGONOMIC RISK FACTORS THAT MAY BE PRESENT
(1) Exerting considerable physical effort to complete a motion	(i) Force (ii) Awkward postures (iii) Contact stress
(2) Doing same motion over and over again	(i) Repetition (ii) Force (iii) Awkward postures (iv) Cold temperatures
(3) Performing motions constantly without short pauses or breaks in between	(i) Repetition (ii) Force (iii) Awkward postures (iv) Static postures (v) Contact stress (vi) Vibration
(4) Performing tasks that involve long reaches	(i) Awkward postures (ii) Static postures (iii) Force
(5) Working surfaces are too high or too low	(i) Awkward postures (ii) Static postures (iii) Force (iv) Contact stress
(6) Maintaining same position or posture while performing tasks	(i) Awkward posture (ii) Static postures (iii) Force (iv) Cold temperatures
(7) Sitting for a long time	(i) Awkward posture (ii) Static postures (iii) Contact stress
(8) Using hand and power tools	(i) Force (ii) Awkward postures (iii) Static postures (iv) Contact stress (v) Vibration (vi) Cold temperatures
(9) Vibrating working surfaces, machinery or vehicles	(i) Vibration (ii) Force (iii) Cold temperatures
(10) Workstation edges or objects press hard into muscles or tendons	(i) Contact stress
(11) Using hand as a hammer	(i) Contact stress (ii) Force
(12) Using hands or body as a clamp to hold object while performing tasks	(i) Force (ii) Static postures (iii) Awkward postures (iv) Contact stress
(13) Gloves are bulky, too large or too small	(i) Force (ii) Contact stress

PHYSICAL WORK ACTIVITIES AND CONDITIONS	ERGONOMIC RISK FACTORS THAT MAY BE PRESENT
MANUAL HANDLING (Lifting/lowering, pushing/pulling, and carrying)	
(14) Objects or people moved are heavy	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(15) Horizontal reach is long (Distance of hands from body to grasp object to be handled)	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(16) Vertical reach is below knees or above the shoulders (Distance of hands above the ground when object is grasped or released)	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(17) Objects or people are moved significant distance	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(18) Bending or twisting during manual handling	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures
(19) Object is slippery or has no handles	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures
(20) Floor surfaces are uneven, slippery or sloped	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures

* * * * *

1. Paragraph (c)

Paragraph (c) of proposed § 1910.918 requires employers to do the following:

- Observe the employee performing the job,
- Identify whether any of the physical work activities or conditions listed in the section are present, and
- Identify whether any of the relevant ergonomic risk factors listed in the section are involved in the particular work activity or condition.

a. "Observe" employees performing the job. The proposed rule requires employers to watch employees perform the physical work activities of the job and look at the conditions under which the job is performed. Job observation allows the employer to see how the employee does the job and provides information about the workstation layout, tools, equipment and general environmental conditions in the workplace.

There are several ways employers may comply with the observation requirement of the proposed standard. Employers may simply watch employees perform the job tasks. Often, all it takes to identify the problem and how to solve it is to watch the employee do the job. For example, watching a data processor reaching to use the mouse because the keyboard tray is not long enough to accommodate it may be all it takes to identify the likely cause of the employee's shoulder pain.

Videotaping the job is a common practice for "observing" jobs. A number of employers, especially in situations where the work activities are complex or the causes of the problem may not be easily identifiable, say that they videotape or photograph the job. These employers find it helpful to be able to refer to a record of the job while evaluating the ergonomic risk factors or identifying and assessing possible control measures (Ex. 26–1370).

"Job task analysis" is another job hazard analysis process that is widely used. This process involves breaking the job down into its various discrete elements or actions and then identifying and evaluating or measuring the extent to which the risk factors that are present in the physical work activities and conditions are reasonably likely to be contributing to the MSD hazard (Exs. 26–2, 26–1247). To do a job task breakdown, a number of employers look at the job as a series of individual, distinct tasks or steps (Exs. 26–2, 26–5, 26–1247, 26–1370). Focusing on each task allows for easier identification of the physical activities required to complete the job. While observing the job employers record a description of each task for use in later risk factor analysis as well as other information that is helpful in completing the analysis:

- Tools or equipment used to perform task,
- Materials used in task,
- Amount of time spent doing each task,
- Workstation dimensions and layout,
- Weight of items handled,
- Environmental conditions (cold, glare, blowing air),
- Vibration and its source,
- Personal protective equipment worn (Ex. 26–2).

Many employers use hazard identification and analysis checklists to help focus the job observation process. OSHA agrees that well designed checklists, when used in the context for which they are intended, do provide a range of employers, especially small business owners, with effective alternatives to hiring a consultant. There are many ways in which checklists may be useful: identifying physical work activities and conditions, identifying ergonomic risk factors, evaluating jobs, prioritizing jobs for further analysis, and providing a systematic review of risk factors.

b. Identify physical work activities, workplace conditions and ergonomic risk factors. Paragraph (c) would require that, as part of the job observation, employers identify the physical work activities, workplace conditions, and ergonomic risk factors present in the problem job that may be causing or contributing to the MSD hazard. Identifying the presence of physical work activities and conditions is the starting point for pinpointing the hazards the job may involve. Once the applicable activities and conditions are identified, employers would have to determine whether any of the ergonomic risk factors that OSHA has listed as being potentially relevant to those activities and conditions are present.

c. Ergonomic risk factors. Ergonomic risk factors are the aspects of a job or task that impose a biomechanical stress on the worker. Ergonomic risk factors are the synergistic

elements of MSD hazards. In the Health Effects section of this preamble (section V), OSHA discusses the large body of evidence supporting the finding that exposure to ergonomic risk factors in the workplace can cause or contribute to the risk of developing an MSD. This evidence, which includes thousands of epidemiologic studies, laboratory studies, and extensive reviews of the existing scientific evidence by NIOSH and the National Academy of Science, shows that the following ergonomic risk factors are most likely to cause or contribute to an MSD:

- Force
- Repetition
- Awkward postures
- Static postures
- Vibration
- Contact stress
- Cold temperatures

These risk factors are described briefly below (a more detailed discussion of ergonomic risk factors is included in the Health Effects section):

Force. Force refers to the amount of physical effort that is required to accomplish a task or motion. Tasks or motions that require application of higher force place higher mechanical loads on muscles, tendons, ligaments, and joints (Ex. 26–2). Tasks involving high forces may cause muscles to fatigue more quickly. High forces also may lead to irritation, inflammation, strains and tears of muscles, tendons and other tissues.

The force required to complete a movement increases when other risk factors are also involved. For example, more physical effort may be needed to perform tasks when the speed or acceleration of motions increases, when vibration is present, or when the task also requires awkward postures.

Force can be internal, such as when tension develops within the muscles, ligaments and tendons during movement. Force can also be external, as when a force is applied to the body, either voluntarily or involuntarily. Forceful exertion is most often associated with the movement of heavy loads, such as lifting heavy objects on and off a conveyor, delivering heavy packages, pushing a heavy cart, or moving a pallet. Hand tools that involve pinch grips require more forceful exertions than those that allow other grips, such as power grips.

Repetition. Repetition refers to performing a task or series of motions over and over again with little variation. When motions are repeated frequently (*e.g.*, every few seconds) for prolonged periods (*e.g.*, several hours, a work shift), fatigue and strain of the muscle and tendons can occur because there may be inadequate time for recovery. Repetition often involves the use of only a few muscles and body parts, which can become extremely fatigued while the rest of the body is little used.

Awkward postures. Awkward postures refer to positions of the body (*e.g.*, limbs, joints, back) that deviate significantly from the neutral position [1] while job tasks are being performed. For example, when a person's arm is hanging straight down (*i.e.*, perpendicular to the ground) with the elbow close to the body, the shoulder is said to be in a neutral position. However, when employees are performing overhead work (*e.g.*, installing or repairing equipment, grasping objects from a high shelf) their shoulders are far from the neutral position. Other examples include wrists bent while typing, bending over to grasp or lift an object, twisting the back and torso while moving heavy objects, and squatting. Awkward postures often are significant contributors to MSDs because they increase the work and the muscle force that is required.

Static postures. Static postures (or "static loading") refer to physical exertion in which the same posture or position is held throughout the exertion. These types of exertions put increased loads or forces on the muscles and tendons, which contributes to fatigue. This occurs because not moving impedes the flow of blood that is needed to bring nutrients to the muscles and to carry away the waste products of muscle metabolism. Examples of static postures include gripping tools that cannot be put down, holding the arms out or up to perform tasks, or standing in one place for prolonged periods.

Vibration. Vibration is the oscillatory motion of a physical body. Localized vibration, such as vibration of the hand and arm, occurs when a specific part of the body comes into contact with vibrating objects such as powered hand tools (*e.g.*, chain saw, electric drill, chipping hammer) or equipment (*e.g.*, wood planer, punch press, packaging machine). Whole-body vibration occurs when standing or sitting in vibrating environments (*e.g.*, driving a truck over bumpy roads) or when using heavy vibrating equipment that requires whole-body involvement (*e.g.*, jackhammers).

Contact stress. Contact stress results from occasional, repeated or continuous contact between sensitive body tissue and a hard or sharp object. Contact stress commonly affects the soft tissue on the fingers, palms, forearms, thighs, shins and feet. This contact may create pressure over a small area of the body (*e.g.*, wrist, forearm) that can inhibit blood flow, tendon and muscle movement and nerve function. Examples of contact stress include resting wrists on the sharp edge of a desk or workstation while performing tasks, pressing of tool handles into the palms, especially when they cannot be put down, tasks that require hand hammering, and sitting without adequate space for the knees.

Cold temperatures. Cold temperatures refer to exposure to excessive cold while performing work tasks. Cold temperatures can reduce the dexterity and sensitivity of the hand. Cold temperatures, for example, cause the worker to apply more grip force to hold hand tools and objects. Also, prolonged contact with cold surfaces (*e.g.*, handling cold meat) can impair dexterity and induce numbness. Cold is a problem when it is present with other risk factors and is especially problematic when it is present with vibration exposure.

Of these risk factors, evidence in the Health Effects chapter shows that force (*i.e.*, forceful exertions), repetition, and awkward postures, especially when occurring at high levels or in combination, are most often associated with the occurrence of MSDs. Exposure to one ergonomic risk factor may be enough to cause or contribute to a covered MSD. For example, a job task may require exertion of so much physical force that, even though the task does not involve additional risk factors such as awkward postures or repetition, an MSD is likely to occur. For example, using the hand or knee as a hammer (*e.g.*, operating a punch press or using the knee to stretch carpet during installation) alone may expose the employee to such a degree of physical stress that the employee has a significant risk of being harmed.

[1] Neutral posture is the position of a body joint has requires the least amount of muscle activity to maintain. For example, the wrist is neutral in a handshake position, the shoulder is neutral when the elbow is near the waist, the back is neutral when standing up straight.

However, most often ergonomic risk factors act in combination to create a hazard. The evidence in the Health Effects section shows that jobs that have multiple risk factors have a greater likelihood of causing an MSD, depending on the duration, frequency and/or magnitude of exposure to each. Thus, it is important that ergonomic risk factors be considered in light of their combined effect in causing or contributing to an MSD. This can only be achieved if the job hazard analysis and control process includes identification of all the ergonomic risk factors that may be present in a job. If they are not identified, employers will not have all the information that is needed to determine the cause of the covered MSD or understand what risk factors need to be reduced to eliminate or materially reduce the MSD hazards.

Although certain of the risk factors described above are easy to identify and it is not difficult to understand why they may be likely to create hazardous exposures, others are not as apparent or observable. Employers who already have ergonomics programs and persons who manage ergonomics programs should not have difficulty identifying risk factors in the workplace. Because these persons have training and experience, ergonomic risk factors are likely to be familiar concepts for them. Through the process of developing and implementing their ergonomics programs these persons have gained a good working knowledge of the ergonomic risk factors that are most likely to be present in their workplaces.

For those employers who are just beginning their programs and have little or no training and experience dealing with ergonomic risk factors, OSHA has tried to make the process of identifying them as workable as possible. Therefore, in the proposed rule OSHA has taken the ergonomic risk factors and the combination of risk factors most associated with the occurrence of MSDs and tried to present them in ways that those with more limited knowledge about ergonomics can readily identify. In this way, the ergonomic risk factors the proposed rule covers are presented in terms of specific and physically observable work activities and conditions. If any of these activities or conditions are present, the table in § 1910.918(c) tells employers which risk factors are likely to be relevant.

OSHA is proposing that employers use this list of physical work activities or conditions as a starting point for hazard evaluation, for several reasons. First, the list of activities and conditions is easy for employers to understand because they will be able to translate them to their own workplaces more readily than would be the case for ergonomic to risk factors. For example, "hand used as a hammer" is more easily understood than the term "contact stress," and "long reaches" graphically explains an "awkward posture" that may be a problem.

Second, the list helps employers quickly focus on the aspects of a job that are most likely to be associated with covered MSDs. At the same time, the list also identifies the risk factors that are most likely to be associated with the activities and/or conditions, which should help employers further focus their analysis. In this way the list serves as a bridge to the combinations of risk factors that studies have shown to be associated with an increased risk of developing work-related MSDs.

Third, having employers start the MSD identification and evaluation process with this list ensures that the analysis will be comprehensive. This is because the list includes the major components of work that have been associated with MSDs.

c. Physical work activities and conditions. The physical work activities and conditions OSHA has included in the proposed rule cover the basic physical aspects of jobs and workstations. These aspects include:

- Physical demands of work;
- Workplace and workstation conditions and layout;
- Characteristics of object(s) that are handled or used; and
- Environmental conditions.

The following table shows the physical work activities and workplace conditions that are associated with those physical aspects:

PHYSICAL ASPECTS OF JOBS AND WORKSTATIONS	EXAMPLES OF PHYSICAL WORK ACTIVITIES AND CONDITIONS ASSOCIATED WITH THE PHYSICAL ASPECT
Physical demands of work	• Exerting considerable physical effort to complete a motion • Doing the same motion over and over again • Performing motions constantly without short pauses or breaks in between • Maintaining same position or posture while performing tasks • Sitting for a long time • Using hand as a hammer • Using hands or body as a clamp to hold object while performing tasks • Objects or people are moved significant distances
Layout and condition of the workplace or workstation	• Performing tasks that involve long reaches • Working surfaces too high or too low • Vibrating working surfaces, machinery or vehicles • Workstation edges or objects press hard into muscles or tendons • Horizontal reach is long • Vertical reach is below knees or above the shoulders • Floor surfaces are uneven, slippery or sloped
Characteristics of the object(s) handled	• Using hand and power tools • Gloves bulky, too large or too small • Objects or people moved are heavy • Object is slippery or has no handles

PHYSICAL ASPECTS OF JOBS AND WORKSTATIONS	EXAMPLES OF PHYSICAL WORK ACTIVITIES AND CONDITIONS ASSOCIATED WITH THE PHYSICAL ASPECT
Environmental Conditions	• Cold temperatures

Employers who examine the job in which a covered MSD occurred to identify the physical work activities and workplace conditions in paragraph (c) and then evaluate the risk factors that OSHA has identified as potentially relevant, will be considered to be in compliance with the hazard analysis requirements of the proposed rule.

Exerting considerable force to complete a motion (*i.e.*, forceful exertions). It is not difficult to understand why jobs that require employees to apply a lot of physical effort may involve significant exposure to ergonomic risk factors and pose an increased risk of injury. For example, it is easy to see how much biomechanical stress employees are under when you see them grimace while trying to loosen lug nuts on an old tire, shift body weight and stance to wrench open stuck valves, or stiffen the body in order to lift a heavy or bulky object from the floor of a truck. Simply put, forceful exertions like these take more out of a person than tasks that do not require much physical effort. An easy way to confirm whether a task involves forceful exertions is to ask workers who are doing the task, or to try to do it yourself.

Performing forceful exertions requires an application of considerable contraction forces by the muscles, which causes them to fatigue rapidly. The more force that must be applied in the exertion, the more quickly the muscles will fatigue or become strained. Excessive or prolonged exposure to forceful exertions also leads to overuse of muscles and may result in muscle strain, soreness and damage. Performing forceful exertions can also irritate tendons, joints and discs, which leads to inflammation, fluid build up, and constriction of blood vessels and nerves in the area. Increased compression of nerves from the pressure imposed by inflamed tendons or muscle contractions may cause disorders of the nervous system (*e.g.*, carpal tunnel syndrome and other nerve entrapment disorders).

Injuries related to forceful exertions can occur in any tissue or joint. As mentioned above, back injuries from overexertion are a leading cause of workplace injuries and workers' compensation cases. A number of studies also show that repeated forceful exertions of the hands and arms are associated with work-related MSDs (*e.g.*, using tools, pinching or pushing with the fingers).

Lifting and carrying heavy objects are usually the tasks that come to mind as examples of forceful lifting tasks, but high forces are also involved in other types of jobs. These include jobs that require employees to apply pinch forces with their fingers (*e.g.*, picking up or placing small items on an assembly line with the fingers), static forces (*e.g.*, applying a lot of physical effort to put the last turn on a screw, pulling hard on a 30-inch wrench to loosen a bolt), and dynamic forces (*e.g.*, tossing objects into containers). (Forceful lifting/lowering, pushing/pulling and carrying are discussed under "Manual Handling" activities and conditions below.)

Force. Performing forceful exertions may place excessive mechanical loads on the tissues (*e.g.*, muscles, tendons, other tissues) that are used to exert or transfer force from the skeletal system to the work. Heavy loading of tissues causes the body to fatigue more quickly, and increases the amount of time tissues need to recover from the effects of such exertions. Tasks involving prolonged forceful exertions or excessive force alone can result in harm, including muscle strain or tears. However, where other risk factors are present, especially frequent repetition of exertions, awkward postures, or static postures they add to the force required to accomplish the exertion. In such cases, even tasks involving moderate levels of force may lead to injury and tissue damage because there may not be adequate recovery time. Forceful exertions can also cause or contribute to nerve disorders. Application of high levels of muscle and tendon tension and the contraction necessary to perform forceful exertions may increase pressure on entrapped/confined nerves and other tissues. For example, many employees who perform cutting and trimming tasks on poultry production lines have developed carpal tunnel syndrome (*e.g.*, a nerve entrapment disorder) from repeated forceful exertions of the hands and wrists to cut through the skin, meat, or bone. The continuous application of muscle-tendon movements in the hand and wrist inflames the tendons and puts pressure on the median nerve running through the carpal tunnel in the wrist to the hand. In addition, if the tendons and other soft tissue in the wrist or hand do not have adequate recovery time from the forceful exertions, they can become inflamed enough to put pressure on the median nerve.

Examples:
- Pulling meat off a bone on a meat cutting assembly line,
- Pulling hard to tighten bolts or screws in assembly line work,
- Squeezing hard on a pair of pliers, or
- Pulling hard on a long wrench to tighten or loosen a bolt

Awkward postures. Working in awkward postures increases the amount of force needed to accomplish an exertion. Awkward postures create conditions where the transfer of power from the muscles to the skeletal system is inefficient. To demonstrate this, hold a dry marker in your hand with your wrist straight and then let someone try to pull it out of your hand. Now hold the marker with your wrist bent toward the inside of your forearm as far as you can and hold the marker while someone tries to pull it out of your hand. To overcome muscle inefficiency, employees must apply more force both to initiate and complete the motion or exertion. In general, the more extreme the postures (*i.e.*, the greater the postures deviate from neutral positions), the more inefficiently the muscles operate and, in turn, the more force is needed to complete the task. Thus, awkward postures make forceful exertions even more forceful, from the standpoint of the muscle, and increase the amount of recovery time that is needed.

Examples:
- Throwing 20-pound bundles of printed material to overhead conveyors.
- Bolting or screwing a new part into an auto that is on a lift.

Contact stress. Mechanical friction (*i.e.*, pressure of a hard object on soft tissues and tendons) causes contact stress, which is increased when tasks require forceful exertion. The addition of force adds to the friction created by the repeated or continuous contact between the soft tissues and a hard object. It also adds to the irritation of tissues and/or to the pressures on parts of the body, which can further inhibit blood flow and nerve conduction.

Examples:
- Using the hand as a hammer is an example of force plus contact stress.
- Operating a carpet kicker with the knees

Doing the same motions over and over again (*i.e.*, repetitive motions). Many jobs that involve repetition of the same job again and again are apparent even upon cursory observation: assembly line jobs where motions are repeated every few seconds, data processing jobs, directory assistant operators, court reporting, letter and package sorting. Repetitive motion jobs include performance of identical motions again and again, but also include repeating multiple tasks where the motions of each task are very similar and involve the same muscles and tissues.

Evidence in the Health Effects section shows a strong association between the occurrence of MSDs and jobs involving exposure to repetitive motions. The joints are most susceptible to repetitive motion injuries, especially the wrists, fingers, shoulders, and elbows. Repetitive work that is done with the foot (*e.g.*, operating foot activated controls) or knees (*e.g.*, climbing ladders or using a carpet kicker) may also result in an MSD.

Repetition. Motions that are repeated again and again with little variation may cause fatigue and overuse of the muscles, tendons, and joints that are involved in the exertion (Ex. 26–2). Overuse leads to muscle strain, inflammation of joints and tendons, and increased pressure on nerves. As exposure continues or intensifies (*e.g.*, pace increases) tears in muscle fibers occur. The more frequently repetitive motions are performed (*i.e.*, fast pace), the longer they are performed (*i.e.*, long sessions without a break or more than 8 hours a day), and/or the more risk factors that are involved, the greater the risk of injury due to overuse and lack of adequate recovery time.

Exposure to repetition alone can cause MSDs. This is especially true where the same motions or tasks are performed for an extended period and/or where the task cycle is short (*e.g.*, the task cycle lasts only a few seconds). The risk of injury is significantly increased when other risk factors are also present.

Examples:
- Packing bags of potato chips into shipping boxes.
- Intensive keying of information into computer.

Force. The effects of repetitive motions on the body are increased when high forces are involved. Repetition of forceful exertions requires employees to exert more muscle tension and contraction, which leads to muscle fatigue. When repetitive motions involve high forces, even more recovery time is required for muscles than repetitive motions that do not contain high forces.

Prolonged repetition of forceful exertions also may result in inflammation in tendons and joints. In addition, the added muscle tension from forceful repetitive motions also puts more pressure on surrounding nerves and other confined tissues. This may cause damage to entrapped nerves and tissues.

Examples:
- Filleting fish in a processing plant, or
- Constantly using screwdriver to drive screws into wood.

Awkward postures. Performing repetitive motions in awkward postures (*e.g.*, bent wrists, extended arms) adds significantly to the muscular effort required to perform each motion. The added force hastens the onset of fatigue and increases the likelihood of injury from overuse.

In some cases, awkward postures may be so extreme that they can turn a low risk repetitive motion job into a high risk job. For example, an assembly job involving tightening bolts may not pose any problem where objects being assembled are at mid-torso level. However, the same job at the same pace may be hazardous if tightening the bolts involves overhead work.

Examples:
- Sorting parts or letters into bins of different heights and locations (*e.g.*, behind the employee), or
- Working with bent wrists to assemble small circuit breakers.

Cold temperatures. Cold temperature adds to the amount of force necessary to perform repetitive motions and increases the perception of stiffness of the joints and tissues in the body. Exposure to cold temperatures triggers the body to redirect blood flow from the extremities (hands, feet, and ears) in order to conserve body heat. When the blood supply to the hands is diminished, the manual dexterity and tactile sensitivity of the fingers are reduced. Employees compensate by applying more force to the muscles in the hands and fingers in order to complete the motions.

Exposure to cold temperatures also reduces the ability of tissues to recover from repetitive exertions. The reduction in blood flow reduces the delivery of oxygen and energy to tissues, and the removal of heat and waste products. This reduction in blood flow can also lead to pain and injury.

Example:
- Trimming chicken or turkey breasts in a processing plant, or
- Working in an operating room of a hospital.

Performing motions constantly without short pauses or breaks in between (*i.e.*, inadequate recovery time). Jobs that do not provide short pauses or breaks between motions or task cycles are often a problem because there may not be adequate time for muscles to recover from the effects of the exertion before the motion must be repeated. If there are no pauses between motions or the pauses are too short, the muscles cannot recover to the rested condition. Thus, the effects of the forces on the muscles accumulates and the muscles become fatigued and strained. The lack of adequate recovery time often occurs in jobs involving highly repetitive tasks. This happens when task cycle lengths are very short, which also means that the job involves a high number of cycle repetitions per minute. For example, some research shows that tendons and muscles in the wrists may not be able to recover where repeated task cycles are less than 5 seconds in length, that is, they are repeated more than 12 times per minute (Ex. 26–2).

Jobs involving constant muscle activity (static contractions) also may not provide adequate recovery time. These types of jobs may involve continuously holding hand tools (*e.g.*, knife, paint brush, staple gun), which means that employees have constant exposure to static postures and low contraction forces.

The longer motions or job tasks are performed, the less likely that there will be adequate recovery time. The accumulation of exposure leads to muscle fatigue or overuse. In addition, where the intensity of exposure is greater, for example, in repetitive motion jobs that involve exposure to additional risk factors (*e.g.*, force, awkward postures, or static postures), the increased forces required for the exertion also increase the amount of recovery time that is needed. Any part of the musculoskeletal system involved in moving the body is subject to injury where there is inadequate recovery time, and the recovery times needed vary by body part. For example, although employees may

not be at high risk for forearm injury if task cycles are 25 seconds long or not repeated more than 3 times per minute, they may be at high risk of shoulder injury under this regimen.

Repetition. As task cycles in repetitive motion jobs get shorter (and the number of repetitions per minute increases) employees are at greater risk of injury. Where task cycles are short, the same muscles are in constant use and the muscles get no rest from the force required to perform the task cycle. In addition, where task cycles are short, there is little variation in the physical demands of the tasks, which would allow some muscles to rest while others are in use. Thus, muscle fatigue continues to accumulate and may lead to muscle-tendon strain.

The following table shows the frequency of repetition and length of tasks cycles that are associated with increased risk of injury in repetitive motion jobs:

BODY AREA	FREQUENCY REPETITION PER MINUTE	LEVEL OF RISK	VERY HIGH RISK IF MODIFIED BY EITHER:
Shoulder	More than 2.5	High	High external force, speed, high static load, extreme posture,
Upper arm/elbow	More than 10	High	Lack of training, high output demands, lack of control,
Forearm/wrist	More than 10	High	Long duration of repetitive work
Finger	More than 200	High	

(Kilbom, 1994)

Examples:
- Deboning operation in a poultry plant where the cycle time is short and the birds are conveyed at a fast rate,
- Inserting coils to build an inner-spring mattress at a rate of one per second, or
- Letter sorting.

Force. Motions involving high forces, like highly repetitive motions, put a lot of mechanical stress on the body because muscles must apply considerably more contraction forces to accomplish the task. Thus, these tasks require significantly more muscle recovery time as compared to tasks that do not involve high force. If recovery time is not adequate, these employees are at greater risk of injury due to fatigue and overexertion.

Examples:
- The chuck boner job in a beef processing plant, or
- Shaking crab meat from Alaskan king crab legs.

Awkward postures, static postures, contact stress, vibration. The presence of any or all of these risk factors in a job, particularly jobs involving repetitive motion or forceful exertion, increases the force already required to perform job tasks and, therefore, increases the amount of time muscles need to recover from the exertions the task requires. If the recovery time is not adequate, the presence of these risk factors hastens the onset of fatigue and the effects associated with overuse of muscles, joints and tendons.

Examples:
- Attaching doors on the bathroom vanity assembly line, or
- Capping and cupping cookies on an assembly line.

Performing tasks that involve long reaches. Many job tasks involve long reaches: working overhead, putting items on a high shelf, reaching across a conveyor to put in a part or grasp an object, or bending over to reach a part in the bottom of a big supply box. These tasks expose employees to extreme awkward postures. Where long reaches are momentary and/or infrequent and the forces are low, these tasks are not a problem because there is likely to be adequate time for the body to recover between reaches. However, when long reaches are done frequently, force is involved and/or a long reach lasts more than a few seconds, the risk of harm increases.

Long reaches usually have the greatest impact on the shoulders and lower back. The shoulder is unique in its wide range of motion when compared with other joints in the body. The bony restraints are minimal, but soft tissue constrains the motion. Thus, injuries usually occur when the soft tissue is used to maintain an awkward posture and/or forceful exertion.

The back is flexed forward or extended back to extend reaches beyond the limit of the arm length. In addition, workers in repetitive jobs will often bend their back so that they can reduce the awkward shoulder posture. Bending the back forward adds the weight of the upper body to the force exerted by the back muscles and supported by the spine. Bending to the side, backwards or twisting puts the spine and back muscles in awkward postures.

Awkward postures. When employees are performing tasks that involve long reaches they are exposed to extreme awkward postures; that is, the positions of their shoulders, elbows and/or back deviate significantly from more neutral positions. Repeatedly performing tasks in such positions poses increased stress on the joints and/or spinal discs. As mentioned before, muscles do not work as efficiently in awkward postures, and the muscles must exert more physical effort to accomplish the task. This increased force contributes to muscle-tendon fatigue and strain. For example, the shoulder may deviate at least 90° from its neutral position when reaching across a conveyor to grasp an object. If the employee continues doing such reaches, the stress on the muscles and tendons in the shoulder can cause irritation and inflammation of the tendons and shoulder joint. This, in turn, may place increased pressure on nerves and blood vessels, reducing the supply of blood to the affected muscles and tendons.

Examples:
- Reaching above the head to activate a press or other machine,
- Reaching frequently for small parts in a bin that is at or close to the limit of the arm's reach,
- Reaching down and behind the back to pick up parts to feed to a press or place on a conveyor,
- Reaching across a conveyor to pick up items.

- Reaching to pick up items on the other side of the scanner on a grocery checkout conveyor.

Static postures. The effects on the body from doing tasks that require long reaches are exacerbated where the reaches must be maintained for more than a very few seconds. Holding extreme postures places very high static loads on the body, resulting in rapid fatigue. Not only do the static postures add to the muscular effort required to do the task, but the lack of motion impedes the blood flow that is necessary for tissue recovery.

The constricted blood flow reduces the supply of nutrients to the muscles and the removal of acids and other waste products away from the tissues. Reduced blood flow also slows down delivery of oxygen to the muscles.

The longer or more frequently static loading occurs, the greater the risk of injury due to overuse of muscles, joints and other tissues.

Examples:
- Doing extensive repair work when the automobile is overhead on a vehicle lift.
- Holding out the arm to use a mouse that is on a surface more than 15 inches from the body because the keyboard tray is not big enough to hold the mouse.

Force. Because of exposure to extreme postures, tasks that involve long reaches require considerably more force to accomplish than tasks that can be performed close to the body. For example, it requires much more physical effort to hold and operate a 10-pound rivet gun 2 feet in front or above the body than close to the body. First, the employee must apply more muscle force to simply hold a 10-pound gun when the arms are extended and the back is bent. The longer the gun must be held in that position, the more effort the muscles must exert. Second, the employee must apply more force in order to operate the gun in such an extreme position. Thus, long reaches can turn a low or moderate force task into a high force task that places employees at greater risk of harm. The addition of static postures to the extreme awkward postures further increases the force necessary to perform the task. Muscle-tendon fatigue and strain may occur very rapidly where these tasks are performed frequently because of lack of time to recover from such forceful exertions.

Long reaches can also increase the dynamic forces of the exertion. For example, long reaches to get a bag of flour from a shopping cart and bring it to the scanner can result in high acceleration forces of the back and wrist.

Finally, employees may be exposed to forceful exertions, even if long reaches do not involve lifting heavy objects. When employees bend over to perform long reaches, the muscles in the back must exert a lot of force to lift and lower the weight of the upper body. This causes the back muscles to fatigue more rapidly and puts pressure on the discs in the lower back. Where employees have to maintain long reaches for more than a few seconds, a large amount of static force is applied by the back muscles to the discs.

Examples:
- Throwing items into an overhead container,
- Reaching over the bagging area to place bags of groceries into shopping carts.

Working surfaces are too high or too low. Working surfaces that are too high or too low are another way in which employees are exposed to awkward postures. Where employees must work on such surfaces for a long period, the risk of tissue damage and other MSD problems increases.

Working surfaces can be too high or too low for many employees because most working surfaces are not adjustable. For example, 30 inches is a typical height for desks, tables and other working surfaces operated from a sitting position, and 36 to 40 inches is a typical height range for working surfaces operated from a standing position. Although employees of average height may be able to work comfortably at these working surfaces, the typical heights may not work for shorter or taller employees. An assembly-line employee who is 6'5" may have to bend over significantly to assemble the parts on a conveyor that is 36 inches high, while a 5-foot employee working on a 42-inch conveyor may have to work with her elbows away from the body.

The height of working surfaces can also be too high or too low when employees must use work surfaces or workstations that were not designed for the tasks being performed. For example, typical desks (*i.e.*, 30 inches high) are not designed for computer use. Even persons of average height may have to raise their elbows and shoulders to use the keyboard on their desks. This is especially true where desk chairs cannot be raised high enough to correct the problem. Even when the employee can be raised to a good height, the feet are often left dangling above the floor.

Awkward postures. Awkward posture is the primary ergonomic risk factor to which employees are exposed when the height of working surfaces is not correct. Working at surfaces that are too high can affect several parts of the body. Employees may have to lift and/or bend their shoulders, elbows and arms (including hands and wrists) into uncomfortable positions to perform the job tasks on higher surfaces. For example, employees may have to raise their shoulders or move their elbows out from the side of their body to do a task on a high working surface. Also, they may have to bend their heads and necks to see the work they are doing.

Working surfaces that are too high usually affect the shoulders. The muscles must apply considerably more contraction force to raise and hold the shoulders and elbows out to the side, particularly if that position also must be maintained for more than a couple of seconds. The shoulder muscles fatigue quickly in this position.

On the other hand, when surfaces are too low, employees may have to bend their backs and necks to perform their tasks while hunched over the working surface. They may also have to reach down with their arms and shoulders to do the tasks. Where working surfaces are very low, employees may have to kneel or squat, which places very high forces on the knees to maintain the position and the weight of the body. Working surfaces that are too low usually affect the lower back and occasionally the neck.

As mentioned above, since muscles operate less efficiently in awkward positions, more force must be expended to do the task. Where employees work on high or low surfaces only occasionally (*e.g.*, once a week, only a short time each day), it does not pose a problem. However, where employees' primary working surface is too high or low, there is greater risk of injury due to exposure to awkward postures.

Examples:
- Threading extruded fiber onto a spool that is 15 inches above the floor, or
- Activating palm switches that are 60 inches above the floor.

Static postures. When awkward working positions must be maintained (*i.e.*, without support), it also increases the static

loading of muscles and tendons. This causes the body to fatigue even more quickly.

Examples:
- Working on a vertical drafting table, or
- Sitting at grinding bench where the grinding wheel is 24 inches above the floor.

Contact stress. There are two ways in which contact stress can occur when working surfaces are too high or low. The incorrect height can create contact points that would not exist if the surface was at the correct height. In addition, contact stress can occur when employees, whose arms and shoulders are fatigued from prolonged awkward and static postures, end up resting their forearms, wrists or hands on hard or sharp edges in order to rest their arms and shoulders.

Examples:
- Working at a computer placed on a folding table, or
- Holding an injection molded part at eye level by resting the elbows on the work surface.

Maintaining same work positions or posture for a long period. The chief complaint people usually make when they have worked for a long time in the same position is that they feel "stiff, sore and tired." These are some of the effects that result when tasks involve static postures (*e.g.*, driving for several hours without a break).

Static postures increase the amount of force required to do a task because, in addition to the force required to perform the task, contraction forces must be applied to hold the body in position throughout the work shift. Maintaining the same position or posture includes a variety of things. It includes holding the arms and shoulders in a non-neutral posture without moving.

The effects of maintaining the same work positions can occur in almost any joint of the body and vary depending on body location. For example, the effect on the knees and back from squatting or kneeling for 2 hours is likely to be greater than the effect on the neck and shoulders from looking up at a monitor for the same period.

Static postures. Tasks requiring employees to maintain the same position for an extended period increase the static loads/forces on muscles and other tissues. The longer postures must be maintained, the greater the loading of muscles and other tissues. This increased force contributes to fatigue and muscle-tendon strain.

Exposure to contact stress may be a by-product of prolonged static loading. When muscles become fatigued, employees look for ways to rest the affected areas. Sometimes employees may rest their arms or wrists on the hard surface and edges of the workstation. For example, computer operators may relieve static loading on their forearms and wrists by resting their wrists on the edge of the computer table. However, the blood flow and movement of their wrists may continue to be reduced because of the contact stress.

Examples:
- Watching a computer monitor that is above eye level, or
- Holding a mouse that is located in front of the keyboard.

Awkward postures. The effects of static loading on the body are made worse where it is an awkward posture that must be maintained. Awkward postures add to the strain that muscles and tendons are already feeling because of static postures.

In addition, the fatigue that results from static loads may cause employees to assume awkward positions in order to rest fatigued areas. For example, employees assembling microchips and computer circuits may rest their elbows on the work surface in order to relieve static loading on arms, wrists and hands. However, leaning on the elbows to continue working may result in static loading of the back, shoulders, neck and contact stress on the cubital tunnel.

Examples:
- Cradling a phone on the shoulder, or
- Holding the arms on the top half of a steering wheel.

Cold temperatures. Exposure to cold temperatures exacerbates the effects of static postures because it too reduces blood flow to muscles and other tissues. This may interfere with the ability of muscles and other tissues to recover from the effects of static loading. Exposure to cold temperatures also causes reduction in manual dexterity and feeling.

Examples:
- A butcher working in the plant's cooler for several hours, or
- Standing to direct traffic on a busy road in the winter.

Sitting for a long time. Sitting for long periods without the opportunity to stand up and move around is another way in which employees are exposed to static loading of tissues, primarily in the lumbar area of the back. It can also affect the upper back, neck and legs. The problem is exacerbated where awkward postures are also present.

Static postures. Employees may be exposed to static postures when they must sit for a prolonged period on chairs, stools or benches that do not provide adequate lumbar support, that is, either the back rest of the seat does not provide good lumbar support or there is no back rest at all. When there is no lumbar support and the back is bent forward, the muscles of the back are trying to force the lumbar region out of it natural curve (*i.e.*, proper alignment of the vertebrae), which places pressure on the discs and reduces blood supply to the spinal tissue. The constant exertion of the contraction forces leads to muscle fatigue.

When the back muscles become sore, people tend to slouch. In this posture more force is being placed on the back and the discs. As the static loading continues, pressure continues to be applied to the membranes of the discs and they may become stressed. Stressed discs, in turn, may put pressure on blood vessels and may pinch a nerve (*e.g.*, sciatic nerve), which results in pain.

Even where the chair has a back rest with lumbar support to help maintain the back in a neutral position, employees still may continue to be exposed to static loading because they cannot take advantage of the back rest. This may occur when the seat pan is too big or the seat is too high for the employee. Many employees respond by sitting forward, instead of against the back rest, so that their feet can be on the ground, thus pressing the spine out of the natural curve and placing pressure on the discs.

Awkward postures. Employees are also exposed to awkward back postures when they are working in a seated position and the back is not in a neutral position. The awkward postures may be caused by the physical work activities employees perform while sitting, the level of fatigue, the characteristics of the seat, and/or the height of the working surface (and objects on the working surface).

The back is in an awkward position if the employee is leaning forward, slouching or slumping in their seats to work. Employees may lean forward because they are fatigued, because they must reach or lift an object, because the work surface is too low or not tilted, or because they

must move closer to see what they are working on. The awkward postures add to the static forces being applied to the discs and the muscles in the back. In addition, employees may be exposed to awkward neck postures when they look to see the work.

Examples:
- Working at a computer workstation where the operator must lean forward to see the screen,
- Working in a chair on an uneven floor.

Contact stress. Although contact stress that occurs from prolonged sitting is not directly related to the occurrence of MSDs, contact stress can increase discomfort and awkward postures. For example, where the seat pan is not padded at the edge, is too big or too high, it can create contact stress on the back of the thighs, which may result in constriction of blood flow to the legs. If employees sit forward to relieve this stress, the back is not supported and the employee may have a hard time maintaining the back in a neutral position.

Examples:
- Working in a chair where the seat pan is too long, or
- Working in chair with arm rests that are too close to the body.

Using hand and power tools. "Using hand and power tools" to perform physical work activities does not in itself mean that employees are exposed to ergonomic risk factors that put them at risk of injury. Rather, it is a shorthand way of alerting employers that there are aspects of tool design and use that need to be checked out to see whether ergonomic risk factors may be present. These include:

- Weight and size of tool,
- Tool handles and/or grips,
- Tool activation (repetitively, one finger),
- Tool kickback, vibration and maintenance.

Force. There are many ways in which operating hand and power tools can expose employees to high forces. First, when hand or power tools are heavy (*e.g.*, more than 10 pounds), employees may be exposed to high levels of force just to hold and control the tool. This is over and above the muscle force that must be applied to operate the tool and may cause the muscles to fatigue quickly.

Second, power tools that do not have good weight distribution can increase the force needed to operate the tools. This occurs when employees cannot hold tools at the "center of gravity," and the tool rotates or spins around when it is in use. Employees must exert considerable muscle force and maintain the contraction forces to prevent such rotation.

Third, when tool handles or grips are too small or too big, employees must exert greater force to operate the tools because such handles/grips reduce grip capacity. Where handles are too narrow, employees may have to exert high muscle contraction forces to hold and operate the tool. For example, operating certain dental tools may require the exertion of considerable force and result in high pressure on the fingers and hand because they have very small handles (*i.e.*, narrower than a pen or pencil). And if the handles are too wide, there is less ability to generate the force (*i.e.*, muscle contraction) necessary to operate the tools, and employees are more likely to be exposed to awkward postures when they must bend or flex their wrists to maintain a grip on the tool handle.

Fourth, the way in which tools are activated can add considerably to the amount of force needed to operate the tool. Tools that have squeeze triggers may require employees to apply a lot of muscle contraction in the hands and fingers. Some triggers are so small that there is only room for them to be activated with one finger, that is, all the force to squeeze the trigger must be generated by one finger, which places excessive forces on the muscles and tendons of the finger. Because the fingers may not have enough strength to operate the squeeze trigger, the muscles may fatigue quickly. In addition, tendons may become so inflamed that fluid builds up in the area and it may be difficult to continue bending the fingers to squeeze the trigger. This is especially true for the use of manual hand tools, where exertion of a lot of force may be necessary to overcome the trigger's activation resistance.

Finally, application of high forces may be necessary to stop kickbacks and to resist the weight and power of some tools. For example, a logger or arborist may have to apply a lot force when cutting felled trees in order to prevent the kickback that could occur if the saw hits a very hard spot (*e.g.*, a knot in the tree). Employees using powered floor-buffers have to apply a lot of physical exertion to keep the buffers on a flat and centered plane and to keep them from spinning out.

Examples:
- Using powered driver to run and tighten nuts on bolts and opposing force when the driver reaches the end of the tightening process, or
- Constantly pressing the trigger to activate a drill with the index finger.

Awkward postures. There are several reasons why employees may be exposed to awkward postures when they are using hand and power tools. Awkward postures may be the result of bad tool design or workstation layout. Others may be poorly designed for the task so that the posture (awkward posture) requires more force and leads to overexertion of the fingers, hand, wrist, elbow, or shoulder (such as the use of a 90° screwdriver when an in-line screwdriver is more appropriate). A pistol grip electric drill may be fine on a vertical surface but on a horizontal surface the operator must turn the drill 90° to use it. Any force that must be maintained on the tool requires much more contraction of the muscles, which leads, in turn, to more rapid fatigue.

Examples:
- Reaching over a barrier to operate a rivet gun, or
- Squatting to tighten 20 bolts on a pipe flange.

Static postures. In many jobs the work situation requires that the worker constantly hold the tool and does not allow the worker to put the tool down. As a result, the grasp muscles and other support muscles are constantly active or statically loaded. Tools that require the worker to maintain some level of exertion to achieve a steady flow or activity such as a glue gun or a frosting bag require the muscles to be constantly in tension/contraction and applying some level of force. When workers have to hold a tool without putting it down, they must maintain the muscles in contraction. Mouse users who grip a mouse constantly because their work requires so much click and drag also experience these low but constant forces. Over time, fatigue of muscles and inflammation of tendons occurs.

Examples:
- Constantly holding knife used to trim chicken breasts in poultry plant,
- Holding a wire wrap gun.

Contact stress. Poor tool design is often the cause of contact stress in the use of operating tools. For example, gripping handles that are small may press the handle or handle edge into the skin, resulting in contact stress. Knurls (indentations in handles) may result in contact stress if they push into the fingers because they do not fit the operator's hand.

Examples:
- Using a screwdriver with edges on the handle to tighten bolts on an assembly line.
- Using a small wire clippers (handles press into the palm) to remove component lead after wave solder.

Vibration. Although using powered hand tools (*e.g.*, electric, hydraulic, pneumatic) may help to reduce risk factors such as force and repetition, they can expose employees to vibration. Vibrating hand tools transmit vibrations to the operator and, depending on the level of the vibration and duration, may contribute to the occurrence of Raynaud's phenomenon (*i.e.* vibration-induced white-finger MSDs) (Ex. 26–2). Vibration inhibits the blood supply to the hand and fingers, which leads to numbness and tingling in the fingers. These vibration-induced MSDs show a progression of symptoms beginning with occasional or intermittent numbness or loss of color (*i.e.*, blanching) in the tips of a few fingers. Continued exposure leads to more persistent attacks, affecting greater parts of most fingers and reducing feeling (*i.e.*, tactile discrimination) and manual dexterity (Ex. 26–2) (see the Health Effects section for a more-detailed discussion of specific MSDs).

The level of vibration can be the result of bad design, poor maintenance, and age of the powered hand tool. For example, even new powered hand tools can expose employees to excessive vibration if it they do not include any devices to dampen the vibration or in other ways shield the operator from it. Using vibrating hand tools can also contribute to muscle-tendon stress and fatigue. Operators may have to use increased grip force to steady such hand tools.

Examples:
- Cutting trees with chain saw, or
- Using grinding tools to form dentures.

Cold temperatures. The effects of any or all of the risk factors discussed can be exacerbated if the employee is exposed to cold while operating the tool. The cold temperatures can be due to the workplace environment (*e.g.*, deboning meat when temperatures must be maintained below certain levels, using a chain saw in the winter) or due to air blowing from the power tool across the operator's hand. When cold air blows across the hands, the fingers get cold and they are less dextrous. The reduction in dexterity occurs because blood flow is reduced in the cold fingers, blood flow becomes constricted, and the tissue becomes stiff.

Examples:
- Using a knife to process catfish fillets,
- Using a socket wrench to change out equipment on the roof in the winter.

Vibrating working surfaces, machinery or vehicles. Most jobs that involve contact with vibrating surfaces, machines and vehicles are easy to see, hear or feel. Since many products and processes are disturbed by vibration, employers often isolate and dampen vibration to levels below the threshold of effect on workers. However, there are some processes for which vibrating surfaces are unavoidable. An employee who comes into contact with such a surface may absorb enough vibration energy to create a health concern. Exposure to vibration energy usually results in one of two types of exposure—whole body vibration and hand/arm vibration. The exposures can result in an increase in forceful exertions, fatigue, numbness, tingling, and a loss of dexterity. These results are exacerbated by the presence of a cold environment.

Work conditions that involve sitting, standing or lying on a vibrating surface produce whole-body vibration. Excessive levels of whole-body vibration or exposure to it for prolonged periods can make it difficult to perform job tasks due to numbness and tingling and a loss of dexterity. Vibration energy can disrupt blood flow and affect the nervous system. Body parts that absorb the vibration (like the back and knees) are particularly vulnerable. Workers who stand on vibrating surfaces absorb most of the vibration energy in their legs, particularly the knees. Whole body vibration forces on the spinal discs can cause microfractures in the disc structure, which may lead to herniated or ruptured discs. Vibration can also disrupt the blood supply to the tissue around the spine, resulting in fatigue and inflammation. When the feet or buttocks are in contact with a vibrating surface, injury is usually to the spine.

Examples:
- Working near a 100-ton press,
- Working near a vibratory bowl, or
- Operating a fork truck over rough dock plates or gravel.

When the hands are in contact with a vibrating surface, the energy is primarily absorbed in the hands and arms and may lead to hand-arm vibration illnesses. The most common sources of hand-arm vibration syndrome are vibrating hand tools (*e.g.*, chainsaws, rivet guns, back pack leaf blowers). Some more subtle sources are holding pressurized hoses with nozzles, using a striking device such as a hammer, resting the hand on a vibrating machine, and holding a handle such as a steering wheel attached to a larger piece of equipment. In addition to the damage that is caused by the vibration energy, the muscles can become fatigued and strained due to the additional forces needed to compensate for the lack of tactile feedback and dexterity caused by the vibration. These losses are a result of the disruption of the peripheral sensory nerves caused by vibration. When the hands are in contact with a vibrating surface, injury is usually to the hands and arms.

Examples:
- Leaning against a grinding machine while it is operating,
- Holding a wheel while operating a sewing machine, or
- Manually aligning sections of a newspaper using a vibrating table.

Cold temperatures. Vibration reduces blood flow to the affected tissues. Vibration has a synergistic effect on the loss of blood flow in the presence of cold temperatures. The effect is present in the extremities because the body reacts to cold temperatures by shunting blood away from the extremities to preserve body heat.

Examples:
- Driving a fork truck over rough surfaces in a frozen food warehouse, or
- Using vibrating etching tools in a clean room

Workstation edges or objects press hard into tissues or joints. In some workplaces there are sharp edges or corners that press into the workers' skin during the course of their job. Workers who, because of the job and workstation design, must rest their arms or lean against a table with a

hard, squared edge, exemplify this situation. Contact stress generally causes musculoskeletal disorders when the compression occurs against tendons that are being used or against nerves or blood vessels in vulnerable locations. Contact stress can restrict the movement of the tendon (more resistance), which requires more force and leads to inflammation of the tendon and surrounding tissues. Contact stress that pushes sharply into deeper tissues may reduce blood flow and result in early muscle fatigue. Tissue that is compressed for prolonged periods of time may be damaged. Nerves that are exposed to contact stress in multiple locations are especially vulnerable. The problem becomes worse with extended or repeated exposure.

Examples:
- Extensive use of shears or scissors,
- Using a tool with a small, thin handle that digs into the palm,
- Using tools with grooved handles that press against the side of fingers,
- Leaning against a metal work bench with a square edge,
- Using a keyboard on a standard table or desk with unrounded edges, or
- Sitting in a bench or chair that does not have a padded seat.

Using hand as a hammer (*i.e.*, contact stress). When the hand is used to strike something, extreme contact stress may be created. This is sometimes done to avoid damage to the product, but the result of using the hand as a hammer is damage to the worker. Striking a hard object with the base of the palm to align, seat, release or move a part is the type of job where the hand is most likely to be used as a hammer. Even occasional hammering with the hand can cause problems, but repeated activity of this sort will result in serious damage to the tissues of the hand.

When the palm is used to deliver a blow to an object, the force from the blow passes into the soft tissues and then deeper into the tendons, nerves and muscles. The force from the hit can cause acute trauma to the palm, but over time the palm becomes calloused and acute trauma is no longer protective of the deep tissue, and consequently the tendons and muscles can be subjected to frequent disruption of blood supply, irritation, and trauma due to the reaction force from the hit. The more force that is required to hammer the part, the more residual force that will pass into the tendons, nerves and muscles. The forces from the hit may cause bruising of muscles and add to swelling and inflammation of tendons.

Examples:
- Pounding on a two part mold to get it to seat or come together properly,
- Hitting a palm button to activate a machine,
- Striking two parts to separate them, or
- Striking the handle of a vice to loosen it.

Using hands or body as a clamp to hold objects while performing tasks. Sometimes this is referred to as having the worker act as a "human clamp" or "human vise." In these situations the worker usually holds the object being worked on with one hand (often in an awkward, forceful posture) while force is applied by the other hand. The hand being used as a clamp has to hold the object while resisting the forces being applied by the other hand. Using the hand as a clamp leads to muscle fatigue and inflammation of the muscles and tendons.

The strain on the muscles and tendons in the clamping hand is especially high when the task involves static postures or contact stress. Although the hand and arms are most often used as a clamp, some larger jobs require the feet, legs, hips or torso (lateral bending of the back) to support a part while work is performed.

Examples:
- Holding the head of a cow on a slippery surface while attempting to remove meat,
- Holding a small part while assembling it,
- Drilling a hole in a part that the worker has to hold, or
- Using the hips or thighs to hold a part in place while working on the part.

Force. Higher force requirements on the clamping hand results in more strain on the muscles and tendons. Sometimes the clamping hand is used in an inefficient pinch grip. When high forces are required throughout the shift day after day, the muscles and tendons may not have time to recover, leading to muscle fatigue and inflammation of the tendons. Higher clamp forces are required when the part is heavy or the forces applied to the part are high.

Examples:
- Holding an extrusion nozzle while checking each hole (50 holes) to ensure it is the appropriate size,
- Holding a jar in one hand while attempting to remove the lid with the other hand.

Static postures. Often when the body is used to position and hold an object, the clamping part of the body maintains the same posture (static posture). Static loading reduces blood flow because the muscles are not moving (*i.e.*, contracting and relaxing). The constant muscle tension can lead to swelling and pressure on nearby nerves. Static loading and high forces can lead to tears in the muscle tissue. Static loading of the tendons can also lead to inflammation and swelling to the point where motion is restricted and the swelling may put pressure on (*i.e.*, pinch) the nerves.

Examples:
- Holding a pipe overhead while preparing a fitting, or
- Holding an uncooperative animal on the exam table.

Awkward postures. More force is required when clamping the object requires maintaining an awkward posture, because the muscles do not operate efficiently in an awkward posture. Since the muscles must work harder, fatigue sets in sooner, leading to fatigue and inflammation. An awkward posture also puts additional strain on the tendons, which can cause inflammation, swelling, restricted movement and pressure on nearby nerves.

Examples:
- Using the hands to wring out a mop,
- Bending sideways using the shoulder to hold a door panel in place while fastening the hinges, or
- Holding a part in place overhead while inserting fasteners.

Contact stress. If the object being held has a sharp edge or knurls (that force the fingers into slots), then the object may dig into the skin and can restrict the motion of the tendons and bruise or reduce blood flow to the muscles.

Examples:
- Holding a pane of glass while attaching hardware,
- Using the knee to position a pump while making the electrical connection, or
- Holding onto a nut while turning the bolt.

Gloves are too large, too small or too bulky. For many jobs it is necessary or appropriate for workers to wear gloves while doing their jobs. Gloves can make grasping an object more difficult by changing the friction, decreasing dexterity, and interfering with sensory feedback. This often leads to

using more muscle force than would be required without gloves. Additionally, gloves can fold, wrinkle, and bunch so that pressure points are created that result in contact stress. Gloves that fit or are less bulky may help to relieve these problems. An even better solution is to eliminate the need to wear gloves.

Examples of glove use that may rise to the level of a hazard are providing inappropriate gloves for the work, or failing to consider the worker's needs when gloves are purchased, providing thick gloves for a task that requires dexterity beyond that allowed by the gloves, or providing vibration dampening gloves and expecting levels of dexterity or force exertion that are beyond the level possible with the gloves.

Force. Large, bulky, or loose gloves can interfere with tactile feedback so much that the worker must apply considerably more force than would be required to do the same task with more appropriate gloves or no gloves. Some gloves, such as those used for cut and puncture protection, are heavy and may cause additional fatigue.

Examples:
- Working on a hot pack used in extruding plastic with heat resistant gloves, or
- Holding a chicken leg while wearing cut resistant gloves.

Contact stress. Many bulky gloves bunch and cause pressure to small areas of the hands. Gloves that are supposed to provide protection from vibration and those with thick leather on the palm side are examples of gloves that may cause pressure points. When gloves are too small, they may impede the movement of the fingers and may reduce the blood supply.

Examples:
- Wearing latex gloves that are too tight, or
- Selecting cases in a frozen foods warehouse while wearing knit gloves under thermal gloves.

Manual handling (lifting/lowering, pushing/pulling and carrying). Forceful manual handling activities are a leading cause of workplace injury and illness. Lower back MSDs from lifting account for a large percentage of all workers' compensation cases. Studies discussed in the Health Effects section indicate that employees performing manual handling tasks have a significantly higher risk of back injury where they are exposed to force, repetition and/or awkward postures in the job.

The physical work activities and conditions included on the manual handling list in the proposal are ones that are likely to be a significant problem because they are ones in which the major ergonomic risk factors associated with manual handling tasks are present: force and awkward postures/static postures. This discussion about physical work activities and conditions in manual handling tasks is organized by task (*e.g.*, lifting, pulling). Manual handling tasks are discussed only where the physical work activities and conditions and ergonomic risk factors are likely to be a significant problem.

Objects or people are heavy (lifting, lowering, pushing, pulling, carrying). Workers lift, lower and move items every day. The heavier the weight that has to be lifted, lowered and/or moved, the more force the worker will have to exert. The heavier the weight, the closer the contraction required of the muscles will be to their maximum capability. When muscles contract at or near their maximum, they fatigue more rapidly and the likelihood of damage to the muscle and other tissues involved in the activity increases. In most situations involving lifting, lowering and moving heavy objects or people, the predominant risk factor is force. Manual handling of heavy objects exposes employees to high forces and will usually have the greatest impact on the back. Another aspect of weight that should be considered is a sudden shift in weight. Workers are more often able to accomplish a manual handling task without injury when they are prepared. When a patient's legs suddenly buckle while they are being transferred or a load within a package or container shifts, the worker may not be physically or mentally prepared for the weight.

Lifting and Lowering. In lifting and lowering, force is the risk factor that most often needs to be addressed. Although there may be a perception that lifting is more problematic than lowering, they both require the worker to exert the forces commensurate with the weight of the object. The actual forces exerted by the worker are determined by the weight of the object. It is obvious that lifting containers weighing 25 pounds is considerably easier than those weighing 50 pounds and that more people are capable of lifting the smaller amount. Posture can play a major role in the force required when moving an object. If that object can be held or lifted closer to the body, the muscle forces required in the back are less. Bulky containers present more of a problem when being lifted than do those with the same characteristics, including weight, that are compact. Finally, the frequency with which an object is lifted or lowered and the times it must be supported may be important in determining the risk presented by the job.

Examples:
- Lifting a resident, who has little ability to assist, from the toilet to a wheelchair,
- Lifting a 150 pound package from a loading dock into a van.

Pushing and Pulling. When pushing and pulling objects, the weight of the object or conveyance, including its contents, affects the force required of the worker. Often workers have to slide objects on a table or flat surface. In these cases the weight and the friction characteristics of the object and the surface are the prime determinants of the force required. Secondarily, the posture or reach may affect the degree of risk presented by the job. Where conveyances such as carts are used, the force required is generally determined by the characteristics and weight of the cart and contents. For very heavy carts, stopping and controlling the cart can sometimes be as difficult and important as pushing or pulling it to the desired location.

Examples:
- Pushing a 300 pound pump away from the paper machine, or
- Pushing a heavy cart up a sloped ramp.

Carrying. For carrying the weight, distance and object characteristics affect the forces required. Often the forces are exerted statically for some period of time when carrying. Additionally, the worker's body is in motion and the stability and biomechanics of the activity may be much worse than in a simple lifting or lowering situation. Examples might be carrying heavy parts from one work area to another, carrying containers from production to a pallet or storage area, or carrying packages when delivering them to a customer.

Examples:
- Carrying several 50-pound bags of feedstock material to the basement, or
- Carrying a resident of a nursing home to the bath tub.

Horizontal reach is long (Distance of hands from body to grasp object to be handled). Workers who are lifting/lowering, pushing/pulling or carrying are greatly affected by the distance that the hands are from the body during the

activity. The forces required to manually move an object by the muscles in the back and shoulder are increased significantly as the load is moved away from the body. The resulting compression on bone and cushioning tissues is also significantly increased. The impact on the musculoskeletal system increases dramatically as the object or weight (center of gravity for bulky objects) is farther from the body. When moving objects or people, the distance away from the worker's body affects the forces for a lift or carry. Two characteristics of a lift requiring a long horizontal reach make it harder on the worker. The first is that the worker's own body weight must be supported and lifted in addition to the weight of the object. The second is that the torque required puts the muscles at a greater mechanical disadvantage when the objects being lifted are at a greater distance from the body joint involved. Because of the mechanical disadvantage, the predominant risk factor in these situations is force, which is increased because of the risk factor of awkward posture (long reach) present. The awkward posture involved in long reaches requires higher muscle forces to lift or move the same weight as would be necessary if the reach were shorter. The problem becomes worse when either greater weight or greater distance is required. Lifting, lowering and/or carrying items when a long horizontal reach is required will usually have the greatest impact on the shoulders, arms and back.

Lifting and Lowering. For lifting and lowering where the horizontal reach is long, force is the factor that needs to be addressed. This is usually accomplished by reducing the reaches or the weight. Examples would include reaching for a product on the far side of a conveyor, reaching to a parts supply bin that is on the far edge of the work surface, lifting a large box with a center of gravity at some distance from the body, lifting or lowering something on the far side of a barrier, placing packages on the far side of a pallet, or assisting a patient in sitting.

Pushing and Pulling. For pushing and pulling tasks, there may be reaches that are long; however, these are not usually a problem unless there is simultaneous lifting or unless the pushing and pulling direction is side to side rather than in and out. Moving objects from side to side is much less efficient than toward and away from the body.

Examples:
- Pushing a heavy box on a non-powered conveyor

Carrying. There are times when workers carry an object that cannot be rested against the body, so the arms are in a position that is similar to that of a long reach. This also happens when carrying a large box or container. When this happens the force risk factor is probably the most important, followed by the awkward and static posture risk factors.

Examples:
- Carrying a hot pack used in extruding plastic to the repair cart, or
- Carrying a carboy of nitric acid.

Vertical reach is below knees or above the shoulders (Distance of hands above the ground when the object is grasped or released). Workers who are lifting/lowering, pushing/pulling or carrying must exert more effort if the vertical position of the hands (when the object is started in motion) is above or below 30″ (Snook 1978, Ex. 2–26; Ayoub *et al.* 1978, Ex. 26–1416; Snook and Ciriello 1991, Ex. 26–1008). The forces required by the muscles in the back and shoulder are increased significantly as the hands near the floor or move above the shoulders. The NIOSH lift equation reduces the recommended lift by 22.5% if the lift occurs at or above shoulder level.

In addition to the force, the resulting compression on bone and cushioning tissues increases the likelihood of an injury. Ideally the hands are at (or slightly below) waist level when manual handling begins. Manual handling tasks that require the hands to be lower than the knees or higher than mid-torso put the worker at a biomechanical disadvantage, which requires the muscles to exert more force than if the starting point is near waist height. Low starting points require bending or squatting, which adds stress to the back and knees, respectively, due to the awkward posture. When the lifted object is below the worker's knees, he or she must bend forward, thus stretching the muscles in the back into an awkward and less efficient lifting posture. In addition, from a stooped posture the worker must lift the weight of the torso up as the object is lifted.

When an object is lifted above mid-torso heights, the thrust of the lifting force shifts from the larger/stronger muscles of the back to the smaller muscles of the shoulder. As the load is raised higher, the muscles of the shoulder become the primary movers. When material is lifted overhead, control of the lift becomes important. If the weight of the load were to suddenly shift while being lifted overhead, the resulting awkward posture, combined with the weight and distance of the load from the lower spine, could tear tendons, ligaments and muscles.

Lifting and Lowering. In lifting and lowering from or to low or high positions, awkward posture is a risk factor that often needs to be addressed. The awkward posture makes the muscles less efficient, and results in higher muscle forces than would be required if the lifting or lowering took place with the load within 10 inches of the waist.

Examples:
- Picking up a 35 pound spool of yarn from a peg above shoulder height,
- Picking a 40 pound item from a 60″ high shelf in a grocery warehouse, or
- Lifting a 50 pound motor off a pallet

Pushing and Pulling. When pushing or pulling objects, the height of hands affects the amount of force needed. When the hands are slightly above waist height, the worker gets the most from the muscles. As the hands are moved lower or higher, the worker's posture becomes more awkward and requires more force from the muscles.

Examples:
- Pushing a cart with the hands above mid chest height, or
- Pulling a wooden pallet across the floor.

Carrying. Carrying an object combines the static loading of the muscles with the loading caused by the awkward vertical position of the load. The combination of static and awkward postures greatly increases the fatigue on the muscles. Maintaining a stooped posture to carry a load places strain on the muscles of the back and shoulder as well as the spinal discs. Not only is the back supporting the weight of the object, but also the weight of the upper body. Carrying loads above shoulder height cannot be maintained for prolonged periods of time because the shoulder muscles will fatigue. The exception is when the weight of the load is rested on the skeletal system and the arms merely balance the weight (*e.g.*, carrying objects on the head, carrying trays of food on the shoulder).

Examples:
- Carrying large, bulky boxes of machine parts where the worker is unable to carry the box with a horizontal hold, or

- Carrying a large piece of furniture down steps.

Objects or people are moved significant distance (*i.e.*, pushing, pulling, carrying). In producing products or even services it is often necessary to move objects or people. This may be done by a worker pushing, pulling or carrying the item. Almost invariably this involves forceful exertions. The method of movement, the force required, and the distance to be moved are the important aspects of the job that will determine the presence of MSD hazards. The higher the force required and the longer the distance to be moved, the more likely it is that the job will present a problem. Force is the predominant risk factor when objects are moved, and it can be mitigated by using carts or other conveyances. This type of job is most likely to have adverse effects on the back, shoulders and arms.

Lifting and Lowering. Lifting and lowering is usually involved in a job of this type when the object is to be carried. For the lifting and lowering part of the job, the discussion of "objects or people moved are heavy," above, should be consulted. The carry part of the task involves force and static postures. The weight of the object and the distance affect the force required and the time spent in static and forceful postures, respectively. Carrying puts the body in a dynamic activity where the stability is less than when the body is stationary. Examples of movement distances that might rise to the level of a hazard are moving a patient from the bed to the bath, lifting a tire from the floor to above the head, or carrying a heavy part from a pallet to a workstation.

Pushing and Pulling. When pushing or pulling an object for a significant distance, the forces required and the distance moved are the important aspects of the job. If a cart or conveyance is used, the force to push or pull it is almost always the risk factor of concern. Sometimes large or heavy objects are moved by sliding them across the floor. This usually involves high forces and is better done in other ways such as using a cart or powered mover.

Examples:
- Pushing a cart of restaurant supplies from the delivery truck to the restaurant, or
- Pushing a patient on a gurney to physical therapy.

Carrying. Once again, the weight of the object and the distance it must be carried are the important factors. The effect of these on the worker can be reduced by providing some form of conveyance.

Examples:
- Carrying trash cans to the garbage truck, or
- Carrying water bottles to the cooler.

Bending or twisting during manual handling. Bending or twisting while manual handling creates an awkward posture and changes the way forces are distributed in the spine. When the spine is in its natural position, forces are directed along the bony structure and distributed into the tissue as the spine curves. However, bending and twisting redirects the forces, placing more compressive and shear forces on the discs. Psychophysical studies have reported that there is a decrease in the maximum acceptable weight of lift (MAWL) in the range of 8% to 22% where twisting of the torso is involved (Garg and Badger 1986, Ex. 26–121; Mital and Fard 1986, Ex. 26–182; Garg and Banaag 1988, Ex. 26–951). Experiments by Adams *et al.* (1980, Ex. 26–701) indicate that combined bending and twisting of the spine reduces the tissue tolerance of the intervertebral discs, predisposing them to rupture.

When an object to be lifted is below the worker's knees, he or she must bend forward, thus stretching the muscles in the back into an awkward and less efficient lifting posture. In addition, from a stooped posture the worker must lift the weight of the torso up as the object is lifted. Lifting from a stooped posture also creates a situation where the worker can accelerate the torso as they lift.

Marras and Granata (1995, Ex. 26–1383, and 1997b, Ex. 26–169) found that increased velocity and acceleration in trunk lateral bending and twisting result in measurable increases in both compressive and shear forces experienced by the intervertebral discs.

Lifting and Lowering. In lifting and lowering, awkward posture is the risk factor that most often needs to be addressed. The awkward posture makes the muscles less efficient and results in higher forces than would be required if the lift or lower were ±10 inches from the waist.

Examples:
- Moving 30 pound motors from a workstation to a conveyor perpendicular (90°) to the workstation,
- Moving a patient from the bed to a wheelchair, or
- Loading luggage into the cargo hold of an airplane.

Object is bulky, slippery or has no handles (lifting, lowering, carrying). Lack of good hand holds or good coupling between the hand and the object can result in higher grasp forces, higher other hand/arm forces, higher back forces, or the adoption of awkward postures to secure a stable relationship with the load. The predominant risk factors involved are force and awkward postures, which usually affect the back, hands, wrists and fingers.

Lifting and Lowering. When lifting and lowering an item in which the coupling is poor, the worker has to adapt. Sometimes this involves having the hands or center of gravity of the load at considerable distance from the body, which increases the forces required of the back in awkward postures. Sometimes the hands have to bend around the box corners, resulting in considerable force being exerted in an awkward posture. Bulky loads cause the worker to bend the back more. Open boxes with poor coupling may be picked up with pinch grips on the tops of the box sides, which results in high forces and an ineffective grip.

Examples:
- Lifting a 40 pound fuel pump out of a tank of mineral oil,
- Lifting wet watermelons out of a box (which requires the worker to use excessive grip force), or
- Lifting a patient with little ability to assist out of bed.

Pushing and Pulling. Hand forces will tend to be higher when pushing or pulling bulky items or those that have poor coupling.

Examples:
- Pushing a large box of potatoes in a produce warehouse.

Carrying. The problems of carrying an object with poor coupling or that is bulky are very similar to those involved in lifting and lowering. These problems are exacerbated by the static loading required when carrying any distance.

Examples:
- Carrying a keg of beer,
- Carrying machined parts to a degreaser, or
- Carrying a side of beef.

Floor surfaces are uneven, slippery, or sloped. Surfaces that are not level require the worker to compensate by placing the body in an awkward posture. When the spine is in its natural position, forces are directed along the bony

structure and distributed into the tissue as the spine curves. However, awkward postures both redirect the forces, placing more compressive and shear forces on the discs and placing the muscle in a less efficient position. In addition, to move an object manually, the forces exerted by the feet need to be resisted by the forces that push back from the floor. When the floor is slippery or sloped, the worker must expend more energy resisting the natural tendency for the feet to slip. If the load should shift while the worker is on an uneven, slippery or sloped surface, an injury becomes more likely. Poor floor conditions can affect the footing and the ease of movement of carts. Force is the risk factor that is usually exacerbated by poor floor surfaces and the back is the usual location of MSDs that are brought on by problems of floor surfaces. Lack of good footing will result in added stress on the postural muscles and other tissues.

Lifting and Lowering. In lifting and lowering, awkward posture is the risk factor that most often needs to be addressed. The awkward posture makes the muscles less efficient and results in higher forces. The higher forces lead to fatigue and inflammation.

Examples:
- Shoveling grain, or
- Lifting bags of laundry from a wet floor.

Pushing and Pulling. Pushing or pulling on an uneven, slippery, or sloped surface can result in a sudden increase in the force needed to move or stop an object. The increase in force alone can tear muscles or strain tendons enough to cause an injury. When the increase in force occurs when the body is in an awkward posture due to the surface, then a muscle or tendon strain is more likely, due to the inefficient position of the muscles.

Examples:
- Pushing a laundry hamper across a wet floor,
- Pushing a file cabinet on a carpeted floor,
- Pushing a wheelchair through gravel, or
- Pushing a cart on a cracked concrete floor.

Carrying. Carrying an object while walking on uneven, slippery or sloped surfaces causes the body to continually shift to accommodate the changing working surface.

Example:
- Carrying boxes of metal scraps down steps, or
- Carrying boxes of paper up a ramp into the computer room.

Section 1910.918 What must I do to analyze a problem job?

You must:

* * * * *

(b) Evaluate the ergonomic risk factors in the job to determine the MSD hazards associated with the covered MSD. As necessary, evaluate the duration, frequency and magnitude of employee exposure to the risk factors.

4. Paragraph (d)—"Evaluate"

Paragraph (d) of this section would require employers to evaluate the identified ergonomic risk factors to determine whether the employee exposure to them is such that a covered MSD would be reasonably likely to occur. To make this determination, employers need to look at the duration, frequency and magnitude (*i.e.*, modifying factors) of the employee's exposure to the ergonomic risk factors.

OSHA is proposing this evaluation provision because, although many jobs have ergonomic risk factors, these risk factors do not always rise to the level that poses a significant risk of injury. This may be because the exposure does not last long enough, is not repeated frequently enough, or is not intensive enough to pose a risk. For example, an employee bending to pick up a paper clip off the floor is exposed to awkward postures; however, this activity is not likely to result in a covered MSD because it is done infrequently. Also, an employee who picks up a box of copier paper is certainly exposed to high forces, but a covered MSD is not likely to occur where the employee does this only, for example, once a week. On the other hand, a job that requires bending from a neutral posture for most of the day would be likely to cause a covered MSD. The following is a brief description of the modifying factors:

a. Duration. Duration refers to the length of time an employee is continually exposed to risk factors. The duration of job tasks can have a substantial effect on the likelihood of both localized and general fatigue. In general, the longer the period of continuous work (*i.e.*, the longer the tasks require sustained muscle contraction), the longer the recovery or rest time required (Ex. 26–2). Duration can be mitigated by changing the sequence of activities or recovery time and pattern of exposure. Breaks or short pauses in the work routine help to reduce the effects of the duration of exposure.

b. Frequency. The response of the muscles and tendons to work is dependent on the number of times the tissue is required to respond and the recovery time between activity. The frequency can be viewed at the micro level, such as grasps per minute or lifts per hour. However, often a macro view will be sufficient, such as time in a job per shift, or days per week in a job.

2c. Magnitude. Magnitude (or intensity) is a measure of the strength of the risk factor, for example: how much force, how deviated the posture, how great the velocity or acceleration of motion, how much pressure due to compression. Magnitude can be measured either in absolute terms or relative to an individual's capabilities. There are studies on how much force should be required under some circumstances, but as an initial estimate, employees can be asked to classify the force requirements of the job on a scale (*e.g.*, low, moderate or high). Often this is all that is needed to focus the analysis on the part of the job that needs to be changed.

There are many qualitative and quantitative ways to determine the magnitude of exposure. Often all it takes is the employer asking employees to describe the most difficult part of the job, and the answer will indicate the magnitude of the risk factor. A common practice for assessing forceful exertion is to ask the employee to rate the force required to do the task. When magnitude is assessed qualitatively, the employer is making a relative rating, that is, the perceived magnitude of the risk factor relative to the capabilities of the worker. Relative ratings are very useful in understanding whether the job fits the employees currently doing the job.

There are a number of ways to quantitatively measure magnitude of exposure. For example, the NIOSH Lifting Equation is widely used to determine recommended weight limits for safe lifting and carrying (Ex. 26–521). The Snook Push-Pull Tables are used by many stakeholders to evaluate and design pushing, pulling and carrying tasks (Ex. 26–1008). For work-related upper extremity MSDs, the RULA survey method is often used to investigate and evaluate jobs (McAtamney, Lynn, Corlet, E. Nigel, 24(2) Applied Ergonomics 91–99, 1993, Ex. 26–1421).

The following is an example of an evaluation (qualitative and quantitative) of the duration, frequency and magnitude

of exposure to ergonomic risk factors in a computer-work job:

OBSERVATION	RISK FACTORS	FREQUENCY	DURATION	MAGNITUDE	CAUSE
Same posture maintained as the head bends down to look at the paper and screen	Repetition, awkward postures	Constant	6 hours per day	Head movement is about 45 degrees down from straight up	Monitor and sheet of paper are low.
High work surfaces causes the elbows to be above mid torso	Awkward postures, static postures	Constant	6 hours per day	Upper arm is about half way between resting at the side and straight out from the shoulder	Keyboard at mid-chest height.
Same posture maintained with the fingers on the keyboard	Awkward postures, static postures	Constant while typing	Typing time is about 6 hours per day	Hands do not move from the keyboard	Keyboard use.
Repetition of the same motion by the fingers	Repetition	900/min	Typing time is about 6 hours per day	Moderate level of typing	Keying.
Workstation objects press hard against the body	Contact stress	Constant while typing	Typing time is about 6 hours per day	Worker has red lines on the wrist	Edge of the desk pressing into the wrist.
Long reaches for the mouse	Awkward postures, static postures	Constant while using the mouse	Uses the mouse less than one hour per day	The arm is fully extended	The mouse is about 1.5 feet from the worker.
Prolonged sitting	Static posture	Constant	About 6 hours per day		Constant keying, sitting too long.
Workstation chair presses hard into the back of the thigh	Contact stress	Constant	About 6 hours per day		Chair seat pan too high, and the feet dangle above the floor or rest on the base of the chair.

As mentioned above, ergonomic risk factors are synergistic elements of MSD hazards. Simply put, the total effect of these risk factors is greater than the sum of their parts. As such, employers need to be especially watchful for situations where risk factors occur simultaneously. Levels of risk factors that may pose little risk when found alone are much more likely to cause MSDs when they occur with other risk factors.

Controls that reduce a risk factor focus on reductions in the risk modifiers (frequency, duration or magnitude). By limiting exposure to the modifiers, the risk of an injury is reduced. Thus in any job the combination of the task, environment and the worker create a continuum of opportunity to reduce the risk by reducing the modifying factors. The closer the control approach comes to eliminating the frequency, duration or magnitude, the more likely it is that the MSD hazard has been controlled. Conversely, if the control does little to change the frequency, duration or magnitude, it is unlikely that the MSD hazard has been controlled.

Section 1910.919 What hazard control steps must I follow?

You must:

(a) Ask employees in the problem job for recommendations about eliminating or materially reducing the MSD hazards;

(b) Identify, assess and implement feasible controls (interim and/or permanent) to eliminate or materially reduce the MSD hazards. This includes prioritizing the control of hazards, where necessary;

(c) Track your progress in eliminating or materially reducing the MSD hazards. This includes consulting with employees in problem jobs about whether the implemented controls have eliminated or materially reduced the hazards; and

(d) Identify and evaluate MSD hazards when you change, design or purchase equipment or processes in problem jobs.

Section § 1910.919 of the proposed rule outlines the basic process employers must use in controlling MSD hazards. These provisions are well-recognized as the basic problem-solving steps of hazard control (Ex. 26–2).

1. Paragraph (a) —"Ask employees for recommendations"

Proposed paragraph (a) requires that employers ask employees for recommendations on controls. Many stakeholders have said that employees who are doing a job are usually the best resource for finding both the problems or difficulties in that job and for identifying appropriate solutions that will control the hazards (Exs. 3–112, 3–164, 3–112, 26–5). In addition, employee input and participation in the problem solving process can minimize the resistance to change when job changes become necessary. Many stakeholders have testified to the value of employee participation in ergonomics:

> Employers and employees alike who work in the industry are in the best possible position to identify risk factors in their workplace and to develop prevention methods that concentrate on the significant problems unique to their particular industry's environment. America Health Care Association (Ex. 3–112).

> Job analysis should include input from the workers themselves. The employees can best tell what conditions have caused them pain, discomfort, and injuries. They often have easy and practical suggestions on how such problems can be alleviated. American Federation of State, County and Municipal Employees, AFL–CIO (Ex. 3–164).

2. Paragraph (b)—"Identify, assess and implement controls"

OSHA is proposing a requirement that employers identify, assess and implement feasible controls (interim and permanent) to eliminate or materially reduce the MSD hazards identified. Controls are considered feasible if they are presently in use for the application in question, can be adapted for such use from technologies that are being used in other applications, can be developed by improving existing technologies, or is on the horizon of technological development. For many MSD hazards, the identification and assessment of controls will be brief because the MSD hazards are obvious or not complex and can easily be implemented. Many MSD hazards can be addressed with off-the-shelf controls. Often controls can be identified during the job hazard analysis and even be put in as they are identified, such as these examples:

- Eliminating awkward postures (leaning over workstation) by putting blocks under a work bench to raise the work surface height.
- Eliminating awkward postures of the neck and reducing stress on the back by putting a telephone book under a VDT monitor.
- Reducing awkward postures of the neck by removing light bulbs that were causing glare on the VDT monitor screen.
- Reducing force by cleaning thread from the wheels of a cart that had been hard to push.

Where controls are not obvious or off-the-shelf, the identification and assessment of controls may require more effort.

Identify controls

There are many different methods employers can use and places employers can go to identify controls. Many employers rely on their internal resources to identify possible controls. These in-house experts may include:

- Employees who perform the job and their supervisors,
- Engineering personnel,
- Workplace safety and health personnel or committee,
- Maintenance personnel,
- On-site health care professionals,
- Procurement staff, and
- Human resource personnel.

A number of stakeholders said they bring their in-house experts together for brainstorming sessions to identify as many solutions as possible for the problem job (Ex. 26–1370). Some of those stakeholders have told OSHA that brainstorming is often a good technique for addressing complex problems (Ex. 26–1370). Looking at the original design and equipment specifications is another in-house method for identifying solutions. Reviewing the original design specifications or even operation manuals can help determine whether the job, equipment, tools or raw materials have changed substantially. If changes are identified, a return to the original condition via equipment maintenance and repair may be enough to correct the problem.

Another common method of identifying controls is to look at similar operations. Stakeholders have said that they review similar operations at sister worksites to identify changes that have worked there over time.

Possible controls can also be identified from sources outside the workplace, such as:

- Equipment Catalogs. Review of equipment catalogues, especially those dealing with the types of problems present. For example, if the problem deals with handling drummed materials, there are equipment catalogues that offer a number of pieces of equipment that aid with the handling of drums.
- Vendors. Talk to vendors who work within a particular industry. They may be able to share ideas from other operations. It may be useful to develop a partnership with a vendor and work collaboratively to resolve the problem.
- Trade Associations or Labor Unions. Discuss the problem with a trade association or a labor union. They may serve as a focal point for efforts to initiate changes within the industry.
- Conferences and Trade Shows.
- Insurance companies. Insurance companies can provide information about what other clients with similar operations are doing to solve problems.
- OSHA Consultation Services. OSHA provides free on-site assistance in identifying, analyzing and controlling problems. The first priority of OSHA's consultation services is small businesses in high hazard industries.
- Specialists. Specialists in materials handling, layout, work methods, occupational safety and health, or ergonomics may be able to provide solutions based on their experience. Many large organizations have such specialists on staff or at corporate headquarters.

Through in-house experts and other sources of expertise, employers need to generate solutions that eliminate or materially reduce ergonomic risk factors. To assist employers in identifying solutions, the following table provides a list of solutions and control measures that have been identified and used to eliminate or materially reduce ergonomic risk factors in the physical work activities and conditions identified in § 1910.918(c):

PHYSICAL WORK ACTIVITIES AND CONDITIONS	ERGONOMIC RISK FACTORS THAT MAY BE PRESENT	EXAMPLES OF CONTROLS
(1) Exerting considerable physical effort to complete a motion	(i) Force	Use powered tools Change pinch to power grip Use longer handle Use powered lift assist Use lift tables
	(ii) Awkward postures	Provide better mechanical advantage such as a longer handle Move the items closer to the worker Design task for smooth movements
	(iii) Contact stress	Attach a handle Wrap or coat the handle with cushioning and non slip material Wear gloves that improve the grip
(2) Doing same motion over and over again	(i) Repetition (ii) Force	Use power tools Use job enlargement Use job rotation Reallocate tasks
	(iii) Awkward postures	Provide wrist rest Allow short breaks
	(iv) Cold temperatures	Take break in a warm area Provide heat where the hands are located
(3) Performing motions constantly without short pauses or breaks in between	(i) Repetition (ii) Force (iii) Awkward postures (iv) Static postures (v) Contact stress (vi) Vibration	Use job enlargement Allow breaks as needed
(4) Performing tasks that involve long reaches	(i) Awkward postures	Redesign the workplace layout Reposition object Provide better access to machinery Rotate pallet or work surface Keep work in front of the worker Use a tool to extend the reach
	(ii) Static postures	Provide adjustability Allow short breaks Use job enlargement Allow tools and items to be set aside periodically
	(iii) Force	Use lift tables or pallet jacks
(5) Working surfaces are too high or too low	(i) Awkward postures	Provide adjustability Raise/lower the worker Use a tool to extend the reach
	(ii) Static postures (iii) Force	Use job enlargement Reorient work Allow short breaks Use lift tables
	(iv) Contact stress	Ensure round edges Pad surfaces
(6) Maintaining same position or posture while performing tasks	(i) Awkward postures	Use job enlargement Reposition object

PHYSICAL WORK ACTIVITIES AND CONDITIONS	ERGONOMIC RISK FACTORS THAT MAY BE PRESENT	EXAMPLES OF CONTROLS
	(ii) Static postures	Reduce weight of object Use job rotation Use job enlargement Allow short breaks Use sit/stand workstation Use anti-fatigue mats Provide foot rest Provide cushioned insoles
	(iii) Force	Use balanced powered hand tools Provide lift assist
	(iv) Cold temperatures	Wear thermal clothing Take break in a warm area Provide localized heating
(7) Sitting for a long time	(i) Awkward postures (ii) Static postures (iii) Contact stress	Stand occasionally Provide lumbar support Allow short breaks Provide chairs with padding on the seat Make seat height adjustment
(8) Using hand and power tools	(i) Force (ii) Awkward postures (iii) Static postures (iv) Contact stress	Support weight of the tool mechanically Ensure tool has good balance Use appropriate size handles Avoid sharp edges and finger slots on the handle
	(v) Vibration (vi) Cold temperatures	Use low vibration tools Isolate source of vibration from the worker Maintain tools Reduce vibration Insulate hands Eliminate of reduce draft or blow back on the hands
(9) Vibrating working surfaces, machinery or vehicles	(i) Vibration (ii) Force (iii) Cold temperatures	Isolate source of vibration Use job rotation Use adsorbing material to reduce the magnitude of the vibration Provide insulation from the cold Allow breaks in a warm area
(10) Workstation edges or objects press hard into muscles or tendons	(i) Contact stress	Provide round edges Enlarge handles Pad surfaces and handles
(11) Using the hand as a hammer	(i) Contact stress (ii) Force	Review design specifications Use soft mallet Provide frequent maintenance
(12) Using hands or body as a clamp to hold object while performing tasks	(i) Force (ii) Static posture (iii) Awkward posture (iv) Contact stress	Use a fixture, clamp or jig Use job rotation Provide round edges Pad surfaces
(13) Gloves are bulky, too large or too small	(i) Force (ii) Contact stress	Provide several sizes and weights of gloves

PHYSICAL WORK ACTIVITIES AND CONDITIONS	ERGONOMIC RISK FACTORS THAT MAY BE PRESENT	EXAMPLES OF CONTROLS
MANUAL HANDLING (Lifting/lowering, pushing/pulling, and carrying)		
(14) Objects or people moved are heavy	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static posture (v) Contact stress	Lighten load Use lift assist Use lift table Place package in larger containers that have to be mechanically handled Use two people lift team Rely on gravity to move the object Reduce friction
(15) Horizontal reach is long	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static posture (v) Contact stress	Redesign the workplace layout Reposition object closer to the employee Provide pallet, table that can be rotated Provide space so that the employee can walk around to the object Reduce the size of the object Slide the object closer before lifting Eliminate unnecessary barriers
(16) Vertical reach is below knees or above the shoulders	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static posture (v) Contact stress	Do not place objects to be lifted on the floor Use adjustable height tables Put employee on a platform Store heavy objects stored at waist height Put handles on the object Change the work place layout
(17) Objects or people are moved significant distances	(i) Force (ii) Repetition (iii) Awkward posture (iv) Static postures (v) Contact stress	Modify the process to eliminate or reduce moves over a significant distance Convey the object (*e.g.*, conveyor, ball casters, air) Use fork lifts, hand dollies, carts, or chairs (for people) Use appropriate wheels on carts (and maintain the wheels) Provide handles for pushing, pulling or carrying
(18) Bending or twisting during manual handling	(i) Force (ii) Repetition (ii) Awkward postures (iv) Static postures	Raise work to the appropriate height Lower the employee Arrange workstation so that work is done in front of the worker Use conveyors, chutes, slides, or turntables to change direction of the object
(19) Object is slippery or has no handles	(i) Force (ii) Repetition (iii) Awkward posture (iv) Static posture	Provide good handles Provide belt with handholds to assist in moving patients Provide gloves that assist in holding slippery objects
(20) Floor surfaces are uneven, slippery or sloped	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static posture	Redesign the handling job to avoid movement over poor surfaces Use surface with treatments or anti-skid strips Provide footwear that improves friction

Assess controls. The assessment of controls is an effort by employers, with input from employees, to select controls that are reasonably anticipated to eliminate or materially reduce the MSD hazards. The employer may find that there are several controls that would be reasonably likely to reduce the hazard. Multiple control alternatives are often available, especially when several risk factors contribute to the MSD hazard. The employer needs to assess which of the possible controls should be tried. Clearly, a control that significantly reduces several risk factors is preferred over a control that only reduces one of the risk factors.

Selection of the risk factor(s) to control and/or control measures to try can be based on numerous criteria. An example of one method involves ranking all of the ergonomic risk factors and/or possible controls according to how well they meet these four criteria:

- Effectiveness—Greatest reduction in exposure to the MSD hazards.
- Acceptability—Employees most likely to accept and use this control.
- Timeliness—Takes least amount of time to implement, train and achieve material reduction in exposure to MSD hazards.

- Cost—Elimination or material reduction of exposure to MSD hazards at the lowest cost.

Where there are several jobs that need to be controlled, the employer may need to consider prioritizing the implementation of controls as part of the assessment process. Although many employers tend to select the most severe problems to control first, the criteria above are another way to prioritize the control of jobs.

Implement Controls. Because of the multifactoral nature of MSD hazards, it is not always clear whether the selected controls will achieve the intended reduction in exposure to the hazards. As a result, the control of MSD hazards often requires testing selected controls and modifying them appropriately before implementing them throughout the job. Testing controls verifies that the proposed solution actually works and what additional changes or enhancements are needed.

There are a number of ways in which employers may test out controls. Many employers modify a single workstation first to ensure that all necessary revisions have been identified and completed. Only then are the modifications applied to other workstations. Some employers with manufacturing operations test out new work methods on training lines or training workstations, which typically have slower line speeds. In addition, employers may have employees test out several different models of new tools, furniture, and equipment to identify the best fit for each employee.

Stakeholders have told OSHA that sometimes it can take a long time to develop, purchase and/or install effective permanent controls (Ex. 26–1370). To ensure that employers have adequate time to identify, assess and test out possible control measures, OSHA is proposing that employers have up to 3 years to implement permanent controls (or 1 year after the compliance start-up times have passed). However, so that employees do not go unprotected for that period of time, OSHA is proposing to require that employers implement interim controls more quickly. Often simple engineering or administrative controls may be implemented quickly, while a better solution is being designed. A number of stakeholders have said that they used administrative controls to reduce exposures during the interim time it took them to design and implement new engineering controls (Ex. 26–1370).

3. Paragraph (c)—"Track progress"

Paragraph (c) would require employers to track their progress (*i.e.*, evaluate their progress and success) in eliminating or materially reducing the MSD hazards. OSHA believes this provision is important for several reasons. First, evaluating the effectiveness of controls is the *sine qua non* of an incremental abatement process. Unless they follow up on their control efforts, employers will not know whether the hazards have been adequately controlled or whether the abatement process needs to continue. Simply put, if the job is not controlled, the problem-solving is not complete.

Second, tracking progress is also essential in those cases where employers need to prioritize the control of hazards. It tells employers whether they are on schedule with their abatement plans. Third, tracking the progress of control efforts is a good way of determining whether the elements of the program are functioning properly. For example, evaluating controls, especially work practice controls, is one way to determine whether the ergonomics training has been effective.

Many employers evaluate controls within 30 to 60 days after implementation. This gives employees enough time to get accustomed to the controls and to see whether the controls have introduced other problems into the job (Ex. 26–2).

Once again, there are many ways that employers may track their progress in addressing MSD hazards, and OSHA does not intend to require employers to use one particular method. NIOSH says that the evaluation should use the same tool that was used to analyze the problem, or another method that allows employers to compare the before-and-after results (Ex. 26–2). One of the easiest approaches is to follow up with employees in the problem job and ask them whether the controls have reduced the physical difficulties of performing the job, whether the job is more comfortable, or whether the tools and equipment seem to fit them better. Many employers take baseline measurements before the ergonomics program is implemented so they have a way of quantifying their success. Some of the measures they use include:

- Reductions in severity rates, especially at the very start of the program,
- Reduction in incidence rates,
- Reduction in total lost-workdays and lost-workdays per case,
- Reduction in job turnover or absenteeism,
- Reduction in workers' compensation costs/medical costs,
- Increases in productivity or quality,
- Reduction in reject rates,
- Number of jobs analyzed and controlled,
- Number of problems solved.

OSHA is not proposing to require that employers use one of these methods listed to assess the effectiveness of controls. Employers are free to choose their own criteria. The proposed rule would require, however, that whatever measure employers do select, their evaluation of controls must include consulting employees in the problem job.

4. Paragraph (d)—Proactive ergonomics

Paragraph (d) would require employers to identify and evaluate MSD hazards when they make process and equipment changes. Sometimes this concept is referred to as "proactive ergonomics" or "safety through design." The concept encompasses facilities, hardware, equipment, tooling, materials, layout and configuration, energy controls, environmental concerns and products. Designing or purchasing to eliminate or materially reduce MSD hazards in the design process helps to avoid costly retrofitting. It also results in easier and less costly implementation of occupational safety and health needs (Ex. 26–2, Ex. 26–1418).

OSHA is proposing this requirement, in part, because many stakeholders have said that the best and most cost-effective way to control MSD hazards is to prevent them from being introduced into the workplace in the first place (Ex. 26–1370):

> Ergonomic principles are most effectively applied to workstations and new designs on a preventive basis, before injuries or illnesses occur. Good design with ergonomics provides the greatest economic benefit for industry. American Industrial Hygiene Association (Ex. 3–197).

Design strategies should emphasize fitting job demands to the capabilities and limitations of employees. To achieve this, decision-makers must have appropriate information

and knowledge about ergonomic risk factors and ways to control them. They need to know about the problems in jobs and the causes. Designers of in-house equipment, machine and processes also need to have an understanding of ergonomic risk factors and how to control them. For example, they may need anthropometric data to be able to design to the range of capabilities and limitations of employees.

It is also important that persons involved in procurement have basic knowledge about the causes of problems and ergonomic solutions. For example, they need to know that adjustable chairs can reduce awkward postures and that narrow tool handles can considerably increase the amount of force required to perform a task. In addition, to prevent the introduction of new hazards into the workplace, procurement personnel need information about equipment needs.

Several employers in the meat processing industry have told OSHA that they were able to communicate their common concerns to equipment suppliers and that, as a result, several suppliers are now providing tools and equipment that reduce the likelihood of an MSD. OSHA encourages employers to contact individuals and other companies any time information about the cause of a workplace musculoskeletal disorder could be used to prevent similar incidents. Owens and Garg (Ex. 26–1415) found that manufacturers are often receptive and responsive to recommendations for design changes made by users of their products in the design phase.

Section 1910.920 What kinds of controls must I use?

(a) In this standard, you may use any combination of engineering, administrative and/or work practice controls to eliminate or materially reduce MSD hazards. Engineering controls, where feasible, are the preferred method for eliminating or materially reducing MSD hazards. However, administrative and work practice controls also may be important in addressing MSD hazards.

(b) Personal protective equipment (PPE) may be used to supplement engineering, work practice and administrative controls, but may only be used alone where other controls are not feasible. Where PPE is used, you must provide it at no cost to employees.

Note to § 1910.920: Back belts/braces and wrist braces/splints are not considered PPE for purposes of this standard.

Section 1910.920 permits the employer to use any combination of engineering, administrative, or work practice controls to address the MSD hazards identified in problem jobs. OSHA is proposing to allow employers this flexibility in choice of controls because OSHA's experience and reports from stakeholders both indicate that all of these control approaches have contributed to reductions in the number and severity of workplace MSDs. In addition, the broad range of jobs to which the standard will apply, and the great variation in workplace conditions covered, make compliance flexibility essential.

Paragraph (a) of § 1910.920 does, however, state that engineering controls are the preferred method of eliminating or substantially reducing MSD hazards in cases where these controls are feasible. The proposal defines engineering controls as controls that physically change the job in a way that eliminates or materially reduces the MSD hazard or hazards present. Examples of engineering controls that are used to address ergonomic hazards are workstation modifications, changes to the tools or equipment used to do the job, facility redesigns, altering production processes, and/or changing or modifying the materials used.

Engineering controls range from very simple to complex: from putting blocks under a desk to raise the work surface for a taller-than-average worker to providing a lumbar support pillow or rolled-up towel to a video display unit (VDU) operator to redesigning an entire facility to enhance productivity, reduce product defects, and reduce workplace MSDs.

When choosing an engineering control to address a particular ergonomic problem, employers often have many choices, depending on how much they wish to spend, how permanent a solution they seek, how extensive a production process change they need, and employee acceptance and preference. For example, as MacLeod (Ex. 26–1425) points out, an employer whose VDU operators are experiencing neck and shoulder problems has many options available, including the following:

- Raising the height of the monitor by putting it on phone books, building a monitor stand, buying an adjustable monitor stand, buying an adjustable wall-mounted monitor stand, or buying an adjustable desk-mounted monitor stand;
- Putting the desk on blocks; or
- Providing an adjustable-height desk or workstation.

The ergonomics proposal reflects the preference of ergonomists and safety and health professionals for engineering controls, which is based on the ability of engineering controls to eliminate the MSD hazards posed by the job. The standard ergonomics textbooks and guidance documents emphasize the superiority of engineering controls over other classes of controls, *i.e.*, administrative controls, work practices, or personal protective equipment (PPE) (see, for example, Ex. 26–1487, Ex. 26–1428, Ex. 26–1424, Ex. 26–2; Ex. 26–1426, Ex. 26–1425, Ex. 26–1408; and Ex. 26–3). According to NIOSH's recent publication, "Elements of Ergonomics Programs":

> A three tier hierarchy of controls is widely accepted as an intervention strategy for controlling workplace hazards, including ergonomic hazards. (Ex. 26–2)

A recent ergonomics text states, "Ergonomic hazards can be effectively eliminated by introducing engineering controls and applying ergonomic principles when developing workstations, tools, or jobs * * * only engineering controls eliminate the workplace hazards. Other strategies [work practices, administrative controls] only minimize the risk of injury" (Ex. 26–1408).

Ergonomists endorse the hierarchy of controls, which accords first place to engineering controls, because they believe that control technologies should be selected based on their reliability and efficacy in eliminating or reducing the workplace hazard (risk factors) giving rise to the MSD. Engineering controls are preferred because these controls and their effectiveness are:

- Reliable;
- Consistent;
- Effective;
- Measurable;
- Not dependent on human behavior (that of managers, supervisors, or workers) for their effectiveness;
- Do not introduce new hazards into the process.

In contrast to administrative and work practice controls or personal protective equipment, which occupy the second and third tiers of the hierarchy, respectively, engineering controls fix the problem once and for all. However, because

there is such variability in the workplace conditions covered by the proposed standard, OSHA is permitting employers to use any combination of engineering, work practice, or administrative controls as methods of control for MSD hazards.

Work practice controls involve changes in the way an employee does the job. They are defined by the standard as changes in the way an employee performs the physical work activities of a job that reduce exposure to MSD hazards. Work practice controls involve procedures and methods for performing work safely. Examples of work practices that reduce the potential for exposure to ergonomic risk factors are training workers to use a new or modified tool properly, training workers to vary the tasks they perform throughout the day to minimize muscle fatigue, and training workers to work in positions that reduce risk factors as much as possible (*e.g.*, to hold a tool with their wrists straight, to avoid awkward postures, etc.). In the context of ergonomic programs, work practice controls are essential, both because they reduce ergonomic stressors in their own right and because they are critical if engineering controls are to work effectively. For example, workers need to be trained to use a power grip rather than a trigger grip if a new tool is to be successful, and they need to be trained to adjust an ergonomically designed chair properly if it is to substantially reduce the risk of neck disorders, shoulder tendinitis, or another type of MSD. Work practices, like learning to vary job activities during the day (*e.g.*, moving from filing to sorting mail to using the computer and back again) can often reduce the magnitude and duration of exposure to the risk factor sufficiently to make MSDs unlikely. To be effective, the culture at the workplace and supervisory support and reinforcement are necessary to ensure that safe work practices are routinely observed.

Administrative controls are management-controlled work practices and policies designed to reduce exposures to MSD hazards by changing the way work is assigned or scheduled. Administrative controls reduce the frequency, magnitude, and/or duration of exposure and thus reduce the cumulative dose to any one worker. Examples of administrative controls that are used in the ergonomics context are employee rotation, job enlargement, and employer-authorized changes in the pace of work.

Administrative controls have been effective in addressing MSD hazards in some cases. For example, one case study cited in the Benefits chapter (Chapter IV of the Preliminary Economic Analysis) describes a lift team approach that has been quite effective in reducing work-related back injuries among nursing personnel in a long-term care facility for the elderly (Ex. 26–1091). However, many ergonomists note that these controls should be used with caution. For example, a recent book (Ex. 26–1408) states "* * * the biggest disadvantage with administrative controls is that they treat the symptoms and not the cause of biomechanical stress."

Another well-known ergonomics book, MacLeod's "The Ergonomic Edge," cautions:

> * * * job rotation is only beneficial if the tasks involve different muscle-tendon groups or if the workers are rotated to a rest cycle * * * Poorly structured job rotation programs, may, in fact, *increase* the risk of CTDs. If employees are not properly trained or accustomed to the tasks they are to do, they can increase their exposure to risk factors * * * Furthermore, job rotation alone does not change the risk factors present in a facility. It only distributes the risk factors more evenly across a larger group of people. Thus, the risk for some individuals can be reduced, while the risk for others is increased. * * * When employees rotate between two jobs the risk of exposure can be thought of as being "averaged." Job rotation may drop the average to within a safe level, or raise the whole group in excess of safe limits * * * Finally, although job rotation may have beneficial effects, engineering changes should remain the goal of the ergonomics program." [Ex. 26–1425]

The proposed standard permits employers to use personal protective equipment (PPE) to supplement engineering, work practice, and administrative controls. However, personal protective equipment may not be used alone, *i.e.*, as the sole means of employee protection unless no other controls are feasible. Any PPE that is provided must be made available to employees at no cost.

PPE is equipment that is worn by the employee and provides an effective barrier between the employee and the MSD hazards in the job. Examples are palm pads and knee pads to reduce contact stress, vibration-attenuation gloves, and gloves worn to protect against cold temperatures.

The hierarchy of controls, which is widely endorsed by ergonomists, occupational safety and health specialists, and health care professionals, accords last place to PPE because:

- Its efficacy in practice depends on human behavior (the manager's, supervisor's and worker's),
- Studies have shown that the effectiveness of PPE is highly variable and inconsistent from one worker to the next,
- The protection provided cannot be measured reliably,
- PPE must be maintained and replaced frequently to maintain its effectiveness,
- It is burdensome for employees to wear, because it decreases mobility and is often uncomfortable,
- It may pose hazards of its own (*e.g.*, the use of vibration-reduction gloves may also force workers to increase their grip strength).

One author (Ex. 26–1408) notes that: "* * * in most cases, the use of PPE focuses attention upon worker responses and not the causes of ergonomic hazards * * * PPE does not eliminate ergonomic hazards * * * [and] must be considered as the last line of defense against ergonomic hazard exposure." Thus, although the proposed standard permits PPE to be used as a supplemental control, it cannot be relied on as a permanent solution to the presence of MSD hazards unless other feasible controls are not available.

A note to proposed section 1910.920 states:

> Back belts/braces and wrist braces/splints are not considered PPE.

The proposal includes this note to alert employers to the fact that back belts and wrist braces, which are widely used in U.S. workplaces, are not considered a control to reduce ergonomic hazards under the standard. These devices are being marketed as equipment that can prevent MSDs, although the evidence to support these claims is not available.

The AIHA "White Book" (Ex. 26–1424) cautions: "Back belts have become ubiquitous in the American workplaces. Some employers now require their use by employees. But there is little scientific evaluation available regarding their use in primary prevention." Recently, a NIOSH working group reviewed the available scientific literature on the use of back belts and published a 1994 report evaluating them. NIOSH expressed concern that wearing a belt may alter workers' perceptions of their capacity to lift heavy workloads (*i.e.*, belt wearing may foster an increased sense of security, which may not be warranted or substantiated (Ex. 15–16). NIOSH does not recommend the use of back belts as PPE, and neither do a number of professional

societies (Ex. 15–15, Ex. 15–17, Ex. 15–33). NIOSH is currently studying the effect of back belt use on employees engaged in manual handling jobs in WalMart stores.

Wrist splints and braces present even more serious problems:

"Wrist splints or braces used to keep the wrist straight during work are not recommended, unless prescribed by a physician for rehabilitation. * * * using a splint to achieve the same end may cause more harm than good since the work orientation may require workers to bend their wrists. If workers are wearing wrist splints, they may have to use more force to work against the brace. This is not only inefficient, it may actually increase the pressure in the carpal tunnel area, causing more damage to the hand and wrist" (Ex. 26–1424).

OSHA thus believe that the proposed Note to section 1910.920 will alert employers and employees to the lack of evidence demonstrating the effectiveness of these devices.

Section 1910.921 How far must I go in eliminating or materially reducing MSD hazards when a covered MSD occurs?

The occurrence of a covered MSD in a problem job is not itself a violation of this standard. You must comply with one of the following:

(a) You implement controls that materially reduce the MSD hazards using the incremental abatement process in § 1910.922; or

Note to § 1910.921(a): "Materially reduce MSD hazards" means to reduce the duration, frequency and/or magnitude of exposure to one or more ergonomic risk factors in a way that is reasonably anticipated to significantly reduce the likelihood that covered MSDs will occur.

(b) You implement controls that reduce the MSD hazards to the extent feasible. Then, you periodically look to see whether additional controls are now feasible and, if so, you implement them promptly; or

(c) You implement controls that eliminate the MSD hazards in the problem job.

Note to § 1910.921(c): "Eliminate MSD hazards" means that you eliminate employee exposure to ergonomic risk factors associated with the covered MSD, or you reduce employee exposure to the risk factors to such degree that a covered MSD is no longer reasonably likely to occur.

Section 1910.921 of the proposed rule tells employers how far they must go to reduce exposure to MSD hazards to be in compliance with the Ergonomics Program Standard. This section sets forth the control endpoint that employers must achieve. Proposed § 1910.921 includes three control endpoints. Employers are in compliance with this section when they have implemented controls that satisfy one of the following:

- The controls eliminate MSD hazards;
- The controls reduce MSD hazards to the extent feasible; or
- The controls materially reduce MSD hazards.

Many case studies demonstrate that employers have successfully either eliminated the risk factors in problem jobs or materially reduced the risk factors to a level where an MSD is reasonably unlikely to occur. (See Applied Ergonomics Case Studies Volume 2, Alexander, D.C., ed., 1999; Preliminary Risk Assessment (Chapter V); Preliminary Economic Analysis (Section VIII).)

Section 1910.921 of the proposed rule would not require employers to eliminate the occurrence of all MSDs. OSHA recognizes that, in a number of jobs, workplaces, and physical work activities it may not be possible to eliminate MSDs. OSHA is also aware that employers who have an effective ergonomics program may still receive reports of MSDs. The goal of the proposed rule is to have employers put a good working system into place so that they can take quick and effective action when MSDs do occur. And section 1910.921 tells employers how far they must go in implementing controls after that MSD does occur.

1. Materially Reduce (Paragraph (a))

Paragraph (a) of the proposed rule provides that employers are in compliance if they implement controls that materially reduce MSD hazards in the job using the incremental abatement process in § 1910.922. Materially reduce MSD hazards should not be interpreted to mean that the employer may simply make any change, even one for which there is only a nominal expectation that the control will reduce the likelihood that an MSD will occur. The note to paragraph (a) emphasizes that materially reduce requires more. Materially reduce means that the overall effect anticipated to result from implementing controls to reduce risk factor exposure is a significant reduction in the probability that another MSD will occur in that job. For example, if the likely cause of an MSD hazard is regular unassisted manual lifting of 100-pound rolls of roofing material, reducing the weight of the roll to 90 pounds would not significantly change the likelihood that an MSD will occur and would not be considered a material reduction.

To further illustrate, a covered MSD of the lower back occurs in a manual handling job that requires employees to fill and seal a 50-pound bag of lead chromate pigment every 2 minutes, lift the bag and twist to put it on a pallet, and pile the bags as high as 4-feet off the ground. When the pallet is fully loaded, employees push it to the loading area at the far end of the facility. Reducing the risk factors by moving the loading area next to the fill lines cuts out more than 75% of the distance pallets had been moved. This change does materially reduce exposure to pushing and pulling the pallet. However, the hazards caused by pushing and pulling the pallets are not nearly as likely to cause or contribute to the type of MSD reported as the force and repetition risk factors in the job, and therefore the change has done little to address the ergonomic risk factors. Thus, there does not appear to be a reasonable likelihood that the implemented change will achieve a material reduction in the likelihood of injury. On the other hand, changes such as halving the fill weight of the job and/or adding additional employees to the fill line would be reasonably anticipated to materially reduce the probability of injury, because they address the primary risk factors in the manual handling job.

At the same time OSHA recognizes that a number of MSD hazards are complex and it may not always be clear what control(s) will achieve a material reduction in the probability that MSDs will occur. OSHA is aware that it may be necessary in many situations for employers to test a solution to know if it will work. As a result, OSHA is proposing that employers be considered in compliance with the requirement to materially reduce MSD hazards if they select and implement the controls that a reasonable person would anticipate would achieve a material reduction in the likelihood of injury.

The fact that an employer hired a qualified ergonomics consultant to analyze a problem job and then implemented the controls that the consultant said should significantly reduce MSD hazards is good evidence that the employer has taken action reasonably anticipated to materially reduce the likelihood of injury. Examples of other evidence that employers have taken action that could reasonably be

expected to significantly reduce the MSD hazards are that the implemented controls have been shown to reduce MSD hazards in other workplaces in the industry; that the controls were identified, evaluated and implemented by a trained ergonomics committee; or that both the MSD hazard and solution were obvious. There are also many other ways of demonstrating that the controls selected could reasonably be anticipated to achieve a material reduction in risk factors.

Employers may materially reduce MSD hazards by reducing the frequency (*i.e.*, how often), duration (*i.e.*, how long) and/or magnitude (*i.e.*, quantity) of exposure to the risk factors. For example, a manufacturing employer may be able to achieve a significant reduction in MSD hazards in an assembly line job by reducing or eliminating awkward postures, even without changing the frequency with which tasks are performed. The employer may also achieve the equivalent level of protection by reducing the length of time employees must perform repetitive tasks without a break, or by adding more workers to the assembly line so that task cycles are not repeated as often. Employers are free to proceed as they wish (*e.g.*, eliminating one risk factor, reducing the frequency and duration but not the magnitude of exposure, or trying a combination of eliminating and reducing risk factors) so long as the overall effect of their actions is to achieve a material reduction in the hazard.

OSHA is also proposing in paragraph (a) that employers use the incremental abatement process in § 1910.922 to materially reduce MSD hazards. As the term indicates, an incremental hazard abatement process relieves employers from having to implement, all at once, the combination of controls that may ultimately prove necessary to control the hazard. Instead, this process allows employers to implement controls in smaller increments, *e.g.*, one at a time, and then to observe whether the control(s) have been successful in materially reducing the hazard before moving on to other controls. If the control(s) is successful, as measured by the resolution of the injured employee's MSD, reports from employees that the job is no longer physically stressful, or by the absence of additional MSDs, the employer would be allowed to stop adding controls and to wait and see whether additional controls will be needed. The proposed rule provides that as long as no MSDs occur (*i.e.*, the injured employee's condition improves and no other MSDs are reported), employers may continue in the wait and see mode. If covered MSDs occur, employers would be required to identify and try out additional controls.

OSHA believes that it is appropriate and reasonable to allow employers to reduce MSD hazards using an incremental process. First, as mentioned above, MSD hazards are complex and there may be a number of situations where employers may not know what will fix the job. Because of this, OSHA believes that employers should be allowed to try out controls in smaller increments so they are more clear about what solutions will work before they have to move on to put in all the necessary controls.

Second, OSHA believes that the incremental abatement process is a cost effective approach for materially reducing MSD hazards. The proposed rule would not require employers to implement more controls than are necessary to achieve a substantial reduction in the MSD hazards. OSHA believes that an incremental test and evaluate approach will help assure that employers will not have to spend $1,000 in controls if $100 will fix the problem. In fact, a number of stakeholders who have ergonomics programs have said that many controls cost less than $100 (Ex. 26–1370) (see OSHA Web). Given this, OSHA believes it is reasonable to allow employers to test the less-costly solutions that other employers may have identified to see whether those solutions will adequately address the hazards in their workplaces.

Third, OSHA is proposing an incremental abatement process because it is the process that employers with good ergonomics program are using. Many stakeholders have told OSHA that their programs use an incremental abatement process (Ex. 26–1370). In addition, there is strong support for this approach among stakeholders representing a broad range of industries, employers and employees.

Fourth, the Occupational Safety and Health Review Commission has upheld OSHA's authority under a section 5(a)(1) ergonomics enforcement action to require employers:

> [T]o engage in an abatement process, the goal of which is to determine what action or combination of actions will eliminate or materially reduce the hazard. *Secretary of Labor* v. *Pepperidge Farm*, 17 OSHC 1993, 2034 (April 26, 1997).

Finally, OSHA believes that an incremental abatement process provides the best fit with the rapidly changing area of ergonomics control technology. New controls and ergonomics equipment come onto the market almost daily. By allowing employers to implement controls incrementally rather than requiring them to implement all feasible controls immediately, employers will have an opportunity and incentive to select the newest and best solutions. As a result, many more MSD hazards are likely to be identified and addressed in the design phase and eliminated before they enter the workplace. It is a well-accepted principle that the best way to address ergonomic hazards is in the design phase. For example, one stakeholder commented that "With ergonomics programs you are never done. The workplace is constantly changing." (Hank Lick, Ford Motor Company, at February 1998 ergonomics stakeholder meeting, Ex. 26–1370)

The concept of incremental hazard abatement may suggest to some that ergonomics is a never-ending process or continuous loop. However, OSHA is proposing a stopping point. In § 1910.944, OSHA is proposing that employers be permitted to suspend large parts of their ergonomics program, including the incremental abatement process, if they have materially reduced the MSD hazards and no covered MSD has been reported for 3 years. Where a 3-year wait and see period has passed without the occurrence of any covered MSDs, the incremental control(s) the employer anticipated would significantly reduce the likelihood that covered MSDs would occur will have been proven in fact to do so. Therefore, there is no need to continue all the elements of the ergonomics program at that time.

2. Reduce to the Extent Feasible (Paragraph (b))

Paragraph (b) of the proposed standard states that employers have implemented all necessary controls, if they have implemented all the controls that are feasible. This control endpoint is statutorily driven. OSHA has no authority to require employers to do what is not feasible or "capable of being done." *American Textile Mfrs. Institute* v. *Donovan (Cotton Dust)*, 452 U.S. 490, 509, 513 n. 31, 540 (1981). When employers have reached this level, they are not required to be involved in the incremental abatement process since they have already implemented the existing feasible control technology. (As discussed above, controls are considered feasible if they are presently in use for the application in question, can be adapted for such use from technologies that are being used in other applications, can be developed by improving existing technologies, or are on the horizon of technological development.)

However, OSHA is proposing that these employers periodically check to see whether new technology has been developed and is available if they continue to have MSDs in their covered jobs. In addition, these employers must periodically review whether controls that previously may not have been feasible are now capable of being implemented in the problem job. OSHA is not proposing to impose a time period for the periodic review. Rather, as periodically is defined in the proposed rule, employers must establish a regular time period for checking out whether the control situation has changed. The time basis for review must be appropriate for the conditions in the workplace, such as the nature and extent of the MSD hazards. A review of conditions may be necessary where there are significant changes in the workplace that may result in increased exposure to MSD hazards.

When additional feasible controls are identified, the proposed rule requires that employers must implement them promptly. The compliance timetable in § 1910.943 is not applicable to paragraph (b). That schedule incorporates time for identifying and analyzing controls before control implementation deadlines come due. In paragraph (b), on the other hand, the hazards are known and the analysis has been completed. Given this, OSHA does not believe it is necessary or appropriate to give employers a year to implement additional controls after they become available.

3. Eliminate MSD Hazards (Paragraph (c))

Of course, employers are also finished implementing controls when they have eliminated MSD hazards. This control endpoint is also statutorily based. Cotton Dust, 452 U.S. at 505–06; *Industrial Union Dep't, AFL–CIO* v. *American Petroleum Inst. et al.* (Benzene), 448 U.S. 607, 642 (1980) .

The phrase "eliminate MSD hazards" incorporates two concepts. First, employers are finished when they have eliminated exposure to the hazard. For example, use of a mechanical lift eliminates forceful exertions, and a voice-activated computer eliminates highly repetitive motions. Second, it means that controls have been implemented that have reduced exposure to ergonomic risk factors to the extent that employees in the job are no longer exposed to a reasonable likelihood of developing a covered MSD. MSDs are no longer reasonably likely to occur in a parts assembly job where the awkward reaches behind the back for parts has been eliminated and parts are now delivered on a conveyor to employees.

Where employers have eliminated the reasonable likelihood of the occurrence of a covered MSD, they are in compliance with the proposed control endpoint. And even if MSDs are reported in the job, employers who have eliminated MSD hazards have no obligation to take control action because the physical work activities and conditions of the job are no longer reasonably likely to cause or contribute to an MSD. In addition, if no covered MSD is reported for a period of at least 3 years after the employer has eliminated MSD hazards, the employer may stop parts of the ergonomics program in accordance with § 1910.944.

Section 1910.922 What is the "incremental abatement process" for materially reducing MSD hazards?

You may materially reduce MSD hazards using the following incremental abatement process:

(a) When a covered MSD occurs, you implement one or more controls that materially reduce the MSD hazards; and

(b) If continued exposure to MSD hazards in the job prevents the injured employee's condition from improving or another covered MSD occurs in that job, you implement additional feasible controls to materially reduce the hazard further; and

(c) You do not have to put in further controls if the injured employee's condition improves and no additional covered MSD occurs in the job. However, if the employee's condition does not improve or another covered MSD occurs, you must continue this incremental abatement process if other feasible controls are available.

Section 1910.922 of the proposed rule explains the steps of the incremental abatement process that employers are to use if they want to materially reduce hazards incrementally. The proposed incremental abatement process allows employers to test solutions in a problem job, and wait and see whether the action does significantly reduce the hazards before trying out additional controls. In Pepperidge Farm, the Commission discussed the meaning of an incremental abatement process in upholding OSHA's authority under section 5(a)(1) of the OSH Act to require that an employer engage in this process to control ergonomic hazards:

> Incrementalism implies a premium on evaluation of the consequences of initial actions which have been undertaken. Incrementalism also suggests (but does not require) that some steps may await the completion of others, and admits that actions may not have the desired results. Pepperidge Farm, 17 OSHC at 2034 n. 114.

Many stakeholders as well as professionals in the field of workplace safety and health refer to the incremental abatement process as a continuous improvement process (Ex. 26–1370). A comment by the Electronic Industries Association (Ex. 3–230) best sums up the goal of the proposed incremental abatement process:

> Ergonomics is a continuous improvement process. If an employer can show that they have made an organized effort to identify ergonomic stressors, to educate their affected employees on ergonomic principles, to implement solutions, and to have a system to identify when a solution is not working and needs to be readdressed, they have met the intent of the law.

1. Paragraph (a)

Paragraph (a) provides that employers may go about addressing MSD hazards by trying out a control(s) to see whether this will take care of the problem. But it also specifies that whatever control(s) the employer wants to start with must be one(s) that a reasonable person would anticipate to be likely to achieve a material reduction in the hazard, or where the efficacy of individual control measures is unclear, it has the potential to significantly reduce the likelihood that covered MSDs would occur in the job.

Under this process, employers have great flexibility to choose the control or controls that would be reasonably likely to materially reduce the hazard. Employers may start where they wish in addressing the hazard so long as their initial action is reasonably anticipated to reduce the hazard. Thus, employers may start with the ergonomic risk factor they prefer to look into first and with the modifying factor (*i.e.*, duration, frequency, magnitude) they wish to address first.

For example, in a manual handling job that requires the worker to quickly lift heavy containers off a low flatbed cart all day and then to turn to put them on a conveyor, an employer is likely to have several options about which risk factor(s) to start with: size or weight of load, vertical height of the lift, turning/twisting motion, or the container design. The employer is also likely to have several ways to modify (or reduce) any of the risk factors: reduce the percentage of the work day spent doing this task, reduce how quickly each

load must be moved, reduce the weight of load, reduce the vertical height (*e.g.*, raise height of flatbed), reduce the amount of twisting, add handles to containers, or install mechanical lift or lifting assist devices.

Paragraph (a) provides that if reducing the vertical height that the employee must lift the container does materially reduce the likelihood of injury, the employer is not required at the outset, for example, to purchase and install mechanical lifts. However, if the load weighs more than 100 pounds, for example, it is not reasonable to expect that changing the vertical distance alone would significantly reduce the likelihood that employees performing these physical work activities would develop a back injury (unless the vertical travel distance was reduced to 0 because the requirement to lift was eliminated).

2. Paragraph (b)

Paragraph (b) specifies that if the problem does not resolve or gets worse, employers must try additional feasible controls to achieve a material reduction in the hazard. A problem is not considered resolved if the injured employee's condition does not improve because the employee continues to be exposed to ergonomic risk factors that are reasonably likely to cause, contribute to, or aggravate an MSD of this type. Employers need to install additional controls if another employee in the job reports a covered MSD. The fact that another employee in the job has been injured is a good indication that additional controls are needed to reduce the hazard.

3. Paragraph (c)

Paragraph (c) proposes that, if after the employer implements the initial control(s) designed to materially reduce the hazard, the injured employee's condition gets better, then the employer would not be required to take further control action, provided that no one else in the job develops a covered MSD. This provision would allow the employer, at this point, to wait and see whether the initial action has been adequate. As long as no one in the problem job reports a covered MSD, the employer need not put in any additional controls.

When a covered MSD is reported in that job, however, the waiting process is over. The occurrence of another covered MSD indicates that the initial controls were not adequate. This means that employers must try other feasible controls to materially reduce the MSD hazards in the job. As long as covered MSDs continue to occur and feasible controls exist, employers must be following the steps of the incremental abatement process.

As with the control endpoints discussed in § 1910.921, there also are endpoints to the incremental abatement process. Obviously, employers may stop the incremental abatement process when they have eliminated the MSD hazards because there is nothing remaining in the physical work activities and conditions of the job that would be reasonably likely to cause or contribute to a covered MSD. Likewise, the obligation to continue the process would cease if employers have tried controls and have reduced the hazard to the extent feasible, *i.e.*, they have done everything at this time. The only remaining hazard analysis and control obligation required by the standard in such a situation is to periodically check to see whether a new control that is capable of materially reducing the hazard has become available.

Training (§§ 1910.923–1910.928)

Training is a critical component of an ergonomics program. Training is needed to equip employees in problem jobs, their supervisors, and persons involved in administering the ergonomics program with the knowledge and skills necessary to recognize and control MSDs and MSD hazards. Effectively addressing workplace MSD hazards requires that these individuals possess the ability to identify the physical work activities and job conditions that may increase a worker's risk of developing MSDs, recognize the signs and symptoms of these disorders, and participate in the development and execution of effective strategies to eliminate or materially reduce them.

As has already been discussed, the proposed standard requires that information regarding common MSD hazards, signs and symptoms of MSDs, reporting methods, and the requirements of the standard be provided to at-risk employees. Providing information serves to heighten awareness of employees with regard to MSDs that may occur and the workplace risk factors that can cause them, as well as indicating the means of communicating any relevant observations to the employer. The provision of information alone, however, does not constitute training, because it may not ensure the level of comprehension that is necessary for employees to take an active role in the ergonomics program. The requirements of the proposed standard for training are also broader in scope than the requirements for providing information, extending to methods of control as well as the recognition of MSD hazards.

Section 1910.923 What is my basic obligation?

You must provide training to employees so they know about MSD hazards and your ergonomics program and measures for eliminating or materially reducing the hazards. You must provide training initially, periodically, and at least every 3 years at no cost to employees.

Section 1910.923 proposes to require employers to provide training to employees about MSD hazards, the ergonomics program, and control measures in the workplace. Training would be required to be provided initially, periodically as needed, and at least every three years. Training would be required to be provided at no cost to employees.

Initial training is necessary to ensure that employees in problem jobs, their supervisors, and the individuals who set up and manage the ergonomics program are provided with the knowledge and skills necessary to recognize MSD hazards in their workplace and to effectively participate in the ergonomics program. Periodic training is necessary to address new developments in the workplace and to reinforce and retain the knowledge acquired in initial training. The length and frequency of training would be determined by the needs of the workplace. Individuals would need to be trained sufficiently to understand the subjects specified in § 1910.925. An interval of three years between training sessions is proposed as the minimum necessary to preserve the knowledge and understanding acquired in initial training. Employee participation in the ergonomics program, job hazard analysis, and program evaluation all depend on adequate employee training.

The proposed requirement that training be provided at no cost to employees means that the employer would bear any costs associated with training. For example, any training materials given to employees would have to be provided free of charge. Employees would have to be compensated at their regular rate of pay for time spent receiving training, and could not be required to forfeit regularly scheduled lunch or rest periods to attend training sessions. In addition, where training requires employees to travel, the employer would have to pay for the cost of travel, including travel time when

the activities are not scheduled during the employee's normal work hours.

The proposed requirement that training be provided at no cost to employees reflects OSHA's strong belief and past regulatory policy that the costs of complying with safety and health requirements be borne by the employer. The Agency considers training to be essential to the effectiveness of other provisions of the proposed standard: work practice controls, for example, will not be effective if employees are not aware of their proper application, and MSD management cannot be effective if employees do not know when it is appropriate or how to obtain access to it. OSHA believes it is reasonable for employers to bear the cost of training, because, under the Occupational Safety and Health Act of 1970, employers bear the responsibility for providing a safe and healthful workplace. Having the costs borne by the employee would discourage participation in training activities, and would thus limit the effectiveness of the rule's training requirements.

Section 1910.924 Who must I train?

You must train:

(a) Employees in problem jobs;

(b) Supervisors of employees in problem jobs; and

(c) Persons involved in setting up and managing the ergonomics program, except for any outside consultant you may use.

Employees in problem jobs play a key role in the success of an ergonomics program. They are the individuals who have developed or are at risk of developing MSDs. By reporting MSDs and MSD hazards early, making recommendations, and following established control procedures, these workers can assist in protecting themselves.

Early reporting of the development of MSDs would allow the employer to provide appropriate MSD management to the affected employees. Notification of the existence of MSD hazards would alert the employer to the necessity of evaluating and implementing measures to eliminate or control the hazards. The effective control of MSD hazards also often requires the active participation of employees. For example, a work station that can be easily adjusted to accommodate the demands of different tasks or the height and reach limitations of different workers will not be constructively used if the workers are not aware of how to make the adjustments. If employees are not aware of MSD signs and symptoms, or cannot properly use control measures, the ergonomic protection process will not succeed. It is critical that employees have the training they need to perform these functions. The proposed standard therefore would require in § 1910.924(a) that training be provided to all employees in problem jobs.

Supervisors of employees in problem jobs are often in a position to observe MSD hazards and to recognize when MSDs develop in the workers they supervise. As supervisors, they are also in a position to ensure that employees in problem jobs understand and conform with procedures established to control MSD hazards. A supervisor, for example, may observe an employee operating a hand-held vibrating power tool without wearing appropriate vibration-resistant gloves. The supervisor, when prepared by training to understand the significance of this oversight, could take corrective action by ensuring that gloves are provided and used when necessary. If the supervisor was aware that this employee was experiencing numbness, tingling, and loss of sensation in the fingers, training would provide the knowledge necessary to recognize these symptoms as potential indications of an MSD. Training of supervisors would thus provide an additional avenue for the protection of employees who develop MSDs. MSDs and MSD hazards that may be overlooked by the employees who are directly affected may be recognized by their supervisors. Training is necessary for these supervisors to acquire the knowledge necessary for these tasks. For this reason, the proposed standard would require in § 1910.924 (b) that supervisors of employees in problem jobs be provided training.

The effectiveness of the ergonomics program is also dependent on the abilities of those individuals who establish and administer the program. These individuals must be able to identify MSDs and MSD hazards, undertake appropriate interventions to control the hazards, and evaluate the effectiveness of the ergonomics program and controls that have been adopted. The individuals who establish and administer the ergonomics program may be provided by the employer with the authority and resources necessary to accomplish these objectives, but without effective training it is unlikely that they would have sufficient knowledge to accomplish them successfully. For example, a program administrator assigned the task of evaluating the effectiveness of measures instituted to materially reduce MSD hazards in problem jobs would likely need training in order to understand how to assess effectiveness. Section 1910.924 (c) of the proposed standard would therefore require that training be provided to individuals who set up and manage the ergonomics program. Outside consultants do not need to be trained by the employer, because these individuals are responsible to preparing themselves to perform their professional duties.

Section 1910.925 What subjects must training cover?

This table specifies the subjects training must cover:

YOU MUST PROVIDE TRAINING FOR . . .	SO THAT THEY KNOW . . .
(a) Employees in problem jobs and their supervisors.	(1) How to recognize MSD signs and symptoms; (2) How to report MSD signs and symptoms, and the importance of early reporting; (3) MSD hazards in their jobs and the measures they must follow to protect themselves from exposure to MSD hazards; (4) Job-specific controls implemented in their jobs; (5) The ergonomics program and their role in it; and (6) The requirements of this standard.
(b) Persons involved in setting up and managing the ergonomics program.	(1) The subjects above; (2) How to set up and manage an ergonomics program; (3) How to identify and analyze MSD hazards and measures to eliminate or materially reduce the hazards; and

YOU MUST PROVIDE TRAINING FOR . . .	SO THAT THEY KNOW . . .
	(4) How to evaluate the effectiveness of ergonomics programs and controls.

Training must encompass certain elements in order to provide affected individuals with sufficient knowledge to recognize and control MSDs and MSD hazards in their workplace. The proposed standard presents a number of elements on which training would be required for all employees in problem jobs, their supervisors, and persons involved in setting up and managing the ergonomics program. For persons involved in setting up and managing the ergonomics program, several additional elements would be required to be covered.

Training would address recognition of MSD signs and symptoms, and the method and importance of early reporting when these signs and symptoms develop. This is an elaboration of the information provided to at-risk employees, and an opportunity for the employer to relate the general information provided to the operations at a specific workplace and to site-specific conditions. Training is not intended to prepare workers, supervisors, or managers to medically diagnose or treat MSDs. Rather, the purpose is to instill an understanding of what type of health problems may be work related so that these individuals will be able to recognize when MSD management is necessary.

Since the employees who would be trained are in problem jobs, they are exposed to factors that are associated with a risk of developing MSDs, and may already suffer from MSDs. It is thus particularly important that they be aware of the MSD signs and symptoms that are reasonably likely to occur. The supervisors of employees in problem jobs will often be in position to observe MSD hazards and the development of MSD signs and symptoms among the workers they supervise. In many instances, supervisors may perform the same job tasks as the workers they supervise. Early reporting would help the employer ensure that intervention in the disease process occurs before functional incapacity or permanent disability results, and would assist in identifying MSD hazards so that measures could be taken to eliminate or materially reduce those hazards. In many instances, the workers who perform tasks that involve MSD hazards and their supervisors are also the persons most familiar with the options for controlling those hazards. The recommendations of these individuals are thus an important means of identifying actions that would alleviate MSD hazards.

Employees in problem jobs, their supervisors, and persons involved in setting up and managing the ergonomics program would also be trained to recognize the MSD hazards in jobs and the measures that must be taken to control exposure to these hazards. This would include both general measures and those specific to the job. This training would provide these individuals with the knowledge and skills necessary to take actions to reduce the potential for developing MSDs. Proper understanding of control measures is particularly important because the effectiveness of these measures is dependent on their proper use by employees. All affected parties also need to know what their role in the ergonomics program is, in order to best facilitate the program's successful implementation. Employees, for example, must understand the provisions for MSD management in order to participate appropriately in this process.

The proposed standard includes a requirement that employees in problem jobs, their supervisors, and persons involved in setting up and managing the ergonomics program know the requirements of the standard. This would ensure that workers are aware that specific requirements have been established to protect them from MSDs. Program administrators would be able to ensure that the program meets its legal obligations.

Additionally, program administrators must know how to set up and manage an ergonomics program, recognize and appraise MSD hazards, and select and apply appropriate measures to eliminate or materially reduce MSD hazards in order for the ergonomics program to be effective. The proposed standard would require that training be provided to equip these individuals to perform these assigned functions. The administrators would further be trained to evaluate the effectiveness of ergonomics programs and controls, in order that they be able to identify and rectify any deficiencies that may occur in their workplace's program.

While employees in problem jobs may be able to take some limited actions individually to protect themselves from MSD hazards, the primary responsibility for providing a safe work environment rests with the employer. The individuals who set up and administer the ergonomics program act on behalf of the employer in controlling MSD hazards. Employees cannot be protected from MSD hazards unless these hazards are identified and effective measures are then taken to control them. Accordingly, the individuals who administer the ergonomics program must be properly trained to discern when interventions are needed, decide what intervention methods are appropriate, and examine the results of interventions to determine if further actions are necessary.

Section 1910.926 What must I do to ensure that employees understand the training?

You must provide training and information in language that employees understand. You also must give employees an opportunity to ask questions and receive answers.

The proposed standard would allow employers to use whatever training methodology they consider most useful or appropriate for that particular workplace, provided that the specified elements are addressed. Hands-on training, videotapes, slide presentations, classroom instruction, informal discussions during safety meetings, written materials, or any combination of these methods may be appropriate. The primary concern is that the training be effective.

In order for the training to be effective, the employer must ensure that the training is provided in a manner that the employee is able to understand. Employees have varying educational levels, literacy, and language skills, and training must be presented in a language and at a level of understanding that accounts for these differences in order to meet the proposed requirement that individuals being trained understand the specified training elements. This may mean, for example, providing materials, instruction, or assistance in Spanish rather than English if the workers being trained are Spanish-speaking and do not understand English. The employer would not be required to provide training in the employee's preferred language if the employee understood both languages; as long as the employee is able to understand the language used, the intent of the proposed standard would be met.

In order to ensure that employees comprehend the actions that they must take to protect themselves from exposure to MSD hazards, it is critical that trainees have the opportunity to ask questions and receive answers if they do not fully understand the material that is presented to them. When videotape presentations or computer-based programs are used, this requirement may be met by having a qualified trainer available to address questions after the presentation, or providing a telephone hotline so that trainees will have direct access to a qualified trainer.

Section 1910.927 When must I train employees?

This table specifies when you must train employees:

IF YOU HAVE . . .	THEN YOU MUST PROVIDE TRAINING AT THESE TIMES . . .
(a) Employees in problem jobs and their supervisors	(1) When a problem job is identified; (2) When initially assigned to a problem job; (3) Periodically as needed (*e.g.*, when new hazards are identified in a problem job or changes are made to a problem job that may increase exposure to MSD hazards); and (4) At least every 3 years.
(b) Persons involved in setting up and managing the ergonomics program	(1) When they are initially assigned to setting up and managing the ergonomics program; (2) Periodically as needed (*e.g.*, when evaluation reveals significant deficiencies in the program, when significant changes are made in the ergonomics program); and (3) At least every 3 years.

Section 1910.927 proposes establishing time frames for the provision of training. Employees in problem jobs and their supervisors would be required to be provided training when a problem job is identified, when they are initially assigned to a problem job, and periodically thereafter as needed, but at least every three years.

The need for initial training is self-evident: employees and their supervisors must be trained prior to the occurrence of covered MSDs in order to recognize the hazards, help to reduce them, and effectively participate in the ergonomics program. If an employee is assigned to a problem job prior to receiving proper training, that employee is not likely to be able to take advantage of protective measures that are available to alleviate MSD hazards.

Periodic training under the proposed standard would be required to be conducted on an as-needed basis. The frequency of routine training would be performance oriented; individuals would need to be trained sufficiently to understand the elements specified in § 1910.925. Periodic training is needed to refresh and reinforce the memories of individuals who have previously been trained, and to ensure that these individuals are informed of new developments in the ergonomics program. For example, training after new control measures are implemented would generally be necessary in order to ensure that employees are able to properly use the new controls as they are introduced. Employees would likely be unfamiliar with new work practices undertaken, with the operation of new engineering controls, or the use of new personal protective equipment; training would rectify this lack of understanding. This would ensure that employees are able to actively participate in protecting themselves under the conditions found in the workplace, even if those conditions change.

At a minimum, the periodic training would be required to take place every three years. This interval is considered by the Agency to represent the maximum reasonable interval for affected individuals to retain the knowledge and understanding initially acquired without some form of reinforcement. More frequent periodic training, such as annual training, has not been proposed because regular communication between employees and management would be ongoing as a result of the proposed requirements for management leadership and employee involvement in the ergonomics program. Employee involvement in developing, implementing, and evaluating each element of the ergonomics program, including training, is included in the requirements of the proposed standard in § 1910.912. Prompt reporting by employees of MSD signs and symptoms and MSD hazards, effective job hazard analysis, and evaluation of the ergonomics program will make employers aware of additional training needs. Periodic training more frequently than every three years is likely to be appropriate in many work situations, for example in a workplace with many problem jobs. A requirement for annual training has not been included in this proposal in order to avoid encumbering those employers whose operations involve more limited exposure to MSD hazards.

Persons involved in setting up and managing the ergonomics program would be required under the proposed standard to be trained upon initial assignment to these duties. Knowledge and understanding of the identification of MSDs and analysis of MSD hazards, measures to eliminate or materially reduce MSD hazards, and the ergonomics program and its evaluation are all needed for the development and operation of the program. Periodic training is needed to provide program administrators with the skills and abilities to adjust the program to account for changes in the workplace, and to correct any significant deficiencies that may be identified in the program. This would assure that the ergonomics program is applicable to current conditions in the workplace, and is optimally effective in protecting workers from MSD hazards. Periodic training would also allow those individuals setting up and managing the program to keep abreast of new developments in the evolving field of ergonomics.

In comments received in response to the ANPR, some concern was expressed by industry regarding the frequency of training. For example, the American Meat Institute wrote (Ex. 3–147):

> OSHA should not dictate specific training requirements. Specifically, training frequencies should not be included in a standard.

OSHA intends for the performance oriented approach adopted in the proposal to provide sufficient flexibility so that employees in problem jobs, their supervisors, and individuals involved in establishing and managing the ergonomics program receive sufficient training to effectively

participate in the program, without compelling employers to provide training more often than the circumstances of the workplace dictate.

Section 1910.928 Must I retrain employees who have received training already?

No. You do not have to provide initial training to current employees, new employees and persons involved in setting up and managing the ergonomics program if they have received training in the subjects this standard requires within the last 3 years. However, you must provide initial training in the subjects in which they have not been trained.

Proposed § 1910.928 would allow training received within the previous three years to fulfill the requirements for initial training. Subsequent periodic training would still be required at least every three years, and more frequently if warranted by the circumstances of the workplace. For example, a baggage handler who has received training from one employer and then moves to another employer six months later to perform the same job may not need to receive initial training in all of the subjects prescribed in § 1910.925. Prior training in general topics, such as the recognition of MSD signs and symptoms, may remain relevant in the new workplace. However, site-specific training, for example training in how to perform work safely using the equipment at the new workplace, would generally be required. Allowing prior training in covered topics to be "portable" would apply to both current and newly hired employees, including those who set up and manage the ergonomics program.

The employer must be able to demonstrate that the employee has retained sufficient knowledge to meet the requirements for initial training in order for prior training to be considered sufficient to meet the requirements of § 1910.928. This could be determined through discussion of the required training subjects with the employee. Merely having received training during the previous three years would not be sufficient for an exemption from the initial training requirement. If the employer cannot demonstrate that the new employee has been trained and knows the required elements, the new employer would be obligated to train the employee in these elements. In cases where understanding of some elements is lacking or inadequate, the employer would be required to provide training only in those elements. This allowance for prior training is intended to ensure that employees receive sufficient training, without requiring unnecessary repetition of that training.

Evidence in the record clearly shows that training is an essential component of an effective ergonomics program and can help to reduce MSDs. In some instances, training in appropriate work practice controls may serve to reduce the incidence of MSDs. For example, the effectiveness of training in reducing the incidence of MSDs has been reported by Parenmark *et al.* (Ex. 26–6). Sixteen newly hired assembly workers at a Swedish chain saw plant were trained to perform their jobs using work practices that maintained the muscular load on the upper extremities at 10% or less of maximum voluntary contraction. The same training was also given to a group of assembly workers who had been on the job for one year. Training was not provided to a control group of new hires. After 48 weeks on the job, sick leave due to arm/neck/shoulder complaints was reduced by more than 50% among the new hires provided ergonomic work practice training when compared to the control group of new hires; the difference was statistically significant. For the assembly workers who had been on the job for one year, sick leave due to arm/neck/shoulder complaints was reduced by over 40% after training, although this result was not statistically significant.

Further evidence of the success of training in proper work practices in controlling MSD hazards in some instances is provided by Dortch and Trombly (Ex. 26–7), who examined the effectiveness of training in reducing the frequency of movements identified as traumatizing to the musculature and connective tissue of the hand, wrist, and forearm and known to be associated with MSDs. Eighteen electronic assembly workers were observed performing their jobs, and the number of MSD-associated movements was recorded for each individual. The workers were then divided into two groups. The first group received awareness training and a printed handout describing job-specific work practice controls. In addition to awareness training and the printed handout, members of the second group discussed the concepts in the handout individually with an instructor and received hands-on training. Each of the groups exhibited statistically significant reductions in the frequency of those movements associated with MSD development during observation one week after the training was administered. The group receiving more extensive training showed the greater reduction, although the difference between the two groups after training was not statistically significant.

Engels *et al.* (Ex. 26–8) studied the effectiveness of ergonomic work practice training for nurses. Twelve nurses attending an ergonomic education course were compared to a control group of twelve nurses. Participants were videotaped and their performance was assessed by scoring ergonomic errors on a checklist. Included among the activities monitored under standardized conditions were such tasks as transferring a patient from a bed to a wheelchair, washing a patient, and raising a patient from a lying position to sitting up. The nurses who had received training were found to be less likely to make ergonomic errors than the control group; this result was statistically significant. When the ergonomic work practice training was accompanied by other elements of an ergonomics program, the likelihood of making ergonomic errors was found to continue to decrease a year after the training had ended; this result was also statistically significant.

Training in work practices, however, represents only one of the subjects that would be covered in the proposed requirements for ergonomic training. Training in the recognition of MSD signs and symptoms, and methods of reporting development of these signs and symptoms, would allow appropriate medical management to take place. Ergonomics training can also provide employees in problem jobs, their supervisors, and ergonomics program managers with the knowledge necessary to actively participate in the development of appropriate methods of controlling MSD hazards in their workplace, providing a number of benefits for employers. The Joyce Institute, a provider of ergonomic training and consultation services, reported the results obtained by a number of companies when ergonomic improvements were made as a result of training (Ex. 3–122E–3). Among the outcomes:

- Textron-Davidson Interior Trim experienced a 42% reduction in OSHA recordable injuries, a savings of $440,000 in labor and materials, and a reduction in employee turnover;
- Spectra-Physics reduced CTDs from 558 to 150 in three years;
- A food processing company found 50% fewer CTDs in the plant where training had been performed and changes

made when compared to other plants doing similar work; and

• Milton Bradley experienced a 90% improvement in quality as measured by customer returns due to damaged packaging.

Responses to the ANPR indicate that the need for ergonomic safety and health training is widely recognized. For example, the National Solid Wastes Management Association (Ex. 3–248) stated:

> The Association feels that the training and education of workers is the single most important element of any general industry standard, and is the element most within the resources of the majority of employers within our industry to provide an effective reduction in exposure to ergonomic hazards * * *
>
> If employees are sufficiently educated to avoid or minimize ergonomic hazards within their personal control, to report symptoms early enough to avoid serious medical complications and to understand the need to communicate to their employer regarding a work station, equipment or job duty that presents an ergonomic hazard, then the employer should be in the best possible position to identify and rectify an inappropriate situation.

The Mount Sinai-Irving J. Selikoff Occupational Health Clinical Center (Ex. 3–162) also advocated training for employees:

> We believe that training and education of workers about ergonomic hazards should be required under the standard. The training should emphasize the identification of potential ergonomic hazards as well as recognition of symptoms of common ergonomic disorders. Prevention should be strongly emphasized in such programs as part of an aggressive company-wide commitment to work to eliminate these problems as soon as possible.

The Telesector Resources Group (Ex. 3–215) expressed support for training all employees exposed to significant workplace risk factors, and indicated what should be included in this training, particularly job-specific training regarding work practices:

> Employees exposed to significant occupationally-related CTD risk factors should be trained in the broad scope of applicable ergonomics principles and in the specific operations of their work tasks and workstations where such training is required to ensure that the task can be performed, and equipment operated as intended. These employees should understand the significant CTD risk factors to which they may be exposed and how to prevent or minimize exposure to them. Education and training in applicable ergonomics principles is especially important for new employees and those employees who are assuming new job tasks where significant CTD risk factors are known to exist.

Similarly, the AFL–CIO also endorsed training as part of an appropriate approach to addressing ergonomics in the workplace (Ex. 3–184):

> In order for the standard to be most effective in preventing CTDs, workers must be trained in early identification of CTDs and risk factors for CTDs, proper ways to perform the job, and other information related to the standard.

However, not all stakeholders supported a training requirement. For example, the Society of American Florists (Ex. 3–55) commented:

> Additional training and recordkeeping requirements would place yet another burden and layer of bureaucracy upon small businesses and compromise their ability to compete.

Some respondents to the ANPR expressed a desire that training requirements be adaptable to the specific circumstances of the affected employers. US WEST Business Resources, Inc. (Ex. 3–91), while endorsing training as part of the approach to ergonomics, stated that the requirements must be flexible:

> US WEST recognizes that employee training is an essential cornerstone of any occupational health and safety program. As with other aspects of an ergonomics program, training needs are highly variable and OSHA must allow employers a high degree of flexibility in establishing training programs that best fit the needs of their employees and operations.

The Synthetic Organic Chemical Manufacturers Association, Inc. (Ex. 3–185) made the same point:

> We agree that individuals participating in the CTD program should be trained. However, the level, frequency, and sophistication of the training effort should be performance-based so that the employer can best determine what is appropriate for its workplace.

In the proposed standard, OSHA seeks to provide employees, their supervisors, and those involved in administration of the ergonomics program sufficient training to actively participate in the protective process in their workplace, without creating any unnecessary or undue burden on employers. The Agency recognizes that workplaces vary greatly in the scope and magnitude of MSD hazards present, the number and complexity of control measures implemented, and the extent to which affected individuals must be involved in the control process. The standard, therefore, does not propose a specified format or length of time for training, allowing employers to adjust training to the needs of their workplace. It is anticipated that the training would vary in duration from facility to facility, depending on the extent of the MSD hazards, the type of operation, the controls required, and the involvement necessary on the part of the employee for the control measures to be effective.

MSD Management (§§ 1910.929 through 1910.935)

This discussion of MSD management is divided into three parts. Part A explains the proposed requirements in sections 1910.929 through 1910.935, all of which address aspects of the proposed MSD management process. Part B discusses OSHA's legal authority to require work restriction protection and the Agency's reasons for doing so. Part C deals with alternatives to the proposed work restriction protection requirements that OSHA has considered in developing the proposed rule's work protection provisions.

Part A—Proposed Requirements for Sections 1910.929 through 1910.935

This section of the proposed rule establishes the requirements for setting up a process to manage MSDs when they occur. MSD management is the employer's process for ensuring that injured employees are provided with:

• Prompt access to health care professionals (HCPs) or other safety and health professionals as appropriate;

• Effective evaluation, management, and follow-up; and

• Appropriate temporary work restrictions where needed during the recovery period.

MSD management emphasizes prevention of impairment and disability through early detection, prompt management and timely recovery from covered MSDs (Ex. 26–1264, Ex. 26–921). This early intervention process is important in helping to achieve the goals of the proposed standard—reducing the severity as well as the number of work-related MSDs.

The MSD management provisions in the proposed standard are built upon the processes that employers with ergonomics programs already are using to help employees who have work-related MSDs. Evidence in the record shows that these companies, through early intervention and management of MSDs, have achieved substantial reductions in areas such as lost-work time, lost-workdays, costs per case, and workers' compensation claims and costs (see, *e.g.*, Ex. 3–147, Ex. 26–1367, Ex. 26–1405).

The proposed MSD management provisions are consistent with and based on OSHA's other ergonomics efforts. MSD management provisions are included in OSHA's Ergonomics Program Management Guidelines for Meatpacking Plants (Ex. 26–3). The Guidelines emphasize that "proper medical management is necessary both to eliminate or materially reduce the risk of development of CTD signs and symptoms through early identification and treatment and to prevent future problems" (Ex. 26–3). In addition, MSD management provisions have been included in all of OSHA's corporate settlement agreements addressing MSD hazards. Finally, to become a member of OSHA's Voluntary Protection Program, employers must include an "Occupational Heath Care Program" in their safety and health programs. This would address MSDs, along with other health hazards.

1. Need for MSD Management

MSD management is recognized by, among others, employers, HCPs, and occupational safety and health professionals as an essential element of an effective ergonomics program (Ex. 26–1, Ex. 26–5, Ex. 26–1264). Among employers who told OSHA they have an ergonomics program, most reported that their programs include MSD management as a key element (Exs. 3–56; 3–59; 3–73; 3–95; 3–113; 3–118; 3–147; 3–175; 3–217; and 26–23 through 26–26). The draft American Standards Committee (ASC) consensus standard on the control of work-related MSDs states that a program to control MSDs "shall" include provisions for the evaluation and management of MSD cases (*i.e.*, MSD management), because such elements "are either recognized and fundamental to injury prevention, or considered minimally essential to the control of [MSDs]" (Ex. 26–1264). The draft ASC consensus standard was developed by a committee comprised of representatives from the medical, scientific, and academic communities, as well as those representing employers and employees.

There are many reasons why MSD management is essential to the success of an ergonomics program. MSD management helps to reduce the severity of MSDs that occur. As mentioned above, MSD management emphasizes the early detection of MSDs, followed by prompt and effective evaluation and management. Identifying and addressing MSD signs and symptoms at an early stage helps to slow or halt the progression of the disorder. When MSDs are caught early they are more likely to be reversible, to resolve quickly, and not to result in disability or permanent damage. The American Meat Institute is on record as saying that MSD management programs that promote early intervention result in a reduction in the number of serious MSDs, fewer surgeries, reduced lost-time from work, and a quicker return to full duty (Ex. 3–147). Two studies by Maurice Oxenburgh also support this. In one study, Oxenburgh found that for employees suffering from upper-extremity MSDs (UEMSDs), the earlier they reported signs and/or symptoms of the UEMSDs, the quicker they were able to return fully to work (Ex. 26–1367). Specifically, Oxenburgh found that UEMSDs resulted in 49 days away from work (or on restricted work) for employees who reported within 20 days of the onset of pain, 66 days for employees who reported within 21–50 days of the onset of pain, and 84 days for employees who reported after 51 days of the onset of pain. In another study, Oxenburgh observed two groups of video display unit (VDU) workers who were exposed to the same ergonomics risk factors. One group ("the MSD management group") received medical screening, training, workstation redesign, treatment, and rehabilitation; the other group ("the control group") received none of these interventions. Oxenburgh compared the two groups and found:

> 1. Twenty-two percent of the control group cases had second or third stage injuries, compared with 8% for the MSD management group;
>
> 2. The mean period of absence from work for the control group workers was 33.9 days, compared with 3.4 days for the MSD management group; and
>
> 3. The total amount of time the average worker in the control group lost, either to days away or alternate duty, was 124.9 days, compared to 34.9 days for the MSD management group (Ex. 26–1405).

These studies demonstrate the importance of early reporting and intervention as part of MSD management in reducing the severity of MSDs, as well as accelerating the recovery process for injured employees. In so doing, MSD management also reduces the costs of MSDs to employees and employers alike.

An MSD management process is also important to reduce the use of and need for surgery to repair MSDs (Ex. 26–5). Uniformly, stakeholders have told OSHA that intervention should be made at the earliest possible stage when conservative treatment, rather than surgery, is most likely to resolve MSDs (see Exs. 26–23 through 26–26). For example, the Denton Hand Rehabilitation Clinic stated:

> [E]arly intervention and nonsurgical intervention is the more appropriate approach to carpal tunnel syndrome. It is imperative that the high cost of health care be reduced and a program which offers early intervention and nonsurgical intervention with full employer participation, employee understanding, and the medical referral would certainly offer this (Ex. 3–33).

If MSD management is delayed or not provided at all, it may be more difficult to avoid surgery because conservative treatment may not be able to resolve the MSD.

MSD management also helps to reduce the number of MSDs by alerting employers early enough that they can take action before additional problems occur. To illustrate, many employers with ergonomics programs use the report of a single MSD as a trigger for conducting a job hazard analysis (Ex. 26–5). The purpose of analyzing and fixing the job at this stage is to prevent injury to other employees in the same job. An MSD management process that encourages early reporting and evaluation of that first MSD thus helps to ensure that the analysis and control of the job is done before a second employee develops an MSD.

MSD management also reduces MSDs through prevention. Specifically, MSD management helps to prevent future problems through development and communication of information about the occurrence of MSDs. For example, where engineering, design and procurement personnel are alerted to the occurrence of MSDs, they can help to implement the best kind of ergonomic controls: controlling MSD hazards in the design and purchase phase to prevent their introduction into the workplace.

OSHA is using the term "MSD management" in the proposed rule rather than "medical management." "Medical

management" is a term that OSHA has used in earlier ergonomics publications (*e.g.*, Ergonomics Program Management Guidelines for Meatpacking Plants (1990)) and stakeholders have become familiar with it. However, OSHA believes that "MSD management" is a more accurate term because it emphasizes that the successful resolution of MSDs may involve professionals from many disciplines. These individuals may include physicians, occupational health nurses, nurse practitioners, physician assistants, occupational therapists, physical therapists, industrial hygienists, ergonomists, safety engineers, or members of workplace safety and health committees. OSHA believes that all of these individuals, along with the employer and employees, may have a role to play in MSD management, depending on the size, organizational structure, or culture of the particular workplace.

In addition, OSHA believes that the term MSD management indicates that many approaches can be successful in resolving MSDs. For example, some employers have developed successful MSD management programs that are built on immediately providing restricted work activity at the first report of MSD signs or symptoms. These employers have said that quick intervention has resulted in dramatic reductions in lost workday injuries as well as reductions in medical treatment costs. Other companies utilize on-site HCPs to provide quick front-line health interventions. Although these approaches are quite different, they have both been shown to be successful. Still other organizations rely on the training and skill of ergonomics committee members to address problems. The MSD management provisions of the proposed rule have been written to recognize that many individuals may be trained and knowledgeable about MSDs and MSD hazards. The choice of approach to MSD management is left to the employer.

Section 1910.929 What is my basic obligation?

You must make MSD management available promptly whenever a covered MSD occurs. You must provide MSD management at no cost to employees. You must provide employees with the temporary "work restrictions" and "work restriction protection (WRP)" this standard requires.

The employer's basic obligation, as stated in section 1910.929, is to make MSD management available promptly to employees with covered MSDs. MSD management is a process that addresses MSDs promptly and appropriately. In other words, MSD management means that an employer has established a process for assuring that employees with covered MSDs receive timely attention for the reported MSD, including, if appropriate, work restrictions or job accommodation and follow-up. Where there is no on-site HCP, the employer may designate an individual to receive and respond promptly to reports of MSD signs, symptoms, and hazards. Where there is an on-site HCP, he or she would be the likely person to have responsibility for MSD management, including referral as appropriate.

An effective MSD management program has:

1. A method for identifying available appropriate work restrictions and promptly providing them when necessary;

2. A method for ensuring that an injured employee has received appropriate evaluation, management, and follow-up in the workplace;

3. A process for input from persons contributing to the successful resolution of an employee's covered MSD; and

4. A method for communicating with the safety and health professionals and HCPs involved in the process.

Many stakeholders stated that early reporting and intervention is absolutely essential for MSD management to be successful. To this end, the MSD management provisions are crafted to encourage employees to report MSDs early and to receive appropriate treatment promptly. In particular, OSHA's work restriction protection requirements (discussed in detail below) are included as part of the MSD management process to encourage employees to report MSDs early.

In its 1997 primer, Elements of Ergonomics Programs, NIOSH stated that, in general, the earlier symptoms are identified and treatment initiated, the less likely a more serious MSD is to develop (Ex. 26–2). Thus, employees need to receive prompt, appropriate help after reporting the signs or symptoms of MSDs that may be work-related. The importance of early reporting and intervention has also been documented in a number of studies (see Exs. 26–912, 26–913, 26–917, 26–914, 26–915, 26–910, 26–916, 26–911, 26–1367, 26–1405).

Commenters to OSHA's ANPR also stressed the importance of early reporting. Martin Marietta attributed a drop in the incidence rate of cumulative trauma disorders to early reporting and the education of their workers (Ex. 3–151). Perdue Farms noted a 15% decrease in cumulative trauma disorders, which they attributed to early reporting and intervention (Ex. 3–56). The Mount Sinai-Irving J. Selikoff Occupational Health Center stated: "We cannot overemphasize the importance of the early reporting of symptoms. Based on evaluations of patients from a wide variety of work places, we believe it is essential to intervene medically, and by appropriate modification of the work station or job task, as soon as possible in order to reduce the potential for genesis of permanent impairment " (Ex. 3–162). (See also Exs. 3–33; 3–147).

For MSD management to be effective, it must be provided "promptly," as the proposed rule requires. By "promptly," OSHA means that employers whose employees come forward with reports of MSDs or their signs or symptoms must as soon as possible assess the situation, determine whether temporary work restrictions or other measures are necessary, and/or refer the employee to the ergonomics committee, an ergonomics consultant, other qualified safety and health consultant or an HCP, as appropriate. These actions must be taken promptly to enable the MSD to resolve quickly, to prevent worsening due to further exposure to MSD hazards. For further guidance on what constitutes prompt MSD management, OSHA refers employers to § 1910.943. In that section, OSHA includes start-up deadlines for those employers who may not be covered by the ergonomics rule initially but whose employees subsequently, after the compliance deadlines for the rule have passed, develop MSDs that are covered by this standard. For those employers, OSHA requires that when an employee reports an MSD, MSD management must be provided within 5 days. OSHA believes that this time requirement is also appropriate for all cases of covered MSDs. This is not meant to imply, however, that employers should wait several calendar days after an employee reports experiencing symptoms before assessing the case, providing appropriate work restrictions, or referring the employee to the ergonomics committee, a safety and health professional, ergonomist, or an HCP. OSHA reiterates that prompt MSD management involves responding to employee reports of MSDs as soon as possible to prevent the MSDs from worsening.

MSD management must be provided at no cost to employees. The term "at no cost to employees" includes

making MSD management available at a reasonable time and place, *i.e.*, during working hours. In order to increase the likelihood that employees will receive the full benefits provided by the standard, MSD evaluations must be provided in a manner that is reasonably convenient for employees. OSHA has defined "at no cost" the same way in its other health standards.

Employers must also provide employees with temporary work restrictions and work restriction protection as required by this proposed rule. Temporary work restrictions and work restriction protection are discussed in detail below.

The term MSD management in the proposed standard does not cover particular diagnostic tests, treatment protocols, or specific treatments but instead refers to the employer's process of ensuring that injured employees have access to appropriate help when they need it. It is not the purpose of this standard to dictate professional practice for HCPs. An employer is free to establish such protocols in consultation with an HCP, but this is not required by the standard. Many stakeholders urged OSHA to leave the establishment of treatment protocols and procedures for covered MSDs to the HCPs (see, *e.g.*, Ex. 3–154). Where HCP evaluation, treatment, and follow-up is necessary, OSHA believes that HCPs will prescribe treatment and specific therapeutics on the basis of the best available knowledge at the time that care is provided. In addition, OSHA believes HCPs will closely monitor the employee's progress to evaluate the effectiveness of the prescribed treatment. It has also generally not been OSHA's practice, in other health standards, to dictate specific diagnostic procedures or treatment protocols.

Section 1910.930 How must I make MSD management available?

You must:

(a) Respond promptly to employees with covered MSDs to prevent their condition from getting worse;

(b) Promptly determine whether temporary work restrictions or other measures are necessary;

(c) When necessary, provide employees with prompt access to a "health care professional" (HCP) for evaluation, management and "follow-up";

(d) Provide the HCP with the information necessary for conducting MSD management; and

(e) Obtain a written opinion from the HCP and ensure that the employee is also promptly provided with it.

Paragraph (a) requires employers to respond promptly to employees with covered MSDs. Whenever an employee reports an MSD, the key is to take action quickly to help ensure that the MSD does not worsen. As discussed above, stakeholders are in agreement that early reporting and response are the key to resolving MSD problems quickly and without permanent damage or disability. The term "promptly," as used in this section, has the same meaning as in § 1910.929, discussed above. Employers must respond to employees with covered MSDs as soon as possible to determine what action is appropriate to prevent the employee's condition from becoming more severe.

Many employers with ergonomics programs respond to reports of MSDs by immediately placing the employee on restricted work activity, either in the same job or in an alternative assignment. Limiting further exposure to the MSD hazard or hazards associated with the employee's job ensures that the employee's condition does not worsen while the employer analyzes the problem job and, if necessary, makes arrangements for the employee to be evaluated by a safety and health professional, ergonomist, member of the ergonomics committee, or an HCP. Employers using this approach have discovered that the employee's condition will often resolve within a few days without further intervention. This is especially true if the symptom is associated with work hardening or conditioning for a new job, new tool, or new equipment. It could also be the case if a company has instituted a Quick Fix that completely eliminates the MSD hazard or hazards in the job, which ensures that the employee will experience no further exposure or aggravation of the condition.

For other employers, the first response may be to have the affected employee evaluated by an HCP. Where the employer has an on-site HCP, for example, the employee can usually be seen immediately. Immediate attention is particularly important where the employer does not have a policy of immediately limiting the work activities of employees who report MSDs. However, even when employers have on-site HCPs, the HCP may not be available when the employee reports an MSD.

In most cases, however, employers will not have an on-site HCP. In such cases, OSHA is aware that it may take a few days to arrange an appointment with an HCP. In order to assure a prompt response in these cases, employers must ensure that employees have access to the HCP as soon as possible. There are circumstances where immediate evaluation by an HCP is warranted. For example, an employee experiencing severe shoulder pain with numbness down her arm, an inability to sleep due to pain, and decreased range of motion of the arm and shoulder should immediately be referred to an HCP. An employee who describes symptoms that have been present continuously for three weeks should also be referred at the time of initial reporting.

Paragraph (b) requires employers to make an initial determination promptly of whether temporary work restrictions or other measures are necessary. In many workplaces, work restrictions are the first line of defense against progression of the disorder. Work restrictions include any limitation placed on the manner in which an injured employee performs a job during the recovery period, up to and including complete removal from work. Work restrictions are important to resolving most MSDs. The purpose of work restrictions is to facilitate recovery of the affected area by not exposing the injured tissues to the same risk factors. The employer, who must provide temporary work restrictions, where necessary, to employees with covered MSDs, and the employee whose work has been restricted need to understand (1) What jobs or tasks the employee can perform during the recovery period, (2) whether the employee can perform these jobs or tasks for the entire workshift, and/or (3) whether the employee needs to be removed from work entirely. Employees for whom restrictions have been assigned because of a covered MSD must be properly matched with those jobs that involve task and work activities that accommodate the requirements of the restriction and thus facilitate healing.

The employer must also determine whether other measures are necessary to protect the employee with a covered MSD. A company could institute a Quick Fix that completely eliminates the MSD hazard or hazards in the job, ensuring that the employee will experience no further exposure or aggravation of the condition. There are also circumstances where immediate evaluation by an HCP is warranted. In addition, an employer who was not able to provide immediate temporary work restrictions may be able to have an injured employee attend on-site training classes

for a few days. The person(s) assigned responsibility for MSD management needs the relevant information to make the decision about what is appropriate for the affected employee.

Section 1910.930 gives employers flexibility to develop an appropriate process for responding to employees with covered MSDs. The proposed rule allows varied approaches because many factors can influence the process and procedures employers establish to deal with MSDs covered by this standard. Such factors may include the severity of the employee's condition and the interventions readily available. For example, some employers immediately place an employee on restricted duty. They take a "wait and see approach" and, if the MSD does not clear up in a few days, the employer moves on to the next level of intervention. Other employers have on-site HCPs. Some employers with on-site HCPs place employees who report signs or symptoms immediately on work restrictions while the HCP does the evaluation. Where necessary, the HCP then develops a treatment and/or return-to-work plan. Whatever the employer's response, it needs to be made promptly.

In paragraph (c) of the proposed rule, employers must provide injured employees with prompt access to an HCP, when necessary, for evaluation, management and follow-up. OSHA used the language "when necessary" in the proposed rule because the Agency recognizes that it is not always necessary for an employer to send the injured employee to an HCP. OSHA recognizes that there are situations in which providing work restrictions immediately and/or taking other measures immediately, such as fixing the job, may be an adequate response to the report. This is particularly true if the MSD is reported very early, that is, before the condition becomes severe. In other situations, however, it will be necessary to send the injured employee to an HCP. For example, employers who do not provide work restrictions and/or other measures at the time the MSD is reported will need to send injured employees to the HCP. In addition, there will be some cases where the reported MSD is so severe that it is essential the employee be evaluated by an HCP at the earliest possible time.

The proposed rule defines health care professional (HCP) as a physician or other licensed health care professional whose legally permitted scope of practice (*e.g.*, license, registration, or certification) allows them to independently provide or be delegated the responsibility to provide some or all of the MSD management requirements of this standard. The proposed rule is flexible enough to allow employers to use a broad range of HCPs, provided the HCP is capable and authorized to provide evaluation, management, and follow-up of MSDs. As defined by this proposal, HCPs are not limited to physicians or nurses. Different HCPs may be involved in the process at different points.

OSHA is proposing a flexible definition of HCP, for several reasons. First, this approach is responsive to the requests of stakeholders, particularly those with establishments in rural locations, who strongly urged that the rule provide maximum flexibility in the selection of HCPs. Specifically, these employers urged OSHA not to limit employers' choice of HCPs to specialists, who are often not available in reasonable proximity, which would delay prompt evaluation, management, and follow-up and make it much more costly. In general, most of the commenters made broad, generic statements on the qualifications of HCPs that were needed to perform MSD management. For example, the American College of Occupational and Environmental Medicine stated, "[a] health care provider is considered to be a licensed/registered health care provider practicing within the scope of their license/registration" (Ex. 3–105). Other commenters, such as Carol Stuart-Buttle, a well-known ergonomics consultant, concur with this opinion (Ex. 3–59). The American Feed Industry Association expressed concern that the medical profession in a rural area may not have the expertise to deal with work-related MSDs, and pointed out that compliance may be a problem if OSHA stipulates that the HCP have a specific background (Ex. 3–73).

Second, OSHA does not want to limit employers' options where the State has determined that an individual is authorized to provide care. The scope of practice for a particular HCP may vary from State to State. OSHA believes that issues of HCP qualifications and scope of practice are adequately addressed by State law and professional organizations, and thus it is appropriate to allow employers to rely on the system developed by the States. OSHA requests comments on these issues and specifically seeks information on the experience of employers in using HCPs with various qualifications in their ergonomics programs.

Some commenters said that the employer should be allowed to determine what HCPs would best be able to direct their occupational health services (Exs. 3–99; 3–104). For example, physician assistants, occupational therapists, and physical therapists said that the proposed ergonomics program rule should not limit the HCPs that are allowed to provide medical management and emphasized the role these professionals play in the management of work-related MSDs (Exs. 3–57; 3–47; 3–64).

Others, however, have urged OSHA to require employers to use only HCPs who have training in and experience with work-related MSDs and MSD hazards. These commenters stressed the need for knowledgeable HCPs. They said that HCPs should be required to have training and experience in occupational medicine, MSD hazards, and the disorders associated with these hazards (Exs. 3–181; 3–106). For example, one commenter stated that HCPs need a background in occupational health and in ergonomics (Ex. 3–59). Another pointed out that the skills of the HCP need to be updated periodically (Ex. 3–137).

To the extent possible, employers should use HCPs who are knowledgeable in the assessment and treatment of work-related MSDs to ensure appropriate evaluation, management, and follow-up of employees' MSDs. In any event, paragraph (d) of the proposed rule requires the employer to provide information to the HCPs conducting the assessment. If these individuals are already on site, they are likely to be familiar with the jobs in the workplace, the hazards identified in the hazard analysis, and what jobs or temporary alternative duty may be available. It is essential that HCPs charged with the responsibility for MSD management know or be provided this information if they are to successfully manage the cases of the injured workers.

OSHA rules state where an individual other than an HCP is responsible for determining whether temporary work restrictions or other measures are necessary under § 1910.930(b), that individual too must be provided the information necessary to discharge his or her responsibility. This is implicit in § 1910.930(b) and is in any event required by § 1910.912(b). With these materials, the safety and health professional or HCP will be better able to ensure that the employee is properly assessed and is placed in a job that will allow healing to occur during the recovery period.

Paragraph (e) requires the employer who has referred the employee to an HCP to obtain a written opinion from the HCP so it is clear to all parties what needs to be done to

resolve the employee's MSD. This opinion must be written because oral communication is more susceptible of misinterpretation. Employers must keep a record, and the easiest way to do this is if the opinion is in writing. In addition, the HCP's opinion is valuable information for employers to have when identifying MSD hazards in jobs and evaluating the ergonomics program and controls.

This paragraph also requires an employer to ensure that the employee promptly receives a copy of the opinion, which is essential if the employee is to participate in his or her own protection. It is particularly important for the employee to be knowledgeable about what work restrictions, if any, he or she has been assigned and for how long they will apply.

Section 1910.931 What information must I provide to the health care professional?

You must provide:

(a) A description of the employee's job and information about the MSD hazards in it;

(b) A description of available work restrictions that are reasonably likely to fit the employee's capabilities during the recovery period;

(c) A copy of this MSD management section and a summary of the requirements of this standard; and

(d) Opportunities to conduct workplace walkthroughs.

Section 1910.931 requires that HCPs receive necessary information so the evaluation, management and follow-up of the injured employee is effective. It is important that employers provide information to HCPs, regardless of whether the HCP has special training or knowledge in dealing with occupational injuries and illnesses or in managing MSD cases. Requirements to provide information to HCPs are not new; they have been included in every medical surveillance provision in other OSHA health standards. In addition, a number of commenters recommended that OSHA's ergonomics rule ensure that HCPs receive the information they need to be familiar with the jobs in the employers' workplaces (Exs. 3–23–A; 3–56; 3–89). OSHA also notes that if employers provide the HCP with the information required in this section, they will have satisfied the requirement in § 1910.930(d) that they provide "the HCP with the information necessary for conducting MSD management."

Paragraph (a) requires employers to provide a description of the employee's job and information about the hazards in it. This information is needed to assist HCPs in providing both accurate assessment and effective management of MSDs. Without such information the HCP may not be able to make an accurate evaluation about the causes of the MSD or may not be able to prescribe appropriate restricted work activity. OSHA believes that providing HCPs with information about the results of any job hazard analysis that has been done in that job ensures that the HCP has the most complete and relevant information for evaluating and managing the recovery of the injured employee. Many stakeholders have told OSHA that they already provide this type of information to the treating HCP in order to familiarize the provider with the employee's job and associated workplace risk factors and ultimately to facilitate resolution of the MSD (Exs. 26–23 through 26–26).

Paragraph (b) requires employers to provide information on work restrictions that are available during the recovery period and that are reasonably likely to fit the employee's capabilities during the recovery period. Providing this information to HCPs helps to facilitate the appropriate matching of the employee's physical capabilities and limitations with a job that allows an employee to adequately rest the injured area while still remaining productive in other capacities. Employers with ergonomics programs have discovered that the more detailed information and communication provided to the HCP about available alternative duty jobs, the better the HCP understands the causes of the problem and knows what work capabilities remain. As a result, these employers have found that the HCP is more likely to recommend restricted work activity rather than removal from work during the recovery period. In addition, it is more likely that HCPs are able to recommend much shorter removal periods when removal is combined with restricted work activity as a means of facilitating recovery.

To achieve these kinds of MSD management results, the employer must establish a good communication process with the injured employee and the responsible HCPs, as well as with any other safety and health professionals involved in the MSD management process. In addition, for communication to be effective and helpful to the MSD management process, it needs to be clear, timely, and on-going. The person(s) the employer assigned to be responsible for working with the injured employee and communicating information to the HCP needs to have authority to coordinate appropriate placement of the affected employee in the workplace during the recovery period (Ex. 26–923, Ex. 26–924).

Paragraph (c) requires employers to give the HCP a copy of the MSD management section and a summary of the requirements of the standard. This summary must highlight how MSD management fits into the ergonomics program this standard requires. For example, it is especially important that the HCP understand that early reporting of MSD signs and symptoms is key to the success of the ergonomics program and that employers must encourage it. HCPs also need to know how quickly employers must provide employees with access to the HCP and that employers must analyze any job in which a covered MSD is reported. Moreover, HCPs need to understand that the effective resolution of MSDs may require the input of different persons, including those like safety and health professionals, ergonomists, and ergonomics committee members, who are in charge of analyzing and implementing measures that will eliminate or control the hazards that caused the MSD.

OSHA intends, in paragraph (d), that employers provide HCPs with opportunities to look at the problem job and the available alternative duty jobs. Not only is it important that the HCP become familiar with the physical work activities the injured employee performs, but also it is important that the HCP see the available alternative duty jobs to ensure that such jobs will allow the employee to rest the injured area during the recovery period. OSHA does not intend to require employers to provide HCPs walkthroughs throughout the entire facility.

Many stakeholders support this provision and have told OSHA that workplace walkthroughs are one of the best ways to obtain knowledge regarding the physical work activities and workplace conditions in the employee's job (Exs. 3–52; 3–107). They are also the best way for the HCP to understand whether the available alternative duty jobs will allow the injured employee to rest the affected area and not be exposed to other conditions that could aggravate rather than resolve the MSD.

Workplace walkthroughs can be either informal or formal. Several stakeholders said that they often invite community

HCPs for a tour of the facility. Others conduct the tours one on one. To remain knowledgeable about the specific workplace, jobs, job tasks, and any changes, employers should encourage HCPs to tour the workplace periodically. Finally, where workplace walkthroughs are not possible (*e.g.*, HCP located too far from the workplace), there are other ways HCPs can acquire more in-depth information about the employee's job and the MSD hazards in it. For example, employers can provide HCPs with the results of the job hazard analysis, photographs of the job, or videotapes of the job being performed.

Where possible, employers should use HCPs who have a basic knowledge of the importance of the early recognition, evaluation, treatment, and prevention of work-related MSDs. Since standards of care change over time, it is the responsibility of the treating health care professional to select treatments in accordance with current acceptable standards of practice (Kuorinka and Forcier, Eds. 1995, Ex. 26–638).

Section 1910.932 What must the HCP's written opinion contain?

The written opinion must contain:

(a) The HCP's opinion about the employee's medical conditions related to the MSD hazards in the employee's job.

(1) You must instruct the HCP that any other findings, diagnoses or information not related to workplace exposure to MSD hazards must remain confidential and must not be put in the written opinion or communicated to you.

(2) To the extent permitted and required by law, you must ensure employee privacy and confidentiality regarding medical conditions related to workplace exposure to MSD hazards that are identified during the MSD management process.

(b) Any recommended temporary work restrictions and follow-up;

(c) A statement that the HCP informed the employee about the results of the evaluation and any medical conditions resulting from exposure to MSD hazards that require further evaluation or treatment; and

(d) A statement that the HCP informed the employee about other physical activities that could aggravate the work-related MSD during the recovery period.

As mentioned above, the HCP must provide a copy of the written opinion to the employer and injured employee. The written opinion must contain the HCP's opinion about the employee's medical condition related to MSD hazards in the employee's job. The written opinion must explain what actions the HCP recommends to resolve an MSD. These recommendations may include temporary work restrictions or the work the employee may do during the recovery period as well as the medical treatment and follow-up necessary to ensure that the MSD resolves.

It is important that the HCP's opinion be provided in writing to the employer or the person(s) at the workplace who are responsible for carrying out the MSD management requirements of the standard. Employers need to know about the employee's medical condition to ensure that the restricted work activity they provide satisfies the HCP's recommendations. Employers also need to know whether the employee requires medical treatment that may necessitate his or her absence from work. The HCP's written opinion is especially important for the on-site person who is responsible for follow-up. That person needs to understand the HCP's plan for follow-up and how to assist in ensuring that follow-up is effective.

Paragraph (a) would require that the HCP's written opinion include information on any medical condition the employee has that is related to the MSD hazards in the employee's job. The HCP's opinion addresses issues such as whether the employee has a work-related MSD, whether work restrictions are needed and for how long, and what kind of follow-up is needed.

Note: Some HCPs may classify a medical condition under an International Disease Classification (ICD) code, while other HCPs may provide a more general diagnosis of the condition. The proposed rule is not limited to providing MSD management only for those MSDs that have an ICD–9 classification.

The HCP's opinion must be limited to medical conditions related to MSD hazards in the employee's job. This does not mean that the HCP must determine whether the MSD is work-related (recordable). Rather, this provision means that the written opinion must not contain medical information about the employee that is not related to work or to MSD hazards in the employee's job. This provision has been included to protect the privacy of the employee, who may not, for example, want the employer to know that he or she has been in treatment for a psychological condition.

As stated, the written opinion the HCP provides to the employer must not include medical information (*e.g.*, diagnoses, test results, medical history) that is not related to MSD hazards in the job. Paragraph (a) requires employers to instruct the HCP that any findings, diagnoses, recommendations on treatment or medical follow up, or information not related to workplace exposure to MSD hazards must remain confidential and must not be included in the written opinion or communicated in any way to the employer. This kind of prohibition is important in protecting the employee's privacy, and has been a routine feature of OSHA health standards. Moreover, HCPs have their own independent duty to protect the privacy of patients, even patients who work for the same employer as the HCP does. *Cf. Wilson* v. *IBP*, 558 N.W.2d 132, 138–39 (Iowa 1996). This confidentiality provision is necessary to ensure that employees will be willing to provide complete information about their medical condition and medical history. Employees will not divulge this type of personal information if they fear that employers will see it or use it to the employee's disadvantage. For example, employees may fear that their employment status could be jeopardized if employers know that they have certain kinds of medical conditions, which may be completely unrelated to work or exposure to MSD hazards, or if they are taking certain kinds of medication (*e.g.*, seizure medication, an anti-depressant). In this sense, the ergonomics rule is consistent with and is intended to be consistent with the confidentiality requirements of the Americans with Disabilities Act. Paragraph (a), however, recognizes that there may be times where information regarding medical conditions related to workplace exposure to MSD hazards are required to be revealed by some other State or Federal law. The proposed rule does not prohibit release of this confidential information where expressly required by those laws.

In paragraph (b), OSHA is proposing that the written opinion must contain any temporary work restrictions and follow-up that the employee needs during the recovery period. Work restrictions, defined in § 1910.945 of this proposed standard, are limitations placed on the manner in which an employee with a covered MSD performs a job during the recovery period. The proposed rule defines work restrictions to include modifications and restrictions to the employee's current job, such as limiting the intensity or

duration of exposure, reassignment to temporary alternative duty jobs, and/or complete removal from the workplace.

The written opinion should specifically spell out recommended temporary work restrictions, what kind of follow-up is required, and the specific time frame for the follow-up. For example, restrictions on lifting during the recovery period should be as specific as possible: "No lifting of more than 10 pounds above shoulder level." The more specific the temporary restrictions are, the more likely that the employer will be able to identify an alternative duty job that fits the employee's capabilities while still ensuring that the injured area is rested. Specific recommendations give employers needed information about whether employees can remain in their current job, with restrictions on certain of their regular job duties, during the recovery period. Finally, specific recommendations make it possible for on-site safety and health personnel to identify alternative jobs or job changes that will satisfy the temporary work restriction recommendations.

Paragraph (c) would require that injured employees be informed by the HCP about the results of the evaluation and medical conditions resulting from exposure to MSD hazards that may necessitate further evaluation or treatment. This provision ensures that employees know the information that is the basis for the written opinion the HCP provides to the employer. For example, it may include the test results, or physical examination results, that support the recommendations regarding treatment and/or work restrictions.

This provision would also ensure that there is full disclosure to the employee about medical conditions that require the employee's further attention. The written opinion must include a statement that the employee has been informed about the results of the evaluation.

Paragraph (d) is similar to the previous provision. It requires that employees be informed about other activities, including non-work activities, that could aggravate the covered MSD and could delay or prevent recovery. OSHA is proposing this provision because it is important for employees to know how they can facilitate and participate in their own recovery. Although the employer is responsible for ensuring that the employee is not exposed during the recovery period to workplace conditions and physical work activities that are reasonably likely to cause MSDs, the employee should be aware of the actions he or she should take away from work to reduce exposure to ergonomic risk factors. This may include reducing or stopping certain personal work or recreational activities that might be associated with MSDs. It also might include recommendations to wear immobilization devices, such as a wrist brace, during rest periods or while asleep. As discussed above, paragraph 1910.932(a) would require that employers ensure HCPs not include any of these recommendations in the written opinion.

This provision is intended for informational purposes only and does not require employees to refrain from non-work activities that could aggravate the MSD or delay recovery. OSHA's authority is "limited to ameliorating conditions that exist in the workplace." *Forging Indus. Ass'n* v. *Secretary of Labor*, 773 F.2d 1436, 1442 (4th Cir. 1985).

Section 1910.933 What must I do if temporary work restrictions are needed?

You must:

(a) *Work Restrictions.* Provide temporary work restrictions, where necessary, to employees with covered MSDs. Where you have referred the employee to a HCP, you must follow the temporary work restriction recommendations in the HCP's written opinion;

(b) *Follow-up.* Ensure that appropriate follow-up is provided during the recovery period; and

(c) *Work Restriction Protection (WRP).* Maintain the employee's WRP while temporary work restrictions are provided. You may condition the provision of WRP on the employee's participation in the MSD management this standard requires.

Section 1910.933 outlines the requirements employers must follow when it is determined that an employee has a covered MSD that is serious enough to require some kind of work restriction.

Paragraph (a) would require that employers provide temporary work restrictions, where necessary, to employees with covered MSDs. As discussed above, work restrictions are restrictions on the way in which a job is performed or on the activities that the injured employee performs during the recovery period. Work restrictions include changes to the employee's existing job, such as limiting the tasks the employee may perform. Restrictions also include temporary transfer to a restricted duty job or removal from the workplace during the recovery period or a portion of it.

If a HCP has recommended restricted work, employers should consider such restrictions necessary to prevent the employee's condition from worsening and to allow the employee's injured tissues to recover. In those instances where the employer has referred the employee to a HCP, the employer must follow the temporary work restriction recommendations, if any, included in the HCP's written opinion.

The provision of work restrictions to injured employees is a vital component of MSD management. Work restrictions provide the necessary time for the injured tissues to recover. They are often considered the single most effective means of resolving MSDs, especially if they are provided at the earliest possible stage. If work restrictions are not provided, it may not be possible for the employee to recover, and permanent damage or disability may result.

For work restrictions to be effective, employers must ensure that they fit the physiologic needs of the injured employee. For example, work restrictions will only be effective if they reduce or prevent the employee's exposure to workplace risk factors that caused or contributed to the MSD or aggravated a pre-existing MSD. To find the right fit, employers may need to examine potential alternative duty jobs to ensure that the employee will still be able to rest the affected area while performing the alternative job. Identifying appropriate work restrictions may require the collaboration of different persons such as HCPs, safety and health personnel, persons involved in managing the ergonomics program, and the injured employee.

Although some covered MSDs are at such an advanced stage that complete removal from the work environment is the appropriate treatment, it usually should be the recommendation of last resort. Where appropriate, work restrictions that allow the employee to continue working (*e.g.*, in an alternative job, or by modifying certain tasks in the employee's job to enable the employee to remain in that job) are preferable during the recovery period. These types of restrictions allow employees to remain within the work environment. Studies indicate that the longer employees are off work, the less likely they are to return (Exs. 26–685, Ex. 26–919, 26–923, 26–924). If employers provide accurate and detailed information about the job and alternative jobs, it is more likely that the safety and health professional, ergonomist, or HCP will recommend restricted activity at

work rather than complete removal. Employers should communicate with safety and health professionals, HCPs, and others to coordinate the provision of work restrictions.

Under this provision, employers are not required to provide particular alternative jobs or work restrictions that an employee requests. Therefore, if a safety and health professional, ergonomist, or HCP recommends that the employee not perform lifting tasks or engage in repetitive motions during the recovery period, the employer is free to provide any form of work restriction that effectuates that work restriction recommendation. For example, if the recommended work restriction requires fewer repetitive motions, the employer may move the employee to an alternative duty job as a way of achieving this restriction. Or the employer could reduce the number of repetitions expected to be performed in the employee's current job in a number of ways: by reducing the amount of time the employee performs repetitive motions, by reducing the speed at which the employer performs the tasks, or by eliminating certain repetitive tasks during recovery. In the case of lifting jobs, the work restriction may be as simple as limiting the types or weights of objects the employee must move or lift.

Paragraph (b) requires that the employee receive appropriate follow-up during the recovery period. Follow-up is the process or protocol the employer, safety and health professional, and/or HCP uses to check up on the condition of employees with covered MSDs when they are given temporary work restrictions during the recovery period. Follow-up of injured employees is essential to ensure that MSDs are resolving and, if they are not, that other actions are taken promptly. This process helps to ensure that injured employees do not "slip through the cracks," for example, by being left in alternative duty jobs long after they have recovered, or by being given work restrictions without finding out if the restrictions are helping. If follow-up is not provided, neither the employer nor the safety and health professional or HCP will know that an employee's MSD symptoms are not abating or are becoming worse. Where follow-up is not provided or the healing process is not properly monitored, injured employees, in the end, may never be able to return to their jobs.

To be effective, follow-up may require the efforts of both an HCP and on-site personnel, such as the person(s) responsible for receiving and responding to employee reports. Some employers may use HCPs who already have a follow-up process in place. For example, some occupational medicine clinics have employees contact the clinic almost daily, or, alternatively, the clinic may contact the employee. In many situations, effective follow-up involves a team approach. This is especially true where the ergonomist, HCP or safety and health professional is not on-site and cannot see the employee on a daily basis. In these cases an on-site person (*e.g.*, nurse, person(s) designated to receive and respond to reports, human resources person) regularly checks on the employee and reports the results back to the HCP, ergonomist, or safety and health professional. This approach may be very effective because the HCP can be provided with almost daily reports on the injured employee's condition and respond quickly if the condition becomes worse.

Many stakeholders also recognize the need for effective follow-up and have made the process a standard company practice. Coors Brewing Company, for example, stated that it provides follow-up for injured employees as often as is necessary until the employee is released from care (Ex. 3–95).

Paragraph (c) requires employers to provide work restriction protection (WRP) to employees on temporary work restrictions. WRP is defined in § 1910.945 of the proposed rule as the maintenance of earnings and other employment rights and benefits of employees who are on temporary work restrictions as though the employees had not been placed on temporary work restrictions. For employees placed on temporary work restrictions short of complete removal from work (*e.g.*, an alternative duty job), WRP includes maintaining 100% of the after-tax earnings the employees were receiving at the time they were placed on work restrictions. For employees removed entirely from the workplace, WRP includes maintaining 90% of their after-tax earnings; the value of 90 percent is considered by OSHA to be a reasonable estimate of the percentage of take-home pay received by workers when awarded a worker's compensation claim. Thus, if an employee needs to be removed from work entirely, either because the employer, an ergonomist, a safety and health professional or the ergonomics committee has initiated it or the employer referred the employee to an HCP who recommended it, the employer must pay the removed employee 90% of the employee's after-tax earnings and maintain the employee's full benefits. If an employee is placed into an alternative duty job, however, that pays less than the employee was earning at the time the MSD occurred, the employer must maintain 100% of the employee's after-tax earnings, with full benefits. The benefits referred to in § 1910.945 include, for example, accrual of vacation time; employer contributions to health insurance; employer contributions to other workplace programs such as profit-sharing, life insurance, and pension; and seniority or "bidding" rights. Paragraph (c) also permits employers to condition the provision of WRP benefits upon an employee's participation in the MSD management required by the proposed standard.

By requiring employers to provide WRP, OSHA intends that employees have some economic protection when they are placed on temporary work restrictions. OSHA believes that this economic protection will encourage employees to come forward to report MSDs early; such reporting helps to ensure that the injured employees, as well as employees in the same "problem" job, are provided with protection from MSD hazards. Because early reporting is so critical to the proposed rule, OSHA has crafted WRP to encourage employees to report as early as possible. By requiring employers to maintain 100% of an employees' after-tax earnings when they are placed on temporary work restrictions short of complete removal from work, OSHA believes employees will have an incentive to report the onset of MSDs early, before their MSDs become so severe that complete removal from work is necessary. OSHA predicts that very few employees with covered MSDs will need to be removed entirely from the workplace during their recovery period. OSHA anticipates that restricted work activity will be sufficient for a large percentage of employees, particularly because the proposed standard requires employers to establish systems for the early reporting of MSDs and to provide prompt MSD management.

In the proposed standard OSHA is referring to this economic protection during temporary work restrictions as "work restriction protection (WRP)." In other OSHA health standards, similar provisions have been called "medical removal protection." OSHA is using the term "work restriction protection (WRP)" because it more accurately describes the typical recovery process for most employees with MSDs and the practical effect this provision will have on employers and employees. Moreover, the term "medical removal protection" implies that removal is necessitated by

a diagnosis or recommendation by an HCP. In the proposed rule, some restricted work activity (*i.e.*, immediate placement in alternative duty when an employee reports an MSD) need not be triggered by an HCP's opinion. OSHA does not believe it is appropriate to imply that restricted work activity can only be triggered by an HCP's opinion. OSHA intends that employees who are given restricted work activity even before seeing an HCP have WRP.

Note: When "medical removal protection" provisions in other health standards are discussed in this section, the term "WRP" is also used.

Section 1910.934 How long must I maintain the employee's work restriction protection when an employee is on temporary work restrictions?

You must maintain the employee's WRP until the FIRST of these occurs:

(a) The employee is determined to be able to return to the job,

(b) You implement measures that eliminate the MSD hazards or materially reduce them to the extent that the job does not pose a risk of harm to the injured employee during the recovery period; or

(c) 6 months have passed.

As mentioned above, the proposed rule would only require employers to provide work restrictions that are temporary, meaning that the work restrictions are for MSDs that are temporary and reversible. In this section, OSHA is proposing a time frame for the length of time employers would be required to maintain WRP, and identifies the points at which the employer's obligation to do so would end.

To ensure that WRP is provided only for temporary medical conditions, OSHA is proposing three cutoffs that limit the employer's obligation to provide WRP. The employer's obligation to provide WRP would cease when the first of the cutoffs occurs:

- The employee is able to return fully to the regular job,
- The job is fixed so the employee will not continue to get hurt, and
- WRP has been provided for 6 months

Although the proposed rule would require the employer to maintain WRP for as long as 6 months, evidence shows that the need to provide protection for 6 months is relatively rare. Although the median number of lost workdays for certain MSDs is quite high, as discussed in Chapter IV of the Preliminary Economic Analysis (Ex. 28–1) and Section VII of this preamble, data show that many MSD cases involve only a few days of work restriction before employees are able to return fully to work. In fact, according to the BLS, 50% of all MSD cases that involve days away from work result in less than 7 days away from work (Ex. 26–1413). Assuming no change in these lost workday trends, this evidence indicates that the first WRP cutoff that is likely to occur is that the employee is able to return fully to the regular job.

The second cutoff would occur when the employer fixes the job, either by eliminating or materially reducing the MSD hazards to the extent that the job does not pose a risk of harm to the injured employee during the recovery period. The second cutoff would occur even if the injured employee's MSD has not completely recovered. This cutoff is also likely to occur early in the process because so many ergonomic controls are quick and inexpensive. According to David Alexander, an ergonomist who has provided consultative services for employers in a broad range of industries, most jobs can be fixed for less than $500 (Alexander, D. and Orr, G. 1999, Ex. 26–1407). In addition, a number of controls involve making simple, low-cost changes in how the job is performed. For example, if a person is not tall enough to perform the task without reaching excessively, the employer could change the height at which the employee stands to perform the task. Or, if the reach for the product is too great, the employer can extend the length of the handle of the tool used to grab the product. If an employee's arm, leg or hand has contact with a hard work surface, the employer can wrap the surface with foam. In a warehousing area, employees can stack smaller amounts of product on each pallet, instead of stacking a large amount of product on one pallet. If an employer installs a fixture or device (a "jig") so that it maintains the correct relationship between a piece of work and the tool used during assembly, the employee does not have to use force or awkward posture to hold the part. Because controls for many jobs are inexpensive and cost less than WRP, this cutoff should create an incentive for employers to implement controls quickly.

The proposed rule itself facilitates the implementation of effective controls. Where a covered MSD occurs, the employer may either set up an ergonomics program for the employee in that job or do a Quick Fix. The Quick Fix provision of the proposed rule (see § 1910.909) essentially allows employers to bypass most of the requirements of the program if they can quickly implement controls that eliminate the hazard.

The final cutoff for WRP is 6 months. OSHA believes that few employers will be required to provide WRP for this length of time, because the overwhelming majority of MSDs resolve well before 6 months have passed. As mentioned above, the median number of days away from work for lost workday MSDs is 7. The 1998 Liberty Mutual data are consistent with the BLS data: only 11% of all UEMSD claims were associated with a length of disability of more than 6 months (Ex. 26–54). With implementation of the early reporting requirements in the proposed rule, that percentage should decrease.

Even though most MSDs involve substantially less than 6 months of recovery time, OSHA is proposing a maximum WRP duration of 6 months for several reasons. First, OSHA believes this is a "fallback" cutoff. Some employees with reversible MSDs may require longer recovery time. This is especially true where employees require surgery or where the employer has not established an aggressive early reporting policy and the MSD was not caught until signs or symptoms were more serious (see Oxenburgh 1984, Ex. 26–1367). Longer recovery time may also be necessary for employees who already have had an MSD or surgery, have a disability, or have other susceptibilities. OSHA wants to cover those cases that may require more time but nonetheless may still have good expectation of recovery.

At the end of the 6 month WRP period, employers should evaluate the employee's condition to determine whether work restrictions are still necessary and/or whether the employee can return to the job. OSHA seeks comment from interested parties on what protections should be provided to employees if their MSDs have not resolved at the end of the 6 month WRP period and they are not physically able to return to the job.

Section 1910.935 May I offset an employee's WRP if the employee receives workers' compensation or other income?

Yes. You may reduce the employee's WRP by the amount the employee receives during the work restriction period from:

(a) Workers' compensation payments for lost earnings;

(b) Payments for lost earnings from a compensation or insurance program that is publicly funded or funded by you; and

(c) Income from a job taken with another employer that was made possible because of the work restrictions.

Section 1910.935 specifies the offsets employers may make if an injured employee receives workers' compensation. This section serves two purposes. First, the provision helps to strike a balance by providing economic protection for employees who are placed on temporary work restrictions, while ensuring that employers need not provide WRP benefits that would result in the injured employee receiving more than current earnings. OSHA believes that an employer should not have to provide WRP benefits that duplicate the compensation the injured employee receives from other sources for earnings lost during the work restriction period. Although the most likely "other" source would most often be workers' compensation payments for lost earnings, the proposed rule also permits the employer to offset other earnings that would not have been possible but for the work restrictions, for example a job baby-sitting during the day because the injured worker is at home. (The employer would not be entitled to offset earnings the injured employee received from a second job held prior to the injury, except that the employer may offset any additional earnings from a previously held second job if such additional earnings were made possible by the work restrictions (*e.g.*, as a result of the work restrictions, the employee is able to work more hours at the previously held second job).)

Second, this section stresses that OSHA's intention in proposing WRP is not to supersede workers' compensation. If WRP were structured without regard to workers' compensation eligibility, it could be viewed as superseding workers' compensation. The offsets allowed in this paragraph are consistent with those in other OSHA health standards. The offsets for workers' compensation payments for lost earnings are permitted regardless of whether workers' compensation is publicly funded or employer-funded.

Part B—Work Restriction Protection

1. Legal Authority for WRP

The OSH Act authorizes WRP. WRP is authorized by the OSH Act as necessary to protect the health of employees suffering from MSDs. Section 6(b)(5) of the OSH Act directs OSHA to adopt the health standard that "most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity" if exposed to a hazard over a working lifetime. 29 U.S.C. 655(b)(5). Section 3(8) of the OSH Act explains that an "occupational health and safety standard [requires] the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment." 29 U.S.C. 652(8). The statutory provisions give OSHA broad authority to require employers to implement practices that are reasonably necessary and appropriate to provide safe and healthful work environments. See *United Steelworkers of America* v. *Marshall (Lead)*, 647 F.2d 1189, 1230 (D.C. Cir. 1980), *cert. denied*, 453 U.S. 913 (1981) ("A number of terms of the statute give OSHA almost unlimited discretion to devise means to achieve the congressionally mandated goal."). As discussed in greater detail below, WRP furthers OSHA's statutory mandate to protect the health of workers. By providing employees with economic protection if they are placed on temporary work restrictions, WRP encourages employee participation in MSD management and increases early reporting of MSDs. This prevents injured employees from suffering more severe injury, including permanent disability. This also helps to protect other employees in the same jobs by ensuring that MSD hazards are identified and controlled before other employees become injured.

WRP also furthers the broad purposes of the OSH Act. In the OSH Act Congress sought "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions." 29 U.S.C. 651(b). To achieve this goal, Congress authorized OSHA to:

- "[Develop] innovative methods, techniques, and approaches for dealing with occupational safety and health problems." 29 U.S.C. § 651(b)(5). WRP is such an innovative technique. WRP is designed to encourage early reporting of MSDs, and employee participation in MSD management and an employer's ergonomics program, thereby protecting the health of all employees.

- "[Build] upon advances already made through employer and employee initiative for providing safe and healthful working conditions." 29 U.S.C. § 651(b)(4). WRP builds upon advances currently found in workplaces. Many employers with existing ergonomics programs provide for economic protection for employees when they are on restricted work activity. In addition, many collective bargaining agreements that already contain ergonomics programs include WRP provisions.

- "[Provide] medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience." 29 U.S.C. § 651(b)(7). WRP is a critical component of MSD management which helps prevent workers from suffering from diminished health and functional capacity due to MSDs.

Courts uphold OSHA's authority to require WRP. Judicial decisions have upheld OSHA's authority under the OSH Act to require WRP. In *Lead*, the D.C. Circuit directly examined OSHA's authority to include WRP in the Lead standard and held (1) that the OSH Act gave OSHA broad authority to issue WRP, and (2) OSHA's inclusion of WRP in the Lead standard was necessary and appropriate to protect the health of workers. *Lead*, 647 F.2d at 1228–40.

In the *Lead* decision, the D.C. Circuit first held that OSHA's inclusion of WRP was within its statutory authority. The court found that the OSH Act and its legislative history "demonstrate unmistakably that OSHA's statutory mandate is, as a general matter, broad enough to include such a regulation as [WRP]." *Id.* at 1230. The court relied upon a number of provisions in the OSH Act in support of this finding, including 29 U.S.C. 651(b)(5) and the definition of an "occupational safety and health standard" discussed above. In short, the court held that OSHA has broad authority to fashion regulatory policies that further the goals of the OSH Act—enhancing worker safety and health and providing for safe and healthful working environments. See *Id.* at 1230 n. 64 ("[T]he breadth of agency discretion is, if anything, at [its] zenith when the action assailed related primarily * * * to the fashioning of policies * * * in order to arrive at maximum effectuation of Congressional objectives." (citation omitted)).

The court also concluded that the legislative history of the OSH Act supported reading the statute to authorize WRP. *Id.* at 1230–31. The court highlighted a statement by Senator Saxbe explaining how both the House and Senate versions of the OSH Act did not contain a "list of specific 'do's and don'ts' for keeping workplaces safe and healthful"; rather, both versions tasked OSHA with developing regulations to

address the various complexities of America's workplaces. *Id.* at 1230.

After concluding that OSHA had the statutory authority to promulgate WRP in general, the court held that OSHA's inclusion of WRP in the Lead standard was a reasonable exercise of that statutory authority. OSHA established that WRP was a preventive device necessary for the effectiveness of the standard. *Id.* at 1237. OSHA demonstrated that lead disease is highly reversible if caught in its early stages; however, OSHA provided evidence that employees "would resist cooperating with the medical surveillance program" absent assurances that they would have some economic protection if they were removed from their jobs due to high blood-lead levels. *Id.* at 1237. For example, employees fearing removal from their normal work without pay if they showed high blood-lead levels would tend to try to evade or cheat the blood test. The court held that WRP in the Lead standard was reasonably necessary and appropriate to protect the safety and health of workers.

Further supporting OSHA's authorization to include WRP in its standards, the D.C. Circuit in *International Union* v. *Pendergrass (Formaldehyde)*, 878 F.2d 389, 400 (D.C. Cir. 1989)) criticized OSHA for not including any WRP in its Formaldehyde standard and remanded the standard to OSHA for reconsideration of the necessity of including WRP. OSHA had claimed that WRP was not appropriate in part because the "nonspecificity of signs and symptoms [made] an accurate diagnosis of formaldehyde-induced irritation difficult," and the health effects from formaldehyde exposure for these employees quickly resolved. *Id.*

The court rejected OSHA's justifications and remanded the issue to OSHA for further examination. OSHA's failure to include WRP in the formaldehyde standard represented a dramatic "swerve" from prior health standards that required extensive explanation; OSHA's "allusions to 'non-specificity' of symptoms [were] too vague and obscure either to show consistency with OSHA's prior stance or to justify a reversal of position." *Id.* at 400. The court also stated that WRP was particularly appropriate in situations where employees recover quickly from the signs and symptoms of disease. *Id.*

On remand, OSHA included a WRP provision in the formaldehyde standard, explaining:

> On reconsideration, the Agency has concluded that [WRP] provisions can contribute to the success of the medical surveillance programs prescribed in the formaldehyde standard. Unlike some other substance-specific standards, the formaldehyde standard does not provide for periodic medical examination for employees exposed at or above the action level. Instead, medical surveillance is accomplished in the final rule through the completion of annual medical questionnaires, coupled with affected employees' reports of signs and symptoms and medical examinations where necessary. This alternative depends on a high degree of employee participation and cooperation to determine if employee health is being impaired by formaldehyde exposure. OSHA believes these new [WRP] provisions will encourage employee participation in the standard's medical surveillance program and avoid the problems associated with nonspecificity and quick resolution of signs and symptoms that originally concerned the agency. 57 FR 22290, 22293, May 27, 1992.

Formaldehyde makes clear that OSHA may not decline to include WRP in a health standard absent specific findings justifying such a change in Agency practice.

Other health standards support OSHA's inclusion of WRP. OSHA has included some form of WRP in many other health standards based upon findings that WRP is necessary to encourage employee participation in medical surveillance. See 29 CFR 1910.1025 (Lead); 29 CFR 1910.1027 (Cadmium); 29 CFR 1910.1028 (Benzene); 29 CFR 1910.1048 (Formaldehyde); 29 CFR 1910.1050 (Methylenedianiline); 29 CFR 1910.1052 (Methylene Chloride). OSHA has tailored the WRP provisions in these health standards to address the particular hazards involved, as well as to effectuate the purposes of the standards. In some of these standards, for example, WRP is triggered by a specific finding. In the Lead standard, WRP must be provided when blood-lead levels exceed certain limits. In other standards, however, WRP is provided even though no medical "triggering" test is available. In these instances, WRP must be provided (1) when an employee exhibits signs or symptoms of disease (see, *e.g.*, 29 CFR 1910.1048 (l)(8)(I) (Formaldehyde) "[WRP applies] when an employee reports significant irritation of the mucosa of the eyes or the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization attributed to workplace formaldehyde exposure."), or (2) there is a finding by a physician that an employee must be removed to avoid material impairment of health or functional capacity. Providing WRP based upon a finding by a physician (or HCP) is included in all other OSHA health standards with WRP. OSHA believes that this provision serves as a "backstop": it protects those employees who exhibit signs and/or symptoms of disease at particularly low exposures.

OSHA's inclusion of some form of WRP in other health standards based on findings that WRP is necessary to ensure employee participation in medical surveillance programs demonstrates an established policy that OSHA may not depart from without substantial justification. OSHA is aware of no such justification. To the contrary, OSHA's preliminary view is that WRP is necessary to encourage early and full employee reporting, which is critical if the standard is to reduce the number and severity of MSDs.

2. Necessity Of WRP

As discussed in more detail in the Risk Assessment and Significance of Risk sections of this preamble, many employees currently suffer from MSDs. OSHA believes that WRP is a critical component of the proposed rule for the following reasons:

1. WRP encourages employee participation in MSD management and the ergonomics program;

2. WRP encourages early reporting of MSDs, and/or signs and symptoms of MSDs;

3. The actions required of employers by the proposed rule are determined by reported MSDs; and

4. There is no justification to deviate from past OSHA practice and exclude WRP.

WRP encourages employee participation in MSD management and the ergonomics program.—There is evidence that many employees at present do not report MSDs, and/or signs and symptoms of MSDs, because they fear any or all of the following will happen to them if they report signs and/or symptoms of MSDs, and/or are diagnosed with an MSD:

1. They will be transferred to alternative "light" duty at reduced pay (see Exs. 3–184; 3–186);

2. They will be fired or suffer a great financial loss and lose their benefits (see Exs. 3–151; 3–183; 3–184; 3–186); or

3. They will suffer other forms of job discrimination or retaliation (see Ex. 3–121).

These comments are consistent with those comments OSHA received during other health standards rulemakings where similar WRP provisions were proposed. See, *e.g.*, 43 FR 54354, 54442, November 21, 1978. These fears are particularly acute for the many low-wage employees who live "pay check-to-pay check." Evidence and data show that many of the jobs where ergonomic problems are severe are jobs that pay minimum wage or only slightly above minimum wage. For example, as detailed in the Preliminary Risk Assessment, some of the jobs with the highest incidence of MSDs are those held by nursing aides, orderlies, and attendants; laborers (not construction); stock handlers and baggers; and maids and housemen.

OSHA's concern about the pressure on workers not to come forward to report their MSD signs and symptoms early is heightened by two factors: the large number of employees who do not receive sick leave, and the difficulty employees have in receiving State workers' compensation benefits for work-related MSDs. The BLS reports that only 50% of workers are covered by sick leave benefits, *i.e.*, were paid for work absences due to illness or injury; 64% of blue collar workers are not provided this basic benefit (BLS 1995, Ex. 26–1406).

Each State has a statutory workers' compensation system that controls eligibility for and payment of benefits for State, municipal, and private sector employees. The Federal government operates a workers' compensation system covering Federal workers, and there are Federal statutes that create special compensation schemes for longshore and harbor workers and coal miners. The workers' compensation laws in each State are the result of legislative enactments and interpretations of courts and administrative tribunals, and the laws among States often vary sharply as to what injuries are covered and what benefits are paid.

All States compensate injured or ill workers with MSDs, at least to some degree. However, obtaining workers' compensation for MSDs is complicated by the difficulty of fitting an MSD into the State's definition of an injury caused by accident (an acute, traumatic injury traceable to a particular occurrence at a particular time and place) or an illness meeting the State's definition of occupational illness (often a specific list of diseases or a definition that includes only diseases associated with particular occupations); by the State-imposed statute of limitations on occupational illnesses; and by the high level of litigation associated with these claims.

State statutes have increasingly limited the compensability of MSD claims. In Virginia, for example, the only MSD that is covered is carpal tunnel syndrome (CTS); all other MSD claims are not accepted. Idaho requires the employee to have worked for a single employer for 60 days before a claim for a non-acute injury is considered. In Louisiana, if a claimant was on the job for less than 12 months, he or she needs an "overwhelming preponderance of the evidence" to receive compensation. In Texas, the claimant must prove the disease is inherent in that particular type of employment. The result of this trend can clearly be seen in the substantial underreporting of MSDs reported in a number of peer-reviewed articles (Cannon, *et al.* 1981, Ex. 26–1212; Mazlish, *et al.* 1995, Ex. 26–1186; Silverstein, *et al.* 1997, Ex. 26–28).

Those claims that are filed are often litigated and may drag on for years. For example, the California Workers Compensation Institute reported that 94% of the State's cumulative trauma claims were litigated and that employers in California pay $0.33 in litigation costs for every $1 paid in benefits for these cases. For other claims, this figure is $0.15 per $1 of benefits paid (Kohn 1997, Ex. 26–1408).

OSHA believes that both factors—the low level of sick leave benefits available to workers and the difficulty employees have in receiving workers' compensation benefits for work-related MSDs—underscore the importance of the proposed standard's WRP provisions. OSHA believes that by providing employees who must be placed on temporary work restrictions with some guaranteed economic protection, WRP will reduce employee anxiety about reporting signs and/or symptoms of MSDs. Thus, OSHA believes that employees will be more willing to participate actively in MSD management and the ergonomics program.

WRP encourages early reporting of MSDs, and/or signs and symptoms of MSDs. WRP also encourages employees to report MSDs, and/or signs and symptoms of MSDs, as early as possible, so that employers can determine whether the MSD is covered and/or whether temporary work restrictions are appropriate. Early reporting of MSDs leads to early detection and successful treatment of MSDs.OSHA has substantial evidence that most MSDs are reversible if treatment is provided early, before the disease becomes debilitating (see Exs. 3–56; 3–59; 3–179; 3–184). In addition, early detection and intervention reduces the severity of MSDs, as well as the treatment required to address the MSDs. An added benefit is that early detection, intervention, and treatment reduce the costs of MSDs for both employers and employees (see Exs. 3–23; 3–33; 3–50; 3–56; 3–59; 3–121; 3–124; 3–151; 3–162; 3–179; 3–184). Conversely, when employees do not report MSDs, and/or the signs or symptoms of MSDs early, they will likely continue working until their MSDs become (1) compensable under workers' compensation statutes, or (2) more severe and/or disabling. This results in more damage to the affected employee, higher costs for the employer, and reduced productivity.

Because early reporting is so important, the proposed WRP requirements are designed to maximize the incentives employees have to report signs and/or symptoms of MSDs early. As stated above, OSHA is requiring employers to maintain 100% of an employee's after-tax earnings if the employee is placed on work restrictions short of complete removal from work. OSHA believes that this will encourage employees to report signs and/or symptoms of MSDs at the earliest possible point, before their conditions become so severe that complete removal from work is necessary.

The early reporting that will result from WRP will not only provide protection for injured employees, it will provide protection to other employees as well. Early reporting allows employers to identify problem jobs early and to take the necessary steps to correct the identified hazards before other employees become hurt. In addition, early reporting may ensure that job fixes are provided more quickly. Since employers bear the costs of providing MSD management and WRP, they will have an incentive to reduce or avoid those costs by implementing effective and appropriate ergonomics programs in their workplaces. See 43 FR 54354, 54449, November 21, 1978 ("One beneficial side effect of [WRP] will be its role as an economic incentive for employers to comply with the inorganic lead standard.").

OSHA has evidence that in current ergonomics programs where employees report signs and/or symptoms of MSDs early, the number of MSDs and the number of lost-time/lost-day injuries decreases (see Ranney 1993, Ex. 26–913; Day 1987, Ex. 26–914; see also Oxenburgh 1984, Ex. 26–1367). This evidence demonstrates that where employees report MSDs early: (1) the severity of the MSDs decreases, and (2)

greater protection is provided to other employees in the workplace, so that they do not develop MSDs.

During OSHA's public outreach process, every stakeholder who commented on this subject agreed that early reporting of MSDs is critical to preventing disease and to protecting workers. They confirmed that early reporting also reduces the costs to the employee and employer (see Exs. 3–197; 3–118; 3–124; 3–151; 3–56; 3–68; 3–107). Moreover, many stakeholders that currently have ergonomics programs said that they achieved dramatic reductions in the number and severity of MSDs once they implemented an effective early reporting process (Exs. 26–23 through 26–26). This experience is consistent with the literature and studies conducted on ergonomics programs (see NIOSH 1997, Ex. 26–2; Oxenburgh 1985, Ex. 26–1405).

WRP is necessary where employer action is triggered by reports of MSDs. Whether the proposed rule covers certain jobs is determined, in part, by the reporting of an OSHA recordable MSD. This incident-based "trigger" is unique to OSHA health standards. In other OSHA health standards, employers are required to monitor their workplaces for hazards and control those hazards. In this proposed standard, however, employers will not have to implement certain aspects of an ergonomics program until a covered MSD is reported.

In order for an incident-based rule to be as effective as possible in providing protection for employees, employees must be willing to report MSDs, and/or signs and symptoms of MSDs. If employees are not willing to come forward and report MSDs, serious MSD hazards in that job will go uncontrolled, thus potentially placing every employee in that job at increased risk of harm. Moreover, some stakeholders fear that an incident-based "trigger" will create an incentive for employers to discourage employees from reporting MSDs. There is strong evidence that there currently is significant underreporting of MSDs (see Exs. 2–2; 2–4; 2–22; 3–159; 3–160; Fine *et al.* 1986, Ex. 26–920; Liss 1992, 26–918; Silverstein, *et al.* 1997, Ex. 26–28). OSHA believes that WRP in this proposed rule is thus particularly necessary to ensure that employees come forward and report MSDs early. OSHA believes the proposed WRP provision provides the necessary economic protection to ensure such employee reporting and participation.

No justification to deviate from past OSHA practice and exclude WRP. As mentioned above, many OSHA health standards include WRP. These standards are based on findings that workers are less likely to participate in needed medical management programs if they may suffer severe economic loss as a result. The court in Formaldehyde held that this principle evinced a clear policy that is to be followed unless OSHA gives a persuasive justification for deviating from it. Cf. Formaldehyde, 878 F.2d at 400. OSHA believes that it does not have justification for deviating from its past practice of including WRP in health standards where necessary and appropriate to encourage the participation of employees in programs designed to protect the safety and health of workers.

In particular, the fact that there are no unambiguous biological monitoring tests for diagnosing some MSDs is not a sufficient justification for such exclusion. Formaldehyde, 878 F.2d at 400. In addition, the fact that some MSDs resolve quickly is not sufficient to exclude WRP. *Id.* The court in Formaldehyde stated that if affected employees have quick recovery periods, they "surely could benefit from receiving [WRP] during the recovery period." *Id.*

3. Stakeholder Comments on WRP

The issue of WRP has engendered much discussion. OSHA discussed different forms of WRP with its stakeholders, and OSHA has received many comments from industry, labor, and others on WRP generally, as well as on the specific elements of WRP. Many stakeholders, particularly those in the health care profession, support the inclusion of some WRP provision in the proposed rule (see, *e.g.*, Ex. 3–124). These professionals recognize the importance of encouraging employee participation in MSD management. Employees and their representatives also support some form of WRP as being necessary to the effectiveness of the proposed standard generally, and the effectiveness of MSD management specifically (see Exs. 3–184; 3–164). A large number of stakeholders, however, object to the inclusion of any form of WRP in the proposed standard. These stakeholders contend that WRP:

1. Is not necessary for the effective functioning of the standard;

2. Violates section 4(b)(4) of the OSH Act;

3. Poses a significant economic hardship for employers, especially small employers; and

4. Will be abused by employees.

Is WRP necessary? Some stakeholders argue that WRP is not necessary to get employees to report MSDs. They point to the fact that more than 600,000 MSDs are reported each year. MSDs, they state, account for approximately one of every three dollars paid out in workers' compensation claims. Given these numbers, these stakeholders state that the proposed rule does not need WRP to encourage employees to report MSDs and participate in MSD management. They say that the proposed requirements that employers encourage reporting, train employees in reporting, and refrain from retaliating against employees who do report, are sufficient measures to achieve the objective of early reporting of MSDs.

While OSHA agrees with stakeholders that many MSDs are reported each year, there is also strong evidence that MSDs are significantly underreported (see Exs. 2–2; 2–4; 2–22; 3–159; 3–160, 26–920, 26–918, 26–28). In the last 18 years, many peer-reviewed studies that document underreporting of MSDs in OSHA logs have been published in the scientific literature (Exs. 2–2, 26–1212, 26–1186, 26–28, 26–1258, 26–920, 26–922, 26–1259, 26–1261, 26–1260). These studies document extensive and widespread underreporting on the OSHA logs of occupational injuries and illnesses (Ex. 2–2) and of MSDs (Exs. 26–28, 26–1258, 26–920, 26–922, 26–1259, 26–1261, 26–1260). The studies also show that a large percentage of workers with MSDs that were identified as work-related by health care providers do not file workers' compensation claims (Exs. 26–1258, 26–1212, 26–920). In one early study, only 47 percent of workers with medically diagnosed cases of CTS filed claims (Ex. 26–1212). Fine and his co-authors found that, in two large automobile manufacturing plants, workers' compensation claims were filed in less than 1 percent of medically confirmed cumulative trauma cases in one plant and in only 14 percent of such cases in another (Ex. 26–920). A recent study of 30,000 Michigan workers who were identified by a health care provider as having a work-related injury showed that only 9 to 45 percent of workers filed a workers' compensation claim for their injuries (Ex. 26–1258). (For a more detailed discussion of these studies and a table summarizing them, please refer to Section VII of this preamble.) OSHA is including WRP in the standard to cure underreporting and to secure early reporting.

OSHA believes that existing State workers' compensation systems are not sufficient to encourage employees to report MSDs early and to cure this underreporting. As stated earlier, every State has a different workers' compensation system. In many States, obtaining workers' compensation for MSDs is difficult due to the different definitions of "injuries" or "illnesses" in the various States, the different State statutes of limitation, and the contentious litigation that is often associated with claims for compensation for MSDs. In addition, some States provide no compensation for some MSDs (see, *e.g.*, Virginia for rotator cuff tendinitis, epicondylitis, etc.). There is also another reason workers' compensation payments may not be adequate to ensure early employee reporting of MSDs. All States have waiting periods ranging from 1 to 7 days before an injury or illness is compensable under workers' compensation. Many employees cannot go even a few days without any pay. This is particularly true for many low-wage employees who live pay check-to-pay check. OSHA believes that existing workers' compensation systems are not adequate to ensure the effectiveness of MSD management.

Some stakeholders contend that WRP is not necessary because many employers do not currently reduce the pay or benefits of employees when they are placed on restricted work duty. OSHA agrees with these stakeholders that many employers with good ergonomics programs and generous benefits policies do not reduce injured employees' pay and benefits when they are given, for example, alternative duty jobs. Other stakeholders, however, have told OSHA that many employers do reduce pay in such cases. Some stakeholders have also said that to create an incentive to return to work quickly, employers may not allow employees to use sick leave if they develop a workplace injury or illness (see Ex. 23). Also, OSHA estimates that approximately 50% of businesses do not even have a sick leave policy (Ex. 26–1406). OSHA believes that these kinds of practices would significantly deter employee reporting and would persist if the ergonomics rule did not include WRP.

Does WRP violate section 4(b)(4) of the OSH Act? Several stakeholders contend that the WRP provision in the proposed rule violates section 4(b)(4) of the OSH Act because it would preempt, replace, and/or overwhelm State workers' compensation laws and systems.

Section 4(b)(4) of the OSH Act provides:

> Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment. 29 U.S.C. § 653(b)(4).

Congress included section 4(b)(4) in the OSH Act for a number of reasons. First, the section is intended to bar "workers from asserting a private cause of action against employers under OSHA standards." *Lead*, 647 F.2d at 1235. See also *Ben Robinson Co.* v. *Texas Workers' Compensation Comm'n.*, 934 S.W.2d 149, 156 (Tex. App. 1996) ("*Ben Robinson*") (Section 4(b)(4) of the OSH Act sought "to prevent injured workers from circumventing workers' compensation by claiming a private cause of action based on the OSH Act" (citing *Pratico* v. *Portland Terminal Co.*, 783 F.2d 255, 265 (1st Cir. 1985))). Second, this section of the Act is intended to prevent any party in an employee's claim under workmen's compensation law or other State law from asserting that an OSHA regulation or the OSH Act itself preempts any element of State law. *Lead*, 647 F.2d at 1236. An employee thus cannot obtain relief under State law for a disablement that is not compensable under that law simply because an OSHA standard provides protection against that disablement. Similarly, when an employee is injured, the employer cannot escape liability under State law simply because OSHA has not regulated the hazard that caused the injury.

The D.C. Circuit has held that WRP does not violate the language or intended purposes of section 4(b)(4). See *Lead*, 647 F.2d at 1236; cf. Formaldehyde, 878 F.2d 400. In the *Lead* decision, the court squarely addressed the issue of whether a similar WRP provision violated section 4(b)(4). The WRP provision at issue in *Lead* required employers to maintain an employee's "earnings and seniority rights during removal for a period of 18 months." *Lead*, 647 F.2d at 1230. In *Lead*, the opponents of WRP argued that WRP violated section 4(b)(4) because, in practical terms, WRP would "wholly replac[e]" workers' compensation (*i.e.*, federalize workers' compensation). *Id.* at 1234. Opponents claimed that WRP violated workers' compensation because it provided compensation before the point at which workers' compensation recognized the disability. *Id.* They also argued that WRP would render workers' compensation meaningless because disabled employees receiving full earnings under WRP would never seek workers' compensation. *Id.*

The court in *Lead* found these arguments unpersuasive. First, the court held that the section's prohibition against "affecting" or "superseding" workers" compensation could not be read too broadly because all OSHA standards are meant in some way to "affect" workers" compensation and ultimately to "supersede" it in the sense that they seek to ensure that employees are protected from injury and never have the need to seek such compensation. *Lead*, 647 F.2d at 1235. *Cf. Ben Robinson*, 934 S.W.2d at 156. The goal of this proposed rule is the same as the goal for the Lead standard: to ensure that employees are protected from developing MSDs and therefore have no need to seek workers' compensation.

Next, the court found that even if WRP were available, injured employees would have incentives to seek workers' compensation because: (1) Workers' compensation would reimburse them for the medical treatment expenses that WRP would not cover; and (2) WRP would only last for several months (*e.g.*, 18 months in the Lead standard; 6 months in the proposed rule), while workers' compensation would compensate them for longer periods of disability, and in certain cases indefinitely. *Lead*, 647 F.2d at 1235. The court's finding is particularly applicable to the proposed rule. Employees with MSDs would still have several incentives to seek workers' compensation. The only way employees with severe disorders could get reimbursement for medical expenses such as prescription medicines, physical therapy, and surgery, would be by filing a workers' compensation claim. (The proposed rule does not require that employers pay for the medical treatment costs, such as those for surgery or physical therapy, of employees who have covered MSDs.) In fact, employees with MSDs have an even greater incentive to file claims than employees covered by the Lead standard because the proposed rule limits WRP to 6 months (compared to 18 months for the Lead standard).

The court in *Lead* held that even if WRP has a "great practical effect" on workers" compensation, it does not violate section 4(b)(4) as long as it "leaves the state scheme wholly intact, as a legal matter." *Lead*, 647 F.2d at 1236. The proposed WRP provision does not touch the legal scheme of existing State workers' compensation laws, even though it may result in a reduction in workers' compensation claims and payments. The proposed WRP provision would not

require States to cover MSDs that they have excluded from coverage. The proposed WRP provision would not require States to change the percentage of lost wages it will replace. The proposed WRP provision also would not change the legal tests for compensability; that is, it would not require that compensation be awarded when work "contributed" to the MSD if State workers' compensation laws only allow it when work is the "primary cause" of the MSD.

The stakeholders who oppose WRP state that the *Lead* decision's reference to "great practical effect" is not applicable to the proposed WRP provision. They contend that the "practical effect" this provision would have is much greater than that anticipated by the *Lead* court. They argue that this standard, and thus the WRP provision, will cover a significantly greater number of employers and employees than previous OSHA standards. This means, they state, that a significantly larger number of employees will receive WRP. This degree of "practical effect," they state, would either overwhelm workers' compensation or render it meaningless or insignificant.

Although stakeholders are correct that the proposed rule is likely to cover more establishments than many other health standards, OSHA believes that these stakeholders overstate the "practical effect" that the proposed WRP provision would have on workers' compensation as well as individual employers. While the median number of lost workdays for certain MSDs is quite high, as discussed in Sections IV and VII, the median number of lost workdays for all MSDs is 7 (Ex. 26–1413). Thus, in many cases the impact of WRP will be limited because a large percentage of MSDs resolve in a matter of days and many employers allow workers who must stay away from work or be on restricted work to use their sick leave for this purpose. By contrast, in other health standards, such as lead, it usually takes longer, for example, for blood lead levels to decline to acceptable levels. Once the ergonomics standard is final, the percentage of MSDs involving less than 6 days away from work should increase as employees are informed about the importance of early reporting, and employers implement better controls to reduce MSD hazards.

Second, as mentioned above, most MSDs resolve if employees are simply placed in alternative work duty during the recovery period. Where employers provide such work duty, only a very small number of cases ever require complete removal from work for any significant period of time. This suggests that the impact on workers' compensation will be much more limited than the stakeholders contend. Furthermore, as employers identify and fix problem jobs and employees are trained to report MSDs as early as possible, the numbers of injured employees requiring complete removal from work during the recovery period should decrease significantly. Companies that have implemented effective ergonomic programs report that lost-time/day injuries have decreased significantly or have been eliminated (Ex. 26–5; Ex. 3–147). In addition, the WRP provision itself is crafted to encourage employees to report signs and/or symptoms of MSDs as early as possible, thereby decreasing the number of employees with MSDs that will require complete removal from work.

Third, for many employers, WRP should have little impact. Many employers who have told OSHA that they already have an alternative duty program for employees with MSDs also said that they do not reduce employee pay when employees are placed on restricted work duty during the recovery period.

Finally, the type of "practical effect" many employers believe WRP will have on workers' compensation systems is precisely the effect that the courts have said OSHA standards are intended to have. *Lead*, 647 F.2d at 1234–35. *Cf. Ben Robinson*, 934 S.W.2d at 156. The goal of WRP, as well as other provisions of the proposed rule, is to protect employees from suffering material impairment of health or functional capacity. Achieving that goal will result in reducing or eliminating the need to seek workers' compensation. This effect, however, does not violate section 4(b)(4) of the OSH Act. *Lead*, 647 F.2d at 1234–35.

Will WRP impose substantial economic hardship on employers? Some stakeholders argue that WRP will impose a substantial economic hardship on employers, especially small employers, because it will be so expensive to implement. Stakeholders argue that small employers will not be able to remain in business if they must provide employees with WRP.

OSHA is aware of the stakeholders' concerns, but the Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis show that the proposed rule, which includes the WRP provision, is economically feasible for all of the industries that OSHA is proposing to cover, including small employers in those industries. Available data discussed above indicate that these stakeholders may be overstating the economic impact of the proposed rule. While the median number of lost workdays for certain MSDs is quite high, as discussed above, OSHA estimates that most MSDs do not result in any days away from work, and data on those that do indicate that half of all such reported MSDs (*i.e.*, lost workday MSDs) resulted in 7 or fewer days away from work (Ex. 26–1413). Once the proposed rule's provisions stressing the importance of early reporting become effective, the number of MSDs requiring more than 7 days away from work should decrease further. Thus, OSHA believes that the requirement to provide WRP will encourage employers to more quickly implement an effective ergonomics program (1) to detect MSDs, (2) to institute effective controls, and (3) to prevent other employees in the same job from developing a covered MSD. These actions will reduce the number and severity of MSDs, thus reducing WRP costs.

Will WRP be abused? Some stakeholders stated that WRP will be abused by employees. These stakeholders contend that MSDs are too difficult to reliably diagnose; thus, they contend that WRP will give employees an incentive to report injuries that occur "off-the-job" as injuries that are work-related. Certain stakeholders also fear that an employee could persuade an HCP to write a medical recommendation for six months of removal, even though the employee is not injured or not injured to the extent that such a period of removal is necessary.

OSHA has drafted the proposed standard to reduce any potential for employee abuse that may exist. First, OSHA is only requiring employers to maintain 90% of employees' after-tax earnings if they are removed form work entirely. If an employee is placed in work restrictions short of complete removal, the employer must maintain 100% of the employee's after-tax earnings. OSHA believes that this scheme provides little incentive for employees to persuade an HCP to write an unnecessary removal recommendation for six months or otherwise abuse WRP. To the contrary, OSHA believes that WRP will encourage employees to report signs and/or symptoms of MSDs as early as possible to avoid complete removal from work..

Second, OSHA emphasizes that employers have the ability to prevent abuse. Under the proposed rule, employers make the determination as to whether a reported MSD is covered by the standard, *i.e.*, whether the MSD is an OSHA

recordable MSD and meets the screening criteria in § 1910.902. This gives employers the ability to prevent employees from receiving WRP benefits for injuries that are not work-related and covered by this standard. In addition, OSHA believes that implementation of an ergonomics program under this standard will decrease significantly any opportunity for abuse as MSD hazards are removed from the workplace.

Third, the proposed standard only requires that employers provide temporary work restrictions (and thus WRP) where necessary or when recommended by an HCP to whom the employee was referred by the employer. The employer need not remove the employee from work based only on a request made by the employee.

Fourth, when an employer refers an employee to an HCP and that HCP provides recommended temporary work restrictions, the proposed rule only requires the employer to provide the temporary work restrictions that the HCP actually recommends. This means that if the HCP recommends restricted duty, the employee is not entitled to time-off from work. Where employers provide the HCP with information and communicate with them about alternative duty jobs, OSHA believes that the HCP will be more likely to recommend restricted work activity than complete removal. Recent BLS statistics bear this out: since 1992, the percentage of restricted workdays for all occupational injuries and illnesses has increased by 50%, while the percentage of lost workdays has decreased by a substantial amount. This trend, which reflects the influence of return-to-work programs among other factors, shows no signs of abating.

Finally, the proposed standard does not require employers to provide WRP if they correct the hazards associated with the MSD such that there is no risk of harm to the employee during the recovery period. A workplace with hazard controls further reduces any potential for employee abuse associated with WRP.

For all of these reasons, OSHA believes that WRP will not provide employees with an incentive for abuse.

Part C—Alternatives

A number of stakeholders, including some who participated in the SBREFA process, and the SBREFA panel, have recommended that OSHA look at various alternatives to the proposed WRP provisions. OSHA has examined the following alternatives:

- Require employers to maintain 100% of an employee's after-tax earnings whenever the employee is placed on temporary work restrictions, including complete removal from work;
- Reduce the amount of time an employer would be required to provide WRP to an employee with an MSD;
- Propose a WRP provision that includes special provisions or an exemption for small businesses such as those included in the Methylene Chloride standard;
- Phase-in WRP over a period of time ranging from a number of months to as long as three years; and
- Require employers to provide employees with non-monetary incentives to report MSDs, instead of requiring WRP.

OSHA has carefully considered these alternatives. For the reasons that follow, OSHA has preliminarily decided not to include these provisions in the proposed ergonomics rule.

Require employers to maintain 100% of an employee's after-tax earnings whenever the employee is placed on temporary work restrictions, including complete removal from work. As stated, WRP requires employers to maintain 100% of an employee's after-tax earnings, plus full benefits, if the employee is placed on temporary work restrictions short of complete removal from work; however, if an employee is removed entirely from work, the employer must maintain 90% of the employee's after-tax earnings, plus full benefits. This differs from the WRP provisions in other health standards. In other health standards, OSHA requires that employers maintain an employee's full earnings, rights, and benefits when an employee is medically removed from work. See, *e.g.*, 29 CFR 1910.1025 (Lead); 29 CFR 1910.1027 (Cadmium). OSHA considered requiring employers to maintain an employee's full take-home pay and benefits whenever the employee is placed on any temporary work restrictions, including complete removal from work, but OSHA preliminarily has decided not to include this alternative in the proposed rule. As discussed in the Preliminary Economic Analysis (Ex. 28–1), this alternative would increase the costs of WRP by 36 percent.

OSHA believes that the proposed WRP provision provides the requisite economic protection to encourage employees to participate fully in the MSD management program. OSHA anticipates that few employees will require complete removal from work during the recovery period. For those few employees requiring complete removal, maintenance of 90% of their after-tax earnings (and full benefits), coupled with the cost savings from the elimination of such expenditures as commuting expenses, will provide them the requisite economic protection to effectuate the purposes of WRP: encouraging employee participation in MSD management. As stated, OSHA also believes that the proposed WRP design is uniquely suited to encourage employees to report MSDs as early as possible, a critical aspect of the proposed rule.

Reduce the length of time an employer would be required to provide WRP to an employee with an MSD. OSHA is proposing that employers may stop providing WRP benefits when the first of certain cutoff points occurs. The cutoff points are: the ability of the employee to return fully to the job; the successful control of the job; and, as a last resort, 6 months of WRP. OSHA considered reducing the length of time employers would have to provide WRP.

The vast majority of MSDs resolve in substantially less than six months. According to the Liberty Mutual Insurance Company, the largest workers' compensation insurer in the United States, 75% of all UEMSD claims in 1994 did not involve any days away from work and only about 11% of those involving lost workdays resulted in more than 6 months away from work (Ex. 26–54). This evidence indicates that most MSDs, if detected early, can be resolved very quickly. Even for CTS cases, the injury and illness with the highest number of median days away from work, the median number of days away from work in 1996 was 25 days, according to BLS (see Section VII). (The average number of lost workdays for CTS cases is likely to be higher since more than 42% of all CTS cases resulted in more than 30 days away from work.)

For claims for MSDs of the lower back, the most prevalent of all work-related MSDs, according to Liberty Mutual, the median number of days away from work was 7 days in 1996 (Ex. 26–54). Therefore, although the proposed rule provides 6 months of WRP protection, the evidence indicates that it is unlikely that 6 months would be the first cutoff event to occur.

However, there is also evidence that some employees may require an extended period to recover, and that a small percentage may require even more than 6 months. According to Liberty Mutual, for the one-quarter of the UEMSDs that

did involve at least one day away from work, the average length of disability was 294 days and the median was 99 days (Ex. 26–54). One reason for the longer disability period may be that a high percentage of these cases involved surgeries, such as carpal tunnel release surgery, which would require a longer recovery period.

In other health standards that have WRP provisions, OSHA has set the length of WRP based primarily on its "best estimate" as to the rate (*i.e.*, time) at which employees will recover from the adverse health effect. In the Lead standard, the length of the WRP represented the rate at which employees with high blood-lead levels would naturally excrete lead if removed from lead exposure. See 43 FR 54354. 54469, November 21, 1978. Applying that principle, OSHA said in the preamble to the Lead standard that a maximum of 18 months was a reasonable and appropriate length of time, particularly since some workers had high blood lead levels: "Very few workers should require longer than 18 months to decline to acceptable blood lead levels, and 18 months is not in excess of what some long-term lead workers may require." *Id.* at 54469.

The criterion OSHA applied in the Lead standard also supports OSHA's preliminary determination that employers should be required to provide up to 6 months of WRP for employees with MSDs, if necessary. According to BLS, 42% of all reported CTS cases involved more than 30 days away from work in 1992 (see Section VII). Data from Liberty Mutual confirm this. Liberty Mutual reported that for those UEMSDs involving lost-work time, the typical disability duration was more than 3 months (Ex. 26–54). Given these data, OSHA believes that the 6-month maximum time is reasonable because it would allow the majority of employees time to recover before losing WRP benefits. The six-month period is appropriate because this phase of the ergonomics rule is focusing on those jobs where employees have the highest numbers and rates of MSDs that are serious enough to result in days away from work.

In the Preliminary Economic Analysis, OSHA has provided preliminary cost estimates for three alternatives to the 6-month time period for WRP:

- A 3-month WRP provision;
- No WRP during the average workers' compensation waiting period (3 days);
- Providing WRP only for a limited number of days.

3-month WRP Provision. Cutting the WRP period in half to 3 months would reduce WRP costs somewhat. This alternative, however, would not cut the costs of WRP in half. This is because the vast majority of MSDs (75%) do not involve days away from work and the percentage of cases involving employees who are out of work for 3 months is not substantially less than the percentage out of work for 6 months. To illustrate, Liberty Mutual found that 89% of all workers' compensation indemnity cases for UEMSDs involved less than 6 months away from work, while 85% involved less than 3 months away from work—a difference of only 4% (Ex. 26–54).

If the WRP period were reduced to 3 months, however, many employees with UEMSDs that involve more than 3 months away from work would not receive WRP after the original 3 month period. According to Liberty Mutual, a majority of UEMSD workers' compensation claims resulted in more than 3 months away from work. In addition, the median number of lost workdays for these cases was 99 days and the mean was 294 days (Ex. 26–54). Thus, even looking only at UEMSDs, a 3-month WRP period would provide no WRP benefits after the first 3 months to more than 12% of all lost workday cases. This percentage of cases is hardly the equivalent to the "very few" cases of lead-poisoned workers who were estimated to need more than 18 months to recover. If the WRP period is significantly shortened, injured employees may have to return to their jobs before their condition resolves, which increases the likelihood of reinjury or aggravation of the MSD.

No WRP during the average workers' compensation waiting period (3 days). Under this option, WRP would not be provided until an employee has missed three days of work. All State workers' compensation systems have a waiting period. The waiting periods range from 1 to 7 days; most States have a waiting period of either 3 or 7 days. This alternative would not require employers to cover the expenses of an injured employee for the first 3 days, the average workers' compensation waiting period. While this alternative may reduce the costs of WRP somewhat, if adopted, it would reduce employee protection by 75%. Once again, this is because the vast majority of all reported MSDs involve no lost workdays or only a few lost workdays.

OSHA believes that, particularly for employees in low-wage jobs, this alternative would not achieve the goal of WRP: the early reporting of all MSDs. Stakeholders have told OSHA that workers in these low wage jobs are so fearful of the consequences of losing up to a few days of wages that they would not report MSDs or participate in MSD management if faced with the threat of this economic loss. Under this alternative, employers would not be prohibited from sending an employee with an MSD home after three days, even if an alternative duty job would be an effective way of managing the employee's recovery. While OSHA is aware that some employers currently pay employees during the State workers' compensation waiting period (see Exs. 26–23 through 26–26), stakeholders also said that a number of employers do not pay employees during this period, even if they are sent home (see Exs. 26–23 through 26–26). Some employers have policies to send any employee who reports an MSD home without pay for some number of days (see Exs. 26–23 through 26–26). Other employers told OSHA that they do not permit employees to use their sick leave to cover work-related injuries (see Ex. 23). These types of practices indicate that this alternative to the proposed WRP provision is unlikely to reduce employee fears of reporting MSDs early. Again, if employees do not report, it could result in increased harm to that employee and others in the same job. Indeed, this alternative would have the perverse effect of encouraging employees to wait until an MSD is serious enough to warrant more than three days away from work before reporting the MSD.

In only one standard has OSHA delayed the removal of injured employees and the application of WRP benefits. In the Formaldehyde standard, OSHA allows employers to wait two weeks before removing an employee from exposure. 29 CFR 1910.1048 (l)(8). In the preamble to that standard OSHA explained that the delay in removing employees was to give employers an opportunity to ascertain whether the signs or symptoms would subside without treatment or with the use of PPE and first aid (which imposes a barrier between the skin and the irritant). The two-week delay was based on evidence that the initial irritation exposure effects sometimes disappeared as employees became accustomed to working with compounds containing formaldehyde. The opposite exists in dealing with this hazard. WRP is particularly necessary at the onset of an MSD, because that is when the MSD is the least likely to result in permanent damage or disability. As exposure continues, MSD signs and

symptoms get worse rather than abating (with the exception of initial work conditioning periods). As such, limiting WRP until after the employee has additional exposure to workplace risk factors could result in adverse health effects.

WRP only for a limited number of days. Under this option, WRP would only be provided for a limited number of days (*e.g.*, three, five, or seven days). This alternative is designed to provide protection for employees for the short period of time before workers' compensation payments begin.

As stated, the median number of lost-work days from MSDs is 7; thus, requiring employers to provide WRP benefits for three, five, or seven days may provide protection for some employees. At the same time, however, many MSDs are not resolved in those time periods. Even for those MSDs where the median number of days away from work is five, for example, statistically, 50 percent of those cases involve more than five days away from work. In addition, as indicated above, the median number of days away from work for CTS is 25 (see Section VII).

OSHA believes that this alternative would not provide the requisite protection to employees to encourage them to report MSDs early and to actively participate in MSD management. For those employees who have MSDs that do not resolve within the short time period called for by this alternative, this alternative leaves workers only with workers' compensation. In addition, many workers' compensation waiting periods extend beyond three or five days. For those employees in a state with a longer waiting period, if their MSDs do not resolve within the short time period covered by this alternative, they may be without any protection for several days (even though their injury may be covered by their State's workers' compensation system). The loss of even a few days pay is devastating to many employees. Furthermore, for those injured employees whose MSDs are not covered by their respective workers' compensation systems, this alternative would only provide protection for three, five or seven days. Because of this great financial strain, these employees may return to work too early, before their MSD is fully resolved, and reinjure themselves. OSHA believes that this alternative would have a chilling effect on early reporting of MSDs.

This alternative also reduces the employer's incentive to fix the job quickly. Under OSHA's proposal, one way an employer can avoid paying for WRP for 6 months is to fix the job so the injured employee can perform it. Under this alternative, however, the WRP payments would generally end before the employer is able to identify and fix the MSD hazards. Without that incentive, employers may opt for a longer timeline for controlling the job.

Apply Methylene Chloride WRP provision to small businesses covered by the ergonomics standard. The proposed WRP provision applies WRP universally to large and small employers. In this respect, WRP is similar to the WRP requirements in other health standards. See, *e.g.*, 29 CFR 1910.1025 (Lead); 29 CFR 1910.1027 (Cadmium); 29 CFR 1910.1028 (Benzene); 29 CFR 1910.1048 (Formaldehyde). To illustrate, the Lead standard applies the WRP requirements to all employers even though a substantial number of industries with lead exposures contain small businesses (*e.g.*, non-ferrous foundries, construction). In construction, for example, more than 75% of all establishments have fewer than 10 employees; however, the Lead standard (29 CFR 1926.62) applies to all employers, regardless of size. OSHA examined applying the feasibility limitations in the WRP provision in the Methylene Chloride standard to small businesses that would be covered by the ergonomics rule.

The Methylene Chloride standard allows small businesses to make a case-by-case analysis regarding the feasibility of WRP if one or more employees are already receiving WRP benefits and the employer is informed that removal is appropriate for a second employee. 63 FR 50712, 50717, September 22, 1998. If a second employee required removal while the first employee was being paid WRP benefits, the Methylene Chloride standard would not require the employer to remove the second injured employee from the job and pay WRP if:

> comparable work is not available and the employer is able to demonstrate that removal and the costs of extending [WRP] benefits to an additional employee, considering feasibility in relation to the size of the employer's business and the other requirements of the standard, make further reliance on [WRP] an inappropriate remedy * * *. *Id.* at 50730 (citing 29 CFR 1910.1052(j)(11)(I)(B)).

In each of the standards that have a WRP provision, the costs of the standards, including those of WRP, were found to be economically feasible for both large and small businesses in all affected industries. The same is true for the proposed ergonomics standard. The Preliminary Economic Analysis discussed below indicates that the proposed standard, including the 6-month WRP provision, is economically feasible for all industries. This is true even for very small businesses (those with fewer than 20 employees). OSHA's Preliminary Economic Analysis indicates that for very small businesses affected by the proposed standard, the impacts of the proposed rule are not likely to affect the viability of firms.

The WRP provision in the Methylene Chloride standard resulted from a settlement resolving several challenges to the final standard. OSHA and the parties to the settlement agreed that the WRP provision noted above was appropriate to the hazards posed by exposure to methylene chloride. The WRP provision agreed to in the settlement is limited to the unique characteristics of methylene chloride exposure. OSHA does not believe that a similar WRP provision would be appropriate here.

Delay or phase-in implementation of the WRP provision. OSHA also considered delaying or phasing-in implementation of WRP, perhaps by up to three years. The proposed standard does not delay or phase-in implementation of either MSD management or WRP. OSHA believes that, because so many workers already are experiencing MSDs every year, it is critical that both MSD management and WRP be implemented as soon as possible. Delaying WRP could result in serious damage or disability for employees who have MSD signs and symptoms but fear severe economic loss if they report an MSD. Moreover, if WRP were delayed for the recommended 3 years, as many as 1.8 million employees that are likely to have lost-workday MSDs over that time period would not have WRP protection. While OSHA acknowledges that some of these employees may be able to use sick leave pay during a recovery period, many employers either do not offer sick leave or prohibit employees from using sick leave for work-related MSDs. In fact, delaying the implementation of WRP could result in injured employees receiving less protection than they currently have. For example, employers who currently do not reduce the wages of employees on restricted duty would not be prohibited from changing their policies in the future, particularly since reports of MSDs will, after the standard's effective date, impose costs on employers for job analysis and control.

With regard to phasing-in WRP, some members of the SBREFA panel recommended that the phase-in be done according to establishment size, that is, phase-in large employers first and delay implementation of WRP for small businesses. However, such a phase-in would not be consistent with past OSHA practice (Ex. 23). The Lead standard is the only rule in which WRP has been phased-in. In that standard, OSHA determined that phase-in was necessary because seriously elevated blood levels were so persistent in the lead-using industries that removal presented feasibility problems:

> The weight of the evidence in the lead record demonstrates that immediate imposition of the entire ultimate [WRP] program is not feasible. Put simply, existing worker blood lead levels are so high that major segments of the lead industry would have to immediately remove at least 25 percent to 40 percent of their productive work force from lead exposure. Sufficient transfer opportunities would not exist thus extensive layoffs would result with accompanying [WRP] costs.
>
> * * * * *
>
> OSHA is persuaded that several industry segments could not reasonably be expected to comply with an immediate imposition of the overall [WRP] program. 43 FR 54354, 54452, November 21, 1978.

Given this, OSHA decided to phase-in WRP based on the severity of employees' blood lead levels. By contrast, there is no evidence that immediate implementation of WRP in the ergonomics standard would present feasibility problems for employers, even for very small employers. The Preliminary Economic Analysis indicates that it would be feasible to apply the WRP provision to all covered employers. The Preliminary Economic Analysis shows that the proposed standard will neither affect the economic viability of any industry as a whole, nor of the small or very small establishments in those industries.

Delaying or phasing-in WRP would also render the proposed standard's hazard identification system ineffective. The hazard identification system in the proposed rule does not consist of assessing each job in the workplace to see if employees have excessive exposure to workplace risk factors. Instead, the hazard identification system is based on employees coming forward with reports of MSDs. In order for this hazard identification system to produce accurate results, it is essential that employees voluntarily come forward with their reports. However, if they fear severe economic loss for reporting, employees will not come forward. Phasing in WRP would have a chilling effect on employee's willingness to report MSDs and/or signs and symptoms of MSDs. This "chilling effect" will delay job hazard analysis and identification and the implementation of controls, subjecting employees to workplace risk factors and MSD hazards.

Finally, delaying or phasing-in WRP is not necessary to ease employers' transition because OSHA is already proposing to phase in all but the MSD management provisions of the standard. OSHA is proposing that employers be given a start-up time of up to 3 years to set up a full program and implement controls. These proposed start-up times are longer than the corresponding provisions in almost all other OSHA health standards. If job control is delayed while employers plan ergonomics changes and work those changes into their production cycle changes, it becomes even more important that employees not be without WRP protection in the interim.

Also, OSHA is proposing that general industry employers who are not brought under the scope of the standard until after all compliance deadlines have passed (*e.g.*, there are no covered MSDs among their employers until after compliance deadlines have passed) be given additional time to come into compliance. At that point, employers would have up to one year to put in controls and determine if their program is effective. This extension of compliance deadlines has not been included in other OSHA standards. In other standards, once the deadlines occur, employers must be in compliance from that point forward. For example, in many other OSHA standards, employers who build new facilities must be in compliance with OSHA standards from the very start (*e.g.*, the employer must be in compliance with the PEL when the facility first opens). This would not be the case under this proposed standard. Rather, employers in general industry are given additional time to come into compliance with the standard's requirements after an employee develops a covered MSD.

Use non-monetary incentives, instead of WRP, to increase employee reporting and participation in MSD management. OSHA also considered replacing WRP with non-monetary incentives for employees to report MSDs.

OSHA decided to propose a WRP provision because non-monetary incentives do not appear to be working. Section 11(c) of the OSH Act already includes a prohibition against employers retaliating against employees who report MSDs and MSD hazards:

> No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act. 29 U.S.C. 660(c).

However, despite this provision, several studies show that MSDs are significantly underreported. Although the reasons for such underreporting are believed to be many (including, for example, unintentional and intentional discouragement by employers, failure on the part of employers and employees to recognize the work-relatedness of many MSDs), OSHA believes the fear of severe economic loss is one of the primary reasons for the underreporting. The proposed rule includes a provision prohibiting employers from having practices that discriminate against employees who make a report. Nonetheless, there is evidence that non-monetary incentives can result in increased rather than decreased underreporting.

A number of stakeholders have said that employers use various non-monetary incentives to achieve a safer and more healthful workplace (see Exs. 26–23 through 26–26; Ex. 23). Some of these incentives include recognition and nominal rewards (company caps, plaques) for reporting hazards or presenting ideas to fix problem jobs or reduce severity rates. These types of incentives can increase employee reporting. There are also other incentives such as "safety bingo" and bonuses for supervisors and/or employees reporting low numbers of injuries or no injuries. According to stakeholders, incentives of this second type can have the unintended result of pressuring employees not to report injuries or other problems. For example, in *Wilson* v. *IBP*, 558 N.W.2d 132, 143–44 (Iowa 1996), the court found that the defendants had engaged in the following conduct which could discourage employee reporting and result in discrimination of employees who did report an MSD:

> [The registered nurse who was the plant manger of occupational health services] had another reason for responding to workers' injuries as she did. IBP had a financial incentive program,

somewhat disingenuously called 'the safety award system.' As part of the safety award system, IBP recorded the number and severity of injuries and the number of work days missed by employees due to work-related injuries. Employees of the division with the lowest injury statistics received gifts or extra year-end bonuses. Through its financial incentives, the safety award system provided strong motivation for management to reduce the number of lost time days.

* * * * *

From the evidence in this record, a reasonable juror could have found the following: [the plant nurse] lied to Dr. Hamsa to keep him from referring [the injured employee] to a neurosurgeon, that IBP and [the plant nurse] would profit financially by getting workers back to work quickly (via IBP's safety award system), and that [the plant nurse] maliciously manipulated [the injured employee's] medical treatment for personal profit, knowing that he had an unstable disc in his back * * *.

A reasonable juror could also have found as follows: IBP actively sought ultra-conservative physicians to avoid surgery costs; it hired a staff of investigators to spy on injured employees, one of whom looked into [the injured employee's] apartment windows; workers who were uncooperative in the company's planned medical treatment were assigned by [the plant nurse] to a light duty job, watching gauges in the rendering plant, where they were subjected to an atrocious smell while hog remains were boiled down into fertilizers and blood was drained into tanks.

This climate of suspicion toward the legitimacy of injuries to workers and their treatment, well known to [the plant nurse], could be found by a reasonable juror to corroborate a finding of willful and wanton disregard for the rights and safety of [the injured employee].

At this point, OSHA has not been able to identify non-monetary incentives that would be as effective as WRP in encouraging employees to report MSDs early and in protecting employees who do come forward voluntarily.

Requests for Comment

OSHA requests information and comments on the WRP provision in the proposed standard. Specifically, OSHA requests information and comments on the alternatives to WRP discussed in this section as well as other non-monetary alternatives that would achieve the same goals and be as protective as WRP. OSHA is particularly interested in whether commenters believe that for WRP to be effective in encouraging employee participation in MSD management and encouraging early reporting, employees must be guaranteed 100% of after-tax earnings and benefits if they are placed on any type of temporary work restriction, or whether a guarantee of 90 percent or less is sufficient to accomplish this goal.

Program Evaluation (§§ 1910.936–1910.938)

Sections 1910.936–1910.938 of the proposed Ergonomics Program standard would require that employers evaluate their ergonomics program to ensure that it is effective. Good management, as well as common sense, suggest that periodic review of a program's effectiveness is necessary to ensure that the resources being expended on the program are, in fact, achieving the desired results and that the program is achieving these results in an efficient way. Additionally, program evaluation is a tool that can be used to ensure that the program is appropriate for the specific MSD hazards in the employer's problem jobs.

OSHA has long considered program evaluation to be an integral component of programs implemented to address health and safety issues in the workplace. For example, the Ergonomics Program Management Guidelines for Meatpacking Plants ("Meatpacking Guidelines") recommend regular program review and evaluation (Ex. 2–13). These guidelines suggest that procedures and mechanisms be developed to evaluate the implementation of the ergonomics program and to monitor progress accomplished. Program evaluation is included in the Meatpacking Guidelines as a program component that involves both management commitment and employee involvement. OSHA's 1989 voluntary Safety and Health Program Management Guidelines also recommend regular program evaluation as an integral program component (Ex. 2–12). Furthermore, OSHA's Voluntary Protection Programs (VPP) and its Consultation Program also require periodic evaluations of an employer's safety and health program. The following discussion presents OSHA's reasons for proposing the three program evaluation provisions described below.

Section 1910.936 What is my basic obligation?

You must evaluate your ergonomics program periodically, and at least every 3 years, to ensure that it is in compliance with this standard.

Proposed section 1910.936 informs employers of their basic obligation. This section would require employers to "evaluate [their] ergonomics program periodically, and at least every 3 years, to ensure that it is in compliance with this standard." This means that employers would have to, at a minimum, analyze the functioning of the ergonomics program, compare it to the requirements of this standard, and identify any deficiencies in the program. Employers would be required to make sure that the ergonomics program they have implemented controls the MSD hazards in the problem jobs in their workplace. A program designed for a large site with many different problem jobs, for example, is likely to be more formal and extensive than one designed for a small site with one or two problem jobs. Similarly, an ergonomics program that fits a manufacturing facility may not be appropriate for a work environment in the service sector.

Program evaluation goes beyond a mere inspection or audit of problem jobs. It must ask questions to determine whether the required ergonomics program elements have been adequately implemented and whether they are integrated into a system that effectively addresses covered MSDs and MSD hazards. Such questions include:

- Has management effectively demonstrated its leadership?
- Are employees actively participating in the ergonomics program?
- Is there an effective system for the identification of MSDs and MSD hazards?
- Are identified hazards being controlled?
- Is the training program providing employees with the information they need to actively participate in the ergonomics program?
- Are employees using the reporting system?
- Are employees reluctant to report covered MSDs or MSD hazards because they receive mixed signals from their supervisors or managers about the importance of such reporting?
- Is prompt and effective MSD management available for employees with covered MSDs?

Program evaluation, in other words, involves a review of how various aspects of an employer's ergonomics program are working together to ensure that employees are protected from MSD hazards.

Program evaluations can be conducted by those responsible for carrying out the employer's program, but

evaluations performed by persons who are not involved in the day-to-day operation of the program are often even more valuable because these individuals bring a fresh perspective to the task. They can often identify program weaknesses that those routinely involved in program implementation may fail to see. In any event, it is important that the ergonomics program be evaluated regularly for effectiveness and that program evaluation be routinely integrated into the program.

The extent of the evaluation that would be required by proposed section 1910.936 will vary from one workplace to another. However, the basic tools of evaluation are the same, even though their application may range from informal to formal. These tools include:

- Review of pertinent records, such as those related to covered MSDs and MSD hazards;
- Consultations with affected employees (including managers, supervisors, and employees) regarding the ergonomics program; and
- Reviews of MSD hazards and problem jobs.

The records to be reviewed would include all available documentation of covered MSDs and MSD hazards. These records might include:

- The OSHA 200 log;
- Reports of workers' compensation claims;
- Reports of job hazard analyses and identification of MSD hazards;
- Employee reports to management of covered MSDs or, for employers with manufacturing or manual handling jobs, persistent MSD symptoms;
- Insurance company reports and audits; and
- Reports from any ergonomic consultants engaged by the employer.

If the employer has a written ergonomics program, it should be included in the review of pertinent records.

Some employers may have very few of these records and will have to rely on other methods to assess effectiveness. For example, under § 1904.15 and § 1904.16 of OSHA's recordkeeping regulation (29 CFR part 1904), employers with fewer than 10 employees and employers in certain low-hazard Standard Industrial Classification (SIC) codes are exempt from the requirement to maintain an OSHA log. Therefore, these employers will have fewer records for review and will need to place more emphasis on employee interviews and surveys of MSD hazards and problem jobs when they perform ergonomics program evaluations.

Record review can also reveal valuable information on the effectiveness of an ergonomics program when comparisons are made from year to year and trends are identified. For example, if an employer compares the list of MSD hazards during consecutive program evaluations and finds that the number of identified hazards has decreased over time, then the employer may conclude that the program's job hazard analysis and control activities have been effective. Similarly, a reduction in the number of covered MSDs from year to year suggests that the program may be effective. However, program evaluation must include consideration of the accuracy and reliability of the records under review. It is essential to be sure that the identified trends are real and not the product of underreporting, loss of interest, or carelessness. For example, a downward trend in covered MSDs or MSD hazards may indicate that employees are being discouraged from reporting or that the employees performing job hazard analysis and control are not adequately trained to do so.

Another essential tool in any ergonomics program evaluation is interviews of employees doing, supervising, or managing problem jobs at all levels of the organization. Interviews of employees are designed to elicit information on how well the ergonomics program has been communicated to the people who rely on it the most. If employees cannot explain what MSD hazards they are exposed to in the course of their work, do not know what steps their employer is taking to eliminate or control these hazards, are unclear about the procedures they should follow to protect themselves from these hazards, or do not understand how to report covered MSDs or MSD hazards, the hazard information and reporting and training components of the program are not working. If a supervisor is unclear about how to reinforce proper work practices, the management leadership and training components of the program need improvement. Similarly, if managers are not aware of the covered MSDs and MSD hazards employees are reporting and what corrective actions are being taken, the management leadership and training components of the ergonomics program should be improved. Because interviews allow the program evaluator to assess how the program is actually working, there is no substitute for direct input from employees in the evaluation process.

Program evaluation must also include a review of MSD hazards and problem jobs at the worksite. This review goes beyond inspection and analysis of problem jobs because it is concerned not only with identifying hazards but with identifying the ergonomic program deficiencies that resulted in the continuation of these hazards. If the program evaluation identifies problem jobs that have not been evaluated for ergonomic hazards, the job hazard analysis component of the program needs to be improved. Further, if a previously identified MSD hazard remains uncorrected, the evaluator should conclude that the job hazard control component of the program is not effective. Likewise, if a MSD hazard is identified and controlled in one part of the facility but the same job has not been properly controlled in another part of the facility, two program components may need attention: the management leadership component, which failed to coordinate and disseminate MSD hazard information throughout the facility, and the training component, which failed to provide the employees performing the job hazard analyses with adequate training.

Proposed section 1910.936 also specifies the frequency of the program evaluations. It would require ergonomics program evaluations to be conducted periodically and at least every three years. Given the diversity of workplaces covered by this proposed rule, OSHA has chosen a flexible approach for the frequency of program evaluations. In § 1910.945 of this standard, the section that defines key terms, OSHA defines periodically as meaning a process or activity that is "performed on a regular basis that is appropriate for the conditions in the workplace." The definition of periodically further clarifies that "the process or activity is conducted as often as needed, such as when significant changes are made in the workplace that may result in increased exposure to MSD hazards." It is OSHA's intention to reduce unnecessary burden while ensuring that program evaluations, which are essential to program effectiveness, are conducted at some minimal frequency.

OSHA believes that the employer is in the best position to determine how often the ergonomics program at a particular worksite needs to be evaluated to ensure its effectiveness. A site undergoing process or production changes, or one experiencing high turnover, may need more frequent evaluations to ensure program effectiveness.

Similarly, an increase in covered MSDs in the workplace should suggest that a program evaluation is warranted. In work environments with a stable workforce and work operation, program evaluations conducted once every three years may be sufficient.

Guidance on the frequency of ergonomics program evaluations is also available from other sources. For example, the Meatpacking Guidelines (Ex. 2–13) recommends semi-annual reviews by top management to evaluate the success of the program in meeting its goals and objectives. The NIOSH publication, titled Elements of Ergonomics Programs (Ex. 26–2), distinguishes between short-term indicators and long-term indicators for evaluating the effectiveness of controls. According to NIOSH, subsequent to the implementation of controls to eliminate or reduce MSD hazards, a follow-up evaluation is necessary to ensure that the controls were effective and did not introduce new ergonomic risk factors. The follow-up evaluation should use the same measurement tools, for example MSD hazard checklists or MSD symptom surveys, that were used to document the original problem job. NIOSH recommends that this follow-up evaluation take place no sooner than one to two weeks after implementation, with one month being the most preferable time interval.

Section 1910.937 What must I do to evaluate my ergonomics program?

You must:

(a) Consult with employees in problem jobs to assess their views on the effectiveness of the program and to identify any significant deficiencies in the program;

(b) Evaluate the elements of your program to ensure they are functioning properly; and

(c) Evaluate the program to ensure it is eliminating or materially reducing MSD hazards.

Proposed section 1910.937 provides employers with the procedures that would be required to evaluate the effectiveness of the ergonomics program. It answers the question: "What must I do to evaluate my ergonomics program?" Through this proposed requirement, OSHA intends to inform employers of the minimal evaluation procedures necessary to assess whether or not their ergonomics program is working.

Proposed paragraph (a) would require employers to "consult with employees in problem jobs to assess their views on the effectiveness of the program." Additionally, employers would be required to consult with employees "to identify any significant deficiencies in the program." OSHA believes that employee participation in the ergonomics program is critical for success, and the involvement of employees in program evaluation is just one more way that employees can take an active role in the program. A requirement that employers consult with employees regarding program evaluation is not unique to the proposed Ergonomics Program standard. OSHA promulgated a similar provision in the Respiratory Protection final rule (29 CFR 1910.134).

Employees in jobs that have been identified as problem jobs are in the best position to judge whether or not job hazard analysis and control measures are effectively reducing or eliminating MSD hazards. Perhaps even more importantly, they will be most knowledgeable about whether the implemented controls have introduced new, unintended MSD hazards to the job. By consulting with employees, employers can also have direct feedback on the effectiveness of other ergonomics program elements, such as opportunities for employee participation, hazard information and reporting, and training. OSHA is aware that employers sometimes act in good faith to implement ergonomics program elements, but that the actual result experienced by employees can differ markedly from the intention. Thus, by checking directly with their employees, employers can be sure that their ergonomics program resources are being effectively invested.

Through collaboration with their employees, employers will also have the opportunity for input on major program shortcomings. If an ergonomics program is not successfully reducing the incidence of covered MSDs or MSD hazards, employees in problem jobs will most likely have valuable information to share on identifying and correcting the program weaknesses. OSHA believes that employers should have the opportunity to access this input from their employees and use it, together with their own independently collected information, to improve the effectiveness of their ergonomics program.

Proposed paragraph (b) would require employers to "evaluate the elements of [their] program to ensure they are functioning properly." These elements, as identified in this proposed Ergonomics Program standard, include:

- Management leadership and employee participation;
- Hazard information and reporting;
- Job hazard analysis and control;
- Training; and
- MSD management.

OSHA believes that employers are best able to determine which evaluation criteria for these elements are most appropriate for their workplaces. Additionally, OSHA believes that employers should be able to define "functioning properly" according to the specific characteristics of their problem jobs, in particular, and their work environment in general. Thus, OSHA has not proposed specific evaluation criteria or goals for each ergonomics program element.

Proposed paragraph (c) would require employers to "evaluate the program to ensure it is eliminating or materially reducing MSD hazards." The intention of this proposed paragraph is to require employers to evaluate the overall effectiveness of their ergonomics program, in addition to evaluating the individual program elements, as required in proposed paragraph (b). The primary purpose for implementation of an ergonomics program is the elimination or material reduction of MSD hazards. Thus, OSHA would expect employers to establish evaluation criteria to assess success in meeting this goal. There are a wide variety of methods available to employers that will facilitate the observation of trends that document program performance. OSHA believes that employers are best able to determine the specific evaluation criteria that will most effectively tell the story of their efforts to eliminate and materially reduce MSD hazards.

Section 1910.938 What must I do if the evaluation indicates my program has deficiencies?

If your evaluation indicates that your program has deficiencies, you must promptly take action to correct those deficiencies so that your program is in compliance with this standard.

Proposed section 1910.938 informs employers of what to do if their ergonomics program has deficiencies. This proposed section would require that employers "promptly take action to correct those deficiencies so that [their]

program is in compliance with this standard." Deficiencies are findings that indicate that the ergonomics program is not in compliance with the standard because, for example, it is not successfully controlling MSD hazards or is not providing needed MSD management. Employers would be required to respond to deficiencies in the ergonomics program by identifying appropriate corrective actions to be taken, assigning the responsibility for these corrective actions to an individual who will be held accountable for the results, setting a target date for completion of the corrective actions, and following up to make sure that the necessary actions were taken. This proposed requirement will help employers to improve their ergonomics program on an ongoing basis.

In anticipation of concerns that employers will be "liable" if their evaluations reveal deficiencies, OSHA emphasizes that the Agency's primary goal is to protect employees from MSD hazards, not to hold employers liable for ergonomics program deficiencies. In fact, OSHA expects that in the process of complying with the requirements of this standard, most employers will find deficiencies in their ergonomics program at one time or another. OSHA's concern will be whether or not employers act on the information obtained during the program evaluation. Employers who act in good faith to correct identified program deficiencies will satisfy this requirement. On the other hand, employers who identify ergonomics program deficiencies through the evaluation process and then do not act on this information may not be in compliance with this requirement.

In order to provide employers with maximum flexibility, OSHA has not specified a time frame in which identified program deficiencies must be corrected. OSHA recognizes that the time needed to correct a program deficiency will vary according to many factors. Such factors include:

- The nature of the MSD hazard;
- Previous attempts to correct the problem;
- The complexity of the needed controls;
- The expense of the needed controls;
- Whether the hazard is a higher or lower priority in the list of identified program deficiencies; and
- The expertise needed to control the hazard.

However, OSHA expects that employers will use good faith efforts to correct program deficiencies as quickly as possible.

What Records Must I Keep? (§§ 1910.939–1910.940)

Occupational injury and illness records are a vital part of any ergonomics program. These records provide employers, employees, and consultants with valuable information on conditions in the workplace and can be used to identify trends over time and to pinpoint problems. Nevertheless, OSHA recognizes the need to reduce paperwork burdens for all employers, especially small employers, to the extent that this can be done without reducing safety and health protection. The proposal accordingly limits the records this proposal requires employers to keep. Also, the proposed standard limits the applicability of the proposed recordkeeping requirements to employers with 10 or more employees, which is consistent with the Act's emphasis on minimizing paperwork burdens on small employers.

OSHA is exempting employers with fewer than 10 employees from the proposed standard's recordkeeping requirements because, in these very small workplaces, information can be communicated and retained informally. Larger employers must keep records of employee reports of MSDs and the employer's responses to them; the results of job hazard analysis; records of Quick Fix controls; records of controls implemented in problem jobs; program evaluations; and records of the MSD management process.

The following paragraphs discuss the specific requirements of the recordkeeping sections of the proposed standard.

Section 1910.939 Do I have to keep records of the ergonomics program?

The proposal states, "You only have to keep records if you had 10 or more employees (including part-time employees and employees provided through personnel services) on any one day during the preceding calendar year." In section 1910.939, OSHA is thus proposing to exempt employers with fewer than 10 employees from having to keep any records for this proposed standard. Most of the small business representatives on the SBREFA panel said that they would choose to keep records even if they were not required to do so (Ex. 23). However, OSHA's experience indicates that, because of the absence of management layers and multishift work, informal communication is effective and formal recordkeeping systems are not necessary in very small companies. A small establishment may have a very simple ergonomics program that does not need written records.

This section indicates that part-time employees and employees provided through personnel services must be included in the count of employees for the purpose of this section. These workers are personnel retained and supervised on a daily basis by an employer for a limited time, and they include personnel under contract, written or oral, with the employer. OSHA believes that these employees should be included in the count of employees because many employers today have workforces composed largely of part-time or temporary employees. If these employees were not counted toward the size threshold for recordkeeping, large workplaces that operate with few permanent employees but many temporary employees would not be required to keep records even though the workplace had several levels of management and complex methods of communication.

By "any one day during the preceding calendar year," OSHA means that so long as there are fewer than 10 employees, including employer-supervised part-time and temporary employees, at all times during preceding one-year period, the employer is not required to keep written records under this proposed standard.

Section 1910.940 What records must I keep and for how long?

This proposed section describes the records of the ergonomics program that employers would have to keep. It reflects OSHA's preliminary conclusion that recordkeeping is necessary for employers to measure their progress in establishing an effective program and in controlling MSD hazards.

The proposed standard requires employers to keep records of employee reports, employer responses, the results of job hazard analyses and controls, records of quick fix controls, and MSD management records for the purposes of musculoskeletal injury and illness prevention.

The following paragraphs discuss the specific requirements of the recordkeeping section of the proposed standard.

Section 1910.940 What records must I keep and for how long?

This table specifies the records you must keep and how long you must keep them:

YOU MUST KEEP THESE RECORDS . . .	FOR AT LEAST . . .
• Employee reports and your responses	3 years
• Job hazard analysis • Hazard control records • Quick Fix control records • Ergonomics program evaluation	3 years or until replaced by updated records, whichever comes first
• MSD management records	The duration of the injured employee's employment plus 3 years

Note to § 1910.939: The record retention period in this standard is shorter than that required by OSHA's rule on Access to Employee Exposure and Medical Records (29 CFR 1910.1020). However, you must comply with the other requirements of that rule.

The period the employer is required to keep exposure and medical records (*e.g.*, MSD management records) under this proposed standard is much shorter than is the case for other health standards. Health standards generally require exposure records to be kept for 30 years and medical surveillance records to be kept for the duration of employment plus 30 years, as required by 29 CFR 1910.1020, Access to employee exposure and medical records. These lengthy retention periods are appropriate for many toxic substances and harmful physical agent standards because of the long latency between exposure on the job and the onset of disease. However, for ergonomic disorders, there is a shorter latency period than for many of the chronic conditions and illnesses covered by these other rules. Also, changes in the workplace may make old ergonomics records irrelevant to current jobs and the present workplace environment. An employer's ergonomics program will continue to evolve, with the most recent aspects of that evolution being the most relevant for employee protection.

The three-year retention period in the proposed standard coincides with the required frequency of program evaluations mandated by the proposed standard. OSHA believes that employers will use these records to perform the required evaluations of the effectiveness of their program under this standard, and that records prior to the last evaluation would be of little use.

A note to section 1910.940 states that employers must continue to comply with the other requirements of the records access rule (29 CFR 1910.1020; Access to employee exposure and medical records), although the proposed ergonomics program rule permits a shorter records retention period than would otherwise be required by the records access rule.

When Must My Program be in Place? (§§ 1910.941–1910.944)

Sections 1910.941 through 1910.944 propose both compliance start-up deadlines and provide future compliance deadlines for certain situations, *i.e.*, for employers who are "triggered" into the scope of the standard after the compliance dates have passed.

OSHA is proposing certain variations in the approach to compliance deadlines that differ from the approach taken in other standards. First, OSHA is proposing a long start-up period so employers have time to get assistance before the compliance deadline comes due. Second, even after the compliance deadlines come due, OSHA is proposing to give employers newly covered by the standard additional time to set up a program and put in controls in certain situations. In other OSHA standards, once the compliance deadlines have occurred, employers must be in compliance with the standard continuously, even on the first day they open a new facility. Third, OSHA is proposing to allow employers to discontinue large portions of their program if no further MSDs are reported for a period of time.

Section 1910.941 When does this standard become effective?

This standard becomes effective 60 days after [publication date of final rule].

Proposed section 1910.941 establishes the effective date of the standard. The effective date is the date on or past which the standard is in effect and the date from which the compliance deadlines in this section are counted. In addition, only covered MSDs reported after the effective would be covered by the ergonomics standard.

Section 1910.942 When do I have to be in compliance with this standard?

This standard provides start-up time for setting up the ergonomics program and putting in controls in problem jobs. You must comply with the requirements of this standard, including recordkeeping, by the deadlines in this table:

YOU MUST COMPLY WITH THESE REQUIREMENTS AND RELATED RECORDKEEPING . . .	NO LATER THAN . . .
• MSD management	Promptly when an MSD is reported
• Management leadership and employee participation • Hazard information and reporting	[1 year after the effective date]
• Job hazard analysis • Interim controls • Training	[2 years after the effective date]
• Permanent controls • Program evaluation	[3 years after the effective date]

Note to § 1910.942: The compliance deadlines in this section do not apply if you are using a Quick Fix.

In § 1910.942, OSHA is proposing to give long phased-in start-up times ranging from one to three years for meeting various requirements of the ergonomics program standard. OSHA believes that the long start-up period is appropriate for several reasons.

First, OSHA plans to provide extensive outreach and consultation as soon as the final ergonomics rule is published. OSHA believes that the 3-year start-up period will allow employers to take full advantages of these materials and services, as well as those developed by others, without concern that enforcement action would already be underway.

Second, OSHA also believes that giving employers additional time to comply with the rule will reduce the compliance burden for small employers and will facilitate

compliance for all employers. OSHA recognizes that it takes time to put an ergonomics program in place and that small employers, in particular, need additional time to learn about the details of the rule and how to implement it in their workplace. Small employers, in particular, should take full advantage of OSHA's outreach, compliance assistance, and consultation services in meeting the standard's requirements.

At the same time, this section would require employers to begin setting up their ergonomics program step by step so they will have an effective process in place by the time compliance comes due. Without phased start-up, OSHA is concerned that some employers may wait until the last minute to take action. The phase-in of compliance is also important to ensure that those employees who report MSD signs and symptoms during the start-up period are provided with prompt intervention (both MSD management and work restrictions) in order to help the problem resolve quickly and without permanent damage. Finally, the longer start-up period would also allow employers to work needed job modifications into their regular production change schedules or processes. Because the best way to control MSD hazards is often in the design process, allowing additional compliance time will allow establishments of all sizes to make needed changes to their processes as part of regular production changes, and thus to make those changes at less cost.

Finally, the phase-in compliance deadlines fit the structure of the proposed rule. The rule itself envisions two levels of ergonomics programs: a basic program (for manual handling and manufacturing jobs) and the full program, and the compliance start-up deadlines track those phases. The basic program addresses management leadership and employee involvement and hazard information and reporting. Accordingly, the compliance deadlines for these preliminary requirements occur first. Later compliance deadlines correspond with elements of the full program, which requires job hazard analysis, job controls, training, and program evaluation if a covered MSD is reported. (The MSD management deadline is also consistent with this approach. The first start-up deadline for MSD management requires that MSD management be put into place "promptly when an MSD is reported.")

The proposed standard does not contain different compliance deadlines for small and larger employers, because OSHA believes that the proposed deadlines already build in enough time even for very small employers to get information about the rule and ways to implement an ergonomics program. OSHA also believes that the 3-year period is adequate for larger employers who may have more complex processes, more employees, more problem jobs, and more controls to implement.

Section 1910.943 What must I do if some or all of the compliance start-up deadlines have passed before a covered MSD is reported?

If the compliance start-up deadline has passed before you must comply with a particular element of this standard, you may take the following additional time to comply with that element and the related recordkeeping:

YOU MUST COMPLY WITH THESE REQUIREMENTS AND RELATED RECORD-KEEPING . . .	WITHIN . . .
• MSD management	5 days
• Management leadership and employee participation • Hazard information and reporting	30 days (In manufacturing and manual handling jobs, these requirements must be implemented by [1 year after the effective date])
• Job hazard analysis	60 days
• Interim controls • Training	90 days
• Permanent controls • Program evaluation	1 year

Note to § 1910.943: The compliance deadlines in this section do not apply if you are using a Quick Fix.

In section 1910.943, OSHA is proposing to give additional compliance time to those employers who do not have any problem jobs until after some or all of the compliance deadlines established in § 1910.942 have passed. This is because the first occurrence of an MSD in a job is unpredictable and may not occur until years after the standard is in effect.

The additional time OSHA is proposing is appropriate in those situations in which employers who do not have any covered MSDs reported until after certain deadlines have passed. The standard permits employers who do not have manufacturing or manual handling jobs to refrain from implementing an ergonomics program until after a covered MSD is reported. Even for employers who have manual handling or manufacturing jobs, extended dates are needed for the requirements that would not be triggered until after a covered MSD occurs.

OSHA believes that the additional time this section proposes is reasonable. This section would require that employers take certain critical preliminary actions very quickly after a covered MSD occurs (*i.e.*, provide MSD management within 5 days, analyze the job with 2 months and put in at least interim controls within 3 months). At the same time, it would allow employers up to a year to get effective permanent controls into place. OSHA believes this time period would be sufficient to allow employers to use the standard's incremental process of trying out one or more controls first to see if they work before moving on to other controls. Finally, to ensure that the additional time is reasonable in those cases in which some of the compliance deadlines have passed, this section would allow employers to comply by the compliance deadlines in this section or those in section 1910.942, whichever comes later.

Section 1910.944 May I discontinue certain aspects of my program if covered MSDs no longer are occurring?

Yes. However, as long as covered MSDs are reported in a job, you must maintain all the elements of the ergonomics program for that job. If you eliminate or materially reduce the MSD hazards and no covered MSD is reported for 3 years, you only have to continue the elements in this table:

IF YOU ELIMINATE OR MATERIALLY REDUCE THE HAZARDS AND NO COVERED MSD IS REPORTED FOR 3 YEARS IN . . .	THEN YOU MAY STOP ALL EXCEPT THE FOLLOWING PARTS OF YOUR PROGRAM IN THAT JOB . . .
A manufacturing or manual handling job	• Management leadership and employee participation, • Hazard information and reporting, and • Maintenance of implemented controls and training related to the controls.
Other jobs in general industry where a covered MSD had been reported	• Maintenance of controls and training related to the controls.

In section 1910.944, OSHA is proposing to allow employers to discontinue some significant portions of their ergonomics program when no covered MSD has been reported in a problem job for 3 years after the problem job was controlled. OSHA is proposing this provision because, where employers have implemented controls and those controls have eliminated or materially reduced the MSD hazard to the extent that a covered MSD is not reported for several years, it is reasonable to conclude that the physical work activities and conditions in that job are no longer reasonably likely to cause or contribute to an MSD. When this level of control has been reached, OSHA believes it is appropriate for employers to focus their efforts on maintaining the controls that have corrected the problem (along with the training related to those controls).

OSHA is proposing a 3-year time period to coincide with the timing of other requirements of the proposed standard. For example, in the proposed rule periodic program evaluation must be done every three years, and the start-up deadlines for implementing permanent controls and initially evaluating the program is 3 years. OSHA believes that employers should only be permitted to discontinue parts of the program where permanent controls have been implemented and an evaluation of the program and controls shows that the program and controls have been effective in eliminating or materially reducing the MSD hazards in the job. Without this type of information, employers would not have the knowledge and information necessary to make a determination about whether another MSD is reasonably likely to occur. Allowing employers to discontinue certain elements only after a program evaluation has been done will help to ensure that the employer's decision is based on knowledge that the MSD reporting system has been effective, that the job hazard analysis did identify all of the MSD hazards, and that the permanent controls are in place and working.

If a covered MSD has not been reported in a problem job for 3 years, employers would only be required to maintain the controls in the problem job (including the training related to those controls) and to continue those elements of the program they must have even where no covered MSDs have been reported. Employers with manufacturing and manual handling jobs would be required to implement the management leadership and employee participation, and hazard information and reporting elements of the program. Employers with jobs other than manufacturing and manual handling would not be required to do anything beyond maintaining the controls (and related training).

Definitions (§ 1910.945)

Section 1910.945 What are the key terms in this standard?

The proposed ergonomics program standard includes a number of definitions which should be consulted to properly understand the terms used in the standard. Most of the definitions are straightforward and self-explanatory. Clarification of many terms is provided in the summary and explanation of the sections where those terms are used. Other definitions are explained in greater detail in the following paragraphs.

Musculoskeletal disorders (MSDs) are defined in the proposal as injuries and disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal disks. Examples of some of the more frequently occurring occupationally induced MSDs are given in the definition. These are medical conditions that generally develop gradually over a period of time, and do not typically result from a single instantaneous event. This definition specifically states that MSDs do not include injuries caused by slip, trips, falls, or other similar accidents. They can differ in severity from mild periodic symptoms to severe chronic and debilitating conditions.

No cost to employees means that the employer must bear any costs associated with the proposed requirements. Employees must be compensated at their regular rate of pay for time spent receiving training and medical management, or obtaining personal protective equipment. Where these activities require employees to travel, the employer must pay for the cost of travel, including travel time when the activities are not scheduled during the employee's normal work hours. The intent of this definition is to include any financial or other cost which, if borne by the employee, would serve as a disincentive to participating in the proposed rule's training, medical management, and personal protective equipment activities.

Periodically means on a regular basis appropriate for the conditions in your workplace, or as needed. The proposed standard would require that certain activities occur periodically; these activities include hazard identification, evaluation of the ergonomics program and the effectiveness of controls, and provision of information and training. The term periodically does not establish a specific frequency that is acceptable for conducting these activities; rather, the activities must be performed as often as necessary in order for them to be effective in the particular workplace in question. In some work environments with relatively few MSD hazards and little or no change in the work process over time, for example, refresher training may be adequate if performed every three years. A workplace with more substantial hazards or more complex controls may require training at more frequent intervals to ensure employee retention of information. If significant changes to the job occur, if new MSDs or MSD hazards are identified in the job, or if unsafe work practices are observed, then additional training would be necessary. The same performance orientation would apply to the other activities that the proposed standard would require to be provided periodically.

Physical work activities include any movements of the body or any static exertion involved in performing a job. This term is intended to cover all activities that have the potential to stress or strain muscles, nerves, tendons, ligaments, joints, cartilage or spinal disks.

Work restrictions are limitations prescribed by the employer, other qualified individuals, or health care professional on the work activities of an employee who is recovering from a MSD. Work restrictions are designed to prevent the employee from futher exposure to the MSD hazards that gave rise to the covered MSD. Work restrictions may involve limitations on activities the employee is permitted to perform in the current job, assignments to an alternative job (light duty), or complete removal from the workplace.

V. Health Effects

Activity-related disorders of the musculoskeletal and neuromuscular systems, acquired in the course of adult working life, are common in the population. Unlike acute injuries, these chronic conditions usually cannot be attributed to a single traumatic event. Instead, they often result from repeated episodes of exposure to causal and exacerbating factors.

The purpose of the Health Effects Section is to summarize knowledge in the field of musculoskeletal disorder (MSD) etiology and provide an overview of the multidisciplinary evidence that has established the relationship between work and these disorders. This body of evidence also provides the basis for the growing literature of intervention studies. These studies demonstrate the practical value of applying this well-established etiological knowledge to the reduction of the incidence of musculoskeletal disorders.

A more complete analysis of the studies underlying OSHA's Health Effects section is identified as Exhibit 27–1 in the docket for this rulemaking, (Docket S–777).

Following this introduction are five sections detailing the concepts of risk factors and their effects:

• Section A, Issues of Causation. This section discusses the etiology of MSDs and describes the multifactoral causation and exacerbation of MSDs by exposure to workplace risk factors, the role of personal factors and pre-existing disease, and medical and diagnostic issues.

• Section B, Biomechanical Risk Factors for MSDs. This section begins with an examination of the epidemiological criteria used to strengthen the argument for a causal relationship between a risk factor and an adverse health outcome. This is followed by a discussion of the basic biomechanical risk factors and modifying factors involved in MSD etiology.

• Section C, Evidence for the Role of Basic Risk Factors and Modifying Factors in the Etiology of MSDs. This section presents an overview of three bodies of evidence supporting the causal relationship between these risk factors and disease development: epidemiological studies, laboratory/medical studies, and psychophysical research. The Health Effects Section demonstrates that the sheer volume of evidence, plus the congruence of evidence from very different research traditions, makes a very strong case implicating of workplace biomechanical risk factors in the causation and/or exacerbation of MSDs. The Appendices provide a more detailed treatment of this evidence.

• Section D, Pathogenesis and Pathophysiologic Evidence for Work-Related MSDs. This section presents an overview of the mechanisms through which the risk factors detailed in Section B may cause physiological alterations, anatomical alterations, and disease in different types of soft tissues. Because one of the criteria useful in establishing a causal relationship between a risk factor and disease is the existence of a plausible biologic mechanism, the pathophysiological evidence in this section is an important link in the argument establishing such a relationship between workplace exposures and MSDs. Some redundancy exists between this generic discussion of risk factors and target tissues and the site-specific disorders examined in the Appendices. However, the goal is to underline common exposure and injury patterns without trivializing the complexity of tissue function and remodeling in disease and in health. For example, the ligamentures of the knee and the carpal bones are highly dissimilar in function and structure, requiring both generic and site-specific discussion.

• Section E, Glossary and List of Acronyms. This section provides definitions of terms and acronyms used throughout the document.

These basic overview sections are supported by set of Appendices (Ex. 27–1) that present, in much greater detail, the evidence linking workplace risk factors to outcomes of musculoskeletal disease:

• Appendix I, Epidemiology of MSDs, examines in more detail the epidemiologic evidence for work-related causation and exacerbation of MSDs. The Appendix begins with a summary of the NIOSH publication Musculoskeletal Disorders and Workplace Factors and continues to detail research in specific body areas. This section also contains a detailed overview of individual factors associated with work-related MSDs.

• Appendix II, A Review of Biomechanical and Psychophysical Research on Risk Factors Associated with Upper Extremity Disorders, details laboratory and psychophysical studies as well as the value of using biomechanical modeling to estimate risk associated with low-back and upper-extremity disorders.

• Appendix III, Pathophysiology of Regional MSDs, examines the pathophysiology of common MSDs by body region.

The Health Effects Section focuses on research in which investigators have found sizable and consistent results associating clinical disorders, such as chronic low back pain and injuries to muscle-tendon units in the forearm, with identifiable (extrinsic) work characteristics such as force and posture. There is less attention to conditions in which personal (intrinsic) risk factors or underlying disease status predominate, or in which there is conflict over disease etiology. However, there is widespread agreement in the literature that workplace risk factors play the major, although not the only, role in the development of work-related MSDs.

The Health Effects Section concentrates on external factors or stressors, because this is where the causes of human disease and discomfort in the workplace have been most clearly identified and where interventions have produced the greatest reduction in injury and illness. Intrinsic or personal factors, such as anthropometry, gender, age, physical conditioning, and general health are treated within each major subject area, where appropriate. Intrinsic predispositions are treated as modifiers of effect, reflecting the variability of their influence and the primacy of the basic risk factors.

The case of aging provides an example. The important body of information on physical performance and injury risk evolving from Finland (Tuomi, 1997) invalidates the notion

of a simple relationship between dysfunction and age, even when the complex issues of survivorship are taken into account. Further, it is difficult to separate the effects of aging from the effects of years of exposure to workplace risk factors. The ergonomic literature in general, and the materials cited in this section specifically, have not been designed to explore associations between subtle predisposition and observed risk. Moreover, much of the literature on acquired physical injury has identified particular patterns of susceptibility within each age stratification (Krause *et al.*, 1997).

Finally, the Health Effects Section concentrates on well-recognized studies and common disorders, and does not address the more unusual disorders and patterns of injury. The study of MSDs is an evolving field that requires improved and broad-based surveillance techniques to identify less common patterns of association between exposure and disease. However, the body of evidence in this Health Effects section makes a convincing case for the work-relatedness of many MSDs and the effectiveness of interventions designed to reduce the risk factors that caused the MSD in the first place.

A. Issues Of Causation

1. Multifactoral Causation and Exacerbation by Extrinsic Risk Factors at Work

MSDs usually result from exposure to multiple risk factors (Putz-Anderson, 1988; Kourinka and Fourcier, 1995, Ex. 26–432; Bernard and Fine, 1997, Ex. 26–1), with the possible exception of vibration-related disorders, which are discussed in Section D. The present state of knowledge does not allow a clear determination of whether these multiple risk factors act additively or synergistically (*i.e.*, in a true, multiplicative interaction) within the workplace, although some studies suggest the latter (*e.g.*, Silverstein, Fine, and Armstrong, 1986, 1987, Exs. 26–1404 and 26–34). The combination of this multifactoral causation, lack of knowledge about interaction, and the unavoidable difficulty of studying risk factors in isolation makes it difficult to determine a numerical limit for a given type of biomechanical exposure.

A more practical approach, accepting the intricate interplay of risk factors in MSD causation, may be to simultaneously assess all the risk factors in a given workplace. Punnett (1998) has demonstrated the effectiveness of predicting MSD prevalence using an exposure index that combines assessment of multiple risk factors: work pace, grip force, postural stressors, contact (compressive) stress, vibration, and machine-pacing of work. This research found that the prevalence of MSDs (whether defined by symptom reports or physical examination) increased markedly as the number of risk factors contributing to the index increased. The obvious corollary is that multifactoral interventions will reduce MSD incidence more effectively than interventions targeting only a single risk factor or a small subset of the risk factors actually present in the workplace.

2. Multifactoral Etiology and Other Contributions to MSD Causation and Exacerbation

The concept of multifactoral etiology of MSDs can easily lead to confusion. Various literatures define the concept in at least three different ways, as follows:

• "Multifactoral etiology" means that MSDs generally result from simultaneous exposure to, and often synergy among, several different risk factors—*e.g.*, high force requirements and awkward postures. (This is the meaning of "multifactoral" in Section A.2.a above.)

• "Multifactoral etiology" means that MSDs often result from exposure to and interplay between both work and non-work risk factors, although work factors are the greater influence in most cases (see Section A.2.b below).

• "Multifactoral etiology" means that MSD incidence and severity are affected by personal characteristics (physiological susceptibility and repair capacity, anthropometry, psychological characteristics, level of fitness, etc.) and underlying or preexisting disease (see Section A.2.b.ii below).

This Health Effects Section primarily uses the first of these definitions, which focuses on the contribution of multiple risk factors in the workplace to MSD etiology. Because the other two definitions can complicate the establishment of worksite MSD causation, the contribution of non-work exposures, personal (intrinsic) factors, and underlying or preexisting disease are briefly addressed here. Other parts of the Health Effects Section address issues of work-relatedness in detail, by specific body location, and also discusses personal factors where appropriate.

a. Non-Work-Related Risk Factors. The risk factors presented in Section B are not encountered solely in the work environment. Non-work risk factors obviously may contribute to disease causation, but they are as likely to exacerbate existing or work-related disease as to cause new disorders. Most non-work activities are not performed with the duration or intensity, or under the time constraints characteristic of occupational exposures. In addition, certain industries, such as meatpacking (OSHA, 1990, Ex. 26–3), demonstrate disease clusters and rates of disease that are substantially above population background rates and rates found in other industries. Franklin *et al.* (1991, Ex. 26–948) reviewed Washington State workers' compensation claims from 1984 to 1988. These investigators found that, compared to industry-wide carpal tunnel syndrome (CTS) incidence rates, oyster and crab packers demonstrated a relative risk (RR) of 14.8 (95% CI: 11.2–19.5) and the meat and poultry industries had an RR of 13.8 (95% CI: 11.6–16.4). The recent NAS report (National Academy of Sciences, 1998, Ex. 26–37) concludes, "There is a higher incidence of reported pain, injury, loss of work, and disability among individuals who are employed in occupations where there is a high level of exposure to physical loading than for those employed in occupations with lower levels of exposure" (p. 23). The existence of these elevated rates, despite the random variety of non-work risk factors experienced by employees in all industries, suggests the primacy of workplace risks in MSD causation.

MSD genesis represents a complex combination (and possibly interaction) of exposures to work and non-work risk factors, modified by the individual's ability to tolerate physical job stress. It is not the intent of this document to attribute sole causation to the workplace, but to establish work-relatedness. Non-work exposures certainly contribute to disease, but OSHA's mandate to create a safe and healthy workplace does not require that the only diseases to be controlled are those caused solely by work. Since the goal of the Health Effects Section is the clarification of workplace risk factors involved in MSD causation or exacerbation, the epidemiological studies cited generally represent research carried out in occupational settings.

b. Personal Factors and Underlying Disease. The third meaning of "multifactoral," which includes personal factors and pre-existing disease, is also generally beyond the scope

of this document. Again, these factors are irrefutably implicated in MSD development and recovery, as factors that modify the body's response to external risk factors and its ability to recover from insult. But their presence in the equation of etiology does not remove the primary necessity to identify and control external, workplace-based risk factors.

Reparative Capacity of Individuals. The physiological effects of the risk factors and modifiers presented in Section D are themselves modified by the worker's individual capacity to accept and repair the damage caused. This capacity may be likened to the ability of the body to process a chemical exposure. Depending on the body's defenses, a given atmospheric concentration of toxin will result in cells and tissues receiving a particular dose of the toxin. Over time, this dose, modified by the body's capacity to detoxify and/or clear the substance and its metabolites, will result in a measurable body burden.

Although the analogy is simplistic, and other disease mechanisms are probable, it is possible to visualize certain effects of biomechanical risk factors through this model. An exposure to a biomechanical risk factor of given intensity, duration, and temporal profile can result in an internal "dose" that makes demands on the body's reparative capacity for "detoxification" of the dose. The cumulative trauma model suggests that the resultant "body burden" may be seen as partly the result of exposure and repair capacity. Armstrong *et al.* (1993) proposed a model (called a "cascade" model) of this process that also incorporates a staged series of challenges to the body. The body's response to a particular biomechanical "dose" can itself generate new physiological or anatomical stressors; the effectiveness of the body's response to these new stressors also depends partly on individual capacity. Likewise, pre-existing or underlying disease can also compromise reparative capacity as well as predisposing tissues to further injury.

The components of individual reparative capacity include:

• Genetic factors. These include basic inherited characteristics of the individual, such as body dimensions (anthropometry), physiological variables, and gender. Genetically based personal differences include variation in bone length and tendon attachment points (which affect the mechanical advantage of a muscle in a given posture), muscle mass and distribution of fiber types, laxity of ligaments, intervertebral disk cross-sectional area and nucleus fluidity, tendon size, and carpal tunnel size (Radwin and Lavender, NRC 1998, Ex. 26–37).

Gender may be seen partly as representing anatomical and physiological differences among workers (see summary in Faucett and Werner, 1998, Ex. 26–425). Women's anthropometry may not fit many jobs designed originally for the average male. It is important to understand, however, that gender is also a surrogate for a large complex of social and economic differences among workers, as well a differences in exposure between males and females. Many of these differences influence patterns of disease and recovery (Messing, Chatigny, and Courville, 1998a, Ex. 26–566; Messing *et al.*, 1998b, Ex. 26–300).

• Acquired characteristics. Acquired characteristics include physical conditioning, previous or concurrent disease status, and the effects of aging. The aging process is strongly influenced by both genetic and acquired characteristics. In any case, OSHA's mandate to assure a safe and healthy workplace is not limited to workers below an arbitrary age threshold but encompasses workers of all ages. Acquired characteristics can modify some genetically based characteristics. For example, type and intensity of exercise can alter muscle mass and fiber type distribution. Likewise, a worker's level of skill and work habits can substantially affect the impact of biomechanical stressors on body tissues.

It is important to recognize that the effects of risk factors and modifiers found in the work environment are modified at the individual level by these personal factors. However, the primary purpose of job analysis and workplace interventions is to make work safe for as many workers as possible. Hence, this document considers the measurement, characterization, and reduction of work environment risks and modifiers to be the most important objective of the ergonomics program rule.

Work Techniques and Skill Level. Personal factors also include work technique and skill level. In some situations, the predominant factors influencing MSDs are individual anatomy, work style, posture, and technique. For example, the well-recognized upper extremity disorders of sign language interpreters (Feuerstein and Fitzgerald, 1992, Ex. 26–1284), or the hand problems of musicians (Amadio and Russotti, 1990, Ex. 26–925; Fry, 1986, Ex. 26–850), are usually addressed on an individual (intrinsic) basis, because either no tool is involved, or the potential for tool modification is limited.

Other situations clearly preclude addressing problems on an individual basis. For example, the vascular and neurologic problems produced by hand-arm vibration occur with such high attack rates and predictability that an effective control strategy necessarily addresses the tool and extrinsic exposure rather than individual susceptibility (Pyykko 1986, Ex. 26–662). In some industries, such as meatpacking, hand and wrist problems have been so prevalent and associated so strongly with particular tasks that identifying cause in a work process is unambiguous (Schottland *et al.*, 1991, Ex. 26–1001; Masear, Hayes, and Hyde, 1986, Ex. 26–983).

In still other settings, the multi-dimensional pattern of personalized risk factors, non-work risk factors, and external, work-related risk factors complicates etiology identification. As with other chronic and sub-chronic diseases, it may be difficult, and sometimes impossible, to differentiate between underlying morbidity and causative, exacerbating, or even disabling features (stressors) in the external environment.

3. Medical and Diagnostic Issues

The development of an ergonomics standard for U.S. workplaces poses specific challenges for disease identification. The relationship between MSDs and exposure to even well-recognized risk factors, such as heavy repetitive lifting and hand-arm vibration, poses different sets of challenges for the recognition of exposures and their control than has been the case for many more traditional workplace exposures and disorders. The inhalation of asbestos fibers, for example, has well-defined and accepted endpoints, such as lung cancer and mesothelioma, and intermediate health effects at the tissue or cellular level are less important objects of dust control. Formaldehyde and other irritants have immediate and recognizable effects on mucosa, so that overexposure is often obvious, and the parameters of acute effects and detection thresholds all fall within a limited range of measurements. Physical hazards such as noise and radiation are highly organ-specific or have universally accepted risk profiles. For such hazards, exposure assessment does not require significant attention to individual work factors or personal factors, or there may be a consensus test for disease (as for noise).

For MSDs, on the other hand, microanatomic injury and repair is often sub-clinical and generally invisible to clinical testing or surveillance measures. Although, the object of much active research, the relationship between sub-threshold injury and the onset of recognized clinical disorders is imprecisely understood. Because of regional and individual differences in diagnosis and treatment, disease recognition depends on professional practice, diagnosis, and treatment patterns.

4. References

1. Amadio, P.C., Russoti, G.M. (1990). Evaluation and treatment of hand and wrist disorders in musicians. Hand Clinics, 6:405–416.

2. Armstrong, T.J., Buckle, P., Fine, L.J., Hagberg, M., Jonsson, B., Kilbom, A., Kuorinka, I.A.A., Silverstein, B.A., Sjogaard, G., Viikari-Juntura, E.R.A. (1993). A conceptual model for work-related neck and upper-limb musculoskeletal disorders. Scandinavian Journal of Work, Environment and Health, 19:73–84.

3. Bernard, B., Fine, L., eds. (1997). Musculoskeletal Disorders and Workplace Factors. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication ##97–141.

4. Bovenzi, M., Petronio, L., Di Marino, F. (1980). Epidemiological survey of shipyard workers exposed to hand-arm vibration. International Archive of Occupational Environmental Health, 46:251–266.

5. Faucett, J., Werner, R.A. (1998). Non-Biomechanical Factors Potentially Affecting Musculoskeletal Disorders. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

6. Feuerstein, M., Fitzgerald, T. (1992). Biomechanical factors affecting upper extremity cumulative trauma disorders in sign language interpreters. Journal of Occupational Medicine, 34:257–264.

7. Franklin, G.M., Haug, J., Heyer, N., Checkoway, H., Peck, N. (1991). Occupational carpal tunnel syndrome in Washington State, 1984–1988. American Journal of Public Health, 81(6):741–746.

8. Fry, H.J.H. (1986). Overuse syndrome of the upper limb in musicians. Medical Journal of Australia, 144:182–185.

9. General Accounting Office (1997). Worker Protection: Private Sector Ergonomics Programs Yield Positive Results. GAO/HEHS Publication #97–163.

10. Kourinka, I., Forcier, L., eds. (1995). Work Related Musculoskeletal Disorders (WMSDs): A Reference Book for Prevention. London: Taylor and Francis.

11. Krause., N., Lynch, J., Kaplan, G.A., *et al.* (1997). Predictors of disability retirement. Scandinavian Journal of Work, Environment and Health, 23:403–413.

12. Masear, V.R., Hayes, J.M., Hyde, A.G. (1986). An industrial cause of carpal tunnel syndrome. Journal of Hand Surgery, 11A:222–227.

13. Messing, K., Chatigny, C., Courville, J. (1998a). "Light" and "Heavy" work in the housekeeping service of a hospital. Applied Ergonomics, 29(6):451–459.

14. Messing, K., Tissot, F., Saurel-Cubizolles, M.J., Kaminski, M., Bourgine, M. (1998b). Sex as a variable can be a surrogate for some working conditions: factors associated with sickness absence. Journal of Occupational and Environmental Medicine, 40(3), 250–260.

15. National Academy of Sciences (1998). Work-Related Musculoskeletal Disorders: A Review of the Evidence. Washington, DC: National Academy Press.

16. Occupational Safety and Health Administration (1990). Ergonomics Program Guidelines for Meatpacking Plants. U.S. Department of Labor. OSHA Publication #3123.

17. Punnett, L. (1998). Ergonomic stressors and upper extremity disorders in vehicle manufacturing: cross sectional exposure-response trends. Occupational and Environmental Medicine, 55:414–420.

18. Putz-Anderson, V., ed. (1988). Cumulative Trauma Disorders: A Manual for Musculoskeletal Diseases of the Upper Limbs. New York: Taylor and Francis.

19. Pyykko, I. (1986). Clinical aspects of the hand-arm vibration syndrome: a review. Scandinavian Journal of Work, Environment and Health, 12:439–447.

20. Radwin, R.G., Lavender, S.A. (1998). Work Factors, Personal Factors, and Internal Loads: Biomechanics of Work Stressors. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

21. Schottland, J.R., Kirschberg, G.J., Fillingim, R., Davis, V.P., Hogg, F. (1991). Median nerve latencies in poultry processing workers: an approach to resolving the role of industrial "cumulative trauma" in the development of carpal tunnel syndrome. Journal of Occupational Medicine, 33:627–631.

22. Silverstein, B.A., Fine, L.J., Armstrong, T.J. (1986). Hand wrist cumulative trauma disorders in industry. British Journal of Industrial Medicine, 43:779–784.

23. Silverstein, B.A., Fine, L.J., Armstrong, T.J. (1987). Occupational factors and the carpal tunnel syndrome. American Journal of Industrial Medicine, 11:343–358.

24. Tuomi, K., ed. (1997). Eleven-year follow-up of aging workers. Scandinavian Journal of Work, Environment and Health, 23 (Supplement 1):1–71.

25. Webster, B.S., Snook, S.H. (1994). The cost of compensable upper extremity cumulative trauma disorders. Journal of Occupational Medicine, 36:713–727.

26. World Health Organization (1985). Identification and Control of Work-Related Diseases. Report Series 714. Geneva, Switzerland, World Health Organization.

B. Biomechanical Risk Factors and Modifiers

1. Overview

This section has two purposes:

- To present a framework for and classification of major observable and quantifiable workplace risk factors for neuromuscular and musculoskeletal disorders (MSDs).
- To define and explain these risk factors and to briefly explore possible mechanisms by which exposure to these stressors could cause MSDs.

The section begins with a summary exploration of the issues involved in establishing a causal relationship between aspects of the work environment/process and musculoskeletal disorders (Section B.1). It then presents the classification scheme used in the section, with brief reference to possible mechanisms of effect. Sections B.2 and B.3 present current knowledge of the basic physical risk factors and modifying factors identified by epidemiological and laboratory research.

a. Epidemiological Criteria for Establishing Causation. Good epidemiology requires accurate and consistent identification and quantification of both exposure and outcome. In the rapidly evolving fields of research relevant to MSD etiology, there are still problems with measurement, quantification, and even recognition of particular risks and disease outcomes. However, the research referenced in this document demonstrates substantial agreement over a wide range of research methodologies concerning the causal association between a set of commonly recognized stressors and MSD outcomes.

The risk factors discussed in this section have been shown to cause or contribute to MSDs, in accordance with generally accepted criteria for assessing a cause-effect relationship.

The following list of such criteria (based on Hill, 1965, Ex. 26–376; Hennekens, Buring, and Mayrent, 1987, Ex. 26–428; Bernard and Fine, 1997, Ex. 26–1; Rothman and Greenland, 1998, Ex. 26–870) is not exhaustive but represents consensus in the field of epidemiology. Note that, with the exception of temporality, none of these criteria is a necessary or sufficient basis for determining causality: the absence of any criterion other than temporality in a study does not necessarily invalidate a causal hypothesis. But the presence of each factor, while not proving causality, does strengthen that hypothesis. Any given study may not satisfy each criterion, but the cumulative burden of evidence, from the many studies cited in this document, strongly argues for a causal relationship between the risk factors presented in this section and MSDs. These criteria are:

- The strength of the association. The larger the association, the less likely is an interpretation invoking undetected bias or unmeasured confounders. If bias or confounding are operative, they would have to be of a larger magnitude to explain the size of the association, making it less likely that the study would have overlooked them.
- Biological plausibility. Knowledge of a known or understandable proposed mechanism aids determination of causality.
- Consistency with other research. Similar results from independent studies, especially with different measurement techniques, strengthen a causality hypothesis.
- Temporality or appropriate time sequence. The proposed exposure (the risk factor) should be present prior to the proposed effect or outcome (here, indicators of MSDs).
- Dose-response relationship (biologic gradient). If higher levels of exposure are associated with higher levels of outcome, this can indicate causality. However, a causal relationship may exist but be hidden by a non-linear dose-response relationship. The presence of a dose-response relationship can also indicate a confounder with its own biologic gradient.

A sixth criterion, specificity of association, is often added to this list. This term refers to the degree to which a particular outcome is always associated with a particular risk factor. Because of the overwhelming evidence for multifactoral causation of MSDs, the specificity of association is low for most risk factors and musculoskeletal outcomes (Kourinka and Forcier, 1995, Ex. 26–432). Thus, this criterion is generally not useful in assessing causality in MSD etiology (with the possible exception of the specific association of vibration exposure with neurovascular disorders in the hands). In general, a specific risk factor can be associated with a number of different outcomes.

b. Classification of Risk Factors and Modifiers. As much as possible, the risk factor classification employed in this document uses the definitions and concepts defined by NIOSH in the publication, "Musculoskeletal Disorders and Workplace Factors" (Bernard and Fine, 1997, Ex. 26–1), combined with definitions and concepts developed in the draft ANSI ergonomics standard, Z–365 (1998, Ex. 26–1264). This discussion separates the risk factors into two basic families of concepts: basic risk factors and modifiers. The basic risk factors presented here are the aspects of work that most researchers agree cause or exacerbate MSDs. The modifiers are characteristics of a specific exposure to a risk factor that may affect the level or type of strain produced within tissues. Although there is a growing body of evidence linking psychosocial and work organization factors with the development of MSDs, those factors are not addressed here (other than the obvious impact of work organization on work pace). The following sections focus on the biomechanical or physical risk factors:

- Basic Biomechanical Risk Factors (Section B.2):

—Force
—Awkward Postures
—Static Postures
—Repetition
—Dynamic Factors
—Compression
—Vibration

- Modifying Factors (Section B.3):

—Intensity
—Duration
—Temporal Profile
—Cold Temperatures

Other classification systems are possible and valid. For instance, Kourinka and Forcier (1995, Ex. 26–432) present a broader system that links force, repetition, and duration as components of "musculoskeletal load." Radwin and Lavender (in NAS, 1998, Ex. 26–37) and the ANSI draft standard Z–365 (1998, Ex. 26–1264) prefer to list repetition as a modifier or "characteristic property" rather than as a basic risk factor. The system used here represents one useful classification scheme; the component terms maintain essentially the same definition in any of the frameworks currently in use. Most importantly, these differences in classification are relatively trivial and do not affect the evidence showing that all of these factors are implicated in the etiology of work-related MSDs.

2. Basic Risk Factors

This section details the definitions, measurement issues, and some of the proposed effect mechanisms associated with basic biomechanical risk factors. No attempt is made to prioritize risk factors by importance, because the relative contribution of each stressor to MSDs depends on the particulars of the work environment and task structure, including the presence or absence of other risk factors. For instance, Radwin and Lavender (in NAS, 1998, Ex. 26–37) note that for a primarily static task, postural risks merit the closest attention in job analysis, while a dynamic manual material handling job requires more attention to dynamic stressors, such as range of motion, velocity, and acceleration of movement. Evidence for the relationship between these risk factors and MSDs is presented in detail in Section V.C of this preamble and the Appendices (Ex. 27–1). This section provides only cursory treatment of the mechanism of tissue injury attributable to these risk factors; Section V–C presents this aspect of MSD etiology in detail.

a. Force. Force is the mechanical effort required to carry out a movement or to prevent movement. Force may be exerted against a work piece or tool, or against gravity, to stabilize body segments. Force does not necessarily imply motion. The dynamic act of lifting a work piece and the static act of holding that work piece in position both require force, generated by muscles, transmitted through tendons, and exerted by body segments on the work piece. In determining the risk posed by force requirements of the task, it is useful to consider muscle force and output force of body segments separately.

Muscle Force. Muscle force is the actual mechanical effort exerted by the combined contraction of muscle fibers. The total force generated by any one muscle is a function of many factors, including the cross-sectional area of the muscle, the length of the muscle during contraction (*i.e.*, where the length range falls between full contraction and

full extension), and the degree of fatigue. Research generally characterizes muscle force by surrogate measures of muscle activity (*e.g.*, amplitude of electromyographic [EMG] signals, generally expressed as a percentage of the amplitude measured at maximum voluntary contraction [MVC]). Because of the electrical activity associated with muscle contraction, muscle force is the most easily measured aspect of tissue involvement. But full characterization of potential tissue damage requires attention to all links in the pathway through which muscle force is transmitted to output force (Section 2.a). Thus, force requirements affect tension on tendons (which transmit muscle force to bones), shear force, friction, and irritation induced by lateral forces on tendons and tendon sheaths (as they are pressed against surrounding anatomical structures) and the strain at the insertion of tendons on bones.

Estimating muscle force from external characteristics of the task can be complicated compared to measuring muscle activity (such as taking EMG measurements with deep wire electrodes implanted directly in the muscle fibers of interest). First, many external job characteristics can affect muscle force requirements, and some of these characteristics may not be recognized in a job analysis. For example, Kourinka and Forcier (1995, Ex. 26–432) note several factors that affect muscle force required for a grip: presence of other risk factors (such as awkward postures required by grip type and handle size), the coefficient of friction of the work piece surface, whether gloves are required, and individual variations in technique.

Second, the lever arm (the distance from point of force application to the fulcrum—the joint center) for most muscles is generally much smaller than that of the external load (Radwin and Lavender, in NAS, 1998, Ex. 26–37). This means that muscle forces are usually several times greater than the external load. Thus, accurate modeling requires precise estimation or modeling of actual lever arm lengths.

Third, fatigue affects muscle fiber recruitment patterns within a single muscle, as well as recruitment (substitution) patterns of alternative muscles (Parnianpour *et al.*, 1988, Ex. 26–1150). When secondary muscles are recruited to assist a fatigued primary muscle, the recruited secondary muscles may be more vulnerable to injury due to less-advantageous lever arm length, smaller size, or less-than-optimal fiber length in the work posture (see Section 2.b).

Despite these difficulties, modeling approaches can often predict internal force requirements accurately. For instance, Marras and Granata (1997a, Ex. 26–1380) showed that measured pressures in the L5S1 intervertebral disk generally match values predicted by modeling. (Internal disk pressure is a result of forces exerted on the disk by muscles and gravity.)

Output Force. The force exerted by body parts to move or hold the work piece (often against gravity) is obviously a function of muscle force. However, the relationship is strongly affected by other variables, the most important being posture. Deviations from a so-called "neutral posture" (see Section 2.b) can dramatically reduce the amount of muscle force translated into output force. The "lost" force is generally seen in inefficient coupling of the contractile proteins in muscle fibers or in force exerted by muscles and tendons against adjacent anatomical structures as the force transmission changes direction. In addition, most holding and moving tasks involve input from several muscles, often working in opposition. Skilled, small-motor activities involve co-contraction of antagonist muscles to generate precisely graded movements, joint stabilization, or holding forces. Thus, substantial muscle activity can be associated with very little net output force. In addition, these co-contractile forces act additively on the joint components (ligaments, cartilage, and bone). For the researcher, this has important implications. For example, measurements of the weight of a work piece or the finger forces necessary to move a computer mouse may substantially underestimate the potential damage to the muscles, tendons, joints and other soft tissues involved.

Guidelines for manual materials handling (*e.g.*, Snook and Ciriello, 1991, Ex. 26–1008; NIOSH, 1981, 1994, Exs. 26–393 and 26–572) clearly note that the weight of the load, in isolation, is not a sufficient measure of musculoskeletal stress.

b. Awkward Postures. This risk factor is generally conceptualized as postures deviated from a neutral position. In this document, "posture" means the angle between two adjacent body segments. A so-called "neutral posture" angle can be determined for each joint. This term seems to suggest the resting position of the joint, but it actually encompasses two biomechanical criteria necessary for optimal development of muscle force:

- The biomechanical relationship of the two body segments that presents the largest lever arm upon which the muscle force acts.

- The length of the muscle that allows it to develop the greatest force most rapidly. For most muscles, the physiological and physical relationships between the two contractile proteins, known as the length-tension and the length-velocity relationships, mean that maximum force and speed of contraction can be developed when the muscle is in a position between greatest extension and greatest contraction.

However, the term "non-neutral posture" should only be seen as a first approximation of a stressful, awkward posture, for several reasons. First, neutral posture is generally defined in terms of muscle length, although joint angles have implications for other tissues: what is optimal for one tissue may not be the optimal joint angle for another. For example, a roughly 90-degree elbow angle satisfies both criteria above for optimal biceps activity. But that posture may stretch the ulnar nerve against the elbow, suggesting that a more open elbow angle is necessary for optimal nerve function and safety.

Second, most body exertions involve more than one muscle, each of which may be in optimal biomechanical and length relationship at a different joint angle. Third, the body can adopt postures that are not necessarily the optimal biomechanical or length-tension relationships for muscles, but that result in the lowest sum of muscle activation to stabilize body parts against gravity.

Fourth, non-neutral postures are sometimes defined in relation to their association with tissue damage, not to a biomechanically sub-optimal joint angle. For example, a 90-degree abduction of the upper arm may put some shoulder muscles (*e.g.*, the deltoids) in a relatively "neutral" posture, but can expose the brachioplexus to compressive forces from other muscles and anatomical structures. This posture can also entrap the tendon of the supraspinatus muscle between the acromion and the head of the humerus (Hagberg, 1984, Ex. 26–1271). To fully characterize the degree to which a posture is "awkward," it is necessary to take an integrated overview of the tissues involved, defining which muscles and other tissues are involved in the position and what the implications are for tissue damage.

With these concerns in mind, Kourinka and Forcier (1995, Ex. 26–432) separate the term "awkward postures" into

three concepts, which may characterize a particular posture in combination or alone:

• Extreme postures. This term is used in the NIOSH review of epidemiological evidence (Bernard and Fine, 1997, Ex. 26–1). Extreme postures are joint positions close to the ends of the range of motion. They require more support, either by passive tissues (*e.g.*, ligaments and passive elements of the muscles) or increased muscle force. These positions may also exert compressive forces on blood vessels and/or nerves. Note, however, that some joints, such as the knee, are designed to be used close to the range-of-motion extremes.

• Non-extreme postures that expose the joint to loading from gravitational forces, requiring increased forces from muscles and/or load on other tissues. For instance, holding the arm at 90 degrees to the body does not represent an extreme posture in terms of muscle length. But the position allows gravitational forces to exert a pull requiring roughly 10% of maximal strength from the associated muscles (Takala and Viikari-Juntura, 1991, Ex. 26–1014).

• Non-extreme postures that change musculoskeletal geometry, increasing loading on tissues or reducing the tolerance of these tissues. This third factor includes the reduction in available lever arm for muscles, described above. An example of increased loading is provided by experiments (Smith, Sonstegard, and Anderson, 1977, Ex. 26–1006) demonstrating that even non-extreme wrist flexion can press the finger flexor tendons against the median nerve. Experiments by Adams *et al.* (1980, Ex. 26–701) indicate that combined flexion and twisting or bending of the spine reduces tissue tolerance of the intervertebral disks, predisposing them to rupture.

c. Static Postures. Static postures—postures held over a period of time to resist the force of gravity or to stabilize a work piece—are particularly stressful to the musculoskeletal system. More precisely, static postures are usually defined as requiring isometric muscle force—exertion without accompanying movement. Even with some movement, if the joint does not return to a neutral position and continual muscle force is required, the effect can be the same as a non-moving posture. Since blood vessels generally pass through the muscles they supply, static contraction of the muscle can reduce blood flow by as much as 90%. The consequent reduction in oxygen and nutrient supply and waste product clearance results in more rapid onset of fatigue and may predispose muscles and other tissues to injury. The increased intramuscular pressure exerted on neural tissue may result in chronic decrement in nerve function. The viscoelastic ligament and tendon tissues can exhibit "creep" over time, possibly reaching failure thresholds beyond which they are unable to regain resting length.

d. Repetition. Appendix I lists repetition as a basic risk factor. This section follows that categorization. However, repetition can have characteristics of both a basic risk factor and a modifier (the ANSI draft standard, Z–365, 1998, Ex. 26–1264, gives repetition modifier or "characteristic property" status). High repetition may act as a modifying factor, exacerbating the basic risk factors of force and posture. But high repetition also may have its own tissue effects (combined with the dynamic factors described in Section 2.e). For example, increased friction-induced irritation of finger flexor and extensor tendons in their sheaths can result in tendinitis and lead to increased pressure in the carpal canal. A moderate level of repetition can be seen as protective, since it can increase muscle strength and flexibility (this is the concept behind exercise). It can also assist blood flow through muscles, thus relieving the stressful nature of static muscle contractions. Ideal work cycles keep overall repetition rates in a middle zone between the injurious extremes of static contraction and excessive repetition.

e. Dynamic Factors (Motion). Motion of body segments consists of both linear motion and rotational motion around a joint. Present research addresses the effects of kinematic measures of posture: both angular and linear velocity (speed of motion) and acceleration (rate at which velocity increases or decreases). It is possible that, to a degree, measured acceleration and velocity are surrogates for increased force and postural risk factors. For example, Marras and Granata (1995, 1997b Exs. 26–1383 and 26–169) find that increased velocity and acceleration in trunk lateral bending and twisting result in measurable increases in both compressive and shear forces experienced by the intervertebral disks. But dynamic factors themselves may result in increased tendon travel and irritation. Viscoelastic soft tissues, such as tendons, spinal discs, and ligaments, have a fixed, intrinsic capacity to regain resting dimensions after stretching. Brief movement cycles may involve peak accelerations that can exceed tissue elasticity limits during an otherwise moderate task. The biodynamic literature suggests that, even in tasks performed for a short time, the acceleration and velocity of movements may pose risks that would not be predicted by the muscle forces or joint angles alone.

f. Compression. Compression of tissues can result from exposure that is external or internal to the body. Depending on the tissue compressed, the effects are manifested in quite different ways (see Section V–D of this preamble).

External Compression. Moderately sharp edges, such as tool handles, workbench edges, machine corners, and even poorly designed seating, concentrate forces on a small area of the anatomy, resulting in high, localized pressure. This pressure can compress nerves, vessels, and other soft tissues, resulting in tissue-specific damage (*e.g.*, degraded nerve transmission, reduced blood flow, and mechanical damage to tendons and/or tendon sheaths). These changes may themselves result in disease or predispose other tissues to damage.

The most common sites for compression MSDs are in the hands and wrists. Since natural selection has resulted in well-developed, padded gripping areas on the hands (in particular, finger pads and the thenar and hypothenar pads on the palm), injury is most often seen outside these areas: the sides of the fingers, the palm, and the ventral side of the wrist. For instance, the prolonged use of scissors can cause nerve damage on the sides of the fingers. Compression MSDs have also been identified in the forearm, elbow, and shoulder.

Internal Compression. Nerves, vessels, and other soft tissues may be internally compressed under conditions of high-force exertions, awkward postures, static postures, and/or high velocity or acceleration of movement. For example, strong abduction or extension of the upper arm, as well as awkward postures of the neck, can compress parts of the brachioplexus under the scalene muscles and other anatomical structures. This compression can result in nerve and/or blood vessel damage or in eventual damage to the tissues served by these nerves and vessels.

There are other sources of internal compression, also the secondary result of exposure to other risk factors noted in this document. Examples include:

• Intramuscular pressure developed during forceful contraction. (This is the main mechanism resulting in

compression of blood vessels internal to the muscles during static contraction).

• Pressure due to reparative swelling of tissues injured in work processes. (For example, the inflammatory swelling of flexor tendon synovial sheaths, in response to friction and irritation, can increase pressure in the carpal tunnel and compress the median nerve.)

g. Vibration. Vibration is normally divided into two categories:

• Segmental vibration or vibration transmitted through the hands. Segmental vibration appears to damage both the small, unmyelinated nerve fibers and the small blood vessels in the fingers, resulting in two specific diseases: vibration-induced white finger (VWF) and vibratory neuropathy. Together, these are called the hand-arm vibration syndrome (see below). Segmental vibration has also been implicated in carpal tunnel syndrome.

• Whole-body vibration, or vibration transmitted through the lower extremities and/or the back. Whole-body vibration is implicated in low back disorders and a host of less well-understood symptoms.

Recent research suggests that vibration should be further subdivided into two types:

• Harmonic or oscillatory vibration (due to a constant driving source, such as a grinding wheel or holding a powered tool such as an electric drill)

• Impact vibration (due to single impact, such as hammering a nail)

• Percussive vibration (bursts of separable impacts, such as those produced by a pneumatic riveting tool or a jackhammer)

It is possible that the thresholds for effects of these three types of vibration are quite different, with impact and percussive vibration having physiological effects at much lower measured exposure times.

Three classes of effect due to vibration are discussed in Section V–D and the Appendices (Ex. 27–1):

• Vascular damage, leading to premature vasoconstriction and insufficient circulation in the fingers. These effects give rise to the original name for occupationally induced Raynaud's syndrome: vibration-induced white finger (VWF). In 1987, a consensus panel, meeting in Stockholm, coined the term hand-arm vibration syndrome (HAVS) to give equal weighting to neurological symptoms (Gemne *et al.*, 1987, Ex. 26–624).

• Neurological effects. These effects involve damage to both the median nerve and to the small, unmyelinated nerve fibers in the fingers.

• Musculoskeletal effects. Kourinka and Forcier (1995, Ex. 26–432) list a number of possible effects in this category, including impaired muscle strength and osteoarthrosis of some upper extremity joints.

Finally, some research suggests that vibration received aurally (*i.e.*, noise) can, itself, result in increased static muscle loading (Kjellberg, Sköldström, and Tesaiz, 1991, Ex. 26–432).

3. Modifying Factors

This section elaborates on the definitions and measurement issues associated with the classification of modifying factors presented in Section B.1. Evidence for the relationship between these modifying factors and MSDs is presented in Section C. The following measures are not risk factors in themselves; rather, they modify the effects of the basic risk factors. To fully characterize exposure, investigators measure both the basic risk factors and the relevant modifiers.

a. Intensity or Magnitude. Intensity or magnitude is a measure of the strength of each risk factor: how much force, how deviated the posture, how great the velocity or acceleration of motion, how much pressure due to compression, how great the acceleration level of vibration, etc.

b. Duration. Duration is the measure of how long the risk factor was experienced. This is a task-specific measure and is generally combined with a comprehensive, job-specific characterization of the temporal profile of the exposure (Section 3.c). Frequency and duration are related, *i.e.*, the more frequently a task is performed, the greater the duration of exposure.

c. Temporal Profile (Recovery Time and Pattern of Exposure). The combined effects of the basic risk factors, modified by intensity and duration, tax the recovery and repair capacities of the body. Recovery capacity is strongly related to the time available for tissue repair. Thus, accurate exposure assessment takes into account the way that risk factors vary over time. Excessive metabolic load and inadequate rest schedules deprive the body of recovery time to accomplish repair on strained tissues. The pattern of exposure can be as important as total magnitude or cumulative exposure. For instance, a cumulative exposure duration of 4 hours, spread over two 8-hour work days, can be associated with substantially different health effects than a single, one-time exposure of 4 hours. Kourinka and Forcier (1995, Ex. 26–432) note that assessment of temporal profile would include:

• Task variation over a given time period (hour, day, week)

• Characteristics of the duty cycle: the proportion of the task in which stressors are high, compared to when they are low

• Schedule of micropauses (of a few seconds) every few minutes

• Distribution of formal rest breaks

• Shift and overtime schedules

d. Cold Temperatures. Cold is a well-established exacerbating factor in the development of vibration-related disease. In addition to aggravating pre-existing disease and injury, cold environments compromise muscle efficiency. Cold-related injuries to the hands result in several vascular and neurological disorders. Perhaps the most common effect of cold is its ability to reduce cutaneous sensory sensitivity and thus compromise manual dexterity. Workers with cold-desensitized fingers may grasp loads with more force than necessary, due to reduced sensory feedback, thus exposing muscles, soft tissues, and joints to increased tensile and compressive forces.

4. References

• Adams, M.A., Hutton, W.C., Stott, J.R.R. (1980). The resistance to flexion of the lumbar intervertebral joint. Spine, 5(3):245–253.

• American National Standards Institute. (1998). ANSI Z-365 Control of Work-Related Cumulative Trauma Disorders (Draft). New York: ANSI.

• Bernard, B., Fine, L., eds. (1997). Musculoskeletal Disorders and Workplace Factors. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication #97–141.

• Gemne, G., Pyykko, I., Taylor, W., Pelmear, P. (1987). The Stockholm Workshop scale for the classification of cold-induced Raynaud's phenomenon in the hand-arm vibration syndrome (revision of the Taylor-Pelmear scale). Scandinavian Journal of Work, Environment and Health, 13:275–278.

• Hagberg, M. (1984). Occupational musculoskeletal stress and disorders of the neck and shoulder: a review of possible pathophysiology. International Archives of Occupational and Environmental Health, 53(3):269–278.

• Hagberg, M., Morgenstern, J., Kelsh, M. (1992). Impact of occupations and job tasks on the prevalence of carpal tunnel syndrome: a review. Scandinavian Journal of Work, Environment and Health, 12:337–345.

• Hennekens, C.H., Buring, J.E., Mayrent, S.L. (1987). Epidemiology in Medicine. Boston: Little, Brown.

• Hill, A.B. (1965). The environment and disease; association or causation? Proceedings of the Royal Society of Medicine, 58:295–300.

• Kjellberg, A., Sköldström, B., Tesaiz, M. (1991). Equal EMG Response Levels to a 100 and 1000 Hz Tone. In Proceedings of Internoise, pp. 847–850.

• Kourinka, I., Forcier, L., eds. (1995). Work Related Musculoskeletal Disorders (WMSDs): A Reference Book for Prevention. London: Taylor and Francis.

• Marras, W.S., Granata, K.P. (1995). A biomechanical assessment and model of axial twisting in the thoracolumbar spine. Spine, 20:1440–1451.

• Marras, W.S., Granata, K.P. (1997a). The development of an EMG-assisted model to assess spine loading during whole-body free-dynamic lifting. Journal of Electromyography and Kinesiology, 17(4):259–268.

• Marras, W.S., Granata, K.P. (1997b). Spine loading during trunk lateral bending motions. Journal of Biomechanics, 30:697–703.

• National Institute for Occupational Safety and Health (1981). Work Practices Guide for Manual Lifting. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) publication #81–122.

• National Institute for Occupational Safety and Health (1994). Revised NIOSH Lifting Equation. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication #94–110.

• Parnianpour, M., Nordin, M., Kahanovitz, N., Frankel, V. (1988). The triaxial coupling of torque generation of trunk muscles during isometric exertions and the effect of fatiguing isoinertial movements on the motor output and movement patterns. Spine, 13:982–992.

• Radwin, R.G., Lavender, S.A. (1998). Work Factors, Personal Factors, and Internal Loads: Biomechanics of Work Stressors. In National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

• Rothman, K.J., Greenland, S. (1998). Modern Epidemiology. Philadelphia: Lippincott-Raven.

• Smith, E.M., Sonstegard, D., Anderson, W. (1977). Carpal tunnel syndrome: contribution of the flexor tendons. Archives of Physical and Medical Rehabilitation, 58:379–385.

• Snook, S.H., Ciriello, V.M. (1991). The design of manual handling tasks: revised tables of maximum acceptable weights and forces. Ergonomics, 34(9):1197–1214.

• Takala, E., Viikari-Juntura, E. (1991). Muscle force endurance and neck-shoulder symptoms of sedentary workers: an experimental study on bank cashiers with and without symptoms. Amsterdam, The Netherlands: Elsevier Science Publishers, B.V., pp. 123–132.

C. Evidence for the Role of Basic Risk Factors and Modifying Factors in the Etiology of MSDs

This section summarizes the extensive body of evidence for the involvement of workplace stressors in musculoskeletal disorder (MSD) causation. For each of the basic risk factors and modifying factors described in Section V–B, this section presents highlights from the relevant epidemiological, laboratory, and psychophysical studies, as well as a summary of the evidence. Section V–D and the Appendices (Ex. 27–1) explore this body of evidence in much greater detail.

1. Quality of the Evidence

The evidence from epidemiologic, laboratory, and psychophysical studies in the Health Effects Section supports a causal relationship between workplace stressors and MSD outcomes. The proposed mechanisms of effect, detailed in Section V–D of the preamble and in the Appendices (Ex. 27–1), support the biological plausibility of the link between stressors and disease—one of the five criteria useful in establishing causality (see Section B.1.a). These criteria require attention to population studies relating exposure and effect (epidemiology), to physiological measurements that show a plausible mechanism for disease causation or exacerbation (laboratory studies), and to subjective perceptions of fatigue and pain (psychophysical studies).

The epidemiological studies in this field have been criticized because they tend to feature cross-sectional research design and rely on worker self-reports. These studies may have an increased risk of common-instrument bias (if based on self-report) and present obstacles to determining causality, due to their inability to establish temporality. The NIOSH review discussed below (Bernard and Fine, 1997, Ex. 26–1) selected the studies with the best design and further weighted these studies' contributions to the review's conclusions by methodological quality. Still, some investigators feel that NIOSH was not exclusive enough in its selection of acceptable studies. (Note that although Gerr [1998, Ex. 26–426] makes this criticism in the NAS symposium [1998, Ex. 26–37], he also states that he doubts whether the exclusions he suggests would make a substantial difference in the overall conclusions NIOSH reaches about work-relatedness.) NIOSH notes that "The document represents a first step in assessing work-relatedness of MSDs."

It is useful, however, to look more deeply at the criticisms of self-reported studies. Punnett (1998, Ex. 26–442) reviews the wide variety of studies that demonstrate the validity of self-report measures. These studies further suggest that common-instrument bias (the notion that a worker's perception of high exposure might lead him/her to report higher symptom status, or vice versa) may pose less of a problem than critics suppose. Punnett notes that a number of well-designed keyboard studies found differences between self-reported and observed keying times, but these differences were non-differential between cases and controls. Symptom status, in other words, did not bias overall reporting of exposure one way or the other. The NIOSH summary of epidemiological evidence for low-back MSDs (Bernard and Fine, 1997, Ex. 26–1) does not support the assumption that self-reported bias inflates associations. Of the 13 studies (out of 18 reviewed) with a positive relationship between work-related lifting and forceful movements, those relying on objective measures of exposure showed higher odds ratios (ORs) (2.2–11) than those relying on subjective measures (1.2–5.2).

Likewise, looking at objectively measured as opposed to self-reported MSD outcomes, self-reported symptoms do correlate with objectively measured disease. Bernard *et al.* (1993, Ex. 26–439), for example, found that when compared to non-cases for increased median nerve latency, subjects defined as CTS cases on the basis of self-reported symptoms showed an OR of 42.5 (with a wide 95% CI: 1.61–1122, due to small sample size).

Although other types of bias are difficult to detect in cross-sectional studies, when they occur they are likely to underestimate rather than overestimate the relationship between exposure to stressors and disease. For instance, the "healthy worker" bias, the preferential departure of symptomatic workers from high-exposure jobs, artificially lowers the disease prevalence in these jobs, reducing the calculated association of stressor exposure to MSD in analysis. The clear association noted by the NAS report (1998, Ex. 26–37) between MSDs and jobs with high physical load is thus derived despite the effect-reducing influence of the "healthy worker" bias. This example also demonstrates that a researcher can make plausible hypotheses about the direction of effect in some cross-sectional studies. It is highly unlikely that workers experiencing MSD symptoms would preferentially transfer into jobs with higher physical exposure (which would artificially elevate epidemiological estimates of effect). It has, in fact, been shown that symptomatic workers do tend to leave jobs that have high levels of MSD risk (Punnett, 1998, Ex. 26–442). Silverstein *et al.* (1988, Ex. 26–1004), in a follow-up study at one of the plants examined in their earlier studies, found that those subjects in the high-force/high-repetition exposure category who were symptomatic in the original study were no longer in that exposure category at the time of follow-up.

This section does not evaluate the growing body of intervention research relating reduction in the number and severity of MSDs to intentional reductions in exposures. However, the recent NIOSH study of MSDs and workplace factors (Bernard and Fine, 1997, Ex. 26–1) includes studies that demonstrate a reduction in disease as a result of interventions that reduce exposures. Goldenhar (1994, Ex. 26–126) and Smith, Karsh, and Moro (1998, Ex. 26–445) carried out reviews of the intervention literature. While noting the potential value of intervention research, both reviews note substantial deficits in research sample size and study design. Despite these drawbacks, Smith, Karsh, and Moro find evidence for the injury-reduction potential of redesigned hand tools, weight-handling devices (*e.g.*, hoists, articulated arms), and other work station alterations, as well as exercise and training. The General Accounting Office study (1997, Ex. 26–5) of ergonomic program effectiveness (focusing on five case studies) found that successful programs were based on a core set of elements: management commitment and employee involvement, identification of problem jobs, development of solutions, training and education, and medical management. Programs based on these elements showed reductions in injuries, illnesses, lost work days, and associated workers' compensation costs. Qualitative evidence from these case studies showed improvements in worker morale, productivity, and product quality.

Psychophysical experiments, explored in Appendix II, (Ex. 27–1) measure subjective responses of individuals performing various laboratory tasks designed to mimic real work procedures. The measures are self-reports of discomfort, fatigue, level of exertion, etc. These measures have been found to correlate well with objective measures of injury frequency in workplaces (Snook, Campanelli, and Hart, 1978, Ex. 26–35; Herrin, Jaraiedi, and Anderson, 1986, Ex. 26–961).

2. NIOSH Summary of the Epidemiological Evidence

The following sections present selected epidemiological evidence organized by risk factor. However, it is helpful first to look at a summary of this evidence, taken from the very thorough analysis carried out by NIOSH (Bernard and Fine, 1997, Ex. 26–1). NIOSH lists reasonable and consistent criteria for including studies in this summary. The Workshop Summary and Papers document from the recent NAS symposium on MSDs (National Academy of Sciences, 1998, Ex. 26–37) contains assessments of the NIOSH analysis by seven respected epidemiologists. This group noted the drawbacks to many of the studies included in the analysis:

- Difficulty in establishing causal direction from any one study.
- Variability in assessment measures (also a strength of the combined body of studies).
- Lack of information concerning disease prevalence in non-working populations.
- The common epidemiological problem of possible unmeasured factors contributing to the effects seen.

However, the group concluded that:

- The NIOSH criteria for study inclusion in the summary were, in general, adequate.
- The preponderance of evidence, particularly from studies with high exposure contrasts among study groups, supports the association between work-related stressors and MSD development.
- The demonstrated reduction of MSDs in workplaces where stressors were reduced also strongly supports this association.

Bernard and contributors (1997, Ex. 26–1) established a four-part classification system to characterize the strength of evidence for work-relatedness, examining the contribution of each risk factor to MSDs, categorized by body location (see Tables V–1 and V–2).

Table V–1.—Upper-Extremity MSDs

MSD LOCATION OR DIAGNOSIS	NUMBER OF STUDIES	RISK FACTOR				
		FORCE	STATIC OR EXTREME POSTURES	REPETITION	VIBRATION (SEGMENTAL)	COMBINATION
Neck and Neck/ Shoulder	>40	++	+++	++	+/0	(—)
Shoulder	>20	+/0	++	++	+/0	(—)
Elbow	>20	++	+/0	+/0	(—)	+++
Carpal Tunnel	>30	++	+/0	++	++	+++
Hand/Wrist Tendinitis	8	++	++	++	(—)	+++
Hand-Arm Vibration	20	(—)	(—)	(—)	+++	(—)

Note: (—) means the association is not reported in the NIOSH publication.

Table V–2.—Lower-Back MSDs

MSD LOCATION OR DIAGNOSIS	NUMBER OF STUDIES	RISK FACTOR				
		HEAVY PHYSICAL WORK	LIFTING AND FORCEFUL MOVEMENTS	STATIC POSTURES	AWKWARD POSTURES	VIBRATION (WHOLE BODY)
Low Back	>40	++	+++	+/0	++	+++

In this determination, the investigators weighted the contribution of individual studies by the quality of the study design:

- Strong evidence of work-relatedness (+++): a very likely causal relationship between exposures of high intensity and/or duration and an MSD, using the epidemiologic criteria for causality (similar to those presented above).
- Evidence of work-relatedness (++): some convincing evidence of a causal relationship.
- Insufficient evidence of work-relatedness (+/0): some suggestion of causality, but most studies lack sufficient quality, consistency, or statistical power; study quality may be lower.
- Evidence of no effect of work factors (-): Adequate studies consistently and strongly show a lack of association between a risk factor and MSDs.

The study considered five categories of risk factors for upper-extremity MSDs (see Table V–1):

- Forceful exertions.
- High levels of static contraction, prolonged static loads or extreme working postures (termed "awkward postures" in Section B).
- Highly repetitive work.
- Vibration.
- A combination of these factors.

Table V–1 also shows that there is evidence or strong evidence of work-relatedness for most MSDs and risk factors.

The NIOSH study presents a somewhat different set of risk factors for low-back MSDs (see Table V–2). The classification:

- Looks at static and awkward postures separately, explicitly substituting "awkward postures" for extreme postures.
- Inserts "heavy physical work" and "lifting and forceful movements" in place of "force."
- Assesses whole-body vibration instead of segmental vibration.
- Removes assessment of repetition as a separate risk factor.
- Does not address combinations of risk factors.

This modified selection of risk factors is, overall, appropriate to the particular nature of back exposures and injury and reflects the foci of attention in the epidemiological research literature. The last two omissions are unfortunate, however, because both repetition rate and combined exposures to stressors are relevant to the etiology of low-back disorders. In practice, the studies that assessed heavy physical work used definitions of this stressor that include "high energy demands * * * heavy tiring tasks, manual materials handling tasks, and heavy, dynamic, or intense work" (Bernard and Fine, 1997, p. 6–4, Ex. 26–1). These stressors probably implicitly include both repetition and a combination of risk factors. Table V–2, like Table V–1, shows that there is evidence or strong evidence of work-relatedness for low back MSDs. Due to the multifactoral nature of MSD causation, the separation of evidence by individual risk factor is artificial. But this separation is useful for clarity and is continued in this section, which presents other epidemiological studies as well as evidence from laboratory and psychophysical studies pointing to the role of workplace stressors in the causation or exacerbation of MSDs.

3. Workplace Risk Factors and MSDs

a. Force.

Epidemiological Evidence. The NIOSH summary (Bernard and Fine, 1997, Ex. 26–1) of upper-extremity MSDs found evidence of a causal relationship between exposure to force and disorders of the neck and elbow, as well as carpal tunnel syndrome (CTS) and hand/wrist tendinitis. (In general, the evidence for work-related MSDs at the elbow has been less convincing than that for other body locations. Although the NIOSH review finds evidence for a relationship between force and epicondylitis, Kourinka and Forcier (1995, Ex. 26–

VOL 64 ISS 225 NO 23 1999 UMI

432) conclude that the evidence is not yet convincing.) Silverstein, Fine, and Armstrong (1987, Ex. 26–34), studying CTS as an outcome, found an OR of 15.5 (95% CI: 1.7–142) for high-force/high-repetition jobs, compared to jobs with low levels of both. The interaction of force and repetition was important in this study; in separate models, force alone had a non-significant OR of 2.9 and repetition alone had an OR of 5.9 ($p < .05$). Nathan *et al.* (1988, Ex. 26–990) also found elevated prevalences of CTS in workers holding high-force/high-repetition jobs. The case definition of these authors did not include self-reported symptoms but only measurable decrements in nerve conduction velocity. This is a stricter case definition than that of Silverstein *et al.* (1987, Ex. 26–34), which was based on self-reported symptoms and physician examinations. This stricter case definition resulted in a smaller but more rigorously defined set of cases; the calculated OR was correspondingly lower (2.0, 95% CI: 1.1–3.4, comparing the highest-force/repetition group to the lowest). Note that this author did not find significant relationships between force and CTS in subsequent work (Nathan *et al.*, 1992, Ex. 26–988).

In addition to the NIOSH summary, other epidemiological studies point to an association between force requirements and work-related MSDs. Silverstein's 1985 cross-sectional research on male and female industrial workers is suggestive, although the NIOSH summary found insufficient evidence for an association between force and shoulder MSDs and did not include this study (Ex. 26–1173). The study compared workers in jobs characterized by a combination of high force and high repetition, measured at the wrist, to those in jobs with low levels of both exposures; the authors calculated an OR of 5.4 (95% CI: 1.3–23) for prevalence of shoulder tendinitis and degenerative joint disease (thus using wrist measurements as a surrogate for shoulder exposure, a possible source of criticism). This study also found an OR for hand/wrist tendinitis of 29 (CI not reported).

Vingård *et al.* (1991, Ex. 26–1400), in a registry-based cohort study of people hospitalized for osteoarthrosis over 3 years, compared men and women with high exposure to dynamic and static forces at the knee to those with low exposure. Occupations with significantly elevated relative risk were firefighter, farmer, and construction worker for men, and cleaner for women.

Coggon *et al.* (1998, Ex. 26–1285) carried out a case-control study of 611 subjects with hip replacements due to osteoarthritis, compared to matched controls. Men who reported lifting more than 25 kilograms at least 10 times per week for 10 years prior to age 30 or for more than 20 years over their working life had higher rates of surgery (OR 2.7 and 2.3, respectively significant at a 0.05 level). The association did not hold for females.

Laboratory Evidence. Ashton-Miller (1998, Ex. 26–414), summarizing a large body of laboratory evidence assessing the effects of loading on body tissues, concludes that muscle, tendon, and ligamentous tissues can fail when subjected to sufficient force under certain conditions. Faulkner and Brooks (1995, Ex. 26–1410) found that excessive force can cause muscle fiber damage, either by disruption of the actin-myosin (the contractile proteins) interdigitation or of the Z-lines between single sarcomeres (the contractile units in the muscle fibril). Muscles are particularly likely to be injured through exertion of excessive force in eccentric contractions (*i.e.*, as the muscle is being lengthened, such as when stopping the motion of the body or an external object) (Brooks, Zerba, and Faulkner, 1995, Ex. 26–87). Ashton-Miller (1998, Ex. 26–414) suggests that these injuries, although seemingly traumatic, commonly occur in combination with accumulated strain from lower levels of repeated forceful exertions (Wren, Beaupre, and Carter, 1998, Ex. 26–245).

Laboratory evidence for viscoelastic strain in tendons and ligaments under forceful loading is suggestive (*e.g.*, Goldstein *et al.*, 1987, Ex. 26–953; Crisco *et al.*, 1997, Ex. 26–1373). However, more research is necessary to establish whether this strain progresses to MSDs. Animal studies have shown that forceful loading of tendons can produce structural changes similar to those found in MSDs (Rais, 1961, Ex. 26–1166; Backman *et al.*, 1990, Ex. 26–251).

Forceful muscle contraction raises intra-muscular pressure, potentially increasing pressure on nerves and vessels within the active muscle. Abundant animal studies (see summary, Rempel *et al.*, 1998, Ex. 26–444) demonstrate that increased pressure on neurons can reduce blood flow around, and inhibit transport in, axons. Pressure elevations can impair nerve function, increase neural edema, and even alter myelin sheath structure. Many of these changes can occur over relatively short exposure times and in the presence of relatively low pressure elevations. These changes demonstrate a dose-response relationship. This suggests that elevated pressure around nerves during work tasks might cause decrements in nerve function. Both human cadaver studies (Cobb *et al.*, 1996, Ex. 26–98) and work with healthy volunteers (Rempel *et al.*, 1997, Ex. 26–889; Keir *et al.*, 1998, Ex. 26–289) demonstrate that forceful loading of fingertips results in elevated carpal tunnel pressures, well within the range demonstrated to cause damage to animal neurons.

Psychophysical Evidence. Experiments performed over many years at the Liberty Mutual laboratories in Hopkinton, Massachusetts (Snook, 1996, Ex. 26–1353), have examined, in detail, the effects of different biomechanical stressors on subjects' reports of acceptable lifts, carries, pushes, pulls, etc. In general, the experimenter sets all parameters of a simulated task, with the exception of the load, which can be varied by the subject. The subjects are asked to rate task acceptability as if they were performed for a full day, so that the ratings of acceptable load include allowances for fatigue over the course of a workday. The research group has published extensive tables of these acceptable loads (Snook and Ciriello, 1991, Ex. 26–1008). Although there is great individual variation, these experiments generally show the subjects' ability to precisely estimate and regulate the load that would allow them to work a full day without becoming overtired or out of breath. These studies demonstrate the interrelatedness of the biomechanical stressors examined in the Health Effects Section. They show that acceptable load estimates are very sensitive to variations in posture, frequency, and the distance the load is moved.

Klein and Fernandez (1997, Ex. 26–1357) administered a variant of this study design, allowing subjects to adjust the frequency of a repeated pinch grip (determining the maximum acceptable frequency [MAF]) under varying conditions of force, wrist posture, and pinch duration. They found that, as the force of the pinch grip was experimentally increased, the MAF fell.

Summary: Force and Work-Related MSDs. The NIOSH findings of evidence for force-related MSDs in most upper-extremity locations, combined with the few studies addressing lower-extremity MSDs, make a case for a causal association of between increased workplace force requirements and disease. The large number of laboratory studies (see Appendix II, Ex. 27–1) provides evidence for several plausible and repeatable mechanisms by which

forceful exertions could cause MSDs. The psychophysical studies lend support to these conclusions, due to the demonstrated correlation between subjective workload estimates (discomfort, fatigue, and level of exertion) and objectively measured outcomes of injury frequency in workplaces (Snook *et al.*, 1978, Ex. 26–35; Herrin *et al.*, 1986, Ex. 26–961). These studies also demonstrate the interrelatedness of force exposures with several other risk factors for MSDs—in particular, repetition and awkward postures. Taken as a whole, the evidence is consistent and makes a strong case for force as a risk factor for work-related MSDs.

b. Awkward Postures.

Epidemiological Evidence. The NIOSH summary of upper-extremity MSDs (Bernard and Fine, 1997, Ex. 26–1; see Table V–1 above) did not separate static and awkward postures in their conclusions. The summary found evidence of a causal relationship between exposure to static or extreme postures and disorders of the shoulder and hand/wrist tendinitis. There is strong evidence of a causal relationship between postural stressors and neck MSDs. The summary found insufficient evidence for a relationship between these risk factors and elbow disorders or CTS. Of the 15 studies that addressed postures, many with positive results were carried out on VDT workers (*e.g.*, Bernard *et al.*, 1993, Ex. 26–439; Kukkonen *et al.*, 1983, Ex. 26–1138). The research on the largest study population (Linton, 1990, Ex. 26–977) examined combined biomechanical and psychosocial exposures. The study looked at 22,180 Swedish employees undergoing screening examinations at their occupational health care service. Combined exposures to "uncomfortable posture" and poor psychosocial work environment showed an OR of 3.5 (95% CI: 2.7–4.5) for neck pain cases (defined as those who reported a visit to a health care professional in the last year for neck pain) compared to low-exposure jobs. The studies in the NIOSH summary support the conclusion that a combination of risk factors carries increased risk. In particular, the studies reviewed provide strong evidence for the causal relationship of combined risk factors (especially force, postural stressors, and repetition) with disorders of the elbow, CTS, and hand/wrist tendinitis.

Other epidemiological studies demonstrate an association between awkward or extreme postures and work-related MSDs. Bjelle *et al.* (1979, Ex. 26–1112) found a strong relationship between industrial work with hands at or above shoulder level and outcomes of shoulder tendinitis (OR: 11; 95% CI: 2.7–42). Similar findings appeared in studies by Herberts *et al.* (Ex. 26–960) on shipyard welders (1981; OR: 13; 95% CI: 1.7–95) and shipyard plate workers (1984; OR: 11; 95% CI: 1.5–83). The referent group in these studies consisted of office workers. A cross-sectional study of female assembly line packers, compared with department store shop assistants (Luopajärvi *et al.*, 1979, Ex. 26–56), found an OR of 7.1 for hand/wrist tendinitis (95% CI: 3.9–12.8). In this study, exposure was a combination of awkward postures, static postures and repetitive motions.

The bulk of the NIOSH-reviewed studies (Bernard and Fine, 1997, Ex. 26–1) do not provide sufficient evidence for the link of postural factors with CTS. However, de Krom *et al.* (1990, Ex. 26–102) found associations between awkward (flexed and extended) wrist postures and CTS. The strength of association increased with hours of exposure. Marras and Schoenmarklin (1993, Ex. 26–172) were able to distinguish between jobs carrying a high and low risk of CTS, using a combination of measured wrist flexion and two dynamic factors (wrist extension angular velocity and wrist flexion angular acceleration).

Laboratory Evidence. Ashton-Miller (1998, Ex. 26–414) cites a number of studies demonstrating that a change of force direction over bony or ligamentous structures creates transverse or shear forces and increases in friction experienced by tendons and tendon sheaths. Increased angles adopted by tendons as they pass around a tendon pulley (related to awkward posture) and increased longitudinal tension (related to the required muscle force) combine to increase friction on the tendon (Uchiyama *et al.*, 1995, Ex. 26–339).

In addition, extreme postures can require elevated muscle activity simply to overcome the resistance of passive tissues. Zipp *et al.* (1983, Ex. 26–1270) found that adopting an extremely pronated forearm position (such as that required by computer keyboard operation) requires high muscle activity, even without any external loading. Non-extreme postures can still trap tissues in injurious positions. Smith, Sonstegard, and Anderson (1977, Ex. 26–1006) demonstrated that even non-extreme wrist flexion can cause the finger flexor tendons to compress the median nerve. Buchholz *et al.* (1988, Ex. 26–1297) detail a sophisticated modeling approach that explains the measured increased muscle force demands associated with non-optimal grip diameters (putting the fingers into awkward biomechanical relationships).

Nerve tissue may also be at risk in anatomical sites associated with awkward posture. Any posture that compresses or crushes a nerve may cause the histological changes noted in Section C.3.a. Human studies (Armstrong *et al.*, 1984, Ex. 26–1293) have shown that histological changes (edema, thickening, fibrosis) occur in nerves at the site of compression injury and possibly at sites of bending (*e.g.*, the ulnar nerve at the elbow). The human cadaver studies (Cobb *et al.*, 1996, Ex. 26–98) and healthy volunteer studies (Rempel *et al.*, 1997, Ex. 26–889; Keir *et al.*, 1998, Ex.26–289) cited above also demonstrate that non-neutral hand postures, combined with forceful loading of fingertips, result in elevated carpal tunnel pressures, well within the range demonstrated to cause damage to animal neurons. Rempel *et al.* (1998, Ex. 26–444) cite eight human studies measuring pressure in the carpal tunnel when the wrist is in a flexed or extended posture relative to a neutral posture. Most of these studies show elevation of carpal pressure, again into the range that causes damage in the animal studies.

Studies of the spine demonstrate similar negative effects of awkward postures. Marras *et al.* (1993, Ex. 26–170) include maximum sagittal trunk flexion angle as one of the five predictors of high risk for low-back injury. In a study by Hutton and Adams (1982, Ex. 26–1381), intervertebral disks in undeviated cadaver spines did not fail until loads exceeded 10,000 Newtons (N). However, disks in extremely flexed spines failed at roughly half that loading (average 5400 N—Adams and Hutton, 1982, Ex. 26–1379). Repetitive loading reduced this average failure point to 3800 N (Adams and Hutton, 1985, Ex. 26–1315). Although the relative magnitude of these forces is important, they may suggest lifting limits that are too high for many living workers. NIOSH, noting the large variability in compression forces associated with disc failure, estimated that 21% of spinal segment specimens would fail at the 3400 N level used as a basis for the NIOSH lifting equation (Waters *et al.*, 1991, Ex. 26–521). Adams *et al.* (1980, Ex. 26–701) report experimental and modeling evidence suggesting that combined forward flexion and lateral bending of the lumbar

spine reduce the injury tolerance of intervertebral disk fibers, possibly increasing chance of rupture. A possible mechanism for disk injury may relate to the fact that lateral flexion and axial rotation of the lumbar spine increase antagonistic muscle activity, thereby increasing the overall disk loading. This is consistent with observations that the combination of lifting, twisting, and bending is one of the most frequent causes of low-back pain (Rowe, 1983, Ex. 26–699).

Psychophysical Evidence. The Liberty Mutual studies cited in Section C.3.a also demonstrate the subjective effect of awkward postures. The maximum acceptable weight (MAW) arrived at by the subjects in these experiments decreased if the lifts were carried out above shoulder height. The MAW was also inversely related to object size (reflecting the fact that moving bulkier loads generally requires more awkward postures).

As described in Section C.3.a, Klein and Fernandez (1997, Ex. 26–1357) allowed subjects adjust to the frequency of a repeated pinch grip (determining the MAF) under varying conditions of force, wrist posture, and pinch duration. They found that the MAF at two-thirds the maximum wrist flexion was significantly less than in a neutral wrist posture. Wrist flexion angle was a significant factor for several variables.

Marley and Fernandez (1995, Ex. 26–863), looking at the stressors associated with hand-held tools, assessed MAF for a simulated drilling task. Compared to ratings in a neutral wrist posture, when the wrist was at one-third maximum flexion, MAF was 88%; at two-thirds maximum flexion, MAF was 73% of the neutral posture value. Subjects used Borg RPE ratings (self-reported ratings of perceived exertion) (Borg, 1982, Ex. 26–705) to estimate required exertion at various body locations. Compared to a neutral wrist position, subjects performing the task with the wrist in two-thirds maximum flexion reported increases in exertion in the wrist, forearm, shoulder, and whole body.

Asymmetrical lifting postures also resulted in a reduction in the MAW. Garg and Badger (1986, Ex. 26–121) asked subjects to carry out a floor-to-table lift twisted 30, 60 and 90 degrees from neutral trunk posture. The MAWs showed significant decreases of 7%, 15%, and 22%, respectively.

Summary: Awkward Postures and Work-Related MSDs. The epidemiological evidence for a causal association between awkward postures and MSDs is strong, especially for neck disorders. Although the NIOSH review (Bernard and Fine, 1997, Ex. 26–1) found insufficient evidence that posture alone can cause CTS, the studies found strong evidence for CTS causation by a combination of risk factors. This suggests that the harmful effects of exposure to awkward posture may be experienced primarily in combination with other risk factors. The numerous laboratory studies examining the relationship between postural stressors and CTS, in particular, strengthen the evidence for a combination of awkward postures and force as risk factors for this outcome. Likewise, extensive epidemiological and laboratory evidence for increased risk of low-back injury due to bending and twisting also demonstrates the important role that postural stressors play in MSD causation.

This evidence is further strengthened by the sensitivity to postural variables of subject-estimated safe loads in the psychophysical literature. These psychophysical studies lend support to these conclusions, due to the demonstrated correlation between subjective workload estimates (discomfort, fatigue and level of exertion) and objectively measured outcomes of injury frequency in workplaces (Snook *et al.*, 1978, Ex. 26–35; Herrin *et al.*, 1986, Ex. 26–961). These studies also demonstrate the interrelatedness of postural exposures with several other risk factors for musculoskeletal disorders, in particular, repetition and force. The convergent evidence from these diverse areas, with very different methodological approaches, strongly supports the hypothesis that awkward postures have a causal role in the etiology of MSDs.

c. Static Postures.

Epidemiological Evidence. Since the NIOSH summary (Bernard and Fine, 1997, Ex. 26–1) did not distinguish between awkward and static postures, the summary in section C.3.b applies here as well. In addition to the NIOSH summary (see Tables V–1 and V–2 above), other epidemiological studies demonstrate an association between static contractions or prolonged static load and work-related MSDs. In a review of the epidemiological evidence for three neck-related MSDs, the contributors to Kourinka and Forcier (1995, Ex. 26–432) report consistent associations between exposures to static head and arm postures and outcomes of tension neck syndrome. Grieco *et al.* (1998, Ex. 26–627) also report associations between static work and tension neck syndrome in several different occupations. Looking at the neck region more generally, Hales and Bernard (1996, Ex. 26–896) report several studies showing consistent association between neck disorders and work involving static or constrained postures. A review of neck studies by Hidalgo *et al.* (1992, Ex. 26–631) proposes that prolonged static contraction of neck muscles be limited to force levels at or below 1% of maximum voluntary contraction (MVC). In an intervention study, Aarås *et al.* (1998, Ex. 26–597) found that introduction of a workstation arrangement that allowed forearm support (thus lowering static load on the shoulders) reduced trapezius muscle activity from 1.5% to 0.3% of MVC and was associated with a reduction in neck pain.

A cross-sectional study of 152 female assembly line packers, compared with department store shop assistants (Luopajärvi *et al.*, 1979, Ex. 26–56), found an OR of 7.1 for hand/wrist tendinitis (95% CI: 3.9–12.8). In this study, exposure was a combination of static postures, awkward postures and repetitive motions.

A population-based case-control study (Cooper *et al.*, 1994, Ex. 26–460), comparing cases with knee osteoarthritis to matched controls with non-arthritic knee pain, found that squatting more than 30 minutes per day was associated with an increased prevalence of osteoarthritis (OR: 6.9, 95% CI 1.8—26.4). Vingärd *et al.* (1991), in a registry-based cohort study of people hospitalized for osteoarthrosis over 3 years, compared men and women with high exposure to static and dynamic forces at the knee to those with low exposure. Occupations with significantly elevated relative risk were firefighter, farmer, and construction worker for men, and cleaner for women.

Laboratory Evidence. In general, the laboratory literature cited above for force and awkward posture is relevant to the prolonged exposures involved in static postures (Zipp *et al.*, 1983, Ex. 26–1270; Buchholz *et al.*, 1988, Ex. 26–1297; Smith, Sonstegard, and Anderson, 1977, Ex. 26–1006). Many of the same mechanisms apply, but the duration is increased and the temporal profile of exposure is made worse by the reduction in rest breaks and opportunity for recovery time. Lundborg *et al.* (1982, Ex. 26–979) showed that a constant hydrostatic pressure (*i.e.*, during a static muscle contraction) of between 30 and 60 mm Hg reduces microcirculation of the nerve and compromises nerve conduction.

Rohmert (1973, Ex. 26–580) found that muscle contractions can be maintained for prolonged periods if kept below 20% of MVC. But other investigators (Westgaard and Aarås, 1984, Ex. 26–1026) found chronic deleterious effects of contractions even if they are lower than 5% of MVC. This latter finding is supported by the observation that low-level static loading (such as shoulder loading in keyboard tasks) is associated with shoulder MSDs (Aarås *et al.*, 1998, Ex. 26–597). The supraspinatus muscle, a muscle severely constrained by bone and ligamentous tissue, demonstrates increased intramuscular pressure during small amounts of shoulder abduction or flexion (Järvholm *et al.*, 1990, Ex. 26–285). This suggests the possibility of chronic blood vessel and nerve compression during static tasks.

Chronic reduction of blood flow may be a mechanism by which static muscle contractions lead to MSDs. Several studies have found that the small, slow motor units in patients with chronic muscle pain show changes consistent with reduced local oxygen concentrations (Larsson *et al.*, 1988, Ex. 26–1140; Dennett and Fry, 1988, Ex. 26–104). Reduced blood flow and disruption of the transportation of nutrients and oxygen can produce intramuscular edema (Sjogaard, 1988, Ex. 26–206). The effect can be compounded in situations where recovery time between static contractions is insufficient. Eventually, a number of changes can result: muscle membrane damage, abnormal calcium homeostasis, an increase in free radicals, a rise in other inflammatory mediators, and degenerative changes (Sjogaard and Sjogaard, 1998, Ex. 26–1322).

Psychophysical Evidence. Several studies have evaluated the maximum acceptable weight (MAW) in conditions requiring prolonged stooping (low ceiling height). Smith *et al.* (1992, Ex. 26–1007) performed laboratory experiments on 100 subjects (50 male, 50 female) recruited from a college-age population at Texas Tech University. The study collected data on a number of awkward postures, such as twisting, lying down, kneeling, squatting, and carrying loads with a restricted ceiling. The authors found that the MAW decreased with decreasing ceiling height (which requires forward flexion during lifting) as well as with twisted postures.

Klein and Fernandez (1997, Ex. 26–1357) allowed subjects to adjust the frequency of a repeated pinch grip (determining the MAF) under varying conditions of force, wrist posture and pinch duration. They found that, as the pinch grip was held for longer increments of time (1, 3, and 7 seconds), the MAF fell.

Summary: Static Postures and Work-Related MSDs. The epidemiological evidence is particularly strong for the causal role of static postures in MSDs of the neck and shoulder region. This evidence is suggestive but less convincing for disorders of the distal upper extremities. Laboratory evidence for muscle and tendon damage in these areas, as well as secondary compression of blood vessels and nerves, lends support to the connection between work-related static postural requirements and the development of these disorders. The psychophysical studies have not generally focused on static postures, but the two studies cited in section C.3.c provide evidence of increased fatigue and discomfort related to static postures of the back and fingers. These psychophysical studies lend support to the conclusions of work-relatedness, due to the demonstrated correlation between subjective workload estimates (discomfort, fatigue, and level of exertion) and objectively measured outcomes of injury frequency in workplaces (Snook *et al.*, 1978, Ex. 26–35; Herrin *et al.*, 1986, Ex. 26–961). These studies also demonstrate the interrelatedness of postural exposures with several other risk factors for musculoskeletal disorders, in particular repetition and force. Taken as a whole, the evidence suggests that static postures are causal factors in the etiology of MSDs, both through exacerbation of the mechanisms explored under other risk factors (*e.g.*, awkward postures, force) and through chronic reductions in blood flow and neural function caused by prolonged elevations of intramuscular pressure.

d. Repetition. Repetition has qualities of both a risk factor and a modifying factor (or "characteristic property" (ANSI, 1998, Ex. 26–1264)). Because of this borderline position, repetition is often reported as an exposure intensifier (*e.g.*, Radwin and Lavender, 1998, Ex. 26–37) and often as a risk factor in itself (*e.g.*, Kourinka and Forcier, 1995, Ex. 26–432). Thus, a substantial portion of the evidence presented in subsequent sections, supporting the association of repetition with work-related MSDs, examines repetition in combination with other risk factors. In fact, the NIOSH summary (Bernard and Fine, 1997, Ex. 26–1) found that a combination of risk factors increases the strength of the evidence for work-relatedness. This suggests that each individual risk factor has characteristics of both a basic risk factor and a modifier, and the distinction becomes somewhat academic.

Epidemiological Evidence. The NIOSH summary (Bernard and Fine, 1997, Ex. 26–1; see Table V–1 above) found evidence for work-related MSDs connected with exposure to repetitive work for all body locations considered except the elbow. Of the 16 selected studies that addressed repetition exposure and found a positive association with neck disorders, 11 found associations that were statistically significant. Ohlsson *et al.* (1995, Ex. 26–868) compared 82 female industrial workers exposed to short-cycle tasks (less than 30 seconds) to 64 referents with no exposure to repetitive work. The OR for tension neck syndrome was 3.6 (95% CI: 1.5–8.8), and the OR for shoulder symptoms (several types of tendinitis, frozen shoulder, acromioclavicular syndrome) was 5.0 (95% CI: 2.2–11.0). Silverstein *et al.* (1987, Ex. 26–34), studying CTS as an outcome, found an OR of 15.5 (95% CI: 1.7–142) for high-force/high-repetition jobs, compared to jobs with low levels of both. Jobs with only high-repetition exposure still demonstrated an OR of 5.5, compared to low-force/low-repetition jobs. Nathan *et al.* (1988, Ex. 26–990) also found an elevated prevalence of CTS in workers holding high-force/high-repetition jobs. Their stricter case definition was based on nerve conduction velocity decrements, and the calculated OR was correspondingly lower (2.0, 95% CI: 1.1–3.4). Note that subsequent investigations by this investigator did not find a significant association of repetition with CTS (Nathan *et al.*, 1992, Ex. 26–988).

Other epidemiological studies demonstrate an association between repetitive movements and work-related MSDs. The contributors to Kourinka and Forcier (1995, Ex. 26–432), in a review of the epidemiological evidence for three neck-related MSDs, report weak-to-moderate, but consistent associations between exposures to repetitive work and outcomes of tension neck syndrome and thoracic outlet syndrome (TOS). They and other reviewers (*e.g.*, Grieco *et al.*, 1998, Ex. 26–627) did not find convincing evidence of a connection between repetition and cervical radiculopathy. Looking at the neck region more generally, Hales and Bernard (1996, Ex. 26–896) report several studies showing consistent association between neck disorders and repetitive work/forceful repetitive work.

Silverstein's (1985, Ex. 26–1173) cross-sectional study of male and female industrial workers compared workers in

jobs characterized by a combination of high force and high repetition to those in jobs with low levels of both exposures. She calculated a risk ratio of 5.4 (95% CI: 1.3–23) for prevalence of shoulder tendinitis and degenerative joint disease. This study found an OR for hand/wrist tendinitis of 29 (CI not reported). A cross-sectional study of female assembly line packers, compared with department store shop assistants (Luopajärvi *et al.*, 1979, Ex. 26–56), found an OR of 7.1 for hand/wrist tendinitis (95% CI: 3.9–12.8). In this study, exposure was a combination of awkward postures, static postures and repetitive motions. Other studies have also demonstrated a strong association between CTS and repetition (reviewed in Kourinka and Forcier, 1995, Ex. 26–432).

A population-based case-control study (Cooper *et al.*, 1994, Ex. 26–460), comparing cases with knee osteoarthritis to matched controls with non-arthritic knee pain, found that climbing more than 10 flights of stairs per day was associated with increased prevalence of osteoarthritis (OR: 2.7, 95% CI 1.2–6.1).

Laboratory Evidence. In 1951, Sperling (Ex.26–1411) subjected his own fingers to a series of prolonged, repetitive movements, against resistance. In all cases, the area around the affected tendon became tender and swollen, and in most cases, he began to notice snapping and thickening. These symptoms remained for several months. Sperling concluded that tendon injury could be caused by simple, repetitive loading, without the necessity for traumatic injury. Rais (1961, Ex. 26-1166) performed two experiments subjecting rabbits to varying degrees of stressful, repetitive leg movement. Overall, he found evidence of peritendinitis, localized to the area of the myotendinous junction. The changes indicated cellular damage and restorative activities. In the muscles themselves, he also observed degeneration of varying degrees, fibrin deposition, and evidence of regeneration.

Experimentally, Hagberg (1981, Ex. 26–955) demonstrated that a 1-hour course of repetitive shoulder flexion movements could induce acute shoulder tendinitis. Several investigators found an increase in shoulder muscle activity and/or pain when assembly line work pace was increased (*e.g.*, Odenrick *et al.*, 1988, Ex. 26–576; Ohlsson *et al.*, 1989, Ex. 26–1290). These findings should be interpreted with caution: Shoulder tension is strongly affected by psychosocial factors (although it should be noted that the overall effect is still the increase of shoulder muscle activity).

A few investigators have studied the effects of repeated loading on cadaver spinal segments (Brinckmann, *et al.*, 1987, Ex. 26–1318; 1988; Hansson, *et al.*, 1987, Ex. 26–279). These studies applied a submaximal load (a percentage of the load associated with failure in a single application). A strong dose-response relationship emerged. Even with compressive loads set at 55% of the single trial failure load, mechanical failure occurred in 92% of the specimens after 5000 cycles. At 65% of this load, 91% of the specimens failed after only 500 cycles. At 75% of this load, some specimens failed after only 10 cycles. Although cadaver tissue probably acts differently from living tissue, these results do suggest that repetition is a risk factor for spinal injury.

Psychophysical Evidence. The Liberty Mutual studies cited in Section C.3.a.iii also demonstrate the subjective effect of repetition rates on subject estimates of tasks that could be performed over the course of a work day without undue fatigue, discomfort, or overexertion (Snook, 1996, Ex. 26–1353). As noted above, the experimenter sets all parameters of a simulated task, with the exception of the load, which can be varied by the subject. The subjects are asked to rate task acceptability as if they were performing the task for a full workday, so the ratings of acceptable load include allowances for fatigue over the course of a workday. The research group has published extensive tables of these acceptable loads (Snook and Ciriello, 1991, Ex. 26–1008). Although there is great individual variation, these experiments in general show the subjects' ability to precisely estimate and regulate the load that would allow a full day of work without becoming overtired or out of breath. These studies show that acceptable load estimates are very sensitive to variations in the repetition rate of the task. In all variations, the MAW that was estimated by the subjects in these experiments decreased as the frequency of the lift, lower, push, or pull increased.

Separate studies by Garg and Banaag (1988, Ex. 26–951) and Mital and Fard (1986, Ex. 26–182), in addition to replicating the MAW decrements attributable to asymmetric lifting noted under "awkward postures," also found that increased frequency of lifting reduced the MAW reported by their subjects. Klein and Fernandez (1997, Ex. 26–1357) administered a variant of this study design, allowing subjects to adjust the frequency of a repeated pinch grip (determining the MAF) under varying conditions of force, wrist posture, and pinch duration. They found that, as force of the pinch grip was experimentally increased, the MAF fell.

Summary: Repetition and Work-Related MSDs. Despite the difficulties in assessing repetition in isolation from other risk factors, the epidemiological evidence strongly implicates repetitive motions in the etiology of work-related MSDs. A large body of laboratory studies demonstrates a biological plausibility for this relationship. The psychophysical research lends support to the epidemiological and laboratory results: it demonstrates a correlation between subjective workload estimates (discomfort, fatigue, and level of exertion) and objectively measured outcomes of injury frequency in workplaces (Snook *et al.*, 1978, Ex. 26–35; Herrin *et al.*, 1986, Ex. 26–961). These studies also demonstrate the interrelatedness of repetition with several other risk factors for musculoskeletal disorders, in particular, force and awkward postures. In sum, the congruence of evidence from several different research traditions, with different methodologies, strongly implicates repetition in the etiology of work-related MSDs.

e. Dynamic Factors.

Epidemiological Evidence. The contributors to the NIOSH summary (Bernard and Fine, 1997, Ex. 26–1) did not examine evidence linking dynamic factors with work-related MSDs. Most research on dynamic factors has been carried out on low-back injury. Sudden maximal lifting effort and unguarded movements appear to be risks for developing work-related low-back pain (Magora and Schwartz, 1976, Ex. 26–389). Marras and Granata (1995, Ex. 26–1383) categorized jobs into three levels of risk (meaning risk of low-back injury, assessed by medical reports). They then calculated ORs of a job, characterized by five measures of exposure falling into the high-risk category. The OR of a job with the highest combined exposure score, compared to the lowest combined score, was 10.7 (95% CI: 4.9–23.6). These exposure measures (assessed by sophisticated electrogoniometry) include dynamic factors: linear and angular velocity and acceleration of the lumbar spine. Marras and Schoenmarklin (1993, Ex. 26–172) also implicate dynamic factors in wrist MSDs. Using a similar, job-based analytic design, they found that angular velocity of wrist

extension and angular acceleration of wrist flexion could distinguish between jobs having high and low prevalence of CTS.

Laboratory Evidence. The most persuasive evidence for the risks associated with dynamic factors comes from work on the intervertebral disks. Marras and Granata demonstrated that the magnitude of compressive and shear forces on the disks is related to the speed and acceleration of movement in both lateral bending (1997, Ex. 26–169) and twisting (1995, Ex. 26–1383). Degree of asymmetry also affects the trunk motion characteristics associated with increased risk of back injury (Marras *et al.*, 1993, Ex. 26–170). Velocity and acceleration measures were all higher with one-handed lifts, the size of increase being proportional to the angle of asymmetry.

Szabo and Chidgey (1989, Ex. 26–1168) found that repetitive, passive wrist flexion and extension resulted in higher pressures in the carpal tunnel. These elevated pressures took longer to return to normal in their CTS patients than in normal subjects. These investigators also found evidence that, if the wrist and finger motions are active (in other words, if the subject rather than the investigator moves the wrist), the effect may be larger.

Psychophysical Evidence. The psychophysical laboratory studies have not explicitly examined the impact of dynamic factors, although it is likely that the studies of repetition (Section C.3.d) do address dynamic factors by proxy (Snook, 1996, Ex. 26–1353; Snook and Ciriello, 1991, Ex. 26–1008; Garg and Banaag, 1988, Ex. 26–951; Mital and Fard, 1986, Ex. 26–182; Klein and Fernandez, 1997, Ex. 26–1357). Increased repetition rates necessarily entail increases in angular and linear velocity and acceleration of some body segments. The resultant increases in forces experienced by body tissues (*e.g.*, Marras and Granata, 1995, 1997 Exs. 26–1383 and 26–169) might explain the subjective perceptions of fatigue and discomfort that result in a particular estimated MAW.

Summary: Dynamic Factors and Work-Related MSDs. Attention to dynamic factors in their own right (as opposed to the proxy representation of repetition) is very recent. The bodies of epidemiological and laboratory evidence relating dynamic stressors to MSD development are consistent with each other and with research centered on the other risk factors. But the existing studies are limited in number and in scope. As a result, the literature does not allow quite as much confidence in connecting these factors with work-related MSDs as can be demonstrated for the other risk factors addressed in this section. Further research is needed to more firmly establish the link between dynamic factors and work-related MSDs.

f. Compression. The classification of risk factors presented in Section B separated compression into external and internal compression. Internal compression has been addressed above, as the consequence of other biomechanical exposures, such as force, awkward and static postures, and repetition. This section only addresses externally applied compressive forces.

Epidemiological Evidence. The NIOSH summary (Bernard and Fine, 1997, Ex. 26–1) did not examine the association of compressive forces with MSDs. A few epidemiological studies have assessed the role of compression as a risk factor. Hypothenar hammer syndrome, characterized by signs of blood deprivation in the fingers, is caused by thrombosis or aneurysm in the ulnar artery or the superficial palmar arterial arch. This condition has been linked to the practice of using the palm as a hammer, exposing the palm to repetitive, forceful compression. Little and Ferguson (1972, Ex. 26–1144) calculated an OR of 16.3 (95% CI: 2.7–100) for objectively verified (by a Doppler flow detector) ulnar artery block, comparing vehicle maintenance workers who used their hands as a hammer (n=79) to those who did not (n=48). Nilsson *et al.* (1989, Ex. 26–1148) found a smaller effect (OR: 2.8; 95% CI: 1.3–6.2), comparing 890 plate workers to 61 office workers in the same plant. This study also found a dose-response relationship, with the OR increasing with increasing years on the job. However, inappropriate palm use and vibration exposure occurred together in this population.

Two studies also link bursitis of the knee with jobs that require a substantial amount of time in a kneeling position. Thun *et al.* (1987, Ex. 26–60) found a non-significant prevalence ratio for bursitis of 3.2 (90% CI: 0.8–3.9), comparing tile and terrazzo setters to bricklayers and millwrights. Kivimäki *et al.* (1992, Ex. 26–1137), comparing carpet layers to painters, calculated an OR of 11.2 (95% CI: 3.4–38) for doctor-diagnosed prepatellar bursitis. A population-based case-control study (Cooper *et al.*, 1994, Ex. 26–460) compared cases with knee osteoarthritis to matched controls with non-arthritic knee pain. They found that kneeling more than 30 minutes per day was associated with increased prevalence of osteoarthritis (OR: 3.4; 95% CI: 1.3–9.1).

Laboratory Evidence. Most of the research concerning the relationship of mechanical compression to MSDs has been conducted in the laboratory. Researchers have known for years that tools with inappropriately short handles, such as pliers and paint scrapers, can apply substantial compressive force to the blood vessels and nerves in the palmar area, resulting in occlusion of the ulnar artery, in particular, and possible neuropathy (Tichauer; 1966, Ex. 26–1172; Tichauer and Gage, 1977, Ex. 26–1269). There is medical evidence for compression-related MSDs. Finelli (1975, Ex. 26–115) describes the compression of an ulnar nerve branch in the palm by both occupational (tool handles) and non-occupational (bicycle handle grips) exposures. Sauter *et al.* (1987, Ex. 26–199) present a case example of injury due to wrist compression at a keyboard job. Several investigators describe compression of the ulnar nerve at the elbow, caused by leaning the ulnar side of the elbow on a hard surface (*e.g.*, Aguayo, 1975, Ex. 26–702). Nevasier (1980, Ex. 26–394) found examples of shoulder tenosynovitis in individuals who habitually carried heavy loads (such as lumber) on their shoulder.

Psychophysical Evidence. Psychophysical studies have not examined the effects of compression.

Summary: Compression and Work-Related MSDs. Despite the long history of recognition (particularly the relationship between tool handles and palmar compression), relatively little research has been performed on this risk factor. The existing epidemiological and laboratory evidence is congruent in suggesting the linkage between compression and at least two medical conditions. Particularly in the case of hypothenar hammer syndrome, a plausible physiologic mechanism exists.

g. Vibration.

Epidemiological Evidence. The NIOSH summary (Bernard and Fine, 1997, Ex. 26–1; see Table V–1 above) finds strong evidence for a causal relationship between segmental vibration and hand-arm vibration syndrome (HAVS). The only study to meet all four of the NIOSH inclusion criteria (Bovenzi *et al.*, 1995, Ex. 26–354) compared forestry workers with more than 400 hours of sawing to shipyard workers

with no vibration exposure. These authors found increasing effect sizes, depending on the intensity of vibration exposure. The OR for forestry workers using anti-vibration saws was 6.2 (95% CI: 2.3–17.1); the OR for workers using no anti-vibration measures was 32.3 (95% CI: 11.2–93). This study also found a dose-response relationship to number of years exposed. Nilsson *et al.* (1989, Ex. 26–1148), comparing platers with current vibration exposure to office workers in the same workplace, calculated an OR of 85 (95% CI: 15–486). The high ORs in these studies have large confidence intervals but demonstrate the strength of effect that is characteristic of many vibration studies.

Other epidemiological studies demonstrate an association between vibration and work-related MSDs. Most work reported in the Health Effects Section addresses segmental vibration exposure of HAVS or occupational Raynaud's syndrome. Studies of select populations using vibrating tools find high concentrations of vascular and neurological symptoms compared to these in other working populations. Examples include shipyard workers (Cherniack *et al.*, 1990, Ex. 26–1116), surgeons (Cherniack and Mohr, 1994, Ex. 26–1341), and dental technicians (Hjortsburg, 1989, Ex. 26–1131).

The NIOSH summary also found evidence for a causal link between segmental vibration and CTS. Chatterjee *et al.* (1982, Ex. 26–941) compared 16 rock drillers to 15 controls unexposed to vibration. The OR for CTS, identified by nerve conduction studies, was 10.9 (95% CI: 1.02–524). Weislander *et al.* (1989, Ex. 26–1027), comparing 32 male CTS patients to population referents, found an OR for vibrating tool use of 6.1 (95% CI: 2.4–15). Several other studies have also found an association between CTS and vibration exposure in jobs involving the use of vibrating tools, such as grinders and chipping hammers (*e.g.*, Nathan *et al.*, 1988, Ex. 26–990; Hagberg *et al.*, 1992, Ex. 8–1). In this literature, however, it is extremely difficult to separate the association of CTS and vibration from the association of CTS and the other biomechanical stressors that often are associated with these tools: awkward and static postures, repetition, and high force requirements.

Some literature has addressed the consequences to other body parts of whole-body vibration exposure to other body parts. Hedlund (1989, Ex. 26–1279) found a foot analogue of HAVS in miners exposed to whole-body and segmental vibration. However, other research suggests that foot symptoms may be a more generalized sympathetic nervous system response to segmental exposure in the upper extremities (Sakakibara *et al.*, 1991, Ex. 26–1356). Other studies of whole-body vibration have suggested links to driving. Jensen *et al.* (1996, Ex. 26–145), studying a cohort of more than 89,000 drivers hospitalized for prolapsed cervical disks over 10 years, found a Standardized Hospitalization Ratio (SHR) of 142 (95% CI: 126.8–159.6), compared to other male workers. They also reported a prevalence ratio for self-reported vibration exposure of 7.1 (95% CI: 4.1–11.7) for the drivers. This research did not directly link vibration exposure with outcomes of prolapsed cervical disk.

Laboratory Evidence. Short-term and long-term changes to human neural tissue have been demonstrated by a number of researchers. These effects include intraneural edema, structural changes in non-myelinated fibers, demyelination, fibrosis, and even loss of axons (Takeuchi *et al.*, 1988, Ex. 26–682; Stromberg *et al.*, 1997, Ex. 26–894). Chang *et al.* (1994, Ex. 26–357) found similar changes in rat peripheral nerves. Finger biopsies of workers heavily exposed to local vibration have shown signs of significant endothelial injury (Takeuchi *et al.*, 1986, Ex. 26–681).

In the back, vibration may diminish the blood flow to the intervertebral disks. This has been demonstrated by Hirano, Tsuji, and Oshima (1988, Ex. 26–140) in rabbit intervertebral disks exposed to in vivo vibration. This could predispose the spine to injury by reducing both the transport of nutrients to the disk interior and the degree of hydration necessary to support the spine under load.

Psychophysical Studies. Although the weighting curves established for vibration exposure rely heavily on perceived discomfort, no formal psychophysical laboratory work has been performed on vibration.

Summary: Vibration and Work-Related MSDs. Vibration is the one biomechanical stressor that may be able to cause a specific disease (HAVS) as the only exposure. The epidemiological evidence is considered strong for vibration as the only causal factor for this outcome. Epidemiological evidence also exists for a causal link between vibration exposure and CTS.

The laboratory evidence supports these conclusions with findings of anatomical and physiological changes, due to segmental vibration, that are consistent with the symptoms and signs of HAVS. This congruent evidence strongly supports the implication of segmental vibration as the risk factor for the development of HAVS.

The evidence supporting the association between whole-body vibration exposure and disk degeneration is not as strong, but it is suggestive. More research into this association is required.

4. Modifying Factors and MSDs

Many of the studies cited above also indicate the importance of the modifying factors in this section's classification scheme: intensity/magnitude, duration, temporal profiles, and cold temperatures. Much of the research summarized by Bernard and Fine (1997, Ex. 26–1) finds that exposures characterized by high intensity and/or duration are associated with higher levels of MSD outcome than those with lower levels of these modifiers. These two modifiers are examined more fully in Section C.5, below.

a. Intensity. Intensity is included in many of the epidemiological and laboratory studies cited above. In particular, studies assessing the effects of high and low force are based in measures of intensity. The evidence for intensity as an important modifier of exposure in MSD etiology is presented below, in Section C.5.

b. Duration. As with intensity, duration is often the measure of high and low exposure in studies cited above. Much epidemiologic research measures the hours of exposure and has documented a dose-response relationship between duration and MSD outcomes. For example, Brisson *et al.* (1989, Ex. 26–937) found that the length of exposure to piecework in the garment industry was associated with increased MSD levels. de Krom *et al.* (1990, Ex. 26–102) found that hours of exposure increased the association of awkward, flexed wrist postures with CTS. Hagberg *et al.* (1990, Ex. 26–1317) demonstrated a duration/MSD association for vibration exposure. Kourinka and Forcier (1995, Ex. 26–432) summarize a collection of similar studies, all of which find that length of exposure, either per day or over a lifetime, increases the size of the association between exposure and work-related MSD outcome.

Duration may be measured in much longer time spans than hours. Anderson and Felson (1988, Ex. 26–926), analyzing the First National Health and Nutrition

Examination Survey (HANES I) data, found that an increased risk of osteoarthritis related to job characteristics appeared only in older workers, suggesting that lifelong exposure may be a part of the etiology.

The evidence linking duration with MSD causation is presented in detail below, in Section C.5.

c. Temporal Profile (Fatigue/Inadequate Recovery Time). In general, repeated damage to body tissues without adequate recovery time for repair may create permanent structural damage. Fatigue has been shown to modify muscle response to external load. As noted above, when muscles fatigue, the characteristics and effects of internal muscle loading can be changed in two ways. Within a given muscle, fiber recruitment generally proceeds from small to large fibers. Some small, slow-twitch fibers may be almost constantly in use and become fatigued and possibly injured, even during very-low-force contractions (see Section C.3.c) (Radwin and Lavender, in NAS, 1998, Ex. 26–37). This phenomenon, termed the "Cinderella fiber theory," is discussed in more detail in later sections. This theory suggests one physiological reason that adequate rest cycles in work activities are important.

d. Cold Temperatures. Research has strongly linked cold to the exacerbation of effects due to vibration exposure. Lundström and Johansson (1986, Ex. 26–164) demonstrated the reduction in mechanoreceptor sensitivity with combined exposure to vibration and cold. This was accompanied by an increase in finger force exerted by subjects, creating better coupling between hand and vibration source and increasing the amount of vibration absorbed by the upper extremities. Simultaneously, this increased force is itself a possible risk factor for CTS.

Cold temperatures may also increase muscle activation required for a given task. Hammerskjöld *et al.* (1992, Ex. 26–957) found increased EMG signals in carpenters after hand exposure to cold, as well as increased perceived exertion and increased time required to carry out nailing tasks. Riley *et al.* (1983, Ex. 26–1358) showed that exposure to cold temperatures resulted in decreased performance on an assembly task. The experimentally demonstrated decrease in strength and coordination of the hands after exposure to cold (*e.g.*, Vangaard, 1975, Ex. 26–506; Vincent and Tipton, 1988, Ex. 26–592) may be the mechanism through which greater force requirements are made on muscles and tendons, causing or exacerbating MSDs.

e. Summary: Modifiers and Work-Related MSDs. The evidence for the effects of these modifying factors is contained within each risk factor section, as well as in the brief review above. Section C.5 below explores the evidence for the roles of intensity and duration in modifying the relationship of stressors to MSD outcomes. This evidence makes a strong case for the impact that each of these workplace modifiers has on the way the body tissues receive a given "dose" of a biomechanical stressor and the way in which that tissue can process, repair, and recover from this dose.

5. Evidence for the Relationships Between Exposure Intensity and MSD Prevalence

This section reviews studies designed to examine the relationships between intensity and/or duration of exposure to workplace risk factors and the magnitude of the risk for developing a work-related MSD (typically measured as an OR). In this capacity, the section reviews some of the studies presented above in greater detail. Data demonstrating a positive relationship between exposure and response provide evidence for a causal relationship between exposure to the hazard in the workplace and an increase in the occurrence and/or severity of the adverse response. Often, regression analysis is used to verify that the relationship is statistically significant even when potential confounding factors, such as gender and age, are taken into consideration. The strength of the association between exposure and response is reflected in the slope of the exposure-response curve; as the slope increases, the strength of the association increases and provides greater evidence of a causal relationship between exposure to the hazard of interest and increased risk of injury or illness.

Generalized models do not exist that would permit OSHA to use these data to quantify risk across all working populations. Nevertheless, these studies are useful to illustrate the extent to which risk can be reduced by reducing the intensity and duration of exposures to workplace risk factors.

The relationship between duration of exposure to workplace risk factors and prevalence of MSDs has been demonstrated in numerous studies. For example, the 1988 Occupational Health Supplement to the National Health Interview Survey (NHIS–OHS) conducted by the National Center for Health Statistics (NCHS) showed a clear dose-response relationship between hours engaged in manual handling and episodes of back pain lasting 7 days or longer. NCHS interviewed 27,408 currently employed workers between 18 and 64 years of age to gather information on the health conditions of the currently employed noninstitutionalized civilian population and to develop weighted national estimates of the incidence of health conditions, including episodes of back pain, known to occur in association with employment. All estimates were based on self-reports.

NIOSH (Exs. 26–1104, 26–1105, 26–1106) used the NCHS data to develop weighted national estimates of the number of currently employed workers by the status of back pain episodes lasting 1 week or longer, and by number of hours exposed to some of the workplace risk factors associated with MSDs of the back: strenuous physical activity and repeated bending, twisting, or reaching. Exposure was divided into categories of 0 hours, 0 to less than 2 hours, 2 to less than 4 hours, 4 to less than 6 hours, 6 to less than 8 hours, and 8 hours or more.

Of particular interest were:

- The number of currently employed workers experiencing no episodes of back pain.
- The number of currently employed workers experiencing an episode of back pain lasting 1 week or longer due to repeated activities at their current or most recent job and not due to any accident.

With these data categorized by hours of exposure to workplace risk factors, ORs could be calculated for episodes of back pain due to repeated activities at work for each of the exposure categories and each of the workplace risk factors considered.

Table V–3 presents the estimated number of currently employed workers engaged in strenuous physical activity such as lifting, pushing, or pulling heavy objects. Table V–4 presents the estimated number of currently employed workers engaged in repeated bending, twisting, or reaching. In each table the estimated numbers are broken down by hours per day engaged in each of the work activities, and by back pain status (either none or an episode lasting at least 1 week due to repeated activities at a current or most recent job and not due to any accident). In addition, ORs are presented.

The ORs in Table V–3 clearly indicate that exposure to strenuous physical activity increases the risk of episodes of back pain. The data show a clear positive exposure-response trend: the risk of episodes of back pain increases with an increase in the daily number of hours engaged in strenuous physical activity. Table V–4 shows the same results: the risk of episodes of back pain increases as the number of hours engaged in repeated bending, twisting, or reaching increases. These results are shown graphically in Figure V–1. They indicate that the risk of severe back pain can be reduced substantially by reducing the daily duration of exposure to these risk factors. For example, the risk can be reduced by about half if exposure to these risk factors is reduced from 6 to 8 hours to 2 hours or less per day.

Table V–3 shows that for some exposure categories, the ORs do not increase as exposure increases. The OR for workers engaged in strenuous physical activity for 6 to 8 hours is lower than the OR for workers engaged in strenuous physical activity for 4 to 6 hours. This deviation from an increasing trend, however, does not mean that there is no such trend. NIOSH used its estimated numbers to conduct a logistic regression of episodes of back pain on duration of exposure, adjusting for age and gender. The parameter estimates for each of the two types of exposure were positive and highly statistically significant ($p < .01$). This means that the increasing trend observed in the relationships between episodes of back pain and duration of each type of exposure is statistically significant.

Table V–3.—Estimated Number of Currently Employed Workers Engaged in Strenuous Physical Activity Such as Lifting, Pushing, or Pulling Heavy Objects, by Duration and Back Pain Status [1]

HOURS ENGAGED	BACK PAIN				PERCENT	ODDS RATIO [4]
	NONE		AT LEAST 1 WEEK DUE TO REPEATED ACTIVITIES AT WORK [3]			
	#	% [5]	#	% [5]		
0	70,960,000	71.7	1,233,700	26.8	1.7	1.00
0–2	7,431,700	7.5	549,200	11.9	6.9	4.25
2–4	5,776,000	5.8	566,100	12.3	8.9	5.64
4–6	4,955,800	5.0	749,500	16.3	13.1	8.70
6–8	3,235,600	3.3	431,800	9.4	11.8	7.68
Over 8	6,669,300	6.7	1,072,200	23.3	13.9	9.25
Total	99,028,400		4,602,500		4.4	

[1] Numbers estimated by NIOSH using data from the 1988 NHIS–OHS conducted by NCHS (Exs. 26–1104, 26–1105, 26–1106).
[2] Estimated number of currently employed workers experiencing no episodes of back pain every day for 1 week or more during the 12 months prior to the survey.
[3] Estimated number of currently employed workers experiencing an episode of back pain every day for 1 week or more due to repeated activities at their current or most recent job during the 12 months prior to the survey.
[4] The odds ratio approximates the risk of an episode of back pain lasting 1 week or more due to repeated activities at work for workers engaged in strenuous physical activity such as listing, pushing, or pulling relative to the risk of an episode of back pain for workers with no such exposure.
[5] Percentage may not add to 100 due to rounding.

Table V–4.—Estimated Number of Currently Employed Workers Engaged In Repeated Bending, Twisting, or Reaching, by Duration and Back Pain Status [1]

HOURS ENGAGED	BACK PAIN				PERCENT	ODDS RATIO [4]
	NONE		AT LEAST 1 WEEK DUE TO REPEATED ACTIVITIES AT WORK [3]			
	#	% [5]	#	% [5]		
0	57,020,000	58.1	501,100	11.0	0.9	1.00
0–2	5,664,100	5.8	288,200	6.3	4.8	5.79
2–4	7,478,000	7.6	553,500	12.2	6.9	8.42
4–6	8,088,800	8.2	736,600	16.2	8.3	10.36
6–8	6,556,800	6.7	766,500	16.9	10.5	13.30

Table V–4.—Estimated Number of Currently Employed Workers Engaged in Repeated Bending, Twisting, or Reaching, by Duration and Back Pain Status [1]—Continued

HOURS ENGAGED	BACK PAIN				PERCENT	ODDS RATIO [4]
	NONE		AT LEAST 1 WEEK DUE TO REPEATED ACTIVITIES AT WORK [3]			
	#	% [5]	#	% [5]		
Over 8	13,340,000	13.6	1,697,100	37.4	11.3	14.08
Total	98,148,600		4,543,000		7.1	

[1] Numbers estimated by NIOSH using data from the 1988 NHIS–OHS conducted by NCHS (Exs. 26–1104, 26–1105, 26–1106).

[2] Estimated number of currently employed workers experiencing no episodes of back pain every day for 1 week or more during the 12 months prior to survey.

[3] Estimated number of currently employed workers experiencing an episode of back pain every day for 1 week or more due to repeated activities at their current or most recent job during the 12 months prior to the survey.

[4] The odds ratio approximates the risk of an episode of back pain lasting 1 week or more due to repeated activities at work for workers engaged in repeated bending, twisting, or reaching relative to the risk of an episode of back pain for workers with no such exposure.

[5] Percentage may not add to 100 due to rounding.

BILLING CODE 4510–26–P

Figure V-1.
Relationship Between Duration of Exposure and Risk of Back Pain

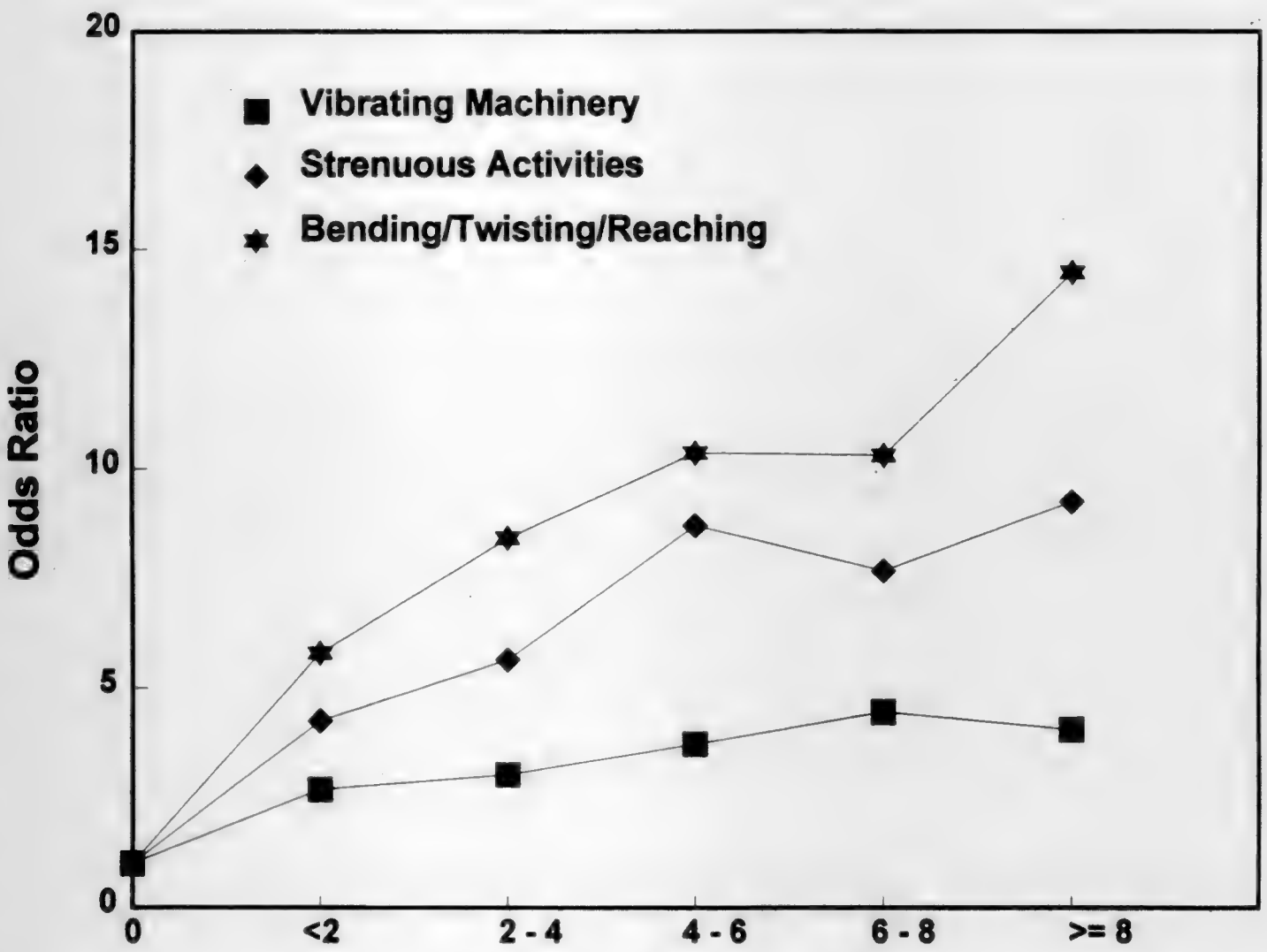

Source: NIOSH analysis of data (Exs. 26-1104, 26-1105, 26-1106, 26-1107) from the National Health Interview Survey conducted by the National Center for Health Statistics.

Note: The odds ratio approximates the risk of an episode of back pain lasting 1 week or more due to repeated activities at work relative to the risk of an episode of back pain for workers with no such exposure. Work-related exposures include strenuous physical activity; repeated bending, twisting, or reaching; or the hand operation of vibrating machinery. Data excludes bac pain reported from acute injury or trauma.

BILLING CODE 4510-26-C

The ORs calculated from the data provided by NIOSH are very conservative. It is highly likely they underestimate the true ORs for the currently employed population. Only workers suffering episodes of back pain due to repeated activities at their current or most recent job are included. Workers who suffered episodes of back pain at a previous job are excluded. Workers who suffered episodes of back pain due to repeated activities on the job and due to an accident are also excluded. Finally, as observed by Bernard *et al.* (1993, Ex. 26–439), workers tend to overestimate the amount of time they spend daily at specific activities, particularly when such activities are hard and/or painful. Therefore, exposure is likely to be overestimated, meaning that risks at the lower exposure levels are likely to be underestimated. Despite the limitations of this analysis, the NCHS data clearly show a relationship between episodes of back pain lasting 1 week or longer and duration of exposure to workplace risk factors.

A similar analysis was conducted by Punnett *et al.* (1991, Ex. 26–39), using data from a case-control study of automobile assembly workers. To determine the relationship between back disorders and both postural stress and daily duration of exposure, the authors estimated the ORs from a logistic regression analysis. Duration of exposure was divided into two categories: 0 to 10% of cycle time and 10% or more of cycle time. Three types of postural stress were examined: any postural stress, mild flexion, and severe flexion. The results of this study, presented in Table V–5 and Figure V–2, show that for any postural stress and for mild flexion, the risk of back disorders was approximately 1.4 times greater for workers exposed for 10% or more of cycle time compared to workers exposed less than 10% of cycle time. For severe flexion, the risk of back disorders was approximately 2 times greater for workers exposed for 10% or more of cycle time than it was for workers exposed less than 10% of cycle time. The greatest increase in risk was seen among workers exposed to severe trunk flexion for more than 10% of cycle time (OR = 8.9 compared to unexposed workers). Thus, this study suggests that reductions in severity or duration of exposure to awkward trunk postures, even where exposure cannot be eliminated, may reduce risk of back disorders up to 2-fold.

Holmstrom, Lindell, and Moritz (1992, Ex. 26–36) estimated age-standardized prevalence rate ratios to examine the relationship between duration of exposure to different working postures and low-back and neck/shoulder pain in construction workers. Age standardization ia a statistical approach that controls for the effect of age on the health outcome being studied. This is usually done by selecting control subjects that match the ages of the individuals in the study cohort, or by using standardized illness rates for local or national populations. Controlling for age permits the investigator to compare the effect of age on the health outcome of interest with the effect of other variables, such as degree of exposure to a hazard. The age-standardized prevalence ratio is comparable to an age-adjusted odds ratio.

Table V–5.—Estimated Odds of Back Disorders in Workers With Varying Durations and Severities of Exposure [1]

TRUNK POSTURE	PERCENT OF CYCLE TIME	ODDS RATIO
Any posture	0–10%	3.8
	>10%	5.5
Mild Flexion	0 to 10%	4.2
	>10%	6.1
Severe Flexion	0 to 10%	4.4
	>10%	8.9

[1] Punnett *et al.*, 1991, Ex. 26–39.

BILLING CODE 4510–26–P

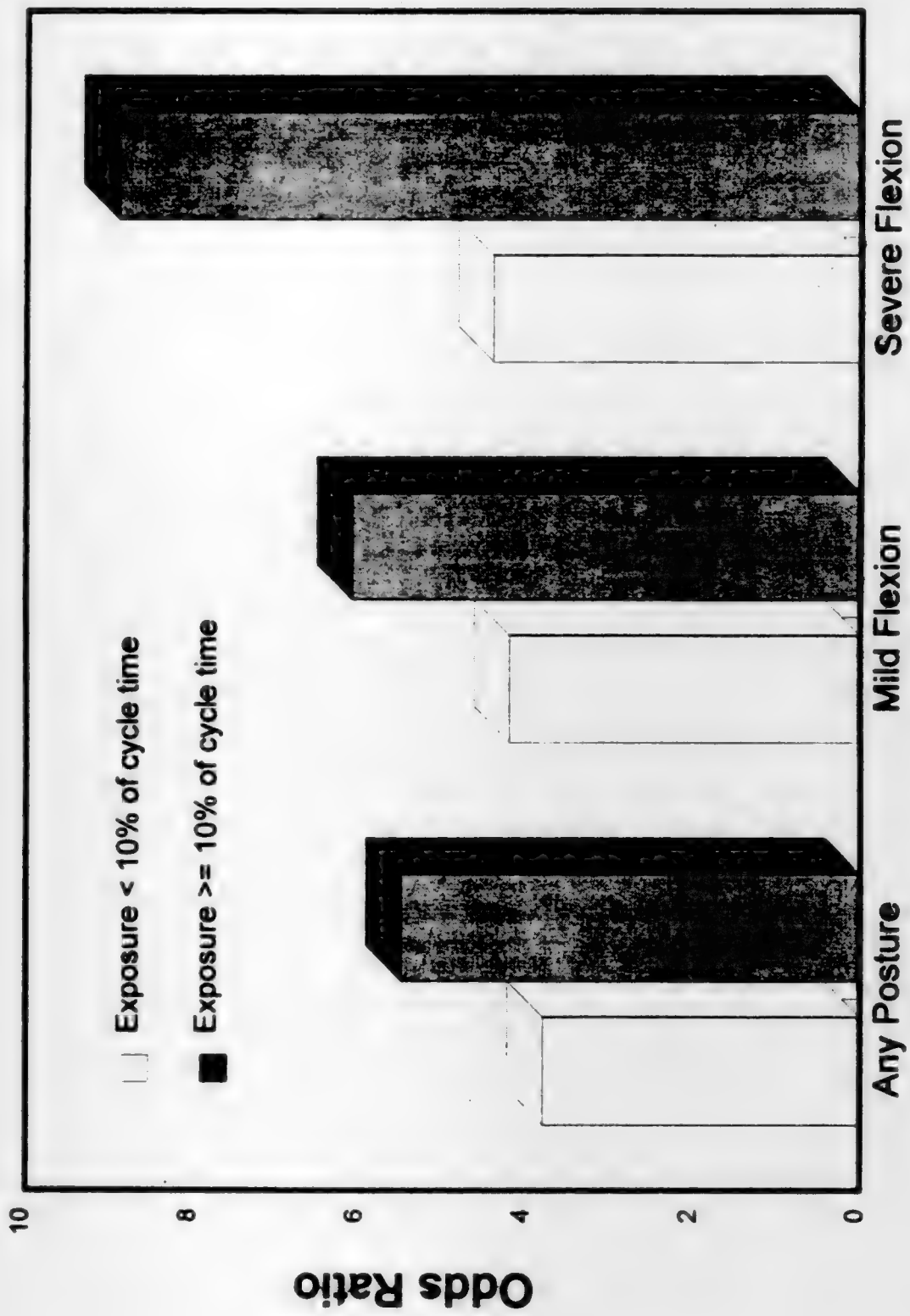

Figure V-2.
Relationship Between Duration and Severity of Exposure and Risk of Back Disorders

Source: Punnett et al., 1991 (Ex. 26-39)

BILLING CODE 4510-26-C

The results of the Holmstrom study are presented in Tables V–6 and V–7, and in Figure V–3. Three working postures were found to be associated with low-back pain: hands above shoulder level, stooping, and kneeling. In each case, the risk of severe back pain increases with exposure, with the largest increases in risk being associated with more than 4 hours per day of exposure to kneeling or stooping. Table V–6 shows that the greatest risk, associated with kneeling more than 4 hours per day, is 3.5 times greater among exposed workers than among workers with no exposure. These three working positions are also associated with considerable neck/shoulder pain. For this outcome, risk increases with duration of exposure as well. Table V–7 shows that for neck/shoulder pain, however, the greatest risk is associated with a posture of hands above shoulder level for more than 4 hours per day.

Table V–6.—Estimated Prevalence Rate Ratios of Severe Low-Back Pain in Construction Workers Engaged in a Variety of Postures, by Duration of Exposure [1]

POSTURE	HOURS OF EXPOSURE PER DAY	ODDS RATIOS	CONFIDENCE INTERVAL
Hands Above Shoulder Level	<1	1.09	0.8–1.5
	1–4	1.46	1.1–2.0
	>4	1.61	1.0–2.6
Stooping	<1	1.31	0.9–1.8
	1–4	1.88	1.4–2.6
	>4	2.61	1.7–3.8
Kneeling	<1	2.4	1.7–3.3
	1–4	2.6	1.8–3.5
	>4	3.5	2.4–4.9

[1] Holmstrom, Lindell, and Moritz, 1992, Ex. 26–36.

Table V–7.—Estimated Prevalence Rate Ratios of Neck/Shoulder Pain in Construction Workers Engaged in a Variety of Postures, by Duration of Exposure [1]

POSTURE	HOURS OF EXPOSURE PER DAY	ODDS RATIOS	CONFIDENCE INTERVAL
Hands Above Shoulder Level	<1	1.1	0.8–1.5
	1–4	1.5	1.2–1.9
	>4	2.0	1.4–2.7
Stooping	<1	1.0	0.8–1.3
	1–4	1.4	1.1–1.8
	>4	1.5	1.1–2.1
Kneeling	<1	1.4	1.1–1.8
	1–4	1.4	1.1–1.8
	>4	1.5	1.1–2.1

[1] Holmstrom, Lindell, and Moritz, 1992, Ex. 26–36.

BILLING CODE 4510–26–P

Source: Punnett et al., 1991 (Ex. 26-39)

VOL 64 ISS 225 NO 23 1999 UMI

Figure V-3
Relationship Between Duration of Exposure, Type of Risk Factor, and Risk of Severe Lower Back Pain

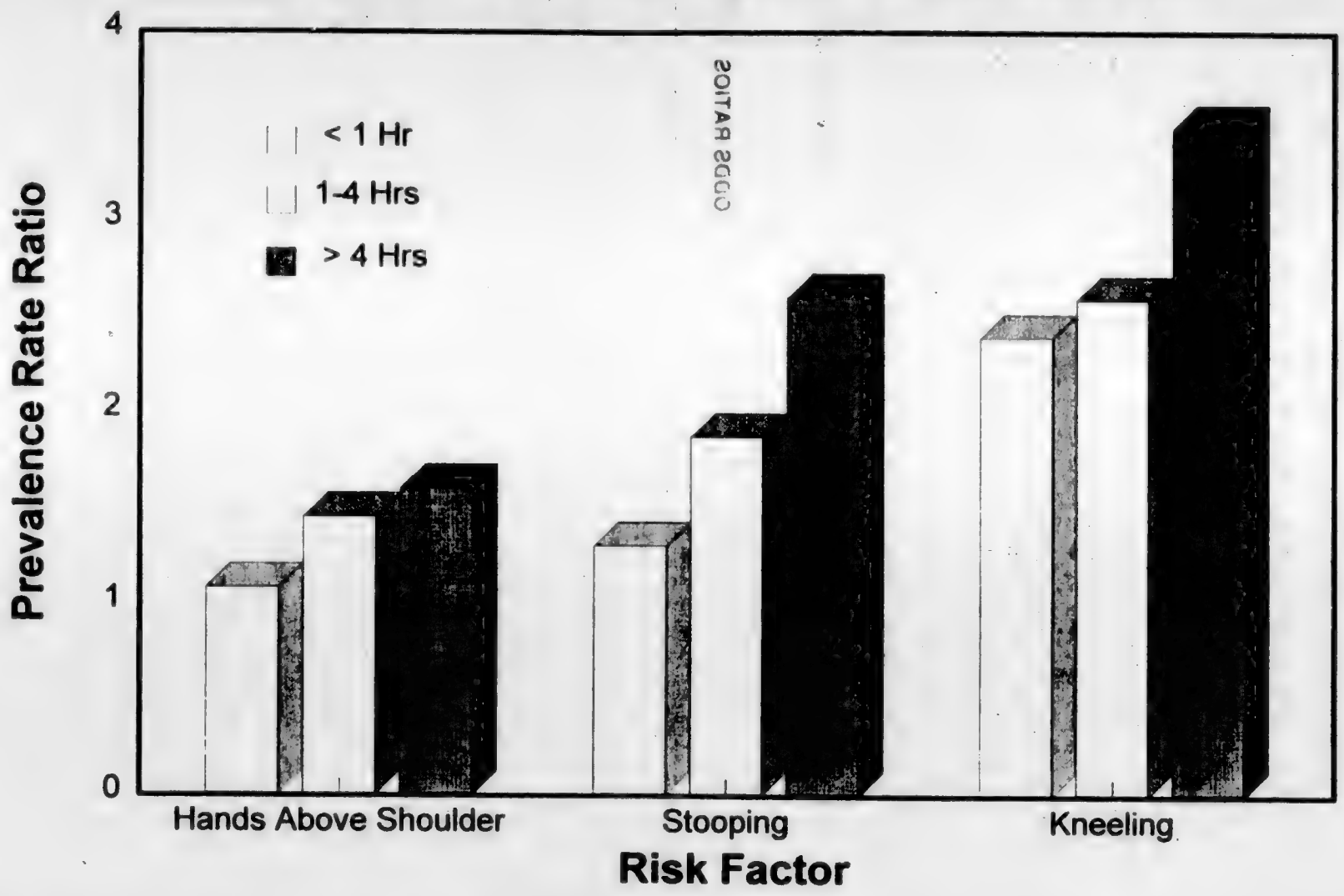

Source: Holmstrom et al., 1992 (Ex. 26-36)

Note: Severe lower back pain defined as pain lasting at least 8-30 days over the past year and with "very severe" functional impairment.

A prospective study of workers demonstrated a dose-response relationship between exposure to lifting and risk of LBD, both total and disabling. Exposure was defined as unusual lifting activity during the past year to do the job. Exposure was measured using a job analysis system to estimate musculoskeletal loading. Three categories of lifting were defined: (1) Lifting loads of 1 or less per day; (2) lifting loads at least once per day but not constant lifting; and (3) constant lifting during the work-day. Workers who lifted loads at or below a threshold of 1 per day injured their backs at the same rate as workers who did not lift loads. The authors suggested that there may be a threshold of exposure to manual handling below which there is no risk when work is performed. Risk increased 50%. The authors suggested that when they are performed, the physical demands

Table 1

Flexed	1 de Kroom	1
Extended	1 de Kroom	1

BILLING CODE 4510-26-C

A prospective study by Liles *et al.* (1984, Ex. 26–33) demonstrated a clear relationship between intensity of exposure to manual handling risk factors and incidence of both total and lost-work-day back injuries. The study is unusual in that healthy workers were followed for over 1 year to determine the annual rate of back disorders. Exposure to manual handling risk factors was measured using a job severity index (JSI). A JSI is a measure of musculoskeletal strain based on weight handled, frequency of lifting, and a worker's physical capacity for lifting. A JSI of 1 or less means that the work task involved handling loads at or less than the worker's physical capacity for lifting. There was no apparent increase in either total or lost-work-day back injuries among workers whose jobs scored below a JSI of 1.5. Above this level, both total and lost-work-day injury rates increased dramatically, about 5-fold. The authors interpreted this finding as indicating that there is a threshold exposure level for back injuries due to manual handling and that back injuries can be expected to increase when workers handle loads exceeding their capacities by 50%. These data also suggest that back injury rates can be reduced by as much as 5-fold in manual handling tasks if they are designed to impart a physical load below 1.5 times the physical capacity of the worker, either by reducing duration of exposure or by reducing load weights or geometries. Figure V–4 graphically presents the relationship between the JSI and back injury rates.

Exposure-response relationships have also been demonstrated for upper-extremity MSDs. As with back disorders, studies have demonstrated that the risk of these illnesses increases dramatically with increasing daily duration of exposure to risk factors. For example, de Krom *et al.* (1990, Ex. 26–102) used ORs from a case-control study to assess the relationship between duration of exposure and MSDs. The authors estimated ORs from a logistic regression analysis that controlled for sex, age, and the interaction between age and sex to determine whether there was a relationship between CTS and the amount of time workers were engaged weekly in activities requiring a flexed wrist position, and between CTS and the amount of time workers were engaged weekly in activities requiring an extended wrist position. The results of this study, presented in Table V–8 and in Figure V–5, show that for both of these workplace risk factors—activities requiring a flexed wrist position and activities requiring an extended wrist position—the risk of CTS clearly increases as the number of hours spent each week in these activities increases.

Table V–8.—Estimated Odds of Carpal Tunnel Syndrome in Workers Engaged in Flexed Wrist and Extended Wrist Activities, by Duration of Exposure [1]

ACTIVITY	HOURS OF EXPOSURE PER WEEK	ODDS RATIOS	CONFIDENCE INTERVAL
Flexed Wrist	0	1.0	
	1–7	1.5	1.3–1.9
	8–19	3.0	1.6–4.9
	20–40	8.7	3.1–24.1
Extended Wrist	0	1.0	
	1–7	1.4	1.0–1.9
	8–19	2.3	1.0–5.2
	20–40	5.4	1.1–27.4

[1] de Krom *et al.*, 1990, Ex. 26–102.

BILLING CODE 4510–26–P

Note: Severe lower back pain defined as pain lasting at least 8-30 days over the past year and with "very severe" functional impairment.

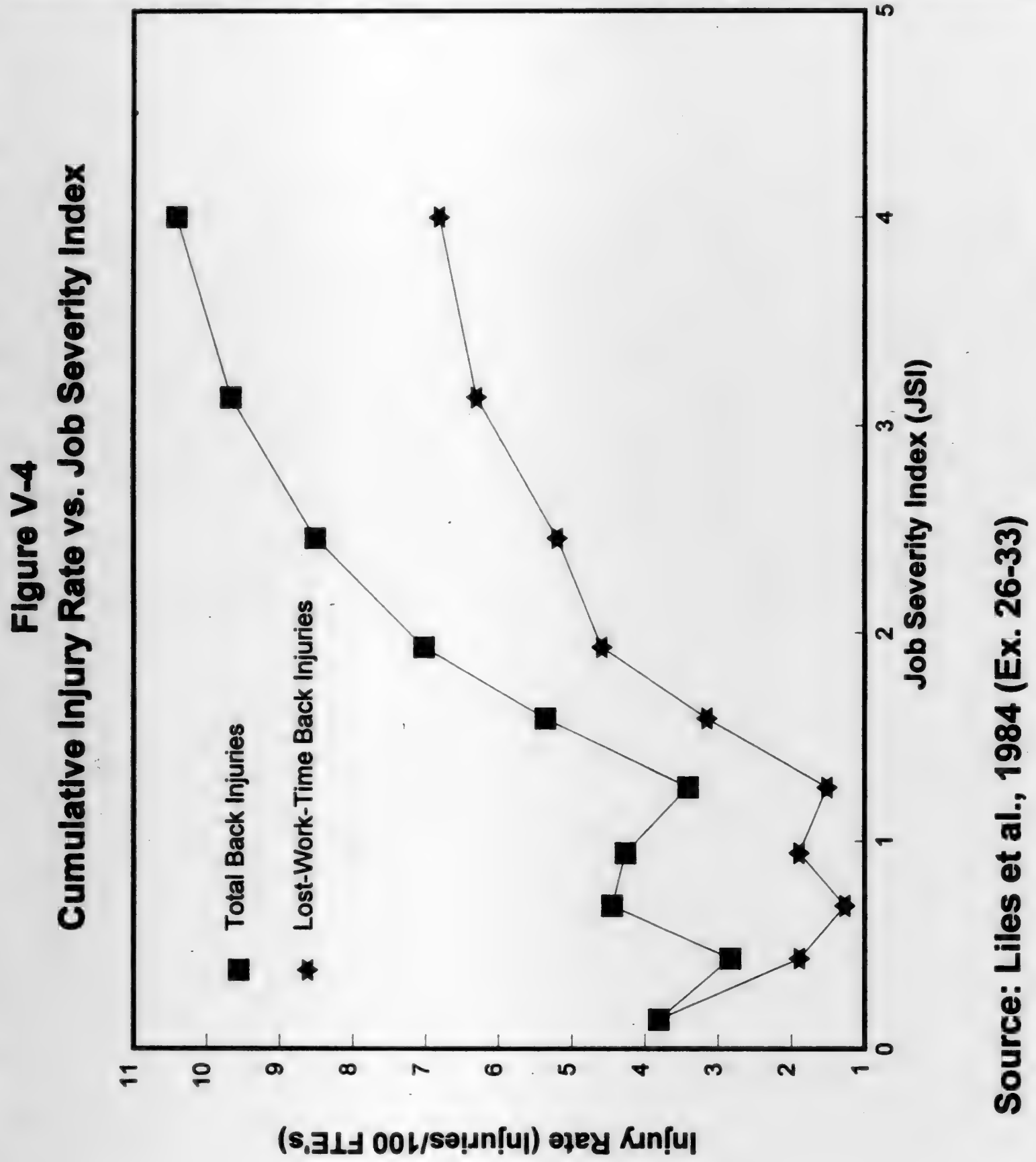

Figure V-4

Source: Liles et al., 1984 (Ex. 26-33)

Source: Liles et al., 1984 (Ex. 26-33)

BILLING CODE 4510-26-C

Figure V-5
Relationship Between Duration of Exposure to Flexed or Extended Wrist and Relative Risk of Carpal Tunnel Syndrome

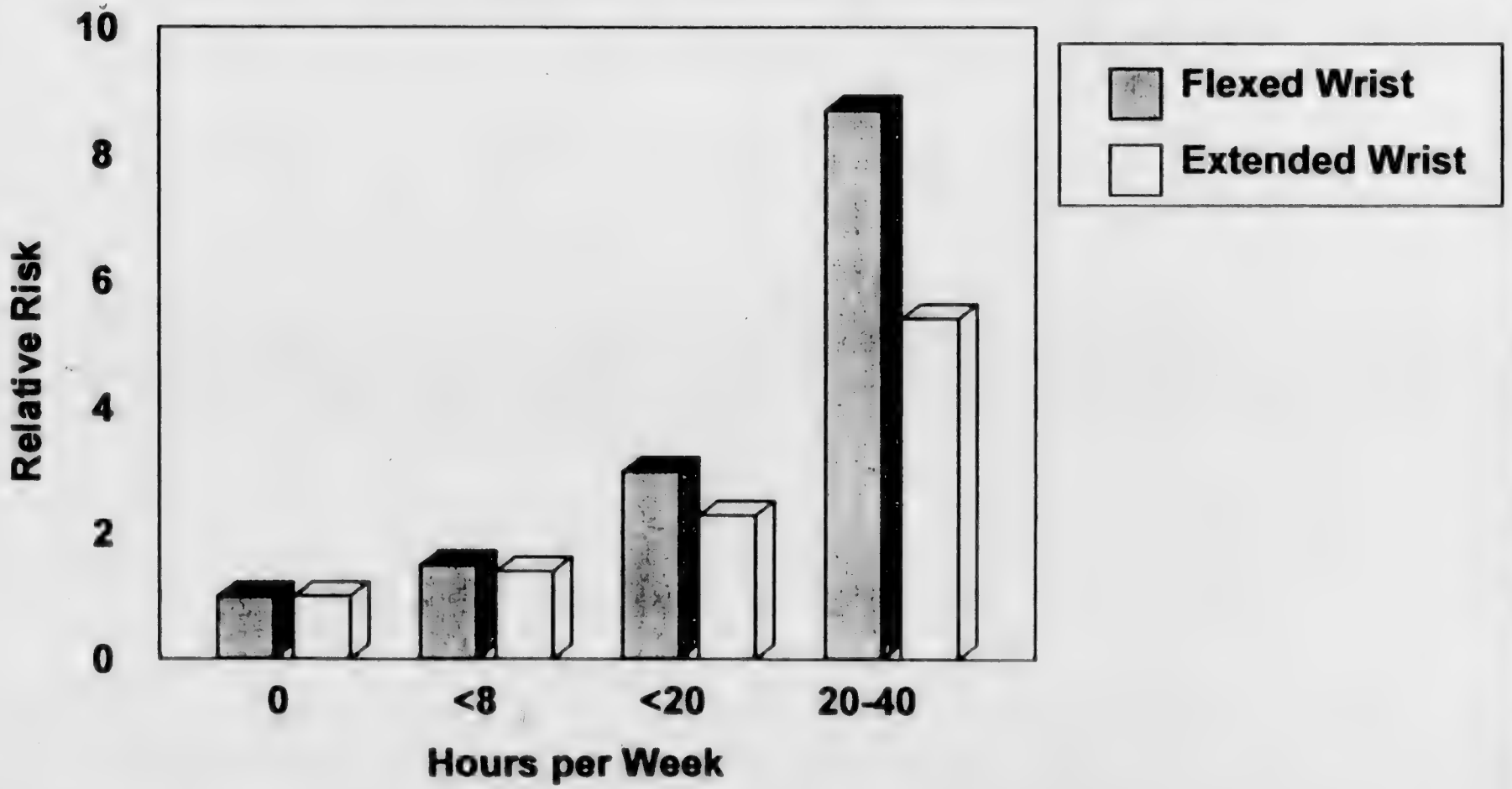

Source: deKrom et al., 1990 (Ex. 26-102)

For workers engaged in activities requiring flexed wrists for as few as 8 to 19 hours per week (averaging approximately 1.5 to 4 hours per day), the odds of suffering CTS were three times greater than for workers engaged in activities that did not require flexed wrists. In contrast, the odds of suffering CTS in workers with average daily exposure to activities requiring flexed wrists in excess of 4 hours per day was 8.7 times greater than in workers with no exposure, or almost 3 times greater than for workers exposed less than 4 hours per day. Similarly, for workers engaged in activities requiring extended wrists for as few as 8 to 19 hours per week, the odds of suffering CTS were 2.3 times greater than for workers engaged in activities that did not require extended wrists. The odds of suffering CTS in workers with average daily exposure to activities requiring flexed wrists in excess of 4 hours per day was 5.4 times greater than in workers with no exposure. Thus, for workers engaged in tasks involving flexed or extended wrists for more than 4 hours daily, this study suggests that the risk of CTS can be reduced 2- to 3-fold by reducing daily exposure to less than 4 hours.

The duration of exposure to workplace risk factors is not the only factor associated with increased risk of work-related MSDs. Exposure to multiple workplace risk factors has also been found to be associated with increased risk. For example, in a study of workers at six industrial sites, Silverstein *et al.* (1986, Ex. 26–1404) studied the relationship between hand/wrist cumulative trauma disorders and exposure to activities requiring low force and low repetition, high force and low repetition, low force and high repetition, and high force and high repetition. Using logistic regression analysis to estimate ORs, these authors reported that the odds of suffering hand/wrist cumulative trauma disorders were 1.0 for workers engaged in low-force and low-repetition activity (*i.e.*, the control group), 3.3 for workers engaged in low-force and high-repetition activity, 5.2 for workers engaged in high-force and low-repetition activity, and 29.1 for workers engaged in high-force and high-repetition activity (see Figure V–6).

BILLING CODE 4510–26–P

Fig

BILLING CO

VOL 64 ISS 225 NO 23 1999 UMI

BILLING CODE 4510-26-C

Figure V-6
Relationship Between Exposure to Risk Factors and Risk of Upper Body Musculoskeletal Disorders

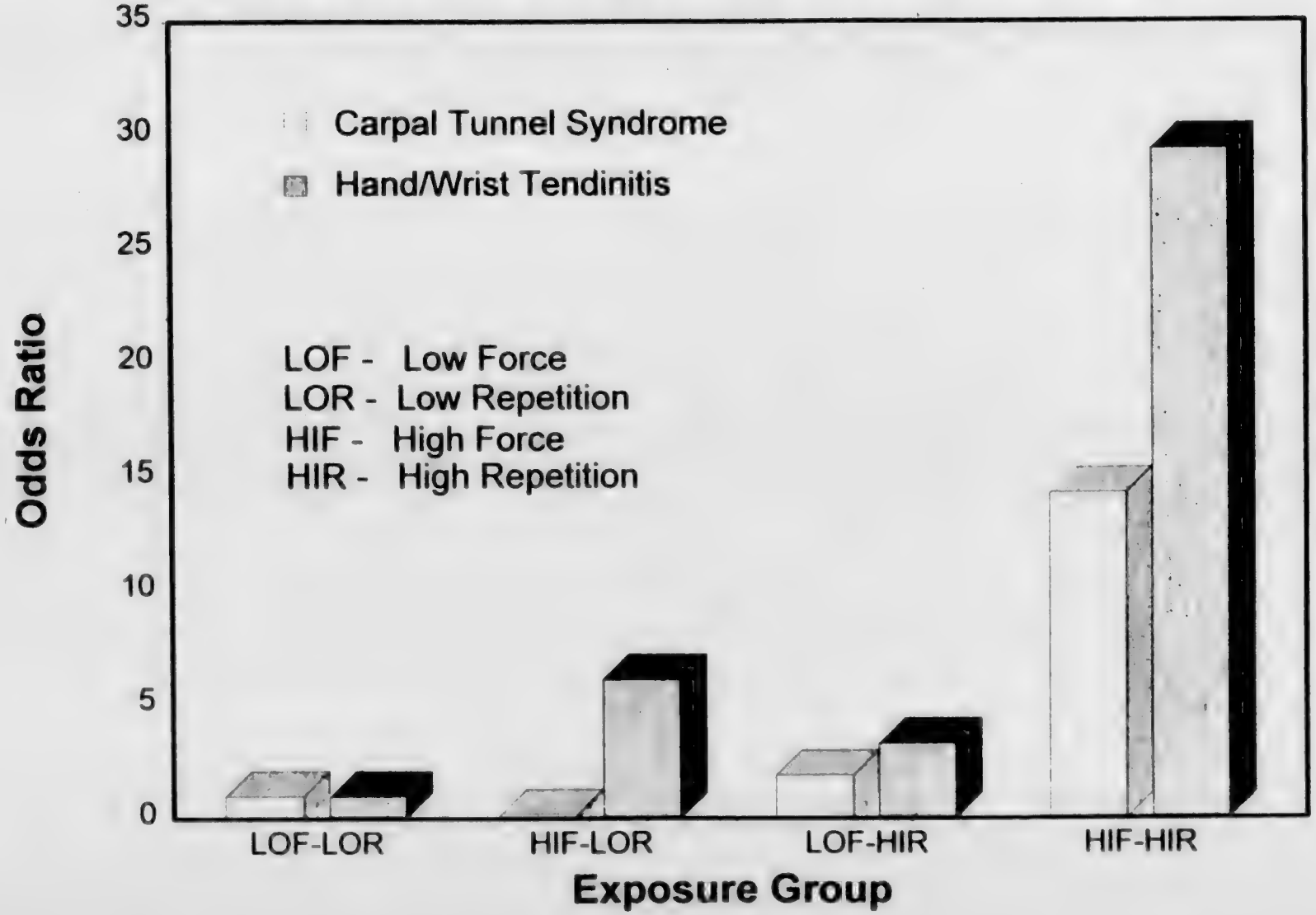

Source: Armstrong et al., 1987 (Ex. 26-48); Silverstein et al., 1987 (Ex. 26-34)

Similar findings for CTS were reported for workers in seven industrial sites (also shown in Figure V–6). Using logistic regression analysis to estimate ORs, these authors reported that the odds of suffering CTS were 1.0 for workers engaged in low-force and low-repetition activity (*i.e.*, the control group), 1.8 for workers engaged in high-force and low-repetition activity, 2.7 for workers engaged in low-force and high-repetition activity, and 15.5 for workers engaged in high-force and high repetition activity. Thus, the risk to workers exposed to two risk factors (high repetition and high force) was 7 to almost 10 times higher than the risk to workers exposed to only one risk factor. These data also suggest that risk increases more than linearly with increasing duration or intensity of exposure. Moore and Garg (1994, Ex. 26–1033) reported a similar finding among meat processing workers at risk for upper-extremity disorders. They found that the incidence of all upper-extremity disorders increased by the square of the amount of hand force applied in the job.

Loslever and Ranaivosoa (1993, Ex. 26–161) examined 17 jobs at high risk for CTS. For each job, they measured the amount of time the workers spent with flexed or extended wrists, the degree of flexion or extension, and the amount of force exerted. They found that the prevalence across jobs of CTS in both wrists increased in a dose-dependent manner as the combined exposure to force and flexion across jobs increased. In addition, the combination of force and flexion explained approximately 39% of the total variation in the prevalence of bilateral CTS across jobs.

Other supporting evidence for the existence of exposure-response relationships for upper-extremity disorders includes studies by Viikari-Juntura *et al.* (1994, Ex. 26–873) of neck disorders among machine operators, construction carpenters, and office workers, and a case-control study by English *et al.* (1995, Ex. 26–848) showing an exposure-response relationship between the rate of wrist flexion/extension and the ORs for disorders of the thumb.

Punnett (1998, Ex. 26–442) conducted a cross-sectional study in an automobile stamping plant and an engine assembly plant using an exposure-scoring protocol that reflected the intensity and duration of exposure to any of several workplace risk factors (*e.g.*, lifting/lowering, pushing/pulling, repetitive hand motion, awkward postures). The total exposure score had a possible range from 0 to 25 and was divided into quartiles, as indicated in Tables V–9 and V–10. The results are quite consistent, indicating that regardless of whether a case was defined by a physical examination or by self-reported symptoms, the prevalence of illness increased in a dose-dependent manner through exposure levels 13 to 18. Above that level, prevalence appears to hit a plateau. The author suggests that this plateau may be due to a "healthy worker" effect. By this she means that exposures at this level are so severe that workers move out of these jobs quickly, either to other jobs or to disability status. As a result of this relatively high turnover, healthy workers are frequently moved into these jobs. Thus the observed prevalence does not conform to a monotonic dose-response model.

Table V–9.—Prevalence Ratios for MSDs

[Based on Physical Exam]

EXPOSURE SCORE BASED ON CHECKLIST	SHOULDER/UPPER-ARM MSDs	HAND/WRIST MSDs	ALL UPPER-EXTREMITY MSDs
0–6	1.0	1.0	1.0
7–12	2.6	1.9	2.0
13–18	3.6	2.4	2.6
19–25	2.3	2.3	2.8

Table V–10.—Prevalence Ratios for MSDs

[Based on Symptom Reporting]

EXPOSURE SCORE BASED ON CHECKLIST	SHOULDER/UPPER-ARM MSDs	HAND/WRIST MSDs	ALL UPPER-EXTREMITY MSDs
0–6	1.0	1.0	1.0
7–12	2.5	2.0	1.8
13–18	3.8	2.5	2.4
19–25	3.5	2.5	2.3

Source: Punnett, 1998, Ex. 26–442.

Taken together, these studies provide compelling evidence of a causal relationship between exposure to workplace risk factors and an increased risk of developing MSDs. Furthermore, these studies demonstrate that the risk of work-related MSD can be substantially reduced by reducing the frequency or duration of exposure to any workplace risk factor, and by reducing the number of workplace risk factors to which workers are exposed.

6. Summary

The evidence summarized in this section is convincing and consistent. Studies from very different research traditions, and incorporating very different research

methodologies, strongly support the causal association of force, awkward postures, static postures, repetition, and vibration with work-related MSD outcomes. The evidence also strongly supports the effects of the four modifying factors on the impact of the exposures and the body's ability to repair the damage. The evidence is less strong in the case of external compression and dynamic factors, partly because of a relative shortage of studies in these areas. But the evidence that does exist is congruent.

In sum, although not all the epidemiological studies reviewed demonstrate significant associations, the overwhelming majority justify a conclusion that the risk factors noted in this section, with effects adjusted by the four modifying factors, cause or exacerbate work-related MSDs. The laboratory evidence in each case provides plausible and demonstrable biologic mechanisms through which these exposures can cause the anatomical and physiological changes characteristic of these disorders. The psychophysical evidence, relying on research that has linked subjective reports of fatigue, discomfort, and exertion to measurable disease rates in industry, further strengthens this conclusion.

7. References

1. Aarås, A., Horgen, G., Bjorset, H.H., Ro, O., Thoresen, M., (1998). Musculoskeletal, visual and psychosocial stress in VDU operators before and after multidisciplinary ergonomic interventions. Applied Ergonomics, 29(5):335–354.

2. Adams, M.A., Hutton, W.C., Stott, J.R.R. (1980). The resistance to flexion of the lumbar intervertebral joint. Spine, 5(3):245–253.

3. Adams, M.A., Hutton, W.C. (1982). Prolapsed intervertebral disc: a hyperflexion injury. Spine, 7:184–191.

4. Adams, M.A., Hutton, W.C. (1985). Gradual disc prolapse. Spine, 10:524–531.

5. Aguayo, A.J. (1975). Neuropathy Due to Compression and Entrapment. In: Dyck, P.J., Thomas, P.K., Lambert, E.H., eds. Peripheral Neuropathy. Philadelphia: W.B. Saunders Co., pp. 688–713.

6. American National Standards Institute. (1997). ANSI Z–365 Control of Work-Related Cumulative trauma Disorders (Draft). New York: ANSI.

7. Anderson, J.J., Felson, D.T. (1988). Factors associated with osteoarthritis of the knee in the First National Health and Nutrition Examination Survey (HANES I): evidence for an association with overweight, race, and physical demands of work. American Journal of Epidemiology, 128(1):179–189.

8. Armstrong, T.J., Castelli, W.A., Evans, F.G., Diaz-Perez, R. (1984). Some histological changes in carpal tunnel contents and heir biomechanical implications. Journal of Occupational Medicine, 26(3):197–201.

9. Ashton-Miller, J.A. (1998). Response of Muscle and Tendon to Injury and Overuse. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

10. Backman, C., Boquist, L., Friden, J., Lorentzon, T., Toolanen, G. (1990). Chronic achilles paratenonitis with tendinosis: an experimental model in the rabbit. Journal of Orthopaedic Research, 8:541–547.

11. Bernard, B., Fine, L., eds. (1997). Musculoskeletal Disorders and Workplace Factors. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication #97–141.

12. Bernard, B., Sauter, S., Petersen, M., Fine, L., Hales, T. (1993). Health Hazard Evaluation Report. Los Angeles Times, Los Angeles, California. U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. HETA Publication #90–013–2277.

13. Bjelle, A., Hagberg, M., Michaelsson, G. (1979). Clinical and ergonomic factors in prolonged shoulder pain among industrial workers. Scandinavian Journal of Work, Environment and Health, 5:205–210.

14. Borg, G.A.V. (1982). Psychophysical bases of perceived exertion. Medicine and Science in Sports and Exercise, 14:377–381.

15. Bovenzi, M., Franzinelli, A., Mancini, R., Cannava, M.G., Maiorano, M., Ceccarelli, F. (1995). Dose-response relation for vascular disorders induced by vibration in the fingers of forestry workers. Occupational and Environmental Medicine, 52:722–730.

16. Brinckmann, P., Johannelweling, N., Hilweg, D., Biggemann, M. (1987). Fatigue fracture of human lumbar vertebrae. Clinical Biomechanics, 2:94–97.

17. Brinckmann, P., Biggemann, M., Hilweg, D. (1988). Fatigue fracture of the human lumbar vertebrae. Clinical Biomechanics, 3(Supplement 1):51–53.

18. Brisson, C., Vinet, A., Vezina, M., Gingras, S. (1989). Effect of duration of employment in piecework on severe disability among female garment workers. Scandinavian Journal of Work, Environment & Health, 15:329–334.

19. Brooks, S.V., Zerba, E., Faulkner, J.A. (1995). Injury to fibers after single stretches of passive and maximally-stimulated muscles in mice. Journal of Physiology, 488:459–469.

20. Buchholz, B., Wells, R.P., Armstrong, T.J. (1988). The Influence of Object Size on Grasp Strength: Results of a Computer Simulation of Cylindrical Grasp. In: Hubbard, M., ed. Proceedings of the 12th Annual Meeting of the American Society for Biomechanics. Held in Urbana, Illinois, September 28-30. Oxford: Pergamon, pp. 851–885.

21. Byström, S. (1991). Physiological Response and Acceptability of Isometric Intermittent Handgrip Contractions. Stockholm, National Institute of Occupational Health. (Arbete och Hälsa, 38).

22. Chang, K.Y., Ho, S.T., Yu, H.S. (1994). Vibration induced neurophysiological and electron microscopical changes in rat peripheral nerves. Occupational and Environmental Medicine, 51:130–135.

23. Chatterjee, D.S., Barwidk, D.D., Petrie, A. (1982). Exploratory electromyography in the study of vibration-induced white finger in rock drillers. British Journal of Industrial Medicine, 39:89–97.

24. Cherniack, M.G., Letz, R., Gerr, F., Brammer, A., Pace, P. (1990). Detailed clinical assessment of neurological function in symptomatic shipyard workers. British Journal of Industrial Medicine, 47:566–572.

25. Cherniack, M., Mohr, S. (1994). Raynaud's phenomenon associated with the use of pneumatically powered surgical instruments. Journal of Hand Surgery, 19A:1008–1015.

26. Cobb, T.K., Cooney, W.P., An, K.-N. (1996). Aetiology of work-related carpal tunnel syndrome: the role of lumbrical muscles and tool size on carpal tunnel pressure. Ergonomics, 39:103–107.

27. Coggan, D., Kellingray, S., Inskip, H., Croft, P., Campbell, L., Cooper, C. (1998). Osteoarthritis of the hip and occupational lifting. American Journal of Epidemiology, 147(6):523–528.

28. Cooper, C., McAlindon, T., Coggon, D., Egger, P., Dieppe, P. (1994). Occupational activity and osteoarthritis of the knee. Annals of the Rheumatic Diseases, 53:90–93.

29. Crisco, J.J., Chelikani, S., Brown, R.K., Wolfe, S.W. (1997). The effects of exercise on ligamentous stiffness in the wrist. Journal of Hand Surgery, 22A:44–48.

30. de Krom, M., Kester, A.D.M., Knipschild, P.G., Spaans, F. (1990). Risk factors for carpal tunnel syndrome. American Journal of Epidemiology, 132(6):1102–1110.

31. Dennet, X., Fry, H.J.H. (1988). Overuse syndrome: a muscle biopsy study. Lancet, 1(8581):905–908.

32. English, C.J., Maclaren, W.M., Court-Brown, C., Hughes, S.P.F., Porter, R.W., Graves, R.J., Wallace, W.A., Pethick, A.J. (1995). Relations between upper limb soft tissue disorders and repetitive movements at work. American Journal of Industrial Medicine 27(1):75–90.

33. Faulkner, J.A., Brooks, S.V. (1995). Muscle fatigue in old animals: Unique aspects of fatigue in elderly humans. Advances in Experimental Medicine and Biology, 384: 471–480.

34. Finelli, P.F. (1975). Mononeuropathy of the deep palmer branch of the ulnar nerve. Archives of Neurology, 32:564–565.

35. General Accounting Office (1997). Worker Protection: Private Sector Ergonomics Programs Yield Positive Results. GAO/HEHS–97–163.

36. Garg, A., Badger, D. (1986). Maximum acceptable weights and maximum voluntary isometric strengths for asymmetric lifting. Ergonomics, 29:879-892.

37. Garg, A., Banaag J. (1988). Maximum acceptable weights, heart rates, and RPEs for one hour's repetitive asymmetric lifting. Ergonomics, 31:77–96.

38. Gerr, F. (1998). Panel on Epidemiology: Risk Factors. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

39. Goldenhar, L.M., Schulte, P.A. (1994). Intervention research in occupational health and safety. Journal of Occupational Medicine, 36(7):763–775.

40. Goldstein, S.A., Armstrong, T.J., Chaffin, D.B., Matthews, L.S. (1987). Analysis of cumulative strain in tendons and tendon sheaths. Journal of Biomechanics, 20:1–6.

41. Grieco, A., Molteni, G., De Vito, G., Sias, N. (1998). Epidemiology of musculoskeletal disorders due to biomechanical overload. Ergonomics, 41(9):1253–1260.

42. Hagberg, M. (1981). Work load and fatigue in repetitive arm elevations. Ergonomics, 24:543–555.

43. Hagberg, M., Hansson-Risberg, E., Jorulf, L., Lindstrand, O., Milosevich, B., Norlin, D., Thomasson, L., Widman, L. (1990). High risk of problems with the hands in certain occupations. Läkartidningen, 87(4):201–205.

44. Hagberg, M., Morgenstern, J., Kelsh, M. (1992). Impact of occupations and job tasks on the prevalence of carpal tunnel syndrome: a review. Scandinavian Journal of Work, Environment and Health, 12:337–345.

45. Hales, T.R., Bernard, B.P. (1996). Epidemiology of work-related musculoskeletal disorders. Orthopedic Clinics of North America, 27(4):679–709.

46. Hammerskjöld, E., Harms-Ringdahl, K., Ekholm, J. (1992). Reproducibility of carpenters' work after cold exposure. International Journal of Industrial Ergonomics, 9:195–204.

47. Hansson, T., Keller, T.S., Spengler, D.M. (1987). Mechanical behavior of the human lumbar spine. Fatigue strength during dynamic compressive loading. Journal of Orthopaedic Research, 564:479–487.

48. Hedlund, U. (1989). Raynaud's phenomenon of fingers and toes of miners exposed to local and whole-body vibration and cold. International Archives of Occupational and Environmental Health, 61:457–461.

49. Herberts, P., Kadefors, R., Andersson, G., Petersen, I. (1981). Shoulder pain in industry: an epidemiological study on welders. Acta Orthopaedica Scandinavica, 52:299–306.

50. Herberts, P., Kadefors, R., Boman, H. (1980). Arm positioning in manual task: electromyographic study of localized muscle fatigue. Ergonomics, 23:655–665.

51. Herrin, G.D., Jaraiedi, M., Anderson, C.K. (1986). Prediction of overexertion injuries using biomechanical and psychophysical models. American Industrial Hygiene Association Journal, 47:322–330.

52. Hidalgo, J.A., Genaidy, A.M., Huston, R., Arantes, J. (1992). Occupational biomechanics of the neck: a review and recommendations. Journal of Human Ergology, 21(2):165–181.

57. Hirano, N., Tsuji, H., Oshima, H., *et al.* (1988). Analysis of rabbit intervertebral disc physiology based on water metabolism: changes in normal intervertebral discs under axial vibratory load. Spine, 13:1297–1302.

58. Hjortsberg, U., Rosen, I., Orbaek, P., Lundborg, G., Valogh, I. (1989). Finger receptor dysfunction in dental technicians exposed to high-frequency vibration. Scandinavian Journal of Work, Environment and Health, 15:339–344.

59. Holmstrom, E.B., Lindell, J., Moritz, U. (1992). Low back and neck/shoulder pain in construction workers: occupational workload and psychosocial risk factors. Spine, 17(6):663–671.

60. Hutton, W.C., Adams, M.A. (1982). Can the lumbar spine be crushed in heavy lifting? Spine, 7:586–590.

61. Järvholm, U., Palmerud, G., Karlsson, D., Hergberts, P., Kadefors, R. (1990). Intramuscular pressure and electromyography in four shoulder muscles. Journal of Orthopaedic Research, 9:609–619.

62. Jensen, M.V., Tuchsen, F., Orhede, E. (1996). Prolapsed cervical intervertebral disc in male professional drivers in Denmark, 1981–1990. A longitudinal study of hospitalizations. Spine, 21(20):2352–2355.

63. Kier, P., Bach, J., Rempel, D.M. (1998). Fingertip loading and carpal tunnel pressure: differences between a pinching and a pressing task. Journal of Orthopaedic Research, 16:112–115.

64. Kivimäki, J., Riihimäki, H., Hänninen, K. (1992). Knee disorders in carpet and floor layers and painters. Scandinavian Journal of Work, Environment and Health, 18:310–316.

65. Klein, M.G., Fernandez, J.E. (1997). The effects of posture, duration, and force on pinching frequency. International Journal of Industrial Ergonomics, 20:267–275.

66. Kourinka, I., Forcier, L., eds. (1995). Work Related Musculoskeletal Disorders (WMSDs): A Reference Book for Prevention. London: Taylor and Francis.

67. Kukkonen, R., Luopajärvi, T., Riihimäki, V. (1983). Prevention of Fatigue Amongst Data Entry Operators. In: Kvalseth, T.O., ed. Ergonomics of Workstation Design. London: Butters worth, pp. 28–34.

68. Larsson, S.-E, Bengtsson, A., Bodegård, L., Hendriksson, K.G., Larsson, J. (1988). Muscle changes in work related chronic myalgia. Acta Orthopaedica Scandinavica, 59(5):552–556.

69. Liles, D.H., Deivanayagam, S., Ayoub, M.M., Mahajan, P. (1984). A job severity index for the evaluation and control of lifting injury. Human Factors, 26(6):683–693.

70. Linton, S.J. (1990). Risk factors for neck and back pain in a working population in Sweden. Work and Stress, 4(1):41–49.

71. Little, J.M., Ferguson, K.A. (1972). The incidence of the hypothenar hammer syndrome. Archives of Surgery, 105:684–685.

72. Loslever, P., Ranaivosoa, A. (1993). Biomechanical and epidemiological investigation of carpal tunnel syndrome at workplaces with high risk factors. Ergonomics, 36(5):537–555.

73. Lundborg, G., Gelberman, R.H., Minteer-Convery, M., Lee, Y.F., Hargens, A.R. (1982). Median nerve compression in the carpal tunnel: functional response to experimentally induced controlled pressure. Journal of Hand Surgery, 7(3):252–259.

74. Lundström, R., Johansson, R.S. (1986). Acute impairment of the sensitivity of skin mechanoreceptive units caused by vibration exposure of the hand. Ergonomics, 29(5):687–698.

75. Luopajärvi, R., Kourinka, I., Virolainen, M., Holmberg, M. (1979). Prevalence of tenosynovitis and other injuries of the upper extremities in repetitive work. Scandinavian Journal of Work, Environment and Health, 5(3):48–55.

76. Magora A., Schwartz, A. (1976). Relation between the low-back pain syndrome and x-ray findings: degenerative osteoarthritis. Scandinavian Journal of Rehabilitation Medicine, 8:115–125.

77. Marley, R.J., Fernandez, J.E. (1995). Psychophysical frequency and sustained exertion at varying wrist postures for a drilling task. Ergonomics, 38(2):303–325.

78. Marras, W.S., Schoenmarklin, R.W. (1993). Wrist motions in industry. Ergonomics, 36(4):341–351.

79. Marras, W.S., Lavender, S.A., Leurgans, S.E., Rajulu, S.L., Allread, W.G., Fathallah, F.A., Ferguson, S.A. (1993). The role of

three-dimensional trunk motion in occupationally-related low back disorders. Spine, 18:617–628.

80. Marras, W.S., Lavender, S.A., Leurgans, S.E., Fathallah, F.A., Ferguson, S.A., Allread, W.G., *et al.* (1995). Biomechanical risk factors for occupationally related low back disorders. Ergonomics, 38(2):377–410.

81. Marras, W.S., Granata, K.P. (1995). A biomechanical assessment and model of axial twisting in the thoracolumbar spine. Spine, 20:1440–1451.

82. Marras, W.S., Granata, K.P. (1997). Spine loading during trunk lateral bending motions. Journal of Biomechanics, 30:697–703.

83. Mital, A., Fard, H.F. (1986). Psychophysical and physiological responses to lifting symmetrical and asymmetrical loads symmetrically and asymmetrically. Ergonomics, 29:1263–1272.

84. Moore, J.S., Garg, A. (1994). Upper extremity disorders in a pork processing plant: Relationship between job risk factors and morbidity. American Industrial Hygiene Association Journal, 55 (8):703–715.

85. Nathan, P.A., Meadows, K.D., Doyle, L.S. (1988). Occupation as a risk factor for impaired sensory conduction of the median nerve at the carpal tunnel. Journal of Hand Surgery, 13B(2):167–170.

86. Nathan, P.A., Kenniston, R.C., Myers, L.D., Meadows, K.D. (1992). Longitudinal study of median nerve sensory conduction in industry: relationship to age, gender, hand dominance, occupational hand use, and clinical diagnosis. Journal of Hand Surgery, 17A(5):850–857.

87. National Academy of Sciences (1998). Work-Related Musculoskeletal Disorders: The Research Base. Workshop Summary and Papers. Washington, DC: National Academy Press.

88. Neary, D., Eames, R.A. (1975). The pathology of ulnar nerve compression in man. Neuropathology and Applied Neurobiology, 1:69.

89. Nevasier, J.S. (1980). Adhesive capsulitis and the stiff and painful shoulder. Orthopedic Clinics of North America, 11:327–331.

90. Nilsson, T., Burström, L., Hagberg, M. (1989). Risk assessment of vibration exposure and white fingers among platers. International Archives of Occupational and Environmental Health, 61:473–481.

91. Nilsson, T., Hagberg, M., Burström, L. (1990). Prevalence and Odds Ratios of Numbness and Carpal Tunnel Syndrome in Different Exposure Categories of Platers. In: Okada, A., Dupuis, W.T.H., eds. Hand-Arm Vibration. Kanazawa, Japan: Kyoei Press Co., pp. 235–239.

92. National Institute of Occupational Safety and Health (1994). Revised NIOSH Lifting Equation. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication #94–110.

93. Odenrick, P., Eklund, J., Malmkvist, A.-K., Örtengren, R., Parenmark, G. (1988). Influence of Work Pace on Trapezius Muscle Activity in Assembly-Line Work. In: Ergonomics International 88: Proceedings of the 10th Congress of the International Ergonomics Association. Held in Sydney, Australia, August 1–5. London: Taylor and Francis, pp. 418–420.

94. Ohlsson, K., Attewell, R., Skerfving, S. (1989). Self-reported symptoms in the neck and upper limbs of female assembly workers. Scandinavian Journal of Work, Environment and Health, 15:75–80.

95. Ohlsson, K., Attewell, R., Paisson, B., Karsllon, B, Balogh, I., Johnsson, B., *et al.* (1995). Repetitive industrial work and neck and upper limb disorders in females. American Journal of Industrial Medicine, 27(5):731–747.

96. Punnett, L. (1998). Epidemiologic Studies of Physical Ergonomic Stressors and Musculoskeletal Disorders. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

97. Punnett, L., Keyserling, W.M., Chaffin, D.B., Fine, L.T., Herin, G.D. (1991). Back disorders and nonneutral trunk postures of automobile assembly workers. Scandinavian Journal of Work, Environment & Health, 17:337–346.

98. Radwin, R.G., Lavender, S.A. (1998). Work Factors, Personal Factors, and Internal Loads: Biomechanics of Work Stressors. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

99. Rais, O. (1961). Heparin treatment of peritendinitis crepitans. Acta Chirurgica Scandinavica, 268 (Supplementum).

100. Rempel, D., Keir, P.J., Smutz, W.P., Hargans, A.R. (1997). Effects of static fingertip loading on carpal tunnel pressure. Journal of Orthopaedic Research, 15:422–426.

101. Rempel, E., Dahlin, L., Lundberg, G. (1998). Biological Response of Peripheral Nerves to Loading: Pathophysiology of Nerve Compression Syndromes and Vibration Induced Neuropathy. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

102. Riley, M.W., Ballard, Cochran, D., Chang (1983). Assembly task performance and ambient temperature: a reliability model. International Journal of Reliability Engineering, 4:61–74.

103. Rohmert, W. (1973). Problems of determination of rest allowances, part 2: determining rest allowances in different human tasks. Applied Ergonomics, 4(3):158–162.

104. Rowe, M.L. (1983). Backache at Work. Fairport, NY: Perington Press.

105. Sakakibara, H., Hashiguchi, T., Furuta, M., Kondo, T., Miyao, M.,Yamada, S. (1991). Circulatory disturbances of the foot in vibration syndrome. International Archives of Occupational and Environmental Health, 61:145–148.

106. Sauter, S.L., Chapman, L.J., Knutson, S.J., Anderson, H.A. (1987). Case example of wrist trauma in keyboard use. Applied Ergonomics, 18:183–186.

107. Silverstein, B.A. (1985). The Prevalence of Upper Extremity Cumulative Trauma Disorders in Industry. Ph.D. dissertation, University of Michigan, Ann Arbor.

108. Silverstein, B.A., Armstrong, T., Longmate, A., Woody, D. (1988). Can in-plant exercise control musculoskeletal symptoms? Journal of Occupational Medicine, 30(12):922–977.

109. Silverstein, B.A., Fine, L.J., Armstrong, T.J. (1986). Hand wrist cumulative trauma disorders in industry. British Journal of Industrial Medicine, 43:779–784.

110. Silverstein, B.A., Fine, L.J., Armstrong, T.J. (1987). Occupational factors and the carpal tunnel syndrome. American Journal of Industrial Medicine, 11:343–358.

111. Sjogaard G. (1988). Muscle energy metabolism and electrolyte shifts during low-level prolonged static contraction in man. Acta Physiologica Scandinavica, 134:181–187.

112. Sjogaard G, Sogaard K. (1998). Muscle injury in repetitive motion disorders. Clinical Orthopaedics and Related Research, 351:21–31.

113. Smith, E.M., Sonstegard, D., Anderson, W. (1977). Carpal tunnel syndrome: contribution of the flexor tendons. Archives of Physical and Medical Rehabilitation, 58:379–385.

114. Smith, J.L., Ayoub, M.M., McDaniel, J.W. (1992). Manual materials handling capabilities in non-standard postures. Ergonomics, 35:807–831.

115. Smith, M.J., Karsh, B.-T., Moro, F.B.P. (1998). A Review of Research on Interventions to Control Musculoskeletal Disorders. In: National Academy of Sciences. Work-Related Musculoskeletal Disorders: The Research Base. Washington, DC: National Academy Press.

116. Snook, S.H., Campanelli, R.A., Hart J.W. (1978). A study of three preventive approaches to low back injury. Journal of Occupational Medicine, 20:478–481.

117. Snook, S.H., Ciriello, V.M. (1991). The design of manual handling tasks: revised tables of maximum acceptable weights and forces. Ergonomics, 34(9):1197–1214.

118. Snook, S.H. (1996). A Brief History of Psychophysics. Hopkinton, MA: Liberty Mutual Research Center for Safety and Health.

119. Sperling W.P. (1951). Snapping finger: Roentgen treatment and experimental production. Acta Radiologica, 37:74–80.

120. Stromberg, T., Dahlin, L.B., Brun, A., Lundborg, G. (1997). Structural nerve changes at wrist level in workers exposed to vibration. Occupational and Environmental Medicine, 54:307–311.

121. Syogaard, G. (1996). The Significance of Sustained Muscle Loading Versus Dynamic Muscle Loading at Low Forces in Workplace Design. In: Rempel, D., Armstrong, T., eds. Marconi Computer Input Device Research Conference Proceedings. Berkeley: University of California at Berkeley, p.19.

122. Szabo, R.M., Chidgey, L.K. (1989). Stress carpal tunnel pressures in patients with carpal tunnel syndrome and normal patients, Journal of Hand Surgery, 14A(4):624–627.

123. Takala, E.P., Viikari-Juntura, E (1991). Muscle force, endurance and neck-shoulder symptoms of sedentary workers: an experimental study on bank cashiers with and without symptoms. International Journal of Industrial Ergonomics, 7:123–132.

124. Takeuchi, T., Futatsuka M., Imanishi H., Yamada, S. (1986). Pathologic changes observed in the finger biopsy of patients with vibration-induced white finger. Scandinavian Journal of Work, Environment and Health, 12:280–283.

125. Takeuchi, T., Imanishi, H. (1984). Histopathologic observations in finger biopsy from thirty patients with Raynaud's phenomenon of occupational origin. Journal of the Kumamoto Medical Society, 58:56–70.

126. Takeuchi, T., Takaya, M., Imanishi, H. (1988). Ultrastructural changes in peripheral nerves of the fingers of three vibration-exposed persons with Raynaud's phenomenon. Scandinavian Journal of Work, Environment and Health, 14:31–35.

127. Tichauer, E.R. (1966). Some aspects of stress on forearm and hand in industry. Journal of Occupational Medicine, 8(2):63–71.

128. Tichauer, E.R., Gage, H. (1977). Ergonomic principles basic to hand tool design. American Industrial Hygiene Association Journal, 38:622–634.

129. Thun, M., Tanaka, S., Smith, A.B., Halperin, W.E., Lee, S.T., Luggen, M.E., Hess, E.V. (1987). Morbidity from repetitive knee trauma in carpet and floor layers. British Journal of Industrial Medicine, 44: 611–620.

130. Uchiyama, S., Coert, J.H., Berglund, L., Amadio, P.C., An, K.-N. (1995). Method for measurement of friction between a tendon and its pulley. Journal of Orthopaedic Research, 13:83–89.

131. Vangaard, L. (1975). Physiological reactions to wet-cold. Aviation, Space and Environmental Medicine, 46:33–36.

132. Viikari-Juntura, E., Riihimäki, H., Tola, S., Videman, T., Mutanen, P. (1994). Neck trouble in machine operating, dynamic physical work and sedentary work: a prospective study on occupational and individual risk factors. Journal of Clinical Epidemiology, 47(12):1411–1422.

133. Vincent, M.J., Tipton, M.J. (1988). The effects of cold immersion and hand protection on grip strength. Aviation, Space and Environmental Medicine, 59:738–741.

134. Vingärd, E., Alfredsson, L., Goldie, I., Hogstedt, C. (1991). Occupation and osteoarthrosis of the hip and knee: a register-based cohort study. International Journal of Epidemiology, 20(4):1025–1031.

135. Waters, T.R., Putz-Anderson, V., Garg, A., Fine, L.J. (1991). Revised NIOSH lifting equation for the design and evaluation of manual lifting tasks. Ergonomics, 36(7):749–776.

136. Westgaard, R.H., Aarås, A. (1984). Postural muscle strain as a causal factor in the development of musculo-skeletal illness. Applied Ergonomics, 15(3):162–174.

137. Wieslander, G., Norbäck, D., Göthe, C.J., Juhlin, L. (1989). Carpal tunnel syndrome (CTS) and exposure to vibration, repetitive wrist movements, and heavy manual work: a case-referent study. British Journal of Industrial Medicine, 46(1):43–47.

138. Wren, T.R., Beaupre, G.S., Carter, D.R. (1998). A model for loading-dependent growth, development, and adaption of tendons and ligaments. Journal of Biomechanics, 31:107–114.

139. Zipp, P., Haider, E., Halpern, N., Fohmert, W. (1983). Keyboard design through physiological strain measurements. Applied Ergonomics, 14(2):117–122.

D. Pathogenesis and Pathophysiologic Evidence for Work-Related Musculoskeletal Disorders

1. Overview

An extensive body of scientific research and information has led to the conclusion that specific work factors, combinations of these factors, and modifying attributes or conditions contribute to the development and manifestation of work-related musculoskeletal disorders (MSDs). The term "work-related" refers to the performance of work tasks or working in a specific work environment that significantly contributes to the pathogenesis or manifestation of these multifactoral conditions (World Health Organization, 1985, Ex. 26–1040). The multifactoral nature of many of these MSDs, including the potential contribution of pre-existing or non-work factors to the pathogenesis of some work-related MSDs, is recognized. Other sections of this document present epidemiologic and biomechanical evidence that addresses the association of work factors and certain MSDs. This section describes the pathogenic and pathophysiologic mechanisms that establish the biological plausibility of the findings of the epidemiologic and biomechanical observations included in the earlier sections and in the Appendices (Ex. 27–1).

The pathogenesis of work-related MSDs can refer to either single, point-in-time injuries, associated with work tasks that result in activities in which tissue tolerance is acutely exceeded, or circumstances in which the performance of specific work tasks or combinations of tasks over a prolonged period of time results in small and repeated tissue damage to muscles, tendons, joints, or nerve structures (Association of Schools of Public Health/NIOSH, 1986, Ex. 26–1323; Putz-Anderson, Doyle, and Hales, 1992, Ex. 26–419; Rempel, Harrison, and Barnhart, 1992, Ex. 26–520). Work activities suggested as potential factors in the development or expression of work-related MSDs include high rates of task repetition; excessive force requirements; static postures; awkward work postures; vibration; cold temperatures; weight of loads lifted, pushed, or pulled; position of a load in relationship to the spinal axis; frequency and duration of materials handling task performance; hand coupling; dynamics of lifting (*e.g.*, muscle velocity and acceleration); lack of sufficient rest or recovery periods; overtime; piecework; and other issues (Armstrong, 1986, Ex. 26–928; Armstrong *et al.*, 1987, Ex. 26–48; Bergquist-Ullman and Larsson, 1977, Ex. 26–933; Chaffin and Park, 1973, Ex. 26–1115; Frymoyer *et al.*, 1980, Ex. 26–707; Johanning *et al.*, 1991, Ex. 26–1228; Klein *et al.*, 1984, Ex. 26–972; Marras *et al.*, 1993, Ex. 26–170; Rempel, Harrison, and Barnhart, 1992, Ex. 26–520; Silverstein, 1985, Ex. 26–1173; Silverstein, Fine, and Armstrong, 1986a, Ex. 26–1153, 1986b, Ex. 26–1404; Snook, Campanelli, and Hart, 1978, Ex. 26–35; Stock, 1991, Ex. 26–1010; Waters *et al.*, 1993, Ex. 26–521; Waters, 1994, Ex. 26–1403).

To accomplish motion and work, muscle, nerves, connective tissue, and skeleton are affected by a number of external and internal physical demands causing metabolic and compensatory tissue reactions. For example, the forceful, static, continuous, and/or repetitive demands made by manufacturing assembly work or manual materials handling can alter the function and integrity of specifically affected tissues. This can lead to the development and

clinical manifestation of MSDs such as tendinitis, epicondylitis, rotator cuff syndrome, or low-back pain. External demands can include direct pressure or tissue friction. As an illustration, prolonged or excessive force exerted over the base of the palm (by tools, handles, etc.) during assembly tasks can damage the median nerve in the palm, causing signs and symptoms of carpal tunnel syndrome (CTS). Internal responses can include inflammatory responses to tissue injury, neurochemical changes, and altered metabolism. For example, a lumbar disc herniation from repetitive lifting of heavy loads can compress a spinal nerve root, with subsequent nerve root edema, altered tissue metabolism, production of inflammatory mediators, and expressed signs and symptoms of lumbar radiculopathy.

The consequences of these external and internal demands associated with work activities can include a spectrum of symptoms or clinical findings, such as subtle or obvious inflammation, pain, swelling, restricted movement, and tissue damage diagnosed as muscle strain or tear, ligamentous or cartilage injury, tendinitis or tenosynovitis, bursitis, nerve entrapment, disc herniation, or degenerative joint or disc disease. This does not mean that a precise dose-response relationship between task factor exposure and disease exists for each of these work-related MSDs. Clear and consistent patterns exist, however, among the epidemiologic studies, biomechanical models, and pathogenetic and pathophysiologic explanations for many work-related MSDs (Gordon, Blair, and Fine, 1994, Ex. 26–1399; National Academy of Sciences, 1998, Ex. 26–37; Bernard and Fine, 1997, Ex. 26–1).

Factors specific to the individual can also affect the development and/or manifestation of pathology. These include, for example, preexisting injuries or illnesses (such as diabetes, degenerative joint disease, or rheumatoid joint disease); individual susceptibility to injury or tissue damage (related to anthropometric characteristics, physical conditioning, age, or genetics); and avocational activities or hobbies. These can interact in a complex fashion, such that work acts either as a causative, contributing, or accelerating factor in the development and/or manifestation of disease (Putz-Anderson, Doyle, and Hales, 1992, Ex. 26–419; Rempel, Harrison, and Barnhart, 1992, Ex. 26–520). However, although non-work risk factors can influence the development or expression of MSDs, their role is generally not as important as workplace risk factors because the duration and intensity of work are seldom matched in the non-work settings. Additional important considerations pertain to interactions between co-existing MSDs. For example, once an MSD is established, subsequent physical compensatory changes can further predispose an individual to the development of additional MSDs. When injury causes an altered posture, decreased range of motion, or weakness or ability to respond to tactile feedback to one joint or region, there is often increased risk of injury to another joint or region due to compensatory, increased loading. One example is the loss of tactile feedback from CTS, leading to greater hand force output that in turn contributes to the development of tendinitis or epicondylitis.

Section D.2 discusses the interaction between work demands and the responses of skeletal muscle, tendon, ligament, nerve, blood vessels, joint, and cartilage. It reviews the biological plausibility of an association between workplace factors and work-related MSDs of the spine and upper and lower extremities. It also considers the contributions of age, genetics, gender, cigarette smoking, and avocational activities to the pathogenesis and pathophysiology of work-related MSDs.

Section D.3 focuses on vibration. A separate section on vibration is included here because real specificity exists for this risk factor. Vibration can be reliably linked with specific outcomes: damage to vessels and small, unmyelinated nerve fibers in the fingers. In contrast, most of the other tissue disorders discussed in Section D result from a combination of exposures.

2. Pathogenesis and Pathophysiology of Work-Related Tissue Injury

a. Skeletal Muscle. There are several explanations for the development of work-related skeletal muscle disorders. Acute muscle tears, an extreme example of work-related skeletal muscle disorders, may develop when task demands exceed muscle tissue tolerance. While this may occur during any type of muscle contraction, it is much more common during eccentric contraction (*i.e.* during muscle lengthening to control, rather than initiate, an action), perhaps due to the nature of muscle recruitment of fibers with less oxidative capacity (Friden and Lieber, 1994, Ex. 26–546). Yet even low-force, static, or prolonged muscle activities commonly noted in a variety of manufacturing and office settings have the potential to cause or contribute to the development of work-related skeletal muscle disorders (Hagg, 1991, Ex. 26–427; Henneman and Olson, 1965, Ex. 26–139; Herberts *et al.*, 1984, Ex. 26–51; Jarvholm *et al.*, 1989, Ex. 26–967; Murthy *et al.*, 1997, Ex. 26–307; Sjogaard, 1988, Ex. 26–206; Sjogaard and Sjogaard, 1998, Ex. 26–1322). Muscle recruitment patterns with low-extension, repetitive, or static activities may selectively injure low-threshold and more easily recruited muscle fibers, which have been referred to as "Cinderella fibers" because of their constant activity (Henneman and Olson, 1965, Ex. 26–134; Lieber and Friden, 1994, Ex. 26–559). Alternatively, hypoxia and metabolic abnormalities (fatigue), inflammatory responses, inadequate rest pauses, and repair mechanisms appear to explain some of these skeletal muscle disorders associated with certain jobs or tasks (Armstrong *et al.*, 1993, Ex. 26–1110; Bigland-Ritchie, 1983, Ex. 26–76; Faulkner and Brooks, 1995, Ex. 26–1440; Herberts *et al.*, 1984, Ex. 26–51; Sjogaard, 1988, Ex. 26–206; Sjogaard and Sogaard, 1998, Ex. 26–1322). Electromyography (EMG) has helped researchers to better understand skeletal muscle responses to work tasks, estimate muscle loading with activity and intramuscular pressure generation, and comprehend the development of muscle fatigue (Chaffin, 1973, Ex. 26–876; Chaffin and Andersson, 1991, Ex. 26–420; Dolan *et al.*, 1999, Ex. 26–819; Lieber and Friden, 1994, Ex. 26–559; Nieminen *et al.*, 1993, Ex. 26–1382; NIOSH, 1992, Ex. 26–1325). In addition, at least one study has demonstrated a significant impact of ergonomic interventions on diminishing both EMG-observed trapezius loading and sick time due to skeletal muscle morbidity (Aarås, 1994a, 1994b, 1987, Exs. 26–892, 26–62, 26–1034).

Skeletal muscle is a highly evolved tissue with specialized contractile properties and an exceptional capacity to adapt and change. The bodybuilder's ability to rapidly build muscle bulk and the weakness and atrophy that come with prolonged bed rest or disuse are two examples of this "plasticity." Individual muscle fibers have a unique capacity to convert chemical energy into a specific level of time-limited mechanical work (capacity and endurance). There are hundreds of skeletal muscles in the human body, each responsible for specific motions of bone and joints, that permit work performance. In the setting of normal physiologic responses, the central nervous system (CNS)

releases nerve impulses which activate motor units, causing muscle contraction, tendon tension, and movement of bones and joints. Each skeletal muscle is attached to a site of origin, transitions through a myotendinous junction, and attaches to bone as tendon, sometimes crossing joints along the way.

The components of each skeletal muscle include muscle fibers, connective tissue, and nerve endings. Muscle fibers, in turn, are composed of contracting elements called myofibrils. These myofibrils contain thin (actin, troponin, and tropomyosin proteins) and thick (myosin protein) filaments that slide over each other, resulting in muscle contraction. The myofilaments are arranged in compartments (sarcomeres) separated from each other by thin zones of dense material (Z-lines). Upon stimulation from a motor nerve impulse, altered muscle membrane permeability (depolarization) releases calcium ions, which subsequently create cross-bridging between muscle filaments and resultant contraction. Skeletal muscle is covered by a connective tissue called the epimysium, which is contiguous with the perimysium, a septum that separates the muscle into muscle fiber bundles. These muscle fiber bundles further subdivide into individual muscle fibers surrounded by an endomysium. The connective tissue permits the passage of blood vessels and nerves through the skeletal muscle to the muscle fibers, and also contributes to the mechanical characteristics of the muscle, especially with respect to resistance to stretching or deformation.

Peripheral nerves traverse the connective tissue to carry (motor) impulses from the CNS to the muscle, attaching at the neuromuscular junction. The functional unit of a muscle is called the motor unit, and is composed of motor neurons and the muscle fibers they control. Small motor units, with a nerve fiber controlling a few muscle fibers, are located in areas such as the hand where fine motor tasks are performed. These smaller units allow contraction at lower forces. Larger units are located in the leg, where a single nerve fiber can activate hundreds or thousands of muscle fibers to permit gross motor tasks. When a nerve impulse activates a motor unit, all of the fibers in that unit contract simultaneously. The response of the entire muscle depends on several factors. After a nerve impulse, a certain number of motor units will contract in response. As the impulse increases, more units are recruited and greater force results. When stimulation occurs prior to relaxation, a larger contraction (or summation) will evolve. The size, temporal sequencing, and frequency of the stimulus will determine if a muscle reaches maximal contraction, with responses maintained until stimulation ceases or fatigue occurs. Sensory feedback control occurs via muscle spindles that sense the length and speed of contraction or stretch of the muscle fibers.

Muscle power also depends on the composition of the fibers and muscle length. Type I (slow) fibers are smaller, have a large capacity for aerobic work, take a longer time to reach peak tension, and permit sustained, low-level muscle activity. Type II (fast) fibers quickly reach peak tension and help with short-duration, intensive activity. Type II fibers, however, fatigue quickly. With disuse, type II fibers are the first to atrophy (Chaffin and Andersson, 1991, Ex. 26–420). Skeletal muscles at their relaxed length generate the greatest amount of tension. At resting length, there is optimal overlap between the thick and thin filaments to permit maximal shortening. As the muscle contracts, there is greater overlap and less potential to contract further. When muscles are stretched, there is less overlap, and therefore, less tension can be generated (Chaffin and Andersson, 1991, Ex. 26–420). As discussed above, the amount and characteristics of the passive connective tissue in the specific muscle also determine the tension developed when muscles are stretched.

Individual muscle fibers have a unique capacity to convert chemical energy into a specific level of time-limited mechanical work (capacity and endurance). This chemical energy is transported in the form of activated phosphorylated molecules, primarily adenosine triphosphate (ATP). Energy release to accomplish muscle contraction is provided by the splitting off of a phosphate group from adenosine triphosphate (ATP), which converts the ATP to adenosine diphosphate (ADP). Phosphocreatine enables ADP to be converted back to ATP, thereby re-supplying the muscle fiber with energy and permitting the contraction to continue for brief periods. With persistent contraction, ATP resynthesis occurs under aerobic (with oxygen) or anaerobic (without oxygen) conditions. During low to moderate exertion, aerobic conditions predominate. The exhaustion of these energy stores can lead to fatigue, and in extreme cases, injury to the muscle tissue itself (Armstrong, Warren, and Lowe, 1994, Ex. 26–525; Chaffin and Andersson, 1991, Ex. 26–420; Lieber and Friden, 1994, Ex. 26–559). Heat is also generated and expended as a result of this metabolic activity.

Researchers have described several types of muscle contraction. In isometric (static) contraction, the external length of the muscle remains fixed, despite sliding of myofibrils. High muscle tension is generated because there is no expenditure of energy to shorten the muscle. During isotonic contraction, muscle length changes while the tension remains constant. Energy is expended to permit this change in muscle length to occur. Concentric contraction involves muscle shortening. An example of this is when the biceps muscle contracts and shortens during elbow flexion. Eccentric contraction describes contraction during muscle lengthening, as when muscle activity is required to control an action rather than to initiate it. Velocity of contraction affects the tension a muscle generates, with less force generated as the velocity of shortening increases. This relates to the length of the muscle, discussed above, and friction. Endurance depends on the composition of fibers and the percentage of maximal muscle force (Chaffin and Andersson, 1991, Ex. 26–420; Lieber and Friden, 1994, Ex. 26–559). At efforts under 15% of maximal force, endurance can reach 45 minutes (Lieber, 1992, Ex. 26–433). As muscle approaches 35% of maximal force, endurance time decreases to approximately two minutes, and as exertion approaches 100%, endurance time approaches zero (Chaffin and Andersson, 1991, Ex. 26–420, p. 49). Gradual exercise programs, however, have the capacity to improve muscle strength and endurance.

Muscle proteins allow muscle fibers to stretch and to elastically recoil to their resting length. If a muscle is stretched excessively, these mechanoelastic properties of muscle fiber are exceeded and observable physical damage is incurred. There is an important distinction between injuries that are the result of muscle activities that exceed these mechanoelastic capacities of muscle, and injuries that have their origins in activities that are below maximum muscle capacity. The latter may involve sequential or stereotyped patterns of work, whose execution becomes compromised by pain or fatigue. In fact, the bulk of modern work involves activities that neither challenge nor exceed the mechanical limits of muscle fibers.

The types of injury acquired during more routine function involve potentially complex metabolic and neurologic processes. Changes in muscle morphology and fiber type

(gene expression), in muscle fatigue and failure (metabolic function), and in loss of centrally mediated coordinated movement (dystonia) are all examples of the biochemical and neurologic origins of some types of muscle injury. These mechanisms, rather than gross patho-anatomic injury and repair, are a major focus of current research on work-related muscle injury.

Muscle tissue has a high intrinsic repair capacity and can effectively adapt to diverse biomechanical loads. Understanding the divergent paths of successful learning and adaptation or injury and degeneration requires an understanding of physiology (Pette, 1980, Ex. 26–1304).

There are three events associated with muscle injury. While injury related to mechanical contraction is usually caused by stretch (eccentric contraction), injury may also occur during muscle shortening (concentric contraction), or while maintaining the muscle at a constant level of stretch and tension (isometric contraction). The basic mechanism is a mismatch between external load and internal contractile capacity. This results in mechanical disruption between the sarcomeres along the Z-lines. The outcome is inflammation, the sensation of muscle soreness, and triggering of repair processes.

A second injury mechanism is fatigue, in which there is an activity-related perception of raised effort or an inability to sustain force. Muscle fatigue occurs when physical tasks require high-power, short-duration repetitive contractions, or when there are low-power, sustained or repetitive contractions (Faulkner and Brooks, 1995, Ex. 26–1410). Fatigue has consequences for task performance and includes both rapidly reversible and non-reversible manifestations.

As a muscle becomes fatigued, it produces a distinct electrical signal that can be picked up by electromyography (EMG). The EMG signal is measured by placing electrical transducers on the skin surface over the muscle, or by inserting a needle or small wire directly into the muscle. EMG measurements are most often taken where muscles are well-defined and accessible. EMG has other uses. EMG has been an important tool in measuring effort and fatigue in the large muscles of the neck and shoulders. Recorded EMG voltage reflects the sum of several motor unit potentials. The primary usefulness of surface EMG in work settings is to estimate muscle tension associated with task performance from measured myoelectric activity. Since many factors affect the relationship between muscle force and the amplitude of myoelectric activity, several methods are used to improve the correlation (Chaffin and Andersson, 1991, Ex. 26–420; Dolan *et al.*, 1999, Ex. 26–819; NIOSH, 1992, Ex. 26–1325). Individual-and activity-specific calibration can be performed by measuring myoelectric activity and external moments while a subject performs graded activity. Normalization can be employed by measuring one isometric maximum voluntary contraction (MVC) and reporting the activity as a percentage of MVC. This appears to correlate reasonably with load moments calculated from other models (Nieminen, 1993, Ex. 26–1382). Measurements of myoelectric activity can then be used to estimate load moments or forces during the performance of more complex tasks in a variety of work settings. Fatigue can also be assessed: muscle activity is observed to show an increased amplitude and decreased frequency in the myoelectric signal with fatigue (Chaffin and Andersson, 1991, Ex. 26–420; Chaffin, 1973, Ex. 26–876; Lieber and Friden, 1994, Ex. 26–559). This is consistent with laboratory observations of the response in fatigued muscle fiber (Bigland-Ritchie *et al.*, 1983); the authors hypothesize that this may be a physiologic adaptation slower muscles are able to generate higher forces.

Dolan *et al.* (1999, Ex. 26–819) recently validated the usefulness of this technique in evaluating dynamic lumbar spine loading. The authors studied eight male subjects who performed lifting tasks from floor height (boxes weighing 6.7 and 15.7 kg). L5–S1 joint moments were assessed using force plates and by measuring the EMG activity of the erector spinae muscles. The two assessment methods yielded similar peak extensor moments, equivalent to spinal compressive forces of 2.9 to 4.8 kN. The researchers did note, however, that there were small deviations during lifts requiring a vigorous upward thrust from the legs, and that additional force-plate data would mildly improve correlation in these settings.

A third injury mechanism (after mechanical contraction-related injury and muscle fatigue) is the release of neuro-humoral substances and changes in electrolyte balance. Neuro-humoral substances are chemicals that affect cell membranes and cell function and excite afferent nerves. Muscle pain, inflammation, and ischemia, or sustained static contraction, lead to release of potassium chloride, lactate, arachidonic acid, bradykinins, serotinin, and histamine. In addition to producing pain, these agents can excite chemosensitive afferents—gamma muscle spindles—that respond to stretch. It is hypothesized that increased spindle excitation can cause the stiffness and pain of "myalgia" (Johannson and Sojka, 1991, Ex. 26–968). There is substantial evidence that these mechanisms of tissue injury can produce a distinct MSD pattern, particularly when the work stressors are not sufficiently intense to produce outright mechanical injury. At even 10% of MVC, muscle oxidation declines significantly (Murthy *et al.*, 1997, Ex. 26–307). Proprioceptive accuracy and efficiency are also significantly limited under conditions of fatigue. The loss of accuracy and fine control in hand-intensive tasks, such as manual tool use, requires greater muscle recruitment and correction, further increasing demands on muscle.

Several mechanical and physiologic muscle responses are involved in the generation of muscle forces and motion of skeletal structures that relate to the development of pathology. Coordination of muscle activity to manipulate bones and joints involves initiation by agonist muscles, with regulatory contributions from synergistically and antagonistically acting muscles. The forces generated by these muscles around a joint produce load moments on the joint. This can cause compression or rotation at the joint with secondary effects on the joint cartilage or bone.

An acute muscle tear is a point-in-time injury that results when the force demands exceed the muscle tissue mechanical tolerance. This can occur during rapid intentional movement or during a loss of balance, such as in a fall. Often there is rapid stretching of muscle in addition to contraction (Lieber and Friden, 1993, Ex. 26–160), and injuries are generally worse when muscle is in its stretched position (Macpherson, Shork, and Faulkner, 1996, Ex. 26–165). Healing requires 1 to 4 weeks (Ashton-Miller, 1999, Ex. 26–414; Brooks and Faulkner, 1990, Ex. 26–85), and there is potential for decreased strength after healing is achieved.

After injury, satellite cells proliferate to repair the muscle damage. As people age, fewer satellite cells are observed in muscle tissue; this may explain the delayed recovery in injured older workers (Carlson, 1994, Ex. 26–530). However, muscle rupture may also occur when mechanical disruption of sarcomeres produces an inflammatory response (free radicals, cytosolic enzymes, phagocytosis) with an increased

susceptibility to delayed muscle tear (Faulkner and Brooks, 1995, Ex. 26–1410).

Reduced blood flow and increased transmural muscle pressure appear to be important predisposing factors to injury (Armstrong *et al.*, 1993, Ex. 26–1110; Kilbom, 1994, Ex. 26–1352; Sjogaard and Sogaard, 1998, Ex. 26–1322). The reduced blood flow that is characteristic of static contraction and increased transmural pressure is reversible. However, there is additional evidence that the pattern of reduced flow, injury and diminished repair, and chronic fiber damage all contribute to muscle pain (Lindman *et al.*, 1991, Ex. 26–976). Sufficient blood flow to skeletal muscle is essential for contraction, since force development depends on the conversion of chemical to mechanical energy. EMG studies show increased EMG activity in repetitive and stereotyped work in the setting of myalgia. All of this points to the particular problems of continued use of muscle that has already sustained injury, since the normal processes of adequate blood supply and oxygenation, ability to sustain contraction, and the capacity for repair are all compromised. Prolonged skeletal muscle contraction can produce other complications related to elevated intramuscular pressure. Secondary ischemia and disruption of the transportation of nutrients and oxygen can produce intramuscular edema (Sjogaard, 1988, Ex. 26–206). This is compounded when recovery time between contractions is insufficient. Eventually, muscle membrane damage, abnormal calcium homeostasis, free radicals, other inflammatory mediators, and degenerative changes can occur (Sjogaard and Sjogaard, 1998, Ex. 26–1322).

It is also important to recognize that sustained injury appears to involve the excitation of specific neural pathways, rather than occurring as the result of simple repetitive tonic activities. The implications are that simple overuse is remediable and apparent functional loss is often a protective mechanism against depleting muscle cells' energy stores. However, more complex muscle injury involves changes in nerve-muscle interaction and inflammatory changes, and continued use and insult can cause more chronic aggravation.

Several studies appear to support belief in these pathogenic mechanisms. Veiersted *et al.* (1993, Ex. 26–1154) performed EMG studies on subjects performing machine-paced packing work. Individuals with symptoms of trapezius pain had fewer rest pauses and a shorter total duration of rest pauses, suggesting higher levels of muscle fiber activity. Aarås (1987, Ex. 26–1034) demonstrated that reduction of trapezius muscle activity to less than 2% of MVC in assembly workers reduced sick time. Interesting pathophysiologic findings were noted by Larsson *et al.* (1990, Ex. 26–1141) when they evaluated trapezius muscle biopsies and blood flow in assembly workers with localized chronic myalgia related to static loading during assembly work. In symptomatic workers, reduced muscle blood flow and pathologic changes (ragged red fibers indicating disturbed mitochondrial function were confined to the type I fibers) were recorded. Myalgia was correlated with reduced local blood flow and the presence of mitochondrial changes.

Other authors have noted elevated serum levels of muscle enzymes, particularly creatine kinase, in delayed onset muscular soreness following unaccustomed muscle exertion (Armstrong, 1990, Ex. 26–703; Newham *et al.*, 1983a, Ex. 26–395; Schwane *et al.*, 1983, Ex. 26–716). This is followed by degenerative changes in sarcomeres followed by regeneration and repair within about 2 weeks (Newham *et al.*, 1983b, Ex. 26–741; Ogilvie *et al.*, 1988, Ex. 26–189).

It must also be appreciated that work does not have to be repetitive or forceful to cause MSDs. Static postures involve repeated and prolonged low force contraction of low-threshold motor units. Although the total workload is low, the individual muscles and muscle fibers may approach their maximal capacity, which can lead to injury (Hagg, 1991, Ex. 26–427). For example, intramuscular pressures associated with static muscle contraction have the potential to cause muscle tissue injury. The magnitude of intramuscular pressure varies significantly depending on individual muscle characteristics (there are greater pressures in contracting bulky muscles as opposed to thin ones) and location (constricting fascial compartments and adjacent bony structures may increase pressures reached during contraction) (Sjogaard and Sogaard, 1998, Ex. 26–1322). Muscle activity and position also determine intramuscular pressures. Herberts *et al.* (1984, Ex. 26–51) demonstrated that increased hand loads and larger degrees of arm elevation will increase EMG activity and intramuscular pressures in shoulder girdle muscles (deltoid, infra- and supraspinatus, trapezius). This may be noted during static work tasks adopted to stabilize hand tools near shoulder heights during assembly or construction. While very forceful muscle contractions may produce intramuscular pressures that exceed systemic blood pressure, supravenous intramuscular pressures exceeding 40 to 60 mm Hg have even been observed in the supraspinatus muscle during static contractions of less than 10% of MVC (Jarvholm *et al.*, 1989, Ex. 26–967; Sjogaard *et al.*, 1996, Ex. 26–213). Therefore, muscle pressures during low-force static work may approach the range of diastolic pressures. Of importance, diastolic pressures are more significant than mean blood pressures for maintaining blood flow in low-flow situations (Sjogaard *et al.*, 1986, Ex. 26–207), resulting in the potential for damage to muscle tissues. The mechanism of muscle injury associated with elevated intramuscular pressures relates to secondary abnormalities of microcirculatory regulation caused by these pressure increases. As a result, several changes are noted. Diminished oxygen supply to muscle tissue will reduce its capacity to convert chemical to mechanical energy. Persistent contraction may increase tissue edema, potentially increasing tissue pressures and further impairing microcirculation.

In other circumstances, the recruitment of only a limited number of fibers can result in high fiber stress distributed across the few fibers involved in the contraction, although total muscle forces may be low. Because highly repetitive tasks can only be sustained for prolonged periods when low force is involved, type I fibers are more likely to be involved in repetitive injury.

Increasing attention has been paid to metabolic and neuroregulatory factors to better understand the relationship between acute muscle fatigue and the development of chronic muscle disorders, as well as to characterize the pattern of pain symptoms that affect the neck, shoulders, forearms, wrists, and fingers in manually intensive tasks that occur well below the MVC. Higher subjective levels of fatigue as well as electrophysiological evidence of fatigue are more common in large muscle groups, such as the neck and shoulder muscles, when activities are static and repetitive rather than dynamic (Sjogaard, 1988, Ex. 26–830). During low levels of exertion, skeletal muscle recruitment primarily activates the slower and less fatigable type I muscle fibers because of their lower thresholds (Henneman and Olson, 1965, Ex. 26–139) Lieber and Friden (1994, Ex. 26–559) have demonstrated an activation sequence by which these smaller, more fatigue-resistant muscle units are first

recruited, followed by stronger, more easily fatigued fibers. These smaller fibers are the "Cinderella fibers," so named because they are always working in lower-threshold activity, which can be insufficient to recruit stronger fibers (Henneman and Olson, 1965, Ex. 26–139).

The concerns with sustained low-level activity are multifold. Limited muscle fiber recruitment can result in higher individual fiber stresses distributed across the few fibers involved in the contraction, although total muscle forces may be low. Because highly repetitive tasks can only be sustained for prolonged periods of time when low force is involved, type I fibers are more likely to be involved in repetitive injuries. The prolonged recruitment of limited numbers of motor units, even during situations with low stress on these muscle fibers, can deplete available energy, producing eventual fatigue and injury (Lieber and Friden, 1994, Ex. 26–559). At low contraction levels, membrane resting potential is maintained in all fibers, including activated fibers (Sjogaard *et al.*, 1996, Ex. 26–213). Potassium-flux—induced fatigue is an important homeostatic mechanism for protecting essential ATP stores, but this essential mechanism is bypassed at lower activity levels. A fatigued muscle that will not contract prevents direct tissue damage. Otherwise, the infusion of cytosolic calcium continues. Although calcium is essential for contraction, its build-up is directly damaging to membrane lipids and mitochondria. There is mounting evidence that types of lower-output activity that bypass homeostatic protection can dispose active muscle to silent but significant injury. Skeletal muscle recruitment may also explain the observation that eccentric muscle contraction more commonly causes muscle injury than does concentric contraction (Friden and Lieber, 1994, Ex. 26–559), since this type of contraction primarily involves the fastest fibers with the lowest oxidative capacity.

Finally, age effects on skeletal muscle generally result in greater susceptibility to injury with repeated loading. With aging, muscle contractility is diminished (Thelen *et al.*, 1996a, Ex. 26–219), muscle mass and maximum isometric force declines (Faulkner and Brooks, 1995, Ex. 26–1410), and the rate of developing force and power is lower (Thelen *et al.*, 1996b, Ex. 26–220). In older individuals, physical conditioning has more impact on power than it does on force. Age-related changes appear to be an intrinsic function of muscle fibers themselves, rather than a change in muscle recruitment patterns. Injuries from eccentric contractions in older animals heal more slowly and show a greater force deficit (injury effect) than in younger animals.

In summary, a significant body of evidence supports the conclusion that conditions often present at work can be pathogenetic and pathophysiologic links with many muscular disorders. There is strong physiologic evidence that sub-maximal muscle contraction, which is the prevailing pattern in the American manufacturing and office workplace, can produce patterns of chronic muscle injury. Potential etiologies include abnormalities in motor unit recruitment, tissue loading in susceptible positions, altered muscle metabolism and blood flow, energy depletion and fatigue, inflammation, and altered tissue repair. This is especially true when work evolves away from tasks that approach the limit of contractile forces, and specific pathways of injury, rather than force itself, become the critical elements in understanding disease. Applying ergonomic principles to muscle physiology is intended to preserve mechanical output while preventing tissue injury.

b. Tendons and Ligaments. Work-related tendon disorders develop for several reasons. Tendon has viscoelastic properties that may be exceeded when workers perform excessively forceful work activities, carry tasks that overstretch tendons, or have rest periods that are not sufficient to enable normal repair mechanisms to occur (Ashton-Miller, 1999, Ex. 26–414; Chaffin and Andersson, 1991, Ex. 26–420; Moore, 1992a, Ex. 26–985; Woo *et al.*, 1994, Ex. 26–596). Unfortunately, many jobs and tasks in manufacturing and other work settings associated with excessive hand force, machine paced or piece work, overtime, poor tool design, etc. have these associated risks. In addition, repetitive tendon loading may cause tendon deformation and eventual tissue failure at a lower limit during subsequent loading cycles (Goldstein *et al.*, 1987, Ex. 26–953; Moore, 1992a, Ex. 26–985; Thorson and Szabo, 1992, Ex. 26–1171). Compression and friction of tendons as they cross joints or move through tight compartments (*e.g.*, the carpal canal or first dorsal compartment of the wrist) may result in inflammation, degeneration, and metaplastic changes with symptoms and signs of tendon pathology (*e.g.*, stenosing tenosynovitis, tenosynovitis, tendinitis) (Ashton-Miller, 1999, Ex. 26–414; Azar *et al.*, 1984, Ex. 26–1031; Backman *et al.*, 1990, Ex. 26–251; Finkelstein, 1930, Ex. 26–266; Flint *et al.*, 1975, Ex. 26–268; Goldstein *et al.*, 1987, Ex. 26–953; Hart, Frank, and Bray, 1994, Ex. 26–551; Kilbom, 1994, Ex. 1352; Rais, 1961, Ex. 26–1166; Rathburn and McNab, 1970, Ex. 26–1376; Sampson *et al.*, 1991, Ex. 26–322; Uchiyama *et al.*, 1995, Ex. 26–339; Vogel, 1994, Ex. 26–593; Wilson and Goodship, 1994, Ex. 26–241).

Tendons and ligaments are connective tissues that connect either muscle to bone (tendons), or bone to bone (ligaments). Tendons and ligaments are relatively uncomplicated tissues, with a simple structure subject to a limited set of stresses: tensile forces from muscle contraction, shear forces from friction against obstructing anatomic structures, and compressive forces from entrapment. Injuries to the muscle and tendon unit are common in the upper extremity.

Tendon structure consists of parallel-oriented collagen bundles in a water-mucopolysaccharide matrix. In ligament, bundles are primarily parallel, with some bundles arranged in a non-parallel fashion. This results in different mechanical properties for these tissues, with more elasticity noted in ligamentous structures (Chaffin and Andersson, 1991, Ex. 26–420).

Tendons. Skeletal muscle, unlike tendon, is composed of non-parallel fibers. Therefore, as the muscle-tendon unit proceeds from muscle to tendon (myotendinous junction), intracellular contractile muscle proteins transition to extracellular collagen in the tendon, and the arrangement of collagen fibers becomes more parallel. Extensive infolding of fibers in the myotendinous junction increases the surface area of the muscle-tendon interface and decreases the stress from tensile loading in this area (Chaffin and Andersson, 1991, Ex. 26–420). The myotendinous junction then proceeds to a region called the aponeurosis, where tendon connective tissue predominates. Peritenon, a thin membranous sheath, separates the aponeurosis from the surrounding fascia.

Microscopically, the distal tendon consists of multiple bundles of collagen tissue surrounded by epitenon, endotenon, and peritenon membranes. The extracellular matrix of healthy tendon includes water, glycosaminoglycans, and glycoproteins. Blood vessels, lymphatics, and nerves may traverse the epitenon or endotenon layers. However, avascular regions are observed in healthy tendons, and it is presumed that these regions are nourished by diffusion. The distal tendon has a synovial sheath that produces lubricating fluid (synovial fluid). In the

hand, transverse ligaments called pulleys are present near the distal metacarpal and permit flexor tendons to flex the finger through a fibroosseous canal without bowing out.

The primary function of tendon is to transmit forces from muscle to bone. Accordingly, its principal injuries involve forces causing stretch, deformation, or inadequate recovery (*i.e.*, return to resting length), on the one hand, and frictional damage due to shear and extrinsic compression, on the other. The tendon is subject to both uniaxial tensile forces from muscles and transverse forces from anatomic pulleys, bursae, and extended range of motion. Tensile and transverse forces produce shear and influence tendon gliding. This phenomenon draws particular attention to awkward or extreme posture, particularly at the wrist (Armstrong *et al.*, 1984, Ex. 26–1293).

Pathophysiologically, four main types of non-acute tendon disorders have been suggested (Leadbetter, 1992, Ex. 26–157). Paratenonitis (tenosynovitis) is the inflammation of the peritenon. Signs and symptoms can include pain, swelling, warmth, and tenderness. Tendinosis involves intratendinous degeneration with fiber disorientation, scattered vascular ingrowth, occasional necrosis, and calcification; tendon nodularity may be noted, but swelling of the tendon sheath is absent. Paratenonitis may be observed with tendinosis. Corresponding signs of inflammation and nodularity are possible. Tendinitis (tendon strain or tear) can range from inflammation with acute hemorrhage and tear to inflammation with chronic degeneration. Clinical symptoms and signs relate to the contributions of inflammation vs. degeneration. This classification into four types, however, is not universally accepted.

To understand how tendons become diseased, one must understand tendon function and repair mechanisms. As muscles contract, tendons are subjected to mechanical loading and viscoelastic deformation. Tendons must have both tensile resistance to loading (to move attached bones) and elastic properties (to enable them to move around turns, as in the hand). When collagen bundles are placed under tension, they first elongate without significant increase in stress. With increased tension, they become stiffer in response to this further loading. If the load on these structures exceeds the elastic limit of the tissue (its ability to recoil to its original configuration), permanent changes occur (Ashton-Miller, 1999, Ex. 26–414; Moore, 1992a, Ex. 26–985; Chaffin and Andersson, 1991, Ex. 26–420). During subsequent loading of the damaged tendon, less stiffness is observed. The ultimate strength of normal tendon and ligament is about 50% of that of cortical bone (Frankel and Nordin, 1980, Ex. 26–1125), but structures that have exceeded the elastic limit fail at lower limits. In addition, if recovery time between contractions is too short, deformation can result in pathologic changes that decrease the tendon's ultimate strength (Thorson and Szabo, 1992, Ex. 26–1171; Goldstein *et al.*, 1987, Ex. 26–953).

Tendon exhibits additional viscoelastic properties of relaxation and creep. That is, when a tendon is subjected to prolonged elongation and loading, the magnitude of the tensile force will gradually decrease (relaxation) and the length of the tendon will gradually increase (creep) to a level of equilibrium (Chaffin and Andersson, 1991, Ex. 26–420; Moore, 1992a, Ex. 26–985; Woo *et al.*, 1994, Ex. 26–596). During repetitive loading, the tendon exhibits these properties and then recovers if there is sufficient recovery time. If the time interval between loadings does not permit restoration, then recovery can be incomplete, even if the elastic limit is not exceeded (Goldstein *et al.*, 1987, Ex. 26–953).

Tendons are also subject to perpendicularly oriented compressive loading. This is seen when tendons are loaded as they turn corners around pulleys or bony surfaces. Friction is generated at these locations as the tendon slides against adjacent surfaces, causing a shearing force. This is significant in the hand and wrist, as demonstrated by Goldstein *et al.* (1987, Ex. 26–953). The authors noted that higher levels of muscle tension are required to achieve a specific level of strength at the fingertip during non-neutral wrist postures, and that tendons are subject to greater shear stress with non-neutral wrist postures. Similarly, compressive force in the A1 pulley has been demonstrated to rise dramatically from the neutral posture (0 to 50 mm Hg) to full flexion (500 to 700 mm Hg) (Azar, Fleeger, and Cluver, 1984, Ex. 26–1031). Tendon friction is proportional to the axial tension of the tendon, the coefficient of friction between the tendon and its adjacent surface, and the angle of the tendon as it turns about a pulley (Uchiyama *et al.*, 1995, Ex. 26–339). Ashton-Miller, Ex. 26–414, suggests that this may be a cause of surface degeneration in tendons. Internal degeneration may be the result of friction-induced internal heat generation (Wilson and Goodship, 1994, Ex. 26–241). One study in exercising racehorses demonstrated that tendon core temperature in the superficial digital flexor tendon was 5.4 degrees above tendon surface temperature, enough to kill fibroblasts in vitro (Wilson and Goodship, 1994, Ex. 26–241).

Clinically, tendon compression in the hand may manifest as stenosing tenosynovitis. Initially, examination in patients with stenosing tenosynovitis may reveal impaired motion, tenderness, pain on resisted contraction or passive stretch, swelling, or crepitation. With time, swelling and thickening of the tendon may occur from fibril disruption, partial laceration, impairment of blood flow and diffusion of metabolites, and the localized repair process. Ultimately, this limits the normal smooth passage of the tendon through its fibroosseous canal. These chronic tissue changes are recognized as triggering. At surgery, findings may include tightness and thickening of the pulley, nodular fusiform tendon swelling, fibrocartilaginous metaplasia, or fraying of the tendon (Finkelstein, 1930, Ex. 26–266; Sampson *et al.*, 1991, Ex. 26–322)

These conceptualized patterns of tendon injury have practical clinical significance, relating to some of the most common MSDs encountered in clinical practice. Micro-tears and gross trauma to the tendon produce an acute inflammatory condition with regeneration and removal of tissue debris. As noted, when the tendon load is great and there is insufficient recovery time between deformations for the tendon to recover its resting length, viscous strain can exceed elastic strain (Goldstein *et al.*, 1987, Ex. 26–953), causing tendon deformation (Thorson and Szabo, 1992, Ex. 26–1171). These are the mechanisms most often involved in the common "sprain."

A different injury mechanism occurs when tendon and tendon sheaths are forced over hard anatomic surfaces, producing either an inflammatory tendinitis or a zone of avascularity (lack of blood flow) due to compression (Rathburn and McNab, 1970, Ex. 26–1376). This has been experimentally demonstrated by electrically stimulating muscles to contract, causing friction and tendinitis (Rais, 1961, Ex. 26–1166). Impaired circulation, hard tissue compression, and degenerative change are pertinent to rotator cuff injuries, where tendon insertions on the greater tuberosity of the humerus can be compressed under the coracoacromial arch. Muscle tension, itself, can also restrict circulation when the tendon's supply of arterial blood runs

through the contracted muscle, as is the case with the supraspinata (Herberts *et al.*, 1984, Ex. 26–51). Common rotator cuff diagnoses that fall short of surgical intervention often fall under these pathophysiologic mechanisms.

A more subtle friction-related injury is de Quervain's Syndrome, in which a narrowed first dorsal compartment juxtaposes crossed tenosynovium of the abductor pollicis longus and extensor pollicis brevis (Witt *et al.*, 1991, Ex. 26–242). Injury in the first dorsal compartment in de Quervain's Syndrome is actually a disorder of the retinaculum, a specialized ligamentous tissue acting as an anatomic pulley to prevent tendon bowstringing, and involves the fingers and the toes. "Bowstringing" refers to the tendency of a tendon, under tension, to assume the shortest distance between its proximal and distal insertion, unless it is tethered and damped. The disorder is a hypertrophy of this retinaculum. Tendon and ligament are elastic and will "creep" (*i.e.*, stretch) in response to tensile loading. Creeping involves progressive fiber recruitment and loss of the natural waviness of collagen fibers.

A diversity of clinical terms complicates the description of tendon injuries. As Waldron points out (1989, Ex. 26–509), the traditional peritendinitis crepitans, characterized by an edematous or swollen musculo-tendinous junction, is more limited than the variety of soft tissue pains that are currently described as tendinitis or tenosynovitis. In the older usage, tendinitis was an uncommon and severe condition in which the injured tissues were swollen and crackled under compression. Currently, "tendinitis" is used to describe a wide variety of soft tissue pain and is the most widely used term employed to characterize MSDs. Tendons have very different structures, depending on anatomic location and function, so as a general term for a diseased tendon, "tendinitis" groups together several different pathologies. In the case of epicondylitis, the insertional tears seen in young athletes playing racket sports have little in common with the non-inflammatory degeneration seen in older populations, whether or not work is implicated as a risk factor (Chaard *et al.*, 1994, Ex. 26–458). The frequent lack of connection between observed gross pathology and clinical or reported symptoms is another consideration. In autopsy series, the majority of cadavers have tears at the TFCC (triangulate fibro-cartilage complex) in the wrist or degeneration of the ECRB (extensor carpi radialis brevis) insertion at the elbow (Mooney and Poehling, 1991, Ex. 26–304; Cherniack, 1996, Ex. 26–258). However, the occurrence of perceptible symptoms is comparatively uncommon.

Tendons and ligaments also undergo significant modification where they turn corners or insert onto bone. Evidence exists that the tendon matrix is reformulated in response to mechanical forces, implying an active process of cell response. However, it has not been determined whether this reaction definitively alters the mechanical properties of the tendon, or what its role is in future injury. Experimental work with rabbit flexor digitorum profundus tendon compressed by adjacent calcaneum and talus (Flint *et al.*, 1975, Ex. 26–268) has demonstrated that fibrocartilagenous metaplasia occurs in response, and that after surgical translocation of the tendon, this will improve. The presence of sex hormone and neurotransmitter receptors in tendon tissues indicates that tissue responses are complex (Hart, Frank, and Bray, 1994, Ex. 26–551). This implies that tendon is affected by internal signals and is subject to regulation beyond stress and strain. The proinflammatory neurotransmitters substance P and calcitonin gene-related peptide are located in the nerve endings present in tendons and ligaments (Goldstein *et al.*, 1987, Ex. 26–953) and constitute a pathway for neurologically mediated tendon injury. The current notion of tendons and ligaments, which are structurally closely related, describes them as dynamic tissues subject to biomechanical strain and the effects of endocrine hormones and neurotransmitters. This suggests potentially complex patterns of injury and pain, and also of adaptation. Although a complete view of tendon function remains to be articulated, for now it seems clear that remodeling of tendons, inflammation, and the response to injury are mediated systemically as well as locally.

Additional experimental evidence relates to a more chronic or cumulative process through which tendon injury can evolve. Much is unknown about underlying pathophysiologic mechanisms in even such common mechanical tendon-and tenosynovium-related disorders as breakdown of the ECRB in lateral epicondylitis and tendinitis of the flexor digitorum in CTS. However, the provocation of a tissue response characterized by proinflammatory mediators in laboratory animals exposed to continuous motion (Backman *et al.*, 1990, Ex. 26–251) strongly suggests that biomechanical loading and stresses induce mechanical tissue injury and acquired micro-structural changes. Although this provides a useful direction, laboratory tendon loading experiments have not permitted a human threshold for repetitions causing tendon injury to be quantified.

Experience suggests that resolution of tendinitis can be surprisingly time-consuming. The reasons can be found in the pathophysiology of tendon repair. Following flexor tendon laceration, tendon healing follows three phases. Initially, inflammation is observed, with cells arising from the epitenon, endotenon, and peritendinous tissue. This stimulates migration and proliferation of fibroblasts and the removal of damaged tissue. The inflammatory phase ends long before tissue remodeling has been completed. Within the first week, collagen synthesis is initiated, though fiber orientation may be chaotic. By the fourth week, fibroblasts predominate and collagen content increases. Maturation of collagen and functional alignment occurs by the second month, with maximum functional restoration requiring exposure of the healing tendon to renewed loading. Exercise and movement are fundamental to the therapeutic process of an injured tendon. But premature exercise can be detrimental; movement of a deformed, devascularized, or inflamed tendon will provoke further injury and breakdown. Mechanical loading that results in a stiffer tendon development can provide structural integrity but a loss of mobility. Pain is an important indicator of either gross or microscopic abnormal tissue responses. In considering MSDs involving tendon and ligament it is especially important to differentiate between aggravation of an injury and exercise, which can be therapeutic. Exercise has proven to be an important component in the remodeling and strengthening of the ligaments of the rat knee (Frank, McDonald, and Shrive, 1997, Ex. 26–623). However, tendon and ligament adaptation and repair are inevitably slow processes'a knee injury can take up to 2 years to fully repair. Thus, although tendon, in particular, can effect a considerable but slow adaptational response to increased physical demand, a progressive increase in loading demands can easily exceed remodeling capacity, increasing the likelihood of re-injury. The slow natural rate of tendon and ligament repair also highlights the importance of prevention and early intervention. Established injuries can persist for weeks and months even after ergonomic review of the workplace and remediation.

In summary, clear evidence exists to support the conclusion that conditions often present at work can be pathogenic for some tendon disorders, as discussed above. Potential etiologies include mechanical disadvantage or tendon related to changes in joint position, changes in tensile and viscoeastic properties of tendon with excessive or repetitive loading, interference with normal repair mechanisms, and the effects of compression and friction leading to internal and external degeneration and inflammatory responses.

Ligaments. Work exposures may contribute to the development of ligament and joint disorders as the result of many pathogenic and physiologic mechanisms. Ligaments, like tendons, have viscoelastic properties that may be exceeded by repetitive loading or deformation, resulting in possible subsequent failure during lower levels of loading (Chaffin and Andersson, 1991, Ex. 26–420). On the one hand, ligamentous laxity has been demonstrated in the wrist after continuous exercise (Crisco *et al.*, 1997, Ex. 26–1373). This type of stress is commonly observed in highly repetitive work settings. On the other hand, immobilization may result in decreased ligamentous tensile strength (Woo *et al.*, 1987, Ex. 26–243). The significance of this finding in workers who perform prolonged, sedentary work merits further investigation.

Although tendon and ligament have many structural similarities, they also have important differences. Ligament structure consists of type I and type III collagen with elastin and glycosaminoglycans. Ligamentous structures are somewhat more elastic than tendon, in part because of the occurrence of non-parallel fibers. As in tendon, there are length and velocity tension relationships, and relaxation and creep are noted (Chaffin and Andersson, 1991, Ex. 26–420). The ability of ligaments to adapt to changes in physiologic loading has been studied in the rabbit medial collateral ligament. After 9 weeks of immobilization, a 50% decline in tensile strength was noted (Woo *et al.*, 1987, Ex. 26–243). With remobilization, stiffness improved, but after 9 weeks was still 20% below initial values. Viscoelastic changes have been reported with repetitive loading, with a 30% increase in wrist laxity in subjects performing 1 hour of exercise. After 24 hours, tissue laxity had returned to baseline (Crisco *et al.*, 1997, Ex. 26–1373). Ligament healing and remodeling is, unfortunately, rather slow and limited. After injury, a vascular response is rather prolonged, and can last for several months (Bray *et al.*, 1996, Ex. 26–773). With aging, a decrease in elastic stiffness and failure can occur at lower loads, as demonstrated in a study comparing tissue samples from old (mean age 76 years) and young (mean age 35 years) subjects (Woo *et al.*, 1991, Ex. 26–244).

Joint hypermobility, the familiar double-jointedness, appears to be more common in women than in men (Bridges *et al.*, 1992, Ex. 26–1312), and appears to have a strong genetic basis (Child, 1986, Ex. 26–358). It is more an anthropometric factor, or effect modifier, than a predisposition to disease. That is, hypermobility is not an intrinsically morbid condition, but it can increase musculotendinous loading and effort. It has been recognized as a risk factor for musculotendinous injury in hand-intensive tasks, presumably because of the co-contractive effort required to stabilize small joints in the hand (Pascarelli *et al.*, 1993, Ex. 26–1164). Hyper-mobility means that opposing muscle groups must be simultaneously and antagonistically contracted to maintain the position of a finger or a wrist against resistance. There is considerable speculation that hormones, as well as mechanical stresses, may influence knee and other tendon and ligament injuries in women. Although it is premature to ascribe these factors to the risk of developing a work-related knee injury, it is important to recognize that ligamentous laxity can usually be accommodated through changes in work technique and job design.

Ligamentous laxity is also acquired in the course of continuous work. A 30% increase in wrist laxity (due to visco-elastic stretching) has been observed after 1 hour of continuous exercise (Crisco *et al.*, 1997, Ex. 26–1373). There is a return to normal length and function within 4 hours. This observation highlights the point that maintenance of ligamentous function requires periods of rest and disuse.

c. Nerve. Work-related nerve disorders include compression, entrapment, and vibration-induced and toxic neuropathies. It is the first two that are within the scope of this document. Compression most commonly occurs adjacent to joints or as nerves pass through muscle or connective tissue. This may result in mechanical deformation of nerves, perineural edema, nerve ischemia, and inflammation with secondary nerve damage and delayed conduction (Feldman *et al.*, 1983, Ex. 26–949; Gelberman *et al.*, 1983, Ex. 26–465; Lundborg and Dahlin, 1994, Ex. 26–561; Moore, 1992b, Ex. 26–984; Rydevik *et al.*, 1989, Ex. 26–198; Szabo *et al.*, 1983, Ex. 26–333). Examples of this include carpal tunnel syndrome, cubital tunnel syndrome, entrapment at Guyon's canal, and tarsal tunnel syndrome (Bozentka, 1998, Ex. 26–82; Delisa and Saeed, 1983, Ex. 26–364; Feldman *et al.*, 1983, Ex. 26–949; Moore, 1992b, Ex. 26–984; Terzis and Noah, 1994, Ex. 26–587). External compression with impairment of nerve function may occur from contact stress between body parts and hard work surfaces or sharp edges (*e.g.*, carpal tunnel syndrome, cubital tunnel syndrome) (Feldman *et al.*, 1983, Ex. 26–949; Hoffman and Hoffman, 1985, Ex. 26–141). Alternatively, internal compression may occur from increased compartmental pressures or from contact against bones, tendons, or ligaments (*e.g.*, cubital tunnel syndrome, carpal tunnel syndrome) (Bozentka, 1998, Ex. 26–82; Feldman *et al.*, 1983, Ex. 26–949; Moore, 1992b, Ex. 26–984; Skie *et al.*, 1990, Ex. 26–328). At times, workers may experience anatomic and tissue changes with multiple sites of nerve compression that cause greater damage than would be experienced with a single site of compression ("double crush syndrome") (Lundborg and Dahlin, 1994, Ex. 26–949; Mackinnon, 1992, Ex. 26–646; Novak and Mackinnon, 1998, Ex. 26–1310). Furthermore, whole-body vibration transmitted by vehicles or segmental vibration from hand tool use may damage nerves directly or indirectly because of ischemia or adjacent tissue changes (Hjortsberg *et al.*, 1989, Ex. 26–1131; McLain and Weinstein, 1994, Ex. 26–1347; NIOSH, 1989, Ex. 26–392; Takeushi *et al.*, 1986, Ex. 26–681; Rempel *et al.*, 1998, Ex. 26–444).

Peripheral nerve is composed of a nerve cell body (motor or sensory) and an axon, which extends to the periphery. An axon with its sheath constitutes a nerve fiber. Myelinated fibers are surrounded by single layers of Schwann cells arranged in a longitudinal manner along the nerve. Spaces on myelinated nerves created by adjacent Schwann cells are called nodes of Ranvier. Bundles of nerve fibers, called fascicles, are wrapped by perineurium and embedded with microvasculature in epineural tissue. The amount of epineural tissue and the presence or absence of myelination depends on the location and purpose of the nerve. The largest myelinated fibers (Group A) have the highest conduction velocity. Group B fibers are myelinated autonomic and preganglionic fibers. The thinnest, non-myelinated fibers have the lowest conduction velocity and

make up the visceral and somatic afferent pain Group C fibers.

Substances required for membrane integrity are synthesized in the nerve cell body and transported to the periphery, while disposal of waste materials and transport of trophic and tropic factors both involve transport from the periphery to the nerve cell body (Lundborg and Dahlin, 1994, Ex. 26–561). Both propagation of impulses and transportation of materials require a sufficient energy supply and vasculature. Depending upon location, peripheral nerves are subject to variable amounts of gliding or excursion in response to muscle, tendon, and joint movement (Bozentka, 1998, Ex. 26–82; Chaffin and Andersson 1991, Ex. 26–420; Novak and Mackinnon, 1998, Ex. 26–1310; Rempel, Dahlin, and Lundborg, 1998, Ex. 26–444).

There are several mechanisms by which peripheral nerves are either injured directly or contribute secondarily to pain and dysfunction. Nerve tissue plays a predominant role in transmitting information on the extent of tissue damage and in establishing the CNS link producing sensations of pain. Movement disorders and dystonias, which produce chaotic or uncontrolled patterns of hand movement or cramps, also involve patterns of abnormal nerve transmission, but here the problem has more to do with function and control than pain. Nerve tissue can also be directly injured, producing characteristic symptom patterns.

The most widely recognized lesions of peripheral nerves associated with repetitive work and chronic overuse are the entrapment and compression neuropathies. Mechanical pressure on a peripheral nerve, if severe enough, causes a block or delay in the conduction of nerve impulses, a decline in sensory function, and paresthesias ("pins and needles"). Because defects in the conduction of nerve impulses can be assessed by electrophysiology (Wilbourn and Lederman, 1984, Ex. 26–1409) or by shifts in thresholds of perception (Lundborg *et al.*, 1987, Ex. 26–645), nerve entrapments have traditionally been the most effectively studied MSDs. The notion of nerve entrapment implies that external pressure or resistance on a peripheral nerve restricts free nerve movement or impinges on nerve contents (Lundborg, 1988, Ex. 26–1145). This pressure or resistance can be caused by external compression through soft tissue swelling by a fracture or callus, or by swelling or scarring of the nerve tissues themselves. The necessity for peripheral nerves to move during musculoskeletal activity is often underappreciated, with ulnar nerve range at the elbow approaching 1.5 cm and median nerve mobility being 1.0 cm at the wrist (Millesi *et al.*, 1990, Ex. 26–567). In the upper extremity, areas of potential nerve compression are most frequently situated in the vicinity of joints. The two most common upper-extremity disorders are CTS at the wrist and cubital tunnel syndrome at the elbow. In the low back, degenerative disease and bony compression of nerve roots is the most common cause of radicular pain patterns (Deyo *et al.*, 1990, Ex. 26–106).

The histopathology of human compressive neuropathy has not been well studied, because surgical management does not provide pathological specimens. However, findings from animal experiments appear to correlate with the limited findings from human specimens where nerve was resected or from an autopsy on an individual with compressive neuropathy (Novak and Mackinnon, 1994, Ex. 26–1310; Mackinnon *et al.*, 1986, Ex. 26–1321; Rempel, Dahlin, and Lundborg, 1998, Ex. 26–444; Terzis and Noah, 1994, Ex. 26–587). After compression of nerve, changes in the blood-nerve barrier develop and are followed by subperineurial edema and thickening of both perineurial and epineural layers (Lundborg and Dahlin, 1994, Ex. 26–561 ; Novak and Mackinnon, 1998, Ex. 26–1310; Rempel, Dahlin, and Lundborg, 1999, Ex. 26–444; Terzis and Noah, 1994, Ex. 26–587). After intraneural fibrosis, myelin thinning results, with fibers at the periphery of the nerve affected first. If compression continues, segmental demyelination progresses to more diffuse demyelination and, finally, axonal degeneration occurs (Mackinnon and Dellon, 1988, Ex. 26–296; Mackinnon *et al.*, 1984, 1985, Exs. 26–648 and 26–649).

Histopathologic changes are dependent on the force and duration of compression, as well as the characteristics of the nerve. Changes can also vary among different fascicles within the nerve (Mackinnon, 1992, Ex. 26–646). Nerves composed of large amounts of connective tissue with relatively few fascicles may be less susceptible to injury (Dickson and Wright, 1984, Ex. 26–1298; Lundborg, 1988, Ex. 26–1145). The nearer nerve fascicles are to the site of compression, the sooner pathologic changes will occur.

Laboratory observations appear to support these conclusions. In a study of canine extensor digitorum brevis muscle, Hargens *et al.* (1979, Ex. 26–135) created a compartment syndrome by infusing plasma. As pressure rose, the amplitude of the action potential declined until complete nerve block developed at 2 hours at pressures of 80 to 120 mm Hg. Histopathological evidence of axonal degeneration was noted after 3 weeks. Graded external compression of rabbit tibial nerve demonstrated complete interference with epineural venular, arteriolar, and intrafascicular capillary flow at pressures from 60 mm Hg to 80 mm Hg (Rydevik *et al.*, 1981, Ex. 26–321). The neural ischemia may then cause endoneurial edema, with further rises in intraneural pressure.

As nerves are stretched over another anatomic structure, mechanical deformation can occur with microruptures, abnormal function (ischemia and decreased nerve conduction) and scarring (Armstrong, 1983, Ex. 26–927). In addition, there can be an incompatibility between the anatomic space available for the nerve and the volume and pressure of the space (Lundborg, 1988, Ex. 26–1145). For example, in cubital tunnel syndrome, repeated flexion results in stretch and friction of the ulnar nerve (Harter, 1989, Ex. 26–958). This can be compounded by elevations in the pressure in the cubital tunnel that have been observed with elbow flexion (Pechan and Julis, 1975, Ex. 26–575). Elbow flexion also places the ulnar nerve in a more superficial position, where it can be damaged by leaning the elbow on a work surface.

Because it is the most common nerve entrapment disorder of the upper extremity and because it is easily studied, CTS has become the benchmark nerve compression disorder (Szabo and Gelberman, 1987, Ex. 26–1013). In CTS, postural extremes can cause significant increases in mean intracarpal pressures from 2.5 to 30 mm Hg in normal subjects, and from 32 to 94 (flexion) or 110 (extension) mm Hg in patients with CTS (Gelberman *et al.*, 1981, Ex. 26–1127; Szabo and Chidley, 1989, Ex. 26–1168). Similarly, pressures can rise with exposure of flexor tendons to high forces (Smith, Sonstegard, and Anderson, 1977, Ex. 26–1006), or repetitive hand/wrist motions (Gelberman *et al.*, 1981, Ex. 26–1127; Szabo and Gelberman, 1987, Ex. 26–1013). Within 1 hour, elevated carpal tunnel pressures can result in impaired conduction and median nerve sensory function (Gelberman *et al.*, 1981, Ex. 26–1127; Lundborg, 1988, Ex. 26–1145). Even transient increases in intracarpal pressure can produce slowed nerve conduction and altered sensory function of the hand (Lundborg *et al.*, 1982, Ex. 26–979). These types of

pressure can be induced by prolonged isotonic or isometric contractions of wrist and digital flexors (Werner, Elmquist, and Ohlin, 1983, Ex. 26–1025). Studies of intracarpal pressure in these more exaggerated or non-neutral positions have had consistent results, demonstrating large increases in pressure when the wrist is forcefully stressed, particularly in hyperextension (Rempel *et al.*, 1994, Ex. 26–1151; Werner *et al.*, 1994, Ex. 26–237). Relatively low fingertip loads (5 to 15 N) raise carpal tunnel pressures by 4 to 6.6 kPa (Rempel *et al.*, 1997, Ex. 26–889). Classic studies in the meatpacking industry (Masear, Hayes, and Hyde, 1986, Ex. 26–983) and in the automobile industry (Silverstein, Fine, and Armstrong, 1987, Ex. 26–34) have shown a consistent pattern of forceful wrist exertions and nerve compression syndromes. This same pattern of risks is evidenced in the so-called pinch grip, leading to innovations in tool handle design (Tichauer, 1978, Ex. 26–446). Use of modifications tend to involve the full palm rather than the fingers alone.

Because of the strong association of CTS with repetitive and forceful work and awkward postures (Silverstein, Fine, and Armstrong, 1987, Ex. 26–34), there has been particular attention to the process by which joint deviation and loading and repetitive muscle contraction can raise pressure at an anatomic canal. In the upper extremity, fibrotic changes in the radial and ulnar bursae and at the carpal tunnel have been located consistently. These changes potentially produce compressive stresses on the median, ulnar, and radial nerves from bone and retinaculum (Armstrong *et al.*, 1984, Ex. 26–1293).

The transition from acute compression injury to a chronic nerve entrapment condition involves an extension of these pathophysiologic models. However, Mackinnon *et al.* (1984, Ex. 26–648) have presented a histologic model showing the gradual transition from a recoverable nerve compression injury, in which there is swelling and thickening of the connective tissue lining bundles of nerve fibers, to demyelination of the nerve and nerve fibrosis, in which there are often irreversible changes to the nerve. This has been extended to a model of CTS (Mackinnon and Novak, 1997, Ex. 26–1309).

Novak and Mackinnon (1998, Ex. 26–1310) suggest that many patients with diffuse upper-extremity symptoms may experience problems from multiple levels or sites of nerve compression and concomitant muscle imbalance. These observations come from the often surprising clinical evidence that symptomatic patients often express signs at multiple sites of potential compression. This so-called "double crush" syndrome (Hurst *et al.*, 1985, Ex. 26–965) can be a consequence of degenerative cervical spine disease or acquired postural torsion at the brachial plexus (Mackinnon and Novak, 1997, Ex. 26–1309). In the "double crush" syndrome, there is compression at the carpal tunnel as well.

The concept of "double" or "multiple crush syndromes" is a controversial subject. In 1973, Upton and McComas first proposed that a proximal site of nerve compression, such as a cervical disc herniation, could make a distal nerve more susceptible to injury. Other potential scenarios could include ulnar nerve entrapment at the brachial plexus and cubital tunnel, or at the cubital tunnel and Guyon's canal. Mackinnon (1992, Ex. 26–646) and Dellon and Mackinnon (1991, Ex. 26–616) have further describe the concept. These observations can be significant in situations where work postures place muscles in shortened positions. For example, workers who perform tasks requiring prolonged or resisted pronation may develop pronator muscle shortening that compresses the median nerve in the forearm when the forearm is placed in supination. Alternatively, prolonged and static work postures that result in pectoralis minor or scalene muscle tightness can compress the brachial plexus. Alterations in axoplasmic flow and transport of neutrophic substances has been proposed as the mechanism of this injury. Dellon and Mackinnon (1991, Ex. 26–616) devised an experimental animal study to evaluate these phenomena. The authors banded either sciatic nerve, posterior tibial nerve, or both nerves in rat subjects. The group of rats with double banding demonstrated significantly worse mean amplitudes of the compound action potential than either group of single-banded rats. In theory, metabolic abnormalities (*e.g.*, diabetes, alcoholic neuropathy, collagen vascular disease) could weaken a nerve and make it more susceptible to injury from less significant levels of compression. In the case of diabetes, a recent article by S.E. MacKinnon (1992, Ex. 26–646) describes rodent and primate models of diabetes with superimposed nerve compression. With alcohol, it is biologically plausible, although not specifically documented, that a "sick" neuron resulting from alcoholism could similarly render a nerve metabolically damaged and therefore more susceptible to injury from compression at a distal site.

A related observation is that persistent stretching of a nerve over an anatomic landmark, such as the ulnar nerve at the medial epicondyle of the elbow, can produce nerve trauma and inflammation (Harter, 1989, Ex. 26–958). The notion that micro-ruptures produce micro-anatomic injury and fibrosis of the epineurium (connective tissue lining the nerve) has been offered as a general model for CTS (Armstrong *et al.*, 1993, Ex. 26–1110). This model has its analogue in the epineural fibrosis that can be a consequence of nerve release surgery.

It is important to recognize that CTS is not responsible for all cases of numbness and tingling in the fingers that occur in demanding work settings. Furthermore, there is no "gold standard" for diagnosis, and the presence of even classical symptoms does not necessarily mean that surgery is required. There is a high level of reversibility in CTS, and job modification can be enough to eliminate symptoms without aggressive individual therapy. Moreover, without job modification, surgery may only delay a recurrence. Even for this most accessible MSD, modest changes in diagnostic criteria—for example, whether symptoms and signs are weighted or full reliance is placed on the nerve conduction study—can alter the case rate by as much as 50% (Katz *et al.*, 1991, Ex. 26–151; Moore, 1991, Ex. 26–1335, Cherniack *et al.*, 1996, Ex. 26–258).

Other work-induced causes of peripheral nerve injury, such as hand-arm vibration, can induce small fiber nerve injury that is unrelated to entrapment or compression (see Section D.3). The result, however, is a similar pattern of symptoms. Even when the pattern of nerve injury distinctly implicates a focal site of compression, there is no automatic requirement for surgical decompression. It is also important to recognize that in the setting of low-back pain, even when symptoms radiate to the lower extremity along a nerve dermatome, fixed nerve root lesions and the correlated need for decompression are relatively rare (Andersson and McNeill, 1989, Ex. 26–413). The same is probably true for CTS, although the proportion of surgical cases for CTS remains comparatively high.

Although most work-related peripheral entrapment disorders affect myelinated nerve fibers, there are other nerve tissue components that are at risk. Mechanoreceptors in the glabrous pads of the digits are intrinsic to touch and spatial discrimination (Vallbo and Johansson, 1984, Ex. 26–

717). Their quantitative function has been effectively assessed through the testing of vibrotactile thresholds (Brammer *et al.*, 1987, Ex. 26–935; Verrillo and Capraro, 1975, Ex. 26–591). Individual mechanoreceptors, such as Pacinian corpuscles, which measure acceleration as a sensation of touch, respond to particular frequencies of vibration. This principle is useful in establishing thresholds of response and function for individual mechanoreceptor populations. Mechanoreceptor injury is a well-recognized consequence of exposure to hand-arm vibration, and dysfunction documented in objective tests has correlated with decrements in hand performance and sensitivity (Virokannas, 1992, Ex. 26–1355). Quantitative sensory dysfunction consistent with mechanoreceptor injury has also been observed in manual workers unexposed to vibration, but for whom energy transfer still occurs in the form of shock and impact (Flodmark and Lundborg, 1997, Ex. 26–370).

There are several proposed mechanisms for the development of lumbar nerve root pain, including mechanical deformation, compression, ischemia, and inflammatory mediators. It appears that the spinal nerve root may be more susceptible to compression than peripheral nerves (Olmarker and Rydevik, 1991, Ex. 26–190). In an in-vivo experiment compressing the porcine cauda equina (Olmarker, Holm, and Rydevik, 1990, Ex. 26–518; Olmarker, Rydevik, and Holm, 1989, Ex. 26–191; Olmarker *et al.*, 1989, Ex. 26–311), venous flow was observed to cease at relatively low pressures (5 to 10 mm Hg), resulting in retrograde stasis of capillaries and impaired nutrient transport (Rydevik *et al.*, 1990, Ex. 26–197). Changes in the permeability of the spinal nerve root endoneurial capillaries, intraneural edema, increased endoneurial fluid pressure, and impaired nutrition of the nerve roots have been described by others as resulting from compression (Low and Dyck, 1977, Ex. 26–482; Low, Dyck, and Schmeizer, 1982, Ex. 26–385; Lundborg, Myers, and Powell, 1983, Ex. 26–162; Myers *et al.*, 1982, Ex. 26–308; Olmarker, Rydevik, and Holm, 1989a, Ex. 26–191; Rydevik, Myers, and Powell, 1989, Ex. 26–198).

Inflammatory mediators have also been implicated in the etiology for low-back pain, and histopathologic signs of inflammation have been observed in compressed nerve roots (Bobechko and Hirsch, 1965, Ex. 26–252; Diamant, Karlsson, and Nachemson, 1968, Ex. 26–261; Marshall, Trethewie, and Curtain, 1977, Ex. 26–483; Marshall and Trethewie, 1973, Ex. 26–564; Nachemson, 1969, Ex. 26–742). Proposed mediators include lactic acid, pH, substance P, bradykinin, cytokines, prostaglandins, and carrageenan, among others.

In recent years there has been a growing recognition of pain syndromes maintained by the sympathetic nervous system. These sympathetically maintained pain syndromes (SMPSs), of which reflex sympathetic dystrophy (RSD) is the best known, are characterized by pain and swelling, usually of the hands or feet, and vascular dysfunction (Roberts, 1986, Ex. 26–402; Kozin, 1994, Ex. 26–556). Traumatic origins are common, particularly following fracture to the hand, but there is evidence of a more widespread occurrence, in the setting of CTS, for example. This broader definition of SMPS appears to have substantial relevance to chronic soft tissue injuries, such as MSDs, associated with the workplace.

The evidence reviewed supports the conclusion that work conditions can be pathogenic for some nerve disorders. Mechanisms include external or internal nerve compression or mechanical deformation with subperineurial edema, altered metabolic nerve activity, demyelination, and axonal degeneration.

d. Vasculature. The ability of muscles, tendons, ligaments and cartilage to perform work and permit repair is dependent upon adequate blood flow, tissue oxygenation, and transmission of nutrients and metabolic end products. Therefore, when the performance of work tasks results in exposure to external or internal factors that impair normal tissue blood flow, tissue damage can occur and result in the development of MSDs. Mechanisms of injury may include tissue hypoxia from elevations in intramuscular pressure associated with forceful work or postural task requirements (Armstrong *et al.*, 1993, Ex. 26–1110; Herberts *et al.*, 1984, Ex. 26–51; Sjogaard and Sjogaard, 1998, Ex. 26–1322), vascular occlusion from direct pressure to anatomic structures (Duncan, 1996, Ex. 26–366; Kleinert and Volianitis, 1965, Ex. 26–380; Nilsson, Burstrom, and Hagberg, 1989, Ex. 26–693; Wheatley and Marx, 1996, Ex. 26–693), and vibration-induced vasospasm or impairment of microcirculation from hand tool use or whole-body vibration (Hirano *et al.*, 1988, Ex. 26–140; Kaji *et al.*, 1993, Ex. 26–854; NIOSH, 1989, Ex. 26–392). Thus it appears that vascular changes resulting from work exposures may contribute to the development or manifestation of MSDs.

The circulatory system is a major target of acquired morbidity for general health. However, while conditions such as atherosclerosis and smoking-related endothelial dysfunction can compromise neuromuscular function, their etiology does not evolve out of the workplace. Ischemia due to arteriosclerosis is an important component of muscle pain and dysfunction, but it is not a primary acquired work-related disorder. Ischemia caused by static contraction and transmural pressure from muscles and bone across arteries is work-related, and is usually reversible. There are distinct vaso-occlusive and vasospastic disorders of the hand that have a singular work-related etiology.

Arterial occlusive disease, expressed as either Raynaud's phenomenon or digital pain, has been described in a variety of hand-intensive tasks (Schatz, 1963, Ex. 26–200). Palmar and digital artery occlusion that is work-induced is usually due to traumatic ulnar artery occlusion, the so-called hypothenar syndrome or ulnar hammer syndrome (Wheatley and Marx, 1996, Ex. 26–693; Duncan, 1996, Ex. 26–366). The general mechanism causing thrombotic emboli in the palm and fingers is blunt trauma, caused by using the hand as a percussive object or by aggressively twisting hard objects (Pineda *et al.*, 1985, Ex. 26–493; Kreitner *et al.*, 1996, Ex. 26–557). The disorder has also been associated, albeit uncommonly, with the use of hand-held pneumatic tools (Kaji *et al.*, 1993, Ex. 26–854). The usual mechanism is ascribed to trauma and abrupt injury of the endothelium (the blood vessel lining), with the ulnar artery being bludgeoned against the hook of the hamate (Benedict, Chang, and McCready, 1974, Ex. 26–352). Contractions around the ulnar artery due to an anatomic muscle sling or anomalous hypothenar muscle has also been described (Benedict, Chang, and McCready, 1974, Ex. 26–352). Physiologically, the lesion is the consequence of thrombi, or small clots, that lodge in smaller or more peripheral vessels. This can occur because of pressure, the blockage of blood flow, and stasis-related clot formation. It is also hypothesized that shear forces injure the endothelium and expose the underlying tissues, the vascular intima, to injury. The repair mechanism leads to clot formation.

The most common vasospastic disorder associated with workplace exposure is occupational Raynaud's or vibration-induced white finger (VWF). In the field of hand-arm vibration, exposure measurement and specialized disease testing have produced highly evolved, methodologically

detailed, and technically sophisticated approaches that have few equivalents in the occupational health literature, and none in the literature on soft tissue injury. Because vibration is a complex physical factor, lending itself to quantification and modeling, and because it produces distinct and reproducible effects on vessels and nerves, there are parallels to noise in the formality of measurement methodology. VWF is largely associated with hand-held oscillating pneumatic tools, such as metal grinders and pneumatic drills. It is also associated with chain saws and with powered tools causing repetitive impact, such as riveters and impact wrenches. The mechanisms producing Raynaud's in the setting of hand-arm vibration are not fully understood. However, there is evidence for a sympathetically mediated constriction of small arteries in the hand, interrupting cutaneous blood flow. There is also evidence of impaired dilatation of larger arteries. Section D.3.b presents a more complete discussion of hand-arm vibration.

Vibration can also diminish the blood flow to the intervertebral disc. This has been demonstrated by Hirano *et al.* (1988, Ex. 26–140) in the rabbit intervertebral disc exposed to in-vivo vibration. Unfortunately, the lumbar intervertebral disc is avascular, and its nutritional supply comes from diffusion through blood vessels surrounding the annulus fibrosus and under the hyaline end plate cartilage. Diminished blood flow to the cartilage end plate would limit the ability of the disc to maintain the degree of hydration necessary to provide support for the lumbar spine during loading. In the hand, direct pressure over the hypothenar eminence can also occlude the ulnar artery and result in hypothenar hammer syndrome (Conn, Bergan, and Bell, 1970, Ex. 26–821; Kleinert and Volianitis, 1965, Ex. 26–380; Nilsson, Burstrom, and Hagberg, 1989, Ex. 26–1148). Thus, it appears that vascular changes resulting from work exposures may contribute to the development or manifestation of MSDs.

Extrinsic ischemic compression, while not an intrinsic disease of blood vessels, is also considered here to complete the discussion of vascular responses to work exposures. The ability of muscles, tendons, ligaments, and cartilage to perform work and permit repair depends on adequate blood flow, tissue oxygenation, and transmission of nutrients and metabolic end products. When external or internal factors impair normal tissue blood flow, tissue damage can occur and result in the development of MSDs. As discussed, elevations in intramuscular pressure with forceful exertion, confinement from bony structures, or tight fascial compartments can contribute to the onset of work-related MSDs as a result of tissue hypoxia (Armstrong *et al.*, 1993, Ex. 26–1110; Sjogaard and Sogaard, 1998, Ex. 26–1322). For example, work tasks that require shoulder abduction and/or elevation to perform activities at or above shoulder height can decrease blood flow to the hypovascular portion of the supraspinatus tendon (Herberts *et al.*, 1984, Ex. 26–51). A decrease in blood flow to the trapezius muscle has also been observed in assembly workers with localized chronic myalgia related to static loading (Larsson *et al.*, 1990, Ex. 26–1332).

e. Synovial Joints and Hyaline Cartilage. Work exposures may contribute to the development of joint disorders for many reasons. Joint cartilage matrix metabolism may be disturbed and inflammatory and chemical mediators stimulated by joint trauma or repetitive loading (Allan, 1998, Ex. 26–1316; Howell, 1989, Ex. 26–1308; Radin *et al.*, 1994, Ex. 26–578). Experimental animal studies have documented the loss of proteoglycans, fibroblast synthesis of inflammatory mediators, and the development of osteoarthritis from repetitive tissue loading (Allan, 1998, Ex. 26–1316; Farkas, 1987, Ex. 26–463; Poole, 1986, Ex. 26–1316; Vasan, 1983, Ex. 26–590). With inadequate repair, cartilage thinning and hypertrophic remodeling may lead to osteoarthritis (Chaffin and Andersson, 1991, Ex. 26–420; Radin, 1976, Ex. 26–663; Radin *et al.*, 1976, 1994, Exs. 26–443 and 26–578). Repetitive or prolonged stair or ladder climbing, kneeling or squatting, standing, carrying heavy loads, and jumping are all work tasks that may be associated with lower-extremity joint loading. This is explored further in the sections on epidemiology and pathogenesis of lower-extremity disorders. Recurrent microtrauma associated with the pinching mechanism, highly intensive hand tasks requiring dexterity during assembly work or food preparation, and pneumatic tool use have all been observed to associated with upper-extremity joint loading and the development of upper-extremity osteoarthritis (Bovenzi *et al.*, 1987, Ex. 26–605; Fam and Kolin, 1986, Ex. 26–1123; Felson, 1994b, Ex. 26–543; Nakamura *et al.*, 1993, Ex. 26–1314).

A synovial joint consists of bone ends covered by hyaline articular cartilage and separated by a synovial-fluid-filled joint cavity. A synovial membrane and capsule cover the joint. The joint capsule contains dense connective tissue and is attached to the distal ends of the articulating structures. It is innervated by sensory nerves that provide proprioceptive feedback and the sensation of pain. The normal synovium consists of one to three layers of cells. Type A synoviocytes are derived from monocytes and behave as phagocytes for joint space debris. Type B synoviocytes produce glucosaminoglycans for joint lubrication and enzymes in response to inflammatory stimuli. Cytokines secreted by both cells help to regulate the structural repair process after injury or antigenic stimulation (Allan, 1998, Ex. 26–1316).

Synovium has a rich vascular supply. It secretes synovial fluid and permits the transport of oxygen, carbon dioxide, nutrients, waste products, and immunologic cells to the joint. Trauma and inflammation impair the synovial microcirculation and transport of these substances across the joint.

There are three zones or layers of the articular cartilage. In the superficial zone adjacent to the joint cavity, collagen fibers are parallel to the articular surface. This orientation becomes more random in the middle zone. At the deep zone adjacent to the subchondral bone, fibers are mostly perpendicular because they anchor to the underlying bone (Allan, 1998, Ex. 26–1316; Mow, Lai, and Rodler, 1974, Ex. 26–653).

Collagen fibers are stable in the articular cartilage until degraded by age or disease, but proteoglycans are continuously synthesized by the chondrocytes (Allan, 1998, Ex. 26–1316). The proteoglycan matrix is hydrophilic, and osmotic pressure is resisted by tension in the collagen fibers in the unloaded joint. Once osmotic pressure is exceeded from external joint loading, water is squeezed out of the cartilage and the cartilage is flattened. Loaded, the articular cartilage undergoes elastic deformation followed by gradual creep. With unloading, the articular cartilage undergoes an initial elastic recoil followed by gradual recovery of its unloaded characteristics (Chaffin and Andersson, 1991, Ex. 26–420). Some joints, such as the knee, also contain fibrocartilage discs (menisci) to help protect the articular cartilage and distribute load forces.

It is clear that significant joint trauma can initiate hypertrophic remodeling, usually at sites of synovial

membrane and ligament attachment. The result is secondary cartilage breakdown (Howell, 1989, Ex. 26–1308). Unfortunately, cartilage has a limited vascular supply and ability to heal itself. With damage to subchondral tissues, there is reactive ossification and secondary cartilage thinning (Radin *et al.*, 1976, 1994, Exs. 26–443 and 26–578). After cartilage deteriorates, bone becomes subject to increased stress from loading, and reactive bone deposition occurs, resulting in sclerosis, spurring, or bone cysts noted in osteoarthritis. As the joint spaces narrow, the joint becomes more susceptible to further mechanical damage, inflammation, and scarring

Mechanical stresses associated with certain tasks that exceed the limits of tissue tolerance can either cause degenerative joint disease and/or accelerate the normal degenerative process that occurs with aging. They can also interact to hasten other forms of secondary osteoarthritis, including cases that occur after trauma or infection, and congenital, developmental, or anatomic abnormalities. For example, repetitive joint loading can impair cartilage matrix metabolism and disturb the repair processes (Allan, 1998, Ex. 26–1316; Radin *et al.*, 1994, Ex. 26–578). Studies of repetitive loading in dogs after 8 months of treadmill exercise have demonstrated a loss in proteoglycan similar to findings in models of osteoarthritis (Poole, 1986, Ex.26–1316; Vasan, 1983, Ex. 26–590). Rabbits subjected to 8 weeks of repetitive loading on the tibia show severe osteoarthritis after 24 weeks (Farkas *et al.*, 1987, Ex. 26–463). In-vitro fibroblast studies have also shown that repetitive motion can stimulate the synthesis of inflammatory mediators, including prostaglandins (Allan, 1998, Ex. 26–1316).

Degenerative joint disease can occur even after relatively low loads on joints if the forces are applied impulsively and repetitively (Radin and Paul, 1971, Ex. 26–496). This may occur because loads that are applied too rapidly to permit normal cartilage fluid movement could result in microscopic injury to the matrix (Radin *et al.*, 1994, Ex. 26–578). Loss of proteoglycans and cartilage fibrillation is also noted in this setting (Radin *et al.*, 1976, Ex. 26–443). Allan (1998, Ex. 26–1316) suggests that several joint interactions involved with repetitive loading may contribute to pathology. Since joints involve many structures, including tendon, muscle, nerve, and bone, damage to one structure may occur although the recovery cycle of another structure was not exceeded. Pain from one structure may also alter feedback from other structures. In the absence of cartilage pain receptors, excessive force may be applied to damaged cartilage without the ability to promote adequate protective responses.

Aging itself is associated with gradual physiologic changes in cartilage matrix, loss of repair activity of chondrocytes, and eventual development of degenerative joint disease. This is most commonly noted in people over 40, and affects mostly large joints like the hip or knee that are exposed to repeated loading (Felson, 1994, Ex. 26–544). Felson (1988, Ex. 26–114) postulated the following reasons for age-induced degenerative joint disease: metabolic changes in cartilage increase susceptibility to fatigue fracture, bone adjacent to damaged cartilage becomes increasingly stiff from microfractures, and declining muscle mass and tendon strength decrease protective shock absorbency.

At times, it can be difficult to distinguish degenerative changes caused by age from those caused by work, although many studies have demonstrated increased rates of osteoarthritis in certain working populations (see Appendix I, Ex. 27–1), and there are consistent pathogenic explanations to link work conditions to some degenerative joint diseases. Potential mechanisms include damage to subchondral tissue from excessive, impulsive, or repetitive joint loading; impaired cartilage matrix metabolism; reactive ossification and cartilage thinning; reactive bone deposition; and disturbed repair processes.

3. Vibration

Vibration is traditionally divided into whole-body vibration, particularly pertinent for seat design and transportation, and segmental vibration, affecting the hand and arm. In the latter case, health effects are usually related to energy transfer to the upper extremity from either powered tools or from stationary sources producing oscillatory vibration, such as mounted drills and pedestal grinders. Because vibration is a complex physical factor, lending itself to quantitation and modeling, and because it produces distinct and reproducible effects on blood vessels and nerves, there are parallels to noise in the formality of measurement methodology.

a. Whole-Body Vibration. Whole-body vibration can affect skeletal muscle and predispose an individual to work-related low-back pain. Etiologies for this can include bursts of cyclic muscle contraction, muscle fatigue, decreased ability of fatigued muscles to protect spinal structures from loads, continuous compression and stretch of structures, decreased blood flow, and altered neuropeptides (Brinckmann, Wilder, and Pope, 1996, Ex. 26–418; Friden and Lieber, 1994, Ex. 26–546; Hansson and Holm, 1991, Ex. 26–134; Seidel, 1988, Ex. 26–1003). Whole-body vibration, especially seated vibration, has been associated with the development of low-back disorders (Damkot *et al.*, 1984, Ex. 26–1121; Frymoyer *et al.*, 1983, Ex. 26–950; Kelsey and Hardy, 1975, Ex. 26–855; Bernard and Fine, 1997, Ex. 26–1; Troup, 1988, Ex. 26–1021). Several mechanisms have been postulated. These include microfractures at vertebral endplates, vasospasm and decreased blood flow, tissue fatigue from mechanical overload and stretching of spinal structures, and ultrastructural changes in the spinal nerve root dorsal ganglion with biochemical alterations involving pain-inducing neuropeptides (Hansson, Kefler, and Holm, 1987, Ex. 26–134; Hirano *et al.*, 1988, Ex. 26–140; Kazarian, 1975, Ex. 26–379; Keller, Spengler, and Hansson, 1987, Ex. 26–290; McLain and Weinstein, 1994, Ex. 26–1347; Pope *et al.*, 1984, Ex. 26–440; Seidel and Heide, 1986, Ex. 26–672; Seroussi, Wilder, and Pope, 1989, Ex. 26–205).

Radiographic and pathologic changes have been noted in human subjects exposed to whole-body vibration (Frymoyer *et al.*, 1980, 1983, Exs. 26–707 and 26–950; Kelsey, 1975, Ex. 26–1134; Pope *et al.*, 1991, Ex. 26–1305; Wilder *et al.*, 1982, Ex. 26–694). Christ and Dupuis (1966, Ex. 26–134) evaluated radiographic lumbar spine findings for tractor operators. As the annual number of hours of operation increased, so did the prevalence of x-ray changes. Changes were observed in 61% of operators who drove for less than 700 hours per year, 68% in those who drove for 700 to 1,200 hours per year, and 94% in those who drove for over 1,200 hours per year. The small number of subjects weakened the study. Other studies, though, have reported similar associations of driving time, symptoms of low-back disorder, and radiographic abnormalities of the lumbar spine (Fishbein and Salter, 1950, Ex. 26–267; Seidel and Heide, 1986, Ex. 26–672). Findings reported with increased frequency include reduced disc height, facet arthrosis, spondylosis, Schmorl's nodules, and spondylolisthesis. It has been pointed out that these studies have been retrospective, and some lack adequate controls (Hansson and Holm, 1991, Ex. 26–134). Unfortunately, many heavy-equipment operators and fork truck drivers are exposed to

a number of additional factors that increase disc stress, including seated postures, kyphotic postures, twisting, and whole-body vibration (Dupuis, 1994, Ex. 26–847). These probably accounts for the premature onset of degenerative disc disease in these workers.

The natural resonance frequency of the human lumbar spine in the seated position is in the range of 4 to 6.5 Hz (Magnusson *et al.*, 1990, Ex. 26–166; Wilder, Pope, and Frymoyer, 1982, Ex. 26–694). This is similar to the vibration characteristic of many motor vehicles. Whole-body vibration imposes several motions on the body and the spine, including impact, translation, and rotation. Within the natural frequency range, one animal in-vivo study demonstrated that disc pressure and axial and shear strain from vibration can increase 2 to 3 times (Hansson *et al.*, 1987, Ex. 26–134). The significant increase of spinal loading from vibration in the natural frequency has the consequence of exacerbating the amount of disc shrinkage noted after simple sitting. This has been demonstrated in human subjects using continuous measurement of the spine (Kazarian, 1975, Ex. 26–379; Magnusson *et al.*, 1990, Ex. 26–166). As frequency increases within the range of 0 to 15 Hz, stiffening of the spinal structure is noted in normal human subjects (Wilder, Pope, and Frymoyer, 1982, Ex. 26–694). Shifting to positions of mild lateral spinal flexion transiently decreases stiffness, but this posture imposes other mechanical disadvantages, such as paraspinal and abdominal muscle fatigue (Wilder, Pope, and Frymoyer, 1982, Ex. 26–694). Brinckmann *et al.* (1987, 1988, Exs. 26–84 and 26–1318) performed in-vitro experiments and noted that repeated cyclic loading of vertebral bone, as opposed to single loading events, reduced the strength of the material. They suggested that the resulting endplate fractures were a possible mechanism of later disc injury and low-back pain.

Vibration has additional effects on the erector spinae muscles, with observations of greater myoelectric activity and fatigue (Seidel and Heide, 1986, Ex. 26–672; Seroussi, Wilder, and Pope, 1989, Ex. 26–205; Wilder, Pope, and Frymoyer, 1982, Ex. 26–694). Johanning (1991, Ex. 26–1228) observed that subway operators experienced trunk muscle fatigue after being exposed to whole-body vibration for 1 hour. Pope *et al.* (1984, Ex. 26–440) also believe that the fatigue of paraspinal muscles, ligaments, and discs contributes to low-back pain associated with exposure to whole-body vibration. Progressive muscle fatigue limits the ability of skeletal muscle to protect spinal structures. Additional spinal loading can also result when the muscle response diverges out of phase with the vibration input (Seroussi, Wilder, and Pope, 1989, Ex. 26–205).

The physiologic result of vibration in the natural resonance frequency is structural failure. This occurs first in the vertebral end plate, adjacent spongy bone of the vertebral body, and the intervertebral disc (Keller, Spengler, and Hansson, 1987, Ex. 26–290). Hirano *et al.* (1988, Ex. 26–140) demonstrated that blood flow decreased in the rabbit intervertebral disc exposed in vivo to vibration. Porcine intervertebral disc experiments have shown that solute transport is also disrupted (Holm and Nachemson, 1985, Ex. 26–1374). Both of these effects are likely to precipitate disc degeneration because of disturbed metabolic activity, as discussed earlier. McLain and Weinstein (1994, Ex. 26–1347) studied ultrastructural and neuropeptide changes in the rabbit lumbar spine dorsal ganglion exposed to whole-body vibration at amplitudes and frequencies similar to those of motor vehicles. On electron microscopy, the group exposed to vibration had more significant findings of nuclear clefting, mitochondrial, rough endoplasmic reticulum, and ribosomal changes relative to controls. The authors suggested that this may provide an anatomic link between the clinical observation of increased back pain and the biochemical alterations involving pain-related neuropeptides.

b. Hand-Arm Vibration. Disorders resulting from hand-arm vibration are the sole subject of the cited epidemiologic studies on vibration. Outcomes involving measurable neurological and arterial dysfunction have taken precedence over pain and function, in marked distinction to more clinically appreciated musculoskeletal diseases. In 1986, the International Standards Organization published methods for measuring vibration and controlling its exposure—ISO 5349 (1986, Ex. 26–1301). The approach was adopted by the American National Standards Institute in ANSI S3.34 (1986, Ex. 26–1402). This accepted approach to measurement reflects the technical feasibility of characterizing the vibratory qualities of hand tools. Vibration is measured in terms of the frequency distribution of oscillations; the direction, velocity, and acceleration of those oscillations; and the impulsiveness, or force range (amplitude), expressed in each impact cycle (Starck and Pyykko, 1986, Ex. 26–678; Maeda *et al.*, 1996, Ex. 26–562). Each of these physical characteristics has a bearing on symptoms and tissue injuries that may occur, particularly in the palms and digits, but also more proximally in the shoulder and neck.

In the field of hand-arm vibration, exposure measurement and specialized disease testing have produced highly evolved, methodologically detailed, and technically sophisticated approaches. These have few equivalents in the general occupational health literature, and none in the area of soft tissue injury. The industrial control of hand-arm vibration is based on the reduction of the most prominent sign and symptom complex, cold-related finger blanching or Raynaud's phenomenon. The pioneering occupational medicine physician Alice Hamilton first described this phenomenon in the United States, among Indiana quarry workers using air-powered tools (Hamilton, 1918, Ex. 26–1401). By 1960, more than 40 studies had been published (Cherniack, 1999, Ex. 26–1354). NIOSH reviewed the available epidemiology in 1989 and 1997 (NIOSH, 1989, Ex. 26–392; Bernard and Fine, 1997, Ex. 26–1) and found overwhelming evidence of a strong dose effect between duration and intensity of vibration exposure and the onset of acquired Raynaud's, known as VWF. Arterial hyper-responsiveness and impaired vasodilation following cold challenge are also characteristics of vibration white-finger (VWF). In some studies, more than 70% of an exposed workforce evinced signs and symptoms of local vasospasm in the digits of the upper extremity, most often measured by recording finger systolic blood pressure and digital temperature stability in the setting of cold challenge (Bovenzi, 1993, Ex. 26–1280). Although a major mechanism of vibration-induced vasospasm seems attributable to local autonomic dysfunction (Gemne, 1994, Ex. 26–1320; Ekenvall and Lindblad, 1986, Ex. 26–462), a more generalized co-morbid vascular pathology may also contribute to hand symptoms and impaired function. Finger biopsies of workers heavily exposed to local vibration have shown signs of significant endothelial injury (Takeuchi *et al.*, 1986, Ex. 26–681). Increased free radical formation and elevated leukotriene B4 levels, both indicators of atheromatous injury, are observed concomitants of vibration exposure (Lau, O'Dowd, and Belch, 1992, Ex. 26–480). Overall, a satisfactory pathophysiologic model for occupational Raynaud's has been elusive.

Over the past two decades, numerous investigators have noted that neurological symptoms, including paresthesias, dysesthesias, and loss of fine motor skills among workers using air-powered tools, are even more common than vascular effects (Pyykko, 1986, Ex. 26–662; Ekenvall and Lindblad, 1986, Ex. 26–462; Futatsuka, Inaoka, Ueno, 1990, Ex. 26–547; Letz *et al.*, 1992, Ex. 26–384). It has often proven difficult to localize clinical neuropathologic symptoms to a precise anatomic locus. Accordingly, there has been considerable attention in the vibration literature to differentiating more proximal entrapment neuropathies such as CTS from distal small fiber nerve injuries in the digits (Pelmear and Taylor, 1994, Ex. 26–880; Wieslander *et al.*, 1989, Ex. 26–1027), and from more diffuse axonopathies (Farkkila *et al.*, 1988, Ex. 26–947). In the past 15 years, most investigators have recognized that small fiber injury to fingertip nocioceptors is distinctly more common than CTS in vibration-exposed workers, that electrodiagnostic studies are insensitive measures of this type of injury, and that quantitative sensory testing is essential if unnecessary carpal tunnel surgery is to be avoided (Miller *et al.*, 1994, Ex. 26–303; Pelmear and Taylor, 1994, Ex. 26–880). These tests, particularly measurement of vibrotactile thresholds, have consistently demonstrated deficits in perception in symptomatic and asymptomatic patients exposed to vibration (Flodmark and Lundborg, 1997, Ex. 26–370; Virokannas, 1992, Ex. 26–1355; Cherniack *et al.*, 1990, Ex. 26–1116). They also have shown that subjective deficits in hand functions correlate well with raised sensory thresholds (Virokannas, 1995, Ex. 26–891). The contribution of small fiber injury to deficits in touch and temperature recognition is consistent with the observation that the tissues of the digit and palm absorb well over 90% of transmitted energy from a conventional vibrating tool. The importance of small fiber nerve injury is reflected in current use of terms to characterize the health effects of vibratory hand tool exposure. The historical term "vibration-induced white finger" reflects the traditional focus on vasospastic symptoms. In 1987, a consensus panel meeting in Stockholm coined the term hand-arm vibration syndrome (HAVS) to give separate and equal weighting to neurological symptoms (Gemne *et al.*, 1987, Ex. 26–624).

The prominence of digital vasospasm and small fiber nerve injury in HAVS, as an outcome of vibration exposure, does not preclude other potentially important vibration-related health effects in tissues of the upper extremity. The CTS, in particular, has been recognized for its prevalence and severity in workers using pneumatic tools (Koskimies *et al.*, 1990, Ex. 26–973; Chatterjee, 1992, Ex. 26–942). Uncertainty exists, however, over the relative contributions of direct energy transfer to nerve tissue from the vibrating tool and secondary pathophysiologic or biomechanical responses to vibration that might provoke myelinated nerve injury. For example, EMG determined that muscle activity in the finger flexors, but also in the trapezii, has been affected by different qualities of vibration as well as by arm position. This is amplified in the setting of powered tools, such as nutrunners and fasteners, that create predominant biomechanical exposures other than vibration (Freivalds and Eklund, 1993, Ex. 26–116; Radwin, VanBergeijk, and Armstrong, 1989, Ex. 26–519). In these settings, more traditional ergonomic considerations, such as grip force, posture related to work surface, and duration of the torquing phase, have played a role in reported discomfort and EMG activity (Rohmert *et al.*, 1989, Ex. 26–999).

For the purpose of recognizing work-related health effects associated with vibration, it is useful to consider several pertinent features of vibratory exposure:

- Vibration is a physical factor, expressible in precise units: frequency in Hz, acceleration in m/sec^2 or G's, and cycles in milliseconds. This offers highly accessible measurement with available instrumentation, principally accelerometry and frequency spectrum analysis.

- Vibratory characteristics are highly tool-specific. Chainsaws and drills, for example, are primarily oscillatory and continuous; impact wrenches and rivet guns have large physical displacements and are highly impulsive; tools such as nutrunners have major non-vibratory biomechanical components. Thus, simple generic measurements (weighted acceleration, for example) may not capture the extent of a potential tool-specific hazard.

- Vibration can be quite well characterized as an extrinsic exposure, but health effects are the direct result of altered physiology that occurs entirely on the other side of the hand-tool interface.

Appreciation of these properties is essential for hazard identification and medical management, because significant patterns of disease have occurred in exceptional settings or tool applications that are not necessarily predictable from published standards and advisory documents. Frequency, direction of vibration, and arm and hand position all have an effect on impedance to and absorption of vibration energy (Burstrom, 1997, Ex. 26–609; Kihlberg *et al.*, 1995, Ex. 26–755). Push and pull, as well as grip force, affect transmission, and are in turn altered by the characteristics of vibration, including its impulsiveness and frequencies (Keith and Brammer, 1994, Ex. 26–1324; Griffin, 1997, Ex. 26–373).

Perhaps the most problematic area involves high-impulse acceleration. The ISO-and ANSI-weighted curves treat all vibration as harmonic, ignoring impact forces and instantaneous peak accelerations that can exceed 105 m/sec^2. Starck (1984, Ex. 26–677) noted that the dramatic reduction in vascular symptoms occurring with the introduction of anti-vibration chainsaws in the 1970s was better explained by the flattening of high transient accelerations than by a reduction in root mean square (RMS). In addition, the consistent underestimation of vascular symptoms by ISO 5349 for pedestal grinding and stone cutting was better accounted for when high-peak impulsivity was factored into the exposure model (Starck and Pyykko, 1986, Ex. 26–678). This is consistent with, but does not fully explain, the high prevalence of Raynaud's in platers and riveters, who use high-impulse tools only a few minutes per day (Dandanell and Engstrom, 1986, Ex. 26–614; Engstrom and Dandanell, 1986, Ex. 26–620; Burdorf and Monster, 1991, Ex. 26–454).

A similar problem arises in the setting of tools that oscillate at very high frequencies, such as small precision drills and saws. Most measurement protocols exclude frequencies that exceed 1500 Hz. Nevertheless, neurologic (Hjortsberg *et al.*, 1989, Ex. 26–1131) and vascular symptoms (Cherniack and Mohr, 1994, Ex. 26–1341) have been highly concentrated in select populations that use these types of tools.

Another area of importance is the occurrence of neck and shoulder pathology in workers using highly impulsive tools (Viikari-Juntura *et al.*, 1994, Ex. 26–873; Kihlberg *et al.*, 1995, Ex. 26–755). This is a complex area, particularly since the most common shoulder diagnoses—impingement and rotator cuff tendinitis—are clinically useful but without very specific pathophysiologic meaning. In the following epidemiologic review (Appendix I, Ex. 27–1), the neck, but not the shoulder, is shown to be associated with a vibration-

related pathology. The separation of biomechanical, physiologically adaptive, and vibration-specific factors is especially difficult for the neck and shoulder. Scapular stability and posture are the heart of large-muscle activation sequences involving efficient distal muscle group movement (Mackinnon and Novak, 1997, Ex. 26–1309). Moreover, static shoulder posture, important for tool stabilization, is an important contributor to early arm fatigue (Sjogaard *et al.*, 1996, Ex. 26–213). Finally, the quality of a vibratory stimulus (continuous or discrete) has significant impacts on efferent recruitment and firing (Maeda *et al.*, 1996, Ex. 26–562). The combined effects of this complexity are not easily modeled. This is all the more reason why neck/shoulder symptoms should be carefully scrutinized when a power tool is part of the exposure background. It may prove difficult in practice to distinguish neck/shoulder symptoms that have their origins in strictly biomechanical processes from vibration-induced injuries. However, there is sufficient evidence in support of an etiology to merit intervention.

The consequent injuries to blood vessels and nerve fibers from vibration are well known. When biomechanical and other ergonomic factors complicate exposures, particular attention should be paid to the tools in use, patterns of use, and specific symptom presentations.

4. References

1. Aarås, A. (1987). Postural load and the development of musculoskeletal illness. University of Oslo, Oslo Norway.

2. Aarås, A. (1994a). Relationship between trapezius load and the incidence of musculoskeletal illness in the neck and shoulder. International Journal of Industrial Ergonomics, 14:341–348.

3. Aarås, A. (1994b.) The impact of ergonomic intervention on individual health and corporate prosperity in a telecommunication environment. Ergonomics, 37:1679–1696.

4. Aarås, A., Fostervold, K.I., Ro, O., *et al.* (1997). Postural load during VDU work: a comparison between various work postures. Ergonomics, 40(11): 1255–1268.

5. Akkesen, *et al.* (1995).

6. Allan, D.A. (1998). Structure and physiology of joints and their relationship to repetitive strain injuries. Clinical Orthopaedics and Related Research, 351:32–38.

7. American National Standards Institute (1986). ANSI Standard S3.34: Guide for the Measurement and Evaluation of Human Exposure to Vibration Transmitted to the Hand. New York: ANSI.

8. Andersson, G.B.J., Chaffin, D.B. (1986). A biomechanical evaluation of five lifting techniques. Applied Biomechanics, 17(1):2–8.

9. Andersson, G.B.J., McNeill, T.W. (1989). Lumbar Spine Syndromes: Evaluation and Treatment. New York: Springer-Verlag, pp. 29–64.

10. Armstrong, R.B. (1990). Initial events in exercise induced muscular injury. Medicine and Science in Sports and Exercise, 22:429–435.

11. Armstrong, R.B., Warren, G.L., Lowe, D.A. (1994). Mechanisms in the Initiation of Contraction-Induced Skeletal Muscle Injury. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

12. Armstrong, T.J. (1983). An Ergonomics Guide to Carpal Tunnel Syndrome. In: Ergonomics Guides, American Industrial Hygiene Association.

13. Armstrong, T.J. (1986). Ergonomics and cumulative trauma disorders. Hand Clinics, 2(3):553–565.

14. Armstrong, T.J., Buckle, P., Fine, L.J., Hagberg, M., Jonsson, B., Kilbom, A., Kuorinka, I.A.A., Silverstein, B.A., Sjogaard, G., Viikari-Juntura, E.R.A. (1993). A conceptual model for work-related neck and upper-limb musculoskeletal disorders. Scandinavian Journal of Work, Environment and Health, 19:73–84.

15. Armstrong, T.J., Castelli, W.A., Evans, G., Diaz-Perez, R. (1984). Some histological changes in carpal tunnel contents and their biomechanical implications. Journal of Occupational Medicine, 26:197–201.

16. Armstrong, T.J., Fine, L.J., Goldstein, S.A., Lifshitz, Y.R., Silverstein, B.A. (1987). Ergonomic considerations in hand and wrist tendonitis. Journal of Hand Surgery, 12A(5):830–837.

17. Ashton-Miller, J.A. (1999). Response of Muscle and Tendon to Injury and Overuse. In: Work Related Musculoskeletal Disorders: The Research Base. Workshop Summary and Papers. Washington, DC: National Academy Press.

18. Association of Schools of Public Health/National Institute of Occupational Safety and Health (1986). Proposed National Strategies for the Prevention of Leading Work Related Diseases and Injuries: Part 1. Washington DC: Association of Schools of Public Health.

19. Azar, C., Fleeger, E.J., Culver, J.E. (1984). Dynamic Anatomy of the Flexor Pulley System of the Fingers and Thumb. In: Proceedings of the 39th Meeting of the American Society for Surgery of the Hand. Held in Atlanta, GA.

20. Backman, C., Friden, J., Widmark, A. (1991). Blood flow in chronic Achilles tendinosis: radioactive microsphere study in rabbits. Acta Orthopaedica Scandinavica, 62:386–387.

21. Backman, C., Boquist, L., Friden, J., Lorentzon, R., Toolanen G. (1990). Chronic achilles paratenonitis with tendinosis: an experimental model in the rabbit. Journal of Orthopaedic Research, 8(4):541–7.

22. Benedict, K.T., Chang, W., McCready, F.J. (1974). The hypothenarr hammer syndrome. Radiology, 111:57–60.

23. Bergquist-Ullman, M., Larsson, U. (1977). Acute low back pain in industry: a controlled prospective study with special reference to therapy and cofounding factors. Acta Orthopaedica Scandinavica, 170(Supplementum):1–117.

24. Bernard, B., Fine, L., eds. (1997). Musculoskeletal Disorders and Workplace Factors. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication #97–141.

25. Bigland-Ritchie, B., Johansson, R., Lippold, O.C., *et al.* (1983). Changes in motorneurone firing rates during sustained maximal voluntary contraction. Journal of Physiology, 340:335–346.

26. Bobechko, W.P., Hirsch, C. (1965). Autoimmune response to nucleus pulposus in the rabbit. Journal of Bone and Joint Surgery, 47B:574–580.

27. Bovenzi, M. (1993). Digital arterial responsiveness to cold in healthy men, vibration white finger and primary Raynaud's phenomenon. Scandinavian Journal of Work, Environment and Health, 19(4):271–276.

28. Bovenzi, M., Fiorito, A., Volpe, C. (1987). Bone and joint disorders in the upper extremities of chipping and grinding operators. International Archive of Occupational Environmental Health, 59(2):189–198.

29. Bozentka, D.J. Cubital tunnel syndrome pathophysiology. Clinical Orthpaedics and Related Research, 351:90–94.

30. Brammer, A.J., Piercy, J.E., Auger, P.L., Nohara, S. (1987). Tactile perception in hands occupationally exposed to vibration. Journal of Hand Surgery, 12A:80–875.

31. Brammer, A.J. , Piercy, J.E., Nohara, S., Nakamura, H., Auger, P., Haines, A., Lawrence, M., Brubaker, R., van Netten, C. (1990). Vibrotactile Thresholds in Operators of Vibrating Hand-Held Tools. In: Okada, A., Taylor, W., Dupuis, H., eds. Hand-Arm Vibration. Kanazawa, Japan: Kyoei Press, pp. 221–223.

32. Bray, R.C., Rangayyan, R.N., Frank, C.B. (1996). Normal and healing ligament vascularity: a quantitative histological assessment in the adult rabbit medical collateral ligament. Journal of Anatomy, 188 (Part 1):87–95.

33. Bridges, A.J., Smith, E., Reid, J. (1992). Joint hypermobility in adults referred tp rheumatology clinics. Annals of the Rheumatic Diseases, 52:793–796.

34. Brinckmann, P., Johannleweling, N., Hilweg, D., *et al.* (1987). Fatigue fracture of the human lumbar vertebrae. Clinical Biomechanics, 2:94–96.

35. Brinckmann, P., Biggemann, M., Hilweg, D. (1988). Fatigue fracture of the human lumbar certebrae. Clinical Biomechanics, 3(Supplement 1):51–523.

36. Brinckmann, P. (1986). Injury of the annulus fibrosus and disc protrusions. An in vitro investigation on human lumbar discs. Spine, 11(2):149–153.

37. Brinckmann, P., Wilder, D.G., Pope, M.H. (1996). Effects of Repeated Loads and Vibration. In: Wiesel, S.W., Weinstein, J.N., Herkowitz, H., *et al.*, eds. The Lumbar Spine. Second edition. The International Society for the Study of The Lumbar Spine. Philadelphia: W.B. Saunders Co.

38. Brooks, S.V., Faulkner, J.A. (1990). Contraction induced injury: recovery of skeletal muscles in young and old mice. American Journal of Physiology, 258:436–442.

39. Brooks, S.V., Faulkner, J.A. (1996). The magnitude of the initial injury induced by stretches of maximally activated muscle fibres of mice and rate increases in old age. Journal of Physiology, 497: 573–580.

40. Burdorf A., Monster A. (1991). Exposure to vibration and self-reported health complaints of riveters in the aircraft industry. Annals of Occupational Hygiene, 35(3):287–98.

41. Burstrom L. (1997). The influence of biodynamic factors on the mechanical impedance of the hand and arm. International Archives of Occupational and Environmental Health, 69(6):437–46.

42. Butsch, Janes (1963).

43. Carlson, B.M. (1994). The Satellite Cell and Skeletal Muscle Regeneration: The Degeneration and Regeneration Cycle. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

44. Chaard, M.D., Cawston, T.E., Riley, G.P., Gresham, G.A., Hazleman, B.L. (1994). Rorator cuff degeneration and lateral epicondylitis: a comparative histological study. Annals of the Rheumatic Diseases, 53:30–34.

45. Chaffin, D.B. (1973). Localized muscle fatigue: definition and measurement. Journal of Occupational Medicine, 15(4):346–354.

46. Chaffin, D.B., Andersson, G.B. (1991). Occupational Biomechanics. Second edition. New York: John Wiley and Sons.

47. Chaffin, D.B., Moulis, E.J. (1969). An empirical investigation of low back strains and vertebral geometry. Journal of Biomechanics 2:89+.

48. Chaffin, D.B., Park, K.S. (1973). A longitudinal study of low back pain as associated with occupational lifting factors. American Industrial Hygiene Association Journal, 32:513–525.

49. Charness, M.E., Ross, M.H., Shefner, J.M. (1996). Ulnar neuropathy and dystonic flexion of the fourth and fifth digits: clinical correlation in musicians. Muscle and Nerve, 19:431–437.

50. Chatterjee, D.S. (1992). Workplace upper limb disorders: a prospective study with intervention. Occupational Medicine, 42:129–136.

51. Cherniack, M. (1996). The epidemiology of occupational disorders of the upper extremity. Occupational Medicine: State of the Art Review, 11(3):487–512.

52. Cherniack (1999).

53. Cherniack, M., Mohr, S. (1994). Raynaud's phenomenon associated with the use of pneumatically powered surgical instruments. Journal of Hand Surgery, 19A:1008–1015.

54. Cherniack, M.G., Letz, R., Gerr, F., Brammer, A., Pace, P. (1990). Detailed clinical assessment of neurological function in symptomatic shipyard workers. British Journal of Industrial Medicine, 47:566–572.

55. Cherniack, M., Moalli, D., Viscoli, K. (1996). A comparison of traditional electrodiagnostic studies, electroneurometry and vibrometry in the diagnosis of carpal tunnel syndrome. Journal of Hand Surgery, 21A:122–131.

56. Child, A.H. (1986). Joint hypermobility syndrome: inherited disorder of collagen synthesis. Journal of Rheumatology, 12:239–243.

57. Chris, T.M., Adams, M.A. (1999). Dynamic forces acting on the lumbar spine during manual handling: can they be estimated using electromyographic techniques alone? Spine, 24(7):698–703.

58. Christ, W., Dupuis, H. (1966). Uber die Beanspruchung die Wirbelsaule unter dem Einfluss sinusformiger und stochastischer. Schwingungen Int Zeitschrift angewandte Phys Arbeitsphys, 22:258–278.

59. Conn, J., Jr., Bergan, J.J., Bell, J.L. (1970). Hypothenar hammer syndrome: post-traumatic digital ischemia. Surgery, 68(6):1122–1128.

60. Crisco, J.J., Chelikani, S., Brown, R.K., Wolfe, S.W. (1997). The effects of exercise on ligamentous stiffness in the wrist. Journal of Hand Surgery, 22A:44–48.

61. Damkot, D.K., Pope, M.H., Lord, J., *et al.* (1984). The relationship between work history, work environment and low-back pain in males. Spine, 9:395–399.

62. Dammeskiold-Samsoe (1983).

63. Dandanell, R., Engstrom, K. (1986). Vibration from riveting tools in the frequency range 6 Hz–10 MHz and Raynaud's phenomenon. Scandinavian Journal of Work, Environment and Health, 12(4 Spec No):338–42.

64. DeLisa, J.A., Saeed, M.A. (1983). AAEE case report #8: the tarsal tunnel syndrome. Muscle Nerve, 663, Nov/Dec.

65. Dellon, A.L., Mackinnon, S.E., (1991). Chronic nerve compression model for the double crush syndrome. Annals of Plastic Surgery, 26:259–264.

66. Deyo, R.A., Loeser, J.D., Bigos, S.J. (1990). Herniated lumbar intervertebral disk. Annals of Internal Medicine, 112:598–603.

67. Diamant, B., Karlsson, J., Nachemson, A. (1968). Correlation between lactate levels and pH in discs of patients with lumbar rhizopathies. Experientia, 24:1195–1196.

68. Dickson, R.A., Wright, V., eds. (1984). Musculoskeletal Disease. Chicago, IL: Year Book Medical Publishers, Inc.

69. Dolan, P., Kingma, I., van Dieen, J., de Looze, M P., Toussanit, H.M., Baten, C.T.M., Adams, M. (1999).

70. Duncan, W.C. (1996). Hypothenar hammer syndrome: an uncommon cause of digital ischemia. Journal of the American Academy of Dermatology, 34:880–883.

71. Dupuis, H. (1994). Medical and occupational preconditions for vibration-induced spinal disorders: occupational disease no. 2110 in Germany. International Archives of Occupational and Environmental Health, 66:303–308.

72. Ekenvall, L., Lindblad, L.E. (1986). Is vibration white finger a primary sympathetic nerve injury? British Journal of Industrial Medicine, 43(10):702–706.

73. Engstrom, K., Dandanell, R. (1986). Exposure conditions and Raynaud's phenomenon among riveters in the aircraft industry. Scandinavian Journal of Work, Environment & Health, 12(4 Spec No):293–295.

74. Fam, A.G., Kolin, A. (1986). Unusual metacarpophalangeal osteoarthritis in a jackhammer operator. Arthritis and Rheumatism, 29(10):1284–1288.

75. Farkas, T.A., Boyd, R.D., Schaffler, M.B., *et al.* (1987). Early vascular changes in rabbit subchondral bone after repetitive impulsive loading. Clinical Orthopaedics and Related Research, 219:259–267.

76. Farkkila, M., Pyykko, I., Jantii, V., Aatola, S., Starck, J., Korhonen, O. (1988). Forestry workers exposed to vibration: a neurological study. British Journal of Industrial Medicine, 45:188–192.

77. Faulkner, J.A., Brooks, S.V. (1995). Muscle fatigue in old animals: Unique aspects of fatigue in elderly humans. Advances in Experimental Medicine and Biology, 384: 471–480.

78. Feldman, R.G., Goldman, R., Keyserling, W.M. (1983). Peripheral nerve entrapment syndromes and ergonomic factors. American Journal of Industrial Medicine, 4:661–681.

79. Felson, D.T. (1994b). Do occupation-related physical factors contribute to arthritis? Bailliere's Clinical Rheumatology, 8(1):63–77.

80. Felson, D.T. (1988). Epidemiology of hip and knee osteoarthritis. Epidemiological Reviews, 10:1–28.

81. Felson, D.T. (1994). The Epidemiology of Osteoarthritis: Prevalence and Risk Factors. In: Kuettner, K.E., Goldberg, V.M., eds. Osteoarthritic Disorders. Rosemont, IL: American Academy of Orthopaedic Surgeons.

82. Finkelstein, H. (1930). Stenosing tendovaginitis at the radial styloid process. Journal of Bone and Joint Surgery, 12:509–540.

83. Fishbein, W.I., Salter, L.C. (1950). The relationship between truck and tractor driving and disorders of the spine and supporting structures. Industrial Medicine and Surgery, 19:444–445.

84. Flint, M.H., Lyons, M.F., Meaney, M.F., *et al.* (1975). The masson staining of collagen: an explanation of the apparent paradox. Histochemical Journal, 7:529–546.

85. Flodmark, B.T., Lundborg, G. (1997). Vibrotactile sense and hand symptoms in blue collar workers in a manufacturing industry. Occupational and Environmental Medicine, 54:880–887.

86. Frank, C., Andriacchi, T., Brand, R., Dahners, L., DeHaven, K., Oakes, B., Woo, S.L.-Y. (1998). Ligament: Normal Ligament: Structure, Function, and Composition. In: Woo, S.L.-Y., ed. Injury and Repair of the Musculoskeletal Soft Tissues. Park Ridge, IL: American Academy of Orthopaedic Surgeons, pp. 42–101.

87. Frank, C., McDonald, D., Shrive, N. (1997). Collagen fibril diameters in rabbit medial collateral ligament: a longer term assessment. Connective Tissue Research, 36:261–269.

88. Frankel, V.M., Nordin, M. (1980). Basic Biomechanics of the Skeletal System. Philadelphia, PA: Lea and Febiger.

89. Freivalds, Eklund (1993).

90. Friden, J., Lieber, R.L. (1994). Biomechanical Injury to Skeletal Muscle from Repetitive Loading: Eccentric Contractions and Vibration. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

91. Friden, J., Sjostrom, M., Ekblom, B. (1981). A morphological study on delayed muscle soreness. Experentia, 37:506–507.

92. Frymoyer, J.W., Pope, M.H., Clements, J.H., *et al.* (1983). Risk factors in low back pain. Journal of Bone and Joint Surgery, 65A:213–218.

93. Frymoyer, J.W., Pope, M.H., Costanza, M.C., *et al.* (1980). Epidemiologic studies of low back pain. Spine, 5:419–423.

94. Futatsuka, M., Inaoka, N., Ueno, T. (1990). Validity of function tests on the upper extremities in establishing a prognosis in vibration syndrome. Industrial Health, 28(2):41–52.

95. Gelberman, R.H., Hergenroeder, P.T., Hargens, A.R., *et al.* (1981). The carpal tunnel syndrome: a study of carpal tunnel pressures. Journal of Bone and Joint Surgery, 63A(3):380–383.

96. Gelberman, R.H., Szabo, R.M., Williamson, R.V., *et al.* (1983). Tissue pressure threshold for peripheral nerve viability. Clin Orthop 178:285–291.

97. Gemne, G. (1994). Pathophysiology of white fingers in workers using hand-held vibrating tools. [Review] [57 refs] Nagoya Journal of Medical Science, 57(Supplement):87–97.

98. Goldstein, S.A., Armstrong, T.J., Chaffin, D.B., Matthews, L.S. (1987). Analysis of cumulative strain in tendons and tendon sheaths. Journal of Biomechanics, 20:1–6.

99. Gordon, S.L., Blair, S.J., Fine, L.J., eds. (1994). Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

100. Griffin, M.J. (1997). Measurement, evaluation, and assessment of occupational exposures to hand-transmitted vibration. Occupational and Environmental Medicine, 54(2):73–89.

101. Haag, G.M. (1991). Static Work Loads and Occupational Myalgia. A New Explanation Model. In: Anderson, P.A., Hobart, D.J., Danoff, J.V., eds. Electromyographical Kinesiology. Amsterdam: Elsevier Science Publishers, pp. 141–144.

102. Hamilton, A. (1918). A study of spastic anemia in the hands of stone cutters, U.S. Bureau of Labor Statistics, Bulletin 236:19:53–61.

103. Hansson, T., Holm, S. (1991). Clinical implications of vibration-induced changes in the lumbar spine. Orthopedic Clinics of North America, 22(2):247–253.

104. Hansson, T., Kefler, T., Holm, S. (1987). The Load on the Porcine Lumbar Spine During Seated Whole Body Vibrations. Presented to the International Society for the Study of the Lumbar Spine, Rome, Italy, May.

105. Hargens, A.R., Romine, J.S., Sipe, J.C., *et al.* (1979). Peripheral nerve conduction block by high muscle compartment pressure. Journal of Bone and Joint Surgery, 61A:192+.

106. Hart, D.A., Frank, C.B., Bray, R.C. (1994). Inflammatory Processes in Repetitive Motion and Overuse Syndrome: Potential Role of Neurogenic Mechanisms in Tendons and Ligaments. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons, pp. 247–262.

107. Hart, D.A., Roux, L., Frank, C.V., Shrive, N.G. (1996). Sex hormone influences on rabbit ligaments in vivo and in vitro. Transactions of the Orthopaedic Research Society, 21:792.

108. Harter, B. (1989). Indications for surgery in work related compression neuropathies of the upper extremity. Occupational Medicine: State of the Art Review, 4(3):485–495.

109. Henneman, E., Olson, C.B. (1965). Relations between structure and function in the design of skeletal muscles. Journal of Neurophysiology, 28:581–598.

110. Herberts, P., Kadefors, R., Hogfors, C., *et al.* (1984). Shoulder pain and heavy manual labor. Clinical Orthopaedics and Related Research, Dec.(191):166–178.

111. Hirano, N., Tsuji, H., Oshima, H., *et al.* (1988). Analysis of rabbit intervertebral disc physiology based on water metabolism: changes in normal intervertebral discs under axial vibratory load. Spine, 13.1297–1302.

112. Hjortsberg, U., Rosen, I., Orbaek, P., Lundborg, G., Valogh, I. (1989). Finger receptor dysfunction in dental technicians exposed to high-frequency vibration. Scandinavian Journal of Work, Environment and Health, 15:339–344.

113. Hoffman, J., Hoffman, P.L. (1985). Staple gun carpal tunnel syndrome. Journal of Occupational Medicine, 27(11):848–9.

114. Holm, S., Nachemson, A. (1985). Nutrition of the intervertebral disc: effects induced by vibrations. Orthopaedic Transactions, 9:451.

115. Howell, D.S. (1989). Etiopathogenesis of Osteoarthritis. In: McCarty, D.J., ed. Arthritis and Allied Conditions: A Textbook of Rheumatology. Philadelphia: Lea and Febiger, pp. 1595–1604.

116. Hurst, L.C., Weissberg, D., Carroll, R.E. (1985). The relationship of the double crush to carpal tunnel syndrome (an analysis of 1000 cases of carpal tunnel syndrome). Journal of Hand Surgery, 10B(2):202–204.

117. International Standards Organization (1986). ISO Standard 5349: Mechanical Vibration. Guidelines for the Measurement and the Assessment of Human Exposure to Hand-Transmitted Vibration. Geneva, Switzerland: International Standards Organization.

118. Järvholm, U., Palmerud, G., Herbverts, P., Hogfors, C., Kadefors, R. (1989). Intramuscular pressure and electromyography in the supraspinatus muscle at shoulder abduction. Clinical Orthopaedics, 245:102–109.

119. Johanning, E. (1991). Survey results of back disorders and health problems in subway train operators exposed to whole-body

vibration. Scandinavian Journal of Work, Environment and Health, 17(6):414–419.

120. Johanning, E., Wilder, D., Landrigan, P., *et al.* (1991). Whole-body vibration exposure in subway cars and review of adverse health effects. Journal of Occupational Medicine, 33(5):605–612.

121. Johansson, H., Sojka, P. (1991). Pathosphysiological mechanisms involved in genesis and spread of muscle tension in occupational muscle pain and in chronic musculoskeletal pain syndromes: a hypothesis. Medical Hypothesis, 35:196–203.

122. Kaji, H., Honma, H., Usui, M., Yasuno, Y., Saito, K. (1993). Hypothenar hammer syndrome in workers occupationally exposed to vibrating tools. Journal of Hand Surgery, 18B:761–766.

123. Karpilow, C., DiNucci, K. (1996). Repetitive strain injury: Lower extremities. Background paper prepared for the Workers' Compensation Board of Alberta.

124. Katz, J., Larson, M.G., Fossel, A., Liang, M.H. (1991). Validation of a surveillance case definition of carpal tunnel syndrome. American Journal of Public Health, 81:189–193.

125. Kazarian, L.E. (1975). Creep characteristics of the human spinal column. Orthopedic Clinics of North America, 6:3–18.

126. Keith, S.E., Brammer, A.J. (1994). Rock-drill handle vibration: Assessing the influence of operating parameters and high frequencies? Journal of Sound and Vibration, 174–475–491.

127. Keller, T., Spengler, D., Hansson, T. (1987). Mechanical behavior of the human lumbar spine: creep analysis during static compressive loading. Journal of Orthopaedic Research, 5:467–478.

128. Kelsey, J.L. (1975). An epidemiologic study of the relationship between occupations and acute herniated lumbar intervertebral disks. International Journal of Epidemiology, 4:197–205.

129. Kelsey, J.L., Githens, P.B., O'Conner, T., *et al.* (1984a). Acute prolapsed intervertebral disc: an epidemiologic study with special reference to driving automobiles and cigarette smoking. Spine, 9:608–613.

130. Kelsey, J.L., Githens, P.B., Walter, S.D., *et al.* (1984). An epidemiologic study of acute prolapsed cervical intervertebral disc. Journal of Bone and Joint Surgery, 66:907–914.

131. Kelsey, J.L., Hardy, R.J. (1975). Driving of motor vehicles as a risk factor for acute herniated lumbar intervertebral disc. American Journal of Epidemiology, 102:63–73.

132. Kelsey J.L., White, A.A. (1980). Epidemiology and impact of low back pain. Spine, 5(2):133–142.

133. Kihlberg, S., Attebrant, M., Gemne, G., Kjellberg, A. (1995). Acute effects of vibration from a chipping hammer and a grinder on the hand-arm system. Occupational and Environmental Medicine. 52(11):731–737.

134. Kilbom, A. (1994). Assessment of physical exposure in relation to work-related musculoskeletal disorders—what information can be obtained from systematic observations? Scandinavian Journal of Work, Environment and Health, 20:30–45.

135. Kisner, W.H. (1976). Thumb neuroma: a hazard of ten pin bowling. British Journal of Plastic Surgery, 29(3):225–6.

136. Klein, B.P., Jensen, R.C., Sanderson, L.M. (1984). Assessment of worker's compensation claims for low back strains/sprains. Journal of Occupational Medicine, 26(6):443–448.

137. Kleinert, H.E., Volianitis, G.J. (1965). Thrombosis of the palmar arterial arch and its tributaries: etiology and newer concepts in treatment. Journal of Trauma, 5(4):447–457.

138. Koskimies, K., Farkkila, M., Pyykko, I., Inaba, R., Jantii, V., Aatola, S., Starck, J. (1990). Carpal tunnel syndrome in vibration disease. British Journal of Industrial Medicine, 47(6):411–416.

139. Kozin, F. (1994). Reflex sympathetic dystrophy syndrome. Current Opinion in Rheumatology, 6:210–216.

140. Kreitner, K.-F., Duber, C., Muller, L.-P., Degreif, J. (1996). Hypothenar hammer syndrome caused by recreational sports activities and muscle anomaly in the wrist. Cardiovascular and Interventional Radiology, 1919:356–359.

141. Larsson, B., Jensen, B.R., Nemeth, B., Sjogaard (1995). EMG-Driven Shoulder Model in Three Dimensions. In: Book of Abstracts: 15th Congress of the International Society of Biomechanics. Jyvaskyla, Finland: University of Jyvaskyla, pp. 532–533.

142. Larsson, S.-E., Bodegärd, L., Henriksson, K.G., *et al.* (1990). Chronic trapezius myalgia. Morphology and blood flow studied in 17 patients. Acta Orthopaedica Scandinavica 61(5):394–398.

143. Lau, C.S., O'Dowd, A., Belch, J.J. (1992). White blood cell activation in Raynaud's phenomenon of systemic sclerosis and vibration induced white finger syndrome. Annals of the Rheumatic Diseases, 51(2):249–52.

144. Leadbetter, W.B.C. (1992). Cell-matrix response in tendon injury. Clinics in Sports Medicine, 11:533–578.

145. Letz, R., Cherniack, M., Gerr, F., Hershman, D., Pace, P. (1992). A cross-sectional epidemiological survey of shipyard workers exposed to hand-arm vibration. British Journal of Industrial Medicine, 49(1):53–62.

146. Lieber, R.L. (1992). Skeletal Muscle Physiology. In: Skeletal Muscle Structure and Function: Implications for Rehabilitation and Sports Medicine. Baltimore: Williams and Wilkins.

147. Lieber, R.L., Friden, J. (1993). Muscle damage is not a function of muscle force but active muscle strain. Journal of Applied Physiology, 74:520–526.

148. Lieber, R.L., Friden, J. (1994). Skeletal Muscle Metabolism, Fatigue, and Injury. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

149. Lindman, R., Eriksson, A., Thornell, L.E. (1991). Fiber type composition of the human female trapezius muscle: enzyme-histochemical characteristics. American Journal of Anatomy, 190(4):385–392.

150. Lindman, R., Hagberg, M., Angqvist, K.A., *et al.* (1991). Changes in muscle morphology in chronic trapezius myalgia. Scandinavian Journal of Work, Environment and Health, 17(5):347–355.

151. Lovin (1997).

152. Low, P.A., Dyck, P.J. (1977). Increased endoneurial fluid pressure in experimental lead neuropathy. Nature, 269:427–428.

153. Low, P.A., Dyck, P.J., Schmeizer, J.D. (1982). Chronic elevation of endoneurial fluid pressure is associated with low-grade fiber pathology. Muscle and Nerve, 5:162–165.

154. Lundborg, G. (1988). Nerve Injury and Repair. Edinburgh, Scotland: Churchill Livingstone, p. 76.

155. Lundborg, G., Dahlin, L.B. (1994). Pathophysiology of Nerve Compression. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

156. Lundborg, G., Gelberman, R.H., Minteer-Convery, M., Lee, Y.F., Hargens, A.R. (1982). Median nerve compression in the carpal tunnel: functional response to experimentally induced controlled pressure. Journal of Hand Surgery, 7(3):252–259.

157. Lundborg, G., Myers, R., Powell, H. (1983). Nerve compression injury and increased endoneurial fluid pressure: a "miniature compartment syndrome." Journal of Neurology, Neurosurgery and Psychiatry, 46:1119–1124.

158. Lundborg, G., Sollerman, C., Stromberg, T., Pyykko, I., Rosen, B. (1987). A new principle for assessing vibrotactile sense in vibration-induced neuropathy. Scandinavian Journal of Work, Environment and Health, 13:375–379.

159. Mackinnon, S.E. (1992). Double and multiple "crush" syndromes. Hand Clinics, 8(2):369–390.

160. Mackinnon, S.E., Dellon, A.L., Hudson, A.R., *et al.* (1984). Chronic nerve compression: an experimental model in the rat. Annals of Plastic Surgery, 13:112–120.

161. Mackinnon, S.E., Dellon, A.L., Hudson, A.R., *et al.* (1985). A primate model for chronic nerve compression. Journal of Reconstructive Microsurgery, 1:185–194.

162. Mackinnon, S.E., Dellon, A.L., Hudson, A.R., *et al.* (1986). Chronic human nerve compression-a histological assessment. Neuropathology and Applied Neurobiology, 12:547–565.

163. Mackinnon, S.E., Dellon, A.L. (1986). Experimental study of chronic nerve compression. Clinical implications. Hand Clinics, 2:639–650.

164. Mackinnon, S.E., Dellon, A.L. (1988). Evaluation of microsurgical internal neurolysis in a primate median nerve model of chronic nerve compression. Journal of Hand Surgery, 13A(3):345–351.

165. Mackinnon, S.E., Novak, C.B. (1997). Clinical Perspective: Repetitive Strain in the Workplace. Journal of Hand Surgery, 22A:3–18.

166. Mackinnon, *et al.* (1987).

167. Macpherson, P.C., Schork, M.A., Faulkner, J.A. (1996). Contraction induced injury to single fiber segments from fast and slow muscles of rats by single stretches. American Journal of Physiology, 271:1438–1446.

168. Maeda, S., Yonekawa, Y., Kanada, K., Takahashi, Y. (1996). Vibrotactile TTS of fingertip vibratory sensation from hand-transmitted vibration having the same equal equivalent tool vibration levels according to the JIS B 4900 determination method. Industrial Health, 34(3):257–266.

169. Magnusson, M., Almqvist, M., Broman, H., *et al.* (1990). Measurement of spinal creep during whole body vibrations. Submitted to Spinal Disorders.

170. Magnusson, M., Hult, E., Lindstrom, I., *et al.* (1990). Measurement of time-dependent height loss during sitting. Clinical Biomechanics, 5:137–142.

171. Marras, W.S., Lavender, S.A., Leurgans, S.E., *et al.* (1993). The role of dynamic three-dimensional trunk motion in occupationally-related low back disorders: the effects of workplace factors, trunk position, and trunk motion characteristics on risk of injury. Spine, 18(5):617–628.

172. Marshall, L.L., Trethewie, E.R. (1973). Chemical irritation of nerve root in disc prolapse. Lancet, Aug.

173. Marshall, L.L., Trethewie, E.R., Curtain, C.C. (1977). Chemical radiculitis. Clinical Orthopaedics, 129:61–67.

174. Masear, V.R., Hayes, J.M., Hyde, A.G. (1986). An industrial cause of carpal tunnel syndrome. Journal of Hand Surgery—American Volume, 11(2):222–227.

175. McLain, R.F., Weinstein, J.N. (1994). Effects of whole body vibration on dorsal root ganglion neurons. Changes in neuronal nuclei. Spine, 19(13):1455–1461.

176. Meisel (1984).

177. Miller, R.F., Lohman, W.H., Maldonado, G., Mandel, J.S. (1994). An epidemiologic study of carpal tunnel syndrome in relation to vibration exposure. Journal of Hand Surgery, American Volume, 19(1):99–105.

178. Millesi, H., Zoch, G., Rath. (1990). The gliding apparatus of peripheral nerves and its clinical significance. Annals of Hand Surgery, 9:87.

179. Mooney, J.F., Poehling, G.G. (1991). Disruption of the ulnolunate ligament as a cause of chronic ulnar wrist pain. Journal of Hand Surgery, 16A(2):347–349.

180. Moore, J.S. (1992a). Carpal tunnel syndrome. Occupational Medicine: State of the Art Review 7(4):741–763.

181. Moore, J.S. (1992b). Function, structure, and responses of components of the muscle-tendon unit. Occupational Medicine: State of the Art Review, 7(4):713–740.

182. Moore, S.J. (1991). Clinical determination of work-relatedness in carpal tunnel syndrome. Journal of Occupational Rehabilitation, 1:145–158.

183. Mow, V.C., Lai, W.M., Rodler, I. (1974). Some surface characteristics of articular cartilage. A scanning electron microscopy study and a theoretical model for the dynamic interaction of synovial fluid and articular cartilage. Journal of Biomedicine, 7:449.

184. Murthy, G., Kahan, N.J., Hargens, A.R., Rempel, D.M. (1997). Forearm muscle oxygenation decreases with low levels of voluntary contraction. Journal of Orthopaedic Research, 15:507–511.

185. Myers, R.R., Mizisin, A.P., Powell, H.C., *et al.* (1982). Reduced nerve blood flow in hexachlorophene neuropathy. Relationship to elevated endoneurial fluid pressure. Journal of Neuropathology and Experimental Neurology, 41:391.

186. Nachemson, A. (1969). Intradiscal measurements of pH in patients with lumbar rhizopathies. Acta Orthopaedica Scandinavica, 40:23–42.

187. Nakamura, R., Ono,Y., Horii, E., *et al.* (1993). The aetiological significance of work-load in the development of osteoarthritis of the distal interphalangeal joint. British Journal of Hand Surgery, 18(4):540–542.

188. National Academy of Sciences (1998). Work-Related Musculoskeletal Disorders: A Review of the Evidence. Washington, DC: National Academy Press.

189. National Institute for Occupational Safety and Health (1989). Criteria for a Recommended Standard Occupational Exposure to Hand-Arm Vibration. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. NIOSH Publication #90–168048.

190. National Institute for Occupational Safety and Health (1990). Surface Electromyography Procedures Manual for Use in Industrial Settings. Morgantown, WV: NIOSH.

191. National Institute of Occupational Safety and Health (1992). Selected Topics in Surface Electromyography for Use in Occupational Setting: Expert Perspectives. NIOSH Publication #91–100.

192. Newham, D.J., Jones, D.A., Edwards, R.H. (1983a). Large delayed plasma creatine kinase changes after stepping exercise. Muscle and Nerve, 6:380–385.

193. Newham, D.J., McPhail, G., Mills, K.R., *et al.* (1983b). Unfortunately changes after concentric and eccentric contractions of human muscle. Journal of the Neurological Sciences, 61:109–122.

194. Nielsen, S.L., Olsen, N.P. (1980). Evaluation of reported occupational white-finger induced by vibration. [Danish] Ugeskrift for Laeger, 142(49):3239–3243.

195. Nieminen, H., Takala, E., Viikari-Juntura, E. (1993). Normalization of electromyogram in the neck-shoulder region. European Journal of Applied Physiology and Occupational Physiology, 67(3):199–207.

196. Nilsson, T., Burstrom, L., Hagberg, M. (1989). Risk assessment of vibration exposure and white fingers among platers. International Archives of Occupational Environmental Health, 61(7):473–481.

197. Novak, C.B., Mackinnon, S.E. (1998). Nerve injury in repetitive motion disorders. Clinical Orthopaedics and Related Research, 351:10–20.

198. Ogilvie, R.W., Armstrong, R.B., Baird, K.E., *et al.* (1988). Lesions in the rat soleus muscle following eccentrically biased exercise. American Journal of Anatomy 182:335–346.

199. Olmarker, K., Holm, S., Rydevik, B. (1990a). Importance of compression onset rate for the degree of impairment of impulse propagation in experimental compression injury of the porcine cauda equina. Spine, 15:416–419.

200. Olmarker, K., Rydevik, B. (1991). Pathophysiology of sciatica. Orthopedic Clinics of North America, 22(2):223–234.

201. Olmarker, K., Rydevik, B., Hansson, T., *et al.* (1990). Compression-induced changes of the nutritional supply to the porcine cauda equina. Journal of Spinal Disorders, 3:25–29.

202. Olmarker, K., Rydevik, B., Holm, S. (1989). Edema formation in spinal nerve roots induced by experimental, graded compression. An experimental study on the pig cauda equina with special reference to differences in effects between rapid and slow onset of compression. Spine, 14:569–573.

203. Olmarker, K., Rydevik, B., Holm, S., *et al.* (1989). Effects of experimental graded compression on blood flow in spinal nerve roots. A vital microscopic study on the porcine cauda equina. Journal of Orthopaedic Research, 7:817–823.

204. Pascarelli, E.F., Kella, J.J. (1993). Soft-tissue injuries related to use of the computer keyboard: a clinical study of 53 severely injured persons. Journal of Occupational Medicine, 35:523–532.

205. Pechan, J., Julis, I. (1975). The pressure measurement in the ulnar nerve. A contribution to the pathophysiology of the cubital tunnel syndrome. Journal of Biomechanics, 8:75–79.

206. Pelmear, P.L., Taylor, W. (1994). Hand-arm vibration syndrome. Journal of Family Practice, 38(2).

207. Pette, D. (1980). Plasticity of Muscle. Berlin: Walter Deter and CP.

208. Pineda, C.J., Weisman, M.H., Bookstein, J.J., Saltzstein, S.L. (1985). Hypothenar hammer syndrome: form of reversible Raynaud's phenomenon. American Journal of Medicine, 79:561–570.

209. Poole, A.R. (1986). Changes in the collagen and proteoglycan of articular cartilage in arthritis. Rheumatology, 10:316–371.

210. Pope, M.H., Frymoyer, J.W., Anderson, G.B., *et al.* (1991). Occupational Low Back Pain: Assessment, Treatment and Prevention. St. Louis: Mosby-Year Book.

211. Pope, M.H., Frymoyer, J.W., Andersson, G.B.J., *et al.* (1984). Occupational low back pain. New York, NY: Praeger.

212. Putz-Anderson, V., Doyle, G.T., Hales, T.R. (1992). Ergonomic analysis to characterize task constraint and repetitiveness as risk factors for musculoskeletal disorders in telecommunication office work. Scandinvavian Journal of Work, Environment & Health, 18(Supplement 2):123–126.

213. Putz-Anderson, V., Waters, T. (1991). Revisions in NIOSH Guide to Manual Lifting. Presented at A National Strategy for Occupational Musculoskeletal Injury Prevention, University of Michigan, Ann Arbor.

214. Pyykko, I. (1986). Clinical aspects of the hand-arm vibration syndrome: a review. Scandinavian Journal of Work, Environment & Health, 12:439–447.

215. Radin, E.L., Parker, H.G., Pugh, J.W., *et al.* (1973). Response of joint to impact loading:3. Relationship between trabecular microfractures and cartilidge degeneration. Journal of Biomechanics, 6:51–57.

216. Radin, E.L., Paul, I.L. (1971). Response of joints to impact loading: in vitro wear. Arthiritis and Rheumatism, 14:356–362.

217. Radin, E.L., Ehrlich, M.M., Weiss, C.A., *et al.* (1976). Osteoarthrosis as a State of Altered Pathophysiology. In: Buchanan, W.W., Dick, W.C., eds. Recent Advances in Rheumatology. London: Churchill Livingstone.

218. Radin, E.L., Schaffler, M., Gibson, G., *et al.* (1994). Osteoarthrosis as the Result of Repetitive Trauma. In: Kuettner, K.E., Goldberg, V.M., eds. Osteoarthritic Disorders. Rosemont, IL: American Academy of Orthopaedic Surgeons.

219. Radwin, R.G., VanBergeijk, E., Armstrong, T.J. (1989). Muscle responses to pneumatic hand tool torque reaction forces. Ergonomics, 32(6):655–673..

220. Rais, O. (1961.) Heparin treatment of peritenomyosis crepitans acuta. Acta Chirurgica Scandinavica Supplementum, 268:1–88.

221. Rathburn.

222. Rathburn, J.B., McNab, I. (1970). The microvascular pattern of the rotator cuff. Journal of Bone and Joint Surgery, 52B(3):540–553.

223. Rempel, D., Dahlin, L., Lundborg, G. (1999). Biological Response of Peripheral Nerves to Loading: Pathophysiology of Nerve Compression Syndromes and Vibration Induced Neuropathy. In: Work-Related Musculoskeletal Disorders: The Research Base. Workshop Summary and Papers. Washington, DC: National Academy Press.

224. Rempel, D.M., Harrison, R.J., Barnhart, S. (1992). Work related cumulative trauma disorders of the upper extremity. Journal of the American Medical Association, 267(6):838–842.

225. Rempel, D., Jamojilovic, R., Levinsohn, D.G. *et al.* (1994). The effects of wearing a flexible wrist splint on carpal tunnel syndrome pressure during repetitive hand activity. Journal of Hand Surgery, 19A:106–110.

226. Rempel, D., Keir, P.J, Smutz, W.P., Hargens, A.R. (1997). Effects of static fingertip loading on carpal tunnel pressure. Journal of Orthopaedic Research, 15:422–426.

227. Roberts, W.J. (1986). A hypothesis on the physiological basis for causalgia and related pains. Pain, 24:297–311.

228. Rohmert, W., Wos, H., Norlander, S., Helbig, R. (1989). Effects of vibration on arm and shoulder muscles in three body postures. European Journal of Applied Physiology and Occupational Physiology, 59(4):243–248.

229. Rosen, I., Stromberg, T., Lundborg, G. (1993). Neurophysiological investigation of hands damaged by vibration: comparison with idiopathic carpal tunnel syndrome. Scandinavian Journal of Plastic and Reconstructive Surgery and Hand Surgery, 27:209–216.

230. Rydevik, B., Lundborg, G., Bagge, U. (1981). Effects of graded compression on intraneural blood flow. Journal of Hand Surgery, 6:3+.

231. Rydevik, B., Holm, S., Brown, M.D., Lundborg, C. (1990). Diffusion from the cerebrospinal fluid as a nutritional pathway for spinal nerve roots. Acta Physiologica Scandinavica, 138:247–248.

232. Rydevik, B., Myers, R.R., Powell, H.C. (1989). Pressure increase in the dorsal root ganglion following mechanical compression. Closed compartment syndrome in nerve roots. Spine, 14:574–576.

233. Sampson, S.P., Badalamente, M.A., Hurst, L.C., *et al.* (1991). Pathobiology of the human A1 pulley in trigger finger. Journal of Hand Surgery, 16A:714–721.

234. Schatz, I.J. (1963). Occlusive arterial disease in the hand due to occupational trauma. New England Journal of Medicine, 268:281–284.

235. Schmidt, U. (1969). Vergleichende Untersuchungen an Schwerlastwagenfahrern und Broangestellten zur Frage der berufsbedingten Verschleibschaden an der Wirbelsaule und den Getenken der oberen Extremiteten. Dissertation.

236. Schwane, J.A., Johnson, S.R., Vandennaker, C.B., *et al.* (1983). Delayed onset muscular soreness and plasma CPK and LDH activities after downhill running. Medical Science and Sports Exercise, 15:51–56.

237. Seidel, B. (1988). Myoelectric reactions to ultra-low frequency and low-frequency whole body vibration. European Journal of Applied Physiology, 57:558–562.

238. Seidel, H., Heide, R. (1986). Long-term effects of whole-body vibration: a critical survey of the literature. International Archives of Occupational and Environmental Health, 58:1–26.

239. Seroussi, R.E., Wilder, D.C., Pope, M.H. (1989). Trunk muscle electromyography and whole body vibration. Journal of Biomechanics, 22:219–229.

240. Silverstein, B.A. (1985). The Prevalence of Upper Extremity Cumulative Trauma Disorders in Industry. Ph.D. dissertation, University of Michigan, Ann Arbor.

241. Silverstein, B.A., Fine, L.J., Armstrong, T.J. (1986a). Carpal tunnel syndrome: causes and a prevention strategy. Seminars in Occupational Medicine, 1(3):213–221.

242. Silverstein, B.A., Fine, L.J., Armstrong, T.J. (1986b). Hand-wrist cumulative trauma disorders in industry. British Journal of Industrial Medicine, 43:779–784.

243. Silverstein, B.A., Fine, L.J., Armstrong, T.J. (1987). Occupational factors and carpal tunnel syndrome. American Journal of Industrial Medicine, 11:343–358.

244. Sjogaard, G. (1988). Muscle energy metabolism and electrolyte shifts during low-level prolonged static contraction in man. Acta Physiologica Scandinavica, 134:181–186.

245. Sjogaard, K., Christensen, H., Jensen, B.R., Finsen, L., Sjogaard, G. (1996). Motor control and kinetics during low level concentric and eccentric contractions in man. Electroencephalography and Clinical Neurophysiology, 101:453–460.

246. Sjogaard, G., Kiens, B., Jorgensen, K., *et al.* (1986). Intramuscular pressure, EMG and blood flowing during low-level prolonged static contraction in man. Acta Physiologica Scandinavica, 128:475–484.

247. Sjogaard, G., Sjogaard, K. (1998). Muscle injury in repetitive motion disorders. Clinical Orthopaedics and Related Research, 351:21–31.

248. Skie, M., Zeiss. J., Ebraheim. N.A. (1990). Carpal tunnel changes and median nerve compression during wrist flexion and extension seen by magnetic resonance imaging. Journal of Hand Surgery, 15A:934–939.

249. Smith, E., Sonstegard, D., Anderson, W. (1977). Carpal tunnel syndrome: contribution of the flexor tendons. Archives of Physical Medication and Rehabilitation, 58(9):379–385.

250. Snook, S.H., Campanelli, R.A., Hart, J.W. (1978). A study of three preventive approaches to low back injury. Journal of Occupational Medicine, 20:478–481.

251. Starck, J. (1984). High impulse acceleration levels in hand-held vibratory tools. An additional factor in the hazards associated with the hand-arm vibration syndrome. Scandinavian Journal of Work, Environment & Health, 10(3):171–178.

252. Starck, J.P., Pyykko, I. (1986). Impulsiveness of vibration as an additional factor in the hazards associated with hand-arm vibration. Scandinavian Journal of Work, Environment & Health, 12:323–326.

253. Stock S. (1991). Workplace ergonomic factors and the development of musculoskeletal disorders of the neck and upper limbs: a meta-analysis. American Journal of Industrial Medicine, 19:87–107.

254. Szabo, R.M., Chidley, L.K. (1989). Stress carpal tunnel pressures in patients with carpal tunnel syndrome and normal patients. Journal of Hand Surgery, 14A:624–627.

255. Szabo, R.M., Gelberman, R.H. (1987). The pathophysiology of nerve entrapment syndromes. Journal of Hand Surgery, 12A(5): 880–884.

256. Szabo, R.M., Gelberman, R.H., Williamson, R.V., *et al.* (1983). Effects of increased systemic blood pressure on the tissue fluid pressure threshold of peripheral nerve. Journal of Orthopedic Research, 1:172–178.

257. Takeuchi, T., Futatsuka, M., Imanishi, H., *et al.* (1986). Pathological changes observed in the finger biopsy of patients with vibration induced white finger. Scandinavian Journal of Work, Environment and Health, 12(4):280–283.

258. Takeuchi, T., Imanishi, H. (1984). Histological observation in finger biopsies of 30 patients with Raynaud's phenomenon of occupational origin. Journal of Kumamato Medical Society, 58:56–70.

259. Terzis, J.K., Noah, E.M. (1994). Anatomy and morphology of upper extremity nerves and frequent sites of compression. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

260. Thelen, D.G., Ashton-Miller, J.A., Schultz, A.B., *et al.* (1996a). Do neural factors underlie age differences in rapid ankle torque development? Journal of the American Geriatrics Society, 44:804–808.

261. Thelen, D.G., Schultz, A.B., Alexander, N.B., *et al.* (1996b). Effects of age on rapid ankle torque development. Journal of Gerontology: Medical Sciences, 51A:M226–232.

262. Thorson, E., Szabo, R.M. (1992). Common tendinitis problems in the hand and forearm. Orthopedic Clinics of North America, 23(1):65–74.

263. Tichauer, E.R. (1978). The Biomechanical Basis of Ergonomics. New York: John Wiley and Sons.

264. Troup, J.D.G. (1978). Drivers' bp and its prevention. A review of the postural, vibratory and muscular factors, together with the problem of transmitted road shock. Applied Ergonomics, 9:207–214.

265. Troup, J.D.G. (1988). Clinical effects of shock and vibration on the spine. Clinical Biomechanics, 3:227–231.

266. Uchiyama, S., Coert, J.H., Berglund, L., Amadio, P.C., An, K.-N. (1995). Method for measurement of friction between a tendon and its pulley. Journal of Orthopaedic Research, 13:83–89.

267. Upton, A.R.M., McComas, A.J. (1973). The double crush in nerve entrapment syndromes. Lancet, II:259–362.

268. Vallbo, A.B., Johansson, R.S. (1984). Properties of cutaneous mechanoreceptors in the human hand related to touch sensation. Human Neurobiology, 3:3–14.

269. Vasan, N. (1983). Effects of physical stress on the synthesis and degradation of cartilage matrix. Connective Tissue Research, 12:49–58.

270. Veiersted, K.G., Westgaard, R.H., Andersen, P. (1990). Pattern of muscle activity during stereotyped work and its relation to muscle pain. Archives of Occupational and Environmental Health, 62:31–41.

271. Veiersted, K.G., Westgaard, R.H., Andersen, P. (1993). Electromyographic evaluation of muscular work pattern as a predictor of trapezius myalgia. Scandinavian Journal of Work, Environment and Health, 19(4):284–290.

272. Verrillo, R.T., Capraro, A.J. (1975). Effect of stimulus frequency on subjective vibrotactile magnitude functions. Perception and Psychophysics, 17:91–96.

273. Viikari-Juntura, E., Riihimaki, H., Tola, S., *et al.* (1994). Neck trouble in machine operating, dynamic physical work and sedentary work: a prospective study on occupational and individual risk factors. Journal of Clinical Epidemiology, 47(12):1411–1422.

274. Virokannas, H. (1992). Vibration perception thresholds in workers exposed to vibration. International Archives of Occupational and Environmental Health, 63:377–382.

275. Virokannas, H. (1995). Dose-response relation between exposure to two types of hand-arm vibration and sensorineural perception of vibration. Occup Environ Med 52:332–336.

276. Vogel, K.G. (1994). Fibrocartilage in Tendon: A Response to Compressive Load. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

277. Waldron, H. (1989). Anyone for teno? (editorial). British Journal of Industrial Medicine, 44:793–794.

278. Waters, T.R. (1994). Applications Manual for the Revised NIOSH Lifting Equation. Cincinnati, OH: U.S. Department of Health and Human Services. National Institute for Occupational Safety and Health. (Available from the National Technical Information Service, Springfield, VA).

279. Waters, T.R., Putz-Anderson, V., Garg, A., Fine, L.J. (1993). Revised NIOSH equation for the design and evaluation of manual lifting tasks. Ergonomics, 36(7):749–776.

280. Werner, C.O., Elmquist, D., Ohlin, T. (1983). Pressure and nerve lesions in the carpal tunnel. Acta Orthopaedica Scandinavica, 54:312–316.

281. Werner, R.A., Albers, J.W., Franzblau, A., Armstrong, T.J. (1994). The relationship between body mass index and the diagnosis of carpal tunnel syndrome. Muscle and Nerve, 17:632–636.

282. Wheatley, M.J., Marx, V.M. (1996). The use of intra-artrial urokinase in the management of hand ischemia secondary to palmar and digital arterial occlusion. Annals of Plastic Surgery, 37:356–363.

283. Wieslander, G., Norbäck, D., Göthe, C.J., Juhlin, L. (1989). Carpal tunnel syndrome (CTS) and exposure to vibration, repetitive

wrist movements, and heavy manual work: a case-referent study. British Journal of Industrial Medicine, 46(1):43–47.

284. Wilbourn, A., Lederman, R. (1984). Evidence for conduction delay in thoracic outlet syndrome is challenged. New England Journal of Medicine, 310:1052–1053.

285. Wilder, D.C., Pope, M.H., Frymoyer, J.W. (1982). Cyclic Loading of the Intervertebral Motion Segment. In: Hansen, E.W., ed. IIEE Proceedings, pp. 9–11. Presented at Northeast Bioengineering Conference, Hanover, NH, March.

286. Wilder, D.G., Woodworth, B.B., Frymoyer, J.W., *et al.* (1982). Vibration and the human spine. Spine, 7:243–254.

287. Wilson, A.M., Goodship, A.E. (1994). Exercise induced hyperthermia as a possible mechanism for tendon degeneration. Journal of Biomechanics, 27:899–905.

288. Witt, J., Press, G., Gelberman, R.H. (1991). Treatment of de Quervain's tenosynovitis. Journal of Bone and Joint Surgery, 73A:219.

289. Woo, S.L., Hollis, J.M., Adams, D.J., *et al.* (1991). Tensile properties in the human femur anterior cruciate ligament tibia complex. American Journal of Sports Medicine, 19:217–225.

290. Woo, S.L., Gomez, M.A., Sites, T.J., *et al.* (1987). The biomechanical and morphological changes in the medial collateral ligament of the rabbit after immobilization and remobilization. Journal of Bone and Joint Surgery, 69A:1200–1211.

291. Woo, S.L., Xerogeanes, J. (1994). The Biomechanics of Soft Tissue: Normal, Injured and Healed States. In: Gordon, S.L., Blair, S.J., Fine, L.J., eds. Repetitive Motion Disorders of the Upper Extremity. Rosemont, IL: American Academy of Orthopaedic Surgeons.

292. World Health Organization (1985). Work-Related Diseases. Technical Report #714. Geneva, Switzerland: WHO.

E. Glossary and List of Acronyms

1. Glossary

Acceleration—time rate of change in velocity (expressed as m/sec^2 or as gravity); the second derivative of displacement with respect to time. Intensity of vibration is measured by acceleration.

Afferent nerves—sensory nerves supplying information, including movement, position, and other sensation, to the central nervous system.

Articular—referring to the joint or, more specifically, to the particular surfaces at the ends of bones that meet (separated by cartilage) in the joint.

Atheromatous—producing plaques or atheroma in arteries.

Autonomic dysfunction—abnormalities of the involuntary or autonomic nervous system. In vibration studies, the term usually refers to abnormal sympathetic nerve response resulting in abnormal vascular musculature response.

Axonopathies—nerve abnormalities affecting the fibers that carry nerve impulse from the nerve cell body to the next nerve cell or effector muscle.

Biomechanical stressor—the physical aspects of workstation, work piece, tools, and work process that exert stress on the body. Biomechanical stressors are distinct from psychosocial or work organization risks, which are not addressed in this document. The document uses "biomechanical stressors" instead of the commonly employed "ergonomic stressors." The term "ergonomics" refers to "fitting the work to the worker," a much broader concepts that includes all aspects of the worker/task/work environment interaction: biomechanical stressors and psychosocial stressors, human factors concepts of information exchange and ease of use, and higher-level constructs of organizational structure and culture.

Carpal tunnel—an anatomic tunnel in the wrist through which the median nerve and nine digital flexor tendons pass. It is formed by the wrist bones and a dense trans-carpal ligament. Pressure on the median nerve in the carpal tunnel causes carpal tunnel syndrome.

Cartilage—a thick, white connective tissue that attaches to the articular surfaces of bones, forming a low-friction cushion. It is structurally more rigid than tendon.

Central and peripheral nervous systems—the central nervous system includes the brain and spinal cord; the peripheral nervous system consists of nerves linking the central nervous system to muscles (via efferent motor nerves) and sensory receptors (via afferent sensory nerves).

Concentric contraction—muscle contraction in which tension is greater than external load, resulting in muscle shortening.

Demyelination—a loss of the myelin sheath. Myelin is a fatty tissue that surrounds large and medium-size nerves and speeds the rate of electrochemical conduction through the nerve. In the setting of work-related injury, demyelination is usually caused by nerve compression and entrapment.

Dermatome—an area of the body innervated by a specific nerve or nerve branch.

Dorsal wrist compartments—hand tissue areas divided by fascia that represent hydraulic cushions. The first dorsal compartment contains tendons that extend the thumb.

Dysesthesias—abnormal nerve sensations.

Eccentric contraction—muscle contraction in which tension is less than the external load, resulting in muscle elongation against contractile force. Muscles in eccentric contraction can develop the highest tension and are thus the most vulnerable to rupture.

ECRB—the extensor carpi radialis brevis, a muscle that extends the wrist and inserts at the lateral elbow.

Efferent nerves—motor nerves effecting and coordinating voluntary and reflexive muscle activity.

Efferent nerve axons—motor nerves effecting and coordinating voluntary and reflexive muscle activity.

Endothelial—in vascular studies, referring to the inner lining of blood vessels (more broadly, the term refers to tissues derived from embryonic endothelial cells).

Epicondylitis—elbow pain at the site where the proximal flexor or extensor tendons insert at the lateral or medial epicondyles (bony prominences on the inside and outside of the elbows).

Etiology—the cause or origin of disease or study of the causes of disease.

Exposure—an epidemiological concept used to describe the particular risk factor experienced by the worker, with its particular profile of modifying factors: intensity, time characteristics, and duration.

Fibroblasts—cells that produce connective tissue such as ligaments and tendons.

Fibrocartilage—cartilage that contains dense bands of connective tissue, having elements of rigid support and flexibility.

Fibrosis—the replacement of normal tissues by fibrous scar tissue at the site of injury.

Frequency—number of oscillations per unit of time; 1 hertz (Hz) = 1 cycle/sec.

Gamma muscle spindles—specialized nerve afferents that send signals to the central nervous system indicating muscle

stretch (thus providing information on body segment position).

Glabrous pads—the fatty pads at the fingertips and toetips.

Humerus—the long bone of the upper arm.

Hydrophilic—reactive with water.

Hypertrophic—referring to a growth or increase in tissue mass.

Ischemia—the condition of restricted blood flow to an area, resulting in insufficient oxygen and nutrients for tissue function and reduced clearance of CO_2 and metabolites.

Isometric contraction—muscle contraction in which tension equals the external load, resulting in a constant muscle length.

Isotonic contraction—muscle contraction in which a constant internal force is developed, usually resulting in concentric contraction.

Mechanoreceptors—specialized nerve endings and sense organs that convey the senses of touch, spatiality, and pressure.

Median nerve—the nerve suppling most of the sense of sensation to the first through fourth fingers. The median nerve can be entrapped in carpal tunnel syndrome.

Metaplasia—non-neoplastic change in the form and function of cell, usually due to an external stimulus.

Mitochondria—the bodies within cells that conduct oxidative metabolism, the oxygen-dependent, energy-producing chemical reactions that are essential for muscle contraction.

Musculoskeletal disorder (MSD)—an injury or illness of soft tissues of the upper extremity (fingers through upper arm), shoulders and neck, low back, and lower extremity (hips through toes) that is primarily caused or exacerbated by workplace risk factors, such as sustained and repeated exertions or awkward postures and manipulations.

Since the Health Effects Section deals only with work-related disorders, the abbreviation "MSD" is equivalent to the term "work-related musculoskeletal disorder" (WRMSD or WMSD) found elsewhere in the literature. MSDs, as discussed in this document, are assumed to arise out of regular work processes as acquired disorders and exclude acute traumatic injuries, such as falls or amputations. The term "MSD," however, does not exclude acute injuries that arise out of occasional or atypical work processes, such as handling particularly heavy or poorly balanced materials. MSDs include disorders of the following tissues: muscles; tendons, paratendons, and retinaculum; ligaments; peripheral nervous system (including the sympathetic and parasympathetic nervous system); cartilage and synovium (including joints, intervertebral discs, and fibro-cartilage complexes); bone; and blood vessels. The term "MSD" is used to maintain consistency with current practice and nomenclature, and does not imply a hierarchy or emphasis on injuries to muscle and bone in contrast to other soft tissues. In fact, injuries to muscle and tendon are distinctly more common than injuries to bone. Subordinate terms like "neuromuscular disorders" and "musculotendonous disorders" are used to emphasize a particular, tissue-based etiology.

"MSD" is used in place of "CTD" (cumulative trauma disorder) or "RSI" (repetitive strain injury) because it does not necessarily presuppose etiology from accumulation or repetition of trauma, and it does not imply a category of medical diagnoses. For establishing a standard and for recognizing hazards, persistent symptoms, clinical signs, or clinical diagnoses are sufficient to establish the existence of MSDs.

Myelin—the external lining of large and medium size nerves with a fatty sheath, enhancing nerve conduction velocity.

Nocioceptors—nerve fibers, usually C fibers, responsible for the sensation of pain.

Odds ratio—relates the odds of being a case to those of not being a case. It is the odds of being a case given the risk factor is present divided by the odds of being a case given the risk factor is not present. If the following table is used the odds ratio is:

$$OR = (A/B)/(C/D)$$

Risk Factor Classification	Cases	Noncases
Risk Factor Present	A	B
Risk Factor Absent	C	D

Oscillation—rhythmic variation in the position of an object in reference to the starting point, measured over time.

Paresthesias—abnormal sensations of tingling and numbness.

Proprioception—the conduction of sensory nerve signals that indicate muscle and joint position to the central nervous system.

Raynaud's phenomenon—a painful condition affecting the fingers or toes, caused by compromised circulation. It is provoked by the cold. Raynaud's causes the digits to turn white from lack of blood supply.

Risk factor (stressor)—a characteristic of the work environment that research has shown to be associated with an elevated occurrence or severity of MSDs. Risk factors can involve purely external exposures, such as shock or percussion, that act on the musculoskeletal system. They can also involve intrinsic response to a load or task, such as lifting or rapid and awkward movement. The effect of a risk factor may be modified by personal characteristics, such as anthropometry and physical conditioning, or by concurrent or previous non-work exposure. Risk factors can also involve work organizational or social factors.

The Heath Effects Section uses the terms "stressor" and "risk factor" interchangeably.

Root mean square (RMS)—the square root of the arithmetic mean of the squares of a series of numbers.

Sarcomere—the basic skeletal muscle cell.

Skeletal muscle—striated muscle constituting the major muscle groups in the body that are responsible for voluntary and reflex movement of body segments.

Subchrondral bone—bone located beneath the cartilaginous lining of a joint.

Synoviocytes—the matrix cells of the synovial membrane.

Synovium—a lubricating tissue located at the sheaths of joints, in bursae and as the innermost layer of joint capsules. High-usage tendons, such as the finger flexor and extensor tendons, are also surrounded by lubricating synovial tissue.

TFCC—the triangulate fibro-cartilage complex, a structure of cartilage and tendons that holds the ulna (forearm bone) to the bones of the wrist.

Transmural pressure—pressures resulting from increased volume or force in an anatomic structure that is no longer expandable (such as a blood vessel, or a muscle encircled by surrounding tissues).

Transverse—operating across different planes.

Ulnar nerve—an important bundle of sensory and motor nerve fibers to the arm, particularly to the hand. Its sensory fibers innervate the fifth and part of the fourth fingers.

Uniaxial—operating in a single plain along a single axis.

Vaso-occlusion—blocking of an artery by a fixed obstruction, often caused by clot or degenerative disease.

Vasospastic—referring to reversible arterial occlusion caused by sympathetically mediated constriction of arteries.

Vibration—oscillation or periodic motion of a rigid or elastic body from equilibrium.

Vibrotactile threshold—different classes of mechanoreceptors are sensitive to specific frequencies of vibration. The vibration amplitude at which conscious perception occurs is the vibrotactile threshold.

Vibrotactile thresholds—different classes of mechanoreceptors are sensitive to specific frequencies of vibration. The acceleration amplitude at which the vibration is consciously perceived is the vibrotactile threshold.

Viscous strain—refers to the biological incapacity of a tissue to retain its fluidity due to extremely rapid deformation. Viscous strain is usually distinguished from elastic strain, the mechanical incapacity of a tissue to regain its resting position.

Weighted curves—the progressive filtering or downweighting of accelerations, due to presumed reduction in physiological effect, as they exceed 16 Hz.

Work-related disease—a disease caused by or exacerbated by stressors encountered during work. More precisely, the World Health Organization (1985) defines disease as work-related if work procedures, equipment, or environment contribute significantly to its causation.

Z-lines—microscopically observed divisions in functioning muscle cells.

2. List of Acronyms

A

ADP: adenosine diphosphate
ALL: anterior longitudinal ligament
ANSI: American National Standards Institute
APL: abductor pollicis longus
ATP: adenosine triphosphate
ASC: total ascorbate
ASOII: Annual Survey of Occupational Injuries and Illnesses

B

BMI: body mass index

C

CAT: computerized axial tomography
CCR: cervico-collic reflex
CL: Chinese line
CMC: carpal-metacarpal
CNS: central nervous system
COS: Clearwater Osteoarthritis Study
CT: computed tomography
CTD: cumulative trauma disorder
CTP: carpal tunnel pressure
CTS: carpal tunnel syndrome

D

DIP: distal interphalangeal
DPC: desktop PC

E

ECRB: extensor carpi radialis brevis (see glossary entry)
ECRL: extensor carpi radialis longis
ECU: extensor carpi ulnaris
EDC: extensor digitorum communis
EGM: electrogram
EGPT. erythrocyte glutamic pyruvic transaminase
EMG: electromyography
EPB: extensor pollicis brevis

F

Fc: compression forces
FCR: flexor carpi radialis
FCU: flexor carpi ulnaris
FDP: flexor digitorum profundus
FDS: flexor digitorum superficialis
FPL: flexor pollicis longus
FTE: full-time equivalent

G

GAG: glycosaminoglycan

H

HANES: Health and Nutrition Examination Survey
HANES I: First National Health and Nutrition Examination Survey
HAVS: hand-arm vibration syndrome
Hz: Hertz

I

IP: interphalangeal
ISO: International Standards Organization

J

JSI: job severity index

K

kPa: kilopascal

L

LMM: Lumbar Motion Monitor

M

MAF: maximum acceptable frequency or maximum acceptable force
MAT: maximum acceptable torque
MAW: maximum acceptable weight
METS: metabolic equivalents
MP: metacarpophalangeal
MPF: mean power frequency
MR: magnetic resonance
MRI: magnetic resonance imaging
MSD: musculoskeletal disorder
MVC: maximum voluntary contraction
MVIS: maximum voluntary isometric strength
MVPS: maximum voluntary pinch strength

N

N: Newtons
Nm: Newton meters
Nm/s: Newton meters/second
NAS: National Academy of Sciences
NCHS: National Center for Health Statistics
NHIS–OHS: National Health Interview Survey
NIOSH: National Institute for Occupational Safety and Health
NPC: notebook PC
n.s.: not significant

O

OCD: occupational cervicobrachial disorder
OR: odds ratio

P

PCID: prolapsed cervical intervertebral disc
PDTS: predetermined time systems
PE: physical examination
PEL: perceived exposure limit
PHD: peak handle displacement

PHV: peak handle velocity
PINS: posterior interosseous nerve syndrome
PIP: proximal interphalangeal
PLL: posterior longitudinal ligament
PLP: pyridoxal 5'-phosphate
PPT: pressure pain thresholds
PRR: prevalence rate ratio

Q

QCT: quantitative computed tomography

R

RMS: root mean square (see glossary entry)
ROM: range of motion
RPE: range of perceived exertion
RPM: revolutions per minute
RR: relative risk
RSD: reflex sympathetic dystrophy
RSI: repetitive strain injury

S

SCTL: spinal compression tolerance limits
SHR: Standardized Hospitalization Ratio
SL: Swedish line
SMPS: sympathetically maintained pain syndrome

T

TCL: transverse carpal ligament
TFCC: triangulate fibro-cartilage complex (see glossary entry)
TLV: threshold limit value
TOS: thoracic outlet syndrome
TTS: tarsal tunnel syndrome

V

VAS: visual analog scale
VDT: video display terminal
VWF: vibration-induced white finger

W

WMSD: work-related musculoskeletal disorder
wpm: words per minute
WRMSD: work-related musculoskeletal disorder

VI. Preliminary Risk Assessment

A. Introduction

The United States Supreme Court, in the Benzene decision (*Industrial Union Department, AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607 (1980)), has ruled that the OSH Act requires, prior to the issuance of a new standard, that a determination be made that there exists a significant risk of health impairment and that issuance of a new standard will substantially reduce that risk. The Court stated that "before he can promulgate any permanent health or safety standard, the Secretary is required to make a threshold finding that a place of employment is unsafe in the sense that significant risks are present and can be eliminated or lessened by a change in practices" (448 U.S. 642). The Court also stated that "the Act does limit the Secretary's power to require the elimination of significant risks' (448 U.S. 644).

Although the Court rejected the use of cost-benefit analysis in setting OSHA standards in the Cotton Dust case (*American Textile Manufacturers Institute* v. *Donovan,* 452 U.S. 490 (1981)), it reaffirmed the position it had previously taken in the Benzene decision that a risk assessment is not only appropriate but required to identify significant health risks in workers and to determine if a new standard will reduce those risks. Although the Court did not require OSHA to perform a quantitative risk assessment in every case, the Court implied, and OSHA as a matter of policy agrees, that assessments should be put into quantitative terms to the extent possible.

The weight of evidence presented in the Health Effects section of this preamble indicates a causal relationship between exposure to workplace risk factors and work-related musculoskeletal disorders. As discussed in that section, the major workplace risk factors include exposure to repetitive motions, forceful exertions, vibration, contact stress, awkward or static postures, and cold temperatures. The Health Effects section also demonstrates that the risk associated with occupational exposure to these risk factors increases with frequent or prolonged exposure.

OSHA believes there is ample evidence that exposure to physical stresses at work can cause or contribute to the development of MSDs and that reductions in these stresses can reduce the number and severity of these work-related MSDs. The underlying evidence falls into three broad categories:

—Studies of groups of workers showing a relationship between exposure to risk factors in the workplace and an increased incidence or prevalence of MSDs;
—Biomechanical studies that show that adverse tissue reactions and damage can occur when tissues are subjected to high forces and/or a high number of repetitive movements; and
—Case studies that demonstrate that workplace interventions designed to reduce exposures to risk factors are effective in reducing the incidence and severity of MSDs.

There are hundreds of studies of the incidence or prevalence of MSDs in groups of workers who are exposed to risk factors in their jobs. In most of these studies, the MSD prevalence of a group of exposed workers is compared to that in another worker group that is not exposed to the risk factors of interest. If the exposed group shows a higher MSD prevalence than does the reference group, the study provides evidence of an association between exposure and an increased risk of developing MSDs, particularly if the study is of good quality and adequately controlled for potentially confounding factors (such as age and gender) and biases.

These epidemiological studies were recently reviewed by the National Institute for Occupational Safety and Health (NIOSH) to evaluate the strength of the evidence for a causal relationship between several types of MSDs and workplace risk factors. More than 600 peer-reviewed studies were critically reviewed, making this one of the largest human data bases ever built to examine work-related adverse health outcomes. NIOSH found that for most combinations of MSDs and risk factors, the evidence in humans that a causal relationship existed between workplace exposure to risk factors and the development of MSDs was either "sufficient" or "strong." For a few MSD/risk factor combinations, there was insufficient evidence of a causal relationship, but in no case did NIOSH determine that there was evidence for the absence of a relationship between exposure to workplace risk factors and the development of MSDs. NIOSH concluded that "* * * a substantial body of credible epidemiologic research provides strong evidence of an association between MSDs and certain work-related physical factors when there are high levels of exposure and especially in combination with exposure to more than one physical factor * * *". (NIOSH 1997, ES p. xiv, Ex. 26–1).

A similar conclusion was reached by the experts participating in a workshop conducted by the National Academy of Sciences/National Research Council (NRC) (Ex. 26–37. For the NRC report, a panel of experts critically reviewed the methods used to select and evaluate the human studies relied on in the 1997 NIOSH study (Ex. 26–1). The 1998 NRC report concluded as follows:

"[the association between MSDs and exposure to risk factors at work that have been] identified by the NIOSH review * * * as having strong evidence are well supported by competent research on heavily exposed populations."

"There is a higher incidence of reported pain, injury, loss of work, and disability among individuals who are employed in occupations where there is a high level of exposure to physical loading than for those employed in occupations with lower levels of exposure." (Ex. 26–37)

That exposure to workplace risk factors can cause or contribute to MSDs is made more plausible by the growing body of studies of biomechanical effects, which are designed to explore how tissues react to mechanical stress and how those reactions are related to disease processes. Although all soft musculoskeletal tissue can tolerate certain physical loads, these tissues will respond adversely if the load becomes excessive. Muscles, ligaments, tendons, and tendon sheaths can become inflamed with repetitive or prolonged loading, cartilage can deteriorate when subjected to abnormal loads, and nerves can exhibit dysfunction and eventually permanent damage if compressed or subjected to extended tension. Other studies have shown that the kinds of risk factors present in many industrial occupations can impose internal forces on soft musculoskeletal tissue sufficient to cause the kinds of physiologic responses described above. The relationships between external and internal loads have been demonstrated using both biomechanical models and direct measurement and observation in the workplace.

Finally, evidence of the work-relatedness of MSDs comes from several studies and case reports that document the effectiveness of ergonomic interventions in reducing exposures to risk factors and the successes of individual companies' ergonomics programs in reducing the incidence or prevalence of MSDs and the severity of MSDs among their workers. After reviewing intervention studies, including both field and laboratory studies, the NRC (1998, Ex. 26–37) concluded that "* * * specific interventions can reduce the reported rate of musculoskeletal disorders for workers who perform high-risk tasks. No known single intervention is universally effective. Successful interventions require attention to individual, organizational, and job characteristics, tailoring the corrective action to those characteristics."

In addition to biomechanical risk factors present at work, the risk of developing an MSD is also influenced by individual, organizational, and social factors. Factors that affect individual susceptibility include age, general conditioning, and pre-existing medical conditions. Although some of these individual factors have been identified in human studies as being statistically significant predictors of disease, they are generally much weaker predictors than are biomechanical factors (NRC 1998, Ex. 26–37) of force, repetition, posture, and vibration. Organizational factors that have been linked to MSDs include poor job content (*e.g.*, lack of job variety) and job demands (*e.g.*, excessive or highly variable workload and time pressure). The importance of poor job content is difficult to evaluate since this factor can coexist with biomechanical factors (for example, excessive workload can result in a worker needing to increase repetitive movement and/or force). Social factors refer to a lack of social support from management and supervisors, which can lead to psychological stress and dissatisfaction with work, both associated with an increased prevalence of MSDs. However, according to the NRC review (1998, Ex. 26–37), neither organizational nor social factors have proven to be strong predictors of these disorders. Thus, although individual, organizational, and social factors may have some relationship to the observed increases in the incidence of MSDs among workers exposed to risk factors, their contribution does not compare with the contribution of work-related physical risk factors to increased risk.

OSHA believes that the human epidemiologic studies, the biomechanical and physiological studies, and the studies of the effectiveness of workplace ergonomic interventions together constitute a compelling body of evidence that demonstrates that exposure to risk factors at work is a major factor in the development of MSDs, and that reducing or eliminating exposures to these risk factors will reduce the number and severity of these MSDs.

Although the epidemiological data base that describes the associations between exposure to workplace risk factors and increased prevalences or incidences of MSDs is vast, the nature of the available data have not permitted OSHA to construct generalized quantitative exposure-response relationships, as is usually done to assess occupational risks from chemical exposures. There are many reasons for this, in particular the complex interactions among different kinds of exposures that lead to tissue injury and disorders and the difficulty of defining exposure metrics that apply across a wide range of industries and operations. This is not to say that exposure-response relationships have not been observed or cannot be defined in specific circumstances; in fact, there are many cases in which the risk of MSDs has been quantitatively related to the degree and intensity of exposure. In the Health Effects section of this preamble, OSHA describes several scientific studies that demonstrate a positive association between the magnitude and/or duration of exposure to workplace risk factors and the prevalence of MSDs, including upper extremity disorders and back injuries. OSHA believes that these studies provide compelling evidence of the work-relatedness of MSDs since a finding of positive exposure-response trends is one of the key findings necessary to establish a causal relationship between exposure and disease. The lack of generalized quantitative exposure-response relationships for work-related MSDs, however, does not limit the Agency's ability to quantify risk. Using data on the incidence of work-related MSDs, risk can be quantified using a population-based approach similar to the one used by OSHA to quantify the risk of Hepatitis B among workers with frequent occupational exposure to blood and other potentially infectious material (56 FR 64004). For the proposed ergonomics program rule, OSHA uses a similar approach in its preliminary risk assessment. In this assessment, OSHA relies on data from the Bureau of Labor Statistics (BLS) to estimate the annual incidence of work-related MSDs in different industry sectors and occupations, by type of injury and type of exposure. A description of these data and OSHA's analytical approach are described in section B below, and the results of this analysis appear in section C. Information on the effectiveness of ergonomics programs is important to evaluate the extent to which the standard as proposed is likely to reduce significant risk in the covered worker population. This information comes from a variety of published studies and unpublished data that describe the degree to which ergonomics programs have reduced injury rates and decreased the numbers of lost workdays caused by MSDs. OSHA's discussion of these data appears in section D below.

B. Data Sources and Analytical Approach

The annual Survey of Occupational Injuries and Illnesses conducted by the Bureau of Labor Statistics (BLS) is the principal data source for evaluating the risks to employees of developing a work-related musculoskeletal disorder. This

survey is a Federal/State program that collects workplace injury and illness data from about 165,000 private industry establishments. The survey requests information only on non-fatal injuries and illnesses, and excludes the self-employed, farms with fewer than 11 employees, private households, and employees in Federal, State, and local government agencies.

For this survey, selected employers are required to provide statistics on the total number of injuries and illnesses recorded on the OSHA Form 200, as well as information describing the nature and causes of their lost workday injuries and illnesses. Thus, according to BLS, the data provided by employers "* * * reflect not only the year's injury and illness experience, but also the employer's understanding of which cases are work-related under current recordkeeping guidelines of the U.S. Department of Labor." Information is provided in sufficient detail to permit BLS to systematically code each reported case and develop estimates of the numbers and incidence of each specific type of LWD injury and illness for the United States as a whole, by industry sector and by occupation.

Although the BLS data are the best available data on the number and kinds of job-related injuries and illnesses occurring among U.S. workers in any given year, they are not easy to use for risk assessment purposes. In other words, there is no single BLS-reported number that represents all employer-reported musculoskeletal injuries and illnesses occurring in that year. Instead, employer-reported injuries and illnesses are coded by BLS according to a classification system that categorizes each incident by type of injury or illness and by nature of the exposure event leading to the injury or illness (BLS 1992, Ex. 26–1372). The types of disorders that are addressed by the proposed standard fall into several of these BLS injury and illness categories.

To use these data, OSHA identified the kinds of cause-specific injuries and illnesses, as coded by BLS, that are believed to reflect MSDs of the kinds that will be covered by the proposed ergonomics program standard. An OSHA panel, which included an occupational physician and two professional ergonomists, examined the BLS listing of occupational injury and exposure event codes and their definitions from the manual provided to State personnel who code the data from the BLS employer survey. The table contained in Appendix VI–A to this Preliminary Risk Assessment provides the list of injury categories that were initially selected by this panel as being likely to include at least some work-related MSDs. From this initial list, the panel selected a subset of injury categories that predominately included work-related MSDs; these categories appear in Table VI–1. Of the injury categories selected, OSHA chose to base its analysis on only six injury categories that were deemed by these experts to be most relevant and most likely to represent a large proportion of lost workday MSDs. These injury categories include:

—Sprains, Strains, and Tears;
—Back Pain, Hurt Back;
—Soreness, Hurt, except back;
—Carpal tunnel syndrome;
—Hernia; and
—Musculoskeletal and connective systems diseases and disorders.

In addition, only those injuries and illnesses attributed to overexertion, repetition, or bodily reaction (which includes only the subcategory of "bending, climbing, crawling, reaching, twisting") are included in OSHA's analysis because injuries and illnesses caused by these risk factors represent chronic exposures that have the potential to cause musculoskeletal damage (the BLS definitions for these exposure event categories appear in Table VI–2). Thus, musculoskeletal injuries and illnesses caused by acute events, such as slips, trips, falls, or being struck by objects, are excluded from the data relied on in OSHA's risk analysis.

Table VI–1.—BLS Injury Categories Consisting Predominately of Employer-Reported Musculoskeletal Disorders

BLS CODE	NATURE OF INJURY	DESCRIPTION
021	Sprains, strains, tears	This nature group classifies cases of sprains and strains of muscles, joints tendons, and ligaments. Diseases or disorders affecting the musculoskeletal system, including tendonitis and bursitis, which generally occur over time as a result of repetitive activity should be coded in Musculoskeletal system and connective tissue diseases and disorders, major group 17. Includes avulsion, hemarthrosis, rupture, strain, sprain, or tear of joint capsule, ligament, muscle, or tendon. Excludes hernia (153), lacerations of tendons in open wounds (034), torn cartilage (011).
0972 0973	Back pain, hurt back Soreness, pain, hurt, except the back	Subcategories under nature group 097, Nonspecified injuries and disorders, which includes traumatic injuries and disorders where some description of the manifestation of the trauma is provided and generally where the part of body has been identified. Subcategory 0972 includes hurt back, backache, low back pain.
1241	Carpal tunnel syndrome	Subcategory under nature group 124, Disorders of the peripheral nervous system, which includes the nerves and ganglia located outside the brain and spinal cord.

Table VI–1.—BLS Injury Categories Consisting Predominately of Employer-Reported Musculoskeletal Disorders—Continued

BLS CODE	NATURE OF INJURY	DESCRIPTION
153	Hernia	This nature group classifies hernias of the abdominal cavity. Includes: femoral (1539), esophageal (1539), hiatal (1532), inguinal (1531), paraesophageal (1539) scrotal (1531), umbilical (1539), and ventral (1533) hernias. Excludes: herniated disc (011), herniated brain (1231), and strangulations (091).
17	Musculoskeletal system and connective tissue diseases and disorders	This major group classifies disease of the musculoskeletal system and connective tissue.
170	Musculoskeletal system and connective tissue diseases and disorders, unspecified.	
171	Arthropathies and related disorders (arthritis)	This nature group classifies joint diseases and related disorders with or without association with infections. Includes: ankylosis of the joint, arthritis, arthropathy, and polyarthritis. Excludes: disorders of the spine (172), gouty arthropathy (1919), rheumatic fever with heart involvement (131).
172	Dorsopathies	This nature group classifies conditions affecting the back and spine. Includes: spondylitis and spondylosis of the spine (1729); intevertebral disc disorders, except dislocation (1723); sciatica (1721); lumbago (1722); and other nontraumatic backaches (1729). Excludes: dislocated disc (011), curvature of the spine (1741), fractured spine (012), herniated disc (011), ruptured disc (011), traumatic sprains and strains involving the back (021), and other traumatic injuries to muscles, tendons, ligaments, or joints of the back (02), and traumatic back pain or backache (0972).
173	Rheumatism, except the back	This nature group classifies disorders marked by inflammation, degeneration, or metabolic derangement of the connective tissue structure of the body, especially the joints and related structures of muscles, bursae, tendons and fibrous tissue. Generally, these codes should be used when the condition occurred over time as a result of repetitive activity. Includes: rotator cuff syndrome (1739), rupture of synovium (1739), and trigger finger (1739). Excludes: rheumatism affecting the back is included in code (172), traumatic injuries and disorders affecting the muscles, tendons, ligaments and joints (02).
174	Osteopathies, chondropathies, acquired deformities	This group is comprised of diseases of bones, diseases of cartilage, and acquired musculoskeletal deformities. Includes: osteomyelitis, periostitis and other infections involving bone; and acquired curvature of the spine.
179	Musculoskeletal system and connective tissue diseases and disorders, n.e.c.	This nature group classifies musculoskeletal system and connective tissue diseases and disorders that are not classified elsewhere.

Source: Occupational Injury and Illness Classification Manual, Bureau of Labor Statistics, December 1992 (Ex. 26–1372).

For several reasons, risk estimates based on the BLS data are likely to understate the true risk of incurring a work-related MSD posed to employees who are exposed to workplace risk factors that are associated with the development of MSDs. First, the BLS data include only those lost workday (LWD) cases that resulted in at least one day spent away from work, and thus do not capture either non-lost workday MSD cases nor MSD cases that resulted in the employee being temporarily reassigned to another job. Second, some LWD MSDs reported to the BLS by employers are likely to have been coded in BLS injury categories excluded from OSHA's with overexertion, repetition, and bodily reaction (bending, climbing, crawling, reaching, twisting). Finally, the incidence of MSDs reported by the BLS is the reported incidence of MSDs among *all* production workers in the industries surveyed; that is, the incidence for each industry sector is calculated by BLS as the number of cases reported in 1996 divided by the total number of production employees in that industry sector in 1996. Expressing the incidence in this way has the effect of diluting the estimated incidence of disorders that are actually occurring predominately among those employees who are routinely exposed to workplace risk factors that have been associated with the development of work-related MSDs. The risk to those employees who are exposed to the workplace risk factors considered relevant by OSHA is expected to be higher than the risk reflected by the BLS estimates of MSD incidence, since most of the injuries reported to the BLS will in fact have occurred among the subset of production employees whose jobs expose them to these risk factors (that is, the incidence that would be calculated among exposed employees will reflect a much smaller denominator that reflects the number of exposed employees, resulting in a higher incidence estimate). Evidence that workers exposed to workplace risk factors are at substantially higher risk than other workers in their

industry comes from the large data base of formal scientific studies of exposed worker populations and a few studies that have demonstrated a positive analysis (*e.g.*, unspecified disorders of the peripheral nerves) even though they were associated e relationship between exposure to workplace risk factors and the relative risk of developing an MSD (see the Health Effects section of this preamble). These studies show that the prevalence of MSDs among exposed employees is often 2- or 3-fold higher, and can be as much as 10 to 20 times higher, than the prevalence among workers who are not so exposed. Thus, OSHA believes that the risk to exposed employees in each industry sector is in fact several-fold higher than is reflected by the BLS estimates of injury incidence.

Table VI–2.—Description of BLS Exposure Event Categories Corresponding to Workplace Risk Factors Associated With Work-Related Musculoskeletal Disorders

BLS CODE	NATURE OF EXPOSURE EVENT	DESCRIPTION
21	Bodily reaction [a]	Codes in this major apply to injuries or illnesses resulting from a single incident of free bodily motion which imposed stress or strain upon some part of the body. Generally, codes in this major group apply to the occurrence of strains, sprains, ruptures, nerve damage or other internal injuries or illnesses resulting from the assumption of an unnatural position or from voluntary or involuntary motions induced by sudden noise, fright, or efforts to recover from slips or loss of balance (not resulting in falls). This major group includes cases involving musculoskeletal or internal injury or illness resulting from the execution of personal movements such as walking, climbing, bending, etc. when such movement in itself was the source of injury or illness. Group does not include falls.
210	Bodily reaction, unspecified.	
211	Bending, climbing, crawling, reaching, twisting.	
212	Sudden reaction when surprised, frightened, startled.	
213	Running—without other incident.	
214	Sitting.	
215	Slip, trip, loss of balance—without fall.	
216	Standing.	
217	Walking—without other incident.	
219	Bodily reaction, n.e.c.	
22	Overexertion	Overexertion applies to cases, usually non-impact, in which the injury or illness resulted from excessive physical effort directed at an outside source of injury or illness. The physical effort may involve lifting, pulling, pushing, turning, wielding, holding, carrying, or throwing the source of injury/illness. Free bodily motions that do not involve an outside source of injury or illness are classified either in major group 21, Bodily reaction, or in major group 23, Repetitive motion.
220	Overexertion, unspecified.	
221	Overexertion in lifting.	
222	Overexertion in pulling or pushing objects.	
223	Overexertion in holding, carrying, turning, or wielding objects.	
224	Overexertion in throwing objects.	
229	Overexertion, n.e.c.	
23	Repetitive motion	Repetitive motion applies when an injury or illness resulted from bodily motion which imposed stress or strain upon some part of the body due to a task's repetitive nature. Instances of carpal tunnel syndrome (CTS) from typing or any type of keyentry, including the use of calculators or nonscanning cash registers are coded 231. CTS resulting from cutting with a knife, repeated use of a power tool should be coded Repetitive use of tool (232). If an injury or illness resulted from prolonged vibration in long distance driving, the event should be coded in event group 061, Rubbed, abraded, or jarred by vehicle or mobile equipment vibration.
230	Repetitive motion, unspecified.	
231	Typing or key entry.	

Table VI–2.—Description of BLS Exposure Event Categories Corresponding to Workplace Risk Factors Associated With Work-Related Musculoskeletal Disorders—Continued

BLS CODE	NATURE OF EXPOSURE EVENT	DESCRIPTION
232	Repetitive use of tools.	
233	Repetitive placing, grasping, or moving objects, except tools.	
239	Repetitive motion, n.e.c.	

[a] The subcategory of "Bending, climbing, crawling, reaching, twisting" is the only subcategory from the Bodily Reaction category used by OSHA to define MSDs.

Source: Occupational Injury and Illness Classification Manual, Bureau of Labor Statistics, December 1992 (Ex. 26–1372).

C. Preliminary Results

OSHA has obtained summary data from the annual BLS surveys for the years 1992 through 1996. Table VI–3 provides the BLS estimates of the number of injuries and illnesses reported nationwide by employers for 1996, by nature of injury and type of workplace exposure, for all injury and exposure event categories deemed by OSHA as representing MSDs. Overall, OSHA estimates that there were a total of 647,344 lost workday MSDs that occurred in 1996, as derived from employer reports of those illnesses and injuries. These disorders represent about 34.4 percent of the 1.88 million LWD Table VI–3 injuries and illnesses reported by employers in 1996 (BLS press release 97–453, 12/17/97).

Table VI–3.—Estimates of the Number of Lost Workday Musculoskeletal Disorders (MSDs) in 1996, by Nature of Injury and Type of Workplace Exposure

NATURE OF INJURY	BLS CODE	TYPE OF WORKPLACE EXPOSURE					
		TOTAL FOR ALL EXPOSURES	OVEREXERTION	REPETITION	SUBTOTAL (O AND R)	BODILY REACTION[a]	SUBTOTAL
Total for all lost workday injuries			526,594	73,796	600,390	79,475	679,865
Musculoskeletal Disorders							
Sprains, Strains, Tears	021	819,658	424,290	12,872	437,162	66,068	503,230
Back Pain, Hurt Back	0972	52,046	28,046	861	28,907	4,646	33,553
Soreness, Hurt, except back	0973	73,542	17,984	5,811	23,795	2,896	26,691
Carpal tunnel syndrome	1241	29,937		29,809	29,809		29,809
Hernia	153	29,624	25,819	322	26,141	670	26,811
Musculoskeletal and connective system diseases and disorders	17	35,238	7,761	18,278	26,039	1,211	27,250,
Total Number of MSDs		1,040,045	503,900	67,953	571,853	75,491	647,344

[a] Data from BLS included only those injuries reported to have been associated with "Bending, climbing, crawling, reaching, twisting."

Source: BLS-reported estimates for BLS nature-of-injury codes 021, 0972, 0973, 1241, 153, and 17, and for BLS exposure events of overexertion, repetition, and bodily reaction (1996).

To determine whether the injury categories selected by OSHA's panel of experts (representing the disciplines of occupational medicine and ergonomics) were in fact predominately comprised of work-related musculoskeletal disorders, OSHA closely examined those injuries coded by BLS as "sprains, strains, and tears," by far the largest single "nature of injury" category for the purposes of this study. About 66 percent of the estimated number of MSDs reported to the BLS in 1996 were categorized by BLS coders as "sprains, strains, and tears" due to overexertion. To evaluate the extent to which the injuries in this category represent MSDs, OSHA obtained from the BLS a breakout of the estimated number of injuries, by body part and by type of overexertion event. This breakout appears in Table VI–4 and

shows that about 89 percent of these sprain, strain, and tear injuries (379,615) are comprised of injuries due to lifting/lowering, pushing/pulling, holding/carrying, or throwing, all of which are manual handling activities that can lead to work-related MSDs. For the remaining 11 percent of the BLS-coded sprain, strain, and tear injuries, the exact nature of the overexertion exposure was either not reported by the employer or did not fall into any other exposure classification under the BLS system. Of the 379,615 injuries for which the nature of the overexertion exposure was reported, the majority (88 percent) affected body parts that are consistent with the kinds of injuries addressed by the proposed standard, such as upper extremities, neck and shoulder, lower extremities, and back. Fifty-two percent of these injuries represent back injuries due to lifting or lowering. Only a small proportion (12 percent) of sprain, strain, and tear injuries reported by the BLS in 1996 affected body parts that are not relevant to MSDs; these represent 6.9 percent of all MSDs estimated for 1996. Therefore, OSHA is confident that the vast majority of BLS-coded sprain, strain, and tear injuries are appropriately included in the estimated number of MSDs for 1996, and that the judgment of the OSHA expert panel in selecting appropriate BLS injury and event categories for the risk analysis is, in fact, borne out.

Table VI–4.—Number and Percentage of All BLS-Reported Sprain, Strain, and Tear Injuries That are Work-Related Musculoskeletal Disorders (*i.e.*, Caused by Overexertion), by Body Part and Nature of Exposure, 1996

BODY PART AFFECTED	TYPE OF OVEREXERTION EXPOSURE						
	LIFTING/ LOWERING	PUSHING/ PULLING	HOLDING/ CARRYING	THROWING	UNSPECIFIED	NOT ELSEWHERE CLASSIFIED (NEC)	TOTAL EXCLUDING NEC AND UNSPECIFIED
Shoulder	20,728	8,639	6,895	395	2,277	2,177	36,657
Back	174,107	33,805	35,358	888	15,625	9,811	244,158
Neck	4,844	1,984	1,812		810	720	8,640
Arm	7,012	2,717	2,451	66	751	807	12,246
Wrist	6,567	2,608	2,787		712	866	11,962
Hand	1,417	443	403		210	87	2,263
Finger, fingernails	849	496	319		133	205	1,664
Upper extremities, nec		59					59
Upper extremities, unspecified							0
Multiple upper extremities	1,085	308	342		326	142	1,735
Legs	6,074	4,195	2,426		743	969	12,695
Ankles	829	717	320		126	460	1,866
Foot	236	382	36		65	48	654
Toes		16					16
Lower extremities, unspecified							0
Lower extremities, nec	37						37
Multiple lower extremities	218	61					279
Total all Work-Related MSDs	224,003	56,430	53,149	1,349	21,778	16,292	334,931
Total for Other Body Parts	29,698	8,030	6,843	113	3,304	2,749	44,684
Total Sprains, Strains, Tears	253,701	64,460	59,992	1,462	25,082	19,041	379,615
Percent of Injuries Representing Work-Related MSDs	88	88	89	92	87	86	88

The data summarized above have been broken out by the BLS both by industry sector and by occupation code. In addition, the BLS provided OSHA with estimates of the incidence of MSDs, as defined above by injury type and cause, for each 2-digit SIC. As explained above, the BLS-calculated incidence estimates are based on the incidence among all production employees in each industry sector, and therefore understate the true incidence of work-related MSDs occurring among workers who are exposed to workplace risk factors. Nevertheless, OSHA believes that the incidence estimates are useful for characterizing industry-specific MSD risks and for comparing the extent of the problem between industry sectors covered by the ergonomics program standard as proposed. Table VI–5 provides estimates of the number and incidence of LWD MSDs in each general industry 2-digit SIC group for which BLS provided data. Industries having the highest incidence of MSDs include the following:

—Air transportation (36.6 cases/1,000 workers);
—Local and suburban transit (14.7 cases/1,000);
—Motor freight transportation and warehousing (14.4 cases/1,000);
—Health services (13.8 cases/1,000);
—Transportation equipment (13.4 cases/1,000); and

—Food and kindred products (12.2 cases/1,000).

Table VI–5.—Estimated Number of Lost Workday MSDs IN 1996 and Annual Incidence per 1,000 Workers, by 2-Digit SIC

TWO DIGIT SIC	INDUSTRY SECTOR	ESTIMATED NUMBER OF LWD MSDs	INCIDENCE PER 1,000 WORKERS
45	Transportation by air	34,150.0	36.580
41	Local and suburban transit and interurban highway passenger transportation	4,617.3	14.671
42	Motor freight transportation and warehousing	23,800.1	14.438
80	Health services	103,478.7	13.847
37	Transportation equipment	24,524.0	13.420
20	Food and kindred products	20,540.1	12.242
24	Lumber and wood products, exc. furniture	9,228.5	12.166
34	Fabricated metal, exc. machinery & transportation equipment	17,751.1	12.121
33	Primary metals	8,940.0	12.099
30	Rubber and misc. plastics	11,982.7	12.069
25	Furniture and fixtures	5,892.1	11.741
32	Stone, clay, glass, concrete products	6,316.4	11.444
53	General merchandise stores	22,395.6	11.152
52	Building materials, hardware, garden supply, mobile home dealers	8,621.9	10.699
54	Food stores	25,268.9	10.191
44	Water transportation	1,537.1	9.959
51	Wholesale trade-nondurable goods	24,768.4	9.792
31	Leather and leather products	856.4	9.226
39	Misc. manufacturing industries	3,375.8	8.997
21	Tobacco products	322.9	8.308
70	Hotels, rooming houses, camps, other lodging	11,241.0	8.216
35	Industrial and commercial machinery & computer equipment	17,124.5	7.946
23	Apparel and other finished products made from fabric	6,379.6	7.869
83	Social services	13,755.1	7.483
50	Wholesale trade—durable goods	26,782.1	7.235
57	Home Furniture, Furnishings, And Equipment Stores	6,016.1	7.136
26	Paper and allied products	4,865.2	6.921
27	Printing, publishing, and allied industries	9,195.3	6.547
36	Electronic and other electrical, exc. computer equipment	10,782.5	6.506
76	Miscellaneous Repair Services	2,274.4	6.506
49	Electric, Gas, And Sanitary Services	5,712.1	6.478
79	Amusement And Recreation Services	5,805.4	5.857
22	Texile mill products	3,483.4	5.626
59	Miscellaneous Retail	10,043.2	4.857
65	Real Estate	5,882.8	5.113
55	Automotive dealers and gasoline service stations	10,347.3	4.847
38	Measuring, analyzing, and controlling instruments; photo, medical, optical; watches, clocks	4,036.9	4.785
75	Automotive Repair, Services, And Parking	4,347.9	4.422
48	Communications	5,708.2	4.398
72	Personal Services	3,527.2	3.865
40	Railroad Transportation	932.0	3.702
73	Business services	16,706.8	3.564
28	Chemicals and allied products	3,641.2	3.507
47	Transportation Services	1,263.1	3.262
56	Apparel And Accessory Stores	2,439.1	3.132
29	Petroleum refining and related industries	432.1	2.956
58	Eating and drinking places	14,457.5	2.830
86	Membership Organizations	1,838.5	2.745
82	Educational Services	2,926.6	2.681
87	Engineering, Accounting, Research, Management, And Related Services	5,653.6	2.114
63	Insurance Carriers	2,659.1	2.968
67	Holding And Other Investment Offices	297.6	1.579
81	Legal Services	1,264.4	1.524
60	Depository Institutions	2,487.7	1.355
61	Non-depository Credit Institutions	399.3	0.810
64	Insurance Agents, Brokers, And Service	472.2	0.733
62	Security And Commodity Brokers, Dealers, Exchanges, And Services	276.7	0.533

Source: Estimates provided by BLS for disorders classified by injury types and exposure events shown in Table VII–3.

Note: Estimates include sprain, strain, and tear injuries that are not likely to represent MSDs since data on the estimated number of these injuries were not available by SIC; these injuries represent 6.9 percent of the total number of MSDs.

Table VI–6 provides estimates of the number and incidence of LWD MSDs by occupation code for the 75 occupations having the highest estimated annual incidence of employer-reported MSDs. Because BLS does not provide incidence estimates by occupation, OSHA calculated the incidence using employment estimates from Bureau of the Census Employment and Earnings (1996). Manufacturing occupations having the highest incidence include:

- Punching and stamping machine operators (30.4 cases/1,000 workers);
- Sawing machine operators (18.9 cases/1,000);
- Furnace, kiln, and oven operators, except food (18.0 cases/1,000);
- Grinding, abrading, polishing machine operators (17.9 cases/1,000); and
- Assemblers (16.2 cases/1,000).

Among manual handling occupations, those with the highest incidence of MSDs include:

- Driver—sales workers (42.4 cases/1,000 workers);
- Machine feeders and offbearers (34.6 cases/1,000);
- Nursing aides, orderlies, and attendants (31.6 cases/1,000);
- Laborers, except construction (29.1 cases/1,000);
- Health aides, except nurses (16.9 cases/1,000);
- Licensed practical nurses (16.5 cases/1,000); and
- Hand packers and packagers (13.7 cases/1,000).

Table VI–6.—Estimated Number of Lost Workday MSDs in 1996 and Annual Incidence per 1,000 Workers, by Occupation Code, Ranked by Incidence

	OCCUPATION	ESTIMATED NUMBER OF LWD MSDs	MEDIAN NUMBER OF DAYS AWAY FROM WORK	NUMBER OF EMPLOYEES IN 1996 (000)	INCIDENCE PER 1,000 WORKERS
806	Driver-sales workers (8218)	6,614.0	7	156	42.4
878	Machine feeders and offbearers (8725)	2,420.3	10	70	34.6
463	Public transportation attendants (5257)	3,050.0	9	95	32.1
447	Nursing aides, orderlies, and attendants (5236)	58,421.6	5	1,850	31.6
706	Punching and stamping press machine operators (7314, 7317, 7514, 7517)	2,702.8	6	89	30.4
889	Laborers, except construction (8769)	38,873.3	6	1,334	29.1
866	Helpers, construction trades (8641–8645, 8648)	2,465.7	9	106	23.3
727	Sawing machine operators (7433, 7633)	1,470.4	5	78	18.9
766	Furnace, kiln, and oven operators, except food (7675)	1,171.1	7	65	18.0
709	Grinding, abrading, buffing, and polishing machine operators (7322, 7324, 7522)	2,241.8	7	125	17.9
446	Health aides, except nursing (5233)	5,683.3	4	336	16.9
207	Licensed practical nurses (366)	6,514.1	5	395	16.5
785	Assemblers (772, 774)	20,578.8	9	1,271	16.2
804	Truck drivers (8212–8214)	48,334.2	8	3,019	16.0
719	Molding and casting machine operators (7315, 7342, 7515, 7542)	1,757.8	7	110	16.0
364	Traffic, shipping, and receiving clerks (4753)	9,244.0	6	616	15.0
368	Weighers, measurers, checkers, and samplers (4756, 4757)	820.4	8	55	14.9
756	Mixing and blending machine operators (7664)	1,585.7	5	108	14.7
449	Maids and housemen (5242, 5249)	9,754.8	6	683	14.3
888	Hand packers and packagers (8761)	3,824.0	10	279	13.7
783	Welders and cutters (7332, 7532, 7714)	7,997.2	6	605	13.2
754	Packaging and filling machine operators (7462, 7662)	5,145.1	8	393	13.1
686	Butchers and meat cutters (6871)	3,120.0	8	242	12.9
206	Radiologic technicians (365)	1,732.4	3	135	12.8
757	Separating, filtering, and clarifying machine operators (7476, 7666, 7676)	725.7	8	57	12.7
877	Stock handlers and baggers (8724)	13,447.8	5	1,106	12.2
544	Millwrights (6178)	1,005.9	15	89	11.3
799	Graders and sorters, except agricultural (785)	1,883.8	8	169	11.1
529	Telephone installers and repairers (6158)	1,952.5	9	176	11.1
769	Slicing and cutting machine operators (7478, 7678)	1,972.6	5	179	11.0
365	Stock and inventory clerks (4754)	5,443.4	8	497	11.0
748	Laundering and dry cleaning machine operators (6855, 7658)	2,207.2	5	202	10.9
507	Bus, truck, and stationary engine mechanics (6112)	3,618.0	5	336	10.8
593	Insulation workers (6465)	567.1	12	54	10.5
683	Electrical and electronic equipment assemblers (6867)	3,368.2	7	325	10.4

Table VI–6.—Estimated Number of Lost Workday MSDs in 1996 and Annual Incidence per 1,000 Workers, by Occupation Code, Ranked by Incidence—Continued

	OCCUPATION	ESTIMATED NUMBER OF LWD MSDs	MEDIAN NUMBER OF DAYS AWAY FROM WORK	NUMBER OF EMPLOYEES IN 1996 (000)	INCIDENCE PER 1,000 WORKERS
444	Miscellaneous food preparation occupations (5219)	6,815.0	11	664	10.3
523	Electronic repairers, communications and industrial equipment (6151, 6153, 6155)	1,600.1	8	166	9.6
759	Painting and paint spraying machine operators (7669)	1,901.2	5	200	9.5
318	Transportation ticket and reservation agents (4644)	2,869.8	7	304	9.4
516	Heavy equipment mechanics (6117)	1,433.5	14	156	9.2
566	Carpet installers (part 6462)	923.9	12	103	9.0
885	Garage and service station related occupations (873)	1,510.0	9	169	8.9
577	Electrical power installers and repairers (6433)	1,102.3	9	126	8.7
668	Upholsterers (6853)	511.8	7	59	8.7
585	Plumbers, pipefitters, and steamfitters (part 645)	4,742.4	11	555	8.5
439	Kitchen workers, food preparation (5217)	2,063.2	6	257	8.0
573	Drywall installers (6424)	1,317.0	6	168	7.8
268	Sales workers, hardware and building supplies (4353)	1,814.6	6	254	7.1
689	Inspectors, testers, and graders (6881, 828)	925.2	7	131	7.1
856	Industrial truck and tractor equipment operators (8318)	3,580.6	7	512	7.0
865	Helpers, mechanics, and repairers (863)	801.2	5	115	7.0
453	Janitors and cleaners (5244)	15,278.0	6	2,205	6.9
95	Registered nurses (29)	13,595.2	4	1,986	6.8
344	Billing, posting, and calculating machine operators (4718)	710.1	10	104	6.8
588	Concrete and terrazzo finishers (6463)	543.1	10	80	6.8
653	Sheet metal workers (part 6824)	844.0	5	126	6.7
797	Production testers (783)	380.9	25	57	6.7
744	Textile sewing machine operators (7655)	3,971.1	9	595	6.7
637	Machinists (part 6813)	3,193.3	10	491	6.5
103	Physical therapists (3033)	766.4	5	118	6.5
356	Mail clerks, except postal service (4744)	1,198.4	6	188	6.4
796	Production inspectors, checkers, and examiners (782, 787)	3,404.2	6	538	6.3
518	Industrial machinery repairers (613)	3,407.5	8	540	6.3
738	Winding and twisting machine operators (7451, 7651)	351.3	9	56	6.3
508	Aircraft engine mechanics (6113)	835.4	8	137	6.1
734	Printing press operators (7443, 7643)	1,908.2	9	315	6.1
488	Graders and sorters, agricultural products (5625)	379.1	6	63	6.0
448	Supervisors, cleaning and building service workers (5241)	992.9	5	166	6.0
657	Cabinet makers and bench carpenters (6832)	460.8	9	79	5.8
274	Sales workers, other commodities (4345, 4347, 4354, 4356, 4359, 4362, 4369)	8,616.0	7	1,499	5.7
486	Groundskeepers and gardeners, except farm (5622)	4,981.4	5	875	5.7
505	Automobile mechanics (part 6111)	5,042.1	8	889	5.7
98	Respiratory therapists (3031)	543.7	6	96	5.7
634	Tool and die makers (part 6811)	733.7	17	132	5.6

Source: Estimates of number of work-related disorders provided by BLS for disorders classified by injury types and exposure events shown in Table VII–3. Annual Incidence calculated by OSHA based on 1996 employment data from Employment and Earnings (U.S. Bureau of Census, 1996).

Note: Estimates include sprain, strain, and tear injuries that are not likely to represent MSDs since data on the estimated number of these injuries were not available by occupation; these injuries represent 6.9 percent of the total number of MSDs.

Of the 225 occupations for which BLS provided estimates of the numbers of employer-reported MSDs and total employment, the annual incidence of MSDs was 1 LWD case or more per 1,000 workers per year for 178 (79 percent) of the occupations.

Data provided by the BLS for the years 1992 through 1996 indicate that the annual incidence of employer-reported MSDs has been steadily declining over this period for the majority of 2-digit SIC group industry sectors. These data appear in Figure VI–1. There are a few exceptions to this downward trend where the BLS data indicate that the incidence of employer-reported MSDs is on the rise. These industries include Tobacco (SIC 21) and Air Transportation (SIC 45).

The data described above reflect the annual incidence of MSDs estimated to have occurred in 1996 within general industry sectors and within occupations within this sector. Past risk assessments conducted by OSHA in other health standards rulemakings have typically estimated the lifetime risk to workers based on the assumption that they are exposed to the hazard in question for a full 45-year working lifetime. These past risk assessments dealt primarily with chronic, fatal diseases such as cancer. Unlike the impairments of health caused by many other OSHA-regulated hazards, however, MSDs are not fatal, although they are often debilitating. Moreover, a worker can experience more than one work-related MSD over a working lifetime. As a result, the lifetime risk associated with exposure to risk factors on the job can be expressed in a number of ways. One way of doing this is to define lifetime risk as the probability that a worker will experience at least one work-related musculoskeletal disorder during his or her working lifetime (45 years). This probability is calculated as $1-(p)^{45}$, where p is the probability that a worker will *not* experience a work-related MSD in any given year (*i.e.*, p is one minus the estimated MSD incidence for 1996 in the industry sector of interest).[2] For example, the estimated incidence of MSDs in 1996 for SIC 80, Health Services, is 13.847 lost workday cases per 1,000 workers. The probability that a worker in SIC 80 will not experience an MSD in any given year is calculated as 1 − .013847, or 0.9862 (almost 99 percent). Over 45 years, the probability that a worker will never experience a work-related MSD is $(.9862)^{45}$, or 0.534 (*i.e.*, 53 percent). Therefore, the probability that a worker in SIC 80 will experience at least one work-related MSD is 1–0.534, or 0.466 (*i.e.*, 466 per 1,000 workers).

BILLING CODE 4510–26–P

[2] OSHA used two simplifying assumptions when calculating the probability of experiencing no work-related MSDs in a working lifetime: (1) Employment in an industry was used as a surrogate for exposure to ergonomic hazards in that industry. (2) The probability of experiencing a work-related MSD in any given industry was treated as if it were identical for workers in that industry who had never previously experienced a work-related MSD and those who had previously experienced a work-related MSD.

VOL 64 ISS 225 NO 23 1999 UMI

Figure VI-1.
Incidence of Lost-Work-Day MSDs, by Year and 2-Digit SIC

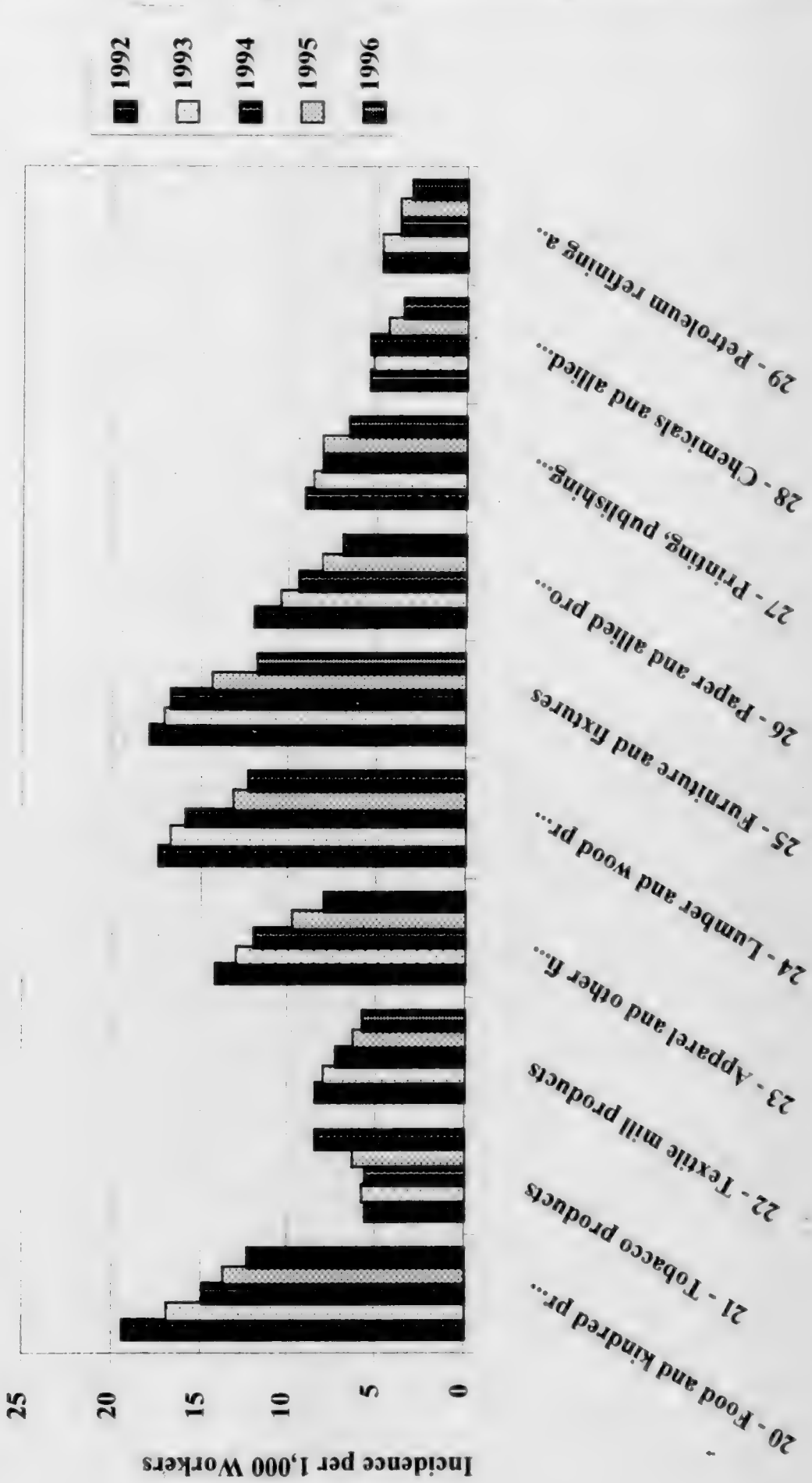

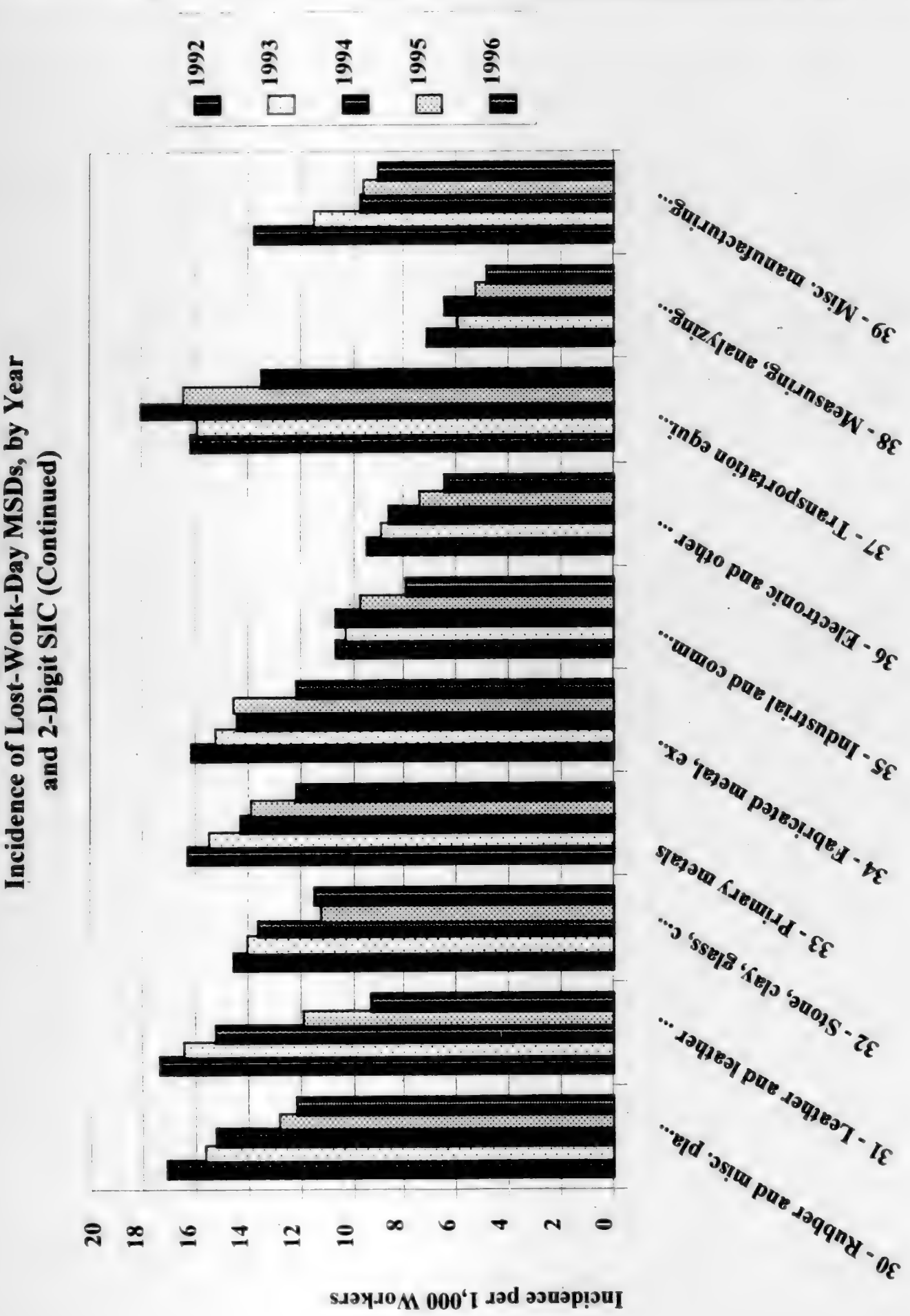

Figure VI-1.
Incidence of Lost-Work-Day MSDs, by Year and 2-Digit SIC (Continued)

Figure VI-1.
Incidence of Lost-Work-Day MSDs, by Year and 2-Digit SIC (Continued)

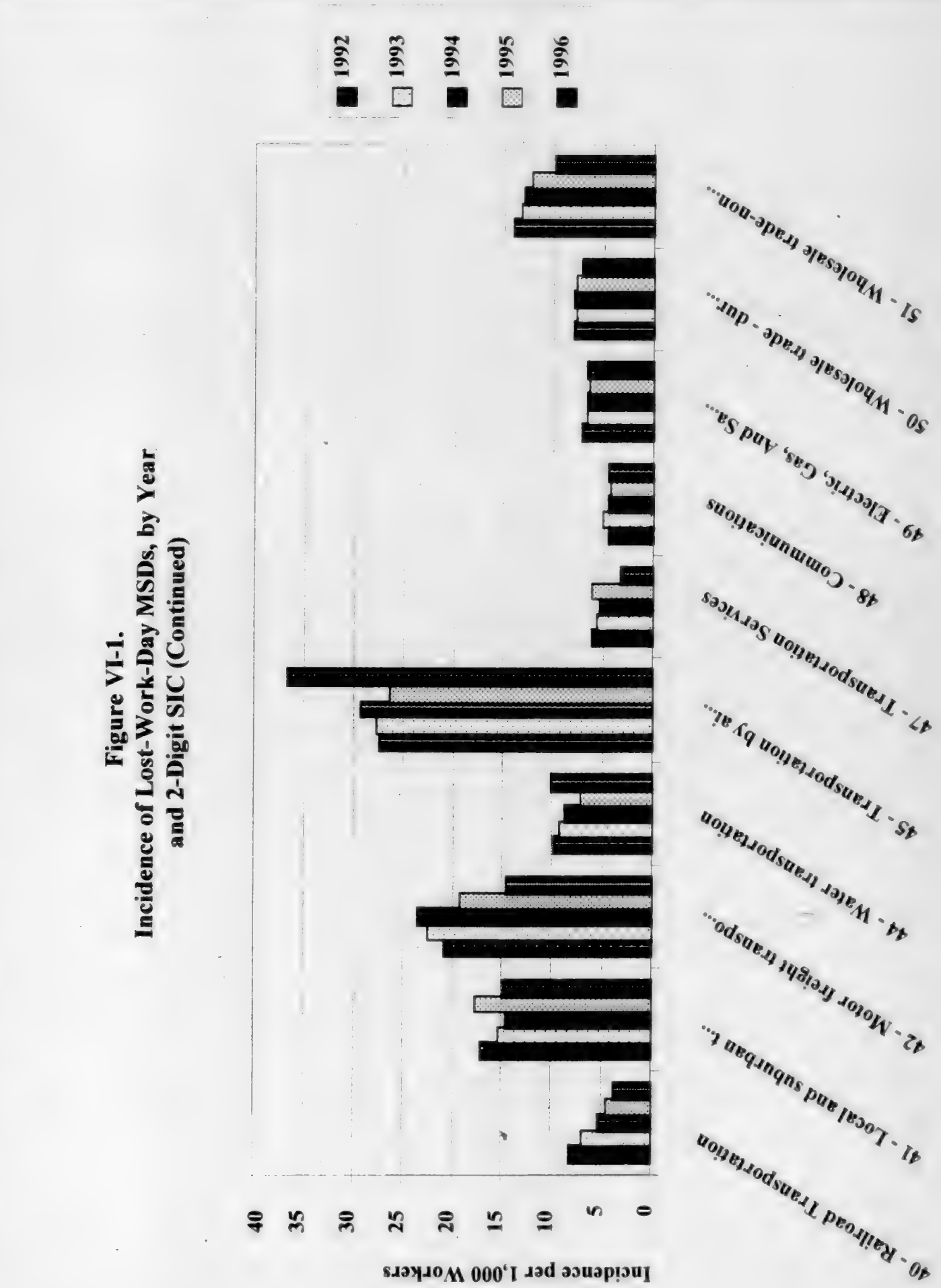

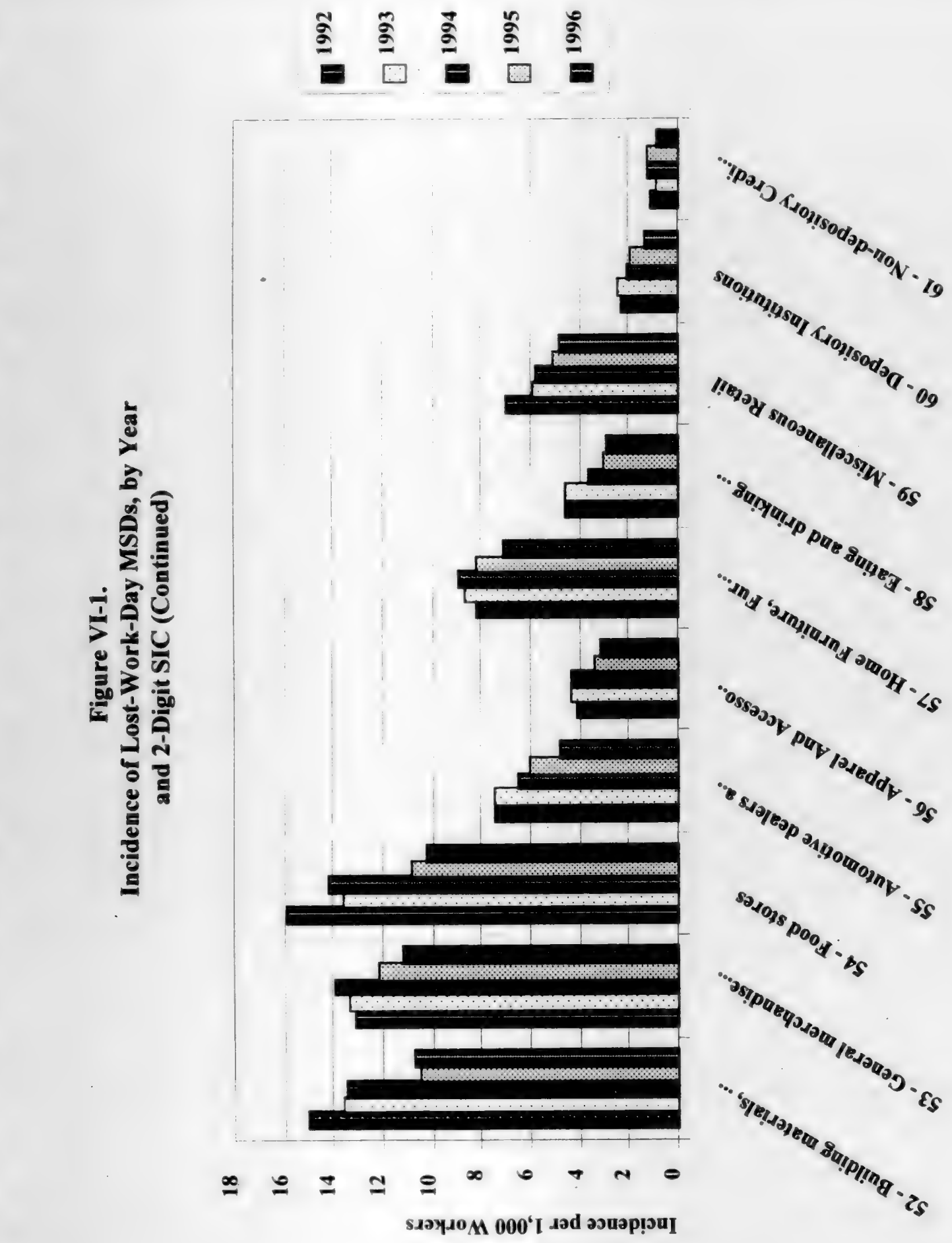

Figure VI-1.
Incidence of Lost-Work-Day MSDs, by Year and 2-Digit SIC (Continued)

Figure VI-1.
Incidence of Lost-Work-Day MSDs, by Year and 2-Digit SIC (Continued)

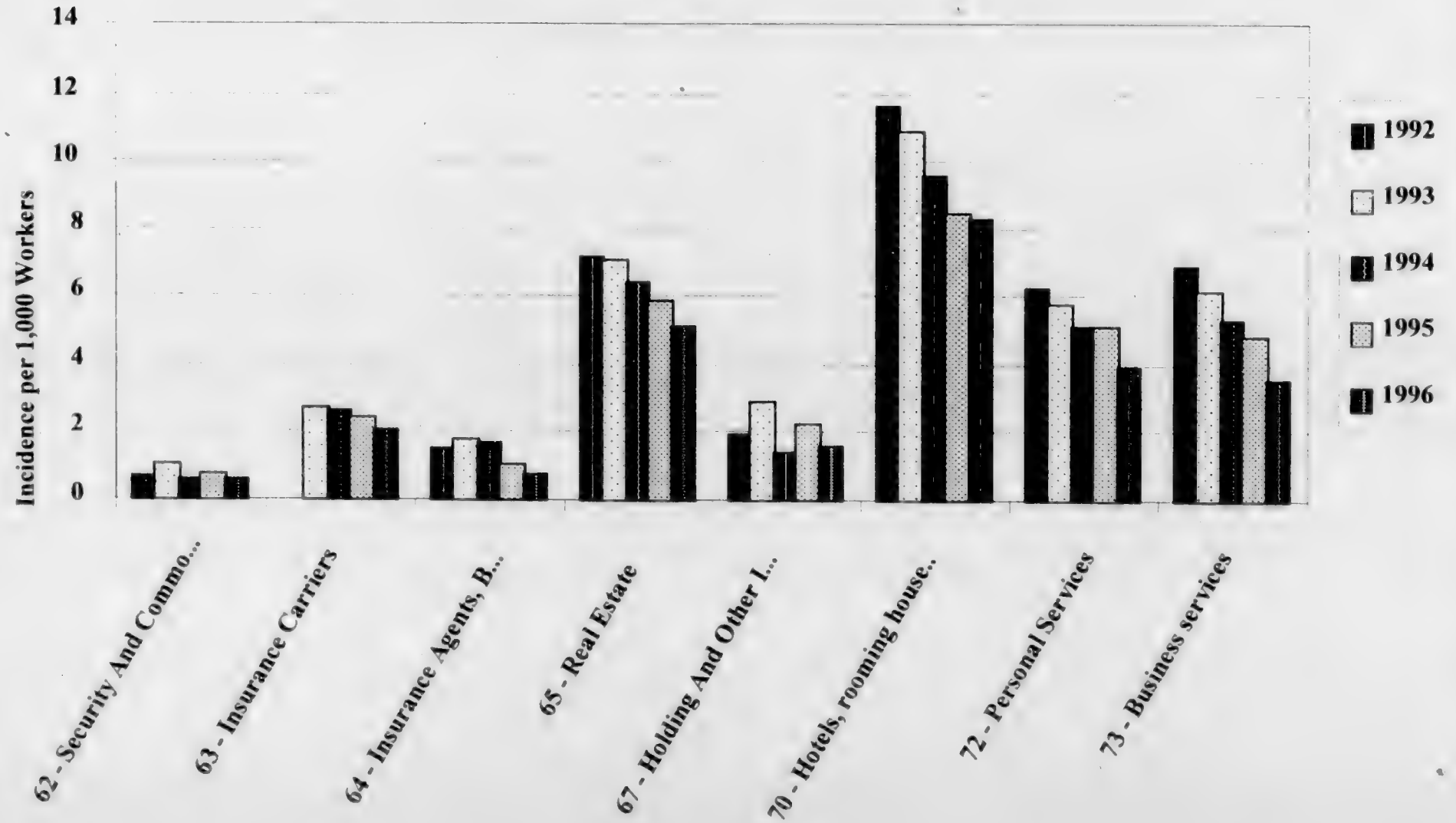

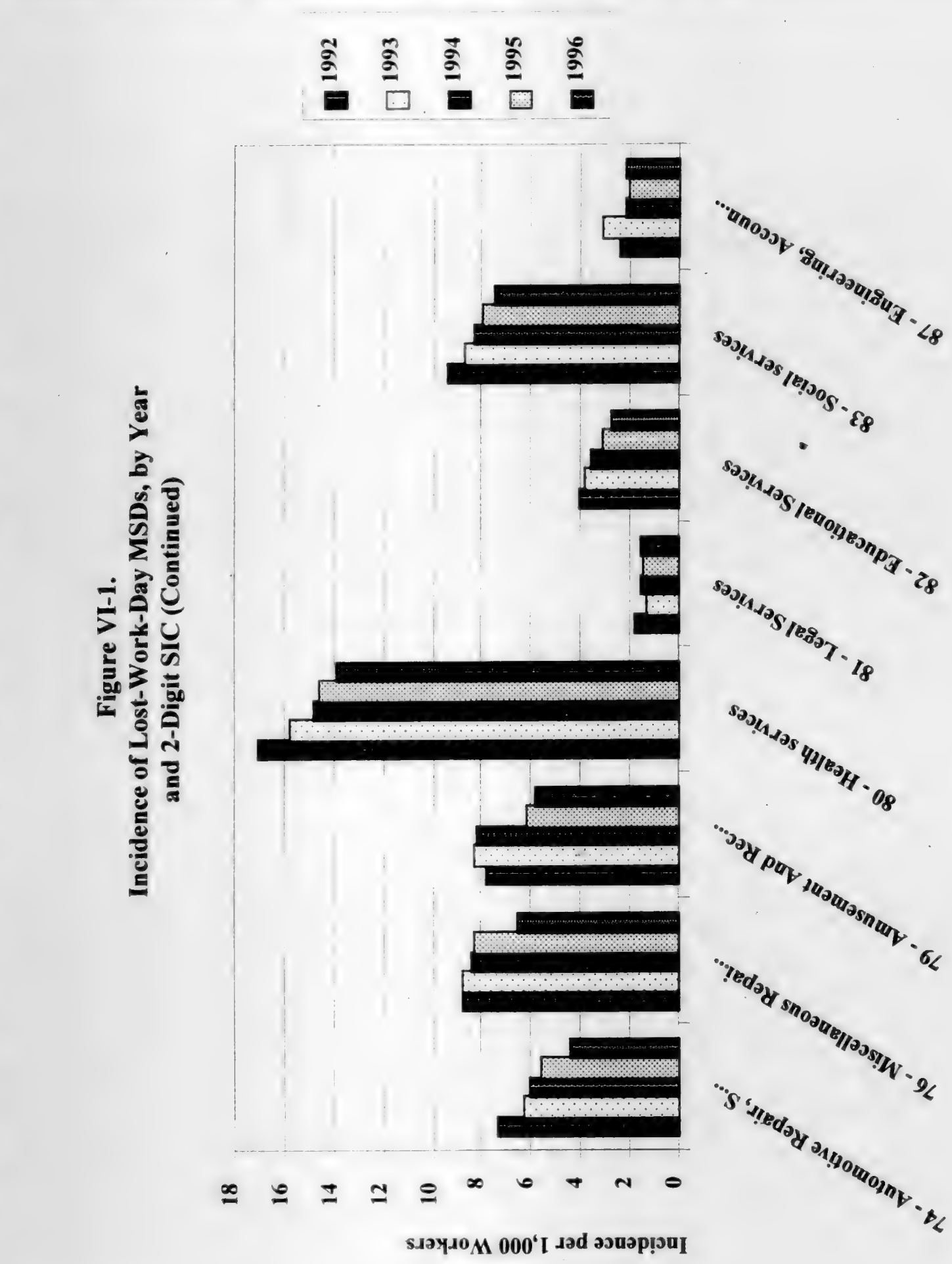

Figure VI-1.
Incidence of Lost-Work-Day MSDs, by Year and 2-Digit SIC (Continued)

BILLING CODE 4510–26–C

Alternatively, lifetime risk could be defined as the expected number of work-related MSDs an employee entering an industry will experience over a working lifetime in that industry. Unlike a probability, the expected value in such cases can exceed 1. (That is why, in the table below, one industry is identified in which an individual who works for 45 years can expect to experience, on average, more than one work-related MSD during that time.) The expected value represents the experience of the "average" individual, a measure that reflects the aggregate experience of many individuals.

Both approaches taken by OSHA to estimate lifetime risk assume that the risk to a worker is independent from one year to the next, *i.e.*, that a worker's injury experience in any one year does not modify his or her risk in any subsequent year. Although this is a reasonable assumption for the purpose of estimating an average lifetime risk, it is likely to be the case that the risk will be higher for workers who have had an MSD and continue to be exposed since musculoskeletal tissue has already been damaged. Among workers who have not experienced symptoms of an MSD, the risk to any individual worker in subsequent years depends on the amount of tissue damage sustained from exposure to risk factors and that worker's individual ability to repair or resist continued injury to the point of experiencing an MSD. In addition, OSHA's approach also assumes that each worker within a given industry sector (defined by 2-digit SIC) has the same risk. For the same reasons as discussed above, a relatively small number of workers will, in fact, experience injury rates far in excess of the average, while a comparatively large number will experience injury rates below the average. At this time, data are not available that would allow OSHA to determine the lifetime MSD risks for subpopulations of workers within each industry sector, *i.e.*, those subpopulations with higher than average or lower than average risks, respectively.

Another meaning or interpretation of expected value may be more intuitive: The expected value is the total number of MSDs that may be expected to occur in a cohort of 1000 workers all of whom enter an industry sector at the same time and all of whom work for 45 years in the industry. The expected value of the number of MSDs occurring among these 1,000 workers over 45 years of employment is calculated as the annual MSD incidence multiplied by 45. For example, the estimated incidence of work-related MSDs in 1996 for SIC 80 (Health Services) is 13.847 cases per 1,000 workers, or a frequency of 0.01387. The expected value of the number of work-related MSDs predicted to occur among those 1,000 workers over 45 years is estimated to be (0.01387*45), or 0.623 (623 per 1,000 workers).

Table VI–7 presents OSHA's estimates of the lifetime risk of experiencing work-related MSDs, by industry sector. Based on the probability approach, the estimated probability of experiencing at least one work-related MSD during a working lifetime ranges from 24 per 1,000 to 813 per 1,000, depending on the industry sector. Based on the expected value approach, the expected number of work-related MSDs that will occur in a cohort of workers all entering an industry at the same time ranges from 24 per 1,000 to 1646 per 1,000, since this approach recognizes that it is possible for a worker to experience more than one work-related MSD in a working lifetime.

D. Analysis of Ergonomic Program Effectiveness

OSHA's evaluation of the effectiveness of ergonomic programs and interventions in reducing MSD risk to employees is derived from three types of data. First, OSHA searched for and evaluated studies that investigated the effect of ergonomic interventions Table VI–7 on reducing exposures to workplace risk factors. These include both field and laboratory studies. Second, OSHA compiled a large database of published and unpublished data from case studies that describe the effect of implementing ergonomic programs on workplace MSD injury rates. Finally, OSHA uses the findings from the epidemiological studies contained in the NIOSH (1997, Ex. 26–1) review to estimate the potential effectiveness of ergonomics programs.

Table VI–7.—Estimated Risk of Developing a Work-Related MSDs Over a 45-Year Working Lifetime, by 2-Digit SIC

TWO DIGIT SIC	INDUSTRY SECTOR	ESTIMATED INCIDENCE PER 1,000 WORKERS	EXPECTED NUMBER OF MSDs PER 1,000 WORKERS DURING A WORKING LIFETIME	NUMBER OF WORKERS PER 1,000 ESTIMATED TO HAVE AT LEAST ONE MSD DURING A WORKING LIFETIME
45	Transportation by air	36.580	1,646	813
41	Local and suburban transit and interurban highway passenger transportation	14.671	660	486
42	Motor freight transportation and warehousing	14.438	650	480
80	Health services	13.847	623	466
37	Transportation equipment	13.420	604	456
20	Food and kindred products	12.242	551	426
24	Lumber and wood products, exc. furniture	12.166	547	424
34	Fabricated metal, exc. machinery & transportation equipment	12.121	545	422
33	Primary metals	12.099	544	422
30	Rubber and misc. plastics	12.069	543	421
25	Furniture and fixtures	11.741	528	412
32	Stone, clay, glass, concrete products	11.444	515	404
53	General merchandise stores	11.152	502	396
52	Building materials, hardware, garden supply, mobile home dealers	10.699	481	384
54	Food stores	10.191	459	369

Table VI–7.—Estimated Risk of Developing a Work-Related MSDs Over a 45-Year Working Lifetime, by 2-Digit SIC—Continued

TWO DIGIT SIC	INDUSTRY SECTOR	ESTIMATED INCIDENCE PER 1,000 WORKERS	EXPECTED NUMBER OF MSDs PER 1,000 WORKERS DURING A WORKING LIFETIME	NUMBER OF WORKERS PER 1,000 ESTIMATED TO HAVE AT LEAST ONE MSD DURING A WORKING LIFETIME
44	Water transportation	9.959	448	363
51	Wholesale trade—nondurable goods	9.792	441	358
31	Leather and leather products	9.226	415	341
39	Misc. manufacturing industries	8.997	405	334
21	Tobacco products	8.308	374	313
70	Hotels, rooming houses, camps, other lodging	8.216	370	310
35	Industrial and commercial machinery & computer equipment	7.946	358	302
23	Apparel and other finished products made from fabric	7.869	354	299
83	Social services	7.483	337	287
50	Wholesale trade—durable goods	7.235	326	279
57	Home Furniture, Furnishings, and Equipment Stores	7.136	321	275
26	Paper and allied products	6.921	311	268
27	Printing, publishing, and allied industries	6.547	295	256
36	Electronic and other electrical, exc. computer equipment	6.506	293	255
76	Miscellaneous Repair Services	6.506	293	255
49	Electric, Gas, and Sanitary Services	6.478	292	254
79	Amusement and Recreation Services	5.857	264	232
22	Textile mill products	5.626	253	224
59	Miscellaneous Retail	4.857	219	197
65	Real Estate	5.113	230	206
55	Automotive dealers and gasoline service stations	4.847	218	196
38	Measuring, analyzing, and controlling instruments; photo, medical, optical; watches, clocks	4.785	215	194
75	Automotive Repair, Services, and Parking	4.422	199	181
48	Communications	4.398	198	180
72	Personal Services	3.865	174	160
40	Railroad Transportation	3.702	167	154
73	Business services	3.564	160	148
28	Chemicals and allied products	3.507	158	146
47	Transportation Services	3.262	147	137
56	Apparel And Accessory Stores	3.132	141	132
29	Petroleum refining and related industries	2.956	133	125
58	Eating and drinking places	2.830	127	120
86	Membership Organizations	2.745	124	116
82	Educational Services	2.681	121	114
87	Engineering, Accounting, Research, Management, And Related Services	2.114	95	91
63	Insurance Carriers	2.068	93	89
67	Holding and Other Investment Offices	1.579	71	69
81	Legal Services	1.524	69	66
60	Depository Institutions	1.355	61	59
61	Non-depository Credit Institutions	0.810	36	36
64	Insurance Agents, Brokers, and Service	0.733	33	32
62	Security And Commodity Brokers, Dealers, Exchanges, And Services	0.533	24	24

ASource: Estimated Incidence of MSDs provided by BLS for disorders classified by injury and exposure events shown in Table VII–3. Lifetime risk estimates calculated by OSHA using methods described in the text.

Many studies were identified that provided quantitative evidence that ergonomic interventions reduce exposures to workplace risk factors. Some of these are summarized in Table VI–8 and include information on the type of study (field vs. laboratory), the nature of the job and exposure being addressed, the kind of intervention(s) examined, and the effect of those interventions on worker exposures to risk factors that could lead, if uncontrolled, to the development of work-related MSDs. These studies show that ergonomic interventions are effective in reducing exposures to workplace risk factors in a wide variety of workplace settings. Interventions represented by these studies include redesigning machines and tools, altering workstation layout or configuration, using lifting devices, and modifying

materials to aid in manual handling. These interventions were found to reduce the duration and/or intensity of worker exposures to the risk factors related to MSDs, sometimes by as much as 50 percent. After reviewing some of these same studies, a National Academy of Sciences Panel (NRC 1998, Ex. 26–37) concluded that "[r]esearch clearly demonstrates that specific interventions can reduce the reported rate of musculoskeletal disorders for workers who perform high-risk tasks. No known single intervention is universally effective. Successful interventions require attention to individual, organizational, and job characteristics, tailoring the corrective action to those characteristics."

Table VI–8.—Summary of Studies Reporting the Effectiveness of Workplace Interventions on Exposures to Risk Factors Associated With the Development of Work-Related Musculoskeletal Disorders

STUDY	INDUSTRY SECTOR	OPERATION	NATURE OF INTERVENTION	RESULTS
Steele *et al.* (1990, Ex. 26–1254)	Firearms manufacturing	Use of a mechanical test fixture to gauge parts. Work involved intensive hand and wrist motions	Modification of test fixture by using add-on features (*i.e.*, fixture itself was not modified)—change position and angle of parts rack, anchor gauge to bench, use adjustable chair and footrest, install power-grip handle	Reduced the number of damaging wrist motions by 3 to 6 fold. Reduced the number of pinch grips required per cycle. Total cycle time reduced from 5.5 to 3.75 seconds.
Hakkanen *et al.* (1997, Ex. 26–898)	Trailer assembly	Furniture assembly and fixture (female workforce). Work involved driving screws, drilling holes, and lifting	Interventions suggested by ergonomics team and workers. Changes included using modified hand tools, height-adjustable tables, work space redesign, use of hoists, and work enlargement. Workers returning from sick leave were temporarily placed on easier jobs	Driving screws and drilling After intervention, workers selected proper tool for job more frequently (*i.e.*, pistol grip tool for vertical surfaces and an inline tool for horizontal surfaces). Cumulative exposures with deviated wrists (measured in Ns) were reduced for furniture fixers and assemblers. Cumulative exposures were more evenly distributed among workers after intervention due to job enlargement. Low back loading (measured as dose in Nm*s per work cycle) reduced for 3 tasks (reduction ranged from 19–54%), eliminated for 1 task.
Knowlton and Gilbert (1983, Ex. 26–1248)	(Laboratory study)	Driving nails manually	Use of a curve-handled ripping hammer vs. a conventional claw hammer	Use of the curve-handled ripping hammer resulted in a 42-percent lower strength decrement. Ulnar deviation was 2 to 6 times greater when using the conventional hammer.

Table VI–8.—Summary of Studies Reporting the Effectiveness of Workplace Interventions on Exposures to Risk Factors Associated With the Development of Work-Related Musculoskeletal Disorders—Continued

STUDY	INDUSTRY SECTOR	OPERATION	NATURE OF INTERVENTION	RESULTS
Keyserling *et al.* (1993, Ex. 26–1247)	Automotive	Various jobs resulting in prolonged exposure to awkward postures	Administration of checklist by plant personnel after one week of training. Interventions included installing elevated racks and lift tables, and eliminating or reducing horizontal obstructions and overhead reaches	Trunk posture—Decrease in percent of cycle time spent with severe flexion while standing; increase in percent of cycle spent in neutral sitting position. Shoulder posture—Decrease in percent of cycle spent with mild or severe shoulder elevation; increase in percent of cycle time spent in neutral posture. Neck posture—Increase in percent of time spent with mild or severe neck flexion; decrease in time spent with neutral neck posture.
Drury and Wick (1984, Ex. 26–1244) and Wick (1987, Ex. 26–1058)	Shoe manufacturing	Various assembly jobs, clerical, and leather sorting (manual handling)	Install armrests and footrests, elevate and tilt equipment, use better-designed chairs, use pallet leveler to minimize bending while lifting	Reduced number of damaging wrist motions in assembly jobs by at least one-third, and frequently by more than half. Reduced disc compressive forces in clerical jobs by about 17 percent. Reduced disc compressive forces during lifting jobs by more than 50 percent.
Garg and Owen (Undated, Ex. 26–1093)	Health care	Patient transfer	Use of walking belts and mechanical hoists, modifying toilets and shower rooms, modifying patient care techniques	Reduced mean disc compressive forces by 59 percent, reduced mean hand forces by 61 percent, and reduced strength requirements for lifting tasks.
Miller *et al.* (1971, Ex. 26–1250)	Health care	Surgery	Redesign of bayonet forceps	Reduced mean time from grasp to stable hold, reduced workload on thumb and finger flexors (as measured by electromyography).
Hansen *et al.* (1998, Ex. 26–1245)	(Laboratory study)	Prolonged standing or standing/walking	Use of soft shoes and/or mats on hard floors	Standing work for a 2-hour period caused muscle fatigue (measured by electromyography), lower back discomfort, and foot edema. Foot edema was significantly reduced by the use of soft shoes on hard floors. Use of a soft mat had negligible effects. Heel impact forces while walking were reduced by almost half by the use of soft shoes compared to hard shoes. Again, the use of soft mats had little additional effect.

Table VI–8.—Summary of Studies Reporting the Effectiveness of Workplace Interventions on Exposures to Risk Factors Associated With the Development of Work-Related Musculoskeletal Disorders—Continued

STUDY	INDUSTRY SECTOR	OPERATION	NATURE OF INTERVENTION	RESULTS
Johansson *et al.* (1998, Ex. 26–1246)	Retail food stores (laboratory study)	Checkout cashier	Location of scales to the left of the cashier and conveyor vs. in front of the cashier and under the conveyor. Also evaluated standing vs. sitting	There was no effect of the two configurations on work rate. Placing the scales under the conveyor resulted in less external rotation of the left arm, a decrease in the time spent handling articles, an increase in opportunities for resting the left arm, and a reduction in head twisting. A standing position was found to be a more favorable posture for the taller cashier.
Davis *et al.* (1998, Ex. 26–1243)	Various	Palletize/ depalletize (manual handling)	Use of handles on items being manually lifted	Use of handles reduced anterior-posterior shear and compressive forces on the spine and reduced muscle activity for several groups of back muscles.
Peng (1994, Ex. 26–1251)	Heavy vehicle manufacture (laboratory study)	Use of pneumatic percussive rivet hammers and bucking bars	Design modifications of rivet hammers and bucking bars to impart recoilless and vibration dampening properties	Mean vibration levels of recoilless rivet hammers and bucking bars were about half that of conventional tools.
Radwin and Oh (1991, Ex. 26–1253)	Various (laboratory study)	Use of pneumatic hand-held power tools	Varying handle span between 4 and 7 cm. Use of extended trigger (permitting two-finger operation)	Use of a handle span between 5 and 6 cm minimized palm and finger exertion levels. A small but statistically significant reduction in palm and finger forces resulted from use of the extended trigger.
Powers *et al.* (1992, Ex. 26–1252)	Various (office work)	Keyboarding	Use of full-motion forearm supports or negative-slope keyboard support	Wrist extension was significantly less for subjects using the negative-slope keyboard support compared to a traditional keyboard (−1.2° vs. 13.0°). Use of forearm supports did not affect wrist extension compared to use of a traditional keyboard.

Table VI–8.—Summary of Studies Reporting the Effectiveness of Workplace Interventions on Exposures to Risk Factors Associated With the Development of Work-Related Musculoskeletal Disorders—Continued

STUDY	INDUSTRY SECTOR	OPERATION	NATURE OF INTERVENTION	RESULTS
Luttman and Jäger (1992, Ex. 26–1249)	Weaving mill	Handling and mounting 10-kg bobbins onto the beamer. Transferring bobbins from transfer boxes to push carts prior to mounting	Passageways between arrays in the beamer were widened to accommodate the transfer boxes and eliminate the need to first unload bobbins onto the push cart. Bobbins could then be mounted directly from the transport boxes Bobbins were packed horizontally in boxes rather than vertically to permit them to be unloaded with both hands Used transport boxes with detachable sides along with a hydraulic lift truck to eliminate the need to bend over while unpacking bobbins	Prior to interventions, electromyography showed significantly increased electrical activity reflecting muscle fatigue for the finger flexors of both hands. Intervention eliminated muscle fatigue in both hands. The intervention did not affect work rate.

Furthermore, a large body of literature provides strong evidence that implementation of ergonomic programs and interventions can substantially reduce the prevalence or incidence of work-related MSDs. Appendix VI–B of this section summarizes the published literature and other information that OSHA has identified that include measures of the effectiveness of ergonomics programs in reducing the incidence and severity of MSDs. Generally, the studies that are listed involve case studies of individual companies that instituted programs including some or all of the elements in OSHA's proposed ergonomics program studies were conducted in manufacturing establishments as well as in workplaces where jobs routinely involve manual handling. Overall, OSHA identified 92 case studies that quantified the reduction in MSD incidence following implementation of ergonomic programs and interventions; of these, 21 provided data on the reduction in lost-work-day MSDs and 80 provided data on the reduction in total MSDs, which include both lost-work-day and non-lost-work-day cases. From each of these case studies, OSHA calculated the effectiveness of the standard (*e.g.*, employee involvement and training, implementation of engineering or work practice controls). These case ergonomic interventions as the percent reduction in either lost workday or total number of MSDs prior to and after implementation of the program. That is, effectiveness was calculated as the ratio

$$(N_B - N_A)/N_B$$

where N_B represents the number or incidence of MSD cases prior to implementation of the ergonomic intervention, and N_A represents the number or incidence after the intervention.[3]

OSHA's estimate of the overall effectiveness of ergonomics programs is expressed as the median and mean reduction in MSD injury rates contained in this data set. For all MSDs (*i.e.*, lost workday and non-lost workday MSDs), these case studies reported a median 76 percent reduction in injury rates (mean effectiveness was 73 percent). The median and mean reductions for lost workday MSDs only were somewhat higher, at 82 percent and 79 percent, respectively. Although the effectiveness of individual ergonomics programs varied widely among the establishments described in these case studies, most interventions (about 90 percent of the case studies) achieved at least a 30-percent reduction in MSD injury rates, 70 percent of the case studies reduced MSD rates by half or more, and several achieved the total elimination of lost workday MSDs (see Appendix VI–B).

The effectiveness of ergonomics programs in reducing MSD injury rates is also demonstrated by a group of case studies reported by ergonomists from several countries (including the United States). These studies were compiled

[3] Note that, by this definition, the presence of background MSD cases (non-work-related cases) will decrease the apparent effectiveness of ergonomic interventions since the interventions would presumably not have any effect on the background rate of MSDs in the working population (*i.e.*, both N_B and N_A might contain background MSD cases).

into a volume entitled "Increasing Productivity and Profit through Health and Safety" (Commerce Clearing House International, Inc., Book #4703, Chicago, IL) and edited by Oxenburgh (1994, Ex. 26–1041). From these case studies, Oxenburgh concluded that engineering controls can, in general, reduce work-related musculoskeletal disorders by 70 to 90 percent (Oxenburgh 1994, Ex. 26–1041). The large number of case studies summarized by this author in his book support this effectiveness rate.

The companies reflected in the case studies may have policies protecting the reporting of or paying for all lost-time caused by job-related injuries. Companies do not consider their benefits policies noteworthy and do not discuss them in any detail when reporting on successful ergonomics interventions. There is no information on their benefits policies in these materials.

OSHA also reviewed the epidemiological literature to identify evidence of the effectiveness of ergonomic approaches. Although many articles recommend the use of engineering and administrative controls to control workplace risk factors, few articles present quantitative evidence of their effectiveness. However, several articles provide assessments of the extent to which particular types of jobs or particular types of risk factors contribute to work-related musculoskeletal disorders. Because the proposed standard will reduce or eliminate risk factors in problem jobs, these articles are relevant to an assessment of the potential effectiveness of the standard. In a recent meta-analysis, Hagberg and Wegman (1987, Ex. 26–32) reviewed the epidemiological literature and selected 21 studies in which diagnoses of neck and shoulder disorders were made from physical or laboratory examinations. Odds ratio measures from studies describing similar disorders were pooled across studies for common occupations that involved exposures to workplace risk factors, and the authors computed the overall odds ratio for each type of occupation and disorder. In addition, the authors assessed the effect of the exposure to workplace risk factors on MSD risk by computing the etiological fraction in the exposed population; this statistic describes the proportion of MSD cases among the exposed workers that is, in fact, attributable to their exposures (and thus is the fraction of MSDs that is potentially avoidable by reducing or eliminating the exposure to workplace risk factors). The etiologic fraction was computed only from those odds ratios that were statistically significantly higher than 1. Hagberg and Wegman (1987, Ex. 26–32) found the etiological fraction to range from 40 to 99 percent, depending on the specific type of upper extremity disorder. Thus, this study provides evidence that most work-related MSDs could be eliminated by implementing ergonomic interventions that serve to reduce worker exposures to risk factors.

Several other epidemiological studies described in the Health Effects section of this preamble (Liles *et al.*, 1994, Ex. 26–33; Snook *et al.*, 1978, Ex. 26–35; Silverstein *et al.*, 1987, Ex. 26–34; Holmstrom *et al.*, 1992, Ex. 26–36; Punnett *et al.*, 1991, Ex. 26–39; Punnett, 1998, Ex. 26–38) demonstrated that the magnitude of the risk of work-related MSDs is related to the intensity of exposure to workplace risk factors (*e.g.*, amount of force applied, number of repetitive motions per unit of time) and to the duration of exposure.

OSHA believes that these studies also demonstrate that reductions in intensity and/or duration of exposure to workplace risk factors will reduce the risk of work-related MSDs among employees who are so exposed. For example, Liles *et al.* (1994, Ex. 26–33) examined the relationship between a numerical measure of work-related exposure to back stress (called the Job Severity Index) and the number of OSHA-recordable back injuries reported to have occurred among workers in jobs that were rated on this numerical scale. The data from this study show that reducing the stress scores of manual handling jobs rated above 1.5 (the job severity threshold identified in this study for back injuries caused by manual handling) to an average score below 1.5 would reduce the number of back injuries by 79 percent. Another well-known quantitative study conducted by Snook, Campanelli, and Hart (1978, Ex. 26–35) found a statistically significantly higher number of back injuries than would be expected in manual handling jobs that required a level of exertion beyond the physical capabilities of more than 25 percent of the working population. Their findings suggest that back injuries could be reduced by 66.6 percent in jobs where the level of physical exertion associated with the job could be reduced sufficiently by ergonomic controls to enable 75 percent or more of the working population to perform it without overexertion.

In another example, the National Institute for Occupational Safety and Health (NIOSH) analyzed a survey of 27,804 currently employed workers and developed estimates of the relationship between the number of workers reporting one week or more of severe back pain during the previous year and the number of hours these employees were exposed to strenuous physical activity (lifting, pushing or pulling heavy objects) (Wild, 1995, Exs. 26–1104, 26–1105, 26–1106, 26–1107). The workers surveyed were between 18 and 64 years of age. Using these data, NIOSH found statistically significant positive exposure-response relationships between prevalence of back pain and number of hours per week spent performing strenuous physical activity or repeated bending, twisting, and reaching. Thus, these data show that decreasing the duration of exposure to physical exertion can decrease the risk of back pain (for a complete presentation of these results, see the Health Effects section of this preamble). For example, workers exposed to strenuous activity for fewer than 2 hours per day have a prevalence of back pain that is 65 percent less than the prevalence among workers exposed to these stresses for more than 2 hours per day.

For jobs that involve exposure to multiple risk factors, other epidemiological studies provide evidence that the risk of work-related MSDs can be reduced either by reducing or eliminating exposure to one of those risk factors, or by reducing duration of exposure to the risk factors. Silverstein *et al.* (1987, Ex. 26–34) and Armstrong *et al.* (1987, Ex. 26–48) examined the prevalence of carpal tunnel syndrome and tendinitis, respectively, among populations exposed to various combinations of risk factors, including those involving low-force-and-low-repetition, high-force-and-low-repetition, low-force-and-high-repetition, and high-force-and-high-repetition. The high-force-and-high-repetition population in this study is exposed to two or more risk factors (*i.e.*, repetition and force). Silverstein *et al.* (1987, Ex. 26–34) found that the prevalence of carpal tunnel syndrome was statistically significantly elevated among workers exposed to high repetition alone or to both risk factors together; the prevalence of carpal tunnel syndrome was elevated, but not statistically significant, among workers exposed to high force alone. Odds ratios for hand/wrist tendinitis were elevated for all three groups of exposed workers, but was statistically significant only among workers exposed to both high force and high repetition (Armstrong *et al.* 1987, Ex. 26–48). Based on these data, implementing ergonomic interventions that reduce employee exposures from two risk factors to one could be

expected to lead to a reduction in injuries of 83 percent for carpal tunnel syndrome and a between 79 and 89 percent for tendinitis. Punnett *et al.* (1998, Ex. 26–38) conducted a cross-sectional study in an automobile stamping plant and in an engine plant, and assessed exposures to workplace risk factors by using an exposure scoring procedure that reflected the intensity and duration of exposure to any of several risk factors and found a positive, statistically significant relationship between risk factor exposure score and prevalence of upper-extremity disorders. Data from her study indicate that the prevalence of employee-reported symptoms of upper extremity disorders, and the prevalence of physician-confirmed MSD cases, could be reduced by more than 50 percent if the exposure score was reduced by at least half, which could be accomplished by eliminating exposures to some risk factors or by reducing exposure durations. These data also show that about one-fourth to one-third of MSD cases could be eliminated from more modest reductions in the exposure score. Thus, the Silverstein *et al.* (1987, Ex. 26–34), Armstrong *et al.* (1987, Ex. 26–48), and Punnett *et al.* (1998, Ex. 26–38) studies show that exposures to workplace risk factors do not need to be entirely eliminated to achieve substantial reductions in MSD injury rates.

Finally, OSHA turned to the large body of scientific epidemiology studies reviewed by NIOSH (1997, Ex. 26–1), which compiled the measured excess MSD risk reported in these studies, to make an overall estimate of the effectiveness of ergonomic programs and interventions from data sources independent of the case studies described earlier in this section. The risk measures contained in the epidemiological studies include odds ratios, prevalence rate ratios, and (for a few studies) incidence ratios, and approximate the relative risk of musculoskeletal disorders in an exposed worker population compared to a referent group. These studies reported a total of 83 risk ratios for neck and/or shoulder disorders, 91 risk ratios for upper extremity disorders, and 56 risk ratios for musculoskeletal disorders of the lower back. (The NIOSH study did not review studies of lower extremity disorders.) To determine the extent to which risk could be reduced, as predicted by the risk ratios reported in these studies, OSHA calculated the median and mean values of the risk ratios from each of the studies included in the NIOSH report, by body part affected. From these values, OSHA estimated the mean and median etiological fraction for each type of disorder; this measure describes the proportion of MSD injuries among exposed workers that is attributable to their exposure and thus potentially avoidable by reducing those exposures. OSHA then estimated the effectiveness of ergonomics programs (defined the same as for the case studies described above, which recognizes that some MSDs represent background and are not work-related), assuming either that half of the work-related MSD injuries would be avoided or that all of the work-related risk would be eliminated. OSHA does not believe that the latter assumption is unreasonable since, as discussed above, epidemiological evidence indicates that it is not necessary to eliminate all exposures to workplace risk factors to achieve substantial reductions in MSD incidence. The results of OSHA's analysis appear in Table VI–9. Under the assumption that the risk attributed to exposure at work is reduced by half, the median estimated effectiveness of ergonomic programs and interventions ranges from about 28 to 43 percent (the mean effectiveness estimate ranges from about 38 to 47 percent). If all of the work-related risk were to be eliminated, the median effectiveness estimate would range from 56 to 86 percent, with a mean estimate of from 75 to 95 percent.[4] The estimates of effectiveness based on the latter assumption are similar to the estimates drawn from the intervention case studies described above, which OSHA believes corroborates the general finding from the case studies that ergonomic interventions will result in substantial declines in MSD case rates.

Table VI–9.—Estimated Effectiveness of Ergonomic Interventions Based on Risk Ratios Contained in the NIOSH (1997) Review of the Epidemiological Literature for MSDs

	BODY PART AFFECTED/DISORDER							RANGE IN MEDIAN OR MEAN EFFECTIVENESS (PERCENT)[a]
	NECK OR NECK/SHOULDER	ONLY SHOULDER	ELBOW	CARPAL TUNNEL SYNDROME	HAND/WRIST TENDINITIS	HAND/ARM VIBRATION	BACK	
Number of Studies Included	57	26	19	38	21	13	56	
Risk Ratios[b]								
Median	3.30	3.30	2.70	2.75	3.70	7.10	2.25	
Average	17.78	4.76	5.03	4.15	6.96	18.71	4.01	
Estimated Etiologic Factor[c]								
Median	0.697	0.697	0.630	0.636	0.730	0.859	0.556	
Average	0.944	0.790	0.801	0.759	0.856	0.947	0.751	

[4] Note that even if all of the work-related risk is eliminated, the effectiveness of the ergonomic interventions is still less than 100 percent because of the presence of background illnesses.

Table VI–9.—Estimated Effectiveness of Ergonomic Interventions Based on Risk Ratios Contained in the NIOSH (1997) Review of the Epidemiological Literature for MSDs—Continued

	BODY PART AFFECTED/DISORDER							RANGE IN MEDIAN OR MEAN EFFECTIVENESS (PERCENT)[a]
	NECK OR NECK/ SHOULDER	ONLY SHOULDER	ELBOW	CARPAL TUNNEL SYNDROME	HAND/ WRIST TENDINITIS	HAND/ ARM VIBRATION	BACK	
Estimated Percent Effectiveness Assuming Exposure-Related Risk Is Reduced by Half[d]								
Median	34.9	34.9	31.5	31.8	36.5	43.0	27.8	27.8–43.0
Average	47.2	39.5	40.5	37.9	42.8	47.4	37.6	37.6–47.4
Estimated Percent Effectiveness Assuming Exposure-Related Risk Is Eliminated[e]								
Median	69.7	69.7	63.0	63.6	73.0	85.9	55.6	55.6–85.9
Average	94.4	79.0	80.1	75.9	85.6	94.7	75.1	75.1–94.7

[a] Effectiveness is the estimated percent reduction in MSD incidence after implementation of ergonomic interventions.
[b] Risk ratios include odds ratios, prevalence rate ratios, and incidence ratios.
[c] Etiologic factor is the proportion of disorders among exposed workers that is attributable to their exposure at work, and is calculated as (RR–1)/RR, where RR is the median or average risk ratio derived from each group of epidemiological studies.
[d] Calculated as half of the etiologic factor, expressed as a percentage. Alternatively, using the formula to calculate effectiveness, $(N_B - N_A)/N_B$, where N_B is the fraction of cases existing before ergonomic intervention=1, and N_A is the fraction of cases remaining after intervention=[1 – (0.5*etiologic fraction)].
[e] Equals the etiologic factor expressed as a percentage. Alternatively, using the formula to calculate effectiveness, $(N_B - N_A)/N_B$, where N_B is the fraction of cases existing before ergonomic intervention=1, and N_A is the fraction of cases remaining after intervention=[1 – etiologic fraction)].
Source: Derived from NIOSH (1997).

Based on this review of an extensive body of case studies, epidemiological studies, and other articles from the trade and scientific literature, OSHA believes that it is reasonable to assume that the proposed standard will reduce work-related musculoskeletal disorders in the high risk population by at least 30 percent and by as much as 100 percent, as has been documented in a number of case studies of ergonomics programs. Overall, OSHA believes that MSD incidence will be reduced by about half or two-thirds as a result of implementing ergonomics programs.

E. Preliminary Conclusions

In this section, OSHA estimated the risk of experiencing a lost workday MSD to workers exposed to workplace conditions such as forceful lifting, pushing, or pulling; repeated bending and twisting; repetitive hand or arm motions; static and awkward postures; contact stress; and whole-body and localized vibration. The basis for these estimates is drawn from BLS data that describe the incidence of employer-reported MSDs from 1992 through 1996. For the latest year for which data are available, the estimated industry-specific annual incidence of MSDs ranges from 0.5 to 36.6 lost workday cases per 1,000 workers (by 2-digit SIC); OSHA believes that, because these figures represent the incidence across the entire production workforce in each industry sector, the true incidence among the subset of workers exposed to workplace risk factors is much higher. This is supported by the vast array of epidemiological evidence showing that the risk among exposed workers is up to 10 or 20 times higher than the risk to workers that are not so exposed. The BLS data also demonstrate a significant risk of experiencing MSDs among workers in specific occupations, with the annual incidence estimated to range between 5.6 and 42.4 lost workday cases per 1,000 workers for the 75 occupations having the highest incidence. From these data, OSHA estimated the lifetime risk to workers exposed to risk factors in the workplace, assuming exposure over a 45-year period. The estimated probability of a worker experiencing at least one lost workday MSD over 45 years ranges from 24 to 813 per 1,000 workers, depending on the industry sector.

OSHA also provided evidence that implementation of ergonomic programs and interventions are effective in reducing the risk of MSDs to exposed workers. This evidence consists of 92 case studies that document reductions in MSD injury rates that have resulted after ergonomic programs and interventions have been implemented by employers; field and laboratory studies that show ergonomic interventions are successful in reducing the magnitude of the forces imposed on the body that can damage musculoskeletal tissues; and several epidemiological studies that have shown quantitative relationships between the intensity and duration of exposure to workplace risk factors and the risk of MSDs, which provides direct evidence that reducing exposures will reduce MSD incidence. From the case studies, OSHA estimates that ergonomic programs and interventions will reduce the incidence of total MSDs (*i.e.*, both lost workday and non-lost workday) by a median value of 76 percent (mean value of 73 percent). Case studies suggest that the effectiveness of ergonomic programs and interventions will be somewhat higher in reducing lost workday MSDs, with median and mean estimates of 82 and 79 percent, respectively. These estimates are consistent with those inferred from the body of epidemiological data, which show that more than one-half of the MSDs that occur among exposed employees is attributable to exposure, and therefore potentially preventable under an ergonomics program. OSHA requests additional information and data describing the effectiveness, or lack thereof, of ergonomics programs on reducing MSD rates

Appendix VI–A.—BLS Injury Categories Likely To Include Employer-Reported Musculoskeletal Disorders

BLS CODE	NATURE OF INJURY	DESCRIPTION
00	Traumatic injuries and disorders, unspecified	This major group classifies traumatic injuries and disorders when the only information available describes the incident as traumatic. For example, employee was hurt in car accident.
01	Traumatic injuries to bones, nerves, spinal cord	This major group classifies traumatic injuries to the bones, nerves, or spinal cord which include breaking and dislocating bones and cartilage and traumatic injury to the brain, spinal cord, and nerves.
011	Dislocations	Subluxations; slipped, ruptured, or herniated disc; partial displacement; and fractured or broken cartilage.
012	Fractures	Closed fractures for which no open wound exists; open fractures for which there is an accompanying open wound; comminuted, compound, depressed, elevated, fissured, greenstick, impacted, linear, march, simple, and spiral fracture; and slipped epiphysis.
013	Traumatic injuries to spinal cord	Severed spinal cord, nonfatal severed spinal cord resulting from a gunshot wound, traumatic transient paralysis, anterior cord syndrome, lesion of spinal cord, and central cord syndrome.
014	Traumatic injuries to nerves, except the spinal cord	This nature group classifies traumatic injuries to nerves other than the spinal cord. Cranial nerves, peripheral nerve of the shoulder or pelvic girdle, and nerves of the limb are possible locations for injuries in this nature group. Diseases or disorders of the nervous system that occur over time as a result of repetitive activity, such as carpal tunnel syndrome, are classified in major group 12. Includes division of nerve, lesion in continuity, traumatic neuroma.
018	Multiple traumatic injuries to bones, nerves, spinal cord	This nature group classifies multiple injuries and disorders of equal severity within Traumatic injuries to bones, nerves, spinal cord, major group 01.
019	Traumatic injuries to bones, nerves, spinal cord, n.e.c.	
020	Traumatic injuries to muscles, tendons, ligaments, joints, etc., unspecified	Traumatic injuries that affect the muscles, tendons, ligaments or joints; exact nature of disorder not specified in employer's report.
021**	Sprains, strains, tears	This nature group classifies cases of sprains and strains of muscles, joints tendons, and ligaments. Diseases or disorders affecting the musculoskeletal system, including tendonitis and bursitis, which generally occur over time as a result of repetitive activity should be coded in Musculoskeletal system and connective tissue diseases and disorders, major group 17. Includes avulsion, hemarthrosis, rupture, strain, sprain, or tear of joint capsule, ligament, muscle, or tendon. Excludes hernia (153), lacerations of tendons in open wounds (034), torn cartilage (011).
029	Injuries to muscles, tendons, ligaments, joints, etc., n.e.c	This nature group classifies injuries to muscles, tendons, ligaments, etc. that are not classified elsewhere in this major group.
0972**	Back pain, hurt back	Subcategories under nature group 097, Nonspecified injuries and disorders, which includes traumatic injuries and disorders where some description of the manifestation of the trauma is provided and generally where the part of body has been identified. Subcategory 0972 includes hurt back, backache, low back pain.
0973**	Soreness, pain, hurt, except the back	
0978	Multiple nonspecified injuries and disorders	
0979	Nonspecified injuries and disorders, n.e.c	
099	Other traumatic injuries and disorders, n.e.c.	

VOL 64 ISS 225 NO 23 1999 UMI

Appendix VI–A.—BLS Injury Categories Likely To Include Employer-Reported Musculoskeletal Disorders—Continued

BLS CODE	NATURE OF INJURY	DESCRIPTION
1240	Disorders of the peripheral nervous system, unspecified	Subcategories under nature group 124, Disorders of the peripheral nervous system, which includes the nerves and ganglia located outside the brain and spinal cord. Subcategory 1249 includes Bell's palsy, tarsal tunnel syndrome, other mononeuritis of the extremities, nontraumatic lesion of the median, ulnar and radial nerves, muscular dystrophies.
1241**	Carpal tunnel syndrome	
1249	Other disorders of the peripheral nervous system, n.e.c.	
1371	Raynaud's syndrome or phenomenon	Subcategory under nature group 137, Diseases of arteries, arterioles, capillaries.
153**	Hernia	This nature group classifies hernias of the abdominal cavity. Includes: femoral (1539), esophageal (1539), hiatal (1532), inguinal (1531), paraesophageal (1539) scrotal (1531), umbilical (1539), and ventral (1533) hernias. Excludes: herniated disc (011), herniated brain (1231), and strangulations (091).
17**	Musculoskeletal system and connective tissue diseases and disorders	This major group classifies diseases of the musculoskeletal system and connective tissue.
170	Musculoskeletal system and connective tissue diseases and disorders, unspecified.	
171	Arthropathies and related disorders (arthritis)	This nature group classifies joint diseases and related disorders with or without association with infections. Includes: ankylosis of the joint, arthritis, arthropathy, and polyarthritis. Excludes: disorders of the spine (172), gouty arthropathy (1919), rheumatic fever with heart involvement (131).
172	Dorsopathies	This nature group classifies conditions affecting the back and spine. Includes: spondylitis and spondylosis of the spine (1729); intevertebral disc disorders, except dislocation (1723); sciatica (1721); lumbago (1722); and other nontraumatic backaches (1729). Excludes: dislocated disc (011), curvature of the spine (1741), fractured spine (012), herniated disc (011), ruptured disc (011), traumatic sprains and strains involving the back (021), and other traumatic injuries to muscles, tendons, ligaments, or joints of the back (02), and traumatic back pain or backache (0972).
173	Rheumatism, except the back	This nature group classifies disorders marked by inflammation, degeneration, or metabolic derangement of the connective tissue structure of the body, especially the joints and related structures of muscles, bursae, tendons and fibrous tissue. Generally, these codes should be used when the condition occurred over time as a result of repetitive activity. Includes: rotator cuff syndrome (1739), rupture of synovium (1739), and trigger finger (1739). Excludes: rheumatism affecting the back is included in code (172), traumatic injuries and disorders affecting the muscles, tendons, ligaments and joints (02).
174	Osteopathies, chondropathies, acquired deformities	This group is comprised of diseases of bones, diseases of cartilage, and acquired musculoskeletal deformities. Includes: osteomyelitis, periostitis and other infections involving bone; and acquired curvature of the spine.
179	Musculoskeletal system and connective tissue diseases and disorders, n.e.c.	This nature group classifies musculoskeletal system and connective tissue diseases and disorders that are not classified elsewhere.
4120	Symptoms involving nervous and musculoskeletal systems, unspecified	Subcategories under nature group 412, Symptoms involving nervous and musculoskeletal systems, which includes symptoms specific to either the nervous or musculoskeletal systems. Subcategory 4129 includes abnormality of gait, lack of coordination, tetany, and meningismus.
4128	Multiple symptoms involving nervous and musculoskeletal systems.	
4129	Symptoms involving nervous and musculoskeletal systems, n.e.c.	

Appendix VI–A.—BLS Injury Categories Likely To Include Employer-Reported Musculoskeletal Disorders—Continued

BLS CODE	NATURE OF INJURY	DESCRIPTION
414	Symptoms involving head and neck	This nature group classifies symptoms which are specific to either the head or neck. Includes: throat pain (4149), aphasia (4149), and epistaxis/nosebleed (4149).

** Categories included in OSHA's preliminary risk assessment.

Source: Occupational Injury and Illness Classification Manual, Bureau of Labor Statistics, December 1992 (Ex. 26–1272).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORKDAY MSDs	TOTAL MSDs	
Food Packing	20	Implemented full program on packing line, including job task analysis, employee involvement in identifying problems and solutions, worker training, and medical management. Job analysis resulted in 56 proposals for changes in equipment and work environment, half of which were implemented in six months.		In 1976, prior to implementing the program, there were 51 hand MSDs identified among 200 packing workers. Hand MSDs were eliminated by 1980, four years after program implementation. Other upper extremity illnesses declined by about 47% in this same time period.	Luopajarvi *et al.* (1982) (Ex. 26–1042); Luopajarvi *et al.* (Undated) (Ex. 26–1090).
Meatpacker	2011	Training efforts included awareness training of corporate and plant managers and technical training of safety and medical personnel. Ergonomic task forces were established at individual plants to identify problem jobs and implement exposure controls. Controls included use of anti-fatigue mats and manual handling assists such as conveyors and trucks. Job rotation and cross-training of rotated workers was also employed.	Not Reported.	Cumulative trauma injuries reduced from four in one month to none reported during a 6-month period.	McCasland (1992) (Ex. 26–1043).
Meatpacker-pork deboning	2011	Introduction of automated system for deboning/skinning and a pneumatic lifter to automate hanging of large sausage casings onto processing racks.	Lost time due to injury dropped from 30% of total work hours to less than 2%.	CTDs have declined from 84 cases to 9 cases over a 6-year period.	Murphy (1992) (Ex. 26–1103).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Meatpacker	2011	Implementation of an ergonomics program, including engineering controls, work hardening program, training, and medical management.	Not Reported.	CTDs decreased from 47.8 per 100 workers (1987) to 17.2/100 workers (1990) and 17.7/100 workers (1991).	OSHA Site Visit, Case Study No. 2 (26–1175).
Meat preparation	2011	Introduction of engineering controls: redesigned workstation by sloping the work surface toward the meatcutter; introduced rotary cutter and single hooks.	Not Reported.	80% reduction in musculoskeletal injuries in the first year.	Oxenburgh (1994) (Ex. 26–1041), Case 45.
Poultry processing	2015	Implementation of an ergonomics program, including redesign of processing lines, use of rubber-matted stools and platforms of varying heights to eliminate awkward reaches, worker training, and job reassignment for injured workers.	Not Reported.	Decline in upper-extremity and neck/shoulder injuries from about 32 per month to 0.	Farr (1991) (Ex. 26–1044).
Poultry processing	2015	Introduction of workstation analysis and redesign, including altering heights of products, providing workstands, and installing tank tilters to reduce manual handling. Program also included worker training and development of an integrated medical management/surveillance-analysis system.	Not Reported.	Carpal tunnel incidence rates decreased from 7.8 per 200,000 hours to between 2.4 and 3.7 per 200,000 hours. Back injury rates declined from 4.4 per 200,000 hours to 3.0 per 200,000 hours.	Stuart-Buttle (1994) (Ex. 26–1045).
Poultry processing	2015	Introduction of engineering controls: tool/handle redesign; work practice controls; administrative controls.	Not Reported.	Recordable injuries and illnesses decreased from 10–14/100 workers (1988–89) to 7/100 workers (1991).	OSHA Site Visit, Case Study No. 1 (Ex. 26–1174).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Ice cream manufacture, various jobs	2024	Performed job hazard analysis, implemented several controls including use of non-skid elevating platforms for shorter workers; modified workspace layout to permit workers to move without being hindered; replaced sharp edges of equipment with sloping angles or padding; replace hygienic thin-filmed gloves with warm, flexible gloves; modified way employees performed lifting and carrying tasks.	In 1985, before implementing the program, there were 4 compensation claims and absenteeism equalled 10% of the number of shifts worked. In 1897, there were no compensation claims and absenteeism was reduced to 4% of shifts worked.		Elie (OH&S Canada, Vol. 4, No. 7) (Ex. 26–1100).
Cattle feed processing operation	2048	Provided a forklift and a bobcat to eliminate manual lifting and relocated the feed mixer in order to install chutes and augers to permit mechanical loading of feed. Installed bulk storage containers so that additives could be gravity-fed to the mixer. Constructed a platform under the auger equal in height to the truck platform, which allowed feed bags to be filled without manual lifting. Program also included providing lifting and handling training to workers.	Not Reported.	The company eliminated manual handling injuries.	Teleki (1995) (Ex. 26–1046).
Bakery	205	Engineering controls: workstation redesign, tool modifications; improved work practices; formation of labor-management CTD committee.	Absenteeism related to carpal tunnel syndrome decreased from 731 lost work days (1987) to 8 lost work days (Jan.–Aug., 1991).	Carpal tunnel cases decreased from 34 (1987) to 13 (1990).	Robinson (1993) (Ex. 26–1102).
Packaging sugar cubes	206	Cubes were packed tightly using a hand tool that required worker to exert considerable pressure on a sharp corner edge. Company changes marketing strategy that permitted cubes to be packed loosely, avoiding use of excessive hand force.	Considerable reduction in sickness absence and workers compensation claims.	Serious strain injuries to hands was "virtually" eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 41.

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORKDAY MSDs	TOTAL MSDs	
Mattress manufacturer, material handling	2515	Introduction of hand trucks and lift systems to aid in manual handling. Job hazard analysis involving the employees in identification of problem areas and solutions to problems.	53.5% reduction in workers compensation reports in one year (1991).	Not Reported.	Bedtimes (1992) (Ex. 26–1047).
Mattress manufacturer, material handling	2515	Job hazard analysis of all job functions to resolve ergonomic problems. Modified workstations, tools, and manufacturing procedures. Modified equipment to reduce need to lift items above shoulder height or below knee level.	Lost time reduced ¼ to ⅓ in 3 years.	Not Reported.	Bedtimes (1992) (Ex. 26–1047).
Mattress manufacturer, warehousing	2515	Added conveyor, increased fork truck use, reduced stacking heights, and revised handling procedures. Production process changed to eliminate material handling and loading onto truck.	Not Reported.	Decreased injuries from 9 to 1 in one year.	Marcotte (undated) (Ex. 26–1048).
Office furniture manufacturing, various jobs	252	Introduction of a plant ergonomics program employing engineering controls, work practice controls, administrative controls, medical management, and education and training.	Restricted workdays decreased from 301/100 employees to 221/100 employees.	Decreased rate of MSDs from 21/100 employees (1989) to 19/100 employees (1991–1992).	Robinson (1993) (Ex. 26–1102).
Office furniture manufacturing, various jobs	252	Installed scissor lifts to aid in packaging file cabinets of different sizes. Small-assembly workstations were altered to eliminate twisting and bending during lifting.	Not Reported.	Back injuries have been cut by 50 percent.	LaBar (1991) (Ex. 26–1078).
Pulp and paper mill workers	2611 & 2621	Conducted training sessions covering CTD issues and hazardous postures at the workplace. Job analysis included interviews of employees. Program included strengthening exercises and fitness initiatives. The following engineering controls were implemented: • Reduced the number of wires per bale to reduce weight, • Use of padded bolt cutter handles, • Provided better lifting devices.	Not Reported.	In a six-month follow-up to the interventions, the CTD rate had been diminished to zero and there were no wrist and elbow problems.	"Avenor's fitness a warm-up to ergonomics." CTD News (1996) (Ex. 26–1050).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORKDAY MSDs	TOTAL MSDs	
Printing, glue machine operators	27	Installed partial mechanical aid for off loading of cartons.	Not Reported.	No injuries reported in 2 yrs since changes.	Shinnick (1985) (Ex. 26–1049).
Book binding operator	278	Introduced industrial load leveler (a spring loaded table) for loading/unloading pockets, binders, stitchers, and off-line mailers.	Lost workdays fell from 413 to 112.	Not Reported.	Ferris (1992) (Ex. 26–1051).
Organic chemical manufacture, manual handling	283	Analysis of injury data, observation of material handling tasks. Installed materials handling equipment, automated container-packaging and inspection equipment. Reduced weight of bags and drums. Worker training program.	Severe back injuries resulting in lost workdays were eliminated (1979–1989).	62% reduction in the incidence of total overexertion back injuries.	Ridyard (1990) (Ex. 26–1052).
Paint manufacturing, manual handling	2851	Installation of material handling equipment. Medical management of injuries.	From 1990–1993, lost time injury rate decreased by approximately 63%.	Total OSHA recordables reduced by 40% from 1990–1993.	Akzo Coatings, Inc., Louisville, KY. correspondence with OSHA (1994) (Ex. 26–1054).
Oil refinery, handling hoses and valves, manual handling	2911	Added platforms that make valve access easier, added extensions to valve stems to eliminate bending to turn valves, installed hoists over work tables to eliminate lifting and bending, purchased adjustable height carts, upgraded lighting, and conducted back injury training.	Not Reported.	Injury rates dropped by 90%.	Bone (1993) (Ex. 26–1055).
Rubber hose manufacturing	3052	A new hand tool was designed (an air gun) that is counterbalanced to reduce the amount of weight supported. This tool also has better handles.	No lost time incidents from repetitive trauma since the new tool was introduced.	Not Reported.	Oxenburgh (1994) (Ex. 26–1041), Case 7.

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORKDAY MSDs	TOTAL MSDs	
Shoe/luggage manufacturing, various jobs	31	Instituted a comprehensive ergonomics program as part of a total quality management initiative. Program included elements of worker participation, medical management, job analysis and control of exposures to risk factors, and employee education and training. Exposure controls included installation of adjustable workstations; new jig fixtures to hold work pieces at proper angles; partial automation of processes; and use of anti-skid surfaces on tools, fixtures, and handles.	Reduced lost time upper extremity and back disorders by 79%.		Rooney and Morency (1992) (Ex. 26–1056).
Shoe manufacturer, various jobs	314	Several programs implemented that included exercise and conditioning, stretching, and ergonomics awareness training. Conducted special training on ergonomics for industrial engineers and maintenance workers. Continuous flow manufacturing including group working, cross training, and job rotation was instituted. Engineering controls implemented included: • Purchase of new adjustable chairs; • Use of anti-fatigue mats for all employees whose jobs involved prolonged standing; • The cast iron base on heavy equipment was cut off and refitted with an adjustable base; • Electric or pneumatic foot pedals were used instead of non-adjustable mechanical ones; • Prepackaged shoe laces were purchased to eliminate hand-tying repetition; and • Sewing machines were tilted toward the worker to eliminate awkward posture.	Not Reported.	Repetitive motion injuries in two problem areas were reduced from 70 percent to between 25 and 30 percent of the total OSHA recordable incidents in three years.	"Red Wing Shoes' early warning system." CTD News (1995) (Ex. 26–1057).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Shoe manufacture, pneumatic press operator	314	Workstation design improvements included use of adjustable chairs and footrests, providing armrests, changing angle of the presses, providing parts bins to reduce extreme wrist flexion, and redesigning shoe ornaments so prongs were angled for easier insertion and pressing.		No injuries reported for 2 years since changes were implemented.	Wick (1987) (Ex. 26–1058).
Footwear assembly and fabrication	3149	Extensive ergonomic training program.	Lost-time injuries dropped 67% in 2 years.	Total number of CTDs dropped by 62% in 2 years.	Holland (1991) (Ex. 26–1059).
Sewing and cutting operations	3199	Introduction of ergonomics program, including medical program to detect and treat CTDs early. Workplace modifications included use of adjustable workstations, footrests, and anti-fatigue mats; installing larger handles on hot irons to improve grip; installing proximity switches on presses; adjusting glue stations to prevent awkward upper-extremity postures; and automating some processes.	Not Reported.	CTD incidence fell from 14.6% in 1990 to 11% in 1992.	Nickasch (1994) (Ex. 26–1060).
Encapsulating automotive glass windows	3229	Ergonomics program and control measures, including installation of adjustable workstations, job rotation, and anti-fatigue matting; medical management program and an employee training program.	Incidence of lost-work-day injuries declined from 8.6% to 0.2% in 2 years. Rate of lost workdays declined from 1,615/100 workers (1990) to 0.9/100 workers (1992).	Not Reported.	OSHA Site Visit, Case Study No. 12 (Ex. 26–1182).
Packagers	3231	Workplace improvements Included: Reduced all material handling to less than 50 pounds; Purchased different sizes of gloves, cuffs, and sleeves to reduce additional stress and energy expenditure; Designed a device that allows employees to roll the glass onto the line instead of lifting it;	Not Reported.	Injury incidence rate dropped from 14 per 100 workers in 1987 to 3.3 in 1996. Reduced severity and frequency of injuries.	"PPG learned to overcome ergo innocence." CTD News (1996) (Ex. 26–1061).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
		Raised the racks to knuckle height to avoid bending while lifting the windshields; and Altered the racks to allow workers to step into them and load them from back to front in order to eliminate stressful forward reaches.			
Ceramic tile manufacturing, various jobs	3253	Implementation of an ergonomics program including engineering controls (workstation redesign), job rotation, changes in work practices, and an ergonomic training program for employees.	Lost-time injury rate for repetitive motion injuries decreased from 1.6 in 1988/1989 to 0 in 1993.	Not Reported.	Stuart-Buttle (1994) (Ex. 26–1045).
Fiber-cement board manufacture, manual handling	3272	Install on-loader at from of conveyor to permit workers to load boards at their own pace. Automate process for separating boards and transferring them to the on-loader. Automate stacking of final product.	Eliminated lost-time MSDs in 2 years after improvements were made.	Not Reported.	Oxenburgh (1994) (Ex. 26–1041), Case 11.
Metal castings, unpacking operation	33	Frequent, excessive reach was required to unpack 15- to 18-pound casting from crates. Crates were modified by adding drop gates at each end of the crates and installing a scissor lift to lift crates. In addition, changes were made in the way the castings were stacked in the crates to permit the workers' arms to remain close to the body while unpacking.	Not Reported.	Eliminated back injuries associated with this operation.	Oxenburgh (1994) (Ex. 26–1041), Case 34.
Palletizing operation	33	Scissor lift tables with turntable tops were installed alongside each packing station.	Not Reported.	Five out of six back injuries were eliminated.	Benson, (1987) (Ex. 26–1062).
Aluminum manufacturer, materials handling	3350	Establishment of an ergonomics program, including of introduction lift tables, cranes, and mechanical assists in overhead lifting, rearrangement of work to allow use of cranes in lifting.	Not Reported.	Reduced overexertion injuries of the back by 40% to 60%.	Mandelker (1993) (Ex. 26–1063).
De-burring and finishing cast metal parts	34	Parts were held still by hand during finishing operations. Work bench was replaced by a potter's wheel to hold the part and rotate it as necessary. Finishing tools were redesigned.	Not Reported.	Upper-extremity disorders were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 43.

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORKDAY MSDs	TOTAL MSDs	
Welding	34	Manual welding of a 5-meter weld required welder to work in a prolonged static posture. This process was replaced by a semi-automatic powder welding process, permitting welder to work from a standing position.	Not Reported.	All knee, neck, and shoulder injuries from this operation have been eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 33.
Materials handling, hardware manufacture	3411	Use of adjustable lift tables/transporters completely eliminated manual lifting from the job.	Not Reported.	Back injuries reduced by 90%.	"Put ergonomics to practical use." Material Handling Engineering (1988) (Ex. 26–1064).
Packager	3452	Packaging area was redesigned; raised the level at which boxes are lifted, installed semi-automatic sealing machines and adjustable chairs, and eliminated loading of pallets; training introduced.	Nearly a five-fold decrease in musculoskeletal injuries based on days lost. (equivalent to 5% of the department's total wage costs).	Not Reported.	Oxenburgh (1994) (Ex. 26–1041), Case 10.
Manufacturing automotive cables	3496	Introduction of ergonomics program utilizing engineering controls, work practice training, and medical management.	Lost workday cases decreased from 48 (1991) to 27 (1993). Number of lost workdays decreased from 1,287 days (1991) to 275 days (1993).	Decreased illnesses from 47 (1991) to 17 (1993).	OSHA Site Visit, Case Study No. 11 (Ex. 26–1181).
Steel furniture manufacturing, various jobs	3499	Employee involvement in identifying hazards and developing interventions. Engineering approaches included the following: • An enclosed shotblaster machine has been used to automate polishing of the steel. • An automatic washing system has been provided. • Lighting placement and brightness have been improved to reduce the awkward posture required to inspect and brush the products. • Many of the jigs were improved to be adjustable.	Lost days from carpal tunnel syndrome, back strain and other CTDs dropped to zero in 1996, down from 176 lost workdays in 1991.	Not Reported.	"Charleston Forge welds homemade approach." CTD News (1996) (Ex. 26–1065).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
		• And other engineering controls.			
Farm equipment manufacture, assembly and materials handling	3523	Initiated an eight-hour engineer ergonomics training program. Appointed ergonomics coordinators in all U.S. and Canadian factories, foundries and distribution centers chosen from the industrial engineering and safety departments. Conducted training through attending professional courses and conferences, memberships in professional organizations, subscriptions to ergonomics publications and tracking the latest ergonomics research. Conducted ergonomic review of new office furniture purchases. Conducted VDT ergonomics awareness training for video display operators. Engineering Controls included: • Limiting manual lifting to 40 pounds or less; • Redesigning the assembling operations so that assemblers worked in an upright position; • Altered hand tools for better fit; and • Installed hoists and lift tables.	83 percent reduction of back injuries that resulted in lost time.	Not Reported.	"An ergo process that runs like a Deere." CTD News (1995) (Ex. 26–1101).
Welding, vehicle manufacture	3531	Ergonomic training program implemented, seat height adjustments installed, and work station height adjusted.	Not Reported.	Back injury rate went down by 27%.	"Caterpilar, Inc." Welding Journal (1992) (Ex. 26–1066).
Chain saw assembly	3546	Introduction of new tools and modified production methods, and employee training.	The sick-leave rate decreased from 17.0 to 13.7 on an average annual basis.	Not Reported.	Parenmark *et al.* (1993) (Ex. 26–1067).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Computer manufacturer	3571	The company engaged in several training and education initiatives, including: • Mandated ergonomics training classes for high risk groups; • Created and distributed a 16-page ergonomics brochure; and • Created an "ERGO Hotline" to schedule ergonomics evaluations, report problems, and seek information; Exposure control approaches included: • Limiting manual lifting to 40 pounds or less; educated the employees via a brief program on the basic ergonomics fundamentals; • Purchased new office sit-stand workstations; • Adjusted the workstation surface height to accommodate each worker; and • Attached a wider, adjustable keyboard and mouse platform to the standard desk.	Not Reported.	• 41 percent drop in reportable upper limb disorders from 1994 to 1995 which addressed about 70 percent of the company's upper-limb reportable injuries. • Further 50 percent decrease in reportable CTD cases from 1995 to 1996. • Reportable cases of CTDs decreased to 25 through November of 1996 compared to 70 cases in 1994.	"Silicon Graphics melds high- and low-tech." CTD News (1997) (Ex. 26–1068).
Computer mainframe assembly	3571	Training had been provided for proper lifting techniques, general safety and use of special tools. Extensive office workstation ergonomics training was provided. Engineering controls included: • Providing new workbenches to accommodate workers' shorter reaches; • Adding roller-ball conveyor belts and lifting devices were added to raise the units onto the conveyor belt; • Replacing pneumatic drivers with lighter electric units which had much less vibration and weighed about one pound; • Installing lift platforms that would raise the cabinets and 3 feet off the floor; • Providing seated and standing workstations so one employee could build the entire cabinet instead of working on an assembly line in order to reduce the static fatigue; and	There are no lost days due to CTDs in the office workplace.	CTD related injuries were eliminated in production.	"AT&T uses cost-conscious program to fight CTDs." CTD News (1995) (Ex. 26–1069).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
		• Modifying scissor lifts to rise up to 4 feet off the floor.			
Copying machine control system assembly	3579	Assembly of the systems was performed on a workbench and required frequent lifting and turning of the part. The bench was replaced by an adjustable stand designed to take the weight of the part being assembled.	Not Reported.	MSD rate declined by 50% in the first year. In the second year, the MSD rate declined to one-third.	Oxenburgh (1994) (Ex. 26–1041), Case 37.
Hand tool operation, tele-communications manufacturing	36	Safety and health committee implemented program that included creation of task force, worker training, improvements in workstation design and tooling, and medical management of workers on restricted duty.		Plant-wide incidence of repetitive trauma disorders was 2.2 cases per 200,000 work hours, reduced to 0.53 cases per 200,000 workhours in 1 year after program implementation.	McKenzie *et al.* (1985) (Ex. 26–1070).
Electronics manufacture	36	Controls: workstation redesign and job rotation.	Not Reported.	CTDs reduced by 46% in one year.	Robinson (1993) (Ex. 26–1102).
Electrical equipment manufacture, press operator	36	Automated handling and grinding of resistance elements. Eliminated possibility for hazardous exposures.	Not Reported.	Eliminated MSDs.	Oxenburgh (1994) (Ex. 26–1041), Case 16.
Press operator, small electronic parts manufacture	36	Press operation caused excessive wrist flexion and palm compression. The press was modified by adding switches that either eliminated hand contact or only involved contact with parts of the hand that do not have nerves close to the skin surface.	Not Reported.	29% reduction in musculoskeletal injury incidence.	Oxenburgh (1994) (Ex. 26–1041), Case 42.
Lamp manufacturing, materials handling	3641	Added a vacuum hoist, reduced equipment height, reduced box size and weight, and introduced a back awareness program for employees.	Not Reported.	Eliminated back and upper extremity disorders in the last four years.	Carreau and Bessett (1991) (Ex. 26–1071).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Telephone systems assembly	3661	Implemented an ergonomics program for the assembly line. Elements included an employee awareness program, disorder treatment protocols, job task analyses, job redesign, and cost savings analysis.	Lost-time repetitive strain injuries dropped from 20 to 4 over 1.5 years.		Darcangelo (1989) (Ex. 26–1072).
Telecommunications equipment assembly	3661	Introduced a training program, job hazard analysis, and an engineering program to abate ergonomic hazards. Medical management of injured employees on restricted jobs.		Rate of repetitive trauma disorders dropped from 1.1 per 100,000 hours to 0.26 per 100,000 hours in 1 year.	Pope (1987) (Ex. 26–1073).
Telecommunications equipment assembly	3661	Workstation redesign (adjustable tables, illumination), ergonomically designed chairs, and tool redesign.	Musculoskeletal injury sick leave in 1978=5.0, in 1982=2.9.	Not Reported.	Westgaard and Aaras (1984) (Ex. 26–1026).
Electronics assembly	367	Job rotation, new assembly line procedures, and ergonomic line balancing.	Not Reported.	No new cases of cumulative trauma were reported.	Townes and Imrhan (1991) (Ex. 26–1074).
Electronics manufacturing, various jobs	3674	Redesigned workstations; introduced powered-screwdrivers; job rotation.	Not Reported.	Reduced injuries (not quantified).	Burri and Helander (undated) (Ex. 26–1075).
Vehicle seat assembly	371	Ergonomics training was provided. Engineering controls included: • Redesigning seat covers in order to decrease the number of fasteners by more than 50 percent; • Provided a compression tool to clamp the foam padding to the seat; • Installed adjustable workstations; • Provide electric torque guns. • In addition, a program of job rotation was introduced.		Tendinitis cases fell by 93% and carpal tunnel cases fell by 96 percent in the year following program implementation.	"Problem-solving by committee at General Seating." CTD News (1995) (Ex. 26–1076).
Unpacking auto parts	371	A plywood sheet end board had to be removed to unpack crates, requiring excessive force and awkward postures. Plywood sheets were modified to reduce their weight and permit them to slide more easily in the grooves.	Not Reported.	Back and shoulder injuries associated with this operation were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 38.

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Motor vehicle assembly, various jobs	371	Introduction of an ergonomics program, including engineering controls, work practice controls, job rotation/job enlargement, medical management, education, and training. Controls implemented included counterbalanced tools, lift tables, and workstation redesign to prevent awkward postures and excessive reaches.	Lost-time workday rate decreased 65%, and the lost-time case rate decreased 48%.	Over a 3 year period, the injury and illness rate decreased 11% and the severity rate decreased 39%.	OSHA Site Visit, Case Study No. 10 (Ex. 26–1180).
Truck manufacturing, various jobs	3711	Introduction of company ergonomics program in 1990. Engineering controls: substituted machine riveting for manual riveting, introduced raised work heights, and installed lifting devices. Introduction of job rotation for 85% of the workforce.	• Lost-time injuries fell from 80 to 28 in 2 years. • Lost workdays fell from 1,402 to 193.	CTD cases fell from 105 to 54 in 2 years.	Mandelker (1993) (Ex. 26–1063).
Auto assembly	3711	Introduced variable height car conveyer belt, articulating arms to move large parts, like dashboards, into place. Also redesigned tools.	Not Reported.	50% decline in ergonomic related injuries in the first year. 35% decline in second and third years.	LaBar (1992) (Ex. 26–1053).
Auto assembly line worker	3711	28 projects were redesigned to change specific jobs, making them ergonomically less troublesome.	Reduced from 3,134 lost days per year to 1,355 lost days per year after project completion.	Not Reported.	Brandon (1992).
Auto body assembly, fixing side mouldings to body	3711	Replaced pneumatic nut runner with a lighter model. Used a stepped ramp that allowed workers to select an appropriate position relative to the work piece.	Not Reported.	Upper-body MSDs were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 50.
Spot welding onto auto frame	3711	Fixed a large-diameter circular handle to the welding frame, which allowed the frame to be moved into any position while keeping the wrist in a straight posture.	Not Reported.	Wrist injuries were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 51.
Spray painting auto bodies	3711	Lengthened spray gun trigger to increase gun's grip diameter and allow the trigger to be operated with three fingers.	Not Reported.	Cases of hand tendinitis were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 52.

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Auto instrument panel assembly, manual handling	3714	Installed a hoist system to remove panels from conveyor and transport them to shipping containers.	Lost-time back injuries associated with this operation were eliminated.	Not Reported.	Oxenburgh (1994) (Ex. 26–1041), Case 40.
Pneumatic screw feeder operation, auto instrument panel assembly	3714	Installed a counter-balanced articulated arm to reduce the weight of the tool.	Not Reported.	Upper-body MSDs were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 46.
Computer operator	3714	The company instituted a biannual training program to emphasize good lifting and pushing techniques as well as good posture. Also instituted a stretching exercise program and encouraged the CAD operators to take frequent short breaks. Engineering controls included: • Purchased 27 back cushions, 71 lumbar supports in three different sizes, 24 keyboard/mouse rests, and 12 document holders in the past five years; • Provided adjustable chairs; and • Provided foot rests for shorter workers.	Saved 20,000 hours lost time per year since eliminating CTD-related complaints.	Not Reported.	"Communication drives process at Siemens." CTD News, (1997) (Ex. 26–1077).
Manufacturing of electronic components, various jobs	3714	Introduction of an in-plant ergonomics program, engineering controls including hand tool and workstation redesign, and lift devices. Job rotation and other administrative controls, work practice controls, medical management, and training also implemented.	Decrease of 50% from 116 lost-time days/100 workers (1990) to 58/100 workers (1991) for MSDS. Additional 50% decrease in 1992 to 29 lost-time days/100 workers.	The incidence rate of ergonomic disorders decreased by 67% from 37/100 workers (1990) to 12/100 workers (1992).	OSHA Site Visit, Case Study No. 8 (Ex. 26–1178).
Automotive engine assembly	3714	A hoist was replaced by a conveyer belt set at waist height and part of the assembly process was automated.	70 days lost time and over 1,000 days on restricted duty were reduced to no lost days and no personnel on restricted duties.	Not Reported.	Oxenburgh (1994) (Ex. 26–1041), Case 2.

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Small parts assembly machine operation	3714	Jammed machine required operator to climb a bar ladder while carrying a heavy load. A correctly designed ladder and catwalk were installed along with a chute to dispose of damaged parts without the need for carrying them.	Not Reported.	Foot and ankle MSDs associated with the operation were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 47.
Automotive air conditioner manufacture, material handling	3714	Installed overhead conveyor belt that moves the condenser cores through the various procedures, minimizing manual handling. Also installed box tilers to assist in packaging and scissor lift for stacking.	Prior to program, plant averaged 50 lost-time injuries per year, many of those back injuries. After program implementation, 2 back injuries have been recorded over a 4-year period.		LaBar (1991) (Ex. 26–1078).
Auto instrument panel subassembly	3714	Spring clips were pushed into position using a hand tool that required excessive force to operate. New tool was designed to reduce force and awkward positioning of the hand and wrist.	Not Reported.	Wrist and hand injuries were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 49.
Trimming mouldings with hand cutter	3714	Hand cutters were replaced with automated or air-powered cutters.	Not Reported.	Hand and wrist injuries associated with this operation were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 54.
Manufacture of jet aircraft engine parts, various jobs	372	Implementation of ergonomics program, including engineering control measures, work practice controls, medical management, education, and training. Controls implemented included redesigning workstations to provide employees with more room to perform tasks, adding anti-fatigue mats and adjustable footrests, removed or padded tables and shelves to reduce contact stress, and installed vibration-absorbing pads onto grinding wheels.	Not Reported.	Decrease in carpal tunnel syndrome cases from 26 in 1988, 11 of which required surgery, to 1 case in 1992 which did not require surgery.	OSHA Site Visit, Case Study No. 9 (Ex. 26–1179).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORKDAY MSDs	TOTAL MSDs	
Shipbuilder	3731	Initiated training classes covering the nature of CTDs, anthropometry, work physiology, back and wrist anatomy and proper work techniques, In-depth training course covered tool selection, work habits, alternating trigger fingers and hands.	Decreased to only 6 lost-time ergonomics wrist injuries through November 1996, since training completed in June 1995.	Eliminated wrist injury in the welding department until March 1996.	"Training a 'limbsaver' at Newport News." CTD News (1997) (Ex. 26–1079).
		Workers participated in evaluating and developing interventions for the welding department, and selecting pistol grip and in-line based tools so as to keep the wrists in a neutral posture.	Eliminated lost time back injuries since July 1995.	Reduced ergonomics case rates about 30 percent during 1996.	
		Installed scaffolding at the right height and distance from the work, and used ladders or installed scaffolding to higher positions for the work above shoulder height.			
Motorcycle manufacturing, flywheel milling operations	3751	Introduction of lighter flywheel castings and an overhead lift; introduction of a customized deburring machine eliminating vibration exposures; introduction of a customized 40-ton press eliminating the use of the brass hammer.	MSDs involving lost or restricted workdays dropped from 27.6 per 100 workers in 1989 to 12.5 per 100 workers in 1993. The severity rate of MSDs dropped from 610 lost or restricted workdays per 100 workers in 1989 to 190 days in 1993.	Not Reported.	McGlothlin and Baron (1991) (Ex. 26–1080).
Assembly of pressure-sensing instruments	3823	Forceful turning actions were required to fit an O-ring in place. Cordless screwdrivers were used with a custom attachment to bring wrists into stronger position and allow hand to employ a power grip.	Not Reported.	Wrist and arm MSDs were eliminated.	Oxenburgh (1994) (Ex. 26–1041), Case 44.
Medical needle manufacture, inspection station	384	Used task forces to identify jobs involving worker exposures to risk factors. Identified problems on quality control line and implemented design changes to the workstations.		Achieved 75% reduction in upper extremity MSD cases.	Benden (1994) (Ex. 26–1081).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Manufacture of suction canisters used in surgical procedures	3841	Introduction of an ergonomics program utilizing a medical management program, employee training program, job rotation, and engineering controls. Controls implemented include replacing old wooden supply stations with ergonomically designed stations, and automating various processes.	Not Reported.	Decrease in the ergonomic injury rate from 5.2/100 workers (1989) to 2.8/100 workers (1993).	OSHA Site Visit No. 16 (Ex. 26–1183).
Manual handling of bulk paper	386	Two operators manually lifted large wads of paper from a trolley. Manual lifting was eliminated by installing a scissor lift. In addition, the trolley's runners were replaced by roller bearings that enabled the paper to be loaded onto the scissor lift without manual lifting.	Not Reported.	There were 18 back injuries in one year prior to implementing changes. There have been no back injuries in the 3 years since modifications were made.	Oxenburgh (1994) (Ex. 26–1041), Case 36.
Manufacturing board games, inspection and packing	3944	Job analysis and problem solving involving employees to redesign packing workstations. Design changes included raising the height of conveyors, slowing conveyor speed (no effect on throughput), placing roller conveyors on an incline to facilitate carton removal, and changes in work procedures.		Eliminated all cumulative trauma injuries associated with job.	Cook and Marcotte (1990) (Ex. 26–1082).
Railroad repairmen	40	Introduced storage of tools and materials off the ground between knee and shoulder height; devised winches to lift and handle heavy equipment; and redesigned work tables, dollies, and carts to more easily handle train car parts.	Lost-work days reduced to zero for back injuries.	Low-back injuries reduced to zero.	McMahan (1991) (Ex. 26–1083).
VDT operator, package delivery service	42	Introduced sit-stand workstations that permit workers to adjust workstation to meet specific needs.		Reduced MSD cases by half in 12 months.	Nerhood and Thompson (1994) (Ex. 26–1084).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Freight truck terminal operations	4213	Established ergonomics program in esponse to rising number of back injuries. Program elements include analysis of injury records to identify hazardous operations, extensive use of lifting and carrying devices, providing extra personnel to handle heavy or awkward freight, employee training, and medical management of injured workers.	There were 7 lost-time injuries in 1989, followed by 4 in 1990 and 5 in 1991.	Total number of MSD cases decline from 13 in 1989 to 7 in 1990.	OSHA Site Visit No. 5 (Ex. 26–1177).
VDT operation, telecommunications establishment	481	Retrospective study of the impacts of an ergonomics program on 500 VDT operators. Program included job task analyses, workstation redesign, and worker education and training.		Number of upper extremity disorders over the 6 months prior to implementation of the program was 52; this was reduced to 29 for the 6 months following intervention.	Tadano (1990).
Materials handling, electrical utility	4911	Redesigned equipment: • Weight of the water coolers reduced from 10 lbs to 5 lbs. • Rotating platform for transformers. Step and grab handles added to trucks. • New shovel handle and new pry bars. • Position of the kegs on trucks was lowered to minimize twisting of the back.	Lost time injuries reduced to 0.42 per 100 employees in 1989.	Injuries due to getting in and out of trucks reduced from 9 to 0 in year following redesign. No injuries from lifting the water kegs since the changes.	"Foiling field injuries with ergonomics." Electrical World (1990) (Ex. 26–1085).
Data entry operator, gas and electric utility	4932	• Engineering controls: workstation design. • Administrative controls implemented.	Lost time due to work-related injuries decreased from 1,008 hours/month to 584 hours one year later.	Not Reported.	Couch (1990) (Ex. 26–1086).
Sewing machine operator	5137	Installed padded, swivel chairs with adjustable backs and improved materials handling methods. Also instituted an exercise program.	Not Reported.	Incidence rate of tendinitis decreased from 12% to less than 1% in some plants.	Hammond-Smith (1990) (Ex. 26–1087).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Material handling, grocery distribution center	514	Implemented comprehensive program that included hazard identification and job hazard analysis, medical management and reassignment of injured employees, worker training, and implementation of engineering and work practice controls. Controls included making minor modifications to some forklift equipment, replacing other equipment, and providing ergonomically designed workstations for data entry personnel.	Number of MSD workers compensation claims decline from 14 in 1989 to 8 in 1991.	Not Reported.	OSHA Site Visit No. 4 (Ex. 26–1176).
Restaurant worker	5812	Reduced the amount of food served by the workers, and heavy porcelain crockery was replaced with plastic.	Not Reported.	Reported injuries decreased 40%.	Oxenbrugh (1994) (Ex. 26–1041), Case 17.
Pricer—clothing store	5932	Staples were reduced to one per tag and job rotation was introduced so that no one person stapled for more than 45 minutes at a time.	Not Reported.	In 1994–1995, 23% of pricers had CTDs; 2 had bilateral carpal tunnel releases and were unable to return to work. In 1996–1997, 10% of pricefs were affected, but all have returned to their jobs without surgery or impairment.	"ARC takes thrifty approach to ergonomics." CTD News (1998) (Ex. 26–1089).
Data entry	6021	Adjusted workstations and lighting.	Not Reported.	Reduced neck tension syndrome from 54% to 16%.	Luopajarvi *et al.* (Undated) (Ex. 26–1090).
Nursing assistants, nursing home	805	Implemented program to determine patient lifting tasks that were the most stressful; evaluate alternative devices for acceptability among assistants; train assistants in use of devices; and modifying shower rooms and patient care techniques to facilitate patient handling. Used walking belts and mechanical hoists for lifting aids.	Decrease of 634 lost workdays/ 100 FTEs before intervention to 317 lost workdays/ 100 FTEs post intervention.	Incidence for back injuries decreased from 83 to 47 per 200,000 work-hours.	Garg and Owen (undated) (Ex. 26–1093).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Nursing aides, nursing home	805	Committee of employees determined the types of mechanical devices that were needed, installed in 1993. Implemented employee training and modified duty programs.	Decrease in lost work days 38 in 1991 to 4 in 1994 (as of Nov), is largely attributed to the implementation of a no lifting greater than 50 pounds policy.	Not Reported.	Comments to OSHA from Kennebec, (undated) (Ex. 26–1094).
Nurse, hospital	8062	Professional lifting team of 2 performs 95% of all patient lifts; nurses freed to do more nursing activities.	Not Reported.	Back injuries reduced 94% first year after teams were implemented.	Charney *et al.* (1991) (Ex. 26–1091).
Nursing and laundry workers, hospital	8062	Worker education and training were provided. Employees were encouraged to take breaks. A regular maintenance program for equipment was initiated. New hand tools and lifting equipment were provided. Handles were installed onto tool carts. X-Ray cassettes were reorganized to avoid repetitive bending and back problems.	Lost-time hours in nursing ward fell 83 percent in 4 years. Lost-time hours among laundry workers fell 83 percent in 2 years.	Back injury rates in nursing wards fell 39 percent in 4 years. Back injury rates among laundry workers fell 71 percent in 2 years.	"Giving healthcare workers a helping, mechanical hand." CTD News (1995) (Ex. 26–1092).
Nursing, hospital	8062	Ergonomic assessment of 14-room surgical suite, implemented changes in procedures for moving patients, maneuvering carts and equipment, using gall bladder boards, walking on wet floors, and accessing power outlets. Workers are periodically retrained in procedures to maintain awareness.	Not Reported.	Back injury rates reduced by 25% in 18 months since program was implemented.	Garb and Dockery (1995) (Ex. 26–1095).
Prescription filling using a syringe, hospital	8062	A manual assist for syringe actuation was developed to reduce the thumb and pinch grasp forces required while using a standard syringe. The system, about the size of a hot dog bun, accommodates standard syringe sizes from 10 cc to 60 cc.	Not Reported.	Upper extremity CTD cases were reduced from six to one.	"Case study 60: Hospital pharmacy liquid IV prescription filling using a syringe." ErgoWeb Inc., 1998 (Ex. 26–1096).
Hospital workers	8062	Patient Air Lift Systems introduced.	Not Reported.	Reduced injuries at second hospital by 94%.	Brigham (1994) (Ex. 26–1097).

Appendix VI–B.—Summary of Case Studies Demonstrating Effectiveness of Ergonomic Programs/Interventions—Continued

JOB TITLE OR ACTIVITY	SIC CODE	ERGONOMIC SOLUTIONS	REPORTED REDUCTION IN INJURY RATES		SOURCES
			LOST WORK-DAY MSDs	TOTAL MSDs	
Nursing, hospital	8062	Redesigned work process: Mechanical lifting equipment, slide boards, and patient transfer belts.	Lost-time injuries reduced to 49 (down 35%), with 426 lost days (a 57% decrease), and 1,851 restricted days (a 54% decrease).	In 1994 total back injuries decreased to 85 (a 43% reduction).	Hospital Employee Health (1995) (Ex. 26–1098).
Government employees	91	Introduction of program of ergonomic improvements, education, training, and physical fitness activities.	Not Reported.	1-year prevalence of back pain fell from 65 to 53 percent.	Shi (1993) (Ex. 26–1099).

VII. Significance of Risk

In this section of the preamble, OSHA conducts several analyses and presents data and information to demonstrate, first, that work-related musculoskeletal disorders (MSDs) constitute a material impairment of health or functional capacity under the Occupational Safety and Health Act (OSHAct or Act). This discussion demonstrates that MSDs are painful, often disabling injuries and illnesses that cause lost work time, require medical treatment, involve restricted work, and, all too often, result in surgical interventions.

The Agency then demonstrates the significance of the risk of incurring these material health impairments confronting workers in the industries and occupations covered by the scope of the proposed ergonomics standard. As OSHA's analysis shows, over a working lifetime, workers in these jobs face risks ranging roughly from 24 cases per 1,000 workers to 813 cases per 1,000 workers, risks that are clearly significant by any reasonable measure. Even on an annual rather than lifetime basis, many of the workers who would be covered by the proposed standard are at great risk: nursing aides and truck drivers, for example, can expect to suffer between 20 and 40 lost-workday musculoskeletal disorders for every 1,000 workers in every year that they work. Again, that risks of this magnitude are significant within the meaning of the Act is not disputable.

Sections A and B below thus demonstrate unequivocally that the first two tests OSHA must meet before it can regulate—that the hazard regulated by the standard constitutes material impairment of health or functional capacity and that the risk posed to workers covered by the standard is significant, as that term has been defined in OSHA case law—have been met.

A. Material Impairment

As part of OSHA's threshold determination of significant risk for standards issued under section 6(b)(5) of the Act, OSHA must determine whether exposure to the hazard in question results in "material impairment of health or functional capacity." 29 U.S.C. 655(b)(5). As discussed above in the Health Effects section, the risks posed by exposure to workplace (ergonomic) risk factors are serious and can result in musculoskeletal disorders (MSDs) that cause substantial impairment and permanent disability.

Musculoskeletal disorders represent a set of pathological conditions that impair the normal function of the soft tissue of the musculoskeletal system, such as tendons, muscles, cartilage, ligaments, and nerves. MSDs arise when musculoskeletal soft tissue is subjected to repeated physical stress, usually from repetitive movements, static postures, or continuous loading of tissue structures, which in turn causes gradually accumulating tissue damage. The physical stresses that can contribute to or cause MSDs are called "risk factors." The initial symptoms of MSDs may include fatigue, discomfort, and pain; as tissue damage worsens, other symptoms, such as weakness, numbness, or restricted movement, may also appear. Work-related MSDs occur when the risk factors that cause or contribute to musculoskeletal system pathology are associated with a person's job duties. The disorders represented by the term "MSDs" have been referred to by various other names, including "cumulative trauma disorders," "repetitive strain injury," and "occupational overuse syndrome." MSDs do not include musculoskeletal injuries that are clearly caused by accidents, such as a torn Achilles tendon that results from stepping in a hole. Instead, MSDs reflect tissue damage and functional loss that occurs over time from prolonged or frequent exposure to risk factors.

However, some MSDs, particularly those of the back, may appear to be related to acute exposure events although they are actually the result of prolonged exposure to risk factors that has caused gradual tissue deterioration that ultimately led to injury. In other words, although some work-related MSDs may appear to be caused by an acute event (such as a particular lift or movement), the likelihood is high, if such lifts or movements are a routine part of the worker's job, that what appears to be an injury of sudden onset is in fact one of gradual onset. Thus, injuries associated with acute exposure events cannot simply be ruled out as MSDs without determining whether exposure to workplace risk factors may in fact have contributed to the injury. Table VII–1 lists some of the injuries and illnesses that comprise the group of disorders known as MSDs.

Based on the evidence discussed in this and other sections of the preamble, as well as all other evidence gathered by OSHA and placed in the public docket of this rulemaking, OSHA has preliminarily concluded that the musculoskeletal disorders associated with workplace exposure to workplace risk factors constitute material impairments of both health and functional capacity. OSHA recognizes that these disorders are not life-threatening and that some of these disorders may be reversible, particularly if early intervention is provided. Nonetheless, evidence in the record shows that these disorders are debilitating (Brisson *et al.* 1989, Ex. 26–47; Vingård *et al.* 1991, Ex. 26–44; Berg *et al.* 1988, Ex. 26–46; Liss *et al.* 1992, Ex. 26–55; Webster and Snook 1994, Ex. 26–33; Binder and Hazleman 1983, Ex. 26–45; Boshuizen *et al.* 1990, Ex. 26–40; Blanc *et al.* 1996, Ex. 26–42; Liberty Mutual Research Center for Safety and Health, 1998, Ex. 26–54). These disorders cause persistent and severe pain, lost worktime, reduction or loss of the worker's normal functional capacity both in work tasks and in other of life's major activities, loss of productivity, and significant medical expenses. Where preventive action or early medical intervention is not provided, these disorders can result in permanent damage to musculoskeletal tissues, causing such disabilities as the inability to use one's hands to perform even the minimal tasks of daily life (*e.g.*, lifting a child), permanent scarring, and arthritis.

BILLING CODE 4510–26–P

Figure VII-1

Percent of Injuries With More Than 20 Lost Work Days

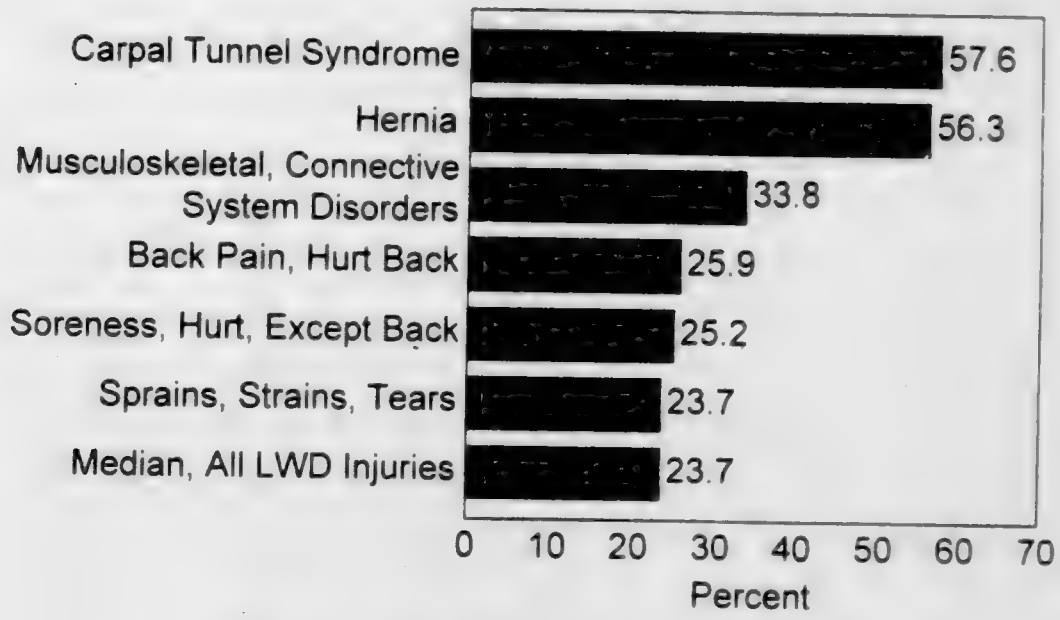

Median Days Away From Work for Each MSD Category

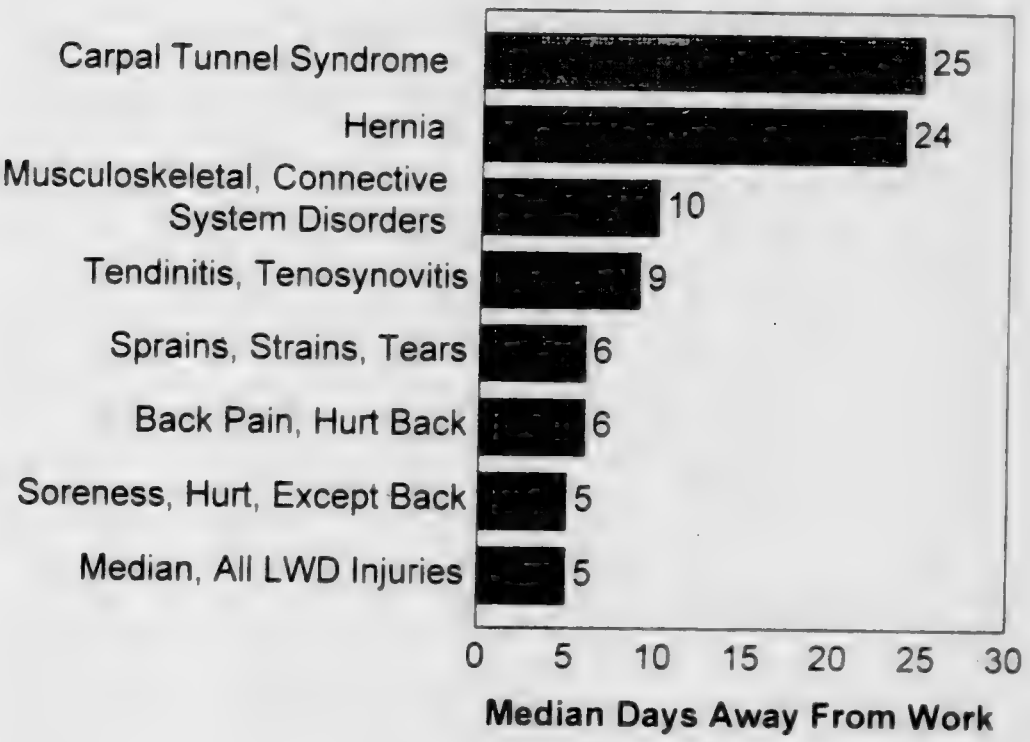

BILLING CODE 4510–26–C

The painful and debilitating nature of MSDs is illustrated by several letters from workers who have told the Secretary of Labor and OSHA that they have experienced severe pain, limited work capacity, lost work time, loss of income, and permanent impairment due to overexposure to workplace risk factors (Ex. 26–1263). In addition, these workers have said that the damage and pain have left many of them unable to perform other major life activities, such as walking, cooking, holding children, lifting or grasping objects, or writing (Ex. 26–1263). The pain referred to by these workers is not the normal muscle soreness associated with job break-in or conditioning, or temporary muscle strain due to doing new or unusual tasks. Instead, the pain is severe and persistent. Many employees must be placed on medication to alleviate or at least reduce the intensity of their pain. The pain of MSDs may also continue or may even manifest after the employee is removed from exposure at the end of the workshift (Ex. 26–1263).

Table VII–1.—Examples of Some Types of Musculoskeletal Disorders That are Often Work-Related

—Tension-neck syndrome
—Thoracic outlet syndrome
—Shoulder tendinitis (rotator cuff, bicipital)
—Epicondylitis (elbow)
—Carpal tunnel syndrome (hand-wrist)
—Wrist tendinitis
—Hypothenar hammer syndrome (hand)
—Hand-arm vibration syndrome
—Tenosynovitis
—de Quervain's tendinitis
—Trigger finger
—White finger
—Sciatica, low back pain
—Knee bursitis (carpet layer's knee)

In addition, the pain usually increases if exposure to the ergonomic risk factors continues (Ex. 26–1263). OSHA believes that this type of severe and persistent pain, and the tissue damage underlying this pain, clearly constitutes a material impairment of health under the OSH Act.

Musculoskeletal disorders of most kinds are recognized as compensable under virtually all State workers' compensation plans, and these disorders imposed nearly $20 billion in medical costs and industry payments on the U.S. economy in 1994 (see the Preliminary Economic Analysis section of this preamble). Under workers' compensation, however, employees are reimbursed only where their work-related injury or disorder requires medical treatment and/or results in lost workdays. Moreover, payments for lost wages are not provided unless the employee's injury or disorder results in a certain number of lost workdays (the number varies across the States and ranges from one to seven days). According to evidence presented in the Preliminary Economic Analysis, a significant number of musculoskeletal disorder workers' compensation claims result in lost workdays. For example, according to a study by Webster and Snook (1994, Ex. 26–33) based on workers' compensation data from Liberty Mutual Insurance Company, the largest underwriter of workers' compensation insurance in the country, more than 45 percent of all low back pain cases involved indemnity payments for lost workdays. This study also indicated that, on average, more than 65 percent of the workers' compensation costs for musculoskeletal disorders represented indemnity payments for lost workdays. Overall, work-related low back pain accounts for 15 percent of all Liberty Mutual workers' compensation claims and 23 percent of their costs (Liberty Mutual Research Center for Safety and Health, 1998, Ex. 26–54).

Further evidence of the disabling nature of MSDs comes from the Bureau of Labor Statistics (BLS) data for 1996, which show that the median number of lost workdays (LWD) per recordable lost-time MSD is higher than the median across all lost workday injuries (see Figure VII–1). For example, the median number of lost workdays for cases classified by BLS as carpal tunnel syndrome, tendinitis or tenosynovitis, or musculoskeletal and connective tissue disorders, is 25, 9, and 10 days, respectively. More than one-half of all carpal tunnel LWD cases and one-third of musculoskeletal and connective tissue disorder LWD cases result in more than 20 lost workdays, compared to less than one-fourth of all LWD injuries. Among workers who received compensation awards in 1994 for upper-extremity disorders, the average length of disability was 87 days, with 6.8 percent of the claims covering one-year or more of disability (Liberty Mutual Research Center for Safety and Health, 1998, Ex. 26–54).

Finally, several individual studies provide additional evidence demonstrating the disabling nature of MSDs. A study of female sewing machine operators showed an increased prevalence of disability among both retired and active workers compared to national rates of disability (Brisson *et al.*, 1989, Ex. 26–47). Operators who had left their jobs had a greater rate of severe disability when compared to workers who had left other types of employment. Vingard *et al.* (1991, Ex. 26–44) found an increased risk of early retirement among workers exposed to heavy or medium work loads due to disorders of the lower back, neck/shoulder, hip, or knee. An elevated incidence of long-term absenteeism and disability due to intervertebral disc disorders was found among tractor drivers, with the incidence appearing to increase with whole-body vibration dose and duration (Boshuizen *et al.* 1990, Ex. 26–40). An analysis of data from the National Health Interview Survey showed that repetitive bending of the hand or wrist on the job was significantly associated with the frequency of self-reported carpal tunnel syndrome (CTS), and that work-related disability was common among the 544 subjects reporting CTS. The persistence of symptoms associated with MSDs is illustrated by two other studies. Berg *et al.* (1988, Ex. 26–46) studied the prevalence of MSD symptoms among 327 retired shipyard workers who had been engaged in heavy physical work and found that the prevalence of symptoms remained unchanged over a three-year period. In another study, Binder and Hazleman (1983, Ex. 26–45) followed the health status of 125 patients with lateral epicondylitis over a 1- to 5-year period after initial presentation of the disorder. Over the follow-up period, 40 percent of the patients continued to have discomfort that affected some daily activities.

OSHA has promulgated a wide range of health standards where the adverse health effects associated with exposure to substances or conditions are serious but not necessarily life-threatening, such as health effects that interfere with normal daily life or job performance, or that require substantial medical intervention. *See* Cotton Dust (29 CFR 1910.1046), Occupational Noise Exposure (29 CFR 1910.95), Occupational Exposure to Lead (29 CFR 1910.1025), Occupational Exposure to Formaldehyde (29 CFR 1910.1048). For example, in promulgating the Hearing Conservation Amendment, OSHA determined that "* * * material impairment of hearing is directly related to people's ability to understand speech as it is spoken in everyday social conditions.* * *" (46 FR 46236), including being able to understand speech in noisy environments. In the Formaldehyde standard, OSHA based its permissible exposure limit (PEL) and ancillary provisions, in part, on

evidence that employees were at significant risk of developing sensory irritation (*e.g.*, burning and tearing of the eyes, severe irritation of the nose and throat) and skin diseases at the existing PEL, and that these effects were sufficiently severe to interfere with the employee's ability to perform job functions (52 FR 46168, 46234–37).

The proposed ergonomics rule is similar to these other OSHA standards in this respect. Work-related musculoskeletal disorders also result in material impairment of functional capacity by causing temporary or permanent physical damage to the body. Such damage can include severe inflammation of joints and tissues; reduced conduction velocity in peripheral nerves; partial or total loss of strength in an extremity; tearing of muscles and tendons; numbness; decreased range of motion; arthritis; and pain. When this damage occurs, employees are unable to perform their jobs at all or at normal performance levels without experiencing pain or causing further damage. Accordingly, OSHA preliminarily concludes that work-related MSDs constitute a material impairment of health.

B. Significant Risk

Section 6(b)(5) of the OSH Act gives the Secretary of Labor authority to issue standards dealing with toxic substances and harmful physical agents. This section provides, in part:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. 29 U.S.C. 655(b)(5).

The Supreme Court has said that OSHA may promulgate a standard only if it makes a threshold finding that it is at least more likely than not that the risk OSHA seeks to regulate is "significant" and that the change in practices required by the standard would reduce or eliminate that risk. *Benzene*, 448 U.S. at 642. This "significant risk" determination constitutes a finding that, absent the change in practices mandated by the standard, the workplaces in question would be unsafe in the sense that workers would be threatened with a significant risk of harm. *Id.* This finding is not unlike the threshold finding that a substance is toxic or that a physical agent is harmful. *Id.*, at 643 n. 48.

In the *Benzene* decision, the Court provided some guidance as to when a reasonable person might consider a risk significant and take steps to decrease it. The Court said:

> Some risks are plainly acceptable and others are plainly unacceptable. If, for example, the odds are one in a billion that a person will die from cancer by taking a drink of chlorinated water, the risk clearly could not be considered significant. On the other hand, if the odds are one in a thousand that regular inhalation of gasoline vapors that are 2 percent benzene will be fatal, a reasonable person might well consider the risk significant and take the appropriate steps to decrease or eliminate it. *Id.*, at 655.

In *Benzene*, the issue before the Court was worker exposure to a cancer-causing agent. OSHA has used the guidelines provided by the Court in setting standards for other carcinogens, such as methylene chloride, butadiene, and ethylene oxide. However, OSHA believes that the Court's guidance is not limited to cancer-causing agents. Material impairment of health refers not only to health outcomes that cause certain death or threaten life, but also to impairment of the employee's ability to engage in the normal activities of life, including work, as a result of workplace events or exposures causing a serious reversible or permanent disorder. Accordingly, OSHA has used the Court's guidelines in setting standards that address such toxic materials and harmful physical agents as cotton dust, occupational noise, and formaldehyde.

The Court indicated that a significant risk finding does not require mathematical precision or anything approaching scientific certainty if the "best available evidence" does not allow that degree of proof. *Id.*, at 655–56. The Court also ruled that "a reviewing court [is] to give OSHA some leeway where its findings must be made on the frontier of scientific knowledge." *Id.*, at 656. The Agency is free to use conservative assumptions in interpreting the data, "risking error on the side of overprotection rather than underprotection." *Id.*

> [T]he requirement that a "significant" risk be identified is not a mathematical straitjacket. It is OSHA's responsibility to determine, in the first instance, what it considers to be a "significant" risk. *Id.*

Thus, the Court said that "while the Agency must support its findings that a certain level of risk exists with substantial evidence, we recognize that its determination that a particular level of risk is 'significant' will be based largely on policy considerations." *Id.*, at 656. The court also said OSHA has considerable leeway in the kinds of assumptions it applies in interpreting the data supporting such a determination. *Id.*

There is no need, in the case of musculoskeletal disorders, for OSHA to engage in risk modeling, low-dose extrapolation, or other techniques of projecting theoretical risk to identify the magnitude of the risk confronting workers exposed to ergonomic risk factors. The evidence of significant risk is apparent in the annual toll reported by the Bureau of Labor Statistics, the vast amount of medical and indemnity payments being made to injured workers and others every year (nearly $20 billion in direct costs and as much as $60 billion more in indirect costs), and the lost production to the U.S. economy imposed by these disorders. Similarly, there is no need for OSHA to turn to complex theoretical projections of reductions in risk to demonstrate that the standard as proposed will substantially reduce this significant risk. Again, the evidence is there for all to see, in the form of hundreds of epidemiological analyses, meta-analyses, and case studies reporting the effectiveness of ergonomic programs in reducing risk. The following discussion, and the analyses presented below, demonstrate the significance of the risk confronting workers in the industries and occupations targeted in the proposed standard and make the case for the standard's effectiveness.

In this rulemaking there are, as mentioned above, extensive data on the adverse effects on the human musculoskeletal system of exposure to workplace risk factors such as repetitive motions; static or awkward postures; and the use of excessive force. As described in the Health Effects and Preliminary Quantitative Risk Assessment sections of this preamble, studies and national statistics are available to demonstrate the high incidence and prevalence of work-related musculoskeletal disorders occurring or existing among workers exposed to ergonomic risk factors. Estimates of the risk of harm confronting exposed workers can be based directly on the rates of work-related musculoskeletal disorders currently being reported, and BLS survey data can be used to demonstrate the degree to which work-related musculoskeletal disorders have occurred across nearly all major industrial sectors and in numerous occupations.

The data used by OSHA to support the proposed ergonomics program rule are similar to the data used to

support OSHA safety standards, in that both base their estimates of risk and their case for the effectiveness of the standard on data on injuries being reported in the current workforce. The availability of such data makes it possible to go directly from current rates of injury among workers to an estimate of the likelihood of future harm which could be prevented if a standard were promulgated. In other words, it is not necessary either in the case of OSHA safety standards or in the case of this ergonomics standard to project or estimate risk based on the use of risk models derived from animal data or epidemiological studies. Thus, in the present case, no modeling is needed to make a quantitative assessment of the risk of harm posed to workers exposed to ergonomic risk factors on the job.

The data discussed in the Preliminary Risk Assessment and Health Effects sections of the preamble demonstrate that the risk of work-related musculoskeletal disorders meets the Court's definition of significant risk. For example, OSHA estimates, based on the 1996 BLS data, that more than 647,000 lost-workday (LWD) musculoskeletal disorders were recordable and reported by employers in 1996; these disorders account for more than one-third of all employer-reported LWD injuries. The estimated annual incidence of employer-reported MSDs, defined as the number of MSDs occurring in a given year per 1,000 workers employed in an industry sector or occupation, exceeded 1 LWD case per 1,000 workers for all but a few of the 2-digit SIC general industry groups in 1996; the incidence exceeded 10 LWD cases per 1,000 workers in 15 of these industry sectors (see Table VI–5 in the Preliminary Quantitative Risk Assessment section of the preamble). Further, OSHA estimates that the annual incidence of employer-reported LWD MSDs reached 1 case or more per 1,000 workers for 79 percent of all of the occupational groups for which BLS estimated the numbers of MSDs and employees. For 37 of these occupations, the estimated annual incidence of LWD MSDs exceeded 10 cases per 1,000 workers. For some high risk occupations, such as practical nurses, nursing aides and attendants, laborers, public transportation attendants, and truck drivers, annual incidence rates are on the order of 20 to 40 LWD MSD cases per 1,000 workers per year. These shocking incidence rates, however, are underestimates of the true incidence of MSDs, because they are based only on lost workday cases. OSHA estimates that the number of MSDs that do not result in lost workdays is about twice that of LWD MSDs.

Under section 6(b)(5) of the Act, OSHA has the duty to ensure that no employee suffers material impairment even if that employee has regular exposure to the hazard "for the period of his working life." 29 U.S.C. 655(b)(5). The probability that an employee will suffer at least one musculoskeletal disorder due to workplace risk factors over a 45-year working lifetime is much higher than the risk reflected in the one-year rates presented above. Therefore, in the Preliminary Quantitative Risk Assessment section of this preamble, OSHA also evaluated the risk to exposed employees of incurring a LWD MSD over a 45-year working lifetime. The results are presented by 2-digit SIC industry group in Table VI–7 of the Preliminary Risk Assessment. The probability of experiencing at least one LWD MSD during a working lifetime ranges from 24 per 1,000 workers (in SIC 62, Security and Commodity Brokers, Dealers, Exchanges, and Services) to 813 per 1,000 workers (in SIC 45, Air Transportation). Among the 58 industry groups for which BLS provided estimates of the number of MSDs reported in 1996, the median lifetime risk of experiencing at least one LWD MSD is 255 per 1,000 workers, and for only 8 of these industry groups is the estimated lifetime risk below 100 cases per 1,000 workers. The expected number of MSDs that will occur in a cohort of workers all entering an industry at the same time and working for 45 years ranges from 24 per 1,000 workers to 1,646 per 1,000, depending on the industry sector, since it possible for a worker to experience more than one MSD in a working lifetime.

Although these data indicate that the risk of experiencing an MSD is clearly significant, OSHA believes that these data seriously understate the true risk. First, the BLS data capture only those MSD injuries reported by employers as lost workday injuries. MSDs that force an employee to be temporarily assigned to alternate duty, as well as those work-related MSDs not reported to employers by employees or not recorded by employers, are not included in these risk estimates. In addition, OSHA's estimated incidences of MSDs, which are derived from the BLS data, do not reflect the true risk posed to employees who are exposed to risk factors at work because the BLS-based incidence estimates are based on the risk confronting the entire working population, both exposed and non-exposed. Clearly, the risk of experiencing a work-related MSD is considerably higher among that subset of workers exposed to risk factors in their jobs than it is for the rest of the working population (the "unexposed" population). In other words, the risk posed to workers in the operations and jobs targeted by OSHA's proposed ergonomics standard is much higher, in general, than the risk posed to workers in non-targeted jobs and occupations. The method used by BLS to calculate the incidence of MSD's (*i.e.*, using the full working population as the denominator) is not unique to these kinds of injuries, but is the standard approach used by BLS to report the incidences of all kinds of injuries and illnesses.

There is also evidence that the actual risks attributable to occupational exposure to ergonomic risk factors may be much higher than is indicated by the BLS statistics. Many peer-reviewed studies have been published in the scientific literature in the last 18 years that document underreporting of MSDs in OSHA logs (McCurdy *et al.*, 1999, Ex.; Cannon *et al.*, 1981; Mazlish *et al.*, 1995; Silverstein *et al.*, 1997; Biddle *et al.*, 1998; Fine *et al.*, 1986; Pransky *et al.*, 1999; Park *et al.*, 1992; Park *et al.*, 1996; Nelson *et al.*, 1992). Table VII–2 below summarized these studies. These studies document extensive and widespread underreporting on the OSHA log of occupational injuries and illnesses (McCurdy *et al.*, 1999) and of MSDs (Silverstein *et al.*, 1997; Biddle *et al.*, 1998; Fine *et al.*, 1986; Pransky *et al.*, 1999; Park *et al.*, 1992; Park *et al.*, 1996; Nelson *et al.*, 1992). They also demonstrate that a large percentage of workers whose MSDs were identified as work-related by health care providers do not file workers' compensation claims (Biddle *et al.*, 1998; Cannon *et al.*, 1981; Fine *et al.*, 1986). In one early study, only 47 percent of workers with medically diagnosed cases of carpal tunnel syndrome (CTS) filed claims (Cannon *et al.*, 1981). Fine and his co-authors (1986) demonstrated that, in two large automobile manufacturing plants, workers' compensation claims were filed in less than 1 percent of medically confirmed cumulative trauma cases in one plant and in only 14 percent of such cases in another. A recent study of 30,000 Michigan workers who were identified by a healthcare provider as having a work-related injury showed that only 9 to 45 percent of workers filed a workers' compensation claim for their injuries (Biddle *et al.*, 1998). The reasons why as many as 50 percent of injured workers are not reporting their musculoskeletal injuries and other injuries and illnesses to their employers or seeking compensation for their work-related conditions are many. According to the authors of these studies, workers feared reprisal for reporting, were discouraged from reporting by

their supervisors or managers, were discouraged from making a workers' compensation claim by the high rates of claims rejection for MSDs, wanted to avoid the "hassle" of filing a workers" compensation claim, or preferred (or were encouraged by their employers) to use the employer's or their own health insurance rather than the workers' compensation insurance system. Because of this evidence pointing to the substantial underreporting of MSDs, and given that the BLS data derives from employers' reports of lost-time injuries and illnesses, OSHA believes that the risk of lost-time, work-related MSDs as quantified from the BLS data are understated by at least a factor of two.

Table VII–2.—Summary of Underreporting Studies

STUDY	MEASURE OF UNDER-REPORTING	EXTENT OF UNDER-REPORTING OBSERVED	COMMENTS
McCurdy, Schenker, and Samuels, *Am. J. Public Health.* 81:85 (1999, Ex. 2–2)	Percentge of cases meeting OSHA reporting criteria not recorded on OSHA log	40% of all reportable cases not recorded; for illnesses, 56% not recorded	10 manufacturing facilities in 6 states from semiconductor industry with approx. 50,000 employees; 24% of cases met OSHA criteria.
NIOSH. Health Hazard Evaluation Report, HETA 93–0233–2498, (1995, Ex. 26–1255)	Failure to report lost workdays and restricted work OSHA 200	Not quantified; "several" employees had surgeries for WMSDs in 5-year period and ⅓ of employee were on restricted work, but no LWDIs reported on Log over 5-year period	Winding and taping department of an instrument transformer manuacturer; 27 employees in department.
NIOSH. Health Hazard Evaluation Report, HETA 93–0860–2438, (1994, Ex. 26–1256)	Percent of medically confirmed WMSD cases not recorded on OSHA log or not reported to employer	5 employees reported to NIOSH that they had been diagnosed with carpal tunnel syndrome (CTS); of these, 2 did not report their illness to the employer. 1 of the 5 reported cases were not reported on log	News department of large metropolitan TV-news station; video tape editing and other employees.
Cannon, Bernacki, and Walter, *JOM.* 23:255 (1981, Ex. 26–1212)	Percent of employees diagnosed with work-related carpal tunnel syndrome (CTS) over 2 years not filing workers' compensation claims	16/30 diagnosed employees received workers' compensation benefits for CTS. Others did not file	Four aircraft manufacturing plants; approx. 20,000 employees.
Mazlish, Randolph, Dervin, and Sankaranarayan, *Am. J. Ind. Med.* 27:715 (1995, Ex. 26–1186)	A new surveillance system for work-related carpal tunnel syndrome (CTS) was implemented in Santa Clara county, California under the NIOSH SENSOR program. Its findings were compared to physicians' first reports filed under a State of California surveillance system in place since 1973	For the years 1987–1989, SENSOR identified 141 cases. Of these, only 19 cases could be found in doctors' first reports	The population at risk for CTS covered by SENSOR is the entire working population of Santa Clara county. The working population was not reported in the article, but the total population in the county was 1.4 million in 1987.
California Department of Health Services. Surveillance Report SR–88–002 (1990, Ex. 26–1257)	Telephone and mail survey of 515 health care providers in Santa Clara County, California, who estimated carpal tunnel syndrome (CTS) caseloads. Estimates were compared to physicians' first reports filed under a State of California surveillance system in place since 1973	For 1987, respondents estimated that they cared for 3,413 cases of work-related CTS. Only 71 occupational CTS cases were reported in the county through doctor's first reports	The working population in Santa Clara county was not reported in the document, but the total population in the county was 1.4 million in 1987.

Table VII–2.—Summary of Underreporting Studies—Continued

STUDY	MEASURE OF UNDER-REPORTING	EXTENT OF UNDER-REPORTING OBSERVED	COMMENTS
Silverstein, Stetson, Keyserling, and Fine, *Am. J. Ind. Med.* 31:600 (1997, Ex. 26–28)	Incidence (per 100 worker years) of work-related MSDs reported on OSHA 200 logs compared with cases that received medical treatment, as identified by self-administered questionnaire	Plant/year: OSHA 200 log / Self-report Plant 1 1986: 1.0 / 30.9 1987: 2.7 1988: 6.9 Plant 2 1986: 0.9 / 40.9 1987: 11.9 1988: 21.4 Plant 3 1986: 20.3 / 47.8 1987: 14.6 1988: 19.3 Plant 4 1986: 0.7 / 24.5 1987: 2.1 1988: 9.9	Four automobile manufacturing plants. 713 out of 948 workers selected for the study completed the questionnaire.
Biddle, Roberts, Rosenman, and Welch, *JOEM.* 40:325 (1998, Ex. 26–1258)	Percentage of workers identified by a health care provider (HCP) as having a known or suspected occupational illness who filed for workers' compensation	Percentage of HCP-identified cases for which corresponding workers' compensation claim was identified ranged from 9% (almost certain match between HCP case and claims case) to 45.6% (possible match between HCP case and claims case)	Study of 30,000 Michigan workers identified as having work-related illness by an HCP.
	Percentage of workers with sprains or strains who filed for worker's compensation	Percentage of HCP-identified cases for which corresponding workers' compensation claim was identified ranged from 11.6% (almost certain match between HCP case and claims case) to 46.9% (possible match between HCP case and claims case)	
	Percentage of workers with carpal tunnel syndrome (CTS) who filed for workers' compensation	Percentage of HCP-identified cases for which corresponding workers' compensation claim was identified ranged from 22.6% (almost certain match between HCP case and claims case) to 62.5% (possible match between HCP case and claims case)	

Table VII–2.—Summary of Underreporting Studies—Continued

STUDY	MEASURE OF UNDER-REPORTING	EXTENT OF UNDER-REPORTING OBSERVED	COMMENTS
Fine, Silverstein, Armstrong, Anderson, and Sugano, *JOM*, 28:674 (1986, Ex. 26–920)	Incidence (per 100 worker-years) of upper-extremity MSDs reported in OSHA 200 logs compared with workers' compensation (WC), medical absence records (MAR) and medical case records (MCR)	Plant OSHA 200 WC MAR MRC B 0.03 0.29 3.04 2.03 C 0.15 0.45 1.85 13.98	Data from two large automobile manufacturing plants (total employment not reported).
Pransky, Snyder, Dembe, and Himmelstein, *Ergonomics*, 42:171 (1999, Ex. 26–922)	Percent of workers reporting musculoskeletal symptoms caused or aggrevated by work, compared to OSHA log entries	Work-related Symptom: % reporting / % in log Hand/Wrist 86% 6% Arm 33% 1% Neck 21% 0 Back/legs 28% 2% 9% of workers reported that symptoms resulted in lost work days over the past year. 6% reported they were formally assigned light-duty work by plant nurse. 15% reported sumptoms resulted in informal light-duty work arranged by co-workers	Questionnaire administered to 110 packers, of whom 98 reponded. Plant produces variety of children's products.
Park, Krebs, and Mirer, *JOEM*, 38:1111 (1996, Ex. 26–1261)	Number of claims made in a sickness and accident (S&A) disability (sick leave) system compared to lost-work-day (LWD) injuries and illnesses recorded in OSHA log	Only 7 of an estimated 47 (15%) S&A upper extremity LWD cases in 1992 were recorded on the OSHA log. For LWD back injuries, 27 of an estimated 36 (75%) S&A cases were recorded	Study of an automotive assembly and stamping complex employing 10,000 workers.
Park, Nelson, Silverstein, and Mirer, *JOM*. 34:731. (1992, Ex. 26–1259)	Medical insurance claims linked to work histories compared to OSHA logs	From 1984 to 1987, OSHA logs failed to record between 20 and 80 percent of occupational MSDs	Conclusion based on authors' own unpublished data from insurance records of five automotive manufacturing plants. These records identified 11,577 MSD health claims made by 3,204 workers.
Nelson, Park, Silverstein, and Mirer, *Am. J. Public Health*. 82:1550 (1992, Ex. 26–1260)	Medical insurance claims linked to work histories compared to OSHA logs	From 1985 through 1986, OSHA logs identified 59 hand/wrist MSD cases compared to 150 cases identified in health insurance records. For all MSDs from 1984 through 1987, only 9% of cases identified through insurance claims were recorded on OSHA logs (the authors cite data from Parks *et al.* (1992) indicating that about half of upper extremity MSD cases from insurance claims are attributable to work)	

In addition to the BLS data, epidemiologic studies comparing the prevalence or incidence of MSDs in exposed populations with the prevalence or incidence in referent groups with lesser or no such exposure also document the elevated risk confronting employees exposed to workplace risk factors. These studies also identify the types of workplace risk factors associated with the development of work-related musculoskeletal disorders, as well as the duration of exposures found to be associated with the disorders. This information further supports the occupational origin of the reported disorders.

For example, the odds of having an upper extremity disorder like carpal tunnel syndrome or tendinitis/peritendinitis of the shoulder or wrist are 5–30 times greater among workers exposed to combinations of risk factors such as high force, repetition and awkward postures (*e.g.*, overhead work) compared either to unexposed workers or workers who are exposed to a single risk factor (*e.g.*, Luopajarvi *et al.*, 1979, Ex. 26–56; Armstrong *et al.*,1987, Ex. 26–48; Silverstein *et al.*, 1987, Ex. 26–34; deKrom *et al.*, 1990, Ex. 26–41; Herberts *et al.*, 1984, Ex. 26–51). The odds of experiencing a low back disorder increased 3–8 fold among those workers exposed to frequent or forceful manual handling, awkward trunk postures (such as severe forward flexion), or to whole body vibration (Liles *et al.*, 1984, Ex. 26–33; Kelsey *et al.*, 1990, Ex. 26–52; Punnett *et al.*, 1991, Ex. 26–39; Wikstrom *et al.*, 1994, Ex. 26–61; Tanaka *et al.*, 1995, Ex. 26–59). Hip and knee disorders are associated with heavy physical work and awkward postures, such as kneeling and squatting, or using the knee as a kicker. Thun *et al.* (1987, Ex. 26–60) reported an increased risk of bursitis in carpet-layers that was 5 times higher than that of the unexposed workers. In a review of 4 studies, Hagberg and Wegman (1987, Ex. 26–32) estimated the work-attributable fraction of shoulder tendinitis in the exposed population to be 90%. In a review of 15 cross-sectional and 6 case control studies of carpal tunnel syndrome, Hagberg *et al.* (1992, Ex. 26–50) estimated the work-attributable fraction in the population exposed to high force, high repetition, vibration or awkward wrist/hand postures to be 50–90%. Olsen *et al.* (1994, Ex. 26–57) estimated that 40% of the cases of coxarthrosis (osteoarthrosis of the hip) seen in the exposed working population was due to heavy physical workload. Thus, in general, strong and consistent associations have been identified in the epidemiologic literature, primarily in cross-sectional and case control studies, but also in prospective studies (*e.g.*, Kurppa *et al.*, 1991, Ex. 26–53; Riihimaki *et al.*, 1994 Ex. 26–58; Felson *et al.*, 1991, Ex. 26–49). Exposure-response relationships have been identified in a number of studies, although precise quantitative modeling is not yet available.

Based on the various data and studies discussed in the Preliminary Risk Assessment and Health Effects sections of the preamble, OSHA preliminarily finds that workers exposed to workplace risk factors are at significant risk of developing work-related musculoskeletal disorders, which are harmful and often disabling conditions. This is particularly true for workers who are exposed to a combination of risk factors over most of the workshift.

The data indicate that this proposed rule would, if promulgated, cause employers to implement, for their problem jobs, interventions that would reduce the exposure of at-risk workers to workplace risk factors, and thus would substantially reduce significant risk. Specifically, the proposed requirements to conduct job analyses and implement controls where exposure to risk factors is high (*i.e.*, for manufacturing jobs, manual handling operations, and other jobs where a work-related MSD has occurred) would help to ensure that employees are exposed to fewer risk factors over time, or to a combination of risk factors for a lesser amount of time, than is now the case. A large body of data demonstrates that workplace interventions, such as job analysis to identify risk factors and implementation of controls to reduce exposures to these risk factors, can be very effective in reducing those forces responsible for musculoskeletal disease and injury; this has been shown in studies that have quantitatively examined the impact of ergonomic interventions on exposures to risk factors, as well as studies and reports that have documented actual reductions in injury prevalence following the implementation of ergonomics programs. Several of the proposed standard's ancillary provisions, such as MSD management and training, will provide additional protection against the significant risk that will remain after controls are implemented in problem jobs.

C. Preliminary Conclusions

OSHA preliminarily concludes, based on the evidence discussed above and elsewhere in the record, that the scientific data are sufficient to demonstrate that exposure to work-related risk factors is associated with the development of musculoskeletal disorders of the upper extremities, back, and lower extremities. Risk factors identified from this body of literature include repetitive motions; use of excessive force; segmental and whole-body vibration; maintaining awkward postures of the neck, wrists, arms, trunk, and lower-extremities; lifting, lowering, pushing, carrying, and pulling loads of excessive weight; and exposing extremities to temperature extremes. Depending on the specific combinations of risk factors encountered in the workplace, musculoskeletal disorders identified as being work-related include nerve entrapments such as carpal tunnel syndrome (hand, wrist), trigger finger (hand), De Quervains' disease (wrist), tendinitis (hand, wrist, shoulder, ankle), epicondylitis (elbow), rotator cuff tendinitis (shoulder and neck), sciatica (lower back), osteoarthritis (hip, knee), bursitis (knee), and tarsal tunnel syndrome (foot).

The evidentiary base on which OSHA relies in making these preliminary conclusions is described fully in the Health Effects section of the preamble. This evidence is comprised of several hundred cross-sectional, case-control, prospective and case series reports of working populations in a variety of industrial settings. Supplementing these reports is a large body of scientific literature that provides data on the mechanisms by which exposure to these risk factors causes musculoskeletal disorders; these data demonstrate the biological plausibility of the relationship between exposure to workplace risk factors and an elevated risk of MSD injury and illness.

MSDs have been recognized as compensable under virtually all State workers' compensation plans, although some states limit the kinds of MSDs considered compensable. Workers' compensation system recognition of the work-relatedness of many MSDs further demonstrates the link between these disorders and risk factors on the job. Taken together, OSHA believes that the scientific and other evidence described in the preamble to this proposed rule constitute an evidentiary base of unusually depth and quality.

Accordingly, OSHA preliminarily concludes that musculoskeletal disorders associated with workplace exposure to workplace risk factors constitute material impairments of health under the OSH Act. Further, as demonstrated by the evidence discussed in Section B above, the data available to the Agency demonstrate clearly that

workers in the occupations and industries covered by the proposed ergonomics program standard are at significant risk of experiencing a work-related MSD over their working lifetime; for many occupations and industries, they are at significant risk of experiencing a work-related MSD even in a single year of work in their job.

VIII. Summary of the Preliminary Economic Analysis and Regulatory Flexibility Analysis

A. Introduction

OSHA's Preliminary Economic and Regulatory Flexibility Analysis addresses issues related to the costs, benefits, technological and economic feasibility, and the economic impacts (including small business impacts) of the Agency's proposed ergonomics program rule. The analysis also evaluates regulatory and non-regulatory alternatives to the proposed rule. This rule is a significant rule under Executive Order 12866 and has been reviewed by the Office of Information and Regulatory Affairs in the Office of Management and Budget, as required by the executive order. In addition, this economic analysis meets the requirements of both Executive Order 12866 and the Regulatory Flexibility Act (as amended in 1996). The complete Preliminary Economic and Regulatory Flexibility Analysis has been entered into the rulemaking docket as Exhibit 28–1. The remainder of this section of the Preamble summarizes the results of that analysis.

The purpose of this Preliminary Economic and Regulatory Flexibility Analysis is to:

- Identify the establishments and industries potentially affected by the proposed rule;
- Estimate the benefits of the rule in terms of the reduction in musculoskeletal disorders (MSDs) employers will achieve by coming into compliance with the ergonomics program standard and some of the direct cost savings associated with those reductions;
- Evaluate the costs, economic impacts and small business impacts establishments in the regulated community will incur to establish ergonomics programs to achieve compliance with the proposed standard;
- Assess the economic feasibility of the rule for affected industries;
- Evaluate the principal regulatory and non-regulatory alternatives to the proposed rule that OSHA has considered;
- Present the Initial Regulatory Flexibility analysis for the proposed rule; and
- Respond to the findings and recommendations made to OSHA by the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel convened for this proposed standard.

The Preliminary Economic Analysis contains the following chapters:

Chapter I, Introduction
Chapter II, Industrial Profile
Chapter III, Technological Feasibility
Chapter IV, Benefits
Chapter V, Costs of Compliance
Chapter VI, Economic Feasibility
Chapter VII, Economic Impacts and Initial Regulatory Flexibility Analysis
Chapter VIII, Assessment of Non-Regulatory Alternatives.

B. Introduction and Industrial Profile (Chapters I and II)

The proposed ergonomics program standard was developed by OSHA in response to the large number of work-related musculoskeletal disorders of the upper extremities, back, and lower extremities that are threatening the health and well-being of many U.S. workers. Musculoskeletal disorders affect workers in almost every occupation and industry, regardless of establishment size, nature of work (clerical, professional, skilled, or unskilled), or industry sector. This is the case because work-related musculoskeletal disorders are caused or aggravated by risk factors—such as repetitive motion, forceful exertion, vibration, and awkward postures—that are present, either alone or in combination, in many jobs. The large number of musculoskeletal disorders—647,000 MSDs resulting in at least one day away from work in 1996, according to Bureau of Labor Statistics (BLS) data[5]—is largely explained by the continued reliance on unassisted lifting, carrying, and pushing/pulling of loads; the increasing specialization of work; and the faster pace of work (Ex. 26–1413).

Because these characteristics of work are not unique to the United States, countries of every size and on every continent are also experiencing significant numbers of musculoskeletal disorders among their workforces. Many of these countries—ranging from the United Kingdom and Sweden to Pakistan, Ecuador, and South Africa—have already established regulatory requirements designed to address some or all of the workplace risk factors giving rise to these disorders. A table summarizing the ergonomics rules and guidelines issued by other countries and organizations can be found in Chapter I of the Preliminary Economic Analysis.

To reflect the ubiquitous nature of MSD hazards in the workplace, the scope of the proposed standard potentially encompasses all workplaces within general industry. However, the scope of the proposed standard is tiered in a way that matches the extent of the ergonomics program required to the extent of the risk in different establishments.

The proposed ergonomics program standard allows employers whose employees are engaged in manual handling or manufacturing operations but have not experienced an MSD that is covered by the standard to implement only a basic program, while employers whose employees work in jobs where there has been at least one covered MSD must implement the full program. The full program requirements apply to any employer in general industry whose employees experience a covered MSD, not just to those whose establishments engage in manual handling or manufacturing operations. Many employers have found that ergonomics programs that have certain elements and provide a framework to systematically consider and address work-related MSDs can substantially reduce the number and severity of these MSDs, as well as the costs associated with them. There is widespread agreement that successful ergonomics programs include the following elements in some form:

- Management leadership and employee participation
- Hazard information and employee reporting
- Medical management (called "MSD management" in the proposed rule)
- Job hazard analysis and control
- Training
- Program evaluation.

The proposed standard adopts a tiered approach to program implementation and is job-based. This means that

[5] BLS reports that, in 1997, this number has fallen by about 3% since 1996, to 626,000 lost workday cases. However, in this analysis, OSHA relies on the BLS data for 1996, because the detailed breakdowns of the 1997 data needed for this economic analysis are not yet available.

general industry establishments whose employees work in jobs that have a lower probability of incurring an MSD would not be required to take any action until an MSD has occurred. Moreover, further action would only be triggered if the MSD is determined to be one that is recordable under the OSHA recordkeeping standard and, in addition, is determined by the employer to be the kind of MSD associated with risk factors that are a core element or significant part of the employee's regular job duties. Establishments whose employees have a higher probability of incurring a covered MSD, *i.e.*, those with employees engaged in manufacturing production operations or manual handling jobs, would be required to implement a basic ergonomics program for those jobs. The basic program essentially sets up an ergonomics surveillance system by establishing a way for employees to report MSDs as early as possible, providing them with the information they need to recognize MSDs and MSD hazards, and putting in place the management structure and employee participation mechanisms of an effective ergonomics program.

The full program requires the employer to analyze and control the "problem" job (*i.e.*, the job held by the injured employee and other jobs in the workplace that involve the same physical work activities), to provide affected employers and their supervisors with training, and to evaluate their programs periodically. The full program is only required for those jobs where a covered MSD has occurred and those jobs that are essentially the same, with respect to physical work activities, as the job held by the injured employee. In addition, if no covered MSD occurs in a previously controlled job for three years, the establishment is permitted by the standard to drop back to the basic program (if the establishment has employees who are engaged in manufacturing or manual handling operations) or to a program involving only maintenance of the controls in the problem job and any associated employer training (if the establishment does not have employees engaged in manufacturing operations or manual handling).

The basic program includes those elements that are appropriate to workplaces where problem jobs have not yet been identified:

- Management leadership, including allocation of resources, information and training for responsible managers or supervisors, and assignment of program responsibilities;
- Establishment of an employee reporting system and protection against discrimination for employees participating in the program or reporting MSD hazards;
- Providing employees with the information they need to recognize the signs and symptoms of MSDs and MSD hazards; and
- Employer determination of the recordability of the MSD and the relatedness of the MSD to the particular employee's job (to determine whether the MSD is one covered by the standard at all).

Once a covered MSD has been identified, a full program is required. However, even the full program may not be necessary in some circumstances when such an MSD is identified. For example, if the means of controlling the job giving rise to the MSD are obvious and the MSD hazard can be eliminated entirely, the employer may choose the standard's Quick Fix option and is not required to implement the full program for that job.

To determine the number of establishments within the scope of the standard, OSHA needed to obtain data on the number of establishments with employees engaged in manufacturing operations or manual handling, and the number of establishments without employees engaged in these activities who would be brought under the standard as a result of having an MSD. OSHA assumed that all establishments in the manufacturing sector would have employees engaged in manufacturing operations. OSHA estimated the number of establishments engaged in manual handling on the basis of responses to a question on a 1993 ergonomics survey conducted by OSHA. The question asked general industry employers whether any of their employees engaged in lifting more than 25 pounds. Because lifts of 25 pounds or more would not necessarily qualify as a manual handling job under the proposed standard, reliance on the survey responses to estimate the number of establishments with manual handling jobs may mean that OSHA's estimates of the number of such establishments may be high. To determine the likelihood that an establishment would have an employee who would incur an MSD, OSHA needed to determine the rate of MSDs by industry. BLS provided OSHA with data on the rates of lost workday MSDs by industry but does not have data on the rates of all MSDs, including MSDs involving restricted work only and those involving no lost worktime (Ex. 26–1413). In this analysis, OSHA estimates the rate of all MSDs on an industry-by-industry basis. To obtain the total MSD rate for each industry (including lost workday MSDs, restricted work MSDs, and non-lost workday MSDs), OSHA multiplied the reported rate of MSDs involving days away from work by the industry-specific ratio of the rate of all injuries and illnesses involving days away from work to the rate of all injuries and illnesses. The number of reported lost workday MSDs in each industry was then multiplied by this ratio to obtain the total MSD rate for each industry.

Table VIII–1, based on data from *County Business Patterns* for 1996, shows the three-digit industries covered by the standard and the number of employees and establishments in each covered industry within the general industry sector (Ex. 28–2). Table VIII–1 also shows the estimated annual incidence rates for all MSDs (lost workday, restricted work, and non-lost workday) for each industry. (These rates differ from those shown in the risk assessment section of the Preamble because they include an estimate of all MSDs, rather than lost workday MSDs only, and because they use *County Business Patterns* estimates of industry employment in computing MSD rates.) Table VIII–1 shows that the total MSD incidence rates in general industry range as high as 3,434 per 10,000 workers (in Truck Terminal and Joint Terminal Maintenance Facilities for trucks (SIC 423)). A total of about 6 million establishments and 93 million employees are present in general industry.

BILLING CODE 4510–26–P

Table VIII-1: Estimated Number of Establishments and Employees and Estimated Annual Incidence of All MSD's, by 3-Digit SIC

SIC	Industry	Total Number of Establishments	Total Number of Employees in all Establishments	Total MSD Incidence Rate (per 10,000 workers)
Agriculture, Forestry, and Fishing, Excluding 01 and 02				
710	Soil Preparation Services, 0710	641	5,415	238
720	Crop Services, 0720	4,133	46,943	412
740	Veterinary Services, 0740	22,807	174,576	112
750	Animal Services Except Veterinary, 0750	10,369	42,832	71
780	Landscape & Horticultural Services, 0780	68,157	345,871	268
810	Timber Tracts, 0810	862	7,025	202
830	Forest Nurseries, 0830	137	2,082	234
850	Forestry Services, 0850	1,568	12,265	135
910	Commercial Fishing, 0910	1,947	8,850	167
920	Fish Hatcheries & Preserves, 0920	95	1,465	167
970	Hunting, Trapping, & Game Propagation, 0970	339	1,650	172
Oil and Gas Extraction				
1310	Crude Petroleum & Natural Gas, 1310	7,758	83,909	74
1320	Natural Gas Liquids, 1320	560	12,814	110
1380	Oil Gas Field Services, 1380	8,764	159,639	152
Manufacturing				
2010	Meat Products, 2010	3,080	458,861	761
2020	Dairy Products, 2020	1,881	134,051	496
2030	Canned, Frozen, Preserved Fruits, Vegetables, Specialties	2,016	183,797	410
2040	Grain Mill Products, 2040	2,603	109,406	520
2050	Bakery Products, 2050	3,523	230,724	402
2060	Sugar & Confectionery Products, 2060	1,098	86,710	357
2070	Fats & Oils, 2070	507	26,512	311
2080	Beverages, 2080	2,286	144,328	703
2090	Miscellaneous Food Preparations & Kindred Products	4,007	165,889	453
2110	Cigarettes, 2110	15	20,498	319
2120	Cigars, 2120	47	2,737	119
2130	Chewing & Smoking Tobacco & Snuff, 2130	26	2,479	288
2140	Tobacco Stemming & Redrying, 2140	32	5,055	331
2210	Broadwoven Cotton Fabric Mills, 2210	412	50,459	844
2220	Broadwoven Manmade Fiber & Silk Mills, 2220	458	79,013	257
2230	Broadwoven Wool Fabric Mills, 2230	99	13,628	224
2240	Narrow Fabric Mills, 2240	277	17,608	558
2250	Knitting Mills, 2250	1,945	177,354	355
2260	Dyeing & Finishing Textiles Except Wool, 2260	852	53,437	372
2270	Carpets & Rugs, 2270	484	52,137	246
2280	Yarn & Thread Mills, 2280	588	82,102	322
2290	Miscellaneous Textile Mills, 2290	1,010	54,492	329
2310	Men'S & Boys' Suits, Coats, & Overcoats, 2310	293	30,229	338
2320	Men'S & Boys' Furnishings, Work Clothing, Etc., 2320	2,112	211,208	455
2330	Women'S, Misses', & Juniors' Outerwear, 2330	8,954	249,317	206
2340	Women'S, Misses', Children'S & Infants' Undergarments	372	35,283	365
2350	Hats, Caps, & Millinery, 2350	381	18,675	273
2360	Girls', Children'S, & Infants' Outerwear, 2360	585	36,315	233
2370	Fur Goods, 2370	133	550	273
2380	Miscellaneous Apparel & Accessories, 2380	933	30,771	317
2390	Miscellaneous Fabricated Textile Products, 2390	8,797	220,100	310
2410	Logging, 2410	14,273	86,675	67
2420	Sawmills & Planing Mills, 2420	6,103	167,103	401
2430	Millwork, Veneer, Plywood, & Structural Wood Members	9,548	254,660	553
2440	Wood Containers, 2440	2,830	48,027	401
2450	Wood Buildings & Mobile Homes, 2450	1,044	82,857	678
2490	Miscellaneous Wood Products, 2490	3,536	91,967	367
2510	Household Furniture, 2510	5,500	263,791	460

Table VIII-1: Estimated Number of Establishments and Employees and Estimated Annual Incidence of All MSD's, by 3-Digit SIC (Continued)

SIC	Industry	Total Number of Establishments	Total Number of Employees in all Establishments	Total MSD Incidence Rate (per 10,000 workers)
2520	Office Furniture. 2520	1,033	70.867	509
2530	Public Building & Related Furniture. 2530	449	34.886	1.448
2540	Partitions, Shelving, Lockers, & Office & Store Fixtures. 2540	2,996	80.751	507
2590	Miscellaneous Furniture & Fixtures. 2590	1,412	45.588	319
2610	Pulp Mills. 2610	62	15.349	138
2620	Paper Mills. 2620	344	121.373	360
2630	Paperboard Mills. 2630	228	54.165	155
2650	Paperboard Containers & Boxes. 2650	2.809	206.643	327
2670	Convrtd Paper & Pprbrd Prods. Excpt Containers & Boxes	3.033	227.539	303
2710	Newspapers: Publishing, Or Publishing & Printing. 2710	8,878	395.716	196
2720	Periodicals: Publishing, Or Publishing & Printint. 2720	5,781	117,880	117
2730	Books. 2730	3,559	135.942	206
2740	Miscellaneous Publishing. 2740	3.259	61,716	122
2750	Commercial Printing. 2750	34.435	587,534	226
2760	Manifold Business Forms. 2760	911	45.341	359
2770	Greeting Cards. 2770	143	19.958	434
2780	Blankbooks, Binders, & Bookbinding & Related Work	1.583	63,356	317
2790	Service Industries For The Printing Trade. 2790	3,436	56,387	113
2810	Industrial Inorganic Chemicals. 2810	1,390	85,705	163
2820	Plastics Materials & Synthetic Resins, Except Glass. 2820	876	117,868	163
2830	Drugs. 2830	1.637	207,295	193
2840	Soaps, Detergents, Cleaning Preparations, Perfumes, etc.	2,434	120.815	237
2850	Paints, Varnishes, Lacquers, Enamels. 2850	1,479	52,183	264
2860	Industrial Organic Chemicals. 2860	946	121.918	120
2870	Agricultural Chemicals. 2870	938	40.431	152
2890	Miscellaneous Chemical Products. 2890	2,566	86.431	263
2910	Petroleum Refining. 2910	275	70,045	107
2950	Asphalt Paving & Roofing Materials. 2950	1.368	24,390	294
2990	Miscellaneous Products Of Petroleum & Coal. 2990	466	13.874	101
3010	Tires & Inner Tubes. 3010	171	65,902	686
3020	Rubber & Plastics Footwear. 3020	61	8,895	319
3050	Gaskets, Packing Devices, Rubber & Plastics Hose & Belts	826	59.475	578
3060	Fabricated Rubber Products Nec. 3060	1.767	111,074	574
3080	Miscellaneous Plastics Products. 3080	13,648	751,503	420
3110	Leather Tanning & Finishing. 3110	343	14.843	552
3130	Boot & Shoe Cut Stock & Findings. 3130	70	2.103	594
3140	Footwear, Except Rubbeer. 3140	378	38,768	480
3150	Leather Gloves & Mittens. 3150	69	2,349	532
3160	Luggage. 3160	261	10.231	229
3170	Handbags & Other Personal Leather Goods. 3170	343	9.382	385
3190	Leather Goods Nec. 3190	418	8,414	580
3210	Flat Glass. 3210	81	13.203	749
3220	Glass & Glassware, Pressed Or Blown. 3220	589	61,911	562
3230	Glass Products Made Of Purchased Glass. 3230	1.640	61.300	507
3240	Cement, Hydraulic. 3240	231	16.283	311
3250	Structural Clay Products. 3250	593	29.093	532
3260	Pottery & Related Products. 3260	1.200	39.441	625
3270	Concrete, Gypsum, & Plaster Products. 3270	9.498	190.188	360
3280	Cut Stone & Stone Products. 3280	1.071	13.867	399
3290	Abrasive, Asbestos, & Misc. Nonmetallic Mineral Products	1,599	69.785	411
3310	Steel Works, Blast Furnaces, & Rolling & Finishing Mills	1.284	225.373	438
3320	Iron & Steel Foundries. 3320	1.160	133.111	794
3330	Primary Smelting & Refining Of Nonferrous Metals. 3330	201	34,534	444
3340	Secondary Smelting & Refining Of Nonferrous Metals.	299	15,013	543
3350	Rolling, Drawing, & Extruding Of Nonferrous Metals. 3350	1,105	153,482	503
3360	Nonferrous Foundries. 3360	1,662	89,402	629
3390	Miscellaneous Primary Metal Products. 3390	947	31.444	231

Table VIII-1: Estimated Number of Establishments and Employees and Estimated Annual Incidence of All MSD's, by 3-Digit SIC (Continued)

SIC	Industry	Total Number of Establishments	Total Number of Employees in all Establishments	Total MSD Incidence Rate (per 10,000 workers)
3410	Metal Cans & Shipping Containers, 3410	435	35,214	431
3420	Cutlery, Handtools, & General Hardware, 3420	2,446	133,392	476
3430	Heating Equipment & Plumbing Fixtures, 3430	688	46,295	920
3440	Fabricated Structural Metal Products, 3440	13,334	428,117	450
3450	Screws, Bolts, Nuts, Screws, Rivets, & Washers, 3450	2,602	99,345	491
3460	Metal Forgings & Stampings, 3460	3,694	258,010	704
3470	Coating, Engraving, & Allied Services Nec, 3479	5,529	124,099	383
3480	Ordnance, Accessories Excpt Vehicles & Guided Missiles	438	39,859	339
3490	Miscellaneous Fabricated Metal Products, 3490	7,266	296,592	452
3510	Engines & Turbines, 3510	371	75,184	561
3520	Farm & Garden Machinery & Equipment, 3520	1,761	98,072	501
3530	Construction, Mining, & Materials Handling Machinery	3,324	195,304	508
3540	Metalworking Machinery & Equipment, 3540	11,811	295,152	376
3550	Special Industrymachinery Except Metalworking, 3550	4,790	190,365	348
3560	General Industrial Machinery & Equipment, 3560	4,378	260,600	413
3570	Computer & Office Equipment, 3570	2,112	227,720	213
3580	Refreigeration & Service Industry Machinery, 3580	2,246	199,595	566
3590	Miscellaneous Industrial & Commercial Machinery	25,875	377,370	304
3610	Electric Transmission & Distribution Equipment, 3610	875	68,623	369
3620	Electrical Industrial Apparatus, 3620	2,260	162,510	440
3630	Household Appliances, 3630	474	106,685	677
3640	Electric Lighting & Wiring Equipment, 3640	2,117	154,073	474
3650	Househod Audio & Video Equipment & Recordings, 3650	815	50,938	408
3660	Communications Equipment, 3660	2,110	254,639	170
3670	Electronic Components & Accessories, 3670	6,570	594,638	196
3690	Misc. Electrical Machinery, Equipment, & Supplies	1,788	152,482	499
3710	Motor Vehicles & Equipment, 3710	5,049	785,168	1,221
3720	Aircraft & Parts, 3720	1,693	400,899	358
3730	Ship & Boat Building & Repairing, 3730	2,676	52,904	630
3740	Railroad Equipment, 3740	213	35,344	630
3750	Motorcycles, Bicycles, & Parts, 3750	370	16,400	615
3760	Guided Missiles & Space Vehicles & Parts, 3760	105	78,710	141
3790	Miscellaneous Transportation Equipment, 3790	1,135	53,849	569
3810	Search, Detection, Navigation, Related Systems	696	184,871	124
3820	Laboratory Apparatus & Analytical Instruments	4,755	265,806	257
3840	Surgical, Medical, & Dental Instruments &Supplies, 3840	4,471	267,624	221
3850	Ophthalmic Goods, 3850	587	26,417	312
3860	Photographic Equipment & Supplies, 3860	721	62,716	377
3870	Watches, Clocks, Clockwork Operated Devices, & Parts	141	5,765	167
3910	Jewelry, Silverware, & Plated Ware, 3910	2,813	45,819	236
3930	Musical Instruments, 3930	550	13,562	549
3940	Dolls, Toys, Games, & Sporting & Athletic Goods, 3940	3,515	106,609	534
3950	Pens, Pencils, & Artists' Materials, 3950	1,038	28,540	233
3960	Costume Jewelry, Costume Novelties, Buttons, & Notions	1,092	22,970	189
3990	Miscellaneous Manufacturing Industries, 3990	8,803	171,667	338
Transportation, Communication, Electric, Gas, & Sanitary Services, Excluding 40				
4110	Local & Suburban Passenger Transportation, 4110	9,536	194,756	419
4120	Taxicabs, 4120	3,304	27,944	67
4130	Intercity & Rural Bus Transportation, 4130	481	20,621	292
4140	Bus Charter Service, 4140	1,432	29,190	97
4150	School Buses, 4150	4,248	143,919	81
4170	Terminal Facilities For Vehicle Passenger Transport	57	477	364
4210	Trucking & Courier Services Except Air, 4210	116,861	1,725,748	257
4220	Public Warehousing & Storage, 4220	11,856	121,344	441
4230	Terminal & Joint Terminal Maintenance Facilities	80	766	3,434

Table VIII-1: Estimated Number of Establishments and Employees and Estimated Annual Incidence of All MSD's, by 3-Digit SIC (Continued)

SIC	Industry	Total Number of Establishments	Total Number of Employees in all Establishments	Total MSD Incidence Rate (per 10,000 workers)
4510	Air Transportation, Scheduled, & Air Courier Services	6,608	621,649	1,171
4520	Air Transportation, Nonscheduled, 4520	1,831	28,845	175
4580	Airports, Flying Fields, & Airport Terminal Services, 4580	4,014	104,581	322
4610	Pipelines, Except Natural Gas, 4601	963	15,065	47
4720	Arrangement Of Passenger Transportation, 4720	33,106	223,624	27
4730	Arrangement Of Transportation Of Freight & Cargo, 4730	14,771	137,522	148
4740	Rental Of Railroad Cars, 4740	116	2,326	88
4780	Miscellaneous Services Incidental To Transportation, 4780	2,681	42,104	269
4810	Telephone Communications, 4810	27,277	927,967	101
4820	Telegraph & Other Message Communications, 4820	466	5,782	97
4830	Radio & Television Broadcasting Stations, 4830	8,833	238,078	36
4840	Cable & Other Pay Television Services, 4840	4,786	170,300	172
4890	Communications Services Nec, 4890	1,488	22,405	36
4910	Electric Services, 4910	6,278	382,861	187
4920	Gas Production & Distribution, 4920	3,941	135,670	219
4930	Combination Electric & Gas, & Other Utility Services, 4930	1,871	199,685	125
4940	Water Supply, 4940	3,701	26,045	227
4950	Sanitary Services, 4950	6,491	130,347	532
4960	Steam & Air-Conditioning Supply, 4960	69	1,400	280
4970	Irrigation Systems, 4970	366	1,785	225
Wholesale Trade				
5010	Motor Vehicles & Motor Vehicle Parts & Supplies, 5010	45,779	520,711	218
5020	Furniture & Home Furnishings, 5020	16,693	169,720	249
5030	Lumber & Other Construction Materials, 5030	23,678	264,739	411
5040	Professional & Commercial Equipment & Supplies, 5040	51,941	725,137	139
5050	Metals & Minerals, Except Petroleum, 5050	11,416	154,821	296
5060	Electrical Goods, 5060	41,707	508,202	156
5070	Hardware & Plumbing & Heating Equipment & Supplies	26,119	269,607	303
5080	Machinery, Equipment, & Supplies, 5080	76,249	762,397	223
5090	Miscellaneous Durable Goods, 5090	40,029	354,068	190
5110	Paper & Paper Products, 5110	18,712	291,514	129
5120	Drugs, Drug Proprietaries, & Druggists' Sundries,5120	7,316	173,960	147
5130	Apparel, Piece Goods, & Notions, 5130	21,766	209,032	145
5140	Groceries & Related Products, 5140	43,314	846,803	387
5150	Farm-Product Raw Materials, 5150	10,680	98,112	82
5160	Chemicals & Allied Products, 5160	15,171	163,603	152
5170	Petroleum & Petroleum Products, 5170	13,177	153,471	161
5180	Beer, Wine, & Distilled Alcoholic Beverages, 5180	5,055	148,567	553
5190	Miscellaneouls Nondurable Goods, 5190	54,335	505,832	208
Retail Trade				
5210	Lumber & Other Building Materials Dealers, 5210	24,266	475,454	401
5230	Paint, Glass, & Wallpaper Stores, 5230	9,777	49,415	315
5250	Hardware Stores, 5250	14,282	124,402	215
5260	Retail Nurseries, Lawn & Garden Supply Stores, 5260	11,258	80,822	254
5270	Mobile Home Dealers, 5270	4,780	36,746	416
5310	Department Stores, 5310	10,824	1,850,213	378
5330	Variety Stores, 5330	10,848	92,765	513
5390	Miscellaneous General Merchandise Stores, 5390	14,797	316,419	139
5410	Grocery Stores, 5410	129,150	2,980,869	254
5420	Meat & Fish Markets, Including Freezer Provisioners, 5420	7,868	45,979	183
5430	Fruit & Vegetable Markets, 5430	3,342	19,178	106
5440	Candy, Nut, & Confectionery Stores, 5440	4,742	27,794	70
5450	Dairy Products Stores, 5450	2,550	14,746	99

Table VIII-1: Estimated Number of Establishments and Employees and Estimated Annual Incidence of All MSD's, by 3-Digit SIC (Continued)

SIC	Industry	Total Number of Establishments	Total Number of Employees in all Establishments	Total MSD Incidence Rate (per 10,000 workers)
	5460 Retail Bakeries, 5460	20,156	148,069	120
	5490 Miscellaneous Food Stores, 5490	9,904	55,450	89
	5510 Motor Vehicle Dealers (New & Used), 5510	24,639	1,014,799	200
	5520 Motor Vehicle Dealers (Used Only), 5520	21,951	85,892	13
	5530 Auto & Home Supply Stores, 5530	43,806	345,849	212
	5540 Gasoline Service Stations 5540	96,236	713,280	110
	5550 Boat Dealers, 5550	5,068	33,121	220
	5560 Recreational Vehicle Dealers, 5560	2,995	28,499	300
	5570 Motorcycle Dealers, 5570	3,785	29,387	27
	5590 Automotive Dealers Nec, 5590	1,234	5,654	203
	5610 Men'S & Boys' Clothing & Accessory Stores, 5610	13,844	92,334	67
	5620 Women'S Clothing Stores, 5620	40,559	327,351	40
	5630 Women'S Accessory & Specialty Stores, 5630	8,647	50,147	39
	5640 Children'S & Infants' Wear Stores, 5640	5,186	45,078	56
	5650 Family Clothing Stores, 5650	19,583	329,123	165
	5660 Shoe Stores, 5660	31,737	180,967	67
	5690 Miscellaneous Apparel & Accessory Stores, 5690	10,161	53,173	31
	5710 Home Furniture & Furnishing Stores,5710	66,004	475,508	260
	5720 Household Appliance Stores, 5720	10,045	63,989	239
	5730 Radio, Television, Consumer Electronics, & MuStores	39,074	336,182	105
	5810 Eating & Drinking Places, 5810	466,386	7,416,595	79
	5910 Drug Stores & Proprietary Stores, 5910	43,221	588,160	75
	5920 Liquor Stores, 5920	28,812	128,995	32
	5930 Used Merchandise Stores, 5930	23,524	117,116	127
	5940 Miscellaneous Shopping Goods Stores, 5940	129,136	850,337	107
	5960 Nonstore Retailers, 5960	29,947	372,947	257
	5980 Fuel Dealers, 5980	11,317	95,385	155
	5990 Retail Stores Nec, 5990	95,174	468,433	83
Finance, Insurance, and Real Estate				
	6010 Central Reserve Depository Institutions, 6010	102	25,274	191
	6020 Commercial Banks, 6020	67,422	1,507,165	40
	6030 Savings Institutions, 6030	16,131	262,936	34
	6060 Credit Unions, 6060	14,921	163,027	65
	6080 Foreign Banking & Agencies Of Foreign Banks, 6080	656	33,830	1
	6090 Functions Related To Depository Banking, 6090	5,820	68,711	85
	6110 Federal & Federally-Sponsored Credit Agencies, 6110	1,333	22,884	67
	6140 Personal Credit Institutions, 6140	18,996	183,249	6
	6150 Business Credit Institutions, 6150	5,358	104,991	42
	6160 Mortgage Bankers & Brokers, 6160	21,897	226,475	34
	6210 Security Brokers, Dealers, & Flotation Companies, 6210	25,523	411,411	19
	6220 Commodity Contracts Brokers & Dealers, 6220	1,623	13,185	19
	6230 Security & Commodity Exchanges, 6230	117	7,650	62
	6280 Services For The Exchange Of Securities Or Commodities	18,123	135,349	12
	6310 Life Insurance, 6310	11,754	547,789	32
	6320 Accident & Health Insurance & Medical Service Plans	3,337	306,420	114
	6330 Fire, Marine, & Casulaty Insurance, 6330	20,361	594,733	83
	6350 Surety Insurance, 6350	579	10,255	131
	6360 Title Insurance, 6360	2,546	39,886	68
	6370 Pensions, Health, & Welfare Funds, 6370	2,747	33,107	35
	6390 Insurance Carriers Nec, 6390	292	4,018	72
	6410 Insurance Agents, Brokers, & Service, 6410	127,278	695,139	28
	6510 Real Estate Operators & Lessors, 6510	100,612	499,293	174
	6530 Real Estate Agents & Managers, 6530	124,530	756,905	73
	6540 Title Abstract Offices, 6540	5,195	35,417	32
	6550 Land Subdividers & Developers, 6550	18,561	115,746	201
	6710 Holding Offices, 6710	9,575	161,371	38
	6720 Investment Offices, 6720	920	24,933	32

Table VIII-1: Estimated Number of Establishments and Employees and Estimated Annual Incidence of All MSD's, by 3-Digit SIC (Continued)

SIC	Industry	Total Number of Establishments	Total Number of Employees in all Establishments	Total MSD Incidence Rate (per 10,000 workers)
6730	Trusts, 6730	8,841	57,282	56
6790	Miscellaneous Investing, 6790	8,419	56,460	82
Services, Excluding 88				
7010	Hotels & Motels, 7010	45,252	1,539,037	241
7020	Rooming & Boarding Houses, 7020	1,624	9,302	285
7030	Camps & Recreational Vehicle Parks, 7030	7,435	35,478	15
7040	Organization Hotels & Lodging Houses, Memberships	2,410	12,891	40
7210	Laundry, Cleaning, & Garment Services, 7210	56,704	443,179	200
7220	Photographic Studios, Portrait, 7220	13,168	70,481	74
7230	Beauty Shops, 7230	81,872	390,177	31
7240	Barber Shops, 7240	4,499	14,506	190
7250	Shoe Repair Shops & Shoeshine Parlors, 7250	2,216	5,807	134
7260	Funeral Service & Crematories, 7260	15,784	99,027	65
7290	Miscellaneous Personal Services, 7290	30,697	254,674	9
7310	Advertising, 7310	19,664	242,468	49
7320	Cons. Credit Reporting, Mercantile Rpt., & Collection	6,914	109,523	52
7330	Mailing, Reproduction, Com. Art, Photography, Stenog.	35,058	285,511	118
7340	Services To Dwellings & Other Buildings, 7342	65,559	916,370	165
7350	Miscellaneous Equipment Rental & Leasing, 7350	24,814	229,196	142
7360	Personnel Supply Services, 7360	37,374	2,778,419	48
7370	Computer Program., Dataprocessing, & Other Services	88,911	1,266,890	33
7380	Miscellaneous Business Services, 7380	85,634	1,366,526	70
7510	Automotive Rental & Leasing, Without Drivers, 7510	10,643	149,154	93
7520	Automobile Parking, 7520	8,892	65,390	57
7530	Automotive Repair Shops, 7530	139,184	608,702	108
7540	Automotive Services Except Repair, 7540	26,948	211,838	211
7620	Electrical Repair Shops, 7620	19,328	144,758	53
7630	Watch, Clock, & Jewelry Repair, 7630	1,805	5,705	1,346
7640	Reupholstery & Furniture Repair, 7640	6,842	22,674	244
7690	Miscellaneous Repair Shops & Related Services, 7690	39,008	262,495	160
7810	Motion Picture Production & Allied Services, 7810	14,680	240,953	216
7820	Motion Picture Distribution & Allied Services, 7820	1,456	21,899	498
7830	Motion Picture Theaters, 7830	6,572	118,921	280
7840	Video Tape Rental, 7840	20,816	129,258	270
7910	Dance Studios, Schools, & Halls, 7910	5,719	27,063	18
7920	Theatrical Producers, Bands, Orchestras, & Entertainers	16,839	161,158	94
7930	Bowling Centers, 7930	5,735	90,614	50
7940	Commercial Sports, 7940	4,763	101,728	218
7990	Miscellaneous Amusement & Recreation Services, 7990	61,841	991,444	181
8010	Offices & Clinics Of Doctors Of Medicine, 8010	186,994	1,688,823	78
8020	Offices & Clinics Of Dentists, 8020	113,054	634,709	27
8030	Offices & Clinics Of Doctors Of Osteopathy, 8030	9,105	53,700	182
8040	Offices & Clinics Of Other Health Praactioners, 8040	84,667	353,204	166
8050	Nursing & Personal Care Facilities, 8050	24,009	1,806,086	706
8060	Hospitals, 806	7,282	5,067,349	327
8070	Medical & Dental Laboratories, 8070	15,243	190,629	84
8080	Home Health Care Services, 8080	16,106	779,365	285
8090	Miscellaneous Health & Allied Services Nec, 8090	20,849	387,020	121
8110	Legal Services, 8110	168,276	959,809	39
8210	Elementaary & Secondary Schools, 8210	18,017	609,190	45
8220	Colleges, Universities, Prof. Schools, & Junior Colleges	3,663	1,258,979	46
8230	Libraries, 8230	2,252	22,343	73
8240	Vocational Schools, 8240	6,816	79,561	22
8290	Schools & Educational Services Nec, 8290	15,395	124,076	13
8320	Individual & Family Social Services, 8320	43,047	596,191	190
8330	Job Training & Vocational Rehabilitation Services, 8330	9,114	325,655	107
8350	Child Day Care Services, 8350	53,592	553,897	80

Table VIII-1: Estimated Number of Establishments and Employees and Estimated Annual Incidence of All MSD's, by 3-Digit SIC (Continued)

SIC	Industry	Total Number of Establishments	Total Number of Employees in all Establishments	Total MSD Incidence Rate (per 10,000 workers)
8360	Residential Care, 8360	28,762	550,745	353
8390	Social Services Nec, 8390	15,702	216,649	87
8410	Museums & Art Galleries, 8410	4,520	63,818	129
8420	Arboreta & Botanical Or Zoological Gardens, 8420	585	16,044	172
8610	Business Associations, 8610	15,767	111,371	30
8620	Professional Membership Organizations, 8620	7,033	63,638	24
8630	Labor Unions & Similar Labor Organizations, 8630	19,536	169,366	16
8640	Civic, Social, & Fraternal Associations, 8640	36,944	369,808	70
8650	Political Organizations, 8650	2,579	10,719	95
8660	Religious Organizations, 8660	158,299	1,380,975	8
8690	Membership Organizations Nec, 8690	9,072	106,606	81
8710	Engineering, Architectural, & Surveying Services, 8710	78,815	910,439	38
8720	Accounting, Auditing, & Bookkeeping Services, 8720	84,175	639,896	59
8730	Research, Development, & Testing Services, 8730	19,471	458,980	113
8740	Management & Public Relations Services, 8740	95,033	985,335	69
8990	Services Nec, 8990	17,221	105,803	249
	Total	**5,904,039**	**92,725,578**	

Sources: Office of Regulatory Analysis, OSHA
Number of establishments is taken from "County Business Patterns", U.S. Bureau of Census (1996)
MSD rates are calculated by multiplying, for each industry, the number of lost workday MSDs reported by employers to the BLS by the ratio of all lost workday injuries and illnesses for that industry to all non-lost workday injuries and illnesses for that industry. OSHA used this approach because the BLS only reports the number of lost workday MSDs by industry.

BILLING CODE 4510-C

Table VIII–2 shows that about 2 million of the establishments in general industry (or about one-third of all establishments) will be covered by the standard (either by a basic or a full program) in the first year after the standard goes into effect (Table VIII–2). This table breaks these establishments out by those within the scope of the proposed standard because they have employees engaged in manufacturing operations, because they have employees engaged in manual handling, or have employees engaged in other activities that have caused a covered MSD. About 373,000 establishments are estimated to need a basic program as a result of having employees engaged in manufacturing operations, and a total of about 976,000 establishments will need a basic program because they have employees engaged in manual handling. In the first year of the standard's implementation, about 600,000 establishments whose employees engage in other general industry jobs (*i.e.*, have jobs that do not involve either manual handling or manufacturing operations) will need to fix jobs because they have an employee who has incurred a covered MSD. In the first year, approximately 7.7 million jobs will be fixed as a result of the ergonomics program standard. At the end of ten years, approximately 30 million problem jobs will have been fixed (see Chapter IV of the Preliminary Economic Analysis).

BILLING CODE 4510–26–P

SIC

071
072
074
075
078
081
083
085
091
092
097
131
132
138
201
202
203
204
205
206
207
208
209
211
212
213
214
221
222
223
224
225
226
227
228
229
231
232
233
234
235
236
237
238
239
241
242
243
244
245
249
251
252
253
254
259
261
262
263
265
267
271
272
273
274

Table VIII-2

NUMBER OF ESTABLISHMENTS ESTIMATED TO FALL WITHIN THE SCOPE OF THE STANDARD IN YEAR 1, BY 3-DIGIT SIC

SIC	Industry	Total Number of Establishments in SIC	Total Number of Establishments with Manufacturing Jobs	Total Number of Establishments With Manual Handling Jobs [a]	Total Number of Establishments Not Engaged in Manual Handling or Manufacturing, but incurring a Covered MSD	Total Number of Establishments in First Year in the Scope of the Standard
071	Soil prep. services	641	0	239	74	313
072	Crop services	4,133	0	1,538	986	2,524
074	Veterinary services	22,807	0	8,488	1,183	9,672
075	Animal serv., excpt vet.	10,369	0	3,859	189	4,048
078	Landscape & hort. services	68,157	0	31,355	4,732	36,087
081	Timber tracts	862	0	321	83	404
083	Forest products	137	0	51	26	77
085	Forestry services	1,568	0	584	99	683
091	Commerical fishing	1,947	0	725	90	815
092	Fish hatcheries	95	0	35	14	49
097	Hunting & trapping	339	0	126	17	143
131	Crude petrol. & nat. gas	7,758	0	1,553	480	2,032
132	Natural gas liquids	560	0	112	100	212
138	Oil & gas field services	8,764	0	1,754	1,707	3,461
201	Meat products	3,080	3,080	0	0	3,080
202	Dairy products	1,881	1,881	0	0	1,881
203	Presrvd fruits & vegetables	2,016	2,016	0	0	2,016
204	Grain mill products	2,603	2,603	0	0	2,603
205	Bakery products	3,523	3,523	0	0	3,523
206	Sugar and confect. prods	1,098	1,098	0	0	1,098
207	Fats and oils	507	507	0	0	507
208	Beverages	2,286	2,286	0	0	2,286
209	Misc. food products	4,007	4,007	0	0	4,007
211	Cigarettes	15	15	0	0	15
212	Cigars	47	47	0	0	47
213	Chewing & smoking tobacco	26	26	0	0	26
214	Tobacco stemm. & redrying	32	32	0	0	32
221	Brdwven fab. mills, cotton	412	412	0	0	412
222	Broadwoven fabric mills	458	458	0	0	458
223	Brdwvn fab. mills, wool	99	99	0	0	99
224	Narrow fabric mills	277	277	0	0	277
225	Knitting mills	1,945	1,945	0	0	1,945
226	Tex. finishing, excpt wool	852	852	0	0	852
227	Carpets and rugs	484	484	0	0	484
228	Yarn and thread mills	588	588	0	0	588
229	Misc. textile goods	1,010	1,010	0	0	1,010
231	Men's & boys' suits & coats	293	293	0	0	293
232	Men's & boys' furnishings	2,112	2,112	0	0	2,112
233	Wm's & misses' outerwear	8,954	8,954	0	0	8,954
234	Wm's & chldrn's undergarmnts	372	372	0	0	372
235	Hats, caps, & millinery	381	381	0	0	381
236	Girls' & chldrn's outerwear	585	585	0	0	585
237	Fur goods	133	133	0	0	133
238	Misc. apparel & accessories	933	933	0	0	933
239	Misc. fab. textile prods	8,797	8,797	0	0	8,797
241	Logging	14,273	14,273	0	0	14,273
242	Sawmills & planing mills	6,103	6,103	0	0	6,103
243	Millwork & plywood	9,548	9,548	0	0	9,548
244	Wood containers	2,830	2,830	0	0	2,830
245	Wood bldings & mobile homes	1,044	1,044	0	0	1,044
249	Misc. wood products	3,536	3,536	0	0	3,536
251	Household furniture	5,500	5,500	0	0	5,500
252	Office furniture	1,033	1,033	0	0	1,033
253	Pub bldng & related furn.	449	449	0	0	449
254	Partitions and fixtures	2,996	2,996	0	0	2,996
259	Misc furniture and fixtures	1,412	1,412	0	0	1,412
261	Pulp mills	62	62	0	0	62
262	Paper mills	344	344	0	0	344
263	Paperboard mills	228	228	0	0	228
265	Paperbrd containers & boxes	2,809	2,809	0	0	2,809
267	Misc. cnvrtd paper products	3,033	3,033	0	0	3,033
271	Newspapers	8,878	8,878	0	0	8,878
272	Periodicals	5,781	5,781	0	0	5,781
273	Books	3,559	3,559	0	0	3,559
274	Miscellaneous publishing	3,259	3,259	0	0	3,259

Table VIII-2

NUMBER OF ESTABLISHMENTS ESTIMATED TO FALL WITHIN THE SCOPE OF THE STANDARD IN YEAR 1, BY 3-DIGIT SIC

SIC	Industry	Total Number of Establishments in SIC	Total Number of Establishments with Manufacturing Jobs	Total Number of Establishments With Manual Handling Jobs [a]	Total Number of Establishments Not Engaged in Manual Handling or Manufacturing, but incurring a Covered MSD	Total Number of Establishments in First Year in the Scope of the Standard
275	Commercial printing	34,435	34,435	0	0	34,435
276	Manifold business forms	911	911	0	0	911
277	Greeting cards	143	143	0	0	143
278	Blankbooks & bookbinding	1,583	1,583	0	0	1,583
279	Printing trade services	3,436	3,436	0	0	3,436
281	Indust. inorganic chemicals	1,390	1,390	0	0	1,390
282	Plastics mat. & synthetics	876	876	0	0	876
283	Drugs	1,637	1,637	0	0	1,637
284	Soap, clnrs, & toilet goods	2,434	2,434	0	0	2,434
285	Paints & allied products	1,479	1,479	0	0	1,479
286	Indust. organic chemicals	946	946	0	0	946
287	Agricultural chemicals	938	938	0	0	938
289	Misc. chemical products	2,566	2,566	0	0	2,566
291	Petroleum refining	275	275	0	0	275
295	Asphlt pavng & roofng mat.	1,368	1,368	0	0	1,368
299	Misc. pet. & coal prods	466	466	0	0	466
301	Tires and inner tubes	171	171	0	0	171
302	Rubber & plastics footwear	61	61	0	0	61
305	Hose, bltng, and gaskets	826	826	0	0	826
306	Fab. rubber prod., n.e.c.	1,767	1,767	0	0	1,767
308	Misc plastics, n.e.c.	13,648	13,648	0	0	13,648
311	Leather tan. & finishing	343	343	0	0	343
313	Footwear cut stock	70	70	0	0	70
314	Footwear, except rubber	378	378	0	0	378
315	Leather gloves & mittens	69	69	0	0	69
316	Luggage	261	261	0	0	261
317	Hndbags & prsnal leathr gds.	343	343	0	0	343
319	Leather goods, n.e.c.	418	418	0	0	418
321	Flat glass	81	81	0	0	81
322	Glass, pressed or blown	589	589	0	0	589
323	Prod. of purchased glass	1,640	1,640	0	0	1,640
324	Cement, hydraulic	231	231	0	0	231
325	Structural clay products	593	593	0	0	593
326	Pottery & related prods	1,200	1,200	0	0	1,200
327	Concrete & plast. prdcts	9,498	9,498	0	0	9,498
328	Cut stone & stone prods	1,071	1,071	0	0	1,071
329	Misc. nonmet. mineral prods.	1,599	1,599	0	0	1,599
331	Basic steel products	1,284	1,284	0	0	1,284
332	Iron and steel foundries	1,160	1,160	0	0	1,160
333	Primary nonfer. metals	201	201	0	0	201
334	Secondary nonfer. metals	299	299	0	0	299
335	Nonfer. rolling & drawing	1,105	1,105	0	0	1,105
336	Nonfer. foundries (cstngs)	1,662	1,662	0	0	1,662
339	Misc. primary metal prdcts	947	947	0	0	947
341	Met. cans & ship. containers	435	435	0	0	435
342	Cutlery, hndtls, & hardware	2,446	2,446	0	0	2,446
343	Plumbing & heating fixtures	688	688	0	0	688
344	Fab. struct. metal prdcts	13,334	13,334	0	0	13,334
345	Screw machine products	2,602	2,602	0	0	2,602
346	Met. forgings & stampings	3,694	3,694	0	0	3,694
347	Metal services, n.e.c.	5,529	5,529	0	0	5,529
348	Ordnance and access., n.e.c.	438	438	0	0	438
349	Misc. fab. metal products	7,266	7,266	0	0	7,266
351	Engines and turbines	371	371	0	0	371
352	Farm & garden machinery	1,761	1,761	0	0	1,761
353	Construct. & related mach.	3,324	3,324	0	0	3,324
354	Metalworking machinery	11,811	11,811	0	0	11,811
355	Special industry mach.	4,790	4,790	0	0	4,790
356	General indust. mach.	4,378	4,378	0	0	4,378
357	Computer & office equip.	2,112	2,112	0	0	2,112
358	Refrig. & serv. indust mach.	2,246	2,246	0	0	2,246
359	Industrial mach., n.e.c.	25,875	25,875	0	0	25,875
361	Elect. dist. equipment	875	875	0	0	875
362	Elect. indust. apparatus	2,260	2,260	0	0	2,260
363	Household appliances	474	474	0	0	474

Table VIII-2

NUMBER OF ESTABLISHMENTS ESTIMATED TO FALL WITHIN THE SCOPE OF THE STANDARD IN YEAR 1, BY 3-DIGIT SIC

SIC	Industry	Total Number of Establishments in SIC	Total Number of Establishments with Manufacturing Jobs	Total Number of Establishments With Manual Handling Jobs [a]	Total Number of Establishments Not Engaged in Manual Handling or Manufacturing, but incurring a Covered MSD	Total Number of Establishments in First Year in the Scope of the Standard
364	Elct. lghtng & wire equip.	2,117	2,117	0	0	2,117
365	Household audio & vid. equip.	815	815	0	0	815
366	Communications equipment	2,110	2,110	0	0	2,110
367	Electmic compnnts & access.	6,570	6,570	0	0	6,570
369	Misc. elect. equipment	1,788	1,788	0	0	1,788
371	Motor vehicles & equipt.	5,049	5,049	0	0	5,049
372	Aircraft and parts	1,693	1,693	0	0	1,693
373	Ship, boat bldng and repair	2,676	2,676	0	0	2,676
374	Railroad equipment	213	213	0	0	213
375	Motorcycles & bicycles	370	370	0	0	370
376	Guided missiles	105	105	0	0	105
379	Misc. transportation equip.	1,135	1,135	0	0	1,135
381	Srch & navigation equipment	696	696	0	0	696
382	Meas. & contrlling devices	4,755	4,755	0	0	4,755
384	Medical instrmnts & supplies	4,471	4,471	0	0	4,471
385	Ophthalmic goods	587	587	0	0	587
386	Photo. equip. & supplies	721	721	0	0	721
387	Watches, clocks, & parts	141	141	0	0	141
391	Jwlry, slvrwre, and plate	2,813	2,813	0	0	2,813
393	Musical instruments	550	550	0	0	550
394	Toys and sporting goods	3,515	3,515	0	0	3,515
395	Office and art supplies	1,038	1,038	0	0	1,038
396	Costume jewelry & notions	1,092	1,092	0	0	1,092
399	Misc. manufactures	8,803	8,803	0	0	8,803
411	Local & suburban trans.	9,536	0	0	5,555	5,555
412	Taxicabs	3,304	0	0	183	183
413	Intercty & rural bus trans.	481	0	0	346	346
414	Bus charter service	1,432	0	0	258	258
415	School buses	4,248	0	0	1,019	1,019
417	Bus terminals	57	0	0	20	20
421	Trking & Courier Service	116,861	0	0	37,262	37,262
422	Pub. warehousing & storage	11,856	0	0	4,384	4,384
423	Trucking terminal fac.	80	0	0	31	31
451	Air trans., scheduled	6,608	0	0	6,608	6,608
452	Air trans , nonsched.	1,831	0	0	445	445
458	Airports and services	4,014	0	0	2,303	2,303
461	Pipelines, excpt natural gas	963	0	193	393	586
472	Pass. trans. arrangements	33,106	0	9,025	438	9,463
473	Freight trans. arrangements	14,771	0	4,027	1,391	5,418
474	Rental of railroad cars	116	0	32	17	49
478	Misc. trans. services	2,681	0	731	680	1,411
481	Telephone communication	27,277	0	7,201	5,844	13,045
482	Telegrph & other comm.	466	0	123	30	153
483	Radio & TV broadcasting	8,833	0	2,332	604	2,936
484	Cable & othr pay TV services	4,786	0	1,263	1,623	2,886
489	Communication serv., n.e.c.	1,488	0	393	71	464
491	Electric services	6,278	0	1,657	3,156	4,814
492	Gas product. & distribution	3,941	0	1,040	1,548	2,589
493	Comb. utility services	1,871	0	494	1,016	1,510
494	Water supply	3,701	0	977	406	1,383
495	Sanitary services	6,491	0	1,714	3,182	4,896
496	Steam & air-cond. supplies	69	0	18	19	37
497	Irrigation systems	366	0	97	28	125
501	Motor vehicles	45,779	0	18,296	6,090	24,387
502	Furn. & homefurnishings	16,693	0	6,672	2,263	8,935
503	Lumber & construct. mat.	23,678	0	9,463	5,328	14,791
504	Prof. & commercial equip.	51,941	0	20,759	5,535	26,294
505	Met. & minerals, excpt pet.	11,416	0	4,563	2,294	6,856
506	Electrical goods	41,707	0	16,669	4,362	21,031
507	Hardware supplies	26,119	0	10,439	4,271	14,710
508	Mach., equipt, & supplies	76,249	0	30,474	9,232	39,706
509	Misc. durable goods	40,029	0	15,998	3,753	19,751
511	Paper and paper products	18,712	0	7,479	2,052	9,531
512	Drugs, propriet., & sundries	7,316	0	2,924	1,303	4,227
513	Apparel and notions	21,766	0	8,699	1,712	10,411

Table VIII-2

NUMBER OF ESTABLISHMENTS ESTIMATED TO FALL WITHIN THE SCOPE OF THE STANDARD IN YEAR 1, BY 3-DIGIT SIC

SIC	Industry	Total Number of Establishments in SIC	Total Number of Establishments with Manufacturing Jobs	Total Number of Establishments With Manual Handling Jobs [a]	Total Number of Establishments Not Engaged in Manual Handling or Manufacturing, but incurring a Covered MSD	Total Number of Establishments in First Year in the Scope of the Standard
514	Groceries & related products	45,314	0	17,311	13,980	31,291
515	Farm-prod. raw materials	10,680	0	4,268	467	4,736
516	Chemicals & allied prods	15,171	0	6,063	1,387	7,450
517	Petrol. & petrol. prods	13,177	0	5,266	1,365	6,632
518	Beer, wine, & dist. bev.	5,055	0	2,020	2,465	4,485
519	Misc. nondurable goods	54,335	0	21,716	5,793	27,509
521	Lumber & other bldng mat.	24,266	0	5,835	10,168	16,003
523	Paint, glass, wallpaper strs	9,777	0	2,351	1,108	3,459
525	Hardware stores	14,282	0	3,434	1,871	5,305
526	Retail nurseries and gardens	11,258	0	2,707	1,441	4,148
527	Mobile home dealers	4,780	0	1,149	916	2,066
531	Department stores	10,824	0	2,603	8,210	10,813
533	Variety stores	10,848	0	2,609	2,987	5,596
539	Misc. gen. merchandise strs.	14,797	0	3,558	2,910	6,468
541	Grocery stores	129,150	0	30,304	44,308	74,612
542	Meat and fish markets	7,868	0	1,846	617	2,463
543	Fruit & vegetable markets	3,342	0	784	151	936
544	Candy, nut, & confctnry strs	4,742	0	1,113	190	1,302
545	Dairy products stores	2,550	0	598	76	674
546	Retail bakeries	20,156	0	4,729	1,309	6,038
549	Misc. food stores	9,904	0	2,324	368	2,692
551	New and used car dealers	24,639	0	5,925	10,556	16,482
552	Used car dealers	21,951	0	5,279	185	5,464
553	Auto & home supply stores	43,806	0	10,534	5,171	15,705
554	Gas service stations	96,236	0	23,143	5,732	28,875
555	Boat dealers	5,068	0	1,219	521	1,739
556	Rec. vehicle dealers	2,995	0	720	573	1,293
557	Motorcycle dealers	3,785	0	910	44	954
559	Auto dealers, n.e.c.	1,234	0	297	12	309
561	Men's & boys' clothing strs	13,844	0	3,329	461	3,790
562	Women's clothing stores	40,559	0	9,754	981	10,735
563	Wm's access & specialty strs	8,647	0	2,079	154	2,234
564	Chldrn's & infants' wear strs	5,186	0	1,247	179	1,426
565	Family clothing stores	19,583	0	4,709	3,633	8,342
566	Shoe stores	31,737	0	7,632	909	8,541
569	Misc. apparel stores	10,161	0	2,443	125	2,568
571	Furnitre & homefurnishng strs	66,004	0	15,872	8,674	24,547
572	Household appliance strs	10,045	0	2,416	1,088	3,503
573	Radio, TV, & comptr strs	39,074	0	9,396	2,569	11,966
581	Eating & drinking places	466,386	0	112,155	41,754	153,909
591	Drug stores	43,221	0	10,394	3,207	13,600
592	Liquor stores	28,812	0	6,929	308	7,237
593	Used merchandise stores	23,524	0	5,657	1,097	6,754
594	Misc. shopping goods strs.	129,136	0	31,054	6,697	37,751
596	Nonstore retailers	29,947	0	7,202	6,307	13,508
598	Fuel dealers	11,317	0	2,721	1,060	3,782
599	Retail stores, n.e.c.	95,174	0	22,887	2,916	25,803
601	Central res. depository	102	0	9	92	101
602	Commercial banks	67,422	0	6,220	5,238	11,458
603	Savings institutions	16,131	0	1,488	799	2,287
606	Credit unions	14,921	0	1,377	932	2,309
608	Foreign banking	656	0	61	128	189
609	Banking-related functions	5,820	0	537	505	1,042
611	Federal credit agencies	1,333	0	123	30	153
614	Personal cred. institutions	18,996	0	1,753	177	1,929
615	Business cred. institutions	5,358	0	494	384	878
616	Mortgage bankers & brokers	21,897	0	2,020	693	2,713
621	Security brokers & dealers	25,523	0	2,355	682	3,037
622	Commodity contracts brokers	1,623	0	150	22	172
623	Security & commod. exchanges	117	0	11	36	46
628	Security & commod. services	18,123	0	1,672	152	1,824
631	Life insurance	11,754	0	1,084	1,501	2,586
632	Medical & health insur.	3,337	0	308	1,972	2,280
633	Fire, marine, & casity ins.	20,361	0	1,878	3,976	5,855
635	Surety insurance	579	0	53	43	97

Table VIII-2

NUMBER OF ESTABLISHMENTS ESTIMATED TO FALL WITHIN THE SCOPE OF THE STANDARD IN YEAR 1, BY 3-DIGIT SIC

SIC	Industry	Total Number of Establishments in SIC	Total Number of Establishments with Manufacturing Jobs	Total Number of Establishments With Manual Handling Jobs [a]	Total Number of Establishments Not Engaged in Manual Handling or Manufacturing, but incurring a Covered MSD	Total Number of Establishments in First Year in the Scope of the Standard
636	Title insurance	2,546	0	235	328	563
637	Pension and health funds	2,747	0	253	123	376
639	Ins. carriers, n.e.c.	292	0	27	25	52
641	Insurance agents	127,278	0	11,743	1,785	13,527
651	Real estate operators	100,612	0	9,282	7,638	16,920
653	RE agents and managers	124,530	0	11,489	4,936	16,425
654	Title abstract offices	5,195	0	479	319	798
655	Subdividers & developrs	18,561	0	1,712	2,005	3,718
671	Holding offices	9,575	0	883	796	1,679
672	Investment offices	920	0	85	70	155
673	Trusts	8,841	0	816	288	1,103
679	Miscellaneous investing	8,419	0	777	216	992
701	Hotels and motels	45,252	0	2,242	24,234	26,477
702	Rooming & boarding houses	1,624	0	80	236	316
703	Camps and rec. vehicle parks	7,435	0	368	72	440
704	Membership-basis org. hotels	2,410	0	119	26	146
721	Laundry & garment srvices	56,704	0	9,420	6,906	16,325
722	Photo studios, portrait	13,168	0	653	485	1,137
723	Beauty shops	81,872	0	4,057	1,129	5,187
724	Barber shops	4,499	0	223	182	405
725	Shoe repair	2,216	0	110	73	183
726	Fun. service and crematories	15,784	0	782	599	1,381
729	Misc personal services.	30,697	0	1,521	226	1,748
731	Advertising	19,664	0	1,814	2,539	4,353
732	Credit report.& collection	6,914	0	638	494	1,132
733	Mailing, reprod, steno., serv	35,058	0	3,234	2,933	6,167
734	Services to buildings	65,559	0	6,048	12,373	18,422
735	Misc. equipt. rental	24,814	0	2,289	2,784	5,073
736	Pers. supply services	37,374	0	3,448	10,210	13,658
737	Comptr & data proc. services	88,911	0	8,203	3,680	11,883
738	Misc. business services	85,634	0	7,901	8,251	16,151
751	Auto rentals, no drivers	10,643	0	527	1,241	1,768
752	Automobile parking	8,892	0	441	347	788
753	Automotive repair shops	139,184	0	6,897	6,143	13,040
754	Automotive serv., exc repair	26,948	0	1,335	2,932	4,267
762	Electrical repair shops	19,328	0	958	1,754	2,711
763	Watch and jewelry repair	1,805	0	89	71	161
764	Reupholstery & furn. repair	6,842	0	1,137	179	1,316
769	Misc. repair shops	39,008	0	1,933	3,811	5,744
781	Motion picture production	14,680	0	727	4,736	5,464
782	Motion picture dist.	1,456	0	72	816	888
783	Motion picture theaters	6,572	0	326	2,802	3,127
784	Video tape rental	20,816	0	1,032	3,530	4,562
791	Dance studios & schools	5,719	0	283	503	787
792	Prducrs, orch., entertainers	16,839	0	834	1,389	2,223
793	Bowling centers	5,735	0	284	418	702
794	Commercial sports	4,763	0	236	1,702	1,938
799	Misc. recreation services	61,841	0	3,064	14,941	18,005
801	Offices of medical doctors	186,994	0	22,836	11,247	34,083
802	Dentists offices and clinics	113,054	0	13,806	2,775	16,582
803	Osteopathic physicians	9,105	0	1,112	133	1,245
804	Other health practitioners	84,667	0	10,340	5,001	15,340
805	Nursing & personal care fac.	24,009	0	10,629	13,326	23,955
806	Hospitals	7,282	0	3,224	4,058	7,282
807	Med. & dental labs	15,243	0	1,861	1,339	3,201
808	Home hlth care services	16,106	0	1,967	10,642	12,608
809	Hlth & allied serv., n.e.c.	20,849	0	2,546	3,693	6,240
811	Legal services	168,276	0	20,550	3,266	23,817
821	Elem. & secondary schools	18,017	0	2,200	2,243	4,443
822	Colleges & universities	3,663	0	447	2,566	3,013
823	Libraries	2,252	0	275	42	317
824	Vocational schools	6,816	0	832	158	991
829	Schools, n.e.c.	15,395	0	1,880	235	2,115
832	Individual & fam. services	43,047	0	5,257	8,814	14,071
833	Job train. & related serv.	9,114	0	1,113	2,556	3,669

Table VIII-2

NUMBER OF ESTABLISHMENTS ESTIMATED TO FALL WITHIN THE SCOPE OF THE STANDARD IN YEAR 1, BY 3-DIGIT SIC

SIC	Industry	Total Number of Establishments in SIC	Total Number of Establishments with Manufacturing Jobs	Total Number of Establishments With Manual Handling Jobs [a]	Total Number of Establishments Not Engaged in Manual Handling or Manufacturing, but incurring a Covered MSD	Total Number of Establishments in First Year in the Scope of the Standard
835	Child day care services	53,592	0	6,545	3,726	10,271
836	Residential care	28,762	0	3,512	12,565	16,077
839	Social services, n.e.c.	15,702	0	1,918	1,569	3,487
841	Museums & art galleries	4,520	0	552	663	1,215
842	Bot. & zoolog. gardens	585	0	71	194	265
861	Business associations	15,767	0	1,925	291	2,217
862	Prof. organizations	7,033	0	859	132	991
863	Labor organizations	19,536	0	2,386	238	2,623
864	Civic & social assoc.	36,944	0	4,512	2,192	6,704
865	Political organizations	2,579	0	315	88	403
866	Religious organizations	158,299	0	19,332	976	20,308
869	Membership orgs., n.e.c.	9,072	0	1,108	728	1,835
871	Eng. and arch. services	78,815	0	9,625	2,952	12,577
872	Accntng, auditng, & bkeeping	84,175	0	10,280	3,276	13,555
873	Research & testing services	19,471	0	2,378	4,032	6,410
874	Management & pub. relations	95,033	0	11,606	5,746	17,351
899	Services, n.e.c.	17,221	0	2,103	2,174	4,277
Total		5,904,039	373,413	975,595	618,104	1,967,112

[a] Establishments in SICs 20-39 are not counted in the column because they have already been determined to be in the scope of the rule.

Source: Office of Regulatory Analysis, OSHA, U.S. DOL, from data presented in Tables II-1 and II-4.

BILLING CODE 4510-26-C

C. Techn

Only a
to techn
and cont
1910.92
those job
as other
activities
MSD wa
employe
job haza
material

Emplo
any com
practice
Engineer
choice, b
However
practice
as well.
to suppl
administ
method
addition
wrist bra
because
between
also perm
abatemen
anticipat
and to tr

The pr
must be
are feasi
analysis
measures
the risk f
motions,
postures
connecti
producti

Chapte
relevant
interven
kinds wo
in the job
of emplo
programs
administ
number
workplac
showed t
establish
expects t
on this e
proposed
industry
includin
controls,
studies (s
Appendi
understo
hazards i

D. Benefi

In its a
proposed

C. Technological Feasibility (Chapter III)

Only a few of the proposed rule's provisions are related to technological feasibility; these are the job hazard analysis and control provisions in sections 1910.917 through 1910.922. These provisions require employers to analyze those jobs that have been linked to a covered MSD, as well as other jobs in the workplace that involve the same work activities and conditions as the job in which the covered MSD was reported. Once the job has been analyzed, employers must evaluate the risk factors identified by the job hazard analysis and implement controls to eliminate or materially reduce the MSD hazards in the job.

Employers are permitted by the proposed standard to use any combination of engineering, administrative, or work practice controls to achieve the required level of control. Engineering controls are always the control method of choice, because they eliminate the hazard at its source. However, the standard permits employers to use work practice and administrative controls to address MSD hazards as well. Personal protective equipment (PPE) may be used to supplement engineering, work practice, and/or administrative controls, but it may not be used as the only method of control unless other controls are not feasible. In addition, the proposed standard notes that back belts and wrist braces are not considered PPE under this standard because these devices do not provide an effective barrier between the MSD hazard and the employee. The standard also permits employers to implement an incremental abatement process, *i.e.*, to try a control that is reasonably anticipated to materially reduce the MSD hazard adequately and to try another such control if the first control fails.

The proposed rule also clearly states that the controls that must be applied to the problem job are limited to those that are feasible. The Technological Feasibility chapter of the analysis provides an extensive list exemplifying the control measures that employers have found effective in addressing the risk factors of concern: forceful exertion, repetitive motions, awkward postures, vibration, contact stress, static postures, and cold temperatures. These are discussed in connection with manual handling, manufacturing production, and other general industry jobs.

Chapter III includes lists of controls to address each of the relevant risk factors associated with these jobs. Numerous intervention studies have also shown that controls of these kinds work to reduce risk factors and MSDs among workers in the jobs targeted by this standard. In addition, thousands of employers have implemented successful ergonomics programs and have identified many feasible engineering, administrative, and work practice controls to reduce the number and severity of the MSDs occurring in their workplaces. In addition, OSHA's 1993 ergonomics survey showed that 50% of general industry employees worked in establishments that have ergonomics programs, and OSHA expects that this percentage has grown since that time. Based on this evidence, OSHA preliminarily concludes that the proposed standard is technologically feasible for general industry employers with problem jobs. Ergonomic controls, including engineering, work practice, and administrative controls, as demonstrated by the many published case studies (such as those captured by the scenarios in Appendix III–A to Chapter III), are widely available, well understood, and demonstrably effective in reducing MSD hazards in the workplace.

D. Benefits Analysis (Chapter IV)

In its analysis of both the benefits and costs of the proposed standard, OSHA has estimated MSD rates based on BLS data. As discussed in the Preliminary Risk Assessment section of the Preamble, there is extensive evidence that MSDs are underreported to the BLS, perhaps by as much as 50 percent. To the extent that those provisions of the standard that are designed to encourage reporting increase the number of MSDs reported, both the costs and benefits of the proposed standard would be affected. (See the Initial Regulatory Flexibility Analysis, Section VIII. H., for a discussion of possible impacts of increased reporting on both the benefits and costs of the proposed standard.) However, the proposed standard also creates incentives for employers to discourage employee reporting of MSDs, because the reporting of a covered MSD is the event under the standard that triggers the need to implement job controls and/or a full program. In this Preliminary Economic Analysis, OSHA has chosen to assume that these two effects will leave the current MSD reporting rate unaffected. However, OSHA welcomes data and comments on the extent of MSD underreporting, possible increases in the reporting of MSDs that may occur after employers implement an ergonomics program, and on the incentive effects of the proposed standard on employee reporting of MSDs.

Most of the benefits of the proposed standard will be generated when employers fix their problem jobs and thus reduce the number of covered MSDs these jobs cause. Hazard information, MSD management and work restriction protection will also generate benefits because they will ensure that MSDs are identified and treated early in their development, thus preventing progression of the MSD to a serious long-term disability. However, OSHA has not yet found ways to separately calculate the benefits of fixing problem jobs and the benefits of early detection, although the Agency is aware that early reporting and medical management have substantial benefits that are similar to those associated with preventive medicine in general. For example, Oxenburgh *et al.* (1985) compared two groups of VDU operators (Ex. 26–1041). In Group A, which did not report early or receive medical management early, 22% of cases were at the second or third stage by the time they sought medical attention, compared with 8% at these stages in Group B, which had been made aware of the need to report early and the value of prompt medical management. The mean period of absence for Group A workers was 33.9 days; only 25% of this group continued to work (*i.e.*, at alternate duty) throughout the period of recuperation. In Group B, however, the mean period of absence from work was only 3.4 days, and fully 80% of this group remained in alternate duty throughout. The mean number of alternate duty days was 91 days for Group A workers and 31.5 days for those in Group B. The total amount of time the average worker in Group A lost, either to days away or alternate duty, was 124.9 days; in Group B, this figure decreased by 72%, to 34.9 days. Thus the elements of the basic program plus medical management can have substantial benefits even in the absence of a full program. Most employers who have implemented ergonomics programs agree, and have included both hazard identification, early reporting, and medical management elements in their programs.

Most of the preventive, as against remedial, benefits of the proposed ergonomics program standard will stem, however, from the implementation of the full program, because the standard's most important preventive elements are job hazard analysis and control. The proposed standard (and therefore this economic analysis) is structured in such a way that the number of jobs fixed in any given year depends on the number of covered MSDs projected to occur and the number of workers OSHA estimates hold jobs that involve the same physical work activities as the job giving rise to

VOL 64 ISS 225 NO 23 1999 UMI

the covered MSD. The number of workers holding the same job, as defined by the standard, varies by industry and job.

A review of 88 studies of ergonomics program interventions showed that they reduced MSDs by an average of 67 percent (the median effectiveness rate for these studies was 64 percent). (These case studies are largely pre- and post-intervention studies of control effectiveness, expressed in terms of reductions in the MSD rate.) Those studies from this group that provide information on reductions in lost workday case rates and reductions in the value of workers' compensation claims demonstrate that these programs are even more effective in reducing more serious MSDs than they are in reducing all types of MSDs. These intervention studies are, in turn, supported by the results of a large group of epidemiological studies of the work-related risk factors leading to MSDs (see the Preliminary Risk Assessment section of this preamble). That section describes the results of a large number of risk ratio studies reviewed by NIOSH (NIOSH 1997), which found that reducing the risk factors present in the jobs of the exposed populations (those who had experienced MSDs) to the risk factor levels found in the jobs of the control (non-exposed) populations in these studies would result in a 69% reduction in the number of MSDs of the neck or shoulder in the exposed population, a 57% to 86% reduction in the number of upper extremity disorders in this population, and a 56% reduction in the number of MSDs of the back. OSHA assumes, for the purpose of this benefits analysis, that the levels of risk factors present in the jobs of the workers in the control populations (*i.e.*, the exposures of the control group workers to forceful exertions, awkward or static posture, repetitive motions, etc.) are equivalent to the levels of these risk factors that would be present in jobs that have been controlled or "fixed," as would be required by the proposed standard. Based on the data from these two sources (the intervention studies and the risk ratio studies), which report effectiveness rates that are strikingly consistent, OSHA estimates that the ergonomics program required by the proposed standard will prevent 50 percent of the covered MSDs that would otherwise have occurred in problem jobs. OSHA believes that this estimate of the effectiveness of the proposed standard is conservative, because many programs achieve substantially higher reductions and some eliminate MSD hazards entirely.

Determining the number of employees whose jobs will be fixed by the full ergonomics program required by the standard is unusually complicated because of the structure of the proposed standard itself. For example, the full program is applicable only to employees in a job in which a covered MSD has occurred and to other employees in the establishment in the same job, as defined by the standard.

Any analysis of the number of employees affected by the program envisioned by the proposed rule must consider: (1) That some MSDs initially reported to employers will turn out, on closer examination, not to be covered MSDs, and (2) that some MSDs will continue to occur in jobs that have already been fixed. To OSHA's knowledge, there are no data on either of these points.

Lacking such data, OSHA assumes, for analytical purposes, that all OSHA-recordable MSDs, rather than a portion of all OSHA-recordable MSDs, that occur in jobs that have not been fixed will require employers to implement a full program, and that all MSDs, rather than some MSDs, subsequently occurring in jobs that have already been fixed will not be covered MSDs and will thus not require employers to implement a full program. In other words, in terms of this analysis, OSHA treats these two factors as offsets of each other, *i.e.*, that the number of MSDs screened out will be equal to the number of MSDs subsequently occurring in controlled jobs. In actuality, some problem jobs that have been fixed will need further hazard control, and some covered MSDs will continue to occur in jobs that have not been fixed but will nevertheless not trigger implementation of the full program. The result of these simplifying assumptions is to overestimate the frequency with which a full program will be needed in the first years after the standard is implemented and to underestimate the frequency with which a full program will be needed in the out-years. Because this analysis only covers the first 10 years following the proposed standard's effective date, OSHA believes that these simplifying assumptions are likely to lead to an overestimate of both the benefits and costs. (In its cost analysis, OSHA assumes that employers will incur costs to investigate all MSDs that occur; thus, the simplifying assumptions used here are not carried forward into the cost analysis, which instead assumes that employers will assess the OSHA recordability and then the covered status of all MSDs occurring among their employees.)

OSHA estimates that employers will be required to fix approximately 7.7 million jobs in the first year the standard is in place, and a diminishing number every year thereafter. Over ten years, approximately 30 million jobs will be fixed. OSHA estimates that fixing these jobs will reduce the number of covered MSDs caused by these jobs by 50 percent per year (based on the effectiveness rate derived above) for the next ten years (the time horizon of this analysis). In the first 10 years, the proposed standard is therefore projected to avert approximately 3 million MSDs. By the tenth year the proposed standard is in place, it will have reduced the number of general industry MSDs by 26 percent, compared with the number of MSDs reported by the BLS for general industry in 1996.

OSHA estimates that the direct cost savings associated with each MSD, including the savings in lost productivity, lost tax payments, and administrative costs for workers' compensation claims, are $22,500 per MSD (1996 dollars). These direct cost savings do not attribute a value or assign a monetary cost to the pain and suffering of injured or ill workers, losses to their families, or losses of the worker's ability to contribute at home, and are thus conservative estimates of these savings. Based on this estimate of the direct cost savings associated with each covered MSD avoided, the annualized benefits (using a discount rate of 7%) accruing in the first ten years the standard is in effect are estimated to be $9.1 billion per year.

E. Costs of Compliance (Chapter V)

This chapter presents OSHA's estimates of the costs employers would incur to comply with the proposed ergonomics program rule. The costs reported are annualized costs measured in 1996 real dollars for the first 10 years the rule is in effect. To calculate annualized costs, non-recurring costs have been annualized using a discount rate of 7 percent for an estimated life of 10 years. The cost analysis does not account for any changes in the economy over time, or for possible adjustments in the demand and supply of goods, changes in production methods, investment effects, or macroeconomic effects of the standard. Taking account of all of these effects could increase or decrease the cost or benefit estimates presented here, although the macroeconomic effects of any rule whose costs are less than 0.05 percent of GNP are likely to be minimal. OSHA believes that its approach, *i.e.*, of determining the benefits and costs of the standard for industry as it is today, is the least

speculative and least controversial way of presenting the benefits and costs of the proposed standard.

OSHA relied on responses to a 1993 ergonomics survey (see Appendix II–A to Chapter II of the Preliminary Economic Analysis) of thousands of general industry employers to estimate the extent to which establishments within the scope of the standard already have implemented ergonomics programs involving the control of jobs. This current industry baseline was taken into account in calculating industry-by-industry and size-of-establishment cost estimates, *i.e.*, any costs employers have already incurred, and any benefits they have already accrued, to voluntarily implement such programs have not been attributed to the proposed rule.

Costs were calculated separately at the three-digit SIC code level for all industries. These industry-by-industry cost estimates account for differences among industries in terms of wage rates, turnover, baseline rates of compliance, and the MSD rate for the industry. To facilitate analysis of the impacts of the proposed rule on small businesses, costs were calculated separately for each of three size classes of establishments. The Initial Regulatory Flexibility Analysis (Section VIII.'H. of this Preamble) provides a detailed summary of OSHA's unit cost estimates for each element of the standard.

Table VIII–3 presents the annualized costs of the proposed ergonomics program standard. As this table shows, the total annualized costs to society are $3.4 billion, and the costs to employers are $4.2 billion. (The difference in these cost estimates is accounted for by the fact that an annualized cost of $875 million represents a shift in the costs employees are currently paying in the form of lost wages to costs that employers would be required to incur in the form of work restriction protection costs, *i.e.*, a shift in costs from employees to employers.) The job control provisions of the standard account for $2.3 billion, or 54 percent of the standard's total costs, and the work restriction protection provision accounts for $875 million, or 21 percent of this total.

BILLING CODE 4510–26–P

VOL 64 ISS 225 NO 23 1999 UMI

TABLE VIII-3

Total Cost of Compliance, by Provision of the Proposed Rule and 3-Digit SIC

SIC	Industry	Familiarization and MSD Coverage Costs	Basic Program	Full Program	Job Fixes	SUBTOTAL (cost to society)	Work Restriction Protection	TOTAL (cost to employers)
710	Soil preparation services	$4,987	$6,476	$35,359	$103,643	$150,466	$91,498	$241,964
720	Crop services	$57,711	$89,037	$715,647	$3,286,507	$4,148,901	$1,048,170	$5,197,071
740	Veterinary services	$111,426	$188,129	$1,502,747	$3,183,834	$4,986,135	$1,281,099	$6,267,235
750	Animal serv., except vet.	$33,281	$24,234	$242,781	$662,335	$962,631	$203,076	$1,165,707
780	Lndscape & hort. services	$446,243	$626,152	$5,231,530	$19,503,388	$25,807,313	$4,574,059	$30,381,372
810	Timber tracts	$9,390	$12,725	$92,334	$391,031	$505,480	$83,579	$589,058
830	Forest products	$2,388	$3,203	$24,391	$143,886	$173,867	$27,082	$200,949
850	Forestry services	$14,054	$20,593	$144,287	$377,313	$556,247	$103,784	$660,032
910	Commerical fishing	$14,682	$13,140	$103,663	$443,819	$575,304	$86,987	$662,291
920	Fish hatcheries	$1,380	$2,298	$15,665	$77,790	$97,133	$14,251	$111,384
970	Hunting & trapping	$2,701	$3,093	$22,698	$65,615	$94,107	$5,217	$99,324
1310	Crude petrol. & nat. gas	$99,996	$102,963	$721,594	$1,559,647	$2,484,199	$117,997	$2,602,196
1320	Natural gas liquids	$9,477	$22,565	$120,806	$181,518	$334,366	$64,327	$398,693
1380	Oil & gas field services	$141,424	$194,504	$1,444,641	$6,607,716	$8,388,285	$1,025,762	$9,414,047
2010	Meat products	$1,292,571	$232,815	$5,124,746	$13,849,717	$20,499,849	$14,352,079	$34,851,928
2020	Dairy products	$290,536	$123,080	$1,551,056	$3,414,123	$5,378,795	$2,829,232	$8,208,027
2030	Presrvd fruits & vegetables	$336,169	$132,309	$1,699,103	$4,655,532	$6,823,112	$3,202,193	$10,025,305
2040	Grain mill products	$268,330	$139,496	$1,477,950	$2,513,364	$4,399,140	$2,435,618	$6,834,758
2050	Bakery products	$431,082	$187,666	$2,300,855	$5,604,584	$8,524,186	$3,963,402	$12,487,588
2060	Sugar and confect. prods	$169,220	$73,894	$873,773	$2,094,901	$3,211,788	$1,337,722	$4,549,510
2070	Fats and oils	$42,723	$32,268	$271,343	$506,720	$853,054	$367,900	$1,220,954
2080	Beverages	$476,309	$145,324	$2,231,090	$4,033,755	$6,886,479	$2,166,275	$9,052,754
2090	Misc. food products	$352,217	$166,901	$1,814,634	$4,149,049	$6,482,800	$1,661,026	$8,143,826
2110	Cigarettes	$36,621	$15,330	$351,977	$273,762	$677,690	$138,508	$816,198
2120	Cigars	$2,016	$1,973	$16,353	$41,198	$61,540	$7,674	$69,214
2130	Chewing & smoking tobacco	$3,871	$2,366	$25,837	$19,294	$51,368	$15,987	$67,355
2140	Tobacco stemm. & redrying	$8,889	$4,812	$56,852	$115,984	$186,538	$37,215	$223,753
2210	Brdwven fab. mills, cotton	$153,345	$38,532	$727,340	$1,511,011	$2,430,229	$837,360	$3,267,589
2220	Broadwoven fabric mills	$84,935	$56,779	$680,047	$1,770,076	$2,591,837	$439,326	$3,031,163
2230	Brdwvn fab. mills, wool	$12,264	$10,808	$106,391	$240,228	$369,691	$66,897	$436,588
2240	Narrow fabric mills	$38,341	$22,978	$239,283	$404,408	$705,011	$275,322	$980,333
2250	Knitting mills	$227,250	$161,420	$1,697,598	$4,460,433	$6,546,701	$1,803,827	$8,350,528
2260	Tex. finishing, excpt wool	$74,571	$49,105	$560,822	$1,323,802	$2,008,301	$569,439	$2,577,740
2270	Carpets and rugs	$49,156	$36,546	$418,296	$1,297,526	$1,801,523	$377,969	$2,179,492
2280	Yarn and thread mills	$90,869	$68,818	$744,477	$1,990,103	$2,894,267	$766,120	$3,660,386
2290	Misc. textile goods	$76,312	$73,124	$644,138	$1,366,090	$2,159,665	$531,245	$2,690,910
2310	Men's & boys' suits & coats	$33,934	$17,453	$222,330	$373,337	$647,054	$302,359	$949,413
2320	Men's & boys' furnishings	$352,945	$146,504	$1,883,609	$3,050,871	$5,433,930	$2,804,240	$8,238,170
2330	Wm's & misses' outerwear	$222,143	$222,773	$1,787,931	$2,328,675	$4,561,521	$1,631,513	$6,193,035
2340	Wm's & chldrn's undergarmnts	$40,659	$21,666	$265,909	$645,985	$974,219	$509,425	$1,483,644
2350	Hats, caps, & millinery	$20,727	$15,636	$142,928	$173,942	$353,233	$208,095	$561,328
2360	Girls' & chldrn's outerwear	$22,136	$20,520	$209,489	$436,384	$688,529	$299,964	$988,493
2370	Fur goods	$1,228	$1,022	$7,788	$703	$10,741	$5,621	$16,361
2380	Misc. apparel & accessories	$39,652	$30,119	$274,268	$491,478	$835,516	$341,331	$1,176,847
2390	Misc. fab. textile prods	$295,417	$218,575	$2,042,306	$4,008,768	$6,565,067	$2,378,172	$8,943,239
2410	Logging	$93,363	$58,983	$462,751	$402,670	$1,017,767	$224,823	$1,242,590
2420	Sawmills & planing mills	$287,000	$261,566	$2,529,980	$3,763,949	$6,842,496	$2,360,422	$9,202,918
2430	Millwork & plywood	$583,281	$404,204	$4,528,356	$7,012,486	$12,528,327	$4,814,627	$17,342,953
2440	Wood containers	$56,634	$62,609	$672,815	$832,834	$1,624,892	$700,480	$2,325,372
2450	Wood bldings & mobile homes	$226,958	$84,492	$1,380,386	$3,153,345	$4,845,181	$1,838,941	$6,684,122
2490	Misc. wood products	$146,568	$130,027	$1,323,917	$1,831,541	$3,432,054	$1,776,602	$5,208,656
2510	Household furniture	$459,522	$213,129	$3,133,991	$6,229,989	$10,036,630	$6,212,126	$16,248,756
2520	Office furniture	$174,209	$69,795	$979,383	$1,966,554	$3,189,942	$1,818,118	$5,008,060
2530	Pub bldng & related furn.	$189,745	$34,318	$758,473	$1,216,464	$2,199,001	$2,400,525	$4,599,526
2540	Partitions and fixtures	$161,634	$103,211	$1,242,244	$1,825,077	$3,332,165	$2,132,627	$5,464,792
2590	Misc furniture and fixtures	$72,016	$50,833	$527,579	$848,365	$1,498,794	$774,678	$2,273,471
2610	Pulp mills	$11,424	$13,148	$107,993	$280,466	$413,031	$111,883	$524,915
2620	Paper mills	$247,924	$131,832	$1,765,412	$3,765,953	$5,911,121	$2,140,699	$8,051,820
2630	Paperboard mills	$52,638	$75,395	$492,099	$1,034,327	$1,654,459	$444,921	$2,099,380
2650	Paperbrd containers & boxes	$341,820	$321,545	$2,823,669	$4,842,285	$8,329,319	$3,480,788	$11,810,106
2670	Misc. cnvrtd paper products	$401,244	$340,300	$3,008,784	$5,519,766	$9,270,094	$3,520,132	$12,790,226
2710	Newspapers	$438,601	$509,171	$4,174,010	$8,718,626	$13,840,408	$4,002,609	$17,843,017

TABLE VIII-3

Total Cost of Compliance, by Provision of the Proposed Rule and 3-Digit SIC

SIC	Industry	Familiarization and MSD Coverage Costs	Basic Program	Full Program	Job Fixes	SUBTOTAL (cost to society)	Work Restriction Protection	TOTAL (cost to employers)
2720	Periodicals	$86,785	$111,521	$916,865	$956,982	$2,072,152	$753,383	$2,825,535
2730	Books	$146,049	$140,449	$1,402,595	$2,307,355	$3,996,448	$1,448,385	$5,444,833
2740	Miscellaneous publishing	$58,441	$74,584	$543,443	$601,677	$1,278,144	$299,529	$1,577,673
2750	Commercial printing	$789,771	$1,023,042	$8,174,710	$7,189,782	$17,177,305	$5,137,479	$22,314,783
2760	Manifold business forms	$76,103	$84,852	$761,960	$751,585	$1,674,499	$603,556	$2,278,055
2770	Greeting cards	$39,944	$19,323	$265,013	$907,814	$1,232,094	$291,705	$1,523,799
2780	Blankbooks & bookbinding	$89,296	$100,845	$869,426	$1,511,860	$2,571,427	$748,404	$3,319,832
2790	Printing trade services	$59,889	$91,017	$582,268	$211,823	$944,996	$258,745	$1,203,741
2810	Indust. inorganic chemicals	$96,797	$64,914	$582,743	$1,294,714	$2,039,168	$535,798	$2,574,966
2820	Plastics mat. & synthetics	$122,740	$82,151	$746,510	$1,417,255	$2,368,656	$739,988	$3,108,644
2830	Drugs	$260,684	$130,084	$1,426,144	$3,175,181	$4,992,093	$2,457,923	$7,450,017
2840	Soap, clnrs, & toilet goods	$173,485	$88,316	$895,079	$2,111,037	$3,267,917	$1,773,632	$5,041,549
2850	Paints & allied products	$72,281	$46,848	$432,646	$682,993	$1,234,768	$867,025	$2,101,792
2860	Indust. organic chemicals	$125,520	$105,823	$751,671	$1,303,483	$2,286,496	$574,433	$2,860,929
2870	Agricultural chemicals	$40,787	$31,766	$256,873	$452,629	$782,056	$241,451	$1,023,507
2890	Misc. chemical products	$138,254	$97,315	$801,899	$1,128,929	$2,166,396	$880,254	$3,046,650
2910	Petroleum refining	$59,716	$112,893	$594,464	$1,805,294	$2,572,368	$269,676	$2,842,044
2950	Asphlt pavng & roofng mat.	$40,114	$56,241	$375,983	$968,332	$1,440,671	$254,541	$1,695,212
2990	Misc. pet. & coal prods	$9,003	$22,223	$112,739	$289,620	$433,585	$32,399	$465,984
3010	Tires and inner tubes	$219,488	$44,629	$1,163,243	$1,424,982	$2,852,341	$955,426	$3,807,767
3020	Rubber & plastics footwear	$24,725	$4,774	$98,357	$223,485	$351,341	$137,126	$488,467
3050	Hose, blting, and gaskets	$143,626	$52,078	$679,979	$1,450,210	$2,325,894	$741,890	$3,067,784
3060	Fab. rubber prod., n.e.c.	$266,659	$101,107	$1,271,163	$2,672,038	$4,310,967	$1,383,253	$5,694,221
3080	Misc plastics, n.e.c.	$1,347,716	$699,349	$7,471,653	$15,672,256	$25,190,974	$6,999,315	$32,190,288
3110	Leather tan. & finishing	$33,820	$21,464	$221,025	$589,913	$866,222	$168,574	$1,034,796
3130	Footwear cut stock	$3,110	$3,303	$25,830	$58,823	$91,066	$36,998	$128,064
3140	Footwear, except rubber	$65,979	$31,564	$418,497	$1,624,062	$2,140,102	$884,439	$3,024,541
3150	Leather gloves & mittens	$6,700	$4,470	$43,163	$42,981	$97,313	$84,666	$181,979
3160	Luggage	$8,752	$10,570	$86,370	$187,250	$292,942	$121,747	$414,688
3170	Hndbags & prsnal leathr gds.	$9,358	$7,710	$92,339	$304,038	$413,446	$179,967	$593,413
3190	Leather goods, n.e.c.	$14,962	$12,730	$121,977	$260,087	$409,755	$237,434	$647,189
3210	Flat glass	$47,351	$13,129	$250,688	$493,156	$804,324	$462,291	$1,266,615
3220	Glass, pressed or blown	$211,449	$59,113	$940,301	$2,051,162	$3,262,024	$1,633,864	$4,895,889
3230	Prod. of purchased glass	$148,964	$80,706	$789,277	$2,146,211	$3,165,157	$1,497,315	$4,662,472
3240	Cement, hydraulic	$28,128	$21,979	$212,609	$442,401	$705,117	$163,609	$868,727
3250	Structural clay products	$72,612	$43,294	$425,866	$918,782	$1,460,555	$478,468	$1,939,023
3260	Pottery & related prods	$105,087	$49,343	$531,420	$1,344,773	$2,030,623	$736,348	$2,766,970
3270	Concrete & plast. prdcts	$349,702	$385,906	$2,892,656	$5,057,981	$8,686,245	$2,255,193	$10,941,438
3280	Cut stone & stone prods	$29,602	$31,314	$235,326	$338,425	$634,667	$180,071	$814,738
3290	Misc. nonmet. mineral prods.	$131,038	$98,700	$860,158	$2,155,367	$3,245,263	$886,282	$4,131,545
3310	Basic steel products	$539,361	$189,531	$3,525,180	$6,436,770	$10,690,842	$2,995,612	$13,686,455
3320	Iron and steel foundries	$436,536	$112,336	$2,068,240	$3,432,151	$6,049,263	$3,302,185	$9,351,449
3330	Primary nonfer. metals	$73,026	$24,048	$416,124	$879,707	$1,392,905	$482,769	$1,875,674
3340	Secondary nonfer. metals	$36,839	$18,922	$201,335	$417,990	$675,086	$261,597	$936,683
3350	Nonfer. rolling & drawing	$389,851	$135,054	$1,889,475	$3,935,671	$6,350,051	$2,425,542	$8,775,592
3360	Nonfer. foundries (cstngs)	$235,885	$96,561	$1,101,117	$2,164,493	$3,598,057	$1,773,747	$5,371,804
3390	Misc. primary metal prdcts	$38,664	$43,266	$295,634	$557,634	$935,198	$249,554	$1,184,752
3410	Met. cans & ship. containers	$78,724	$49,208	$586,664	$919,556	$1,634,152	$501,141	$2,135,293
3420	Cutlery, hndtls, & hardware	$297,616	$173,932	$2,011,168	$3,877,717	$6,360,433	$2,061,445	$8,421,878
3430	Plumbing & heating fixtures	$167,692	$53,896	$855,720	$1,660,249	$2,737,557	$1,311,106	$4,048,663
3440	Fab. struct. metal prdcts	$849,767	$693,151	$6,855,786	$11,168,871	$19,567,575	$6,439,798	$26,007,372
3450	Screw machine products	$219,273	$170,580	$1,715,235	$2,116,672	$4,221,759	$1,618,903	$5,840,663
3460	Met. forgings & stampings	$824,129	$376,377	$4,746,165	$8,679,062	$14,625,734	$5,659,519	$20,285,253
3470	Metal services, n.e.c.	$218,656	$222,471	$1,942,865	$2,174,274	$4,558,266	$1,638,394	$6,196,660
3480	Ordnance and access., n.e.c.	$73,076	$36,879	$478,676	$1,033,571	$1,622,202	$436,551	$2,058,754
3490	Misc. fab. metal products	$589,495	$415,675	$4,465,584	$7,479,527	$12,950,281	$4,425,629	$17,375,910
3510	Engines and turbines	$220,541	$69,347	$1,165,957	$1,991,508	$3,447,353	$1,320,904	$4,768,256
3520	Farm & garden machinery	$267,611	$130,767	$1,503,677	$3,108,824	$5,010,879	$1,577,971	$6,588,850
3530	Construct. & related mach.	$454,768	$241,864	$2,880,890	$5,709,236	$9,286,758	$3,209,034	$12,495,792
3540	Metalworking machinery	$582,437	$508,638	$4,655,183	$5,752,420	$11,498,678	$2,612,411	$14,111,089
3550	Special industry mach.	$345,325	$268,298	$2,598,591	$3,898,661	$7,110,875	$1,545,567	$8,656,442
3560	General indust. mach.	$520,063	$326,287	$3,621,951	$6,141,371	$10,609,672	$2,466,064	$13,075,736

TABLE VIII-3

Total Cost of Compliance, by Provision of the Proposed Rule and 3-Digit SIC

SIC	Industry	Familiarization and MSD Coverage Costs	Basic Program	Full Program	Job Fixes	SUBTOTAL (cost to society)	Work Restriction Protection	TOTAL (cost to employers)
3570	Computer & office equip.	$289,582	$179,785	$1,910,387	$4,544,423	$6,924,177	$1,103,833	$8,028,010
3580	Refrig. & serv. indust mach.	$518,937	$201,047	$2,811,471	$6,359,093	$9,890,548	$2,472,817	$12,363,365
3590	Industrial mach., n.e.c.	$674,379	$693,223	$5,692,592	$4,820,735	$11,880,930	$2,779,177	$14,660,107
3610	Elect. dist. equipment	$131,116	$40,529	$594,404	$1,066,571	$1,832,620	$605,637	$2,438,256
3620	Elect. indust. apparatus	$392,662	$101,438	$1,589,553	$2,503,770	$4,587,423	$1,695,903	$6,283,325
3630	Household appliances	$358,851	$41,165	$1,235,281	$2,306,060	$3,941,356	$994,665	$4,936,022
3640	Elct. lghtng & wire equip.	$361,387	$95,196	$1,550,582	$2,567,937	$4,575,103	$1,036,538	$5,611,641
3650	Household audio & vid. equip.	$104,773	$26,313	$436,041	$774,993	$1,342,120	$295,878	$1,637,998
3660	Communications equipment	$268,372	$114,798	$1,354,173	$2,971,302	$4,708,645	$632,236	$5,340,881
3670	Electrnic compnnts & access.	$636,637	$297,328	$3,325,890	$6,451,029	$10,710,884	$1,707,180	$12,418,064
3690	Misc. elect. equipment	$377,907	$91,648	$1,595,343	$2,597,975	$4,662,873	$1,073,328	$5,736,202
3710	Motor vehicles & equipt.	$6,110,272	$106,665	$19,067,888	$9,225,657	$34,510,482	$13,808,384	$48,318,866
3720	Aircraft and parts	$1,059,333	$126,318	$4,943,403	$3,879,273	$10,008,327	$3,949,190	$13,957,517
3730	Ship, boat blding and repair	$190,463	$34,962	$566,210	$586,265	$1,377,901	$928,782	$2,306,682
3740	Railroad equipment	$113,000	$12,212	$400,980	$448,930	$975,122	$613,205	$1,588,327
3750	Motorcycles & bicycles	$62,338	$8,460	$198,199	$183,295	$452,292	$279,135	$731,427
3760	Guided missiles	$71,402	$21,997	$434,354	$517,715	$1,045,467	$309,889	$1,355,357
3790	Misc. transportation equip.	$147,968	$23,286	$464,301	$661,711	$1,297,267	$852,981	$2,150,247
3810	Srch & navigation equipment	$144,859	$96,191	$982,575	$2,171,092	$3,394,716	$619,321	$4,014,037
3820	Meas. & contrlling devices	$388,984	$218,685	$2,165,034	$3,934,262	$6,706,966	$1,845,100	$8,552,066
3840	Medical instrmnts & supplies	$339,754	$182,368	$1,903,998	$4,394,382	$6,820,501	$1,612,150	$8,432,651
3850	Ophthalmic goods	$40,265	$18,210	$207,936	$421,516	$687,927	$221,269	$909,196
3860	Photo. equip. & supplies	$114,816	$36,190	$776,989	$1,282,619	$2,210,613	$600,797	$2,811,411
3870	Watches, clocks, & parts	$4,192	$2,796	$27,259	$77,368	$111,616	$23,271	$134,887
3910	Jwlry, slvrwre, and plate	$58,762	$48,592	$424,219	$878,379	$1,409,952	$607,505	$2,017,457
3930	Musical instruments	$30,303	$15,592	$161,092	$429,830	$636,816	$383,710	$1,020,526
3940	Toys and sporting goods	$253,054	$127,950	$1,322,435	$3,039,197	$4,742,635	$2,971,917	$7,714,553
3950	Office and art supplies	$39,717	$32,649	$276,576	$547,987	$896,930	$373,807	$1,270,737
3960	Costume jewelry & notions	$21,488	$18,643	$166,935	$364,354	$571,419	$248,010	$819,428
3990	Misc. manufactures	$259,336	$210,687	$1,920,586	$3,892,492	$6,283,101	$3,200,145	$9,483,246
4110	Local & suburban trans.	$270,438	$477,130	$3,177,413	$16,349,789	$20,274,770	$3,743,337	$24,018,108
4120	Taxicabs	$14,951	$18,710	$155,751	$927,276	$1,116,687	$106,769	$1,223,456
4130	Intercty & rural bus trans.	$23,248	$40,727	$247,503	$2,189,167	$2,500,645	$286,125	$2,786,770
4140	Bus charter service	$14,224	$38,954	$229,616	$1,010,765	$1,293,558	$161,236	$1,454,794
4150	School buses	$43,496	$158,402	$827,641	$5,623,426	$6,652,965	$653,889	$7,306,855
4170	Bus terminals	$1,151	$2,084	$12,486	$18,547	$34,268	$11,598	$45,866
4210	Trking & Courier Service	$1,991,571	$3,193,985	$20,696,026	$157,727,668	$183,609,250	$19,927,167	$203,536,417
4220	Pub. warehousing & storage	$252,812	$429,735	$2,707,392	$7,580,477	$10,970,415	$2,911,025	$13,881,441
4230	Trucking terminal fac.	$1,879	$2,786	$19,845	$60,210	$84,719	$20,769	$105,488
4510	Air trans., scheduled	$3,141,829	$1,654,817	na	$45,899,440	$50,696,087	$34,383,061	$85,079,148
4520	Air trans., nonsched.	$28,911	$50,403	na	$834,207	$913,521	$306,469	$1,219,990
4580	Airports and services	$151,961	$228,651	na	$5,711,186	$6,091,798	$1,857,214	$7,949,012
4610	Pipelines, excpt natural gas	$43,291	$71,575	$430,575	$779,380	$1,324,821	$371,508	$1,696,329
4720	Pass. trans. arrangements	$130,767	$80,858	$675,387	$1,180,784	$2,067,796	$433,400	$2,501,195
4730	Freight trans. arrangements	$148,131	$273,075	$1,912,863	$4,538,363	$6,872,431	$1,346,468	$8,218,900
4740	Rental of railroad cars	$1,637	$2,506	$19,417	$47,391	$70,951	$16,151	$87,102
4780	Misc. trans. services	$58,293	$116,336	$761,558	$2,239,613	$3,175,800	$687,512	$3,863,312
4810	Telephone communication	$736,341	$687,065	$5,141,577	$15,471,865	$22,036,849	$6,357,405	$28,394,255
4820	Telegrph & other comm.	$4,403	$3,520	$26,693	$54,733	$89,349	$30,420	$119,769
4830	Radio & TV broadcasting	$89,118	$114,740	$598,802	$713,401	$1,516,060	$612,917	$2,128,977
4840	Cable & othr pay TV services	$150,488	$140,247	$1,085,772	$3,365,180	$4,741,687	$1,944,488	$6,686,176
4890	Communication serv., n.e.c.	$8,823	$7,231	$57,693	$130,585	$204,333	$71,041	$275,374
4910	Electric services	$484,291	$402,785	$3,164,075	$7,285,459	$11,336,610	$4,684,979	$16,021,589
4920	Gas product. & distribution	$209,739	$161,388	$1,260,935	$2,777,015	$4,409,076	$1,957,335	$6,366,411
4930	Comb. utility services	$157,931	$174,209	$1,289,606	$3,645,897	$5,267,643	$1,647,225	$6,914,868
4940	Water supply	$47,828	$31,445	$279,398	$365,967	$724,638	$398,715	$1,123,354
4950	Sanitary services	$369,617	$192,723	$1,681,523	$3,905,228	$6,149,092	$4,356,458	$10,505,550
4960	Steam & air-cond. supplies	$1,981	$1,889	$13,831	$18,099	$35,800	$21,137	$56,936
4970	Irrigation systems	$3,846	$2,313	$20,862	$23,444	$50,465	$27,529	$77,993
5010	Motor vehicles	$670,124	$1,119,295	$7,372,540	$17,544,541	$26,706,500	$7,340,983	$34,047,483
5020	Furn. & homefurnishings	$270,260	$420,597	$2,778,495	$5,450,047	$8,919,399	$2,891,441	$11,810,839
5030	Lumber & construct. mat.	$529,424	$868,999	$5,701,892	$12,053,857	$19,154,171	$7,166,477	$26,320,648

TABLE VIII-3

Total Cost of Compliance, by Provision of the Proposed Rule and 3-Digit SIC

SIC	Industry	Familiarization and MSD Coverage Costs	Basic Program	Full Program	Job Fixes	SUBTOTAL (cost to society)	Work Restriction Protection	TOTAL (cost to employers)
5040	Prof. & commercial equip.	$767,460	$1,199,428	$8,149,284	$19,071,169	$29,187,341	$7,035,788	$36,223,129
5050	Met. & minerals, excpt pet.	$250,863	$415,216	$2,702,977	$6,224,460	$9,593,516	$3,061,582	$12,655,098
5060	Electrical goods	$478,477	$801,277	$5,716,175	$12,036,297	$19,032,226	$5,580,786	$24,613,012
5070	Hardware supplies	$470,424	$801,425	$5,195,989	$9,143,776	$15,611,615	$5,546,127	$21,157,742
5080	Mach., equipt, & supplies	$1,169,252	$1,952,553	$12,787,599	$22,207,577	$38,116,981	$11,848,377	$49,965,358
5090	Misc. durable goods	$465,035	$651,528	$4,491,872	$10,424,284	$16,032,719	$4,680,988	$20,713,707
5110	Paper and paper products	$240,016	$372,882	$2,427,331	$8,007,675	$11,047,904	$1,832,530	$12,880,434
5120	Drugs, propriet., & sundries	$195,812	$263,578	$1,750,403	$5,626,906	$7,836,699	$1,208,244	$9,044,943
5130	Apparel and notions	$268,799	$326,789	$2,208,296	$4,405,641	$7,209,526	$1,503,877	$8,713,403
5140	Groceries & related products	$1,527,746	$1,801,204	$12,216,331	$42,961,160	$58,506,441	$14,326,055	$72,832,496
5150	Farm-prod. raw materials	$66,736	$82,303	$596,285	$1,078,621	$1,823,945	$424,401	$2,248,346
5160	Chemicals & allied prods	$208,707	$302,167	$1,991,680	$3,603,976	$6,106,530	$1,250,754	$7,357,284
5170	Petrol. & petrol. prods	$166,173	$263,520	$1,716,782	$3,996,954	$6,143,429	$1,239,897	$7,383,326
5180	Beer, wine, & dist. bev.	$367,763	$389,064	$2,616,453	$8,440,158	$11,813,438	$4,961,044	$16,774,482
5190	Misc. nondurable goods	$693,384	$912,518	$6,127,581	$15,953,876	$23,687,359	$7,234,035	$30,921,394
5210	Lumber & other blding mat.	$699,520	$1,437,405	$8,503,116	$32,098,003	$42,738,044	$11,288,080	$54,026,123
5230	Paint, glass, wallpaper strs	$66,022	$133,922	$1,051,264	$1,847,081	$3,098,289	$1,048,571	$4,146,859
5250	Hardware stores	$116,198	$263,783	$1,748,911	$3,515,909	$5,644,801	$1,797,909	$7,442,710
5260	Retail nurseries and gardens	$98,921	$211,193	$1,384,171	$4,074,662	$5,768,946	$1,366,958	$7,135,904
5270	Mobile home dealers	$75,960	$183,892	$962,173	$2,286,762	$3,508,786	$864,884	$4,373,670
5310	Department stores	$1,456,112	$2,579,222	$18,543,511	$86,647,527	$109,226,373	$39,736,507	$148,962,880
5330	Variety stores	$148,025	$363,875	$1,991,237	$2,637,282	$5,140,419	$2,864,574	$8,004,993
5390	Misc. gen. merchandise strs.	$202,970	$468,617	$2,836,343	$8,674,125	$12,182,055	$2,975,324	$15,157,380
5410	Grocery stores	$2,935,417	$4,233,564	$26,283,328	$113,882,170	$147,334,478	$47,341,032	$194,675,511
5420	Meat and fish markets	$69,086	$90,323	$561,701	$1,239,539	$1,960,649	$585,028	$2,545,677
5430	Fruit & vegetable markets	$23,636	$22,499	$156,467	$266,400	$469,001	$147,343	$616,344
5440	Candy, nut, & confctnry strs	$32,298	$31,179	$216,748	$264,010	$544,235	$187,128	$731,363
5450	Dairy products stores	$15,944	$12,657	$90,534	$122,416	$241,552	$75,394	$316,946
5460	Retail bakeries	$162,972	$207,986	$1,345,909	$1,811,860	$3,528,727	$1,287,555	$4,816,282
5490	Misc. food stores	$65,862	$58,657	$414,300	$521,922	$1,060,742	$362,575	$1,423,316
5510	New and used car dealers	$895,819	$3,214,783	$13,666,384	$61,678,633	$79,455,619	$8,931,247	$88,386,866
5520	Used car dealers	$112,022	$39,914	$323,147	$464,113	$939,196	$187,272	$1,126,468
5530	Auto & home supply stores	$382,532	$846,125	$5,571,912	$15,653,650	$22,454,218	$5,007,197	$27,461,415
5540	Gas service stations	$550,926	$915,746	$6,601,353	$12,641,485	$20,709,510	$5,664,091	$26,373,601
5550	Boat dealers	$53,560	$107,649	$672,657	$1,384,860	$2,218,725	$497,866	$2,716,592
5560	Rec. vehicle dealers	$47,080	$111,721	$616,395	$1,644,332	$2,419,529	$547,481	$2,967,010
5570	Motorcycle dealers	$20,053	$11,011	$77,519	$156,348	$264,931	$44,384	$309,316
5590	Auto dealers, n.e.c.	$6,423	$2,738	$21,672	$41,515	$72,348	$12,298	$84,647
5610	Men's & boys' clothing strs	$57,123	$69,153	$561,816	$763,952	$1,452,045	$249,329	$1,701,374
5620	Women's clothing stores	$232,823	$213,332	$1,480,170	$1,757,782	$3,684,107	$536,675	$4,220,782
5630	Wm's access.& specialty strs	$48,236	$33,257	$242,898	$231,625	$556,017	$84,389	$640,405
5640	Chldrn's & infants' wear strs	$33,654	$40,250	$267,092	$542,086	$883,082	$96,966	$980,049
5650	Family clothing stores	$268,162	$658,432	$3,646,772	$8,852,053	$13,425,419	$1,946,312	$15,371,732
5660	Shoe stores	$228,146	$221,430	$1,508,850	$1,444,254	$3,402,680	$492,592	$3,895,272
5690	Misc. apparel stores	$49,834	$24,788	$190,112	$194,717	$459,451	$68,416	$527,866
5710	Furnitre & homefurnishng strs	$699,700	$1,473,531	$9,311,645	$22,284,325	$33,769,201	$4,439,257	$38,208,458
5720	Household appliance strs	$126,596	$237,972	$1,369,086	$3,324,919	$5,058,573	$545,741	$5,604,314
5730	Radio, TV, & comptr strs	$322,158	$528,607	$3,541,892	$7,962,991	$12,355,649	$1,355,193	$13,710,842
5810	Eating & drinking places	$4,248,762	$7,266,370	$42,553,440	$70,883,331	$124,951,904	$22,914,838	$147,866,742
5910	Drug stores	$372,398	$796,948	$4,612,042	$10,215,051	$15,996,439	$1,743,740	$17,740,179
5920	Liquor stores	$91,255	$42,835	$392,767	$301,406	$828,263	$168,944	$997,207
5930	Used merchandise stores	$162,168	$204,697	$1,409,967	$2,404,560	$4,181,392	$577,048	$4,758,441
5940	Misc. shopping goods strs.	$887,324	$1,250,591	$8,597,085	$14,732,139	$25,467,139	$3,547,251	$29,014,390
5960	Nonstore retailers	$503,122	$825,565	$4,963,604	$24,029,191	$30,321,482	$3,109,435	$33,430,917
5980	Fuel dealers	$87,883	$181,195	$1,268,193	$4,122,069	$5,659,339	$560,282	$6,219,621
5990	Retail stores, n.e.c.	$535,805	$538,601	$4,091,752	$6,973,613	$12,139,771	$1,567,049	$13,706,820
6010	Central res. depository	$19,144	$24,128	$165,488	$372,874	$581,634	$158,978	$740,611
6020	Commercial banks	$620,662	$835,361	$4,935,074	$8,888,205	$15,279,302	$2,394,004	$17,673,306
6030	Savings institutions	$128,150	$141,972	$843,489	$1,035,567	$2,149,177	$366,166	$2,515,343
6060	Credit unions	$100,628	$120,393	$810,520	$885,011	$1,916,553	$422,449	$2,339,002
6080	Foreign banking	$15,270	$34,485	$145,489	$229,772	$425,016	$61,800	$486,815
6090	Banking-related functions	$56,144	$49,863	$375,814	$645,549	$1,127,371	$217,934	$1,345,305

TABLE VIII-3

Total Cost of Compliance, by Provision of the Proposed Rule and 3-Digit SIC

SIC	Industry	Familiarization and MSD Coverage Costs	Basic Program	Full Program	Job Fixes	SUBTOTAL (cost to society)	Work Restriction Protection	TOTAL (cost to employers)
6110	Federal credit agencies	$8,492	$5,013	$34,195	$49,581	$97,282	$13,935	$111,216
6140	Personal cred. institutions	$112,035	$27,803	$207,198	$263,851	$610.888	$81.123	$692,011
6150	Business cred. institutions	$57,056	$59,231	$396,646	$724,486	$1,237,419	$171,496	$1,408,915
6160	Mortgage bankers & brokers	$157,167	$110,887	$777,704	$879,280	$1,925,038	$313,295	$2,238,332
6210	Security brokers & dealers	$159,455	$131,439	$860,678	$1,452,879	$2,604.451	$311.818	$2,916,269
6220	Commodity contracts brokers	$7,261	$3,252	$26,627	$44,464	$81,605	$13,277	$94,882
6230	Security & commod. exchanges	$3,025	$5,276	$36,921	$69,316	$114,538	$24,167	$138,705
6280	Security & commod. services	$123,175	$28,186	$224.831	$355,502	$731,694	$91,630	$823,324
6310	Life insurance	$187,677	$235,235	$1,407,818	$3,429,444	$5,260,175	$931,857	$6,192,032
6320	Medical & health insur.	$191,754	$195,434	$1,653,638	$4,601,419	$6,642,246	$2,281,161	$8,923,407
6330	Fire, marine, & casity ins.	$414,568	$332,119	$3,059,917	$4,652,261	$8,458,865	$2,435,612	$10,894,478
6350	Surety insurance	$6,499	$5,635	$38,479	$72,517	$123,129	$25,498	$148,627
6360	Title insurance	$29,427	$34,115	$231,572	$301,887	$597,001	$199,132	$796,133
6370	Pension and health funds	$22,958	$15,827	$111,956	$129,160	$279,902	$73,601	$353,503
6390	Ins. carriers, n.e.c.	$2,789	$2,925	$19,629	$24,678	$50,022	$15,114	$65,136
6410	Insurance agents	$757,305	$322,150	$2,557,541	$2,192,452	$5,829,448	$1,074,351	$6,903,799
6510	Real estate operators	$745,191	$872,979	$7,055,751	$12,868,326	$21,542,247	$3,265,756	$24,808,003
6530	RE agents and managers	$815,824	$690,631	$5,574,350	$11,897,961	$18,978,767	$2,169,868	$21,148,635
6540	Title abstract offices	$37,586	$48,876	$364,140	$235,700	$686,302	$143,450	$829,752
6550	Subdividers & developrs	$164,809	$211,960	$1,651,162	$4,537,840	$6,565,771	$844,484	$7,410,254
6710	Holding offices	$109,973	$116,620	$813,320	$2,127,896	$3,167,810	$353,154	$3,520,964
6720	Investment offices	$8,167	$5,938	$69,362	$383,912	$467,380	$31,101	$498,481
6730	Trusts	$59,082	$38,007	$303,743	$482,252	$883,084	$128,345	$1,011,429
6790	Miscellaneous investing	$53,744	$29,185	$237,240	$515,830	$835,999	$96,823	$932,823
7010	Hotels and motels	$1,252,550	$1,765,915	$12,608,058	$42,680,891	$58,307,415	$16,348,430	$74,655,845
7020	Rooming & boarding houses	$17,330	$25,809	$154,750	$172,712	$370,601	$126,581	$497,181
7030	Camps and rec. vehicle parks	$16,921	$5,171	$54,269	$129,092	$205,454	$41,783	$247,237
7040	Membership-basis org. hotels	$12,231	$3,629	$28,094	$27,747	$71,701	$15,167	$86,868
7210	Laundry & garment srvices	$468,255	$789,972	$6,846,313	$10,450,279	$18,554,820	$4,352,819	$22,907,639
7220	Photo studios, portrait	$50,880	$42,265	$378,061	$944,847	$1,416,052	$361,206	$1,777,258
7230	Beauty shops	$224,867	$107,624	$1,030,277	$1,373,722	$2,736,490	$654,226	$3,390,716
7240	Barber shops	$28,636	$26,634	$196,420	$163,675	$415,365	$102,219	$517,584
7250	Shoe repair	$13,392	$10,468	$80,069	$106,671	$210,599	$41,254	$251,854
7260	Fun. service and crematories	$88,972	$87,960	$640,687	$1,060,634	$1,878,252	$341,909	$2,220,161
7290	Misc personal services.	$137,183	$35,970	$266,366	$920,342	$1,359,861	$131,568	$1,491,429
7310	Advertising	$235,413	$239,994	$1,886,567	$4,375,182	$6,737,157	$1,472,713	$8,209,870
7320	Credit report.& collection	$69,094	$74,800	$456,050	$591,161	$1,191,105	$297,398	$1,488,503
7330	Mailing, reprod, steno., serv	$281,025	$257,467	$1,933,844	$4,658,495	$7,130,831	$1,697,626	$8,828,457
7340	Services to buildings	$628,043	$634,021	$5,033,478	$5,364,864	$11,660,407	$7,187,708	$18,848,115
7350	Misc. equipt. rental	$215,210	$259,345	$1,847,785	$5,712,640	$8,034,980	$1,649,167	$9,684,148
7360	Pers. supply services	$640,818	$1,623,943	$7,848,843	$59,345,512	$69,459,117	$6,215,022	$75,674,139
7370	Comptr & data proc. services	$718,770	$559,503	$4,167,141	$9,421,916	$14,867,330	$2,016,630	$16,883,961
7380	Misc. business services	$590,380	$587,373	$4,843,727	$17,179,287	$23,200,768	$4,444,159	$27,644,927
7510	Auto rentals, no drivers	$124,728	$205,961	$1,300,782	$4,846,224	$6,477,696	$641,664	$7,119,360
7520	Automobile parking	$41,040	$42,374	$326,895	$1,339,248	$1,749,556	$106,678	$1,856,234
7530	Automotive repair shops	$886,925	$978,950	$7,413,679	$15,186,779	$24,466,334	$1,863,043	$26,329,376
7540	Automotive serv., exc repair	$183,481	$335,697	$2,372,396	$6,070,140	$8,961,714	$1,495,848	$10,457,562
7620	Electrical repair shops	$158,028	$243,078	$1,761,339	$5,467,305	$7,629,750	$892,065	$8,521,815
7630	Watch and jewelry repair	$11,782	$11,285	$88,236	$126,849	$238,152	$36,642	$274,794
7640	Reupholstery & furn. repair	$41,646	$32,828	na	$326,022	$400,496	$107,400	$507,897
7690	Misc. repair shops	$317,624	$511,068	$3,682,545	$10,337,609	$14,848,846	$1,916,580	$16,765,426
7810	Motion picture production	$336,437	$295,610	$4,360,858	$10,643,414	$15,636,318	$2,155,898	$17,792,216
7820	Motion picture dist.	$50,910	$70,707	$441,887	$776,095	$1,339,599	$467,747	$1,807,346
7830	Motion picture theaters	$127,253	$314,744	$1,984,981	$2,170,895	$4,597,873	$1,616,051	$6,213,923
7840	Video tape rental	$204,854	$418,048	$2,346,539	$713,797	$3,683,238	$1,745,730	$5,428,968
7910	Dance studios & schools	$48,181	$71,072	$460,552	$451,053	$1,030,858	$252,972	$1,283,830
7920	Prducrs, orch., entertainers	$115,309	$136,276	$1,071,893	$3,415,871	$4,739,349	$709,114	$5,448,464
7930	Bowling centers	$44,678	$76,822	$445,225	$704,821	$1,271,546	$224,639	$1,496,184
7940	Commercial sports	$117,673	$143,715	$1,056,575	$3,759,981	$5,077,943	$909,627	$5,987,571
7990	Misc. recreation services	$762,471	$1,283,504	$8,739,338	$34,654,985	$45,440,298	$7,594,554	$53,034,852
8010	Offices of medical doctors	$1,393,281	$1,355,048	$10,068,080	$26,817,760	$39,634,170	$6,350,341	$45,984,511
8020	Dentists offices and clinics	$847,573	$488,588	$3,512,703	$2,970,314	$7,819,178	$1,606,642	$9,425,820

TABLE VIII-3

Total Cost of Compliance, by Provision of the Proposed Rule and 3-Digit SIC

SIC	Industry	Familiarization and MSD Coverage Costs	Basic Program	Full Program	Job Fixes	SUBTOTAL (cost to society)	Work Restriction Protection	TOTAL (cost to employers)
8030	Osteopathic physicians	$35,075	$15,032	$128,267	$179,195	$357,570	$77,167	$434,736
8040	Other health practitioners	$536,674	$481,334	$3,987,147	$5,847,699	$10,852,854	$2,800,602	$13,653,456
8050	Nursing & personal care fac.	$3,759,898	$2,114,261	$24,074,294	$77,752,250	$107,700,702	$51,294,314	$158,995,016
8060	Hospitals	$7,239,105	$4,890,903	$55,115,077	$209,521,909	$276,766,994	$68,404,131	$345,171,125
8070	Med. & dental labs	$152,323	$155,108	$1,123,088	$4,132,142	$5,562,660	$748,539	$6,311,199
8080	Home hlth care services	$815,588	$990,964	$6,851,537	$33,742,269	$42,400,358	$9,114,120	$51,514,478
8090	Hlth & allied serv., n.e.c.	$290,769	$448,678	$2,834,519	$9,416,424	$12,990,390	$2,145,692	$15,136,082
8110	Legal services	$1,078,509	$636,931	$4,975,954	$6,296,553	$12,987,947	$1,839,321	$14,827,269
8210	Elem. & secondary schools	$252,669	$536,448	$2,408,558	$7,409,246	$10,606,920	$1,315,740	$11,922,661
8220	Colleges & universities	$297,420	$845,008	$5,562,216	$27,745,022	$34,449,666	$2,500,587	$36,950,253
8230	Libraries	$12,931	$6,340	$47,050	$57,024	$123,346	$24,182	$147,528
8240	Vocational schools	$39,821	$24,899	$173,999	$329,784	$568,502	$90,754	$659,256
8290	Schools, n.e.c.	$83,539	$33,915	$262,448	$372,197	$752,100	$249,057	$1,001,157
8320	Individual & fam. services	$501,092	$942,073	$5,686,199	$24,515,841	$31,645,206	$8,689,296	$40,334,501
8330	Job train. & related serv.	$127,353	$321,339	$1,760,324	$13,721,380	$15,930,395	$2,714,343	$18,644,738
8350	Child day care services	$294,739	$474,979	$3,338,656	$5,616,982	$9,725,355	$3,936,218	$13,661,574
8360	Residential care	$603,128	$1,135,315	$6,226,790	$29,787,259	$37,752,492	$13,687,890	$51,440,382
8390	Social services, n.e.c.	$119,886	$201,304	$1,338,684	$5,819,126	$7,479,000	$1,566,723	$9,045,724
8410	Museums & art galleries	$47,270	$66,558	$440,174	$1,239,604	$1,793,606	$632,280	$2,425,886
8420	Bot. & zoolog. gardens	$11,271	$17,193	$115,067	$821,371	$964,903	$199,648	$1,164,551
8610	Business associations	$101,194	$59,901	$453,625	$593,807	$1,208,527	$303,599	$1,512,126
8620	Prof. organizations	$42,146	$28,169	$203,430	$346,495	$620,240	$138,569	$758,809
8630	Labor organizations	$70,138	$41,336	$320,476	$539,511	$971,460	$252,578	$1,224,039
8640	Civic & social assoc.	$213,175	$314,542	$2,421,858	$5,697,880	$8,647,454	$2,230,603	$10,878,058
8650	Political organizations	$16,951	$13,249	$108,296	$114,082	$252,577	$87,849	$340,427
8660	Religious organizations	$718,771	$209,759	$1,548,569	$2,986,046	$5,463,144	$1,043,032	$6,506,177
8690	Membership orgs., n.e.c.	$62,510	$99,111	$750,596	$3,132,955	$4,045,172	$717,630	$4,762,801
8710	Eng. and arch. services	$640,764	$610,807	$4,228,773	$10,162,590	$15,642,934	$3,020,533	$18,663,467
8720	Accntng, auditng, & bkeeping	$680,660	$487,522	$3,690,408	$9,984,888	$14,843,479	$3,180,317	$18,023,796
8730	Research & testing services	$347,366	$558,510	$3,817,933	$15,079,435	$19,803,244	$3,906,451	$23,709,695
8740	Management & pub. relations	$753,839	$712,697	$5,792,697	$25,689,167	$32,948,400	$5,564,929	$38,513,329
8990	Services, n.e.c.	$206,385	$286,962	$2,199,863	$2,763,293	$5,456,503	$2,157,591	$7,614,094
	TOTAL	$108,632,674	$106,997,692	$823,597,643	$2,317,443,741	$3,356,671,750	$875,526,111	$4,232,197,861

Source: Office of Regulatory Analysis, OSHA, U.S. DOL

BILLING CODE 4510-26-C

Estimates of the costs of job control are presented as net costs, because OSHA has taken the benefits employers often accrue from productivity improvements associated with job controls as offsets to the costs of job control. OSHA estimates that the labor savings (productivity improvements) provided by the job controls the standard will require will amount to approximately $1.3 billion per year in annualized savings.[6] OSHA believes that many ergonomic interventions improve productivity, either because they reduce employee fatigue and relieve muscle pain (which means that the employee will do more work in less time), or because they involve automating portions of jobs in ways that can be expected to improve productivity. In addition to such direct effects on productivity, ergonomic interventions frequently offset the employers' cost for controls by:

- Reducing absenteeism because a worker is less likely to take time off to recover from muscle soreness, fatigue, etc.;
- Reducing turnover, particularly since new hires are more likely to find an ergonomically designed job within their physical capacity;
- Improving product quality because fewer errors are made when processes are more automated and demand less physical effort.

These positive productivity impacts are attested to by the experience of many employers (see the productivity tables in Chapter V of the Preliminary Economic Analysis). OSHA's 1993 ergonomics survey of general industry employers found that 30 percent of those employers who had implemented ergonomics controls reported that their ergonomics programs had had measurable positive impacts on productivity. On average, these employers (including the few employers who reported that their controls had negative impacts on productivity) reported a weighted average productivity improvement of 7 percent per intervention. A review of the case studies of ergonomics programs discussed in Chapter IV found that one program in four reported having produced an increase in productivity.

F. Economic Feasibility (Chapter VI)

The OSH Act requires the Agency to set standards for toxic materials and harmful physical agents (such as musculoskeletal risk factors) that are feasible, both technologically and economically. To demonstrate that a standard is feasible, the courts have held that OSHA must "construct a reasonable estimate of compliance costs and demonstrate a reasonable likelihood that these costs will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms" [*United Steelworkers of America, AFL–CIO–CLC* v. *Marshall* (the "Lead" decision)].

OSHA's analysis of economic feasibility is conducted on an establishment basis. For each affected industry, estimates of per-establishment annualized compliance costs are compared with per-establishment estimates of revenues and per-establishment estimates of profits, using two worst-case assumptions about the ability of employers to pass the costs of compliance through to their customers: the no cost passthrough assumption and the full cost passthrough assumption. Based on the results of these comparisons, which bound the universe of potential impacts of the proposed standard, OSHA then assesses the proposed standard's economic feasibility for establishments in all covered industries.

OSHA assumed that the establishments falling within the scope of the proposed standard had the same average sales and profits as other establishments in their industries. This assumption is reasonable because there is no evidence suggesting that the financial characteristics of those firms whose employees experience covered MSDs are different from firms that do not have covered MSDs among their workforce. Absent such evidence, OSHA relied on the best available financial data (those from the Bureau of the Census (Ex. 28–6) and Robert Morris Associates), used commonly accepted methodology to calculate industry averages, and based its analysis of the significance of the projected economic impacts and the feasibility of compliance on these data.

The analysis of the potential impacts of the proposed standard on before-tax profits and sales shown in Table VIII–4 is a screening analysis because it simply measures costs as a percentage of pre-tax profits and sales under the worst-case assumptions discussed above, but does not predict impacts on these before-tax profits or sales. The screening analysis is used to determine whether the compliance costs potentially associated with the proposed standard could lead to significant impacts on affected establishments. The actual impact of the proposed standard on the profit and sales of establishments in a given industry will depend on the price elasticity of demand for the products or services of establishments in that industry.

Table VIII–4 shows that the potential impacts of the proposed standard on average industry profits are small, even under the worst-case scenario of no cost passthrough. For all industries as a whole, annualized compliance costs are 0.6 percent of profits. Compliance costs potentially exceed 5 percent of profits only for 10 industry groups, and they exceed 10 percent of profits only in one industry (SIC 561, Men's and boy's clothing stores). This potential impact is accounted for in this industry by the fact that, as reported by Robert Morris Associates (RMA), this industry's profits are extremely small—0.1 percent of sales (compared with an average profit of 4.89 percent for all industries).

Based on the data for establishments in all industries shown in Table VIII–4, OSHA preliminarily concludes that the proposed ergonomics program standard is economically feasible for the industries covered by the standard. OSHA reaches this conclusion based on the fact that, even under the worst case scenarios of full cost passthrough and no cost passthrough, respectively, impacts on average industry revenues are only 0.03 percent, and impacts on average profits are only 0.6 percent. In only one industry, SIC 561, do worst-case profit impacts exceed 10 percent and, as discussed above, this industry's profits are abnormally low (only 0.1 percent of sales). The average annual profit per establishment for the establishments in SIC 561 is $721, by far the lowest profit for any of the approximately 300 industries shown in Table VIII–4.

BILLING CODE 4510–26–P

[6] OSHA estimated productivity impacts by determining the average percentage reduction from gross costs caused by productivity in a set of examples of ergonomic interventions. Please see the Preliminary Economic Analysis, particularly Tables V–17 through V–19, for details.

VOL 64 ISS 225 NO 23 1999 UMI

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries and all Affected Establishments

SIC	Industry	Annualized Compliance Costs for all Establishments	Revenues for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	For All Establishments: Annualized Compliance Costs as a Percentage of Revenues	For All Establishments: Annualized Compliance Costs as a Percentage of Profits	Compliance Cost per Establishment	For Affected Establishments (Those with MSDs): Total Number of Affected Establishments over 10 years	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Annualized Cost per Affected Establishment
710	Soil prep services	$241,964	$932,972	6.0%	$55,698	0.03	0.8	$377	268	0.06	1.04	$903
720	Crop services	$5,197,071	$5,966,617	7.9%	$471,363	0.09	1.1	$1,357	1,848	0.19	2.47	$2,813
740	Veterinary services	$6,267,235	$7,693,839	8.7%	$669,364	0.08	0.9	$275	8,983	0.21	2.38	$698
750	Animal serv , except vet	$1,165,707	$1,821,371	6.0%	$108,736	0.06	1.1	$112	1,704	0.39	6.52	$684
780	Lndscape & hort services	$30,381,372	$19,389,342	4.4%	$853,131	0.16	3.6	$446	22,430	0.48	10.82	$1,355
810	Timber tracts	$589,058	$851,843	3.1%	$26,322	0.07	2.2	$683	260	0.23	7.43	$2,266
830	Forest products	$200,949	$247,111	3.1%	$7,636	0.08	2.6	$1,467	45	0.25	8.04	$4,484
850	Forestry services	$660,032	$1,069,094	3.1%	$33,035	0.06	2.0	$421	469	0.21	6.68	$1,407
910	Commercial fishing	$662,291	$1,343,245	5.0%	$67,162	0.05	1.0	$340	347	0.28	5.54	$1,910
920	Fish hatcheries	$111,384	$62,473	5.0%	$3,124	0.18	3.6	$1,172	31	0.54	10.80	$3,552
970	Hunting & trapping	$99,324	$167,605	5.0%	$8,380	0.06	1.2	$293	67	0.30	5.97	$1,475
1310	Crude petrol & nat gas	$2,602,196	$59,652,592	5.7%	$3,406,163	0.00	0.1	$335	1,369	0.02	0.43	$1,901
1320	Natural gas liquids	$398,693	$41,021,720	4.8%	$1,977,247	0.00	0.0	$712	239	0.00	0.05	$1,667
1380	Oil & gas field services	$9,414,047	$9,630,581	2.0%	$188,759	0.10	5.0	$1,074	1,917	0.45	22.00	$4,911
2010	Meat products	$34,851,928	$117,204,932	2.3%	$2,695,713	0.03	1.3	$11,316	824	0.11	4.84	$42,320
2020	Dairy products	$8,208,827	$59,676,113	2.2%	$1,312,874	0.01	0.6	$4,364	518	0.05	2.27	$15,860
2030	Preserv fruits & vegetables	$10,825,305	$47,486,800	4.2%	$1,994,446	0.02	0.5	$4,973	523	0.08	1.94	$19,174
2040	Grain mill products	$6,834,758	$55,960,493	2.7%	$1,510,933	0.01	0.5	$2,626	726	0.04	1.62	$9,412
2050	Bakery products	$12,487,588	$31,963,430	2.2%	$703,195	0.04	1.8	$3,545	874	0.16	7.16	$14,291
2060	Sugar and confect prods	$4,549,510	$22,593,884	4.6%	$1,039,319	0.02	0.4	$4,143	278	0.08	1.73	$16,367
2070	Fats and oils	$1,220,954	$21,732,140	2.9%	$630,232	0.01	0.2	$2,408	146	0.02	0.67	$8,388
2080	Beverages	$9,052,754	$64,480,420	4.5%	$2,901,619	0.01	0.3	$3,960	596	0.03	1.20	$15,192
2090	Misc food products	$8,143,826	$37,957,910	2.9%	$1,100,779	0.02	0.7	$2,032	1,001	0.09	2.96	$8,138
2110	Cigarettes	$816,198	$25,695,548	3.9%	$1,002,126	0.00	0.1	$54,413	4	0.01	0.31	$204,270
2120	Cigars	$69,214	$315,743	3.9%	$12,314	0.02	0.6	$1,473	8	0.13	3.42	$8,964
2130	Chewing & smoking tobacco	$67,355	$1,544,972	3.9%	$60,254	0.00	0.1	$2,591	6	0.02	0.46	$10,572
2140	Tobacco stemm & redrying	$223,753	$3,104,375	3.9%	$121,071	0.01	0.2	$6,992	9	0.02	0.64	$24,180
2210	Brdwven fab mills, cotton	$3,267,589	$6,018,357	3.6%	$216,661	0.05	1.5	$7,931	154	0.15	4.04	$21,270
2220	Broadwoven fabric mills	$3,031,163	$9,703,013	2.4%	$232,872	0.03	1.3	$6,618	170	0.08	3.51	$17,823
2230	Brdwvn fab mills, wool	$436,588	$1,720,695	2.4%	$41,297	0.03	1.1	$4,410	38	0.07	2.78	$11,606
2240	Narrow fabric mills	$980,333	$1,485,068	1.3%	$19,306	0.07	5.1	$3,539	117	0.16	12.66	$8,401
2250	Knitting mills	$8,350,528	$17,214,105	2.7%	$464,781	0.05	1.8	$4,293	767	0.12	4.56	$10,891
2260	Tex finishng, except wool	$2,577,740	$7,490,188	1.2%	$89,978	0.03	2.9	$3,026	285	0.10	8.57	$9,045
2270	Carpets and rugs	$2,179,492	$12,446,310	1.7%	$211,587	0.02	1.0	$4,503	168	0.05	6.97	$12,956
2280	Yarn and thread mills	$3,660,386	$12,173,797	4.0%	$486,952	0.03	0.8	$6,225	252	0.07	4.04	$14,548
2290	Misc textile goods	$2,690,910	$8,817,910	2.4%	$211,630	0.03	1.3	$2,664	380	0.08	3.38	$7,074
2310	Men's & boys' suits & coats	$949,413	$1,906,167	4.0%	$76,247	0.05	1.2	$3,240	87	0.17	1.52	$10,959
2320	Men's & boys' furnishings	$8,238,170	$15,125,809	3.2%	$484,026	0.05	1.7	$3,901	665	0.17	5.40	$12,386
2330	Wm's & misses' outerwear	$6,193,835	$19,560,842	2.0%	$390,017	0.03	1.6	$692	2,390	0.12	5.95	$2,591
2340	Wm's & chldrn's undergarments	$1,483,644	$2,918,268	2.2%	$64,202	0.05	2.3	$3,900	116	0.16	7.43	$12,821
2350	Hats, caps, & millinery	$561,318	$1,098,786	4.3%	$47,248	0.05	1.2	$1,473	106	0.18	4.27	$5,293
2360	Girls' & chldrn's outerwear	$988,493	$2,258,886	1.4%	$31,624	0.04	3.1	$1,690	174	0.15	10.51	$5,682
2370	Fur goods	$16,361	$142,828	2.4%	$3,428	0.01	0.5	$123	28	0.06	2.30	$594
2380	Misc apparel & accessories	$1,176,847	$2,244,834	2.4%	$53,876	0.05	2.2	$1,261	262	0.19	7.77	$4,489
2390	Misc fab textile prods	$8,943,239	$21,070,600	2.4%	$529,694	0.04	1.7	$1,017	2,469	0.14	6.02	$3,623
2410	Logging	$1,242,590	$15,538,413	3.9%	$605,998	0.01	0.2	$87	2,002	0.06	1.46	$621
2420	Sawmills & planing mills	$9,202,918	$25,776,399	3.8%	$979,503	0.04	0.9	$1,508	2,269	0.10	2.54	$4,072
2430	Millwork & plywood	$17,342,953	$31,414,582	3.7%	$1,162,340	0.06	1.5	$1,816	3,534	0.15	4.03	$4,908
2440	Wood containers	$2,325,372	$4,006,433	3.6%	$144,232	0.06	1.6	$822	1,976	0.15	4.24	$2,160
2450	Wood bldngs & mobile homes	$6,684,122	$12,663,722	3.7%	$468,558	0.05	1.4	$6,402	388	0.14	3.84	$17,215

VOL 64 ISS 225 NOV 23 1999 UMI

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries and all Affected Establishments

SIC	Industry	Annualized Compliance Costs for all Establishments	Revenue for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	For All Establishments: Annualized Compliance Costs as a Percentage of Revenue	For All Establishments: Annualized Compliance Costs as a Percentage of Profits	For Affected Establishments (Those with MSDs): Compliance Cost per Establishment	For Affected Establishments (Those with MSDs): Total Number of Affected Establishments over 10 years	For Affected Establishments (Those with MSDs): Annualized Costs as a Percent of Revenues	For Affected Establishments (Those with MSDs): Annualized Costs as a Percent of Profits	For Affected Establishments (Those with MSDs): Annualized Cost per Affected Establishment
2490	Misc. wood products	$5,208,656	$13,133,286	2.8%	$367,730	0.04	1.4	$1,473	1,153	0.12	4.35	$4,519
2510	Household furniture	$16,248,756	$24,243,412	2.9%	$703,630	0.07	2.3	$2,954	1,585	0.23	8.02	$10,249
2520	Office furniture	$5,080,060	$9,836,788	3.9%	$383,635	0.05	1.3	$4,848	316	0.17	4.27	$15,843
2530	Pub bldng & related furn	$4,599,526	$6,139,247	3.0%	$184,177	0.07	2.5	$10,244	151	0.22	7.44	$38,520
2540	Partitions and fixtures	$5,464,792	$8,109,037	3.0%	$243,271	0.07	2.2	$1,824	931	0.22	7.23	$5,871
2590	Misc furniture and fixtures	$2,273,471	$4,857,016	3.0%	$145,710	0.05	1.6	$1,610	436	0.15	5.05	$5,216
2610	Pulp mills	$524,915	$5,810,924	3.8%	$220,815	0.01	0.2	$8,466	23	0.02	0.64	$22,716
2620	Paper mills	$8,051,820	$35,582,333	4.7%	$1,672,370	0.02	0.5	$23,486	142	0.05	1.17	$56,681
2630	Paperboard mills	$2,099,300	$19,899,897	4.7%	$935,295	0.01	0.2	$9,208	98	0.02	0.52	$21,519
2650	Paperbrd containers & boxes	$11,810,106	$40,019,906	4.0%	$1,600,760	0.03	0.7	$4,204	1,196	0.07	1.73	$9,878
2670	Misc. convrtd paper products	$12,790,226	$49,954,537	2.7%	$1,348,772	0.03	0.9	$4,217	1,247	0.06	2.31	$10,258
2710	Newspapers	$17,843,017	$37,806,756	6.0%	$2,220,405	0.05	0.8	$3,810	3,294	0.13	2.17	$5,418
2720	Periodicals	$2,825,535	$26,525,283	3.7%	$961,435	0.01	0.3	$489	1,501	0.04	1.11	$1,883
2730	Books	$5,444,833	$26,774,751	4.0%	$1,070,990	0.02	0.5	$1,530	1,105	0.07	1.64	$4,925
2740	Miscellaneous publishing	$1,577,673	$10,624,468	5.1%	$541,848	0.01	0.3	$484	866	0.06	1.10	$1,821
2750	Commercial printing	$22,314,783	$66,806,851	3.3%	$2,178,226	0.03	1.0	$648	12,615	0.09	2.80	$1,769
2760	Manifold business forms	$2,278,055	$7,941,418	2.7%	$214,418	0.03	1.1	$2,501	432	0.06	2.24	$5,268
2770	Greeting cards	$1,523,799	$4,434,535	3.8%	$168,512	0.03	0.9	$10,656	55	0.09	2.33	$27,512
2780	Blankbooks & bookbinding	$3,319,832	$5,222,155	3.8%	$198,442	0.06	1.7	$2,097	706	0.14	3.75	$4,703
2790	Printing trade services	$1,283,741	$4,984,730	3.0%	$149,542	0.02	0.8	$389	883	0.10	3.44	$1,499
2810	Indust. inorganic chemicals	$2,574,966	$30,082,400	4.1%	$1,230,102	0.01	0.2	$1,852	345	0.05	1.19	$10,511
2820	Plastics mat. & synthetics	$3,108,644	$57,333,971	5.0%	$2,866,699	0.01	0.1	$3,549	177	0.03	0.54	$17,550
2830	Drugs	$7,450,017	$98,347,315	9.5%	$5,409,102	0.01	0.1	$4,551	310	0.04	0.73	$24,025
2840	Soap, clnrs, & toilet goods	$5,041,549	$48,294,820	2.9%	$1,400,550	0.01	0.4	$3,071	447	0.06	1.96	$11,277
2850	Paints & allied products	$2,101,792	$17,587,225	2.8%	$492,442	0.01	0.4	$1,431	299	0.06	2.11	$7,018
2860	Indust. organic chemicals	$2,860,929	$79,254,515	3.3%	$2,615,399	0.00	0.1	$3,024	193	0.02	0.54	$14,814
2870	Agricultural chemicals	$1,023,507	$22,569,700	3.4%	$767,370	0.00	0.1	$1,091	173	0.02	0.72	$5,905
2890	Misc. chemical products	$3,046,650	$27,864,576	3.8%	$1,058,054	0.01	0.3	$1,187	764	0.04	0.97	$3,989
2910	Petroleum refining	$2,842,044	$145,868,878	3.1%	$4,520,075	0.00	0.1	$10,335	121	0.00	0.14	$23,466
2950	Asphlt paving & roofing mat.	$1,695,212	$9,765,070	3.3%	$322,247	0.02	0.5	$1,239	535	0.04	1.35	$3,170
2990	Misc. pet. & coal prods	$465,984	$6,900,468	3.7%	$255,317	0.01	0.2	$1,000	160	0.02	0.53	$2,908
3010	Tires and inner tubes	$3,887,767	$12,649,425	3.9%	$493,328	0.03	0.8	$22,268	47	0.11	2.82	$81,275
3020	Rubber & plastics footwear	$488,467	$688,879	4.2%	$28,933	0.07	1.7	$8,000	16	0.26	6.27	$39,753
3050	Hose, blting, and gaskets	$3,867,784	$8,804,186	4.4%	$352,186	0.04	0.9	$3,714	228	0.14	3.16	$13,480
3060	Fab. rubber prod., n.e.c.	$5,694,221	$13,765,033	3.9%	$536,836	0.04	1.1	$3,223	483	0.15	3.88	$11,792
3080	Misc plastics, n.e.c.	$32,190,288	$106,907,067	3.4%	$3,634,240	0.03	0.9	$2,359	4,166	0.10	2.90	$7,723
3110	Leather tan. & finishing	$1,634,796	$2,738,038	1.7%	$46,547	0.04	2.2	$3,817	129	0.10	5.90	$8,804
3130	Footwear cut stock	$128,064	$213,944	1.8%	$3,851	0.06	3.3	$1,829	27	0.15	8.52	$4,687
3140	Footwear, except rubber	$3,824,541	$3,634,490	1.9%	$69,055	0.08	4.4	$8,001	148	0.21	11.22	$28,489
3150	Leather gloves & mittens	$181,979	$149,789	1.8%	$2,696	0.12	6.7	$2,637	29	0.29	16.19	$6,325
3160	Luggage	$414,688	$1,007,874	1.8%	$18,143	0.04	2.3	$1,589	93	0.12	6.39	$4,445
3170	Hndbags & prsnal leathr gds.	$593,413	$848,276	1.8%	$15,269	0.07	3.9	$1,730	114	0.21	11.70	$5,206
3190	Leather goods, n.e.c.	$647,189	$651,426	1.8%	$11,726	0.10	5.5	$1,548	148	0.28	15.63	$4,386
3210	Flat glass	$1,266,615	$2,709,081	4.5%	$121,909	0.05	1.0	$15,637	27	0.14	3.10	$46,637
3220	Glass, pressed or blown	$4,895,889	$9,244,687	6.8%	$628,639	0.05	0.8	$8,312	168	0.19	2.74	$29,227
3230	Prod. of purchased glass	$4,662,472	$9,109,494	4.4%	$400,818	0.05	1.2	$2,843	479	0.18	3.99	$9,741
3240	Cement, hydraulic	$868,727	$4,720,190	4.5%	$212,409	0.02	0.4	$3,761	80	0.05	1.18	$10,878
3250	Structural clay products	$1,939,023	$3,233,723	6.0%	$193,963	0.06	1.0	$3,270	208	0.17	2.85	$9,317
3260	Pottery & related prods	$2,766,970	$3,370,197	4.5%	$151,659	0.08	1.8	$2,306	339	0.29	6.45	$8,151
3270	Concrete & plast. prdcts	$10,941,438	$29,948,845	4.3%	$1,287,800	0.04	0.8	$1,152	3,309	0.10	2.44	$3,307

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries and all Affected Establishments

						For All Establishments			For Affected Establishments (Those with MSDs)			
SIC	Industry	Annualized Compliance Costs for all Establishments	Revenues for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	Annualized Compliance Costs as a Percentage of Revenues	Annualized Compliance Costs as a Percentage of Profits	Compliance Cost per Establishment	Total Number of Affected Establishments over 10 years	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Annualized Cost per Affected Establishment
3280	Cut stone & stone prods	$814,738	$1,218,989	4.2%	$51,198	0.07	1.6	$761	348	0.21	4.90	$2,341
3290	Misc nonmet mineral prods.	$4,131,545	$12,831,147	5.7%	$731,375	0.03	0.6	$2,584	507	0.10	1.78	$8,144
3310	Basic steel products	$13,686,455	$69,010,676	4.7%	$3,243,502	0.02	0.4	$10,659	337	0.08	1.61	$40,584
3320	Iron and steel foundries	$9,351,449	$15,484,686	4.7%	$727,700	0.06	1.3	$8,062	347	0.20	4.30	$26,976
3330	Primary nonfer metals	$1,875,674	$17,465,720	4.5%	$785,957	0.01	0.2	$9,332	52	0.04	0.93	$36,275
3340	Secondary nonfer metals	$936,683	$7,521,366	3.6%	$270,769	0.01	0.3	$3,133	87	0.04	1.19	$10,761
3350	Nonfer rolling & drawing	$8,775,592	$45,476,554	5.6%	$2,546,687	0.02	0.3	$7,942	320	0.07	1.19	$27,412
3360	Nonfer foundries (cstngs)	$5,371,804	$9,611,068	3.7%	$355,610	0.06	1.5	$3,232	476	0.20	5.27	$11,278
3390	Misc primary metal prdcts	$1,184,752	$4,169,927	0.5%	$21,267	0.03	5.6	$1,251	283	0.09	18.62	$4,181
3410	Met cans & ship containers	$2,135,293	$13,004,892	2.8%	$364,137	0.02	0.6	$4,909	166	0.04	1.54	$12,850
3420	Cutlery, hndtls, & hardware	$8,421,878	$17,122,208	4.7%	$804,744	0.05	1.0	$3,443	876	0.14	2.92	$9,611
3430	Plumbing & heating fixtures	$4,048,663	$7,275,857	3.8%	$280,283	0.05	1.4	$5,885	257	0.15	3.87	$15,746
3440	Fab struct metal prdcts	$26,807,372	$56,840,749	4.0%	$2,273,630	0.05	1.1	$1,950	4,927	0.12	3.10	$5,279
3450	Screw machine products	$5,840,663	$11,596,795	3.9%	$452,275	0.05	1.3	$2,245	1,012	0.13	3.32	$5,772
3460	Met forgings & stampings	$20,285,253	$40,752,728	4.5%	$1,833,873	0.05	1.1	$5,491	1,417	0.13	2.88	$14,315
3470	Metal services, n e c	$6,196,660	$12,900,758	5.7%	$735,343	0.05	0.8	$1,121	2,013	0.13	2.31	$3,079
3480	Ordnance and access , n e c	$2,058,754	$4,686,211	4.4%	$206,193	0.04	1.0	$4,700	132	0.15	3.31	$15,584
3490	Misc fab metal products	$17,375,910	$38,754,246	4.8%	$1,868,204	0.04	0.9	$2,391	2,571	0.13	2.64	$6,758
3510	Engines and turbines	$4,768,256	$16,985,636	4.4%	$747,368	0.03	0.6	$12,852	125	0.08	1.90	$38,286
3520	Farm & garden machinery	$6,588,850	$17,677,144	4.1%	$724,763	0.04	0.9	$3,742	570	0.12	2.81	$11,555
3530	Construct & related mach	$12,495,792	$33,857,157	5.0%	$1,692,858	0.04	0.7	$3,759	1,127	0.11	2.18	$11,092
3540	Metalworking machinery	$14,111,009	$34,863,234	4.6%	$1,603,709	0.04	0.9	$1,195	3,901	0.12	2.66	$3,617
3550	Special industry mach	$8,656,442	$29,950,693	4.5%	$1,347,781	0.03	0.6	$1,807	1,544	0.09	1.99	$5,607
3560	General indust mach	$13,075,736	$38,890,135	4.5%	$1,750,856	0.03	0.7	$2,987	1,492	0.10	2.19	$8,761
3570	Computer & office equip	$8,028,010	$72,679,343	3.3%	$2,398,418	0.01	0.3	$3,801	554	0.04	1.28	$14,499
3580	Refrig & serv indust mach	$12,363,365	$36,688,548	2.0%	$733,771	0.03	1.7	$5,505	746	0.10	5.07	$16,564
3590	Industrial mach , n e c	$14,660,107	$35,100,649	5.5%	$1,930,536	0.04	0.8	$567	5,982	0.08	3.28	$2,451
3610	Elect dist equipment	$2,438,256	$11,273,986	4.0%	$450,959	0.02	0.5	$2,787	164	0.12	2.88	$14,831
3620	Elect indust apparatus	$6,283,325	$21,854,697	4.0%	$874,188	0.03	0.7	$2,700	416	0.16	3.90	$15,101
3630	Household appliances	$4,936,022	$21,300,973	3.4%	$724,233	0.02	0.7	$10,414	87	0.13	3.70	$56,599
3640	Elct lghtng & wire equip	$5,611,641	$23,289,566	4.6%	$1,071,320	0.02	0.5	$2,651	400	0.13	2.77	$14,014
3650	Household audio & vid equip	$1,637,998	$13,716,113	5.9%	$809,251	0.01	0.2	$2,010	136	0.07	1.21	$12,018
3660	Communications equipment	$5,340,881	$57,675,888	5.4%	$3,114,494	0.01	0.2	$2,531	337	0.06	1.07	$15,840
3670	Electronic components & access	$12,418,864	$103,870,202	5.4%	$5,608,991	0.01	0.2	$1,890	1,115	0.07	1.30	$11,137
3690	Misc elect equipment	$5,736,202	$26,674,704	5.0%	$1,333,735	0.02	0.4	$3,208	296	0.13	2.60	$19,407
3710	Motor vehicles & equipt	$48,318,866	$339,576,992	3.9%	$13,243,503	0.01	0.4	$9,570	630	0.11	2.92	$76,717
3720	Aircraft and parts	$13,957,517	$93,016,909	4.3%	$3,999,731	0.02	0.3	$8,244	169	0.15	3.50	$82,754
3730	Ship, boat bldng and repair	$2,306,682	$6,028,640	3.6%	$217,031	0.04	1.1	$862	406	0.25	7.01	$5,686
3740	Railroad equipment	$1,588,327	$6,654,526	2.8%	$186,327	0.02	0.9	$7,457	25	0.20	7.13	$62,329
3750	Motorcycles & bcycles	$731,427	$3,336,173	3.8%	$126,775	0.02	0.6	$1,977	39	0.21	5.54	$18,976
3760	Guided missiles	$1,355,357	$18,052,173	3.8%	$685,983	0.01	0.2	$12,900	11	0.07	1.82	$118,636
3790	Misc transportation equip	$2,150,247	$8,420,482	3.8%	$319,975	0.03	0.7	$1,894	186	0.16	4.09	$11,541
3810	Srch & navigation equipment	$4,014,837	$30,132,161	4.7%	$1,416,212	0.01	0.3	$5,767	134	0.07	1.47	$29,875
3820	Meas & contrlling devices	$8,552,066	$39,725,944	5.3%	$2,105,475	0.02	0.4	$1,799	1,022	0.10	1.89	$8,364
3840	Medical instrmnts & supplies	$8,432,651	$49,607,297	6.2%	$3,075,652	0.02	0.3	$1,886	892	0.09	1.37	$9,458
3850	Ophthalmic goods	$909,196	$2,850,267	4.2%	$119,711	0.03	0.8	$1,549	120	0.16	3.70	$7,551
3860	Photo equip & supplies	$2,811,411	$19,103,716	5.3%	$1,012,497	0.01	0.3	$3,899	129	0.08	1.56	$21,876
3870	Watches, clocks, & parts	$134,887	$768,233	5.6%	$43,020	0.02	0.3	$957	27	0.09	1.66	$5,069
3910	Jwlry, slvrwre, and plate	$2,017,457	$6,261,321	2.8%	$175,317	0.03	1.2	$717	641	0.14	5.05	$3,147
3930	Musical instruments	$1,028,526	$1,313,948	3.3%	$43,360	0.08	2.4	$1,856	138	0.31	9.36	$7,383

VOL 64 ISS 225 NO 23 1999 UMI

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries and all Affected Establishments

SIC	Industry	For All Establishments: Annualized Compliance Costs for all Establishments	Revenues for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	For All Establishments: Annualized Compliance Costs as a Percentage of Revenues	For All Establishments: Annualized Compliance Costs as a Percentage of Profits	For All Establishments: Compliance Cost per Establishment	For Affected Establishments (Those with MSDs): Total Number of Affected Establishments over 10 years	For Affected Establishments (Those with MSDs): Annualized Costs as a Percent of Revenues	For Affected Establishments (Those with MSDs): Annualized Costs as a Percent of Profits	For Affected Establishments (Those with MSDs): Annualized Cost per Affected Establishment
3940	Toys and sporting goods	$7,714,553	$14,422,948	3.5%	$504,803	0.05	1.5	$2,195	948	0.20	5.66	$8,136
3950	Office and art supplies	$1,270,737	$3,683,197	3.3%	$121,546	0.03	1.0	$1,224	268	0.13	4.05	$4,747
3960	Costume jewelry & notions	$819,428	$2,246,891	3.3%	$74,147	0.04	1.1	$750	244	0.16	4.95	$3,360
3990	Misc manufactures	$9,483,246	$19,000,990	3.4%	$646,306	0.05	1.5	$1,077	4,174	0.11	3.09	$2,272
4110	Local & suburban trans	$24,018,108	$8,742,145	6.2%	$542,013	0.27	4.4	$2,519	5,338	0.49	7.92	$4,499
4120	Taxicabs	$1,223,456	$1,286,889	5.9%	$75,926	0.10	1.6	$370	714	0.44	7.45	$1,713
4130	Intercty & rural bus trans	$2,786,770	$1,610,701	7.0%	$112,749	0.17	2.5	$5,794	246	0.34	4.83	$11,310
4140	Bus charter service	$1,454,794	$1,653,193	3.8%	$62,821	0.09	2.3	$1,016	668	0.19	4.96	$2,178
4150	School buses	$7,306,855	$4,192,484	5.9%	$247,357	0.17	3.0	$1,720	2,090	0.35	6.00	$3,495
4170	Bus terminals	$45,866	$44,464	5.9%	$2,623	0.10	1.7	$805	29	0.20	3.39	$1,560
4210	Trking & Courier Service	$203,536,417	$169,408,687	3.2%	$5,421,078	0.12	3.8	$1,742	38,171	0.37	11.49	$5,332
4220	Pub warehousing & storage	$13,881,441	$11,696,021	9.4%	$1,099,426	0.12	1.3	$1,171	5,717	0.25	2.62	$2,428
4230	Trucking terminal fac	$105,488	na	4.2%	na	na	na	$1,319	37	na	na	$2,890
4510	Air trans , scheduled	$85,079,148	$139,896,879	4.0%	$5,595,875	0.06	1.5	$12,875	4,757	0.08	2.11	$17,886
4520	Air trans , nonsched	$1,219,990	$4,596,451	6.0%	$275,787	0.03	0.4	$666	698	0.07	1.16	$1,747
4580	Airports and services	$7,949,012	$9,429,735	4.6%	$433,768	0.08	1.8	$1,980	1,791	0.19	4.11	$4,439
4610	Pipelines, except natural gas	$1,696,329	$8,949,097	4.9%	$438,506	0.02	0.4	$1,761	587	0.03	0.63	$2,890
4720	Pass trans arrangements	$2,501,195	$14,855,776	2.7%	$401,106	0.02	0.6	$76	3,772	0.15	5.47	$663
4730	Freight trans arrangements	$8,218,900	$13,557,555	3.7%	$501,630	0.06	1.6	$556	5,923	0.15	4.09	$1,388
4740	Rental of railroad cars	$87,102	$2,475,148	3.4%	$84,155	0.00	0.1	$751	34	0.01	0.35	$2,572
4780	Misc trans services	$3,863,312	$3,112,864	3.4%	$105,810	0.12	3.7	$1,441	952	0.35	10.28	$4,056
4810	Telephone communication	$28,394,255	$208,432,617	7.7%	$16,049,312	0.01	0.2	$1,041	4,532	0.08	1.06	$6,266
4820	Telegrph & other comm	$119,769	$1,436,935	5.7%	$81,905	0.01	0.1	$257	59	0.07	1.16	$2,037
4830	Radio & TV broadcasting	$2,128,977	$35,250,634	2.4%	$846,015	0.01	0.3	$241	1,336	0.04	1.66	$1,594
4840	Cable & othr pay TV services	$6,686,176	$43,809,951	5.4%	$2,365,737	0.02	0.3	$1,397	1,050	0.07	1.29	$6,368
4890	Communication serv , n e c	$275,374	$5,631,490	5.7%	$320,995	0.00	0.1	$185	141	0.05	0.91	$1,957
4910	Electric services	$16,021,589	$162,448,596	10.8%	$17,544,448	0.01	0.1	$2,552	1,389	0.04	0.41	$11,534
4920	Gas product & distribution	$6,366,411	$89,523,533	6.7%	$5,998,077	0.01	0.1	$1,615	848	0.03	0.49	$7,508
4930	Comb utility services	$6,914,868	$71,542,818	8.3%	$5,938,054	0.01	0.1	$3,696	401	0.05	0.54	$17,263
4940	Water supply	$1,123,354	$4,130,669	10.6%	$437,851	0.03	0.3	$304	577	0.17	1.65	$1,946
4950	Sanitary services	$10,505,550	$24,057,028	7.6%	$1,818,334	0.04	0.6	$1,618	1,363	0.21	2.74	$7,710
4960	Steam & air-cond supplies	$56,936	$434,948	8.3%	$36,101	0.01	0.2	$825	15	0.06	0.73	$3,843
4970	Irrigation systems	$77,993	$167,025	8.3%	$13,863	0.05	0.6	$213	98	0.17	2.10	$795
5010	Motor vehicles	$34,047,483	$510,238,863	2.0%	$10,204,777	0.01	0.3	$744	18,333	0.02	0.83	$1,857
5020	Furn & homefurnishings	$11,810,839	$68,862,490	2.0%	$1,377,250	0.02	0.9	$708	6,229	0.05	2.30	$1,896
5030	Lumber & construct mat	$26,320,648	$117,970,381	1.9%	$2,241,437	0.02	1.2	$1,112	11,317	0.05	2.46	$2,326
5040	Prof & commercial equip	$36,223,129	$329,207,483	2.5%	$8,230,187	0.01	0.4	$697	16,158	0.04	1.41	$2,242
5050	Met & minerals, excpt pet	$12,655,098	$151,787,907	2.8%	$4,250,061	0.01	0.3	$1,109	4,929	0.02	0.69	$2,567
5060	Electrical goods	$24,613,012	$337,183,776	2.2%	$7,418,043	0.01	0.3	$590	14,621	0.02	0.95	$1,683
5070	Hardware supplies	$21,157,742	$95,859,741	2.2%	$2,108,914	0.02	1.0	$810	11,803	0.05	2.22	$1,793
5080	Mach , equipt, & supplies	$49,965,358	$293,593,950	2.9%	$8,514,225	0.02	0.6	$655	30,491	0.04	1.47	$1,639
5090	Misc durable goods	$20,713,707	$183,194,901	3.2%	$5,862,237	0.01	0.4	$517	11,575	0.04	1.22	$1,790
5110	Paper and paper products	$12,880,434	$132,104,428	1.6%	$2,113,671	0.01	0.6	$688	5,481	0.03	2.08	$2,350
5120	Drugs, propriet , & sundries	$9,044,943	$194,538,527	2.9%	$5,641,617	0.00	0.2	$1,236	2,055	0.02	0.57	$4,400
5130	Apparel and notions	$8,713,403	$125,178,134	2.1%	$2,628,741	0.01	0.3	$400	5,359	0.03	1.35	$1,626
5140	Groceries & related products	$72,832,496	$587,575,642	1.4%	$8,226,059	0.01	0.9	$1,682	15,954	0.03	2.40	$4,565
5150	Farm-prod raw materials	$2,248,346	$141,454,588	1.7%	$2,404,728	0.00	0.1	$211	2,702	0.01	0.37	$832
5160	Chemicals & allied prods	$7,357,284	$178,707,220	3.2%	$5,462,631	0.00	0.1	$485	4,682	0.01	0.44	$1,571
5170	Petrol & petrol prods	$7,383,326	$315,300,716	1.2%	$3,783,609	0.00	0.2	$560	4,605	0.01	0.56	$1,603
5180	Beer, wine, & dist bev	$16,774,482	$70,906,318	2.3%	$1,630,845	0.02	1.0	$3,318	2,313	0.05	2.25	$7,253

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries and all Affected Establishments

SIC	Industry	Annualized Compliance Costs for all Establishments	Revenues for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	For All Establishments: Annualized Compliance Costs as a Percentage of Revenues	For All Establishments: Annualized Compliance Costs as a Percentage of Profits	For Affected Establishments (Those with MSDs): Compliance Cost per Establishment	Total Number of Affected Establishments over 10 years	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Annualized Cost per Affected Establishment
5190	Misc nondurable goods	$30,921,394	$218,636,094	1.9%	$4,154,086	0.01	0.7	$569	22,236	0.03	1.82	$1,391
5210	Lumber & other bldng mat	$54,026,123	$94,882,400	1.9%	$1,802,766	0.06	3.0	$2,226	16,009	0.09	4.54	$3,375
5230	Paint, glass, wallpaper strs	$4,146,859	$7,137,672	0.9%	$64,239	0.06	6.5	$424	5,611	0.10	11.25	$739
5250	Hardware stores	$7,442,710	$11,768,982	2.3%	$270,687	0.06	2.7	$521	7,771	0.12	5.05	$958
5260	Retail nurseries and gardens	$7,135,904	$8,246,165	2.2%	$181,416	0.09	3.9	$634	5,839	0.17	7.58	$1,222
5270	Mobile home dealers	$4,373,670	$12,128,180	2.9%	$351,717	0.04	1.2	$915	2,953	0.06	2.01	$1,481
5310	Department stores	$148,962,880	$212,202,049	2.6%	$5,517,253	0.07	2.7	$13,762	9,514	0.08	3.07	$15,657
5330	Variety stores	$8,004,993	$7,801,344	2.7%	$210,636	0.10	3.8	$738	7,517	0.15	5.48	$1,065
5390	Misc gen merchandise strs	$15,157,380	$73,078,703	1.6%	$1,169,259	0.02	1.3	$1,024	6,319	0.05	3.04	$2,399
5410	Grocery stores	$194,675,511	$413,038,161	1.2%	$4,956,458	0.05	3.9	$1,507	45,877	0.13	11.06	$4,243
5420	Meat and fish markets	$2,545,677	$5,620,494	1.3%	$73,066	0.05	3.5	$324	2,272	0.16	12.07	$1,121
5430	Fruit & vegetable markets	$616,344	$2,467,380	1.3%	$32,076	0.02	1.9	$184	638	0.13	10.07	$966
5440	Candy, nut, & confctnry strs	$731,363	$1,508,092	1.3%	$19,605	0.05	3.7	$154	1,097	0.21	16.12	$667
5450	Dairy products stores	$316,946	$746,400	1.3%	$9,703	0.04	3.3	$124	488	0.22	17.08	$650
5460	Retail bakeries	$4,816,282	$5,837,642	3.0%	$175,129	0.08	2.8	$239	5,704	0.29	9.72	$844
5490	Misc food stores	$1,423,316	$4,903,987	1.8%	$88,272	0.03	1.6	$144	2,708	0.11	5.90	$526
5510	New and used car dealers	$88,386,866	$473,713,203	1.1%	$5,210,845	0.02	1.7	$3,587	18,989	0.02	2.20	$4,655
5520	Used car dealers	$1,126,468	$26,046,018	2.5%	$651,150	0.00	0.2	$51	1,964	0.05	1.93	$574
5530	Auto & home supply stores	$27,461,415	$41,415,750	1.9%	$786,899	0.07	3.5	$627	24,438	0.12	6.26	$1,124
5540	Gas service stations	$26,373,601	$154,592,503	1.6%	$2,473,480	0.02	1.1	$274	39,526	0.04	2.60	$667
5550	Boat dealers	$2,716,592	$7,697,095	2.2%	$169,336	0.04	1.6	$536	2,493	0.07	3.26	$1,090
5560	Rec vehicle dealers	$2,967,010	$9,355,689	1.7%	$159,047	0.03	1.9	$991	1,757	0.05	3.18	$1,689
5570	Motorcycle dealers	$309,316	$6,487,093	3.1%	$201,100	0.00	0.2	$82	468	0.04	1.24	$660
5590	Auto dealers, n e c	$84,647	$1,290,175	2.6%	$33,545	0.01	0.3	$69	126	0.06	2.47	$672
5610	Men's & boys' clothing strs	$1,701,374	$9,985,692	0.1%	$9,986	0.02	17.0	$123	3,814	0.06	61.85	$446
5620	Women's clothing stores	$4,220,782	$29,323,315	4.0%	$1,172,933	0.01	0.4	$104	8,885	0.07	1.64	$475
5630	Wm's access & specialty strs	$648,405	$4,417,649	4.5%	$198,794	0.01	0.3	$74	1,531	0.00	1.82	$418
5640	Childm's & infants' wear strs	$980,049	$4,249,583	1.2%	$50,995	0.02	1.9	$189	1,402	0.09	7.11	$699
5650	Family clothing stores	$15,371,732	$40,135,206	1.3%	$521,758	0.04	2.9	$785	10,597	0.07	5.44	$1,451
5660	Shoe stores	$3,895,272	$18,686,566	2.6%	$485,851	0.02	0.8	$123	8,210	0.08	3.10	$474
5690	Misc apparel stores	$527,866	$4,848,422	1.2%	$58,181	0.01	0.9	$52	1,273	0.09	7.24	$415
5710	Furnitre & homefurnishng strs	$38,208,458	$63,978,206	2.3%	$1,471,499	0.06	2.6	$579	34,538	0.11	4.96	$1,106
5720	Household appliance strs	$5,604,314	$10,491,658	2.3%	$241,308	0.05	2.3	$558	4,546	0.12	5.13	$1,233
5730	Radio, TV, & compir strs	$13,710,842	$59,843,357	2.3%	$1,376,397	0.02	1.0	$351	11,044	0.00	3.52	$1,241
5810	Eating & drinking places	$147,866,742	$253,760,234	3.0%	$7,612,807	0.06	1.9	$317	166,985	0.16	5.42	$886
5910	Drug stores	$17,760,179	$91,701,331	2.5%	$2,292,533	0.02	0.8	$410	19,584	0.04	1.71	$906
5920	Liquor stores	$997,287	$21,457,553	1.4%	$300,406	0.00	0.3	$35	3,267	0.04	2.93	$305
5930	Used merchandise stores	$4,758,441	$7,863,561	4.6%	$361,724	0.06	1.3	$202	7,083	0.20	4.37	$672
5940	Misc shopping goods strs	$29,014,390	$86,940,718	2.2%	$1,912,696	0.03	1.5	$225	41,973	0.10	4.67	$691
5960	Nonstore retailers	$33,430,917	$71,726,499	2.0%	$1,434,530	0.05	2.3	$1,116	11,107	0.13	6.28	$3,010
5980	Fuel dealers	$6,219,623	$17,012,865	0.8%	$136,103	0.04	4.6	$550	5,417	0.08	9.55	$1,148
5990	Retail stores, n e c	$13,706,820	$39,343,051	2.6%	$1,022,919	0.03	1.3	$144	17,648	0.19	7.23	$777
6010	Central res depository	$740,611	$34,398,950	12.7%	$4,368,667	0.00	0.0	$7,261	51	0.00	0.03	$14,419
6020	Commercial banks	$17,673,306	$361,240,850	12.7%	$46,004,588	0.00	0.0	$262	15,433	0.02	0.17	$1,145
6030	Savings institutions	$2,515,343	$86,099,788	12.7%	$10,934,673	0.00	0.0	$156	3,147	0.01	0.12	$799
6060	Credit unions	$2,339,082	$28,386,945	12.7%	$3,605,142	0.01	0.1	$157	3,281	0.04	0.30	$713
6080	Foreign banking	$486,815	$85,523,610	12.7%	$10,861,498	0.00	0.0	$742	234	0.00	0.01	$3,078
6090	Banking-related functions	$1,345,305	$17,268,875	12.7%	$2,193,046	0.01	0.1	$231	928	0.05	0.38	$1,449
6110	Federal credit agencies	$111,216	$27,976,840	14.6%	$4,084,619	0.00	0.0	$83	97	0.01	0.04	$1,150
6140	Personal cred institutions	$692,011	$69,321,834	18.1%	$12,547,252	0.00	0.0	$36	839	0.02	0.12	$824

UMI 1999 23 NO 5 2 2 ISS 64 VOL

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries and all Affected Establishments

SIC	Industry	Annualized Compliance Costs for all Establishments	Revenues for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	For All Establishments: Annualized Compliance Costs as a Percentage of Revenues	For All Establishments: Annualized Compliance Costs as a Percentage of Profits	Compliance Cost per Establishment	For Affected Establishments (Those with MSDs): Total Number of Affected Establishments over 10 years	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Annualized Cost per Affected Establishment
6150	Business cred institutions	$1,408,915	$54,425,294	15.5%	$8,435,921	0.00	0.0	$263	747	0.02	0.12	$1,886
6160	Mortgage bankers & brokers	$2,238,332	$28,664,554	9.6%	$2,751,797	0.01	0.1	$102	2,576	0.07	0.69	$869
6210	Security brokers & dealers	$2,916,269	$136,415,141	10.5%	$14,323,590	0.00	0.0	$114	2,497	0.02	0.21	$1,168
6220	Commodity contracts brokers	$94,882	$2,902,031	11.7%	$339,538	0.00	0.0	$58	103	0.05	0.44	$921
6230	Security & commod exchanges	$138,705	$1,424,656	11.7%	$166,685	0.01	0.1	$1,186	24	0.05	0.40	$5,715
6280	Security & commod services	$823,324	$30,330,543	14.1%	$4,276,607	0.00	0.0	$45	572	0.09	0.61	$1,439
6310	Life insurance	$6,192,032	$402,471,102	12.7%	$51,113,830	0.00	0.0	$527	1,775	0.01	0.08	$3,488
6320	Medical & health insur	$8,923,407	$225,866,321	12.7%	$28,685,023	0.00	0.0	$2,674	705	0.02	0.15	$12,653
6330	Fire, marine, & caslty ins	$10,894,478	$304,968,860	12.7%	$38,731,045	0.00	0.0	$535	2,315	0.03	0.25	$4,706
6350	Surety insurance	$148,627	$5,184,734	12.7%	$658,461	0.00	0.0	$257	64	0.03	0.21	$2,337
6360	Title insurance	$796,133	$5,360,463	12.7%	$680,779	0.01	0.1	$313	472	0.08	0.63	$1,685
6370	Pension and health funds	$353,583	$1,884,439	12.7%	$239,324	0.02	0.1	$129	275	0.19	1.48	$1,286
6390	Ins carriers, n e c	$65,136	$810,377	12.7%	$102,918	0.01	0.1	$223	58	0.04	0.32	$1,128
6410	Insurance agents	$6,903,799	$67,001,357	6.8%	$4,556,092	0.01	0.2	$54	10,770	0.12	1.79	$641
6510	Real estate operators	$24,808,003	$89,035,697	15.4%	$13,711,497	0.03	0.2	$247	25,646	0.11	0.71	$967
6530	RE agents and managers	$21,148,635	$72,786,929	12.1%	$8,807,218	0.03	0.2	$170	19,365	0.19	1.54	$1,092
6540	Title abstract offices	$829,752	$1,702,283	12.1%	$326,976	0.03	0.3	$160	1,425	0.11	0.93	$582
6550	Subdividers & developrs	$7,410,254	$17,073,624	9.1%	$1,553,700	0.04	0.5	$399	4,091	0.20	2.16	$1,811
6710	Holding offices	$3,520,964	$49,468,775	17.5%	$8,657,036	0.01	0.0	$368	1,401	0.05	0.28	$2,514
6720	Investment offices	$498,481	$12,829,710	17.5%	$2,245,199	0.00	0.0	$542	73	0.05	0.28	$6,833
6730	Trusts	$1,011,429	$12,102,680	17.5%	$2,117,969	0.01	0.0	$114	987	0.07	0.43	$1,025
6790	Miscellaneous investing	$932,823	$23,366,830	17.5%	$4,089,195	0.00	0.0	$111	869	0.04	0.22	$1,074
7010	Hotels and motels	$74,655,845	$85,827,743	7.0%	$6,007,942	0.09	1.2	$1,650	17,848	0.22	3.15	$4,183
7020	Rooming & boarding houses	$497,181	$427,076	7.0%	$29,895	0.12	1.7	$306	542	0.21	4.99	$918
7030	Camps and rec vehicle parks	$247,237	$2,820,658	7.0%	$197,446	0.01	0.1	$33	454	0.14	2.05	$545
7040	Membership-basis org hotels	$86,868	$762,685	7.0%	$53,388	0.01	0.2	$36	182	0.15	2.16	$478
7210	Laundry & garment srvices	$22,907,639	$19,968,307	3.8%	$758,796	0.11	3.0	$404	22,113	0.29	7.74	$1,036
7220	Photo studios, portrait	$1,777,258	$4,360,841	3.9%	$170,073	0.04	1.0	$135	2,301	0.23	5.98	$772
7230	Beauty shops	$3,390,716	$11,597,696	4.6%	$533,494	0.03	0.6	$41	8,870	0.27	5.87	$382
7240	Barber shops	$517,584	$488,787	4.6%	$22,484	0.11	2.3	$115	1,072	0.44	9.66	$483
7250	Shoe repair	$251,854	$280,028	4.6%	$12,881	0.09	2.0	$114	450	0.44	9.63	$560
7260	Fun service and crematories	$2,220,161	$8,817,707	7.9%	$696,599	0.03	0.3	$141	3,747	0.11	1.34	$593
7290	Misc personal services	$1,491,429	$6,849,595	4.6%	$315,081	0.02	0.5	$49	1,285	0.52	11.31	$1,161
7310	Advertising	$8,209,870	$28,132,776	3.8%	$1,069,045	0.03	0.8	$418	3,504	0.16	4.31	$2,343
7320	Credit report & collection	$1,488,503	$8,373,157	7.0%	$586,121	0.02	0.3	$215	1,208	0.10	1.45	$1,233
7330	Mailing, reprod, steno, serv	$8,828,457	$26,231,013	4.6%	$1,206,627	0.03	0.7	$252	5,756	0.21	4.46	$1,534
7340	Services to buildings	$18,848,115	$24,230,046	3.7%	$896,512	0.08	2.1	$287	12,793	0.40	10.77	$1,473
7350	Misc equipt rental	$9,684,148	$30,369,885	9.2%	$2,794,029	0.03	0.3	$390	6,014	0.13	1.43	$1,608
7360	Pers supply services	$75,674,139	$71,832,848	3.0%	$2,154,985	0.11	3.5	$2,025	9,268	0.42	14.16	$8,165
7370	Comptr & data proc services	$16,883,961	$181,997,360	5.2%	$9,463,863	0.01	0.2	$190	8,304	0.10	1.91	$2,033
7380	Misc business services	$27,644,927	$71,061,254	3.4%	$2,416,083	0.04	1.1	$323	16,228	0.21	6.04	$1,704
7510	Auto rentals, no drivers	$7,119,360	$28,628,943	5.7%	$1,631,858	0.02	0.4	$669	3,441	0.08	1.35	$2,069
7520	Automobile parking	$1,856,234	$4,810,800	4.8%	$230,918	0.04	0.8	$209	1,854	0.19	3.86	$1,001
7530	Automotive repair shops	$26,329,376	$52,456,660	3.9%	$2,045,810	0.05	1.3	$189	38,478	0.18	4.66	$684
7540	Automotive serv , exc repair	$10,457,562	$9,160,104	6.5%	$595,407	0.11	1.8	$388	10,766	0.29	4.40	$971
7620	Electrical repair shops	$8,521,815	$12,355,727	2.6%	$321,249	0.07	2.7	$441	6,191	0.22	8.28	$1,376
7630	Watch and jewelry repair	$274,794	$374,160	3.4%	$12,721	0.07	2.2	$152	444	0.30	8.77	$618
7640	Reupholstery & furn repair	$507,897	$1,276,653	3.4%	$43,406	0.04	1.2	$74	1,422	0.19	5.63	$357
7690	Misc repair shops	$16,765,426	$24,393,605	5.9%	$1,439,223	0.07	1.2	$430	12,871	0.21	3.53	$1,303
7810	Motion picture production	$17,792,216	$28,310,206	5.4%	$1,528,751	0.06	1.2	$1,212	2,546	0.36	6.71	$6,988

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries

						For All Establishments			For Affected Establishments (Those with MSDs)			
SIC	Industry	Annualized Compliance Costs for all Establishments	Revenues for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	Annualized Compliance Costs as a Percentage of Revenues	Annualized Compliance Costs as a Percentage of Profits	Compliance Cost per Establishment	Total Number of Affected Establishments over 10 years	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Annualized Cost per Affected Establishment
7820	Motion picture dist	$1,807,346	$18,051,508	5.8%	$1,046,987	0.01	0.2	$1,241	687	0.02	0.37	$2,631
7830	Motion picture theaters	$6,213,923	$7,023,730	5.8%	$407,376	0.09	1.5	$946	4,168	0.14	2.40	$1,491
7840	Video tape rental	$5,428,968	$6,459,177	7.2%	$465,061	0.08	1.2	$261	10,396	0.17	2.34	$522
7910	Dance studios & schools	$1,283,830	$863,722	4.1%	$35,413	0.15	3.6	$224	2,062	0.41	10.05	$623
7920	Producrs, orch , entertainers	$5,448,464	$16,444,890	3.6%	$592,016	0.03	0.9	$324	3,468	0.16	4.47	$1,571
7930	Bowling centers	$1,496,184	$2,944,692	4.2%	$123,677	0.05	1.2	$261	2,050	0.14	3.38	$730
7940	Commercial sports	$5,987,571	$12,089,744	3.6%	$435,231	0.05	1.4	$1,257	1,464	0.16	4.48	$4,091
7990	Misc recreation services	$53,034,852	$55,776,035	4.2%	$2,342,593	0.10	2.3	$858	18,362	0.32	7.62	$2,888
8010	Offices of medical doctors	$45,984,511	$186,598,097	6.3%	$11,755,680	0.02	0.4	$246	34,137	0.13	2.14	$1,347
8020	Dentists offices and clinics	$9,425,820	$46,131,244	11.3%	$5,212,831	0.02	0.2	$83	16,155	0.14	1.27	$583
8030	Osteopathic physicians	$434,736	$4,582,835	5.4%	$247,473	0.01	0.2	$48	810	0.11	1.98	$537
8040	Other health practitioners	$13,653,456	$25,053,745	6.5%	$1,628,493	0.05	0.8	$161	18,219	0.25	3.90	$749
8050	Nursing & personal care fac	$158,995,016	$63,625,522	4.3%	$2,735,897	0.25	5.8	$6,622	11,190	0.54	12.47	$14,209
8060	Hospitals	$345,171,125	$343,314,509	5.1%	$17,509,040	0.10	2.0	$47,401	3,634	0.20	3.95	$94,988
8070	Med & dental labs	$6,311,199	$16,543,625	7.9%	$1,306,946	0.04	0.5	$414	2,625	0.22	2.80	$2,404
8080	Home hlth care services	$51,514,478	$27,690,537	3.5%	$969,169	0.19	5.3	$3,198	5,961	0.50	14.36	$8,643
8090	Hlth & allied serv , n e c	$15,136,002	$26,036,633	11.0%	$2,864,030	0.06	0.5	$726	6,841	0.18	1.61	$2,213
8110	Legal services	$14,827,269	$116,202,122	5.0%	$5,810,106	0.01	0.3	$88	14,399	0.15	2.98	$1,030
8210	Elem & secondary schools	$11,922,661	$30,967,943	5.9%	$1,827,109	0.04	0.7	$662	4,535	0.15	2.59	$2,629
8220	Colleges & universities	$36,950,253	$73,194,239	6.2%	$4,538,043	0.05	0.8	$10,087	975	0.19	3.06	$37,888
8230	Libraries	$147,518	$846,367	5.9%	$49,936	0.02	0.3	$66	170	0.23	3.91	$868
8240	Vocational schools	$659,256	$6,322,931	5.9%	$373,053	0.01	0.2	$97	590	0.12	2.04	$1,118
8290	Schools, n e c	$1,001,157	$7,437,108	5.0%	$371,855	0.01	0.3	$45	1,335	0.16	3.11	$750
8320	Individual & fam services	$40,334,501	$25,266,265	4.1%	$1,035,917	0.16	3.9	$937	16,130	0.43	10.39	$2,501
8330	Job train & related serv	$18,644,738	$8,830,464	2.5%	$220,762	0.21	8.4	$2,046	3,793	0.51	20.29	$4,915
8350	Child day care services	$13,661,574	$12,459,047	3.8%	$473,444	0.11	2.9	$255	17,990	0.33	8.60	$759
8360	Residential care	$51,440,382	$20,174,955	2.6%	$514,549	0.25	9.8	$1,788	14,449	0.51	19.51	$3,560
8390	Social services, n e c	$9,045,724	$22,170,593	3.4%	$753,800	0.04	1.2	$576	4,098	0.16	4.60	$2,207
8410	Museums & art galleries	$2,425,886	$3,660,267	6.1%	$223,276	0.07	1.1	$537	1,040	0.29	4.72	$2,332
8420	Bot & zoolog gardens	$1,164,551	$906,476	6.1%	$55,295	0.13	2.1	$1,991	174	0.43	7.09	$6,700
8610	Business associations	$1,512,126	$14,242,520	3.3%	$470,003	0.01	0.3	$96	1,703	0.10	2.98	$888
8620	Prof organizations	$758,809	$7,845,620	4.8%	$376,590	0.01	0.2	$108	734	0.09	1.93	$1,033
8630	Labor organizations	$1,224,039	$11,731,332	6.4%	$750,805	0.01	0.2	$63	1,714	0.12	1.86	$714
8640	Civic & social assoc	$10,878,058	$15,241,892	3.4%	$518,224	0.07	2.1	$294	8,286	0.32	9.36	$1,313
8650	Political organizations	$340,427	$1,093,341	6.4%	$69,974	0.03	0.5	$132	381	0.21	3.38	$895
8660	Religious organizations	$6,506,177	$57,709,235	9.1%	$5,251,540	0.01	0.1	$41	7,763	0.23	2.53	$838
8690	Membership orgs , n e c	$4,762,801	$8,262,479	6.4%	$528,799	0.06	0.9	$525	2,020	0.26	4.05	$2,358
8710	Eng and arch services	$18,663,467	$98,926,133	4.2%	$4,154,898	0.02	0.4	$237	11,110	0.13	3.19	$1,680
8720	Accntng, auditng, & bkeeping	$18,023,796	$49,834,103	12.0%	$5,980,092	0.04	0.3	$214	10,055	0.30	2.52	$1,791
8730	Research & testing services	$23,709,695	$47,185,349	3.4%	$1,604,302	0.05	1.5	$1,218	4,780	0.20	6.02	$4,960
8740	Management & pub relations	$38,513,329	$96,714,846	6.2%	$5,996,320	0.04	0.6	$405	13,819	0.27	4.42	$2,787
8990	Services, n e c	$7,614,094	$13,388,980	5.0%	$669,449	0.06	1.1	$442	6,328	0.15	3.10	$1,203
Total		$4,232,197,861	$15,802,862,958		$766,327,987	0.03	0.6	$717	1,585,552	0.10	2.06	$2,669

Source Office of Regulatory Analysis
Revenue data is from U S Dept of Commerce, Bureau of Census Compliance costs are from Chapter 5 of this Preliminary Economic Analysis Profit Rates are from, in most instances, Robert Morris Associates' "RMA Studies "
[a] Excludes SIC 3731
[b] A profit rate of 5 percent of revenues (the average rate for all establishments) was estimated for SICs 910,920,970,8110, and 8990, a profit rate of 4 percent was estimated for SICs 2280, 2310, and 5620, since they are recognized as industries with lower than average margins

BILLING CODE 4510-26-C

Table VIII-4 Estimated Economic Impact of the Proposed Ergonomics Standard on All Industries and all Affected Establishments

SIC	Industry	Annualized Compliance Costs for all Establishments	Revenues for all Establishments ($1,000s)	Profits as a Percentage of Revenues	Profits ($1,000s)	For All Establishments: Annualized Compliance Costs as a Percentage of Revenues	For All Establishments: Annualized Compliance Costs as a Percentage of Profits	For Affected Establishments (Those with MSDs): Compliance Cost per Establishment	For Affected Establishments (Those with MSDs): Total Number of Affected Establishments over 10 years	For Affected Establishments (Those with MSDs): Annualized Costs as a Percent of Revenues	For Affected Establishments (Those with MSDs): Annualized Costs as a Percent of Profits	For Affected Establishments (Those with MSDs): Annualized Cost per Affected Establishment
7820	Motion picture dist	$1,807,346	$18,051,588	5.8%	$1,046,987	0.01	0.2	$1,241	687	0.02	0.37	$2,631
7830	Motion picture theaters	$6,213,923	$7,023,730	5.8%	$407,376	0.09	1.5	$946	4,168	0.14	2.40	$1,491
7840	Video tape rental	$5,428,968	$6,459,177	7.2%	$465,061	0.08	1.2	$261	10,396	0.17	2.34	$522
7910	Dance studios & schools	$1,283,830	$863,732	4.1%	$35,413	0.15	3.6	$224	2,062	0.41	10.05	$623
7920	Prducrs, orch., entertainers	$5,448,464	$16,444,890	3.6%	$592,016	0.03	0.9	$324	3,468	0.16	4.47	$1,571
7930	Bowling centers	$1,496,184	$2,944,692	4.2%	$123,677	0.05	1.2	$261	2,050	0.14	3.38	$730
7940	Commercial sports	$5,987,571	$12,089,744	3.6%	$435,231	0.05	1.4	$1,257	1,464	0.16	4.48	$4,091
7990	Misc recreation services	$53,034,852	$55,776,035	4.2%	$2,342,593	0.10	2.3	$858	18,362	0.32	7.62	$2,888
8010	Offices of medical doctors	$45,984,511	$186,598,097	6.3%	$11,755,680	0.02	0.4	$246	34,137	0.13	2.14	$1,347
8020	Dentists offices and clinics	$9,425,820	$46,131,244	11.3%	$5,212,831	0.02	0.2	$83	16,195	0.14	1.27	$583
8030	Osteopathic physicians	$434,736	$4,582,835	5.4%	$247,473	0.01	0.2	$48	810	0.11	1.98	$537
8040	Other health practitioners	$13,653,456	$25,053,745	6.5%	$1,628,493	0.05	0.8	$161	18,219	0.25	3.90	$749
8050	Nursing & personal care fac	$158,995,016	$63,625,522	4.3%	$2,735,897	0.25	5.8	$6,622	11,190	0.54	12.47	$14,209
8060	Hospitals	$345,171,125	$343,314,509	5.1%	$17,509,040	0.10	2.0	$47,401	3,634	0.20	3.95	$94,988
8070	Med & dental labs	$6,311,199	$16,543,625	7.9%	$1,306,946	0.04	0.5	$414	2,625	0.22	2.80	$2,404
8080	Home hlth care services	$51,514,478	$27,690,537	3.5%	$969,169	0.19	5.3	$3,198	5,961	0.50	14.36	$8,643
8090	Hlth & allied serv., n e c	$15,136,082	$26,036,633	11.0%	$2,864,030	0.06	0.5	$726	6,841	0.18	1.61	$2,213
8110	Legal services	$14,827,269	$116,202,122	5.0%	$5,810,106	0.01	0.3	$88	14,399	0.15	2.98	$1,030
8210	Elem & secondary schools	$11,922,661	$30,967,943	5.9%	$1,827,109	0.04	0.7	$662	4,535	0.15	2.59	$2,629
8220	Colleges & universities	$36,950,253	$73,184,239	6.2%	$4,538,043	0.05	0.8	$10,087	975	0.19	3.06	$37,888
8230	Libraries	$147,528	$846,367	5.9%	$49,936	0.02	0.3	$66	170	0.23	3.91	$868
8240	Vocational schools	$659,256	$6,322,931	5.9%	$373,053	0.01	0.2	$97	590	0.12	2.04	$1,118
8290	Schools, n e c	$1,001,157	$7,437,108	5.0%	$371,855	0.01	0.3	$65	1,335	0.16	3.11	$750
8320	Individual & fam services	$40,334,501	$25,266,265	4.1%	$1,035,917	0.16	3.9	$937	16,130	0.43	10.39	$2,501
8330	Job train & related serv.	$18,644,738	$8,830,464	2.5%	$220,762	0.21	8.4	$2,046	3,793	0.51	20.29	$4,915
8350	Child day care services	$13,661,574	$12,459,047	3.8%	$473,644	0.11	2.9	$255	17,990	0.33	8.60	$759
8360	Residential care	$51,440,382	$20,174,955	2.6%	$524,549	0.25	9.8	$1,788	14,449	0.51	19.52	$3,560
8390	Social services, n e c	$9,045,724	$22,170,593	3.4%	$753,800	0.04	1.2	$576	4,098	0.16	4.68	$2,207
8410	Museums & art galleries	$2,425,886	$3,660,267	6.1%	$223,276	0.07	1.1	$537	1,040	0.29	4.72	$2,332
8420	Bot & zoolog gardens	$1,164,551	$906,476	6.1%	$55,295	0.13	2.1	$1,991	174	0.43	7.09	$6,700
8610	Business associations	$1,512,126	$14,242,520	3.3%	$470,003	0.01	0.3	$96	1,703	0.10	2.98	$888
8620	Prof organizations	$758,809	$7,845,620	4.8%	$376,590	0.01	0.2	$108	734	0.09	1.93	$1,033
8630	Labor organizations	$1,224,039	$11,731,332	6.4%	$750,805	0.01	0.2	$63	1,714	0.12	1.86	$714
8640	Civic & social assoc	$10,878,058	$15,241,892	3.4%	$518,224	0.07	2.1	$294	8,286	0.32	9.36	$1,313
8650	Political organizations	$340,427	$1,093,341	6.4%	$69,974	0.03	0.5	$132	381	0.21	3.30	$895
8660	Religious organizations	$6,506,177	$57,709,235	9.1%	$5,251,540	0.01	0.1	$41	7,763	0.23	2.53	$838
8690	Membership orgs., n e c	$4,762,801	$8,262,479	6.4%	$528,799	0.06	0.9	$525	2,020	0.26	4.05	$2,358
8710	Eng and arch services	$18,663,467	$98,926,133	4.1%	$4,154,898	0.02	0.4	$237	11,110	0.13	3.19	$1,680
8720	Accntng, auditing, & bkeeping	$18,023,796	$49,834,103	12.0%	$5,980,092	0.04	0.3	$214	10,055	0.30	2.52	$1,792
8730	Research & testing services	$23,709,695	$47,185,349	3.4%	$1,604,302	0.05	1.5	$1,218	4,780	0.20	6.02	$4,960
8740	Management & pub relations	$38,513,329	$96,714,846	6.2%	$5,996,320	0.04	0.6	$405	13,819	0.27	4.42	$2,787
8990	Services, n e c	$7,614,094	$13,388,980	5.0%	$669,449	0.06	1.1	$442	6,328	0.15	3.10	$1,283
Total		$4,232,197,861	$15,802,862,958		$766,327,987	0.03	0.6	$717	1,585,552	0.10	2.06	$2,669

Source: Office of Regulatory Analysis
Revenue data is from U S Dept of Commerce, Bureau of Census. Compliance costs are from Chapter 5 of this Preliminary Economic Analysis. Profit rates are from, in most cases, Robert Morris Associates' "RMA Studies."

However, proposed concentra impacts o "affected establishm an ergono to incur a analysis o potential experienc scenarios

• The n 4, which s

• Data potentiall

• Annu establishm

• Annu establishm

Althoug potentiall affected es establishm overall are profits eve shows tha affected es these wor

Howeve scenario, percent o SIC 138 (C boy's clot services). $721 is lo establishm 4, and est profits of approxima all industr

Neverth standard c determine worst-case establishm profits tha other indu as this, ev ergonomic annual pr experienc the standa

In the o and relate likely to b because be occupy a s a price inc profits, ev field servi increase o establishm to pass an Court poi

VOL 64 ISS 225 PAGES 63017-63344 23-NOV-1999 UMI

However, because Table VIII–4 also shows that the proposed standard's worst-case impacts are potentially concentrated in a few industries, OSHA analyzed potential impacts on establishments in these industries, termed "affected industry establishments" in this analysis. Affected establishments are defined for this analysis as those without an ergonomics program and whose employees are projected to incur a covered MSD in the next 10 years. OSHA's analysis of affected establishments thus looks at the potential for adverse impacts on those firms likely to experience the greatest impacts under the two worst-case scenarios described above.

• The results of this analysis are presented in Table VIII–4, which shows:

• Data on the number of affected establishments potentially affected over 10 years;

• Annualized costs of compliance per affected establishment; and

• Annualized costs of compliance as a percentage of establishment revenues and establishment profits.

Although Table VIII–4 projects, as would be expected, potentially greater impacts on the profits and revenues of affected establishments than was the case for all establishments, the proposed standard's worst-case impacts overall are only 0.1 percent of revenues and 2.1 percent of profits even for these affected establishments. Table VIII–4 shows that impacts do not exceed 1 percent of revenues for affected establishments in any affected industry, even using these worst-case assumptions.

However, under the worst-case no cost passthrough scenario, Table VIII–4 projects profit impacts exceeding 20 percent on affected establishments in three industry groups: SIC 138 (Oil and gas field services), SIC 561 (Men's and boy's clothing stores), and SIC 833 (Job training and related services). As discussed above, SIC 561's annual profit of $721 is lower by a factor of 5 than the profit for affected establishments in any other industry shown on Table VIII–4, and establishments in SICs 138 and 833 have average profits of only 2.0 percent and 2.5 percent, respectively, approximately one-half the average profit rate for firms in all industries.

Nevertheless, OSHA analyzed the impacts of the proposed standard on these four industries more extensively to determine what factors might account for these potential worst-case effects on profits. As discussed above, establishments in SIC 561, Men's and boy's clothing, have profits that are lower, by a factor of 5, than those for any other industry shown on Table VIII–4. In an industry such as this, even the very small per-establishment cost of the ergonomics standard—$404—represents a large share of annual profits. Establishments in this industry are already experiencing serious problems, but the compliance costs of the standard are not the source of these problems.

In the oil and gas field services (SIC 138) and job training and related services (SIC 833) industries, establishments are likely to be able to raise their prices without losing business, because both of these services serve local markets and/or occupy a specialized niche. For job training establishments, a price increase of only 0.5 percent would totally restore profits, even under this worst-case scenario. For oil and gas field services establishments, the story is the same: a price increase of 0.45 percent would restore profits. Even if establishments in these industries were completely unable to pass any costs through, a highly unlikely event, as the Court pointed out in *ADA* v. *Secretary of Labor*, the profits of these industries would only decline to 2.25 percent, compared with the current 2.5 percent rate for SIC 833, and to 1.8 percent, compared with the current 2.0 percent profit rate for SIC 138. These kinds of changes in profit rates are within the range of normal fluctuations in profits in most industries.

Thus, OSHA preliminarily finds, even for the potentially most impacted industries, and even assuming absolutely no cost passthrough, that the viability of affected firms will not be adversely impacted by the compliance costs associated with the proposed standard. OSHA has therefore preliminarily concluded that the proposed standard is economically feasible for all affected industries. OSHA has shown that, in the words of the *Lead* decision, the costs of compliance associated with the standard "will not threaten the existence or competitive structure" of any affected industry.

G. Economic Impacts

To identify possible economic impacts, OSHA compared annualized costs to revenues and profits for all covered establishments, for all establishments defined as small using Small Business Administration (SBA) size criteria, and for all establishments with 1–19 employees (Ex. 28–3). The comparison was made for establishments in each of these three size classes, for all establishments, and for affected establishments alone (affected establishments are defined as those without programs in place and whose employees will experience at least one covered MSD in the 10 years after the standard is promulgated). Costs were annualized over ten years, including the costs of controlling all of the MSDs projected to occur in the facility over that time period.

OSHA analyzed the impacts of the proposed standard's annualized compliance costs on establishments in each 3-digit SIC industry. The results of this analysis are shown in Tables VIII–5 and VIII–6. OSHA's procedures call for the agency to conduct an Initial Regulatory Flexibility Analysis if, in any affected sector, the impact of the annualized compliance costs exceed 1 percent of revenues or 5 percent of profits for a substantial number of small entities. As Table VIII–5 shows, in no 3-digit industry do the expected costs of compliance exceed 1 percent of revenues. However, the impact of the compliance costs exceeds 5 percent of profits for 27 industries.

Table VIII–5 shows that, across all small business firms in all 3-digit industries, costs as a percentage of revenues average 0.04 percent. Focusing more narrowly on affected establishments (*i.e.*, those whose employees will experience a covered MSD), Table VIII–5 shows that, even in this extreme case, costs are not estimated to exceed 1.5 percent of revenues in any 3-digit industry. Table VIII–5 does show that costs in 27 industries exceed 5 percent of profits, and do so in approximately one-third of all 3-digit SICs, when impacts are considered only for affected establishments.

Table VIII–6 shows a similar pattern of impacts for employers with fewer than 20 employees: costs do not exceed one percent of revenues for very small establishments in any industry. Focusing only on affected establishments, Table VIII–6 shows that no 3-digit industry has estimated costs that exceed one percent of average revenues. The costs of compliance do, however, have higher impacts on the estimated profits of very small affected establishments. In almost half of all industry sectors, costs exceed 5 percent of profits for very small affected establishments.

BILLING 4510–26–P

VOL 64 NO 225 DEC 23 1999 ISSUE
UMI

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed Ergonomics Standard on Firms Meeting SBA Size Criteria

					For all small firms				For small affected firms (Those with MSDs)			
SIC	Industry	SBA size (Number of Employees)[a]	Average Revenue per Firm (SBA)	Profits as a Percentage of Revenues [b]	Average Profit per Firm (SBA) ($)	Average Cost per Firm (SBA) ($)	Annualized Compliance Costs as a Percentage of Revenues—SBA (percent)	Annualized Compliance Costs as a Percentage of Profits—SBA (percent)	Number of Affected Small Firms Over 10 years	Annualized Costs per Affected Small Firms	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
710	Soil prep. services	100	$827,563	6.0%	$49,406	$232	0.00	0.5	261	$569	0.07	1.15
720	Crop services	100	$920,171	7.9%	$72,694	$823	0.10	1.2	1,618	$2,060	0.22	2.83
740	Veterinary services	100	$323,809	8.7%	$28,171	$259	0.08	0.9	8,885	$663	0.20	2.35
750	Animal serv., except vet.	100	$130,385	6.0%	$7,784	$99	0.08	1.3	1,686	$608	0.47	7.81
780	Lndscape & hort. services	500	$224,169	4.4%	$9,863	$411	0.19	4.2	22,191	$1,264	0.56	12.81
810	Timber tracts	100	$655,119	3.1%	$20,243	$433	0.09	3.0	183	$2,029	0.31	10.02
830	Forest products	1000	na [c]	3.1%	na	$1,936	na	na	34	$7,822	na	na
850	Forestry services	500	$651,017	3.1%	$20,116	$593	0.08	2.6	341	$1,804	0.28	8.97
910	Commercial fishing	100	$467,143	5.0%	$23,357	$206	0.06	1.2	255	$1,567	0.34	6.71
920	Fish hatcheries	100	$263,926	5.0%	$13,196	$691	0.33	6.6	21	$3,004	1.14	22.76
970	Hunting & trapping	100	$221,182	5.0%	$11,059	$258	0.15	3.1	49	$1,766	0.80	15.97
1310	Crude petrol. & nat. gas	500	$3,965,915	5.7%	$226,454	$308	0.01	0.1	1,239	$1,930	0.05	0.85
1320	Natural gas liquids	500	$48,139,333	4.8%	$2,320,316	$842	0.01	0.3	26	$18,379	0.04	0.79
1380	Oil & gas field services	500	$626,980	2.0%	$12,289	$828	0.14	7.1	1,730	$4,175	0.67	33.97
2010	Meat products	500	$8,956,331	2.3%	$205,996	$2,623	0.03	1.4	642	$11,427	0.13	5.55
2020	Dairy products	500	$15,094,385	2.2%	$332,076	$3,388	0.03	1.4	348	$18,122	0.12	5.46
2030	Presrvd fruits & vegetables	500	$9,121,313	4.2%	$383,095	$2,397	0.03	0.8	375	$12,416	0.14	3.24
2040	Grain mill products	500	$9,680,093	2.7%	$261,363	$2,053	0.03	1.2	439	$12,065	0.12	4.62
2050	Bakery products	500	$2,270,290	2.2%	$49,946	$2,042	0.10	4.7	735	$9,530	0.42	19.08
2060	Sugar and confect. prods	500	$6,274,334	4.6%	$288,619	$2,413	0.04	1.0	227	$11,253	0.18	3.90
2070	Fats and oils	500	$17,798,517	2.9%	$516,157	$2,250	0.02	0.8	67	$16,977	0.10	3.29
2080	Beverages	500	$10,514,066	4.5%	$473,133	$3,163	0.04	0.8	462	$15,407	0.15	3.26
2090	Misc. food products	500	$4,590,098	2.9%	$133,113	$1,808	0.04	1.5	853	$8,404	0.18	6.31
2110	Cigarettes	1000	na [c]	3.9%	na	$58,343	na	na	3	$328,533	na	na
2120	Cigars	500	$1,804,300 [c]	3.9%	$70,368	$1,115	0.07	1.8	6	$7,955	0.44	11.31
2130	Chewing & smoking tobacco	500	$21,752,278	3.9%	$848,339	$2,309	0.02	0.4	4	$13,614	0.06	1.60
2140	Tobacco stemm. & redrying	500	na [c]	3.9%	na	$4,760	na	na	5	$26,690	na	na
2210	Brdwven fab. mills, cotton	1000	$15,713,726	3.6%	$565,694	$7,087	0.04	1.2	143	$20,446	0.13	3.61
2220	Broadwoven fabric mills	500	$5,404,147	2.4%	$129,700	$3,382	0.09	3.5	108	$13,015	0.24	10.03
2230	Brdwvn fab. mills, wool	500	$5,776,513	2.4%	$138,636	$1,624	0.03	1.3	30	$4,932	0.09	3.56
2240	Narrow fabric mills	500	$3,448,690	1.3%	$44,833	$2,554	0.08	6.4	98	$7,170	0.21	15.99
2250	Knitting mills	500	$3,597,430	2.7%	$97,131	$2,354	0.07	2.6	658	$6,714	0.19	6.91
2260	Tex. finishing, excpt wool	500	$4,235,317	1.2%	$50,824	$1,923	0.05	4.1	253	$6,375	0.15	12.54
2270	Carpets and rugs	500	$5,177,762	1.7%	$88,022	$2,040	0.04	2.5	135	$6,824	0.13	7.75
2280	Yarn and thread mills	500	$8,354,331	4.0%	$334,173	$4,622	0.10	2.5	125	$21,020	0.25	6.29
2290	Misc. textile goods	500	$4,445,480	2.4%	$106,692	$1,868	0.05	2.0	316	$5,877	0.13	5.51
2310	Men's & boys' suits & coats	500	$2,881,376	4.0%	$115,255	$1,863	0.07	1.8	72	$7,232	0.25	6.27
2320	Men's & boys' furnishings	500	$3,171,012	3.2%	$101,472	$2,590	0.10	3.0	504	$10,478	0.33	10.33
2330	Wm's & misses' outerwear	500	$1,569,746	2.0%	$31,395	$510	0.03	1.6	2,430	$1,870	0.12	5.96
2340	Wm's & chldrn's undergarmnts	500	$3,775,503	2.2%	$83,061	$2,613	0.08	3.6	91	$10,338	0.27	12.45
2350	Hats, caps, & millinery	500	$1,649,005	4.3%	$70,907	$881	0.05	1.2	104	$3,208	0.19	4.52
2360	Girls' & chldrn's outerwear	500	$2,669,747	1.4%	$37,376	$1,263	0.05	3.6	154	$4,752	0.18	12.71
2370	Fur goods	500	$1,027,540 [c]	2.4%	$24,661	$88	0.01	0.3	29	$409	0.04	1.66
2380	Misc. apparel & accessories	500	$1,580,292	2.4%	$37,927	$944	0.06	2.4	263	$3,333	0.21	8.79
2390	Misc. fab. textile prods	500	$1,304,873	2.4%	$31,317	$705	0.05	2.2	2,525	$2,442	0.19	7.80
2410	Logging	500	$929,614	3.9%	$36,255	$75	0.01	0.2	1,998	$539	0.06	1.49
2420	Sawmills & planing mills	500	$2,910,249	3.8%	$110,589	$1,332	0.05	1.3	2,028	$4,004	0.14	3.62
2430	Millwork & plywood	500	$1,826,529	3.7%	$67,582	$1,344	0.08	2.1	3,340	$3,829	0.21	5.67
2440	Wood containers	500	$1,369,020	3.6%	$49,285	$706	0.05	1.4	1,041	$1,918	0.14	3.89
2450	Wood bldings & mobile homes	500	$4,950,488	3.7%	$183,168	$4,995	0.13	3.5	290	$17,727	0.36	9.68
2490	Misc. wood products	500	$2,178,297	2.8%	$60,992	$1,033	0.05	1.8	1,040	$3,502	0.16	5.74

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed Ergonomics Standard on Firms Meeting SBA Size Criteria

									For all small firms			For small affected firms (Those with MSDs)			
SIC	Industry	SBA size (Number of Employees)[a]	Average Revenue per Firm (SBA)	Profits as a Percentage of Revenues [b]	Average Profit per Firm (SBA) ($)	Average Cost per Firm (SBA) ($)	Annualized Compliance Costs as a Percentage of Revenues—SBA (percent)	Annualized Compliance Costs as a Percentage of Profits—SBA (percent)	Number of Affected Small Firms Over 10 years	Annualized Costs per Affected Small Firms	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
2510	Household furniture	500	$2,073,124	2 9%	$60,121	$1,595	0 08	2 7	1,498	$5,763	0 28	9 59
2520	Office furniture	500	$3,012,350	3 9%	$117,482	$2,455	0 09	2 3	277	$8,986	0 30	7 65
2530	Pub bldng & related furn.	500	$5,819,938	3 0%	$174,598	$5,263	0 10	3 4	130	$17,683	0 30	10 13
2540	Partitions and fixtures	500	$2,089,272	3 0%	$62,678	$1,216	0 06	1 9	940	$3,867	0 19	6 17
2590	Misc furniture and fixtures	500	$2,117,271	3 0%	$63,518	$1,025	0 05	1 7	414	$3,475	0 16	5 47
2610	Pulp mills	750	$134,667,674 [c]	3 8%	$5,117,372	$10,469	0 01	0 2	16	$40,502	0 03	0 79
2620	Paper mills	750	$191,302,866	4 7%	$8,991,235	$35,806	0 02	0 4	77	$160,361	0 08	1 78
2630	Paperboard mills	750	$196,732,297 [c]	4 7%	$9,246,418	$17,393	0 01	0 2	43	$91,758	0 05	0 99
2650	Paperbrd containers & boxes	500	$8,670,479	4 0%	$346,819	$3,672	0 07	1 7	688	$14,915	0 17	4 30
2670	Misc. cnvrtd paper products	500	$6,820,292	2 7%	$184,148	$3,055	0 06	2 0	937	$9,692	0 14	5 26
2710	Newspapers	500	$1,125,756	6 0%	$67,545	$1,195	0 12	2 1	2,564	$4,079	0 36	6 04
2720	Periodicals	500	$2,200,657	3 7%	$81,424	$326	0 02	0 4	1,407	$1,332	0 06	1 64
2730	Books	500	$2,457,053	4 0%	$98,282	$816	0 03	0 9	1,021	$2,798	0 11	2 85
2740	Miscellaneous publishing	500	$1,795,050	5 1%	$91,548	$407	0 02	0 5	783	$1,691	0 09	1 85
2750	Commercial printing	500	$1,315,823	3 3%	$43,422	$539	0 04	1 2	12,442	$1,488	0 11	3 43
2760	Manifold business forms	500	$5,561,192	2 7%	$150,152	$2,493	0 05	2 0	308	$7,334	0 13	4 88
2770	Greeting cards	500	$6,967,041	3 8%	$264,748	$3,783	0 06	1 6	46	$10,909	0 16	4 12
2780	Blankbooks & bookbinding	500	$1,749,401	3 8%	$66,477	$1,752	0 11	2 8	645	$4,271	0 24	6 42
2790	Printing trade services	500	$1,124,497	3 0%	$33,735	$306	0 03	0 9	776	$1,352	0 12	4 01
2810	Indust inorganic chemicals	1000	$50,087,613	4 1%	$2,053,592	$3,489	0 01	0 2	106	$45,940	0 09	2 24
2820	Plastics mat. & synthetics	750	$100,234,215	5 0%	$5,011,711	$4,326	0 00	0 1	116	$32,782	0 03	0 65
2830	Drugs	500	$11,576,143	5 5%	$636,688	$1,450	0 02	0 3	230	$9,702	0 08	1 52
2840	Soap, clnrs, & toilet goods	500	$6,619,474	2 9%	$191,965	$1,083	0 02	0 6	385	$6,751	0 10	3 52
2850	Paints & allied products	500	$6,147,975	2 8%	$172,143	$947	0 02	0 7	228	$6,116	0 10	3 55
2860	Indust organic chemicals	500	$18,842,994	3 3%	$621,819	$1,554	0 01	0 4	95	$14,701	0 08	2 36
2870	Agricultural chemicals	500	$7,976,028	3 4%	$271,185	$688	0 01	0 3	117	$5,456	0 07	2 01
2890	Misc. chemical products	500	$6,784,471	3 8%	$257,810	$939	0 02	0 5	494	$4,860	0 07	1 89
2910	Petroleum refining	1500	$836,868,684 [c]	3 1%	$25,942,929	$15,004	0 00	0 1	77	$53,844	0 01	0 21
2950	Asphlt pavng & roofng mat.	500	$7,498,719	3 3%	$247,458	$1,614	0 04	1 1	234	$9,441	0 13	3 82
2990	Misc. pet & coal prods	500	$10,440,575 [c]	3 7%	$386,301	$1,111	0 01	0 4	112	$4,603	0 04	1 19
3010	Tires and inner tubes	1000	$110,959,868	3 9%	$4,327,435	$27,946	0 03	0 6	31	$153,001	0 14	3 54
3020	Rubber & plastics footwear	1000	$14,058,755	4 2%	$590,468	$9,891	0 07	1 6	13	$45,753	0 33	7 75
3050	Hose, blting, and gaskets	500	$3,876,049	4 4%	$170,546	$2,773	0 09	2 0	168	$13,254	0 34	7 77
3060	Fab. rubber prod., n.e.c.	500	$4,274,557	3 9%	$166,708	$2,682	0 08	1 9	369	$12,622	0 30	7 57
3080	Misc plastics, n.e.c.	500	$4,687,853	3 4%	$159,387	$2,109	0 05	1 6	3,269	$8,723	0 19	5 47
3110	Leather tan. & finishing	500	$3,171,214	1 7%	$53,911	$2,123	0 07	4 3	114	$6,300	0 20	11 69
3130	Footwear cut stock	500	na [c]	1 8%	na	$1,350	na	na	26	$3,668	na	na
3140	Footwear, except rubber	500	$3,351,889	1 9%	$63,686	$4,214	0 15	7 9	115	$13,237	0 39	20 79
3150	Leather gloves & mittens	500	na [c]	1 8%	na	$1,829	na	na	22	$5,820	na	na
3160	Luggage	500	$2,550,508 [c]	1 8%	$45,909	$1,023	0 04	2 3	89	$2,979	0 12	6 49
3170	Hndbags & prsnal leathr gds	500	$1,514,988 [c]	1 8%	$27,270	$967	0 06	3 5	114	$2,888	0 19	10 59
3190	Leather goods, n.e.c.	500	$1,368,278	1 8%	$24,629	$991	0 07	4 0	143	$2,885	0 21	11 71
3210	Flat glass	1000	$44,411,164	4 5%	$1,998,502	$16,902	0 04	0 8	20	$66,938	0 15	3 35
3220	Glass, pressed or blown	750	$18,905,290	6 8%	$1,285,560	$8,125	0 04	0 6	139	$34,412	0 18	2 68
3230	Prod of purchased glass	500	$1,988,946	4 4%	$87,514	$1,948	0 11	2 5	422	$7,500	0 38	8 57
3240	Cement, hydraulic	750	$32,779,097	4 5%	$1,475,059	$5,681	0 02	0 4	50	$26,357	0 08	1 79
3250	Structural clay products	500	$3,234,269	6 0%	$194,056	$3,422	0 15	2 4	137	$14,805	0 46	7 63
3260	Pottery & related prods	500	$1,082,204	4 5%	$48,699	$1,792	0 17	3 8	317	$6,711	0 62	13 78
3270	Concrete & plast prdcts	500	$3,222,724	4 3%	$138,577	$1,376	0 05	1 2	2,133	$6,124	0 19	4 42
3280	Cut stone & stone prods	500	$965,036	4 2%	$40,532	$703	0 07	1 7	342	$2,200	0 23	5 43
3290	Misc nonmet mineral prods.	500	$3,852,558	5 7%	$219,596	$2,286	0 07	1 3	372	$9,758	0 25	4 44

VOL 64 NO 225 FRIDAY NOVEMBER 23 1999 UMI

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed Ergonomics Standard on Firms Meeting SBA Size Criteria

						For all small firms		For small affected firms (Those with MSDs)			
SIC	Industry	SBA size (Number of Employees)*	Average Revenue per Firm (SBA)	Profits as a Percentage of Revenues [b]	Average Profit per Firm (SBA) ($)	Average Cost per Firm (SBA) ($)	Annualized Compliance Costs as a Percentage of Revenues—SBA (percent)	Annualized Compliance Costs as a Percentage of Profits—SBA (percent)	Number of Affected Small Firms Over 10 years	Annualized Costs per Affected Small Firms	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
3310	Basic steel products	750	$71,587,838	4 7%	$3,364,628	$10,440	0 01	0 3	253	$52,946	0 07	1 57
3320	Iron and steel foundries	500	$5,316,943	4 7%	$249,896	$4,038	0 09	1 9	272	$16,348	0 31	6 54
3330	Primary nonfer. metals	750	$104,585,150	4 5%	$4,706,332	$8,632	0 01	0 2	43	$40,387	0 04	0 86
3340	Secondary nonfer. metals	500	$19,152,945	3 6%	$689,506	$2,661	0 02	0 5	63	$12,500	0 07	1 81
3350	Nonfer. rolling & drawing	750	$58,983,857	5 6%	$3,303,096	$8,858	0 01	0 3	223	$43,822	0 07	1 33
3360	Nonfer. foundries (castngs)	500	$3,491,201	3 7%	$129,174	$2,284	0 07	1 9	425	$8,841	0 25	6 84
3390	Misc. primary metal prdcts	750	$5,066,740	0 5%	$25,840	$1,177	0 02	4 5	246	$4,525	0 09	17 51
3410	Met. cans & ship. containers	500	$8,487,749	2 8%	$237,657	$4,197	0 10	3 7	73	$24,972	0 29	10 51
3420	Cutlery, hndtls, & hardware	500	$3,168,148	4 7%	$148,903	$2,157	0 07	1 6	754	$6,859	0 22	4 61
3430	Plumbing & heating fixtures	500	$5,500,578	3 8%	$209,022	$3,724	0 08	2 0	214	$11,696	0 21	5 60
3440	Fab. struct. metal prdcts	500	$3,142,031	4 0%	$125,681	$1,523	0 05	1 3	4,464	$4,533	0 14	3 61
3450	Screw machine products	500	$3,399,471	3 9%	$132,579	$1,750	0 05	1 4	925	$4,903	0 14	3 70
3460	Met. forgings & stampings	500	$5,900,679	4 5%	$265,531	$3,484	0 06	1 4	1,216	$10,429	0 18	3 93
3470	Metal services, n.e.c.	500	$1,930,459	5 7%	$110,036	$925	0 05	0 9	1,885	$2,712	0 14	2 46
3480	Ordnance and access., n.e.c.	500	$1,916,047	4 4%	$84,306	$1,632	0 09	2 1	113	$6,002	0 31	7 12
3490	Misc. fab. metal products	500	$3,139,004	4 8%	$150,672	$1,779	0 06	1 3	2,269	$5,655	0 18	3 75
3510	Engines and turbines	1000	$56,430,684	4 4%	$2,482,950	$12,325	0 02	0 5	101	$45,252	0 08	1 82
3520	Farm & garden machinery	500	$3,024,716	4 1%	$124,013	$1,768	0 06	1 5	514	$5,917	0 20	4 77
3530	Construct. & related mach.	500	$4,366,578	5 0%	$218,329	$2,252	0 06	1 1	974	$7,547	0 17	3 46
3540	Metalworking machinery	500	$1,923,153	4 6%	$88,465	$925	0 05	1 1	3,687	$2,951	0 15	3 34
3550	Special industry mach.	500	$3,696,115	4 5%	$166,325	$1,339	0 04	0 9	1,392	$4,575	0 12	2 75
3560	General indust. mach.	500	$4,271,460	4 5%	$192,216	$2,206	0 06	1 3	1,204	$7,894	0 18	4 11
3570	Computer & office equip.	500	$6,625,168	3 3%	$218,631	$1,234	0 02	0 6	475	$5,265	0 08	2 41
3580	Refrig. & serv. indust mach.	500	$4,721,613	2 0%	$94,432	$2,869	0 07	3 5	611	$10,155	0 22	10 75
3590	Industrial mach., n.e.c.	500	$1,086,294	5 5%	$59,746	$459	0 04	0 8	5,890	$2,016	0 19	3 37
3610	Elect. dist. equipment	750	$14,873,332	4 0%	$594,933	$2,500	0 02	0 4	142	$15,357	0 10	2 58
3620	Elect. indust. apparatus	500	$3,392,834	4 0%	$135,713	$1,478	0 05	1 3	340	$9,541	0 28	7 03
3630	Household appliances	500	$5,756,270	3 4%	$195,713	$2,815	0 06	1 8	60	$19,679	0 34	10 05
3640	Elct. lghtng & wire equip.	500	$4,355,541	4 6%	$200,355	5	0 04	0 9	328	$10,265	0 24	5 12
3650	Household audio & vid. equip.	750	$17,721,076	5 9%	$1,045,543	5	0 01	0 2	129	$11,620	0 07	1 11
3660	Communications equipment	750	$30,039,483	5 4%	$1,622,132	0	0 01	0 1	307	$16,296	0 05	1 00
3670	Electronic compnnts & access.	500	$4,279,984	5 4%	$231,119	$931	0 02	0 4	942	$6,289	0 15	2 72
3690	Misc. elect. equipment	500	$4,403,609	5 0%	$220,180	$1,758	0 05	0 9	240	$12,642	0 29	5 74
3710	Motor vehicles & equipt.	500	$5,821,819	3 9%	$227,051	$1,935	0 04	1 0	490	$18,774	0 32	8 27
3720	Aircraft and parts	1000	$64,238,252	4 3%	$2,762,245	$4,463	0 01	0 2	144	$52,379	0 08	1 90
3730	Ship, boat bldng and repair [a]	500	$1,358,254	3 6%	$48,897	$433	0 03	0 9	261	$4,423	0 33	9 05
3740	Railroad equipment	1000	$43,644,454 [c]	2 8%	$1,222,045	$5,496	0 01	0 4	18	$64,378	0 15	5 27
3750	Motorcycles & bicycles	500	$2,531,479	3 8%	$96,196	$531	0 02	0 6	36	$5,329	0 21	5 54
3760	Guided missiles	1000	$228,855,179 [c]	3 8%	$8,696,497	$9,485	0 00	0 1	8	$117,349	0 05	1 35
3790	Misc. transportation equip.	500	$3,063,312	3 8%	$116,406	$795	0 03	0 7	170	$5,240	0 17	4 50
3810	Srch & navigation equipment	750	$51,158,168	4 7%	$2,404,434	$5,279	0 01	0 2	114	$32,312	0 06	1 34
3820	Meas. & contrlling devices	500	$3,508,984	5 3%	$185,976	$1,013	0 03	0 6	878	$5,387	0 15	2 90
3840	Medical instrmnts & supplies	500	$3,717,069	6 2%	$230,458	$1,031	0 03	0 5	757	$5,937	0 16	2 58
3850	Ophthalmic goods	500	$1,524,020	4 2%	$64,009	$803	0 06	1 4	104	$4,461	0 29	6 97
3860	Photo. equip. & supplies	500	$3,934,531	5 3%	$208,530	$1,085	0 03	0 6	112	$6,869	0 17	3 29
3870	Watches, clocks, & parts	500	$2,121,654	5 6%	$118,813	$552	0 03	0 5	25	$3,065	0 14	2 58
3910	Jwlry, slvrwre, and plate	500	$1,704,571	2 8%	$47,728	$432	0 02	0 9	648	$1,870	0 11	3 92
3930	Musical instruments	500	$1,432,933	3 3%	$47,287	$1,273	0 09	2 7	134	$5,206	0 36	11 01
3940	Toys and sporting goods	500	$2,141,491	3 5%	$74,952	$1,126	0 05	1 5	918	$4,277	0 20	5 71
3950	Office and art supplies	500	$1,910,943	3 3%	$63,061	$700	0 04	1 1	255	$2,829	0 15	4 49
3960	Costume jewelry & notions	500	$1,192,271	3 3%	$39,345	$437	0 04	1 1	243	$1,953	0 16	4 96

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed Ergonomics Standard on Firms Meeting SBA Size Criteria

							For all small firms		For small affected firms (Those with MSDs)			
SIC	Industry	SBA size (Number of Employees)[a]	Average Revenue per Firm (SBA)	Profits as a Percentage of Revenues [b]	Average Profit per Firm (SBA) ($)	Average Cost per Firm (SBA) ($)	Annualized Compliance Costs as a Percentage of Revenues--SBA (percent)	Annualized Compliance Costs as a Percentage of Profits--SBA (percent)	Number of Affected Small Firms Over 10 years	Annualized Costs per Affected Small Firms	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
3990	Misc. manufactures	500	$1,443,695	3.4%	$49,086	$676	0.05	1.4	4,123	$1,439	0.10	2.93
4110	Local & suburban trans.	500	$693,674	6.2%	$43,008	$2,341	0.36	5.7	4,738	$4,702	0.68	10.93
4120	Taxicabs	500	$334,160	5.9%	$19,715	$341	0.10	1.7	715	$1,574	0.47	7.98
4130	Intercty & rural bus trans.	500	$2,047,822	7.0%	$143,348	$4,431	0.29	4.2	146	$14,516	0.71	10.13
4140	Bus charter service	500	$1,112,253	3.8%	$42,266	$1,055	0.10	2.5	611	$2,472	0.22	5.85
4150	School buses	500	$655,154	5.9%	$38,654	$1,663	0.31	5.3	1,601	$4,401	0.67	11.38
4170	Bus terminals	100	$178,250	5.9%	$10,517	$520	0.31	5.3	26	$1,099	0.62	10.45
4210	Trking & Courier Service	100	$682,252	3.2%	$21,832	$952	0.15	4.8	32,512	$3,359	0.49	15.38
4220	Pub. warehousing & storage	1000	$645,103	9.4%	$60,640	$1,452	0.22	2.4	4,289	$4,015	0.62	6.62
4230	Trucking terminal fac.	500	$528,972 [c]	4.2%	$22,217	$1,215	0.26	6.1	33	$2,959	0.56	13.32
4510	Air trans., scheduled	1500	$84,888,883	4.0%	$3,395,555	$18,711	0.02	0.5	1,186	$104,226	0.12	3.07
4520	Air trans., nonsched.	1500	$2,785,728	6.0%	$167,144	$172	0.01	0.1	629	$500	0.02	0.30
4580	Airports and services	100	$815,921	4.6%	$37,532	$200	0.03	0.6	1,326	$574	0.07	1.53
4610	Pipelines, excpt natural gas	1500	$85,999,109 [c]	4.9%	$4,213,956	$13,744	0.02	0.3	62	$214,972	0.25	5.10
4720	Pass. trans. arrangements	100	$291,573	2.7%	$7,872	$61	0.02	0.9	2,944	$681	0.23	8.65
4730	Freight trans. arrangements	1000	$1,127,447	3.7%	$41,716	$650	0.06	1.5	4,822	$1,992	0.18	4.78
4740	Rental of railroad cars	20	$3,112,041	3.4%	$105,809	$151	0.01	0.2	16	$987	0.03	0.93
4780	Misc. trans. services	100	$597,838	3.4%	$20,326	$978	0.20	6.0	679	$3,744	0.63	18.42
4810	Telephone communication	1500	$30,966,070	7.7%	$2,384,387	$3,508	0.01	0.1	1,118	$85,583	0.28	3.59
4820	Telegrph & other comm.	100	$1,587,993	5.7%	$90,516	$169	0.01	0.2	49	$1,564	0.10	1.73
4830	Radio & TV broadcasting	100	$828,013	2.4%	$19,872	$143	0.02	0.8	994	$1,212	0.15	6.10
4840	Cable & othr pay TV services	100	$2,309,048	5.4%	$124,689	$638	0.06	1.1	405	$6,908	0.30	5.54
4890	Communication serv., n.e.c.	100	$1,476,773	5.7%	$84,176	$95	0.01	0.1	120	$1,144	0.08	1.36
4910	Electric services	100	$10,459,747	10.8%	$1,129,653	$1,057	0.03	0.3	257	$22,613	0.22	2.00
4920	Gas product. & distribution	10	$5,639,801	6.7%	$377,867	$184	0.01	0.2	67	$5,196	0.09	1.38
4930	Combi. utility services	20	$1,749,337	8.3%	$145,195	$227	0.06	0.8	23	$8,823	0.50	6.08
4940	Water supply	100	$417,626	10.6%	$44,268	$189	0.05	0.5	527	$1,314	0.31	2.97
4950	Sanitary services	100	$1,250,569	7.6%	$95,043	$865	0.09	1.1	987	$5,476	0.44	5.76
4960	Steam & air-cond. supplies	100	$1,091,696	8.3%	$90,611	$587	0.07	0.9	10	$4,026	0.37	4.44
4970	Irrigation systems	100	$176,445 [c]	8.3%	$14,645	$149	0.09	1.0	95	$572	0.32	3.91
5010	Motor vehicles	100	$7,338,706	2.0%	$146,774	$636	0.01	0.5	13,204	$2,181	0.03	1.49
5020	Furn. & homefurnishings	100	$3,107,868	2.0%	$62,157	$563	0.02	1.0	5,429	$1,715	0.06	2.76
5030	Lumber & construct. mat	100	$3,956,240	1.9%	$75,169	$953	0.03	1.6	8,570	$2,610	0.07	3.47
5040	Prof. & commercial equip.	100	$2,865,424	2.5%	$71,636	$456	0.02	0.8	12,520	$1,851	0.06	2.58
5050	Met. & minerals, excpt pet	100	$10,345,693	2.8%	$289,679	$880	0.01	0.4	3,648	$2,712	0.03	0.94
5060	Electrical goods	100	$5,334,184	2.2%	$117,352	$461	0.01	0.5	9,925	$1,913	0.04	1.63
5070	Hardware supplies	100	$3,243,960	2.2%	$71,367	$718	0.03	1.3	8,258	$2,254	0.07	3.16
5080	Mach., equipt. & supplies	100	$3,120,491	2.9%	$90,494	$567	0.02	0.7	23,717	$1,809	0.06	2.00
5090	Misc. durable goods	100	$3,072,234	3.2%	$98,311	$389	0.01	0.4	10,654	$1,450	0.05	1.47
5110	Paper and paper products	100	$4,200,691	1.6%	$67,211	$519	0.02	1.0	3,765	$2,540	0.06	1.78
5120	Drugs, proprietr., & sundries	100	$6,828,751	2.9%	$198,034	$566	0.01	0.4	1,457	$2,708	0.04	1.37
5130	Apparel and notions	100	$3,898,982	2.1%	$81,879	$297	0.01	0.4	4,780	$1,336	0.03	1.63
5140	Groceries & related products	100	$6,267,970	1.4%	$87,752	$1,003	0.02	1.3	12,569	$3,326	0.05	3.79
5150	Farm-prod. raw materials	100	$13,088,804	1.7%	$222,510	$233	0.00	0.1	1,829	$1,356	0.01	0.61
5160	Chemicals & allied prods	100	$6,688,714	3.2%	$214,039	$417	0.01	0.3	3,212	$1,950	0.03	0.91
5170	Petrol. & petrol. prods	100	$18,899,169	1.2%	$226,790	$537	0.00	0.3	2,938	$2,388	0.01	1.05
5180	Beer, wine, & dist. bev.	100	$7,805,539	2.3%	$179,527	$2,003	0.03	1.3	1,630	$5,786	0.07	3.22
5190	Misc. nondurable goods	100	$2,420,357	1.9%	$45,987	$422	0.02	1.1	18,050	$1,257	0.05	2.73
5210	Lumber & other bldng mat.	100	$2,041,155	1.9%	$38,782	$1,480	0.09	4.8	10,952	$3,113	0.15	8.03
5230	Paint, glass, wallpaper strs	100	$746,327	0.9%	$6,717	$449	0.09	10.5	3,228	$1,361	0.18	20.27
5250	Hardware stores	100	$747,354	2.3%	$17,189	$514	0.08	3.3	6,760	$1,085	0.15	6.31
3960	Costume jewelry & notions	500	$1,192,271	3.3%	$39,345	$437	0.04	1.1	243	$1,953	0.16	4.96

VOL 64 NO 225 TUESDAY NOVEMBER 23 1999 UMI

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed Ergonomics Standard on Firms Meeting SBA Size Criteria

							For all small firms		For small affected firms (Those with MSDs)			
SIC	Industry	SBA size (Number of Employees)[a]	Average Revenue per Firm (SBA)	Profits as a Percentage of Revenues [b]	Average Profit per Firm (SBA) ($)	Average Cost per Firm (SBA) ($)	Annualized Compliance Costs as a Percentage of Revenues--SBA (percent)	Annualized Compliance Costs as a Percentage of Profits--SBA (percent)	Number of Affected Small Firms Over 10 years	Annualized Costs per Affected Small Firms	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
5260	Retail nurseries and gardens	100	$685,629	2 2%	$15,084	$616	0 10	4 4	5,227	$1,325	0 19	8 78
5270	Mobile home dealers	100	$2,506,918	2 9%	$72,701	$949	0 04	1 5	2,293	$1,976	0 08	2 72
5310	Department stores	500	$90,424,242	2 6%	$2,351,030	$13,243	0 90	34 6	145	$976,462	1 08	41 53
5330	Variety stores	500	$518,168	2 7%	$13,991	$782	0 37	13 8	2,693	$3,151	0 61	22 52
5390	Misc. gen. merchandise strs.	100	$867,314	1 6%	$13,877	$620	0 13	8 4	2,834	$3,055	0 35	22 01
5410	Grocery stores	500	$1,354,669	1 2%	$16,256	$1,395	0 14	11 4	31,006	$5,803	0 43	35 70
5420	Meat and fish markets	500	$698,037	1 3%	$9,074	$280	0 04	3 1	2,197	$1,003	0 14	11 05
5430	Fruit & vegetable markets	500	$670,436	1 3%	$8,716	$161	0 02	1 9	614	$877	0 13	10 06
5440	Candy, nut, & confctnry strs	500	$356,630	1 3%	$4,636	$153	0 06	4 3	698	$1,043	0 29	22 49
5450	Dairy products stores	500	$357,975	1 3%	$4,654	$111	0 05	3 7	297	$950	0 27	20 42
5460	Retail bakeries	500	$310,632	3 0%	$9,319	$216	0 08	2 5	4,795	$910	0 29	9 76
5490	Misc. food stores	100	$485,584	1 8%	$8,741	$122	0 03	1 8	2,047	$588	0 12	6 72
5510	New and used car dealers	100	$14,022,797	1 1%	$154,251	$2,830	0 02	2 0	15,764	$4,068	0 03	2 64
5520	Used car dealers	1000	$1,204,329	2 5%	$30,108	$50	0 00	0 2	1,935	$573	0 05	1 90
5530	Auto & home supply stores	100	$734,699	1 9%	$13,959	$643	0 13	6 9	15,128	$1,860	0 25	13 32
5540	Gas service stations	100	$1,661,818	1 6%	$26,589	$298	0 03	1 7	22,903	$1,250	0 08	4 70
5550	Boat dealers	100	$1,497,285	2 2%	$32,940	$529	0 04	1 7	2,280	$1,176	0 08	3 57
5560	Rec. vehicle dealers	20	$1,564,906	1 7%	$26,603	$595	0 04	2 4	1,298	$1,201	0 08	4 51
5570	Motorcycle dealers	100	$1,722,849	3 1%	$53,408	$80	0 00	0 2	456	$668	0 04	1 25
5590	Auto dealers, n.e.c.	500	$1,054,926	2 6%	$27,428	$67	0 01	0 2	125	$665	0 06	2 42
5610	Men's & boys' clothing strs	100	$734,468	0 1%	$734	$146	0 04	39 4	1,695	$1,188	0 16	161 69
5620	Women's clothing stores	100	$521,388	4 0%	$20,856	$117	0 05	1 2	3,610	$1,307	0 25	6 27
5630	Wm's access & specialty strs	100	$424,294	4 5%	$19,093	$86	0 04	0 9	705	$1,049	0 25	5 49
5640	Chldm's & infants' wear strs	100	$442,743	1 2%	$5,313	$205	0 07	6 2	822	$1,289	0 29	24 27
5650	Family clothing stores	100	$811,771	1 3%	$10,553	$774	0 23	17 5	3,914	$3,824	0 47	36 23
5660	Shoe stores	100	$720,198	2 6%	$18,725	$159	0 08	2 9	1,931	$2,614	0 36	13 96
5690	Misc. apparel stores	500	$486,401	1 2%	$5,837	$62	0 02	1 3	956	$659	0 14	11 30
5710	Furnitre & homefurnishng strs	100	$837,185	2 3%	$19,255	$623	0 09	3 9	26,271	$1,560	0 19	8 10
5720	Household appliance strs	100	$851,037	2 3%	$19,574	$552	0 07	3 0	4,005	$1,380	0 16	7 05
5730	Radio, TV, & comptr strs	100	$1,073,328	2 3%	$24,687	$329	0 05	2 0	6,675	$1,907	0 18	7 72
5810	Eating & drinking places	500	$469,053	3 0%	$14,072	$328	0 08	2 8	128,415	$1,190	0 25	8 46
5910	Drug stores	100	$1,276,589	2 5%	$31,915	$450	0 06	2 4	10,658	$1,821	0 14	5 71
5920	Liquor stores	1000	$803,413	1 4%	$11,248	$45	0 01	0 4	3,029	$423	0 05	3 76
5930	Used merchandise stores	500	$327,184	4 6%	$15,050	$237	0 08	1 7	5,829	$955	0 29	6 35
5940	Misc. shopping goods strs.	100	$506,822	2 2%	$11,150	$243	0 06	2 8	29,906	$1,049	0 21	9 40
5960	Nonstore retailers	100	$831,934	2 0%	$16,639	$664	0 09	4 4	9,386	$2,081	0 25	12 51
5980	Fuel dealers	100	$1,502,002	0 8%	$12,016	$590	0 05	6 8	3,581	$1,859	0 12	15 47
5990	Retail stores, n.e.c.	100	$392,251	2 6%	$10,199	$158	0 05	1 8	14,159	$1,063	0 27	10 43
6010	Central res. depository	10	na[c]	12 7%	na	$233	na	na	1	$3,130	na	na
6020	Commercial banks	10	$1,727,898	12 7%	$219,443	$67	0 14	1 1	112	$20,574	1 19	9 38
6030	Savings institutions	10	$1,974,399	12 7%	$250,749	$55	0 08	0 6	33	$15,956	0 81	6 36
6060	Credit unions	10	$494,582	12 7%	$62,812	$52	0 02	0 1	937	$587	0 12	0 93
6080	Foreign banking	10	$6,126,893	12 7%	$778,115	$74	0 00	0 0	6	$2,180	0 04	0 28
6090	Banking-related functions	100	$918,459	12 7%	$116,644	$131	0 02	0 2	486	$1,547	0 17	1 33
6110	Federal credit agencies	20	$1,722,770	14 6%	$251,524	$27	0 02	0 2	3	$9,859	0 57	3 92
6140	Personal cred. institutions	20	$856,550	18 1%	$155,036	$19	0 01	0 1	128	$2,706	0 32	1 75
6150	Business cred. institutions	20	$1,814,771	15 5%	$281,290	$55	0 01	0 0	219	$1,151	0 06	0 41
6160	Mortgage bankers & brokers	100	$695,722	9 6%	$66,789	$68	0 01	0 2	1,549	$949	0 14	1 42
6210	Security brokers & dealers	20	$842,572	10 5%	$88,470	$31	0 01	0 1	370	$1,764	0 21	1 99
6220	Commodity contracts brokers	100	$1,061,365	11 7%	$124,180	$37	0 00	0 0	85	$709	0 07	0 57
6230	Security & commod. exchanges	100	$1,600,957	11 7%	$187,312	$165	0 02	0 1	11	$1,573	0 10	0 84

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed Ergonomics Standard on Firms Meeting SBA Size Criteria

						For all small firms			For small affected firms (Those with MSDs)			
SIC	Industry	SBA size (Number of Employees)[a]	Average Revenue per Firm (SBA)	Profits as a Percentage of Revenues [b]	Average Profit per Firm (SBA) ($)	Average Cost per Firm (SBA) ($)	Annualized Compliance Costs as a Percentage of Revenues—SBA (percent)	Annualized Compliance Costs as a Percentage of Profits—SBA (percent)	Number of Affected Small Firms Over 10 years	Annualized Costs per Affected Small Firms	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
6280	Security & commod. services	100	$731,044	14.1%	$103,077	$26	0.00	0.0	437	$1,062	0.15	1.03
6310	Life insurance	100	$7,739,146	12.7%	$982,872	$176	0.02	0.2	135	$14,390	0.19	1.46
6320	Medical & health insur.	20	$4,637,512	12.7%	$588,964	$134	0.01	0.1	67	$4,124	0.09	0.70
6330	Fire, marine, & casity ins.	1500	$140,086,752	12.7%	$17,791,018	$3,452	0.00	0.0	248	$283,937	0.20	1.60
6350	Surety insurance	20	$2,086,520	12.7%	$264,988	$56	0.01	0.0	13	$2,014	0.10	0.76
6360	Title insurance	100	$628,048	12.7%	$79,762	$189	0.12	0.9	109	$4,292	0.68	5.38
6370	Pension and health funds	1000	$758,021	12.7%	$96,269	$108	0.01	0.1	249	$1,193	0.16	1.24
6390	Ins. carriers, n.e.c.	100	$1,836,789	12.7%	$233,272	$141	0.01	0.1	46	$878	0.05	0.38
6410	Insurance agents	100	$376,269	6.8%	$25,586	$42	0.01	0.2	9,495	$557	0.15	2.18
6510	Real estate operators	100	$723,466	15.4%	$111,414	$203	0.03	0.2	23,947	$850	0.12	0.76
6530	RE agents and managers	100	$452,717	12.1%	$54,779	$127	0.03	0.2	17,090	$919	0.20	1.68
6540	Title abstract offices	100	$450,454	12.1%	$54,505	$146	0.04	0.3	1,204	$629	0.14	1.15
6550	Subdividers & developers	100	$686,118	9.1%	$62,437	$314	0.05	0.5	3,755	$1,543	0.22	2.47
6710	Holding offices	100	$1,458,012	17.5%	$255,152	$161	0.02	0.1	846	$1,759	0.12	0.69
6720	Investment offices	20	$2,504,933	17.5%	$438,363	$63	0.00	0.0	32	$1,656	0.07	0.38
6730	Trusts	100	$964,611	17.5%	$168,807	$80	0.01	0.0	907	$771	0.08	0.46
6790	Miscellaneous investing	20	$1,309,443	17.5%	$229,152	$48	0.00	0.0	575	$656	0.05	0.29
7010	Hotels and motels	100	$562,982	7.0%	$39,409	$639	0.13	1.9	13,478	$2,010	0.36	5.10
7020	Rooming & boarding houses	1000	$274,294	7.0%	$19,201	$285	0.10	1.5	519	$890	0.32	4.64
7030	Camps and rec. vehicle parks	1000	$403,297	7.0%	$28,231	$33	0.01	0.1	427	$576	0.14	2.04
7040	Membership-basis org. hotels	100	$216,959	7.0%	$15,187	$29	0.01	0.2	167	$414	0.19	2.72
7210	Laundry & garment srvices	100	$247,311	3.8%	$9,398	$365	0.15	4.1	19,329	$1,062	0.43	11.30
7220	Photo studios, portrait	500	$278,014	3.9%	$10,843	$114	0.06	1.5	1,511	$995	0.36	9.18
7230	Beauty shops	500	$142,666	4.6%	$6,563	$42	0.03	0.7	7,931	$430	0.30	6.55
7240	Barber shops	100	$82,197	4.6%	$3,781	$108	0.14	2.9	1,016	$478	0.58	12.63
7250	Shoe repair	100	$101,726	4.6%	$4,679	$113	0.11	2.4	418	$596	0.59	12.74
7260	Fun. service and crematories	100	$590,431	7.9%	$46,644	$150	0.03	0.4	2,838	$834	0.14	1.79
7290	Misc personal services.	500	$212,827	4.6%	$9,790	$50	0.03	0.6	1,091	$1,420	0.67	14.51
7310	Advertising	100	$765,849	3.8%	$29,102	$217	0.03	0.8	3,055	$1,373	0.18	4.72
7320	Credit report & collection	100	$674,626	7.0%	$47,224	$133	0.02	0.3	966	$930	0.14	1.97
7330	Mailing, reprod, steno., serv	100	$500,227	4.6%	$23,010	$163	0.03	0.7	5,396	$1,048	0.21	4.55
7340	Services to buildings	500	$258,731	3.7%	$9,573	$176	0.07	1.9	12,290	$935	0.36	9.76
7350	Misc. equipt. rental	100	$985,159	9.2%	$90,635	$327	0.04	0.5	4,016	$2,010	0.20	2.22
7360	Pers. supply services	500	$1,103,842	3.0%	$33,115	$1,381	0.17	5.8	6,019	$8,402	0.76	25.37
7370	Comptr & data proc. services	500	$1,097,682	5.2%	$57,079	$138	0.01	0.3	7,146	$1,711	0.16	3.00
7380	Misc. business services	500	$557,848	3.4%	$18,967	$242	0.05	1.4	14,724	$1,402	0.25	7.39
7510	Auto rentals, no drivers	100	$1,154,193	5.7%	$65,789	$427	0.07	1.1	1,671	$2,651	0.23	4.03
7520	Automobile parking	100	$682,842	4.8%	$32,776	$254	0.12	2.5	414	$5,421	0.79	16.54
7530	Automotive repair shops	500	$374,580	3.9%	$14,609	$198	0.05	1.4	36,758	$751	0.20	5.14
7540	Automotive serv., exc repair	500	$349,680	6.5%	$22,729	$408	0.12	1.9	9,281	$1,186	0.34	5.22
7620	Electrical repair shops	100	$384,314	2.6%	$9,992	$363	0.10	4.0	5,382	$1,293	0.34	12.94
7630	Watch and jewelry repair	100	$156,483	3.4%	$5,320	$151	0.10	3.1	398	$684	0.44	12.86
7640	Reupholstery & furn. repair	100	$149,960	3.4%	$5,099	$112	0.07	2.1	1,452	$528	0.35	10.36
7690	Misc. repair shops	100	$456,359	5.9%	$26,925	$376	0.08	1.4	12,308	$1,186	0.26	4.41
7810	Motion picture production	500	$990,868	5.4%	$53,507	$418	0.04	0.8	2,454	$2,492	0.25	4.66
7820	Motion picture dist.	20	$1,444,490	5.8%	$83,780	$365	0.03	0.5	445	$1,005	0.07	1.20
7830	Motion picture theaters	100	$652,241	5.8%	$37,830	$958	0.33	5.7	1,580	$3,958	0.61	10.46
7840	Video tape rental	500	$297,050	7.2%	$21,388	$275	0.11	1.6	7,203	$795	0.27	3.72
7910	Dance studios & schools	100	$147,902	4.1%	$6,064	$210	0.14	3.4	2,061	$582	0.39	9.59
7920	Prducrs, orch., entertainers	100	$713,474	3.6%	$25,685	$191	0.03	0.7	3,228	$977	0.14	1.80
7930	Bowling centers	500	$480,995	4.2%	$20,202	$258	0.06	1.4	1,830	$809	0.17	4.00

VOL 64 ISS 225 NOV 23 1999 UMI

Table VIII-5 Estimated Economic Impact Under Worst-Case Scenarios, of the Proposed Ergonomics Standard on Firms Meeting SBA Size Criteria

							For all small firms		For small affected firms (Those with MSDs)			
SIC	Industry	SBA size (Number of Employees)*	Average Revenue per Firm (SBA)	Profits as a Percentage of Revenues [b]	Average Profit per Firm (SBA) ($)	Average Cost per Firm (SBA) ($)	Annualized Compliance Costs as a Percentage of Revenues--SBA (percent)	Annualized Compliance Costs as a Percentage of Profits--SBA (percent)	Number of Affected Small Firms Over 10 years	Annualized Costs per Affected Small Firms	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
7940	Commercial sports	100	$1,064,778	3 6%	$38,332	$416	0.04	1 1	1,259	$1,498	0 14	3 91
7990	Misc. recreation services	500	$602,501	4 2%	$25,305	$681	0 12	2 8	17,198	$2,443	0 41	9 65
8010	Offices of medical doctors	100	$775,789	6 3%	$48,875	$184	0 02	0 4	30,591	$1,113	0 14	2 28
8020	Dentists offices and clinics	500	$413,582	11 3%	$46,735	$75	0 02	0 2	15,864	$531	0 13	1 14
8030	Osteopathic physicians	500	$501,172	5 4%	$27,063	$43	0 01	0 2	786	$500	0 10	1 85
8040	Other health practitioners	500	$289,816	6 5%	$18,838	$145	0 05	0 8	17,520	$703	0 24	3 73
8050	Nursing & personal care fac.	500	$2,533,384	4 3%	$108,936	$5,958	0 35	8 2	6,066	$23,504	0 93	21 58
8060	Hospitals	100	$2,933,028	5 1%	$149,584	$3,119	0 17	3 4	329	$12,379	0 42	8 28
8070	Med. & dental labs	100	$567,385	7 9%	$44,823	$236	0 05	0 6	2,039	$1,725	0 30	3 85
8080	Home hlth care services	500	$1,352,121	3 5%	$47,324	$2,695	0 30	8 6	3,534	$12,169	0 90	25 71
8090	Hlth & allied serv., n.e.c	500	$1,242,429	11 0%	$136,667	$794	0 08	0 7	4,121	$4,012	0 32	2 94
8110	Legal services	100	$499,601	5 0%	$24,980	$69	0 01	0 3	13,330	$864	0 17	3 46
8210	Elem. & secondary schools	100	$1,176,073	5 9%	$69,388	$420	0 04	0 7	3,421	$2,066	0 18	2 98
8220	Colleges & universities	100	$1,325,665	6 2%	$82,191	$632	0 07	1 1	260	$5,624	0 42	6 84
8230	Libraries	1000	$390,031	5 9%	$23,012	$62	0 01	0 2	164	$852	0 22	3 70
8240	Vocational schools	100	$557,312	5 9%	$32,881	$68	0 01	0 2	481	$944	0 17	2 87
8290	Schools, n.e.c.	1000	$500,377	5 0%	$25,019	$53	0 01	0 2	1,288	$636	0 13	2 54
8320	Individual & fam. services	500	$609,148	4 1%	$24,975	$944	0 16	3 8	12,854	$3,159	0 52	12 65
8330	Job train. & related serv.	500	$1,095,666	2 5%	$27,392	$2,250	0 23	9 2	2,477	$8,240	0 75	30 08
8350	Child day care services	1000	$266,652	3 8%	$10,133	$250	0 09	2 3	15,684	$854	0 32	8 42
8360	Residential care	500	$860,750	2 6%	$22,380	$2,038	0 26	9 9	9,280	$6,310	0 73	28 20
8390	Social services, n.e.c.	100	$982,940	3 4%	$33,420	$376	0 05	1 3	2,944	$1,958	0 20	5 86
8410	Museums & art galleries	100	$413,094	6 1%	$25,199	$258	0 06	1 1	906	$1,255	0 30	4 98
8420	Bot. & zoology gardens	100	$580,625	6 1%	$35,418	$713	0 13	2 2	133	$2,921	0 50	8 25
8610	Business associations	100	$658,954	3 3%	$21,745	$67	0 01	0 3	1,566	$669	0 10	3 08
8620	Prof. organizations	100	$732,835	4 8%	$35,176	$67	0 01	0 2	642	$730	0 10	2 07
8630	Labor organizations	100	$432,735	6 4%	$27,695	$45	0 01	0 2	1,557	$561	0 13	2 03
8640	Civic & social assoc.	500	$382,131	3 4%	$12,992	$252	0 07	2 0	7,826	$1,187	0 31	9 14
8650	Political organizations	100	$362,243	6 4%	$23,184	$89	0 02	0 4	371	$615	0 17	2 65
8660	Religious organizations	500	$328,231	9 1%	$29,869	$34	0 01	0 1	7,712	$695	0 21	2 33
8690	Membership orgs., n.e.c.	100	$482,414	6 4%	$30,874	$325	0 08	1 2	1,571	$1,843	0 38	5 97
8710	Eng. and arch. services	100	$647,979	4 2%	$27,215	$140	0 02	0 6	9,322	$1,164	0 18	4 28
8720	Accntng, auditng, & bkeeping	100	$324,342	12 0%	$38,921	$120	0 04	0 3	9,288	$1,075	0 33	2 76
8730	Research & testing services	100	$976,053	3 4%	$33,186	$504	0 06	1 8	3,434	$2,742	0 28	8 26
8740	Management & pub. relations	100	$540,229	6 2%	$33,494	$194	0 04	0 6	11,955	$1,516	0 28	4 53
8990	Services, n.e.c.	100	$470,966	5 0%	$23,548	$285	0 06	1 3	5,755	$848	0 18	3 60
	Total						0.04	0.1				
	Average (unweighted)		**$11,070,190**	**4.9%**	**$481,756**	**$1,898**			1,210,067	$13,666	0 23	6.67

Source: Office of Regulatory Analysis.
Revenue data is from U S. Dept. of Commerce, Bureau of Census. Compliance costs are from Chapter 5 of this Preliminary Economic Analysis. Profit rates are from, in most cases, Robert Morris Associates ' "RMA Studies."

* Approximated, to make use of available firm revenue data.
[a] Excludes SIC 3731
[b] A profit rate of 5 percent of revenues was estimated for SICs 910,920,970,8110, and 8990; a profit rate of 4 percent. was estimated for SICs 2280, 2310, and 5620.
[c] Revenue data was wholly or partially suppressed by the Census Bureau for the SBA small entity size category. Any projected economic impacts are therefore overestimated for these industries Where estimated costs as a percent of profits would be in excess of 20 percent in those industries for which the Bureau suppressed the data, OSHA reported profit impacts as "na."

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

					For all very small firms				For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
710	Soil prep. services	$354,118	6.0%	$12,346	$21,141	$108	0.03	0.5	230	$275	0.08	1.3
720	Crop services	$363,704	7.9%	$95,938	$28,733	$295	0.08	1.0	1,321	$746	0.21	2.6
740	Veterinary services	$147,753	8.7%	$273,531	$12,855	$228	0.15	1.8	7,875	$616	0.42	4.8
750	Animal serv., excpt vet.	$77,543	6.0%	$46,742	$4,629	$69	0.09	1.5	1,519	$461	0.59	10.0
780	Lndscape & hort. services	$109,792	4.4%	$313,231	$4,831	$167	0.15	3.5	19,881	$545	0.50	11.3
810	Timber tracts	$241,574	3.1%	$4,307	$7,465	$186	0.08	2.5	153	$703	0.29	9.4
830	Forest products	$508,094	3.1%	$1,335	$15,700	$204	0.04	1.3	23	$769	0.15	4.9
850	Forestry services	$203,723	3.1%	$6,389	$6,295	$167	0.08	2.7	247	$687	0.34	10.9
910	Commerical fishing	$260,772	5.0%	$18,541	$13,039	$90	0.03	0.7	225	$568	0.22	4.4
920	Fish hatcheries	$147,276	5.0%	$427	$7,364	$195	0.13	2.7	13	$888	0.60	12.1
970	Hunting & trapping	$157,738	5.0%	$1,893	$7,887	$48	0.03	0.6	40	$288	0.18	3.7
1310	Crude petrol. & nat. gas	$1,063,503	5.7%	$398,241	$60,726	$77	0.01	0.1	874	$580	0.05	1.0
1320	Natural gas liquids	$6,478,211	4.8%	$11,865	$312,250	$165	0.00	0.1	12	$537	0.01	0.2
1380	Oil & gas field services	$321,483	2.0%	$43,862	$6,301	$129	0.04	2.0	984	$912	0.28	14.5
2010	Meat products	$588,374	2.3%	$22,207	$13,533	$240	0.04	1.8	379	$1,036	0.18	7.7
2020	Dairy products	$770,743	2.2%	$12,955	$16,956	$294	0.04	1.7	175	$1,282	0.17	7.6
2030	Presrvd fruits & vegetables	$510,610	4.2%	$19,730	$21,446	$176	0.03	0.8	191	$848	0.17	4.0
2040	Grain mill products	$964,208	2.7%	$28,481	$26,034	$355	0.04	1.4	279	$1,391	0.14	5.3
2050	Bakery products	$217,705	2.2%	$10,087	$4,790	$233	0.11	4.9	435	$1,127	0.52	23.5
2060	Sugar and confect. prods	$511,272	4.6%	$13,758	$23,519	$237	0.05	1.0	120	$1,155	0.23	4.9
2070	Fats and oils	$1,433,935	2.9%	$5,739	$41,584	$278	0.02	0.7	34	$1,127	0.08	2.7
2080	Beverages	$2,376,764	4.5%	$129,415	$106,954	$330	0.01	0.3	268	$1,490	0.06	1.4
2090	Misc. food products	$525,021	2.9%	$36,359	$15,226	$262	0.05	1.7	515	$1,212	0.23	8.0
2110	Cigarettes	na [c]	3.9%	na	na	$128	na	na	na	na	na	na
2120	Cigars	na [c]	3.9%	na	na	$51	na	na	2	$671	na	na
2130	Chewing & smoking tobacco	$1,063,083 [c]	3.9%	$498	$41,460	$104	0.01	0.3	2	$816	0.08	2.0
2140	Tobacco stemm. & redrying	na [c]	3.9%	na	na	$83	na	na	na	na	na	na
2210	Brdwven fab. mills, cotton	$267,223	3.6%	$2,799	$9,620	$275	0.10	2.9	94	$855	0.32	8.9
2220	Broadwoven fabric mills	$190,505	2.4%	$933	$4,572	$139	0.07	3.0	48	$586	0.31	12.8
2230	Brdwvn fab. mills, wool	$458,913	2.4%	$507	$11,014	$68	0.01	0.6	12	$263	0.06	2.4
2240	Narrow fabric mills	$324,956	1.3%	$570	$4,224	$306	0.09	7.2	49	$843	0.26	20.0
2250	Knitting mills	$371,512	2.7%	$9,439	$10,031	$203	0.05	2.0	286	$668	0.18	6.7
2260	Tex. finishing, excpt wool	$369,584	1.2%	$2,302	$4,435	$162	0.04	3.7	127	$664	0.18	15.0
2270	Carpets and rugs	$458,882	1.7%	$2,317	$7,801	$150	0.03	1.9	78	$572	0.12	7.3
2280	Yarn and thread mills	$380,590	4.0%	$2,375	$15,224	$194	0.05	1.3	47	$649	0.17	4.3
2290	Misc. textile goods	$376,255	2.4%	$4,632	$9,030	$240	0.06	2.7	145	$845	0.22	9.4
2310	Men's & boys' suits & coats	$247,145	4.0%	$1,433	$9,886	$165	0.07	1.7	33	$724	0.29	7.3
2320	Men's & boys' furnishings	$303,121	3.2%	$7,828	$9,700	$203	0.07	2.1	191	$857	0.28	8.8
2330	Wm's & misses' outerwear	$235,611	2.0%	$29,847	$4,712	$129	0.05	2.7	1,401	$582	0.25	12.3
2340	Wm's & chldrn's undergarmn	$509,612	2.2%	$1,704	$11,211	$190	0.04	1.7	37	$787	0.15	7.0
2350	Hats, caps, & millinery	$172,675	4.3%	$1,693	$7,425	$130	0.08	1.8	47	$628	0.36	8.5
2360	Girls' & chldrn's outerwear	$425,055	1.4%	$1,613	$5,951	$124	0.03	2.1	60	$558	0.13	9.4
2370	Fur goods	$660,448	2.4%	$2,124	$15,851	$69	0.01	0.4	27	$342	0.05	2.2
2380	Misc. apparel & accessories	$216,937	2.4%	$3,389	$5,206	$178	0.08	3.4	156	$741	0.34	14.2
2390	Misc. fab. textile prods	$194,512	2.4%	$34,167	$4,668	$165	0.08	3.5	1,889	$641	0.33	13.7
2410	Logging	$421,274	3.9%	$223,050	$16,430	$60	0.01	0.4	1,721	$473	0.11	2.9

VOL 64 NO 225 FRIDAY NOVEMBER 23 1999 UMI

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

					For all very small firms				For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
2420	Sawmills & planing mills	$262,325	3.8%	$39,774	$9,968	$314	0.12	3.2	1,365	$918	0.35	9.2
2430	Millwork & plywood	$245,373	3.7%	$64,469	$9,079	$346	0.14	3.8	2,492	$987	0.40	10.9
2440	Wood containers	$215,651	3.6%	$15,837	$7,763	$295	0.14	3.8	741	$813	0.38	10.5
2450	Wood bldings & mobile hom	$365,286	3.7%	$6,758	$13,516	$339	0.09	2.5	159	$1,065	0.29	7.9
2490	Misc. wood products	$273,903	2.8%	$19,012	$7,669	$267	0.10	3.5	713	$929	0.34	12.1
2510	Household furniture	$203,804	2.9%	$23,257	$5,910	$245	0.12	4.2	1,028	$940	0.46	15.9
2520	Office furniture	$259,145	3.9%	$6,115	$10,107	$320	0.12	3.2	167	$1,164	0.45	11.5
2530	Pub bldng & related furn.	$332,258	3.0%	$2,203	$9,968	$664	0.20	6.7	71	$2,059	0.62	20.7
2540	Partitions and fixtures	$245,147	3.0%	$15,996	$7,354	$327	0.13	4.4	640	$1,112	0.45	15.1
2590	Misc furniture and fixtures	$251,255	3.0%	$7,402	$7,538	$219	0.09	2.9	286	$751	0.30	10.0
2610	Pulp mills	na [c]	3.8%	na	na	$95	na	na	na	na	na	na
2620	Paper mills	$442,060	4.7%	$1,039	$20,777	$218	0.05	1.0	12	$913	0.21	4.4
2630	Paperboard mills	na [c]	4.7%	na	na	$174	na	na	5	$678	na	na
2650	Paperbrd containers & boxes	$514,381	4.0%	$13,394	$20,575	$369	0.07	1.8	239	$1,006	0.20	4.9
2670	Misc. cnvrtd paper products	$498,582	2.7%	$16,154	$13,462	$310	0.06	2.3	436	$852	0.17	6.3
2710	Newspapers	$171,876	6.0%	$58,111	$10,313	$191	0.11	1.9	1,716	$627	0.36	6.1
2720	Periodicals	$372,480	3.7%	$64,788	$13,782	$90	0.02	0.7	964	$440	0.12	3.2
2730	Books	$399,819	4.0%	$43,740	$15,993	$137	0.03	0.9	671	$558	0.14	3.5
2740	Miscellaneous publishing	$386,448	5.1%	$49,390	$19,709	$101	0.03	0.5	511	$496	0.13	2.5
2750	Commercial printing	$234,077	3.3%	$223,687	$7,725	$200	0.09	2.6	9,661	$600	0.26	7.8
2760	Manifold business forms	$369,381	2.7%	$3,690	$9,973	$323	0.09	3.2	150	$794	0.21	8.0
2770	Greeting cards	$299,953	3.8%	$969	$11,398	$254	0.08	2.2	24	$885	0.29	7.8
2780	Blankbooks & bookbinding	$156,867	3.8%	$5,705	$5,961	$294	0.19	4.9	371	$758	0.48	12.7
2790	Printing trade services	$189,836	3.0%	$15,445	$5,695	$112	0.06	2.0	414	$734	0.39	12.9
2810	Indust. inorganic chemicals	$1,240,983	4.1%	$15,061	$50,880	$116	0.01	0.2	38	$904	0.07	1.8
2820	Plastics mat. & synthetics	$1,246,308	5.0%	$18,819	$62,315	$107	0.01	0.2	38	$864	0.07	1.4
2830	Drugs	$938,460	5.5%	$40,312	$51,615	$127	0.01	0.2	101	$975	0.10	1.9
2840	Soap, clnrs, & toilet goods	$892,064	2.9%	$40,331	$25,870	$154	0.02	0.6	234	$1,029	0.12	4.0
2850	Paints & allied products	$670,834	2.8%	$15,064	$18,783	$165	0.02	0.9	137	$966	0.14	5.1
2860	Indust. organic chemicals	$1,226,195	3.3%	$10,561	$40,464	$104	0.01	0.3	32	$850	0.07	2.1
2870	Agricultural chemicals	$1,005,313	3.4%	$15,723	$34,181	$122	0.01	0.4	68	$818	0.08	2.4
2890	Misc. chemical products	$932,634	3.8%	$39,728	$35,440	$204	0.02	0.6	367	$624	0.07	1.8
2910	Petroleum refining	$2,321,552 [c]	3.1%	$4,822	$71,968	$119	0.01	0.2	11	$709	0.03	1.0
2950	Asphlt pavng & roofng mat.	$1,955,981	3.3%	$24,012	$64,547	$297	0.02	0.5	128	$858	0.04	1.3
2990	Misc. pet. & coal prods	$238,135 [c]	3.7%	$1,894	$8,811	$146	0.06	1.7	42	$754	0.32	8.6
3010	Tires and inner tubes	$449,894	3.9%	$1,158	$17,546	$334	0.07	1.9	16	$1,416	0.31	8.1
3020	Rubber & plastics footwear	$231,682	4.2%	$214	$9,731	$268	0.12	2.8	5	$1,302	0.56	13.4
3050	Hose, blting, and gaskets	$334,264	4.4%	$5,236	$14,708	$331	0.10	2.2	87	$1,352	0.40	9.2
3060	Fab. rubber prod., n.e.c.	$294,956	3.9%	$8,812	$11,503	$313	0.11	2.7	183	$1,308	0.44	11.4
3080	Misc plastics, n.e.c.	$360,366	3.4%	$74,960	$12,252	$252	0.07	2.1	1,872	$823	0.23	6.7
3110	Leather tan. & finishing	$329,655	1.7%	$1,233	$5,604	$295	0.09	5.3	71	$910	0.28	16.2
3130	Footwear cut stock	na [c]	1.8%	na	na	$272	na	na	15	$796	na	na
3140	Footwear, except rubber	$335,179	1.9%	$1,210	$6,368	$247	0.07	3.9	57	$819	0.24	12.9
3150	Leather gloves & mittens	na [c]	1.8%	na	na	$391	na	na	10	$1,090	na	na
3160	Luggage	na [c]	1.8%	na	na	$143	na	na	44	$519	na	na
3170	Hndbags & prsnal leathr gds.	na [c]	1.8%	na	na	$178	na	na	78	$618	na	na

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

					For all very small firms				For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
3190	Leather goods, n.e.c.	$192,370	1.8%	$1,115	$3,463	$276	0.14	8.0	102	$870	0.45	25.1
3210	Flat glass	$207,842	4.5%	$355	$9,353	$347	0.17	3.7	10	$1,324	0.64	14.2
3220	Glass, pressed or blown	$301,159	6.8%	$8,089	$20,479	$326	0.11	1.6	91	$1,419	0.47	6.9
3230	Prod. of purchased glass	$230,435	4.4%	$11,619	$10,139	$300	0.13	3.0	284	$1,208	0.52	11.9
3240	Cement, hydraulic	$1,050,298	4.5%	$3,970	$47,263	$298	0.03	0.6	23	$1,070	0.10	2.3
3250	Structural clay products	$256,304	6.0%	$3,645	$15,378	$375	0.15	2.4	69	$1,278	0.50	8.3
3260	Pottery & related prods	$132,403	4.5%	$5,386	$5,958	$296	0.22	5.0	221	$1,211	0.91	20.3
3270	Concrete & plast. prdcts	$413,581	4.3%	$73,804	$17,784	$417	0.10	2.3	1,353	$1,277	0.31	7.2
3280	Cut stone & stone prods	$247,993	4.2%	$9,103	$10,416	$358	0.14	3.4	271	$1,156	0.47	11.1
3290	Misc. nonmet. mineral prods.	$407,792	5.7%	$17,526	$23,244	$341	0.08	1.5	196	$1,313	0.32	5.6
3310	Basic steel products	$797,017	4.7%	$17,943	$37,460	$182	0.02	0.5	84	$1,043	0.13	2.8
3320	Iron and steel foundries	$337,456	4.7%	$6,265	$15,860	$304	0.09	1.9	98	$1,222	0.36	7.7
3330	Primary nonfer. metals	$970,958	4.5%	$4,195	$43,693	$194	0.02	0.4	18	$1,048	0.11	2.4
3340	Secondary nonfer. metals	$1,072,780	3.6%	$4,557	$38,620	$294	0.03	0.8	29	$1,186	0.11	3.1
3350	Nonfer. rolling & drawing	$625,461	5.6%	$10,333	$35,026	$237	0.04	0.7	61	$1,154	0.18	3.3
3360	Nonfer. foundries (cstngs)	$240,793	3.7%	$7,617	$8,909	$303	0.13	3.4	214	$1,208	0.50	13.6
3390	Misc. primary metal prdcts	$286,519	0.5%	$617	$1,461	$189	0.07	13.0	115	$693	0.24	47.4
3410	Met. cans & ship. containers	$655,041	2.8%	$2,256	$18,341	$314	0.05	1.7	40	$977	0.15	5.3
3420	Cutlery, hndtls, & hardware	$278,801	4.7%	$18,542	$13,104	$315	0.11	2.4	456	$978	0.35	7.5
3430	Plumbing & heating fixtures	$367,613	3.8%	$5,266	$13,969	$438	0.12	3.1	130	$1,272	0.35	9.1
3440	Fab. struct. metal prdcts	$321,458	4.0%	$101,362	$12,858	$338	0.11	2.6	2,702	$986	0.31	7.7
3450	Screw machine products	$240,690	3.9%	$13,029	$9,387	$392	0.16	4.2	513	$1,063	0.44	11.3
3460	Met. forgings & stampings	$337,019	4.5%	$24,538	$15,166	$433	0.13	2.9	565	$1,240	0.37	8.2
3470	Metal services, n.e.c.	$225,866	5.7%	$46,489	$12,874	$301	0.13	2.3	1,230	$885	0.39	6.9
3480	Ordnance and access., n.e.c.	$167,856	4.4%	$2,208	$7,386	$205	0.12	2.8	75	$817	0.49	11.1
3490	Misc. fab. metal products	$312,038	4.8%	$65,453	$14,978	$312	0.10	2.1	1,391	$979	0.31	6.5
3510	Engines and turbines	$413,304	4.4%	$2,928	$18,185	$228	0.06	1.3	45	$815	0.20	4.5
3520	Farm & garden machinery	$326,580	4.1%	$15,023	$13,390	$214	0.07	1.6	328	$733	0.22	5.5
3530	Construct. & related mach.	$394,130	5.0%	$34,940	$19,707	$320	0.08	1.6	538	$1,057	0.27	5.4
3540	Metalworking machinery	$232,627	4.6%	$88,956	$10,701	$288	0.12	2.7	2,572	$932	0.40	8.7
3550	Special industry mach.	$344,630	4.5%	$44,711	$15,508	$250	0.07	1.6	822	$876	0.25	5.6
3560	General indust. mach.	$356,137	4.5%	$34,857	$16,026	$291	0.08	1.8	659	$961	0.27	6.0
3570	Computer & office equip.	$621,373	3.3%	$26,452	$20,505	$137	0.02	0.7	246	$719	0.12	3.5
3580	Refrig. & serv. indust mach.	$334,315	2.0%	$7,796	$6,686	$316	0.09	4.7	336	$1,096	0.33	16.4
3590	Industrial mach., n.e.c.	$193,735	5.5%	$224,595	$10,655	$225	0.12	2.1	4,172	$1,137	0.59	10.7
3610	Elect. dist. equipment	$394,178	4.0%	$7,174	$15,767	$197	0.05	1.2	75	$1,187	0.30	7.5
3620	Elect. indust. apparatus	$389,434	4.0%	$19,643	$15,577	$216	0.06	1.4	205	$1,335	0.34	8.6
3630	Household appliances	$421,725	3.4%	$3,284	$14,339	$250	0.06	1.7	35	$1,636	0.39	11.4
3640	Elct. lghtng & wire equip.	$338,127	4.6%	$17,374	$15,554	$222	0.07	1.4	188	$1,323	0.39	8.5
3650	Household audio & vid. equi	$569,616	5.9%	$18,383	$33,607	$170	0.03	0.5	80	$1,168	0.21	3.5
3660	Communications equipment	$496,670	5.4%	$29,985	$26,820	$97	0.02	0.4	129	$842	0.17	3.1
3670	Electronic compnnts & access	$381,138	5.4%	$68,104	$20,581	$105	0.03	0.5	421	$821	0.22	4.0
3690	Misc. elect. equipment	$380,068	5.0%	$16,799	$19,003	$221	0.06	1.2	106	$1,817	0.48	9.7
3710	Motor vehicles & equipt.	$418,128	3.9%	$42,659	$16,307	$104	0.02	0.6	313	$868	0.21	5.3
3720	Aircraft and parts	$351,923	4.3%	$13,317	$15,133	$135	0.04	0.9	64	$1,855	0.53	12.3
3730	Ship, boat bldng and repairfa	$188,726	3.8%	$17,685	$6,794	$176	0.09	2.6	367	$1,247	0.66	18.3

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

					For all very small firms				For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
3740	Railroad equipment	na [c]	2.8%	na	na	$175	na	na	6	$1,754	na	na
3750	Motorcycles & bicycles	$764,505	3.8%	$3,864	$13,851	$192	0.05	1.4	27	$2,009	0.55	14.5
3760	Guided missiles	na [c]	3.8%	na	na	$51	na	na	na	na	na	na
3790	Misc. transportation equip	$355,671	3.8%	$9,745	$13,516	$180	0.05	1.3	131	$990	0.28	7.3
3810	Srch & navigation equipment	$309,297	4.7%	$4,797	$14,537	$78	0.03	0.5	37	$698	0.23	4.8
3820	Meas. & contrlling devices	$352,337	5.3%	$51,951	$18,674	$151	0.04	0.8	491	$853	0.24	4.6
3840	Medical instrmnts & supplies	$514,868	6.2%	$88,264	$31,922	$128	0.02	0.4	436	$815	0.16	2.6
3850	Ophthalmic goods	$253,881	4.2%	$4,223	$10,663	$155	0.06	1.5	70	$874	0.34	8.2
3860	Photo equip. & supplies	$442,828	5.3%	$11,054	$23,470	$126	0.03	0.5	62	$952	0.21	4.1
3870	Watches, clocks, & parts	$260,379	5.6%	$1,385	$14,581	$76	0.03	0.5	15	$496	0.19	3.4
3910	Jwlry, slvrwre, and plate	$309,642	2.8%	$21,302	$8,670	$127	0.04	1.5	503	$623	0.20	7.2
3930	Musical instruments	$183,232	3.3%	$2,763	$6,047	$195	0.11	3.2	102	$869	0.47	14.4
3940	Toys and sporting goods	$260,558	3.5%	$24,696	$9,120	$221	0.08	2.4	651	$919	0.35	10.1
3950	Office and art supplies	$229,779	3.3%	$5,945	$7,583	$160	0.07	2.1	177	$711	0.31	9.4
3960	Costume jewelry & notions	$243,748	3.3%	$7,280	$8,044	$104	0.04	1.3	172	$551	0.23	6.9
3990	Misc. manufactures	$227,598	3.4%	$55,097	$7,738	$182	0.08	2.3	3,571	$362	0.16	4.7
4110	Local & suburban trans.	$131,754	6.2%	$54,200	$8,169	$441	0.33	5.4	3,061	$957	0.73	11.7
4120	Taxicabs	$108,596	5.9%	$19,298	$6,407	$96	0.09	1.5	479	$601	0.55	9.4
4130	Intercty & rural bus trans.	$209,955	7.0%	$2,939	$14,697	$274	0.13	1.9	64	$854	0.41	5.8
4140	Bus charter service	$190,309	3.8%	$6,726	$7,232	$224	0.12	3.1	276	$755	0.40	10.4
4150	School buses	$92,169	5.9%	$12,709	$5,438	$182	0.20	3.4	606	$703	0.76	12.9
4170	Bus terminals	$165,896	5.9%	$470	$9,788	$384	0.23	3.9	23	$798	0.48	8.2
4210	Trking & Courier Service	$256,899	3.2%	$768,001	$8,221	$189	0.07	2.3	23,128	$762	0.30	9.3
4220	Pub. warehousing & storage	$284,511	9.4%	$205,020	$26,744	$379	0.13	1.4	3,321	$874	0.31	3.3
4230	Trucking terminal fac.	$172,967 [c]	4.2%	$436	$7,265	$328	0.19	4.5	24	$806	0.47	11.1
4510	Air trans., scheduled	$753,374	4.0%	$37,819	$30,135	$756	0.10	2.5	805	$1,178	0.16	3.9
4520	Air trans., nonsched.	$469,131	6.0%	$37,155	$28,148	$94	0.02	0.3	402	$308	0.07	1.1
4580	Airports and services	$250,033	4.6%	$31,825	$11,502	$161	0.06	1.4	937	$476	0.19	4.1
4610	Pipelines, except natural gas	na [c]	4.9%	na	na	$510	na	na	19	$869	na	na
4720	Pass. trans. arrangements	$147,833	2.7%	$102,597	$3,991	$35	0.02	0.9	2,283	$397	0.27	9.9
4730	Freight trans. arrangements	$305,924	3.7%	$122,564	$11,319	$230	0.08	2.0	3,725	$668	0.22	5.9
4740	Rental of railroad cars	$2,541,068	3.4%	$6,307	$86,396	$95	0.00	0.1	16	$446	0.02	0.5
4780	Misc. trans. services	$214,235	3.4%	$12,936	$7,284	$332	0.15	4.6	395	$1,493	0.70	20.5
4810	Telephone communication	$469,144	7.7%	$202,620	$36,124	$92	0.02	0.3	638	$810	0.17	2.2
4820	Telegrph & other comm.	$502,591	5.7%	$10,428	$28,648	$62	0.01	0.2	35	$651	0.13	2.3
4830	Radio & TV broadcasting	$160,378	2.4%	$20,951	$3,849	$43	0.03	1.1	481	$489	0.30	12.7
4840	Cable & othr pay TV services	$739,240	5.4%	$67,663	$39,919	$154	0.02	0.4	290	$900	0.12	2.3
4890	Communication serv., n.e.c.	$454,817	5.7%	$31,498	$25,925	$32	0.01	0.1	70	$551	0.12	2.1
4910	Electric services	$1,047,530	10.8%	$61,318	$113,133	$179	0.02	0.2	87	$1,117	0.11	1.0
4920	Gas product. & distribution	$4,870,258	6.7%	$174,574	$326,307	$223	0.00	0.1	97	$1,231	0.03	0.4
4930	Comb. utility services	$1,059,789	8.3%	$15,393	$87,962	$118	0.01	0.1	23	$907	0.09	1.0
4940	Water supply	$227,639	10.6%	$80,087	$24,130	$137	0.06	0.6	494	$919	0.40	3.8
4950	Sanitary services	$339,686	7.6%	$108,712	$25,816	$320	0.09	1.2	791	$1,707	0.50	6.6
4960	Steam & air-cond. supplies	$734,972	8.3%	$2,196	$61,003	$193	0.03	0.3	7	$1,049	0.14	1.7
4970	Irrigation systems	$102,303	8.3%	$2,938	$8,491	$79	0.08	0.9	92	$296	0.29	3.5
5010	Motor vehicles	$997,216	2.0%	$577,727	$19,944	$279	0.03	1.4	10,574	$764	0.08	3.8

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

					For all very small firms				For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
5020	Furn. & homefurnishings	$1,337,006	2.0%	$346,900	$26,740	$252	0.02	0.9	4,333	$753	0.06	2.8
5030	Lumber & construct. mat.	$1,364,186	1.9%	$399,109	$25,920	$453	0.03	1.7	6,888	$1,013	0.07	3.9
5040	Prof. & commercial equip.	$990,766	2.5%	$910,291	$24,769	$163	0.02	0.7	9,285	$645	0.07	2.6
5050	Met. & minerals, excpt pet.	$4,613,645	2.8%	$934,761	$129,182	$332	0.01	0.3	2,775	$864	0.02	0.7
5060	Electrical goods	$2,078,746	2.2%	$1,153,646	$45,732	$192	0.01	0.4	7,613	$635	0.03	1.4
5070	Hardware supplies	$1,182,468	2.2%	$415,032	$26,014	$374	0.03	1.4	6,787	$879	0.07	3.4
5080	Mach., equipt. & supplies	$1,192,421	2.9%	$1,811,001	$34,580	$288	0.02	0.8	19,167	$787	0.07	2.3
5090	Misc. durable goods	$1,312,292	3.2%	$1,435,207	$41,993	$176	0.01	0.4	8,590	$701	0.05	1.7
5110	Paper and paper products	$1,719,729	1.6%	$318,686	$27,516	$140	0.01	0.5	2,557	$635	0.04	2.3
5120	Drugs, propriet., & sundries	$1,559,160	2.9%	$217,713	$45,216	$154	0.01	0.3	997	$745	0.05	1.6
5130	Apparel and notions	$1,737,426	2.1%	$656,309	$36,486	$133	0.01	0.4	3,755	$637	0.04	1.7
5140	Groceries & related products	$2,200,655	1.4%	$926,401	$30,809	$306	0.01	1.0	9,429	$976	0.04	3.2
5150	Farm-prod. raw materials	$4,082,308	1.7%	$416,951	$69,399	$124	0.00	0.2	1,277	$583	0.01	0.8
5160	Chemicals & allied prods	$2,415,490	3.2%	$724,570	$77,296	$195	0.01	0.3	2,518	$727	0.03	0.9
5170	Petrol. & petrol. prods	$5,853,007	1.2%	$451,407	$70,236	$242	0.00	0.3	2,002	$776	0.01	1.1
5180	Beer, wine, & dist. bev.	$1,901,134	2.3%	$107,741	$43,726	$490	0.03	1.1	948	$1,272	0.07	2.9
5190	Misc. nondurable goods	$991,448	1.9%	$761,695	$18,838	$194	0.02	1.0	15,860	$495	0.05	2.6
5210	Lumber & other bldng mat.	$546,349	1.9%	$150,831	$10,381	$534	0.10	5.1	8,461	$917	0.17	8.8
5230	Paint, glass, wallpaper strs	$405,055	0.9%	$19,598	$3,645	$376	0.09	10.3	3,046	$663	0.16	18.2
5250	Hardware stores	$300,058	2.3%	$77,950	$6,901	$296	0.10	4.3	5,681	$588	0.20	8.5
5260	Retail nurseries and gardens	$353,082	2.2%	$73,204	$7,768	$366	0.10	4.7	4,567	$755	0.21	9.7
5270	Mobile home dealers	$1,016,599	2.9%	$97,642	$29,481	$578	0.06	2.0	1,960	$977	0.10	3.3
5310	Department stores	$1,124,000	2.6%	$3,507	$29,224	$55	0.00	0.2	12	$534	0.05	1.8
5330	Variety stores	$232,711	2.7%	$22,883	$6,283	$483	0.21	7.7	2,440	$720	0.31	11.5
5390	Misc. gen. merchandise strs	$326,089	1.6%	$34,320	$5,217	$186	0.06	3.6	1,829	$668	0.20	12.8
5410	Grocery stores	$372,487	1.2%	$341,608	$4,470	$217	0.06	4.9	21,284	$780	0.21	17.4
5420	Meat and fish markets	$379,841	1.3%	$34,886	$4,938	$207	0.05	4.2	1,924	$759	0.20	15.4
5430	Fruit & vegetable markets	$344,048	1.3%	$13,396	$4,473	$98	0.03	2.2	487	$603	0.18	13.5
5440	Candy, nut, & confctnry strs	$160,161	1.3%	$5,801	$2,082	$126	0.08	6.0	612	$571	0.36	27.4
5450	Dairy products stores	$209,840	1.3%	$4,035	$2,728	$98	0.05	3.6	263	$549	0.26	20.1
5460	Retail bakeries	$130,643	3.0%	$59,557	$3,919	$163	0.12	4.1	3,873	$638	0.49	16.3
5490	Misc. food stores	$271,747	1.8%	$34,539	$4,891	$99	0.04	2.0	1,829	$384	0.14	7.9
5510	New and used car dealers	$1,181,684	1.1%	$106,783	$12,999	$449	0.04	3.5	4,042	$913	0.08	7.0
5520	Used car dealers	$746,731	2.5%	$391,380	$18,668	$37	0.00	0.2	1,655	$472	0.06	2.5
5530	Auto & home supply stores	$365,409	1.9%	$178,596	$6,943	$424	0.12	6.1	13,673	$798	0.22	11.5
5540	Gas service stations	$807,554	1.6%	$661,858	$12,921	$203	0.03	1.6	19,900	$522	0.06	4.0
5550	Boat dealers	$659,731	2.2%	$62,846	$14,514	$356	0.05	2.5	2,017	$765	0.12	5.3
5560	Rec. vehicle dealers	$780,614	1.7%	$32,022	$13,270	$475	0.06	3.6	1,298	$883	0.11	6.7
5570	Motorcycle dealers	$619,849	3.1%	$64,602	$19,215	$52	0.01	0.3	332	$524	0.08	2.7
5590	Auto dealers, n.e.c.	$590,677	2.6%	$17,922	$15,358	$44	0.01	0.3	99	$522	0.09	3.4
5610	Men's & boys' clothing strs	$357,954	0.1%	$2,081	$358	$104	0.03	29.0	1,469	$411	0.11	114.7
5620	Women's clothing stores	$252,774	4.0%	$160,612	$10,111	$80	0.03	0.8	3,065	$412	0.16	4.1
5630	Wm's access & specialty strs	$211,468	4.5%	$36,751	$9,516	$68	0.03	0.7	631	$414	0.20	4.4
5640	Childrn's & infants' wear strs	$207,560	1.2%	$7,335	$2,491	$102	0.05	4.1	599	$501	0.24	20.1
5650	Family clothing stores	$282,179	1.3%	$24,651	$3,668	$239	0.08	6.5	2,818	$571	0.20	15.6
5660	Shoe stores	$339,604	2.6%	$62,117	$8,830	$124	0.04	1.4	1,739	$503	0.15	5.7

UMI 1999 23 NO 5 2 22 ISS 64 VOL

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

					For all very small firms				For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
5690	Misc. apparel stores	$239,857	1.2%	$20,798	$2,878	$43	0.02	1.5	795	$392	0.16	13.6
5710	Furnitre & homefurnishng str	$391,573	2.3%	$426,227	$9,006	$369	0.09	4.1	23,388	$747	0.19	8.3
5720	Household appliance strs	$399,872	2.3%	$78,000	$9,197	$323	0.08	3.5	3,630	$755	0.19	8.2
5730	Radio, TV, & compte strs	$473,892	2.3%	$250,852	$10,900	$156	0.03	1.4	5,301	$675	0.14	6.2
5810	Eating & drinking places	$127,704	3.0%	$1,120,186	$3,831	$114	0.09	3.0	75,111	$444	0.35	11.6
5910	Drug stores	$534,247	2.5%	$287,745	$13,356	$192	0.04	1.4	7,500	$551	0.10	4.1
5920	Liquor stores	$457,765	1.4%	$159,493	$6,409	$34	0.01	0.5	2,612	$320	0.07	5.0
5930	Used merchandite stores	$186,153	4.6%	$158,330	$8,563	$138	0.07	1.6	5,139	$495	0.27	5.8
5940	Misc. shopping goods strs.	$257,537	2.2%	$500,200	$5,666	$144	0.06	2.5	25,859	$493	0.19	8.7
5960	Nonstore retailers	$327,931	2.0%	$158,214	$6,559	$220	0.07	3.4	7,510	$707	0.22	10.8
5980	Fuel dealers	$574,269	0.8%	$30,776	$4,594	$349	0.06	7.6	2,987	$783	0.14	17.0
5990	Retail stores, n.e.c.	$231,538	2.6%	$444,991	$6,020	$114	0.05	1.9	12,187	$689	0.30	11.4
6010	Central res. depository	na [c]	12.7%	na	na	$161	na	na	na	na	na	na
6020	Commercial banks	$600,009	12.7%	$206,276	$76,201	$67	0.01	0.1	449	$402	0.07	0.5
6030	Savings institutions	$977,677	12.7%	$77,231	$124,165	$64	0.01	0.1	90	$444	0.05	0.4
6060	Credit unions	$420,849	12.7%	$445,274	$53,448	$67	0.02	0.1	1,438	$387	0.09	0.7
6080	Foreign banking	$3,363,784	12.7%	$43,574	$427,201	$74	0.00	0.0	18	$408	0.01	0.1
6090	Banking-related functions	$289,839	12.7%	$109,656	$36,810	$61	0.02	0.2	394	$463	0.16	1.3
6110	Federal credit agencies	$896,270	14.6%	$9,683	$130,855	$20	0.00	0.0	3	$435	0.05	0.3
6140	Personal cred. institutions	$595,983	18.1%	$439,043	$107,873	$15	0.00	0.0	128	$490	0.08	0.5
6150	Business cred. institutions	$1,193,070	15.5%	$504,108	$184,926	$37	0.00	0.0	219	$458	0.04	0.2
6160	Mortgage bankers & brokers	$271,298	9.6%	$331,913	$26,045	$34	0.01	0.1	1,057	$414	0.15	1.6
6210	Security brokers & dealers	$552,911	10.5%	$455,621	$58,056	$21	0.00	0.0	370	$455	0.08	0.8
6220	Commodity contracts brokers	$451,741	11.7%	$72,674	$52,854	$9	0.00	0.0	52	$230	0.05	0.4
6230	Security & commod. exchang	$239,233	11.7%	$1,679	$27,990	$44	0.02	0.2	6	$449	0.19	1.6
6280	Security & commod. services	$321,210	14.1%	$726,734	$45,291	$14	0.00	0.0	265	$861	0.27	1.9
6310	Life insurance	$1,834,300	12.7%	$193,354	$232,956	$40	0.00	0.0	61	$540	0.03	0.2
6320	Medical & health insur.	$3,241,956	12.7%	$250,743	$411,728	$75	0.00	0.0	67	$685	0.02	0.2
6330	Fire, marine, & casity ins.	$1,049,008	12.7%	$202,900	$133,224	$42	0.00	0.0	95	$677	0.06	0.5
6350	Surety insurance	$1,478,721	12.7%	$38,311	$187,798	$38	0.00	0.0	13	$584	0.04	0.3
6360	Title insurance	$272,718	12.7%	$19,292	$34,635	$78	0.03	0.2	79	$553	0.20	1.6
6370	Pension and health funds	$265,760	12.7%	$73,207	$33,751	$34	0.01	0.1	141	$523	0.20	1.5
6390	Ins. carriers, n.e.c.	$469,706	12.7%	$11,990	$59,633	$28	0.01	0.0	32	$179	0.04	0.3
6410	Insurance agents	$208,917	6.8%	$1,594,937	$14,206	$27	0.01	0.2	7,411	$409	0.20	2.9
6510	Real estate operators	$437,952	15.4%	$6,147,986	$67,445	$119	0.03	0.2	21,631	$500	0.11	0.7
6530	RE agents and managers	$276,237	12.1%	$3,597,325	$33,425	$58	0.02	0.2	13,824	$455	0.16	1.4
6540	Title abstract offices	$199,511	12.1%	$98,615	$24,141	$99	0.05	0.4	999	$404	0.20	1.7
6550	Subdividers & developrs	$350,225	9.1%	$525,289	$31,870	$130	0.04	0.4	3,086	$692	0.20	2.2
6710	Holding offices	$769,686	17.5%	$705,264	$134,695	$46	0.01	0.0	455	$535	0.07	0.4
6720	Investment offices	$2,142,997	17.5%	$257,267	$375,024	$24	0.00	0.0	32	$502	0.02	0.1
6730	Trusts	$409,627	17.5%	$568,317	$71,685	$41	0.01	0.1	688	$470	0.11	0.7
6790	Miscellaneous investing	$932,853	17.5%	$1,187,475	$163,249	$34	0.00	0.0	575	$426	0.05	0.3
7010	Hotels and motels	$172,236	7.0%	$353,593	$12,057	$232	0.13	1.9	8,390	$811	0.47	6.7
7020	Rooming & boarding houses	$128,762	7.0%	$13,250	$9,013	$98	0.08	1.1	462	$312	0.24	3.5
7030	Camps and rec. vehicle parks	$202,714	7.0%	$90,929	$14,190	$21	0.01	0.1	289	$457	0.23	3.2
7040	Membership-basis org. hotels	$171,197	7.0%	$27,023	$11,984	$25	0.01	0.2	143	$401	0.23	3.3

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

					For all very small firms				For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
7210	Laundry & garment srvices	$115,139	3 8%	$204,426	$4,375	$241	0 21	5 5	16,575	$681	0 59	15 6
7220	Photo studios, portrait	$163,990	3 9%	$53,621	$6,396	$63	0 04	1 0	1,339	$394	0 24	6 2
7230	Beauty shops	$77,387	4 6%	$252,237	$3,560	$38	0 05	1 1	6,869	$388	0 50	10 9
7240	Barber shops	$72,648	4 6%	$14,032	$3,342	$106	0 15	3 2	964	$463	0 64	13 9
7250	Shoe repair	$94,046	4 6%	$8,830	$4,326	$40	0 04	0 9	394	$206	0 22	4 8
7260	Fun. service and crematories	$346,624	7 9%	$312,991	$27,383	$124	0 04	0 5	2,484	$569	0 16	2 1
7290	Misc personal services	$101,738	4 6%	$116,165	$4,680	$17	0 02	0 4	537	$790	0 78	16 9
7310	Advertising	$328,643	3 8%	$203,861	$12,488	$84	0 03	0 7	2,329	$592	0 18	4 7
7320	Credit report & collection	$190,234	7 0%	$65,610	$13,316	$52	0 03	0 4	560	$457	0 24	3 4
7330	Mailing, reprod, steno , serv	$249,443	4 6%	$361,741	$11,474	$72	0 03	0 6	4,282	$531	0 21	4 6
7340	Services to buildings	$96,644	3 7%	$204,859	$3,576	$68	0 07	1 9	9,067	$429	0 44	12 0
7350	Misc equipt. rental	$319,788	9 2%	$435,895	$29,421	$154	0 05	0 5	3,217	$711	0 22	2 4
7360	Pers. supply services	$259,712	3 0%	$134,401	$7,791	$42	0 02	0 5	1,333	$538	0 21	6 9
7370	Comptr & data proc. services	$273,544	5 2%	$1,005,842	$14,224	$28	0 01	0 2	3,539	$553	0 20	3 9
7380	Misc. business services	$214,709	3 4%	$514,432	$7,300	$40	0 02	0 6	10,487	$271	0 13	3 7
7510	Auto rentals, no drivers	$449,841	5 7%	$125,281	$25,641	$176	0 04	0 7	1,200	$717	0 16	2 8
7520	Automobile parking	$282,968	4 8%	$24,313	$13,582	$114	0 04	0 8	286	$717	0 25	5 3
7530	Automotive repair shops	$228,541	3 9%	$1,153,160	$8,913	$177	0 08	2 0	34,183	$671	0 29	7 5
7540	Automotive serv , exc repair	$145,592	6 5%	$196,319	$9,463	$239	0 16	2 5	7,235	$686	0 47	7 2
7620	Electrical repair shops	$185,528	2 6%	$78,622	$4,824	$206	0 11	4 3	4,478	$752	0 41	15 6
7630	Watch and jewelry repair	$133,127	3 4%	$7,219	$4,526	$132	0 10	2 9	378	$556	0 42	12 3
7640	Reupholstery & furn. repair	$125,164	3 4%	$29,334	$4,256	$80	0 06	1 9	1,376	$398	0 32	9 4
7690	Misc. repair shops	$210,042	5 9%	$440,862	$12,392	$241	0 11	1 9	10,395	$823	0 39	6 6
7810	Motion picture production	$440,712	5 4%	$319,685	$23,798	$88	0 02	0 4	1,763	$667	0 15	2 8
7820	Motion picture dist	$802,155	5 8%	$50,340	$46,525	$366	0 05	0 8	445	$889	0 11	1 9
7830	Motion picture theaters	$206,221	5 8%	$25,178	$11,961	$530	0 26	4 4	1,167	$957	0 46	8 0
7840	Video tape rental	$123,805	7 2%	$120,891	$8,914	$257	0 21	2 9	6,646	$524	0 42	5 9
7910	Dance studios & schools	$95,808	4 1%	$21,868	$3,928	$207	0 22	5 3	1,950	$591	0 62	15 0
7920	Prducrs, orch , entertainers	$451,723	3 6%	$250,988	$16,262	$88	0 02	0 5	2,375	$571	0 13	3 5
7930	Bowling centers	$118,745	4 2%	$18,842	$4,987	$137	0 12	2 7	871	$594	0 50	11 9
7940	Commercial sports	$398,365	3 6%	$58,354	$14,341	$121	0 03	0 8	954	$516	0 13	3 6
7990	Misc. recreation services	$179,976	4 2%	$372,239	$7,559	$173	0 10	2 3	9,692	$879	0 49	11 6
8010	Offices of medical doctors	$375,838	6 3%	$3,750,538	$23,678	$83	0 02	0 4	24,491	$539	0 14	2 3
8020	Dentists offices and clinics	$275,329	11 3%	$3,386,315	$31,112	$74	0 03	0 2	15,010	$535	0 19	1 7
8030	Osteopathic physicians	$300,717	5 4%	$137,639	$16,239	$35	0 01	0 2	674	$437	0 15	2 7
8040	Other health practitioners	$198,218	6 5%	$1,025,567	$12,884	$112	0 06	0 9	16,647	$538	0 27	4 2
8050	Nursing & personal care fac	$186,764	4 3%	$37,536	$8,031	$322	0 17	4 0	1,701	$884	0 47	11 0
8060	Hospitals	$1,960,099	5 1%	$24,192	$99,965	$165	0 01	0 2	54	$735	0 04	0 7
8070	Med. & dental labs	$227,997	7 9%	$206,649	$18,012	$75	0 03	0 4	1,519	$563	0 25	3 1
8080	Home hlth care services	$178,999	3 5%	$35,823	$6,265	$190	0 11	3 0	1,323	$821	0 46	13 1
8090	Hlth & allied serv , n e c	$241,346	11 0%	$253,746	$26,548	$134	0 06	0 5	2,631	$486	0 20	1 8
8110	Legal services	$248,616	5 0%	$1,937,821	$12,431	$36	0 01	0 3	9,243	$601	0 24	4 8
8210	Elem. & secondary schools	$124,855	5 9%	$53,841	$7,366	$66	0 05	0 9	890	$538	0 43	7 3
8220	Colleges & universities	$250,072	6 2%	$15,706	$15,504	$35	0 01	0 2	59	$608	0 24	3 9
8230	Libraries	$76,904	5 9%	$8,585	$4,517	$22	0 03	0 5	92	$454	0 59	10 0
8240	Vocational schools	$176,678	5 9%	$55,685	$10,424	$24	0 01	0 2	262	$480	0 27	4 6

BILLING CODE 4510–26–C

Table VIII-6 Estimated Economic Impact of the Proposed Ergonomics Standard on All Very Small Firms and All Very Small Affected Firms (Those with MSDs)*

						For all very small firms			For very small affected firms (those with MSDs)			
SIC	Industry	Average Revenues for Very Small Firms ($)	Profits as a Percentage of Revenues	Profits ($1,000s)	Average Profits per firm ($)	Annualized Costs per Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits	Total Number of Affected Firms over 10 years	Annualized Costs per Affected Very Small Firm	Annualized Costs as a Percent of Revenues	Annualized Costs as a Percent of Profits
8290	Schools, n.e.c.	$161,333	5.0%	$108,319	$8,067	$22	0.01	0.3	880	$331	0.21	4.1
8320	Individual & fam. services	$112,044	4.1%	$127,896	$4,594	$150	0.13	3.3	8,322	$504	0.45	11.0
8330	Job train. & related serv.	$141,082	2.5%	$11,869	$3,527	$107	0.08	3.0	798	$452	0.32	12.8
8350	Child day care services	$55,578	3.8%	$84,369	$2,112	$99	0.18	4.7	10,835	$366	0.66	17.4
8360	Residential care	$90,977	2.6%	$30,048	$2,365	$261	0.29	11.0	5,376	$616	0.68	26.1
8390	Social services, n.e.c.	$261,374	3.4%	$89,525	$8,887	$78	0.03	0.9	1,770	$444	0.17	5.0
8410	Museums & art galleries	$124,048	6.1%	$27,687	$7,567	$72	0.06	0.9	601	$437	0.35	5.8
8420	Bot. & zoolog. gardens	$157,533	6.1%	$3,892	$9,610	$97	0.06	1.0	76	$518	0.33	5.4
8610	Business associations	$253,725	3.3%	$118,577	$8,373	$31	0.01	0.4	1,116	$399	0.16	4.8
8620	Prof. organizations	$274,989	4.8%	$82,233	$13,199	$26	0.01	0.2	408	$397	0.14	3.0
8630	Labor organizations	$188,674	6.4%	$208,586	$12,075	$21	0.01	0.2	1,072	$335	0.18	2.8
8640	Civic & social assoc.	$153,214	3.4%	$165,103	$5,209	$63	0.04	1.2	5,320	$378	0.25	7.3
8650	Political organizations	$221,265	6.4%	$35,162	$14,161	$27	0.01	0.2	316	$213	0.10	1.5
8660	Religious organizations	$121,886	9.1%	$1,594,072	$11,092	$13	0.01	0.1	4,244	$435	0.36	3.9
8690	Membership orgs., n.e.c.	$162,338	6.4%	$69,746	$10,390	$74	0.05	0.7	1,042	$474	0.29	4.6
8710	Eng. and arch. services	$230,441	4.2%	$626,839	$9,679	$42	0.02	0.4	5,884	$457	0.20	4.7
8720	Accntng., auditng., & bkeepin	$166,295	12.0%	$1,552,730	$19,955	$45	0.03	0.2	7,513	$463	0.28	2.3
8730	Research & testing services	$294,370	3.4%	$128,680	$10,009	$82	0.03	0.8	1,900	$553	0.19	5.5
8740	Management & pub. relations	$256,909	6.2%	$1,310,442	$15,928	$44	0.02	0.3	8,543	$426	0.17	2.7
8990	Services, n.e.c.	$246,015	5.0%	$185,496	$12,301	$153	0.06	1.2	5,099	$452	0.18	3.7
Average		$537,098	4.9%		$26,997	$183	0.06	1.80		$740	0.24	6.96
Total				$69,586,551					896,908			

Source: Office of Regulatory Analysis.
Revenue data are from U.S. Dept. of Commerce, Bureau of Census. Compliance costs are from Chapter V of this Preliminary Economic Analysis. Profit rates are from, in most cases, Robert Morris Associates ("RMA Studies")

* "Very small firm" refers to firms with 1-19 employees.
[a] Excludes SIC 3731 (not in the scope of proposed standard)
[b] A profit rate of 5 percent of revenues was estimated for SICs 910,920,970,8110, and 8990; a profit rate of 4 percent was estimated for SICs 2280, 2310, and 5620.
[c] Revenue data was wholly or partially suppressed by the Census Bureau for the 1-19 employee entity size category. Any projected economic impacts are therefore overestimated for these industries. Where estimated costs as a percent of profits would be in excess of 20 percent in those industries for which the Bureau suppressed the data, OSHA reported profit impacts as "na."

Based on the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel (the Panel) recommendations, rulemaking requirements, and Regulatory Flexibility Analysis (RFA) guidance,

H. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires that an Initial Regulatory Flexibility Analysis (IRFA) contain:

(1) A description of why action is being considered;

(2) A statement of the objectives and basis for the proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule.

In addition, the RFA requires a description of any significant alternatives to the proposed rule that accomplish the stated objectives of the statute (in this case, the OSH Act) and that minimize any significant economic impact of the proposed rule on small entities. Specifically, the RFA requires:

1. Description of the reasons why action by the agency is being considered;

As discussed in Chapter I, OSHA determined that a comprehensive ergonomics program standard is necessary to reduce the number of workplaces whose employees are exposed to MSD hazards. The proposed standard would require employers to implement ergonomics programs to fix ongoing MSD hazards in jobs in which MSDs have been reported, and to provide training and medical management. Musculoskeletal disorders (MSDs) are the most frequently reported workplace injuries and illnesses. In 1997, the Bureau of Labor Statistics (BLS) recorded 626,000 MSDs which resulted in days away from work, restricted workday activity, or job transfer (DART). These MSDs accounted for about 34 percent of all DART cases.

OSHA has determined that there is significant evidence that exposure to workplace risk factors can cause MSDs of the low back and upper extremities, and that these MSDs can be significantly reduced by controlling exposure to these risk factors. The Agency has also determined that MSDs are a significant problem in general industry workplaces. Sections II, III, and IV of this preamble and Chapter I of the Preliminary Economic Analysis and Initial Regulatory Flexibility Analysis present the Agency's findings in support of these determinations. Chapter I also presents the Agency's findings that feasible ergonomics programs can reduce MSDs and that the proposed standard is technologically and economically feasible. Chapter I also presents the Agency's findings

Based on these findings, OSHA convened a Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel (the report of the Panel is in the docket of this rulemaking as Ex. 23) and an Initial Regulatory Flexibility Analysis, which is presented in the next section.

H. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, as amended in 1996, requires that an Initial Regulatory Flexibility Analysis (IRFA) contain the following elements:

(1) A description of the reasons why action by the Agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the report or record; and

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule.

In addition, a Regulatory Flexibility Analysis must contain a description of any significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statute (in this case the OSH Act) and that minimize any significant economic impact of the proposed rule on small entities.[5]

1. Description of the Reasons for Agency Action

As discussed in detail in section H.2, below, OSHA has determined that it is appropriate to propose an ergonomics program standard to ensure that general industry employers whose employees have experienced an MSD covered by the standard are afforded the protection provided by the quick fix option or the full ergonomics program. Employers are required by the full program to perform a job hazard analysis of the job and to implement controls that are reasonably anticipated to eliminate or materially reduce the risk factors giving rise to the ergonomics injury or illness.

Musculoskeletal disorders have continued to occur in the workplace in large numbers: in 1996, 647,000 lost workday MSDs were reported by employers to the Bureau of Labor Statistics, and OSHA estimates that the number of non-lost workday MSDs (*i.e.*, restricted work MSDs and non-lost workday MSDs) occurring in the same year brings this total to about 1.8 million MSDs in that year.

OSHA establishes that workplace risk factors pose a significant risk of material impairment of health or functional capacity to workers in general industries in Sections VI and VII of this preamble, the Preliminary Risk Assessment and Significance of Risk sections, respectively. The OSH Act, as explained below, requires OSHA to act when the risk of harm posed to workers is significant and feasible means of reducing that risk exist. As demonstrated in Chapter III (Technological Feasibility) of the economic analysis, employers have many choices of controls available to address these risks. Further, because the standard allows employers to choose among several control approaches—engineering, work practice, or administrative controls—employers will have an even larger range of control choices. Thus, OSHA is considering regulatory action because workers in the industries covered by the rule are at significant risk of material health impairment and feasible methods of reducing this risk substantially are available.

2. Legal Basis and Objectives of the Proposed Rule

OSHA's authority to issue an ergonomics program standard derives from sections 2(b), 6(b)(5), 8(c)(1), and 8(g)(2) of the OSH Act. The objective of the proposed rule is to reduce the risk of occupational musculoskeletal disorders in exposed working populations through the use of an ergonomics program that includes management leadership and employee participation, hazard identification and reporting, job hazard control and analysis, training, MSD management, and program evaluation. Implementation of ergonomics programs incorporating these elements has been shown to substantially reduce the risk of MSDs among workers.

In developing the proposed standard, OSHA will be guided by eight principles: (1) The proposed standard should focus on operations where the risk of MSDs is the greatest and solutions are known; (2) it should maximize worker protection and cost-effectiveness; (3) it should include those program elements that best practices have shown to be effective; (4) it should be written in plain language; (5) it should recognize the unique needs of small businesses; (6) it should be performance-oriented and flexible; (7) it should recognize employers who already have effective ergonomics programs; and (8) it should include a tiered approach that does not require employers whose establishments do not have problem jobs to implement a full program.

OSHA standards must also be supported by substantial evidence in the record as a whole. OSHA has collected and analyzed thousands of scientific studies and articles on MSDs, successful interventions to control them, and ergonomic programs. Other government agencies have also found such programs to be effective. In August of 1997, for example, the Government Accounting Office (GAO) issued a report of its investigation of ergonomics programs. The GAO report, "Private Sector Ergonomics Programs Yield Results," is a detailed review of the ergonomics programs of five major corporations that shows that these companies have implemented programs that successfully address serious ergonomic problems (Ex. 26–5). A NIOSH publication entitled "Elements of Ergonomics Program" (1998) also identified the elements included in the program envisioned by the proposed standard as essential to program success (Ex. 26–2).

NIOSH (1997) also recently published a critical review of the large body of epidemiologic evidence on work-related MSDs and exposure to workplace risk factors. NIOSH identified more than 2,000 studies for this project and conducted a detailed review of over 600 of those studies (Ex. 26–1). NIOSH found that, for most combinations of MSDs and risk factors, the human evidence for causality was either sufficient or strong. NIOSH found the evidence convincing based on the strength of the associations, the lack of ambiguity in temporal relationships from projected studies, the consistency of the results of these studies, and these studies' use of adequate controls or adjustment for likely confounders. Similarly, a recent (1998) National Research Council (NRC) panel of 66 scientists considered the evidence for the work-relatedness of musculoskeletal

[5] The Regulatory Flexibility Act states that a Regulatory Flexibility Analysis need not contain all of the above elements *in toto* if these elements are presented elsewhere in the documentation and analysis of the rule. The Regulatory Flexibility Analysis should, however, summarize where these elements can be found elsewhere in the rulemaking record.

disorders. The most significant finding of the NRC report concerned the work-relatedness of MSDs: "there is a higher incidence of reported pain, injury, loss of work, and disability among individuals who are employed in occupations where there is a high level of exposure to physical loading than for those employed in occupations with lower levels of exposure." (Ex. 26–37)

3. Description of the Number of Small Entities

Determining the number of small entities falling within the scope of various provisions of the proposed standard at any given time is complicated, because all small entities in general industry are potentially affected by the rule in the sense that if a covered MSD occurs, the establishment will have at least to determine if the MSD is covered by the standard. (For the purpose of this economic analysis, a covered MSD is one that meets the criteria for an OSHA recordable injury or illness and additionally meets the screening criteria in section 1910.902.) The first step in the description of affected small entities for this IRFA is therefore to determine the number of small entities in general industry. However, in a typical year, most small entities will not in fact be within the scope of the standard, because only those small entities that have employees engaged in manual handling or manufacturing operations, or whose employee(s) experience a covered MSD, will be covered by the standard. Further, only establishments whose employee(s) experience a covered MSD will need to have a full program. Thus, to be within the scope of the standard, a small entity must have employees: (1) Engaged in manufacturing operations; (2) engaged in manual handling operations, or (3) who have experienced a covered MSD.

This analysis has been carried out in terms of small establishments rather than small entities. This was necessary because of the complexity of the probability calculation involving small entities owning multiple establishments. As a result, this economic analysis tends to overestimate the number of affected small entities, because some small establishments are owned by large entities. OSHA estimates that there are 5.8 million small establishments in general industry potentially affected by the rule. Of these, an estimated 1.45 million small establishment would be required by the proposed standard to maintain a basic ergonomics program at all times because they have employees engaged in manual handling or manufacturing operations. Over the course of 10 years, 1.5 million small establishments would need to initiate a full program at least once because an employee in the establishment had a covered MSD.

The proposed standard potentially covers an estimated 5.1 million very small entities (*i.e.*, those employing fewer than 20 employees). Of these, OSHA estimates that 1.27 million very small entities would be required to maintain a basic ergonomics program at all times. Over the course of 10 years, 1.1 million very small establishments would need to initiate a full program at least once because an employee in the establishment had a covered MSD.

4. Description of Proposed Reporting, Recordkeeping and Other Compliance Requirements

Compliance Requirements

There is widespread agreement that successful ergonomics programs include the following elements in some form:

- Management leadership and employee participation
- Hazard information and reporting
- MSD management
- Job hazard analysis and control
- Training
- Program evaluation.

OSHA is proposing a tiered approach to program implementation in this standard. This would mean that general industry establishments with a somewhat lower probability of incurring a covered MSD (*i.e.*, general industry establishments that do not engage in manual handling or manufacturing operations) would not be required to take action until an MSD has occurred. Moreover, further action would only be triggered if the MSD is determined by the employer to be one that is recordable under the OSHA recordkeeping standard, and, in addition, is determined by the employer to be a covered MSD. Establishments with a higher probability of incurring a covered MSD, *i.e.*, those whose employees engage in manufacturing operations or manual handling, would be required to implement a basic ergonomics program that emphasizes employer leadership and employee participation and hazard information and reporting, even in the absence of a covered MSD.

If no covered MSD occurs for three years in a job that has been controlled under the program required by the standard, the establishment is permitted by the proposed standard to drop back to the lesser program for that job (if the establishment had employees who were engaged in manufacturing or manual handling operations) or to a program consisting essentially only of maintaining the controls in the problem job and any associated employee training (if the establishment did not have employees engaged in manufacturing operations or manual handling).

The basic program includes those elements listed above that are appropriate to workplaces where covered MSDs and problem jobs have not yet been identified. The proposed standard includes the following elements in the basic program:

- Management leadership, including allocation of resources, information and training for responsible managers or supervisors, and assignment of program responsibilities;
- Establishment of an employee reporting system and protection against discrimination for employees participating in the program or reporting hazards;
- Providing employees with the information they need to recognize the signs and symptoms of MSDs and MSD hazards;
- Review of safety and health records the employer already keeps;
- Employee participation in the basic program; and
- Determination of the recordability and then covered status of reported MSDs.

Once a covered MSD has been identified, a full ergonomics program is required. However, even the full program may not be necessary in some circumstances when an MSD is identified. For example, if the means of controlling a job are obvious and completely effective, such as eliminating the need for lifting by installing automated equipment, then a detailed job hazard analysis is unnecessary because the employer will be able to use the proposed standard's quick fix option.

Table VIII–7 shows the requirements of the rule, the circumstances that trigger these requirements, the hours or costs involved, and the level of expertise required. These are estimates made by OSHA and its ergonomics consultants, and they are based on experience in implementing such

programs in a variety of workplaces. To further ensure that OSHA's estimates reflect real experience in actual workplaces, OSHA reviewed its estimates of the costs of controlling jobs with an Expert Ergonomics Panel made up of ergonomists with experience in controlling jobs in general industry settings. These estimates have been significantly modified from the estimates provided to the SBREFA Panel in February 1999. The most significant modifications to the economic analysis in response to the recommendations of the SBREFA panel are:

• OSHA has added "familiarization" costs for all general industry employers to read and understand the proposed rule to determine whether it:

(1) Applies to their establishment, and

(2) Would allow their program to be grandfathered in.

• OSHA has significantly increased its estimates of the costs of the analysis necessary to identify appropriate controls for problem jobs;

• OSHA has added costs for employers to assess whether a given MSD is in fact a covered MSD;

• OSHA has increased its estimates both of the amount of time consultants would be needed and the cost of consultant services.

The following table (Table VIII–7) shows the assumption OSHA used to develop the costs estimates used in this Preliminary Economic Analysis.

Table VIII–7.—Assumptions Used To Develop Costs for Provisions of the Proposed Rule

PROVISION	WHEN REQUIRED	HOURS OR COSTS INVOLVED	LEVEL OF STAFF OR EXPERTISE REQUIRED
Familiarization Costs to Review Standard to Determine Applicability to Establishment and Ability to Grandfather In (Cost to All General Industry Firms)	Initially for all establishments in general industry	1 Hour	Manager
Cost to Investigate whether an MSD or Persistent Symptoms are Covered by the Standard (Cost to All General Industry Firms)	All establishments with manufacturing or manual handling jobs; for other general industry establishments, only when an MSD occurs	0.25 hour of managerial time and 0.25 hour of employee time per recordable MSD	Manager who has received initial training
Cost to Implement Initial Program (designating responsible persons, providing resources, etc.) (Basic Program)	Establishments with basic programs: all with manual handling or manufacturing jobs; otherwise, only if MSD occurs	1 hour	Manager with initial training
Cost to Provide Managerial Training as Part of Management Leadership (Basic Program)	Establishments with basic programs: all with manual handling or manufacturing jobs; otherwise, only if MSD occurs	2 Hours	Manager
Cost to Set up Reporting System (Basic Program)	Establishments with basic programs: all with manual handling or manufacturing jobs; otherwise, only if MSD occurs	1 hour	Manager with initial training
Cost to Provide Employee Information (Basic Program)	Establishments with basic programs: all with manual handling or manufacturing jobs; otherwise, only if MSD occurs	0.5 hour per employee plus 0.5 hour managerial time	Manager with initial training
Cost to Provide Managerial Training in Establishments with Full Program	If persistent symptoms or an MSD occurs in manufacturing or manual handling establishments; otherwise, only where an MSD occurs	16 hours of managerial time	Manager with initial training

Table VIII–7.—Assumptions Used To Develop Costs for Provisions of the Proposed Rule—Continued

PROVISION	WHEN REQUIRED	HOURS OR COSTS INVOLVED	LEVEL OF STAFF OR EXPERTISE REQUIRED
Cost to Train Employees in Establishments with Full Programs	All establishments having problem jobs	1 hour of employee time per affected employee, 2 hours of managerial time per problem job to provide training; 25% of employers able to use quick fix option and do not need to conduct employee training	Manager with training required for the full program
Cost of Job Hazard Analysis (Full Program)	All establishments with problem jobs	1 hour of managerial time plus 1 hour employee time per problem job	Manager with full program training
Cost to Evaluate Job Controls (Full Program)	All establishments with problem jobs	2–16 hours of employee and 2–32 hours managerial time, depending on problem job; in 15% of cases, $2,000 for consulting ergonomist's time is assumed to be required	In 85% of cases, manager with full program training; in 15% of cases, consultant ergonomist
Cost to Administer MSD Management (Full Program)	All establishments with problem jobs	1 hour of managerial time per MSD	Manager with full program training, health care professional, or ergonomist
Cost to Do Record-keeping (Full Program)	All establishments with an MSD or persistent symptoms	0.25 hours of supervisory time per MSD	Supervisor
Cost to Conduct Program Evaluation (Full Program)	All establishments with full programs	4 hours of managerial time in the three years following occurrence of covered MSD. For 25% of problem jobs able to use quick fix option, no program evaluation is conducted	Manager with full program training
Cost To Implement Job Controls— Engineering, work practice, or administrative controls	Job control costs: all establishments with problem jobs	Costs per job intervention per affected employee vary by industry and occupational groups and are presented in detail in Chapter V of the Preliminary Economic Impact Analysis (affected employees include the employee incurring the covered MSD and all other employees in the establishment with the same job)	Covered under costs calculated for evaluating and implementing controls (above)
Cost to Provide Work Restriction Protection	All establishments with problem jobs	$946 per MSD	Covered in costs for administering MSD management, above

Benefits of the Proposed Standard

OSHA estimates that the proposed standard would, within 10 years, lower the current (1996) general industry rate of MSDs by 26 percent and produce direct cost savings of $9.1 billion per year; direct cost savings are defined as the value of lost production, medical costs, administrative costs of insurance, and indirect costs to employers. Direct cost savings do not include any quantitative benefits for the pain and suffering of workers and their families, and thus do not represent a full measure of the economic benefits of the proposed standard.

OSHA's benefits estimates are based on the following key assumptions, data, and estimates:

• Estimates of MSD rates are based on the BLS data on MSD rates for lost workday MSDs, multiplied by the ratio of lost workday injuries to all injuries and illnesses in an

industry to arrive at the total number of MSDs for an industry (see Industrial Profile, Chapter II, for a table showing MSD rates by industry);

- When a job is fixed, the MSD rate in that job is assumed to be reduced by 50% (the basis for this estimate is discussed in the Benefits chapter of this Preliminary Economic Analysis and in the Preliminary Risk Assessment section of the Preamble); and
- Establishments already having ergonomics programs are assumed already to have achieved a 50% reduction in their rates of MSDs.

Key Assumptions of the Preliminary Economic Analysis

OSHA's analysis of the benefits, costs and economic impacts of the proposed standard uses a variety of data and estimates from a number of sources. These data and estimates have been outlined in detail in the Industrial Profile, Costs of Compliance, and Benefit chapters of the Preliminary Economic Analysis (Chapters II, V, and IV, respectively). There are, however, certain issues for which data are lacking, and OSHA has had to make reasonable assumptions to bridge the data gaps in these cases. This section outlines certain key assumptions that OSHA has made, and solicits information and data that could be used to refine these assumptions.

1. BLS maintains data distinguishing MSDs from other types of occupational injuries and illnesses only for MSDs involving days away from work. This means that MSDs that involve restricted work (assignment of the injured worker to "light duty" work) or that involve time off only on the day of the injury are not counted by the BLS. Lacking any other information, OSHA has assumed that the ratio of all MSDs to MSDs with days away from work is the same for each industry as the ratio in that industry of total injuries and illnesses to all injuries and illnesses involving days away from work. The average value of this ratio is three, but the value varies greatly by industry. OSHA solicits information concerning the actual experience of employers with respect to the number of MSDs involving days away from work and the number of OSHA recordable MSDs that do not involve lost time.

2. OSHA does not have information concerning how many MSDs meet the proposed standard's test for covered MSDs (*i.e.*, the number of MSDs that would "pass" the screening criteria in section 1910.902) and thus would require the implementation of a full program. In the absence of such information, OSHA has assumed that all jobs that have already been controlled will not subsequently give rise to a covered MSD, while all jobs that have not been controlled will have covered MSDs that require the implementation of a full program. This assumption is discussed in detail in the Benefits chapter (Chapter IV), but it affects both the benefits and costs estimates for this proposed standard. OSHA welcomes any information concerning the frequency with which covered MSDs and non-covered MSDs occur, both in previously controlled and in uncontrolled jobs.

3. Lacking more detailed information, OSHA has assumed that MSD rates within an industry are determined by whether or not establishments have ergonomics programs. Many SERs were concerned that the proposed standard would result in significantly increased reporting of MSDs. OSHA examined this possibility by conducting a sensitivity analysis of the direct cost savings (benefits) and costs that would occur if the number of MSDs reported increased by 50 percent. OSHA found that, if the new MSDs reported had the same severity as those currently being covered by workers' compensation, the new reporting would increase the costs of the proposed standard to employers only by 24 percent but would increase the direct cost savings (benefits) associated with the proposed standard by 66 percent. This disproportion between the costs and benefits would be the case unless the new MSDs being reported were only 20% as severe as those being reported today. Further, based on the NCCI's estimate that employee-perpetrated fraud accounts for less than 2 percent of all workers' compensation fraud, and on the fact that the work restriction protection provision of the standard is triggered only when the employer—not the employee—makes the determination that WRP is necessary, OSHA does not believe that the proposed standard will encourage an increase in employee perpetrated fraud or that such fraud will affect the standard's costs or benefits.

Recordkeeping Requirements

Firms with fewer than 10 employees do not have to keep any records under this proposed standard. Firms that do not meet this condition must keep the following records:

- Employee reports and responses to those reports;
- Results of job hazard analyses;
- Hazard control records;
- Quick fix control records
- Evaluations of the program; and
- MSD management records.

5. Federal and State Rules That May Duplicate, Overlap or Conflict With the Proposed Rule

There are no existing Federal regulations requiring ergonomics programs of employers in general industry. OSHA published voluntary guidelines for ergonomics program management in meatpacking plants in 1990 to assist employers in that industry voluntarily to establish and maintain ergonomics programs. Only one state, California, currently has an ergonomics program standard in effect. The California program requirement is triggered by two or more MSDs of any type occurring in the same job. If OSHA were to adopt a similar approach, fewer full programs would be required than is the case with the proposed rule; however, the California rule requires a program if there are two MSDs of *any* kind, even if they do not meet OSHA's criteria for a covered MSD. (For a more detailed discussion of alternative triggers, see the last section of this chapter.) Several other States—Washington, Rhode Island, Minnesota, North Carolina—are currently developing enforceable ergonomics standards.

Currently, employers are required to correct some ergonomic hazards (*i.e.*, those posing a risk of death or serious physical harm) under the General Duty Clause of the OSH Act. OSHA's draft safety and health program rule (once in effect) would provide a framework requiring employers to address those ergonomic hazards citable under the General Duty Clause. OSHA has reviewed the current drafts of both the safety and health program rule and the ergonomics program standard and found that the ergonomics program required by the ergonomics program rule is consistent with and could easily be made a part of a safety and health program set up to comply with the draft safety and health program rule (once in effect). Indeed, the ergonomics program standard could be viewed as augmenting the safety and health program rule in three ways: (1) By expanding the coverage of the safety and health program rule to cover ergonomic hazards not covered by the General Duty Clause, (2) by providing additional detail concerning how MSD hazards should be addressed, and (3)

by requiring MSD management, including work restriction protection, for workers experiencing job-related musculoskeletal disorders.

Small entity representatives (SERs) who participated in the SBREFA process expressed concern that the proposed ergonomics standard might present conflicts with the National Labor Relations Act (NLRA) and with the Americans with Disabilities Act (ADA) and other equal opportunity legislation. These possible conflicts are discussed in detail in the Preamble to the proposed rule, along with a discussion of the perception among some SERs that the proposed standard may provide incentives to violate these statutes, *e.g.*, by encouraging selective hiring.

6. Alternatives to the Proposed Standard

Regulatory Flexibility Elements Already Incorporated Into the Proposed Rule

OSHA's proposed rule already incorporates a variety of regulatory flexibility features. First, the proposed rule has many performance-oriented aspects and is designed to provide all firms with flexibility in meeting the rule's core requirements. For example, the core requirement for employee participation states only that employees must have ways to report problems, get responses, and be involved in developing, implementing, and evaluating the ergonomics program. Employers have great flexibility in how to establish such systems and ensure such participation. Some employers may use formal mechanisms, such as employee surveys and joint employee-management committees. Others may find it more effective simply to designate a person who can receive employee reports and discuss problems with affected employees. The choice is up to the employer.

In addition to these general flexibility features, OSHA's proposed rule has been tailored to recognize the special problems potentially faced by employers with fewer than 10 employees in complying with the new rule. Although these employers cannot be exempted from the rule under the mandate of the OSH Act, the requirements for these employers have been reduced in some instances. For example, OSHA has tailored the proposed rule to very small employers by exempting them from all documentation requirements.

However, the most important regulatory flexibility features incorporated into the proposed standard are those related to tiering and the use of triggers. Tiering refers to the two levels of ergonomics program embedded in the standard: a "basic" program with few requirements for establishments without covered MSDs, and a "full" program with additional requirements for establishments with such MSDs. Triggers, on the other hand, are events occurring in the workplace that require certain employer actions under the standard. These mechanisms are designed to address the range in risk encountered by employees potentially within the scope of the standard.

Figures 1 and 2 show the distribution and cumulative distributions of the general industry population by level of risk of incurring a lost-workday MSD. The average risk of incurring such an MSD for all general industry employees covered by the BLS statistics is 7.1 per thousand employees per year (using 1996 data). As the table shows, less than 20 percent of the population is subject to levels of risk more than twice this average. Almost all employees experience a risk that is greater than 1 per 1,000 per year. Thus, employees in general industry are almost universally subject to a significant annual risk of incurring a lost workday MSD; however, portions of the employee population are subject to unusually high risks. OSHA has preliminarily rejected the alternative of exempting some employers in general industry from the scope of the standard because significant risk exists for all employees in general industry and the Act does not envision the exemption of employers whose employees face such risks.

Recognizing the need to provide protection for employees subject to significant risk but wishing to minimize the burden associated with a full ergonomics program, OSHA has tried in the proposed rule to provide flexibility through a system of tiering and triggers, as discussed above. The proposed standard uses two types of triggers: (1) Whether a general industry employer has employees engaged in manufacturing operations or manual handling, and (2) whether or not an employee in a general industry facility has had a job-related MSD.

BILLING CODE 4510–26–P

VOL 64 ISS 225 NO 23 1999 UMI

Figure 1

Figure 1

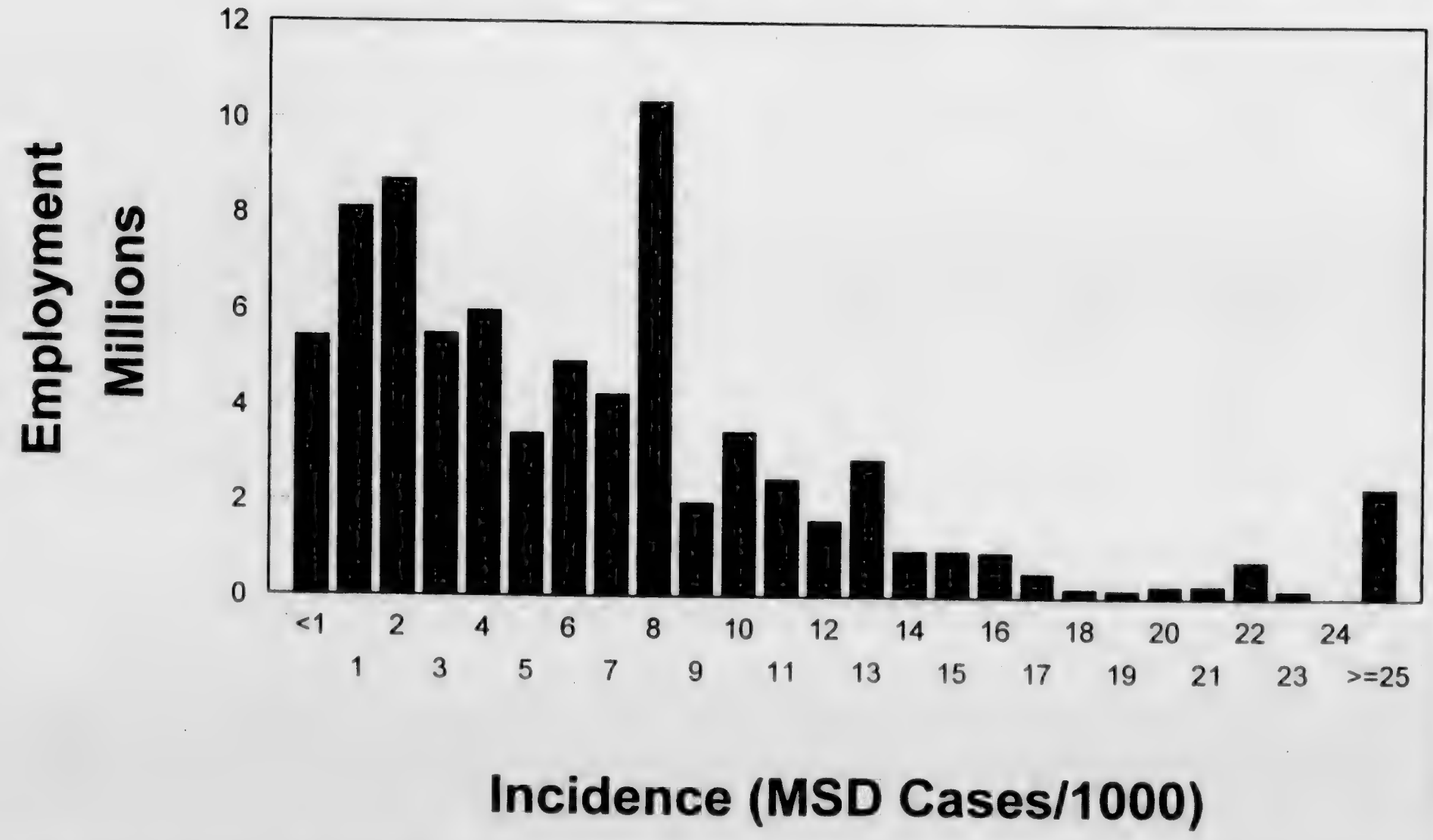
Employment by MSD Incidence
From 1996 BLS Data (3-digit SIC)
Employment
Millions
0
2
4
6
8
10
12
<1
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
>=25
Incidence (MSD Cases/1000)

VOL 64 ISS 225 NO 23 1999 JUMI

Figure 2

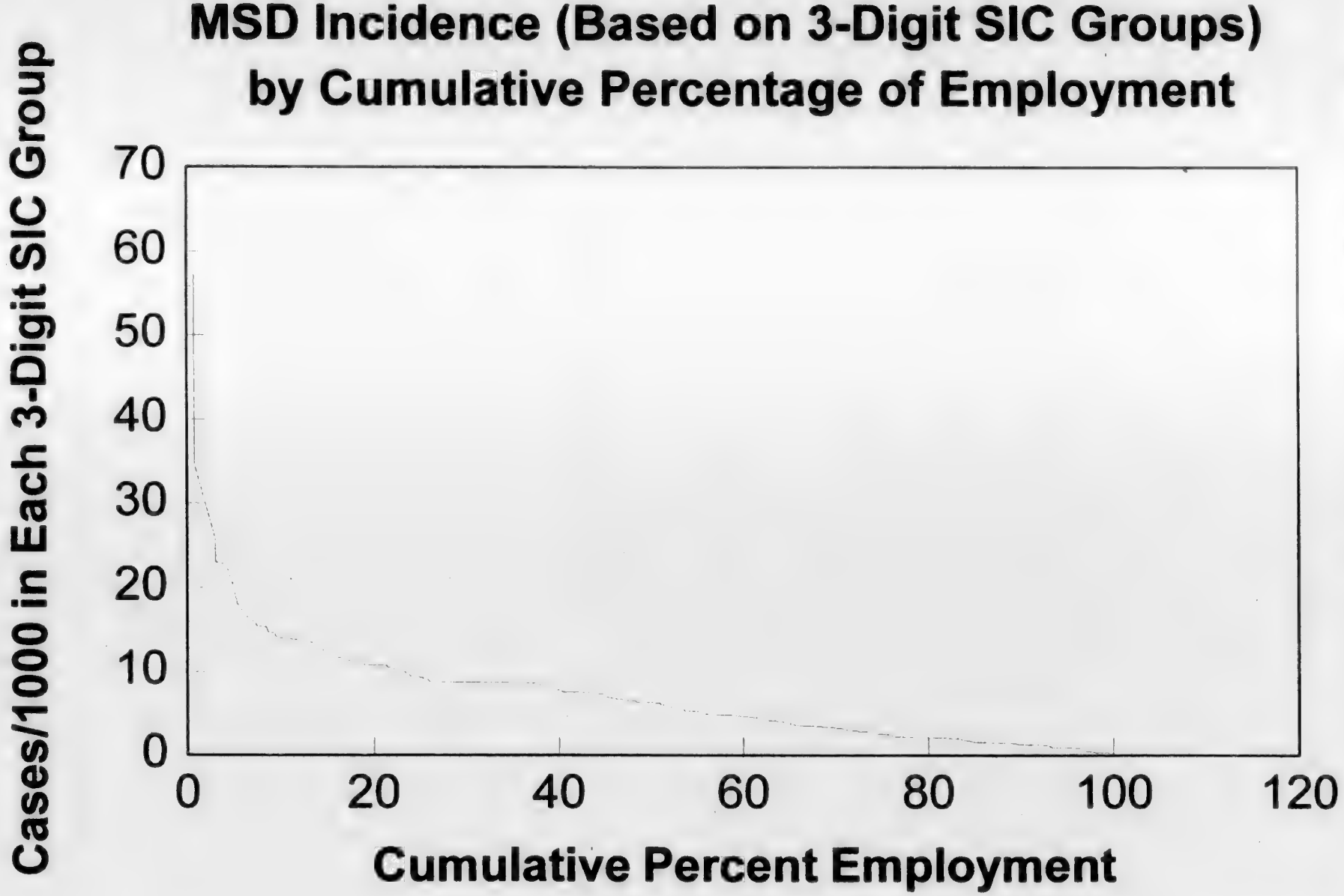

BILLING CODE 4510–26–C

Employ
operation
other ge
engaged
workday
employe
engaged
ergonom
participa
even if n
25 percen
up a basi
manufac
this requ
to other e
need to s
However
operation
full prog
control; t
unless a
industry
in manuf
need to h
occurs. T
firms cle
evidence

Approx
need to r
occurs in
program
job) and t
physical
incurred
up a prog
in the pro
job) in th

The trip
proposed
in manuf
a covered
the follow

• It is, o

• It occ
work activ
type of MS

• The w
core eleme
worktime.

This m
that may
or that ar
of a kind

OSHA
business
providing
published
one or mo
if an MSD
solicits co
efforts an
assistance

Present
has consi
solicits co

Employers with employees engaged in manufacturing operations or manual handling are treated differently from other general industry employers because employees engaged in these activities account for 60 percent of all lost workday MSDs while accounting for only 28% of all employees in general industry. Firms with employees engaged in these two activities are required to set up a basic ergonomics program with management leadership, employee participation, and hazard identification and information even if no MSD has occurred at the facility. Approximately 25 percent of all general industry employers will need to set up a basic program for their employees engaged in manufacturing operations or manual handling as a result of this requirement. (The basic program need not be applied to other employees in the facility.) Other employers do not need to set up a basic program unless an MSD occurs. However, firms with employees engaged in manufacturing operations or manual handling are not required to have the full program elements of job hazard analysis and hazard control; training; MSD management; and program evaluation unless a covered MSD occurs. In other words, general industry employers who do not have any employees engaged in manufacturing operations or manual handling do not need to have any ergonomics program until a covered MSD occurs. Thus most program elements are only required in firms clearly demonstrated to have an MSD hazard, as evidenced by the fact that a covered MSD has occurred.

Approximately 75% percent of all employers will not need to respond to this standard in any way unless an MSD occurs in their facility. Even when an MSD occurs, the full program applies only to the injured employee (at his or her job) and to employees with the same job (with respect to physical work activities) as that of the employee who incurred the MSD. There is no need for the employer to set up a program for other employees (*i.e.*, those who are not in the problem job or a job judged to be the same as that job) in the facility.

The triggers used for additional program elements in the proposed standard are the presence of employees engaged in manufacturing or manual handling, and the presence of a covered MSD. A covered MSD is defined as one that meets the following criteria:

- It is, or would be, recordable on an OSHA 200 log;
- It occurred in a job where workplace conditions and physical work activities are reasonably likely to cause or contribute to the type of MSD reported; and
- The workplace conditions and physical work activities are a core element and/or make up a significant amount of the employee's worktime.

This multi-level trigger serves to eliminate many MSDs that may occur as a result of unusual activities on the job or that are not the result of routine exposure to risk factors of a kind known to cause or contribute to MSDs.

OSHA will respond to the need expressed by many small business stakeholders for guidance and outreach by providing extensive outreach materials when the rule is published in final form. For example, OSHA may develop one or more checklists that can be used to aid in determining if an MSD is covered and to aid in job analysis. OSHA solicits comments on the best ways to focus its outreach efforts and the best means for providing compliance assistance to small entities.

Presented below are a number of alternatives that OSHA has considered in developing the proposed standard. OSHA solicits comment on all of the alternatives discussed below.

Alternative 1: No Rule: Continue To Rely Only on Existing OSHA Programs and Policies. Some small entity stakeholders urged OSHA to continue to rely on outreach efforts to encourage employers to adopt ergonomics programs voluntarily, *i.e.*, to continue to urge employers to voluntarily adopt the Agency's meatpacking guidelines, or a variant on these guidelines designed for all firms, rather than issuing a rule. OSHA has made the voluntary adoption of ergonomics programs a cornerstone of many of its injury prevention efforts for years. The Agency also has had regional ergonomics coordinators to provide technical assistance to OSHA area offices, consultation programs and state programs since 1987. OSHA issued the ergonomics program management guidelines for meatpacking plants in 1990 (Ex. 26–3). Since 1991, OSHA has also published a series of booklets designed to raise awareness and provide solutions to ergonomics problems. Since 1996, OSHA has had a formal four-pronged strategy for ergonomics, including outreach and education; research; and enforcement under the General Duty Clause, in addition to development of this proposed rule. As part of this strategy, starting in 1997, OSHA has held a series of national and regional "Best Practices" conferences on ergonomics. Such conferences have made a special effort to assure participation by small businesses. Starting in 1997, OSHA also has maintained an ergonomics page on its web site. This page provides access to OSHA publications on ergonomics, news about opportunities to participate in ergonomics conferences, and links to websites with ergonomics information.

Despite these efforts and the fact that many firms have found ergonomics programs cost-effective, only one-third of establishments surveyed by OSHA (OSHA survey, 1993) reported having done any risk analysis of ergonomic hazards in their workplaces. Even fewer have actually attempted to fix jobs that have ergonomic hazards. Firms that have begun to implement ergonomics programs cannot be distinguished by industry, SIC code, or other obvious factor from those that have not done so, *i.e.*, some firms have implemented such programs, while other firms that face similar musculoskeletal problems and belong to the same industry have not.

Although the Agency's efforts to encourage the voluntary adoption of ergonomics programs, backed by enforcement efforts involving the General Duty Clause (which have often led to corporate settlements), have resulted in thousands of employers and employees receiving the benefits of ergonomics programs, the majority of employers still have not adopted such programs. OSHA's experience also shows that outreach without enforcement is unlikely to be successful. The industries that have been most successful in adopting ergonomics programs and reducing MSDs—the automobile and meatpacking industries—both did so as a result of an OSHA strategy combining strong enforcement and outreach. At this stage, the additional incentive provided by a rule, in addition to targeted enforcement of the General Duty Clause and continued outreach, is needed if a majority of employers are to adopt ergonomics programs. OSHA will continue, and indeed plans to intensify, its outreach efforts in this area. Publication of a rule does not mean that OSHA is abandoning outreach, or choosing only to rely on this rule; instead, the Agency is adding a rule to all of its other efforts to encourage employers to adopt ergonomics programs. The ergonomics program rule thus supplements the Agency's other efforts and brings to bear the only major tool at the Agency's command that has not to date been employed in the effort to encourage employers to adopt these programs.

Some small entity stakeholders argued that because ergonomics programs are cost effective, there should be no need for regulation. Although OSHA agrees that ergonomics programs are cost effective for most small businesses, OSHA does not agree that cost effectiveness represents a sufficient motive for many small businesses to implement ergonomics programs. There are two major reasons for this.

First, many of the benefits of ergonomics programs do not accrue directly to smaller employers. Research has shown that workers' compensation costs do not, on the average, cover all income losses to injured workers, and do not attempt to account for their pain and suffering. Further, MSDs are significantly underreported to the workers' compensation system. One study found that the percent of medically diagnosed MSDs reported to the workers' compensation system ranged only from less than 1 percent to about 14 percent (Fine, Silverstein, Armstrong, Anderson and Sugano 1986 (Ex. 26–920)). An occupational safety and health professional participating in an ergonomics workshop sponsored by the Canadian Centre for Occupational Health and Safety (CCOHS) (1988) reported the same finding, stating that, "Many workers are afraid to report RSIs [repetitive strain injuries] * * *. Many seek private benefits and try to avoid any contact with workers' compensation because of the [bad] experience of other workers trying to get claims accepted." Another workshop participant was of the same opinion: "the vast majority of RSIs never reach the * * * workers' compensation system at all. The costs [of these injuries] are in the medical system * * *." Other studies (Cannon, Bernacki, and Walter 1981 (Ex. 26–1212); Silverstein, Stetson, Keyserling, and Fine (1994) provide plant-specific evidence of this tendency (Ex. 26–28). For an analysis of the underreporting and underfiling issue as it relates to occupational injuries and illnesses generally and to MSDs in particular, see Section VII of the preamble, Significance of Risk.

The social burden of adverse health effects is also shared by taxpayer-supported programs such as welfare, social security disability payments, and Medicare. Employers therefore have less incentive to avoid such losses than they would if they were directly liable for, or even aware of, all such claims. This combination of problems not reported to employers and the transfer of risk to others is another reason why the market fails to internalize the social costs of occupationally related injuries and illnesses such as musculoskeletal disorders. If workers do not recognize a risk as work-related or do not report the problem to employers, it will not be adequately addressed by employers.

In addition, smaller employers typically are not experience-rated, so that they do not directly pay a significant share of the costs of workers' compensation claims. This is particularly true of smaller firms with fewer hazards. Economic analysis principles suggest that regulations should consider costs and benefits to all parties, not just to employers. When a substantial portion of all benefits go to parties other than employers, employers cannot be counted on to implement ergonomics programs to the extent that such programs are cost beneficial.

Second, small businesses typically take the very understandable approach of not fixing what isn't perceived to be broken. Because ergonomic injuries and illnesses are relatively rare events in small firms, and are paid for in part by workers' compensation insurance, many small employers, especially in lower hazard industries, often neglect ergonomic problems. This does not mean that ergonomics programs are not cost effective. Aggregate statistics show that small firms have a significant number of MSDs, and studies show that these MSDs can be reduced by ergonomics programs. However, because MSDs are rare events for an individual small employer, the need for ergonomics programs may not come to the attention of busy small business employers as often as is the case for larger employers. As a result, ergonomics programs are less likely to be adopted by employers with few employees. (See discussion below.) This is unfortunate, because ergonomics programs are one of the best ways to lower workers' compensation costs for small businesses over the long run.

The threat of higher workers' compensation premiums and the presence of a substantial number of ergonomics injuries and illnesses do provide economic incentives for larger firms, because these firms are aware of and internalize a larger proportion of the true costs of the job-related injuries incurred by their workers. Thus larger firms can be expected to have done more about musculoskeletal hazards than smaller firms. Results from OSHA's ergonomics survey (OSHA survey, 1993) bear out this theoretical proposition: they show that only 28 percent of firms with fewer than 20 employees have analyzed their jobs for risk factors, while fully 80 percent of establishments with 250 or more employees, *i.e.*, the largest firms and those most likely to self-insure, have done so. The same pattern holds for following through on these job analyses: 76 percent of the largest establishments have implemented at least some engineering controls to reduce risk factors, while only 23 percent of firms with fewer than 20 employees have done so. These data suggest that, where adequate awareness and economic incentives are present, firms find it in their interest to address the risk factors responsible for musculoskeletal disorders.

Alternatives 2 and 3: Tiering Approaches

Alternative 2: Eliminate the Basic Program Requirement for Employers in Manufacturing or Manual Handling. The advantages of a basic program are that it assures that MSDs will be reported as soon as they occur and that a system is in place to address problems as they occur. Many stakeholders who have initiated a basic program have found that having a reporting system, conducting some basic hazard identification, and providing information on MSDs to employees increases the number of reported MSDs and thus the number of cases where early intervention is possible. OSHA has been unable to demonstrate that a "reporting blip" in fact follows increased awareness of MSDs. OSHA's survey of employers with ergonomics programs (1993) would suggest that this is not the case. Even in the absence of a full ergonomics program, the early and complete reporting of MSDs can actually serve to lower the costs of MSDs because early reporting means that simple corrective action may take care of the problem and avoid extensive lost work time. Many employers and insurers feel that awareness and MSD management alone can significantly reduce the costs of MSDs. The proposed standard's requirements for a basic program for employers with employees in manufacturing or manual handling operations result in costs of $36 million per year for all businesses. Eliminating the basic program in manufacturing and manual handling, as this alternative would require, would lead to fewer reported MSDs and to a greater likelihood that MSDs will not receive attention until they become very expensive in terms of lost time and the costs of medical care. On the other hand, dropping the basic program requirement would eliminate the need for any program in facilities that have no covered MSDs.

Alternative 3: Extend the Basic Program Requirement to All of General Industry. Because OSHA believes that having

a basic program is of value to all employers whose employees are at risk of experiencing MSDs, OSHA considered extending the basic program to all employers in general industry. Because many general industry employers whose employees do not engage in manual handling or manufacturing operations generally have lower rates of injuries and illnesses, in addition to lower rates of MSDs, many of these general industry employers are not required even to maintain an injury and illness log under OSHA's recordkeeping requirements. However, employers who are not required to maintain an OSHA 200 Log or to have a basic program would be forced to rely primarily on workers' compensation claims for information about ergonomics hazards in their workplaces, and such claims have been shown to be an inadequate source of such information. Based on one study in the state of Wisconsin (NAS 1987), workers' compensation claims represented only 70% of all OSHA reportable injuries (Ex. 28–4). In the absence of a basic program with a formal reporting system, this means that 30 percent of MSDs might go unreported and uninvestigated. Extending the basic program to employers in all of general industry would result in additional initial costs of $318 million and in significant additions to the number of MSDs reported and corrected, as well as providing employees additional protection by encouraging reporting before MSDs become workers' compensation claims. The proposed standard does not extend the basic program requirement to general industry because the Agency is committed to targeting the standard to those facilities that have been shown to have the greatest MSD hazards.

Alternatives 4 through 8: Use Different Triggers

General Discussion. One of the key features of the proposed standard is that a full program is only triggered by a covered MSD, and then only for employees with the same job as the employee who incurred the MSD. OSHA found that the average job had three persons per job and that the average uncontrolled job has an MSD rate of 5 percent per year. Under the proposed trigger, it would be 5 years before 50% of all of the uncontrolled jobs covered by the scope of the standard are controlled, and 15 years before 90% of such jobs are controlled. Some stakeholders were concerned that this trigger was insufficiently proactive, and, as a result, OSHA examined alternatives that would result in more rapid efforts to control currently uncontrolled jobs. Alternative 4 reflects a more proactive trigger, *i.e.*, that the signs and symptoms of MSDs be used as a trigger, and Alternative 5 is similarly proactive, because it would require a job hazard analysis of all jobs, without regard to whether MSDs have occurred to employees in them.

Other stakeholders were concerned that reliance on a trigger of one covered MSD would impose major expenses on employers to investigate and even control jobs that do not need controls, either because the job has already been controlled or because the MSD is one that has little or nothing to do with the kinds of risk factors a full ergonomics program can address. The OSHA proposal recognizes this potential problem by allowing, in section 1910.902, employers to rule out OSHA-recordable MSDs that are not related to the physical work activities and conditions in the job or do not constitute a core element or significant portion of the job. In the typical controlled job, where the average MSD rate is 2.5 percent per year, 50% of firms will incur an MSD within 9 years, and thus will have to determine if the MSD is one that will trigger a full program. Nevertheless, OSHA investigated the consequences of the use of alterative triggers involving more than one covered MSD. Alternative 6 is such an alternative: it would require a full program only when an establishment has had two covered MSDs; Alternative 7 also reflects a more stringent trigger and would require a full program only when two MSDs have occurred in the same job within one year; Alternative 8 would require a full program only when two MSDs have occurred within two years in the same job; Alternative 9 would require a full program only when two MSDs have occurred within three years in the same job; and Alternative 10 would require a full program only when an MSD involving days away from work occurs. The analysis of alternatives 6 through 10 assumes that work restriction protection would continue to be triggered by a single MSD of any kind.

Alternative 4: Use Signs and Symptoms to Trigger the Program. OSHA's proposed standard uses the occurrence of a covered MSD to trigger the full ergonomics program. The use of this trigger is particularly advantageous to smaller firms, because the smaller the firm, the less likely it is to incur an MSD and thus to need a full program. The typical firm with 1 to 20 employees, for example, will need to initiate a full program only once every ten years. The majority of very small firms, those, for example, with only two or three employees, will go 10 years without ever having to initiate a full program. However, because use of this trigger also means that corrective measures will not be implemented for years even in some high risk jobs, OSHA considered other, more proactive triggers. If a more proactive trigger such as the signs or symptoms of MSDs were used to trigger the full program, the number of MSDs reported would increase by 2 to 7 times, and a substantially larger number of employers would be required to implement a formal reporting system.

Alternative 5: Use the Results of Job Hazard Analysis to Trigger the Program. OSHA also considered requiring employers to implement job hazard analyses for all jobs in their establishments and to implement a full program if the analysis identified any high risk jobs. OSHA has not proposed this approach because it would require substantial effort by all employers, even those whose employees do not have a high probability of incurring an MSD or have not yet incurred an MSD. In addition, such an approach would increase the first-year costs of the ergonomics program standard by a factor of at least 10.

Alternative 6: Use a Trigger of Two MSDs per Establishment. The SBREFA Panel recommended that OSHA consider as an alternative trigger the occurrence of two MSDs at an establishment in a one year period, rather than the proposed trigger of one MSD in a job. To analyze this alternative trigger, OSHA assumed that the two MSDs would be covered MSDs, as they are under the proposed standard. The chief advantage of the alternative two-MSD trigger is that it would eliminate the need for the employer to investigate the first MSD to occur in an establishment. This alternative trigger would therefore have little effect on larger firms. Indeed, the typical establishment with more than 100 employees and typical rates of MSDs for either controlled or uncontrolled jobs can expect to have two MSDs every year and would thus, under the two-MSD trigger, need a full program. Indeed, if two MSDs in an establishment trigger a full program for the entire establishment, larger establishments would permanently need to have a full program for all employees. For smaller establishments, however, this alternative would greatly extend the time necessary to ensure that uncontrolled jobs are controlled. For a five-employee establishment, the requirement of a two MSD per establishment trigger would mean that it would be 30 years before 50% of such establishments would have controlled any jobs. During this

time period, over 3.5 potentially controllable MSDs would have occurred in each such establishment.

Alternative 7: Use a Trigger of Two Covered MSDs in the Same Job Within One Year. To limit the number of situations in which employers would have to establish a full program when a full program might not be needed, many stakeholders expressed interest in alternatives involving more than one MSD. The SBREFA Panel also recommended that OSHA examine such alternatives. This section examines the alternative of using a trigger of two covered MSDs in the same job within one year.

If this trigger were adopted, it would be 95 years before 50% of all typical uncontrolled jobs (where "typical" is defined as a job with a 5% MSD rate and three persons in the job) were controlled, and 325 years before 90% of such jobs were controlled. In this typical situation, use of this trigger would mean that more than 14 preventable MSDs would occur in an uncontrolled job before a full program to control that job would be required. For situations in which there is only one employee holding a job, a full program would almost never be triggered under this alternative. On the other hand, in the typical controlled job (MSD rate of 2.5%, 3 persons per job), 50% of firms would incur 2 MSDs in a year only once every 400 years, at which time they would have to determine if the two MSDs were covered. Thus use of this alternative trigger would ensure that employers would only rarely have to address MSD problems occurring in controlled jobs; however, this alternative achieves this by allowing many preventable MSDs to occur in uncontrolled jobs.

Under this alternative, economic costs would decline to $0.85 billion per year, while costs to employers would decline to $1.85 billion per year. Significantly fewer employers would need to control jobs or initiate full programs; however, the costs of WRP (the proposed rule's Work Restriction Protection provision) would be higher because the standard would prevent significantly fewer MSDs but many workers would continue to need time off to recuperate. This alternative would reduce the number of establishments subject to full programs, but would do nothing to mitigate the effect of a full program on those employers required to have a full program. Thus the economic impact on affected facilities would be virtually unchanged. Direct cost savings (benefits) would decline to $2.18 billion per year under this alternative.

This alternative also would not significantly decrease employers' costs for determining the covered status of MSDs or for recordkeeping because, for this alternative to work, employers would need to keep records of all MSDs, and the records would need to contain sufficient investigative information for employers to determine, when a second MSD occurred, what control approach to adopt to address the risk factors present in the jobs giving rise to both MSDs.

Alternative 8: Use a Trigger of Two MSDs within Two Years in the Same Job. Both the SBREFA Panel and OSHA stakeholders recommended that OSHA evaluate an alternative trigger of two covered MSDs in the same job occurring within a two year period. If this trigger were adopted, it would be 35 years before 50% of typical (where "typical" is defined as a 5% MSD rate and three persons in the job) uncontrolled jobs were controlled, and 100 years before 90% of such jobs were controlled. In this typical situation, use of this trigger would mean that more than four MSDs would occur in an uncontrolled job before the employer would be required to implement a full program. On the other hand, in the typical controlled job (MSD rate of 2.5%, 3 persons per job), 50% of firms would incur 2 MSDs within two years only once in 130 years (and thus would have to determine whether the second MSD triggers a full program only once in the same period). Thus this alternative would mean that employers would only rarely have to investigate problems in controlled jobs, but it would do so by allowing many preventable MSDs to occur in uncontrolled jobs.

Under this alternative, economic costs would decline to $1.40 billion per year, while costs to employers would decline to $2.33 billion per year. Very few employers would need to control jobs or initiate full programs; however, the costs of WRP would be higher because the standard would prevent very few MSDs but many workers would still need time off to recuperate. This alternative would reduce the number of establishments subject to full programs, but would do nothing to mitigate the effect of a full program on those employers required to have such a program. Direct cost savings (benefits) would decline to $4.24 billion per year under this alternative.

In OSHA's view, this alternative would also not significantly decrease an employer's costs for investigating MSDs or for recordkeeping. For this alternative to work, employers would need to keep records of all MSDs, and the records would need to contain sufficient investigative information for the employer to determine, if a second MSD occurred, what kinds of controls would be appropriate to address the risk factors associated with the two MSDs.

Alternative 9: Use a Trigger of Two MSDs within Three Years in the Same Job. OSHA also analyzed a trigger alternative of 2 MSDs in three years in the same job. If this trigger were adopted, it would be 10 years before 50% of typical uncontrolled jobs (where "typical" is defined as a 5% MSD rate and three persons in the job) were controlled, and 30 years before 90% of such jobs were controlled. Use of this trigger would thus mean that more than four MSDs would occur in an uncontrolled job before a full program to control that job would be required. On the other hand, in the typical controlled job (MSD rate of 2.5%, 3 persons per job), 50% of firms would incur 2 MSDs within two years only once in 80 years (and would then have to determine if the MSD is covered.) Thus this alternative would also ensure that employers would rarely have to investigate problems in controlled jobs, but the alternative achieves this by allowing many preventable MSDs to occur in uncontrolled jobs.

Under this alternative, economic costs would decline to $1.70 billion per year, while costs to employers would decline to $2.61 billion per year. Significantly fewer employers would need to control jobs or initiate full programs under this alternative; however, the costs of WRP would be higher because the standard would prevent significantly fewer MSDs but many workers would still need time off to recuperate. This alternative would thus reduce the number of establishments subject to full programs, but would do nothing to mitigate the effect of a full program on those employers required to have a full program. Direct cost savings (benefits) would decline to $5.05 billion per year under this alternative.

Alternative 10: Use a Trigger of One Lost Workday MSD. The SBREFA Panel urged OSHA to consider an alternative trigger of one lost workday MSD, *i.e.*, one MSD involving days away from work. This alternative would have the effect of reducing the probability of triggering a full program by approximately 66 percent. If this trigger were adopted, it would be 14 years before 50% of typical uncontrolled jobs (where "typical" is defined as a 5% MSD rate and three persons in the job) were controlled, and 50 years before 90%

of such jobs were controlled. On the other hand, in the typical controlled job (MSD rate of 2.5%, 3 persons per job), 50% of firms would incur 2 MSDs within two years only once in 30 years (and thus have to determine if the MSD would trigger a full program). Thus this alternative would also ensure that employers would rarely have to investigate problems in controlled jobs, but the alternative would achieve this by allowing many preventable MSDs to occur in uncontrolled jobs.

Under this alternative, economic costs would decline to $1.64 billion per year, while costs to employers would decline to $2.49 billion per year. This alternative would reduce the number of establishments subject to full programs, but would do nothing to mitigate the effect of a full program on those employers required to have a full program. Direct cost savings (benefits) would decline to $5.24 billion per year under this alternative.

Alternative 11: Use a Trigger of One Lost Workday MSD or 2 MSDs. This alternative would provide two triggers. An employer would have to fix a job and/or implement a full program if *either* of two conditions occurred: (1) There was a lost workday MSD; or (2) There were two MSDs in that job. This alternative would remove an incentive that employers might have with the single lost workday MSD trigger, *i.e.*, to urge employee to be on restricted duty rather than away from the workplace to avoid the lost workday that would trigger the standard's job hazard analysis and control requirements. This approach would somewhat increase both the costs and direct cost savings as compared to alternative 10.

OSHA's Preliminary Conclusions With Respect to Alternative Triggers

OSHA has examined a number of alternative triggers, including triggers that are more and less proactive than the trigger included in the proposed standard. OSHA believes that the choice of trigger it has made in the proposal—reliance on the occurrence of a single covered MSD in a job to trigger the full program for that job and all jobs in the establishments that are the same with respect to physical work activities—represents a reasonable compromise between the need to protect workers from MSDs, on the one hand, and the need, on the other, to target the standard to situations where the risk is greatest. OSHA believes that use of a trigger involving more than one MSD or a single lost workday MSD would inevitably mean that many workers will be injured, *i.e.*, that many preventable MSDs will occur before action is taken. OSHA also believes that the provisions of the proposed standard that are designed to ensure that only covered (and thus job-related) MSDs trigger the full program are sufficient to ensure that full programs will not be required except where they are needed. OSHA solicits comment both on triggers and the use of more than one MSD as a trigger.

Alternatives 12,13, 14, and 15: Alternatives Related to Work Restriction Protection

General Discussion. Many stakeholders objected to the work restriction protection (WRP) provisions (called medical removal protection, or MRP in the draft standard reviewed by the SBREFA Panel) of the proposed standard. The SBREFA Panel recommended that OSHA re-examine the need for WRP and explore possible alternatives to WRP. In order to do this, it is first necessary to understand that OSHA believes WRP is necessary because, absent WRP, the proposed standard provides employers and employees with significant incentives to avoid recognizing and reporting workplace MSDs. First, employees may be reluctant to report MSDs if reporting them could cause the employee to suffer financial loss. In the hearing on OSHA's arsenic standard, for example, OSHA heard testimony to the effect that fully 42% of employees had chosen not to participate in a medical surveillance program that would potentially cause them to lose money or risk their jobs, and the rulemaking records in several other OSHA health standards (*e.g.*, lead, cadmium) also support the need for MRP on the ground that it is needed if employees are to participate fully in medical programs. Two aspects of the proposed standard are especially relevant in this connection: first, the prompt reporting of MSDs is important because MSDs reported early are less likely to lead to long-term disability. One study (see Section VIII. D.) found that the severity of MSDs could be reduced by 75 percent or more through early reporting alone. Second, the proposed standard is designed specifically so that, if no covered MSD is reported, the employer need not implement the full program. Thus, employers covered by the standard have significant new incentives to discourage the reporting of MSDs and, absent WRP, employees have a significant incentive not to report them. Three examples, which are discussed separately below, highlight the range of employee disincentives to reporting and employer policies that could be invoked in the absence of WRP: (1) MSDs involving lost worktime and not covered by workers' compensation; (2) MSDs involving lost worktime that are covered by workers' compensation; (3) and assignment to light duty ("restricted work") involving no lost worktime.

MSD Not Covered by Workers' Compensation. There are two common reasons why a particular work-related MSDs may not be covered by workers' compensation: first, the length of the worker's absence from work may be shorter than the workers' compensation waiting period for that state. States have waiting periods of from one to seven days before the indemnity portion of workers' compensation comes into effect. This means that an employee who reports an MSD could be out of work for one to seven days without receiving pay for this period. The likelihood of receiving no pay during this interval is particularly important for employees in the 50% of small firms that provide their employees with no sick leave (BLS 1995). Thus employees in this situation clearly have an incentive to avoid reporting an MSD, particularly when, under the proposed standard, the employer or health care professional could recommend that the employee stay home for a few days to recuperate. In addition, in the absence of WRP, employers could greatly increase the disincentive for employees to report MSDs by instituting a policy requiring any employee who reports an MSD to take from one to 5 days off from work. Such a policy would, in many cases, cost the employer nothing, and might even seem like a good way of avoiding the worsening of the MSD. However, such a policy would also ensure that employees would be extremely reluctant to report MSDs. There are also situations where many types of work-related MSDs, *e.g.*, rotator cuff tendinitis in Virginia, are not covered by workers' compensation no matter how long the absence from work. In this case, the employee could lose his or her job and all pay and benefits for an unlimited duration as a result of the MSD. Since an employee can never be certain that an MSD will be covered by workers' compensation (some employers routinely question all workers' compensation claims related to MSDs), this possibility is likely to be in the employee's mind whenever he or she reports an MSD.

MSD Covered by Workers' Compensation. When an MSD is covered by workers' compensation, the potential disincentives to underreporting are smaller. For example,

many States retrospectively pay indemnity for the waiting period once the claim is accepted and the waiting period is exceeded. However, workers' compensation does not address either tangible or intangible benefits other than salary. As a result, a worker out on workers' compensation could lose both tangible benefits (such as health insurance for himself/herself and his/her family) and intangible benefits, such as seniority and even the right to return to the job when able. These potential losses represent a serious threat to the income and job security of an employee and are therefore likely to lead to a reluctance to report.

Worker with MSD Placed on Restricted Work. When a worker is placed on restricted work within the employer's establishment, workers' compensation temporary disability payments do not come into play. In this situation, the chief disincentive to reporting is the possibility that the employer will cut pay because the available restricted work job involves lower pay, or that the employer will cut tangible or intangible benefits, such as seniority rights.

Nevertheless, to respond to the recommendation of the SBREFA Panel, OSHA examined a number of alternatives to the proposed work restriction protection provisions, which are discussed in detail below. For comparison, it should be noted that OSHA's proposed WRP provision has annualized costs of $875 million per year. Twenty-four percent of these costs are associated with lost worktime that does not exceed the waiting limit for workers' compensation; 18 percent is associated with supplementing workers' compensation payments with additional pay and benefits; and 58 percent is associated with covered MSDs that would not be covered as workers' compensation claims at all. Alternatives 12 through 14 assume that a worker would receive 90 percent of take-home pay and full benefits when away from work.

Alternative 12: Do Not Require Work Restriction Protection. Work restriction protection accounts for approximately 22% of the costs of the rule to employers, or about $875 million per year. All of these costs to employers could be saved by eliminating the WRP provision from the proposed rule. This approach would, however, provide employees with disincentives to report in any situation where either the employee's medical situation or the employer's policies would require the injured employee to spend time away from work. This approach would essentially enable the least conscientious employers to avoid the intent of the standard almost completely by adopting policies designed to discourage reporting; even employees of employers who do not intend to be punitive toward employees reporting MSDs would be somewhat discouraged from reporting because they would fear the economic loss potentially associated with reporting.

Relatively few of the SERs favored removing the WRP provision completely; many, if not most, of the objections to WRP focused on those situations where an employee would be paid for being absent from work, rather than on workers on restricted work or the loss of intangible benefits after the employee returns to work. In response, OSHA has revised the WRP provision in the proposal to differentiate somewhat between those injured workers who are out of work entirely and those who are on restricted work.

Alternative 13: Require Worker Restriction Protection for Only Three or Seven Days. Limiting WRP to 3 days with full pay and benefits would address the problem that the workers' compensation system in many States does not cover short term absences. This approach would reduce the costs of WRP by 76 percent, to $210 million per year. However, this approach would still leave workers in some States subject to losses even for cases otherwise eligible for workers' compensation because some States have waiting periods that are longer than three days. More importantly, this alternative would provide injured employees with no pay beyond three days if the MSD turned out not to be covered by workers' compensation. Since whether an MSD is covered by workers' compensation cannot be known in advance, adoption of this alternative would, OSHA believes, have a chilling effect on MSD reporting.

Increasing the coverage to seven days would assure that workers eligible for workers' compensation would be covered in all states. This approach would have costs of $320 million per year.

Alternative 14: Do Not Start WRP Until the Worker Has Been Absent Three Days. This alternative would be designed to avoid requiring the employer to cover the expenses of an injured employee who would not be eligible for workers' compensation (because of the waiting period) by providing that the first three days of absence with an MSD would not be covered by WRP. This alternative would reduce the costs of WRP by 24 percent, to $667 million per year. However, this alternative would do nothing to deter employers from setting up policies requiring, for example, that any employee reporting an MSD take three days off without pay; such policies would, needless to say, have a chilling effect on reporting. This alternative would also mean that minor MSDs, *i.e.*, those requiring a day or two away from work, could result in loss of pay for the worker. As a result, this alternative would have the perverse effect of encouraging employees to wait until an MSD is serious enough to warrant more than three days away from work before reporting the MSD.

Alternative 15: Limit WRP to 3 Months. This alternative would be designed to limit the employer's costs of WRP by limiting the length of time that WRP is in effect. It would lower the costs to employers of WRP by 24 percent, to $668 million per year. OSHA is concerned that this alternative will have a chilling effect on the reporting of MSDs that could be serious enough to lead to longer term disabilities.

Alternative 16: Provide WRP at the Level of 100% of Take Home Pay. This alternative would ensure that the worker suffers no economic loss as a result of reporting an MSD. This alternative would increase the costs to employers of WRP by 36%, to $1.2 billion per year. This 36% increase in costs to employers represents a transfer in costs to employers from employees, who now bear these economic losses themselves.

Alternatives 17, 18, 19, and 20: Different Scope Provisions

OSHA has considered, and asked stakeholders to consider, four alternative scopes for the proposed standard:

(1) Apply it to manufacturing operations only;

(2) Apply it to manufacturing operations and manual handling;

(3) Take the approach reflected by the proposed standard, *i.e.*, provide coverage of all general industry jobs in which a covered MSD occurs; and

(4) Exempt low hazard firms.

The first two approaches listed above—applying the standard only to manufacturing operations, or only to these operations and manual handling—would have the effect of exempting most industries with somewhat lower, but still significantly high, rates of MSDs from coverage by the proposed standard. OSHA welcomes suggestions about other approaches to the scope of the standard that would reduce the burden on industries with somewhat lower rates of

MSDs while still protecting employees from the significant risk of incurring an MSD. Each of these alternative scope provisions is discussed below.

Alternative 17: Cover Manufacturing Operations Only. A proposed standard covering manufacturing operations only would apply to 377,000 establishments and capture 30 percent of all lost workday MSDs. Such an approach would address one of the most concentrated areas of MSD risk. Manufacturing operations involve less than 10% of all establishments in general industry and fewer than 15% of all employees, but they account for almost one-third of all reported MSDs. This approach was strongly opposed by many stakeholders, who pointed out that many very high risk jobs and industries would not be covered by the proposed standard if this alternative were adopted.

Alternative 18: Cover Manufacturing and Manual Handling Operations Only. A standard covering manufacturing operations and manual handling only would cover 1.59 million establishments and capture 60 percent of all MSDs. This approach would expand coverage beyond manufacturing, particularly to the high risk transportation and health care sectors, while still maintaining a sharp focus on a limited number of establishments and employees within general industry. However, this approach would leave a large number of employees at significant risk of incurring debilitating injuries. For example, this approach would not cover carpal tunnel syndrome and tendinitis in airline ticket agents, telephone sales personnel or video display terminal personnel. Many stakeholders objected to this approach, and some stakeholders pointed out that it would not be appropriate to require a program when certain employees in an establishment incurred an MSD while other employees in the same facility would not receive the benefits of a program no matter how many MSDs they incurred.

Alternative 19: Exempt Small Businesses in General Industry. This option is not one that the OSH Act permits OSHA to consider; the Act requires the Agency to protect employees exposed to significant risk to the extent feasible. OSHA's data indicate that there is a significant risk of job-related MSDs even in very small general industry firms. As a result, although OSHA can and is seeking ways to mitigate the standard's impact on small firms, exempting small firms from the standard would leave their employees at significant risk when there are feasible ways of mitigating that risk. OSHA may, however, consider delaying the compliance date or otherwise modifying certain provisions for very small firms. OSHA requests comment on this alternative and on other ways of reducing the costs and impacts of the standard that would protect employees at these firms from the significant risk they face of incurring work-related MSDs.

Alternative 20: Exempt Low Hazard Firms. OSHA believes that the approach taken in the proposed standard of requiring a full program only when MSDs occur or persistent symptoms and supporting information are present will have the effect in practice of exempting most low hazard small firms from the coverage of the standard. However, it is possible under the proposed standard for a large firm with very low rates of MSDs still to be required to have a program. OSHA believes that coverage of such firms is appropriate, because even low hazard firms may have a few high hazard jobs that merit attention. OSHA welcomes comments on approaches that would exempt some operations from the standard's coverage based on a well-supported demonstration that employees in those firms are not at significant risk of incurring a MSD.

Alterative 21: Phased Implementation. The SBREFA Panel recommended that OSHA consider the possibility of phasing in implementation of the proposed standard. OSHA has adopted a phased implementation approach in the proposed rule that allows periods of from one to three years after the effective date of the rule for the implementation of various program elements. For example, establishments are permitted three years to implement permanent engineering controls. In addition, reliance on the one MSD trigger ensures that problem jobs are addressed gradually over time: a more proactive approach would be likely to require all problem jobs to be addressed immediately. These features of the proposed rule combine to ensure that small establishments will only be required to address problem jobs gradually. OSHA therefore believes that the proposed rule is fully responsive to this Panel recommendation.

Alternative 22: Adopt a Safety and Health Program Rule to Cover Ergonomics. OSHA is currently considering proposing a safety and health program rule that would require all establishments in general industry to set up safety and health programs to address hazards covered by existing OSHA standards and the General Duty Clause of the Act. Because there is currently no OSHA ergonomics standard or any other standard addressing work-related MSDs, the safety and health program rule would only address those MSDs that are presently covered by the General Duty Clause. In addition, because the safety and health program rule covers safety and health hazards of all kinds, the provisions it contains are necessarily general. Given that MSDs constitute one-third of all lost workday injuries and illnesses, OSHA feels that employers need more specific direction on how to address MSDs than would be provided through the general safety and health program rule.

In addition, OSHA's experience with the Maine 200 program, which encouraged firms with high numbers of injuries and illnesses to establish safety and health programs, has shown that the establishment of such programs does not necessarily ensure that MSDs will be adequately addressed. Although some firms incorporated ergonomics into their safety and health programs, many firms in the Maine 200 program established programs designed to address traditional safety concerns, but failed to address ergonomics problems at all. OSHA believes that an ergonomics program standard is essential if all general industry firms are to begin to address their ergonomics problems.

6. Responses to the SBREFA Panel Report

Because OSHA anticipated that this proposed standard would cause significant impacts on a substantial number of small entities, the Agency convened a SBREFA Panel as required by that Act. Table VIII–8 lists the recommendations of the SBREFA Panel and indicates how OSHA has responded to these recommendations.

Table VIII–8.—Summary of SBREFA Panel Recommendations and OSHA Responses

SBREFA PANEL RECOMMENDS THAT:	OSHA's RESPONSE
OSHA review its cost estimates in light of these comments, with specific attention to those comments that offered alternative cost and hour estimates or explanations of why the commenters believed the costs to be underestimated and to those areas of the program highlighted by the SERs and the Panel as major cost issues (training, consulting costs, medical removal protection, job hazard analysis, job control). This review, with a presentation of the estimates provided by the SERs, should be included as part of a revised IRFA.	OSHA has commented on the SERs' cost estimates in detail in the Cost Chapter (Chapter V) of this economic analysis. OSHA has since reviewed its costs and has obtained expert review of the Agency's estimated costs. In several cases, the costs now shown in the analysis, such as those for job control and consultants, have been revised upward.
A similar presentation [to that for costs] of the assumptions underlying benefits estimates be included.	OSHA has added a discussion to the IRFA providing a schematic outline of the assumptions underlying the benefits analysis.
OSHA discuss the sources and bases of these assumptions, significant alternative assumptions, and the reasons OSHA selected the proposed assumptions.	OSHA has added this discussion to the IRFA.
OSHA reexamine its estimates of the average number of persons in similar jobs (see below for specific recommendation to modify the term "similar job"), and how this estimate may impact overall costs.	OSHA has revised both the proposed standard and its approach to measuring the number of jobs affected when an MSD occurs. OSHA has also changed the term to "same jobs" for clarity.
OSHA examine its cost estimates to be sure that it has adequately accounted for the burden on firms who do not have an MSD and are not required to have a basic program. This examination should include an examination of the costs of determining whether an MSD is work-related.	OSHA has added costs to its estimated costs of compliance to reflect that even establishments that do not fall within the scope of the standard will incur costs to familiarize themselves with the standard and determine that they are not covered.
OSHA consider whether the Agency's analysis may have underestimated the need for help from outside consultants and that OSHA examine the necessity for, and cost and availability of, the services of ergonomic consultants.	OSHA has reviewed its estimates of the need for consultants and special expertise, and has revised upward both its estimate of the time required for employers to select necessary job controls, the percentage of time consultants will be needed, and the costs associated with consultant services.
OSHA consider the extent to which small firms can pass along any price increases to consumers or might experience feasibility problems if such costs could not be passed along.	This issue is addressed in the economic impact section of the Preliminary Economic Analysis (Chapter VII).
OSHA assess the SERs' statements [concerning selective hiring] as part of its analysis, consider how to mitigate any potential that may exist for expanding such selective hiring incentives or creating new ones, and solicit comment on these issues.	This issue is addressed in the Preamble to the proposed standard (in Section XI) and has been raised as an issue for comment.

Table VIII–8.—Summary of SBREFA Panel Recommendations and OSHA Responses—Continued

SBREFA PANEL RECOMMENDS THAT:	OSHA's RESPONSE
OSHA assess these data [on increases in the number of injuries and illnesses as a result of programs] as part of its analysis. In addition, OSHA provide additional data to support its arguments about the costs and cost-savings implications of these programs and specifically address any potential effects of medical removal protection in encouraging workers to remain off work.	OSHA has reviewed the responses employers made to the Agency's ergonomics survey, and found that even in the first year of a program, firms typically have fewer rather than more MSDs. As discussed in the benefits section of the economic analysis (Chapter IV), OSHA estimates that the work restriction protection provision (formerly the medical removal protection provision) will help to counter the disincentives to employees to report MSDs early.
OSHA conduct the analysis at a level of detail that does not mask the relevant economic differences among industries through aggregation.	OSHA has revised its analysis to conduct the analysis at the three rather than the two digit SIC Code level of detail.
OSHA review whether small businesses would need consultants for other elements of the program, whether they may be necessary in a greater percentage of cases, and to what degree these factors would alter cost estimates.	As discussed in the cost analysis, OSHA has reviewed whether consultants would be needed for other elements of the program and found that consultants will not be needed, given the materials available on how to set up a program.
OSHA evaluate the usefulness of checklists for these purposes. In the event OSHA develops checklists for its own enforcement personnel, it should make these checklists available to the public.	This issue is discussed in the Preamble and is raised as an issue for comment.
OSHA should either consider alternative approaches to this issue [the trigger criteria for a full program] or clarify these criteria.	Both the Preamble to the proposed standard and the IRFA provide discussions of alternative trigger provisions.
OSHA clarify that employers may, if they wish, rely on a physician's opinion in making a work-relatedness determination, and that OSHA would bear the burden of proof if it disagreed with such an opinion.	This issue is discussed in the Preamble.
OSHA clarify and consider alternatives to this trigger [known hazards] (these are discussed in the Alternatives Section at the end of this report), and that OSHA assure that any provision it adopts would not create disincentives to the proactive identification of ergonomic hazards.	OSHA has deleted the "known hazards" provision and is instead relying on a persistent-symptoms-plus-supporting information trigger in manufacturing and manual handling jobs.
OSHA seek ways to clarify, explain, and provide examples of these terms [key terms used in the reg text].	The Preamble to the proposed standard provides additional definitions and examples of the key terms used in the regulatory text.
OSHA clarify the idea of similar jobs and use a more precise term, such as "similar work activities," in light of SER comments that all or a portion of employees sometimes engage in all or a portion of the work activities in the establishment. In addition, OSHA provide in the regulatory document examples of which similar work activities would or would not be covered by the standard.	The concept of "similar" jobs has been deleted from the proposed rule and been replaced with "same" jobs, which are defined in terms of the same work activities.
OSHA clarify that the draft proposed rule only requires the employer to control hazards to the extent feasible for that firm, using the normal OSH Act definition of feasibility (*i.e.*, "Is it capable of being done"), discuss in the preamble the factors that go into that determination, and seek ways to include such explanatory information in the preamble, outreach, and compliance assistance materials.	The technological feasibility chapter of the economic analysis discusses this issue, as does the Job Hazard Analysis and Control section of the preamble.

Table VIII–8.—Summary of SBREFA Panel Recommendations and OSHA Responses—Continued

SBREFA PANEL RECOMMENDS THAT:	OSHA's RESPONSE
Definitions of personal protective equipment and engineering controls be added to the proposed standard, with ergonomic examples that help to explain how they differ.	Definitions of these terms, with examples, have been added to the regulatory text.
OSHA discuss the issue of adequate control and provide examples. In addition, OSHA clarify the meaning of the proposed rule so that employers will have a better idea of when they have done enough to comply with the standard. Examples should be added to the preamble to further clarify this point.	Examples of adequate control have been provided in the technological feasibility section of the economic analysis and are discussed in the Preamble as well. In addition, the regulatory text now includes a step-by-step incremental abatement process.
The proposed standard be modified to clarify the requirement for program evaluations. Such modifications should reflect the flexibility of employers to use non-quantitative measures, quantitative measures, or a combination of these to evaluate their ergonomics programs.	This issue has been clarified in the regulatory text and the Preamble.
If MRP is included in the proposed rule, OSHA explain in the preamble how the proposed provision interacts with state workers' compensation laws and why OSHA believes the rule's MRP provision is not in conflict with Section 4(b)(4) of the OSH Act, and solicit comment on this issue.	OSHA has an extensive discussion of Work Restriction Protection in the Preamble, including a discussion of the relationship between WRP and workers' compensation.
OSHA draft the proposed rule to achieve these objectives [of EEO laws, the ADA and ADEA].	These issues are discussed in the Preamble to the proposed standard.
OSHA address how the ergonomics program accommodates the requirements of the ADA. Also, OSHA seek to minimize any unintended consequences of the rule that might undermine the protections afforded under the ADA, as well as the ADEA.	This issue is addressed in the Preamble to the proposed standard.
OSHA draft the proposed rule to achieve these objectives [of the NLRA] and discuss and give examples of employee participation mechanisms that would allow employers to be in full compliance with both the NLRA and the proposed rule.	OSHA has added this material to the Preamble.
OSHA ensure that the two rules [the ergonomics proposal and the safety and health program proposal] are developed in a way that allows an employer's ergonomics program to be an integral part of that employer's general safety and health program and to avoid duplicative requirements or recordkeeping (for example, by making clear that an ergonomics program can be part of an effective safety and health program). In addition, the economic analyses supporting the two rules be compatible and not double count either costs or benefits. In addition, that OSHA ensure consistency between relevant definitions in their upcoming revision of the recordkeeping rule and the proposed ergonomics standard.	OSHA is developing the two rules so they will be compatible. Because this rule precedes the safety and health program rule, the benefits and costs for this rule have not considered possible overlaps with the safety and health program rule. OSHA has ensured consistency between the definitions of "MSD" and "recordable" in this proposed ergonomics rule and the recordkeeping rule.
OSHA further explain its non-regulatory guidance efforts to date, the basis for its belief that a significant risk remains, and why it believes a proposed rule is now appropriate to reduce that risk. The Panel recommends that OSHA solicit comments on the need for a rule and on the effectiveness of non-regulatory approaches.	Discussions of these topics are included in the Preamble and in the IRFA.
OSHA discuss whether a safety and health program rule would adequately address MSDs, thereby eliminating the need for a separate ergonomics rule.	A discussion of this topic has been included in the IRFA.
OSHA explain why it does not wish to delay this proposed regulatory action until that time [when the second NAS study is completed], and consider any available results of the NAS study that are in the record of the final rule.	This topic is discussed in the Preamble to the proposed standard.
OSHA consider phased implementation, allowing additional time for small employers and/or employers in particular industries where feasibility may be a concern.	A discussion of phased implementation has been included in the Preamble to the proposed rule and in the discussion of alternatives in the IRFA.

Table VIII–8.—Summary of SBREFA Panel Recommendations and OSHA Responses—Continued

SBREFA PANEL RECOMMENDS THAT:	OSHA's RESPONSE
In addition to OSHA's proposed trigger of one work-related MSD, where regular work activities expose the employee to hazards likely to cause or contribute to that MSD, OSHA analyze and consider a variety of alternative triggers, paying special attention to:	A discussion of trigger alternatives has been added to the IRFA.
• A trigger using multiple work-related MSDs over a time frame that might exceed one year; and • Staged implementation of program elements based on multiple work-related MSDs. In addition, the Panel recommends that OSHA look at other types of triggers, including lost workday MSDs, MSD rates, numbers of MSDs or MSD rates for different sizes of firms and different periods of time, as well as the use of a checklist to determine the presence of a hazard. OSHA consider this issue [the known hazard provision] and ensure that any provision it adopts would avoid disincentives to identify hazards. In addition, OSHA consider not including this provision in the proposed rule.	OSHA had deleted the provision about known hazards.
The proposed rule clearly indicate which manual handling and other operations are included in the proposed rule and which are excluded from it.	The regulatory text and definitions section clearly delineate which operations are included and which are excluded, and the Preamble also clarifies this issue.
OSHA continue to analyze and solicit comments on the alternatives of limiting the proposed standard to manufacturing only, and to manufacturing and manual handling only.	The preamble and the IRFA continue to solicit comment on these issues, and the IRFA considers these alternatives.
OSHA pay particular attention to the following issues related to MRP (now called WRP): • Determine whether the evidence indicates that MRP or other provisions are necessary to achieve the goal of prompt and complete reporting of MSDs. The Panel realizes that, as with any other decision, OSHA's final determination of whether MRP is necessary must be based on substantial evidence in the standard's record considered as a whole. In addition, recommend that OSHA solicit comment on the alternative of excluding MRP from the rule; • If MRP or another provision is necessary, examine whether the purposes of MRP could be met with a more limited form of MRP, such as a shorter time limit for MRP coverage, a smaller percentage of income replacement, or recognition of a feasibility limitation on MRP at the firm level, such as that used in OSHA's Methylene Chloride standard; • Assess whether alternatives other than MRP would be as effective in achieving the goals of prompt and complete reporting, such as alternatives that may not involve payments to employees; and • Examine whether MRP should be phased in over a period of time. Some SERs also expressed concern that, as currently drafted, OSHA's regulatory language could be interpreted as providing injured employees on MRP with more take-home pay than they would have had before the injury. The Panel recommends that, if a form of MRP is included in the proposed rule, OSHA make it clear that MRP will not result in higher take-home income for removed employees than they would otherwise have received.	OSHA has modified the provision to require a lower percentage of take-home pay for workers absent from work. These issues are discussed in detail both in the Preamble and in the IRFA.

References

Bernard, B., Fine, L., eds. [Bernard et al, 1997]. *Musculoskeletal Disorders and Workplace Factors.* Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health. DHHS (NIOSH) Publication #97–141. Ex. 26–1

Bureau of Labor Statistics. [BLS, 1996]. Unpublished data from the 1996 BLS Survey of Occupational Injuries and Illnesses. Bureau of Labor Statistics. Ex. 26–1413

Bureau of the Census [DOC, 1996]. U.S. Department of Commerce. CD–ROM issued November 1996. Ex. 26–6

Bureau of the Census [DOC, 1998]. U.S. Department of Commerce. *County Business Patterns,* 1996. Ex. 26–2

Cannon LJ, Bernacki EJ, Walter SD [1981]. Personal and occupational factors associated with carpal tunnel syndrome. J Occup Med 23(4):255–258. Ex. 26–1212

Cohen, A.L., Gjessing, C.C., Fine, L.J., Bernard, B.P., McGlothlin, J.D. [Cohen, et al,1997]. *Elements of Ergonomics Programs A Primer Based on Workplace Evaluations of Musculoskeletal Disorders.* Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health. DHHS(NIOSH) Publication No. 97–117. Ex. 26–2

Eastern Research Group. [ERG, 1999]. *Description of Cost Estimates of Ergonomic Controls Under Draft OSHA Ergonomics Standard* Lexington, MA. 1999. Ex. 28–7

Fine, L.J., Silverstein, B.A., Armstrong, T.J., Anderson, C.A., Sugano, D.S. [Fine, et al, 1986]. *Detection of cumulative trauma disorders of upper extremities in the workplace.* Journal of Occupational Medicine, 28(8): 674–678. Ex. 26–920

General Accounting Office [GAO, 1997]. Worker Protection: Private Sector Ergonomics Programs Yield Positive Results. GAO/HEHS–97–163. Ex. 26–5

Hanrahan, Lawrence P. [Hanrahan, 1987]. "Apppendix E: A Comparison of the BLS Annual Survey to Workers" Compensation for Wisconsin in 1984 and 1985", *Counting Injuries and Illnesses in the Workplace: Proposals for a Better System*, National Academy Press, 1987. Ex. 28–4

Mendeloff, J. [Mendeloff, 1996]. *A Preliminary Evaluation of the "Top 200" Program in Maine.* Pittsburgh, PA.: U.S. Department of Labor, Occupational Safety and Health Administration, Office of Statistics. Ex. 28–8

National Research Council [NRC,1999]. Work-Related Musculoskeletal Disorders: Report, Workshop Summary, and Workshop Papers. Washington, DC: National Academy Press. Ex. 26–37

Occupational Safety and Health Administration [OSHA, 1990]. Ergonomics Program Management Guidelines for Meatpacking Plants. U.S. Department of Labor, Occupational Safety and Health Administration. OSHA Publication #3123. Ex. 26–3

Occupational Safety and Health Administration. [OSHA, 1999]. Preliminary Economic Analysis and Regulatory Flexibility Analysis. Occupational Safety and Health Administration. Ex. 28–1

Oxenburgh, M. [Oxenburgh, 1991]. *Increasing Productivity and Profit through Health & Safety.* CCH International. Ex. 26–1041

Robert Morris Associates [RMA, 1996]. *Annual Statement Studies 1996.* Robert Morris Associates. Philadelphia, PA 1996

Silverstein, B.A., Stetson, D.A., Keyserling, W.M., Fine, L.J. [Silverstein, et al, 1997]. *Work-related musculoskeletal disorders: comparison of data sources for surveillance.* American Journal of Industrial Medicine, 31:600–608. Ex. 26–28

Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel Report [April 1999]. Small Business Advocacy Review Panel on the Occupational Safety and Health Administration's Draft Proposed Ergonomics Program Rule. Ex. 23

U.S. Small Business Administration [SBA, 1996]. *Table of Size Standards.* Ex. 28–3

IX. Unfunded Mandates

OSHA reviewed the proposed ergonomics program standard in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*) and Executive Order 12875. As discussed above in the Summary of the Preliminary Economic Analysis (Section VIII of the preamble), OSHA estimates that compliance with the proposed ergonomics program standard will require the expenditure of approximately $4.2 billion dollars each year by employers in the private sector. Therefore, the proposed ergonomics program standard establishes a federal private sector mandate and is a significant regulatory action, within the meaning of Section 202 of UMRA (2 U.S.C. 1532). OSHA has included this statement to address the anticipated effects of the proposed ergonomics program standard pursuant to Section 202.

OSHA standards do not apply to state and local governments, except in states that have voluntarily elected to adopt an OSHA State Plan. Consequently, the proposed ergonomics program standard does not meet the definition of a "Federal intergovernmental mandate" (Section 421(5) of UMRA (2 U.S.C. 658(5)). In addition, the Agency has preliminarily concluded, based on review of the rulemaking record to date, that few, if any, of the affected employers are state, local and tribal governments. In sum, the proposed ergonomics program standard does not impose unfunded mandates on state, local and tribal governments.

The anticipated benefits and costs of this proposed standard are addressed in the Summary of the Preliminary Economic Analysis (Section VIII of this preamble), above, and in the Preliminary Economic Analysis (Ex. 28–1). In addition, pursuant to Section 205 of the UMRA (2 U.S.C. 1535), having considered a reasonable number of alternatives as outlined in this Preamble and in the economic analysis (Ex. 28–1), the Agency has preliminarily concluded that the proposed standard is the most cost-effective alternative for implementation of OSHA's statutory objective of reducing significant risk to the extent feasible. This is discussed at length in the economic analysis (Ex. 28–1) and in the Summary and Explanation (Section IV of this preamble) for the various provisions of the proposed ergonomics program standard.

X. Environmental Impact

OSHA has reviewed its proposed ergonomics standard in accordance with the National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 CFR Part 1500), and DOL's procedures (29 Part 11).

The proposed ergonomics standard will require businesses to correct those jobs that contribute to musculoskeletal disorders (MSDs) by modifying the conditions in which the work is performed. In investigating the regulatory impacts of the proposal, OSHA has identified a large number of possible forms of job modifications. The types of job modifications include work station modification, redesign of tools, job rotation, full or partial automation of tasks, and other changes.

Ergonomics is the science of fitting jobs to people. Job modifications typically result in greater productive efficiencies without the ongoing need for additional resources or increased discharge of pollutants. Frequently, process redesign results in improved quality control, resulting in fewer wasted materials. More broadly, reducing MSDs will reduce the need for medical care resources. For these reasons, OSHA has determined that these job modifications will not generate a significant impact on the external environment.

The proposed ergonomics standard would also require employers to develop ergonomic programs that train workers to recognize and avoid unhealthy work positions, provide for the management of MSDs, and perform analyses of the ergonomic characteristics of jobs. None of these programmatic activities would generate a significant environmental impact.

As a result of this review, OSHA has preliminarily concluded that no significant environmental impacts would result from this proposed rulemaking.

XI. Additional Statutory Issues

This chapter addresses additional issues OSHA has considered in developing this proposed rule. OSHA sets forth preliminary conclusions on each issue. The agency invites public comment on these issues.

A. Occupational hazard—Does OSHA have the authority to regulate MSD hazards, as occupational hazards that cause or contribute to occupational injuries?

OSHA's authority to set standards is limited to ameliorating "conditions that exist in the workplace."

Industrial Union Dep't, AFL–CIO v. *American Petroleum Inst. et al. (Benzene)*, 448 U.S. 607, 642 (1980). Before OSHA can promulgate a standard, the Agency must make a "threshold finding that a place of employment is unsafe." *Id.* (emphasis added). *See also Atlas Roofing Co.* v. *OSHRC*, 430 U.S. 442, 445 (1977) ("The [OSH] Act created a new statutory duty to avoid maintaining unsafe or unhealthy working conditions." (emphasis added)).

Some stakeholders have suggested that because MSDs can result from outside activities as well as from work conditions, OSHA lacks authority to protect workers from occupational exposures that can contribute to MSDs. This suggestion is contrary to precedent and common sense and is antithetical to the purpose of the Act to provide safe and healthy working conditions for every man and woman in the nation.

Many, if not most, of the adverse health conditions OSHA seeks to prevent can be caused by non-work as well as work activities. For example, many health standards, such as the asbestos standard, are designed to protect employees from lung and other cancers.

The courts have made clear that OSHA has authority to regulate workplace conditions that create a significant risk of an impairment, even if such impairments can also be caused by non-work activities. This authority was upheld by the en banc Court of Appeals for the Fourth Circuit in *Forging Industry Assn.* v. *Secretary of Labor*, 773 F.2d 1436,1442 (4th Cir. 1985) (Noise).

That case dealt with a challenge to the Hearing Conservation Amendment to OSHA's Occupational Noise standard. That amendment establishes certain requirements that must be met to reduce the incidence of and/or prevent hearing impairment due to occupational noise exposure. Before issuing the amendment, OSHA found that 10–15% of workers exposed to noise levels below the previous permissible exposure limit (PEL) would suffer material hearing impairment. *Id.* at 1443. OSHA based this finding on a "panoply of scientific reports and studies," including studies done by the National Institute for Occupational Safety and Health (NIOSH) and the Environmental Protection Agency (EPA). *Id.* OSHA also found that those employees who had suffered a hearing decrement of 10 decibels in either ear faced a greater risk from continued exposure to high levels of workplace noise than workers whose hearing was unimpaired. *Id.* OSHA's Hearing Conservation Amendment provided hearing-endangered workers with protection in the workplace in order to decrease the risk of hearing impairment. *Id.*

The Forging Industry Association (FIA) argued that "because hearing loss may be sustained as a result of activities which take place outside the workplace—such as listening to loud music, age, or engaging in certain recreational activities—OSHA acted beyond its statutory authority by regulating non-occupational conditions or causes." Noise, 773 F.2d at 1442. The court found "no merit" in FIA's argument. *Id.* The court ruled that OSHA properly relied on "the extensive and thorough research of several scientific institutions in defining the problems related to industrially-caused hearing loss and designing its proposal." *Id.* at 1443. The court also stressed that OSHA excluded non-occupational hearing loss from the proposed rule. *Id.* at 1444 ("To be sure, some hearing loss occurs as a part of the aging process and can vary according to non-occupational noise to which employees are exposed. The amendment, however, is concerned with occupational noise—a hazard of the workplace."). The court ruled that the fact that non-occupational hazards may contribute to hearing loss does not mean that OSHA should reform from regulating workplace conditions that are shown to cause such loss:

> The amendment provides that non-occupationally caused hearing loss be excluded from its regulation. See 29 CFR §§ 1910.95(g)(8)(ii), 1910.95(g)(10)(ii) (1984). Assuming, however, that some loss caused by aging of smaller amounts of noise sustained for shorter periods also aggravates the hearing loss incurred by an individual employed in a high noise-producing industry, that is scant reason to characterize the primary risk factor as non-occupational. Breathing automobile exhaust and general air pollution, for example, is damaging to lungs, whether healthy or not. The presence of unhealthy lungs in the workplace, however, hardly justifies failure to regulate noxious workplace fumes. Nor would there be logic to characterizing regulation of the fumes as non-occupational because the condition inflicted is aggravated by outside irritants. Noise, 773 F.2d at 1444.

As with the Hearing Conservation Amendment to the Noise standard, the proposed ergonomics rule is limited to regulating work-related MSDs and occupational MSD hazards. The proposed standard requires employers to set up an ergonomics program to eliminate or control workplace MSD hazards. In addition, the proposed rule contains language that ensures that the OSHA recordable MSDs that trigger action under the proposed rule are work-related (*e.g.*, the MSD occurred in a job where the employee is exposed to MSD hazards and the workplace conditions and physical work activities are reasonably likely to cause or contribute to the type of MSD reported).

The Occupational Safety and Health Review Commission has reached the same conclusion in an ergonomics case brought under the Act's general duty clause. In *Secretary of Labor* v. *Pepperidge Farm, Inc.*, 17 O.S.H. Cas. (BNA) 1993 (April 26, 1997) (*Pepperidge Farm*), the Commission held that where work was shown to be a substantial contributing factor to MSDs, the fact that non-work factors may also play a role did not preclude OSHA from requiring the employer to abate the workplace hazards. In that case, Pepperidge Farm contested a number of citations for recordkeeping and repetitive motion violations that OSHA had issued under section 5(a)(1) of the OSH Act. In order to prove a section 5(a)(1) violation, OSHA had the burden of showing that "a *condition* or activity in the employer's *workplace* presents a hazard to employees." *Id.* at 2009 (emphasis added). Pepperidge Farm argued that section 5(a)(1) should not apply to MSD workplace hazards because, among other things, "non-workplace factors may cause or contribute to the illnesses at issue and that individuals differ in their susceptibility to potential causal factors." *Id.* at 2013. The Commission held that such factors should not "*ipso facto*" preclude the possibility of enforcement under section 5(a)(1). *Id.* at 2013. The Commission also analyzed a significant amount of evidence that showed a causal relationship between MSDs and workplace hazards, including testimony from medical personnel who examined injured workers, epidemiological data, and injury incidence at a Pepperidge Farm plant. *Id.* at 2020–26. The Commission ultimately found that there was a causal connection:

> We therefore conclude that the Secretary has established on this record a causal connection between [MSDs] affecting the employees at Downingtown [a Pepperidge Farm plant] and their work on the biscuit lines. In doing so, we are mindful that many of these injuries may have had more than one causal factor and of the experts who contend that the specific cause of such injuries is, essentially, unknowable or presently unknown. As is the case with many occupational ills with multiple possible causes, employees are more or less susceptible to injury on the job because of the individual attributes and backgrounds they bring to the workplace. As with

these other ills, the Secretary is not thus foreclosed from attempting to eliminate or significantly reduce the hazard by regulating what is shown to be a substantial contributing factor to the worker injuries. *Id.* at 2029.

The fact that certain physical characteristics of employees may make them more susceptible to developing MSDs also does not divest OSHA of authority to issue the proposed rule. In setting standards under section 6(b)(5) of the OSH Act, OSHA must set the standard "which most adequately assures * * * that *no employee* will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life." 29 U.S.C. 655(b)(5) (emphasis added). OSHA may not decline to regulate a hazard because certain people are more susceptible or less susceptible than others to disease or injury if exposed to that hazard.

This principle was upheld by the Court of Appeals for the D.C. Circuit in a challenge to OSHA's Asbestos standard. In the Asbestos rulemaking, OSHA based its significant risk determination, in part, on epidemiologic studies that included workers who smoked. Asbestos, 838 F.2d at 1264–65. The Asbestos Information Association (AIA) claimed that because smoking and asbestos worked synergistically (*i.e.*, the cancer risks of smoking workers exposed to asbestos were greater than the sum of the risks of smoking and asbestos), OSHA overestimated the risks posed by asbestos. *Id.* at 1265. AIA did not claim that OSHA failed to control for smoking. Rather, AIA claimed that OSHA improperly considered smokers' incremental risks from asbestos. *Id.* In rejecting AIA's claim, the court stated:

> [Section] 6(b)(5) calls on OSHA to set standards such that "no employee" will experience the forbidden level of risk. We understand the employers' aggravation that they are being forced to bear part of the burden imposed by employees' decision to smoke, but we do not think that at this stage of American history smokers can be regarded as so far beyond the pale as to require OSHA to disregard them in computing the risks of asbestos. *Id.*

See also *Reich* v. *Arcadian Corp.*110 F3rd 1192 (5th Cir. 1987) (Act's general duty clause protects especially susceptible employees). OSHA is properly regulating workplace MSD hazards and work-related MSDs.

B. Health standards—Is this proposed rule a section 6(b)(5) standard?

To determine whether the proposed rule is a section 6(b)(5) "health" standard first requires determining whether MSD hazards are the type of "health hazards" section 6(b)(5) is intended to cover.

1. Section 6(b)(5) "health" standards

"The [OSH] Act delegates broad authority to the Secretary to promulgate different kinds of standards." *Industrial Union Dept., AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607, 611 (1980) (Benzene). Where toxic substances or harmful physical agents are concerned, not only must a standard meet the requirements of section 3(8), it must also comply with section 6(b)(5) of the OSH Act. Section 6(b)(5) provides that in promulgating standards dealing with "toxic materials or harmful physical agents," OSHA shall:

- Set the standard which most adequately assures,
- To the extent feasible,
- On the basis of the best available evidence,
- That no employee will suffer material impairment of health or functional capacity,
- Even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. 29 U.S.C. 655(b)(5).

While all standards must be highly protective, the "feasibility mandate" of section 6(b)(5) also requires OSHA to select "the most protective standard consistent with feasibility" that is needed to reduce significant risk of harm due to exposure to a health hazard. *American Textile Mfrs. Institute* v. *Donovan (Cotton Dust),* 452 U.S. 490, 509 (1981). To help ensure that health standards provide such protection, Congress authorized OSHA to include the following among a health standard's requirements:

- Appropriate information or forms of warning about exposure to hazards, relevant symptoms, proper conditions and precautions, and appropriate emergency treatment;
- Monitoring or measuring of employee exposure;
- Medical examinations or tests;
- Suitable protective equipment and control or technological procedures;
- Other information gathering and transmittal provisions. 29 U.S.C. 655(b)(7).

2. Harmful physical agents

Section 6(b)(5) applies only to "toxic substances or harmful physical agents." 29 U.S.C. 655(b)(5). While the OSH Act does not define these terms, the courts have looked to the Act's legislative history and have concluded that Congress intended section 6(b)(5) to address "latent" risks of harm; that is, hazard exposures that take their toll over time or whose deleterious effect is not readily apparent. *International Union, UAW* v. *OSHA (LOTO I),* 938 F2d. 1310, 1314–15 (D.C. Cir. 1991); S. Rep. 91–1282, 91st Cong., 2d Sess. 2–39 (1970); H.R. Rep. 91–1291, 91st Cong., 2d Sess. 15 (1970), reprinted in Senate Committee on Labor and Public Welfare, Legislative History of the Occupational Safety and Health Act of 1970 (Legislative History).

In Senate debates, Senator Williams, sponsor of the OSH Act, and Senator Dominick referred to toxic materials and harmful physical agents as "hidden hazards" because of the latency period that exists between exposure to these hazards and the occurrence of harm:

> A particularly urgent concern repeatedly brought out during our hearings is the frequent exposure of many workers to a great variety of toxic materials or harmful physical agents. [Workers] are often unaware of the nature of such exposure or of its extent. In some cases, the consequences of overexposure may be severe and immediate; in other cases, effects may be delayed or latent. Senator Williams, Legislative History at 415 (emphasis added).[8]

> [A]nyone working in toxic agents and physical agents which might be harmful may be subjected to such conditions for the rest of his working life, *so that we can get at something which might not be toxic now, if he works in it a short time, but if he works in it the rest of his life might be very dangerous * * *.*" Senator Dominick, Legislative History at 503 (emphasis added).

The courts have looked to the legislative history for determining whether a particular rule is a "health" or "safety" standard. In the Benzene decision, the Supreme Court also said:

[8] Congress codified in the OSH Act this distinction between "health" and "safety" standards. See 29 U.S.C. 651(6) ("[E]xplor[e] way to discover latent diseases * * * relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety"); 29 U.S.C. 655(c)(1) (OSHA's authority to issue emergency temporary standard limited to new hazards or to "health" hazards whose hazardous character is newly-discovered).

The reason that Congress drafted a special section for [toxic substances and harmful physical agents] was not * * * because it thought that there was a need for special protection in these areas. Rather, it was because Congress recognized that there were special problems in regulating health risks as opposed to safety risks. *In the latter case, the risks are generally immediate and obvious, while in the former, the risks may not be evident until a worker has been exposed for long periods of time to particular substances.* It was to assure that the secretary took account of these long-term risks that Congress enacted § 6(b)(5). Benzene, 448 U.S. at 649 n. 54 (emphasis added).

In the challenge to the Lockout/Tagout standard, 29 CFR 1910.147, the court applied this test in upholding OSHA's determination that unexpected energization of equipment was not a harmful physical agent because it was not the type of "gradually accumulating hazard" and "latent-hazard[]" contemplated by section 6(b)(5). *International Union, UAW* v. *OSHA (LOTO I)*, 938 F.2d 1310, 1314–15 (D.C. Cir. 1991). The court accepted OSHA's position of viewing health standards as coextensive with standards governing latent hazards, "which are frequently undetectable to the casual observer because they are subtle or develop slowly or after latency periods;" contrasting them from "safety" standards, which address hazards that cause immediately visible physical harm. LOTO I, 938 F.2d at 1313. See also *National Grain and Feed Assn.* v. *OSHA (Grain-Handling)*, 866 F.2d 717 (5th Cir. 1989) (holding that "the immediate and obvious danger posed by grain dust in grain-handling facilities [*i.e.*, explosion] does not constitute a "harmful physical agent" within the contemplation of section 6(b)(5)").

The legislative history, case law, past OSHA practice and evidence in the record all indicate that MSD hazards are the type of latent and insidious hazards which Congress intended section 6(b)(5) to address. The legislative history indicates that Congress, in discussing the hazards covered by section 6(b)(5), repeatedly referred to vibration (one of the MSD hazards this proposed standard covers) as an example of a harmful physical agent. Legislative History at 142–43 (discussing 1967 Surgeon General study finding that 65% of employees in industrial plants were "potentially exposed to harmful physical agents, such as severe noise or vibration, or to toxic materials"), 412, 415, 446, 516, 845 (Committee Print 1971).

Past OSHA practice also shows that OSHA has consistently regarded MSD hazards as latent hazards. In the OSHA rule on Access to Employee Exposure and Medical Records, for example, MSD hazards are included in the definition of harmful physical agents, which are among the hazards section 6(b)(5) covers:

> *Toxic substances or harmful physical agent means* * * * physical stress (noise, heat, *cold, vibration, repetitive motion,* ionizing and non-ionizing radiation, hypo- or hyperbaric pressure, etc.) which * * * [h]as yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or known to, the employer * * * 29 CFR 1910.1020 (emphasis added).

OSHA's Ergonomics Program Management Guidelines for Meatpacking Plants also treat MSD hazards as latent hazards. This document, which provides guidance on preventing and reducing MSDs and which OSHA has drawn upon heavily in developing the proposed standard, includes elements that typically (if not exclusively) are found in OSHA standards dealing with latent hazards, such as:

- Medical surveillance and evaluation,
- Employee exposure monitoring and measuring,
- Information gathering (system for reporting signs and/or symptoms of MSDs), and
- Analysis of trends in injury/illness rates (records review).

See 29 U.S.C. 657(c)(3) (OSHA may issue regulations requiring employers to monitor or measure and record employee exposure to toxic materials and harmful physical agents).

Evidence in the record, which is discussed in greater detail in the Health Effects section above, also shows that MSD hazards are latent hazards. Exposure to these hazards at low levels, infrequently or for short periods of time are not generally associated with the occurrence of MSDs. Rather, it is the cumulative effects of exposure over time to workplace risk factors that result in injury. It ordinarily takes a period of weeks, months or years, depending on the level of the employee's exposure to the hazards, for employees to feel the cumulative effects. Therefore, at the early stages of the latency period employees can easily overlook or ignore MSD hazards because they are not yet experiencing the effects of the exposure to the various risk factors. Employees usually only recognize the effects of exposure as they begin to experience mild symptoms, and they may not recognize the cumulative effect until after symptoms become severe. At this later stage the effects may be permanent damage or disability.

In addition, MSD hazards are also considered latent hazards because they are not obvious or readily observable. This is in part because MSD hazards are multifactoral (Bernard, 1997). They result from exposure to a combination of workplace risk factors and conditions. Moreover, the level of risk also depends on intensity, frequency and duration of exposure to these workplace factors. For example, stakeholders have repeatedly told OSHA that employees often are unaware of either their exposure to or the potential harmful effect of these physical stresses until signs and/or symptoms of MSDs appear.

C. Is the proposed rule cost-effective?

All OSHA standards must be cost-effective. Cotton Dust, 452 U.S. 514 n.32. A standard is cost effective if the protective measures it requires are the least costly of the available alternatives that achieve the same level of protection. *Id.*; see also *LOTO II*, 37 F.2d at 668.

OSHA has worked to ensure that the proposed rule is cost-effective. Below are key provisions OSHA has included in the proposed to contribute to cost-effectiveness. OSHA requests comment on whether these provisions are consistent with the cost-effectiveness criterion—maintaining the same level of protection at reduced cost—and whether there are additional provisions OSHA could include in the rule that would contribute to its cost-effectiveness. First, OSHA is proposing a "performance-based" program rule. OSHA is not proposing to require employers to comply with a specific set of work requirements, work limits or equipment requirements. The proposed rule allows employers to select the most cost-effective controls they reasonably anticipate would control the MSD hazard.

Second, OSHA is proposing to allow employers to select from a broad range of types of control to correct problems. OSHA is proposing to allow employers to use any combination of engineering, work practice and administrative measures to control MSD hazards. This would allow employers to implement inexpensive administrative controls (*e.g.*, rest breaks) where they are

effective rather than redesigning workplaces or investing in new equipment. The only exception to the flexibility in the controls permitted is that the proposed rule does not permit employers to use personal protective equipment (PPE) alone to protect employees from MSD hazards if feasible engineering, work practice, or administrative controls are available. PPE may be used to supplement other controls, however.

Third, OSHA is proposing to delay up-front costs to employers by the inclusion of the incident trigger. Employers who have no manufacturing or manual handling jobs do not have to take any action under the proposed rule until an MSD is reported. The initial responsibilities of employers with manufacturing and manual handling jobs have been limited to the minimum necessary to assure that employees in these high risks jobs are able to recognize and report MSDs. Employers with these jobs must establish a hazard reporting system and provide information about MSDs to employees. It is only when a covered MSD is reported that employers who have manufacturing and manual handling jobs must implement other elements of the ergonomics program standard such as job hazard analysis.

Fourth, OSHA is proposing a Quick Fix mechanism to allow employers to fix problem jobs without incurring the additional costs of setting up the entire ergonomics program. The Quick Fix provides a process for fixing a problem job quickly and completely. Employers may use a Quick Fix the first time a job is identified as a problem job, provided that the employer (1) puts in Quick Fix controls within 90 days after the job is identified as a problem job; (2) checks the Quick Fix controls within 30 days of implementation to ensure that they have eliminated the hazards, and keeps records of the Quick Fix process; and (3) provides the hazard information the proposed rule requires to employees in the job within 90 days after the job is identified as a problem job. It is only if the Quick Fix controls do not eliminate MSD hazards within the Quick Fix deadline or an MSD is reported in the job within 36 months, that an employer must set up a full ergonomics program. The rule contains an exception that allows employers to use a Quick Fix the second time a covered MSD occurs in a job if the second MSD is related to work activities or job conditions other than those that gave rise to the first MSD.

Fifth, OSHA is proposing to permit employers to discontinue certain aspects of their programs if no MSDs are reported for 3 years. If no MSDs are reported for 3 years, employers who have manufacturing and manual handling jobs must only maintain the following three elements of their ergonomics program: (1) Management leadership and employee participation; (2) hazard information and reporting; and (3) maintenance of implemented controls and training related to those controls. For other jobs where MSDs had been previously reported, if no MSDs are reported for three years, an employer need only maintain existing controls and training for those jobs.

Sixth, OSHA is proposing to allow employers to use an incremental abatement process to control hazards. Rather than requiring all controls to be implemented at once, employers would be free to first try a control, presumably a less costly control, that is reasonably anticipated to eliminate or substantially reduce the hazard. If that control proves ineffective, the employer would be required to proceed to other feasible controls until the hazard was controlled.

Seventh, OSHA is proposing to allow employers to have up to three years to implement permanent controls. This would give employers additional time to find the cheapest controls and/or allow them to purchase off-the-shelf technology rather than hiring outside experts to develop specific interventions.

Finally, OSHA is permitting employers to continue with their existing ergonomics programs, rather than incurring costs to set up an entire new program, if they can show that: (1) Their program satisfies the basic obligation paragraph of each program element and they are in compliance with the recordkeeping requirements of this standard; (2) they implemented and evaluated the program before the effective date of the standard; (3) their evaluation of the program indicates that it is functioning properly; and (4) if MSDs are still occurring, they are complying with section 1910.922 of the proposed rule.

D. Is the proposed rule consistent with the Americans with Disabilities Act?

During the SBREFA process, some small employer representatives (SERs) expressed concerns about the interaction between the proposed rule and the Americans with Disabilities Act (ADA), 42 U.S.C. 12101 *et seq.* (1990). Specifically, they were concerned that the proposed rule might conflict with the ADA and/or create selective hiring incentives that could potentially result in discrimination against qualified individuals with disabilities.

1. Does the proposed ergonomics rule conflict with the ADA?

The ADA prohibits employers with 15 or more employees from discriminating against qualified individuals with disabilities with regard to terms, conditions, and privileges of employment. 42 U.S.C. 12112(a) and (b); 29 CFR 1630.4; EEOC Technical Assistance on the Employment Provisions (Title I) of the ADA (January 1992) ("ADATAM"). The prohibition against discrimination applies to all aspects of employment, including:

- Job application
- Testing
- Evaluations
- Promotion
- Layoff/recall
- Compensation
- Benefits
- Hiring
- Placement/assignment
- Training
- Medical examinations
- Termination
- Leave

When requested, employers must provide reasonable accommodation to qualified individuals with disabilities for any of those aspects. 42 U.S.C. 12112 (b)(5)(A); 29 CFR 1630.9. Employers are not required, however, to provide accommodation that would pose undue hardship. 42 U.S.C. 12102(10); 29 CFR 1630.9.

The proposed ergonomics rule does not conflict with the ADA. The ADA prohibits discrimination against qualified persons with disabilities, and nothing in the proposed ergonomics rule authorizes or requires such discrimination. The goals of the ADA and the proposed ergonomics rule are fully compatible, and in many ways similar. The goal of the ADA is to protect qualified persons with substantially

limiting impairments from discrimination on the basis of the impairment so they may fully participate in work:

> [I]ndividuals with disabilities * * * have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society. * * * 42 U.S.C. 12101(a)(7).

The ADA achieves this goal by prohibiting an employer from denying employment opportunities or taking actions that adversely affect a person with a disability who is currently able to perform the essential functions of the job without posing a direct threat to the safety or health of the disabled person or others. 42 U.S.C. 12112(b)(5)(A); 29 CFR 1630.9; ADATAM I–3. The ADA also achieves this goal by requiring employers to provide reasonable accommodation (*e.g.*, modifications or adjustments to the job or removal of barriers) where necessary to enable the disabled person to perform the job (ADATAM I–3.5).

The proposed ergonomics rule seeks to prevent material impairment, which includes less severe impairments than disabilities covered under the ADA, from occurring in the first place. In general terms, the proposed rule proposes to achieve this by requiring employers to fit the job to the worker, not the worker to the job:

> Ergonomics is the science of fitting workplace conditions and job demands to the capabilities of the working populations. Effective and successful "fits" assure high productivity, avoidance of illness and injury risks, and increased satisfaction among the workforce. NIOSH, Elements of Ergonomics Programs, p. 2 (1998).

More specifically, the ergonomics rule would achieve this by requiring employers to implement measures in problem jobs that eliminate or control the physical work activities and job conditions that are reasonably likely to cause, contribute to or aggravate an MSD. Not only will these control measures prevent the likelihood of OSHA recordable MSDs from occurring, but also they should make it easier for persons with more severe impairments to work in those jobs. This is because the proposed rule would require employers to eliminate or control hazards that aggravate pre-existing MSDs.

In many instances the ergonomic solutions to control problem jobs will be similar or related to the type of action an employer might take to provide reasonable accommodation. The following table shows some of the similarities between types of ergonomic controls and reasonable accommodation:

Examples of Reasonable Accommodations Under the ADA and Ergonomic Controls

TYPES OF REASONABLE ACCOMMODATION	TYPES OF ERGONOMIC CONTROLS
• Restructuring jobs by re-distributing certain non-essential job functions	• Rotating employees • Enlarging job (more task variation) • Adding more employees to job (assembly line)
• Altering how and when essential job functions are performed	• Redesigning job • Providing rest breaks
• Using modified, flexible or part-time work schedules	• Limiting total workday exposure
• Acquiring or modifying tools, equipment, workstations	• Designing and/or purchasing new tools and equipment • Rearranging workstation layout
• Reassigning to vacant position	• Using alternative duty jobs during the recovery period for employees with MSDs • Transferring employee to job with a better fit

ASource: ADATAM I–3.10.

2. Would the proposed ergonomics rule increase existing selective hiring incentives?

The SERs' other concern is about whether there would be increased incentives for employers to use selective hiring practices against qualified persons with disabilities because of the proposed ergonomics rule. For the reasons discussed below, OSHA believes the rule would not create such incentives. Hiring practices that discriminate against qualified persons with disabilities are illegal under the ADA, and the ADA has strong remedies to deter such discrimination. In addition, to the extent that selective hiring incentives exist, their existence is not because of the proposed ergonomics standard. In fact, an effective ergonomics program and implementation of measures that control MSD hazards in problem jobs should help to remove job barriers that may have made it difficult for employers to hire qualified persons with disabilities, thus reducing selective hiring incentives.

Under the ADA, it is unlawful for an employer to limit, segregate or classify a job applicant "in a way that adversely impacts his or her employment opportunities or status on the basis of disability." 29 CFR 630.5. During the pre-offer stage of the hiring process, employers are not allowed to ask applicants questions that are likely to elicit information about a disability or conduct medical examinations. 42 U.S.C. 12112(d)(2)(A); 29 CFR 1630.13; ADATAM I–5.1. For example, during the pre-offer stage employers may not ask applicants about existing disabilities, prior job-related injuries, hospitalizations, prescription medications, absenteeism record or workers' compensation history. ADATAM I–5.5; Pre-employment Disability-Related Questions and Medical Examinations, EEOC Notice 915.002 (Oct. 10, 1995). Thus, employers are unlikely even to know that an applicant has a disability (unless the condition is apparent). The purpose of this prohibition is to ensure that persons with disabilities, like other job applicants, are evaluated on their ability to perform the essential functions of the job:

> This prohibition is necessary to assure that qualified candidates are not screened out because of their disability before their actual ability to do a job is evaluated. ADATAM I–5.5

At the pre-offer stage, employers may ask applicants about their ability to perform specific functions of the job. 42

U.S.C. 12112(d)(2)(B). They may also may establish job qualifications or hiring criteria (*e.g.*, education, skills, work experience, physical abilities necessary for job performance and health or safety), provided they are uniformly applied to all applicants. ADATAM I–4.1. The ADA does not require employers to hire persons with disabilities who are not capable of performing the essential functions of the job (even with reasonable accommodation). In addition, the ADA does not require employers to lower existing production standards applicable to quality or quantity of work for a given job, provided that these standards are uniformly applied to all applicants and employees in the job. ADATAM I–4.2.

Where hiring criteria tend to screen out individuals based on their disability, the ADA requires that the criteria be both job-related and consistent with business necessity. 42 U.S.C. 12112(b)(6), 42 U.S.C. 12113(a); 29 CFR 1630.10. A job qualification or hiring test meets these criteria only where it is a legitimate measurement of the qualifications or requirements of a specific job, not range or general class of jobs (ADATAM I–4.1–4.1), and only where it relates to the essential functions of the job. 29 CFR 1630.2; ADATAM I–4.3. For example, a hiring test that requires applicants for any manual handling job to safely lift objects weighing 50 pounds would be prohibited if the specific manual handling job only involved lifting objects weighing half that amount or if manual handling was only an incidental or minor part of the job.

Employers who violate these requirements are subject to hefty remedies under the ADA, including compensatory and punitive damages. Damages may include compensation for actual monetary loss, future monetary loss, mental aguish, and inconvenience. Compensatory and punitive damages may be awarded for future monetary loss and emotional injury; with total damages ranging as high as $50,000 to $300,000 based on size of the establishment. These remedies, among others, appear to provide adequate and appropriate deterrence regarding discriminatory selective hiring practices. See also, *Goodman* v. *Boeing* (Under a State law prohibiting discrimination against disabled workers, employee was awarded $1.6 million for the employer's failure to provide reasonable accommodation).

The ADA recognizes employers' obligations to comply with other Federal laws or regulations, such as safety and health laws, as a defense to a claim of discrimination. However, this defense is available only where the discriminatory action is specifically required by the other Federal law. OSHA stresses that there is nothing in the proposed ergonomics standard that would "require" employers to act in violation of any of the hiring process requirements of the ADA, or would authorize employers to establish discriminatory selective hiring practices. The proposed ergonomics standard does not contain hiring requirements. It does not require employers to establish job selection standards (*e.g.*, safety and health qualifications). Conversely, it does not prohibit employers from continuing to comply with the hiring process requirements of the ADA.

If selective hiring incentives exist, they are not because of an ergonomics standard. Such incentives are largely the result of other concerns, such as perceptions that disabled persons may not be able to perform the job, may be more likely to suffer workplace injuries, or may request or require expensive accommodations. Under the ADA, discriminatory action on the basis of such perceptions is illegal. The proposed ergonomics rule should not increase these concerns and may help reduce them. The purpose and focus of the proposed standard is to require employers to fix jobs that are posing a significant risk of material harm to workers. OSHA is proposing that employers may use any combination of engineering, work practice or administrative controls to fix the job. Adopting selective hiring practices that exclude disabled workers, however, is not a permissible control measure since it does nothing to reduce the MSD hazards in the job. Therefore, employers could not demonstrate they are in compliance with the ergonomics standard because they have implemented selective hiring practices to control the problem.

Nevertheless, several SERs were convinced that the standard would increase incentives for employers to hire employees selectively. According to these commenters, the standard would do this because it would put employers who hire workers with less than optimal physical capabilities at a disadvantage because such workers are more likely than stronger workers to experience a covered MSD. Employers who believe that they will be able to identify especially "strong" persons do not understand that MSDs are cumulative hazards that cause tissue damage over time, and that this tissue damage is generally not apparent until the damage has progressed to the point of clinical injury. These employers are thus unaware that selective hiring practices are generally illegal and are also unlikely to be effective. OSHA believes that the increased awareness of these facts engendered by the standard will over time change these perceptions.

The proposed rule should reduce selective hiring incentives because once MSD hazards are controlled the job should not pose a risk of harm to any qualified person, including those with disabilities. The successful control of problem jobs, therefore, should make it easier for employers to hire disabled workers. Moreover, it should reduce the risk that employers will screen out disabled persons based safety and health concerns. Under the ADA, the employer may require, in a job qualification standard that is uniformly applied to all applicants, that an applicant not pose a direct threat to the health or safety to himself or others. 42 U.S.C. 12113(b). Employer action based on this justification is a recognized defense to a claim of discrimination. 29 CFR 1630.15. However, the employer's action is only justified if this type of qualification standard meets very specific and stringent requirements under the ADA. (29 CFR 1630.2(r); ADATAM I–4.5). The employer must show, based on objective medical or other objective factual evidence, that employment of the particular applicant poses a current and specific significant risk of substantial harm to the health or safety of himself or others which cannot be eliminated or reduced through reasonable accommodation. (29 CFR 1630.2(r). ADATAM I–4.5).

Requiring employers to control problem jobs so that it is no longer reasonably likely that an MSD will occur should reduce employers' concerns about disabled persons presenting a direct threat to safety or health. As such, it should reduce the possibility that employers will rely on the direct threat justification and make it less likely for employers to be able to meet the stringent requirements of that provision.

XII. Federalism

OSHA has reviewed the proposed program rule in accordance with the Executive Order on Federalism (Executive Order 12612, 52 FR 41685, October 30, 1987). This Order requires that agencies, to the extent possible, refrain from limiting state policy options, consult with States prior to taking any actions that would restrict state policy options, and take such actions only when there is clear constitutional authority and the presence of a problem

of national scope. The Order provides for preemption of State law only if there is a clear Congressional intent for the agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act) expresses Congress' clear intent to preempt State laws with respect to which Federal OSHA has promulgated occupational safety or health standards. Under the OSH Act a State can avoid preemption only if it submits, and obtains Federal approval of, a plan for the development of such standards and their enforcement. Occupational safety and health standards developed by such State Plan States must, among other things, be at least as effective as the Federal standards in providing safe and healthful employment and places of employment.

Since many work-related MSDs are reported every year in every State and since MSD hazards are present in workplaces in every state of the Union, the risk of work-related MSD disorders is a national problem.

The Federally proposed ergonomics program standard is drafted so that employees in every State would be protected by the standard. To the extent that there are any State or regional peculiarities, States with occupational safety and health plans approved under section 18 of the OSH Act would be able to develop their own comparable State standards to deal with any special problems.

In short, there is a clear national problem related to occupational safety and health for employees exposed to MSD hazards in the workplace. Any rule pertaining to ergonomics developed by States that have elected to participate under Section 18 of the OSH Act would not be preempted by this proposed regulation if the State rule is determined by Federal OSHA to be "at least as effective" as the Federal rule.

State comments are invited on this proposal and will be fully considered prior to promulgation of a final rule. OSHA has involved representatives of State and local governments in the development of this proposed rule. Several representatives of State and local governments participated in the extensive stakeholders meetings that were held to assist OSHA in developing this proposal.

XIII. State Plans States

The 23 states and 2 territories which operate their own Federally-approved occupational safety and health plans must adopt a comparable standard within six months of the publication date of a final standard. These States include: Alaska, Arizona, California, Connecticut (for State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for State and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming. Until such time as a state or territorial standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate.

XIV. Issues on Which OSHA Seeks Comment

OSHA seeks comment and information from interested parties on all issues raised by the proposed ergonomics program rule. Comments that provide data and information to support the position taken by the commenter are particularly valuable to the Agency, because they permit OSHA to evaluate the point of view of the commenter. Comments in response to these issues, and any other that commenters care to raise, should be submitted to the Agency in accordance with the informations in the **DATES** and **ADDRESSES** sections of this preamble. The issues below are grouped according to the major topics identified in the headings.

A. Scope

1. OSHA requests information and comment on the jobs (manual handling and manufacturing jobs) that the Agency has decided to cover in the first phase of its ergonomics rulemaking. Are these jobs the right ones on which to focus coverage of the standard ? Are there other equally or more hazardous jobs that OSHA should include in the Scope? If so, what are these jobs and why should they be included? Conversely, are there jobs that OSHA should exclude from the Scope? If so, why? Please provide as much data and information as you have to support your answer.

2. OSHA requests information and comment on the definitions of manufacturing and manual handling jobs used in the proposed standard. Are these definitions clear? Could they be improved upon? If so, how? Are the examples OSHA provides of jobs that typically would be classified as manual handling or manufacturing jobs appropriate? Should others be added? Are there jobs that OSHA has identified as not typically constituting manual handling or manufacturing jobs that should be classified as manual handling or manufacturing jobs? If so, why? Should OSHA's definitions include more specification? For example, should the manual handling definition specify the total amount of weight an employee can lift in a day without having the job identified as a manual handling job? Should OSHA attempt to specify how many hours an employee must work at a manufacturing job in a day before the job is identified as a manufacturing job? Should the definition of manual handling be based on quantitative methods such as the NIOSH Lifting Equation?

3. OSHA requests information and comment on defining the term "covered MSD" as an "OSHA recordable MSD" that additionally meets the standard's screening criteria. Are there alternative definitions of the term covered MSD that would be as protective as the proposed definition? Do the screening criteria in the standard serve the purpose for which they were intended, *i.e.*, do they permit employers to rule out some MSDs that are OSHA-recordable MSDs but that are not a type of MSD that could reasonably be related to the physical work activities and conditions of the employee's job? What other screening criteria might be useful? Please provide examples of MSDs, based on your experience, that are OSHA-recordable MSDs that you believe would be screened out by the standard's screening criteria. In your experience, what proportion of all recordable MSDs might be screened out by these criteria? Please provide any data you have to support the benefits of including the screening criteria in the rule.

4. OSHA requests information and comment on whether the terms, "core element" and "significant amount," which are used in the definitions of manual handling and manufacturing jobs, are clear? If not, are there other terms OSHA could use that would capture OSHA's meaning? If so, what are they, and how should they be defined?

5. OSHA requests comments and information about whether agriculture, construction and maritime operations should be included in this first phase of ergonomics rulemaking. Should all of these operations be covered in a second phase, or should OSHA propose the next phase of an ergonomics standard only for one of these industries? If so, which one or ones should be included, and what evidence is there they should be either included or excluded? In addition, should the first phase of this rulemaking cover some operations, such as manual

handling, wherever they occur, including in construction and marine operations?

B. Use of Covered MSD as a Trigger to Implement the Full Program

1. All of OSHA's health standards require employers to conduct exposure assessments to identify the most highly exposed employees and to determine where engineering and work practice controls must be implemented to control exposures. In contrast, the proposed ergonomics program standard uses an MSD incident trigger to initiate job hazard analysis and implementation of exposure controls. OSHA is aware that many employers who have ergonomics programs take a more proactive approach to identify and fix hazardous jobs before injuries occur. What approaches are used to identify hazardous jobs under a proactive program? What criteria are used to identify hazardous jobs? What tools or guidelines are available to employers who wish to identify hazardous jobs before any injuries take place, and what level of expertise is required to use these tools? Are there methods and guidelines available that would enable employers (particularly those in small businesses) to identify hazardous jobs without the need for specialized equipment or expertise? If so, how has it been proven that such methods are reliable and cost-effective?

2. OSHA solicits comment on the use of one MSD as a trigger for fixing jobs and/or implementing a full program. Many commenters expressed interest in alternative triggers such as two MSDs in the same job over various time periods, one lost workday MSD, or persistent signs of MSDs. Others expressed interest in a proactive approach that did not wait until an MSD occurred. OSHA welcomes comment on these and other alternatives. The Initial Regulatory Flexibility Analysis, in section VIII. H., provides a discussion of the pros and cons and the costs and projected benefits of several possible trigger alternatives.

C. Grandfather Clause

1. The Agency seeks comment on whether allowing employers with effective programs that have the core elements of the proposed program to "grandfather" their programs in is protective of workers and useful to employers. Is this provision necessary, or is the proposed standard so performance based and flexible that employers would not have to revamp their existing programs to accommodate the ergonomics program standard? Please provide data and examples to support your responses. If the grandfather clause is useful, are there changes that should be made to it to make it more useful? Does it need to be strengthened in any way to ensure employee protection? Are there ways of measuring the effectiveness of ergonomics programs that are reliable and easily implemented for the purpose of determining whether an employer's existing program is effective? If so, could such a measure be the principal means of determining whether a program is eligible for being grandfathered?

D. Quick Fix Option

1. OSHA would like comments on the usefulness of the Quick Fix option. Is it adequately protective of employee health? If so, why? If not, why not? Is it useful for employers? Will it permit them to eliminate MSD hazards and save time and money while still protecting their employees? How often do you think employers should be permitted to avail themselves of this option in a particular job? Are there particular types of jobs to which Quick Fixes are readily applicable and others to which they would not be applicable? If so, what are they? In addition, OSHA would like comments on the time frames provided in the proposed rule's Quick Fix provision.

E. Hazard Information and Reporting

1. OSHA welcomes comments on the adequacy and appropriateness of the proposed standard's requirements for reporting systems. Will the approach used in the standard encourage the early reporting of MSDs? Are there ways that these provisions should be strengthened? For example, should the standard require employers to survey their employees to identify the early signs and symptoms of MSDs? Please provide any data you have on the effectiveness of various employee reporting systems.

F. Job Hazard Analysis and Control

1. OSHA is requesting information on the usefulness of checklists to help small businesses conduct job hazard analyses. Specifically, should OSHA require that employers, or small employers, use these checklists? Should OSHA merely provide checklists as compliance assistance materials at the time of the final rule?

2. OSHA is seeking comments and information on the appropriateness of the risk factors, physical work activities, and job conditions it has identified in this section of the standard. Are there other risk factors that should be included? What assistance could OSHA provide employers to assist them in identifying the risk factors in problem jobs that need to be controlled to prevent recurrences of MSDs? Is the table found in § 1910.918 useful in assisting employers conducting a job hazard analysis?

3. How can OSHA best assist employers to select the appropriate controls to address various kinds or combinations of risk factors? Would including a list of the most commonly used controls to address various ergonomic problems (unassisted manual handling, use of excessive force, repetitive keying) be useful? If so, what are good sources of such lists? Please be as specific as possible in your answers.

4. Are the definitions used in the proposed standard for "engineering controls," "administrative controls," and "personal protective equipment" sufficient? Is it clear from these definitions what kinds of equipment and procedures fall into each category of control? Are there any data on the effectiveness of back braces or back belts that would support defining these devices as personal protective equipment? Is the hierarchy of controls clear? Are there any controls that would be defined as personal protective equipment that would be as effective as engineering, administrative, or work practice controls? If so, please submit data supporting the effectiveness of this personal protective equipment.

5. Are the compliance endpoints described in the proposed standard clear and understandable? Are there other ways to define when an employer should be considered to have eliminated or substantially reduced MSD hazards? OSHA believes that many employers use an incremental approach to implementing ergonomic fixes, such as that laid out in the proposed standard. Is the approach taken in the standard reasonable and effective? Are there other approaches that could be taken by employers?

6. Computer vision syndrome (CVS), defined as a complex of eye and vision problems that are experienced during and related to computer use, is a repetitive strain disorder that appears to be growing rapidly, with some studies estimating that 90 percent of the 70 million U.S. workers using computers for more than 3 hours per day experience it in some form. What work practices or controls can employers

use to prevent or reduce the occurrence of CVS? Are studies of the effectiveness of these approaches available?

7. What OSHA compliance assistance materials would be helpful to employers? To employees?

G. MSD Management

1. OSHA would like comments and information on the essential components of an effective MSD management process that OSHA should include as part of the standard. Specifically, should OSHA specify when and under what conditions employers should be required to send employees with MSDs to a health care professional?

2. What studies are available on the percentage of work-related MSDs that recur among employees whose jobs have been controlled? Do the percentages of recurrence differ for different kinds of MSDs?

3. OSHA solicits data on the frequency with which persistent symptoms (*i.e.*, those lasting for 7 days or longer) progress to recordable MSD if (1) the symptoms are treated early; or (2) they are not treated early.

4. OSHA solicits comment on employers' experiences in encouraging the early reporting of signs and symptoms. Which approaches have worked and which have not proven useful?

5. The medical management section of the proposed standard requires an employer to make available medical care whenever an employee has a covered MSD. The employer is required to provide prompt access to a health care professional for effective evaluation, management, and follow up. The standard defines a health care professional as a physician or other licensed health care provider whose legally permitted scope of practice (*e.g.*, license, registration, or certification) allows them to provide some or all of the activities described in the MSD management requirements of the standard. This language permits states to determine the appropriate scope of practice for health care professionals providing the medical management services. Similar language has been incorporaated in all of OSHA's health standards promulgated since 1990 and reflects a growing societal trend to reduce medical costs and improve access to health care. Is it appropriate for OSHA to recognize or promote the role of the non-physician provider with respect to the ergonomics standard? What are the advantages and disadvantages to both employers and employees in using any health care professional with respect to MSDs? Are state scope of practice laws sufficient to ensure that medical management is of sufficient quality to protect the health of employees, and to what extent do these laws create a potential for disparity in treatment between states? Should OSHA more clearly define the competencies necessary for a health care professional with respect to the medical management of MSDs?

6. OSHA welcomes comments on the standard's work restriction provision (WRP). For example, should WRP be provided for a longer period than the 6 months proposed? Is the 6 month period too long? Should WRP cover a much shorter time period such as 3 days or 7 days? What percentage of earnings should WRP cover? Should WRP be expressed as a percentage of earnings or of take-home pay? Are there other methods that might achieve the goals of WRP, *i.e.*, the complete and early reporting of MSDs by employees?

H. When must my program be in place? (Compliance deadlines)

1. MSD management is to be provided as soon as possible or within 5 days, whichever comes first. OSHA would like comments and information on the adequacy and appropriateness of this time period. For example, is it short enough to ensure that employee MSDs are addressed so that they will not progress further?

2. OSHA requests comment on the appropriateness of the proposed start up times contained in § 1910.942 for implementing the various elements of the ergonomics standard.

I. Program Approach

1. OSHA has used a program approach to develop the proposed ergonomics standard. Should this standard be program-based? Should the program elements be spelled out in more detail? Are other elements necessary to ensure that the ergonomics program protects workers? How should the program address management leadership and employee participation?

2. OSHA requests data and additional case studies describing the effect of ergonomics programs on MSD rates, lost-work time, productivity, and medical and worker's compensation costs.

J. Economic Impact Analysis

OSHA solicits comment on the following aspects of the economic analysis and requests any additional relevant information, suggestions, or data:

1. The methodologies for estimating costs and benefits. These methodologies are described in detail in the Preliminary Economic Analysis. The basic unit cost estimates are provided in a summary table in the Initial Regulatory Flexibility Analysis (Section VIII. H.)

2. Data or information on the indirect costs and benefits of the proposed standard. OSHA estimated costs and benefits assuming that industry remains as it is today. OSHA welcomes comment on ways the proposed standard may alter the economy that could lead either to changes in the costs or benefits or to the standard's indirect benefits and costs.

3. Data on the economic impacts of the proposed standard. OSHA summarizes the economic impacts of the Standard in Section VIII of this preamble, and describes them in greater detail in Chapter VIII of the Preliminary Economic Impact Analysis. OSHA welcomes comment on all aspects of its estimates of the economic impacts of the standard.

4. Data on the control costs associated with the job hazard analysis and control provisions of the standard. The control costs associated with these activities and the methodologies for deriving them are documented in detail in the Preliminary Economic Analysis. These cost estimates rely primarily on the judgments of ergonomists with experience in implementing ergonomics programs in a variety of settings. For the purposes of establishing technological feasibility and capturing the productivity effects of ergonomic job interventions, OSHA developed or took from the literature a set of 170 scenarios representing actual workplace jobs and appropriate controls under the proposed standard. Although the scenarios were not used to develop the costs of the job controls for the cost analysis, the scenario costs are consistent with the cost estimates for higher-tech interventions reflected in the cost analysis. If these costs are demonstrated to be under- or overestimated, OSHA will review the basis of its estimates of the costs of job controls. OSHA welcomes comment on these scenarios, and seeks additional scenarios representing specific examples of problem jobs, with or without actual job controls or cost and effectiveness information.

5. Data on the use and effectiveness of specific ergonomic controls. OSHA estimates, based on epidemiological data and examples of program interventions, that ergonomic controls can reduce MSD rates by 50%. OSHA welcomes comment on this estimate (described in greater detail in the Preliminary Risk Assessment of the Preamble and Chapter IV of the Preliminary Economic Analysis) . OSHA also welcomes examples of the effectiveness of particular programs and particular types of controls.

6. Data on the productivity impacts of specific ergonomic controls. OSHA's economic analysis attempts to capture these productivity gains by applying reported improvements occurring in a particular job to other jobs involving the same work activities. OSHA estimated that productivity impacts reduce the gross costs of ergonomic job controls by approximately one third. OSHA welcomes comment on this estimate, the job intervention scenarios on which it is based (presented in the Appendix to Chapter III of the Preliminary Economic Analysis), and data on the experience concerning productivity effects of ergonomic job interventions. Are there better ways of reflecting ergonomically generated productivity gains? For example, would applying a generic productivity factor across the board be a reasonable approach? If so, what should that factor be and what data are available to support it?

7. Data on the effectiveness of ergonomics programs. Please describe the program and the types and percentages of MSDs it has prevented. Are there any particular types of MSDs that ergonomics programs have been more or less effective at preventing, such as particularly severe MSDs or MSDs of certain types, such as low back pain?

8. Data on changes in the reporting of MSDs resulting from implementing ergonomics programs. (There are anecdotal data suggesting that MSD reporting may increase as a result of implementing the employee participation and hazard information aspects of ergonomics programs.) OSHA is particularly interested in quantitative data on the actual experience of employers concerning any increases in MSD reporting, the severity of the MSDs reported, and the length of time any change in the rate of reporting lasted.

9. Data on the annual incidence of lost workday MSDs and non-lost workday MSDs. OSHA particularly welcomes data on the ratio of the total number of MSDs to the total number of MSDs involving days away from work. (These data are not collected by BLS.) OSHA has preliminarily estimated the total number of MSDs using BLS data for all injuries and illnesses (not for MSDs specifically) on the total number of injuries and illnesses involving days away from work and the total number of injuries and illnesses.

10. Data on what percentage of all MSDs would pass the screening criteria of the standard and be considered by the standard to be covered MSDs, thus requiring the jobs in which the covered MSD occurred to be fixed and/or the implementation of a full program. OSHA has preliminarily assumed that all MSDs occurring in jobs that have not yet been fixed will be covered MSDs. Is this a reasonable assumption? If so, why? If not, why not?

11. Data on the nature and costs associated with MSDs that are recorded in the OSHA log but are not workers' compensation claims. OSHA has preliminarily estimated that 30% of all lost workday injuries and illnesses recorded on OSHA logs (OSHA recordables) do not result in accepted workers' compensation claims and that the recordables that do not become accepted workers' compensation claims have the same severity and durations as those injuries and illnesses that are accepted as workers' compensation claims. Is this a reasonable assumption? If so, why? If not, why not?

12. Data or studies on the overreporting or underreporting of MSDs. Many employers fear that the proposed standard could increase the reporting of MSDs, and even perhaps increase the fraudulent reporting of MSDs. Many studies (see the Preliminary Risk Assessment of the Preamble) have shown that many work-related MSDs are not reported either on the OSHA 200 log or filed as workers' compensation claims. OSHA welcomes comment on all aspects of both the current rate of reporting of work-related MSDs to employers and the possible impacts of the proposed standard in increasing or reducing the reporting of work-related MSDs.

13. Comments or data on the time it will take employers to implement the various provisions of the standard. OSHA's estimates are in the Initial Regulatory Flexibility Analysis, Section VIII. H).

14. Comments on the proportion of all covered MSDs that will lead to job analyses requiring an outside consultant. OSHA has estimated that 15 percent of all covered MSDs will lead to job analyses requiring an outside consultant.

15. Comments on the estimates of manufacturing and manual handling jobs and on the estimates of the number of workers in each job. Industry by industry estimates are present in Chapter II of the Preliminary Economic Impact Analysis.

16. Comments on OSHA's methodology for estimating the effect of using multiple MSD triggers to determine coverage by the full ergonomics program. OSHA's methodology assumed that all establishments in an industry without ergonomics programs would have the same risks.

17. In Chapter I of the Preliminary Economic Impact Analysis, OSHA lists ergonomics regulations issued by many countries around the world, as well as several guidelines on ergonomics practices issued by national and international organizations. Are there other standards or guidelines that should be added to this list?

18. Comments on the cost-effectiveness of the proposed standard. Is the standard cost effective or are there changes that could be made that would accomplish the goals of the standard at a lower cost?

XV. Public Participation—Notice of Hearing

A. Written Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed standard. Responses to the questions and issues raised by OSHA at various places in the proposal are particularly encouraged. These comments, including materials such as studies or journal articles, must be postmarked by February 1, 2000. Written submissions must clearly identify:

- The provisions of the proposal that are being addressed,
- The position taken with respect to each issue, and
- The basis for that position.

Mail: Comments must be submitted in duplicate to: OSHA Docket Office, Docket No. S–777, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–2625, Washington, DC 20210, (202) 693–2350.

Facsimile: Comments limited to 10 pages or less may be transmitted by facsimile to (202)–693–1648 by February 1, 2000.

Electronic: Written comments may also be submitted electronically through the OSHA Homepage at

www.osha.gov. Electronic comments must be transmitted by February 1, 2000. Please note that you may not attach materials such as studies or journal articles. If you wish to include such materials, you must submit them separately in duplicate to the OSHA Docket Office at the address above. When submitting such materials to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, and subject, so that we can attach them to your electronic comments.

All written comments, along with supporting data and references, received within the specified comment period will be made a part of the record and will be available for public inspection and copying at the above Docket Office address. All timely written submissions will be made a part of the record of the proceeding.

B. Notice of Hearings

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the proposed standard, including economic and environmental impacts, will be provided at informal public hearings scheduled to begin at 9:30 a.m., February 22, 2000, in the auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

Regional hearings will also be held in March 21–31, 2000, in Portland, OR, and April 11–21, 2000, in Chicago, IL. Actual times and addresses for the location of the regional hearings will be announced in a later **Federal Register** notice.

C. Notice of Intention To Appear at the Hearings

Persons desiring to participate at the informal public hearing must file a notice of intention to appear by January 18, 2000. The notices of intention to appear must contain the following information:

1. The name, address, and telephone number of each person to appear;

2. The capacity in which each person will appear;

3. The approximate amount of time required for the presentation;

4. The specific issues that will be addressed;

5. A brief statement of the position that will be taken with respect to each issue;

6. Whether the party intends to submit documentary evidence and, if so, a brief summary of that evidence; and

7. The hearing at which the party wishes to testify.

Mail: The notice of intention to appear may be sent to: Ms. Veneta Chatmon, OSHA Office of Public Affairs, Docket No. S–777, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–3649, Washington, DC 20210, (202) 693–2119.

Facsimile: A notice of intention to appear also may be transmitted by facsimile to (202) 693–1634, by January 24, 2000.

Electronic: A notice of intention to appear may be submitted electronically through the OSHA Homepage at www.osha.gov by January 24, 2000. Notices of intention to appear will be available for inspection and copying at the OSHA Docket Office at the address above.

D. Filing of Hearing Testimony and Documentary Evidence Before the Hearing

Any party requesting more than 10 minutes for presentation at the informal public hearing, or who intends to submit documentary evidence at the hearing, must provide the complete text of the testimony, and documentary evidence to Ms. Veneta Chatmon, at the address above. These materials must be postmarked by February 1, 2000. Testimony and documentary evidence must be submitted either in quadruplicate, or 1 original (hardcopy) and 1 disk (3½) in WP 5.1, 6.1, 8.0 or ASCII. Any information not contained on disk, *e.g.*, studies, articles, etc., must be submitted in quadruplicate to Ms. Veneta Chatmon. One copy of the testimony and supporting documentary evidence must be suitable for copying and must not be stapled. Notices of intention to appear, hearing testimony and documentary evidence will be available for inspection and copying at the OSHA Docket Office.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact prior to the informal hearing.

Any party who has not substantially complied with this requirement may be limited to a 10-minute presentation, and be requested to return for questioning at a later time. Any party who has not filed a Notice of Intention to Appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

OSHA emphasizes that the hearing is open to the public, and that interested persons are welcome to attend. However, only persons who have filed proper Notices of Intention to Appear at the hearing will be entitled to ask questions and otherwise participate fully in the proceedings.

E. Conduct and Nature of the Informal Public Hearing

The hearings will commence at 9:30 a.m. on the first day. At that time, any procedural matters relating to the proceeding will be resolved. The hearings will reconvene on subsequent days at 8:30 a.m.

The nature of an informal rulemaking hearing is established in the legislative history of section 6 of the OSH Act and is reflected by OSHA's rules of procedure for hearings (29 CFR 1911.15(a)). Although the presiding officer is an Administrative Law Judge and questioning by interested persons is allowed on crucial issues, the proceeding is informal and legislative in type. The Agency's intent, in essence, is to provide interested persons with an opportunity to make effective oral presentations that can be carried out expeditiously in the absence of procedural restraints or rigid procedures that might unduly impede or protract the rulemaking process.

Additionally, since the hearing is primarily for information gathering and clarification, it is an informal administrative proceeding rather than adjudicative one; the technical rules of evidence, for example, do not apply. The regulations that govern hearings and the pre-hearing guidelines to be issued for this hearing will ensure fairness and due process and also facilitate the development of a clear, accurate and complete record. Those rules and guidelines will be interpreted in a manner that furthers that development. Thus, questions of relevance, procedure and participation generally will be decided so as to favor development of the record.

The hearing will be conducted in accordance with 29 CFR part 1911. It should be noted that § 1911.4 specifies that the Assistant Secretary may upon reasonable notice issue alternative procedures to expedite proceedings or for other

good cause. The hearing will be presided over by an Administrative Law Judge who makes no decision or recommendation on the merits of OSHA's proposal. The responsibility of the Administrative Law Judge is to ensure that the hearing proceeds at a reasonable pace and in an orderly manner. The Administrative Law Judge, therefore, will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections and comparable matters;

3. To confine the presentations to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit the questioning of any witnesses and to limit the time for questioning; and

6. In the Judge's discretion, to keep the record open for a reasonable, stated time (known as the post-hearing comment period) to receive written information and additional data, views and arguments from any person who has participated in the oral proceedings.

OSHA recognizes that there may be interested persons or organizations who, through their knowledge of the subject matter or their experience in the field, would wish to endorse or support the whole proposal or certain provisions of the proposal. OSHA welcomes such supportive comments, including any pertinent data and cost information which may be available, in order that the record of this rulemaking will present a balanced picture of public response on the issues involved.

At the close of the hearing, the Administrative Law Judge will set a post-hearing comment period for those persons participating in the hearing. The first part of that period will be for the submission of additional data and information to OSHA. The second part will be for the submission of briefs, arguments and summations. Only those persons who have submitted a proper Notice of Intention to Appear at the hearing will be entitled to participate in the posthearing comment period.

F. Certification of Record and Final Determination After the Informal Public Hearing

Following the close of the hearing and post-hearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The Administrative Law Judge does not make or recommend any decisions as to the content of the final standard.

The proposed standard will be reviewed in light of all oral and written submissions received as part of the record, and a permanent Ergonomics Program Standard will be issued, based upon the entire record in the proceeding, including the written comments and data received from the public.

XVI. OMB Review under the Paperwork Reduction Act of 1995

This proposed ergonomics program standard contains collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA'95), 44 U.S.C. 3501 *et seq.* and its regulation at 5 CFR part 1320. PRA'95 defines collection of information to mean, "the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency regardless of form or format." [44 U.S.C. 3502(3) (A)].

The title, description of the need for and proposed use of the information, summary of the collections of information, description of the respondents, and frequency of response of the information collection are described below with an estimate of the annual cost and reporting burden as required by § 1320.5(a)(1)(iv) and § 1320.8(d)(2). Reporting burden includes the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OSHA invites comments on whether the proposed collection of information:

(1) Ensures that the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Estimates the projected burden accurately, including the validity of methodology and assumptions used;

(3) Enhances the quality, utility, and clarity of the information to be collected; and

(4) Minimizes the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Title: The ergonomics program standard Subpart Y, 29 CFR 1910.900 through 1910.945.

Description: The proposed ergonomics program standard is an occupational safety and health standard that will address the significant risk of work-related musculoskeletal disorders (MSDs) confronting employees in various jobs in general industry workplaces. The standard's information collection requirements are essential components that will assist both employers and their employees in identifying MSDs as well as identifying means to take to reduce or eliminate MSDs. OSHA compliance officers will use some of the information in their enforcement of the standard.

Summary of the Collections of Information: The collections of information contained in the standard are for establishing and evaluating an ergonomics program, and for developing and maintaining records associated with the ergonomic program standard. The following ergonomics program elements contain collections of information:

1. Management Leadership and Employee Participation (sections 1910.911 through 1910.913);

2. Hazard Information and Reporting (sections 1910.914 through 1910.916);

3. Job Hazard Analysis and Control (sections 1910.917 through 1910.922);

4. MSD Management (sections 1910.929 through 1910.935); and

5. Program Evaluation (sections 1910.936 through 1910.938).

Records, as identified in sections 1910.939 through 1910.940, include employee reports of MSDs and the employer's response, job hazard analysis results, hazard control, quick fix process, ergonomics program evaluation and MSD management records.

Respondents: Employers in general industry whose employees work in manufacturing jobs or manual handling

jobs, or general industry employers whose employees report an MSD as defined in the proposal.

Frequency of Response: Frequency of response will be determined by whether the employer has manufacturing and/or manual handling jobs, the number of MSDs reported, and actions the employer will take in response to the MSD; that is, whether the employer chooses to use a quick fix option, or must establish an ergonomics program.

Average Time per Response: Time per response varies, from minimal recordkeeping for a quick fix MSD situation, to establishing and implementing a complete ergonomics program.

Total Burden Hours: Approximately 21,402,291 hours.

Estimated Costs (Operating and Maintenance): $513,332,000 (purchasing services).

The Agency has submitted a copy of the information collection request to OMB for its review and approval. Interested parties are requested to send comments regarding this information collection to the Office of Information and Regulatory Affairs, Attn. OSHA Desk Officer, OMB, New Executive Office Building, 725 17th Street NW, Room 10235, Washington, DC 20503.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the final information collection request: they will also become a matter of public record.

Copies of the referenced information collection request are available for inspection and copying in the OSHA Docket Office and will be mailed immediately to persons who request copies by telephoning Todd Owen or Barbara Bielaski at (202) 693–2444. For electronic copies of the ergonomics information collection request, contact the OSHA webpage on the Internet at http://www.osha.gov/. Copies of the information collection request are also available at the OMB docket office.

XVII. Authority and Signature

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Pursuant to sections 4, 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657, Secretary of Labor's Orders Nos. 12–71 (36 FR 8754, 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable, and 29 CFR Part 1911; 29 CFR part 1910 is amended as set forth below.

List of Subjects in 29 CFR Part 1910

Ergonomics program, Health, Musculoskeletal disorders, Health, Occupational safety and health, Reporting and recordkeeping requirements.

Signed, at Washington, DC, this 1st day of November, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

XVIII. The Proposed Standard

General Industry

The Occupational Safety and Health Administration proposes to amend Part 1910 of title 29 of the Code of Federal Regulations as follows:

PART 1910—[AMENDED]

1. New Subpart Y of 29 CFR Part 1910 is added to read as follows:

Subpart Y—Ergonomics Program Standard

Sec.

1910.900 Table of contents

Does This Standard Apply to Me?

1910.901 Does this standard apply to me?
1910.902 Does this standard allow me to rule out some MSDs?
1910.903 Does this standard apply to the entire workplace or to other workplaces in the company?
1910.904 Are there areas this standard does not cover?

How Does This Standard Apply to Me?

1910.905 What are the elements of a complete ergonomics program?
1910.906 How does this standard apply to manufacturing and manual handling jobs?
1910.907 How does this standard apply to other jobs in general industry?
1910.908 How does this standard apply if I already have an ergonomics program?
1910.909 May I use a Quick Fix instead of setting up a full ergonomics program?
1910.910 What must I do if the Quick Fix does not work?

Management Leadership and Employee Participation

1910.911 What is my basic obligation?
1910.912 What must I do to provide management leadership?
1910.913 What ways must employees have to participate in the ergonomics program?

Hazard Information and Reporting

1910.914 What is my basic obligation?
1910.915 What information must I provide to employees?
1910.916 What must I do to set up a reporting system?

Job Hazard Analysis and Control

1910.917 What is my basic obligation?
1910.918 What must I do to analyze a problem job?
1910.919 What hazard control steps must I follow?
1910.920 What kinds of controls must I use?
1910.921 How far must I go in eliminating or materially reducing MSD hazards when a covered MSD occurs?
1910.922 What is the "incremental abatement process" for materially reducing MSD hazards?

Training

1910.923 What is my basic obligation?
1910.924 Who must I train?
1910.925 What subjects must training cover?
1910.926 What must I do to ensure that employees understand the training?
1910.927 When must I train employees?
1910.928 Must I retrain employees who have received training already?

MSD Management

1910.929 What is my basic obligation?
1910.930 How must I make MSD management available?
1910.931 What information must I provide to the health care professional (HCP)?
1910.932 What must the HCP's written opinion contain?
1910.933 What must I do if temporary work restrictions are needed?
1910.934 How long must I maintain the employee's work restriction protection when an employee is on temporary work restrictions?
1910.935 May I offset an employee's WRP if the employee receives workers' compensation or other income?

Program Evaluation

1910.936 What is my basic obligation?
1910.937 What must I do to evaluate my ergonomics program?
1910.938 What must I do if the evaluation indicates that my program has deficiencies?

What Records Must I Keep?

1910.939 Do I have to keep records of the ergonomics program?
1910.940 What records must I keep and for how long?

When Must My Program be in Place?

1910.941 When does this standard become effective?
1910.942 When do I have to be in compliance with this standard?
1910.943 What must I do if some or all of the compliance deadlines have passed before a covered MSD is reported?
1910.944 May I discontinue certain aspects of my program if covered MSDs no longer are occurring?

Definitions

1910.945 What are the key terms in this standard?

Subpart Y—Ergonomics Program Standard

Authority: Secs. 4, 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657, Secretary of Labor's Orders Nos. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), or 6-96 (62 FR 111), as applicable; and 29 CFR Part 1911.

§ 1910.900 Table of contents.

This section is the table of contents for the sections in Subpart Y:

Does This Standard Apply to Me?

Sec.

1910.901 Does this standard apply to me?
1910.902 Does this standard allow me to rule out some MSDs?
1910.903 Does this standard apply to the entire workplace or to other workplaces in the company?
1910.904 Are there areas this standard does not cover?

How Does This Standard Apply to Me?

1910.905 What are the elements of a complete ergonomics program?
1910.906 How does this standard apply to manufacturing and manual handling jobs?
1910.907 How does this standard apply to other jobs in general industry?
1910.908 How does this standard apply if I already have an ergonomics program?
1910.909 May I use a Quick Fix instead of setting up a full ergonomics program?
1910.910 What must I do if the Quick Fix does not work?

Management Leadership and Employee Participation

1910.911 What is my basic obligation?
1910.912 What must I do to provide management leadership?
1910.913 What ways must employees have to participate in the ergonomics program?

Hazard Information and Reporting

1910.914 What is my basic obligation?
1910.915 What information must I provide to employees?
1910.916 What must I do to set up a reporting system?

Job Hazard Analysis and Control

1910.917 What is my basic obligation?
1910.918 What must I do to analyze a problem job?
1910.919 What hazard control steps must I follow?
1910.920 What kinds of controls must I use?
1910.921 How far must I go in eliminating or materially reducing MSD hazards when a covered MSD occurs?
1910.922 What is the "incremental abatement process" for materially reducing MSD hazards?

Training

1910.923 What is my basic obligation?
1910.924 Who must I train?
1910.925 What subjects must training cover?
1910.926 What must I do to ensure that employees understand the training?
1910.927 When must I train employees?
1910.928 Must I retrain employees who have received training already?

MSD Management

1910.929 What is my basic obligation?
1910.930 How must I make MSD management available?
1910.931 What information must I provide to the health care professional (HCP)?
1910.932 What must the HCP's written opinion contain?
1910.933 What must I do if temporary work restrictions are needed?
1910.934 How long must I maintain the employee's work restriction protection when an employee is on temporary work restrictions?
1910.935 May I offset an employee's WRP if the employee receives workers' compensation or other income?

Program Evaluation

1910.936 What is my basic obligation?
1910.937 What must I do to evaluate my ergonomics program?
1910.938 What must I do if the evaluation indicates that my program has deficiencies?

What Records Must I Keep?

1910.939 Do I have to keep records of the ergonomics program?
1910.940 What records must I keep and for how long?

When Must My Program be in Place?

1910.941 When does this standard become effective?
1910.942 When do I have to be in compliance with this standard?
1910.943 What must I do if some or all of the compliance deadlines have passed before a covered MSD is reported?
1910.944 May I discontinue certain aspects of my program if covered MSDs no longer are occurring?

Definitions

1910.945 What are the key terms in this standard?

Note to § 1910.900: In this standard, the terms that are defined in § 1910.945 are put in "quotations" the first time they appear.

Does This Standard Apply to Me?

§ 1910.901 Does this standard apply to me?

This standard applies to employers in general industry whose employees work in "manufacturing jobs" or "manual handling jobs," or report "musculoskeletal disorders (MSDs)" that meet the criteria of this standard. This standard applies to the following "jobs":

(a) *Manufacturing jobs.* Manufacturing jobs are production jobs in which employees perform the "physical work activities" of producing a product and in which these activities make up a significant amount of their worktime;

(b) *Manual handling jobs.* Manual handling jobs are jobs in which employees perform forceful lifting/lowering, pushing/pulling, or carrying. Manual handling jobs include only those jobs in which forceful manual handling is a core element of the employee's job; and

Note to paragraphs (a) and (b): Although each manufacturing and manual handling job must be considered on the basis of its actual physical work activities and conditions, the definitions section of this standard (§ 1910.945) includes a list of jobs that are typically included in and excluded from these definitions.

(c) *Jobs with a musculoskeletal disorder.* Jobs with an MSD are those jobs in which an employee reports an MSD that meets all of these criteria:

(1) The MSD is reported after [the effective date of the final rule];

(2) The MSD is an "OSHA recordable MSD," or one that would be recordable if "you" were required to keep OSHA injury and illness records; and

(3) The MSD also meets the screening criteria in § 1910.902.

Note to paragraph (c): In this standard, the term "covered MSD" refers to a musculoskeletal disorder that meets the requirements of this section.

§ 1910.902 Does this standard allow me to rule out some MSDs?

Yes. The standard only covers those OSHA recordable MSDs that also meet these screening criteria:

(a) The physical work activities and conditions in the job are reasonably likely to cause or contribute to the type of MSD reported; and

(b) These activities and conditions are a core element of the job and/or make up a significant amount of the employee's worktime.

§ 1910.903 Does this standard apply to the entire workplace or to other workplaces in the company?

No. This standard is job-based. It only applies to the jobs specified in § 1910.901, not to your entire workplace or to other workplaces in your company.

§ 1910.904 Are there areas this standard does not cover?

Yes. This standard does not apply to agriculture, construction or maritime operations.

How Does This Standard Apply to Me?

§ 1910.905 What are the elements of a complete ergonomics program?

In this standard, a full "ergonomics" program consists of these six program elements:

(a) Management Leadership and Employee Participation;

(b) Hazard Information and Reporting;

(c) Job Hazard Analysis and Control;

(d) Training;

(e) "MSD Management," and

(f) Program Evaluation.

§ 1910.906 How does this standard apply to manufacturing and manual handling jobs?

You must:

(a) Implement the first two elements of the ergonomics program (Management Leadership and Employee Participation, and Hazard Information and Reporting) even if no MSD has occurred in those jobs.

(b) Implement the other program elements when either of the following occurs in those jobs (unless you "eliminate MSD hazards" using the Quick Fix option in § 1910.909):

(1) A covered MSD is reported; or

(2) "Persistent MSD symptoms" are reported plus:

(i) You "have knowledge" that an MSD hazard exists in the job;

(ii) Physical work activities and conditions in the job are reasonably likely to cause or contribute to the type of "MSD symptoms" reported; and

(iii) These activities and conditions are a core element of the job and/or make up a significant amount of the employee's worktime.

Note to § 1910.906: "Covered MSD" refers to MSDs that meet the criteria in § 1910.901(c). As it applies to manufacturing and manual handling jobs, "covered MSD" also refers to persistent MSD symptoms that meet the criteria of this section.

§ 1910.907 How does this standard apply to other jobs in general industry?

In other jobs in general industry, you must comply with all of the program elements in the standard when a covered MSD is reported (unless you eliminate the MSD hazards using the Quick Fix option).

§ 1910.908 How does this standard apply if I already have an ergonomics program?

If you already have an ergonomics program for the jobs this standard covers, you may continue that program, even if it differs from the one this standard requires, provided you show that:

(a) Your program satisfies the basic obligation section of each program element in this standard, and you are in compliance with the recordkeeping requirements of this standard (§§ 1910.939 and 1910.940);

(b) You have implemented and evaluated your program and controls before [the effective date of the final rule]; and

(c) The evaluation indicates that the program elements are functioning properly and that you are in compliance with the control requirements in § 1910.921.

§ 1910.909 May I use a Quick Fix instead of setting up a full ergonomics program?

Yes. A Quick Fix is a way to fix a "problem job" quickly and completely. If you "eliminate MSD hazards" using a Quick Fix, you do not have to set up the full ergonomics program this standard requires. You must do the following when you Quick Fix a problem job:

(a) Promptly make available the MSD management this standard requires;

(b) Consult with employee(s) in the problem job about the physical work activities or conditions of the job they associate with the difficulties, observe the employee(s) performing the job to identify whether any risk factors are present, and ask employee(s) for recommendations for eliminating the MSD hazard;

(c) Put in Quick Fix controls within 90 days after the covered MSD is identified, and check the job within the next 30 days to determine whether the controls have eliminated the hazard;

(d) Keep a record of the Quick Fix controls; and

(e) Provide the hazard information this standard requires to employee(s) in the problem job within the 90-day period.

Note to § 1910.909: If you show that the MSD hazards only pose a risk to the employee with the covered MSD, you may limit the Quick Fix to that individual employee's job.

§ 1910.910 What must I do if the Quick Fix does not work?

You must set up the complete ergonomics program if either of these occurs:

(a) The Quick Fix controls do not eliminate the MSD hazards within the Quick Fix deadline (within 120 days after the covered MSD is identified); or

(b) Another covered MSD is reported in that job within 36 months.

Note to § 1910.910: Exception: If a second covered MSD occurs in that job resulting from different physical work activities and conditions, you may use the Quick Fix a second time.

Management Leadership and Employee Participation

§ 1910.911 What is my basic obligation?

You must demonstrate management leadership of your ergonomics program. Employees (and their designated

representatives) must have ways to report "MSD signs" and "MSD symptoms;" get responses to reports; and be involved in developing, implementing and evaluating each element of your program. You must not have policies or practices that discourage employees from participating in the program or from reporting MSDs signs or symptoms.

§ 1910.912 What must I do to provide management leadership?

You must:

(a) Assign and communicate responsibilities for setting up and managing the ergonomics program so managers, supervisors and employees know what you expect of them and how you will hold them accountable for meeting those responsibilities;

(b) Provide those persons with the authority, "resources," information and training necessary to meet their responsibilities;

(c) Examine your existing policies and practices to ensure that they encourage and do not discourage reporting and participation in the ergonomics program; and

(d) Communicate "periodically" with employees about the program and their concerns about MSDs.

§ 1910.913 What ways must employees have to participate in the ergonomics program?

Employees (and their designated representatives) must have:

(a) A way to report MSD signs and symptoms;

(b) Prompt responses to their reports;

(c) Access to this standard and to information about the ergonomics program; and

(d) Ways to be involved in developing, implementing and evaluating each element of the ergonomics program.

Hazard Information and Reporting

§ 1910.914 What is my basic obligation?

You must set up a way for employees to report MSD signs and symptoms and to get prompt responses. You must evaluate employee reports of MSD signs and symptoms to determine whether a covered MSD has occurred. You must periodically provide information to employees that explains how to identify and report MSD signs and symptoms.

§ 1910.915 What information must I provide to employees?

You must provide this information to current and new employees:

(a) Common MSD hazards;

(b) The signs and symptoms of MSDs, and the importance of reporting them early;

(c) How to report MSD signs and symptoms; and

(d) A summary of the requirements of this standard.

§ 1910.916 What must I do to set up a reporting system?

You must:

(a) Identify at least one person to receive and respond to employee reports, and to take the action this standard requires.

(b) Promptly respond to employee reports of MSD signs or symptoms in accordance with this standard.

Job Hazard Analysis and Control

§ 1910.917 What is my basic obligation?

You must analyze the problem job to identify the "ergonomic risk factors" that result in MSD hazards. You must eliminate the MSD hazards, reduce them to the extent feasible, or materially reduce them using the incremental abatement process in this standard. If you show that the MSD hazards only pose a risk to the employee with the covered MSD, you may limit the job hazard analysis and control to that individual employee's job.

§ 1910.918 What must I do to analyze a problem job?

You must:

(a) Include in the job hazard analysis all of the employees in the problem job or those who represent the range of physical capabilities of employees in the job;

(b) Ask the employees whether performing the job poses physical difficulties and, if so, which physical work activities or conditions of the job they associate with the difficulties;

(c) Observe the employees performing the job to identify which of the following physical work activities, workplace conditions and ergonomic risk factors are present:

PHYSICAL WORK ACTIVITIES AND CONDITIONS	ERGONOMIC RISK FACTORS THAT MAY BE PRESENT
(1) Exerting considerable physical effort to complete a motion	(i) Force (ii) Awkward postures (iii) Contact stress
(2) Doing same motion over and over again	(i) Repetition (ii) Force (iii) Awkward postures (iv) Cold temperatures
(3) Performing motions constantly without short pauses or breaks in between	(i) Repetition (ii) Force (iii) Awkward postures (iv) Static postures (v) Contact stress (vi) Vibration
(4) Performing taks that involve long reaches	(i) Awkward postures (ii) Static postures (iii) Force
(5) Working surfaces are too high or too low	(i) Awkward postures (ii) Static postures (iii) Force (iv) Contact stress
(6) Maintaining same position or posture while performing tasks	(i) Awkward posture (ii) Static postures (iii) Force (iv) Cold temperatures
(7) Sitting for a long time	(i) Awkward posture (ii) Static postures (iii) Contact stress

PHYSICAL WORK ACTIVITIES AND CONDITIONS	ERGONOMIC RISK FACTORS THAT MAY BE PRESENT
(8) Using hand and power tools	(i) Force (ii) Awkward postures (iii) Static postures (iv) Contact stress (v) Vibration (vi) Cold temperatures
(9) Vibrating working surfaces, machinery or vehicles	(i) Vibration (ii) Force (iii) Cold temperatures
(10) Workstation edges or objects press hard into muscles or tendons	(i) Contact stress
(11) Using hand as a hammer	(i) Contact stress (ii) Force
(12) Using hands or body as clamp to hold object while performing tasks	(i) Force (ii) Static postures (iii) Akward postures (iv) Contact stress
(13) Gloves are bulky, too large or too small	(i) Force (ii) Contact stress
MANUAL HANDLING (lifting/lowering, pushing/pulling and carrying)	
(14) Objects or people moved are heavy	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(15) Horizontal reach is long (Distance of hands from body to grasp object to be handled)	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(16) Vertical reach is below knees or above the shoulders (Distance of hands above the ground when the object is grasped or released)	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(17) Objects or people are moved significant distance	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures (v) Contact stress
(18) Bending or twisting during manual handling	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures
(19) Object is slippery or has no handles	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures
(20) Floor surfaces are uneven, slippery or sloped	(i) Force (ii) Repetition (iii) Awkward postures (iv) Static postures

(d) Evaluate the ergonomic risk factors in the job to determine the MSD hazards associated with the covered MSD. As necessary, evaluate the duration, frequency and magnitude of employee exposure to the risk factors.

§ 1910.919 What hazard control steps must I follow? You must:

(a) Ask employees in the problem job for recommendations about eliminating or materially reducing the MSD hazards;

(b) Identify, assess and implement feasible controls (interim and/or permanent) to eliminate or materially reduce the MSD hazards. This includes prioritizing the control of hazards, where necessary;

(c) Track your progress in eliminating or materially reducing the MSD hazards. This includes consulting with employees in problem jobs about whether the implemented controls have eliminated or materially reduced the hazards; and

(d) Identify and evaluate MSD hazards when you change, design or purchase equipment or processes in problem jobs.

§ 1910.920 What kinds of controls must I use?

(a) In this standard, you must use any combination of "engineering," "administrative" and/or "work practice controls" to eliminate or materially reduce MSD hazards. Engineering controls, where feasible, are the preferred method for eliminating or materially reducing MSD hazards. However, administrative and work practice controls also may be important in addressing MSD hazards.

(b) "Personal protective equipment" (PPE) may be used to supplement engineering, work practice and administrative controls, but may only be used alone where other controls are not feasible. Where PPE is used, you must provide it at "no cost to employees."

Note to § 1910.920: Back belts/braces and wrist braces/splints are not considered PPE for the purposes of this standard.

§ 1910.921 How far must I go in eliminating or materially reducing MSD hazards when a covered MSD occurs?

The occurrence of a covered MSD in a problem job is not itself a violation of this standard. You must comply with one of the following:

(a) You implement controls that materially reduce the MSD hazards using the incremental abatement process in § 1910.922; or

Note to paragraph (a): "Materially reduce MSD hazards" means to reduce the duration, frequency and/or magnitude of exposure to one or more ergonomic risk factors in a way that is reasonably anticipated to significantly reduce the likelihood that covered MSDs will occur.

(b) You implement controls that reduce the MSD hazards to the extent feasible. Then, you periodically look to see whether additional controls are now feasible and, if so, you implement them promptly; or

(c) You implement controls that eliminate the MSD hazards in the problem job.

Note to paragraph (c): "Eliminate MSD hazards" means that you eliminate employee exposure to ergonomic risk factors associated with the covered MSD, or you reduce employee exposure to the risk factors to such a degree that a covered MSD is no longer reasonably likely to occur.

§ 1910.922 What is the "incremental abatement process" for materially reducing MSD hazards?

You may materially reduce MSD hazards using the following incremental abatement process:

(a) When a covered MSD occurs, you implement one or more controls that materially reduce the MSD hazards; and

(b) If continued exposure to MSD hazards in the job prevents the injured employee's condition from improving or another covered MSD occurs in that job, you implement additional feasible controls to materially reduce the hazard further; and

(c) You do not have to put in further controls if the injured employee's condition improves and no additional covered MSD occurs in the job. However, if the employee's condition does not improve or another covered MSD occurs, you must continue this incremental abatement process if other feasible controls are available.

Training

§ 1910.923 What is my basic obligation?

You must provide training to employees so they know about MSD hazards and your ergonomics program and measures for eliminating or materially reducing the hazards. You must provide training initially, periodically, and at least every 3 years at no cost to employees.

§ 1910.924 Who must I train?

You must train:

(a) Employees in problem jobs;

(b) Supervisors of employees in problem jobs; and

(c) Persons involved in setting up and managing the ergonomics program, except for any outside consultant you may use.

§ 1910.925 What subjects must training cover?

This table specifies the subjects training must cover:

YOU MUST PROVIDE TRAINING FOR...	SO THAT THEY KNOW...
(a) Employees in problem jobs and their supervisiors	(1) How to recognize MSD signs and symptoms; (2) How to report MSD signs and symptoms, and the importance of early reporting; (3) MSD hazards in their jobs and the measures they must follow to protect themselves from exposure to MSD hazards; (4) Job-specific controls implemented in their jobs; (5) The ergonomics program and their role in it; and (6) The requirements of this standard.
(b) Persons involved in setting up and managing the ergonomics program	(1) The subjects above; (2) How to set up and manage an ergonomics program; (3) How to identify and analyze MSD hazards and measures to eliminate or materially reduce the hazards; and (4) How to evaluate the effectiveness of ergonomics programs and controls.

§ 1910.926 What must I do to ensure that employees understand the training?

You must provide training and information in language that employees understand. You also must give employees an opportunity to ask questions and receive answers.

§ 1910.927 When must I train employees?

This table specifies when you must train employees:

IF YOU HAVE...	THEN YOU MUST PROVIDE TRAINING AT THESE TIMES...
(a) Employees in problem jobs and their supervisors	(1) When a problem job is identifed; (2) When initially assigned to a problem job; (3) Periodically as needed (*e.g.*, when new hazards are identified in a problem job or changes are made to a problem job that may increase exposure to MSD hazards); and (4) At least every 3 years.
(b) Persons involved in setting up and managing the ergonomics program	(1) When they are initially assigned to setting up and managing the ergonomics program; (2) Periodically as needed (*e.g.*, when evaluation reveals significant deficiencies in the program, when significant changes are made in the ergonomics program); and (3) At least every 3 years.

§ 1910.928 Must I retrain employees who have received training already?

No. You do not have to provide initial training to current employees, new employees and persons involved in setting up and managing the ergonomics programs if they have received training in the subjects this standard requires within the last 3 years. However, you must provide initial training in the subjects in which they have not been trained.

MSD Management

§ 1910.929 What is my basic obligation?

You must make MSD management available promptly whenever a covered MSD occurs. You must provide MSD management at no cost to employees. You must provide employees with the temporary "work restrictions" and "work restriction protection (WRP)" this standard requires.

§ 1910.930 How must I make MSD management available?

You must:

(a) Respond promptly to employees with covered MSDs to prevent their condition from getting worse;

(b) Promptly determine whether temorary work restrictions or other measures are necessary;

(c) When necessary, provide employees with prompt access to a "health care professional" (HCP) for evaluation, management and "follow-up,"

(d) Provide the HCP with the information necessary for conducting MSD management; and

(e) Obtain a written opinion from the HCP and ensure that the employee is also promptly provided with it.

§ 1910.931 What information must I provide to the health care professional (HCP)?

You must provide:

(a) A description of the employee's job and information about the MSD hazards in it;

(b) A description of available work restrictions that are reasonably likely to fit the employee's capabilities during the recovery period;

(c) A copy of this MSD management section and a summary of the requirements of this standard;

(d) Opportunities to conduct workplace walkthroughs.

§ 1910.932 What must the HCP's written opinion contain?

The written opinion must contain:

(a) The HCP's opinion about the employee's medical conditions related to the MSD hazard in the employee's job.

(1) You must instruct the HCP that any findings, diagnoses or information not related to workplace exposure to MSD hazards must remain confidential and must not be put in the written opinion or communicated to you.

(2) To the extent permitted and required by law, you must ensure employee privacy and confidentiality regarding medical conditions related to workplace exposure to MSD hazards that are identified during the MSD management process;

(b) Any recommended temporary work restrictions and follow-up;

(c) A statement that the HCP informed the employee about the results of the evaluation and any medical conditions resulting from exposure to MSD hazards that require further evaluation or treatment;

(d) A statement that the HCP informed the employee about other physical activities that could aggravate the covered MSD during the recovery period.

§ 1910.933 What must I do if temporary work restrictions are needed?

You must:

(a) *Work restrictions.* Provide temporary work restrictions, where necessary, to employees with covered MSDs. Where you have referred the employee to a HCP, you must follow the temporary work restriction recommendations in the HCP's written opinion;

(b) *Follow-up.* Ensure that appropriate follow-up is provided during the recovery period; and

(c) *Work restriction protection (WRP).* Maintain the employee's WRP while temporary work restrictions are provided. You may condition the provision of WRP on the employee's participation in the MSD management this standard requires.

§ 1910.934 How long must I maintain the employee's work restriction protection when an employee is on temporary work restriction?

You must maintain the employee's WRP until the FIRST of these occurs:

(a) The employee is determined to be able to return to the job;

(b) You implement measures that eliminate the MSD hazards or materially reduce them to the extent that the job does not pose a risk of harm to the injured employee during the recovery period; or

(c) 6 months have passed.

§ 1910.935 May I offset an employee's WRP if the employee receives workers' compensation or other income?

Yes. You may reduce the employee's WRP by the amount the employee receives during the work restriction period from:

(a) Workers' compensation payments for lost earnings;

(b) Payments for lost earnings from a compensation or insurance program that is publicly funded or funded by you; and

(c) Income from a job taken with another employer that was made possible because of the work restrictions.

Program evauation

§ 1910.936 What is my basic obligation?

You must evaluate your ergonomics program periodically, and at least every 3 years, to ensure that it is in compliance with this standard.

§ 1910.937 What must I do to evaluate my ergonomics program?

You must:

(a) Consult with employees in problem jobs to assess their views on the effectiveness of the program and to identify any significant deficiencies in the program;

(b) Evaluate the elements of your program to ensure they are functioning properly; and

(c) Evaluate the program to ensure it is eliminating or materially reducing MSD hazards.

§ 1910.938 What must I do if the evaluation indicates my program has deficiencies?

If your evaluation indicates that your program has deficiencies, you must promptly take action to correct those deficiencies so that your program is in compliance with this standard.

What Records Must I Keep?

§ 1910.939 Do I have to keep records of the ergonomics program?

You only have to keep records if you had 10 or more employees (including part-time employees and employees

provided through personnel services) on any one day during the preceding calendar year.

§ 1910.940 What records must I keep and for how long?

This table specifies the records you must keep and how long you must keep them:

YOU MUST KEEP THESE RECORDS...	FOR AT LEAST...
(a) Employee reports and your responses	3 years
(b) Job hazard analysis	3 years or until replaced by updated records, whichever comes first
(c) Hazard control records	3 years or until replaced by updated records, whichever comes first
(d) Quick Fix control records	3 years or until replaced by updated records, whichever comes first
(e) Ergonomics program evaluation	3 years or until replaced by updated records, whichever comes first
(f) MSD management records	The duration of the injured employee's employment plus 3 years

Note to § 1910.940: The record retention period in this standard is shorter than that required by OSHA's rule on Access to Employee Exposure and Medical Records (29 CFR 1910.1020). However, you must comply with the other requirements of that rule.

When Must My Program Be In Place?

§ 1910.941 When does this standard become effective?

This standard becomes effective 60 days after [publication date of final rule].

§ 1910.942 When do I have to be in compliance with this standard?

This standard provides start-up time for setting up the ergonomics program and putting in controls in problem jobs. You must comply with the requirements of this standard, including recordkeeping, by the deadlines in this table:

YOU MUST COMPLY WITH THESE REQUIREMENTS AND RELATED RECORDKEEPING...	NO LATER THAN...
(a) MSD management	Promptly when an MSD is reported
(b) Management leadership and employee participation	[1 year after the effective date of the final rule]
(c) Hazard information and reporting	[1 year after the effective date of the final rule]
(d) Job hazard analysis	[2 years after the effective date of the final rule]
(e) Interim controls	[2 years after the effective date of the final rule]
(f) Training	[2 years after the effective date of the final rule]
(g) Permanent controls	[3 years after the effective date of the final rule]
(h) Program evaluation	[3 years after the effective date of the final rule]

Note to § 1910.942: The compliance deadlines in this section do not apply if you are using a Quick Fix.

§ 1910.943 What must I do if some or all of the compliance deadlines have passed before a covered MSD is reported?

If the compliance start-up deadline has passed before you must comply with a particular element of this standard, you may take the following additional time to comply with that element and the related recordkeeping:

YOU MUST COMPLY WITH THESE REQUIREMENTS AND RELATED RECORDKEEPING...	WITHIN...
(a) MSD management	5 days
(b) Management leadership and employee participation	30 days (In manufacturing and manual handling jobs, these requirements must be implemented by [1 year after the effective date of the final rule])
(c) Hazard information and reporting	30 days (In manufacturing and manual handling jobs, these requirements must be implemented by [1 year after the effective date of the final rule])
(d) Job hazard analysis	60 days
(e) Interim controls	90 days
(f) Training	90 days
(g) Permanent controls	1 year
(h) Program evaluation	1 year

Note to § 1910.943: The compliance deadlines in this section do not apply if you are using a Quick Fix.

§ 1910.944 May I discontinue certain aspects of my program if covered MSDs no longer are occurring?

Yes. However, as long as covered MSDs are reported in a job, you must maintain all the elements of the ergonomics program for that job. If you eliminate or materially reduce the MSD hazards and no covered MSD is reported for 3 years, you only have to continue the elements in this table:

IF YOU ELIMINATE OR MATERIALLY REDUCE THE HAZARDS AND NO COVERED MSD IS REPORTED FOR 3 YEARS IN...	THEN YOU MAY STOP ALL EXCEPT THE FOLLOWING PARTS OF YOUR PROGRAM IN THAT JOB...
(a) A manufacturing or manual handling job	(1) Management leadership and employee participation (2) Hazard information and reporting (3) Maintenance of implemented controls and training related to the controls.
(b) Other jobs in general industry where a covered MSD had been reported	Maintenance of controls and training related to the controls.

Definitions

§ 910.945 What are the key terms in this standard?

Administrative controls are changes in the way that work in a job is assigned or scheduled that reduce the magnitude, frequency or duration of exposure to ergonomic risk factors. Examples of administrative controls for MSD hazards include:

(1) Employee rotation;

(2) Job task enlargement;

(3) Alternative tasks;

(4) Employer-authorized changes in work pace.

Covered MSD is:

(1) An MSD, reported in any job in general industry, that meets these criteria:

(i) It is reported after [the effective date of the final rule];

(ii) It is an OSHA recordable MSD;

(iii) It occurred in a job in which the physical work activities and conditions are reasonably likely to cause or contribute to the type of MSD reported;

(iv) These activities and conditions are a core element and/or make up a significant amount of the employee's worktime.

(2) In a manufacturing or manual handling job, persistent MSD symptoms are also considered a covered MSD if they meet these criteria:

(i) They last for at least 7 consecutive days after they are reported;

(ii) The employer has knowledge that an MSD hazard exists in the job;

(iii) They occurred in a job in which the physical work activities and conditions are reasonably likely to cause or contribute to the type of MSD signs or symptoms reported; and

(iv) These activities and conditions are a core element and/or make up a significant amount of the employee's worktime.

Eliminate MSD hazards means to eliminate employee exposure to the ergonomic risk factors associated with the covered MSD, or to reduce employee exposure to the risk factors to such a degree that a covered MSD is no longer reasonably likely to occur.

Engineering controls are physical changes to a job that eliminate or materially reduce the presence of MSD hazards. Examples of engineering controls for MSD hazards include changing, modifying or redesigning the following:

(1) Workstations;

(2) Tools;

(3) Facilities;

(4) Equipment;

(5) Materials;

(6) Processes.

Ergonomics is the science of fitting jobs to people. Ergonomics encompasses the body of knowledge about physical abilities and limitations as well as other human characteristics that are relevant to job design.

Ergonomic design is the application of this body of knowledge to the design of the workplace (*i.e.*, work tasks, equipment, environment) for safe and efficient use by workers.

Ergonomic risk factors. (1) Ergonomic risk factors are the following aspects of a job that pose a biomechanical stress to the worker:

(i) Force (*i.e.*, forceful exertions, including dynamic motions);

(ii) Repetition;

(iii) Awkward postures;

(iv) Static postures;

(v) Contact stress;

(vi) Vibration; and

(vii) Cold temperatures.

(2) Ergonomic risk factors are elements of MSD hazards that must be considered in light of their combined effect in causing or contributing to an MSD. Jobs that have multiple risk factors have a greater likelihood of causing or contributing to MSDs, depending on the duration, frequency and magnitude of employee exposure to each risk factor or to a combination of them. Ergonomic risk factors are also call ergonomic stressors and ergonomic factors.

Follow-up is the process or protocol an employer and/or HCP uses to check up on the condition of employees with covered MSDs when they are given temporary work restrictions during the recovery period. Prompt follow-up helps to ensure that the MSD is resolving and, if it is not, that other measures are promptly taken.

Have knowledge means that you have been provided information that MSD hazards exist in a manufacturing or manual handling job by any of the following:

(1) An insurance company;

(2) A consultant;

(3) A health care professional;

(4) A person or persons working for you who have the requisite training to identify and analyze MSD hazards.

Health care professional (HCPs) are physicians or other licensed health care professionals whose legally permitted scope of practice (*e.g.*, license, registration or certification) allows them to independently provide or be delegated the responsibility to provide some or all of the MSD management requirements of this standard.

Job means the physical work activities or tasks that employees perform. In this standard, the term "job" also

includes those jobs involving the same physical work activities and conditions even if the jobs have different titles or classification.

Manual handling jobs are jobs in which employees perform forceful lifting/lowering, pushing/pulling, or carrying. Manual handling jobs include only those jobs in which forceful manual handling is a core element of an employee's job. Although each job must be considered on the basis of its actual physical work conditions and work activities, this table lists jobs that typically are included in and excluded from this definition:

(1) EXAMPLES OF JOBS THAT TYPICALLY ARE MANUAL HANDLING JOBS	(2) EXAMPLES OF JOB/ TASKS THAT TYPICALLY ARE NOT MANUAL HANDLING JOBS
(i) Patient handling jobs (*e.g.*, nurses aides, orderlies, nurse assistants) (ii) Package sorting, handling and delivering (iii) Hand packing and packaging (iv) Baggage handling (*e.g.*, porters, airline baggage handlers, airline check-in) (v) Warehouse manual picking and placing (vi) Beverage delivering and handling (vii) Stock handling and bagging (viii) Grocery store bagging (ix) Grocery store stocking (x) Garbage collecting'	(i) Administrative jobs (ii) Clerical jobs (iii) Supervisory/managerial jobs that do not involve manual handling work (iv) Technical and professional jobs (v) Jobs involving unexpected manual handling (vi) Lifting object or person in emergency situation (*e.g.*, lifting or carrying injured co-worker) (vii) Jobs involving manual handling that is so infrequent it does not occur on any predictable basis (*e.g.*, filling in on a job due to unexpected circumstances, replacing empty water bottle, lifting of box of copier paper) (viii) Jobs involving manual handling that is done only on an infrequent "as needed" basis (*e.g.*, assisting with delivery of large or heavy package, filling in once for an absent employee) (ix) Jobs involving minor manual handling that is incidental to the job (*e.g.*, carrying briefcase to meeting, carrying baggage on work travel)

Manufacturing jobs are production jobs in which employees perform the physical work activities of producing a product and in which these activities make up a significant amount of their worktime. Although each job must be considered on the basis of its actual physical work conditions and work activities, this table lists jobs that typically are included in and excluded from this definition:

(1) EXAMPLES OF JOBS THAT TYPICALLY ARE MANUFACTURING JOBS	(2) EXAMPLES OF JOBS THAT TYPICALLY ARE NOT MANUFACTURING JOBS
(i) Assembly line jobs producing (A) Products (durable and non- durable) (B) Subassemblies (C) Components and parts (ii) Paced assembly jobs (assembling and disassembling) (iii) Piecework assembly jobs (assembling and disassembling) and other time-critical assembly jobs (iv) Product inspection jobs (*e.g.*, testers, weighers) (v) Meat, poultry, and fish cutting and packing (vi) Machine operation (vii) Machine loading/unloading (viii) Apparel manufacturing jobs (ix) Food preparation assembly line jobs (x) Commercial baking jobs (xi) Cabinetmaking (xii) Tire building	(i) Administrative jobs (ii) Clerical jobs (iii) Supervisory/managerial jobs that do not involve production work (iv) Warehouse jobs in manufacturing facilities (v) Technical and professional jobs (vi) Analysts and programmers (vii) Sales and marketing (viii) Procurement/purchasing jobs (ix) Customer service jobs (x) Mail room jobs (xi) Security guards (xii) Cafeteria jobs (xiii) Grounds keeping jobs (*e.g.*, gardeners) (xiv) Jobs in power plant in manufacturing facility (xv) Janitorial (xvi) Maintenance (xvii) Logging jobs (xviii) Production of food products (*e.g.*, bakery, candy and other confectionary products) primarily for direct sale on the premises to household customers.

Materially reduce MSD hazards means to reduce the duration, frequency and/or magnitude of exposure to one or more ergonomic risk factors in a way that is reasonably anticipated to significantly reduce the likelihood that covered MSDs will occur.

Musculoskeletal disorders (MSDs) are injuries and disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs. Exposure to physical work activities and conditions that involve risk factors may cause or contribute to MSDs. MSDs do not include injuries caused by slips, trips, falls, or other similar accidents. Examples of MSDs include:

(1) Carpal tunnel syndrome;

(2) Rotator cuff syndrome;

(3) De Quervain's disease;

(4) Trigger finger;

(5) Tarsal tunnel syndrome;

(6) Sciatica;

(7) Epicondylitis;

(8) Tendinitis;

(9) Raynaud's phenomenon;

(10) Carpet layers knee;

(11) Herniated spinal disc;

(12) Low back pain.

MSD hazards are physical work activities and/or physical work conditions, in which ergonomic risk factors are present, that are reasonably likely to cause or contribute to a covered MSD.

MSD management is your process for ensuring that employees with covered MSDs receive prompt and effective evaluation, management and follow-up, at no cost to them, in order to prevent permanent damage or disability from occurring.

(1) In this standard, the MSD management process includes:

(i) Evaluation, management and follow-up of injured employees by persons in the workplace and/or by HCPs; and

(ii) A method for identifying available work restrictions and promptly providing them when needed.

(2) MSD management does not include establishing specific medical treatment for MSDs. Medical treatment protocols and procedures are established by the health care professions.

MSD signs are objective physical findings that an employee may be developing an MSD. Examples of MSD signs include:

(1) Decreased range of motion;

(2) Deformity;

(3) Decreased grip strength;

(4) Loss of function.

MSD symptoms are physical indications that an employee may be developing an MSD. Symptoms can vary in severity, depending on the amount of exposure to MSD hazards. Symptoms often appear gradually as muscle fatigue or pain at work that disappears during rest. Symptoms usually become more severe as exposure continues (*e.g.*, tingling continues after work ends, numbness makes it difficult to perform the job, and finally pain is so severe the employee cannot perform the job). Examples of MSD symptoms include:

(1) Numbness;

(2) Burning;

(3) Pain;

(4) Tingling;

(5) Cramping;

(6) Stiffness.

No cost to employees means that PPE, training, MSD management and other requirements of this standard are provided to employees free of charge and while they are "on the clock" (*e.g.*, paying for time employees spend receiving training outside the work day).

OSHA recordable MSD is an MSD that meets the occupational injury and illness recording requirements of 29 CFR Part 1904. Under Part 1904, an MSD is recordable when:

(1) Exposure at work caused or contributed to the MSD or aggravated a pre- existing MSD.

(2) The MSD results in at least one of the following:

(i) A diagnosis of an MSD by an HCP.

(ii) A positive physical finding (*e.g.*, an MSD sign or a positive Finkelstein's, Phalen's, or Tinel's test result).

(iii) An MSD symptom plus at least one of these:

(A) Medical treatment;

(B) One or more lost work days:

(C) Restricted work activity;

(D) Transfer or rotation to another job.

Periodically means that a process or activity, such as records review or training, is performed on a regular basis that is appropriate for the conditions in the workplace. Periodically also means that the process or activity is conducted as often as needed, such as when significant changes are made in the workplace that may result in increased exposure to MSD hazards.

Persistent MSD symptoms are "MSD symptoms" that persist for at least 7 consecutive days after they are reported.

Personal protective equipment (PPE) is equipment employees wear that provides an effective protective barrier between the employee and MSD hazards. Examples of PPE are vibration-reduction gloves and carpet layer's knee pads.

Physical work activities are the physical demands, exertions and functions of the task or job.

Problem job is a job in which a covered MSD is reported. A problem job also includes any job in the workplace that involves the same physical work activities and conditions as the one in which the covered MSD is reported, even if the jobs have different titles or classifications.

Resources are the provisions necessary to develop, implement and maintain an effective ergonomics program. Resources include money (*e.g.*, to purchase items such as job hazard analysis equipment, training materials, and controls), personnel, and work time to conduct program responsibilities (*e.g.*, job hazard analysis, program evaluation).

Work practice controls are changes in the way an employee performs the physical work activities of a job that reduce exposure to MSD hazards. Work practice controls involve procedures and methods for safe work. Examples of work practice controls for MSD hazards include:

(1) Training in proper work postures;

(2) Training in use of the appropriate tool;

(3) Employer-authorized micro breaks.

Work restriction protection (WRP) means the maintenance of the earnings and other employment rights and benefits of employees who are on temporary work restrictions as though they had not been placed on temporary work restriction. For employees who are on restricted work activity, WRP includes maintaining 100% of the after-tax earnings employees with covered MSDs were receiving at the time they were placed on restricted work activity. For employees who have been removed from the workplace, WRP includes maintaining 90% of the after-tax earnings. Benefits mean 100% of the non-wage-and- salary value employees were receiving at the time they were placed on restricted work activity or were removed from the workplace. Benefits include seniority, insurance programs, retirement benefits and savings plans.

Work restrictions are limitations on an injured employee's exposure to MSD hazards during the recovery period. Work restrictions may involve limitations on the work activities of the employee's current job, transfer to temporary alternative duty jobs, or complete removal from the workplace. To be effective, work restrictions must not expose the injured employee to the same MSD hazards as were present in the job giving rise to the covered MSD.

You means the employer as defined by the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

[FR Doc. 99–28981 Filed 11–22–99; 8:45 am]

BILLING CODE 4510–26–P

VOL 64 ISS 225 NO 23 1999 UMI

190 000 D-99 Signature 15

Federal Register

Tuesday
November 23, 1999

Part III

The President

Proclamation 7251—National Great American Smokeout Day, 1999

Proclamation 7252—National Farm-City Week, 1999

Proclamation 7253—National Family Week, 1999

Proclamation 7254—National Family Caregivers Week, 1999

Executive Order 13142—Amendment to Executive Order 12958—Classified National Security Information

VOL
64
ISS
225
NO
23
1999
UMI

Federal Re
Vol. 64, No
Tuesday, N

Title 3—

The Pre

Federal Register
Vol. 64, No. 225
Tuesday, November 23, 1999

Presidential Documents

Title 3—

The President

Proclamation 7251 of November 18, 1999

National Great American Smokeout Day, 1999

By the President of the United States of America

A Proclamation

Tobacco use continues to be the leading preventable cause of death and disease in the United States, costing more than 400,000 lives and $50 billion in medical expenses each year. Some 3,000 Americans under the age of 18 become regular smokers every day, and we know that at least 1,000 of these new smokers will die prematurely from a tobacco-related disease. As caring adults and responsible citizens, we must do all we can to keep another generation of Americans from succumbing to the lure of tobacco. Each year, the Great American Smokeout provides people across our Nation with an opportunity to stand united in our efforts to help smokers quit and to convince our fellow citizens who don't smoke that they should not start.

Some positive statistics reinforce this message. According to the Centers for Disease Control and Prevention, each year an estimated 1.2 million adult smokers successfully quit smoking—permanently. Smokers who quit before age 50 substantially increase their expected lifespan, compared with those who continue smoking after they turn 50. Former smokers also reduce their risk for coronary heart disease, cardiovascular disease, lung cancer, emphysema, and stroke.

My Administration has worked hard to identify the best practices for preventing tobacco use among our young people and encouraging those who do smoke to quit. I have asked the Congress to discourage young people from smoking by funding important health programs and raising the price of cigarettes. I have also urged the States to invest a portion of the substantial funds they acquired in last year's settlement with tobacco companies in programs that help reduce youth smoking while not abandoning tobacco farmers and their communities.

During this 23rd Great American Smokeout, I encourage all Americans to create a healthy, tobacco-free environment for themselves, their children, and their fellow citizens. I also ask that part of this special day be spent engaging youth in discussions about the dangers of tobacco use, teaching them how to establish healthy lifestyles, and helping them to develop effective measures for becoming or remaining tobacco-free.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 18, 1999, as National Great American Smokeout Day. I call upon all Americans to join together in an effort to educate our children about the dangers of tobacco use, and I urge both smokers and nonsmokers to take this opportunity to practice a healthy lifestyle that sets a positive example for young people.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of November, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

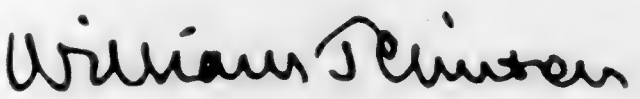

[FR Doc. 99–30683
Filed 11–22–99; 8:45 am]
Billing code 3195–01–P

VOL 64 ISS 225 NO 23 1999 UMI

[FR Doc. 99-
Filed 11–22-
Billing code

Presidential Documents

Proclamation 7252 of November 18, 1999

National Farm-City Week, 1999

By the President of the United States of America

A Proclamation

As we gather with family and friends to celebrate Thanksgiving and to express our gratitude for the many blessings bestowed on ourselves and our Nation, we must also give thanks for the special relationship between America's farms and cities—a relationship that has strengthened our economy and helped to sustain people across America and around the world.

Throughout our Nation's history, America's farmers and ranchers have provided us with an abundant, affordable supply of food and fiber. As we prepare to enter the 21st century, we recognize that rural America will continue to be a cornerstone of our national prosperity. Generating more than 22 million jobs and contributing a trillion dollars each year to our economy, American agriculture is one of our most important and productive industries.

However, farmers and ranchers do not live or work in isolation; the labor of many people, both rural and urban Americans, helps provide the agricultural products so vital to our health, our prosperity, and our quality of life. What connects farms and ranches with urban stores and consumers is a network of farmers, ranchers, agribusiness industries, scientists, inspectors, shippers, retail distributors, and others who work together to grow, process, and share the bounty of our great land.

During National Farm-City Week, let us pause to give thanks for that bounty. Let us acknowledge the efforts of the many hardworking men and women across our country who dedicate their lives to producing the world's safest, most abundant supply of food and fiber. And let us be thankful for the strength and productivity of the working relationship between America's rural and urban communities.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 19 through November 25, 1999, as National Farm-City Week. I call upon all Americans, in rural and urban communities alike, to recognize the achievements of all those who work together to promote America's agricultural abundance.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of November, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

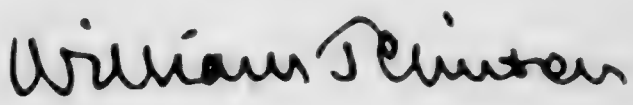

[FR Doc. 99–30684
Filed 11–22–99; 8:45 am]
Billing code 3195–01–P

VOL
64
ISS
2
2
5
NO
23
1999
UMI

Presidential Documents

Proclamation 7253 of November 19, 1999

National Family Week, 1999

By the President of the United States of America

A Proclamation

Families are the foundation of our individual lives and the life of our Nation. We turn to our families for the nurturing, guidance, and unconditional love that sustain us; from them we learn the values and convictions that sustain our society.

I am proud of my Administration's commitment to providing families with the resources they need to flourish. We have strengthened family incomes through the Child Tax Credit and by increasing the minimum wage and expanding the Earned Income Tax Credit, and today the yearly income of a typical American family is higher than it has ever been in our Nation's history. We have opened the doors of higher education by making student loans less expensive and easier to repay and by providing new tax credits and larger Pell Grant scholarships. We are also working to ensure that parents have access to quality and affordable child care for their children. These and other family-friendly policies, such as the Family and Medical Leave Act I signed into law in 1993, have helped parents to balance the demands of work and family and have brought increased financial security, expanded opportunity, and renewed hope for the future to families across America.

As we look to that future, we must not forget our rich history. We are fast approaching the dawn of a new millennium, and my Administration is marking this historic milestone with family-oriented programs that honor the past and imagine the future. Through "My History is America's History," a project sponsored by the White House Millennium Council and the National Endowment for the Humanities, we are encouraging our Nation's families to rediscover America's history by recording and preserving their own stories and passing them on to the next generation. Through remembered conversations, restored photographs, treasured letters, diaries, or other keepsakes, each family can recognize and preserve its part in America's rich and complex story and give a priceless gift to the future.

As we gather in our homes once again at this time of thanksgiving, let us recognize that the family members who surround us are among the most precious blessings in our lives, and let us pledge to keep their stories alive for the benefit of generations to come.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 21 through November 27, 1999, as National Family Week. I call upon Federal, State, and local officials to honor American families with appropriate programs and activities, and I urge all the people of the United States to reaffirm their family ties and to share their family histories.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of November, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

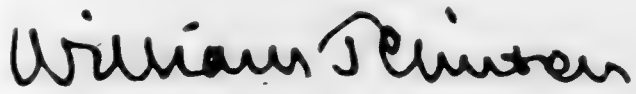

[FR Doc. 99–30685
Filed 11–22–99; 8:45 am]
Billing code 3195–01–P

VOL 64 NO 225 2 23 1999 UMI

[FR Doc. 99–
Filed 11–22–
Billing code

Presidential Documents

Proclamation 7254 of November 19, 1999

National Family Caregivers Week, 1999

By the President of the United States of America

A Proclamation

During this season when we give thanks for the many blessings in our lives, let us take time to acknowledge the loving support of the millions of family caregivers across our country who provide for the needs of parents, spouses, and other loved ones who are no longer able to care for themselves. These remarkable individuals give their utmost to ensure that their relatives can remain in the comforting, familiar surroundings of their homes and communities.

Family caregivers embody the finest of American values. With compassion and a deep sense of responsibility, they devote their time and energy and often their own financial resources to care for family members in need. In many ways, family caregivers are mainstays in the provision of long-term care in our country. Today, more than 7 million Americans are informal caregivers who provide unpaid help to older persons, and 95 percent of older Americans with limitations on their daily living activities depend on family members for some portion of their care. That number will continue to grow during the next three decades as our elderly population doubles, with the aging of 76 million baby boomers. Recognizing the important role family caregivers play in the lives of so many, we must continue to strongly support efforts to provide them with the assistance, information, and encouragement they need to fulfill their vital responsibilities to older family members, and to those who are chronically ill or disabled.

Millions of lives have been enriched by the hard work and generosity of family caregivers; many older, ill, or disabled Americans enjoy a greater measure of comfort, dignity, and independence thanks to the loving care of family members. During National Family Caregivers Week, let us honor the many devoted men and women whose efforts do so much to strengthen the bonds of family and community in our Nation.

NOW, THEREFORE, I WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 21 through November 27, 1999, as National Family Caregivers Week. I call upon all Americans to pay tribute to and acknowledge the contributions of caregivers to the quality of our national life.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of November, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

William J. Clinton

[FR Doc. 99–30686
Filed 11–22–99; 8:45 am]
Billing code 3195–01–P

VOL
64
ISS
2
2
5
NO
23
1999
UMI

Presidential Documents

Executive Order 13142 of November 19, 1999

Amendment To Executive Order 12958—Classified National Security Information

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to extend and establish specific dates for the time within which all classified information contained in records more than 25 years old that have been determined to have historical value under title 44, United States Code, should be automatically declassified, and to establish the Information Security Oversight Office within the National Archives and Records Administration, it is hereby ordered that Executive Order 12958 is amended as follows:

Section 1. In the first sentence of section 3.4(a) of Executive Order 12958, the words "within five years from the date of this order" are deleted and the words "within six and one half years from the date of this order" are inserted in lieu thereof.

Sec. 2. The following new language is inserted at the end of section 3.4(a): "For records otherwise subject to this paragraph for which a review or assessment conducted by the agency and confirmed by the Information Security Oversight Office has determined that they: (1) contain information that was created by or is under the control of more than one agency, or (2) are within file series containing information that almost invariably pertains to intelligence sources or methods, all classified information in such records shall be automatically declassified, whether or not the records have been reviewed, within 8 years from the date of this order, except as provided in paragraph (b), below. For records that contain information that becomes subject to automatic declassification after the dates otherwise established in this paragraph, all classified information in such records shall be automatically declassified, whether or not the records have been reviewed on December 31 of the year that is 25 years from the origin of the information, except as provided in paragraph (b), below."

Sec. 3. Subsections (a) and (b) of section 5.2 are amended to read as follows:

"(a) The Director of the Information Security Oversight Office, under the direction of the Archivist of the United States and in consultation with the Assistant to the President for National Security Affairs and the co-chairs of the Security Policy Board, shall issue such directives as are necessary to implement this order. These directives shall be binding upon the agencies. Directives issued by the Director of the Information Security Oversight Office shall establish standards for:

(1) classification and marking principles;

(2) agency security education and training programs;

(3) agency self-inspection programs; and

(4) classification and declassification guides.

(b) The Archivist of the United States shall delegate the implementation and monitorship functions of this program to the Director of the Information Security Oversight Office."

Sec. 4. Subsection (a) and the introductory clause and item (4) of subsection (b) of section 5.3 are amended as follows:

(a) Subsection (a) shall read "(a) There is established within the National Archives and Records Administration an Information Security Oversight Office. The Archivist of the United States shall appoint the Director of the Information Security Oversight Office, subject to the approval of the President."

(b) The introductory clause of subsection (b) shall read "Under the direction of the Archivist of the United States, acting in consultation with the Assistant to the President for National Security Affairs, the Director of the Information Security Oversight Office shall:".

(c) Item (4) of subsection (b) shall read "(4) have the authority to conduct on-site reviews of each agency's program established under this order, and to require of each agency those reports, information, and other cooperation that may be necessary to fulfill its responsibilities. If granting access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior agency official shall submit a written justification recommending the denial of access to the President through the Assistant to the President for National Security Affairs within 60 days of the request for access. Access shall be denied pending the response,".

William J. Clinton

THE WHITE HOUSE,
November 19, 1999.

[FR Doc. 99-30687
Filed 11-22-99; 8:45 am]
Billing code 3195-01-P

VOL 64 NO 225 23 1999 UMI

federal register

Tuesday
November 23, 1999

Part IV

The President

Proclamation 7255—Thanksgiving Day, 1999

VOL
64
ISS
2
2
5
NO
23
1999
UMI

Federal R
Vol. 64, N
Tuesday,

Title 3—

The Pr

Federal Register
Vol. 64, No. 225
Tuesday, November 23, 1999

Presidential Documents

Title 3—

The President

Proclamation 7255 of November 20, 1999

Thanksgiving Day, 1999

By the President of the United States of America

A Proclamation

Well over three and a half centuries ago, strengthened by faith and bound by a common desire for liberty, a small band of Pilgrims sought out a place in the New World where they could worship according to their own beliefs. Surviving their first harsh winter in Massachusetts and grateful to a merciful God for a sustaining harvest, the men and women of Plymouth Colony set aside three days as a time to give thanks for the bounty of their fields, the fruits of their labor, the chance to live in peace with their Native American neighbors, and the blessings of a land where they could live and worship freely.

We have come far on our American journey since that early Thanksgiving. In the intervening years, we have lived through times of war and peace, years of poverty and plenty, and seasons of social and political upheaval that have shaped and forever changed our national character and experience. As we gather around our Thanksgiving tables again this year, it is a fitting time to reflect on how the events of our rich history have affected those we care about and those who came before us. As we acknowledge the past, we do so knowing that the individual blessings for which we give thanks may have changed, but our gratitude to God and our commitment to our fellow Americans remain constant.

Today we count among our national blessings a time of unprecedented prosperity, with an expanding economy, record low rates of poverty and unemployment among our people, and the limitless opportunities to improve the quality of life that new technologies present to us. We can give thanks today that for the first time in history, more than half the world's people live under governments of their own choosing. And we remain grateful for the peace and freedom America continues to enjoy thanks to the courage and patriotism of our men and women in uniform.

But the spirit of Thanksgiving requires more than just an acknowledgement of our blessings; it calls upon us to reach out and share those blessings with others. We must strive to fulfill the promise of the extraordinary era in which we live and enter the new century with a commitment to widen the circle of opportunity, break down the prejudices that alienate us from one another, and build an America of understanding and inclusion, strong in our diversity, responsible in our freedom, and generous in sharing our bounty with those in need.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Thursday, November 25, 1999, as a National Day of Thanksgiving. I encourage all the people of the United States to assemble in their homes, places of worship, or community centers to share the spirit of fellowship and prayer and to reinforce the ties of family and community; to express heartfelt thanks to God for the many blessings He has bestowed upon us; and to reach out in true gratitude and friendship to our brothers and sisters in the larger family of humankind.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of November, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

William J. Clinton

[FR Doc. 99-30720
Filed 11-22-99; 11:43 am]
Billing code 3195-01-P

VOL 64 ISS 225 NO 23 1999 UMI

Reac

CUSTOM
Federal Re
General In
aids
Laws
Presidenti
Executive
The Unite
Other Ser
Electronic
Privacy At
Public Law
TTY for th
ELECTRO
World Wid
Full text o
publicatio
Federal Re
Inspection
E-mail
PENS (Pub
service for
subscribe,
with the te
Use listser
PENS. We
Reference
Federal Re
The Feder
regulation
FEDERA
58755–591
59107–596
59603–600
60083–603
60333–606
60647–610
61015–611
61199–614
61473–617
61769–620
62089–625
62561–629
62971–631
63171–635
63561–656
65653–660

Reader Aids

Federal Register

Vol. 64, No. 225

Tuesday, November 23, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

58755–59106	1
59107–59602	2
59603–60082	3
60083–60332	4
60333–60646	5
60647–61014	8
61015–61198	9
61199–61472	10
61473–61768	12
61769–62088	15
62089–62560	16
62561–62970	17
62971–63170	18
63171–63560	19
63561–65652	22
65653–66094	23

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7245	59103
7246	60083
7247	60085
7248	61473
7249	62561
7250	62563
7251	66081
7252	66083
7253	66085
7254	66087
7255	66093

Executive Orders:

12170 (See Notice of November 5, 1999)	61471
12938 (See Notice of November 10, 1999)	61767
12958 (Amended by 13142)	66089
13067 (See Notice of October 29, 1999)	59105
13096 (See Proc. 7247)	60085
13101 (See Proc. 7250)	62563
13141	63169
13142	66089

Administrative Orders:

Memorandums:

October 27, 1999	60647

Notices:

October 29, 1999	59105
November 5, 1999	61471
November 10, 1999	61767

Presidential Determinations:

No. 99–13 of February 4, 1999 (See Presidential Determination No. 2000–5 of October 29, 1999)	60651
No. 2000–2 of October 21, 1999	58755
No. 2000–3 of October 25, 1999	58757
No. 2000–4 of October 27, 1999	60649
No. 2000–5 of October 29, 1999	60651
No. 2000–7	65653

5 CFR

532	60087, 61769

Proposed Rules:

532	61793
1201	58798

7 CFR

210	61770
220	61770
226	61770
246	61015
301	60088, 60333, 63171
319	59603
354	62089
759	62565
761	62565, 62566
762	62566
905	58759, 63160
928	59604
944	58759
981	58763, 59107
1001	61776
1002	61776
1004	61776
1005	61776
1006	61776
1007	61776
1012	61776
1013	61776
1030	61776
1032	61776
1033	61776
1036	61776
1040	61776
1044	61776
1046	51776
1049	61776
1050	61776
1064	61776
1065	61776
1068	61776
1076	61776
1079	61776
1106	61776
1124	61776
1126	61199, 61776
1131	61201, 61776
1134	61776
1135	61776
1137	61199, 61776
1138	61201, 61776
1139	61776
1439	58766
1477	58766
1922	62566
1941	62566
1943	62566
1945	62566
1951	62566, 62971
1955	62566
1965	62566

Proposed Rules:

278	59665
770	59131
785	61034
923	60733
1217	59669
1280	65665
1823	59131
1946	61034
1951	61221

1956.....59131

9 CFR

52.....62569
77.....58769
130.....61689
Proposed Rules:
130.....61689
391.....61223

10 CFR

Proposed Rules:
2.....59669, 59671
20.....65665
50.....59671
72.....59677
73.....59684
430.....61794
905.....62604

11 CFR

100.....59113
110.....59606
114.....59113
9003.....61475
9004.....59606, 61475
9007.....61777
9008.....61475
9032.....61475
9033.....61475
9034.....59606, 61475, 61777
9035.....61475, 61777
9036.....59607, 61475
9038.....61777
Proposed Rules:
100.....60360
102.....60360
103.....60360
104.....60360
106.....60360
107.....60360
109.....60360
110.....60360
114.....60360
116.....60360

12 CFR

1.....60092
5.....60092
7.....60092
211.....58780
226.....60335
229.....59607
308.....62096
330.....62096
343.....62103
905.....61016
1805.....59076
Proposed Rules:
226.....60368
611.....60370
650.....61740
1102.....58800

13 CFR

Proposed Rules:
120.....60735

14 CFR

21.....65655
34.....60335
39.....59113, 59115, 59116, 59117, 59613, 59614, 60100, 60102, 60336, 61475, 61477, 61478, 61480, 61482, 61484, 61485, 61487, 61491, 61493, 61495, 61782, 61784, 62105, 62106, 62108, 62109, 62570, 62973, 62975, 63171, 63174, 63176, 631778, 63180, 63182, 63184, 63187, 63190, 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668
71.....59615, 60337, 60653, 60654, 61785, 63192, 63676, 63677, 63678, 63679, 63680, 65656
73.....60339
97.....61017, 61018, 63192, 63194
139.....60068
Proposed Rules:
39.....59137, 59685, 60134, 60136, 60138, 60383, 60386, 60742, 60743, 60745, 60748, 60750, 61039, 61042, 61044, 61533, 61540, 61547, 61554, 61794, 61796, 61798, 61801, 62129, 62131, 62613, 62615, 62988, 62990, 62991, 62993, 62995, 63753, 63755, 63757, 63760, 63762, 63764, 65666
71.....59687, 59688, 59689, 59690, 60388, 61225, 61689, 61690, 61803, 61804, 63261, 63765, 63767, 65668
91.....63140
93.....62133
121.....63140
125.....63140

15 CFR

285.....59616
738.....60339
740.....60339
746.....60339
801.....59119
Proposed Rules:
287.....59691
922.....63262

16 CFR

312.....59888
1616.....61021

17 CFR

200.....61382, 61408
210.....61962
228.....61962
229.....61408, 61962
230.....61382, 61408, 61497, 61962, 62540
232.....61408
239.....61382, 61408, 61962
240.....61382, 61408, 61962, 62540
249.....61382, 61962
260.....61382, 61962
270.....62540
271.....59877
Proposed Rules:
1.....59694
34.....65669
35.....65669
230.....62548
239.....59826
240.....59826, 62548
270.....59826
274.....59826
275.....61226
279.....61226

18 CFR

11.....62572
385.....62580
Proposed Rules:
35.....60390
141.....60140
385.....60140

19 CFR

10.....61204
Proposed Rules:
12.....62618
24.....62619
101.....61232
141.....62135

20 CFR

220.....62976
Proposed Rules:
220.....62996
322.....62135
718.....62997
722.....62997
725.....62997
726.....62997
727.....62997

21 CFR

5.....59617
74.....62582
175.....60104
178.....62583, 65657
207.....63195
225.....63195
310.....62110
510.....63195
514.....63195
515.....63195
558.....63195
801.....59618
884.....62977
Proposed Rules:
20.....60143
101.....62746
120.....65669
600.....61045
606.....61045
607.....61045
610.....61045
630.....61045
640.....61045
660.....61045
801.....59695

24 CFR

570.....63680
982.....59620
990.....61516

25 CFR

Proposed Rules:
504.....61234

26 CFR

1.....58782, 59139, 60342, 61205, 61498, 61502
301.....58782, 61498, 61502
602.....61498
Proposed Rules:
1.....59139, 60395, 61236, 63768
26.....62997
301.....63768

28 CFR

0.....58782
2.....59622
16.....61786
27.....58782
50.....59122
Proposed Rules:
16.....60753

29 CFR

37.....61692
1917.....61504
1918.....61504
4003.....65658
4007.....65658
4011.....65658
4041.....65658
4041A.....65658
4043.....65658
4044.....61787
4050.....65658
Proposed Rules:
1401.....59697
1910.....65768
1952.....62138
2590.....62054
2700.....61236

30 CFR

914.....63681
920.....63684
934.....60654
935.....63688
948.....61506, 61507
Proposed Rules:
70.....65671
71.....65671
90.....65671
946.....61805

31 CFR

1.....62585, 62586
18.....62112
538.....58789
550.....58789
560.....58789
Proposed Rules:
1.....62620

32 CFR

199.....60671
2001.....62113
Proposed Rules:
767.....63263

33 CFR

100.....59623
117.....59123, 59624, 60672, 60673, 60674, 61206, 61207, 61518, 61519, 61520, 61521, 62113
165.....61051, 61209, 62586
Proposed Rules:
Ch. I.....63266
110.....60399
117.....61561
165.....63267
175.....63773

34 CFR

668.....58974, 59016, 59060
682.....58938,

59016
685.....58938, 59016

Proposed Rules:
611.....60632

36 CFR

211.....60675

Proposed Rules:
5.....61563
13.....61563
51.....63775
1190.....62248, 62622
1191.....62248, 62622

37 CFR

202.....62977

Proposed Rules:
1.....59701
201.....59140

39 CFR

20.....60106

40 CFR

49.....65660
51.....58792
52 .....59625, 59629, 59633, 59635, 59638, 59642, 59644, 60109, 60343, 60346, 60678, 60681, 60683, 60687, 60688, 61213, 61217, 61522, 61523, 63206, 63690, 63693, 65660
62 .....59648, 60689, 62114, 62117, 62978
63 .....59650, 63209, 63695, 63702
68.....59650
131.....61182
180 .....59652, 60112, 61788, 62588, 62982, 63709, 63711, 63714
261.....63209
266.....63209
300 .....60121, 61526, 63720

Proposed Rules:
49.....65673
50.....63002
51.....62144
52 .....59703, 59704, 59705, 59706, 60400, 60401, 60759, 61046, 61051, 61239, 61572, 63002, 63268, 63271, 65673
55.....63271
62 .....59718, 62144, 62145
63.....59719, 63779
68.....59719
81.....60478
82.....59141
86.....60401
141.....59245
142.....59245
152.....62145
156.....62145
180.....58792
261.....63382
266.....63464
300.....61051
372.....61807
721.....63275

41 CFR

101.....59591
101-11.....60348
101-43.....62146
102.....59591
102-36.....62146

42 CFR

52b.....63721
61.....61218
409.....60122
410.....59379
411.....59379, 60122
413.....60122
414.....59379
415.....59379
485.....59379
489.....60122
1001.....63504, 63518

Proposed Rules:
431.....60882
433.....60882
435.....60882
457.....60882

43 CFR

414.....58986

Proposed Rules:
1300.....61810

44 CFR

64 .....62594, 62596, 62598
65.....60706, 60709
67.....60711

Proposed Rules:
67.....60759

45 CFR

Proposed Rules:
160.....59918
161.....59918
162.....59918
163.....59918
164.....59918
303.....62054

46 CFR

10.....63213
15.....63213

Proposed Rules:
2.....62018
30.....62018
31.....62018
52.....62018
61.....62018
71.....62018
90.....62018
91.....62018
98.....62018
107.....62018
110.....62018
114.....62018
115.....62018
125.....62018
126.....62018
132.....62018
133.....62018
134.....62018
167.....62018
169.....62018
175.....62018
176.....62018
188.....62018
189.....62018
195.....62018
199.....62018

47 CFR

Ch. 1.....61527
0 .....60122, 60715, 61022
1 .....59656, 60122, 60715, 62119, 63235
2.....60123
6.....63235
7.....63235
20.....59656, 60126
21.....60715, 63727
25.....61791
27.....60715
52.....62983
54.....60349, 62120
61.....60122
68.....60715
69.....60122, 60349
73 .....59124, 59655, 60131, 62123, 63258, 63745
74.....63727
76.....60131
90 .....59148, 60123, 60715
95.....59656
101.....59663, 63727

Proposed Rules:
Ch. I.....63277
1.....59719
15.....62159
18.....62159
20.....59719
43.....59719
73 .....59147, 59148, 59728, 60149, 60150, 60151, 61054, 61239, 63783
90.....59148, 60151

48 CFR

201.....58908, 63380
203.....62984
204.....61028
208.....61030
209.....61028, 62984
213.....58908, 63380
215.....61031
219.....62986, 62987
225.....61028, 62984
226.....62987
242.....61028
247.....61028
249.....62984
251.....61030
1845.....62600
1852.....62600

Proposed Rules:
203.....63002
211.....61056
226.....63003

49 CFR

171.....61219
172.....61219
209.....62828
230.....62828
240.....60966
601.....61033

Proposed Rules:
Ch. I.....63279
Ch. II.....59046
178.....62161
209.....59046
552.....60556
571 .....60556, 61810, 62622
585.....60556
595.....60556

50 CFR

17.....58910, 63745
20.....61532
222.....60727
600.....60731
622.....59126, 60132
635.....58793
640.....59126
648.....60359, 61220
660 .....59129, 62127, 63259
679.....61966, 63259

Proposed Rules:
16.....59149
17 .....58934, 59729, 62627, 62641, 63004
25.....62163
26.....62163
29.....62163
216.....63783
224.....62627
622 .....59152, 59153, 60151, 60402
648.....59156
654.....59153
660.....60402
679 .....58796, 59730, 60157

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 23, 1999

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
- Competitive proposals use; published 9-24-99
- Conditionally accepted items; published 9-24-99
- Conforming late offer treatment; published 9-24-99
- Cost accounting standards post-award notification; published 9-24-99
- Cost-reimbursement architect-engineer contracts; published 9-24-99
- Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program; published 9-24-99
- Interest and other financial costs; published 9-24-99
- Javits-Wagner-O'Day Act; published 9-24-99
- Option clause consistency; published 9-24-99
- Professional services proposals evaluation; published 9-24-99
- Value engineering change proposals; published 9-24-99
- Very small business concerns; published 9-24-99
- Voluntary consensus standards (OMB Circular A-119); published 9-24-99

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; published 9-24-99

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- Colorado; published 9-24-99

Hazardous waste program authorizations:
- Vermont; published 9-24-99
- Vermont; correction; published 10-18-99

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Competitive proposals use; published 9-24-99
- Conditionally accepted items; published 9-24-99
- Conforming late offer treatment; published 9-24-99
- Cost accounting standards post-award notification; published 9-24-99
- Cost-reimbursement architect-engineer contracts; published 9-24-99
- Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program; published 9-24-99
- Interest and other financial costs; published 9-24-99
- Javits-Wagner-O'Day Act; published 9-24-99
- Option clause consistency; published 9-24-99
- Professional services proposals evaluation; published 9-24-99
- Value engineering change proposals; published 9-24-99
- Very small business concerns; published 9-24-99
- Voluntary consensus standards (OMB Circular A-119); published 9-24-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:
- Adjuvants, production aids, and sanitizers—
  - 3,9-bis[2,4-bis(1-methyl-1-phenylethyl)phenoxy]-2,4,5,10-tetraoxa-
  - 3.9-diphosphaspiro
  - [5.5]undecane; published 11-23-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Competitive proposals use; published 9-24-99
- Conditionally accepted items; published 9-24-99
- Conforming late offer treatment; published 9-24-99
- Cost accounting standards post-award notification; published 9-24-99
- Cost-reimbursement architect-engineer contracts; published 9-24-99
- Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program; published 9-24-99
- Interest and other financial costs; published 9-24-99
- Javits-Wagner-O'Day Act; published 9-24-99
- Option clause consistency; published 9-24-99
- Professional services proposals evaluation; published 9-24-99
- Value engineering change proposals; published 9-24-99
- Very small business concerns; published 9-24-99
- Voluntary consensus standards (OMB Circular A-119); published 9-24-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Pratt & Whitney; published 9-24-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Olive oil promotion, research, and information order
- Referendum procedures; comments due by 12-3-99; published 11-3-99

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
- Mexican fruit fly; comments due by 11-29-99; published 9-28-99
- Oriental fruit fly; comments due by 11-29-99; published 9-28-99

User fees:
- Veterinary services; import- and export-related services; comments due by 11-29-99; published 9-30-99

Viruses, serums, toxins, etc.:
- Dog; definition; comments due by 11-29-99; published 9-28-99

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Administrative regulations:
- Appeal procedure; comments due by 11-29-99; published 9-30-99

AGRICULTURE DEPARTMENT

Farm Service Agency

Administrative regulations;
- Appeal procedure; comments due by 11-29-99; published 9-30-99

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT

Rural Utilities Service

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

COMMERCE DEPARTMENT

Census Bureau

Foreign trade statistics:
- Shipper's Export Declaration on behalf of principal party in interest; exporters' and forwarding agents' responsibilities to prepare and file; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT

Export Administration Bureau

Export administration regulations:
- Parties to transaction and their responsibilities, routed export transactions, Shipper's Export Declarations, and export clearance; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean, Gulf, and South Atlantic fisheries—
Coastal migratory pelagic resources; comments due by 11-29-99; published 10-25-99
Essential fish habitat; comments due by 12-2-99; published 11-2-99
West Coast States and Western Pacific fisheries—
West Coast salmon; comments due by 12-1-99; published 11-16-99

COMMERCE DEPARTMENT
Patent and Trademark Office
Patent cases:
Patent business goals; comments due by 12-3-99; published 10-4-99
Payment of fees by credit card; changes; comments due by 12-3-99; published 11-3-99

DEFENSE DEPARTMENT
Engineers Corps
Navigation regulations:
Columbia and Snake Rivers, OR and WA; restricted area boundary adjustments; comments due by 11-29-99; published 10-13-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution control; new motor vehicles and engines:
Heavy duty highway engines and vehicles (2004 and later model years); emissions control, and light-duty truck definition; comments due by 12-2-99; published 10-29-99
Tier 2 motor vehicle emission standards and gasoline sulfur control requirements; comments due by 12-1-99; published 10-27-99
Air programs:
Accidental release prevention—
Risk management programs; comments due by 12-3-99; published 11-3-99
Ozone areas attaining 1-hour standard; identification of areas where standard will cease to apply
Findings rescission; comments due by 12-1-99; published 10-25-99
Findings rescission; comments due by 12-1-99; published 11-5-99
Stratospehric ozone protection—
Essential-use allowances; allocation; comments due by 12-2-99; published 11-2-99
Volatile organic compound (VOC) emmission standards—
t-butyl acetate; comments due by 11-29-99; published 9-30-99
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Maryland; comments due by 12-3-99; published 11-3-99
Air programs; State authority delegations:
Ohio; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 12-3-99; published 11-3-99
California; comments due by 11-29-99; published 10-28-99
Indiana; comments due by 12-3-99; published 11-3-99
Maryland; comments due by 11-29-99; published 10-28-99
New Jersey; comments due by 12-3-99; published 11-3-99
New York; comments due by 12-3-99; published 11-3-99
Ohio; comments due by 12-3-99; published 11-3-99
Oklahoma; comments due by 12-3-99; published 11-3-99
Tennessee; comments due by 12-3-99; published 11-3-99
Texas; comments due by 11-29-99; published 10-28-99
Virginia; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio; comments due by 11-29-99; published 10-28-99
Clean Air Act:
Acid rain program—
Nitrogen Oxides Emission Reduction Program; response to court remand; comments due by 11-29-99; published 10-15-99
Hazardous waste:
Identification and listing—
Exclusions; comments due by 11-29-99; published 10-15-99
Exclusions; comments due by 11-29-99; published 10-13-99
Water pollution control:
Great Lakes System; water quality guidance—
Bioaccumulative chemicals of concern; mixing zones prohibition; comments due by 12-3-99; published 10-4-99
Underground injection control program—
Alabama; comments due by 11-29-99; published 10-22-99

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Communications Assistance for Law Enforcement Act; implementation; comments due by 11-29-99; published 9-28-99
Federal-State Joint Board on Universal service—
Telecommunications deployment and subscribership to unserved or underserved areas including tribal and insular areas; comments due by 11-29-99; published 9-30-99
Local telephone service competition status and advanced telecommunications capability (broadband) deployment; comments due by 12-3-99; published 11-3-99
Radio stations; table of assignments:
Minnesota; comments due by 11-29-99; published 10-21-99
Missouri; comments due by 11-29-99; published 10-21-99

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL
Freedom of Information Act; implementation; comments due by 12-1-99; published 11-1-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Administrative practice and procedure:
Ozone-depleting substances use; essential use determinations; comments due by 11-30-99; published 9-1-99
Biological products:
Blood, blood components, and source plasma requirements; revisions; comments due by 12-3-99; published 8-19-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Part B initial claim determinations; telephone and electronic review requests; comments due by 11-29-99; published 9-30-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Low income housing:
Housing assistance payments (Section 8)—
Moderate rehabilitation units; lease execution or termination when remaining term of contract is less than one year; comments due by 12-3-99; published 10-4-99

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Tidewater goby; comments due by 11-30-99; published 10-15-99

INTERIOR DEPARTMENT
Minerals Management Service
Outer Continental Shelf; oil, gas, and sulphur operations:
Producer-operated pipelines that cross directly into State waters; comments due by 11-30-99; published 10-1-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 11-30-99; published 11-15-99

JUSTICE DEPARTMENT
Prisons Bureau
Inmate control, custody, care, etc.:

Aliens; release gratuities, transportation, and clothing; comments due by 12-3-99; published 10-4-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Organization and operations—

Overdraft policy; comments due by 11-29-99; published 9-30-99

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:

Nevada; comments due by 11-29-99; published 9-13-99

PERSONNEL MANAGEMENT OFFICE

Retirement:

Voluntary early retirement authority; comments due by 12-3-99; published 10-4-99

SECURITIES AND EXCHANGE COMMISSION

Securities:

Audit committee disclosure; comments due by 11-29-99; published 10-14-99

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:

Alaska; comments due by 11-30-99; published 6-2-99

Alaska; correction; comments due by 11-30-99; published 6-15-99

Ports and waterways safety:

Hudson River, NY; safety zone; comments due by 11-29-99; published 10-29-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

AeroSpace Technologies of Australia Pty Ltd.; comments due by 12-1-99; published 10-12-99

Boeing; comments due by 12-3-99; published 10-19-99

Bombardier; comments due by 12-1-99; published 10-12-99

British Aerospace; comments due by 12-1-99; published 10-8-99

Cessna; comments due by 12-1-99; published 10-12-99

CFE Co.; comments due by 11-29-99; published 9-28-99

Dassault; comments due by 12-3-99; published 11-3-99

Dornier; comments due by 12-1-99; published 10-8-99

Empresa Brasileira de Aeronautica S.A.; comments due by 12-1-99; published 10-8-99

Eurocopter France; comments due by 12-3-99; published 10-4-99

Fairchild; comments due by 12-1-99; published 10-12-99

Harbin Aircraft Manufacturing Corp.; comments due by 12-1-99; published 10-8-99

Industrie Aeronautiche e Meccaniche; comments due by 12-1-99; published 10-8-99

McDonnell Douglas; comments due by 11-29-99; published 9-28-99

Mitsubishi; comments due by 12-1-99; published 10-8-99

New Piper Aircraft, Inc.; comments due by 12-1-99; published 10-12-99

Partenavia Costruzioni Aeronauticas S.p.A.; comments due by 12-1-99; published 10-8-99

Pilatus Aircraft Ltd.; comments due by 12-1-99; published 10-8-99

Pilatus Britten-Norman Ltd.; comments due by 12-1-99; published 10-8-99

Raytheon; comments due by 11-29-99; published 10-14-99

Short Brothers & Harland Ltd.; comments due by 12-1-99; published 10-12-99

SOCATA-Groupe Aerospatiale; comments due by 12-1-99; published 10-12-99

Special conditions—

Garlick Helicopters, Inc. Model GH205A; comments due by 11-29-99; published 9-30-99

Twin Commander Aircraft Corp.; comments due by 12-1-99; published 10-12-99

Class D airspace; comments due by 11-29-99; published 10-28-99

Schools and other certificated agencies:

Repair stations; Part 145 review; comments due by 12-3-99; published 10-21-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Miscellaneous amendments; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:

Diamond Mountain, CA; comments due by 11-29-99; published 9-29-99

TREASURY DEPARTMENT

Comptroller of the Currency

Federal Deposit Insurance Act:

Safety and soundness standards—

Year 2000 guidelines; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Fiscal Service

Financial management services:

Collateral acceptability and valuation; comments due by 11-29-99; published 10-29-99

UNITED STATES INFORMATION AGENCY

Exchange visitor program:

Administrative processing fees; comments due by 11-30-99; published 9-27-99

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:

Appeals regulations and rules of practice—

Simultaneously contested claims; comments due by 11-30-99; published 10-1-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 441/P.L. 106–95

Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96

To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97

To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98

District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99

History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100

To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101

Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102

Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103

To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104

To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize

appropriatio
assistance
chapter 2 o
Immigration
Act. (Nov. 1
1483)

Last List N

**Public La
Notificatio
(PENS)**

PENS is a
notification
enacted pu
subscribe,
archives/pu
send E-mai
listserv@w
the followin

SUBSCRIB
Your Name

Note: This
for E-mail
laws. The t
available th
PENS cann
specific inq
address.

appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

Last List November 15, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
AFR SMITH212J                    DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
AFRDO SMITH212J                  DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Public Laws

106th Congress, 1st Session, 1999

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 106th Congress, 1st Session, 1999.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara/index.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 106th Congress, 1st Session, 1999 for $136 per subscription.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name. (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/98

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
64
ISS
2
2
5
NO
23
1999
UMI

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____ . **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

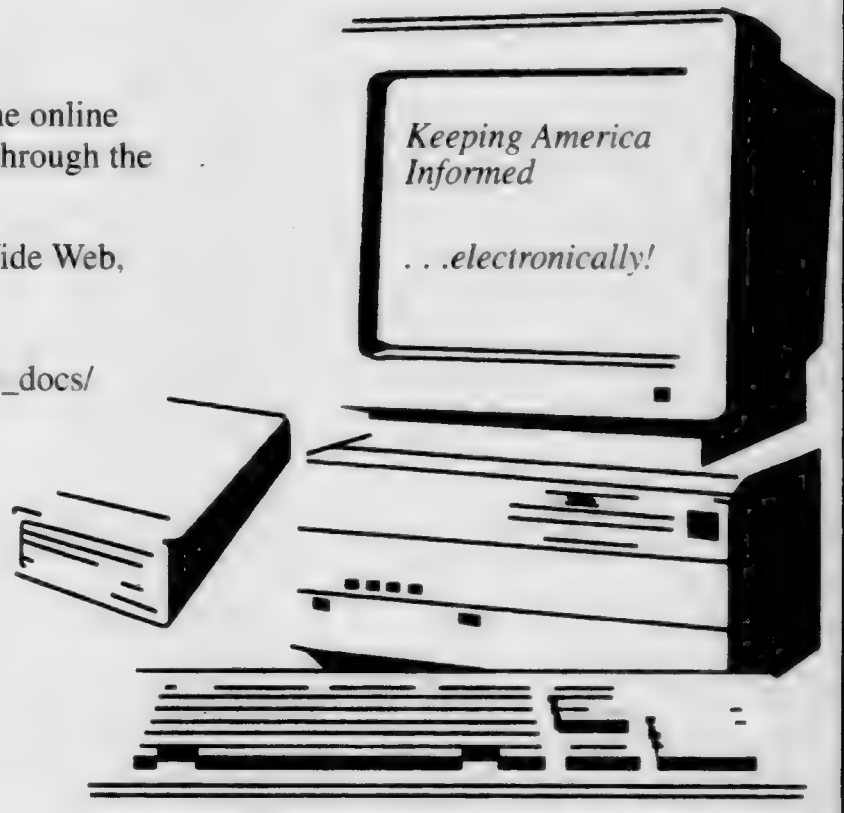

You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

Order Now!

The United States Government Manual 1999/2000

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

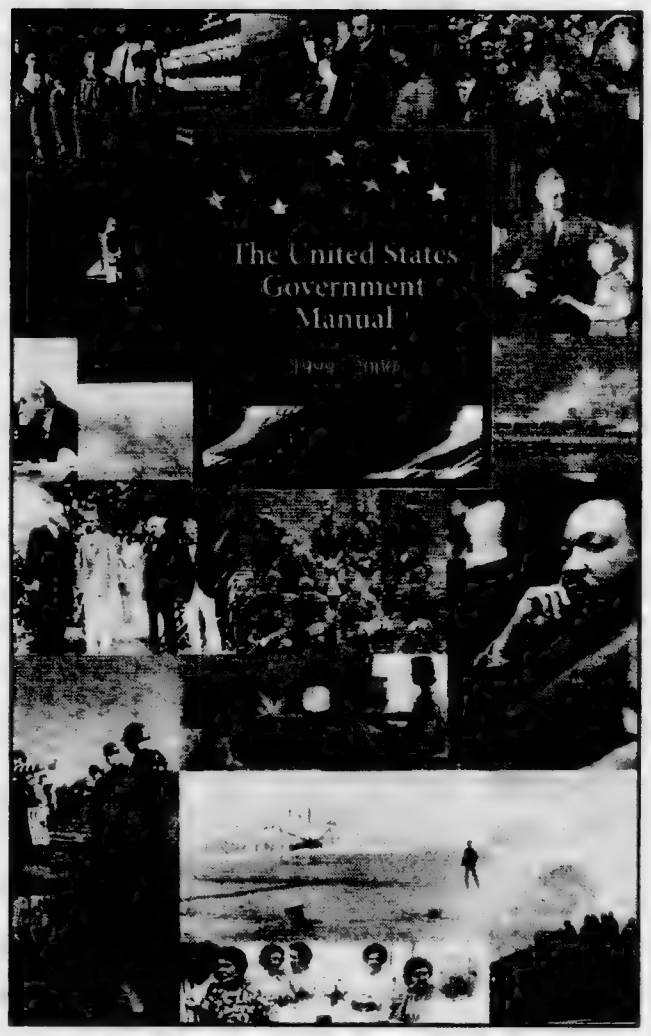

$46 per copy

Superintendent of Documents **Publications** Order Form

United States Government INFORMATION
PUBLICATIONS ★ PERIODICALS ★ ELECTRONIC PRODUCTS

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
***7917**

☐ **YES**, please send me ——— copies of **The United States Government Manual** 1999/2000,
S/N 069–000–00109–2 at $46 ($57.50 foreign) each.

Total cost of my order is $ ———— . **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/99

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

er copy

VISA

) 512–2250
) 512–1800

hange.

cuments

– ☐

nk you for
our order!

9/99

0–7954

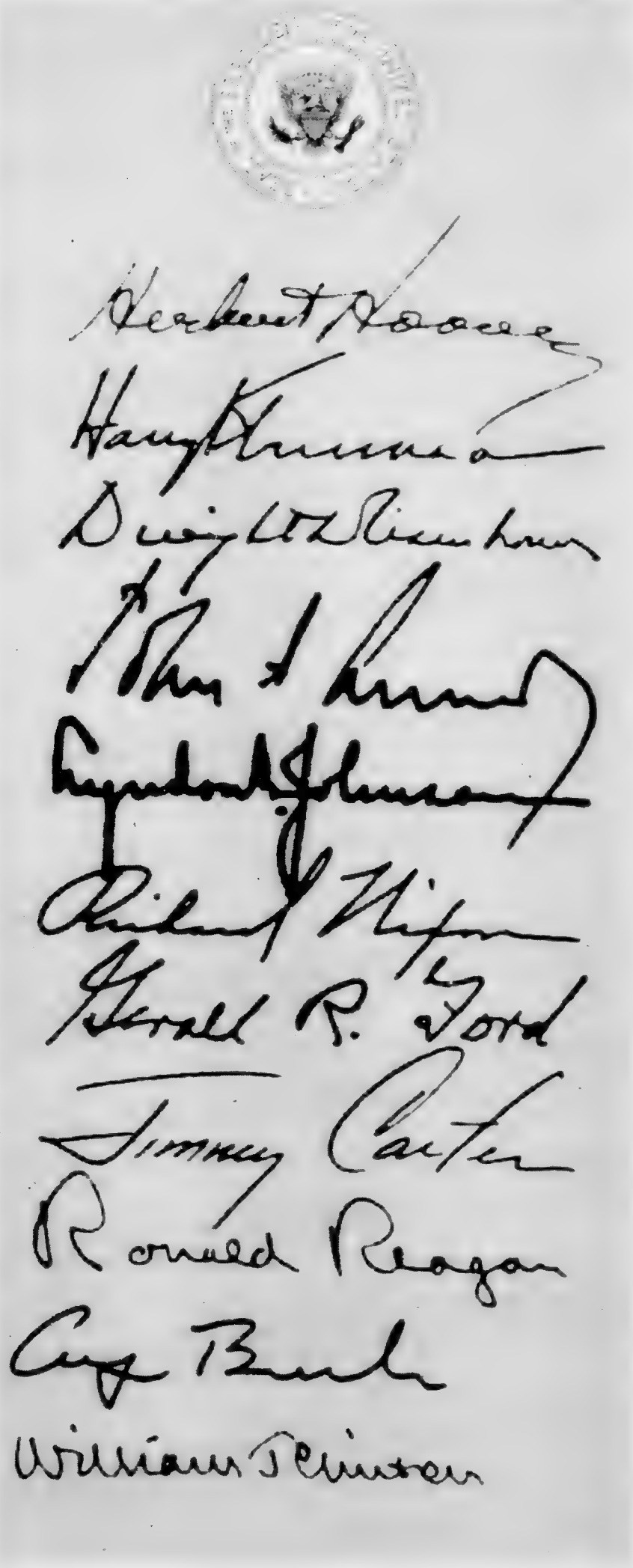

Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	$51.00
1993 (Book II)	$51.00
1994 (Book I)	$56.00
1994 (Book II)	$52.00
1995 (Book I)	$60.00
1995 (Book II)	$65.00
1996 (Book I)	$66.00
1996 (Book II)	$72.00
1997 (Book I)	$69.00
1997 (Book II)	$78.00

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev. 9/2399)

VOL
64
ISS
2
2
5
NO
23
1999
UMI

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**

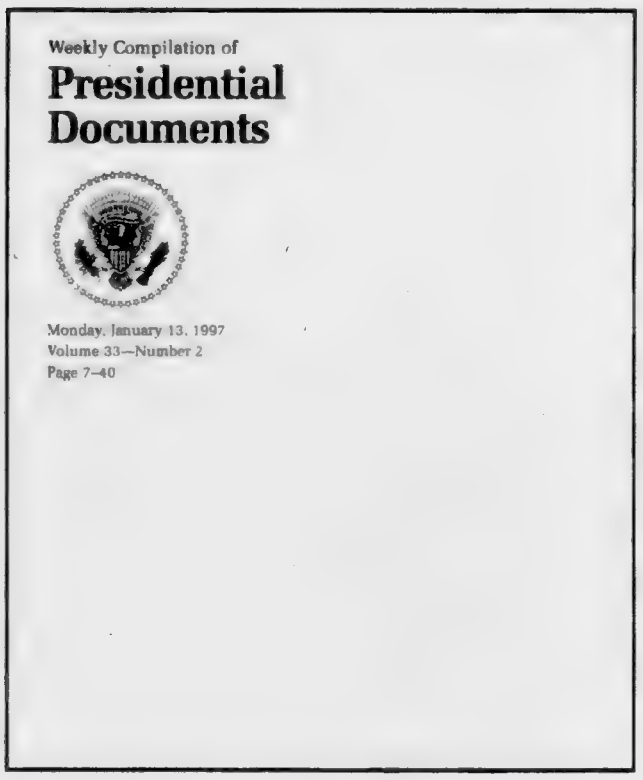

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy! MasterCard VISA

Order Processing Code:
*** 5420**

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

ial
se
s are

e of the
nal

VISA

512–2250
512–1800

D) so I can

change.

cuments
☐☐ – ☐

☐☐☐☐

nk you for
our order!

1/97

0–7954

VOL
64
ISS
2
2
5
NO
23
1999
UMI

Printed on recycled paper

VOL
64
ISS
2
2
6
NO
24
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11-24-99
Vol. 64

United Stat
Governmen
Printing Off
SUPERINTENDEN
OF DOCUMENTS
Washington, DC 2

OFFICIAL BUSINE
Penalty for private

11-24-99
Vol. 64 No. 226

Federal Register

Wednesday
November 24, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
6
NO
24
1999
UMI

11-24-99
Vol. 64
Pages 660

11–24–99
Vol. 64 No. 226
Pages 66095–66354

federal register

Wednesday
November 24, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530; 1–888–293–6498

Single copies/back copies:

Paper or fiche	512–1800
Assistance with public single copies	512–1803

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 7, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 226

Wednesday, November 24, 1999

Agricultural Marketing Service
NOTICES
Oranges, grapefruit, tangerines, and lemons; grade standards, 66162–66164

Agriculture Department
See Agricultural Marketing Service
See Farm Service Agency
See Food Safety and Inspection Service
See Forest Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66160–66162

Broadcasting Board of Governors
NOTICES
Meetings; Sunshine Act, 66165

Coast Guard
RULES
Drawbridge operations:
New Jersey, 66107–66108
Regattas and marine parades:
Puerto Rico International Cup, 66106–66107

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Consumer Product Safety Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66171–66173

Copyright Office, Library of Congress
PROPOSED RULES
Digital Millennium Copyright Act:
Circumvention of copyright protection systems for access control technologies; exemption to prohibition, 66139–66143

Customs Service
NOTICES
Customhouse broker license cancellation, suspension, etc.:
A&A Customs Brokerage Services, Inc., et al., 66231
Urbano, John V., et al.; revocation, 66231–66232
Wilson, Janice Carter, et al.; retraction, 66232
Zertuche, Alfredo, Jr., et al., 66232

Defense Department
PROPOSED RULES
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE program—
Family member dental plan, 66126–66139
NOTICES
Meetings:
Science Board, 66173

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Meetings:
Secretary of Energy Advisory Board, 66173–66175

Energy Efficiency and Renewable Energy Office
PROPOSED RULES
Consumer products; energy conservation program:
Central air conditioners and heat pumps; energy conservation standards, 66305–66340

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Glyphosate, 66108–66114
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 66143–66146
NOTICES
Committees; establishment, renewal, termination, etc.:
U.S. Government Representative to Commission for Enviromental Cooperation, National and Governmental Advisory Committees, et al., 66179–66180
Confidential business information and data transfer, 66180–66181
Pesticide, food, and feed additive petitions:
BASF Corp., 66181–66185
Reports and guidance documents; availability, etc.:
Sociodemographic data used for identifying potentially highly exposed populations, 66185
Superfund; response and remedial actions, proposed settlements, etc.:
Aurum Etching Site, TX, 66185–66186

Executive Office of the President
See National Drug Control Policy Office

Farm Service Agency
RULES
Special programs:
Dairy indemnity payment progam, 66095–66096

Federal Aviation Administration
RULES
Air traffic operating and flight rules, etc.:
Sudan; flights within territory and airspace; prohibition removed (SFAR No. 82), 66096–66097
IFR altitudes, 66097–66103
PROPOSED RULES
Airworthiness directives:
Ayres Corp., 66116–66118
Boeing, 66119–66121
British Aerospace, 66121–66123
Pratt & Whitney, 66118–66119
Class E airspace, 66123–66124
NOTICES
Exemption petitions; summary and disposition, 66226–66228

Meetings:
Fractional Ownership Advisory Committee, 66229–66230

Federal Communications Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66186–66187
Submission for OMB review; comment request, 66187–66188

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Public Utility District No. 1 of Chelan County, WA, 66176
Hydroelectric applications, 66176–66178
Applications, hearings, determinations, etc.:
Duke Power Co., 66175
Lee 8 Storage Partnership, 66175
Northwest Alaskan Pipeline Co., 66175–66176

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Tippecanoe, Carroll, and Cass Counties, IN, 66230

Federal Housing Finance Board
PROPOSED RULES
Federal home loan bank system:
Financial management and mission achievement
Withdrawn, 66115–66116

Federal Maritime Commission
NOTICES
Agreements filed, etc., 66188
Freight forwarder licenses:
A&A Link, Ltd., et al., 66188

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 66188–66189
Formations, acquisitions, and mergers, 66189
Permissible nonbanking activities, 66189–66190
Meetings; Sunshine Act, 66190

Federal Trade Commission
PROPOSED RULES
Telemarketing sales rule:
Do-not-call provisions; public forum, 66124–66126

Federal Transit Administration
NOTICES
Prohibited drug use and alcohol misuse prevention in transit operations:
Random drug and alcohol testing rates, 66230–66231

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
Critical habitat designations—
Virgin River Basin, CO; woundfin and Virgin River chub, 66192–66193
Kenai National Wildlife Refuge, AK; Wolf Lake Area Natural Gas Project, 66193–66194

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Moxidectin gel, 66104–66105
Food additives:
Adjuvants, production aids, and sanitizers—
2-methyl-4,6-bis-[(octylthio) methyl] phenol, 66103–66104
Medical devices:
Cardiac pacemaker registry; revocation, 66105–66106
NOTICES
Reports and guidance documents; availability, etc.:
In vivo drug metabolism/drug interaction studies; study design, data analysis, and recommendations for dosing and labeling; industry guidance, 66191–66192

Food Safety and Inspection Service
NOTICES
Meetings:
Foreign meat and poultry food regulatory systems; equivalence evaluation process, 66164–66165

Forest Service
PROPOSED RULES
Land uses:
Special use authorizations; costs recovery for processing applications and monitoring compliance, 66341–66353

General Services Administration
NOTICES
Interagency Committee for Medical Records:
Medical record radiation therapy summary (SF 525)—
Automation guideline, 66190–66191
Revision, 66190

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration

Health Care Financing Administration
RULES
Medicare and Medicaid:
Elderly; all-inclusive care programs, 66233–66304

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 66178–66179

Housing and Urban Development Department
RULES
Public and Indian housing:
Public housing agency plans; option to extend first submission due date for certain public housing agencies, 66106

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
NOTICES
Meetings:
Interagency Task Force to Improve Hydroelectric Licensing Processes Advisory Committee, 66192

International Trade Administration
NOTICES
Antidumping:
Brass sheet and strip from—
Canada, 66165–66166
Drafting machines from—
Japan, 66166
Potassium permanganate from—
China, 66166–66167
Spain, 66167–66168
Small and large diameter carbon and alloy seamless standard, line, and pressure pipe from—
Various countries, 66168
Static random access memory semiconductors from—
Taiwan, 36168–66169
Structural steel beams from—
South Korea and Japan, 66169
Titanium sponge from —
Kazakhstan, 66169–66170

International Trade Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66196–66197
Import investigations:
Hot-rolled lead and bismuth carbon steel products from—
Various countries, 66197
Live cattle from—
Canada, 66197
Polyester staple fiber from—
Korea and Taiwan, 66198–66199

Justice Department
See National Institute of Corrections
NOTICES
Organization, functions, and authority delegations:
Point of contact for small business concerns regarding compliance problems arising from Year 2000 (Y2K) failures, 66199

Labor Department
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
Western Montana Resource Advisory Council, 66194
Environmental statements; availability, etc.:
Pinedale Anticline Natural Gas Exploration and Development Project, WY, 66194–66195
Public land orders:
Colorado, 66195

Library of Congress
See Copyright Office, Library of Congress

National Drug Control Policy Office
NOTICES
Meetings:
Drug Free Communities Advisory Commission, 66186

National Institute of Corrections
NOTICES
Grants and cooperative agreements; availability, etc.:
Newly Appointed Wardens; Survival Guide Development project, 66199–66200
Violent and Hard-To-Manage Inmates; Management and Treatment; document development, 66200–66201

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic highly migratory species—
Large coastal shark, 66114
PROPOSED RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish, 66158–66159

National Park Service
NOTICES
Privacy Act:
Systems of records, 66196

National Science Foundation
PROPOSED RULES
Freedom of Information Act and Privacy Act; implementation, 66146–66156
NOTICES
Meetings:
Biological Sciences Advisory Committee, 66211
Mathematical and Physical Sciences Advisory Committee, 66211–66212
Mathematical Sciences Special Emphasis Panel, 66212
Senior Executive Service:
Performance Review Board; membership, 66212

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
Envirocare of Utah, Inc.; withdrawn, 66115
NOTICES
Post accident sampling systems; revised criteria, 66213–66214
Reports and guidance documents; availability, etc.:
Materials licenses, consolidated guidance—
Licenses authorizing distribution to general licensees; program-specific guidance, 66214–66215
Applications, hearings, determinations, etc.:
Duquesne Light Co. et al., 66212–66213

Patent and Trademark Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66170–66171

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Metropolitan Life Insurance Co. et al., 66201–66211

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Curbside mailboxes; design standards—
Consensus Committee meetings, 66143
NOTICES
Meetings; Sunshine Act, 66215

Presidential Documents
EXECUTIVE ORDERS
Government agencies and employees:
Classified National Security Information; amendment (EO 13142) [*Editorial Note:* This document, published at page 66089 in the Federal Register of November 23, 1999, was inadvertently listed under "PROCLAMATIONS" in that issue's table of contents.]

Public Health Service
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66215–66217
Investment Company Act of 1940:
Exemption applications—
Corporate Income Fund et al., 66217–66219
Shares substitution applications—
Great-West Life & Annuity Insurance Co. et al., 66219–66221
Options Price Reporting Authority:
Subscriber fees; revision, 66221–66222
Self-regulatory organizations; proposed rule changes:
Philadelphia Stock Exchange, Inc., 66223–66226

State Department
NOTICES
Meetings:
Labor Diplomacy Advisory Committee, 66226

Surface Transportation Board
PROPOSED RULES
Practice and procedure:
Rail acquisitions, mergers, and consolidations; new procedures; withdrawn, 66157
Transactions subject to statutory consolidation provisions; class exemption; withdrawn, 66157–66158
Rail carriers:
Export corn and export soybeans; exemption; withdrawn, 66156

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Transit Administration
See Surface Transportation Board

Treasury Department
See Customs Service
NOTICES
Meetings:
International Financial Institution Advisory Commission, 66231

Separate Parts In This Issue

Part II
Department of Health and Human Services, 66233–66304

Part III
Department of Energy, Energy Efficiency and Renewable Energy Office, 66305–66340

Part IV
Department of Interior, Forest Service, 66341–66353

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

VOL 64 ISS 226 NO 24 1999 UMI

CFR PAR
A cumulativ
Reader Aids
7 CFR
760
10 CFR
Proposed Ru
150
430
12 CFR
Proposed Ru
917
925
930
940
950
954
955
958
965
966
980
14 CFR
91
95 (2 docum
Proposed Ru
39 (4 docum
71
16 CFR
Proposed Ru
310
21 CFR
178
520
805
24 CFR
903
32 CFR
Proposed Ru
199
33 CFR
100
117
36 CFR
Proposed Ru
251
37 CFR
Proposed Ru
201
39 CFR
Proposed Ru
111
40 CFR
180
Proposed Ru
52
42 CFR
460
462
466
473
476
45 CFR
Proposed Ru
612
613
49 CFR
Proposed Ru
1039

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
760.....66095

10 CFR
Proposed Rules:
150.....66115
430.....66306

12 CFR
Proposed Rules:
917.....66115
925.....66115
930.....66115
940.....66115
950.....66115
954.....66115
955.....66115
958.....66115
965.....66115
966.....66115
980.....66115

14 CFR
91.....66096
95 (2 documents) 66097, 66100
Proposed Rules:
39 (4 documents) 66116, 6611, 66119, 66121
71.....66123

16 CFR
Proposed Rules:
310.....66124

21 CFR
178.....66103
520.....66104
805.....66105

24 CFR
903.....66106

32 CFR
Proposed Rules:
199.....66126

33 CFR
100.....66106
117.....66107

36 CFR
Proposed Rules:
251.....66342

37 CFR
Proposed Rules:
201.....66139

39 CFR
Proposed Rules:
111.....66143

40 CFR
180.....66108
Proposed Rules:
52.....66143

42 CFR
460.....66234
462.....66234
466.....66234
473.....66234
476.....66234

45 CFR
Proposed Rules:
612.....66146
613.....66146

49 CFR
Proposed Rules:
1039.....66156
1105.....66157
1180 (2 documents) 66157

50 CFR
635.....66114
Proposed Rules:
660.....66158

VOL
64
ISS
2
2
6
NO
24
1999
UMI

Rules

This section c
contains regu
applicability a
are keyed to
Federal Regu
50 titles pursu

The Code of
the Superinte
new books ar
REGISTER is

DEPARTME

Farm Servi

7 CFR Part

RIN 0560–AG

Dairy Inden

AGENCY: Far

ACTION: Fina

SUMMARY: T
authority ci
Indemnity P
regulations
additional f
Agriculture,
and Drug Ad
Agencies Ap
DIPP indem
manufacture
respect to m
through no f

EFFECTIVE DA

FOR FURTHER
Elizabeth Hi
Specialist, P
USDA, STO
Avenue, SW
0512; teleph
address is E
Hill@wdc.fs

SUPPLEMENT

Executive O

This rule
not significa
Order 12866
reviewed by
and Budget

Federal Ass

The title a
Assistance P
Catalog of Fe
to which thi
Indemnity P

Rules and Regulations

Federal Register
Vol. 64, No. 226
Wednesday, November 24, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

RIN 0560–AG 10

Dairy Indemnity Payment Program

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the authority citation for the Dairy Indemnity Payment Program (DIPP) regulations to cover the expenditure of additional funds appropriated under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000. The DIPP indemnifies dairy farmers and manufacturers for losses suffered with respect to milk and milk products, through no fault of their own.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hill, Agricultural Program Specialist, Price Support Division, FSA, USDA, STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250–0512; telephone (202) 720–9888; e-mail address is Elizabeth—Hill@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Dairy Indemnity Payments, Number 10.053.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Farm Service Agency is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This rule has been reviewed pursuant to Executive Order 12988. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of Commodity Credit Corporation that the terms of the regulations prevail. The provisions of this rule are not retroactive. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

The amendment to 7 CFR part 760 set forth in this final rule does not contain additional information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35. Existing information collections were approved by OMB and assigned OMB Control Number 0560–0116.

Background

The DIPP was originally authorized by section 331 of the Economic Opportunity Act of 1964. The statutory authority for the program was extended several times. Funds were appropriated for DIPP by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act, 1999, ("the 1999 Act"), Pub. L. 105–277, 112 Stat. 2681, which authorized the program until the funds were expended. More recently, funds were appropriated for this program by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 ("the 2000 Act"), Pub. L. 106–78, 113 Stat. 1135, which authorizes the program to be carried out until the funds appropriated under the 2000 Act are expended. Not all the funds appropriated under the 1999 Act have been expended and the remaining funds are still available in addition to the funds appropriated under the 2000 Act.

The objective of DIPP is to indemnify dairy farmers and manufacturers of dairy products who, through no fault of their own, suffer income losses with respect to milk or milk products removed from commercial markets because such milk or milk products contain certain harmful residues. In addition, dairy farmers can also be indemnified for income losses with respect to milk required to be removed from commercial markets due to residues of chemicals or toxic substances or contamination by nuclear radiation or fallout.

The regulations governing the program are set forth at 7 CFR 760.1–760.34. This final rule makes no changes in the provisions of the regulations. Since the only purpose of this final rule is to revise the authority citation pursuant to the 2000 Act, it has been determined that no further public rulemaking is required. Therefore, this final rule shall become effective upon the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Pesticides and pests.

Accordingly, 7 CFR part 760 is amended as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

Subpart—Dairy Indemnity Payment Program

The authority citation for Subpart—Dairy Indemnity Payment Program is revised to read as follows:

Authority: Dairy Indemnity Program, Pub. L. 105–277, 112 Stat. 2681 and Pub. L. 106–78, 113 Stat. 1135.

Signed in Washington, DC, on November 17, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 99–30640 Filed 11–23–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29317; Special Federal Aviation Regulation (SFAR) No. 82]

RIN 2120–AG67

Removal of the Prohibition Against Certain Flights Within the Territory and Airspace of Sudan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; removal.

SUMMARY: This action removes Special Federal Aviation Regulation (SFAR) No. 82, which prohibits flight operations within the territory and airspace of Sudan by any United States air carrier or commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is taken in response to the decrease in the tensions that followed U.S. military strikes against terrorist and industrial facilities associated with Usama Bin Ladin in Sudan and Afghanistan, which has reduced the threat of hostile actions against persons and aircraft engaged in flight operations within Sudan's territory and airspace.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–8166.

SUPPLEMENTARY INFORMATION:

Availability of This Action

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service ((703) 321–3339), the Government Printing Office's (GPO) electronic bulletin board service ((202) 512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service ((800) 322–2722 or (202) 267–5948). Internet users may reach the FAA's web page at http://www.faa.gov or the GPO web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Ave, SW, Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the docket number of this action.

Persons interested in being placed on the mailing list for future rules should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If you are a small entity and have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 1–888–551–1594. Internet users can find additional information on SBREFA in the "Quick Jump" section of the FAA's web page at http://www.faa.gov and may send electronic inquiries to the following Internet address: 9–AWA–SBREFA@faa.dot.gov.

Background

On August 20, 1998, the U.S. military conducted strikes against terrorist and industrial facilities associated with Usama Bin Ladin in Sudan and Afghanistan. As a result of the strike, the FAA determined that a hostile reaction from armed elements in Sudan was possible, and that the safe overflight of Sudanese territory could not be guaranteed. Accordingly, the FAA issued a final rule prohibiting certain aircraft operations within the territory and airspace of Sudan on August 21, 1998. SFAR 82 prohibits flight operations within the territory and airspace of Sudan by any United States air carrier or commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. The FAA imposed the flight prohibition in the exercise of its statutory responsibility for the safety of U.S.-registered aircraft and U.S. operators.

The FAA has since determined that tensions with Sudan have decreased, which has reduced the potential threat of hostile actions against persons and aircraft engaged in flight operations within Sudan's territory and airspace. Sudan has an extremely limited capability to target overflying aircraft and has expressed no intent to target civil aircraft within its airspace. There now appears to be no heightened threat to civil aviation within the territory and airspace of Sudan.

Regulatory Analyses

The FAA has determined that this action is not a "significant regulatory action" under Executive Order 12866, nor is it considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because this amendment removes a restriction that is no longer appropriate, the FAA finds that this final rule may be issued without public comment and may be made effective immediately. The FAA also certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Therefore, on the basis of the foregoing information, I have determined that the immediate removal of SFAR 82 from 14 CFR Part 91 is appropriate. The Department of State has been advised of, and has no objection to, the action taken herein.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Sudan.

The Amendment

For the reasons set forth above, the Federal Aviation Administration amends 14 CFR Part 91 by removing SFAR 82 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 USC 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. Special Federal Aviation Regulation No. 82 is removed.

Issued in Washington, DC, on November 17, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–30663 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29844; Amdt. No. 419]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances required making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, D.C. on November 19, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC:

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 419: Effective Date: December 30, 1999]

From	To	MEA
§ 95.1001 Direct Routes—U.S. Atlantic Routes—G430 Is Added to Read		
VIRGINIA KEY, FL VOR/DME	EONNS, FL FIX	3000
EONNS, FL FIX	AVION, FL FIX	4000
Atlantic Routes—G439		
DOLPHIN, FL VORTAC	MNATE, FL FIX	3000
MNATE, FL FIX	TWNNS, FL FIX	5000
TWNNS, FL FIX	*DROWN, FL FIX	5000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 419: Effective Date: December 30, 1999]

From	To	MEA
*5000—MRA		
95.6001 Victor Routes—U.S.		
95.6001 VOR Federal Airway 1 Is Amended to Read in Part		
COYLE, NJ VORTAC	DIXIE, NJ FIX	*2500
*1600—MOCA		
DIXIE, NJ FIX	KENNEDY, NY VOR/DME	*2500
*1600—MOCA		
95.6003 VOR Federal Airway 3 Is Amended to Read in Part		
ORMOND BEACH, FL VORTAC	*SEBAG, FL FIX	**2000
*3000—MRA		
**1400—MOCA		
SEBAG, FL FIX	BRUNSWICK, GA VORTAC	*2000
*1400—MOCA		
95.6006 VOR Federal Airway 6 Is Amended to Read in Part		
SELINSGROVE, PA VORTAC	*SNOWY, PA FIX	**5000
*5500—MRA		
**3300—MOCA		
SNOWY, PA FIX	ALLENTOWN, PA VORTAC	*13000
*3200—MOCA		
#ALLENTOWN, PA VORTAC	SOLBERG, NJ VOR/DME	*3000
*2200—MOCA		
#FJC R–115 UNUSABLE USE SBJ R–295		
SOLBERG, NJ VOR/DME	EMPYR, NY FIX	2300
95.6016 VOR Federal Airway 16 Is Amended to Read in Part		
MAXME, VA FIX	PULASKI, VA VORTAC	7700
COYLE, NJ VORTAC	DIXIE, NJ FIX	*2500
*1600—MOCA		
DIXIE, NJ FIX	KENNEDY, NY VOR/DME	*2500
**1600—MOCA		
95.6029 VOR Federal Airway 29 Is Amended to Read in Part		
POTTSTOWN, PA VORTAC	*HIKES, PA FIX	2900
*4000—MRA		
HIKES, PA, FIX	EAST TEXAS, PA VORTAC	2900
95.6045 VOR Federal Airway 45 Is Amended to Read in Part		
HENDERSON, WV VORTAC	*BREMEN, OH FIX	10000
*9000—MRA		
95.6063 VOR Federal Airway 63 Is Amended to Read in Part		
GIBSN, MO FIX	HALLSVILLE, MO VORTAC	2900
§ 95.6069 VOR Federal Airway 69 Is Amended to Read in Part		
BELCHER, LA VORTAC	*COTTA, LA FIX	2000
*3000—MRA		
COTTA, LA FIX	*GOURD, LA FIX	2000
*3000—MRA		
GOURD, LA FIX	EL DORADO, AR VORTAC	2000
§ 95.6136 VOR Federal Airway 136 Is Amended to Read in Part		
MAXME, VA FIX	PULASKI, VA VORTAC	7700
§ 95.6139 VOR Federal Airway 139 Is Amended to Read in Part		
KOBBY, NC FIX	*WIDGE, NC FIX	2000
*4000—MRA		
§ 95.6148 VOR Federal Airway 148 Is Amended to Read in Part		
GOPHER, MN VORTAC	*ALEEN, WI FIX	**5000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 419: Effective Date: December 30, 1999]

From	To	MEA
*4999—MRA **2700—MOCA		
ALEEN, WI FIX	HAYWARD, WI VOR/DME	*10000
*2800—MOCA		
HAYWARD, WI VOR/DME	IRONWOOD, MI VORTAC	*10000
*3000—MOCA		
IRONWOOD, MI VORTAC	HOUGHTON, MI VOR/DME	*3700
*3100—MOCA		
§ 95.6162 VOR Federal Airway 162 Is Amended to Read in Part		
EAST TEXAS, PA VORTAC	ALLENTOWN, PA VORTAC	3000
§ 95.6177 VOR Federal Airway 177 Is Amended to Read in Part		
WAUSAU, WI VORTAC	BAITS, WI FIX	*4500
*3500—MOCA		
BAITS, WI FIX	HAYWARD, WI VOR/DME	*10000
*3000—MOCA		
HYWARD, WI VOR/DME	DULUTH, MN VORTAC	*10000
*3000—MOCA		
§ 95.6229 VOR Federal Airway 229 Is Amended to Read in Part		
PANZE, NJ FIX	DIXIE, NJ FIX	2500
DIXIE, NJ FIX	KENNEDY, NY VOR/DME	*2500
*1600—MOCA		
§ 95.6276 VOR Federal Airway 276 Is Amended to Read in Part		
CASVI, NJ FIX	*GAMBY, NJ FIX	**3000
*6000—MRA **1400—MOCA		
§ 95.6280 VOR Federal Airway 280 Is Amended to Read in Part		
HOPET, NM FIX	CHISUM, NM VORTAC	7000
§ 95.6305 VOR Federal Airway 305 Is Amended to Read in Part		
BELCHER, LA VORTAC	*COTTA, LA FIX	2000
*3000—MRA		
COTTA, LA FIX	*FOSTE, LA FIX	2000
*3500—MRA		
FOSTE, LA FIX	EL DORADO, AR VORTAC	2000
§ 95.6345 VOR Federal Airway 345 Is Amended to Read in Part		
EAU CLAIRE, WI VORTAC	HAYWARD, WI VOR/DME	*5200
*3000—MOCA		
HAYWARD, WI VOR/DME	ASHLAND, WI VOR/DME	*4000
*2900—MOCA		
§ 95.6397 VOR Federal Airway 397 Is Amended to Read in Part		
MONROE, LA VORTAC	RUTTS, AR FIX	*6000
*1600—MOCA		
RUTTS, AR FIX	GREENVILLE, MS VOR/DME	2000
§ 95.6408 VOR Federal Airway 408 Is Amended to Read in Part		
POTTSTOWN, PA VORTAC	*HIKES, PA FIX	2900
*4000—MRA		
HIKES, PA FIX	EAST TEXAS, PA VORTAC	2900
EAST TEXAS, PA VORTAC	ALLENTOWN, PA VORTAC	3000
ALLENTOWN, PA VORTAC	LAKE HENRY, PA VORTAC	4000
LAKE HENRY, PA VORTAC	SAGES, NY FIX	6000
§ 95.6417 VOR Federal Airway 417 Is Amended to Read in Part		
MONROE, LA VORTAC	*BOLTS, MS FIX	**5000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 419: Effective Date: December 30, 1999]

From	To	MEA
*3400—MRA **1900—MOCA		
§ 95.6427 VOR Federal Airway 427 Is Amended to Read in Part		
WESEL, SC FIX	FLORENCE, SC VORTAC	*4000
*1999—MOCA		
§ 95.6440 VOR Federal Airway 440 Is Amended to Read in Part		
ANCHORAGE, AK VOR/DME	*IVANN, AK FIX	2000
*5000—MCA IVANN FIX W BND		
IVANN, AK, FIX	*FRIDA, AK FIX	**6500
*7000—MCA FRIDA FIX W BEND		
**6000—MOCA		
FRIDA, AK FIX	MIGAN, AK FIX	*10000
*9400—MOCA		
MIGAN, AK FIX	*WINOR, AK FIX	**10000
*8600—MCA WINOR FIX E BND		
**8900—MOCA		
WINOR, AK FIX	MC GRATH, AK VORTAC.	
SE BND		10000
NW BND		5000

§ 95.8003 VOR Federal Airway Changeover Points

From	To	Changeover Points	
		Distance	From
Airway Segment V–16 is Amended to Add Changeover Point			
HOLSTON MOUNTAIN, TN VORTAC	PULASKI, VA VORTAC	69	HOLSTON MOUNTAIN
Airway Segment V–83 is Amended to Modify Changeover Point			
CARLSBAD, NM VORTAC	CHISUM, NM VORTAC	31	CARLSBAD
Airway Segment V–136 is Amended to Add Changeover Point			
HOLSTON MOUNTAIN, TN VORTAC	PULASKI, VA VORTAC	69	HOLSTON MOUNTAIN
Airway Segment V–466 is Amended to Add Changeover Point			
GLADE SPRING, VA VOR/DME	PULASKI, VA VORTAC	58	GLADE SPRING

[FR Doc. 99–30661 Filed 11–23–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29843; Amdt. No. 418]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on November 19, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, November 4, 1999.

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 418; Effective Date: November 4, 1999]

From	To	MEA
§ 95.1001 Direct Routes—U.S. Direct Routes—EPH is Added to Read		
EPHRATA, WA VORTAC *6700—MOCA	OMAK, WA NDB	*8000
§ 95.6001 Victor Routes—U.S. § 95.6003 VOR Federal Airway 3 is Amended to Read in Part		
TOWEY, SC FIX *1900—MOCA	SANDHILLS, NC VORTAC	*8000
§ 95.6066 VOR Federal Airway 66 is Amended to Read in Part		
GREENWOOD, SC VORTAC *2200—MOCA	RICHE, SC FIX	*4000
RICHE, SC FIX *2200—MOCA	SANDHILLS, NC VORTAC	*8000
§ 95.6130 VOR Federal Airway 130 is Amended to Read in Part		
MINNK, RI FIX	FALMA, RI FIX	3000
FALMA, RI FIX	MARTHAS VINEYARD, MA VOR/DME	3000
§ 95.6139 VOR Federal Airway 139 is Amended to Read in Part		
PROVIDENCE, RI VORTAC	INNDY, RI FIX	2000
§ 95.6140 VOR Federal Airway 140 is Amended to Read in Part		
GOSHN, TN FIX	NASHVILLE, TN VORTAC	3000
§ 95.6146 VOR Federal Airway 146 is Amended to Read in Part		
PUTNAM, CT VOR/DME	PROVIDENCE, RI VORTAC	3000
§ 95.6151 VOR Federal Airway 151 is Amended to Read in Part		
GAILS, MA FIX	PROVIDENCE, RI VORTAC	2000
PROVIDENCE, RI VORTAC	PUTNAM, CT VOR/DME	3000
PUTNAM, CT VOR/DME	GARDNER, MA VORTAC	3000
GARDNER, MA VORTAC	KEENE, NH VORTAC	3600

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 418; Effective Date: November 4, 1999]

From	To	MEA
KEENE, NH VORTAC	STRUM, NH FIX	3600
STRUM, NH FIX	*UNKER, NH FIX	6000
*6000–MRA		
§ 95.6155 VOR Federal Airway 155 Is Amended to Read in Part		
CHESTERFIELD, SC VOR/DME	LILLS, NC FIX	2000
LILLS, NC FIX	SANDHILLS, NC VORTAC	*8000
*2100—MOCA		
§ 95.6188 VOR FEDERAL AIRWAY 188 Is Amended to Read in Part		
CARMEL, NY VOR/DME	GROTON, CT VOR/DME	3000
§ 95.6188 VOR FEDERAL AIRWAY 220 Is Amended to Delete		
NORFOLK, NE VOR/DME	YANKTON, SD VOR/DME	3700
YANKTON, SD VOR/DME	DOLTS, SD INT	*3400
*2700 MOCA		
DOLTS, SD INT	SIOUX FALLS, SD VORTAC	*3400
*2700 MOCA		
SIOUX FALLS, SD VORTAC	WATERTOWN, SC VORTAC	*3700
*3000 MOCA		
WATERTOWN, SD VORTAC	FARGO, ND VORTAC	5000
*4000 MRA		
FARGO, ND VORTAC	SHELS, MN INT	*3000
*4000 MRA		
SHELS, MN INT	GRANDFORKS, ND VOR/DME	3000
§ 95.62700 VOR FEDERAL AIRWAY 270 Is Amended to Read in Part		
TUSON, NY FIX	ATHOS, NY FIX	*6000
*5600–MOCA		
ATHOS, NY FIX	CHESTER, MA VOR/DME	4000
§ 95.6303 VOR FEDERAL AIRWAY 303 Is Amended to Read in Part		
HOT SPRINGS, AR VOR/DME	BLURB, AR FIX	*3500
*3000–MOCA		
BLURB, AR FIX	BLIMP, AR FIX	*4100
*3600–MOCA		
BLIMP, AR FIX	FORT SMITH, AR VORTAC	*2900
*2400–MOCA		
§ 95.6374 VOR FEDERAL AIRWAY 374 Is Amended To Read in Part		
CARMEL, NY VOR/DME	*BETHA, CT FIX	2500
*8000–MRA		
BETHA, CT FIX	CREAM, NY FIX	2500
CREAM, NY FIX	KURITY, CT FIX	2500
KURITY, CT FIX	GROTON, CT VOC/DME	3000
GROTON, CT VOR/DME	MINNIK, RI FIX	3000
MINNIK, RI FIX	FALMA, RI FIX	3000
FALMA, RI FIX	MARTHAS VINEYARD, MA VOR/DME	3000
§ 95.6405 VOR FEDERAL AIRWAY 405 Is Amended to Read in Part		
PROVIDENCE, RI VORTAC	FALMA, RI FIX	*3000
*1400–MOCA		
FALMA, RI FIX	MARTHAS VINEYARD, MA VOR/DME	3000
§ 95.6430 VOR FEDERAL AIRWAY 430 Is Amended to Read in Part		
DINER, MI FIX	IRON MOUNTAIN, MI VORTAC	*5000
*3400–MOCA		
§ 95.6491 VOR FEDERAL AIRWAY 491 Is Amended to Read in Part		
UNION, SD FIX	HAYNI, ND FIX	*9000
*5000–MOCA		
HAYNI, ND FIX	DICKINSON, ND VORTAC	*5000

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 418; Effective Date: November 4, 1999]

From	To	MEA
*4500–MOCA DICKINSON, ND VORTAC *4300–MOCA	MINOTA, ND VORTAC	*6000
§ 95.6532 VOR FEDERAL AIRWAY 532 is Amended to Read in Part		
LITTLE ROCK, AR VOTAC *3500–MRA	*PARDON, AR FIX	2600
PARON, AR FIX *3100–MOCA	GATZY, AR FIX	*3700
GATZY, AR FIX *3200–MOCA	BLURB, AR FIX	*5500
BLURB, AR FIX *3600–MOCA	BLIMP, AR FIX	*4100
BLIMP, AR FIX *2400–MOCA	FORTH SMITH, AR VOTAC	*2900

§ 95.8003 VOR Federal Airway Changeover Points

From	To	Changeover Points	
		Distance	From
Airway Segment V–12 is Amended to Modify Changeover Point			
EMPORIA, KS VORTAC	JOHNSON COUNTY, KS VOR/DME	49	EMPORIA

[FR Doc. 99–30660 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 99F–1170]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to expand the safe use of 2-methyl-4,6-bis-[(octylthio)methyl] phenol as a stabilizer for repeat use rubber articles. This action is in response to a petition filed by Ciba Specialty Chemicals Corp.

DATES: This regulation is effective November 24, 1999. Submit written objections and requests for a hearing by December 27, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 6, 1999 (64 FR 24407), FDA announced that a food additive petition (FAP 9B4660) had been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., P.O. Box 2005, Tarrytown, NY 10591–9005. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of 2-methyl-4,6-bis-[(octylthio)methyl] phenol as a stabilizer for repeat use rubber articles.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive as a stabilizer for repeat use rubber articles is safe, (2) the additive will achieve its intended technical effect, and therefore, (3) the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 9B4660 (64 FR 24407, May 6, 1999). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before December 27, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any

particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for "2-methyl-4,6-bis-[(octylthio)methyl] phenol" in item "4." under the heading "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * *
2-Methyl-4,6-bis-[(octylthio)methyl] phenol (CAS Reg. No. 110553–27–0)	For use only: * * * 4. At levels not to exceed 1.7 percent by weight of the finished rubber products complying with § 177.2600 of this chapter.
* * *	* * * *

Dated: October 22, 1999.

L. Robert Lake,

Director, Office of Policy, Planning, and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–30569 Filed 11–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Moxidectin Gel

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fort Dodge Animal Health. The supplemental NADA provides for oral use of moxidectin gel for horses and ponies for treatment and control of *Gasterophilus nasalis* (3rd instars) infections.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7543.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, Div. of American Home Products Corp., 800 5th St. NW, P.O. Box 518, Fort Dodge, IA 50501, filed supplemental NADA 141–087 that provides for use of Quest™ moxidectin 2-percent equine oral gel in horses and ponies for treatment and control of horse stomach bot *G. nasalis* (3rd instars). The product is approved for treatment and control of infections of certain large strongyles, small strongyles (adult and larvae), encysted cyathostomes, ascarids, pinworms, hairworms, large-mouth stomach worms, and horse stomach bots (*G. intestinalis* (2nd and 3rd instars)), and for suppression of strongyle egg production for 84 days. The supplemental NADA is approved as of October 4, 1999, and the regulations are amended in 21 CFR 520.1452(d)(2) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Also, § 520.1452 is amended in paragraph (d)(2) to state that the drug will suppress strongyle egg production for 84 days, and paragraph (d)(3) is amended to remove statements required elsewhere by the regulations or not required to be codified.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act, this approval for nonfood producing animals qualifies for 3 years of marketing exclusivity beginning October 4, 1999, because the application contains substantial evidence of the effectiveness of the drug involved or any studies of animal safety required for approval of the application and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to use for treatment and control of horse stomach bot *G. nasalis (3rd instars) infections.*

FDA has determined under 21 CFR 25.33(d) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an

environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1452 is amended by revising paragraphs (d)(2) and (d)(3) to read as follows:

§ 520.1452 Moxidectin gel.

* * * * *

(d) * * *

(2) *Indications for use.* Horses and ponies for treatment and control of large strongyles (*Strongylus vulgaris* (adults and L4/L5 arterial stages), *S. edentatus* (adult and tissue stages), *Triodontophorus brevicauda* (adults), *T. serratus* (adults)); small strongyles (*Cyathostomum* spp. (adults), *Cylicocyclus* spp. (adults), *Cylicostephanus* spp. (adults), *Gyalocephalus capitatus* (adults), undifferentiated lumenal larvae); encysted cyathostomes (late L3 and L4 mucosal cyathostome larvae); ascarids (*Parascaris equorum* (adults and L4 larval stages)); pinworms (*Oxyuris equi* (adults and L4 larval stages)); hairworms (*Trichostrongylus axei* (adults)); large-mouth stomach worms (*Habronema muscae* (adults)); and horse stomach bots (*Gasterophilus intestinalis* (2nd and 3rd instars) and *G. nasalis* (3rd instars)). One dose also suppresses strongyle egg production for 84 days.

(3) *Limitations.* Not for use in horses and ponies intended for food.

Dated: November 12, 1999.

Melanie R. Berson,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–30571 Filed 11–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 805

[Docket No. 85N–0322]

Medical Devices; Revocation of Cardiac Pacemaker Registry

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to revoke a regulation requiring a cardiac pacemaker registry. The registry, which was mandated by the Deficit Reduction Act of 1984, requires any physician and any provider of services who requests or receives Medicare payment for an implantation, removal, or replacement of permanent cardiac pacemaker devices and pacemaker leads to submit certain information to the registry. The information is used by FDA to track the performance of permanent cardiac pacemakers and pacemaker leads and by the Health Care Finance Administration (HCFA) to administer its Medicare payment program for these devices. This action is being taken to implement an act to Repeal An Unnecessary Medical Device Reporting Requirement passed by Congress in 1996 to remove the cardiac pacemaker registry to eliminate duplicative and unnecessary reporting.

DATES: This regulation is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Rosa M. Gilmore, Center for Devices and Radiological Health (HFZ–342), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–827–2970.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 23, 1987 (52 FR 27756), FDA and HCFA jointly issued a final rule to establish a national cardiac pacemaker registry as mandated by the Deficit Reduction Act of 1984 (Public Law 98–369). The new law, which was enacted on July 18, 1984, amended title XVIII of the Social Security Act, by adding section 1862(h) (42 U.S.C. 1395y(h)) to the Social Security Act . FDA and HCFA jointly issued a proposed rule announcing the establishment of this registry in the **Federal Register** of May 6, 1986 (51 FR 16792).

The final rule for the cardiac pacemaker registry was codified in part 805 (21 CFR part 805). Briefly summarized, the scope of the regulation provides that FDA establish a nationwide registry for cardiac pacemakers and pacemaker leads. FDA used the information submitted to the registry to track the performance of permanent pacemakers and pacemaker leads and to perform studies and analysis regarding the use of the devices. The agency transmitted data to the HCFA to administer its Medicare program and to other Federal components to carry out statutory responsibilities.

On October 2, 1996, an act to Repeal An Unnecessary Medical Device Reporting Requirement (Public Law 104–224), which amended title XVIII of the Social Security Act (42 U.S.C. 1395), became law. The purpose of the new law was to remove section 1862(h) (42 U.S.C. 1395y(h)) of the Social Security Act to eliminate duplicative and unnecessary reporting.

When section 1862(h) was added to the Social Security Act, there was a need to identify and keep track of defective pacemakers. In particular, there was a need to identify circumstances in which a defective pacemaker was surgically implanted in a patient, and then surgically removed, with both procedures being paid for by Medicare. One of the main reasons for this early pacemaker registry was that there was no good way to track defective implantable medical devices, and no viable way for HCFA to recover costs in those circumstances where a defective product was used. Congress enacted an act to repeal section 1862(h) of the Social Security Act because the SMDA of 1990 (Public Law 101–629) added section 519(e) to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i(e)), which requires among other things that manufacturers track and collect data for certain devices, including permanently implanted pacemakers and pacemaker leads from the manufacturer through the distribution chain to the patient using the device.

Notice and comment rulemaking on the revocation of part 805 is unnecessary. The statutory authority for this rule has been revoked. Therefore, FDA concludes under 5 U.S.C. 553(b)(8) and 21 CFR 10.40(e)(1), that there is a good cause for revoking part 805 without notice and comment rulemaking.

II. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

III. Analysis of Impact

FDA has examined the impacts of the final rule under Executive Order 12866, and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Reform Act of 1995 (Public Law 104–4)). Executive Order 12866 directs agencies to assess all costs and benefits of available approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages distributive impacts and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. The final rule removes the medical device regulation requiring a national cardiac pacemaker registry from part 805. The agency certifies, under the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this final rule will not have a significant economic impact on a substantial number of small entities. In addition, this final rule will not impose expenditures of $100 million or more on either the private sector or State, local, and tribal governments in the aggregate and, therefore, a written statement under section 202(a) of the Unfunded Mandates Reform Act of 1995 is not required.

IV. Paperwork Reduction Act of 1995

FDA concludes that this final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required (Public Law 104–13).

List of Subjects in 21 CFR Part 805

Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the authority of Public Law 104–224, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Chapter 1 is amended as follows:

PART 805—CARDIAC PACEMAKER REGISTRY

1. Part 805 is removed.

Dated: November 17, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–30570 Filed 11–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 903

[Docket No. FR–4420–N–05]

RIN 2577–AB89

Public Housing Agency Plans; Option To Extend First Submission Due Date for Certain Public Housing Agencies

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of option to extend first submission date.

SUMMARY: This document provides notice to those public housing agencies (PHAs) that must submit their first Annual Plans in December 1999 or January 2000, that they have the option to submit their first plans between December 1, 1999 and January 31, 2000, or January 15, 2000 and February 29, 2000, respectively. HUD will soon be publishing additional information and direction to PHAs on their plan submissions. As a result, PHAs with December and January submission due dates may determine additional time is needed to prepare their first plans.

FOR FURTHER INFORMATION CONTACT: For further information contact the Office of Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC 20410; telephone (202) 708–0730 (this is not a toll-free number). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: On October 21, 1999 (64 FR 56844), HUD published its final rule implementing section 511 of the Quality Housing and Work Responsibility Act of 1998. Section 511 introduces the public housing agency (PHA) plans—a 5-Year Plan and an Annual Plan. HUD will soon be publishing additional information and direction to PHAs about certain plan components, and the plan submission process. As a result, PHAs with December 1999 and January 2000 submission due dates may determine additional time is needed to prepare their first plans. HUD is therefore providing: (1) PHAs that previously were to submit their first 5-Year and Annual Plans on December 1, 1999, with the option to submit their first plans between December 1, 1999, and January 31, 2000; and (2) PHAs that previously were to submit their first 5-Year and Annual Plans on January 15, 2000, with the option to submit their first plans between January 15, 2000, and February 29, 2000.

Dated: November 19, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–30710 Filed 11–22–99; 10:53 am]

BILLING CODE 4210–33–P

DEPARTMENT OF TRANSPORTATION

33 CFR Part 100

[CGD07–99–057]

RIN 2115–AE46

Special Local Regulations: Puerto Rico International Cup, Fajardo, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Temporary special local regulations are established for the Puerto Rico International Cup, in Fajardo, Puerto Rico. The event will be held from 1 p.m. to 2:30 p.m. on December 5, 1999, in Fajardo, Puerto Rico. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: These regulations become effective at 12 p.m. and terminate at 3:30 p.m. AST on December 5, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. John Reyes at (787) 729–5381.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 31, 1999, the Coast Guard published a notice of proposed rulemaking concerning these regulations in the **Federal Register** (64 FR 47461). No comments were received during the comment period.

Background and Purpose

These regulations create a regulated area offshore Fajardo, Puerto Rico which prohibits entry to non-participating vessels during the race. The participating race boats will be competing at high speeds with numerous spectator craft in the area, thus creating an extra or unusual hazard on the navigable waterways. These regulations are required to provide for the safety of life on navigable waters during the Puerto Rico International Cup, in Fajardo, Puerto Rico.

In accordance with 5 U.S.C. 553, good cause exists for making this rule effective in less that 30 days after **Federal Register** publication. Delaying

its effective date would be contrary to national safety interests and there was not sufficient time remaining for a full 30-day delayed effective date after the end of the comment period. The proposed rule had a full 60-day comment period. No comments were received and the event has been well publicized.

Regulatory Evaluation

This regulation is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulated policies and procedures of DOT is unnecessary. The regulated area only encompasses Rada Fajardo, Puerto Rico, entry into which is only prohibited for 3½ hours on the day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. Small entities include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less then 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, as the regulations will only be in effect for approximately 3½ hours in a limited area off Fajardo.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132, and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal Regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulations: In consideration of the foregoing, the Coast Guard amends part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46, and 33 CFR 100.35.

2. Add temporary § 100.35T–07–057 to read as follows:

§ 100.35T–07–057 Puerto Rico International Offshore Cup, Fajardo, Puerto Rico.

(a) *Regulated Area:* A regulated area is established for the waters in Rada Fajardo, encompassing an area bounded by point 1 in position 18°21′12″ N, 065°36′51″ W, thence to point 2 in position 18°19′48″ N, 065°34′34″ W, thence to point 3 in position 18°19′50″ N, 065°34′26″ W, thence to point 4 in position 18°22′22″ N, 065°35′19″ W, thence to point 5 in position 18°23′08″ N, 065°36′00″ W, thence to point 6 in position 18°23′08″ N, 065°36′09″ W, thence to point 7 in position 18°22′40″ N, 065°36′28″ W, thence to point 8 in position 18°21′20″ N, 065°36′55″ W, thence return to point 1. All coordinates referenced use Datum: NAD 1983.

(b) *Coast Guard Patrol Commander:* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commanding Officer, Greater Antilles Section, San Juan, Puerto Rico.

(c) *Special Local Regulations:* Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Patrol Commander.

(d) *Dates:* These regulations become effective at 12 p.m. and terminate at 3:30 p.m. AST on December 5, 1999.

Dated: November 15, 1999.

Thad W. Allen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 99–30658 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–99–095]

Drawbridge Operation Regulations; Raccoon Creek, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the CONRAIL Railroad Bridge across Raccoon Creek, mile 2.0, in Bridgeport, New Jersey. Beginning at 7 a.m. on November 22, through 5 p.m. on December 6, 1999, the bridge may remain in the closed position. This closure is necessary to conduct structural reconstruction of the bridge's bascule span.

DATES: This deviation is effective from 7 a.m. on November 22 until 5 p.m. on December 6, 1999.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION: The Coast Guard received a letter from the Consolidated Rail Corporation (CONRAIL) on October 20, 1999 requesting a temporary deviation from the current operating schedule of the bridge contained in 33 CFR 117.741. CONRAIL intends to conduct maintenance and repair work that involves the installation of new rails and ties on the bridge deck and superstructure. This work requires completely immobilizing the operation of the bascule span during this phase of the work. In the event of an emergency, openings of the span will be provided as quickly as possible, but may take two hours or longer to accomplish. Requests for emergency openings can be made my contacting CONRAIL's resident engineer at (609) 820–7784.

In accordance with 33 CFR 117.35, the District Commander approved Conrail's request for a temporary deviation from the governing regulations in a letter dated October 25, 1999.

The Coast Guard has informed the known commercial users of the waterway of the bridge closure so that these vessels can arrange their transits to minimize any impact caused by the temporary deviation.

The temporary deviation allows the CONRAIL Railroad Bridge across Raccoon Creek, mile 2.0, in Bridgeport, New Jersey to remain closed from 7 a.m. on November 22, until 5 p.m. on December 6, 1999.

Dated: November 9, 1999.

Thomas E. Bernard,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 99–30659 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300946; FRL–6390–5]

RIN 2070–AB78

Glyphosate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for glyphosate (*N*-(phosphonomethyl)glycine) in or on certain raw agricultural commodities from application of glyphosate in its acid form. Entek Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective November 24, 1999. Objections and requests for hearings, identified by docket control number OPP–300946, must be received by EPA on or before January 24, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300946 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, e-mail: tompkins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "*FOR FURTHER INFORMATION CONTACT.*"

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page selec, "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300946. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 25, 1999 (64 FR 46382) (FRL–6093–7), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 9F5095) for a tolerance by Entek Corporation, 6835 Deerpath Road, Suite E, Elkridge, MD 21075. This notice included a summary of the petition prepared by Entek, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.364 be amended by revising the existing tolerance regulation for glyphosate to allow application of glyphosate (in its acid form) on raw agricultural commodities (RACs).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for glyphosate by revising the existing tolerance regulation for glyphosate to allow application of glyphosate (in its acid form) on raw agricultural commodities (RACs). EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by glyphosate are discussed in this unit.

1. Several acute toxicology studies placing technical-grade glyphosate in Toxicity Category III and Toxicity Category IV. Technical glyphosate is not a dermal sensitizer.

2. A 21–day dermal toxicity study in which rabbits were exposed to glyphosate at levels of 0, 10, 1,000, or 5,000 milligrams/kilogram/day (mg/kg/day). The systemic no observed adverse effect level (NOAEL) was 1,000 mg/kg/day and the lowest observed adverse effect level (LOAEL) was 5,000 mg/kg/day based on decreased food consumption in males. Although serum lactate dehydrogenase was decreased in both sexes at the high dose, this finding was not considered to be toxicologically significant.

3. A 1–year feeding study with dogs fed dosage levels of 0, 20, 100, and 500 mg/kg/day with a NOAEL of 500 mg/kg/day.

4. A 2–year carcinogenicity study in mice fed dosage levels of 0, 150, 750, and 4,500 mg/kg/day with no carcinogenic effect at the highest dose tested (HDT) of 4,500 mg/kg/day.

5. A chronic feeding/carcinogenicity study in male and female rats fed dosage levels of 0, 3, 10, and 31 mg/kg/day (males) and 0, 3, 11, or 34 mg/kg/day (females) with no carcinogenic effects observed under the conditions of the study at dose levels up to and including 31 mg/ kg/day (HDT) (males) and 34 mg/kg/day (HDT) (females) and a systemic NOAEL of 31 mg/kg/day (HDT) (males) and 34 mg/kg/day (HDT) (females). Because a maximum tolerated dose (MTD) was not reached, this study was classified as supplemental for carcinogenicity.

6. A chronic feeding/carcinogenicity study in male and female rats fed dosage levels of 0, 89, 362, and 940 mg/kg/day (males) and 1, 113, 457, and 1,183 mg/kg/day (females) with no carcinogenic effects noted under the conditions of the study at dose levels up to and including 940/1,183 mg/kg/day (males/females) (HDT) and a systemic NOAEL of 362 mg/kg/day (males) based on an increased incidence of cataracts and lens abnormalities, decreased urinary pH, increased liver weight and increased liver weight/brain ratio (relative liver weight) at 940 mg/kg/day (males) (HDT) and 457 mg/kg/day (females) based on decreased body weight gain 1,183 mg/kg/day (females) (HDT).

7. A developmental toxicity study in rats given doses of 0, 300, 1,000, and 3,500 mg/kg/day with a developmental (fetal) NOAEL of 1,000 mg/kg/day based on an increase in number of litters and fetuses with unossified sternebrae, and decrease in fetal body weight at 3,500 mg/kg/day, and a maternal NOAEL of 1,000 mg/kg/day based on decrease in body weight gain, diarrhea, soft stools, breathing rattles, inactivity, red matter in the region of nose, mouth, forelimbs, or dorsal head, and deaths at 3,500 mg/kg/day (HDT).

8. A developmental toxicity study in rabbits given doses of 0, 75, 175, and 350 mg/kg/day with a developmental NOAEL of 175 mg/kg/day (insufficient litters were available at 350 mg/kg/day to assess developmental toxicity); a maternal NOAEL of 175 mg/kg/day based on increased incidence of soft stool, diarrhea, nasal discharge, and deaths at 350 mg/kg/day (HDT).

9. A multi-generation reproduction study with rats fed dosage levels of 0, 3, 10, and 30 mg/kg/day with the parental NOAEL/LOAEL 30 mg/kg/day (HDT). The only effect observed was an increased incidence of focal tubular dilation of the kidney (both unilateral and bilateral combined) in the high-dose male F3b pups. Since the focal tubular dilation of the kidneys was not observed at the 1,500 mg/kg/day level (HDT) in the rat reproduction study discussed below, but was observed at the 30 mg/kg/day level (HDT) in the 3–generation rat reproduction study, the latter was a spurious rather than glyphosate-related effect. Therefore, the parental and reproductive (pup) NOAELs are 30 mg/kg/day.

10. A 2–generation reproduction study with rats fed dosage levels of 0, 100, 500, and 1,500 mg/kg/day with a systemic NOAEL of 500 mg/kg/day based on soft stools in F0 and F1 males and females at 1,500 mg/kg/day (HDT) and a reproductive NOAEL 1,500 mg/kg/day (HDT).

11. Mutagenicity data included chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary cells were caused with and without S9 activation); DNA repair in rat hepatocyte; *in vivo* bone marrow cytogenic test in rats; rec-assay with *B. subtilis*; reverse mutation test with *S. typhimurium*; Ames test with *S. typhimurium*; and dominant-lethal mutagenicity test in mice (all negative).

B. Toxicological Endpoints

1. *Acute toxicity.* No toxicological endpoint attributable to a single dose was identified in oral studies including the rat and rabbit developmental studies. There are no data requirements for acute or subacute neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses.

2. *Short- and intermediate-term toxicity.* No short- or intermediate-term dermal or inhalation endpoints were

identified. In a 21–day dermal toxicity study with rabbits, no systemic or dermal toxicity was seen following repeated applications of glyphosate at 0, 100, 1,000, or 5,000 mg/kg/day. The NOAEL was 1,000 mg/kg/day and the LOAEL was 5,000 mg/kg/day based on decreased food consumption in males. In addition, the use of 3% dermal absorption rate (estimated) in conjunction with the oral NOAEL of 175 mg/kg/day established in the rabbit development study yields a dermal equivalent dose of greater than 5,000 mg/kg/day.

Based on the low toxicity of the formulation product (Toxicity Category III and IV) and the physical characteristics of the technical product, there is minimal concern for potential inhalation exposure or risk. The acute inhalation study was waived for technical glyphosate. Some glyphosate end-use products are in Toxicity Category I or II for eye or dermal irritation. The Reregistration Eligibility Decision Document for Glyphosate (September 1993) indicates that the Agency is not adding any additional personal protective equipment (PPE) requirements to labels of end-use products, but that it continues to recommend the PPE and precautionary statements required for end-use products in Toxicity Categories I and II.

3. *Chronic toxicity.* EPA has established the Reference Dose (RfD) for glyphosate at 2.0 mg/kg/day. This RfD is based on the maternal NOAEL of 175 mg/kg/day from a rabbit developmental study and a 100-fold uncertainty factor.

4. *Carcinogenicity.* Glyphosate has been classified as a Group E chemical - no evidence of carcinogenicity in two acceptable animal species.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.364) for the residues of glyphosate (*N*-(phosphonomethyl)glycine and its metabolite aminomethylphosphonic acid resulting from the application of the isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate, in or on a variety of raw agricultural commodities. Tolerances are established on kidney of cattle, goats, hogs, horses, and sheep at 4.0 ppm; liver of cattle, goats, hogs, horses, and sheep at 0.5 ppm; and liver and kidney of poultry at 0.5 ppm. Risk assessments were conducted by EPA to assess dietary exposures from glyphosate as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. An acute dietary risk assessment was not performed because no endpoints attributable to single dose were identified in the oral studies including rat and rabbit developmental studies. There are no data requirements for acute and subchronic neurotoxicity studies and no evidence of neurotoxicity in any of the toxicity studies at very high doses. The Agency concludes with reasonable certainty that glyphosate dose not elicit an acute toxicological response. An acute dietary risk assessment is not needed.

ii. *Chronic exposure and risk.* The chronic dietary exposure analysis was conduced using the (RfD) of 2.0 mg/kg/day based on the maternal NOAEL of 175 mg/kg/day from a developmental study and an uncertainty factor of 100 (applicable to all population groups). The Dietary Exposure Evaluation Model (DEEM) analysis assumed tolerance levels residues and 100% of the crop treated. These assumptions resulted in the following theoretical maximum residue contributions (TMRCs) and percent of the RfDs for certain population subgroups. The TMRC for the US population (48 states) was 0.029960 or 1.5% of the RfD, 0.026051 or 1.3% of the RfD for nursing infants (less than 1 year old), 0.065430 or 3.3% of the RfD for non-nursing infants less than 1 year old; 0.064388 or 3.2% of the RfD for children (1–6 years old); 0.043017 or 2.2% of the RfD for children (7–12 years old); 0.030928 or 1.5% of the RfD for females (13+/nursing); 0.030241 or 1.5% of the RfD for non-Hispanic whites; and 0.030206 or 1.5% of the RfD for non-Hispanic blacks.

2. *From drinking water.* Generic expected environmental concentration (GENEEC) and Screening concentration and ground water (SCI-GROW) models were run to produce estimates of glyphosate concentrations in surface and ground water, respectively. The drinking water exposure for glyphosate from the ground water screening model, SCI-GROW, yields a peak and chronic Estimated Environmental Concentration (EEC) of 0.0011 parts per billion (ppb) in ground water. The GENEEC values represent upper-bound estimates of the concentrations that might be found in surface water due to glyphosate use. Thus, the GENEEC model predicts that glyphosate surface water concentrations range from a peak of 1.64 ppb to a 56–day average of 0.19 ppb. The model estimates are compared to chronic drinking water levels of comparison (DWLOC (chronic)). The DWLOC (chronic) is the theoretical concentration of glyphosate in drinking water so that the aggregate chronic exposure (food + water + residential) will occupy no more than 100% of the RfD. Glyphosate is registered for residential products, however, a residential exposure assessment is not required, since there are no endpoints selected for either dermal or inhalation exposure. The Agency's default body weights and consumption values used to calculate DWLOCs are as follows: 70 kilograms/liter (kg/2L) (adult male), 60 kg/2L (adult female), and 10 kg/1L (child).

i. *Acute exposure and risk.* An acute dietary endpoint and dose was not identified in the toxicology data base. Adequate rat and rabbit developmental studies did not provide a dose or endpoint that could be used for acute dietary risk purposes. Additionally, there were no data requirements for acute or subchronic rat neurotoxicity studies since there was no evidence of neurotoxicity in any of the toxicology studies at very high doses.

ii. *Chronic exposure and risk.* The DWLOC (chronic) (non-cancer) risk is calculated by multiplying the chronic water exposure (mg/kg/day) x (body weight) divided by the consumption (L) x 10^{-3} mg/µg. The DWLOCS are 69,000 µg/L for the U.S. population in 48 states, males (13+), non-Hispanic whites, and non-Hispanic blacks; and 19,000 µg/L for non-nursing infants (less than 1 year old) and children (1–6 years). The GENEEC and SCI-GROW estimated that average concentrations of glyphosate in the surface and ground water are less than the DWLOC (chronic). Therefore, taking into account present uses and uses proposed in this action, the Agency concludes with reasonable certainty that no harm will result from chronic aggregate exposure to glyphosate.

3. *From non-dietary exposure.* Glyphosate is currently registered for use on the following residential non-food sites: Around ornamentals, shade trees, shrubs, walk, driveways, flower beds and home lawns. Based on the registered uses of glyphosate, the potential for residential exposures exists. However, based on the low acute toxicity and lack of other toxicological concerns, glyphosate does not meet the Agency's criteria for residential data requirements. Exposures from residential uses are not expected to pose undue risks or harm to public health.

i. *Acute exposure and risk.* There are no acute toxicological concerns for glyphosate. Glyphosate has been the subject of numerous incident reports, primarily for eye and skin irritation injuries, in California. Some glyphosate end-use products are in Toxicity

Categories I and II for eye and dermal irritation. The Reregistration Eligibility Decision Document for Glyphosate (September 1993) indicates the Agency is not adding additional PPE requirements to labels of end-use products, but that it continues to recommend the PPE and precautionary statements required for end-use products in Toxicity Categories I and II.

ii. *Chronic exposure and risk.* Although there are registered residential uses for glyphosate, glyphosate does not meet the Agency's criteria for residential data requirements, due to the lack of toxicological concerns. Incidental acute and/or chronic dietary exposures from residential uses of glyphosate are not expected to pose undue risks to the general population, including infants and children.

iii. *Short- and intermediate-term exposure and risk.* EPA identified no toxicological concerns for short-intermediate-and long-term dermal or inhalation routes of exposures. The Agency concludes that exposures from residential uses of glyphosate are not expected to pose undue risks.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether glyphosate has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, glyphosate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that glyphosate has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* There was no acute dietary endpoint identified, therefore there are no acute toxicological concerns for glyphosate.

2. *Chronic risk.* Using the TMRC exposure assumptions described in this unit, EPA has concluded that aggregate exposure to glyphosate from food will utilize 1.5% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non- nursing infants (less than 1 year old) and children (1–6 years) as discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to glyphosate residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Short- and intermediate-term dermal and inhalation risk is not a concern due to the lack of significant toxicological effects observed with glyphosate under these exposure scenarios.

4. *Aggregate cancer risk for U.S. population.* Glyphosate has been classified as a Group E chemical, with no evidence of carcinogenicity for humans in two acceptable animal studies.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children—*i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of glyphosate, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined interspecies and intraspecies variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Prenatal and postnatal sensitivity.* The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to in utero and postnatal exposure to glyphosate.

iii. *Conclusion.* There is a complete toxicity data base for glyphosate and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. Based on these data, there is no indication that the developing fetus or neonate is more sensitive than adult animals. No developmental neurotoxicity studies are being required at this time. A developmental neurotoxicity data requirement is an upper tier study and required only if effects observed in the acute and 90–day neurotoxicity studies indicate concerns for frank neuropathy or alterations seen in fetal nervous system in the developmental or reproductive toxicology studies. The Agency believes that reliable data support the use of the standard 100-fold uncertainty factor, and that a tenfold (10x) uncertainty factor is not needed to protect the safety of infants and children.

2. *Acute risk.* There are no acute toxicological endpoints for glyphosate. The Agency concludes that establishment of the proposed tolerances would not pose an unacceptable aggregate risk.

3. *Chronic risk.* Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to glyphosate from food will utilize 3.3% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary

exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

4. *Short- or intermediate-term risk.* Short-term and intermediate-term dermal and inhalation risk is not a concern due to the lack of significant toxicological effects observed with glyphosate under these exposure scenarios.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to glyphosate residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

The qualitative nature of the residue in plants is adequately understood. Studies with a variety of plants including corn, cotton, soybeans, and wheat indicate that the uptake of glyphosate or its metabolite, aminomethylphosphonic acid (AMPA), from soil is limited. The material which is taken up is readily translocated. Foliarly applied glyphosate is readily absorbed and translocated throughout the trees or vines to the fruit of apples, coffee, dwarf citrus (calamondin), pears and grapes. Metabolism via *N*-methylation yields *N*-methylated glycines and phosphonic acids. For the most part, the ratio of glyphosate to AMPA is 9 to 1 but can approach 1 to 1 in a few cases (e.g., soybeans and carrots). Much of the residue data for crops reflect a detectable residue of parent (0.05 – 0.15 ppm) along with residues below the level of detection (<0.05 ppm) of AMPA. The terminal residue to be regulated in plants is glyphosate *per se.*

The qualitative nature of the residue in animals is adequately understood. Studies with lactating goats and laying hens fed a mixture of glyphosate and AMPA indicate that the primary route of elimination was by excretion (urine and feces). These results are consistent with metabolism studies in rats, rabbits, and cows. The terminal residues in eggs, milk, and animal tissues are glyphosate and its metabolite AMPA; there was no evidence of further metabolism. The terminal residue to be regulated in livestock is glyphosate *per se.*

B. Analytical Enforcement Methodology

Adequate enforcement methods are available for analysis of residues of glyphosate in or on plant commodities. These methods include GLC (Method I in Pesticides Analytical Manual (PAM) II; the limit of detection is 0.05 ppm) and High Performance Liquid Chromatography (HPLC) with fluorometric detection. Use of the GLC method is discouraged due to the lengthiness of the experimental procedure. The HPLC procedure has undergone successful Agency validation and was recommended for inclusion in PAM II. A GC/MS method for glyphosate in crops has also been validated by EPA's Analytical Chemistry Laboratory (ACL).

C. Magnitude of Residues

The available crop field trial residue data support established tolerances for glyphosate. Application of glyphosate as the acid will not result in residues which exceed currently established tolerances.

D. International Residue Limits

Codex Maximum Residue Levels (MRLs) exist for barley, dry peas, dry beans, and canola seed at 20, 5, 2, and 10 pp, respectively for glyphosate. Canadian glyphosate MRLs exist for barley, barley milling fractions, peas, beans, and lentils at 10, 15, 5, 2, and 4 ppm, respectively. Mexican glyphosate MRLs exist for barley, peas, and beans at 0.1, 0.2, and 0.2 ppm, respectively. Application of glyphosate as the acid in the United Sates will not cause any new conflicts with existing MRLs.

E. Rotational Crop Restrictions

Glyphosate labels currently bear a 30–day minimum plant back interval for crops on which the use of glyphosate is not registered.

V. Conclusion

Therefore, the tolerances are established for residues of glyphosate (*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate and/or the monoammonium salt of glyphosate in or on the raw agricultural commodities.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need To Do To File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300946 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 24, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box

360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300946, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408 such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

VIII. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.* , as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 9, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180 [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. In §180.364, by revising paragraph (a)(1) introductory text, paragraph (a)(2) introductory text, and paragraph (a)(3) introductory text to read as follows:

§180.364 Glyphosate; tolerances for residues.

(a) *General.* (1) Tolerances are established for the combined residues of glyphosate, (*N*-

(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, and/or the monoammonium salt of glyphosate in or on the following food commodities:

* * * * *

(2) Tolerances are established for the residues of glyphosate, (*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, and/or the monoammonium salt of glyphosate in or on the following food commodities:

* * * * *

(3) Tolerances are established for the residues of glyphosate, (*N*-(phosphonomethyl)glycine) resulting from the application of glyphosate, the isopropylamine salt of glyphosate, and/or the monoammonium salt of glyphosate in or on the following food commodities:

* * * * *

[FR Doc. 99–30408 Filed 11–23–99; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

I.D. 111899C

Atlantic Highly Migratory Species (HMS) Fisheries; Large Coastal Shark Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Fishing season notification.

SUMMARY: NMFS notifies eligible participants of the opening and closing of fishing seasons for Atlantic large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks.

DATES: The fishery opening for LCS is effective January 1, 2000; the LCS closure is effective from 11:30 p.m. local time March 31, 2000, through June 30, 2000. The fishery opening for SCS and pelagic sharks are January 1, 2000; no closure dates for these fisheries are included in this document.

FOR FURTHER INFORMATION CONTACT: Steve Meyers or Margo Schulze, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

On June 30, 1999, NMFS received a Court Order from Judge Steven D. Merryday relative to the May, 1997, lawsuit challenging commercial harvest quotas for Atlantic sharks. Specifically, the order states: " ... the Court hereby preliminarily, and until further order of the Court, expressly ENJOINS the defendant and his designees from enforcing the 1999 regulations, 64 Fed. Reg. 29090 (May, 28, 1999) with respect to Atlantic shark commercial catch quotas and fish-counting methods (including the counting of dead discards and state commercial landings after federal closures) that are different from the quotas and fish counting methods prescribed by the 1997 Atlantic shark regulations, 62 Fed. Reg. 16648 (April 7, 1997)."

As such, the annual 2000 LCS quota continues at the 1997 level of 1,285 mt dw for all species of LCS, (Table 1 of appendix A to part 635), with no minimum size on ridgeback LCS. The SCS and pelagic shark quotas also revert to their annual 1997 levels, of 1,760 and 580 mt dw, respectively. The 1997 prohibited species list now applies to only five prohibited species: white, basking, whale, sand tiger and bigeye sand tiger. The limited access provisions for commercial harvests still apply, including trip limits for directed and incidental shark permit holders.

The first semiannual fishing season of the 2000 fishing year for the commercial fishery for LCS in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea will open January 1, 2000. Catch rate data from the first semiannual fishing season from 1997 and 1998 for LCS species indicate that the LCS quota of 642.5 mt dw will be attained within 90 days. Accordingly, the Assistant Administrator for Fisheries (AA) has determined, based on these projected catch rates and the available quota, that the quota for the 2000 first semiannual season for LCS in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, will be attained as of March 31, 2000. The LCS fishery will close March, 31, 2000, at 11:30 p.m. local time.

During a closure, retention of, fishing for, possessing or selling LCS are prohibited for persons fishing aboard vessels issued a limited access permit under § 635.4. The sale, purchase, trade, or barter of carcasses and/or fins of LCS harvested by a person aboard a vessel that has been issued a permit under § 635.4 are prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure and were held in storage by a dealer or processor.

The first semiannual quota for SCS is 880 mt dw. The first semiannual quota for pelagic sharks is 290 mt dw. When quotas are projected to be reached for these fisheries, the AA will file notification of closure at the Office of the Federal Register at least 14 days before the effective date.

Those vessels that have not been issued a limited access permit under § 635.4 may not sell sharks and are subject to the recreational retention limits and size limits specified at §§ 635.22(c) and 635.20(d). The recreational fishery is not affected by any closure in the commercial fishery.

Classification

This action is taken under 50 CFR part 635 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 18, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30667 Filed 11–23–99; 8:45 am]
BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 226
Wednesday, November 24, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

[Docket No. PRM–150–2]

Envirocare of Utah, Inc.; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing, at the petitioner's request, a petition for rulemaking (PRM–150–2) (58 FR 9552, February 22, 1993) filed by Envirocare of Utah. In PRM–150–2, the petitioner requested that the Commission amend its regulations in 10 CFR Part 150 to exempt those persons that generate or dispose of very low specific activity wastes contaminated with special nuclear materials that are not capable of forming a critical reaction from the current possession limits specified in its regulations. In withdrawing this petition, the petitioner indicated that the NRC Order dated May 7, 1999 (64 FR 27826, May 21, 1999), satisfied the intent of the petition.

ADDRESSES: A copy of the petitioner's letter, dated August 25, 1999, requesting the withdrawal of the petition is available for public inspection at the NRC Public Document Room located at 2120 L Street NW. (Lower Level), Washington, DC 20012–7082, telephone: (202) 634–3273.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, e-mail jmm2@nrc.gov.

SUPPLEMENTARY INFORMATION:

On February 22, 1993 (58 FR 5992), the NRC published in the **Federal Register** a notice of receipt of a petition for rulemaking PRM–150–2 that requested NRC to exempt persons who generate or dispose of very low specific activity wastes contaminated with special nuclear materials. Based upon the petitioner's letter requesting that its petition be rescinded dated August 25, 1999, the NRC is withdrawing this petition for rulemaking. The basis for petitioner's request for withdrawal is that the NRC issued an Order on May 7, 1999, which exempted Envirocare of Utah, Inc. from the licensing requirements in 10 CFR Part 70. Accordingly, the NRC is not taking any further action on the petition because it has been withdrawn by the petitioner.

Dated at Rockville, Maryland, this 18th day of November, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–30642 Filed 11–23–99; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 917, 925, 930, 940, 950, 954, 955, 958, 965, 966, and 980

[No. 99–57]

RIN 3069–AA84

Federal Home Loan Bank Financial Management and Mission Achievement; Withdrawal of Proposed Rule; Notice of Cancellation of Public Hearing

AGENCY: Federal Housing Finance Board.

ACTION: Withdrawal of proposed rule; Notice of cancellation of public hearing.

SUMMARY: The Federal Housing Finance Board (Finance Board) is withdrawing its recently-proposed Financial Management and Mission Achievement (FMMA) regulation in light of the enactment of the Federal Home Loan Bank System Modernization Act of 1999 (Bank System Modernization Act). Although the Finance Board is withdrawing the proposed FMMA regulation, it intends to re-propose certain sections of the FMMA regulation in one or more separate rulemakings. However, the Finance Board will take no action to promulgate proposed or final regulations limiting Federal Home Loan Bank (Bank) assets or advances beyond those currently in effect, except to the extent necessary to protect the safety and soundness of the Banks, until the Finance Board has promulgated final capital regulations pursuant to the requirements of the Bank System Modernization Act and the statutory period for submission of capital plans by the Banks to the Finance Board has expired.

The Finance Board also hereby is canceling the public hearing on the proposed FMMA regulation scheduled for November 29 and 30, 1999.

FOR FURTHER INFORMATION CONTACT: James L. Bothwell, Director and Chief Economist, (202) 408–2821; or Scott L. Smith, Deputy Director, (202) 408–2991, Office of Policy, Research and Analysis, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

The Finance Board proposed a regulation in the **Federal Register** of September 27, 1999 to adopt new financial management and mission achievement rules, and amend certain existing regulations, for the Banks. *See* 64 FR 52163 (Sept. 27, 1999). The preamble to the proposed FMMA regulation contains a detailed discussion of the background and reasons for the proposed FMMA regulation. Generally, the proposed FMMA regulation would have modernized policies governing the business activities of the Banks and, for the first time, would have established regulatory standards for mission achievement by the Banks and a definition of mission assets. The proposal would have enabled the Banks to help their members be more effective competitors in the housing finance and community lending marketplace, which in turn would have assured that benefits accrued to consumers.

The proposal would have imposed a risk-based capital requirement, pursuant to which each Bank would have been required to maintain capital based on the credit, market, and operations risks to which it is exposed. The risk-based capital regime was designed to build upon the regulatory framework used by other financial institution and government-sponsored enterprise (GSE) regulators.

The mission achievement requirement in the proposal would have: codified the authority of the Banks to hold mortgage assets, including mortgage-backed securities; allowed mortgage assets

meeting certain regulatory requirements to be counted as mission assets; and eliminated the use of the Banks' GSE advantages in issuing debt to fund arbitrage investments.

The proposal also would have specified the responsibilities of the boards of directors and senior management of the Banks, as a means of ensuring that they fulfill their duties in operating the Banks in a safe and sound manner and in furtherance of their mission.

In a separate rulemaking, the Finance Board proposed to reorganize its regulations to implement a more logical and efficient presentation of the rules governing the Banks and the Bank System, as well as to prepare for the anticipated incorporation of the revisions to be made by the FMMA proposal. *See* 64 FR 52148 (Sept. 27, 1999). In view of the technical, housekeeping nature of the proposed reorganization provisions, the Finance Board is not withdrawing the proposed reorganization regulation, which the Finance Board intends to finalize, with any necessary amendments, at the earliest practicable date. The comment period for the proposed reorganization regulation closes December 27, 1999.

II. Reasons for Withdrawal of the Proposed FMMA Regulation

In light of the enactment of the Bank System Modernization Act, the Finance Board is withdrawing the proposed FMMA regulation. The Finance Board intends to re-propose certain sections of the proposed regulation in one or more separate rulemakings, and to propose capital requirements for the Banks in accordance with the Bank System Modernization Act. However, the Finance Board will take no action to promulgate proposed or final regulations limiting Bank assets or advances beyond those currently in effect, except to the extent necessary to protect the safety and soundness of the Banks, until the Finance Board has promulgated final capital regulations pursuant to the requirements of the Bank System Modernization Act and the statutory period for submission of capital plans by the Banks to the Finance Board has expired. The Finance Board will consult with the House and Senate Banking Committees regarding the content of both the capital regulations and any financial management or mission related regulations prior to issuing them in proposed form.

III. Cancellation of Public Hearing

In the **SUPPLEMENTARY INFORMATION** to the proposed FMMA regulation, the Finance Board announced that it would hold a public hearing on its proposed FMMA regulation. *See* 64 FR 52165. The hearing was scheduled to be held on November 29–30, 1999. As a result of the Finance Board's action herein to withdraw the proposed FMMA regulation, the public hearing is no longer necessary and is cancelled.

List of Subjects in 12 CFR Parts 917, 925, 930, 940, 950, 954, 955, 958, 965, 966 and 980

Community development, Credit, Housing and Federal home loan banks.

Dated: November 17, 1999.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 99–30552 Filed 11–23–99; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–57–AD]

RIN 2120–AA64

Airworthiness Directives; Ayres Corporation S2R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Ayres Corporation (Ayres) S2R series airplanes that are equipped with at least one main landing gear fuselage attach bolt with a grease fitting installed through the shank. The proposed AD would require replacing the main landing gear fuselage attach bolts that are drilled with a grease fitting with undrilled (no grease access) attach bolts. This AD is the result of a report of cracks found in all four main landing gear fuselage attach bolts on one of the affected airplanes. The actions specified by the proposed AD are intended to prevent collapse of the main landing gear caused by cracked main landing gear fuselage attach bolts, which could result in main landing gear collapse with possible wing fuel tank rupture and consequent fire.

DATES: Comments must be received on or before January 21, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–57–AD, Room 506, 901 Locust, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Ayres Corporation, P.O. Box 3090, One Ayres Way, Albany, Georgia 31706–3090; telephone: (912) 883–1440; facsimile: (912) 439–9790. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Satish Lall, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6082; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–CE–57–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–57–AD, Room 506,

901 Locust, Kansas City, Missouri 64106.

Discussion

The FAA has received a report of cracks found in all four main landing gear fuselage attach bolts on an Ayres S2R series airplane. Further analysis reveals that the main landing gear fuselage attach bolts are cracking at the 1/16-inch (.0625-inch) grease access hole, which is located approximately 1 7/8 inches (1.875 inches) deep and then drilled from the side to intersect the center hole. The side drilled hole is causing the fatigue cracking that results in the attach bolt failure.

These main landing gear fuselage attach bolts that are drilled with a grease fitting incorporate part number 21418T001 or 21418T005.

This condition, if not corrected in a timely manner, could result in main landing gear collapse with possible wing fuel tank rupture and consequent fire.

Relevant Service Information

Ayres has issued Service Bulletin No. SB–AG–42, dated June 16, 1999, which specifies replacing the main landing gear fuselage attach bolts that are drilled with a grease fitting with undrilled (no grease access) attach bolts, part number AN10–33 or NAS6610–42D.

The procedures to accomplish this replacement are included in both the service bulletin and the applicable maintenance manual.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent collapse of the main landing gear caused by cracked main landing gear fuselage attach bolts.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Ayres S2R series airplanes of the same type design, the FAA is proposing AD action. The proposed AD would require replacing the main landing gear fuselage attach bolts that are drilled with a grease fitting with undrilled (no grease access) attach bolts.

Accomplishment of the proposed action would be required in accordance with both Ayres Service Bulletin No. SB–AG–42, dated June 16, 1999, and the applicable maintenance manual.

Differences Between the Service Bulletin and the Proposed AD

Ayres Service Bulletin No. SB–AG–42, dated June 16, 1999, specifies repetitive inspections and repetitive replacements of the main landing gear fuselage attach bolts. The FAA does not have justification to mandate the repetitive inspections and repetitive replacements. Based on all available information, the FAA has determined that initially replacing the main landing gear fuselage attach bolts with attach bolts of improved design will correct the unsafe condition on the affected airplanes.

Cost Impact

The FAA estimates that 1,000 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $88 per airplane (4 bolts per airplane at $22 each). Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $328,000, or $328 per airplane.

Regulatory Impact

The proposed rule does not have Federalism implications as defined in Executive Order No. 13132. This means it would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Ayres Corporation: Docket No. 99–CE–57–AD.

Applicability: The following airplane models; all serial numbers; certificated in any category, that have at least one main landing gear fuselage attach bolt (that is drilled with a grease fitting), part number 21418T001 or 21418T005 (or FAA-approved equivalent part number): S–2R, S2R–G1, S2R–G5, S2R–G6, S2R–G10, S2R–R3S, S2R–T11, S2R–T15, S2R–T34, S2R–T45, S2R–T65, S2R–R1340, S2R–R1820, S2RHG–T34, and S2RHG–T65.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent collapse of the main landing gear caused by cracked main landing gear fuselage attach bolts, which could result in main landing gear collapse with possible wing fuel tank rupture and consequent fire, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, replace each main landing gear fuselage attach bolt that is drilled with a grease fitting with an undrilled (no grease access) attach bolt, part number AN10–33 or NAS6610–42D (or FAA-approved equivalent part number). Accomplish this replacement in accordance with both Ayres Service Bulletin No. SB–AG–42, dated June 16, 1999, and the applicable maintenance manual.

(b) As of the effective date of this AD, no person may install, on any affected airplane, a main landing gear fuselage attach bolt (that is drilled with a grease fitting), part number 21418T001 or 21418T005 (or FAA-approved equivalent part number).

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(e) All persons affected by this directive may obtain copies of the service information referred to herein upon request to the Ayres Corporation, P.O. Box 3090, One Ayres Way, Albany, Georgia 31706–3090; or may examine this service information at the FAA, Central Region, Office of the Regional Counsel, Room 506, 901 Locust, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 18, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30588 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–25–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Pratt & Whitney JT9D series turbofan engines. This proposal would require installation of an improved No. 4 bearing internal oil pressure tube, initial and repetitive inspections of the No. 4 bearing oil pressure tube for turbine exhaust case (TEC) strut clearance and alignment, and, if necessary, replacement with serviceable parts. This proposal is prompted by loss of integrity in the oil system, which allows oil to migrate into high temperature metal cavities in the turbine exhaust case and cause oil fires. The actions specified by the proposed AD are intended to prevent oil fires in and around the No. 4 bearing area, which could result in excessive growth of the sixth stage low pressure turbine (LPT) disk, liberation of the sixth stage LPT disk, uncontained engine failure, and damage to the airplane.

DATES: Comments must be received by January 24, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–25–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7147, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NE–25–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–25–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of oil fires in and around the No. 4 bearing area on Pratt & Whitney (PW) JT9D series turbofan engines. The investigation revealed that the oil fires were caused by loss of integrity in the oil system, which allows oil to migrate into high temperature metal cavities in the turbine exhaust case (TEC) and cause oil fires. The heat generated by the fire can cause excessive growth of the sixth stage low pressure turbine (LPT) disk. This condition, if not corrected, could result in oil fires in and around the No. 4 bearing area, which could result in excessive growth due to heat of the sixth stage low pressure turbine (LPT) disk, liberation of the sixth stage LPT disk, uncontained engine failure, and damage to the airplane.

Service Information

The FAA has reviewed and approved the technical contents of PW Service Bulletins (SB) No. 5707, dated September 17, 1986, and JT9D–7R4–72–289, dated March 26, 1986, that describe procedures for installation of an improved No. 4 bearing internal oil pressure tube; and PW JT9D Engine Manuals, part numbers (P/Ns) 646028, 777210, 754459, and 785059, that describe TEC inspection procedures.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require installation of an improved No. 4 bearing internal oil pressure tube, initial and repetitive inspections of the No. 4 bearing oil pressure tube for TEC strut clearance and alignment, and, if necessary, replacement with serviceable

parts. The actions would be required to be accomplished in accordance with the SB described previously and in accordance with certain sections of the engine manuals.

Economic Analysis

There are approximately 2,310 engines of the affected design in the worldwide fleet. The FAA estimates that (1) 1,183 engines installed on airplanes of U.S. registry would be affected by this proposed AD, (2) it would take approximately 1 work hour per engine to accomplish the proposed actions, and (3) the average labor rate is $60 per work hour. Required parts would cost approximately $1,465 per engine. Review of purchase order documents indicate that approximately 1,547 pressure tubes have been sold to the airlines; therefore this action would affect only 763 engines. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,163,575.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 99–NE–25–AD.

Applicability: Pratt & Whitney (PW) JT9D–3A, –7, –7A, –7AH, –7H, –7F, –7J, –7Q, –7Q3, –20, –20J, –59A, –70A, and –7R4D series turbofan engines, installed on but not limited to Boeing 747 and 767 and McDonnell Douglas DC–10 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent oil fires in and around the No. 4 bearing area, which could result in excessive growth due to heat of the sixth stage low pressure turbine (LPT) disk, liberation of the sixth stage LPT disk, uncontained engine failure, and damage to the airplane, accomplish the following:

Installation of Improved Hardware

(a) At the next time when the "N" or "P" flange is disconnected after the effective date of this AD, install an improved No. 4 bearing internal oil pressure tube in accordance with PW Service Bulletin (SB) No. 5707, dated September 17, 1986, and SB JT9D–7R4–72–289, dated March 26, 1986.

Inspections

(b) Perform initial and repetitive inspections of the No. 4 bearing oil pressure tube and turbine exhaust case (TEC) strut for clearance and alignment, and, if necessary, replace with serviceable parts, in accordance with the applicable PW JT9D Engine Manuals, part numbers (P/Ns) 646028, 777210, and 754459, Turbine Exhaust Case Inspection 01, Section 72–53–01, and P/N 785059, Turbine Exhaust Case Inspection 01, Section 72–53–05, as follows:

(1) Initially inspect at the next time when the "N" or "P" flange is disconnected after the effective date of this AD.

(2) Thereafter, inspect at each time when the "N" or "P" flange is disconnected.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

Ferry Flights

(d) Special flight permits may be issued in accordance with sections §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on October 18, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–30630 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–132–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require repetitive inspections of the side load underwing fitting bushings for broken sealant or bushing migration, and corrective action, if necessary. This proposal would also provide optional terminating action in lieu of repetitive inspections. This proposal is prompted by reports of migrated bushings and corrosion on the side load fittings. The actions specified by the proposed AD are intended to prevent corrosion in the side load underwing fitting, which could result in cracking and consequent reduced structural integrity of the wing strut.

DATES: Comments must be received by January 10, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–132–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–132–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–132–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of migrated bushings on the side load underwing fittings on Boeing Model 767 series airplanes. Where migrated bushings were found, several cases of corrosion of the side fitting lug bore were reported. Migration of the side load fitting bushing breaks the moisture barrier to the fitting bore, and can cause corrosion of the fitting bore. Bushing migration can also cause damage to the adjacent structure when the bushing contacts the adjacent structure as it migrates outward. This condition, if not corrected, could result in cracking and consequent reduced structural integrity of the wing strut.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–57–0063, dated May 7, 1998, which describes procedures for repetitive detailed visual inspections of the side load underwing fitting bushings for broken sealant or bushing migration, and corrective action, if necessary. The corrective action includes reworking the side load fitting and installing a new bushing, if necessary. The service bulletin also describes optional terminating action to rework the side load fitting that may be accomplished in lieu of repetitive detailed visual inspections.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously. This proposed AD also would provide for optional terminating action for the repetitive inspections.

Operators should note that the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect broken sealant or bushing migration of the side load fitting bushing before it represents a hazard to the airplane.

Differences Between the Proposed Rule and the Service Bulletin

Boeing Service Bulletin 767–57–0063, dated May 7, 1998, specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, as specified in paragraph (d) of this proposed AD, the Manager's approval letter must specifically reference this AD.

Cost Impact

There are approximately 663 airplanes of the affected design in the worldwide fleet. The FAA estimates that 312 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $74,880, or $240 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional terminating action rather than continue the repetitive inspections, it would take approximately 12 work hours per airplane to accomplish the modification, at an average labor rate of $60 per work hour.

Required parts would cost approximately $1,500 per airplane. Based on these figures, the cost impact of this optional terminating action is estimated to be $2,220 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order

12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 99–NM–132–AD.

Applicability: Model 767 series airplanes, as listed in Boeing Service Bulletin 767–57–0063, dated May 7, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion in the side load underwing fitting, which could result in cracking and consequent reduced structural integrity of the wing strut, accomplish the following:

Initial Inspection

(a) Accomplish a detailed visual inspection of the side load underwing fitting to detect broken sealant or bushing migration, in accordance with Boeing Service Bulletin 767–57–0063, dated May 7, 1998, at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 10 years since the date of manufacture, or

(2) Within 3000 cycles or 18 months after the effective date of this AD, whichever occurs first.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Repetitive Inspections

(b) If no broken sealant or evidence of bushing migration is detected, repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 6 years.

Corrective Action

(c) If evidence of broken sealant or bushing migration is detected, prior to further flight, accomplish the corrective action specified in paragraph (c)(1) or (c)(2) of this AD, except as provided by paragraph (d) of this AD.

(1) Remove the bushing and inspect the side load fitting lug bore for corrosion as shown in Figure 3 of Boeing Service Bulletin 767–57–0063, dated May 7, 1998, and rework as specified in Figure 3 of the service bulletin.

(2) Reseal the bushing and service the side load fitting in accordance with Boeing Service Bulletin 767–57–0063, dated May 7, 1998. Within 3,000 flight cycles or 18 months, whichever occurs first, remove the bushing and inspect the side load fitting lug bore for corrosion as shown in Figure 3 of the service bulletin, and rework as specified in Figure 3 of the service bulletin.

(d) For airplanes on which broken sealant or evidence of bushing migration is detected: During the accomplishment of the actions specified in paragraphs(c)(1) or (c)(2) of this AD, if damage to the lug bore or fitting is found that is outside the limits specified in Boeing Service Bulletin 767–57–0063, dated May 7, 1998; prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this AD, the Manager's approval letter must specifically reference this AD.

Optional Terminating Action

(e) Accomplishment of rework of the side load fitting in accordance with Figure 1 or Figure 3 of Boeing Service Bulletin 767–57–0063, dated May 7, 1998, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 18, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30631 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–309–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace (Jetstream) Model 4101 airplanes. This proposal would require manufacture and installation of a placard on the left-hand instrument panel in the cockpit to prohibit push-backs of the airplane while the engines are running. In lieu of accomplishing

the placard installation, this proposal would require repetitive installation of a new tow bracket sub-assembly that has the serial number and date of installation vibro etched on it. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue failure of the towing bracket. Failure of the towing bracket could cause a towing vehicle to collide into the propeller while the airplane engines are running, and consequently, cause damage to the airplane, and injure ground personnel, flight crew, or passengers.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–309–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–309–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–309–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all British Aerospace (Jetstream) Model 4101 airplanes. The CAA advises that the shock strut of the nose landing gear (NLG) on the subject airplanes is approaching the 12,000 landing life limitations for NLG parts. The life limitations for some shock struts of the NLG are constrained by the towing bracket on the nose leg of the NLG. Fatigue failure of the towing bracket could cause a towing vehicle to collide into the propeller while the airplane engines are running, and consequently, cause damage to the airplane, and injure ground personnel, flight crew, or passengers.

Explanation of Relevant Service Information

British Aerospace has issued Jetstream Service Bulletin J41–11–024, dated May 11, 1999, which describes procedures for the manufacture and installation of a placard on the left-hand instrument panel in the cockpit to prohibit push-backs of the airplane while the engines are running. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 004–05–99, dated May 19, 1999, in order to assure the continued airworthiness of these airplanes in the United Kingdom.

British Aerospace also has issued Jetstream Service Bulletin J41–32–070, dated September 14, 1999, which describes procedures for repetitive vibro etching the serial number and date of installation on the new tow bracket sub-assembly, and installing a new sub-assembly. The procedures may be accomplished in lieu of the placard installation described in Jetstream Service Bulletin J41–11–024. The CAA issued British airworthiness directive 004–05–99 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

Accomplishment of the actions specified in either of the service bulletins is intended to adequately address the identified unsafe condition.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in Jetstream Service Bulletin J41–11–024 described previously. In lieu of the actions specified in that service bulletin, this proposed AD would require accomplishment of the actions specified in Jetstream Service Bulletin J41–32–070.

Cost Impact

The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed placard installation, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the placard installation proposed by this AD on U.S. operators is estimated to be $3,540, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional action that would be provided by this AD action, it would take approximately 2 work hours per airplane to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $733 per airplane. Based on these figures, the cost impact of the optional action would be $853 per airplane, per replacement cycle.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 99–NM–309–AD.

Applicability: All Model Jetstream 4101 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of the towing bracket, which could cause a towing vehicle to collide into the propeller while the airplane engines are running, and consequently, could cause damage to the airplane, and injure ground personnel, flight crew, or passengers, accomplish the following:

Placard Installation

(a) Prior to the accumulation of 12,000 total landings on the shock strut of the nose landing gear (NLG), or within 5 days after the effective date of this AD, whichever occurs later: Except as provided by paragraph (b) of this AD, manufacture and install a placard on the left-hand instrument panel in the cockpit to prohibit push-backs with engines running, in accordance with Jetstream Alert Service Bulletin J41–11–024, dated May 11, 1999.

Repetitive Action

(b) In lieu of accomplishing the actions specified in paragraph (a) of this AD, at the time specified in paragraph (a) of this AD, vibro etch the serial number and date of installation on a new tow bracket sub-assembly; and install the new tow bracket sub-assembly, in accordance with Jetstream Service Bulletin J41–32–070, dated September 14, 1999. Repeat the vibro etch process and installation of a new sub-assembly thereafter at intervals not to exceed 12,000 landings on the shock strut of the NLG.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in British airworthiness directive 004–05–99.

Issued in Renton, Washington, on November 18, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30632 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–17]

Proposed Amendment of Class E Airspace; Puerto Rico, PR

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class E airspace at Puerto Rico, PR. This proposal would increase the size of the Puerto Rico, PR, Class E airspace area to include the airspace within Warning Areas W–370A, W–373A and W–373C, in order to facilitate the handling, reduce the coordination and increase the safety of United States military aircraft returning to Roosevelt Roads Naval Station below 5,500 feet mean sea level (MSL), which is the floor of the overlying San Juan Low Class E airspace area, in instrument meteorological conditions (IMC) from the Warning Areas.

DATES: Comments must be received on or before December 27, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99–ASO–17, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasonsed regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 99–ASO–17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Puerto Rico, PR. This proposal would increase the size of the Puerto Rico, PR, Class E airspace areas to include the airspace within Warning Areas W–370A, W–373A and W–373C, in order to facilitate the handling, reduce the coordination and increase the safety of United States military aircraft returning to Roosevelt Roads Naval Station below 5,500 MSL, which is the floor of the overlying San Juan Low Class E airspace area, in IMC from the Warning Areas. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp. p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO PR E5 Puerto Rico, PR [Revised]

San Juan Fernando Luis Ribas Dominicci Airport, PR
(Lat. 18°27′41″ N., long. 66°05′89″ W.)

That airspace extending upward from 1200 feet or more above the surface of the earth beginning at lat. 18°50′″ N., long. 68°00′″ W.; to lat. 18°45′23″ N., long. 66°54′58″ W.; to lat. 18°33′ N., long. 64°22′ W.; to lat. 17°20′ N., long. 64°22′ W.; to lat. 17°29′ N., long. 64°54′ W.; to lat. 17°29′53″ N., long. 64°55′39″ W.; to lat. 17°29′53″ N., long. 66°18′20″ W.; to lat. 17°44′53″ N., long. 66°16′49″ W.; to lat. 17°47′16″ N., long. 66°16′56″ W.; to lat. 17°42′ N., long. 68°00′ W.; to the point of beginning; excluding that airspace within Warning Area W–371; and that airspace extending upward from 2,700 feet above the surface of the earth beginning at lat. 18°33′″ N., long. 64°22′ W.; to lat. 18°25′23″ N., long. 62°52′ W.; to lat. 17°47′ N., long. 62°23′ W.; to lat. 17°22′ N., long. 62°59′ W.; to lat. 16°58′ N., long. 63°00′ W.; to lat. 17°20′ N., long. 64°22′ W.; to the point of beginning; and that airspace extending upward from 2,700 feet above the surface of the earth beginning at lat. 18°45′23″ N., long. 66°54′58″ W.; to lat. 19°00′ N., long. 66°10′ W.; to lat. 19°00′ N., long. 5°45′ W.; to lat. 18°45′ N., long. 64°22′ W.; to lat. 18°33′ N., long. 64°22′ W.; to the point of beginning.

* * * * *

Issued in College Park, Georgia, on November 4, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–30662 Filed 11–23–99 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 310

"Do-Not Call "Provisions of Telemarketing Sales Rule; Meeting

AGENCY: Federal Trade Commission.

ACTION: Announcement of public forum on the "Do-Not-Call" provision of the telemarketing sales rule.

SUMMARY: The Federal Trade Commission plans to hold a public

forum on January 11, 2000, to discuss issues relating to the "do-not-call" provision of the Telemarketing Sales Rule, 16 CFR Part 310.

DATES: The public forum will be held on January 11, 2000, in Washington, DC, from 8:30 a.m. until 5:30 p.m. Notification of interest in participating in the forum must be submitted on or before December 10, 1999.

ADDRESSES: Notification of interest in participating in the public forum should be submitted in writing to Carole I. Danielson, Division of Marketing Practices, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room 238, Washington, DC 20580. The public forum will be held at the Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room 432, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Catherine C. Harrington-McBride (202) 326–2452 (email cmcbride@ftc.gov), Karen Leonard (202) 326–3597, (email kleonard@ftc.gov), or Carole I. Danielson (202) 326–3115 (email cdanielson@ftc.gov), Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On August 16, 1994, President Clinton signed into law the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act" or "the Act"),[1] which directed the Commission to prescribe rules prohibiting deceptive and abusive telemarketing acts or practices. In response to this Congressional directive, the Commission promulgated its Telemarketing Sales Rule ("the Rule"), 16 CFR Part 310, which became effective on December 31, 1995.[2]

The Telemarketing Act directed the Commission to include in its rules "a requirement that telemarketers may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy."[3] Section 310.4(b) of the Rule sets forth two prohibitions on sellers and telemarketers which were intended to effectuate this requirement of the Act. First, § 310.4(b)(1)(i) prohibits causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.[4] The second provision in the Rule intended to limit unsolicited telephone calls is the "do-not-call" requirement set forth in § 310.4(b)(1)(ii). This section prohibits any telemarketer from initiating, or any seller from causing a telemarketer to initiate, an outbound telephone call to a person when that person previously has stated that he or she does not wish to receive such a call made by or on behalf of the seller whose goods or services are being offered. This provision is modeled on a similar provision included in the FCC's regulations,[5] adopted pursuant to the Telephone Consumer Protection Act ("TCPA").[6]

Although both the FTC and the FCC have similar regulations prohibiting sellers or telemarketers from calling persons who have stated that they do not wish to be called, there are differences in the enforcement of the TCPA and the Telemarketing Sales Rule. The Rule may be enforced by the Commission or the States.[7] In addition to injunctions, each violation can result in a court's assessment of civil penalties up to $11,000 per violation, or an order to pay redress or disgorgement under Section 13(b) of the FTC Act, 15 U.S.C. 53(b). By contrast, the TCPA "do-not-call" provisions primarily have been enforced by consumers. The TCPA provides a private right of action for a consumer who receives more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the FCC's regulation.[8] Such a plaintiff can recover the greater of $500 or actual damages.

Because of the differences in the agencies' "do-not-call" provisions, the Commission declined to make a blanket pronouncement that compliance with the TCPA's "do-not-call" procedures would constitute compliance with the Telemarketing Sales Rule.[9] Nonetheless, the Commission has clarified that sellers and telemarketers need compile only one list of consumers who wish not to be called in order to comply with the recordkeeping provisions of both the TCPA and the Rule.[10]

While much of the TSR takes aim against fraudulent telemarketing, an equally important goal of the TSR is to protect consumers' right to privacy. In the five years since the Rule became effective, consumers increasingly have become interested in choosing what information is available about them and with whom and under what circumstances that information may be shared. In response to these concerns, local telephone companies and others have begun to market products that allow consumers to screen out calls from telemarketers, for example, by playing a message stating that no telemarketing calls are accepted or by blocking all calls except those from specific numbers selected by the consumer. Many states have responded to consumer concerns by enacting "no call" legislation,[11] under which consumers may have their names placed on a list maintained by a centralized list-holder of persons who do not wish to receive telemarketing calls.[12] Sellers or telemarketers who call any of the persons on that list would be in violation of state law. Increased consumer awareness of the right to be placed on a "do-not-call" list also has resulted in the Commission receiving numerous consumer inquiries on how to stop receiving telemarketing calls and how to assert the right to sue an offending seller or telemarketer under the TCPA.[13]

During the year 2000, the Commission will be conducting a review of its Telemarketing Sales Rule.[14] Simultaneously with this rule review, the Commission intends to conduct a broader study of telemarketing. The planned result is a separate report on the technological, social, business, and

---

[1] 15 U.S.C. 6101 *et seq.*

[2] 60 FR 43842 (August 23, 1995).

[3] 15 U.S.C. 6102(a)(3)(A).

[4] This provision is modeled on a similar provision in the Fair Debt Collection Practices Act ("FDCPA"). 15 U.S.C. 1692(d)(5). The legislative history of the Telemarketing Act indicated Congress' intent that the Commission consider the FDCPA in establishing prohibited abusive telemarketing acts or practices. *See, e.g.*, H.R. Rep. No. 20, 103rd Cong., 1st Sess. at 8.

[5] 47 CFR 64.1200(a)–(f), 64.1200(e).

[6] 47 U.S.C. 227.

[7] *See* 15 U.S.C. 6102(c), 6103. In addition, a person who suffers more than $50,000 in actual damages has a private right of action under the Rule. *See* 15 U.S.C. 6104.

[8] *See* 47 U.S.C. 227(c)(5).

[9] 60 FR at 43855.

[10] *Id.*

[11] *See, e.g.!, Alabama, 1999 Ala. Acts 589; Alaska, 1996 Alaska Sess. Laws 142; Arkansas, 1999 Ark. Acts 1465; Florida, Fla. Stat. § 501.059; Georgia, Ga. Comp. R. & Regs. r. 515–14–1; Kentucky, 1999 Ky. Rev. Stat. Ann. § 367.46951 (Michie 1999); Oregon, 1999 Ore. Laws 564; Tennessee,1999 Tenn. Pub. Acts 478.*

[12] The idea of a central "no-call" list is not new. For many years, Direct Marketing Association ("DMA") has maintained a no-call database called the "Telephone Preference Service." Consumers may place their names and numbers on a list, which is provided to all DMA members. To remain in good standing with the DMA, its members agree to check the list regularly and remove from their call lists any person who has requested not to be called.

[13] FTC staff refers consumers to the FCC for assistance on how to assert their rights under the TCPA.

[14] The Telemarketing Act directs the Commission to conduct a review of the Rule and its impact on fraudulent telemarketing after 5 years following its promulgation, and to report the results to Congress. 15 U.S.C. 6108.

other forces that have shaped the practice of telemarketing over the past two decades. The report will also look forward, assessing emerging trends for the future. The Commission will publish a separate **Federal Register** notice shortly to solicit comments and opinions in connection with both the rule review and the broader report on the telemarketing industry. In addition to requesting written comments and academic studies, the Commission plans to hold a series of public forums to afford staff and interested parties an opportunity to explore relevant issues.

The first forum in this series will address the "do-not-call" issue. By devoting an entire forum to this single topic, the Commission staff expects that interested parties will have sufficient time to explore the many facets of this important topic. This forum will be held in advance of the deadline for submitting written comments in the overall rule review so that participants will be able to use the "do-not-call" discussion to advance alternative approaches, to gain deeper insight into the forces motivating the various interested parties, and to make their subsequent written comments more focused than they might otherwise be.

After analyzing the complete record of the rule review, which will include the information provided at all the forums as well as all written comments and academic studies, the Commission will determine whether to propose amendments to the "do-not-call" provision or any of the other Rule provisions. The Commission will also use the information gathered during the review process in its report on telemarketing.

Section B. Public Forum

The FTC staff will conduct a public forum to discuss the issues raised by the "do-not-call" requirement set forth in § 310.4(b)(1)(ii) of the Telemarketing Sales Rule. The purpose of the forum is to facilitate a discussion among members of industry, consumer groups, state regulators, and law enforcement agencies about issues raised by this provision, and possible solutions to any concerns raised in the forum.

Section C. Request To Participate

The FTC invites members of the public, industry, and other interested parties to participate in the forum. To be eligible to participate, you must file a request to participate by December 10, 1999. If the number of parties who request to participate in the forum is so large that including all requesters would inhibit effective discussion among participants, FTC staff will select as participants a limited number of parties to represent the relevant interests. Selection will be based on the following criteria:

1. The party submitted a request to participate by December 10, 1999.
2. The party's participation would promote the representation of a balance of interests at the forum.
3. The party's participation would promote the consideration and discussion of the issues to be presented in the forum.
4. The party has expertise in issues to be raised in the forum.
5. The party adequately reflects the views of the affected interest(s) which it purports to represent.

If it is necessary to limit the number of participants, those who requested to participate but were not selected will be afforded an opportunity, if at all possible, to present statements during a limited time period at the end of the session. The time allotted for these statements will be based on the amount of time necessary for discussion of the issues by the selected parties, and on the number of persons who wish to make statements.

Requesters will be notified as soon as possible after December 10, 1999, whether they have been selected to participate.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–30700 Filed 11–23–99; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Family Member Dental Plan

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the comprehensive CHAMPUS regulation pertaining to the Expanded Active Duty Dependents Benefit Plan. The new plan, and this proposed rule: places the responsibility for TRICARE Family Member Dental Plan (TFMDP) enrollment and a large portion of the appeals program on the dental plan contractor; allows the dental plan contractor to bill eligible dependents for plan premiums in certain circumstances; reduces the enrollment period from 24 to 12 months; excludes Reserve component members ordered to active duty in support of a contingency operation from the mandatory 12 month enrollment; simplifies enrollment types and exceptions; reduces cost-shares for certain enlisted grades; adds anesthesia as a covered benefit; incorporates legislative authority for calculating the method by which premiums may be raised and allowing premium reductions for certain enlisted grades; and reduces administrative burden by reducing redundant language, referencing language appearing in other CFR sections and removing language more appropriate to the actual contract. These improvements will provide Uniformed Service families with numerous quality of life benefits that will improve participation in the plan, significantly reduce enrollment errors and positively effect utilization of this important dental plan.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Address all comments concerning this proposed rule to TRICARE Management Activity/Special Contract Operations Branch, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Lt Col Brian W. Grassi, 303–676–3496.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Changes

The Basic Active Duty Dependents Dental Benefit Plan was implemented on August 1, 1987, allowing military personnel to voluntarily enroll their dependents in a basic dental health care plan. Under this plan, DoD shared the cost of the premium with the active duty service member. Although the plan was viewed as a major step in benefit enhancement for military families, there were still complaints that the enabling legislation was too restrictive in scope and that there should be expansion of services to better meet the dental needs of the Uniformed Service family.

Congress responded to these concerns by authorizing the Secretary of Defense to develop and implement an Expanded Active Duty Dependents Dental Benefit Plan (the Defense Authorization Act, Public Law 102–484, sec. 701). The provisions of this Act specified the expended benefit structure, as well as maximum monthly premiums for enrollees. Cost-sharing levels for the expanded benefits were left up to the discretion of the Secretary of Defense after consultation with the other Administering Secretaries. The provisions of this Act were implemented on April 1, 1993.

Thereafter, Congress granted legislative authority to allow the Secretary of Defense to expand the dental plan outside the United States and to provide one year of continued dental coverage for enrolled beneficiaries to service members who die while on active duty (The Defense Authorization Act, Public Law 103–337, sec. 703). In addition, the Congress granted subsequent legislative authority to allow the Secretary of Defense to waive or reduce the cost-shares in overseas locations (The Defense Authorization Act, Public Law 105–85, sec. 732).

In Fiscal Year 1999, the Congress authorized a methodology by which the enrollee's share of the premium could be increased. This methodology is tied to the lesser of the percent increase in the basic pay of active duty service members or the basic pay for statutory pay systems plus one-half percent. In authorizing language, the Secretary of Defense could apply this premium increase methodology as if it had been in place continuously since December 31, 1993. To allow for an expanded and more comprehensive benefit, the Department will apply this premium increase methodology as authorized. The language further instructed the Secretary of Defense to advise the Congress of any plans to reduce dental plan benefits and to wait one year, after notification, before any benefits could be reduced (The Defense Authorization Act, Public Law 105–261, sec. 701).

The legislative provisions have been codified in 10 U.S.C. Chapter 55, sec. 1076a, Dependents Dental Program, and are reflected in the regulatory provisions of this rule.

II. Programmatic Improvements

The below programmatic improvements will be effective once the follow-on TFMDP contract has been awarded and the performance period has begun. At the present time, the performance period is expected to begin on February 1, 2001.

A. Contractor Enrollment

Since the plan began, the Uniformed Services have administered the dental plan enrollment, disenrollment and eligibility determination functions. The complexities of the dental plan combined with a high turnover rate of relatively inexperienced Service personnel and other competing responsibilities, separate Service procedures, databases and data transfer processes, high cost and lengthy delays in software modifications, and Uniformed Service personnel downsizing, created the need for a centralized and uniform enrollment process. This can be best achieved by an experienced dental plan contractor and will allow active duty service members to contact one organization to enroll, disenroll, re-enroll and discuss other TFMDP benefit and claims adjudication issues. By allowing the contractor to administer the enrollment function across all of the Uniformed Services, enrollment becomes portable whereas the current system does not allow an active duty member from one Service to enroll through a separate Service. Contractor enrollment will also simplify the payroll deduction and eligibility determination process and reduce the possibility of waste and abuse at the local level. In addition, it maintains a stable, trained work force at the front end of the TFMDP and greatly improves customer service.

An added benefit to contractor enrollment will be the elimination of the current required Uniformed Service enrollment forms. The complex DD Form 2494, Active Duty Dependent Dental Plan Enrollment Form, and the DD Form 2494–1, Supplemental Active Duty Dependent Dental Plan Enrollment Form, will no longer be needed and will be replaced by a standard, simplified contractor enrollment form as well as telephonic and fax enrollment options.

Contractor enrollment has proven to be a success with the TRICARE Managed Care Support contractors as well as with contracted enrollment via the TRICARE Selected Reserve Dental Program and the Tricare Retiree Dental Program. The Uniformed Services will continue, as with the former dental plan and current TRICARE/CHAMPUS programs, to determine eligibility for the dental plan and process any changes regarding eligibility through the Defense Enrollment Eligibility Reporting System (DEERS).

B. Contractor Direct Billing

The dental plan is financed through premiums jointly paid by the Government and the active duty service member. The active duty service member's share of the premiums is deducted from their payroll accounts. In certain situations, otherwise eligible dependents are precluded from enrolling in the dental plan if their sponsor does not have an active payroll account nor has insufficient funds in that account. These eligible dependents include dependents of incarcerated sponsors and survivors. By allowing the contractor to directly bill these dependents for their premium share, dependents previously excluded from enrollment can now receive coverage. This improvement eliminates a previous enrollment termination provision in the regulation where eligibility for basic pay was a deciding criterion for continued enrollment in the dental plan.

C. Reduction in Mandatory Enrollment Period

A mandatory enrollment period is an essential factor behind Government and contractor actuarial estimates in developing the TFMDP premium and provides a guarantee to the contracting community that they will collect a certain amount of premiums for the potential benefit payout. The proposed regulation reduces the previous longstanding 24-month mandatory enrollment period to 12 months since this 24-month period precluded numerous, otherwise eligible, dependents from enrolling in the dental plan. These eligible dependents include those that are near the end of their active service and have new eligible dependents, enlisted service members who are outside of their re-enlistment window of opportunity, and Reserve/Guard personnel called to active duty for less than 24 months (such as Reserve/Guard personnel on active duty for training and special assignments). Reduction to a 12-month enrollment period for the TFMDP has a precedent with other TRICARE plans, to include the TRICARE Managed Care Prime option and the Tricare Selected Reserve Dental Program. By introducing this more liberal enrollment period, the proposed regulation also calls for a 12-month "lock-out" if the active duty service member disenrolls before completing the 12-month enrollment period or if the active duty service member fails to pay their premiums. A 12-month lock-out period also applies to a Reserve component member who disenrolls before completing the special mandatory enrollment period for Reserve component members ordered to active duty in support of a contingency operation. This "lock-out" period has a precedent with other commercial dental insurance plans as well as the TRICARE Managed Care Prime option, the TRICARE Selected Reserve Dental Program and the TRICARE Retiree Dental Program. "Lock-out" periods also discourage potential beneficiaries from enrolling in an insurance plan, receiving all of their benefit in a few months and then disenrolling without paying a full 12 months' worth of premiums.

Beneficiaries enrolled in the current dental plan at the time when TFMDP coverage begins must complete their two (2) year enrollment period established under that superceded plan except if one of the conditions for valid disenrollment applies. Once this

original two (2) year enrollment period is met, the active duty member may continue TFMDP enrollment on a month-to-month basis. A new one (1) year enrollment period will only be incurred if the active duty member disenrolls and attempts to re-enroll in the TFMDP at a later date.

D. Enrollment Period for Certain Reserve Component Sponsors

The proposed regulation provides that the 12-month enrollment period shall not apply to eligible dependents of Reserve component sponsors ordered to active duty for more than 30 days but less than 12 months (other than for training) in support of a contingency operation as defined in 10 U.S.C. sec. 101(a)(13). Orders may be issued under statutory authorities for recalling Reserve component members to active duty, but must specify that the member is serving in support of a specific contingency operation under the statutory definition. This disparate treatment for certain Reserve component members is necessary because of the involuntary nature of their call to active duty and statutory limitations on their periods of active duty.

By contrast, active duty members are enlisted, reenlisted or commissioned for periods of active duty longer than one year. The active duty member has the option to enroll eligible dependents at any time during that period of active duty prior to the last 12 months of service, and at a relatively constant premium cost. Similarly, other Reserve component members generally volunteer for call to active duty and serve for at least one year; therefore they will have the option to enroll family members at any time other than in the last 12 months of that service.

However Reserve component members ordered to active duty in support of a contingency operation are normally limited by statute to a period of active duty of 9 months or less. While 38 U.S.C. Chapter 43 provides that a Reserve component member who has coverage under a civilian employer sponsored dental program may elect to continue that coverage during a period of active duty, for up to 18 months; if serving for more than 30 days, the member may be required to pay the full premium cost with employer cost-sharing no longer required. Upon release from active duty, 38 U.S.C. Chapter 43, provides that the Reserve component member may be reinstated in his or her civilian employer sponsored program without a waiting period. Without an exception to the mandatory 12 month enrollment period for TFMDP, members who cannot afford to pay the full premium for continuing their civilian plan would be unable to provide dental insurance coverage for their family members while on active duty. This exclusion to the 12-month enrollment period is therefore necessary to preclude such prejudicial treatment of Reserve component members ordered to active duty for less than 12 months to support a contingency operation. In its place, a separate enrollment period is created for the Reserve component member.

E. Reduction in Cost-Shares for Certain Enlisted Pay Grades

Although certain cost-shares are mandated by law, the Secretary of Defense has the prerogative to adjust cost-shares for certain types of dental procedures. Available data shows that our lower-paid enlisted families are reluctant to pursue specialized dental care because of the amount of their cost-share. To allow greater participation and dental benefit utilization among our younger enlisted families, this proposed regulation would have a two-tiered maximum cost-share dependent on the active duty service member's pay grade. With the rates below, this reduction for enlisted service members does not have a measurable effect on the overall premium.

[In percent]

Covered services	Cost-share for pay grades E–1, E–2, E–3 and E–4	Cost-share for all other pay grades
Diagnostic	0	0
Preventive, except Sealants	0	0
Emergency Services	0	0
Sealants	20	20
Professional Consultations	20	20
Professional Visits	20	20
Post Surgical Services	20	20
Basic Restorative (example: amalgams, resins, stainless steel crowns)	20	20
Endodontic	30	40
Periodontic	30	40
Oral and Maxillofacial Surgery	30	40
General Anesthesia	40	40
Intravenous Sedation	50	50
Other Restorative (example: crowns, onlays, casts)	50	50
Prosthodontic	50	50
Medications	50	50
Orthodontic	50	50
Miscellaneous Services	50	50

A reduction in cost shares has been chosen over a reduction in premium rates for enlisted service members in these pay grades because the premium rates have traditionally been affordable as compared to similar dental benefits programs administered by commercial dental insurance plans and given the fact that the Government pays 60 percent of the total premium. As such, the greatest effect on participation and utilization can best be achieved through a reduction in cost-shares.

F. Simplification on Enrollment Options

Under the proposed rule, TFMDP enrollment options have been simplified to assist the beneficiary, Government, provider of care and the dental plan contractor. Under the prior dental plan, dependents were asked to choose from several different enrollment options

depending on whether they had children under the age of 4. With the advances in pediatric dentistry (pedodontics), dental care for children between the ages of 1 and 4 is highly recommended. As such, the dental plan contractor will offer sponsors the opportunity to enroll these particular dependents when eligibility information indicates a dependent is 1 year of age or older. Although there will continue to be two separate premiums, a "single" premium for one covered life and a "family" premium for more than one covered life, providing additional exceptions to this rule based on age will advance pediatric care among our beneficiary population, simplify enrollment processing by the dental plan contractor and promote greater understanding of enrollment options by all parties.

G. Addition of Anesthesia Services

Local anesthesia, in conjunction with other covered dental procedures, is considered integral to the procedure itself and has been covered for several years. Other anesthesia services were historically excluded due to their high cost. The proposed regulation allows the Department to add other types of anesthesia services to the TFMDP benefit package.

H. Appeals Plan

Under the TFMDP, the Department wishes to procure a responsive, simple, and two (or greater) tiered appeals program within the dental plan contractor's operation. We have had similar success with this approach under the TRICARE Selected Reserve Dental Program and the TRICARE Retiree Dental Program, where the contractors administer the first two levels of the appeals program, which are termed the initial determination and the reconsideration. Under the TFMDP, the appealing parties would appeal adverse decisions through the contractor's established appeal process where separate parties would perform the initial determination and reconsideration reviews (whether internal or external to the organization). the final level of review would be, as before, to the Department, subscribing to guidelines under the Formal Review and Hearing procedures listed in 32 CFR 199.10.

I. Plan Transition

The programmatic improvements are scheduled to take effect when the follow-on TFMDP contract to the current Expanded Active Duty Dependents Dental Plan contract is awarded and the performance period begins. Considering the magnitude of the planned improvements, the Department plans to "phase-out" operations under the former contractor and method of operation to accommodate late claims processing and to allow the Uniformed Services time to process retroactive enrollment and coverage information to assist our beneficiaries. This "phase-out" schedule will be jointly determined between the Department and the outgoing and incoming dental plan contractors.

III. Administrative Changes

The proposed regulation incorporates several administrative changes. There is revised language on Federal preemption of State and local laws that conforms the dental regulation language to reflect the Department's previous exercise of statutory authority in this area. Other changes include: widespread publication of premium rates; allowing the Department to modify the benefit package based on developments in common dental care practices and standard dental insurance plans; permitting the dental plan contractor to pay "by report" procedures by providing an additional allowance to the primary covered procedure; removing detailed descriptions of types of authorized providers in favor of more general language; updating dental terminology to be consistent with the American Dental Association's Council on Dental Care Program's Code on Dental Procedures and Nomenclature; and, reorganizing and adding language on the maximum amount payable by the TFMDP.

The proposed regulation incorporates plan name and other changes to reflect current terminology, such as outdated references to the former TRICARE Management Activity address, "Active Duty Dependent Dental Plan" and superceded regulations. It also reduces redundant language and reduces the overall size of the regulation through cross-references to applicable language appearing in other CFR sections. This includes references to appeals, fraud and abuse, eligibility, and adjunctive dental care as well as information on the former dental plans. Items that are more appropriate for inclusion in the actual contract statement of work have also been removed and transferred to that document. This includes equality of benefit processing, coordination of benefits, participating provider lists, Government review of billing practices, and how a Dental Explanation of Benefits should be structured. Finally, the regulation has been reorganized for better flow, ease of reading and understanding.

IV. Costs

The changes in the proposed regulation coincide with the upcoming recompetition of the TFMDP contract. As such, the Department plans to include these requirements in the request for proposal. By relaxing or eliminating some current contractual requirements and adding a greater number of eligible dependents, we anticipate that costs for the programmatic improvements can be met through contractor internal efficiencies and the competitive nature of the bid process and will result in affordable premiums comparable to what dental plan enrollees presently pay.

V. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any "significant regulatory action" defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This proposed rule is not a significant regulatory action under Executive Order 12866. The changes set forth in this proposed rule are minor revisions to the existing regulation. Since this proposed rule does not impose information collection requirements, it does not need to be reviewed by the Executive Office of Management and Budget under authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

List of Subjects in 32 CFR Part 199

Administrative practice and procedure, Claims, Dental health, Fraud, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.13 is revised to read as follows:

§ 199.13 TRICARE Family Member Dental Plan.

(a) *General provisions*—(1) *Purpose.* This section prescribes guidelines and policies for the delivery and administration of the TRICARE Family Member Dental Plan (TFMDP) of the Uniformed Service of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Commissioned Corps of the U.S. Public Health Service (USPHS) and the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA). The TFMDP is a premium based indemnity dental insurance coverage plan that is available to specified categories of individuals who are qualified for these benefits by virtue of their relationship to one of the seven Uniformed Services and their voluntary decision to accept enrollment in the plan and cost share (when applicable) with the Government in the premium cost of the benefits. The TFMDP is authorized by 10 U.S.C. 1076a, Dependents' Dental Program, and this section was previously titled the "Active Duty Dependents Dental Plan".

(2) *Applicability*—(i) *Geographic scope.* (A) The TFMDP is applicable geographically within the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands. These areas are collectively referred to as the "CONUS (or Continental United States) service area".

(B) *Extension of the TFMDP to areas outside the CONUS service area.* In accordance with the authority cited in 10 U.S.C. 1076a(h), the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) may extend the TFMDP to areas other than those areas specified in paragraph (a)(2)(i)(A) of this section for the eligible dependents of active duty members of the Uniformed Services. These areas are collectively referred to as the "OCONUS (or outside the Continental United States) service area". In extending the TFMDP outside the CONUS service area, the ASD(HA), or designee, is authorized to establish program elements, methods of administration and payment rates and procedures to providers that are different from those in effect for the CONUS service area to the extent the ASD(HA), or designee, determines necessary for the effective and efficient operation of the TFMDP. This includes provisions for preauthorization of care if the needed services are not available in a Uniformed Service overseas dental treatment facility and payment by the Department of certain cost-shares (or co-payments) and other portions of a provider's billed charges. Other difference may occur based on limitations in the availability and capabilities of the Uniformed Service overseas dental treatment facility and a particular nation's civilian sector providers in certain areas. These differences include varying licensure and certification requirements of OCONUS providers, Uniformed Service provider selection criteria and local results of provider selection, referral, beneficiary pre-authorization and marketing procedures, and care for beneficiaries residing in distant areas. The Director, Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) shall issue guidance, as necessary, to implement the provisions of this paragraph (a)(2)(i)(B). Beneficiaries will be eligible for the same TFMDP benefits in the OCONUS service area although services may not be available or accessible in all OCONUS countries.

(ii) *Agency.* The provisions of this section apply throughout the Department of Defense (DoD), the United States Coast Guard, the USPHS and NOAA.

(iii) *Exclusion of benefit services performed in military dental care facilities.* Except for emergency treatment, dental care provided outside the United States, and services incidental to noncovered services, beneficiaries enrolled in the TFMDP may not obtain those services that are benefits of the TFMDP in military dental care facilities, as long as those covered benefits are available for cost-sharing under the TFMDP. Enrolled beneficiaries may continue to obtain noncovered services from military dental care facilities subject to the provisions for space available care.

(3) *Authority and responsibility*—(i) *Legislative authority*— (A) *Joint regulations.* 10 U.S.C. 1076a authorizes the Secretary of Defense, in consultation with the Secretary of Health and Human Services, and the Secretary of Transportation, to prescribe regulations for the administration of the TFMDP.

(B) *Administration.* 10 U.S.C. 1073 authorizes the Secretary of Defense to administer the TFMDP for the Army, Navy, Air Force, and Marine Corps under DoD jurisdiction, the Secretary of Transportation to administer the TFMDP for the Coast Guard, when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services to administer the TFMDP for the Commissioned Corps of the NOAA and the USPHS.

(ii) *Organizational delegations and assignments*—(A) *Assistant Secretary of Defense (Health Affairs) (ASD(HA)).* The Secretary of Defense, by 32 CFR part 367, delegated authority to the ASD(HA) to provide policy guidance, management control, and coordination as required for all DoD health and medical resources and functional areas including health benefit programs. Implementing authority is contained in 32 CFR part 367. For additional implementing authority see § 199.1. Any guidelines or policy necessary for implementation of this § 199.13 shall be issued by the Director, OCHAMPUS.

(B) *Evidence of eligibility.* DoD, through the Defense Enrollment Eligibility Reporting System (DEERS), is responsible for establishing and maintaining a listing of persons eligible to receive benefits under the TFMDP.

(4) *Preemption of State and local laws.* (i) Pursuant to 10 U.S.C. 1103 and section 8025 (fourth proviso) of the Department of Defense Appropriations Act, 1994, DoD has determined that, in the administration of 10 U.S.C. chapter 55, preemption of State and local laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods is necessary to achieve important Federal interests, including, but not limited to, the assurance of uniform national health programs for military families and the operation of such programs at the lowest possible cost to DoD, that have a direct and substantial effect on the conduct of military affairs and national security policy of the United States. This determination is applicable to the dental services contracts that implement this section.

(ii) Based on the determination set forth in paragraph (a)(4)(i) of this section, any State or local law relating to health or dental insurance, prepaid health or dental plans, or other health or dental care delivery or financing methods is preempted and does not apply in connection with the TFMDP contract. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to the TFMDP contract. (However, DoD may, by contract, establish legal obligations on the part of the dental plan contractor to conform with requirements similar or identical to requirements of State or local laws or regulations.)

(iii) The preemption of State and local laws set forth in paragraph (a)(4)(ii) of this section includes State and local laws imposing premium taxes on health or dental insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods,

within the meaning of the statutes identified in paragraph (a)(4)(i) of this section. Preemption, however, does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees, or other payments are applicable to a broad range of business activity. For purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health and dental services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

(5) *Plan funds.*—(i) *Funding sources.* The funds used by the TFMDP are appropriated funds furnished by the Congress through the annual appropriation acts for DoD, the Department of Health and Human Services and the Department of Transportation and funds collected by the Uniformed Services or contractor through payroll deductions or through direct billing as premium shares from enrolled beneficiaries.

(ii) *Disposition of funds.* TFMDP funds are paid by the Government (or in the case of direct billing, by the beneficiary) as premiums to an insurer, service, or prepaid dental care organization under a contract negotiated by the Director, OCHAMPUS, or a designee, under the provisions of the Federal Acquisition Regulation (FAR) (48 CFR chapter 1).

(iii) *Plan.* The Director, OCHAMPUS, or designee provides an insurance policy, service plan, or prepaid contract of benefits in accordance with those prescribed by law and regulation; as interpreted and adjudicated in accord with the policy, service plan, or contract and a dental benefits brochure; and as prescribed by requirements of the dental plan contractor's contract with the Government.

(iv) *Contracting out.* The method of delivery of the TFMDP is through a competitively procured contract. The Director, OCHAMPUS, or a designee, is responsible for negotiating, under provisions of the FAR, a contract for dental benefits insurance or prepayment that includes responsibility for:

(A) Development, publication, and enforcement of benefit policy, exclusions, and limitations in compliance with the law, regulation, and the contract provisions;

(B) Adjudicating and processing claims; and conducting related supporting activities, such as enrollment, disenrollment, collection of premiums, eligibility verification, provider relations, and beneficiary communications.

(6) *Role of Health Benefits Advisor (HBA).* The HBA is appointed (generally by the commander of an Uniformed Services medical treatment facility) to serve as an advisor to patients and staff in matters involving the TFMPD. The HBA may assist beneficiaries in applying for benefits, in the preparation of claims, and in their relations with OCHAMPUS and the dental plan contractor. However, the HBA is not responsible for the TFMPD's policies and procedures and has no authority to make benefit determinations or obligate the TFMPD's funds. Advice given to beneficiaries by HBAs as to determination of benefits or level of payment is not binding on OCHAMPUS or the dental plan contractor.

(7) *Right to information.* As a condition precedent to the provision of benefits hereunder, the Director, OCHAMPUS, or designee, shall be entitled to receive information from an authorized provider or other person, institution, or organization (including a local, State, or United States Government agency) providing services or supplies to the beneficiary for which claims for benefits are submitted. While establishing enrollment and eligibility, benefits, and benefit utilization and performance reporting information standards, the Government has established and does maintain a system of records for dental information under the TFMDP. By contract, the Government audits the adequacy and accuracy of the dental plan contractor's system of records and requires access to information and records to meet plan accountabilities, to assist in contractor surveillance and program integrity investigations and to audit OCONUS financial transactions where the Department has a financial stake. Such information and records may relate to attendance, testing, monitoring, examination, or diagnosis of dental disease or conditions; or treatment rendered; or services and supplies furnished to a beneficiary; and shall be necessary for the accurate and efficient administration and payment of benefits under this plan. To assist in claims adjudication, grievance and fraud investigations, and the appeals process, and before an interim or final determination can be made on a claim of benefits, a beneficiary or active duty service member must provide particular additional information relevant to the requested determination, when necessary. Failure to provide the requested information may result in denial of the claim and inability to effectively investigate the grievance or fraud or process the appeal. The recipient of such information shall in every case hold such records confidential except when:

(i) Disclosure of such information is necessary to the determination by a provider or the dental plan contractor of beneficiary enrollment or eligibility for coverage of specific services;

(ii) Disclosure of such information is authorized specifically by the beneficiary;

(iii) Disclosure is necessary to permit authorized Government officials to investigate and prosecute criminal actions;

(iv) Disclosure constitutes a routine use of a record which is compatible with the purpose for which it was collected. This includes a standard and acceptable business practice commonly used among dental insurers which is consistent with the principle of preserving confidentiality of personal information and detailed clinical data. For example, the release of utilization information for the purpose of determining eligibility for certain services, such as the number of dental prophylaxis procedures performed for a beneficiary, is authorized;

(v) Disclosure is pursuant to an order form a court of competent jurisdiction; or

(vi) Disclosure by the Director, OCHAMPUS, or designee, is for the purpose of determining the applicability of, and implementing the provisions of, other dental benefits coverage or entitlement.

(8) *Utilization review and quality assurance.* Claims submitted for benefits under the TFMDP are subject to review by the Director, OCHAMPUS, or designee, for quality of care and appropriate utilization. The Director, OCHAMPUS, or designee, is responsible for appropriate utilization review and quality assurance standards, norms, and criteria consistent with the level of benefits.

(b) *Definitions.* For most definitions applicable to the provisions of this section, refer to 199.2. The following definitions apply only to his section:

(1) *Assignment of benefits.* Acceptance by a nonparticipating provider of payment directly from the insurer while reserving the right to charge the beneficiary or active duty service member for any remaining amount of the fees for services which exceeds the prevailing fee allowance of the insurer.

(2) *Authoried provider.* A dentist, dental hygienist, or certified and licensed anesthetist specifically authorized to provide benefits under the TFMPD in paragraph (f) of this section.

(3) *Beneficiary.* A dependent of an active duty member who has been enrolled in the TFMDP, and has been determined to be eligible for benefits, as set forth in paragraph (c) of this section.

(4) *Beneficiary liability.* The legal obligation of a beneficiary, his or her estate, or responsible family member to pay for the costs of dental care or treatment received. Specifically, for the purposes of services and supplies covered by the TFMDP, beneficiary liability includes cost-sharing amounts or any amount above the prevailing fee determination by the insurer where the provider selected by the beneficiary is not a participating provider or a provider within an approved alternative delivery system. In cases where a nonparticipating provider does not accept assignment of benefits, beneficiaries may have to pay the nonparticipating provider in full at the time of treatment and seek reimbursement directly from the insurer for all or a portion of the nonparticipating provider's fee. Beneficiary liability also includes any expenses for services and supplies not covered by the TFMDP, less any available discount provided as a part of the insurer's agreement with an approved alternative delivery system.

(5) *By report.* Dental procedures which are authorized as benefits only in unusual circumstances requiring justification of exceptional conditions related to otherwise authorized procedures. These services are further defined in paragraph (e) of this section.

(6) *Contingency operation.* Defined in 10 U.S.C. 101(a)(13) as a military operation designated as a contingency operation by the Secretary of Defense or a military operation that results in the exercise of authorities for ordering Reserve component members to active duty without their consent and is therefore automatically a contingency operation.

(7) *Cost-share.* The amount of money for which the beneficiary (or active duty service member) is responsible in connection with otherwise covered dental services (other than disallowed amounts) as set forth in paragraph (e) of this section. A cost-share may also be referred to as a "co-payment."

(8) *Defense Enrollment Eligibility reporting System (DEERS).* The automated system that is composed of two phases:

(i) Enrolling all active duty and retired service members, their dependents, and the dependents of deceased service members; and

(ii) Verifying their eligibility for health care benefits in the direct care facilities and through the TFMDP.

(9) *Dental hygienist.* Practitioner in rendering complete oral prophylaxis services, applying medication, performing dental radiography, and providing dental education services with a certificate, associate degree, or bachelor's degree in the field, and licensed by an appropriate authority.

(10) *Dentist.* Doctor of Dental Medicine (D.M.D.) or Doctor of Dental Surgery (D.D.S.) who is licensed to practice dentistry by an appropriate authority.

(11) *Diagnostic services.* Category of dental services including:

(i) Clinical oral examinations;

(ii) Radiographic examinations; and

(iii) Diagnostic laboratory tests and examinations provided in connection with other dental procedures authorized as benefits of the TFMDP and further defined in paragraph (e) of this section.

(12) *Endodontics.* The etiology, prevention, diagnosis, and treatment of diseases and injuries affecting the dental pulp, tooth root, and periapical tissue as further defined in paragraph (e) of this section.

(13) *Initial determination.* A formal written decision on a TFMDP claim, a request for TFMDP benefit [pre-determination, a request by a provider for approval as an authorized provider, or a decision suspending, excluding or terminating a provider as an authorized provider under the TFMFDP. Rejection of a claim or pre-determination, or of a request for benefit or provider authorization for failure to comply with administrative requirements, including failure to submit reasonably requested information, is not an initial determination. Responses to general or specific inquiries regarding TFMDP benefits are not initial determinations.

(14) *Nonparticipating provider.* A dentist or dental hygienist that furnished dental services to a TFMDP beneficiary, but who has not agreed to participate or to accept the insurer's fee allowances and applicable cost share as the total charge for the services. A nonparticipating provider looks to the beneficiary or active duty member for final responsibility for payment of his or her charge, but may accept payment (assignment of benefits) directly from the insurer or assist the beneficiary in filing the claim for reimbursement by the dental plan contractor. Where the nonparticipating provider does not accept payment directly from the insurer, the insurer pays the beneficiary or active duty member, not the provider.

(15) *Oral and maxillofacial surgery.* Surgical procedures performed in the oral cavity as further defined in paragraph (e) of this section.

(16) *Orthodontics.* The supervision, guidance, and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex as further defined in paragraph (e) of this section.

(17) *Participating provider.* A dentist or dental hygienist who has agreed to accept the insurer's reasonable fee allowances or other fee arrangements as the total charge (even though less than the actual billed amount), including provision for payment to the provider by the beneficiary (or active duty member) of any cost-share for covered services.

(18) *Party to the initial determination.* Includes the TFMDP, a beneficiary of the TFMDP and a participating provider of services whose interests have been adjudicated by the initial determination. In addition, a provider who has been denied approval as an authorized TFMDP provider is a party to that initial determination, as is a provider who is suspended, excluded or terminated as an authorized provider, unless the provider is excluded under another federal or federally funded program.

(19) *Periodontics.* The examination, diagnosis, and treatment of diseases affecting the supporting structures of the teeth as further defined in paragraph (e) of this section.

(20) *Preventive services.* Traditional prophylaxis including scaling deposits from teeth, polishing teeth, and topical application of fluoride to teeth as further defined in paragraph (e) of this section.

(21) *Prosthodontics.* The diagnosis, planning, making, insertion, adjustment, relinement, and repair of artificial devices intended for the replacement of missing teeth and associated tissues as further defined in paragraph (e) of this section.

(22) *Provider.* A dentist or dental hygienist as specified in paragraph (f) of this section. This term, when used in relation to OCONUS service area providers, may include other recognized professions authorized to furnish care under laws of that particular country.

(23) *Restorative services.* Restoration of teeth including those procedures commonly described as amalgam restorations, resin restorations, pin retention, and stainless steel crowns for primary teeth as further defined in paragraph (e) of this section.

(24) *Sealants.* A material designed for application on specified teeth to seal the surface irregularities to prevent ingress of oral fluids, food, and debris in order to prevent tooth decay.

(c) *Eligibility and enrollment*—(1) *General.* 10 U.S.C. 1076a, 1072(2)(A), (D), or (I) and 1072(6) set forth those persons who are eligible for voluntary enrollment in the TFMDP. A determination that a person is eligible for voluntary enrollment does not automatically entitle that person to benefit payments. The person must be enrolled in accordance with the provisions set forth in this section and meet any additional eligibility requirements in this part in order for dental benefits to be extended.

(2) *Eligibility.*—(i) *Person eligible (dependent).* A person who bears one of the following relationships to an active duty member (under a call or order that does not specify a period of thirty (30) days of less):

(A) *Spouse.* A lawful husband or wife, regardless of whether or not dependent upon the active duty member.

(B) *Child.* To be eligible, the child must be unmarried and meet the requirements set forth in § 199.3(b)(2)(iv)(A) and § 199.3(b)(2)(iv)(C).

(ii) *Determination of eligibility status and evidence of eligibility.*—(A) *Eligibility determination responsibility of the Uniformed Services.* Determination of a person's eligibility for the TFMDP is the responsibility of the active duty member's Uniformed Service. For the purpose of program integrity, the appropriate Uniformed Service shall, upon request of the Director, OCHAMPUS, or designee, review the eligibility status. In such cases, a report on the result of the review and any action taken will be submitted to the Director, OCHAMPUS, or designee.

(B) *Procedures for determination of eligibility.* Uniformed Services identification cards do not distinguish eligibility for the TFMDP. Procedures for the determination of eligibility are identified in § 199.3(f)(2), except that Uniformed Services identification cards do not provide evidence of eligibility for the TFMDP. Although OCHAMPUS and the dental plan contractor must make determinations concerning a dependent's eligibility in order to ensure proper enrollment and proper disbursement of appropriated funds, ultimate responsibility for resolving a dependent's eligibility rests with the Uniformed Services.

(C) *Evidence of eligibility required.* Eligibility and enrollment in the TFMDP will be verified through the DEERS. Eligibility and enrollment information established and maintained in the DEERS file is the only acceptable evidence of TFMDP eligibility and enrollment. It is the responsibility of the active duty member or TFMDP beneficiary, parent, or legal representative, when appropriate, to provide adequate evidence for entry into the DEERS file to establish eligibility for the TFMDP, and to ensure that all changes in status that may effect eligibility are reported immediately to the appropriate Uniformed Service for action. Ineligibility for benefits is presumed in the absence of prescribed eligibility evidence in the DEERS file.

(3) *Enrollment—Previous plans*—(A) *Basic active duty dependents dental benefit plan.* The Basic Active Duty Dependents Dental Plan was effective from August 1, 1987, up to the date of implementation of the Expanded Active Duty Dependents Dental Benefit Plan. The Basic Active Duty Dependents Dental Benefit Plan terminated upon implementation of the expanded plan.

(B) *Expanded active duty dependents dental benefit plan.* The Expanded Active Duty Dependents Dental Benefit Plan was effective from August 1, 1993, up to the date of implementation of the TFMDP. The Expanded Active Duty Dependents Dental Benefit Plan terminates upon implementation of the TFMDP.

(ii) *TRICARE Family Member Dental Plan (TFMDP)*—(A) *Election of coverage.* (*1*) Except as provided in paragraph (c)(3)(ii)(A) (*2*) of this section, active duty members may voluntarily elect to enroll their eligible dependents following implementation of the TFMDP. In order to obtain TFMDP coverage, written or telephonic election by the active duty member must be made and will be accomplished by submission or telephonic completion of an application to the dental plan contractor. This election can also be accomplished via electronic means.

(*2*) Eligible dependents of active duty members enrolled in the Expanded Active Duty Dependents Dental Benefit Plan at the time of implementation of TFMDP will automatically be enrolled in TFMDP. No election to enroll in TFMDP will be required by the active duty member.

(B) *Premiums.* (*1*) Enrollment will be by either single or family premium as defined as follows:

(*i*) *Single premium.* One (1) covered eligible dependent.

(*ii*) *Family premium.* Two (2) or more covered eligible dependents. Under the family premium, all eligible dependents of the active duty member are enrolled.

(*2*) *Exceptions.* (*i*) An active duty member may elect to enroll only those eligible dependents residing in one location when the active duty member has eligible dependents residing in two or more geographically separate locations (*e.g.*, children living with a divorced spouse; a child attending college).

(*ii*) Instances where a dependent requires a hospital or special treatment environment (due to a medical, physical handicap, or mental condition) for dental care otherwise covered by the TFMDP, the dependent may be excluded from TFMDP enrollment and may continue to receive care from a military treatment facility.

(C) *Enrollment period*—(*1*) *General.* Enrollment of beneficiaries is for a period of one (1) year followed by month-to-month enrollment as long as the active duty member chooses to continue enrollment. Active duty members may enroll their family members in the TFMDP provided there is an intent to remain on active duty for a period of not less than one (1) year by the active duty member and the parent Uniformed Service. Family members enrolled in the TFMDP must remain enrolled for a minimum period of one (1) year unless one of the conditions for disenrollment specified in paragraph (c)(3)(ii)(E) of this section is met.

(*2*) *Reserve component members ordered to active duty in support of contingency operations.* The mandatory 12 month enrollment period does not apply to Reserve component members ordered to active duty (other than for training) in support of a contingency operation as designated by the Secretary of Defense. Affected Reserve component members may enroll in the TFMDP only if their orders specify that they are ordered to active duty in support of a contingency operation, as defined by 10 U.S.C., for a period of thirty-one (31) days or more. An affected Reserve component member must elect to enroll in TFMDP and complete the enrollment application within 30 days following entry on active duty. following enrollment, family members must remain enrolled, with the member paying premiums, until the end of the member's active duty period in support of the contingency operation or 12 months, whichever occurs first unless one of the conditions for disenrollment specified in paragraph (c)(3)(ii)(E) of this section is met.

(*3*) *Continuation of enrollment from Expanded Active Duty Dependents Dental Benefit Plan.* Beneficiaries enrolled in the Expanded Active Duty Dependents Dental Benefit Plan at the time when TFMDP coverage begins

must complete their two (2) year enrollment period established under this former plan except if one of the conditions for disenrollment specified in paragraph (c)(3)(ii)(E) of this section is met. Once this original two (2) year enrollment period is met, the active duty member may continue TFMDP enrollment on a month-to-month basis. A new one (1) year enrollment period will only be incurred if the active duty member disenrolls and attempts to re-enroll in the TFMDP at a later date.

(D) *Beginning dates of eligibility.* The beginning date of eligibility for TFMDP benefits is the first day of the month following the month in which the election of enrollment is completed, signed, and the enrollment and premium is received by the dental plan contractor, subject to a predetermined and publicized dental plan contractor monthly cut-off date. This includes any changes between single and family member premium coverage and coverage of newly eligible or enrolled dependents.

(E) *Changes in and termination of enrollment—(1) Changes in status of active duty member.* When the active duty member is separated, discharged, or retired, his or her dependents lose eligibility as of 11:59 p.m. on the last day of the month in which the change in status takes place. Eligible dependents of an active duty member serving a sentence of confinement in conjunction with a sentence of punitive discharge are still eligible for the TFMDP until such time as the active duty member's discharge is executed.

(*2*) *Continuation of eligibility for dependents of active duty members who die on active duty.* Eligible dependents of active duty members who die on or after October 1, 1993, while on active duty for a period of more than thirty (30) days and who are enrolled in the TFMDP on the date of the death of the active duty member shall be eligible for continued enrollment in the TFMDP for up to one (1) year from the date of the active duty member's death.

(*3*) *Changes in status of dependent.*—(*i*) *Divorce.* A spouse separated from an active duty member by a final divorce decree loses all eligibility based on his or her former marital relationship as of 11:59 p.m. of the last day of the month in which the divorce becomes final. The eligibility of the active duty member's own children (including adopted and eligible illegitimate children) is unaffected by the divorce. An unadopted stepchild, however, loses eligibility with the termination of the marriage, also as of 11:59 p.m. of the last day of the month in which the divorce becomes final.

(*ii*) *Annulment.* A spouse whose marriage to an active duty member is dissolved by annulment loses eligibility as of 11:59 p.m. of the last day of the month in which the court grants the annulment order. The fact that the annulment legally declares the entire marriage void from its inception does not affect the termination date of eligibility. When there are children, the eligibility of the active duty member's own children (including adopted and eligible illegitimate children) is unaffected by the annulment. An unadopted stepchild, however, loses eligibility with the annulment of the marriage, also as of 11:59 p.m. of the last day of the month in which the court grants the annulment order.

(*iii*) *Adoption.* A child of an active duty member who is adopted by a person, other than a person whose dependents are eligible for TFMDP benefits while the active duty member is living, thereby severing the legal relationship between the child and the active duty member, loses eligibility as of 11:59 p.m. of the last day of the month in which the adoption becomes final.

(*iv*) *Marriage of child.* A child of an active duty member who marries a person whose dependents are not eligible for the TFMDP, loses eligibility as of 11:59 p.m. on the last day of the month in which the marriage takes place. However, should the marriage be terminated by death, divorce, or annulment before the child is 21 years old, the child again becomes eligible for enrollment as a dependent as of 12:00 a.m. of the first day of the month following the month in which the occurrence takes place that terminates the marriage and continues up to age 21 if the child does not remarry before that time. If the marriage terminates after the child's 21st birthday, there is no reinstatement of eligibility.

(*v*) *Disabling illness or injury of child age 21 or 22 who has eligibility based on his or her student status.* A child 21 or 22 years old who is pursuing a full-time course of higher education and who, either during the school year or between semesters, suffers a disabling illness or injury with resultant inability to resume attendance at the institution remains eligible for the TFMDP for six (6) months after the disability is removed or until the student passes his or her 23rd birthday, whichever occurs first. However, if recovery occurs before the 23rd birthday and there is resumption of a full-time course of higher education, the TFMDP can be continued until the 23rd birthday. The normal vacation periods during an established school year do not change the eligibility status of a dependent child 21 or 22 years old in full-time student status. Unless an incapacitating condition existed before, and at the time of, a dependent child's 21st birthday, a dependent child 21 or 22 years old in student status does not have eligibility related to mental or physical incapacity as described in § 199.3(b)(2)(iv)(C)(*2*).

(*4*) *Other.*—(*1*) *Disenrollment because of no eligible beneficiaries.* When an active duty member ceases to have any eligible beneficiaries, enrollment is terminated.

(*ii*) *Option to disenroll as a result of a change in active duty station.* When an active duty member transfers with beneficiaries to a duty station where space-available dental care for the beneficiaries is readily available at the local Uniformed Service dental treatment facility or to locations within the OCONUS service area, the active duty member may elect, within ninety (90) calendar days of the transfer, to disenroll from the TFMDP. If the active duty member is later transferred to a duty station where dental care for the dependents is not available in the local Uniformed Service dental treatment facility, the active duty member may re-enroll his or her dependents in the TFMDP *provided* the member, as of the date of reenrollment, otherwise meets the requirements for enrollment, including the intent to remain on active duty for a period of not less than one (1) year.

(*iii*) *Option to disenroll after an initial one (1) year enrollment.* When an active duty member's enrollment has been in effect for a continuous period of one (1) year, the active duty member may disenroll at any time following procedures as set up by the dental plan contractor. Subsequent to the disenrollment, the active duty member may reenroll for another minimum period of one (1) year. If, during any one (1) year enrollment period, the active duty member disenrolls for reasons other than those listed in this paragraph (c)(3)(ii)(E) or fails to make premium payments, the active duty member and beneficiaries will be subject to a lock-out period of twelve (12) months. Following this period of time, active duty members will be able to reenroll if they so choose. The twelve (12) month lock-out period applies to a Reserve component member who disenrolls for reasons other than those listed in this paragraph (c)(3)(ii)(E) or fails to make premium payments after the member has enrolled pursuant to paragraph (c)(3)(ii)(C) of this section.

(d) *Premium sharing*—(1) *General.* Active duty members enrolling in the TFMDP shall be required to pay a

portion of the premium cost for their dependents.

(2) *Proportion of active duty member's premium share.* The proportion of premium share to be paid by the active duty member is established by the ASD (HA), or designee, at not more than forty (40) percent of the total premium.

(3) *Provision for increases in active duty member's premium share.* (i) Although previously capped at $20 per month, the law has been amended to authorize the cap on active duty members' premiums to rise, effective as of January 1 of each year, by the percent equal to the lesser of:

(A) The percent by which the rates of basic pay of active duty members are increased on such date; or

(B) The sum of one-half percent and the percent computed under 5 U.S.C. 5303(a) for the increase in rates of basic pay for statutory pay systems for pay periods beginning on or after such date.

(ii) Under the legislation authorizing an increase in the monthly premium cap, the methodology for determining the active duty member's TFMDP premium will be applied as if the methodology had been in continuous use since December 31, 1993.

(4) *Reduction of premium share or cost-shares for enlisted members.* For enlisted members in pay grades E–1 through E–4, the ASD (HA) or designee, may reduce the monthly premium and/or cost-shares these active duty members pay for selected benefits as specified in paragraph (e)(3)(i) of this section.

(5) *Premium payment method.* The active duty member's premium share shall be deducted from the active duty member's basic pay, if sufficient pay is available. For dependents who are otherwise eligible for TFMDP benefits and whose sponsors do not receive such pay, or if sufficient pay is available, the premium payment may be collected pursuant to procedures established by the Director, OCHAMPUS, or designee.

(6) *Annual notification of premium rates.* TFMDP premium rates will be determined as part of the competitive contracting process. Information on the premium rates will be widely distributed by the dental plan contractor and the Government.

(e) *Plan benefits.*—(1) *General.*—(i) *Scope of benefits.* The TFMDP provides coverage for diagnostic and preventive services, sealants, restorative services, endodontics, periodontics, prosthodontics, orthodontics and oral and maxillofacial surgery.

(ii) *Authority to act for the plan.* The authority to make benefit determinations and authorize plan payments under the TFMDP rests primarily with the insurance, service plan, or prepayment dental plan contractor, subject to compliance with Federal law and regulation and Government contract provisions. The Director, OCHAMPUS, or designee, provides required benefit policy decisions resulting from changes in Federal law and regulation and appeal decisions. No other persons or agents (such as dentists or Uniformed Services HBAs) have such authority.

(iii) *Dental benefits brochure.*—(A) *Content.* The Director, OCHAMPUS, or designee, shall establish a comprehensive dental benefits brochure explaining the benefits of the plan in common lay terminology. The brochure shall include the limitations and exclusions and other benefit determination rules for administering the benefits in accordance with the law and this part. The brochure shall include the rules for adjudication and payment of claims, appealable issues, and appeal procedures in sufficient detail to serve as a common basis for interpretation and understanding of the rules by providers, beneficiaries, claims examiners, correspondence specialists, employees and representatives of other Government bodies, HBAs, and other interested parties. Any conflict, which may occur between the dental benefits brochure and law or regulation, shall be resolved in favor of law and regulation.

(b) *Distribution.* The dental benefits brochure will be available through the dental plan contractor and will be distributed with the assistance of the Uniformed Service HBAs and major personnel centers at Uniformed Service installations to all members enrolling their dependents.

(iv) *Alternative course of treatment policy.* The Director, OCHAMPUS, or designee, may establish, in accordance with generally accepted dental benefit practices, alternative course of treatment policy which provides reimbursement in instances where the dentist and beneficiary select a more expensive service, procedure, or course of treatment than is customarily provided. The alternative course of treatment policy must meet the following conditions:

(A) The service, procedure, or course of treatment must be consistent with sound professional standards of dental practice for the dental practice for the dental condition concerned.

(B) The service, procedure, or course of treatment must be a generally accepted alternative for a service or procedure covered by the TFMDP for the dental condition.

(C) Payment for the alternative service or procedure may not exceed the lower of the prevailing limits fro the alternative procedure, the prevailing limits or dental plan contractor's scheduled allowance for the otherwise authorized benefit procedure for which the alternative is substituted, or the actual charge for the alternative procedure.

(2) *Benefits.* The following benefits are defined (subject to the TFMDP's exclusions, limitations, and benefit determination rules approved by OCHAMPUS) using the American Dental Association's Council on Dental Care Program's Code on Dental Procedures and Nomenclature. The Director, OCHAMPUS, or designee, may modify these services, to the extent determined appropriate based on developments in common dental care practices and standard dental insurance programs.

(i) *Diagnostic and preventive services.* Benefits may be extended for those dental services described as oral examination, diagnostic, and preventive services defined as traditional prophylaxis (*i.e.*, scaling deposits from teeth, polishing teeth, and topical application of fluoride to teeth) when performed directly by dentists and dental hygienists as authorized under paragraph (f) of this section. These include the following categories of service:

(A) *Diagnostic services.* (*1*) Clinical oral examinations.

(*2*) Radiographs and diagnostic imaging.

(*3*) Tests and laboratory examinations.

(B) *Preventive services.* (*1*) Dental prophylaxis.

(*2*) Topical fluoride treatment (office procedure).

(*3*) Other preventive services.

(*4*) Space maintenance (passive appliances).

(ii) *General services and services "by report".* The following categories of services are authorized when performed directly by dentists or dental hygienists, as authorized under paragraph (f) of this section, only in unusual circumstances requiring justification of exceptional conditions directly related to otherwise authorized procedures. Use of the procedures may not result in the fragmentation of services normally included in a single procedure. The dental plan contractor may recognize a "by report" condition by providing additional allowance to the primary covered procedure instead of recognizing or permitting a distinct billing for the "by report" service. These include the following categories of general services:

(A) Unclassified treatment.

(B) Anesthesia.

(C) Professional consultation.
(D) Professional visits.
(E) Drugs.
(F) Miscellaneous services.

(iii) *Restorative services.* Benefits may be extended for restorative services when performed directly by dentists or dental hygienists, or under orders and supervision by dentists, as authorized under paragraph (f) of this section. These include the following categories of restorative services:

(A) Amalgam restorations.
(B) Resin restorations.
(C) Inlay and onlay restorations.
(D) Crowns.
(E) Other restorative services.

(iv) *Endodontic services.* Benefits may be extended for those dental services involved in treatment of diseases and injuries affecting the dental pulp, tooth root, and periapical tissue when performed directly by dentists as authorized under paragraph (f) of this section. These include the following categories of endodontic services:

(A) Pulp capping.
(B) Pulpotomy and pulpectomy.
(C) Endodontic therapy.
(D) Apexification and recalcification procedures.
(E) Apicoectomy and periradicular services.
(F) Other endodontic procedures.

(v) *Periodontic services.* Benefits may be extended for those dental services involved in prevention and treatment of diseases affecting the supporting structures of the teeth to include periodontal prophylaxis, gingivectomy or gingivoplasty, gingival curettage, etc., when performed directly by dentists as authorized under paragraph (f) of this section. These include the following categories of periodontic services:

(A) Surgical services.
(B) Periodontal services.
(C) Other periodontal services.

(vi) *Prosthodontic services.* Benefits may be extended for those dental services involved in fabrication, insertion, adjustment, relinement, and repair of artificial teeth and associated tissues to include removal of complete and partial dentures, fixed crowns and bridges when performed directly by dentists as authorized under paragraph (f) of this section. These include the following categories of prosthodontic services:

(A) *Prosthodontics (removable).*
(*1*) Complete and partial dentures.
(*2*) Adjustment to dentures.
(*3*) Repairs to complete and partial dentures.
(*4*) Denture rebase procedures.
(*5*) Denture reline procedures.
(*6*) Other removable prosthetic services.

(B) *Prosthodontics (fixed).*
(*1*) Fixed partial denture pontics.
(*2*) Fixed partial denture retainers.
(*3*) Other partial denture services.

(vii) *Orthodontic services.* Benefits may be extended for the supervision, guidance, and correction of growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations through the use of orthodontic procedures and devices when performed directly by dentists as authorized under paragraph (f) of this section to include in-process orthodontics. These include the following categories of orthodontic services:

(A) Limited orthodontic treatment.
(B) Minor treatment to control harmful habits.
(C) Interceptive orthodontic treatment.
(D) Comprehensive orthodontic treatment.
(E) Other orthodontic services.

(viii) *Oral and maxillofacial surgery services.* Benefits may be extended for basic surgical procedure of the extraction, reimplantation, stabilization and repositioning of teeth, alveoloplasties, incision and drainage of abscesses, suturing of wounds, biopsies, etc., when performed directly by dentists as authorized under paragraph (f) of this section. These include the following categories of oral and maxillofacial surgery services:

(A) Extractions.
(B) Surgical extractions.
(C) Other surgical procedures.
(D) Alveoloplasty—surgical preparation of ridge for denture.
(E) Surgical incision.
(F) Repair of traumatic wounds.
(G) Complicated suturing.
(H) Other repair procedures.

(ix) *Exclusion of adjunctive dental care.* Adjunctive dental care benefits are excluded under the TFMP. For further information on adjunctive dental care benefits under TRICARE/CAMPUS, see § 199.4(e)(10).

(x) *Benefit limitations and exclusions.* The Director, OCHAMPUS, or designee, may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by the TFMDP.

(xi) *Limitation on reduction of benefits.* If a reduction in benefits is planned, the Secretary of Defense, or designee, may not reduce TFMDP benefits without notifying the appropriate Congressional committees. If a reduction is approved, the Secretary of Defense, or designee, must wait one year from the date of notice before a benefit reduction can be implemented.

(3) *Cost-shares, liability and maximum coverage.* (i) *Cost-shares.* The following table lists maximum active duty member cost shares for covered services for participating and nonparticipating providers of care. These are percentages of the dental plan contractor's determined allowable amount that the active duty member or beneficiary must pay to these providers:

[In percent]

Covered services	Cost-share for pay grades E–1, E–2, E–3 and E–4	Cost-share for all other pay grades
Diagnostic	0	0
Preventive, except Sealants	0	0
Emergency Services	0	0
Sealants	20	20
Professional Consultations	20	20
Professional Visits	20	20
Post Surgical Services	20	20
Basic Restorative (example: amalgams, resins, stainless steel crowns)	20	20
Endodontic	30	40
Periodontic	30	40
Oral and Maxillofacial Surgery	30	40
General Anesthesia	40	40

[In percent]

Covered services	Cost-share for pay grades E–1, E–2, E–3 and E–4	Cost-share for all other pay grades
Intravenous Sedation	50	50
Other Restorative (example: crowns, onlays, casts)	50	50
Prostodontic	50	50
Medications	50	50
Orthodontic	50	50
Miscellaneous Services	50	50

(ii) *Dental plan contractor liability.* Where the dental program contractor is unable to identify a participating provider of care (*i.e.*, a general dentist) within thirty five (35) miles of the beneficiary's place of residence with appointment availability within twenty one (21) calendar days, the dental program contractor will reimburse the beneficiary, or active duty member, or the nonparticipating provider selected by the beneficiary within thirty five (35) miles of the beneficiary's place of residence at the level of the provider's usual fees less the applicable beneficiary cost share, if any.

(iii) *Maximum coverage amounts.* Beneficiaries are subject to an annual maximum coverage amount for non-orthodontic dental benefits and a lifetime maximum coverage amount for orthodontics as established by the ASD (HA) or designee.

(f) *Authorized providers*—(1) *General.* Enrolled beneficiaries may seek covered services from any provider who is fully licensed and approved to provide dental care or covered anesthesia benefits in the state where the provider is located. This includes licensed dental hygienists, practicing within the scope of their licensure, subject to any restriction a state licensure or legislative body imposes regarding their status as independent providers of care.

(2) *Authorized provider status does not guarantee payment of benefits.* The fact that a provider is "authorized" is not to be construed to mean that the TFMDP will automatically pay a claim for services or supplies provided by such a provider. The Director, OCHAMPUS, or designee, also must determine if the patient is an eligible beneficiary, whether the services or supplies billed are authorized and medically necessary, and whether any of the authorized exclusions of otherwise qualified providers presented in this section apply.

(3) *Utlization review and quality assurance.* Services and supplies furnished by providers of care shall be subject to utilization review and quality assurance standards, norms, and criteria established under the TFMDP. Utilization review and quality assurance assessments shall be performed under the TFMDP. Utilization review and quality assurance assessments shall be performed under the TFMDP consistent with the nature and level of benefits of the plan, and shall include analysis of the data and findings by the dental plan contractor from other dental accounts.

(4) *Provider required.* In order to be considered benefits, all services and supplies shall be rendered by, prescribed by, or furnished at the direction of, or on the order of a TFMDP authorized provide practicing within the scope of his or her license.

(5) *Participating provider.* An authorized provider may elect to participate for all TFMDP beneficiaries and accept the fee or charge determinations as established and made known to the provider by the dental plan contractor. The fee or charge determinations are binding upon the provider in accordance with the dental plan contractor's procedures for participation. The authorized provider may not participate on a claim-by-claim basis. The participating provider must agree to accept, within one day of a request for appointment, beneficiaries in need of emergency palliative treatment. Payment to the participating provider is based on the lower of the actual charge or the dental plan contractor's determination of the allowable charge; however, payments to participating providers shall be in accordance with the methodology specified in paragraph (g)(2)(ii) of this section. Payment is made directly to the participating provider, and the participating provider may only charge the beneficiary the percent cost-share of the dental plan contractor's allowable charge for those benefit categories as specified in paragraph (e) of this section, in addition to the full charges for any services not authorized as benefits.

(6) *Nonparticipating provider.* An authorized provider may elect to not participate for all TFMDP beneficiaries and request the beneficiary or active duty member to pay any amount of the provider's billed charge in excess of the dental plan contractor's determination of allowable charges (to include the appropriate cost share). Neither the Government nor the dental plan contractor shall have any responsibility for any amounts over the allowable charges as determined by the dental plan contractor, except where the dental plan contractor is unable to identify a participating provider of care within thirty five (35) miles of the beneficiary's place of residence with appointment availabiltiy within twenty one (21) calendar days. In such instances of the nonavailability of a participating provider, the nonparticipating provider located within thirty five (35) miles of the beneficiary's place of residence shall be paid his or her usual fees (either by the beneficiary or the dental plan contractor if the beneficiary elected assignment of benefits), less the percent cost-share as specified in paragraph (e)(i) of this section.

(i) *Assignment of benefits.* A nonparticipating provider may accept assignment of benefits for claims (for beneficiaries certifying their wilingness to make such assignment of benefits) by filing the claims completed with the assistance of the beneficiary or active duty member for direct payment by the dental plan contractor to the provider.

(ii) *No assignment of benefits.* A nonparticipating provider for all beneficiaries may request that the beneficiary or active duty member file the claim directly with the dental plan contractor, making arrangements with the beneficiary or active duty member for direct payment by the beneficiary or active duty member.

(7) *Alternative delivery system*—(i) *General.* Alternative delivery systems may be established by the Director, OCHAMPUS, or designee, as authorized providers. Only dentists, dental hygienists and licensed anesthetists shall be authorized to provide or direct the provision of authorized services and supplies in an approved alternative delivery system.

(ii) *Defined.* An alternative delivery system may be any approved

arrangement for a preferred provider organization, capitation plan, dental health maintenance or clinic organization, or other contracted arrangement which is approved by OCHAMPUS in accordance with requirements and guidelines.

(iii) *Elective or exclusive arrangement.* Alternative delivery systems may be established by contract or other arrangement on either and elective or exclusive basis for beneficiary selection of participating and authorized providers in accordance with contractual requirements and guidelines.

(iv) *Provider election of participation.* Otherwise authorized providers must be provided with the opportunity of applying for participation in an alternative delivery system and of achieving participation status based on reasonable criteria for timeliness of application, quality of care, cost containment, geographic location, patient availability, and acceptance of reimbursement allowance.

(v) *Limitation on authorized providers.* Where exclusive alternative delivery systems are established, only providers participating in the alternative delivery system are authorized providers of care. In such instances, the TFMDP shall continue to pay beneficiary claims for services rendered by otherwise authorized providers in accordance with established rules for reimbursement of nonparticipating providers where the beneficiary has established a patient relationship with the nonparticipating provider prior to the TFMDP's proposal to subcontract with the alternative delivery system.

(vi) *Charge agreements.* Where the alternative delivery system employs a discounted fee-for-service reimbursement methodology or schedule of charges or rates which includes all or most dental services and procedures recognized by the American Dental Association's Council on Dental Care Program's Code on Dental Procedures and Nomenclature, the discounts or schedule of charges or rates for all dental services and procedures shall be extended by its participating providers to beneficiaries of the TFMDP as and incentive for beneficiary participation in the alternative delivery system.

(g) *Benefit payment.*—(1) *General.* TFMDP benefit payments are made either directly to the provider or to the beneficiary or active duty member, depending on the manner in which the claim is submitted or the terms of the subcontract of an alternative delivery system with the dental plan contractor.

(2) *Benefit payment.* Beneficiaries are not required to utilize participating providers. For beneficiaries who do use these participating providers, however, these providers shall not balance bill any amount in excess of the maximum payment allowed by the dental plan contractor for covered services. Beneficiaries using nonparticipating providers may be balance-billed amounts in excess of allowable charges. The following general requirements for the TFMDP benefit payment methodology shall be met, subject to modifications and exceptions approved by the Director, OCHAMPUS, or designee:

(i) Nonparticipating providers (or the beneficiaries or active duty members of unassigned claims) shall be reimbursed at the equivalent of not less than the 50th percentile of prevailing charges made for similar services in the same locality (region) or state, or the provider's actual charge, whichever is lower, subject to the exception listed in paragraph (e)(3)(ii) of this section, less any cost-share amount due for authorized services.

(ii) Participating providers shall be reimbursed at the equivalent of a percentile of prevailing charges sufficiently above the 50th percentile of prevailing charges made for similar services in the same locality (region) or state as to constitute a significant financial incentive for participation, or the provider's actual charge, whichever is lower, less any cost-share amount due for authorized services.

(3) *Fraud, abuse, and conflict of interest.* The provisions of § 199.9 shall apply except for § 199.9(e). All references to "CHAMPUS contractors", "CHAMPUS beneficiaries" and "CHAMPUS providers" in § 199.9 shall be construed to mean the "dental plan contractor", "TFDP beneficiaries" and "TFMDP providers" respectively for the purposes of this section. Examples of fraud include situations in which ineligible persons not enrolled in the TFMDP obtain care and file claims for benefits under the name and identification of an enrolled beneficiary; or when providers submit claims for services and supplies not rendered to beneficiaries; or when a participating provider bills the beneficiary for amounts over the dental plan contractors's determination of allowable charges; or when a provider fails to collect the specified patient cost-share amount.

(h) *Appeal and hearing procedures.* The provisions of § 199.10 shall apply except where noted in this section. All references to "CHAMPUS contractors", "CHAMPUS beneficiaries", "CHAMPUS participating providers" and "CHAMPUS Explanation of Benefits" in § 199.10 shall be construed to mean the "dental plan contractor", "TFMDP beneficiaries", "TFMDP participating providers" and "Dental Explanation of Benefits of DEOB" respectively for the purposes of this section. References to "OCAMPUSEUR" in § 199.10 are not applicable to the TFMDP or this section.

(1) *General.* See § 199.10(a).

(i) *Initial determination*—(A) *Notice of initial determination and right to appeal.* See § 199.10(a)(1)(i).

(B) *Effect of initial determination.* See § 199.10(a)(1)(ii).

(B) *Participation in an appeal.* Participating in an appeal is limited to any party to the initial determination, including OCHAMPUS, the dental plan contractor, and authorized representatives of the parties. Any party to the initial determination, except OCHAMPUS and the dental plan contractor, may appeal an adverse determination. The appealing party is the party who actually files the appeal.

(A) *Parties to the initial determination.* See § 199.10(a)(2)(i) and § 199.10(a)(2)(i)(A), (B), (C) and (E). In addition, a third party other than the dental plan contractor, such as an insurance company, is not a party to the initial determination and is not entitled to appeal, even though it may have an indirect interest in the initial determination.

(B) *Representative.* See § 199.10(a)(2)(ii).

(iii) *Burden of proof.* See § 199.10(a)(3).

(iv) *Evidence in appeal and hearing cases.* See § 199.10(a)(4).

(v) *Late filing.* If a request for reconsideration, formal review, or hearing is filed after the time permitted in this section, written notice shall be issued denying the request. Late filing may be permitted only if the appealing party reasonably can demonstrate to the satisfaction of the dental plan contractor, or the Director, OCHAMPUS, or designee, that timely filing of the request was not feasible due to extraordinary circumstances over which the appealing party had no practical control. Each request for an exception to the filing requirement will be considered on its own merits. The decision of the Director, OCHAMPUS, or a designee, on the request for an exception to the filing requirement shall be final.

(vi) *Appealable issue.* See § 199.10(a)(6), § 199.10(a)(6)(i), § 199.10(a)(6)(iv), including § 199.10(a)(6)(iv) (A) and (C), and § 199.10(a)(6)(v) for an explanation and examples of nonappealable issues.

Other examples of issues that are not appealable under this section include:

(A) The amount of the dental plan contractor-determined allowable charge since the methodology constitutes a limitation on benefits under the provisions of this section.

(B) Certain other issues on the basis that the authority for the initial determination is not vested in OCHAMPUS. Such issues include but are not limited to the following examples:

(*1*) A determination of a person's enrollment in the TFMDP is the responsibility of the dental plan contractor and ultimate responsibility for resolving a beneficiary's enrollment rests with the dental plan contractor. Accordingly, a disputed question of fact concerning a beneficiary's enrollment will not be considered an appealable issue under the provisions of this section, but shall be resolved in accordance with paragraph (c) of this section and the dental plan contractor's enrollment policies and procedures.

(*2*) Decisions relating to the issuance of a nonavailability statement (NAS) in each case are made by the Uniformed Services. Disputes over the need for an NAS or a refusal to issue an NAS are not appealable under this section. The one exception is when a dispute arises over whether the facts of the case demonstrate a dental emergency for which an NAS is not required. Denial of payment in this one situation is an appealable issue.

(*3*) Any decision or action on the part of the dental plan contractor to include a provider in their network or to designate a provider as participating is not appealable under this section. Similarly, any decision or action on the part of the dental plan contractor to exclude a provider from their network or to deny participating provider status is not appealable under this section.

(vii) *Amount in dispute.* (A) *General.* An amount in dispute is required for an adverse determination to be appealed under the provisions of this section, except as set forth or further explained in § 199.10(a)(7)(ii), (iii) and (iv).

(B) *Calculated amount.* The amount in dispute is calculated as the amount of money the dental plan contractor would pay if the services involved in the dispute were determined to be authorized benefits of the TFMDP. Examples of amounts of money that are excluded by this section from payments for authorized benefits include, but are not limited to:

(*1*) Amounts in excess of the dental plan contractor's-determined allowable charge.

(*2*) The beneficiary's cost-share amounts.

(*3*) Amounts that the beneficiary, or parent, guardian, or other responsible person has no legal obligation to pay.

(*4*) Amounts excluded under the provisions of § 199.8 of this part.

(viii) *Levels of appeal.* See § 199.10(a)(8)(i). Initials determinations involving the sanctioning (exclusion, suspension, or termination) of TFMDP providers shall be appealed directly to the hearing level.

(ix) *Appeal decision.* See § 199.10(a)(9).

(2) *Reconsideration.* See § 199.10(b).

(3) *Formal review.* See § 199.10(c).

(4) *Hearing.*—(i) *General.* See § 199.10(d) and § 199.10(d)(1) through (d)(5) and (d)(7) through (d)(12) for information on the hearing process.

(ii) *Authority of the hearing officer.* The hearing officer, in exercising the authority to conduct a hearing under this part, will be bound by 10 U.S.C., chapter 55, and this part. The hearing officer in addressing substantive, appealable issues shall be bound by the dental benefits brochure, policies, procedures, instructions and other guidelines issued by the ASD(HA), or a designee, or by the Director, OCHAMPUS, or a designee, in effect for the period in which the matter in dispute arose. A hearing officer may not establish or amend the dental benefits brochure, policy, procedures, instructions, or guidelines. However, the hearing officer may recommend reconsideration of the policy, procedures, instructions or guidelines by the ASD(HA), or a designee, when the final decision is issued in the case.

(5) *Final decision.* See § 199.10(e)(1) and § 199.10(e)(1)(i) for information on final decisions in the appeal and hearing process, with the exception that no recommended decision shall be referred for review by ASD(HA).

Dated: November 12, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–30072 Filed 11–23–99; 8:45 am]

BILLING CODE 5001–10–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 99–7]

Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The Copyright Office of the Library of Congress is preparing to conduct proceedings to make recommendations in accordance with section 1201(a)(1) of the Copyright Act, 17 U.S.C. 1201(a)(1), which was added by the Digital Millennium Copyright Act and which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumventing a technological measure that controls access to a copyrighted work. The purpose of this rulemaking proceeding is to determine whether there are classes of works as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses if they are prohibited from circumventing such technological measures. This notice requests written comments from all interested parties, including representatives of copyright owners, educational institutions, libraries and archives, scholars, researchers and members of the public, in order to elicit information and views on whether noninfringing uses of certain classes of works are, or are likely to be, adversely affected by such prohibition.

DATES: Written comments are due by February 10, 2000. Reply comments are due by March 13, 2000.

ADDRESSES: Submissions by electronic mail should be made to "1201@loc.gov"; see **SUPPLEMENTARY INFORMATION** section for file formats and other information about electronic filing. If delivered by hand, comments should be delivered to the Office of the General Counsel, Copyright Office, LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington DC. If delivered by mail, comments should be addressed to David O. Carson, General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. See **SUPPLEMENTARY INFORMATION** section for information about formats of submissions.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or

Charlotte Douglass, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380; telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION:

1. Written Comments

The Copyright Office will be placing all comments and reply comments that are submitted in electronic form on its Website (http://lcweb.loc.gov/copyright/1201). Because of this, the Office prefers that comments and reply comments be submitted in electronic form, in one of the following formats:

If by electronic mail: Send to "1201@loc.gov' " a message containing the name of the person making the submission, his or her title, organization, mailing address, telephone number, telefax number and e-mail address. The message should also identify the document clearly as either a comment or reply comment. The document itself must be sent as a MIME attachment, and must be in a single file in either Adobe Portable Document File (PDF) format (preferred), or in Microsoft Word Version 7.0 or earlier, or in WordPerfect 7 or earlier.

If by regular mail or hand delivery: Send, to the appropriate address listed above, two copies, each on a 3.5-inch write-protected diskette, labeled with the name of the person making the submission, his or her title and organization. The document itself must be in a single file in either Adobe Portable Document File (PDF) format (preferred), or in Microsoft Word Version 7.0 or earlier, or in WordPerfect Version 7 or earlier.

Anyone who is unable to submit a comment in electronic form should submit an original and fifteen paper copies by hand or by mail to the appropriate address listed above. It may not be feasible for the Office to place these comments on its website.

All written comments (in electronic or nonelectronic form) should contain the name of the person making the submission, his or her title, organization, mailing address, telephone number, telefax number and e-mail address.

2. Hearings and Further Comments

Following the receipt of reply comments, the Copyright Office will conduct hearings. The Office will then accept post-hearing written submissions that relate to matters addressed at the hearings. A hearing schedule will be announced in the future.

3. Mandate for Rulemaking Proceeding

On October 28, 1998, President Clinton signed into law the Digital Millennium Copyright Act, Pub. L. 105–304 (1998). Section 103 (subtitled "Copyright Protection Systems and Copyright Management Information") of Title I of the Act added a new Chapter 12 to title 17 United States Code, which among other things prohibits circumvention of access control technologies employed by or on behalf of copyright owners to protect their works. Specifically, new subsection 1201(a)(1)(A) provides, inter alia, that "No person shall circumvent a technological measure that effectively controls access to a work protected under this title." Subparagraph (B) limits this prohibition. It provides that anticircumvention "shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title" as determined in this rulemaking. This prohibition on circumvention becomes effective two years after the date of enactment, on October 28, 2000.

During the 2-year period between the enactment and effective date of the provision, the Librarian of Congress must make the determination as to classes of works exempted from the prohibition. This determination will be made upon the recommendation of the Register of Copyrights in a rulemaking proceeding. The determination thus made will remain in effect during the succeeding three years. In making her recommendation, the Register of Copyrights is to consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on the Assistant Secretary's views. 17 U.S.C. 1201(a)(1)(C).

4. Background

The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) require that Contracting Parties provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that authors (or, in the case of the WPPT, performers and producers of phonograms) use in connection with the exercise of their rights and that restrict acts which they have not authorized and are not permitted by law.

In fulfillment of these treaty obligations, Title I of the Digital Millennium Copyright Act makes it unlawful to defeat technological protections used by copyright owners to protect their works in digital environments, adding a new Chapter 12 to title 17, United States Code. Specifically, subsection (a)(1) of new section 1201 applies when a person who is not authorized by the copyright owner to gain access to a work seeks to do so by circumventing a technological measure put in place by the copyright owner to prevent access to the work. See Staff of House Committee on the Judiciary, 105th Cong., Section-By-Section Analysis of H.R. 2281 as Passed by the United States House of Representatives on August 4, 1998, (hereafter House Manager's Report) (Representative Coble) 5 (Comm. Print 1998).

That section provides that "No person shall circumvent a technological measure that effectively controls access to a work protected under this title." 17 U.S.C. 1201(a)(1)(A) (1998). The relevant terms are defined:

> [T]o "circumvent a technological measure" means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the copyright owner; and (B) a technological measure "effectively controls access to a work" if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

17 U.S.C. 1201(a)(3).

Congress found it appropriate to modify the prohibition to assure that the public will have continued ability to engage in noninfringing uses of copyrighted works, such as fair use. See H. R. Rep. No. 105–551, pt. 2, at 36 (1998) (hereinafter Commerce Comm. Report). To that end, the statute provides that:

> The prohibition contained in subparagraph (A) shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title, as determined under subparagraph (C).

17 U.S.C. 1201(a)(1)(B).

The prohibition against circumvention is subject to delayed implementation in order to permit determination whether users of particular classes of copyrighted works are likely to be adversely affected by the prohibition in their ability to make noninfringing uses. Within two years, upon the recommendation of the

Register of Copyrights in a rulemaking proceeding, the Librarian of Congress must determine whether to exempt certain classes of works (which he must identify) from the application of the anticircumvention prohibition due to such adverse effects.

Subparagraph (C) of section 1201(a)(1) provides that:

> During the 2-year period described in subparagraph(A), and during each succeeding 3-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation, shall make the determination in a rulemaking proceeding on the record for purposes of subparagraph (B) of whether persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition under subparagraph (A) in their ability to make noninfringing uses under this title of a particular class of copyrighted works.

17 U.S.C. 1201(a)(1)(C).

The Conference Report clarifies the procedure to be used in conducting the rulemaking:

> It is the intention of the conferees that, as is typical with other rulemaking under title 17, and in recognition of the expertise of the Copyright Office, the Register of Copyrights will conduct the rulemaking, including providing notice of the rulemaking, seeking comments from the public, consulting with the Assistant Secretary for Communications and Information of the Department of Commerce and any other agencies that are deemed appropriate, and recommending final regulations in the report to the Librarian.

H.R. Rep. No. 105–796, at 64 (1998).

Thus, the Register is to conduct a rulemaking proceeding, soliciting public comment and consulting with the Assistant Secretary of Commerce for Communications and Information, and make a recommendation to the Librarian, who by October 28, 2000, must make a determination whether any classes of copyrighted works should be exempt from the statutory prohibition against circumvention during the three years commencing on that date.

The primary responsibility of the Register and the Librarian in this respect is to assess whether the implementation of technological protection measures that effectively control access to copyrighted works is diminishing the ability of individuals to use copyrighted works in ways that are otherwise lawful. Commerce Comm. Report, at 37. As examples of technological protection measures in effect today, the Commerce Committee offered the use of "password codes" to control authorized access to computer programs, for example, or encryption or scrambling of cable programming, videocassettes, and CD-ROMs. *Id.*

Congress intended that the Register and Librarian solicit input that will enable them to consider a broad range of past or likely future adverse impacts. Thus, this notice requests written comments from all interested parties, including representatives of copyright owners, educational institutions, libraries and archives, scholars, researchers and members of the public. The nature of the Librarian's inquiry is delineated in the statutory areas to be examined:

> (i) the availability for use of copyrighted works;
>
> (ii) the availability for use of works for nonprofit archival, preservation, and educational purposes;
>
> (iii) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research;
>
> (iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and
>
> (v) such other factors as the Librarian considers appropriate.

17 U.S.C. 1201(a)(1)(C).

Substantial Effect on Use

It is clear from the legislative history that a determination to exempt a class of works from the prohibition on circumvention must be based on a determination that the prohibition has a substantial adverse effect on noninfringing use of that particular class of works. The Commerce Committee noted that the rulemaking proceeding is to focus on "distinct, verifiable, and measurable impacts, and should not be based upon *de minimis* impacts." Commerce Comm. Report, at 37. Similarly, the Manager's Report stated that "[t]he focus of the rulemaking proceeding must remain on whether the prohibition on circumvention of technological protection measures (such as encryption or scrambling) has caused any substantial adverse impact on the ability of users to make non-infringing uses," and suggested that "mere inconveniences, or individual cases * * * do not rise to the level of a substantial adverse impact." House Manager's Report, at 6.

Causal Connection

The legislative history also requires the Register and Librarian to disregard any adverse effects that are caused by factors other than the prohibition against circumvention. The House Manager's Report is instructive:

> The focus of the rulemaking proceeding must remain on whether the prohibition on circumvention of technological protection measures (such as encryption or scrambling) has caused any substantial adverse impact on the ability of users to make non-infringing uses. Adverse impacts that flow from other sources * * * or that are not clearly attributable to such a prohibition, are outside the scope of the rulemaking.

House Manager's Report, at 6. The House Commerce Committee came to a similar conclusion: "Adverse impacts that flow from other sources, or that are not clearly attributable to implementation of a technological protection measure, are outside the scope of the rulemaking." Commerce Comm. Report, at 37.

Some technological protection measures may mitigate adverse effects. Along those lines, the Librarian must also seek information about positive impacts of technological access control measures. The House Manager's Report notes that:

> In assessing the impact of the implementation of technological measures, and of the law against their circumvention, the rule-making proceedings should consider the positive as well as the adverse effects of these technologies on the availability of copyrighted materials. The technological measures—such as encryption, scrambling, and electronic envelopes—that this bill protects can be deployed, not only to prevent piracy and other economically harmful unauthorized uses of copyrighted materials, but also to support new ways of disseminating copyrighted materials to users, and to safeguard the availability of legitimate uses of those materials by individuals.

House Manager's Report, at 6.

Another mitigating factor may arise when a work as to which the copyright owner has instituted a technological control is also available in formats that are not subject to technological protections. For example, a work may be available in electronic format only in encrypted form, but may also be available in traditional hard copy format which has no such technological restrictions on access. The availability without restriction in the latter format may alleviate any adverse effect that would otherwise result from the technological controls utilized in the electronic format. The Librarian is to consider the availability of works in such other formats. *Id.* at 7.

The requirements that proponents of an exemption demonstrate both causality and substantial adverse effects on noninfringing uses also apply to the determination whether users of works "are likely to be" affected adversely in the three years following the conclusion of the rulemaking. Proponents who are unable to satisfy those burdens in the

current rulemaking will have the opportunity to make their cases in each of the triennial proceedings that will succeed it.

Scope of "Class of Copyrighted Works"

A major consideration is to determine how to define the scope of boundaries of a "particular class" of copyrighted works. This inquiry seeks to elicit information to assist the Librarian in addressing that ultimate question.

The House Manager's Report advises that the scope of "class of works" is narrower than the category of works set forth in 17 U.S.C. 102(a). For example, it notes that within the category of literary works, one finds prose journals, periodicals, and books as well as computer programs, and concludes that it is unlikely that the impact on prohibiting circumvention of access control technologies will be the same for scientific journals as it is for computer operating systems. Therefore, all of these types of literary works most likely would not fall within the same class of works for purposes of this section 1201(a)(1)(A) determination. *Id.* at 7. The Commerce Committee Report concurs that "the 'particular class of copyrighted works' (should) be a narrow and focused subset of the broad categories of works of authorship than is (sic) identified in Section 102 of the Copyright Act (17 U.S.C. 102)." Commerce Comm. Report, at 38.

Nevertheless, the Judiciary Committee cautioned against drawing the categories too narrowly, as would be its conclusion if, for example, particular genres of motion pictures were to be divided into thematic categories such as Westerns, comedies or live action dramas. House Manager's Report, at 7.

5. Specific Questions

The Office seeks comment on the following specific questions. Persons submitting comments need not address all questions, but are encouraged to respond to those as to which they have particular knowledge or information. Persons submitting comments are encouraged to submit concrete evidence, examples and data supporting their responses to these questions. Such submissions will carry greater weight than unsupported allegations and predictions.

In response to each question, persons submitting comments are requested to distinguish between (a) their response with respect to the current state of affairs, and (b) their response with respect to the state of affairs that is likely to exist during the period between October 28, 2000 and October 28, 2003. For example, in responding to Question No. 3, persons submitting comments are requested to state (a) what technological measures that effectively control access to copyrighted works exist today, and (b) what new technological measures that effectively control access to copyrighted works are likely to be introduced between October 28, 2000 and October 28, 2003. In discussing the state of affairs that is likely to exist during the period between October 28, 2000 and October 28, 2003, persons submitting comments should explain the basis for their projections.

A. Technological Measures

1. What technological measures that effectively control access to copyrighted works exist today?

2. Do different technological measures have different effects on the ability of users to make noninfringing uses? Can and should the Librarian take account of those different effects in determining whether to exempt any classes of works from the anticircumvention provisions of section 1201? If so, how? In determining what constitutes a class of works?

B. Availability of Works

3. How has the use of technological measures that effectively control access to copyrighted works affected the availability of such works to persons who are or desire to be lawful users of such works?

4. Are there specific works or classes of works that, because of the implementation of such technological measures, have become unavailable to persons who desire to be lawful users of such works? If so, identify those works or classes of works and explain how they have become unavailable.

5. Are there specific works or classes of works which, because of the implementation of such technological measures, have become less available to persons who desire to be lawful users of such works? If so, identify those works or classes of works, explain the ways in which they have become less available, and explain whether those works or classes of works are also available in other formats to which such technological measures have not been applied.

6. If there are works that are available both in formats to which technological measures have been applied and in formats to which technological measures have not been applied, to what extent can the works in the latter formats substitute for the works in the formats to which technological measures have been applied?

7. Are there works or classes of works that are available only electronically and only in formats to which such technological measures have been applied? If so, what are they?

C. Availability of Works for Nonprofit Archival, Preservation, and Educational Purposes

8. Has the use of technological measures that effectively control access to copyrighted works affected the availability of such works for nonprofit archival purposes? If so, how? Are there specific works or classes of works that have been affected in this respect? If so, identify them, explain how they have been affected, and explain whether those works or classes of works are also available in other formats to which such technological measures have not been applied.

9. Has the use of technological measures that effectively control access to copyrighted works created problems with respect to the preservation of such works? If so, how? Are there specific works or classes of works that have been affected in this respect? If so, identify them and explain how they have been affected.

10. Has the use of technological measures that effectively control access to copyrighted works affected the availability of such works for nonprofit educational purposes? If so, how? Are there specific works or classes of works that have been affected in this respect? If so, identify them, explain how they have been affected, and explain whether those works or classes of works are also available in other formats to which such technological measures have not been applied.

11. For purposes of this rulemaking, in classifying works that are to be exempted from the prohibition against circumvention of technological measures that control access, should any classes of works be defined, in part, based on whether the works are being used for nonprofit archival, preservation, and/or educational purposes? (*E.g.*, "new broadcasts" may not be an exempted class of works, but "news broadcasts used in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place of instruction," may be an exempted class.) Explain why or why not.

D. Impact on Criticism, Comment, News Reporting, Teaching, Scholarship, or Research

12. What impact has the use of technological measures that effectively control access to copyrighted works had on the ability of interested persons to engage in criticism, comment, news

reporting, teaching, scholarship, or research?

13. What impact has the use of technological measures that effectively control access to copyrighted works had on the ability of interested persons to engage in noninfringing uses of such works, including fair use and activities permitted by exemptions prescribed by law?

14. Are there specific works or classes of works with respect to which the ability of interested persons to engage in criticism, comment, news reporting, teaching, scholarship, or research has been hindered because of the implementation of such technological measures? If so, identify them, explain how such activities have been hindered, and explain whether those works or classes of works are also available in other formats to which such technological measures have not been applied.

15. Are there specific works or classes of works with respect to which the ability of interested persons to engage in noninfringing uses has been hindered because of the implementation of such technological measures? If so, identify them, explain how such activities have been hindered, and explain whether those works or classes of works are also available in other formats to which such technological measures have not been applied.

16. For purposes of this rulemaking, in classifying works that are to be exempted from the prohibition against circumvention of technological measures that control access, should any classes of works be defined, in part, based on whether the works are being used for purposes of criticism, comment, news reporting, teaching, scholarship, or research? Explain why or why not.

17. For purposes of this rulemaking, in classifying works that are to be exempted from the prohibition against circumvention of technological measures that control access, should any classes of works be defined, in part, based on whether the works are being used in ways that do not constitute copyright infringement, e.g., as fair use or in a manner permitted by exemptions prescribed by law? Explain why or why not.

E. Effect of Circumvention on the Market for or Value of Copyrighted Works

18. In what ways can technological measures that effectively control access to copyrighted works be circumvented? How widespread is such circumvention?

19. Has such circumvention (or the likelihood of circumvention) had any impact on the price of copyrighted works? Please explain.

20. Has such circumvention (or the likelihood of circumvention) had any impact on the availability of copyrighted works? In particular formats or in all formats? Please explain.

21. Has such circumvention had any other impact on the marketing of copyrighted works? If so, please explain the impact and which works or classes of works have been affected.

22. Do the answers to any of these questions relating to the effect of circumvention on the market for or value of copyrighted works depend upon the class of work? Please explain.

F. Other Factors and Questions

23. For purposes of this rulemaking, what criteria should be used in determining what is a "class" of copyrighted works?

24. With respect to any adverse effect on use of or access to copyrighted works that has been identified in response to any of the preceding questions, is there an explanation for the adverse effect other than the presence of technological measures that effectively control access to copyrighted works?

25. Has the use of technological measures that effectively control access to copyrighted works resulted in making copyrighted works more widely available? Please explain.

26. Has the use of technological measures that effectively control access to copyrighted works resulted in facilitating lawful uses of copyrighted works?

27. Are there other factors that should be taken into account? If so, please identify and address those factors.

28. What other comments, if any, do you have?

29. Do you wish to testify at a hearing to be conducted by the Copyright Office in connection with this rulemaking?

Dated: November 15, 1999.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 99–30556 Filed 11–23–99; 8:45 am]

BILLING CODE 1410–30–P

POSTAL SERVICE

39 CFR Part 111

Standards Governing the Design of Curbside Mailboxes; Meeting

AGENCY: Postal Service.

ACTION: Notice of Meeting.

SUMMARY: The Postal Service will hold further meetings of a Consensus Committee to develop recommendations for revision of USPS STD 7A, which governs the design of curbside mailboxes. The committee will develop and adopt its recommendations through a consensus process. The committee will consist of persons who represent the interests affected by the proposed rule, including mailbox manufacturers, mailbox accessory manufacturers, and postal customers.

Meeting Dates: The third committee meeting is tentatively scheduled for January 12–13, 2000. The meeting tentatively scheduled for December 14–15, 1999 is canceled.

Meeting Place: U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW, Washington, DC 20260.

FOR FURTHER INFORMATION CONTACT: Annamarie Gildea, (202) 268–3558.

SUPPLEMENTARY INFORMATION: Mail comments and all other communications regarding the committee to Annamarie Gildea, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW, Room 7142, Washington, DC 20260. Committee documents will be available for public inspection and copying between 9 a.m. and 4 p.m. weekdays at the address above. Entry into U.S. Postal Service Headquarters is controlled. Persons wishing to attend the next meeting must send a fax to Annamarie Gildea at 202–268–5293 no later than January 5, 2000 with the person's name and organizational affiliation, if any. For additional information regarding the USPS STD 7A Consensus Committee, see **Federal Register** Vol 64, No. 158, p. 44681 (August 17, 1999).

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–30377 Filed 11–23–99; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 022–0196; FRL–6480–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a disapproval of revisions to the

California State Implementation Plan (SIP). These revisions concern the potential exemption of sources from applicable emission limits contained in certain source category specific rules when excess emissions occur during facility start-up and shutdown. EPA has evaluated these revisions and is proposing to disapprove them because they contain deficiencies that, if approved, would weaken the SIP.

DATES: Comments on this proposed action must be received in writing on or before December 9, 1999.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule (the Technical Support Document, or TSD, dated November 9, 1999) are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.
South Coast Air Quality Management District, 21865. E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Thomas C. Canaday, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1202.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for disapproval is South Coast Air Quality Management District (SCAQMD) Rule 429—Startup and Shutdown Exemption Provisions for Oxides of Nitrogen. Rule 429 was submitted to EPA by the SCAQMD on January 28, 1992.

II. Background

This document addresses EPA's proposed action for South Coast Air Quality Management District (SCAQMD) Rule 429—Startup and Shutdown Exemption Provisions for Oxides of Nitrogen. SCAQMD adopted Rule 429 on December 21, 1990, and submitted it to EPA on January 28, 1992. Rule 429 was found to be complete on April 3, 1992, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V [1].

III. EPA Evaluation and Proposed Action

In determining the approvability of a rule, EPA must evaluate the rule for consistency with the requirements of the Clean Air Act (CAA) and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for this action, appears in EPA policy guidance documents. EPA policy on excess emissions occurring during start-up and shutdown is contained in a memorandum dated September 20, 1999, entitled "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Start-up, and Shutdown" (the Excess Emissions Policy). In general, the guidance document cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted rules meet Federal requirements, are fully enforceable, and strengthen or maintain the SIP.

There is currently no version of South Coast Air Quality Management District (SCAQMD) Rule 429—Startup and Shutdown Exemption Provisions for Oxides of Nitrogen in the SIP. The submitted rule includes the following provisions:

- Definitions of various terms used in the rule.
- General provisions establishing the applicability of the rule and requiring that facilities seeking relief under Rule 429 mitigate emissions to the extent practicable.
- Time limits on start-up and shutdown intervals and a maximum number of scheduled start-ups/shutdowns per year for each affected source category.
- Provisions describing the notification and recordkeeping requirements for facilities seeking relief under Rule 429.

SCAQMD Rule 429 requires that facilities seeking exemption for excess emissions give prior notification of scheduled start-ups and shutdowns. Exemptions are allowed only for excess emissions that occur during scheduled start-ups and shutdowns for which notification is given. Rule 429 also requires that records of certain process variables be maintained and kept on-site for a period of two years.

Under Section 110(l) of the CAA, EPA may not approve a SIP revision "if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of [the Act]." This provision serves to ensure that the State, in seeking a revision to its SIP, does not impair its compliance with the statutory mandates applicable to the SIP. One such requirement is Section 172(c)(1), which mandates that SIP provisions implement reasonably available control technology (RACT).

In order to clarify which excess emissions provisions are approvable as SIP revisions under the CAA, and to provide guidance to States and local air districts, the Agency recently reissued its policy. The Excess Emissions Policy states that EPA may approve SIP revisions providing source-category specific exemptions for excess emissions that occur during start-up and shutdown periods only if the source's control strategy is such that compliance with otherwise applicable emission limits is technologically infeasible during these periods. The policy also requires that the frequency and duration of the excess emissions be minimized to the maximum extent practicable. These requirements are based on Sections 110(l) and 172(c)(1) and are meant to ensure that the excess emissions provisions do not interfere with attainment, maintenance, or other applicable requirements.

The SCAQMD Staff Report (dated October 30, 1990) that provides the technical basis for Rule 429 fails to establish the technological necessity of the exemptions and, further, does not demonstrate that the exemption periods have been minimized. The source category specific rules from which Rule 429 provides exemption implement RACT for sources in those source categories. Therefore, exemption from those rules is allowable under Section 172(c)(1) only when the otherwise reasonably available control technologies are not reasonably available during start-up and shutdown. Further, in keeping with Section 110(l) of the CAA, EPA may approve into the SIP exemptions such as those provided under Rule 429 only if they do not interfere with attainment or maintenance. If Rule 429 excused only those excess emissions that are technologically unavoidable, then the Rule would be less likely to interfere with attainment. However, Rule 429 fails to include such a limitation.

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

An additional deficiency of Rule 429 is that it contains vague or contradictory language that makes it unclear when otherwise applicable emission limits would apply to a given source. These instances include sections (a)(5) and (b)(3) of the rule and are detailed in the TSD. Section 110(a)(2)(A) of the CAA requires that the emissions limitations included in SIPs be enforceable. Thus, Rule 429 violates Section 110(a)(2)(A) of the CAA and is not an approvable SIP revision.

In conclusion, rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP, and must conform with EPA policy in order to be approved by EPA. As described above, SCAQMD Rule 429 is deficient because it does not maintain or strengthen the SIP, and because its vague or contradictory language renders it unenforceable. SCAQMD Rule 429, if approved, would exempt certain sources from applicable emissions limits contained in the SIP. The CAA and EPA policy, under certain circumstances, allow for such exemptions. However, the exemptions provided by Rule 429 are not sufficiently limited and could result in exempted emissions that might threaten the NAAQS, PSD increments, or other air quality standards. Thus the submitted Rule 429 would, if approved, weaken the SIP. A more detailed discussion of EPA's evaluation of SCAQMD Rule 429 can be found in the TSD.

Because of the identified deficiencies, EPA cannot grant approval of SCAQMD Rule 429 under section 110(k)(3) and part D. Therefore, in order to maintain the SIP, EPA is proposing a disapproval of this rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, ■ summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would

constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 12, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–30613 Filed 11–23–99; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL SCIENCE FOUNDATION

45 CFR Parts 612 and 613

RIN 3145–AA31 and –AA32

Revision of Freedom of Information Act and Privacy Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996

AGENCY: National Science Foundation.

ACTION: Proposed rule.

SUMMARY: This document sets forth proposed revisions of the Foundation's regulations under the Freedom of Information Act (FOIA) and Privacy Act. The new FOIA provisions implement the Electronic Freedom of Information Act Amendments of 1996, including revised time limit on response, negotiating with the requester, and expedited processing procedures. They make no changes in the figures currently used for calculating and charging fees under the FOIA. The Privacy Act regulations have been restructured for ease of use and outdated information eliminated.

DATES: Submit comments on or before December 27, 1999.

ADDRESSES: Address all comments concerning this proposed rule to D. Matthew Powell, Assistant General Counsel, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: D. Matthew Powell (703) 306–1060.

SUPPLEMENTARY INFORMATION:

Availability of Records and Information (45 CFR part 612) (FOIA Regulations)

This revision of part 612 incorporates changes to the language and structure of the regulations and also adds new provisions to implement the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231). New provisions implementing the amendments are found at § 612.2(b) (electronic reading rooms), § 612.5(b) (timing of responses), § 612.6(b) (deletion marking), § 612.6(c)(1) (volume estimation), § 612.10(b)(3) (format of disclosure), and § 612.10(b)(8) (electronic searches).

Privacy Act Regulations (45 CFR 613)

This revision of part 613 revises the structure of the regulations and makes them more consistent with the FOIA regulations. It applies the FOIA fee schedule for duplication of Privacy records which should eliminate copying fees for nearly all Privacy Act requesters. Verification procedures have been updated to include the use of a statement of identity under 28 U.S.C. 1746 and to allow for release of records to a third party in specified circumstances. The revision includes exemptions to protect from disclosure confidential sources of information compiled for enforcement of the Antarctic Conservation Act, and in investigations of scientific misconduct and personnel security clearances. It also eliminates references to out-of-date system notices.

Regulatory Flexibility Act, Unfunded Mandates Reform Act, Executive Order 12866, and Paperwork Reduction Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601), the proposed rule will not have a significant economic effect on a substantial number of small entities; the proposed rule addresses the procedures to be followed when submitting or responding to requests for information under the Freedom of Information Act and Privacy Act. For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) the proposed rule would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more. For purposes of Executive Order 12866, the proposed rule is not a significant regulatory action requiring review by the Office of Management and Budget. For the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 35) it has been determined that this proposed rulemaking does not impose any reporting or recordkeeping requirement on the public.

List of Subjects

45 CFR part 612

Administrative practice and procedure; Freedom of information

45 CFR part 613

Administrative practice and procedure; Privacy.

For the reasons stated in the preamble, the National Science Foundation proposes to amend 45 CFR Chapter VI as follows:

1. By revising Part 612 to read as follows:

PART 612—AVAILABILITY OF RECORDS AND INFORMATION

Sec.

612.1 General provisions.
612.2 Public reading room.
612.3 Requirements for making requests.
612.4 Responding to requests.
612.5 Timing of responses to requests.
612.6 Responses to requests.
612.7 Exemptions.
612.8 Business information.
612.9 Appeals.
612.10 Fees.
612.11 Other rights and services.

Authority: 5 U.S.C. 552, as amended.

§ 612.1 General provisions

This part contains the rules that the National Science Foundation follows in

processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. Information routinely made available to the public as part of a regular Foundation activity (for example, program announcements and solicitations, summary of awarded proposals, statistical reports on U.S. science, news releases) may be provided to the public without reliance on this part. As a matter of policy, the Foundation also makes discretionary disclosures of records or information otherwise exempt under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption. This policy, however, does not create any right enforceable in court. When individuals seek records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, NSF processes those requests under both NSF's Privacy regulations at part 613, and this part.

§ 612.2 Public reading room

(a) The Foundation maintains a public reading room located in the NSF Library at 4201 Wilson Boulevard, Suite 225, Arlington, Virginia, open during regular working hours Monday through Friday. It contains the records that the FOIA requires to be made regularly available for public inspection and copying and has computers and printers available for public use in accessing records. Also available for public inspection and copying are current subject matter indexes of reading room records.

(b) Information about FOIA and Privacy at NSF and copies of frequently requested FOIA releases are available online at <www.nsf.gov/pubinfo/foia.html>. Most NSF policy documents, staff instructions, manuals, and other publications that affect a member of the public, are available in electronic form through the "Documents" option on the tool bar on NSF's Home Page on the World Wide Web at <www.nsf.gov>.

§ 612.3 Requirements for making requests.

(a) *Where to send a request.* You may make a FOIA request for records of the National Science Foundation by writing directly to the FOIA Officer, Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, VA 22230. For records maintained by the NSF Office of the Inspector General (OIG), you may write directly to the Office of Inspector General, National Science Foundation, 4201 Wilson Boulevard, Suite 1135, Arlington, VA 22230. The FOIA Officer will also forward requests for OIG records to that Office. Requests may also be sent by facsimile to (703) 306–0149 or by e-mail to foia@nsf.gov.

(b) *Form of request.* A FOIA request need not be in any particular format, but it must be in writing, include the requester's name and mailing address, and be clearly identified both on the envelope and in the letter, or in a facsimile or electronic mail message as a Freedom of Information Act or "FOIA" request. It must describe the records sought with sufficient specificity to permit identification, and include agreement to pay applicable fees as described in § 612.10. NSF is not obligated to act upon a request until it meets these procedural requirements.

(c)(1) If you are making a request for records about yourself and the records are not contained in a Privacy Act system of records, your request will be processed only under the FOIA, since the Privacy Act does not apply. If the records about you are contained in a Privacy Act system of records, NSF will respond with information on how to make a Privacy Act request (see NSF Privacy Act regulations at 45 CFR 613.2).

(2) If you are making a request for personal information about another individual, either a written authorization signed by that individual in accordance with § 613.2(f) of this chapter permitting disclosure of those records to you, or proof that that individual is deceased (for example, a copy of a death certificate or a published obituary) will help the agency process your request.

(d) *Description of records sought.* Your request must describe the records that you seek in enough detail to enable NSF personnel to locate them with a reasonable amount of effort. A record must have been created or obtained by NSF and under the control of NSF at the time of the request to be subject to the FOIA. NSF has no obligation under the FOIA to create, compile or obtain a record to satisfy a FOIA request. Whenever possible, your request should include specific descriptive information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. As a general rule, the more specific you are about the records or type of records that you want, the more likely the Foundation will be able to locate those records in response to your request, and the more likely fees will be reduced or eliminated. If NSF determines that your request does not reasonably describe records, you will be advised what additional information is needed to perfect your request or why your request is otherwise insufficient.

(e) *Agreement to pay fees.* Your request must state that you will promptly pay the total fees chargeable under this regulation or set a maximum amount you are willing to pay. NSF does not charge if fees total less than $25.00. If you seek a waiver of fees, please see § 612.10(k) for a discussion of the factors you must address. If you place an inadequate limit on the amount you will pay, or have failed to make payments for previous requests, NSF may require advance payment (see § 612.10(i)).

(f) *Receipt date.* A request that meets the requirements of this section will be considered received on the date it is received by the Office of the General Counsel or the Office of the Inspector General. In determining which records are responsive to a FOIA request, the Foundation will include only records in its possession as of the date of receipt.

(g) *Publications excluded.* For the purpose of public requests for records the term "record" does not include publications which are available to the public in the **Federal Register**, or by sale or free distribution. Such publications may be obtained from the Government Printing Office, the National Technical Information Service, the NSF Publications Clearinghouse PO Box 218, Jessup, MD 20794–0218, or through NSF's Home Page on the World Wide Web at <www.nsf.gov> "Documents." Requests for such publications will be referred to or the requester informed of the appropriate source.

§ 612.4 Responding to requests.

(a) *Monitoring of requests.* The NSF Office of the General Counsel (OGC), or such other office as may be designated by the Director, will serve as the central office for administering these regulations. For records maintained by the Office of Inspector General, that Office will control incoming requests made directly or referred to it, dispatch response letters, and maintain administrative records. For all other records maintained by NSF, OGC (or such other office as may be designated by the Director) will control incoming requests, assign them to appropriate action offices, monitor compliance, consult with action offices on disclosure, approve necessary extensions, dispatch denial and other letters, and maintain administrative records.

(b) *Consultations and referrals.* When the Foundation receives a request for a record in its possession that originated with another agency or in which another agency has a substantial interest, it may decide that the other agency of the Federal Government is better able to determine whether the

record should or should not be released under the FOIA.

(1) If the Foundation determines that it is the agency best able to process the record in response to the request, then it will do so, after consultation with the other interested agencies where appropriate.

(2) If it determines that it is not the agency best able to process the record, then it will refer the request regarding that record (or portion of the record) to the agency that originated or has a substantial interest in the record in question (but only if that agency is subject to the FOIA). Ordinarily, the agency that originated a record will be presumed to be best able to determine whether to disclose it.

(3) Where the Foundation reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

(c) *Notice of referral.* Whenever the Foundation refers all or any part of the responsibility for responding to a request to another agency, it ordinarily will notify the requester of the referral and inform the requester of the name of each agency to which the request has been referred and of the part of the request that has been referred, unless such notification would disclose information otherwise exempt.

§ 612.5 Timing of responses to requests.

(a) *In general.* NSF ordinarily will initiate processing of requests according to their order of receipt.

(b) *Time for response.* The Foundation will make reasonable effort to act on a request within 20 days of when a request is received or perfected (excluding the date of receipt, weekends, and legal holidays). A request is perfected when you have reasonably described the records sought under § 612.3(d), agreed to pay fees under § 612.3(c), or otherwise met the fee requirements under § 612.10.

(c) *Unusual circumstances.* (1) Where the time limits for processing a request cannot be met because of unusual circumstances, the FOIA Officer will notify the requester as soon as practicable in writing of the unusual circumstances and may extend the response period for up to ten working days.

(2) Where the extension is for more than ten working days, the FOIA Officer will provide the requester with an opportunity either to modify the request so that it may be processed within the ten day extension period or to arrange an agreed upon alternative time period with the FOIA Officer for processing the request or a modified request.

(d) *Expedited processing.* (1) If you want to receive expedited processing you must submit a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for requesting expedited processing.

(2) Requests and appeals will be given expedited treatment whenever it is determined that a requester has demonstrated compelling need by presenting:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged Federal government activity, if made by a person primarily engaged in disseminating information.

For example, a requester who is not a full-time member of the news media must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. Such requester also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally, and that the information sought has particular value that would be lost if not disseminated quickly.

(3) Within ten calendar days of receipt of a request for expedited processing, the FOIA Officer or OIG will decide whether to grant it, and will notify the requester of the decision orally or in writing. If a request for expedited treatment is granted, the request will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

§ 612.6 Responses to requests.

(a) *Acknowledgment of requests.* The FOIA Officer will ordinarily send an acknowledgment of a FOIA request only if it is anticipated that a determination on release will not be possible within 20 working days.

(b) *Grants of requests.* Once the Foundation makes a determination to grant a request in whole or in part, it will notify the requester in writing. The Foundation will inform the requester in the notice of any applicable fee and will disclose records to the requester promptly on payment of applicable fees. Records disclosed in part will be marked or annotated to show both the amount and the location of the information deleted where practicable.

(c) *Denials of requests.* (1) Denials of FOIA requests will be made by the Office of the General Counsel, the Office of the Inspector General, or such other office as may be designated by the Director. The response letter will briefly set forth the reasons for the denial, including any FOIA exemption(s) applied by the Foundation in denying the request. It will also provide the name and title or position of the person responsible for the denial, will inform the requester of the right to appeal, and will, where appropriate, include an estimate of the volume of any requested materials withheld. An estimate need not be provided when the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption.

(2) Requesters can appeal an agency determination to withhold all or part of any requested record; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the Act; a disapproval of a fee category claim by a requester; denial of a fee waiver or reduction; or a denial of a request for expedited treatment (see § 612.9).

§ 612.7 Exemptions.

(a) *Exemptions from disclosure.* The following types of records or information may be withheld as exempt in full or in part from mandatory public disclosure:

(1) *Exemption 1—5 U.S.C. 552(b)(1).* Records specifically authorized and properly classified pursuant to Executive Order to be kept secret in the interest of national defense or foreign policy. NSF does not have classifying authority and normally does not deal with classified materials.

(2) *Exemption 2—5 U.S.C. 552(b)(2).* Records related solely to the internal personnel rules and practices of NSF. This exemption primarily protects information that if released would allow the recipient to circumvent a statute or agency regulation. Administrative information such as rules relating to the work hours, leave, and working conditions of NSF personnel, or similar matters, can be disclosed to the extent that no harm would be caused to the functions to which the information pertains. Examples of records exempt from disclosure include, but are not limited to:

(i) Operating rules, guidelines, manuals on internal procedure, schedules and methods utilized by NSF investigators, inspectors, auditors and examiners.

(ii) Negotiating positions or limits at least until the execution of a contract (including a grant or cooperative agreement) or the completion of the action to which the negotiating positions were applicable. They may also be exempt pursuant to other provisions of this section.

(iii) Information relating to position management and manpower utilization, such as internal staffing plans, authorizations or controls, or involved in determination of the qualifications of candidates for employment, advancement, or promotion including examination questions and answers.

(iv) Computer software, the release of which would allow circumvention of a statute or NSF rules, regulations, orders, manuals, directives, instructions, or procedures; or the integrity and security of data systems.

(3) *Exemption 3—5 U.S.C. 552(b)(3).* Records specifically exempted from disclosure by another statute that either requires that the information be withheld in such a way that the agency has no discretion in the matter; or establishes particular criteria for withholding or refers to particular types of information to be withheld. Examples of records exempt from disclosure include, but are not limited to:

(i) Trade secrets, processes, operations, style of work, or apparatus; or the confidential statistical data, type, amount, or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation or association, 18 U.S.C. 1905;

(ii) Records that disclose any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license), 35 U.S.C. 205;

(iii) Contractor proposals not specifically set forth or incorporated by reference into a contract, 41 U.S.C. 253b(m);

(iv) Information protected by the Procurement Integrity Act, 41 U.S.C. 423.

(4) *Exemption 4—5 U.S.C. 552(b)(4).* Trade secrets and commercial or financial information obtained from a person, and privileged or confidential. Information subject to this exemption is that customarily held in confidence by the originator(s), including nonprofit organizations and their employees. Release of such information is likely to cause substantial harm to the competitive position of the originator or submitter, or impair the Foundation's ability to obtain such information in the future. NSF will process information potentially exempted from disclosure by Exemption 4 under section 612.8. Examples of information exempt from disclosure include, but are not limited to:

(i) Information received in confidence, such as grant applications, fellowship applications, and research proposals prior to award;

(ii) Confidential scientific and manufacturing processes or developments, and technical, scientific, statistical data or other information developed by a grantee.

(iii) Technical, scientific, or statistical data, and commercial or financial information privileged or received in confidence from an existing or potential contractor or subcontractor, in connection with bids, proposals, or contracts, concerning contract performance, income, profits, losses, and expenditures, as well as trade secrets, inventions, discoveries, or other proprietary data. When the provisions of 41 U.S.C. 253b(m) or 41 U.S.C. 423 are met, certain proprietary and source selection information may also be withheld under Exemption 3.

(iv) Confidential proprietary information submitted on a voluntary basis.

(v) Statements or information collected in the course of inspections, investigations, or audits, when such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

(5) *Exemption 5—5 U.S.C. 552(b)(5).* Inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with NSF. Factual material contained in such records will be considered for release if it can be reasonably segregated and is not otherwise exempt. Examples of records exempt from disclosure include, but are not limited to:

(i) Reports, memoranda, correspondence, workpapers, minutes of meetings, and staff papers, containing evaluations, advice, opinions, suggestions, or other deliberative material that are prepared for use within NSF or within the Executive Branch of the Government by agency personnel and others acting in a consultant or advisory capacity;

(ii) Advance information on proposed NSF plans to procure, lease, or otherwise acquire, or dispose of materials, real estate, facilities, services or functions, when such information would provide undue or unfair competitive advantage to private interests or impede legitimate government functions;

(iii) Trade secret or other confidential research development, or commercial information owned by the Government, where premature release is likely to affect the Government's negotiating position or other commercial interest;

(iv) Records prepared for use in proceedings before any Federal or State court or administrative body;

(v) Evaluations of and comments on specific grant applications, research projects or proposals, or potential contractors and their products, whether made by NSF personnel or by external reviewers acting either individually or in panels, committees or similar groups;

(vi) Preliminary, draft or unapproved documents, such as opinions, recommendations, evaluations, decisions, or studies conducted or supported by NSF;

(vii) Proposed budget requests, and supporting projections used or arising in the preparation and/or execution of a budget; proposed annual and multi-year policy, priorities, program and financial plan and supporting papers;

(viii) Those portions of official reports of inspection, reports of the Inspector General, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of NSF, when these records have traditionally been treated by the courts as privileged against disclosure in litigation.

(6) *Exemption 6—5 U.S.C. 552(b)(6).* Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The exemption applies to living persons and to family members of a deceased person identified in a record. Information in such files which is not otherwise exempt from disclosure pursuant to other provisions of this section will be released to the subject or to his designated legal representative, and may be disclosed to others with the subject's written consent. Examples of records exempt from disclosure include, but are not limited to:

(i) Reports, records, and other materials pertaining to individual cases in which disciplinary or other administrative action has been or may be taken. Opinions and orders resulting from those administrative or disciplinary proceedings shall be disclosed without identifying details if used, cited, or relied upon as precedent.

(ii) Records compiled to evaluate or adjudicate the suitability of candidates for employment, and the eligibility of individuals (civilian or contractor

employees) for security clearances, or for access to classified information.

(iii) Reports and evaluations which reflect upon the qualifications or competence of individuals.

(iv) Personal information such as home addresses and telephone and facsimiles numbers, private e-mail addresses, social security numbers, dates of birth, marital status and the like.

(iv) The exemption also applies when the fact of the existence or nonexistence of a responsive record would itself reveal personally private information, and the public interest in disclosure is not sufficient to outweigh the privacy interest.

(7) *Exemption 7—5 U.S.C. 552(b)(7).* Records or information compiled for civil or criminal law enforcement purposes, including the implementation of Executive Orders or regulations issued pursuant to law. This exemption may exempt from mandatory disclosure records not originally created, but later gathered, for law enforcement purposes.

(i) This exemption applies only to the extent that the production of such law enforcement records or information:

(A) Could reasonably be expected to interfere with enforcement proceedings;

(B) Would deprive a person of the right to a fair trial or an impartial adjudication;

(C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy of a living person, or family members of a deceased person identified in a record;

(D) Could reasonably be expected to disclose the identity of a confidential source, including a source within the Federal Government, or a State, local, or foreign agency or authority, or any private institution, that furnished information on a confidential basis; and information furnished by a confidential source and obtained by a criminal law enforcement authority in a criminal investigation;

(E) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(F) Could reasonably be expected to endanger the life or physical safety of any individual.

(ii) Examples of records exempt from disclosure include, but are not limited to:

(A) The identity and statements of complainants or witnesses, or other material developed during the course of an investigation and all materials prepared in connection with related government litigation or adjudicative proceedings;

(B) The identity of firms or individuals investigated for alleged irregularities involving NSF grants, contracts or other matters when no indictment has been obtained, no civil action has been filed against them by the United States, or no government-wide public suspension or debarment has occurred.

(C) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by the NSF Officer of the Inspector General.

(iii) The exclusions contained in 5 U.S.C. 552(c)(1) and (2) may also apply to these records.

(8) *Exemption 8—5 U.S.C. 552(b)(8).* Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(9) *Exemption 9—5 U.S.C. 552(b)(9).* Records containing geological and geophysical information and data, including maps, concerning wells.

(b) *Deletion of exempt portions and identifying details.* Any reasonably segregable portion of a record will be provided to requesters after deletion of the portions which are exempt. Whenever any final opinion, order, or other materials required to be made available relates to a private party or parties and the release of the name(s) or other identifying details will constitute a clearly unwarranted invasion of personal privacy, the record shall be published or made available with such identifying details left blank, or shall be published or made available with obviously fictitious substitutes and with a notification such as the following: Names of parties and certain other identifying details have been removed (and fictitious names substituted) in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved.

§ 612.8 Business information.

(a) *In general.* Business information obtained by the Foundation from a submitter of that information will be disclosed under the FOIA only under this section's procedures.

(b) *Definitions.* For purposes of this section:

(1) *Business Information* means commercial or financial information obtained by the Foundation from a submitter that may be protected from disclosure under Exemption 4 of the FOIA and § 612.7(a)(4).

(2) *Submitter* means any person or entity from whom the Foundation obtains business information, directly or indirectly. The term includes corporations; state, local, and tribal governments; and foreign governments.

(c) *Designation of business information.* A submitter of business information must use good faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(d) *Notice to submitters.* The Foundation will provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information wherever required under this section, in order to give the submitter an opportunity to object to disclosure of any specified portion of that information under paragraph (f) of this section. The notice shall either describe the business information requested or include copies of the requested records or record portions containing the information.

(e) *Where notice is required.* Notice will be given to a submitter wherever:

(1) The information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(2) The Foundation has reason to believe that the information may be protected from disclosure under Exemption 4.

(f) *Opportunity to object to disclosure.* NSF will allow a submitter a reasonable time, consistent with statutory requirements, to respond to the notice described in paragraph (d) of this section. If a submitter has any objection to disclosure, it must submit a detailed written statement. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of Exemption 4, must show why the information is a trade secret, or commercial or financial information that is privileged or confidential. In the event that a submitter fails to respond within the time specified in the notice, the submitter will be considered to have no objection to disclosure of the information. Information provided by a submitter under this paragraph may itself be a record subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* The Foundation will consider a submitter's objections and specific grounds for nondisclosure in deciding whether to

disclose business information. Whenever it decides to disclose business information over the objection of a submitter, the Foundation will give the submitter written notice, which will include:

(1) A statement of the reason(s) why the submitter's disclosure objections were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which will be a reasonable time subsequent to the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section will not apply if:

(1) The Foundation determines that the information should not be disclosed (the Foundation protects from disclosure to third parties information about specific unfunded applications, including pending, withdrawn, or declined proposals);

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (3 CFR, 1988 Comp., p. 235); or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous, in which case the Foundation will, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(i) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the Foundation will promptly notify the submitter(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the Foundation will notify the requester(s).

§ 612.9 Appeals.

(a) *Appeals of denials.* You may appeal a denial of your request to the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, VA 22230. You must make your appeal in writing and it must be received by the Office of the General Counsel within ten days of the receipt of the denial (weekends, legal holidays, and the date of receipt excluded). Clearly mark your appeal letter and the envelope "Freedom of Information Act Appeal." Your appeal letter must include a copy of your written request and the denial together with any written argument you wish to submit.

(b) *Responses to appeals.* A written decision on your appeal will be made by the General Counsel. A decision affirming an adverse determination in whole or in part will contain a statement of the reason(s) for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA provisions for court review of the decision. If the adverse determination is reversed or modified on appeal, in whole or in part, you will be notified in a written decision and your request will be reprocessed in accordance with that appeal decision.

(c) *When appeal is required.* If you wish to seek review by a court of any denial, you must first appeal it under this section.

§ 612.10 Fees

(a) *In general.* NSF will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (k) of this section. If fees are applicable, NSF will itemize the amounts charged. NSF may collect all applicable fees before sending copies of requested records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. When it appears that the requester will put the records to a commercial use, either because of the nature of the request itself or because NSF has reasonable cause to doubt a requester's stated use, NSF will provide the requester a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses that an agency actually incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating duplication machinery. Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(3) *Duplication* means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape or disk) among others. NSF will honor a requester's specified preference of form or format of disclosure if the record is readily reproducible by NSF, with reasonable effort, in the requested form or format.

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought to further scholarly research.

(5) *Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and made under the auspices of a qualifying institution and that the records are not sought for a commercial use or to promote any particular product or industry, but are sought to further scientific research.

(6) *Representative of the news media* or news media requester means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances where they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. For "freelance" journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but NSF will also look to the past publication record of a requester in making this determination. To be in this category, a

requester must not be seeking the requested records for a commercial use. However, a request for records supporting the news dissemination function of the requester will not be considered to be for a commercial use.

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure, for example, doing all that is necessary to redact it and prepare it for disclosure. Review costs are recoverable even if a record ultimately is not disclosed. Review time includes time spent considering any formal objection to disclosure made by a business submitter under § 612.8, but does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means the process of looking for and retrieving records or information responsive to a request. It includes page by page or line by line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. NSF will ensure that searches are done in the most efficient and least expensive manner reasonably possible. For example, NSF will not search line by line where duplicating an entire document would be quicker and less expensive.

(c) *Fees.* In responding to FOIA requests, NSF will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (k) of this section:

(1) *Search.* (i) Search fees will be charged for all requests—other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media—subject to the limitations of paragraph (d) of this section. NSF may charge for time spent searching even if responsive records are not located or are withheld entirely as exempt from disclosure.

(ii) Manual searches for records. Whenever feasible, NSF will charge at the salary rate(s) (i.e., basic pay plus 16 percent) of the employee(s) conducting the search. Where a homogeneous class of personnel is used exclusively (e.g., all administrative/clerical or all professional/executive), NSF has established an average rate for the range of grades typically involved. Routine search for records by clerical personnel are charged at $2.50 for each quarter hour. When a non-routine, non-clerical search by professional personnel is conducted (for example, where the task of determining which records fall within a request requires professional time) the charge is $7.50 for each quarter hour.

(iii) Computer searches of records. NSF will charge at the actual direct cost of conducting the search. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary (i.e., basic pay plus 16 percent) apportionable to the search. When NSF can establish a reasonable agency-wide average rate for CPU operating costs and operator/programmer salaries involved in FOIA searches, the Foundation will do so and charge accordingly.

(2) *Duplication.* Duplication fees will be charged to all requesters, subject to the limitations of paragraph (d) of this section. For a paper photocopy of a record (no more than one copy of which need be supplied), the fee will be 25 cents per page. For copies produced by computer, such as tapes or printouts, NSF will charge the direct costs, including operator time, of producing the copy. For other forms of duplication, NSF will charge the direct costs of that duplication.

(3) *Review.* Review fees will be charged to requesters who make a commercial use request. Review fees will be charged only for the initial record review—in other words, the review done when NSF determines whether an exemption applies to a particular record or record portion at the initial request level. NSF may charge for review even if a record ultimately is not disclosed. No charge will be made for review at the administrative appeal level for an exemption already applied. However, records or record portions withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies, the costs of that review are chargeable where it is made necessary by a change of circumstances. Review fees will be charged at the salary rate (basic pay plus 16%) of the employee(s) performing the review.

(d) *Limitations on charging fees.* (1) No search fee will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) Except for requesters seeking records for a commercial use, NSF will provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent); and

(ii) The first two hours of search (or the cost equivalent).

(3) Whenever a total fee calculated under paragraph (c) of this section is $25.00 or less for any request, no fee will be charged.

(4) The provisions of paragraphs (d)(2) and (3) of this section work together. This means that noncommercial requesters will be charged no fees unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $25.00. Commercial requesters will not be charged unless the costs of search, review, and duplication total more than $25.00.

(e) *Notice of anticipated fees in excess of $25.00.* When NSF determines or estimates that the fees to be charged under this section will exceed $25.00, it will notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, NSF will advise the requester that the estimated fee may be only a portion of the total fee. In cases in which a requester has been notified that actual or estimated fees exceed $25.00, the request will not be considered perfected and further work will not be done until the requester agrees to pay the anticipated total fee. Any such agreement should be memorialized in writing. A notice under this paragraph will offer the requester an opportunity to discuss the matter with Foundation personnel in order to reformulate the request to meet the requester's needs at a lower cost, if possible. If a requester fails to respond within 60 days of notice of actual or estimated fees with an agreement to pay those fees, NSF may administratively close the request.

(f) *Charges for other services.* Apart from the other provisions of this section, when NSF chooses as a matter of administrative discretion to provide a requested special service-such as certifying that records are true copies or sending them by other than ordinary mail-the direct costs of providing the service will be charged to the requester.

(g) *Charging interest.* NSF may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by NSF. NSF will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(h) *Aggregating requests.* Where NSF reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the agency may aggregate those requests and charge accordingly. NSF may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. Where requests are separated by a longer period, NSF will aggregate them only where there exists a solid basis for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraphs (i) (2) and (3) of this section, NSF will not require the requester to make an advance payment—in other words, a payment made before work is begun or continued on a request. Payment owed for work already completed (i.e., a prepayment before copies are sent to a requester) is not an advance payment.

(2) Where NSF determines or estimates that a total fee to be charged under this section will be more than $250.00, it may require the requester to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except where it receives a satisfactory assurance of full payment from a requester that has a history of prompt payment.

(3) Where a requester has previously failed to pay a properly charged fee to any agency within 30 days of the date of billing, NSF may require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before NSF begins to process a new request or continues to process a pending request from that requester.

(4) In cases in which NSF requires advance payment or payment due under paragraph (i)(2) or (3) of this section, the request will not be considered perfected and further work will not be done on it until the required payment is received.

(j) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute that specifically requires an agency to set and collect fees for particular types of records. Where records responsive to requests are maintained for distribution by agencies operating such statutorily based fee schedule programs, NSF will inform requesters of the steps for obtaining records from those sources so that they may do so most economically.

(k) *Waiver or reduction of fees.* (1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section where NSF determines, based on all available information, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) To determine whether the first fee waiver requirement is met, NSF will consider the following factors:

(i) *The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government."* The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated.

(ii) *The informative value of the information to be disclosed: Whether disclosure is "likely to contribute" to an understanding of government operations or activities.* The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. Disclosure of information already in the public domain, in either duplicative or substantially identical form, is unlikely to contribute to such understanding where nothing new would be added to the public's understanding.

(iii) *The contribution to an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding."* The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. A representative of the news media as defined in paragraph (b)(6) of this section will normally be presumed satisfy this consideration.

(iv) *The significance of the contribution to public understanding: Whether disclosure is likely to contribute "significantly" to public understanding of government operations or activities.* The public's understanding of the subject in question must be enhanced by the disclosure to a significant extent as compared to the level of public understanding existing prior to the disclosure. NSF will make no value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is "important" enough to be made public.

(3) To determine whether the second fee waiver requirement is met, NSF will consider the following factors:

(i) *The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure.* NSF will consider any commercial interest of the requester (with reference to the definition of "commercial use" in paragraph (b)(1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.

(ii) *The primary interest in disclosure: Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."* A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. NSF ordinarily will presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(4) Where only some of the requested records satisfy the requirements for a waiver of fees, a waiver will be granted for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (k) (2) and (3) of this section, insofar as they apply to each request.

§ 612.11 Other rights and services.

Nothing in this part will be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

2. By revising part 613 to read as follows:

PART 613—PRIVACY ACT REGULATIONS

Sec.
613.1 General provisions.
613.2 Requesting access to records.
613.3 Responding to requests for access to records.
613.4 Amendment of records.
613.5 Exemptions.
613.6 Other rights and services.

Authority: 5 U.S.C. 552a

§613.1 General provisions.

This part sets forth the National Science Foundation procedures under the Privacy Act of 1974. The rules in this part apply to all records in systems of records maintained by NSF that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals may request access to records about themselves and request amendment or correction of those records. All Privacy Act requests for access to records are also processed under the Freedom of Information Act, 5 U.S.C. 552 (as provided in part 612 of this chapter), which gives requesters the benefit of both statutes. Notice of systems of records maintained by the National Science Foundation are published in the **Federal Register**.

§613.2 Requesting access to records.

(a) *Where to make a request.* You may make a request for access to NSF records about yourself by appearing in person at the National Science Foundation or by making a written request. If you choose to visit the Foundation, you must contact the NSF Security Desk and ask to speak with the Foundation's Privacy Act Officer in the Office of the General Counsel. Written requests should be sent to the NSF Privacy Act Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, VA 22230. Written requests are recommended, since in many cases it may take several days to determine whether a record exists, and additional time may be required for record(s) retrieval and processing.

(b) *Description of requested records.* You must describe the records that you seek in enough detail to enable NSF personnel to locate the system of records containing them with a reasonable amount of effort. Providing information about the purpose for which the information was collected, applicable time periods, and name or identifying number of each system of records in which you think records about you may be kept, will help speed the processing of your request. NSF publishes notices in the **Federal Register** that describe the systems of records maintained by the Foundation. The Office of the Federal Register publishes a biennial "Privacy Act Compilation" that includes NSF system notices. This compilation is available in many large reference and university libraries, and can be accessed electronically at the Government Printing Office's web site at <www.access.gpo.gov/su_docs/aces/PrivacyAct.shtml>.

(c) *Verification of identity.* When requesting access to records about yourself, NSF requires that you verify your identity in an appropriate fashion. Individuals appearing in person should be prepared to show reasonable picture identification such as driver's license, government or other employment identification card, or passport. Written requests must state your full name and current address. You must sign your request and your signature must either be notarized, or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain information about these required elements for requests from the NSF Privacy Act Officer, Suite 1265, 4201 Wilson Blvd, Arlington, VA 22230, or from the NSF Home Page under "Public & Media Information—FOIA and Privacy Act" at <http://www.nsf.gov/home/pubinfo/foia.htm≤. In order to help agency personnel in locating and identifying requested records, you may also, at your option, include your social security number, and/or date and place of birth. An individual reviewing his or her record(s) in person may be accompanied by an individual of his or her choice after signing a written statement authorizing that individual's presence. Individuals requesting or authorizing the disclosure of records to a third party must verify their identity and specifically name the third party and identify the information to be disclosed.

(d) *Verification of guardianship.* When making a request as the parent or guardian of a minor or as the guardian of someone determined by a court of competent jurisdiction to be incompetent, for access to records about that individual, you must establish:

(1) The identity of the record subject, by stating individual's name and current address and, at your option, the social security number and/or date and place of birth of the individual;

(2) Your own identity, as required in paragraph (c) of this section;

(3) That you are the parent or guardian of that individual, which you may prove by providing a copy of the individual's birth certificate showing your parentage or by providing a court order establishing your guardianship; and

(4) That you are acting on behalf of that individual in making the request.

(e) The procedures of paragraphs (a) through (d) of this section shall also apply to requests made pursuant to 5 U.S.C. 552a(c)(3).

(f) *Disclosure of records to agencies or persons other than the record subject.* Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except under the following circumstances:

(1) Records required to be made available by the Freedom of Information Act will be released in response to a request formulated in accordance with NSF regulations found at 45 CFR part 612.

(2) Records not required by the Freedom of Information Act to be released may be released, at the discretion of the Foundation, if the written consent of the individual to whom they pertain has been obtained as specified in paragraph (c) of this section, or if such release would be authorized under 5 U.S.C. 552a(b)(1) or (3) through (12).

§613.3 Responding to requests for access to records.

(a) *Timing of responses to requests.* The Foundation will make reasonable effort to act on a request for access to records within 20 days of its receipt by the Privacy Act Officer (excluding date of receipt, weekends, and legal holidays) or from the time any required identification is received by the Privacy Act Officer; whichever is later. In determining which records are responsive to a request, the Foundation will include only records in its possession as of the date of receipt. When the agency cannot complete processing of a request within 20 working days, the Foundation will send a letter explaining the delay and notifying the requester of the date by which processing is expected to be completed.

(b) *Authority to grant or deny requests.* The Privacy Act Officer, or his or her designee in the office with responsibility for the requested records, is authorized to grant or deny access to a Foundation record.

(c) *Granting access to records.* When a determination is made to grant a request for access in whole or part, the requester will be notified as soon as possible of the Foundation's decision. Where a requester has previously failed to pay a properly charged fee to any agency within 30 days of the date of

billing, NSF may require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before NSF begins to process a new request or continues to process a pending request from that requester.

(1) *Requests made in person.* When a request is made in person, if the records can be found, and reviewed for access without unreasonable disruption of agency operations, the Foundation may disclose the records to the requester directly upon payment of any applicable fee. A written record should be made documenting the granting of the request. If a requester is accompanied by another person, the requester shall be required to authorize in writing any discussion of the records in the presence of the other person.

(2) *Requests made in writing.* The Foundation will send the records to the requester promptly upon payment of any applicable fee.

(d) *Denying access to records.* The requester will be notified in writing of any determination to deny a request for access to records. The notification letter will be signed by the Privacy Act Officer, or his or her designee, as the individual responsible for the denial and will include a brief statement of the reason(s) for the denial, including any Privacy Act exemption(s) applied in denying the request.

(e) *Fees.* The Foundation will charge for duplication of records requested under the Privacy Act in the same way it charges for duplication under the Freedom of Information Act (see 45 CFR 612.10). No search or review fee may be charged for the record unless the record has been exempted from access under Exemptions (j)(2) or (k)(2) of the Privacy Act.

§ 613.4 Amendment of records.

(a) *Where to make a request.* An individual may request amendment of records pertaining to him or her that are maintained in an NSF Privacy Act system of records, except that certain records described in paragraph (h) of this section are exempt from amendment. Request for amendment of records must be made in writing to the NSF Privacy Act Officer, National Science Foundation, Suite 1265, 4201 Wilson Boulevard, Arlington, VA 22230.

(b) *How to make a request.* Your request should identify each particular record in question, state the amendment you want to take place, and specify why you believe that the record is not accurate, relevant, timely, or complete. You may submit any documentation that you think would be helpful. Providing an edited copy of the record(s) showing the desired change will assist the agency in making a determination about your request. If you believe that the same information is maintained in more than one NSF system of records you should include that information in your request. You must sign your request and provide verification of your identity as specified in § 613.2(c).

(c) *Timing of responses to requests.* The Privacy Act Officer, or his or her designee, will acknowledge receipt of request for amendment within 10 working days of receipt. Upon receipt of a proper request the Privacy Act Officer will promptly confer with the NSF Directorate or Office with responsibility for the record to determine if the request should be granted in whole or part.

(d) *Granting request for amendment.* When a determination is made to grant a request for amendment in whole or part, notification to the requester will be made as soon as possible, normally within 30 working days of the Privacy Act Officer receiving the request, describing the amendment made and including a copy of the amended record, in disclosable form.

(e) *Denying request for amendment.* When a determination is made that amendment, in whole or part, is unwarranted, the matter shall be brought to the attention of the Inspector General, if it pertains to records maintained by the Office of the Inspector General, or to the attention of the General Counsel, if it pertains to other NSF records. If the General Counsel or Inspector General or their designee agrees with the determination that amendment is not warranted, the Privacy Act Officer will notify the requester in writing, normally within 30 working days of the Privacy Act Officer receiving the request. The notification letter will be signed by the Privacy Act Officer or his or her designee, and will include a statement of the reason(s) for the denial and how to appeal the decision.

(f) *Appealing a denial.* You may appeal a denial of a request to amend records to the General Counsel, National Science Foundation, 4201 Wilson Blvd, Suite 1265, Arlington, VA 22230. You must make your appeal in writing and it must be received by the Office of the General Counsel within ten days of the receipt of the denial (weekends, legal holidays, and the date of receipt excluded). Clearly mark your appeal letter and envelope "Privacy Act Appeal." Your appeal letter must include a copy of your original request for amendment and the denial letter, along with any additional documentation or argument you wish to submit in favor of amending the records. It must be signed by you or your officially designated representative.

(g) *Responses to appeals.* The General Counsel, or his or her designee, will normally render a decision on the appeal within thirty working days after proper receipt of the written appeal by the General Counsel. If additional time to make a determination is necessary you will be advised in writing of the need for an extension.

(1) *Amendment appeal granted.* If on appeal the General Counsel, or his or her designee, determines that amendment of the record should take place, you will be notified as soon as possible of the Foundation's decision. The notification will describe the amendment made and include a copy of the amended record, in disclosable form.

(2) *Amendment appeal denied—Statement of disagreement.* If on appeal the General Counsel, or his or her designee, upholds a denial of a request for amendment of records, you will be notified in writing of the reasons why the appeal was denied and advised of your right to seek judicial review of the decision. The letter will also notify you of your right to file with the Foundation a concise statement setting forth the reasons for your disagreement with the refusal of the Foundation to amend the record. The statement should be sent to the Privacy Act Officer, who will ensure that a copy of the statement is placed with the disputed record. A copy of the statement will be included with any subsequent disclosure of the record.

(h) *Records not subject to amendment.* The following records are not subject to amendment:

(1) Transcripts of testimony given under oath or written statements made under oath;

(2) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings, which are the official record of those proceedings;

(3) Pre-sentence records that originated with the courts; and

(4) Records in systems of records that have been exempted from amendment under Privacy Act, 5 U.S.C. 552a(j) or (k) by notice published in the **Federal Register**.

§ 613.5 Exemptions.

(a) *Fellowships and other support.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of references of fellowship or other award applicants or nominees, or reviewers of applicants for Federal

contracts (including grants and cooperative agreements) contained in any of the following systems of records:

(1) "Fellowships and Other Awards,"

(2) "Principal Investigator/Proposal File and Associated Records,"

(3) "Reviewer/Proposal File and Associated Records," and

(4) "Reviewer/Fellowship and Other Awards File and Associated Records."

(b) *OIG files compiled for the purpose of a criminal investigation and for related purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the Foundation hereby exempts the system of records entitled "Office of Inspector General Investigative Files," insofar as it consists of information compiled for the purpose of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c)(1) and (2), (e)(4) (A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

(c) *OIG and ACA files compiled for other law enforcement purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the Foundation hereby exempts the systems of records entitled "Office of Inspector General Investigative Files" and "Antarctic Conservation Act Files" insofar as they consist of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(d) *Investigations of scientific misconduct.* Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of confidential sources of information contained in the following system of records: "Debarment/Scientific Misconduct Files."

(e) *Personnel security clearances.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of confidential sources of information contained in the following system of records: "Personnel Security."

(f) *Applicants for employment.* Records on applicants for employment at NSF are covered by the Office of Personnel Management (OPM) government-wide system notice "Recruiting, Examining and Placement Records." These records are exempted as claimed in 5 CFR 297.501(b)(7).

(g) *Other records.* The Foundation may also assert exemptions for records received from another agency that could properly be claimed by that agency in responding to a request.

§ 613.6 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Lawrence Rudolph,

General Counsel.

[FR Doc. 99–30575 Filed 11–23–99; 8:45 am]

BILLING CODE 7555–01–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1039

[Ex Parte No. 346 (Sub–No. 28)]

Rail General Exemption Authority: Export Corn and Export Soybeans

AGENCY: Surface Transportation Board, DOT.

ACTION: Proposed rule, withdrawal.

SUMMARY: The Surface Transportation Board (Board) is withdrawing the proposed rule and discontinuing the Ex Parte No. 346 (Sub-No. 28) rulemaking proceeding relating to an exemption for the rail transportation of export corn and export soybeans.

DATES: The proposed rule is withdrawn and the rulemaking proceeding is discontinued on November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) served July 15, 1992 (published in the **Federal Register** on July 16, 1992, at 57 FR 31489), the Interstate Commerce Commission (Commission) proposed to exempt from the provisions of 49 U.S.C. subtitle IV the rail transportation of export corn and export soybeans (i.e., corn and soybeans that originate at points in the United States and that move from the United States to destinations outside the United States).

The ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICCTA), which was signed into law by President Clinton on December 29, 1995, abolished the Commission, established the Board, reenacted with certain changes 49 U.S.C. subtitle IV, and transferred to the Board responsibility for the performance of functions respecting new 49 U.S.C. subtitle IV, part A. *See* ICCTA section 101 (abolition of the Commission); new 49 U.S.C. 701(a), as enacted by ICCTA section 201(a) (establishment of the Board); new 49 U.S.C. subtitle IV, part A, as enacted by ICCTA section 102(a) (part A of the new subtitle IV contains the post-1995 version, as respects railroads, of the provisions that had been contained in the pre-1996 version of subtitle IV); new 49 U.S.C. 702, as enacted by ICCTA section 201(a) (except as otherwise provided, the functions previously performed by the Commission shall henceforth be performed by the Board); ICCTA section 204(b)(1) (any proceeding pending before the Commission at the time of the enactment of ICCTA shall be transferred to the Board, insofar as that proceeding concerns functions transferred to the Board). In accordance with the mandate of ICCTA section 204(b)(1), the Ex Parte No. 346 (Sub-No. 28) rulemaking proceeding, which had been instituted by the Commission in the 1992 NPR, was transferred to the Board.

We have decided to withdraw the rule proposed by the Commission in the 1992 NPR and to discontinue the Ex Parte No. 346 (Sub-No. 28) rulemaking proceeding. The record compiled in this proceeding does not reflect the changes that have occurred in American agriculture in the past seven years. Under the circumstances, we do not believe it would be wise to consider the merits of the proposal now on this record. Withdrawal of the 1992 proposal would, in any event, allow any interested person who wished to do so the opportunity to file a petition under 49 CFR part 1121 to initiate a new proposal supported by a more current presentation of facts and arguments.

Small Entities

The Board certifies that the action taken in this proceeding will not have a significant economic impact on a substantial number of small entities.

Environmental and Energy Considerations

The action taken in this proceeding will not significantly affect either the quality of the human environment or the conservation of energy resources.

Board Releases Available Via the Internet

Decisions and notices of the Board, including this notice, are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: November 17, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–30541 Filed 11–23–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1105 and 1180

[Ex Parte No. 282 (Sub-No. 19)]

New Procedures in Rail Acquisitions, Mergers and Consolidations

AGENCY: Surface Transportation Board.

ACTION: Proposed rule, withdrawal.

SUMMARY: The Surface Transportation Board (Board) is withdrawing the proposed rule and discontinuing the Ex Parte No. 282 (Sub-No. 19) rulemaking proceeding relating to new procedures in rail acquisitions, mergers and consolidations.

DATES: The proposed rule is withdrawn and the rulemaking proceeding is discontinued on November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) that was served January 26, 1995 (an inadvertently omitted Appendix A was served January 27, 1995), and that was published in the **Federal Register** on January 31, 1995, at 60 FR 5890, the Interstate Commerce Commission (Commission) proposed to revise parts 1105 and 1180 of Title 49, Code of Federal Regulations, in order to establish procedures that might ensure a more expeditious handling of proceedings involving transactions subject to the jurisdiction of the Commission under former 49 U.S.C. 11343, 11344, and 11345. As respects "major" transactions (*i.e.*, transactions involving the merger or control of two or more Class I railroads), the Commission proposed a 180-day procedural schedule (*i.e.*, a procedural schedule under which the final decision would be issued 180 days after the date on which the primary application was filed). As respects "significant" transactions (*i.e.*, transactions that are of regional or national transportation significance but that do not involve the merger or control of two or more Class I railroads) and "minor" transactions (*i.e.*, transactions that are neither major nor significant), the Commission proposed conforming changes to 49 CFR 1180.4 (to ensure that the timetables applicable to significant transactions and minor transactions would be at least as expedited as the timetable applicable to major transactions). The Commission also proposed conforming changes to its 49 CFR part 1105 environmental regulations.

The ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICCTA), which was signed into law by President Clinton on December 29, 1995, abolished the Commission, established the Board, reenacted with certain changes the relevant statutory provisions, and transferred to the Board responsibility for the performance of functions respecting those statutory provisions. *See* ICCTA section 101 (abolition of the Commission); new 49 U.S.C. 701(a), as enacted by ICCTA section 201(a) (establishment of the Board); new 49 U.S.C. 11323, 11324, and 11325, as enacted by ICCTA section 102(a) (these are the post-1995 versions, as respects railroads, of what had been 49 U.S.C. 11343, 11344, and 11345, respectively); new 49 U.S.C. 702, as enacted by ICCTA section 201(a) (except as otherwise provided, the functions previously performed by the Commission shall henceforth be performed by the Board); ICCTA section 204(b)(1) (any proceeding pending before the Commission at the time of the enactment of ICCTA shall be transferred to the Board, insofar as that proceeding concerns functions transferred to the Board). In accordance with the mandate of ICCTA section 204(b)(1), the Ex Parte No. 282 (Sub-No. 19) rulemaking proceeding, which had been instituted by the Commission in the 1995 NPR, was transferred to the Board.

We have decided to withdraw the rule proposed by the Commission in the 1995 NPR and to discontinue the Ex Parte No. 282 (Sub-No. 19) rulemaking proceeding. Our experience with the administration of major transaction cases handled under new 49 U.S.C. 11323–25 has led us to conclude that we should continue the case-by-case approach under which, as respects any particular major transaction, we can adopt a procedural schedule best suited to the full and fair development of the record for that transaction. *See, e.g., CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidation Rail Corporation*, STB Finance Docket No. 33388, Decision No. 6 (STB served May 30, 1997, and published that day in the **Federal Register** at 62 FR 29387) (adopting a 350-day procedural schedule to govern the major transaction at issue in the STB Finance Docket No. 33388 proceeding); *Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated—Control—Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company*, STB Finance Docket No. 33556, Decision No. 6 (STB served Aug. 14, 1998, and published that day in the **Federal Register** at 63 FR 43744) (adopting a 300-day procedural schedule to govern the major transaction at issue in the STB Finance Docket No. 33556 proceeding).

Small Entities

The Board certifies that the action taken in this proceeding will not have a significant economic impact on a substantial number of small entities.

Environmental and Energy Considerations

The action taken in this proceeding will not significantly affect either the quality of the human environment or the conservation of energy resources.

Board Releases Available Via the Internet

Decisions and notices of the Board, including this notice, are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: November 17, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–30543 Filed 11–23–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1180

[Ex Parte No. 282 (Sub-No. 15)]

Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision

AGENCY: Surface Transportation Board.

ACTION: Proposed rule, withdrawal.

SUMMARY: The Surface Transportation Board (Board) is withdrawing the proposed rule and discontinuing the Ex Parte No. 282 (Sub-No. 15) rulemaking proceeding relating to a class exemption for railroad transactions subject to the statutory consolidation provision.

DATES: The proposed rule is withdrawn and the rulemaking proceeding is discontinued on November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) served July 13, 1992 (published in the **Federal Register** on July 14, 1992, at 57 FR 31165), the Interstate Commerce Commission (Commission) proposed to expand the scope of its 49 CFR 1180.2(d)(2) class exemption. That exemption, as it existed in 1992 and as it continues to exist today, exempts from the otherwise applicable prior approval requirements the acquisition or continuance in control of a nonconnecting railroad or one of its lines where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a Class I railroad. In the NPR, the Commission proposed to expand the 49 CFR 1180.2(d)(2) exemption so that it would embrace any transaction that required approval and authorization under former 49 U.S.C. 11343, provided that the transaction did not involve (i) the merger or control of at least two Class I railroads, (ii) a reduction in the number of noncommonly-controlled railroads conducting operations between any two points, or (iii) a reduction from three to two in the number of noncommonly-controlled railroads serving any interchange point.

The ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICCTA), which was signed into law by President Clinton on December 29, 1995, abolished the Commission, established the Board, reenacted (with certain changes not presently of consequence) the relevant statutory provision, and transferred to the Board responsibility for the performance of functions respecting that statutory provision. *See* ICCTA section 101 (abolition of the Commission); new 49 U.S.C. 701(a), as enacted by ICCTA section 201(a) (establishment of the Board); new 49 U.S.C. 11323, as enacted by ICCTA section 102(a) (this is the post-1995 version, as respects railroads, of what had been 49 U.S.C. 11343); new 49 U.S.C. 702, as enacted by ICCTA section 201(a) (except as otherwise provided, the functions previously performed by the Commission shall henceforth be performed by the Board); ICCTA section 204(b)(1) (any proceeding pending before the Commission at the time of the enactment of ICCTA shall be transferred to the Board, insofar as that proceeding concerns functions transferred to the Board). In accordance with the mandate of ICCTA section 204(b)(1), the Ex Parte No. 282 (Sub-No. 15) rulemaking proceeding, which had been instituted by the Commission in the 1992 NPR, was transferred to the Board.

We have decided to withdraw the rule proposed by the Commission in the 1992 NPR and to discontinue the Ex Parte No. 282 (Sub-No. 15) rulemaking proceeding. Our experience with the administration of cases handled under new 49 U.S.C. 11323 has led us to conclude that there is no pressing necessity for the expansion of the 49 CFR 1180.2(d)(2) class exemption. Any 49 U.S.C. 11323 transaction that is not embraced by any of the existing 49 CFR 1180.2(d) class exemptions but that would be embraced by the expanded 49 CFR 1180.2(d)(2) class exemption proposed by the Commission can be handled under the individualized exemption procedures now codified at 49 CFR part 1121, and appropriate determinations can be made on a case-by-case basis.

Small Entities

The Board certifies that the action taken in this proceeding will not have a significant economic impact on a substantial number of small entities.

Environmental and Energy Considerations

The action taken in this proceeding will not significantly affect either the quality of the human environment or the conservation of energy resources.

Board Releases Available Via the Internet

Decisions and notices of the Board, including this notice, are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: November 17, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–30542 Filed 11–23–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 991118308–9308–01; I.D. 101899C]

RIN 0648–AN33

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; notice of control date for the Pacific Coast groundfish fishery; request for comments.

SUMMARY: This document announces a control date of September 16, 1999, after which vessels eligible for benefits under the American Fisheries Act (AFA) may be subject to restrictions on participation in the Pacific Coast groundfish fisheries. The intended effect of announcing this control date is to discourage speculative entry into the Pacific coast groundfish fisheries by AFA-qualified vessels while the Pacific Fishery Management Council (Council) develops recommendations to protect the Pacific Coast groundfish fisheries from adverse impacts caused by the AFA.

DATES: Comments may be submitted in writing by December 27, 1999.

ADDRESSES: Comments may be mailed to Jerry Mallet, Chairman, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: The Pacific Fishery Management Council at 503–326–6352; or Bill Robinson at 206–526–6140; or Svein Fougner at 562–980–4000.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council (Council) established under section 302(a)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(F)) is considering recommendations for approval by NMFS of conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by the AFA (Pub.L. 105-277, Div. C, Title II, October 21, 1998, 112 Stat. 2681-616; 16 U.S.C. 1851 note; 46 U.S.C. 101 note, 12102, 31322; 46 App. 1274 note), or by any

fishery cooperatives in the Alaska pollock fishery, as required by section 211(c)(3)(A) of the AFA. Pursuant to the AFA, the Council's recommendations are due to NMFS not later than July 1, 2000. The AFA at section 211(b)(5) also provides that catcher/processors and motherships eligible under the AFA are prohibited from harvesting or processing fish in any U.S. fishery outside Alaska, except the Pacific whiting fishery, unless harvesting or processing by those catcher-processor motherships is specifically authorized under a fishery management plan. Pacific whiting is a major component of the species aggregate in the Pacific Coast groundfish fisheries.

Conservation and management measures under consideration by the Council to offset adverse impacts of the AFA include possible restrictions on participation in the Pacific coast groundfish fisheries by vessels eligible for benefits under the AFA (AFA-qualified vessels). During its September 13-17, 1999, meeting in Portland, Oregon, the Council adopted September 16, 1999, as a control date to be used in placing restrictions on participation in the Pacific Coast groundfish fisheries by AFA-qualified vessels. In making this announcement, NMFS and the Council intend to prevent speculative entry into the fisheries after the control date by AFA-qualified vessels, while the Council develops and analyzes its recommendations. The control date applies to catcher vessels in the mothership and shore-based sectors of the Pacific whiting fishery, and to all other non-whiting groundfish fisheries in which catch is landed shoreside. The control date provides notice to AFA-qualified vessels that might seek to participate in the Pacific Coast groundfish fisheries that current requirements for accessing these fisheries may change. Vessels entering the fisheries after the control date may be subject to new restrictions that do not currently exist, and they may not receive credit for fishing after the control date.

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982 (47 FR 43964, October 5, 1982), and has been amended 10 times. Implementing regulations for the FMP and its amendments are codified at 50 CFR part 660, Subpart G.

The AFA, enacted in 1998, reduced the harvest capacity in the Alaska pollock fishery by retiring nine Bering Sea catcher/processors. It also redistributed pollock allocations between the inshore and offshore sectors, and defined conditions for creating fishery cooperatives in the pollock fleet. Vessels that participate in such cooperatives are likely to have increased flexibility in arranging their fishing schedules and could consider entering additional fisheries.

At its September 13–17, 1999, meeting, the Council and its Groundfish Advisory Panel heard proposals from West Coast fishers and processors concerned that some AFA-qualified vessels with no previous or low levels of participation in the Pacific groundfish fishery will increase their fishing effort in the Pacific Coast groundfish fishery. A particular problem is posed if AFA-qualified vessels participating in pollock fishing cooperatives rearrange their pollock fishing schedules to allow them time to fish in non-pollock fisheries such as the Pacific Coast groundfish fishery. To participate in most limited entry groundfish fisheries vessels only need to purchase a general limited entry permit. No permit is required to participate in the open access fisheries. Because new permit holders and entrants into the open access fishery currently have access rights that are equal to those who have historically participated in the fishery, speculative entry may be encouraged. Additional effort could exacerbate existing management problems and erode the effectiveness of future measures recommended by the Council.

The Council unanimously voted to establish a control date of September 16, 1999, and to initiate the development of recommendations to restrict AFA-qualified vessels from participating in the Pacific Coast groundfish fishery if, during a qualifying period between January 1, 1994, and September 16, 1999, the vessel: (1) did not harvest at least 50 metric tons (mt) of Pacific whiting in the mothership sector; (2) did not land at least 50 mt of Pacific whiting in the shore-based sector; or (3) did not land groundfish shoreside in the Pacific Coast groundfish fishery (not including fish landed in the Pacific whiting fishery).

Implementation of any management measures for the fishery will require amendment of the regulations implementing the FMP and may also require amendment of the FMP itself. Any action will require Council development of a regulatory proposal with public input and a supporting analysis, NMFS approval, and publication of implementing regulations in the **Federal Register**. If catch history is used as basis for participation, it is likely that AFA-qualified vessel participation in the fishery after the control date will receive little or no credit. Fishers are not guaranteed future participation in the groundfish fishery, regardless of their date of entry or level of participation in the fishery.

This advance notice of proposed rulemaking has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*; Pub. L. 105–277, Div. C, Title II, October 21, 1988.

Dated: November 18, 1999.

William Fox,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30657 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 226
Wednesday, November 24, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 19, 1999.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Natural Resources Conservation Service

Title: Request for State Technical Committee Membership.

OMB Control Number: 0578–0027.

Summary of Collection: Section 1261 of the Food Security Act of 1985, as amended, (the 1985 Act) requires the Secretary to establish a technical advisory committee in each State to assist in making technical considerations related to the implementation of the 1985 Act's conservation provisions. The authority to implement these committees was delegated to the Natural Resources Conservation Service (NRCS). It is the responsibility of each NRCS State Conservationist to chair the State Technical Committee (STC). Non-profit organizations, agricultural producers, other individuals and government agencies may become members if they demonstrate that they have conservation expertise. Individuals desiring membership on the STC are required to submit a written request to NRCS for consideration.

Need and Use of the Information: NRCS will collect information on the names, addresses, telephone numbers, educational background, a detailed description of their conservation expertise, and participation details on any local environmental and/or conservation planning group. the information collected is used by the NRCS State Conservationist to determine STC membership.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 240.

Frequency of Responses: Reporting; On occasion; Other: Once only upon request for participation.

Total Burden Hours: 240.

Foreign Agricultural Service

Title: Sugar to be Imported and Re-exported in Refined Form or in Sugar-containing Products or used in Production of Certain Polyhydric Alcohols.

OMB Control Number: 0551–0015.

Summary of Collection: Regulation 7 CFR Part 1530 Part 1530 authorizes the Foreign Agricultural Service (FAS) to issue import licenses to enter raw cane sugar (exempt from the tariff-rate quota for the raw cane sugar imports and the related requirements) on the condition that an equivalent quantity of refined sugar be: (1) exported as refined sugar; (2) exported as an ingredient in sugar containing products; or (3) used in production of certain polyhydric alcohols. The purpose of the sugar import licensing program is to assist U.S. sugar manufacturers, refiners, and processors in making U.S. products price competitive on the world market; and facilitate the use of domestic refining capacity.

Need and Use of the Information: FAS will collect information to: (1) determine whether applicants for the program meet the Regulation's eligibility criteria; (2) monitor sugar imports, transfers, exports, and use in order to confirm that transactions are conducted and completed within the requirements of the Regulations; (3) audit participants' compliance with the Regulation; and (4) prevent entry of world-priced program sugar from entering the higher-priced domestic commercial sugar market. The information collected is needed by the Sugar Licensing Authority to manage, plan, evaluate, and account for program activities.

Description of Respondents: Business or other for-profit; individuals or households;

Number of Respondents: 250.

Frequency of Responses: Reporting; Quarterly.

Total Burden Hours: 4,590.

Rural Housing Service

Title: 7 CFR 1965–E, "Prepayment and Displacement Prevention of Multiple Family Housing Loans".

OMB Control Number: 0575–0155.

Summary of Collection: The Housing and Community Development Act of 1987 required that when Rural Rental Housing borrowers wished to prepay their loans, Rural Development (RD) must first decide if the housing continues to be needed to serve low- and moderate-income tenants, and if so to offer the borrower a fair incentive to prepay the loan. If the borrower rejects the incentive, the housing must be offered for sale to a non profit organization or public agencies. Only if no nonprofit organization or public agencies can be found to purchase the

project at the market value can the loan be prepaid.

Need and Use of the Information: When a request to prepay a rural rental housing loan is received, RD will collect information to determine the need for the housing to remain in the low-income program. RD will also determine the extent of any incentive offer to keep the housing within the Rural Development program. If RD does not have current and appropriate information, the decision to accept or reject the prepayment request and the amount of an incentive offer, would be made inappropriately.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Individual or households; Farms; State, Local or Tribal Government.

Number of Respondents: 800.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 687.

Rural Utilities Service

Title: 7 CFR 1717 Subpart D, Mergers and Consolidations of Electric Borrowers.

OMB Control Number: 0572–0114.

Summary of Collection: The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture. It makes mortgage loans and loan guarantees to finance electric, telecommunications, and water and waste water facilities in rural areas. Loan programs are managed in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, as amended and as prescribed by the Office of Management and Budget (OMB) Circular A–129, Policies for Federal Credit Programs and Non-tax Receivable, which states that agencies must, based on a review of a loan application, determine that an applicant complies with statutory, regulatory, and administrative eligibility requirements for loan assistance.

Need and Use of the Information: RUS will collect information to streamline procedures and allow borrowers the flexibility to meet new business challenges and opportunities.

Description of Respondents: Business or other for-profit.

Number of Respondents: 18.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 184.

Rural Housing Service

Title: 7 CFR 1944–N, "Housing Preservation Grant Program"

OMB Control Number: 0575–0115.

Summary of Collection: The Rural Housing Service (RHS) is authorized to make grants to eligible applicants to provide repair and rehabilitation assistance so that very low- and low-income rural residents can obtain adequate housing. Such assistance is made by grantees to very low- and low-income persons, and to co-ops. Grant funds are used by grantees to make loans, grants, or other comparable assistance to eligible homeowners, rental unit owners, and co-ops for repair and rehabilitation of dwellings to bring them up to code or minimum property standards. These grants ere established by Public Law 98–181, the Housing Urban Rural Recovery Act of 1983, which amended the Housing Act of 1949 (Pub. L. 93–383). RHS will collect a "Statement of Activity" from the applicant describing their proposed program.

Need and Use of the Information: RHS will collect information to determine eligibility for a grant to justify its selection of the applicant for funding; to report program accomplishments and to justify and support expenditure of grant funds. RHS uses the information to determine if the grantee is complying with its grant agreement and to make decisions regarding continuing with, modifying, or terminating grant assistance. If the information is not collected and presented to RHS, the Agency could not monitor the program or justify disbursement of grant funds.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Individuals or households; State, Local or Tribal Government.

Number of Respondents: 2,050.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly.

Total Burden Hours: 10,814.

National Agricultural Statistics Service

Title: Floriculture Survey.

OMB Control Number: 0535–0093.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Since 1985, Congress has provided funds to conduct an annual Commercial Floriculture Survey which provides basic data on this important and growing industry. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. This statute specifies that "The Secretary of Agriculture shall procure and preserve all information concerning agriculture which can be obtained by the collection of statistics * * * and shall distribute them among agriculturists". The floriculture industry accounts for about 5 percent of agricultural cash receipts at the U.S. level. The survey is conducted in 36 states, which ensures 97 percent coverage of the U.S. value of production. NASS will collect information using a survey.

Need and Use of the Information: NASS will collect information to assess alternative agriculture opportunities. Data from the survey will provide statistics for Federal and State agencies to monitor the use of agricultural chemicals. If the information is not collected data users could not keep abreast of changes.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 16,100.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 6,883.

National Agricultural Statistics Service

Title: Vegetables.

OMB Control Number: 0535–0037.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Vegetable estimates are an integral part of this function. The vegetable program is complex in that some crops are processing only, some are fresh market only, and others are dual crops (both processing and fresh market). Vegetable processors are surveyed the first week of April for their intended acreage of vegetables for processing and the first week of July for acreage contracted. The fresh market vegetable program consists of weekly estimates during the growing season for tomatoes in Florida. NASS will collect information using a survey.

Need and Use of the Information: NASS will collect information to estimate acreage planted and harvested, production, and utilization for the various crops. The estimates provide vital statistics for growers, processors, and marketers to use in making production and marketing decisions.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 13,906.

Frequency of Responses: Reporting: On occasion; Weekly; Annually.

Total Burden Hours: 2,710.

National Agricultural Statistics Service

Title: Agricultural Resource Management, Chemical Use and Postharvest Chemical Use Survey.

OMB Control Number: 0535–0218.

Summary of Collection: The Agricultural Economics and Land Ownership Survey (AELOS) is a one-time information collection. General

authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. This statute specifies that "The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain * * * by the collection of statistics * * * and shall distribute them among agriculturists." National Agricultural Statistics Service (NASS) received new funding in FY 1997 to start collecting pesticide usage information on chemicals applied after harvest of a commodity. These data are needed to provide accurate information on the type of chemicals and amounts of chemicals applied postharvest. This information collection obtains chemical use and postharvest chemical use data in addition to agricultural resource management survey data. NASS will collect information using a survey.

Need and Use of the Information: NASS will collect information to provide estimates on the extent of residue of chemicals on fruits and vegetables and to produce environmental and economic estimates of the costs of farming. If the information is not collected NASS would not be able to update the Index of Prices Paid by Farmers.

Description of Respondents: Farms.

Number of Respondents: 108,183.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 38,274.

Rural Utilities Service

Title: Accounting Requirements for RUS Electric and Telecommunications Borrowers.

OMB Control Number: 0572–0003.

Summary of Collection: Rural Utilities Service (RUS) manages loan programs in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, as amended. Currently 800 rural electric and 830 telecommunications systems have outstanding loans from RUS. RUS does not own or operate rural electric facilities. Its function is to provide, through self-liquidating loans and technical assistance, adequate and dependable electric and telecommunications service to rural people under rates and conditions that permit productive use of these utility services. RUS borrowers, as all businesses, need accounting systems for their own internal use as well as external use. Such records are maintained as part of normal business practices. Without systems, no records would exist, for example, or what they own or what they owe. Such records systems provide borrowers with information that is required by the manager and board of directors to operate on a daily basis, to complete their tax returns, and to support requests to state regulatory commissions for rate approvals.

Need and Use of the Information: RUS collects information to evaluate a borrower's financial performance, to determine whether current loans are at risk, and to determine the credit worthiness of future loans. If basic financial records were not maintained, the borrower, its investors, and RUS would be unable to evaluate a borrower's financial performance.

Description of Respondents: Not-for-profit institutions; Business or other for-profit.

Number of Respondents: 1,630.

Frequency of Responses: Recordkeeping.

Total Burden Hours: 45,520.

Nancy B. Sternberg,

Departmental Clearance Officer.

[FR Doc. 99–30582 Filed 11–23–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[FV–98–305]

United States Standards for Grades of Oranges (California and Arizona), United States Standards for Grades of Grapefruit (California and Arizona), United States Standards for Grades of Tangerines and the United States Standards for Grades of Lemons

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document gives notice of the availability of revisions to the United States Standards for Grades of Oranges, Grapefruit, Tangerines and Lemons. The changes will provide a minimum 25-count sample to be applied to tolerances for defects, revise the grades to make them uniform and consistent with each other and other recently revised U.S. grade standards, and, delete references to outdated industry practices and terminology.

EFFECTIVE DATE: This notice is effective December 27, 1999.

ADDRESSES: The revised standards are available from Kenneth R. Mizelle, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2065, South Building, STOP 0240, P.O. Box 96456, Washington, DC 20090–6456; or at www.ams.gov/standards/frutmrkt.htm.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Mizelle (202) 720–2185.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture "to develop and improve standards of quality, condition, quantity, grade, and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *." AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and to making copies of official standards available upon request. The United States Standards for Grades of Oranges (California and Arizona), United States Standards for Grades of Grapefruit (California and Arizona), United States Standards for Grades of Tangerines and the United States Standards for Grades of Lemons no longer appear in the Code of Federal Regulations (CFR); however, they are maintained by USDA.

AMS is revising the United States Standards for Grades of Oranges (California and Arizona), United States Standards for Grades of Grapefruit (California and Arizona), United States Standards for Grades of Tangerines and the United States Standards for Grades of Lemons using the procedures it published in the August 13, 1997, **Federal Register** and that appear in Part 36 of Title 7 of the CFR.

The notice, with a request for comments on the proposed changes, was published in the **Federal Register** on June 17, 1999 (64 FR 32666–32703).

The petitioner (Sunkist Growers), which represents the majority of citrus growers and packers in California, requested that the standards be revised to provide a minimum 25-count sample applied to tolerances for defects. In addition, AMS proposed several other changes to promote greater uniformity and consistency in application of the standard. These standards have not been changed within the last 34 to 50 years, depending on the commodity. These changes are needed to bring the standards into conformity with current cultural and marketing practices and to promote more uniform application of the U.S. grade standards.

AMS published the notice in the **Federal Register** with an outline of the specific proposed changes and provided for a comment period of 60 days, which ended August 16, 1999. No comments were received on the notice during that time. However, a request from industry to reopen and extend the comment period was received on August 16, 1999. The request was granted, and the comment period was extended through September 20, 1999. A total of 2

comments were received, one from an organization of agricultural product receivers and one from the petitioner.

The receivers comments stated, in summary, that they "strongly oppose the proposed changes." They suggested that "The Department shall define the terms 'Injury, Damage, Serious Damage and Very Serious Damage' but shall not interfere with the actual areas prescribed for each defect as it is in the current definitions. The Department shall also restrain from changing the terms, 'FREE FROM' to 'FREE FROM INJURY BY BRUISES' in the proposed U.S. Standard for U.S. Fancy Grade of Oranges, (California and Arizona)." It is the receivers' contention that the changes will allow 100 percent bruising plus 12 percent damage by bruising in lots of U.S. Fancy oranges. AMS disagrees with this assertion and feels that there has been some misunderstanding with regard to the proposed changes. This portion of the proposal was not made at the request of the petitioner, but rather was initiated by AMS as part of its efforts to promote greater uniformity and consistency in application of the standard. The definitions that were included in the proposed standards are the same definitions that are currently used in the instructional manuals to provide inspectors with guidelines as to what constitutes a bruise. Additionally, these definitions are used in other citrus grades. The definitions prevent inspectors from scoring fruit with slight skin indentations as bruises when, in fact, there is no injury to the skin or flesh of the fruit. Accordingly, AMS believes that the proposal should be adopted. The revision also provides language that is consistent with other citrus grades.

The receivers comments stated: "When one thinks of a 'FANCY FRUIT,' the mind creates a picture of a perfect fruit, without blemishes, free from any injury of any kind and of perfect characteristic color an idea of the ultimate description of excellence and perfection. This is the FANCY GRADE OF CITRUS that we know and we want to keep it that way. Therefore these changes are unnecessary, preposterous, not warranted and bias [sic] against the receiving sector of the produce industry, and the consumer." AMS disagrees with the commenter's assertion that Fancy fruit is perfect, without blemishes and free from injury of any kind. Every AMS fruit and vegetable grade standard provides for degrees of defects, as well as defect tolerances, thus allowing for "less than perfect" fruit, up to a certain point. The purpose of these standards, established by USDA in cooperation with the citrus industry in 1948, 1950, 1957 and 1964, is to provide attainable grading classifications that can be utilized by the entire fruit and vegetable community, not to regulate difficult, if not impossible, parameters of perfection.

The receivers are also "vigorously opposed to the change for the DECAY TOLERANCES at shipping point for each grade listed in the notice." They note that "this change would give an extra advantage to the packers and growers." AMS disagrees with the receivers. The proposed change would increase the decay tolerance to a total of 1 percent at shipping point, from a previous ½ of 1 percent. The 1 percent shipping point decay tolerance is already widely used in citrus and other fruit and vegetable standards. AMS can foresee no impact on the receivers or the consumers in this regard because the decay tolerance of 3 percent at destination remains unchanged.

Regarding the grapefruit standard, the receivers recommended that allowable skin thickness remain at not more than ⅜ of an inch to meet the "fairly thin skinned" requirement and more than 7/16 inch to meet the requirement of "excessively thick skinned." AMS recommended a slight increase for skin thickness (½ inch and ⅝ inch respectively), based on a fruit diameter of 4⅛ inch. Smaller or larger areas would be allowed, proportionately, for smaller or larger fruit. This new scoring guide is consistent with the recently-revised U.S. standards for Florida grapefruit standard and will remain as proposed.

The receivers stated they did not understand a phrase contained in the grapefruit standard on "Injury, (k)," pertaining to green spots, which reads, "Green spots * * * which are green and more that ¼ in number." This was a typographical error in the notice and will be changed to read, "Green spots * * * which are green and more than 4 in number."

The receivers contend that the proposed scoring guidelines for creasing of tangerines, in all but the U.S. No. 1 grade, are too lenient. AMS, however, believes that there is a distinction between the severity of creasing allowed in each grade in addition to the amount of area affected by creasing of any degree. In the proposed tangerine grade, for each lower grade, a more severe degree of creasing is allowed. This is the standard method of scoring for any defect, regardless of commodity. Additionally, the proposed scoring criteria for creasing also provides that no more than a specified area of any visible creasing be allowed. This scoring guide is consistent with the U.S. standards for Florida tangerines and provides an objective basis for scoring this defect.

Also concerning the tangerine standard, the receivers contended that scoring guidelines in the U.S. No. 3 grade (very serious damage) are too lenient for the following defects: skin breakdown, scale, sprayburn, buckskin, scab and green spots. The receivers recommended an affected area of 20 percent of the surface before scoring. In the proposal, AMS considered an affected area of over 25 percent of the fruit surface for these defects to be scorable. The original standard contained a scoring guide for these defects defined as "when it very seriously detracts from the appearance." However, AMS believes that the receivers recommendation of 20 percent is too restrictive. Further, the new scoring guide, which is consistent with the U.S. standards for Florida tangerines with regard to virtually all defects, provides an objective method for scoring, as opposed to the subjective method contained in the old U.S. standard. Accordingly, AMS is making this change as proposed.

The receivers consider the proposed skin breakdown scoring guide in the lemon standard of allowing ¼ inch as being "excessive." They stated that ¼ inch "represents 12½% on a fruit 2 inches in diameter." They suggested an area not exceeding 3/16 inch for damage and not exceeding ½ inch for serious damage. Their recommendation was mathematically based on their belief that these averages represented 10% and 25%, respectively, of the area of the fruit. These percentages appear to have been based on an "area" 2 inches in diameter as opposed to a "sphere" of 2 inches in diameter which has a much larger surface area. AMS, when determining areas allowed for defects, considers both the mathematical area and the appearance of the defect for the commodity in question. AMS has concluded that the scoring guideline of ¼ inch for damage, based on a lemon 2 inches in diameter, does not allow an excessive amount of the defect on the fruit, before it is scored as a defect. However, in light of the receivers' concern with the serious damage skin breakdown scoring guide of not exceeding ⅝ inch, AMS has concluded that this could be considered an excessive amount for this defect. Consequently, AMS agrees with the receivers' suggestion of not exceeding ½ inch in diameter for serious damage by skin breakdown.

The receivers agree to the proposed change to create separate shipping point

and en route or at destination tolerances for the commodities appearing in the notice.

The petitioner submitted the only other comment received by AMS. They stated, "We strongly support proposed changes in the procedures for sampling fruit to measure against defect tolerances. The new standard calling for a minimum 25 count sample promotes greater uniformity and consistency within the standards and affords a fairer and more realistic evaluation of the arrival quality of fruit shipments. Additionally, we view favorably the proposed change in tolerance standard for a grapefruit rind thickness; elimination of the juice content requirement for lemons; and a change of measurement of surface blemishes on fruit as a percentage of the surface area instead of a specific size definition of the blemish, allowing for a more consistent means of measurement relative to the actual size of the fruit. In general, the proposed modifications eliminate many obsolete standards and criteria that are not reflective of modern production conditions and the realities of the modern marketplace."

AMS also discovered several typographical omissions in the lemon standard. The section pertaining to standard sizing and fill (a) was inadvertently omitted. Also, the letter designations for the defect definition sub-paragraphs relating to bruising and skin breakdown under damage and serious damage (h, i, j and k respectively) were inadvertently omitted. Although the definitions remain unchanged from the original notice, to eliminate any confusion, the letter designations (h, i, and j) will be included in the final U.S. standard. With regard to what should have been designated paragraph "k" (serious damage by skin breakdown), the definition is being changed slightly based on the comments received.

Accordingly, further changes to the notice revising the United States Standards for Grades of Oranges (California and Arizona), United States Standards for Grades of Grapefruit (California and Arizona), United States Standards for Grades of Tangerines and the United States Standards for Grades of Lemons as published in the **Federal Register** at 64 FR 32666–32703 on June 17, 1999, are made as described above.

The revised standards are available either through the above address or by accessing AMS's Home Page on the Internet at www.ams.usda.gov/standards/frutmrkt.htm.

Authority: 7 U.S.C. 1621–1627.

Dated: November 16, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–30420 Filed 11–23–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–051N]

Equivalence Evaluation Process for Foreign Meat and Poultry Food Regulatory Systems

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing a public meeting on December 14, 1999 to (1) report the Pathogen Reduction/HACCP equivalence status of each country that exports meat or poultry to the United States, (2) explain the rationale for acceptance of alternative PR/HACCP sanitary measures, and (3) receive additional public comments on the state of FSIS equivalence activities.

DATES: The public meeting will be held on December 14, 1999, from 1:00 p.m. to 6:00 p.m. No preregistration is necessary.

ADDRESSES: The public meeting will be held in the Federal Room, Washington Plaza Hotel, 10 Thomas Circle NW (at Massachusetts Avenue and 14th Street), Washington, DC 20009, (202) 842–1300. Attendees requiring sign-language interpreters or other special accommodation should contact Mr. Clark Danford (identified below in **FOR FURTHER INFORMATION CONTACT**) by November 30, 1999. Transcripts of the meeting will be available in the FSIS Docket Office, Room 102, 300 12th Street, SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Mr. Clark Danford, Acting Director, International Policy Division; Office of Policy, Program Development, and Evaluation; (202) 720–6400, or by electronic mail to *clark.danford@usda.gov*.

SUPPLEMENTARY INFORMATION: FSIS published a notice in the **Federal Register** of March 12, 1999 (64 FR 12281) announcing the availability of a document that describes the Agency's process for evaluating foreign meat and poultry inspection systems to determine whether they are equivalent to the United States' inspection system. FSIS solicited public comments on this document and held a public meeting on April 14, 1999, to discuss the equivalence evaluation process. The comment period ended May 11, 1999. This notice announces a follow-up public meeting to (1) report the Pathogen Reduction/HACCP equivalence status of each country that exports meat or poultry to the United States, (2) explain the rationale for acceptance of alternative PR/HACCP sanitary measures, and (3) receive additional public comments on the state of FSIS equivalence activities.

Departmental Regulation 4300–4

FSIS has considered, under Department Regulation 4300–4, "Civil Rights Impact Analysis," dated September 1993, the potential civil rights impact of this notice on minorities, women, and persons with disabilities. FSIS anticipates that this notice will not have a negative or disproportionate impact on minorities, women, and persons with disabilities. Notices generally are designed to provide information and increase public awareness of important policy developments. Public involvement in all segments of policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice of a public meeting, FSIS will announce the publication of this **Federal Register** notice in the *FSIS Constituent Update*.

FSIS provides a weekly *FSIS Constituent Update*, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents. This constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would otherwise be possible. For more information or to be added to the constituent fax list, fax your request to the Agency's Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC, on November 18, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–30604 Filed 11–23–99; 8:45 am]

BILLING CODE 3460–DM–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: November 30, 1999; 9:30 a.m.–5:00 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., S.W., Washington, D.C. 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b. (c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b. (c)(2) and (6)).

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact either Brenda Hardnett or John Lindburg at (202) 401–3736.

Dated: November 22, 1999.

John A. Lindburg,

Legal Counsel and Acting Executive Director.

[FR Doc. 99–30816 Filed 11–22–99; 3:43 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Final Results of Full Sunset Review: Brass Sheet and Strip From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Full Sunset Review: Brass Sheet and Strip from Canada.

SUMMARY: On August 26, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the antidumping duty order on brass sheet and strip from Canada (64 FR 46642) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We did not receive comments from any interested parties. As a result of this review, the Department finds that revocation of this order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

Imports covered by this order are shipments of brass sheet and strip, other than leaded or tinned, from Canada. The chemical composition of the subject merchandise is defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000 Series. This order does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this order have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classifiable under item numbers 7409.21.00 and 7409.29.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS item numbers are provided for convenience and customs purposes only. The written description remains dispositive.

Background

On August 26, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Brass Sheet and Strip from Canada* (64 FR 46642) ("*Preliminary Results*"). In our preliminary results, we found that revocation of the order would likely result in the continuation or recurrence of dumping. In addition, we preliminarily determined that the magnitude of the margin of dumping likely to prevail if the order were revoked was 11.54 percent for Wolverine Tube, Inc. ("Wolverine") (formerly Noranda Metals, Inc.) and 8.10 for all other producers and/or exporters of the subject merchandise. No interested party commented on our *Preliminary Results*.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping for the reasons set forth in our *Preliminary Results* of review. Furthermore, for the reasons set forth in our *Preliminary Results* of review, we find that the margins calculated in the original investigation are probative of the behavior of Canadian producers/exporters of the subject merchandise. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation listed below:

Manufacturer/exporter	Margin (percent)
Wolverine	11.54
All Other Producers/Exporters	8.10

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely

notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 18, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30675 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–811]

Continuation of Antidumping Duty Order: Drafting Machines From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of continuation of antidumping duty order: Drafting machines from Japan.

SUMMARY: On October 5, 1999, the Department of Commerce ("the Department"), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended ("the Act"), determined that revocation of the antidumping duty order on drafting machines from Japan is likely to lead to continuation or recurrence of dumping (64 FR 53996). On November 15, 1999, the International Trade Commission ("the Commission"), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (64 FR 61937). Therefore, pursuant to 19 CFR 351.218(e)(4), the Department is publishing notice of the continuation of the antidumping duty order on drafting machines from Japan.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION

Background

On June 1, 1999, the Department initiated, and the Commission instituted, a sunset review (64 FR 29261 and 64 FR 29339, respectively) of the antidumping duty order on drafting machines from Japan pursuant to section 751(c) of the Act. As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the order to be revoked (*see Final Results of Expedited Sunset Review: Drafting Machines From Japan*, 64 FR 53996 (October 5, 1999)).

On November 15, 1999, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Drafting Machines From Japan* 64 FR 61937 (November 15, 1999) and USITC Pub. 3252, Investigation No. 731–TA–432 (Review) (November 1999).

Scope

The merchandise subject to this order includes drafting machines that are finished, unfinished, assembled, or unassembled, and drafting machine kits. The term "drafting machine" refers to "track" or "elbow-type" drafting machines used by designers, engineers, architects, layout artists, and others. Drafting machines are devices for aligning scales (or rulers) at a variety of angles anywhere on a drawing surface, generally a drafting board. A protractor head allows angles to be read and set and lines to be drawn. The machine is generally clamped to the board. Also included within the scope are parts of drafting machines. Parts include, but are not limited to, horizontal and vertical tracks, parts of horizontal and vertical tracks, band and pulley mechanisms, protractor heads, and parts of protractor heads, destined for use in drafting machines. Accessories, such as parallel rulers, lamps and scales are not subject to this order. This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item numbers 9017.10.00 and 9017.90.00. This merchandise was previously classified under item number 710.8025 of the Tariff Schedule of the United States. The HTS item numbers are provided for convenience and customs purposes only. The written description remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on drafting machines from Japan. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rate in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751 (c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than October 2004.

Dated: November 18, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30673 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Continuation of Antidumping Duty Order: Potassium Permanganate From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Continuation of Antidumping Duty Order on Potassium Permanganate from the People's Republic of China.

SUMMARY: On April 7, 1999, the Department of Commerce ("the Department"), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended ("the Act"), determined that revocation of the antidumping duty order on potassium permanganate from the People's Republic of China would be likely to lead to continuation or recurrence of dumping (64 FR 16907 (April 7, 1999)). On November 4, 1999, the International Trade Commission ("the Commission"), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on potassium permanganate from the People's Republic of China would be likely to lead to continuation or recurrence of material injury to an

industry in the United States within a reasonably foreseeable time (64 FR 60225 (November 4, 1999)). Therefore, pursuant to 19 CFR 351.218(e)(4), the Department is publishing notice of the continuation of the antidumping duty order on potassium permanganate from the People's Republic of China.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 24, 1999.

Background

On November 2, 1998, the Department initiated, and the Commission instituted, a sunset review (63 FR 58709 and 63 FR 58765, respectively) of the antidumping duty order on potassium permanganate from the People's Republic of China pursuant to section 751(c) of the Act. As a result of this review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the order to be revoked (*see Final Results of Expedited Sunset Reviews: Potassium Permanganate from the People's Republic of China*, 64 FR 16907 (April 7, 1999)).

On November 4, 1999, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on potassium permanganate from the People's Republic of China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Potassium Permanganate from China and Spain*, 64 FR 60225 (November 4, 1999), and USITC Publication 3245, Inv. Nos. 731–TA–125–126 (October 1999)).

Scope

The merchandise subject to this antidumping order is potassium permanganate from the People's Republic of China, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades.[1] Potassium permanganate is classifiable under item 2841.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes. The written description remains dispositive.

Determination

As a result of the determinations by the Department and the Commission that revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on potassium permanganate from the People's Republic of China. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of this antidumping duty order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) the Department intends to initiate the next five-year review of this order not later than October 2004.

Dated: November 18, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30674 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] On May 19, 1995, the Department determined that plastic ignitor spheres containing potassium permanganate are not within the scope of the order (60 FR 26871).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–007]

Revocation of Antidumping Duty Order: Potassium Permanganate From Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Revocation of antidumping duty order on potassium permanganate from Spain.

SUMMARY: Pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the International Trade Commission ("the Commission"), determined that revocation of the antidumping duty order on potassium permanganate from Spain would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (64 FR 60225 (November 4, 1999)). Therefore, pursuant to 19 CFR 351.218(e)(4), the Department is publishing notice of the revocation of the antidumping duty order on potassium permanganate from Spain. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2), the effective date of revocation is January 1, 2000.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

Background

On November 2, 1998, the Department initiated, and the Commission instituted, a sunset review (63 FR 58709 and 63 FR 58765, respectively) of the antidumping duty order on potassium permanganate from Spain pursuant to section 751(c) of the Act. As a result of this review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the order to be revoked (*see Final Results of Expedited Sunset Reviews: Potassium Permanganate from Spain*, 64 FR 16907 (April 7, 1999)).

On November 4, 1999, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on potassium permanganate from Spain would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Potassium Permanganate from China and Spain*, 64 FR 60225 (November 4, 1999), and USITC Pub. 3245, Inv. Nos. 731–TA–125–126 (October 1999)).

Scope

The merchandise subject to this antidumping order is potassium permanganate from Spain, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades.[1] Potassium permanganate is classifiable under item 2841.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes. The written description remains dispositive.

[1] On May 19, 1995, the Department determined that plastic ignitor spheres containing potassium permanganate are not within the scope of the order (60 FR 26871).

Determination

As a result of this determination by the Commission that revocation of this antidumping duty order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act, is revoking the antidumping duty order on potassium permanganate from Spain. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2), the effective date of revocation is January 1, 2000. The Department will instruct the U.S. Customs Service to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: November 18, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30676 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–851–802, A–485–805, A–201–827]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Certain Small and Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From the Czech Republic, Romania and Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Magd Zalok, DAS Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0984, or (202) 482–4162, respectively.

Postponement of Preliminary Determination

The Department of Commerce ("the Department") is postponing the preliminary determinations in these antidumping duty investigations of certain small and large diameter carbon and alloy seamless standard, line and pressure pipe from the Czech Republic, Romania, and Mexico. As a result of this extension, the deadline for issuing the preliminary determinations in these investigations is now January 26, 2000.

On July 28, 1999, the Department initiated antidumping investigations of certain small and large diameter carbon and alloy seamless standard, line and pressure pipe from the Czech Republic, Romania, and from Mexico. *See Initiation of Antidumping Duty Investigations: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and Mexico; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From the Czech Republic, Japan, the Republic of South Africa and Romania*, 64 FR 40825. The notice stated that the Department would issue its preliminary determinations no later than 140 days after the date of initiation (*i.e.*, December 7, 1999).

Pursuant to 19 CFR 351.205(e), on November 10, 1999, the petitioners filed requests that the Department postpone the small diameter pipe preliminary determinations for the Czech Republic and Romania. The petitioners' request for postponement was timely, and the Department finds no compelling reason to deny the request.

Further, the Department has now concluded, consistent with section 733(c)(1)(B) of the Tariff Act of 1930, as amended ("the Act"), that the Mexican investigation of large diameter pipe is extraordinarily complicated, and that additional time is necessary to issue the preliminary determination, due to (a) the complexity of the issues raised in this case, requiring the issuance of supplemental questionnaires, and (b) the inherent difficulty of coordinating the analysis of cross-cutting issues for several related antidumping investigations (*i.e.*, whether certain merchandise constitutes a separate class or kind of merchandise). Therefore, in accordance with section 733(c)(1)(A) of the Act, the Department is postponing these preliminary determinations until January 26, 2000.

This extension is in accordance with section 733(c) of the Act and 19 CFR 351.205(b)(2).

Dated: November 17, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30671 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–827]

Static Random Access Memory Semiconductors From Taiwan; Antidumping Duty New Shipper Review and First Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, United States Department of Commerce.

ACTION: Notice of extension of time limits of final results of 1997–1998 New Shipper Review and of Preliminary Results of 1997–1999 Administrative Review.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson at (202) 482–1776, or Irina Itkin at (202) 482–0656, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230.

Postponement of Final Results of New Shipper Review and Preliminary Results of Administrative Review

The Department issued the preliminary results of the new shipper review of the antidumping duty order on static random access memory semiconductors from Taiwan on October 4, 1999 (64 FR 55251 (October 12, 1999)). The current deadline for the final results in this review is December 31, 1999. In accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930 (the "Act"), as amended, and 19 CFR 351.214(i)(2), the Department finds that this new shipper review cannot be completed within the original time frame due to the extraordinarily complicated nature of certain issues in this review. Thus, the Department is extending the time limit for completion of the final results of the new shipper review until March 2, 2000, which is 150 days after the date on which the preliminary results were issued. *See* memorandum to Robert LaRussa, dated November 17, 1999.

Moreover, because it is not practicable to complete the administrative review within the time limits mandated by the Uruguay Round Agreements Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), pursuant to section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h)(2), the Department is extending the time limit for completion of the preliminary results of the administrative review

until April 29, 2000. *See* memorandum to Robert LaRussa, dated November 17, 1999.

These extensions are in accordance with sections 751(a)(2)(B)(iv) and 751(a)(3)(A) of the Act.

Dated: November 17, 1999.

Louis Apple,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–30672 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–841 and A–588–852]

Structural Steel Beams From South Korea and Japan; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determinations for antidumping duty investigations of structural steel beams from South Korea and Japan.

SUMMARY: The Department of Commerce ("the Department") is postponing the preliminary determinations in the antidumping duty investigations of structural steel beams from South Korea and Japan. These investigations cover nine manufacturers and exporters of the subject merchandise (two from South Korea and seven from Japan) during the period July 1, 1998 through June 30, 1999.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Jim Doyle (Japan), at (202) 482–0159 and Rick Johnson (South Korea), at (202) 482–3818, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Postponement of Preliminary Determinations

On August 3, 1999, the Department initiated antidumping duty investigations of imports of structural steel beams from Germany, Spain, Japan and South Korea. The notice of initiation stated that we would issue our preliminary determinations by December 14, 1999. *See* 64 FR 42084 (August 3, 1999).

On September 1, 1999, the U.S. International Trade Commission ruled that there was no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Germany and Spain of certain structural steel beams. *See Certain Structural Steel Beams From Germany, Japan, Korea, and Spain*, 64 FR 47866 (September 1, 1999). Hence, in accordance with section 351.207(d) of the Department's regulations, the investigations regarding structural steel beam imports from Germany and Spain are automatically terminated.

On November 2, 1999, petitioners made a timely request pursuant to 19 CFR 351.205(e) for a 50 day postponement, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930 ("the Act"), as amended by the Uruguay Round Agreements Act. Petitioners stated that a postponement of the preliminary determinations is necessary in order to give the Department time to address the complicated issues in the Korean investigations. Also, petitioners requested that the Department postpone the preliminary determination for Japan to keep the investigations aligned.

Therefore, the Department is postponing the preliminary determinations of the Japanese and Korean investigations by 50 days, to February 2, 2000.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: November 16, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 99–30669 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–803]

Titanium Sponge From the Republic of Kazakhstan; Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On September 9, 1999, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding on titanium sponge from the Republic of Kazakhstan (Kazakhstan). This review covers one manufacturer/exporter, Ust-Kamenogorsk Titanium and Magnesium Plant, and an affiliated exporter, Specialty Metals Company. The period of review (POR) is August 1, 1997, through July 31, 1998. We gave interested parties an opportunity to comment on the preliminary results of review but received no comments. These final results of review have not changed from those presented in the preliminary results of review.

EFFECTIVE DATE: November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Manning, Office of AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3936.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Scope of Review

The product covered by this administrative review is titanium sponge from Kazakhstan. Titanium sponge is chiefly used for aerospace vehicles, specifically, in construction of compressor blades and wheels, stator blades, rotors, and other parts in aircraft gas turbine engines. Imports of titanium sponge are currently classifiable under the harmonized tariff schedule (HTS) subheading 8108.10.50.10. The HTS subheading is provided for convenience and U.S. Customs purposes. Our written description of the scope of this proceeding is dispositive.

Background

On September 8, 1999, we published in the **Federal Register** (64 FR 48793) the preliminary results of the review of this finding. We gave interested parties an opportunity to comment on our preliminary results. We received no comments. In the preliminary results, we determined the weighted-average dumping margin for the period August

1, 1997, through July 31, 1998, to be zero.

The Department has now completed the administrative review in accordance with section 751 of the Act.

Final Results of Review

We have determined that no changes to the preliminary results are warranted for purposes of these final results. The weighted-average dumping margin for the period August 1, 1997, through July 31, 1998, is as follows:

Manufacturer/exporter	Period	Margin (percent)
Ust-Kamenogorsk Titanium and Magnesium Plant/Specialty Metals Company	8/1/97–7/31/98	zero.

The Department will issue appraisement instructions directly to the Customs Service. Pursuant to the International Trade Commission's determination that revocation of the finding covering titanium sponge imports from Kazakhstan is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department revoked this finding on August 31, 1998, with an effective date of August 13, 1998. *See Notice of Revocation of Antidumping Findings and Antidumping Duty Order and Termination of Five-Year ("Sunset") Reviews: Titanium Sponge from Kazakhstan, Russia, Ukraine, and Japan*, 63 FR 46215 (August 31, 1998). Since the revocation is currently in effect, current and future imports of titanium sponge from Kazakhstan shall be entered into the United States without regard to antidumping duties. Therefore, we will instruct Customs not to suspend future entries and to liquidate all future entries of this product, from Kazakhstan, without regard to antidumping duties.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 17, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary, Import Administration.

[FR Doc. 99–30670 Filed 11–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Statutory Invention Registration

ACTION: Proposed collection; Comment request.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted January 24, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 or via the Internet at LEngelme@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Robert J. Spar, Patent and Trademark Office (PTO), Washington, DC 20231, by telephone at (703) 305–9285.

SUPPLEMENTARY INFORMATION

I. Abstract

A statutory invention registration is not a patent. It has the defensive attributes of a patent but does not have the enforceable attributes of a patent. In other words, a person occasionally invents something solely for personal use (not for production or sale) and does not want to go through the effort and expense of obtaining a patent on the invention. At the same time, the inventor wants to prevent someone else from later obtaining a patent on a like invention. In that situation, the inventor can register a statutory invention and have it published. Once published, it cannot be claimed by another person. 37 USC 157 authorizes the Patent and Trademark Office (PTO) to publish a statutory invention registration containing the specifications and drawings of a regularly filed application for a patent without examination, providing the patentee meets all the requirements for printing, waives the right to receive a patent on the invention within a certain period of time prescribed by the PTO, and pays all application, publication and other processing fees.

The PTO administers 35 USC 157 through 37 CFR 1.293–1.297. Under 37 CFR 1.293, an applicant for an original patent may request, at any time during the pendency of the applicant's pending complete application, that the specifications and drawings be published as a statutory invention registration. Any such request must be signed by (1) the applicant and any assignee of record or (2) an attorney or agent of record in the application. The request for publication must also include a waiver of the applicant's right to receive a patent on the invention claimed effective upon the date of publication of the statutory invention registration.

37 CFR 1.294 permits any request for a Statutory Invention Registration to be examined to determine if the requirements of § 1.293 have been met. The examination will also determine if the subject matter of the application is appropriate for publication, and if the requirements for publication are met.

The public may petition the PTO to review rejection decisions within one month or such other time as is set forth in the decision refusing publication under 37 CFR 1.295. The petition may include a request for refund of the petition fee.

Under 37 CFR 1.296, the public may petition the PTO to withdraw a request to publish a statutory invention registration prior to the date of the notice of the intent to publish. The request to withdraw may also include a request for a refund.

If the request for a statutory invention registration is approved, a notice to that

effect will be published in the PTO's Official Gazette, in accordance with 37 CFR 1.297. Each statutory invention registration published will include a statement relating to the attributes of a statutory invention registration.

The public uses form number PTO/SB/94, Request for Statutory Invention Registration, to request and authorize publication of a regularly-filed patent application as a Statutory Invention Registration, to waive the right to receive a United States patent on the same invention claimed in the identified patent application, and to agree that the waiver will be effective upon publication of the Statutory Invention Registration. No forms are associated with the petition for a review of the refusal to publish a statutory invention registration or the petition to withdraw the request for publication of a statutory invention registration.

II. Method of Collection

By mail, facsimile, or hand carry when the applicant or agent files a statutory invention registration with the PTO.

III. Data

OMB Number: 0651–0036.
Form Number: PTO/SB/94.
Type of Review: Renewal without change.
Affected Public: Individuals or households; businesses or other for-profit; not-for-profit institutions; farms; Federal, state, local or tribal government.

Estimated Number of Respondents: 83 responses per year.

Estimated Time Per Response: It is estimated to take approximately 24 minutes each to complete the request for statutory invention registration, the petition to review the rejection decision, and the petition to withdraw the publication request.

Estimated Total Annual Respondent Burden Hours: 33.2 hours per year.

Estimated Total Annual Respondent Cost Burden: $0 (no capital start-up or maintenance expenditures are required). Using the professional hourly rate of $175.00 for associate attorneys in private firms, the PTO estimates $5,810 for salary costs associated with respondents.

Title of form	PTO Form No.(s)	Estimated time for response	Estimated annual burden hours	Estimated annual responses
Statutory Invention Registration	PTO/SB/94	0.4	32.0	80
Petition to Review Rejection Decision	N/A	0.4	0.4	1
Petition to Withdraw Publication Request	N/A	0.4	0.8	2
Totals			33.2	83

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: November 19, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–30598, Filed 11–23–99; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Safety Standard for Cigarette Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed request for an extension of approval of a collection of information from manufacturers and importers of disposable and novelty cigarette lighters. This collection of information consists of testing and recordkeeping requirements in certification regulations implementing the Safety Standard for Cigarette Lighters (16 CFR part 1210). The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget.

DATES: The Office of the Secretary must receive written comments not later than January 24, 2000.

ADDRESSES: Written comments should be captioned "Cigarette Lighters" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of approval of the collection of information, or to obtain a copy of 16 CFR part 1210, call or write Linda L. Glatz, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2226.

SUPPLEMENTARY INFORMATION: In 1993, the Commission issued the Safety Standard for Cigarette Lighters (16 CFR part 1210) under provisions of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) to eliminate or reduce risks of death and burn injury from fires accidentally started by children playing with cigarette lighters. The standard contains performance requirements for disposable and novelty lighters that are intended to make cigarette lighters subject to the standard resist operation by children younger than five years of age.

A. Certification Requirements

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, importers, and private labelers of a

consumer product subject to a consumer product safety standard to issue a certificate stating that the product complies with all applicable consumer product safety standards. Section 14(a) of the CPSA also requires that the certificate of compliance must be based on a test of each product or upon a reasonable testing program.

Section 14(b) of the CPSA authorizes the Commission to issue regulations to prescribe a reasonable testing program to support certificates of compliance with a consumer product safety standard. Section 16(b) of the CPSA (15 U.S.C. 2065(b)) authorizes the Commission to issue rules to require that firms "establish and maintain" records to permit the Commission to determine compliance with rules issued under the authority of the CPSA.

The Commission has issued regulations prescribing requirements for a reasonable testing program to support certificates of compliance with the standard for cigarette lighters. These regulations require manufacturers and importers to submit a description of each model of lighter, results of prototype qualification tests for compliance with the standard, and other information before the introduction of each model of lighter in commerce. These regulations also require manufacturers, importers, and private labelers of disposable and novelty lighters to establish and maintain records to demonstrate successful completion of all required tests to support the certificates of compliance which they issue. 16 CFR part 1210, subpart B.

The Commission uses the information compiled and maintained by manufacturers, importers, and private labelers of disposable and novelty lighters to protect consumers from risks of accidental deaths and burn injuries associated with those lighters. More specifically, the Commission uses this information to determine whether lighters comply with the standard by resisting operation by young children. The Commission also uses this information to obtain corrective actions if disposable or novelty lighters fail to comply with the standard in a manner that creates a substantial risk of injury to the public.

The Office of Management and Budget (OMB) approved the collection of information in the certification regulations for cigarette lighters under control number 3041–0116. OMB's most recent extension of approval will expire on January 31, 2000. The Commission proposes to request an extension of approval without change for these collection of information requirements.

B. Estimated Burden

The cost of the rule's testing, reporting, recordkeeping, and other certification-related provisions is comprised of time spent by testing organizations on behalf of manufacturers and importers, and time spent by firms to prepare, maintain and submit records to CPSC. There are an estimated 45 firms involved. Each of the 45 affected firms are expected to test an average of two new models of lighters each year, for a total of 90 responses. Testing of two lighters is expected to take 175 hours, therefore, 45 firms times 175 hours equals 7,875 total hours requested.

The cost of the rule's testing, reporting, recordkeeping and other certification-related provisions is comprised of time spent by testing organizations on behalf of manufacturers and importers, and time spent by firms to prepare, maintain, and submit records to CPSC. Testing costs are estimated to total roughly $5,000 to $10,000 per test series. If each of the 45 affected firms tests an average of one or two new models of lighters each year, total annual testing costs may be $225,000 to $900,000. Records preparation involves a range of both high-cost (executive and legal counsel) time and low-cost (clerical) time in each firm. The Commission staff has estimated charge-out costs for such time at approximately $50 per hour, on the average. For an average of roughly 20 to 40 hours per firm in a typical year, the total records preparation and submission costs for all 45 affected firms is approximately $45,000 to $90,000 per year. The differences between these costs and the March 1996 submission reflect a more accurate burden estimate.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collection of information is accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: November 17, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–30561 Filed 11–23–99; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Request for Comments Concerning Proposed Extension of Approval of a Collection of Information—Electrically Operated Toys and Children's Articles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed extension of approval of a collection of information from manufacturers and importers of certain electrically operated toys and children's articles. The collection of information consists of testing and recordkeeping requirements in regulations entitled "Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children," codified at 16 CFR part 1505.

The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from the Office of Management and Budget.

DATES: The Office of the Secretary must receive written comments not later than January 24, 2000.

ADDRESSES: Written comments should be captioned "Electrically Operated Toys" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of the collection of information, or to obtain a copy of 16 CFR part 1505, call or write Linda L. Glatz, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2226.

SUPPLEMENTARY INFORMATION: In 1973, the Commission issued safety requirements for electrically operated toys and children's articles to protect children from unreasonable risks of injury from electric shock, electrical burns, and thermal burns. These regulations are codified at 16 CFR part 1505 and were issued under the authority of sections 2 and 3 of the Federal Hazardous Substances Act (15 U.S.C. 1261, 1262).

A. Requirements for Electrically Operated Toys

These regulations are applicable to toys, games, and other articles intended for use by children that are powered by electrical current from a 120 volt circuit. Video games and articles designed primarily for use by adults that may be incidentally used by children are not subject to these regulations.

The regulations prescribe design, construction, performance, and labeling requirements for electrically operated toys and children's articles. The regulations also require manufacturers and importers of those products to develop and maintain a quality assurance program. Additionally, section 1505.4(a)(3) of the regulations requires those firms to maintain records for three years containing information about: (1) Material and production specifications; (2) the quality assurance program used; (3) results of all tests and inspections conducted; and (4) sales and distribution of electrically operated toys and children's articles.

The Office of Management and Budget (OMB) approved the collection of information requirements in the regulations under control number 3041–0035. OMB's most recent extension of approval expires on January 31, 2000. The Commission now proposes to request an extension of approval without change for the information collection requirements in the regulations.

The safety need for this collection of information remains. Specifically, if a manufacturer or importer distributes products that violate the requirements of the regulations, the records required by section 1505.4(a)(3) can be used by the firm and the Commission: (i) To identify specific lots or production lines of products which fail to comply with applicable requirements, and (ii) to notify distributors and retailers in the event the products are subject to recall.

B. Estimated Burden

The Commission staff estimates that about 40 firms are subject to the testing and recordkeeping requirements of the regulations. Each one may have an average of ten products each year for which testing and recordkeeping would be required. The Commission staff estimates that the tests required by the regulations can be performed on one product in 16 hours and that recordkeeping and maintenance can be performed for one product in four hours. Thus, the total annual burden imposed by the regulations on all manufacturers and importers is about 8,000 hours.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
—Whether the estimated burden of the proposed collection of information is accurate;
—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: November 17, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–30562 Filed 11–23–99; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board will meet in closed session on January 26–27, May 24–25, and September 27–28, 2000, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: November 18, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–30574 Filed 11–23–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Secretary of Energy Advisory Board's National Ignition Facility Laser System Task Force. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation.

DATES: Monday, November 29, 1999, 1:00 PM–5:30 PM and Tuesday, November 30, 1999, 8:30 AM–4:00 PM.

ADDRESSES: Lawrence Livermore National Laboratory (LLNL), Conference Room A, Building 123, 7000 East Avenue, Livermore, California 94551–0808. Note: For their convenience, members of the public who plan to attend this open meeting are requested to contact Ms. Kathleen Moody of the LLNL Protocol Office in advance of the meeting in order to facilitate access to the meeting site. Ms. Moody may be reached at (925) 423–5948 or via e-mail at moody2@llnl.gov.

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–7092 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the National Ignition Facility Laser System Task Force is to provide independent external advice and

recommendations to the Secretary of Energy Advisory Board on the options to complete the National Ignition Facility (NIF) Project; to recommend the best technical course of action; and to review and assess the risks of successfully completing the NIF Project. The NIF Task Force will focus on the engineering and management aspects of the proposed method for accomplishing the assembly and installation of the NIF laser system. The Task Force's review will cover the full scope of assembly and installation and the ability, within the proposed approach, to achieve the cleanliness requirements established for the operation of the laser. The review will also address: (1) The engineering viability of the proposed assembly and activation method; (2) the assembly and installation cleanliness protocols; (3) the management structure; and (4) the adequacy of the cost estimating methodology.

Tentative Agenda

A tentative agenda is currently under development for both Monday, November 29 and Tuesday, November 30, 1999. Times and order are still subject to change, however, topics may include:

Cleanliness Protocols (A Review of the Origin & Evolution of the Requirements, Assembly and Installation Plans and Procedures);
Procurement Planning (A Review of the NIF Laser System Procurement Plan, and Current Status);
NIF Cost Methodology (A Review of NIF Costs, and Revised Cost Estimate Plans);
NIF Project Management (A Review of NIF's Program and Project Management Control and Integration Systems and a Discussion of the Respective Roles and Responsibilities of DOE/DP, DOE/Oakland, UC, LLNL etc.);

The final agenda will be available at the meeting.

Public Participation

In keeping with procedures, members of the public are welcome to observe the business of the NIF Task Force and submit written comments or comment during the scheduled public comment periods. The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Livermore, California, the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. You may submit written comments to Betsy Mullins, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes

A copy of the minutes and a transcript of the meeting will be made available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 A.M. and 4:00 P.M., Monday through Friday except Federal holidays. Further information on the Secretary of Energy Advisory Board and its subcommittees may be found at the Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, DC, on November 19, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–30605 Filed 11–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Meeting

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Secretary of Energy Advisory Board's Laboratory Operations Board. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation.

DATES: Thursday, December 2, 1999, 8:30 A.M.–3:00 P.M.

ADDRESSES: Lawrence Berkeley National Laboratory, Perseverance Hall, Building 54, Room 130, Berkeley, California 94720.

FOR FURTHER INFORMATION CONTACT: Dr. Mary L. Keaton, Secretary of Energy Advisory Board (AB-1), US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–7261.

SUPPLEMENTARY INFORMATION: The purpose of the Laboratory Operations Board is to provide advice to the Secretary of Energy Advisory Board regarding the strategic direction of the Department's laboratories, the coordination of budget and policy issues affecting laboratory operations, and the reduction of unnecessary and counterproductive management burdens on the laboratories. The Laboratory Operations Board's goal is to facilitate the productive and cost-effective utilization of the Department's laboratory system and the application of best business practices.

Tentative Agenda

Wednesday, December 2, 1999

8:30–8:45 A.M. Opening Remarks—Co-Chairs: E. Moniz & J. McTague
8:45–9:45 A.M. Briefings & Discussion: Laboratory Directed Research and Development
9:45–10:00 A.M. Break
10:00–12:00 A.M. Briefings & Discussion: Performance Based Management
12:00–1:30 P.M. Lunch Break
1:30–2:00 P.M. Briefings & Discussion: Update on National Ignition Facility
2:00–2:30 P.M. Briefing & Discussion: Remaining Issues
2:30–2:45 P.M. Discussion: Roadmaps and Portfolios
2:45–3:00 P.M. Public Comment Period
3:00 P.M. Adjourn

A final agenda will be available at the meeting.

Public Participation

The Chairman of the Laboratory Operations Board is empowered to conduct the meeting in a way that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting at Lawrence Berkeley National Laboratory, the Laboratory Operations Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Laboratory Operations Board will make every effort to hear the views of all interested parties. You may submit written comments to Betsy Mullins, Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes

We will make minutes and a transcript of the meeting available for public review and copying approximately 30 days following the meeting at the Freedom of Information

Public Reading Room, 1E-190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 A.M. and 4:00 P.M., Monday through Friday except Federal holidays. You can find more information on the Laboratory Operations Board at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, DC, on November 19, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–30606 Filed 11–23–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232]

Duke Power Company; Public Notice Public Information Meetings

November 18, 1999.

The Federal Energy Regulatory Commission (Commission) will hold two public information meetings to familiarize the public with the Commission's hydropower licensing program. The Commission staff will give an overview of the Commission and its licensing procedures. There will be an opportunity for questions and answers. A significant number of hydroelectric projects' licenses will expire between 2000 and 2010, including the Duke Power Company's Catawaba-Wateree Project (Project No. 2232), located in Burke, Alexander, McDowell, Iredell, Caldwell, Lincoln, Catawaba, Gaston, and Mecklenburg Counties, North Carolina, and York, Chester, Lancaster, Fairfield and Kershaw Counties, South Carolina. The license for the Catawaba-Wateree Project expires in August 2008.

Interested persons are invited to attend either or both meetings scheduled as follows:

Wednesday, December 8, 1999
7:00 to 9:00 p.m., Auditorium, Rock Hill City Hall, 155 Johnston Street, Rock Hill, SC 29731

Thursday, December 9, 1999
7:00 to 9:00 p.m., Auditorium, Catawaba Valley Community College, 2550 Highway 70, SE., Hickory, NC 28602

Please direct any questions regarding these meeting either to Pennie Lewis-Partee, Commission Staff Outreach Support Coordinator, 888 First Street, NE, Washington, DC 20426, (202) 219–2722; Mike Struve, WPCOG Council of Governments, 736 Fourth Street, SW., Hickory, NC 28602, (828) 322–9191 (Ext. 148); or Mike Vead, Catawaba Regional Council of Governments, 215 Hampton Street, Rock Hill, SC 29731, (803) 327–9041.

David P. Boergers,

Secretary.

[FR Doc. 99–30581 Filed 11–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR00–2–000]

Lee 8 Storage Partnership; Notice of Petition for Rate Approval

November 18, 1999.

Take notice that on November 16, 1999, Lee 8 Storage Partnership (Lee 8) pursuant to Section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve its rates pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978. Lee 8 rates would be a system-wide maximum rate of $2.7723 per Mcf deliverability and $.0576 capacity charge. In addition, Lee 8 states that it will charge .79% of the injected volumes and .79% of the withdrawal volumes as an allowance for compressor fuel and lost-and-unaccounted-for gas on Lee 8's system.

Lee 8's petition states that Lee 8 is a Hinshaw pipeline exempt from Commission regulation under Section 11(c) of the NGA, with facilities located wholly within the state of Michigan.

Pursuant to Section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date of Lee 8's Petition, Lee 8's rates for firm and interruptible storage services will be deemed to be fair and equitable. The Commission may within such 150 day period extend the time for action or institute a proceeding in which all interested parties will be afforded an opportunity for written comments and the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before December 3, 1999. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed. us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30578 Filed 11–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–69–000]

Northwest Alaskan Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 18, 1999.

Take notice that on November 15, 1999 Northwest Alaskan Pipeline Company (Northwest Alaskan) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 2, Forty-Sixth Revised Sheet No. 5, proposed to be effective January 1, 2000.

Northwest Alaskan states that the instant filing is submitted pursuant to Section 4 of the Natural Gas Act, Section 9 of the Alaskan Natural Gas Transportation Act of 1976 and Part 154 of the Federal Energy Regulatory Commission's Regulations. Northwest Alaskan is submitting this filing pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and Pan-Alberta Gas (U.S.), Inc. (PAG–US), and pursuant to Rate Schedules X–1, X–2 and X–3, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (January 1, 2000 through June 30, 2000) the demand charges and demand charge adjustments which Northwest Alaskan will charge during the period.

Northwest Alaskan states that included in Appendix B attached to the filing are the workpapers supporting the derivation of the revised demand charge and demand charge adjustment reflected on the tariff sheet included therein.

Northwest Alaskan states that it is serving copies of the instant filing to its affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30577 Filed 11–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2145]

Public Utility District No. 1 of Chelan County, Washington; Notice of Scoping Meetings Pursuant to the National Environmental Policy Act of 1969 for an Applicant Prepared Environmental Assessment

November 18, 1999.

The Commission's regulations at Section 4.34 allow applicants the option of preparing their own Environmental Assessment (EA) for hydropower projects, and filing the EA with their application as part of an alternative licensing procedure. On October 25, 1999, the Commission approved the use of an alternative licensing procedure in the preparation of a new license application for Public Utility District No. 1 of Chelan County's (Chelan PUD), Rocky Reach Project, No. 2145.

The alternative procedures include provisions for the distribution of an initial information package (IIP), and for the cooperative scoping of environmental issues and needed studies. On July 7, 1999, Chelan PUD distributed their IIP. A public meeting on the IIP, and tour of project facilities were held on August 26, 1999.

Chelan PUD intends to distribute Scoping Document 1 (SD1) the week of November 15, 1999. Copies of SD1 can be obtained by calling Rosana Sokolowski at 509–663–8121 or via the Chelan PUD internet web site located at *http://www.chelanpud.org*. Two public meetings will be held to discuss SD1.

Scoping Meetings

Chelan PUD will hold public scoping meetings on December 15 and 16, 1999, pursuant to the National Environmental Policy Act (NEPA) of 1969. At the scoping meetings, Chelan PUD will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) outline any resources they believe would not require a detailed analysis; (3) identify reasonable alternatives to be addressed in the EA; (4) solicit from the meeting participants all available information, especially quantitative data, on the resources at issue; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA.

Although Chelan PUD's intent is to prepare an EA, there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

The times and locations of the scoping meeting are:

Evening Scoping Meeting

December 15, 1999, 7:00 pm to 9:00 pm, Chelan PUD Auditorium, 327 North Wenatchee Ave., Wenatchee, WA 98807

Morning Scoping Meeting

December 16, 1999, 9:00 am to 12:00 pm, Chelan PUD Auditorium, 327 North Wenatchee Ave., Wenatchee, WA 98807

All interested individuals, organizations, and agencies are invited and encouraged to attend any or all of the meetings to assist in identifying and clarifying the scope of environmental issues that should be analyzed in the EA.

Scoping Meeting Procedures

The meetings will be conducted according to the procedures used at Commission scoping meetings. Both scoping meetings will be recorded, and the transcripts will become part of the formal record of the proceedings for this project. Those who choose not to speak during the scoping meetings may instead submit written comments on the project.

Because this meeting will be a NEPA scoping meeting under the APEA process, the Commission does not intend to conduct a NEPA scoping meeting after Chelan PUD's application and EA are filed with the Commission. Instead, Commission staff will attend the meetings on December 15, and 16, 1999.

Commenting Deadline

Written comments should be mailed or e-mailed to: Mr. Gregg Carrington, Public Utility District No. 1 of Chelan County, Washington, P.O. Box 1231, Wenatchee, WA 98807–1231, gregg@chelanpud.org.

All correspondence should be postmarked no later than January 16, 2000. Comments should show the following caption on the first page: Scoping Comments, Rocky Reach Hydroelectric Project, Project No. 2145. Any comments sent to the Commission must include an original and eight copies and be addressed to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please put the docket number, P–2145, on the first page.

For further information please contact Gregg Carrington of Chelan PUD at (509) 663–8121 or Vince Yearick of the Commission at (202) 219–3073.

David P. Boergrs,

Secretary.

[FR Doc. 99–30597 Filed 11–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing, Soliciting Additional Study Requests, and Soliciting Motions To Intervene and Protests

November 18, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2866–008.

c. *Date Filed:* November 8, 1999.

d. *Applicant:* Metropolitan Water Reclamation District of Greater Chicago.

e. *Name of Project:* Lockport Hydroelectric Project.

f. *Location:* On the Chicago Sanitary and Ship Canal, in Will County, Illinois. The project utilizes facilities of the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Thomas K. O'Connor, Chief of Maintenance and Operations, or Gregory D. Cargill, Assistant Chief Engineer, General Division, Metropolitan Water Reclamation District of Greater Chicago, 100 East Erie Street, Chicago, IL 60611–5102, Telephone (312) 751–5102.

i. *FERC Contact:* Hector Perez, hector perez@ferc.fed.us, 202–219–2843.

j. *Deadline for filing additional study requests:* January 7, 2000.

Deadline for filing motions to intervene and protests: January 24, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervener filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The project consists of the following existing facilities: (1) A 385-foot-long powerhouse containing two generating units with a total installed capacity of 13.5 MW; (2) a concrete and masonry dam between the Federal Navigation Lock and the powerhouse including a 22-foot-wide abandoned lock, a 20-foot-wide sluice-gate section for passing debris and ice, and a 12-foot-wide non-overflow concrete section; (3) a fender wall approximately 530 feet long for debris skimming and ice protection; (4) a substation; (5) an access road approximately one mile long; and (6) appurtenant facilities.

The applicant does not propose any modifications to the project features or operation, and no additional capacity is proposed for this project under this new license.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the advisory Council on Historic Preservation, 36 CFR 800.4.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 99–30579 Filed 11–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

November 18, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2290–038.

c. *Date Filed:* October 22, 1999.

d. *Applicant:* Southern California Edison Company (SCE).

e. *Name of Project:* Kern River No. 3 Hydroelectric Project.

f. *Location:* The project is located on the Kern River in Tulare and Kern Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant's Contact:* Terri Loun, 300 N. Lone Hill Ave., San Dimas, CA 91773, (909) 394–8717.

i. *FERC Contact:* Any questions on this notice should be addressed to Doan Pham at (202) 219–2851 or e-mail address *doan.pham@ferc.fed.us.*

j. *Deadline for filing comments, motions to intervene, or protests:* January 10, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the Project Number (2290–038) on any comments, protests, or motions filed.

k. *Description of Amendment:* SCE filed an application to remove certain transmission facilities from the project because they are part of SCE's interconnected system and are no longer project features. To reflect as-built conditions, SCE is updating its exhibits to add minor features. Of the 157.57 acres proposed for removal from the project, 87.30 acres are related to the transmission lines; of which, Bureau of Land Management owns 30.08 acres and U.S. Forest Service owns 57.22 acres. The U.S. Forest Service owns the remaining 70.27 acres that are not related to the transmission lines.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC, 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a

party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 99–30580 Filed 11–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $12,660,998.58, including accrued interest, in alleged crude oil overcharges obtained by the DOE under the terms of Consent Orders and Remedial Orders entered into with ARGO Petroleum Corp. and 16 other firms, Case Nos. VEF–0031, et al. The OHA has tentatively determined that the funds obtained from these 17 firms plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

DATES AND ADDRESSES: Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register**, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107. All comments should display a reference to case number VEF–0031, et al.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107 (202) 426–1527.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR § 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants, $12,660,998.58, including interest, obtained by the DOE under the terms of Consent Orders and Remedial Orders entered into with ARGO Petroleum Corp. and 16 other firms. The funds were paid towards the settlement of violations and alleged violations of the DOE price and allocation regulations involving the sale of crude oil during the period August 1973 through January 1981.

The OHA has proposed to distribute the Consent Order funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided between the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states would be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the degree to which they can demonstrate injury. Since the period for filing claims for crude oil overcharge refunds has closed, no new refund applications will be accepted for the funds involved in this Proposed Decision and Order.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, S.W., Washington, D.C. 20585–0107.

Dated: October 29, 1999.

George B. Breznay,

Director, Office of Hearings and Appeals.

Name of Firm: ARGO Petroleum Corp., *et al.*

Date of Filing: October 19, 1999.

Case Number: VEF–0031, *et al.*

In accordance with the procedural regulation of the Department of Energy (DOE), a DOE enforcement official may file a request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 C.F.R. 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider a Petition for Implementation of Special Refund Procedures filed by the DOE's Office of General Counsel for Federal Litigation (OGC) on October 19, 1999. The funds at issue in this case were obtained from 17 firms that sold crude oil during the period August 1973 through January 1981. These firms remitted moneys to the DOE to settle actual or alleged violations of the DOE's mandatory petroleum price and allocation regulations set forth at 10 CFR Parts 211 and 212. The sums submitted by each firm, including accrued interest are set forth in the Appendix to this Decision. The total amount remitted, including interest through September 30, 1999, is $12,660,998.58. This Decision and Order sets out the OHA's proposed procedures to distribute those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the OGC's request to

implement Subpart V procedures with respect to the monies received from the 17 firms named in the Appendix and have determined that such procedures are appropriate.

On July 28, 1986, the DOE issued a *Statement of Modified Restitutionary Policy in Crude Oil Cases*, 51 FR 27899 (August 4, 1986) (the SMRP). The SMRP, issued as a result of a court-approved Settlement Agreement In re: *The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan. 1986), reprinted in 6 Fed. Energy Guidelines ¶ 90,501 (The Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution. Twenty percent of the funds will be used for direct restitution to claimants who were injured by actual or alleged crude oil violations.

The OHA has applied these procedures in numerous cases. *E.g.*, *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988). The procedures have been approved by the United States District Court for the District of Kansas, as well as the Temporary Emergency Court of Appeals. We will not reiterate those procedures here. They are by now well known and, further, the period for filing refund claims for crude oil overcharge funds closed on June 30, 1995. 60 FR 19914–15 (April 21, 1995).

Accordingly, we propose to reserve the full twenty percent of the available alleged crude oil violation amounts, $2,532,199.72, for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured parties. As stated above, no new applications for refund for those monies will be accepted, since the claims period has closed. The funds will be added to the general crude oil overcharge pool available for direct restitution.

Under the terms of the SMRP, we propose that the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $10,128,798.86, should be disbursed in equal shares to the states and federal government for indirect restitution. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It Is Therefore Ordered That: The refund amounts remitted to the Department of Energy by the firms listed in the Appendix to this Decision and Order will be distributed in accordance with the foregoing Decision.

APPENDIX—CONSENT ORDER

Name of firm	Tracking		Amount	
	OHA Case No.	System No. (COTS)	Principal	With interest through 9/30/99
ARGO Petroleum Corp.	VEF–0031	940C0089W	$60,835.18	$86,841.36
Don E. Pratt Oil Co.	VEF–0036	740C01204W	235,000.00	394,878.05
Beta Energy Corp.	VEF–0034	6C0X00260W	32,818.34	45,037.34
AWECO, Inc. & Hargis, Billy K.	VEF–0032	6A0X00231W	665,908.68	968,874.23
B.M. Hester	VEF–0033	660C00647W	25,000.00	36,649.53
General Atlantic Petrl. & General Klotz	VEF–0038	650X00359W	107,790.21	123,262.93
Glen A. Martin	VEF–0039	610C000478W	13,583.80	18,560.48
Intercoastal Operating Co. & L.E. Lewis	VEF–0041	600C20082W	95,000.00	159,348.46
Kelly Trading Co. & Reed, M.L.	VEF–0043	650X00350W	182,000.00	265,665.83
Martin Exploration Co.	VEF–0044	640C00406W	3,917.32	5,989.39
Pel-Star Energy	VEF–0047	6A0X00277W	30,263.70	51,178.22
Petro-Thermo	VEF–0048	6A0X00301W	42,772.32	75,698.67
Petroleum Mgmt., Inc.	VEF–0049	422C00066W	71,319.67	117,570.09
Polaris Production Co.	VEF–0050	670C00229W	71,726.16	109,151.96
Road Oil Sales	VEF–0051	N00S98090W	6,950.58	15,485.49
Tomlinson Petrl., Inc.	VEF–0054	650X00318W	7,406,694.87	10,027,185.48
United Independent Oil Co. & Peter Hirshburg	VEF–0055	N00S90461W	75,000.00	159,621.07
Total			9,126,580.83	12,660,998.58

[FR Doc. 99–30607 Filed 11–23–99; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6480–3]

Request for Nominations to the National and Governmental Advisory Committees to the U.S. Represenative to the North American Commission for Environmental Cooperation and to the Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is inviting nominations of qualified candidates to consider for appointment to fill vacancies on the National and Governmental Advisory Committees to the U.S. Representative to the North American Commission for Environmental Cooperation and on the Good Neighbor Environmental Board.

DATES: Nominations will be accepted until 5 p.m. on Friday, December 24, 1999.

ADDRESSES: Submit nominations to: Mark Joyce, Designated Federal Officer,

Office of Cooperative Environmental Management, U.S. Environmental Protection Agency (1601A), 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Officer, U.S. Environmental Protection Agency (1601A), Washington, DC 20460; telephone 202–564–9802; fax 202–501–0661; email joyce.mark@epa.gov.

SUPPLEMENTARY INFORMATION: The National and Governmental Advisory Committees to the U.S. Government Representative to the North American Commission for Environmental Cooperation advise the Administrator of the EPA in the Administrator's capacity as the U.S. Representative to the Council of the North American Commission on Environmental Cooperation. The Committees are authorized under Article 18 of the North American Agreement on Environmental Cooperation, North American Free Trade Agreement Implementation Act, Public Law 103–182 and as directed by Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation." The Committees are responsible for providing advice to the United States Representative on a wide range of strategic, scientific, technological, regulatory and economic issues related to implementation and further elaboration of the Agreement. The National Advisory Committee consists of 12 representatives of environmental groups and non-profit entities, business and industry, and educational institutions. The Governmental Advisory Committee consists of 12 representatives from state, local and tribal governments. Members are appointed by the Administrator of EPA for a term of no less than two years with the possibility of reappointment. The Committees each meet 3 times annually.

The Good Neighbor Environmental Board advises the President and the Congress on environmental and infrastructure issues and needs within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The Board is specifically directed under Section 6 of the Enterprise for the Americas Initiative Act, 7 U.S.C. 5404. The Board consists of representatives from eight U.S. Government agencies; from the governments of the States of Arizona, California, New Mexico and Texas; from Tribal governments in the border region; and from private organizations and other non-governmental entities with experience and expertise on environmental and infrastructure problems along the southwest border. Members are appointed by the Administrator of EPA for a term of two years with the possibility of reappointment. The Board also meets 3 times annually.

Nominations for membership must include a resume describing the professional and educational qualifications of the nominee and the nominee's current business address and daytime telephone number.

Dated: November 18, 1999.

Sonia Altieri,

Acting Designated Federal Officer.

[FR Doc. 99–30614 Filed 11–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140281; FRL–6393–6]

Access to Confidential Business Information by Versar Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its subcontractor Versar Incorporated (Versar), of Springfield, Virginia, access to information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than December 6, 1999.

FOR FURTHER INFORMATION CONTACT: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to "those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA)." Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

Electronically. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

III. What Action is the Agency Taking?

Under contract number 68–W9–9085, subcontractor Versar of 6850 Versar Center, Springfield, VA, will assist the Office of Pollution Prevention and Toxics (OPPTS) by providing technical support to the development of the Chemical Engineering Branch's computerized models, including models for developing screening level estimates of occupational exposures and environmental releases.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W9–9085, Versar will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract.

Versar personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide Versar access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and Versar's Springfield, VA facility.

Versar will be authorized access to TSCA CBI at their facility under the EPA *TSCA Confidential Business Information Security Manual.* Before access to TSCA CBI is authorized at Versar's site, EPA will perform the required inspection of its facility and ensure that the facility is in compliance with the Manual.

Upon completing review of the CBI materials, Versar will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2004.

Versar personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: November 8, 1999.

Deborah A. Williams,

Acting Director, Information Management Division, Pollution Prevention and Toxics.

[FR Doc. 99–30616 Filed 11–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140282; FRL–6393–7]

Access to Confidential Business Information by Eastern Research Group

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Eastern Research Group (ERG), of 14555 Avion Parkway, Suite 200, Chantilly, Virginia, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data by ERG occurred as a result of an approved waiver dated October 13, 1999, which requested granting ERG immediate access to TSCA CBI. This waiver was necessary to allow ERG to perform engineering analyses including exposure and release assessments, and identification of pollution prevention opportunities in support of all aspects of EPA decision-making.

FOR FURTHER INFORMATION CONTACT: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to "those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA)." Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

Electronically. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

III. What Action is the Agency Taking?

Under contract number 68–W9–9085, ERG of 14555 Avion Parkway, Suite 200, Chantilly, VA, will assist the Office of Pollution Prevention and Toxics (OPPTS) in performing engineering analyses including exposure and release assessments, and identification of pollution prevention opportunities in support of all aspects of EPA decision-making under all sections of TSCA.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W9–9085, ERG will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ERG personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ERG access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and ERG's Chantilly, VA site.

ERG will be authorized access to TSCA CBI at their facility, provided they comply with the provisions of the EPA *TSCA Confidential Business Information Security Manual.*

Before access to TSCA CBI is authorized at ERG's site, EPA will perform the required inspection of its facility, and ensure that this facility is in compliance with the Manual.

Upon completing review of the CBI materials, ERG will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2004.

ERG personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: November 17, 1999.

Deborah A. Williams,

Acting Director, Information Management Division, Pollution Prevention and Toxics.

[FR Doc. 99–30617 Filed 11–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–904; FRL–6396–4]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–904, must be received on or before December 27, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION:**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–904 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Fungicide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460: telephone number: (703) 305–7740; e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–904. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–904 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *"opp-docket@epa.gov,"* or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–904. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under "FOR FURTHER INFORMATION CONTACT."

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: November 18, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation

PP1F3955 and PP1H5610

Summary of Petition

EPA has received pesticide petitions (PP1F3955 and PP1H5610) from BASF Corporation, P.O. Box 13528, RTP, NC 27709–3528 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of mepiquat chloride, N,N-dimethylpiperidinium chloride in or on the raw agricultural commodity grapes at 1.0 parts per million (ppm) and raisins at 5.0 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of mepiquat chloride in plants and animals is well understood. Based on a nature of the residue study in grapes and supported by similar studies in cotton, the residue of concern from mepiquat chloride use in grapes consists only of the parent compound.

2. *Analytical method.* An adequate analytical method for enforcement of the tolerances exists. The analytical method used for quantitative determinations was designed to measure mepiquat chloride residues present as the parent compound.

3. *Magnitude of residues.* Twenty-eight field trials were conducted in grape vineyards with treatments made at the maximum proposed label rate. Trials were established in eight states over a 2–year period. Ten varieties of grapes were studied in these trials. Sixty-four treated samples were obtained and analyzed. The number and geographical distribution of the grape residue studies exceeds the current requirements for grape tolerances on all grape varieties.

Grape samples from eight field trials were processed to either raisins and raisin waste or grape juice, wet pomace, and dry pomace. The processed fractions were analyzed for residues of mepiquat chloride to determine the effects of processing on residue levels. Drying the grapes to raisins concentrated the residues a maximum of 6 fold. Residues did not concentrate in grape juice.

B. Toxicological Profile

1. *Acute toxicity.* Based on the acute toxicity data, mepiquat chloride does not pose any acute toxicity risks. The acute toxicology studies place mepiquat chloride in toxicity category II for acute oral toxicity, category III for acute dermal, and toxicity category IV for acute inhalation toxicity, eye irritation and dermal irritation. Mepiquat chloride is not a skin sensitizer.

2. *Genotoxicty.* The carcinogenic potential of mepiquat chloride was evaluated by the OPP's Reference Dose (RfD)/Peer Review Committee on May 2, 1996. The Committee classified mepiquat chloride into Group E (evidence of noncarcinogenicity for humans), based on a lack of carcinogenicity in acceptable studies with two animal species, rat and mouse.

3. *Reproductive and developmental toxicity.* In a 2-generation reproductive toxicity study, Wistar rats were fed mepiquat chloride in their diets at concentrations of 0, 500, 1,500, or 5,000 ppm for 10 weeks (F_0) or 14 weeks (F_1) before mating, and during mating, gestation, and lactation. The F_0 parents were mated a second time 2 weeks after weaning the first litter. The doses corresponding to the dietary concentrations are 51.2 and 48.6, 153.1 and 146.6, and 499.3 and 574.5 milligrams/kilograms/day (mg/kg/day), respectively for F_0 and F_1 males and 54.0 and 53.3, 163.6 and 162.0, and 530.0 and 626.5 mg/kg/day, respectively for F_0 and F_1 females.

The lowest observed adverse effect level (LOAEL) for systemic toxicity is 5,000 ppm (499 mg/kg/day) for male and female rats based on neurological impairment, decreased body weight and body weight gain in the adults, and retarded growth of F_0 and F_1 pups. The corresponding no observed adverse effect level (NOAEL) is 1,500 ppm (147 mg/kg/day). OPP's Reference Dose (RfD)/Peer Review Committee concluded on May 2, 1996, that, because of the retarded growth of the pups in the 5,000 ppm (499 mg/kg/day) group, the systemic NOAEL of 1,500 ppm (147 mg/kg/day) would also be regarded as the reproductive NOAEL.

4. *Subchronic toxicity.* The NOAEL is 58.4 mg/kg/day and the LOAEL is 95.3 mg/kg/day based on the combined results for two 1 year feeding studies and one 90–day feeding study in dogs. This endpoint is the same as that used for acute dietary and chronic RfD.

5. *Chronic toxicity.* On May 2, 1996, the OPP's Reference Dose (RfD)/Peer Review Committee recommended that the RfD for mepiquat chloride be established at 0.6 mg/kg/day. This value was based on the systemic NOAEL of 1,800 ppm (58.4 mg/kg/day) from the 1 year dog feeding study and the uncertainty factor (UF) of 100.

i. *Chronic feeding—Nonrodent.* In a chronic toxicity study, mepiquat chloride (99.5%) was administered to beagle dogs in the diet at dose levels of 0, 200, 600, or 1,800 ppm (0, 6.3, 19.9 or 58.4 mg/kg/day, respectively) for 12 months. There were no significant treatment-related effects. In order to establish a LOAEL, a second chronic toxicity study was conducted at dose levels of 0 or 6,000 ppm (170 mg/kg/day) for 12 months. Based on the results of the two chronic dog studies, the NOAEL is 1,800 ppm (58.4 mg/kg/day) and the LOAEL is 6,000 ppm (170 mg/kg/day).

ii. *Chronic feeding—Rats.* In a chronic feeding study, mepiquat chloride (58%) was administered for 24 months in the diet to Wistar rats at concentrations of 0, 290, 2,316, or 5,790 ppm (active ingredient), equivalent to doses of 0, 13, 106, 268 mg/kg/day for males and 0, 18, 146, or 371 mg/kg/day for females, respectively. The NOAEL is 2,316 ppm (105 mg/kg/day). The LOAEL is 5790 ppm (268 mg/kg/day).

6. *Animal metabolism.* In a metabolism study, mepiquat chloride, labeled with 14C (radiochemical purity: 98%), was administered to young adult Sprague-Dawley rats either intravenously or orally. Mepiquat chloride was absorbed rapidly from the stomach, distributed evenly in the intra- and extracellular compartments of the blood, demonstrated high bioavailability via the oral route, was excreted mostly in urine, and did not accumulate in tissues. Urine, feces, and bile samples from various treatments were used for studies of the metabolic fate of mepiquat chloride. In all cases, only the unchanged compound could be

detected. Therefore, there was no biotransformation of mepiquat chloride *in vivo*. The potential metabolites, such as 1-methylpiperidine or piperidine, were not detected.

7. *Endocrine disruption*. No specific tests have been conducted with mepiquat chloride to determine whether the chemical may have an endocrine like effect in humans. However, there were no significant findings in other relevant tests (developmental and reproductive toxicity tests) which would suggest that mepiquat chloride produces endocrine like effects.

C. Aggregate Exposure

1. *Dietary exposure*. The mepiquat chloride Registration Eligibility Decision (RED) indicates that EPA has found no dietary risks of concern for mepiquat chloride for the general U.S. population nor any subgroup. Pursuant to the requirements under the Food Quality Protection Act of 1996, the Agency has determined that the use of mepiquat chloride will not pose dietary risks to infants and children due primarily to the chemical's low toxicity and its low usage rate.

i. *Food*—a. *Chronic dietary exposure*. A Dietary Risk Evaluation System (DRES) chronic exposure analysis was conducted by EPA for the RED. The analysis was performed using tolerance level residues (including those that have been revoked and the three expired grape and raisin temporary tolerances previously established for an Experimental Use Permit) and an assumption of 100 percent crop treated to estimate the Theoretical Maximum Residue Contribution (TMRC) for the general population and 22 subgroups. No Anticipated Residue (AR) information was used in this analysis. Existing tolerances result in a Theoretical Maximum Residue Contribution (TMRC) which represents less than 1% of the RfD for the U.S. general population and each of the 22 subgroups, including non-nursing infants (<1 year old).

The TMRC calculation results in a significant overestimate of human dietary exposure. The chronic analysis for mepiquat chloride is a worst case estimate of dietary exposure with all residues at tolerance level and 100% of the commodities assumed to be treated with mepiquat chloride. This analysis does not take into account that this use of mepiquat chloride on grapes is restricted to use on Concord and Niagara grapes only. Concord and Niagara grapes represent less than 10% of the total U.S. grape acreage (74,000 versus 763,850). Based on the risk estimates calculated in this analysis, it has been concluded that dietary exposure to mepiquat chloride does not pose any risk concerns.

b. *Acute dietary exposure*. The Margin of Exposure (MOE) is a ratio of the NOAEL to the exposure. Generally, the Agency concludes that there is no dietary concern when the acute dietary margins of exposure are greater than 100. The results of the acute analysis conducted for the RED indicate that mepiquat chloride in the diet represents no serious risk concern for acute exposure. All MOEs were well above the Agency's level of concern for acute dietary risk (ranging from a low of 3,893 for infants to a high of 29,200 for females 13+ years old).

ii. *Drinking water*. Neither a Maximum Contaminant Level (MCL) nor a Hazard Advisory (HA) has been established for mepiquat chloride. According to the EPA's Pesticides in Ground Water Database, there have been no mepiquat chloride detections reported in monitoring wells. Based on its low application rate, relatively rapid degradation rate, and soil binding ability, the Agency does not expect mepiquat chloride to contaminate ground water or surface water. Consequently neither a chronic or acute drinking water assessment was not performed.

2. *Non-dietary exposure*. Mepiquat chloride has no residential or other non-occupational uses that might result in exposures to humans.

D. Cumulative Effects

EPA has addressed the issue of the potential risk from the cumulative effects of mepiquat chloride and other pesticides with a common mechanism of toxicity in the RED document. In assessing the potential risks, the Agency first considered structural similarities and common effects that exist between mepiquat chloride and other related compounds such as paraquat, diquat, and difenzoquat. The Agency then considered other compounds which could potentially result in neurotoxic effects similar to mepiquat chloride.

With one substance, difenzoquat, there appears to be similar neurotoxic effects. The Agency has concluded that the cumulative effects from the combined dietary exposure to mepiquat and difenzoquat would be virtually nil because the chronic dietary exposure for all population subgroups is less than 1% of the RfD for both difenzoquat and mepiquat chloride. The acute dietary MOE range for difenzoquat is 50,000 to 16,000 while the acute dietary MOE range for mepiquat chloride is 3,900 to 29,000.

In evaluating other chemicals with neurotoxic effects similar to mepiquat chloride, the Agency determined that it is unlikely that these other chemicals share a common mode/mechanism of toxicity with mepiquat chloride, or that cumulative risk assessment would be required. Although the mode/mechanism of toxicity of mepiquat chloride has not been well defined, the effects noted on the nervous system appear to be secondary to general systemic toxicity that occurs at high dose levels. Based on available data and structure-activity relationship analyses, mepiquat chloride would be considered to have minimal neurotoxic activity.

E. Safety Determination

1. *U.S. population*. In the mepiquat RED, EPA has determined that the established tolerances for mepiquat chloride meet the safety standards under the FQPA amendments to section 408(b)(2)(D) for the general population. In reaching this determination, EPA has considered the available information on the aggregate exposures (both acute and chronic) from the feed use on cotton, as well as the possibility of cumulative effects from mepiquat chloride and other chemicals with a similar mode/mechanism of toxicity. BASF does not believe that the limited use of mepiquat chloride on Concord and Niagara grapes alters these conclusions

Since there are no residential or lawn uses of mepiquat chloride, no dermal or inhalation exposure is expected in and around the home. No acute toxicity endpoints of concern have been identified for mepiquat chloride.

In assessing chronic dietary risk, EPA estimates that mepiquat chloride residues in food account for <1% of the RfD and residues in drinking water are not expected. Thus, the aggregate exposures from all sources of mepiquat chloride (in this case, only dietary is relevant) account for <1% of the RfD for the general population. Therefore, the Agency concludes that aggregate risks for the general population resulting from mepiquat chloride uses are not of concern.

In evaluating the potential for cumulative effects, EPA compared structural similarities and toxic effects seen in mepiquat chloride studies with other related compounds. With one substance, difenzoquat, there appears to be similar neurotoxic effects. However, the Agency has concluded that the cumulative effects from the combined dietary exposure to mepiquat chloride and difenzoquat would be virtually nil because the chronic dietary exposure for all population subgroups is less than

1% of the RfD for both difenzoquat and mepiquat chloride.

2. *Infants and children.* In the RED EPA has determined that the established tolerances for mepiquat chloride (including the previously established temporary tolerances for grapes) meet the safety standard under the FQPA amendment to section 408(b)(2)(C) for infants and children. The safety determination for infants and children considers the factors noted above for the general population, but also takes into account the possibility of increased dietary exposure due to the specific consumption patterns of infants and children, as well as the possibility of increased susceptibility to the toxic effects of mepiquat chloride residues in this population subgroup.

In the developmental studies, effects were seen in the fetuses only at the same or higher dose levels than effects on the mothers. In the reproduction study, no effects on reproductive performance were seen. Also, because the NOAELs from the developmental and reproduction studies were equal to or greater than the NOAEL used for establishing the reference dose, EPA concludes that it is unlikely that there is additional risk concern for immature or developing organisms. Finally, the Agency has no epidemiological information suggesting special sensitivity of infants and children to mepiquat chloride. Therefore, EPA finds that the uncertainty factor (100x) routinely used in RfD calculations is adequately protective of infants and children, and an additional uncertainty factor is not warranted for mepiquat chloride.

EPA estimates that mepiquat chloride residues in the diet of infants and children account for less than 1% of the RfD and residues in drinking water are not expected. Thus, the chronic aggregate exposure from all sources of mepiquat chloride account for less than 1% for infants and children. The acute dietary MOE for infants and children exposed to mepiquat chloride is 3,893. Therefore, the Agency concludes that aggregate risks for infants and children resulting from mepiquat chloride uses are not of concern.

F. International Tolerances

There are no Codex, Canadian, or Mexican tolerances established for mepiquat chloride on grapes. Thus, international harmonization is not an issue for these tolerances.

[FR Doc. 99–30615 Filed 11–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6480–5]

Sociodemographic Data Used for Identifying Potentially Highly Exposed Populations

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of a final document.

SUMMARY: The notice announces the availability of a final document, Sociodemographic Data Used for Identifying Potentially Highly Exposed Populations (EPA/600/R–99/060, July 1999), prepared by Versar, Inc. for the National Center for Environmental Assessment, within the Office of Research and Development of the U.S. Environmental Protection Agency (EPA). This document assists assessors in identifying and enumerating potentially highly exposed populations. The document presents data relating to factors that potentially impact an individual or group's exposure to environmental contaminants based on activity patterns (how time is spent), microenvironments (locations where time is spent), and other sociodemographic data such as age, gender, race and economic status. Populations potentially more exposed to various chemicals of concern, relative to the general population, are also addressed.

ADDRESSES: The document is being made available electronically from the NCEA web site at *http://www.epa/ncea* under the What's New and Publications menus. Due to technical difficulties, certain tables and appendices could not be electronically reproduced. To obtain copies, please contact the National Center for Environmental Assessment's Technical Information Staff by phone (202–564–3261) or facsimile (202–565–0050). A limited number of paper copies also will be available from EPA's National Service Center for Environmental Publications on or about November 8, 1999. Interested parties may request a copy by telephoning 800–490–9198 and providing the document title and EPA number.

FOR FURTHER INFORMATION CONTACT: Amina Wilkins, National Center for Environmental Assessment-Washington Office (8623D), U.S. Environmental Protection Agency, Washington, DC (20460); telephone: 202–564–3256; facsimile: 202–565–0076; email: *wilkins.amina@epa.gov*.

Dated: November 9, 1999.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 99–30612 Filed 11–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6480–6]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Aurum Etching Superfund Site, with Coltec Industries, Inc.

The settlement requires the settling parties to pay a total of $33,524.76 as payment of past response costs and $15,000 in future costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate, The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733.

DATES: Comments must be submitted on or before December 27, 1999.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A copy of the proposed settlement may be obtained from Lydia Behn, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–8419. Comments should reference the Aurum Etching Superfund

Site, Dallas County, Texas, and EPA Docket Number 06–11–99, and should be addressed to Lydia Behn at the address listed above.

FOR FURTHER INFORMATION CONTACT: Joseph Compton, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–8506.

Dated: November 1, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 99–30611 Filed 11–23–99; 8:45 am]

BILLING CODE 6560–50–U

OFFICE OF NATIONAL DRUG CONTROL POLICY

Meeting Notice

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of Meeting of the Drug Free Communities Advisory Commission.

SUMMARY: In accordance with the Drug-Free Communities Act, a meeting of the Drug Free Communities Advisory Commission will be held on December 1, 1999 in the 5th floor conference room of the Office of National Drug Control Policy, located at 750 17th Street N.W., Washington, D.C. 20530. The meeting will commence at 8:30 a.m., break for lunch at 12:00 p.m., and resume at 1:15 p.m. for the afternoon session, ending at 5:00 p.m. The agenda will include discussion of ways to promote the creation of new coalitions, and the status of juvenile justice and delinquency prevention; training and technical assistance; program evaluation; and the National Youth Media Campaign. There will be an opportunity for public comment from 2:15 p.m. until 2:45 p.m.

FOR FURTHER INFORMATION: Please direct any questions to Edward Jurith, General Counsel, (202) 395–6709, Office of National Drug Control Policy, Executive Office of the President, Washington, D.C. 20503.

Edward H. Jurith,

General Counsel.

[FR Doc. 99–30636 Filed 11–23–99; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

November 15, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 24, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0288.

Title: Special Temporary Authority (Cable Television Relay Stations), Section 78.33.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 35.

Estimated Time Per Response: 4 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 140 hours.

Total Annual Costs: $4,585.

Needs and Uses: 47 CFR section 78.33 permits cable television relay station operators to file informal requests for special temporary authority (STA) to install and operate equipment in a manner different from the way authorized in the station license. STAs may also be requested by cable operators and equipment suppliers to conduct a field surveys to determine necessary data in connection with the preparation of a formal application for installation of a radio system, as well as to conduct equipment, program, service, and path tests. The data submitted will be used by Commission staff to ensure that granting such requests for STA will not cause interference to established stations and that the requests meet the Commission's technical standards.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–30572 Filed 11–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested.

November 16, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's

burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 24, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554, or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0589.

Title: Supplementary Information for the **Federal Register**.

Form Number: FCC Form 159(c).

Type of Review: Revision of a currently approved collection to include the FCC registration number.

Respondents: Businesses or other for profit; Individuals or households; Small business or organizations.

Number of Respondents: 685,738.

Estimated Time Per Response: 5 minutes.

Frequency of Response: Reporting, on Occasion.

Total Annual Burden: 342,869.

Needs and Uses: Fees, Fines & Debts. This form is the Commission's remittance advice and should accompany all payments submitted to assure proper credit. The purpose of the form is to provide the identity of the payor and the applicant using, the FCC registration number, the amount being paid, and the reason the payment is being made. Specific identification of the payor or applicant, by the FCC registration number, call sign, or the bill that was rendered, such as invoice number, is also required. This information facilitates the efficient and accurate processing of the Commission's collections by its designate entities, such as a lockbox Bank.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–30573 Filed 11–23–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

November 12, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 27, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to *lesmith@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0623.

Title: Application for Mobile Radio Service Authorization or Rural Radiotelephone Service Authorization.

Form Number: FCC 600.

Type of Review: Revision of a currently approved collection

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions; and State, Local, or Tribal Government.

Number of Respondents: 55,143.

Estimate Time Per Response: 2.3 hours (avg.).

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 126,846 hours.

Total Annual Costs: $20,244,750.

Needs and Uses: FCC Form 600 may be used by various applicants in accordance with 47 CFR parts 22, 24, 74, 90, and 95. Statutory authority for this collection is contained in 47 U.S.C. 154(I) and 309(j), as amended. The adjustment to FCC Form 600 is a supplemental showing to demonstrate why more than ten trunked channels are required. This form will eventually be replaced by FCC Form 601 upon conversion of all radio service to the Universal Licensing System (ULS) which currently uses FCC Form 600. The Commission uses the information contained in this form to determine whether the applicant is legally, technically, and financially qualified to be licensed. Without such information the Commission could not determine whether to issue the licenses to the applicants that provided telecommunications services to the public, and therefore, fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The information will also be used to update the database and provide for proper use of the frequency spectrum.

OMB Control Number: 3060–0690.

Title: Rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Bands.

Form Number(s): 415/415T.

Type of Review: Revision of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 5,000

Estimated Time Per Response: 0.5 to 20 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 75,625 hours.

Total Annual Cost: $5,000,000.

Needs and Uses: The collection of this information is made necessary by the amendments of the Commission's Ruling regarding the 37.0–38.6 GHz (37 GHz) and 38.6–40.0 GHz (39 GHz) bands in ET Docket No. 95–183 (RM 8553). The rules implemented the use of a channeling plan, and licensing and technical rules for fixed point-to-point microwave operations in the 37 GHz band, while also modifying the rules for the 39 GHz band to make them consistent with the technical rules we

are proposing for the 37 GHz band. The action is authorized by Sections 4(i), 303(c), 303(f), 303(g), 303(r), and 309(j) of the Communications Act of 1934. Two rules in the Memorandum Opinion and Order, § 101.17—Performance Requirements for the 38.6–40.0 GHZ frequency band, and § 101.103—Frequency coordination, impose information burdens. The FCC uses this information to provide adequate point-to-point microwave spectrum, which will facilitate provision of the communications infrastructure for commercial and private mobile radio operations and competitive wireless local telephone service.

OMB Control Number: 3060–0882.
Title: Section 95.833, Construction Requirements.
Form Number: N/A.
Type of Review: Revision of currently approved collection.
Respondents: Businesses or other for-profit entities; Individuals or households.
Number of Respondents: 1,468.
Estimated Time Per Response: 1 hour.
Frequency of Response: On occasion reporting requirement, at 10 year interval.
Total Annual Burden: 1,468 hours.
Total Annual Cost: None.
Needs and Uses: The requirement contained in Section 95.833 is necessary for 218–219 MHz service system licensees to file a report after ten years of license grant to demonstrate that they provide substantial service to its service areas. The information is used by the Commission to assess compliance with 218–219 MHz service construction requirements, and to provide adequate spectrum for the service. This will facilitate spectrum efficiency and competition by the 218–219 MHz service licensees in the wireless marketplace.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.
[FR Doc. 99–30592 Filed 11–23–99; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 217–011512–002.
Title: Hyundai/MSC Agreement.
Parties: Hyundai Merchant Marine Co., Ltd. (Hyundai); Mediterranean Shipping Co., S.A. (MSC).
Synopsis: The proposed modification extends the agreement's term through December 31, 2000 and provides for automatic annual renewal, unless one party provides notice of termination to the other party by September 1 of that year. The modification also deletes eastbound and westbound allocations of the 800 maximum slots Hyundai is authorized to charter from MSC each week.

Dated: November 19, 1999.
By Order of the Federal Maritime Commission.
Bryant L. VanBrakle,
Secretary.
[FR Doc. 99–30655 Filed 11–23–99; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

A & A Link, Ltd., 177–25 Rockaway Blvd., Suite 205, Jamaica, NY 11434, Officer: Tal Y. Yo, President (Qualifying Individual)
All World International Shipping, Inc., 2630 NW 97 Avenue, Miami, FL 33172, Officers: Elizabeth Monserrate, Vice President (Qualifying Individual), Alexandra Gayraud, President
Shipping International, 1161 Mission Street, San Francisco, CA 94103, Houssein Bolourchi, Sole Proprietor
Diamond Logistics Corporation, 11155 NW 33rd Street, Miami, FL 33172, Officer: Maria Suzete Dos Santos, President (Qualifying Individual)
Oliveira Marine Shipping, Inc., 1 Water Street, State Pier, Fall River, MA 02721, Officers: Amaldo S. Oliveira, President (Qualifying Individual), Maria Odette Oliveira, Vice President
YKL America Inc. 500 Carson Plaza Drive, Suite 213, Carson, CA 90746, Officer: Jung Ock Yoo, President (Qualifying Individual)

Dated: November 19, 1999.
Bryant L. VanBrakle,
Secretary.
[FR Doc. 99–30656 Filed 11–24–99; 8:45 am]
BILLING CODE 6730–01–U

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 8, 1999.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Glenn A. Solsrud Revocable Trust Concerning Caprice Corporation and Robert E. Miller as Trustee, Augusta, Wisconsin; to acquire voting shares of Caprice Corporation, Augusta, Wisconsin, and thereby indirectly acquire voting shares of Red Lake County State Bank, Red Lake Falls, Minnesota.

2. Robert E. Miller as Trustee for the following trusts: Glenn A. Solsrud Irrevocable Trust for the Benefit of Brian K. Solsrud, II; Glenn A. Solsrud Irrevocable Trust for the Benefit of Gregory A. Solsrud, II; Glenn A. Solsrud Irrevocable Trust for the Benefit of Corinne E. Solsrud; Glenn A. Solsrud Irrevocable Trust for the Benefit of Rachel A. Solsrud, II; all of Augusta,

Wisconsin; to acquire voting shares of Kimberly Leasing Corporation, Augusta, Wisconsin, and thereby indirectly acquire voting shares of First State Bank of Rush City, Rush City, Minnesota; Security State Bank of Staples, Staples, Minnesota; and The First National Bank of Crosby, Crosby, Minnesota.

3. Glenn A. Solsrud Revocable Trust Concerning Augusta Financial Corporation and Robert E. Miller as Trustee, Augusta, Wisconsin; to acquire voting shares of Augusta Financial Corporation, Augusta, Wisconsin, and thereby indirectly acquire voting shares of Peoples State Bank, Augusta, Wisconsin.

Board of Governors of the Federal Reserve System, November 18, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30564 Filed 11–23–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 17, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Banknorth Group, Inc., Burlington, Vermont; to acquire 100 percent of the voting shares of BNG Interim Bank, N.A., Glen Falls, New York.

B. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Peoples Bancshares of Tallassee, Inc., Tallassee, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank, Tallassee, Alabama.

C. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Old Kent Financial Corporation, Grand Rapids, Michigan; to merge with Merchants Bancorp, Inc., Aurora, Illinois, and thereby indirectly acquire The Merchants National Bank of Aurora, Aurora, Illinois.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Arvest Bank Group, Inc., Bentonville, Arkansas; to acquire 100 percent of the voting shares of P&W Bancshares, Inc., Little Rock, Arkansas, and thereby indirectly acquire Central Bank & Trust, Little Rock, Arkansas.

2. Farmers Bancshares, Inc., Hardinsburg, Kentucky; to merge with Leitchfield Deposit Bancshares, Inc., Leitchfield, Kentucky, and thereby indirectly acquire Leitchfield Deposit Bank & Trust Company, Leitchfield, Kentucky.

In connection with this application, Applicant also has applied to acquire Leitchfield Bancshares Insurance, Inc., Leitchfield, Kentucky, and thereby engage in the sale, as agent, of credit related insurance, pursuant to § 225.28(b)(11)(i) of Regulation Y.

E. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Dacotah Banks, Inc., Aberdeen, South Dakota; to acquire 100 percent of the voting shares of Rolla Holding Company, Inc., Rolla, North Dakota, and thereby indirectly acquire First State Bank of Rolla, Rolla, North Dakota, and First National Bank of Hettinger, Hettinger, North Dakota.

F. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. First Sierra Financial, Inc., Houston, Texas, and FSF of Delaware, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of Greenbelt Bancshares, Inc., Quanah, Texas, and thereby indirectly acquire voting shares of Security National Bank in Quanah, Quanah, Texas.

G. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. SouthwestUSA Corporation, Las Vegas, Nevada; to become a bank holding company by acquiring 100 percent of the voting shares of SouthwestUSA Bank (in organization), Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, November 18, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30563 Filed 11–23–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 8, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411

Locust Street, St. Louis, Missouri 63102-2034:

1. Walden Financial Group, Inc., Pocahontas, Arkansas; to engage *de novo* in the activity of extending credit, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, November 18, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30565 Filed 11–23–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, November 29, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30699 Filed 11–19–99; 4:43 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Revision of SF 525, Medical Record Radiation Therapy Summary

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR is revising the SF 525, Medical Record Radiation Therapy Summary to:

1. Collection information on the sponsor of the patient;

2. Delete "grade; SSN; rank;" from "PATIENT'S IDENTIFICATION" item and replace with "ID no. (SSN or other)";

3. Add standard information fields; and

4. Make the form authorized for local reproduction.

You can obtain the updated form in two ways:

On the internet. Address: http://www.gsa.gov/forms/forms.htm, or;

From Forms-X, Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective November 24, 1999.

Dated: November 15, 1999.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer.

[FR Doc. 99–30599 Filed 11–23–99; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 525

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

BACKGROUND: The Interagency Committee on Medical Records (ICMR) is aware of numerous activities using computer-generated medical forms, many of which are not mirror-like images of the genuine paper Standard/Optional Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set required fields standards and that activities developing computer-generated versions adhere to the required fields but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those fields which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data entry elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements. This guideline controls the "image" or required fields but not the actual data entered into the field.

SUMMARY: With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following fields must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 525

Item	Placement*
TEXT:	
Title: Radiation Therapy Summary	Bottom right corner of form.
Form ID: Standard Form 525 (Rev. 5–99)	Bottom right corner of form.
Full Figure front and back	
Head—profile—left and right	
DATA ENTRY FIELDS:	
Diagnosis	

ELECTRONIC ELEMENTS FOR SF 525—Continued

Item	Placement*
Sex	
Age	
Date of Consultation	
Narrative Summary—INSTRUCTIONS: Include (1) Site of primary and histopathology, (2) Clinical state or class (or exact area if treated for metastasis only), (3) Brief history, (4) Pertinent lab or X-ray findings, (5) Physical findings, (6) Plan of treatment, (7) Dates start and end, (8) Tumor does summary (include special techniques or precautions), (9) Status of tumor at completion of therapy, (10) Tollerance (include medications), (11) Disposition.	
Signature of Physician	
Date (of Signature)	
Relationship to Sponsor	
Sponsor's Name—Last	
Sponsor's Name—First	
Sponsor's Name—MI	
Sponsor's ID Number (SSN or Other)	
Depart./Service	
Organization	
Hospital or Medical Facility	
Records Maintained At	
Patient's Identification (Name—last, first, middle; ID No. or SSN; Sex; Date of Birth; Rank/Grade	Lower left corner of former. Lower Left corner of form
Register No.	Lower Left corner of form.
Ward No.	Lower Left corner of form.
Unit Parameters—Field (Allow at least 6 entries)	
Unit Parameters—Unit (Allow at least 6 entries)	
Unit Parameters—Nomenclature (Allow at least 6 entries)	
Unit Parameters—Beam Energy (Allow at least 6 entries)	
Unit Parameters—Calibration Factors (Allow at least 6 entries)	
Unit Parameters—Other Applicable Factors (Allow at least 6 entries)	
Treatment Factors—Field Name (Allow at least 4 entries)	
Treatment Factors—Field Size (Allow at least 4 entries)	
Treatment Factors—SSD/TSD (Allow at least 4 entries)	
Treatment Factors—Angel/ARC (Allow at least 4 entries)	
Treatment Factors—Given Dose (Allow at least 4 entries)	
Time Dose—Point Name (Allow at least 4 entries)	
Time Dose—Dose (Allow at least 4 entries)	
Time Dose—Franctions (Allow at least 4 entries)	
Time Dose—Days (Allow at least 4 entries)	
Time Dose—Inclusive Dates (Allow at least 4 entries)	

* If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Steven S. Kerrick, USN National Naval Medical Center, Department of Ophthalmology, Bethesda, MD 20889–5000 or E-Mail at StevenK966@aol.com.

Dated: November 15, 1999.

Steven S. Kerrick,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 99–30600 Filed 11–23–99; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4718]

Guidance for Industry on In Vivo Drug Metabolism/Drug Interaction Studies—Study Design, Data Analysis, and Recommendations for Dosing and Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "In Vivo Drug Metabolism/Drug Interaction Studies—Study Design, Data Analysis, and Recommendations for Dosing and Labeling." This guidance provides recommendations to sponsors of new drug applications (NDA's) and biologics license applications (BLA's) for therapeutic biologics on carrying out in vivo drug metabolism and metabolic drug-drug interaction studies. The guidance reflects the agency's current view that the metabolism of a new drug should be defined during drug development and that its interactions with other drugs should be explored as part of an adequate assessment of the safety and effectiveness of the drug.

DATES: General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike,

Rockville, MD 20852–1448, FAX: 888–CBERFAX or 301–827–3844. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Shiew–Mei Huang, Center for Drug Evaluation and Research (HFD–850), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5671; or David Green, Center for Biologics Evaluation and Research (HFM–579), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5349.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled "In Vivo Drug Metabolism/Drug Interaction Studies—Study Design, Data Analysis, and Recommendations for Dosing and Labeling." A draft of this guidance was published for comment in the **Federal Register** of November 19, 1998 (63 FR 64269). The guidance has been revised after careful consideration of public comments received between November 1998 and March 1999.

Previous guidance from FDA on the use of in vitro approaches to study metabolism and metabolic drug-drug interactions is available in a document entitled "Drug Metabolism/Drug Interaction Studies in the Drug Development Process: Studies In Vitro" (April 1997). This guidance should be viewed as a companion to this earlier guidance. The earlier guidance addressed techniques and approaches for in vitro studies of drug metabolism and drug interactions and the correlation between in vitro and in vivo studies. This guidance discusses study design, choice of interacting drugs, and data analysis and provides recommendations for dosing and labeling.

This Level 1 guidance document is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on drug metabolism and drug-drug interactions. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes, regulations, or both.

II. Comments

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm, or http://www.fda.gov/cber/guidelines.htm.

Dated: November 17, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Poilcy.

[FR Doc. 99–30568 Filed 11–23–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of Advisory Committee to the Interagency Task Force to Improve Hydroelectric Licensing Processes

AGENCY: Department of the Interior—Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Advisory Committee to the Interagency Task Force to Improve Hydroelectric Licensing Processes will meet on December 8, 1999 at the Department of the Interior. The purpose of the meeting is to:

(1) Update Committee members on the current activities of the Interagency Task Force (ITF);

(2) Review and discuss the ITF Working Groups' draft products on: (i) Studies, (ii) Collaborative Process Guidelines, and (iii) Economics.

DATES: December 8, 1999; 8:30 a.m.–3 p.m.

ADDRESSES: Department of the Interior, Room 7000, 1849 C St. NW, Washington, DC. Security at the building entrance will issue you a visitor's pass and direct you to Room 7000 upon your arrival.

FOR FURTHER INFORMATION CONTACT: Alex Matthiessen, Office of Secretary, Department of the Interior. 202–208–6291.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior and the Chairman, Federal Energy Regulatory Commission, with the concurrence of ITF members, established the Advisory Committee to provide a forum for non-Federal entities to review and provide comments on the deliberations of the ITF. Interested parties are invited to attend the meeting and will be given an opportunity to provide comments.

Alex Matthiessen,

Special Assistant to the Designated Federal Officer.

[FR Doc. 99–30576 Filed 11–23–99; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for Designation of Critical Habitat for the Woundfin (*Plagopterus argentissimus*) and Virgin River Chub (*Gila seminuda*) within the Virgin River Basis

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the Fish and Wildlife Service, announce the availability of the Final Environmental Assessment and Finding of No Significant Impact for Designation of Critical Habitat for the Woundfin (*Plagopterus argentissimus*) and Virgin River Chub (*Gila seminuda*) within the Virgin River Basin. The proposed Federal action described in the environmental assessment is to formally designate critical habitat for two endangered fishes inhabiting the Virgin River. Both woundfin and Virgin River chub are listed as endangered species under provisions of the Endangered Species Act of 1973, as amended (Act). The designation of critical habitat for woundfin and Virgin River chub is necessary pursuant to the Act and to comply with a court order to make a final determination with regard to these species. On August 27, 1999, in U.S. District Court, District of Colorado, the Court ordered the Service to proceed with the final designation of critical habitat for woundfin and Virgin River chub. Pursuant to that Court Order, we are proceeding with all necessary steps to finalize critical habitat designation for these two species and providing a notice of availability of the Final EA and FONSI. In accordance with Service

procedures to supplement Council on Environmental Quality regulations implementing the National Environmental Policy Act, the FONSI must be available for public review if the proposed action is located in a floodplain or wetland, pursuant to Executive Orders 11988 and 11990, respectively. The designation of critical habitat includes the 100-year floodplain, therefore, the Service will allow 30 days for public review before the final designation of critical habitat can be implemented.

DATES: The 30 day public review period ends on December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Reed E. Harris, Utah Field Supervisory, Ecological Services Field Office, Lincoln Plaza, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115, or at (801) 524–5001. Copies of final documents are available from the Field Office. All comments and materials received regarding the proposed designation of critical habitat will be available upon request for public inspection, by appointment, during normal business hours at the above address.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 1999, the Service published in the **Federal Register** (64 FR 43026) a notice of availability of the Draft Environmental Assessment of Designation of Critical Habitat for the Woundfin (*Plagopterus argentissimus*) and Virgin River Chub (*Gila seminuda*) within the Virgin River Basin. At that time we also solicited input on the Draft EA from the public, governmental agencies, the scientific community, industry and other interested parties. Comments were accepted from August 9, 1999, through September 8, 1999. All comments received on the Draft EA were given due consideration during the formulation of the Final EA and FONSI.

Author: The primary author of this notice is Keith L. Rose, U.S. Fish and Wildlife Service, 764 Horizon Drive Suite 228, Grant Junction, CO 81506. Mr. Rose may also be reached at (970) 243–4552.

Authority

The authorities for this action are the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and the Endangered Species Act of 1973 (16 U.S.C. 1532 *et seq.*)

Ralph O. Morgenweck,

Regional Director, Region 6, Denver, Colorado.

[FR Doc. 99–30323 Filed 11–23–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Environmental Impact Statement (DEIS) for the Wolf Lake Area Natural Gas Project

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that the Draft Environmental Impact Statement (DEIS) for the Wolf Lake Area Natural Gas Project is available for public review. During the 60-day review and comment period, there will be two public hearings on the DEIS as described below. The DEIS evaluates the potential environmental impacts of constructing a natural gas pipeline, related production facilities, and additional anticipated natural gas development in the Wolf Lake area of the Kenai National Wildlife Refuge, Kenai Peninsula, Alaska. This notice is being furnished pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969.

DATES: The public hearing dates are:

1. November 30, 1999, 2:00 p.m. to 4:00 p.m., Washington, DC.
2. December 15, 1999, 7:00 p.m. to 9:00 p.m., Soldotna, Alaska.

Written comments must be received by January 19, 2000.

ADDRESSES: The public hearing locations are:

1. Washington, DC—Main Interior Building, 1849 C Street, NW, Washington, DC.
2. Soldotna—Soldotna Senior Center, 197 W. Park Avenue, Soldotna, Alaska.

Comments should be addressed to: Regional Director, Region 7, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Brian L. Anderson (907) 786–3379.

SUPPLEMENTARY INFORMATION: Marathon Oil Company has applied to the U.S. Fish and Wildlife Service (USFWS) for a right-of-way grant to construct a natural gas pipeline and associated production facilities upon lands of the Kenai National Wildlife Refuge, a Conservation System Unit established by the Alaska National Interest Lands Conservation Act (ANILCA) (Sec. 303, Pub. L. 96–487, 16 U.S.C. 668dd). The right-of-way application is being evaluated under regulations (43 CFR 36) implementing Title XI of ANILCA: Transportation and Utility Systems in and Across, and Access into, Conservation System Units in Alaska.

The proposed project would be located in the northwest section of the Kenai Peninsula, generally between Beaver Lake and the Swanson River Road (T7N, R10W and T7N, R9W, Seward Meridian, Alaska). The surface estate within the project area is owned by the United States and is managed by the USFWS. The subsurface oil, gas and coal mineral estate is owned by Cook Inlet Region Incorporated (CIRI), an Alaska Corporation established under the provisions of the Alaska Native Claims Settlement Act (ANCSA) (Sec 7, Pub. L. 92–203, 43 U.S.C. 1601 *et seq.*). Under Title XI, CIRI is entitled to adequate and feasible access to their valid inholding for economic and other purposes, subject to reasonable regulations necessary to protect the natural and other values of the refuge.

As an operator under lease to CIRI, Marathon Oil Company proposes to develop natural gas production from two or more well sites including the existing Wolf Lake #2 well site, and Galena well site. Development would include construction of a gas gathering pipeline connecting the well sites to existing production facilities at Marathon's Beaver Creek gas field. The applicant's proposed pipeline right-of-way is approximately 5.5 miles long, and would include primary and secondary products pipelines, a water disposal pipeline, and communications and electric power lines, all of which would be buried. Pipeline construction would take place during the 2000/2001 winter season and is anticipated to take 30 to 40 days. No maintained roads would be constructed within the pipeline right-of-way, and the area will be allowed to revegetate naturally. Existing roads would be used for access to the well sites. Several small gas conditioning units and process/control buildings would be located at each well site. The DEIS also addresses the potential impacts of anticipated future gas well development in the vicinity that would utilize the proposed pipeline.

The environmental review is being conducted in accordance with the requirements of NEPA (Public Law 91–190, as amended, 42 U.S.C. 4371 *et seq.*) as implemented by the Council on Environmental Quality regulations at 40 CFR 1500–1508, and the pertinent regulations of the USFWS. Concurrently, the U.S. Army Corps of Engineers is evaluating the proposed project under Section 404 of the Clean Water Act (33 U.S.C. 1344), the public

notice of which is included as an appendix to the DEIS.

David B. Allen,

Regional Director.

[FR Doc. 99–30650 Filed 11–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–1020–PG]

Call for Nominations for Western Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of nomination.

SUMMARY: The purpose of this notice is to solicit public nominations for a vacant Category 1 position on the Western Montana Resource Advisory Council (RAC). Category 1 includes: holders of Federal grazing permits or leases, transportation/rights-of-way, developed outdoor recreation activities, off-highway vehicle users, commercial recreation activities, commercial timber industry representatives, or energy or mineral development representatives. The term of the position will expire in September of 2001.

The RACs provide advice and recommendations to the Bureau of Land Management (BLM) on land use planning and management of public lands within their geographic areas. Public nominations will be considered for 45 days after publication of this notice. Individuals may nominate themselves or others; nominees must be residents of Montana. Nominees will be evaluated based on their education, training, and experience on issues and knowledge of the geographic area covered by the Western Montana RAC. Nominees should have demonstrated a commitment to collaborative resource decision-making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, and any other information that addresses the nominee's qualifications.

DATE: All nominations must be received by the BLM Western Montana Zone no later than January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Jean Nelson-Dean, Pubic Affairs Specialist, BLM Western Montana Zone, 106 North Parkmont, P.O. Box 3388, Butte, Montana 59702; 406–494–5059.

Dated: November 10, 1999.

Merle Good,

Field Manager.

[FR Doc. 99–30635 Filed 11–23–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–KP–00–1310–EJ]

Pinedale Anticline Natural Gas Exploration and Development Project, Sublette County, Wyoming

AGENCY: Lead Agency—Bureau of Land Management, Interior. Cooperating Agencies—US Forest Service, US Department of Agriculture, US Army Corps Of Engineers, State of Wyoming.

ACTION: Notice of Availability (NOA) of Draft Environmental Impact Statement (DEIS).

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Pinedale Anticline Natural Gas Exploration and Development Project DEIS which evaluates, analyzes, and discloses to the public direct, indirect, and cumulative environmental impacts from continued exploration for, and development of, natural gas resources in the Pinedale Anticline Project Area (PAPA) in Sublette County, Wyoming. The DEIS analyzes a proposal by the Project operators to drill new exploration and development wells in their leased acreage within the PAPA (approximately 197,345 acres) in western Wyoming. The PAPA operators include Alpine Gas Company, Anschutz Exploration Corporation, B-P Amoco Production Company, HS Resources, Inc., Jonah Gas Gathering Company, McMurry Oil Company, Questar Exploration & Production, Ultra Resources, Inc., Western Gas Resources, Inc., Yates Petroleum Corporation, and other companies (collectively referred to as the PAPA Operators). Lands associated with the new drilling program are located between the town of Pinedale, Wyoming, and the Jonah Natural Gas Field located 30 miles south of Pinedale, and between the Green River and Wyoming Highway 191.

DATES: Comments on the DEIS will be accepted for 60 days following the date that the Environmental Protection Agency (EPA) publishes their Notice of Availability of this DEIS in the **Federal Register**. The EPA notice is anticipated to be published on November 26, 1999. The BLM asks that those submitting comments on the DEIS make them as specific as possible. Comments are more helpful if they include suggested changes, sources, or methodologies. Comments that contain only opinions or preferences will not receive a formal response. However, they will be considered and included as part of the BLM decision making process.

A formal public hearing will be held at 7 p.m. on January 12, 2000, at the Pinedale High School Auditorium, 101 E. Hennick, Pinedale, Wyoming. The purpose of the hearing will be to afford the public the opportunity to comment on the proposed natural gas exploration and development DEIS.

ADDRESSES: Comments on the DEIS should be sent to: Bureau of Land Management, Bill McMahan (Project Coordinator), 280 Highway 191 North, Rock Springs, WY 82901, or they can be e-mailed to rock__springs__wymail@blm.gov

A copy of the DEIS has been sent to affected Federal, State, and local government agencies and to those persons who responded to the BLM that they wished to receive a copy of the DEIS. Copies of the DEIS are available for public inspection at the following BLM office locations:

Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009

Bureau of Land Management, Rock Springs Field Office, Highway 191 North, Rock Springs, Wyoming 82901

Bureau of Land Management, Pinedale Field Office, 432 East Mill Street, Pinedale, Wyoming 82941

SUPPLEMENTARY INFORMATION: The DEIS analyzes a proposal by the PAPA Operators to drill new exploration and development wells in their leased acreage within the 197,345 acre PAPA. The PAPA is located within Townships 29 through 33 North, Ranges 107 through 110 West, 6th Principal Meridian. The area is accessed by U.S. Highway 191 and Wyoming Highway 351. Access to the interior of the PAPA is provided by an existing county and BLM road network developed to service homes and ranches located along the Green and New Fork Rivers, livestock operations, recreation use, and past and current drilling and production activities.

Collectively, the Pinedale Anticline Operators' proposal would provide for the continued exploration for natural gas and, where discoveries occur, the development of the gas resource by drilling up to 900 new wells to achieve 700 producing locations over the next 10 to 15 years. Drilling estimates were based on the operators', BLM's, and State of Wyoming's reasonable expectations that the "tight-gas"

formation in this area could be developed at a spacing of one well every 40 acres or 16 wells per square mile. The DEIS analysis addresses three critical criteria bearing on how and to what extent development in the PAPA could proceed. The criteria include: three exploration/development scenarios which define over what portion of the PAPA (none, all, or just a portion) development could occur; two levels of development which define the number of well pads which could be developed in the next 10 to 15 years; and two mitigation alternatives which define options for reducing impacts to the environment from future development activities. Mitigation alternatives are evaluated based on their application on just Federal lands and minerals, as well as on all lands and minerals in the PAPA (Federal, State and private). The PAPA surface ownership is approximately 80 percent Federal, 15 percent private, and 5 percent State. A small infrastructure of roads and pipelines for natural gas production are already in place within the PAPA. Additional roads and pipelines would be necessary to link the new wells with the existing transportation systems.

The PAPA Operators' plans and drilling schedules would be contingent upon an adequate price for the gas at the wellhead and anticipated increases in gas consumption in the United States. The American Gas Association estimates a 40 percent increase by the year 2015.

Potential impacts of concern from the proposed development (not in priority order) are: sensitive view sheds; economic, social, health, and safety effects to Pinedale and surrounding communities; livestock operations; recreation use associated with the Mesa; crucial big game winter range and antelope migrations; sage grouse and raptor breeding and nesting; special status plant and wildlife species; soil erosion and sediment increases to the New Fork and Green Rivers; groundwater draw down and contamination; Historic Lander Trail condition and view shed; and cumulative effects.

This DEIS, in compliance with Section 7(c) of the Endangered Species Act (as amended), includes the Biological Assessment for the purpose of identifying any endangered, threatened, or proposed species which are likely to be affected by the proposed action.

A Technical Report Document has also been prepared in conjunction with the DEIS. It contains detailed technical information regarding air quality modeling, wildlife habitat modeling, cultural resources, and potential well pad location adjustments due to surface resource restrictions. A limited number of the technical report documents are available upon request or they may be reviewed at the BLM offices listed above.

Comments, including the names and street addresses of respondents, will be made available for review by the public at the addresses listed above during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays, and will be published as part of the Final EIS. However, individual respondents may request confidentiality. If you wish to withhold your name and/or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: November 18, 1999.

Alan R. Pierson,

State Director.

[FR Doc. 99–30589 Filed 11–23–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–935–4214–ET; COC–23841]

Proposed Extension of Withdrawal; Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Agriculture, Forest Service, proposes to extend Public Land Order No. 5718 for another 20-year period. This order withdrew National Forest System land from location and entry under the mining laws to protect the Eisenhower Memorial Tunnel on Interstate Highway 70. The land has been and remains open to Forest management and to mineral leasing. This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by February 22, 2000.

ADDRESSES: Comments and meeting requests should be sent to the Colorado State Director, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius at 303–239–3706.

SUPPLEMENTARY INFORMATION: On November 9, 1999, the U.S. Department of Agriculture, Forest Service, requested that Public Land Order No. 5718 be extended for an additional 20-year period. This withdrawal was made to protect public safety and public investment in the Eisenhower/Johnson Memorial Tunnel on Interstate Highway 70. This highway is an important part of the transportation system between the east and west slopes of the Continental Divide in Colorado. Public Land Order 5718 will expire on April 13, 2000.

The withdrawal comprises approximately 1,365 acres of National Forest System land. It is located in T. 4 S., R. 76 W., (unsurveyed) at the West Portal and above the Tunnel, and is described in Public Land Order 5718 and is located in Summit and Clear Creek Counties. A complete description of the lands can be provided by the Colorado State Office at the address shown above.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed extension may present their views in writing to the Colorado State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed extension. All interested persons who desire a public meeting for the purpose of being heard on the proposal should submit a written request to the Colorado State Director within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days prior to the scheduled date of the meeting.

This extension will be processed in accordance with regulations set forth in 43 CFR part 2310.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 99–30639 Filed 11–23–99; 8:45 am]

BILLING CODE 3410–11–U

DEPARTMENT OF THE INTERIOR

National Park Service

Privacy Act of 1974, as Amended; Systems of Records

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of minor changes to a Privacy Act System of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Interior is updating a system of records managed by the National Park Service (NPS). The changes are to the system of records "U.S. Park Police Personnel Photograph File, Interior, NPS–12," which is published in its entirety below.

DATES: These actions will be effective on November 24, 1999.

FOR FURTHER INFORMATION CONTACT: For information regarding these changes, and for general information regarding NPS' Privacy Act programs, contact Ms. Diane Cooke, NPS Privacy Act Officer, at (202) 208–3933.

SUPPLEMENTARY INFORMATION: With the publishing of this notice, the office title of the System Location has changed representing an organizational change; also, the Routine Uses of Records has changed to assist the media in identifying officers involved in all types of incidents.

Diane M. Cooke,
NPS FOIA Officer.

INTERIOR/NPS–12

SYSTEM NAME:

U.S. Park Police Personnel Photograph File—Interior NPS–12.

SYSTEM LOCATION:

Office of Inspectional Services and Personnel Section, United States Park Police Headquarters, 1100 Ohio Drive SW, Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All U.S. Park Police Officers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 80–447, as amended by Pub. L. 91–282, Section 4.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is (1) for management to aid in the investigation of personnel complaints and to assist the media in identifying officers involved in all types of incidents. Disclosures outside the Department of the Interior may be made to:

(1) Another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(2) The Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(1) The Department or any component of the Department;

(2) Any Departmental employee acting in his or her official capacity;

(3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or

(4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and

(b) The Department deems the disclosure to be:

(1) Relevant and necessary to the proceedings; and

(2) Compatible with the purpose for which we compiled the information.

(3) The appropriate Federal, State, tribal, local or foreign governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, order or license, when we become aware of an indication of a violation or potential violation of the statute, rule regulation, order or license.

(4) A congressional office in response to an inquiry to that office by the individual to whom the records pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a 5×8 Cardex File.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

After an officer leaves the Park Police, his/her photograph is properly disposed of.

SYSTEM MANAGERS(S) AND ADDRESS:

Chief of Police, United States Park Police (See Location).

NOTIFICATION PROCEDURE:

To determine whether the records are maintained on you in this system, write to the Systems Manager.

RECORD ACCESS PROCEDURE:

To see your records, write the Systems Manager. Describe specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay.

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager.

RECORD SOURCE CATEGORIES:

Personnel files and ID photographs.

[FR Doc. 99–30590 Filed 11–23–99; 8:45 am]
BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: The U.S. International Trade Commission (USITC) has submitted the following information collection requirements to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, (44 U.S.C. Chap. 35), requesting extension of a currently approved collection (OMB No.: 3117–0190).

EFFECTIVE DATE: November 15, 1999.

PURPOSE OF INFORMATION COLLECTION: The requested extension of a currently approved collection (USITC DataWeb user registration form) is for use by the Commission. The user registration forms are required to accurately track usage, data reports generated, and costs by user sectors. The forms would appear on the ITC DataWeb internet site (http://dataweb.usitc.gov) and would need to be filled out only once.

PUBLIC COMMENTS REGARDING THE INFORMATION COLLECTION: OMB is required to make a decision concerning extension of this currently approved collection between 30 and 60 days after publication of this notice. To be assured of consideration, comments must be received not later than 30 days after publication of this notice, at OMB by the Desk Officer/USITC.

SUMMARY OF PROPOSAL:

(1) Number of forms submitted: two
(2) Title of forms: ITC Tariff and Trade DataWeb Public Access Project:

"Create New User Account Form" and "User Information Form"
(3) Type of request: extension
(4) Frequency of use: single data gathering
(5) Description of respondents: government and private sector users of the on-line ITC DataWeb
(6) Estimated number of respondents: 2,000 annually
(7) Estimated total number of minutes to complete the forms: 2.0 minutes
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

ADDITIONAL INFORMATION OR COMMENT: Copies of the survey and draft Supporting Statement submitted to the Office of Management and Budget will be posted on the Commission's World Wide Web site at http://www.usitc.gov or the agency submissions to OMB in connection with this request may be obtained from Peg MacKnight, Office of Operations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436 (telephone no. 202–205–3418). Comments should be addressed to: Desk Officer for U.S. International Trade Commission, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (telephone no. 202–395–3897). Copies of any comments should also be provided to Robert Rogowsky, Director of Operations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal, (telephone no. 202–205–1810).

Issued: November 15, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30646 Filed 11–23–99; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–314–317 and 731–TA–552–555 (Review)]

Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, Germany, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in October 1999 to determine whether revocation of the existing countervailing and antidumping duty orders would be likely to lead to continuation or recurrence of subsidization/dumping and of material injury to a domestic industry. On November 15, 1999, the Department of Commerce published notice that it was revoking the orders "because no domestic party responded to the sunset review notice of initiation by the applicable deadline" (64 FR 61821). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR 207.69), the subject reviews are terminated.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR § 207.69).

Issued: November 17, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30648 Filed 11–23–99; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–812 (Final)]

Live Cattle From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, [2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada of live cattle, provided for in subheading 0102.90.40 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective November 12, 1998, following receipt of a petition filed with the Commission and the Department of Commerce by the Ranchers-Cattlemen Action Legal Foundation ("R-Calf") (Columbus, MT). The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of live cattle from Canada were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 16, 1999 (64 FR 44538). The hearing was held in Washington, DC, on October 6, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on November 19, 1999. The views of the Commission are contained in USITC Publication 3255 (November 1999), entitled Live Cattle from Canada: Investigation No. 731–TA–812 (Preliminary).

Issued: November 19, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30649 Filed 11–23–99; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Lynn M. Bragg dissenting.

VOL 64 ISS 226 NO 24 1999 UMI

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–825–826 (Final)]

Certain Polyester Staple Fiber From Korea and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–825 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Korea of certain polyester staple fiber, provided for in subheading 5503.20.00 of the Harmonized Tariff Schedule of the United States.[1] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will not publish a notice of scheduling for the final phase of its investigation unless and until it receives an affirmative final determination from Commerce. Although the Department of Commerce has preliminarily determined that certain polyester staple fiber from Taiwan is not being sold, nor is likely to be sold, in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b) and gives notice of the scheduling of the final phase of the antidumping investigation No. 731–TA–826 (Final) under section 735(b) of the Act. The Commission is taking this action so that the final phases of the antidumping investigations may proceed concurrently in the event that Commerce makes a final affirmative antidumping determination with respect to Taiwan. If Commerce makes a final negative antidumping determination with respect to Taiwan, the Commission will terminate its antidumping investigation under section 735(c)(2) of the Act (19 U.S.C. 1673d(c)(2)), and section 207.2(d) of the Commission's rules.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Jozlyn Kalchthaler (202–205–3457), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain polyester staple fiber from Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The final phase of the antidumping investigation with respect to Taiwan is being scheduled, under waiver of section 207.21(b), discussed above, for purposes of efficiency. The investigations were requested in a petition filed on April 2, 1999, by E.I. Dupont de Nemours, Inc., Wilmington, DE; NanYa Plastics Corporation, America, Lake City, SC; KoSa, Spartanburg, SC; Wellman, Inc., Shrewsbury, NJ; and Intercontinental Polymers, Inc., Charlotte, NC.[2]

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 14, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 28, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 20, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 23,

[1] For purposes of these investigations, certain polyester staple fiber is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to these investigations may be coated, usually with a silicon or other finish, or not coated. Certain polyester staple fiber is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) is specifically excluded from these investigations. Also specifically excluded from these investigations are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting).

[2] NanYa is no longer a petitioner in these investigations. DuPont is not a petitioner in the investigation on Taiwan.

2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 21, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 4, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before April 4, 2000. On April 20, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 24, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: November 17, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30647 Filed 11–23–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice Required by the Y2K Act To Establish a Small Business Liaison

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: Pursuant to section 18(b) of the Y2K Act, Public Law 106–37, 106 Stat. 185 (1999), to be published at 15 U.S.C. 6617, the Department of Justice designates Joseph K. Bryan, Director, Office of Small and Disadvantaged Business Utilization (OSDBU), as the point of contact between the Department and small businesses which qualify as small business concerns under the Act, with respect to problems arising out of Y2K failures and resulting violations of Federal rules or regulations. Mr. Bryan can be reached on (202) 616–0521 or 1–800–345–3712.

EFFECTIVE DATE: September 1, 1999 through December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Joseph K. Bryan, Director, OSDBU, Department of Justice, 1331 Pennsylvania Ave, NW, Suite 1010, Washington, D.C. 20530; telephone number 1–800–345–3712; fax number (202) 616–1717.

SUPPLEMENTARY INFORMATION: The Y2K Act provides for a suspension of penalties for a "first-time" violation of certain Federally enforceable rules or regulations, during the year 2000, where the violation was the result of a year 2000 failure, certain waiver standards are met, and no similar violation occurred during the last three years. Certain exceptions apply. For purposes of this Act, a "small business concern" is defined as an unincorporated business, a partnership, corporation, association, or organization, with fewer than 50 full-time employees.

The Y2K Act defines "Y2K failure" as failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collections of processing instructions to process, calculate, compare, sequence, display, store, transmit, or receive Year 2000 date-related data. This definition specifically includes failures to:

(1) Deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

(2) Recognize or process accurately any specific date in 1999, 2000, or 2001; or

(3) Account accurately for the year 2000's status as a leap year, including recognition and processing of the correct date of February 29, 2000.

Dated: November 8, 1999.

Stephen R. Colgate,

Assistant Attorney General for Administration.

[FR Doc. 99–30638 Filed 11–23–99; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

Summary: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY 2000 for a cooperative agreement to fund the "Development of a Survival Guide for Newly Appointed Wardens" project.

Purpose: The National Institute of Corrections (NIC) invites applications for a cooperative agreement to develop a "survival guide" for newly appointed Wardens or Superintendents, hereinafter referred to as Wardens. In this usage, a survival guide is defined as "a tool that contains information that will provide instruction and guidance to newly appointed Wardens before and during their initial months in their new position". It may include written and/or audiovisual materials containing information concerning training opportunities, suggested early steps in orientation to the new assignment, and potentially important early contacts or actions. It may include written recommendations from experienced Wardens or Directors of state Departments of Correction, reference information concerning where specific information may be found, general management and leadership information, bibliography of helpful reading, information concerning special programs, or information of other types or in other that may be critical to a new Wardens early progress. This project will provide a tool that may be given to the Warden at the time of appointment and provide information that will strengthen the new appointee's entry and approach to the new position and the needs of the facility for which she is responsible.

Authority: Public Law 93–415.

Funds Available: The award will be limited to a maximum total of $50,000 (direct and indirect costs) and project activity must be completed within 9 months of the date of award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Prisons Division.

Eligibility to Apply: An eligible applicant is any state or general unit of local government, public or private agency, educational institution, organization, or individual with the requisite skills to successfully meet the outcome objectives of the project.

Deadline for Receipt of Applications: Applications must be received by 4:00 p.m. Eastern Time on Monday, December 20, 1999. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, N.W., Room 5007, Washington, D.C. 20534 or by calling 800–995–6423, ext. 159, 202–307–3106, ext. 159, or email; jevens@bop.gov. A copy of this announcement and application forms may also be obtained through the NIC web site: http://www.nicic.org (click on "What's New" and "Cooperative Agreements"). All technical and/or programmatic questions concerning this announcement should be directed to Dick Franklin at the above address or by calling 800–995–6423 or 202–307–1300, ext. 145, or by E-mail via rfranklin@bop.gov.

Review Considerations: Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards: One (1).

NIC Application Number: 00P09 This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

The Catalog of Federal Domestic Assistance number is: 16.601.

Dated: November 15, 1999.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 99–30567 Filed 11–23–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

Summary: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY 2000 for a cooperative agreement to fund the development of a document: "Management and Treatment of Violent and Hard-To-Manage Inmates."

Purpose: The National Institute of Corrections (NIC) invites applications for a cooperative agreement to develop a document concerning the management and treatment of violent and hard-to-manage inmates in state correctional facilities. This document will identify the primary reasons that special housing is viewed by prison managers as mandatory for various groups of inmates in jurisdictions of differing size, resources, and existing options. Such groups may include, but will not be limited to inmates with a violent background or who are violent in prison; security threat group leaders or members; inmates diagnosed as mentally ill, behaviorally disordered, or developmentally disabled; inmates at risk or representing risk because of their age, demeanor, sexual predation, or chronic disruptive behavior; those with a history of escape or escape attempts; or inmates who disrupt or threaten to disrupt the order of the facility and thereby pose a threat to the safety of staff and inmates or the security of the institution. This information will contribute to the understanding of interested observers of the underlying issues and concerns prompting the development of special housing and program for specific groups of inmates. In addition, the document will identify and describe predominate and noteworthy housing alternatives, management techniques, and treatment modalities employed in addressing the needs of these inmates and the problem, risk, or concern they present in the institution(s) of placement. The information provided will be descriptive and factual and will be accompanied by a summary of evaluation or outcome information, if available. Housing alternatives and management techniques will be described with each treatment modality that is discussed. Contact information will be provided for each strategy, technique, or treatment program presented.

Authority: Public Law 93–415.

Funds Available: The award will be limited to a maximum total of $50,000 (direct and indirect costs) and project activity must be completed within 12 months of the date of award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Prisons Division.

Eligibility To Apply: An eligible applicant is any state or general unit of local government, public or private agency, educational institution, organization, or individual with the requisite skills to successfully meet the outcome objectives of the project.

Deadline for Receipt of Applications: Applications must be received by 4 p.m. Eastern time on Friday, January 7, 2000. They should be addressed to: Director, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534. Hand delivered applications should be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext 159, 202–307–3106, ext. 159, or email: jevens@bop.gov. A copy of this announcement and application forms may also be obtained through the NIC web site: http://www.nicic.org (click on "What's New" and "Cooperative Agreements"). All technical and/or programmatic questions concerning this announcement should be directed to Dick Franklin at the above address or by calling 800–995–6423 or 202–307–1300, ext. 145, or by E-mail via rfranklin@bop.gov.

Review Considerations: Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards: One (1).

NIC Application Number: 00P04 This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

(The Catalog of Federal Domestic Assistance number is: 16.601.)

Dated: November 15, 1999.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 99–30566 Filed 11–23–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10721, et al.]

Proposed Exemptions; Metropolitan Life Insurance Company

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESS: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Metropolitan Life Insurance Company (MetLife) Located in New York, NY

[Application No. D–10721]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).[1]

Section I. Proposed Exemptions Involving the Demutualization of METLIFE and the Excess Holding of Consideration By Plans Sponsored By METLIFE and its Affiliates (the MetLife Plans)

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the receipt, by any eligible policyholder (the Eligible Policyholder) of MetLife that is an employee benefit plan (the Plan), subject to applicable provisions of the Act and/or the Code, including any Eligible Policyholder that is a Plan covering employees of MetLife or its affiliates, of an interest (the Interest) in a trust (the Trust), whose corpus consists of common stock (the Common Stock) issued by MetLife, Inc., (the Holding Company), the parent of MetLife; or (2) the receipt of cash or policy credits by such Plans,[2] in exchange for such Eligible Policyholder's membership interest in MetLife, pursuant to a plan of conversion (the Plan of Reorganization) adopted by MetLife and implemented in accordance with section 7312 of the New York Insurance Law.

In addition, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply to the receipt and holding, by a MetLife Plan, of Trust Interests, whose fair market value exceeds 10 percent of the value of the total assets held by such Plan.

The proposed exemptions that are described above are subject to the following conditions:

(a) The Plan of Reorganization is implemented in accordance with procedural and substantive safeguards that are imposed under New York Insurance Law and is subject to review and approval by the New York Superintendent of Insurance (the Superintendent). The Superintendent reviews the terms of the options that are provided to Eligible Policyholders of MetLife as part of such Superintendent's review of the Plan of Reorganization, and the Superintendent only approves the Plan of Reorganization following a determination that the Plan is fair and equitable to all Eligible Policyholders and is not detrimental to the public.

(b) Each Eligible Policyholder has an opportunity to vote at a special meeting to approve the Plan of Reorganization after receiving full written disclosure from MetLife.

(c) One or more independent fiduciaries of a Plan (the Independent Fiduciary) that is an Eligible Policyholder receives Trust Interests, cash or policy credits pursuant to the terms of the Plan of Reorganization and neither MetLife nor any of its affiliates

[1] For purposes of this proposed exemption, references to provisions of Title I of the Act, unless otherwise specified, refer also to corresponding provisions of the Code.

[2] Unless otherwise noted, the terms "Plan" and "MetLife Plan" are referred to collectively as the "Plans."

exercises any discretion or provides "investment advice," within the meaning of 29 CFR 2510.3–21(c) with respect to such acquisition.

(d) In the case of a MetLife Plan, the Independent Fiduciary—

(1) Votes at the special meeting of Eligible Policyholders to approve the Plan of Reorganization;

(2) Makes any election, to the extent available under the Plan of Reorganization, to receive Trust Interests or cash on behalf of the MetLife Plan;

(3) Monitors, on behalf of the MetLife Plan, the acquisition and holding of any Trust Interests received;

(4) Makes determinations on behalf of the MetLife Plan with respect to the voting and the continued holding of Trust Interests by such Plan.

(5) Withdraws shares of Holding Company Common Stock that are held in Trust which are equivalent to Trust Interests allocated to a MetLife Plan and disposes of such Trust Interests.

(i) Not exceeding the limits of section 407(a) of the Act in a prudent manner.

(ii) Exceeding the limits of section 407(a) of the Act within six months of the initial public offering (the IPO); and

(6) Provides the Department with a complete and detailed final report as it relates to the MetLife Plans prior to the effective date of the demutualization.

(e) After each Eligible Policyholder entitled to receive Trust Interests is allocated at least ten shares of Holding Company Common Stock, additional consideration is allocated to Eligible Policyholders who own participating policies based on actuarial formulas that take into account each participating policy's contribution to the surplus of MetLife, which formulas have been reviewed by the Superintendent.

(f) All Eligible Policyholders that are Plans participate in the demutualization transaction on the same basis within their class groupings as other Eligible Policyholders that are not Plans.

(g) No Eligible Policyholder pays any brokerage commissions or fees in connection with the receipt of consideration.

(h) All of MetLife's policyholder obligations remain in force and are not affected by the Plan of Reorganization.

(i) The terms of the transactions are at least as favorable to the Plans as an arm's length transaction with an unrelated party.

Section II. Proposed Exemptions Involving Sales or Withdrawals Occurring in Connection With the Operation or Termination of the Trust

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the proposed (1) sale by a Plan to the Holding Company of Holding Company Common Stock, which is held in the Trust for the benefit of such participating Plan and is evidenced by Trust Interests, following the effective date of the demutualization or upon the termination of the Trust; and (2) the withdrawal by a Plan of Holding Company Common Stock, as evidenced by Trust Interests, beginning on the first anniversary of the effective date of the demutualization until the termination of the Trust.

The proposed exemptions are subject to the following conditions:

(a) The decision by a Plan to arrange for the sale of Holding Company Common Stock to the Holding Company or to withdraw Holding Company Common Stock is made by a Plan fiduciary which is independent of MetLife and its affiliates.

(b) No Plan pays any fees or commissions in connection with either transaction.

(c) The terms of the transactions are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(d) Any sale of shares of Holding Company Common Stock held in the Trust for the benefit of a Plan to the Holding Company is at a price reflecting the fair market value of the Common Stock as determined by averaging the high and low trading prices as reported on the New York Stock Exchange on the day of sale, except that if such sale is pursuant to the termination of the Trust, such fair market value is determined as the average of the closing price for a share of such Holding Company Common Stock for the twenty consecutive trading days ending on the third calendar day immediately prior to the date of the sale.

Section III. Definitions

For purposes of this proposed exemption:

(a) The term "MetLife" means The Metropolitan Life Insurance Company and any affiliate of MetLife as defined in paragraph (b) of this Section III.

(b) An "affiliate" of MetLife includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with MetLife. (For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) The term "Eligible Policyholder" means a policyholder whose name appears on MetLife's records as the owner of a policy on the adoption date of MetLife's Plan of Reorganization by MetLife's Board of Directors and, which is in full force for its full basic benefits and has not matured by death or otherwise been surrendered or terminated and which remains in force on the effective date of MetLife's demutualization.

(d) The term "policy credit" means (1) a dividend deposit or dividend addition; (2) an increase in accumulation value (to which no sales or surrender or similar charges shall be applied); (3) additional coverage or benefits; (d) an extension of the expiry date; or (4) a reduction in premium payments.

Summary of Facts and Representations

1. MetLife is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent. It is the second largest insurance company in the United States. As of December 31, 1998, MetLife and its subsidiaries had total assets under management of approximately $357.7 billion and approximately $1.7 trillion of life insurance in force.

MetLife and its subsidiaries and affiliates provide funding, asset management and other services for approximately 59,700 employee pension and welfare benefit plans that are subject to the provisions of Title I of the Act as well as applicable provisions of the Code. In addition, MetLife maintains pooled and single plan separate accounts in which Title I pension, profit sharing and thrift plans invest, and MetLife or its affiliates manage assets in such separate accounts. Moreover, MetLife has a number of subsidiaries and affiliates that provide a variety of financial services, including investment management and brokerage services.

MetLife represents that it is not a "party in interest" with respect to any of its Plan policyholders merely because it has issued an insurance policy to the Plan. However, because of the variety of fiduciary and other services it and its affiliates provide to Plans that are also policyholders, MetLife believes that it is a party in interest with respect to such Plans under sections 3(14)(A) and (B) of

the Act or the other related "derivative" provisions of section 3(14) of the Act.

As a mutual life insurance company, MetLife has no stockholders. Instead, policyholders of MetLife are "members" of the company, and in that capacity, they are entitled to vote to elect directors of MetLife. If MetLife is liquidated, the policyholders will be entitled to share in any assets of MetLife which remain after all claims against MetLife have been satisfied in full.

2. MetLife and its affiliates sponsor several pension and welfare plans for the benefit of their employees. The MetLife Plans, their asset and participant totals as of December 31, 1998, the decisionmakers with respect to MetLife Plan investments, and the employees covered by the MetLife Plans are set forth in the following tables:

Plan name	Assets $1M 12/98	Participants or number of lives	Investment decision makers	Employees covered
MetLife Retirement Plan for U.S. Employees.	$3,974	81,000	Investment Advisory Committee	Sal. and comm. employees.
• VRSA	86	3,900		
• 401(h)	24			
Savings & Investments Plan for Employees of MetLife and Part. Affils.	2,559	36,000	MetLife	Sal. and comm. employees.
MetLife Options and MetLife Choices Plan.	(1)			
Welfare (Post-Ret.)		27,500	MetLife	Sal. and comm. employees.
• Life Ins. & Survivor	406		MetLife	Sal. and comm. employees.
• Health (VEBA TOLI)	179		VEBA Trustees	Sal. and comm. employees.
• Health (HIFA)	500		MetLife	Sal. and comm. employees.
Welfare (Active)	388	29,400	MetLife	Sal. and comm. employees.
Welfare Plan for Employees of MetLife and Particip. Affils.	[2] 0	56,900	MetLife	Sal. and comm. employees.
Benefit Services Corp. Pre-Tax Premium Plan.	0	30	MetLife	Active.
Cross & Brown Co. Your Group Ins. Plan.	0	11	MetLife	Active and Retired.
Farmers National Company Ins. Programs.	0	135	MetLife	Active.
Farmers National Co. Travel Accident Ins. Plan.	0	135	MetLife	Active.
Hyatt Legal Benefit Plans	0	44	MetLife	Active.
SSR Realty Advisors, Inc. Life Benefits, Long-Term Dis.	0	532	MetLife	Active.
State Street Res. & Mgt. Co. Life, Dental & Long Term Dis. Plan.	0	465	MetLife	Active.

[1] Reserves $M.
[2] Benefits provided through insurance contracts.

3. On November 24, 1998, Metlife's Board of Directors authorized the company's management to develop a plan of demutualization pursuant to which MetLife would be converted from a mutual life insurance company to a stock life insurance company. The principal purpose of the Plan of Reorganization is to create a corporate structure that will allow MetLife to position itself for long-term growth and increased financial strength. MetLife believes that as a result of the flexibility offered by the stock company structure and the access to capital markets, it will be in a position to enhance its market leadership, financial strength and strategic position and aggressively pursue opportunities for growth, thereby providing greater protection to policyholders. In addition, MetLife believes that the change in business structure will enable it to remain a leader in helping people become financially secure.

4. As a result of the Plan of Reorganization, MetLife will become a stock insurer that is a subsidiary of MetLife, Inc., a newly-formed holding company incorporated under the laws of the State of Delaware. Consequently, MetLife and the Holding Company will have greater ability to make acquisitions and the ability to raise investor capital in a more efficient manner. The reorganization will provide economic value to Eligible Policyholders in the form of shares of Holding Company Common Stock, cash or policy credits, in exchange for such Eligible Policyholders' respective membership interests in MetLife.

5. In addition to the formation of the Holding Company, MetLife will establish the Trust to hold shares of Holding Company Common Stock that are received by millions of policyholders under its Plan of Reorganization. It is not anticipated that the Trust will be a "plan assets" investment vehicle because 25 percent or more of the value of the Trust Interests will not be held by Plans. MetLife notes that the primary purpose of the Trust is to assist the Holding Company in the administration of beneficiary accounts and the costs associated with managing such a large number of policyholders. In addition, MetLife states that a secondary purpose of the Trust is to promote a more orderly market for Holding Company Common Stock. It is anticipated that the trustee of the Trust (the Trustee) will be Wilmington Trust Company, an entity which is independent of MetLife and one of the nation's leading wealth management companies.

6. Thus, to resolve potential issues for Plans that may arise in connection with its Plan of Reorganization, MetLife requests an individual exemption from the Department that will cover the receipt of Trust Interests,[3] cash or policy credits by Eligible Policyholders that are

[3] Although Holding Company Common Stock will not be issued directly to an Eligible Policyholder, MetLife represents that it wishes to ensure that the exemption will cover the indirect acquisition by a Plan of an interest in the Holding Company Common Stock owned by the Trust.

Plans, including the MetLife Plans identified above, in exchange for such Plans' existing membership interests in MetLife.

MetLife is also requesting an exemption for the receipt and holding of Trust Interests by the MetLife Plans for their own employees with respect to transactions that may violate sections 406(a)(1)(E), (a)(2), and 407(a)(2) of the Act. These sections of the Act prohibit the acquisition by a plan of any employer securities that are not qualifying employer securities if immediately after the acquisition, the aggregate fair market value of employer securities held by the plan exceeds 10 percent of the fair market value of the assets of the plan.[4] MetLife represents that the Trust Interests may be considered "employer securities" for purposes of the foregoing restrictions. Because some of the MetLife Plans may receive a substantial number of Trust Interests exceeding 10 percent of the fair market value of the assets of such Plans, MetLife believes there will be a violation of section 407(a)(2) of the Act. To safeguard the interests of the MetLife Plans under these circumstances, MetLife and each of its affiliates have appointed State Street Bank and Trust Company (State Street), to serve as an Independent Fiduciary.

Finally, the proposed exemption is intended to cover transactions that will occur subsequent to the initial demutualization event, *i.e.*, during the operation or termination of the Trust described herein. These transactions include (a) the sale to the Holding Company by a Plan of Holding Company Common Stock that is held in the Trust for the benefit of such participating Plan and which is evidenced by Trust Interests; and (b) the withdrawal by a Plan of Holding Company Common Stock that is held in Trust and which is evidenced by Trust Interests.

The proposed exemption is conditioned on a number of requirements. Specifically, distributions that are made to Plans under the Plan of Reorganization must be on terms that are no less favorable to such Plans than an arm's length transaction between unrelated parties. In this regard, Plans to which MetLife is a party in interest will not by reason of that relationship be treated differently from policyholders as to which MetLife is not a party interest.

7. Section 7312 of the New York Insurance Law establishes an approval process for the demutualization of a life insurance company. Under Section 7312, the conversion of a mutual life insurance company to a stock company is initiated by the board of directors of the mutual company. A plan of demutualization may be approved by a vote of at least 75 percent of the entire board of directors. The approval process must include a finding that the plan is fair and equitable to policyholders.

After approval by the mutual insurance company's board of directors, a plan of demutualization is then required to be submitted to the Superintendent for his or her review.

In order for a plan of demutualization to become effective, the Superintendent must determine that the plan of demutualization does not violate the requirements imposed by Section 7312, including the requirement that the plan is fair and equitable to the policyholders, that it is not detrimental to the public, and that, following the demutualization, the insurer will have an amount of capital and surplus which the Superintendent deems to be reasonably necessary for its future solvency.

In order to assist the Superintendent in discharging his or her duties, Section 7312 permits the Superintendent to appoint an actuary to review actuarial aspects of the plan. In addition, Section 7312 permits the Superintendent to appoint other qualified disinterested persons or institutions to act as consultants to the Superintendent. In the case of the MetLife demutualization, the Superintendent has hired the law firm of Fried, Frank, Harris, Shriver & Jacobson as legal adviser; the actuarial firm of Miliman & Robertson to conduct the required actuarial review; and The Blackstone Group as the investment banking consultant.

8. Section 7312 also requires the Superintendent to hold a public hearing on a plan of demutualization at which policyholders and other interested persons may express views on the plan. Notice of the public hearing must be provided to each policyholder of the insurance company whose policy or contract is in force on the date of adoption of the plan of demutualization, and must be published in three newspapers of general circulation. The purpose of the public hearing is to allow interested persons the right to comment on the fairness of the terms and conditions of the demutualization and the reasons and purposes for the demutualization of the insurer, and to consider whether the demutualization is in the interest of the insurer and its policyholders and is not detrimental to the public.

After the public hearing, the Superintendent must determine whether or not to approve the demutualization plan. Under Section 7312, the Superintendent approves the plan if he or she finds that it does not violate the insurance law, that it is fair and equitable to policyholders, that it is not detrimental to the public, and that, after giving effect to the demutualization, the insurer will have an amount of capital and surplus that the Superintendent deems to be reasonably necessary for MetLife's future solvency.

The Superintendent must also determine that the plan does not fail to meet the requirements of Section 7312(c). In other words, the plan must (a) demonstrate a purpose and specific reasons for the proposed demutualization; (b) be in the best interest of the mutual insurer and its policyholders; (c) be fair and equitable to the policyholders; (d) provide for the enhancement of the operations of the reorganized insurer; and (e) not substantially lessen competition in any line of insurance business.

The policyholders of the mutual insurance company must also be provided with notice of the plan and an opportunity to vote whether to approve the plan. Each policyholder (approximately 16 million in the case of MetLife) is entitled to one vote, regardless of the number of policies that are actually owned. In addition, the plan must be approved by a vote of at least two-thirds of all votes cast by policyholders entitled to vote.

A decision by the Superintendent to approve a demutualization plan pursuant to Section 7312 of the New York Insurance Law is subject to judicial review in the New York courts.

---

[4] Specifically, section 406(a)(1)(E) of the Act prohibits the acquisition by a plan of any employer security which would be in violation section 407(a) of the Act. Section 406(a)(2) of the Act states that no fiduciary who has authority or discretion to control the assets of a plan shall permit the plan to hold any employer security if he [or she] knows that holding such security would violate section 407(a) of the Act. Section 407(a)(1) of the Act prohibits the acquisition by a plan of any employer security which is not a qualifying employer security. Section 407(a)(2) of the Act provides that a plan may not acquire any qualifying employer security, if immediately after such acquisition, the aggregate fair market value of such securities exceeds 10 percent of the fair market value of the plan's assets.

In addition to the above, section 407(f) of the Act, which is applicable to the holding of a qualifying employer security by a plan other than an eligible individual account plan, requires that (a) immediately following its acquisition by a plan, no more than 25 percent of the aggregate amount of stock of the same class issued and outstanding at the time of acquisition is held by the plan; and (b) at least 50 percent of the stock be held by persons who are independent of the issuer. MetLife notes, however, that the holding of Holding Company Common Stock by the MetLife Plans will not violate the provisions of section 407(f) of the Act.

9. Although the Board of Directors of MetLife has not yet adopted the Plan of Reorganization,[5] MetLife anticipates that the Plan will provide for the formation of the Holding Company under the laws of the State of Delaware and the creation of the Trust which will be governed by New York law. It is presently anticipated that, under the Plan of Reorganization, the following steps will occur on the effective date:

(a) *Issuance of MetLife Common Stock.* MetLife will issue 100 percent of its Common Stock to the Trust, on behalf of the Trust Eligible Policyholders, to be held for the benefit of the Trust Eligible Policyholders (who will be issued Trust Interests reflecting their ownership of the shares held in the Trust).

(b) *Exchange by Trust of MetLife Common Stock.* Immediately after receipt, the Trust will exchange its shares of MetLife Common Stock for shares of Holding Company Common Stock. The Holding Company Common Stock will be held in Trust for the exclusive benefit of the Trust Eligible Policyholders.

(c) *Surrender and Cancellation of Holding Company Common Stock.* MetLife will surrender to the Holding Company, and the Holding Company will cancel, all of the remaining shares of Holding Company Common Stock held by MetLife prior to the effective date.

(d) *Calculation of Policyholder Consideration.* MetLife will establish an amount reflecting the aggregate amount that the Board anticipates will be credited to policyholders who are required to receive Trust Interests, cash or policy credits as compensation under the terms of the Plan. In other words, for purposes of calculating the amount of consideration that will be received, an Eligible Policyholder will be allocated shares of MetLife Common Stock consisting of (1) a fixed component of consideration equal to ten shares of MetLife Common Stock, which may be subject to proportional adjustment, plus (2) a variable component of consideration reflecting the contributions to the surplus made by each such policyholder's in force participating policy.

10. Under the terms of MetLife's Plan of Reorganization, the Holding Company will sell shares of Holding Company Common Stock to the public through an IPO on the same day as the effective date of the Plan of Reorganization. (Subsequent to the effective date, MetLife anticipates that the Holding Company Common Stock will be actively traded on the New York Stock Exchange.) The proceeds of the IPO will be used to fund cash payments and policy credits to policyholders which are required to receive cash or policy credits under the terms of the Plan.

In general, an Eligible Policyholder is entitled to receive consideration in the form of cash if (a) the policyholder's mailing address is located outside of the United States; or (b) the policyholder is the owner of a policy transferred to the Metropolitan Life Insurance Company of Canada, regardless of the mailing address; or (c) MetLife determines in good faith and to the satisfaction of the Superintendent that it is not reasonably feasible or appropriate to provide consideration in the form such Eligible Policyholder or class of Eligible Policyholders would otherwise receive. In addition, an Eligible Policyholder who holds an individual retirement annuity, an individual annuity contract, an individual life insurance policy or a long-term health care insurance product will be entitled to receive policy credits from MetLife.

The amount of cash that will be paid,[6] or the value of the policy credits to each policyholder required to receive cash or policy credits will be determined at the time of the IPO and will be based (a) on the number of shares of Holding Company Common Stock that the policyholder would have received on the effective date if the policyholder had been entitled to receive compensation in the form of Holding Company Common Stock and (b) the IPO price per share.

In addition, prior to the effective date, policyholders who are entitled to receive compensation in the form of Holding Company Common Stock will be asked to elect whether they would like their allocable portion of the shares held in Trust to be purchased by the Holding Company, at the IPO price. Based on these elections, the Holding Company will purchase shares of Holding Company Common Stock from the Trust at the IPO offering price, and the cash will be distributed to the Trust beneficiaries who have elected to be cashed out, in cancellation of their interests.

In the case of an Eligible Policyholder that is a Plan, the decision to receive consideration in the form of Trust Interests, cash or policy credits will be made by one or more fiduciaries of such Plan which is independent of MetLife. In addition, neither MetLife nor any of its affiliates will exercise any discretion or provide "investment advice," within the meaning of 29 CFR 2510.3–21(c), with respect to each such acquisition.[7]

---

[5] On September 28, 1999, MetLife's Board of Directors approved the Plan of Reorganization whose effective date is projected for early February 2000. In early January 2000, MetLife anticipates that the hearing will be convened. Moreover, at sometime before the end of the first quarter of 2000, MetLife expects that the Superintendent will approve the Plan of Reorganization.

[6] MetLife represents that there may be a limit on the amount of funds available to pay cash compensation to Eligible Policyholders that elect to receive cash. In this regard, the Plan of Reorganization provides that the IPO and any other capital raising transactions that are completed on the effective date must raise proceeds, net of underwriting commissions and related expenses, in an amount at least equal to the amount paid by MetLife to fund mandatory cash payments pursuant to the Plan of Reorganization and to pay fees and expenses incurred by MetLife related to the demutualization, as well as to reimburse MetLife for amounts to be paid by MetLife's Canadian branch to certain former Canadian policyholders. If the IPO and any other capital raising transactions are not sufficient to fund the payment of cash to all Eligible Policyholders entitled to receive cash, MetLife explains that although the Plan of Reorganization will become effective, the cash will not be paid to all Eligible Policyholders electing to receive cash. If this event occurs, MetLife states that cash will be paid as follows:

- Each individual Eligible Policyholder that elects to receive cash will receive compensation in the form of cash;
- Each group Eligible Policyholder that elects to receive cash and is allocated not more than 250,000 shares will receive compensation in the form of—
- Cash, with respect to the first 25,000 shares allocated to the Eligible Policyholder, and
- Either shares of Holding Company Common Stock (which is to be held in the Trust) or a combination of cash and shares of Holding Company Common Stock (which also will be held in the Trust), with respect to the remaining shares allocated to the Eligible Policyholder. Such cash will be allocated to each Eligible Policyholder pro rata basis in the proportion that the total number of shares in excess of 25,000 shares allocated to such Eligible Policyholder bears to the total number of shares in excess of 25,000 shares allocated to all such Eligible Policyholders allocated more than 25,000 shares that have elected to receive cash.

[7] Consistent with sections 7312(a)(2), 7312(e) and 4210 of New York Insurance Law, the Plan of Reorganization generally provides that the policyholder eligible to participate in the distribution of Trust Interests, cash or policy credits resulting from the Plan of Reorganization is "the person whose name appears * * * on the insurer's records as owner" of the policy. MetLife further represents that an insurance or annuity policy that provides benefits under an employee benefit plan, typically designates the employer that sponsors the plan, or a trustee acting on behalf of the plan, as the owner of the policy. In regard to insurance or annuity policies that designate the employer or trustee as owner of the policy, MetLife represents that it is normally required under the foregoing provisions of New York Law and the Plan of Reorganization to make distributions resulting from such Plan to the employer or trustee as owner of the policy, except as provided in a plan of reorganization approved by the Superintendent.

Notwithstanding the foregoing, MetLife's Plan of Reorganization provides a special rule applicable to an insurance policy issued to a trust established by MetLife. This rule applies whether or not the trust, or any arrangement established by any employer participating in the trust, constitutes an employee benefit plan subject to the Act. Under this special rule, the holder of each individual "certificate" issued in connection with the insurance policy is treated as the policyholder and owner for all

Continued

Further, no Eligible Policyholder will pay any brokerage commissions or fees in connection with their receipt of any form of consideration. Finally, all of MetLife's insurance policies will remain in force, and all policyholders will be entitled to receive all benefits under their policies and contracts to which they would have been entitled if the Plan of Reorganization had not been adopted.

11. As noted above, all of the shares of MetLife Common Stock will be issued to the Trust on the effective date and immediately exchanged by the Trust for Holding Company Stock to be held for the benefit of a policyholder that is a beneficiary of the Trust (the Trust Beneficiary). Each Trust Beneficiary will be issued a number of Trust Interests equal to the number of shares of Holding Company Common Stock initially allocated to such Trust Beneficiary under the terms of the Plan.

All Trust Interests will be held in the name of ChaseMellon Shareholder Services, L.L.C. (ChaseMellon), the custodian, which has been appointed by the Trustee under the Trust Agreement and which is unrelated to MetLife and its affiliates. ChaseMellon will keep records of all beneficiaries' Trust Interests. The Trust Beneficiaries will be permitted to assign, pledge or dispose of their Trust Interests only in certain limited circumstances.[8] Even if the policy of a Trust Beneficiary lapses, terminates or matures after the effective date, shares allocated to the Trust Beneficiary will continue to be held in the Trust until such Trust Beneficiary decides to withdraw allocable shares of Holding Company Common Stock for sale. All Trust-related fees and expenses will be paid by the Holding Company.

12. Trust Beneficiaries will be able to sell shares of Holding Company Common Stock, as evidenced by Trust Interests, at prevailing market prices through a purchase and sale program (the Purchase and Sale Program) which will be established by the Holding Company following the completion of the IPO. The Purchase and Sale Program will continue for the term of the Trust and will be effected through an independent agent selected by the Holding Company. The Purchase and Sale Program will be subject to certain volume and timing limitations on Trust Beneficiaries. For example,

- If a Trust Beneficiary holds 199 or fewer Trust Interests, all of such Trust Beneficiary's Trust Interests must be withdrawn for sale. The Trust Beneficiary will not be permitted to make a partial withdrawal for sale.
- If a Trust Beneficiary holds more than 199 Trust Interests, such Trust Beneficiary may make a full or partial withdrawal for sale. However, partial withdrawals for sale may only be in 100 share increments. (In this regard, the Trust Beneficiary may have 200 shares withdrawn for sale but not 250.) Following any partial withdrawal for sale, the Trust Beneficiary may still hold at least 100 Trust Interests. If the Trust Beneficiary holds fewer than 100 Trust Interests after the partial withdrawal for sale, such Trust Beneficiary must make a full withdrawal for sale.
- For the first 300 days following the effective date of the Plan of Reorganization, if a Trust Beneficiary holds more than 25,000 Trust Interests, such Trust Beneficiary may make a full or partial withdrawal for sale, subject to the volume limitations set forth in the Purchase and Sale Program procedures. These volume restrictions are designed to limit daily sales to a number of shares which is the lessor of (a) 1/20 of 1 percent of the number of shares outstanding or (b) 25 percent of the average daily trading volume for the 20 trading days preceding the trade date. Sales in excess of those amounts will either be made on the same day, in a block trade or through an investment bank acting as agent, or deferred to the next trading day. After the first 300 days, these limitations will no longer apply and withdrawals for sale may be made as otherwise permitted by these rules.
- Until the second year after the effective date of the Plan of Reorganization, if there is an underwritten public offering of Holding Company Common Stock, the Holding Company will offer each Trust Beneficiary holding at the time more than 25,000 Trust Interests and whose cash election has not been fully satisfied, the opportunity to include a number of Trust Shares equal to all of the Trust Beneficiary's Trust Interests in the offering.

Holding Company Common Stock that is held in Trust will be sold through the Purchase and Sale Program on the open market or it may be purchased for cash directly from the Trust at market prices as of the date of the sale. If sold to the Holding Company, the fair market value of Holding Company Common Stock allocated to the Trust Beneficiary will be determined by averaging the high and low trading prices of the shares of Holding Company Common Stock as reported on the New York Stock Exchange on the date of the sale. (Accordingly, the Trust Beneficiary will receive the same consideration for its shares whether they are purchased by the Holding Company or by an unrelated party on the open market.) However, if the sale is being made pursuant to the termination of the Trust, the fair market value will be determined as the average of the closing price for a share of Holding Company Common Stock for the twenty consecutive trading days ending on the third calendar day immediately prior to the sale.[9]

The Holding Company will pay the commissions and related charges of all beneficiaries, including Plans, which sell shares of allocable Holding Company Common Stock through the Purchase and Sale Program. Further, if the Trust Beneficiary is a Plan, a Plan fiduciary which is independent of MetLife and its affiliates will determine whether it is appropriate to sell shares of allocable Holding Company Common Stock to MetLife or on the open market through the Purchase and Sale Program.

13. The Purchase and Sale Program will also include a "round-up" feature. In general, each Trust Beneficiary holding less than 1,000 Trust Interests, which are not equal to a multiple of 100, may instruct the Trustee to arrange for the purchase of additional shares of Holding Company Common Stock. Such Stock will be deposited in the Trust and allocated to the Trust Beneficiary so that the Trust Beneficiary's Trust Interests will be increased to the next nearest multiple of 100. Further, each Trust Beneficiary which is allocated a number of Trust Interests that is equal to a multiple of 100 and less than 1,000 may

---

purposes under the Plan of Reorganization, including voting rights and the distribution of consideration. The trustee of any such trust established by MetLife for the benefit of Eligible Policyholders that are Plans will be ignored, and the Plan will be considered a policyholder or owner and will be eligible to vote or receive consideration.

In general, it is the Department's view that, if an insurance policy (including an annuity contract) is purchased with assets of an employee benefit plan, including participant contributions, and if there exist any participants covered under the plan (as defined at 29 CFR 2510.3–3) at the time when MetLife incurs the obligation to distribute Trust Interests, cash or policy credits, then such consideration would constitute an asset of such plan. Under these circumstances, the appropriate plan fiduciaries must take all necessary steps to safeguard the assets of the plan in order to avoid engaging in a violation of the fiduciary responsibility provisions of the Act.

[8] For example, Section 3.4(b) of the Trust Agreement provides that a Trust Beneficiary may transfer Trust Interests (a) from the estate of a deceased beneficiary to one or more heirs; (b) to the spouse, children or grandchildren of the beneficiary; (c) in the event the beneficiary is not a natural person, to the surviving entity upon a merger or consolidation of such beneficiary into another entity; (d) as a consequence of the bankruptcy of the beneficiary; or (e) from a trust holding a policy on behalf of the insured person under such policy.

[9] MetLife represents that the twenty day average formula has been designed to eliminate any possibility of manipulation and to prevent single day trading anomalies that might influence a Trust Beneficiary's proceeds.

instruct the Trustee to arrange for the purchase of additional shares of Holding Company Common Stock in lots of 100. The Stock will be deposited in the Trust and allocated to the Trust Beneficiary so that the Trust Beneficiary's Trust Interests will be increased to any multiple of 100 that is less than or equal to 1,000.

A Trust Beneficiary desiring to utilize the round-up feature of the Purchase and Sale Program, will acquire additional shares of Holding Company Common Stock for the fair market value of such Stock as determined on the open market on the date of the acquisition.

14. In addition to the Purchase and Sale Program, beginning on the first anniversary of the effective date of the demutualization and lasting until the termination of the Trust, each Trust Beneficiary will have the right to withdraw shares of Holding Company Common Stock being held for such Trust Beneficiary under the Trust.[10] A Trust Beneficiary will not pay any fees or commissions in connection with the withdrawal of shares of allocable Holding Company Common Stock. In the case of a Trust Beneficiary that is a Plan, the decision to withdraw shares of Holding Company Common Stock from the Trust will be made by a Plan fiduciary which is independent of MetLife.

15. Under the Plan of Reorganization, regular cash dividends that are received by the Trust on shares of Holding Company Common Stock during any six month period ending on June 30 or December 31 will be distributed to Trust Beneficiaries, in proportion to their Trust Interests, on the following June 30 or July 31, respectively. The Holding Company will set a payment date for the dividends so that they are distributed to the Trust Beneficiaries within 90 days after the Trustee has received them. Pending these semiannual distributions, dividends received by the Trust will be invested by the Trustee in short-term obligations of, or guaranteed by, the United States or any agency or instrumentality thereof, and in certificates of deposit of any bank or trust company having a combined capital and surplus of at least $500 million. If there is a distribution of shares of Holding Company Stock (*i.e.*, a stock dividend), the additional shares will be deposited in the Trust and held under the terms of the Trust Agreement.

Similarly, if the Holding Company Common Stock is exchanged for common stock of another entity in connection with the merger or consolidation of the Holding Company with another entity, the new common stock will continue to be held in the Trust in accordance with the Trust Agreement. In all other cases, if shares of Holding Company Common Stock are exchanged for securities or other property of an entity other than MetLife, the Trust will distribute the property received to the Trust Beneficiaries based on their respective Trust Interests.

16. Trust Beneficiaries will be able to instruct the Trustee how to vote shares of Holding Company Common Stock that are held in Trust for elections of Holding Company directors with competing candidates, any merger, consolidation or recapitalization of the Holding Company, or any other event that could result in an exchange of Holding Company Common Stock for other property which would require a vote under applicable Delaware law, exchange or NASDAQ rules. The Trustee will generally vote all shares of Holding Company Common Stock that is held in Trust in proportion to the instructions received from Trust Beneficiaries which give such instructions. However, there is one exception. If the issue is a choice of competing candidates for director positions, and Trust Beneficiaries representing 20 percent or fewer of the Trust Interests provide instructions, the Trustee will vote only the shares of Holding Company Common Stock that are held in Trust that are equal in number to the number of Trust Interests held by Trust Beneficiaries which provide instructions. On all routine matters other than those described above, the Trustee will vote shares of Holding Company Common Stock that are held in Trust as recommended or directed by the Holding Company's Board of Directors.

The Holding Company's Board of Directors may terminate the Trust if the number of shares of Holding Company Common Stock held in Trust falls below 25 percent of all outstanding shares of Holding Company Common Stock. In any event, the Trust will be terminated when all shares of Holding Company Common Stock held in Trust are withdrawn from such Trust or the number of such shares is less than 10 percent of the outstanding Holding Company Common Stock. The Trust can also be terminated sooner by the Holding Company's Board of Directors because of changes in the law or changes in facts or circumstances relating to the Trust.

Upon termination of the Trust, a Trust Beneficiary will have the option of receiving shares of allocable Holding Company Common Stock in-kind or receiving cash as the result of the sale of such Stock to the Holding Company, using the twenty day average formula described above.

To ensure that the assets of the Trust will not be characterized as "plan assets" under the Act, the Holding Company may require certain Trust Beneficiaries that are Plans to be cashed out during the term of the Trust. If a Plan investor is "cashed out" by MetLife, such Trust Beneficiary will receive the fair market value of allocable shares of Holding Company Common Stock at the time of such termination. Alternatively, MetLife will give the Trust Beneficiary the option of receiving an in-kind distribution of allocable Holding Company Common Stock.

17. As stated above, State Street has agreed to serve as the Independent Fiduciary and investment manager for the MetLife Plans in connection with certain aspects of the MetLife demutualization, particularly with respect to the vote and potential receipt of consideration by such Plans. State Street represents that it is qualified to serve as the Independent Fiduciary and investment manager for the MetLife Plans. In support of this representation, State Street asserts that it is one of the largest trust companies in the United States with over $525 billion in assets under management, a significant portion of which consists of the assets of plans covered under the provisions of the Act. State Street also represents that it served as the Independent Fiduciary for the State Mutual Life Assurance Company of America during its demutualization. Further, State Street represents that it has served as a trustee or an independent fiduciary for numerous retirement plans that acquire or hold employer securities. Currently, State Street states that it manages over $72 billion in employer securities held by various retirement plans. In managing such investments, State Street explains that it has supervised numerous transactions involving the acquisition, retention and disposition of employer securities. On a continuing basis, State Street indicates that it monitors the performance of the employer securities.

State Street represents that it is independent of MetLife and has no business relationships with MetLife other than—

[10] MetLife projects that the initial number of shareholders of the Holding Company may exceed 10 million. Because of this factor, MetLife has restricted withdrawals of Holding Company Stock by Trust Beneficiaries during the first year of the Trust's existence in order to facilitate the efficient and orderly conduct of shareholder accounts and costs associated with serving a large number of shareholders. If Trust Beneficiaries were permitted to withdraw their shares during the first year of the Trust's existence, MetLife does not believe that these goals would be achieved.

• Providing various products and services to MetLife, including (a) custodial services for all of MetLife's and State Street Research's (a subsidiary of MetLife) mutual funds; (b) participating in State Street's securities lending program; (c) global cash management; (d) managing a sweep account; (e) providing credit facilities for MetLife's Retained Asset Program; and (e) providing foreign exchange securities to State Street Research. State Street represents that all revenues and fees associated with MetLife represents less than one percent of State Street's total revenues.

• Offering MetLife's auto, homeowners and umbrella liability coverage to employees of State Street.

• Providing services as an investment manager for defined contribution fixed income funds. Currently, State Street states that it manages approximately $9 billion in fixed income securities. Approximately $650 million of this amount is invested on behalf of various clients in guaranteed investment contracts issued by MetLife. However, State Street explains that it derives no revenue from MetLife for investment in these contracts.

• Providing master trust and custody services to various pension plans, some of which may invest in MetLife guaranteed investment contracts. State Street explains that it serves only as a directed trustee/custodian to these plans and has no discretion related to plan investments. State Street again asserts that it receives no revenue from investment in these contracts. However, irrespective of the investment, State Street receives a trust/custody fee based on the total value of the plan.

State Street also states that MetLife holds, on behalf certain MetLife customers, approximately 96,000 shares of State Street stock in various separate accounts. These shares are currently worth approximately $7 million and represent approximately .005962 of the total outstanding shares of State Street stock.

Further, State Street asserts that no officer or director or State Street is an officer or director of MetLife or vice versa and that MetLife does not have an ownership interest in State Street nor does State Street have an ownership interest in MetLife.

18. State Street represents that it understands and acknowledges its ERISA duties, responsibilities and liabilities as a fiduciary with respect to the MetLife Plans and agrees to undertake such duties. Specifically, State Street will (a) vote at the special meeting of Eligible Policyholders to approve the Plan of Reorganization; (b) make any election, to the extent available under the Plan of Reorganization, to receive Trust Interests or cash on behalf of the MetLife Plan; (c) monitor, on behalf of the MetLife Plan, the acquisition and holding of any Trust Interests received; (d) make determinations on behalf of the MetLife Plan with respect to the voting and the continued holding of Trust Interests by such Plan; (e) withdraw shares of Holding Company Common Stock that is held in Trust which are equivalent to Trust Interests allocated to a MetLife Plan and disposes of such Trust Interests (i) not exceeding the limits of section 407(a) of the Act in a prudent manner; (ii) exceeding the limits of section 407(a) of the Act within six months of the IPO; and (f) provide the Department with a complete and detailed final report as it relates to the MetLife Plans prior to the effective date of the demutualization. Further, MetLife represents that it has conducted a preliminary review of the Plan of Reorganization and it sees nothing in the Plan that would preclude the Department of Labor from proposing the requested exemption.

19. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Plan of Reorganization, which is being implemented pursuant to stringent procedural and substantive safeguards imposed under New York law and supervised by the Superintendent, will not require any ongoing involvement by the Department.

(b) One or more independent fiduciaries of Plans that are MetLife policyholders will have an opportunity to determine whether to vote to approve the Plan of Reorganization and will be solely responsible for all such decisions after receiving full and complete disclosure of the terms of such reorganization.

(c) The exemption will allow Eligible Policyholders that are Plans to acquire Trust Interests, cash or policy credits in exchange for their membership interests in MetLife and neither MetLife nor its affiliates will exercise any discretion or provide investment advice with respect to such acquisition.

(d) No Eligible Policyholder will pay any brokerage commissions or fees in connection with such Eligible Policyholder's receipt of consideration from MetLife or with respect to the operation of the Purchase and Sale Program.

(e) The Superintendent will make an independent determination that the Plan of Reorganization is in the best interest of all MetLife policyholders, including Plans.

(f) All of MetLife's policyholder obligations will remain in force and will not be affected by the Plan of Reorganization.

(g) In the case of the MetLife Plans, an Independent Fiduciary will (1) vote at the special meeting of Eligible Policyholders to approve the Plan of Reorganization; (2) make any election, to the extent available under the Plan of Reorganization, to receive Trust Interests or cash on behalf of the MetLife Plan; (3) monitor, on behalf of the MetLife Plan, the acquisition and holding of any Trust Interests received; (4) make determinations on behalf of the MetLife Plan with respect to the voting and the continued holding of Trust Interests by such Plan; and (5) dispose, in a prudent manner, allocable shares of Holding Company Common Stock in respect of Trust Interests which exceed the limits of section 407(a) of the Act within six months of the IPO.

Notice to Interested Persons

MetLife will give notice of the proposed exemption to Eligible Policyholders that are Plans within 30 days of the date of publication of the notice of pendency in the **Federal Register**. Such notice will include a copy of the notice of proposed exemption, as published in the **Federal Register**, as well as a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2), which shall inform interested persons of their right to comment on the proposed exemption. Therefore, comments with respect to the proposed exemption will be due 60 days after the date of publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Les Olson Company, Inc. Money Purchase Plan (M/P Plan) and Les Olson Company, Inc. Profit Sharing Plan (P/S Plan, Collectively; the Plans) Located in Salt Lake City, Utah

[Application Nos. D–10810 and D–10811]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions

resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed series of loans (the Loans), originated within a five-year period, by the Plans to Les Olson Company, Inc. (the Employer), a party in interest with respect to the Plans, provided that the following conditions are met:

(1) The total amount of the outstanding Loans does not exceed 20 percent (20%) of the Plans' total assets at any time during the transactions and each of the Plan's allocable portion of such Loans does not exceed 20 percent (20%) of such Plan's total assets;

(2) Each Loan entered into by the Plans is made pursuant to the terms and conditions of the Loan Agreement (the Loan Agreement) executed by the parties and signed on behalf of the Plans by the Plans' duly appointed independent, qualified fiduciary (the Independent Fiduciary);

(3) All terms and conditions of the Loans are at least as favorable to the Plans as those the Plans could obtain in an arms-length transaction with an unrelated third party;

(4) Each Loan is: (i) For a maximum term of five years pursuant to terms and conditions of the Loan Agreement; (ii) fully amortized and payable in equal monthly installments of principal and interest; (iii) used exclusively by the Employer to purchase office equipment (the Equipment) which will be leased by the Employer in the ordinary course of its business to unrelated parties; and (iv) secured by duly perfected security interests in the new and used Equipment, and by certain leases of Equipment (Equipment Leases) where such Equipment Leases are assigned and pledged as collateral for the Loans, which is at all times equal to 200% of the outstanding principal balance of such Loan;

(5) New Equipment is valued for collateralization purposes at 80 percent (80%) of the invoice price paid by the Employer to purchase such Equipment less taxes and transportation expenses. Used Equipment and any Equipment Lease pledged as collateral for the Loans is valued by an independent qualified appraiser;

(6) Prior to the approval of each Loan, the Independent Fiduciary determines, on behalf of the Plans, that each Loan is prudent and in the best interests of the Plans, and protective of the Plans and its participants and beneficiaries;

(7) The Independent Fiduciary conducts a review of all terms and conditions of the exemption, if granted, and the Loans, including the applicable interest rate; the sufficiency of the collateral pledged for each Loan; the financial condition of the Employer; and the compliance with the 20% limitation for the Plans (and each Plan's) maximum total Loan amount prior to approving each disbursement under the Loan Agreement; and

(8) The Independent Fiduciary is authorized to take whatever action is necessary to protect the Plans' interests throughout the duration of the exemption, if granted, and throughout the duration of any Loan entered into under this exemption, if granted.

Temporary Nature of Exemption, if Granted

The exemption, if granted, will be temporary and will expire five (5) years from the date of publication in the **Federal Register** of the final grant of this proposed exemption. Subsequent to the expiration of the exemption, if granted, the Plans may hold any Loans originating during this five-year period until the Loans are repaid or otherwise terminated.

Summary of Facts and Representations

1. The Plans are the M/P Plan and the P/S Plan, which were established in 1978 and 1979, respectively. As of December 31, 1998, the Plans had 97 participants and total combined assets of $7,147,199. The Plans are trusteed by R. Scott Olson, Thomas P. Olson, James R. Olson and L. Ray Olson, all of whom are owners and officers of the Employer, which is the Plan sponsor. The Employer is a closely-held corporation organized under the laws of the State of Utah. The Employer is engaged in the sale, leasing and maintenance of copiers, fax machines and digital and analog dictation equipment. The shareholders of the Employer are all members of the Olson family.

The Employer has facilities in the major metropolitan areas of Utah, which are Salt Lake City, Ogden, Provo and St. George. The Employer is in the business of purchasing office equipment and leasing such equipment to its customers. The Employer generally has not used outside financing in its operations and has supported itself from the revenues it generates.

2. The applicant desires that the Plans make a series of Loans to the Employer over a period of 5 years. The proceeds from the Loans will be used by the Employer to purchase new office equipment (*i.e.*, Equipment). Each Loan will be collateralized by a promissory note and a security agreement, duly perfected and properly recorded under applicable state law, which will provide that the Plans have a first lien on the Equipment. In addition, the Loan may be collateralized by leases of used Equipment (*i.e.*, Equipment Leases) of the Employer if necessary to adequately secure such Loans. At all times the collateral for the Loans will be at least equal to 200% of the outstanding balance of such Loans. New Equipment will be valued at 80% of the invoice price paid by the Employer upon purchasing the Equipment, less taxes and transportation expenses. Used Equipment and Equipment Leases pledged as collateral for the Loans will be valued in each case by an independent qualified appraiser.

3. Mr. Jack S. Emery (Mr. Emery) will serve as the independent qualified appraiser for the Loan transactions described herein.

Mr. Emery is a qualified appraiser of office equipment who is currently a businessman and an investor in various business ventures. Mr. Emery has over 25 years of experience in the business of leasing office equipment. In this regard, Mr. Emery was one of the founders of the Matrix Funding Corporation (Matrix). Matrix was a major office equipment leasing business from 1978 until 1998. In 1998, Matrix was sold and consolidated with 12 other leasing companies to form Unicapital, an office equipment leasing company whose stock is publicly-traded on the New York Stock Exchange.

Mr. Emery states that he will appraise all of the collateral used for the Loans on an annual basis. Mr. Emery states further that during his 25 year career in the office equipment leasing business he has valued numerous pieces of office equipment of the same type as the Equipment which will be used as collateral for the Loans. Mr. Emery further represents that in his career he has used office equipment for sale, leasing and financing. Mr. Emery states that he is very familiar with the useful life of this type of equipment, the rate at which it depreciates, and the market factors that may affect its value. In conducting appraisals of the Equipment, Mr. Emery will take into consideration all the relevant factors relating to the valuation of the Equipment and the market-place for such Equipment.

4. The maximum length of any Loan will be 5 years under the terms and conditions of the Loan Agreement. The interest rate on the Loans will be equal to the prime rate as of the date of closing, as quoted under "Money Rates" in the Wall Street Journal (WSJ Prime) plus two percentage points, and will be adjusted quarterly. Additionally, the interest rate of any Loan will be set at a higher rate if such higher rate represents the prevailing market rate for similar loans as determined by the

Independent Fiduciary, as discussed further below. In no event will any Loan bear an interest rate lower than the WSJ Prime plus two percentage points.

The outstanding balance of the Loans will never exceed 20% of the fair market value of the Plans' aggregate assets (or fair market value of each of the Plan's assets).

5. Mr. Emery will also serve as the Independent Fiduciary for the Plans with respect to the proposed Loans pursuant to the terms and conditions of a written independent fiduciary agreement (the I/F Agreement). Mr. Emery represents that he is qualified to act as an independent qualified fiduciary with respect to the Loans, and that he understands his duties and responsibilities under the Act. In this regard, Mr. Emery states that he has not previously served as an independent fiduciary for a pension plan. However, Mr. Emery states that he has been, and will continue to be, advised by a qualified ERISA attorney regarding his duties and responsibilities as an independent fiduciary for the Plans. The income received by Mr. Emery from the Plans, for functioning as the Independent Fiduciary, will not exceed 1% of his gross annual income. In addition, Mr. Emery represents that he has no pre-existing relationship with the Employer or with any of the shareholders of the Employer.

6. Mr. Emery, as the Independent Fiduciary, represents that he will determine the appropriateness and suitability of each Loan for the Plan(s) prior to the consummation of the Loan transaction. Mr. Emery will review the value of the Equipment and the assets pledged to secure the Loans and confirm the sufficiency of the value of the collateral for each Loan.

Mr. Emery represents that he will ensure that the Loans are appropriate investments for the Plans and are in the best interests of the Plans' participants and beneficiaries, and protective of their interests. Mr. Emery states further that the terms of the Loans will be at least as favorable to the Plans as the terms obtainable by the Plans in an arm's-length transaction with an unrelated party. Mr. Emery also states that he will enforce the terms of each Loan including, but not limited to, making demand for timely payments from the Employer, bringing suit or other appropriate action against the Employer in the event of default, and monitoring the performance of each Loan and taking whatever actions are necessary to protect the interests of the Plans.

7. Mr. Emery, as the Independent Fiduciary, also reserves the right under the I/F Agreement to hire independent advisors, as necessary to perform his duties as the Plans' Independent Fiduciary. For example, Mr. Emery states that it could become necessary in the event of a foreclosure on the Equipment, for him to require advice from an independent, experienced and qualified legal counsel on the mechanics of such foreclosure.

8. With respect to the terms and conditions of the Loans, Wells Fargo Bank in Salt Lake City, Utah (the Bank), in a letter dated October 4, 1999, has stated that it would enter into similar loan transactions with the Employer, provided it determined at the time of transaction that the Employer would be a creditworthy borrower. The Bank has examined the terms of the Loans and concluded that such terms are at least as favorable to the Plans as those terms which would be obtainable in an arm's-length transaction with an unrelated party.

9. In summary, the applicant represents that the transactions will meet the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The interest rates paid to the Plans on the Loans will be at least as favorable to the Plans as the current market rate of interest for similar loans;

(b) The Plans' interests with respect to the Loans will be represented by Mr. Emery, as the Independent Fiduciary, who will monitor the Loans and the terms and conditions of the exemption, if granted, and will take all appropriate actions necessary to safeguard the interests of the Plans and their participants and beneficiaries;

(c) Mr. Emery will determine that each Loan is in the best interests of the Plans' participants and beneficiaries at the time of the transaction;

(d) Mr. Emery will review and approve each Loan prior to making any disbursements of the Loan amount to the Employer;

(e) The Loans will be secured at all times by the Equipment or Equipment Leases, which will be valued at not less than 200% of the outstanding principal balance of each Loan; and (f) the aggregate balance of the outstanding Loans will not exceed 20% of the aggregate value of the Plans' assets, or 20% of each of the Plan's total assets.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219–8883 (This is not a toll-free number).

TMI Systems Design Corporation 401(k) Profit Sharing Plan (the Plan) Located in Dickinson, North Dakota

[Application No. D–10821]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of certain limited partnership interests (the Interests) to Northern Capital Trust Company (Northern), the Plan's trustee and a party in interest with respect to the Plan, for $185,316 in cash, provided the following conditions are satisfied: (a) the sale is a one-time transaction for cash; (b) no commissions are charged in connection with the transaction; (c) the Plan receives not less than the fair market value of the Interests at the time of the transaction; and (d) the fair market value of the Interests is determined by a qualified entity independent of the Plan and of Northern.

Summary of Facts and Representations

1. The Plan is a 401(k) profit sharing plan which is sponsored by TMI Systems Design Corporation (the Employer) of Dickinson, North Dakota. The Plan currently has 292 participants and had assets of $5,109,439 as of August 31, 1999. The trustee of the Plan is Northern, a trust company located at 203 10th Street North, Fargo, North Dakota. Northern has investment discretion for the Plan's assets.

2. In August 1993, the Plan purchased the Interests as an investment from an unrelated party (as discussed below). The Interests consist of an 8.4674% interest in the Courtyard Limited Partnership (the Partnership). The Partnership's sole asset is an apartment building known as "Courtyard Apartments" in St. Louis Park, Minnesota. The Plan paid $108,467.40 for the Interests in the Partnership. The investment was presented to Northern, as Plan trustee, by Regan Wieland Investment Co., whose name was later changed to Goldmark Investment Company (Goldmark), on behalf of the Partnership. Goldmark and the Partnership are independent of, and

unrelated to, the Employer and Northern.

3. The Employer would like to permit employee directed investments and the use of a 24-hour telephone service to accommodate daily transfers by Plan participants of assets held in their individual accounts in the Plan. In order to be able to participate in the new daily valuation and transfer system, the Plan needs to divest itself of the Interests to ensure proper liquidity for all of the Plan's assets. In this regard, the applicant represents that it is necessary to transfer the Interests out of the Plan because the Interests cannot be valued on a daily basis.

4. Northern as Plan trustee has contacted Goldmark, the Managing Partner of the Partnership, to inform them that the Plan wishes to sell its Interests. Mr. Kenneth P. Regan of Goldmark has represented that the fair market value of the Plan's Interests would be approximately $177,815, if all of the partners were to sell their Partnership interests at the present time. However, in the event only one partner, such as the Plan, were to dispose its Interests, there would be discounts from the $177,815 value to reflect the lack of marketability and minority ownership in addition to sales costs. Goldmark estimates that these expenses would be approximately $8,000. Thus, Goldmark states that the value of the Plan's Interests, if it were to sell such Interests alone, would be approximately $170,000. Goldmark based its valuation of the Partnership on a September 4, 1998 appraisal of the Courtyard Apartments that was conducted by Everett D. Strand, MAI, (Strand) of Kramer, Geisler, Strand & Goff, Inc., an independent real estate appraiser in Minneapolis, Minnesota.

5. The applicant has requested an exemption that would permit the Plan to sell the Interests to Northern for cash. No commissions or other fees would be charged in connection with the sale. Northern has represented that they are willing to pay the Plan $185,316 for the Interests, an amount which reflects the book value of the Interests carried by Northern on the Plan's balance sheet as of August 31, 1999 (based upon the net asset value of the Courtyard Apartments as the Partnership's only asset). This amount is more than the current fair market value of the Interests (*i.e.*, $170,000) as determined by Goldmark.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (a) The sale is a one-time transaction for cash; (b) no commissions or other fees will be charged in connection with the transaction; (c) the sales price for the Interests will be an amount, based on the book value of the Interests, which reflects more than the fair market value of the Interests as determined by Goldmark, the Managing Partner for the Partnership; and (d) Goldmark based its valuation of the Partnership on an appraisal of the Courtyard Apartments performed by Strand, an independent qualified real estate appraiser.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 18th day of November, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–30560 Filed 11–23–99; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences (BIO); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (BIO) (1110).

Date and Time: December 2, 1999, 8:45 a.m.–5:00 p.m.; December 3, 1999, 8:45 a.m.–3:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 1235.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Tel No.: (703) 306–1400.

Minutes: May be obtained from the contract person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: GPRA Performance Evaluation and Planning Discussion.

Dated: November 19, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30618 Filed 11–23–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences (66); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting.

Name: Portfolio Allocation Review Committee, a Subcommittee of the Advisory Committee for Mathematical and Physical Sciences.

Date and Time: November 29, 1999, 7 p.m.–10 p.m.; November 30 & December 1, 1999, 9 a.m.–7 p.m.; December 2, 1999, 9 a.m.–12 noon.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Hugh M. Van Horn, Director, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/306–1820.

Purpose of Meeting: Given the science opportunities available to the U.S. Astronomical community, the subcommittee is asked to Provide guidance as to the most effective way to utilize Available NSF resources to ensure a world-leading program of research and education in astronomy and astrophysics.

Agenda: To receive briefings on (1) Current support for research and education in astronomy and astrophysics provided by the Division of Astronomical Sciences and by other organizations; (2) The Division's Strategic Plan; and, (3) Various options for reallocating support. In this context, to provide guidance as to the most effective utilization of available NSF resources.

Dated: November 19, 1999.

Karen York,

Committee Management Officer.

[FR Doc. 99–30619 Filed 11–23–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Mathematical Sciences (1204).

Date and Time: December 13–15, 1999; 8:30 A.M. until 5:00 p.m.

Place: Room 310, 380, 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Drs. Keith N. Crank, James Rosenberger, and William B. Smith Program Directors, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1870.

Purpose of Meeting: To provide advice to Program Officers concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Statistics & Probability Program, as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 19, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30620 Filed 11–23–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of Membership of the National Science Foundation's Senior Executive Service Performance Review Board.

SUMMARY: This announcement of the membership of the National Science Foundation's Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESSES: Comments should be addressed to Director, Division of Human Resource Management, National Science Foundation, Room 315, 4201 Wilson Boulevard, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Wilkinson, Jr., at the above address or (703) 306–1180.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Senior Executive Service Performance Review Board is as follows:

Joseph Bordogna, Deputy Director, Chairperson

Mary E. Clutter, Assistant Director for Biological Sciences

Karl A. Erb, Director, Office of Polar Programs

Linda P. Massaro, Director, Office of Information and Resource Management

Nathaniel Pitts, Director, Office of Integrative Activities

Dated: November 15, 1999.

John F. Wilkinson, Jr.,

Director, Division of Human Resource Management.

[FR Doc. 99–30621 Filed 11–23–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of membership of the National Science Foundation's Performance Review Board for Office of Inspector General Senior Executive Service positions.

SUMMARY: This announcement of the membership of the National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESSES: Comments should be addressed to Director, Division of Human Resource Management, National Science Foundation, Room 315, 4201 Wilson Boulevard, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Wilkinson, Jr. at the above address or (703) 306–1180.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board is as follows:

Stanley V. Jaskolski, Chairman, Audit and Oversight Committee, National Science Board, Chairperson

Linda P. Massaro, Director, Office of Information and Resource Management, Executive Secretary

Bruce L. Umminger, Senior Scientist, Office of Integrative Activities

Dated: November 15, 1999.

John F. Wilkinson, Jr.,

Director, Division of Human Resource Management.

[FR Doc. 99–30622 Filed 11–23–99; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–412]

Duquesne Light Co., Ohio Edison Co., The Cleveland Electric Illuminating Co., The Toledo Edison Co.; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Duquesne Light Company (the licensee) to withdraw a portion of its January 29, 1998, application for a proposed amendment to Facility Operating License No. NPF–73 for the Beaver Valley Power Station,

Unit No. 2 (BVPS–2), located in Shippingport, PA.

The withdrawn portion of the proposed amendment would have revised the BVPS–2 Updated Final Safety Analysis Report (UFSAR) description of the small-break loss-of-coolant accident (SBLOCA) radiological dose consequences. The licensee completed an analysis which demonstrated that the SBLOCA results are bounded by the results of the large-break loss-of-coolant accident analysis. Therefore, the requested UFSAR changes pertaining to the SBLOCA are not needed, and these requested changes are being withdrawn.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on March 11, 1998 (63 FR 11919). However, by letter dated June 14, 1999, the licensee withdrew this portion of the proposed change as discussed above.

For further details with respect to this action, see the application for amendment dated January 29, 1998, as supplemented November 9, 1998, and the licensee's letter dated June 14, 1999, which withdrew a portion of the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room and will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room).

Dated at Rockville, MD, this 18th day of November 1999.

For the Nuclear Regulatory Commission.

Daniel S. Collins,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–30643 Filed 11–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Revised Criteria for Post Accident Sampling Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is considering modifying its criteria for post accident sampling systems (PASS). The NRC has received two industry-developed topical reports which provide justification for removal of PASS from the licensing basis for nuclear power plants designed by Westinghouse and Combustion Engineering. The NRC generally agrees with the conclusions in these reports and is considering approving these reports. If the NRC approves these reports, nuclear power plant licensees will be able to reference the reports to support changes to their PASS, including the elimination of the system. The NRC is requesting public comment on this pending action. In particular, the NRC is seeking comment on whether the elimination of information obtained from radionuclide sampling from PASS may affect offsite emergency response organizations ability to respond to an accident.

DATES: The comment period expires January 10, 2000. Comments received from after this date will be considered if it practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to: David L. Meyer, Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001, Attention: Rulemakings and Adjucations Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

The publications cited in this document, including the industry-developed topical reports, are available for inspection and copying, for a fee, through the NRC Public Document Room, 2120 L Street, Lower Level, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James O'Brien, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC. 20555–0001, telephone (301) 415–2919; e-mail jbo@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background
II. Description of Proposed Action
III. Evaluation of Proposed Action
IV. Request for Comment

I. Background

Following the accident at Three Mile Island Unit 2 (TMI–2) on March 28, 1979, the NRC formed a lessons-learned Task Force to identify and evaluate safety concerns originating with the TMI–2 accident. NUREG–0578, "TMI–2 Lessons Learned Task Force Status report and Short-term Recommendations," documents the results of the task force effort. One of the recommendations of the task force was for licensees to upgrade the capability to obtain samples from the reactor coolant system and containment atmosphere under high radioactivity conditions and to provide the capability for chemical and spectral analyses of high-level samples on site. NUREG–0737, "Clarification of TMI Action Plan Requirements," which was issued to licenses in Generic Letter 80–90 on October 31, 1980, contains the details of the TMI recommendations that were to be implemented by the licensees. Additional criteria for post accident sampling systems were issued by Regulatory Guide 1.97, "Instrumentation for Light-water-cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident."

Specific criteria for PASS capability delineated in NUREG–0737 and Regulatory Guide 1.97 are:

Sample location	Measurement
1. Reactor Coolant	Dissolved gases, Boron, Chlorides, pH, Radionuclides
2. Containment Atmosphere	Hydrogen, Oxygen, Radionuclides
3. Containment Sump	Boron, Chlorides, pH, Radionuclides

All samples and measurements were to be taken and analyzed within 3 hours of the decision to do so except for chlorides which were to be taken and analyzed within 24 hours.

In the mid 1980's, the NRC sponsored an assessment of selected regulatory requirements that may have marginal importance to risk. One of the issues reviewed was the PASS criteria. This assessment, documented in NUREG/CR–4330, concluded that the PASS had marginal benefits, but that the cost of maintaining the PASS was minimal.

On October 26, 1998, the Westinghouse Owners Group submitted a topical report, WCAP–14986–P which provided justification for elimination of the PASS from the licensing basis. By eliminating PASS from the licensing basis, there would no longer be a licensee commitment to maintain the system. On May 5, 1999, the Combustion Engineering Owners Group

submitted a related topical report, CE NPSD–1157, which also provided justification for elimination of PASS. Both of these topical reports indicated that the cost of maintaining the PASS was high and justified elimination of PASS based upon there being no benefit in the information obtained via PASS. The topical reports conclude that the sampling systems are not useful in supporting post accident mitigative and emergency response actions and that most of the information, which would be obtained from sampling, can be inferred from other indications which will be available earlier in an event that the sample results. In addition, the topical reports state that the samples are subject to inaccuracies due to physical phenomena (e.g., deposition of fission products in sample lines) involved in taking the samples.

II. Description of Proposed Action

The NRC is proposing to endorse the industry topical reports for referencing in site-specific licensing actions to remove commitments for maintaining PASS. This action, if taken, would allow nuclear power plants to remove their commitments for maintaining PASS.

III. Justification for Proposed Action

The NRC concludes from its review of the topical reports that the information to be obtained from PASS can be inferred to a large degree from other indications which will be available earlier in an event than the PASS samples due to the time needed to obtain and analyze the PASS sample. In addition, the PASS samples are difficult to obtain and are subject to inaccuracies due to physical phenomena (e.g., deposition of fission products in sample lines) involved in taking the samples. However, PASS can provide a measurement of radionuclides in reactor coolant system, containment sump and containment atmosphere which may be used in supporting emergency response decision making. This information may be used to modify the assumed source term used in offsite dose calculations which are considered in formulating Protective Action Recommendations (PARs) during an accident. This information is not needed to formulate initial PARs (which are most likely based on plant conditions, e.g., reactor water level, core temperatures, and containment radiation levels). Furthermore, other information, such as area, process, and effluent radiation monitor readings and field team data, can be used to support modification to the initial PAR. The PASS information would potentially be most useful in situations where an accident results in release of radioactive material to the reactor coolant or containment, but a breach of either of these systems/volumes does not occur within the first several hours of the accident or occurs through an unmonitored release path. However, even in these situations, PASS sample measurement information would not be a real-time indication of the concentration of radionuclides within the sampled volume (due to the time needed to analyze the samples) and would be subject to the inaccuracies discussed above.

IV. Request for Comment

Before completing its review of the industry topical reports, the NRC is seeking public comment from its stockholders. In particular, the NRC is seeking comment from offsite emergency response organizations who may have an interest in information regarding radionuclide concentrations in the reactor coolant, containment sump or containment atmosphere to support their emergency response activities (in particular protective action decision making). Specifically, the NRC is seeking comment on whether elimination of information obtained from radionuclide sampling using the PASS may have an adverse effect on offsite emergency response organizations' ability to respond to an accident in view of (1) the availability of information provided by plant conditions, plant radiation monitor readings and field monitoring teams and (2) the limitations associated with the accuracy and timeliness of information provided by the PASS.

Dated at Rockville, Maryland, this 18 day of November, 1999.

For the Nuclear Regulatory Commission.

Frank P. Gillespie,

Deputy Director, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc 99–30645 Filed 11–23–99; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Licenses Authorizing Distribution to General Licensees

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of Availability and request for comments.

SUMMARY: The NRC is announcing the availability of, and requesting comments on, draft NUREG–1556, Volume 16, "Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Licenses Authorizing Distribution to General Licensees," dated September 1999. This draft NUREG report is the 16th program-specific guidance document developed to support an improved material licensing process. The NRC is using Business Process Redesign techniques to redesign its material licensing process, as described in NUREG–1539, "Methodology and Findings of the NRC's Materials Licensing Process Redesign." A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports.

This draft guide has been developed in parallel with the proposed rulemaking on 10 CFR Parts 30, 31, 32, 170, and 171, "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material." The proposed rule was published in the **Federal Register** on July 26, 1999 (64 FR 40295). Comments received in response to publication of this draft guidance will be considered in developing the final guide. Finalization of the guidance will continue to parallel the rulemaking, resulting in a guidance document that is consistent with the final rule. It is intended for use by applicants, licensees, NRC license reviewers, and other NRC personnel.

NRC is requesting comments such as whether a risk-informed, performance-based approach to licensing is valid, as well as comments on the information provided. Note that this document is strictly for public comment and is not for use in preparing or reviewing applications, until it is published in final form.

DATES: The comment period ends January 24, 2000. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to dlm1@nrc.gov.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 16, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Washington, DC 20555–0001.

Alternatively, submit requests through the Internet by addressing electronic mail to slm2@nrc.gov. A copy of draft NUREG–1556, Volume 16, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

The Presidential Memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing," directed that the Federal Government's writing be in plain language. The NRC specifically requests comments on this licensing guidance NUREG about the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

FOR FURTHER INFORMATION, CONTACT: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7874; electronic mail address: *slm2@nrc.gov*.

Electronic Access

Draft NUREG–1556, Vol. 16 is available electronically by visiting NRC's Home Page (http://www.nrc.gov/NRC/nucmat.html).

Dated at Rockville, Maryland, this 12th day of November 1999.

For the Nuclear Regulatory Commission.

Catherine Haney,

Acting Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 99–30644 Filed 11–23–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1:00 p.m., Monday, December 6, 1999; 8:30 a.m., Tuesday, December 7, 1999.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW, in the Benjamin Franklin Room.

STATUS: December 6 (Closed); December 7 (Open).

MATTERS TO BE CONSIDERED:

Monday, December 6—1:00 p.m. (Closed)

1. Rate Case Filing.
2. Audit Committee Report and Review of Year-End Financial Statements.
3. Personnel Matters.
4. Compensation Issues.

Tuesday, December 7—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, November 1–2, 1999.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Consideration of Fiscal Year 1999 Audited Financial Statements.
4. Consideration of Fiscal Year 1999 Annual Report.
5. Diversity Report.
6. Capital Investment.
   a. St. Paul, Minnesota—Twin Cities Airport Mail Center.
7. Tentative Agenda for the January 10–11, 2000, meeting in Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 99–30771 Filed 11–22–99; 2:53 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549

Extension:

Form F–9, SEC File No. 270–333, OMB Control No. 3235–0377

Form F–10, SEC File No. 270–334, OMB Control No. 3235–0380

Form 10, SEC File No. 270–51, OMB Control No. 3235–0064

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit these existing collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for approval of extension on the following:

Form F–9 is a registration Statement under the Securities Act of 1933 (Securities Act) used by certain investment grade debt or investment grade preferred securities that are offered for cash or in connection with an exchange offer and either non convertible or not convertible for a period of at least one year from the date of issuance and, except as noted in paragraph (e), are thereafter only convertible into security of another class of the issuer.

The information required by Form F–9 is useful for persons considering investment in securities issued by Canadian companies. Form F–9 takes approximately 25 hours to prepare and is filed by 12 respondents. It is estimated that 25% of the 300 hours (75 hours) would be prepared by the company.

Form F–10 is a Registration Statement used by Canadian "substantial issuers," those issuers with at least thirty-six calendar months of reporting history with a securities commission in Canada and a market value of common stock of at least $360 million (Canadian) and an aggregate market value of common stock held by non-affiliates of at least $75 million (Canadian).

The information required under the cover of Form F–10 can be used by security holders and investors in evaluating securities and making investment decisions. Form F–10 takes approximately 25 hours to prepare and is filed by 45 respondents. It is estimated that 25% of the 1,125 hours (281) would be prepared by the company.

Form 10 is used by the Commission to register securities pursuant to Sections 12(b) and 12(g) of the Securities Exchange Act of 1934 (Exchange Act). Form 10 requires financial and other information about such matters as the registrant's business, properties, identify and remuneration of management, outstanding securities and securities to be registered and financial condition.

The information provided by Form 10 is intend to ensure the adequacy of information available to investors about the company. Form 10 takes approximately 24 hours to prepare and is filed by 124 respondents. It is estimated that 25% of the 2,977 hours (744 hours) would be prepared by the company.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of burden of the collection of information; (c) Ways to enhance the quality, utility, and clarity of the information collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given

to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: November 5, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30583 Filed 11–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549.

Extension:

Rule 2a–7, SEC File No. 270–258; OMB Control No. 3235–0268

Notice is hereby given that under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501], the Securities and Exchange Commission (the "Commission") is soliciting public comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget.

Rule 2a–7 [17 CFR 270.2a–7] under the Investment Company Act of 1940 [15 U.S.C. 80a] (the "Act") governs money market funds. Money market funds are open-end management investment companies that differ from other open-end management investment companies in that they seek to maintain a stable price per share, usually $1.00. The rule exempts money market funds from the valuation requirements of the Act, and, subject to certain risk-limiting conditions, permits money market funds to use the "amortized cost method" of asset valuation or the "penny-rounding method" of share pricing.

Rule 2a–7 imposes certain recordkeeping and reporting obligations on money market funds. The board of directors of a money market fund, in supervising the fund's operations, must establish written procedures designed to stabilize the fund's net asset value ("NAV"). The board also must adopt guidelines and procedures relating to certain responsibilities it delegates to the fund's investment adviser. These procedures typically address various aspects of the fund's operations. The fund must maintain and preserve for six years a written copy of both these procedures and guidelines. The fund also must maintain and preserve for six years a written record of the board's considerations and actions taken in connection with the discharge of its responsibilities, to be included in the board's minutes. In addition, the fund must maintain and preserve for three years written records of certain credit risk analyses, evaluations with respect to securities subject to demand features or guarantees, and determinations with respect to adjustable rate securities and asset backed securities. If the board takes action with respect to defaulted securities, events of insolvency, or deviations in share price, the fund must file with the Commission an exhibit to Form N–SAR describing the nature and circumstances of the action. If any portfolio security fails to meet certain eligibility standards under the rule, the fund also must identify those securities in an exhibit to Form N–SAR. After certain events of default or insolvency relating to a portfolio security, the fund must notify the Commission of the event and the actions the fund intends to take in response to the situation.

The recordkeeping requirements in rule 2a–7 are designed to enable Commission staff in its examinations of money market funds to determine compliance with the rule, as well as to ensure that money market funds have established procedures for collecting the information necessary to make adequate credit reviews of securities in their portfolios. The reporting requirements of rule 2a–7 are intended to assist Commission staff in overseeing money market funds.

Commission staff estimates that approximately 949 money market funds are subject to the rule each year. The staff estimates that each of these funds spends an average of 336 hours each year to document credit risk analyses, and determinations regarding adjustable rate securities, asset backed securities, and securities subject to a demand feature or guarantee.[1] In addition, each year an estimated average of 10 money market funds each spends approximately 2.5 hours to record (in the board minutes) board determinations and actions in response to certain events of default or insolvency, and to notify the Commission of the event.[2] Finally, Commission staff estimates that in the first year of operation, the board of directors of an average of 46 new money market fund each spends 7 hours to formulate and establish written procedures for stabilizing the fund's NAV and guidelines for delegating certain of the board's responsibilities to the fund's adviser. Based on these estimates, Commission staff estimates the total burden of the rule's paperwork requirements for money market funds to be 319,211 hours.[3] This is an increase from the previous estimate of 196,371 hours. The increase is attributable to updated information from money market funds regarding hourly burdens, and to a more accurate calculation of the component parts of some information collection burdens.

These estimates of burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimates are not derived from a comprehensive or even a representative survey or study of Commission rules.

In addition to the burden hours, Commission staff estimates that money market funds will incur costs to preserve records required under rule 2a–7. These costs will vary significantly for individual funds, depending on the amount of assets under fund management and whether the fund preserves its records in a storage facility in hard copy of has developed and maintains a computer system to create and preserve compliance records.[4] Commission staff estimates that the amount an individual fund may spend ranges from $100 per year to $2 million. Based on an average cost of $.0000052 per dollar of assets under management for small and medium-sized funds to $0.000039 per dollar of assets under management for large funds,[5] the staff estimates compliance with rule 2a–7 costs the fund industry approximately $51.6 million per year.[6] Based on

[1] This average is based on discussions with individuals at money market funds and their advisers. The amount of time may vary significantly for individual money market funds.

[2] This number may vary significantly from year to year.

[3] This estimate is based on the following calculation: ((949 × 336) + (10 × 2.5) + (46 × 7) = 319,211.

[4] The amount of assets under management in money market funds ranges from approximately $100,000 to $60.9 billion.

[5] For purpose of this PRA submission, Commission staff used the following categories for fund sizes: (i) small—money market funds with $50 million or less in assets under management, (ii) medium—money market funds with more than $50 million up to and including $1 billion in assets under management, and (iii) large—money market funds with more than $1 billion in assets under management.

[6] The staff estimated the annual cost of preserving the required books and records by identifying the annual costs incurred by several funds and then relating this total cost to the average net assets of these funds during the year. With a total of $204 billion under management in small and medium funds, and $1,292.6 billion under management in large funds, the total amount was estimated as

responses from individuals in the money market fund industry, the staff estimates that some of the largest fund complexes have created computer programs for maintaining and preserving compliance records for rule 2a–7. Based on a cost of $0.000068 per dollar of assets under management for large funds, the staff estimates that the total annualized capital/startup costs range from $0 for small funds to $88.4 million for all large funds. Commission staff further estimates, however, that even absent the requirements of rule 2a–7, money market funds would spend at least half of the amount for capital costs ($44.2 million) and for record preservation ($25.8 million) to establish and maintain these records and the systems for preserving them as a part of sound business practices to ensure diversification and minimal credit risk in a portfolio for a fund that seeks to maintain a stable price per share.

The collections of information required by rule 2a–7 are necessary to obtain the benefits described above. Notices to the Commission will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are requested on: (a) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: November 17, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30651 Filed 11–23–99; 8:45 am]

BILLING CODE 8010–01–M

---

follows: ($0.0000052 × $204 billion) + ($0.000039 × $1,292.6 billion) = $51.6 million.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24143; 812–11152]

Corporate Income Fund, et al., Notice of Application.

November 18, 1999.

AGENCY: Securities and Exchange Commission ("Commission")

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 ("Act") for an exemption from section 17(c) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit transactions in certain securities between series of certain registered unit investment trusts. The requested order would supersede a prior order.

APPLICANTS: Corporate Income Fund and Equity Investor Fund, (the "Funds"), together with their present and future series ("Series"), and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), Salomon Smith Barney Inc., Paine Webber Incorporated and Dean Witter Reynolds Inc. (together, the "Sponsors").

FILING DATES: The application was filed on August 11, 1998 and amended on October 1, 1998, March 25, 1999, July 23, 1999, and November 12, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 13, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicants, c/o Merrill Lynch, P.O. Box 9051, Princeton, New Jersey 08543–9051.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574, or George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. no. 202–942–8090).

Applicant's Representations

1. Each Fund is registered under the Act as a unit investment trust ("UIT") and is comprised of multiple Series. Each Series is created by a trust indenture (an "Indenture") among the Sponsors, a banking institution satisfying the criteria of section 26(a) of the Act that is unaffiliated with any Sponsor ("Trustee") and, in certain cases, an independent evaluator that will be a "qualified evaluator" as defined in Rule 22–1(b)(2) under the Act ("Independent Evaluator"). Applicants also request relief for any future UIT sponsored by one or more of the Sponsors that becomes a party to an Indenture, and any future sponsor of one of more of the Series that becomes a party to an Indenture and for which Merrill Lynch acts as agent.[1]

2. Series may hold equity securities, preferred stocks, corporate bonds, and/or U.S. Treasury securities ("Treasuries"). As UITs, the Series are not actively managed. A Series generally holds securities until the Series terminates or, in the case of a Series holding preferred stocks or bonds, until the securities mature. A Series may sell portfolio securities ("Selling Series") in connection with termination of the Series, to refund redemptions of its units, or under certain extraordinary circumstances specified in the Series' Indenture.[2] At the same time, another Series ("Purchasing Series") holding

---

[1] Pursuant to powers of attorney executed by each of the other Sponsors, Merrill Lynch acts as agent for the Sponsors. The Sponsors agree that any such future UIT and any future sponsor will rely on the requested order only in accordance with the terms and conditions of the application.

[2] The Sponsors expect Selling Series to sell securities principally in connection with the termination of the Series and redemptions of their units. The Sponsors maintain a secondary market for the units and applicants state that as a practical matter redemptions are initiated only by the Sponsors because, with the exception of redemptions in kind, the Indenture requires the Trustee to sell units tendered for redemption to the Sponsors as long as they maintain a secondary market for the units.

Securities also may be sold by a Series (a) to pay deferred sales charges, (b) to comply with subchapter M of the Internal Revenue Code or to avoid an excise tax on a Series that elected to be taxed as a regulated investment company, (c) if a security is not consistent with the Series' investment objective (e.g., if a security is received in exchange for a bond in a workout), and (d) if a right to redeem arises under the terms for the applicable credit support. The Indenture also authorizes sales under certain other circumstances but any sale made under those circumstances will not be made in reliance on the requested relief.

one or more of the same securities as the Selling Series may be issuing additional units and may need to purchase the same securities that are being sold by the Selling Series. In addition, when certain Selling Series holding Treasuries terminate, the Sponsors may offer successor Series ("New Series") that will hold the same Treasuries.

3. Applicants request relief to permit a Selling Series to sell Qualified Securities, as defined below, to a Purchasing Series and to allow the Purchasing Series to buy Qualified Securities.[3] Applicants also seek relief to allow a teminating Selling Series ("Rollover Series") holding Treasuries to sell Treasuries to a New Series.

4. Qualified Securities are limited to those securities that are: (a) actively traded (*i.e.* having an average daily trading volume during the preceding six months of at least 500 shares equal in value to at least $25,000) on a Qualified Exchange (as defined below) and (b) included in a published index. A Qualified Exchange is either: (a) a national securities exchange which meets the qualifications of section 6 of the Securities Exchange Act of 1934, (b) the Nasdaq-NMS, or (c) a "qualified foreign exchange" as set forth in the proposed amendments to rule 12d3–1(d)(6) under the Act and that releases daily closing prices.[4]

5. Purchases and sales of securities are effected under the direction of the Buying Department of Merrill Lynch's Defined Asset Funds division ("Buying Department"). Pursuant to procedures to be adopted by the Sponsors and the Trustee upon the granting of an order requested by the application, the Buying Department will make an initial determination that two Series are on opposite sides of a transaction in Qualified Securities. Merrill Lynch, as agent for the Sponsors, will certify in writing to the Trustee of each affected Series, no later than the close of business on the business day following each sale pursuant to the requested order: (a) that the transaction is consistent with the investment objective and policies of each Series as stated in their respective registration statements and reports filed under the Act, (b) the reason that the Selling Series is selling the Qualified Securities, (c) the date of the transaction, (d) how the securities being sold meet the definition of Qualified Securities set forth in the requested order, and (e) the closing sale price of the Qualified Securities on the Qualified Exchange for the date the Qualified Securities are sold. The certification will be forwarded to the Trustee of each Series for its approval. The Trustee will then countersign the certificate, unless, in the event that the trustee disagrees with the price listed on the certificate, the Trustee immediately informs the agent for the Sponsors orally of any such disagreement and returns the certificate within five days with corrections duly noted. Upon receipt by the agent for the Sponsors can verify the correct price by reference to any independently published list of prices for the date of transaction, the agent for the Sponsors will ensure that the price of units of each of the Purchasing Series and the Selling Series accurately reflects the corrected price. To the extent that the agent for the Sponsors disagrees with the Trustee's corrected price, the agent for the Sponsors and the Trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of prices for the date of the transaction.

6. In connection with the purchase of Treasuries by a New Series from a Rollover Series, sales would be effected at the offer-side evaluation of the Treasuries, as determined by the Independent Evaluator. In order to minimize the potential for overreaching in these situations, the agent for the Sponsors will certify in writing to the Trustee of both the Rollover and the New Series, within five days of each sale of Treasuries from a Rollover Series to a New Series: (a) that the transaction is consistent with the policies of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of the transaction, and (c) the price determined by the Independent Evaluator for the sale date of the Treasuries. The Trustee will then countersign the certificate unless, in the event the Trustee disagrees with the price listed on the certificate, the Trustee immediately informs the agent for the Sponsors orally of any such disagreement and returns the certificate within five days with corrections duly noted. Upon the agent's receipt of a corrected certificate, the agent and the Trustee will jointly determine the correct sales price by reference to a mutually agreeable, published list of prices for the date of the transaction.

Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include, in pertinent part, any person directly or indirectly controlled, controlled by a under common control with, such other person. Each Series will have a common Sponsor. Since the Sponsor of a Series may be deemed to control the Series, all of the Series may be deemed to be under common control and, thus, affiliated persons of each other.

2. Rule 17a–7 under the Act permits registered investment companies that might be deemed affiliated persons solely by reason of having common investment advisers, directors, and/or officers, to purchase securities from, or sell securities to, one another at an independently determined price, provided certain conditions are met. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraphs (b) and (e).

3. Paragraph (e) of rule 17a–7 requires an investment company's board of directors to adopt and monitor certain procedures to assure compliance with the rule. Since a UIT does not have a board of directors, the Series would be unable to comply with this requirement. Paragraph (b) of rule 17a–7 requires that the transactions be effected at the independent current market price of the security. The Treasuries would fall within the paragraph (b)(4) category of "all other securities," for which the current market price under rule 17a–7(b) is the average of the highest current independent bid and lowest current independent offer determined on the basis on reasonable inquiry.

4. Section 17(b) of the Act provides that the Commission shall exempt a proposed transaction from section 17(a) of the Act if the evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching, (b) the proposed transaction is consistent with the investment objectives and policies of the registered investment company involved, and (c) the proposed transaction is consistent with the

[3] The requested order would supersede a prior order that permitted a terminating Series to sell certain securities to a new Series. *See* Defined Asset Funds-Equity Income Fund, *et al.*, Investment Company Act Release No. 20447 (Aug. 5, 1994) (Notice) and Release No. 20517 (Aug. 31, 1994) (Order).

[4] Investment Company Act Release No. 17096 (Aug. 3, 1989) (proposing amendments to rule 12d3–1). The proposed amended rule defined a "Qualified Foreign Exchange" to mean a stock exchange in a country other than the United States where: (1) trading generally occurred at least four days a week; (2) there were limited restrictions on the ability of acquiring companies to trade their holdings on the exchange; (3) the exchange had a trading volume in stocks for the previous year of at least U.S. $7.5 billion; and (4) the exchange had a turnover ratio for the preceding year of at least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defining the term "Qualified Foreign Exchange."

general purposes of the Act. Under section 6(c) of the Act, the Commission may exempt classes of transactions if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b).

5. Applicants state that a sale of Qualified Securities by a Selling Series to a Purchasing Series will satisfy each of the requirements of rule 17a–7 other than paragraph (e). Applicants note that the requirement in rule 17a–7(e) that the board of directors adopt and monitor certain procedures was adopted, among other things, because transactions permitted by rule 17a–7 may involve entities that are not registered investment companies. Applicants state that their requested relief would extend only to transactions between registered UITs. Applicants submit that a Selling Series will sell its Qualified Securities to a Purchasing Series at the last sales price on the applicable Qualified Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees. Applicants note that the agent for the Sponsors will represent that the transactions are consistent with the investment objectives of each Selling Series and each Purchasing Series. Applicants state that the requirement that the securities be Qualified Securities assures that only transactions in large active issues, which comprise a portion of a published index, will be authorized and therefore will ensure the availability of accurate prices. Applicants also state that the current practice by buying and selling on the open market leads to unnecessary brokerage fees, and that the requested relief will result in savings to investors.

6. With respect to Treasuries, applicants state that sales by a Rollover Series to a New Series will comply with all of the provisions of rule 17a–7 other than paragraphs (b) and (e). Applicants state that the Treasuries would be sold by a Rollover Series to a New Series at the Treasuries' offer-side evaluation as determined by the Independent Evaluator. Other Treasuries acquired by the New Series will be acquired at the offer-side evaluation and the New Series would be valued during its initial offering period based on the Treasuries' offer-side evaluation. Applicants state that all unitholders of the New Series, both unitholders from a Rollover Series and new unitholders, will acquire units with a value based on the offer-side evaluation of the Treasuries. Applicants state that the sales of Treasuries between Series will reduce transaction costs to unitholders of the Selling Series. In addition, applicants state that the transactions will be consistent with the policy of each Series.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each sale of Qualified Securities between the Series will be effect at the closing price of the Qualified Securities sold on the applicable Qualified Exchange on the sale date. Each sale of Treasuries between the Series will be effected at the Treasuries' offer-side evaluation as determined by an Independent Evaluator as of the evaluation time on the sale date. Sales of Qualified Securities and Treasuries will be effected without any brokerage charges or other remuneration except customary transfer, fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors of each participating Series.

3. The Trustee of each Series will (a) review the procedures relating to the sale of Qualified Securities and Treasuries from one Series to another and (b) make any changes to those procedures at the Trustee considers necessary as reasonably to comply with paragraphs (a), (b) (except for transactions in Treasuries), (c) and (d) and Rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to the requested order will be maintained as provided in Rule 17a–7(f).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30652 Filed 11–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC– 24142; File No. 812–11586]

Great-West Life & Annuity Insurance Company, et al.; Notice of Application

November 18, 1999.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for approval under Section 26(b) of the Investment Company Act of 1940, as amended (the "1940 Act").

SUMMARY OF APPLICATION: Applicants seek an order approving the substitutions of shares of the Maxim INVESCO ADR Portfolio for shares of the Foreign Equity Portfolio of the Maxim Series Fund, Inc.

APPLICANTS: Great-West Life & Annuity Insurance Company ("GWL&A"), Retirement Plan Series Account of GWL&A (the "Separate Account") and One Orchard Equities, Inc. ("Orchard") (hereinafter all parties are collectively referred to as the "Applicants").

FILING DATE: The application was filed on April 20, 1999, and amended and restated on July 9, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 13, 1999, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o Jorden Burt Boros Cicchetti Berenson & Johnson, LLP, 1025 Thomas Jefferson Street, NW., Suite 400 East, Washington, DC 20007–0805; Attention: Thomas C. Mira, Esq.

FOR FURTHER INFORMATION CONTACT: Michael Pappas, Senior Counsel, or Susan Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application; the complete Application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. GWL&A is a stock life insurance company organized under the laws of the State of Colorado. GWL&A is wholly owned by The Great-West Life Assurance Company, which is a subsidiary of Great-West Lifeco, Inc., an insurance holding company ultimately controlled by Power Corporation of Canada. GWL&A is principally engaged

in offering life insurance, annuity contracts, and accident and health insurance and is admitted to do business in the District of Columbia, Puerto Rico, Guam and in all states of the United States, except New York.

2. The Separate Account has fourteen investment divisions each of which invests exclusively in one of the corresponding portfolios of Maxim Series Fund, Inc. ("Maxim Series Fund" or "Maxim") an open-end management investment company. The assets of the Separate Account are kept separate from the other assets of GWL&A. The income, gains, and losses of the Separate Account, whether or not realized, are credited to or charged against the Separate Account without regard to other income, gains, or losses of any other Separate Account or arising out of any other business GWL&A may conduct.

3. The Separate Account is a unit investment trust ("UIT") and has filed a registration statement on Form N–4 (Registration Nos. 33–83928 and 811–8762) for the purpose of registering the Separate Account under the 1940 Act and the Contracts as securities under the Securities Act of 1933, as amended (the "1933 Act").

4. Orchard is the principal underwriter and distributor of the Contracts. Orchard is registered with the Commission under the Securities Exchange Act of 1934, as amended, as a broker/dealer and is a member of the National Association of Securities Dealers, Inc.

5. The Contracts are individual, flexible premium, variable annuity contracts designed for Individual Retirement Annuity ("IRA") programs. The Contracts can be purchased only in connection with IRA programs in one of three ways: with rollover proceeds from qualified plans, such as 401(k) plans; with rollover proceeds from other eligible rollover sources; or with earned income.

6. The Contracts have no front-end or contingent deferred sales load. If the Contract is surrendered in part or whole within the first twelve months, the Contracts have an administrative surrender fee. There are no limits on the number of transfers that a Contract owner can make and there are no transfer charges for transfers among the investment divisions offered in the Contract.

7. The Contracts expressly reserve GWL&A's right, both on its own behalf and on behalf of the Separate Account, to eliminate investment divisions, combine two or more investment divisions, or substitute one or more underlying portfolios for other in which its investment divisions are invested or for a new underlying portfolio.

8. GWL&A, on its own behalf and on behalf of the Separate Account, purposes to exercise its contractual right to eliminate the Foreign Equity Portfolio ("Foreign Equity Portfolio" or the "Eliminated Portfolio") as a funding option under the Contracts. GWL&A proposes to substitute shares of the Maxim INVESCO ADR Portfolio ("ADR Portfolio" or the "Substituted Portfolio") for the Foreign Equity Portfolio. The proposed transaction will be referred to as the "Substitution."

9. Maxim Series Fund, the underlying fund, is affiliated with GWL&A and the Separate Account. No other underlying fund is used in connection with the Contracts.

10. Applicants believe the Substitution will benefit the Contract owners by eliminating a portfolio which, in the Applicants' view, has had poor historical performance returns. The Applicants also believe the Substitution will benefit Contract owners by replacing the Eliminated Portfolio with a portfolio having comparable investment objectives and policies and better historical performance returns, and which the Applicants believe is more likely to provide Contract owners with favorable investment performance in the future. The Substitution will not result in a reduction of variable investment options available under the Contracts. Fourteen options would remain in the Contracts.

11. GWL&A will schedule the Substitution to occur on the Automatic Selection Date. Such date will be as soon as practicable following the issuance of an order by the Commission granting the relief requested in the Application. By way of sticker, the prospectus will disclose the proposed Substitution for several months prior to the Automatic Selection Date. After the Order is issued, a second notification will be provided to all Contract owners who have amounts allocated to the Eliminated Portfolio again advising them of the pending Substitution and of their ability to transfer free of charge to the remaining investment division(s) of their choice (or remain in the Eliminated Portfolio until the automatic substitution on the Automatic Selection Date).

12. The affected Contract owners will also receive a confirmation of the Substitution transaction that will be mailed within five days of the Automatic Selection Date. The confirmation will contain a remainder that the Contract owner may effect transfers from the investment division corresponding to the Substituted Portfolio, to any other investment division without incurring any charges.

13. In an effort to provide continuity of investment choice to Contract owners after the Substitution, GWL&A has determined to replace the Eliminated Portfolio with an underlying portfolio that has investment objectives and policies that are comparable with those of the Eliminated Portfolio. After thoroughly comparing and contrasting all other Maxim profolios with the Eliminated Portfolio, GWL&A represents that it has determined the ADR Portfolio is the most appropriate replacement for the Foreign Equity Portfolio within the Maxim family of funds.

14. The investment objective of the Foreign Equity Portfolio is to seek total return from long-term growth of capital and dividend income by investing its assets primarily in equity securities of issuers headquartered outside the United States. The ADR Portfolio's investment objective is to seek a high total return through capital appreciation and current income, while reducing risk through diversification. This portfolio invests primarily in foreign securities that are issued in the form of American Depository Receipts ("ADRs") or foreign stocks that are registered with the Commission and traded in the United States. Therefore, after the Substitution, Contract owners who have allocated value to an investment division which invests in the Foreign Equity Portfolio will continue to have their value allocated to an investment division which invests in an underlying portfolio that invests primarily in foreign securities.

15. Applicants represent that, for the most recent fiscal year of the Eliminated and Substituted Portfolios, the comparative total expenses (after waivers and reimbursements) of the ADR Portfolio were 1.30%, which were the same as the 1.30% current total expenses (after waivers and reimbursements) of the Foreign Equity Portfolio. The total expenses before waiver or reimbursement for the 1998 fiscal year were 1.32% for the ADR Portfolio and 1.31% for the Foreign Equity Portfolio. Applicants state that the ADR Portfolio's expenses are capped at 1.30% while the Foreign Equity Portfolio expenses are capped at 1.50%. The average annual total returns for the one year and since inception periods ending December 31, 1998 for the ADR Portfolio were 10.64% and 13.82%, respectively, compared to the Foreign Equity Portfolio, which had returns of 7.67% and 2.13% for the same periods. Both Portfolios commenced operations on November 1, 1994. Based on the foregoing historical performance data,

Applicants submit that the ADR Portfolio has substantially outperformed the Foreign Equity Portfolio. Moreover, the total expenses of the Substituted Portfolio will not rise above the current level of 1.30% as can the Foreign Equity Portfolio's expenses. Should Contract owners with current allocations in the Eliminated Portfolio determine that another investment is more appropriate, they will be able to transfer their Contract value to any of the remaining investment divisions available under the Contract without incurring any charges.

16. The Substitution (1) Will be effected by redeeming shares of the Eliminated Portfolio on the Automatic Selection Date at net asset value and using the proceeds to purchase shares of the Substituted Portfolio as net asset value on the same date: (2) Contract owners will not incur any fees or charges as a result of the transfer of account values from the Eliminated Portfolio; (3) All Contract values will remain unchanged and fully invested; (4) The Substitution will not increase Contract or Separate Account fees and charges after the Substitution; (5) Contract owners' rights and GWL&A's obligations under the Contracts will not be altered in any way; and (6) All expenses incurred in connection with the Substitution, including legal, according and other expenses, will not be borne by Contract owners as they will be paid by either GWL&A or GW Capital Management, LLC. The Substitution will be effected as net asset value in conformity with section 22 of the 1940 Act and Rule 22c–1 thereunder. In addition, as of the date of filing this amended and restated Application, Applicants represent that to the best of their knowledge, the Substitution will not result in any adverse federal income tax consequences to Contract owners.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution; and the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the substitution of securities.

3. Applicants represent that the purposes, terms and conditions of the Substitution are consistent with the protections for which Section 26(b) was designed and will not result in any of the harms which Section 26(b) was designed to prevent.

4. Any Contract owner who does not want his or her assets allocated to the Substituted Portfolio would be able to transfer assets to any one of the other investment divisions available under his/her Contract without charge. Such transfers could be made prior to or after the Automatic Selection Date.

Conclusion

In light of the foregoing facts and representations, Applicants believe that the request to allow the Substitution meets the applicable standards of an order under Section 26(b) of the 2940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30584 Filed 11–23–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42152; File No. SR–OPRA–99–02]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Revising Certain of its Subscriber Fees

November 17, 1999.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on October 27, 1999, the Options Price Reporting Authority ("OPRA"),[1] submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"). The amendment revises or eliminates certain of the facilities and access fees charged by OPRA in respect of its Basic Service. Fee revisions consist of proposed reductions in usage-based fees for access to OPRA's dial-up market data service, voice-synthesized market data service and radio paging service, a proposed reduction in the nonprofessional subscriber fee, and a proposed increase in OPRA's device-based information fee payable by professional subscribers. In addition, OPRA proposes to eliminate its port-based dial-up market data service utilization fee.

OPRA has designated this proposal as concerned solely with establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, permitting the proposal to become effective upon filing pursuant to Rule 11Aa3–2(c)(3)(i) under the Act.[2] The Commission is publishing this notice to solicit comments from interested persons on the proposed amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to revise certain of the fees payable to OPRA by professional and nonprofessional subscribers and vendors for access to OPRA's Basic Service, which consists of market data and related information pertaining to equity and index options ("OPRA Data").[3] The revisions reflect significant decreases in various usage-based vendor fees and in the nonprofessional subscriber fee, and a modest increase in the professional subscriber fee. In addition, OPRA proposes to eliminate its port-based dial-up market data service utilization fee.

Specifically, OPRA proposes to decrease the three usage-based fees which apply to vendors who provide a dial-up market data service (which may include an Internet service) or a radio paging service, and to vendors or subscribers who provide a voice-synthesized market data service. Currently, usage-based fees for these three services range from two cents to one cent ($.02–$.01) per quote packet, depending on total usage. OPRA proposes to reduce all three usage-based fees to a flat rate fee of one-half cent ($.005) per quote packet, and to institute new usage-based fees for access to these services of two cents ($.02) per "options chain," which may be elected as an alternative to the per quote packet fee.

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3–2 thereunder. Securities Exchange Act Release No. 17638 (Mar. 18 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange ("AMEX"); the Chicago Board Options Exchange ("CBOE"); the New York Stock Exchange ("NYSE"); the Pacific Exchange ("PCX"); and the Philadelphia Stock Exchange ("PHLX").

[2] 17 CFR 240.11Aa3–2(c)(3)(i).

[3] No changes are proposed at this time for fees charged to vendors and subscribers for access to information pertaining to foreign currency options provided through OPRA's FCO Service.

An "options chain" may include quotes on all series of options on the same underlying interest. Since a single options chain may include many separate quote packets covering different series of put and call options on a single underlying interest, this alternative usage-based fee will generally result in lower fees as compared with straight quote-based pricing.

In addition, OPRA is proposing to cap total usage-based fees payable by a vendor in any month for the use of its dial-up service by any individual nonprofessional subscriber so that such fees will not exceed an amount equal to the monthly nonprofessional subscriber fee, which is proposed to be reduced to $1.00 per month. Under the proposed change to usage-based fees, a vendor who provides a dial-up service to its customers will still be able to choose whether to pay information fees on account of this service on the basis of the number of requests for quotes actually made by its customers, or by paying a flat-rate nonprofessional subscriber fee of $1.00 per month for each of its customers who qualify as nonprofessional subscribers. However, if a vendor elects to pay usage-based fees, the monthly fee for each nonprofessional subscriber will not exceed the flat-rate nonprofessional subscriber fee.

OPRA also proposes to reduce the monthly nonprofessional subscriber fee from the current rate of $2.50 per nonprofessional subscriber to a rate of $1.00 per nonprofessional subscriber. This will substantially lower the cost of access to real time options market information for those nonprofessional investors who subscribe to this information by paying a flat monthly fee. Also, because as described above, the monthly nonprofessional subscriber fee is proposed to serve as a cap on usage-based fees for dial-up services provided to nonprofessional subscribers, reducing this fee will result in lower costs for vendors who provide dial-up (or Internet) services to this category of investors.

OPRA proposes to increase device-based professional subscriber[4] fees by amounts ranging from 5.00% to 6.25% of the existing fees. Professional subscriber fees charged to members will continue to be discounted by 2% for members who preauthorize payment by electronic funds transfer through an automated clearinghouse system. OPRA estimates that the overall effect of the proposed increase in professional subscriber fees will be to increase revenues derived from device-based professional subscriber fees by approximately 5.15%. As an alternative to device-based fees, professional subscribers may pay an enterprise rate fee based on the number of their U.S. registered representatives. No changes are proposed to be made to the enterprise rate fee.

The proposed increase in the amount of the professional subscriber fee is intended to increase OPRA revenues derived from device-based subscriber fees in order to offset revenues lost as a result of the reductions in usage-based fees and nonprofessional subscriber fees described above. It is also intended to generate additional revenue to cover actual and anticipated increases in the costs of collecting, consolidating, processing, and transmitting options market information necessitated by the continued expansion of the listed options business, including major improvements and upgrades in the OPRA system to enable it to handle that expansion.

Finally, OPRA is proposing to eliminate its port-based fee currently imposed on vendors who offer a dial-up market data utilization service. The port-based fee has been an alternative to the usage-based fee, which is proposed to be reduced as described above, for vendors who provide a dial-up service to customers who may not all be professional or nonprofessional subscribers. The elimination of this port-based fee reflects that in recent years, as communications technology has continued to improve, a single high-capacity port may now be used by a vendor to provide a dial-up service to the same number of customers that once required tens or even hundreds of ports. As a result, the number of ports used by a vendor no longer serves as a meaningful measure of the extent of the vendor's total service. Thus a port-based fee no longer provides a fair and equitable way to allocate among vendors the fees imposed by OPRA on providers of a dail-up service, which is why OPRA proposes to eliminate it.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3),[5] because the amendment is concerned solely with changing fees charged on behalf of OPRA, the amendment is effective upon filing with the Commission. To give persons subject to these fees advance notice of the changes, OPRA proposes to put the revised fees into effect commencing January 1, 2000. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2),[6] if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a National Market System; or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C., 20549–0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed plan amendment that are filed with the Commission, 450 Fifth Street, N.W., Washington, D.C., 20549–0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–99–02 and should be submitted by December 15, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30653 Filed 11–23–99; 8:45 am]

BILLING CODE 8010–01–M

[4] Professional subscribers are those persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers.

[5] 17 CFR 240.11Aa3–2(c)(3).

[6] 17 CFR 240.11Aa3–2(c)(2).

[7] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42151; File No. SR–PHLX–99–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Removal of Certain Printers From the Equity Floor

November 17, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 10, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change. The Exchange submitted Amendment No. 1 to its proposal on October 22, 1999.[3] The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Equity Floor Procedure Advice E–5 ("Advice E–5"), Clocked Tickets; Phlx Rule 206, Written Orders-Day Orders; and Phlx Rule 216, Records to be kept. The amendments are necessary to allow for the removal from the Equity Floor of certain printers that generate PACE-delivered order tickets because the printers will not be Year 2000 compliant.[4] Therefore, the amended Advice E–5 would eliminate the requirement that specialists record the time of execution of PACE-delivered orders received on the floor from these printers. Corresponding amendments will be made to Phlx Rules 206 and 216 to address similar issues.

In addition, the proposed rule change to Advice E–5 would require specialists to record the time of receipt of hand-held orders to be placed on the specialist's book on the front of the ticket in accordance with Phlx Rule 206.[5] Fines for violations of Advice E–5, which have not been updated for ten years, are also being increased to better reflect the seriousness of the violation.[6] Thus the Exchange is also amending its minor rule plan.

The text of the proposed rule language follows. New text is italicized and deleted text is bracketed.

E–5 Clocked Tickets

Floor brokers are responsible for recording the time of receipt on the front of the ticket for each order received on the floor and the time of execution on the reverse side of the ticket for each order they are representing in the crowd at the time of execution.

Specialists are responsible *for recording time of receipt of hand-held (non-PACE delivered) orders to be placed on the Specialists's book on the front of the ticket, and* for recording the time of execution on the reverse side of the ticket for each order executed off their book *for all hand-held (non-PACE delivered) orders.*

FINE SCHEDULE (Implemented on a one year running calendar basis)

E–5

1st Occurrence $[50.00] *100.00*
2nd Occurrence $[100.00] *250.00*
3rd Occurrence $[200.00] *500.00*
4th and thereunder Sanction is discretionary with Business Conduct Committee

All *hand-held (non-PACE-delivered)* orders given to a specialist shall be in writing and shall be timed by him when received and filed in his book. They shall be good for the day only unless otherwise marked.

Rule 216

Every specialist shall keep a legible record of all orders placed with him in the securities in which he is registered or trading securities pursuant to Rule 233 as a specialist *(except PACE-delivered orders for which no written record is generated)* and all of all executions, modifications and cancellations of (such) orders, and shall preserve such records and all memoranda relating thereto in accordance with Regulation 240.17a–4 of the Securities and Exchange Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the amendments to Advice E–5 and Phlx Rules 206 and 216 is to allow for the removal of the Designated Automatic Routing to Terminal System ("DARTS") printers from the Equity Floor without causing the specialists and floor brokers to be in violation of Advice E–5 or Phlx Rules 206 and 216.[7]

Currently orders sent to the equity floor through the PACE System generate a hard copy ticket, which is printed on a DARTS printer. These tickets provide hard copy records of time of receipt of the order. In addition, specialists stamp the time of execution of the order on the reverse side of the ticket on all manual market and limit orders. However, the system that supports the DARTS printers is not, and cannot become, Year 2000 compliant. Therefore, the DARTS printers will be removed from the Equity Floor. The information that is produced by the DARTS printer will be maintained electronically for the appropriate time periods mandated by the books and records requirements of the Commission.

Advice E–5 requires floor brokers to record, by time stamp, the time of receipt of the order on the front of the ticket and the time of execution of the order on the reverse side of the ticket. Specialists also are required to record the time of execution of orders executed off the specialist's book. In addition, Phlx Rule 206 requires, in part, that all orders given to a specialist be in writing and timed by him when received. Phlx Rule 216 requires, in part, that every specialist keep a record of all orders placed with him and all executions of such orders. In addition, Phlx Rule 216

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange designated the proposal as a section 19(b)(2) filing, revised its proposed language under Advice E–5 to better reflect its rules, and clarified that the amendment to Advice E–5 merely reflects its current rules. *See* Letter from Cynthia Hoekstra, Counsel, Phlx, to Nancy Sanow, Senior Special Counsel, Division of Market Regulation, Commission, dated October 21, 1999 ("Amendment No. 1").

[4] PACE is the Exchange's automated order routing and execution system on the equity trading floor.

[5] *See* Amendment No. 1, *supra* note 3.

[6] The Phlx's minor rule violation enforcement and reporting plan, codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules.

[7] This proposal affects PACE order tickets only, not telephone orders/manual tickets or production of hard copy reports.

requires the specialist to preserve such records in accordance with Rule 17a–4.

With no hard copy tickets recording order receipt and execution time data, floor brokers and specialists on the Equity Floor could be in violation of Advice E–5 and Rule 206 each time an order is received and executed on PACE. Without the DARTS printer tickets, specialists would be in violation of Rule 216 if they did not retain the DARTS printer tickets. Therefore, as a matter of practicality, it is necessary to eliminate the hard copy recording and document maintenance requirements for trades for which no hard copy ticket is generated. As stated above, the information that is produced by the DARTS printer will be maintained electronically for the appropriate time periods mandated by the books and requirements of the Commission. The removal of the hard copy tickets will improve trade-processing efficiencies and reduce the amount of paper that is used on the trading floor.

In addition, the proposed change to Advice E–5 would require specialists to record the time of receipt of hand-held orders to be placed on the specialist's book on the front of the ticket in accordance with Phlx Rule 206.[8] The fine schedule for violations of Advice E–5 has not been updated for ten years and will be increased to better reflect the seriousness of the violation.

Statutory Basis

For these reasons, the Exchange believes that the proposal to amend Advice E–5 and Phlx Rules 206 and 216 is consistent with Section 6 of the Act,[9] in general, and with Section 6(b)(5),[10] in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market. In addition, these changes will eliminate equipment that will not be Year 2000 compliant, thereby protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[8] *See* Amendment No. 1, *supra* note 3.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–99–38 and should be submitted by December 15, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

[FR Doc. 99–30585 Filed 11–23–99; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42143; File No. SR–Phlx–99–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Deleting Rules Adopted When Phlx Dell Options were Traded on Amex Technology

November 16, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 9, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] rendering the proposal effective upon receipt of this filing by the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The Phlx proposes to delete the following rules related to using American Stock Exchange LLC ("Amex") technology for the trading of Phlx Dell options: Rule 1051, Commentary .01; Rule 1052, Commentary .01; Rule 1053, Commentary .01; and Rule 1054, Commentary .01. The Exchange also proposes to modify Rule 1080, Commentary .03 to refer to Phlx options that were traded using Amex technology.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The Exchange has represented that the proposed rule change: (i) will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b–4(f)(6) under the Act. *Id.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to delete rules adopted when Phlx Dell options traded on Amex systems. The Amex rules are no longer necessary as Phlx is using its own system for trading all of its options, including Dell.

a. Background

On June 12, 1998, the Phlx received Commission approval to relocate Phlx Dell options to the Amex trading floor on a temporary basis.[5] The relocation was for a six-month period expiring December 12, 1998. Subsequently, Phlx Dell options returned to the Phlx trading floor, operating on Amex technology, on December 7, 1998.[6]

During this time, the Exchange continued and still continues to implement technological improvements to its AUTOM[7] System, such as upgrading the features of its electronic limit order book, the X.Station.[8] Specifically, the Exchange has implemented the X.Station on a floor-wide basis, which improved, among other things, cancellation order processing. The Phlx continues to believe that these improvements are benefiting AUTOM users.

Recently, the Exchange introduced the Floor Broker Order Entry System ("FBOE") which allows floor brokers to electronically transmit customer orders, with the exception of all-or-none orders, stop and stop limit orders, to the specialist for placement on the X.Station electronic book.[9] In addition, the Exchange intends to implement other system enhancements, in order to provide technologically current features to its customers. The Phlx also remains committed to continuing to address AUTOM users' concerns regarding the system. Further, the Exchange also implemented rules requiring floor members and their employees to participate in Exchange-sponsored training respecting new automation introduced to the trading floor in order to ensure floor personnel are well acquainted with the new automated systems and features.[10]

Using Amex technology for Phlx Dell options was a temporary measure that was approved by the Commission on a pilot basis for one year. As described above the Exchange has made significant technological strides, which should facilitate transactions in Phlx Dell options. On August 23, 1999, the Exchange returned to Phlx technology for Phlx Dell options.

b. Proposal

The Exchange therefore proposes to delete Commentary .01 to Rules 1051–1055 relating to Phlx Dell options trading on Amex technology because they are no longer applicable to the trading of Phlx Dell options. As discussed in the proposed rule change to utilize Amex technology on the Phlx trading floor for Phlx Dell options, Amex and Phlx have significant differences in options trade processing primarily because of the timing and method of submission of trade participant information. These differences are discussed in a prior proposed rule change.[11]

Phlx rules 1051—1055 were modified to account for these differences in trade processing by Amex systems. First, the Exchange modified Rule 1051, General Comparison and Clearance Rule, by adding Commentary .01, which provides that Phlx Dell options utilizing Amex technology would result in the submission of some, but not all, trade information at the specialist's post, as clearing and detailed participant information would follow via the intra-Day Comparison ("IDC") System. The Exchange now proposes that the commentary .01, be deleted from rule 1051. Thus, all Exchange options transactions shall be again reported at the time of execution to the Exchange for comparison of trade information at the specialist's post and all compared transactions shall be cleared through the Options Clearing Corporation ("OCC").

Second, Rule 1052 places responsibility on clearing member organizations to clear *Exchange* options transactions. The Phlx clarified in rule 1052 (and Rule 1051 as well) that Phlx Dell options trading on Amex technology are "Exchange" transactions for this purpose as well. This clarification is no longer necessary; therefore, the Exchange proposes that commentary .01 to Phlx Rule 1052 be deleted.

Phlx Rules 1053 (Filing of Trade Information), Commentary. 01; 1054 (Verification of Contracts and Reconciliation of Uncompared Trades), commentary .01; and Rule 1055 (Reporting of Compared Trades to The Options Clearing Corporation), Commentary .01 were modified to account for the differences between the Amex and Phlx technology. Therefore, with the return to Phlx technology, such modifications to the rules are no longer necessary, as trade information will again be supplied or verified "at the time of execution." These rules also provide that such information should be in a form prescribed by the Exchange, and, respectively, in accordance with procedures established by the Exchange.

Lastly, in order to trade Phlx Dell options on Amex technology, the Phlx adopted Commentary .03 to Rule 1080, which limited the liability of Amex and its affiliates for any damages sustained by a member or member organization growing out of the use or enjoyment of such Amex technology. In addition, Commentary .03 prohibited members from copying, modifying, disclosing or damaging Amex technology. Because Amex technology will no longer be used for Phlx Dell options, the Exchange proposes to modify Rule 1080, Commentary .03 such that it refers back to when Phlx Dell options traded using the Amex system.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)[12] of the Act in general and furthers the objectives of Section 6(b)(5)[13] in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling,

---

[5] *See* Securities Exchange Act Release No. 40088 (June 12, 1998), 63 FR 33426 (June 18, 1998) (SR–Phlx–98–25).

[6] *See* Securities Exchange Act Release No. 40750 (December 4, 1998), 63 FR 69128 (December 15, 1998) (SR–Phlx–98–54).

[7] The Phlx Automated Options Market (AUTOM) System is the Exchange's electronic order delivery system, which provides automatic entry and routing of option orders to the Exchange trading floor, pursuant to Phlx Rule 1080.

[8] *See, e.g.*, Securities Exchange Act Release No. 39972 (May 7, 1998), 63 FR 26666 (May 13, 1998) (SR–Phlx–98–20) (relating to enhancements to the X.Station).

[9] *See* Securities Exchange Act Release No. 41524 (June 14, 1999), 64 FR 33127 (June 21, 1999) (SR–Phlx–99–11).

[10] *See* Options Floor Procedure Advice F–30 and Phlx Rule 825.

[11] *See supra* note 6.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, as well as to protect investors and the public interest by changing rules to reflect the processing of Phlx Dell options on Phlx technology.[14]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This proposed rule filing has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(i) of the Act [15] and subparagraph (f)(6) of rule 19b–4 thereunder.[16] Consequently, because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative until December 9, 1999, 30 days from November 9, 1999, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–99–22 and should be submitted by December 15, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30586 Filed 11–23–99; 8:45 am]

BILLING CODE 8010–01–M

[14] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(3)(A)(i).

[16] 17 CFR 240.19b–4(e)(6).

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice # 3148]

Advisory Committee on Labor Diplomacy; Notice of Meeting

The Advisory Committee on Labor Diplomacy (ACLD) will hold a meeting from 9:30 a.m. to 4 p.m. on December 14, 1999, in Room 1105, US Department of State, 2201 C Street, NW, Washington, DC 20520. Committee Chairman Thomas Donahue, former President of the AFL–CIO, will chair the meeting.

The ACLD is comprised of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACLD will advise the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures US leadership before the international community in promoting the objectives and ideals of US labor policies now and in the 21st century. The ACLD will make recommendations on how to strengthen the Department of State's ability to respond to the many challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the December 14 meeting includes discussion of operational aspects of the State Department's labor diplomacy function and State Department policy as it relates to labor diplomacy.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by close of business December 10, to ACLD Executive Secretary Mark Simonoff at (202) 647-4327 or fax (202) 647–0431 or email simonoff@state.gov: name; company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the 23rd Street entrance to the State Department and have a driver's license with photo, a passport, a US Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Mr. Simonoff at the phone and fax numbers provided above.

Dated: November 18, 1999.

Leslie Gerson,

Acting Assistant Secretary, Bureau of Democracy, Human Rights and Labor, US Department of State.

[FR Doc. 99–30641 Filed 11–23–99; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–39] NMS 11/19/99

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I),

dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 14, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on November 19, 1999.

Michael E. Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 25559.
Petitioner: Aerospace Industries Association of America, Inc. (AIA).
Section of the FAR Affected: 14 CFR 21.182(a) and 45.11(a).
Description of Relief Sought: To allow aircraft manufacturers to manufacture aircraft for use in operations conducted under 14 CFR part 121, aircraft intended to be used for commuter operations under 14 CFR part 135, aircraft used for export, and aircraft certificated under 14 CFR part 25 and manufactured for use in operations under 14 CFR part 91 and 14 CFR part 129, without installing an identification plate during the production phase on the exterior of those aircraft.

Docket No.: 29659.
Petitioner: Aviation Services Int'l, Inc.
Section of the FAR Affected: 14 CFR 61.51(e)(1)(i) and 61.129(c).
Description of Relief Sought: To permit ASII pilots in training to use public aircraft to log pilot-in-command flight time and aeronautical experience for a helicopter rating.

Dispositions of Petitions

Docket No.: 27180.
Petitioner: EVA Airways Corporation.
Section of the FAR Affected: 14 CFR 61.77(a) and (b) and 63.23(a) and (b).
Description of Relief Sought/ Disposition: To permit the issuance of U.S. special purpose pilot authorizations and special purpose flight engineer certificates to airmen employed by EVA without those airmen meeting the requirement to hold a current foreign certificate or license issued by a foreign contracting State to the International Civil Aviation Organization, provided the airmen hold appropriate certificates issued by the Civil Aeronautics Administration, Republic of China.
GRANT, 9/24/99, Exemption No. 6689B.

Docket No.: 28559.
Petitioner: Rockwell Collins, Inc.
Section of the FAR Affected: 14 CFR 21.327(a).
Description of Relief Sought/ Disposition: To permit Rockwell to use a printout from its Order Management System for Class II products instead of the Application for Export Certificate of Airworthiness (Form 8130–1).
GRANT, 10/1/99, Exemption No. 6604B.

Docket No.: 25863.
Petitioner: Department of Defense.
Section of the FAR Affected: 14 CFR 91.117(a) and (b), 91.159(a), and 91.209(a).
Description of Relief Sought/ Disposition: To permit the DOD to conduct air operations in support of drug law enforcement and traffic interdiction without meeting certain requirements pertaining to (1) aircraft speed, (2) cruising altitudes for flights conducted under visual flight rules, and (3) the use of aircraft position lights.
GRANT, 9/25/99, Exemption No. 5100E.

Docket No.: 28718.
Petitioner: The Goodyear Tire & Rubber Company.
Section of the FAR Affected: 14 CFR 21.325(b)(3).
Description of Relief Sought/ Disposition: To allow the issuance of export airworthiness approvals for aircraft tires manufactured and located at Goodyear's Bangkok, Thailand, facility.
GRANT, 10/15/99, Exemption No. 6682A.

Docket No.: 29146.
Petitioner: TRAMCO, Inc., doing business as BFGoodrich Aerospace.
Section of the FAR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To allow BFGoodrich to make its inspection procedures manual (IPM) available to its supervisory and inspection personnel in lieu of giving a copy of the IPM to each if its supervisory and inspection personnel.
GRANT, 10/4/99, Exemption No. 7024.

Docket No.: 29536.
Petitioner: Astral Aviation, Inc., doing business as Skyway Airlines.
Section of the FAR Affected: 14 CFR 121.409(d).
Description of Relief Sought/ Disposition: To allow Skyway to use the EMB–145 flight simulator as a temporary substitute for that required by § 121.409(d) to conduct low altitude windshear flight training.
PARTIAL GRANT, 9/23/99, Exemption No. 7001.

Docket No.: 29606.
Petitioner: The Ninety-Nines of North Jersey, Inc.
Section of the FAR Affected: 14 CFR 135.251, 135.255, 135.353, and appendixes I and J to part 121.
Description of Relief Sought/ Disposition: To allow the Ninety-Nines to conduct local sightseeing flights for its annual Pennies-a-Pound event on October 9, 1999, or October 10, 1999, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135.
GRANT, 9/24/99, Exemption No. 7006.

Docket No.: 29710.
Petitioner: Airbus Industrie.
Section of the FAR Affected: 14 CFR 25.144(c)(1).
Description of Relief Sought/ Disposition: To permit relief from the requirement for passenger oxygen masks to be automatically presented before the cabin pressure altitude exceeds 15,000 feet for Airbus Model A319, A320, and A321 series airplanes.
PARTIAL GRANT, 9/16/99, Exemption No. 6994.

[FR Doc. 99–30664 Filed 11–23–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–40]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 14, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No._____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9__NPRM__cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on November 19, 1999.

Michael E. Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29723.
Petitioner: Westjet Air Center, Inc.
Section of the FAR Affected: 14 CFR 61.3(a) and (c).
Description of Relief Sought: To permit Westjet pilots to carry written confirmation of FAA-issued pilot or medical certificates provided by Westjet based on information in Westjet's approved record system.

Docket No.: 29738.
Petitioner: Express One International, Inc.
Section of the FAR Affected: 14 CFR 121.547(c)(4) and 121.583(a)(1).
Description of Relief Sought: To allow Express One to permit foreign crewmembers and authorized personnel employed by International Civil Aviation Organization member airlines, including European Air Transport and Air Contractors Ltd., to be admitted to the flight deck without a seat available for use in the passenger compartment or to be carried aboard Express One airplanes without meeting the passenger-carrying requirements of part 121.

Docket No.: 29746.
Petitioner: American Airlines, Inc.
Section of the FAR Affected: 14 CFR 121.344 (a)(21) and (b)(3).
Description of Relief Sought: To permit American to (1) operate its Fokker 100 (F–100) airplanes without recording the leading edge slats/flaps position, (2) complete the required digital flight data recorder (DFDR) installations on its fleet of F–100, Boeing 727–200, and McDonnell Douglas MD–80 airplanes using an alternative compliance schedule rather than at the next heavy maintenance check after August 18, 1999, and (3) extend by 14 months the August 20, 2001, final compliance deadline for the installation of the required DFDR on 23 Boeing 757–200 airplanes and 2 Airbus 300–600 airplanes.

Dispositions of Petitions

Docket No.: 29128.
Petitioner: B/E Aerospace, Inc., Seating Products Group.
Section of the FAR Affected: 14 CFR 21.325(b)(3).
Description of Relief Sought/ Disposition: To allow the issuance of export airworthiness approvals for Class II and Class III products manufactured and located at B/E Aerospace SPG facilities in Leighton-Buzzard Bedfordshire, England, and Kilkeel County Down, Northern Ireland.
Grant, 10/08/99, Exemption No. 7041.

Docket No.: 29336.
Petitioner: The Boeing Company.
Section of the FAR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To allow Boeing to give copies of its Inspection Procedures Manual (IPM) to key individuals in specific and functional areas of its repair station and make the manual available electronically to all other employees, rather than give a paper copy of the IPM to each of its supervisory and inspection personnel.
Grant, 11/03/99, Exemption No. 7065.

Docket No.: 29397.
Petitioner: Japan Airlines Company, Ltd.
Section of the FAR Affected: 14 CFR 145.47(b).
Description of Relief Sought/ Disposition: To allow JAL to use the calibration standards of the National Research Laboratory of Metrology (NRLM) and the Electrotechnical Laboratory (ETL) in lieu of the calibration standards of the NIST to test its inspection and test equipment.
Grant, 10/22/99, Exemption No. 7050.

Docket No.: 29398.
Petitioner: All Nippon Airways Company, Ltd.
Section of the FAR Affected: 14 CFR 145.47(b).
Description of Relief Sought/ Disposition: To allow ANA to use the calibration standards of the NRLM and the ETL in lieu of the calibration standards of the NIST to test its inspection and test equipment.
Grant, 10/22/99, Exemption No. 7051.

Docket No.: 29471.
Petitioner: Mr. Terry L. Florie.
Section of the FAR Affected: 14 CFR 61.213(a)(3).
Description of Relief Sought/ Disposition: To permit Mr. Florie to be eligible for a ground instructor certificate or rating without passing the knowledge test on the fundamentals of instructing required by § 61.213(a)(3).
Denial, 10/06/99, Exemption No. 7023.

Docket No.: 29555.
Petitioner: Trans World Airlines, Inc.
Section of the FAR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To allow TWA to make available one copy of its IPM to its supervisory and inspection personnel, rather than giving a copy of the manual to each of these individuals.
Grant, 10/06/99, Exemption No. 7040.

[FR Doc. 99–30665 Filed 11–23–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FA–1999–6483]

Fractional Ownership Advisory Committee; Submission of Comments and Public Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This document announces a public meeting in which the Federal Aviation Administration (FAA), on behalf of the Fractional Ownership Advisory Committee (FOAC), solicits the views and recommendations of all interested parties, who are not members of the FOAC, on such revisions to the Federal Aviation Regulations as may be appropriate with respect to fractional ownership programs.

DATES: The public meeting will be held on November 30, 1999, and December 1, 1999, at 9:00 a.m. in Washington, DC. Registration will begin at 8:30 a.m. on each day. Written statements must be received no later than December 1, 1999.

ADDRESSES: The public meeting will be held at the Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, SW., Washington, DC 20024; telephone (202) 484–1000, facsimile (202) 646–4456.

Persons who are unable to attend the meeting and wish to submit written statements may mail statements (clearly marked with the docket number) in triplicate to Federal Aviation Administration, office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. FAA–1999–6483, 400 Seventh St., SW., Nassif Building, Rm. PL–401, Washington, DC 20590. Statements also may be submitted electronically to the following Internet address: 9-npm-cmts@faa.gov. Statements may be inspected in room PL–401. Written statements to the docket will receive the same consideration as oral statements made at the public meeting.

FOR FURTHER INFORMATION CONTACT: Request to present an oral statement at the public meeting and questions regarding the logistics of the meeting should be directed to Carrie Pugh, Flight Standards Service, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 493–4153, facsimilie (202) 267–5229.

SUPPLEMENTARY INFORMATION: The public meeting will be held at the Lowe's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW, Washington, DC 20024, telephone: (202) 484–1000. Persons needing overnight accommodations should contact the hotel directly.

The purpose of the meeting is to provide an opportunity for interested parties to make oral and written statements to the FOAC expressing their views and recommendations concerning the management of and operation of fractional ownership programs and how the FAA should regulate such operations. The agenda for the meeting will include:

Day One:

- Welcoming remarks.
- Public presentations.
- Responses by presenters to questions posed by members of the FOAC.

Day Two:

- Public Presentations.
- Responses by presenters to questions posed by members of the FOAC.

Participation at the Public Meeting

Requests from persons who wish to present oral statements at the public meetings should be received by the FAA no later than November 26, 1999. Such requests should be submitted to Carrie Pugh, Flight Standards Service, AFS–200 listed in the section above titled "For Further Information Contact" and should include a written time needed for the presentation, and identification of the kind of entity that may be affected by any future rulemaking with respect to fractional ownership programs. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers and presenters and make the agenda available at the meeting. Because presenters on the agenda may decide not to make presentations presenters should make themselves available to speak earlier than scheduled. To accommodate as many presenters as possible, the amount of time allocated to each presenter may be less than the amount of time requested. Persons requiring audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Background

In May 1996, a management company asked the FAA to approve the master interchange agreement for what it called a fractional ownership master interchange program, which the management company sought to operate under subpart F of 14 CFR part 91. When this request was forwarded to FAA headquarters, it marked the beginning of an extensive agency review of master interchange programs and the fractional ownership issue. During its review, the FAA obtained information on several other programs from the management companies that operate them. It also received information from management companies that are not engaged in fractional ownership programs, charter operators, corporate customers, and various industry associations.

The FAA's consideration of the fractional ownership issue has now proceeded to a point where the Administrator deems it appropriate to create the Fractional Ownership Advisory Committee to provide the FAA with advice and recommendations on the appropriate regulatory structure for fractional ownership programs. The Fractional Ownership Advisory Committee will serve as a forum for interaction among FAA, the fractional owners, fractional and traditional management companies, and charter operators.

Public Meeting Procedures

Persons who plan to attend the meeting should be aware of the following procedures established for this meeting:

1. There will be no admission fee or other charge to attend or to participate in the public meeting. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting (between 8:30 a.m. and 9 a.m.), subject to availability of space in the meeting room.
2. Representatives from the FAA will conduct the public meeting.
3. The public meeting is intended as a forum to gain additional information with respect to fractional ownership programs. Participants must limit their presentations to this issue.
4. The meeting will offer the opportunity for all interested parties to present additional information not currently available to the FAA.
5. The FAA will try to accommodate all speakers; therefore, it may be necessary to limit the time available for an individual or group. If necessary, the meeting may be extended to evenings. If practicable, the meeting may be accelerated to enable adjournment in less than the time scheduled.
6. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

7. The meeting will be recorded by a court reporter. A transcript of the meeting and written material submitted on fractional ownership programs will be included in the public docket. Each person interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.

8. The FAA will review and consider all material presented by participants at the public meeting.

9. The meeting is designed to solicit public views and more complete information relevant to the regulation of fractional ownership operation. Therefore, the meeting will be conducted in an informal and nonadversarial manner.

Issued in Washington, DC, on November 19, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

[FR Doc. 99–30608 Filed 11–22–99; 10:19 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Tippecanoe, Carroll and Cass Counties; Indiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Tippecanoe, Carroll and Cass Counties, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Heil, Planning and Program Development Manager, Federal Highway, Administration, Room 254, Federal Office Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, Telephone (317) 226–7491.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana Department of Transportation (INDOT), will prepare an environmental impact statement (EIS) on a proposal to improve and/or relocate SR 25 from Lafayette to Logansport, a distance of approximately 54 kilometers (34 miles).

The proposed project was designated a high priority project by Congress in the Transportation Equity Act of the 21st Century (TEA–21). Improvements to the corridor are needed to reduce overall travel time, reduce traffic congestion and improve traffic safety. The proposed project is the final element in the state's effort to provide a multilane highway from Lafayette to Fort Wayne.

The range of alternatives under consideration include the do nothing alternative, alternatives using various other transportation modes, widening the existing two-lane highway, and constructing a multi-lane controlled access highway on new location. The study of the build alternatives will consider various grade and alignment designs.

The scoping process will include early coordination with federal, state and local agencies; the preparation of a scoping document, including an environmental overview, and a scoping meeting. The scoping meeting will be held after all parties have had an opportunity to review the scoping document and proper notice has been given.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

This program is described in the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.

Issued on: November 16, 1999.

Lawrence M. Heil,

Planning and Program Development Manager, Indianapolis, Indiana.

[FR Doc. 99–30637 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Prevention of Prohibited Drug Use in Transit Operations; Prevention of Alcohol Misuse in Transit Operations

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of random drug and alcohol testing rates.

SUMMARY: This notice announces the random testing rates for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mark Snider, Drug and Alcohol Program Manager for the Office of Safety and Security, (202) 366–2896 (telephone) and (202) 366–7951 (fax). Electronic access to this and other documents concerning FTA's drug and alcohol testing rules may be obtained through the FTA World Wide Web home page at http://www.fta.dot.gov.

SUPPLEMENTARY INFORMATION: The FTA required large transit employers to begin drug and alcohol testing employees performing safety-sensitive functions on January 1, 1995, and to report, annually by March 15 of each year beginning in 1996, the number of such employees who had a verified positive for the use of prohibited drugs, and the number of such employees who tested positive for the misuse of alcohol. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997. Employers are required annually to submit other data, not relevant here, in the same report; these data are available from the FTA as discussed below.

The 1994 rules established a random testing rate for prohibited drugs and the misuse of alcohol; specifically, the rules require that employers conduct random drug tests at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. The rules provide that the drug random testing rate may be lowered to 25 percent if the "positive rate" for the entire transit industry is less than one percent for two consecutive years. Once lowered, it may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year. ("Positive rate" means the number of positive results for random drug tests conducted under part 653 plus the number of refusals of random tests required by part 653, divided by the total number of random drug tests, plus the number of refusals of random tests required by part 653.)

The alcohol rule provides that the random rate may be lowered to 10 percent if the "violation rate" for the entire transit industry is less than .5 percent for two consecutive years. It will remain at 25 percent if the "violation rate" is equal to or greater than .5 percent but less than one percent, and it will be raised to 50 percent if the "violation rate" is one percent or greater for any one year. ("Violation rate" means the number of covered employees found during random tests given under part 654 to

have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by part 654, divided by the total reported number of random alcohol tests conducted under part 654, plus the total number of refusals of random tests, required by part 654.)

FTA has received and analyzed the 1998 data from large and small transit employers. The "positive rate" for random drug tests was 1.07 percent and the "violation rate" for random alcohol tests was 0.22 percent; therefore, for 2000, transit employers will continue to be required to conduct random drug tests at a rate equivalent to at least 50 percent of the total number of their "safety-sensitive" employees for prohibited drugs. In 1999, the FTA lowered the random alcohol testing rate to 10 percent. Because the random alcohol violation rate was lower than .5 percent for two consecutive years (0.19 percent for 1997 and 0.22 percent for 1998), the random alcohol testing rate will remain at 10 percent for 2000.

FTA will be publishing, in December, a detailed report on the 1998 data collected from large and small employers. This report may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW, Room 9301, Washington, DC 20590, (202) 366–2896.

Date Issued: November 17, 1999.

Nuria I. Fernandez,

Acting Administrator.

[FR Doc. 99–30595 Filed 11–23–99; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Department Offices; International Financial Institution Advisory Commission

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 603 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the International Financial Institution Advisory Commission (the "Commission") shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (defined as the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation), the World Trade Organization, and the Bank for International Settlements.

DATES: The sixth meeting of the Advisory Commission will be held on December 14, 1999, beginning at 9:00 a.m. and tentatively ending at 3:00 p.m. in 2226 Rayburn House Office Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue N.W., Washington, D.C. 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda will focus on continued discussion by the Commission members of the World Trade Organization.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. Members of the public may submit written comments. If you wish to furnish such comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Commission in advance of the sixth meeting, 16 copies of any written material should be provided to the Designated Federal Office no later than December 8, 1999.

Dated: November 18, 1999.

William McFadden,

Designated Federal Official.

[FR Doc. 99–30654 Filed 11–23–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–84]

Cancellations of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Brokers' licenses cancellations.

I, the Commissioner of Customs, pursuant to section 641(f) Tariff Act of 1930, as amended (19 U.S.C. 1641(f)) and section 111.51(a) of the Customs Regulations (19 CFR 111.51(a)), hereby cancel the following Customs brokers' licenses without prejudice.

Port	Individual	License
Laredo	A and A Customs Brokerage Services, Inc.	10303
San Juan	Trans-port Broker Services, Inc.	9848
Los Angeles	DNT Customs Services, Inc.	11516
Los Angeles	Preferred LSI, Inc.	13840
Seattle	A.S.E. Customs and Logistics, Inc.	16140
San Francisco	Walker International	11898

Dated: November 19, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99–30681 Filed 11–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–85]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker License Revocation.

I, as Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641(g)(2)(c)), Part 111.53(b)(3)(c) and 111.53(b)(3)(f), hereby revoke the following Customs broker licenses with prejudice.

Port	Individual	License No.
Los Angeles	John V. Urbano	6884
Los Angeles	Abraham Shiepe	7114
New York	Robert Proto	4016

Dated: November 4, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99–30682 Filed 11–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–83]

Retraction of Revocation Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license numbers were erroneously included in a published list of revoked Customs brokers licenses in the **Federal Register**.

Port	Name	License No.
Wilmington	Janice Carter Wilson	07440
New York	Robert P. Weinrib	06455
Kansas	Michael E. Welch	03778
Miami	Paul Francis Cassidy	12502

Licenses 07440, 06455, 03778 and 12502 are valid licenses.

Dated: November 19, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99–30680 Filed 11–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–82]

Cancellation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Brokers' Licenses Cancellations.

I, as Commissioner of Customs, pursuant to section 641(f) Tariff Act of 1930, as amended (19 U.S.C. 1641(f)) and section 111.51(a) of the Customs Regulations (19 111.51(a)), hereby cancel the following Customs brokers' licenses due to the deaths of the brokers.

Name	Port	License No.
Alfredo Zertuche, Jr	Laredo	09376
George Helstrom	New York	03783
Saul Federman	New York	05607
Joseph Acosta	New Orleans	05054

Dated: November 19, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99–30679 Filed 11–23–99; 8:45 am]

BILLING CODE 4820–02–P

federal register

Wednesday
November 24, 1999

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 460, et al.
Medicare and Medicaid Programs; Programs of All-Inclusive Care for the Elderly (PACE); Final Rule

VOL 64 ISS 226 NO 24 1999 JMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 460, 462, 466, 473, and 476

[HCFA–1903–IFC]

RIN 0938–AJ63

Medicare and Medicaid Programs; Programs of All-Inclusive Care for the Elderly (PACE)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This rule establishes requirements for Programs of All-inclusive Care for the Elderly (PACE) under Medicare and Medicaid. These are pre-paid, capitated programs for beneficiaries who meet special eligibility requirements and who elect to enroll. Programs must apply for approval and are evaluated in terms of specific criteria. Only a limited number of programs can be approved. Priority consideration will be given to applicants that have been operating under ongoing PACE demonstration projects.

DATES: Effective date: These regulations are effective on November 24, 1999. The incorporation by reference of the publication listed in the rule was approved by the Director of the Federal Register as of November 24, 1999.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 24, 2000.

ADDRESSES: Mail an original and 3 copies of written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1903–IFC, P.O. Box 8016, Baltimore, MD 21244–8016.

If you prefer, you may deliver an original and 3 copies of your written comments to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Comments may also be submitted electronically to the following e-mail address: HCFA1903IFC@hcfa.gov. For e-mail comment procedures, see the beginning of **SUPPLEMENTARY INFORMATION**. For further information on ordering copies of the **Federal Register** contained in this document, see the beginning of **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Janet Samen, (410) 786–4533; or Terry Pratt, for State technical assistance, (410) 786–5831.

SUPPLEMENTARY INFORMATION:

E-mail, Comments, Procedures, and Availability of Copies

E-mail comments must include the full name and address of the sender, and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address, below. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1903–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested, and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa, Discover, or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 (or tollfree at 1–888–293–6498) or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the Federal Register online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara/index.html, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call 202–512–1661; type swais, then login as guest (no password required).

I. Background

A. Legislative History

Section 4801 of Pub. Law 105–33, the Balanced Budget Act of 1997 (BBA), authorized coverage of PACE under the Medicare program. It amended title XVIII of the Social Security Act (the Act) by adding section 1894, which addresses Medicare payments to, and coverage of benefits under, PACE. Section 4802 of BBA authorized the establishment of PACE as a State option under Medicaid. It amended title XIX of the Act by adding section 1934, which directly parallels the provisions of section 1894. Section 4803 of BBA addresses implementation of PACE under both Medicare and Medicaid, the effective date, timely issuance of regulations, priority and special consideration in processing applications, and transition from PACE demonstration project waiver status.

B. Demonstration Project History

Section 603(c) of the Social Security Amendments of 1983 (Pub. Law 98–21), as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (Pub. Law 99–272) authorized the original demonstration waiver for On Lok Senior Health Services in San Francisco. Section 9412(b) of Pub. Law 99–509, the Omnibus Budget Reconciliation Act (OBRA) of 1986, authorized HCFA to conduct a PACE demonstration project to determine whether the model of care developed by On Lok could be replicated across the country. (The number of sites was originally limited to 10, but OBRA 1990 authorized an increase to 15 demonstration sites.) The PACE demonstration replicated a unique model of managed care service delivery for a small number of very frail community-dwelling elderly, most of whom were dually eligible for Medicare and Medicaid coverage and all of whom were assessed as being eligible for nursing home placement according to the standards established by their respective States. The model of care included as core services the provision of adult day health care and multidisciplinary team case management, through which access to and allocation of all health services was controlled. Physician, therapeutic,

ancillary and social support services were furnished in the participant's residence or on-site at the adult day health center, unless those locations were not feasible. Hospital, nursing home, home health, and other specialized services were furnished under contract. Financing of this model was accomplished through prospective capitation of both Medicare and Medicaid payments. Demonstration sites had been permitted by section 4118(g) of Pub. Law 100–203 (OBRA of 1987) to assume full financial risk progressively over the initial three years, but that authority was removed by section 4803(b)(1)(B) of the BBA. There are currently 25 approved PACE demonstration sites.

C. Use of the PACE Protocol

Throughout this document, when we refer to "the Protocol" we mean the Protocol for the Program of All-inclusive Care for the Elderly (PACE), as published by On Lok, Inc., as of April 14, 1995, or any successor protocol that may be agreed upon between HCFA and On Lok, Inc. A copy of the Protocol is included at Addendum A.

We are directed by sections 1894(f)(2) and 1934(f)(2) of the Act to incorporate the requirements applied to PACE demonstration waiver programs under the Protocol, to the extent consistent with the provisions of sections 1894 and 1934 of the Act. We also are authorized to modify or waive provisions of the Protocol if the modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements of sections 1894 and 1934 of the Act.

D. Consultation With States

Sections 4801 and 4802 of Public Law 105–33 clearly dictate a cooperative relationship between the Secretary and the States in the development, implementation and administration of the PACE program. In order to fulfill these requirements we utilized the American Public Welfare Association (APWA) as the conduit to solicit States for volunteers to consult with HCFA staff. The participating State staff members represented States with a range of PACE experience. Each State staff volunteer selected a specific target area to provide information.

In order to efficiently and effectively obtain a large amount of feedback in a short period of time, HCFA staff arranged a series of conference calls to discuss a wide range of issues pertaining to PACE organization requirements, the application process, enrollment, and payment and related financial data collection. Each subject area discussion included HCFA staff and two to three State representatives. The feedback obtained during these meetings has been an invaluable source of information in understanding State operational concerns, in constructing the regulation and in the development of operational guidelines that will be released at a later date. We believe that this approach will minimize operational barriers that are frequently inherent when new programs are initiated.

E. Consultations With State Agency on Aging

Under the Older Americans Act, State Agencies on Aging are charged with the responsibility of promoting comprehensive and coordinated service systems for older persons in their States. Consistent with this responsibility, the State Agencies on Aging oversee important programs for home and community-based services funded through Title III of the Older Americans Act, State revenues, and the Medicaid home and community-based waiver program. (Two thirds of the State agencies are involved in administering home and community-based programs.)

The State agencies also implement and oversee important planning, information and referral, case management, and quality assurance functions as well as administering the State Long Term Care Ombudsman Program through which service quality in nursing homes and board and care homes are monitored in every State. Home care quality is monitored in an increasing number of States.

The State agency which administers the PACE program should regularly consult with the State Agency on Aging in overseeing the operation of the PACE program in order to avoid service duplication in the PACE service areas and to assure the delivery and quality of services to PACE participants. We are considering the extent to which the State Long Term Care Ombudsman Program would be useful in promoting the rights of PACE participants and in monitoring the quality of care provided by PACE organizations. Additional information on this topic is presented in the section on "participant rights".

F. State Medicaid Plan Requirement

The State Medicaid plan is the contract between the States and the Federal government whereby States agree to administer the Medicaid program in accordance with Federal law and policy. The State plan preprint sets forth the scope of the Medicaid program, including groups covered, services furnished, and payment policy. When a State completes a new State plan preprint page due to changes in its Medicaid program (called a "State plan amendment"), the preprint page must be approved by HCFA in order for the State to receive Federal matching funds.

Section 1905(a)(26) of the Act, as added by section 4802(a)(1) of BBA, provides authority for States to elect PACE as an optional Medicaid benefit. The State plan electing the optional PACE program must be approved before we can approve an application for a PACE organization in that State.

We developed an interim State plan preprint for PACE. A State Medicaid letter dated March 23, 1998, provides information and guidance to State Medicaid agencies on how to satisfy the State plan amendment requirement. Additional directions for completing the State plan amendment will be provided in a State Medicaid Director letter that will be issued at or soon after publication of this regulation.

G. Interaction With Medicare+Choice

The BBA also established a new Medicare+Choice program that expanded the health care options available to Medicare beneficiaries. Under the Medicare+Choice program, beneficiaries may elect to receive Medicare benefits through enrollment in one of an array of private health plan choices beyond the original (fee-for-service) Medicare program or the plans previously available through managed care organizations under section 1876 of the Act. The BBA set forth the requirements for Medicare+Choice organizations in a new part C of title XVIII of the Act. Interim final regulations to implement the Medicare+Choice program were published June 26, 1998 (63 FR 34968). Final regulations addressing some of the comments were published February 17, 1999 (64 FR 7968).

Although the PACE program has certain fundamental similarities to Medicare+Choice and managed care organizations, PACE is not a Medicare+Choice plan. The BBA established distinct requirements for the PACE program. PACE is similar to some Medicare+Choice options in these ways: it is capitated; it is risk-based; it provides managed care; and it is an elective option. However, PACE differs significantly from Medicare+Choice plan in other ways such as: it is not available nationwide (only in a limited number of sites); it includes statutory waivers that expand the scope of Medicare covered services; it is not available to all beneficiaries (only to a defined subset of frail elderly); and it is a joint Medicare/Medicaid program. However, the BBA did direct us to

consider some of the requirements established for Medicare+Choice as we develop regulations for PACE organizations in certain areas common to both programs, e.g., beneficiary protections, payment rates, and sanctions.

II. Provisions of the Interim Final Rule

General Approach

As part of the President's and Vice President's regulatory reform initiative, we have been committed to changing current regulations to focus on outcome of care and to eliminate unnecessary procedural requirements. We remain committed to this regulatory reform initiative. However, in the development of the regulations for the PACE program, several factors have contributed to the use of a more procedural rather than outcome-oriented approach.

As set forth in sections 4801 and 4802 of the BBA, the PACE program includes medical as well as non-medical services for the care of the frail elderly; this is both a new and a unique model of service delivery. Moreover, as previously noted, sections 1894(f)(2) and 1934(f)(2) of the Act establish as the foundation for this regulation the PACE Protocol. By imposing such a requirement, Congress assured the use of the procedural elements contained in the PACE Protocol as a minimum to ensure beneficiary protections and safeguards. As Congress mandated, we are adopting the requirements of the PACE Protocol to the extent they are consistent with the statutory provisions. We have clarified and expanded upon certain provisions contained in the Protocol to more clearly define the requirements and make them more quantifiable for purposes of enforcement. We will identify and discuss all substantive modifications made to the requirements contained in the Protocol.

After reviewing the public comments that we receive and after we gain some experience applying the provisions of this interim final rule to PACE programs, we will reevaluate the provisions to determine where we can make modifications to adopt an approach more consistent with the regulatory reform initiative.

This interim final rule contains the first published regulations applicable to the PACE program. To accommodate the new regulations, we are establishing a new subchapter E (PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)) and a new part 460 (PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)). We are also redesignating subchapter D as subchapter F (PEER REVIEW ORGANIZATIONS); we are redesignating parts 462, 466, 473, and 476 as parts 475, 476, 478, and 480, respectively; and are revising the section numbers to conform to the new part numbers. We are reserving the former subchapter D. In addition, we are redesignating subchapter E as subchapter G (STANDARDS AND CERTIFICATION) with no changes in part designations.

Subpart A—Basis, Scope and Definitions

Basis (§ 460.2)

We state that the regulations set forth in Subchapter E, part 460, are based on sections 1894, 1905(a), and 1934 of the Act, which authorize Medicare payments to, and coverage of benefits under, PACE and authorize the establishment of PACE as a State option under Medicaid to provide for Medicaid payments to, and coverage of benefits under, PACE.

Scope and Purpose (§ 460.4)

We state that the purpose of this regulation is to set forth the requirements that an entity must meet in order to be approved as a PACE organization that operates a PACE program under Medicare and Medicaid. This part also sets forth how individuals may qualify to enroll in a PACE program, how Medicare and Medicaid payment will be made for PACE services, provisions for Federal and State monitoring of PACE programs, and procedures for sanctions and terminations. We state that the purpose of a PACE program is to provide pre-paid, capitated, comprehensive health care services that are designed to:

- Enhance the quality of life and autonomy for frail, older adults;
- Maximize dignity of and respect for older adults;
- Enable frail, older adults to live in their homes and in the community as long as medically and socially feasible; and
- Preserve and support the older adult's family unit.

This philosophy is based on Part I, section A, of the Protocol. Adopting a mission or philosophy statement that includes these elements indicates that an entity is guided by a set of values that influence its structure, planning, and day-to-day operations that is consistent with the purpose of PACE.

Definitions (§ 460.6)

We provide several definitions based on those in sections 1894(a) and 1934(a) of the Act and add definitions of several other terms.

Sections 1894(a)(3) and 1934(a)(3) of the Act define a "PACE provider." We have changed that term to "PACE organization" in this regulation for clarity. The term "PACE provider" would be confusing because both Medicare (at 42 CFR 400.202) and Medicaid (at 42 CFR 400.203) define the word "provider," but the definitions are different and neither applies to entities that operate PACE programs. Those definitions denote individual providers of individual services under conventional fee-for-service systems. We selected the alternative term "PACE organization" since "organization" is the term used in both titles XVIII and XIX when referring to managed care organizations, which are more similar to entities under PACE. In the few places where we do use the term "provider" in this regulation, we are using it in the broad generic sense to refer to an individual or an entity that furnishes health care services. Our use of the term is not limited to the narrow Medicare definition in 400.202. We define a PACE organization as an entity that has in effect a PACE program agreement.

Based on sections 1894(a)(4) and 1934(a)(4) of the Act, we define a PACE program agreement as an agreement between a PACE organization, HCFA, and the State administering agency for the operation of a PACE program.

In accordance with sections 1894(a)(8) and 1934(a)(8) of the Act, we define the State administering agency as the State agency responsible for administering the PACE program agreement.

In accordance with sections 1894(a)(9) and 1934(a)(9) of the Act, we define a trial period as the first three contract years in which a PACE organization operates under a PACE program agreement, including any contract year during which the entity operated under a PACE demonstration waiver program.

We have added a definition of a contract year as the term of a PACE program agreement, which is a calendar year except that a PACE organization's initial (start-up) contract year may be from 12 to 23 months as determined by HCFA. This will enable us to adjust the length of the initial (start-up) contract year so that subsequent years are on a standard annual calendar year cycle.

We define a Medicare beneficiary as an individual who is entitled to Medicare Part A benefits and/or enrolled under Medicare Part B. This term includes dually-eligible individuals who are also Medicaid recipients.

We have defined a participant as an individual enrolled in a PACE program. A Medicare participant is a Medicare beneficiary who is enrolled in a PACE

program, and a Medicaid participant is a Medicaid recipient who is enrolled in a PACE program.

We clarify that the term "services" includes both items and services.

Subpart B—PACE Organization Application and Evaluation

Purpose (§ 460.10)

This subpart establishes application requirements for an entity that seeks approval from HCFA as a PACE organization.

PACE Under Both Medicare and Medicaid

We are requiring that each PACE organization must enter into a program agreement under both sections 1894 and 1934 of the Act, *i.e.*, that each organization participate in both Medicare and Medicaid. Most of the text of those sections is identical and our analysis indicates that key sections contemplate entities acting as PACE organizations under both programs.

Sections 1894(f)(2) and 1934(f)(2) of the Act require that we incorporate in regulations the requirements applied to PACE demonstration waiver programs under the PACE Protocol, to the extent consistent with the provisions of sections 1894 and 1934. Under the Protocol, PACE demonstration programs operated under both Medicare and Medicaid. We believe that the directive to incorporate the requirements in the Protocol reflects an expectation by Congress that all PACE organizations would participate in both Medicare and Medicaid. This view is reinforced by paragraph (f)(2)(B) of these sections, which permits us to modify or waive provisions of the PACE Protocol "so long as such modification or waiver is not inconsistent with and would not impair the essential elements, objectives, and requirements" of sections 1894 and 1934, but which forbids modifying or waiving, among others, the following provisions:

- Capitated, integrated financing that allows the organization to pool payments received from public and private programs and individuals; and
- The assumption by the organization of full financial risk.

We have concluded that both of these provisions preclude the possibility of a Medicare-only or Medicaid-only PACE program. For example, if a program could collect capitation payments from Medicare but bill fee-for-service under Medicaid, not all financing would be capitated, nor would financing be integrated, nor would the organization assume full financial risk.

The law does not require that States offer the PACE benefit under Medicaid. As indicated by its title, section 4802 of BBA provides for the "Establishment of PACE Program as Medicaid State Option." If an entity attempted to become a PACE organization under Medicare in a State which has not included PACE program services as an option under its Medicaid program, it would not be possible for that entity to be both a Medicare and a Medicaid PACE organization. While this would curtail the availability of PACE programs in such States, we have concluded that this result was intended because a Medicare-only program could not meet the fundamental concept of an all-inclusive, integrated, capitated, full-risk program.

Moreover, both sections 1894 and 1934 of the Act contemplate the active collaboration of Federal and State governments in the administration of PACE. Each State must have a State administering agency that is responsible for administering PACE program agreements in the State under sections 1894 and 1934 of the Act. The State administering agency closely cooperates with HCFA in establishing procedures for entering into, extending, and terminating PACE program agreements. The State administering agency cooperates with HCFA and the PACE organization in the development of participant health status and quality of life outcome measures. The State administering agency cooperates with HCFA in conducting oversight reviews of PACE programs and has the authority to terminate a PACE program agreement for cause. If Medicare-only programs had been contemplated in a State that does not elect the PACE option, there would have been no reason to assign such a significant role to a State administering agency. We believe that a State which has not chosen PACE as an optional service would be ill-prepared or unable to perform this role.

Most of the text of section 1894 of the Act is identical to text in section 1934. Portions of that text reflect the concept of entities acting as PACE organizations under both programs. The scope of Medicare PACE program benefits includes "all items and services covered under this title (for individuals enrolled under this section [section 1894]) and all items and services covered under title XIX." Similarly, section 1934 defines the Medicaid benefit package as "all items and services covered under title XVIII (for individuals enrolled under section 1894) and all items and services covered under this title." In addition, to be eligible for PACE, an individual must require the nursing facility level of care covered under the State Medicaid plan.

Section 1894(e) of the Act provides that "the Secretary, in close cooperation with the State administering agency" will establish program agreements for "entities that meet the requirements for a PACE organization under this section, section 1934, and regulations." A corresponding provision is found at section 1934(e) of the Act, referring to "entities that meet the requirements for a PACE organization under this section, section 1894, and regulations." We believe that the use of the correlative "and" indicates that PACE entities would have to meet all three sets of requirements.

A parallel provision provides for termination of PACE program agreements (see paragraphs (e)(5) of sections 1894 and 1934 of the Act). Termination of an agreement under both sections 1894 and 1934 may be accomplished by either "the Secretary or a State administering agency."

On the other hand, we acknowledge that there are some portions of the law which are inconsistent with this position. First, there is the fact that Congress enacted Medicare and Medicaid PACE benefits through two separate statutory sections. In addition, section 4803(c)(1) of BBA directs us, in determining "provider status," to "give priority in processing applications of entities to qualify as PACE programs under section 1894 or 1934 of the Social Security Act." Further, section 1894(a)(4) defines a PACE program agreement as "an agreement, consistent with this section, section 1934 (if applicable), and regulations promulgated to carry out such sections." See also section 1934(a)(4).

Nonetheless, it is highly unlikely that any entity could be a viable PACE organization without approval under both Medicare and Medicaid. The majority of potential participants are Medicare beneficiaries who also are eligible for Medicaid. Those who are not currently Medicaid-eligible may eventually exhaust their financial resources and become eligible. Medicare participants who are not enrolled in PACE under Medicaid must pay premiums equal to the Medicaid capitation rate. Aside from the technicality that there would not be an established Medicaid capitation rate in a State that does not elect the PACE option, most of these participants would lack the ability to pay such significant premiums.

As the above citations illustrate, some provisions of the law are conflicting and thus ambiguous. We therefore must interpret them to give effect to as many of the provisions as possible and to the policy objectives that they advance. In

keeping with the Congressional intent that the PACE Protocol guide our implementation of the PACE program, we have determined that PACE organizations must be approved under both Medicare and Medicaid. Based on this interpretation, if a State should choose not to amend its State Medicaid plan to adopt PACE as an optional Medicaid service, we would not accept PACE applications from entities in that State. Also, if a State has elected the optional benefit but declines to recommend a particular entity as a PACE organization, we would not accept an application from that entity.

Application Requirements (§ 460.12)

Section 1905(a)(26) of the Act provides authority for States to elect PACE as an optional Medicaid benefit. The State plan electing the optional PACE program must be approved before we can approve an application for a PACE organization in that State.

We have established § 460.12 to set forth the application requirements for the PACE program. In order for HCFA to determine whether an entity qualifies as a PACE organization, an individual authorized to act for the entity must submit an application that describes thoroughly how the entity meets all the requirements specified in this regulation. In recognition of the 90-day review timeframe specified in the statute and described below and the numerical limit on the number of PACE program agreements, HCFA will review and take action to approve, deny or request additional information only on complete applications; *i.e*, those applications that address all elements of the PACE program agreement. HCFA will send a letter to each applicant indicating whether or not the application is complete and specifying when the 90-day review period ends.

Except for entities that qualify for priority processing or special consideration as discussed below, we will accept and begin to review applications 90 days after the effective date of this interim final regulation. Entities interested in obtaining specific information for use in applying for PACE organization status should access the PACE homepage, available through both the Medicare and Medicaid HCFA websites (www.hcfa.gov/medicare (or medicaid) /PACE/pacehmpg.htm).

States have played a significant role in the development of PACE demonstration projects as well as other community-based alternatives to institutionalization. Most States have implemented home and community based programs to provide comprehensive coordinated services to various groups of Medicaid recipients. As a result, States have gained extensive experience in demographic analysis and contracting with entities that are capable of delivering a specified range of services.

Although the PACE statute does not specify the States' role in the application approval process, many aspects of implementing PACE in Medicare and Medicaid will necessitate extensive involvement of the State administering agencies and the State Medicaid Agencies. With regard to applications, we believe the States are in the best position to work with potential organizations to develop programs that meet our requirements and are integrated into the State's overall long-term care delivery system.

Therefore, we are requiring in § 460.12(b) that applications for PACE organization status be accompanied by an assurance from the State administering agency indicating that it considers the entity to be qualified to be a PACE organization and that the State is willing to enter into a PACE program agreement with the entity. We will not accept applications from entities that have not obtained these assurances.

To enable a State to make such assurances, an entity would have established to the satisfaction of the State that it is committed to the PACE model of care, there is sufficient funding for program development and facilities, there is adequate demand for PACE services as shown by demographic analysis, and the entity has hired core PACE staff and has developed contracts for referral arrangements and other program services that the site will not furnish directly.

Entities that are interested in developing a PACE program agreement should contact their State administering agency to determine whether the State has submitted or plans to submit a State plan amendment to elect PACE as an optional benefit under its State Medicaid plan and if the State has established additional requirements for PACE organizations.

Priority Consideration (§ 460.14)

We have established section 460.14 to address priority applications. The statute requires that we give priority in processing applications through August 5, 2000, to entities that are operating under PACE demonstration waivers under the authority of section 603(c) of the Social Security Amendments of 1983, as extended by section 9220 of COBRA of 1985, or section 9412(b) of the OBRA of 1986. In addition, we are directed to give priority to entities that applied to operate under a PACE demonstration waiver under section 9412(b) of the OBRA of 1986 as of May 1, 1997.

To give priority in processing applications from entities that meet the criteria, we will accept applications only from these entities beginning on the effective date of this interim final regulation and continuing for 45 days. Applications from other entities will not be accepted during this period. During the subsequent 45 days, extending to 90 days after the effective date of this regulation, we will continue to accept applications from entities that meet the priority processing criteria and we also will accept applications from entities that qualify for special consideration.

Special Consideration (§ 460.16)

In § 460.16, Special Consideration, we define the qualifications to receive special consideration of a PACE application.

The statute requires that we give special consideration in the processing of applications through August 5, 2000, to an entity that, as of May 1, 1997, indicated a specific intent to become a PACE organization through formal activities, such as entering into a contract to conduct a PACE feasibility study.

To give special consideration in processing applications from entities that meet the criteria, we will accept applications from these entities beginning 45 days after the effective date of this interim final regulation. During the 45-day period that extends from 45 days after the effective date to 90 days after the effective date, we will accept applications only from entities that meet the priority processing criteria or entities that qualify for special consideration. Applications from other entities will not be accepted during this period.

Applications from entities that believe they are entitled to special consideration must include information regarding the formal activities they engaged in towards becoming a PACE organization. If we agree that special consideration is appropriate for applications submitted after the special 45-day window, we will identify those applicants and factor in the entity's special status in the event that we have a greater number of applications under review than available capacity for PACE program agreements.

HCFA Evaluation of Applications (§ 460.18)

We will approve entities based upon a review of the materials submitted as part of the application, as well as information from the State

administering agency and information obtained through onsite visits.

Notice of HCFA Determination (§ 460.20)

Sections 1894(e)(8) and 1934(e)(8) of the Act require us to approve or deny an application for PACE organization status within 90 days after the date of the submission of the application unless additional information is requested. Applications are deemed approved unless we deny PACE organization status in writing or request additional information within the 90-day timeframe. We clarify that, for purposes of the 90-day time limit described in this section, the date that an application is considered to be submitted to HCFA is the date on which the application is delivered to the address designated by HCFA.

These sections also provide that we may request in writing such additional information as may be required in order to make a final determination regarding the application and, after the date we receive such information, the application shall be deemed approved unless, within 90 days of such date, we deny such request.

Based on this authority, we may take up to 90 days to request additional information and, once the information is received, may take an additional 90 days to complete processing of the application. It is important to note that there is no corresponding requirement that the State administering agency or the PACE organization respond to HCFA's request for additional information within a specified timeframe.

If the additional information proves insufficient to approve the application, the application will be denied. We will notify each applicant of our determination and the basis for the determination in writing. If the application is denied, we will provide the basis for the denial and the process for requesting reconsideration of the application.

Priority and Special Consideration

Section 4803(c) of the BBA directs us to give priority in processing applications of entities to qualify as PACE organizations under section 1894 or 1934 of the Act first to PACE demonstration sites and then to entities which had applied to operate a PACE demonstration site as of May 1, 1997. In addition, section 4803(c)(3) of the BBA requires that we give special consideration in the processing of applications to any entity that, as of May 1, 1997, had indicated specific intent to become a PACE organization through formal activities such as entering into contracts for feasibility studies.

Service Area Designation (§ 460.22)

In § 460.22, Service Area Designation, we specify that each application must designate the service area of the program. HCFA (in consultation with the State administering agency) may exclude from the proposed service area designation any area that is already covered under another PACE program agreement. This will avoid unnecessary duplication of services and impairing the financial and service viability of an existing PACE organization. This section implements the provisions of sections 1894(e)(2)(B) and 1934(e)(2)(B) of the Act.

Limit on Number of PACE Program Agreements (§ 460.24)

Sections 1894(e)(1)(B) and 1934(e)(1)(B) of the Act establish a limit on the number of PACE program agreements that may be in effect on August 5 of each year, i.e., the anniversary of the enactment of the PACE statute. Those sections state that the Secretary shall not permit the number of PACE organizations with which agreements are in effect under those sections or under section 9412(b) of the OBRA of 1986 to exceed—

- 40 as of August 5, 1997, the date of the enactment of the PACE statute, or
- As of each succeeding anniversary of such date, the numerical limitation for the preceding year plus 20. The annual increase in the number of PACE program agreements is not tied to the actual number of agreements in effect as of a previous anniversary date.

Based on this statutory language, we may enter into up to 80 PACE program agreements as of August 5, 1999 and the limit on the number of PACE program agreements increases by 20 each year thereafter.

Subpart C—PACE Program Agreement

Program Agreement Requirement (§ 460.30)

In accordance with sections 1894(a)(4) and 1934(a)(4) of the Act we have established § 460.30 to require that each PACE organization have an agreement with HCFA and the State administering agency for the operation of a PACE program by the organization under Medicare and Medicaid. This three-party agreement must be signed by an authorized official of the organization, as well as by an authorized HCFA official and an authorized State official.

Content and Terms of PACE Program Agreement (§ 460.32)

In § 460.32(a), we stipulate the required content of a PACE program agreement.

We are requiring that each PACE program agreement designate the service area of the program, specifically identifying the area by county, zip code, street boundaries, census tract, block, or tribal jurisdictional area, to the extent that those identifiers are appropriate. Any changes in the designated service area will require advance approval by HCFA and the State administering agency. This requirement implements the provisions of sections 1894(e)(2)(A)(I) and 1934(e)(2)(A)(I) of the Act and reflects Part I, section D of the Protocol.

Each PACE organization must agree to meet all applicable requirements under Federal, State, and local laws and regulations, including provisions of the Civil Rights Act, the Age Discrimination Act, and the Americans with Disabilities Act. This includes, but is not limited to, all requirements contained elsewhere in these regulations. This requirement implements in part the provisions of sections 1894(e)(2)(A)(iv) and 1934(e)(2)(A)(iv) of the Act.

We require that each agreement indicate the effective date and term of the agreement.

We are requiring that each PACE program agreement include information related to: organizational structure of the PACE organization; participant rights; process for grievances and appeals; eligibility, enrollment and disenrollment policies; service description; quality assessment and performance improvement; capitation rates; names and numbers of administrative contacts in the organization; and program agreement termination procedures. These requirements are based on sections 1894(b)(2) and 1934(b)(2) of the Act and on Part X, section A of the Protocol.

We will identify in each PACE program agreement the levels of performance that we require the organization to achieve on standard quality measures and the data and information on participant care that we and the State require the organization to collect. A detailed discussion of the levels of performance and the standard quality measures are contained in the preamble discussions for §§ 460.134 and 460.202(b) of this regulation.

In § 460.32(b), we specify that a PACE program agreement may provide additional requirements for individuals to qualify as PACE program eligible individuals. This provision implements

sections 1894(e)(2)(A)(ii) and 1934(e)(2)(A)(ii) of the Act. However, the eligibility criteria in § 460.150(b)(1)–(3) cannot be modified. In addition, a PACE program agreement may contain such additional terms and conditions as the parties agree to, if such terms and conditions are consistent with sections 1894 and 1934 of the Act and with these regulations. This provision implements sections 1894(e)(2)(A)(v) and 1934(e)(2)(A)(v) of the Act.

Duration of PACE Program Agreement (§ 460.34)

In § 460.34, we specify that each agreement will be effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate, in accordance with sections 1894(e)(2)(A)(iii) and 1934(e)(2)(A)(iii) of the Act.

Subpart D—Sanctions, Enforcement Actions, and Terminations

Violations for Which HCFA May Impose Sanctions (§ 460.40)

In § 460.40 we specify, based on paragraph (e)(6)(B) of sections 1894 and 1934 of the Act, that HCFA can impose, in addition to any other remedies authorized by law, any of three types of sanctions if HCFA determines that a PACE organization has committed any of nine listed violations. The following PACE organization violations specified in this section are based on provisions of sections 1857(g)(1) and 1903(m)(5)(A) of the Act:

- Fails substantially to furnish to a participant medically necessary items and services that are covered PACE services, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the participant.
- Involuntarily disenrolls a participant, in violation of § 460.164.
- Discriminates in enrollment or disenrollment among Medicare beneficiaries or Medicaid recipients, or both, who are eligible to enroll in a PACE program, on the basis of an individual's health status or need for health care services.
- Engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment, except as permitted by § 460.150, by Medicare beneficiaries or Medicaid recipients whose medical condition or history indicates a need for substantial future medical services.
- Imposes charges on participants enrolled under Medicare or Medicaid for premiums in excess of the premiums permitted.
- Misrepresents or falsifies information that is furnished to HCFA or the State under this part; or, to an individual or any other entity under this part.
- Prohibits or otherwise restricts a covered health care professional from advising a participant who is a patient of the professional about the participant's health status, medical care, or treatment for the participant's condition or disease, regardless of whether the PACE program provides benefits for that care or treatment, if the professional is acting within his or her lawful scope of practice.
- Operates a physician incentive plan that does not meet the requirements of section 1876(i)(8) of the Act.
- Employs or contracts with any individual who is excluded from participation in Medicare or Medicaid under section 1128 or 1128A of the Act (or with any entity that employs or contracts with such an individual) for the provision of health care, utilization review, medical social work, or administrative services.

Sanctions That HCFA Can Impose (§§ 460.42 and 460.46)

We describe the two types of sanctions in §§ 460.42 (suspension of enrollment or payment by HCFA) and 460.46 (civil money penalties). Each of the sanctions, or remedies, that are specified in these sections for specific violations are based on provisions of sections 1857(g)(2), 1857(g)(4), and 1903(m)(5)(B) of the Act. With respect to suspension of enrollment in PACE, HCFA may suspend enrollment of Medicare beneficiaries after the date HCFA notifies the organization of the violation. Suspending enrollment of Medicaid recipients is an action taken by the State rather than HCFA. With respect to suspension of payment, HCFA may suspend Medicare payment to the PACE organization and deny payment to the State for medical assistance for services furnished under the PACE program agreement.

In addition, HCFA may impose civil money penalties of $100,000 plus $15,000 for each individual not enrolled as a result of the PACE organization's discrimination in enrollment or disenrollment or practice that would deny or discourage enrollment; $25,000 plus double the excess amount above the permitted premium charged a participant by the PACE organization; $100,000 for each misrepresentation or falsification of information; and $25,000 for any violation specified in § 460.40.

Additional Actions by HCFA or the State (§ 460.48)

In § 460.48 we specify, based on paragraph (e)(6)(A) of sections 1894 and 1934 of the Act, that if HCFA, after consultation with the State administering agency, determines that a PACE organization is not in substantial compliance with requirements in these regulations, HCFA or the State administering agency can take one or more of the following actions: Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan; withhold some or all payments under the PACE program agreement until the organization corrects the deficiency; or terminate the program agreement.

Termination of PACE Program Agreement (§ 460.50)

In § 460.50 we specify, in accordance with paragraph (e)(5)(A) of sections 1894 and 1934 of the Act, that HCFA or a State administering agency may terminate at any time a PACE program agreement for cause and that a PACE organization may terminate an agreement after appropriate notice to HCFA, the State administering agency, and participants. In accordance with paragraph (e)(5)(B) of sections 1894 and 1934 of the Act, we specify that HCFA or a State administering agency may terminate a PACE program agreement with a PACE organization if HCFA or the State administering agency determines that:

- Either there are significant deficiencies in the quality of care furnished to participants, or the PACE organization has failed to comply substantially with conditions under these regulations or with the terms of its PACE program agreement; and
- The PACE organization has failed to develop and successfully initiate, within 30 days of the date of the receipt of written notice, a plan to correct the deficiencies, or has failed to continue implementation of such a plan.

Based on the Protocol, Part IX, section A.1, we also provide for termination if HCFA or the State administering agency determines that the organization cannot ensure the health and safety of its participants. This determination may result from the identification of deficiencies which HCFA or the State administering agency determines cannot be corrected. Based on the Protocol, Part IX, section A.2, we also require that if the organization terminates the agreement, a minimum of 90 days notice must be given to HCFA and the State administering agency regarding the organization's intent and that participants must be given a minimum of 60 days notice.

Transitional Care During Termination (§ 460.52)

Based on the Protocol, Part IX, section B, we require that the PACE organization develop a detailed written plan for phase-down in the event of termination which includes the following: the process for informing participants, the community, HCFA and the State administering agency in writing about termination and transition procedures; and steps that will be taken to help assist participants to obtain reinstatement of conventional Medicare and Medicaid benefits, transition their care to other providers, and terminate marketing and enrollment activities. Also, in accordance with paragraphs (a)(2)(C) and (e)(5)(C) of sections 1894 and 1934 of the Act, we specify in § 460.52 that an entity whose PACE program agreement is in the process of being terminated must provide assistance to each participant in obtaining necessary transitional care through appropriate referrals and making the participant's medical records available to new providers.

Termination Procedures (§ 460.54)

In § 460.54 we specify termination procedures based on paragraph (e)(7) of sections 1894 and 1934 of the Act, which provide that:

- The provisions of section 1857(h) of the Act apply to termination of a PACE program agreement in the same manner as they apply to a termination of a contract with a Medicare+Choice organization under part C of title XVIII of the Act.

The provisions of section 1857 of the Act authorize termination of an agreement with an organization based on the following:

- We provide the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of our determination that cause exists for termination; and

- We provide the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before terminating the agreement. However, termination is authorized by section 1857(h)(2) of the Act without invoking these procedures if we determine that a delay in termination, resulting from compliance with these procedures before termination, would pose an imminent and serious risk to the health of participants enrolled with the organization.

Subpart E—PACE Administrative Requirements

PACE Organizational Structure (§ 460.60)

We have established § 460.60 to specify the structural requirements for a PACE organization. We believe that these requirements are essential to the PACE organization's ability to ensure the health and safety of the participants. The performance of certain basic organizational functions is a minimum condition for an environment in which appropriate care can occur. We have based the organizational structure requirements on Part I of the Protocol.

We require that the PACE organization have a current organizational chart showing officials in the PACE organization and relationships to any other organizational entities. The chart for a corporate entity must indicate the PACE organization's relationship to the corporate board and to any parent, affiliate, or subsidiary corporate entities. A PACE organization that is planning a change in organizational structure must notify HCFA, the State administering agency, and participants, in writing, at least 60 days before the change would take effect. Changes in organizational structure must be approved by HCFA and the State administering agency. In the event of a change that would constitute a change of ownership, HCFA would apply the general provisions described in 42 CFR 422.550. Changes in organizational structure approved by HCFA and the State administering agency must be forwarded to the consumer advisory committee (described later in the preamble in the section on governing body) for dissemination to participants as appropriate. We specifically invite comment on the extent to which changes in organizational structure are important to participants, information on the types of changes that have been communicated to participants, the timing of disclosure, and the effect on participants.

The Protocol requires that a PACE organization have a project director. We have included this requirement, but have changed the term to program director. We have renamed this position and further defined the role of the individual. The PACE organization must have a program director who is responsible for the oversight and administration of the entity. She or he would be responsible for the effective planning, organization, administration, and evaluation of the organization's operations. The program director would ensure that decisions about medical, social and supportive services are not unduly influenced by fiscal managers. The program director is responsible for ensuring that appropriate personnel perform their functions within the organization. The program director would inform employees and contract providers of all organization policies and procedures. If the PACE organization is part of a larger health system, the program director would clearly define and inform staff (employees and contractors) of the relationship.

We have also maintained the Protocol's requirement for a medical director, but we have further defined the responsibilities of this position. The PACE organization must have a medical director who is responsible for the delivery of participant care, clinical outcomes, and the implementation and oversight of the quality assessment and performance improvement program. Thus, the medical director is responsible for achieving the best clinical outcomes possible for all participants. Under this requirement, we would expect the medical director to use data comparing the program with other PACE organizations, where data are available, and to use the organization's data to demonstrate internal improvements in outcomes over time.

Governing Body (§ 460.62)

This section focuses on the ability of the organization's governing body to provide effective administration in an outcome-oriented environment. The governing body guides operations and promotes and protects participant health and safety. The governing body is legally and fiscally responsible for the administration of the PACE organization. However, the specific approach to administration of the organization is left to the discretion of the governing body. This reflects our goal of promoting the effective management of the organization, without limiting flexibility in determining how to achieve that goal.

The governing body must create and foster an environment that provides quality care that is consistent with participant needs and the program mission. To that end, the primary requirement is that an identifiable governing body, or designated person(s) so functioning, have full legal authority and responsibility for the governance and operation of the organization, the development of policies consistent with the mission, the management and provision of all services (including the management of contractors), fiscal operations, and the development of

policies on participant health and safety. Also, the governing body will establish personnel policies and contract provisions with respect to employees or contractors with patient care responsibilities giving adequate notice before leaving the PACE organization's network. These provisions would be intended to avoid disruptions in care and permit orderly transition of responsibilities.

We have added a requirement that the governing body be responsible for the quality assessment and performance improvement program. The purpose of this requirement is to link the development, implementation, and coordination of the ongoing quality assessment and performance improvement program with all aspects of the PACE program. We believe this requirement will stimulate an aggressive effort by the organization to identify and use the best practices available for all participants. As discussed in the section on the quality assessment and performance improvement program, the PACE organization has the flexibility to design its own quality improvement program.

Consistent with the Protocol, we have included a requirement that the PACE organization must ensure community representation on issues related to participant care. This may be achieved by having a community representative on the governing body.

We have added a requirement that a PACE organization must establish a consumer advisory committee to provide advice to the governing body on matters of concern to participants. Consumer participation through advisory committees is a well accepted community organization vehicle to maximize the involvement of consumers in a program designed to serve them. With the use of such a committee the governing body will have the benefit of consumer advice, including advice on quality of care. Consumers also are likely to feel a greater stake in the operation of the program. In order to assure appropriate representation, participants and representatives of participants must constitute a majority of the membership of this committee. One specific duty of the consumer advisory committee is to receive information regarding changes in the PACE organization's structure to determine those about which information should be disseminated to participants.

Personnel Qualifications (§ 460.64)

Although the Protocol does not specify personnel requirements for the various staff employed by or under contract with the PACE organization, we believe that certain minimum standards must be met in order to ensure quality of care for the frail elderly population being served. To this end, we have established § 460.64.

Our approach to personnel qualifications follows principles described in a **Federal Register** publication proposing changes to the conditions of participation for home health agencies, 62 FR 11022–23 (March 10, 1997). This is a flexible approach that relies on State requirements as much as possible. We require that personnel meet applicable State licensure, certification, or registration requirements. The personnel qualifications fall into three categories: (1) personnel for whom there are statutory qualifications; (2) personnel for whom all States have licensure, certification, or registration requirements; and (3) personnel for whom we have specified requirements since not all States have licensure, certification, or registration requirements.

The first category consists of personnel for whom the Act contains qualifications. Section 1861(r) of the Act generally defines a physician as a doctor of medicine or osteopathy, legally authorized to practice medicine and surgery by the State in which such function or action is performed, or certain other practitioners for limited purposes. This definition is reflected in regulations at 42 CFR 410.20, and we have adopted this definition for a physician providing services for a PACE organization. In addition, to reflect the key role of the primary care physician in the PACE model, we are requiring the primary care physician to have a minimum of 1 year's experience in working with a frail or elderly population.

In the second category of personnel qualifications, we defer to State law. We specify that all staff (employee or contractor) of the PACE organization must meet applicable State requirements. That is, they must be legally authorized (currently licensed or, if applicable, certified or registered) to practice in the State in which they perform the function or action and must act within the scope of their authority to practice.

The third category of personnel qualifications includes certain professions for which not all States currently have licensing, certification, or registration requirements. If a State does have licensing, certification, or registration requirements for a professional listed in this section, then the State qualifications would apply.

We reviewed the personnel requirements of other Medicare and Medicaid providers that serve populations similar to PACE participants (*e.g.*, home health agencies, nursing facilities, intermediate care facilities), and we have established personnel requirements for PACE organizations that are as consistent as possible with those applicable to other providers. If a State does not have licensing, certification, or registration requirements applicable to the following professions, then the qualifications specified below apply.

We are requiring that the registered nurse be a graduate of a school of professional nursing and have a minimum of one year's experience working with a frail or elderly population.

We are requiring that the social worker (1) have a master's degree in social work from an accredited school of social work; and (2) have a minimum of one year's experience working with a frail or elderly population.

We are requiring that the physical therapist (1) be a graduate of a physical therapy curriculum approved by the American Physical Therapy Association, the Committee on Allied Health Education and Accreditation of the American Medical Association, or the Council on Medical Education of the American Medical Association and the American Physical Therapy Association; and (2) have a minimum of one year's experience working with a frail or elderly population.

We are requiring that the occupational therapist (1) be a graduate of an occupational therapy curriculum accredited jointly by the Committee on Allied Health Education and Accreditation of the American Medical Association and the American Occupational Therapy Association; (2) be eligible for the National Registration Examination of the American Occupational Therapy Association; (3) have 2 years of appropriate experience as an occupational therapist and have achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that such determination of proficiency does not apply with respect to persons initially licensed by a State or seeking initial qualification as an occupational therapist after December 31, 1977; and (4) have a minimum of one year's experience working with a frail or elderly population.

We are requiring that the recreation therapist or activities coordinator have 2 years experience in a social or recreational program providing and

coordinating services for a frail or elderly population within the last 5 years, one of which was full-time in a patient activities program in a health care setting.

We are requiring that the dietitian (1) have a baccalaureate or advanced degree from an accredited college with major studies in food and nutrition or dietetics; and (2) have a minimum of one year's experience working with a frail or elderly population.

We are requiring that all PACE center drivers (1) have a valid driver's license to operate a van or bus in the State of operation; and (2) be capable of and experienced in transporting individuals with special mobility needs.

We believe that each of these persons should have experience working with the frail or elderly population in order to better recognize issues specific to this population.

We have not defined personnel requirements for the PACE center manager or the home care coordinator. We are giving PACE organizations the flexibility to determine who is best suited to fill these positions since each PACE center may have different needs. Since the home care coordinator is responsible for acting as the liaison between the multidisciplinary team and the home care providers, she or he should possess good leadership and communication skills. In addition, the home care coordinator should be able to identify and understand participants' medical and social needs and evaluate the home care needs of participants. Therefore, we believe that a registered nurse or social worker would be a good candidate to fill this position.

We have not imposed personnel requirements for personal care attendants since these individuals will primarily be providing "non-skilled", personal care services (*e.g.*, bathing, toileting, transferring). We are soliciting comments on whether to include specific personnel requirements for personal care attendants. It is important that personal care attendants possess certain basic skills necessary to provide quality care to PACE participants. Thus, we are requiring PACE organizations to implement a training program for each personal care attendant to ensure that they exhibit competency in basic skills in personal care services. The training program should include maintenance of a clean, safe, and healthy environment; appropriate and safe techniques in personal hygiene and grooming; safe transfer techniques and ambulation; reading and recording temperature, pulse, and respiration; and observation, reporting, and documentation of patient status and the care or service furnished. In addition, the training program developed for each personal care attendant must include other elements consistent with their assigned duties for specific participants.

We recognize that personal care attendants in the home environment may furnish not only personal care services, but also home care services. When the participant needs home care services, the PACE organization must ensure that it has qualified staff (either employees or contractors) that meet the requirements for home health aides to furnish these services.

Training (§ 460.66)

In § 460.66, we have required that the PACE organization provide ongoing training to maintain and improve the skills and knowledge of each staff member with respect to their specific duties. The training should result in the staff's continued ability to demonstrate the skills necessary for the performance of their specific positions or job duties. The ability of the PACE organization to ensure patient safety and to achieve patient-specific performance measures requires competent staff. We believe there is a direct relationship between the quality of the organization's staff and patient well-being. The training requirement is intended to ensure that all staff are able to adapt to new or additional job demands. The PACE organization is only responsible for ensuring that the individual is educated and trained for her or his specific job. The individual would continue to be responsible for her or his own professional education and for any continuing education needed to maintain licensure or professional certification unless the organization chooses to assume this responsibility. In addition, we have included a specific training requirement for personal care attendants as described above.

Program Integrity (§ 460.68)

We have established § 460.68 to guard against potential conflicts of interest or other program integrity problems for PACE organizations, based on Part I, section E of the Protocol. An organization must not have any staff (employees or contractors) who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, other health insurance or health care programs, or social service programs under Title XX of the Act. We expanded this provision from the Protocol to prohibit an organization from having any staff who have been excluded from participation in Medicare or Medicaid, or having staff in any capacity where an individual's contact with participants would pose a potential risk because the individual has been convicted of physical, sexual, drug, or alcohol abuse. Members of the PACE organization's governing body, and their family members, are prohibited from having a direct or indirect interest in contracts with the organization. (Examples of indirect interests are holdings in the name of a spouse, dependent child, or other relative who resides with the member of the governing body.) These requirements are intended to protect participants and to prevent fraud under Medicare and Medicaid.

We recognize that in rural, Tribal, or urban Indian communities there may be limited availability of individuals willing to and capable of performing key functions for the PACE organization. HCFA and the State administering agency may grant a waiver of the conflict of interest requirement for PACE organizations to allow individuals who have a direct or indirect interest in a contract or the provision of services to the PACE organization to recuse themselves from decisions directly or indirectly affecting those interests, rather than barring them entirely from serving on the PACE organization's policy making board or as directors, officers, partners, employees, or consultants of the PACE organization. Such a waiver may be granted if HCFA and the State administering agency determine that there are not enough people who could meet the requirement in the PACE organization's service area and the proposed alternative does not adversely affect the availability of care or the quality of care that is provided to participants.

We have also added the requirement that the PACE organization must have a process to gather information on program integrity issues and respond to any request from HCFA within a reasonable amount of time.

Contracted Services (§ 460.70)

Under the scope of benefits described in sections 1894(b)(1) and 1934(b)(1) of the Act, a PACE organization may enter into written contracts with each outside entity to furnish services to participants. Consequently, we require that all services, except for emergency services as described in § 460.100, not furnished directly by a PACE organization must be obtained through contracts which meet the requirements specified in regulations. We are adopting the contracting provisions in Part VII, section A of the Protocol.

A PACE organization can only contract with entities that meet all applicable Federal and State

requirements. We have provided some examples of the types of requirements that contractors would be expected to meet. The contractor must be accessible, *i.e.*, located within or near the PACE organization's service area.

To avoid breakdowns in communication or in the provision of care, we require a PACE organization to designate an official liaison to coordinate activities between contractors and the organization. Effective coordination of services is necessary to avoid duplicative or conflicting services. Designating an individual as liaison provides a conduit for sharing information. The liaison would inform contractors of PACE organization policies, changes in participants' plans of care, information from team meetings, and quality improvement activities and goals. Contractor staff would inform the PACE organization, through the liaison, of updates and changes in a participant's status, personnel changes in the contractor, and any other information necessary for the continuity of participant care. All care must be evaluated by the PACE organization, with particular attention to care provided by contracted personnel. This requirement provides a mechanism to ensure that contracted personnel are adhering to organization policies and procedures. It also affords the organization an opportunity to identify any education or training needs of contracted personnel.

The PACE center is required to maintain a current list of contractors and provide a copy to anyone upon request. Copies of signed contracts for inpatient care must be furnished to HCFA and the State administering agency.

Under the specific contract content requirements, we require each contract to be in writing and contain the following information:

- Name of contractor.
- Services furnished.
- Payment rate and method.
- Terms of the contract, including the beginning and ending dates, as well as methods of extension, renegotiation and termination.
- Contractor agreement to: furnish only those services authorized by the PACE multidisciplinary team; accept payment from the PACE organization as payment in full and not to bill participants, HCFA, the State Medicaid agency or private insurers; hold harmless HCFA, the State and PACE participants in the event that the PACE organization cannot or will not pay for services performed by the contractor pursuant to the contract; not assign or delegate duties under the contract unless prior written approval is obtained from the PACE organization; and submit reports as required by the PACE organization.

We have not established a specific notice requirement for termination of contracts. We believe that PACE organizations will contract with individuals and entities that understand and embrace the organization's mission and commitment to participants. As discussed previously, the governing body is required to establish personnel policies that address adequate notice of termination by contractors and employees with direct patient care responsibilities to permit an orderly transition and avoid disruptions in care. We specifically request public comment on whether we should add a requirement for notice before a contractor could terminate its contract.

Physical Environment (§ 460.72)

To ensure that the center and home are free of hazards that may cause harm to the participants, staff, or visitors, we have established § 460.72. Because issues of adequate space, infection control, fire prevention, dietary services, and the safety of transportation services are important to ensure quality care, we have added requirements for each in this condition.

We have maintained the following requirements from the PACE Protocol with a few clarifications:

- The PACE center must be designed, constructed, equipped, and maintained to provide for the physical safety of participants, personnel, and visitors;
- The PACE center must ensure a safe, sanitary, functional, accessible and comfortable environment for the delivery of services, that protects the dignity and privacy of the participant; and
- The PACE center must include sufficient suitable space and equipment to provide primary medical care and suitable space for team meetings, treatment, therapeutic recreation, restorative therapies, socialization, personal care and dining. (We believe that a PACE organization should furnish primary care services in the center, but this provision allows flexibility to avoid duplicating an entire primary care clinic if that is not necessary.)

The PACE organization must establish, implement, and maintain a written plan to ensure that all equipment is maintained in accordance with the manufacturer's recommendations to keep all equipment (mechanical, electrical and patient care) free of defect. Based on the manufacturer's experience with the equipment, we believe it has the most knowledge about routine maintenance and recommended repair schedules necessary to keep the equipment in good operating condition.

The Life Safety Code (LSC) is a set of fire protection requirements designed to provide a reasonable level of safety from fire. The LSC was developed by the National Fire Protection Association and adopted by the Department of Health and Human Services as the standard which ensures reasonably fire-safe facilities. The LSC specifies requirements for building construction features such as walls and doors, exits and exit access, and fire protection devices such as sprinklers, smoke detectors, and fire extinguishers.

The 1997 edition of the LSC is divided into occupancy chapters, including Business, Education, and Health Care Occupancies. Business occupancies include clinics and offices, and educational occupancies cover schools and day care centers. Health care occupancies include facilities where the patients are rendered incapable of self-preservation and where they remain overnight. Unfortunately, the LSC does not designate a specific category for comprehensive outpatient services provided to nursing home eligibles, so we have chosen to stipulate that the PACE center must meet the occupancy provisions of the 1997 edition of the LSC for the type of setting in which it is located (*i.e.*, hospital, office building, etc.).

Each type of LSC occupancy requires a fire alarm system. A fire alarm system must provide three functions: (1) Initiation—a method of initiating the alarm, such as a pullbox; (2) notifications—a method of notifying the occupants, such as a loud bell, horn, chimes, or flashing lights for those patients who are deaf; and (3) control—a method of controlling other fire protection functions and features, such as air conditioning shutdown, automatic release (closing) of fire doors, etc. We require a PACE center to meet the requirements for a fire alarm system in accordance with the occupancy section of the LSC that applies to its building. Each occupancy section also requires evacuation plans, fire exit drills, and fire procedures. The purpose of the drills is to test the efficiency, knowledge, and response of the staff and to ensure that safe care will be provided to participants during an emergency.

The statute and implementing regulations governing some Medicare providers (*i.e.*, nursing facilities, hospitals, hospices) authorize us to accept a State code in lieu of the LSC

if it adequately protects patients. Likewise, under these regulations the LSC will not apply in a State where HCFA finds that a fire and safety code imposed by State law adequately protects PACE participants and staff.

We recognize that it could be burdensome to require strict adherence to all of the requirements of the LSC. PACE centers may be established in a variety of building types (*e.g.*, hospitals or office buildings), which must be considered in requiring adherence to the LSC. We also recognize that some centers may have alternative features that provide an equivalent level of protection to that required by the specific requirements of the LSC. In some buildings it may even be impractical or impossible to provide a specific feature due to the construction of the building. Therefore, we have specified that HCFA may waive specific provisions of the LSC which, if rigidly applied, would result in unreasonable hardship on the organization. Specific provisions may be waived only if the waiver does not adversely affect the health and safety of the participants and staff.

We have established four requirements that we believe are fundamental for a PACE organization to effectively prepare for emergency situations. The PACE organization must establish, implement, and maintain documented procedures to manage medical and nonmedical emergencies or disasters that are likely to threaten the health or safety of participants, staff or the public including, but not limited to, fire, equipment, water or power failures, care-related emergencies, and natural disasters likely to affect their geographic location. We also state that we do not expect organizations to develop emergency plans for natural disasters that typically do not affect their geographic area. For example, organizations in the Southeast would not typically need to develop emergency procedures for earthquakes.

PACE organizations must train each staff member (employee and contractors) on the actions necessary to address different medical and nonmedical emergencies. This requirement is designed to ensure the safety and security of both the participants and the staff. In addition, the participants must be appropriately trained on the organization's emergency procedures since they may need to take steps to protect themselves during an emergency. PACE participants need to be informed on what to do, where to go, and whom to contact if a center emergency occurs. The PACE center must also provide periodic orientation to staff and participants.

Appropriate medical practice dictates that the organization must have trained personnel, drugs, and emergency equipment immediately available at every center at all times to adequately support participants until an Emergency Medical System (EMS) responds to the center. We have defined the minimum emergency equipment that must be on the premises and immediately available as easily portable oxygen, airways, suction, and emergency drugs. In addition, the center must have a documented plan to obtain EMS services from sources outside the center when needed.

At least annually, a PACE organization must actually test, evaluate, and document the effectiveness of its emergency and disaster plans to ensure appropriate responses to the situations and needs that may arise from both medical and nonmedical emergencies. Drills and emergency episodes often reveal a weakness or flaw in the design of the emergency plan. An annual review will allow flaws or potential problems to be identified and corrected.

Infection Control (§ 460.74)

Infection control is vital to the health and safety of participants, so we are requiring in § 460.74 that the PACE organization adhere to accepted policies and standard procedures, including at least the standard precautions developed by and available from the Centers for Disease Control and Prevention (CDC). These guidelines have been developed by the CDC in collaboration with industry representatives and have proven effective as a means of diminishing the spread of blood-borne pathogens and other infectious agents. The PACE organization must establish, implement, and maintain a documented infection control plan that will assure a safe and sanitary environment and prevent and control the transmission of disease and infection. At a minimum, the infection control plan must include the following:

(1) Procedures to identify, investigate, control, and prevent infections in every center and in a participant's place of residence;

(2) Procedures to record any incidents of infection; and

(3) Procedures to analyze the incidents of infection, to identify trends, and develop corrective actions related to the reduction of future incidents.

Transportation Services (§ 460.76)

Transportation services are a critical component of PACE service delivery, so it is crucial that the PACE organization take appropriate steps to ensure that participants can be safely transported from their homes to the center and to appointments. We have established § 460.76 to require that the PACE organization's transportation services must be safe, accessible and equipped to meet the needs of each participant. In addition, we require that the organization's transportation program include procedures on at least the following: (1) Maintenance of transportation vehicles according to the manufacturer's recommendations; (2) equipping transportation vehicles to communicate with the PACE center; (3) training transportation personnel on the special needs of participants and appropriate emergency response; and (4) as part of the multidisciplinary team process, communicating relevant changes in the participants' care plans to transportation personnel.

Dietary Services (§ 460.78)

It is important that each PACE center provide each participant with a nourishing, palatable, well-balanced meal that meets the daily nutritional and special dietary needs of each participant. Each meal must be: prepared by methods that conserve nutritive value, flavor, and appearance; prepared in a form designed to meet individual needs; and prepared and served at the proper temperature. The center must provide substitute foods or nutritional supplements that meet the daily nutritional and special dietary needs of any participant who refuses the food served, cannot tolerate the food served, or who does not eat adequate amounts. In addition, the PACE organization must provide nutrition support (that is, tube feedings, total parenteral nutrition, or peripheral parenteral nutrition) to meet the daily nutritional needs of a participant if indicated by his or her medical condition or diagnosis.

It is vital to the health and safety of participants that the food provided meets acceptable safety standards. Therefore, we are requiring the PACE organization to:

(1) Procure foods (including nutritional supplements and items to meet special nutrition needs) from sources approved or considered satisfactory by Federal, State, Tribal or local authorities that have jurisdiction over the service area of the organization;

(2) store, prepare, distribute, and serve foods (including nutritional supplements and items to meet special nutrition needs) under sanitary conditions; and

(3) dispose of garbage and refuse properly.

Fiscal Soundness (§ 460.80)

Part I, section F of the Protocol addresses fiscal soundness and paragraph (e)(4)(A)(ii) of sections 1894 and 1934 of the Act requires that during the trial period we conduct a comprehensive assessment of a PACE organization's fiscal soundness. We have established § 460.80 to address requirements for fiscal soundness.

Each PACE organization must have a fiscally sound operation as demonstrated by total assets being greater than total unsubordinated liabilities, sufficient cash flow and adequate liquidity to meet obligations as they become due, and a net operating surplus or a plan for maintaining solvency.

Each organization must have a documented insolvency plan approved by HCFA and the State administering agency which, in the event of insolvency, provides for: the continuation of benefits for the duration of the period for which capitation payment has been made; the continuation of benefits to participants who are confined in a hospital on the date of insolvency until their discharge; and protection of participants from liability for payment of any fees which are the legal obligation of the PACE organization.

Each organization must have adequate arrangements to cover expenses in the event it becomes insolvent. To this end, we have specified requirements in this section that are consistent with the Protocol.

Marketing (§ 460.82)

Based on Part III, section B of the Protocol, we have established § 460.82 to address marketing of PACE programs. PACE organizations must conduct marketing activities that inform the general public about their programs.

All marketing material must be approved by HCFA and the State administering agency. Initial marketing material is reviewed as part of the application process. After an organization is under a PACE program agreement, any new or revised marketing materials must be submitted for review by HCFA and the State administering agency. We will complete our review within 45 days after we receive the information from the organization or the material will be deemed approved. We have added the requirement for review and approval of revised marketing materials since revisions could potentially introduce false or misleading information. Although the Protocol includes a 30-day review and approval timeframe, we adopted a 45-day period to be consistent with the process used by HCFA for review of changes to Medicare+Choice organization marketing materials.

Printed marketing materials must meet participants' special language requirements. Marketing materials must provide complete and clear information regarding the requirement that all services (other than emergency services), including primary care and specialist physician services, be furnished by or authorized by the PACE organization and that participants may be fully and personally liable for the costs of unauthorized or out-of-PACE program agreement services.

PACE organizations must ensure that their employees or agents do not conduct prohibited marketing activities such as discrimination of any kind among individuals who meet PACE eligibility standards; activities that could mislead or confuse potential participants or misrepresent the PACE organization, HCFA, or the State administering agency; activities that involve gifts or payments to induce enrollment; contracting outreach efforts to individuals or organizations whose sole responsibility involves direct contact with the elderly to solicit enrollment; or unsolicited door-to-door marketing.

Each PACE organization must establish, implement, and maintain a documented marketing plan with measurable enrollment objectives and a system for tracking its effectiveness.

Subpart F—PACE Services

PACE Benefits Under Medicare and Medicaid (§ 460.90)

Pursuant to sections 1894(a)(2)(B) and (b)(1) and 1934(a)(2)(B) and (b)(1) of the Act, we have established § 460.90 to specify that Medicare and Medicaid benefit limitations and conditions relating to amount, duration, scope of services, deductibles, copayments, coinsurance, or other cost sharing do not apply to PACE benefits. In addition, we have specified that, in accordance with sections 1894(a)(1)(B)(i) and 1934(a)(1)(A) of the Act, the PACE participant shall receive Medicare and Medicaid benefits solely through the PACE organization.

Required Services (§ 460.92)

Based on the provisions of sections 1894(b)(1)(A) and 1934(b)(1)(A) of the Act, we are requiring in § 460.92 that each PACE benefit package include for all participants, regardless of source of payment, all Medicaid covered services as specified in the State's approved Medicaid plan, a variety of services specified in the Protocol, and other services determined necessary by the multidisciplinary team to meet the participant's needs (*e.g.*, respite care). As specified in Part IV, section A.3 of the Protocol, at a minimum the PACE organization must provide the following benefit package:

- Multidisciplinary assessment and treatment planning;
- Primary care services including physician and nursing services;
- Social work services;
- Restorative therapies, including physical therapy, occupational therapy and speech-language pathology;
- Personal care and supportive services;
- Nutritional counseling;
- Recreational therapy;
- Transportation;
- Meals;
- Medical specialty services including, but not limited to: anesthesiology, audiology, cardiology, dentistry, dermatology, gastroenterology, gynecology, internal medicine, nephrology, neurosurgery, oncology, ophthalmology, oral surgery, orthopedic surgery, otorhinolaryngology, plastic surgery, pharmacy consulting services, podiatry, psychiatry, pulmonary disease, radiology, rheumatology, surgery, thoracic and vascular surgery, and urology;
- Laboratory tests, x-rays and other diagnostic procedures;
- Drugs and biologicals;
- Prosthetics and durable medical equipment, corrective vision devices such as eyeglasses and lenses, hearing aids, dentures, and repairs and maintenance for these items;
- Acute inpatient care: ambulance; emergency room care and treatment room services; semi-private room and board; general medical and nursing services; medical surgical/intensive care/coronary care unit, as necessary; laboratory tests, x-rays and other diagnostic procedures; drugs and biologicals; blood and blood derivatives; surgical care, including the use of anesthesia; use of oxygen; physical, occupational, and respiratory therapies; speech-language pathology; and social services.
- Nursing facility care: semi-private room and board; physician and skilled nursing services; custodial care; personal care and assistance; drugs and biologicals; physical, occupational, and recreational therapies and speech-language pathology, if necessary; social services; and medical supplies and appliances.

Required Services for Medicare Participants (§ 460.94)

In accordance with paragraph (b)(1)(A)(i) of sections 1894 and 1934 of the Act, we specify that the PACE benefit package for Medicare participants must include, in addition to the services required by § 460.92, the scope of hospital insurance benefits described in 42 CFR part 409 and the scope of supplemental medical insurance benefits described in 42 CFR part 410.

This provision is based on explicit statutory wording that requires the inclusion of Medicare covered services only for individuals enrolled under section 1894 of the Act. Those individuals include Medicare-only participants and dually-eligible Medicare/Medicaid participants. The PACE organization may choose to include coverage of these services for other participants, but is not required to do so.

In accordance with section 1894(g) of the Act, we specify that the following requirements of title XVIII of the Act (and regulations relating to such requirements) are waived and do not apply to services under the PACE program:

- The provisions of subpart F of part 409 of 42 CFR that limit coverage of institutional services;
- The provisions of subparts G and H of 42 CFR part 409 and parts 412 through 414 that relate to rules for payment for benefits;
- The provisions of subparts D and E of 42 CFR part 409 that limit coverage of extended care services or home health services;
- The provisions of subpart D of 42 CFR part 409 that impose a 3-day prior hospitalization requirement for coverage of extended care services; and
- The provisions of 42 CFR 411.15(g) and (k) that may prevent payment for PACE program services to individuals enrolled in the PACE program.

Excluded Services (§ 460.96)

We provide a list of excluded services based on Part IV, section A.6 of the Protocol. The services that are excluded from coverage under the PACE program are as follows:

- Any service that is not authorized by the multidisciplinary team, even if it is listed as a required service, unless it is an emergency service .
- For services in inpatient facilities, private room and private duty nursing services, unless medically necessary, and non-medical items for personal convenience such as telephone, radio or television rental, unless specifically authorized by the multidisciplinary team as part of a participant's plan of care.
- Cosmetic surgery, which does not include surgery required for improved functioning of a malformed part of the body resulting from an accidental injury or for reconstruction following mastectomy.
- Experimental medical, surgical or other health procedures.
- Services rendered outside the United States, except as may be permitted in accordance with 42 CFR 424.122 and 424.124 or as may be permitted under the State's approved Medicaid Plan. While the Protocol did not recognize any exceptions, the required inclusion of Medicare and Medicaid covered services results in certain limited exceptions being possible. For example, a State that borders another country might include some Medicaid coverage across the border, and Medicare covers some emergency hospital, ambulance, and physician services outside the United States. (As defined in 42 CFR 400.200, the United States includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.)

Service Delivery (§ 460.98)

We are requiring in § 460.98 that the PACE organization must establish and implement a written plan to provide care that meets the needs of its participants across all care settings on a 24 hour basis, each day of the year. The PACE organization must furnish comprehensive medical, health, and social services that integrate acute and long-term care. These services must be furnished at least in the PACE center, the participant's home, and inpatient facilities. The PACE organization must not discriminate against any participant in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, or source of payment.

The requirements in this section implement provisions in Part IV, section B of the Protocol and ensure the availability of and access to services as a PACE organization grows. The following requirements are based on the Protocol:

- At least the following services must be furnished at every PACE center: primary care (including physician and nursing services); social services; restorative therapies (including physical and occupational therapy); personal care and supportive services; nutritional counseling; recreational therapy; and meals.
- The PACE organization must operate at least one PACE center either in or contiguous to its designated service area, with sufficient capacity for routine attendance by its participants.
- The PACE organization must ensure accessible and adequate services to meet the needs of all its participants. When necessary, the organization must increase the number of centers, staff, and other PACE services.
- The frequency of a participant's attendance at the center is determined by the multidisciplinary team based on the needs and desires of each participant.

We added the requirement that, if there is more than one center, each center must offer the full range of services and have sufficient staff to meet the needs of participants.

Emergency Care (§ 460.100)

We expanded on and clarified the provisions in Part IV, section A of the Protocol to ensure access to necessary services and to adopt a beneficiary-centered approach.

We require a PACE organization to establish and maintain a written plan for handling emergency health care needs. The organization must ensure that the participants and caregivers know when and how to access emergency services and ensure that HCFA, the State, and PACE participants are held harmless if the PACE organization does not pay for emergency services.

Emergency care is appropriate when services are needed immediately because of an injury or sudden illness and the time required to reach the PACE organization or a network provider would cause risk of permanent damage to the participant's health. Thus, emergency care services include inpatient and outpatient services, furnished by a qualified emergency services provider (other than the PACE organization or one of its contract providers) either in or out of the PACE organization's service area, that are needed to evaluate or stabilize an emergency medical condition. An emergency medical condition means a condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: serious jeopardy to the health of the participant; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part.

Emergency services that fall within this description do not require prior

authorization by the PACE organization. We believe that relying on the prudent layperson standard in establishing a participant's need for emergency services is more clear than the definition of emergency care in the Protocol. We adopted the prudent layperson standard from the Consumer's Bill of Rights and Responsibilities (discussed in detail in the section on participant rights). The same standard is used in the Medicare+Choice definition of emergency medical condition. This standard encompasses a slightly broader range of circumstances than does the Protocol language, by including some situations that could fit under the Protocol description of "urgent care" or "urgently needed services." We think this clarification is helpful because the Protocol wording does not clearly distinguish between emergency and urgent care.

Other services a participant may need while temporarily absent from the PACE organization's service area, that are not emergency services but cannot be delayed until the participant returns, would need prior authorization. The fact that these services may be "urgently needed" means that the PACE organization would be expected to authorize a participant to obtain them from a non-contract provider outside of the service area, but it does not exempt them from the requirement for prior authorization. This approach differs from that applied to Medicare+Choice organizations, where prior authorization for urgently needed services is not required. We believe that the differences in the population served by PACE organizations warrant different treatment of urgent, though not emergency, care needs. Due to the relative frailty, more limited mobility, and more complex health status of PACE participants, we believe the need to maintain coordination of care by the multidisciplinary team justifies contact with and authorization by the PACE organization prior to receipt of non-emergency care outside the PACE network.

The emergency services plan must provide for the availability of appropriate on-call providers. We expanded this requirement from the Protocol to provide a safety net for unanticipated health incidents, so participants do not encounter difficulty obtaining care when they are away from the PACE center, when they are away from the PACE organization's service area and require services that cannot be delayed until they return, or when they require post-stabilization care services following emergency services. An on-call provider must be available 24-hours per day to address any participant questions about accessing emergency services and respond to requests for authorization of urgently needed out-of-network services or post-stabilization care services following emergency services.

We believe that PACE organizations are organized to be responsive to all participant care needs, including the need for urgently needed or post-stabilization services. However, in order to ensure that unforeseen circumstances do not result in delays in needed care, we have clarified that the PACE organization must cover urgently needed out-of-network or post-stabilization care services if it does not respond to a request for approval within 1 hour after being contacted or cannot be contacted for approval.

Multidisciplinary Team (§ 460.102)

This section is based on provisions in Part IV, section B of the Protocol. The Protocol requires that the PACE organization assign each participant to a multidisciplinary team based at the PACE center where the participant attends. We have included a requirement that the PACE organization must establish a multidisciplinary team at each center to comprehensively assess and meet the individual needs of each participant. We believe that a well-functioning multidisciplinary team is critical to the success of the PACE program, as the team is instrumental in controlling the delivery, quality, and continuity of care. Members of the multidisciplinary team should be knowledgeable about the overall needs of the patient, not just the needs which relate to their individual disciplines. In order to meet all of the health, psychosocial, and functional needs of the participant, team members must view the participant in a holistic manner and focus on a comprehensive care approach.

Based on the Protocol, we are requiring that the multidisciplinary team be composed of at least the following members:

a. Primary Care Physician—We considered expanding this to include nurse practitioners but decided to retain the requirement in the Protocol. While it would be acceptable for a PACE organization to include a nurse practitioner on the multidisciplinary team, we believe that this should be in addition to rather than instead of the primary care physician. The physician is an integral part of the team serving as a gatekeeper for the participant's medical care, and we feel it is important to retain this standard in order to ensure quality care.

b. Registered Nurse—The Protocol requires the inclusion of a "nurse." We are specifying that this team member be a registered nurse. The nurse represented on the multidisciplinary team must exhibit leadership and management skills that are more consistent with the training received by registered nurses, as opposed to licensed practical nurses. In addition, we believe that a registered nurse would be better able to determine and respond to the health care needs of the frail population, particularly for home care services. We welcome comments on this issue.

c. Social Worker;

d. Physical Therapist;

e. Occupational Therapist;

f. Recreational Therapist or Activity Coordinator;

g. Dietitian;

h. PACE Center Manager—We have changed the Protocol terminology from "PACE Center Supervisor" to "PACE Center Manager". The center manager is responsible for overall operation of the PACE center and ensuring service delivery. The individual who holds this position should be a good facilitator and should possess good communication skills. She or he could be the leader of the multidisciplinary team, but we are not requiring this. We are giving the PACE organization and the multidisciplinary team the flexibility to decide who should lead the team and facilitate the discussions.

i. Home Care Coordinator—Since PACE services may be furnished in the home, the coordination of in-home services with PACE center and primary care services is critical to effective service delivery. This coordination is especially important if the PACE organization has contractors providing the home care services. The PACE organization must designate a home care coordinator to supervise and coordinate home care services, whether these services are furnished by a PACE employee or through a contractor. We are changing the Protocol's term "home care liaison" to "home care coordinator", because "home care liaison" has another meaning in Medicare and we want to avoid confusion.

j. Personal care attendants or their representatives—We have changed the Protocol term "health care worker/aide" to "personal care attendant", as we believe this term more accurately describes this type of worker. We believe that "health care worker" is too general and could apply to other members of the team.

k. Drivers or their representatives—This requirement remains unchanged from the Protocol.

Due to the age of PACE participants, a geriatrician could be a valuable member of the multidisciplinary team. As one option, the primary care physician could be a geriatrician. However, physicians who specialize in geriatrics are relatively rare and availability might be a serious problem. We have not required the involvement of a geriatrician but we welcome comments about whether such a requirement would be desirable and, if so, whether the geriatrician should be employed by the PACE organization and should primarily serve PACE participants.

Consistent with the Protocol, we are requiring that primary medical care for all participants be furnished by the PACE primary care physician(s). The primary care physician must serve as the gatekeeper to the participant's use of medical specialists and inpatient care, and he or she must be an integral member of the multidisciplinary team. Ultimate responsibility for management of medical situations must rest with the PACE primary care physician.

The multidisciplinary team is responsible for the initial assessment, periodic reassessments, the plan of care, and coordinating 24-hour care delivery. A critical element of the success of the multidisciplinary team is the degree to which team members share information and communicate with one another. The Protocol requires the physician to keep the multidisciplinary team informed of the medical condition of each participant and to remain alert to pertinent input from other team members. We feel this should be the responsibility of each member of the team rather than just the physician, as it is critical to timely intervention to address potential problems. We are modifying the requirement to reflect this; *i.e.*, each member of the team must regularly inform the multidisciplinary team of the medical, functional, and psychosocial condition of each participant and remain alert to pertinent input from other team members, participants, and caregivers. This communication can take place through formal measures such as team meetings and written documentation in participants' medical records, but should not be limited to formal mechanisms; informal communication between team members (*e.g.*, CARDEX systems, informal updates during shift changes and as different personnel report to work) should be encouraged as well. It is critical that personal care attendants be involved in the communication process. Since they often have the first contact with the participant, it is important that they regularly share information on the participant's mood, activities, daily habits, etc. Each team member must document changes in the participant's condition in the participant's medical record.

We are retaining the Protocol requirement that members of the multidisciplinary team must serve primarily PACE participants, unless a waiver is granted. After considering this issue, we concluded that for a frail elderly population, such as is served by the PACE program, it is important to support and retain measures that promote quality and continuity of care. If team members serve primarily PACE participants, they are able to develop a rapport with participants and are better able to plan for and provide their care. We recognize that team members may have other patients, but this must not interfere with the provision of services for PACE participants. HCFA and the State administering agency may grant a waiver of this requirement if they determine that—

- There are not enough individuals available in the PACE organization's service area who meet the requirement; and
- The proposed alternative does not adversely affect the availability of care or the quality of care that is provided to participants.

If an applicant seeking approval as a PACE organization believes a waiver is warranted, it must include a request for the waiver in its application and describe in detail the circumstances supporting the request. For example, in a rural, Tribal, or urban Indian community the number of PACE participants, or the availability of appropriate multidisciplinary team members in some categories, may be insufficient for some team members to primarily serve PACE participants. Such an applicant would need to demonstrate that the alternative it proposes will maintain the continuity of care and assure sufficient availability of services so that participants receive prompt, effective care.

We are requiring that the PACE organization establish, implement and maintain documented internal procedures governing the exchange of information between team members, contractors, and participants and their caregivers consistent with the requirements for confidentiality in § 460.200(e). It is important for the organization to develop these procedures to avoid breakdowns in communication which would be detrimental to the success of the PACE program. We also want to emphasize the importance of regular communication from family members and other caregivers and health care workers in the home. It is critical that these individuals routinely report changes in participant status to the multidisciplinary team.

Consistent with the Protocol, we are requiring that the following members of the team be employees of the PACE organization: primary care physician (unless an exception is granted), registered nurse, social worker, recreational therapist or activity coordinator, PACE center manager, home care coordinator, and PACE center personal care attendants. It is important to note that "personal care attendants" in this context refers to individuals who work in the PACE center to provide assistance to participants while they are at the center (*e.g.*, assist medical staff, escort participants, bathe and toilet participants) and does not refer to personal care attendants who provide care to participants outside of the PACE center. Personal care attendants who work in the home are not required to be employees of the PACE organization.

HCFA and the State administering agency may grant a waiver of the requirement that the primary care physician be employed by the PACE organization if they determine that—

- There are not enough physicians in the PACE organization's service area who meet the PACE requirements or State licensing laws make it inappropriate for the organization to employ physicians; and
- The proposed alternative does not adversely affect the availability or the quality of care that is provided to participants.

If an applicant seeking approval as a PACE organization believes a waiver is warranted, it must include a request for the waiver in its application and describe in detail the circumstances supporting the request. For example, in a rural, Tribal, or urban Indian community the number of PACE participants, or the availability of primary care physicians, may be insufficient to make employment by the organization a feasible option. As another example, some State licensing laws prohibit the corporate practice of medicine, making it inappropriate for the organization to employ physicians. Such applicants would need to demonstrate that their contracts with physicians will maintain the continuity of care and assure sufficient availability of services so that participants receive prompt, effective care. We invite

comments on whether this waiver provision is too broadly defined.

Participant Assessment (§ 460.104)

The information obtained through the participant assessment is the basis for the treatment plan developed by the multidisciplinary team. As such, it is important that the assessment be as comprehensive as possible, in order to capture all of the information necessary for the multidisciplinary team to develop a plan of care that will adequately address all of the participant's functional, psychosocial, and health care needs.

The assessment process begins before enrollment, as set forth in § 460.152, when the PACE organization evaluates whether a potential participant can be cared for appropriately in the program. Often, current PACE demonstration programs present a proposed plan of care to the potential participant as part of the enrollment process. The initial comprehensive assessment must be completed promptly following enrollment, but individual team members' in-person assessment of the participant should be scheduled at appropriate intervals based on the participant's level of health. Because the initial assessments are thorough, this will ensure that the participant is not overwhelmed with several team members conducting assessments at one time. However, the initial comprehensive assessment must be completed quickly so that the plan of care can be completed and implemented without delay. This often has been accomplished by the effective date of enrollment and should never be delayed more than a few days beyond that date. With the team concept, the goal is to obtain input from each discipline, as well as from the participant, to perform an assessment that identifies the services necessary to address the participant's needs and care preferences.

As part of the initial comprehensive assessment, each of the following members of the multidisciplinary team must individually evaluate the participant in person and develop a discipline-specific assessment of the participant's health and social status:

- Primary care physician;
- Registered nurse;
- Social worker;
- Physical therapist or occupational therapist, or both;
- Recreational therapist or activity coordinator;
- Dietitian; and
- Home care coordinator.

These individuals represent the most vital components of the participant's treatment and psychosocial development. These disciplines are the core needed to determine the specific needs of the participant. At the recommendation of individual team members, other professional disciplines (*e.g.*, speech-language pathology, dentistry, or audiology) may participate in the initial comprehensive assessment if the participant's needs warrant their inclusion.

HCFA is currently in the preliminary stages of developing a standardized core assessment instrument to be used by PACE organizations for continuous quality improvement. Until such time as this instrument is completed, we are requiring that the participant's assessment include, at a minimum, the following information:

- physical and cognitive function and ability;
- medication use;
- participant and caregiver preferences for treatment;
- socialization and availability of family support;
- current health status and treatment needs;
- nutritional status;
- home environment, including home access and egress;
- participant behavior;
- psychosocial status;
- medical and dental status; and
- participant language.

We believe that this information will provide a basic framework from which a comprehensive plan of care can be developed. This assessment is appropriate for every participant, and ensures that the plan of care focuses on the participant's medical, psychosocial, and functional needs. However, this list represents the minimum information to be included in the comprehensive assessment, and the PACE organization is encouraged to include other assessment items as necessary. HCFA may impose additional or more specific assessment requirements upon development of the standardized core assessment instrument.

The Protocol requires that the discipline-specific plans be consolidated into a single plan of care for the participant. The development of the plan of care must occur through discussion and consensus of the entire multidisciplinary team. We are clarifying this requirement by stating that the discussion must take place during team meetings, in order to facilitate group discussion of the plan of care and ensure that all members of the team are actively involved in the decision-making process, and that the plan of care must be completed promptly.

In developing the plan of care, the PACE multidisciplinary team is also required to inform female participants that they are entitled to choose a women's health specialist from the network of PACE providers. We have included this requirement to be in compliance with the Consumer's Bill of Rights and Responsibilities (discussed in more detail later in this preamble in the section on participant rights). This requirement is intended to ensure that female participants are able to select providers who specialize in women's health for routine and preventive care.

Reassessments are necessary to provide information to adjust participants' plans of care. Periodic reassessments ensure the continued accuracy and effectiveness of the participant's plan of care. Consistent with the Protocol, we are requiring the following members of the multidisciplinary team to conduct an in-person reassessment on at least a semi-annual basis:

- Primary care physician;
- Registered nurse;
- Social worker;
- Recreational therapist or activity coordinator; and
- Other team members actively involved in the development or implementation of the participant's plan of care, for example, home care coordinator, physical therapist, occupational therapist, or dietitian.

The primary care physician, registered nurse, social worker, and recreational therapist/activity coordinator are required to provide assessments at least semi-annually as they are the most critical in terms of defining outcomes of care. Other team members actively involved in the participant's plan of care must also reassess semiannually, as they have an impact on the care the participant is receiving. If the participant is not receiving these other services (*e.g.*, home care, physical therapy, occupational therapy, dietitian services), these members of the team would not be required to conduct a semi-annual assessment.

Consistent with the Protocol, we are requiring the following members of the multidisciplinary team to conduct an in-person reassessment on at least an annual basis:

- Physical therapist and/or occupational therapist;
- Dietitian; and
- Home care coordinator.

It is important for the multidisciplinary team to monitor and respond to any changes in a participant's condition or family situation or any concerns raised by the

participant or his or her designated representative. The Protocol requires that the participant be reassessed by the team or by selected members of the team to develop a new plan of care when the health status or psychosocial situation of a participant changes. We believe that at least all members of the multidisciplinary team that are required to perform the initial comprehensive assessment should reassess the participant. If fewer members participate in this reassessment, a critical component of a participant's care might be overlooked.

If a participant's health or psychosocial status has changed or if a participant (or his or her designated representative) believes that a particular service needs to be initiated, continued, or eliminated for the participant, the appropriate multidisciplinary team members must reassess the participant. The purpose of this reassessment is to evaluate whether it is necessary to increase, continue, reduce, or terminate particular services and whether a different course of treatment is needed. A complete reassessment should ensure that the participant is receiving a continuing program of care that meets his or her current needs. Requiring a reassessment based on the concerns of the participant emphasizes the active role the participant plays in the assessment process and subsequent development of the plan of care. The participant's adherence to the plan is critical to the successful delivery of services. Therefore, permitting the participant (or designated representative) to trigger a reassessment gives participants the opportunity to express any dissatisfaction with the manner in which any care or services will be furnished.

The PACE organization is required to have explicit procedures for timely resolution of requests from participants (or designated representatives) to initiate, continue, or terminate a particular service. Unless an extension is granted, the multidisciplinary team must notify the participant (or designated representative) of its decision to approve or deny the request as expeditiously as the participant's condition requires, but no later than 72 hours after the multidisciplinary team receives the request. We considered establishing both a standard process and an expedited process for responding to a participant request; however, because of the frailty of this population, we concluded that every request is urgent and requires a quick response. We want to ensure that a participant's health is not adversely affected due to a delay in reassessing the participant's condition. The goal of the program is to maximize the participant's functioning, and a quick response is meant to ensure that all factors are evaluated, all necessary services are being furnished, and participant health is not compromised. A timely notification also allows participants adequate time to consider appeal rights, if necessary, without compromising their health.

The multidisciplinary team may extend the 72-hour timeframe by no more than 5 additional days if the participant or designated representative requests the extension, or the team documents its need for additional information and how the delay is in the interest of the participant. An extension could be warranted because not all the appropriate members of the multidisciplinary team may always be able to meet with the participant, conduct a discipline-specific reassessment, discuss the results of the reassessment with the entire multidisciplinary team, and develop a response to the request within 72 hours. The PACE organization retains the flexibility to determine the most appropriate manner in which to provide notification to the participant (or designated representative).

If, based on the reassessment, the multidisciplinary team decides to deny the participant's request, the denial must be explained to the participant (or designated representative) orally and in writing. The PACE organization must provide the specific reasons for the denial in understandable language.

If the participant (or designated representative) is dissatisfied with the outcome of the reassessment, the participant may appeal the decision in accordance with § 460.122. Specifically, the PACE organization must: (1) Inform the participant or designated representative of his or her right to appeal the decision; (2) describe both the standard and expedited appeals processes, including the right to and conditions for obtaining an expedited appeal of a denial of services; and (3) describe the right to and conditions for continuation of contested services through the period of the appeal.

If the multidisciplinary team fails to provide the participant with timely notice of the resolution of the request for reassessment or does not furnish the services required by the revised plan of care, this failure constitutes an adverse decision, and the participant's request must be automatically processed as an appeal by the PACE organization in accordance with § 460.122.

Team members who reassess a participant must reevaluate the plan of care. Any changes in the plan of care must be discussed and approved by the multidisciplinary team and the participant (or designated representative). The plan of care reflects the team's and participant's goals for the participant's care. Obtaining the participant's approval of the proposed plan of care is important to the successful delivery of services and the participant's adherence to the plan.

In addition, we also require that any services included in the revised plan of care as a result of a reassessment must be furnished to the participant as expeditiously as the participant's health condition requires. It is critical that care not be delayed and that the participant receive comprehensive care that maintains his or her functional status. Because we recognize that some changes in the participant's plan of care (*e.g.*, installing a wheelchair ramp at the participant's home) may require more time to accomplish, we have chosen not to specify a timeframe for delivering services. However, we are soliciting comment on the necessity of requiring a specific timeframe. Whenever a participant assessment or reassessment occurs, the information must be documented in the participant's medical record.

Plan of Care (§ 460.106)

Based on Part IV, section B of the Protocol, we developed requirements for the participant's plan of care. We are requiring that the multidisciplinary team promptly develop a comprehensive plan of care that specifies the care needed to meet the participant's medical, physical, emotional, and social needs, as identified in the initial comprehensive assessment. The plan of care must identify measurable outcomes to be achieved and must be developed in collaboration with the participant and her or his caregiver. The specified outcomes need not be discipline-specific. Instead, these are team goals for the participant's care. Involving the participant in the plan of care is important to the successful delivery of services and the participant's adherence to the plan.

We are requiring the team to implement, coordinate, and monitor the plan of care by providing services directly and supervising the delivery of services furnished by contract providers. The participant's health and psychosocial status, as well as the effectiveness of the plan of care, must be monitored continuously through the provision of services, informal observation, input from participants and caregivers, and communications among

members of the multidisciplinary team and other providers.

We are requiring that, on at least a semiannual basis, the multidisciplinary team reevaluate the participant plan of care, including the defined outcomes, and make changes as necessary. Semiannual review of the participant's plan of care ensures that the needs of the participant are being met. It allows the team to determine if the participant's level of health has changed thus dictating a change in the level of services or even the setting in which care must be provided.

We are requiring that participant plans of care be developed, reviewed, and reevaluated in collaboration with the participants or caregivers. The purpose of participant/caregiver involvement is to assure that they approve of the care plan and that participant concerns are addressed. We are giving PACE organizations the flexibility to determine how often care plans should be reviewed with the participant. We welcome comments on the issue of whether or not to impose a timeframe for this activity.

The participant's plan of care and any changes in the plan must be documented in the participant's medical record.

Subpart G—Participant Rights

(Sections 460.110–460.118)

Introduction

In accordance with sections 1894(b)(2)(B) and 1934(b)(2)(B) of the Act, the PACE program agreement requires the PACE organization to have in effect, "written safeguards of the rights of enrolled participants (including a patient bill of rights and procedures for grievances and appeals) in accordance with regulations and with other requirements of this title and Federal and State law that are designed for the protection of patients." In addition, sections 1894(f)(3) and 1934(f)(3) of the Act give us the discretion to apply such requirements of part C of title XVIII and sections 1903(m) and 1932 of the Act relating to protection of beneficiaries and program integrity as would apply to Medicare+Choice organizations under part C and to Medicaid managed care organizations under prepaid capitation agreements under section 1903(m). Moreover, sections 1894(f)(2) and 1934(f)(2) of the Act require us to incorporate the requirements in the PACE protocol which includes a patient bill of rights.

We also have made every effort to assure that the rights and protections established in the PACE agreement are in substantial compliance with the Presidential Advisory Commission's (The Commission) Consumer Bill of Rights and Responsibilities (CBRR), which appears as an addendum to The Commission's Final Report to the President, entitled *Quality First: Better Health Care for All Americans* (March 1998). (A copy of the Final Report can be obtained by calling the Agency for Health Care Policy and Research, Department of Health and Human Services at 1–800–358–9295.) The President issued an Executive Memorandum to the Secretary of the Department of Health and Human Services dated February 20, 1998, which requires that, by December 31, 1999, Medicare and Medicaid health care programs be brought into substantial compliance with the CBRR. The PACE program is included within that framework.

In considering how to apply these patient protections, the statute requires that we take into account the differences between the populations served and benefits provided under PACE, Medicare+Choice, and Medicaid managed care. We believe that the PACE program is unique in its approach to meeting the needs of the frail elderly. Unlike most managed care organizations which are responsible for meeting health care needs alone, the PACE program is an integrated partnership between the individual, the community, and the PACE organization, which is dedicated to providing all-inclusive care to meet all medical and social needs to enable the participant to remain in the community.

We believe it is important to establish participant rights that reflect the differences in the PACE delivery approach from that of other managed care systems. For example, since PACE participants receive services most days of the week, either at the PACE center or through home visits, PACE organizations are able to monitor changes in a participant's medical condition and social service needs on a daily basis. When PACE participants are referred to contracted specialists, in most cases, the PACE organization makes the appointment, provides transportation, and often provides an aide or other staff member to accompany the participant. While managed care organizations may provide this level of care management to some enrollees, PACE organizations do so routinely for their entire participant census. Also, while managed care organizations furnish a selected array of medical services, they do not furnish all-inclusive care, including social and recreational services intended to enhance participants' quality of life.

To reiterate the philosophy set forth in the PACE Protocol, the PACE organization furnishes comprehensive services designed to: (1) enhance the quality of life and autonomy for frail, older adults; (2) maximize dignity and respect of older adults; (3) enable frail, older adults to live in their homes and in the community as long as medically and socially feasible; and (4) preserve and support the older adult's family unit. The bill of rights for PACE participants must complement and maintain this philosophy. We have relied on the PACE Protocol and incorporated the basic rights that it identifies. However, we are also guided by the Medicare+Choice regulations and by the CBRR.

We also recognize that the statute directs us to consider State law. We have interpreted this to mean that a PACE organization's participant bill of rights may include additional rights and protections as required by State or local laws and regulations or ethical considerations of particular concern, but only if these additions or modifications provide stronger rights and protections than those established in this regulation. Regardless, it is up to the PACE organization to establish appropriate policies and procedures for assuring that the participant bill of rights is fully operational throughout the PACE organization.

Consistent with the Protocol and the CBRR, we have retained the concept that participants can choose to be represented by family members, caregivers, or other representatives. We intend that a participant may designate a representative to exercise any or all of the rights to which the participant is entitled.

We are requiring, as did the Protocol, the PACE organization to provide encouragement and assistance to participants in understanding and exercising their rights and in recommending changes in PACE policies and services. In addition, it is likely that many of the frail elderly or their chosen representatives will need guidance in navigating the pre-enrollment, enrollment, and post-enrollment processes of PACE. In the previous discussion on consultations with the State Administration on Aging, we referred to the State Long Term Care Ombudsman Programs. These State programs promote and monitor the quality of care in nursing homes, including identifying and resolving complaints, making regular visits to nursing homes, and generally, improving the quality of care and

quality of life of nursing home residents. The role of the ombudsman is to engage in a variety of activities designed to encompass both active advocacy and representation of residents' interests. We are specifically requesting public comment on whether the ombudsman program could play a role in consumer assistance to potential PACE participants, as well as to those who have disenrolled and need assistance in organizing their care. With regard to PACE participants, we are also interested in receiving public input as to whether an ombudsman could provide one-on-one consumer assistance to PACE participants and their designated representatives to exercise their rights and work effectively with the multidisciplinary team.

In § 460.110, we require a PACE organization to have a written participant bill of rights that is designed to protect and promote the rights of each participant. The organization is required to inform participants upon enrollment, in writing, of their rights and responsibilities, and all rules and regulations governing participation. In addition, the organization must protect participants' rights and provide for the exercise of those rights.

Finally, there are numerous references throughout the regulations to the PACE organization furnishing various kinds of information to participants in writing. In order for this information to be understandable and useful, it must be presented in a legible format. The frail elderly PACE population would be expected to have vision problems that make the use of sufficiently large, clear type particularly important in written communications. While we are not mandating the use of a particular typeface or font size, we expect PACE organizations to ensure that documents are legible for their intended audience.

Specific Participant Rights

- Right #1—Respect and nondiscrimination. Each participant has the right to considerate, respectful care from all PACE employees and contractors at all times and under all circumstances. Each participant has the right not to be discriminated against in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, or source of payment.

The individual's right to respect and nondiscrimination is embedded in the basic philosophy of the PACE program. Within this context, it is essential that PACE participants are assured of the following rights:

(1) To receive comprehensive health care in a safe and clean environment and in an accessible manner.

(2) To be treated with dignity and respect, be afforded privacy and confidentiality in all aspects of care, and be provided humane care.

(3) Not to be required to perform services for the PACE organization.

(4) To have reasonable access to a telephone.

(5) To be free from harm, including physical or mental abuse, neglect, corporeal punishment, involuntary seclusion, excessive medication, and any physical or chemical restraint imposed for purposes of discipline or convenience and not required to treat the participant's medical symptoms.

(6) To be encouraged and assisted to exercise rights as a participant, including the Medicare and Medicaid appeals processes as well as civil and other legal rights.

(7) To be encouraged and assisted to recommend changes in policies and services to PACE staff.

The following discussion provides the rationale for inclusion of these rights. In keeping with the PACE model, we recognize the participant's right to receive comprehensive care in a safe and clean environment and in an accessible manner. The Protocol states that a PACE participant must receive treatment and rehabilitative services. We have expanded this requirement to state that the participant has a right to receive comprehensive health care. The PACE organization must offer and manage all health, medical, and social services needed to restore or preserve the participant's independence. The PACE multidisciplinary team must arrange for preventive, rehabilitative, curative, and supportive services in adult day health centers, participant homes, hospitals, and nursing homes. The revised language addresses the complete range of services in each setting that a participant is entitled to, once enrolled in the PACE organization.

The Protocol stipulates that the participant has the right to have dignity, privacy, and humane care. For purposes of clarification, we require the PACE organization to treat the participant with dignity and respect, to afford the participant privacy and confidentiality in all aspects of care, and to provide humane care. The PACE organization must assure that a participant's dignity and privacy are respected not only in its own facilities but also in affiliated or contract providers. Staff should be instructed that any discussions with participants regarding treatment, the participant care plan, and medical conditions should be held in private and kept confidential. While recognizing the participant's right to privacy and confidentiality, we are not advocating physical barriers because participants should be in the view of the staff at all times to ensure safety. However, in situations where there is participant body exposure during treatment, the staff should be instructed to provide temporary screens or curtains.

We have adopted from the Protocol the right to be free from harm, including physical or mental abuse, neglect, corporeal punishment, involuntary seclusion, excessive medication, and inappropriate use of physical or chemical restraints. We have revised the wording used in the Protocol regarding the use of restraints. We do not view this as a policy change from the protocol, but felt the rewording was necessary to emphasize that the use of restraints must be limited to those situations with adequate, appropriate clinical justification. The use of restraints must be based on the assessed needs of the patient, be monitored and reassessed appropriately, and be ordered for a defined and limited period of time. The least restrictive and most effective method available must be utilized and it must conform to the patient's plan of care. Restraints may only be used as a last resort and must be removed or ended at the earliest possible time. We do not believe that restraints of any kind should ever be used as a preferred approach to care and we expect PACE organizations to ensure that their programs are "restraint free" to the greatest extent possible. Specific requirements regarding the use of restraints are established in § 460.114.

We are in the midst of examining our seclusion and restraint policy for all HCFA-covered providers. We call your attention to the discussion of the use of seclusion and restraints in the HCFA interim final rule with comment concerning the conditions of participation for hospitals (HCFA–3018–IFC, published July 2, 1999, 64 FR 36070). In that regulation, we have established very explicit standards for the use of seclusion and restraints both in medical/surgical care and for behavior management (see § 482.13(e) and (f)). While the standards are not identical to those we have included in § 460.114, they share the common principle that patients have the right to be free from restraints of any form that are not medically or psychiatrically necessary or are used as means of coercion, discipline, convenience, or retaliation by staff. In the preamble for the hospital conditions of participation, we indicate our intent to examine the

applicability of the hospital restraint and seclusion standards to other providers. Therefore, we formally ask for comments about how best to extend the protections proposed for hospital patients to participants in the PACE program.

We have also adopted the rights established in the Protocol to encourage and assist the participant to exercise his or her rights, including the Medicare and Medicaid appeals processes, as well as civil and legal rights and we have maintained the right to telephone access. On the other hand, we have altered the right not to be required to perform services for the organization unless the services are included for therapeutic purposes in the plan of care. Upon reflection, it is our belief that a therapeutic program should not be tied to performing services for the PACE organization.

The CBRR specifies that organizations should not discriminate on the basis of race, ethnicity, national origin, religion, sex, age, mental or physical disability, or source of payment. PACE organizations are required to comply with all Federal, State, and local laws, including discrimination statutes with regard to marketing, enrollment, and provision of services. However, we recognize that, with regard to health status considerations, PACE organizations are required as part of the intake process to assess whether a potential participant is appropriate for PACE, that is, meets the State's nursing home eligibility standard but can be cared for in the community. Meeting required certification standards within the PACE context is not deemed a violation of antidiscrimination laws. Still, in order to ensure that the qualification decision is free from other, illegal forms of discrimination, we are requiring PACE organizations to retain information on individuals who are assessed but, for whatever reason, are not enrolled.

• Right #2—*Information disclosure.* Each PACE participant has the right to receive accurate, easily understood information and to receive assistance in making informed health care decisions. Specifically, each participant has the right:

(1) To be fully informed in writing of the services available from the PACE organization, including identification of all services that are delivered through contracts, rather than furnished directly by the PACE organization—

(A) Before enrollment;

(B) At enrollment; and

(C) When there is a change in services.

(2) To have the enrollment agreement, described in § 460.154, fully explained in a manner understood by the participant.

(3) To examine, or upon reasonable request, to be assisted to examine the results of the most recent review of the PACE organization conducted by HCFA or the State administering agency and any plan of correction in effect.

In order for consumers, independently or in concert with their designated representatives, to make rational decisions, they need accurate, reliable information that will allow them to assess differences in their health care options, including information critical to their initial decision to enroll in PACE and whether to remain in PACE. The CBRR provides for comprehensive information to be provided to consumers in three basic categories: health plan information; health professional information; and health care facilities. Topics addressed include benefits, cost-sharing, dispute resolution, consumer satisfaction and plan performance information, network characteristics, care management information, corporate organization, etc. The CBRR indicates that certain information should be provided routinely with the remaining information available upon request.

Information that is provided to potential enrollees is addressed in more detail in the sections on marketing (§ 460.82) and enrollment (§ 460.154). With regard to participant rights, we have linked the right to information disclosure to the information that is included in the enrollment agreement. The PACE organization must explain the enrollment agreement in a manner understood by the participant to ensure that all participants fully comprehend their rights and responsibilities from the beginning of their relationship with the PACE organization. Among the items in the enrollment agreement are: an acknowledgment that the participant understands that the PACE organization is the participant's sole service provider; a description of PACE services available and how services are obtained from the PACE organization; the procedures for obtaining emergency and urgently needed out-of-network services; information on the grievance and appeals processes; conditions for disenrollment; description of participant premiums, if any, and procedures for payment of premiums. We are requiring that the PACE organization inform participants whenever changes occur in the services available from the PACE organization.

The enrollment agreement also indicates that the PACE organization has a program agreement with HCFA and the State administering agency that is subject to renewal on a periodic basis. In order to provide participants with information on the status of their organization's agreement, PACE participants have the right to examine the results of the most recent review of the PACE organization conducted by HCFA and the State administering agency and any plan of correction in effect.

We are also requiring in § 460.60(d), that changes in the organizational structure of the PACE provider be approved in advance by HCFA and the State administering agency. Once approved, information about changes in organizational structure will be forwarded to the consumer advisory committee for dissemination to participants as appropriate. In this way, participants will be kept informed about the organizational structure of the PACE provider and may determine if any organizational changes made by the PACE organization affect their continued enrollment in PACE.

• Right #3—*Choice of providers.* Each participant has the right to a choice of health care providers, within the PACE organization's network, that is sufficient to ensure access to appropriate high-quality health care. Specifically, each participant has the right:

(1) To choose his or her primary care physician and specialists from within the PACE network.

(2) To request that a qualified specialist for women's health services provide routine or preventive women's health services.

(3) To disenroll from the program at any time.

The right to access specialists must be seen in the context of the PACE model. Active involvement by participants in care planning in conjunction with a multidisciplinary team approach to care management and service delivery are fundamental aspects of the PACE model of care. In fact, although sections 1894(f)(2)(B) and 1934(f)(2)(B) of the Act provide for waiver of certain provisions of the protocol, use of the multidisciplinary team approach may not be waived. Development of a participant's plan of care begins with a comprehensive assessment. Participant preferences for care are identified components of the assessment. Once the plan of care is developed, the team is required to continuously monitor the effectiveness of the plan in collaboration with participants.

Moreover, the team is required to develop, review, and reevaluate the plan of care in collaboration with the participant to ensure there is agreement

with the plan of care and that participant concerns are addressed. These provisions complement the participant rights to participate in treatment decisions, to be fully informed of his or her functional status by the multidisciplinary team, to participate in the development and implementation of the plan of care, and to make health care decisions, including the right to refuse treatment and to be informed of the consequences of the decisions.

It is in this context that the determination with regard to the need for specialty care is made by the multidisciplinary team and the participant. If there is disagreement, then the participant has the right to engage the dispute resolution process. Regardless, the multidisciplinary team is expected to give ample consideration to a participant's request to see a specialist and to objectively determine whether such visits are necessary to meet the needs described in the plan of care. To further emphasize access to a woman's health care specialist within the context of the PACE model, we have identified such a request as one of the participant preferences that must be considered in developing the plan of care.

The CBRR asserts that consumers with complex or serious medical conditions who require frequent specialty care should have direct access to a qualified specialist of their choice within a plan's network of providers. Authorizations, when required, should be for an adequate number of direct access visits under an approved treatment plan. We believe that central to the PACE model, with its reliance on an all-inclusive plan of care that is derived by a multidisciplinary team in collaboration with the participant, is the organization's interest in ensuring that participants obtain the care they need, including specialty care, in the easiest and most efficient manner possible. A participant who needs a course of therapy with a specialist will have that need reflected in his or her plan of care and would receive that care for the duration and number of visits specified in the plan. In light of the requirements elsewhere in this rule concerning the development and management of the plan of care, we believe it would be redundant to include an explicit requirement that would mirror this CBRR provision, and have, therefore, not included such a requirement.

With regard to having a choice of primary care physician and specialists, the PACE organization is required to maintain sufficient staff and contractors to meet the needs of its participants. Given the participant census of PACE organizations, it is most likely that choice will be limited. PACE organizations likely will start out with one of each type of specialist and perhaps only one primary care physician. Although CBRR includes the right to choose among physicians in the provider's network, it was aimed at managed care organizations with thousands of patients and numerous providers. Such is not the case with the PACE model. Potential participants must weigh the limited network of PACE organizations with the benefits of a comprehensive, all-inclusive delivery system in choosing to enroll.

CBRR provides a right to transitional care for patients who are undergoing an extensive course of treatment for a chronic or disabling condition. As we discuss in greater detail in the section on the enrollment process, potential participants must be advised that the PACE organization is the participant's sole source provider and that the organization guarantees access to services, but not to a specific provider. As a result, PACE employees and specialists under contract are expected to provide as much advance notice as possible of their decision to terminate their relationship with the PACE organization in order to provide sufficient time for the organization to secure a replacement. In addition, the PACE organization and its contractors are expected to provide as much advance notice as possible of a decision to terminate a contract in order to provide for an orderly transition for participants. We are requesting public input on the propriety of establishing a contract requirement to ensure a minimum transition period.

- Right #4—*Access to emergency services*. Each participant has the right to access emergency health care services when and where the need arises without prior authorization by the PACE multidisciplinary team.

In addition to establishing a participant right to emergency services without prior authorization, we have described emergency care, emergency medical condition, urgently needed services and post-stabilization care services previously in the preamble in the section regarding emergency care and in § 460.100, consistent with the CBRR.

- Right #5—*Participation in treatment decisions*. Each participant has the right to fully participate in all decisions related to his or her care. A participant who is unable to fully participate in treatment decisions has the right to designate a representative. Specifically, each participant has the right:

(1) To have all treatment options explained in a culturally competent manner, and to make health care decisions, including the right to refuse treatment, and be informed of the consequences of the decisions.

(2) To have the PACE organization explain advance directives and to establish them, if the participant so desires, in accordance with §§ 489.100 and 489.102 of this chapter.

(3) To be fully informed of his or her health and functional status by the multidisciplinary team.

(4) To participate in the development and implementation of the plan of care.

(5) To request a reassessment by the multidisciplinary team.

(6) To be given reasonable advance notice, in writing, of any transfer to another treatment setting and the justification for the transfer (*i.e.*, due to medical reasons or for the participant's welfare or that of other participants). The PACE organization must document the justification in the participant's medical record.

As noted previously, active involvement by participants and their designated representatives in care planning is fundamental to the PACE model of care. As a result, we have retained the rights in the Protocol related to participant involvement in the development and implementation of the plan of care. We retained the participant's right to be fully informed by the multidisciplinary team of his or her health and functional status. In support of this right, the PACE participant must have, upon written request, access to all records pertaining to herself or himself. Moreover, the team must provide care information in a manner that is responsive to the culturally diverse populations whom they serve. The PACE organization may need to develop strategies for enhancing cultural competence in its staff such as increased use of interpreters, incorporating in-house training programs, recruiting culturally diverse staff or contractors, or establishing relationships with organizations that provide technical assistance regarding cultural aspects of health care.

The Protocol states that a participant has the right to refuse treatment and be informed of the consequences of such refusal. The Protocol also states that PACE participants can establish advance directives and make health care decisions. We restructured these two requirements in order to place greater emphasis on the participant's right to make health care decisions and to clarify that the right to refuse treatment

is a type of health care decision. We have maintained the participant's right to make advance directives but have clarified that within this right the PACE organization is required to fully explain advance directives (in accordance with §§ 489.100 and 489.102 of this chapter) to participants.

We have maintained the requirement that PACE organizations provide reasonable advance notice in writing of any transfer to another part of the program. However, we are soliciting comment on the necessity of specifying a timeframe for participant notification. Given the frailty of the PACE population, some participants may require additional time to prepare for the transition to other parts of the program, while others may require the transfer without delay. We welcome comments on the feasibility of including a specific timeframe that would apply to all participants.

In addition to these specific rights, there are other processes embodied in the PACE model that promote participant involvement in care planning and implementation. For example, the comprehensive assessment that serves as the basis for the plan of care includes participant and caregiver preferences for care and input from participant and caregivers is used by the multidisciplinary team to monitor the effectiveness of the plan of care. Finally, the team is specifically required to develop, review, and reevaluate the plan of care in collaboration with the participant or caregiver to ensure that there is agreement with the plan of care and that participant concerns are addressed.

In support of effective involvement in care planning and communication between participants and providers, we note that the statute provides for a specific sanction if we determine that the PACE organization imposes a physician incentive plan that does not meet statutory requirements (see § 460.40(h)) or prohibits or otherwise restricts a health care practitioner from discussing treatment options with the participant or caregiver (see § 460.40(g)).

• Right #6—*Confidentiality of health information.* Each participant has the right to communicate with health care providers in confidence and to have the confidentiality of his or her individually identifiable health care and other information protected, including information contained in an automated data bank (see § 460.200). Each participant also has the right to review and copy his or her own medical records and request amendments to those records.

Consistent with the CBRR and Medicare+Choice and Medicaid managed care organization requirements, participants have the right to communicate with any member of the multidisciplinary team and contract providers in confidence and to have the confidentiality of their individually identifiable health care information protected.

In addition, the section on maintenance of records and reporting of data (see § 460.200) specifically addresses confidentiality and the safeguarding of health, financial, and other information. It requires PACE organizations to establish written policies and implement procedures to safeguard the privacy of participant information and ensure appropriate use and release of participant information. When the HHS privacy standards required by the Health Insurance Portability & Accountability Act of 1996, Public Law 104–191, are finalized, most plans and providers (including HCFA components and most PACE organizations) will be required to comply with the requirements of that regulation as well.

• Right #7—*Complaints and appeals.* Each participant has the right to a fair and efficient process for resolving differences with the PACE organization, including a rigorous system for internal review by the organization and an independent system of external review. Specifically, each participant has the right:

(1) To be encouraged and assisted to voice complaints to PACE staff and outside representatives of his or her choice, free of any restraint, interference, coercion, discrimination or reprisal by the PACE staff.

(2) To appeal any treatment decision of the PACE organization, its employees, or contractors through the process described in § 460.122.

We have adopted the concepts expressed in the CBRR for both the internal and external appeals processes as described in detail in the following section.

§ 460.116 requires the PACE organization to have written policies and implement procedures to ensure that the staff, the participant, and his or her representative understand these rights. The regulations also require that, at the time of enrollment, staff review the bill of rights with the participant and representative, if any, in a manner which they understand. The PACE organization is expected to assure that information is provided to the physically and mentally disabled, that translator services are available as needed for non-English speaking participants, and that interpreter services and other accommodations (such as TTY connections) are made available to the hearing-impaired.

We have incorporated the requirement that participant rights be posted in a prominent place in the PACE center in English and any other principal language of the community. This allows participants, center staff, and other concerned persons to review the participant's rights at any time. For those participants who speak or read in only a "non-predominant" language, the participants should have their rights explained to them in a manner they understand.

§ 460.118 requires the PACE organization to have and implement documented, established procedures to respond to and rectify a violation of a participant's right. This is intended to ensure that the PACE organization will address all violations of participants' rights and not allow problems to continue.

Grievances and Appeals

In accordance with sections 1894(b)(2)(B) and (f)(3) and 1934(b)(2)(B) and (f)(3) of the Act, we have established requirements at §§ 460.120 through 460.124 requiring PACE organizations to establish procedures for grievances and appeals. We have adapted these requirements from Part II, section B of the Protocol. Rather than follow the Protocol's interchangeable use of the terms "complaint," "grievance," and "appeal," we have distinguished between grievances and appeals. Our intent was to delineate between (1) a participant's grievance regarding dissatisfaction with service delivery or the quality of a service furnished and (2) a participant's action with respect to noncoverage of or nonpayment for a service. We believe that such a distinction is needed to clearly establish both a process to address a participant's dissatisfaction with service delivery or quality of care furnished and a process to address the PACE organization's refusal to furnish or pay for a particular service. The grievance process and the appeals process are similar, since both are based on the Protocol, with some minor differences due to the nature of the complaint.

Grievance Process (§ 460.120)

A grievance is defined as a complaint, either written or oral, expressing dissatisfaction with service delivery or the quality of care furnished.

The PACE organization must have a formal written process to evaluate and resolve grievances, whether medical or

non-medical in nature, by PACE participants, their family members, or representatives. Having a formal written process to evaluate and resolve grievances is essential since all personnel (employees and contractors) who have contact with participants should be aware of and understand the basic procedures for receiving and documenting grievances in order to initiate the appropriate process for resolving participant concerns.

We have retained the requirement from the Protocol that all participants must be informed of the grievance process in writing. This information must be provided to participants upon enrollment into the PACE program and at least annually thereafter. We believe it is critical that participants are fully and promptly informed of this process and periodically reminded of their rights, so they may exercise these rights from the beginning of their relationship with the PACE organization.

The grievance process, at a minimum, must include procedures for:

(1) filing a participant's grievance;

(2) documenting the participant's grievance;

(3) responding to and resolving the participant's grievance in a timely manner; and

(4) maintaining confidentiality of the participant's grievance.

The PACE organization's internal procedures should assure that every grievance is handled in a uniform manner and that there is communication between different individuals who are responsible for reviewing or resolving grievances. In addition, the PACE organization must also have appropriate documentation, so the information can be utilized both in the organization's internal quality improvement activities and in HCFA's quality assessment projects. Requiring that grievances be responded to and resolved in a timely manner provides a protection to the participants. It is intended to ensure that the PACE organization addresses all participant concerns and does not allow the problem in service delivery to be unresolved. Finally, at all times, an organization must have procedures governing confidentiality to protect against unauthorized or inadvertent disclosure of information. Participant confidentiality may also prevent reprisal against the participant.

It is critical that the PACE organization continue to provide care to the participant during the grievance process because under the law participants must receive care solely through the PACE organization. Continuing care also encourages participants to continue to voice concerns about service delivery without fear of any reprisal.

The PACE organization must discuss the step, including timeframes for response, that will be taken to resolve the participant's grievance both at the time of the participant's enrollment and when a grievance is filed. This assures the participant that there will be resolution of the issue. In addition, the organization acknowledges the participant's concern, tries to address the problem, and makes any necessary adjustments in service delivery.

The PACE organization must maintain, aggregate, and analyze information on grievance proceedings. This requirement is an integral part of fostering an environment of continuous improvement, and it complements the requirement on internal quality assessment and performance improvement. We expect that, once an organization has a quality improvement system in place, participant grievances will be analyzed evaluated since grievances may be the first clue that a problem exists. By analyzing the number and types of grievances, a PACE organization will be able to develop activities to monitor and improve the grievance resolution process, as well as identify and make improvements or modifications in area of care. This also applies to the appeals process.

PACE Organization's Appeals Process (§ 460.122)

An appeal is defined as participant's action taken with respect to a PACE organization's noncoverage of or nonpayment for a service. The PACE organization must have a formal written appeals process, with specified timeframes for response. We have retained the requirement from the Protocol that all participants must be informed of the appeals process in writing. This information must be provided to participants upon enrollment into the PACE program, at least annually thereafter, and whenever the multidisciplinary team denies a request for services or payment. The appeals process, at a minimum, must include procedures for:

(1) timely preparation and processing of written denials of coverage or payment in accordance with § 460.104(c)(3)

(2) filing a participant's appeal;

(3) documenting the participant's appeal;

(4) appointing an appropriately credentialed and impartial third party that was not in the original action and that does not have a stake in the outcome of the appeal to review the participant's appeal;

(5) responding to and resolving the participant's appeals as expeditiously as the participant's health condition requires, but no later than 30 calendar days after it receives an appeal; and

(6) maintaining confidentiality of the participant's appeals.

The appeals process is very similar to the grievance process. However, we have included the requirement that an objective third party be appointed to review all appeals, so information is reviewed by an individual or group that has no stake or involvement in the decision. This helps to prevent bias in the decision. In addition, we have specified that the PACE organization must respond to participant appeals within 30 days of receipt of an appeal and established a shorter timeframe for expedited appeals. We have not included a provision for a 14-day extension of this 30-day timeframe (as allowed under the Medicare+Choice regulations at 42 CFR 422.590(a)) in recognition of the frailty of the PACE population. We are soliciting comments on both the appropriateness of this timeframe and on the necessity of requiring a specific timeframe.

We have adopted the Protocol requirement that the PACE organization must give the parties involved in the appeal a reasonable opportunity to present evidence related to the dispute in person as well as in writing.

It is critical that the PACE organization continue to furnish care to the participant during the appeal process because under the law participants must receive care solely through the PACE organization. In addition, we have incorporated the Medicaid continuation of benefits provision for all Medicaid participants. Under the continuation of benefits provision, the PACE organization may not terminate or reduce disputed services while an appeal is pending if the Medicaid participant requests that they be continued with the understanding that he or she may be liable for the cost of those services if the appeal is not resolved in his or her favor. It is critical that all other care continue in order to maintain the participant's functional status. The goal of the program is to furnish comprehensive care to the participant and this cannot be accomplished if there is a breakdown in the provision of services.

The PACE organization must have an expedited appeals process for situations in which the participant believes that if the service is not furnished her or his life, health, or ability to regain

maximum function would be jeopardized. This provides for prompt consideration of requests for services if the participant's health might be adversely affected if she or he had to wait for the standard appeals process. As noted above, the goal of the program is to maximize the participant's functioning, and the expedited appeals process ensures that all factors are evaluated so that all necessary services are being furnished and participant health is not compromised. We have added a requirement that the PACE organization must respond to the appeal as expeditiously as the participant's health condition requires, but no later than 72 hours after it receives the appeal. The 72-hour timeframe may be extended by up to 14 calendar days if the participant requests the extension or if the organization justifies to the State administering agency the need for additional information and how the delay is in the interest of the participant. These timeframes for responding to expedited appeals are consistent with the requirements for Medicare+Choice plans in 42 CFR 422.590(d), published June 26, 1998 (63 FR 35110–35111). We recognize that the outcome of pending litigation may compel modification of this requirement. We will amend the requirement if resolution of the litigation makes changes necessary.

The PACE organization must take appropriate action as expeditiously as the health condition of the participant requires if, on appeal, a determination is made in favor of the participant. There may be situations in which the PACE organization has made an incorrect or inaccurate assessment of the participant's needs or condition and has denied a service. In these situations, it is critical that care not be delayed and that the participant continue to receive comprehensive care that maintains her or his functional status.

We have maintained the Protocol requirement that all determinations that are wholly or partially adverse to the participant must be forwarded to HCFA and the State administering agency. We have required that the PACE organization notify HCFA, the State administering agency, and the participant of its actions at the time the decision is made.

Additional Appeal Rights Under Medicare or Medicaid (§ 460.124)

The PACE organization must also inform participants in writing of their additional appeal rights under Medicaid or Medicare managed care (§ 460.124), assist participants in choosing which appeal process to pursue if both are applicable, and then forward the appeal to the appropriate external entity. Participants who are dually eligible for Medicare and Medicaid may utilize either the Medicare or the Medicaid managed care appeal process. In those cases where participants are covered only under one program (Medicare or Medicaid), only the appropriate appeals process would apply.

Subpart H—Quality Assessment and Performance Improvement

We have adopted quality assessment and performance improvement requirements that are consistent with the provisions from Part V of the Protocol. We have also added requirements to prepare PACE organizations for the outcome-based continuous quality improvement (OBCQI) system that is being developed under a HCFA contract by the Center for Health Services and Policy Research (CHSPR) at the University of Colorado.

Sections 1894(e)(3) and 1934(e)(3) of the Act state that under a PACE program agreement, the PACE organization, the Secretary, and the State administering agency shall jointly cooperate in the development and implementation of health status and quality of life outcome measures with respect to PACE participants.

The CHSPR is developing a core data set that will provide the foundation for OBCQI in PACE. In developing the data set for PACE, CHSPR is examining existing HCFA data instruments such as the Minimum Data Set (a part of the nursing home Resident Assessment Instrument), the Outcome and Assessment Information Set (OASIS, a part of the Medicare home health agency conditions of participation, DataPACE (developed by On Lok, Inc. and used currently by PACE demonstration sites), and the Functional Independence Measure (FIM) items (an assessment data set used in rehabilitation hospitals), for data items which may be pertinent for PACE. This project supports the development of an OBCQI system for PACE and consists of five tracks of activities: (1) Outcome indicator development; (2) outcome measure development; (3) data item and instrument assessment and specification; (4) feasibility and pilot testing of the measures, the data items, and the system; and (5) construction and finalization of a practical OBCQI program for PACE. The data items to be specified will need to be collected at defined time points. In order to have comparable data across the PACE centers, all PACE providers will be required to collect all items in this data set for each of their PACE centers exactly as specified.

In spring of 1999, CHSPR began feasibility testing of the proposed data items and the time point for data collection. Pilot testing activities are scheduled March 2000 and continue through November 2000. Draft final recommendations for the core data items, outcome measures, data collection time points, risk-adjustment methods for the organization-level outcome reports, and the OBCQI implementation plan will be available early in 2001 with the final report completed in the spring of 2001.

The OBCQI system for PACE will be used to assess and improve (where needed) the quality of care provided to PACE participants. In order to have comparable data across the PACE centers, all PACE organizations will be required to collect the items in this data set for each of their PACE centers as specified. If new PACE organizations are investing in data systems, these systems must be flexible enough to incorporate the data items specified as a result of the OBCQI project. HCFA's expectation is that the OBCQI approach resulting from this project will be carefully integrated into, not simply added to or superimposed on, current clinical and administrative practices at the PACE sites. The unique nature of PACE and the health status attributes of PACE participants are being considered in developing the OBCQI system.

HCFA has begun to specify a preliminary classification scheme or framework of outcomes relevant to the PACE program. This taxonomy will be refined over the course of the project to develop an OBCQI system. The initial classification of outcomes includes: functional status, physiologic status and symptom management, cognitive functioning, emotional and mental health status, participant quality of life, caregiver quality of life, satisfaction with care, knowledge and compliance, end of life, and utilization.

The general framework for the PACE OBCQI system consists of two stages. The first stage is outcome analysis which includes data collection, analysis, and outcome reporting. The second stage is outcome enhancement and entails selecting specific outcomes for review, after which plans of action are documented to change or reinforce care behaviors. A key characteristic of OBCQI is the use of outcomes to help focus efforts in individual PACE sites to improve care behaviors. For the purposes of this project an outcome is defined as a participant or caregiver change in health, knowledge, ability, quality of life, outlook, or motivation that occurs over a period of time. Outcomes can be global ones that

pertain to all PACE participants or can be more focused and pertain to specific types of participants such as those diagnosed with dementia. There are both end-result and instrumental outcomes. An end-result outcome is a change in participant or caregiver status in an area that care is or should be intended to directly impact. Attainment of one or more end-result outcomes is the primary purpose of care (*e.g.*, an improvement in skin breakdown when care has or should have been furnished to maintain or enhance skin integrity). An instrumental outcome is a "facilitating" outcome that may be important in attaining an end-result outcome, although it is not the primary purpose of care (*e.g.*, participant adherence to a medication regimen). Outcome indicators are constructs or attributes of change in health status that reflect a participant outcome, but are not concerned with the quantification of the outcome. When the outcome indicator is precisely quantified, it results in an outcome measure.

PACE organizations and reviewers will be able to use organization-level outcome reports to compare one PACE organization and its PACE centers to all other PACE organizations and their PACE centers relative to risk-adjusted outcomes. Additionally, a PACE organization or reviewers will be able to track a given organization's outcomes and evaluate/monitor how the outcomes have changed relative to an earlier time period.

PACE organizations and States have opportunities to give input into the development of the outcome measures and the OBCQI system. These opportunities include membership in the project Advisory Committee, participation in the clinical and research technical expert panels, and involvement in piloting the data collection instruments, time points for data collection, and the outcome measures. Additionally, feedback and input from State Medicaid representatives and PACE organizations is sought at the annual PACE policy forum sponsored by the National PACE Association (NPA) in the spring of each year.

General Rule (§ 460.130)

We are requiring the PACE organization to develop, implement, maintain, and evaluate an effective data-driven quality assessment and performance improvement program. It is important that the quality assessment and performance improvement program take into consideration the wide range of services furnished by PACE. Additionally, the program should use data to identify and improve areas of poor performance. The PACE organization must take actions that result in improvements in its performance across the spectrum of care.

Quality Assessment and Performance Improvement Plan (§ 460.132)

The PACE organization must have a written quality assessment and performance improvement plan. Consistent with the protocol, we are requiring PACE organizations to have their quality assessment and performance improvement plan annually reviewed by the PACE governing body and, if necessary, revised. Further, in this section we set forth the minimum requirements for a written plan that specifies how the PACE organization proposes to (1) Identify areas in which to improve or maintain the delivery of services and patient care; (2) develop and implement plans of action to improve or maintain quality of care; and (3) document and disseminate the results of the quality assessment and improvement activities to the PACE staff and subcontractors.

Minimum Requirements for Quality Assessment and Performance Improvement Program (§ 460.134)

The requirement contained in § 460.134 is consistent with the PACE Protocol, but it provides more explicit information about what types of outcomes must be used to monitor quality. The PACE organization's quality assessment and performance improvement program must include, but need not be limited to, the use of objective measures to demonstrate improved performance with regard to:

(1) Service utilization. PACE demonstration programs currently collect utilization data such as inpatient hospitalizations and emergency room visits. This information can be used to evaluate fiscal well-being, as well as evaluate quality of care. A PACE organization can use its own utilization data for its PACE centers to compare with other PACE organizations and their centers across the nation. By comparing utilization data across PACE centers, the PACE organizations, HCFA and State administering agencies can identify PACE centers who appear to have unusually high or low utilization of a particular service. Reviewers will be able to target reviews of PACE centers whose utilization data suggest, for example, that participants may be receiving fewer services than necessary to achieve expected outcomes. The purpose of including utilization data in the PACE organization's quality assessment and performance improvement program is to help the PACE organization ensure that participants receive the appropriate level of care through their PACE center. Additionally, using information regarding utilization of and reasons for emergency care and hospital and nursing home admissions, the PACE organization can identify areas for improvement.

(2) Caregiver and participant satisfaction. Caregiver and participant satisfaction with services is an important element of a quality assessment and performance improvement program. A PACE organization must survey, on an ongoing basis, participants and their caregivers to determine satisfaction with the services furnished and the outcomes achieved. Given the large number of PACE participants who are cognitively impaired and the critical role caregivers play in keeping PACE participants in the community, it is important to survey caregivers about their satisfaction with the program. HCFA expects the PACE organization to use this information to identify opportunities to improve services and caregiver and participant satisfaction. HCFA does not intend, at this point, to prescribe the specific tools for measuring participant and family satisfaction. Since the OBCQI project has not finalized the indicators to measure these issues, it would be unreasonable to request specific data collection for these items at this time. It is the responsibility of the PACE organization to survey the participants and family but HCFA is not specifying the survey tool they must use. The PACE organization will be expected to demonstrate its satisfaction measurement system and how it is used as part of the overall internal quality assessment and performance improvement system. Upon completion of the CHSPR OBCQI project, PACE organizations may be required to collect data on a limited number of specific caregiver and participant satisfaction measures. In developing the measures, we will examine the Consumer Assessments of Health Plans Study Surveys that HCFA is currently using for Medicare managed care plans.

(3) Measures derived from participant assessment data. These measures can be used to determine if individual and organization-level measurable outcomes are achieved compared to a specified previous time period. These measures should encompass the various areas needed to monitor care for PACE participants, including physiologic, functional, cognitive, mental health, social/behavioral, and quality of life

outcomes. At the completion of the PACE OBCQI project, the types of measures will be specified in these areas. In the meantime, PACE organizations should begin to use similar measures in these areas as part of their internal quality improvement programs. For example, PACE organizations should begin to focus their own quality improvement activities on outcomes such as stabilization in ability to bathe, from a baseline period to each follow-up period; improvement in dyspnea from admission into PACE to a follow-up period; improvement in transportation services over a specific time period; and improvement in caregiver stress from participant admission into PACE to a follow-up time period.

(4) Effectiveness and safety of staff-provided and contracted services, including the competency of clinical staff, promptness of service delivery, and achievement of treatment goals and measurable outcomes. For participants to experience the outcomes that the PACE benefit is intended to achieve, staff must demonstrate skills and competencies necessary to facilitate those desired outcomes. The PACE organization is expected to include data-based, criterion-referenced performance measures of staff skills, to utilize these data to ensure that staff maintain skills, and to provide training as new techniques and technologies are introduced and as new staff are hired. Each PACE organization will be expected to demonstrate that it has a system of appropriate complexity for keeping track of the skills and competencies of the staff and for effectively identifying and addressing staff training needs. These data should be an integral part of the PACE organization's internal quality assessment and performance improvement program that provides continuous feedback on staff performance.

(5) Non-clinical areas. The types of outcomes in this area include outcomes related to participants' grievances, transportation services, and meals. For example, if a PACE organization finds a high rate of grievances not resolved, the PACE organization might target its activities to improve the grievance process.

We expect PACE organizations to use the most current clinical practice guidelines and professional standards in the development of outcome measures applicable to the care of PACE participants. Continuous improvement is only possible through the identification and use of current information, techniques, and practices. While HCFA is not imposing any specific standards of practice, this requirement establishes the expectation that the PACE organization will utilize the current standards as a routine part of its daily operations.

We have added a requirement that the PACE organization must meet minimum levels of performance on standardized quality measures that will be established by HCFA and the State administering agency which are specified in the PACE program agreement. For example, HCFA might require all PACE organizations to achieve a 95 percent flu immunization rate for their PACE participants. If a PACE organization fails substantially to meet these specified requirements, the continuation of the PACE program agreement may be conditional on the execution of a corrective action plan, or alternatively, some or all further payments for PACE program services may be withheld until the deficiencies have been corrected. We are not establishing minimum performance standards in this regulation. Rather, we will establish minimum performance standards based on analysis of available data sets that are applicable to PACE participants.

We have added a requirement that the PACE organization take actions to ensure the accuracy and completeness of all data used for outcome monitoring. A data-driven quality assessment and performance improvement program must be based on accurate data. The regulations require that PACE organizations set up mechanisms to check for the accuracy, timely collection, and completeness of all data.

Internal Quality Assessment and Performance Improvement Activities (§ 460.136)

In § 460.136, we require that the PACE organization must use a set of outcome measures to identify areas of good or problematic performance and must take actions targeted at reinforcing or improving care based on these outcome measures.

The PACE organization also must incorporate any actions resulting in performance improvement into its standards of practice for the delivery of care. A method of periodically tracking performance to assure that any improvements are sustained over time must also be incorporated in the program. The PACE organization must use its own experience from its performance improvement program to change care behaviors and to ensure that these behaviors are sustained.

Unlike the Protocol, we are requiring the PACE organization to set priorities for performance improvement, considering the prevalence and severity of identified problems and giving priority to improvement activities that affect clinical outcomes. However, any identified problems that directly or potentially threaten the health and safety of participants must be corrected immediately. Prioritizing areas of improvement is essential to ensure consistency in the quality of care furnished over time. Conditions that may threaten the health and safety of participants must be immediately and directly addressed when they are identified.

Similar to the Protocol, we are requiring the PACE organization to designate an individual to coordinate and oversee implementation of quality assessment and performance improvement activities. The purpose of this requirement is to ensure that the PACE organization designates responsibility for a quality assessment and performance improvement plan and the various activities resulting from this plan. Also, this individual is responsible for ensuring that all team members, PACE staff, and contract providers are aware of the various quality assessment and performance improvement activities.

We have added a requirement that the PACE organization ensure that all team members, PACE staff, and contract providers are involved in the development and implementation of the quality assessment and performance improvement activities and are aware of the results of these activities. The process of service delivery in PACE requires the team to identify participant problems, determine appropriate treatment objectives, select interventions and evaluate outcomes of care on an individual participant basis. The multidisciplinary teams are in a unique position to provide PACE management with structured feedback on the performance of the PACE program and suggest ways in which performance can be improved. Thus, we expect the PACE organization to make full use of the multidisciplinary team and other staff in contributing to the internal quality improvement program.

Consistent with the Protocol, we are requiring the PACE organization to involve PACE participants and caregivers in the quality assessment and performance improvement activities, including providing information about their satisfaction with services. One of the best sources of information about the strengths and weaknesses of a program is from the users of the program. In this case, it is important for PACE programs to get feedback from

both PACE participants and caregivers to help identify areas that need improvement.

Committees With Community Input (§ 460.138)

Similar to the Protocol, we are requiring that the PACE organization develop a committee(s) with community input to (1) evaluate data collected pertaining to quality outcome measures, (2) address the implementation of and results from the quality assessment and performance improvement plan, and (3) provide input related to ethical decision-making including end-of-life issues and implementation of the Patient Self-Determination Act. Through this committee, the PACE organization will be able to receive guidance regarding its quality assessment and performance improvement program and the ethical issues faced by PACE organizations.

Additional Quality Assessment Activities (§ 460.140)

As the final requirement under Quality Assessment and Performance Improvement as set forth in this section, we require that PACE organizations participate in periodic, external quality improvement reporting requirements as may be specified by the HCFA or the State administering agency. Examples of participation in a quality assessment and performance improvement activity include the reporting of data items for outcome measurement purposes, participation in the survey process, and participation in a HCFA-directed national quality improvement project.

Subpart I—Participant Enrollment and Disenrollment

Eligibility To Enroll in a PACE Program (§ 460.150)

In accordance with sections 1894(a)(5) and (c)(1) and 1934(a)(5) and (c)(1) of the Act, we have established § 460.150, to specify the requirements for eligibility to enroll in the PACE program. According to the Protocol, in order to be eligible for enrollment in PACE, an individual must be:

a. At least fifty-five years of age;

b. A resident in the PACE organization's service area;

c. Assessed by the multidisciplinary team; and

d. Certified by the State Medicaid Agency as eligible for nursing home level of care.

With the exception of the requirement to be assessed by the multidisciplinary team, these requirements are also included in the statute.

Sections 1894(c)(2) and 1934(c)(2) of the Act provide that a PACE program eligible must have a health status comparable to the health status of individuals who have participated in the PACE demonstration waiver programs. Further, sections 1894(c)(2) and 1934(c)(2) of the Act specify that this determination will be based upon information on health status and related indicators (such as medical diagnoses and measures of activities of daily living, instrumental activities of daily living, and cognitive impairment) that are part of a uniform minimum data set collected by PACE organizations on potential PACE program eligible individuals. This provision means that PACE organizations will continue to serve patients who are as frail as those served under the demonstration; this will prevent PACE organizations from selecting enrollees who need less care and whose care is therefore less costly.

We examined some informational data extracted from the PACE Fact Book (Second Edition, 1996, prepared by On Lok, Inc., 1333 Bush Street, San Francisco, California, 94109) which provides a portrait of participants in the eleven fully-capitated demonstration sites as of December 31, 1995. Activities of daily living (ADL) are personal care tasks (bathing, dressing, toileting, transferring, and eating) that a person must be able to perform to be considered independent. A person is considered to have an ADL dependency, and a score of "1" is assigned, for each of those 5 tasks for which some or full assistance is needed to perform the task. A similar scale measures dependencies in 8 instrumental activities of daily living (IADL), which are meal preparation, shopping, housework, laundry, heavy chores, money management, taking medications, and transportation. The 2710 participants in these 11 sites at the end of 1995 had an average of 2.8 ADL dependencies (varying by site from 2.3 to 3.8) and an average of 7.5 IADL dependencies (varying from 6.9 to 7.9 by site). Additionally, these participants had an average of 7.9 medical conditions (varying from 4.9 to 11.0 by site) and an average number of 4.5 errors or unanswered questions (varying from 2.0 to 6.4) on the Short Portable Mental Status Questionnaire used to evaluate mental functioning.

The PACE Fact Book acknowledges the difficulty of maintaining a valid and consistent data set in a multisite project with sites scattered across the country. However, there are many reasons why the data would be expected to show differences across sites. Although the targeted population for all the PACE demonstration sites is individuals who meet the nursing facility level of care, the specific criteria used to determine if an individual needs this level of care vary by State. Actual implementation of the PACE program also differs in other ways across sites to reflect the particular community in which the site is located. Furthermore, marketing efforts vary, as do the maturity of the site and particular staffing arrangements. We are convinced that any means of determining whether individuals have a health status comparable to that of participants in the PACE demonstration programs must take into account variances among sites and differences across patients within a site. Therefore, we have concluded that we could not develop a tool that would more adequately determine health status comparable to individuals in the PACE demonstration programs than the current criteria used by States to determine if an individual needs a nursing facility level of care.

In determining how best to implement this requirement, we also considered other safeguards against selective enrollment. Sections 1894(c)(3) and 1934(c)(3) of the Act include a requirement that participants be recertified annually as requiring a nursing facility level of care. Under the demonstration program, the need for a nursing facility level of care was a one-time certification. Thus, under the demonstration, PACE organizations could continue to serve individuals who had a short-term need for a nursing facility level of care but whose condition had shown significant improvement. The law's annual recertification requirement ensures that participants will continue to need a nursing facility level of care.

Additionally, we are implementing a requirement that PACE organizations must notify HCFA and the State administering agency of enrollment denials. HCFA and State administering agencies may analyze this information to detect selective enrollment. Finally, the quality assurance requirements included in these regulations will allow the monitoring of case-mix profiles across sites. While it might be very difficult to identify situations where organizations engage in selective enrollment on an individual participant basis, the improved quality assurance mechanisms will allow the identification and correction of routine instances through the review of organization-level case-mix profiles.

After weighing both the need to maintain State and organization flexibility to develop programs suitable to the communities in which the PACE organizations will operate and the implementation of other safeguards against selective enrollment, we believe

having a health status comparable to the PACE demonstrations is inherently equivalent to needing a nursing facility level of care. We are satisfied that applying the nursing facility level of care requirement in conjunction with the other safeguards discussed will minimize selective enrollment while preserving program flexibility; however, we invite comments with regard to other ways to implement this provision.

Additionally, the statute requires that an individual meet any other eligibility conditions imposed under the PACE program agreement. Although we are aware that under the demonstration some PACE sites have set their minimum age limits higher than 55, we believe the provision of the law allowing site-specific eligibility requirements allows for additional requirements not the modification of the three requirements specified in the law.

We also caution organizations that these site-specific eligibility requirements are not intended to allow programs to discriminate against individuals with problems such as cognitive deficits, disruptive behavior, or substance abuse. Any site-specific eligibility criteria must be specified in the program agreement, and HCFA will not approve criteria that would serve as a way to selectively enroll individuals whose care is anticipated to be less costly or who are thought to be easier to care for.

The eligibility requirement specified in § 450.150(c) incorporates the Protocol provision that at the point of enrollment an individual's condition must be such that his or her health or safety would not be jeopardized by living in a community setting. We recognize that enrollment in the PACE program is not appropriate for everyone who meets the basic eligibility criteria. Determining whether or not an individual's health or safety would be jeopardized by living in the community setting involves assessing the individual's care support network as well as the individual's health condition. As specified in § 460.152(a)(4), this determination is made by the PACE organization when assessing whether the potential participant can be cared for appropriately in this program. Consequently, we have not included the Protocol requirement regarding assessment by the multidisciplinary team in the eligibility criteria. We believe that the intent of this Protocol requirement is preserved through the intake process requirements in § 460.152.

We have reflected in the regulations the statutory provision in sections 1894(i) and 1934(j) of the Act that PACE program eligibility is not contingent upon an individual's eligibility for Medicare or Medicaid.

Enrollment Process (§ 460.152)

We have established § 460.152 to specify the PACE organization's responsibility during the intake process and actions required in the event a potential PACE participant is denied enrollment because his or her health or safety would be jeopardized by living in a community setting.

Although we recognize that the intake process must be flexible, we have specified certain steps that must, at a minimum, be included. These are not intended to be sequential steps and may in fact occur concurrently. Potential participants need reliable, accurate information on the PACE delivery system in order to make a rational decision whether to enroll. There is both a legal and an ethical obligation to inform potential participants about how the PACE organization controls and affects the delivery of health care and other services, albeit in full partnership with the participant. The following discussion describes the information that is made available to the potential participant routinely and upon request. One-on-one assistance is provided throughout the pre-enrollment process. In all situations, the information is provided in a culturally competent manner, including providing information in a language understood by the participant.

The most basic disclosure is that all health care services must be received through the PACE organization. Once that disclosure is made and understood by the potential participant, other key disclosures relate to what is included within and what is excluded from the PACE program, what costs would be borne by the participant, how to access emergency services, and how the grievance and appeals processes work. Other information that should be disclosed upon request includes the process that the PACE organization uses to decide that drugs, devices, and procedures are experimental and whether the PACE organization uses a drug formulary.

The uniqueness of the PACE model depends upon the partnership formed between the participant and the multidisciplinary team. Therefore, a potential participant should be made aware of how the team works, who is on it, and what choices exist for participant selection of a primary care physician. The participant must also know how the organization provides access to services not provided directly by the multidisciplinary team, to contractors who furnish specialty services, to health care facilities such as hospitals and nursing homes, and to home health care. Also, participants may request information regarding whether there are financial incentives to providers. Finally, to the extent that board certification and other credentials, clinical protocols and medical practice guidelines, consumer satisfaction survey results, or the results of the organization's most recent Federal or State review are of particular interest to participants, these must be disclosed upon request.

With regard to specific intake tasks, we have deleted the Protocol requirement for a complete assessment by the multidisciplinary team prior to the denial of enrollment based on health and safety issues. We believe that such a determination can generally be made without a complete multidisciplinary team assessment and that this is consistent with actual practice under the PACE demonstration program. As an additional protection against selective enrollment, we have added a requirement that HCFA and the State administering agency must be notified when potential participants are denied enrollment because the PACE organization has determined that their health or safety would be jeopardized in a community setting. Additional wording and organization changes have been made in this section; however, except where otherwise specifically noted, our intent is to clarify, not change, the enrollment process as described in the Protocol.

If a prospective participant is denied enrollment because his or her health or safety would be jeopardized by living in the community, we are requiring the PACE organization to inform the individual in writing of the reason for the denial; as appropriate, refer the individual to alternative services; retain supporting documentation of the reason for the determination; and notify HCFA and the State administering agency as well as make the documentation available for review.

Enrollment Agreement (§ 460.154)

While the program agreement will contain the specific enrollment and disenrollment procedures to be followed by the PACE organization, in § 460.154 we are specifying general requirements which must be met by all PACE organizations. The statute is silent as to any general enrollment requirements; however, it provides that the regulations should incorporate, to the extent possible, the requirements applied to the PACE demonstration waiver programs under the PACE Protocol.

Thus, we are adopting the Protocol enrollment and disenrollment provisions with the exceptions noted below.

We have removed the reference to the Member Handbook because we found the distinction between the Member Handbook and the Enrollment Agreement to be confusing. We have defined the minimum information which must be included in the Enrollment Agreement to incorporate those materials which would generally be expected to be included in a Member Handbook. Although PACE organizations may actually utilize a cover sheet to obtain the participant's signature and a "handbook" to provide the required information, the cover sheet alone does not constitute the Enrollment Agreement and must be accompanied by the additional minimum information specified when provided to the participant.

Although this is not a change from current practice, we would like to emphasize that an individual who accepts PACE as his/her sole source of services could not then make an election of hospice care under section 1812(d) of the Act and 42 CFR 418.24 or section 1905(o)(2) of the Act. However, hospice-type services are available from the PACE organization since the PACE model of care is designed to furnish services which meet health care needs along a continuum.

We have added a requirement for the Enrollment Agreement to include notification that Medicaid recipients and individuals dually-eligible for Medicare and Medicaid enrolled in PACE are not liable for any premiums, but they may be held liable for any applicable spenddown liability under 42 CFR 435.121 and 435.831 and any amounts due under the post-eligibility treatment of income process under § 460.184.

We also added a requirement for the Enrollment Agreement to include information on the consequences of subsequent enrollment in other optional Medicare or Medicaid programs following disenrollment from PACE. This is intended to ensure that participants are informed in advance of conditions that might apply if they are disenrolled from PACE and elect, for example, to enroll in another prepayment plan.

We have added a requirement that any changes to the information contained in the Enrollment Agreement must be provided to the participant in writing and be fully discussed with the participant and his or her representative or caregiver. We feel it is essential that all participants be aware of any changes in this information in order to protect and exercise their rights.

Other Enrollment Procedures (§ 460.156)

We have established this section to specify the documentation that must be provided to a PACE participant who signs the enrollment agreement. Specifically, a PACE participant must be given a copy of the Enrollment Agreement, a PACE membership card, emergency information to be posted in his or her home identifying the individual as a PACE participant which includes the phone number of the PACE organization, and when applicable, stickers for the PACE participant's Medicare or Medicaid cards (or both) that indicate the individual is a PACE participant and include the phone number of the PACE organization.

In addition, the PACE organization must submit participant information to HCFA and the State administering agency in accordance with established procedures.

We have also included a requirement that, in the event there are changes in the Enrollment Agreement information at any time during the participant's enrollment, the PACE organization must provide to the participant an updated copy of the information to the participant at least 60 days before any change, and explain the changes to the participant and his or her representative or caregiver in a manner they understand.

Effective Date of Enrollment (§ 460.158)

Consistent with the Protocol, we have established this section to specify that a PACE participant's enrollment in the program is effective the first day of the calendar month following the date the PACE organization receives the signed enrollment agreement.

Continuation of Enrollment (§ 460.160)

In this section we have specified that a PACE participant's enrollment continues until death regardless of changes in health status unless the PACE participant voluntarily disenrolls in accordance with § 460.162, or is involuntarily disenrolled in accordance with § 460.164.

We have incorporated the statutory requirement contained in sections 1894(c)(3) and 1934(c)(3) of the Act for an annual recertification of the need for a nursing facility level of care. We believe that the law contemplated that reevaluations would be conducted by the State administering agency for all participants, whether Medicaid eligible or not.

The statute provides that this annual reevaluation may be waived for those individuals for whom the State administering agency determines there is no reasonable expectation of improvement or significant change in condition. As a waiver could not be granted until the first annual recertification is due, a participant for whom this requirement is waived would have been receiving services under the PACE program for at least a year. We feel it is unlikely, especially in view of the age and frailty of PACE participants as a whole, that a person who has not shown significant improvement in the past year would show significant enough improvement in the future to no longer need a nursing facility level of care. The law permits a waiver "during a period in accordance with regulations" in those cases where the State administering agency determines no reasonable expectation of improvement. Therefore, we are providing in regulations that such a waiver should be for the life of the participant; the reasons for the waiver must be explicitly documented in the medical record. We recognize that this regulation as drafted does not provide a mechanism for reinitiating the recertification process once a waiver has been granted, and we invite comments on this issue.

Finally, sections 1894(c)(4) and 1934(c)(4) of the Act allow for the continuing, or deemed, eligibility of those individuals who are determined through the annual recertification process to no longer meet the nursing facility level of care requirement if, in the absence of continued coverage under PACE, the individual would reasonably be expected to again meet the nursing facility level of care within the next 6 months. We feel this determination should be made by the State administering agency, which may solicit input from the PACE organization and that the deemed eligibility should continue until the next annual recertification. While it is the State's responsibility to determine the need for nursing facility level of care, the PACE organization has a detailed knowledge of the day-to-day care and service requirements of the individual participants and would, therefore, be better able to predict a participant's reaction to the loss of PACE services. We invite comments on whether this responsibility should be shared or carried out solely by either the State administering agency or the PACE organization. We also invite comments on whether this deemed eligibility should continue for 12 months (until

the next annual recertification is due) or for a shorter period.

Voluntary Disenrollment (§ 460.162)

In accordance with sections 1894(c)(5)(A) and 1934(c)(5)(A) of the Act, this section specifies that a PACE participant may voluntarily disenroll from the program without cause at any time.

Involuntary Disenrollment (§ 460.164)

In accordance with sections 1894(c)(5)(B) and 1934(c)(5)(B) of the Act, we have established this section to specify the conditions under which a PACE participant can be involuntarily disenrolled from the PACE program. The Protocol, in Part III, section D.1, describes various circumstances under which a participant may be involuntarily disenrolled.

The statutory language at sections 1894(c)(5)(B) and 1934(c)(5)(B) of the Act provides that a participant may only be involuntarily disenrolled for nonpayment of premiums (if applicable) on a timely basis or for engaging in disruptive or threatening behavior. We have incorporated the Protocol requirement that a participant may be involuntarily disenrolled if he/she fails to pay or to make satisfactory arrangements to pay any premium due the PACE organization after a 30-day grace period.

We have incorporated the following reasons for involuntary disenrollment from the Protocol:

a. The participant moves out of the PACE program service area or is out of the service area for more than 30 days unless the PACE organization agrees to a longer absence due to extenuating circumstances;

b. The PACE organization is unable to offer health care services due to the loss of State licenses or contracts with outside providers.

We have also added as a reason for involuntary disenrollment that the PACE organization agreement with HCFA and the State administering agency is not renewed or is terminated. In all of these situations the disenrollment is not a subjective determination made by the PACE organization but is necessary due to outside causes. We also incorporated as a reason for involuntary disenrollment the statutory provision regarding the annual recertification of nursing facility level of care.

We did not incorporate the following reasons for disenrollment from the Protocol: the participant refuses to provide accurate financial information, provides false information or illegally transfers assets. As these situations would affect the determination of Medicaid eligibility, we believe they would actually prevent enrollment in the first place. However, if the individual is already enrolled when these situations occur or are discovered, they may affect the participant's payment responsibility and thus lead to either voluntary disenrollment or involuntary disenrollment based on failure to pay. We also did not incorporate, as a reason for disenrollment, a breakdown in the physician and/or team and participant relationship. Since this relationship and the functioning of the multidisciplinary team are critical to the success of the PACE model, we expect that a breakdown in team function would signal a severe problem that needed attention from HCFA and the State administering agency far surpassing a review of an involuntary disenrollment decision.

In revising the Protocol provisions to incorporate the statutory provision regarding disruptive or threatening behavior, we felt the need to balance two concerns: first, to protect participants who are exhibiting difficult behaviors from being "dumped" by the PACE organization but secondly to provide a safeguard which allows the organization to disenroll a competent but noncompliant participant whose behavior disrupts the organization's ability to furnish adequate services to that individual for reasons beyond the organization's control. Therefore, after consulting with State agencies, we have defined a person who engages in disruptive or threatening behavior as:

a. A person whose behavior is jeopardizing his/her health or safety or that of others, or

b. A person with decision-making capacity who consistently refuses to comply with his/her individual plan of care or the terms of the Enrollment Agreement.

However, a PACE organization may not involuntarily disenroll a PACE participant on the grounds that the individual has engaged in noncompliant behavior if such behavior is related to a mental or physical condition of the individual unless the individual's behavior is jeopardizing his/her health or safety or that of others. The term "noncompliant behavior" includes repeated noncompliance with medical advice and repeated failure to keep appointments.

While we believe this definition provides a necessary safeguard, we are certainly not suggesting that a participant should be disenrolled at the first sign of difficulty. We caution organizations to use this authority only as a last resort when all reasonable remedies (which must be documented in the medical record) have been exhausted.

Based on sections 1894(c)(5)(B)(iii) and 1934(c)(5)(B)(iii) of the Act, we specify that proposed involuntary disenrollments are subject to a timely review and final determination prior to the proposed disenrollment becoming effective. This provision further protects the participant from "dumping" by the organization and provides for the continuation of services until a final determination is made. The State administering agencies would review all proposed involuntary disenrollments. We also invite comments on whether the regulations should specify a time frame in which the review must be conducted and, if so, what an appropriate timeframe is.

Effective Date of Disenrollment (§ 460.166)

We are requiring that the PACE organization must use the most expedient process allowed for by Medicare and Medicaid procedures as specified in the program agreement while ensuring that the disenrollment date is coordinated between Medicare and Medicaid (for participants who are dually-eligible for both programs) and that reasonable advance notice is given to the participant. We are further requiring that, until such time the enrollment is terminated, PACE participants must continue to use PACE organization services and remain liable for any premiums, and the PACE organization must continue to furnish all needed services.

Reinstatement in Other Medicare and Medicaid Programs (§ 460.168)

We have established this section to prescribe the PACE organization's responsibility to facilitate a PACE participant's reinstatement in other Medicare and Medicaid programs after disenrollment. We are requiring that the PACE organization make appropriate referrals and ensure medical records are made available to new providers in a timely manner. In addition, we are requiring that the PACE organization work with the State administering agency and HCFA to reinstate the participant in other Medicare and Medicaid programs for which the individual is eligible.

Reinstatement in PACE (§ 460.170)

Section 460.170 provides that a previously disenrolled participant may be reinstated in the PACE program. We did not adopt the protocol provision limiting a participant to a one-time-only

reinstatement following a voluntary disenrollment because we believe that frail elderly individuals may experience living arrangement changes that take them in and out of a PACE organization's service area and result in unavoidable disenrollments. We have retained the Protocol provision that a PACE participant can be reinstated in the PACE program with no break in coverage if the reason for the disenrollment was failure to pay the premiums and the PACE participant pays the premium before the effective date of the disenrollment.

Documentation of Disenrollments (§ 460.172)

We have established § 460.172 to specify that a PACE organization must have a procedure in place to document the reasons for all voluntary and involuntary disenrollments; make the documentation available for review by HCFA and the State administering agency; and use the information on voluntary disenrollments in the PACE organization's internal quality assessment and performance improvement program.

Subpart J—Payment

Sections 1894(d) and 1934(d) of the Act require that payment to a PACE organization be based on a capitation amount. The Medicare capitation amount will be based upon the Medicare+Choice payment rates established under section 1853 of the Act. The Medicaid capitation amount is negotiated between the State and the PACE organization.

The following basic principles distinguish the PACE financing model from traditional Medicare and Medicaid reimbursement:

- Obligation for payments is shared by Medicare, Medicaid, and individuals.
- Medicare, Medicaid, and private payments for acute, long-term care, and other services are pooled.
- The capitation rates paid by Medicare and Medicaid are designed to result in cost savings relative to expenditures that would otherwise be paid for a comparable nursing-facility-eligible population not enrolled under the PACE program.
- The PACE organization accepts the capitation payment amounts described in this section as payment in full from Medicare and Medicaid.

Medicare Payment to PACE Organizations (§ 460.180)

Section 1894(d) of the Act requires us to make prospective monthly payments of a capitation amount for each PACE program eligible individual enrolled in the same manner and from the same sources as payments are made to a Medicare+Choice organization under section 1853 of the Act. Payments are to be adjusted in the manner described in section 1853(a)(2) or section 1876(a)(1)(E) of the Act; that is, retroactively adjusted to take into account any difference between the actual number of participants and the estimated number of participants to be enrolled in determining the amount of the advance payment.

Consistent with the basic methodology applied to risk-based HMOs, PACE organizations will receive monthly payments based on an interim per capita rate per participant. Under that methodology, separate rates are established for Part A and Part B. The PACE organization receives payments based on each participant's entitlement to Medicare Part A and B. Therefore, if the participant is entitled to Part A benefits, but is not enrolled under Part B, the PACE organization receives only the monthly capitation rate established for Part A. For Medicare Part A-only participants who are also eligible for Medicaid, the State is obligated to pay Medicare Part B premiums under section 1902(a)(10) of the Act. Therefore, PACE organizations should verify at the time of enrollment whether the participant is dually eligible for Medicare and Medicaid and whether the participant has Medicare Part A and Part B. Payment for a participant will begin with the effective date of enrollment (see § 460.158).

Under section 1894(d)(2) of the Act, the capitation amount should be adjusted to take into account the comparative frailty of PACE participants and other factors the Secretary determines to be appropriate. As explained below, a frailty factor and an adjustment factor for PACE participants who have end-stage renal disease (ESRD) will be applied to the appropriate payment rate.

Frailty Factor

Under the PACE demonstration, the Medicare capitation rate for each PACE organization was calculated using HCFA's standard Adjusted Average Per Capita Cost (AAPCC) methodology developed in accordance with the 1982 Tax Equity and Fiscal Responsibility Act to pay risk-based health maintenance organizations for Medicare enrollees. However, instead of using the usual adjustments for age, sex, welfare status, institutional status, employment status, and disability, there is one frailty adjuster of 2.39 for all PACE participants except those diagnosed with ESRD. As of January 1, 1998, instead of using the AAPCC, the Medicare capitation rate paid to PACE demonstration projects is calculated using the Medicare+Choice rates with the frailty adjuster of 2.39.

This frailty factor was developed for the PACE demonstration sites using information gathered from the "pre-Channeling" demonstrations serving the nursing-facility-eligible population and information from the cost experience at On Lok, which began receiving Medicare and Medicaid payments in 1983. (The pre-Channeling demonstration targeted the frail elderly and provided case management and community-based services in order to decrease the use of institutional care.) Studies have been done to examine the accuracy of the 2.39 factor. Researchers at the Bigel Institute for Health Policy did a study in 1990 to estimate the per capita costs of the nursing-facility-eligible population in the period 1984–1985. They linked data from the 1984 National Long-Term Care Survey (which collected health and functional status information on Medicare beneficiaries) to Medicare claims. Their cost estimates suggest that the per capita Medicare costs for the nursing-facility-eligible population averaged 2.42 times the average Medicare costs for the overall elderly population.

In 1998, the University of Wisconsin assessed the adequacy of this factor in relation to the Medicare costs experienced by nursing-facility-eligible populations. The authors found significant variation among States in the manner in which nursing-facility-eligibility is determined. The application of these various definitions of nursing-facility-eligible to available survey data indicates that there is a natural clustering of results, despite the apparent difference among definition formats. Marginal cost differences between nursing-facility-eligible and non-nursing-facility-eligible individuals can be explained in part by key variables: age, sex, functional impairment, and the level of recent health service utilization. With no prior risk adjustment, the data suggest that an average frailty factor of about 200 percent is appropriate. However, this factor should be adjusted for the profile of participants at each site. These studies relate to populations that are nursing-facility-eligible and not specifically to PACE. Consequently, we believe that the 2.39 factor used in the demonstration is an appropriate interim payment measure. As discussed later in this section, we are working to develop a risk adjustment methodology that will account for the relative frailty of the PACE population.

End Stage Renal Disease (ESRD) Adjustment

Under the PACE demonstration, PACE programs have been paid in two ways for Medicare ESRD participants. Each month for each ESRD participant, the PACE program is paid the AAPCC Part A and Part B ESRD rate. The rate is not adjusted by the 2.39 frailty factor. Instead, PACE programs receive additional payment each month for the actual cost of services in excess of the AAPCC ESRD payment rate. However, section 1894(d) of the Act does not contemplate payment of actual cost.

An analysis of 1994 Medicare claims data for ESRD patients shows that Medicare expenditures for ESRD patients who are 75 or older are significantly higher than expenditures for all ESRD patients. This finding has been fairly constant over time. The group of ESRD patients who are 75 or over tend to be very frail and in most cases would be considered nursing-facility-eligible. This group of elderly ESRD patients can be used as a proxy for ESRD patients who are nursing-facility-eligible. ESRD patients who are 75 or over have 46 percent higher Part A expenditures relative to all ESRD patients, while their Part B expenditures are 36 percent higher. We have applied this information to calculate adjusters for ESRD patients enrolled in PACE. Thus, the Part A ESRD adjuster will be 1.46 and the Part B ESRD adjuster will be 1.36. We welcome comments on these adjustment factors. As discussed in more detail below, these adjustment factors are established as an interim measure pending development of a risk adjustment methodology.

Risk Adjustment

Section 1853(a)(3) of the Act requires that payment rates to Medicare+Choice plans be risk-adjusted starting January 1, 2000. At the present time HCFA is developing the risk adjustment methodology and evaluating how to apply the methodology to PACE and other HCFA demonstration projects. The Announcement of Calendar Year 2000 Medicare+Choice Payment Rates, published January 15, 1999 on the HCFA website, displays the risk adjustor rates and methodology that will be effective for Medicare+Choice plans starting January 1, 2000. The demographic rate methodology will be phased out, while a risk methodology using health status will be phased in. By 2003, 80 percent of the capitated payments will be based on health status risk adjustors, while 20 percent will be based on the existing AAPCC rate structure. Specific HCFA demonstrations programs and PACE will not implement the new risk adjustor methodology on January 1, 2000, but will have a one-year deferral. This extension is needed to study the applicability and impact of risk adjustment on capitated payments for the frail.

We anticipate using the encounter data and other types of information collected from Medicare+Choice organizations and PACE organizations to conduct research to evaluate risk adjustment payment options for special populations such as PACE participants and examine the possibility of using a hybrid methodology.

We will require initially that each PACE organization submit inpatient hospital encounter data using the UB–92 to HCFA through a fiscal intermediary (FI), similar to the requirements for Medicare+Choice plans. The PACE organizations will need to establish electronic linkages with the designated FIs and may need to modify their contracts with hospitals to ensure that a completed UB–92 for each hospital discharge of a PACE participant is provided by the hospital to the PACE organization. We will subsequently require PACE organizations to submit additional encounter data consistent with the encounter data requirements for Medicare+Choice plans set forth in 42 CFR 422.257, published in the **Federal Register** on June 26, 1998 (63 FR 35092).

In order to develop a frailty adjustor for payment to PACE organizations, we may also collect and analyze data on functional status of PACE participants to profile participants at each PACE site. PACE demonstration projects are participating in the Health Outcomes Survey. PACE organizations may be required to collect this or similar functional data in order to adjust the Medicare+Choice payment rates. Until we develop a specific risk adjustment methodology for PACE, we will continue to adjust PACE rates using the frailty and ESRD adjustors described above. We welcome comments on this issue.

Medicare Secondary Payer (MSP)

We specify the application of MSP provisions because HCFA cannot pay for PACE services to the extent that Medicare is not the primary payer under section 1862(b) of the Act and 42 CFR part 411. We require the PACE organization to identify payers that are primary to Medicare, determine the amounts payable by those payers, and coordinate its benefits to Medicare participants with the benefits of the primary payers.

Under MSP provisions, the PACE organization may charge other individuals or entities for PACE services covered under Medicare for which Medicare is not the primary payer, as follows:

- If a Medicare participant receives from a PACE organization covered services that are also covered under State or Federal workers' compensation, any no-fault insurance, or any liability insurance policy or plan, including a self-insured plan, the PACE organization may charge—
  - + The insurance carrier, the employer, or any other entity that is liable for payment for the services under section 1862(b) of the Act and 42 CFR part 411; and
  - + The Medicare participant, to the extent that he or she has been paid by the carrier, employer, or entity.
- If Medicare payment is precluded by section 1862(b) of the Act for services that a PACE organization furnished to a Medicare participant who is covered under a group health plan (GHP) or large group health plan (LGHP), the organization may charge the GHP or LGHP for those services and may charge the Medicare participant to the extent that he or she has been paid by the GHP or LGHP for those services.

Medicaid Payment (§ 460.182)

Section 1934(d) of the Act requires a State to make prospective monthly capitated payments for each PACE program participant eligible for medical assistance under the State plan. The capitation payment amount must be specified in the PACE program agreement and be less, taking into account the frailty of PACE participants, than the amount that would otherwise have been paid under the State plan if the individuals were not enrolled in a PACE program.

A national Medicaid rate-setting methodology for PACE has not been established. Rather, each State which elects PACE as a Medicaid State plan option will develop a payment amount based on the cost of comparable services for the State's nursing-facility-eligible population. Generally, the amounts are based on a blend of the cost of nursing home and community-based care for the frail elderly. The monthly capitation payment amount is negotiated between the PACE organization and the State administering agency and can be renegotiated on an annual basis.

As these statutory requirements do not differ from the Protocol requirements regarding Medicaid payments under the PACE demonstration, the regulations mirror the Protocol requirements.

Post-Eligibility Treatment of Income (§ 460.184)

Section 1934(b)(1)(A)(i) of the Act indicates that a PACE organization shall provide, to eligible individuals, all covered items and services without application of deductibles, copayments, coinsurance, or other cost sharing that would otherwise apply under Medicare or Medicaid. Section 1934(i) of the Act permits States to use post-eligibility treatment of income in the same manner as it is applied for individuals receiving services under a waiver under section 1915(c) of the Act.

The post-eligibility treatment of income provision reduces the amount of Medicaid payments to a PACE organization by the amount remaining after specified deductions are made from the income of the PACE participant. The income remaining after these deductions are applied is the amount a participant is liable to pay toward the cost of the PACE services. Therefore, an argument could be made that sections 1934(b) and (i) of the Act are in conflict since under section 1934(i) PACE participants may incur limited liability for part of the cost of their services. However, we have concluded that the type of Medicaid participant liability permitted by section 1934(i) is not cost sharing prohibited by section 1934(b)(1)(A)(I).

Section 1902(a)(17) of the Act permits an individual (or family) who has more income than allowed for Medicaid eligibility to reduce excess income by incurring expenses for medical and/or remedial care to establish Medicaid eligibility. However, this spenddown process is used in establishing Medicaid eligibility rather than being the type of cost sharing prohibited by section 1934(b)(1)(A)(I).

We interpret section 1934(b)(1)(A)(I) to refer to deductibles, copayments, coinsurance or other cost sharing beyond participant liabilities related to Medicaid eligibility. Any other reading of the law would make section 1934(i) merely surplusage which could not be given meaning. Therefore, to give meaning to each of the sections of the Act at issue here, we are providing in section 460.184, which implements section 1934(i), references to 42 CFR 435.726 and 435.735 which lay out the post-eligibility treatment of income and resource requirements which may be applied here in the same manner as applied to individuals receiving home and community-based services.

Conforming Amendments

The BBA also made conforming amendments to sections 1924(a)(5) and 1903(f)(4)(C) of the Act pertaining to eligibility for medical assistance. Section 1924(a)(5) was revised to indicate that special treatment of income and resources for institutionalized spouses in determining eligibility for medical assistance is applied to individuals receiving services under a PACE program under section 1934 or 1894. Further, section 710 of the Omnibus Appropriation Bill (Pub. L. 105–277), enacted October 21, 1998, permits PACE program eligible individuals enrolled in a PACE program under section 1934 of the Act to be eligible for Medicaid under the optional categorically needy eligibility group at section 1902(a)(10(A)(ii)(IV) of the Act. Under this authority, States can determine eligibility for PACE enrollees using institutional rules, including use of the special income level group at section 1902(a)(10)(A)(ii)(IV) of the Act.

PACE Premiums (§ 460.186)

Neither section 1894 nor section 1934 of the Act addresses the premiums a PACE organization can charge a PACE participant. In accordance with sections 1894(f)(2) and 1934(f)(2) of the Act, we have adopted most of the PACE premium requirements from Part VI, section D, of the Protocol into the regulations.

It is important to note that the term "premiums" as used in this regulation does not include spenddown liability under 42 CFR 435.121 and 435.831, or post-eligibility treatment of income under § 460.184. This use of the word is more narrow than the way the word is used in the Protocol, where a participant's "share of cost" responsibility under Medicaid is referred to as a type of premium. PACE organizations can continue to collect any liability due them under Medicaid spenddown and post-eligibility processes, but that liability is not a premium.

We specify that a participant's monthly premium responsibility depends upon his or her eligibility under Medicare and Medicaid.

The Protocol says that the premium for Medicare-only participants is equal to the Medicaid capitation amount. Nearly all Medicare participants have both Part A and Part B, and the capitation amount that Medicare pays is the sum of both Part A and Part B capitation rates. However, section 1894(a)(1) of the Act permits an individual who is entitled to Medicare benefits under Part A *or* enrolled under Part B to enroll in the PACE program. For those rare persons who are eligible under only one part, the Medicare capitation amount will be only the portion for that part. Such a participant is required to make up the difference, that is, pay an additional premium amount equal to the missing piece of the Medicare capitation amount. We specify the premiums for Medicare-only participants as follows—

- For a participant who is entitled to Medicare Part A and enrolled under Medicare Part B, but is not eligible for Medicaid, the premium equals the Medicaid capitation amount.
- For a participant who is entitled to Medicare Part A, but is not enrolled under Part B and is not eligible for Medicaid, the premium equals the Medicaid capitation amount plus the Medicare Part B capitation rate.
- For a participant who is enrolled only under Medicare Part B and is not eligible for Medicaid, the premium equals the Medicaid capitation amount plus the Medicare Part A capitation rate.

We specify that no premium may be charged to a participant who is dually eligible for both Medicare and Medicaid or one who is only eligible for Medicaid.

Subpart K—Federal/State Monitoring

Monitoring During Trial Period (§ 460.190)

Sections 1894(e)(4)(A) and 1934(e)(4)(A) of the Act provide for annual close oversight during the trial period, which is a PACE organization's first 3 contract years (see sections 1894(a)(9) and 1934(a)(9) of the Act). We have established § 460.190 to address the law's requirements for review during the trial period. During the trial period, HCFA in cooperation with the State administering agency will conduct comprehensive annual reviews of a PACE organization.

In accordance with the law, the review will include an on-site visit to the PACE organization, a comprehensive assessment of the organization's fiscal soundness, a comprehensive assessment of the organization's capacity to furnish all PACE services to all enrolled participants, a detailed analysis of the organization's substantial compliance with all significant requirements of sections 1894 and 1934 and these regulations, and any other elements that HCFA or the State administering agency find necessary.

We anticipate that on-site reviews would be conducted by a survey team that includes an individual who is experienced in providing care to the frail elderly and is knowledgeable about the PACE service delivery system.

Ongoing Monitoring After Trial Period (§ 460.192)

In accordance with paragraph (e)(4)(B) of sections 1894 and 1934 of the Act, we specify that at the conclusion of the trial period, HCFA, in cooperation with the State administering agency, continues to conduct reviews of a PACE program, as appropriate. These reviews will take into account the performance level of the PACE organization with respect to the quality of care provided and compliance of the organization in meeting the PACE program requirements. Such reviews will include an on-site visit at least every two years.

Corrective Action (§ 460.194)

We require the PACE organization to take action to correct deficiencies identified during the reviews. HCFA or the State administering agency will monitor the effectiveness of corrective actions. Failure to correct deficiencies can result in sanctions or terminations in accordance with subpart D.

Disclosure of Review Results (§ 460.196)

In accordance with paragraph (e)(4)(C) of sections 1894 and 1934 of the Act, we specify requirements for disclosing the results of oversight reviews. HCFA and the State administering agency promptly report the results of reviews under §§ 460.190 and 460.192 to the PACE organization, along with any recommendations for changes to the organization's program. The results are made available to the public upon request. In addition, we are requiring that the PACE organization post a notice of the availability of the results of the most recent review and any plans of correction or responses related to the most recent review. The PACE organization must also make the results available for examination in a place readily accessible to participants.

Subpart L—Data Collection, Record Maintenance and Reporting

Maintenance of Records and Reporting of Data (§ 460.200)

In accordance with sections 1894(e)(3)(A) and 1934(e)(3)(A) of the Act, we are requiring PACE organizations to collect data, maintain records and submit reports. We describe data and records to include participant health outcome data, financial books and records, medical records, and personnel records. We require the documents to be accessible to HCFA and the State administering agency upon request and be stored in a manner consistent with the PACE organization's written policies that protects them from loss, destruction, unauthorized use or inappropriate alteration.

We have established several requirements intended to safeguard the privacy of any information that identifies a particular participant. The PACE organization must establish written policies and implement procedures to ensure that information from, or copies of, records are released only to authorized individuals and that original medical records are released only in accordance with Federal or State laws, court orders, or subpoenas. A participant's written consent must be obtained before the release of identifiable information to persons not otherwise authorized to receive it. A participant's written consent may limit the degree of information and the persons to whom information may be released. Participants are guaranteed timely access to review and copy their own medical records and may request amendments to their records. Finally, the PACE organization must abide by all Federal and State laws regarding confidentiality and disclosure of participant mental health and medical records and other health information.

The Protocol does not specify a minimum record retention timeframe. In order to enable adequate oversight and to be consistent with the requirements established for Medicare+Choice plans, we require PACE organizations to retain records for the longest of the following periods: the period specified by State law; six years from the date of the last entry made in the record; or for medical records of disenrolled participants, six years after the date of disenrollment. If any litigation, claim, financial management review, or audit is started before the expiration of the retention period, we are requiring that those records shall be retained until completion of the litigation, or until claims or audit findings involving the records have been resolved and final action taken.

Participant Health Outcomes Data (§ 460.202)

We have modified the requirement in Part VII, section B of the Protocol for data collection and reporting. We are requiring that PACE organizations maintain a health information system that collects, analyzes, integrates, and reports data necessary to measure their performance and to develop their quality assessment and performance improvement programs. After development of HCFA's collection and reporting strategy, PACE organizations will be expected to collect specific data at specified time intervals. We envision that this information system can be used by HCFA, the State administering agency, PACE organizations, participants and their caregivers, researchers, policy makers, and other professionals furnishing care to PACE participants. This system also will provide information to help PACE organizations, participants, and caregivers make better choices about care and help identify organizations' opportunities for continuous improvement in all participant care processes.

Each PACE organization will collect, evaluate, and report the data as part of managing its quality assessment and performance improvement program. These data will assist the PACE organization in its efforts to identify opportunities to improve participant care and outcomes, to evaluate the results of its performance improvement activities, and to share those results with other PACE organizations.

The data set will focus on items such as functional status, health status, cognitive ability, mental health, medication use, nutritional status, health care utilization, participant and caregiver quality of life, and any other measures of participant care that the PACE organization community believes to be useful both for tracking participant care and for identifying opportunities for improvement. The items in the data set will be essential to the PACE organization for purposes of continuous care planning, for the effective and efficient operation of the organization, and for assisting participants and their caregivers in making informed decisions about their care. Thus, accurate and precise data collected at uniform time points (*i.e.*, from a baseline point such as enrollment, return from hospital, etc.) will be essential. Aggregating the data to a level that makes it useful to PACE organizations for internal quality improvement programs is an important benefit of having a central data system that feeds data back to PACE organizations for comparative purposes on a continuous basis. An aggregated data set is also useful in establishing national improvement efforts.

Given that the core data set is still under development and will not be ready for implementation until sometime in the summer of 2000, PACE organizations should be collecting information on their own to feed into their quality assessment and performance improvement activities. PACE organizations may want to collect the items on DataPACE, which was developed by On Lok and contains information on participant demographics, health and functional status, service utilization, and informal

support. This will allow for the continued collection of data elements collected in the demonstration project for comparison between demonstration sites and permanent PACE organizations. However, if PACE organizations are developing computerized information systems, the systems should be flexible enough to be able to replace, in the future, items now in the system with similar items that are developed as a result of the CHSPR project.

Additionally, we have added a requirement that the PACE organization must furnish data and information in the manner and at the time intervals specified by HCFA and the State administering agency, pertaining to its participant care activities. These data will be used to monitor the quality of care provided to PACE participants, including participant outcomes. The items to be collected will be specified in the PACE program agreement and will be subject to the confidentiality requirements specified in § 460.200. Once the core data set is completed, PACE organizations will be required to submit these data to HCFA and/or the State administering agency. Since this data set is under development, HCFA will require PACE organizations, in the meantime, to submit to HCFA and/or the State administering agency a limited amount of information in order to monitor the quality of care furnished to PACE participants. This information will be specified in the PACE program agreement. The required information will include the number of grievances and appeals; rates and reasons for disenrollment; utilization of the adult day health center, home health, acute hospital, nursing home, transitional housing, rehabilitation unit/facility, mental health services, and outpatient drugs; vaccination rates for flu and pneumonia; percent of participants receiving retinal eye exams and dental exams; and the number of participants with a fracture or decubitus during the reporting period.

We also will require each PACE organization to conduct an annual satisfaction survey of its participants and caregivers. The findings will be reported to HCFA and/or the State administering agency and should be used by the PACE organization to identify opportunities for improvement. Finally, as discussed previously, we will require reporting of inpatient and outpatient encounter data and may require reporting of functional data in order to develop a risk adjustment methodology for PACE.

Financial Record Keeping and Reporting Requirements (§ 460.204)

In § 460.204, Financial Record Keeping and Reporting Requirements, we require that a PACE organization must provide HCFA and the State administering agency with accurate financial reports that are prepared using an accrual basis of accounting and verifiable by auditors.

In addition, we are requiring that the PACE organization maintain an accrual accounting record-keeping system that accurately documents all financial transactions, provides an audit trail to source documents, and generates financial statements.

Further, except as stipulated under Medicare principles of reimbursement as set forth in 42 CFR 413, a PACE organization must follow standardized definitions and accounting, statistical, and reporting practices that are widely accepted in the health care industry.

We are also requiring that a PACE organization must permit HCFA and the State administering agency to audit or inspect any books and records of original entry that pertain to any aspect of services performed, reconciliation of participants' benefit liabilities or determination of Medicare and Medicaid amounts payable.

Under the PACE demonstration, HCFA and the PACE organization had a risk-sharing agreement in which HCFA shared in a portion of the organization's losses during the first 3 years of operations. To monitor each organization's costs and the amount of HCFA's liability, HCFA required the organization to submit monthly budgeted versus actual financial reports during the first year and quarterly reports during subsequent years unless the organization's performance indicated a need for more frequent reporting. In addition, organizations were required to submit quarterly cumulative cost reports for risk-sharing determinations. Annually, organizations were required to submit independently certified cost reports for final risk sharing determinations.

The statute does not provide for risk-sharing arrangements between HCFA and PACE organizations. It places the organization at full financial risk for all services. Since risk sharing is no longer a condition of the agreement, the cost and financial reports described above are no longer needed for this purpose.

Financial Statements (§ 460.208)

HCFA, in cooperation with the State administering agency, has the responsibility of assessing fiscal soundness as described in § 460.80.

The financial information required to assess the fiscal soundness of a PACE organization is information from basic financial statements, the balance sheet, statement of revenues and expenses, and sources and uses of funds statement. An organization that has completed its trial period will be required to submit these basic financial statements, annually. An organization that is in the trial period will be required to submit quarterly financial statements in addition to the annual certified financial statements. An organization may use the "Annual Statement" (also known as the "orange blank") which was developed by the National Association of Insurance Commissioners of Nashville, Tennessee (615–254–6291) for reporting by HMOs.

Sections 1894(e)(3) and (4) and 1934(e)(3) and (4) of the Act require the Secretary and the State administering agency to work in consultation to determine what data and cost and financial reports the PACE organization must submit so these agencies can monitor the cost and effectiveness of a PACE organization and perform necessary reviews.

In § 460.208, we are requiring that, not later than 180 days after the end of the organization's fiscal year, the PACE organization submit a certified financial statement that includes appropriate footnotes. This financial statement must be certified by an independent certified public accountant. At a minimum, the certified financial statement must include a certification statement, a balance sheet, a statement of revenues and expenses, and a source and use of funds statement.

Throughout the entire duration of the trial period, we are requiring that not later than 45 days after the end of each quarter of the organization's fiscal year, a PACE organization must submit a quarterly financial statement, which is not required to be certified by an independent certified public accountant.

At the conclusion of the trial period, HCFA or the State administering agency may require a PACE organization to submit monthly or quarterly financial statements, or both, if HCFA or the State administering agency determines that an organization's performance requires more frequent monitoring and oversight due to concerns about fiscal soundness. These additional reports do not have to be certified by a certified public accountant.

We consulted with representatives from various State organizations that currently service PACE programs under demonstrations. Initial observations indicate that data collection and

financial reporting requirements vary among the State organizations at the present time. It appears that the data collection and financial reports we require in this interim final regulation can also assist the State administering agency in the monitoring and oversight requirements. Of course, States will still have the authority to request any data and reports that they consider to be necessary in implementing PACE. HCFA will continue to consult with State organizations to develop consistency in reporting requirements in order to minimize the reporting burden for PACE organizations. We welcome comments on this issue.

Medical Records (§ 460.210)

The participant's medical record presents a total picture of the care provided. The medical record is a useful tool in diagnosing, treating and caring for the participant. The medical record: (1) Facilitates communication among the various health care professionals providing services to the participant; (2) provides a focal point for coordinating the actions of the multidisciplinary team; (3) provides an accurate picture of the participant's progress in achieving care goals; and (4) provides the team members with data for evaluating and documenting the quality and appropriateness of care delivered. Because care for this population will be provided by a variety of sources (*i.e.*, center employees, contracted personnel, hospital staff, nursing home staff, etc.), it is critical that all information on the participant be documented in the medical record to ensure quality and continuity of care. As a result, we have retained with few modifications the minimum elements specified in the Protocol to be included in the participant's medical record.

To facilitate continuity of care, we are requiring in § 460.210 that the PACE organization maintain a single comprehensive medical record for each participant at the PACE center he or she attends. Participant medical records should be complete, accurately documented, easily retrievable, systematically organized, and available to all staff. We recognize that a PACE organization may have more than one site. However, participant medical records must be located at the site the participant receives services so that staff have access to pertinent information. This requirement also should prevent time lost in obtaining records and facilitate timely review and documentation of the medical record. We have added appropriate language to address this issue.

At a minimum, the participant medical record must include:

- Appropriate identifying information;
- Documentation of all services furnished, including
  - a summary of emergency care and other inpatient or long-term care services (We included the last phrase to ensure that any services furnished to the participant outside the scope of the center's direct care is documented in the medical record. It is critical to the continuity of care that the center staff be informed of all outside services furnished to the participant. Once the participant returns to the center, the course of treatment can be reevaluated and adjusted based on any changes in the participant's status.);
  - Services furnished by employees of the PACE center; and
  - Services furnished by contractors and their reports (This is intended to ensure that anyone who furnishes services to the participant, as either an employee of the PACE organization or under contract, shares the information with the center staff for documentation in the medical record. Again, this requirement is intended to facilitate communication between providers.);
- Multidisciplinary assessments, reassessments, plans of care, and treatment and progress notes that are signed and dated;
- Laboratory, radiological and other test reports (This change clarifies that all tests should be included in the participant medical record.);
- Medication records;
- Hospital discharge summaries, if applicable;
- Reports of contact with informal support (*e.g.*, care giver, legal guardian, or next of kin);
- Enrollment Agreement signed by the participant;
- Physician orders;
- Disenrollment justification, if applicable;
- Advance directives, if applicable (For example, when a participant has executed an advance directive that fact should be prominently displayed. If the PACE organization cannot implement an advance directive as a matter of conscience that fact also should be prominently displayed.);
- A signed release permitting disclosure of personal information; and
- Accident and incident reports. (Accident and incident reports are included because they may be an indicator of changes in the participant's functional status, problems or changes in the participant's home environment, or physical problems with the center or its staff.)

We also require the PACE organization to provide for the prompt transfer of copies of appropriate medical record information between treatment facilities to ensure continuity of care whenever a participant is temporarily or permanently transferred to another facility. Examples of appropriate medical record information include, but are not limited to, such things as the reason for the transfer, the name and phone number of the attending physician, participants' demographics, active diagnosis and treatment plan including current medications and ADL status, special dietary considerations, etc. It is essential that the medical history and plan of care follow the participant. This requirement is intended to ensure communication between providers. We are soliciting comments on whether a specific timeframe for the transfer of participant medical record information should be required.

We have added a requirement for authentication of the medical record to ensure that the appropriate individuals have reviewed and completed the participant's medical records. All entries must be legible, clear, complete, and appropriately authenticated and dated. Authentication must include signatures or a secured computer entry by a unique identifier of the primary author who has reviewed and approved the entry.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Waiver of Proposed Rulemaking and Delayed Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed and the terms and substance of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of

the finding and its reasons in the rule issued.

Section 4803(a) of BBA directed us to promulgate these regulations in a timely manner, so that entities may establish and operate ongoing PACE programs under Medicare and Medicaid for periods beginning not later than August 5, 1998. Section 1894(f)(1) of the Act, as added by section 4801 of BBA, and section 1934(f)(1) of the Act, as added by section 4802 of BBA, authorize the issuance of interim final regulations for this purpose. Thus, the BBA expressly provides that we may implement the PACE program without publication of a notice of proposed rulemaking and a period for public comment.

For these reasons, we find notice-and-comment rulemaking procedures both unnecessary and impracticable. Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day period for public comment.

Generally, we provide a 30-day delay before effectuation of a final rule unless we find good cause to dispense with that delay (5 U.S.C. section 553(d)). For the same reasons applicable to waiver of proposed rulemaking and in order to allow the current PACE demonstration projects the opportunity to apply for PACE organization status as soon as possible after publication of this interim final rule, we find that the 30-day delay is impracticable and not in the public interest. Therefore, we find good cause to waive the 30-day delay in the effective date of the regulation.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of the information collection requirements (ICRs) summarized and discussed below.

A. The following ICRs and Associated Burden Are Subject to the PRA.

Section 460.12 Application Requirements

Section 460.12(a)(1) states that in order for HCFA to determine whether an entity qualifies as a PACE organization, an individual authorized to act for the entity must submit to HCFA a complete application that describes how the entity meets all requirements in this part.

The burden associated with this requirement is the time and effort to compile and submit application information to HCFA. We estimate that 25 entities will apply per year and that each entity will take 151 hours to complete the requirements of this section for a total annual burden of 3,775 hours.

In summary, section 460.12(a)(2) provides that HCFA will only evaluate applications from entities located in States with approved State plan amendments electing PACE as an optional Medicaid benefit. In addition, 460.12(b) states that an application must be accompanied by an assurance from the State administering agency of the State in which the program is located indicating that the State considers the entity to be qualified to be a PACE organization and is willing to enter into a PACE program agreement with the entity.

The burden associated with these requirements is the time and effort for a State to develop its State plan amendment to elect PACE as an optional Medicaid benefit and to write an assurance to HCFA indicating that the State considers the entity to be qualified to be a PACE organization and that the State is willing to enter into a PACE program agreement with the entity. We estimate that 25 States will each take 20 hours to complete these requirements for a total annual burden of 500 hours.

Section 460.30 Program Agreement Requirement

In summary, § 460.30(a) and (b) state that a PACE organization must have an agreement with HCFA and the State administering agency to operate a PACE program under Medicare and Medicaid. Furthermore, the program agreement must be signed by an authorized official of the organization, HCFA, and the State administering agency.

Since HCFA prepares the program agreement, the burden associated with this requirement is the time and effort of officials to review and sign the agreement. We estimate that organization and State officials will take 2 hours per agreement to complete this requirement. There will be approximately 54 agreements for a total annual burden of 108 hours.

Section 460.70 Contracted Services

In summary, § 460.70(b)(1) requires that a PACE organization contract only with entities that meet all applicable Federal and State requirements.

The burden associated with this requirement to demonstrate that a PACE organization has contracted only with appropriate entities is captured by the initial contracts in section 460.12, application requirements. The remaining burden associated with this section is the ongoing time associated with the PACE organizations' verification, and maintenance of the verification documentation, that any new contractors are qualified entities. We estimate that each organization will spend 5 hours verifying the qualifications of new contractors. There will be approximately 54 PACE organizations for a total annual burden of 270 hours.

Section 460.70(d) states that the PACE organization must furnish a copy of each signed contract for inpatient care to HCFA and the State administering agency.

While the requirement to furnish a copy of each signed contract for inpatient care is subject to the PRA, the initial burden associated with this requirement is captured in § 460.12, application requirements. The remaining burden associated with this requirement is the time and effort associated with furnishing a copy of each new or revised contract for inpatient care to HCFA and the State administering agency. We estimate that each PACE organization will take 30 minutes to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 27 hours.

Section 460.72 Physical Environment

Section 460.72(a)(3) states that a PACE organization must establish, implement, and maintain a written plan to ensure that all equipment is maintained in accordance with the manufacturer's recommendations.

The burden associated with this requirement is the time and effort to establish and maintain a written plan to ensure that all equipment is maintained in accordance with the manufacturer's recommendations. While the requirement to "establish" a written

plan is subject to the PRA, the burden associated with that requirement is captured in § 460.12, application requirements. We estimate that each PACE organization will take 1 hour to "maintain" a written plan. There will be approximately 54 PACE organizations for a total annual burden of 54 hours.

Section 460.72(c)(5) states that at least annually, a PACE organization must actually test, evaluate, and document the effectiveness of its emergency and disaster plans.

The burden associated with this requirement is the time and effort for a PACE organization to document the effectiveness of its emergency and disaster plans. We estimate that each PACE organization will take 30 minutes to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 27 hours.

Section 460.82 Marketing

Section 460.82(c) states that a PACE organization must furnish printed marketing materials to prospective and current participants in English and in any other principal languages of the community, and in braille if necessary.

While the requirement to "furnish" these materials is subject to the PRA, the burden associated with that requirement is captured in § 460.82(a), which is discussed below under paragraph F. The remaining burden associated with this requirement is the time and effort for the PACE organization to prepare printed marketing materials to meet special language requirements. We estimate that 54 PACE organizations will each take 2 hours to prepare and update the material on an annual basis for a total of 108 burden hours.

Section 460.82(f) states that a PACE organization must establish, implement, and maintain a documented marketing plan with measurable enrollment objectives and a system for tracking its effectiveness.

While the requirement to "establish" a documented plan and a tracking system is subject to the PRA, the burden associated with that requirement is captured in § 460.12, application requirements. The remaining burden associated with this requirement is the time and effort for a PACE organization to update and maintain a marketing plan and a tracking system. We estimate that each PACE organization will take 16 hours on an annual basis to comply with this requirement. There will be approximately 54 PACE organizations for a total annual burden of 864 hours.

Section 460.102 Multidisciplinary Team

Section 460.102(e) states that the PACE organization must establish, implement, and maintain documented internal procedures governing the exchange of information between team members, contractors, and participants and their caregivers.

While the requirement to "establish" the documented procedures is subject to the PRA, the burden associated with that requirement is captured in section 460.12, application requirements. The remaining burden associated with this requirement is the time and effort for the PACE organization to update and maintain documented internal procedures governing the exchange of information. We estimate that each PACE organization will take 1 hour on an annual basis to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 54 hours.

Section 460.104 Participant Assessment

Section 460.104(c)(3)(ii) specifies a timeframe for the multidisciplinary team to perform a reassessment and respond to a participant's (or the participant's designated representative) request for a change in services. The team may extend the timeframe in accordance with § 460.104(c)(3)(iii) if they document its need for information and how the delay is in the interest of the participant.

The burden associated with this requirement is the time and effort for the PACE organization to document the reasons for an extension. We estimate that on average there will be approximately 8 participants per organization who request a reassessment and the team determines they need additional time to respond. Therefore, the burden associated with this requirement is (8 participants × 10 minutes) × 54 PACE organizations = 72 annual hours of burden.

Section 460.116 Explanation of Rights

Section 460.116(c) states that the PACE organization must write the participant rights in English and in any other principal language of the community and display the rights in a prominent place in the PACE center.

The burden associated with this requirement is the time and effort for the PACE organization to (1) write the participant rights in English and in any other principal language of the community; and (2) display the rights in a prominent place in the PACE center. While the ICRs listed above are subject to the PRA, we believe that the burden associated with writing the participant rights in English and in any other principal language of the community is exempt from the PRA in accordance with 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with these requirements would be incurred by persons in the normal course of their activities. However, we do believe the remaining burden associated with updating and displaying these rights is subject to the PRA. We estimate that, on average, each PACE organization will take 8 hours on an annual basis to comply with these requirements. There will be approximately 54 PACE organizations for a total annual burden of 432 hours.

Section 460.120 Grievance Process

Section 460.120(b) states that upon enrollment, and at least annually thereafter, the organization must give a participant written information on the grievance process.

The burden associated with this requirement is the time and effort for the PACE organization to give a participant written information on the grievance process. We estimate that, on average, there will be 160 participants per organization receiving written information on the grievance process. Therefore, the burden associated with the disclosure of the grievance materials is (160 participants × 5 minutes) × 54 PACE organizations = 720 annual hours of burden.

Section 460.120(e) states that the PACE organization must discuss with, and provide to the participant in writing the specific steps, including timeframes for response, that will be taken to resolve the participant's grievance.

The burden associated with this requirement is the time and effort for the PACE organization to discuss with, and provide to the participant in writing the specific steps, including timeframes for response, that will be taken to resolve the participant's grievance. We estimate that, on average, there will be 8 participants per organization receiving the additional written information on the grievance process. Therefore, the burden associated with the disclosure of the additional grievance materials is (8 participants x 10 minutes) × 54 PACE organizations = 72 annual hours of burden.

Section 460.122 PACE Organization's Appeals Process

Section 460.122(b) states that upon enrollment, and at least annually thereafter, and whenever the multidisciplinary team denies a request

for service or payment, the organization must give a participant written information on the appeals process.

The burden associated with this requirement is the time and effort for a PACE organization to give a participant written information on the appeals process upon enrollment and at least annually thereafter. We estimate that, on average, there will be 160 participants per organization receiving written information on the appeals process. Therefore, the burden associated with the disclosure of the material outlining the appeals process is (160 participants × 5 minutes) × 54 PACE organizations = 720 annual hours of burden.

Section 460.122(h) states that for a determination that is wholly or partially adverse to a participant, at the same time the decision is made, the PACE organization must notify HCFA, the State administering agency, and the participant.

The burden associated with this requirement is the time and effort for a PACE organization to notify HCFA, the State administering agency, and the participant that the PACE organization has made an adverse decision. We estimate that, on average, each organization will be required to notify 4 participants in writing of an adverse decision. Therefore, the burden associated with these disclosure requirements is 1 hour per plan, (4 participant notifications × 5 minutes) + (4 HCFA-notifications × 5 minutes) + (4 State notifications × 5 minutes) × 54 organizations = 54 annual hours of burden for all organizations.

Section 460.124 Additional Appeal Rights Under Medicare or Medicaid

Section 460.124 states that a PACE organization must inform a participant in writing of his or her appeal rights under Medicare or Medicaid managed care, or both, assist the participant in choosing which to pursue if both are applicable, and forward the appeal to the appropriate external entity.

The burden associated with this requirement is the time and effort for a PACE organization to provide information to a participant in writing of his or her appeal rights under Medicare or Medicaid, or both, to assist the participant in filing Medicare and Medicaid appeals. We estimate that, on average, there will be two participants per organization receiving written information and assistance related to their appeal rights. Therefore, the burden associated with the disclosure of the material outlining appeals rights and assistance is (two participants × 1 hour) × 54 organizations = 108 annual hours of burden.

Section 460.132 Quality Assessment and Performance Improvement Plan

Section 460.132(b) states that the PACE governing body must review the plan annually and revise it, if necessary.

The burden associated with this requirement is the time and effort for a PACE organization to document that the annual review was conducted and to revise the quality assessment and performance improvement plan if necessary. We estimate that each PACE organization will take 8 hours to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 432 hours.

Section 460.152 Enrollment Process

Section 460.152(a)(3) states that the State administering agency must assess the potential participant, including any individual who is not eligible for Medicaid, to ensure that he or she needs the level of care required under the State Medicaid plan for coverage of nursing facility services.

The burden associated with this requirement is the time and effort necessary for each State administering agency to maintain documentation of each potential participant assessment. We estimate that each State administering agency will take 100 hours to complete this requirement. There are approximately 25 State agencies that will be affected by this requirement for a total annual burden of 2,500 hours.

Section 460.152(b)(4) states that if a prospective participant is denied enrollment because his or her health or safety would be jeopardized by living in a community setting, the PACE organization must notify HCFA and the State administering agency and make the documentation available for review.

The burden associated with this requirement is the time and effort for the PACE organization to notify HCFA and the State administering agency of the action. We estimate that on average 25 applicants per organization will be denied on an annual basis. The burden associated with notifying HCFA and the State agency is estimated to be 5 minutes each, for a total of (25 applicants × 10 minutes) × 54 organizations = 225 total annual hours.

Section 460.156 Other Enrollment Procedures

Section 460.156(a) states that after the participant signs the Enrollment Agreement, the PACE organization must give the participant the following: (1) A copy of the enrollment agreement; (2) a PACE membership card; (3) emergency information to be posted in his or her home identifying the individual as a PACE participant and explaining how to access emergency services; and (4) stickers for the participant's Medicare and Medicaid cards, when applicable, which indicate that he or she is a PACE participant and include the phone number of the PACE organization.

While the ICRs listed above are subject to the PRA, we believe that the burden associated with items 1, 2, and 3 (above) is exempt from the PRA in accordance with 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with these requirements would be incurred by persons in the normal course of their activities.

The burden associated with item 4 (above) is the time and effort for a PACE organization to give stickers for the participant's Medicare and Medicaid cards, when applicable, which indicate that he or she is a PACE participant and include the phone number of the PACE organization. We estimate each PACE organization will take 1 minute per new enrollee to complete this requirement. There will be approximately 54 organizations that each will spend 1 hour a year for a total annual burden of 54 hours.

Section 460.156(b) states that the PACE organization must submit monthly participant information to HCFA and the State administering agency, in accordance with established procedures.

The burden associated with this requirement is the time and effort for the PACE organization to submit monthly participant information to HCFA and the State administering agency. We estimate that each PACE organization will take 12 hours (1 hour per month) to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 648 hours.

Section 460.160 Continuation of Enrollment

In summary, § 460.160(b) states that at least annually, the State administering agency must reevaluate whether a participant needs the level of care required under the State Medicaid plan for coverage of nursing facility services.

The burden associated with this requirement is the time and effort for the State administering agency to document the annual reevaluation. We estimate that each State agency will take 170 hours to complete this requirement. There are approximately 25 State agencies for a total annual burden of 4,250 hours.

Section 460.164 Involuntary Disenrollment

Section 460.164(e) states that before an involuntary disenrollment is effective, the State administering agency must review the documentation and determine in a timely manner that the PACE organization has adequately documented acceptable grounds for disenrollment.

The burden associated with this requirement is the time and effort for the State administering agency to review and determine that the PACE organization has adequately documented acceptable grounds for disenrollment. We estimate that each State agency will be required to review 17 case files on an annual basis, at 1 hour each, for a total of 17 hours. There are approximately 25 State agencies for a total annual burden of 425 hours.

Section 460.190 Monitoring During Trial Period

Section 460.190(a) states that during the trial period, HCFA, in cooperation with the State administering agency, will conduct comprehensive annual reviews of the operations of a PACE organization to ensure compliance with the requirements of these regulations. The burden associated with this requirement is the time and effort necessary to disclose all materials necessary to demonstrate compliance with the regulations. Given that PACE organizations are obligated under the program agreement and the requirements set forth in these regulations to maintain all information that would be requested as part of the comprehensive review, we estimate the burden to be 8 hours per organization to disclose necessary information to demonstrate compliance. Approximately 42 PACE organizations will be in the trial period. The total burden imposed by this section is 336 hours.

Section 460.196 Disclosure of Review Results

Section 460.196(c) states that the PACE organization must post a notice of the availability of the results of the most recent review and any plans of correction or responses related to the most recent review.

The burden associated with this requirement is the time and effort for a PACE organization to post a notice. We estimate that each PACE organization will take 5 minutes to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 4.5 hours.

Section 460.202 Participant Health Outcomes Data

In summary, § 460.202(a) and (b) state that a PACE organization must establish and maintain a health information system that collects, analyzes, integrates, and reports data necessary to measure the organization's performance, including outcomes of care furnished to participants. Also, a PACE organization must furnish data and information pertaining to its provision of participant care in the manner, and at the time intervals, specified by HCFA and the State administering agency.

The burden associated with this requirement is the time and effort for a PACE organization to demonstrate the establishment of a health information system and to furnish data and information pertaining to its provision of participant care to HCFA and the State administering agency. While the requirement to demonstrate the "establishment" of a system is subject to the PRA, the burden associated with that requirement is captured in § 460.12, application requirements. Therefore, the remaining burden associated with this section is the requirement to furnish information specified by HCFA and the State administering agency. We estimate that each PACE organization will take 100 hours (50 hours for HCFA compliance + 50 Hours for State compliance) to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 5,400 hours.

Section 460.208 Financial Statements

Section 460.208(a)(1) states that not later than 180 days after the organization's fiscal year ends, a PACE organization must submit a certified financial statement that includes appropriate footnotes.

The burden associated with this requirement is the time and effort for a PACE organization to submit a certified financial statement. We estimate that each PACE organization will take 4 hours to complete this requirement. There will be approximately 54 PACE organizations for a total annual burden of 216 hours.

Section 460.208(c)(1) states that not later than 45 days after the end of each quarter of the organization's fiscal year throughout the trial period, a PACE organization must submit a quarterly financial statement.

The burden associated with this requirement is the time and effort for a PACE organization to submit a quarterly financial statement. We estimate that each PACE organization will take 16 hours (4 hours per quarter) to complete this requirement. There will be approximately 42 PACE organizations that are affected by this trial period requirement for a total annual burden of 672 hours.

B. The following ICRs Are Subject to the PRA. However, the Burden Associated With These Requirements Is Captured in the Application Requirements Described in § 460.12, Application Requirements (Paragraph A, Above)

Section 460.22 Service Area Designation

Section 460.22(a) states that each entity must state in its application the service area it proposes for its program.

Section 460.32 Content and Terms of PACE Program Agreement

Section 460.32 specifies various information that the PACE organization must furnish so that the information can be included in the PACE program agreement.

Section 460.52 Transitional Care During Termination

Section 460.52(a) states that the PACE organization must develop a detailed written plan for phase-down in the event of termination.

Section 460.60 PACE Organizational Structure

Section 460.60(d)(1) and (2) requires the PACE organization to have a current organizational chart showing officials in the organization and relationships to any other organizational entities; the chart for a corporate entity must indicate the organization's relationship to the corporate board and to any parent, affiliate, or subsidiary corporate entities.

Section 460.68 Program integrity.

Section 460.68(c)(2) states that if an applicant seeking approval as a PACE organization believes a waiver regarding direct or indirect interest is warranted, it must include a request for the waiver in its application.

Section 460.80 Fiscal Soundness

Section 460.80(b) states that the organization must have a documented plan in the event of insolvency, approved by HCFA and the State administering agency.

Section 460.80(c) states that a PACE organization must demonstrate that it has arrangements to cover expenses in the event it becomes insolvent.

Section 460.82 Marketing

Section 460.82(b)(2) states that HCFA reviews initial marketing information as

part of an entity's application for approval as a PACE organization, and approval of the application includes approval of marketing information.

Section 460.102 Multidisciplinary Team

Section 460.102(g)(2) states that if an applicant seeking approval as a PACE organization believes a waiver of restrictions on the multidisciplinary team is warranted, it must include a request for the waiver in its application and describe in detail the circumstances supporting the request.

Section 460.104 Participant Reassessment

Section 460.104(c)(3) states that the PACE orgasnization must establish procedures for timely resolution of requests by a participant to initiate, eliminate, or continue a particular service. We will review the procedures as part of the application approval process.

Section 460.118 Violation of Rights

Section 460.118 states that the PACE organization must have established documented procedures to respond to and rectify a violation of a participant's rights.

Section 460.120 Grievance Process

Section 460.120(a) states that a PACE organization must have a formal written process to evaluate and resolve medical and non-medical grievances by participants, their family members, or representatives.

Section 460.122 PACE Organization's Appeals Process

Section 460.122(a) states that the PACE organization must have a formal written appeals process, with specified time frames for response, which may be used by a participant to address noncoverage or nonpayment of a service.

Section 460.132 Quality Assessment and Performance Improvement Plan

Section 460.132(a) requires a PACE organization to have a written quality assessment and performance improvement plan.

Section 460.200 Maintenance of Records and Reporting of Data

Section 460.200(d) states that a PACE organization must establish written policies and procedures to safeguard all data, books, and records against loss, destruction, unauthorized use, or inappropriate alteration.

C. The Following ICRs Are Subject to the PRA. However, the Burden Associated With These Requirements Is Contained in § 460.132(b), Quality Assessment and Performance Improvement Plan (Paragraph A, Above)

Section 460.120 Grievance Process

Section 460.120(f) states that the PACE organization must maintain, aggregate, and analyze information on grievance proceedings. This information must be used in the internal quality assessment and performance improvement program.

Section 460.122 PACE Organization's Appeals Process

Section 460.122(i) states that a PACE organization must maintain, aggregate, and analyze information on appeal proceedings and use this information in the organization's internal quality assessment and performance improvement program.

D. The following ICRs Are Subject to the PRA. However, the Burden Associated With These Requirements Are Contained in §§ 460.202, Participant Health Outcomes Data, and Statistical Reports, and 460.208, Financial Statements (Paragraph A, Above)

Section 460.200 Maintenance of Records and Reporting of Data

Section 460.200(a) states that a PACE organization must collect data, maintain records, and submit reports as required by HCFA and the State administering agency.

Section 460.200(c) states that a PACE organization must submit to HCFA and the State administering agency all reports that HCFA and the State administering agency require to monitor the operation, cost, quality, and effectiveness of the program and establish payment rates.

E. The following ICRs Are Subject to the PRA. However, the Burden Associated With These Requirements Is Contained in § 460.208, Financial Statements (Paragraph A, Above).

Section 460.204 Financial Recordkeeping and Reporting Requirements

Section 460.204(a) states that a PACE organization must provide HCFA and the State administering agency with accurate financial reports.

F. The Following ICRs Are Subject to the PRA. However, We Believe That the Burden Associated With These ICRs Is Exempt From the PRA in Accordance With 5 CFR 1320.3(b)(2) Because the Time, Effort, and Financial Resources Necessary To Comply With These Requirements Would Be Incurred by Persons in the Normal Course of Their Activities. We Are Soliciting Comments on This Determination and Request Any Data on the Additional Burdens That May Be Imposed by These Requirements.

Section 460.52 Transitional Care During Termination

Section 460.52(b) states that an entity whose PACE program agreement is terminated must provide assistance to each participant in obtaining necessary transitional care through appropriate referrals and making the participant's medical records available to new providers.

Section 460.70 Contracted Services

Section 460.70(a) states that the PACE organization must have a written contract with each outside organization, agency, or individual that furnishes administrative or care-related services not furnished directly by the PACE organization except for emergency services as described in section 460.100.

Section 460.70(c) states that a list of contractors must be on file at the PACE center and a copy must be provided to anyone upon request.

Section 460.72 Physical Environment

Section 460.72(c)(1) states that the PACE organization must establish, implement, and maintain documented procedures to manage medical and nonmedical emergencies and disasters that are likely to threaten the health or safety of the participants, staff or the public.

Section 460.72(c)(4) states that the organization must have a documented plan to obtain emergency medical assistance from sources outside the center when needed.

Section 460.74 Infection Control

Section 460.74(b) states that the PACE organization must establish, implement, and maintain a documented infection control plan.

Section 460.82 Marketing

Section 460.82(a) states that a PACE organization must inform the public about its program and give prospective participants the following written information: an adequate description of the PACE organization's enrollment and disenrollment policies and requirements; PACE enrollment procedures; description of benefits and services; premiums; and other information necessary for prospective

participants to make an informed decision about enrollment.

Section 460.82(d) states that marketing materials must inform a potential participant that he or she must receive all needed health care, including primary care and specialist physician services (other than emergency services), from the PACE organization or from an entity authorized by the PACE organization. All marketing materials must state clearly that PACE participants may be fully and personally liable for the costs of unauthorized or out-of-PACE program agreement services.

Section 460.98 Service Delivery

Section 460.98(a) states that a PACE organization must establish and implement a written plan to provide care that meets the needs of each participant in all care settings 24 hours a day, every day of the year.

Section 460.100 Emergency Care

Section 460.100(a) states that a PACE organization must establish and maintain a written plan to handle emergency care.

Section 460.102 Multidisciplinary Team

In summary, § 460.102(d) states that the multidisciplinary team is responsible for the initial assessment, periodic reassessments, plan of care, and coordination of 24 hour care delivery. Each team member must regularly inform the multidisciplinary team of the medical, functional, and psychosocial condition of each participant; and document changes in a participant's condition in the participant's medical record.

Section 460.104 Participant Assessment

In summary, § 460.104 states that the multidisciplinary team must explain why it denys a participant's request for services, inform participants of additional appeal processes available, and document all assessment and reassessment information in the participant's medical record.

Section 460.106 Plan of Care

Section 460.106(f) states that the team must document the plan of care, and any changes made to it, in the participant's medical record.

Section 460.110 Bill of Rights

Section 460.110(a) states that a PACE organization must have a written participant bill of rights designed to protect and promote the rights of each participant.

Section 460.110(b) states that, upon enrollment, the organization must inform a participant in writing of her or his rights and responsibilities, and all rules and regulations governing participation.

Section 460.112 Specific Rights to Which a Participant Is Entitled

Section 460.112(b)(1) states that a participant has the right to be fully informed in writing of the services available from the PACE organization.

Section 460.112(b)(2) states that a participant has the right to have the enrollment agreement fully explained in a manner understood by the participant.

Section 460.112(e)(3) states that a participant has the right to be fully informed of his or her health and functional status by the multidisciplinary team and to participate in the development and implementation of the plan of care.

Section 460.112(e)(2) states that a participant has the right to have the PACE organization explain advance directives and to establish them, if the participant so desires.

Section 460.112(e)(6) states that a participant has the right to be given reasonable advance notice, in writing, of any transfer to another treatment setting, and the justification for it, due to medical reasons or for the participant's welfare, or that of other participants. The PACE organization must document the justification in the participant's medical record.

Section 460.116 Explanation of Rights

Section 460.116(a) states that a PACE organization must have written policies and implement procedures to ensure that the participant, his or her representative, if any, and staff understand these rights.

Section 460.116(b) states that upon enrollment, the staff must fully explain the rights to the participant and his or her representative, if any, in a manner understood by the participant.

Section 460.122 PACE Organization's Appeals Process

Section 460.122(d) states that a PACE organization must give all parties involved in the appeal appropriate written notification and a reasonable opportunity to present evidence related to the dispute in person, as well as in writing.

Section 460.152 Enrollment Process

Section 460.152(a)(1) requires that at a minimum, the intake process must include the following steps: the PACE staff must explain to the potential participant and his or her representative or caregiver: the PACE program; the requirement that the PACE organization is the participant's sole service provider; monthly premiums, if any; and any Medicaid spenddown obligations.

Section 460.152(a)(2) states that the potential participant must sign a release to allow the PACE organization to obtain his or her medical and financial information and eligibility status for Medicare and Medicaid.

Section 460.152(b)(1) states that if a prospective participant is denied enrollment because his or her health or safety would be jeopardized by living in a community setting, the PACE organization must notify the individual in writing of the reason for denial.

Section 460.152(b)(2) states that if a prospective participant is denied enrollment because his or her health or safety would be jeopardized by living in a community setting, the PACE organization must refer the individual to alternative services, as appropriate.

Section 460.152(b)(3) states that if a prospective participant is denied enrollment because his or her health or safety would be jeopardized by living in a community setting, the PACE organization must maintain supporting documentation of the reason for the determination.

Section 460.154 Enrollment Agreement

In summary, § 460.154 states that if the potential participant meets the eligibility requirements and wants to enroll, he or she must sign an enrollment agreement in accordance with the requirements in this section.

Section 460.156 Other Enrollment Procedures

Section 460.156(c) states that if there are changes in the enrollment agreement information at any time during the participant's enrollment, the PACE organization must give an updated copy of the information to the participant; and explain the changes to the participant and his or her representative or caregiver in a manner they understand.

§ 460.164 Involuntary Disenrollment

Section 460.164(c) states that if a PACE organization proposes to disenroll a participant who is disruptive or threatening, the organization must document in the participant's medical record the reasons for proposing to disenroll the participant; and all efforts to remedy the situation.

Section 460.168 Reinstatement in Other Medicare and Medicaid Programs

Section 460.168(a) states that in order to facilitate a participant's reinstatement in other Medicare and Medicaid programs after disenrollment, the PACE organization must make appropriate referrals and ensure medical records are made available to new providers in a timely manner.

Section 460.172 Documentation of Disenrollment

Section 460.172(a) states that a PACE organization must have a procedure in place to document the reasons for all voluntary and involuntary disenrollments.

Section 460.200 Maintenance of Records and Reporting of Data

Section 460.200(e) states that a PACE organization must maintain the confidentiality of any information that identifies a particular participant; establish and implement procedures that govern the use and release of a participant's information; and obtain a participant's consent before releasing personal information that is not required by law to be released. Section 460.200(f)(1) states that a PACE organization must retain records for the longest of the following periods: the period of time specified in State law; six years from the last entry date; or for medical records of disenrolled participants, six years after the date of disenrollment.

Section 460.204 Financial Recordkeeping and Reporting Requirements

Section 460.204(b) states that a PACE organization must maintain an accrual accounting recordkeeping system.

Section 460.210 Medical Records

Section 460.210(a) states that a PACE organization must maintain a single, comprehensive medical record for each participant, in accordance with accepted professional standards.

Section 460.210(c) states that a the organization must promptly transfer copies of medical record information between treatment facilities.

Section 460.210(d) states that all entries must be legible, clear, complete, and appropriately authenticated and dated. Authentication must include signatures or a secured computer entry by a unique identifier of the primary author who has reviewed and approved the entry.

G. We Believe the Following Requirements Are Not Subject to the PRA in Accordance With 5 CFR 1320.3(c)(4) Since They Do Not Require Information From Ten or More Entities on an Annual Basis. We Are Soliciting Comments on This Determination and Request Any Data on the Additional Burdens That May Be Imposed by These Requirements.

Section 460.20 Special Consideration

Section 460.20(b) states that an application from an entity seeking special consideration must include documentation of those formal activities.

Section 460.60 PACE Organizational Structure

Section 460.60(d)(3) states that A PACE organization planning a change in organizational structure must notify HCFA and the State administering agency, in writing, at least 60 days before the change takes effect.

Section 460.82 Marketing

Section 460.82(b)(3) states that once a PACE organization is under a PACE program agreement, any revisions to existing marketing information and new information are subject to the following: HCFA approves or disapproves marketing information within 45 days after receipt from the organization.

H. In Accordance With 5 CFR 1320.4(a)(2), We Believe the Following ICRs Are Exempt From the PRA Since It Is in Response to an Administrative Action, Investigation, or Audit Against Specific Individuals or Entities.

Section 460.68 Program Integrity

Section 460.68(d) states that a PACE organization must have a formal process in place to gather information related to paragraphs (a) and (b) of this section, and must be able to respond in writing to a request for information from HCFA within a reasonable amount of time.

Section 460.172 Documentation of Disenrollment

Section 460.172(b) states that a PACE organization must make documentation available for review by HCFA and the State administering agency.

Section 460.192 Ongoing Monitoring After Trial Period

Section 460.192(a) states that at the conclusion of the trial period, HCFA, in cooperation with the State administering agency, continues to conduct reviews of a PACE organization, as appropriate, taking into account the performance level of the organization with respect to the quality of care provided and compliance of the organization with all requirements of this part.

Section 460.194 Corrective Action

Section 460.194(a) states that a PACE organization must take action to correct deficiencies identified during reviews.

Section 460.200 Maintenance of Records and Reporting of Data

Section 460.200(f)(2) states that if litigation, a claim, a financial management review, or an audit arising from the operation of the PACE program is started before the expiration of the retention period, specified in paragraph (f)(1) of this section, the PACE organization must retain the records until the completion of the litigation, or resolution of the claims or audit findings.

Section 460.204 Financial Recordkeeping and Reporting Requirements

Section 460.204(d) states that a PACE organization must permit HCFA and the State administering agency to audit or inspect any books and records of original entry that pertain to the following: any aspect of services performed; reconciliation of participant's benefit liabilities; and/or determination of Medicare and Medicaid amounts payable.

Section 460.208 Financial Statements

Section 460.208(c)(2) states that if HCFA or the State administering agency determines that an organization's performance requires more frequent monitoring and oversight due to concerns about fiscal soundness, HCFA or the State administering agency may require a PACE organization to submit monthly or quarterly financial statements, or both.

We have submitted a copy of this interim final with comment rule to OMB for its review of the information collection requirements described above. These requirements are not effective until they have been approved by OMB.

If you comment on any of these information collection and record keeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: John Burke, HCFA–1903–IFC, and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive

Office Building, Washington, DC 20503, Attn: Allison Eydt, HCFA Desk Officer.

VI. Regulatory Impact Statement

We have examined the impacts of this interim final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, non-profit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by non-profit status or by having revenues of $5 million or less annually. For purposes of the RFA, all PACE providers are considered to be small entities. Individuals and States are not included in the definition of a small entity.

Section 1102(b) of the Social Security Act, (the Act) requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. This rule will not affect a significant number of small rural hospitals.

This interim final rule will affect a very limited number of small non-profit entities that are operating, or seek to operate, a PACE program. We are authorized to approve no more than 40 such programs as of August 5, 1997, and the ceiling increases by an additional 20 each year as of each succeeding August 5th (*e.g.*, we can approve no more than 60 by August 5, 1998 and no more than 80 by August 5, 1999). The rule will indirectly affect Medicare beneficiaries and Medicaid recipients who could qualify for a PACE program and who might wish to enroll in one in their geographic area, because it will affect the availability of those programs. A typical PACE program maintains an enrollment of about 200–300 individuals.

Non-profit entities that wish to receive Medicare and Medicaid payment for their PACE services must comply with the requirements in this rule. Due to the all-inclusive nature of the services and the concomitant expense of providing such care, entities that do not qualify for Medicare and Medicaid funding are unlikely to be financially viable.

The requirements contained in this rule are largely similar to the requirements that have been applicable to the existing PACE demonstration project sites through the Protocol (described in section I.C of this document). Other entities that have contemplated or already have started developing PACE programs have been aware of those requirements and would have designed their potential programs to comply with them. Because the basic effect of this rule is to codify prevailing industry standards, its impact is not significant.

While we do not have data on which to base an estimate of overall costs or savings to the Medicare and Medicaid programs, we believe that any incremental difference would be so small as to be negligible. PACE services substitute for services that would otherwise be covered, and payment rates are adjusted so that the total payment level is less than the projected payment that would have been made if the participants were not enrolled in PACE. Thus, the overall result should be a slight savings for this small population.

If this rule were not issued, PACE programs could not be approved as ongoing programs under Medicare or Medicaid. Sections 4801 and 4802 of BBA require us to promulgate regulations to carry out those sections and approve PACE programs. Section 4803(d) of BBA specifies that the PACE demonstration authority remains in effect until the effective date of these regulations, and a transition period from demonstration status to ongoing status begins on that date.

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

Federalism

Under Executive Order 13132, this regulation will not significantly affect the States beyond what is required and provided for under the BBA. It follows the intent and letter of the law and does not usurp State authority beyond what the BBA requires. This regulation describes the processes that must be undertaken by HCFA, the States, and PACE organizations in order to implement the PACE program.

As noted previously, sections 4801 and 4802 of the BBA clearly describe a cooperative relationship between the Secretary and the States in the development, implementation, and administration of the PACE program. The following are some examples of areas in which we engaged in partnership with States to establish policy and procedures:

1. Establishing procedures for entering into, extending, and terminating PACE agreements—1894(e)(1)(A) and 1934(e)(1)(A).
2. Establishing procedures for excluding service areas already covered under other PACE provider agreements in order to avoid unnecessary duplication of services and also to avoid impairing the financial and service viability of the existing program—1894(e)(2)(B) and 1934(e)(2)(B).
3. Establishing procedure for the PACE provider to make available PACE program data—1894(e)(3)(A)(i)(III) and 1934(e)(2)(A)(i)(III).
4. In conjunction with the PACE provider, developing and implementing health status and quality of life outcome measures—1894(e)(3)(B) and 1934 (e)(3)(B).
5. The statute requires the Secretary and State to conduct a comprehensive annual review—1894(e)(4)(A) and 1934(e)(4)(A).
6. Establishing the frequency of the on-sight review—1894(e)(4)(B) and 1934(e)(4)(B).
7. Establishing a mechanism for communicating of the Secretary's findings and State action when a PACE provider is failing to comply with Federal requirements; i.e., enforcement authority—1894(e)(6)(A) and 1934(e)(6)(A).
8. Establishing the entity responsible for the annual eligibility recertification—1894(c)(3) and 1934(c)(3); and continuation of eligibility requirements—1894(c)(4) and 1934(c)(4).

For this reason, we obtained State input in the early stages of policy development through conference calls with State Medicaid Agency representatives. The BBA requires the States to designate the agency of the State responsible for the administration of the PACE program. Although the State may designate the State Medicaid Agency to administer the PACE program, another agency may be named. The 8 agencies that volunteered to participate in these discussions represented a balanced view of States;

some with PACE demonstration site experience and some who were not yet involved with PACE, but were interested in providing input to establish a new long term care optional benefit. The calls were very productive in understanding the variety of State concerns inherent in implementing a new program. In addition, in order to formulate processes to operationalize the PACE program, we have maintained ties with State representatives through monthly conference calls to obtain information on a variety of topics including the applications review and approval process, data collection needs, and enrollment/disenrollment issues.

We are committed to continuing this dialogue with States after publication of the regulation to ensure this cooperative atmosphere continues as we implement the PACE program and transition the current PACE demonstration sites to full provider status. We expect that States would take responsibility for site selection and participate in provider approval and ongoing monitoring activities. States may also determine how many sites to authorize and how many participants each site may serve. In recognition of the unique relationship between the Secretary and the States for the PACE program, we have directed potential PACE organizations to first contact their State administering agency to verify that the State has elected PACE as an optional benefit under its State Medicaid Plan, determine whether the State has established additional requirements for PACE organizations, and obtain technical assistance.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 460

Aged, Health Incorporation by reference, Medicare, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 462

Grant programs-health, Health care, Health professions, Peer Review Organizations (PRO).

42 CFR Part 466

Grant programs-health, Health care, Health facilities, Health professions, Peer Review Organizations (PRO), Reporting and recordkeeping requirements.

42 CFR Part 473

Administrative practice and procedure, Health care, Health professions, Peer Review Organizations (PRO), Reporting and recordkeeping requirements.

42 CFR Part 476

Health care, Health professional, Health record, Peer Review Organizations (PRO), Penalties, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 42 CFR Chapter IV is amended as follows:

SUBCHAPTER D [Redesignated]

1. Subchapter D is redesignated as subchapter F; a new subchapter D is added and reserved; and parts 462, 466, 473, and 476 are redesignated as parts 475, 476, 478 and 480, respectively.

SUBCHAPTER E [Redesignated]

2. Subchapter E is redesignated as Subchapter G.

3. A new subchapter E, consisting of part 460 is added to read as follows:

SUBCHAPTER E—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

PART 460—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

Subpart A—Basis, Scope, and Definitions

Sec.
460.2 Basis.
460.4 Scope and purpose.
460.6 Definitions.

Subpart B—PACE Organization Application and Evaluation

460.10 Purpose.
460.12 Application requirements.
460.14 Priority consideration.
460.16 Special consideration.
460.18 HCFA evaluation of applications.
460.20 Notice of HCFA determination.
460.22 Service area designation.
460.24 Limit on number of PACE program agreements.

Subpart C—PACE Program Agreement

460.30 Program agreement requirement.
460.32 Content and terms of PACE program agreement.
460.34 Duration of PACE program agreement.

Subpart D—Sanctions, Enforcement Actions, and Termination

460.40 Violations for which HCFA may impose sanctions.
460.42 Suspension of enrollment or payment by HCFA.
460.46 Civil money penalties.
460.48 Additional actions by HCFA or the State.
§ 460.50 Termination of PACE program agreement.
460.52 Transitional care during termination.
460.54 Termination procedures.

Subpart E—PACE Administrative Requirements

460.60 PACE organizational structure.
460.62 Governing body.
460.64 Personnel qualifications.
460.66 Training.
460.68 Program integrity.
460.70 Contracted services.
460.72 Physical environment.
460.74 Infection control.
460.76 Transportation services.
460.78 Dietary services.
460.80 Fiscal soundness.
460.82 Marketing.

Subpart F—PACE Services

460.90 PACE benefits under Medicare and Medicaid.
460.92 Required services.
460.94 Required services for Medicare participants.
460.96 Excluded services.
460.98 Service delivery.
460.100 Emergency care.
460.102 Multidisciplinary team.
460.104 Participant assessment.
460.106 Plan of care.

Subpart G—Participant Rights

460.110 Bill of rights.
460.112 Specific rights to which a participant is entitled.
460.114 Restraints.
460.116 Explanation of rights.
460.118 Violation of rights.
460.120 Grievance process.
460.122 PACE organization's appeals process.
460.124 Additional appeal rights under Medicare or Medicaid.

Subpart H—Quality Assessment and Performance Improvement

460.130 General rule.
460.132 Quality assessment and performance improvement plan.
460.134 Minimum requirements for quality assessment and performance improvement program.
460.136 Internal quality assessment and performance improvement activities.
460.138 Committees with community input.
460.140 Additional quality assessment activities.

Subpart I—Participant Enrollment and Disenrollment

§ 460.150 Eligibility to enroll in a PACE program.
460.152 Enrollment process.
460.154 Enrollment agreement.
460.156 Other enrollment procedures.
460.158 Effective date of enrollment.
460.160 Continuation of enrollment.
460.162 Voluntary disenrollment.
460.164 Involuntary disenrollment.
460.166 Effective date of disenrollment.
460.168 Reinstatement in other Medicare and Medicaid programs.
460.170 Reinstatement in PACE.
460.172 Documentation of disenrollment.

Subpart J—Payment

460.180 Medicare payment to PACE organizations.
460.182 Medicaid payment.

460.184 Post-eligibility treatment of income.
460.186 PACE premiums.

Subpart K—Federal/State Monitoring

460.190 Monitoring during trial period.
460.192 Ongoing monitoring after trial period.
460.194 Corrective action.
460.196 Disclosure of review results.

Subpart L—Data Collection, Record Maintenance, and Reporting

460.200 Maintenance of records and reporting of data.
460.202 Participant health outcomes data.
460.204 Financial recordkeeping and reporting requirements.
460.208 Financial statements.
460.210 Medical records.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395).

Subpart A—Basis, Scope, and Definitions

§ 460.2 Basis

This part implements sections 1894, 1905(a), and 1934 of the Act, which authorize the following:

(a) Medicare payments to, and coverage of benefits under, PACE.

(b) The establishment of PACE as a State option under Medicaid to provide for Medicaid payments to, and coverage of benefits under, PACE.

§ 460.4 Scope and purpose.

(a) *General.* This part sets forth the following:

(1) The requirements that an entity must meet to be approved as a PACE organization that operates a PACE program under Medicare and Medicaid.

(2) How individuals may qualify to enroll in a PACE program.

(3) How Medicare and Medicaid payments will be made for PACE services.

(4) Provisions for Federal and State monitoring of PACE programs.

(5) Procedures for sanctions and terminations.

(b) *Program purpose.* PACE provides pre-paid, capitated, comprehensive health care services designed to meet the following objectives:

(1) Enhance the quality of life and autonomy for frail, older adults.

(2) Maximize dignity of, and respect for, older adults.

(3) Enable frail, older adults to live in the community as long as medically and socially feasible.

(4) Preserve and support the older adult's family unit.

§ 460.6 Definitions.

As used in this part, unless the context indicates otherwise, the following definitions apply:

Contract year means the term of a PACE program agreement, which is a calendar year, except that a PACE organization's initial contract year may be from 12 to 23 months, as determined by HCFA.

Medicare beneficiary means an individual who is entitled to Medicare Part A benefits or enrolled under Medicare Part B, or both.

Medicaid participant means an individual determined eligible for Medicaid who is enrolled in a PACE program.

Medicare participant means a Medicare beneficiary who is enrolled in a PACE program.

PACE stands for programs of all-inclusive care for the elderly.

PACE center means a facility operated by a PACE organization where primary care is furnished to participants.

PACE organization means an entity that has in effect a PACE program agreement to operate a PACE program under this part.

PACE program agreement means an agreement between a PACE organization, HCFA, and the State administering agency for the operation of a PACE program.

Participant means an individual who is enrolled in a PACE program.

Services includes both items and services.

State administering agency means the State agency responsible for administering the PACE program agreement.

Trial period means the first 3 contract years in which a PACE organization operates under a PACE program agreement, including any contract year during which the entity operated under a PACE demonstration waiver program.

Subpart B—PACE Organization Application and Evaluation

§ 460.10 Purpose.

This subpart sets forth application requirements for an entity that seeks approval from HCFA as a PACE organization.

§ 460.12 Application requirements.

(a) *General.* (1) An individual authorized to act for the entity must submit to HCFA a complete application that describes how the entity meets all requirements in this part.

(2) HCFA evaluates only complete applications from entities located in States with approved State plan amendments electing PACE as an optional Medicaid benefit.

(3) HCFA accepts applications from entities that seek approval as PACE organizations beginning on February 22, 2000 except for the following:

(i) Beginning on November 24, 1999, HCFA accepts applications from entities that meet the requirements for priority consideration in processing of applications, as provided in § 460.14.

(ii) Beginning on January 10, 2000, HCFA accepts applications from entities that meet the requirements for special consideration in processing applications, as provided in § 460.16.

(b) *State assurance.* An entity's application must be accompanied by an assurance from the State administering agency of the State in which the program is located indicating that the State—

(1) Considers the entity to be qualified to be a PACE organization; and

(2) Is willing to enter into a PACE program agreement with the entity.

§ 460.14 Priority consideration.

Until August 5, 2000, HCFA gives priority consideration in processing applications for PACE organization status to an entity that meets either of the following criteria:

(a) Is operating under PACE demonstration waivers under one of the following authorities:

(1) Section 603(c) of the Social Security Amendments of 1983, as extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986.

(b) Has applied to operate under a PACE demonstration under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 as of May 1, 1997.

§ 460.16 Special consideration.

Until August 5, 2000, HCFA gives special consideration in processing applications to an entity that meets the following conditions:

(a) Indicated, by May 1, 1997, a specific intent to become a PACE organization through formal activities.

(b) Includes documentation of its formal activities.

§ 460.18 HCFA evaluation of applications.

HCFA evaluates an application for approval as a PACE organization on the basis of the following information:

(a) Information contained in the application.

(b) Information obtained through onsite visits conducted by HCFA or the State administering agency.

(c) Information obtained by the State administering agency.

§ 460.20 Notice of HCFA determination.

(a) *Time limit for notification of determination.* Within 90 days after an

entity submits a complete application to HCFA, HCFA takes one of the following actions:

(1) Approves the application.

(2) Denies the application and notifies the entity in writing of the basis for the denial and the process for requesting reconsideration of the denial.

(3) Requests additional information needed to make a final determination.

(b) *Additional information requested.* If HCFA requests from an entity additional information needed to make a final determination, within 90 days after HCFA receives all requested information from the entity, HCFA takes one of the following actions:

(1) Approves the application.

(2) Denies the application and notifies the entity in writing of the basis for the denial and the process for requesting reconsideration of the denial.

(c) *Deemed approval.* An application is deemed approved if HCFA fails to act on the application within 90 days after one of the following dates:

(1) The date the application is submitted by the organization.

(2) The date HCFA receives all requested additional information.

(d) *Date of submission.* For purposes of the 90-day time limit described in this section, the date that an application is submitted to HCFA is the date on which the application is delivered to the address designated by HCFA.

§ 460.22 Service area designation.

(a) An entity must state in its application the service area it proposes for its program.

(b) HCFA, in consultation with the State administering agency, may exclude from designation an area that is already covered under another PACE program agreement to avoid unnecessary duplication of services and avoid impairing the financial and service viability of an existing program.

§ 460.24 Limit on number of PACE program agreements.

(a) *Numerical limit.* Except as specified in paragraph (b) of this section, HCFA does not permit the number of PACE organizations with which agreements are in effect under this part or under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, to exceed the following:

(1) As of August 5, 1997—40.

(2) As of each succeeding August 5, the numerical limit for the preceding year plus 20, without regard to the actual number of agreements in effect on a previous anniversary date. (For example, the limit is 60 on August 5, 1998 and 80 on August 5, 1999.)

(b) *Exception.* The numerical limit does not apply to a private, for-profit PACE organization that meets the following conditions:

(1) Is operating under a demonstration project waiver under section 1894(h) and 1934(h) of the Act.

(2) Was operating under a waiver and subsequently qualifies for PACE organization status in accordance with sections 1894(a)(3)(B)(ii) and 1934(a)(3)(B)(ii) of the Act.

Subpart C—PACE Program Agreement

§ 460.30 Program agreement requirement.

(a) A PACE organization must have an agreement with HCFA and the State administering agency for the operation of a PACE program by the PACE organization under Medicare and Medicaid.

(b) The agreement must be signed by an authorized official of the PACE organization.

§ 460.32 Content and terms of PACE program agreement.

(a) *Required content.* A PACE program agreement must include the following information:

(1) A designation of the service area of the organization's program. The area may be identified by county, zip code, street boundaries, census tract, block, or tribal jurisdictional area, as applicable. HCFA and the State administering agency must approve any change in the designated service area.

(2) The organization's commitment to meet all applicable requirements under Federal, State, and local laws and regulations, including provisions of the Civil Rights Act, the Age Discrimination Act, and the Americans With Disabilities Act.

(3) The effective date and term of the agreement.

(4) A description of the organizational structure of the PACE organization and information on administrative contacts, including the following:

(i) Name and phone number of the program director.

(ii) Name of all governing body members.

(iii) Name and phone number of a contact person for the governing body.

(5) A participant bill of rights approved by HCFA and an assurance that the rights and protections will be provided.

(6) A description of the process for handling participant grievances and appeals.

(7) A statement of the organization's policies on eligibility, enrollment, voluntary disenrollment, and involuntary disenrollment.

(8) A description of services available to participants.

(9) A description of the organization's quality assessment and performance improvement program.

(10) A statement of the levels of performance required by HCFA on standard quality measures.

(11) A statement of the data and information required by HCFA and the State administering agency to be collected on participant care.

(12) The capitation rates for Medicare and Medicaid.

(13) A description of procedures that the organization will follow if the PACE program agreement is terminated.

(b) *Optional content.* (1) An agreement may provide additional requirements for individuals to qualify as PACE program eligible individuals, in accordance with § 460.150(b)(4).

(2) An agreement may contain any additional terms and conditions agreed to by the parties if the terms and conditions are consistent with sections 1894 and 1934 of the Act and regulations in this part.

§ 460.34 Duration of PACE program agreement.

An agreement is effective for a contract year, but may be extended for additional contract years in the absence of a notice by a party to terminate.

Subpart D—Sanctions, Enforcement Actions, and Termination

§ 460.40 Violations for which HCFA may impose sanctions.

In addition to other remedies authorized by law, HCFA may impose any of the sanctions specified in §§ 460.42 and 460.46 if HCFA determines that a PACE organization commits any of the following violations:

(a) Fails substantially to provide to a participant medically necessary items and services that are covered PACE services, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the participant.

(b) Involuntarily disenrolls a participant in violation of § 460.164.

(c) Discriminates in enrollment or disenrollment among Medicare beneficiaries or Medicaid recipients, or both, who are eligible to enroll in a PACE program, on the basis of an individual's health status or need for health care services.

(d) Engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment, except as permitted by § 460.150, by Medicare beneficiaries or Medicaid recipients whose medical condition or history indicates a need for substantial future medical services.

(e) Imposes charges on participants enrolled under Medicare or Medicaid

for premiums in excess of the premiums permitted.

(f) Misrepresents or falsifies information that is furnished—

(1) To HCFA or the State under this part; or

(2) To an individual or any other entity under this part.

(g) Prohibits or otherwise restricts a covered health care professional from advising a participant who is a patient of the professional about the participant's health status, medical care, or treatment for the participant's condition or disease, regardless of whether the PACE program provides benefits for that care or treatment, if the professional is acting within his or her lawful scope of practice.

(h) Operates a physician incentive plan that does not meet the requirements of section 1876(i)(8) of the Act.

(i) Employs or contracts with any individual who is excluded from participation in Medicare or Medicaid under section 1128 or section 1128A of the Act (or with any entity that employs or contracts with that individual) for the provision of health care, utilization review, medical social work, or administrative services.

§ 460.42 Suspension of enrollment or payment by HCFA.

(a) *Enrollment.* If a PACE organization commits one or more violations specified in § 460.40, HCFA may suspend enrollment of Medicare beneficiaries after the date HCFA notifies the organization of the violation.

(b) *Payment.* If a PACE organization commits one or more violations specified in § 460.40, for individuals enrolled after the date HCFA notifies the PACE organization of the violation, HCFA may take the following actions:

(1) Suspend Medicare payment to the PACE organization.

(2) Deny payment to the State for medical assistance for services furnished under the PACE program agreement.

(c) *Term of suspension.* A suspension or denial of payment remains in effect until HCFA is satisfied that the following conditions are met:

(1) The PACE organization has corrected the cause of the violation.

(2) The violation is not likely to recur.

§ 460.46 Civil money penalties.

(a) HCFA may impose civil money penalties up to the following maximum amounts:

(1) For each violation regarding enrollment or disenrollment specified in § 460.40 (c) or (d), $100,000 plus $15,000 for each individual not enrolled as a result of the PACE organization's discrimination in enrollment or disenrollment or practice that would deny or discourage enrollment.

(2) For each violation regarding excessive premiums specified in § 460.40(e), $25,000 plus double the excess amount above the permitted premium charged a participant by the PACE organization. (The excess amount charged is deducted from the penalty and returned to the participant).

(3) For each misrepresentation or falsification of information, specified in § 460.40(f)(1), $100,000.

(4) For any other violation specified in § 460.40, $25,000.

(b) The provisions of section 1128A of the Act (other than subsections (a) and (b)) apply to a civil money penalty under this section in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

§ 460.48 Additional actions by HCFA or the State.

After consultation with the State administering agency, if HCFA determines that the PACE organization is not in substantial compliance with requirements in this part, HCFA or the State administering agency may take one or more of the following actions:

(a) Condition the continuation of the PACE program agreement upon timely execution of a corrective action plan.

(b) Withhold some or all payments under the PACE program agreement until the organization corrects the deficiency.

(c) Terminate the PACE program agreement.

§ 460.50 Termination of PACE program agreement.

(a) *Termination of agreement by HCFA or State.* HCFA or a State administering agency may terminate at any time a PACE program agreement for cause, including, but not limited to the circumstances in paragraphs (b) or (c) of this section.

(b) *Termination due to uncorrected deficiencies.* HCFA or the State administering agency may terminate a PACE program agreement if HCFA or the State administering agency determines that both of the following circumstances exist:

(1) Either—

(i) There are significant deficiencies in the quality of care furnished to participants; or

(ii) The PACE organization failed to comply substantially with conditions for a PACE program or PACE organization under this part, or with terms of its PACE program agreement.

(2) Within 30 days of the date of the receipt of written notice of a determination made under paragraph (b)(1) of this section, the PACE organization failed to develop and successfully initiate a plan to correct the deficiencies, or failed to continue implementation of the plan of correction.

(c) *Termination due to health and safety risk.* HCFA or a State administering agency may terminate a PACE program agreement if HCFA or the State administering agency determines that the PACE organization cannot ensure the health and safety of its participants. This determination may result from the identification of deficiencies that HCFA or the State administering agency determines cannot be corrected.

(d) *Termination of agreement by PACE organization.* A PACE organization may terminate an agreement after timely notice to HCFA, the State administering agency, and participants, as follows:

(1) To HCFA and the State administering agency, 90 days before termination.

(2) To participants, 60 days before termination.

§ 460.52 Transitional care during termination.

(a) The PACE organization must develop a detailed written plan for phase-down in the event of termination, which describes how the organization plans to take the following actions:

(1) Inform participants, the community, HCFA and the State administering agency in writing about termination and transition procedures.

(2) Assist participants to obtain reinstatement of conventional Medicare and Medicaid benefits.

(3) Transition participants' care to other providers.

(4) Terminate marketing and enrollment activities.

(b) An entity whose PACE program agreement is in the process of being terminated must provide assistance to each participant in obtaining necessary transitional care through appropriate referrals and making the participant's medical records available to new providers.

§ 460.54 Termination procedures.

(a) Except as provided in paragraph (b) of this section, if HCFA terminates an agreement with a PACE organization, it furnishes the PACE organization with the following:

(1) A reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies

that were the basis of HCFA's determination that cause exists for termination.

(2) Reasonable notice and opportunity for hearing (including the right to appeal an initial determination) before terminating the agreement.

(b) HCFA may terminate an agreement without invoking the procedures described in paragraph (a) of this section if HCFA determines that a delay in termination, resulting from compliance with these procedures before termination, would pose an imminent and serious risk to the health of participants enrolled with the organization.

Subpart E—PACE Administrative Requirements

§ 460.60 PACE organizational structure.

(a) A PACE organization must be, or be a distinct part of, one of the following:

(1) An entity of city, county, State, or Tribal government.

(2) A private not-for-profit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986. The entity may be a corporation, a subsidiary of a larger corporation, or a department of a corporation.

(b) *Program director.* The organization must employ a program director who is responsible for oversight and administration of the entity.

(c) *Medical director.* The organization must employ a medical director who is responsible for the delivery of participant care, for clinical outcomes, and for the implementation, as well as oversight, of the quality assessment and performance improvement program.

(d) *Organizational chart.* (1) The PACE organization must have a current organizational chart showing officials in the PACE organization and relationships to any other organizational entities.

(2) The chart for a corporate entity must indicate the PACE organization's relationship to the corporate board and to any parent, affiliate, or subsidiary corporate entities.

(3) A PACE organization planning a change in organizational structure must notify HCFA and the State administering agency, in writing, at least 60 days before the change takes effect.

(4) Changes in organizational structure must be approved in advance by HCFA and the State administering agency.

(5) Changes in organizational structure approved by HCFA and the State administering agency must be forwarded to the consumer advisory committee described in § 460.62(c) of this part for dissemination to participants as appropriate.

§ 460.62 Governing body.

(a) *Governing body.* A PACE organization must be operating under the control of an identifiable governing body (for example, a board of directors) or a designated person functioning as a governing body with full legal authority and responsibility for the following:

(1) Governance and operation of the organization.

(2) Development of policies consistent with the mission.

(3) Management and provision of all services, including the management of contractors.

(4) Establishment of personnel policies that address adequate notice of termination by employees or contractors with direct patient care responsibilities.

(5) Fiscal operations.

(6) Development of policies on participant health and safety, including a comprehensive, systemic operational plan to ensure the health and safety of participants.

(7) Quality assessment and performance improvement program.

(b) *Community representation.* A PACE organization must ensure community representation on issues related to participant care. This may be achieved by having a community representative on the governing body.

(c) *Consumer advisory committee.* A PACE organization must establish a consumer advisory committee to provide advice to the governing body on matters of concern to participants. Participants and representatives of participants must constitute a majority of the membership of this committee.

§ 460.64 Personnel qualifications.

(a) *General qualification requirements.* Except as specified in paragraphs (b) and (c) of this section, each member of the staff (employee or contractor) of the PACE organization must meet the following conditions:

(1) Be legally authorized (currently licensed or, if applicable, certified or registered) to practice in the State in which he or she performs the function or actions.

(2) Only act within the scope of his or her authority to practice.

(b) *Federally-defined qualifications for physician.* (1) A physician must meet the qualifications and conditions in § 410.20 of this chapter.

(2) A primary care physician must have a minimum of 1 year's experience working with a frail or elderly population.

(c) *Qualifications when no State licensing laws, State certification, or registration requirements exist.* If there are no State licensing laws, State certification, or registration applicable to the profession, the following requirements must be met:

(1) *Registered nurse.* A registered nurse must meet the following requirements:

(i) Be a graduate of a school of professional nursing.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(2) *Social worker.* A social worker must meet the following requirements:

(i) Have a master's degree in social work from an accredited school of social work.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(3) *Physical therapist.* A physical therapist must meet the following requirements:

(i) Be a graduate of a physical therapy curriculum approved by one of the following:

(A) The American Physical Therapy Association.

(B) The Committee on Allied Health Education and Accreditation of the American Medical Association.

(C) The Council on Medical Education of the American Medical Association and the American Physical Therapy Association.

(D) Other equivalent organizations approved by the Secretary.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(4) *Occupational therapist.* An occupational therapist must meet the following requirements:

(i) Be a graduate of an occupational therapy curriculum accredited jointly by the Committee on Allied Health Education and Accreditation of the American Medical Association and the American Occupational Therapy Association or other equivalent organizations approved by the Secretary.

(ii) Be eligible for the National Registration Examination of the American Occupational Therapy Association.

(iii) Have 2 years of appropriate experience as an occupational therapist and have achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that the determination of proficiency does not apply with respect to persons initially licensed by a State or seeking initial qualification as an occupational therapist after December 31, 1977.

(iv) Have a minimum of 1 year's experience working with a frail or elderly population.

(5) *Recreation therapist or activities coordinator.* A recreation therapist or activities coordinator must have 2 years experience in a social or recreational program providing and coordinating services for a frail or elderly population within the last 5 years, one of which was full-time in a patient activities program in a health care setting.

(6) *Dietitian.* A dietitian must meet the following requirements:

(i) Have a baccalaureate or advanced degree from an accredited college with major studies in food and nutrition or dietetics.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(7) *Drivers.* A PACE center driver must meet the following requirements:

(i) Have a valid driver's license to operate a van or bus in the State of operation.

(ii) Be capable of, and experienced in, transporting individuals with special mobility needs.

§ 460.66 Training.

(a) The PACE organization must provide training to maintain and improve the skills and knowledge of each staff member with respect to the individual's specific duties that results in his or her continued ability to demonstrate the skills necessary for the performance of the position.

(b) The PACE organization must develop a training program for each personal care attendant to establish the individual's competency in furnishing personal care services and specialized skills associated with specific care needs of individual participants.

§ 460.68 Program integrity.

(a) *Persons with criminal convictions.* A PACE organization must not employ individuals or contract with organizations or individuals—

(1) Who have been excluded from participation in the Medicare or Medicaid programs;

(2) Who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, other health insurance or health care programs, or social service programs under title XX of the Act; or

(3) In any capacity where an individual's contact with participants would pose a potential risk because the individual has been convicted of physical, sexual, drug, or alcohol abuse.

(b) *Direct or indirect interest in contracts.* Except as provided in paragraph (c) of this section, no member of the PACE organization's governing body or any immediate family member may have a direct or indirect interest in any contract that supplies any administrative or care-related service or materials to the PACE organization.

(c) *Waiver.* (1) HCFA and the State administering agency may waive the requirement in paragraph (b) of this section for PACE organizations in the following communities:

(i) Rural.

(ii) Tribal.

(iii) Urban Indian.

(2) If an applicant seeking approval as a PACE organization believes a waiver under this paragraph is warranted, it must include a request for the waiver in its application that meets the following requirements:

(i) Identifies the rural, tribal, or urban Indian community.

(ii) Establishes recusal restrictions for each member of the PACE organization governing body or immediate family member to which the exception would apply.

(iii) Establishes a process to record recusal actions on a case-by-case basis.

(iv) Establishes a process to make available to the public the general recusal restrictions and record of actions.

(3) HCFA and the State administering agency may grant a waiver if they determine the following:

(i) There is insufficient availability in the PACE organization's service area of individuals who could meet the requirement.

(ii) The proposed alternative does not adversely affect the availability of care or the quality of care that is provided to participants.

(d) *Disclosure requirements.* A PACE organization must have a formal process in place to gather information related to paragraphs (a) and (b) of this section and must be able to respond in writing to a request for information from HCFA within a reasonable amount of time.

§ 460.70 Contracted services.

(a) *General rule.* The PACE organization must have a written contract with each outside organization, agency, or individual that furnishes administrative or care-related services not furnished directly by the PACE organization except for emergency services as described in § 460.100.

(b) *Contract requirements.* A contract between a PACE organization and a contractor must meet the following requirements:

(1) The PACE organization must contract only with an entity that meets all applicable Federal and State requirements, including, but not limited to, the following:

(i) An organizational contractor, such as a hospital, must meet Medicare or Medicaid participation requirements.

(ii) A practitioner or supplier must meet Medicare or Medicaid requirements applicable to the services it furnishes.

(iii) A contractor must comply with the requirements of this part with respect to service delivery, participant rights, and quality assessment and performance improvement activities.

(2) A contractor must be accessible to participants, located either within or near the PACE organization's service area.

(3) A PACE organization must designate an official liaison to coordinate activities between contractors and the organization.

(c) *List of contractors.* A current list of contractors must be on file at the PACE center and a copy must be provided to anyone upon request.

(d) *Copies of signed contracts.* The PACE organization must furnish a copy of each signed contract for inpatient care to HCFA and the State administering agency.

(e) *Content of contract.* Each contract must be in writing and include the following information:

(1) Name of contractor.

(2) Services furnished.

(3) Payment rate and method.

(4) Terms of the contract, including beginning and ending dates, methods of extension, renegotiation, and termination.

(5) Contractor agreement to do the following:

(i) Furnish only those services authorized by the PACE multidisciplinary team.

(ii) Accept payment from the PACE organization as payment in full, and not bill participants, HCFA, the State administering agency, or private insurers.

(iii) Hold harmless HCFA, the State, and PACE participants if the PACE organization does not pay for services performed by the contractor in accordance with the contract.

(iv) Not assign the contract or delegate duties under the contract unless it obtains prior written approval from the PACE organization.

(v) Submit reports required by the PACE organization.

§ 460.72 Physical environment.

(a) *Space and equipment*—(1) *Safe design.* A PACE center must meet the following requirements:

(i) Be designed, constructed, equipped, and maintained to provide for the physical safety of participants, personnel, and visitors.

(ii) Ensure a safe, sanitary, functional, accessible, and comfortable environment for the delivery of services that protects the dignity and privacy of the participant.

(2) *Primary care clinic.* The PACE center must include sufficient suitable space and equipment to provide primary medical care and suitable space for team meetings, treatment, therapeutic recreation, restorative therapies, socialization, personal care, and dining.

(3) *Equipment maintenance.* A PACE organization must establish, implement, and maintain a written plan to ensure that all equipment is maintained in accordance with the manufacturer's recommendations.

(b) *Fire Safety.* (1) Except as provided in paragraph (b)(2) of this section, a PACE center must meet the occupancy provisions of the 1997 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference) that apply to the type of setting in which the center is located. Incorporation by reference of the Life Safety Code, 1997 edition, was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The Life Safety Code is available for inspection at the Office of the Federal Register, 800 North Capitol Street, N.W., Washington, D.C. Copies of the Life Safety Code may be obtained from the National Fire Protection Code (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101. If any changes in the Life Safety Code, 1997 edition, are also to be incorporated by reference, notice to that effect will be published in the **Federal Register**.

(2) *Exceptions.* (i) The Life Safety Code provisions do not apply in a State in which HCFA determines that a fire and safety code imposed by State law adequately protects participants and staff.

(ii) HCFA may waive specific provisions of the Life Safety Code that, if rigidly applied, would result in unreasonable hardship on the center, but only if the waiver does not adversely affect the health and safety of the participants and staff.

(c) *Emergency and disaster preparedness*—(1) *Procedures.* The PACE organization must establish, implement, and maintain documented procedures to manage medical and nonmedical emergencies and disasters that are likely to threaten the health or safety of the participants, staff, or the public.

(2) *Emergencies defined.* Emergencies include, but are not limited, to the following:

(i) Fire.

(ii) Equipment, water, or power failure.

(iii) Care-related emergencies.

(iv) Natural disasters likely to occur in the organization's geographic area. (An organization is not required to develop emergency plans for natural disasters that typically do not affect its geographic location.)

(3) *Emergency training.* A PACE organization must provide appropriate training and periodic orientation to all staff (employees and contractors) and participants to ensure that staff demonstrate a knowledge of emergency procedures, including informing participants what to do, where to go, and whom to contact in case of an emergency.

(4) *Availability of emergency equipment.* Emergency equipment, including easily portable oxygen, airways, suction, and emergency drugs, along with staff who know how to use the equipment, must be on the premises of every center at all times and be immediately available. The organization must have a documented plan to obtain emergency medical assistance from sources outside the center when needed.

(5) *Annual test of emergency and disaster plan.* At least annually, a PACE organization must actually test, evaluate, and document the effectiveness of its emergency and disaster plans.

§ 460.74 Infection control.

(a) *Standard procedures.* The PACE organization must follow accepted policies and standard procedures with respect to infection control, including at least the standard precautions developed by the Centers for Disease Control and Prevention.

(b) *Infection control plan.* The PACE organization must establish, implement, and maintain a documented infection control plan that meets the following requirements:

(1) Ensures a safe and sanitary environment.

(2) Prevents and controls the transmission of disease and infection.

(c) *Contents of infection control plan.* The infection control plan must include, but is not limited to, the following:

(1) Procedures to identify, investigate, control, and prevent infections in every center and in each participant's place of residence.

(2) Procedures to record any incidents of infection.

(3) Procedures to analyze the incidents of infection to identify trends and develop corrective actions related to the reduction of future incidents.

§ 460.76 Transportation services.

(a) *Safety, accessibility, and equipment.* A PACE organization's transportation services must be safe, accessible, and equipped to meet the needs of the participant population.

(b) *Maintenance of vehicles.* (1) If the PACE organization owns, rents, or leases transportation vehicles, it must maintain these vehicles in accordance with the manufacturer's recommendations.

(2) If a contractor provides transportation services, the PACE organization must ensure that the vehicles are maintained in accordance with the manufacturer's recommendations.

(c) *Communication with PACE center.* The PACE organization must ensure that transportation vehicles are equipped to communicate with the PACE center.

(d) *Training.* The PACE organization must train all transportation personnel (employees and contractors) in the following:

(1) Managing the special needs of participants.

(2) Handling emergency situations.

(e) *Changes in care plan.* As part of the multidisciplinary team process, PACE organization staff (employees and contractors) must communicate relevant changes in a participant's care plan to transportation personnel.

§ 460.78 Dietary services.

(a) *Meal requirements.* (1) Except as specified in paragraphs (a)(2) or (a)(3) of this section, the PACE organization must provide each participant with a nourishing, palatable, well-balanced meal that meets the daily nutritional and special dietary needs of each participant. Each meal must meet the following requirements:

(i) Be prepared by methods that conserve nutritive value, flavor, and appearance.

(ii) Be prepared in a form designed to meet individual needs.

(iii) Be prepared and served at the proper temperature.

(2) The PACE organization must provide substitute foods or nutritional supplements that meet the daily nutritional and special dietary needs of any participant who has any of the following problems:

(i) Refuses the food served.

(ii) Cannot tolerate the food served.

(iii) Does not eat adequately.

(3) The PACE organization must provide nutrition support to meet the daily nutritional needs of a participant, if indicated by his or her medical condition or diagnosis. Nutrition support consists of tube feedings, total parenteral nutrition, or peripheral parenteral nutrition.

(b) *Sanitary conditions.* The PACE organization must do the following:

(1) Procure foods (including nutritional supplements and nutrition support items) from sources approved, or considered satisfactory, by Federal, State, Tribal, or local authorities with jurisdiction over the service area of the organization.

(2) Store, prepare, distribute, and serve foods (including nutritional supplements and nutrition support items) under sanitary conditions.

(3) Dispose of garbage and refuse properly.

§ 460.80 Fiscal soundness.

(a) *Fiscally sound operation.* A PACE organization must have a fiscally sound operation, as demonstrated by the following:

(1) Total assets greater than total unsubordinated liabilities.

(2) Sufficient cash flow and adequate liquidity to meet obligations as they become due.

(3) A net operating surplus or a financial plan for maintaining solvency that is satisfactory to HCFA and the State administering agency.

(b) *Insolvency plan.* The organization must have a documented plan in the event of insolvency, approved by HCFA and the State administering agency, which provides for the following:

(1) Continuation of benefits for the duration of the period for which capitation payment has been made.

(2) Continuation of benefits to participants who are confined in a hospital on the date of insolvency until their discharge.

(3) Protection of participants from liability for payment of fees that are the legal obligation of the PACE organization.

(c) *Arrangements to cover expenses.* (1) A PACE organization must demonstrate that it has arrangements to cover expenses in the amount of at least the sum of the following in the event it becomes insolvent:

(i) One month's total capitation revenue to cover expenses the month before insolvency.

(ii) One month's average payment to all contractors, based on the prior quarter's average payment, to cover expenses the month after the date it declares insolvency or ceases operations.

(2) Arrangements to cover expenses may include, but are not limited to, the following:

(i) Insolvency insurance or reinsurance.

(ii) Hold harmless arrangement.

(iii) Letters of credit, guarantees, net worth, restricted State reserves, or State law provisions.

§ 460.82 Marketing.

(a) *Information that a PACE organization must include in its marketing materials.* (1) A PACE organization must inform the public about its program and give prospective participants the following written information:

(i) An adequate description of the PACE organization's enrollment and disenrollment policies and requirements.

(ii) PACE enrollment procedures.

(iii) Description of benefits and services.

(iv) Premiums.

(v) Other information necessary for prospective participants to make an informed decision about enrollment.

(2) Marketing information must be free of material inaccuracies, misleading information, or misrepresentations.

(b) *Approval of marketing information.* (1) HCFA must approve all marketing information before distribution by the PACE organization, including any revised or updated material.

(2) HCFA reviews initial marketing information as part of an entity's application for approval as a PACE organization, and approval of the application includes approval of marketing information.

(3) Once a PACE organization is under a PACE program agreement, any revisions to existing marketing information and new information are subject to the following:

(i) *Time period for approval.* HCFA approves or disapproves marketing information within 45 days after HCFA receives the information from the organization.

(ii) *Deemed approval.* Marketing information is deemed approved, and the organization can distribute it, if HCFA and the State administering agency do not disapprove the marketing material within the 45-day review period.

(c) *Special language requirements.* A PACE organization must furnish printed marketing materials to prospective and current participants as specified below:

(1) In English and in any other principal languages of the community.

(2) In Braille, if necessary.

(d) *Information on restriction of services.* (1) Marketing materials must inform a potential participant that he or she must receive all needed health care, including primary care and specialist physician services (other than emergency services), from the PACE organization or from an entity authorized by the PACE organization.

(2) All marketing materials must state clearly that PACE participants may be fully and personally liable for the costs of unauthorized or out-of-PACE program agreement services.

(e) *Prohibited marketing practices.* A PACE organization must ensure that its employees or its agents do not use prohibited marketing practices which includes the following:

(1) Discrimination of any kind, except that marketing may be directed to individuals eligible for PACE by reason of their age.

(2) Activities that could mislead or confuse potential participants, or misrepresent the PACE organization, HCFA, or the State administering agency.

(3) Gifts or payments to induce enrollment.

(4) Contracting outreach efforts to individuals or organizations whose sole responsibility involves direct contact with the elderly to solicit enrollment.

(5) Unsolicited door-to-door marketing.

(f) *Marketing Plan.* A PACE organization must establish, implement, and maintain a documented marketing plan with measurable enrollment objectives and a system for tracking its effectiveness.

Subpart F—PACE Services

§ 460.90 PACE benefits under Medicare and Medicaid.

If a Medicare beneficiary or Medicaid recipient chooses to enroll in a PACE program, the following conditions apply:

(a) Medicare and Medicaid benefit limitations and conditions relating to amount, duration, scope of services, deductibles, copayments, coinsurance, or other cost-sharing do not apply.

(b) The participant, while enrolled in a PACE program, must receive Medicare and Medicaid benefits solely through the PACE organization.

§ 460.92 Required services.

The PACE benefit package for all participants, regardless of the source of payment, must include the following:

(a) All Medicaid-covered services, as specified in the State's approved Medicaid plan.

(b) Multidisciplinary assessment and treatment planning.

(c) Primary care, including physician and nursing services.

(d) Social work services.

(e) Restorative therapies, including physical therapy, occupational therapy, and speech-language pathology services.

(f) Personal care and supportive services.

(g) Nutritional counseling.

(h) Recreational therapy.

(i) Transportation.
(j) Meals.
(k) Medical specialty services including, but not limited to the following:
(1) Anesthesiology.
(2) Audiology.
(3) Cardiology.
(4) Dentistry.
(5) Dermatology.
(6) Gastroenterology.
(7) Gynecology.
(8) Internal medicine.
(9) Nephrology.
(10) Neurosurgery.
(11) Oncology.
(12) Ophthalmology.
(13) Oral surgery.
(14) Orthopedic surgery.
(15) Otorhinolaryngology.
(16) Plastic surgery.
(17) Pharmacy consulting services.
(18) Podiatry.
(19) Psychiatry.
(20) Pulmonary disease.
(21) Radiology.
(22) Rheumatology.
(23) General surgery.
(24) Thoracic and vascular surgery.
(25) Urology.
(l) Laboratory tests, x-rays and other diagnostic procedures.
(m) Drugs and biologicals.
(n) Prosthetics, orthotics, durable medical equipment, corrective vision devices, such as eyeglasses and lenses, hearing aids, dentures, and repair and maintenance of these items.
(o) Acute inpatient care, including the following:
(1) Ambulance.
(2) Emergency room care and treatment room services.
(3) Semi-private room and board.
(4) General medical and nursing services.
(5) Medical surgical/intensive care/coronary care unit.
(6) Laboratory tests, x-rays and other diagnostic procedures.
(7) Drugs and biologicals.
(8) Blood and blood derivatives.
(9) Surgical care, including the use of anesthesia.
(10) Use of oxygen.
(11) Physical, occupational, respiratory therapies, and speech-language pathology services.
(12) Social services.
(p) Nursing facility care.
(1) Semi-private room and board.
(2) Physician and skilled nursing services.
(3) Custodial care.
(4) Personal care and assistance.
(5) Drugs and biologicals.
(6) Physical, occupational, recreational therapies, and speech-language pathology, if necessary.
(7) Social services.
(8) Medical supplies and appliances.
(q) Other services determined necessary by the multidisciplinary team to improve and maintain the participant's overall health status.

§ 460.94 Required services for Medicare participants.

(a) Except for Medicare requirements that are waived for the PACE program, as specified in paragraph (b) of this section, the PACE benefit package for Medicare participants must include the following services:
(1) The scope of hospital insurance benefits described in part 409 of this chapter.
(2) The scope of supplemental medical insurance benefits described in part 410 of this chapter.
(b) *Waivers of Medicare coverage requirements.* The following Medicare requirements are waived for purposes of the PACE program and do not apply:
(1) The provisions of subpart F of part 409 of this chapter that limit coverage of institutional services.
(2) The provisions of subparts G and H of part 409 of this chapter, and parts 412 through 414 of this chapter that relate to payment for benefits.
(3) The provisions of subparts D and E of part 409 of this chapter that limit coverage of extended care services or home health services.
(4) The provisions of subpart D of part 409 of this chapter that impose a 3-day prior hospitalization requirement for coverage of extended care services.
(5) Sections 411.15(g) and (k) of this chapter that may prevent payment for PACE program services to PACE participants.

§ 460.96 Excluded services.

The following services are excluded from coverage under PACE:
(a) Any service that is not authorized by the multidisciplinary team, even if it is a required service, unless it is an emergency service.
(b) In an inpatient facility, private room and private duty nursing services (unless medically necessary), and nonmedical items for personal convenience such as telephone charges and radio or television rental (unless specifically authorized by the multidisciplinary team as part of the participant's plan of care).
(c) Cosmetic surgery, which does not include surgery that is required for improved functioning of a malformed part of the body resulting from an accidental injury or for reconstruction following mastectomy.
(d) Experimental medical, surgical, or other health procedures.
(e) Services furnished outside of the United States, except as follows:
(1) In accordance with §§ 424.122 through 424.124 of this chapter.
(2) As permitted under the State's approved Medicaid plan.

§ 460.98 Service delivery.

(a) *Plan.* A PACE organization must establish and implement a written plan to furnish care that meets the needs of each participant in all care settings 24 hours a day, every day of the year.
(b) *Provision of services.* (1) The PACE organization must furnish comprehensive medical, health, and social services that integrate acute and long-term care.
(2) These services must be furnished in at least the PACE center, the home, and inpatient facilities.
(3) The PACE organization may not discriminate against any participant in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, or source of payment.
(c) *Minimum services furnished at each PACE center.* At a minimum, the following services must be furnished at each PACE center:
(1) Primary care, including physician and nursing services.
(2) Social services.
(3) Restorative therapies, including physical therapy and occupational therapy.
(4) Personal care and supportive services.
(5) Nutritional counseling.
(6) Recreational therapy.
(7) Meals.
(d) *Center operation.* (1) A PACE organization must operate at least one PACE center either in, or contiguous to, its defined service area with sufficient capacity to allow routine attendance by participants.
(2) A PACE organization must ensure accessible and adequate services to meet the needs of its participants. If necessary, a PACE organization must increase the number of PACE centers, staff, or other PACE services.
(3) If a PACE organization operates more than one center, each center must offer the full range of services and have sufficient staff to meet the needs of participants.
(e) *Center attendance.* The frequency of a participant's attendance at a center is determined by the multidisciplinary team, based on the needs and preferences of each participant.

§ 460.100 Emergency care.

(a) *Written plan.* A PACE organization must establish and maintain a written plan to handle emergency care. The

plan must ensure that HCFA, the State, and PACE participants are held harmless if the PACE organization does not pay for emergency services.

(b) *Emergency care.* Emergency care is appropriate when services are needed immediately because of an injury or sudden illness and the time required to reach the PACE organization or one of its contract providers, would cause risk of permanent damage to the participant's health. Emergency services include inpatient and outpatient services that meet the following requirements:

(1) Are furnished by a qualified emergency services provider, other than the PACE organization or one of its contract providers, either in or out of the PACE organization's service area.

(2) Are needed to evaluate or stabilize an emergency medical condition.

(c) An emergency medical condition means a condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, with an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

(1) Serious jeopardy to the health of the participant.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(d) *Explanation to participant.* The organization must ensure that the participant or caregiver, or both, understand when and how to get access to emergency services.

(e) *On-call providers.* The plan must provide for the following:

(1) An on-call provider, available 24-hours per day to address participant questions about emergency services and respond to requests for authorization of urgently needed out-of-network services and post stabilization care services following emergency services.

(2) Coverage of urgently needed out-of-network and post-stabilization care services when either of the following conditions are met:

(i) The services are preapproved by the PACE organization.

(ii) The services are not preapproved by the PACE organization because the PACE organization did not respond to a request for approval within 1 hour after being contacted or cannot be contacted for approval.

§ 460.102 Multidisciplinary team.

(a) *Basic requirement.* A PACE organization must meet the following requirements:

(1) Establish a multidisciplinary team at each center to comprehensively assess and meet the individual needs of each participant.

(2) Assign each participant to a multidisciplinary team functioning at the PACE center that the participant attends.

(b) *Composition of multidisciplinary team.* The multidisciplinary team must be composed of at least the following members:

(1) Primary care physician.

(2) Registered nurse.

(3) Social worker.

(4) Physical therapist.

(5) Occupational therapist.

(6) Recreational therapist or activity coordinator.

(7) Dietitian.

(8) PACE center manager.

(9) Home care coordinator.

(10) Personal care attendant or his or her representative.

(11) Driver or his or her representative.

(c) *Primary care physician.* (1) Primary medical care must be furnished to a participant by a PACE primary care physician.

(2) Each primary care physician is responsible for the following:

(i) Managing a participant's medical situations.

(ii) Overseeing a participant's use of medical specialists and inpatient care.

(d) *Responsibilities of multidisciplinary team.* (1) The multidisciplinary team is responsible for the initial assessment, periodic reassessments, plan of care, and coordination of 24 hour care delivery.

(2) Each team member is responsible for the following:

(i) Regularly informing the multidisciplinary team of the medical, functional, and psychosocial condition of each participant.

(ii) Remaining alert to pertinent input from other team members, participants, and caregivers.

(iii) Documenting changes in a participant's condition in the participant's medical record.

(3) Except as specified in paragraph (g) of this section, the members of the multidisciplinary team must serve primarily PACE participants.

(e) *Exchange of information between team members.* The PACE organization must establish, implement, and maintain documented internal procedures governing the exchange of information between team members, contractors, and participants and their caregivers consistent with the requirements for confidentiality in § 460.200(e).

(f) *Organization employees.* Except as specified in paragraph (g) of this section, at least the following members of the multidisciplinary team must be employees of the PACE organization:

(1) Primary care physician.

(2) Registered nurse.

(3) Social worker.

(4) Recreational therapist or activity coordinator.

(5) PACE center manager.

(6) Home care coordinator.

(7) PACE center personal care attendant.

(g) *Waivers.* (1) HCFA and the State administering agency may waive either or both of the following:

(i) The requirement in paragraph (d)(3) of this section that members of the multidisciplinary team must serve primarily PACE participants.

(ii) The requirement in paragraph (f)(1) of this section that the primary care physician must be an employee of the PACE organization.

(2) If an applicant seeking approval as a PACE organization believes a waiver under this paragraph is warranted, it must include a request for the waiver in its application and describe in detail the circumstances supporting the request.

(3) HCFA and the State administering agency may grant a waiver if they determine the following:

(i) There is insufficient availability in the PACE organization's service area of individuals who meet the requirements, or State licensing laws make it inappropriate for the organization to employ physicians.

(ii) The proposed alternative does not adversely affect the availability of care or the quality of care that is furnished to participants.

§ 460.104 Participant assessment.

(a) *Initial comprehensive assessment*—(1) *Basic requirement.* The multidisciplinary team must conduct an initial comprehensive assessment on each participant. The assessment must be completed promptly following enrollment.

(2) As part of the initial comprehensive assessment, each of the following members of the multidisciplinary team must evaluate the participant in person, at appropriate intervals, and develop a discipline-specific assessment of the participant's health and social status:

(i) Primary care physician.

(ii) Registered nurse.

(iii) Social worker.

(iv) Physical therapist or occupational therapist, or both.

(v) Recreational therapist or activity coordinator.

(vi) Dietitian.

(vii) Home care coordinator.

(3) At the recommendation of individual team members, other

professional disciplines (for example, speech-language pathology, dentistry, or audiology) may be included in the comprehensive assessment process.

(4) *Comprehensive assessment criteria.* The comprehensive assessment must include, but is not limited to, the following:

(i) Physical and cognitive function and ability.

(ii) Medication use.

(iii) Participant and caregiver preferences for care.

(iv) Socialization and availability of family support.

(v) Current health status and treatment needs.

(vi) Nutritional status.

(vii) Home environment, including home access and egress.

(viii) Participant behavior.

(ix) Psychosocial status.

(x) Medical and dental status.

(xi) Participant language.

(b) *Development of plan of care.* The multidisciplinary team must promptly consolidate discipline-specific assessments into a single plan of care for each participant through discussion in team meetings and consensus of the entire multidisciplinary team. In developing the plan of care, female participants must be informed that they are entitled to choose a qualified specialist for women's health services from the PACE organization's network to furnish routine or preventive women's health services.

(c) *Periodic reassessment*—(1) *Semiannual reassessment.* On at least a semiannual basis, or more often if a participant's condition dictates, the following members of the multidisciplinary team must conduct an in-person reassessment:

(i) Primary care physician.

(ii) Registered nurse.

(iii) Social worker.

(iv) Recreational therapist or activity coordinator.

(v) Other team members actively involved in the development or implementation of the participant's plan of care, for example, home care coordinator, physical therapist, occupational therapist, or dietitian.

(2) *Annual reassessment.* On at least an annual basis, the following members of the multidisciplinary team must conduct an in-person reassessment:

(i) Physical therapist or occupational therapist, or both.

(ii) Dietitian.

(iii) Home care coordinator.

(3) *Reassessment based on change in participant status or at the request of the participant or designated representative.* If the health or psychosocial status of a participant changes or if a participant (or his or her designated representative) believes that the participant needs to initiate, eliminate, or continue a particular service, the members of the multidisciplinary team, listed in paragraph (a)(2) of this section, must conduct an in-person reassessment.

(i) The PACE organization must have explicit procedures for timely resolution of requests by a participant or his or her designated representative to initiate, eliminate, or continue a particular service.

(ii) Except as provided in paragraph (c)(3)(iii) of this section, the multidisciplinary team must notify the participant or designated representative of its decision to approve or deny the request from the participant or designated representative as expeditiously as the participant's condition requires, but no later than 72 hours after the date the multidisciplinary team receives the request for reassessment.

(iii) The multidisciplinary team may extend the 72-hour timeframe for notifying the participant or designated representative of its decision to approve or deny the request by no more than 5 additional days for either of the following reasons:

(A) The participant or designated representative requests the extension.

(B) The team documents its need for additional information and how the delay is in the interest of the participant.

(iv) The PACE organization must explain any denial of a request to the participant or the participant's designated representative orally and in writing. The PACE organization must provide the specific reasons for the denial in understandable language.

(v) If the participant or designated representative is dissatisfied with the decision on the request, the PACE organization is responsible for the following:

(A) Informing the participant or designated representative of his or her right to appeal the decision as specified in § 460.122.

(B) Describing both the standard and expedited appeals processes, including the right to, and conditions for, obtaining expedited consideration of an appeal of a denial of services as specified in § 460.122.

(C) Describing the right to, and conditions for, continuation of appealed services through the period of an appeal as specified in § 460.122(e).

(D) If the multidisciplinary team fails to provide the participant with timely notice of the resolution of the request or does not furnish the services required by the revised plan of care, this failure constitutes an adverse decision, and the participant's request must be automatically processed by the PACE organization as an appeal in accordance with § 460.122.

(d) *Changes to plan of care.* Team members who conduct a reassessment must meet the following requirements:

(1) Reevaluate the participant's plan of care.

(2) Discuss any changes in the plan with the multidisciplinary team.

(3) Obtain approval of the revised plan from the multidisciplinary team and the participant (or designated representative).

(4) Furnish any services included in the revised plan of care as a result of a reassessment to the participant as expeditiously as the participant's health condition requires.

(e) *Documentation.* Multidisciplinary team members must document all assessment and reassessment information in the participant's medical record.

§ 460.106 Plan of care.

(a) *Basic requirement.* The multidisciplinary team must promptly develop a comprehensive plan of care for each participant.

(b) *Content of plan of care.* The plan of care must meet the following requirements:

(1) Specify the care needed to meet the participant's medical, physical, emotional, and social needs, as identified in the initial comprehensive assessment.

(2) Identify measurable outcomes to be achieved.

(c) *Implementation of the plan of care.* (1) The team must implement, coordinate, and monitor the plan of care whether the services are furnished by PACE employees or contractors.

(2) The team must continuously monitor the participant's health and psychosocial status, as well as the effectiveness of the plan of care, through the provision of services, informal observation, input from participants or caregivers, and communications among members of the multidisciplinary team and other providers.

(d) *Evaluation of plan of care.* On at least a semi-annual basis, the multidisciplinary team must reevaluate the plan of care, including defined outcomes, and make changes as necessary.

(e) *Participant and caregiver involvement in plan of care.* The team must develop, review, and reevaluate the plan of care in collaboration with the participant or caregiver, or both, to ensure that there is agreement with the

plan of care and that the participant's concerns are addressed.

(f) *Documentation.* The team must document the plan of care, and any changes made to it, in the participant's medical record.

Subpart G—Participant Rights

§ 460.110 Bill of rights.

(a) *Written bill of rights.* A PACE organization must have a written participant bill of rights designed to protect and promote the rights of each participant. Those rights include, at a minimum, the ones specified in § 460.112.

(b) *Explanation of rights.* The organization must inform a participant upon enrollment, in writing, of his or her rights and responsibilities, and all rules and regulations governing participation.

(c) *Protection of rights.* The organization must protect and provide for the exercise of the participant's rights.

§ 460.112 Specific rights to which a participant is entitled.

(a) *Respect and nondiscrimination.* Each participant has the right to considerate, respectful care from all PACE employees and contractors at all times and under all circumstances. Each participant has the right not to be discriminated against in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, or source of payment. Specifically, each participant has the right to the following:

(1) To receive comprehensive health care in a safe and clean environment and in an accessible manner.

(2) To be treated with dignity and respect, be afforded privacy and confidentiality in all aspects of care, and be provided humane care.

(3) Not to be required to perform services for the PACE organization.

(4) To have reasonable access to a telephone.

(5) To be free from harm, including physical or mental abuse, neglect, corporal punishment, involuntary seclusion, excessive medication, and any physical or chemical restraint imposed for purposes of discipline or convenience and not required to treat the participant's medical symptoms.

(6) To be encouraged and assisted to exercise rights as a participant, including the Medicare and Medicaid appeals processes as well as civil and other legal rights.

(7) To be encouraged and assisted to recommend changes in policies and services to PACE staff.

(b) *Information disclosure.* Each PACE participant has the right to receive accurate, easily understood information and to receive assistance in making informed health care decisions. Specifically, each participant has the following rights:

(1) To be fully informed in writing of the services available from the PACE organization, including identification of all services that are delivered through contracts, rather than furnished directly by the PACE organization at the following times:

(i) Before enrollment.

(ii) At enrollment.

(iii) When there is a change in services.

(2) To have the enrollment agreement, described in § 460.154, fully explained in a manner understood by the participant.

(3) To examine, or upon reasonable request, to be assisted to examine the results of the most recent review of the PACE organization conducted by HCFA or the State administering agency and any plan of correction in effect.

(c) *Choice of providers.* Each participant has the right to a choice of health care providers, within the PACE organization's network, that is sufficient to ensure access to appropriate high-quality health care. Specifically, each participant has the right to the following:

(1) To choose his or her primary care physician and specialists from within the PACE network.

(2) To request that a qualified specialist for women's health services furnish routine or preventive women's health services.

(3) To disenroll from the program at any time.

(d) *Access to emergency services.* Each participant has the right to access emergency health care services when and where the need arises without prior authorization by the PACE multidisciplinary team.

(e) *Participation in treatment decisions.* Each participant has the right to participate fully in all decisions related to his or her treatment. A participant who is unable to participate fully in treatment decisions has the right to designate a representative. Specifically, each participant has the following rights:

(1) To have all treatment options explained in a culturally competent manner and to make health care decisions, including the right to refuse treatment, and be informed of the consequences of the decisions.

(2) To have the PACE organization explain advance directives and to establish them, if the participant so desires, in accordance with §§ 489.100 and 489.102 of this chapter.

(3) To be fully informed of his or her health and functional status by the multidisciplinary team.

(4) To participate in the development and implementation of the plan of care.

(5) To request a reassessment by the multidisciplinary team.

(6) To be given reasonable advance notice, in writing, of any transfer to another treatment setting and the justification for the transfer (that is, due to medical reasons or for the participant's welfare, or that of other participants). The PACE organization must document the justification in the participant's medical record.

(f) *Confidentiality of health information.* Each participant has the right to communicate with health care providers in confidence and to have the confidentiality of his or her individually identifiable health care information protected. Each participant also has the right to review and copy his or her own medical records and request amendments to those records. Specifically, each participant has the following rights:

(1) To be assured of confidential treatment of all information contained in the health record, including information contained in an automated data bank.

(2) To be assured that his or her written consent will be obtained for the release of information to persons not otherwise authorized under law to receive it.

(3) To provide written consent that limits the degree of information and the persons to whom information may be given.

(g) *Complaints and appeals.* Each participant has the right to a fair and efficient process for resolving differences with the PACE organization, including a rigorous system for internal review by the organization and an independent system of external review. Specifically, each participant has the following rights:

(1) To be encouraged and assisted to voice complaints to PACE staff and outside representatives of his or her choice, free of any restraint, interference, coercion, discrimination, or reprisal by the PACE staff.

(2) To appeal any treatment decision of the PACE organization, its employees, or contractors through the process described in § 460.122.

§ 460.114 Restraints.

(a) The PACE organization must limit use of restraints to the least restrictive and most effective method available. The term restraint includes either a

physical restraint or a chemical restraint.

(1) A physical restraint is any manual method or physical or mechanical device, materials, or equipment attached or adjacent to the participant's body that he or she cannot easily remove that restricts freedom of movement or normal access to one's body.

(2) A chemical restraint is a medication used to control behavior or to restrict the participant's freedom of movement and is not a standard treatment for the participant's medical or psychiatric condition.

(b) If the multidisciplinary team determines that a restraint is needed to ensure the participant's physical safety or the safety of others, the use must meet the following conditions:

(1) Be imposed for a defined, limited period of time, based upon the assessed needs of the participant.

(2) Be imposed in accordance with safe and appropriate restraining techniques.

(3) Be imposed only when other less restrictive measures have been found to be ineffective to protect the participant or others from harm.

(4) Be removed or ended at the earliest possible time.

(c) The condition of the restrained participant must be continually assessed, monitored, and reevaluated.

§ 460.116 Explanation of rights.

(a) *Written policies.* A PACE organization must have written policies and implement procedures to ensure that the participant, his or her representative, if any, and staff understand these rights.

(b) *Explanation of rights.* The PACE organization must fully explain the rights to the participant and his or her representative, if any, at the time of enrollment in a manner understood by the participant.

(c) *Display.* The PACE organization must meet the following requirements:

(1) Write the participant rights in English and in any other principal languages of the community.

(2) Display the participant rights in a prominent place in the PACE center.

§ 460.118 Violation of rights.

The PACE organization must have established documented procedures to respond to and rectify a violation of a participant's rights.

§ 460.120 Grievance process.

For purposes of this part, a grievance is a complaint, either written or oral, expressing dissatisfaction with service delivery or the quality of care furnished.

(a) *Process to resolve grievances.* A PACE organization must have a formal written process to evaluate and resolve medical and nonmedical grievances by participants, their family members, or representatives.

(b) *Notification to participants.* Upon enrollment, and at least annually thereafter, the PACE organization must give a participant written information on the grievance process.

(c) *Minimum requirements.* At a minimum, the PACE organization's grievance process must include written procedures for the following:

(1) How a participant files a grievance.

(2) Documentation of a participant's grievance.

(3) Response to, and resolution of, grievances in a timely manner.

(4) Maintenance of confidentiality of a participant's grievance.

(d) *Continuing care during grievance process.* The PACE organization must continue to furnish all required services to the participant during the grievance process.

(e) *Explaining the grievance process.* The PACE organization must discuss with and provide to the participant in writing the specific steps, including timeframes for response, that will be taken to resolve the participant's grievance.

(f) *Analyzing grievance information.* The PACE organization must maintain, aggregate, and analyze information on grievance proceedings. This information must be used in the PACE organization's internal quality assessment and performance improvement program.

§ 460.122 PACE organization's appeals process.

For purposes of this section, an appeal is a participant's action taken with respect to the PACE organization's noncoverage of, or nonpayment for, a service.

(a) *PACE organization's written appeals process.* The PACE organization must have a formal written appeals process, with specified timeframes for response, to address noncoverage or nonpayment of a service.

(b) *Notification of participants.* Upon enrollment, at least annually thereafter, and whenever the multidisciplinary team denies a request for services or payment, the PACE organization must give a participant written information on the appeals process.

(c) *Minimum requirements.* At a minimum, the PACE organization's appeals process must include written procedures for the following:

(1) Timely preparation and processing of a written denial of coverage or payment as provided in § 460.104(c)(3).

(2) How a participant files an appeal.

(3) Documentation of a participant's appeal.

(4) Appointment of an appropriately credentialed and impartial third party who was not involved in the original action and who does not have a stake in the outcome of the appeal to review the participant's appeal.

(5) Responses to, and resolution of, appeals as expeditiously as the participant's health condition requires, but no later than 30 calendar days after the organization receives an appeal.

(6) Maintenance of confidentiality of appeals.

(d) *Notification.* A PACE organization must give all parties involved in the appeal the following:

(1) Appropriate written notification.

(2) A reasonable opportunity to present evidence related to the dispute, in person, as well as in writing.

(e) *Services furnished during appeals process.* During the appeals process, the PACE organization must meet the following requirements:

(1) For a Medicaid participant, continue to furnish the disputed services until issuance of the final determination if the following conditions are met:

(i) The PACE organization is proposing to terminate or reduce services currently being furnished to the participant.

(ii) The participant requests continuation with the understanding that he or she may be liable for the costs of the contested services if the determination is not made in his or her favor.

(2) Continue to furnish to the participant all other required services, as specified in subpart F of this part.

(f) *Expedited appeals process.* (1) A PACE organization must have an expedited appeals process for situations in which the participant believes that his or her life, health, or ability to regain maximum function would be seriously jeopardized, absent provision of the service in dispute.

(2) Except as provided in paragraph (f)(3) of this section, the PACE organization must respond to the appeal as expeditiously as the participant's health condition requires, but no later than 72 hours after it receives the appeal.

(3) The PACE organization may extend the 72-hour timeframe by up to 14 calendar days for either of the following reasons:

(i) The participant requests the extension.

(ii) The organization justifies to the State administering agency the need for additional information and how the delay is in the interest of the participant.

(g) Determination in favor of participant. A PACE organization must furnish the disputed service as expeditiously as the participant's health condition requires if a determination is made in favor of the participant on appeal.

(h) Determination adverse to participant. For a determination that is wholly or partially adverse to a participant, at the same time the decision is made, the PACE organization must notify the following:

(1) HCFA.

(2) The State administering agency.

(3) The participant.

(i) *Analyzing appeals information.* A PACE organization must maintain, aggregate, and analyze information on appeal proceedings and use this information in the organization's internal quality assessment and performance improvement program.

§ 460.124 Additional appeal rights under Medicare or Medicaid.

A PACE organization must inform a participant in writing of his or her appeal rights under Medicare or Medicaid managed care, or both, assist the participant in choosing which to pursue if both are applicable, and forward the appeal to the appropriate external entity.

Subpart H—Quality Assessment and Performance Improvement

§ 460.130 General rule.

(a) A PACE organization must develop, implement, maintain, and evaluate an effective, data-driven quality assessment and performance improvement program.

(b) The program must reflect the full range of services furnished by the PACE organization.

(c) A PACE organization must take actions that result in improvements in its performance in all types of care.

§ 460.132 Quality assessment and performance improvement plan.

(a) *Basic rule.* A PACE organization must have a written quality assessment and performance improvement plan.

(b) *Annual review.* The PACE governing body must review the plan annually and revise it, if necessary.

(c) *Minimum plan requirements.* At a minimum, the plan must specify how the PACE organization proposes to meet the following requirements:

(1) Identify areas to improve or maintain the delivery of services and patient care.

(2) Develop and implement plans of action to improve or maintain quality of care.

(3) Document and disseminate to PACE staff and contractors the results from the quality assessment and performance improvement activities.

§ 460.134 Minimum requirements for quality assessment and performance improvement program.

(a) *Minimum program requirements.* A PACE organization's quality assessment and performance improvement program must include, but is not limited to, the use of objective measures to demonstrate improved performance with regard to the following:

(1) Utilization of PACE services, such as decreased inpatient hospitalizations and emergency room visits.

(2) Caregiver and participant satisfaction.

(3) Outcome measures that are derived from data collected during assessments, including data on the following:

(i) Physiological well being.

(ii) Functional status.

(iii) Cognitive ability.

(iv) Social/behavioral functioning.

(v) Quality of life of participants.

(4) Effectiveness and safety of staff-provided and contracted services, including the following:

(i) Competency of clinical staff.

(ii) Promptness of service delivery.

(iii) Achievement of treatment goals and measurable outcomes.

(5) Nonclinical areas, such as grievances and appeals, transportation services, meals, life safety, and environmental issues.

(b) *Basis for outcome measures.* Outcome measures must be based on current clinical practice guidelines and professional practice standards applicable to the care of PACE participants.

(c) *Minimum levels of performance.* The PACE organization must meet or exceed minimum levels of performance, established by HCFA and the State administering agency, on standardized quality measures, such as influenza immunization rates, which are specified in the PACE program agreement.

(d) *Accuracy of data.* The PACE organization must ensure that all data used for outcome monitoring are accurate and complete.

§ 460.136 Internal quality assessment and performance improvement activities.

(a) *Quality assessment and performance improvement requirements.* A PACE organization must do the following:

(1) Use a set of outcome measures to identify areas of good or problematic performance.

(2) Take actions targeted at maintaining or improving care based on outcome measures.

(3) Incorporate actions resulting in performance improvement into standards of practice for the delivery of care and periodically track performance to ensure that any performance improvements are sustained over time.

(4) Set priorities for performance improvement, considering prevalence and severity of identified problems, and give priority to improvement activities that affect clinical outcomes.

(5) Immediately correct any identified problem that directly or potentially threatens the health and safety of a PACE participant.

(b) *Quality assessment and performance improvement coordinator.* A PACE organization must designate an individual to coordinate and oversee implementation of quality assessment and performance improvement activities.

(c) *Involvement in quality assessment and performance improvement activities.* (1) A PACE organization must ensure that all multidisciplinary team members, PACE staff, and contract providers are involved in the development and implementation of quality assessment and performance improvement activities and are aware of the results of these activities.

(2) The quality improvement coordinator must encourage a PACE participant and his or her caregivers to be involved in quality assessment and performance improvement activities, including providing information about their satisfaction with services.

§ 460.138 Committees with community input.

A PACE organization must establish one or more committees, with community input, to do the following:

(a) Evaluate data collected pertaining to quality outcome measures.

(b) Address the implementation of, and results from, the quality assessment and performance improvement plan.

(c) Provide input related to ethical decisionmaking, including end-of-life issues and implementation of the Patient Self-Determination Act.

§ 460.140 Additional quality assessment activities.

A PACE organization must meet external quality assessment and reporting requirements, as specified by HCFA or the State administering agency, in accordance with § 460.202.

Subpart I—Participant Enrollment and Disenrollment

§ 460.150 Eligibility to enroll in a PACE program.

(a) *General rule.* To enroll in a PACE program, an individual must meet eligibility requirements specified in this section. To continue to be eligible for PACE, an individual must meet the annual recertification requirements specified in § 460.160.

(b) *Basic eligibility requirements.* To be eligible to enroll in PACE, an individual must meet the following requirements:

(1) Be 55 years of age or older.

(2) Be determined by the State administering agency to need the level of care required under the State Medicaid plan for coverage of nursing facility services, which indicates that the individual's health status is comparable to the health status of individuals who have participated in the PACE demonstration waiver programs.

(3) Reside in the service area of the PACE organization.

(4) Meet any additional program specific eligibility conditions imposed under the PACE program agreement. These additional conditions may not modify the requirements of paragraph (b)(1) through (b)(3) of this section.

(c) *Other eligibility requirements.* (1) At the time of enrollment, an individual must be able to live in a community setting without jeopardizing his or her health or safety.

(2) The criteria used to determine if an individual's health or safety would be jeopardized by living in a community setting must be specified in the program agreement.

(d) *Eligibility under Medicare and Medicaid.* Eligibility to enroll in a PACE program is not restricted to an individual who is either a Medicare beneficiary or Medicaid recipient. A potential PACE enrollee may be, but is not required to be, any or all of the following:

(1) Entitled to Medicare Part A.

(2) Enrolled under Medicare Part B.

(3) Eligible for Medicaid.

§ 460.152 Enrollment process.

(a) *Intake process.* Intake is an intensive process during which PACE staff members make one or more visits to a potential participant's place of residence and the potential participant makes one or more visits to the PACE center. At a minimum, the intake process must include the following activities:

(1) The PACE staff must explain to the potential participant and his or her representative or caregiver the following information:

(i) The PACE program, using a copy of the enrollment agreement described in § 460.154, specifically references the elements of the agreement including but not limited to § 460.154(e), (i) through (m), and (r).

(ii) The requirement that the PACE organization would be the participant's sole service provider and clarification that the PACE organization guarantees access to services, but not to a specific provider.

(iii) A list of the employees of the PACE organization who furnish care and the most current list of contracted health care providers under § 460.70(c).

(iv) Monthly premiums, if any.

(v) Any Medicaid spenddown obligations.

(2) The potential participant must sign a release to allow the PACE organization to obtain his or her medical and financial information and eligibility status for Medicare and Medicaid.

(3) The State administering agency must assess the potential participant, including any individual who is not eligible for Medicaid, to ensure that he or she needs the level of care required under the State Medicaid plan for coverage of nursing facility services, which indicates that the individual's health status is comparable to the health status of individuals who have participated in the PACE demonstration waiver programs.

(4) PACE staff must assess the potential participant to ensure that he or she can be cared for appropriately in a community setting and that he or she meets all requirements for PACE eligibility specified in this part.

(b) *Denial of Enrollment.* If a prospective participant is denied enrollment because his or her health or safety would be jeopardized by living in a community setting, the PACE organization must meet the following requirements:

(1) Notify the individual in writing of the reason for the denial.

(2) Refer the individual to alternative services, as appropriate.

(3) Maintain supporting documentation of the reason for the denial.

(4) Notify HCFA and the State administering agency and make the documentation available for review.

§ 460.154 Enrollment agreement.

If the potential participant meets the eligibility requirements and wants to enroll, he or she must sign an enrollment agreement which contains, at a minimum, the following information:

(a) Applicant's name, sex, and date of birth.

(b) Medicare beneficiary status (Part A, Part B, or both) and number, if applicable.

(c) Medicaid recipient status and number, if applicable.

(d) Other health insurance information, if applicable.

(e) Conditions for enrollment and disenrollment in PACE.

(f) Description of participant premiums, if any, and procedures for payment of premiums.

(g) Notification that a Medicaid participant and a participant who is eligible for both Medicare and Medicaid are not liable for any premiums, but may be liable for any applicable spenddown liability under §§ 435.121 and 435.831 of this chapter and any amounts due under the post-eligibility treatment of income process under § 460.184.

(h) Notification that a Medicare participant may not disenroll from PACE at a social security office.

(i) Notification that enrollment in PACE results in disenrollment from any other Medicare or Medicaid prepayment plan or optional benefit. Electing enrollment in any other Medicare or Medicaid prepayment plan or optional benefit, including the hospice benefit, after enrolling as a PACE participant is considered a voluntary disenrollment from PACE.

(j) Information on the consequences of subsequent enrollment in other optional Medicare or Medicaid programs following disenrollment from PACE.

(k) Description of PACE services available, including all Medicare and Medicaid covered services, and how services are obtained from the PACE organization.

(l) Description of the procedures for obtaining emergency and urgently needed out-of-network services.

(m) The participant bill of rights.

(n) Information on the process for grievances and appeals and Medicare/Medicaid phone numbers for use in appeals.

(o) Notification of a participant's obligation to inform the PACE organization of a move or lengthy absence from the organization's service area.

(p) An acknowledgment by the applicant or representative that he or she understands the requirement that the PACE organization must be the applicant's sole service provider.

(q) A statement that the PACE organization has an agreement with HCFA and the State administering agency that is subject to renewal on a periodic basis and, if the agreement is

not renewed, the program will be terminated.

(r) The applicant's authorization for disclosure and exchange of personal information between HCFA, its agents, the State administering agency, and the PACE organization.

(s) The effective date of enrollment.

(t) The applicant's signature and the date.

§ 460.156 Other enrollment procedures.

(a) *Items a PACE organization must give a participant upon enrollment.* After the participant signs the enrollment agreement, the PACE organization must give the participant the following:

(1) A copy of the enrollment agreement.

(2) A PACE membership card.

(3) Emergency information to be posted in his or her home identifying the individual as a PACE participant and explaining how to access emergency services.

(4) Stickers for the participant's Medicare and Medicaid cards, as applicable, which indicate that he or she is a PACE participant and include the phone number of the PACE organization.

(b) *Submittal of participant information to HCFA and the State.* The PACE organization must submit participant information to HCFA and the State administering agency, in accordance with established procedures.

(c) *Changes in enrollment agreement information.* If there are changes in the enrollment agreement information at any time during the participant's enrollment, the PACE organization must meet the following requirements:

(1) Give an updated copy of the information to the participant.

(2) Explain the changes to the participant and his or her representative or caregiver in a manner they understand.

§ 460.158 Effective date of enrollment.

A participant's enrollment in the program is effective on the first day of the calendar month following the date the PACE organization receives the signed enrollment agreement.

§ 460.160 Continuation of enrollment.

(a) *Duration of enrollment.* Enrollment continues until the participant's death, regardless of changes in health status, unless either of the following actions occur:

(1) The participant voluntarily disenrolls.

(2) The participant is involuntarily disenrolled, as described in § 460.164.

(b) *Annual recertification requirement.* At least annually, the State administering agency must reevaluate whether a participant needs the level of care required under the State Medicaid plan for coverage of nursing facility services.

(1) *Waiver of annual requirement.* (i) The State administering agency may permanently waive the annual recertification requirement for a participant if it determines that there is no reasonable expectation of improvement or significant change in the participant's condition because of the severity of a chronic condition or the degree of impairment of functional capacity.

(ii) The PACE organization must retain in the participant's medical record the documentation of the reason for waiving the annual recertification requirement.

(2) *Deemed continued eligibility.* If the State administering agency determines that a PACE participant no longer meets the State Medicaid nursing facility level of care requirements, the participant may be deemed to continue to be eligible for the PACE program until the next annual reevaluation, if, in the absence of continued coverage under this program, the participant reasonably would be expected to meet the nursing facility level of care requirement within the next 6 months.

(3) *Continued eligibility criteria.* (i) The State administering agency, in consultation with the PACE organization, makes a determination of continued eligibility based on a review of the participant's medical record and plan of care.

(ii) The criteria used to make the determination of continued eligibility must be specified in the program agreement.

§ 460.162 Voluntary disenrollment.

A PACE participant may voluntarily disenroll from the program without cause at any time.

§ 460.164 Involuntary disenrollment.

(a) *Reasons for involuntary disenrollment.* A participant may be involuntarily disenrolled for any of the following reasons:

(1) The participant fails to pay, or to make satisfactory arrangements to pay, any premium due the PACE organization after a 30-day grace period.

(2) The participant engages in disruptive or threatening behavior, as described in paragraph (b) of this section.

(3) The participant moves out of the PACE program service area or is out of the service area for more than 30 consecutive days, unless the PACE organization agrees to a longer absence due to extenuating circumstances.

(4) The participant is determined to no longer meet the State Medicaid nursing facility level of care requirements and is not deemed eligible.

(5) The PACE program agreement with HCFA and the State administering agency is not renewed or is terminated.

(6) The PACE organization is unable to offer health care services due to the loss of State licenses or contracts with outside providers.

(b) *Disruptive or threatening behavior.* For purposes of this section, a participant who engages in disruptive or threatening behavior refers to a participant who exhibits either of the following:

(1) A participant whose behavior jeopardizes his or her health or safety, or the safety of others; or

(2) A participant with decision-making capacity who consistently refuses to comply with his or her individual plan of care or the terms of the PACE enrollment agreement.

(c) *Documentation of disruptive or threatening behavior.* If a PACE organization proposes to disenroll a participant who is disruptive or threatening, the organization must document the following information in the participant's medical record:

(1) The reasons for proposing to disenroll the participant.

(2) All efforts to remedy the situation.

(d) *Noncompliant behavior.* (1) A PACE organization may not disenroll a PACE participant on the grounds that the participant has engaged in noncompliant behavior if the behavior is related to a mental or physical condition of the participant, unless the participant's behavior jeopardizes his or her health or safety, or the safety of others.

(2) For purposes of this section, noncompliant behavior includes repeated noncompliance with medical advice and repeated failure to keep appointments.

(e) *State administering agency review and final determination.* Before an involuntary disenrollment is effective, the State administering agency must review it and determine in a timely manner that the PACE organization has adequately documented acceptable grounds for disenrollment.

§ 460.166 Effective date of disenrollment.

(a) In disenrolling a participant, the PACE organization must take the following actions:

(1) Use the most expedient process allowed under Medicare and Medicaid procedures, as set forth in the PACE program agreement.

(2) Coordinate the disenrollment date between Medicare and Medicaid (for a participant who is eligible for both Medicare and Medicaid).

(3) Give reasonable advance notice to the participant.

(b) Until the date enrollment is terminated, the following requirements must be met:

(1) PACE participants must continue to use PACE organization services and remain liable for any premiums.

(2) The PACE organization must continue to furnish all needed services.

§ 460.168 Reinstatement in other Medicare and Medicaid programs.

To facilitate a participant's reinstatement in other Medicare and Medicaid programs after disenrollment, the PACE organization must do the following:

(a) Make appropriate referrals and ensure medical records are made available to new providers in a timely manner.

(b) Work with HCFA and the State administering agency to reinstate the participant in other Medicare and Medicaid programs for which the participant is eligible.

§ 460.170 Reinstatement in PACE.

(a) A previously disenrolled participant may be reinstated in a PACE program.

(b) If the reason for disenrollment is failure to pay the premium and the participant pays the premium before the effective date of disenrollment, the participant is reinstated in the PACE program with no break in coverage.

§ 460.172 Documentation of disenrollment.

A PACE organization must meet the following requirements:

(a) Have a procedure in place to document the reasons for all voluntary and involuntary disenrollments.

(b) Make documentation available for review by HCFA and the State administering agency.

(c) Use the information on voluntary disenrollments in the PACE organization's internal quality assessment and performance improvement program.

Subpart J—Payment

§ 460.180 Medicare payment to PACE organizations.

(a) *Principle of payment.* Under a PACE program agreement, HCFA makes a prospective monthly payment to the PACE organization of a capitation amount for each Medicare participant in a payment area based on the rate it pays to a Medicare+Choice organization.

(b) *Determination of rate.* (1) The PACE program agreement specifies the monthly capitation amount for each year applicable to a PACE organization.

(2) Except as specified in paragraph (b)(4) of this section, the monthly capitation amount is based on the aged Part A and Part B payment rates established for purposes of payment to Medicare+Choice organizations. As used in this section, "Medicare+Choice rates" means the Part A and Part B rates calculated by HCFA for making payment to Medicare+Choice organizations under section 1853 of the Act.

(3) The rates specified in paragraph (b)(2) of this section are adjusted by a frailty factor necessary to ensure comparability between PACE participants and the reference population in the Medicare system. The factor is specified in the PACE program agreement.

(4) For Medicare participants who require ESRD services, the monthly capitation amount is based on the Medicare+Choice State ESRD rate. The monthly rate is adjusted by a factor to recognize the frailer and older ESRD population being served by the PACE organization. The PACE program agreement specifies this factor.

(5) HCFA may adjust the monthly capitation amount to take into account other factors HCFA determines to be appropriate.

(6) The monthly capitation payment is a fixed amount, regardless of changes in the participant's health status.

(7) The monthly capitation payment amount is an all-inclusive payment for Medicare benefits provided to participants. A PACE organization must not seek any additional payment from Medicare. The only additional payment that a PACE organization may collect from, or on behalf of, a Medicare participant for PACE services is the following:

(i) Any applicable premium amount specified in § 460.186.

(ii) Any charge permitted under paragraph (d) of this section when Medicare is not the primary payer.

(iii) Any payment from the State, as specified in § 460.182, for a participant who is eligible for both Medicare and Medicaid.

(iv) Payment with respect to any applicable spenddown liability under §§ 435.121 and 435.831 of this chapter and any amount due under the post-eligibility treatment of income process under § 460.184 for a participant who is eligible for both Medicare and Medicaid.

(8) HCFA computes the Medicare monthly capitation payment amount under a PACE program agreement so that the total payment level for all participants is less than the projected payment under Medicare for a comparable population not enrolled under a PACE program.

(c) *Adjustments to payments.* If the actual number of Medicare participants differs from the estimated number of participants on which the amount of the prospective monthly payment was based, HCFA adjusts subsequent monthly payments to account for the difference.

(d) *Application of Medicare secondary payer provisions.* (1) *Basic rule.* HCFA does not pay for services to the extent that Medicare is not the primary payer under part 411 of this chapter.

(2) *Responsibilities of the PACE organization.* The PACE organization must do the following:

(i) Identify payers that are primary to Medicare under part 411 of this chapter.

(ii) Determine the amounts payable by those payers.

(iii) Coordinate benefits to Medicare participants with the benefits of the primary payers.

(3) *Charges to other entities.* The PACE organization may charge other individuals or entities for PACE services covered under Medicare for which Medicare is not the primary payer, as specified in paragraphs (d)(4) and (5) of this section.

(4) *Charge to other insurers or the participant.* If a Medicare participant receives from a PACE organization covered services that are also covered under State or Federal workers' compensation, any no-fault insurance, or any liability insurance policy or plan, including a self-insured plan, the PACE organization may charge any of the following:

(i) The insurance carrier, the employer, or any other entity that is liable for payment for the services under part 411 of this chapter.

(ii) The Medicare participant, to the extent that he or she has been paid by the carrier, employer, or other entity.

(5) *Charge to group health plan (GHP) or large group health plan (LGHP).* If Medicare is not the primary payer for services that a PACE organization furnished to a Medicare participant who is covered under a GHP or LGHP, the organization may charge the following:

(i) GHP or LGHP for those services.

(ii) Medicare participant to the extent that he or she has been paid by the GHP or LGHP for those services.

§ 460.182 Medicaid payment.

(a) Under a PACE program agreement, the State administering agency makes a prospective monthly payment to the PACE organization of a capitation amount for each Medicaid participant.

(b) The monthly capitation payment amount is negotiated between the PACE organization and the State administering agency, and specified in the PACE program agreement. The amount represents the following:

(1) Is less than the amount that would otherwise have been paid under the State plan if the participants were not enrolled under the PACE program.

(2) Takes into account the comparative frailty of PACE participants.

(3) Is a fixed amount regardless of changes in the participant's health status.

(4) Can be renegotiated on an annual basis.

(c) The PACE organization must accept the capitation payment amount as payment in full for Medicaid participants and may not bill, charge, collect, or receive any other form of payment from the State administering agency or from, or on behalf of, the participant, except as follows:

(1) Payment with respect to any applicable spenddown liability under §§ 435.121 and 435.831 of this chapter and any amounts due under the post-eligibility treatment of income process under § 460.184.

(2) Medicare payment received from HCFA or from other payers, in accordance with § 460.180(d).

(d) State procedures for the enrollment and disenrollment of participants in the State's system, including procedures for any adjustment to account for the difference between the estimated number of participants on which the prospective monthly payment was based and the actual number of participants in that month, are included in the PACE program agreement.

§ 460.184 Post-eligibility treatment of income.

(a) A State may provide for post-eligibility treatment of income for Medicaid participants in the same manner as a State treats post-eligibility income for individuals receiving services under a waiver under section 1915(c) of the Act.

(b) Post-eligibility treatment of income is applied as it is under a waiver of section 1915(c) of the Act, as specified in §§ 435.726 and 435.735 of this chapter, and section 1924 of the Act.

§ 460.186 PACE premiums.

The amount that a PACE organization can charge a participant as a monthly premium depends on the participant's eligibility under Medicare and Medicaid, as follows:

(a) *Medicare Parts A and B.* For a participant who is entitled to Medicare Part A, enrolled under Medicare Part B, but not eligible for Medicaid, the premium equals the Medicaid capitation amount.

(b) *Medicare Part A only.* For a participant who is entitled to Medicare Part A, not enrolled under Medicare Part B, and not eligible for Medicaid, the premium equals the Medicaid capitation amount plus the Medicare Part B capitation rate.

(c) *Medicare Part B only.* For a participant who is enrolled only under Medicare Part B and not eligible for Medicaid, the premium equals the Medicaid capitation amount plus the Medicare Part A capitation rate.

(d) *Medicaid, with or without Medicare.* A PACE organization may not charge a premium to a participant who is eligible for both Medicare and Medicaid, or who is only eligible for Medicaid.

Subpart K—Federal/State Monitoring

§ 460.190 Monitoring during trial period.

(a) *Trial period review.* During the trial period, HCFA, in cooperation with the State administering agency, conducts comprehensive annual reviews of the operations of a PACE organization to ensure compliance with the requirements of this part.

(b) *Scope of review.* The review includes the following:

(1) An onsite visit to the PACE organization, which may include, but is not limited to, the following:

(i) Review of participants' charts.

(ii) Interviews with staff.

(iii) Interviews with participants and caregivers.

(iv) Interviews with contractors.

(v) Observation of program operations, including marketing, participant services, enrollment and disenrollment procedures, grievances, and appeals.

(2) A comprehensive assessment of an organization's fiscal soundness.

(3) A comprehensive assessment of the organization's capacity to furnish all PACE services to all participants.

(4) Any other elements that HCFA or the State administering agency find necessary.

§ 460.192 Ongoing monitoring after trial period.

(a) At the conclusion of the trial period, HCFA, in cooperation with the State administering agency, continues to conduct reviews of a PACE organization, as appropriate, taking into account the quality of care furnished and the organization's compliance with all of the requirements of this part.

(b) Reviews include an on-site visit at least every 2 years.

§ 460.194 Corrective action.

(a) A PACE organization must take action to correct deficiencies identified during reviews.

(b) HCFA or the State administering agency monitors the effectiveness of corrective actions.

(c) Failure to correct deficiencies may result in sanctions or termination, as specified in subpart D of this part.

§ 460.196 Disclosure of review results.

(a) HCFA and the State administering agency promptly report the results of reviews under §§ 460.190 and 460.192 to the PACE organization, along with any recommendations for changes to the organization's program.

(b) HCFA and the State administering agency make the results of reviews available to the public upon request.

(c) The PACE organization must post a notice of the availability of the results of the most recent review and any plans of correction or responses related to the most recent review.

(d) The PACE organization must make the review results available for examination in a place readily accessible to participants.

Subpart L—Data Collection, Record Maintenance, and Reporting

§ 460.200 Maintenance of records and reporting of data.

(a) *General rule.* A PACE organization must collect data, maintain records, and submit reports as required by HCFA and the State administering agency.

(b) *Access to data and records.* A PACE organization must allow HCFA and the State administering agency access to data and records including, but not limited to, the following:

(1) Participant health outcomes data.

(2) Financial books and records.

(3) Medical records.

(4) Personnel records.

(c) *Reporting.* A PACE organization must submit to HCFA and the State administering agency all reports that HCFA and the State administering agency require to monitor the operation, cost, quality, and effectiveness of the program and establish payment rates.

(d) *Safeguarding data and records.* A PACE organization must establish written policies and implement procedures to safeguard all data, books, and records against loss, destruction, unauthorized use, or inappropriate alteration.

(e) *Confidentiality of health information.* A PACE organization must establish written policies and

implement procedures to do the following:

(1) Safeguard the privacy of any information that identifies a particular participant. Information from, or copies of, records may be released only to authorized individuals. Original medical records are released only in accordance with Federal or State laws, court orders, or subpoenas.

(2) Maintain complete records and relevant information in an accurate and timely manner.

(3) Grant each participant timely access, upon request, to review and copy his or her own medical records and to request amendments to those records.

(4) Abide by all Federal and State laws regarding confidentiality and disclosure for mental health records, medical records, and other participant health information.

(f) *Retention of records.* (1) A PACE organization must retain records for the longest of the following periods:

(i) The period of time specified in State law.

(ii) Six years from the last entry date.

(iii) For medical records of disenrolled participants, 6 years after the date of disenrollment.

(2) If litigation, a claim, a financial management review, or an audit arising from the operation of the PACE program is started before the expiration of the retention period, specified in paragraph (f)(1) of this section, the PACE organization must retain the records until the completion of the litigation, or resolution of the claims or audit findings.

§ 460.202 Participant health outcomes data.

(a) A PACE organization must establish and maintain a health information system that collects, analyzes, integrates, and reports data necessary to measure the organization's performance, including outcomes of care furnished to participants.

(b) A PACE organization must furnish data and information pertaining to its provision of participant care in the manner, and at the time intervals, specified by HCFA and the State administering agency. The items collected are specified in the PACE program agreement.

§ 460.204 Financial recordkeeping and reporting requirements.

(a) *Accurate reports.* A PACE organization must provide HCFA and the State administering agency with accurate financial reports that are—

(1) Prepared using an accrual basis of accounting; and

(2) Verifiable by qualified auditors.

(b) *Accrual accounting.* A PACE organization must maintain an accrual accounting recordkeeping system that does the following:

(1) Accurately documents all financial transactions.

(2) Provides an audit trail to source documents.

(3) Generates financial statements.

(c) *Accepted reporting practices.* Except as specified under Medicare principles of reimbursement, as defined in part 413 of this chapter, a PACE organization must follow standardized definitions, accounting, statistical, and reporting practices that are widely accepted in the health care industry.

(d) *Audit or inspection.* A PACE organization must permit HCFA and the State administering agency to audit or inspect any books and records of original entry that pertain to the following:

(1) Any aspect of services furnished.

(2) Reconciliation of participants' benefit liabilities.

(3) Determination of Medicare and Medicaid amounts payable.

§ 460.208 Financial statements.

(a) *General rule.* (1) Not later than 180 days after the organization's fiscal year ends, a PACE organization must submit a certified financial statement that includes appropriate footnotes.

(2) The financial statement must be certified by an independent certified public accountant.

(b) *Contents.* At a minimum, the certified financial statement must consist of the following:

(1) A certification statement.

(2) A balance sheet.

(3) A statement of revenues and expenses.

(4) A source and use of funds statement.

(c) *Quarterly financial statement*—(1) *During trial period.* A PACE organization must submit a quarterly financial statement throughout the trial period within 45 days after the last day of each quarter of the PACE organization's fiscal year.

(2) *After trial period.* If HCFA or the State administering agency determines that an organization's performance requires more frequent monitoring and oversight due to concerns about fiscal soundness, HCFA or the State administering agency may require a PACE organization to submit monthly or quarterly financial statements, or both.

§ 460.210 Medical records.

(a) *Maintenance of medical records.* (1) A PACE organization must maintain a single, comprehensive medical record for each participant, in accordance with accepted professional standards.

(2) The medical record for each participant must meet the following requirements:

(i) Be complete.

(ii) Accurately documented.

(iii) Readily accessible.

(iv) Systematically organized.

(v) Available to all staff.

(vi) Maintained and housed at the PACE center where the participant receives services.

(b) *Content of medical records.* At a minimum, the medical record must contain the following:

(1) Appropriate identifying information.

(2) Documentation of all services furnished, including the following:

(i) A summary of emergency care and other inpatient or long-term care services.

(ii) Services furnished by employees of the PACE center.

(iii) Services furnished by contractors and their reports.

(3) Multidisciplinary assessments, reassessments, plans of care, treatment, and progress notes that include the participant's response to treatment.

(4) Laboratory, radiological and other test reports.

(5) Medication records.

(6) Hospital discharge summaries, if applicable.

(7) Reports of contact with informal support (for example, caregiver, legal guardian, or next of kin).

(8) Enrollment Agreement.

(9) Physician orders.

(10) Discharge summary and disenrollment justification, if applicable.

(11) Advance directives, if applicable.

(12) A signed release permitting disclosure of personal information.

(13) Accident and incident reports.

(c) *Transfer of medical records.* The organization must promptly transfer copies of medical record information between treatment facilities.

(d) *Authentication of medical records.* (1) All entries must be legible, clear, complete, and appropriately authenticated and dated.

(2) Authentication must include signatures or a secured computer entry by a unique identifier of the primary author who has reviewed and approved the entry.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 6, 1999.

Nancy-Ann DeParle,

Administrator, Health Care Financing Administration.

Approved: July 8, 1999.

Donna E. Shalala,

Secretary.

Note: This Addendum A will not appear in the Code of Federal Regulations.

Addendum A

PACE Protocol

Overview

The following document describes the minimum requirements for PACE (Program of All-inclusive Care for the Elderly) providers as well as core operational procedures and processes. This definition document, the PACE Protocol, was first developed in 1990 as part of a cooperative effort involving staff from Health Care Financing Administration's (HCFA) Office of Research and Demonstrations, states participating in the PACE replication, and PACE sites, including On Lok Senior Health Services.

Originally authorized by Congress in 1986, the PACE demonstration was designed to determine if the community-based long term care model developed by On Lok Senior Health Services in San Francisco, California could be replicated. Since 1990, ten sites have successfully implemented PACE. For those sites, the protocol served as the specific legal instrument for implementation of the demonstration and the regulatory framework for operations in the absence of formal regulation.

In preparation for moving PACE beyond demonstration status, a work group comprised of PACE site representatives began the process of updating the protocol in December 1993 to incorporate the experience existing PACE providers have had in implementation. With comments from HCFA and State Medicaid agency representatives, the document has now been finalized and is intended to serve as the basic standard for PACE providers.

Table of Contents

Introduction

Definitions

Part I. Organization

A. Philosophy Statement
B. Organizational Structure
C. Organizational Requirements
D. Service Area
E. Conflict of Interest
F. Fiscal Soundness

Part II. Participant Rights

A. Participant Bill of Rights
B. Complaints, Grievances and Appeals

Part III. Eligibility, Enrollment, Disenrollment

A. Eligibility
B. Marketing
C. Enrollment
D. Disenrollment

Part IV. Service Coverage and Arrangement

A. Service Coverage
B. Service Arrangement

Part V. Quality Assurance

A. Multidisciplinary Team
B. Written Quality Assurance Plan

Part VI. Reimbursement

A. PACE Reimbursement Overview
B. Medicare Payment
C. Medicaid Payment
D. Private Pay Premiums

Part VII. Provider Administration

A. Contracting Requirements
B. Data Collection and Reporting
C. Financial Reporting
D. Maintenance of Books and Records

Part VIII. External Oversight

A. General
B. National Standards and Periodic Surveys

Part IX. Provider Termination

A. Reasons for Termination
B. Termination Plan

Part X. Medicare and Medicaid Contracts Requirements

A. General

Introduction

This document describes the minimum requirements for PACE (Program of All-inclusive Care for the Elderly) providers as well as core operational procedures and processes. The requirements outlined are applicable to PACE providers in varying degree depending upon whether the provider is in its initial trial period, as defined below, or if it has completed that period and attained permanent provider status. It is intended that this document outline the basic standards for PACE providers except as may be subsequently modified by law or regulation.

Definitions

1. *PACE provider:* In this document, the term "PACE provider" means a private not-for-profit or public entity (or a distinct part of such an entity) which:

(a) is primarily engaged in providing participants a comprehensive range of acute and long-term care services as described in Part IV. of this document; and

(b) meets the requirements defined in this document and includes PACE providers with permanent status and PACE providers in the trial period.

2. *Trial Period*: A period of up to three years in length during which the PACE provider meets all the requirements in operating a PACE program except that financial risk is shared between the provider and the federal and state governments based on the arrangement developed by HCFA. At the conclusion of this period, providers may opt for permanent provider status under Medicare and Medicaid.

3. *Participant:* An individual who meets the eligibility requirements outlined in Part II and enrolls in a PACE program as described. This individual may also be called an enrollee.

4. *Contract:* In this document, contract, when referring to the contract between the PACE provider and the federal and state governments, may be in the form of a cooperative agreement or a contract.

Part I: Organization

A. Philosophy Statement

The PACE provider must include in its mission statement or philosophy statement the following values:

1. To enhance the quality of life and autonomy for frail, older adults;

2. To maximize dignity and respect of older adults;

3. To enable frail, older adults to live in their homes and in the community as long as medically and socially feasible; and

4. To preserve and support the older adult's family unit.

B. Organizational Structure

1. The PACE provider must be a public or private not-for-profit 501(c)(3) organization and may meet this requirement in any of the following ways:

a. A free-standing 501(c)(3) corporation;

b. A 501(c)(3) subsidiary of a larger organization;

c. A department of a 501(c)(3) corporation; or

d. Governmental entities at the city, county, or state level.

2. As a community-based model of care, the PACE provider must ensure that community representation is provided on issues of program management and participant care. This representation may be achieved through participation on the board of the PACE provider or through advisory committees.

3. The PACE provider must make available a current organizational chart displaying corporate officers and relationships to any parent or other corporate subsidiaries or affiliates, and indicating the PACE provider's relationship to the corporate board. A PACE provider considering a change in organizational structure must notify HCFA and the State Medicaid agency at least 60 days before the anticipated change. Changes must be approved by Health Care Financing Administration (HCFA) and the State Medicaid agency.

C. Organizational Requirements

The PACE provider shall have the organizational, administrative and service delivery ability to effectively organize and guide operations and meet the contractual obligations which include, but are not limited to:

1. A policymaking body which oversees operations and devotes resources sufficient to effectively plan, organize, administer and evaluate the PACE provider's operation;

2. Ability to provide the complete PACE service package, including the full scope of Medicare and Medicaid benefits on a capitation basis regardless of the frequency, extent, or level of services provided to any participant;

3. Project Director whose responsibilities and duties are described in writing;

4. Medical Director whose responsibilities and duties are defined in writing;

5. Staff to directly provide PACE Center services, including primary medical care;

6. A standing multidisciplinary team based in the PACE Center composed of medical and health-related professionals and para-professionals, all of whom meet applicable

state licensing and certification requirements and who provide direct care and services appropriate to participant need;

7. Demonstrated separation of medical, social and supportive services from fiscal and administrative management sufficient to assure that medical decisions will not be unduly influenced by fiscal and administrative management;

8. Staff to maintain financial records and books of accounts on an accrual basis;

9. Staff to report data required for management, as well as the Federal and State governments;

10. Facilities and equipment that meet applicable State requirements;

11. A system for informing employees and contract providers about all relevant provider requirements including coverage and appeal procedures.

D. Service Area

The PACE provider must serve a defined service area identified by county, zip code and street boundaries. Changes in the service area must be pre-approved by HCFA and the State Medicaid Agency.

E. Conflict of Interest

1. The PACE provider must not have any agents or management staff who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare and/or other health insurance and health care programs.

2. No member of the PACE provider's policymaking body or any immediate family member thereof shall have any direct or indirect interest in any contract for supplying service or materials to the PACE provider.

F. Fiscal Soundness

1. During the trial period, the PACE provider must prepare an annual budget by month or by quarter that is acceptable to HCFA and the State Medicaid agency. The budget shall be based on the cost center accounting structure provided by HCFA and the State Medicaid agency.

The provider must have an insolvency plan approved by HCFA and the State Medicaid agency, which in the event of insolvency, provides for:

a. The continuation of benefits for the duration of the contract period for which capitation payment has been made;

b. The continuation of benefits to participants who are confined in a hospital on the date of insolvency until their discharge; and

c. Arrangements to protect participants from incurring liability for payment of any fees which are the legal obligation of the PACE provider.

2. By the end of the trial period, each PACE provider shall have a fiscally sound operation as demonstrated by total assets being greater than total unsubordinated liabilities, sufficient cash flow and adequate liquidity to meet obligations as they become due, a net operating surplus and a plan for handling insolvency that includes the provisions listed as 1.a–c. above. Furthermore, the PACE program must demonstrate that it has arrangements in place in the amount of at least the sum of the following to cover expenses in the event it becomes insolvent:

a. One month's total capitation revenue to cover expenses the month prior to insolvency; and

b. One month's average payment to subcontractors, including providers of emergency services, to cover potential expenses the month after the date insolvency has been declared or operations cease.

Arrangements to cover expenses may include but are not limited to: Insolvency insurance, hold harmless arrangement, continuation of benefits provisions, letters of credit, guarantees, net worth, restricted state reserves, state law provisions.

3. Providers are required to submit financial reports as specified in their contracts with HCFA and the State Medicaid agency.

Part II: Participant Rights

A. Participant Bill of Rights

The PACE provider has a formal Participant Bill of Rights designed to protect and promote the rights of each participant to be treated with dignity and respect.

1. These rights, which may be exercised by the participant or his/her representative, if necessary, include the rights:

a. To have the "Enrollment Agreement" fully discussed and explained;

b. To be fully informed in writing prior to and at the time of enrollment (as well as during participation) of the services available from the PACE provider;

c. To be fully informed of rights and responsibilities as a participant and/or all rules and regulations governing participation;

d. To be encouraged and assisted to exercise rights as a participant, as well as civil and legal rights.

e. To be encouraged and assisted to voice grievances and recommend changes in policies and services to PACE staff and outside representatives of his/her choice. There will be no restraint, interference, coercion, discrimination or reprisal by the PACE staff towards participants exercising this right;

f. To be fully informed by the multidisciplinary team of health and functional status;

g. To participate in the development and implementation of the treatment plan designed to promote functional ability to the optimal level and to encourage independence;

h. To receive treatment and rehabilitative services;

i. To have dignity, privacy, and humane care;

j. To be free from harm, including unnecessary physical restraint or isolation, excessive medication, physical or mental abuse or neglect;

k. To be free from hazardous procedures;

l. Not to be required to perform services for the provider that are not included for therapeutic purposes in the individual treatment plan;

m. To be given reasonable advance notice of any transfer to another part of the program for medical reasons or for the participant's welfare or that of other participants. Such actions will be documented in the health record;

n. To have reasonable access to telephones;

o. To be assured of confidential treatment of all information contained in the health record, including information contained in any automated data bank. Written consent is required for the release of information to persons not otherwise authorized under law to receive it. Participants may provide written consent which limits the degree of information and the persons to whom information may be given;

p. To refuse treatment and be informed of the consequences of such refusal;

q. To disenroll from the program at any time subject to the terms of this agreement; and

r. To establish advance directives and make health care decisions.

2. Written policies or established procedures identify mechanisms for ensuring that the participant and family members understand their rights including items listed above.

a. Staff must orally review the Participant Bill of Rights with the participant and family at enrollment in a language understood by the participant. A copy of the Bill of Rights is included in the member handbook given to participants at enrollment.

b. Participant rights must be posted in a prominent place in the PACE center in English and any other predominant language of the community.

B. Complaints, Grievances and Appeals

The PACE provider must have internal procedures, approved by HCFA and the State Medicaid agency, which provide participants and their family members a process for expressing dissatisfaction with the services provided by PACE, whether medical or non-medical in nature, and which allow for orderly resolution of any complaint or grievance. Furthermore, all involuntary disenrollments, other than those resulting from participants moving out of the PACE provider's geographic catchment area, are considered participant grievances and are subject to these procedures.

1. The PACE provider must have written internal grievance procedures which describe the process by which participants can make appeals, and give the time frames for the PACE provider's response to participants.

2. The PACE provider must inform all participants of the grievance procedures in writing (i.e., in member handbooks).

3. In cases where grievances are not resolved to the participant's satisfaction (e.g., denial of payment for claim or refusal of services), the PACE provider must state the specific reasons for its determination and inform the participant of his/her right to appeal. The PACE provider must process grievances in a timely manner.

4. Reconsideration of grievances must be made by a person or persons who were not involved in making the initial determination. The PACE provider must give the parties to the reconsideration reasonable opportunity to present evidence related to the issue in dispute, in person as well as in writing.

5. All determinations that are wholly or partially adverse to the participant must be forwarded to HCFA and the State Medicaid agency. If on appeal a judgment is made in favor of the participant, the PACE provider

must take appropriate action in a timely manner.

Part III: Eligibility, Enrollment, Disenrollment

A. Eligibility

1. To be eligible for enrollment in PACE, an individual must be:

a. At least fifty-five years of age;

b. A resident in the PACE provider's service area;

c. Assessed by the PACE provider's multidisciplinary team; and

d. Certified by the State Medicaid Agency as eligible for nursing home level of care.

2. The contracts between the PACE provider, HCFA and the State Medicaid agency will include site-specific eligibility criteria including minimum age limit, service area and health status requirements of the State Medicaid agency for nursing home level of care.

3. The PACE provider may choose not to enroll participants whose condition is such at the point of enrollment that their health and safety would be jeopardized by remaining in their home and community.

B. Marketing

1. *Marketing Activities.* The PACE provider may inform the general public of its program through appropriate activities and media. The PACE provider must ensure that prohibited marketing activities are not conducted by its employees or its agents. Prohibited practices are:

a. Discrimination of any kind aside from PACE eligibility requirements;

b. Activities that could mislead or confuse potential participants, or misrepresent the PACE provider, HCFA or the State Medicaid agency;

c. Gifts or payments to induce enrollment; and

d. Subcontracting outreach efforts to individuals or organizations whose sole responsibility involves direct contact with elderly to solicit enrollment.

2. *Marketing Materials.* a. The PACE provider must provide prospective participants adequate written descriptions of the PACE provider's enrollment requirements, procedures, benefits, fees and other charges, services and other information necessary for prospective participants to make an informed decision about enrollment.

b. All written marketing information distributed to PACE participants to encourage or prolong enrollment must be approved by HCFA, the State Medicaid agency, and other agencies, if required. Approval or denial shall be granted in 30 days. No response in 30 days constitutes approval.

Distribution of marketing materials before HCFA and the State Medicaid agency approval or expiration of the 30 day period is prohibited.

c. Marketing and enrollment materials which must be approved include, but are not limited to, marketing brochures, enrollment agreement, member handbook, and disenrollment forms.

3. *Marketing Plan.* The PACE provider shall have an active marketing plan, with measurable enrollment objectives and a system for tracking its effectiveness.

C. Enrollment

1. Participants enrolled in PACE must accept PACE as his/her sole service provider and its multidisciplinary team as his/her sole case manager (the "lock-in" provision).

2. Following referral to the program, PACE provider staff schedule a screening visit with the potential participant and/or his/her significant others or legal guardians to explain:

a. PACE;

b. the "lock-in" provision; and

c. monthly fees, if any.

3. Following this explanation, the potential participant must sign a release of his/her medical and financial information.

4. The potential participant is assessed by the PACE provider to determine eligibility.

5. All participants, including Medicare-only eligibles, shall be reviewed by the State Medicaid agency for a one-time only certification at enrollment that the participant meets State Medicaid health status requirements for nursing home level of care. Procedures for enrollment, including level of care certification, shall be included in the contract between HCFA and the State Medicaid agency.

6. If the potential participant is certified as nursing home eligible and is willing to join PACE, he/she must sign an Enrollment Agreement which contains the following information:

a. Applicant's name, sex, date of birth, health insurance claim numbers, Medicare eligibility status (Part A and/or Part B) and number, Medicaid number or none;

b. Description of benefits available, including all Medicare and Medicaid covered services, and how services are allocated or can be obtained from the PACE provider;

c. Explanation of participant premiums and procedures for payment, if any;

d. Effective date of enrollment;

e. Explanation of participant rights, grievance procedures, conditions for enrollment and disenrollment and Medicare and Medicaid contacts in appeal situations;

f. Notification of participant's obligation to notify PACE provider of a move or absence from the provider's service area;

g. Explanation of the "lock-in" requirement and an acknowledgment on the part of the applicant that he/she understands that all services must be received through the PACE provider;

h. Explanation of procedures for obtaining emergency services and urgent care;

i. Requirement to maintain their own Medicare and Medicaid eligibility including Medicare Part B eligibility through the payment of required premiums;

j. Statement that the private premium can only be raised once a year;

k. Statement that PACE provider has a contract with HCFA and the State Medicaid agency which is subject to renewal on a periodic basis and failure of the PACE provider to renew the contract will result in termination of enrollment in the program;

l. Explanation that the Medicare member may not disenroll from PACE at a social security office; and

m. Explanation that enrollment in PACE will result in automatic disenrollment from any other Medicare or Medicaid prepayment health plan;

n. Applicant's authorization for the disclosure and exchange of information between HCFA, its agent, the State Medicaid agency and the PACE provider;

o. Applicant's signature and date.

7. The participant's enrollment in the program is effective the first day of the calendar month following the signing date of the Enrollment Agreement.

8. Once the participant signs the Enrollment Agreement, he/she is given:

a. A copy of the Enrollment Agreement;

b. The Member Handbook (Combined Contract and Evidence of Coverage), if different from the Enrollment Agreement;

c. A PACE membership card;

d. An emergency sticker to be posted in his/her home in case of emergency; and

e. A sticker for his/her Medicare card and, if applicable, a Medicaid card which indicates that he/she is a PACE participant.

9. The PACE provider will submit enrollment documents to HCFA and the State Medicaid agency in accordance with established procedures.

10. Enrollment continues as long as desired by the participant, regardless of changes in health status, until death, voluntary disenrollment, or involuntary disenrollment as described in Section D.

11. If, after complete assessment by the multidisciplinary team, a prospective participant is denied enrollment based on Part III, Section A.3., the PACE provider shall provide written notification explaining the reason for denial and refer the individual to alternative services as appropriate.

D. Disenrollment Process

1. A PACE participant may either voluntarily or involuntarily disenroll from the program. A participant may be involuntarily disenrolled if he/she:

a. Moves out of the PACE program service area;

b. Is a person with decision making capacity who consistently does not comply with his/her individual plan of care and poses a significant risk to him/herself or others;

c. Experiences a breakdown in the physician and/or team-participant relationship such that the PACE provider's ability to furnish services to either the participant or other participants is seriously impaired;

d. Refuses services and/or is unwilling to meet conditions of participation as they appear in the Enrollment Agreement;

e. Refuses to provide accurate financial information, provides false information or illegally transfers assets;

f. Fails to pay or to make satisfactory arrangements to pay any amount due the PACE provider after a 30-day grace period;

g. Is out of the PACE provider service area for more than 30 days (unless other arrangements have been made); or

h. Is enrolled in a PACE program that loses its contracts and/or licenses enabling it to offer health care services.

2. For voluntary disenrollments, the PACE provider shall use the most expedient process allowed for by Medicare and Medicaid procedures while ensuring a coordinated disenrollment date. The PACE provider disenrollment procedures shall be

included in the contracts with HCFA and the State Medicaid agency. Until enrollment is terminated, PACE participants are required to continue using the PACE provider services and remain liable for any premiums. The PACE provider shall continue to provide all needed services until the date of termination.

3. To facilitate a participant's reinstatement in the fee-for-service system, the PACE provider must:

a. Assist a participant who wishes to return to the fee-for-service system by making appropriate referrals and by making medical records available to new providers; and

b. Work with HCFA and the State Medicaid agency to reinstate his/her benefits in the fee-for-service system.

4. Renewal provisions. *a.* If the reason for disenrollment is due to failure to pay, payment of the monthly fee before the end of the month of disenrollment will result in reinstatement as of the first day of succeeding month. b. In the case of a voluntary disenrollment, a one time only reinstatement will be allowed if the participant meets eligibility criteria.

5. All voluntary and involuntary disenrollments must be documented and available for review by HCFA and the State Medicaid agency.

Part IV: Service Coverage and Arrangement

A. Service Coverage

1. The PACE service package includes, but is not limited to, all current Medicare and Medicaid services. All usual limitations and conditions for covered services are waived.

2. The PACE provider must provide its participants with access to medical care and other services, as applicable, 24 hours per day, 7 days a week, 365 days per year.

3. At a minimum each PACE provider shall provide the following services:

a. Multidisciplinary assessment and treatment planning;

b. Primary care services including physician and nursing services;

c. Social work services;

d. Restorative therapies, including physical therapy, occupational therapy and speech therapy;

e. Personal care and supportive services;

f. Nutritional counseling;

g. Recreational therapy;

h. Transportation;

i. Meals;

j. Medical specialty services including, but not limited to: anesthesiology, audiology, cardiology, dentistry, dermatology, gastroenterology, gynecology, internal medicine, nephrology, neurosurgery, oncology, ophthalmology, oral surgery, orthopedic surgery, otorhinolaryngology, plastic surgery, pharmacy consulting services, podiatry, psychiatry, pulmonary disease, radiology, rheumatology, surgery, thoracic and vascular surgery, urology;

k. Laboratory tests, x-rays and other diagnostic procedures;

l. Drugs and biologicals;

m. Prosthetics and durable medical equipment, corrective vision devices such as eyeglasses and lenses, hearing aids, dentures, and repairs and maintenance for these items;

n. Acute inpatient care:

i. Ambulance;

ii. Emergency room care and treatment room services;

iii. Semi-private room and board;

iv. General medical and nursing services;

v. Medical surgical/intensive care/coronary care unit, as necessary;

vi. Laboratory tests, x-rays and other diagnostic procedures;

vii. Drugs and biologicals;

viii. Blood and blood derivatives;

ix. Surgical care, including the use of anesthesia;

x. Use of oxygen;

xi. Physical, speech, occupational, and respiratory therapies; and

xii. Social services.

o. Nursing facility care:

i. Semi-private room and board;

ii. Physician and skilled nursing services;

iii. Custodial care;

iv. Personal care and assistance;

v. Drugs and biologicals;

vi. Physical, speech, occupational, and recreational therapies, if necessary;

vii. Social services; and

viii. Medical supplies and appliances.

p. Additional services determined necessary by the multidisciplinary team.

4. Emergency Care. Emergency services are defined as covered inpatient or outpatient services that are furnished in or out of the PACE provider's service area by a source other than the PACE provider or its contract providers and:

a. Are needed immediately because of an injury or sudden illness; and

b. The time required to reach the PACE provider staff and/or contract providers would have meant risk of permanent damage to the participant's health.

5. Urgent Care. Urgently needed services are covered services required in order to prevent a serious deterioration of a participant's health that results from an unforeseen illness or injury if:

a. The participant is temporarily absent from the provider's service area; and

b. The receipt of health care services cannot be delayed until the participant returns to the provider's service area.

6. Excluded services are:

a. Any service which has not been authorized by the multidisciplinary team, even if it is listed as a covered benefit;

b. Services rendered in a non-emergency setting or for a non-emergency reason without authorization;

c. Prescription and over-the-counter drugs not prescribed by the PACE provider physician;

d. In inpatient facilities, private room and private duty nursing, unless medically necessary, and non-medical items for personal convenience such as telephone charges, radio or television rental;

e. Cosmetic surgery unless required for improved functioning of a malformed part of the body resulting from an accidental injury or for reconstruction following mastectomy;

f. Experimental medical, surgical or other health procedures or procedures not generally available;

g. Care in a government hospital (VA, federal/State hospital) unless authorized;

h. Service in any county hospital for the treatment of tuberculosis or chronic, medically uncomplicated drug dependency or alcoholism; and

i. Any services rendered outside of the United States.

B. Service Arrangement

1. PACE is a comprehensive health and social services delivery system which integrates acute and long-term care services. The PACE staff provides these services in all settings which may include, but are not limited to, the PACE Center, the home, and inpatient facilities.

2. The PACE Center is the focal point for coordination and provision of most PACE services. The PACE Center is a facility which includes a primary care clinic, and areas for therapeutic recreation, restorative therapies, socialization, personal care and dining.

a. At a minimum, the following services are provided in the PACE Center:

i. Primary care services including physician and nursing services;

ii. Social services;

iii. Restorative therapies, including physical therapy and occupational therapy;

iv. Personal care and supportive services;

v. Nutritional counseling;

vi. Recreational therapy; and

vii. Meals.

b. The PACE provider must operate at least one PACE Center in its defined service area with sufficient capacity to allow routine attendance by its enrolled population.

c. The frequency of attendance is determined by the multidisciplinary team based on each participant's needs.

d. The PACE Center is designed, equipped and maintained to provide for the physical safety of participants, personnel or visitors and to ensure a safe and sanitary environment.

3. Each participant is assigned a multidisciplinary team based at the PACE Center. Responsibility for assessment, treatment planning and care delivery rests with the multidisciplinary team which coordinates and delivers care on a 24-hour basis. The multidisciplinary team is composed of at least the following members:

a. Primary care physician;

b. Nurse;

c. Social worker;

d. Physical therapist;

e. Occupational therapist;

f. Recreational therapist or activity coordinator;

g. Dietitian;

h. PACE Center supervisor;

i. Home care liaison;

j. Health workers/aides or their representatives; and

k. Drivers or their representatives.

4. The multidisciplinary team authorizes PACE covered services which meet the specific needs of the participant.

5. As part of the initial assessment process, the following members of the multidisciplinary team conduct individual, in-person assessments of the participant's health and social status and develop discipline specific treatment plans which are documented in the participant's medical record:

a. Primary care physician;

b. Nurse;

c. Social worker;

d. Physical therapist and/or occupational therapist;
e. Recreational therapist or activity coordinator;
f. Dietitian; and
g. Home care liaison.

6. On at least a semi-annual basis, the following members of the multidisciplinary team conduct individual, in-person assessments of the participant's health and social status and develop discipline specific treatment plans which are documented in the participant's medical record:
a. Primary care physician;
b. Nurse;
c. Social worker;
d. Recreational therapist or activity coordinator; and
e. Team members actively involved in the plan of care, *i.e.*, home care liaison, physical therapist, occupational therapist, dietitian.

7. On at least an annual basis, the following members of the multidisciplinary team conduct individual, in-person assessments of the participant's health and social status and develop discipline specific treatment plans which are documented in the participant's medical record:
a. Physical therapist and/or occupational therapist;
b. Dietitian; and
c. Home care liaison.

8. The treatment planning process consists of the following:
a. On at least a semi-annual basis, the discipline specific plans are consolidated into a single plan of care for the participant through discussion and consensus of the entire multidisciplinary team, including members (e.g., health workers/aides, drivers, PACE Center supervisor) who are not required to conduct quarterly assessments. The treatment plan is then discussed and finalized with the participant and/or his/her significant others.
b. At the recommendation of individual team members, other professional disciplines (e.g., speech therapy, dentistry, audiology, *etc.*) can be included in the assessment and treatment planning process.

9. When the health status or psycho-social situation of a participant changes, he/she is reassessed by the team or by selected members of the team to develop a new treatment plan. Changes in the treatment plan during the quarter are discussed and approved by the multidisciplinary team.

10. Ultimate responsibility for management of medical situations rests with the PACE primary care physician. The physician keeps the multidisciplinary team informed of the medical condition of each participant and remains alert to pertinent input from other team members.

11. The team implements the treatment plan by providing services directly and supervising the delivery of services provided by contract providers.

12. The participant's health status and psycho-social conditions as well as the effectiveness of the treatment plan are monitored continuously through direct provision of services, informal observation, input from participants and their significant others, and communications among members of the multidisciplinary team and other providers.

13. The multidisciplinary team is instrumental in controlling the delivery, quality and continuity of care.
a. The following members of the team must be employees of the PACE provider or PACE Center:
i. Primary care physician;
ii. Nurse;
iii. Social worker;
iv. Recreational therapist or activity coordinator;
v. PACE Center supervisor;
vi. Home care liaison; and
vii. PACE Center health workers/aides.
b. The members of the multidisciplinary team must serve primarily PACE participants.
c. The effective delivery of services depends on a consistent multidisciplinary team whose members are knowledgeable of individual participant's needs.

14. The PACE provider must ensure accessible and adequate service capacity to meet the needs of the enrolled population. As enrollment increases, the number of PACE Centers, multidisciplinary teams and other PACE services must increase accordingly.

15. Primary medical care is provided by the PACE primary care physician(s) to all participants. The primary care physician is the gatekeeper to the participant's use of medical specialists and inpatient care and is an integral member of the multidisciplinary team.

16. Since PACE services may be provided in the home, the coordination of in-home services with PACE Center and primary care services is critical to effective service delivery. The PACE provider shall designate a home care liaison to supervise and coordinate home care services whether these services are provided directly by the PACE provider or through a contract vendor.

17. All other PACE covered services can be provided either directly or on a contractual basis with related or unrelated organizations, agencies, or providers.

18. Medical Records. a. To facilitate continuity of care, the PACE provider must maintain a single comprehensive medical record for each participant at the PACE Center which contains:
i. Appropriate identifying information
ii. Documentation of all services provided;
iii. Multidisciplinary assessments, reassessments, plans of care, treatment and progress notes, signed and dated;
iv. Lab reports;
v. Medications record;
vi. Hospital discharge summaries;
vii. Reports from contracted providers;
viii. Contacts with informal support;
ix. Enrollment Agreements;
x. Physician orders.
xi. Discharge summary and disenrollment agreement, if applicable;
xii. Information on advance directives; and
xiii. Disclosure of release of information.
b. Chart organization and documentation shall meet professional and other applicable requirements.
c. Policies to ensure confidentiality, storage and retention must be in place in accordance with professional and other applicable requirements.

19. Program Flexibility. At the request of a PACE provider, HCFA and the State Medicaid agency shall have the authority to waive specific requirements in this Section provided that in their judgment, the intent of the requirement is met by the proposed alternative, and safe and quality care will be provided. Such requests must be submitted in writing by the PACE provider and be approved by HCFA and the State Medicaid agency prior to implementation of the proposed alternative.

Part V: Quality Assurance

A. The PACE multidisciplinary team is a critical element of quality assurance. The process of service delivery in this model requires the team to identify participant problems, determine appropriate treatment objectives, select interventions and evaluate efficiencies of care on an individual participant basis. This activity becomes the foundation for all subsequent quality assurance activities.

B. The PACE provider must have a written plan of Quality Assurance and Improvement which provides for a system of ongoing assessment, implementation, evaluation, and revision of activities related to overall program administration and services. The plan should include, at the minimum, the following essential elements:

1. Standards that are performance benchmarks, established by the provider, and are incorporated into the provider Policy and Procedure Manual. The provider standards must be based on the PACE protocol, applicable PACE standards and applicable licensing and certification criteria.

2. Goals and objectives that provide a framework for quality improvement activities, evaluation and corrective action. These goals and objectives will be reviewed periodically.

3. Quality indicators that are objective and measurable variables related to the entire range of services provided by the PACE provider. The methodology should assure that all demographic groups, all care settings (e.g., inpatient, PACE Center and in-home) will be included in the scope of the quality assurance review.

Quality indicators should be selected for review on the basis of high volume, high risk diagnosis or procedure, adverse outcomes, or some other problem-focused method consistent with the state of the art.

4. Process to review the effectiveness of the PACE multidisciplinary team in its ability to assess participant's care needs, identify the participant's treatment goals, assess effectiveness of interventions, evaluate adequacy and appropriateness of service utilization and reorganize plan as necessary.

5. Policies and procedures related to establishing committees with community input to (1) evaluate data collected pertaining to quality indicators, (2) address the process and outcomes of the quality improvement plan, and (3) provide input related to ethical decision making including end-of-life issues and implementation of the Patient Self-Determination Act (PSDA).

a. These procedures will define a process for taking appropriate action to resolve problems identified as part the quality assurance activities.

b. Policies will be established that define professional qualifications of individuals participating on these committees.

6. Participant involvement in program QA plan and evaluation of satisfaction with services.

7. Board level accountability for overall oversight of program activities and review of the QA plan, annual review and approval of the quality assurance plan by the program board with periodic feedback to Board on review process by oversight committees.

8. The PACE provider shall designate an individual to coordinate and oversee implementation of quality assurance activities.

Part VI: Reimbursement

A. PACE Reimbursement Overview

PACE is not limited to individuals on the basis of their eligibility for Medicare and/or Medicaid. The majority of PACE participants are eligible for Medicare, however, because PACE enrolls an elderly population. Medicaid eligibility is also common just as it is in a nursing home population. As financing for long-term care services becomes more widely available, PACE providers will negotiate capitation payments from payers of those services.

B. Medicare Payment

1. For a Medicare entitled participant, the monthly capitation rate paid by HCFA to the PACE provider equals the Adjusted Average Per Capita Cost (AAPCC) as calculated by HCFA for HMO reimbursement with adjustment for frailty factors necessary to ensure comparability between PACE participants and the reference population in the Medicare fee-for-service system.

2. The capitation payment is fixed, regardless of changes in the participant's health status.

3. The PACE provider shall accept the capitation payments as payment in full and shall not bill, charge, collect or receive any form of payment from HCFA and the participant (with the exception of the ESRD participants) except as provided in Section VI., D.

4. HCFA procedures for accretions and deletions, payment mechanism, cost finding and risk sharing are included in the contract between the PACE provider and HCFA.

C. Medicaid Payment

1. The monthly capitation payment from Medicaid is negotiated between the PACE provider and the State Medicaid agency and is specified in the contract between them. The Medicaid rate is renegotiated on an annual basis.

2. The capitation payment is fixed, regardless of changes in the participant's health status.

3. The PACE provider shall accept the capitation payments as payment in full and shall not bill, charge, collect or receive any other form of payment from State Medicaid agency and the participant except as provided in Section VI., D.

4. State procedures for enrollment and disenrollment in the state system and capitation payment mechanism as well as any variations to HCFA's cost finding and risk sharing are included in the contract between the PACE provider and the State Medicaid agency.

D. Private Pay Premiums

1. Participant's premium responsibility depends upon his/her eligibility for Medicare and Medicaid (cash grant and share of cost).

a. Medicare Only—premium equal to Medicaid capitation. (This premium is determined on an annual basis.)

b. Medicare and Medicaid with share of cost—premium equal to share of cost requirement.

c. Medicare and Medicaid—no participant premium.

d. Medicaid Only—no participant premium.

2. The private pay premium is fixed, regardless of changes in the participant's health status.

3. The PACE provider shall accept the private pay premium as payment in full and shall not bill, charge, collect or receive any other form of payment from the participants.

4. Participants with private co-payment are to be billed monthly.

5. If participants have long-term care insurance policies that cover PACE services, these benefits can be applied to participants' premium responsibility.

Part VII: Provider Administration

A. Contracting Requirements

1. Subcontracts between the PACE provider and contract providers shall be established for services not delivered directly by the PACE provider.

a. The PACE provider may contract only with qualified or licensed providers, who meet Federal and State requirements as applicable;

b. Contract providers must be accessible to participants, located either within or near the PACE provider's geographic catchment area;

c. The format of subcontracts must be approved by HCFA and the State Medicaid agency;

d. A list of subcontractors must be on file at the State Medicaid agency and updated as it changes; and

e. Copies of signed contracts for inpatient care are included in the contract between the PACE provider, HCFA and the State Medicaid agency.

2. Each subcontract shall contain:

a. Name of subcontractor;

b. Specification of the services provided;

c. Specification of reimbursement rate and payment method;

d. Specification of the terms of the subcontract, including the beginning and ending dates, as well as methods of extension, re-negotiation and termination;

e. Subcontractor agreement to provide services in accordance with the services authorized by the PACE multidisciplinary team;

f. Specification that the subcontract shall be governed by and construed in accordance with all laws, regulations and contractual obligations incumbent upon the PACE provider;

g. Subcontractor agreement to accept the PACE provider's payment as payment in full and not to bill participants, HCFA, the State Medicaid agency or private insurers;

h. Subcontractor's agreement to hold harmless HCFA, the State and PACE participants in the event that the PACE provider cannot or will not pay for services performed by the subcontractor pursuant to the subcontract;

i. Subcontractor's agreement that assignment or delegation of the subcontract is prohibited unless prior written approval is obtained from the PACE provider;

j. Subcontractor's agreement to submit reports as required by the PACE provider; and

k. Subcontractor's agreement to make all books and records, pertaining to the goods and services furnished under the terms of the subcontract, available for inspection, examination or copying by the State Medicaid agency and/or HCFA.

B. Data Collection and Reporting

1. During the trial period, the PACE provider shall meet the following data collection and reporting requirements.

a. The PACE provider is required to collect a standardized set of date which includes the following:

i. Participant-specific intake, assessment and service utilization data, coded according to the guidelines in the PACE Data Collection Manual. The definition of data and the manner in which it is collected may be changed to meet changes in HCFA and State Medicaid agency reporting requirements, in response to requests from PACE providers and others. Any changes made in data collection will incorporate sufficient lead time necessary to minimize transition difficulty. Data uniformity shall be maintained across all PACE providers.

ii. Fiscal data based on cost center accounting structure provided by HCFA and the State Medicaid agency. At the twelfth month, the year-to-date summary will provide the necessary annual data.

b. At a minimum, the provider must maintain complete participant-specific utilization data on-site updated to one month prior to the present. Data shall be transmitted to HCFA or its agent.

c. To ensure the quality of the data, HCFA or its agent, may provide the PACE provider with training in the use of data collection tools and may conduct ongoing monitoring to determine data completeness and reliability. Data collection problems that are identified must be reported to HCFA and the State Medicaid agency. If HCFA and the State Medicaid agency determine that problems require correction, the PACE provider will be required to resolve them.

d. HCFA, or its agent, reserve the right to review and assure the reliability and completeness of data and may obtain all provider data for the purposes of program monitoring.

e. The PACE provider will submit to HCFA and State Medicaid agency, 45 days after the end of each quarter, the following quarterly reports:

i. Quarterly narrative progress report; and

ii. Quarterly program statistical reports—Program Status Report, Sociodemographic Characteristics of Participants, Health and Functional Status of Participants, and Service Utilization Summary. The contents of these reports may be changed to meet changes in

Federal and State reporting requirements or for the purpose of program monitoring.

2. For providers that have completed the trial period, HCFA and its agent will work with PACE providers and their respective State Medicaid agencies to develop a standardized set of data to be collected by PACE providers and a standardized reporting processes. To assure the quality of the data, requirements 1..c–d described above will apply.

C. Financial Reporting

1. For sites in the trial period, the following financial reports are required:

a. The PACE provider will submit a Budgeted versus Actual Financial Report for the current and year-to-date periods to HCFA, its agent, and the State Medicaid agency.

During the first year of operation, this report will be submitted on a monthly basis 45 days after the end of each month. Thereafter, this report will be submitted on a quarterly basis 45 days after the end of each quarter. HCFA and the State Medicaid agency reserve the right to extend the submission of this report on a monthly basis should provider performance indicate a need for more frequent monitoring.

b. The PACE provider must submit a cumulative cost report in the form and detail prescribed by HCFA. The interim cost report is due 45 days after the end of each provider's fiscal quarter and covers the period from the beginning of the fiscal year through the respective quarter.

c. The PACE provider must submit to HCFA and the State Medicaid agency an independently certified cost report in the form and detail prescribed by HCFA, no later than 180 days after the end of the provider's fiscal year.

d. PACE providers which are separate corporate entities must submit to HCFA and the State Medicaid agency a quarterly balance sheet.

2. For providers that have completed the trial period, HCFA and its agent will work with PACE providers and their respective State Medicaid agencies to develop a standardized financial reporting process.

D. Maintenance of Books and Records

1. The PACE provider must establish policies and procedures for maintaining all books and records necessary to determine whether contractual obligations are met. Books include, but are not limited to:

a. Financial records;

b. Medical records; and

c. Personnel records;

2. Books and records must be made available to HCFA and the State Medicaid agency upon request.

3. Records must be stored so as to be protected against loss, destruction or unauthorized use.

Part VIII: External Oversight

A. General

It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care by PACE providers, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of participants and to promote the effective and efficient use of public moneys. External oversight activities will include:

1. Periodic review of the financial status of the PACE provider to ensure its solvency and continuing viability; and

2. A periodic on-site survey, as described below, to determine the quality of care provided by the PACE provider and adherence to requirements defined in the contracts between the PACE provider, HCFA and the State Medicaid agency.

B. National Standards and Surveys

The National PACE Association (NPA) recommends that national standards for PACE be developed and an on-site survey process established for determining the quality of care provided by the PACE provider and the provider's adherence to contract requirements. To facilitate this process, NPA intends to develop model standards for use by HCFA and States. NPA urges HCFA and States to ensure that PACE providers are in accordance with these standards. NPA recommends that the survey process provides for surveys to be conducted at least once every two years by the State or through an accreditation organization or other entity. In addition, the Secretary would have the authority to conduct additional surveys, independent or in conjunction with the State, if there is reason to question the compliance of the PACE provider with any applicable requirements. Additional recommended provisions are:

1. The survey shall consist of an on-site visit which includes review of participant charts, interviews with staff and participants and observation of program operations including multidisciplinary team processes.

2. The survey shall be performed by a team composed of individuals who are experienced in providing care to the frail elderly and are knowledgeable about the PACE service delivery system. At a minimum, the team shall include a physician, nurse, social worker and a peer reviewer. The physician, nurse and social worker shall have experience in community-based care and should have recent clinical experience. The peer reviewer shall be from a PACE provider operating at full risk.

3. Procedures will be established to determine whether corrective action has been taken by the PACE provider to resolve deficiencies identified during the survey.

Part IX: Provider Termination

A. The PACE provider can be terminated for any one of the following four reasons and in each case must comply with HCFA and the State Medicaid agency guidelines for provider termination:

1. Either HCFA and/or the State Medicaid agency determine the provider cannot insure the health and safety of its participants. This determination may result from a medical survey or audit revealing provider deficiencies which HCFA and/or the State determine cannot be corrected.

2. The PACE provider chooses to discontinue providing services. In such event, a minimum of 90 days notice must be given to HCFA, its agent, and the State Medicaid agency regarding the provider's intent. Providers must give participants a minimum of 60 days notice.

3. Either HCFA and/or the State Medicaid agency can terminate the PACE provider's contract in response to large losses for which corrective action is unsuccessful. In response to financial audits which show a loss, the provider must develop a plan which is designed to prevent future losses. If the plan is developed by the PACE provider and is determined to be unacceptable to HCFA and the State Medicaid agency, the provider's contract may be terminated.

4. The provider may be terminated should it deviate from, violate or fail to comply with the contractual agreements of HCFA and the State Medicaid agency.

B. The PACE provider is required to develop a detailed provider termination plan included in which are the following: the process of informing participants, the community, HCFA and State Medicaid agency; and steps that will be taken to reinstate participants' Medicare and Medicaid benefits through the fee-for-service system, transition their care to other providers, and terminate the referral and intake process.

Part X: Medicare and Medicaid Contracts Requirements

A. General

The PACE provider should have formal contracts in place with the responsible federal and state agencies, which incorporate the requirements defining and applicable to PACE providers. These legal requirements would be based upon the PACE Protocol. Absent such formal contracts the PACE Protocol and other requirements, if any, which the responsible agencies deem appropriate, would govern. Critical elements of the formal contract should include, but not be limited to, requirements related to:

1. organization of the PACE provider
2. participant rights
3. eligibility, enrollment and disenrollment policies
4. service definition, coverage and arrangement
5. quality assurance
6. reimbursement
7. PACE provider administration
8. PACE provider termination

[FR Doc. 99–29706 Filed 11–12–99; 10:48 am]

BILLING CODE 4120–03–U

VOL 64 ISS 226 NO 24 1999 UMI

federal register

Wednesday
November 24, 1999

Part III

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Central Air Conditioner and Heat Pumps; Proposed Rule

VOL 64 ISS 226 NO 24 1999 UMI

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM/STD–98–440]

RIN 1904–AA77

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Central Air Conditioners and Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Supplemental Advance Notice of Proposed Rulemaking.

SUMMARY: The Department of Energy publishes this Supplemental Advance Notice of Proposed Rulemaking (ANOPR) to consider amending the energy conservation standards for central air conditioners and heat pumps.

The purpose of this Supplemental ANOPR is to provide interested persons with an opportunity to comment on:

First, the product classes that the Department is planning to analyze;

Second, the analytical framework, models (*e.g.*, the Government Regulatory Impact Model (GRIM)), and tools (e.g., a Monte Carlo sampling methodology, and life-cycle cost (LCC) and national energy savings (NES) spreadsheets) that the Department has been using in performing analyses of the impacts of energy conservation standards;

Third, the results of preliminary analyses for the engineering, LCC, payback and NES contained in the Preliminary Technical Support Document (TSD): Energy Efficiency Standards for Consumer Products: Central Air Conditioners and Heat Pumps and summarized in this Supplemental ANOPR; and

Fourth, the candidate energy conservation standard levels that the Department has developed from these analyses.

DATES: Written comments must be received by February 7, 2000. The Department requests 10 copies of the written comments and, if possible, a computer disk. The Office of Building Research and Standards is currently using WordPerfect 8.

A public hearing will be held on December 9, 1999, from 9 am-5 pm. See Section IV of the Supplementary Information for further details.

ADDRESSES: Written comments should be submitted to: U.S. Department of Energy, Attn: Brenda Edwards-Jones, Office of Energy Efficiency and Renewable Energy, "Energy Efficiency Standards for Consumer Products," (Docket No. EE–RM–94–403), EE–431, Forrestal Building, 1000 Independence Avenue, SW, Room 1J–018, Washington, DC 20585, (202) 586–2945.

The public hearing will be held at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW, Room 1E–245, Washington, DC 20585.

Copies of the Preliminary TSD: Energy Efficiency Standards for Consumer Products: Central Air Conditioners and Heat Pumps may also be obtained from: U.S. Department of Energy, Office of Building Research and Standards, 1000 Independence Avenue, SW, Rm 1J–018, Washington, D.C. 20585–0121, (202) 586–9127. The Preliminary TSD will also be available through DOE's web site. The Preliminary TSD provides the technical details of the analysis that was conducted in support of the Supplemental ANOPR being issued today.

Public Information: The public may visit the Freedom of Information Reading Room, located at the US Department of Energy, Forrestal Building, 1000 Independence Avenue, SW, Room 1E–190, Washington, DC 20585 between the hours of 9 am and 4 pm, Monday through Friday, (except Federal holidays). Call (202) 586–3142 for information.

For more information concerning public participation in this rulemaking proceeding, see section IV, "Public Comment Procedures," of this document.

FOR FURTHER INFORMATION CONTACT: Dr. Michael E. McCabe, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–0854, E-mail: Michael.E.McCabe@ee.doe.gov.

Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9507, E-mail: Edward.Levy@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction
A. Authority
B. Background
1. History
2. Process Improvement
3. Test Procedure
II. Central Air Conditioners and Heat Pumps Analyses
A. Preliminary Market and Technology Assessment
1. Market Assessment
a. General
b. Product Specific
2. Technology Assessment
a. General
b. Product Specific
3. Preliminary Baseline Shipments Forecast
a. General
b. Product Specific
B. Screening Analysis
1. Product Classes
a. General
b. Product Specific
2. Baseline Equipment
a. General
b. Product Specific
3. Technology Screening
a. General
b. Product Specific
C. Engineering Analysis
1. Energy Savings Potential and Production Costs
a. General
b. Product Specific
i. Efficiency-Level Approach
ii. Reverse Engineering Approach
iii. Design Option Approach
iv. Outside Regulatory Changes Affecting the Engineering Analysis
2. Manufacturing Costs
a. General
b. Product Specific
i. Characterizing Uncertainty
ii. Variability in Costs Among Manufacturers
iii. Proprietary Design
D. Life-Cycle Cost (LCC) and Payback Analysis
1. LCC Spreadsheet Model
a. General
b. Product Specific
i. LCC Analysis
ii. Equipment Prices
iii. Payback Analysis (Distribution of Paybacks)
iv. Rebuttable Payback
2. Preliminary Results
a. General
b. Product Specific
E. Preliminary National Impact Analyses
1. National Energy Savings (NES) Spreadsheet Model
a. General
b. Product Specific
i. Inputs to NES Analysis
ii. Shipments Model
iii. National Net Present Value
2. Preliminary Results
a. General
b. Product Specific
3. Indirect Employment Impacts
a. General
b. Product Specific
F. Consumer Analyses
1. Consumer Sub-group Analysis
a. General
b. Product Specific
2. Consumer Participation
a. General
b. Product Specific
G. Manufacturer Impact Analysis
1. Industry Characterization (Phase 1)
a. General
b. Product Specific
2. Industry Cash Flow (Phase 2)
a. General
b. Product Specific

3. Manufacturer Sub-Group Analysis (Phase 3)
a. General
b. Product Specific
4. Interview Process
a. General
b. Product Specific
H. Competitive Impact Assessment
a. General
b. Product Specific
I. Utility Analysis
1. Proposed Methodology
a. General
b. Product Specific
J. Environmental Analysis
1. Proposed Methodology
a. General
b. Product Specific
K. Regulatory Impact Analysis
III. Proposed Standards Scenarios
IV. Public Comment Procedures
A. Participation in Rulemaking
B. Written Comment Procedures
C. Issues for Public Comment
V. Review Under Executive Order 12866 and other provisions

I. Introduction

A. Authority

Part B of Title III of the Energy Policy and Conservation Act, Pub. L. 94–163, as amended by the National Energy Conservation Policy Act, Pub. L. Law 95–619, the National Appliance Energy Conservation Act of 1987, Pub. L. 100–12, the National Appliance Energy Conservation Amendments of 1988, Pub. L. 100–357, and the Energy Policy Act of 1992, Pub. L. 102–486, (EPCA or the Act), created the Energy Conservation Program for Various Consumer Products other than Automobiles. 42 U.S.C. 6291–6309.

The National Appliance Energy Conservation Act of 1987 amended EPCA to impose performance standards for central air conditioners and heat pumps as part of the energy conservation program for consumer products. EPCA, section 325(d), 42 U.S.C. 6295 (d). EPCA also requires the Department to publish final rules thereafter, to determine if these standards should be amended.

Before the Department determines whether to adopt a proposed energy conservation standard it must first solicit comments on the proposed standard. EPCA, section 325 (p), 42 U.S.C. 6295 (p). Any new or amended standard must be designed so as to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. EPCA, section 325(o)(2)(A), 42 U.S.C. 6295 (o)(2)(A). To determine whether economic justification exists the Department must review comments on the proposal and determine that the benefits of the proposed standard exceed its burdens based to the greatest extent practicable, weighing the following seven factors:

(1) The economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

(2) The savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result directly from the imposition of the standard;

(3) The total projected amount of energy savings likely to result directly from the imposition of the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

(6) The need for national energy conservation; and

(7) Other factors the Secretary considers relevant.

EPCA, Section 325(2)(B), 42 U.S.C. 6295(2)(B)

B. Background

1. History

The Energy Policy and Conservation Act, as amended (EPCA or Act), requires the Department of Energy (DOE or Department) to consider amending the energy conservation standards for certain major household appliances. In 1992, the Department initiated engineering and LCC studies for central air conditioners and heat pumps based on use of computer simulation models. An ad hoc working group was formed to advise the Department and to provide engineering and test data to use with the computer models. The working group, which included representatives from central air conditioner and heat pump manufacturers, the Air Conditioning & Refrigeration Institute (ARI), Lawrence Berkeley National Laboratory (LBNL), and Oak Ridge National Laboratory (ORNL), also provided production cost data for establishing the cost-effectiveness of the various design options selected for study.

On September 8, 1993, the Department published an ANOPR (58 FR 47326) which discussed the number of product classes and design options, the computer simulation models, and the methodologies which the Department intended to use in its analysis of increased energy efficiency standards for central air conditioners and heat pumps. After the ANOPR was issued, the Department continued its analysis of LCCs, payback periods, and preliminary NES which were shared with representatives from the air-conditioning industry.

In 1995, the Department abandoned the approach of using computer simulation models as a result of concerns expressed by the industry. The concerns included: the cost/performance relations derived from the computer simulations were not consistent with the experience of the industry; the assumptions and procedures were flawed; and the industry expressed doubts over the Department's experience with selection of appropriate design options.

In October, 1995, a moratorium on proposing, issuing, or prescribing energy conservation standards took effect pertaining to standards for central air conditioners and heat pumps, and the dialogue between the air-conditioning industry and the Department, on the analysis performed, was suspended.

2. Process Improvement

During consideration of the fiscal year 1996 appropriations, there was considerable debate about the efficacy of the standards program. The Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996 included the aforementioned moratorium on proposing or issuing energy conservation appliance standards for the remainder of Fiscal Year 1996. See Pub. L. 104–134. Congress advised DOE to correct the standards-setting process and to bring together stakeholders (such as manufacturers and environmentalists) for assistance. In September 1995, the Department announced a formal effort to consider further improvements to the process used to develop appliance efficiency standards, calling on manufacturers, energy efficiency groups, trade association, state agencies, utilities and other interested parties to provide input to guide the Department. On July 15, 1996, the Department published a Final Rule: Procedures for Consideration of New or Revised Energy Conservation Standards for Consumer Products (hereinafter referred to as the Process Rule). 61 FR 36974.

The Process Rule outlines the procedural improvements identified by the interested parties. The process improvement effort included a review of the: (1) Economic models, such as the Manufacturer Analysis Model and Residential Energy Model; (2) analytical tools, such as the use of a Monte Carlo sampling methodology; and (3)

prioritization of future rules. The Process Rule requires the evaluation of uncertainty and variability by doing scenario or probability analysis (as detailed in the Process Rule, 10 CFR part 430, subpart C, appendix A sections 1(f), 4(d)(2), and 10(f)(1)). In addition, an Advisory Committee on Appliance Energy Efficiency Standards, consisting of a representative group of these interested parties, was established to make recommendations to the Secretary regarding the implementation of the Process Rule.

The Process Rule is applicable in this rulemaking to develop new central air conditioner and heat pump standards. In this Supplemental ANOPR, the Department is presenting the framework by which it will develop the standards. The framework reflects improvements and steps detailed in the Process Rule. The rulemaking process is dynamic. If timely new data, models or tools that enhance the development of standards become available, they will be incorporated into the rulemaking. For example the Advisory Committee has made several recommendations and the Department has developed new models which are discussed in this Supplemental ANOPR.

The Department held a workshop on June 30, 1998 to discuss the analytical framework that was being proposed for conducting the central air conditioner and heat pump rulemaking. The analytical framework presented at the workshop described the different analyses (e.g., the LCC, payback and national impact analyses) to be conducted (*See* Table 1), the methods proposed for conducting them, and the relationship among the various analyses.

TABLE 1.—CENTRAL AIR CONDITIONER AND HEAT PUMP ANALYSES UNDER PROCESS RULE

ANOPR	NOPR	Final Rule
Screening Analysis	Revised Pre-ANOPR Analyses (LCC and National Impacts Analyses).	Revise Analyses (LCC and National Impacts Analyses).
Engineering Analysis	Consumer Sub-group Analysis.	
LCC Analysis	Industry Cash Flow Analysis (GRIM).	
Preliminary National Impacts Analysis	Manufacturer Impact Analysis.	
	Utility Impact Analysis.	
	Environmental Analysis.	

A number of concerns were raised at the framework workshop relating to the application of the Process Rule to the central air conditioner and heat pump rulemaking, with particular emphasis on (1) the appropriate approaches for conducting the Engineering Analysis, (2) how to validate manufacturer cost figures submitted by ARI, (3) methods for developing consumer equipment price data, and (4) how non-regulatory issues, e.g., the phase-out of hydro-fluoro-chloro-carbon (HCFC) refrigerants might affect the effective date of any new standards.

In response to the concerns and comments of interested parties at the Framework Workshop, the Department decided to perform the Engineering Analysis based on the efficiency-level approach rather than the design option approach, using cost data submitted by manufacturers in aggregate via their trade association, ARI. The Department also decided to utilize a reverse engineering approach as a "stand alone" analysis for developing manufacturer costs and validating the ARI-provided manufacturer's cost data. Both approaches are discussed in detail in the discussion of the Engineering Analysis (II C.).

As part of the information gathering and sharing process, the Department and its contractors met several times with members of the ARI Unitary Equipment Regulatory Committee, presenting the preliminary manufacturer costs developed through the reverse engineering approach and demonstrating the LCC spreadsheet model. During this time period, ARI submitted relative production cost data for the four different product classes of central air conditioners and heat pumps (split system and single package for both air conditioners and heat pumps) for 3-ton capacity systems at various efficiency levels. Efficiency levels are defined differently for air conditioners and for heat pumps. Air conditioner efficiency is defined by the descriptor, Seasonal Energy Efficiency Rating (SEER). Heat pump efficiency is defined by the descriptor, Heating Season Performance Factor (HSPF) while operating during the heating season and by SEER while operating during the cooling season. The cooling season efficiencies provided by ARI ranged from 11 to 14 SEER. The individual manufacturers provided their costs, which were normalized to 10 SEER equipment costs, to ARI. ARI aggregated the individual manufacturers' costs and provided the Department with minimum, maximum and shipment-weighted mean values.

As will be discussed in the Engineering Analysis, the ARI-provided and reverse engineering manufacturer costs overlap considerably, especially at the lower efficiency levels in the split air conditioning class and in the middle efficiency levels of the split heat pump class. For the most part, the range between ARI's minimum and mean manufacturer costs completely encompasses the reverse engineering costs. This agreement is encouraging given the levels of uncertainty and variability involved in estimating representative manufacturer costs under different efficiency baselines across a diverse industry. These areas of convergence provide an excellent indication of the most likely costs of producing equipment utilizing today's technology under new standard levels.

Although the two sets of manufacturer costs do overlap, they disagree in some respects. In particular, there are significant differences in the breadth of the manufacturer cost distributions at each efficiency level. The Department assumes that vigorous competition in the market for minimum-efficiency equipment will compel manufacturers to meet new standards at similar incremental manufacturer costs, and that the market cannot sustain as broad a range of costs as ARI's results may imply. Furthermore, we cannot replicate ARI's maximum manufacturer costs without altering our underlying assumptions beyond what we currently consider justified.

The Department and ARI have worked diligently to identify possible sources of those discrepancies. The Department sincerely appreciates ARI's and its members' dedicated participation in the Engineering Analysis. Their relative manufacturer costs provide a solid

foundation for further analysis, and their frequent review of and input to our validation effort is a valuable addition to our understanding of the production and design issues associated with meeting higher standards. The Department will work with ARI to understand the remaining differences between our two sets of manufacturer costs.

With regard to the LCC, payback, and preliminary national impact analyses, three new spreadsheet tools were developed for this rulemaking in an effort to meet the objectives of the Process Rule. The first spreadsheet calculates LCC and payback. The second one calculates impacts of standards at various levels on shipments. The third calculates the NES and national net present values (NPV) at various standard levels. These spreadsheets and the results of the preliminary analysis were posted on the Department's web site on August 24, 1999. The preliminary results posted on the web consisted of two sets of data: one set based on the manufacturer costs submitted by ARI and the other set based on manufacturer costs developed through reverse engineering. The Department suggested that any errors in the web site materials be immediately brought to our attention for correction, and that any other comments be submitted during the 75 day period following publication of this Supplemental ANOPR.

The Department has reviewed the recommendations made by the Advisory Committee on Appliance Energy Efficiency Standards on April 21, 1998. (Advisory Committee, No. 96) These recommendations relate to using the full range of consumer marginal energy rates (CMER) in the LCC Analysis (replacing the use of national average energy prices), defining a range of energy price futures for each fuel used in the economic analyses and defining a range of primary energy conversion factors and associated emission reductions, based on the generation displaced by energy efficiency standards for each rulemaking. The Department has incorporated the use of consumer marginal energy rates and a range of future energy prices for the analysis that was conducted for this Supplemental ANOPR. The Department plans to incorporate the recommendations on energy conversion factors in future analyses for the Notice of Proposed Rulemaking (NOPR).

Today's Supplemental ANOPR pertains to central air conditioners and heat pumps and utilizes the framework described in Section II. Both written and verbal comments from the June 30, 1998 Framework Workshop are being addressed in this document. The commentor's name and organization are shown in parentheses after each comment. Written comments are further identified by a number assigned to each set of written comments received during the commentary period. Verbal comments are further identified by the page number in the workshop transcript. Written comments and the Workshop transcript are viewable at the Department's Freedom of Information Reading Room described previously.

3. Test Procedure

Section 7(b) of the Process Rule states that necessary modifications to test procedures concerning efficiency standards will be identified and proposed before issuance of an ANOPR. The residential central air conditioner and heat pump test procedure is currently being revised to improve its organization and ease of use, with a proposed rule expected in November, 1999. This revision of the test procedure is not expected to alter the measured efficiencies as determined under the existing test procedure. Therefore, the revised test procedure would not affect development of revised efficiency standards. For these reasons, revisions to the test procedure are not a "necessary modification" as that term is used in the Process Rule, but rather a routine update, and hence need not be proposed before issuance of the proposed rule for these standards.

II. Central Air Conditioner and Heat Pump Analyses

This section includes a general introduction to each analysis section and provides a discussion of issues relevant to energy conservation standards for central air conditioners and heat pumps.

The Department received a number of general comments from Energy Market & Policy Analysis (EMPA) regarding the analysis conducted for the rulemaking (EMPA, # 3). Some of these concern the rulemaking procedure, while others refer to the analytic methods, and are as follows: the methodology for evaluating standards is extremely complex and increasingly unrealistic; approaches, models, assumptions, data, and data sources need to be more detailed and should to be put out for public comment before issuance of the ANOPR; and inadequate consideration is given to the impact of standards on "real consumers" as EMPA believes that groups on the DOE Advisory Committee do not represent and protect the interests of "real consumers."

The Department appreciates the concerns expressed previously. The methods and approaches used for the analyses conducted for this Supplemental ANOPR are well described and have been released on the Department's web site prior to the issuance of this notice. Any questions or comments as to how to clarify the methodologies used in this rulemaking are always welcome and appreciated.

A. Preliminary Market and Technology Assessment

The preliminary market and technology assessment characterizes the relevant product markets and existing technology options including prototype designs.

1. Market Assessment

a. General

When initiating a standards rulemaking, the Department develops information on the present and past industry structure and market characteristics of the product(s) concerned. This activity consists of both quantitative and qualitative efforts to assess the industry and products based on publicly available information. Issues to be addressed include: (1) Manufacturer market share and characteristics; (2) trends in the number of firms; (3) the financial situation of manufacturers; (4) existing non-regulatory efficiency improvement initiatives; and (5) trends in product characteristics and retail markets. The information collected serves as resource material to be used throughout the rulemaking. For instance, historical product shipments and prices are used to help predict future prices and shipments. Market structure data are particularly useful in conducting the competitive impacts analysis.

b. Product Specific

The Department reviewed existing literature and interviewed manufacturers to get an overall picture of the residential central air-conditioning market in the United States. Industry publications and trade journals, government agencies, and trade organizations provided the bulk of the information, including: (1) Manufacturer market share; (2) shipments by capacity and efficiency level; (3) price distribution; (4) market saturation; and (5) distribution trends. The information described is discussed in the sections where it is used in the analysis.

Edison Electric Institute (EEI) commented that contractors should be interviewed when market assessments are being developed (EEI, # 2) while the

Oregon Office of Energy (OOE) requested the Department to gather information on trends in product characteristics and non-regulatory efficiency improvement initiatives, and to interview manufacturers of components (compressors, motor/fan assemblies, heat exchangers) on initiatives to improve system efficiency. (OOE, # 7) The Department relied predominantly upon literature searches and input from equipment manufacturers while developing its market assessment, but also interviewed national contracting organizations, independent contractors and component suppliers. Of course, this market assessment is preliminary, and any additional comments will be taken into consideration when the assessment is revised.

2. Technology Assessment

a. General

Information relating to existing and past technology options and prototype designs are typically used as inputs to determine what technologies manufacturers utilize to attain higher energy efficiency levels. In consultation with interested parties, the Department develops a list of technologies that can and should be considered. Initially, the technologies encompass all those considered to be technologically feasible and serve to establish the maximum technologically feasible design.

b. Product Specific

The Department based its list of technically feasible design options on design options included in a previous ANOPR (58 FR 47326, September 8, 1993). The Department then updated the list through consultation with manufacturers of components and systems, trade publications, and technical papers. Since many options for improving product efficiency are available in existing equipment, product literature and direct examination provided additional information. Further descriptions of the most current technologies are provided in the engineering section of the Preliminary TSD.

OOE asserted that all appropriate component and system technologies must be considered in the technology assessment, and that it should include microchannel heat exchangers and electrohydrodynamic enhancement technologies (OOE, # 7). Additional technologies were considered as set forth in the Technology Screening Analysis (section II.B.3) including such emerging technologies as microchannel heat exchangers, modulating compressors, and advanced variable speed motors and controls. Electrohydrodynamic enhancement technologies were not considered as they have yet to be publicly demonstrated in prototypical central air conditioner and heat pump designs.

3. Preliminary Baseline Shipments Forecast

a. General

The Department develops a preliminary baseline forecast of product shipments that assumes no new standards. This is an initial step in an iterative process. Subsequently, a more comprehensive baseline shipments forecast is prepared using a shipments model, superceding the preliminary forecast.

The baseline shipments forecast is used as an input to the National Benefits Analysis. To perform the National Benefits Analysis, a forecast of shipment-weighted product efficiencies is prepared to the year 2030. To assess the average impact on the affected consumer, a forecast of product shipments by efficiency level was prepared for the year a new standard would come into effect.

b. Product Specific

The Department prepared a baseline shipments forecast for central air conditioners and heat pumps. Data on historical product shipments guided preparation of the preliminary baseline shipments forecast.

The Oregon Office of Energy (OOE) pointed out that non-regulatory energy efficiency programs are on the wane, and that if these programs are to be considered in shipment forecasting, it must be quantifiably demonstrated how they will transform the market (OOE, #7). Information from parties involved in market-based initiatives for increasing the sales of high-efficiency models was reviewed, but provided no quantifiable measure of how these programs impact product efficiencies on a national basis. However, because the baseline forecast assumes an efficiency distribution of 10.7 SEER, based on current sales, the impact of market-based initiatives is implicit in the baseline forecast.

OOE also noted that since central air conditioning is not an essential appliance for most areas of the country, central air conditioning purchase price elasticities will likely be different than those used for forecasting shipments in other product rulemakings (OOE, #7). Since the shipments model used in this rulemaking was prepared specifically for central air conditioners and heat pumps, the Department believes this concern is addressed. The shipments model is further described in the Preliminary National Impacts Analysis discussion in section E.1.b.ii.

B. Screening Analysis

The Screening Analysis reviews various technologies with regard to whether they: (a) Are technologically feasible; (b) are impracticable to manufacture, install and service; (c) have an adverse impact on product utility or product availability; and (d) have adverse impacts on health and safety. The subsequent Engineering Analysis does not consider or incorporate technologies that do not pass these tests, regardless of whether the Engineering Analysis takes a Design Option approach or an Efficiency-level approach. Technologies that pass the Screening Analysis tests may be considered further to determine their potential cost and efficiency impacts. The Screening Analysis also identifies possible product classes and baseline equipment to serve as a basis for further analysis.

1. Product Classes

a. General

Product types are divided into classes using the following criteria: (a) The type of energy used; (b) capacity; and (c) performance-related features that affect consumer utility or efficiency. Different energy efficiency standards are applied to different product classes. In general, classes are defined using information obtained in discussions with appliance manufacturers, trade associations, and other interested parties.

b. Product Specific

As prescribed by the National Appliance Energy Conservation Act (NAECA), central air conditioners and heat pumps are each categorized into split and single package systems, giving four product classes. The analysis performed to date includes only products in these four product classes at a nominal 3 ton capacity. However, there may be justification for establishing additional classes including product types such as:

- Through-the-wall condensing units,
- Ductless split systems,
- High-velocity space-conditioning systems, and
- Vertical packaged, wall mounted.

The Department is also considering establishing new classes defined by the cooling or heating capacity of the equipment.

OOE felt that the addition of more classes may be reasonable. For example, mini-splits and combined space/water

heating systems might be considered as separate classes based on their characteristics and configuration constraints (OOE, #7).

EEI commented that the product classes be expanded to include gas-fired air-conditioning equipment. Gas-fired equipment would then not be included as a design option, but as an additional product class for which baseline models must be developed. (EEI, # 2) Although the Department appreciates EEI's comments, the NAECA definition of central air conditioners subsumes only certain types of electric driven systems. This rulemaking addresses only products covered by that definition, and thus, no consideration will be given here to developing standards for fuel driven technologies.

With regard to the additional product classes listed in this section, the Department is seeking input on whether they need to be established.

2. Baseline Equipment

a. General

The Department defines baseline equipment for each product class as the starting point for analyzing energy efficiency improvements. Baseline equipment are models with the minimum allowable energy efficiency specified by the NAECA. Such baseline equipment are typically "low-end" units that contain no premium features, e.g., noise reduction or appearance features.

b. Product Specific

Efficiency is the most important statistic required to establish the baseline model. Current minimum efficiency standards for split and single package system central air conditioners and central air conditioning heat pumps are 10.0 and 9.7 SEER, respectively. The current minima for the heating performance of split and single package central air conditioning heat pump systems are 6.8 and 6.6 HSPF, respectively. The Department used the split system minimum efficiency standards as the baseline efficiency for each of the above classes. If additional classes are created, the Department will apply the appropriate existing standard as the baseline efficiency for that class.

OOE agreed with the Department's intent to use the efficiency of products that just meet the current minimum NAECA requirements as the baseline efficiency. (OOE, #7)

3. Technology Screening

a. General

An initial list of efficiency enhancement options is developed from the technologies identified in the technology assessment. Then the Department, in consultation with interested parties, reviews the list to determine if they are practicable to manufacture, install and service, would adversely affect product utility or product availability, or would have adverse impacts on health and safety. Efficiency enhancement options not eliminated in the screening process are considered further in the Engineering Analysis.

b. Product Specific

Compiling a list of efficiency enhancement options provided an understanding of the technologies available to manufacturers to improve equipment efficiency. This understanding also helped the Department estimate maximum technologically feasible efficiency levels. For split air conditioners, the Department believes, based on a preliminary analysis, that 20 SEER is the highest efficiency level attainable by 2006 on a commercially practicable basis using design and technology options that pass the screening criteria. These include the following: enhanced and oversized heat transfer surfaces; variable or multispeed or variable capacity compressors; high efficiency compressors; electrically-commutated, variable-speed fan or blower motors, and thermostatic or electronic expansion valves. We assumed that the efficiency of compressors, motors, and heat transfer surfaces would improve slightly prior to the effective date of any new rule. The 20 SEER level does not depend on any emerging technologies, because the Department believes that, although those technologies could reduce the cost of the equipment in the SEER 13 to SEER 17 range compared to established technologies, the emerging technologies will not advance the maximum attainable efficiency level.

The analysis of manufacturing costs and prices was based only on technologies and designs available in mass produced products as of 1998. The Department considered the potential cost impact of emerging technologies in a separate analysis described in the Preliminary TSD. The emerging technologies that pass the screening criteria include:

- Microchannel heat exchangers
- Advanced compressors
- Variable speed motor controls

The American Council for an Energy Efficient Economy (ACEEE), OOE, Modine Manufacturing (Modine), and York International (York) all provided comments pertaining to emerging technologies. Both ACEEE and OOE suggested that all advanced or emerging technologies be considered (ACEEE, #5; Steve Nadel, ACEEE, Transcript, pp 80–81; OOE, #7) . ACEEE identified improved compressors and microchannel heat exchangers. ACEEE also stated that emerging technologies could be analyzed in the context of a reverse engineering analysis. Modine stated that PF (microchannel) heat exchangers are a viable technology for improving equipment efficiency, but their acceptance should be driven by market needs rather than through a desire to push the technology into the market (Modine, #1). Bristol Compressors (Bristol) is now bringing to market the Twin-Single (TS) compressor, a reciprocating compressor that reduces system capacity by de-activating one or more pistons under part-load operating conditions. Bristol states that this technology can increase central air conditioner and heat pump efficiency from either 10 to 12 SEER or from 12 to 14 SEER. With a variable-speed indoor blower, the TS can increase system efficiency from 10 to 14 SEER (York, #4).

In contrast, an industry representative contended that emerging technologies would already be in the marketplace if they were feasible and that, in the context of conducting an Engineering Analysis based on the use of the efficiency-level approach, emerging technologies should not be considered until they are shown to radically change the shape of the industry cost curve. (Jim Crawford, The Trane Company (Trane), Transcript, pp 81,87) ARI stated that in developing an aggregate industry cost curve, emerging technologies may or may not be included depending on whether manufacturers submitting data include them in their cost estimates (Ted Leland, ARI, Transcript, pp 85).

The Department has performed a preliminary assessment of the potential impact of these technologies on the manufacturing costs of air-conditioning equipment and is seeking comment on the following: Whether these emerging technologies do in fact pass the screening criteria; the potential impact of these technologies on manufacturing cost, operating cost, and price; whether additional emerging technologies should be considered; and whether the maximum technologically feasible level is commercially practical.

The Department notes that it is not considering fuel-driven technologies, such as gas-fired engine driven heat pumps, absorption heat pumps, and Stirling refrigeration cycles, as design options for central air conditioners and heat pumps. NAECA defines a central air conditioner and heat pump, in part,

as being "powered by single phase electric current." This rulemaking concerns only products that meet the NAECA definition. Thus, fuel-driven technologies are precluded from consideration here.

C. Engineering Analysis

The purpose of the Engineering Analysis is to estimate the energy savings potential from increased equipment efficiency levels and the costs of achieving those levels, compared to the baseline equipment. The increased efficiency levels are associated with increased production costs. The efficiency/cost relations developed in the Engineering Analysis are combined with end-user costs in the LCC Analysis.

1. Energy Savings Potential and Production Costs

a. General

The Engineering Analysis estimates the energy savings potential of the individual or combinations of design options not eliminated in the previous Screening Analysis. The Department, in consultation with stakeholders, uses the most appropriate means available to determine energy consumption, including an overall system approach or engineering modeling. Ranges and uncertainties in performance are established.

The Engineering Analysis involves adding individual or combinations of design options to the baseline equipment. A cost-efficiency relationship is developed to show the manufacturer cost of achieving increased efficiency. The efficiency levels corresponding to various design option combinations are determined from manufacturer data submittals and from DOE engineering calculations.

EPCA requires that, any new or amended standard, "shall be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified." EPCA, section 325(l)(2)(A), 42 U.S.C. 6295(l)(2)(A). An essential role of the Engineering Analysis consists of identifying the maximum technologically feasible level. The maximum technologically feasible level is one that can be reached by the addition of efficiency improvements and/or design options, both commercially feasible or in working prototypes, to the baseline equipment. The Department believes that the design options must have been physically demonstrated in at least a prototype form to be considered technologically feasible.

Three methodologies can be used to generate the manufacturing costs needed for the Engineering Analysis. These methods include: (1) The design-option approach, reporting the incremental costs of adding specific design options to a baseline model; (2) the efficiency-level approach, reporting relative costs of achieving energy efficiency improvements; and/or (3) the reverse engineering or cost-assessment approach which requires a "bottoms-up" manufacturing cost assessment based on a detailed bill of materials for models that operate at particular efficiency levels. The Department considers public comments in determining the best approach for a rulemaking.

If the efficiency-level approach is used, the Department will select appropriate efficiency levels for data collection on the basis of: (1) Energy savings potential identified from engineering models; (2) observation of existing products on the market; and/or (3) information obtained for the technology assessment. Stakeholders will be consulted on the efficiency-level selection.

The use of a design-option approach provides useful information such as the identification of potential technological paths manufacturers could use to achieve increased product energy efficiency. It also allows the use of engineering models to simulate the energy consumption of different design configurations under various user profiles and applications. However, the Department recognizes that the manufacturer cost information derived in the design-option approach does not reflect the variability in design strategies and cost structures that can exist among manufacturers. Therefore, the Department may derive additional manufacturing cost estimates from other approaches developed in consultation with interested parties.

The reverse engineering or cost-assessment approach can be used to supplement the efficiency-level or design option approaches under special circumstances when data is not publically available for proprietary reasons, the product is a prototype and/or the data is not provided by the manufacturers.

b. Product Specific

The Department, in consultation with stakeholders, has used both overall efficiency level and reverse engineering approaches. The efficiency-level analysis relies upon manufacturer cost submittals from ARI while the reverse engineering analysis relies upon manufacturer costs developed by Arthur D. Little, Inc. (ADL) for the Department. The design options selected in the Screening Analysis helped to establish potential efficiency improvements.

Manufacturing cost estimates under the efficiency-level approach were submitted by individual manufacturers to ARI. For purposes of ensuring manufacturer confidentiality, ARI submitted to the Department minimum, maximum, and shipment-weighted averages of incremental manufacturer cost increases associated with various efficiency levels. In the case of the reverse engineering approach, ADL derived manufacturing cost estimates from detailed incremental cost data enabling them to establish costs for labor, purchased parts and material, shipping/packaging, and investment. Both sets of manufacturer costs were input into the Engineering Analysis and cost-efficiency relationships were developed to show the manufacturing costs of achieving various levels of increased efficiency.

As discussed earlier in the section on Process Improvement, attempts were made to reconcile differences between the ARI and the preliminary reverse engineering production cost data. Feedback from the industry resulted in revising the reverse engineering production costs of such components as outdoor cabinet (labor and materials), indoor coil (materials) and refrigerant materials. Packaging and shipping costs were also revised. The Department is continuing consultations with manufacturer representatives regarding other industry suggested issues, including manufacturing production volume, copper and aluminum raw material costs, compressor costs, indoor and outdoor coil costs, and freight costs. For more detail on how the ARI and the reverse engineering costs were developed, and our revisions to the reverse engineering costs, please refer to the Preliminary TSD. As noted earlier, these revisions helped to reconcile some of the differences between the ARI production costs and the reverse engineering production costs, but remaining differences between the two sets of manufacturer cost require further examination.

i. Efficiency-Level Approach

The efficiency-level approach establishes the relationship between manufacturer cost and increased efficiency at predetermined efficiency levels. It has the distinct advantage of being simple and straight forward. Manufacturers typically provide incremental manufacturer cost data for

incremental increases in efficiency. Cost-efficiency curves can be easily constructed to clearly identify at what point manufacturers are incurring significant costs to raise efficiency. Additionally, the efficiency-level approach allows manufacturers the ability to supply detailed cost data without revealing their unique design strategies for achieving increased efficiency levels.

But the simplicity of the efficiency-level approach is also its primary drawback. Namely, since technological details are not provided, it is extremely difficult to verify whether the costs provided for each specific efficiency level are truly representative of the costs for that level. In addition, prototypical designs become difficult to evaluate and maximum technologically feasible designs are then difficult to ascertain. As a result, some other type of analysis is likely needed in order to verify the accuracy of the costs supplied through the efficiency-level approach.

In reply to the Department's request to stakeholders at the 1998 Framework Workshop regarding the most appropriate approach which should be pursued for the Engineering Analysis, some industry members stated their support for the efficiency-level approach (Ted Leland, ARI; David Lewis, Lennox International Inc (Lennox), Transcript, pp 55–56, 61, 76). More specifically, these industry members stated their intention to provide costs under the efficiency-level approach as one cost-efficiency curve that would represent an aggregate of the entire industry, i.e., a smooth curve relating the relative manufacturer cost increases associated with increased efficiency. Industry indicated that the curve would represent the 90th percentile, i.e., the cost efficiency level at which 90% of manufacturers would be able to produce product.

ACEEE and the OOE stated they would be willing to accept the efficiency-level approach only if certain conditions were met (ACEEE, #5, OOE, #7; Steven Nadel, ACEEE, Transcript, pp 65-67; Charlie Stephens, OOE, Transcript, pp 65–67). For example, in addition to providing costs at the 90th percentile, costs at multiple percentiles should be reported. Having the full distribution of costs allows for a more meaningful probability analysis to be conducted. With regard to heat pumps, costs should be collected for achieving different HSPF levels in addition to providing costs at different SEER levels. ACEEE and OOE stated that verification of the costs submitted is extremely important and they suggest that DOE staff members or consultants be permitted to inspect raw data in order to ascertain its reasonableness. OOE suggested that a reverse engineering or design option approach be used to verify the cost data, although they prefer the design option approach. ACEEE also contended that a design approach could be used to verify cost data. ACEEE stated that it is more important to verify costs submitted for high-efficiency equipment (14 to 15 SEER) as current market prices do not reflect mature market costs. Both the Consortium for Energy Efficiency and the Pacific Gas and Electric Company (PG&E) supported ACEEE's conditions for adopting the efficiency-level approach (CEE, #6; PG&E, #8). In addition, PG&E believed that the cost of efficiency upgrades for heat pumps will be similar to air conditioners since their components are nearly identical (PG&E, #8).

On the issue of cost verification, one industry representative contended that if industry provided disaggregated cost data it would allow for the determination of the sources of the data and, thus, result in violation of anti-trust laws. (Jim Crawford, Trane, Transcript, pp 70–72) In any case, he stated that if the reverse engineering approach were used and it validated the aggregated industry cost-efficiency curve the issue of cost verification would be a moot point.

The Department selected two approaches, one of which was the efficiency-level approach, for conducting the Engineering Analysis. Specific efficiency levels were selected by the Department based on consultations with stakeholders. In the case of central air conditioners, efficiency levels were based upon SEER. Efficiency levels for heat pumps were based upon both the cooling season SEER and the heating season HSPF efficiencies.

ARI collected data from individual manufacturers and, rather than providing only costs at the 90th percentile, submitted minimum, maximum, and shipment-weighted mean incremental manufacturer costs for five distinct efficiency levels (11, 12, 13, 14, and 15 SEER). ARI also provided incremental manufacturer costs for heat pumps for the same five SEER levels. Since heat pumps are also rated for their heating performance using the HSPF efficiency descriptor, the Department developed a simple relationship between the two efficiency descriptors for purposes of setting an HSPF standard in addition to an SEER standard. The Department assumed the following set of heating seasonal performance factors corresponding to the above five SEER levels: 7.1, 7.4, 7.7, 8.0, and 8.2 HSPF).

Tables 2 to 5 show the incremental manufacturer costs, also called manufacturer cost multipliers, which ARI submitted for the four primary product classes for systems with cooling capacities of approximately 3 tons (36,000 Btu/hr). The manufacturer cost multipliers are used together with the baseline manufacturer cost (which will be presented in Section II.C.2.b.) to determine the manufacturer costs for each efficiency level. For example, the mean manufacturer cost multiplier for an 11 SEER split system air conditioners from Table 2 is 1.16 and the baseline manufacturer cost for a split system air conditioner is $454. Thus, the mean manufacturer cost for an 11 SEER split system air conditioner is the product of the baseline manufacturing cost ($454) and the cost multiplier (1.16), or $527. While the manufacturer cost multipliers in Tables 2 to 5 included low and high values as well as mean values, because the probability distribution for the cost data at a given standard level are unknown, only the mean values were subsequently used in the LCC Analysis (section II.D).

TABLE 2.—SPLIT SYSTEM AIR CONDITIONERS—ARI MANUFACTURER COST MULTIPLIERS

SEER	Low	Mean	High
10	.....	1.00	.....
11	1.03	1.16	1.30
12	1.09	1.36	1.55
13	1.30	1.63	1.90
14	1.60	2.03	3.00
15	1.81	2.40	3.50

TABLE 3.—SPLIT SYSTEM HEAT PUMPS—ARI MANUFACTURER COST MULTIPLIERS

SEER/HSPF	Low	Mean	High
10/6.8	.....	1.00	.....
11/7.1	1.05	1.10	1.15
12/7.4	1.11	1.24	1.35
13/7.7	1.17	1.44	1.66
14/8.0	1.30	1.64	1.88
15/8.2	1.75	2.09	2.52

TABLE 4.—SINGLE PACKAGE AIR CONDITIONERS—ARI MANUFACTURER COST MULTIPLIERS

SEER	Low	Mean	High
10	.....	1.00	.....
11	1.03	1.19	1.27
12	1.15	1.30	1.40
13	1.40	1.63	1.75
14	1.59	1.87	2.00

TABLE 4.—SINGLE PACKAGE AIR CONDITIONERS—ARI MANUFACTURER COST MULTIPLIERS—Continued

SEER	Low	Mean	High
15	1.89	2.23	2.92

TABLE 5.—SINGLE PACKAGE HEAT PUMPS—ARI MANUFACTURER COST MULTIPLIERS

SEER/HSPF	Low	Mean	High
10/6.8	.....	1.00	.....
11/7.1	1.06	1.14	1.25
12/7.4	1.06	1.28	1.50
13/7.7	1.45	1.60	1.90
14/8.0	1.65	1.75	2.30
15/8.2	1.93	2.13	2.47

In response to EEI's comment that the Engineering Analysis should include the impact of any standard on the EER rating of the equipment (EEI, #2), the Department plans on conducting a Utility Impact Analysis for the Notice of Proposed Rulemaking (NOPR). The Utility Impact Analysis will capture the peak power impacts of an increased SEER standard, which EEI is alluding to in their comment regarding the EER.

ii. Reverse Engineering Analysis

As mentioned in the previous section, a reverse engineering approach was conducted in parallel with the efficiency-level approach to validate the ARI production cost data. The use of a component-based technology-costing (reverse engineering) approach provides useful information including the identification of potential technological paths manufacturers could use to achieve increased product energy efficiency. Under this type of analysis, actual equipment on the market is physically analyzed, *i.e.*, dismantled, component-by-component to determine what technologies and designs manufacturers employ to increase efficiency. Independent costing methods or manufacturer and component supplier data are then used to estimate the costs of the components. This approach has the distinct advantage of using "real" market equipment to establish the technologies which manufacturers use as the basis for estimating the cost to reach higher efficiencies.

The primary disadvantage of reverse engineering is the time and effort required to analyze "real" equipment. Several models from a diverse range of manufacturers may have to be assessed in order to ensure that an accurate representation of technological paths for increasing efficiency are identified. In addition, since only equipment in the market is analyzed, prototypical designs may not be captured by the analysis, thus making it difficult to establish maximum technologically feasible designs.

The industry contends that a reverse engineering approach could be used to verify the cost data submitted through the efficiency-level approach but DOE must first define the acceptable level of variability between the costs that are developed through each approach. (Jim Crawford, Trane; David Lewis, Lennox, pp 110–113) Industry also maintained that there is wide variation in production costs between manufacturers due to the levels of services that are provided with the purchase of the equipment. OOE stated that reverse engineering could be used to validate the efficiency approach (OOE, #7) while ACEEE stated that reverse engineering has the benefit of analyzing advanced technologies. (Steven Nadel, ACEEE, pp 80–81)

The Department carried out the reverse engineering approach to validate the cost estimates provided by ARI from the efficiency-level approach. The manufacturer costs of 71 equipment models at eight efficiency levels were estimated. Three 3-ton models were torn down: (1) A 10 SEER split system cooling-only condenser, (2) a 10 SEER packaged heat pump, and (3) a 12 SEER split system heat pump condenser. Manufacturer submissions, catalog data, and the ARI Product Attributes Database provided design information on the other 68 models. For split system air conditioners, cost estimates were developed for whole-number efficiency levels ranging from 10 to 17 SEER. For split system heat pumps, cost estimates were developed for whole-number efficiency levels ranging from 10 to 16 SEER. The heating efficiencies corresponding to each of the whole-number SEER levels were: 6.8 HSPF for 10 SEER, 7.1 HSPF for 11 SEER, 7.4 for 12, 7.7 for 13, 8.0 for 14, 8.2 for 15, and 8.4 for 16. A limited set of models were analyzed for single package systems. For single package air conditioners cost estimates were developed for 10, 12, and 13 SEER efficiency levels while for single package heat pumps cost estimates were developed for 10 SEER/6.8 HSPF and 12 SEER/7.4 HSPF efficiency levels.

Tables 6 to 9 show the manufacturer cost multipliers developed by reverse engineering for the four primary product classes. Probability distributions rather than single point-values were used in the LCC analysis. The low and high values shown in the following represent the 10th and 90th percentiles, respectively, of the distributions.

TABLE 6.—SPLIT SYSTEM AIR CONDITIONERS—REVERSE ENGINEERING MANUFACTURER COST MULTIPLIERS

SEER	Low	Average	High
10	0.96	1.00	1.05
11	1.08	1.13	1.18
12	1.20	1.25	1.31
13	1.35	1.42	1.48
14	1.65	1.73	1.81
15	1.87	1.95	2.04
16	1.98	2.07	2.17
17	2.13	2.23	2.33

TABLE 7.—SPLIT SYSTEM HEAT PUMPS—REVERSE ENGINEERING MANUFACTURER COST MULTIPLIERS

SEER/HSPF	Low	Average	High
10/6.8	0.96	1.00	1.05
11/7.1	0.97	1.01	1.06
12/7.4	1.05	1.10	1.15
13/7.7	1.29	1.35	1.41
14/8.0	1.57	1.65	1.72
15/8.2	1.79	1.87	1.96
16/8.4	1.92	2.01	2.10

TABLE 8.—SINGLE PACKAGE AIR CONDITIONERS—REVERSE ENGINEERING MANUFACTURER COST MULTIPLIERS

SEER	Low	Average	High
10	0.96	1.00	1.05
11	.....	.....	.....
12	1.08	1.14	1.19
13	1.33	1.40	1.46

TABLE 9.—SINGLE PACKAGE HEAT PUMPS—REVERSE ENGINEERING MANUFACTURER COST MULTIPLIERS

SEER/HSPF	Low	Average	High
10/6.8	0.96	1.00	1.05
11/7.1	.....	.....	.....
12/7.4	1.11	1.16	1.22

iii. Design Option Approach

Industry representatives contended that the design option approach can only be conducted by industry personnel with years of experience, but the industry is not willing to provide this expertise because of the expense involved. (Jim Crawford, Trane; David Lewis, Lennox; Ted Leland, ARI, Transcript, pp105–106) The industry also stated that DOE should not provide funds for others to carry out this

approach because they lack the necessary expertise.

In contrast, ACEEE and OOE believe that the design option approach has merits (Steven Nadel, ACEEE, Transcript, p 108; OOE, #7). ACEEE stated that it can be useful for evaluating new technologies, while OOE believes it is the approach of choice for conducting the Engineering Analysis, since the impact of any single technology on cost and efficiency is explicitly stated.

The Department used only the efficiency level and reverse engineering approaches to establish the manufacturer costs of achieving increased efficiency levels for the following reasons: (1) Central air conditioners and heat pumps are complex products; (2) a wide variety of options exist to improve their efficiency; (3) these options interact in complex ways; and (4) the industry strongly opposed use of the design option approach and was willing to provide data for the efficiency-level approach.

iv. Outside Regulatory Changes Affecting the Engineering Analysis

There sometimes occur regulatory changes outside of the EPCA efficiency standards process that can affect the manufacture of a product. In some cases, such changes affect the energy efficiency of a product. The Department has attempted to identify all regulatory issues outside the efficiency standards process that would influence the Engineering Analysis.

The central air conditioning and heat pump industry faces the impending phase-out of HCFC–22, the refrigerant used in almost all the equipment currently being installed in the U.S. The phase-out of HCFC–22 begins in the year 2010, and the industry has responded by conducting in-depth analyses of various HCFC–22 alternatives. The most notable effort to date has been the ARI's Alternative Refrigeration Evaluation Program (AREP). Under AREP, several HCFC–22 alternatives were identified, and their effects on equipment capacity, efficiency, and longevity, and other variables were established.

Two primary candidates have emerged from the field of alternatives: R–410A and R–407C. Although R–410A shows promise of being able to significantly raise equipment efficiencies, its high volumetric capacity requires systems to be redesigned to handle the significantly higher discharge pressures. R–407C is a virtual drop-in replacement, but results in an efficiency degradation of 5–10% relative to HCFC–22.

In response to the issue of alternative refrigerants for HCFC–22, industry representatives stated that manufacturing costs that will be submitted will attempt to factor in the impact of switching to R–410A. (Ted Leland, ARI, Transcript, pp 287–288; Jim Crawford, Trane, p 288; David Lewis, Lennox, p 290, p 297) In response to a schedule presented at the 1998 Framework Workshop showing that a new minimum standard would become effective in the year 2005, the industry representatives stated that the effective date of any new efficiency standard should coincide with the phase-out date of HCFC–22 (the year 2010) or be in the 2006 to 2010 time frame. Additionally, they warned that efficiency gains through the use of R–410A are not as great as first believed.

In response to industry's proposal to postpone the effective date of the standard, both ACEEE and OOE stated that DOE should make new standards effective in 2005. (ACEEE, #5; OOE, #7; Steven Nadel, ACEEE, Transcript, p 298; PG&E, #8) In their view, any delay will compromise U.S. commitments to reduce global warming gases. OOE offers two approaches for completing the rulemaking on-schedule: (1) Base the rulemaking analysis on replacement refrigerants or (2) base the analysis on HCFC–22 and use a correction factor to adjust equipment performance based on the use of alternative refrigerants. PG&E adds that an effective date of 2005 will allow any new building standards proposed by the California Energy Commission (CEC) to include the beneficial impact of higher-efficiency air conditioners. PG&E states that if standards are delayed to 2010, then over 500,000 new California dwellings would be significantly less efficient.

The Department has determined that the phase-out date for HCFC–22 is far enough in the future that it will not affect a manufacturer's ability to meet any new efficiency standards, whether using HCFC–22 before the phase-out, or using alternative refrigerants before and after the phase-out. The Department does not plan to delay the effective date of any new standards to coincide with the phase-out date of HCFC–22. The Engineering Analysis has therefore been based on the assumption that equipment will use HCFC–22. However, the Department recognizes that equipment design changes to accommodate alternate refrigerants may alter the manufacturing cost-efficiency relationship developed for HCFC–22 equipment. The Department welcomes input regarding the analysis of equipment designed for alternate refrigerants.

Other non-regulatory issues of concern to the industry include the need to make systems increasingly tighter to prevent refrigerant leaks due to the use of HCFC-based refrigerants (David Lewis, Lennox, Transcript, p 298), and international standardization of test procedures. (Jim Crawford, Trane, Transcript, pp 298–299). The Department has not explicitly addressed these concerns in its current analysis but welcomes any comments as to how to address these issues in the course of the rulemaking.

2. Manufacturing Costs

a. General

In addition to being inputs to the Engineering Analysis, manufacturing costs are used as the means of determining retail prices, and are needed for the manufacturer impact analysis.

b. Product Specific

Two sets of manufacturing costs were prepared. Using an efficiency-level approach, ARI collected data from individual manufacturers and submitted incremental manufacturing cost estimates. The Department also conducted a reverse engineering analysis to determine manufacturing costs. This analysis included an assessment of uncertainty and variability among manufacturers.

Baseline manufacturer costs, *i.e.*, the costs associated with producing equipment with efficiencies of 10 SEER, were also developed through the reverse engineering analysis. Table 10 shows the baseline manufacturer costs developed for the four primary product classes for systems with cooling capacities of approximately 3 tons (36,000 Btu/hr). Note that for split system air conditioners, two costs were developed; one for systems sold without indoor blowers and the another for systems sold with indoor blowers. (A split system air conditioner is usually sold without an indoor blower when the air conditioner's indoor unit is installed in conjunction with a heating furnaces that is equipped with a blower). The uncertainty and variability of the baseline costs are noted in the manufacturer cost multipliers derived in the reverse engineering analysis (Tables 6 to 9) in the rows identified as 10 SEER/6.8 HSPF.

TABLE 10.—BASELINE MANUFACTURER COSTS

Product Class	Without blower	With blower
Split System A/C	$367	$454

TABLE 10.—BASELINE MANUFACTURER COSTS—Continued

Product Class	Without blower	With blower
Split System Heat Pump	.....	615
Single Package A/C	.....	534
Single Package Heat Pump	.....	589

i. Characterizing Uncertainty

Consistent with the Process Rule, DOE places a range around the average manufacturing costs of achieving various efficiency levels. The OOE concurs with DOE's plan for dealing with uncertainty and variability in manufacturer cost estimates. (OOE, #7) The ranges of costs are used to generate retail prices for the consumer LCC Analysis, and are used in the Industry Cash Flow Analysis.

ARI collected data from manufacturers and developed a shipment-weighted mean, along with minimum and maximum cost multipliers for each efficiency level to account for variability and uncertainty. Since the actual distribution of manufacturer costs were not provided to the Department, only the shipment-weighted means were used in the calculation of retail prices and, in turn, the LCCs.

In conducting the reverse engineering approach, the Department developed a range of cost estimates for each efficiency level. For each efficiency level in each product class, the range of cost estimates were approximated by multiplying the mean value by a uniform distribution (from 95% of the mean to 105% of the mean) and a normal distribution (centered on the mean, with a standard deviation of 1.9%). The resulting cost distributions were then used in the calculation of retail prices and, in turn, the LCCs.

ii. Variability in Cost Among Manufacturers

The Department is committed to assessing the differential impacts of standards on different manufacturers. The results are used as inputs for the sub-group analysis of manufacturing impacts, which entails calculating cash flows separately for each class of manufacturer.

In previous analyses for other appliances, manufacturing costs submitted to DOE have demonstrated large variability. In line with the Department's preference, ARI therefore collected cost data disaggregated by manufacturer, although, as discussed earlier, ARI provided to the Department only aggregated shipment-weighted manufacturer costs. Under the efficiency-level approach, this same disaggregated company-specific cost information developed for the Engineering Analysis can be used to perform Government Regulatory Impact Analysis for each manufacturer or manufacturer subgroup. These aggregated data, however, were insufficient to generate distributions of costs by manufacturer. Therefore, only mean values were used in the subsequent LCC Analysis.

iii. Proprietary Design

The Department considers in its analysis all design options that are commercially available or present in a working prototype, including proprietary designs. OOE stated that designs meeting the stated criteria of a proprietary design should be analyzed as a design option, providing the example of the microchannel heat exchanger (OOE, #7). Proprietary designs are considered in the Department's engineering and economic analyses. The Department looked at the potential impact of proprietary heat exchanger and compressor designs plus any proprietary designs that were part of equipment which were analyzed in the course of the reverse engineering analysis.

The Department considered the potential impact of proprietary designs as part of its preliminary assessment of design options. Its initial conclusion is that the inclusion of proprietary designs will not materially affect the results of the Engineering Analysis because equipment can achieve the same efficiencies competitively using non-proprietary designs. The Department intends to continue examining this issue during the Manufacturing Impact Analysis and welcomes input on the appropriateness of considering proprietary designs.

D. Life-Cycle Cost (LCC) and Payback Analysis

In determining economic justification, EPCA directs the Department to consider a number of different factors, including the economic impact of potential standards on consumers. EPCA also establishes a rebuttable presumption that a standard is economically justified if the additional cost of purchasing a product, attributed to the standard, is less than three times the value of the first year energy cost savings. EPCA, section 325(o)(2)(B)(iii), 42 U.S.C. 6295 (o)(2)(B)(iii).

To address these provisions the Department calculates changes in LCCs to the consumers that are likely to result from the proposed standard, as well as two different simple payback periods, i.e., distribution of payback periods, and a payback period calculated for purposes of the rebuttable presumption clause. The effects of standards on individual consumers include changes in operating expenses (usually lower) and changes in total installed cost (usually higher). The net effect is analyzed by calculating the change in LCC as compared to the base case. The base case manufacturing cost is determined in the reverse engineering analysis. The LCC calculation considers installed consumer cost (equipment purchase price plus installation cost), operating expenses (energy, repair, and maintenance costs), appliance lifetime, and discount rate. The LCC Analysis is performed from the perspective of the consumer.

At the ANOPR stage, the Department generates LCC and payback period results as probability distributions using a simulation based on Monte-Carlo methods, in which inputs to the analysis consist of probability distributions rather than single-point values. As a result, the Monte Carlo analysis produces a range of LCC and payback period results rather than single-point values. A distinct advantage of this type of approach is that the percentage of consumers achieving LCC savings or attaining certain payback values due to an increased efficiency standard can be identified in addition to the average LCC savings or average payback for that standard. Because the analysis is being conducted in this manner, the uncertainties associated with the various input variables (as described in the next paragraph) can be expressed as probability distributions. During the post-ANOPR consumer analysis, the Department will evaluate additional parameters, and prepare a comprehensive assessment of the impacts on sub-groups of consumers.

The LCC and one of the payback periods (distribution of payback periods) are calculated using the LCC spreadsheet model developed in Microsoft Excel for Windows 95, combined with Crystal Ball (a commercially available software program), based on probability distributions of input variables. The second payback, the Rebuttable payback based on DOE test procedure assumptions for estimating annual energy consumption, is not calculated using Crystal Ball and input probability distributions, but is instead based on the spreadsheet option allowing single-values for the input variables.

Based on the results of the Engineering and LCC Analyses, DOE selects candidate standard levels for a more detailed analysis. The range of candidate standard levels typically includes: (1) The most energy-efficient combination of design options or most energy-efficient level; (2) the efficiency level with the lowest LCC; and (3) an efficiency level with a payback period of not more than three years. Additionally, candidate standard levels that incorporate noteworthy technologies or fill in large gaps between efficiency levels of other candidate standards levels may be selected.

The payback, for purposes of the rebuttable presumption test, attempts to capture the payback to consumers affected if a new standard is promulgated. It compares the purchase cost and energy use of central air conditioners and heat pumps consumers would buy in the year the standard becomes effective with what they would buy without a new efficiency standard. In some cases, this means comparing the baseline energy efficiency and cost with those associated with the standard level. In other cases, the standard level would also be compared to a higher-efficiency appliance purchased without new standards (but at a lower efficiency than the trial standard level). A weighted average of these payback periods, in the year a new standard level would take effect, is considered the payback for purposes of the rebuttable presumption clause.

In addressing the usefulness of the LCC Analysis, an industry representative asserted that LCCs have no relationship to market dynamics, have no relationship to what the customer will buy, and have no relationship to the cost effectiveness of any efficiency standard. (Jim Crawford, Trane, Transcript, pp 135) But section 325(l)(2)(B)(I)(II) of EPCA requires the Department to consider the savings and costs of standards, and virtually mandates performance of an LCC Analysis.

One commenter during the Framework Workshop stated that tax credits [incentives] for consumer purchases of high efficiency equipment should be included in the LCC Analysis. (Transcript, pp 243) The Department has not considered tax incentives in the LCC Analysis being presented here, because there are no such tax benefits available under Federal law. However, the Department seeks specific information from stakeholders regarding whether the Department should consider LCC analyses with alternative tax incentive scenarios.

1. LCC Spreadsheet Model

a. General

This section describes the LCC spreadsheet model used for analyzing the economic impacts of possible standards on individual consumers. The LCC spreadsheet model is available on the Department's web site for use by interested parties who wish to modify the assumptions in the models and view the results of those changes. The LCC Analysis is conducted using a spreadsheet model developed in Microsoft Excel for Windows 95, combined with Crystal Ball. The Model uses a Monte Carlo simulation to perform the analysis considering uncertainty and variability. The spreadsheet is organized so that ranges (distributions) can be entered for each input variable needed to perform the calculations.

The Department wishes to consider the impacts of varying regional climate, energy prices, and consumer behavior on LCCs and payback periods. Calculations were therefore based on a Monte Carlo uncertainty analysis in which variables are represented by probability distributions of values. With this approach, the Department could express LCCs and payback periods as national means, with ranges that fully account for regional variations in climate, electricity cost, and behavior. The spreadsheet has the capability to sample subsets of households for the analysis of particular sub-populations, e.g., low income households, and will be used for Consumer Sub-Group Impact Analysis prior to issuance of the NOPR.

An industry representative commented that an LCC Analysis based upon uncertain or distributional inputs is suspect and totally unverifiable if the uncertainty of the inputs cannot be clearly defined. (Jim Crawford, Trane, Transcript, pp 252–254) He suggested that a simpler approach be used. Others supported the use of a distributional LCC Analysis, commenting that this approach is better than what has been used in prior rulemakings. (Charles Stephens, OOE; Michael Martin, CEC, Transcript, pp 256) EEI stated that the use of ranges of values for appliance price and life, fuel costs, energy usage, and discount rates follows recommendations provided by the Appliance Standards Advisory Committee. (EEI, #2) OOE asserts that use of a distributional analysis creates potential pitfalls in accounting for regional climatic and energy price variations. Use of traditional methods for screening out design options based upon increased LCC or excessively long payback periods will be more difficult as results for one region may demonstrate that a design option is economically attractive while another region does not. DOE must establish some basis for rejecting or retaining design improvements. (OOE, #7) Although the use of distributional LCC Analysis may be more complex, the Department has decided it is the best approach to use to capture the uncertainty and variability inherent in input variables. In response to OOE's concerns for selecting appropriate standard levels, the Department will keep in mind their concerns when selecting appropriate standard levels for the NOPR.

In order to generate the distributions required for the analysis, the Department used the Energy Information Administration's (EIA's) *Residential Energy Consumption Survey* (RECS). The 1993 RECS is based on a representative sample of 7,111 households from the population of all primary, occupied residential housing units in the United States. Each household is weighted so that the data properly represent the 96.6 million households in the 50 states and the District of Columbia reported in the 1993 RECS.

RECS estimates end-use energy consumption and reports the age of equipment as well as household energy prices. Of the over 7,000 households surveyed in RECS, 2550 households representing 35.6% of the housing population have a central air conditioner while 651 households representing 8.3% of housing population have an electric heat pump. The distribution of LCC and payback results are generated by performing an LCC and payback calculation for each RECS household with a central air conditioner or heat pump. For example, in conducting the LCC Analysis for a 12 SEER standard level for central air conditioners, all RECS households with a central air conditioner have their existing equipment "replaced" first with a baseline (i.e.,10 SEER) system. The corresponding LCCs of the baseline systems are then calculated. Then all RECS households with a central air conditioner have their existing equipment "replaced" with a 12 SEER system and the LCC of these systems are established. On a household-by-household basis, the payback periods and the LCC differences of the 12 SEER system are determined relative to the economics of the baseline system. The result is a distribution of LCCs and payback periods. Since climatic conditions and consumer behavior affect the energy consumption of a given

piece of equipment, these data implicitly account for regional variations. Similarly, variations in the RECS energy price data represent the range faced by consumers in the U.S.

Both EEI and EMPA warned of problems using the RECS data in a LCC and Payback Analysis. (EEI, #2; EMPA, #3) EEI asserts the following: (1) The age of the RECS data (1993) is too old to be used with efficiency and price data from 1998, (2) only total annualized average electricity and fuel rates rather than summer marginal rates are provided, (3) the stated age of the equipment may be inaccurate if the households surveyed are not original homeowners, and (4) there is no accounting of equipment used in small commercial facilities. EEI also claims that RECS may not reflect regional or national equipment saturations as the 1993 RECS shows that 42% of survey homes have a central air conditioner while an industry publication (ACHR News, June 22, 1998) shows saturations ranging from 55% in the western U.S. to 99% in the southern U.S. EMPA questioned whether the 7,000 to 8,000 households surveyed households in RECS can be representative of the 90 million households in the U.S. They also commented that RECS experts from EIA needed to provide a written statement in support of the way in which DOE plans to use the RECS data in its LCC analyses. In contrast to these comments, OOE states that they are very comfortable with the analysis methodology as it was applied to other products (clothes washers) where RECS data was used to determine annual energy use and equipment age. (OOE, #7)

Although the Department understands the concerns of the EEI and EMPA, the 1993 RECS data is the most recent and appropriate database available for conducting the desired distributional LCC Analysis. DOE plans to conduct updates to the LCC and Payback Period Analysis with the 1997 RECS. Use of this data will address most of the concerns brought up by both EEI and EMPA.

Estimates of the efficiency of equipment currently in use are based upon the age of the equipment as established by RECS and historical shipment-weighted efficiency values. The age of the equipment establishes the year of manufacture which in turn, using the shipment-weighted efficiency data, allows for the determination of the equipment's most probable efficiency. Replacing existing equipment with new equipment results in reductions in energy consumption. These reductions were approximated by multiplying current energy use by the ratio of the efficiencies of existing and new equipment. Using an energy price allowed for the calculation of the operating costs of existing and new replacement equipment, and, in turn, the LCCs and payback periods associated with different efficiency levels of new equipment.

The Department developed LCCs and payback periods based on both sets of manufacturer cost estimates developed in the Engineering Analysis: (1) The ARI cost data developed through the efficiency-level approach, and (2) the cost data developed through the reverse engineering analysis.

A more detailed description of the methodology and contents of the RECS database is contained in the Preliminary TSD.

b. Product Specific

This section discusses the approaches for analyzing the economic impacts on individual consumers from potential new central air conditioner and heat pump standards. An LCC spreadsheet model, described previously in Section II.D.1.a, is used to calculate two of the economic impacts, LCC and payback period, based on input variables that have uncertainty and variability expressed with probability distributions. A third economic impact, Rebuttable Payback Period, is determined without the use of the spreadsheet model. In future analyses, all three of these economic metrics will be compared to baseline efficiencies of appliances sold in the year the new standard would take effect. In this preliminary analysis, only the Rebuttable Payback Period is compared to a distribution of efficiencies forecasted to the year 2006.

i. LCC Analysis

The Department determined values of input variables for central air conditioners and heat pumps, including total installed cost (consisting of both the equipment purchase price and installation price), annual energy use, lifetime, repair costs, and maintenance costs of equipment, as well as average energy prices, marginal energy prices, and discount rate. Table 11 summarizes some of the major assumptions used to calculate the consumer economic impacts of various energy-efficiency levels.

TABLE 11.—ASSUMPTIONS USED IN THE LCC ANALYSIS

Total Installed Cost: Equipment Purchase Price.	Manufacturer cost multiplied by manufacturer markup, distributor markup, dealer markup, and sales tax.
Installation Price	Central air conditioners—$1190; heat pumps—$2035.
Existing Equipment Efficiency	Distribution imputed from RECS database based on equipment age and historical shipment-weighted efficiencies (central air conditioners—5.3 to 15.2 SEER, weighted average of 8.58 SEER; heat pumps—5.3 to 15.2 SEER, weighted average of 8.72 SEER; 4.88 to 9.67 HSPF, weighted average of 6.52 HSPF).
Existing Annual Energy Use	Distribution from RECS database (central air conditioners—174 to 12,929 kWh/yr, weighted average of 2629 kWh/yr; heat pumps—space-cooling equals 0 to 14,771 kWh/yr, weighted average of 2987 kWh/yr; space-heating equals 162 to 29,839 kWh/yr, weighted average of 4658 kWh/yr).
Average Energy Prices	Historical—distribution from RECS database (central air conditioners—2.70 to 16.50 ¢/kWh, weighted average 8.49 ¢/kWh; heat pumps—2.60 to 13.00 ¢/kWh, weighted average 7.86 ¢/kWh); projections—*AEO*—1999.
Marginal Energy Prices	Historical—estimated from RECS database (central air conditioners—0.58 to 19.42 ¢/kWh, weighted average 8.74 ¢/kWh; heat pumps—0.82 to 18.62 ¢/kWh, weighted average 7.99 ¢/kWh); projections—scaled to trends in average energy prices.
Lifetime	Distribution based on empirical data (mean life is 18.4 years).
Discount Rate	Distribution (0% to 19%, weighted average 6.51%)
Repair Costs	For systems with efficiencies of 10 SEER or greater than 12 SEER, one-half equipment price divided by mean lifetime. For systems with efficiencies of 11 or 12 SEER, 1% greater than the 10 SEER repair cost.
Maintenance Costs	Distribution ($0 to $135/year, weighted average $36/year).

Total Installed Cost: The total installed cost consists of the equipment purchase price and the installation price. Markups are used to convert the manufacturer cost to the equipment purchase price. The determination of equipment purchase prices is described in the next section.

Installation Price: The installation price represents all costs required to install the equipment other than the marked-up equipment cost. The installation price includes labor, overhead, and any miscellaneous materials and parts such as linesets. For central air conditioners the installation price used in the analysis used is $1190, and for heat pumps it is $2035. The installation price was determined by subtracting the derived equipment purchase price from the typical total installed cost. The typical total installed cost values were collected from public sources and phone calls to heating ventilating and air conditioning (HVAC) contractors. While the data collected were for split systems, the Department has assumed the installation prices apply to single package systems, although installation price for these systems might be somewhat lower than for the split systems, since only single packages are involved and no line sets are required. The Department is interested in obtaining information on the installation prices for all classes of products.

Annual Energy Use: Currently, the DOE test procedure calculates annual cooling and heating energy consumption based on 1,000 and 2,080 hours of operation, respectively. Although this procedure seems to be widely accepted for comparing the seasonal performance of different units, the procedure overstates equipment energy use compared to RECS estimates. As described above, basing operating and LCC on RECS household data provides a more accurate measure of the savings possible from more-efficient equipment, and accounts for variability in LCCs due to climatic conditions and energy prices.

Variations in energy use for a particular appliance can depend on factors such as climate, type of household, people in household, etc. For purposes of this analysis, annual energy use was based on the annual end-use energy consumption values in RECS. Climatic and consumer behavior are inherent to the RECS energy use data. The Department will perform sensitivity analyses prior to issuance of the NOPR to consider how differences in energy use will affect sub-groups of consumers.

For the RECS households with central air conditioners, the range of annual space-cooling energy consumption is 174 to 12,929 kWh/year with a weighted-average value of 2629 kWh/year. For the RECS households with heat pumps, the range of annual space-cooling energy consumption is 0 to 14,771 kWh/year with a weighted-average value of 2987 kWh/year. The annual space-heating energy consumption for households with heat pumps ranges from 162 to 29,839 kWh/year with a weighted-average value of 4658 kWh/year.

For each RECS household equipped with either a central air conditioner or heat pump, the annual energy use associated with a particular standard level is calculated by taking the annual energy use associated with the existing system and multiplying it by the ratio of the existing system's efficiency to the efficiency of the standard level of interest. To illustrate this approach, this calculation procedure is carried out here based on the weighted-average annual energy use and the weighted-average efficiency from all RECS households equipped with central air conditioners. As presented earlier, for all RECS households with a central air conditioner, the weighted-average annual energy use and the weighted-average efficiency are 2629 kWh/year and 8.58 SEER, respectively. Thus, for the case of a 12 SEER air conditioner, the weighted-average annual energy use is determined according to the following expression:

Weighted-average annual energy use of 12 SEER A/C = 2629 kWh/yr 4 × (8.58 SEER ÷ 12 SEER) = 1880 kWh/yr

Of course, as the efficiency of the standard level being analyzed increases, its corresponding annual energy use decreases proportionally. It should be noted that in the case of establishing the annual space-heating energy use of heat pumps, the ratio of HSPF values are used rather than the SEER values. It must also be emphasized that the above calculation is illustrative only. In order to generate the distribution of LCC and payback results for a particular standard level, each RECS household that is equipped with a central air conditioner or heat pump is analyzed.

Concerning use of RECS data in the economic analysis, EEI stated that, although energy use is dependent on equipment design, weather, and consumer operation, it is also a strong function of house design, landscape, and thermostatic controls, and their impacts should be taken into consideration. (EEI, #2) They also stated that EER ratings, in addition to SEER ratings, ranges of cooling capacity, and the climatic impact on hours of operation, should also have an impact on energy use and should also be considered. With regard to the annual operating hours, EEI stated that a range of values based upon end-use metering studies, load management programs, and other utility or research organization studies should be used. They cited state utility commissions, Internet web sites, and software providers as possible sources for determining variations on energy use.

As stated earlier, the Department believes that the 1993 RECS is the most recent and appropriate data available. In addition to the equipment design, weather, and consumer operation, the RECS annual end-use estimates also consider the household's shell characteristics including any prominent shading. Past RECS data sets have been validated against end-use metering studies in an attempt to better its procedures for estimating end-use energy consumption. Although the Department is comfortable with the use of RECS as its source for establishing annual energy consumption, interested parties are welcome to present any metered end-use data that could verify or substitute for the RECS estimates.

Average Energy Prices: As discussed above, the Department is using RECS household data to establish energy prices. Projections of future energy prices for the LCC Analysis use high, low, and reference case projections of national average electricity prices to residential customers. The current edition of EIA's *Annual Energy Outlook (AEO)* is used as the source of projections for uncertainty in the LCC analysis.

For the RECS households with central air conditioners, the range of average electricity prices in 1993$ is 2.70 to 16.50 ¢/kWh with a weighted-average value of 8.49 ¢/kWh. For the RECS households with heat pumps, the range of average electricity prices is 2.60 to 13.00 ¢/kWh with a weighted-average value of 7.86 ¢/kWh. While average energy prices establish the annual electricity cost of baseline equipment (*i.e.*, split-system air conditioners with efficiencies of 10 SEER and heat pumps with efficiencies of 10 SEER and 6.8 HSPF), marginal energy prices establish savings in electricity costs associated with increased efficiency standards.

Both EEI and EMPA stated that the average energy prices in RECS are outdated and that marginal energy prices should be used in their place in conducting the LCC and Payback Analysis. (EEE, #2; EMPA, #3) Both

pointed to subtracting out the fixed cost portion of the price as an interim step in developing marginal prices. EEI suggested several data sources for developing marginal prices including state utility commissions, Internet web sites such as the PowerRates site, and software providers such as such as EPS solutions and Energy Interactive. EMPA stated that any work to identify marginal energy costs should include a detailed description of the methodology and that any data collection efforts must comply with Paperwork Reduction Act. ACEEE noted how air conditioners are used during peak periods when the cost of supplying electricity is high and that price data should be collected during these periods for use in the economic analyses. (ACEEE, #5)

Regarding future energy prices, several participants at the 1998 Framework Workshop stated that future residential electricity prices will be dependent on the how the electric utility industry is restructured. (Transcript, pp 220–230) EMPA was critical of EIA's forecasts of future energy prices, stating that the forecasts have consistently underestimated rates, and that EIA's forecasting models do not reflect the factors resulting from the deregulation of the electric utility industry. (EMPA, #3)

The Department used the most recent forecasts from the *1999 AEO* to predict the trend in both average and marginal electricity prices by multiplying the average and marginal price for the base year (1998) by the *AEO's* forecasted relative electricity price increases and/or decreases. In addition, LCC and payback spreadsheets can be run with price forecasts from the Gas Research Institute (GRI). The Department believes these forecasts are the most reliable available to predict future energy trends.

Marginal Energy Prices: Marginal energy prices are those prices consumers pay for the last units of energy used. Marginal prices reflect a change in a consumer's bill associated with a change in energy consumed, consequently, marginal energy prices, rather than average energy prices, are appropriate for determining energy cost savings associated with increased efficiency standards. For LCC analyses, the Advisory Committee recommended that DOE use the full range of consumer marginal energy prices instead of national average energy prices. Absent consumer marginal energy price information, the Committee recommended DOE use a range of net energy prices, calculated by removing all fixed charges. The Department agrees the use of marginal energy prices improves the accuracy of the LCC Analysis and has estimated marginal prices for electricity and natural gas.

The Department estimated consumer marginal electricity and natural gas prices directly from household data in the 1993 RECS survey by calculating the slopes of the regression lines of customers' bills vs. energy consumption for these two fuels. Those slopes are equal to the change in bill divided by the change in energy consumption, that is, the marginal prices paid by each household. Since this rulemaking concerns only energy efficiency standards that apply to electrically-driven central air conditioners and heat pumps, only marginal electricity prices are of concern here.

For electricity, the Department calculated separately the slopes of the regression lines for four summer months (June–September) and for the remaining ("winter") months. The annual marginal price was derived by taking the weighted average of the two seasonal prices, where the weighting was the relative energy consumption of the appliance in each season. For air conditioners/heat pumps, the weighting was based on the regional location and age of each of the households in the RECS sample.

Given restructuring of parts of the energy supply sector, customers may have more than one bill (e.g., one from the distribution company, and one or more from generators or suppliers). To capture complete information, future surveys would best gather energy pricing information directly from customers, rather than from utilities or local distribution companies. Efficient collection of energy pricing information in the future will require changing the current processing of the billing information so as to gather consumption by month and pricing information for each customer from the bills. The pricing information would comprise the applicable rate schedule, including marginal prices, fixed charges, and demand charges for commercial and industrial customers, or time-of-use rates where applicable. The Office of Energy Efficiency and Renewable Energy has expressed the need for these data in discussions with EIA concerning the design of future surveys.

Until a time series of marginal prices is available, the Department will use projected trends in energy prices to derive estimates of consumer marginal energy prices for the economic analysis of proposed standards. An index (scaling factor) was created relative to current prices from the trend in average prices (by fuel and sector) and was applied to the current range of marginal prices. For example, if the trend in average residential electricity prices was a decline by 20 percent over a given period of time, then we assume the marginal price for each household would decline from its initial observed value by 20 percent over that same period.

The Department recognizes that a simple scaling of marginal energy prices may be incorrect in a restructured electric power market. Therefore, the Department may develop a different approach to forecast future marginal energy prices when restructuring becomes more widely implemented.

Given the uncertainty of projections, the Department has made available to stakeholders the ability to conduct a scenario analysis to examine the robustness of different efficiency levels under different energy-price conditions. Each scenario provides a self-consistent projection, integrating energy supply and demand. The scenarios differ from each other in the energy prices that result. The Advisory Committee suggested the use of three scenarios. While many scenarios can be envisioned, the three scenarios specified are sufficient to bound the range of energy prices.

The three scenarios suggested by the Advisory Committee are based on projections in the *1999 AEO*. The Department's most recent reference case, published in the *1999 AEO*, provides a well-defined middle scenario. In addition, DOE can use the scenarios with the highest and lowest energy prices in the sector from the range of scenarios in the *1999 AEO*. The future trend in energy prices assumed in each of the three scenarios is clearly labeled and accessible in each spreadsheet. Also included as a scenario is the GRI energy price forecast for 1998. Stakeholders can easily substitute alternative assumptions in the Department's web site LCC spreadsheets to examine additional scenarios.

For the RECS households with central air conditioners, the range of marginal electricity prices in 1993 dollars is 0.58 to 19.42 ¢/kWh with a weighted-average value of 8.74 ¢/kWh. For the RECS households with heat pumps, the range of marginal electricity prices is 0.82 to 18.62 ¢/kWh with a weighted-average value of 7.99 ¢/kWh.

As discussed previously under the section describing average energy prices, marginal energy prices are used to determine the annual electricity costs associated with energy savings resulting from an increased efficiency standard (i.e., any efficiency above baseline efficiencies).

Lifetime: In choosing a value for lifetimes of central air conditioners and

heat pumps, a variety of sources were reviewed. These studies on lifetimes of central air conditioners and heat pumps indicates that there is a wide range of values for lifetimes. The references are provided in Table 12, with the mean lifetimes given in years.

TABLE 12.—CENTRAL AIR CONDITIONER AND HEAT PUMP MEAN LIFETIMES

Source	In years—	
	Central AC	Heat pump
Appliance Magazine. The Life Expectancy/Replacement Picture, Sept. 1998[a]	13.0	14
National Association of Home Builders. Housing Facts, Figures, and Trends, 1998[b]	15.0	15
1995 ASHRAE Applications Handbook[c]	15.0	15
M.E. Bucher et al, American Electric Power Service Corp. 1990. "Heat Pump Life and Compressor Longevity in Diverse Climates", ASHRAE Transactions 96(1):1567–1571		[d]19
K.A. Pientka, Commonwealth Edison Co. 1987. "Heat Pump Service Life and Compressor Longevity in a Northern Climate", ASHRAE Transactions 93(1):1087–1101		[d]15–16
C.C. Hiller, EPRI and N.C. Lovvorn, Alabama Power Co. 1987. "Heat Pump Compressor Life in Alabama", ASHRAE Transactions 93(1):1102–1110		[d]20
J.E. Lewis, Easton Consultants. 1987. "Survey of Residential Air-to-Air Heat Pump Service Life and Maintenance Issues", ASHRAE Transactions 93(1):1111–1127	12.1	10.9
MTSC, Inc. Energy Capital in the U.S. Economy, prepared for the Office of Policy, Planning, and Evaluation, U.S. Department of Energy, Nov. 1980[e]	12.0	12

[a] Based on first-owner use. Central AC min life = 8, max life = 18. Heat Pump min life = 10, max life = 17.
[b] Sources: Air Conditioning and Refrigeration Institute; Air Conditioning, Heating, and Refrigeration News; Air Movement and Control Association; American Gas Association; American Society of Gas Engineers; ASHRAE.
[c] Source for Central A/C: Akalin, M.T. 1978. "Equipment life and maintenance cost survey", ASHRAE Transactions 84(2):94–106. Source for Heat Pump: ASHRAE Technical Committee 1.8, 1986.
[d] Median lifetime.
[e] Based on retirement function.

The available sources report mean and median lifetimes ranging from 10.9 to 20 years. The Department's analysis assumed a mean lifetime of 18.4 years, based on a 1990 ASHRAE technical paper that has the most recent and most detailed information on heat pump life available, based on a survey of 2,184 heat pump installations in a seven-state region of the United States. The sources that report shorter average lifetimes are based on data of a lesser quality, and the Department considers those figures are less reliable. For example, in the case of *Appliance Magazine*, the reported lifetime values are based on expert opinion rather than empirical data.

Appliances produced at some future date may have different lifetimes than those in the same class produced in the past. The projections of lifetimes and other parameters used in the analysis should be based on observed empirical trends, as well as expert knowledge of likely changes in the industry, since future changes are not always straight-line projections of past trends. While expert judgement is crucial, however, it must have a strong empirical basis. With this in mind, the Department believes that the probability distribution of equipment lifetime used in the analysis is the most sound, given available evidence of past performance and recent trends. Because none of the data on equipment lifetime indicates a relationship between efficiency and lifetime, the Department assumes that equipment lifetime is independent of efficiency.

EMPA claimed that lifetime should be based on first ownership rather than actual equipment life. (Glenn Schleede, EMPA, Transcript, pp 232; EMPA, #3) They stated that homeowners usually change residences every 7 years. In response to this assertion, it was stated that although the statute requires that LCC be determined it does not specify the exact meaning of lifetime. (Mike Rivest, ADL, Transcript, p 236) Counter to EMPA's claims, OOE stated that energy efficiency benefits are essentially swapped when a homeowner changes residence. (Charlie Stephens, OOE, Transcript, pp 233; OOE, #7) That is, the new homeowner will realize the benefits of the first owner's more efficient equipment. They also add that an equipment lifetime of 15 years seems reasonable for split system air conditioners, but that field data indicates that heat pumps have a shorter life.

The Department believes that equipment life rather than first ownership is the correct measure of lifetime. The Department continues to seek any additional information that may provide better data on actual air conditioner and heat pump life.

Discount Rate: Interested parties submitted several comments recommending values or procedures for determining discount rates. An industry representative suggested that rates of 18 to 20% may be appropriate as consumers are paying off credit card debt at these rates. (Jim Crawford, Trane, Transcript, p 237) He also asserted that practical (i.e., implicit) discount rates (which are derived from analyzing actual consumer behavior) may be on the order of 30%. EEI also believes that credit card interest rates should be used as a basis for establishing discount rates. (EEI, #2) EMPA believes DOE's discount rates (as presented at the 1998 Framework Workshop) are too high and based on faulty assumptions. They stated that discount rates should reflect the true cost of money that consumers would have to spend to purchase more efficient appliances. (EMPA, #3) Industry representatives also stated that questions concerning consumer discount rates should be included on any market surveys for determining retail prices and that DOE needs to take into account any information supplied by the industry's trade association, ARI. (Jim Crawford, Trane, Transcript, p 243; David Lewis, Lennox, Transcript, pp 243–244)

In contrast to these comments, OOE believes that prior discount rates developed by DOE seem reasonable, although there are differences in how consumers purchase air conditioner and heat pump equipment compared to how they purchase other appliances. (OOE, #7) They strongly disagreed that discount rates in excess of 15% might be appropriate. They claim such high rates are based on calculating an

implicit discount rate or market failure factor based on past shipments.

The Department's Process Rule for establishing new or revised energy efficiency standards for consumer products describes how real discount rates are to be established for residential consumers, as follows:

> For residential and commercial consumers, ranges of three different real discount rates will be used. For residential consumers, the mid-range discount rate will represent DOE's approximation of the average financing cost (or opportunity costs of reduced savings) experienced by typical consumers. Sensitivity analyses will be performed using discount rates reflecting the costs more likely to be experienced by residential consumers with little or no savings and credit card financing and consumers with substantial savings.

Based on the Department's guidelines provided in the Process Rule, a distribution of discount rates was derived to reflect the variability in financing methods consumers use in purchasing central air conditioners and heat pumps. The real interest rate associated with financing an appliance purchase is a good indicator of the additional costs incurred by consumers who pay a higher first cost, but enjoy future savings, although it is not the only indicator of such costs. While the method used to derive this distribution relies on a number of uncertain assumptions regarding the financing methods used by consumers, DOE believes that the resulting distribution of discount rates encompasses the full range of discount rates that are appropriate to consider in evaluating the impacts of DOE standards on consumers (i.e., values represented by the mid-range financing cost, consumers with no savings, and consumers with substantial savings), as well as all the discount rates which fall between the high and low extreme values.

The method of purchase used by consumers is assumed to be indicative of the source of the funds and the type of financing used, although DOE is not aware of detailed research into this relationship. Consumers purchase appliances as parts of new homes (mortgages) and as separate retail purchases. Retail purchases are paid by cash, credit cards, or loans. In the case of space-conditioning equipment, the loans are assumed to take the form of second mortgages, as central air conditioner and heat pump purchases often occur when home upgrades are made. Based upon recommendations provided by the ARI, the shares of the different financing mechanisms used for purchasing central air conditioners and heat pumps were assumed to be 30% with a new home (first mortgages), 25% through loans (second mortgages), 10% paid by cash, and 35% by use of credit cards.

In order to derive a full distribution of discount rates, DOE estimated a range of interest rates, based on historical data and judgments of future trends, for different types of consumer savings or financing.

For new housing, the Department based its real mortgage rates on ARI's suggested mean value of 3.0% and assumed a range of 1.6 to 4.4%. Applying an assumed marginal tax rate of 28% (i.e., the maximum marginal rate paid by most U.S. taxpayers) and an assumed inflation rate of 2% results in a mean nominal mortgage rate of 6.94% with a range of 5.0 to 8.89%.

For second mortgages or loans, ARI suggested a mean real interest rate of 8.0%. This rate is more representative of a nominal rate for second mortgages and was used as such. Assuming a tax rate of 28%, then subtracting an assumed inflation rate of 2% (the same rates used to derive the new home real interest rates) we arrive at a mean real interest rate of 3.76%. Nominal minimum and maximum interest rates of 6% and 10% were assumed to arrive at the real interest rate range of 2.32% to 5.20%.

For cash, the minimum rate was assumed to equal 0%. This rate applies to purchasers making cash purchases without withdrawing from savings accounts. Based upon ARI's recommendation, the maximum is taken to be the opportunity cost represented by the interest that could have been earned in a typical mutual fund (assumed to be 6% real). A real mean rate of 3% results.

For credit cards, the Department based its real interest rate on ARI's suggested mean value of 12.5%. Minimum and maximum real rates of 6% and 19% were assumed. It should be noted that the use of these credit card rates reflects an assumption that all consumers who use credit cards do so as a means of long term financing for product purchases, rather than as simply a convenient method of purchase or as a means of short term financing.

Combining the assumed shares of each financing method, the above real interest rates result in a weighted-average (mean) value of 6.51% and a distribution that varies from 0 to 19%. Sensitivity studies show that while the LCC results are sensitive to the value chosen for mean discount rate, the LCC results are not sensitive to the distribution of discount rates.

The Department believes that the above method is a valid basis for establishing a distribution of discount rates over the full range of discount rates relevant to most purchasers of the products covered by this rulemaking, but acknowledges that different assumptions might be made about likely interest, inflation and marginal tax rates, or about consumer financing methods, and that different approaches to identifying valid consumer discount rates might also be valid. For example, it is also possible to base consumer discount rates on the average real rates of return on consumer investment or other measures of the opportunity costs incurred by consumers that purchase the covered products. DOE does not believe, however, that such alternative assumptions or alternative approaches would significantly alter the range of discount rates used by the Department or the conclusions drawn from the life cycle cost analyses conducted using these discount rates.

The Department is seeking any information that would support significant alterations in the range or distribution of the discount rates derived from DOE's analysis. Alternatively, DOE is soliciting comment on the possible use of a standardized distribution of discount rates ranging from approximately 4% to 12%, with a mean of 6%. The use of such a standardized distribution would explicitly recognize the many uncertainties associated with DOE's current analysis and, based on sensitivity analyses already performed by DOE, such a standardized distribution would not significantly alter the conclusions of DOE's life cycle cost analyses.

Repair Costs: The annual repair cost covers the replacement or repair of components which have failed. The Department assumed repair costs for minimum efficiency equipment (10 SEER) and equipment with efficiencies greater than 12 SEER were equal one-half the equipment price divided by the mean equipment lifetime. The Department assumed equipment with efficiencies of 11 and 12 SEER incur a 1% increase in repair cost over the minimum efficiency (10 SEER) level. The rationale for assuming essentially flat repair costs through efficiencies up to and including 12 SEER pertains to the level of technology being used at these system efficiency levels. Through 12 SEER, system technology generally does not incorporate sophisticated electronic components which are believed to incur higher repair costs. Increases in SEER are generally achieved through more efficient single-speed compressors or more efficient and/or larger heat exchanger coils. Systems with

efficiencies beyond 12 SEER start to incorporate modulating blowers or compressors which are generally believed to be more susceptible to failure.

Maintenance Costs: The annual maintenance cost covers such items as checking and maintaining refrigerant charge levels and cleaning heat exchanger coils. Data from Service Experts, an HVAC service company, were used to establish maintenance costs. The maintenance cost ranges from $0 to $135 with a weighted-average value of $36.

EMPA stated that DOE needs to collect and include extended warranty and service costs in LCC calculations. (Glenn Schleede, EMPA, Transcript, p 231; EMPA, #3) EMPA also requested that the assumptions regarding maintenance and repair costs be reevaluated and described in greater detail. An industry representative supported including these costs, and also stated that they will be a function of equipment efficiency. (David Lewis, Lennox, Transcript, p 231) A suggestion was made to include questions on warranty and service costs on any market survey for determining retail prices (Steven Nadel, ACEEE, Transcript, p 232). OOE endorsed the concept of accounting for differences in maintenance, service, and installation costs, provided these incremental costs are attributable only to equipment at different efficiency levels (OOE, #7).

Although the Department included maintenance costs in its LCC calculations, no attempt was made to account for warranty costs. The Department assumed that warranty costs are constant with increased efficiency and, thus, there was no need to explicitly account for warranty costs. The Department welcomes any comments that can provide insight as to how warranty costs should be accounted for in the LCC Analysis.

ii. Equipment Prices

How manufacturing costs and profit margins associated with standards are passed through from manufacturers to consumers has an impact on both consumers and manufacturers. Consumer and manufacturer economics are linked and inversely related. For this reason, equipment purchase prices used for the LCC Analysis need to be reconciled with manufacturer costs.

At the pre-ANOPR stage, a consumer LCC curve, based in part on mean installed consumer costs, is a significant factor in the initial selection of potential standards levels. Total installed costs are needed for a base case, absent new standards, and for all efficiency levels to be considered. As noted earlier, equipment purchase price coupled with the installation price equals the total installed consumer cost.

There was a great deal of discussion at the 1998 Framework Workshop concerning equipment or retail prices, because equipment prices were being viewed as a means to verify industry-supplied manufacturer cost data. Much of the discussion focused on the correlation between manufacturer costs and prices. Some claimed that there is practically a random relationship between manufacturer costs and prices and that prices are based more upon market dynamics rather than improvements in equipment efficiency. (Jim Crawford, Trane, Transcript, pp 90, 139–140) It was also stated that, due to the tremendous variability in city size, dealer groups, dealer size, dealer proximity to warehouses, bulk purchasing, and national account purchasing, the markups involved in converting manufacturer costs to retail prices are highly variable. Also, because some manufacturers use distributors while others do not, markups can vary significantly from manufacturer-to-manufacturer. (David Lewis, Lennox, Transcript, pp 168–170) It was also noted that markups are unlikely to be constant across all efficiencies. (Jim Crawford, Trane, Transcript, pp 154)

In order better to determine equipment prices, participants at the Workshop agreed that it would be appropriate to conduct a market survey. There was discussion as to whether the survey should be administered to contractors or consumers. It was pointed out that contractors may not provide true prices as they may not want to reveal their profit margins while consumers may simply not know the price of only the equipment (i.e., the price exclusive of the labor, materials and profit for installation). (Transcript, pp 170–186) With regard to price data that may be collected from utilities, some of it might be distorted due to demand side management (DSM) incentive programs, more specifically rebate programs. The price collected may not be the actual price of the equipment, but rather, the price after a rebate has been applied. (Steve Rosenstock, EEI, Transcript, pp 190)

In written comments, EEI stated that there is little correlation between manufacturer costs and retail prices, and that market surveys of customers, utilities, and contractors will likely provide the best information on retail prices. (EEI, #2) EMPA claimed that price data collected will likely not reflect conditions in the current market. (EMPA, #3) EMPA also stated that DOE should not shift the responsibility of collecting and providing data to interested parties.

ACEEE noted two possible data sources: a 1996 Xenergy report and Chris Neme at the Vermont Energy Investment Fund in Burlington, VT. (ACEEE, #5) OOE suggested that two methods are needed for deriving prices, each as a cross-check on the results of the other. (OOE, #7) One approach should be a "mark-up" of manufacturer costs which yield a range of retail prices. A market survey of equipment prices should be used as the second approach, as opposed to a survey of market experts trying to predict consumers' willingness to pay at various price levels. With regard to current market prices, PG&E believes that split system air conditioning equipment that exceeds 10 SEER are available at competitive prices with 12 SEER systems being readily available. (PG&E, #8)

For the pre-ANOPR Analysis, the Department did not attempt to conduct a comprehensive contractor or consumer survey of equipment prices. The primary reasons were the complexity of and the time needed for a comprehensive survey, and the short time frame allotted by the Department for publishing the Supplemental ANOPR. The Department will consider conducting a survey for any updates to the analyses conducted for the NOPR.

On November 30, 1998, however, the Department issued a **Federal Register** Notice (63 FR 65767) requesting comments on a proposal to survey retail prices for Central Air Conditioners and Heat Pumps. ARI responded to that request by submitting comments. The comments asserted that the proposed survey is woefully inadequate, given the number of variables involved. (ARI, #9) ARI suggested that, at a minimum, data on the following factors should be considered: (1) Three capacity sizes (1.5, 3, and 5 tons), (2) five efficiency levels (10, 11, 12, 13, 14 SEER), and (3) four classes (split and single package air-conditioner/c and heat pump). The survey should be weighted to reflect regional sales markets and a large number of manufacturers should be represented in the survey. In addition, there should be no reason to include questions on the impact of utility rebates, as they are dwindling rapidly.

The Department uses various assumptions about cost pass-through that are reflected in the price forecast approach. The output of this analysis is a table describing retail prices for each possible efficiency level, assuming that each level represents a new minimum efficiency standard. Consistent with the

process rule, and building on the estimates generated by the various assumptions, projected retail prices are described within a range of uncertainty.

Purchase prices of baseline equipment were determined by estimating manufacturing costs and applying appropriate markups along the distribution chain. Markups were determined in two ways: through surveys of distributor (wholesale) and retail prices, and through publicly available financial reports. For about 90% of residential air conditioning equipment, the distribution chain includes manufacturers, distributors (wholesalers), and dealers (contractors). Equipment purchase prices are thus estimated as the product of manufacturing cost, manufacturer markup, distributor markup, dealer markup, and sales tax.

For the determination of markups via financial reports, it was assumed that product markups equal gross margin less pre-tax profit margin (earnings-before-taxes) and outbound freight of 6%, plus 1%. The baseline central air conditioner and heat pump units covered by this analysis typically have lower margins than other products handled by diversified companies. The values for markups given in the next paragraphs may change in future stages of analysis as the underlying data are improved and cross-checked.

Manufacturer Markup: Financial reports from five publicly traded air conditioner manufacturers, representing 75% of the market, were examined for a five-year period (1993–1997). Five-year average markups for the two most dependent on air conditioner sales were 1.18 and 1.17 respectively. The other three companies are more diversified and, as expected, exhibited higher markups—1.25, 1.24, and 1.18 respectively. A central value of 1.18 was chosen for the Price Analysis, with a range of 1.15 to 1.26, based on the lowest and highest markups for the five manufacturers for the five-year period.

Distributor Markup: Five-year average markups for the 500 members of the Air-conditioning and Refrigeration Wholesalers (ARW) were 1.37, the same as for 1997. This value was used for the analysis. However, since margins for after-market parts are substantially higher than margins for baseline equipment, the actual markup on baseline equipment is likely to be lower than the assumed value of 1.37. The markup value may be revised downwards based on future information.

Dealer Markup: Markups were calculated for contractors represented by the Air Conditioning Contractors of America (ACCA) and two contractor consolidators that focus on the residential market. Information used from ACCA covered "residential and light commercial" dealers, and was divided into new and retrofit services, with markups of 1.41 and 1.63, respectively. The weighted average markup for ACCA was 1.55 (based on 66 percent of all sales being retrofit sales), close to the markup of 1.54 for one of the contractor consolidators. The markup for the other consolidator was 1.38, but half of its revenues come from plumbing, electrical, and other services that typically have lower margins. A central value of 1.55 was chosen for the Price Analysis, with a range of 1.37 (based on information from ICF Consulting on equipment markups for direct replacement) to 1.63.

Sales Tax: In many cases, local and state sales taxes are applied to equipment purchases. Using 1997 state and local sales tax data and 1994 state unitary shipment data, the Department calculated a distribution of combined sales tax rates. Although the distribution revealed a small percentage of consumers at tax rates of 0% and 10%, the effective distribution was triangular with a mean of 6.7% and a range from 5% to 8%. This corresponds to a mean markup of 1.07 with a range from 1.05 to 1.08.

Overall Markup: Equipment purchase price is determined by multiplying manufacturer cost and overall markup. Mean values and ranges for the overall markup are the products of the mean values and ranges for manufacturer markup, distributor markup, dealer markup and sales tax. The mean overall markup is thus calculated as 2.68, with a range of 2.27 to 3.04.

iii. Payback Analysis (Distribution of Paybacks)

Payback is calculated based on the same inputs used for the LCC Analysis with the difference that the payback values are based on first year savings achieved after the standard takes effect. The output of the analysis is a distribution of payback periods. The mean payback period is also reported. Additional information is available in the LCC spreadsheet which is posted to the Department's web site. The data includes charts of cash flow taking into account the changing annual fuel prices.

iv. Rebuttable Payback

As discussed previously, EPCA established a rebuttable presumption that a standard is economically justified if the additional product purchase cost attributed to the standard is less than three times the value of the first year energy cost savings, which is equivalent to a three year simple payback. The calculation of rebuttable payback is based on single point-values instead of probability distributions used in the LCC analysis. For example, where a probability distribution of electricity prices are used in the distributional Payback Analysis, only the weighted-average value from the probability distribution of electricity prices is used for the determination of the Rebuttable payback.

Other than the use of single point-values, the most notable difference between the two payback analyses is the Rebuttable payback's reliance on the DOE test procedure to determine a central air conditioner's or heat pump's annual energy consumption. The DOE test procedure for central air conditioners and heat pumps in the cooling season uses the following expression to calculate the annual space-cooling energy consumption:

Space-Cooling Annual Energy Use =
(Cooling Capacity ÷ SEER) × Hours

where the Hours equal 1000, the assumed annual operational hours of the space-cooling equipment.

The DOE test procedure for the heating season performance of heat pumps uses the following expression to calculate the annual space-heating energy consumption:

Space-Heating Annual Energy Use =
(DHR ÷ HSPF) × 0.77 × Hours

where DHR equals the design heating requirement (which for 3-ton cooling capacity heat pumps is typically 35,000 Btu/hr) and Hours equal 2080, the assumed seasonal operational hours of the space-heating equipment.

The annual space-cooling and heating energy consumption calculated based on the previous equations from the DOE test procedure are on the order of 50% greater than the weighted-average values from the 1993 RECS. This means that the payback value calculated from the DOE test procedure equations will be significantly lower than the average payback value calculated from the RECS analysis, for any standard level.

Rebuttable payback periods are first calculated between the new standard level being analyzed and each central air conditioner or heat pump efficiency being sold in the year 2006. The paybacks are then weighted and averaged according to the percentage of each equipment efficiency sold before a new standard is enacted. Rather than being based on probability distributions, single point values are used for the input variables. These values (e.g., operating hours per year) will correspond to those defined in the DOE

test procedure. The result is a single-value of payback and not a probability distribution. The payback is calculated for the expected effective year of the standard (e.g., 2006). Examples and further details are presented in the Preliminary TSD.

Based on the most recently available shipments data from ARI (from 1994). Table 13 shows the markets shares by efficiency level for each of the four product classes being analyzed.

TABLE 13.—EFFICIENCY LEVEL MARKET SHARES

[In percent]

SEER	Split A/C	Split HP	Single package A/C	Single package HP
10	78.7	59.3	82.3	64.2
11	5.4	15.0	9.7	13.6
12	12.0	19.7	6.8	22.2
13	3.6	4.5	1.2	0.0
14	0.1	1.0	0.0	0.0
15	0.2	0.5	0.0	0.0

Because the shipment-weighted efficiencies of unitary air conditioners and heat pumps has remained essentially flat over the four year period from 1994 to 1997, the previous market shares in Table 13 for 1994 are assumed to be applicable for the year 2006. If available, data on a forecasted distribution of equipment efficiencies in the year 2006 will be used to refine these calculations for the NOPR Analysis.

2. Preliminary Results

a. General

Calculation of LCC captures the tradeoff between the increases in purchase price and reductions in operating expenses for increasing efficiencies of appliances. In addition, two other measures of economic impact are calculated: distributions of payback periods and a payback period calculated for purposes of the rebuttable presumption clause. The outputs of the LCC spreadsheet include probability distributions and single-point average values of the impacts for each energy efficiency level compared to the baseline. A distinct advantage of modeling based on probability distributions is that the percentage of consumers achieving LCC savings or attaining certain payback periods due to an increased efficiency standard can be identified. A variety of graphic displays can illustrate the implications of the analysis results. These include: (1) A cumulative probability distribution showing the percentage of U.S. households that would have a net saving by owning a more energy-efficient appliance, and (2) a chart depicting the variation in LCC for each efficiency level considered.

b. Product Specific

The following LCC results show the mean LCCs associated with the standard levels which were analyzed. In addition, the percent of households with reduced LCCs relative to current minimum efficiency equipment (10 SEER) are provided. LCC results are provided based upon the manufacturer cost estimates from the efficiency-level approach (section II C.1.b.i.) and the reverse engineering (section II.C.1.b.ii.). LCC results are presented for nominal 3-ton capacities for the four primary product classes, *i.e.*, split-type air conditioners, split-type heat pumps, single-package air conditioners, and single-package heat pumps (See Tables 14 to 17). Since the values of most inputs are uncertain and are represented by probability distributions of values rather than discrete values, the results presented in the Preliminary TSD (which describes the analytic results in greater detail) are also described by probability distributions.

TABLE 14.—SPLIT-TYPE AIR CONDITIONERS—LCC RESULTS

SEER	Source of manufacturing cost data			
	Industry		Reverse engineering	
	Mean LCC	Percent with lower LCC	Mean LCC	Percent with lower LCC
10	$4,837	.....	$4,828	.....
11	4,827	39	4,786	48
12	4,886	31	4,770	45
13	5,229	12	4,931	27
14	5,659	6	5,246	15
15	6,052	4	5,456	11
16	.....	2	5,533	11
17	.....	.....	5,672	10

TABLE 15.—SPLIT-TYPE HEAT PUMPS—LCC RESULTS

SEER / HSPF	Source of manufacturing cost data			
	Industry		Reverse engineering	
	Mean LCC	Percent with lower LCC	Mean LCC	Percent with lower LLC
10 / 6.8	$10,086	.....	$10,001	.....
11 / 7.1	9,915	74	9,695	99
12 / 7.4	9,852	63	9,533	90
13 / 7.7	10,119	36	9,850	49
14 / 8.0	10,311	28	10,246	27
15 / 8.2	11,079	11	10,534	20
16 / 8.2	.....	.....	10,679	18

TABLE 16.—SINGLE PACKAGE AIR CONDITIONERS—LCC RESULTS

SEER	Source of manufacturing cost data			
	Industry		Reverse engineering	
	Mean LCC	Percent with lower LCC	Mean LCC	Percent with lower LCC
10	$5,341	.....	$5,324	.....
11	5,429	20	.....	
12	5,433	26	5,194	58
13	6,031	5	5,598	17
14	6,362	4	.....	.....
15	6,921	2	.....	.....

TABLE 17.—SINGLE PACKAGE HEAT PUMPS—LCC RESULTS

SEER	Source of manufacturing cost data			
	Industry		Reverse engineering	
	Mean LCC	Percent with lower LCC	Mean LCC	Percent with lower LCC
10 / 6.8	$10,025	.....	$9,912	.....
11 / 7.1	9,906	61	.....	.....
12 / 7.4	9,835	58	9,551	80
13 / 7.7	10,342	22	.....	.....
14 / 8.0	10,425	21	.....	.....
15 / 8.2	11,031	10	.....	.....

Tables 18 to 21 show the median payback periods associated with each standard level. To note, the median value of a distribution has an equal number of payback periods that are greater than and less than the reported value. As with the LCC results, payback periods are provided based upon both the manufacturer cost estimates from the industry and from the reverse engineering analysis. Payback period results are presented for the four primary product classes: split-type air conditioners, split-type heat pumps, single-package air conditioners, and single-package heat pumps.

TABLE 18.—SPLIT-TYPE AIR CONDITIONERS—MEDIAN PAYBACK PERIODS

[In years]

SEER	Source of manufacturing cost data	
	Industry	Reverse engineering
11	13	10
12	15	11
13	41	20
14	80	35
15	137	43
16	.....	46
17	.....	49

TABLE 19.—SPLIT-TYPE HEAT PUMPS—MEDIAN PAYBACK PERIODS

[In years]

	Source of manufacturing cost data	
	Industry	Reverse engineering
11/7.1	6	1
12/7.4	8	3
13/7.7	13	10
14/8.0	17	17
15/8.2	31	21
16/8.4	.....	22

TABLE 20.—SINGLE PACKAGE AIR CONDITIONERS—MEDIAN PAYBACK PERIODS

[In years]

SEER	Source of manufacturing cost data	
	Industry	Reverse engineering
11	20	
12	17	8
13	84	30
14	133	
15	559	

TABLE 21.—SINGLE PACKAGE HEAT PUMPS—MEDIAN PAYBACK PERIODS

[In years]

SEER/HSPF	Source of manufacturing cost data	
	Industry	Reverse engineering
11/7.1	8	
12/7.4	9	5
13/7.7	20	
14/8.0	20	
15/8.2	31	

Tables 22 to 25 show the simple paybacks for purposes of the rebuttable presumption clause. This means test procedure assumptions are followed for central air conditioners and heat pumps.

TABLE 22.—SPLIT-TYPE AIR CONDITIONERS—SIMPLE PAYBACK

[In years]

SEER	Source of manufacturing cost data	
	Industry	Reverse engineering
11	6.2	5.0
12	7.6	5.4
13	13.7	7.8
14	20.9	12.7
15	26.8	14.7
16		14.6
17		15.4

TABLE 23.—SPLIT-TYPE HEAT PUMPS—SIMPLE PAYBACK

[In years]

SEER/HSPF	Source of manufacturing cost data	
	Industry	Reverse engineering
11/7.1	3.2	0.4
12/7.4	4.2	1.8
13/7.7	6.8	5.6
14/8.0	8.0	8.8
15/8.2	13.8	10.5
16/8.4		10.8

TABLE 24.—SINGLE PACKAGE AIR CONDITIONERS—SIMPLE PAYBACK

[In years]

SEER	Source of manufacturing cost data	
	Industry	Reverse engineering
11	9.9	
12	8.5	3.8
13	21.2	11.2
14	25.2	
15	35.8	

TABLE 25.—SINGLE PACKAGE HEAT PUMPS—SIMPLE PAYBACK

[In years]

SEER/HSPF	Source of manufacturing cost data	
	Industry	Reverse engineering
11/7.1	4.3	
12/7.4	4.6	2.7
13/7.7	9.7	
14/8.0	9.2	
15/8.2	13.7	

E. Preliminary National Impacts Analyses

The National Impacts Analysis assesses the net present value (NPV) of total consumer LCC, average consumer payback, NES, and indirect employment impacts. Each of the above are determined for selected standard levels. These calculations are done by the use of a spreadsheet tool called the NES Spreadsheet Model, which has been developed for all the standards rulemakings and tailored to each specific appliance rulemaking. NES spreadsheets for central air conditioners and heat pumps are posted to the Department's web site. A preliminary assessment of the aggregate impacts at the national level has been conducted for this Supplemental ANOPR.

Analyzing impacts of Federal energy-efficiency standards requires a comparison of projected U.S. residential energy consumption without standards (baseline case) and with standards. The baseline case includes the mix of efficiencies of appliances being sold at the time the standard becomes effective. The forecasts contain projections of unit energy consumption of new appliances, annual appliance shipments, and prices of purchased appliances. The differences between the baseline and standards cases represent the energy and cost savings. Depending on the method used for sales projections, the sales under a standards case projection may differ from those of a baseline case projection.

The Department calculated national energy consumption for each year, beginning with the expected effective date of the standards, for the base case and for each candidate standards level using two methods, *i.e.*, simple spreadsheets, and multiplication of shipment forecasts by unit energy savings. Spreadsheets for shipments analysis are posted to the Department's web site. Energy consumption and savings are estimated based on site energy (kWh of electricity), then the electricity consumption and savings are converted to source energy. The differences in annual energy consumption between the base case and standards case were aggregated to arrive at cumulative energy savings through the year 2030.

DOE agrees with the Advisory Committee's recommendation that the assumption of a constant site to source-energy conversion factor should be dropped in favor of a conversion factor that changes from year to year. The conversion factor would be calculated for each year of the analysis based on the generating capacity displaced and the amount of site energy saved (see the following detailed procedure). For future conversion factors, DOE proposes to use the following method:

(1) Start with an integrated projection of electricity supply and demand (*e.g.*, the National Energy Modeling System (NEMS) AEO reference case), and extract the source energy consumption.

(2) Estimate projected energy savings due to possible standards for each year (*e.g.*, using the NES spreadsheet).

(3) Feed these energy savings back to NEMS as a new scenario, specifically a deviation from the reference case, to obtain the corresponding source energy consumption.

(4) Obtain the difference in source energy consumption between this standard level scenario and the reference case.

(5) Divide the source energy savings in Btu, adjusted for class specific transmission and distribution losses, by the site energy savings in kilowatt-hours to provide the time series of conversion factors in Btu per kilowatt-hour.

The resulting conversion factors will change over time, and will account for the displacement of generating sources. Furthermore, the NES spreadsheet models will include a clearly defined column of conversion factors, one for each year of the projection. DOE and stakeholders can examine the effects of alternative assumptions by replacing this column of numbers.

1. National Energy Savings (NES) Spreadsheet Model

a. General

In order to make the analysis more accessible and transparent to all stakeholders, the Department has previously prepared spreadsheet models using Microsoft Excel in Windows 95 for other appliances to forecast energy savings and to demonstrate how improvements in efficiency can be accounted for over time. These models, the NES spreadsheets, are specific applications of a common model structure to each appliance, and a model was tailored to the case of central air conditioners and another for the case of heat pumps. These same NES spreadsheets were also used to forecast net present value (NPV). These spreadsheets are posted to the Department's web site.

The NES spreadsheets are used to calculate the NES, and the national economic costs and savings from new standards. Input quantities can be changed within the spreadsheet. Unlike the LCC Analysis, the NES Spreadsheet does not use probability distributions for inputs or outputs. Both EEI and OOE stated that the NES Analysis should use a range of values rather than single point-values. Specifically, EEI stated that a range of equipment costs should be used to determine NES and net present values while OOE presumes that distributional inputs will be used to depict regional differences. (EEI, #2; OOE, #7) In order to address these concerns, the Department will conduct sensitivity analyses as needed for the NOPR Analysis by running scenarios on the input variables of interest.

One of the more important components of any estimate of the impact of future standards is shipments. Forecasts of shipments for the base case and the standards case need to be obtained as an input to the NES. The Department developed a base case forecast of product shipments in the absence of new standards. For all candidate standards levels, shipment forecasts are needed to calculate the national benefits of standards and to calculate the future cash flows of manufacturers. There are a variety of methods available for projecting shipments. A sophisticated accounting model was used by the Department and run to determine shipment scenarios for each energy efficiency level.

Other quantities in the NES spreadsheet are: energy price projections, including an analysis of consumer marginal electricity rates (*See* Section II.D.1.a); effective date of the standard (start year); discount rate and the year of the NPV (1999); manufacturing cost; total installed cost; baseline energy use; lifetime; and the conversion factor from site to source energy.

An industry representative requested that the impact of existing minimum efficiency standards be calculated in order to determine whether the existing standards are indeed cost-effective. (David Lewis, Lennox International, Transcript, pp 313) The Department has not made any attempt to determine the cost-effectiveness of the existing minimum efficiency standards. The Department believes that such an analysis would not materially contribute to a decision whether to adopt a more stringent standard. Rather, the energy savings and NPV are calculated from the expected date any new standard level would take effect to the year 2030. Both individual year and cumulative data are generated. Output charts and tables provide cumulative energy savings, the cost and savings per year (in a chart), and the cost and NPV due to standards.

b. Product Specific

i. Inputs to NES Analysis

Table 26 summarizes the inputs used in the NES model. The NES model uses the same basic data as the LCC model for energy use and cost of equipment, except that shipment weighted-average values (based on the shipment and energy-efficiency distribution forecasts) are used instead of distributions. As with the LCC Analysis, two sets of results, including forecasts of shipments, energy savings, and net present value (NPV), were calculated based on two different sets of costs (industry data and reverse engineering) associated with increasing efficiency.

TABLE 26.—SUMMARY OF NES MODEL INPUTS

Parameter	Data description
Shipments	Output from Shipment Model.
Total installed Consumer Cost	Average value for the baseline and each standard level. From LCC Analysis.
Repair and Maintenance Costs	Average values for the baseline and each standard level. From LCC Analysis.
Historical Efficiencies	Shipment-weighted efficiency data (SEER) from the Air-Conditioning and Refrigeration Institute for the years 1976–1997.
Future Efficiency Trend	For the years 1998 to the assumed effective date of the new standard (2006), shipment-weighted efficiencies are assumed to remain constant at the shipment-weighed efficiency level in 1997. For years beyond the assumed effective date of the new standard, shipment-weighted efficiencies are assumed to equal the new standard level.
Unit Annual Energy Consumption	Based on the weighted-average annual energy consumption and efficiency from LCC Analysis. To estimate the representative annual energy consumption of a central air conditioner or heat pump for any given year, the ratio of the RECS weighted-average efficiency to the efficiency level in that year is multiplied by the RECS weighted-average annual energy consumption.
Electricity Prices	Based on the weighted-average marginal electricity price determined from RECS93 in the LCC Analysis.
Escalation of Electricity Prices	1999 EIA *AEO* forecasts (to 2020) and extrapolation from 2020 to 2030.
Electricity Site-to-Source Conversion	Conversion varies yearly and is provided by the 1999 Annual Energy Outlook (a time series conversion factor; includes electric generation transmission and distribution losses).
Discount Rate	7% real.
Present Year	Future expenses are discounted to year 1999.

Both EEI and EMPA provided comments on the type of electricity price that should be used in the analysis. EEI warned that energy savings will decrease as a result of dropping energy prices, and that the *1998 AEO* electricity price forecasts do not decline rapidly enough, since factors resulting from deregulation are not accounted for. Both EEI and EMPA stated that marginal rather than average electricity prices should be used in all calculations. (EEI, #2; EMPA, #3) As noted in Table 26 and as discussed earlier in the LCC Analysis (section II D.1.b.i.), the Department used

the most recent forecasts from the *1999 AEO* to predict the trend in both average and marginal electricity prices. In addition, the NES spreadsheets can be run with price forecasts from the GRI. The Department believes these forecasts are the most reliable available to predict future energy trends. With regard to marginal energy prices, the Department is using mean marginal prices to calculate energy savings.

EEI also warned that energy savings from higher SEERs could be lower in hot and humid climatic regions, where EER is a better indicator of equipment performance. (EEI, #2) Although the performance of equipment can vary depending on climatic conditions, the Department believes that SEER will provide the best indicator of annual energy use in all climates. The annual energy consumption values from the 1993 RECS, which the NES spreadsheet uses as the basis for determining the energy savings from higher SEER standards, accounts for regional variations in energy use.

EEI stated that diversity factors must be taken into account when calculating NES, as not all air conditioners are on at the same time. Utility load factors should also be addressed. (Steve Rosenstock, EEI, Transcript, p 272; EEI, #2). Diversity and utility load factors are not accounted for in the determination of NES. Rather, the NES are passed through to the Utility Impact Analysis which will establish the impacts of the savings on utility generation and distribution. The model to be used in the Utility Analysis (NEMS-BRS) accounts for diversity and utility load factors when determining the impacts on the utility industry. NEMS–BRS is a variant of U.S. DOE/EIA's NEMS and is named as such for two reasons: (1) The Utility Analysis to be performed entails some minor code modifications and (2) the model will be run under various policy scenarios that will be variations on DOE/EIA assumptions. The name NEMS-BRS refers to the model to be used for the Utility Analysis (BRS is DOE's Building Research and Standards office). NEMS was used by DOE/EIA to produce the 1999 AEO, and NEMS-BRS is used to provide some key equivalent inputs to the standards analysis.

ii. Shipments Model

The Department chose an accounting model method to prepare shipment scenarios for baseline (10 SEER) and five standard levels (11 through 15 SEER) for central air conditioners and heat pumps. The model tracks the stocks and purchases of each type of central air conditioner and heat pump. Events and consumer decisions influence how the stock and supply of central air conditioner and heat pump systems flow from one category to another. Decisions that are economically-influenced are modeled with econometric equations.

OOE supports the use of the accounting method for forecasting shipments, but stated that thorough discussions will be required in order to quantify the impacts of non-regulatory programs and market trends. (OOE, #7) The Department reviewed information from parties involved in market-based initiatives for increasing the sales of high-efficiency models but was unable to determine any quantifiable measure of how these programs impact product efficiencies on a national basis. Thus, the impact of market-based initiatives was not incorporated into the baseline and standard level forecasts.

The model is organized into three classes of elements: Stocks, events, and decisions. Stocks of central air conditioners and heat pumps are divided into *ownership categories*, and units are assigned to age categories. Events are things that happen to stocks independent of economic conditions, i.e., breakdowns requiring repair or replacement. Decisions are consumer reactions to market conditions, e.g., whether to repair or replace equipment, or to buy a house with or without an air conditioner or heat pump. Consumer purchase decisions are categorized by *market segments*. Decision trees are used to describe consumer choices for purchases and repairs. A *logit probability model* simulates consumer purchase decisions that are based on equipment price, operating costs, and income level.

Ownership Categories: Households are first divided into central air conditioner and heat pump markets, then the two markets are further divided into four different ownership categories, including (1) new housing, (2) existing housing with a regular central air conditioner or heat pump (*i.e.*, equipment has not been repaired to extend its life), (3) housing without a central air conditioner or heat pump, and (4) housing with an extended life central air conditioner or heat pump (*i.e.*, equipment repaired to extend its life). The population of central air conditioner and heat pump units in each ownership category are referred to as the *stock of* central air conditioner and heat pump units of that category. Accounting equations relate annual changes in stocks to activities in the various market segments.

Market Segments: Central air conditioner and heat pump purchases are divided into five market segments:

- *Net New Housing Market:* Net increase in the housing stock forces the purchase of new central air conditioner and heat pump systems.
- *Early (Discretionary) Replacement Market:* About 29% of central air conditioner and heat pump owners replace the existing systems before the systems break down because they want an updated model, because of remodeling, or for other miscellaneous reasons.
- *Regular Replacement Market:* Most central air conditioner and heat pump purchases are to replace an existing system that has broken down after completion of its useful life.
- *Extra Repair Market:* Since replacement of central air conditioner and heat pump systems is costly, a few consumers will rebuild or repair a malfunctioning system (thus extending its lifetime) rather than purchasing a new system. Eventually, even extended-life central air conditioner and heat pump systems are replaced.
- *Homes without an air conditioner or heat pump system:* A few households without a central air conditioner or heat pump system will purchase them and become new central air conditioner or heat pump owners.

Events and decisions (e.g., the probability that an existing central air conditioner has a problem and the course of action taken by the consumer) are modeled separately for each market segment.

Logit Probability Model: The logit probability of purchase model is used to estimate the impact of standards-induced price and features changes on consumer decisions. The model accounts for consumer responsiveness to purchase price, operating costs, and income. Coefficients for the responsiveness to these three factors were developed for each of the market segments, based on the results of empirical research on consumer purchase behavior. The probabilities are applied to equations that govern activities in the various market segments.

Table 27 summarizes the various inputs and sources of the central air conditioner and heat pump shipment model.

TABLE 27.—SUMMARY OF SHIPMENT MODEL INPUTS

Parameter	Data description/source
Data for New Housing Starts	Census Bureau data on new housing construction.
Data for Early Replacement Market	1990 ASHRAE technical paper entitled "Heat Pump Life and Compressor Longevity in Diverse Climates". In the paper, 29% of consumers in 1987 replaced their equipment for reasons other than unit failure.
Data for Regular Replacement Market	1990 ASHRAE technical paper entitled "Heat Pump Life and Compressor Longevity in Diverse Climates". Survival functions for total system life and original compressor life are presented. The compressor survival function was used to establish the probability that a system has problems while the difference between the two survival functions was used to establish the probability of repair vs. replacement.
Data for Extra Repair Market	1990 ASHRAE technical paper entitled "Heat Pump Life and Compressor Longevity in Diverse Climates". Total system survival function was used establish the probability of extended or extra repair.
Data for Homes without an air conditioner or heat pump.	March 29, 1993 issue of the Air-Conditioning, Heating and Refrigeration News. In 1992, 14% of central air conditioner and heat pump shipments went to non-owner households.
Elasticities	Purchase Price, Operating cost, and Income elasticities—from The ORNL Engineering-Economic Model of Residential Energy Use, Oak Ridge National Laboratory, 1978.
Source of Household Income	EIA, *1999 AEO*.

This shipments model allows appliance saturations to be expressed as a function of consumer price and operating cost in order to capture the effect of those two variables on future shipments. The Department prepared consumer price and operating cost elasticities to calibrate appliance forecasts to historical shipments. These and other features of the model allow it to provide estimates that are consistent with the recent history of central air conditioner and heat pump shipments, market structure, and consumer preferences.

Drawbacks of this method include: (1) Saturation of units in new and stock households must be forecasted, (2) housing starts must be forecasted (although the AEO does provide readily available forecasts), and (3) retirement of units must be based upon assumptions regarding lifetimes.

Unlike the LCC model, the shipments model does not use probability distributions of values for inputs. While the shipment models uses the same basic input data as the LCC model for energy use and cost of equipment, the model uses shipment weighted-average values instead of probability distributions.

Because NES are dependent on shipments (which, in turn, are dependent on equipment purchase price), the Department prepared two sets of shipments forecasts, one based on manufacturer cost data for increases in efficiency levels and the other based on cost data from the reverse engineering methodology, both of which are presented in the Preliminary TSD.

iii. National Net Present Value

Net present value (NPV) is the sum over time of discounted net savings. The national NPV of each candidate standards level is the difference between the base case national average LCC and the national average LCC in the standards case.

Using the NES model, NPV was calculated from projections of national expenditures for central air conditioners and heat pumps, including total installed consumer cost and operating expenses. Future costs and savings were discounted to the present with a discount factor, which was calculated from the discount rate and the number of years between the present (year to which the sum is being discounted) and the year in which the costs and savings occur.

The inputs for the determination of national NPV were detailed in the discussion of the NES model. Like the NES results, two sets of NPV results were prepared; one based on industry-provided manufacturer costs and the other on the reverse engineering data.

2. Preliminary Results

a. General

The Department calculated the national energy consumption by multiplying the number of central air conditioners and heat pumps (by vintage) by the unit energy consumption (also by vintage). Vintage is the age of the equipment (varying from one to twenty four-years). National annual energy savings is the difference between national energy consumption at the base case (without new standards) and each standards case. Cumulative energy savings are the sum of the annual NES over several time periods (*e.g.*, 2006–2010, 2006–2020, and 2006–2030).

National economic impacts are calculated from the energy savings. The primary metric for measuring national economic impact is NPV. The NPV can be expressed by the following equation:

$$NPV = PVS - PVC$$

Where PVS equals the present value of operating cost savings (including electricity, repair, and maintenance cost savings) and PVC equals the present value of increased equipment costs (including equipment price and installation price). Another way of describing NPV is that it is the difference between the LCCs (for all appliances sold) with and without standards.

In NPV, costs are calculated as the product of (1) the difference in the purchase price between the base case and standards case and (2) the annual sales volume in the standards case. Since costs of the more-efficient equipment purchased in the standards case are higher than those of equipment purchased in the base case, price increases appear as negative values in the NPV.

Monetary savings are typically exhibited as decreases in operating costs associated with the higher energy efficiency of appliances purchased in the standards case compared to the base case. Total operating cost savings is the product of savings per unit and the number of units of each vintage surviving in a particular year. Savings appear as positive values in the NPV.

Net savings each year are calculated as the difference between Total Operating Cost Savings and Total Equipment Costs. The savings are calculated over the life of the appliance, accounting for the differences in yearly energy rates. Future annual costs and savings are discounted to the present time and summed. NPV greater than zero indicates net savings (*i.e.*, that the standard reduces consumer expenditures in the standards case relative to the base case). NPV less than

zero indicates that the standard incurs net costs.

The elements of the NPV can be expressed in another form, as the benefit/cost ratio. The benefit is the savings in decreased operating expenses (including electricity, repair, and maintenance), while the cost is the increase in the purchase price (including equipment and installation price) due to standards relative to the base case. When the NPV is greater than zero, the benefit/cost ratio is greater than one.

b. Product Specific

Tables 28 to 31 show the forecasted NES for the four primary product classes at each of the five efficiency levels analyzed (11 through 15 SEER). The results shown are based on a single shipment weighted average (SWA) cost instead of a cost distribution.

TABLE 28.—SPLIT-TYPE AIR CONDITIONERS: CUMULATIVE NES IMPACTS FROM 2006 TO 2030

[Quads]

SEER	Source of manufacturer cost data	
	Industry	Reverse Engineering
Base Case [1]	24.3	24.3
11	0.7	0.7
12	2.6	2.5
13	4.3	4.1
14	5.8	5.6
15	7.0	6.7

[1] Values for Base Case are the cumulative national energy consumption from 2006 to 2030.

TABLE 29.—SPLIT-TYPE HEAT PUMPS: CUMULATIVE NES IMPACTS FROM 2006 TO 2030

[Quads]

SEER/HSPF	Source of manufacturer cost data	
	Industry	Reverse engineering
Base Case [1]	27.8	27.8
11/7.1	0.1	0.0
12/7.4	1.3	1.1
13/7.7	2.9	2.8
14/8.0	4.3	4.4
15/8.2	5.8	5.6

[1] Values for Base Case are the cumulative national energy consumption from 2006 to 2030.

TABLE 30.—SINGLE PACKAGE AIR CONDITIONERS: CUMULATIVE NES IMPACTS FROM 2006 TO 2030

[Quads]

SEER	Source of manufacturer cost data	
	Industry	Reverse engineering
Base Case [1]	3.8	3.8
11	0.1	
12	0.4	0.4
13	0.7	0.7
14	0.9	
15	1.1	

[1] Values for Base Case are the cumulative national energy consumption from 2006 to 2030.

TABLE 31.—SINGLE PACKAGE HEAT PUMPS: CUMULATIVE NES IMPACTS FROM 2006 TO 2030

[Quads]

SEER/HSPF	Source of manufacturer cost data	
	Industry	Reverse engineering
Base Case [1]	4.7	4.7
11/7.1	0.0	
12/7.4	0.2	0.2
13/7.7	0.5	
14/8.0	0.7	
15/8.2	1.0	

[1] Values for Base Case are the cumulative national energy consumption from 2006 to 2030.

Tables 32 to 35 show the national NPVs for the four primary product classes at each of the five efficiency levels analyzed (11 through 15 SEER).

TABLE 32.—SPLIT-TYPE AIR CONDITIONERS: CUMULATIVE NET PRESENT VALUE IMPACTS FROM 2006 TO 2030

[In billions of 1998 dollars]

SEER	Source of manufacturer cost data	
	Industry	Reverse engineering
11	−0.3	0.1
12	−2.8	−0.1
13	−7.5	−1.8
14	−156	−8.4
15	−22.0	−12.1

TABLE 33.—SPLIT-TYPE HEAT PUMPS: CUMULATIVE NET PRESENT VALUE IMPACTS FROM 2006 TO 2030

[In billions of 1998 dollars]

SEER/HSPF	Source of manufacturer cost data	
	Industry	Reverse engineering
11/7.1	0.0	0.1
12/7.4	−0.6	0.5
13/7.7	−1.6	−1.5
14/8.0	−2.8	−4.3
15/8.2	−8.1	−6.2

TABLE 34.—SINGLE PACKAGE AIR CONDITIONERS: CUMULATIVE NET PRESENT VALUE IMPACTS FROM 2006 TO 2030

[In billions of 1998 dollars]

SEER	Source of manufacturer cost data	
	Industry	Reverse engineering
11	−0.2	
12	−0.3	0.2
13	−1.9	−1.0
14	−2.8	
15	−4.3	

TABLE 35.—SINGLE PACKAGE HEAT PUMPS: CUMULATIVE NET PRESENT VALUE IMPACTS FROM 2006 TO 2030

[In billions of 1998 dollars]

SEER/HSPF	Source of manufacturer cost data	
	Industry	Reverse engineering
11/7.1	0.0	
12/7.4	−0.1	0.1
13/7.7	−0.6	
14/8.0	−0.6	
15/8.2	−1.3	

3. Indirect Employment Impacts

a. General

The July 1996 Process Rule includes employment impacts among the factors to be considered in selecting a proposed standard. The Process Rule states a presumption against any proposed standard level that would cause significant plant closures or losses of domestic employment.

The Department estimates the impacts of standards on employment for appliance manufacturers, relevant service industries, energy suppliers, and the economy in general. Employment impacts are separated into indirect and direct impacts. Direct employment

impacts would result if standards lead to a change in the number of employees at manufacturing plants and related supply and service firms. Direct impacts are estimated in the Manufacturer Sub-Group Analysis (section G.2).

Indirect impacts are impacts on the national economy other than in the manufacturing sector being regulated. Indirect impacts may result from both expenditures shifting among goods (substitution effect), and income changing, which will lead to a change in overall expenditure levels (income effect). Indirect employment impacts from standards are defined as net jobs eliminated or created in the general economy as a consequence of increased spending on the purchase price of appliances and reduced household spending on energy.

New appliance standards are expected to increase the purchase price of appliances (retail price plus sales tax, and installation). The same standards are also expected to decrease energy consumption, and therefore reduce household expenditures for energy. Over time, the increased purchase price is paid back through energy savings. The savings in energy expenditures may be spent on other items. Using an input/output model of the U.S. economy, this analysis seeks to estimate the effects on different sectors, and the net impact on jobs. National impacts will be estimated for major sectors of the U.S. economy in the NOPR. Public and commercially available data sources and software will be utilized to estimate employment impacts. At least three scenarios will be analyzed to bound the range of uncertainty in future energy prices. All methods and documentation will be made available for review.

b. Product Specific

The Department of Energy's Office of Building Technologies and State Programs (BTS) has developed a spreadsheet model (IMBUILD) that could be used to analyze indirect employment impacts. IMBUILD is a special-purpose version of the Impact Analysis for Planning (IMPLAN) national input-output model which specifically estimates the employment and income effects of building energy technologies. IMPLAN was developed originally by the U.S. Forest Service in cooperation with the Federal Emergency Management Agency (FEMA) and the Bureau of Land Management (BLM) to assist the Forest Service in land and resource management planning. IMBUILD is an economic analysis system that focuses on those sectors most relevant to buildings, and characterizes the interconnections among 35 sectors as national input-output matrices. The IMBUILD output includes employment, industry output, and wage income. Changes in expenditures due to appliance standards can be introduced to IMBUILD as perturbations to existing economic flows and the resulting net national impact on jobs by sector can be estimated. Additional detail is provided in the Preliminary TSD.

OOE stated that they are not familiar with this type of analysis and believe that DOE should utilize specialists that may exist at the Department of Commerce or the Department of Labor. (OOE, #7) The Department intends to use IMBUILD in its analysis of indirect employment impacts due to its relatively long history of being used as a tool (in its original form as IMPLAN) for assessing economic impacts. Although neither the Departments of Commerce or Labor were involved in the development of IMPLAN, the model was based on use of the Commerce Department's make-and-use tables, input-output model of the U.S. economy, and price deflators; and use of the Labor Department's schedule of wages. Consequently, DOE believes IMBUILD is a sound method for analyzing indirect employment impacts. IMBUILD, in its original form as IMPLAN, has been used since 1979 by a wide variety of government and private agencies including FEMA and BLM in conducting economic impact analyses.

F. Consumer Analyses

The Consumer Analysis evaluates impacts on any identifiable groups, such as consumers of different income levels, who may be disproportionately affected by any national energy efficiency standard level.

The Department plans to evaluate variations in regional energy prices, variations in energy use and variations in installation costs that might affect the NPV of a standard to consumer sub-populations. To the extent possible, the Department will obtain estimates of the variability of each input parameter and consider this variability in its calculation of consumer impacts. The analysis is structured to answer questions such as: How many households are better off with standards and by how much? How many households are not better off and by how much? The variability in each input parameter and likely sources of information will be discussed with stakeholders.

Variations in energy use for a particular appliance depend on factors such as climate, type of household, and people in household. Annual energy use can be estimated by a calculation based on an accepted test procedure or it can be measured directly in the field. The Department plans to perform sensitivity analyses to consider how differences in energy use will affect sub-groups of consumers.

The impact on consumer sub-groups will be determined using the LCC spreadsheet model. Details of this model are explained in the LCC section of the Preliminary TSD.

1. Consumer Sub-Group Analysis

a. General

The Department will be sensitive to increases in the purchase price to avoid negative impacts to identifiable population groups, such as consumers of lower income levels. Additionally, the Department will assess the likely impacts of an increased purchase price on product sales and fuel switching.

b. Product Specific

For consumers, one measure of economic impact is the first cost of the product. The Department will analyze first costs to determine their impacts on consumer subgroups. The Department will be especially attentive to the need to avoid negative impacts on population groups such as low-income households. Increased first costs to consumers resulting from standards are especially important for lower-income consumers, since this group is most sensitive to price increases. For lower-income consumers, increases in first costs for a product can preclude the purchase of a new model of that product. As a result, some consumers may retain products past their useful life, or purchase older, used appliances. These older products are generally less efficient, and their efficiency may deteriorate if they are retained beyond their useful life. Increases in first cost can also preclude the purchase and use of a product altogether resulting in a potentially large loss of utility.

OOE commented that with regard to first-cost increases on low-income households, the number of low-income households affected by any new standards should first be determined (OOE, #7). The Department seeks input on identifying the potential impacts of a large first-cost increase on consumers (affordability, financing, and on other financial issues), and on methods and data the Department could use in conducting its analysis. The Department also seeks input on methods the Department might use to assess the likely impacts of first-cost increases on product sales and fuel switching.

2. Consumer Participation

a. General

The Department seeks to inform and involve consumers and consumer representatives in the process of developing standards. This includes notification of consumer representatives during the rulemaking process and where appropriate, seeking direct consumer input.

For all products, consumer input is important for several related but separate analytical tasks. First, consumer preferences should be understood prior to determining product classes in order to preserve product utility. Second, assessing the impact of changes in first cost may require direct consumer participation from affected consumer sub-groups (particularly low-income households). Finally, consumer input is useful to ensure that life-cycle costs are accurately estimated for relevant subgroups of consumers. To assess consumer impacts, the Department usually combines life-cycle cost modeling and direct consumer input.

The advisory committee sub-group on consumer issues has suggested appropriate means of obtaining consumer input, including: (1) Using focus groups, (2) conducting surveys, (3) conducting demonstration projects, (4) conducting marketing analysis, and, (5) researching existing literature from voluntary programs. In seeking this information, the advisory committee sub-group emphasized the need for the Department to obtain information from statistically significant sample sizes of all relevant consumer categories.

b. Product Specific

OOE recommended that the Department first investigate the actual level of consumer input or choice involved in the purchase of these systems before spending any time putting resources into surveying consumers about first cost increases. (OOE, #7) OOE warned that HVAC contractors, rather than consumers, may have greater decision-making power regarding the purchase of systems.

G. Manufacturer Impact Analysis

The Manufacturer Impact Analysis estimates the financial impact of standards on manufacturers and calculates impacts on competition, employment, and manufacturing capacity.

Prior to initiating the detailed Manufacturing Impact Analysis, the Department will prepare an approach document and have it available for review. While the general framework will serve as a guide, the Department intends to tailor the methodology for each rule on the basis of stakeholder comments. The document will outline procedural steps and outline issues for consideration. Three important elements of the approach consist of the preparation of an industry cash flow, the development of a process to consider sub-group cash flow, and the design of an guide to interview manufacturers and others in gathering information.

The policies outlined in the Process Rule required substantial revisions to the analytical framework to be used in performing Manufacturer Impact Analysis for each rulemaking. In the approach document, the Department will describe and obtain comments on the methodology to be used in performing the manufacturer impact analyses. The manufacturer impact analyses will be conducted in three phases. Phase 1 consists of two activities, namely, preparation of an industry characterization and identification of issues. Phase 2 has as its focus the larger industry, and in this phase, the GRIM will be used to perform an Industry Cash Flow Analysis. Phase 3 involves repeating the process described in Phase 2 (the Industry Cash Flow Analysis) but on different sub-groups of manufacturers. Phase 3 also entails determining additional impacts on competition, employment, and manufacturing capacity.

1. Industry Characterization (Phase 1)

a. General

Phase 1 of the Manufacturer Impact Analysis consists of collecting pertinent financial and market information. This activity involves both quantitative and qualitative efforts. Data gathered will include market share, corporate operating ratios, wages, employment, and production cost ratios. These data are incorporated into the Engineering Analysis in the estimation of equipment production costs and distribution markups. Sources of information include reports published by industry groups, trade journals, and the U.S. Bureau of Census, and copies of SEC 10–K filings.

b. Product Specific

The Department collected central air conditioner manufacturer information to support the Engineering Analysis. This included manufacturer market shares, markups along the distribution chain, and typical ratios for labor, materials, and overhead. This information appears throughout the Preliminary TSD that accompanies this Supplemental ANOPR.

2. Industry Cash Flow (Phase 2)

a. General

A change in standards affects the analysis in three distinct ways. Standards at higher levels will require additional investment, will raise production costs, and will affect revenue through higher prices and, possibly, lower quantities sold. The Department will quantify these changes by performing an Industry Cash Flow Analysis using the GRIM. Usually this analysis will use manufacturing costs, shipments forecasts, and price forecasts developed for the other analyses. Financial information, also required as an input to GRIM, will be developed based on publicly available data and confidentially submitted manufacturer information.

The GRIM Analysis uses a number of factors: Annual expected revenues; manufacturer costs such as cost of sales, selling and general administration costs; taxes; and capital expenditures related to depreciation, new standards, and maintenance, to arrive at a series of annual cash flows beginning from before implementation of standards and continuing explicitly for several years after implementation. The measure of industry net present values are calculated by discounting the annual cash flows from the period before implementation of standards to some future point in time. The Preliminary TSD describes the GRIM's operating principles.

b. Product Specific

The Industry Cash Flow Analysis uses average manufacturing costs (with uncertainty) as described in the Engineering Analysis (section II.C.2), shipments forecasts as described in the Preliminary National Impact Analysis (section II.E.1), and price forecasts as described in the LCC and Payback Analysis (section II.D.1.) Financial information, also required as an input to the GRIM, is based on publicly available data and confidentially submitted manufacturer information. The cash flow analysis will be distributed to interested parties prior to the workshop to be held after publication of this Supplemental ANOPR.

In Phase 2, the Department intends to expand the Phase 1 analysis to include a Cash Flow Analysis covering, in aggregate, the firms that manufacture residential central air conditioning equipment. The data gathered in Phase 1 will be augmented with data from additional public and private sources.

These include shipment projections developed for the NES Analysis and interviews with individual manufacturers. The GRIM will estimate the potential effects of new standards on industry cash flow, net present value, capacity, and employment. Scenarios will include both HCFC–22 and hydro-fluoro-carbon (HFC) refrigerants, HFC–410A. Other considerations include imports and exports, uncertainty, and cumulative regulatory burden.

An industry representative stated that his company would be very unlikely to provide proprietary cost data directly to DOE or its contractors. (Jim Crawford, Trane, Transcript, p 134). The Oregon Office of Energy (OOE) warned that an Industry Cash Flow Analysis should be internally consistent with data used in other analyses (OOE, #7). The Department currently is seeking further input from stakeholders on whether additional scenarios are needed, and on the general appropriateness of the data sources and methods.

3. Manufacturer Sub-Group Analysis (Phase 3)

a. General

Assessment of impacts on sub-groups of manufacturers is Phase 3 of the Manufacturing Impact Analysis. Using industry "average" cost values is not adequate for assessing the variation in impacts among sub-groups of manufacturers. Smaller manufacturers, niche manufacturers or manufacturers exhibiting a cost structure largely different from industry averages could be more negatively affected. Ideally, the Department would consider the impact on every firm individually. In highly concentrated industries this may be possible. In industries having numerous participants, the Department will use the results of the industry characterization to group manufacturers exhibiting similar characteristics. The financial analysis of the "prototypical" firm performed in the Phase 2 industry analysis can serve as a benchmark against which manufacturer sub-groups can be analyzed.

The manufacturing cost data collected for the Engineering Analysis will be used to the extent practical in the sub-group impact analysis. To be useful, however, this data should be disaggregated to reflect the variability in costs between relevant sub-groups of firms.

The Department will conduct detailed interviews with as many manufacturers as is possible to gain insight into the potential impacts of standards. During these interviews, the Department will solicit the information necessary to evaluate cash flows and to assess competitive, employment and capacity impacts. Firm-specific cumulative burden will also be considered.

b. Product Specific

In order to conduct a Manufacturer Sub-Group Analysis, it will be necessary to define representative sub-groups and conduct separate Cash Flow Analysis for each. For example, one option consists of conducting separate cash flows for all manufacturers. Another option, could entail conducting Cash flow Analysis only for those manufacturers which believe their impacts are more severe then industry average.

The Department intends to examine two sub-groups: high-volume manufacturers and low-volume manufacturers. A "strawman" GRIM Analysis on each subgroup will be prepared for review prior to the interviews. Information from the interviews will be used to develop revised GRIM sub-group analyses for consideration in the NOPR.

OOE recommended that the analysis use the minimum number of sub-groups required to fully capture different levels of impact on different sizes and type of manufacturers (OOE, #7).

The Department seeks input from stakeholders on whether the defined sub-groups are appropriate, or whether fewer, or additional, subgroups are needed. Comments are also requested regarding the value in grouping manufacturers into sub-groups, compared to conducting individual GRIM Analysis for each manufacturer. Additional commentary is sought regarding which manufacturers should be asked to participate in the interviews, and, more generally, what a well executed sub-group analysis would entail.

4. Interview Process

a. General

The revised rulemaking process provides for greater public input and for improved analytical approaches, with particular emphasis on earlier and more extensive information gathering from interested parties. The proposed three-phase Manufacturer Impact Analysis process will draw on multiple information sources, including structured interviews with manufacturers and a broad cross-section of interested parties. Interviews may be conducted in any and all phases of the analyses as determined in Phase 1.

The interview process has a key role in the manufacturer impact analyses, since it provides an opportunity for manufacturers to privately express their views on important issues. A key characteristic of the interview process is that it is designed to allow confidential information to be considered in the rulemaking process.

The initial industry characterization will collect information from relevant industry and market publications, industry trade organizations, company financial reports, and product literature. This information will aid in the development of detailed and focused questionnaires, as needed, to perform all phases of the manufacturer impact analyses. It is the intention of the Department that the contents of questionnaires and the list of interview participants be publicly vetted prior to initiating the interview process.

The Phase 3 (sub-group analysis) questionnaire will solicit information on the possible impacts of potential efficiency levels on manufacturing costs, product prices, and sales. Evaluation of the possible impacts on direct employment, capital assets, and industry competitiveness will also draw heavily on the information gathered during the interviews. The questionnaires will solicit both qualitative and quantitative information. Supporting information will be requested whenever applicable.

Interviews will be scheduled well in advance in order to provide every opportunity for key individuals to be available for comment. Although a written response to the questionnaire is acceptable, an interactive interview process is preferred because it helps clarify responses and provides the opportunity for additional issues to be identified.

Interview participants will be requested to identify all confidential information provided in writing or orally. Approximately two weeks following the interview, an interview summary will be provided to give participants the opportunity to confirm the accuracy and protect the confidentiality of collected information. All the information transmitted will be considered, when appropriate, in the Department's decision-making process. However, confidential information will not be made available in the public record.

DOE will collate the completed interview questionnaires and prepare a summary of the major issues and outcomes. The Department will seek comment on the outcome of the interview process.

b. Product Specific

The Department completed a round of preliminary interviews at the start of the

Engineering Analysis that focused on design and cost issues. A second round of interviews will be scheduled soon after publication of the Supplemental ANOPR. The intent will be to develop an accurate representation of the impacts of new standards on each subgroup. As noted previously, the Department intends to examine two subgroups: high-volume manufacturers and low-volume manufacturers.

H. Competitive Impact Assessment

a. General

EPCA directs the Department to consider any lessening of competition that is likely to result from standards. It directs the Attorney General to gauge the impacts, if any, of any lessening of competition. The Department will make a determined effort to gather and report firm-specific financial information and impacts. The competitive analysis will focus on assessing the impacts to smaller, yet significant, manufacturers. The assessment will be based on manufacturing cost data and on information collected from interviews with manufacturers, consistent with Phase 3 of the manufacturer impact analyses. The Department of Justice (DOJ) has offered to help in drafting questions to be used in the manufacturer interviews. These questions will pertain to the assessment of the likelihood of increases in market concentration levels and other market conditions that could lead to anti-competitive pricing behavior. The manufacturer interviews will focus on gathering information that would help in assessing asymmetrical cost increases to some manufacturers, increased proportion of fixed costs potentially increasing business risks, and potential barriers to market entry (proprietary technologies, etc.).

b. Product Specific

The Department will consult with DOJ prior to conducting the manufacturer interviews and will share the results of those interviews and subsequent analyses with DOJs according to the rulemaking schedule, and as appropriate.

I. Utility Analysis

The Utility Analysis estimates the effects of proposed standards on electric and gas utilities.

1. Proposed Methodology

a. General

To estimate the effects of proposed standards on electric and gas utilities, the Department intends to use EIA's NEMS. NEMS is a large multi-sectoral partial-equilibrium model of the U.S. energy sector that has been developed over several years by EIA primarily to prepare the *AEO*. NEMS produces a widely recognized baseline forecast for the U.S. through 2020, and is available in the public domain. Outputs of the Utility Analysis will parallel results that appear in the latest *AEO*, with some additions. Typical output includes forecasts of sales and price. The entire Utility Analysis will be conducted as a policy deviation from the latest *AEO* using NEMS–BRS, and the assumptions in place in NEMS will serve as the basic set of assumptions that will be applied to the Utility Analysis. For example, the operating characteristics (energy efficiency, emissions rates, etc.) of future electricity generating plants used in the Utility Impact Analysis will be those used in the latest *AEO*. As discussed earlier, NEMS–BRS is a variant of U.S. DOE/EIA's NEMS and is referred to as such for two reasons: (1) The Utility Analysis to be performed entails some minor code modifications and (2) the model will be run under policy deviations that are variations on DOE/EIA assumptions. The name NEMS–BRS refers to the model that will be used for the Utility Analysis (BRS is DOE's Building Research and Standards office).

Forecasting for the electric utility industry is seriously complicated by the implications of industry restructuring, which is only partially reflected in the latest *AEO* (1999). DOE plans to explore the consequences of a wider restructuring pattern through appropriate scenario analysis using NEMS–BRS.

NEMS offers a sophisticated picture of the effect of appliance standards since its scale allows it to measure the interactions between the various energy supply and demand sectors and the economy as a whole. In addition, the scale of NEMS permits analysis of the effects of standards on both the electric and gas utility industries.

b. Product Specific

To analyze the effect of standards, NEMS–BRS will first be run exactly as it would be to produce an *AEO* forecast, then a second run will be conducted with residential energy usage reduced by the amount of energy (gas, oil, and electricity) saved due to appliance standards for central air conditioners and heat pumps. The energy savings input will be obtained from the NES spreadsheet (section II.E.1). Outputs available are the same as those in the original NEMS model, including residential energy prices, generation, and installed capacity (and, in the case of electricity, which primary fuel is used for generation). Other than the difference in energy consumption due to central air conditioner and heat pump standards, input assumptions into NEMS–BRS will follow those used to produce the 1999 *AEO*.

Since the *AEO* 1999 version of NEMS–BRS forecasts only to the year 2020, a method for extrapolating price data to 2030 is required. The method adopted will be the EIA approach to forecasting fuel prices for the Federal Energy Management Programs (FEMP). These are the prices used by FEMP to estimate LCCs of Federal equipment procurement. For petroleum products, the average growth rate for the world oil price over the years 2010 to 2020 is used in combination with the refinery and distribution markups for the year 2020 to determine regional price forecasts. Similarly, natural gas prices are derived from an average growth rate along with regional price margins for the year 2020. Electricity prices are held constant at 2020 levels on the assumption that the transition to a restructured utility industry will have been completed.

In principle, any of the forecasts that appear in the *1999 AEO* could be estimated by NEMS–BRS to take into account the effects of a particular level of central air conditioner and heat pump standards. The Department intends to report the major results on residential sales of fuels, prices of fuels, and generating sources displaced by energy savings. As might be expected, as the total energy use of America is much larger than that possible due to the savings from central air conditioners and heat pumps, there is little expected difference in the forecasted price of energy.

EEI stated that the Utility Analysis should incorporate the impact of any new standard on the equipment's Energy Efficiency Ratio (EER) rating in order to establish the impact on peak loads and power plant operation. The analysis should also be market based, and take into account that several merchant plants are coming on-line and that customers, rather than utility dispatchers, will dictate how power plants are utilized to meet air conditioning loads. (EEI, #2) Since it incorporates representative load shapes for central air conditioners and heat pumps, NEMS–BRS has the capability to determine both the impacts on power plant operation and peak loads that result from central air conditioner and heat pump energy savings. Thus, the type of power plant that will go off-line and the resulting reduction in peak loads can and will be determined.

J. Environmental Analysis

An Environmental Assessment is required pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), regulations of the Council on Environmental Quality (49 CFR parts 1500–1508), the Department regulations for compliance with NEPA (10 CFR part 1021), and the Secretarial Policy on the National Environmental Policy Act (June 1994). The Department will present a discussion of the Draft Environmental Assessment as part of the NOPR. The Department will present the Draft Environmental Assessment in the Technical Support Document for the NOPR. The NOPR will provide an opportunity for comments prior to the final rule.

The Environmental Analysis will track three types of energy-related airborne emissions: sulfur dioxide (SO_2), nitrogen oxides (NO_x) and carbon dioxide (CO_2). The first two have direct consequences for human health, and are major causes of acid precipitation, which can affect humans by reducing the productivity of farms, forests and fisheries, decreasing recreational opportunities and degrading susceptible buildings and monuments. NO_x is also a precursor gas to urban smog and is particularly detrimental to air quality during hot, still weather. CO_2 emissions are believed to contribute to raising the average global temperature via the "greenhouse effect." The long-term consequences of higher temperatures may include perturbed air and ocean currents, perturbed precipitation patterns, changes in the gaseous equilibrium between the atmosphere and the biosphere, and the melting of some of the ice now covering polar lands and oceans, causing a rise in sea level. The source of emissions covered in this analysis is fossil fuel-fired electricity generation.

1. Proposed Methodology

a. General

To perform the Environmental Analysis, the Department intends to use NEMS–BRS, which it also uses for the Utility Impact Analysis described in the previous section. Outputs of the Environmental Analysis will parallel results that appear in the latest *AEO*, with some additions. The Department will conduct entire Environmental Analysis as a policy deviation from the latest *AEO* using NEMS–BRS, and the assumptions in place in NEMS will serve as the basic set of assumptions that will be applied to the Environmental Analysis.

Carbon emissions (which are a physically equivalent indicator of actual emissions of carbon dioxide) are tracked in NEMS–BRS by a detailed carbon module with broad coverage of all sectors and inclusion of interactive effects. NEMS–BRS also includes a module for SO_2 allowance trading and delivers a forecast of SO_2 allowance prices. Accurate simulation of SO_2 trading, however, tends to imply that physical emissions effects will be zero. This fact has caused considerable confusion in the past, and, in prior appliance standards analyses, a simple figure for emission reductions has been reported, with the caveat that emissions trading implies that this reduction will unlikely be realized. On the other hand, there is an SO_2 benefit from conservation in the form of a lower allowance price. If the reduction in allowance price is large enough to be calculable by NEMS–BRS, the Department will report this value.

The results for the Environmental Analysis can be in the form of a complete NEMS–BRS run. In general, NEMS–BRS outputs become the tables of an *AEO*, and these should provide a good idea of the range of results available. Outputs from a NEMS–BRS run include SO_2, NO_X and CO_2 emissions from the power sector and a trading price for SO_2 allowances. The only form of carbon tracked by NEMS–BRS is CO_2, so the carbon discussed in the analysis is only in the form of CO_2 but is reported as elemental carbon to remain consistent with the *1999 AEO*. The conversion factor from carbon to CO_2 is approximately 3.7.

b. Product Specific

The version of NEMS used for appliance standards analysis is called NEMS–BRS, and is based on the *1999 AEO* version with minor modifications. NEMS–BRS is run exactly the same as the original NEMS, except that residential energy usage is reduced by the amount of energy (gas, oil, and electricity) saved due to central air conditioner and heat pump standards. The amount of energy savings is obtained from the NES spreadsheet (Section 8.2). The output of the Environmental Analysis is forecasted physical emissions. The net benefits of a standard will be the difference between emissions estimated by the *AEO* 1999 version of NEMS–BRS and those estimated with a standard in place.

Energy use for central air conditioner and heat pump efficiency levels will be the same as those in the NES spreadsheet. Other input assumptions into NEMS–BRS will follow those used to produce *AEO* 1999. In principle, any of the forecasts that appear in *AEO* 1999 could be estimated by NEMS–BRS to take into account the effects of a particular central air conditioner and heat pump efficiency standard level, but, in the standard reporting, the Department intends to report emissions of SO_2, NO_X and CO_2.

The time horizon of NEMS–BRS is 2020. The Department will extrapolate beyond 2020 using a simple formula (according to the method set out in the Preliminary TSD) to extend the forecast to 2030. The Department will generate alternative price forecasts corresponding to the side cases found in *AEO* 1999 for use by NES and will explore alternatives in a similar fashion with NEMS–BRS runs.

EEI stated the environmental impact results generated from NEMS will be less accurate than they could be, since consumers may switch electricity suppliers and since the impacts from other emissions, such as carbon monoxide and precursor organic compounds, are not being analyzed.(EEI, #2) EMPA also stated that NEMS does not accurately account for recent changes in the electric utility industry. (EMPA, #3) Although NEMS might have some short comings, the Department believes that NEMS–BRS is the most appropriate and accurate model to estimate environmental impacts. Although the Department is comfortable with the use of NEMS–BRS for establishing environmental impacts, interested parties are welcome to present any other models or data that could verify or refute the NEMS estimates.

K. Regulatory Impact Analysis

DOE will be preparing a draft Regulatory Analysis pursuant to E.O. 12866, "Regulatory Planning and Review," which will be subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) 58 FR 51735 (October 4, 1993).

As part of the Regulatory Analysis, the Department will identify and seek to mitigate the overlapping effects on manufacturers of new or revised DOE standards and other regulatory actions affecting the same products. Through manufacturer interviews and literature searches, the Department will compile information on burdens from existing and impending regulations affecting central air conditioners (e.g. HCFC phase out) and other products (e.g. room air conditioners). The Department also seeks input from stakeholders regarding other regulations that should be considered.

III. Proposed Standards Scenarios

Upon reviewing the preliminary LCC and NES results, the Department observes that the efficiency levels analyzed; (generally a 10 to 70 percent improvement over the existing standard), produced a range of impacts at the National level. For example, the NES impacts show a range from 0.81 to 14.11 quads of energy saved over the 2006 to 2030 period. As expected, the higher the efficiency level, the greater the savings.

The national Net Present Value (NPV), which is the discounted sum over future years of the operating cost savings in energy less the increase in first cost of more efficient units, also showed a range of impacts. A positive NPV is a net benefit to the nation. The NPVs based on reverse engineering costs show positive benefits to the Nation for all efficiency levels less than 13 SEER (with the exception of the 12 SEER efficiency level for split system air conditioners), while NPVs based on industry-provided manufacturer costs show negative benefits to the nation for all efficiency levels.

At the consumer level, the LCC and payback analyses results also depend on manufacturer costs. For example, with reverse engineering costs, minimum LCC occurs at 12 SEER for all product classes, and with industry-provided costs, minimum LCC occurs at 12 SEER for heat pumps (both split system and packaged), but there is no minimum LCC for air conditioners. Payback analyses for SEER 12 equipment also show a range of payback times varying from 3 to 15 years, depending on the product class and the manufacturer costs.

The maximum technologically feasible efficiency levels for these products (approximately 20 SEER in 2006) were not explicitly analyzed in this Supplemental ANOPR because the Department assumed that the products could not be economically justified. While the split-system air conditioner with the highest efficiency in the market in 1998 was rated at SEER 18, the most efficient product analyzed in this Supplementary ANOPR was SEER 17. At this efficiency level, all the products had greater LCCs than the baseline and had payback periods that exceeded the mean product lifetime. The Department assumed that products with efficiencies greater than SEER 17 would have greater incremental costs than incremental savings, and that, consequently, efficiency levels greater than SEER 17 could not be economically justified. This assumption will be reexamined prior to issuance of the NOPR, where products at the maximum technologically feasible level will be analyzed.

Based on the analyses performed, the Department observes that, depending on product class, efficiency levels ranging from 11 to 13 SEER would appear to result in the greatest economic benefit to the Nation. The Process Rule requires the Department to specify in the ANOPR candidate standards levels, but not to propose a particular standard. Because the preliminary LCC and NES results show economic benefits to both consumers and to the Nation in the SEER 11 to 13 efficiency range, the Department intends to further consider and conduct analyses for the following candidate standards levels, for each product class, prior to issuance of the NOPR:

- SEER 11
- SEER 12
- SEER 13

In addition, the Department intends to conduct Engineering and LCC analyses specifically for the Maximum Technologically Feasible (approximately SEER 20) level for each product class prior to issuance of the NOPR.

Split System Central Air Conditioners: The minimum mean LCC for split system air conditioners occurs at either 11 or 12 SEER, based on the industry cost data or the reverse engineering manufacturing cost data, respectively. Although the minimum mean LCC occurs at efficiency levels greater than the baseline (10 SEER) in both of the these cases, the percent of the population with LCCs lower than the baseline is less than 50% (39% at 11 SEER, based on industry data, and 45% at 12 SEER, based on reverse engineering data). The median payback periods corresponding to the industry data and reverse engineering LCC minimums, 13 and 11 years, respectively, are both less than the 18.4 year average product lifetime. However, mean payback periods exceed the average product lifetime.

Split System Heat Pumps: The minimum mean LCC for split system heat pumps occurs at 12 SEER for both the industry cost data and the reverse engineering manufacturing cost data, although based on the reverse engineering cost data, the mean LCC corresponding to 13 SEER is also less than that for the baseline. The percent of the split heat pump population at 12 SEER with LCCs lower than the baseline is well above 50% based on both the industry data and reverse engineering cost data (63% based on industry data and 90% based on reverse engineering). The median payback periods corresponding to the industry data and reverse engineering LCC minimums, 8 and 3 years, respectively, are both less than the average 18.4 year product lifetime.

Single Package Air Conditioners: The minimum mean LCC for single package air conditioners occurs at either 10 or 12 SEER, based on the industry cost data or the reverse engineering manufacturing cost data, respectively. The percent of the population at 12 SEER with LCCs lower than the baseline varies significantly depending on which cost data are used; the industry cost data results in a percentage of 26% while the reverse engineering cost data results in a percentage of 58%. The median payback periods corresponding to the industry data at 11 SEER efficiency level and the reverse engineering 12 SEER efficiency level are 20 and 8 years, respectively.

Single Package Heat Pumps: The minimum mean LCC for single package heat pumps occurs at 12 SEER for both the industry cost data and the reverse engineering manufacturing cost data. The percent of the single package heat pump population at 12 SEER with LCCs lower than the baseline is above 50% (58% and 80%, based on industry data and reverse engineering data, respectively). The median payback periods corresponding to the industry data and reverse engineering LCC minimums, 9 and 5 years, respectively, are less than the mean lifetime of the product.

The above observations are based on preliminary LCC and NES results, which will be updated and revised in the NOPR and final rule analyses. The LCC and NES results are considered preliminary because they do not include any results from the manufacturer impact and consumer subgroup analyses, or contain information from a consumer survey. The Department seeks comments on whether standards that meet alternative scenarios would provide energy savings to the Nation comparable to the savings that would be obtained by the highest standards that are technologically feasible and economically justified effective in 2006. Standards that meet the following alternative scenarios, for example, might be presented to the Department for consideration:

- A moderate increase in the efficiency level at an earlier effective date, for example, an effective date three years after the publication of the Final Rule.
- A stringent increase in efficiency level at a later effective date, for

example, an effective date in 2010 coinciding with the HCFC–22 phase out.

• A two-phase approach combining the two scenarios, for example, a lower efficiency level for some product classes effective at an earlier date and a higher efficiency level effective at a later date.

The Department seeks comments on standards under various scenarios, including the candidate standards, for consideration in preparing the analysis on which the Department will base the proposed rule.

IV. Public Comment Procedures

A. Participation in Rulemaking

The Department encourages the maximum level of public participation possible in this rulemaking. Individual consumers, representatives of consumer groups, manufacturers, associations, States or other governmental entities, utilities, retailers, distributors, manufacturers, and others are urged to submit written statements on the analysis presented here.

The Department has established a period of 75 days following publication of this notice for persons to comment. All public comments received will be available for review in the Department's Freedom of Information Reading Room. In addition, the following data is available in the Department's Freedom of Information Reading Room:

- Copies of the Preliminary TSD
- Transcripts of the Central Air Conditioning policy Workshop held on June 30, 1998
- Copies of the public comments received by the Department thus far
- Previous **Federal Register** notices relating to this central air conditioner and heat pump rulemaking

A public hearing will be held on December 9, 1999, (9 a.m.—5 p.m.), at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW, Room 1E–245, Washington, DC 20585. More detailed information about this hearing will be on the Office of Codes and Standards web site beginning in November. The web site address is as follows: http://www.eren.doe.gov/buildings/codes__standards/index.htm.

B. Written Comment Procedures

Interested persons are invited to participate in this proceeding by submitting written data, views, or arguments with respect to the subjects set forth in this notice. Comments will not be accepted by fax or e-mail. Instructions for submitting written comments are set forth at the beginning of this notice and in this section.

Comments should be labeled both on the envelope and on the documents, "Central Air Conditioners and Heat Pumps Rulemaking (Docket No. EE-RM–94–403)," and must be received by the date specified at the beginning of this document. The Department requests that ten copies of your comments be submitted. Additionally, the Department would appreciate an electronic copy of the comments to the extent possible. The Department is currently using WordPerfect™ 8. All comments and other relevant information received by the date specified at the beginning of this notice will be considered by the Department in the proposed rule.

All written comments received on this supplemental Advance Notice of Proposed Rulemaking will be available for public inspection at the Freedom of Information Reading Room, as provided at the beginning of this notice.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data that is believed to be confidential, and exempt by law from public disclosure, should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. The Department will make its own determination with regard to the confidential status of the information or data and treat it according to its determination.

Factors of interest to the Department, when evaluating requests to treat information as confidential, include: (1) A description of the item; (2) an indication as to whether and why such items of information have been treated by the submitting party as confidential, and whether and why such items are customarily treated as confidential, and whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known or available from other sources; (4) whether the information has previously been available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that would result from public disclosure; (6) an indication as to when such information might lose its confidential character due to the passage of time; and (7) whether disclosure of the information would be in the public interest.

C. Issues for Public Comment

The Department is interested in receiving comments and data to improve its preliminary analysis. In particular, the Department is interested in responses to the following questions and/or concerns that were addressed in this notice.

1. Differences between the industry and the reverse engineering cost data:

• Use of the industry and the reverse engineering cost data yield significantly different LCC, payback period, NES, and NPV results. Efforts preceding the publication of this Supplemental ANOPR between the Department and the industry have yet to reveal why differences still persist between the two sets of cost data. Continued efforts and suggestions are needed to resolve the differences between the two cost data sets. These differences are discussed in the Process Improvement section (I B.3.).

2. The incorporation of emerging technologies into the Engineering Analysis:

• The Department has conducted a preliminary analysis of how emerging technologies may impact the manufacturing costs of achieving higher efficiency levels. But due to the uncertainty associated with the future development of these technologies, in particular, microchannel heat exchangers, advanced compressors, and variable speed motor controls, the costs currently projected for their incorporation into air conditioning and heat pump equipment may change significantly.

3. The assessment of the impacts on steady-state efficiency, i.e. EER, due to increases in the SEER:

• Comments submitted by the EEI and the ACEEE call for assessments of how the Energy Efficiency Ratio (EER) of air conditioning and heat pump equipment may be impacted by an increase in the SEER. In particular, they are concerned that a higher efficiency standard based on SEER may lead to a decrease in steady-state efficiency during peak demand because of the prevalence of modulating systems at the higher SEER levels. Up to efficiency levels of 12 SEER, the rate of EER increase is directly proportional to the increase in SEER as manufacturers typically rely on single-speed technology to attain the SEER increase. But as efficiency levels move beyond 12 SEER, manufacturers use an array of technologies that have significantly different impacts on EER. How should the Department quantify the relationship of EER to the higher SEER values?

4. For heat pump systems, the relationship between SEER and HSPF:

• Based on heat pumps in the marketplace, a range of HSPF values are possible for any particular SEER. But recognizing that the HSPF of heat pump equipment generally increases with

SEER, the current analysis assumes a simple relationship between the two efficiency descriptors for purposes of setting an HSPF standard in addition to a SEER standard for heat pumps. Should the Department continue with this simple approach or should another procedure be developed to assess the impact of SEER on HSPF?

5. Additional product classes based on system capacity:

• The current analyses are based on manufacturing cost data developed for nominal 3-ton capacity systems. Although product shipments are predominantly at nominal capacities of 3-tons, the cost of achieving higher efficiency for systems with higher and lower capacities may be different. If data submitted in response to this Supplemental ANOPR reveals significantly different manufacturing cost increases based on system capacity, the Department will analyze whether this results in justifiably lower or higher efficiency levels for equipment of differing capacity.

6. Niche product classes:

• Several manufacturers have asked the Department to establish new classes to protect the viability of certain niche products under higher efficiency standards. These products (ductless split systems, high-velocity/small duct systems, vertical packaged/wall mounted systems, and through-the-wall condensing units) serve niche markets and probably account for less than three percent of the residential unitary market. As such, the efficiency standard established for these products will have little effect on NES and consumer LCC. The Department seeks comments as to whether these products provide a unique utility that cannot be met by other products. One important question is whether the constraints imposed by higher standards would eliminate these products from the marketplace. For this reason the Department is also interested in recommendations as to how to define these new product classes so that these products would continue to be available to satisfy the unique needs for which they are intended.

7. The impact of alternative refrigerants for HCFC–22:

• The current analysis assumes that the phase-out date for HCFC–22 is far enough in the future that it will not affect a manufacturer's ability to meet any new efficiency standards, whether using HCFC–22 before the phase-out, or using alternative refrigerants before and after the phase-out. Through manufacturer interviews and literature searches, the Department plans to compile information on burdens from existing and impending regulations affecting central air conditioners (e.g. HCFC phase out). But should the Department more explicitly account for the impact of the HCFC phase out in the Engineering Analysis? Any analysis in this area will require assessment of the impact on manufacturer cost due to the use of the alternative refrigerant.

8. Data on retail mark-up assumptions:

• Retail mark-up assumptions are based upon the following distribution chain: manufacturer-to-distributor/ wholesaler-to-contractor/dealer. Although this is not the only type of distribution chain currently in existence for central air conditioning and heat pump equipment, it is assumed that the mark-ups reflected by this chain of distribution will reflect the mark-ups resulting from other methods of distribution (*e.g.*, manufacturer directly to dealer). At present the Department does not intend to change the retail mark-up assumptions but will continue to research data sources and seek comment on this issue.

9. Information relating to the determination of price and operating cost elasticities in conducting shipment forecasts:

• In order to determine the effect of an increase in the purchase price and operating cost on shipments, it would be useful to know the elasticities of central air conditioner and heat pump prices and operating costs. Due to the lack of data in this area specific to central air conditioners and heat pumps, the Department is currently using elasticities developed from analyses conducted over twenty years ago. With regard to purchase price, in making estimates of these effects, the Department needs to estimate how price changes resulting from revised energy efficiency standards for central air conditioners and heat pumps will affect the behavior of consumers in their purchasing decisions.

10. Data on the possible adverse affects of standards on identifiable groups of consumers that experience below-average utility or usage rates:

• The consumer analysis can evaluate impacts on any identifiable groups, such as consumers of different income levels, who may be disproportionately affected by any national energy efficiency standard level.

11. Information on what non-regulatory alternatives to standards need to be reviewed:

• Under the Process Rule policies, the Department is committed to continually explore non-regulatory alternatives to standards. The table following presents what is being proposed for consideration in this rulemaking. The Department is seeking comments on this approach. This approach is further discussed in the Preliminary TSD.

Alternatives To Be Considered

—No new regulatory action
—Consumer tax credits
—Manufacturer tax credits
—Performance standards
—Rebates
—Voluntary energy efficiency targets
—Early replacement
—Mass government purchases

12. Comments on the candidate standard levels and the alternative standard scenarios.

• The Department has identified candidate standards levels of 11 SEER, 12 SEER and 13 SEER for all product classes. The Department has also provided examples of several alternative scenarios which could have different effective dates and different standards levels but which could provide comparable energy savings.

VOL
64
ISS
2
2
6
NO
24
1999
UMI

V. Review Under Executive Order 12866 and Other Provisions

DOE provided to the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget a copy of this document for comment. At the proposal stage for this rulemaking, DOE and OIRA will determine whether this rulemaking is a significant regulatory action under Executive Order 12866, Regulatory Planning and Review. 58 FR 51735 (October 4, 1993). Were DOE to propose amendments to the energy conservation standards for central air conditioners and heat pumps, the rulemaking could constitute an economically significant regulatory action and DOE would prepare and submit to OIRA for review the assessment of costs and benefits required by Section 6(a)(3) of Executive Order 12866. Other procedural and analysis requirements in other Executive Orders and statutes also may apply to such future rulemaking action, including the requirements of the regulatory Flexibility Act, 5 U.S. C. 601 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; and the Unfunded Mandates Act of 1995, Pub. L. 104–4; and the National Environmental Policy Act of 1969, 42 U.S. C. 4321 *et seq.*

Today's action and any other documents submitted to OIRA for review have been made a part of the rulemaking record and are available for public review in the Department's Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, DC 20585 between the hours of 9 and 4, Monday through Friday, telephone (202) 586–3142.

Issued in Washington, DC, on November 8, 1999.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 99–30480 Filed 11–23–99; 8:45 am]

BILLING CODE 6450–01–P

Federal Register

Wednesday
November 24, 1999

Part IV

Department of Agriculture

Forest Service

36 CFR Part 251

Land Uses; Special Uses; Recovery of Costs for Processing Special Use Applications and Monitoring Compliance With Special Use Authorizations; Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AB36

Land Uses; Special Uses; Recovery of Costs for Processing Special Use Applications and Monitoring Compliance with Special Use Authorizations

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; request for public comment.

SUMMARY: The Forest Service proposes to promulgate regulations for recovering costs associated with processing applications for special use authorizations to use and occupy National Forest System lands and monitoring compliance with these special use authorizations. The provisions of this proposed rule would apply to applications and authorizations for use of National Forest System lands, including situations in which the land use fee may be waived or exempted, such as facilities financed or eligible to be financed with a loan pursuant to the Rural Electrification Act of 1936 and applications and authorizations involving Federal, State, and local government entities. The provisions of this proposed rule would not apply to applications and authorizations for noncommercial group uses and other uses specifically exempted. In addition, the provisions of this proposed rule would not apply to those applications or authorizations for which processing and/or monitoring fees already are being collected by another Federal agency on behalf of the Forest Service. Public comment is invited and will be considered in development of the final rule.

DATES: Comments must be received in writing by January 24, 2000.

ADDRESSES: Send written comments to Director, Lands Staff, 2720, 4th Floor-South, Sidney R. Yates Federal Building, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090. Submit electronic comments (as an ASCII file if possible) to: gtlands4/wo@fs.fed.us. Refer to the **SUPPLEMENTARY INFORMATION:** Section for further information on written comments and electronic filing. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying.

The public may inspect comments received on this proposed rule in the Office of the Director, Lands Staff, 4th Floor-South, Sidney R. Yates Federal Building, 14th Street and Independence Avenue, SW, Washington, D.C., between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect comments are encouraged to call ahead at (202) 205–1256 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Karstaedt, Lands Staff, (202) 205–1256 or Alice Carlton, Recreation, Heritage, and Wilderness Resources Staff, (202) 205–1145.

SUPPLEMENTARY INFORMATION:

1. Electronic Access and Filing
2. Written Comments
3. Interagency Coordination
4. Background
5. Analysis of Proposed Rule
6. Regulatory Requirements

1. Electronic Access and Filing

You may view an electronic version of this proposed rule at the Forest Service Internet home page at: http://www.fs.fed.us/recreation/permits/. You may also comment via the Internet to: gtlands4/wo@fs.fed.us. If you submit comments electronically, please submit them, if possible, as an ASCII text file to minimize computer problems and include your name and return mailing address in your Internet message.

2. Written Comments

Please confine written comments to issues pertinent to the proposed rule and explain the reasons for any recommended changes. Where possible, reference the specific section or paragraph you are addressing. The Forest Service may not include in the administrative record for the proposed rule those comments it receives after the comment period closes (see **DATES**) or comments delivered to an address other than those listed in **ADDRESSES**. All comments, including the names, street addresses, and other contact information about respondents will be available for public review at the above address during regular business hours (8:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Those wishing to inspect comments are encouraged to call ahead, (202) 205–1256, to facilitate access to the building.

3. Interagency Coordination

The United States Department of the Interior, Bureau of Land Management (BLM), recently proposed revisions to its cost recovery procedures, policies, and fees for processing and administering rights-of-way at 43 CFR parts 2800 and 2808 (64 FR 32105, June 15, 1999). To the extent possible, the Forest Service is proposing to adopt procedures, policies, and fee schedules for cost recovery related to special use applications and authorizations consistent with BLM's rule. In addition to considering comments in response to its proposed rule, the Forest Service will consider comments received in response to BLM's proposed rule in developing the final Forest Service rule. Promulgation of consistent cost recovery regulations and adoption of the same fees by the Forest Service and BLM will benefit both agencies and the public, particularly those who need or already hold an authorization to use and occupy Federal lands administered by both agencies.

4. Background

The Forest Service proposes to issue regulations concerning the recovery of costs for processing applications for special use authorizations issued pursuant to 36 CFR part 251, subpart B, and monitoring compliance with these authorizations. Approximately 74,000 special use authorizations are in effect on National Forest System lands. These uses cover a variety of activities, ranging from individual private uses to large-scale commercial facilities, and public services. Examples of authorized land uses include road rights-of-way serving private residences, apiaries, domestic water supply conveyance systems, telephone and electric service rights-of-way, oil and gas pipeline rights-of-way, hydroelectric power generating facilities, ski areas, resorts, marinas, municipal sewage treatment plants, and public parks and playgrounds. The agency receives about 6,000 applications for special use authorizations each year. These applications are subjected to a rigorous decisionmaking process in determining whether to approve or reject them. In 1998, the Forest Service adopted a final rule at 36 CFR part 251, subpart B, streamlining and extensively revising the agency's application process and administration of special use authorizations (63 FR 65949, November 30, 1998).

There are 14 statutes authorizing special uses on National Forest System lands. These authorities, which are listed at 36 CFR 251.53, include statutes of broad application, such as the Mineral Leasing Act of 1920, the Federal Land Policy and Management Act of 1976, and the Bankhead-Jones Farm Tenant Act of 1937, as well as statutes focusing on a specific use of Federal lands, such as the National Forest Ski Area Permit Act. The basic authority of the Secretary of Agriculture to regulate the occupancy and use of National

Forest System lands is the Act of June 4, 1897 (16 U.S.C. 551).

Additionally, the Independent Offices Appropriations Act of 1952, as amended (IOAA; 31 U.S.C. 9701), and the Office of Management and Budget (OMB) Circular No. A–25 require holders of authorizations to pay for the use of the Federal land. The Federal Land Policy and Management Act requires holders of rights-of-way authorizations to pay annually, in advance, the fair market value of the use of the Federal land and its resources. The Federal Land Policy and Management Act also provides that fees may be waived, in whole or in part, under specified conditions when equitable and in the public interest.

Requirements of the National Environmental Policy Act, the Wilderness Act of 1964, the Endangered Species Act, the Archaeological Resources Protection Act of 1979, additional requirements of the Federal Land Policy and Management Act of 1976, and Executive Order Nos. 11998 (Floodplains) and 11990 (Wetlands) also bear directly on the issuance of special use authorizations. These directives and statutory authorities require extensive analysis and documentation of the impacts of use and occupancy on a wide array of environmental, cultural, and historical resources. The practical effect of these requirements has been to lengthen the time required and increase the cost associated in processing applications for authorizations for new uses and for existing uses. The time and cost impacts weigh on both the Forest Service and the applicants and holders of authorizations. The significance of these impacts has been a principal factor in the development of this proposed cost recovery rule. These impacts also were a major factor in the previous development of the agency's final rule at 36 CFR part 251, subpart B, streamlining its special uses application process and administration of special use authorizations (63 FR 65949, November 30, 1998).

With limited funds, staffing, and other resources to manage its special uses program, the agency has found it increasingly difficult to provide timely reviews and evaluations of special use applications using appropriated funds. It is also difficult for the agency to ensure authorized facilities are constructed and operated in compliance with existing special use authorizations. The agency has a significant backlog of special use applications to which it has been unable to respond in a manner that satisfies the needs and expectations of special use applicants.

The agency has been able to provide timely responses to those applicants who have voluntarily offered to fund agency costs to review and process their applications for a particular proposed use and occupancy. However, without the appropriate regulatory authority, there is no means of requiring an applicant to pay for the agency's costs of processing applications and monitoring compliance with authorizations.

The IOAA authorizes all agencies of the Federal Government to recover costs associated with providing goods and services that benefit an identifiable recipient. This provision applies to costs incurred by the Forest Service in processing special use applications and monitoring compliance with special use authorizations. Charges imposed under the authority of the IOAA must, among other requirements, be fair and must be based on the costs to the Federal Government and the value of the goods or services to the recipient.

Government-wide direction for implementing the cost recovery provisions of the IOAA is in OMB Circular No. A–25. Section 7 of this circular directs that user charges be instituted through the promulgation of agency regulations. Adoption of this proposed rule would comply with the requirements of OMB Circular No. A–25.

In the past 10 years, the U.S. General Accounting Office (GAO) and the U.S. Department of Agriculture's Office of Inspector General have conducted more than 15 reviews or audits of various aspects of the Forest Service's special uses program. Two of the more recent audits, GAO Report #RCED–96–84 (April 1996) and GAO Report #RCED–97–16 (December 1996), recommended that the Forest Service (1) Operate its special uses program in a more cost-efficient and businesslike manner and (2) Promulgate regulations to allow the agency to exercise existing statutory authorities to recover from applicants and holders the agency's costs to process special use applications and monitor compliance with special use authorizations.

In April 1997, the Forest Service completed a reengineering study of its special uses program. The study identified changes needed to manage the program in a more businesslike and customer-service-oriented manner. The study also cited the need for regulations enabling the agency to exercise its existing cost recovery authorities. Recovery of processing and monitoring costs would provide additional funding for the agency to respond more promptly to special use applications, to monitor compliance with authorizations more effectively, and to satisfy the needs and expectations of applicants and holders.

The Forest Service would use the processing and monitoring fees paid by applicants to fund the time that the agency spends on the decisionmaking process in response to applications for the use and occupancy of National Forest System lands; to prepare and issue special use authorizations in those cases where the agency decides to authorize the proposed use and occupancy; and to monitor compliance with the terms and conditions of special use authorizations.

An applicant would also be assessed a processing fee for agency costs to conduct an environmental analysis and prepare associated documentation as required by the National Environmental Policy Act. These tasks are the applicant's responsibility as provided in 36 CFR 251.54. The processing fee would be commensurate with the agency's time and expense in processing each application, and would include the collection of all data and information needed for the agency to (1) Fully describe the proposed use; (2) Identify and evaluate the environmental effects of the proposed use; and (3) Make a decision in response to the application. Applicants would be encouraged to fulfill these responsibilities from sources other than limited agency personnel and resources to maintain the agency's ability to process applications in as efficient and timely a manner as possible. Application processing tasks completed by the applicant or a third party would reduce the amount of time the Forest Service spends on each case, thereby reducing the processing fee assessed to the applicant.

The proposed rule would require an applicant or holder to pay a processing fee and, where applicable, a monitoring fee. The proposed rule would establish categories to be assigned on a case-by-case basis to the processing of each special use application and to the monitoring of compliance with each authorization. These categories would be based on the estimated number of hours that agency personnel would spend in conducting activities directly related to processing an application and monitoring compliance with an authorization.

Except as specifically exempted, the processing fee provisions of this proposed rule would apply to (1) All special use proposals accepted as applications on or after the effective date of this rule; (2) All special use proposals accepted as applications before the effective date of this rule, but for which the agency has not yet issued an authorization; (3) Existing

authorizations when the holder requests and receives authorization to construct new facilities or reconstruct existing facilities (either through an amendment to an existing authorization or through agency approval, pursuant to a master development plan or operating plan); (4) New authorizations to be processed and issued due to termination of existing authorizations; and (5) New authorizations needed due to a change in ownership or control of facilities under an existing authorization.

Except as specifically exempted, the monitoring fee provisions of this proposed rule would apply to the agency's time needed for monitoring compliance of all authorizations issued on or after the effective date of the final rule. Monitoring is defined in the proposed rule at 36 CFR 251.51 as the actions needed to ensure compliance with special use authorizations during construction or reconstruction of facilities, as well as inspections of facilities and authorized activities to ensure compliance with a special use authorization. As defined in the proposed rule, monitoring would not include routine administrative actions, such as billings or maintenance of case files, and fees would not be assessed in any categories for such actions. For categories B–1 through B–III only, monitoring fees would not be assessed for the time associated with cumulative multi-year annual or periodic on-site inspections.

The cost recovery provisions of this rule would not apply to applications or authorizations issued for noncommercial group uses (36 CFR 251.54). The cost recovery provisions of this rule also would not apply to activities otherwise prohibited by a closure order, except for access to non-Federal land within the National Forest System granted pursuant to section 1323(a) of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3210(a)). These exemptions are necessary to address legal concerns associated with the exercise of First Amendment rights.

Fees would be assessed for several categories of activities. Category A for "minimal impact" processing or "no monitoring" and the processing and monitoring categories B–I through B–III would apply to those cases requiring no more than 50 hours of agency time to process or monitor. A one-time flat fee would be assessed for the agency's processing and monitoring fees in each of these categories. Category B–IV would apply to more complex applications and authorizations requiring more than 50 hours of agency time to process or monitor. Category C applies when master agreements are established for processing.

Fees for processing applications in categories A and B–I through B–IV would be based on the full actual costs of applications for authorizations issued under the Mineral Leasing Act and on the full reasonable costs of applications for authorizations issued under other authorities; these processing fees would be determined on a case-by-case basis.

A one-time monitoring fee would be assessed for categories B–I through B–II, based on the time needed for inspections during the construction or reconstruction period, plus the time needed for inspections of authorized facilities and operations during one calendar year. Fees for monitoring category B–IV would be based on the full actual costs for authorizations issued under the Mineral Leasing Act and on the full reasonable costs for authorizations issued under other authorities; these monitoring fees would be determined on a case-by-case basis.

The fees collected to recover costs for processing applications and monitoring compliance with authorizations under the proposed rule would be in addition to land use rental fees assessed and collected based on the fair market value of the rights and privileges granted by each authorization. These fee schedules are set out in the Forest Service directive system in chapter 30 of Forest Service Handbook (FSH) 2709.11, Special Uses Handbook.

Upon acceptance of each special use application, the authorized officer would determine the category for the processing fee or, in the case of a category B–IV proposal, would estimate a case-specific processing fee for that application. This fee would be due before the Forest Service processes an accepted application. If the proposed use is approved by the authorized officer, a monitoring fee for the authorization would be determined using the established monitoring fee rate by category (or estimated on a case-specific basis for category B–IV authorizations). The monitoring fee would be due before or at the same time the authorization is issued.

The agency's experience with its management of more than 74,000 current special use authorizations indicates that the cost to process a special use application for a proposed use or occupancy frequently has no relationship to the cost to monitor the construction and/or implementation of that use or occupancy following issuance of the authorization. Applications that can be time consuming to process may require little to no time (or cost) for the agency to monitor, or vice versa. Therefore, the agency proposes that the processing fee category and amount for each case would be determined independently of the monitoring fee category and amount; that is, the processing fee charged for any given application would not dictate the corresponding monitoring fee category or amount.

The recovery of costs from applicants and holders would give the agency the resources to provide more efficient and timely responses to applications for new uses and to applications for changes or additions to existing authorized uses and occupancies. Similarly, cost recovery also would increase the Forest Service's ability to monitor on-site activities to adequately protect National Forest System lands and resources, in accordance with the terms and conditions of special use authorizations.

This proposed Forest Service cost recovery rule is consistent with the IOAA and a variety of subsequent statutes that authorize the use and occupancy of National Forest System lands. The IOAA provides that Federal agencies should recover the costs they incur in providing a specific benefit or service to identifiable recipients beyond those provided to the general public. The Forest Service's processing of a special use application provides a special benefit and service to applicants for new authorizations and to those proposing modifications to existing authorizations. The service and benefit provided consist of the agency's review and consideration of requests to use and occupy National Forest System lands. Likewise, monitoring, as defined at 36 CFR 251.51 of the proposed rule, provides a special benefit to holders of special use authorizations that is not available to the general public in the form of actions necessary to ensure that the construction or reconstruction of facilities and the authorized activities comply with the terms and conditions of the authorization. This proposed rule would provide the process by which recipients may pay for such Governmental benefits and services.

Upon final adoption, this rule as proposed would not provide the agency with the authority to retain and spend any of the funds collected. The agency's retention and expenditure of the fees that would be assessed and collected pursuant to this proposed rule would need to be authorized by Congress. The Forest Service proposes to seek such authority in conjunction with final adoption of this proposed rule. Doing so would maximize agency responsiveness to applicants and holders by making the funds deposited by them available for the agency to use in processing their

applications and monitoring their authorizations.

Authority

Laws or administrative directives which authorize cost recovery by the Forest Service include:

1. Independent Offices Appropriations Act of 1952 (IOAA), as amended (31 U.S.C. 9701). This act provides that each Federal agency may charge for goods and services the agency provides to identifiable recipients. Such charges must be fair and must be based on the costs to the Federal Government and the value of the specific goods or services provided to the recipient.

2. Office of Management and Budget (OMB; formerly Bureau of the Budget) Circular No. A–25, as revised July 15, 1993. This circular provides Federal agencies with specific direction for implementing the cost recovery provisions in Title V of the IOAA. Section 4a specifies that the circular covers all Federal activities that convey special benefits to recipients beyond those accruing to the general public.

3. Mineral Leasing Act of 1920, as amended (30 U.S.C. 185(l)). The 1973 amendment to section 28 of this act authorizes oil and gas pipeline uses; requires that an applicant for a right-of-way or permit reimburse the Federal Government for administrative and other costs incurred in processing the application; and requires that a holder of a right-of-way or permit reimburse those administrative and other costs incurred by the Federal Government in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on the right-of-way.

The legislative history of the 1973 amendment to the Mineral Leasing Act states that the reimbursement is in addition to rent charged for the land use. Under the Mineral Leasing Act, Federal agencies are entitled to recover actual costs; for example, the costs of preparing environmental impact statements, including environmental analyses and biological evaluations for Endangered Species Act compliance.

4. Federal Land Policy and Management Act of 1976 (FLPMA; 43 U.S.C. 1764(g)). Section 504 of FLPMA provides for reimbursement of costs in addition to the collection of a land use fee. The act authorizes agencies to promulgate regulations or, prior to promulgation of such regulations, to require as a condition of a right-of-way that an applicant or a holder reimburse the Federal Government for all "reasonable" administrative and other costs incurred in processing an application for a right-of-way in monitoring authorizations. Factors that must be considered in establishing such reasonable costs under FLPMA include actual costs, the monetary value of the rights and privileges sought, that portion of the cost incurred for the benefit of the general public interest, the public service provided, the efficiency of the government processing involved, and other relevant factors. The act also provides a concise statement of Congressional intent concerning cost recovery generally.

Public Law 98–300 (1984) amended section 504 of FLPMA (43 U.S.C. 1764(g)) to exempt certain Rural Electrification Act-financed facilities from Federal land use fees, but notably retains the authority of agencies to require reimbursement of reasonable administrative and other costs related to processing applications and monitoring authorizations for such facilities.

5. National Historic Preservation Act of 1966 (NHPA; (16 U.S.C. 470(h–2)). Section 110(g) of this act provides that Federal agencies may require prospective licensees and permittees to pay for the Federal Government's costs of preservation activities as a condition of issuance of a license or permit.

Comparison of Forest Service and BLM Proposed Cost Recovery Rules and Fees

The cost recovery provisions and fees in this proposed Forest Service rule are consistent with those proposed by BLM, but there are differences:

1. The Forest Service addresses only cost recovery in its proposed rule at the previously reserved 36 CFR 251.58, whereas the proposed BLM rule (64 FR 321055, June 15, 1999) not only addresses revisions to its existing cost recovery regulations, but also proposes extensive revisions unrelated to processing and monitoring fees and includes reorganization and recoding of BLM's rules on rights-of-way at 43 CFR parts 2800 and 2880.

2. The Forest Service is proposing a processing fee category A for "minimal impact" and a monitoring fee category A for "no monitoring" to include low impact activities and uses in areas already approved or designated for that use in forest plans. Many of these activities and uses are recreational (such as fishing tournaments and bicycling races). The BLM rule does not include these categories; the BLM rule addresses only rights-of-way and does not apply to recreation activities. The Forest Service proposes a fee of $75 for processing an application in the minimal impact processing fee category A and no monitoring fee.

3. The Forest Service and BLM both propose to assign applications and authorizations to fee categories for processing and monitoring based on the time and other costs the agencies incur. Whereas the Forest Service would assign the monitoring fee category to an authorization separately from the processing fee category for the application, BLM would automatically assign the fee category for monitoring based on the processing fee category.

4. The Forest Service would issue the cost recovery fee schedules in the agency's directive system in Forest Service Handbook (FSH) 2709.11, Special Uses Handbook, chapter 30 (which can be accessed electronically via the Internet at the agency's directives home page: http://www.fs.fed.us/im/directives/). BLM is setting out its fee schedule in the preamble to its proposed and final rules and proposes to make the fee schedule available at BLM offices and on its home page at http://www.blm.gov.

The BLM sets out separate proposed fee schedules for applications and authorizations under the Mineral Leasing Act and those under the Federal Land Policy and Management Act because of the differences in the legal standard for calculating cost recovery fees under these two authorities. The Forest Service has adopted the same approach as BLM in setting out its proposed cost recovery fee schedules. For further information on these cost differences, see the description in the preceding Authority section.

The Forest Service has added letters in naming its proposed fee categories to accommodate the addition of category A for the minimal impact processing fee (up to and including 8 hours) and no monitoring fee, and to incorporate the existing BLM processing and monitoring fee categories I through IV as Forest Service categories B–I through B–IV. Category B–I would require more than 8 and up to and including 24 hours of agency time for processing or up to and including 24 hours of agency time for monitoring; category B–II would require more than 24 hours and up to and including 36 hours; category B–III would require more than 36 hours and up to and including 50 hours; and category B–IV would require more than 50 hours. The Forest Service proposed category C involves the use of master agreements which would apply only to fees for processing applications, not to monitoring the authorization. The Forest Service proposed categories A and C would not apply to applications and authorizations under the Mineral Leasing Act. The following tables summarize the fee schedules and categories proposed by the Forest Service and BLM:

PROPOSED FEE SCHEDULES FOR APPLICATIONS AND AUTHORIZATIONS

[Except those authorized under the Mineral Leasing Act]

Category		Processing	Processing Fee		Monitoring	Monitoring Fee	
FS	BLM	Hours	FS	BLM	Hours	FS	BLM
A		≤8	75 (minimal impact).		0	0 (no monitoring)	
B–I	I	>8 & ≤24	$230	$230	≤24	$80	$80.
B–II	II	>24 & ≤36	390	390	>24 & ≤36	130	130
B–III	III	>36 & ≤50	750	750	>36 & ≤50	230	230
B–IV	IV	>50	Full reasonable cost as required determined on a case-by-case basis.	Full reasonable costs as required.	>50	Full reasonable costs as required costs as required determined on a case-by-case basis.	Full reasonable costs as required.
C*	Master Agreement.	Full reasonable costs as required determined on a case-by-case basis.	As negotiated		As negotiated..		

*Master agreement for processing fees only.

PROPOSED FEE SCHEDULE FOR MINERAL LEASING ACT APPLICATIONS AND AUTHORIZATIONS

Category*		Processing Hours	Processing Fee		Monitoring Hours	Monitoring Fee	
FS	BLM		FS	BLM		FS	BLM
B–I	I	>8 & ≤24	$200	$200	≤24	$70	$70
B–II	II	>24 & ≤36	290	290	>24 & ≤36	100	100
B–III	III	>36 & ≤50	750	750	>36 & ≤50	330	330
B–IV	IV	>50	Full actual costs determined on a case-by-case basis.	Full actual costs	>50	Full actual costs determined a case-by-on costs.	Full actual costs.
	Master Agreement.			As negotiated		As negotiated..	

*Note that the Forest Service does not have a category A (minimal impact/no monitoring) or a category C (master agreement) for Mineral Leasing Act applications and authorizations.

5. Analysis of Proposed Rule

A section-by-section explanation of the proposed cost recovery rule follows.

Proposed § 251.51 Definitions. This section would be revised to add a definition of monitoring that ensures consistency in the identification of activities subject to a monitoring fee and in the determination of monitoring fee categories and amounts.

Proposed § 251.58 Cost Recovery. This section is currently reserved under the heading "Cost Reimbursement." Regulations would be promulgated to implement requirements in the various applicable laws and OMB Circular No. A–25 directing Federal agencies to recover costs for services provided to identifiable recipients beyond those accruing to the general public. This section would deal specifically with the recovery of costs involved in processing applications for special uses and in monitoring compliance with special use authorizations.

The proposed rule generally would not apply to agency costs associated with administration of outstanding rights in Federal lands that may be exercised without a special use authorization. An example would be use of public highways that predate the establishment of a National Forest. The proposed rule may apply to an outstanding right when the holder of that right is otherwise required by law or regulation to secure an authorization or approval from the Forest Service.

Paragraph (a) of the proposed rule would direct the agency to recover its processing costs for special use applications and monitoring costs for authorized special uses by assessing fees separate from any fees charged for use and occupancy of National Forest System lands.

Paragraph (b) would apply the cost recovery requirements to the processing of applications and monitoring of special use authorizations pursuant to 36 CFR part 251, subpart B.

Paragraphs (b)(1) through (b)(3) would specify situations that would prompt assessment of processing fees pursuant to this rule. Examples include, but are not limited to, cases where a new or amended authorization is needed to approve substantial changes to an existing use.

Paragraph (b)(4) specifies that monitoring fees would be applicable only to special use authorizations issued on or after the date of the adoption of this rule.

Paragraphs (c) through (c)(6)(iii) would address proposed processing fees to recover agency costs. Some of the agency's processing costs, as indicated in paragraph (c)(1), would include the agency's formal acknowledgment of receipt and initial review of an application, case file set-up, computer data entry coding, environmental reviews and analyses, meetings with the

applicant, and preparation of a special use authorization. These costs would be specific to a project and would not include the cost of agency services or benefits that are for the benefit of the general public. Paragraphs (c)(1)(i) to (c)(1)(ii)(B) would set out the requirements for determining processing fees based on actual costs for applications under the Mineral Leasing Act or reasonable costs for applications under other authorities.

Paragraphs (c)(2) through (c)(6)(iii) would provide for a schedule of six processing fee categories, based on the complexity of the proposed use and the agency time needed for processing applications.

A one-time, nonrefundable fee would be assessed for processing applications in categories A through B–III. For applications other than those submitted for authorizations issued under the Mineral Leasing Act, a minimal impact category A, requiring up to 8 hours to process (paragraph (c)(2)(i)), would be established at a rate of $75. The Forest Service has determined that it costs at least $75 to process any special use application. The agency does not anticipate a need for a minimal impact category for Mineral Leasing Act applications.

Categories B–I through B–IV would be defined using criteria comparable to those proposed by BLM (64 FR 32105, June 15, 1999). The proposed schedule fee rates for categories B–I through B–III (paragraphs (c)(2)(ii)–(iv)) would be identical to those proposed by BLM and are based on cost data that BLM has collected to support those rates in each category. The Forest Service proposes to adopt those rates and categories because (1) its costs of processing special use applications on National Forest System lands are comparable to BLM's costs of processing applications for rights-of-way on BLM-administered public lands, and (2) the public is better served by maintaining consistency in special uses and rights-of-way administration between the Forest Service and BLM.

Under category B–IV (paragraph (c)(2)(v)), a processing fee specific to each project is proposed to recover the full reasonable costs (for non-Mineral Leasing Act applications) or the full actual costs (for Mineral Leasing Act applications) that are associated with conducting agency studies, lengthy environmental analyses, and other actions that cumulatively require more than 50 hours of agency time to complete.

For applications under authorities other than the Mineral Leasing Act, the Forest Service and the applicant could enter into master agreements (category C) to recover processing costs associated with a particular application, a group of applications, or similar applications filed by the same applicant within a specified geographic area (paragraphs (c)(2)(vi)(A)–(E)). Each application covered by a master agreement would be assigned its own processing fee category and rate. Master agreements may be considered an efficient alternative to case-specific estimates of processing time, particularly when an applicant or holder routinely submits proposals or has several authorizations within a defined area or administrative unit. The agency does not anticipate a need for master agreements for processing Mineral Leasing Act applications because they seldom, if ever, are submitted as a group or relate to other applications.

Processing fees in category B–IV or processing fees submitted pursuant to a master agreement could be assessed and collected in periodic installments. The authorized officer would estimate the processing fees for category B–IV applications on a case-specific basis and would reconcile the fees based on the full reasonable costs for non-Mineral Leasing Act applications or on the full actual costs for Mineral Leasing Act applications. Upon the agency's completion of all processing tasks for a category B–IV application, any remaining balance of the processing fees would be either refunded to the applicant or credited towards monitoring fee assessments. When the estimated processing fee in category B–IV is lower than the agency's costs for processing an application, the applicant would be obligated to pay the difference between the estimated costs and the agency's full actual or reasonable costs. For all categories, an applicant's payment of a processing fee would neither ensure nor imply agency approval of the proposed use or occupancy. The applicant would be liable for the agency's processing costs regardless of whether the application is subsequently denied by the agency or withdrawn by the applicant.

Establishment of a processing fee is expected to encourage prospective applicants to discuss their proposed use and occupancy with the Forest Service prior to submitting an application. The agency anticipates that this fee may also provide an incentive for proponents to better design their applications to meet the agency's resource management concerns and objectives. The agency would not duplicate processing activities to be conducted by the applicant. Applicants would be strongly encouraged to conduct as many of the necessary processing steps as possible (such as collecting data; performing studies; completing resource surveys, evaluations, and assessments; and conducting and documenting environmental analyses). Having the applicant conduct these steps would minimize the time the Forest Service needs to process an application and would reduce the application's impact on limited Forest Service resources. The applicant also would minimize the application processing fee charged by the Forest Service and, in many cases, would expedite the Forest Service's processing of the application.

Paragraphs (c)(3) through (c)(3)(ii) would address how processing costs would be assessed when two or more applicants apply and compete for one use. Included are separate provisions for assessing processing fees when the competitive interest in a particular use or occupancy is (1) unsolicited by the Forest Service or (2) solicited by the Forest Service.

Paragraphs (c)(4) through (c)(4)(ii) would describe how and when the authorized officer would determine an appropriate processing fee for each accepted application, notify and bill applicants, and revise fees.

Paragraphs (c)(5) through (c)(5)(ii) would provide direction for the payment of processing fees and would provide that the agency would not initiate processing an application until receipt of full payment of the prescribed processing fee.

Paragraphs (c)(6) through (c)(6)(iii) would specify that processing fees in categories A and B–I through B–III are nonrefundable and would describe under what conditions the processing fee for category B–IV would be refunded to an applicant.

Paragraphs (d) through (d)(4)(ii) would provide for recovering those costs the Forest Service incurs in monitoring compliance with special use authorizations during construction or reconstruction of facilities, plus those costs incurred during on-site inspections of authorized facilities and operations to ensure compliance with a special use authorization.

Paragraphs (d)(1) through (d)(1)(ii) would describe the basis for monitoring fees. A one-time, nonrefundable fee would be assessed for monitoring compliance with authorizations in categories B–I through B–III. The authorized officer would estimate the monitoring fee under category B–IV on a case-by-case basis and would reconcile the fee based on full reasonable costs for monitoring non-Mineral Leasing Act authorizations or full actual costs for monitoring Mineral Leasing Act authorizations.

Paragraphs (d)(2) through (d)(2)(v) would provide for a schedule of five monitoring fee categories, based on the complexity of the activity to be monitored. Except for authorizations issued under the Mineral Leasing Act, a category A would be established for authorizations that require no monitoring and for which no monitoring fee would be charged. The agency does not anticipate a need for a no monitoring category for Mineral Leasing Act authorizations. Categories B–I through B–IV would be defined using criteria comparable to those proposed by BLM (64 FR 32105, June 15, 1999) and are based on cost data that BLM has collected to support its monitoring fee rates.

Paragraph (d)(3)(i) would allow the holder to pay the monitoring fee in installments based on estimates of the total fee and with the approval of the authorized officer. When the estimated monitoring fee in category B–IV is lower than the agency's costs incurred in monitoring an authorization, the holder of the special use authorization would pay the difference.

Paragraphs (d)(4) through (d)(4)(ii) would specify that monitoring fees in categories B–I through B–III are nonrefundable and would describe under what conditions the monitoring fee for category B–IV would be refunded to an authorization holder.

Paragraphs (e) through (e)(3) would provide applicants and holders with a process for disputing or requesting a reduction in the established processing or monitoring fees.

Paragraphs (f) through (f)(2) would identify the circumstances under which the authorized officer may waive all or part of a processing or monitoring fee. Waiving all or any part of a fee pursuant to these criteria would be discretionary on the part of the authorized officer and would not be an entitlement of the applicant or holder.

Paragraph (f)(1)(i) would provide for waiving fees for a local, State, or Federal governmental entity that waives similar fees for the Forest Service.

Paragraph (f)(1)(ii) would allow the authorized officer to waive part of the processing fee when a major portion of the costs results from issues not related to the actual project being proposed. For example, an application is submitted for an outfitter-guide use in a geographic area where numerous similar outfitter-guide uses have already been authorized. The new application prompts the need for the Forest Service to conduct an analysis of the capability of the land and its resources to accommodate particular types of uses related to the proposed use, and to examine allocations of commercial versus noncommercial uses within the subject area. Although the analysis is triggered by the new application, the purpose of the analysis is only minimally attributable to the applicant's proposed use and occupancy. Thus, it is inappropriate to assess that applicant the total cost of such an analysis.

Paragraph (f)(1)(iii) would provide for a waiver or partial waiver of processing or monitoring fees when a proposed project is intended to prevent or mitigate damage to real property or to mitigate hazards to public health and safety resulting from an act of God, an act of war, or negligence of the United States. For example, a storm destroys a culvert crossing of a forest development road that provides access to a parcel of private land. The landowner has an easement for the operation and maintenance of the landowner's proportionate use of the road. The landowner offers to replace the culvert and mitigate the associated damages that have resulted from the storm, and the work requires the landowner to obtain a special use authorization for occupancy and use of National Forest System lands outside the right-of-way limits of the roadway. The fee for processing an application for this work may be waived by the authorized officer because of the public and/or agency benefits to be realized by the proposed use (that is, mitigating damages to National Forest System lands and resources by repairing the culvert crossing and adjacent lands to standards established by the Forest Service).

Paragraph (f)(1)(iv) would provide for a waiver or partial waiver of processing or monitoring fees when a proposed activity is necessary to move a facility or improvement to a new location to comply with public health and safety or environmental requirements that were not in effect at the time the authorization was issued. For example, the discovery of habitat critical to threatened or endangered species requires an authorized officer to relocate a recreation residence to another lot. The authorized officer may waive the fee to process the holder's application for relocation of the residence to another lot.

Paragraph (f)(1)(v) would provide for a waiver or partial waiver where an improvement or facility must be relocated because the land is needed by a Federal agency or federally funded project for an alternative public purpose. For example, the Forest Service decides to construct a recreational facility in a location occupied by an authorized use, such as a private access road. The new recreational facility requires relocation of a segment of the access road to preclude user conflicts between the landowner and the recreating public. The road relocation requires a new or amended special use authorization. Processing fees associated with the landowner's application for the authorization may be waived by the authorized officer.

Paragraphs (f)(1)(vi) through (f)(1)(vi)(B) would provide for waiving fees for processing an application or monitoring an authorization on behalf of a nonprofit organization, corporation, or association that is not controlled by or a subsidiary of a profit-making enterprise when studies undertaken in processing the application have a public benefit or the proposed facility or project would provide a free service to the public or to a USDA program.

Paragraph (f)(2) would require that requests for waivers be in writing and include an analysis of the applicability of the waiver criteria.

Paragraph (g) would exempt from processing and monitoring fees those applications and authorizations for noncommercial group uses and for activities otherwise prohibited by a closure order, except for access to non-Federal lands within the boundaries of the National Forest System granted pursuant to section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)).

Paragraph (h) would provide that decisions to assess a processing or monitoring fee or to determine the fee category or amount are not appealable. Paragraph (h) also would provide that a decision in response to a request for a reduction in a processing or monitoring fee is not subject to administrative appeal.

Paragraph (i)(1) would provide that the proposed schedules for processing and monitoring fees applicable to most special use applications and authorizations would be set out in the Forest Service directive system. This paragraph would specify further that the agency will keep fee schedules current with annual adjustments of fee rates in each cost category using the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) index and will round up changes in the rates to the nearest dollar. Paragraphs (i)(2)(i) and (i)(2)(ii) would require the agency to review the fee rates on the 5-year anniversary of the adoption of the final rule.

6. Regulatory Requirements

Environmental Impact

This proposed rule would establish administrative fee categories and

procedures for processing special use applications and monitoring special use authorizations on National Forest System lands. Section 31.1b of Forest Service Handbook (FSH) 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency's preliminary assessment is that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final rule.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant rule. This proposed rule would not have an annual effect of $100 million or more on the economy, nor would it adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. This proposed rule would not interfere with any action taken or planned by another agency, nor would it raise new legal or policy issues. Finally, this proposed action would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed rule is not subject to Office of Management and Budget (OMB) review under Executive Order 12866.

Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities as defined by the act because it would not impose record-keeping requirements on them; it would not affect their competitive position in relation to large entities; and it would not affect their cash flow, liquidity, or ability to remain in the market. In addition, the Forest Service is proposing a flat fee of $75 for processing an application in the minimal impact processing fee category A and no monitoring fee. Most small entity application requests would fall within this flat fee category.

Federalism

The agency has considered this proposed rule under the requirements of Executive Order 13132, Federalism, and has made a preliminary assessment that the rule conforms with the federalism principles set out in this Executive Order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Moreover, the cost recovery processing and monitoring fees set out in this proposed rule may be waived for local and State government entities that waive similar fees they might otherwise assess the Forest Service. Based on comments received on this proposed rule, the agency will consider if any additional consultation will be needed with State and local governments prior to adopting a final rule.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the proposed rule does not pose the risk of a taking of constitutionally protected private property.

Civil Justice Reform Act

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule were adopted, (1) all State and local laws and regulations that are in conflict with this proposed rule or that would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed rule would not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Controlling Paperwork Burdens on the Public

This proposed rule does not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. The information collection being requested as a result of this action has been approved by the Office of Management and Budget (OMB) (Number 0596–0082). Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, and Water resources.

Therefore, for the reasons set forth in the preamble, the Forest Service proposes to amend 36 CFR part 251 as follows:

PART 251—LAND USES

Subpart B—Special Uses

1. The authority citation for part 251, subpart B, continues to read as follows:

Authority: 16 U.S.C. 472, 497b, 551, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761–1771.

2. Amend § 251.51 by adding a definition for "monitoring" in alphabetical sequence to read as follows:

§ 251.51 Definitions.

* * * * *

Monitoring—Actions needed to ensure compliance with special use authorizations during construction or reconstruction. Monitoring also includes on-site inspections of facilities and authorized activities to ensure compliance with a special use authorization. Monitoring does not include routine administrative actions, such as billings or maintenance of case files.

* * * * *

3. Revise the heading for § 251.58 and add new text to the formerly reserved § 251.58 to read as follows:

§ 251.58 Cost recovery.

(a) *Assessment of fees to recover agency processing and monitoring costs.* The Forest Service shall assess fees to recover the agency's processing costs for special use applications and monitoring costs for authorized special uses. These fees are separate from any fees charged for the use and occupancy of National Forest System lands. Fee rates for recovery of processing costs are determined according to categories established for the hours of work required to process applications as set out in paragraph (c)(2) of this section.

Separate categories for recovery of monitoring costs are set out in paragraph (d)(2) of this section. As provided in paragraph (i) of this section, processing and monitoring fee rates are revised annually, set out in the Forest Service directive system, and reviewed every 5 years.

(b) *Special use applications and authorizations subject to cost recovery requirements.* Except as exempted in paragraph (g) of this section, the cost recovery requirements of this section apply in the following situations to the processing of applications and monitoring of special use authorizations issued pursuant to this subpart B.

(1) *Applications for use and occupancy that require a new special use authorization.* Fees for processing an application for a new special use authorization shall be assessed for any application that has been formally accepted by the agency on or after [the effective date of the final rule] and any application that was accepted by the agency before [the effective date of the final rule], but for which an authorization has not yet been issued, regardless of whether the application was unsolicited or solicited by the Forest Service.

(2) *Changes to existing authorizations.* Processing fees apply to proposals by holders that would require an application to amend an authorization, operating plan, or master development plan.

(3) *Applications for new authorizations prompted by termination of an existing authorization or by a change in ownership or control of the authorized improvements.* Applicants or holders proposing a new authorization prompted by termination of an existing authorization or by a change in ownership or control of the holder of the authorized improvements shall submit the information needed for the authorized officer to determine the appropriate processing and monitoring fee.

(4) *Monitoring of authorizations issued on or after [the effective date of the final rule].*

(c) *Processing fee requirements.* A processing fee is required for each application for a special use authorization as identified in paragraphs (b)(1) through (b)(3) of this section. Processing fees do not include costs incurred by the applicant in providing information, data, and documentation necessary for the authorized officer to make a decision on the proposed use or occupancy, pursuant to the provisions at § 251.54.

(1) *Basis of processing fees.* The processing fee categories A and B–I through B–IV set out in paragraphs (c)(2)(i) through (c)(2)(v) of this section are based upon the amount of time that the Forest Service spends reviewing the application, conducting environmental analyses of the effects of the proposed use, reviewing any applicant-generated environmental documents and studies, conducting site visits, evaluating an applicant's technical and financial qualifications, making a decision on whether to issue the authorization, and preparing documentation of analyses, decisions, and authorizations for each application. Different processing fee schedules are set out in the agency's directive system (paragraph (i) of this section) for applications submitted under the Mineral Leasing Act (based on recovery of actual costs) and applications submitted under other authorities (based on recovery of reasonable costs). The amount of time required for processing an application and thus the processing fee depend on the complexity of the project; the amount of information that the authorized officer needs to make a decision in response to the proposed use or occupancy; and the degree to which the applicant is willing to provide this information to the agency. Processing work conducted by the applicant or a third party minimizes the time the Forest Service needs to process the application and thus reduces the processing fee. The total processing time is the total time estimated for all Forest Service personnel involved in processing an application and is estimated on a case-by-case basis to determine the fee category. A one-time, nonrefundable fee shall be assessed for processing applications in categories A and B–I through B–III. The processing fee under category B–IV set out in paragraph (c)(2)(vi) shall be established on a case-specific basis, based on the authorized officer's estimate of the agency's processing costs. Differences between the estimated processing costs and the agency's final processing costs are reconciled when the processing of the applications is complete.

(i) *Use of actual costs in determining fees for processing applications under the Mineral Leasing Act.* For applications submitted under authority of the Mineral Leasing Act (30 U.S.C. 185(l)), the authorized officer reconciles the difference between the processing fee estimated for the category B–IV application and the agency's full actual costs incurred in processing the application.

(ii) *Use of reasonable costs in determining fees for processing applications under other authorities.* For applications submitted under other authorities, the authorized officer reconciles the differences between the processing fee estimated for the category B–IV application and the agency's full reasonable costs incurred in processing the application. The applicant:

(A) May submit a written analysis of actual costs, the monetary value of the rights and privileges sought, that portion of the cost incurred for the benefit of the general public interest, the public service provided, the efficiency of the government processing involved, and other relevant factors as applied to the full reasonable costs associated with processing the application, or

(B) May agree in writing to waive consideration of reasonable costs and pay all actual costs incurred in processing the application.

(2) *Processing fee categories.*—(i) *Category A: Minimal impact.* The Forest Service has available, or the applicant provides, the information necessary to process the application in compliance with the National Environmental Policy Act and other applicable statutes. Total estimated processing time for an application in this fee category does not exceed 8 hours for agency personnel to review the application, to decide on whether to issue an authorization for the proposed use or occupancy, and to prepare and issue the authorization.

(ii) *Category B–I: More than 8 and up to and including 24 hours.* The total estimated time in this category is more than 8 and up to and including 24 hours for Forest Service personnel to process an application.

(iii) *Category B–II: More than 24 and up to and including 36 hours.* The total estimated time in this category is more than 24 and up to and including 36 hours for Forest Service personnel to process an application.

(iv) *Category B–III: More than 36 and up to and including 50 hours.* The total estimated time in this category is more than 36 and up to and including 50 hours for Forest Service personnel to process an application.

(v) *Category B–IV: More than 50 hours.* In this category more than 50 hours are needed for Forest Service personnel to process an application. The authorized officer shall determine the issues to be addressed and shall develop preliminary work and financial plans for estimating recoverable costs.

(vi) *Category C: Master agreements.* The Forest Service and the applicant may enter into master agreements for the agency to recover processing costs associated with a particular application, a group of applications, or similar applications filed by the same applicant within a specified geographic area. A master agreement shall include:

(A) An initial cost estimate;
(B) A description of the method for periodic billing, payment, and auditing;
(C) A description of the geographical area covered by the agreement;
(D) A work plan and provisions for updating; and
(E) Specific conditions for terminating the agreement.

(3) *Competitive interest.* The authorized officer shall determine if a competitive interest exists when a proposal is submitted to use or occupy National Forest System lands.

(i) In situations where there are two or more unsolicited competitive proposals, each applicant must pay processing fees as required under this section. Processing costs that are associated with more than one application (such as the costs of printing an environmental impact statement that generally relates to all of the applications) must be paid in equal shares or on a prorated basis, as deemed appropriate by the authorized officer, but may not exceed the full actual costs of processing applications submitted under the Mineral Leasing Act or the full reasonable costs of processing applications submitted under other authorities.

(ii) When the Forest Service solicits applications for the use and occupancy of National Forest System lands through a request for proposal, a prospectus, or similar solicitation, the agency is responsible for the costs of environmental analyses and reviews conducted before the solicitation is issued. The Forest Service shall collect a fee from each party requesting a copy of the solicitation package to cover the agency's costs for printing and mailing. The selected applicant is required to pay a processing fee that covers the Forest Service's costs to review and evaluate the selected applicant's proposal, including establishing a case file; recording data; and conducting financial reviews, additional environmental analysis, and preauthorization meetings with the applicant.

(4) *Billing and revision of processing fees.*—(i) Billing. When the Forest Service accepts a special use application, the authorized officer shall provide written notice to the applicant that the application has been formally accepted and shall include a bill for the estimated amount of the processing fee, based on one of the processing fee categories A, B–I through B–IV, or C (paragraphs (c)(2)(i) through (vi)).

(ii) *Revision of processing fees.* In processing an application, if the authorized officer discovers previously undisclosed information that necessitates a change in the processing fee, the authorized officer shall revise the processing fee based on that information before continuing with consideration of the application. Written notice of the authorized officer's processing fee determination shall be provided to the applicant, along with a bill for that fee amount.

(5) *Payment of processing fees.*—(i) Payment of the processing fee shall be due within 30 days of the bill issued pursuant to paragraph (c)(4) of this section. The processing fee must be paid before the Forest Service can initiate or, in the case of a revised fee, continue with processing an application. Payment of the processing fee by the applicant does not obligate the Forest Service to authorize the applicant's proposed use or occupancy.

(ii) When the estimated processing fee in category B–IV is lower than the full actual costs of processing an application submitted under the Mineral Leasing Act or lower than the full reasonable costs of processing an application submitted under other authorities, the applicant shall pay the difference between the estimated and the full actual or reasonable processing costs.

(6) *Refunds of processing fees.* (i) Processing fees in categories A and B–I through B–III are nonrefundable.

(ii) For category B–IV applications, an applicant whose application is denied or withdrawn in writing is responsible for costs incurred by the Forest Service in processing the application up to and including the date the agency denies the application or receives written notice of the applicant's withdrawal. When an applicant withdraws a category B–IV application, the applicant also is responsible for any costs subsequently incurred by the Forest Service in terminating consideration of the application.

(iii) If the payment of any category B–IV processing fee exceeds the full actual costs of processing an application submitted under the Mineral Leasing Act or the full reasonable costs of processing an application submitted under other authorities, the authorized officer shall either refund the excess payment to the applicant or, at the applicant's request, shall credit it towards monitoring fees due.

(d) *Monitoring fee requirements.* The monitoring fee for an authorization shall be assessed independently of any fee assessed for processing the application for that authorization, pursuant to paragraph (c) of this section. Payment of the monitoring fee is due upon issuance of the authorization.

(1) *Basis for monitoring fees.* Monitoring is defined at § 251.51. For monitoring fee categories B–I through B–III, authorization holders are assessed monitoring fees based on the estimated time needed for agency monitoring to ensure compliance with special use authorizations during the construction or reconstruction of facilities, plus the estimated time needed to perform on-site inspections of authorized facilities and/or operations during one calendar year. The basis for determining the appropriate monitoring fee category B–I through B–IV does not include the time spent preparing billings, maintaining case files, or performing other routine administrative actions; for categories B–1 through B–III, estimates also do not include the time expended in cumulative multi-year annual or periodic on-site inspections. Monitoring fee categories are set out in paragraphs (d)(2)(i) through (d)(2)(v) of this section. A one-time, nonrefundable fee shall be assessed for monitoring compliance with authorizations in categories B–I through B–III. The monitoring fee under category B–IV set out in paragraph (d)(2)(v) shall be established on a case-specific basis, based on the authorized officer's estimate of the agency's monitoring costs. Differences between the estimated monitoring costs and the agency's final costs shall be reconciled when monitoring of the authorization has been completed.

(i) *Use of actual costs in determining fees for monitoring authorizations issued under the Mineral Leasing Act.* For authorizations issued under the Mineral Leasing Act (30 U.S.C. 185 (l)), the authorized officer reconciles the difference between the monitoring fee estimated for the category B–IV and the agency's full actual costs incurred in monitoring the authorization.

(ii) *Use of reasonable costs in determining fees for monitoring authorizations issued under other authorities.* For authorizations issued under authorities other than the Mineral Leasing Act, the authorized officer reconciles the difference between the monitoring fee estimated for the category B–IV authorization and the agency's full reasonable costs incurred in monitoring the authorization. The applicant:

(A) May submit a written analysis of actual costs, the monetary value of the rights or privileges sought, that portion of the cost incurred for the benefit of the general public interest, the public service provided, the efficiency of the government processing involved, and other relevant factors as applied to the full reasonable costs associated with monitoring the authorization, or

(B) May agree in writing to waive consideration of reasonable costs and

pay all actual costs incurred in monitoring the authorization.

(2) *Monitoring fee categories.* The monitoring fee categories are:

(i) *Category A: No monitoring.* This category applies to authorizations for use and occupancy that have low or no impacts on National Forest System lands and resources and for which the agency has no identifiable need or intention to conduct a site visit for resource protection purposes. No monitoring fee shall be assessed in this category.

(ii) *Category B–I: Up to and including 24 hours.* Up to and including 24 hours are estimated for Forest Service personnel to monitor compliance with a special use authorization.

(iii) *Category B–II: More than 24 and up to and including 36 hours.* More than 24 and up to and including 36 hours are estimated for Forest Service personnel to monitor compliance with a special use authorization.

(iv) *Category B–III: More than 36 and up to and including 50 hours.* More than 36 and up to and including 50 hours are estimated for Forest Service personnel to monitor compliance with a special use authorization.

(v) *Category B–IV: More than 50 hours.* More than 50 hours are needed for Forest Service personnel to monitor compliance with a special use authorization.

(3) *Billing and payment of monitoring fees.* (i) The authorized officer shall estimate the monitoring costs and shall notify the holder of the required fee. The monitoring fees in categories B–I through B–III must be paid in full before or at the same time the authorization is issued. For authorizations in category B–IV, the estimated monitoring fees must be paid in full before or at the same time the authorization is issued, unless the authorized officer and the applicant or holder agree in writing to periodic payments.

(ii) When the estimated monitoring fee for an authorization in category B–IV is lower than the full actual costs of monitoring compliance with an authorization issued under the Mineral Leasing Act or lower than the full reasonable costs of monitoring compliance with an authorization issued under other authorities, the holder shall pay the difference in the next periodic payment or the authorized officer shall bill the holder for the difference between the estimated and the full actual or reasonable monitoring. Payment shall be due within 30 days of receipt of the bill.

(4) *Refunds of monitoring fees.* (i) Monitoring fees in categories B–I through B–III are nonrefundable.

(ii) If the holder's payment of any category B–IV estimated monitoring fee exceeds the full actual costs of monitoring an authorization issued under the Mineral Leasing Act or the full reasonable costs of monitoring an authorization under other authorities, the authorized officer either shall adjust the next periodic payment to reflect the overpayment or shall refund the excess payment to the holder.

(e) *Applicant and holder disputes concerning processing or monitoring fee assessments; requests for changes in fee categories or amounts.* (1) If an applicant or holder disagrees with the processing or monitoring fee category assigned by the authorized officer or, in the case of category B–IV applications or authorizations, with the estimated dollar amount of the processing or monitoring fee, the applicant or holder may submit a written request to the authorized officer for either a change in the fee rate or, in category B–IV cases, the estimated fee amount.

(2) In the case of a disputed processing fee, such a request suspends the Forest Service's processing of the application, pending the following:

(i) Consideration of the request by the authorized officer,

(ii) Determination by the authorized officer of an appropriate processing fee, and

(iii) The applicant's advance payment of the fee.

(3) In the case of a disputed monitoring fee, a request to change the fee suspends the authorization for which the disputed fee is charged.

(f) *Waivers of processing and monitoring fees.* (1) All or part of a processing or monitoring fee may be waived, at the sole discretion of the authorized officer, when one or more of the following criteria are met:

(i) The applicant is a local, State, or Federal governmental entity that waives similar fees that the Forest Service might otherwise be assessed for services provided by the applicant;

(ii) A major portion of the processing costs results from issues not related to the project being proposed;

(iii) The proposal consists of a project intended to prevent or mitigate damage to real property, or to mitigate hazards or dangers to public health and safety resulting from an act of God, an act of war, or negligence of the United States.

(iv) The proposal involves moving a facility or improvement to a location outside the authorized area to comply with public health, public safety, and environmental protection laws and regulations that were not in effect at the time the authorization was issued.

(v) The application is for a new authorization to relocate facilities or improvements that must be moved because the land is needed by a Federal agency or federally funded project for an alternative public purpose.

(vi) The applicant is a nonprofit organization, corporation, or association that is not controlled by or a subsidiary of a profit-making enterprise, and:

(A) The studies undertaken in connection with processing the application have a public benefit or

(B) The proposed facility or project will provide a free service to the public or a program of the Secretary of Agriculture.

(2) An applicant's or holder's request for a full or partial waiver of a processing or monitoring fee must be in writing and must include an analysis that demonstrates how one or more of the criteria in paragraph (f)(1) of this section apply.

(g) *Exemptions from processing and monitoring fees.* No processing or monitoring fees shall be charged when the application or authorization is for a noncommercial group use as defined in § 251.51 or for activities otherwise prohibited by a closure order, except for access to non-Federal lands within the boundaries of the National Forest System granted pursuant to section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)).

(h) *Appeal of decisions.* (1) A decision to assess a processing or monitoring fee to determine the fee category or amount is not subject to administrative appeal.

(2) A decision by an authorized officer in response to a request for a reduction in a processing or monitoring fee likewise is not subject to administrative appeal.

(i) *Processing and monitoring fee schedules.* (1) The Forest Service shall maintain schedules for processing and monitoring fees in the directive system (36 CFR 200.4). These schedules shall be updated annually by adjusting the rates using the annual rate of change, second quarter to second quarter, in the Implicit Price Deflator-Gross Domestic Product (IPD–GDP) index. The Forest Service shall round up changes in the rates to the nearest dollar.

(2) Upon the 5-year anniversary of the effective date of this section [Effective Date of the Final Rule], the Forest Service shall review these rates:

(i) To determine whether they are commensurate with the actual or reasonable costs incurred by the agency in conducting the processing and monitoring activities covered by this section; and

(ii) To assess consistency with processing and monitoring fee schedules established by the United States Department of the Interior, Bureau of Land Management.

Dated: November 15, 1999.

Hilda Diaz-Soltero,

Associate Chief, Forest Service.

[FR Doc. 99–30587 Filed 11–23–99; 8:45 am]

BILLING CODE 3410–11–P

VOL
64

ISS
2
2
6

NO
24

1999

UMI

Reade

CUSTOMEI

Federal Regi
General Infor
aids

Laws

Presidential
Executive or
The United S

Other Servic
Electronic ar
Privacy Act
Public Laws
TTY for the

ELECTRONI

World Wide
Full text of t
publications

ht

Federal Regi
Inspection L

ht

E-mail

PENS (Publi
service for n
subscribe, se

li

with the text

su

Use listserv@
PENS. We ca

Reference qu
Federal Regi

in

The Federal
regulations.

FEDERAL

58755–59106
59107–59602
59603–60082
60083–60332
60333–60646
60647–61014
61015–61198
61199–61472
61473–61768
61769–62088
62089–62560
62561–62970
62971–63170
63171–63560
63561–65652
65653–66094
66095–66354

Reader Aids

Federal Register

Vol. 64, No. 226

Wednesday, November 24, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

58755–59106	1
59107–59602	2
59603–60082	3
60083–60332	4
60333–60646	5
60647–61014	8
61015–61198	9
61199–61472	10
61473–61768	12
61769–62088	15
62089–62560	16
62561–62970	17
62971–63170	18
63171–63560	19
63561–65652	22
65653–66094	23
66095–66354	24

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7245	59103
7246	60083
7247	60085
7248	61473
7249	62561
7250	62563
7251	66081
7252	66083
7253	66085
7254	66087
7255	66093

Executive Orders:

12170 (See Notice of November 5, 1999)	61471
12938 (See Notice of November 10, 1999)	61767
12958 (Amended by EO 13142)	66089
13067 (See Notice of October 29, 1999)	59105
13096 (See Proc. 7247)	60085
13101 (See Proc. 7250)	62563
13141	63169
13142	66089

Administrative Orders:

Memorandums:

October 27, 1999	60647

Notices:

October 29, 1999	59105
November 5, 1999	61471
November 10, 1999	61767

Presidential Determinations:

No. 99–13 of February 4, 1999 (See Presidential Determination No. 2000–5 of October 29, 1999)	60651
No. 2000–2 of October 21, 1999	58755
No. 2000–3 of October 25, 1999	58757
No. 2000–4 of October 27, 1999	60649
No. 2000–5 of October 29, 1999	60651
No. 2000–7 of November 10, 1999	65653

5 CFR

532	60087, 61769

Proposed Rules:

532	61793
1201	58798

7 CFR

210	61770
220	61770
226	61770
246	61015
301	60088, 60333, 63171
319	59603
354	62089
759	62565
760	66095
761	62565, 62566
762	62566
905	58759, 63160
928	59604
944	58759
981	58763, 59107
1001	61776
1002	61776
1004	61776
1005	61776
1006	61776
1007	61776
1012	61776
1013	61776
1030	61776
1032	61776
1033	61776
1036	61776
1040	61776
1044	61776
1046	61776
1049	61776
1050	61776
1064	61776
1065	61776
1068	61776
1076	61776
1079	61776
1106	61776
1124	61776
1126	61199, 61776
1131	61201, 61776
1134	61776
1135	61776
1137	61199, 61776
1138	61201, 61776
1139	61776
1439	58766
1477	58766
1922	62566
1941	62566
1943	62566
1945	62566
1951	62566, 62971
1955	62566
1965	62566

Proposed Rules:

278	59665
770	59131
785	61034
923	60733
1217	59669
1280	65665

1823.....59131
1946.....61034
1951.....61221
1956.....59131

9 CFR

52.....62569
77.....58769
130.....61689

Proposed Rules:

130.....61689
391.....61223

10 CFR

Proposed Rules:

2.....59669, 59671
20.....65665
50.....59671
72.....59677
73.....59684
150.....66115
430.....61794, 66306
905.....62604

11 CFR

100.....59113
110.....59606
114.....59113
9003.....61475
9004.....59606, 61475
9007.....61777
9008.....61475
9032.....61475
9033.....61475
9034.....59606, 61475, 61777
9035.....61475, 61777
9036.....59607, 61475
9038.....61777

Proposed Rules:

100.....60360
102.....60360
103.....60360
104.....60360
106.....60360
107.....60360
109.....60360
110.....60360
114.....60360
116.....60360

12 CFR

1.....60092
5.....60092
7.....60092
211.....58780
226.....60335
229.....59607
308.....62096
330.....62096
343.....62103
905.....61016
1805.....59076

Proposed Rules:

226.....60368
611.....60370
650.....61740
917.....66115
925.....66115
930.....66115
940.....66115
950.....66115
954.....66115
955.....66115
958.....66115
965.....66115
966.....66115
980.....66115
1102.....58800

13 CFR

Proposed Rules:

120.....60735

14 CFR

21.....65655
34.....60335
39.....59113, 59115, 59116, 59117, 59613, 59614, 60100, 60102, 60336, 61475, 61477, 61478, 61480, 61482, 61484, 61485, 61487, 61491, 61493, 61495, 61782, 61784, 62105, 62106, 62108, 62109, 62570, 62973, 62975, 63171, 63174, 63176, 631778, 63180, 63182, 63184, 63187, 63190, 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668
71.....59615, 60337, 60653, 60654, 61785, 63192, 63676, 63677, 63678, 63679, 63680, 65656
73.....60339
91.....66096
95.....66097, 66100
97.....61017, 61018, 63192, 63194
139.....60068

Proposed Rules:

39.....59137, 59685, 60134, 60136, 60138, 60383, 60386, 60742, 60743, 60745, 60748, 60750, 61039, 61042, 61044, 61533, 61540, 61547, 61554, 61794, 61796, 61798, 61801, 62129, 62131, 62613, 62615, 62988, 62990, 62991, 62993, 62995, 63753, 63755, 63757, 63760, 63762, 63764, 65666, 66116, 66118, 66119, 66121
71.....59687, 59688, 59689, 59690, 60388, 61225, 61689, 61690, 61803, 61804, 63261, 63765, 63767, 65668, 66123
91.....63140
93.....62133
121.....63140
125.....63140

15 CFR

285.....59616
738.....60339
740.....60339
746.....60339
801.....59119

Proposed Rules:

287.....59691
922.....63262

16 CFR

312.....59888
1616.....61021

Proposed Rules:

310.....66124

17 CFR

200.....61382, 61408
210.....61962
228.....61962
229.....61408, 61962
230.....61382, 61408, 61497, 61962, 62540
232.....61408
239.....61382, 61408, 61962
240.....61382, 61408, 61962, 62540
249.....61382, 61962
260.....61382, 61962
270.....62540
271.....59877

Proposed Rules:

1.....59694
34.....65669
35.....65669
230.....62548
239.....59826
240.....59826, 62548
270.....59826
274.....59826
275.....61226
279.....61226

18 CFR

11.....62572
385.....62580

Proposed Rules:

35.....60390
141.....60140
385.....60140

19 CFR

10.....61204

Proposed Rules:

12.....62618
24.....62619
101.....61232
141.....62135

20 CFR

220.....62976

Proposed Rules:

220.....62996
322.....62135
718.....62997
722.....62997
725.....62997
726.....62997
727.....62997

21 CFR

5.....59617
74.....62582
175.....60104
178.....62583, 65657, 66103
207.....63195
225.....63195
310.....62110
510.....63195
514.....63195
515.....63195
520.....66104
558.....63195
801.....59618
805.....66105
884.....62977

Proposed Rules:

20.....60143
101.....62746
120.....65669
600.....61045
606.....61045
607.....61045
610.....61045
630.....61045
640.....61045
660.....61045
801.....59695

24 CFR

570.....63680
903.....66106
982.....59620
990.....61516

25 CFR

Proposed Rules:

504.....61234

26 CFR

1.....58782, 59139, 60342, 61205, 61498, 61502
301.....58782, 61498, 61502
602.....61498

Proposed Rules:

1.....59139, 60395, 61236, 63768
26.....62997
301.....63768

28 CFR

0.....58782
2.....59622
16.....61786
27.....58782
50.....59122

Proposed Rules:

16.....60753

29 CFR

37.....61692
1917.....61504
1918.....61504
4003.....65658
4007.....65658
4011.....65658
4041.....65658
4041A.....65658
4043.....65658
4044.....61787
4050.....65658

Proposed Rules:

1401.....59697
1910.....65768
1952.....62138
2590.....62054
2700.....61236

30 CFR

914.....63681
920.....63684
934.....60654
935.....63688
948.....61506, 61507

Proposed Rules:

70.....65671
71.....65671
90.....65671
946.....61805

31 CFR

1.....62585, 62586
18.....62112
538.....58789
550.....58789
560.....58789

Proposed Rules:

1.....62620

32 CFR

199.....60671
2001.....
Proposed Rule
199.....
767.....

33 CFR

100.....
117.....591
60673, 606
61518, 615
165.....610
Proposed Rule
Ch. I.....
110.....
117.....
165.....
175.....

34 CFR

668.....
682.....
685.....
Proposed Rule
611.....

36 CFR

211.....
Proposed Rule
5.....
13.....
51.....
251.....
1190.....
1191.....

37 CFR

202.....
Proposed Rule
1.....
201.....

39 CFR

20.....
Proposed Rule
111.....

40 CFR

49.....
51.....
52.....596
59635, 596
60109, 603
60681, 606
61213, 612
63206, 636
62.....596
63.....596
68.....
131.....
180.....596
62588, 629
261.....
266.....
300.....601
Proposed Rule
49.....

2001 62113

Proposed Rules:

199 66126
767 63263

33 CFR

100 ..... 59623, 66106
117 ..... 59123, 59624, 60672, 60673, 60674, 61206, 61207, 61518, 61519, 61520, 61521, 62113, 66107
165 ..... 61051, 61209, 62586

Proposed Rules:

Ch. I 63266
110 60399
117 61561
165 63267
175 63773

34 CFR

668 ..... 58974, 59016, 59060
682 ..... 58938, 59016
685 ..... 58938, 59016

Proposed Rules:

611 60632

36 CFR

211 60675

Proposed Rules:

5 61563
13 61563
51 63775
251 66342
1190 ..... 62248, 62622
1191 ..... 62248, 62622

37 CFR

202 62977

Proposed Rules:

1 59701
201 ..... 59140, 66139

39 CFR

20 60106

Proposed Rules:

111 66143

40 CFR

49 65660
51 58792
52 ..... 59625, 59629, 59633, 59635, 59638, 59642, 59644, 60109, 60343, 60346, 60678, 60681, 60683, 60687, 60688, 61213, 61217, 61522, 61523, 63206, 63690, 63693, 65660
62 ..... 59648, 60689, 62114, 62117, 62978
63 ..... 59650, 63209, 63695, 63702
68 59650
131 61182
180 ..... 59652, 60112, 61788, 62588, 62982, 63709, 63711, 63714, 66108
261 63209
266 63209
300 ..... 60121, 61526, 63720

Proposed Rules:

49 65673
50 63002
51 62144
52 ..... 59703, 59704, 59705, 59706, 60400, 60401, 60759, 61046, 61051, 61239, 61572, 63002, 63268, 63271, 65673, 66143
55 63271
62 ..... 59718, 62144, 62145
63 ..... 59719, 63779
68 59719
81 60478
82 59141
86 60401
141 59245
142 59245
152 62145
156 62145
180 58792
261 63382
266 63464
300 61051
372 61807
721 63275

41 CFR

101 59591
101-11 60348
101-43 62146
102 59591
102-36 62146

42 CFR

52b 63721
61 61218
409 60122
410 59379
411 ..... 59379, 60122
413 60122
414 59379
415 59379
460 66234
462 66234
466 66234
473 66234
476 66234
485 59379
489 60122
1001 ..... 63504, 63518

Proposed Rules:

431 60882
433 60882
435 60882
457 60882

43 CFR

414 58986

Proposed Rules:

1300 61810

44 CFR

64 ..... 62594, 62596, 62598
65 ..... 60706, 60709
67 60711

Proposed Rules:

67 60759

45 CFR

Proposed Rules:

160 59918
161 59918
162 59918
163 59918
164 59918
303 62054
612 66146
613 66146

46 CFR

10 63213
15 63213

Proposed Rules:

2 62018
30 62018
31 62018
52 62018
61 62018
71 62018
90 62018
91 62018
98 62018
107 62018
110 62018
114 62018
115 62018
125 62018
126 62018
132 62018
133 62018
134 62018
167 62018
169 62018
175 62018
176 62018
188 62018
189 62018
195 62018
199 62018

47 CFR

Ch. 1 61527
0 ..... 60122, 60715, 61022
1 ..... 59656, 60122, 60715, 62119, 63235
2 60123
6 63235
7 63235
20 ..... 59656, 60126
21 ..... 60715, 63727
25 61791
27 60715
52 62983
54 ..... 60349, 62120
61 60122
68 60715
69 ..... 60122, 60349
73 ..... 59124, 59655, 60131, 62123, 63258, 63745
74 63727
76 60131
90 ..... 59148, 60123, 60715
95 59656
101 ..... 59663, 63727

Proposed Rules:

Ch. I 63277
1 59719
15 62159
18 62159
20 59719
43 59719
73 ..... 59147, 59148, 59728, 60149, 60150, 60151, 61054, 61239, 63783
90 ..... 59148, 60151

48 CFR

201 ..... 58908, 63380
203 62984
204 61028
208 61030
209 ..... 61028, 62984
213 ..... 58908, 63380
215 61031
219 ..... 62986, 62987
225 ..... 61028, 62984
226 62987
242 61028
247 61028
249 62984
251 61030
1845 62600
1852 62600

Proposed Rules:

203 63002
211 61056
226 63003

49 CFR

171 61219
172 61219
209 62828
230 62828
240 60966
601 61033

Proposed Rules:

Ch. I 63279
Ch. II 59046
178 62161
209 59046
552 60556
571 ..... 60556, 61810, 62622
585 60556
595 60556
1039 66156
1105 66157
1180 66157

50 CFR

17 ..... 58910, 63745
20 61532
222 60727
600 60731
622 ..... 59126, 60132
635 ..... 58793, 66114
640 59126
648 ..... 60359, 61220
660 ..... 59129, 62127, 63259
679 ..... 61966, 63259

Proposed Rules:

16 59149
17 ..... 58934, 59729, 62627, 62641, 63004
25 62163
26 62163
29 62163
216 63783
224 62627
622 ..... 59152, 59153, 60151, 60402
648 59156
654 59153
660 ..... 60402, 66158
679 ..... 58796, 59730, 60157

REMINDERS
The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 24, 1999

AGRICULTURE DEPARTMENT
Farm Service Agency
Program regulations:
- Dairy indemnity payment progam; published 11-24-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Endangered and threatened species:
- Critical habitat designation—
  - Snake River spring/ summer chinook salmon; published 10-25-99

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Gulf of Mexico reef fish; published 10-25-99

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Natural gas companies (Natural Gas Act):
- Landowner notification, expanded categorical exclusions, and other environmental filing requirements; published 10-25-99

ENVIRONMENTAL PROTECTION AGENCY
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Glyphosate; published 11-24-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
- Moxididectin gel; published 11-24-99

Food additives:
- Adjuvants, production aids, and sanitizers—
  - 2-methyl-4,6-bis-[(octylthio) methyl] phenol; published 11-24-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare and Medicaid:
- Elderly; all-inclusive care programs; published 11-24-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Air traffic operating and flight rules, etc.:
- Sudan; flights within territory and airspace; removal of prohibition (SFAR No. 82); published 11-24-99

Airworthiness directives:
- Boeing; published 10-20-99
- McDonnell Douglas; published 10-20-99
- Saab; published 10-20-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Olive oil promotion, research, and information order
- Referendum procedures; comments due by 12-3-99; published 11-3-99

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
- Mexican fruit fly; comments due by 11-29-99; published 9-28-99
- Oriental fruit fly; comments due by 11-29-99; published 9-28-99

User fees:
- Veterinary services; import- and export-related services; comments due by 11-29-99; published 9-30-99

Viruses, serums, toxins, etc.:
- Dog; definition; comments due by 11-29-99; published 9-28-99

AGRICULTURE DEPARTMENT
Federal Crop Insurance Corporation
Administrative regulations:
- Appeal procedure; comments due by 11-29-99; published 9-30-99

AGRICULTURE DEPARTMENT
Farm Service Agency
Administrative regulations;
- Appeal procedure; comments due by 11-29-99; published 9-30-99

Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Business-Cooperative Service
Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Housing Service
Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Utilities Service
Program regulations:
- Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

COMMERCE DEPARTMENT
Census Bureau
Foreign trade statistics:
- Shipper's Export Declaration on behalf of principal party in interest; exporters' and forwarding agents' responsibilities to prepare and file; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
- Parties to transaction and their responsibilities, routed export transactions, Shipper's Export Declarations, and export clearance; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Coastal migratory pelagic resources; comments due by 11-29-99; published 10-25-99
  - Essential fish habitat; comments due by 12-2-99; published 11-2-99
- West Coast States and Western Pacific fisheries—
  - West Coast salmon; comments due by 12-1-99; published 11-16-99

COMMERCE DEPARTMENT
Patent and Trademark Office
Patent cases:
- Patent business goals; comments due by 12-3-99; published 10-4-99
- Payment of fees by credit card; changes; comments due by 12-3-99; published 11-3-99

DEFENSE DEPARTMENT
Engineers Corps
Navigation regulations:
- Columbia and Snake Rivers, OR and WA; restricted area boundary adjustments; comments due by 11-29-99; published 10-13-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution control; new motor vehicles and engines:
- Heavy duty highway engines and vehicles (2004 and later model years); emissions control, and light-duty truck definition; comments due by 12-2-99; published 10-29-99
- Tier 2 motor vehicle emission standards and gasoline sulfur control requirements; comments due by 12-1-99; published 10-27-99

Air programs:
- Accidental release prevention—
  - Risk management programs; comments due by 12-3-99; published 11-3-99
- Ozone areas attaining 1-hour standard; identification of areas where standard will cease to apply
  - Findings rescission; comments due by 12-1-99; published 10-25-99
  - Findings rescission; comments due by 12-1-99; published 11-5-99
- Stratospehric ozone protection—
  - Essential-use allowances; allocation; comments due by 12-2-99; published 11-2-99
- Volatile organic compound (VOC) emmission standards—
  - t-butyl acetate; comments due by 11-29-99; published 9-30-99

Air programs; approval and promulgation; State plans
- for designa pollutants:
- Maryland; 12-3-99; 99
- Air programs delegations
- Ohio; com 3-99; pu
- Air quality im plans; app promulgati
- States:
- Alabama; 12-3-99; 99
- California; 11-29-99 28-99
- Indiana; co 12-3-99; 99
- Maryland; 11-29-99 28-99
- New Jerse by 12-3- 3-99
- New York; by 12-3- 3-99
- Ohio; com 3-99; pu
- Oklahoma; by 12-3- 3-99
- Tennessee by 12-3- 3-99
- Texas; co 11-29-99 28-99
- Virginia; c 12-3-99; 99
- Air quality im plans; √A promulgati States; air purposes; areas:
- Ohio; com 29-99; p
- Clean Air Ac
- Acid rain p
- Nitrogen Reduc respo remar by 11 10-15-
- Hazardous w
- Identificati
- Exclusio by 11 10-15-
- Exclusio by 11 10-13-
- Water polluti
- Great Lak quality g

for designated facilities and pollutants:
Maryland; comments due by 12-3-99; published 11-3-99
Air programs; State authority delegations:
Ohio; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 12-3-99; published 11-3-99
California; comments due by 11-29-99; published 10-28-99
Indiana; comments due by 12-3-99; published 11-3-99
Maryland; comments due by 11-29-99; published 10-28-99
New Jersey; comments due by 12-3-99; published 11-3-99
New York; comments due by 12-3-99; published 11-3-99
Ohio; comments due by 12-3-99; published 11-3-99
Oklahoma; comments due by 12-3-99; published 11-3-99
Tennessee; comments due by 12-3-99; published 11-3-99
Texas; comments due by 11-29-99; published 10-28-99
Virginia; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; √Avapproval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio; comments due by 11-29-99; published 10-28-99
Clean Air Act:
Acid rain program—
Nitrogen Oxides Emission Reduction Program; response to court remand; comments due by 11-29-99; published 10-15-99
Hazardous waste:
Identification and listing—
Exclusions; comments due by 11-29-99; published 10-15-99
Exclusions; comments due by 11-29-99; published 10-13-99
Water pollution control:
Great Lakes System; water quality guidance—
Bioaccumulative chemicals of concern; mixing zones prohibition; comments due by 12-3-99; published 10-4-99
Underground injection control program—
Alabama; comments due by 11-29-99; published 10-22-99

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Communications Assistance for Law Enforcement Act; implementation; comments due by 11-29-99; published 9-28-99
Federal-State Joint Board on Universal service—
Telecommunications deployment and subscribership to unserved or underserved areas including tribal and insular areas; comments due by 11-29-99; published 9-30-99
Local telephone service competition status and advanced telecommunications capability (broadband) deployment; comments due by 12-3-99; published 11-3-99
Radio stations; table of assignments:
Minnesota; comments due by 11-29-99; published 10-21-99
Missouri; comments due by 11-29-99; published 10-21-99

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Freedom of Information Act; implementation; comments due by 12-1-99; published 11-1-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration

Administrative practice and procedure:
Ozone-depleting substances use; essential use determinations; comments due by 11-30-99; published 9-1-99
Biological products:
Blood, blood components, and source plasma requirements; revisions; comments due by 12-3-99; published 8-19-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration

Medicare:
Part B initial claim determinations; telephone and electronic review requests; comments due by 11-29-99; published 9-30-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:
Housing assistance payments (Section 8)—
Moderate rehabilitation units; lease execution or termination when remaining term of contract is less than one year; comments due by 12-3-99; published 10-4-99

INTERIOR DEPARTMENT
Fish and Wildlife Service

Endangered and threatened species:
Critical habitat designations—
Tidewater goby; comments due by 11-30-99; published 10-15-99

INTERIOR DEPARTMENT
Minerals Management Service

Outer Continental Shelf; oil, gas, and sulphur operations:
Producer-operated pipelines that cross directly into State waters; comments due by 11-30-99; published 10-1-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 11-30-99; published 11-15-99

JUSTICE DEPARTMENT
Prisons Bureau

Inmate control, custody, care, etc.:
Aliens; release gratuities, transportation, and clothing; comments due by 12-3-99; published 10-4-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
Organization and operations—
Overdraft policy; comments due by 11-29-99; published 9-30-99

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:
Nevada; comments due by 11-29-99; published 9-13-99

PERSONNEL MANAGEMENT OFFICE

Retirement:
Voluntary early retirement authority; comments due by 12-3-99; published 10-4-99

SECURITIES AND EXCHANGE COMMISSION

Securities:
Audit committee disclosure; comments due by 11-29-99; published 10-14-99

TRANSPORTATION DEPARTMENT
Coast Guard

Anchorage regulations:
Alaska; comments due by 11-30-99; published 6-2-99
Alaska; correction; comments due by 11-30-99; published 6-15-99
Ports and waterways safety:
Hudson River, NY; safety zone; comments due by 11-29-99; published 10-29-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration

Airworthiness directives:
AeroSpace Technologies of Australia Pty Ltd.; comments due by 12-1-99; published 10-12-99
Boeing; comments due by 12-3-99; published 10-19-99
Bombardier; comments due by 12-1-99; published 10-12-99
British Aerospace; comments due by 12-1-99; published 10-8-99
Cessna; comments due by 12-1-99; published 10-12-99
CFE Co.; comments due by 11-29-99; published 9-28-99
Dassault; comments due by 12-3-99; published 11-3-99
Dornier; comments due by 12-1-99; published 10-8-99
Empresa Brasileira de Aeronautica S.A.; comments due by 12-1-99; published 10-8-99
Eurocopter France; comments due by 12-3-99; published 10-4-99
Fairchild; comments due by 12-1-99; published 10-12-99

Harbin Aircraft Manufacturing Corp.; comments due by 12-1-99; published 10-8-99
Industrie Aeronautiche e Meccaniche; comments due by 12-1-99; published 10-8-99
McDonnell Douglas; comments due by 11-29-99; published 9-28-99
Mitsubishi; comments due by 12-1-99; published 10-8-99
New Piper Aircraft, Inc.; comments due by 12-1-99; published 10-12-99
Partenavia Costruzioni Aeronauticas S.p.A.; comments due by 12-1-99; published 10-8-99
Pilatus Aircraft Ltd.; comments due by 12-1-99; published 10-8-99
Pilatus Britten-Norman Ltd.; comments due by 12-1-99; published 10-8-99
Raytheon; comments due by 11-29-99; published 10-14-99
Short Brothers & Harland Ltd.; comments due by 12-1-99; published 10-12-99
SOCATA-Groupe Aerospatiale; comments due by 12-1-99; published 10-12-99
Special conditions—
Garlick Helicopters, Inc. Model GH205A; comments due by 11-29-99; published 9-30-99
Twin Commander Aircraft Corp.; comments due by 12-1-99; published 10-12-99
Class D airspace; comments due by 11-29-99; published 10-28-99
Schools and other certificated agencies:
Repair stations; Part 145 review; comments due by 12-3-99; published 10-21-99

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Hazardous materials:
Miscellaneous amendments; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT
Alcohol, Tobacco and Firearms Bureau
Alcohol; viticultural area designations:
Diamond Mountain, CA; comments due by 11-29-99; published 9-29-99

TREASURY DEPARTMENT
Comptroller of the Currency
Federal Deposit Insurance Act:
Safety and soundness standards—
Year 2000 guidelines; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT
Fiscal Service
Financial management services:
Collateral acceptability and valuation; comments due by 11-29-99; published 10-29-99

UNITED STATES INFORMATION AGENCY
Exchange visitor program:
Administrative processing fees; comments due by 11-30-99; published 9-27-99

VETERANS AFFAIRS DEPARTMENT
Board of Veterans Appeals:
Appeals regulations and rules of practice—
Simultaneously contested claims; comments due by 11-30-99; published 10-1-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 441/P.L. 106–95
Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96
To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97
To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98
District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99
History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100
To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101
Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102
Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103
To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104
To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

Last List November 15, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

106–101
ent of
Missouri-
ry Compact.
13 Stat.

02
ey Act (Nov.
t. 1338)

–103
construction
honor those
the Nation's
emergency
rams. (Nov.
t. 1482)

6–104
migration
t to extend
years the
on of an
migrant under
(S) of such
ize
the refugee
n under
V of the
lationality
9; 113 Stat.

er 15, 1999

ectronic
rvice

ectronic mail
of newly
s. To
ww.gsa.gov/
html or

a.gov with
message:
LAWS-L

is strictly
on of new
aws is not
his service.
ond to
ent to this

Would you like to know. . .

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

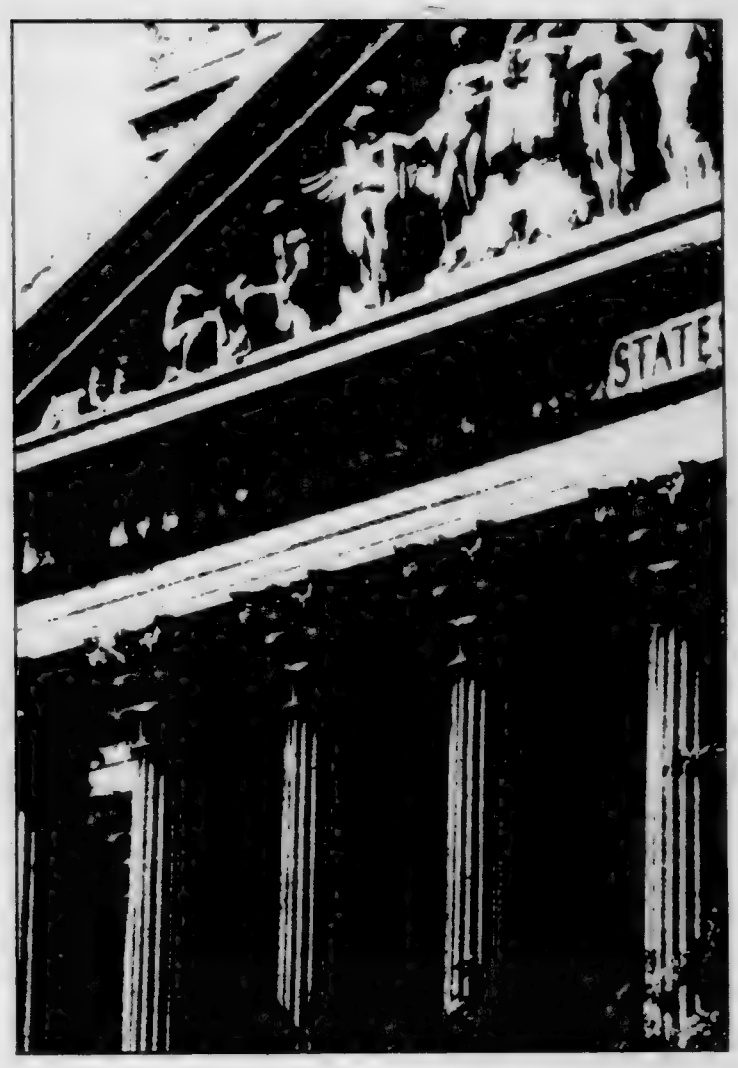

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.
_____ **Federal Register Index** (FRUS) $25 per year.

Charge your order. It's Easy! MasterCard VISA
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature

1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL

64

ISS

2

2

6

NO

24

1999

UMI

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
AFR SMITH212J                    DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
AFRDO SMITH212J                  DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Public Laws

106th Congress, 1st Session, 1999

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 106th Congress, 1st Session, 1999.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara/index.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 106th Congress, 1st Session, 1999 for $136 per subscription.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/98

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
64
ISS
2
2
6
NO
24
1999
UMI

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

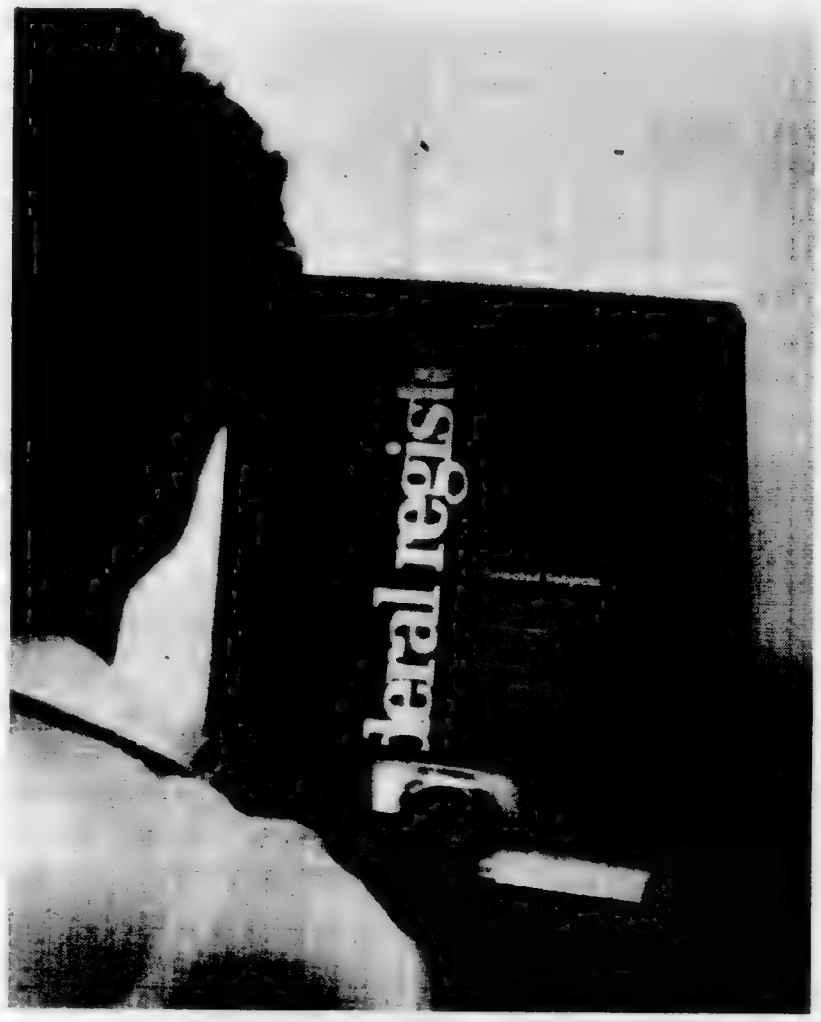

Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

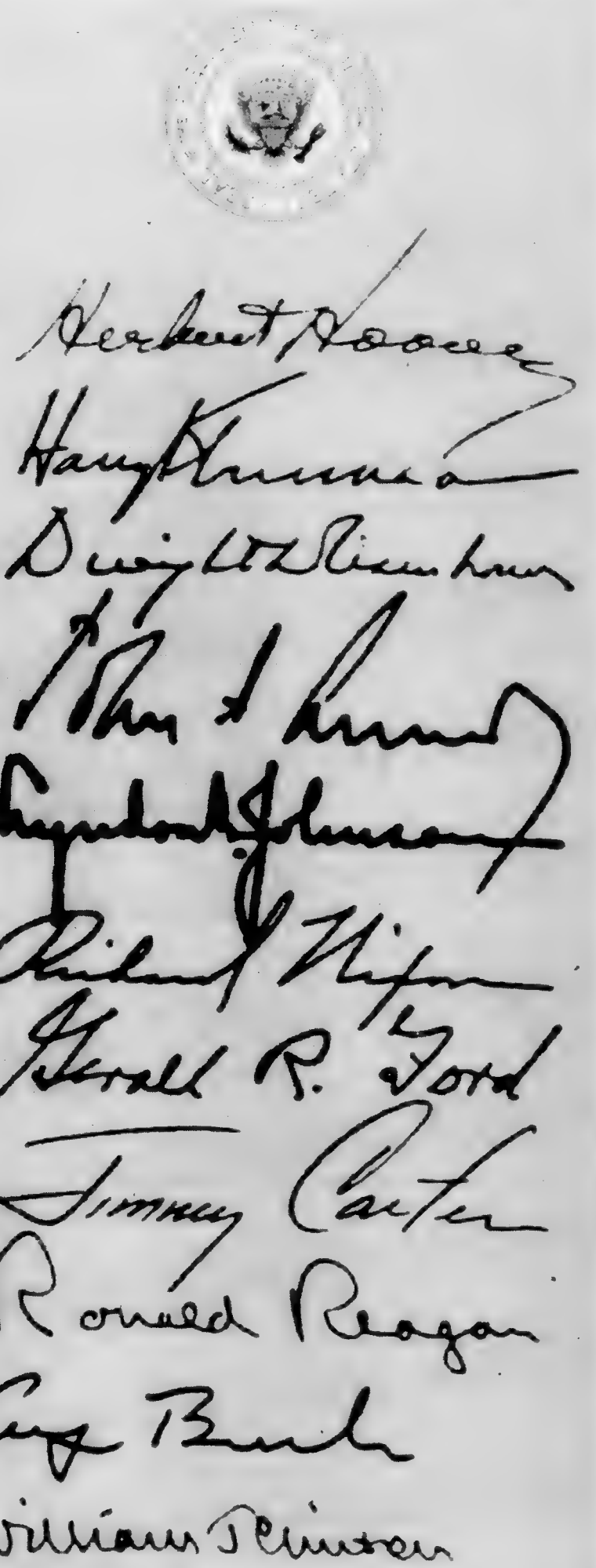

Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	$51.00
1993 (Book II)	$51.00
1994 (Book I)	$56.00
1994 (Book II)	$52.00
1995 (Book I)	$60.00
1995 (Book II)	$65.00
1996 (Book I)	$66.00
1996 (Book II)	$72.00
1997 (Book I)	$69.00
1997 (Book II)	$78.00

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev. 9/23/99)

VOL
64
ISS
2
2
6
NO
24
1999
UMI

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

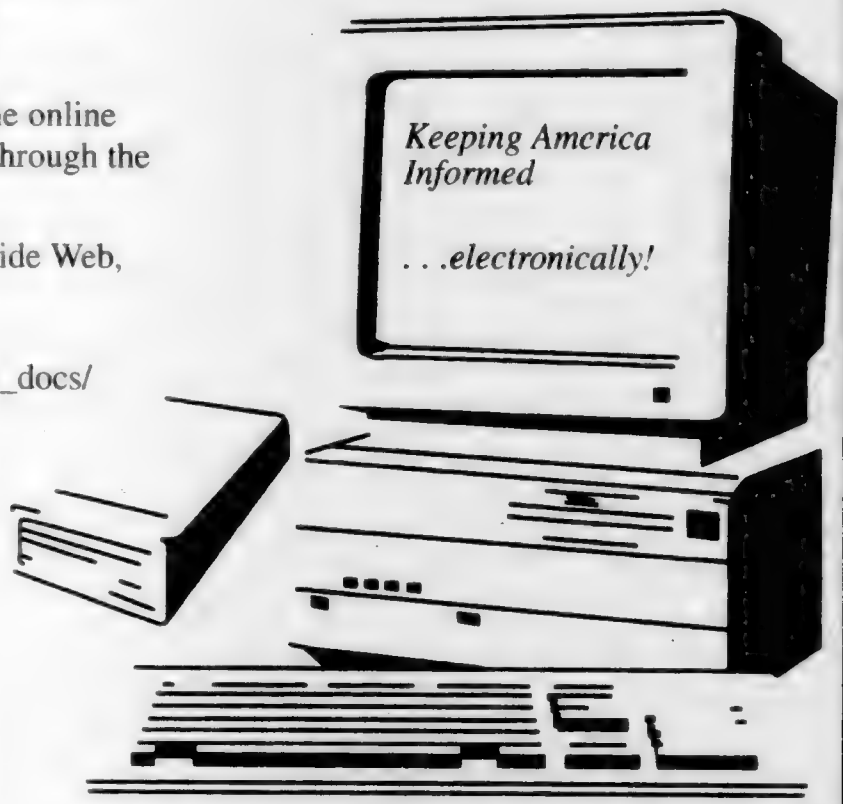

You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

VOL
64
ISS
2
2
6
NO
24
1999
UMI

Printed on recycled paper

VOL
64
ISS
2
2
7
NO
26
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11-26-99
Vol. 64

United Sta
Governme
Printing O
SUPERINTENDE
OF DOCUMENT
Washington, DC

OFFICIAL BUSI
Penalty for priva

11–26–99
Vol. 64 No. 227

Federal Register

Friday
November 26, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

★★★★★★★★★★★★★★★★★★★3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
7
NO
26
1999
UMI

11-26-9
Vol. 64
Pages 6

11–26–99
Vol. 64 No. 227
Pages 66355–66540

federal register

Friday
November 26, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530; 1–888–293–6498

Single copies/back copies:

Paper or fiche	512–1800
Assistance with public single copies	512–1803

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 7, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register
Vol. 64, No. 227
Friday, November 26, 1999

Agricultural Marketing Service
PROPOSED RULES
Onions grown in—
Texas, 66411–66413

Agriculture Department
See Agricultural Marketing Service
See Forest Service
NOTICES
Meetings:
National Nutrition Summit, 66451

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
Diamond Mountain, CA, 66433–66434

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Harsco Corp. et al., 66492–66500

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Surveys, determinations, etc.:
Company organization, 66452
Manufacturing area; annual, 66452–66454

Chemical Safety and Hazard Investigation Board
NOTICES
Meetings; Sunshine Act, 66452

Children and Families Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66479

Coast Guard
PROPOSED RULES
Outer Continental Shelf activities:
Platforms in Gulf of Mexico; safety zone, 66434–66436

Commerce Department
See Census Bureau
See Export Administration Bureau
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Commodity Futures Trading Commission
RULES
Contract markets:
Contract market designations applications—
Commission review and approval; procedures, 66373–66381
PROPOSED RULES
Contract markets:
Contract market designation applications—
Fee schedule, 66432–66433
Contract market rule review procedures, 66428–66432

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 66459

Copyright Office, Library of Congress
RULES
Copyright office and procedures:
Nonsubscription digital transmissions; notice and recordkeeping requirements
Filing date extension, 66391–66392

Corporation for National and Community Service
RULES
Government in Sunshine Act; implementation, 66402–66405

Defense Department
See Engineers Corps
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66459–66460
Arms sales notification; transmittal letter, etc., 66460–66463
Meetings:
Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction Advisory Panel, 66464

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66465

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determinations, 66503–66504

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Mill Creek, OH; local flood protection project general reevaluation report, 66464

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 66393–66396
Solid wastes:
Disposal facilities and practices; classification criteria; reporting and recordkeeping requirements, 66392–66393

PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 66441–66442
NOTICES
Committees; establishment, renewal, termination, etc.:
FIFRA Scientific Advisory Panel, 66468–66473
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 66473–66474
Weekly receipts, 66474
Pesticide registration, cancellation, etc.:
Mycogen Seeds et al., 66474–66476

Export Administration Bureau
RULES
Export licensing:
Commerce control list—
Microprocessors controlled by ECCN 3A001 and graphics accelerators controlled by ECCN 4A003; License Exception CIV eligibility level expansion, 66372–66373

Export-Import Bank
NOTICES
Meetings:
Advisory Committee, 66476

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 66368–66370, 66361–66364
General Electric Co., 66366–66368
Pilatus Aircraft Ltd., 66365–66366
PROPOSED RULES
Airworthiness directives:
Boeing, 66426–66428, 66419–66422
British Aerospace, 66424–66426
Dornier, 66422–66424, 66418–66419
General Electric Co., 66415–66416
McDonnell Douglas, 66417–66418
Class E airspace; correction, 66528
NOTICES
Aviation Rulemaking Advisory Committee; task assignments, 66522–66524
Meetings:
General aviation summit; U.S. general aviation aircraft; fleet airworthiness, 66524–66525
Passenger facility charges; applications, etc.:
Greater Peoria Regional Airport, IL, 66525
Rhinelander-Oneida County Airport, WI, 66525–66526

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
Dedicated short range communications of intelligent transportation services, 66405–66410
PROPOSED RULES
Common carrier services:
Local exchange carrier price cap productivity offset (X-factor); prescription, 66442–66447

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 66476–66477

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Lake Dorothy Hydro Inc., 66466
Hydroelectric applications, 66465–66467
Practice and procedure:
Off-the-record communications, 66467
Applications, hearings, determinations, etc.:
PG&E Gas Transmission, Northwest Corp., 66465

Federal Maritime Commission
NOTICES
Complaints filed:
Cargo One, Inc., 66477

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 66477
Formations, acquisitions, and mergers, 66477–66478
Formations, acquisitions, and mergers; correction, 66477

Food and Drug Administration
RULES
Airworthiness directives:
Boeing, 66370–66372
Animal drugs, feeds, and related products:
Lincomycin soluble powder, 66382
Sulfamethazine tablets, 66382–66383
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66479–66480
Food additive petitions:
Ciba Specialty Chemicals Corp., 66480
Meetings:
Medical Devices Advisory Committee, 66480–66481
Reports and guidance documents; availability, etc.:
Nucleic acid testing of pooled plasma; application of current statutory authority; industry guidance, 66481–66482

Forest Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Land Between the Lakes Advisory Board, 66451–66452

General Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66478–66479

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
NOTICES
Meetings:
National Nutrition Summit, 66451

Health Care Financing Administration
RULES
Medicare:
Methods to improve Medicare efficiency; suggestion program establishment, 66396–66402
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66482

Housing and Urban Development Department
PROPOSED RULES
Housing programs:
Uniform physical condition standards and physical inspection requirements; insured and assisted properties; administrative process assessment, 66529–66540
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 66485–66488

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Coushatta Tribe of Louisiana, 66488
Spirit Lake Tribe, ND, 66488
Tunica-Biloxi Indian Tribe, LA, 66488

Interior Department
See Indian Affairs Bureau
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

Justice Department
See Antitrust Division
See National Institute of Corrections
NOTICES
Pollution control; consent judgments:
Aronowitz, Jack L., et al., 66491–66492
East Charleston & Fogg et al., 66491

Labor Department
See Employment Standards Administration

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Transit Mixed Concrete Co. Sand and Gravel Mining Project, CA, 66490
Wyodak Coalbed Methane Project, WY, 66488
Environmental statements; notice of intent:
Pompeys Pillar National Historic Landmark, MT, interpretive center and other facilities construction, 66489
Motor vehicle use restrictions:
Colorado, 66490–66491
Recreation mangement restrictions, etc.:
Public lands, WY; camping stay limits, 66491
Resource management plans, etc.:
Red Hill Area, CO, 66489–66490

Library of Congress
See Copyright Office, Library of Congress

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 66504–66506

National Credit Union Administration
RULES
Credit unions:
Credit union service organizations—
Real estate brokerage services; grandfather exemption, 66360–66361
Management official interlocks; clarification and statutory changes conformation, 66356–66360
Truth in Savings Act—
Statement disclosures; delivery in electronic form, 66355–66356
PROPOSED RULES
Credit unions:
Insurance and group purchasing activities; incidental authorities, 66413–66415
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66507
Submission for OMB review; comment request, 66506–66507
Organization, functions, and authority delegations:
Point of contact for credit unions regarding compliance problems arising from Year 2000 (Y2K) failures, 66507

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 66508

National Highway Traffic Safety Administration
PROPOSED RULES
Vehicles built in two or more stages; negotiated rulemaking advisory committee establishment and meeting, 66447–66449

National Institute of Corrections
NOTICES
Grants and cooperative agreements; availability, etc.:
Effective prison mental health services program, 66500–66502
Management training curriculum development program, 66502–66503

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 66483
National Institute of General Medical Sciences, 66483
National Institute of Mental Health, 66483–66484
Scientific Review Center, 66484–66485
Patent licenses; non-exclusive, exclusive, or partially exclusive:
NeoPharm, Inc., 66482–66483

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico Fishery Management Council; meetings, 66449–66450
NOTICES
Grants and cooperative agreements; availability, etc.:
Ocean Remote Sensing Program, 66454–66457
Meetings:
Caribbean Fishery Management Council, 66457
Permits:
Endangered and threatened species, 66458

National Science Foundation
NOTICES
Meetings:
Astronomical Sciences Special Emphasis Panel, 66508–66509
Biological Sciences Special Emphasis Panel, 66509

Research, Evaluation, and Communication Special Emphasis Panel, 66509
U.S. National Assessment Synthesis Team, 66509

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 66509

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Power Authority of State of New York, 66509–66512
Umetco Minerals Corp., 66512–66513
Meetings:
Baseline safety inspection program for nuclear fuel cycle facilities; revision; workshop, 66513–66514

Patent and Trademark Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66458–66459

Pension Benefit Guaranty Corporation
RULES
Premium payments:
Self-correction of premium underpayments, 66383–66385

Postal Rate Commission
PROPOSED RULES
International mail services; cost, revenue, and volume data analysis, 66436–66441
NOTICES
Domestic mail classifications and rates:
Mailing online experimental classification proceeding, 66514–66516

Public Health Service
See Food and Drug Administration
See National Institutes of Health

Railroad Retirement Board
RULES
Emergency regulations:
Plan of operation during national emergency; procedures update, 66381–66382
PROPOSED RULES
Railroad Retirement Act:
Evidence required for payment, 66433
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66516

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Deregistration applications—
Berwyn Fund, Inc., et al., 66517
Exemption applications—
First Australia Prime Income Fund, Inc., et al., 66517–66519
OLDE Asset Management, Inc., 66520–66522
SunAmerica Asset Management Corp. et al., 66519–66520
Meetings; Sunshine Act, 66522
Self-regulatory organizations; proposed rule changes:
Philadelphia Stock Exchange, Inc.; correction, 66528

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Iowa, 66385–66391

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Transportation Statistics Bureau

Transportation Statistics Bureau
NOTICES
Meetings:
Transportation Statistics Advisory Council, 66526

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66526–66527

Separate Parts In This Issue

Part II
Department of Housing and Urban Development, 66529–66540

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

VOL 64 ISS 227 NO 26 1999 UMI

CFR PAR
A cumulati
Reader Aid
7 CFR
Proposed R
959
12 CFR
707
711
712
Proposed R
721
14 CFR
39 (5 docu
66365,
Proposed R
39 (7 docu
66417, 6
71
15 CFR
774
17 CFR
5
Proposed R
1 (2 docum
5
31
20 CFR
375
Proposed R
219
21 CFR
520 (2 docu
24 CFR
Proposed Ru
5
200
27 CFR
Proposed Ru
9
29 CFR
4007
30 CFR
915
33 CFR
Proposed Ru
147
37 CFR
201
39 CFR
Proposed Ru
3001
40 CFR
9
52
257
Proposed Ru
52
42 CFR
420
45 CFR
2505
47 CFR
2
90
Proposed Ru
61

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
959 66411

12 CFR
707 66355
711 66356
712 66360
Proposed Rules:
721 66413

14 CFR
39 (5 documents) 66361, 66365, 66366, 66368, 66370
Proposed Rules:
39 (7 documents) 66415, 66417, 66418, 66419, 66422, 665424, 66426
71 66528

15 CFR
774 66372

17 CFR
5 66373
Proposed Rules:
1 (2 documents) 66428, 66432
5 66432
31 66432

20 CFR
375 66381
Proposed Rules:
219 66433

21 CFR
520 (2 documents) 66382, 66382

24 CFR
Proposed Rules:
5 66530
200 66530

27 CFR
Proposed Rules:
9 66433

29 CFR
4007 66383

30 CFR
915 66395

33 CFR
Proposed Rules:
147 66434

37 CFR
201 66391

39 CFR
Proposed Rules:
3001 66436

40 CFR
9 66392
52 66393
257 66392
Proposed Rules:
52 66441

42 CFR
420 66396

45 CFR
2505 66402

47 CFR
2 66405
90 66405
Proposed Rules:
61 66442

49 CFR
Proposed Rules:
567 66447
568 66447

50 CFR
Proposed Rules:
622 66449

VOL
64

ISS

2
2
7

NO
26

1999

UMI

Rul

This sec
contains
applicabi
are keye
Federal
50 titles

The Cod
the Supe
new book
REGISTE

**NATION
ADMINI**

12 CFR

Truth in

AGENCY:
Adminis
ACTION:
for comm

SUMMARY
regulatio
Savings
allows c
electroni
disclosu
regulatio
form of d

DATES: T
26, 1999,
on or bef

ADDRESS
directed
Board. M
to: Natio
Administ
Alexandr
also fax c
e-mail co
boardmai
comment

FOR FURT
Frank S.
Division
General C
telephone

SUPPLEME

Backgrou

Part 70
implemen
purpose o
members
comparis
offered by
TISA requ
disclosure
terms con
members

Rules and Regulations

Federal Register
Vol. 64, No. 227
Friday, November 26, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: NCUA is amending its regulations that implement the Truth in Savings Act (TISA). This interim rule allows credit unions to deliver in electronic form periodic statement disclosures required by NCUA's regulations if the member agrees to this form of delivery.

DATES: This rule is effective November 26, 1999. Comments must be received on or before January 25, 2000.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. You may also fax comments to (703) 518–6319 or e-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

Part 707 of NCUA's regulations implements TISA. 12 CFR part 707. The purpose of part 707 and TISA is to assist members in making meaningful comparisons among share accounts offered by credit unions. Part 707 and TISA require, among other things, disclosure of yields, fees and other terms concerning share accounts to members at account opening, upon request, when changes in terms occur and in periodic statements. Many of these disclosures must be written. Many laws that require information to be in writing consider information in electronic form to be written. Information produced, stored, or communicated by computer is also generally considered to be a writing, where visual text is involved.

The Board of Governors of the Federal Reserve System (Federal Reserve) has issued an interim rule that allows depository institutions to deliver periodic statement disclosures required by its Regulation DD in electronic form if the consumer agrees to this form of delivery. 64 FR 49846 (September 14, 1999). In doing so, the Federal Reserve has stated that electronic delivery of these kind of disclosures will reduce paperwork and costs for institutions and may benefit consumers by allowing them to receive their periodic account statements, including required disclosures, more quickly and in a more convenient form.

The Federal Reserve's interim rule does not permit a depository institution to deliver periodic statement disclosures electronically unless the consumer agrees to this method of delivery, but does not specifically discuss what constitutes a valid agreement between the consumer and depository institution. The Federal Reserve has stated that whether the parties have an agreement would be determined by state law, but does not intend to require a formal contract. It has also stated that consumers should be clearly informed when they are consenting to electronic delivery of periodic statements and disclosures. The Federal Reserve has further stated that the periodic statement must be provided in a form that can be displayed as visual text and must be clear and conspicuous and in a form that the consumer can retain.

The Federal Reserve's interim rule applies only to periodic statement disclosures. Other disclosures required by TISA and Regulation DD may not be delivered in electronic form. The Federal Reserve, however, has issued a proposal addressing electronic delivery of these other disclosures. 64 FR 49740 (September 14, 1999).

TISA requires NCUA to promulgate regulations substantially similar to those promulgated by the Federal Reserve. 12 U.S.C. 4311(b). In doing so, NCUA is to take into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts. NCUA's interim rule is substantially similar to that issued by the Federal Reserve.

Interim Final Rule

The NCUA Board is issuing this rule as an interim final rule because there is a strong public interest in having in place consumer oriented rules that are consistent with those promulgated by the Federal Reserve. Additionally, NCUA is required to issue rules substantially similar to those issued by the Federal Reserve within ninety days of the effective dates of the Federal Reserve's rules. Accordingly, for good cause, the Board finds that, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest; and, pursuant to 5 U.S.C. 553(d)(3), the rule shall be effective immediately and without 30 days advance notice of publication. Although the rule is being issued as an interim final rule and is effective immediately, the NCUA Board encourages interested parties to submit comments.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small credit unions, meaning those under $1 million in assets.

The NCUA has determined and certifies that this interim rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the amendments to part 707 provide credit unions with an optional and alternative method of delivering certain required disclosures. Credit unions are free to choose not to utilize this alternative. Other credit unions, who choose to use this alternative, will likely realize a reduction in their costs of delivery as a result. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the amendments to part 707 do not increase

paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope." This interim rule will not have a direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this interim rule does not constitute a significant regulatory action for purposes of the executive order.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget is reviewing this rule. We are awaiting its determination whether this is a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 707

Advertising, Consumer protection, Credit unions, Reporting and recordkeeping requirements, Truth in savings.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR part 707 is amended as follows:

PART 707—TRUTH IN SAVINGS

1. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

2. Section 707.6 is amended by revising the heading and adding a new paragraph (c) to read as follows:

§ 707.6 Periodic statement disclosures.

* * * * *

(c) *Electronic communication.* (1) *Definition.* The term "electronic communication" means a message transmitted electronically between a member and a credit union in a format that allows visual text to be displayed on equipment such as a personal computer monitor.

(2) *Electronic communication between credit union and member.* A credit union and a member may agree that the credit union will send by electronic communication periodic statement disclosures required by § 707.6. Periodic statement disclosures sent by electronic communication to a member must comply with § 707.3 and any applicable timing requirements contained in this part.

[FR Doc. 99–30691 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR PART 711

Management Official Interlocks

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration (NCUA) revises its rule regarding management interlocks. The final rule conforms to recent statutory changes, modernizes and clarifies the rule, and reduces unnecessary regulatory burdens where feasible, consistent with statutory requirements. The final rule was drafted through a coordinated effort among the following other federal financial regulatory agencies: the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), (collectively "the banking agencies").

EFFECTIVE DATE: This rule is effective January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Dianne M. Salva, Staff Attorney, Division of Operations, Office of General Counsel, at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

The Depository Institution Management Interlocks Act (12 U.S.C. 3201–3208) (the Interlocks Act) generally prohibits financial institution management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies (depository organizations). The Interlocks Act exempts interlocking arrangements between credit unions and, therefore, in the case of credit unions, only restricts interlocks between credit unions and other institutions—banks and thrifts and their holding companies.

The scope of the prohibition depends on the size and location of the involved organizations. For instance, the Interlocks Act prohibits unaffiliated depository organizations, regardless of size, from establishing an interlock if both organizations have an office in the same community (the community prohibition). Unaffiliated depository organizations may not form an interlock if both organizations have total assets of $20 million or more and are located in the same Relevant Metropolitan Statistical Area (RMSA) (the RMSA prohibition). The Interlocks Act also prohibits unaffiliated depository organizations, regardless of location, from establishing an interlock if each organization has total assets exceeding specified thresholds (the major assets prohibition).

Section 2210 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPR Act) amended §§ 204, 206, and 209 of the Interlocks Act (12 U.S.C. 3203, 3205 and 3207).[1] Section 2210(a) of the EGRPR Act amended the Interlocks Act by changing the thresholds for the major assets prohibition under 12 U.S.C. 3203. Prior to the EGRPR Act, management officials of depository organizations with total assets exceeding $1 billion were prohibited from serving as management officials of unaffiliated depository organizations with assets exceeding $500 million, regardless of the location of the organizations or their depository institution affiliates.[2] The EGRPR Act raised the thresholds to $2.5 billion and $1.5 billion, respectively. The revision also authorized NCUA to adjust the thresholds by regulation, as necessary to allow for inflation or market conditions.

Section 2210(b) of the EGRPR Act permanently extended the grandfather and diversified savings and loan holding company exemptions in 12 U.S.C. 3205. Prior to the EGRPR Act, these exemptions were subject to a 20-year time limit beginning November 10,

[1] The OCC, the Board, the FDIC, and the OTS, (collectively, the Agencies) recently published final rules similar to NCUA to implement the EGRPR Act. 51673 (September 24, 1999).

[2] The Agencies, and NCUA, define "total assets" of diversified savings and loan holding companies and bank holding companies exempt from § 4 of the Bank Holding Company Act to include only the assets of their depository institution affiliates. *See* 12 CFR 26.2(r), 212.2(q), 348.2(q), 348.2(q), 711.2(r), and 563f.(r).

1978. The EGRPR Act amended sec. 3205(a) to permit persons who began dual service as management officials of more than one depository organization before November 10, 1978, to continue such service indefinitely. Similarly, sec. 3205(b) was amended to permit a person who serves as a management official of a depository organization and of a company that is not a depository holding company to continue to serve as an official of both entities indefinitely if the non-depository organization becomes a diversified savings and loan holding company. The EGRPR Act also repealed sec. 3205(c). That provision, which mandated agency review of grandfathered interlocks before March 1995, became outdated.

The EGRPR Act also amended 12 U.S.C. 3207 to provide that NCUA may adopt "regulations that permit service by a management official that would otherwise be prohibited by [the community, RMSA, or major assets prohibitions], if such service would not result in a monopoly or substantial lessening of competition." This change repealed the specific "regulatory standards" and "management consignment" exemptions added by the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act),[3] and restored the NCUA's broad authority to create regulatory exemptions to the statutory prohibitions on interlocks.

II. The Proposal

On October 29, 1998, NCUA published a notice of proposed rulemaking (the proposal) to implement these statutory changes. 63 FR 57945, October 29, 1998. The proposal also renewed an earlier proposal for a small market share exemption that had been advanced by the FRB, OCC and FDIC before enactment of the CDRI Act.

III. The Final Rule and Comments Received

NCUA received four comments, all in favor of the proposal. Several commenters emphasized the importance of coordination among NCUA and the banking agencies. Most of the proposed changes received either no comments or uniformly favorable comments. Accordingly, NCUA has adopted the proposal with only one minor change. The following discussion summarizes the amendments to NCUA's management interlocks rule and the comments received.

A. Definitions

Current NCUA regulations define key terms implementing the Interlocks Act. A number of these definitions were added or revised in 1996 to implement the CDRI Act. With the repeal of the specific exemptive standards in the CDRI Act, two of these definitions have become unnecessary and can be removed. NCUA received no comments on the proposed elimination of these terms and therefore adopts this provision as proposed.

B. Major Assets Prohibition

Prior to the EGRPR Act, a management official of a depository organization (or its affiliates) having total assets exceeding $1 billion could not serve as a management official of any depository organization with total assets exceeding $500 million (or its affiliates) regardless of location. The EGRPR Act revised the asset thresholds for the major assets prohibition from $1 billion and $500 million to $2.5 billion and $1.5 billion, respectively. The legislation also authorized the NCUA to adjust the threshold from time to time to reflect inflation or market changes.

NCUA proposed to amend the regulations to reflect the new threshold amounts, and to add a mechanism providing for periodic adjustments of the thresholds. The adjustment would be based on changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (the Consumer Price Index). In years when changes in the Consumer Price Index would change the thresholds by more than $100 million, NCUA, along with the banking agencies, will announce the change by a final rule without notice or opportunity for comment published in the **Federal Register**. For those years in which changes in the Consumer Price Index would not change the thresholds by more than $100 million, NCUA and the banking agencies will not adjust the threshold. NCUA, however, wishes to clarify that if the threshold is not adjusted to reflect a Consumer Price Index change in any given year, the change for that year will be considered in computing adjustments to the threshold in subsequent years. NCUA also invited comment on the types of market changes that may warrant subsequent adjustments to the major assets prohibition.

One commenter expressed support for the proposal to periodically adjust the thresholds based on the Consumer Price Index, but admonished NCUA to coordinate any changes with the banking agencies to ensure that all supervisory agencies are using a consistent standard. NCUA agrees that such coordination among it and the banking agencies will ensure consistency in the standard. NCUA intends to coordinate with the banking agencies on such adjustments, just as it has coordinated these changes to the rule. Accordingly, NCUA adopts the mechanism providing for periodic adjustments of the thresholds set forth in the proposal without any changes.

C. Regulatory Standards and Management Consignment Exemptions

The current regulations contain Regulatory Standards and Management Consignment exemptions which were predicated on sec. 3207 of the Interlocks Act. The EGRPR Act removed the specific exemptions from the Interlocks Act and substituted a general authority for the Agencies to create exemptions by regulation. Accordingly, the proposal recommended removal of these regulatory exemptions. NCUA received no comment on this provision. NCUA finds the removal of the exemptions appropriate in light of their statutory repeal and therefore adopt this provision as set forth in the proposal without any changes.

D. General Exemptive Authority

Section 2210(c) of the EGRPR Act authorizes NCUA to adopt regulations permitting service by a management official that would otherwise be prohibited by the Interlocks Act, if such service would not result in "a monopoly or substantial lessening of competition." To implement this authority, NCUA proposed to exempt otherwise prohibited management interlocks where the dual service would not result in a monopoly or substantial lessening of competition and would not otherwise threaten safety and soundness. The process for obtaining such exemptions will be set out in an NCUA directive to credit unions.

Since 1979, when regulations implementing the Interlocks Act were first promulgated, NCUA has recognized that interlocks involving certain classes of depository organizations present a reduced risk to competition, and that, by enlarging the pool of management available to such organizations, competition could be enhanced. Thus, in the initial interlocks rules published in 1979, NCUA reserved the authority to permit interlocks to strengthen newly-chartered organizations, troubled organizations, organizations in low- or moderate-income areas and organizations controlled or managed by

[3] NCUA adopted final regulations implementing the management interlocks provision of the CDRI Act, effective October 1, 1996. *See* 61 FR 50702, September 27, 1996. The banking agencies also adopted final regulations implementing the management interlocks provisions of the CDRI Act, effective October 1, 1996. *See* 61 FR 40293, August 2, 1996.

minorities or women. The authority to permit interlocks in such circumstances was deemed "necessary for the promotion of competition over the long term." *See* 44 FR 42161, 42165 (July 19, 1979). Prior to the CDRI Act, these exemptions were granted to meet the need for qualified management. The Management Consignment exemption under the CDRI Act was generally available to the same four classes of organizations, but on a more limited basis.

With the EGRPR Act's restoration of the broad exemptive authority under the Interlocks Act, NCUA again has authority to grant exemptions that will not adversely affect competition. NCUA believes that interlocks involving the four classes of organizations previously identified may provide management expertise needed to enhance the ability of the organizations to compete. Accordingly, NCUA proposed to establish a rebuttable presumption that an interlock would not result in a monopoly or substantial lessening of competition, if: (1) The depository organization is located in, and primarily serves, low-or moderate-income areas; (2) the depository organization is controlled or managed by members of a minority group or women; (3) the depository institution is newly-chartered; or (4) the depository institution, or in the case of a depository organization, a depository institution under its control, is deemed to be in "troubled condition" under regulations implementing sec. 914 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). 12 U.S.C. 1831i.

A claim that factors exist giving rise to a presumption does not preclude NCUA from denying a request for an exemption if NCUA finds, based on available materials, that the presumption is rebutted. That is, an exemption request may be denied if NCUA determines that the interlock would result in a monopoly or substantial lessening of competition. The presumptions are designed to provide greater flexibility to classes of organizations that may have greater need for seasoned management, but the presumptions are rebuttable because NCUA recognizes that such needs can only be met in a manner that is consistent with the statute.

The definitions of "area median income" and "low- and moderate-income areas" added to the regulations in 1996 to implement the CDRI Act amendments are being retained to provide guidance as to when an organization would qualify for one of the presumptions. Interlocks that are based on the presence of a rebuttable presumption would be allowed to continue for three years, unless otherwise provided in the approval order. Nothing in the proposed rule would prevent an organization from applying for an extension of an interlock exemption granted under a presumption if the factors continued to apply. The organizations would also be free to utilize any other exemption that may be available.

NCUA also proposed that any other interlock approved under this section be allowed to continue unless it becomes anticompetitive, unsafe or unsound, or is subject to a condition requiring termination at a specific time.

One commenter supported the general exemption and stated that the presumptions in the proposal were suitable, but cautioned that any request for an interlock extension beyond three years should be closely scrutinized. NCUA recognizes that the permitted interlocks are exceptions to the rule and will assess the need for such service on a case-by-case basis. NCUA is adopting the proposed section with no changes.

E. Small Market Share Exemption

In 1994, the OCC, FDIC, and FRB published notices of proposed rulemaking seeking comment on a proposed market share exemption. The proposed exemption would have been available for interlocks involving institutions that, on a combined basis, would control less than 20% of the deposits in a community or relevant MSA. These agencies published small market share exemption proposals pursuant to the broad exemptive authority vested in the agencies prior to the CDRI Act. Because the CDRI Act restricted the agencies' broad rulemaking authority, the OCC, FDIC, and FRB withdrew their proposals.[4] The broad exemptive authority under the EGRPR Act again authorizes the small market share exemption. Accordingly, NCUA joins the banking agencies in renewing the proposal for the small market share exemption.

The Interlocks Act, by discouraging common management among financial institutions, seeks to prevent unaffiliated institutions from having an adverse impact on competition in the products and services they offer. Where depository institutions dominate a large portion of the market, these risks are significant. When a particular market is served by many institutions, however, the risks diminish that depository institutions with interlocking relationships can adversely affect the products and services available in their markets.

NCUA's proposal stated that the combination of the shares and deposits of two institutions would provide a meaningful assessment of the capacity of the two institutions to control credit and related services in their market. Accordingly, NCUA proposed to exempt interlocking service involving two unaffiliated depository organizations that together control no more than 20% of the shares and deposits in any RMSA or community, as appropriate. Organizations claiming the exemption would be required to determine the market share in each RMSA and community in which both depository organizations (or affiliates) are located. Under the proposal, to determine their eligibility for the exemption, depository organizations would need to obtain appropriate share and deposit data from NCUA and appropriate deposit data from the FDIC.

NCUA received two comments in support of the small market share exemption, one emphasizing that the rule must conform to that of the other banking agencies and another emphasizing the importance that deposits in all insured financial institutions, banks, thrifts and credit unions, be included in the calculation. The banking agencies proposed that depository organizations rely only on bank and thrift data collected by the FDIC in its Summary of Deposits to determine eligibility for the small market share exemption. NCUA proposed that the bank and thrift data from the Summary of Deposits be combined with credit union data from NCUA to calculate total assets in a given market and market share. Both the Summary of Deposits, and the NCUA data are readily accessible on the Internet and each permits the user to search for deposit and asset data by city, state and zip code. However, the FDIC database reports deposit and asset information by an institution's branch location, while NCUA's database does not. NCUA does not collect information from credit unions on a-branch by branch basis; rather it attributes all share, deposit and asset information to a credit union's main branch. If credit union data were included in the calculation of total assets in a community, the figure may be inaccurate. For example, in a community where the main branch of a

[4] *See* OCC, 59 FR 29740 (June 9, 1994), FDIC, 59 FR 18764 (April 20, 1994), and FRB, 59 FR 7909 (February 17, 1994) for proposals prior to CDRI Act. Following enactment of the CDRI Act these proposals were withdrawn; 60 FR 67424 (December 29, 1995) for withdrawal by OCC and FRB; and 60 FR 7139 (February 7, 1995) for withdrawal by the FDIC.

large credit union is located, the credit union assets would artificially inflate the market calculations. At the same time, the calculations in a nearby community where the large credit union has a branch location would be artificially low.

The banking agencies believe that the deposit data maintained in the FDIC's Summary of Deposits provides a reliable approximation of the market for a given location. NCUA agrees. To the extent that credit unions hold a significant amount of the total deposits in a given market, this information may be used to demonstrate that an interlock will not result in a monopoly or substantial lessening of competition under the general exemption. This approach is consistent with the banking agencies' treatment of credit union shares in the merger context, where the banking agencies consider credit union shares as one of many mitigating factors if a merger transaction exceeds a specified threshold. Accordingly, for the sake of consistency and to permit all depository organizations to use a more accurate method of calculating market share, in the final rule, NCUA has eliminated the requirement that credit union shares be included in the calculation of market share, and instead permits the reliance on the Summary of Deposits data only. Organizations claiming the exemption must determine the market share in each RMSA and community in which both depository organizations (or their depository institution affiliates) have offices. The relevant market used for the small market share exception (that is, the RMSAs or communities in which both depository organizations or their depository institution affiliates have offices) are the same markets described in the community and RMSA prohibitions. The small market share exemption is not available for interlocks subject to the major assets prohibition.

The small market share exemption would continue to apply as long as the organizations meet the applicable conditions. Any event that causes the level of deposits controlled to exceed 20% of deposits in any RMSA or community, such as expansion or a merger, would be considered to be a change in circumstances. Accordingly, the depository organizations would have 15 months, under NCUA's regulation, to address the prohibited interlock by termination or otherwise. The agency with jurisdiction over the organization may establish a shorter period. Conforming changes relating to termination have been made to NCUA's change of circumstances provisions. The small market share exemption is not available for interlocks subject to the major assets prohibition.

No prior NCUA approval would be required in order to claim the proposed small market share exemption. Management is responsible for compliance with the terms of the exemption and for maintaining sufficient supporting documentation.

The most recently available deposit data will be used to determine whether organizations are entitled to the exemptions. FDIC publishes its deposit total information annually. A credit union seeking the exception is entitled to rely upon the deposit data that has been compiled for the previous year, until more recent data has been distributed.

F. General Comments

One commenter expressed concern that even though a management official interlock between two credit union is exempt under the Interlocks Act, credit unions should be made aware that a conflict may arise when a management official serves two credit unions. NCUA recognizes that dual service to two or more credit unions could pose a conflict and reminds credit unions that they may choose to adopt a policy addressing the issue.

G. Effective Date of the Final Rule

The banking agencies set the effective date of their joint final rule on January 1, 2000, in accordance with 12 U.S.C. 4802(b). Although NCUA is not subject to 12 U.S.C. 4802(b), in order to simplify compliance with the rule, NCUA has adopted the same effective date. Compliance with the final rule is not mandatory until the effective date. Section 4802(b), however, also permits any person subject to the regulation to comply with the regulation voluntarily, prior to the effective date. To the extent that a credit union and bank desire to comply voluntarily with the final rule, they may elect to do so immediately. If a depository institution elects to comply voluntarily with any section of the management interlocks rule, it must comply with the entire part.

Paperwork Reduction Act

NCUA may not conduct or sponsor, and an organization is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control number is 3133–0152. NCUA sought comment on the burden estimates for the information collections listed below and received no comments that specifically addressed the burden stemming from these information collections. The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget under control number 3604–0118 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (3604–0118), Washington, D.C. 20503, with copies of such comments to be sent to NCUA, 1775 Duke Street, Alexandria, VA 22314, Attention: James L. Baylen, Paperwork Reduction Act Coordinator, Telephone No. (703) 518–6410; Fax No. (703) 518–6433; E–Mail address: OAMAIL@NCUA.GOV.

The collection of information requirements in this proposed rule are found in 12 CFR 711.4(h)(1)(i), 711.5(a)(1), 711.5(a)(2), 711.5(b), 711.6(a), and 711.6(c). This information is required to evidence compliance with the requirements of the Interlocks Act by federal credit unions and federally insured, state-chartered credit unions. The likely respondents are federal credit unions and federally insured, state-chartered credit unions. In the past several years, NCUA has received approximately one management interlock application each year. The following estimates are provided:

Estimated average annual burden hours per respondent: 3 hours.

Estimated number of respondents: 1.

Start-up costs to respondents: None.

No issues of confidentiality under the provisions of the Freedom of Information Act normally arise for the applications.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), NCUA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. NCUA expects that this rule will not: (1) have significant secondary or incidental effects on a substantial number of small entities; or (2) create any additional burden on small entities. These conclusions are based on the fact that the regulations relax the criteria for obtaining an exemption from the interlocks prohibitions, and specifically address the needs of small entities by creating the small market share exemption. Accordingly, a regulatory flexibility analysis is not required.

Executive Order 12866

The NCUA Board has determined that this proposal is not a significant regulatory action under Executive Order 12866.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final rule, just as the current rule, applies to all federally insured credit unions, including federally insured state-chartered credit unions. However, since the rule reduces regulatory burdens, NCUA has determined that it does not constitute a "significant regulatory action" for purposes of the Executive Order.

Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget is reviewing this rule to determine that it is not major for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 711

Antitrust, Credit unions, Holding companies, Management official interlocks.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons set out in the preamble, the NCUA amends 12 CFR part 711 as follows:

PART 711—MANAGEMENT OFFICIAL INTERLOCKS

1. The authority citation for Part 711 continues to read as follows:

Authority: 12 U.S.C. 3201–3208.

§ 711.2 [Amended]

1. Section 711.2 is amended by removing paragraphs (b) and (f) and redesignating paragraphs (c) through (s) as paragraphs (b) through (q), respectively.

2. Section 711.3 is amended by revising paragraph (c) to read as follows:

§ 711.3 Prohibitions.

* * * * *

(c) *Major Assets.* A management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate thereof) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate thereof), regardless of the location of the two depository organizations. The NCUA will adjust these thresholds, as necessary, based on year-to-year change in the average of the Consumer Price Index for the Urban Wage Earners and Clerical Workers, not seasonally adjusted, with rounding to the nearest $100 million. The NCUA will announce the revised thresholds by publishing a notice in the **Federal Register**.

3. Section 711.5 is revised to read as follows:

§ 711.5 Small market share exemption.

(a) *Exemption.* A management interlock that is prohibited by § 711.3(a) or § 711.3(b) is permissible, provided:

(1) The interlock is not prohibited by § 711.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20% of the deposits, in each RMSA or community in which the depository organizations (or their depository institution affiliates) are located. The amount of deposits will be determined by reference to the most recent annual Summary of Deposits published by the FDIC. This information is available on the Internet at http://www.fdic.gov.

(b) *Confirmation and records.* Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

4. Section 711.6 is revised to read as follows:

§ 711.6 General exemption.

(a) *Exemption.* NCUA may, by agency order issued following receipt of an application, exempt an interlock from the prohibitions in § 711.3, if NCUA finds that the interlock would not result in a monopoly or substantial lessening of competition, and would not present other safety and soundness concerns.

(b) *Presumptions.* In reviewing applications for an exemption under this section, NCUA will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the depository organization seeking to add a management official:

(1) Primarily serves, low- and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group or women;

(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in "troubled condition" as defined in § 701.14(b)(3) of this chapter.

(c) *Duration.* Unless a shorter expiration period is provided in the NCUA approval, an exemption permitted by paragraph (a) of this section may continue so long as it would not result in a monopoly or substantial lessening of competition, or be unsafe or unsound. If the NCUA grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided in the approval.

5. Section 711.7 is amended by revising paragraph (a) to read as follows:

§ 711.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service if a change in circumstances causes the service to become prohibited. A change in circumstances may include, but is not limited to, an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

* * * * *

[FR Doc. 99–30692 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 712

Credit Union Service Organizations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final rule reinstates real estate brokerage services as a permissible credit union service organization (CUSO) service. Because the existing real estate brokerage CUSOs do not appear to present a safety and soundness risk and the commenters have stated persuasively that there are sufficient safeguards in place to deal with any potential conflicts, the Board is reinstating real estate brokerage services as permissible CUSO service.

DATES: This rule is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

In March 1998, the NCUA Board removed real estate brokerage services from the list of permissible CUSO services. 12 CFR 712.6(b). On November 19, 1998, the NCUA Board requested

comment on proposed changes to part 712 of its regulations. 63 FR 65714 (November 30, 1998). Although the Board did not request comment on the issue of real estate brokerage services, eight commenters objected to its removal. Based on the comments, the NCUA Board issued an interim final rule that provided a grandfather exemption for real estate brokerage services if a CUSO was providing that service prior to April 1, 1998. 64 FR 33187 (June 22, 1999). The interim final rule also requested comment on that exemption and whether real estate brokerage services should be reinstated as a permissible activity.

Summary of Comments

The NCUA Board received sixteen comments on the interim final rule: ten from credit unions; two from credit union trade associations; two from state leagues; one from a CUSO trade; and one from a bank trade association. Fifteen of the sixteen commenters were in favor of reinstating real estate brokerage service as a permissible service.

The only negative commenter was a bank trade group. That commenter stated that allowing a CUSO into the "real estate service arena" results in unfair competition because of credit unions' tax advantages.

Some of the reasons stated throughout the comment letters in support of reinstating the service were: there is no evidence that the service presents a safety and soundness risk; if a safety and soundness concern arises with respect to a particular CUSO, NCUA has within its supervisory power the authority to require a credit union to divest itself of the investment; the real estate brokerage services of a CUSO are monitored by state licensing authorities; the CUSO must comply with the code of ethics and standards of practice imposed by the National Association of Realtors; and the service is an important member service because it provides a convenience and possible savings to the member.

Twelve of the fourteen commenters that commented on the grandfather provision were in favor of it. The two negative commenters were the bank trade group discussed above and a credit union trade group. The credit union trade group wants the grandfather exemption eliminated because "real estate brokerage should be reinstated as a permissible activity for all CUSOs."

Final Rule

The Board continues to have concerns with conflicts and the appearance of conflicts between real estate brokerage CUSOs and the credit unions such CUSOs serve. However, because the existing real estate brokerage CUSOs do not appear to present a safety and soundness risk and the commenters have stated persuasively that there are sufficient safeguards in place to deal with any potential conflicts, the Board is reinstating real estate brokerage services as a permissible CUSO service. This final rule eliminates the grandfather exemption and amends § 712.5 so that CUSOs may again engage in real estate brokerage services.

Section 712.5 allows the Board to limit or discontinue a CUSO service if it has supervisory, legal, or safety and soundness concerns. The Board cautions that, if a conflict between the real estate brokerage CUSO and the FCU's loan program arises, the Board may order the FCU to divest its investment in the real estate brokerage CUSO.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under 1 million in assets). The NCUA Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the amendment to the rule reduces regulatory burden. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This interim rule has no effect on reporting requirements in part 712.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The CUSO regulation applies only to FCUs. Thus, the NCUA Board has determined that this interim rule does not constitute a "significant regulatory action" for purposes of the Executive Order. NCUA will continue to work with the state credit union supervisors to achieve shared goals concerning CUSOs with both FCU and state-chartered credit union participation.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and determined that, for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, this is not a major rule.

List of Subjects in 12 CFR Part 712

Administrative practices and procedure, Credit, Credit unions, Investments, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons stated in the preamble, the NCUA amends part 712 as follows:

PART 712—CREDIT UNION SERVICE ORGANIZATIONS

1. The authority citation for part 712 will continue to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

2. In § 712.5, redesignate paragraph (p) as paragraph (q) and add a new paragraph (p) to read as follows:

§ 712.5 What activities and services are preapproved for CUSOs?

* * * * *

(p) *Real estate brokerage services.*

* * * * *

§ 712.6 [Amended]

3. In § 712.6, remove the designation from paragraph (a), and remove paragraph (b).

[FR Doc. 99–30693 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–18–AD; Amendment 39–11430; AD 99–24–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes; and Model 727–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes; and Model 727–100 and –200 series airplanes. This amendment requires a one-time inspection to determine the presence and condition of the breather plug in each fuel tank boost pump; and either installation of a new plug or replacement of the boost pump with a new or serviceable pump, if necessary. This amendment is prompted by a report that breather plugs were missing from fuel tank boost pumps. The actions specified by this AD are intended to prevent possible ignition of fuel vapor in the fuel tank boost pump, which could result in a fuel tank explosion in the event of a boost pump internal failure.

DATES: Effective January 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 3, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorr Anderson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2684; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes; and all Model 727–100 and –200 series airplanes; was published in the **Federal Register** on May 10, 1999 (64 FR 24964). That action proposed to require a one-time inspection to determine the presence and condition of the breather plug in each fuel tank boost pump; and either installation of a new plug or replacement of the boost pump with a new pump, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request To Clarify Part Numbers of Affected Fuel Pump

Two commenters request that Argo-Tech/TRW fuel tank boost pumps subject to the unsafe condition be identified by part number in the proposed rule. The commenters state that there are Argo-Tech/TRW fuel tank boost pumps with certain part numbers that are not subject to the identified unsafe condition. The FAA concurs and has revised the applicability section and paragraph (b) of the final rule accordingly.

Request To Allow Replacement With Serviceable Pumps

One commenter requests that the proposed rule be revised to allow replacement of any discrepant fuel tank boost pump with a serviceable pump. The proposed rule specifies that discrepant fuel tank boost pumps be replaced with new pumps. The commenter states that boost pumps may be overhauled and re-installed on airplanes. The FAA concurs with the commenter that either overhauled or new pumps are acceptable for compliance with this AD. Therefore, paragraph (a) of the final rule has been revised to allow replacement of any discrepant boost pump with a new or serviceable pump.

Request To Reference Additional Service Information

Three commenters request that the proposed rule be revised to reference Boeing Alert Service Bulletin 737–28A1134, dated February 23, 1999, and Revision 1, dated June 10, 1999 (for Model 737 series airplanes); and Boeing Alert Service Bulletin 727–28A0125, dated February 23, 1999, and Revision 1, dated June 10, 1999 (for Model 727 series airplanes); as additional sources of service information. The commenters state that these alert service bulletins provide instructions equivalent to those contained in Boeing Telex M7200–98–03173, dated October 21, 1998 (which is cited in the proposed rule as the appropriate source of service information for accomplishment of the inspection requirements of the proposed AD).

The FAA partially concurs and has revised paragraph (a) of the final rule to cite Boeing Alert Service Bulletin 737–28A1134, Revision 1, and Boeing Alert Service Bulletin 727–28A0125, Revision 1, as additional sources of service information. However, the original issues of the alert service bulletins incorrectly identify the part numbers of affected fuel tank boost pumps, though the procedures needed to accomplish the required actions of this AD are correctly described. Therefore, a note has been added to the final rule stating that, for the applicable boost pumps, accomplishment of the actions in accordance with the original issues of the alert service bulletins, prior to the effective date of this AD, is acceptable.

Request for Change in Applicability

One commenter requests that the Model 737–500 series airplane be excluded from the applicability of the proposed rule. The commenter states that, to its knowledge, Argo-Tech/TRW fuel tank boost pumps subject to the identified unsafe condition are not approved for installation on the Model 737–500 series airplane. The commenter also requests that boost pumps installed in the main or center fuel tanks of the Model 737–400 series airplane be excluded from the applicability of the proposed rule because, to its knowledge, Argo-Tech/TRW boost pumps subject to the identified unsafe condition are not approved for installation in those fuel tanks on the Model 737–400 series airplane.

The FAA does not concur. The FAA recognizes that Argo-Tech/TRW fuel tank boost pumps subject to the identified unsafe condition were not installed during production in any fuel tank on Model 737–500 series airplanes or in the main or center fuel tanks of Model 737–400 series airplanes. However, the FAA cannot confirm that these boost pumps were not installed as part of a post-production modification to an airplane. Therefore, the FAA continues to require that each operator confirm whether Argo-Tech/TRW boost pumps subject to the identified unsafe condition are installed on its airplanes. No change to the final rule is necessary in this regard.

Request To Extend Compliance Time

One commenter requests that the proposal rule be revised to extend the compliance time from the proposed 6 months to 12 months for the inspection of the fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes. The commenter requests this extension so that affected operators will be able to perform the inspection during a regularly scheduled maintenance interval. The commenter states that the

adoption of the proposed compliance time of 6 months would require operators to schedule special times for the accomplishment of the inspection, at additional expense and downtime.

The FAA does not concur. The operator provided no technical justification for revising this interval as requested. The FAA specifically selected a shorter compliance time for fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes because these fuel tanks have a higher flammability exposure than the other fuel tanks. This is due to the fact that these fuel tanks are warmer than the main fuel tanks and because they are routinely operated until they are dry, exposing the pump return lines directly to flammable fuel vapors. The FAA considered not only those safety issues in developing an appropriate compliance time for this action, but the recommendations of the manufacturer, the availability of any necessary replacement parts, and the practical aspect of accomplishing the required inspection within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In light of these factors, the FAA has determined that the 6-month compliance time for inspection of fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes, as proposed, is appropriate. No change to the final rule is necessary in this regard.

Request To Reduce Compliance Time

One commenter requests that the proposed 6-month compliance time for the inspection of fuel tank boost pumps in the center fuel tanks on Model 737 series airplanes and in the auxiliary fuel tanks on Model 737 and 727 series airplanes be shortened to 3 months, and that the proposed 12-month compliance time for the inspection of boost pumps in the main fuel tanks on Model 737 series airplanes and in center and main fuel tanks on Model 727 series airplanes be shortened to 6 months. This commenter suggests that the proposed compliance time may be too long to allow an airplane to fly with a potential failure that could result in a fuel tank explosion. The commenter notes that the time required to carry out the inspections will have minimal impact on airplane operations.

The FAA does not concur with the request for a shorter compliance time. In developing the proposed compliance time, the FAA considered the probability of a fuel tank explosion occurring on any of these airplanes due to a missing breather plug. The FAA determined that the occurrence of a fuel tank ignition event is improbable; therefore, more urgent action is not necessary. In making this determination, the FAA has taken into account the conditions that are required for a missing breather plug to cause a fuel tank explosion. Specifically, the FAA considered the probability of an in-service fuel tank boost pump missing a breather plug (based on inspections that had been conducted on over 1,050 fuel pumps), the probability of a boost pump failure that would cause an internal ignition inside the pump, and the probability of fuel vapors in the fuel tank being flammable. The proposed compliance times were determined to be appropriate in consideration of the safety implications, the average utilization rate of the affected fleet, the practical aspects of an orderly inspection of the fleet during regular maintenance periods, and the availability of required replacement parts. No change to the final rule is necessary in this regard.

Request To Revise Compliance Time

One commenter requests that the proposed rule be revised to provide an extension of the compliance time for any airplane that is out of service for heavy maintenance for a long period of time. The commenter suggests the compliance time should be within 6 months (or 12 months) after the effective date of this AD, or prior to further flight, whichever occurs later.

The FAA does not concur with the commenter's request; however, the FAA agrees with the commenter's intent. Part 39 of the Federal Aviation Regulations (14 CFR part 39) states that, "No person may operate a product to which an airworthiness directive applies except in accordance with the requirements of that airworthiness directive." This regulation provides compliance relief for airplanes that are not being operated, because affected airplanes need only be in compliance prior to return to operation. No change to the final rule is necessary in this regard.

Request for Credit for Previously Accomplished Actions

Two commenters request that a statement be added to the proposed rule to clarify that no further action is required for airplanes that have already accomplished the actions specified in the proposed rule. The FAA agrees that no further action is required for these airplanes. Operators are always given credit for previously accomplished actions by means of the phrase in the compliance section of the AD that states, "Required . . . unless accomplished previously." Therefore, no change to the final rule is necessary in this regard.

Explanation of Change Made to Proposal

The airplane manufacturer has revised the instructions in the airplane maintenance manual (AMM) sections specified in paragraph (a) of the proposed rule to include, prior to installation of a new fuel tank boost pump, a check of the vent port to ensure that a breather plug is installed. The FAA finds that this check is appropriate. Therefore, the FAA has revised paragraph (a) of the final rule to specify that, after the effective date of the final rule, only Section 28–22–41 of the Boeing 737 AMM, dated May 1, 1999, or Section 28–22–21 of the Boeing 727 AMM, dated January 20, 1999, as applicable, shall be used.

The FAA also has added a note to the final rule to clarify the definition of a detailed visual inspection.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 2,477 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,345 airplanes of U.S. registry will be affected by this AD. It will take approximately 2 work hours per fuel tank boost pump to accomplish the required actions at an average labor rate of $60 per work hour. (There are 6 boost pumps in the center and main fuel tanks on Model 737 series airplanes, 8 boost pumps in the center and main fuel tanks on Model 727 series airplanes, and 2 boost pumps in each auxiliary fuel tank, which may be installed on some affected airplanes of both models.) Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $120 per boost pump.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–24–06 Boeing: Amendment 39–11430. Docket 99–NM–18–AD.

Applicability: Model 737–100, –200, –300, –400, and –500 series airplanes; and Model 727–100 and –200 series airplanes; certificated in any category; equipped with Argo-Tech/TRW fuel tank boost pumps having part numbers 258000–2, –3, and –5, or 382300–1, –2, and –3.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent possible ignition of fuel vapor in the fuel boost pump, which could result in a fuel tank explosion, accomplish the following:

Inspection and Corrective Actions

(a) Perform a one-time detailed visual inspection to detect discrepant breather plugs (including loose, damaged, and missing plugs) in the fuel tank boost pumps, at the time specified in paragraph (a)(1) or (a)(2), as applicable, of this AD; in accordance with Boeing Telex M–7200–98–03173, dated October 21, 1998; or Boeing Alert Service Bulletin 737–28A1134, Revision 1, dated June 10, 1999 (for Model 737 series airplanes); or Boeing Alert Service Bulletin 727–28A0125, Revision 1, dated June 10, 1999 (for Model 727 series airplanes). If any discrepancy is detected, prior to further flight, either install a new breather plug in accordance with Temporary Revision (TR) No. 28–1 of the Argo-Tech Overhaul Manual, dated November 13, 1998, or the alert service bulletins; or replace the boost pump with a new or serviceable pump, in accordance with procedures specified in Section 28–22–41 of the Boeing 737 Airplane Maintenance Manual (AMM), or Section 28–22–21 of the Boeing 727 AMM, as applicable. After the effective date of this AD, only Section 28–22–41 of the Boeing 737 Airplane Maintenance Manual (AMM), dated May 1, 1999, or Section 28–22–21 of the Boeing 727 AMM, dated January 20, 1999, as applicable, shall be used for replacement of the boost pump.

(1) For center fuel tanks installed on Model 737 series airplanes, and for auxiliary fuel tanks installed on Model 727 and 737 series airplanes: Inspect within 6 months after the effective date of this AD.

(2) For main fuel tanks installed on Model 737 series airplanes, and for center and main fuel tanks installed on Model 727 series airplanes: Inspect within 12 months after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: For Argo-Tech/TRW fuel tank boost pumps, part numbers 258000–2, –3, and –5, and 382300–1, –2, and –3: Accomplishment of the actions specified in paragraph (a) of this AD, prior to the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–28A1134, dated February 23, 1999 (for Model 737 series airplanes), or Boeing Alert Service Bulletin 727–28A0125, dated February 23, 1999 (for Model 727 series airplanes), is acceptable for compliance with this AD.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane an Argo-Tech/TRW fuel tank boost pump having the part number 258000–2, –3, or –5; or 382300–1, –2, or –3; unless that pump has been inspected and applicable corrective actions have been performed in accordance with the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The inspection and installation shall be done in accordance with Boeing Telex M–7200–98–03173, dated October 21, 1998; Boeing Alert Service Bulletin 737–28A1134, Revision 1, dated June 10, 1999; Boeing Alert Service Bulletin 727–28A0125, Revision 1, dated June 10, 1999; or Temporary Revision No. 28–1 of the Argo-Tech Overhaul Manual, dated November 13, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 3, 2000.

Issued in Renton, Washington, on November 17, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30517 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–54–AD; Amendment 39–11433; AD 99–24–09]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD requires modifying the flap inboard attachment fittings through the installation of a reinforcement angle bracket on the inside of the center web of both flap inner attachment fittings. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to prevent the potential of the inboard flap attachment fittings buckling while operating at full flaps with full power into a head-on wind gust, which could result in loss of control of the airplane.

DATES: Effective January 14, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 14, 2000.

ADDRESSES: Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 610 33 51. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–54–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4141; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Models PC–12 and PC–12/45 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 13, 1999 (64 FR 44137). The NPRM proposed to require modifying the flap inboard attachment fittings through the installation of a reinforcement angle bracket on the inside of the center web of both flap inner attachment fittings. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with Pilatus Service Bulletin No. 57–004, dated June 11, 1999.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 77 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $23,100, or $300 per airplane.

Regulatory Impact

This rule does not have Federalism implications as defined in Executive Order No. 13132. This means it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The FAA has not consulted with state authorities prior to publication of this rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–24–09 Pilatus Aircraft Ltd.: Amendment 39–11433; Docket No. 99–CE–54–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, manufacturer serial number (MSN) 101 through MSN 300, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the potential for the inboard flap attachment fittings buckling while operating at full flaps with full power into a head-on wind gust, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, modify the flap inboard attachment fittings by installing a reinforcement angle bracket on the inside of the center web of both flap inner attachment fittings (Modification Kit Number 500.50.12.199). Accomplish this modification in accordance with the Accomplishment Instructions section of Pilatus Service Bulletin No. 57–004, dated June 11, 1999.

(b) As of the effective date of this AD, no person may install on any of the affected airplanes, flap inboard attachment fittings that do not have Modification Kit Number 500.50.12.199 incorporated.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) The modification required by this AD shall be done in accordance with Pilatus Service Bulletin No. 57–004, dated June 11, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(f) This amendment becomes effective on January 14, 2000.

Issued in Kansas City, Missouri, on November 15, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30520 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–52–AD; Amendment 39–11438; AD 99–24–14]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80E1A2 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80E1A2 series turbofan engines. This action requires removing from service stage 2 high pressure turbine (HPT) disks and impeller spacers prior to exceeding new, lower cyclic life limits and imposes a drawdown program for those parts that currently exceed, or will exceed, the new lower limits. This amendment is prompted by the results of a refined low cycle fatigue (LCF) analysis. The actions specified in this AD are intended to prevent LCF cracking and failure of stage 2 HPT disks and impeller spacers, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective December 13, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 25, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–52–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, OH 45215; telephone (513) 672–8400, fax (513) 672–8422. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: John E. Golinski, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7135, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) received results of a refined low cycle fatigue (LCF) analysis for stage 2 high pressure turbine (HPT) disks and impeller spacers installed on General Electric Company (GE) CF6–80E1A2 series turbofan engines. GE has advised the FAA that the retirement lives of the CF6–80E1A2 HPT stage 2 disk and impeller spacer identified in Chapter 5 of the Engine Manual need to be reduced. Updated stress analysis showed the operating stresses to be higher than originally predicted, resulting in lower calculated cyclic retirement lives for these components. The lower calculated cyclic lives are below the current retirement lives found in Chapter 5 of the Engine Manual. There have been no reports to date of LCF cracking or distress on these components attributed to parts exceeding the new reduced Chapter 5 retirement lives. The LCF analysis completed as part of a CF6–80E1 derivative model certification program showed significantly different retirement lives for the two engine models with similar components. GE initiated an investigation and assessment of the LCF analysis to understand the disparity and determined the updated and refined analysis resulted in a more complete understanding of the operating stresses for certain critical features for these components. This condition, if not corrected, could result in LCF cracking and failure of stage 2 HPT disks and impeller spacers, which could result in an uncontained engine failure and damage to the aircraft.

Service Information

GE CF6–80E1A2 SB 72–0169, dated July 22, 1999, that describes the new, lower life cyclic life limits and a drawdown plan for both the stage 2 HPT disks and impeller spacers.

Difference Between AD and SB

The SB, unlike this AD, includes a drawdown plan for impeller spacers.

A recent reassessment of the need for a drawdown program for the impeller spacer occurred when a high cycle engine with the affected stage 2 HPT disk and impeller spacer had recently been removed from service due to high vibration. The assessment shows a drawdown program was not required for the impeller spacer.

In addition, the SB includes a drawdown program for the diffuser vane ring which is not included in the AD.

Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent an uncontained engine failure. This AD requires removing from service stage 2 HPT disks, part number (P/N) 1639M50P03, prior to exceeding new, lower cyclic life limits, and replacing with serviceable parts. The AD also imposes a drawdown program for those parts that currently exceed, or will exceed, the new lower limits. The HPT impeller spacers, P/N 1473M85P02, need only to be removed and replaced prior to exceeding the new, lower cyclic life limit. The FAA has determined, based on a current fleet histogram, that a separate drawdown program for the HPT impeller spacer is not needed since there are no impeller spacers in service which exceed the new reduced cyclic life limit. The new life limits are based on an updated stress and life analysis.

Immediate Adoption

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 9X–NE–XX–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

This rule does not have federalism implications, as defined in Executive Order No. 13132, because it does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–24–14 General Electric Company: Amendment 39–11438. Docket 99–NE–52–AD.

Applicability: General Electric Company (GE) CF6–80E1A2 series turbofan engines, with stage 2 high pressure turbine (HPT) disks, part number (P/N) 1639M50P03, and HPT impeller spacers, P/N 1473M85P02, installed. These engines are installed on but not limited to Airbus Industrie A330 series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent low cycle fatigue (LCF) cracking and failure of stage 2 HPT disks and impeller spacers, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

Stage 2 HPT Disks Drawdown Plan

(a) Remove from service stage 2 HPT disks, P/N 1639M50P03, and replace with serviceable parts, as follows:

Note 2: GE CF6–80E1A2 Service Bulletin (SB) 72–0169, dated July 22, 1999, describes the stage 2 HPT disk drawdown plan.

(1) For disks that have accumulated greater than or equal to 3,800 cycles-since-new (CSN) on the effective date of this AD, remove within 200 cycles-in-service (CIS) after the effective date of this AD, but not to exceed 6,400 CSN.

(2) For disks that have accumulated greater than or equal to 2,500 CSN on the effective date of this AD and less than 3,800 CSN on the effective date of this AD, remove from service prior to accumulating 4,000 CSN.

(3) For disks that have accumulated greater than or equal to 1,900 CSN on the effective date of this AD and less than 2,500 CSN on the effective date of this AD, remove from service within 1,500 CIS after the effective date of the AD.

(4) For disks that have accumulated less than 1,900 CSN on the effective date of this AD, remove prior to accumulating 3,400 CSN.

New, Stage 2 HPT Disk Lower Life Limit

(b) Except for the provisions of paragraph (d) of this AD, no stage 2 HPT disk, P/N 1639M50P03, may be installed with 3,400 or greater CSN.

New, Lower HPT Impeller Spacer Life Limit

(c) Remove from service HPT impeller spacers, P/N 1473M85P02, prior to accumulating 5,100 CSN. Except for the provisions of paragraph (d) of this AD, no HPT impeller spacer, P/N 1473M85P02, may be installed with 5,100 or greater CSN.

Note 3: GE CF6–80E1A2 SB 72–0169, dated July 22, 1999, describes an HPT impeller spacer drawdown plan that is not utilized in this AD.

Alternative Method of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Ferry Flights

(e) Special flight permits may be issued in accordance with §§21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on December 13, 1999.

Issued in Burlington, Massachusetts, on October 18, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–30624 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–260–AD; Amendment 39–11432; AD 99–24–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that currently requires, for certain airplanes, repetitive replacements of the airplane battery with a new or reconditioned battery and, for certain airplanes, replacement of the battery charger with a new or serviceable battery charger; performing repetitive tests to determine the condition of a certain diode of the Generator Control Units (GCU); and corrective actions, if necessary. This amendment adds, for certain other airplanes, a requirement for repetitive replacements of the airplane battery with a new or reconditioned battery, and clarifies a diode test requirement. This amendment is prompted by an incident during which all electrical power was lost due to a combination of a weak or depleted battery and the failure of a certain diode of the GCU. The actions specified in this AD are intended to prevent failure of all electrically powered airplane systems, which could result in the inability to continue safe flight and landing.

DATES: Effective December 13, 1999.

The incorporation by reference of Boeing Telex Message M–7200–99–01528, dated March 5, 1999, as listed in the regulations, was approved previously by the Director of the **Federal Register** as of September 16, 1999 (64 FR 47656, September 1, 1999).

Comments for inclusion in the Rules Docket must be received on or before January 25, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–260–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2793; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On August 24, 1999, the FAA issued AD 99–18–17, amendment 39–11283 (64 FR 47656, September 1, 1999), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, to require repetitive replacements of the airplane battery with a new or reconditioned battery and, for certain airplanes, replacement of the battery charger with a new or serviceable battery charger. That action also requires performing repetitive tests to determine the condition of a certain diode of the Generator Control Units (GCU); and corrective actions, if necessary. That action was prompted by an incident during which all electrical power was lost due to a combination of a weak or depleted battery and the failure of a certain diode of the GCU. The actions required by that AD are intended to prevent failure of all electrically powered airplane systems, which could result in the inability to continue safe flight and landing.

Actions Since Issuance of Previous Rule

Following the incident described previously in which all electrical power was lost due to a weak or depleted battery and the failure of certain GCU diodes, an assessment of airplane battery maintenance was conducted. As a result, it was determined that some operators have extended maintenance intervals beyond those recommended by the airplane manufacturer, which increases the likelihood of allowing an airplane to operate with a weak or depleted airplane battery. In addition, the risk associated with the use of such a battery is greater on Model 737–100 and –200 series airplanes because some of these airplanes use an older version of battery charger. The older version has charging characteristics that are not compatible with the extended airplane battery maintenance intervals.

Since the issuance of AD 99–18–17, the FAA has determined that it is necessary to revise certain requirements of that AD. The FAA points out that its intent in that AD was to require operators of Model 737–100 and –200 series airplanes equipped with battery chargers having Boeing part number (P/N) 10–60701–3, as well as P/N 10–60701–1, to replace the airplane battery with a new or reconditioned airplane battery. However, the replacement requirement for airplanes equipped with a battery charger having Boeing P/N 10–60701–3 was inadvertently omitted from paragraph (a) of the AD. That requirement is included in paragraph (f) of this AD.

The FAA also has determined that it is necessary to clarify its intent in AD 99–18–17 regarding the test required to determine the condition of diode CR910 of the GCU. Although that AD only specifies that "a test" is required, this AD clarifies that the required test is the "Alternative Test of Diode CR910," which is specified along with various other tests included in Boeing Telex Message M–7200–99–01528, dated March 5, 1999. This change is necessary because the test requirement specified

in AD 99–18–17 unintentionally allows operators the discretion to select from any of the various tests specified in the Boeing telex message. The FAA has determined that all other test methods referenced in that Boeing telex message are unacceptable as methods of complying with the requirements of this amendment.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 99–18–17 to continue to require, for certain airplanes, repetitive replacements of the airplane battery with a new or reconditioned battery, and replacement of the battery charger with a new or serviceable battery charger; performing repetitive tests to determine the condition of a certain diode of the GCU; and corrective actions, if necessary. This amendment adds, for certain airplanes, a requirement for repetitive replacement of the airplane battery for Models 737–100 and –200 series airplanes equipped with battery charger Boeing P/N 10–60701–3 with a new or reconditioned battery, and clarifies a diode test requirement. The battery replacement is required to be accomplished in accordance with Chapter 20–20–111 of the Boeing 737 Airplane Maintenance Manual; and the diode test is required to be accomplished in accordance with the "Alternative Test of Diode CR910," as specified in Boeing Telex Message M–7200–99–01528, dated March 5, 1999.

Interim Action

Since the cause of the failures of the GCU's is under investigation, this is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–260–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11283 (64 FR 47656, September 1, 1999), and by adding a new airworthiness directive (AD), amendment 39–11432, to read as follows:

99–24–08 Boeing: Amendment 39–11432. Docket 99–NM–260–AD. Supersedes AD 99–18–17, Amendment 39–11283.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of all electrically powered airplane systems, which could result in the inability to continue safe flight and landing, accomplish the following:

Restatement of the Requirements of AD 99–18–17

(a) For Model 737–100 and –200 series airplanes equipped with battery charger Boeing part number (P/N) 10–60701–1: Within 90 days after September 16, 1999 (the effective date of AD 99–18–17, amendment 39–11283), accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Replace the airplane battery charger with a new or serviceable airplane battery charger, Boeing P/N 10–60701–3, in accordance with Chapter 20–10–111 of the

Boeing 737 Airplane Maintenance Manual (AMM); and

(2) Replace the airplane battery with a new or reconditioned airplane battery in accordance with Chapter 24–31–11 of the Boeing 737 AMM. Thereafter, replace the airplane battery with a new or reconditioned airplane battery at intervals not to exceed 750 flight hours, until the accomplishment of paragraph (f) of this AD.

(b) For Model 737–300, –400, and –500 series airplanes: Within 90 days after September 16, 1999, replace the airplane battery with a new or reconditioned airplane battery in accordance with Chapter 24–31–11 of the Boeing 737 AMM. Thereafter, replace the airplane battery with a new or reconditioned airplane battery at intervals not to exceed 750 flight hours.

(c) For all airplanes: Within 90 days after September 16, 1999, perform a test to determine the condition of diode CR910 of the Generator Control Units (GCU), in accordance with Boeing Telex Message M–7200–99–01528, dated March 5, 1999.

(1) If all diodes pass the test, repeat the diode test thereafter at intervals not to exceed 600 flight hours, until the accomplishment of paragraph (g) of this AD.

(2) If any diode fails the test: Prior to further flight, replace the GCU with a new or serviceable GCU, and the airplane battery with a new or reconditioned airplane battery, and repeat the diode test for the replaced GCU in accordance with the telex message until successful completion of the test is achieved. Repeat the diode test thereafter, at intervals not to exceed 600 flight hours, until the accomplishment of paragraph (g) of this AD.

(d) As of September 16, 1999, no person shall install a battery charger having Boeing P/N 10–60701–1 on any Model 737 series airplane.

(e) Within 10 days after accomplishing the initial diode test required by paragraph (c) of this AD, submit a report of the test results (negative findings, i.e., test failures) to the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

New Requirements of this AD

(f) For Model 737–100 and –200 series airplanes equipped with battery charger Boeing P/N 10–60701–3: Within 90 days after the effective date of this AD, or within 750 flight hours after the last battery replacement accomplished in accordance with paragraph (a)(2) of this AD, whichever occurs later, replace the airplane battery with a new or reconditioned airplane battery in accordance with Chapter 24–31–11 of the Boeing 737 AMM. Thereafter, replace the airplane battery with a new or reconditioned airplane battery at intervals not to exceed 750 flight hours. Accomplishment of this replacement constitutes terminating action for the requirements of paragraph (a)(2) of this AD.

(g) For all airplanes: Within 90 days after the effective date of this AD, or within 90 days after accomplishment of the test required by paragraph (c) of this AD, whichever occurs later, determine the condition of diode CR910 of the GCU, in accordance with the "Alternative Test of Diode CR910," as specified in Boeing Telex Message M–7200–99–01528, dated March 5, 1999. Accomplishment of this action constitutes terminating action for the requirements of paragraph (c) of this AD.

Note 2: Any tests performed prior to September 16, 1999, in accordance with Boeing Telex Message M–7200–99–01528, dated February 19, 1999, or dated March 4, 1999, are not considered acceptable for compliance with the applicable action specified by this AD.

(1) If all diodes pass the test, repeat the diode test thereafter at intervals not to exceed 600 flight hours.

(2) If any diode fails the test: Prior to further flight, replace the GCU with a new or serviceable GCU, and the airplane battery with a new or reconditioned airplane battery, and repeat the "Alternative Test of Diode CR910" for the replaced GCU in accordance with the telex message until successful completion of the test is achieved. Repeat the diode test thereafter, at intervals not to exceed 600 flight hours.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance with paragraphs (a)(1), (a)(2), or (b) of this AD, approved previously in accordance with AD 99–18–17, amendment 39–11283, are approved as alternative methods of compliance with paragraphs (a)(1), (a)(2), or (b) of this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(j) Except as provided by paragraphs (a)(1), (a)(2), (b), and (f) of this AD, the actions shall be done in accordance with Boeing Telex Message M–7200–99–01528, dated March 5, 1999. This incorporation by reference was approved previously by the Director of the Federal Register as of September 16, 1999 (64 FR 47656, September 1, 1999). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(k) This amendment becomes effective on December 13, 1999.

Issued in Renton, Washington, on November 17, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30516 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–125–AD; Amendment 39–11431; AD 99–24–07]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Rolls Royce Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines, that requires modification of the nacelle strut and wing structure. This amendment is prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Such an increase in loading can lead to fatigue cracking in primary strut structure prior to an airplane's reaching its design service objective. The actions specified by this AD are intended to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

DATES: Effective January 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 3, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing 757 series airplanes was published in the **Federal Register** on August 20, 1999 (64 FR 45483). That action proposed to require modification of the nacelle strut and wing structure of certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211 engines.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter indicates that it is not affected by the proposed rule.

One commenter states that it plans to accomplish the requirements of the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 394 airplanes of the affected design in the worldwide fleet. The FAA estimates that 176 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1,049 work hours per airplane to accomplish the required modification, and that the average labor rate is $60 per work hour. This work hour figure includes the time it will take to remove and reinstall the struts from the airplane as well as the time to gain and close access to the adjacent wing structure. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $11,077,440, or $62,940 per airplane.

This cost impact figure does not reflect the cost of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, "Strut Improvement Bulletins," on page 6 of Boeing Service Bulletin 757–54–0035, that are required to be accomplished prior to, or concurrently with, the modification of the nacelle strut and wing structure. Since some operators may have accomplished certain modifications on some or all of the airplanes in its fleet, while other operators may not have accomplished any of the modifications on any of the airplanes in its fleet, the FAA is unable to provide a reasonable estimate of the cost of accomplishing the terminating actions described in the service bulletins listed in Table I of the service bulletin.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for part costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–24–07 Boeing: Amendment 39–11431. Docket 99–NM–125–AD.

Applicability: Model 757 series airplanes equipped with Rolls Royce engines, line numbers 1 through 735 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

(a) Modify the nacelle strut and wing structure in accordance with Boeing Service Bulletin 757–54–0035, dated July 17, 1997, at the later of the times specified in paragraph (a)(1) or (a)(2). All of the terminating actions described in the service bulletins listed in paragraph I.C., Table I, "Strut Improvement Bulletins," on page 6 of Boeing Service Bulletin 757–54–0035, must be accomplished in accordance with those service bulletins prior to, or concurrently with, the accomplishment of the modification of the nacelle strut and wing structure required by this paragraph.

(1) Prior to the accumulation of 37,500 total flight cycles, or prior to 20 years since the date of manufacture of the airplane, whichever occurs first.

(2) Within 3,000 flight cycles after the effective date of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The modification shall be done in accordance with Boeing Service Bulletin 757–54–0035, dated July 17, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 3, 2000.

Issued in Renton, Washington, on November 17, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30518 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 774

[Docket No. 990701179–9301–02]

RIN 0694–AB90

Expansion of License Exception CIV Eligibility for "Microprocessors" Controlled by ECCN 3A001 and Graphics Accelerators Controlled by ECCN 4A003

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export licensing requirements. Consistent with technological changes, this interim rule adjusts the License Exception CIV eligibility level for microprocessors controlled by Export Control Classification Number (ECCN) 3A001 from a composite theoretical performance (CTP) of equal to or less than 1900 million theoretical operations per second (MTOPS) to a CTP of equal to or less than 3500 MTOPS. This rule also adjusts the License Exception CIV eligibility level for graphics accelerators controlled by Export Control Classification Number (ECCN) 4A003 from 10 million vectors per second to 75 million vectors per second. License Exception CIV is available for exports and reexports to civil end-users for civil end-uses in Country Group D:1.

In light of rapid technological advancement in microprocessors, the United States will review the eligibility level for microprocessors in January 2000 to determine if further adjustments are warranted. If further adjustments are warranted, BXA anticipates publishing the revision in Spring 2000.

DATES: This rule is effective November 26, 1999. Comments on this rule must be received on or December 27, 1999.

ADDRESSES: Written comments should be sent to Hillary Hess, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4196.

SUPPLEMENTARY INFORMATION: Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101, August 13, 1999).

Rulemaking Requirements

1. This interim rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) This collection has been approved by the Office of Management and Budget under control number 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations.

Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close on December 27, 1999. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the

United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 6883, Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from the Bureau of Export Administration Freedom of Information Officer at the above address or by calling (202) 482–0500.

List of Subjects in 15 CFR Part 774

Exports, Foreign Trade.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730 through 799) is amended as follows:

PART 774—(AMENDED)

1. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 10, 1999 (64 FR 44101, August 13, 1999).

PART 774—AMENDED

Supplement No. 1 to Part 774—AMENDED

2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A001 is amended by revising the License Exceptions section to read as follows:

3A001 Electronic components, as follows (see List of Items Controlled).

* * * * *

License Exceptions

LVS: N/A for MT
$1500: 3A001.c
$3000: 3A001.b.1, b.2, b.3, .d, .e and .f
$5000: 3A001.a, and .b.4 to b.7
GBS: Yes, except 3A001.a.1.a, b.1, b.3 to b.7, .c to .f
CIV: Yes, except 3A001.a.1, a.2, a.3.a (for processors with a CTP greater than 3500 Mtops), a.5, a.6, a.9, a.10, and a.12, .b, .c, .d, .e, and .f

* * * * *

3. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, Export Control Classification Number (ECCN) 4A003 is amended by revising the License Exceptions section to read as follows:

4A003 "Digital computers", "electronic assemblies", and related equipment therefor, and specially designed components therefor.

* * * * *

License Exceptions

LVS: $5000; N/A for MT and "digital" computers controlled by 4A003.b and having a CTP exceeding 10,000 MTOPS; or "electronic assemblies" controlled by 4A003.c and capable of enhancing performance by aggregation of "computing elements" so that the CTP of the aggregation exceeds 10,000 MTOPS.
GBS: Yes, for 4A003.d, .e, and .g and specially designed components therefor, exported separately or as part of a system.
CTP: Yes, for computers controlled by 4A003.a, .b and .c, to the exclusion of other technical parameters, with the exception of parameters specified as controlled for Missile Technology (MT) concerns and 4A003.e (equipment performing analog-to-digital or digital-to-analog conversions exceeding the limits of 3A001.a.5.a). See § 740.7 of the EAR.
CIV: Yes, for 4A003.d (having a 3–D vector rate less than 75 M vectors/sec), .e, and .g.

* * * * *

Dated: November 18, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99–30706 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

RIN 3038–AB42

Revised Procedures for Listing New Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (Commission) is adopting a final rule permitting exchanges to list contracts for trading without Commission approval. In response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness, the Commission proposed a two-year pilot program to permit the listing of contracts for trading prior to Commission approval. 64 FR 40528 (July 27, 1999). Based upon the comments received, the Commission is modifying the proposed rule to permit exchanges to list commodity futures or option contracts for trading without Commission approval of the contract or its terms and conditions, including any subsequent amendments thereto. This new listing procedure is an alternative to regular or fast-track procedures for contract market designation. To meet its statutory mission of ensuring market integrity and customer protection, the Commission will place greater reliance on its existing oversight authorities to disapprove, alter or supplement exchange rules or to take emergency action, as appropriate. The Commission also is making a number of technical changes to the rule, as suggested by the comments.

In a companion release published elsewhere in this edition of the **Federal Register**, the Commission is proposing to permit all exchange rules and rule amendments to be made effective without Commission approval. As part of that proposed rulemaking, the Commission will seek comment on whether the new procedure for listing contracts for trading without approval which the Commission is adopting herein should become the exclusive means of offering new exchange products and amending their terms and conditions. In a second companion notice in this issue of the **Federal Register**, the Commission is also proposing to delete fees for applications for contract market designation in order to remove any economic disincentive for using regular or fast-track review procedures.

EFFECTIVE DATE: January 25, 2000.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. The Proposed Rules

The Commission recently proposed rules to enable boards of trade to list for trading new contracts [1] without any waiting period. 64 FR 40528 (July 27, 1999). This proposal responded to testimony of representatives of U.S. exchanges that the ability to list contracts more quickly than currently possible is necessary for them to meet competitive challenges by foreign exchanges.[2] The proposed rule, pursuant to the Commission's 4(c) exemptive authority, provided that boards of trade already designated as a contract market in one commodity could list new contracts for trading while their application for designation in the contract was pending approval. Thus, the proposed rules responded to the need for immediacy in listing new contracts within the current statutory framework which requires that the Commission designate boards of trade as a contract market in a commodity and that the Commission approve that contract's terms and conditions.[3]

Specifically, the proposed rule would have required boards of trade to file a contract's terms and conditions with the Commission by close of business on the business day prior to, and an application for contract market designation within forty-five days of, initially listing a contract for trading. Boards of trade would have been permitted to list and maintain up to a full year's trading months prior to designation. Finally, they would have been required to identify the contract as listed pending Commission designation, to enforce the contract's terms and conditions, and to fulfill all of a contract market's self-regulatory obligations during the period prior to its designation as a contract market in that commodity. The proposed rule also provided that while a designation application submitted under regular or fast track procedures was pending, a second exchange could not list the same, or a substantially similar, contract to trade under the rule, nor could the listing procedure be used to evade an adverse Commission proceeding involving the same or a substantially similar contract.[4]

II. Comments Received

Seven entities commented on the proposed rule— five futures exchanges, a futures industry association and an association representing commodity merchandisers.[5] The exchanges generally commented that the proposed rule did not provide sufficient relief. They unanimously opposed the Commission designating a contract after it has been listed for trading, advocating instead that the Commission limit its role to disapproving a new contract or requiring its terms to be amended. They also opposed limiting to one year the trading months that initially could be listed and the Commission characterizing the proposed rule's implementation as a "pilot program." One commenter supported the proposal. The comments are discussed in greater detail below.

Based on its administrative experience and in response to the comments received, the Commission is adopting a final rule permitting exchanges to list contracts for trading pursuant to exchange certification, and without prior Commission approval. As one exchange commenter noted, "contract approval, while arguably useful in an era before exchanges had developed [sophisticated] * * * self-regulatory systems and procedures," is no longer necessary. New York Board of Trade (NYBOT) comment letter at 3. The Commission agrees that it can, and should, place greater reliance on the exchanges' role as self-regulatory organizations, particularly in connection with their decisions to list new products for trading.

As the NYBOT points out, commodity futures and option exchanges over the years have developed increasingly sophisticated self-regulatory mechanisms and procedures to keep pace with the changing nature of the products which they offer. During that time, the Commission has kept pace with those changes by periodically updating the requirements for an application for contract market designation and its processing procedures.[6] Based on that experience, the Commission is confident that commodity futures and option exchanges stand ready to assume greater responsibility for ensuring that their new products meet the applicable statutory and regulatory requirements. The Commission is equally assured that the exchanges will return that confidence through their cooperative response to the Commission's efforts to exercise greater oversight authority and to decrease its direct regulation.

III. The Final Rule

A. Legal Certainty

All of the commenters opposing the proposed rule cited the need for increased legal certainty. Several, such as the Chicago Mercantile Exchange (CME) and the New York Mercantile Exchange (NYMEX) opposed implementation of the rule as a two-year pilot program. They reasoned that a pilot program created undue uncertainty because there was no assurance that the rule would be continued or expanded at the end of the initial two-year period. NYMEX additionally observed that "the Commission has not provided guidance on how it would evaluate the pilot program." [7] In order to provide greater legal certainty to the market, the Commission is promulgating the rule for

---

[1] However, the Commission proposed that contracts subject to the accord provision of section 2(a)(1)(B) of the Commodity Exchange Act (Act) not be eligible for this relief, consistent with the provisions of section 4(c) of the Act.

[2] During hearings before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, representatives of four U.S. futures exchanges testified that the current regulatory structure is overly burdensome and that statutory changes are necessary to achieve "parity" with foreign exchanges and to better enable U.S. exchanges to compete in the growing global marketplace. CFTC Reauthorization: Hearings Before the Subcommittee on Risk Management and Specialty Crops of the House Committee on Agriculture, 106th Cong., 1st Sess. (1999). *See*, statements of the Chicago Board of Trade, the Board of Trade of the City of New York, the Chicago Mercantile Exchange, and the New York Mercantile Exchange (NYMEX).

In particular, the U.S. exchanges urged Congress to eliminate the requirement that the Commission review and approve new contracts before they begin trading and amendments to exchange rules before they can be implemented. For example, Daniel Rappaport, Chairman of the Board of Directors of NYMEX testified that, "detailed CFTC review and approval of the specific terms and conditions of the contract has not been necessary, provides marginal, if any value, and adds cost, uncertainty, and delay to the roll-out of new contracts."

[3] As the Commission noted, although the contracts during that initial listing period would not have been designated, they would have been designated subsequently using the current procedures, including fast-track review. During the initial review period, the contracts would have been valid and enforceable pursuant to the Commission's rule which was proposed under the Commission's exemptive authority. *Id.* at 40531.

[4] Accordingly, where the Commission has initiated a proceeding to alter an exchange rule under section 8a(7) of the Act, to disapprove a proposed or existing contract term or condition under section 5a(a)(12) of the Act, to alter or change delivery points or commodity or locational differentials under section 5a(a)(10) of the Act or to disapprove an application for designation or suspend a designation under section 6 of the Act, or any similar adverse action, an exchange could not list a "new" contract for trading and thereby frustrate the proceeding against, or evade application of the Commission's process applicable to, the original, designated contract market.

[5] The thirty-day comment period closed on August 26, 1999.

[6] *See*, Guideline No. 1, 17 CFR Part 5, Appendix A, and 17 CFR 5.1 (fast-track designation procedures.)

[7] NYMEX comment letter at p. 3. NYMEX also suggested that the Notice of Proposed Rulemaking's description of certain benefits of Commission review of exchange rules with no "original assessment" of the costs of that review called into question the Commission's commitment to its proposed pilot program." The Commission disagrees. The proposed rule on its face either reduced or did not increase regulatory costs.

an unlimited duration and not as a pilot program.

All of the exchanges opposed the proposed rule's requirement that boards of trade submit to the Commission an application for contract market designation within forty-five days of listing a contract to trade. The CME reasoned that the possibility that the Commission might "disapprove the contract or require its terms to be amended * * * is likely to discourage market participants from trading the new contract." CME comment letter at 4. The Chicago Board of Trade (CBT) objected that,

> the Commission is expressly retaining the requirement of Commission review of contract terms, along with the concomitant authority to disapprove or require changes to the contract terms, post-listing. The risk that contract terms could change by Commission fiat during a post listing review period will discourage market use of any contract listed under the pilot program.

CBT comment letter at 2. NYMEX concluded that "uncertainty regarding whether or not a pending application for designation would be approved or denied, or perhaps modified from the original filing under terms dictated to an exchange by the CFTC, could continue for a whole year." [8] NYMEX comment letter at 3. The exchanges therefore concluded that the proposed rule would better serve their competitive needs by permitting them to "list new contracts without Commission approval-not "pending" such approval." NYBOT comment letter at 2.

The Commission, in response to the comments, is modifying the rule as proposed to replace the requirement that boards of trade submit for Commission review and approval an application for contract market designation within forty-five days of listing a contract. Instead, boards of trade only will be required to certify that the contract listed for trading meets the requirements of the Commodity Exchange Act and the Commission's rules thereunder. This certification must be filed along with the contract's terms and conditions no later than the close of business of the business day preceding the contract's listing. The exchange's certification that the contract meets the statutory and regulatory requirements is in lieu of the otherwise required application for contract market designation and the Commission's review and approval of the application and of the contract's terms. Under the final rule, contracts may be listed for trading indefinitely in reliance on the exchange's certification; [9] and as discussed below the Commission generally will not review and approve the contract's terms under section 5a(a)(12) of the Act and Commission rule 1.41.

The exchange commenters also objected to the proposed requirement that they notify the public on all public references to the contract or its trading months that the contract is trading pending Commission designation. The CBT stated that, according to certain market users, highlighting the revised terms for deferred contract months in its soybean oil contract as "pending Commission approval" "discouraged calendar spread trading" and that "even though open interest began to slowly increase while [it] * * * waited for final Commission action, that growth was slower than anticipated." [10] CBT comment letter at 2. The NYMEX concurred, stating that "uncertainty regarding whether or not a pending application for designation would be approved or denied * * * could continue for a whole year," and "during that period * * * a board of trade would have a continuing duty to notify the public * * * that the contract was trading pending Commission designation." NYMEX comment at 3.

However, as long as boards of trade have available two means of listing contracts, either by self-certification or Commission approval, the public has a right to know the legal status of a contract. The final rule clarifies that this public notice obligation is satisfied through an appropriate reference in the board of trade's rule book and includes other conforming changes. Accordingly, the Commission is adopting as final a requirement that the board of trade identify the contract in its rules as "listed for trading pursuant to exchange certification."

Two commenters suggested that trading in contracts listed pursuant to the rule would be discouraged without greater legal certainty that a subsequent Commission finding disapproving or altering a contract term would not also invalidate open contracts. As the Futures Industry Association (FIA) noted:

> although the Commission states in the **Federal Register** release accompanying the proposed rule that any contract listed under the revised procedures would be valid and enforceable pending approval, the proposed rule itself is silent on this issue. Without such certainty, the enforceability of any contract subsequently determined to be in violation of the Act would also be open to question.

FIA comment letter at 2. The NYBOT concurred in this view. NYBOT comment letter at 3. Others informally have expressed the view that the applicability of the Act would be uncertain legally unless contracts which are "listed pursuant to exchange certification" were also deemed to be "designated contract markets" under the Act. The final rule addresses both of these concerns.

The final rule, in response to these comments, explicitly preserves the validity and enforceability of contracts listed pursuant to exchange certification despite a possible violation of the rule by the listing board of trade. For example, if a board of trade incorrectly certifies that the terms of a contract that it is listing for trading do not violate the Act, it will be subject to Commission remedial action for that violation. However, the individual contracts that have been traded are valid and enforceable nonetheless. [11] The Commission in the final rule also has made explicit that all sections of the Act and Commission rules which refer to "designated contract markets" are applicable to contracts listed for trading pursuant to rule 5.3. [12]

Accordingly, in exempting boards of trade from the designation and rule approval requirements of the Act, the Commission is not thereby ceding any of its broad oversight authorities over designated contract markets. These include, among others, its authority to disapprove, alter or supplement contract

---

[8] NYMEX's conclusion regarding the relative degree and length of any such uncertainty is based upon the assumption that the Commission would take the entire statutorily-provided time for the post-listing review and designation of new contracts. However, nothing in either the fast-track or the proposed rule would have precluded use of the Commission's fast track procedures (17 CFR 5.1), which provide either a ten or forty-five day review period. Moreover, the fast-track rule empowers exchanges to request that, if the Commission terminates fast track review, it either approve the contract as submitted or initiate disapproval proceedings.

[9] The exchanges also commented that the proposed limitation of delivery months which could be listed prior to designation to one rolling year would discourage trading in contracts listed under the rule. The final rule includes no limitation on the listing of distant trading months.

[10] The CBT amendments to the soybean contract raised a number of potential issues under U.S. antitrust laws which the Commission, under section 15 of the Act, was obliged to consider in approving the rule. In addition, the Commission found it necessary to amass a sizeable administrative record to determine the relative merit of the claims of non-members of the exchange opposed to the CBT's amendment.

[11] Similarly, although the Commission found that the CBT corn and soybean futures contract markets violated the provisions of section 5a(a)(10) of the Act, the individual contracts traded were valid, enforceable contracts.

[12] Compare, 17 CFR 33.2.

rules under sections 5a(a)(12) [13] and 8a(7) [14] of the Act and its section 8a(9) authority to direct a contract market to take action in market emergencies.[15] The Commission has used these authorities sparingly in the past.[16] In light of the futures exchanges' steadfast commitment to fulfilling their self-regulatory responsibilities, the Commission anticipates that despite the absence of its affirmative prior review of exchange contracts and rules, such adverse actions will continue to be infrequent.[17]

B. Approval of Contract Terms and Conditions

Currently, the Commission approves a contract's initial terms and conditions under section 5a(a)(12) of the Act and Commission rule 1.41 when it issues an Order designating a board of trade as a contract market in that commodity. The Commission also reviews and approves all amendments to the contract's terms and conditions. As proposed, rule 5.3 would have preserved this framework by requiring the exchange to file an application for designation after the contract initially was listed for trading. Filing an application for designation would have triggered the Commission's authority to review and approve the contract's terms and conditions as well as any subsequent amendments. 64 FR at 40532.

As modified, the final rule permits a board of trade indefinitely to list a contract for trading under its provisions. Accordingly, the final rule does not require that an application for contract market designation be submitted to the Commission. Consistent with that provision, a contract listed pursuant to the rule will not have its initial terms and conditions approved by the Commission.[18]

However, as the Commission noted in the Notice of Proposed Rulemaking, contract amendments may raise additional issues for Commission review, such as their potential

> impact on open positions. They may affect the economic utility of contracts. Moreover, exchange rule changes may be the subject of divergent interests or, potentially, conflicts of interest at an exchange or raise broad public policy issues * * *.

64 FR 40528. Nevertheless, the exchange commenters suggested that amendments to contract terms and conditions be accorded the same treatment as newly listed contracts. As the NYBOT stated, "if a new contract can be listed without prior approval, then rules that relate to contract terms and conditions, amendments thereto, and any other rules should likewise be allowed to become effective immediately upon filing with the Commission. NYBOT Comment letter at 4.

The Commission is modifying the final rule to permit boards of trade to amend the terms of a contract listed for trading by exchange certification on the same conditions that apply to its initial listing. As proposed, all contract terms and conditions would have been subject to Commission review and approval soon after the contract's initial listing. The proposed requirement that the Commission also approve contract amendments was consistent with that framework. However, because under the final rule a contract's initial terms no longer will be approved by the Commission, significant public confusion would ensue were the Commission to retain authority to approve contract amendments. That inconsistency could result in Commission approval of only the amendments to a contract term, but not of the underlying exchange rule itself. Moreover, had the Commission in the final rule retained the proposed requirement that contract amendments be subject to Commission pre-approval while initial contract terms were not, simply listing an amended contract as a

---

[13] Section 5a(a)(12) of the Act provides in part that: "the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate." The Commission is not waiving in any way its authority under section 5a(a)(12) to disapprove "at any time" a rule of a contract which has been listed for trading pursuant to this exemption.

[14] Section 8(a)(7) of the Act provides in part that the Commission is authorized: "to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as—

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market; (B) the form or manner of execution of purchases and sales for future delivery; (C) other trading requirements, excepting the setting of levels of margin; (D) safeguards with respect to the financial responsibility of members; (E) the manner, method, and place of soliciting business, including the content of such solicitations; and (F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and account; The Commission is not in any way waiving its authority to alter, supplement or amend a rule of a contract that has been listed for trading pursuant to this exemption.

[15] Section 8a(9) of the Act provides in part that the Commission is authorized: "to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission's action." The Commission is not in any way waiving its authority to declare a market emergency in a contract which has been listed for trading pursuant to this exemption and to order appropriate remedial measures.

[16] The CME maintains that a new standard for rule disapproval is necessary. It suggests that an exchange rule be subject to disapproval only when the rule "is likely to cause fraud, render trading readily susceptible to manipulation, or threaten the financial integrity of the market." CME comment at 6. However, under section 5a(a)(12) of the Act, exchange rules are subject to disapproval if they are in "violation of the provisions of this Act or the regulations of the Commission." This standard is far less ambiguous than the one proposed by the CME. Moreover, in light of the limited number of times that the Commission has in fact instituted a proceeding to disapprove or alter a rule, the CME's fear that the Act's current disapproval standard has been, or is, subject to overuse, is misplaced. Moreover, the CME points to the Commission's process for approving an increase to the tick size of the E-Mini S&P 500 contract as an example of Commission micromanagement and why a new standard for disapproval is warranted. Reliance on that example is also misplaced. The Commission's review and request for public comment was triggered by section 15 of the Act and the potential anti-trust implications of increasing the contract's tick size. However, if a contract is not submitted for Commission approval, potential anti-trust issues involving its terms and conditions generally would not be considered by the Commission.

[17] Section 8c(a)(1) of the Act provides the Commission with the authority to discipline directly any exchange member if the exchange, as the self-regulator, fails to act. The Commission is not waiving this oversight authority in any way.

[18] However, the Commission on its own initiative and in its sole discretion may review and approve certain exchange rules, such as exchange speculative position limits, when Commission approval would be in the public interest. The Commission is empowered under section 4a(5) of the Act to enforce exchange speculative position limits which it has "approved." This authority is an important enforcement tool in cases where the violation is by a non-member of an exchange. Accordingly, the Commission may determine to approve some, or all, of the speculative position limits of contracts trading pursuant to this rule. Commission review and approval of such an exchange rule, however, would require no action by, and place no burden on, the board of trade.

new one would provide a ready means to bypass the requirement.[19]

Accordingly, the Commission is modifying the final rule from the rule as proposed to make consistent the regulatory treatment and status of the contract's initial terms and any amendments thereto. Thus, the final rule provides that the text of a contract amendment be submitted to the Commission by close of business of the business day preceding its being implemented. The board of trade must also submit its certification that the rule amendment does not violate and is not inconsistent with any provisions of the Commodity Exchange Act or the rules thereunder.[20]

In addition, the final rule requires that amendments to the terms and conditions of contracts trading pursuant to exchange certification be implemented only for contract months having no open interest. That implementation practice generally has been required by the Commission when reviewing proposed exchange rules for its approval to provide traders with legal certainty regarding the contract's terms and conditions.[21] Even in the absence of rule 5.3 so requiring, boards of trade would adhere to this practice. As the NYBOT observed, "any changes to terms and conditions * * * should be made effective only with respect to contract months in which there is no open interest. This is consistent with the approach taken by the exchanges today, and endorsed by the Commission, when amendments which affect terms and conditions are introduced to existing contracts." NYBOT comment at 3.

[19] It is not unusual for contract markets currently to list for simultaneous trading an "A" and a "B" contract when substantial amendments to a contract's terms have been made and the board of trade wishes to list nearby trading months with the amended contract terms.

[20] Proposed rule 5.3 (c) provided that boards of trade must enforce each bylaw, rule, regulation and resolution that relates to the terms or conditions of a contract listed for trading under the rule. This is to make operative section 5a(8) of the Act which requires each contract market to enforce its rules which have been approved by the Commission, which have become effective under section 5a(a)(12) of the Act or which "must be enforced pursuant to any commission rule. * * *" As self-regulatory organizations, boards of trade are expected to follow, be bound by, and to enforce their rules. This provision requires that boards of trade trading contracts pursuant to this rule adhere to this high standard. No comments specifically discussed this provision and the Commission is adopting it as final.

[21] The Commission has approved contract amendments for implementation in trading months with open interest only where implementation of the proposed rule change would not affect the value of existing positions or traders had notice of the impending change prior to opening their positions.

This exemption from the requirement of prior Commission approval applies only to the amendment of contracts that are traded pursuant to rule 5.3. In a companion notice being published in this edition of the **Federal Register**, the Commission is proposing a similar exemption for amendments to the rules of a designated contract market. That Notice of Proposed Rulemaking raises two issues that also are applicable to these final rules. First, should the exemption specifically require that contract amendments be implemented only in delivery months with no open interest at the time the rule is made effective? Secondly, to reduce public confusion, should the Commission withdraw the availability of designation of new contracts under regular and fast-track procedures and of Commission approval of exchange rules and rule changes and make the rule 5.3 procedure the sole means of listing new contracts and amending their terms? The Commission is also proposing by separate notice in this edition of the **Federal Register**, to delete application fees for contract market designation. If the Commission determines to retain regular and fast-track designation procedures as alternative methods to rule 5.3 for introducing new products, retaining fees for contract market designation would operate as a disincentive to their use.

C. Conditions

The proposed rule included a number of qualifying conditions for boards of trade and the contracts to be listed thereunder. The Commission proposed that a qualifying board of trade must be designated as a contract market in at least one other non-dormant contract. The CME concurred with the proposed requirement that a board of trade already be a designated contract market in one non-dormant contract, noting that:

> start up exchanges are not appropriate candidates for the proposed pilot program because the initial designation of a board of trade as a contract market entails a more lengthy review and analysis of its trading and clearing systems and its self-regulatory programs. This restriction makes sense, and we support it.

CME comment letter at 3. The Commission is adopting this provision as final without modification.

In addition, the Commission proposed that a contract not be eligible for immediate listing under the rule if it is the same or substantially the same as one for which an application for contract designation is pending before the Commission. As it explained in the Notice of Proposed Rulemaking, the proposed restriction on listing contracts which are the same as contracts pending before the Commission for contract market designation and approval of their terms and conditions is necessary in order to avoid a "competing exchange [from] * * * short-circuit[ing] the review process and to disadvantage the exchange choosing to subject a proposed contract to prior Commission review." 64 FR at 40531. The Commission concluded that such a use of the proposed listing procedure would have been "an unwarranted competitive use of the proposed rule." *Id.* The Minneapolis Grain Exchange (MGE) agreed that the "proposed rule adequately prevents attempts by exchanges to use the * * * pilot program to jump ahead of an exchange submitting the same or similar contract under regular or fast track procedures." MGE comment letter at 2.

The CME opposed the proposal. It reasoned that an exchange which is lagging in developing a new product "could file an application for contract market designation under the regular or fast track procedures, thereby preventing the exchange that is ready to list the new product sooner from using the pilot procedure to exploit its timing advantage." CME comment letter at 4–5. However, as the Commission pointed out in the notice,

> exchanges would not be able to use this proposed rule to forestall a competitor from introducing a new contract * * *. [N]othing would prevent the second exchange from filing an application for review and approval by the Commission on its own merits.

64 FR 40531, n. 19. Presumably were the second exchange really further along in developing a new contract, it would retain its timing advantage by being the first approved, while the exchange, which had filed an incomplete application preemptively, continued its contract development.[22] Accordingly, the Commission is adopting the provision as proposed. If in practice the rule is subject to the "competitive gamesmanship" postulated by the CME, the Commission will propose deleting it.[23]

[22] In this regard, fast-track approval procedures are available only for applications for contract market designation which are not amended once filed.

[23] The CME also suggests that the language of the proposed rule be modified to make clear that "an exchange is not prevented from using the pilot procedure to expedite listing a new contract even though it had originally submitted the same contract to the CFTC for pre-approval under the regular or fast track procedures." CME comment letter at 4. Nothing in the Act or Commission rules prevents an exchange from withdrawing an application for contract market designation at any

Continued

The Commission also proposed that rule 5.3 not be able to be used "as a means of evading an adverse Commission proceeding involving the same or a substantially similar contract." 64 FR 40531. As the Commission explained in the Notice of Proposed Rulemaking:

> Accordingly, where the Commission has initiated a proceeding to alter an exchange rule under section 8a(7) of the Act, to disapprove a proposed or existing contract term or condition under section 5a(a)(12) of the Act, to alter or change delivery points or commodity or locational differentials under section 5a(a)(10) of the Act or to disapprove an application for designation or suspend a designation under section 6 of the Act, or any similar adverse action, an exchange could not list a "new" contract for trading and thereby frustrate the proceeding against, or evade application of the Commission's process applicable to the original, designated contract.

Id. One commenter, the MGE, discussed this provision, noting that it "believes the Commission's proposed rule adequately prevents attempts by exchanges to use the predesignation listing to evade an adverse Commission proceeding involving the same or similar contract * * *." The Commission is adopting the limitation as proposed, and notes that it applies to all boards of trade, not just to the respondent in the adverse action.[24]

Finally, rule 5.3 as proposed would not apply to futures contracts on stock indexes, commodities which are subject to the specific approval procedures of the Johnson-Shad jurisdictional accord.[25] That limitation is statutory in origin and is adopted as proposed.

IV. Section 4(c) Findings

Commission rule 5.3 was proposed under section 4(c) of the Act, which grants the Commission broad exemptive authority. In proposing rule 5.3, the Commission found that

> because the proposed rule applies to contracts listed on designated exchanges subject to the self-regulatory requirements of the Act, * * * all traders are "appropriate" for application of this proposed exemptive rule. Moreover, for the reasons explained above, the Commission believes that the proposed rule would be consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act.

64 FR 40532. The Commission specifically requested comment on its findings.

The CME and the CBT both objected that the Commission should not apply the exemptive criteria of section 4(c)(2) of the Act because in their view, "the standards of Section 4(c)(1) apply to exemptive relief for existing exchanges with contract designation in place." CBT comment letter at n.1; *See also,* CME comment letter at n.1. However, section 4(c)(2) of the Act provides that the Commission shall grant an exemption from the requirements of section 4(a) of the Act only if certain specified conditions are met. Section 4(a)(1) of the Act provides that to be lawful, transactions must be "conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' *for such commodity.*" 7 U.S.C. 6(a)(1) (emphasis added). Rule 5.3 exempts boards of trade from that designation requirement. Thus, an exemption under section 4(c)(2) of the Act is necessary and its criteria for exemption must be satisfied for futures contracts to be lawfully traded on a board of trade pursuant to rule 5.3 without Commission designation in that commodity.[26] The Commission in the Notice of Proposed Rulemaking found that proposed rule 5.3 met the criteria for exemption.[27]

The FIA disagreed with the Commission's findings that the proposed rule met those criteria. It concluded that because the proposed rule "would create both practical and legal uncertainty with respect to any contract listed under the revised procedures * * * [it] question[s] whether adoption of the proposed rule 'would be consistent with the public interest.'" FIA comment letter 1. The Commission has addressed the basis for FIA's questioning whether adoption of the proposed rule would be in the public interest by modifying the final rule as recommended by FIA and the other commenters.

The Commission's section 4(c) findings were based, in part, on proposed rule 5.3's provision that, after having been listed for trading, contracts were required to be designated and their terms and conditions approved by the Commission. The Commission noted that proposed rule 5.3 would have preserved the public interest in Commission approval of new contracts and of contract amendments. That interest, it explained, arose because "appropriate contract design is the best deterrent to market manipulation, price distortion or market congestion * * *. [C]ontract approval assures that contracts meet these widely-accepted design criteria." 64 FR 40530. The Commission further noted, however, that the proposed rule was "consistent with the spirit of the Act's provision which contemplates that in certain instances exchanges may make proposed rules effective pending Commission action." 64 FR 40531.

The exchange commenters disagreed that there was a public interest in Commission designation of contracts and approval of their terms and conditions. The NYBOT countered that:

> An effective market surveillance system is the best way to avoid such market situations. Therefore, to us it is most important that an exchange has a self-regulatory track record to ensure that trading will be conducted in a fair and orderly manner. We believe the sophisticated systems developed over decades of experience, coupled with the oversight provided by the Commission, have proven to be exceptionally effective in identifying and dealing with the types of market situations which the Commission

---

time. Accordingly, an exchange could have simply withdrawn its application for contract market designation and listed the contract under the rule as proposed. Nevertheless, the Commission is making explicit in the rule that this limitation applies only to a board of trade other than the one with the pending application. Of course, an exchange which abandons a pending application for contract market designation in favor of listing without Commission approval must be able to make the required certification taking into consideration any adverse information arising during consideration of the application. Moreover, in order to conserve its resources, the Commission may determine not to continue processing an application for contract market designation if it is listed for trading while the application is pending.

[24] This limitation applies to all boards of trade because the Commission presumes that no exchange could make the required certification for a new contract with the same terms and conditions as one against which the Commission has initiated an adverse action. However, a competing exchange would not be estopped from listing a contract for the same commodity but which did not include the allegedly violative terms or conditions. On the other hand, the respondent exchange might be precluded from doing so if listing the revised contract were determined to be an attempt to frustrate the prosecution of the adverse action or in violation of a Commission Order issued in the course of the adverse action.

[25] *See,* section 2(a)(1)(B) of the Act.

[26] For administrative convenience, the Commission treats separately traded contracts for the same generic commodity with differing terms and conditions and pricing characteristics as separate commodities for purposes of contract market designation. See, Part 5, Appendix A, 64 FR 29221 (June 1, 1999).

[27] Section 4(c)(2) of the Act provides that: The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) unless the Commission determines that—(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act: and (B) the agreement, contract, or transaction—(i) will be entered into solely between appropriate persons; and (ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

seeks to protect against. This track record strongly suggests that contract approval, while arguably useful in an era before exchanges had developed these self-regulatory systems and procedures, no longer serves any positive purpose.

NYBOT comment letter at 3. The CME concurred, stating that it did not agree with the premise that "in-depth CFTC review of new contract applications serves an important public purpose by providing an opportunity for public comment and by improving contract design." The CME explained that it agrees with those objectives, "has a strong business interest in designing its contracts so that they are not readily susceptible to manipulation" and in developing contracts "talks with commercial users." CME comment letter at 3. NYMEX argued that:

> in view of the powerful economic forces that drive exchanges to be thorough and vigilant in developing a new product, the Commission should be confident in allowing exchanges to list contracts for trading and implement rules without detailed prior review. In this regard, NYMEX finds it significant that * * * British exchanges are not currently subject to a preapproval process for their contracts and rules.

NYMEX comment letter at 4; *But see*, "Futures Exchange and Contract Authorization Standards and Procedures in Selected Countries," Office of International Affairs, Commodity Futures Trading Commission, August 3, 1999.

The Commission agrees with the exchanges that a strong self-regulatory program and an effective market surveillance system are necessary to remedy adverse market situations and to deter potential manipulators. However, it is generally accepted that appropriate contract design is a key component of an effective market surveillance system.[28] In this regard, exchanges have a strong business incentive to design contracts that will not be susceptible to manipulation.[29]

Prior to the 1974 amendments to the Act, the statutory scheme did not require the Commodity Exchange Authority, the Commission's predecessor agency, to approve in advance the trading of all new futures contracts,[30] nor did it require agency approval of exchange rules before they became effective. Rather, exchange rules amending the terms and conditions of futures contracts were subject only to disapproval after becoming effective.[31] The prior approval requirements were included in the 1974 amendments to the Act as one of a number of measures to strengthen federal regulatory oversight of the futures industry. These measures included the Commission's authority under section 8a(7) of the Act to alter or amend contract market rules and its section 8a(9) emergency authority.

The exchanges argue forcefully that their ability to counter competition from foreign exchanges requires that the Commission rely less on its prior-approval authority. They argue that the ability to list contracts without Commission approval is central to their ability to meet foreign competition. To date, relatively few contracts traded on foreign exchanges directly compete with contracts traded on U.S. exchanges, and for those that do, few, if any, U.S. contracts have been displaced by a foreign competitor.[32] Nevertheless, the Commission believes that, consistent with its mandate to protect market integrity, financial integrity, guard against market manipulation and protect customers, it should ensure that the regulatory scheme not unnecessarily impede the exchanges from competing. By this rulemaking, the Commission is exercising its mandate flexibly to accomplish those goals.

The public interest in the integrity and fairness of the futures markets can be achieved through greater reliance by the Commission on its surveillance and enforcement authorities. As the exchanges recognize, the Commission has available to it strong oversight authorities over boards of trade and their contracts without approving an application for contract market designation and the contract's terms. As one exchange noted, "by letting such an exchange list new contracts without Commission approval * * * the CFTC would not have lost oversight authority over the exchange or its contracts." NYBOT comment letter at 2. The CBT observed that, "eliminating the requirement of Commission approval of new contracts would not affect the Commission's general authority over a contract's terms and conditions." CBT comment letter at 3.

For the reasons explained above, the Commission believes that rule 5.3 is consistent with the public interest and would not have a material adverse effect on the ability of the Commission to discharge its regulatory responsibilities or of any contract market to discharge its self-regulatory responsibilities under the Act. Moreover, because the rule applies to contracts listed on exchanges subject to the self-regulatory requirements of the Act, the Commission finds all traders are "appropriate" for application of this exemptive rule under section 4(c) of the Act.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). These final amendments permit exchanges under section 4(c) of the Act to list new contracts for trading without designation as a contract market in that contract. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

Guideline No. 1 (17 CFR Part 5 Appendix A), which sets forth the requirements for applications for contract designation, contains information collection requirements. As required by the PRA of 1995 (Pub. L. 104–13 (May 13, 1996)), the Commission submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for its review (44 U.S.C. 3504(h)) and indicated that there was no implication

---

[28] The view that appropriate contract design is an important component of a market surveillance program and deters manipulation, price distortion and market congestion is widely accepted internationally. *See*, the Tokyo Communiqué on Supervision of Commodity Futures Markets issued at the Tokyo Commodity Futures Markets Regulators' Conference on October 31, 1997.

[29] One commenter, the National Grain and Feed Association, supported proposed rule 5.3, in part, because "industry groups will still have an opportunity to comment during the formal approval process." The final rule no longer provides a formal opportunity for comment by industry groups. However, the exchanges have assured the Commission that it is their practice to seek out such views when designing their contracts. Moreover, the Commission will continue to provide a forum for industry groups to make their views known to it regarding the terms and conditions of all contracts, including newly listed contracts.

[30] Prior to 1974, the Act defined "commodity" by specific enumeration. Accordingly, new contracts that were not so enumerated were unregulated. The definition of commodity periodically would be updated to include additional commodities in which trading had commenced on those exchanges which traded other regulated contracts. For example, livestock and livestock products were added to the Act's definition of "commodity" as part of the 1968 amendments to the Act, after such contracts had already begun trading on the Chicago Mercantile Exchange. Pub. L. No. 90–258 § 1(a), 49 Stat. 1491 (1968). Other futures exchanges, including the Commodity Exchange, Inc. and the former Coffee and Sugar, and the Cocoa exchanges, operated wholly outside of the regulatory scheme.

[31] *See*, Pub. L. No. 90–258, § 23, 82 Stat. 33 (1968).

[32] *See*, "The Global Competitiveness of U.S. Futures Markets Revisited," Report of the Division of Economic Analysis to the Commodity Futures Trading Commission (October, 1999).

for the paperwork burden. Based on the comments the Commission received in response to the proposed rulemaking, the Commission is revising the paperwork burden associated with the new rule as reflected below.

OMB previously approved the collection of information related to this rule as information collection 3038–0022, Regulations Pertaining to the Responsibilities of Contract Markets and Their Members. The final rule adopted by the Commission, which has been submitted to OMB for approval, has the following paperwork burden:

Number of respondents: 11.

Estimated average hours per response: 29.

Frequency of response: On occasion.

Number of responses per year: 11.

Annual reporting burden: 319.

This represents a reduction of 1073 burden hours based on the Commission's estimation of the number of contract market designation applications that would no longer be submitted under regular or fast-track procedures. Persons wishing to comment on the paperwork burden contained in the final rules may contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 5

Commodity futures, Contract markets, Designation application, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6, 6c, 7, 7a, 8, and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 5—CONTRACT MARKET COMPLIANCE

1. The authority citation for Part 5 is revised to read as follows:

Authority: 7 U.S.C. 6(c), 6c, 7, 7a, 8 and 12a.

2. Part 5 is amended by adding a new § 5.3 to read as follows:

§ 5.3 Listing contracts for trading by exchange certification.

(a) Notwithstanding the provisions of section 4(a)(1) of the Act or § 33.2 of this chapter, a board of trade may list for trading contracts of sale of a commodity for future delivery or commodity option contracts, if the board of trade:

(1) Is designated under sections 4c, 5, 5a(a) and 6 of the Act as a contract market in at least one commodity which is not dormant within the meaning of § 5.2 of this part;

(2) In connection with the trading of the contract complies with all requirements of the Act and Commission regulations thereunder applicable to designated contract markets, except for the requirement under section 5a(a)(12) of the Act and § 1.41(b) of this chapter that the terms and conditions of the contract be approved by the Commission;

(3) Files with the Commission at its Washington, D.C., headquarters and the regional office having jurisdiction over it a copy of the contract's initial terms and conditions and a certification by the board of trade that the contract's initial terms and conditions neither violate nor are inconsistent with any provision of the Commodity Exchange Act or of the rules thereunder, and the filing is received no later than the close of business of the business day preceding the contract's initial listing;

(4) Files with the Commission at its Washington, D.C., headquarters and the regional office having jurisdiction over it the text of each amendment to the contract terms and conditions (with deletions in brackets and additions underscored), a brief explanation of the amendment including a description of any substantive opposing views by members of the board of trade or others and a certification by the board of trade that the amendment neither violates nor is inconsistent with any provision of the Commodity Exchange Act or of the rules thereunder, and the filing is received no later than the close of business of the business day preceding the amendment's implementation;

(5) Implements amendments to the contract terms and conditions only in trading months having no open interest at the time of implementation; and

(6) Identifies the contract in its rules as listed for trading pursuant to exchange certification.

(b) The board of trade must enforce each bylaw, rule, regulation and resolution that relates to the terms or conditions of a contract listed for trading under this section.

(c) Contracts listed for trading pursuant to this section shall not be void or voidable as a result of:

(1) A violation by the board of trade of the provisions of this section; or

(2) Any Commission proceeding to disapprove designation under section 6 of the Act, to disapprove a term or condition under section 5a(a)(12) of the Act, to alter or supplement a term or condition under section 8a(7) of the Act, to amend the contract's terms or conditions under section 5a(a)(10) of the Act, to declare an emergency under section 8a(9) of the Act, or any other proceeding the effect of which is to disapprove, alter, supplement, or require a contract market to adopt a specific term or condition, trading rule or procedure, or to take or refrain from taking a specific action.

(d) Except as specified in paragraph (a) of this section and unless the context otherwise requires, the board of trade listing contracts, and the contracts listed, for trading under this section shall be subject to all of the provisions of the Act and Commission regulations thereunder which are applicable to a "board of trade," "board of trade licensed by the Commission," "exchange," "contract market," "designated contract market," or "contract market designated by the Commission" as though those provisions were set forth in this section and included specific reference to contracts listed for trading pursuant to this section.

(e) The provisions of this section shall not apply to :

(1) A contract subject to the provisions of section 2(a)(1)(B) of the Act;

(2) A contract to be listed initially for trading that is the same or substantially the same as one for which an application for contract market designation under sections 4c, 5, 5a and 6 of the Act or § 5.1 of this part already was filed for Commission approval by another board of trade while the application is pending before the Commission;

(3) A contract to be listed initially for trading that is the same or substantially the same as one which is the subject of a pending Commission proceeding to disapprove designation under section 6 of the Act, to disapprove a term or condition under section 5a(a)(12) of the Act, to alter or supplement a term or condition under section 8a(7) of the Act, to amend terms or conditions under section 5a(a)(10) of the Act, to declare an emergency under section 8a(9) of the Act, or to any other proceeding the effect of which is to disapprove, alter, supplement, or require a contract market to adopt a specific term or condition, trading rule or procedure, or to take or refrain from taking a specific action.

Issued in Washington, DC, this 17th day of November, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–30510 Filed 11–24–99; 8:45 am]

BILLING CODE 6351–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 375

RIN 3220–AB36

Plan of Operation During a National Emergency

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby amends its regulations to update its emergency procedures in light of recent internal reorganizations. This would allow the Board to more effectively continue service and handle payments to civilian employees and their dependents in the event of a national emergency.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Part 375 of the regulations of the Board provides for operations of the Board during emergencies. This rulemaking amends part 375 to refer to procedures of the Office of Personnel Management regarding advances, evacuation payments, and allowances for civilian employees in time of national emergency. Also, the rulemaking would update references to offices in the Board to reflect recent reorganizations.

On August 17, 1999, the Board published this rule as a proposed rule (64 FR 44670), inviting comments on or before October 18, 1999. No comments were received.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 375

Civil defense, Railroad retirement, Railroad unemployment insurance.

For the reasons set out in the preamble, title 20, chapter II of the Code of Federal Regulations is amended as follows:

PART 375—PLAN OF OPERATION DURING A NATIONAL EMERGENCY

1. The authority citation for part 375 is revised to read as follows:

Authority: 45 U.S.C. 231f(b)(5), 362(l).

2. In § 375.1, paragraph (a) is revised, and a new paragraph (c) is added to read as follows:

§ 375.1 Purpose.

(a) The Railroad Retirement Board has adopted a plan to provide basic organization and methods of operation which may be needed to continue uninterrupted service during a period of national emergency as defined in in § 375.2.

* * * * *

(c) For purposes of Government-wide uniformity, the procedures of the Board regarding payments during evacuation to employees and their dependents shall conform to those contained in subpart D of part 550 of the regulations of the Office of Personnel Management pertaining to "Payments During Evacuation" (5 CFR part 550, subpart D).

§ 375.2 [Amended]

3. Section 375.2 is amended by removing "chairman" and adding in its place "Chair" and by adding "or her" after "his" in two places.

4. In § 375.5, revise paragraphs (a), (b) introductory text, (b)(1) and (b)(2) to read as follows, and amend paragraph (b)(3) by removing "Chairman" and adding in its place "Chair," by removing "bureau" wherever it appears and adding "office" in its place, and by adding "or her" after "his" wherever it appears:

§ 375.5 Organization and functions of the Board, delegations of authority, and lines of succession.

(a) During a national emergency, as defined in § 375.2, the respective functions and responsibilities of the Board shall be, to the extent possible, as set forth in the U.S. Government Manual, which is published annually by the Office of the Federal Register, and is available on the Internet at http://www.nara.gov/fedreg/, under *Other Publications*.

(b) The following delegation of authority is made to provide continuity in the event of a national emergency:

(1) The Chair of the Board shall act with full administrative authority for the Board.

(2) In the absence or incapacity of the Chair, the authority of the Chair to act shall pass to the available successor highest on the following list:

Labor Member of the Board
Management Member of the Board
Director of Administration
Director of Programs
General Counsel
Chief Information Officer
Director of Supply and Service
Regional Directors in order of length of Board service.

* * * * *

5.–6. Paragraphs(a), (b)(1), (b)(2) introductory text, and (c)(1) of § 375.6 are revised to read as follows:

§ 375.6 Personnel, fiscal, and service functions.

(a) *Personnel.* In a national emergency as defined in § 375.2, when it is no longer possible for a regional director to communicate with the Chair or his or her successor as set forth in § 375.5, complete responsibility and authority for administration of the personnel function are delegated to such regional director for his or her respective geographic area.

(b) *Fiscal.* (1) In a national emergency, as defined in § 375.2, the Chair of the Board or his or her successor, as set forth in § 375.5, shall designate an individual to assume the responsibilities of the Chief Financial Officer in the event that he or she is unable to assume those responsibilities.

(2) In a national emergency, incumbents of the following positions are hereby authorized to appoint emergency certifying officers:

Director of Administration
Director of Programs
Chief Financial Officer
Regional Directors.

* * * * *

(c) *Supply and service.* (1) In a national emergency, as defined in § 375.2, complete responsibility and authority for the procurement of needed supplies, equipment, space, communications, transportation, and repair services, are delegated to each regional director for his or her geographic area.

* * * * *

§ 375.7 [Amended]

7. Section 375.7 is amended as follows:

(a) In paragraph (a)(2), by removing "Director of Retirement Claims" and adding in its place "Director of Programs".

(b) In paragraph (b)(1)(ii), by removing "such as claim file folders or magnetic tape master records".

(c) In paragraph (b)(1)(vi), by removing "and in the regions" and "or if those offices become inoperative".

(d) In paragraph (b)(2), by removing "Director of Unemployment and

Sickness Insurance" and adding in its place "Director of Programs".

(e) Paragraph (c) is removed.

8. Section 375.8 is revised to read as follows:

§ 375.8 Regulations for employers.

(a) In a national emergency, as described in § 375.2, employers shall continue to follow, to the greatest extent possible, the requirements pertaining to employers in subchapters A, B, and C of this chapter.

(b) Where a national emergency, as described in § 375.2, prevents an employer from following any requirement imposed by paragraph (a) of this section, the employer shall comply with such requirement as soon as possible after the cessation of the national emergency.

(c) In a national emergency, as defined in § 375.2, all communications by employers shall be directed as set forth in § 375.4.

Dated: November 18, 1999.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30792 Filed 11–24–99; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Lincomycin Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Alpharma Inc. The ANADA provides for use of lincomycin hydrochloride soluble powder to make medicated drinking water for swine for the treatment of dysentery (bloody scours) and for broiler chickens for the control of necrotic enteritis.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed ANADA 200–233 that provides for use of Linco Soluble (lincomycin hydrochloride soluble powder) to make medicated drinking water for swine for the treatment of dysentery (bloody scours) and for broiler chickens for the control of necrotic enteritis caused by *Clostridium perfringens* susceptible to lincomycin.

The ANADA is approved as a generic copy of Pharmacia & Upjohn's NADA 111–636 Lincomix® Soluble Powder. ANADA 200–233 is approved as of September 22, 1999, and 21 CFR 520.1263c(b) is amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1263c [Amended]

2. Section 520.1263c *Lincomycin hydrochloride soluble powder* is amended in paragraph (b) by adding at the end the sentence "Approval for use of 40-gram packet to No. 046573 in § 510.600(c) of this chapter".

Dated: November 10, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–30701 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfamethazine Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Lloyd, Inc. The NADA provides for oral use of sulfamethazine tablets for beef cattle and nonlactating dairy cattle to treat diseases caused by sulfamethazine sensitive organisms.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0212.

SUPPLEMENTARY INFORMATION: Lloyd, Inc., P.O. Box 86, 604 West Thomas Ave., Shenandoah, IA 51601, filed NADA 140–908 that provides for oral use of Veta–Meth (sulfamethazine) tablets for beef cattle and nonlactating dairy cattle to treat diseases caused by sulfamethazine sensitive organisms such as bacterial pneumonia and bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), colibacillosis (bacterial scours) (*Escherichia coli*), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), calf diphtheria (*F. necrophorum*), acute mastitis (*Streptococcus* spp.), acute metritis (*Streptococcus* spp.), coccidiosis (*Eimeria bovis, E. zurnii*).

The NADA is approved as of September 16, 1999, and the regulations are amended in § 520.2260a(a)(1) (21 CFR 520.2260a(a)(1)) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In addition, the regulation currently contains a paragraph reflecting that approval of NADA's were based on National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation

evaluations of the products and FDA's conclusions based on those evaluations. Enactment of the Generic Animal Drug and Patent Term Restoration Act of 1988 has superseded the approval of NADA's based on NAS/NRC evaluations. At this time, the NAS/NRC status paragraph is removed.

Also, the heading of § 520.2260a is revised to include tablets in addition to oblets and boluses.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.2260a is amended by revising the section heading and paragraph (a)(1), and by removing paragraph (a)(4) to read as follows:

§ 520.2260a Sulfamethazine oblet, tablet, and bolus.

(a)(1) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of 2.5-, 5-, and 15-gram sulfamethazine oblet in beef cattle, nonlactating dairy cattle, and horses. See No. 061690 in § 510.600(c) of this chapter for use of 5-, 15-, and 25-gram tablet in beef and nonlactating dairy cattle.

* * * * *

Dated: November 10, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–30703 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4007

RIN 1212–AA82

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The PBGC is amending its regulation on Payment of Premiums to encourage self-correction of premium underpayments. The amendments make it easier to qualify for "safe-harbor" relief from late payment penalty charges and codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5% per month to 1% per month if a premium payor corrects an underpayment before PBGC notification).

DATES: *Effective Date:* December 27, 1999.

Applicabilitly Dates: The amendment to the safe-harbor rules will apply to PBGC initial determinations and final decisions on requests for reconsideration ("PBGC determinations") with respect to premiums for 1999 and later plan years, and to PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999. The amendment to the late payment penalty rate will apply to PBGC determinations issued on or after December 27, 1999 with respect to premiums for 1996 and later plan years.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: On April 27, 1999 (at 64 FR 22589), the PBGC published a proposed rule to amend its regulation on Payment of Premiums (29 CFR part 4007). The proposed amendments would make it easier to qualify for "safe-harbor" relief from late payment penalty charges and would codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5% per month to 1% per month if a premium payor corrects an underpayment before PBGC notification).

The PBGC received two comments on the proposed rule. Both commenters praised the PBGC's efforts to expand safe-harbor relief but suggested that the amendment to the safe-harbor rules, which in the proposed rule would have applied with respect to premiums for 1999 and later plan years, should apply with respect to premiums for prior plan years as well. In response to the comments, the PBGC will provide the expanded safe-harbor relief to all PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999, as well as to all PBGC determinations with respect to premiums for 1999 and later plan years. Applying the expanded safe-harbor relief with respect to premiums for prior plan years will further encourage self-correction of premium underpayments. In all other respects, the PBGC is issuing the final regulation without change from the proposed regulation.

Amendment to Safe-Harbor Rules

The proposed rule expanded the PBGC's safe-harbor rules under the current regulation to encourage self-correction in three situations. As explained in detail in the preamble to the proposed rule, a plan's premium due dates depend upon whether the plan is "small" or "large." The determination of whether a plan is "small" or "large" is based on the actual number of participants for whom premiums were payable for the prior year (not necessarily the number of participants reported on the PBGC Form 1 for the prior year).

The premium filing due date for small plans (those with fewer than 500 participants for the prior year) for both the flat-rate premium (for single-employer and multiemployer plans) and the variable-rate premium (for single-employer plans) is the fifteenth day of the tenth full calendar month in the premium payment year. For calendar year plans, this date is October 15 of the premium payment year. (For convenience, the discussion in this preamble assumes that all plans are calendar year plans.)

For large single-employer and multiemployer plans (those with 500 or more participants for the prior year), the due date for the flat-rate premium is the last day of the second full calendar month in the premium payment year (February 28 of the premium payment year). If the number of participants for whom premiums are payable for the premium payment year is not known by

February 28 of the premium payment year, the plan administrator must make an "estimated" payment by February 28 of the premium payment year and a "reconciliation" payment by October 15 of the premium payment year. The due date for the variable-rate premium for large single-employer plans is also October 15 of the premium payment year.

Because plan administrators often do not know the exact participant count for the premium payment year by February 28 of the premium payment year, the current regulation provides a safe harbor from late payment penalty charges, provided certain requirements are met. (There is no safe harbor from late payment interest charges.) A plan administrator must do two things to qualify for the safe harbor and therefore avoid late payment penalty charges:

- By February 28 of the premium payment year, the plan administrator must pay the lesser of: (1) 90% of the flat-rate premium due for the premium payment year; or (2) 100% of the flat-rate premium that would be due for the premium payment year, if that amount were determined by multiplying the actual participant count for the prior year by the flat premium rate for the premium payment year.
- By October 15 of the premium payment year, the plan administrator must pay any remaining portion of the flat-rate premium for the premium payment year.

Under the current regulation, a plan can fail to qualify for safe-harbor relief if the plan administrator corrects a premium underpayment or fails to make a timely reconciliation payment. The amendment addresses three situations where this can happen. The preamble to the proposed rule contains detailed examples of how the amendment would apply in these situations.

The amendment will affect only penalty charges. It will not affect interest charges on any premium underpayment.

500-Participant Threshold

Under the current regulation, a plan can fail to qualify for safe-harbor relief if the plan administrator, relying on a reported participant count of less than 500 for the prior year, fails to make an estimated payment by February 28 of the premium payment year and later corrects the prior year's participant count to 500 or more. Under the amendment, whether the PBGC will assess a late payment penalty charge for failure to make an estimated payment for the premium payment year by February 28 of the premium payment year is determined based on the lesser of (1) the number of participants *reported* for the prior year, or (2) the *actual* number of participants for the prior year. Thus, the PBGC will not assess a penalty charge for failing to make an estimated payment for the premium payment year by February 28 of the premium payment year if the number of participants *reported* for the prior year is fewer than 500. For this purpose, the number of participants reported for the prior year is the number of participants last reported for the prior year (on the PBGC Form 1 or an amended PBGC Form 1) by February 28 of the premium payment year.

Estimate Based on Prior Year's Form 1 Participant Count

Under the current regulation, a plan can lose safe-harbor relief if the plan administrator, in computing the estimated flat-rate premium payment due on February 28 of the premium payment year, relies on a participant count reported on the prior year's PBGC Form 1 that is later corrected because it is determined to be too low. Under the amendment, the PBGC will determine whether the estimated payment reflected at least 100% of the prior year's participant count by using the lesser of: (1) the number of participants reported on the prior year's PBGC Form 1 or amended PBGC Form 1 (filed by February 28 of the premium payment year); or (2) the actual number of participants for the prior year.

PBGC Form 1 Reconciliation Payment Underpaid or Late

Under the current regulation, a plan loses safe-harbor relief when the plan administrator timely makes the appropriate estimated payment by February 28 of the premium payment year but fails to make the full PBGC Form 1 reconciliation payment on time. This can occur, for example, if the plan administrator bases the reconciliation payment on a participant count that is too low. (It can also occur if the plan administrator makes the reconciliation payment late.) Under the amendment, payment of any balance of the flat-rate premium due for the premium payment year by October 15 of the premium payment year will no longer be a prerequisite for qualifying for safe-harbor relief.

Amendment to Late Payment Penalty Rate

The regulation also codifies the PBGC's December 2, 1996, policy statement, in which it announced its current two-tiered penalty rate policy for 1996 and later plan years (61 FR 63874). The PBGC will assess a penalty of 1% per month if the premium is paid on or before the date the PBGC issues a written notice that there is or may be a premium delinquency. If the premium is paid after the PBGC notification date, the penalty rate will be 5% per month for all months. The minimum total penalty will continue to be $25, and the penalty will continue to be limited to 100% of the unpaid premium. PBGC notification may take various forms, including a premium bill, a letter initiating a premium compliance review (*i.e.*, an audit), or a letter questioning a failure to make a premium filing. The 5% rate will apply (for all months) to all persons liable for premiums for the plan (*i.e.*, the plan administrator and, for a single-employer plan, each contributing sponsor and each member of any contributing sponsor's controlled group) once this notice is issued to any of those persons.

Miscellaneous

The regulation clarifies that the penalty waiver for premium underpayments paid within 30 days after the date of a PBGC bill applies only to penalty charges accruing after the date of the bill.

The current regulation provides that the PBGC may waive all or part of a late payment penalty charge upon a demonstration of "good cause." The PBGC is changing the standard to "reasonable cause" to be consistent with the standard in the PBGC's policy statements on penalties under section 4071 of ERISA (relating to penalties for failure to provide required information on time). This is only a change in terminology that is not intended to alter the substantive requirements for this waiver.

Applicability

The amendment to the safe-harbor rules will apply to PBGC determinations with respect to premiums for 1999 and later plan years, and to PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999.

The amendment to the late payment penalty rate will apply to PBGC determinations issued on or after December 27, 1999 with respect to premiums for 1996 and later plan years.

Compliance With Rulemaking Guidelines

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

This rule provides relief from premium penalties. The relief is limited to a percentage—generally small—of a plan's premium. While this rule will

result in a positive economic impact for some small entities, the number of small entities for which the impact will be significant is not substantial. The PBGC therefore certifies under section 605(b) of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects in 29 CFR Part 4007

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC is amending 29 CFR part 4007 as follows.

PART 4007—PAYMENT OF PREMIUMS

1. The authority citation for part 4007 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1301(a), 1306, 1307.

2. Section 4007.8 is revised to read as follows:

§ 4007.8 Late payment penalty charges.

(a) *Penalty charge.* If any premium payment due under this part is not paid by the due date under § 4007.11, the PBGC will assess a late payment penalty charge as determined under this paragraph (a), except to the extent the charge is waived under paragraphs (b) through (g) of this section. The charge will be no more than 100% of the unpaid premium. The charge will be based on the number of months (counting any portion of a month as a whole month) from the due date to the date of payment and is subject to a floor of $25 (or, if less, the amount of the unpaid premium).

(1) *Penalty rate for post-1995 premium payment years.* This paragraph (a)(1) applies to the premium for any premium payment year beginning after 1995. The penalty rate is—

(i) 1% per month (for all months) on any amount of unpaid premium that is paid on or before the date the PBGC issues a written notice to any person liable for the plan's premium that there is or may be a premium delinquency (*e.g.*, a premium bill, a letter initiating a premium compliance review, or a letter questioning a failure to make a premium filing); or

(ii) 5% per month (for all months) on any amount of unpaid premium that is paid after that date.

(2) *Penalty rate for pre-1996 premium payment years.* This paragraph (a)(2) applies to the premium for any premium payment year beginning before 1996. The penalty rate is 5% per month (for all months) on any amount of unpaid premium.

(b) *Hardship waiver.* The PBGC may grant a waiver based upon a showing of substantial hardship as provided in section 4007(b) of ERISA.

(c) *Reasonable cause waiver.* The PBGC may, upon any demonstration of reasonable cause, waive all or part of a late payment penalty charge.

(d) *Waiver on PBGC's own initiative.* The PBGC may, on its own initiative, waive all or part of a late payment penalty charge.

(e) *Grace period.* With respect to any PBGC bill for a premium underpayment, the PBGC will waive any late payment penalty charge accruing after the date of the bill, provided the premium underpayment is paid within 30 days after the date of the bill.

(f) *Safe-harbor relief for certain large plans.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if fewer than 500 participants are reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(g) *Safe-harbor relief for plans that make minimum estimated payment.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if, by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i), the plan administrator pays at least the lesser of—

(1) 90% of the flat-rate premium due for the premium payment year; or

(2) 100% of the flat-rate premium that would be due for the premium payment year if the number of participants for that year were the lesser of—

(i) The number of participants for whom premiums were required to be paid for the plan year preceding the premium payment year; or

(ii) The number of participants reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(h) *Reported participant count.* For purposes of paragraphs (f) and (g)(2)(ii) of this section, the number of participants reported for the plan year preceding the premium payment year is the number of participants last reported under this part to the PBGC (for the plan year preceding the premium payment year) by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i).

Issued in Washington, DC, this 19th day of November, 1999.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 99–30775 Filed 11–24–99; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

[SPATS No. IA–005–FOR]

Iowa Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving, with certain exceptions and additional requirements, an amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Iowa added revegetation success guidelines to its program. These guidelines include revegetation success standards, statistically valid sampling procedures and techniques for determining revegetation success on areas being restored to various land uses, and normal husbandry practices. Iowa intends to revise its program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: John W. Coleman, Office of Surface Mining, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002. Telephone: (618) 463–6460. Internet: jcoleman@mcrgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments

V. Director's Decision
VI. Procedural Determinations

I. Background on the Iowa Program

On January 21, 1981, the Secretary of Interior conditionally approved the Iowa program, effective April 10, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5885). You can find later actions on the Iowa program at 30 CFR 915.10, 915.15, and 915.16.

II. Submission of the Proposed Amendment

By letter dated September 28, 1998 (Administrative Record No. IA–441), Iowa sent us an amendment to its program under SMCRA. Iowa sent the amendment in response to our letter dated August 1, 1986 (Administrative Record No. IA–280), that we sent to Iowa under 30 CFR 732.17(c). The amendment concerns guidelines for revegetation success and normal husbandry practices, entitled "Revegetation Success Standards and Statistically Valid Sampling Techniques."

We announced receipt of the amendment in the October 14, 1998, **Federal Register** (63 FR 55025) and invited public comment on its adequacy. The public comment period closed November 13, 1998. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns relating to Iowa's revegetation success guidelines concerning the definition for "prime farmland"; plant species for recreational and wildlife areas; reference areas; minimum planting arrangements for recreational, wildlife, and forested lands; and control area adjustments of prime farmland yields. We also identified concerns with Iowa's guidelines for normal husbandry practices. We notified Iowa of these concerns by electronic mail on November 19, 1998 (Administrative Record No. IA–441.6). On August 3, 1999, Iowa sent us a revised amendment dated April 1999 (Administrative Record No. IA–441.7).

Based upon Iowa's revisions to its amendment, we reopened the public comment period in the October 8, 1999, **Federal Register** (64 FR 54840). The public comment period closed on October 25, 1999.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment.

A. Revegetation Success Standards and Statistically Valid Sampling Techniques for Mined Lands in Iowa

Iowa submitted revegetation success guidelines that describe the standards and procedures for determining revegetation success on reclaimed mined lands in Iowa. The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that each regulatory authority select revegetation success standards and statically valid sampling techniques for measuring revegetation success and include them in its approved regulatory program. Iowa developed its revegetation success guidelines to satisfy this requirement. In some cases, Iowa's revegetation success guidelines supplement and clarify the performance standards for revegetation success contained in the Iowa program, but they do not replace or change any of them.

The guidelines include revegetation success standards and statically valid sampling techniques for measuring revegetation success of reclaimed pastureland; cropland; industrial, commercial, or residential lands; recreational, wildlife, or forested lands; and remined lands in accordance with Iowa's counterparts to the Federal regulations at 30 CFR 816.116 and 817.116. The guidelines also include revegetation success standards and statically valid sampling techniques for restoring soil productivity of prime farmland soils in accordance with Iowa's counterparts to the Federal regulations at 30 CFR 823.15. Iowa's standards, criteria, and parameters for revegetation success reflect the extent of cover, species composition, and soil stabilization required in the Federal regulations at 30 CFR 816.111 and 817.111. As required by the Federal regulations at 30 CFR 816.116(a)(2) and (b), 817.116(a)(2) and (b), and 823.15, Iowa's revegetation success standards include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking suitable to the approved postmining land uses. Iowa's guidelines specify the procedures and techniques to be used for sampling, measuring, and analyzing vegetation parameters.

Ground cover, production, and stocking suitable to the approved postmining land uses, except prime farmland, are considered equal to the approved success standard when they are not less than 90 percent of the success standard. The average production of crops for prime farmland soils must equal or exceed the average production of the same crops for the same or similar unmined prime farmland soils. Sampling techniques for measuring success use a 90-percent statistical confidence interval for all land uses. We found that use of these procedures and techniques will ensure consistent, objective collection of vegetation data.

For the above reasons, we find that, except as discussed in the following findings, the revegetation success standards and statically valid sampling techniques for measuring revegetation success contained in Iowa's revegetation success guidelines satisfy the requirements of 30 CFR 816.116(a)(1), 817.116(a)(1), and 823.15.

1. Reference Areas

Section III, part F of Iowa's revegetation success guidelines contains requirements for the use of reference areas for establishing revegetation success standards. Permittees can use data from reference areas for direct comparison only when Iowa has approved the use of reference areas in the permit. When reference areas are used, the reference areas will serve as the data set for establishing the revegetation success standard. The reclaimed areas will be directly compared to the revegetation success standard developed from the reference area production yields for the same growing season. Management of all of the reference areas and the reclaimed areas must be identical in all aspects. Part F contains examples of the criteria that must be met on both the reclaimed and reference areas. Reference areas must be within a five-mile radius of the permit site, unless the Division approves a site outside of the five-mile radius that has special features which cannot be found closer to the permit site. Part F also contains additional prime farmland reference area requirements, including examples of calculations for developing corn and soybean productivity success standards.

The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that standards for success include criteria representative of unmined lands in the area being reclaimed in order to evaluate the appropriate vegetation parameters of ground cover, production, and stocking. The Federal regulations at 30 CFR 816.116(b) and 817.116(b) allow the use of reference areas for determining revegetation success. The Federal regulation at 30 CFR 823.15(b)(2) requires that permittees measure soil productivity on a representative sample or on all of the

mined and reclaimed prime farmland areas using the reference crop determined under 30 CFR 823.15(b)(6). It also requires that they use a statistically valid sampling technique at a 90-percent or greater statistical confidence level as approved by the regulatory authority in consultation with the U.S. Natural Resources Conservation Service (NRCS). The Federal regulation at 30 CFR 823.15(b)(4) requires that permittees manage the reclaimed areas in the same manner as nonmined prime farmland in the surrounding area. The Federal regulations at 30 CFR 823.15(b)(7) allow the use of reference crop yields of representative local farms in the surrounding area for determining revegetation success for prime farmland, with concurrence by the NRCS. Iowa submitted a fax dated July 21, 1997, from the NRCS as evidence of consultation when developing its revegetation success guidelines for reference areas (Administrative Record No. IA–441.5). We find that Iowa's requirements for reference areas are consistent with the Federal requirements at 30 CFR 816.116(a)(2) and (b), 817.116(a)(2) and (b), and 823.15(b)(2), (4), and (6). Therefore, we are approving the requirements in section III, part F. However, the fax did not contain specific concurrence by the NRCS for Iowa's use of the current yield records of reference areas for measuring productivity on prime farmland, as required by the Federal regulations at 30 CFR 823.15(b)(7). Because Iowa did not submit evidence of concurrence by the NRCS, as required by the Federal regulations, we are not approving the use of reference areas for determining success of productivity on prime farmland areas. We are requiring Iowa to submit evidence of concurrence by the NRCS before it allows permittees to use reference area revegetation success standards for prime farmland. We are approving Iowa's guidelines on reference areas for all other applicable land uses.

2. Prime Farmland

Section IV, part A contains the revegetation success standards for prime farmland. Section IV, part G contains a method for adjusting the average prime farmland reference crop yield for adverse or beneficial climatic conditions.

a. Section IV, part A, provides that in order to establish revegetation success on prime farmland soils, the production of corn, soybeans, or a combination of corn and soybeans must produce yields equal to or greater than the yields of the same crops in similar unmined prime farmland soils for three years of the five-year responsibility period. Corn and soybeans are the most common deep-rooted prime farmland crops in Iowa. The Division will consider restoration of prime farmland soil productivity achieved each year that the average yield during the measurement period exceeds or equals the average yield for the same prime farmland soil map units as provided in the County Soil Map Unit Yield Data tables for that county. These tables were developed from a U. S. Department of Agriculture-Natural Resources Conservation Service State Soil Survey Database. Part A.1 contains the method of determining the average yield of corn or soybean productivity using the County Soil Map Unit Yield Data tables located in Appendices 1 through 4. Part A.1 includes examples of how to calculate the corn and soybean success standards for prime farmland soils. At part A.2, Iowa also allows permittees to use prime farmland reference area yield data instead of the County Soil Map Unit Yield Data to prove productivity. Permittees would calculate corn or soybean productivity revegetation success standards from the prime farmland reference area yield data using the methods contained in part A.1.

The Federal regulations at 30 CFR 823.15(b)(7) allow permittees to prove restoration of prime farmland soil productivity in two ways. At 30 CFR 823.15(b)(7)(i), the permittee can use the current yield records of representative local farms in the surrounding area (reference areas) to prove productivity, with concurrence by the NRCS. At 30 CFR 823.15(b)(7)(ii), the permittee can use the average county yields recognized by the USDA, which have been adjusted by the NRCS for local yield variation. Iowa submitted a fax dated July 21, 1997, from the NRCS as evidence of consultation when developing its revegetation success guidelines for prime farmland (Administrative Record No. IA–441.5). We find that Iowa's requirements for revegetation and restoration of prime farmland soil productivity are consistent with the Federal requirements at 30 CFR 823.15(b)(7). Therefore, we are approving the requirements in section IV, parts A and A.1. However, in section IV, part A.2, Iowa proposed to use reference areas. The evidence submitted by Iowa did not contain specific concurrence by the NRCS for Iowa's use of the current yield records of reference areas for measuring productivity on prime farmland, as required by 30 CFR 823.15(b)(7)(i). Because Iowa did not submit evidence of concurrence by the NRCS, we are not approving Iowa's use of reference areas for determining success of productivity on prime farmland areas. As discussed in Finding A.1, we are requiring Iowa to submit evidence of concurrence by the NRCS before allowing permittees to use reference area revegetation success standards for measuring productivity on prime farmland.

b. Section IV, parts A.1(a) and (b) allow permittees to adjust average yield values for weather conditions by one of two methods. Part A.1(a) allows the permittee to use control areas to adjust the County Soil Map Unit Yield Data in accordance with the requirements of section IV, part G. Part A.1(b) allows the permittee to get written concurrence from the NRCS to adjust the calculated County Soil Map Unit Yield Data to reflect a one year disease, pest, or weather induced variation during a specific growing season. Section IV, part G contains the requirements and methods for control area adjustments of prime farmland revegetation success standards developed from the County Soil Map Unit Yield Data. Control areas must contain one or more of the soil map units which exist in the reclaimed tract. The control area data is used to develop a climatic correction factor. The correction factor is used to adjust the revegetation success standards developed for prime farmlands for yield variations caused by adverse or beneficial climatic conditions during the crop year. Permittees can use control areas to develop a revegetation success standard adjusted for climatic condition only when the Division approves its use in the permit for that site. The control area must receive the same management as the reclaimed area. If the Division approves the use of control areas, the permittee must use the control area climatic correction factor in all production years within the responsibility period, whether it increases or decreases the revegetation success standards.

The Federal regulations at 30 CFR 823.15(b)(8) provide that the permittee may adjust the average reference crop yield for disease, pest, and weather-induced seasonal variations, with the concurrence of the NRCS. Therefore, we are approving Iowa's provision at section IV, part A.1(b) that requires the permittee to get written concurrence from the NRCS to adjust the calculated County Soil Map Unit Yield Data corn or soybean productivity revegetation success standards for disease, pest, or weather-induced seasonal variations. However, Iowa did not provide evidence that the NRCS concurred with Iowa's provisions at section IV, part G

concerning the methods used to adjust the County Soil Map Unit Yield Data for climatic conditions using control areas. Therefore, we are not approving Iowa's provisions at section IV, part G that contain the requirements and methods for adjusting prime farmland revegetation success standards using control areas. Our decision also makes the provision that allows the use of control areas at section IV; part A.1(b) moot. We are requiring Iowa to either remove section IV, part G from its revegetation success guidelines or submit evidence that the NRCS concurs with this provision.

3. Recreational, Wildlife, and Forested Lands

Section IV, part E contains the revegetation success standards for recreational areas, wildlife areas, and forested lands. The permittee must first meet all of the general erosion control and ground cover requirements of section III, part A and the general revegetation requirements of section III, part C for these land uses. Once the Permittee has documented that all of the criteria in these two sections has been met, the reclaimed permit site must achieve 90 percent vegetative cover density for a minimum of two years. Tree and shrub survival must be measured by counting live and healthy trees and shrubs. All trees and shrubs counted must have been in place for a minimum of two years and must have at least one-third of their height in live crown. At the time of counting trees or shrubs to determine if their survival meets the revegetation success standard, 80 percent of the original number of trees and shrubs planted per acre must be alive and must have been in place for three years. There must be a minimum of 400 live trees or shrubs per acre of land under a forested land use, including recreation or wildlife land use areas where woody plants are used, for purposes of achieving revegetation success. The Division will require the permittee to document the time of planting of all trees and shrubs on the permit. The permittee must tag all trees and shrubs planted with permanent markers which indicate the planting date. The permittee is responsible for assuring that the markings are permanent and will remain legible during the period of responsibility. Any tree having tags which are illegible or appear to have been tampered with will not count towards meeting the revegetation success standard for forest lands. Iowa submitted two appendices that are referenced in its guidelines for these land uses. Appendix 5 lists the recommended tree planting species in Iowa. This appendix was developed by using lists of tree planting species obtained from the Iowa Department of Natural Resources and the Iowa State University Forestry Extension. Appendix 8 contains the recommended wildlife and recreation planting species in Iowa. This appendix was also developed from information provided by the Iowa Department of Natural Resources and the Iowa State University Forestry Extension. Iowa submitted a letter dated October 21, 1996, from the Iowa Department of Natural Resources as evidence of consultation with the State agency responsible for the administration of forestry and wildlife programs when developing it guidelines for recreational, wildlife, and forested lands (Administrative Record No. IA–441.5).

The Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3) for fish and wildlife habitat, recreation, shelter belts, or forest products require that permittees determine success of vegetation on the basis of tree and shrub stocking and vegetative ground cover. They also require that:

(i) Minimum stocking and planting arrangements shall be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur on either a programwide or a permit-specific basis.

(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use. Trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons. At the time of bond release, at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility.

(iii) Vegetative ground cover shall not be less than that required to achieve the approved postmining land use.

We find that Iowa's revegetation success standards for recreational, wildlife, and forested lands at section IV, part E are no less effective than the requirements of the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3), with two exceptions. First, Iowa's guidelines do not contain any planting arrangement provisions for these land uses as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Second, Iowa did not submit any documentation to prove that the State agencies responsible for the administration of forestry and wildlife programs approved its minimum stocking provisions as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Therefore, we are requiring Iowa to either add planting arrangement provisions for recreational, wildlife, and forested land to its guidelines and obtain program-wide concurrence from the State agencies responsible for the administration of forestry and wildlife programs or add a provision to its guidelines that requires permit-specific concurrence for planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs. We are also requiring Iowa to either obtain program-wide concurrence for its minimum stocking provisions or add a provision to its guidelines that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs.

4. Sampling Procedures and Techniques

Section V of Iowa's revegetation success guidelines contain sampling procedures and techniques to determine productivity for corn, soybeans, oats, wheat, and forage crops; to determine ground cover percentage; and to determine if trees and shrubs meet minimum density standards. With one exception, we find that Iowa's sampling procedures and techniques are statistically valid at a 90 percent or greater statistical confidence level as required by the Federal regulations at 30 CFR 816.116(a) (1) and (2), 817.116(a) (1) and (2), and 823.15(a)(2). Section V, part A.2, which contains the grain sampling technique for test plot harvesting, does not specify how the permittee is to obtain the dry weight of the test plot grain samples. The dry weight is used in a calculation to determine the moisture percentage for each test plot sample. Therefore, we are requiring Iowa to revise its revegetation success guidelines at section V, part A.2 by adding a provision that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples.

B. Normal Husbandry Practices

Iowa also proposed guidelines relating to normal husbandry practices that may be used without restarting the responsibility period. Section III, part H contains requirements for rill and gully repair; terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing, and interseeding. Rill and gully erosion may be addressed within the permit or partial permit area without restarting the responsibility period only if repairs are completed using normal

husbandry practices. If the repair work requires augmented seeding, fertilization, or irrigation, the period of responsibility will restart. Normal husbandry practices do not include any temporary erosion control structures, such as silt fencing, straw, or hay bale dikes. Part H.1 specifies that the State will consider as normal husbandry practices any terrace repairs and maintenance required due to: (1) Rainfall events that exceed their designed capacities; (2) sediment deposition into a terrace flow line during the first year or two after the initial terrace construction and seeding that exceed the designed sediment storage capacity of the terrace; and (3) differential settling that impacts the flow line of the terrace. Part H.1 includes a listing of the types of terrace repair and maintenance options that the State will consider as normal husbandry practices. In part H.2, the State considers riprap repair and maintenance on ditches and structures due to storm events that exceed the maximum design standard as normal husbandry practices. Part H.2 includes a listing of the types of riprap repair and maintenance practices that will be considered normal husbandry practices. Part H.3 provides that normal husbandry practices can include limited land smoothing and reseeding as long as: (1) the individual areas are no larger than one acre in size and (2) the cumulative acreage is no greater than 10 percent of the entire permit or partial area. At part H.4, Iowa will consider applications of lime and fertilizer and interseeding to be normal husbandry practices when they meet specified conditions. For lime and fertilizer applications, the permittee must submit the original weight tickets for the applications at the times specified in section III, part B.3. For interseeding, the permittee must submit the original seed tickets at the times specified in section III, part B.3. Part H.4(a) and (b) provide, respectively, that lime and fertilizer applications must be made based on soil test recommendations for the appropriate crop or vegetation. Before any lime and fertilizer applications, the permittee must submit to the Division the original copies of the soil test recommendations and a map of the permit areas indicating where each soil sample was taken. If subsequent submittals of lime and fertilizer weight tickets prove that actual applications were in excess of the soil test recommendations, the Division will restart the responsibility period. Interseeding will be considered a normal husbandry practice based on the criteria listed in part H.4(c). This criteria includes: (1) interseeding of a legume on the third year of a grass/legume vegetative cover; (2) interseeding of a single species that failed to germinate due to unfavorable climate conditions on half or more of the permit area; and (3) interseeding of a species due to excessive winter kill.

The Federal regulations at 30 CFR 816.116(c)(4) for surface mining operations and 817.116(c)(4) for underground mining operations allow the regulatory authority to approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, under specified conditions. The regulatory authority must obtain prior approval from OSM in accordance with 30 CFR 732.17 that the practices are normal husbandry practices that can be expected to continue as part of the postmining land use or that discontinuance of the practices after the responsibility period expires will not reduce the probability of permanent revegetation success. Approved practices must be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area. In the September 7, 1988, preamble for the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4), we discussed the type of documentation that the regulatory authority must submit to support its proposed normal husbandry practices (53 FR 34641). The regulatory authority must submit documentation that demonstrates that the practice is the usual or expected state, form, amount or degree of management performed habitually or customarily to prevent exploitation, destruction, or neglect of the resource and maintain a prescribed level of use or productivity of similar unmined lands. We will consider, on a practice-by-practice basis, the documentation supporting each practice proposed by a regulatory authority as a normal husbandry practice. The documentation must include conservation practice guidelines or agronomy guidelines and fact sheets for the management of unmined lands in the applicable State. The guidelines and fact sheets could be those distributed by the NRCS or other organizations with similar expertise in management of a State's natural resources, including agricultural lands.

Iowa submitted a fax dated July 21, 1997, from the NRCS as evidence that Iowa consulted with the NRCS when developing its normal husbandry practice guidelines (Administrative Record No. IA–441.5. Iowa also submitted a letter dated December 16, 1996, from the Iowa State University, Department of Agronomy, as additional evidence of consultation when developing its normal husbandry practices. However, Iowa did not submit actual NRCS conservation practice guidelines or Iowa State University agronomy guidelines or fact sheets to support its proposed normal husbandry practices. Therefore, we find that Iowa has not adequately demonstrated that its proposals for rill and gully repair; terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing, and interseeding of areas disturbed by mining in Iowa are normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land uses of the disturbed areas. We are requiring Iowa to either remove its guidelines for normal husbandry practices at section III, part H or submit documentation that support the proposed normal husbandry practices.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Iowa program (Administrative Record Nos. IA–441.1 and IA–441.9). On October 5, 1999, the Mine Safety and Health Administration sent us a letter stating that it had no comments on the amendment (Administrative Record No. IA–441.10).

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Iowa proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record Nos. IA–441.1 and IA–441.9). The EPA did not respond to our requests.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On October 5, 1998, and September 28, 1999, we requested comments on Iowa's amendment (Administrative Record Nos. IA–441.1 and IA–441.9), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve, with certain exceptions and additional requirements, the amendment as sent to us by Iowa on September 28, 1998, and as revised and sent to us by Iowa on August 3, 1999.

With the requirement that Iowa further revise its revegetation success guidelines, we do not approve, as discussed in: findings No. A.1 and A.2.a, the use of reference areas for determining success of productivity on prime farmland areas; finding No. A.2.b., section IV, part G, concerning the requirements and methods for use of control areas to adjust the County Soil Map Unit Yield Data for climatic conditions; and finding No. B, section III, part H, concerning normal husbandry practices.

With the requirement that Iowa further revise its revegetation success guidelines, we approve, as discussed in finding No. A.3, section IV, part E, concerning revegetation success standards for recreational, wildlife, and forested lands; finding No. A.4, section V, concerning sampling procedures and techniques for ground cover, stocking, and production.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 915, which codify decisions concerning the Iowa program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Iowa to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change to an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to State programs that are not approved by OSM. In the oversight of the Iowa program, we will recognize only the statutes, regulations and other materials approved by the Secretary or by us, together with any consistent implementing policies, directives and other materials. We will require the enforcement by Iowa of only such provisions.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 10, 1999.

Richard J. Seibel,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 915 is amended as set forth below:

PART 915—IOWA

1. The authority citation for part 915 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 915.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 915.15 Approval of Iowa regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
September 28, 1998	November 26, 1999	Revegetation Success Guidelines dated April 1999 (partial approval).

3. Section 915.16 is amended by adding paragraphs (a) through (e) to read as follows:

§ 915.16 Required program amendments.

* * * * *

(a) Before Iowa allows the use of reference areas for determining success of productivity on prime farmland as proposed at section III, part F and section IV, part A.2 of its revegetation success guidelines, Iowa must submit for OSM approval evidence that the U.S. Natural Resources Conservation Service concurs with these provisions.

(b) By May 25, 2000, Iowa must either remove the guidelines for normal husbandry practices from section III, part H of its April 1999 revegetation success guidelines or submit for OSM approval documentation that demonstrates each practice is a normal husbandry practice within the region for unmined lands having land uses similar to the approved postmining land uses of areas disturbed by mining in Iowa.

(c) By May 25, 2000, Iowa must either remove section IV, part G, which contains the requirements and methods for control area climatic adjustments to the prime farmland average yields provided in the County Soil Map Unit Yield Data tables, from its April 1999 revegetation success guidelines or submit for OSM approval evidence that the U.S. Natural Resources Conservation Service concurs with this provision.

(d) By May 25, 2000, Iowa must amend its revegetation success guidelines at:

(1) Section IV, part E by either adding planting arrangement provisions for recreational, wildlife, and forested lands and obtaining program-wide concurrence for the provisions from the State agencies responsible for the administration of forestry and wildlife programs or adding a provision that requires permit-specific concurrence for minimum planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs.

(2) Section IV, part E by either obtaining program-wide concurrence for its minimum stocking provisions or adding a provision that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs.

(e) By May 25, 2000, Iowa must add a provision to section V, Part A.2 of its revegetation success guidelines that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples.

[FR Doc. 99–30677 Filed 11–24–99; 8:45 am]
BILLING CODE 4310–05–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 99–5C]

Notice and Recordkeeping for Non-subscription Digital Transmissions

AGENCY: Copyright Office, Library of Congress.

ACTION: Interim rule amendment.

SUMMARY: The Copyright Office is extending the date by which a non-interactive, non-subscription service currently making digital transmissions of sound recordings must file an initial notice of digital transmission with the Copyright Office from October 15, 1999, to December 1, 1999.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

The Digital Performance Right in Sound Recordings Act of 1995, Public Law 104–39, 109 Stat. 336, created a statutory license that allowed an eligible subscription service to perform publicly a sound recording by means of digital audio transmissions, provided that the service adheres to the terms of the license and complies with the notice and recordkeeping regulations promulgated by the Librarian of Congress. 17 U.S.C. 114(f)(2) (1995). Three years later with the passage of the Digital Millennium Copyright Act of 1998 ("DMCA"), Congress expanded the scope of this license to include nonexempt, non-subscription transmission services and two preexisting satellite digital audio radio services.

Prior to the passage of the DMCA, the Copyright Office published regulations to govern how a subscription service was to provide notice to the copyright owners of the sound recordings and maintain specific records documenting the use of these works. *See* 63 FR 34289 (June 24, 1998). Under these regulations, each service had to file an initial notice of digital transmission with the Licensing Division of the Copyright Office. 37 CFR 201.35. The deadline for filing this notice was structured to allow a service to file its notice either before it commenced operation, or in the case of a service already making transmissions prior to the publication of the rule, within 45 days of the effective date of the regulation.

These filing requirements, however, did not allow a service newly eligible to make use of the license under the DMCA to make a timely filing of its initial notice of digital transmission. Therefore, the Office proposed an amendment to—201.35(f) which extended the date for filing an initial notice to October 15, 1999, in the case of those services operating under the expanded license. 64 FR 42316 (August 4, 1999). The proposed amendment was unopposed, and the Office adopted the change as a final interim regulation on September 20, 1999. 64 FR 50758 (September 20, 1999).

Subsequently, the National Association of Broadcasters ("NAB") filed a petition with the Copyright Office, seeking an extension of the October 15 deadline for filing the initial notices to December 1, 1999. NAB made this request because it believed that many potentially affected parties were unaware of the need to file an initial notice by the October 15, 1999, date, and consequently, missed the filing deadline. See 64 FR 59140 (November 2, 1999). Since that date, the Copyright Office has received several hundred initial notices from non-subscription services that are currently operating under the section 114 license and expects additional filings to continue. Thus, it appears that many of the potentially affected parties were unaware of the rule change that set a date certain by which these services had to file an initial notice of digital transmission of sound recordings.

In recognition of the apparent breakdown in the process to disseminate the information regarding

the filing requirement to those parties most affected by the interim rule change and the lack of any comments opposing the extension of the filing date, the Office is amending its interim regulation in accordance with NAB's suggestion and adopting the proposed December 1, 1999, date.

A service should be aware that the date-specific filing deadline for non-subscription services is significant only if it has made a digital transmission under the statutory license prior to that filing date. Any preexisting entity, just as any new entity which chooses to make use of the license at a future time, may file its initial notice after these dates, so long as it files its initial notice with the Licensing Division prior to the first transmission of a sound recording.

Regulatory Flexibility Act

Although the Copyright Office, located in the Library of Congress which is part of the legislative branch, is not an "agency" subject to the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Register of Copyrights considers the effect of a proposed amendment on small businesses. For that reason, the Register is amending yet again 37 CFR 201.35(f) in order to allow small business entities that are eligible for the statutory license to make a timely filing of its initial notice of digital transmission. The Register sought the amendment at the request of the NAB, an organization that represents the interests of numerous small broadcasters who were heretofore unaware of the filing requirement.

List of Subjects in 37 CFR Part 201

Copyright.

Final Interim Regulation

For the reasons set forth in the preamble, part 201 of title 37 of the Code of Federal Regulations is amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702

§ 201.35 [Amended]

2. Section 201.35(f) is amended by removing the date "October 15" and inserting in its place "December 1".

Dated: November 18, 1999.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 99–30928 Filed 11–24–99; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 257

[FRL–6481–3]

OMB Approval Numbers Under the Paperwork Reduction Act Relating to the Criteria for Classification of Solid Waste Disposal Facilities and Practices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice displays the Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act (PRA) for the Criteria for Classification of Solid Waste Disposal Facilities and Practices—Subpart B. This document also announces the effective dates of certain sections in the Code of Federal Regulations which contained information collections requirements and which were originally published in the **Federal Register** on July 1, 1996.

EFFECTIVE DATE: The amendment to 40 CFR 9.1 is effective November 26, 1999. 40 CFR 257.24, 257.25, and 257.27 became effective on September 12, 1996 when the Office of Management and Budget (OMB) approved their information collection requirements.

FOR FURTHER INFORMATION CONTACT: Paul Cassidy of the Industrial and Extractive Waste Branch, Office of Solid Waste at (703)–308–7281.

SUPPLEMENTARY INFORMATION: EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The amendment updates the table to list those information collection requirements promulgated under the Criteria for Classification of Solid Waste Disposal Facilities and Practices—Subpart B which appeared in the **Federal Register** on July 1, 1996 (61 FR 34252); OMB approved the information collection requirements on September 12, 1996 (ICR 1745.02). The affected regulations are codified at 40 CFR Part 257—Subpart B. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists CFR citations with reporting, recordkeeping, or other information collection requirements, and the current OMB control numbers. This display of the OMB control numbers and their subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320. By this action EPA, is also announcing that these sections, which contain information collection requirements, became effective when approved by OMB on September 12, 1996.

This ICR was previously subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, further notice and comment would be unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(B) and (d)(3) of the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d)(3)) to amend this table without further notice and comment.

I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and Tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate or saftey risks.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of November 26, 1999 for the amendment to 40 CFR 9.1. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 257

Reporting and recordkeeping requirements, Waste disposal.

Dated: November 12, 1999.

Timothy Fields, Jr.,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble 40 CFR part 9 is amended as follows:

PART 9—AMENDED

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1, the table is amended by adding the new entries in numerical order under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Criteria for Classification of Solid Waste Disposal Facilities and Practices	.....
257.8	2050–0154
257.21(b)	2050–0154
257.21(h)	2050–0154
257.23	2050–0154
* * * * *	
257.30	2050–0154
* * * * *	

[FR Doc. 99–30782 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 126–0190a; FRL–6477–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District, Santa Barbara County Air Pollution Control District, Ventura County Air Pollution Control District, and Yolo-Solano County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the following districts: Sacramento Metropolitan Air Quality Management District (SMAQMD); Santa Barbara County Air Pollution Control District (SBCAPCD); Ventura County Air Pollution Control District (VCAPCD); and Yolo-Solano Air Quality Management District (YSAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from the storage and transfer of gasoline, loading of organic liquids, and fugitive hydrocarbons. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on January 25, 2000 without further notice, unless EPA receives adverse comments by December 27, 1999. If EPA receives such comment, it will publish a timely withdrawal **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Sacramento Metropolitan Air Quality Management District, 777 12th Street 3rd Floor, Sacramento, CA 95814–1908.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93301.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

Yolo-Solano Air Quality Management District, 1947 Galileo Ct., Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP and submitted by the California Air Resources Board include:

District	Rule# and name	Submittal date
SMAQMD	447 Organic Liquid Loading	06/23/98
SBCAPCD	316 Storage & Transfer of Gasoline	03/10/98
VCAPCD	70 Storage & Transfer of Gasoline	08/01/97
YSAQMD	2.23 Fugitive Hydrocarbon	11/30/94

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Sacramento Metropolitan Area, Santa Barbara County Area, Ventura County Area, and Yolo-Solano County Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172 (b) as interpreted in pre-amendment guidance.[1] EPA's SIP–Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Sacramento Metro Area, Ventura County Area, and Yolo County and part of Solano County Area are designated as severe. The Santa Barbara-Santa Maria Lompoc Area is classified as serious [2]; therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on November 30, 1994, August 8, 1997, March 10, 1998, and June 23, 1998, including the rules being acted on in this document. This document addresses EPA's direct-final action for SMAQMD Rule 447, Organic Liquid Loading, adopted on April 2, 1998; SBCAPCD Rule 316, Storage & Transfer of Gasoline, adopted on April 17, 1997; VCAPCD Rule 70, Storage & Transfer of Gasoline, adopted on April 15, 1997; and YSAQMD Rule 2.23, Fugitive Hydrocarbon, adopted on March 23, 1994. These submitted rules were found to be complete on August 25, 1998, May 21, 1998, September 30, 1995, and January 30, 1995, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V [3] and is being finalized for approval into the SIP.

SMAQMD Rule 447 controls VOC emissions from the loading of organic liquids, SBCAPCD Rule 316 and VCAPCD Rule 70 control VOC emissions from the storage and transfer of gasoline, and YSAQMD Rule 2.23 controls fugitive emissions of VOCs. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of SMAQMD, SBCAPCD, VCAPCD, and YSAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP–Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to these rules are entitled: Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals, (EPA–450/2–77–026); Control of Volatile Organic Emissions from Bulk Gasoline Plants, (EPA–450/2–77–035); Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, (EPA–450/2–78–051); and Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment, (EPA–450/3–83–006). Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

The changes to SMAQMD Rule 447, Organic Liquid Loading, are administrative. Rule 447 was amended to add definitions, reference new ARB test methods, and to clarify that a CARB-certified vapor recovery system is only required for loading of gasoline since there is no certified vapor recovery system for organic liquids other than gasoline. The change to SBCAPCD Rule 316, Storage and Transfer of Gasoline, is administrative. Rule 316 was revised to update references to District Regulations II and VIII for consistency with the revised Regulations.

---

[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** document" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The Sacramento Metro Area, Ventura County Area, Yolo County and part of Solano County Area, and Santa Barbara-Santa Maria Lompoc Area have retained their designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

The amendments to VCAPCD Rule 70, Storage and Transfer of Gasoline, were not required by Ventura County's Air Quality Attainment Plan. The rule changes are intended to improve aspects of Rule 70 related to enforceability, rule clarity, consistency with State requirements for gasoline storage and transfer, and the streamlining and practicality of testing requirements. A detailed description of rule changes can be found in the Technical Support Document for this rule dated September 20, 1999.

YSAQMD Rule 2.23, Fugitive Hydrocarbons, is a new rule. The submitted rule includes the following provisions:

- Definitions for rule clarity.
- Rule standards for inspection frequency, process and operation requirements, and a repair schedule.
- Monitoring and recordkeeping requirements to determine compliance.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SMAQMD Rule 447, Organic Liquid Loading; SBCAPCD Rule 316, Storage & Transfer of Gasoline; VCAPCD Rule 70, Storage & Transfer of Gasoline; and YSAQMD Rule 2.23, Fugitive Hydrocarbon, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This document will be effective January 25, 2000 without further notice unless the Agency receives adverse comments by December 27, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule is effective on January 25, 2000 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled Regulatory Planning and Review.

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. Policies that have federalism implications is defined in the Executive Order to include regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and

subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 25, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(207)(i)(C)(*8*), (248)(i)(E), (254)(C)(*5*) and (256)(i)(G) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(207) * * *

(i) * * *

(C) * * *

(*8*) Rule 2.23 adopted on March 23, 1994.

* * * * *

(248) * * *

(i) * * *

(E) Ventura County Air Pollution Control District.

(*1*) Rule 70 revised on May 13, 1997.

* * * * *

(254) * * *

(C) * * *

(*5*) Rule 316 revised on April 17, 1997.

* * * * *

(256) * * *

(i) * * *

(G) Sacramento Metropolitan Air Quality Management District.

(*1*) Rule 447 amended on April 2, 1998.

* * * * *

[FR Doc. 99–30609 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 420

[HCFA–4000–FC]

RIN 0938–AJ30

Medicare Program; Suggestion Program on Methods to Improve Medicare Efficiency

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period establishes a program to encourage individuals to submit suggestions that could improve the efficiency of the Medicare program. The rule implements section 203(c) of the Health Insurance Portability and Accountability Act of 1996. The intent of this rule is to encourage suggestions and to award, if we deem appropriate, monetary payments to individuals for suggestions that improve efficiency and produce monetary savings to the Medicare program.

DATES: *Effective date:* This final rule is effective December 27, 1999. Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. eastern time on January 25, 2000.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–4000–FC, P.O. Box 26688, Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following e-mail address: hcfa4000fc@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–4000–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Sam Della Vecchia, (410) 786–4481.

SUPPLEMENTARY INFORMATION:

I. Background

A. Establishment of a Program to Collect Suggestions for Improving Medicare Program Efficiency and to Reward Suggesters for Monetary Savings

It has long been our policy to encourage the use of incentive awards to recognize and reward individuals who directly contribute to the economy, efficiency, and effectiveness of government programs. For example, recognition of Federal employee suggestions and rewards for individuals whose adopted ideas benefit the government motivate Federal employees to increase productivity and creativity.

With the August 1996 enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPPA) (Public Law 104–191), the Congress recognized that the public at large, especially the beneficiaries, physicians, and suppliers actively involved in the delivery and utilization of Medicare health care services, may be in a position to suggest ideas that might contribute directly to improving Medicare program efficiency. By enacting section 203(c) of HIPPA, the Congress has required us to establish a program that encourages individuals to submit suggestions on methods that might improve the efficiency of the Medicare program. This legislation gives us the discretion to make a payment to a suggester, in an amount that we consider appropriate, as a reward for, and in recognition of, a suggestion we adopt that improves efficiency and results in monetary savings to the Medicare program.

B. Provisions of This Final Rule

As required by section 203(c), this final rule establishes a program that will provide a vehicle to submit suggestions on methods that could improve the efficiency of the Medicare program. Therefore, we are adding a new § 420.410 to subpart E of part 420, "Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings," that sets forth procedures and requirements for the public to submit suggestions, for us to evaluate them and, if appropriate, to reward the suggester whose suggestion we adopt.

In § 420.410(a), we define a "suggestion program" to mean the specific procedures and requirements established by us for receiving suggestions, evaluating the suggestions, and, if appropriate, paying a reward to the suggester for an adopted suggestion that improves efficiency and produces monetary savings to the Medicare program. We define "suggester" as an individual, a group of individuals, or a legal entity, such as a corporation, partnership, or professional association, not otherwise excluded under § 420.410(d), who submits a suggestion under this section.

We specify that "suggestion" used in this context means an original idea submitted in writing. We specify that "payment" means a monetary award given to the suggester in recognition of, and as a reward for, a suggestion we adopt that improves the efficiency of the Medicare program and results in monetary savings. We define "savings" to mean the monetary value of the net benefits the Medicare program derives from implementing the suggestion.

In § 420.410(b), we specify that, as a general rule, we may make a payment to the suggester for suggestions we have adopted that increase efficiency and result in monetary savings to the Medicare program. However, in order to ensure that the suggestion program does not duplicate other Government incentive programs, we specify that we may make a monetary award only in instances in which an award is not otherwise provided by law. That is, if the suggestion furnished by the suggester qualifies for an award under another Government program, the suggester is not entitled to an award under this program.

This paragraph also specifies that we have the sole discretion to determine whether it is appropriate and desirable for us to adopt a particular suggestion, to make monetary payment for any adopted suggestion, and to select the method by which we will calculate the payment award.

We believe that the Congress intended that any individual, group of individuals or legal entity would be eligible to submit suggestions that improve Medicare program efficiency. For the reasons discussed below, we have chosen to exclude suggesters who have one of the relationships with the Federal Government described in § 420.410(d). Therefore, in § 420.410(c), we provide that, except as specified in § 420.410(d), any individual, group of individuals or legal entity is eligible to submit suggestions under this suggestion program and to be considered for a reward if the suggester submits the information in the prescribed manner discussed in § 420.410(e).

In § 420.410(d), we list who is ineligible to receive a reward under this suggestion program. Specifically, we provide that Medicare contractors, their officers and employees, individuals who work for Federal agencies under a contract, employees of Federally-sponsored research and demonstration projects, Federal officers and employees, and immediate family members of any of these groups of individuals, are not eligible for a reward under this suggestion program. The purpose of the exclusion is to prevent Federal employees, contractors, or grantees from personally profiting from information gained while doing public business. Suggestions made by Federal employees are covered under the Office

of Personnel Management policies and requirements for administering incentive award programs, which are set forth at 5 CFR Part 451. If, after the suggester receives an award, we later find that the suggester was ineligible, the recipient must refund the reward money.

To discourage submission of frivolous suggestions, we indicate in § 420.410(e) that suggesters must mail all suggestions in writing to us. This allows us to make a thorough and fair evaluation of all the relevant facts, to have an adequate record of the suggester's idea, to document the date the idea was sent to us, and to identify any redundancy or overlap with previously submitted suggestions. We will not accept oral suggestions because we could misconstrue them or have difficulty evaluating them. In addition, while we do not plan to develop a standardized format for submitting suggestions, we specify that written suggestions must include the following pertinent information:

(1) A description of an existing problem or need;

(2) A suggested method for solving the problem or filling the need; and

(3) If known, an estimate of the savings potential that could result from implementing the suggestion.

This information will enable us to evaluate suggestions expeditiously, fairly, and uniformly. Suggestions that do not contain the above information will not be considered under this program. All suggestions must be mailed to Health Care Financing Administration, Suggestion Program, 7500 Security Blvd., Baltimore, Maryland 21224–1850.

In § 420.410(e), we also specify that any suggester wishing to receive an award for submitting a suggestion must provide us with a name, address, telephone number, and any other identifying information we request so that we can contact the suggester if we need additional information and, in appropriate cases, so that we can mail the reward payment. We also require all of the names constituting a group of suggesters, or the name of a legal entity and its representative. For example, when we deem it appropriate to pay a reward, we must request, for income tax purposes, the suggester's social security number or tax identification number.

We specify in § 420.410(f) that we evaluate all suggestions, as presented by the suggester, on the basis of originality, accuracy, feasibility, nature and complexity, estimated potential monetary savings to the Medicare program, the extent to which Medicare program efficiency would be improved if we were to adopt the suggestion, and any other factors that appear to us to be relevant to a particular situation. If, in the final evaluation, we determine that the suggestion is likely to improve efficiency and result in monetary savings to the Medicare program, we will decide whether, all factors considered, it would be appropriate for us to adopt the suggestion. One of the major factors may be budget constraints at the time we complete our review of a suggestion. This constraint could preclude us from adopting the suggestion if it requires a significant outlay of funds to implement, even though it may be demonstrated that the Medicare program would realize savings in the long run. Also, we may choose to adopt a suggestion in part. We may adopt and reward a suggestion in part if the program would realize verifiable monetary savings from a partial adoption.

While it is our intention to evaluate suggestions as quickly as possible, some suggestions may require more processing time than others. The complexity of the suggestion, consideration of the feasibility of various implementation strategies, and our workload or manpower constraints make it difficult to specify how long it will take us to evaluate a suggestion. Therefore, we specify that the evaluation process will be concluded in a reasonable amount of time, not to exceed 2 years from the date we receive a suggestion, taking into consideration the complexity of the suggestion, the number of possible implementation strategies, and our current workload.

We indicate in § 420.410(g) that, should we choose to adopt a suggestion in its entirety, or a part of a suggestion, and issue monetary payment as a reward, the payment amount will be determined based either on the actual first-year net savings, or the average annual net savings expected to be realized over a period of not more than 3 years. In either case, (as we discuss later in § 420.410(h)(2)), we will not make the reward payment until the suggestion has been in operation for 1 year. We use the average annual net savings to calculate a reward payment if we expect that an improvement is likely to yield monetary savings for more than 1 year and implementation involves substantial costs, or we believe that monetary savings will be negligible in the first year but we expect them to substantially increase in subsequent years. We have the sole discretion in selecting the methodology for calculating net savings. In accordance with § 420.410(g)(2), the reward payment amount will be calculated as follows:

- Net savings from $1,000 to $10,000—10 percent of the savings, with a minimum award amount of $100 (that is, we will only pay awards that amount to $100 or more).
- Net savings of $10,001 to $100,000—$1,000 for the first $10,000 of savings, plus 3 percent of the savings over $10,000.
- Net savings of more than $100,000, $3,700 for the first $100,000 of savings, plus 0.5 percent of the savings over $100,000, not to exceed $25,000.

Because we have successfully used this same payment calculation methodology to determine award amounts for Federal employees whose suggestions have resulted in monetary savings to the Medicare program, we have chosen to adopt this same process for this program.

In accordance with section 203(c) of HIPPA and as noted above in our discussion of § 420.410(b), we specify in § 420.410(h)(1) that we determine whether it would be appropriate and desirable for us to adopt or to reward a particular suggestion. If we receive the same or an overlapping suggestion from two or more unrelated parties, we will consider a reward only for the suggestion we received first, if the suggestion or overlapping part of the suggestion are identical, and we have adopted that part. If the suggestions are not identical, we will consider rewarding the suggestion we received first, if it is feasible and we have been able to adopt and implement the suggestion. If the first suggestion cannot be implemented, we may consider rewarding the suggestion we received next, even if it is similar, provided we can adopt and implement the suggestion.

We specify in § 420.410(h)(2) that payment will be mailed only after the suggestion has been in operation for 1 year.

We specify in § 420.410(i) that if a group of individuals submits a suggestion that we deem appropriate to reward, individuals in the group will receive an equal share of the award. If the suggestion is submitted by an organization, such as a corporation, partnership, or professional association, we will make a single reward payment to that organization.

We specify in § 420.410(j) that it is the suggester's responsibility to notify us of any change in the information required in § 420.410(e) above. If our mailed award is returned to us as "undeliverable" or "address unknown," the suggester has up to 1 year from the date of our notification letter to claim

the award. We have set this 1-year limitation to minimize the administrative burden associated with this program. We believe 1 year is a reasonable period of time to claim a monetary award that has been returned to us. In addition, the 1-year limitation protects the Government from the administrative and fiscal burden that would be associated with maintaining claims for a longer or indefinite period. Awards not claimed within 1 year from the date they were first mailed to the suggester will not be awarded. Also, no interest will be paid on awards for any reason.

We specify in § 420.410(k), that, if the suggester has become incapacitated or has died, an executor, administrator, or other legal representative may claim the award payment on behalf of the suggester or the suggester's estate. In order to protect participants from being defrauded by individuals falsely claiming to be their legal representatives, we state that the claimant must submit certified copies of letters testamentary, letters of administration, or other similar evidence to show his or her authority to claim the award payment. We also specify that the payment must be claimed within 1 year from the date on which we first mailed the award.

Finally, in § 420.410(l), we indicate that all records related to the administration of this suggestion program are retained in accordance with the regulations of the National Archives and Records Administration (36 CFR Part 1228). We state that no information submitted under this suggestion program will be disclosed, except as required by law.

II. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

III. Regulatory Impact Analysis

A. Introduction

We have examined the impact of this final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Individuals are not considered to be small entities.

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b), we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may mandate an annual expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million or more. We believe that this proposed rule does not mandate such expenditures.

B. Summary of the Final Rule

The final rule establishes a suggestion program as a means of (1) encouraging the submission of suggestions for improving the efficiency of the Medicare program and (2) rewarding those who make suggestions when we deem that it is appropriate and when a reward is not otherwise provided by law or prohibited by this program. The rule describes the program, lists information requirements and eligibility criteria, establishes a lower and an upper limit for payments, and outlines the process and time limitations we must follow in issuing a reward.

C. Discussion of Impact

This rule is expected to affect beneficiaries and their personal representatives and advocates, providers, physicians, other suppliers, and managed care plans. Taxpayers, small rural hospitals, and the Medicare Trust Fund could also be impacted by this rule.

Beneficiaries as a group are expected to be impacted by this regulation in several ways. First, beneficiaries are often the first to recognize and question provider and program practices. This knowledge may stimulate the formation of ideas for improvement in our program operations. This regulation encourages these individuals to share program improvement suggestions with us by (1) providing a clearly defined process for submitting information to the appropriate source and, (2) in appropriate cases, offering a monetary incentive to support the effort.

Advocates for beneficiaries and other private sector organizations have often shared ideas with agency components for improving the Medicare program. Some of these have been related to specific activities like proposed rulemaking and the development of program guidelines, and special committee recommendations. This regulation expands the opportunity for these individuals or their organizations to apply their creative energies to any and all aspects of the Medicare program for potential improvement. It is also likely that advocacy groups and other beneficiary representatives will view this regulation as supporting their efforts to identify areas for program improvement and bring their suggestions to our attention.

We expect a similar potential impact on business entities, providers, other suppliers, managed care organizations, small rural hospitals, and others. Overall we expect that all of these groups could benefit qualitatively from this rule. Many of these individuals and entities and the associations representing them have contributed ideas to us over the years in much the same way as the beneficiary advocacy groups. We believe that they are a valuable source of ideas about how to make the Medicare program more efficient, and the suggestion program provides them with a specific, ongoing mechanism for submitting these ideas to us. In addition, these groups could receive a monetary award for their suggestions.

Because this is a new program, we cannot predict at this time what effect any particular suggestion might have on a specific individual or entity; we have no way of knowing what kinds of suggestions we will receive or whether we will achieve any results if we adopt them. Also, this rule does not address the substance of any particular suggestions we may receive in the future; it simply describes the process by which individuals or entities can submit their ideas. Therefore, we cannot in any way predict the aggregate economic impact of any suggestions in which this rulemaking may result on any particular individual or entity, including small business entities, nor

can we estimate the savings to the Medicare Trust Fund, or the taxpayer. However, we anticipate that establishing the program described in this rulemaking will itself have a minimal economic impact.

D. Conclusion

We conclude that this final rule could ultimately lead to program improvements and money saved, and could help extend the solvency of the Medicare Trust Fund. Because the Medicare program is continually becoming more complex, we recognize the value of objective critiques by those who are most affected by the myriad of Medicare statutes, provisions, and guidelines.

Based on the above analysis we have determined and certify that this final rule would not have a significant economic impact on a substantial number of small entities. We also have determined and certify that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals. We are, however, inviting comments on whether this rule would have a significant impact on any of the groups listed in this section.

IV. Federalism

We have reviewed this notice under the threshold criteria of Executive Order 13132, Federalism. We have determined that it does not significantly affect the States rights, roles, and responsibilities.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirement discussed below.

Section 420.410 Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings

Section 420.410 establishes a program to collect suggestions for improving Medicare program efficiency and to reward some suggesters for monetary savings. The "respondents" for the collection of information described in these regulations will be self-selected individuals and entities that choose to submit suggestions.

Section 420.410(e) states that in order to be considered, the suggestion must be in writing, mailed to us and must include the following information:

(1) A description of an existing problem or need;

(2) A suggested method for solving the problem or filling the need; and

(3) If known, an estimate of the savings potential that could result from implementing the suggestion. Any suggester interested in receiving a reward must provide us with a name, address, telephone number, and any other identifying information we may need to contact the suggester, if we require additional information and, where applicable, to mail the reward.

The burden associated with this requirement is the time and effort for the suggester to submit to us the information described above. It is estimated that this requirement will take each suggester 20 minutes. We anticipate 400 suggestions for a total of 134 burden hours.

Section 420.410(j) states that it is the suggester's responsibility to notify HCFA of any change of address or other relevant information.

We believe the above requirement is not subject to the PRA in accordance with 5 CFR 1320.3(c)(4) since this requirement does not collect information from ten or more persons on an annual basis. We have submitted a copy of this final rule with comment to OMB for its review of the information collection requirements described above. These requirements are not effective until they have been approved by OMB.

If you comment on any of these information collection and record keeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Louis Blank, HCFA–4000–FC, and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Eydt, HCFA Desk Officer.

VI. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking can be waived, however, if an agency finds good cause that notice-and-comment procedures are contrary to the public interest, and it incorporates a statement of the finding and its reasons in the rule issued.

Publishing this final rule expeditiously to supplement activities that identify and reduce the drain on the Medicare Trust Fund is in the public interest. Specifically, we anticipate that the implementation of this rule will encourage suggestions that will improve program efficiency and result in savings to the Medicare program.

We find good cause to waive notice-and-comment procedures for this final rule because it is in the public interest to establish this suggestion program as soon as possible to afford the general public the opportunity to submit their suggestions for program improvement. To employ notice-and-comment procedures would only delay potential program savings. We are providing a 60-day period for public comment.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 420

Fraud, Health facilities, Health professions, Incentive programs, Medicare.

For the reasons set forth in the preamble, 42 CFR part 420 is amended as set forth below:

PART 420—PROGRAM INTEGRITY: MEDICARE

1. The authority citation for part 420 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. The heading of subpart E is revised to read as follows:

Subpart E—Rewards for Information Relating to Medicare Fraud and Abuse, and Establishment of a Program to Collect Suggestions for Improving Medicare Program Efficiency and to Reward Suggesters for Monetary Savings

3. Section 420.400 is revised to read as follows:

§ 420.400 Basis and scope.

This subpart implements sections 203(b) and (c) of Public Law 104–191, which require the establishment of programs to encourage individuals to report suspected cases of fraud and abuse and submit suggestions on methods to improve the efficiency of the Medicare program. Sections 203(b) and (c) of Public Law 104–191 also provide the authority for HCFA to reward individuals for reporting fraud and abuse and for submitting suggestions that could improve the efficiency of the Medicare program. This subpart sets forth procedures for rewarding individuals.

4. New § 420.410 is added to read as follows:

§ 420.410 Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings.

(a) *Definitions.* As used in this section, the following definitions apply:

Payment means a monetary award given to a suggester in recognition of, and as a reward for, a suggestion adopted by HCFA that improves the efficiency of, and results in monetary savings to, the Medicare program.

Savings means the monetary value of the net benefits the Medicare program derives from implementing the suggestion.

Suggester means an individual, a group of individuals, or a legal entity such as a corporation, partnership, or professional association, not otherwise excluded under § 420.410(d), who submits a suggestion under this section.

Suggestion means an original idea submitted in writing.

Suggestion program means the specific procedures and requirements established by HCFA for receiving suggestions from the suggester on methods to improve the efficiency of the Medicare program, evaluating the suggestions and, if appropriate, paying a reward to the suggester for adopted suggestions that result in improved efficiency and produce monetary savings to the Medicare program.

(b) *General rule.* HCFA may make payment for adopted suggestions that increase the efficiency of the Medicare program and result in monetary savings. HCFA only makes payment for suggestions in instances in which a reward is not otherwise provided by law. The determination to adopt a suggestion, to reward the suggester, and the method of calculating a reward are at the sole discretion of HCFA.

(c) *Eligibility.* Except as specified in paragraph (d) of this section, any individual, group of individuals or legal entity, such as a corporation, partnership or professional association, is eligible to submit a suggestion and be considered for a reward under this suggestion program if the suggestion is submitted to HCFA in the manner set forth in paragraph (e) of this section.

(d) *Exclusions.* Medicare contractors, their officers and employees, individuals who work for Federal agencies under a contract, employees of Federally-sponsored research and demonstration projects, Federal officers and employees, and immediate family members of these individuals, are excluded from receiving payment under the suggestion program. If, after the suggester receives a reward payment, HCFA determines that the suggester was ineligible to receive the reward, HCFA is not liable for the reward payment and the suggester must refund all monies received.

(e) *Requirements for submitting suggestions*—(1) To be considered, the suggestion must be in writing, mailed to HCFA, and must include the following information:

(i) A description of an existing problem or need;

(ii) A suggested method for solving the problem or filling the need; and

(iii) If known, an estimate of the savings potential that could result from implementing the suggestion.

(2) Suggestions must be mailed to: Health Care Financing Administration Suggestion Program, 7500 Security Blvd., Baltimore, Maryland 21244–1850.

(3) Any suggesters interested in receiving a reward must provide HCFA with the following information: An individual suggester must provide his or her name, a group of suggesters must provide the names of all the group members, and a legal entity must provide its name and the name of its representative. All suggesters must provide an address, telephone number, and any other identifying information that HCFA needs to contact the suggester for additional information and, where applicable, to mail the reward.

(f) *Evaluation process*—(1) *Relevant factors.* HCFA evaluates all suggestions on the basis of the following factors:

(i) Originality of suggestion.

(ii) An estimate of potential monetary savings to the Medicare program.

(iii) The extent to which Medicare program efficiency would be improved if HCFA adopts the suggestion.

(iv) Accuracy of the information reflected in the suggestion.

(v) Feasibility of implementation.

(vi) Nature and complexity of the suggestion.

(vii) Any other factors that appear to be relevant.

(2) *Evaluation time limit.* HCFA concludes the evaluation process in a reasonable amount of time, not to exceed 2 years from the receipt date, taking into consideration the complexity of the suggestion, the number of possible implementation strategies, and HCFA's current workload.

(g) *Basis for reward payment*—(1) *General rule.* If HCFA determines that it is appropriate to make a reward payment for a suggestion adopted in whole or in part, that results in improved efficiency and monetary savings to the Medicare program, the payment is based on—

(i) The actual first-year net savings to the Medicare program, or

(ii) The average annual net savings to the Medicare program expected to be realized over a period of not more than 3 years if—

(A) An improvement is expected to yield monetary savings for more than 1 year and implementation involves substantial costs; or

(B) Monetary savings are negligible in the first year but are expected to substantially increase in subsequent years.

(2) *Reward payment amount.* HCFA determines the amount of a reward payment using the following formula:

(i) Net savings from $1,000 to $10,000—10 percent of the savings, with a minimum award amount of $100;

(ii) Net savings of $10,001 to $100,000—$1,000 for the first $10,000 of savings, plus 3 percent of the net savings over $10,000;

(iii) Net savings of more than $100,000—$3,700 for the first $100,000 of savings, plus 0.5 percent of savings over $100,000, with a maximum award amount of $25,000.

(h) *Adoption of suggestion and issuance of reward payment*—(1) *Adoption.* Upon completing its evaluation, HCFA decides whether to adopt a suggestion. If HCFA receives the same or an overlapping suggestion from two or more unrelated parties, HCFA will consider a reward only for the suggestion HCFA received first, if the suggestion or overlapping part of the suggestion are identical, and HCFA has adopted that part. If the suggestions are

not identical, HCFA will consider rewarding the suggestion received first, if it is feasible and HCFA is able to adopt and implement the suggestion. If the first suggestion cannot be implemented, HCFA may consider rewarding the suggestion received next, even if it is similar, provided HCFA can adopt and implement the suggestion.

(2) *Issuance of reward payment.* After the reward payment amount is determined, as described in paragraph (g) of this section, HCFA mails payment to the suggester (or to the legal representatives referenced in paragraph (k) of this section) only after the suggestion has been in operation for 1 year.

(i) *Group suggestions.* When HCFA deems that a reward payment is appropriate for a suggestion submitted by a group of individuals, HCFA pays an equal share of the reward to each of the individuals identified in the group. If an organization such as a corporation, partnership, or professional association submits a suggestion, HCFA makes a single reward payment to that organization.

(j) *Change in name or address.* It is the suggester's responsibility to notify HCFA of any change of address or other relevant information. If the suggester fails to update HCFA on any change in this information, and the reward payment mailed to the suggester is returned to HCFA, the suggester must claim the reward payment by contacting HCFA within 1 year from the date HCFA first mailed the reward payment to the suggester. HCFA does not pay interest on rewards that, for any reason, are delayed or are not immediately claimed.

(k) *Incapacitated or deceased suggester.* If the suggester is incapacitated or has died, an executor, administrator, or other legal representative may claim the reward on behalf of the suggester or the suggester's estate. The claimant must submit certified copies of the letters testamentary, letters of administration, or other similar evidence to HCFA showing his or her authority to claim the reward. The claim must be filed within 1 year from the date on which HCFA first attempted to pay the reward to the individual who submitted the suggestion.

(l) *Maintenance of records*—(1) HCFA retains records related to the administration of the suggestion program in accordance with 36 CFR part 1228 (the regulations for the National Archives and Records Administration).

(2) HCFA does not disclose information submitted under the suggestion program, except as required by law.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 30, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: May 25, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–30678 Filed 11–24–99; 8:45 am]

BILLING CODE 4120–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2505

RIN 3045–AA21

Rules Implementing the Government in the Sunshine Act

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: These rules implement provisions of the Government in the Sunshine Act (Sunshine Act), which applies to meetings of the Board of Directors of the Corporation for National and Community Service (the Corporation).

DATES: The final rules are effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Frank Trinity, Associate General Counsel, Corporation for National and Community Service, (202) 606–5000, ext. 256. T.D.D. (202) 565–2799. This rule may be requested in an alternative format for persons with visual impairments.

SUPPLEMENTARY INFORMATION: On May 11, 1999 (64 FR 25260), we published a proposed rule to implement provisions of the Sunshine Act, soliciting comments from the public for 60 days, ending July 12, 1999. We did not receive any comments. The information we provided in the proposed rule document still provides the basis for this final rule. Therefore, based on the rationale explained in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule with no changes.

Executive Order 12866

The Corporation has determined that this regulatory action is not a "significant" rule within the meaning of Executive Order 12866 because it is not likely to result in: (1) an annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Corporation has determined that this regulatory action will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

Other Impact Analyses

Because this regulatory action does not authorize any information collection activity it is not subject to review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*).

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

This regulatory action does not establish requirements that will adversely affect the Year 2000 readiness of organizations supported under the national service laws.

List of Subjects in 45 CFR Part 2505

Sunshine Act.

Accordingly, the Corporation for National and Community Service amends 45 CFR chapter XXV by adding part 2505 to read as follows:

PART 2505—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

2505.1 Applicability.
2505.2 Definitions.
2505.3 To what extent are meetings of the Board open to the public?
2505.4 On what grounds may the Board close a meeting or withhold information?
2505.5 What are the procedures for closing a meeting, withholding information, and responding to requests by affected persons to close a meeting?
2505.6 What are the procedures for making a public announcement of a meeting?
2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

Authority: 5 U.S.C. 552b; 42 U.S.C. 12651c(c).

§ 2505.1 Applicability.

(a) This part implements the provisions of section 3(a) of the Government in the Sunshine Act (5 U.S.C. 552b). These procedures apply to meetings of the Corporation's Board of Directors, or to any subdivision of the Board that is authorized to act on its behalf. The Board of Directors may waive the provisions of this part to the extent authorized by law.

(b) Nothing in this part expands or limits the present rights of any person under the Freedom of Information Act (5 U.S.C. 552), except that the exemptions set forth in § 2505.4 shall govern in the case of any request made pursuant to the Freedom of Information Act to copy or inspect the transcript, recording, or minutes described in § 2505.5.

(c) Nothing is this part authorizes the Corporation to withhold from any individual any record, including transcripts, recordings, or minutes required by this part, which is otherwise accessible to such individual under the Privacy Act (5 U.S.C. 552a).

§ 2505.2 Definitions.

As used in this part:

(a) *Board* means the Board of Directors established pursuant to 42 U.S.C. 12651a, or any subdivision of the Board that is authorized to act on its behalf.

(b) *Chairperson* means the Member elected by the Board to serve as Chairperson.

(c) *General Counsel* means the Corporation's principal legal officer or other attorney acting at the designation of the Corporation's principal legal officer.

(d) *Corporation* means the Corporation for National and Community Service established pursuant to 42 U.S.C. 12651.

(e) *Meeting* means the deliberations of at least a quorum of the Corporation's Board of Directors where such deliberations determine or result in the joint conduct or disposition of official Corporation business. A meeting may be conducted under this part through telephone or similar communications equipment by means of which all participants may communicate with each other. The term meeting includes a portion thereof. The term meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the members individually by telephone.

(2) Action by a quorum of the Board to—

(i) Open or to close a meeting or to release or to withhold information pursuant to § 2505.5;

(ii) Set an agenda for a proposed meeting;

(iii) Call a meeting on less than seven days' notice as permitted by § 2505.6(b); or

(iv) Change the subject-matter or the determinations to open or to close a publicly announced meeting under § 2505.7(b).

(3) A gathering for the purpose of receiving briefings from the Corporation's staff or expert consultants, provided that Members of the Board do not engage in deliberations at such sessions that determine or result in the joint conduct or disposition of official Corporation business on such matters.

(4) A gathering for the purpose of engaging in preliminary discussions or exchanges of views that do not effectively predetermine official Corporation action on a particular matter.

(f) *Member* means a current member of the Corporation's Board of Directors.

(g) *Presiding Officer* means the Chairperson or, in the absence of the Chairperson, the Vice Chairperson of the Board of Directors or other member authorized to act in this capacity by the Board.

(h) *Quorum* means the number of Members authorized to conduct Corporation business pursuant to the Board's bylaws.

§ 2505.3 To what extent are meetings of the Board open to the public?

The Board shall conduct meetings, as defined in § 2505.2, in accordance with this part. Except as provided in § 2505.4, the Board's meetings shall be open to the public. The public is invited to attend all meetings of the Board that are open to the public but may not participate in the Board's deliberations at such meetings or record any meeting by means of electronic, photographic, or other device.

§ 2505.4 On what grounds may the Board close a meeting or withhold information?

The Board may close a meeting or withhold information that otherwise would be required to be disclosed under §§ 2505.5, 2505.6 and 2505.7 if it properly determines that an open meeting or disclosure is likely to—

(a) Disclose matters that are—

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy; and

(2) In fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of the Corporation;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute—

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records, but only to the extent that the production of such records or information would—

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential

information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institution;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Corporation, except that this provision shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action; or

(j) Specifically concerning the Corporation's issuance of a subpoena or the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 2505.5 What are the procedures for closing a meeting, withholding information, and responding to requests by affected persons to close a meeting?

(a) The Board may vote to close a meeting or withhold information pertaining to a meeting. Such action may be taken only when a majority of the entire membership of the Board votes to take such action. A separate vote shall be taken with respect to each action under § 2505.4. The Board may act by taking a single vote with respect to a series of meetings which are proposed to be closed to the public, or with respect to any information concerning a series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in the series. Each Member's vote under this paragraph shall be recorded and no proxies shall be allowed.

(b) If your interests may be directly affected if a meeting is open you may request that the Board close the meeting on one of the grounds referred to in § 2505.4(e), (f), or (g). You should submit your request to the Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, D.C. 20525. The Board shall, upon the request of any one of its members, determine by recorded vote whether to grant your request.

(c) Within one working day of any vote taken pursuant to this section, the Board shall make publicly available a written copy of such vote reflecting the vote of each Member on the question. If a meeting is to be closed to the public, the Board shall, within one working day, make available a full written explanation of its action closing the meeting and a list of all persons expected to attend the meeting and their affiliation.

(d) For each closed meeting, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemption relied upon. A copy of the certification shall be available for public inspection.

(e) For each closed meeting, the Board shall issue a statement setting forth the time, place, and persons present. A copy of such statement shall be available for public inspection.

(f)(1) For each closed meeting, with the exception of a meeting closed pursuant to § 2505.4(h) or (j), the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting.

(2) For meetings that are closed pursuant to § 2505.4(h) or (j), the Board may maintain a set of minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any vote. All documents considered in connection with any action shall be identified in such minutes.

(3) The Corporation shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Corporation determines to contain information which may be properly withheld. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Corporation shall maintain the transcript, recording, or minutes for each closed meeting for at least two years or at least one year after the conclusion of any Corporation business acted upon at the meeting, whichever occurs later.

§ 2505.6 What are the procedures for making a public announcement of a meeting?

(a) For each meeting, the Board shall make a public announcement, at least one week before the meeting, of—

(1) The meeting's time and place;

(2) The matters to be considered;

(3) Whether the meeting is to be open or closed; and

(4) The name and business telephone number of the official designated by the Board to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if—

(1) The Board determines by recorded vote that Board business requires that the meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time and posted on the Corporation's home page.

(c) Immediately following a public announcement required by paragraph (a) of this section, the Corporation will submit for publication in the **Federal Register** a notice of the time, place, and subject matter of the meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting.

§ 2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

(a) After there has been a public announcement of a meeting, the time or place of the meeting may be changed only if the Board publicly announces the change at the earliest practicable time. Such a change need not be determined by recorded vote.

(b) After there has been a public announcement of a meeting, the subject-matter of the meeting, or the determination of the Board to open or to close a meeting may be changed only when—

(1) The Board determines, by recorded vote, that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces the change and the vote of each Member at the earliest practicable time.

(c) The deletion of any subject-matter previously announced for a meeting is not a change requiring the approval of

the Board under paragraph (b) of this section.

Dated: November 15, 1999.

Thomasenia P. Duncan,

General Counsel.

[FR Doc. 99–30539 Filed 11–24–99; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[ET Docket No. 98–95, FCC 99–305]

Dedicated Short Range Communications of Intelligent Transportation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates 75 megahertz of spectrum at 5.850–5.925 GHz to the mobile service for use by Dedicated Short Range Communications ("DSRC") systems operating in the Intelligent Transportation System ("ITS") radio service. ITS services are expected to improve traveler safety, decrease traffic congestion, facilitate the reduction of air pollution, and help to conserve vital fossil fuels. DSRC systems are being designed that require a short range wireless link to transfer information between vehicles and roadside systems. We are also adopting basic technical rules establishing power limits, and unwanted emission limits for DSRC operations. These decisions will further the goals of the United States ("U.S.") Congress and the Department of Transportation ("DOT") to improve the efficiency of the Nation's transportation infrastructure and will facilitate the growth and development of the ITS industry.

EFFECTIVE DATE: December 27, 1999.

FOR FURTHER INFORMATION CONTACT: Tom Derenge, Office of Engineering and Technology, (202) 418–2451.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, ET Docket 98–95, FCC 99–305, adopted October 21,1999, and released October 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room Cy-A257, 445 12th Street, S.W., Washington, D.C., and is available on the FCC's Internet site at www.fcc.gov/Bureaus/Engineering—Technology/—Orders/1999/. This document may also be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

Summary of the Report and Order

1. By this action, the Commission allocates 75 megahertz spectrum at 5.850–5.925 GHz to the mobile service for use by Dedicated Short Range Communications ("DSRC") systems operating in the Intelligent Transportation System ("ITS") radio service. ITS services are expected to improve traveler safety, decrease traffic congestion, facilitate the reduction of air pollution, and help to conserve vital fossil fuels. DSRC systems are being designed that require a short range wireless link to transfer information between vehicles and roadside systems. We are also adopting basic technical rules establishing power limits and unwanted emission limits for DSRC operations. The R&O defers consideration of licensing and service rules and spectrum channelization plans to a later proceeding because standards addressing such matters are still under development by the Department of Transportation. Once such standards are developed, the Commission could take whatever action is necessary to implement the standards related to DSRC use. The decisions made here will further the goals of the U.S. Congress and the DOT to improve the efficiency of the Nation's transportation infrastructure and will facilitate the growth and development of the ITS industry.

2. On June 11, 1998, the Commission released the *Notice of Proposed Rule Making* ("NPRM") in ET Docket No. 98–95, 63 FR 35558, June 30, 1998, which proposed to allocate the 5.85–5.925 GHz band on a primary basis to the mobile service for use by DSRC-based ITS operations. ITS applications rely upon the integration of advanced communications systems and highway infrastructure systems. Communications are an essential component of the backbone of all ITS applications, which rely on the swift and accurate flow of information. While many ITS communications requirements are being met within the framework of existing telecommunications systems, the NPRM stated that there is a need for spectrum for reliable short-range wireless communications links between vehicles traveling at highway speeds and roadside systems, i.e., DSRC. Accordingly, the Commission proposed an allocation of 75 megahertz of spectrum near 5.9 GHz for DSRC operations and requested comment on various related matters.

3. On June 9, 1998, the President signed the *Transportation Equity Act for the 21st Century*. Section 5206(f) of this Act states that "[t]he Federal Communications Commission shall consider, in consultation with the Secretary of Transportation, spectrum needs for the operation of intelligent transportation systems, including spectrum for the dedicated short-range vehicle-to-wayside wireless standard. Not later than January 1, 2000, the Federal Communications Commission shall have completed a rule making considering the allocation of spectrum for intelligent transportation systems."

4. The R&O recognizes the substantial efforts by both Government and non-Government entities to develop, in response to Congress' transportation legislation, a National ITS Plan and Architecture addressing ways of using communications technologies to increase the efficiency of the nation's transportation infrastructure. While some parties argue that other spectrum may be more appropriate for DSRC operations, the Commission found that the 5.85–5.925 GHz band can accommodate a wide variety of reliable DSRC applications without significantly hindering other users of this spectrum.

Spectrum Allocation

5. Domestically, the entire 5.850–5.925 GHz band is currently allocated on a co-primary basis for the Government's Radiolocation Service (*i.e.*, for use by high-powered military radar systems) and for non-Government Fixed Satellite Service ("FSS") uplink operations. Industrial, Scientific and Medical ("ISM") devices and unlicensed part 15 devices are also permitted to operate in the 5.850–5.875 GHz segment. Finally, the Amateur radio service has a secondary domestic allocation in the entire band.

6. The R&O concludes that the 5.9 GHz range is appropriate for DSRC applications due to its potential compatibility with European and Asian DSRC developments, the availability of radio technology, signal propagation characteristics, and the available spectral capacity in this spectrum range. After carefully reviewing the record, we conclude that an allocation of spectrum in the 5.9 GHz region is the best available choice for DSRC applications. The record also demonstrates that the propagation characteristics of this region of the spectrum are well suited to the short range comunications of up to a mile that will typify DSRC operations. The ITS community has done research showing that the 5.85–5.925 GHz frequency band provides adequate range for DSRC

communications and reasonable frequency reuse distances.

7. First, we note that DSRC applications are a key element in meeting the nation's transportation needs into the next century and in improving the safety of our nation's highways. The record submitted for DSRC deployment in the U.S. indicates a need for up to 32 different DSRC transactions, many of which will require two-way capabilities, wideband channels, and the need for multiple channels in a single location. We also note that not all channels will be available for DSRC deployment in all areas due to incumbent radar, ISM and FSS operations. Therefore, we find that 75 megahertz of DSRC spectrum within the United States is warranted due to the scope of the National ITS Architecture, the incumbent operations in this band in the U.S. and consideration DSRC developments domestically and internationally.

8. The R&O also addresses, ITS compatibility issues with Canada and Mexico and concludes that our allocation is sufficient to promise interoperability with Canadian ITS developments. While discussions with Mexico are on-going, the Commission does not anticipate spectrum sharing problems with operations in Mexico. As service rules are developed and operations in these bands are more clearly defined, the need to develop coordination requirements in border areas will be considered. Nevertheless, the R&O encourages any entities addressing standards for ITS operations in the 5.9 GHz range to plan DSRC applications with the least potential for interference with Canadian operations for the 5.875–5.883 GHz and 5.908–5.925 GHz bands.

9. The R&O concludes that the 5.85–5.925 GHz band is appropriate for DSRC-based ITS applications due to the variety of operations to be accommodated, the propagation characteristics of the band, the significant efforts of the Federal and state governments paired with industry to research ITS use in this band, and ITS developments internationally. Accordingly, the R&O allocates the 5.850–5.925 GHz band on a primary basis to the mobile service for use by DSRC-based ITS operations. In order to insure that mobile operations in this range are ITS related, the item adopts footnote NG160 to the Table of Frequency Allocations to read as follows:

NG160: In the 5850–5925 MHz band, the use of the non-Federal government mobile service is limited to Dedicated Short Range Communications operating in the Intelligent Transportation System radio service.

Spectrum Sharing

10. *Government Radar Operations.* The National Telecommunications and Information Administration ("NTIA") urges the Commission to require DSRC operations within 75 kilometers of 65 possible radar locations to coordinate their operations through the Frequency Assignment Subcommittee of the Interdepartment Radio Advisory Committee ("IRAC"). DOT provides a study that indicates that DSRC operations could operate in close proximity to most high powered Government radar operations. The R&O concludes that sharing between DSRC and Government operations is possible if proper coordination is performed, and thus adopts the NTIA recommendation. Further, DSRC applications within these coordination areas cannot claim protection from existing radar operations, but new radar installations that may be deployed subsequent to DSRC implementation would have to coordinate with incumbent DSRC operations.

11. *FSS Operations.* The R&O finds that DSRC applications would be compatible with FSS uplinks because FSS earth stations typically use highly directional antennas pointed towards the geostationary orbital arc, and DSRC applications would typically be pointed towards a highway and operate at relatively low power. It may be necessary in some cases for DSRC systems to avoid an area near an incumbent FSS earth station in order to avoid the high powered earth station transmission. Nonetheless, because of the limited number of FSS earth stations and their use of highly directional antennas, the R&O finds that spectrum sharing is feasible. At this time, the Commission does not anticipate that prior coordination is necessary between DSRC and FSS operations.

12. *Amateur Service Operations.* The R&O concludes that DSRC operations in the 5.85–5.925 GHz band are unlikely to receive significant interference from or cause interference to amateur operations. Further, the R&O notes that amateur operations are secondary in this spectrum range. The R&O does not anticipate that a formal coordination procedure will be necessary because amateur operations are not extensively deployed, and due to the availability of interference remedies if they occur. The R&O encourage any ITS entities wishing to use the 5.85–5.925 GHz band to informally notify the ARRL or the local amateur service community of its intended operation.

13. *Unlicensed Hearing Assistance Devices.* Resound filed comments stating that it is contemplating development of unlicensed low power hearing assistance devices in the 5.85–5.875 GHz band under the FCC's Part 15 rules. Even if the Commission were to preclude DSRC operations in the 5.85–5.875 GHz segment, the incumbent operations in this band already pose a significant interference environment for hearing assistance devices. The R&O recognizes that Resound's hearing assistance devices could be beneficial and encourage them to identify other spectrum that may be more appropriate for these devices.

Technical Requirements

14. The Secretary of Transportation submitted, in satisfaction of the June 1, 1999 statutory requirement, a report to Congress identifying which standards are critical to national interoperability or standards development and specifying the status of the development of each standard identified. The R&O concludes that it would be beneficial at this time to adopt basic technical requirements to promote spectrum sharing and create a basic framework for the development of DSRC operational standards by industry. The Commission recognizes that the rules it adopts here may need to be reviewed at a later time as it develops licensing and service rules for DSRC systems.

Spectrum Channelization

15. The R&O finds that a spectrum channelization plan would facilitate the efficient use of this spectrum and interoperability among various DSRC services. However, the record here is insufficient to devise a specific channel plan that would adequately address the spectrum requirements, both narrowband and broadband, of the various potential DSRC applications. This action invites the ITS industry and the DOT to consider the spectrum requirements of various DSRC applications and recommend a spectrum channel plan. The Commission will address this matter further in a future proceeding proposing licensing and service rules.

Power

16. The Commission finds that it is important to establish some power limits for DSRC operations so that they can achieve widespread deployment, and typically power requirements need to be flexible enough to allow various DSRC applications to be developed. Most DSRC operations will use highly directional antennas to focus communications in an intended

direction (*e.g.*, along the lane of a highway) and to promote frequency reuse. Therefore, the Commission has adopted the following power requirements for DSRC operations in the 5.85–5.925 GHz band:

> The peak transmit output power over the frequency band of operations shall not exceed 750 mW or 28.8 dBm with up to 16 dBi in antenna gain. If transmitting antennas of directional gain greater than 16 dBi are used, the peak transmit output power shall be reduced by the amount in dB that the directional gain of the antenna exceeds 16 dBi, *i.e.*, the device's maximum EIRP shall not exceed 30 W EIRP. However, the peak transmitter output power may be increased to account for any line losses due to long transmission cables between the transmitter and the DSRC device's antenna, provided the EIRP does not exceed 30 W.

The Commission finds that this power limit is sufficient to satisfy many DSRC applications, compensate for transmission line losses, promote the deployment of various types of applications, and provide a high degree of frequency reuse. Nonetheless, the rules will require ITS licensees to use the minimal power necessary to achieve reliable communications in order to promote frequency reuse.

Unwanted Emission Limits

17. The R&O states that it is necessary to limit the amount of unwanted emissions, both those occurring outside of the DSRC spectrum band and those emanating from one channel to the next within the DSRC band. The unwanted emission limits proposed are appropriate and necessary to promote spectrum sharing between DSRC applications in the 5.85–5.925 GHz band. Accordingly, the Commission adopts the emission mask requirements of § 90.210(k) for DSRC operations in the 5.9 GHz band. The R&O recognizes that depending on the developing DSRC applications, the licensing scheme adopted and the corresponding spectrum channelization plan, the Commission may need to revisit the emission limits between specific channels or applications, *e.g.*, more sensitive applications on specific channels may require additional protection or a licensee with access to multiple consecutive channels in a geographic area could benefit from additional flexibility regarding unwanted emissions without affecting other operations.

Frequency Stability

18. The Commission proposed to apply to DSRC operations in the 5.9 GHz band the frequency stability requirement specified in § 2.995 (§ 2.1055) of our rules in order to prevent DSRC operations from causing interference to DSRC operations on other channels or to other services in nearby spectrum. However, part 90 has more specific frequency stability requirements in § 90.213 which vary according to the channel bandwidth of the operation. Since the R&O is not yet able to establish a channelization plan for DSRC operations, the Commission defers any decision on frequency stability requirements to a future proceeding.

RF Guidelines

19. The Commission requires compliance with RF safety guidelines for all applications to ensure the public's safety. Therefore, DSRC operations must comply with the RF safety guidelines contained in the *Second Memorandum Opinion and Order* ("Second MO&O") in ET Docket No. 93–62, 62 FR 47960, September 12, 1997. The R&O finds that this level of protection is appropriate and will not result in exposure to the public of unsafe levels of RF energy.

Unlicensed DSRC Operations

20. Section 15.245 of the Commission's rules permits unlicensed field disturbance sensors to operate in the 5.785–5.815 GHz band. While these field disturbance sensors are not available for two-way information communications, the rules would permit backscatter type toll-tag operations in this band with a permitted average field strength of 500 millivolts/meter at a distance of 3 meters (75 mW EIRP). Additionally, § 15.247 of the rules permits unlicensed spread spectrum communications devices to operate in the 5.725–5.850 GHz band with a maximum peak transmitter output power of 1 watt with antenna gain of up to 6 dBi. Finally, § 15.249 permits unlicensed communications devices to operate in the 5.725–5.875 GHz band with a maximum average field strength of 50 millivolts/meter at a distance of 3 meters (0.8 mW EIRP

21. The R&O finds that a backscatter system that transmits an unmodulated carrier signal to a mobile transponder which, in turn, reflects a modulated signal, does not qualify as a conventional spread spectrum system under the part 15 rules. Part 15 defines a spread spectrum system as a system that conveys information by modulation of a carrier by some conventional means and then deliberately widens the bandwidth by means of a spreading function over that which would be needed to transmit the information alone. Because backscatter beacon stations do not modulate their carriers, they do not qualify as spread spectrum devices. The R&O declines to modify the rules to allow backscatter systems to qualify for use as spread spectrum systems under § 15.247. Nevertheless, the spread spectrum requirements of § 15.247 can likely accommodate a wide range of alternative unlicensed DSRC communication systems.

Other Issues

22. The Commission adopts the following definition of DSRC services for this mobile allocation in the 5.9 GHz range:

> The use of non-voice radio techniques to transfer data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. DSRC systems may also transmit status and instructional messages related to the units involved.

Final Regulatory Flexibility Analysis

23. As required by the Regulatory Flexibility Act ("RFA"),[1] an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated into the *Notice of Proposed Rule Making* ("NPRM") in ET Docket No. 98–95, 63 FR 35558, June 30, 1998. The Commission sought written comment on the proposals in the NPRM, including the IRFA. The Final Regulatory Flexibility Analysis ("FRFA") in this Report and Order conforms to the RFA.[2]

A. Need for and Objective of This Report and Order (R&O).

This R&O allocates the 5.850–5.925 GHz band to the Private Land Mobile Service ("PLMS") for use by Dedicated Short Range Communications Services ("DSRCS") in the provision of Intelligent Transportation Services ("ITS"). DSRCS communications are used for non-voice wireless transfer of data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. The objective of this action is to provide sufficient spectrum to permit the development of DSRCS technologies to

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

[2] *See* 5 U.S.C. 604.

improve the Nation's transportation infrastructure and bolster the involvement of United States companies in this emerging industry. While this R&O does adopt an allocation and some basic technical parameters, the issues of licensing, channelization, and other complex technical matters are being deferred to a later proceeding. Therefore, because this present action will not result in the provision of these operations, the IRFA certified that the NPRM would not have a significant economic impact on a substantial number of small entities. Nevertheless, a full voluntary IRFA was performed. No comments directly addressed the IRFA.

B. Summary of Significant Issues Raised by the Comments in Response to the IRFA

No comments were filed in response to the IRFA.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions.[3] The RFA, 5 U.S.C. 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). This standard also applies in determining whether an entity is a small business for purposes of the RFA. The 5.85–5.925 GHz band is currently available to the U.S. Federal Government for Radiolocation purposes, Fixed Satellite Service licensees for international intercontinental links, amateur radio operators and by various entities using part 18 Industrial, Scientific and Medical ("ISM") equipment and part 15 unlicensed device equipment. We note that there are only 45 Fixed Satellite Service ("FSS") licenses issued for operation in 5.85–5.925 GHz band and most if not all are held by large corporations. Further, amateur radio operators and the Federal Government do not qualify as small entities. We also note that part 18 ISM devices are protected in this band, which only generate electromagnetic energy, are not used for communication purposes and therefore cannot receive interference or be impacted by this action. Finally, while part 15 unlicensed devices are permitted to operate in the 5.85–5.875 GHz portion, they do so on an unlicensed, unprotected basis. Further, the Commission has no means to determine the number of small entities that might use unlicensed part 15 equipment that operates in the band at issue. SBA guidelines to the Small Business Regulatory Enforcement Fairness Act ("SBREFA") state that about 99.7% of all firms are small and have fewer than 500 employees and less than $25 million in sales and assets.[4] There are approximately 6.3 million establishments in the SBA database.[5] The R&O discusses means by which the potential DSRCS would be able to share the spectrum with incumbent operations and concludes that harmful interference can be avoided through coordination. Accordingly, we do not believe this action would have a negative impact on small entities that operate in the 5.85–5.925 GHz band.

Regarding the Fixed Satellite Service licensees for international intercontinental links, the Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).[6] This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[7] According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $9,999 million.[8] The Census report does not provide more precise data. Regarding the future use of the 5.85–5.925 GHz band by DSRCS equipment, we believe it is too early to make an determination on such operations. A future rule making proceeding will propose further technical standards, licensing and service rules and a separate regulatory flexibility analysis will address all issues relevant to that proceeding.

D. Description of Projected Reporting, Record Keeping and Other Compliance Requirements

In this proceeding, we are allocating this spectrum for a new service. The licensing and technical regulations governing these operations will be addressed in a separate proceeding. Therefore, this action does not create any reporting or compliance requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The IRFA in this proceeding requested comment on ways to minimize economic impact on small entities, but no comments were filed. Nevertheless, the attached R&O discusses whether operational standards should be adopted to facilitate nation-wide interoperability of DSRCS, but deferred this issue to a later proceeding that will develop service rules for these operations. The development of DSRCS operational standards could delay the initial deployment of such equipment, but could ultimately result in equal footing for all manufacturers, including small entities, in producing equipment that meets uniform standards.

F. Report to Congress

This Commission will send a copy of the R&O, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the R&O, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 2 and 90

Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2 and 90 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302, 303, 307, 336 and 337, unless otherwise noted.

---

[1] *See* 5 U.S.C. 601(6).

[4] See *A Guide to the Regulatory Flexibility Act*, U.S. Small Business Administration, Washington, DC, May 1996, at page 14.

[5] *Id.*, at 15.

[6] An exception is the Direct Broadcast Satellite (DBS) Service, *infra*.

[7] 13 CFR 120.121, SIC code 4899.

[8] *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Revise the entry for the 5850–5925 MHz band to read as follows.

b. Add footnote NG160.

§ 2.106 Table of Frequency Allocations

* * * * * * *

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
•	•	•	•	•	•	•
5850—5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE S5.150	5850—5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Amateur Radiolocation S5.150	5850—5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Radiolocation S5.150	5850—5925 RADIOLOCATION G2 S5.150 US245	5850—5925 FIXED-SATELLITE (Earth-to-space) US245 MOBILE NG160 Amateur S5.150	ISM Equipment (18) Private Land Mobile (90) Amateur (97)	
•	•	•	•	•	•	•

Non-Government (NG) Footnotes

* * * * *

NG160: In the 5850–5925 MHz band, the use of the non-Federal government mobile service is limited to Dedicated Short Range Communications operating in the Intelligent Transportation System radio service.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

3. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 251–2, 303, 309, 332, and 337, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251–2, 303, 309, and 332, unless otherwise noted.

4. Section 90.7 is amended by adding a new definition for Dedicated Short Range Communications Service to read as follows:

§ 90.7 Definitions.

* * * * *

Dedicated Short Range Communications Services (DSRCS) The use of non-voice radio techniques to transfer data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. DSRC systems may also transmit status and instructional messages related to the units involved.

* * * * *

5. Section 90.205 is amended by redesignating paragraphs (m) and (n) as paragraphs (n) and (o), respectively; and by adding a new paragraph (m) to read as follows:

§ 90.205 Power and antenna height limits.

* * * * *

(m) *5850–5925 MHz.* The peak transmit output power over the frequency band of operations shall not exceed 750 mW or 28.8 dBm with up to 16 dBi in antenna gain. If transmitting antennas of directional gain greater than 16 dBi are used, the peak transmit output power shall be reduced by the amount in dB that the directional gain of the antenna exceeds 16 dBi, *i.e.*, the device's maximum EIRP shall not exceed 30 W EIRP. However, the peak transmitter output power may be increased to account for any line losses due to long transmission cables between the transmitter and the DSRCS device's antenna, provided the EIRP does not exceed 30 W.

* * * * *

6. Section 90.210 is amended by revising the "APPLICABLE EMISSION MASKS" Table and by revising paragraphs (k)(3), (k)(3)(i), and (k)(3)(ii) to read as follows:

§ 90.210 Emission masks.

* * * * *

APPLICABLE EMISSION MASKS

Frequency band (MHz)	Mask for equipment with Audio low pass filter	Mask for equipment without audio low pass filter
Below 25 [1]	A or B	A or C
25–50	B	C
72–76	B	C
150–174 [2]	B, D, or E	C, D, or E
150 Paging-only	B	C
220–222	F	F
421–512 [2]	B, D, or E	C, D, or E
450 Paging-only	B	G
806–821/851–866 [3]	B	G
821–824/866–869	B	H
896–901/935–940	I	J
902–928	K	K
929–930	B	G
5850–5925	K	K
All other bands	B	C

[1] Equipment using single sideband J3E emission must the requirements of Emission Mask A. Equipment using other emissions must meet the requirements of Emission Mask B or C, as applicable.

[2] Equipment designed to operate with a 25 kHz channel bandwidth must meet the requirements of Emission Mask B or C, as applicable. Equipment designed to operate with a 12.5 kHz channel bandwidth must meet the requirements of Emission Mask D, and equipment designed to operate with a 6.25 kHz channel bandwidth Must meet the requirements of Emission Mask E.

[3] Equipment used in this licensed to EA or non-EA systems shall comply with the emission mask provisions of § 90.691.

* * * * *

(k) * * *

(3) *Other transmitters.* For all other transmitters authorized under subpart M that operate in the 902–928 MHz band and for Dedicated Short Range Communication Services in the 5.850–5.925 GHz band, the peak power of any emission shall be attenuated below the power of the highest emission contained within the licensee's sub-band in accordance with the following schedule:

(i) On any frequency within the authorized bandwidth: Zero dB.

(ii) On any frequency outside the licensee's sub-band edges: 55 + 10 log(P) dB, where (P) is the highest emission (watts) of the transmitter inside the licensee's sub-band.

* * * * *

7. Section 90.350 is revised to read as follows:

§ 90.350 Scope.

The Intelligent Transportation Systems radio service is for the purpose of integrating radio-based technologies into the nation's transportation infrastructure and to develop and implement the nation's intelligent transportation systems. It includes the Location and Monitoring Service (LMS) and Dedicated Short Range Communications Service (DSRCS). Rules as to eligibility for licensing, frequencies available, and any special requirements for services in the Intelligent Transportation Systems radio service are set forth in this subpart.

8. A new § 90.371 is added to subpart M to read as follows:

§ 90.371 Dedicated short range communications service.

(a) These provisions pertain to systems in the dedicated short range communications services (DSRCS). DSRCS systems utilize non-voice radio techniques to transfer data over short distances between roadside and mobile radio units, between mobile units, and between portable and mobile units to perform operations related to the improvement of traffic flow, traffic safety and other intelligent transportation service applications in a variety of public and commercial environments. When authorized, DSRCS licensees operating systems in the 5850–5925 MHz band may serve individuals, federal government agencies and entities eligible for licensing in this Part, and must comply with the following requirements.

(b) DSRCS stations operating in the band 5850–5925 MHz shall not receive protection from Government Radiolocation services in operation prior to the establishment of the DSRCS station. Operation of DSRCS stations within 75 kilometers of the locations listed in the table below must be coordinated through the National Telecommunications and Information Administration.

Location	Latitude	Longitude
Ft. Lewis, WA	470525N	1223510W
Yakima Firing Center, WA.	464018N	1202135W
Ft. Carson, CO	383810N	1044750W
Ft. Riley, KS	385813N	0965139W
Ft. Shafter, HI	211800N	1574900W
Hunter Army Airfield, GA.	320100N	0810800W
Ft. Gillem, GA	333600N	0841900W
Ft. Benning, GA	322130N	0845815W
Ft. Stewart, GA	315145N	0813655W
Ft. Rucker, AL	311947N	0854255W
Yuma Proving Grounds, AZ.	330114N	1141855W
Ft. Hood, TX	310830N	0974550W
Ft. Knox, KY	375350N	0855655W
Ft. Bragg, NC	350805N	0790035W
Ft. Campbell, KY	363950N	0872820W
Ft. Polk, LA	310343N	0931226W
Ft. Leonard Wood, MO.	374430N	0920737W
Ft. Irwin, CA	351536N	1164102W
Ft. Sill, OK	344024N	0982352W
Ft. Bliss, TX	314850N	1062533W
Ft. Leavenworth, KS	392115N	0945500W
Ft. Drum, NY	440115N	0754844W
Ft. Gordon, GA	332510N	0820910W
Ft. McCoy, WI	440636N	0904127W
Ft. Dix, NJ	400025N	0743713W
Parks Reserve Forces Training Area, CA.	374254N	1214218W
Ft. Hunter Ligget, CA	355756N	1211404W
Pacific Missile Test Center, CA.	340914N	1190524W
Naval Air Development Center, PA.	401200N	0750500W
Mid-Atlantic Area Frequency Coordinator, MD.	381710N	0762500W
Naval Research Laboratory, MD.	383927N	0763143W
Naval Ocean Systems Center, CA.	324500N	1171000W
Naval Research Laboratory, DC.	385500N	0770000W
Naval Surface Weapons Center, MD.	390205N	0765900W
Naval Electronic Systems Engineering Activity, MD.	381000N	0762300W
Midway Research Center, VA.	382640N	0772650W
Aberdeen Proving Ground, MD.	392825N	0760655W
Ft. Huachuca, AZ	313500N	1102000W
Ft. Monmouth, NJ	401900N	0740215W
Picatinny Arsenal, NJ	405600N	0743400W
Redstone Arsenal, AL.	343630N	0863610W
White Sands Missile Range, NM.	322246N	1062813W
Army Research Laboratory, MD.	390000N	0765800W
Space and Missile Systems Center, CA.	335500N	1182200W
Edwards AFB, CA	345400N	1175200W
Patrick AFB, FL	281331N	0803607W
Eglin AFB, FL	302900N	0863200W
Holloman AFB, NM	322510N	1060601W
Kirtland AFB, NM	350230N	1063624W
Griffiss AFB, NY	431315N	0752431W
Wright-Patterson AFB, OH.	394656N	0840539W
Hanscom AFB, MA	422816N	0711725W
Nellis AFB, NV	361410N	1150245W
Vandenberg AFB, CA	344348N	1203436W
U.S. Air Force Academy, CO.	385800N	1044900W
Brooks AFB, TX	292000N	0982600W
Arnold AFB, TN	352250N	0860202W
Tyndall AFB, FL	300412N	0853436W
Charles E. Kelly Support Facility—Oakdale, PA.	402357N	0800925W

[FR Doc. 99–30591 Filed 11–24–99; 8:45 am]

BILLING CODE 6712–01–U

Proposed Rules

Federal Register
Vol. 64, No. 227
Friday, November 26, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV00–959–1 PR]

Onions Grown in South Texas; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would decrease the assessment rate established for the South Texas Onion Committee (Committee) for the 1999–2000 and subsequent fiscal periods from $0.05 to $0.04 per 50-pound container or equivalent of onions handled. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202)720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable onions beginning on August 1, 1999, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would decrease the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $0.05 to $0.04 per 50-pound container or equivalent of onions handled.

The South Texas onion marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997–98 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.05 per 50-pound container or equivalent that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee, in a mail vote, unanimously recommended 1999–2000 expenses of $271,000 for personnel, office, compliance, promotion, and research expenses. These expenses were approved in July 1999. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on September 16, 1999, and recommended 1999–2000 expenditures of $301,000 and an assessment rate of $0.04 per 50-pound container or equivalent of onions. In comparison, last year's budgeted expenditures were $271,000.

The assessment rate of $0.04 is $0.01 lower than the rate currently in effect. The Committee voted to lower its assessment rate because at the current rate of assessment, income would exceed anticipated expenses by about $74,000 and the projected reserve on July 31, 2000 ($458,720), would exceed the level the Committee believes to be adequate to administer the program.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $97,200 for administrative expenses, $34,800 for compliance, $36,000 for promotion, and $133,000 for research projects. Budgeted expenses for these items in 1998–99 were $94,000, $36,000, $33,000, and $108,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the year are estimated at 7.5 million 50-pound equivalents, which should provide $300,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently $384,720) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 959.43).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1999–2000 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 80 producers of South Texas onions in the production area and approximately 37 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 1998–99 marketing year, onions produced on 13,782 acres were shipped by the industry's 37 handlers with the average and median volume handled being 147,669 and 102,478 fifty-pound bag equivalents, respectively. In terms of production value, total revenues for the 37 handlers were estimated to be $43.7 million, with average and median revenues being $1.1 million, and $820,000, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all the 37 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the $5,000,000 annual receipt threshold. All of the 80 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources is considered, a majority of the producers would not be considered small entities because receipts would exceed $500,000.

This rule would decrease the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $0.05 to $0.04 per 50-pound container or equivalent of onions. The Committee recommended 1999–2000 expenditures of $301,000 and an assessment rate of $0.04 per 50-pound container or equivalent. The proposed assessment rate of $0.04 is $0.01 lower than the 1998–99 rate. The quantity of assessable onions for the 1999–2000 fiscal period is estimated at 7.5 million 50-pound equivalents. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $97,200 for administrative expenses, $34,800 for compliance, $36,000 for promotion, and $133,000 for research projects. Budgeted expenses for these items in 1998–99 were $94,000, $36,000, $33,000, and $108,000, respectively.

The Committee voted to lower its assessment rate because at the current rate of assessment, income would exceed anticipated expenses by about $74,000 and the projected reserve on July 31, 2000 ($458,720), would exceed the level the Committee believes to be adequate to administer the program.

The Committee reviewed and recommended 1999–2000 expenditures of $301,000, which included increases in administrative and office salaries, and research programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Research Subcommittee and the Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the onion industry. The assessment rate of $0.04 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 7.5 million 50-pound equivalents for the 1999–2000 fiscal period. This is approximately $1,000 below the anticipated expenses, which the Committee determined to be acceptable. Funds from the Committee's reserve

will be used to make up the expected deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 1999 marketing season could range between $7.00 and $12.00 per 50-pound container or equivalent of onions. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue could range between .571 and .333 percent.

This action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 16, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and speciality crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1999–2000 fiscal period began on August 1, 1999, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the proposed rule would decrease the assessment rate for assessable onions beginning with the 1999–2000 fiscal period; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 1999, an assessment rate of $0.04 per 50-pound container or equivalent is established for South Texas onions.

Dated: November 8, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–30813 Filed 11–24–99; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 721

Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: Under National Credit Union Administration's regulations, a federal credit union is allowed to offer group purchasing activities, including insurance plans, to its members. For group purchasing plans other than insurance, a federal credit union is limited to reimbursement up to its cost amount. NCUA is soliciting public comment on, among other things, whether NCUA should amend this regulation to set forth credit union's incidental powers that would not have a limit on reimbursement. Information from interested parties will assist NCUA in determining whether to issue a proposed rule on incidental authorities and group purchasing.

DATES: The NCUA must receive comments on or before February 24, 2000.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or you may fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Senior Staff Attorney or Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

Currently, Part 721 sets forth the rules governing federal credit union (FCU) group purchasing activities, including insurance plans. Group purchasing activities are generally understood to mean FCUs making the products or services of third-party vendors available to their members. FCUs may provide an endorsement and perform administrative functions on behalf of the vendors. 12 CFR 721.1.

Part 721 was originally issued as a way to foster the educational role of credit unions.

The regulation evolved into a method for credit unions to provide information, products and services to their members through outside vendors. For group purchasing plans other than insurance, a federal credit union is limited to reimbursement up to its "cost amount." 12 C.F.R. 721.2(a)(2) For insurance products, except as otherwise provided by state law, compensation is unlimited with respect to insurance sales, by the credit union or its employees, which are directly related to an extension of credit by the credit union or directly related to the opening or maintenance of a share, share draft or share account at the credit union.

The legal authority for the activities covered by Part 721 is the incidental powers provision of the Federal Credit Union Act. That provision states that a federal credit union may "exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated." 12 U.S.C. 1757(17). NCUA's current test of what is an incidental power is whether the activity is convenient or useful to the credit union's business as expressly authorized by the Federal Credit Union Act. NCUA's position on incidental

powers has been based on *Arnold Tours, Inc.* v. *Camp*, 472 F.2d 427 (1st Cir. 1972). This case established a test for determining the incidental powers of national banks. Recent case law has broadened the analysis of incidental powers for banks, and we believe that it is time to revisit the scope of that authority for credit unions.

In *Arnold Tours*, the court derived incidental powers solely from the express powers enumerated in the National Bank Act. The court examined whether a national bank was exercising an incidental power by operating a full-scale travel agency. National banks may exercise "all such incidental powers as shall be necessary to carry on the business of banking." 12 U.S.C. 24 (Seventh). The court found that "[t]he most reliable guides as to what is encompassed in the term 'the business of banking' are the express powers of national banks." 472 F.2d at 431. In determining that banks could not operate travel agencies, the court held:

> [A] national bank's activity is authorized as an incidental power, "necessary to carry on the business of banking" . . . if it is convenient or useful in connection with the performance of one of the bank's established activities pursuant to its express powers under the National Bank Act. If this connection between an incidental activity and an express power does not exist, the activity is not authorized as an incidental power.

Id. at 432.

The court's incidental powers test looked to whether the activity was convenient or useful to the express power authorized by the law.

However, recent case law has broadened the "business of banking" analysis and expanded the incidental powers of national banks. In an appellate case where a bank wanted to establish a subsidiary to offer municipal bond insurance, the court held that insuring such bonds was functionally equivalent to the issuance of stand-by letters of credit, a product permitted within the business of banking. *American Insurance Association* v. *Clarke*, 865 F.2d 278 (D.C. Cir. 1988). Expanding the test of *Arnold Tours*, the court explained:

> Appellant argues that a bank may engage only in those activities specifically mentioned and others incident (i.e. convenient or useful) to the expressly authorized activities. We agree with the district court, however, that this reflects "a narrow and artificially rigid view of both the business of banking and the National Bank Act." 656 F.Supp at 408. Rather than attempt to correlate municipal bond insurance to a specific power mentioned in section 24(Seventh), the Comptroller focused on the essence of [the subsidiary's] service: the provision of credit.

Id. at 281.

Another court found that national banks were permitted to offer debt cancellation contracts. "The 'incidental powers" of national banks are not limited to activities that are deemed essential to the exercise of express powers. Rather, courts have analyzed the issue by asking whether the activity is closely related to an express power and is useful in carrying out the business of banking." *First National Bank of Eastern Arkansas* v. *Taylor*, 907 F.2d 775, 778 (8th Cir. 1990). The court found that debt cancellation contracts were directly related to the bank's lending activities. The court also found that these contracts were a convenient method of extinguishing debt to avoid the costs of collection efforts.

The U.S. Supreme Court continued this trend in *Nationsbank of North Carolina* v. *Variable Annuity Life Insurance Co.* (VALIC), 513 U.S. 251 (1995). In *VALIC*, the Court examined whether a national bank's subsidiary could act as an agent in the sale of annuities. The Court agreed with the Comptroller that the business of banking includes the brokerage of financial investment instruments. As such, national banks may "serve as agents for their customers in the purchase and sale of various financial investment instruments * * * and annuities are widely recognized as just such investment products." *Id.* at 259. In evaluating the case, the unanimous Court stated:

> We expressly hold that the "business of banking" is not limited to the enumerated powers in section 24 Seventh and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated. The exercise of the Comptroller's discretion, however, must be kept within reasonable bounds. Ventures distant from dealing in financial investment instruments—for example, operating a general travel agency—may exceed those bounds.

Id. at 259, n. 2.

Subsequent case law has applied this less restrictive analysis. An appellate court found that a division of a national bank could enter into engagement contracts as a broker. The court gave deference to the OCC's finding that "allowing banks to use their expertise as an intermediary effectuating transactions between parties facilitates the flow of money and credit through the economy" and therefore falls within the bank's incidental powers necessary to carry on the business of banking. *Norwest Bank Minnesota, N.A.* v. *Sween Corporation*, 118 F.3d 1255, 1260 (8th Cir. 1997).

Recent OCC opinions exemplify that agency's approach to the incidental powers question. In one instance, the OCC found a bank subsidiary was permitted to underwrite credit related insurance for credit cards and safe deposit box liability insurance. OCC Corporate Decision #97–92, November 1997. The OCC first considered whether the activity was viewed as part of the "business of banking," and then to whether the activity was incidental to the business of banking. Based on a string of judicial decisions, the OCC uses the following three principles to determine whether an activity is within the scope of the "business of banking": (1) Is the activity functionally equivalent to or a logical outgrowth of a recognized banking activity; (2) would the activity respond to customer needs or otherwise benefit the bank or its customers; and (3) does the activity involve risks similar in nature to those already assumed by banks." *Id.* at 3.

The NCUA Board believes that recent case law allows the agency to adopt a more expansive view of a credit union's incidental power authority. In addition, the NCUA Board has found the OCC's analysis persuasive and is requesting comment on whether NCUA should adopt a similar position.

B. How the Regulation Should Be Amended

The NCUA Board is considering retitling the regulation, "Incidental Powers and Group Purchasing Activities," and restructuring it into four distinct sections. As discussed above, the NCUA Board is considering expanding its view of the incidental powers of an FCU.

The NCUA Board is considering and seeking specific comment on the structure of the first section regarding incidental powers. This section would list activities, or categories of activities, considered to be within the incidental powers of a federal credit union. At this time, descriptions of what specific activities are permissible as an exercise of an FCU's incidental powers are found in legal opinions issued by the Office of General Counsel. For example, among other activities, NCUA opinion letters have stated that electronic tax filing, raffles to encourage member voting, and check clearing services for a sponsor/member are all permissible incidental powers activities. The preamble to this section would list those activities or categories of activities currently permitted and specify that the list is illustrative but not exclusive. The NCUA Board believes it may be helpful

for credit unions if the agency listed, in addition to the approved activities, or categories of activities, a process for a credit union to request additional activities that may be within the credit union's incidental authority. The NCUA Board would specify the manner in which credit unions could apply for confirmation that an incidental power is permissible. The NCUA Board further requests that commenters suggest standards to be considered when analyzing the permissibility of an activity, or a category of activities as an incidental power. The Board is also interested in receiving comments on examples of activities and categories of activities which could be considered as incidental to the business of credit unions.

Some credit unions may not realize they may earn money from their incidental power activities. Therefore, staff is considering whether the revised regulation should explicitly state that FCUs are not limited in the amount they may earn from incidental powers activities to clear up any lingering confusion.

The second section would authorize group purchasing activities and limit compensation to the credit union's cost amount. Generally, this section would track the current regulation. The NCUA Board believes it may be helpful to include a fuller description of what a group purchasing plan is and clarify "cost amount." The NCUA Board is also considering including in the regulation a provision regarding the sale of mailing lists. The provision would likely incorporate NCUA's long-standing position that an FCU may sell mailing lists as a means of facilitating group purchasing for members but that, as for all group purchasing activities, an FCU's compensation is limited. In connection with a provision on mailing lists, the NCUA Board intends to incorporate its longstanding view that no information about the member other than a member's name and address, such as personal information about the member's business with the credit union, can be included in the sale of the mailing list. This view is consistent with NCUA's longstanding interpretation of the confidentiality provision contained in the standard FCU Bylaws. The NCUA Board is also requesting comment on whether a member should have the option to elect to have their name deleted from any mailing list provided to a third party.

The NCUA Board is seeking comment on the limit of compensation to the credit union's cost amount, whether any limit is appropriate, and should reasonable value be added to the credit union's cost when applying the compensatory limit. The NCUA Board is also requesting comment on how the term "reasonable value" should be defined.

The third section would focus on insurance products activities as a longstanding incidental authority. This section would track the current regulation and state that an FCU may receive unlimited compensation with respect to the sale of insurance products that are directly related to a credit union loan or the opening and maintenance of any type of share account. In addition, the term "insurance products" would be defined for purposes of this regulation.

The fourth section would set forth the current conflict of interest provision applicable to group purchasing activities, including insurance activities. The regulation currently states that "[n]o director, committee member, or senior management employee of a Federal credit union or any immediate family member of any such individual may receive any compensation or benefit, directly or indirectly, in conjunction with any activity under this Part." The current section defines "immediate family member" and "senior management employee," but the meaning of the phrase "in conjunction with any activity" has been the cause of some confusion. Thus, the NCUA Board believes it would be helpful to clarify how this phrase should be applied.

By the National Credit Union Administration Board on November 18, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–30695 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–51–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain General Electric Company (GE) GE90 series turbofan engines. This proposal would reduce the cyclic life limits for certain mid fan shafts with undesirable microstructure, and remove from service those mid fan shafts prior to exceeding the new limits and replace with serviceable parts. Reports of magnetic particle inspections conducted by the manufacturer identifying segregation in the raw material, resulting in lower fatigue life properties, prompted this proposal. The actions specified by the proposed AD are intended to prevent mid fan shaft failure, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–51–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William S. Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7742, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–51–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–51–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports from General Electric Company (GE) that the cyclic life limits for certain mid fan shafts installed on GE90–90B, –85B, and –76B series turbofan engines must be reduced. The manufacturer advises that retained austenite has been observed in these mid fan shafts due to segregation in the raw material. Material property testing indicates that reduced low cycle fatigue (LCF) properties result, requiring reduced life limits. This condition, if not corrected, could result in mid fan shaft failure, which could result in an uncontained engine failure and damage to the aircraft.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would reduce the cyclic life limits for affected mid fan shafts, and remove from service those mid fan shafts prior to exceeding the new limits and replace with serviceable parts.

Economic Analysis

There are approximately 118 engines of the affected design in the worldwide fleet. The FAA estimates that 4 engines installed on aircraft of US registry would be affected by this proposed AD and that the prorated life reduction would cost approximately $71,000 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $284,000.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

General Electric Company: Docket No. 98–ANE–51–AD.

Applicability: General Electric Company (GE) GE90–90B, –85B, and –76B series turbofan engines, with mid fan shafts, part numbers (P/Ns) 1767M71G01, 1767M71G02, and 1767M75G02, installed. These engines are installed on but not limited to Boeing 777 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent mid fan shaft failure, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

Reduced Life Limits

(a) Remove from service mid fan shafts and replace with serviceable parts prior to the following new, lower cyclic life limits:

(1) For mid fan shafts, P/N 1767M71G01, installed on GE90–85B and –90B series engines, the new life limit is 4,200 cycles-since-new (CSN).

(2) For mid fan shafts, P/N 1767M71G02, installed on GE90–85B and –90B series engines, the new life limit is 4,200 CSN.

(3) For mid fan shafts, P/N 1767M75G02, installed on GE90–76B, –85B, and –90B series engines, the new life limit is 8,200 CSN.

(b) This AD establishes new life limits for mid fan shafts, P/N 1767M71G01, 1767M71G02, and 1767M75G02. Except as provided in paragraph (c) of this AD, no alternate life limits for these affected parts may be approved.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

Ferry Flights

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the inspection requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on October 18, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–30804 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes, and Model MD–88 and MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series airplanes, and Model MD–88 and MD–90–30 airplanes, that would have required replacement of the lanyard assembly pins of the evacuation slides with solid stainless steel pins. That proposal was prompted by a report that, due to stress corrosion on the lanyard pins, the arms of the lanyard assembly of the evacuation slide were found to be frozen. This new action revises the applicability of the proposed rule to include one additional airplane and remove another. The actions specified by this new proposed AD are intended to prevent the improper deployment of the evacuation slide due to stress corrosion, which could delay or impede evacuation of passengers during an emergency.

DATES: Comments must be received by December 21, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5338; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–244–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series airplanes, and Model MD–88 and MD–90–30 airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on December 18, 1998 (63 FR 70069). That NPRM would have required replacement of the lanyard assembly pins of the evacuation slides with solid stainless steel pins. That NPRM was prompted by a report that, due to stress corrosion on the lanyard pins, the arms of the lanyard assembly of the evacuation slide were found to be frozen. That condition, if not corrected, could result in improper deployment of the evacuation slide due to stress corrosion, which could delay or impede evacuation of passengers during an emergency.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the NPRM.

Request to Reference Latest Service Information

One commenter requests that the applicability of the proposed AD be revised to reference Revision 02 of McDonnell Douglas Alert Service Bulletin DC9–25A357, dated May 28, 1998. The commenter states that the effectivity listing of this alert service bulletin has been revised.

The FAA concurs with the commenter's request to reference Revision 02 of the alert service bulletin. The FAA has reviewed and approved Revision 02 of McDonnell Douglas Alert Service Bulletin DC9–25A357, dated May 28, 1998 (for Model DC–9 series airplanes and Model MD–88 airplanes). The replacement procedures described in this revised alert service bulletin are essentially identical to those described Revision 01 of the service bulletin (which was referenced in the supplemental NPRM as an appropriate source of service information for accomplishment of the replacement). However, the effectivity listing of the alert service bulletin has been revised to delete one MD–90–30 airplane (i.e., fuselage number 2167) and include one DC–9 series airplane (i.e., fuselage number 2166) that is subject to the identified unsafe condition. Therefore, the FAA has revised the supplemental NPRM to reference Revision 02 of the alert service bulletin as the appropriate source of service information (for certain airplanes) for determining the applicability of the supplemental NPRM, and as an additional source of service information for accomplishing the required replacement.

Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide

additional opportunity for public comment.

Cost Impact

There are approximately 2,167 McDonnell Douglas Model DC–9 series airplanes, and Model MD–88 and MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,200 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $146,400, or $122 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 97–NM–244–AD.

Applicability: Model DC–9 series airplanes, and Model MD–88 airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC9–25A357, Revision 02, dated May 28, 1998; and Model MD–90–30 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–25A019, dated February 11, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the improper deployment of the evacuation slide, which could delay or impede evacuation of passengers during an emergency, accomplish the following:

Replacement

(a) Within 180 days after the effective date of this AD, replace the lanyard assembly pins of the evacuation slides with solid corrosion-resistant pins, in accordance with McDonnell Douglas Alert Service Bulletin DC9–25A357, dated February 11, 1997, Revision 01, dated March 16, 1998, or Revision 02, dated May 28, 1998 (for Model DC–9 series airplanes and Model MD–88 airplanes); or McDonnell Douglas Alert Service Bulletin MD90–25A019, dated February 11, 1997 (for Model MD–90–30 airplanes); as applicable.

Spares

(b) As of the effective date of this AD, no lanyard assembly, part number (P/N) 3961899–1 or P/N 3956939–501, shall be installed on any airplane unless that assembly has been modified in accordance with the requirements of paragraph (a) of this AD.

Alternate Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30803 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–102–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes. That action would have required a revision to the FAA-approved Airplane Flight Manual (AFM) to prohibit in-flight operation of the auxiliary power unit (APU). That proposal also would have required inspection of the APU fire extinguisher discharge cartridge for corrosion, and replacement of the discharge cartridge with a new cartridge, if necessary; and modification of the fire extinguishing system tube assembly. Accomplishment of these actions would have terminated the AFM revision. Since the issuance of the NPRM, the manufacturer has advised the Federal Aviation Administration (FAA) that, on all of the affected Model 328–100 series airplanes, the APU fire extinguisher discharge cartridges have been inspected, all corroded discharge cartridges have been replaced with new cartridges, and modification of the fire extinguishing system tube assemblies

has been accomplished. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2196; fax (425) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, was published in the **Federal Register** on June 28, 1999 (64 FR 34590). The proposed rule would have required a revision to the FAA-approved Airplane Flight Manual (AFM) to prohibit in-flight operation of the auxiliary power unit (APU); inspection of the APU fire extinguisher discharge cartridge for corrosion, and replacement of the discharge cartridge with a new cartridge, if necessary; and modification of the fire extinguishing system tube assembly. After accomplishment of the inspection, modification, and replacement (if necessary), the AFM revision would be removed. The proposed rule was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The proposed actions were intended to correct deficiencies in the design of the fire extinguishing system that did not allow for adequate fluid drainage. This condition, if not corrected, could have resulted in operational failure of the APU fire extinguisher.

Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, the manufacturer has provided the FAA with confirmation that, on all of the affected Dornier Model 328–100 series airplanes, the APU fire extinguisher discharge cartridges have been inspected, all corroded discharge cartridges have been replaced with new cartridges, and modification of all the fire extinguishing system tube assemblies has been accomplished.

FAA's Conclusions

Upon further consideration, the FAA has determined that the proposed actions of the NPRM (Rules Docket 99–NM–102–AD) are unnecessary since the unsafe condition that those actions were intended to address no longer exists. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed rule nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 99–NM–102–AD, published in the **Federal Register** on June 28, 1999 (64 FR 34590), is withdrawn.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30802 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–192–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires a one-time inspection to determine the part number of the fuel shutoff spar valve for the outboard engines. That AD also requires replacement of certain valves with new valves, or modification of the spar valve body assembly, and various follow-on actions. This action would add new requirements to accomplish those actions on additional airplanes; and would require a one-time inspection of the maintenance records of certain airplanes to determine if the fuel shutoff spar valve for the outboard engines has ever been replaced, and various follow-on actions. This proposal is prompted by reports indicating that, due to high fuel pressure, certain fuel system components of the outboard engines have failed. The actions specified by the proposed AD are intended to prevent such high fuel pressure, which could result in failure of the fuel system components; this situation could result in fuel leakage, and, consequently, lead to an engine fire.

DATES: Comments must be received by January 10, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–192–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; or ITT Aerospace Controls, 28150 Industry Drive, Valencia, California 91355. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dionne M. Stanley, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2250; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–192–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–192–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 6, 1998, the FAA issued AD 98–21–29, amendment 39–10837 (63 FR 55517, October 16, 1998), applicable to Boeing Model 747–100, –200, –300, –400, 747SP, and 747SR series airplanes, having line numbers 629 through 1006 inclusive, and powered by General Electric or Rolls-Royce engines, to require a one-time visual inspection to determine the part number of the fuel shutoff valve for the outboard engines. That AD also requires replacement of certain valves with new valves, or modification of the spar valve body assembly, and various follow-on actions. That action was prompted by reports indicating that, due to high fuel pressure, certain fuel system components of the outboard engines have failed on in-service airplanes. The requirements of that AD are intended to prevent such high fuel pressure, which could result in failure of the fuel system components; this situation could result in fuel leakage, and, consequently, lead to an engine fire.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received two reports indicating that, due to high fuel pressure, the fuel system components of the outboard engine have failed on Model 747 series airplanes having line numbers 629 through 1006 inclusive, and powered by Pratt & Whitney engines. Therefore, these airplanes are also subject to the identified unsafe condition.

In addition, since issuance of AD 98–21–29, the FAA has determined that Model 747 series airplanes having line numbers 1 through 628 inclusive may also have improper engine fuel shutoff spar valves installed. Proper valves were installed during production; however, the potential exists that, during a maintenance action on these airplanes, the original valve was replaced with an improper valve. Therefore, these airplanes are also subject to the identified unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998, and Revision 2, dated July 8, 1999, which describe procedures for an inspection to determine the part number of the fuel shutoff spar valve for the outboard engines; and replacement of certain valves with new valves and various follow-on actions. These follow-on actions include aligning valve(s), performing a check to detect leaks, and correcting any discrepancy. Revision 2 of the service bulletin also describes procedures, for certain airplanes, for an inspection of the airplane maintenance records to determine if the fuel shutoff spar valves for the outboard engines have ever been replaced or if the engines in the inboard positions have ever been installed in the outboard positions, and an inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve and replacement of any discrepant part with a serviceable part. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–21–29 to continue to require the actions specified in that AD. The proposed AD would add new requirements to accomplish those actions on additional airplanes; and would require a one-time inspection of the maintenance records of certain airplanes to determine if the fuel shutoff spar valve for the outboard engines has ever been replaced, and various follow-on actions that are specified in AD 98–21–29. Certain actions would be required to be accomplished in accordance with the service bulletin described previously.

Explanation of Changes Made to the Requirements of AD 98–21–29

The FAA has incorporated previously approved alternative methods of compliance to AD 98–21–29. Paragraph (a) has been revised by adding Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998, and Revision 2, dated July 8, 1999, as appropriate sources of service information. Paragraphs (b) and (c) have been revised by adding Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999, as an appropriate source of service information. Additionally, a note has been added to identify the applicable maintenance manual sections for the inspections specified in paragraphs (b) and (c).

The FAA also has clarified the inspection requirements contained in paragraphs (b) and (c) of the AD. Whereas AD 98–21–29 specified a one-time inspection, the FAA has revised paragraphs (b) and (c) to clarify that its intent is to require a one-time general visual inspection. Additionally, a note has been added to the proposed rule to define that inspection.

Cost Impact

There are approximately 987 airplanes of the affected design in the worldwide fleet. The FAA estimates that 208 airplanes of U.S. registry would be affected by this proposed AD.

The one-time inspection to determine the part number of the valve that is currently required by AD 98–21–29 and retained in this proposed AD, which would affect approximately 59 airplanes of U.S. registry, takes approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required inspection on U.S. operators is estimated to be $14,160, or $240 per airplane.

Should an operator be required to accomplish the one-time inspection to detect leaks and cracks (after replacement of the valve or modification of the assembly) that is currently required by AD 98–21–29 and retained in this proposed AD, it would take approximately 16 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection is estimated to be $960 per airplane.

The new one-time inspection of the maintenance records of the airplane that is proposed in this AD action, which would affect approximately 149 airplanes of U.S. registry, would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD on U.S. operators is estimated to be $17,880, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator

would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to modify the valve body assembly of the fuel system rather than replace a discrepant valve, it would take approximately 20 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would cost approximately $404 (2 kits) per airplane. Based on these figures, the cost impact of this inspection is estimated to be $1,604 per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10837 (63 FR 55517, October 16, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–192–AD. Supersedes AD 98–21–29, Amendment 39–10837.

Applicability: Model 747 series airplanes, line numbers 1 through 1006 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent high fuel pressure in components between the fuel shutoff spar valve and the engine fuel shutoff valve, which could result in failure of the fuel system components, lead to fuel leakage, and, consequently, lead to a possible engine fire, accomplish the following:

Restatement of Actions Required by AD 98–21–29, Amendment 39–10837:

One-Time Inspection

(a) For airplanes having line numbers 629 through 1006 inclusive and powered by General Electric or Rolls-Royce engines: Within 18 months after November 20, 1998 (the effective date of AD 98–21–29, amendment 39–10837), perform a one-time inspection to determine the part number of the fuel shutoff spar valve for the left- and right-hand outboard engines, in accordance with Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996; Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998; or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999.

Replacement

(1) If a valve having part number (P/N) S343T003–40 (ITT P/N 125334D–1) is installed, no further action is required by this AD.

(2) If a valve having P/N S343T003–40 (ITT P/N 125334D–1) is not installed, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace the valve with a new valve, in accordance with the service bulletin. Prior to further flight following accomplishment of the replacement, align the valve(s), perform a check to detect leaks, and correct any discrepancy, in accordance with the service bulletin. Or

(ii) Modify the valve body assembly of the fuel system in accordance with ITT Service Bulletin SB125120–28–01, ITT Service Bulletin SB107970–28–01, and ITT Service Bulletin SB125334–28–01; all dated July 15, 1996.

Inspection

(b) For airplanes having line numbers 629 through 1006 inclusive and powered by General Electric or Rolls-Royce engines: Except as provided in paragraph (c) of this AD, prior to further flight following accomplishment of paragraph (a)(2) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on all four engines, in accordance with the applicable section that pertains to Rolls-Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 Airplane Maintenance Manual (AMM), or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part. No further action is required by this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(c) For airplanes having line numbers 629 through 1006 inclusive, powered by General Electric or Rolls-Royce engines, and having maintenance records that positively demonstrate that the inboard engines have never been located in the outboard position: Prior to further flight following accomplishment of paragraph (a)(2) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on the outboard engines only, in accordance with the applicable section that pertains to Rolls-Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 AMM, or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part. No further action is required by this AD.

Note 3: Accomplishment of the actions specified in AMM 71–00–00/501, Test No. 2, "Fuel and Oil Leak Check," for Rolls-Royce RB211 series engines, and AMM 71–00–00/501, Test No. 3, "Ground Test—Idle Leak Check (or Idle Power)," for General Electric CF6–80C and CF6–45/50 series engines, is acceptable for compliance with the actions specified by paragraphs (b) and (c) of this AD.

New Actions Required by This AD

Inspection

(d) For airplanes having line numbers 1 through 628 inclusive: Within 18 months after the effective date of this AD, perform a one-time inspection of the maintenance records of the airplane to determine if the fuel shutoff spar valve for the left- and right-

hand outboard engines has ever been replaced, in accordance with Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999.

(1) If neither valve has been replaced, no further action is required by this AD.

(2) If either valve has been replaced, prior to further flight, accomplish paragraph (e) of this AD for that valve.

(e) For airplanes having line numbers 629 through 1006 inclusive and powered by Pratt & Whitney engines, or for airplanes having line numbers 1 through 1006 inclusive and powered by General Electric or Rolls-Royce engines on which a fuel shutoff spar valve has been replaced: Within 18 months after the effective date of this AD, perform a one-time inspection to determine the part number of the fuel shutoff spar valve for the left- and right-hand outboard engines, as applicable, in accordance with Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996; Boeing Service Bulletin 747–28A2199, Revision 1, dated October 1, 1998; or Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999.

Replacement

(1) If a valve having P/N S343T003–40 (ITT P/N 125334D–1) is installed, no further action is required by this AD.

(2) If a valve having P/N 60B92406–161 (ITT P/N 125334–1), P/N 60B92406–81 (ITT P/N 125120–1), or P/N 60B92406–201 (ITT P/N 107970–1) is installed, accomplish either paragraph (f) or (g) of this AD, as applicable.

(3) If a valve having P/N S343T003–40 (ITT P/N 125334D–1), P/N 60B92406–161 (ITT P/N 125334–1), P/N 60B92406–81 (ITT P/N 125120–1), or P/N 60B92406–201 (ITT P/N 107970–1) is not installed, prior to further flight, accomplish either paragraph (e)(3)(i) or (e)(3)(ii), and either paragraph (f) or (g) of this AD, as applicable.

(i) Replace the valve with a new valve, in accordance with the service bulletin. Prior to further flight following accomplishment of the replacement, align the valve(s), perform a check to detect leaks, and correct any discrepancy, in accordance with the service bulletin. Or

(ii) Modify the valve body assembly of the fuel system in accordance with ITT Service Bulletin SB125120–28–01, ITT Service Bulletin SB107970–28–01, and ITT Service Bulletin SB125334–28–01; all dated July 15, 1996.

Inspection

(f) Except as provided in paragraph (g) of this AD, prior to further flight following accomplishment of paragraph (e) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on all four engines, in accordance with Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part.

(g) For airplanes having maintenance records that positively demonstrate that the inboard engines have never been located in the outboard position: Prior to further flight following accomplishment of paragraph (e) of this AD, perform a one-time general visual inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on the outboard engines only, in accordance with Boeing Service Bulletin 747–28A2199, Revision 2, dated July 8, 1999. If any leak is detected, prior to further flight, replace the part with a serviceable part.

Alternative Methods of Compliance

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(h)(2) Alternative methods of compliance, approved previously in accordance with AD 98–21–29, amendment 39–10837, are approved as alternative methods of compliance with paragraph (a), (a)(1), (a)(2), (a)(2)(i), (b), and (c) of this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30801 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–219–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes, equipped with ground spoiler actuators having part number 1059A0000–02. This proposal would require removal of the gland attachment bolts of the ground spoiler actuator and replacement with new bolts installed with higher torque. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent hydraulic fluid leakage due to loose or broken gland attachment bolts, and consequent loss of the main hydraulic system.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–219–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–219–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on Dornier Model 328–100 series airplanes equipped with ground spoiler actuators having part number 1059A0000–02. The LBA advises that the gland attachment bolts of the ground spoiler actuator have been found loose or broken due to inadequate torquing, which can result in hydraulic fluid leakage. This condition, if not corrected, could result in loss of the main hydraulic system.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–27–289, dated March 3, 1999, which describes procedures for removal of the four gland attachment bolts of the ground spoiler actuator and replacement with new bolts installed at a higher torque. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 1999–175, dated June 3, 1999, in order to assure the continued airworthiness of these airplanes in Germany.

The Dornier service bulletin references Liebherr Service Bulletin 1059A–27–01, dated March 5, 1999, as an additional source of service information for accomplishment of the replacement.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would be provided at no cost to the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,440, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GMBH: Docket 99–NM–219–AD.

Applicability: Model 328–100 series airplanes, equipped with ground spoiler actuators having part number 1059A0000–02, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent hydraulic fluid leakage due to loose or broken gland attachment bolts, and consequent loss of the main hydraulic system, accomplish the following:

Replacement

(a) Prior to the accumulation of 3,300 total flight hours, or within 330 flight hours after the effective date of this AD, whichever occurs later, remove the four gland attachment bolts of the ground spoiler actuator and replace with new bolts installed at a higher torque, in accordance with Dornier Service Bulletin SB–328–27–289, dated March 3, 1999.

Note 2: Dornier Service Bulletin SB–328–27–289, dated March 3, 1999, refers to Liebherr Service Bulletin 1059A–27–01, dated March 5, 1999, as an additional source of service information for accomplishment of the replacement.

Spares

(b) As of the effective date of this AD, no person shall install, on any airplane, a ground spoiler actuator having part number 1059A0000–02, unless it has been modified in accordance with Dornier Service Bulletin SB–328–27–289, dated March 3, 1999.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in German airworthiness directive 1999–175, dated June 3, 1999.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30800 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–306–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, that currently requires repetitive detailed visual inspections to detect cracking or other damage of certain diaphragm support structures of the forward equipment compartment; and repair, if necessary. This action would continue to require repetitive inspections, but would also require replacement of cracked or damaged diaphragm support structures with improved parts, which would terminate the requirement for repetitive inspections. This action also would add airplanes to the applicability of the proposed AD. This proposal is prompted by the development of improved diaphragms. The actions specified by the proposed AD are intended to prevent failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–306–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–306–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–306–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 9, 1998, the FAA issued AD 98–24–01, amendment 39–10888 (63 FR 63975, November 18, 1998), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, to require repetitive detailed visual inspections to detect cracking or other damage of certain diaphragm support structures of the forward equipment compartment; and repair, if necessary. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to detect and correct failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe.

In the preamble to AD 98–24–01, the FAA indicated that the actions required by that AD were considered "interim action" and that further rulemaking action was being considered. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows from that determination.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the manufacturer has issued new service information that specifies procedures for replacement of both diaphragms with improved diaphragms if any cracking or damage is found. The replacement would eliminate the need for the repetitive inspections.

The new service information also expands the applicability to include additional airplanes. This proposal would modify the applicability to include only those airplanes on which modification of the diaphragm support structure has not been accomplished. Reference to constructors numbers has been removed from the applicability of this proposed AD.

Explanation of Relevant Service Information

British Aerospace has issued Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, which describes procedures for replacement of cracked or damaged diaphragm support structures with improved parts, in addition to the repetitive inspections described in the original release of the service bulletin. This replacement would eliminate the need for further repetitive inspections. Accomplishment of the actions specified in Revision 1 of the service bulletin is intended to adequately address the identified unsafe condition. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–24–01 to continue to require the actions specified in that AD. This proposed AD would also require accomplishment of the actions specified in Revision 1 of the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, unlike the procedures described in Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, this proposed AD would not permit further flight if cracks are detected in certain diaphragms that support the upper structure of the forward equipment compartment. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject diaphragm that is found to be cracked must be replaced with new, improved parts prior to further flight.

Cost Impact

There are approximately 59 airplanes of U.S. registry that would be affected by this proposed AD.

The inspection that is currently required by AD 98–24–01, and retained in this proposed AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection requirement of this proposed AD on U.S. operators is estimated to be $3,540, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10888 (63 FR 63975, November 18, 1998), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 99–NM–306–AD. Supersedes AD 98–24–01, Amendment 39–10888.

Applicability: Jetstream Model 4101 airplanes, on which British Aerospace Modification JM41384 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct failure of the two diaphragms that support the upper structure of the forward equipment compartment, which could accelerate fatigue damage in adjacent structure and result in reduced structural integrity of the airframe, accomplish the following:

Restatement of Certain Requirements of AD 98–24–01

(a) For airplanes having constructors numbers 41004 through 41098 inclusive: Prior to the accumulation of 4,500 total landings, or within 300 landings after December 23, 1998 (the effective date of AD

98–24–01, amendment 39–10888), whichever occurs later: Perform a detailed visual inspection to detect cracking or other damage of the diaphragms installed between station 4 and station 8 of the forward fuselage, in accordance with Jetstream Alert Service Bulletin J41–A53–023, dated December 2, 1996, or Revision 1, dated July 30, 1999.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) If no cracking or other damage is detected, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(2) If any cracking or other damage is detected, prior to further flight, accomplish the actions required by either paragraph (a)(2)(i) or (a)(2)(ii). After the effective date of this AD, only replacement of the diaphragms in accordance with paragraph (a)(2)(ii) of this AD is acceptable for compliance with the repair requirements of this paragraph.

(i) Repair the diaphragm in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Thereafter, repeat the inspection at intervals not to exceed 3,000 landings.

(ii) Replace both diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999. Such replacement constitutes terminating action for the repetitive inspections required by this AD.

New Repetitive Inspections and Corrective Actions Required by This AD:

(b) For airplanes other than those listed in paragraph (a) of this AD: Prior to the accumulation of 4,500 total landings, or within 300 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracking or other damage of the diaphragms installed between station 4 and station 8 of the forward fuselage, in accordance with Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999.

(1) If no cracking or other damage is detected, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(2) If any cracking or other damage is detected, prior to further flight, replace both diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999. Such replacement constitutes terminating action for the repetitive inspections required by this AD.

(c) Replacement of diaphragms with new, improved diaphragms, in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A53–023, Revision 1, dated July 30, 1999, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30799 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–307–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 777–200 series airplanes. This proposal would require one-time inspections to detect cracking of the aft wheel well bulkhead, and corrective actions, if necessary. This proposal also would require modification of the aft wheel well bulkhead. For certain airplanes, this proposal also would require a one-time visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice area of the aft wheel well bulkhead, and corrective actions, if necessary. This proposal is prompted by a report indicating that numerous fatigue cracks were found in the aft wheel well bulkhead. The actions specified by the proposed AD are intended to prevent fatigue cracking of the aft wheel well bulkhead, which could result in rapid in-flight decompression of the airplane.

DATES: Comments must be received by January 10, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–307–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice

must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–307–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–307–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating numerous fatigue cracks have been found in the aft wheel well bulkhead of a Boeing Model 777–200 test airplane. During full-scale fatigue testing of the airplane, cracks between 0.15 to 1.5 inches long occurred at 55,186 flight cycles. The cracks were detected at the bulkhead web cut-out for the air driven pump duct, at the side fitting to lower chord splice area, and both sides of the splice joint of the aft wheel well bulkhead. At 110,000 flight cycles, cracks were detected in the vertical flange of the lower chord at the fairing support bracket attachment. Such fatigue cracking, if not detected and corrected, could result in rapid in-flight decompression of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, which describes procedures for a one-time visual inspection to detect cracking of the adjacent structure of the aft wheel well bulkhead, and a one-time high frequency eddy current (HFEC) inspection to detect cracking of certain fastener holes in the web, side fitting, and outer chord of the aft wheel well bulkhead, and corrective actions, if necessary. The corrective actions involve, for certain airplanes, removing additional fasteners, oversizing the cracked fastener holes, performing additional HFEC inspections, and replacing the fasteners with new fasteners.

For certain airplanes, Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, describes procedures for modification of the aft wheel well bulkhead. The modification involves cold working certain fastener holes; replacing the fairing support brackets and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims.

Additionally, for certain airplanes, Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, describes procedures for a one-time visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice of the aft wheel well bulkhead, and corrective actions, if necessary. The corrective actions involve removing the excess sealant between stringers S–27L to S–27R prior to accomplishing the inspections and modification of the aft wheel well bulkhead.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that, although the Boeing alert service bulletin specifies that the manufacturer may be contacted for disposition of certain cracking conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Additionally, operators also should note that, this proposed AD would require, removal of excess sealant in the remaining area between stringers S–27L and S–27R, prior to further flight, upon completion of the aft wheel well bulkhead modification. The alert service bulletin recommends that the excess sealant be removed prior to the threshold specified for fatigue inspections in Section 9 of the Maintenance Planning Document (MPD). In developing the appropriate compliance time, the FAA considered the manufacturer's recommendation and the degree of urgency associated with addressing the subject unsafe condition. In light of these factors, the FAA finds that the compliance time specified by this proposed AD to be appropriate.

Cost Impact

There are approximately 109 airplanes of the affected design in the worldwide fleet. The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD.

For all airplanes, it would take approximately 2 work hours per airplane to accomplish the general visual and HFEC inspections at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the these inspections proposed by this AD on U.S. operators is estimated to be $120 per airplane.

For all airplanes, it would take approximately 28 work hours per airplane to accomplish the proposed modification at an average labor rate of $60 per work hour. Required parts would be approximately $6,013 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $7,693 per airplane.

For certain airplanes, it would take 3 work hours per airplane to accomplish the proposed inspection to detect excess sealant at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the this inspection proposed by this AD on U.S. operaters is estimated to be $180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 99–NM–307–AD.

Applicability: Model 777–200 series airplanes having line numbers 1 through 144; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the aft wheel well bulkhead, which could result in rapid in-flight decompression of the airplane, accomplish the following:

General Visual Inspection

(a) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999: Prior to the accumulation of 11,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection to detect excess sealant covering the outer flange of the side fitting and lower chord and splice of the aft wheel well bulkhead, in accordance with Part I of the Accomplishment Instructions of the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) If no excess sealant is detected, no further action is required by this paragraph.

(2) If any excess sealant is detected, prior to further flight, remove the excess sealant from the aft wheel well bulkhead area in accordance with the alert service bulletin.

Inspections/Modification

(b) For Groups 1 and 2 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999: Prior to the accumulation of 11,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later, perform a one-time general visual inspection to detect cracking of the adjacent structure of the aft wheel well bulkhead and perform a one-time high frequency eddy current (HFEC) inspection to detect cracking of the fastener holes in the web, side fitting, and outer chord of the aft wheel well bulkhead, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(1) If no cracking is detected during the general visual and HFEC inspections, prior to further flight, modify the aft wheel well bulkhead (including cold working; replacing the fairing support bracket and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims), in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(2) If any cracking is detected during the general visual inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(3) If any cracking is detected during the one-time HFEC inspection, prior to further flight, remove additional fasteners, and perform a second HFEC inspection to detect cracking of the fastener holes, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(i) If no cracking is detected during the second HFEC inspection, prior to further flight, oversize all the holes to the diameter specified in the alert service bulletin, and perform a third HFEC inspection to detect cracking of the fastener holes, in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(A) If no cracking is detected during the third HFEC inspection, prior to further flight, replace the fasteners with new fasteners and modify the aft wheel well bulkhead (including cold working; replacing the fairing support bracket and splice plates with revised fairing support brackets and splice plates; and installing new web doublers and, if necessary, shims), in accordance with Part II of the Accomplishment Instructions of the alert service bulletin.

(B) If any cracking is detected during the third HFEC inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(ii) If any cracking is detected during the second HFEC inspection, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(c) For airplanes on which cracking has been detected during any inspection required by paragraph (b)(2), (b)(3)(i)(B), or (b)(3)(ii), prior to further flight, repair in accordance with a method approved by the Manager, Seattle Airplane Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

(d) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 777–53A0015, dated June 17, 1999, on which excess sealant was detected and removed in accordance with paragraph (a) of this AD: Prior to further flight following the accomplishment of the modification required by paragraph (b) of this AD, remove any excess sealant in the remaining area of the lower lobe of the aft wheel well bulkhead between stringers S–27L and S–27R, in accordance with the alert service bulletin.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 19, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30798 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–ZA01

Proposed Revision of the Commission's Procedure for the Review of Contract Market Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comment.

SUMMARY: As part of an ongoing program of regulatory reform, the Commodity Futures Trading Commission ("CFTC" or "Commission") is proposing to revise its procedures for the review of contract market rules and rule amendments. Subject to stated conditions, the proposed rulemaking would permit contract markets to place new rules and rule amendments into effect on the business day following their submission to and receipt by the Commission.

DATES: Comments must be received on or before Janaury 25, 2000.

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418–5521; or transmitted electronically to [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5490.

SUPPLEMENTARY INFORMATION

I. Statutory and Regulatory Background

Section 5a(a)(12)(A) of the Commodity Exchange Act ("Act") provides, among other things, that all rules [1] of a contract market that relate to terms and conditions [2] in futures or option contracts traded on or subject to the rules of a contract market must be submitted to the Commission for its prior approval. Section 5a(a)(12)(A) further requires that contract markets submit all other rules to the Commission for prior review. Other sections of the Act require rules addressing specified matters to be explicitly approved by the Commission.[3]

Pursuant to Section 5a(a)(12)(A), the Commission adopted Regulation 1.41 which sets forth procedures for the submission and review of proposed contract market rules. These procedures vary depending on the type of rule that the contract market seeks to implement. Paragraph (b) of Regulation 1.41 establishes review procedures for rules that relate to terms and conditions of a contract. Paragraph (c) of the regulation establishes review procedures for most rules that do not relate to terms and conditions.[4] Commission Regulation 1.41 also contains procedures for the filing of other types of exchange rules that may be implemented before or simultaneous to filing with the Commission. These include, among others, rules that are exempt from the requirements of Section 5a(a)(12)(A) of the Act (Regulation 1.41(d)), temporary emergency rules (Regulation 1.41(f)), and physical emergency rules (Regulation 1.41(g)).

Section 4(c) of the Act provides that "[i]n order to promote responsible economic or financial innovation and fair competition," the Commission may exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to Section 4(a) of the Act [5] from any of the requirements of that provision or from any other provision of the Act except Section 2(a)(1)(B). The Commission may not grant such an exemption unless it determines that the agreement, contract, or transaction would be consistent with the public interest.

Pursuant to this authority, the Commission is proposing to exempt contract markets from the rule review requirements of Section 5a(a)(12)(A) of the Act and from the regulations adopted thereunder. The Commission would continue to pursue vigorously its surveillance and enforcement activities. The Commission intends that this proposed rulemaking, and the manner in which the Commission would conduct oversight of contract market rules adopted pursuant to such a provision, should "promote responsible economic or financial innovation and fair competition."

II. The Proposed Amendments

A. Description of the Procedure

Proposed Commission Regulation 1.41(z) would permit contract markets [6] to place a new rule into effect the business day after the Commission has received submission of the rule. There would be no requirement, as under current regulations, to allow for prior Commission review of the rule. The submission would have to include a brief explanation of the rule and a description of any substantive opposing views expressed by members of the contract market or others with respect to the rule. In addition, the contract market would be required to certify that the rule submitted neither violates nor is inconsistent with any provision of the Act or the Commission's regulations. Although the form and content requirements for Regulation 1.41(z) rule filings would be more abbreviated than those for rule filings pursuant to Regulations 1.41(b) or 1.41(c), the Commission would retain its authority under Section 4(d) of the Act and other relevant provisions to conduct investigations, to gather information, and generally to oversee the contract market's adherence with the requirements and conditions of the Act.

B. Eligibility for the Procedure

1. Previous Designation as a Contract Market

In a companion **Federal Register** release (the "Companion Release"), the Commission is adopting today a new Regulation 5.3 that establishes a similar streamlined procedure for the listing of contracts, and their subsequent amendment, without Commission prior review and approval.[7] That procedure will be available solely to boards of trade that are designated as contract markets in at least one contract that is not dormant.[8] In its comment letter on that proposal, the Chicago Mercantile Exchange supported this provision,

---

[1] Commission Regulation 1.41(a)(1) defines "rule" of a contract market to mean "any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof."

[2] Commission Regulation 1.41(a)(2) defines "terms and conditions" to mean "any definition of the trading unit or the specific commodity underlying a contract for the future delivery of a commodity or commodity option contract, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract."

[3] For example, Section 4f(b) of the Act requires that contract markets must receive Commission approval for any minimum financial standards that they establish for futures commission merchants and introducing brokers.

[4] In **Federal Register** releases published on March 7, 1997, (62 FR 10434 and 62 FR 10427), the Commission adopted amendments to streamline and to expedite the procedures contained in Regulations 1.41 (b) and (c). Those amendments established alternative procedures that shortened the Commission's timeframe for reviewing contract market rules. Under these "fast track" review procedures, rule changes generally can be deemed approved, or permitted to be put into effect without Commission approval, ten days after Commission receipt, unless the Commission takes action to commence review of the rule for a 45-day period (or 75-day period in the case of rules published for comment in the **Federal Register**). The rules of certain non-cash settled contracts may be deemed approved forty-five days after receipt by the Commission.

[5] Among other things, Section 4(a) of the Act prohibits any person from executing, confirming the execution of, or otherwise dealing in any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery, unless such transaction is conducted subject to the rules of a board of trade which has been designed by the Commission as a contract market for such commodity.

[6] For the purposes of Regulation 1.41, the term "contract market" includes a clearing organization that clears futures contract transactions. Regulation 1.41(a)(3).

[7] The new designation procedure was proposed on July 20, 1999. 64 FR 40528 (July 27, 1999).

[8] *See* Commission Regulation 5.2.

noting that start-up exchanges are not appropriate for this procedure, as "the initial designation of a board of trade as a contract market entails a more lengthy review and analysis of its trading and clearing systems and its self-regulatory programs." The Commission believes that this rationale is equally applicable to the review of rules from inactive contract markets. Accordingly, the Commission is proposing to make the Regulation 1.41(z) process available solely to contract markets which are designated in at least one non-dormant contract.

2. Consistency with the Act and the Commission Regulations

A contract market would be required to submit a certification that the rule being implemented neither violated nor was inconsistent with any provision of the Act or the Commission regulations. This is the standard used by the Commission in determining whether to disapprove a rule.[9] Thus, the Regulation 1.41(z) procedure would not be available for contract market rules that, in the absence of some type of Commission exemption, would violate, or be inconsistent with the Act or the Commission regulations. For example, under Regulation 1.38(a), transactions are required to be executed in an open and competitive manner. Regulation 1.38(a), however, also permits exchanges to adopt rules for the execution of non-competitive transactions so long as such rules are submitted to and approved by the Commission. Thus, Regulation 1.38(a) reserves to the Commission the authority to determine what types of trading procedures need not meet the open and competitive requirement. Accordingly, non-competitive trading rules, such as certain block trading procedures, would not qualify for the Regulation 1.41(z) process because, absent affirmative Commission approval under Regulation 1.38, they would violate a provision of the regulations.

C. Legal Certainty

In the Companion Release, the Commission is adopting a provision that makes clear that, among other things, contracts listed pursuant to Rule 5.3 are not void or voidable in the event the Commission initiates a proceeding to disapprove, to alter, to amend, or to require a contract market to adopt a specific trading rule or procedure or to refrain from taking a specific action. The Commission is including a similar provision in proposed Regulation 1.41(z)(2) to ensure legal certainty for transactions effected subject to rules implemented pursuant to Regulation 1.41(z). Although the Commission would not approve, affirmatively allow into effect, or deem approved any contract market rules that were implemented pursuant to this proposed rulemaking, Regulation 1.41(z)(3) would expressly state that the submitting contract market would not be exempt from any provision of the Act or the Commission's regulations other than the rule review requirements of Section 5a(a)(12) of the Act and related Commission regulations. Therefore, for example, contract markets implementing rules pursuant to Regulation 1.41(z) would continue to be subject to the rule enforcement obligations of Section 5a(a)(8) of the Act.

III. Request for Comments

The Commission is requesting comment on any aspect of the proposed procedure, including, but not limited to, the following.

A. Exclusivity of Regulation 14.1(z) Process

Under the current rule review process of Regulation 1.41(b), rules relating to terms and conditions must be submitted for Commission approval. Rules that do not relate to terms and conditions must be submitted for Commission review pursuant to other provisions of Regulation 1.41. Unless the Commission determines otherwise, such rules may be deemed approved or placed into effect, as appropriate.

Contract markets on occasion specifically request that the Commission approve a rule that otherwise did not require Commission approval under any provision of the Act or the Commission Regulations. Contract markets rules processed under Regulation 1.41(z) would simply be placed into effect and would not be considered to have been "approved" by the Commission. The Commission is proposing the Regulation 1.41(z) procedure as an alternative to the existing Regulation 1.41 process. Under this proposal, contract markets could still submit a rule pursuant to Regulation 1.41(b) or 1.41(c), even if that rule qualified for the Regulation 1.41(z) process. However, the existence of these various rule review procedures may create confusion for market participants with respect to the regulatory history of rules and may lead to the inaccurate impression that rules adopted pursuant to Regulation 1.41(z) or 5.3 have been reviewed by the Commission.[10]

As a means of avoiding this possible confusion, the Commission requests comment on whether it should preserve the current approval process for rules that would qualify for the Regulation 1.41(z) process or whether the proposed Regulation 1.41(z) process should be the only process available. Similarly, should the Commission make the Regulation 5.3 procedure adopted today the sole means of listing new contracts and of amending their terms and conditions?

B. Suspension of Effectiveness of a Rule

The Act requires notice and opportunity for hearing before a rule may be disapproved or altered. This process can be lengthy. Market participants and others adversely affected by a rule change could incur harm during this period. The Commission requests comment on whether it should reserve the authority, under Regulation 1.41(z), to stay or to suspend the operation of an exchange rule once it has initiated a proceeding under Section 5a(a)(10), 5a(a)(12), 8a(7) or 8a(9) of the Act.

C. Contracts with Open Interest

The Commission is requesting comment on whether the Regulation 1.41(z) process should be available for rule amendments relating to contracts that have open interest at the time the rule is implemented. Could the rights of such position holders be impacted by a rule change affecting their contracts? How could the Commission and/or a contract market ensure that traders are not harmed by the adoption of a rule amendment for a contract with open positions?

D. Emergency Rules

In Section 5a(a)(12)(B) of the Act, Congress mandated that the Commission create a special process for the implementation of contract market rules on an emergency basis without Commission approval. Section 5a(a)(12)(B) was adopted in the *Futures Trading Practices Act of 1992*. The legislative history for this provision indicates that "the Committee [on Agriculture] was concerned that the Commission might not be actively engaged in decisions by exchanges to invoke their emergency powers."[11] The Commission notes that proposed

[9] *See* Standard to be Applied by the Commission in Disapproving Contract Market Rules. 45 FR 34873 (May 23, 1980).

[10] So, for example, rules that were adopted pursuant to Regulation 1.41(z) or 5.3 would not have been reviewed by the Commission for possible antitrust implications.

[11] *See* Reported No. 101–236 to accompany H.R. 2869, 101st Cong., 1st Sess. at 20.

Regulation 1.41(z) may obviate the need for a contract market to follow Section 5a(a)(12)(B), and its implementing regulatory provision, Regulation 1.41(f), when adopting emergency rules. The Commission requests comment on how to differentiate an emergency rule provision from any other rule that could be adopted pursuant to proposed Regulation 1.41(z).

E. New Electronic Trading Systems

As noted, the Regulation 1.41(z) process would not be available to a board of trade that is not designated as a contract market in at least one non-dormant contract. The implementation of a new electronic trading system and adoption of related rules could be viewed as being analogous to the organization of a new exchange in many respects. The Commission requests comment on whether proposed rules implementing a new electronic trading system at an existing contract market should be processed under for Regulation 1.41(z).

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). This rulemaking establishes streamlined procedures for the review of contract market rules and rule amendments. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Agency Information Activites: Proposed Collection; Comment Request

Proposed Regulation 1.41(z) contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Commission has submitted a copy of this section to the Office of Management and Budget ("OMB") for its review.

Collection of Information: Rules Pertaining to Contract Markets and Their Members, OMB Control Number 3038–0022.

The effect of the proposed Regulation 1.41(z) will be to reduce the burden previously approved by OMB for Regulations 1.41(b) and (c) by 4290 hours because the predominant number of rule submissions will be made pursuant to new proposed Regulation 1.41(z) instead of either Regulation 1.41(b) or (c). The burden associated with the proposed new Regulation 141(z) is estimated to be 858 hours which will result from compliance with the requirements for information required for Regulation 1.41(z) submissions.

The estimated burden of new Regulation 1.41(z) was calculated as follows:

Number of respondents: 11.
Annual responses by each respondent: 26.
Total annual responses: 286.
Estimated average hours per response: 3.
Annual Reporting Burden: 858 hours.

The revised estimated burden of Regulations 1.41(b) and (c) (which was 4,125 hours and 825 hours, respectively) is:

Regulation 1.41(b).
Number of respondents: 11.
Annual responses by each respondent: 2.
Total annual responses: 22.
Estimated average hours per response: 25.
Annual Reporting burden: 550 hours.

Regulation 1.41(c).
Number of respondents: 11.
Annual responses by each respondent: 2.
Total annual responses: 22.
Estimated average hours per response: 5.
Annual Reporting burden: 110.

The burden associated with the entire collection (3038–0022) including this proposed rule is as follows:

Number of respondents: 15,893.
Number of responses per year: 434,052.
Estimated average hours per response: 1.8095.
Annual Reporting Burden: 785,443 hours.

This annual reporting burden of 785,443 hours represents a reduction of 3,432 hours as a result of proposed new Regulation 1.41(z).

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 1

Brokers, Commodity exchanges, Commodity futures, Contract markets, Reporting and recordkeeping requirements, Rule review procedures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6, 6c, 7, 7a, 8, and 12a, the Commission proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT 1

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24, unless stated otherwise.

2. Section 1.41 is amended by adding a paragraph (z) to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(z) Exemption from the rule review procedure requirements of Section 5a(a)(12) of the Act and related regulations. (1) Notwithstanding the rule filing requirements of Section 5a(a)(12) of the Act and related Commission regulations, a contract market may place a rule into effect without prior Commission review or approval provided that:

(i) The contract market has filed a submission for the rule, and the Commission has received the submission at its Washington, D.C. headquarters and at the regional office having jurisdiction over the contract market by close of business on the business day preceding implementation of the rule;

(ii) The contract market is designated in, or clears, at least one commodity contract, under Sections 4c, 5, 5a(a) and 6 of the Act, which is not dormant within the meaning of § 5.2 of part 5 of the Commission's regulations; and

(iii) The rule submission includes:

(A) The text of the rule (in the case of a rule amendment, brackets must indicate words deleted and underscoring must indicate words added);

(B) A brief explanation of the rule;

(C) A description of any substantive opposing views expressed by members of the contract market or others with respect to the rule; and

(D) A certification by the contract market that the rule neither violates nor is inconsistent with any provision of the Act or of the regulations thereunder.

(2) A transaction effected subject to a rule implemented under this paragraph shall not be void or voidable as a result of:

(i) A violation by the contract market of the provisions of this section; or

(ii) The initiation, conduct or disposition of any Commission proceeding to disapprove the rule or require the contract market to revise the rule.

(3) This paragraph does not exempt contract markets from any provision of the Act or the Commission's regulations, except for the rule review requirements of Section 5a(a)(12) of the Act and related Commission regulations.

Issued in Washington, DC on November 17, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–30512 Filed 11–24–99; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5 and 31

RIN 3038–ZA00

Fees for Applications for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission has established fees for certain program services, including applications for contract market designation. The Commission is proposing to eliminate its fees for futures and option contract market designation applications.

DATES: Comments must be received by December 27, 1999.

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418–5521; or transmitted electronically to [secretary@cftc.gov].

FOR FURTHER INFORMATION CONTACT: Paul Architzel, Chief Counsel, Division of Economic Analysis , Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581. 202–418–5160.

SUPPLEMENTARY INFORMATION:

Background Information

I. Computation of Fees

The Commission has established fees for certain activities and functions it performs, including processing applications for contract market designation for futures and option contracts.[1] The fees for contract market designations represent the average of the most recent three-years' actual costs incurred for each of that activity. The Commission first established a fee for contract market designations on August 23, 1983. The fee was based upon a three-year moving average of the actual costs expended and the number of contracts reviewed by the Commission during that period of time.

In 1992, the Commission revised its fee structure by establishing three separate fees—one for futures alone; one for options alone; and one for combined futures and option contract applications. (57 FR 1372, (January 14, 1992)).[2] On June 8, 1999, the Commission further modified its fee structure for a limited class of designation applications submitted simultaneously where each proposed contract in the filing is: (i) Cash settled based on an index of non-tangible commodities; (ii) the cash-settlement procedure is the same for all contracts in the filing; and (iii) all other terms and conditions of the contracts are the same in all respects except in regard to a specified temporal or spatial pricing characteristic or the multiplier used to determine the size of each contract. (64 FR 30384, June 8, 1999).[3]

II. Recent Revisions to the Designation Process

In a companion notice published elsewhere in this edition of the **Federal Register**, the Commission is adopting a final rule 5.3 that would permit exchanges to list contracts for trading without Commission approval. This is in response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness.

As explained in the notice of final rulemaking, boards of trade will be permitted to list contracts for trading based only upon their certification that the contract meets the requirements of the Commodity Exchange Act and the Commission's rules thereunder and that they comply with the other provisions of the rule. The exchange certification procedure for listing new contracts is in lieu of the otherwise required application for contract market designation. Under the rule, contracts may be listed for trading indefinitely in reliance upon the exchange's certification.

[1] See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).

[2] The combined futures/option designation application fee was set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option was even lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

[3] The fees for designation applications currently in effect are as follows:

- Futures contracts alone—$6,800
- Option contracts alone—$1,200
- Futures contracts with options—$7,500

The reduced fees for simultaneous submission of multiple cash-settled contracts are as follows:

- for filings involving multiple cash-settled futures—$6,800 for the first contract plus $680 for each additional contract;
- for filings involving multiple options on cash-settled futures — $1,200 for the first contract plus $120 for each additional contract; and
- for filings involving multiple combined cash-settled futures and options on those futures—$7,500 for the first futures and option contract plus $750 for each additional futures and option contract.

III. Proposed Amendments to the Designation Fees

The Commission is proposing to eliminate fees for contract market designation applications. Otherwise there would be an economic disincentive to submit proposed contracts for Commission approval under the existing designation procedures. As greater experience is gained with the use of the exchange certification listing procedures of Rule 5.3, the Commission may revisit this issue.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq*, requires agencies to consider the impact of rules on small businesses. The fees involved in this release affect contract markets (also referred to as "exchanges") and registered futures associations. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*, 47 FR 18618 (April 30, 1982), and the requirements of the Regulatory Flexibility Act therefore do not apply. Accordingly, the Chairman, on behalf of the Commission, certifies that the proposed rule does not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC on November 17, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–30511 Filed 11–24–99; 8:45 am]

BILLING CODE 6351–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 219

RIN 3220–AB43

Evidence Required for Payment

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (RRB) hereby proposes to amend its regulations to permit the use of noncertified copies and facsimile copies of records or documents needed to establish eligibility for benefits under the Railroad Retirement Act. These amendments will make it easier for individuals to apply for benefits under the Act.

DATES: Comments must be received on or before January 25, 2000.

ADDRESSES: Comments should be submitted to the Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, (312) 751–4513, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: In order to receive benefits under the Railroad Retirement Act an individual may be required to provide proof of age, marriage, divorce, or death. Section 219.6 of the Board's regulations generally requires that where a claimant must provide a record or document to establish an eligibility requirement, the original or a certified copy of such document or record must be provided. This requirement has proven burdensome for claimants. Many claimants now wish to transmit their documentary evidence electronically by use of telefax devices. Consequently, the Board proposes to amend its regulations to permit the use of uncertified copies and facsimiles of certain official records when the official custodian of such records transmits the facsimile directly to an office of the Board and the source of the transmittal is clearly identified on the facsimile. In addition, the Board proposes to permit Board employees to certify translations of foreign documents.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866; therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 219

Pensions, Railroad employees, Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend chapter II of title 20 of the Code of Federal Regulations as follows:

PART 219—EVIDENCE REQUIRED FOR PAYMENT

1. The authority citation for part 219 continues to read as follows:

Authority: 45 U.S.C. 231f.

2. In § 219.6 the section heading and paragraphs (a) and (b) are revised, and a new paragraph (d) is added to read as follows:

§ 219.6 Records as evidence.

(a) *General.* If a claimant or an annuitant provides an original document or record as evidence to prove eligibility or continued entitlement to payments, where possible, a Board employee will make a photocopy or transcript of these original documents or records and return the original documents to the person who furnished them. A claimant may also submit certified copies of original records as described in paragraph (c) of this section. The Board may also accept uncertified copies as described in paragraph (d) of this section.

(b) *Foreign-language documents.* If the evidence submitted is a foreign-language document, the Board may require that the record be translated. An acceptable translation includes, but is not limited to, a translation certified by a United States consular official or employee of the Department of State authorized to certify evidence, or by an employee of the Board or the Social Security Administration.

* * * * *

(d) *Uncertified copies and facsimiles.* In lieu of certified paper copies of records or extracts from such official sources as listed in paragraph (c) of this section, the Board will accept facsimile copies of such records or extracts when the official custodian of such records transmits the facsimile directly to an office of the Board and the source of the transmittal is clearly identified on the facsimile.

Dated: November 18, 1999.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30793 Filed 11–24–99; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

RIN 1512–AA07

[Notice No. 886; Re: Notice No. 882]

Extension of the Comment Period of the Proposed Diamond Mountain Viticultural Area (99R–223P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 882, published in the **Federal Register** on September 29, 1999, regarding the establishment of the Diamond Mountain viticultural area. ATF has received a request to extend the comment period in order to provide sufficient time for all

interested parties to respond to the notice.

DATES: Written comments must be received by January 25, 2000.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, PO Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 882).

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington DC, 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1999, ATF published a notice of proposed rulemaking in the **Federal Register** soliciting comments from the public and industry. The notice proposed to establish the Diamond Mountain viticultural area in Napa County, California. The comment period for Notice No. 882 closes on November 29, 1999.

However, ATF received a request from Diamond Mountain Vineyard, a winery in Calistoga, California, to extend the comment period an additional 60 days. Diamond Mountain Vineyard is located within both Napa and Sonoma Counties, partially within the proposed boundaries of the Diamond Mountain viticultural area. According to the winery, it had been unable to get timely and complete information on the specifics of the proposal and therefore it needs additional time to prepare its comments.

In consideration of the above, ATF finds that an extension of the comment period is warranted and is extending the comment period until January 28, 2000.

Disclosure

Copies of Notice 882 and written comments will be available for public inspection during normal business hours at: ATF Reference Library, Liaison and Public Information, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

Drafting Information: The author of this document is Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

This notice extending the comment period for the Diamond Mountain viticultural area is issued under the authority of 27 U.S.C. 205.

Signed: November 22, 1999.

John W. Magaw,

Director.

[FR Doc. 99–30745 Filed 11–24–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08–99–023]

RIN 2115–AF93

Safety Zone; Outer Continental Shelf Platforms in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety zones around seven high-production, manned oil and natural gas platforms in the Outer Continental Shelf in the Gulf of Mexico. The seven platforms need to be protected from vessels operating outside the normal shipping channels and fairways. Placing safety zones around the platforms will significantly reduce the threat of allisions, oil spills and releases of natural gas. The proposed regulation prevents all vessels from entering or remaining in specified areas around the platforms except for the following: An attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth District Commander. The proposed safety zones are necessary to protect the safety of life, property and environment.

DATES: Comments must be received on or before January 25, 2000.

ADDRESSES: Comments can be mailed to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, or may be delivered to Room 1341 at the same address between 8 A.M. and 3:30 P.M., Monday through Friday, except federal holidays. The telephone number is (504) 589–6271. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: LCDR Roderick Walker, Project Manager for Eighth District Commander, telephone (504) 589–3043.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–99–023), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Shell Offshore, Inc. requested that the Coast Guard establish safety zones around the following Shell platforms in the Gulf of Mexico: Boxer located at position 27–56–48N, 90–59–48W; Bullwinkle Platform located at position 27–53–01N, 90–54–04W; Ursa Tension Leg Platform (Ursa TLP) located at position 28–09–14.497N, 89–06–12.790W; West Delta 143 Platform located at position 28–39–42N, 89–33–05W; Mars Tension Leg Platform (Mars TLP) located at position 28–10–10.290N, 89–13–22.35W with two supply boat mooring buoys at positions 28–10–18.12N, 89–12–52.08W (Northeast) and 28–9–49.62N, 89–12–57.48W (Southeast); Ram-Powell Tension Leg Platform (Ram-Powell TLP) located at position 29–03–52.2N, 88–05–30W with two supply boat mooring buoys at positions 29–03–52.2N, 88–05–12.6W (Northeast) and 29–03–28.2N, 88–05–10.2W (Southeast); and Auger Tension Leg Platform (Auger TLP) located at position 27–32–45.4N, 92–26–35.09W with two supply boat mooring buoys at positions 27–32–38.1N, 92–26–.048W (East Buoy) and 27–32–58.14N, 92–27–4.92W (West Buoy).

The request for the safety zones was made due to the high level of shipping activity around the platforms and the

safety concerns for both the personnel aboard the platforms and the environment. Shell Offshore, Inc. indicated that the location, production level and personnel levels on board the seven platforms make it highly likely that any allision with the platforms would result in a catastrophic event. The seven platforms are high production oil and gas drilling platforms producing from 100,000 to 250,000 Barrels of oil per day. All are manned with crews ranging from approximately 130 to 156 people. Each of the platforms is also near the edge of a shipping safety fairway or fairway intersection.

The safety zones established by this regulation are in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the proposed safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West fairway, the entrance/exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area. The oil producing platforms covered by this regulation are also located in close proximity to the fairways.

The Coast Guard has reviewed Shell Offshore Inc.'s concerns and agrees that the risk of allision to the platforms and the potential for loss of life and damage to the environment resulting from such an accident warrant the establishment of these safety zones. The proposed regulation would significantly reduce the threat of allisions, oil spills, and releases of natural gas and increase the safety of life, property and the environment in the Gulf of Mexico.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under Executive Order 12866 and is not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation in unnecessary. The impacts on routine navigation are expected to be minimal.

Collection of Information

This proposed rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 13132 and has determined that it does not have federalism implications under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2–1, paragraph (34)(g) of Commandant Instruction M16475.C this proposal is categorically excluded from further environmental documentation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include small business and not-for-profit organizations that are independently owned and operated, are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since alternate routes are available for the small number of vessels to be affected by this proposed regulation, the Coast Guard expects the impact of this regulation on small entities to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

List of Subjects in 33 CFR Part 147

Marine safety, Navigation (water), Outer Continental Shelf.

Regulation

In consideration of the foregoing, the Coast Guard proposes to amend part 147 of title 33, Code of Federal Regulations as follows:

PART 147—[AMENDED]

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and 49 CFR 1.46

§ 147.1101 [Redesignated as § 147.20]

2. Section 147.1101 is redesignated § 147.20.

3. New § 147.801 through § 147.813 are added to read as follows:

§ 147.801 BOXER Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent East-West Gulf of Mexico Fairway is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.803 BULLWINKLE Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.805 URSA TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.807 WEST DELTA 143 Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge, not to extend into the adjacent Mississippi River Approach Fairway is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.809 MARS TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.811 RAM-POWELL TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and the area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

§ 147.813 AUGER TENSION LEG Platform safety zone

(a) *Description.* The area within 500 meters (1640.4 feet) from each point on the structure's outer edge and an area within 500 meters (1640.4 feet) of each of the supply boat mooring buoys is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing or fishing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: November 12, 1999.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 99–30739 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–15–U

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. IM2000–1; Order No. 1270]

International Mail Report

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed international mail rulemaking.

SUMMARY: This document announces a new docket to develop permanent rules related to the analysis of cost, revenue and volume data generated by the Postal Service's various international mail services. It also reviews responses to previous orders on this issue, sets forth a proposed rule, and invites public comment. Adoption of permanent rules will assist the Commission in preparing annual reports to Congress, as required by law.

DATES: Submit initial comments on or before December 27, 1999. Submit reply comments on or before January 10, 2000.

ADDRESSES: Send comments to Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H St. NW., Suite 300, Washington, DC 20268–0001.

FOR MORE INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 1333 H St. NW., Washington, DC 20268–0001 at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 26, 1999, Commission Order No. 1226 in Docket No. IM99–1 was published in the **Federal Register** (64 FR 3991). Comments received in response to that order are discussed in the preamble. On June 30, 1999, the Commission issued its initial annual report to the Congress on international mail costs, revenues, and volumes. That report, and a series of orders related to its issuance, are also discussed in the preamble.

Background

On October 21, 1998, Public Law 105–277 was signed into law, adding section 3663 to the Postal Reorganization Act [39 U.S.C. 3663]. It requires that by July 1 of each year, the Commission "transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes" accrued by the Postal Service "in connection with mail matter conveyed between the United States and other countries" for the prior fiscal year. To enable the Commission to carry out that directive, section 3663 requires the Postal Service to provide, by March 15, "such data as the Commission may require" to prepare that report. It states that the data provided "shall be in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for analysis of rates for domestic mail."

Initial United Parcel Service Petition for Rulemaking

On December 16, 1998, United Parcel Service (UPS) asked the Commission to institute a rulemaking in order to determine "(1) the data to be provided to the Commission by the United States Postal Service and (2) the methods to be used by the Commission in analyzing the costs, revenues, and volumes of each international mail product" to prepare the report required by section 3663. Petition of UPS to Institute Rulemaking Proceeding to Study International Costs and Revenues, filed December 16, 1998, at 3.

In support of its petition, UPS asserted that it has a vital interest in ensuring that the Postal Service's international products with which it competes are not subsidized by other Postal Service offerings. It observed that analyzing the costs, volumes, and revenues of international mail is a new responsibility for the Commission, and argued that in deciding what data and what methods to use, the Commission is

likely to benefit from the input of interests affected by international mail.

Commission Response

The Commission declined to institute the rulemaking that UPS requested, concluding that there was too little time to complete traditional rulemaking procedures before the March 15 deadline specified in the statute for obtaining international mail data from the Postal Service. The Commission observed, however, that section 3663 contemplates an ongoing responsibility of the Commission to analyze international mail costs and revenues, and, therefore, it may be appropriate to adopt permanent rules concerning data that the Postal Service should provide to enable the Commission to carry out this responsibility. *See* order no. 1226 at 2.

In order no. 1226, the Commission informally solicited comments from the public concerning what data the Postal Service should provide to enable the Commission to prepare the report required by section 3663, and what level of detail would be appropriate for reporting the costs, revenues, and volumes of international mail services. Id. at 3. The order concluded that the data on which the report is based should consist, at a minimum, of the International Cost and Revenue Analysis (ICRA), and the international equivalent of the Cost Segments and Components (CSC) report that is provided for domestic mail. Id. at 3. The Commission included in this order a proposed list of some 20 outbound and three inbound international postal services for which financial data would be separately analyzed and reported.

Summary of Comments

The comments received reflected a wide range of views. The Advertising Mail Marketing Association (AMMA) argued that international rates are not neatly aligned with economic costs and demand and, therefore, analyzing the cost coverages of individual international services serves little purpose. AMMA contended that international rate groups are often misaligned with economic costs because UPU classifications are overbroad, and terminal dues and other charges set by international agreement have arbitrary elements. AMMA Comments at 1–2 (January 29, 1999). AMMA argued that financial data for individual outbound services cannot be meaningfully combined with data for related inbound services. Id. at 3. It also argued that there is no non-arbitrary way to disaggregate transportation costs or terminal dues to the rate category level for outbound services. Id. at 4. Because the costs, revenues, and volumes of international mail can be meaningfully analyzed only in the aggregate, AMMA contended, that is all section 3663 requires. AMMA argued that no new data are needed to perform such an analysis.

UPS. UPS argued that the purpose of section 3663 is to assure the Postal Service's competitors and the public that the Postal Service's international mail services are covering their costs and making a reasonable contribution to overhead. To accomplish that purpose, it argued, the Postal Service should do the following: describe its international costing systems and methods and provide the relevant handbooks; attribute to each service the costs of accounting, advertising, electronic customs clearance, and private delivery contractors (UPS Comments at 4 (January 29, 1999)); disaggregate financial data to the rate category level for services that have relatively large volumes or face intense competition, such as IPAS and Global Priority Mail (id. at 2–3); and provide financial data for individual services for outbound and inbound flows combined, by country pair (id. at 5).

Federal Express (FedEx) argued that the costs of international mail vary radically by global region and by terminal dues regime, and that the characteristics of mail vary by destination. Therefore, it argued, financial data should be analyzed and reported for the seventy-plus categories of international service to which a separate tariff applies. FedEx Comments at 3 and Appendix A (February 1, 1999). It recognized cost data cannot be reliably disaggregated for some of these categories, but argued that allocations should be made on the basis of pieces and/or weight, in order to evaluate the adequacy of the rate charged. FedEx Reply Comments at 2–3 (February 8, 1999). It argued that, at a minimum, financial data should be separately reported for services to Canada and Mexico. FedEx Comments at 6. FedEx contended that the combined costs of outward and inward mail flows for specific international services must be reported, because terminal dues do not reflect the economic value of inbound delivery. Id. at 7–8. It also urged that historical financial data be provided so that any anomalies in the data can be identified. It also urged the Commission to analyze and report all costs that are incurred by international mail as a whole, even if they cannot be attributed to individual services. Id. at 9.

Office of the Consumer Advocate (OCA). The comments of the OCA described the regulatory and legislative background that it believes led to the adoption of section 3663. It cited the fears of the competitors of the Postal Service's international mail services that the Postal Service is subsidizing its international mail services from revenues generated by its monopoly products. The OCA argued that the legislative purpose underlying section 3663 was to allay those fears by making public all financial data relevant to the Postal Service's international mail services. The OCA argued that the Postal Service should be required to provide all of the fiscal year (FY) 1998 financial data generated by its ongoing international mail data collection systems, and, in addition, special information and reports that indicate that there are international mail services that do not cover their costs. These, it said, include the information that the Postal Service furnished to the Postal Service's Inspector General and to the General Accounting Office (GAO) to support their recent investigations of international mail—the Inspector General's report itself and the Postal Service's 1998 marketing plans for international mail. OCA Comments at 7–16 (January 29,1999).

Postal Service. While it "basically agrees" with AMMA's position, the Postal Service did not oppose many of the recommendations that it provide more detailed data on international mail. Postal Service Comments at 4 (January 29, 1999). The Postal Service argued that Air M-bags, Valuepost/Canada, and Bulk Letter Service to Canada, are minor variants of Air AO, Surface AO, and Air LC, respectively, and therefore should be analyzed and reported as part of those broader services. It observed that financial data about these services are country-specific, and should not be publicly reported for that reason as well. Id. at 2–3. It argued that data on post cards, postal cards, and aerograms should be combined because their cost and market characteristics are similar, and their volumes are too low to yield reliable data separately. Id. at 4.

The Postal Service noted the parcel companies' argument that cost coverages should be separately analyzed for rate categories within subclasses, such as those within International Priority Airmail (IPA) and Global Priority Mail. It responded that the statistical sample representing IPA and Global Priority Mail is too small to be further separated into its constituent rate categories and still yield reliable results. It asserted that it does not collect costs separately for the rate categories within IPA. Id. at 7–8.

Commission response. The Commission considered these comments in formulating its list of initial data requirements in order no. 1228. The Commission concluded that section 3663 appeared to contemplate that international services would be separately analyzed and reported on much the same basis that the Commission uses to analyze costs and cost coverages for domestic mail. Consistent with that conclusion, the Commission asked the Postal Service to describe how it designs rates for its international services, and to provide financial data separately for each international service for which it sets rates by marking up the costs that it separately attributes to that service. Order No. 1228 at 6–7. The Commission tentatively concluded that the arguments for combining outbound with analogous inbound services before analyzing and reporting their attributable costs and cost coverages were not persuasive. Id. at 8. The Commission issued a series of six notices of data requirements asking the Postal Service to supplement or clarify its responses to order no. 1228.

Initial Commission Report

The Commission's initial section 3663 report. The Commission issued its first report under section 3663 on June 30, 1999. It was based primarily on information contained in the ICRA and on the supporting information provided in response to order nos. 1228 and 1236. The main body of the report presented costs, volumes, revenues, and cost coverages separately for fourteen outbound services and seven inbound services. For FY 1998 it showed an overall cost coverage for international mail of 112.9 percent, reflecting a cost coverage for outbound international mail of 130.6 percent, and a cost coverage for inbound international mail of 98.2 percent. Within outbound international mail, the cost coverage for air and for surface services was 152.6 and 96.4 percent, respectively. The collective cost coverage for the outbound "initiatives" was 86.8 percent. Appendix E further disaggregated these service-specific costs, volumes, revenues, and cost coverages by terminal dues regime. This had the incidental effect of isolating these data by a geographic region (the European bilaterals) and two countries (Canada and Mexico).

The cost coverages for outbound air services and for international services overall were significantly increased when the Postal Service revised its method of estimating international air costs. The cost coverage for international mail overall was further increased when the Postal Service eliminated the so-called "settlement difference." The Postal Service submitted its FY 1998 ICRA–USPS version on June 7, 1999 containing these revised cost estimation methods. Because there was not sufficient time for the Commission to fully evaluate these revised methods before its July 1 reporting deadline, the Commission presented financial data based on these revisions in Appendix F.

The Commission's report evaluated the accuracy and reliability of the financial data provided by the Postal Service, and provided estimates of their statistical precision. The Commission concluded that its outbound international volume and revenue data is quite reliable, in part because the Postal Service collects a substantial amount of census data on international mail, and has sample data from multiple collection systems to serve as control numbers. Its inbound volume and revenue is reliable as well, with some possible exceptions noted in the report. The report provides coefficients of variation for the volumes and unit attributable costs of the Postal Service's individual international services. The report concludes that except for several inbound services, statistically significant conclusions about the cost coverages of individual international services can be drawn.

Congressional Request for Additional Information

On August 3, 1999, Representative John McHugh, chairman of the Subcommittee on the Postal Service of the Committee on Government Reform of the U.S. House of Representatives, submitted requests for additional information to the Commission prompted by its first section 3663 report. Among the additional information requested was a revised Appendix E showing combined data for outbound and inbound mail flows by international service. Representative McHugh also requested that the Commission estimate the difference between terminal dues revenue received by the Postal Service for delivering inbound mail and the revenues that the Postal Service would have collected from comparable domestic mail, calculated separately for mail received from Canada, the European bilateral group, and other Universal Postal Union industrialized countries. The Commission provided responses on September 29, 1999.

Public Disclosure

Controversy arose early in the reporting process over the commercial sensitivity of the data that the Postal Service provided on international mail, and whether public disclosure of such data was contemplated by section 3663. The Postal Service accompanied its March 15 submission of the ICRA and supporting materials to the Commission with a cover letter which asserted that most of the materials they contained were commercially sensitive internal documents that, "under good business practice," would not be disclosed. This was a reference to section 410(c)(2) of the Postal Reorganization Act, which provides that the Freedom of Information Act (FOIA) shall not require the Postal Service to disclose "information of a commercial nature, including trade secrets * * * which under good business practice would not be publicly disclosed." The Postal Service argued that it competes with the courier companies in the market for outbound expedited parcels and with foreign postal administrations in the market for bulk outbound letters. It asserted that because this competition is intense, most financial data about individual international services comes under this statutory non-disclosure provision. It noted that section 3663 requires only that the Commission's report be submitted to each house of Congress, and contains no language indicating a requirement that the report be publicly disclosed.

The Postal Service anticipated that the Commission would receive FOIA requests for the international mail data that the Postal Service provided. The Postal Service urged the Commission to process such requests according to Department of Justice guidelines, which recommend that FOIA requests for documents that originated in another agency be referred to the originating agency for processing, or that the originating agency be consulted before releasing such documents.

Shortly after the Postal Service provided its ICRA and supporting materials to the Commission, UPS filed a motion to gain access to them. Motion of UPS to Provide Public Access to International Data Requested in Order No. 1228 and for Opportunity to Provide Public Comment, filed March 26, 1999. Although its motion was not a FOIA request, UPS argued that disclosing international mail data was consistent with the broad national policy favoring disclosure of government records that underlies the FOIA. UPS asserted that the Commission's report would benefit from the input of parties affected by

international mail, and argued that any commercial harm from disclosure could be avoided by imposing appropriate protective conditions. UPS Motion at 2–3.

In reply, the Postal Service noted that section 410(c)(2) of the Act expressly shields commercially sensitive records in its possession from disclosure under the FOIA. It argued that there is nothing in the language of section 3663 to indicate that Congress intended it to override section 410(c)(2), or intended to subject commercially sensitive international mail data to the public hearing requirements that apply to data used to set domestic mail rates. USPS Response to Motion of UPS to Provide Public Access to International Mail Data Requested in Order No. 1228 and for Opportunity to Provide Public Comment, filed April 5, 1999, at 1–6.

The Postal Service asserted that the value of public input would be outweighed by the commercial harm that disclosure of detailed financial data on international mail would cause. Since none of its international services enjoys monopoly protection, it argued, detailed financial information about international mail is more commercially sensitive than comparable information is for domestic mail. It argued that it would be premature to publicly disclose such information before the implications of doing so are explored in rulemaking proceedings. Id at 6–7.

Commercial Sensitivity

The Postal Service identified three kinds of commercial information that it viewed as particularly sensitive. It argued that country-specific costs, volumes, and revenues were sensitive because most of the volume of outbound international mail comes from only a handful of large customers, and the identity of those customers could be inferred from country-specific volume and revenue data. Disclosing country-specific costs, it argued, would allow competitors to know how far the Postal Service could go to match price-cutting by competitors. Comments of the United States Postal Service on the Commission's 39 U.S.C. 3663 Report, filed April 8, 1999, (April 8 Memo) at 3–5.

The Postal Service argued that many of its charges for delivering inbound mail are negotiated with foreign postal administrations, and that disclosing cost data for such inbound delivery would reduce its negotiating room with those administrations. Id. at 4. Finally, it asserted, its so-called international "initiatives" (Global Package Link, Global Priority Mail, Global Parcel Services, Direct Entry/Inbound, and International Customized Mail) are recently introduced experimental services that are especially sensitive to the pressures of competitors. Disclosing product-specific financial information, it argued, would reveal the vulnerabilities of individual initiatives to its competitors. Id. at 6.

The Commission rejected UPS's motion to make public the data obtained by order No. 1228. The Commission noted that Congress must be presumed to have been aware of the explicit withholding provision of section 410(c)(2) and yet it provided no indication in the language or the legislative history of section 3663 that it intended section 3663 to override that provision. The Commission concluded that section 3663 was not intended to alter existing disclosure law contained in the Postal Reorganization Act or the Administrative Procedure Act. Order No. 1245 at 4.

After the Commission issued its section 3663 report, it received FOIA requests for a copy of the report and the source documents provided by the Postal Service. The Commission asked the Postal Service to indicate which portions of the report it believed should be redacted as commercially sensitive, and to explain the basis for its belief. The Postal Service responded with a memorandum that cited several Federal district court cases which conclude that section 410(c)(2), which authorizes the Postal Service to withhold commercial information that would be withheld "under good business practice," is a specific statutory exemption from the FOIA's mandatory disclosure requirements. USPS Memorandum Concerning Categories of Information that Should be Deleted from Commission Report to Congress on International Mail Costs, Volumes, and Revenues, filed July 21, 1999, at 9–14 (July 21 Memo). For the reasons cited in its April 8 Memo, the Postal Service argued that several categories of information in the Commission's report met the "good business practice" standard of section 410(c)(2). These included costs and cost coverages for individual outbound services, and information from which such costs can be derived; service-specific costs disaggregated by component; costs, revenues, and volumes for individual "initiatives"; costs, revenues, and volumes specific to a country or country group for individual outbound services, and costs for inbound services for which the Postal Service negotiates inbound delivery charges with individual countries, or sets them unilaterally by country group. July 21 Memo at 5–8. The Commission accepted most of the Postal Service's arguments, and provided those filing FOIA requests with copies of its report that had been redacted in a manner that was largely consistent with those arguments. *See*, e.g., Letter of Margaret Crenshaw, Secretary, Postal Rate Commission, to John McKeever, Piper and Marbury, dated July 29, 1999.

Challenge to Redacted Report

Piper and Marbury appealed the Commission's decision to provide it with a redacted copy of its section 3663 report, challenging the Commission's interpretation of the cases cited in the Postal Service's July 21 memo. [Piper and Marbury] Appeal on Partial Denial of Freedom of Information Act Request for Report Under 39 U.S.C. 3663, filed August 18, 1999.

The Commission denied Piper and Marbury's appeal, adhering to its interpretation of the relevant case law. *See* order no. 1261, issued September 15, 1999. Piper and Marbury also had requested a copy of all information supplied by the Postal Service that the Commission used to prepare its section 3663 report. The Postal Service asked the Commission to respond to this request by distinguishing between information in answers developed by the Postal Service in response to Commission questions, and information in records that were developed solely for the Postal Service's internal use.

With respect to information developed to answer Commission questions, the Postal Service identified categories in addition to those already specified in its July 21 Memo that it believed should be withheld under the "good business practice" standard of section 410(c)(2). The additional categories were: product-specific pricing strategy information, detailed product-specific postal operational information, and detailed information on revenue protection procedures. The Postal Service indicated specific redactions of the information developed to answer Commission questions that it believes come under this expanded list of sensitive categories. *See* Letter of William T. Johnstone, Managing Counsel, International and Ratemaking Law, United States Postal Service, to Margaret P. Crenshaw, Secretary, Postal Rate Commission, dated August 13, 1999.

With respect to records developed solely for the Postal Service's internal use, the Postal Service proposed that the Commission refer that part of the Piper and Marbury request back to the Postal Service for direct processing. The Postal Service argued that this practice is widely followed by Federal government

agencies and is consistent with the FOIA guidelines articulated by the Justice Department's Office of Information Policy (OIP). Id. at 2–4. The Commission chose to retain responsibility for processing FOIA requests for such records, but to consult closely with the Postal Service, which is another option that is consistent with the OIP guidelines. The Commission reaffirmed its request that the Postal Service review all of the records that it provided to the Commission as part of the section 3663 reporting process, identify the specific portions that it believed should be redacted, and explain the reasons for its belief. Letter of Margaret P. Crenshaw, Secretary, Postal Rate Commission, to Mary Elcano, General Counsel, United States Postal Service, dated August 24, 1999. The Commission will complete its processing of this part of the Piper and Marbury FOIA request when it receives the Postal Service's response.

Invitation for Comments

Interested persons are invited to comment on the Commission's initial effort to satisfy the requirements of 39 U.S.C. 3663. They may wish to comment, for example, on the adequacy of the information upon which the Commission's first international mail report was based. The Commission has drafted proposed rule 103 [39 CFR 3001.103], set forth below [Attachment A to the Notice]. Proposed rule 103 would add to the Commission's periodic reporting rules a list of items to be included in the Postal Service's data submission that must be filed by March 15 of each year, under section 3663(b). Comments on this proposed rule are invited.

Among the items listed as necessary to satisfy section 3663(b) are the CRA and CSC reports. These reports must be prepared by the Postal Service before it can prepare the ICRA report. The Commission needs them in order to verify the accuracy of various aspects of the ICRA report, including total international mail costs, and the domestic portion of transportation, processing, and delivery costs incurred by international mail services. Under proposed rule 103, if the Postal Service cannot include audited versions of the CRA and CSC reports with the ICRA that it files on March 15 of each year, it must include the unaudited versions that it used to prepare the ICRA.

Currently, the Postal Service has a duty under rule 102(a) to provide the Commission with audited versions of the CRA and CSC "within two of weeks of [their] presentation for use by postal management." The date the Postal Service has filed these reports has varied, and the audited versions might arrive too late to assist the Commission in preparing the report on international mail required by section 3663, which is due on July 1 of each year. Accordingly, if the Postal Service has not already provided audited versions of the CRA and CSC in response to rule 102(a) by May 15 of a given year, the Postal Service would be required by proposed rule 103 to provide them by that date to allow the Commission sufficient time to reflect them in its section 3663 report.

In addition to commenting on the adequacy of the data that the Postal Service is to provide under section 3663(b), interested persons may wish to comment on the appropriate scope and detail of the Commission's annual international mail report itself. They may wish to comment, for example, on the analytical methods applied by the Commission to calculate the volumes, costs, and revenues of international mail services. Specifically, they may wish to comment on the revisions that the Postal Service made to its methods for calculating the settlement difference and attributable international air transportation costs in its FY 1998 ICRA Report—USPS Version, filed June 7, 1999. In the PRC versions of the FY 1998 ICRA Report, the difference between actual and accrued settlement expenses was treated as an incremental cost to international mail as a whole. The accrued international air transportation costs were used to adjust the imputed attributable international air transportation cost by service to the accrued level. As noted above, the Postal Service eliminated the settlement difference cost, and revised international air costs by service to reflect only the actual payment to airlines in the 1998 ICRA Report—USPS Version. *See* Appendix F of the Commission's report.

The Commission's preliminary view is that it would be appropriate to incorporate these revised methods in the FY 1999 ICRA Report to be filed March 15, 2000, since the accrued expenses do not reflect the actual monies paid out in the year under study. The Commission, however, is interested in the views of others concerning these revised methods. The Commission also invites the Postal Service to review Appendix F of the Commission's report and provide any comments it might have on the accuracy of the Commission's description of its former and revised methods, and provide any additional explanations for the revisions that it might deem appropriate.

As noted above, the Postal Service expressed its belief that it would be helpful to use rulemaking procedures to explore the implications of making commercial information about its international mail services public. Interested persons are invited to comment on the procedures that should be employed to determine which portions of the report or supporting documents should not be publicly disclosed, what criteria or standards should govern that determination, what categories of commercial information meet those standards, and the basis for that belief.

Finally, the Commission invites comments on any other issues that interested persons consider relevant to the Commission's duty to analyze and report on international mail costs, volumes, and revenues under section 3663. All comments received will be available at the Commission docket room, and will be posted on the Commission website (www.prc.gov). Responsive comments also are welcome and should be provided within fifteen days.

Ordering paragraphs. Ordering paragraph No. 1 invites interested persons to comment on the issues described in this notice related to the Commission's duties under 39 U.S.C. 3663 to submit annual reports to Congress on the costs, revenues, and volumes associated with international mail, and on the data and methods on which it should be based within 30 days of the publication of this notice in the **Federal Register**. Ordering paragraph No. 2 invites interested persons to submit reply comments within 15 days after initial comments are due. Ordering paragraph No. 3 directs the Secretary of the Commission to cause this notice of proposed rulemaking to appear in the **Federal Register**.

Dated: November 19, 1999.

Margaret P. Crenshaw,

Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure; Postal Service.

For the reasons stated in the preamble, the Postal Rate Commission proposes to amend 39 CFR part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 is revised to read as follows:

Authority: 39 U.S.C. 404(b); 3603, 3622–24, 3661, 3662, 3663.

2. Add § 3001.103 to subpart G to read as follows:

§ 3001.103 Filing of reports required by 39 U.S.C. 3663(b).

Each report listed in this section shall be filed with the Secretary of the Commission on or before March 15th of each year, and shall cover the most recent full fiscal year. Information contained in these reports that is considered to be commercially sensitive should be identified as such, and will not be publicly disclosed except as required by applicable law. Specific sources cited in this section should be understood to include any successor or substituted source.

(a) The International Cost and Revenue Analysis—PRC and USPS Versions.

(b) The Cost and Revenue Analysis Report—PRC Version. If an unaudited version is provided on March 15, provide an audited version no later than May 15 that describes all adjustments that affect international mail.

(c) The Cost Segments and Components Report—PRC Version. If an unaudited version is provided on March 15, provide an audited version no later than May 15 that describes all adjustments that affect international mail.

(d) Documentation and workpapers for the ICRA, including those related to:

(1) Terminal dues.

(2) Air conveyance dues.

(3) Transit charges.

(4) Imbalance charges.

(5) Inward land charges.

(6) Description of cost allocation procedures.

(7) Identification of costs that are exclusive to international mail.

(8) The cost of joint ventures with other postal administrations.

(9) International billing determinants.

(10) The data for Direct Entry separated between inbound and outbound as in the Postal Service's response to Item 1 of order no. 1246.

(11) The attributable costs for ValuePost/Canada developed in accordance with the procedure described in the Postal Service's response to Item 2 of order no. 1251, or any alternative procedure deemed appropriate as a basis for setting the rates for ValuePost/Canada. Costs for ValuePost/Canada should be separated between publications and all other printed matter. Its revenues and volumes should also be separated between publications and all other printed matter.

(e) Handbooks pertaining to the collection of volume and revenue data (MIDAS, SIRVO, SIRVI, Other) if they were revised or replaced since they were last submitted.

(f) International CRA manual input, A, B, C, and factor reports on a CD–ROM.

(g) A hard copy of the International CRA manual input and the C report.

(h) Cost Segment 3 CRA Worksheets and all supporting files, including the MODS-Based Costing Studies—PRC Version. Include all databases, SAS and other programs, and output worksheets.

(i) Cost Segment 7 CRA worksheets and all supporting files.

(j) The number of weighted tallies by international service separately for clerks and mailhandlers, and for city delivery carriers in-office; clerk and mailhandler tallies should be further separated for mail processing, window service, and all other.

(k) Coefficients of variation for:

(1) IOCS clerk and mailhandler tallies by mail processing, window service, and all other.

(2) IOCS city delivery carriers in-office.

(3) TRACS for purchased transportation by international, air, railroad, and other.

(4) Outbound volume by international service.

(5) Inbound volume by international service.

(l) The percentage of household mail and the percentage of non-household mail for each outbound mail service.

(m) The percentage of single-piece mail and bulk mail for each outbound service.

[FR Doc. 99–30711 Filed 11–24–99; 8:45 am]

BILLING CODE 7715–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 126–0190b; FRL–6477–8]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Sacramento Metropolitan Air Quality Management District, Santa Barbara County Air Pollution Control District, Ventura County Air Pollution Control District, and Yolo-Solano County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compounds (VOC) from the storage and transfer of gasoline, loading of organic liquids, and fugitive hydrocarbons.

The intended effect of this action is to regulate emissions of VOC in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the final rules section of this **Federal Register**, the EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by December 27, 1999.

ADDRESSES: Comments should be addressed to: Christine Vineyard, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW, Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Sacramento Metropolitan Air Quality Management District, 777 12th Street 3rd Floor, Sacramento, CA 95814–1908.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B–23, Goleta, CA 93301.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

Yolo-Solano Air Quality Management District, 1947 Galileo Ct., Suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, [AIR–4], Air

Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1197).

SUPPLEMENTARY INFORMATION: This document concerns Sacramento Metropolitan Air Quality Management District Rule 447, Organic Liquid Loading, Santa Barbara County Air Pollution Control District Rule 316, Storage & Transfer of Gasoline, Ventura County Air Pollution Control District Rule 70, Storage & Transfer of Gasoline, and Yolo-Solano County Air Pollution Control District Rule 2.23, Fugitive Hydrocarbons. These rules were submitted to EPA on June 23, 1998, March 10, 1998, August 1, 1997, and November 30, 1994, respectively, by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: November 5, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–30610 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket Nos. 94–1 and 96–262; FCC 99–345]

Prescription of Local Exchange Carrier Price Cap Productivity Offset ("X-Factor")

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on the represcription of the productivity offset, or "X-factor," in the local exchange carrier price cap formula. The X-factor of 6.5 percent prescribed by the Commission in the *1997 Price Cap Performance Review Order* was reversed and remanded to the agency by the U.S. Court of Appeals for the D.C. Circuit. Therefore, the Commission seeks comment on the retroactive prescription of the X-factor for the period affected by the court's remand, from July 1, 1997 to June 30, 2000, and on the prospective prescription, from July 1, 2000 forward. The Further Notice of Proposed Rulemaking ("FNPRM") identifies three studies on which the historical component of the X-factor prescription may be based: the 1997 staff total factor productivity ("TFP") study relied upon in the 1997 order; a new 1999 staff TFP study; or a staff Imputed X study. This document also seeks comment on whether a consumer productivity dividend ("CPD") should be included in the X-factor.

DATES: Comments are due on or before December 30, 1999, and reply comments are due on or before January 14, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Aaron Goldschmidt, (202) 418–1520.

SUPPLEMENTARY INFORMATION: In 1997, the Commission represcribed the amount by which it annually adjusts price caps for incumbent local exchange carriers subject to the price cap rules ("price cap LECs"). *Price Cap Performance Review for Local Exchange Carriers*, 62 FR 31939, June 11, 1997 ("*1997 Price Cap Review Order*"). The revised price cap adjustment required price cap LECs to reduce inflation-adjusted prices for interstate access services by an "X-factor" of 6.5 percent annually. Pursuant to petitions for review of the Commission's order, the United States Court of Appeals for the District of Columbia Circuit reversed and remanded the Commission's decision. *USTA* v. *FCC*, 188 F.3d 521 (D.C. Cir. 1999). The court has stayed issuance of its mandate until April 1, 2000, to allow time for the Commission to conduct this proceeding. *USTA* v. *FCC*, Nos. 97–1469 *et al.*, (D.C. Cir. June 21, 1999).

In this Further Notice of Proposed Rulemaking ("FNPRM") we seek comment on how we should represcribe an X-factor. More specifically, we seek comment on prescribing two separate X-factors to address retroactively the period affected by the court remand (July 1, 1997 to June 30, 2000), and prospectively the period from July 1, 2000 forward, or a single X-factor to cover the combined period. Specifically, we seek comment on three possible bases for setting the historical component of the X-factor: (1) by relying on the results of the 1997 staff TFP study used in the 1997 order; (2) by relying on the results of a new 1999 staff TFP study that makes several adjustments to the 1997 staff study; or (3) by relying on the results of a new staff Imputed X study that determines the X-factor that would have produced a competitive level of capital compensation in the interstate jurisdiction during the period between price cap performance reviews.

Further, we seek comment on resetting, on a forward-looking basis, price cap LEC prices to a level that is consistent with any X-factor prescription in order to rebalance the sharing of benefits of price caps between LECs and their customers. This FNPRM is limited to issues surrounding the setting of the X-factor, and does not include any broader changes to our method of price cap regulation.

In a separate but related proceeding, the Commission is seeking comment on a proposal submitted by the Coalition for Affordable Local and Long Distance Services ("CALLS"). *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service*, 64 FR 50527, September 16, 1999. The CALLS proposal would purportedly eliminate the necessity of retrospectively adjusting the X-factor in response to the court's remand. Instead, it would keep the X-factor at 6.5 percent, but would target X-factor reductions to the traffic-sensitive price cap basket. Once local switching rates reached a certain level, all price cap indices would be frozen. Adoption of the CALLS proposal would also eliminate the need to prescribe an X-factor on a going-forward basis. We seek comment in this proceeding on the prescription of the X-factor because, in the event that the CALLS proposal is not adopted, or not all price cap LECs become signatories to the proposal, the Commission must be prepared to prescribe a new X-factor before April 1, 2000.

Option 1: The 1997 Staff TFP Study

We seek comment on whether we should use only the results from the 1997 staff TFP study in setting the historical component of the X-factor for the remand period. We seek comment on whether, in addressing the court's remand, we are precluded from revising the X-factor using any other methodology, or from supplementing the data in the 1997 staff TFP study.

The court did not find fault with the 1997 staff TFP study, and did not ask us to revisit it. Instead, the court limited its critique of TFP to our selection of a value at the upper end of the reasonableness range, and with the upward adjustment to the reasonable range.

In their responses to a 1998 request to refresh the record in our *Access Charge Reform* proceeding, both USTA and AT&T used the methodology in the 1997 staff TFP study to extend the calculation of the X-factor through 1997. USTA has also calculated an X-factor for 1998. We seek comment on the legal and logical arguments supporting consideration of data that have become available after the

close of the record for the remanded prescription. We note that USTA and AT&T did not agree with each other on the value of the historical component for 1996 and 1997. We seek comment on USTA's and AT&T's updates of the 1997 staff TFP study, and on their recommendations for prescribing an X-factor.

If we set the X-factor by using the 1997 staff TFP study, the court's remand requires that we justify our selection from within the reasonable range. Within the reasonable range, should we use some measure of central tendency, e.g., the mean or median, as the best estimator of productivity? Could and should we consider prescribing above the mean? If the reasonable range includes a statistically meaningful trend, should this inform our choice? What other justifications could be made for selecting above or below some measure of central tendency? Should these justifications affect our selection from the reasonable range, or are they more relevant to the selection of a CPD?

Option 2: The 1999 Staff TFP Study

In comments filed with the Commission late last year, several parties identified what they believe is a problem in the way in which the 1997 staff TFP study employed the TFP methodology commonly used in economic analysis to set an X-factor. The 1999 staff TFP study takes this potential problem as a point of departure and attempts to correct it. We seek comment on the 1999 staff TFP study, and on its premise that the 1997 staff TFP study methodology may fail to calculate an X-factor that is consistent with the objectives of our price cap plan.

The 1997 staff TFP study subtracts the cost of the labor and material inputs from revenues, and the residual revenue is assumed to be the cost of the capital input. The 1999 staff TFP study attempts to capture the gains in productivity that would have been revealed in a competitive marketplace by varying total capital compensation according to a measure of the competitive capital compensation rate.

We seek comment on the following method for adjusting the capital compensation in the 1997 staff TFP study. The first step is to identify a competitive price index series to use as a surrogate for the annual change for the cost of capital in a competitive market. The second step is to assume LEC capital compensation in 1991, the first full year of LEC price cap, was at a competitive level. Because price caps were implemented in 1991, the 1999 staff TFP study assumes that LECs earned a normal return in that year. The third step is to combine the competitive price index and the 1991 LEC capital compensation rate to create a competitive LEC capital compensation rate for the historical period. The fourth step is to increase or decrease LEC capital compensation based on this competitive LEC capital compensation rate. The fifth step is to adjust LEC revenues, making appropriate allowance for taxes, for the change in capital compensation. The final step is to recalculate LEC historical TFP using these revised capital compensation and revenue data.

In addition to updating the data for the period 1996–1998, the 1999 staff TFP study makes three other modifications to the 1997 staff TFP study. First, the 1999 staff TFP study uses the recently revised Bureau of Labor Statistics ("BLS") series on multifactor productivity in place of the antecedent series. Second, the 1999 staff TFP study uses the number of dial equipment minutes, rather than the number of calls, in calculating the local service output index. Third, the 1999 staff TFP study recalculates the labor input to adjust for the fact that all the costs, but only a fraction of the benefits, of the 1992–95 employee buyouts have been recognized on the accounting books. We seek comment on these modifications to the 1997 staff TFP study.

Several additional aspects of the 1997 staff TFP study may warrant highlighting and comment. The 1999 staff TFP study does not make these adjustments because they either are not easily quantified, or do not make a significant impact on the level of the X-factor. We seek comment on the decision of the 1999 staff TFP study to not make any of these adjustments. We also seek comment on whether there are any additional issues that necessitate adjusting the X-factor, how any such adjustments would affect the X-factor, and how they should be made.

The court's remand requires that we justify our selection from within a reasonable range. We seek comment on how we should determine the reasonable range and how we should select from within this range. In our determination of the reasonable range in the *1997 Price Cap Review Order*, we gave recent years more weight than more distant years. Should we continue to discount more distant years? Should the period under price cap regulation be given more weight than the period under rate-of-return regulation? Given that price cap regulation may have been anticipated by price cap LECs for some years before its introduction, what years should be included in the price cap period?

We also seek comment on whether additional years of data should be considered in the remand, or whether the X-factor we select should rely on the same years of data as used in the *1997 Price Cap Review Order*. We seek comment on the legal and logical arguments supporting consideration of data that have become available after the close of the record for the remanded prescription. Would it be more responsive to the court's remand to prescribe an X-factor based on data available in 1997 or to consider the additional data that has become available in the interim in setting the X-factor on a going-forward basis?

Option 3: The Staff Imputed X Study

As an alternative to either of the TFP methodologies, the Bureau staff also has performed a study, the staff Imputed X study, designed to calculate the X factor that yields the aggregate revenues that would have been generated in a competitive market. While price caps provide incentives for cost reduction similar to those of competition, they do not guarantee that revenues will follow a similar path. In a competitive market, revenues on average will be equal to costs, including compensation of capital at a competitive market level. This method is intended to replicate the effects of a competitive market in apportioning the gains from successful operation between carriers and consumers. The approach used here differs from the TFP approach, *inter alia*, in that it measures productivity growth by looking at aggregate expense and revenue data rather than by weighting and aggregating categories of physical inputs and outputs. In contrast to both of the TFP approaches, this method appears to have modest data requirements and to be computationally simple and easily understandable. Nevertheless, this method should have the same incentive effects as the TFP approach or any other method of calculating an X-factor.

The staff Imputed X study calculates the change in 1998 revenue and operating income for each price cap LEC that would result from imposing a hypothetical X-factor from the inception of price caps in 1991 through 1998. The results for all price cap LECs are aggregated, and the X-factor required to produce revenues equal to costs, including a competitive level of capital compensation in the aggregate for all LECs, is calculated. The calculation was also performed for 1991 through 1995 for comparison with the original TFP study. The calculation takes account of

the increase in the demand for service that would have resulted from the lower price. Changes in the competitive cost of capital were accounted for by adjusting the capital compensation found reasonable by the Commission at the inception of price caps by an index of bond rates over the period. The index is the same one used for the 1999 staff TFP study to measure the price of capital. Moody's Baa corporate bond rate was used. We noted above that, in a competitive capital market, indexes of bond rates will agree closely. Further, in an efficient market, there are no persistent arbitrage opportunities between different financial instruments, so that we have no reason to expect that the trend of bond rates would differ over time from that of the return on an efficient diversified portfolio. Thus, applying any of several published indices to the allowed rate at the beginning of the period will yield approximately the same estimate of the end-period rate.

The data used for these estimates differ from those used for the TFP calculations in that they are purely interstate in nature. The TFP calculations used total company data because of the difficulty of separating interstate and intrastate costs for the TFP calculations, despite interstate data being conceptually more appropriate for representing the services regulated by the Commission under price caps. The data for the staff Imputed X study also include all price cap carriers, whereas the TFP studies use data for the regional Bell operating companies ("RBOCs") only. The calculations assume that a decrease in price would result in an increase in the quantity of service purchased, while the TFP calculations necessarily reflect only experience under the prices that were actually in effect. Finally, the staff Imputed X study does not make an adjustment in expense data comparable to the adjustment made in the 1999 staff TFP study to compensate for the accounting treatment of employee buyouts. To provide a check on the revised TFP calculations, the X-factor calculations using the staff Imputed X study were repeated using data only for the RBOCs and assuming no demand growth in response to lower prices. These calculations were performed for both 1995 and 1998.

We note that the approach described here is similar to the Direct Model proposed by AT&T, which the Commission has referred to as the Historical Revenue Approach in the 1997 price cap performance review proceeding. The staff Imputed X study differs from the approach proposed by AT&T primarily in that the staff calculation includes an adjustment to take account of likely demand stimulation resulting from a lower price cap, and the calculation takes account of changes over time in competitive return to capital. Data sources and calculations also differ somewhat. In the *Price Cap Performance Review for Local Exchange Carriers*, 60 FR 19526, April 19, 1995 ("*1995 Price Cap Review Order*"), the Commission noted that the Historical Revenue Approach has the advantage that it reflects performance in providing the interstate services that are subject to price caps, and includes input cost changes. In comments in the 1997 price cap performance review proceeding, GSA supported the Historical Revenue Approach and noted that it incorporates both TFP growth and the input price differential.

Most criticisms of AT&T's Historical Revenue Approach dealt with the data and methodology used by AT&T in its calculations. Commenters responding to AT&T's proposal pointed out that data reported under Commission accounting, separations, and other rules may not accurately track economic costs. In its comments in the 1997 price cap performance review proceeding, NYNEX criticized use of the Historical Revenue Approach on the grounds that accounting-based rules are a poor measure of a firm's economic performance. We note that the Commission declined to adopt the Historical Revenue Approach in the *1997 Price Cap Review Order* due to administrative concerns and incentive effects.

We seek comment on the validity of the staff Imputed X study for estimating the appropriate level of the X-factor. Does the X-factor estimated using these data and assumptions accurately represent the productivity growth achievable by the price cap LECs over the period examined? We request comment on the theoretical appropriateness of this methodology. We also seek comment on the following questions: Is an interstate-only calculation conceptually proper, and do the data allow an accurate measure of interstate revenues, expenses, and investment? Calculations reported in the staff Imputed X study show that X-factors calculated on an annual basis appear to increase over time. Are there explanations for the trend we see other than increasing efficiency? Does this apparent trend suggest that an additional adjustment, such as the CPD, is necessary in addition to revising the calculation of the X-factor? Alternatively, is the CPD no longer necessary because the approach described here sufficiently passes the benefits of increased efficiency to ratepayers? What is the appropriate method for determining the competitive cost of capital? Is applying an index of bond rates to the rate of return used by the Commission to initialize rates at the inception of price caps a reasonable approach? Would taking account of the mix of debt and equity held by the LECs yield a more accurate estimate of the trend in the cost of capital?

We request comment on the data and calculations used in the staff Imputed X study. Are more appropriate data sources available, and can adjustments be made that would improve the accuracy of the calculations reported here? AT&T in its Historical Revenue Approach in 1994 used Price Cap Indices ("PCIs") from the Commission's Tariff Review Plan data to measure actual changes in allowed rates. This approach includes all changes that occurred in the price caps, including exogenous changes not related to the operation of the X factor. Is such an approach conceptually appropriate? Would use of PCIs rather than the X factor in effect more accurately reflect price performance for purposes of these calculations?

We also seek comment on whether, in responding to the remand, it is appropriate to use data for the period that was available to us at the time of the *1997 Price Cap Review Order*, or whether we should make use of the best information available to us now, including data for subsequent years that have become available in the meantime. We seek comment on the legal and logical arguments supporting consideration of data that have become available after the close of the record for the remanded prescription. Would it be more responsive to the court's remand to prescribe an X-factor based on data contemporaneous with the prescription and to consider the additional data in setting the X-factor on a going-forward basis? In addition, the court's remand requires that we justify our selection from within a reasonable range. How should we determine a reasonable range for setting the X-factor using the staff Imputed X study, and how we should select from within that range?

Consumer Productivity Dividend

In *Policy and Rules Concerning Rates for Dominant Carriers*, 55 FR 42375, October 19, 1990 ("*LEC Price Cap Order*"), the Commission included a CPD of 0.5 percent in the X-factor offset to ensure that access customers received the first benefits of price caps in the form of reduced rates. This CPD was also included in the X-factor in

subsequent price cap review orders, including the *1997 Price Cap Review Order*, in which it was intended to offset the elimination of sharing requirements. These requirements had compelled price cap LECs to share a portion of their earnings above set percentages with access customers. The sharing requirements were intended to protect consumers against the possibility of an error in the establishment of the X-factor. Pursuant to the court's remand, the Commission seeks comment on whether to retain the CPD.

In remanding this issue to the Commission, the court specifically questioned the quantification of the CPD. When the Commission made its decision to include a CPD in the 1997 X-factor, the record included a study by Strategic Policy Research ("SPR") that addressed the effects of eliminating the sharing requirements. The SPR study found that the LEC price cap plan with sharing requirements produced less than 35 percent of the efficiency incentives of unregulated competition. Those incentives decreased to 18 percent for price cap LECs whose earnings were in the 50–50 sharing category for each year of the four-year review cycle. The Commission discussed the SPR study in some detail in the *1995 Price Cap Review Order*. Although the Commission did not determine whether the SPR study accurately quantified the effects of sharing on productivity growth, it concluded that the study showed that there "are substantial gains in incentives that [sharing] suppresses." *1995 LEC Price Cap Review Order*. The results of the SPR study were challenged by the Ad Hoc Telecommunications Users Committee ("Ad Hoc"), but Ad Hoc's own results indicated that sharing substantially reduced efficiency incentives. Ad Hoc's more conservative calculations indicated that elimination of sharing would increase efficiency incentives by at least 17 percent for all LECs, and by 41 percent for LECs in the 50–50 sharing category. We seek comment on the CPD amount justified on the basis of these studies to ensure that the benefits of sharing elimination would be apportioned between LECs and ratepayers. We also seek comment on additional methods for quantifying a CPD designed to ensure that consumers get a reasonable portion of the benefits from the elimination of sharing.

We also seek comment on whether a CPD should be included to reduce rates and correct for prior years when the X-factor may have been set too low. As noted above, the calculations used to set prior year X-factors may have underestimated LEC productivity. This underestimation may have caused rates to be set at too high a level. A mistake in the X-factor may not be self-correcting, but instead may cause increasingly erroneous prices over time. To obtain efficient prices in the future, it may be necessary both to adjust the value of the X-factor and to reset prices. Therefore, we seek comment on whether we should include in the X-factor a CPD designed to reduce rates, either by a one-time adjustment, or over a multi-year period, if we conclude that the X-factor historically has been set too low. If the reduction occurs over a multi-year period, should we account for the time value of money, and, if so, how should we calculate the reduction?

Prescribing the X-Factor on a Going-Forward Basis

We seek comment on whether we should prescribe an X-factor that would apply as of July 1, 2000 that is different from the retrospective X-factor applicable to the period affected by the court's remand, or whether the X-factor that we prescribe for the period beginning July 1, 1997 should continue in place until the next price cap performance review. We also seek comment on whether to include a prospective CPD adjustment in future X-factors to correct for any significant divergences between historic LEC productivity and prior X-factors, and on whether any such adjustment should be made at once or be phased in over several years.

In this FNPRM we seek comment on prescribing a future X-factor based on the results of the 1999 staff TFP study. In the alternative, we could prescribe an X-factor based on the results of the staff Imputed X study. Finally, we invite parties to comment on other alternatives that could serve as a basis for a future X-factor.

We also seek comment on how the prescription of the X-factor would affect smaller price cap LECs differently from other price cap LECs, and whether there should be a separate X-factor calculated for smaller price cap LECs.

In addition, we seek comment on how the Commission's proposed adjustments to the price cap rate structure in *Access Charge Reform*, 64 FR 51258, September 22, 1999 ("*Pricing Flexibility Order*") should affect the annual reductions required by our price cap rules. We proposed in the *Pricing Flexibility Order* to add a "q" factor to the formulae used to adjust annually the price cap indices ("PCIs") for the baskets that contain the charges for local switching and tandem switching. The q factor would reduce switching charges based on growth in demand. The q factor would operate similarly to the g factor present in the common line PCI formula. The g factor is used to share with IXCs the benefits of demand growth that LECs receive from per-minute growth per access line. As proposed, the affected baskets would be reduced annually by both the X-factor and the q factor. The staff studies attached herein, however, may capture in their X-factor estimates some or all of the effect intended to be captured by the q factor. We seek comment on whether a q factor is necessary if an X-factor is adopted that captures its effect, and on how to remove any double counting that might result from the application of both factors. For example, if the X-factor reduction was $10, and the q factor reduction was $4, then we could directly apply $4 to the baskets containing local and tandem switching, and allocate the remaining $6 amongst all the baskets according to our price cap rules.

We also proposed to adjust on a prospective basis for the past absence of a q factor in the formulae that annually adjust the PCIs of the baskets containing charges for local and tandem switching. We seek comment on how any such adjustment should affect any proposed adjustment to the PCIs for all price cap baskets to offset the cumulative effect of past X-factors that may have been set below the rate of cost reduction actually achieved by LECs. Should we apply the logic suggested in the example of the previous paragraph? If so, should the shift of switching ports to common line increase the common line basket's share of any adjustment based on the past absence of a q factor?

In addition to proposing a q factor, we proposed to increase the "g" factor that applies to certain revenues in the common line basket from g/2 to a full g. We seek comment on whether any prospective adjustment to our X-factor prescription would be appropriate to account for this.

Finally, we proposed to replace the existing per-minute rate structure for local switching and tandem switching with capacity charges. We seek comment on whether replacing per-minute charges with capacity charges affects future growth in LEC productivity. We seek comment on whether any prospective adjustment to our X-factor is required and on how we would quantify this adjustment.

Ex Parte Presentations

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with 47 CFR 1.1206(b). *Ex parte* presentations are permissible if disclosed in accordance with

Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. *See* 47 CFR 1.1206(b)(2). Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b).

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this FNPRM. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) ("CWAAA"). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM provided below. The Office of Public Affairs will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**. 5 U.S.C. 603(a).

Need for and Objectives of the Proposed Rules. The court has remanded to the Commission the selection of a 6.5 percent productivity offset, or X-factor, in the LEC price cap formula. In this FNPRM we seek comment on how we should represcribe an X-factor. We seek comment on prescribing one or more X-factors to address retroactively the period affected by the court remand (July 1, 1997 to June 30, 2000), and we seek comment on represcribing one or more X-factors from July 1, 2000 forward. Further, we seek comment on resetting, on a forward-looking basis, price cap LEC prices to a level that is consistent with any X-factor prescription in order to rebalance the sharing of benefits of price caps between LECs and their customers.

Legal Basis. The proposed action is supported by sections 1, 4(i), 4(j), 201–205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201–205, and 303(r).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3). The SBA has defined a small business for Standard Industrial Classification ("SIC") category 4813 (Telephone Communications, Except Radiotelephone) to be an entity that has no more than 1,500 employees. 13 CFR 121.201.

We have included small incumbent LECs in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." 5 U.S.C. 601(3). The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. *See* Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 61 FR 45476. August 29, 1996. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

The proposals in the FNPRM apply only to price cap LECs. At the current time, there are 13 price cap LECs. Of these companies, 11 are listed in the Commission's most recent *Statistics of Communications Common Carriers ("SOCC")* report as having more than 1,500 employees. Consequently, we estimate that 2 or fewer providers of local exchange service are small price cap LECs that may be affected by these proposals.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements. We expect that, on balance, the proposals in this FNPRM will not change price cap LECs' administrative burdens or cause price cap LECs to incur any additional costs associated with proposed reporting and recordkeeping requirements. The studies would establish new X-factors that price cap LECs would need to utilize in their price cap calculations, but otherwise should not affect their administrative burdens or costs.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires agencies to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c)(1)–(4). In the instant proceeding we are seeking comment on the prescription of the productivity offset, or X-factor, portion of the price cap formula. Therefore, only the first and last possible alternatives listed in section 603(c) of the RFA would be applicable. In the FNPRM, we seek comment on how the prescription of the X-factor would affect smaller price cap LECs differently from other price cap LECs, and whether there should be a separate X-factor calculated for smaller price cap LECs. We also do

not believe it would be appropriate to exempt small price cap LECs from the application of an X-factor. We seek comment on these issues and urge commenting parties to support their comments with specific evidence and analysis.

Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules. None.

Filing of Comments and Reply Comments

Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments on or before December 30, 1999 and reply comments on or before January 14, 2000. Comments may be filed using the Commission's Electronic Comment Filing System ("ECFS") or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Only one copy of electronically-filed comments must be submitted.

Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW–B204, Washington, D.C. 20554.

Parties who choose to file by paper should also submit their comments on diskette. The diskette should be submitted to: Wanda Harris, Federal Communications Commission, Common Carrier Bureau, Competitive Pricing Division, 445 12th Street, S.W., Fifth Floor, Washington, D.C. 20554. The submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case), type of pleading (comments or reply comments), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase: "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, D.C. 20554.

Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), 201–205, and 303(r), *Notice Is Hereby Given* of the rulemaking described above and that *Comment Is Sought* on those issues.

The Commission's Office of Public Affairs, Reference Operations Division, Shall Send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 61

Communications common carriers, Tariffs.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–30741 Filed 11–24–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567 and 568

[Docket No. NHTSA–99–5673]

RIN 2127–AE27

Vehicles Built in Two or More Stages

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of establishment of a negotiated rulemaking advisory committee and notice of the first meeting.

SUMMARY: NHTSA announces the establishment of a Negotiated Rulemaking Committee to develop recommended amendments to the existing NHTSA regulations (49 CFR parts 567 and 568) governing the certification of vehicles built in two or more stages to the Federal motor vehicle safety standards (49 CFR part 571). The purpose of the amendments would be to assign certification responsibilities more equitably among the various participants in the multi-stage vehicle manufacturing process. The Committee will develop its recommendations through a negotiation process. The Committee will consist of persons who represent the interests that would be affected by the proposed rule, such as first-stage, intermediate and final-stage manufacturers of motor vehicles, equipment manufacturers, vehicle converters, testing facilities, trade associations that represent various manufacturing groups, and consumers. This notice also announces the time and place of the first advisory committee meeting. The public is invited to attend; an opportunity for members of the public to make oral presentations will be provided if time permits.

DATES: The first meeting of the advisory committee will be from 10 a.m. to 5 p.m. on Tuesday, December 14, 1999, and will continue from 9 a.m. to 3 p.m. on Wednesday, December 15, 1999.

ADDRESSES: The first meeting of the advisory committee will take place at the Hotel Washington, 515 15th Street, NW, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues, you may call Charles Hott, Office of Crashworthiness Standards, at 202–366–4920.

For legal issues, you may call Rebecca MacPherson, Office of the Chief Counsel, at 202-366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On May 20, 1999, the National Highway Traffic Safety Administration (NHTSA) published a notice of intent to establish an advisory committee (Committee) for a negotiated rulemaking to develop recommendations for regulations governing the certification of vehicles built in two or more stages. The notice requested comment on membership, the interests affected by the rulemaking, the issues that the Committee should address, and the procedures that it should follow. The reader is referred to that notice (64 FR 27499) for further information on these issues.

NHTSA received 17 comments on the notice of intent. All commenters endorsed the concept of using the

negotiated rulemaking process for this subject. Commenters generally supported the proposed list of issues without specific comment.

Based on this response, and for the reasons stated in the notice of intent, we have determined that establishing an advisory committee on this subject is appropriate and in the public interest. In accordance with the Federal Advisory Committee Act (FACA; 5 U.S.C. App. I sec. 9(c)), we prepared a Charter for the Establishment of a Negotiated Rulemaking Advisory Committee. We intend to file the charter within fifteen (15) days from the date of this publication.

II. Membership

A total of 20 individuals were nominated or applied for membership to the Committee, either through written comments or through follow-up telephone calls.

In considering requests for representation on the Committee, we had to first determine whether the requesters represent interests significantly affected by the proposed rulemaking. As identified in the notice of intent, in addition to the Department of Transportation (DOT), these interests are: manufacturers of various stages of motor vehicles, equipment manufacturers, vehicle converters, testing facilities, trade associations that represent various manufacturing groups, and consumers of the affected vehicles.

Following is the list of Committee members, identified by interest. Members are encouraged to designate alternates who can serve in place of the member if necessary. As noted in the notice of intent, the Committee will make its decisions through a process of negotiation leading to consensus. "Consensus" means the unanimous concurrence among the interests represented on the Committee, unless the Committee explicitly adopts a different definition.

The meetings of the Committee will be facilitated by Phillip Harter and Alan Strasser of the Mediation Institute. The organizations and interests that will participate in the negotiated rulemaking are:

National Highway Traffic Safety Administration:
1. Rebecca MacPherson, Department of Transportation, NHTSA;

Incomplete Vehicle Manufacturers:
2. Timothy Blubaugh, Freightliner Corporation;
3. Lindsay Harding, Ford Motor Company;
4. Paul Murphy, Motor Coach Industries, International;
5. David Stensland, Navistar International Transportation Corporation;
6. Glenn Zuchniewicz, General Motors Corporation;

Component Manufacturers:
7. Jerome Loftus, Atwood Mobile Products;
8. Paul Wagner, Bornemann Products, Inc.

Final Stage Manufacturers:
9. Andy Callaway, Mark III Industries;
10. Phillip Headley, Environmental Industries Association;
11. David Humphreys, Recreational Vehicle Industry Association (RVIA);
12. Michael Kastner, National Truck Equipment Association (NTEA);
13. Mark Sidman, Ambulance Manufacturers Division, Manufacturers Council of Small School Buses, and Mid-Size Bus Manufacturers Association;
14. Thomas Turner, Blue Bird Body Company;
15. Becky Plank, National Mobility Equipment Dealers Association (NMEDA);

Dealers:
16. Douglas Greenhaus, National Automobile Dealers Association (NADA);

Testing Facilities:
17. John Phillips, Transportation Research Center (TRC);

Consumer Representatives:
18. Christopher Amos, National Association of Fleet Manufacturers;
19. Mark Edwards, AAA;
20. Clarence Ditlow, Center for Auto Safety;
21. Bob Herman, Paralyzed Veterans of America (PVA).

III. Participation by Non-Members

Meetings of the Committee will be open to the public so that individuals who are not part of the Committee may attend and observe. Any person attending the Committee meetings may address the Committee, if time permits, or file statements with the Committee.

IV. Key Issues for Negotiation

In its notice of intent, NHTSA tentatively identified major issues that should be considered in this negotiated rulemaking and asked for comment concerning the appropriateness of these issues for consideration and whether other issues should be added. These issues were:

- Equitable and effective allocation of certification responsibility;
- Enforcement issues relevant to each stage of manufacturing;
- Costs to regulated parties of testing or certification;
- Effects on small businesses;
- Enforceability against later-stage manufacturers of standards that include dynamic testing;
- Feasibility and cost effectiveness of alternate methods (e.g., testing, computer modeling, or other as-yet-unspecified methods) to ensure compliance of completed vehicles with requirements of applicable FMVSSs;
- Mechanisms for incorporating alternate methods of ensuring compliance into these regulations;
- Mechanisms for sharing costs of testing;
- Requirements tailored to the capabilities and circumstances of each class of vehicles;
- Extended leadtime for implementation of FMVSSs for final-stage manufacturers;
- Recall and warranty responsibilities of manufacturers;
- Pass-through certification as a compliance option;
- Relative administrative/compliance burdens of certification on first-stage and later-stage manufacturers; and
- Scope of compliance "envelopes" prescribed by first-stage manufacturers and ability of intermediate- and final-stage manufacturers to stay within those envelopes.

Commenters neither objected to these issues nor suggested that additional issues be addressed. Accordingly, they will be the issues considered by the Committee.

V. Procedures and Schedule

Staff support for the Committee will be provided by NHTSA and the facilitator, and meetings will take place in Washington, DC, unless agreed otherwise by the Committee.

Consistent with FACA requirements, the facilitator will prepare summaries of each Committee meeting. These summaries and all documents submitted to the Committee will be placed in the public docket for this rulemaking.

As stated in the notice of intent, the Committee's objective is to prepare a report containing an outline of its recommendations for a notice of proposed rulemaking with suggestions for specific preamble and regulatory language based on the Committee's recommendations, as well as information relevant to a regulatory evaluation and an evaluation of the impacts of the proposal on small businesses.

The negotiation process will proceed according to a schedule of specific dates that the Committee devises at its first meeting on December 14–15, 1999. NHTSA will publish notices of future meetings in the **Federal Register**. We

anticipate that the Committee will meet for up to five two-day sessions beginning in December 1999. If the Committee establishes working groups to support its work, additional meetings for the working groups may be necessary.

NHTSA intends to accept the Committee recommendations, keeping in mind its statutory authority and other legal requirements. In the event that the agency rejects any of the recommendations, the preamble to a NPRM addressing the issues that were the subject of the negotiations will explain the reasons for the rejection.

VI. Meeting Agenda

The first meeting of the negotiated rulemaking committee will begin at 10 a.m. on December 14, 1999, with consideration of Committee ground rules, procedures, and calendar.[1] The Committee will then address the specific issues that should be included in the negotiation and how data to support its deliberations will be developed. In addition, the Committee will consider whether to establish working groups to provide technical support and recommendations for specific aspects of the negotiations. The first meeting will conclude no later than 3 p.m. on December 15.

VII. Authority

5 U.S.C. 561 *et seq.*, delegation of authority at 49 CFR 1.50.

Issued on: November 19, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–30740 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 110899D]

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public hearings to receive comments on a Draft Charter Vessel/Headboat Permit Moratorium Amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico and to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and South Atlantic (Draft Amendment).

DATES: Written comments on the Draft Amendment will be accepted by the Gulf Council until January 3, 2000. The public hearings will be held in December. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to and copies of the draft amendment are available from the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619, telephone: 813–228–2815. The public hearings will be held in Texas, Florida, Louisiana, Mississippi, and Alabama. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: In the Gulf of Mexico region there are presently about 1,286 charter vessels and 91 headboats. This represents an estimated 32–percent increase in the number of charter vessels and a 6–percent decrease in the number headboats between 1988 and 1998. Additionally, the number of charter vessel trips has increased 187 percent between 1988 and 1997.

The Council is considering implementation of a temporary moratorium on the issuance of charter vessel/headboat permits to fish the exclusive economic zone (EEZ) for reef fish and coastal migratory pelagics (mackerel) fish. A moratorium, if adopted by the Council and approved and implemented by NMFS, would provide a basis for the development of a more comprehensive effort limitation program for this segment of the recreational fisheries that could provide better long-term fishing effort control.

The Draft Amendment considers seven features of the proposed moratorium: (1) The duration of the moratorium; (2) initial eligibility requirements for a permit; (3) permit transfers during the moratorium; (4) vessel size for permit transfer; (5) the reissuance of permits not renewed; (6) a permit appeal process; and (7) vessel reporting. At present, the Council suggests a preferred alternative containing the following elements: (1) The establishment of a 3-year charter vessel/headboat permit moratorium; (2) an initial eligibility requirement according to which all persons holding charter vessel/headboat permits on September 16, 1999, are eligible; (3) the allowance of permit transfers during the moratorium between (a) vessels owned by the permit holder and (b) individuals without transfer of the vessel; and (4) NMFS's suspension of permits not renewed (or permanently revoked) during the moratorium.

The Council has not selected preferred alternatives for (1) vessel size restriction on permit transfers, (2) the appeals process under moratorium, or (3) vessel reporting requirements.

Time and Location for Public Hearings

Public hearings for the Draft Charter Vessel/Headboat Permit Moratorium Amendment will be held at the following locations, dates, and times. In addition, public testimony will be accepted at the Gulf Council meeting in Fort Walton Beach, Florida on January 19, 2000.

1. December 6, 1999, 7:00 p.m. to 10:00 p.m., Port Isabel Community Center, 213 Yturria, Port Isabel, TX 78578

2. December 6, 1999, 7:00 p.m. to 10:00 p.m., Harvey Government Center, 1200 Truman Avenue, Key West, FL 33040

3. December 7, 1999, 7:00 p.m. to 10:00 p.m., Port Aransas Civic Center Auditorium, 710 West Avenue A, Port Aransas, TX 78373

4. December 7, 1999, 7:00 p.m. to 10:00 p.m., Naples Depot Civic Cultural Center 1051 Fifth Avenue South, Naples, FL 34102

5. December 8, 1999, 7:00 p.m. to 10:00 p.m., Texas A&M Auditorium, 200 Seawolf Parkway, Galveston, TX 77553

6. December 8, 1999, 7:00 p.m. to 10:00 p.m., City Hall Auditorium, 300 Municipal Drive, Madeira Beach, FL 33708

7. December 9, 1999, 7:00 p.m. to 10:00 p.m., Larose Regional Park, 2001 East 5th Street, Larose, LA 70373

8. Monday, December 13, 1999, 6:00 p.m. to 9:00 p.m., J. L. Scott Marine Education Center & Aquarium, 115 East Beach Blvd., US Hwy. 90, Biloxi, MS 39530

9. December 14, 1999, 7:00 p.m. to 10:00 p.m., Hilton Beachfront Garden Inn, 23092 Perdido Beach Boulevard, Orange Beach, AL 36561

10. December 15, 1999, 6:00 p.m. to 9:00 p.m., Gulf Coast Community College, Student Union East Building, Gibson Lecture Hall (2nd Floor), 5230

---

[1] NHTSA will publish a single notice of the schedule of all future meetings in the **Federal Register**, but will amend the notice through subsequent **Federal Register** notices if it becomes necessary to do so.

West Highway 98, Panama City, FL 32401

Copies of the Draft Amendment can be obtained from the Council (see **ADDRESSES**).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by November 29, 1999.

Dated: November 19, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30807 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–22–F

VOL 64 ISS 227 NO 26 1999 UMI

Noti

This sectio
contains d
proposed
public. No
committee
rulings, de
petitions a
statements
examples
section.

DEPART

**Food, Nu
Services**

Research

**DEPART
HUMAN S**

Office of

**National
Public Me
Planning
Summit**

AGENCIES:
Agricultu
Health an

ACTION: N
Notice of
input in t
Nutrition

SUMMARY:
Agricultu
of Health
provide n
solicit inp
National
meeting w
Auditoriu
Building,
SW, Wash
Smithsoni

DATES: Th
input for t
(the Sumn
9, 1999, fr

FOR FURTH
Shanthy A
Agricultur
0619, or P
Institutes

SUPPLEME

Backgrou

The USI
National N
tentatively
2000, in W
is intende

Notices

Federal Register
Vol. 64, No. 227
Friday, November 26, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food, Nutrition, and Consumer Services

Research, Education, and Economics

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

National Nutrition Summit: Notice of a Public Meeting To Solicit Input in the Planning of a National Nutrition Summit

AGENCIES: U.S. Department of Agriculture and U.S. Department of Health and Human Services.

ACTION: National Nutrition Summit: Notice of a public meeting to solicit input in the planning of a National Nutrition Summit.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) provide notice of a public meeting to solicit input in the planning of the National Nutrition Summit. The meeting will be held at the Jefferson Auditorium of the South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC, near the Smithsonian Metro station.

DATES: The public meeting to solicit input for the National Nutrition Summit (the Summit) will be held on December 9, 1999, from 9 a.m. to 1 p.m. e.s.t.

FOR FURTHER INFORMATION CONTACT: Shanthy A. Bowman, USDA, Agricultural Research Service, 301–504–0619, or Paul M. Coates, HHS, National Institutes of Health, 301–435–2920.

SUPPLEMENTARY INFORMATION:

Background Information on the Summit

The USDA and HHS are planning a National Nutrition Summit that is tentatively scheduled for May 30–31, 2000, in Washington, DC. This Summit is intended to provide opportunity (a) to highlight accomplishments in the areas of Food, Nutrition, and Health since the White House Conference on this subject held in 1969; (b) to identify continuing challenges and emerging opportunities for the Nation in these areas; and (c) to focus on nutrition and lifestyle issues across the lifespan, especially those that we confront in solving the Nation's epidemic of overweight and obesity.

Registration for Oral Presentation

Registration is required to provide oral input for the Summit at the public meeting on December 9, 1999. Requests to provide oral input at the meeting should be submitted by 5:00 p.m. e.s.t. December 7, 1999, to Shanthy A. Bowman, USDA, Agricultural Research Service, 301–504–0619. Name of the presenter, organization affiliation (if applicable), city, state, and contact phone number are required for registration. Presenters will be selected on first come basis. Presentations should be limited to three (3) minutes or less. Registration will also be accepted at the meeting, if time slots are available.

Written Comments

Written comments will be accepted at the public meeting on December 9, 1999. Written comments may also be submitted by 5:00 p.m. e.s.t. December 20, 1999 to Shanthy A. Bowman, USDA–ARS–BHNRC, 10300 Baltimore Avenue, Bldg 005, Rm 125, BARC-West, Beltsville, MD 20705–2325.

Agenda

The agenda for the public meeting will include, but will not be limited to, a) introductory remarks from the representatives of the Departments of Agriculture and Health and Human Services, b) public meeting session on nutrition and lifestyle approaches to solving the nation's epidemic of overweight, and c) public meeting session on nutrition and physical activity across the lifespan.

The HHS and USDA Summit Steering Committee is interested in receiving input that will help guide the planning activities for the Summit, in relation to the above mentioned areas. The Summit Steering Committee includes representatives of the HHS Centers for Disease Control and Prevention, National Institutes of Health and Office of the Secretary and the USDA mission areas of Research, Education, and Economics and Food, Nutrition, and Consumer Services.

Dated: November 18, 1999.

Julie Paradis,

Deputy Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture.

Eileen T. Kennedy,

Deputy Under Secretary, Research, Education, and Economics, Department of Agriculture.

Nicole Lurie,

Principal Deputy Assistant Secretary for Health, Department of Health and Human Services.

[FR Doc. 99–30812 Filed 11–24–99; 8:45 am]
BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of the Land Between The Lakes (LBL) Advisory Board

AGENCY: Forest Service.

ACTION: Notice of intent to establish the LBL Advisory Board.

SUMMARY: Notice is hereby given that, in accordance with the Land Between The Lakes Protection Act of 1998, the Secretary of Agriculture intends to establish the Land Between The Lakes Advisory Board (LBLAB). Land Between The Lakes (LBL) is a 170,000-acre National Recreation Area located in western Kentucky and Tennessee; it is bounded by the Tennessee River and Kentucky Lake on the west and the Cumberland River and Lake Barkley on the east.

LBL is one of the largest tracts of Federal land in the eastern United States. It is managed for multiple purposes to optimize a wide variety of outdoor recreation uses and to provide a national resource for environmental education. At LBL, innovative programs in these fields can be tested and carried out. LBL is also a significant economic stimulus for the surrounding region.

Until September 30, 1999, LBL was managed by the Tennessee Valley Authority (TVA). On October 1, 1999, management of LBL transferred from TVA to the USDA Forest Service in accordance with the Land Between The Lakes Protection Act of 1998 (LBL Protection Act). The LBL Protection Act states the Secretary of Agriculture shall establish an advisory board to receive

advice on (1) means of promoting public participation for LBL's land and resource management plan, and (2) environmental education.

As required in the LBL Protection Act, seventeen members shall be appointed to the LBLAB as follows:

- 4 persons selected by the Secretary of Agriculture, including:
  - 2 residents of the State of Kentucky
  - 2 residents of the State of Tennessee
- 2 person selected by the Governor of Tennessee;
- 2 persons selected by the Governor of Kentucky;
- 2 persons selected by the Commissioner (or designee) of the Kentucky Department of Fish and Wildlife Resources;
- 1 person selected by the Commission (or designee) of the Tennessee Wildlife Resources Agency;
- 2 persons selected by the Judge Executive of Lyon County, Kentucky;
- 2 persons selected by the Judge Executive of Trigg County, Kentucky; and
- 2 persons selected by the County Executive of Stewart County, Tennessee.

LBLAB will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Persons interested in being considered for appointment to LBLAB should contact Kathy Coursey, LBLAB Administrative Officer, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, phone 270–924–2272, email kccoursey@tva.gov.

FOR FURTHER INFORMATION CONTACT: Kathy Coursey, LBLAB Administrative Officer, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, 270–924–2272, kccoursey@tva.gov.

Dated: November 16, 1999.

Ann W. Wright,

General Manager, Land Between The Lakes.

[FR Doc. 99–30785 Filed 11–24–99 8:45 am]

BILLING CODE 8120–08–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

The United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 10:00 a.m. local time on December 9, 1999 at the Funger Building, Room 103, The George Washington University 2201 G Street, N.W. Washington, D.C. 20052. Topics to be discussed at the meeting will include: implementation of various Board Directives, including the Board members request to withdraw the agency's preliminary budget request for fiscal year 2001; the agency's compliance with the Government in the Sunshine Act; the status of the agency's on-going investigations; and the status of the agency's annual reports to the President and Congress. The meeting will be open to the public. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of External Relations, (202)–261–7600, or visit our website at: *www.csb.gov*.

Gerald V. Poje,

Board Member.

[FR Doc. 99–30922 Filed 11–23–99; 2:36 pm]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 991112302–9302–01]

RIN Number 0607–XX48

1999 Company Organization Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: The U.S. Census Bureau is conducting the 1999 Company Organization Survey. The survey's data are needed, in part, to update the multi-establishment companies in the Business Register. The survey, which has been conducted annually since 1974, is designed to collect information on the number of employees, payroll, geographic location, current operational status, and kind of business for the establishments of multi-location companies. We have determined that annual data collected from this survey are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from this survey are not available from any other source.

FOR FURTHER INFORMATION CONTACT: Paul Hanczaryk, Economic Planning and Coordination Division, U.S. Census Bureau, Room 2747, Federal Building 3, Washington, DC 20233–6100, telephone (301) 457–2580.

SUPPLEMENTARY INFORMATION: Title 13, United States Code, Sections 182, 195, 224, and 225, authorize the Census Bureau to undertake surveys necessary to furnish current data on the subjects covered by the major censuses. This survey will provide continuing and timely national statistical data for the period between economic censuses. The next economic censuses will be conducted for the year 2002. The data collected in this survey will be within the general scope, type, and character of those that are covered in the economic censuses.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. In accordance with the Paperwork Reduction Act, 44 U.S.C., Chapter 35, the OMB approved the survey on November 3, 1999, under OMB control Number 0607–0444. We will furnish report forms to organizations included in the survey, and additional copies are available on written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

I have, therefore, directed that the 1999 Company Organization Survey be conducted for the purpose of collecting these data.

Dated: November 12, 1999.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 99–30768 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 991116304–9304–01]

RIN Number 0607–XX49

Annual Surveys in the Manufacturing Area

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: The U.S. Census Bureau is conducting the 1999 Annual Surveys in the Manufacturing Area. The 1999 Annual Surveys consist of the Current Industrial Reports surveys, the Annual Survey of Manufactures, the Survey of Industrial Research and Development, and the Survey of Plant Capacity Utilization. We have determined that annual data collected from these surveys are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been

conducted for many years, are not publicly available from nongovernmental or other governmental sources.

FOR FURTHER INFORMATION CONTACT: William G. Bostic, Jr., Chief, Manufacturing and Construction Division, on (301) 457–4593.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on the subjects covered by the major censuses authorized by Title 13, United States Code, sections 61, 81, 182, 224, and 225. These surveys will provide continuing and timely national statistical data on manufacturing for the period between economic censuses. The next economic censuses will be conducted for the year 2002. The data collected in these surveys will be within the general scope and nature of those inquiries covered in the economic censuses.

Current Industrial Reports

Most of the following commodity or product surveys provide data on shipments or production, data on stocks, unfilled orders, orders booked, consumption, and so forth. Reports will be required of all, or a sample of, establishments engaged in the production of the items covered by the following list of surveys.

In 1998, the Census Bureau converted the Current Industrial Reports (CIR) survey form names to reflect the switch from the old U.S. Standard Industrial Classification (SIC) system to the new North American Industry Classification System (NAICS). Therefore, all surveys listed below are identified with their NAICS classification.

Survey Title

MA313F Yarn Production
MA313K Knit Fabric Production
MA314Q Carpets and Rugs
MA315D Gloves and Mittens
MA321T Lumber Production and Mill Stocks
MA325A Inorganic Chemicals
MA325B Inorganic Fertilizer Materials and Related Product
MA325C Industrial Gases
MA325F Paint and Allied Products
MA325G Pharmaceutical Preparations, except Biologicals
MA316A Footwear Production
MA327C Refractories
MA327E Consumer, Scientific, Technical, and Industrial Glassware
MA331A Iron and Steel Castings
MA331B Steel Mill Products
MA331E Nonferrous Castings
MA335J Insulated Wire and Cable
MA332K Steel Shipping Drums and Pails
MA333A Farm Machinery and Lawn and Garden Equipment
MA333D Construction Machinery
MA333F Mining Machinery and Mineral Processing Equipment
MA333J Selected Industrial Air Pollution Control Equipment
MA333L Internal Combustion Engines
MA333M Refrigeration, Air-conditioning, and Warm Air Equipment
MA333P Pumps and Compressors
MA332Q Antifriction Bearings
MA334R Computers and Office and Accounting Machines
MA335A Switchgear, Switchboard Apparatus, Relays, and Industrial Controls
MA335E Electric Housewares and Fans
MA335F Major Household Appliances
MA335H Motors and Generators
MA335K Wiring Devices and Supplies
MA334M Consumer Electronics
MA334P Communication Equipment
MA334Q Semiconductors, Printed Circuit Boards, and Electronic Components
MA334B Selected Instruments and Related Products
MA334S Electromedical and Irradiation Equipment

The following list of surveys represent annual counterparts of monthly and quarterly surveys and will cover only those establishments that are not canvassed, or do not report, in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

Survey Title

M311H Animal and Vegetable Fats and Oils (Stocks)
M311J Oilseeds, Beans, and Nuts (Primary Producers)
M311L Fats and Oils; (Renderers)
M311M Animal and Vegetables Fats and Oils (Consumption and Stocks)
M311N Animal and Vegetables Fats and Oils (Production, Consumption, and Stock)
M313P Consumption on the Cotton System
M327G Glass Containers
M331J Inventories of Steel Producing Mills
M336G Civil Aircraft and Aircraft Engines
M336L Truck Trailers
MQ311A Flour Milling Products
MQ313D Consumption on the Woolen System and Worsted Combing
MQ313T Broadwoven Fabrics (Gray)
MQ315A Apparel
MQ314X Bed and Bath Furnishings
MQ327D Clay Construction Products
MQ332E Plumbing Fixtures
MQ333W Metalworking Machinery
MQ335C Fluorescent Lamp Ballasts

Annual Survey of Manufactures

The Annual Survey of Manufactures collects industry statistics, such as total value of shipments, employment, payroll, workers' hours, capital expenditures, cost of materials consumed, supplemental labor costs, and so forth. This survey, while conducted on a sample basis, covers all manufacturing industries, including data on plants under construction but not yet in operation.

Survey of Industrial Research and Development

The Survey of Industrial Research and Development measures spending on research and development activities in private U.S. businesses. The Census Bureau collects and compiles this information with funding from the National Science Foundation (NSF). The NSF publishes the results in its publication series. Four data items in the survey provide interim statistics collected in the Census Bureau's Economic Censuses. These items (total company sales, total company employment, and total expenditures and Federally-funded expenditures for research and development conducted within the company) are collected on a mandatory basis under the authority of Title 13, U.S.C. Responses to all other data collected for the NSF are voluntary.

Survey of Plant Capacity Utilization

The Survey of Plant Capacity Utilization is designed to measure the use of industrial capacity. The survey collects information on actual output and estimates of potential output in terms of value of production. These data are the basis for calculating rates of utilization of full production capability and use of production capability under national emergency conditions.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 45, the OMB approved the 1999 Annual Surveys under the following OMB Control Numbers: Current Industrial Reports—0607–0206, 0607–0392, 0607–0393, 0607–0395, 0607–0476, and 0607–0776; Annual Surveys of Manufactures—0607–0449; Survey of Industrial Research and Development—3145–0027; and, Survey of Plant Capacity Utilization—0607–0175. We will provide copies of the form upon written request to the Director, Bureau of the Census, Washington, DC 20233–0001.

Based upon the foregoing, I have directed that the Annual Surveys in the Manufacturing Area be conducted for the purpose of collecting these data.

Dated: November 19, 1999.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 99–30767 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 991028291–9291–01]

RIN 0648–ZA75

Office of Research and Applications Ocean Remote Sensing Program; Notice of Financial Assistance

AGENCY: National Oceanic and Atmospheric Administration (NOAA), National Environmental Satellite, Data, and Information Service (NESDIS).

ACTION: Notice of availability of Federal assistance.

SUMMARY: The NESDIS Office of Research and Applications (ORA) announces the availability of Federal assistance for fiscal year 2000 (FY 2000) in the Ocean Remote Sensing Program area. This announcement provides details on the technical program, and includes detailed guidelines on proposal submission, evaluation criteria and selection procedures. Selected recipients will either receive a grant, or enter into a cooperative agreement with ORA, depending upon the amount of the Office's involvement in the project. A project will be considered a grant where the proposed work is considered substantially independent work. A cooperative agreement will be considered where there is substantial involvement by the Office in the proposed work.

All applicants are required to submit a NOAA Grants Application Package and project proposal. The standard NOAA Grants Application Package (which includes Forms SF–424, SF–424A, SF–424B, SF–424C, SF–424D, CD–511, CD–512, and SF-LLL) can be obtained from the NOAA Grants Website at http://www.rdc.noaa.gov/~grants/pdf/. If Internet access is not available, a Grants Package can be obtained by mail by contacting the NOAA/NESDIS/ORA at (301) 763–8127. Funding for this program area in FY 2000 will be contingent upon the availability of funds but is anticipated to be in the range of $100,000 to $500,000. Individual awards are expected to range from a minimum of $50,000 to $150,000 on an annual basis. Successful proposals that are deemed to be exceptionally meritorious by the Selection Panel may be larger. There is no guarantee that all the areas of research interest identified in this Notice will be able to receive funding consideration.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSI), and Tribal Colleges and Universities (TCU) in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

DATES: Proposals with completed Grants Applications Package must be received by ORA no later than 5:00 p.m. EST on January 17, 2000. Final selection is anticipated to be completed by approximately March 3, 2000. The earliest anticipated start date is June 1, 2000.

ADDRESSES: Send all proposals to the Office of Research and Applications; NOAA/NESDIS; 5200 Auth Road; Room 701; Camp Springs, MD 20746–4304. Proposals should cite this Notice and be sent to the attention of Dr. H. Lee Dantzler, Jr., Chief, Oceanic Research and Applications Division.

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to Kathy LeFevre, (301) 763–8127 or klefevre@nesdis.noaa.gov. Technical point of contact is Dr. H. Lee Dantzler, Jr. at (301) 763–8184 or ldantzler@nesdis.noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority: Statutory authority for these programs is provided under 33 U.S.C. 1442 (Research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems); 15 U.S.C. (Cooperative Agreements); and 49 U.S.C. 44720 (Meteorological Services).

Catalog of Federal Domestic Assistance (CFDA)

This program is listed in the Catalog of Federal Domestic Assistance under Number 11.440 (Research in Remote Sensing of the Earth and Environment).

General Information

Environmental prediction, assessment and the conservation and management of coastal and oceanic resources are primary functions of NOAA. NESDIS, one of the five principal Offices within NOAA, is the world's largest civil, operational environmental space organization and operates the Nation's civil geostationary and polar-orbiting environmental satellites. NESDIS also facilitates the acquisition of non-U.S. environmental satellite data through international agreements. Satellite systems provide data and information that are critical to weather forecasting; natural disaster response and mitigation; climate change forecasts and research; living and non-living marine resources management; and coastal and open oceanographic research. ORA provides overall guidance and direction to the oceanic, atmospheric and climate research and applications activities of NESDIS. The Ocean Remote Sensing Program, managed by ORA's Oceanic Research and Applications Division, has as its goal to help build capabilities nationwide to make expanded and improved use of earth-orbiting satellite data and information. The Program has particular interest in activities relating to sustaining healthy coasts, building sustainable fisheries, recovering protected species, providing improved environmental forecasts, and preparing for future NOAA operational satellite missions.

Program Description

The Ocean Remote Sensing Program seeks to expand the use of and improve access to operational satellite oceanographic data by state, Federal, regional governmental and non-profit entity users. The program is seeking proposals in each of the following research areas listed in approximate priority order: (1) The application of satellite oceanographic data and information in coastal and oceanic marine (living and non-living) resources management; (2) The application of satellite oceanographic data to gain improved insight on regional oceanographic factors affecting important fisheries and critical ecosystems (*e.g.*, essential fish habitat, early life recruitment and survival, stock assessment, protected species, important socio-economic interactions, and coral reefs); (3) Innovative techniques to simplify and improve access to satellite oceanographic data by public users (*e.g.*, access by educators, by users employing geographic information systems (GIS) technologies, and by users employing Internet-based

data access and data distribution technologies); (4) Research to increase the accuracy, precision and quantitative use of satellite oceanographic data in coastal and ocean surface research investigations (*e.g.*, sea surface temperature, ocean color, ocean surface winds, sea level and surface height, and sea surface roughness derived from spaceborne synthetic aperture radar); (5) Research supporting the development of future ocean sensing capable U.S. satellite systems (e.g., the National Polar-Orbiting Operational Environmental Satellite System (NPOESS)); and (6) Improved coastal and oceanic climatologies using satellite oceanographic data. All proposals will be evaluated in the context of the potential value of the proposed work to a targeted user community (to be identified in the proposal), and the relationship of the proposed work to the NOAA/NESDIS mission (as described in the "General Information" section of this Notice).

Background

ORA provides overall guidance and direction to the research and application activities of NESDIS. ORA provides expert service to other NESDIS Offices and Centers relating to satellite sensor development, instrument performance, and systems hardware components. It coordinates with other NESDIS Offices and Centers, appropriate NOAA units, and U.S. Government agencies in the implementation and evaluation of operational and research satellite data and products that result from research activities. It coordinates research activities of mutual interest with the academic community, NASA laboratories, and with foreign organizations, particularly those in satellite operating countries. ORA provides advice to the Assistant Administrator concerning interfaces among the Centers and Offices of NESDIS and among the major NOAA elements in relation to broad scale scientific projects. It also produces and provides specific programmatic studies, statistics, and scientific recommendations as needed.

Project Proposals

Project proposals must be received by ORA by the time and date indicated in the "DATES" section of this Notice. Proposals received after that time and date will not receive consideration. In addition to the information requested below, the offeror must submit a complete NOAA grants application package (with signed originals). All project proposals must include the sections identified below and total no more than eight pages (excluding title page and any appendices) in double-spaced, 12-point font format. Multi-year proposals, in annual increments up to a maximum of three years, will be considered; however, funding beyond the first year will be dependent upon satisfactory performance and the continued availability of funds.

1. Title page—The title page shall provide the project's title, the lead Principal Investigator (PI) name(s), Partner name(s) if any, the respective affiliations, complete addresses, telephone, FAX, and e-mail information. The title page will also present the total proposed cost, the proposed budget period, and a brief abstract of the proposed work. The title page shall also identify the specific research area of interest (from those listed by number in the "Program Description" in this Notice), and clearly identify that the proposal is in response to this Notice. The title page should be signed by the PI(s) and the institutional representative of the PI's organization.

2. Goals and Objectives—Identify broad project goals and quantifiable objectives.

3. Background/Introduction—State the problem and summarize existing efforts in the context of present knowledge and/or capabilities.

4. User Application Audience—Describe specifics of how the project will contribute to improving or resolving an issue with an identified primary target audience. The target audience must be explicitly stated.

5. Project Description/Methodology—Describe the specifics of the proposed project (3 pages maximum).

6. Project Partners—Identify any project partners, their respective roles, and their contributions/relationships to the proposed effort.

7. Milestones and Outcomes—List target milestones, time lines, and desired outcomes. The potential value of the proposed work to the identified target audience's needs should be identified in this section of the proposal.

8. Project Budget—Provide a detailed budget breakdown by category (and in multi-year proposed efforts, by year) and a brief narrative to provide the basis for the proposed budget.

Selection Process

A project selection panel will be convened to review and to provide recommendations on selection using the criteria published in these guidelines. Each proposal will be reviewed by at least three reviewers who are qualified to review the proposed work. These reviewers may include both Federal and non-Federal individuals. Individuals in the Oceanic Research and Applications Division, however, will be excluded from participating in the review process. Proposals will be ranked according to a score (explained below) and presented to the Selecting Official (the Chief, Oceanic Research and Applications Division) for final selection. In addition to the individual proposal rankings assigned by the panel, the Selecting Official may consider program policy factors such as balance among the prioritized research areas of programmatic interest described in the "Program Description" section of this Notice, and (for cooperative agreements that have substantial ORA involvement) geographic location in making a final decision.

Selection Criteria (With Weights)

All proposals will be scored using the following criteria:

1. Relevance of the Proposed Research to NESDIS and NOAA Missions (30 Points)

Does the proposed project (directly or indirectly) address a critical need? Are the project goals and objectives clear and concise? Does the proposed project have a clearly defined user audience? Are there direct ties to relevant NESDIS, NOAA, Federal, regional, state or local activities?

2. Technical Merit (25 Points)

Is the approach technically sound? Does the proposed project build on existing knowledge? Is the approach innovative?

3. Applicability and Effectiveness (25 Points)

Does the proposed work have the potential of increasing the accessibility, usability (*i.e.*, easily understood and used), and relevance of satellite observed oceanographic data and information by the identified target user community? Does the proposed work provide for flexible, early and effective opportunities for user involvement (*e.g.*, through cooperative experiments, demonstrations, or user evaluations)? Does the proposed work have the potential for long-term (lasting) value and widespread applicability? Does the proposed work include an effective mechanism by which the project's progress can be evaluated?

4. Cost Efficiency (15 Points)

Is the budget realistic and commensurate with the project needs?

5. Overall Qualifications (5 Points)

Are the proposers capable of conducting a project of the scope and scale proposed (*i.e.*, scientific, professional, facility, and administrative resources/capabilities)? Are appropriate partnerships going to be employed to achieve the highest quality content and maximal efficiency?

Selection Schedule

Proposals submitted in response to this Notice will be reviewed once during the year according to the following schedule:

Proposals due—January 17, 2000
Final Selection—Approximately March 3, 2000
Grant start date—Approximately June 1, 2000

Note: All deadlines are for receipt by ORA no later than 5:00 p.m. EST on the due date identified. All applicants are required to submit one original and two complete paper copies of (1) the signed completed proposal; and, (2) the completed and signed NOAA Grants Application Package. The Grants Application Package may be accessed on-line from the NOAA Grants Home Page at http://www.rdc.noaa.gov/grants/index/html. Paper copies of this Notice and of the NOAA Grants Package can be obtained by mail by calling Kathy LeFevre at (301) 763–8127.

Funding Availability

Specific funding available for awards in response to this Notice will be finalized after the NOAA budget for FY 2000 is authorized. Total funding available for this Notice is anticipated to be between $100,000 and $500,000. Individual awards are expected to range from a minimum of $50,000 to $150,000 on an annual basis. Successful proposals that are deemed by the selection panel to be exceptionally meritorious may be larger. There is no guarantee that sufficient funds will be available to make awards for all approved projects, nor that all research areas of interest will be supported. Publication of this Notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to this program announcement and no additional weight will be given to proposals with cost sharing.

Eligibility Criteria

Applications for grants or cooperative agreements under this program announcement may be submitted in accordance with the procedures set forth in these specific guidelines by any U.S. state, territory, commonwealth, local or regional resource management agency; college or university; private industry; nonprofit organization; or cooperative research unit. Federal agencies or institutions are not eligible to receive Federal assistance under this Notice, but may be included as a participating partner(s) in the proposed work.

General Information for All Programs

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the current indirect cost rate negotiated and approved by the applicant's cognizant Federal agency (prior to the proposed effective date of the award), or 25 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs, should an award not be made or funded at a level less than requested.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award or Federal Funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 "Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and explanations are hereby provided:

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, subpart f, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier-covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This notice contains a collection of information requirements subject to the Paperwork Reduction Act. The use of Standards Forms 424, 424A, 424B, 424C, 424D, SF–LLL and the name check form have been approved by OMB under the respective control numbers 0328–0043, 0348–0044, 0348–0040, 0348–0041, 0348–0042, 0348–0046 and 0651–0001.

Mary M. Glackin,

Deputy Assistant Administrator for Satellite and Information Services.

[FR Doc. 99–30721 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111799C]

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on December 14–15, 1999.

ADDRESSES: All meetings will be held at the Caravelle Hotel, 44A, Queen Cross Street, Christiansted, St. Croix, U.S.V.I. 00820

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 99th regular public meeting to discuss the items contained in the following agenda:

Call to Order
Adoption of Agenda
Consideration of 98th Council Minutes
Executive Director's Report
Proposal for Rapid Assessment of Fish Kills
Update on Marine Conservation District
Sustainable Fisheries Act (SFA)
Change to SFA Document and Final Action by the Council
Marine Recreational Fisheries Statistics Survey
Essential Fish Habitat Amendment
Trap Impact Studies
Reef Fish Fishery Management Plan (FMP)
Subcommittee Meeting Report and Consideration of Scientific and Statistical Committee (SSC) and Advisory Panel (AP) Recommendations
Queen Conch FMP
Subcommittee Meeting Report and Consideration of SSC and AP Recommendations
Coastal Pelagics FMP (Wahoo/Dolphin)
Subcommittee Meeting Report and Consideration of SSC and AP Recommendations
Enforcement
-Federal Government
-Puerto Rico
-U.S. Virgin Islands
Administrative Committee Recommendations
Meetings Attended by Council Members and Staff
Other Business
Next Council Meeting

The Council will convene on Wednesday, December 14, 1999, from 1:00 p.m. to 5:00 p.m., through Thursday, December 15, 1999, from 9:00 a.m. until noon., approximately. The Administrative Committee will meet on Wednesday, December 14, 1999, from 5:00 p.m. to 6:00 p.m., to discuss administrative matters regarding Council operation.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, at the Council (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: November 18, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30805 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111999A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for a scientific research permit (1226).

SUMMARY: Notice is hereby given that NMFS has received a permit application from Mr. Mike Clancy, of the New York State Department of Environmental Conservation (NYSDEC) (1226).

DATES: Comments or requests for a public hearing on the application must be received at the appropriate address or fax number no later than 5:00pm eastern standard time on December 27, 1999.

ADDRESSES: Written comments on the application should be sent to: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 713–0376. Comments will not be accepted if submitted via e-mail or the internet. The application and related documents are available for review in the following office, by appointment:

Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (ph: 301–713–1401).

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Silver Spring, MD (ph: 301–713–1401, fax: 301–713–0376, e-mail: Terri.Jordan@noaa.gov).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

Those individuals requesting a hearing on the application listed in this notice should set out the specific reasons why a hearing on the application would be appropriate (see **ADDRESSES**). The holding of such hearings is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summary are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species is covered in this notice:

Endangered shortnose sturgeon (*Acipenser brevirostrum*).

New Application Received

As a requirement in the Atlantic States Marine Fisheries Commission's Atlantic Sturgeon Management Plan, New York State must initiate monitoring of juvenile Atlantic sturgeon in the Hudson River. While conducting this research it is a very likely and unavoidable event that shortnose will be captured in the sampling gear deployed to capture Atlantic sturgeon. The NYSDEC is applying for a permit to handle and tag any shortnose sturgeon incidentally caught in their sampling gear. The NYSDEC will work in collaboration with the U.S. Fish and Wildlife Service (permit #1051) to share biological and movement data regarding shortnose sturgeon residing in the Hudson River.

Dated: November 19, 1999.

Margaret C. Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–30806 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Public Key Infrastructure (PKI) Certificate Action Form

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DoC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 25, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 or via the Internet at LEngelme@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Art Purcell, Patent and Trademark Office, Office of Systems Architecture and Engineering, Crystal Park 2, 2121 Crystal Drive, Arlington, VA 22202, by telephone at (703) 308–6856, or by e-mail at art.purcell@uspto.gov.

SUPPLEMENTARY INFORMATION

I. Abstract

The Public Key Infrastructure (PKI) is a set of hardware, software, policies, and procedures that the Patent and Trademark Office (PTO) has chosen to support secure electronic communications between the PTO and its customers. The information collected by the PTO through the Certificate Action Form (PTO Form PTO–2042) is used by the PTO to authorize the creation of a digital certificate. The digital certificate enables the PTO to issue the cryptographic "keys" necessary to provide the applicant with a digital identity and to support encrypted communication between the applicant and the PTO. Using PKI enables the PTO to offer the option to applicants to review their patent application information, to send their patent applications, and to communicate with the PTO electronically, while preserving the integrity and confidentiality of these various actions. Both the laws governing patents and the Patent Cooperation Treaties established between the United States and the international community require that patent applications be preserved in confidence. Using PKI ensures that the patent applications are preserved in confidence because it requires that a user authenticate his or her identity through passwords or other means before it allows the user access to the encryption and digital signature services.

The PTO will use PKI to support secure communications and electronic commerce with its applicant community, international business partners, the Patent and Trademark Depository Libraries, its own employees, and support contractors. By implementing PKI, the PTO is indicating to its customers that the agency is making a major commitment to preserve the integrity of the electronic transactions. PKI can also alert the different parties involved that an electronic transaction has occurred.

The PTO is implementing PKI in a phased approach. The first phase is the pilot project for the Patent Application Information and Retrieval (PAIR) system. PAIR allows applicants secure authenticated access to their patent application information, through the use of public key cryptography mechanisms that provide strong authentication, encryption, and digital signatures.

II. Method of Collection

By mail, facsimile, or hand carry when the applicant files a Public Key Infrastructure Certificate Action Form with the PTO.

III. Data

OMB Number: 0651–XXXX.

Form Number: PTO Form PTO–2042.

Type of Review: Existing collection in use without an OMB control number.

Affected Public: Individuals or households; businesses or other for-profit; not-for-profit institutions; farms; Federal, state, local or tribal government.

Estimated Number of Respondents: 6,000 responses per year.

Estimated Time Per Response: It is estimated to take approximately 10 minutes to read the instructions, gather the necessary data, and complete the Public Key Infrastructure Certificate Action Form.

Estimated Total Annual Burden Hours: 1,020 hours per year.

Estimated Total Annual Cost Burden: $525,000 (this cost is associated with the one-time download of additional software that is needed as part of the encryption process). Using the professional hourly rate of $175.00 for associate attorneys in private firms, the PTO estimates $178,500 for salary costs associated with respondents.

Title of form	PTO form No.	Estimated time for response	Estimated annual burden hours	Estimated annual responses
United States Patent and Trademark Office Certificate Action Form	PTO Form PTO–2042	0.17	1,020	6,000
Totals			1,020	6,000

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: November 22, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–30811 Filed 11–24–99; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Thursday, December 2, 1999, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Bunk Beds

The Commission will consider options concerning whether the Commission should issue a final rule addressing entrapment of children in the structure of bunk beds.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: November 23, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–30940 Filed 11–23–99; 3:34 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Friday, December 3, 1999, 10 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Hydrocarbons

The Commission will consider options concerning whether the Commission should issue a proposed rule to require child-resistant packaging for low-viscosity liquid hydrocarbons.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: November 23, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–30941 Filed 11–23–99; 3:34 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DOD.

ACTION: Notice

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the

proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 25, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under secretary of Defense (Personnel and Readiness) (Force Management Policy/Military Personnel Policy/Accession Policy). ATTN: Dr. Sharon Holcombe, 1600 Wilson Blvd., Suite 400, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call (703) 696–6912

Title, Associated Form, and OMB Control Number: Joint Recruiting Advertising Program (JRAP), OMB Number 0704–0351.

Needs and Uses: Title 10, U.S. Code, Section 503, allows the Secretary of Defense to "conduct intensive recruiting campaigns to obtain enlistments" in the Military Services and the Coast Guard. Advertising is a central underpinning of military recruiting campaigns. Successful advertising involves packaging information about Military Service opportunities, delivering that information to a target audience, and having that target audience positively respond. When members of the public respond, they voluntarily provide information about themselves (e.g., name, address) so that information they requested about the Armed Forces can be sent to them.

Recruitment advertisement requires two types of information collection. First, information is collected via market research to enable the Department of Defense to obtain information on the attitudes and opinions of youth or their influencers (e.g., parents). This information is obtained primarily though qualitative data collections (e.g., polls, surveys, and focus group research with youth and their influencers). The information collected becomes the foundation on which advertising messages are crafted; subsequently, draft advertising messages are further market-tested via focus group research and/or interviews.

Second, members of the public voluntarily provide information about themselves when they request information about opportunities in the Armed Forces. For example, many Armed Forces advertising messages are in print format, and have Business Reply Cards (BRCs) attached to them. The BRCs are used by youth to request additional, in-depth information about Military Service opportunities. Respondents fill out a card (e.g,, name, address, social security number, etc) and mail it back to the Department of Defense.

All information collected in these efforts is done so on a voluntary basis with members of the public and data are used to (1) develop and improve advertising messages that support military recruiting efforts; (2) provide members of the public with information about the Armed Forces; and (3) provide the Military Services with lead lists for military recruiting purposes.

Affected Public: Individuals or households.

Annual Burden Hours: 4,382.

Number of Respondents: 125,797.

Responses Per Respondent: 1.

Average Burden per Response: 2.09 minutes.

Frequency: On occasion.

Summary of Information Collection

Each year, the Department of Defense collects information from young adults and their influencers (e.g., parents) in support of military recruiting efforts. First, information is collected via market research efforts that support the development and evaluation of military recruiting advertising messages. The Market research methods used are surveys, polls, interviews, and focus groups. For example, groups of youth are convened for the purpose of reviewing draft advertising messages. Second, information is voluntarily provided to the Department of Defense in response to advertising media. For example, the Department of Defense annually publishes an information folder about Reserve Officers training Corps (ROTC) Scholarships. These folders are sent to each high school guidance counselor in the country for them to use in acquainting students with ROTC scholarship opportunities. Included in these folders are Business Reply Cards that individual students can use to request additional information about ROTC scholarships. The reply cards, which the students respond to on a voluntary basis, ask for the student's name, address, high school graduation date, date of birth, phone number, whether or not they are a U.S. citizen, name of college they are planning to attend, gender and social security number. The social security number is used for tracking purposes only and the gender information is used for both tracking purposes and for use in tailoring response materials concerning military career opportunities available to women. In addition to the ROTC Scholarship folders, similar Business Reply Cards are attached to various advertising direct mail items, printed advertisements, and military information brochures. The information obtained from these cards is used to respond to requests from the general public for information about the Armed Forces and to provide the Military Services with lead lists for use in their recruiting campaigns.

Dated: November 18, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–30730 Filed 11–24–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 00–19]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub.L. 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 00–19 with attached transmittal and policy justification.

Dated: November 18, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

10 November 1999

In reply refer to:
I-99/013430

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 00-19, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Colombia for defense articles and services estimated to cost $221 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 00-19

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Colombia

(ii) Total Estimated Value:

Major Defense Equipment*	$ 154 million
Other	$ 67 million
TOTAL	$ 221 million

(iii) Description of Articles or Services Offered: Fourteen UH-60L BLACKHAWK helicopters (both armed and utility) with engines, two spare T700-GE-701C engines, 28 GAU-19 .50 caliber mini-gun, 28 GAU-17 7.62mm mini-gun, 14 M265 2.75 inch rocket pods, ammunition, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, Cooperative Logistics Supply Support Agreements, and other related elements of logistics support.

(iv) Military Department: Army (UUF)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(vii) Date Report Delivered to Congress: 10 November 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Colombia - UH-60L BLACKHAWK Helicopters

The Government of Colombia has requested a possible sale of 14 UH-60L BLACKHAWK helicopters (both armed and utility) with engines, two spare T700-GE-701C engines, 28 GAU-19 .50 caliber mini-gun, 28 GAU-17 7.62mm mini-gun, 14 M265 2.75 inch rocket pods, ammunition, spare and repair parts, tools and support equipment, publications and technical data, personnel training and training equipment, Cooperative Logistics Supply Support Agreements, and other related elements of logistics support. The estimated cost is $221 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force in the war on drugs.

The proposed sale will upgrade its anti-personnel and day/night mission capability, provide for the defense of vital installations, and provide close air support for ground forces. Colombia, which already has UH-60 model helicopters in its inventory, will have no difficulty absorbing these additional aircraft.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be United Technologies, Sikorsky Aircraft, Stratford, Connecticut. There are no offset agreements proposed in connection with this potential sale.

The number of U.S. Government personnel and contractor representatives required in-country to support the program will be determined in joint negotiations as the program proceeds through the development, production and equipment installation phases.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 99–30732 Filed 11–24–99 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Panel To Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction. Notice of this meeting is required under the Federal Advisory Committee Act. (Pub. L. 92–463).

DATES: December 13, 1999.

ADDRESSES: RAND, 1700 Main Street, Santa Monica, CA 90407–2138.

PROPOSED SCHEDULE AND AGENDA: Panel to Assess the Capabilities for Domestic Response to Terrorist Attacks Involving Weapons of Mass Destruction will meet from 9 a.m. until 5:30 p.m. on December 13, 1999. Time will be allocated for public comments by individuals or organizations.

FOR FURTHER INFORMATION CONTACT: RAND provides information about this Panel on its web site at http://www.rand.org/organization/nsrd/terrpanel; it can also be reached at (202) 296–5000 extension 5282. Public comment presentations will be limited to two minutes each and must be provided in writing prior to the meeting. Mail written presentations and requests to register to attend the open public session to: Priscilla Schlegel, RAND, 1333 H Street, NW, Washington, DC 20005. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: November 18, 1999.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–30731 Filed 11–24–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Mill Creek, Ohio Local Flood Protection Project General Reevaluation Report

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Authorized by the Flood Control Act of 1970 (PL 91–611), the objective of the Reevaluation Study and DEIS, is to identify a flood damage reduction plan that will yield a functionally, economically, and environmentally sound project to reduce damages to communities in Hamilton County, Ohio from flooding of Mill Creek and its tributaries. The DEIS will assess the potential impacts of the alternatives upon social and economic and natural resources.

FOR FURTHER INFORMATION CONTACT: Robert C. Kanzinger by phone at (502) 582–5774, facsimile at (502) 582–6734, mail at U.S. Army Engineer District, Louisville, ATTN: CELRI–PD–E (Kanzinger), P.O. Box 59, Louisville, KY 40201–0059, or email at robert.c.kanzinger@lr102.usace.army.mil

SUPPLEMENTARY INFORMATION:

1. Background

Flooding has been a chronic problem on Mill Creek for some time. Following the original authorization of the Mill Creek Local Protection Project, in 1970, a Local Cooperation Agreement (LCA) for construction of the project was executed in 1975. Construction was initiated in 1981 and suspended in 1992 with approximately 50 percent of the authorized project complete. Project construction was suspended at the direction of the Assistant Secretary of the Army for Civil Works, for the following reasons: (1) Problems in acquiring real estate and relocations for the remaining sections, (2) project costs had grown 126% since authorization, (3) likely contamination by hazardous materials from old land fills along uncompleted portions of the project, and (4) problems in operating and maintaining the completed sections.

2. Proposed Action

The Corps, in cooperation with the local sponsor, Millcreek Valley Conservancy District (MVCD), is conducting a feasibility investigation to reevaluate alternatives for flood damage reduction. This investigation proposes to reduce the flood hazards currently associated with flood flows from Mill Creek and its tributaries.

3. Action Alternatives To Be Considered

Considered alternatives include: constructed wetlands/detention areas, levees and pump stations, channel modifications, replacement or modification of railroad bridges to improve flow characteristics, and nonstructural alternatives such as automated advance warning systems and structure relocations.

4. The No Action Alternative

The consequences of taking no action will also be considered.

5. Scoping Process

a. The Corps and MVCD is asking, herein and elsewhere, for public input regarding pertinent issues that need to be addressed in the EIS. Monthly "Fire Side Meetings" are being held at local communities to discuss flooding issues and the Reevaluation Study. Monthly meetings began in December 1998 and will continue at least through September 1999 or longer if there is an interest. The Reevaluation Study has also been a regular agenda line item at quarterly MVCD Executive Committee Meetings since 1996, and will continue to be so. It is also a regular agenda item for quarterly Mill Creek Watershed Council (MCWC) Meetings, periodic MCWC Flood Control Subcommittee meetings, and monthly MCWC Executive Committee Meetings. A comprehensive mailing list of potentially interested parties is being assembled, including Federal, state and local agencies, and individuals. The list will be used to notify interested parties of opportunities to provide input to the scoping process.

b. Pertinent issues identified, so far, include appropriate levels and alternatives for flood damage reduction, as well as potential effects of the alternatives on water quality, vegetation and wildlife resources, special status species, cultural resources, social and economic resources, esthetics and recreation.

c. A 45-day public review period will be provided for individuals and agencies to review and comment on the Draft Environmental Impact Statement (DEIS). All interested parties should respond to this notice and provide a current address if they wish to be notified of the date of scoping meetings and for receipt of the DEIS for review and comment.

6. Availability

The DEIS is expected to be available for public review and comment approximately June, 2000. Notice of availability will be published in the **Federal Register** as well as mailed to everyone on the mailing list.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–30743 Filed 11–24–99; 8:45 am]

BILLING CODE 3710–41–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 25, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection; violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 22, 1999.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Title: Indian Education Formula Grant Program Application.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 1,270; Burden Hours: 22,766.

Abstract: The application for funding under the Indian Education Formula Grant Program to Local Educational Agencies is used to determine applicant eligibility and the amount of award for projects funded.

Requests for copies of this information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 703–426–9692. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–30751 Filed 11–24–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–002]

PG&E Gas Transmission, Northwest Corporation; Notice of Resubmission of Tariff Sheets

November 19, 1999.

Take notice that on November 12, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, with an effective date of October 30, 1999:

Substitute Fifth Revised Sheet No. 68
Substitute Original Sheet No. 68A
Third Revised Sheet No. 69
Substitute First Revised Sheet No. 81.01a
Substitute Third Revised Sheet No. 128

PG&E GT–NW states that these tariff sheets are being filed in compliance with the Commission's October 28, 1999 Order in this docket.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers, interested state regulatory agencies, and all parties on the Commission's official service list for this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30749 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions to Intervene, and Protests

November 19, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 10615–020.

c. *Date Filed:* November 5, 1999.

d. *Applicants:* Wolverine Power Supply Cooperative Inc. (Wolverine of transferor) and the Tower Kleber Limited Partnership (Tower Kleber or transferee).

e. *Name of Project:* Tower and Kleber.

f. *Location:* On the Black River, in Cheboygan County, Michigan. The project does not utilize federal or tribal lands.

g. *Filed pursuant to:* 18 CFR 4.200.

h. *Applicants Contacts:* For transferor—Mr. Stephen J. Videto, General Counsel, Wolverine Power Supply Cooperative, Inc., 10125 W. Watergate Road, P.O. Box 229, Cadillac, MI 49601.

For transferee—Mr. Frank O. Christie, President, Franklin Hydro, Inc., 8 East Main Street, Malone, NY 12953.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Papsidero at (202) 219–2715, or e-mail address: Thomas.Papsidero@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* December 27, 1999.

All documents (original and eight copies) should be field with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, Mail Code: DLC, HL–11.1, 888 First Street, NE, Washington, DC 20426.

Please include the project number (10615–020) on any comments or motions filed.

k. *Description of Transfer:* Wolverine requests approval to transfer its license to Tower Kleber.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202)208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30746 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11656]

Lake Dorothy Hydro Inc.; Notice Soliciting Scoping Comments

November 19, 1999.

The Federal Energy Regulatory Commission (Commission) regulations allow applicants to prepare their own environmental Assessment (EA) for hydropower projects and file it with the Commission along with their license application as part of the applicant-prepared EA (APEA) process. Lake Dorothy Hydro Inc. (LDHI) received approval from the Commission to prepare an EA for the proposed Lake Dorothy Hydroelectric Project under Project No. 11556. Since that time LDHI has received a new Preliminary Permit for the project (Project No. 11656).

LDHI held two scoping meetings on April 24, 1996, pursuant to the National Environmental Policy Act (NEPA) of 1969, to identify the scope of environmental issues that should be analyzed in the EA. In addition, a site visit was held on April 23, 1996. At the scoping meetings, LDHI: (1) Summarized the environmental issues tentatively identified for analysis in the EA; (2) outlined the resources they believed would not require a detailed analysis; (3) identified reasonable alternatives to be addressed in the EA; (4) solicited from the meeting participants all available information, especially quantitative data, on the resources at issue; and (5) encouraged statements from experts and the public on issues that should be analyzed in the EA.

Scoping Document 1 (SD1) and 2 (SD2) were issued on September 9, 1996, and December 17, 1996, respectively. Since then, LDHI has made several changes to the project as earlier proposed. Because the parties have previously met to discuss the scoping issues and a site visit has been conducted, LDHI is not proposing another scoping meeting and site visit. Instead, LDHI is conducting paper scoping to solicit any new issues that should be addressed for the slightly different project configuration. The new scoping document is Scoping Document 3 (SD3). Copies of all three scoping documents can be obtained by calling Ms. Sue Tinney at (970) 944–1020 or E-mail tinney@rmi.net.

All interested individuals, organizations, and agencies are invited and encouraged to provide comment of the SD3 to identify and clarify the scope of environmental issues that should be analyzed in the EA.

Written comments must be submitted by December 18, 1999, and should be mailed to: Mr. Corry V. Hildenbrand, President, Lake Dorothy Hydro, Inc., 5601 Tonsgard Court, Juneau, AK 99801. All correspondence should show one of the following captions on the first page.

Scoping Comments, Lake Dorothy Hydroelectric Project, Project No. 11656, Alaska.

For further information please contact Sue Tinney at (970) 944–1020, or E-mail tinney@rmi.net, or Mike Henry of the Commission at (503) 944–6762, or E-mail mike.henry@ferc.fed.us.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30747 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions to Intervene, and Protests

November 19, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 710–021.

c. *Date Filed:* November 8, 1999.

d. *Applicants:* Wisconsin Power and Light Company and Wolf River Hydro Limited Partnership.

e. *Name and Location of Project:* The Shawano Hydroelectric Project is on the Wolf River in Shawano County, Wisconsin, partially within the Menominee Indian Reservation.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* Mr. Patrick Womersley, Wisconsin Power and Light Company, 222 West Washington Avenue, Madison, Wisconsin 53703, (608) 252–4860 and Mr. Nelson Turcotte, Northwoods Hydropower, Inc., 124 Riverside Drive, Kapuskasing, Ontario, Canada, P5N 1B6, (705) 335–4098.

h. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address: james.hunter@ferc.fed.us.

i. *Deadline for filing comments and or motions:* December 27, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426.

Please include the project number (P–710–021) on any comments or motions filed.

j. *Description of Proposal:* The applicants propose a transfer of the license for Project No. 710 from Wisconsin Power and Light Company to Wolf River Hydro Limited Partnership in connection with the proposed sale of the project.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30748 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

November 19, 1999.

This constitutes notice, in accordance with 18 CFR 285.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 187 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Exempt

1. CP98–540–000, 11/5/99, Carolann Garafola, Mayor
2. Project No. 2188–044, 11/16/99, John C. Van Daveer
3. Project No. 1988, 11/9/99, Patti Leppert-Slack
4. CP99–94–000, 11/9/99, Wayne E. Daltry
5. CP98–150–000, 11/9/99, William H. Gute
6. CP00–14–000, 11/9/99, Ronald A. Krizman
7. Project No. 10942–001, 11/10/99, Gerry A Jackson
8. Project No. 2659–011, 11/3/99, Gary S. Miller
9. ER99–4462–000, 11/9/99, Hon. Gray Davis
10. Project No. 2609–013, 11/16/99, Judith M. Stolfo
11. ER99–4462–000, 11/10/99, Hon. Anna G. Eshoo, Hon. Jerry Lewis, Hon. Henry A. Waxman, Hon. James E. Rogan, Hon. Ron Packard, Hon. Sam Farr, Hon. Lois Capps, Hon. Brian P. Bilbray

David P. Boergers,

Secretary.

[FR Doc. 99–30750 Filed 11–24–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00632; FRL–6392–3]

Nominations to the FIFRA Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: This notice provides the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the Scientific Advisory Panel (SAP) established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Panel was created on November 28, 1975, and made a statutory Panel by amendment to FIFRA, dated October 25, 1988. Public comment on the nominations is invited, as these comments will be used to assist the Agency in selecting nominees to the Panel.

DATES: Comments, identified by docket control number OPP–00632, must be received on or before December 27, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00632 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Laura E. Morris, Designated Federal Official, FIFRA Scientific Advisory Panel (7101C), Office of Science Coordination and Policy, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 117S, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA: telephone number: (703) 305–5369/308–6212; e-mail address: morris.laura@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed above under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–00632. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00632 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk formatted as described below. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00632. Electronic comments may also be filed online at many Federal Depository Libraries.

II. Background

Amendments to FIFRA enacted November 28, 1975, include a requirement under section 25(d) that notices of intent to cancel or reclassify pesticide regulations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a Scientific Advisory Panel prior to being made public or issued to a registrant. In accordance with section 25(d), the Scientific Advisory Panel is to have an opportunity to comment on the health and environmental impact of such actions. The Panel shall also make comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of analyses made by Agency scientists.

III. Charter

A Charter for the FIFRA Scientific Advisory Panel has been issued (dated October 2, 1998) in accordance with the requirements of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770 (5 U.S.C. App. I). The qualifications of members as provided by the Charter follow.

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. No persons shall be ineligible to serve on the Panel by reason of their membership

on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency (except the EPA). The Deputy Administrator appoints individuals to serve on the Panel for staggered terms of 4 years. Panel members are subject to the provisions of 40 CFR part 3, subpart F, Standards of Conduct for Special Government Employees, which include rules regarding conflicts of interest. Each nominee selected by the Deputy Administrator, before being formally appointed, is required to submit a Confidential Statement of Employment and Financial Interests, which shall fully disclose, among other financial interests, the nominee's sources of research support, if any.

In accordance with section 25(d) of FIFRA, the Deputy Administrator shall require all nominees to the Panel to furnish information concerning their professional qualifications, educational background, employment history, and scientific publications. The Agency is required to publish in the **Federal Register** the name, address, and professional affiliations of each nominee and to seek public comment on the nominees.

B. Applicability of Existing Regulations

With respect to the requirements of section 25(d) of FIFRA that the Administrator promulgate regulations regarding conflicts of interest, the Charter provides that EPA's existing regulations applicable to special government employees, which include advisory committee members, will apply to the members of the Scientific Advisory Panel. These regulations appear in 40 CFR part 3, subpart F. In addition, the Charter provides for open meetings with opportunities for public participation.

C. Process of Obtaining Nominees

In accordance with the provisions of section 25(d) of FIFRA, EPA, in April 1999, requested the National Institutes of Health (NIH) and the National Science Foundation (NSF) to nominate scientists to fill two vacancies occurring on the Panel. The Agency requested nomination of experts in the fields of veterinary pathology, toxicology and oncology. NIH responded by letter dated May 3, 1999, enclosing a list of 12 nominees; NSF responded by letter dated May 11, 1999, with a list of 13 nominees.

IV. Nominees

The following are the names, addresses, and professional affiliations of nominees being considered for membership on the FIFRA Scientific Advisory Panel, along with selected biographical data. The Agency will consider the nominees in making selections to fill two vacancies occurring during the calendar year, 2000.

A. Nominees for the Field of Veterinary Pathology

1. *Nominee*: Norman H. Altman, V.M.D., Vice Provost for Research, Office of Research, University of Miami School of Medicine, Miami, FL.

Expertise: Toxicology, pathology, epidemiology, experimental studies on animals and humans.

Education: B.S., Pennsylvania State University, Philadelphia, PA, 1959; V.M.D. (Veterinary Medicine), University of Pennsylvania, Philadelphia, PA, 1963; Military Service, Captain, 1968; Pathology Training Program, U.S. Army Medical Research Laboratory, Edgewood Arsenal, MD, 1968; Postdoctoral Fellows (Pathology; Laboratory Animal Medicine), Johns Hopkins University School of Medicine, Baltimore, MD, 1970.

Professional experience: Board Certified Veterinary Pathologist; has been involved in extensive bioassays for the National Cancer Institute; served as the Principal Investigator for numerous large-scale grants of the National Institutes of Health; served as Director of the Sylvester Comprehensive Cancer Center, National Cancer Institute; served on National Science Foundation and National Institutes of Health committees and councils; served as a consultant to Federal government agencies, such as the National Institutes of Health, National Academy of Sciences, and the Food and Drug Administration.

2. *Nominee*: Sharon M. Black, D.V.M., Ph.D., Diplomate ACVP, Associate Professor, Diagnostic Laboratory Services, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS.

Expertise: Veterinary anatomic pathology, immunology.

Education: B.S. (Biology), University of Southern Mississippi, Hattiesburg, MS, 1981; D.V.M., College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1985; Ph.D. (Veterinary Anatomic Pathology), Veterinary Medical Sciences, College of Veterinary Medicine, Mississippi State University, MS, 1994.

Professional experience: Associate Veterinarian, Animal Clinic of Oxford, Oxford, MS, 1985–1986; Laboratory Veterinarian, Veterinary Diagnostic and Investigational Laboratory, University of Georgia, Tifton, GA, 1987–1988; Graduate Assistant, Department of Veterinary Pathology, University of Georgia, Athens, GA, 1989–1990; Laboratory Veterinarian/Anatomic Pathologist, Athens Veterinary Diagnostic Laboratory, University of Georgia, Athens, GA, 1990; Graduate Assistant/Anatomic Pathologist, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1991–1993; Postdoctoral Research Assistant, Research Program, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1993–1994; Assistant Professor/Anatomic Pathologist, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1994–1999; Associate Professor/Anatomic Pathologist, Laboratory Services and Field Services Program, College of Veterinary Medicine, Mississippi State University, Mississippi State, MS, 1999-present.

Research: Extensive research activities in the area of veterinary anatomic pathology.

3. *Nominee*: Gregory Bradley, D.V.M., Diplomate ACVP, Assistant Research Specialist, University of Arizona, Veterinary Diagnostic Laboratory of Arizona, West Campus Agricultural Center, Tucson, AZ. (biographical information not provided)

Expertise: Veterinary pathology; wildlife disease and diseases of the skin.

4. *Nominee*: Tracie E. Bunton, D.V.M., Ph.D., Diplomate ACVP, Principal Research Scientist, Life Sciences Enterprise, DuPont Pharmaceuticals Company, Safety Assessment, Newark, DE.

Expertise: Veterinary pathology.

Education: B.S., D.V.M., Michigan State University, School of Veterinary Medicine, East Lansing, MI, 1972–1977; Ph.D., Department of Comparative Pathology, School of Veterinary Medicine, University of California, Davis, CA, 1978–1982; Residency in Nonhuman Primate Pathology, California Regional Primate Research Center, Davis, CA, 1979–1982.

Professional experience: Small Animal Practitioner, Easthaven Animal Hospital, Ann Arbor, MI, 1977–1978; Assistant Professor, Department of Pathology, Michigan State University, East Lansing, MI, 1982–1984; Assistant Professor, Division of Comparative Medicine, Department of Pathology, Johns Hopkins University School of Medicine, Baltimore, MD, 1984–1990; Faculty, Graduate Program in Cellular and Molecular Medicine, Johns Hopkins University School of Medicine, 1994-1999; Associate Professor, Division of Comparative Medicine, Department of Pathology, Johns Hopkins University School of Medicine, Baltimore, MD,

1990–1999; Principal Research Scientist, DuPont Pharmaceutical Company, Safety Assessment, Newark, DE, July 1999 - present.

Research: Extensive research in the area of veterinary pathology.

5. *Nominee*: John M. Cullen, V.M.D., Ph.D., Diplomate ACVP, Professor of Pathology, College of Veterinary Medicine, Department of Microbiology, Pathology, and Parasitology, North Carolina State University, Raleigh, NC.

Expertise: Veterinary pathology.

Education: A.B. (Biology), University of Pennsylvania, Pittsburgh, PA, 1971; V.M.D., University of Pennsylvania, 1975; Ph.D., Comparative Pathology, University of California at Davis, Davis, CA, 1985.

Professional experience: Resident, Anatomic Pathology, School of Veterinary Medicine, University of California, Davis, CA, 1979–1983; Senior Resident in Anatomic Pathology, Veterinary Medical Teaching Hospital, University of California, Davis, CA, 1983-1984; Assistant Professor of Veterinary Pathology, College of Veterinary Medicine, North Carolina State University, 1984–1989; Toxicology Faculty, North Carolina State University, 1988-present; Associate Professor of Veterinary Pathology, College of Veterinary Medicine, North Carolina State University, 1989–1994; Professor of Veterinary Pathology, College of Veterinary Medicine, North Carolina State University, 1994-present.

Research: Research interests in the fields of hepatic pathology, animal models of viral hepatitis and mycotoxicology.

6. *Nominee*: Michael R. Elwell, D.V.M., Ph.D., Diplomate ACVP, Pathologist, Covance Laboratories Inc., Vienna, VA.

Expertise: Toxicologic pathology.

Education: D.V.M., Kansas State University, 1972; Veterinary Pathology Preceptorship, United States Army Medical Research Institute of Infectious Diseases (USAMRIID), 1975–1978; Diplomate, American College of Veterinary Pathologists, 1978; Ph.D., University of Kansas, 1982.

Professional experience: Research Investigator, Animal Assessment Division, USAMRIID, Ft. Detrick, MD, 1972–1975; Pathology Preceptor, Pathology Branch, USAMRIID, Ft. Detrick, MD, 1975–1978; Chief, Medical Research Section, Department of Veterinary Medicine, Armed Forces Research Institute of Medical Sciences (AFRIMS), Bangkok, Thailand, 1981–1984; Staff Pathologist, Walter Reed Army Institute of Research, 1984–1985; Staff Pathologist, Toxicologic Pathology, Chemical Pathology Branch, National Institute of Environmental Health Sciences (NIEHS), Research Triangle Park (RTP), NC, 1987–1993; Head, Pathology Group, Environmental Toxicology Program, NIEHS, RTP, NC, 1993–1995; Director, Virginia Laboratory, Experimental Pathology Laboratories, Herndon, VA, 1995–1998; Principal Pathologist, Pathology Department, Covance Laboratories, Inc., Vienna, VA, 1998-present. Author/coauthor of more than 100 manuscripts and book chapters; editorial board for Environmental Health Perspectives; member Society of Toxicologic Pathology; member of panels/committees/review groups for Food and Drug Administration, World Health Organization, National Institutes of Health, Centers for Disease Control, National Institute of Environmental Health Sciences, Environmental Protection Agency, International Agency for Research on Cancer, International Life Sciences Institute and the Office of the Surgeon General.

Research: Toxicologic pathology, design, conduct, and evaluation of toxicity and carcinogenicity studies for safety evaluation/hazard assessment, animal models of infectious diseases.

7. *Nominee*: Fletcher F. Hahn, D.V.M., Ph.D., Diplomate ACVP, Senior Scientist, Lovelace Respiratory Research Institute, Albuquerque, NM.

Expertise: Veterinary pathology.

Education: B.S. (Biological Sciences), Washington State University, 1964; D.V.M. (Veterinary Medicine), Washington State University, 1964; Ph.D. (Comparative Pathology), University of California, Davis, CA, 1971.

Professional experience: Veterinary Laboratory Officer, U.S. Army, Division of Nuclear Medicine, Walter Reed Army Institute of Research, Washington, DC, 1964–1966; National Institutes of Health Postdoctoral Fellowship, University of California, Davis, CA, 1966–1970; Experimental Pathologist, Inhalation Research Institute, Albuquerque, NM, 1971–1996; Supervisor, Pathology Group, Inhalation Toxicology Research Institute, Albuquerque, NM, 1980–1996; Senior Scientist, Lovelace Respiratory Research Institute, Albuquerque, NM, 1996-present.

Research: Health effects on inhaled environmental contaminants, studied the morphologic changes and pathogenesis of diseases in laboratory animals resulting from inhaled materials; the focus has been on pulmonary inflammation, fibrosis, and neoplasis resulting from inhaled chemical vapors, oxidant gases, metallic particles, fibers, and radioactive materials; has authored or co-authored over 245 publications in these areas of interest. Study pathologist on studies that included carcinogenicity bioassays of inhaled materials, and safety studies of laser diodes for treatment of benign prostatic hypertrophy, inhaled hormones, and inhaled polyacrylics; research also in the area of toxicologic pathology.

8. *Nominee*: Jack R. Harkema, Professor, Michigan State University. (biographical information not provided)

Research: Respiratory pathology; inhalation toxicology; mechanisms of airway epithelial injury, adaptation and repair after exposure to air pollutants; toxicologic pathology; image analysis; morphometry; immunohistochemistry; upper airway toxicology and pathology; comparative pathology; airway inflammation; scientific and medical illustration.

9. *Nominee*: Wanda Haschek-Hock, Professor and Head, College of Veterinary Medicine, Department of Veterinary Pathology, University of Illinois at Urbana-Champaign, Urbana, IL.

Expertise: Veterinary pathology.

Education: B.V.Sc., University of Sydney; Ph.D., Cornell University; Diplomate, American College of Veterinary Pathologists; Diplomate, American Board of Toxicology.

Research: Mechanisms of respiratory and hepatic toxicity, natural toxins, mycotoxicoses, food safety, toxicologic pathology. Currently, the major focus of the laboratory is on fumonisins, a class of mycotoxins produced by Fusarium moniliforme that infests corn.

10. *Nominee*: Paul C. Stromberg, D.V.M., Ph.D., Diplomate ACVP, Professor of Veterinary Pathology, College of Veterinary Medicine, Department of Veterinary Biosciences, The Ohio State University Health Sciences Center.

Expertise: Veterinary pathology.

Education: D.V.M., Ph.D., Ohio State University, Columbus, Ohio; Diplomate, American College of Veterinary Pathologists.

Professional experience: Clinical Service: Necropsy, surgical biopsies; Professional Service: American College of Veterinary Pathologists Examination Committee, CL Davis Faculty of Discussants Participant, Member of Ohio State University Comprehensive Cancer Center Pathology Working Groups, Continuing Education in Veterinary Pathology; Administrative Service: Department Promotion and Tenure Committee Member, College Research Day Committee Member, Sisson Hall Planning Committee, College Curriculum Committee Member,

Faculty Senate (alternate), Council of Education.

Research: Cancer Detection and Immunotherapy; Gene Therapy, Toxicologic Pathology, Laboratory Animal Diseases, Dermatopathology.

11. *Nominee*: Brian A. Summers, B.V.Sc., Ph.D., M.R.C.V.S., Professor, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY.

Expertise: Veterinary pathology, neuropathology.

Education: B.V.Sc., University of Melbourne, 1969; M.Sc., University of London, 1972; Ph.D., Cornell University, Ithaca, NY, 1980.

Professional experience: Visiting Pathologist, Ministry of Agriculture, Fisheries and Food, Central Veterinary Laboratory, Weybridge, England, 1972; Graduate Research Assistant, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1976–1980; Assistant Professor of Pathology, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1980–1986; Visiting Scholar, St. Edmund's College, University of Cambridge, Cambridge, England, 1987–1988; Associate Professor of Pathology, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1986–1996; Professor of Pathology, Department of Pathology, College of Veterinary Medicine, Cornell University, Ithaca, NY, 1996-present.

12. *Nominee*: Jerrold M. Ward, D.V.M., Ph.D., Chief, Veterinary and Tumor Pathology Section, Office of Laboratory Animal Resources, National Cancer Institute, Frederick, MD.

Expertise: Veterinary pathology.

Education: D.V.M., Cornell University, Ithaca, NY, 1966; Ph.D., Comparative Pathology, University of California, Davis, CA, 1970.

Professional experience: Supervisory Veterinary Medical Officer (Veterinary Pathologist), Laboratory of Toxicology, Division of Cancer Treatment, National Cancer Institute (NCI), National Institutes of Health (NIH), Bethesda, MD, 1974–1977; Veterinary Medical Officer (Veterinary Pathologist), Tumor Pathology Branch, Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, NCI, NIH, Bethesda, MD, 1977–1978; Chief, Tumor Pathology, National Toxicology Program, NCI, NIH, Bethesda, MD, 1979–1981; Chief, Tumor Pathology and Pathogenesis Section, Laboratory of Comparative Carcinogenesis, NCI, Frederick, MD, 1981–1992; Chief, Veterinary and Tumor Pathology Section, Office of Laboratory Animal Science, Office of the Director, NCI and Office of Animal Resources, Division of Basic Sciences, National Cancer Institute, Frederick, MD, 1992-present.

B. Nominations in the Field of Toxicology and Oncology

1. *Nominee*: Bruce N. Ames, Director, National Institute of Environmental Health Sciences Center, Professor of Biochemistry and Molecular Biology, University of California, Berkeley, CA.

Expertise: Mechanisms of aging. Mitochondrial decay in aging. Oxidants and antioxidants in DNA damage. Micronutrient deficiencies and DNA damage. Chronic inflammation and Cancer.

Education: B.A. (Chemistry), Cornell University, Ithaca, NY, 1950; Ph.D. (Biochemistry), California Institute of Technology, Pomona, CA, 1953.

Professional experience: Postdoctoral Fellow (U.S. Public Health Service), National Institutes of Health, 1953–1954; Biochemist, National Institutes of Health, 1954–1960; National Science Foundation, Senior Fellow, F.H.C. Crick Laboratory, Cambridge, England; F. Jacob Laboratory, Paris, France, 1961; Chief, Section of Microbial Genetics, Laboratory of Molecular Biology, National Institutes of Health, 1962–1967; Chairman, Biochemistry and Molecular Biology, University of California, Berkeley, 1983–1989; Professor, Biochemistry and Molecular Biology, University of California, Berkeley, 1968-present; Director, National Institute of Environmental Health Sciences Center, University of California, Berkeley, 1979-present.

Research: Identifying agents that can damage human DNA and the consequences for aging and cancer; endogenous oxidants and defenses against them; mutagenesis and carcinogenesis.

2. *Nominee*: Marshall W. Anderson, Ph.D., Director and Professor, Department of Environmental Health, College of Medicine, University of Cincinnati, Cincinnati, OH.

Expertise: Toxicology, carcinogenicity, mathematics.

Education: B.S. (Chemistry, Math), Emory and Henry College, Emory, VA, 1961; Ph.D. (Mathematics), University of Tennessee, Knoxville, TN, 1966.

Professional experience: Assistant Professor, Department of Mathematics, University of Tennessee, 1966–1967; Member of Technical Staff, Bell Telephone Laboratories, 1967–1969; Postdoctorate Fellow, Biomathematics Department, North Carolina State University, 1969–1971; Senior Staff Fellow, Biometry Branch, NIEHS, Research Triangle Park, NC, 1971–1974; Senior Scientist, Laboratory of Pharmacokinetics and Pharmacology, NIEHS, Research Triangle Park, NC, 1975–1984; Head, Molecular Toxicology Section, Laboratory of Biochemical Risk Analysis, DBRA, NIEHS, Research Triangle Park, NC, 1984–1988; Chief, Laboratory of Molecular Toxicology, DBRA, NIEHS, Research Triangle Park, NC,1989–1993; Director of Research, Cancer Research Institute, St. Mary's Hospital, Grand Junction, CO, 1993–1996; Director and Professor, Department of Environmental Health, College of Medicine, University of Cincinnati, Cincinnati, OH, 1996-present.

Research: Role of oncogenes and tumor supressor genes in tumorigenesis, especially in lung cancer; identification of susceptibility genes in human and rodent lung tumor development; early detection of lung cancer; mechanisms of chemical carcinogenesis; examination of synergistic interactions between environmental toxicants based on biological mechanisms of actions and the impact of these interactions on risk estimation to human health from exposure to toxicants; environmental genetics to investigate the impact of genetic diversity on the response of the individual to toxic environmental agents.

3. *Nominee*: John R. Bucher, Ph.D., Deputy Director, Environmental Toxicology Program, National Institute of Environmental Health Sciences, Research Triangle Park, NC.

Expertise: Design and Interpretation of Chronic Rodent Bioassays, Identification of Human Health Hazards through the National Toxicology Program (NTP) Bioassay Program, NTP Toxicity and Carcinogenesis Technical Reports, NTP Report on Carcinogens.

Education: B.A. (Biology), Knox College; M.S. (Biochemistry), University of North Carolina; Ph.D., University of Iowa, NIH Postdoctoral Fellow, Department of Biochemistry and Center for Environmental Toxicology, Michigan State University.

Professional experience: Deputy Director, National Institute of Environmental Health Sciences, National Toxicology Program, 1983 to present.

Research: Characterization of the toxic and carcinogenic potential of substances of interest to NTP, examination of strategies to characterize the toxicity and carcinogenicity of chemicals using non-traditional methods, including genetically modified mice.

4. *Nominee*: Gary P. Carlson, Ph.D., Professor of Toxicology and Associate

School Head, School of Health Sciences, Purdue University, West Lafayette, IN.

Expertise: Pharmacology, toxicology.

Education: B.S. (Chemistry), St. Bonaventure University, Bonaventure, NY, 1965; Ph.D. (Pharmacology), University of Chicago, Chicago, IL, 1969.

Professional experience: Assistant Professor of Pharmacology, Department of Pharmacology and Toxicology, University of Rhode Island, 1969–1974; Associate Professor of Pharmacology - Department of Pharmacology and Toxicology, University of Rhode Island, 1974–1975; Adjunct Associate Professor of Pharmacology, Department of Pharmacology and Toxicology, University of Rhode Island, 1975–1979; Associate Professor of Toxicology, Department of Pharmacology and Toxicology, Purdue University, 1975–1980; Adjunct Professor of Pharmacology and Toxicology, Indiana University School of Medicine (Lafayette Center), 1982-present; Professor of Toxicology, Department of Pharmacology and Toxicology, School of Pharmacy, Purdue University, 1980–1996, Associate Head, 1983–1992; Department of Medicinal Chemistry and Molecular Pharmacology, 1996-present; Supervisor of Laboratory Animal Facility, 1994–1996; Professor of Toxicology, School of Health Sciences, Purdue University, 1995-present; Associate Head 1997-present.

Research: Toxicology, pharmacology.

5. *Nominee*: Isaiah J. Fidler, The University of Texas, M.D. Anderson Cancer Center, Department of Cell Biology, Houston, TX. (biographical information not provided)

Expertise: Carcinogenicity.

Research: Cancer metastasis, angiogenesis, macrophage biology, immunotherapy.

6. *Nominee*: Donald M. Fry, Ph.D., Research Physiologist, Department of Animal Science, University of California at Davis, Davis, CA.

Expertise: Physiology, toxicology. Technical expert on the effects of oil spills on birds, with field and laboratory research on reproduction and histopathology of petroleum exposure; technical expert for the United States on the DDT and PCB contamination of the Southern California Bight, Montrose Chemical Company and discharge from LA County outfalls.

Education: B.A. (Zoology), University of California, Davis, CA, 1965; Ph.D. (Animal Physiology), University of California, Davis, CA, 1971.

Professional experience: Twenty-eight years of post-graduate independent collaborative research, publication and teaching physiology and toxicology with emphasis on pollution effects to wildlife, effects of oil spills on birds, and laboratory and population effects of endocrine disrupting pollutants on birds. Participation in critical reviews of endocrine research, as a member of the National Academy of Sciences Panel on hormone active agents and a U.S. representative to the Organization for Economic Cooperation and Development (OECD) panels on avian toxicology and endocrine modulators. Director, Center for Avian Biology, University of California, Davis, CA, 1995–1998. Research Physiologist, Department of Animal Sciences, University of California, Davis, CA, 1998-present.

Research: Extensive research in the areas of avian physiology and toxicology.

7. *Nominee*: Michael Gallo, Environmental and Occupational Health Science Institute, Rutgers University, Piscataway, NJ. (biographical information not provided)

8. *Nominee*: Lois S. Gold, Ph.D., Director, Carcinogenic Potency Project, University of California, Berkeley, CA, Senior Scientist, Lawrence Berkeley National Laboratory.

Expertise: Toxicology, carcinogenicity.

Education: A.B., Goucher College, Towson, MD, 1963, University of Geneva, Switzerland, 1961–1962; Ph.D., Stanford University, Stanford, CA, 1967; Postdoctoral Fellow, System Development Corporation, Santa Monica, CA, 1967–1968.

Professional experience: Lecturer, Graduate School of Public Policy and Department of Political Science, University of California, Berkeley, 1968–1973; Senior Fellow, Carnegie Commission on the Future of Higher Education, Berkeley, 1970–1973; Specialist, Department of Biochemistry, University of California, Berkeley, 1978–1980; Senior Scientist, Lawrence Berkeley National Laboratory, Berkeley, 1981-present; Director of Carcinogenic Potency Project, National Institute of Environmental Health Sciences (NIEHS) Environmental Health Sciences Center, University of California, Berkeley, CA, 1985-present.

Research: Environmental Health Sciences Center: Carcinogenic Potency Database Project; Interspecies Extrapolation and Risk Assessment in Carcinogenesis; Research in disease prevention; Testimony, Committee on Science, U.S. House of Representatives, "The Science of Risk Assessment: Implications for Federal Regulation," Ad hoc panel of expert reviewers, National Toxicology Program; Testimony to U.S. Senate, Hearing on Environmental Risk Factors for Cancer, Comments on Proposed Cancer Risk Assessment Guidelines to U.S. Environmental Protection Agency, U.S. Food and Drug Administration.

9. *Nominee*: Margaret L. Kripke, Vice President for Academic Programs, University of Texas, M.D. Anderson Cancer Center, Houston, TX. (biographical information not provided)

Expertise: Ultraviolet light carcinogenesis; ultraviolet-induced immune suppression.

10. *Nominee*: Michael I. Luster, Ph.D., Chief, Toxicology and Molecular Biology Branch, Health Effects Laboratory Division, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services, Morgantown, WV.

Expertise: Toxicology and molecular biology, Applied and preventive, multifaceted laboratory-based research into the causes, mechanisms, prevention and control of adverse health effects due to workplace exposures; program areas include neuroscience, dermatology, molecular carcinogenesis, inflammation, molecular biomarkers, and immunology.

Education: B.A. (Biology), University of Massachusetts, Amhurst, MA, 1969; M.S. (Microbiology), Loyola University of Chicago, Chicago, IL, 1972; Ph.D. (Microbiology/Immunology), Loyola University of Chicago, Chicago, IL, 1974.

Professional experience: Staff Fellow, National Institute of Environmental Health Sciences, National Institutes of Health, 1976–1979; Research Scientist, National Institute of Environmental Health Sciences, National Institutes of Health, 1979–1981; Head, Immunotoxicology Group, STB, National Institute of Environmental Health Sciences, National Institutes of Health 1981–1988; Section Head, Environmental Immunology and Neurobiology, National Institute of Environmental Health Sciences, National Institutes of Health, 1988–1995; Chief, Toxicology and Molecular Biology Branch, Health Effects Laboratory Division, National Institute for Occupational Safety and Health, 1995-present.

Research: Effects of environmental and occupational agents on the immune system including applied research (development of methods and mathematical models to minimize uncertain ties in risk assessment) and basic research (changes in cytokines and chemokine expression as early indicators of toxicity and their activation by nuclear transcription factors).

11. *Nominee*: Edgar M. Moran, M.D., Professor of Medicine, University of California, Irvine; Chair, Cancer Program, Veterans Administration, Long Beach Healthcare System, Long Beach, CA.

Expertise: Pathology, oncology.

Education: B.S., National College "St. Sava," Bucharest, 1946; M.D., University of Bucharest School of Medicine, Romania, 1946–1952.

Professional experience: Chief, Section of Hematology-Oncology, Veterans Administration Medical Center, Long Beach, CA, 1978–1992; Associate Director, UCI Cancer Center, 1988–1990; Professor of Medicine, University of California, Irvine, CA; Chair, Cancer Program, Veterans Administration Long Beach Healthcare System, Long Beach, CA, 1978-present.

Research: Environmental pathology; ecological effects on the structure and function of cells and tissues, with an emphasis on the environmental effects on carcinogenesis.

12. *Nominee*: Stephen M. Roberts, Ph.D., Program Director, Center for Environmental and Human Toxicology; Professor, Department of Physiological Sciences, College of Veterinary Medicine, Department of Pharmacology and Therapeutics, College of Medicine, University of Florida, Gainesville, FL.

Expertise: Toxicology.

Education: B.S. (Pharmacy), College of Pharmacy, Oregon State University, Corvallis, OR, 1968–1973; Ph.D., Department of Pharmacology, College of Medicine, University of Utah, Salt Lake City, UT, 1973–1977; Postdoctoral Fellow, Department of Pharmaceutics, School of Pharmacy, National Institutes of Health, State University of New York at Buffalo, Amherst, NY.

Professional experience: College of Pharmacy, University of Cincinnati; College of Medicine, University of Arkansas for Medical Sciences; Chairman, Florida Risk-Based Priority Council; Director, Center for Environmental and Human Toxicology, University of Florida, Gainesville, FL; Professor, Department of Physiological Sciences, College of Veterinary Medicine, Department of Pharmacology and Therapeutics, College of Medicine, Gainesville, FL. Teaches graduate courses in general toxicology, advanced toxicology, risk assessment and issues in the responsible conduct of research, University of Florida. Provides advice to the Florida Department of Environmental Protection on issues relative to toxicology and risk assessment.

Research: Research program funded by the National Institutes of Health to examine mechanisms of toxicity, primarily involving the liver and immune system.

13. *Nominee*: Michael Smolen, Ph.D., Senior Conservation Scientist, Wildlife and Contaminants Program, World Wildlife Fund, Washington, DC.

Expertise: Ecology, cytogenetics, population biology, toxicology.

Education: M.S. (Mammal Ecology), Idaho State University; M.A. (Museum Sciences), Texas Tech University; Ph.D. (Cytogenetics, Molecular Genetics, Toxicology), Department of Wildlife and Fisheries Sciences, Texas A&M University.

Professional experience: Has published 22 peer reviewed papers in the fields of ecology, population biology, natural history of mammals, cytogenetics and toxicology. Conducted faunal surveys in North America, South America, and Africa while working as a curatorial assistant in the Section of Mammals at Carnegie Museum of Natural History, Pittsburgh, PA. Currently engaged in a wide range of studies with collaborators in academia, most of which address the endocrine disrupting effects of synthetic chemicals on wildlife. Works collaboratively with outside scientific researchers and oversees database development and computer support.

Research: Ecology, population biology, natural history of mammals, cytogenetics, toxicology, endocrine disrupting effects of synthetic chemicals on wildlife.

List of Subjects

Environmental protection.

Dated: November 17, 1999.

Steven Galson,

Director, Office of Science Coordination and Policy, Office of Pesticide Programs.

[FR Doc. 99–30784 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6248–5)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 08, 1999 Through November 12, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1999 (63 FR 17856).

Draft EISs

ERP No. D–BLM–J67028–CO Rating EC2, North Fork Coal Program, Approval of Two Lease-By-Applications (LBA) and Exploration License for Iron Point and Elk Creek Coal Leases, Delta and Gunnison County, CO.

Summary: EPA expressed environmental concerns about the adequacy of mitigation measures and the means to implement the measures. EPA believes that the final EIS needs to document the full range of mitigation measures that can be used to off-set adverse impacts.

ERP No. D–FHW–B40090–ME Rating EC2, Augusta River Crossing Study, To Reduce Traffic Deficiences within the Transportation System Serving the City of Augusta, Funding, Kennebec River, Kennebec County, ME.

Summary: EPA expressed concerns about the scope of analysis and that the EIS does not fully address potential direct and secondary impacts. EPA asked for additional information pertaining to secondary impacts, aquatic impacts, air quality, and mitigation.

ERP No. D–MMS–E03007–00 Rating EO2, Destin Dome 56 Unit Development and Production Plan, Right-of-Way Pipeline Application, NPDES Permit and COE Permit, Gulf of Mexico Outer Continental Shelf, FL, AL, MI and LA.

Summary: EPA expressed objection due to potential significant impacts to the Gulf bottom resources. EPA requested that the document substantiate the need for the additional natural gas resources. Mitigation for the protection of bottom resources is deficient, and additional resource protection measures are needed.

ERP No. DS–FHW–C40140–NY Rating EC2, NY–120/22 Reconstruction Corridor, from Exits 2 and 3 on I–684 and Old Post Road (PIN–8130.75), Funding, COE Section 10 and 404 Permits, Town of North Castle, Westchester County, NY.

Summary: EPA expressed environmental concerns with the project's stormwater pollution prevention plan, and requested that additional information be provided. EPA also recommended that an alternative with reduced impervious surface be developed.

Final EISs

ERP No. F–BLM–J65304–WY, Wyodak Coal Bed Methane Project, Implementation of Road Construction, Drilling Operation, Electrical

Distribution Line, Powder River Basin, Campbell and Converse Counties, WY.

Summary: EPA continues to have environmental concerns with disposal of CBM produced water and potential formaldehyde emissions.

ERP No. F–COE–E39048–FL, Alligator Chain of Lakes and Lake Gentry Extreme Drawdown and Habitat Enhancement Project, Implement Aquatic Habitat Enhancement, Osceola County, FL.

Summary: EPA has no significant objections to the proposed drawdown of the Alligator Chain and Lake Gentry in order to promote fisheries production and recreational opportunities.

ERP No. F–FHW–E40088–MS, Airport Parkway/Mississippi 25 Connectors, Construction Beginning at Intersection of High Street/Interstate 55 (I–55), Ending at Mississippi 25, City of Jackson, Hinds and Rankin Counties, MS.

Summary: EPA continues to have environmental concerns regarding potential long-term adverse wetland impacts, the loss of flood storage capacity, and limitations in the mitigation plan. Unless additional mitigation is provided, EPA anticipates that the project may encounter considerable difficulty during the Section 404 permitting process.

ERP No. F–FHW–F40144–WI, WI–131 and WI–33 Transportation Improvement, Relocation and/or Reconstruction, between Village of Ontario and Community of Rockton, Funding and Possible COE 404 Permit, Vernon County, WI.

Summary: EPA expressed environmental concerns with the project's wetlands compensation plan which was not fully detailed within the FEIS.

ERP No. F–NPS–K61221–CA, Fort Baker Site, Golden Gate National Recreation Area, Comprehensive Management Plan, Implementation, Marin County, CA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: November 22, 1999.

B. Katherine Biggs,

Associate Director, Office of Federal Activities.

[FR Doc. 99–30809 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

(ER–FRL–6248–4)

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa.

Weekly receipt of Environmental Impact Statements Filed November 15, 1999 Through November 19, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990435, Final EIS, NPS, WA, Lake Roosevelt National Recreation Area, General Management Plan, Implementation, Ferry, Grant, Lincoln, Okanogan and Stevens Counties, WA, Due: December 27, 1999, Contact: Vaugh Baker (509) 633–9441.

EIS No. 990436, Draft EIS, FAA, TX, George Bush Intercontinental Airport Houston, Construction and Operation, Runway 8L–26R and Associated Near Term Master Plan Project, City of Houston, Harris County, TX, Due: January 10, 1999, Contact: Ben R. Guttery (817) 222–5614.

EIS No. 990437, Draft EIS, NPS, KS, Tallgrass Prairie National Preserve General Management Plan, Implementation, Flint Hills Region, Chase County, KS, Due: January 25, 2000, Contact: Michael Madell (608) 264–5257.

EIS No. 990438, Draft EIS, BLM, WY, Pinedale Anticline Oil and Gas Exploration and Development Natural Gas Wells Project, Implementation, Sublette County, WY, Due: January 25, 2000, Contact: Jon Johnson (307) 775–6116.

EIS No. 990439, Final EIS, COE, AL, Jackson Port Project, Proposal for the Public Port Facilities on the Tombigbee River, City of Jackson, Clark County, AL, Due: December 27, 1999, Contact: Beverley Stout (334) 694–4637.

EIS No. 990440, Draft supplement, BLM, CA, Soledad Canyon Sand and Gravel Mining Project, Proposal to Mine, Produce and Sell, "Split Estate" Private Owned and Federally Owned Lands, Transit Mixed Concrete, Los Angeles County, CA, Due: January 10, 2000, Contact: Elena Misquez (760) 251–4810.

EIS No. 990441, Final EIS, FHW, WV, Coalfields Expressway Transportation Improvements, Funding, NPDES and COE Section 404 Permits, McDowell, Wyoming and Raleigh Counties, WV, Due: December 27, 1999, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 990442, Final EIS, BIA, MT, Flathead Indian Reservation Forest Management Plan, Implementation, Rocky Mountain, Pablo, MT, Due: December 27, 1999, Contact: Donald R. Sutherland (202) 208–4791.

EIS No. 990443, Draft EIS, BLM, CA, Cadiz Groundwater Storage and Dry-Year Supply Program, Construction and Operation, Amendment of the California Desert Conservation Area (CDCA) Plan, Issuance of Right-of-Way Grants and Permits, San Bernardino County, CA, Due: February 22, 2000, Contact: James Williams (909) 697–5390.

EIS No. 990444, Draft EIS, NPS, AZ, Fort Bowie National Historic Site General Management Plan, Implementation, Cochise County, AZ, Due: January 30, 2000, Contact: Christine Maylath (303) 969–2851.

EIS No. 990445, Draft EIS, BLM, MT, SD, ND, Montana, North Dakota and Portions of South Dakota Off-Highway Vehicle and Plan Amendment, Implementation, MT, ND and SD, Due: February 24, 2000, Contact: Jerry Majerus (406) 538–1924. The U.S. Department of Interior's Bureau of Land Management and the U.S. Department of Agriculture's Forest Service are Joint Lead for this project.

Amended Notices

EIS No. 990374, Draft EIS, SFW, CA, Trinity River Mainstem Fishery Restoration, To Restore and Maintain the Natural Production of Anadromous Fish, Trinity and Humboldt Counties, CA, Due: December 06, 1999, Contact: Joe Polos (707) 822–7201.

Published FR 10–25–99—Review Period extended from 12–06–99 to 12–20–99.

Dated: November 22, 1999

B. Katherine Biggs,

Associate Director, Office of Federal Activities.

[FR Doc. 99–30810 Filed 11–24–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30484; FRL–6390–3]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant

to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30484, must be received on or before December 27, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30484 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460 listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Mike Mendelsohn	9th Floor, CM #2, 703–308–8715, e-mail: mendelsohn.mike@epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Diana Horne	9th Floor, CM #2, 703–308–8367, e-mail: horne.diana@epa.gov.	Do.
Driss Benmhend	9th Floor, CM #2, 703–308–9525, e-mail: benmhend.driss@epa.gov.	Do.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30484. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30484 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30484. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want To Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential

will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under "FOR FURTHER INFORMATION CONTACT."

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

A. Products Containing Active Ingredients not Included in any Previously Registered Products

1. *File Symbol*: 68467–E. *Applicant*: Mycogen Seeds, C/O Dow Agrosciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Product name*: Mycogen Brand Bt Cry1F Corn. *Active ingredient*: *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants. *Proposed classification/Use*: None. For seed increase registration for a total of 5,000 acres per year in Illinois, Iowa, Indiana, Nebraska, Minnesota, Texas, Hawaii, and Puerto Rico. (M. Mendelsohn)

2. *File Symbol*: 29964–G. *Applicant*: Pioneer Hi-Bred International, Inc., 7250 NW 62nd Avenue, P.O. Box 552, Johnston, Iowa 50131-0552. *Product name*: Pioneer Brand Cry1F Corn. *Active ingredient*: *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants. *Proposed classification/Use*: None. For seed increase registration for a total of 620 acres per year in Hawaii. (M. Mendelsohn)

3. *File Symbol*: 52991–RR. *Applicant*: Bedoukian Research, Inc. 21 Finance Dr., Danbury, CT 06810. *Product name*: Bedoukian Now Technical Pheromone. *Active ingredient*: z,z-11,13-Hexadecadienol at 89.7%. *Proposed classification/Use*: None. To manufacture pheromone to be used to disrupt mating of the Navel Orangeworm. (D. Benmhend)

4. *File Symbol*: 69834–E. *Applicant*: Eden Bioscience Corporation, 11816 North Creek Parkway N., Bothell, WA 98011–8205. *Product name*: Messenger. Biochemical. *Active ingredient*: Harpin protein at 3.0%. *Proposed classification/Use*: None. A protein derived from killed, genetically engineered *E. coli*, used for plant disease management, insect suppression, and plant growth enhancement. (D. Horne)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: November 4, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–30783 Filed 11–24–99; 8:45 am]
BILLING CODE 6560–50–F

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Advisory Committee established by Pub. L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Time and Place

Tuesday, December 7, 1999, at 9:00 a.m. to 1:30 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda

This meeting will include a discussion of the best practices of non-bank lenders in support of small businesses and a discussion of the roles community banks and insurance brokers play in export finance.

Public Participation

The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to December 3, 1999, Teri Stumpf, Room 1203, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3502 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contract Teri Stumpf, Room 1203, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565–3502.

John M. Niehuss,

General Counsel.

[FR Doc. 99–30752 Filed 11–24–99; 8:45 am]
BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, November 30, 1999, 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, December 2, 1999 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 1999–30: Nebraska State Democratic Party by Kenneth W. Haar, Executive Director.

Advisory Opinion 1999–31: Oshkosh Truck Corporation and OTCEPAC by counsel, Theodore H. Bornstein.
Final Audit Report on Republicans for Choice PAC.
Notice of Proposed Rulemaking on General Public Political Communications Coordinated with Candidates.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 99–30942 Filed 11–23–99; 3:34 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–24]

Cargo One, Inc. v. COSCO Container Lines Company, Ltd.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Cargo One, Inc. ("Complainant") against COSCO Container Lines Company, Ltd. ("Respondent") was served on November 19, 1999. Complainant alleges that Respondent is an ocean common carrier, that Respondent and Complainant entered into a service contract, and that Respondent violated sections 10(b)(1), 10(b)(3), 10(b)(6)(e), 10(b)(11), 10(b)(12) and 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. app. § 1709(b)(1), (b)(3), (b)(6)(e), (b)(11), (b)(12), and (d)(1), between February 1999 and April 1999, by demanding payment of tariff rates in lieu of agreed upon service contract rates, by denying space and equipment in deference to larger shippers, and denying Complainant's claim for liquidated damages in accordance with the provisions of the service contract.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by November 20, 2000, and the final decision of the Commission shall be issued by March 20, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–30744 Filed 11–24–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 10, 1999.

A. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. James O. Banks; James O. Banks, Jr.; James O. Banks, III; Andrew Harrison Banks; John S. Banks; Sarah B. Dodd; and Betty C. Banks, all of Eutaw, Alabama; to retain voting shares of Merchants & Farmers Bancshares, Inc., Eutaw, Alabama, and thereby indirectly retain voting shares of Merchants & Farmers Bank of Green County, Eutaw, Alabama.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. John Randall (Randy) Winegard, Burlington, Iowa; to acquire additional voting shares of River Valley Bancorp, Inc., Eldridge, Iowa, and thereby indirectly acquire additional voting shares of Valley State Bank, Eldridge, Iowa.

Board of Governors of the Federal Reserve System, November 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30688 Filed 11–24–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-30186) published on pages 63320 and 63321 of the issue for Friday, November 19, 1999.

Under the Federal Reserve Bank of Atlanta heading, the entries for Riverside Banking Company, Fort Pierce, Florida, are revised to read as follows:

A. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Riverside Banking Company, Fort Pierce, Florida; to acquire 12.28 percent of Class A voting shares and 5.91 percent of Class B voting shares of The Prosperity Banking Company, St. Augustine, Florida, and thereby indirectly acquire Prosperity Bank of St. Augustine, St. Augustine, Florida.

2. Riverside Banking Company, Fort Pierce, Florida; to acquire 51.34 percent of Class A voting shares and 1.00 percent of Class B voting shares of Riverside Gulf Coast Banking Company, Cape Coral, Florida, and thereby indirectly acquire Riverside Bank of the Gulf Coast, Cape Coral, Florida.

Comments on this application must be received by December 13, 1999.

Board of Governors of the Federal Reserve System, November 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30689 Filed 11–24–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the

banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 20, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Summit Bancorp, Princeton, New Jersey; to acquire 100 percent of the voting shares of NMBT Corp, New Milford, Connecticut, and thereby indirectly acquire voting shares of NMBT, New Milford, Connecticut.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Cleveland Holding Company, Cleveland, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Bancorp, Inc., Cleveland, Oklahoma, and thereby indirectly acquire First Bank of Cleveland, Cleveland, Oklahoma.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Utah Bancshares, Inc., Emphraim, Utah; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Ephraim, Ephraim, Utah.

Board of Governors of the Federal Reserve System, November 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30690 Filed 11–24–99; 8:45 am]

BILLING CODE 6210-01–F

GENERAL SERVICES ADMINISTRATION

Proposed Collection: Submission for OMB Review; Comment Request Entitled American Customer Satisfaction Index

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for approval of a new information collection entitled American Customer Satisfaction Index.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), GSA has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection concerning American Customer Satisfaction Index (ACSI). An emergency review was requested by OMB and notice was published in the **Federal Register** at 64 FR 36690, July 7, 1999. OMB approved the emergency collection and assigned OMB Control No. 3090–0271.

The following summary of the proposed new information collection activity is designed to support the customer satisfaction policies outlined in Executive Order 12862, "Setting Customer Service Standards," and to establish a means to consistently measure and compare customer satisfaction among high-impact agencies within the Executive Branch. GSA serves as the Executive Agent for this initiative and has selected the ACSI through a competitive procurement process as the vehicle for obtaining the required information.

The ACSI is a cross-industry, cross-agency methodology for obtaining comparable measures of customer satisfaction. Along with other economic objectives—such as employment and growth—the quality of output (goods and services) is a part of measuring living standards. The ACSI's ultimate purpose is to help improve the quality of goods and services available to the American people.

The surveys that comprise the Federal Government's portion of the ACSI will be completed subject to the Privacy Act 1974, Public Law 93–579, December 31, 1974 (5 U.S.C. 522a). The agency information collection will be used solely for the purpose of the survey. The ACSI partnership will not be authorized to release any agency information upon completion of the survey without first obtaining permission from GSA and the agency in question. In no case shall any new system of records containing privacy information be developed by GSA, participating agencies, or the contractor responsible for compiling the ACSI. In addition, participating Federal agencies may only provide information used to randomly select respondents from among established systems of records providing for such routine uses.

This survey asks no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

DATES: Submit comments on or before January 25, 2000.

ADDRESSES: Comments concerning this notice should be submitted to: James L. Dean, Director, Committee Management Secretariat, Room G–230 (MC), 1800 F Street, NW, Washington, DC 20405, or e-mail to JamesDean@gsa.gov.

FOR FURTHER INFORMATION CONTACT: James Dean, Director, Committee Management Secretariat, General Services Administration at (202) 273–3563, or by e-mail to James.Dean@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The purpose of this Notice is to consult with and solicit comments from the public and affected agencies concerning the proposed collection of information under the ACSI to help improve the quality of goods and services available to the American people.

B. Annual Reporting Burden

Participation by Federal agencies in the ACSI is expected to vary as new customer segments measured are added or deleted. However, projected estimates for fiscal years 1999 through 2001 are as follows:

Fiscal Year 1999—30 Customer Segments

Respondents: 8,060; annual responses: 8,060; average minutes per response: .17; burden hours: 2,284.

Fiscal Year 2000—90 Customer Segments

Respondents: 24,180; annual responses: 24,180; average minutes per response: .17; burden hours: 6,852.

Fiscal Year 2001—200 Customer Segments

Respondents: 53,733; annual responses: 53,733; average minutes per response: .17; burden hours: 15,224.

Copy of Proposal

A copy of this proposal may be obtained by contacting James Dean at the above address.

Dated: November 19, 1999.

J. Les Davison,

Acting Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 99–30719 Filed 11–24–99; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request; Proposed Project

Title: Child Care and Development Fund Plan for States/Territories.

OMB No.: 0970–0114.

Description: The ACF–118, the Child Care and Development Fund (CCDF) Plan for States and Territories, is required from the child care lead agency by section 658E of the Child Care and Development Block Grant Act of 1990 (Pub. L. 101–508, 42 U.S.C. 9858). The implementing regulations for the statutorily required Plan is at 45 CFR 98.10 through 98.18. The Plan is required biennially and remains in effect for two years. States/Territories have completed the ACF–118 for the FFY 2000–2001 biennium. However, approval for the ACF–118 expires May 31, 2000. States and Territories may amend their Plans to reflect changes in their programs at any time during a biennium. Therefore, in order to provide continuity for the Plan process, ACF is requesting that the current approval of the ACF–118 be extended through the end of the biennium, i.e., September 30, 2001. The Tribal Plan (ACF–118A) is not affected by this notice.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Care & Dev. Fund Plan for States/Terr.	56	.5	162.57	4,552

Estimated Total Annual Burden hours: 4,552.

In compliance with the requirements of section 3506(c)(2)(A) the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information; (c) The quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 19, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–30765 Filed 11–24–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4933]

Agency Information Collection Activities: Proposed Collection; Comment Request; FDA Safety Alert/ Public Health Advisory Readership Survey

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing information collection, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for FDA Safety Alert/Public Health Advisory Readership Survey.

DATES: Submit written comments on the collection of information by January 25, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

FDA Safety Alert/Public Health Advisory Readership Survey (OMB No. 0910–0341B—Extension)

Section 705(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 375(b)) authorizes FDA to disseminate information concerning imminent danger to public health by any regulated product. The Center for Devices and Radiological Health (CDRH) communicates these risks to user communities through two publications: (1) The FDA Safety Alert and (2) the Public Health Advisory. Safety alerts and advisories are sent to organizations such as hospitals, nursing homes, hospices, home health care agencies, manufacturers, retail pharmacies, and other health care providers. Subjects of previous alerts included spontaneous combustion risks in large quantities of patient examination gloves, hazards associated with the use of electric heating pads, and retinal photic injuries from operating microscopes during cataract surgery.

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes FDA to conduct research relating to health information. FDA seeks to evaluate the clarity, timeliness, and impact of safety alerts and public health advisories by surveying a sample of recipients. Subjects will receive a questionnaire to be completed and returned to FDA. The information to be collected will address how clearly actions for reducing risk are explained, the timeliness of the information, and whether the reader has taken any action to eliminate or reduce risk as a result of information in the alert. Subjects will also be asked whether they wish to receive future alerts electronically, as well as how the safety alert program might be improved.

The information collected will be used to shape FDA's editorial policy for the safety alerts and public health advisories. Understanding how target audiences view these publications will aid in deciding what changes should be considered in their content, format, and method of dissemination.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
308	3	924	1.7	157

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on the history of the safety alert and public health advisory program, it is estimated that an average of three collections will be conducted a year. The total burden of response time is estimated at 10 minutes per survey. This was derived by CDRH staff completing the survey and through discussions with the contacts in trade organizations.

Dated: November 19, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–30728 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–5012]

Ciba Specialty Chemicals Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba Specialty Chemicals Corp. has filed a petition proposing that the food additive regulations be amended to expand the safe use of oxidized bis(hydrogenated tallow alkyl) amines as a process stabilizer for certain olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition, (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0B4700) has been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., P.O. Box 2005, Tarrytown, NY 10591–9005. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to expand the safe use of oxidized bis(hydrogenated tallow alkyl) amines as a process stabilizer for certain olefin polymers intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: November 3, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–30729 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Immunology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Immunology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 13, 1999, 9:30 a.m. to 5:30 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Louise E. Magruder, Center for Devices and Radiological Health (HFZ–440), Food and Drug

Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12516. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for an enzyme immunoassay to be used as an aid in the diagnosis of patients with transitional cell carcinoma of the urinary tract.

Procedure: On December 13, 1999, from 10 a.m. to 5:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by December 1, 1999. On December 13, 1999, oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:15 a.m. Near the end of the committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before December 1, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On December 13, 1999, from 9:30 a.m. to 10 a.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information regarding pending and future device submissions (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this information.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 17, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–30704 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Radiological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Radiological Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 16, 1999, 8:30 a.m. to 5 p.m.

Location: DoubleTree Hotel, Plaza Ballroom, 1750 Rockville Pike, Rockville, MD.

Contact Person: Robert J. Doyle, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1212, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12526. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a digital mammography device.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by December 8, 1999. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:15 a.m. Near the end of the committee deliberations, a 30 minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before December 8, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 15, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–30705 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4577]

Draft "Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is issuing a draft guidance document entitled "Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma." The purpose of the draft guidance document is to seek public comment on FDA's approach to regulating nucleic acid testing for infectious agents when intended for use in blood donor screening and/or manufacturing of blood products. FDA is issuing the draft guidance document in response to requests from manufacturers for guidance in the development of nucleic acid testing of plasma pools for infectious agents.

DATES: Written comments may be submitted at any time, however, comments should be submitted by January 25, 2000, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled "Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma" to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at

1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance document entitled "Guidance for Industry: Application of Current Statutory Authority to Nucleic Acid Testing of Pooled Plasma." The draft guidance document outlines FDA's approach to the development and implementation of nucleic acid testing of infectious agents when intended to screen blood donors for manufacturing of blood products. FDA considers nucleic acid testing of plasma pools to be donor screening.

The draft guidance document represents the agency's current thinking regarding nucleic acid testing of pooled plasma for viral detection in blood and blood products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

II. Comments

The draft guidance document is being distributed for comment purposes only. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the draft guidance document. Written comments may be submitted at any time, however, comments should be submitted by January 25, 2000, to ensure their adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document at http://www.fda.gov/cber/guidelines.htm.

Dated: November 15, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–30702 Filed 11–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Docket Identifier: HCFA–R–0250]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Skilled Nursing Facility (SNF) Resident Assessment MDS Data and Supporting Regulations in 42 CFR 413.343 and 424.32; *Form No.:* HCFA–R–250 (OMB# 0938–0739); *Use:* Skilled Nursing Facilities (SNFs) are required to submit Resident Assessment Data as described at 42 CFR 483.20 in the manner necessary to administer the payment rate methodology described in 42 CFR 413.337. Pursuant to sections 4204(b) and 4214(d) of OBRA 1987, the current requirements related to the submission and retention of resident assessment data for the 5th, 30th and 60th days following admission, necessary to administer the payment rate methodology described in 413.337, is subject to the Paperwork Reduction Act; *Emergency:* Monthly; *Affected Public:* Business or other for-profit, and Not-for-profit; *Number of Respondents:* 17,000; *Total Annual Responses:* 204,000; *Total Annual Hours:* 5,696,218.25.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 16, 1999.

John Parmigiani,

Acting HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–30786 Filed 11–24–99; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: "Immunoconjugates Having High Binding Affinity"

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(I) that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to U.S. Patent Applications 09/321,490, entitled: "Immunoconjugates Having High Binding Affinity" and corresponding foreign patent applications to NeoPharm, Inc. having a place of business in Bannockburn, Illinois. The patent rights in these inventions have been assigned to the United States of America and the

contemplated license may be limited to the use of the SS(dsFv)–PE38 immunotoxin and relevant patent applications for the therapeutic treatment of ovarian cancer and mesotheliomas.

DATES: Only written comments and/or applications for a license which are received by NIH on or before February 24, 2000 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: J.R. Dixon, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804. Telephone: (301) 496–7735 ext. 206; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The technology disclosed in USPA 09/321,490 relates to anti-mesothelin antibodies, including Fv molecules, with a particular high affinity for mesothelin, and immunoconjugates employing them. Also, described are DNA sequences plus diagnostic and therapeutic methods using the antibodies. The anti-mesothelin antibodies are well-suited for the diagnosis and treatment of cancers of the ovary, stomach, squamous cells, mesotheliomas, and other malignant cells expressing mesothelin.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within ninety (90) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the use of the SS(dsFv)–PE–38 immunotoxin under the relevant patent applications for the therapeutic treatment of ovarian cancer and mesotheliomas.

Applications for a license [i.e., completed "Application for License to Public Health Service Inventions] in the field of use of the SS(dsFv)–PE38 immunotoxin and the relevant Patent Applications for the therapeutic . treatment of ovarian cancer and mesotheliomas filed in response to this notice will be treated as objections to the grant of the contemplated license. Comments and objections will not be made available for public inspection and, to the extent by law, will not be subject to disclosure under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 16, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–30717 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, December 6, 1999, 8:00 PM to December 8, 1999, 1:00 PM, National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6 Floor, Conference Room 10, Bethesda, MD 20892 which was published in the **Federal Register** on November 16, 1999, 64FR62210–62211.

NCAB will also meet in closed session on December 6, 1999 from 8:30 AM to 4:00 PM.

Dated: November 17, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Policy, NIH.

[FR Doc. 99–30712 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: January 27–28, 2000.

Closed: January 27, 2000, 8:30 AM to 11:00 AM.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: January 27, 2000, 11:00 AM to 6:00 PM.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of the Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: January 28, 2000, 8:30 AM to adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: W. Sue Shafer, Deputy Director, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN–32C, Bethesda, MD 20892, (301) 594–4499.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: November 18, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30714 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institutes of Mental Health Special Emphasis Panel.

Date: December 2, 1999.

Time: 2:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sheila O'Malley, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientific Development Award for Clinicans, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 18, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30715 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Center for Scientific Review Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Center for Scientific Review Advisory Committee.

Date: January 10–11, 2000.

Time: 8:30 AM to 1:00 PM.

Agenda: Discussion of activities to evaluate organization and function of the Center for Scientific Review process.

Place: National Institutes of Health, Two Rockledge Center, Conference Room 9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Samuel Joseloff, Executive Secretary, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3016, MSC 7776, Bethesda, MD 20892, (301) 435–1040, joselofs@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337; 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 17, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30713 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 30, 1999.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: David J. Remondini, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, remondid@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 1, 1999.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 1, 1999.

Time: 3 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Patricia H. Hand, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767, handp@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 2, 1999.

Time: 12 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: NIH Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mike Radtke, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, (301) 435–1728.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 3, 1999.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1111 30th Street, NW, Washington, DC 20007.

Contact Person: Paul K. Strudler, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 6, 1999.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Martin L. Padarathsingh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 7, 1999.

Time: 2 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. Mac Stiles, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7816, Bethesda, MD 20892, (301) 435–1785.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 7, 1999.

Time: 3:00 pm to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Eugene Vigil, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 9–10, 1999.

Time: 9:00 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Governors House Hotel, 17th & Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Camilla E. Day, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1037, dayc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 13, 1999.

Time: 3:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 14, 1999.

Time: 3:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcia Litwack, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 44150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 15, 1999.

Time: 11:00 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 15, 1999.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anthony C. Chung, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7802, Bethesda, MD 20892, (301) 435–1850.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 16, 1999.

Time: 11:00 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Arnold Revzin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, (301) 435–1153.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 16, 1999.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ronald Dubois, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 16, 1999.

Time: 3:00 pm to 7:00 pm.

Agenda: To review and evaluate grant applications and/or proposals.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

Name of Committee: Center for Scientific Review Special Emphasis Panel VISB.

Date: December 16, 1999.

Time: 3:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Leonard Jakubczak, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 17, 1999.

Time: 12:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ronald Dubois, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 18, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30716 Filed 11–24–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–47]

Federal Property Suitable As Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *DOT:* Mr. Rugene Spruill, Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW., Room 2310, Washington, DC 20590; (202) 366–4246; *Energy:* Mr. Tom Knox, Department of Energy, Office of Contract and Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Interior:* Mr. Al Barth, Property Management, Department of the Interior, 1849 C Street, NW., Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–7283; *Navy:* Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: November 18, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Suitable/Available Properties

Buildings (by State)

Massachusetts

Crowell Shed
Tract 41–8673
Chatham Co: Barnstable MA 02633–
Landholding Agency: Interior
Property Number: 61199940001
Status: Unutilized
Comment: 120 sq. ft., storage shed, access via 4-wheel drive only over sand trail, off-site use only

Katz, Tract 17–2724
10 Old King's Highway
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940002
Status: Unutilized
Comment: 878 sq. ft., cement block, most recent use—residential, off-site use only

Carnelia, Tract 17–2725
12 Old King's Highway
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940003
Status: Unutilized
Comment: 1391 sq. ft., concrete block, most recent use—residential, off-site use only

Simons, Tract 17–2787
6 Head of Pamet Way
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940004
Status: Unutilized
Comment: 1600 sq. ft., most recent use—residential, off-site use only

Moss, Tract 17–2788
425 Ocean View Drive
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940005
Status: Unutilized
Comment: 2496 sq. ft. residence plus 2 outbuildings, off-site use only

Barracks 38, 39
Off Old Dew Line Road
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940006
Status: Unutilized
Comment: 5710 sq. ft., 2-story, presence of asbestos, off-site use only

Gips, Tract 21–4837
188 Way #626
Wellfleet Co: Barnstable MA 02667–
Landholding Agency: Interior
Property Number: 61199940007
Status: Unutilized
Comment: 2015 sq. ft., concrete block, most recent use—residential, off-site use only

Weidlinger 19–4136
Valley road
Wellfleet Co: Barnstable MA 02667–
Landholding Agency: Interior
Property Number: 61199940008
Status: Unutilized
Comment: 1855 sq. ft., most recent use—residential, off-site use only

Plymouth Light
Plymouth Co: Plymouth MA
Landholding Agency: DOT
Property Number: 87199420003
Status: Unutilized
Comment: 250 sq. ft. tower, and 2096 sq. ft. dwelling, wood frame, most recent use—aid to navigation/housing

New Jersey

Bldg. D1–A
Naval Weapons Station
Colts Neck Co: NJ 07722–

Landholding Agency: Navy
Property Number: 77199940024
Status: Unutilized
Comment: 1134 sq. ft., presence of lead paint, most recent use—smokehouse/luchroom, off-site use only

Bldg. HA–1A
Naval Weapons Station
Colts Neck Co: NJ 07722–
Landholding Agency: Navy
Property Number: 77199940025
Status: Unutilized
Comment: 120 sq. ft., most recent use—storage, off-site use only

Land (by State)

Kentucky

Segments 15–19
South Williamson Project
S. Williamson Co: Pike KY 41503–
Landholding Agency: GSA
Property Number: 54199940009
Status: Excess
Comment: 304. acres/105 tracts, special floodplain restrictions GSA Number: 4–D–KY–608

Unsuitable Properties

Buildings (by State)

California

Bldg. 517
NPS Maint Yard
Yosemite Nat Park Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61199940009
Status: Unutilized
Reason: Extensive deterioration

Hawaii

Facility 145
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940028
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 146
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940029
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 147
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940030
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 156
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940031
Status: Excess
Reasons: Secured Area, Extensive deterioration

Facility 1876
Navy Region, Barbers Point
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 77199940032
Status: Excess
Reasons: Secured Area, Extensive deterioration

New Jersey

Old Bridge Housing
Route 9
Old Bridge Co: NJ 08857–
Landholding Agency: GSA
Property Number: 54199940010
Status: Excess
Reason: Extensive deterioration
GSA Number: 0–0–NJ–000

28 Sheds
Naval Weapons Station
Colts Neck Co: NJ 07722–
Landholding Agency: Navy
Property Number: 77199940026
Status: Unutilized
Reason: Extensive deterioration

Tennessee

Bldg. 3505
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199940020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Tract 01–205
Stones River Natl
Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61199940010
Status: Unutilized
Reason: Extensive deterioration

Elkmont Maint/Ofc Bldg
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940011
Status: Unutilized
Reason: Extensive deterioration

Guest House 9A
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940012
Status: Unutilized
Reason: Extensive deterioration

Cabin 9B
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940013
Status: Unutilized
Reason: Extensive deterioration

Cabin 12, Sneed's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940014
Status: Unutilized
Reason: Extensive deterioration

Cabin 14, Jamerson's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940015
Status: Unutilized
Reason: Extensive deterioration

Cabin 16, Burdette's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940016
Status: Unutilized
Reason: Extensive deterioration

Cabin 17, Bagley's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940017
Status: Unutilized
Reason: Extensive deterioration

Cabin 20, Andrews
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940018
Status: Unutilized
Reason: Extensive deterioration

Cabin 25, Franklins
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940019
Status: Unutilized
Reason: Extensive deterioration

Cabin 26, Hutchins
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940020
Status: Unutilized
Reason: Extensive deterioration

Cabin 43, Brandau's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940021
Status: Unutilized
Reason: Extensive deterioration

Cabin 44, Parrott's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940022
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs.
Naval Support Activity
Millington Co: Shelby TN 38054–
Location: 766, 1597–1598, 5238, 435–446, S239, S75, 1211, 1379
Landholding Agency: Navy
Property Number: 77199940027
Status: Excess
Reasons: Secured Area, Extensive deterioration

Texas

Log Cabin
Saratoga Unit

Hwy 770
Saratoga Co: Hardin TX 77585–
Landholding Agency: Interior
Property Number: 61199940023
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 99–30534 Filed 11–24–99; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1310–EJ–CBMP]

Wyodak Coalbed Methane Project, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability (NOA) of record of decision.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Environmental Impact Statement (EIS) for the Wyodak Coalbed Methane Project. That EIS analyzes the potential impacts and cumulative effects of proposed coalbed methane (CBM) development on Federal and non-Federal lands in Campbell, Converse, Johnson, and Sheridan Counties, Wyoming. BLM's decision was to approve Alternative 1, which analyzed the impacts of drilling 5000 wells in the project area.

BLM received 12 comment letters on the final EIS. None of those comments included new or substantive information that required revision of the EIS. The issues raised in those comment letters are summarized and responded to in the ROD. All comments received were taken into consideration in reaching our decision.

BLM Notices of Availability for the draft EIS and for the final EIS for this project were published in the **Federal Register** on May 14, 1999 (64 FR 26436), and on October 4, 1999 (64 FR 53690), respectively.

DATES: The ROD was signed by the State Director on November 17, 1999. Parties in interest have the right to appeal that decision pursuant to Title 43, Code of Federal Regulations, Subpart 3165.4, within 30 days from the date of publication of this NOA in the **Federal Register**. The ROD contains instructions on taking appeals to the Interior Board of Land Appeals.

FOR FURTHER INFORMATION CONTACT: Richard Zander, phone: (307) 684–1100. Copies of the ROD may be obtained from the following BLM offices: Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82834, (307) 684–1100; Casper Field Office, 1701 East E Street, Casper, Wyoming 82601, (307) 261–7600; and Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009, (307) 775–6256.

Dated: November 19, 1999.

Alan R. Pierson,

State Director.

[FR Doc. 99–30722 Filed 11–24–99; 8:45 am]
BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approval of amendment to Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved an Amendment, executed on November 2, 1999, to the Gaming Compact between the Coushatta Tribe of Louisiana and the State of Louisiana.

DATES: This action is effective November 26, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 18, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30726 Filed 11–24–99; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amended gaming compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amended Gaming Compact between the Spirit Lake Tribe and the State of North Dakota, which was executed on September 29, 1999.

DATES: This action is effective November 26, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30727 Filed 11–24–99; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approval of amendment to Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved an Amendment, executed on November 9, 1999, to the Gaming Compact between the Tunica-Biloxi Indian Tribe of Louisiana and the State of Louisiana.

DATES: This action is effective November 26, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: November 18, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30725 Filed 11–24–99; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[8323.2]

Notice of Intent to Prepare an Environmental Assessment (EA) on Construction of an Interpretive Center and Other Facilities at Pompeys Pillar National Historic Landmark, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Assessment (EA) on construction of an interpretive center and other facilities at Pompeys Pillar National Historic Landmark, Montana and Notice of Scoping Meetings.

SUMMARY: The Bureau of Land Management, Billings Field Office and the Montana Department of Transportation will be directing the preparation of an EA to be prepared by a third party contractor on the impacts of a proposed interpretive center and other facilities proposed on public lands at Pompeys Pillar National Historic Landmark in south-central Montana. The EA will amend the Billings Resource Management Plan to provide further guidance on the management of Pompeys Pillar National Historic Landmark.

DATES: Written comments will be accepted until January 28, 2000. Public scoping meetings will be held at Pompeys Pillar National Historic Landmark on January 4, 2000 and in Billings, Montana on January 5, 2000. Exact locations and times will be announced through the local media. Additional briefing meetings will be considered as appropriate.

ADDRESSES: Send comments to Billings Field Manager, P. O. Box 36800, 5001 Southgate Drive, Billings, Montana 59107–6800. ATTN: Pompeys Pillar Interpretive Center EA.

FOR FURTHER INFORMATION CONTACT: Dick Kodeski, BLM Billings Field Office, (406) 896–5235.

SUPPLEMENTARY INFORMATION: The need for a new interpretive center at Pompeys Pillar National Historic Landmark was addressed in the 1996 Pompeys Pillar Amendment to the Billings Resource Management Plan and impacts analyzed in the accompanying EA. The EA to be developed at this time will further analyze the location and visual aspects of the interpretive center, as well as that of additional facilities, including the possibility of a State of Montana Department of Transportation highway rest area at this location. Additional facilities to be addressed are an entrance road, trails, parking, restrooms, picnic area, sewage treatment, utilities, and employee housing. The possibility of providing a highway rest area is being considered because of potential cost savings to the public through the sharing of development, and operation and maintenance of facilities.

The scoping process for the EA will include: (1) Identification of what will be addressed: (2) Identification of viable alternatives, including a no-action alternative, and (3) Notifying interested groups, individuals, and agencies so that additional information concerning this project can be obtained.

Dated: November 18, 1999.

Larry E. Hamilton,

State Director

[FR Doc. 99–30796 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–14000–00–1220–00]

Notice of Availability of Resource Management Plan Amendment for the Red Hill Area; Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Availability, Decision Record, and Travel and Use Restrictions.

SUMMARY: Pursuant to section 102 of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976 and Bureau of Land Management (BLM) regulations in CFR 1610.2 and 1610.5–5., the BLM has amended the Resource Management Plan (RMP) for the Glenwood Springs Field Office (GSFO) approved in January of 1984.

The amendment changed the management prescription for the Red Hill area, approximately 3,093 acres, north of the town of Carbondale, Colorado in Garfield County. The Red Hill area includes all BLM managed public lands bounded on the west and south by State Highway 82, on the north by the County Road 113, and on the east by County Roads 112 and 105. These public lands are located in Township 7 South, Range 88 West, Sections 15, 16, 17, 18, 20, 21, 22, 23, 26, 27, 28; Sixth P.M.

The Decision Record (DR) administratively recognized Red Hill area as a Special Recreation Management Area (SRMA) where recreation is a principle management focus. The DR closed the area to unauthorized motorized vehicles and designated routes open for mountain bike riding. To protect wintering big game, the DR placed seasonal (December 1–March 31) restrictions on mountain bike travel in: Township 7 South; Range 88 West; Sections 15, 16, 17, 18, 20, 21 (north half), 22, 23, 26, 27; Sixth P.M. The DR revised the Class III and IV visual resource management designations to Class II where the level of change in basic landscape elements will remain low. The DR also applied no surface occupancy (NSO) stipulations to the area to maintain the current undeveloped physical setting.

DATES: The amendment, including the travel and use restrictions, to the Glenwood Springs Resource Area Resource Management Plan (RMP) for the Red Hill area will take effect after the 60-day Governor's Consistency Review and 30-day protest period, provided all protests have been resolved by that time. The 60-day Governor's Consistency Review will end December 31, 1999. The 30-day protest period will begin when notice of the decision is published in the **Federal Register**.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare a RMP amendment was published in the **Federal Register** in Vol. 64, No. 1 on Jan. 4, 1999.

The travel and use restrictions are being implemented to protect wintering big game and support the preferred physical, social and managerial recreational settings. The area and routes affected by this order will be posted with appropriate regulatory signs in such a manner and location as is reasonable to bring prohibitions to the attention of visitors. Information, including maps of the restricted area, is available in the Glenwood Springs Field Office at the addresses shown above.

Persons who are exempt from the restrictions include: (1) Any Federal, State, or local officers engaged in fire, emergency and law enforcement activities; (2) BLM employees engaged in official duties; (3) Persons authorized to operate mechanized and motorized vehicles within the restricted area.

The Decision Record contains decisions which amend the Glenwood Springs Resource Area Resource Management Plan (RMP) for the Red Hill area. The Bureau's planning regulations (43 CFR 1610.5–2) provide protest procedures for persons adversely affected by the approval of RMP amendments. Any person who participated in the planning process and has an interest which is or may be adversely affected by the amendment of an RMP may protest such amendments. A protest may only raise those issues

which were submitted for the record during the planning process. The protest shall be in writing and shall be filed with the Director. For an amendment not requiring the preparation of an environmental Impact Statement, the protest shall be filed within 30 days of the publication of the notice of its effective date. The Director's mailing address and protest procedures are available from the Glenwood Springs Field Office at (970) 947–2800.

Certain mitigation measures included in the Decision Record are considered actions to implement the RMP as amended and may be appealed to the Interior Board of Land Appeals in accordance with regulations in Title 43 of the Code of Federal Regulations 4.411 and 4.413. Form CSO 1840–3 (available from the Glenwood Springs Field Office) outlines appeal procedures. The forms also include instructions for requesting a stay of the decision appealed. If an appeal is taken, the notice of appeal must be filed in the BLM, Glenwood Springs Field Office, P.O. Box 1009, Glenwood Springs, CO 81602, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision is in error and is adverse to you.

Penalties

Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7.

ADDRESSES: Field Office Manager, Glenwood Springs Field Office, Bureau of Land Management, 50629 Highway 6 & 24, P.O. Box 1009, Glenwood Springs, CO 81602.

FOR FURTHER INFORMATION CONTACT: Brian Hopkins, (970) 947–2840.

Roy E. Smith,

Acting Glenwood Springs Field Office Manager.

[FR Doc. 99–30787 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–660–99–1990–00; CACA20139 and CACA22901]

Transit Mixed Concrete Company Proposed Sand and Gravel Mining Operation, Soledad Canyon, Los Angeles County, California

AGENCY: Bureau of Land Management, Department of the Interior, Palm Springs-South Coast Field Office, Desert District, California.

ACTION: Notice of availability of Draft Conformity Determination.

SUMMARY: In compliance with section 176 of the Federal Clean Air Act and as required by 40 CFR 93.150–160, notice is hereby given that the Bureau of Land Management (BLM) has prepared a Draft Conformity Determination regarding air quality for Transit Mixed Concrete Company's proposal to mine sand and gravel reserves in Soledad Canyon, Los Angeles County, California. The Draft Conformity Determination is provided within the Supplemental Draft Environmental Impact Statement (SDEIS) for the Project which is available for public review. The Draft Conformity Statement is required to demonstrate the Project's compliance with the provisions of 40 CFR Part 93 regarding conformity of Federal actions to State and Federal Implementation Plans. In accordance with 40 CFR 93.155 and 93.156, BLM is providing notice and is asking for written public comment on the Draft Conformity Determination before taking any formal action. Comments on the Draft Conformity Determination must be forwarded to Mr. James G. Kenna, Field Manager, of the BLM at the address listed below by January 10, 2000. Copies of the SDEIS containing the Draft Conformity Determination may be obtained by telephoning or writing to the contact person listed below. Public reading copies are available at the following County of Los Angeles public libraries: Canyon Country Library, 18536 Soledad Canyon Road, Santa Clarita, CA 91351; Newhall Library, 22704 W. Ninth Street, Santa Clarita, CA 91321; Valencia Library, 23743 W. Valencia Boulevard, Santa Clarita, CA 91355.

DATES: Comments must be received in writing to the BLM no later than January 10, 2000.

ADDRESSES: Written comments shall be mailed to the following address: Mr. James G. Kenna, Field Manager, Bureau of Land Management, Palm Springs-South Coast Field Office, 690 W. Garnet Avenue, P.O. Box 1260, North Palm Springs, California, 92258. Comments may also be submitted by electronic mail (E-mail) to the following address: emisquez@ca.blm.gov. The response to comments will be provided in the Final EIS.

FOR FURTHER INFORMATION CONTACT: Ms. Elena Misquez, BLM, Palm Springs-South Coast Field Office at (760) 251–4810.

Dated: November 19, 1999.

James G. Kenna,

Field Manager.

[FR Doc. 99–30795 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–14000–00–1220–00]

Seasonal Travel Restrictions to Motorized Vehicles in the Light Hill Area; Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that public lands in the Light Hill area, south of Basalt, Colorado, are seasonally closed to all motorized vehicle use from December 1 to April 30 of each year. The affected public land is generally located south and west of Colorado Highway 82, north of the East Sopris Creek Road (County Road 6) and west of the Snowmass Creek Road (County Road 11). The travel order includes public lands in T. 8 S., R. 87 W., Section 13 and 24; T. 8 S., R. 86 W., Sections 18, 19, 20, 21, 27, 28, 29, 30, 32, 33, 34; 6th Principal Meridian; Pitkin County.

This action is in accordance with the Glenwood Springs Resource Management Plan, Record of Decision (BLM, 1984). This order, issued under the authority of 43 CFR 8364.1 and 43 CFR 8341.2(a), is established to protect wintering big game. Any use of motor vehicles within the closed area, from December 1 until April 30, is prohibited. This travel order does not affect non-motorized forms of travel.

EFFECTIVE DATES: The restriction shall be effective immediately until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: The area affected by this order has been closed periodically since 1992 to protect wintering big game. This order institutes the travel restriction on an annual basis.

The area and routes affected by this order will be posted with appropriate regulatory signs in such a manner and location as is reasonable to bring prohibitions to the attention of visitors. Information, including maps of the restricted area, is available in the Glenwood Springs Field Office at the addresses shown below.

Persons who are exempt from the restrictions include: (1) Any Federal, State, or local officers engaged in fire, emergency and law enforcement activities; (2) BLM employees engaged

in official duties; (3) Persons authorized to operate motorized vehicles within the restricted area.

Penalties

Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7.

ADDRESSES: Field Office Manager, Glenwood Springs Field Office, Bureau of Land Management, 50629 Highway 6 & 24, P.O. Box 1009, Glenwood Springs, CO 81602.

FOR FURTHER INFORMATION CONTACT: Brian Hopkins (970) 947–2840.

Roy E. Smith,

Acting Glenwood Springs Field Office Manager.

[FR Doc. 99–30788 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–930–1220–PA]

Recreation Management Restrictions, etc.: Wyoming; Camping Stay Limits

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of 14-day camping limit on all public lands in Wyoming.

SUMMARY: In accordance with 43 CFR, part 8364, subpart 8364.1 and part 8365, 8365.1–2, 8365.1–6, and 8365.2–3, persons may camp or occupy any specific location within designated campgrounds or on undeveloped public lands within the State of Wyoming for a period of not more than 14 days within any period of 28 consecutive days. Exceptions would include areas closed to camping, areas with specially designated camping-stay limits, and activities authorized by permit. The 28-day period will begin when a camper initially occupies a specific location on public land. The 14-day limit may be reached either through several separate visits or through 14 days of continuous occupation during the 28-day period. After the 14th day of occupation, campers must move outside of a 5-mile radius of the previous location. The authorized officer may give written permission for extension of the 14-day limit if extenuating circumstances warrant. Camping means overnight occupancy. Occupancy is defined as the taking or holding possession of a camp or residence on public land. Occupancy or holding for occupancy is placing private property used in connection for camping; such as, but not limited to vehicles, trailers, structures, tents, stoves, chairs, notes, or other personal items. In addition, no person shall leave personal property unattended on public lands for a period of more than 72 hours without written permission from the authorized officer. Unattended personal property will be counted towards the 14 day continuous camp limit and/or the 28 day maximum camp limit. Any property left on public land beyond the camping or hours limit may be impounded by the authorized officer pending disposition in court. Exempted from this camping limit are administrative authorized personnel, law enforcement officers, and fire or emergency personnel.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Goldbach, Recreation Program Leader, Division of Resources Policy and Management, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, WY 82009. Telephone: 307–775–6102.

SUPPLEMENTARY INFORMATION: This occupancy and camping-stay limit is being established in order to assist the Bureau in reducing the incidence of unauthorized long-term occupancy being conducted under the guise of camping, both within campgrounds and on undeveloped public lands. Of equal importance is the problem of exclusion, whereby long-term camping at a given location will deny equal opportunities for other members of the public to camp in the same area or location.

Dated: November 18, 1999.

Alan R. Pierson,

State Director.

[FR Doc. 99–30723 Filed 11–24–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On November 15, 1999, the United States lodged a proposed consent decree in the case of *United States* v. *East Charleston and Fogg, and Harold Gerecht*, CV–S–97–000760–DWH(RJJ), in the United States District Court for the District of Nevada. The consent decree settles and action brought by the United States pursuant to Sections 104 and 107 of the Comprenhensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9604, 9607, to recover the costs incurred in conducting a 1993 removal action at an approximate 10 arce parcel located at 6247 East Charleston Boulevard in Las Vegas, Nevada ("site").

The consent decree requires the defendants to sell the site and to use the proceeds from that sale to reimburse EPA for up to $537,768 of EPA's response costs, or 52.5 percent of the site costs. The consent decree also requires the United States on behalf of the United States Air Force to pay $486.552 toward the response costs, or 47.5 percent of the site costs. Removal costs, including interest, total $1,024,320.

The Department of Justice will accept comments relating to this consent decree for a period of thirty (30) days from the date of this publications. *See* 28 CFR 50.7. Address your comments to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and send a copy of the Environmental Enforcement Section, U.S. Department of Justice, 301 Howard Street, Suite 870, San Francisco, CA 94105. Your comments should refer to *United States* v. *East Charleston and Fogg, and Harold Gerecht*, CV–S–97–000760–DWH(RJJ), and DOJ No. 90–11–3–1742.

A copy of the consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. Your request for a copy of the consent decree in *United States* v. *East Charleston and Fogg, and Harold Gerecht*, CV–S–97–000760–DWH(RJJ), and DOJ No. 90–11–3–1742, and must include a check for $8.75 (25 cents per page reproduction cost) payable to the "Consent Decree Library." You may also examine the proposed consent decree in person, or request a copy by mail from the United States Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, or at the U.S. Attorney's Office, 700 E. Bridger Avenue, Las Vegas, Nevada 89101.

Walker Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–30790 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Department of Justice policy and the procedures set forth at 28 CFR 50.7, notice is hereby

given that a proposed Partial Consent Decree in *United States of America* v. *Jack L. Aronowitz, Technical Chemicals & Products, Inc., et al.*, C.A. No. 98–6201–CIV–DIMITROULEAS (S.D. Florida), was lodged on November 10, 1999, with the United States District Court, Southern District of Florida, Fort Lauderdale Division. The Partial Consent Decree resolves a claim filed by the United States on behalf of the United States Environmental Protection Agency, against defendant Theodore Holstein, individually and as trustee of the Holstein Family Trust (the "Settling Defendant"), pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, *as amended*, 42 U.S.C. 9601, *et seq.*

The Partial Consent Decree provides that the Settling Defendant shall pay $230,000.00, plus interest accruing thereon from November 5, 1999, for reimbursement of past response costs incurred by the United States in connection with the Lauderdale Chemical Warehouse Site, located at 4987 N.W. 23rd Avenue, Fort Lauderdale, Broward County, Florida.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States of America* v. *Jack L. Aronowitz, Technical Chemicals & Products, Inc., et al.*, DOJ Ref. # 90–11–3–1757.

The proposed Partial Consent Decree may be examined at: (1) The Office of the United States Attorney, 500 E. Broward Blvd., Suite 700, Fort Lauderdale, Florida 33394; and (ii) Region 4 of the U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960. A copy of the proposed Partial Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044, (202) 514–1547. In requesting a copy, refer to the referenced case and enclose a check in the amount of $3.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Principal Deputy Chief, Environmental Enforcement Section.

[FR Doc. 99–30789 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Harsco Corporation, Pandrol Jackson Limited, and Pandrol Jackson Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Sections 16(b) through (h), that a Complaint, Hold Separate Stipulation and Order, and a proposed Final Judgment were filed with the United States District Court for the District of Columbia in *United States of America* v. *Harsco Corporation, Pandrol Jackson Limited, and Pandrol Jackson Inc.*, Civil No. 99–02706 on October 14, 1999. A Competitive Impact Statement was filed on November 8, 1999. The Complaint alleged that the proposed acquisition of certain assets of Pandrol Jackson Limited and Pandrol Jackson Inc. ("Pandrol") by Harsco would violate Section 7 of the Clayton Act, 15 U.S.C. Section 18, in the markets for switch and crossing and transit grinding equipment and switch and crossing grinding services in North America. The proposed Final Judgment, filed at the same time as the Complaint, requires Harsco, among other things, to: (1) divest all assets acquired from Pandrol related to the manufacture and sale of switch and crossing grinding equipment; and (2) divest all assets acquired from Pandrol related to the providing of switch and crossing grinding services.

A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, the industry, and remedies to be implemented by Harsco. Copies of the Complaint, Hold Separate Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington, DC, and at the office of the Clerk of the United States District Court for the District of Columbia, Washington, DC. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within the statutory 60-day comment period. Such comments and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW. Suite 3000, Washington, DC 20530 (telephone: 202–307–0924).

Constance K. Robinson,

Director of Operations & Merger Enforcement.

Hold Separate Stipulation and Order

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. "Harsco" means defendant Harsco Corporation, a Delaware corporation with its corporate headquarters in Camp Hill, Pennsylvania, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. "Charter" means Charter plc, a United Kingdom corporation, with its corporate headquarters in London, England, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. "Pandrol" means defendant Pandrol Jackson Ltd., a United Kingdom corporation, with its corporate headquarters in Surrey, England and defendant Pandrol Jackson Inc. with its corporate headquarters in Ludington, Michigan, both of which are indirectly owned by Charter, and their successors and assigns, and their subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees; Pandrol submit to the jurisdiction of this Court solely for purposes of this action to permit the contemplated sale of assets of Harsco; nothing contained herein shall be deemed an admission of personal jurisdiction or an appointment of any agent for service of process for any other purpose.

D. "Switch and Crossing Grinding Equipment" means rail grinders and any related equipment used to remove surface irregularities and restore the profile of the rail used in transit systems, railroad track switches and railroad track crossings, thereby providing longer rail life and reducing the wear on rolling stock and track components.

E. "Switch and Crossing Grinding Services" means switch and crossing grinding services provided commercially to railroads and transit systems.

F. "Switch and Crossing Grinding Assets" means all of the assets acquired by Harsco from Pandrol related to the Switch and Crossing Grinding Equipment manufactured by Pandrol and to the Switch and Crossing Grinding Services provided by Pandrol inclusive of all tangible and intangible assets used in the manufacture and sale of Switch and Crossing Grinding Equipment and the providing of Switch and Crossing Grinding Services, including all intellectual property rights, technical information, know-how, trade secrets, blueprints, licenses, permits, product trade names (other than the "Jackson" name), product trade dress, tooling, existing inventory and work in progress, accounts receivable, pertinent correspondence, files and databases, books of account, customer lists, supplier lists, advertising materials, contracts with third parties (to the extent assignable), but not including any manufacturing or assembly facility, or any real estate owned or leased by Harsco or Pandrol.

II. Objectives

The proposed Final Judgment filed in this case is meant to ensure Harsco's prompt divestiture of the Switch and Crossing Grinding Assets for purposes of creating a viable competitor in the manufacture and sale of switch and crossing grinding equipment and services. This Hold Separate Stipulation and Order ensures the timely and complete transfer of these assets and maintains the separation of Harsco's and Pandrol's switch and crossing grinding businesses as independent, viable competitors until the required divestiture is complete.

III. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. Compliance With and Entry of Final Judgment

A. The parties stipulate that a proposed Final Judgment in the form attached hereto may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

D. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

E. Harsco represents that the divestitures ordered in the proposed Final Judgment can and will be made, and that it will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

V. Hold Separate Provisions

A. Harsco shall preserve, maintain, and operate the Switch and Crossing Grinding Assets as an independent competitive business, with management, research, development, production, sales and operation of such assets held entirely separate, distinct and apart from those of Harsco. Harsco shall not coordinate its production, marketing or sale of any products with that of any of the Switch and Crossing Grinding Assets, except to the limited extent provided in this Section V below. Within fifteen (15) days of the entering of this Order, Harsco will inform the United States of the steps taken to comply with this provision.

B. Harsco shall take all steps necessary to ensure that the Switch and Crossing Grinding Assets will be maintained and operated as an independent, ongoing, economically viable and active competitor in the development, production and sale of their respective products and services, that the management of the Switch and Crossing Grinding Assets will not be influenced by Harsco, and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with the Switch and Crossing Grinding Assets, including the performance and decision-making functions regarding internal research and development, sales and pricing, will be kept separate and apart from the business of Harsco. Harsco's influence over the Switch and Crossing Grinding Assets shall be limited to that necessary to carry out Harsco's obligations under this Order and the proposed Final Judgment.

C. Harsco shall provide and maintain sufficient working capital to maintain the Switch and Crossing Grinding Assets as a viable, ongoing business, consistent with current business plans.

D. Harsco shall provide and maintain sufficient lines and sources of credit to maintain the Switch and Crossing Grinding Assets as a viable, ongoing business.

E. Harsco shall maintain, on behalf of the Switch and Crossing Grinding Assets, in accordance with sound accounting practices, separate, true and complete financial ledgers, books and records reporting the profit and loss and liabilities of the business on a monthly and quarterly basis.

F. Harsco shall use all reasonable efforts to maintain and increase the sales of the Switch and Crossing Grinding Assets to be divested, such as maintaining at 1998 or previously approved levels for 1999, whichever are higher, internal research and development funding, sales, marketing, and support for the Switch and Crossing Grinding Assets.

G. Harsco shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, assets that may be required to be divested pursuant to the Final Judgment.

H. Harsco shall preserve the assets that may be required to be divested pursuant to the Final Judgment in a state of repair equal to their state of repair as of the date of this Order, ordinary wear and tear excepted.

I. Except in the ordinary course of business or as is otherwise consistent with this Order, Harsco shall not transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any employee who, on the date of entry of this Order, works for the Switch and Crossing Assets. Harsco shall not solicit

to hire any individual who, on the date of entry of this Order, was an employee of any of the assets to be divested under the proposed Final Judgment.

J. Within ten (10) days of the filing of this Hold Separate Stipulation and Order, Harsco shall appoint one or more persons who shall have complete managerial responsibility for the Switch and Crossing Grinding Assets, subject to the provisions of this Order and the proposed Final Judgment, until such time as this Order is terminated. In the event that such manager(s) is unable to perform his or her duties, Harsco shall appoint from the current management of the Switch and Crossing Grinding Assets, subject to the plaintiff's approval, a replacement within ten (10) working days. Should Harsco fail to initially appoint a manager acceptable to the United States, or fail to appoint any replacement required within ten (10) working days, the United States shall appoint the manager.

K. Harsco shall take no action that would interfere with the ability of any trustee appointed pursuant to the proposed Final Judgment to complete the divesture pursuant to the proposed Final Judgment to a suitable purchaser.

L. This Order shall remain in effect until the divestiture of the Switch and Crossing Grinding Assets required by the proposed Final Judgment is complete, or until further Order of the Court.

Dated: October 14, 1999.

For Plaintiff United States of America:

John F. Greaney, Esquire

U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20005, (202) 305–9965.

For Defendant Harsco Corporation:

Dale Hershey, Esquire

Timi E. Nickerson, Esquire, DC Bar #457231, Eckert Seamans Cherin & Mellott, LLC, USX Tower, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, (412) 566–6058.

For Defendants Pandrol Jackson Limited, and Pandrol Jackson Inc.:

Wayne Dale Collins, Esquire

DC Bar #430266, Shearman & Sterling, 599 Lexington Ave., New York, NY 10022–6069, (212) 848–4127.

IT IS ORDERED by the Court, this ____ day of October, 1999.

United States District Judge

Final Judgment

Whereas, plaintiff, the United States of America, and defendants Harsco Corporation ("Harsco"), Pandrol Jackson Limited, and Pandrol Jackson Inc. (collectively "Pandrol"), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein; and having consented that this Final Judgment shall settle all claims made by plaintiff in its Complaint filed October 14, 1999;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is, in the event of the acquisition of certain assets of Pandrol by Harsco, the prompt and certain divestiture of the identified assets to assure that competition is not substantially lessened;

And whereas, plaintiff requires defendant Harsco to make a divestiture for the purpose of establishing a viable competitor in the manufacture and sale of switch and crossing grinding equipment and services specified in the Complaint.

And whereas, defendant Harsco has represented to the plaintiff that the divestiture ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definitions

As used in this Final Judgment:

A. "Harsco" means defendant Harsco Corporation, a Delaware corporation with its corporate headquarters in Camp Hill, Pennsylvania, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. "Charter" means defendant Charter plc, a United Kingdom corporation, with its corporate headquarters in London, England, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents and employees.

C. "Pandrol" means defendant Pandrol Jackson Limited, a United Kingdom corporation, with its corporate headquarters in Surrey, England and defendant Pandrol Jackson Inc., with its corporate headquarters in Lundington, Michigan, both of which are indirectly owned by Charter, and their successors and assigns, and their subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employee: Pandrol submit to the jurisdiction of this Court solely for purposes of this action to permit the contemplated sale of assets of Harsco; nothing contained herein shall be deemed an admission of personal jurisdiction or an appointment of any agent for service of process for any other purpose.

D. "Switch and Crossing Grinding Equipment" means rail grinders and any related equipment used to remove surface irregularities and restore the profile of the rail used in transit systems, railroad track switches and railroad track crossings, thereby providing longer rail life and reducing the wear on rolling stock and track components.

E. "Switch and Crossing Grinding Services" means switch and crossing grinding services provided commercially to railroads and transit systems.

F. "Switch and Crossing Grinding Assets" means all of the assets acquired by Harsco from Pandrol related to the Switch and Crossing Grinding Equipment manufactured by Pandrol and to the Switch and Crossing Grinding Services provided by Pandrol inclusive of all tangible and intangible assets used in the manufacture and sale of Switch and Crossing Grinding Equipment and the providing of Switch and Crossing Grinding Services, including all intellectual property rights, technical information, know-how, trade secrets, blueprints, licenses, permits, product trade names (other than the "Jackson" name), product trade dress, tooling, existing inventory and work in progress, accounts receivable, pertinent correspondence, files and databases, books of account, customer lists, supplier lists, advertising materials, contracts with third parties (to the extent assignable), but not including any manufacturing or assembly facility, or any real estate owned or leased by Harsco or Pandrol.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendant Harsco shall require, as a condition of the sale of all or substantially all of its assets or of its Switch and Crossing Grinding Equipment and Services business, that the purchaser or purchasers agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Defendant Harsco is hereby ordered and directed, in accordance with the terms of this Final Judgment, within thirty (30) calendar days after the filing of the Hold Separate Stipulation and Order in this case, to sell the Switch and Crossing Grinding Assets as a viable ongoing business to a purchaser acceptable to the United States in its sole discretion.

B. Defendant Harsco shall use its best efforts to accomplish said divestiture as expeditiously as possible. The United States, in its sole discretion, may extend the time for the divestiture for an additional period not to exceed thirty (30) calendar days.

C. In accomplishing the divestiture ordered by this Final Judgment, defendant Harsco shall make known promptly, by usual and customary means, the availability of the Switch and Crossing Grinding Assets. Defendant Harsco shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendant Harsco shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding these assets customarily provided in a due diligence process, except such information as is subject to attorney-client privilege or attorney work-product privilege. Defendant Harsco shall make such information available to the United States at the same time that such information is made available to any other person.

D. As customarily provided as part of a due diligence process, defendant Harsco shall permit prospective purchasers of the Switch and Crossing Grinding Assets to have access to personnel and to make inspection of such assets and any and all financial, operational, or other documents and information.

E. Defendant Harsco shall not interfere with any negotiations by any purchaser to employ any current or former Pandrol employee who works or has worked at, or whose principal responsibility concerns or has concerned, any aspect of the Switch and Crossing Grinding Assets.

F. Defendant Harsco shall not take any action, direct or indirect, that would impede in any way the operation of any business connected with the assets to be divested, or take any action, direct or indirect, that would impede the divestiture of any such asset.

G. Defendant Harsco shall warrant to the purchaser of the Switch and Crossing Grinding Assets that the assets will be operational on the date of sale.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, whether by defendant Harsco or by trustee appointed pursuant to Section VI of this Final Judgment, shall include the entire Switch and Crossing Grinding Assets. Such divestiture shall be accomplished by selling or otherwise conveying the assets to a purchaser or purchasers in such a way as to satisfy the United States, in its sole discretion, that the assets can and will be used by the purchaser as a viable ongoing business, engaged in the switch and crossing grinding business. The divestiture, whether pursuant to Section IV or Section VI of this Final Judgment, shall be made to a purchaser who, as demonstrated to the United States' sole satisfaction: (1) Has the capability and intent of competing effectively in the switch and crossing grinding business; (2) has or soon will have the managerial, operational, and financial capability to compete effectively in the switch and crossing grinding business; and (3) is not hindered by the terms of any agreement between the purchaser and defendant Harsco which gives defendant Harsco the ability unreasonably to raise the purchaser's costs, lower the purchaser's efficiency, or otherwise interfere with the ability of the purchaser to compete.

V. Notice of Proposed Divestiture

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, the proposed divestiture pursuant to Section IV or VI of this Final Judgment, defendant Harsco or the trustee, whichever is then responsible for effecting the divestiture, shall notify the United States of the proposed divestiture. The notice shall set forth the details of the proposed transaction and shall list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by the United States of a divestiture notice, the United States, in its sole discretion, may request from defendant Harsco, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Defendant Harsco and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from the defendant Harsco, the proposed purchaser, and any third party, whichever is later, the United States shall provide written notice to defendant Harsco and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to defendant Harsco (and the trustee, if applicable) that it does not object, then the divestiture may be consummated, subject only to defendant Harsco's limited right to object to the sale under Section VI(B) of this Final Judgment. Upon objection by the United States, a divestiture proposed under Section IV or Section VI may not be consummated. Upon objection by defendant Harsco under the provision in Section VI(B), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VI. Appointment of Trustee

A. In the event that defendant Harsco has not divested the Switch and Crossing Grinding Assets within the time period specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States in its sole discretion, to effect the divestiture of such assets. The trustee shall have the right, in its sole discretion, and upon notice to the defendant Harsco and approval of the United States, to require the divestiture of additional related assets reasonably necessary to divest the Switch and

Crossing Grinding Assets as a viable stand-alone business. In any such event, all of the obligations of the defendant Harsco under the Final Judgment shall apply to the additional assets as well.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to divest the assets. The trustee shall have the power and authority to accomplish the divestiture of the assets at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section VI(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of the defendant Harsco any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser or purchasers acceptable to the United States, in its sole discretion, and shall have such other powers as the Court shall deem appropriate. Defendant Harsco shall not object to a divestiture by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendant Harsco must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section V of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendant Harsco, on such terms and conditions as the Court may prescribe and shall account for all monies derived from the sale of the assets sold by the trustee, and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendant Harsco and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture, and the speed with which it is accomplished.

D. Defendant Harsco shall use its best efforts to assist the trustee in accomplishing the required divestiture, including its best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities relating to the assets to be divested, and defendant Harsco shall develop such financial or other information relevant to the assets to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendant Harsco shall permit prospective purchasers of the Switch and Crossing Grinding Assets, or other assets being sold by the trustee, to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the plaintiff, defendant Harsco, and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in any of the assets to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to sell the assets to be divested.

F. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) The trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the plaintiff and defendant Harsco, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment for a period of time requested by the United States.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of the Hold Separate Stipulation and Order in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed pursuant to Section IV or VI of this Final Judgment, defendant Harsco shall deliver to the United States an affidavit as to the fact and manner of compliance with Section IV or VI of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the assets to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendant Harsco has taken to solicit a buyer for any and all of the Switch and Crossing Grinding Assets and to provide required information to prospective purchasers, including the limitations, if any, on such information.

B. Within twenty (20) calendar days of the filing of the Hold Separate Stipulation and Order in this matter, defendant Harsco shall deliver to plaintiff an affidavit which describes in detail all actions defendant Harsco has taken and all steps defendant Harsco has implemented on an ongoing basis to preserve the Switch and Crossing Grinding Assets, pursuant to Section VIII of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, defendant Harsco's efforts to maintain and operate the Switch and Crossing Grinding Assets as an active competitor, maintain the management, staffing, sales, marketing and pricing of such assets, and maintain the assets in operable condition at current capacity configurations. Defendant Harsco shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in defendant Harsco's earlier affidavit(s) filed pursuant to Section VII.B. within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, defendant Harsco shall preserve all records of all efforts made to preserve

the Switch and Crossing Grinding Assets and to effect the ordered divestiture.

VIII. Hold Separate Order

Until the divestiture required by the Final Judgment has been accomplished, defendant Harsco shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendant Harsco shall take no action that would jeopardize the sale of the Switch and Crossing Grinding Assets.

IX. Financing

Defendant Harsco is ordered and directed not to finance all or any part of any acquisition made pursuant to Sections IV or VI of this Final Judgment.

X. Notification of Future Acquisitions

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended, 15 U.S.C. 18a (the "HSR Act"), defendant Harsco, without providing advance notification to Department of Justice, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any person that, at any time during the twelve (12) months immediately preceding such acquisition, was engaged in the manufacture or sale of Switch and Crossing Grinding Equipment or the provision of Switch and Crossing Grinding Services. Such notification shall be provided to the Department of Justice in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended. Notification shall be provided at least thirty (30) days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the Department of Justice make a written request for additional information, defendant Harsco shall not consummate the proposed transaction or agreement until (20) days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XI. Compliance Inspection

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant Harsco made to its principal office, shall be permitted:

(1) Access during office hours of defendant Harsco to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant Harsco, who may have counsel present, relating to the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant Harsco and without restraint or interference from it, to interview, either informally or on the record, its officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, defendant Harsco shall submit such written reports, under oath if requested, with respect to any matter contained in the final Judgment and the Hold Separate Stipulation and Order.

C. No information or documents obtained by the means provided in Sections VI, VII, or XI of this Final Judgment shall be divulged by a representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendant Harsco to the United States, defendant Harsco represents and identifies in writing the material in any such information or documents as to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant Harsco marks each pertinent page of such material, "subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) calendar days' notice shall be given by the United States to defendant Harsco prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant Harsco is not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____, 1999.

_____

United States District Judge

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)–(h), files this competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

Nature and Purpose for the Proceeding

On October 14, 1999, the United States filed a civil antitrust Complaint alleging that the proposed acquisition of assets of Pandrol Jackson Limited and Pandrol Jackson Inc. (collectively "Pandrol") by Harsco Corporation ("Harsco") would violate Section 7 of the Clayton Act, 15 U.S.C. 18, with respect to the manufacture an sale of switch and crossing and transit grinding equipment and the provision of switch and crossing and transit grinding services to railroads and transit systems throughout North America. The Complaint alleges that Harsco and Pandrol are the only two producers of such equipment and providers of such services in North America. The request for relief seeks: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; (2) injunctive relief preventing

consummation of the proposed acquisition; (3) an award of costs to the plaintiff; and (4) such other relief as the Court may deem just and proper.

When the Complaint was filed, the United States also filed a proposed Final Judgment and a Hold Separate Stipulation and Order that wool settle the lawsuit. The proposed settlement permits Harsco to acquire the assets of Pandrol, but requires a divestiture that will preserve competition in the relevant product markets alleged in the Complaint. The proposed Final Judgment requires the defendants to divest switch and crossing grinding assets, as defined in the proposed Final Judgment, acquired by Harsco from Pandrol related to the switch and crossing grinding equipment manufactured by Pandrol and to the switch and crossing grinding services provided by Pandrol. Switch and crossing grinding equipment manufactured by Pandrol includes rail grinders and any related equipment used to remove surface irregularities and to restore the profile of the rail used in transit systems, railroad track switches and railroad track crossings. Switch and crossing grinding services includes such services provided by contract to railroads and transit systems. Defendants must accomplish this divestiture within thirty (30) calendar days after the filing of the proposed Final Judgment to a purchaser acceptable to the Antitrust Division of the United States Debarment of Justice ("DOJ"). If the defendants do not do so within the time frame in the proposed Final Judgment, a trustee appointed by the Court would be empowered for an additional six months to sell those assets. If the trustee is unable to do so in that time, the Court could enter such orders as it shall deem appropriate to carry out the purpose of the trust which may, if necessary, include extending the trust and the trustee's appointment by a period requested by the United States.

In addition, under the terms of the Hold Separate Stipulation and Order, the defendants must hold specified assets to be divested separate and apart from its other businesses until the required divestiture has been accomplished. Defendants must, until the required divestiture is accomplished, preserve and maintain the specified assets to be divested as saleable and economically viable ongoing concerns.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Harsco is a Delaware corporation, with its corporate headquarters and principal place of business in Camp Hill, Pennsylvania. In 1998, Harsco reported revenues of $1.7 billion. It manufactures switch and crossing grinding equipment in Fairmont, Minnesota. In 1998, its sales of switch and crossing grinding services were about $3.7 million in North America, with about $3.2 million of this amount to customers in the United States.

Charter plc ("Charter") is a corporation organized and existing under the laws of the United Kingdom. In 1998, it had revenues of approximately $2 billion. Charter controls Pandrol Jackson Limited and Pandrol Jackson Inc. (collectively "Pandrol") through a wholly owned subsidiary. Pandrol Jackson Limited maintains its principal place of business in Surrey, United Kingdom. Pandrol Jackson Inc. is a Delaware corporation, with its corporate headquarters and principal place of business in Ludington, Michigan. Pandrol manufactures rail grinders at its plant in Ludington, Michigan. During 1998, Pandrol had sales of about $101 million, including $5.7 million in sales of switch and crossing grinding services and equipment in North America, $4.3 million of which was from sales to customers in the United States.

On or about January 30, 1998, Harsco entered into an Asset Purchase and Liability Assumption Agreement ("Agreement") with Charter to acquire the switch and crossing and transit grinding equipment and the switch and grinding services of Pandrol for consideration equal to about $89 million. This transaction, which would give Harsco a monopoly of the manufacture and sale of switch and crossing grinding equipment (including transit grinders) and of switch and crossing grinding services in North America, precipitated the government's suit.

B. The Market

Rail grinders are used because, over time, the rubbing of train wheels on the tracks deforms the profile of the rails. These deformations, if allowed to continue, cause the rail to wear out prematurely. Switch and crossing grinders are designed to restore the rail used in railroad track switches and railroad track crossings to its original shape, thereby prolonging its useful life. Transit grinders are smaller grinders, like switch and crossing grinders, which are used to perform the same function of restoring rail for transit systems. Although transit systems in North America typically purchase transit grinders, railroads usually contract for grinding services from providers of switch and crossing grinding services. Harsco and Pandrol are the only providers of these services in North America. No imports of switch and crossing and transit grinders are made into North America and switch and crossing grinding services are provided throughout North America only by firms that manufacture such grinders in the United States.

C. Harm to Competition as a Result of the Proposed Transaction

Harsco and Pandrol compete with each other in the production and sale of switch and crossing and transit grinders and in providing switch and crossing grinding services in North America—a market which is now highly concentrated and which would become a monopoly as a result of the proposed acquisition. Harsco and Pandrol are the only two producers of this equipment, and the only suppliers of these services. The proposed transaction would eliminate the direct competition between Harsco and Pandrol that has benefited consumers, and likely lead to higher prices.

Moreover, new entry into the production and sale of switch and crossing and transit grinders and in providing switch and crossing grinding services is unlikely to occur and unlikely to be timely or sufficient to defeat a post-acquisition price increase.

III. Explanation of the Proposed Final Judgment

The relief described in the proposed Final Judgment will eliminate the anticompetitive effects of this transaction by establishing a new, independent, and economically viable competitor in each of the affected markets. The proposed Final Judgment requires Harsco to divest the switch and crossing grinding assets of Pandrol as a viable ongoing business to a purchaser acceptable to the United States in its sole discretion. This divestiture must take place within 30 days of the filing of the Hold Separate Stipulation and Order in this case unless the United States in its sole discretion extends the time for the divestiture for an additional period not to exceed 30 days. If the

divestiture has not been accomplished within these time periods, then a trustee selected by the United States, in its sole discretion, shall be appointed to sell the Pandrol switch and crossing grinding assets to a purchaser who will use the assets as a viable ongoing business engaged in the switch and crossing grinding business. Under the proposed Final Judgment, the trustee has the right to require divestiture of additional related assets if reasonably necessary to divest the switch and crossing grinding assets as a viable stand-alone business.

If a trustee is appointed, the proposed Final Judgment provides that the defendants will pay all costs and expenses of the trustee. After the trustee's appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the divestiture. At the end of six months, if no divestiture has been accomplished, the trustee and the parties will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust and the term of the trustee's appointment.

The proposed Final Judgment specifies that the required divestiture shall be made to a purchaser who, as demonstrated to the sole satisfaction of the United States, has the capability and intent, as well as the managerial, operational, and financial capability to compete effectively in the switch and crossing grinding business and who is not hindered by the terms of any agreement between it and Harsco under which Harsco possesses the ability unreasonably to raise the purchaser's costs, lower its efficiency, or otherwise interfere with its ability to compete. Pending the required divestiture, Harsco must maintain and separately operate the switch and crossing grinding assets as an independent competitive business, with management, research, development, production, sales and operation of such assets held entirely separate, distinct and apart from those of Harsco. The divestiture required by the proposed Final Judgment is designed to ensure that the competition that would be eliminated by the proposed acquisition will be preserved and maintained.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: J. Robert Kramer, II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the proposed Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits. The United States is satisfied that the divestiture required by the proposed Final Judgment will maintain viable competition in the relevant product market alleged in the Complaint and will effectively prevent the anticompetitive effects that the Complaint alleges would result from the proposed acquisition.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the Court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e). As the Court of Appeals for the District of Columbia circuit held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448, 1458–62 (D.C. Cir. 1995). The courts have recognized that the term "public interest' take[s] meaning from the purposes of the regulatory legislation." *NAACP* v. *Federal Power Comm'n*, 425 U.S. 662, (1976). Since the purpose of the antitrust laws is to preserve "free and unfettered competition as the rule of trade," *Northern Pacific Railway Co.* v. *United States*, 356 U.S. 1, 4 (1958), the focus of the "public interest" inquiry under the APPA is whether the proposed Final Judgment would serve the public interest in free and unfettered competition. *United States* v. *American Cyanamid Co.* 719 F.2d 558, 565 (2d Cir. 1983), *cert. denied*, 465 U.S. 1101 (1984); *United States* v. *Waste Management Inc.*, 1985–2 Trade Cas. ¶ 66,651, at 63,946 (D.D.C. 1985). In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly

settlement through the consent decree process."[1] Rather,

> [a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Diarymen, Inc.*, 1977–1 trade Cas. ¶ 61,508, to 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981). *See also Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that:

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is 'within the reaches of the public interest.' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties do not hastily and thoughtlessly stipulate to a decree because, in doing so, they

> waive their right to litigate the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation . Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

United States v. *Armour & Co.* 402 U.S. 673, 681 (1971).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a proposed final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."[3]

VIII. Determinative Documents

There were no determinative documents, within the meaning of the APPA, that were considered by the United States in formulating the proposed Final Judgment.

Dated: November 8, 1999.

For Plaintiff United States of America.

John F. Greaney,
Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, DC 20530, Telephone: (202) 305–9965, Facsimile: (202) 307–5802.

Certificate of Service

I hereby certify that I caused a copy of the foregoing Competitive Impact Statement to be served by first class mail, postage prepaid, this 8th day of November, 1999, on:

Dale Hershey, Esquire,
Eckert Seamans Cherin & Mellott, LLC, USX Tower, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, (412) 566–6058.

Counsel for Defendant Harsco

Wayne Dale Collins, Esquire,
Shearman & Sterling, 599 Lexington Ave., New York, NY 10022–6069. (212) 848–4127.

Counsel for Defendants Pandrol Jackson Limited and Pandrol Jackson Inc.

Dated: November 8, 1999.

John F. Greaney, Esquire.,
Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W.—Suite 3000, Washington, D.C. 20530, (202) 305–9965

[FR Doc. 99–30791 Filed 11–24–99; 8:45 am]
BILLING CODE 4410–11–M

[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d. Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F.2d at 565.

[3] *United States* v. *American Tel. and Tel Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting United States* v. *Gillette Co., supra*, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985)

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to fund the project "Effective Prison Mental Health Services". NIC will award a one year cooperative agreement to: develop a handbook or manual that will provide information to state correctional agencies in identifying current practices, policies, and procedures and their impact on offenders with mental health disorders.

A cooperative agreement is a form of assistance relationship where the National Institute of Corrections is substantially involved during the performance of the award. An award is made to an organization that will, in concert with the Institute, identify the "effective practices and intervention" regarding the care and management of offenders with mental health problems.

Background

According to recent estimates, nearly 95,000 (12.5%) of all prison inmates have significant psychiatric problems, problems requiring intermittent care, and 54,000 (7%) have serious mental health problems. Research indicates persons displaying the signs and symptoms of mental disorders are more likely to be arrested than members of the general public, and more likely to be incarcerated for violent offenses compared to the rest of the inmate population. The prevalence of offenders with a mental disorder among correctional populations presents enormous challenges to correctional personnel. Limited availability of in prison treatment programs, coupled with the lack of community resources, enhance the likelihood that their mental disorders may cause them to recidivate, often returning with a worst condition. There is a paucity of information about in-prison mental health programs and services, transition and community mental health services for released offenders, and effective linkages between prison systems and state and local mental health systems/ departments.

Purpose

To docu
correctiona
mental hea
knowledge
services an
ill offender
Objectives:
1. To dev
addres
and ca
effecti
approa
mental
2. To dev
definit
mental

NIC cons
applicant t
questions c
the applica
documenti
health serv
• Are the
research ev
health serv
supposed t
• Is there
substantiat
services an
methods w
effective w
prison?
• Are the
delivered i
mentally ill
participatio
• Are the
rigorously
• Do the
support the
care—e.g., s
diagnosis a
range of int
from prison
prevention
linkages to
mental heal
services?
• What e
available th
are delivere
professiona
accepted pr
assessment
treatment i
level of the
managemen
providers w
specific sta
• What r
conducted t
the interven
project?

Project Sco

The proje
should addr

Purpose

To document and make available to correctional practitioners and state mental health providers the current knowledge on effective mental health services and interventions for mentally ill offenders in prisons.

Objectives:

1. To develop a publication that addresses the effective management and care, treatment modalities, their effectiveness, and innovative approaches for offenders with mental health needs; and
2. To develop a consistent operational definition of an offender with mental health needs.

NIC considers it important for the applicant to discuss how the following questions or other criteria identified by the applicant would be employed for documenting effective prison mental health services and interventions:

- Are there explicit models or research evidence of how the mental health services or interventions are supposed to work within prisons?
- Is there information or substantiation that mental health services and interventions employs methods which have been consistently effective with mentally ill offenders in prison?
- Are the services or interventions delivered in ways which engage the mentally ill offender in active participation—e.g., responsivity?
- Are the services or intervention(s) rigorously managed and designed?
- Do the mental health services support the principle of continuum of care—e.g., screening, assessment for diagnosis and risk, treatment planning, range of interventions, transitional care from prison to the community, relapse prevention and intervention, and linkages to appropriate community mental health and other support services?
- What evidence or information is available that services or interventions are delivered and overseen by qualified professionals consistent with generally accepted protocols—i.e., valid assessment and screening tools, treatment interventions matched to the level of the offender need, case management strategies, treatment providers who are licensed and meet specific standards, etc.?
- What research efforts have been conducted to assess the effectiveness of the intervention being reviewed by the project?

Project Scope

The project's strategy or design should address the following areas:

—Screening and assessment
—Intervention techniques
—Community and aftercare linkages
—Treatment approaches
—Case management
—Relapse Prevention or Intervention
—Planning
—Transitional services
—Staff Training
—Peer Support
—Alternative Sanctions
—Instruments to assess, develop or identify treatment programs
—Individualized Treatment approaches
—Cultural competency
—Gender based treatment
—Monitoring, evaluating program integrity.

The successful applicant would be required to: (1) Use some portion of the funds to collaborate with other correctional and mental health professionals (experts) to review the current state of mental health programs in corrections; (2) Develop an understanding of the types of behavior which indicate mental health needs and develop a consistent operational definition of an offender with a mental disorder; (3) Identify sample programs, addressing relevant standards and legal issues; (4) Develop a document for practitioners that presents guidelines and criteria for successful mental health programs specific incarcerated populations, including youthful offenders, women offenders, segregation, and general populations; (5) Fully discuss how in-prison mental health programs can assist in public protection and the more effective use of community resources, and; (6) Provide an instrument to be used to assess effective in-prison mental health programs.

—In consultation with NIC prepare and edit a final camera-ready copy of the document for NIC publication in accordance with the NIC Preparation of Printed Materials for Publication. Submit the final product in hard copy and Word Perfect format.

Application Requirement

The applicant must provide goals, objectives, and methods of implementation for the project that are consistent with the announcement. Objectives should be clear, measurable, attainable, and focused on the methods used to conduct the project. Applicant should provide an implementation plan for the project and include a schedule which will demonstrate milestones for significant tasks in chart form. The project will be initiated in early 2000 and is to be completed in early 2001.

Authority

Public Law 93–415.

Funds Available

The award will be limited to a maximum of $150,000 (direct and indirect costs). Funds may only be used for the activities that are linked to the desired outcome of the project. No funds are transferred to state or local governments. This project will be a collaborative venture with the NIC Prisons Division.

Deadline for Receipt of Applications

Applications must be received by 4:00 pm Eastern Time on Tuesday, December 21, 1999. Applications mailed or express delivery should be sent to: National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534, Attn: Director. Hand delivered applications can be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley (307–3106 and press 0) to come to the desk for pickup.

Addresses and Further Information

Requests for the application kit should be directed to Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling (800) 995–6423, extension 159 or (202) 307–3106, extension 159. She can also be contacted by E-mail via jevens@bop.gov. All technical and or programmatic questions concerning this announcement should be directed to Madeline M. Ortiz at the above address or by calling (800) 995–6423, extension 141 or (202) 307–1300, extension 141; or by E-mail via mmortiz@bop.gov. A copy of this announcement and application forms may also be obtained through the NIC web site: http://www.nicic.org (click on "What's New" and "Cooperative Agreements").

Eligible Applicants

An eligible applicant is any state or general unit of local government, private agency, educational institution, organization, or individual with expertise in correctional mental health services.

Review Considerations

Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards

One (1).

NIC Application Number

00P10 This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contract (SPOC), a list of which is included in the application Kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is 16.603.

Dated: November 18, 1999.

Larry Solomon,

Acting Director, National Institute of Corrections.

[FR Doc. 99–30770 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Availability of Funds in FY 2000 for a Cooperative Agreement to Develop the Training Curriculum, How to Develop Management Training

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces the availability of funds in FY 2000 for a cooperative agreement to develop the training curriculum, How to Develop Management Training.

The National Institute of Corrections (NIC) invites applications for a cooperative agreement to develop a standard, core curriculum for training persons responsible for the development of management training for supervisors and administrators within juvenile corrections and detention settings. To enable the Institute to offer state-of-the-art guidance for the development of management training, the award recipient will develop a 32-hour training curriculum including an instructors' guide with lesson plans, computer-generated view graphs to support the curriculum, and participant manual. The 32-hour curriculum will provide juvenile corrections and detention trainers multiple development and delivery methods and strategies to construct management training within their agencies that will equip managers with the core competencies to perform effectively. (It is not within the scope of this cooperative agreement to provide piloting or direct delivery of the curriculum.)

The award recipient will become familiar with the management and leadership training programs currently being offered at NIC. The recipient will utilize this information, as well as contribute to the development of new information on management practices most desirable in today's rapidly changing juvenile corrections and detention environment.

As a collaborative venture with the NIC Academy Division, the recipient will develop training outcomes for the project in partnership with the NIC project manager. Funding for this cooperative agreement comes from an Interagency Agreement (IAA) between the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and NIC. A total of $30,000 is reserved for the project which will support one cooperative agreement for a 6-month period. The recipient of the award will be selected through a competitive solicitation process. Steven Swisher, Correctional Program Specialist (CPS), is the designated NIC project manager.

Background

Well-trained, effective managers and leaders within juvenile corrections and detention agencies have been a focus of the training and services the NIC has provided through an IAA with OJJDP over the past nine years. As a part of that IAA and as a result of a national juvenile training needs assessment conducted in the fall of 1998, curricula and services for training staff continue to be identified as critical in capacitating juvenile correctional and detention agencies to develop and sustain effective management and leadership within their organizations. Through this work, NIC and OJJDP recognize the need for a training curriculum that specifically addresses the development of training for training staff charged with management training within their organization.

Purpose

This project is intended to provide juvenile corrections and detention training persons with:

- A training curriculum that provides trainers with an in-depth understanding and skills to develop dynamic and versatile management training for staff within their agencies.
- An interactive training format minimally using an instructor's guide, computer-generated view graphs to support the curriculum content and a participant manual with a record of core principles, practices, and methods learned in the training experience.

Project Content

The award recipient will propose strategies and effective models for developing and implementing management training in juvenile corrections and detention settings. The award recipient will develop modules addressing current and future core competencies that would support effective management practices. The recipient will also develop modules to address innovative training delivery strategies juvenile agencies can utilize to overcome existing barriers such as lack of resources or expertise, among others, to meet their management training needs.

A. Required Activities

- Consult with the NIC Academy Correctional Program Specialist on an agreed time line to assure progress and understanding of the scope of work.
- Conduct a preliminary review of the National Juvenile Justice Training Needs Assessment Proceedings, November 1998.
- Thoroughly review any other existing training materials developed by NIC, OJJDP or other agencies for relevant parts that could be re-written for application to this project.
- Using the Course Title, Description, Objectives and other relevant information, conduct and facilitate necessary planning meetings with content experts (selected with input from CPS) to generate the framework, concepts, modules, content, strategies and performance objectives. (All of above is subject to final approval by CPS. Final curriculum Title, Course Description and Objectives will be developed collaboratively with the CPS).
- Assign and coordinate writing, development and revisions of the modules and content areas for the curriculum, including multi-media materials.
- Develop, edit, revise, format, and package curriculum, lesson plans, computer-generated view graphs, audiovisual aids and other course material. The package will include an Instructors Guide/Manual, Participant Manual, and any other supporting materials for the curriculum. Each phase of the training instruction will have a separate, tabbed section in the manual. The first page of each section of the materials should set forth the performance objectives for the module. Pages within the section should be consecutively numbered in the order in which they will be used during the

training following the NIC-recommended numbering formula.

• Obtain written permission from the publisher to duplicate any copyrighted materials.

• Research, develop, procure and provide strategies, multi-media and written materials to demonstrate recent developments in management and leadership theory and training.

• Acquire, review, and incorporate relevant and current leadership and management materials.

• Submit preliminary draft for review by CPS project manager per the specified time line. Make revisions and submit second draft if requested.

• Prepare all materials using WordPerfect 7.0 or higher word processing software and Corel Presentations (visuals) and submit final copies of all materials on 3.5" computer disks (or zip drive disks) and in "camera ready" hard copy format (2 paper copies).

• Submit the curriculum package to the CPS project manager for final approval.

B. Curriculum Requirements

• All material must be submitted in hard copy that is "camera ready" and on 3.5" computer disk (or zip drive disks).

• WordPerfect 7.0 or higher must be the software used in an IBM compatible computer with Windows operating system. All visuals must be created using Corel Presentation software.

• All lesson plans shall conform to the Instructional Theory Into Practice (ITIP) standards. They must be in the NIC Academy Lesson Plan Format, using a narrative script and trainer notes, and incorporate the critical elements of ITIP lesson design. Lesson plans, handouts and view graphs are to be in a consistent format throughout the curriculum. Each module should follow the Module Framework, with appropriate and accurate identification, numbering and sequencing. See "Addresses and Further Information" for information on how to obtain these documents.

• Each module should be a complete package; that is, it should include all materials necessary to teach that module, including a separate and independent delivery based on a special or unique request for that specific module.

• All material produced shall become the property of the U.S. Government and shall be delivered to NIC upon completion of this project.

Authority: Pub. L. 93–415.

Funds Available

The award will be limited to a maximum total of $30,000 (direct and indirect costs) and project activity must be completed within 6 months of the date of the award. Funds may only be used for the activities that are linked to the desired outcomes of the project.

All products from this funding effort will be in the public domain and available to interested agencies through the National Institute of Corrections.

Deadline for Receipt of Applications

Applications must be received by 4:00 p.m. Eastern Time on Thursday, December 16, 1999. They should be addressed to: National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534, Attention: Director. Hand delivered applications can be brought to 500 First Street, NW, Washington, DC 20534. The front desk will call Bobbi Tinsley at (202) 307–3106, extension 0 for pickup.

Addresses and Further Information

The application kit consists of a copy of this announcement, copies of the required forms, and a copy of the "National Juvenile Justice Training Needs Assessment Proceedings, November, 1998", a document entitled "Designing Training for the National Institute of Corrections Academy: Instructional Theory Into Practice", and samples of the required curriculum format.

A hard copy of this application kit may be obtained from Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling (800) 995–6423, extension 159 or (202) 307–3106, extension 159. She can be contacted by E-mail via *jevens@bop.gov*.

A copy of this announcement, required forms and referenced documents may also be obtained through the NIC website: *http://www.nicic.org*. (Click on "What's New" and "cooperative agreements".)

All technical and/or programmatic questions concerning this announcement should be directed to Steve Swisher, Correctional Program Specialist at the National Institute of Corrections, 1960 Industrial Circle, Suite A, Longmont, Colorado 80501, or by calling (800) 995–6429, extension 126, or by E-mail via *sswisher@bop.gov*.

Eligible Applicants

An eligible applicant is any state or general unit of local government, public or private agency, educational institution, private or non-profit organization, individual, or team with expertise in the instructional design or training, computer-generated audio-visual training aids, and related training materials.

Review Considerations

Applications received under this announcement will be subjected to an NIC three-to-five-member Peer Review Process.

Number of Awards

One (1)

NIC Application Number (00A12)

This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

The Catalog of Federal Domestic Assistance number is: 16.601.

Larry Solomon,

Acting Director, National Institute of Corrections.

[FR Doc. 99–30769 Filed 11–24–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and

federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA990001 (Mar. 12, 1999)
MA990002 (Mar. 12, 1999)
MA990003 (Mar. 12, 1999)
MA990005 (Mar. 12, 1999)
MA990007 (Mar. 12, 1999)
MA990010 (Mar. 12, 1999)
MA990013 (Mar. 12, 1999)
MA990015 (Mar. 12, 1999)
MA990017 (Mar. 12, 1999)
MA990018 (Mar. 12, 1999)
MA990019 (Mar. 12, 1999)
MA990020 (Mar. 12, 1999)
MA990021 (Mar. 12, 1999)

Volume II

Pennsylvania
PA990009 (Mar. 12, 1999)

Volume III

South Carolina
SC990033 (Mar. 12, 1999)
SC990037 (Mar. 12, 1999)
Tennessee
TN990062 (Mar. 12, 1999)

Volume IV

Minnesota
MN990007 (Mar. 12, 1999)
MN990008 (Mar. 12, 1999)
MN990039 (Mar. 12, 1999)
MN990058 (Mar. 12, 1999)
MN990059 (Mar. 12, 1999)
MN990061 (Mar. 12, 1999)

Volume V

Missouri
MO990005 (Mar. 12, 1999)

Volume VI

South Dakota
SD990002 (Mar. 12, 1999)
SD990024 (Mar. 12, 1999)

Volume VII

California
CA990001 (Mar. 12, 1999)
CA990009 (Mar. 12, 1999)
CA990028 (Mar. 12, 1999)
CA990029 (Mar. 12, 1999)
CA990032 (Mar. 12, 1999)
CA990033 (Mar. 12, 1999)
CA990035 (Mar. 12, 1999)
CA990036 (Mar. 12, 1999)
CA990038 (Mar. 12, 1999)
CA990039 (Mar. 12, 1999)
CA990040 (Mar. 12, 1999)
Hawaii
HI990001 (Mar. 12, 1999)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 18th day of November 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–30594 Filed 11–25–99; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period

of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before January 10, 2000. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov. Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too, includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Health and Human Services, Health Care Financing Administration (N1–440–99–3, 1 item, 1 temporary item). Responses to Congressional referrals of public correspondence to the agency concerning the "condition of participation" rules for Medicare and Medicaid published in the **Federal Register** in the summer of 1980. Included are letters from the public, referral letters from Congressional offices, and HCFA's responses.

2. Department of Interior, Bureau of Land Management (N1–49–98–2, 10 items, 4 temporary items). Data used in geographic information systems and contained in resources inventory and survey files that are unaltered or minimally altered upon receipt from other Federal agencies, state and local agencies, or commercial sources or that do not support significant projects or decisions. Data that have been modified substantially or that are uniquely created by the agency are proposed for permanent retention.

3. Department of the Interior, Bureau of Land Management (N1–49–99–2, 10 items, 10 temporary items). Records relating to information technology security. Included are statements of responsibility, computer security incident reports, documents on access to systems, security and contingency plans, risk assessments, and electronic copies of documents created using electronic mail and word processing.

4. Department of Interior, Bureau of Land Management (N1–49–99–3, 2 items, 2 temporary items). Fire dispatch audio tapes that cover routine fire season dispatch activities and year-round required aircraft check-in with dispatch control. Also included are electronic copies of fire management files created using electronic mail and word processing.

5. Department of State, Bureau of South Asian Affairs (N1–59–99–12, 9 items, 6 temporary items). Records of the Assistant Secretary and Staff Assistants, including electronic calendars, staff assistant files, and trip files. Also included are electronic copies of documents created using electronic mail and word processing. The Assistant Secretary's program files, briefing books, and the Assistant Secretary's calendar books are proposed for permanent retention.

6. Department of State, Bureau of South Asian Affairs (N1–59–99–13, 10 items, 8 temporary items). Records relating to the administration of Department activities concerning Pakistan, Afghanistan, and Bangladesh, including subject files, chronological files, and biographic files. Also included are electronic copies of documents created using electronic mail and word processing. An historical document file and briefing books are proposed for permanent retention.

7. Department of State, Bureau of South Asian Affairs (N1–59–99–14, 12 items, 10 temporary items). Records relating to the administration of Department activities concerning India, Nepal, and Sri Lanka, including subject files, chronological files, and biographic files. Also included are electronic copies of documents created using electronic mail and word processing. An historical document file and briefing books are proposed for permanent retention.

8. Department of State, Bureau of South Asian Affairs (N1–59–99–15, 14 items, 11 temporary items). Administrative files, subject files, and press/media reports accumulated by the Bureau's Office of Regional Affairs. Also included are electronic copies of documents created using electronic mail and word processing. Mission and Bureau performance plans are proposed for permanent retention.

9. Department of the Treasury, Internal Revenue Service (N1–58–00–1, 4 items, 4 temporary items). Reports and workpapers relating to procedures used

by Federal, state, and local agencies to protect Federal tax information.

10. Environmental Protection Agency, Office of Policy (N1–412–96–2, 2 items, 2 temporary items). Electronic copies of documents pertaining to information collection created using electronic mail and word processing. This schedule also proposes an increase in the retention period for recordkeeping copies of these files, which were previously approved for disposal.

11. Environmental Protection Agency, Agency-wide (N1–412–99–4, 2 items, 2 temporary items). Motor vehicle recall and in-use testing records, including listings of vehicle owners, forms, and correspondence. Also included are electronic copies of documents created using electronic mail and word processing.

12. National Aeronautics and Space Administration, Agency-wide (N1–255–99–2, 5 items, 5 temporary items). Inspections and proof reports, including paper records, photographs, electronic media, and electronic copies of documents created using electronic mail and word processing. The records include certifications of acceptance and results of tests done at NASA testing centers to verify that new components meet manufacturer specifications.

13. National Aeronautics and Space Administration, Agency-wide (N1–255–99–3, 5 items, 5 temporary items). Records relating to NASA's quality management program and to quality assurance testing of ground-based pressure systems, including electronic copies of documents created using electronic mail and word processing. Quality management program records include audits, evaluations, and corrective action documents. Records relating to the testing of ground-based pressure systems include correspondence, inspection reports, and all other documentation associated with these tests.

14. National Archives and Records Administration, Office of Presidential Libraries (N1–64–00–2, 4 items, 3 temporary items). Researcher case files containing researcher applications, access requests, correspondence, and reproduction orders. Also included are electronic copies of documents created using electronic mail and word processing. Case files for researchers who have produced significant and/or controversial research are proposed for permanent retention.

15. Panama Canal Commission, Agency-wide (N1–185–98–1, 15 items, 15 temporary items). Electronic versions of previously-scheduled paper records created by the agency's climatological, hydrological, and meteorological data systems. The records consist of scientific and weather observational data, such as wind speed and direction, air temperature, relative humidity, dew point, barometric pressure, solar radiation, rainfall, and river, lake, and tide elevations.

16. Securities and Exchange Commission (N1–266–99–2, 19 items, 13 temporary items). Older files accumulated by various agency offices, 1933–1969. Included are such records as duplicate copies of orders, draft minutes, regional office investigative files relating to cases in which action was not taken by agency headquarters, subject files relating to administrative matters, court stenographers' tapes, registers listing documents submitted by companies applying for registration of securities, and questionnaires and other background materials for studies. Records proposed for permanent retention include studies and supporting documentation held by the Division of Records Management, 1934–1946, Central Files of the Commission for the period 1934–1964, records relating to Senate Banking and Currency Committee hearings held during the 1930s, and documents submitted by utility companies that date from ca. 1921–1962.

17. Tennessee Valley Authority, Agency-wide (N1–142–99–7, 9 items, 9 temporary items). Electronic database files, input/source documents, and hardcopy files and printouts created in the process of collecting, measuring, assessing, and reporting routine procurement data. Records pertain to such subjects as commodity purchases from specific companies, credit card transactions, contracts with small business, purchase orders and requests for quotes, and other related matters.

18. Tennessee Valley Authority, Agency-wide (N1–142–99–15, 2 items, 2 temporary items). Records used to validate and track all application and/or system hardware/software for TVA Year 2000 Compliance. Included are standard forms and inventory-related documents used to verify compliance or noncompliance for hardware, servers, and their peripherals. Also included are electronic copies of documents created using electronic mail and word processing.

Dated: November 19, 1999.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 99–30777 Filed 11–24–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collections; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). These information collections were originally published on September 27, 1999. No comments were received.

DATES: Comments will be accepted until December 27, 1999.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collections of information:

OMB Number: 3133–0053.

Form Number: NCUA 4501.

Type of Review: Extension of a currently approved collection.

Title: Reports of Officials.

Description: 12 USC 1761—This statutory provision requires that a record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers shall be filed with the administration within 10 days of their election/appointment.

Respondents: All Federally Insured Credit Unions.

Estimated No. of Respondents/Recordkeepers: 11,000.

Estimated Burden Hours Per Response: .50.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 5,500.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0135.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: NCUA needs this information to comply with the Debt Collection Improvement Act which has a provision concerning the use of EFT payments.

Respondents: All Federally Insured Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 10,863.

Estimated Burden Hours Per Response: 2/60 hour.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 362.

Estimated Total Annual Cost: $7,821.

By the National Credit Union Administration Board on November 19, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–30696 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: New collection of information.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 25, 2000.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: Not applicable.

Form Number: Not applicable.

Type of Review: New collection.

Title: Survey on Service to People of Modest Means.

Description: NCUA is considering policy changes which could result in substantial impact on credit unions. The results of the survey will be used to guide NCUA in the policy making process.

Respondents: Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 6,700.

Estimated Burden Hours Per Response: .5 hours.

Frequency of Response: One-time.

Estimated Total Annual Burden Hours: 3,350.

Estimated Total Annual Cost: $55,844.50.

By the National Credit Union Administration Board on November 19, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–30697 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

Designation of Liaison Under the Y2K Act

AGENCY: National Credit Union Administration.

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) Board has appointed Roger Blake, Senior Information Systems Officer, Office of Examination and Insurance, to act as the NCUA Board's liaison for purposes of section 18(b) of the Y2K Act, Public Law 106–37. Mr. Blake will act as the liaison between the Board and certain credit unions with respect to problems arising out of Y2K failures and compliance with federal rules or regulations. Any federal credit union, or federally-insured credit union, that employs less than 50 full-time employees may seek Y2K-related assistance from Mr. Blake.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Blake, National Credit Union Administration (NCUA), Office of Examination and Insurance, 1775 Duke Street, Alexandria, Virginia 22314–3428. Mr. Blake's phone number is (703) 518–6385.

SUPPLEMENTARY INFORMATION: The liaison appointed pursuant to the Y2K Act will assist regulated "small business concerns" with respect to problems arising out of Y2K failures and compliance with federal rules or regulations. The Y2K Act defines a small business concern as an unincorporated business, partnership, corporation, association, or organization with fewer than 50 full-time employees. In addition, the Y2K Act defines "Y2K failure" as failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, calculate, compare, sequence, display, store, transmit, or receive Year-2000 data. This definition specifically includes failures to (1) deal with or account for transitions of comparisons from, into, and between the years 1999 and 2000 accurately; (2) recognize or process accurately any specific date in 1999, 2000, or 2001; or (3) account accurately for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

As an alternative to contacting the NCUA's Y2K Act liaison in Alexandria, Virginia, affected credit unions may contact the following individuals in the regional offices with their questions:

Region I, Albany, New York: Anthony J. LaCreta, Acting Regional Director, at (518) 862–7400.

Region II, Alexandria, Virginia: Tawana Y. James, Regional Director, at (703) 519–4601.

Region III, Atlanta, Georgia: Alonzo A. Swann III, Regional Director, at (678) 443–3001.

Region IV, Chicago, Illinios: Nicholas Veghts, Regional Director, at (630) 955–4101.

Region V, Austin, Texas: J. Leonard Skiles, Regional Director, at (512) 342–5601.

Region VI, Concord, California: Jane Walters, Regional Director, at (925) 363–6200.

By the National Credit Union Administration Board on November 18, 1999.

Authority: Sec. 18(b), Pub. L. 106–37, 113 Stat. 185.

Becky Baker,

Secretary to the Board.

[FR Doc. 99–30698 Filed 11–24–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* December 3, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room : 415.
Program: This meeting will review applications for Library & Archival Preservation and Access/Reference Materials, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

2. *Date:* December 6, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room : 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education at the October 1, 1999 deadline.

3. *Date:* December 7, 1999.
Time: 9:00 a.m. to 5:00 p.m.
Room : 415.
Program: This meeting will review applications for National Heritage Preservation Program, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

4. *Date:* December 8, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in Philosophy, Religion, and Science, submitted to the Division of Research at the September 1, 1999 deadline.

5. *Date:* December 10, 1999.
Time: 9 a.m. to 5:30 p.m.
Room: 426.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the November 1, 1999 deadline.

6. *Date:* December 10, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for National Education Projects, submitted to the Division of Education at the October 15, 1999 deadline.

7. *Date:* December 10, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in American History, submitted to the Division of Research at the September 1, 1999 deadline.

8. *Date:* December 10, 1999.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Library & Archival Preservation and Access/Reference Materials, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

9. *Date:* December 13, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education at the October 1, 1999 deadline.

10. *Date:* December 13, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in Archaeological Studies, submitted to the Division of Research at the September 1, 1999 deadline.

11. *Date:* December 14, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 430.
Program: This meeting will review applications for Collaborative Research Program in Non-Western Cultures, submitted to the Division of Research at the September 1, 1999 deadline.

12. *Date:* December 14, 1999.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for United States Newspaper Program, submitted to the Division of Preservation and Access at the July 1, 1999 deadline.

13. *Date:* December 15, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315..
Program: This meeting will review applications for National Education Projects, submitted to the Division of Education at the October 15, 1999 deadline.

14. *Date:* December 17, 1999.
Time: 8:30 a.m. to 5 p.m.
Room: 315..
Program: This meeting will review applications for National Education Projects, submitted to the Division of Education at the October 15, 1999 deadline.

Laura S. Nelson,
Advisory Committee Management Officer.

[FR Doc. 99–30718 Filed 11–24–99; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Astronomical Sciences (1186).
Date/Time: January 20–21, 2000; 9:00 a.m.–5:00 p.m.
Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Vernon L. Pankonin, Program Director, Galactic Astronomy, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306–1826.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals submitted to the Galactic Astronomy Program in the area of Astronomical Sciences as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b, (c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30756 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science foundation announces the following meeting:

Name and Committee Code: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: Thursday, January 20, 2000, 8:30 a.m.–5:00 p.m.; Friday, January 21, 2000, 8:30 a.m.–Adjourn.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Carter Kimsey, Program Coordinator, Postdoctoral Research Fellowships in Biological Informatics, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1469.

Purpose of Meeting: To provide advise and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Postdoctoral Research Fellowships in Biological Informatics proposals submitted in response to the program announcement (NSF) 98–162.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries: and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30753 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

U.S. National Assessment Synthesis Team; Notice of Meeting:

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: U.S. National Assessment Synthesis Team (#5219).

Date: December 15–16, 1999, 8:30 a.m.–5:00 p.m. each day.

Place: The Westin St. Francis Hotel, 355 Powell Street, San Francisco, California.

Type of Meeting: Open.

Contact Person: Melissa J. Taylor, Office of the U.S. Global Change Research Program (USGCRP), 400 Virginia Avenue, SW, Suite 750, Washington, DC 20024. Tel: 202 314 2230; Fax: 202 488 8681; Email: mtaylor@usgcrp.gov. Interested persons should contact Ms. Taylor as soon as possible to assure space provisions are made for all participants and observers.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the interagency Subcommittee on Global Change Research on the design and conduct of the national effort to assess the consequences of climate variability and climate change for the United States.

Agenda:

Day 1 (December 15) Members will review technical comments received and will discuss revisions to report.

Day 2 (December 16) Discussion of technical comments and revisions will continue.

Dated: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30754 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Research, Evaluation and Communication; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Communication (1210)

Date/Time: December 7–8, 1999, 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Room 855, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Bernice Anderson, Program Director, Research, Evaluation and Communication (REC), National Science Foundation, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. (703) 306–1650.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate formal proposals submitted to advance the field in appropriate use and analysis of student achievement data in systemic reform program accountability.

Reason For Closing: the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4), and (6) of the Government in the Sunshine Act.

Dated: November 22, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–30755 Filed 11–24–99; 8:45 am]

BILLING CODE 7555–01–M

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

Regular Meeting of the Board of Directors

TIME & DATE: 2:00 P.M., Monday, December 6, 1999.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Board Room, Washington, DC 20005.

STATUS: Open/Closed.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, (202) 220–2372.

AGENDA:

I. Call to Order
II. Treasurer's Report
III. Budget Committee Report: November 12, 1999 Meeting
IV. Executive Director's quarterly Management Report
V. Personnel Committee Report: November 3, 1999, Closed Meeting
VI. Adjourn.

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 99–30950 Filed 11–23–99; 3:34 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York; James A FitzPatrick Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to 10 CFR part 50 for Facility Operating License No. NPF–59, issued to the Power Authority of the State of New York (PASNY or the licensee), for operation of the James A. FitzPatrick

Nuclear Power Plant (FitzPatrick), located in Oswego County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action will revise the existing, or current, Technical Specifications (CTS) for FitzPatrick in their entirety based on the guidance provided in NUREG–1433, "Standard Technical Specifications for General Electric Plants, BWR/4," Revision I, dated April 1995, and in the Commission's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132). The proposed amendment is in accordance with the licensee's amendment request dated March 31, 1999, as supplemented by letters dated May 20, June 1, July 14, and October 14, 1999.

The Need for the Proposed Action

It has been recognized that nuclear safety in all nuclear power plants would benefit from an improvement and standardization of plant Technical Specifications (TS). The "NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Plants," (52 FR 3788) contained proposed criteria for defining the scope of TS. Later, the Commission's "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132), incorporated lessons learned since publication of the interim policy statement and formed the basis for revisions to 10 CFR 50.36, "Technical Specifications." The "Final Rule" (60 FR 36953) codified criteria for determining the content of TS. To facilitate the development of standard TS for nuclear power reactors, each power reactor vendor owners' group (OG) and the NRC staff developed standard TS. For FitzPatrick, the Improved Standard Technical Specifications (ISTS) are in NUREG–1433, Revision 1. These documents formed part of the basis for the FitzPatrick Improved Technical Specifications (ITS) conversion. The NRC Committee to Review Generic Requirements (CRGR) reviewed the ISTS, made note of its safety merits, and indicated its support of the conversion by operating plants to the ISTS.

Description of the Proposed Change

The proposed changes to the CTS are based on NUREG–1433, Revision 1, and on guidance provided by the Commission in its Final Policy Statement. The objective of the changes is to completely rewrite, reformat, and streamline the CTS (*i.e.*, to convert the CTS to the ITS). Emphasis is placed on human factors principles to improve clarity and understanding of the ITS. The Bases section of the ITS has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1433, Revision 1, portions of the CTS were also used as the basis for the development of the FitzPatrick ITS. Plant-specific issues (*e.g.*, unique design features, requirements, and operating practices) were discussed with the licensee, and generic matters were discussed with General Electric and other OGs.

The proposed changes from the CTS can be grouped into the following four categories: relocated requirements, administrative changes, less restrictive changes involving deletion of requirements, and more restrictive changes. These categories are as follows:

1. Relocated requirements (*i.e.*, the licensee's R or LA_n changes) are items which are in the CTS but do not meet the criteria set forth in the Final Policy Statement. The Final Policy Statement establishes a specific set of objective criteria for determining which regulatory requirements and operating restrictions should be included in the TS. Relocation of requirements to documents with an established control program, controlled by the regulations or the TS, allows the TS to be reserved only for those conditions or limitations upon reactor operation which are necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety, thereby focusing the scope of the TS. In general, the proposed relocation of items from the CTS to the Updated Safety Analysis Report (USAR), appropriate plant-specific programs, plant procedures, or ITS Bases follows the guidance of NUREG–1433 and NUREG–1434, Revision 1. Once these items have been relocated to other licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC-approved control mechanisms, which provide appropriate procedural means to control changes by the licensee.

2. Administrative changes (*i.e.*, the licensee's A_n changes) involve the reformatting and rewording of requirements, consistent with the style of the ISTS in NUREG–1433, Revision I, to make the TS more readily understandable to plant operators and other users. These changes are purely editorial in nature, or involve the movement or reformatting of requirements without affecting the technical content. Application of a standardized format and style will also help ensure consistency is achieved among specifications in the TS. During this reformatting and rewording process, no technical changes (either actual or interpretational) to the TS will be made unless they are identified and justified.

3. Less restrictive changes and the deletion of requirements involves portions of the CTS (*i.e.*, the licensee's L_n) which (1) provide information that is descriptive in nature regarding the equipment, systems, actions, or surveillances, (2) provide little or no safety benefit, and (3) place an unnecessary burden on the licensee. This information is proposed to be deleted from the CTS and, in some instances, moved to the proposed Bases, USAR, or procedures. The removal of descriptive information to the Bases of the TS, USAR, or procedures is permissible because these documents will be controlled through a process that utilizes 10 CFR 50.59 and other NRC-approved control mechanisms. The relaxations of requirements were the result of generic NRC actions or other analyses. They will be justified on a case-by-case basis for FitzPatrick and described in the safety evaluation to be issued with the license amendment.

4. More restrictive requirements (*i.e.*, the licensee's M_n changes) are proposed to be implemented in some areas to impose more stringent requirements than are in the CTS. In some cases, these more restrictive requirements are being imposed to be consistent with the ISTS. Such changes have been made after ensuring the previously evaluated safety analysis for FitzPatrick was not affected. Also, other more restrictive technical changes have been made to achieve consistency, correct discrepancies, and remove ambiguities from the TS. Examples of more restrictive requirements include: placing a Limiting Condition for Operation (LCO) on plant equipment which is not required by the CTS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

There are other proposed changes to the CTS that may be included in the proposed amendment to convert the CTS to the ITS. These are beyond-scope changes in that they are changes to both the CTS and the ISTS. For the FitzPatrick, these are the following:

1. ITS 3.0.3, Limiting Condition for Operation (LCO) to be in MODE 2 was changed to allow a 9-hour completion time.

2. ITS 3.3.1.1, Reactor Protection System (RPS) Instrumentation Function 5, reactor scram on main steam isolation valve (MSIV) closure. The trip setting valve was changed from less than or equal to 10 percent (in the CTS) to less than or equal to 14 percent in the ITS.

3. ITS 3.3.1.1, Extending Required Action F.1 Completion Time from 6 hours to 8 hours for consistency with Current Licensing Basis (CLB) and changing 3.0.3 which allows 8 hours to be in MODE 2 after initiation of Action.

4. ITS 3.3.5.1, Automatic Depressurization System (ADS) initiation timer and the Containment Spray (CS) and Low-Pressure Coolant Injection (LPCI) pump start timer values were changed from the CTS and the STS and tolerances relaxed to allow the extension of CALIBRATION Frequency to 24 months in the ITS.

5. ITS 3.3.5.1, CS, LPCI and ADS Logic System Functional Test (LSFT) Frequency was extended from 18 months (in the CTS) to 24 months in the ITS.

6. ITS 3.4.9, Reactor Coolant System (RCS) Pressure/Temperature (P/T) Limits in CTS were changed to add a new alternate criteria in ITS to allow idle recirculating pump (loop) start if the operating loop is greater than 40 percent flow or if the idle loop is less than 40% flow for less than or equal to 30 minutes.

7. ITS 3.5.1, ECCS–Operating, High-Pressure Coolant Injection (HPCI) and LPCI pump flow rates in CTS were reduced to SAFER/GESTR-Loss-of-Coolant Accident (LOCA) flow rates in the ITS.

8. ITS 3.5.2, ECCS–Shutdown, reduced Residual Heat Removal (RHR) LPCI pump flow rates in CTS to SAFER/GESTR-LOCA flow rates as in ITS 3.5.1 for RHR LPCI pumps.

9. ITS 3.8.1, AC Sources—Operating, Condition D for two reserve circuits inoperable in CTS was changed to add new interim power reduction to less than or equal to 45 percent with a 36-hour Completion Time in the ITS.

10. ITS 3.8.4, DC Sources—"Operating (in CTS) was changed to allow 8 hours to restore one inoperable source in the ITS.

11. ITS 5.5, changed Standby Gas Treatment (SGT) and Control Room Emergency Ventilation Air Supply (CREVAS) system filter testing (in the CTS) from 6 months (or 12 months) to 24 months in the ITS for consistency with Regulatory Guide 1.52, Revision 2 or the fuel cycle length.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed conversion of the CTS to the ITS for FitzPatrick, including the beyond-scope issues discussed above. Changes which are administrative in nature have been found to have no effect on the technical content of the TS. The increased clarity and understanding these changes bring to the TS are expected to improve the operators control of FitzPatrick in normal and accident conditions.

Relocation of requirements from the CTS to other licensee-controlled documents does not change the requirements themselves. Future changes to these requirements may then be made by the licensee under 10 CFR 50.59 and other NRC-approved control mechanisms which will ensure continued maintenance of adequate requirements. All such relocations have been found consistent with the guidelines of NUREG–1431 and the Commission's Final Policy Statement.

Changes involving more restrictive requirements have been found to enhance plant safety.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit, or to place an unnecessary burden on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic action, or of agreements reached during discussions with the owners groups, and found to be acceptable for the plant. Generic relaxations contained in NUREG–1433, Revision 1, have been reviewed by the NRC staff and found to be acceptable.

In summary, the proposed revisions to the TS were found to provide control of plant operations such that reasonable assurance will be provided that the health and safety of the public will be adequately protected.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area for the plant defined in 10 CFR Part 20 and does not involve any historic sites. It does not affect nonradiological plant effluents and have no other environmental impact. They do not increase any discharge limit for the plant. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FES for FitzPatrick.

Agencies and Persons Consulted

In accordance with its stated policy, on November 4, 1999, the staff consulted with the New York State official, Jack Spath, of the New York Energy and Research Authority, regarding the environmental impact of the proposed amendment. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed amendment will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated March 31, 1999, as supplemented by letters dated May 20, June 1, July 14, and October 14, 1999, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 19th day of November 1999.

For the Nuclear Regulatory Commission.

Sheri R. Peterson,

Chief, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–30735 Filed 11–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–648]

UMETCO Minerals Corp.; Final Finding of No Significant Impact; Notice of Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Finding of No Significant Impact; Notice of Opportunity for Hearing.

SUMMARY: The Umetco Minerals Corporation (Umetco) requested that the U.S. Nuclear Regulatory Commission (NRC) amend its NRC Source Material License SUA–648 to authorize reclamation of the A–9 Repository (disposal cell), located in Natrona County, Wyoming, according to the 1998 Enhanced Reclamation Plan, as amended. The Umetco East Gas Hills site is located approximately 50 miles (80 kilometers) southeast of the town of Riverton, Wyoming. The A–9 cell is a former surface uranium mine that was lined with clay and used for mill tailings disposal. Cover construction was begun under a previously approved reclamation design and several changes have been proposed in the enhanced plan. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of Umetco's license amendment request, in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Brummett, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7–J9, Washington, DC 20555. Telephone 301/415–6606.

SUPPLEMENTARY INFORMATION:

Background

The Umetco Mineral Corporation (Umetco) site is licensed by the U.S. Nuclear Regulatory Commission (NRC) under Materials License SUA–648 to possess byproduct material in the form of uranium waste tailings as well as other radioactive wastes generated by past milling operations. The mill has been dismantled and current site activities include completion of reclamation of three disposal areas and continuation of the ground-water corrective action program.

The total volume of waste in the A–9 cell is approximately 3.5 million cubic yards (cyd) and up to 0.5 million cyd may be placed during final site decommissioning activities. An interim cover from 1 to 5 feet (30.5 to 152 cm) thick was placed over the entire A–9 area in 1988 and 1989. The final cover has not been constructed as additional waste and fill will be placed in the cell. Umetco submitted the enhanced reclamation plan by letter dated October 27, 1998. Additional information and revised pages to the plan were submitted December 10, 1998, and March 29, 1999. The plan provides designs to:

1. Reduce the planned frost protection soil layer to 4.5 feet (1.37 m) and increase the clay radon barrier to 1.5 feet (45 cm) for a total soil cover thickness of 7 feet (1.8 m) (previously 10 feet (3 m)) for the A–9 cell;
2. Change the vegetative cover to 6 to 12 inches (15 to 30 cm) of riprap (rock);
3. Grade the site for appropriate drainage, including east and west diversion ditches;
4. Reclaim the north and south evaporation ponds; and
5. Reclaim the C–18 pit.

The 35-acre A–9 disposal cell will need up to 23 feet (7 m) of fill in some areas to bring the surface to the proposed grade. The enhanced design increases the cell capacity and its footprint by approximately 16 acres. The change to a rock cover was proposed to improve the long-term erosion protection for the cover.

The site grading plan uses contours approved with the reclamation plans for the heap leach and above-grade impoundments, diverts an existing drainage channel to minimize potential erosion of the above-grade impoundment cover, raises the final elevation of the A–9 cell by approximately 10 feet (3 m) to accommodate additional material, grades the east side of the A–9 cell to a 3:1 or less slope, provides diversion ditches on the east and west side of the A–9 cell to direct runoff away from the cover, grades the area of the north and south evaporation ponds to 5:1 or less slope, and provides positive drainage for other areas on the site.

The north and south ponds (22 acres) were constructed in 1979 over mine overburden. In 1993, the ponds were dry and the upper portion of the clay liner was excavated and placed in the A–9 cell. The enhanced plan indicates that the remaining clay liner also will be excavated and placed in the A–9 cell. Umetco provided data indicating that residual byproduct material was not detectable in the rocky material under the pond liners (Design Report Part 1, Section 6) so a cover for this area is not required.

The C–18 former uranium surface mining pit is about 80 feet (24.4 m) deep and 500 feet (152.4 m) wide at the surface (covers 5.3 acres). The pit may have some byproduct material at the bottom from site drainage, therefore, Umetco has proposed to treat this pit as a repository with the required engineered cover.

The cover design of the A–9 cell and the other aspects of the enhanced design have been evaluated by the NRC staff. This technical review will be documented as part of the agency licensing action.

Summary of the Environmental Assessment

The NRC staff performed an appraisal of the environmental impacts associated with the enhanced reclamation plan for the Impoundment, in accordance with the National Environmental Policy Act, 10 CFR part 51, and Licensing and Regulatory Policy Procedures for Environmental Protection. The license amendment would authorize Umetco to complete reclamation as proposed. In conducting its appraisal, the NRC staff considered the following information: (1) Umetco's 1998 license amendment request and proposed design, as amended; (2) previous environmental evaluations of the facility; (3) data contained in required semiannual environmental monitoring reports; (4) existing license conditions; (5) results of NRC staff site visits and inspections of the Umetco facility; and (6) consultations with the U.S. Fish and Wildlife Service, the U.S. Bureau of Land Management, the Wyoming Department of Environmental Quality, and the Wyoming State Historic Preservation Officer.

The results of the staff's appraisal are documented in an EA placed in the docket file. Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action.

Conclusions

The NRC staff has examined actual and potential impacts associated with the enhanced reclamation plan, and has determined that the requested amendment of Source Material License SUA–648, authorizing implementation of the reclamation plan, will: (1) be

consistent with requirements of 10 CFR part 40, appendix A; (2) not be inimical to public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents from facility operations have been and are expected to remain below the regulatory limits;

2. Present and potential health risks to the public and risks of environmental damage from the proposed reclamation were assessed. Given the remote location, limited activities requested, small area of impact, and past activities on the site, the staff determined that the risk factors for health and environmental hazards are insignificant.

3. Because the staff has determined that there will be no significant impacts associated with approval of the license amendment, there can be no disproportionally high and adverse effects or impacts on minority and low-income populations. Consequently, further evaluation of Environmental Justice concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and Safeguards Policy and Procedures Letter 1–50, Revision 1, is not warranted.

Alternatives to the Proposed Action

The proposed action is to amend NRC Source Material License SUA–648, for reclamation of the A–9 and C–18 cells and site grading, as requested by Umetco. Therefore, the principal alternatives available to the NRC are to:

1. Approve the license amendment request as submitted; or

2. Amend the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

3. Deny the amendment request.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of Umetco's future operations or the denial of the license amendment. Additionally, the staff has reviewed the licensee's proposed action with respect to the criteria for reclamation and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed amendment of NRC Source Material License SUA–648. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW, Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings," of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders in 10 CFR part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Umetco Minerals Corporation, PO Box 1029, Grand Junction, CO 81502;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings" in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 17th day of November 1999.

For the Nuclear Regulatory Commission.

John J. Surmeier,

Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–30734 Filed 11–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Workshop Concerning the Revision of the Baseline Safety Inspection Program for Nuclear Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of public workshop.

SUMMARY: NRC will host a public workshop at the Doubletree Hotel in Rockville, Maryland for those regulated by the NRC and other stakeholders to provide and explain their views concerning NRC plans to revise its safety inspection program for nuclear fuel cycle facilities. This workshop follows the recent public stakeholder meetings held at NRC Headquarters on September 16 and October 20, 1999. Presentations given at each meeting together with a transcript of the meeting will be placed on the NRC INTERNET web page (http://www.nrc.gov). Similar to the revisions of the inspection and oversight program for commercial nuclear power plants, NRC initiated an effort to improve its inspection program for nuclear fuel cycle facilities. This is described in SECY–99–188 titled, EVALUATION AND PROPOSED REVISION OF THE NUCLEAR FUEL CYCLE FACILITY SAFETY

INSPECTION PROGRAM. SECY–99–188 is available in the Public Document Room and on the NRC Web Page at http://www.nrc.gov/NRC/COMMISSION/SECYS/index.html.

Purpose: To provide those regulated by the NRC and other stakeholders an opportunity to explain their views concerning the NRC's planned revision of the fuel cycle safety inspection program. The safety inspection program applies to nuclear fuel cycle facilities regulated under 10 CFR parts 40, 70 and 76. The facilities currently include gaseous diffusion plants, highly enriched uranium fuel fabrication facilities, low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF_6) production facility. These facilities possess large quantities of materials that are potentially hazardous (*i.e.*, radioactive, toxic, and/or flammable) to the workers, public, and/or environment. In revising the inspection program, the goals are to have an inspection program that: (1) Provides earlier and more objective indications of acceptable and changing safety performance, (2) increases stakeholder confidence in the NRC, and (3) increases regulatory effectiveness and efficiency. In this regard, the NRC desires the revised inspection program to be more risk-informed and performance-based and more focused on significant risks. Where practicable, the program will use more objective safety performance indicators (PIs) with accompanying performance thresholds.

The safety rationale for NRC inspection commensurate with risk (hazards and controls) will be discussed in the context of establishing indicators of licensee performance. The focus of the workshop will be consideration of performance indicators (i.e., precursors) that will reliably indicate when there is a need for corrective action to preclude exceeding regulatory limits which were established to preclude adverse impacts on the public or worker health and safety or the environment.

DATES: The workshop is scheduled for Wednesday, December 15, 1999, from 8:30 a.m. to 5 p.m. and is open to the public.

ADDRESSES: Doubletree Hotel, Regency Conference Room, 1750 Rockville Pike, Rockville, Maryland 20852. Parking is limited around the hotel; however, the hotel is located adjacent to the Twinbrook Station on the Metro Red Line.

FOR FURTHER INFORMATION CONTACT: Walter Schwink, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7253, e-mail wss@nrc.gov.

Dated at Rockville, Maryland this 22nd day of November, 1999.

For the Nuclear Regulatory Commission.

Philip Ting,

Chief, Operations Branch, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 99–30733 Filed 11–24–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

[Docket No. MC2000–2; Order No. 1272]

Mailing Online Experimental Classification Proceeding

AGENCY: Postal Rate Commission.

ACTION: Notice of new experimental filing.

SUMMARY: This document establishes a docket to consider a proposed experimental classification and fee schedule for a new Mailing Online service. It also addresses related administrative matters, including dates for conferences and deadlines for certain filings. Publication of this document provides interested persons with information on important preliminary steps in the Commission's consideration of the case.

DATES: Key dates include:

1. December 2, 1999 (1:30 p.m): technical conference in PRC hearing room.
2. December 8, 1999 (2 p.m.): deadline for filing notices of intervention, statements opposing consideration of the request under experimental rules, and answers to Postal Service motion for expedition and waiver of certain provisions of rules 161 and 64(h).
3. December 13, 1999 (2 p.m.): prehearing conference in PRC hearing room.
4. December 16, 1999: deadline for filing issue statements and answers to Postal Service motion for designation of testimony and cross-examination from previous docket [No. MC98–1].

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

ADDRESSES: Send correspondence regarding this docket to the attention of Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Commission provided notice of a predecessor case (Docket No. MC98–1) in Order No. 1216 (63 FR 39600, July 23, 1998). The preamble discusses that case and its subsequent withdrawal pursuant to action of the Postal Service's Governors.

Background

Notice is hereby given that on November 16, 1999, the United States Postal Service (Postal Service or USPS) filed a request with the Postal Rate Commission (Commission or PRC) pursuant to section 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*, for a recommended decision on adding a proposed Mailing Online service to the Domestic Mail Classification Schedule (DMCS) on an experimental basis. The request also incorporates a proposal for the establishment of associated new fees. The request includes attachments and is supported by the testimony of five witnesses. The Postal Service has separately filed two library references in support of this request. The request, attachments, and library references are on file in the Commission docket room and are available for inspection during the Commission's regular business hours. For interested persons who have access to the internet, the request and related documents are available on the Commission's home page at http://www.prc.gov.

Description of Request

The proposed Mailing Online service would enable individuals and organizations with access to a personal computer and an internet connection to transmit documents created on their computers to the Postal Service in digital form for printing and entry as mail, paying online in a single transaction. Users would transmit digital document files generated in any of several selected word processing and desktop publishing applications, together with recipient information and other data, to a designated Postal Service site on the world wide web. The Postal Service would offer users a number of choices regarding printing and finishing specifications, customization of output by recipient variables in the user's database, and scheduling of a specific mailing date.

Users of the proposed Mailing Online service would be charged existing postage rates for mailing, plus a fee for production and other pre-mailing services. Depending upon the character of the material being sent and the user's service preference, mail pieces

generated by the Mailing Online service would be charged postage at either: Express Mail next day service and second day service rates; First-Class Mail letters and sealed parcels automation letters basic rates; First-Class Mail letters and sealed parcels automation flats basic rates; First-Class Mail cards automation basic rates; First-Class Mail single-piece Priority mail rates; Standard mail regular automation basic letters rates; Standard mail regular automation basic flats rates; Standard mail nonprofit automation basic barcoded rates (starting on a date to be specified by the Postal Service); Standard mail nonprofit automation basic barcoded flats rates (starting on a date to be specified by the Postal Service); or single-piece rates for either First-Class Mail letters and sealed parcels or First-Class Mail cards for non-conforming addresses. Postal Service Request, Attachment A, at 4.

Fees

In lieu of specific unit fees for the Mailing Online special service, the Postal Service proposes what might be described as a "cost plus" approach to fee calculation. For the duration of the experiment, the Postal Service proposes that fees be 130 percent times what the Postal Service is charged by printers to prepare the mail piece, plus 0.1 cent per impression to recover other Postal Service costs. Postal Service Request, Attachment B.

Relationship to Mailing Online Service, PRC Docket No. MC98–1

The requested Mailing Online Experiment is substantially similar to the Mailing Online Service presented in PRC Docket No. MC98–1 (63 FR 39600, July 23, 1998). In MC98–1, the Commission recommended and the Postal Service implemented a market test of Mailing Online. The market test ran from October 30, 1998 through October 29, 1999. The Postal Service request for a market test included a request for a Mailing Online Service experiment. The Postal Service Board of Governors directed the withdrawal of the request for experiment on May 3, 1999, because of events that rendered inaccurate the cost foundation underlying the request for the initial Mailing Online Service experiment.

Differences Between the Two Cases

The instant Mailing Online Experiment differs from its predecessor in duration, internet implementation, options offered, and cost structure. The following are highlights of the proposed differences. The duration of the experiment is for three years as opposed to the two years proposed in MC98–1. The service will be accessed through the USPS.com web site rather than through PostOffice Online. Many of the service options planned for implementation during the original experiment will now be offered at the outset of the Mailing Online experiment. The service may be used with more mail subclasses and rate categories. The proposed mark-up has increased from 125 percent to 130 percent.

Expedited Consideration of the Request

The Postal Service request invokes the operation of sections 67 through 67d of the Commission's rules of practice and procedure which provide for expedited consideration of requests for new services or mail classification changes that are experimental in character. See 39 CFR 67–67d. These rules provide for the adoption of streamlined procedures for considering such requests, and require participants to identify the genuine issues of material fact raised by the Postal Service proposal in order to limit formal hearings to those issues. 39 CFR 3001.67a. They also provide for establishment of a procedural schedule that will allow issuance of a recommended decision within 150 days from any favorable determination the Commission may make as to the propriety of treating the Postal Service proposal as experimental. 39 CFR 3001.67d.

The proposed service qualifies for consideration as an experiment, the Postal Service submits, in view of its novelty as an electronic means of presenting documents for entry into the mail; the modest anticipated magnitude of its impact upon postal costs and revenues, and the mailing costs and practices of mail users; and the need to gather information suitable for supporting a request for a permanent mail classification change. Postal Service Request at 4–5.

Motion for Expedition and Waiver of Certain Provisions

The Postal Service request is accompanied by a pleading captioned "Motion of the United States Postal Service for Expedition and for Waiver of Certain Provisions of Rule 161 and Certain Provisions of Rule 64(h)." (Motion for Expedition.) In this pleading, the Service asks the Commission to expedite consideration of its request as provided for in the experimental service rules and to issue a decision that would allow the Postal Service's preferred objective of implementing the Mailing Online experiment as soon as mid-April 2000. Pursuant to rule 64(h)(3), the Postal Service also asks to be relieved of the obligation to produce certain information regarding cost and revenue effects of its proposal, on the grounds that its proposal would not change any existing rates or fees, or produce a significant impact upon the cost-revenue relationships of existing postal services. Motion for Expedition at 3–5. Specifically, the Service seeks waiver of rules 54(b)(3) in part, 54(f)(2), 54(f)(3), 54(h), 54(j), and 54(l) in part. Motion for Expedition at 5–6.

Motion for Designation of Testimony and Cross-Examination From Previous Docket as Evidence

The Postal Service request also is accompanied by a pleading captioned "Motion for Designation of Testimony and Cross-Examination From Previous Docket as Evidence in Commission Docket No. MC2000–2." In this pleading the Service asks the Commission to admit as record evidence in this docket, the direct testimony and cross examination of witness Rothschild from PRC Docket No. MC98–1. The referenced direct testimony is the direct testimony of Beth B. Rothschild on behalf of United States Postal Service, PRC Docket No. MC98–1, USPS–T–4. The referenced cross-examination testimony is in the official transcript of proceeding, PRC Docket No. MC98–1, Vol. 2, at 428–79.

Notice of Technical Conference

The Postal Service request is accompanied by a notice captioned "Notice of Technical Conference." In this notice, the Postal Service announces that a technical conference in this proceeding will be held on December 2, 1999 at 1:30 p.m. The conference will be held in the Postal Rate Commission hearing room located at 1333 H Street NW., Suite 300, Washington, DC 20268–0001. The Postal Service plans to have all witnesses and their counsel present. Persons considering intervention are encouraged to attend the technical conference to determine if real issues of fact or policy exist.

Further Procedures; Filing Address

Rules 20 and 20a provide that interested persons may intervene in proceedings to consider Postal Service requests by filing a notice of intervention no later than the date fixed for such filing in any notice or order with respect to the proceeding issued by the Commission or its Secretary. Accordingly, anyone wishing to be heard in this matter is directed to file a written notice of intervention with Margaret P. Crenshaw, Secretary of the

Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001, on or before December 8, 1999. Intended participants should indicate whether they request formal intervention or limited participator status. See 39 CFR 3001.20 and 3001.20a.

With regard to the Postal Service request to establish Mailing Online service as an experimental mail classification, rule 67(c) provides that the Commission will entertain representations by participants that the proposal should not be considered as an experiment, and should follow the normal mail classification change procedures. Any participant intending to make such a representation shall do so by pleading no later than December 8, 1999.

In addition, rule 67a(b) requires parties to proceedings in which the Postal Service seeks a classification change it denominates as experimental in character to file statements of the issues they perceive in the case at the earliest possible time following the filing of the Postal Service request, or following a determination that the proposed change is experimental in character. In view of the Postal Service motion for expeditious consideration of its proposal, participants' statements of issues shall also be due no later than December 16, 1999.

A prehearing conference will be held in this proceeding on Monday, December 13, 1999, at 2 p.m. in the Commission's hearing room. Participants should be prepared to discuss what formal procedures, including hearings, may be necessary and appropriate in this docket. In addressing the issue of appropriate procedures in this docket, participants should also be prepared to address the potentially different procedural requirements presented by the Postal Service's proposal and its request for establishment of Mailing Online as an experimental service. If the Commission determines that formal hearings to resolve genuine issues of material fact are required, the presiding officer will establish subsequent procedural dates.

Representation of the General Public

In conformance with 39 U.S.C. 3624(a), the Commission designates Ted P. Gerarden, director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Mr. Gerarden will direct the activities of Commission personnel assigned to assist him and, when requested, will supply their names for the record. Neither Mr. Gerarden nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and contemporaneous with, service on the Commission of the 24 copies required by rule 10(c). 39 CFR 3001.10(c).

Ordering Paragraphs

Paragraph no. 1 states that the Commission will sit en banc in this proceeding. Paragraph no. 2 directs that notices of intervention shall be filed no later than December 8, 1999. Paragraph no. 3 directs that statements of issues presented by the Postal Service's request in this docket to establish a Mailing Online experimental mail classification in conformance with 39 CFR 3001.67a(b) shall be filed no later than December 16, 1999. Paragraph no. 4 directs that statements by parties asserting that the proposal should not be considered as an experiment and should follow the normal mail classification change procedures in conformance with 39 CFR 3001.67(c) shall be filed no later than December 8, 1999. Paragraph no. 5 directs that answers to the Postal Service's motion for expedition and for waiver of certain provisions of rule 161 and certain provisions of rule 64(h) are to be submitted no later than December 8, 1999. Paragraph no. 6 directs that answers to the Postal Service's motion for designation of testimony and cross-examination from a previous docket (MC98–1) as evidence in Commission docket no. MC2000–2 are to be submitted no later than December 16, 1999. Paragraph no. 7 directs the Postal Service shall provide, within 10 days, responses to any written discovery requests submitted to it before December 13, 1999. Paragraph no. 8 designates Ted P. Gerarden, director of the Commission's OCA, to represent the general public. Paragraph no. 9 schedules a prehearing conference in this docket on December 13, 1999, at 2:00 p.m. in the Commission's hearing room. Paragraph no. 10 directs the Secretary to cause this notice and order to be published in the **Federal Register**.

Authority: 39 U.S.C. 3623.

Dated: November 19, 1999.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 99–30766 Filed 11–24–99; 8:45 am]

BILLING CODE 7715–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings.

(2) *Form(s) submitted:* RL–231–F.

(3) *OMB Number:* 3220–0107.

(4) *Expiration date of current OMB clearance:* 3/31/2000.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 150.

(10) *Collection description:* Under the Railroad Retirement Act (RRA) benefits are not payable if an annuitant works for an employer covered under the RRA or last non-railroad employer. The collection obtains information regarding an annuitant's work and earnings from a non-railroad employer. The information will be used for determining whether benefits should be withheld.

Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–30794 Filed 11–24–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24146]

Notice of Applications for Deregulation under Section 8(f) of the Investment Company Act of 1940

November 19, 1999.

The following is a notice of applications for deregulation under section 8(f) of the Investment Company Act of 1940 for the month of November 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 14, 199, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW., Washington, DC 20549–0506.

The Berwyn Fund, Inc. [File No. 811–9309]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 3, 1999, applicant transferred its assets to The Berwyn Funds (the "Acquiring Fund") based on net asset value. Expenses of $75,000 incurred in connection with the reorganization were paid by the Acquiring Fund.

Filing Dates: The application was filed on August 27, 1999, and amended on September 10, 1999, and November 12, 1999.

Applicant's Address: 1189 Lancaster Avenue, Berwyn, Pennsylvania 19312.

Chicorp Equity Trust [File No. 811–6299]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. By August 31, 1999, each series of applicant had made a final liquidating distribution to its shareholders at net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on November 3, 1999.

Applicant's Address: 208 South LaSalle Street, Chicago, Illinois 60604.

CVO Greater China Fund, Inc. [File No. 811–8760]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 14, 1999, applicant made its final liquidating distribution to its shareholders based on net asset value. Expenses of $7,400 incurred in connection with the liquidation were paid by CVO Greater China Partners, LP, applicant's investment adviser.

Filing Date: The application was filed on October 28, 1999.

Applicant's Address: 400 Bellevue Parkway, Wilmington, Delaware 19809.

MBL Variable Contract Account–12 [File No. 811–5849]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 15, 1999, applicant made liquidating distributions to its shareholders based on net asset value per share. No expenses were incurred in connection with the liquidation.

Filing Date: The application was filed on October 18, 1999.

Applicant's Address: 520 Broad Street, Newark, New Jersey 07102–3111.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30773 Filed 11–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24147; 812–11860]

The First Australia Prime Income Fund, Inc., et al.; Notice of Application

November 19, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 19(b) of the Act and rule 19b–1 under the Act.

Summary of Application: The First Australia Prime Income Fund, Inc. ("FAX") requests an order to permit it to make periodic distributions of net long-term capital gains in any one taxable year, so long as it maintains in effect distribution policies: (i) With respect to its common stock calling for monthly distributions of a fixed percentage of the net asset value of the common stock; and (ii) with respect to its preferred stock calling for periodic dividends of a specified percentage of the liquidation preference of the preferred stock. In addition, The First Commonwealth Fund, Inc. ("FCO") seeks to amend an existing order to extend the relief granted with respect to its common stock to its preferred stock.[1]

Applicants: FAX and FCO.

Filing Date: The application was filed on November 18, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 13, 1999, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. FAX, Gateway Center 3, 100 Mulberry Street, Newark, New Jersey 07102. FCO, 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

FOR FURTHER INFORMATION CONTACT: Paula L. Kashtan, Senior Counsel, at (202) 942–0615, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. FAX is incorporated in Maryland and registered under the Act as a closed-end, non-diversified management

[1] The First Commonwealth Fund, Inc., Investment Company Act Release Nos. 23936 (Aug. 9, 1999) (notice) and 23993 (Sept. 3, 1999) (order)

investment company. FAX's investment objective is to provide current income through investment primarily in Australian debt securities. Up to 35% of its total assets may be invested in certain Asian debt securities. FAX's common shares are listed on the American Stock Exchange and have traded at various times at either a premium or a discount to net asset value. FAX's Auction Market Preferred Shares are traded in weekly or monthly auctions, depending on the series, conducted by The Chase Manhattan Bank ("Chase"), FAX's auction agent. EquitiLink International management Limited ("EquitiLink"), FAX's investment manager, is registered as an investment adviser under the Investment Advisers Act of 1940.

2. FCO is incorporated in Maryland and registered under the Act as a closed-end, non-diversified management investment company. FCO's primary investment objective is to provide high current income, primarily through investments in fixed-income securities denominated in the currency of Australia, Canada, New Zealand, and the United Kingdom. Up to 35% of its total assets may be invested in certain global debt securities. FCO's Auction Market Preferred Shares are traded in weekly auctions conducted by Chase. EquitiLink is FCO's investment manager.

3. On June 10, 1999, FAX's board of directors ("FAX Board"), including a majority of the directors who are not "interested persons" as defined in section 2(a)(19) of the Act, adopted a distribution plan with respect to its common stock ("Monthly Distribution Plan") that calls for regular monthly distributions at a monthly cash distribution rate ("Monthly Cash Distribution Rate") set in March of each year by the Board. Among other things, the FAX Board considered empirical evidence that, in some cases, market discounts to net asset value have narrowed upon adoption of similar distribution policies by other closed-end funds. The FAX Board has set the annualized Monthly Cash Distribution Rate for the period March 1999, through February 2000, at 6 cents per share per month, subject to market conditions. If, for any taxable year, the total distributions required by its Monthly Distribution plan exceed FAX's annual net investment income and net realized capital gains, the excess will generally be treated as a return of capital (up to the amount of the shareholder's adjusted tax basis in his shares).

4. FAX requests relief to permit it, so long as it maintains in effect the Monthly Distribution Plan, to make up to twelve distributions of long-term capital gains in any one taxable year. FAX and FCO also request relief to permit them, so long as their outstanding Auction Market Preferred Shares and any other preferred stock to be issued by FAX or FCO in the future (collectively "AMPS") required periodic dividend payment ("specified periodic payments") in amounts equal to a specified percentage of the liquidation preference of their respective AMPS, such percentage to be determined at periodic auctions, to make up to fifty-two periodic distributions of long-term capital gains in any one taxable year. If, for any taxable year, the total dividends required by either applicant's specified periodic payments exceeds either applicant's net investment income and net capital gains, the excess will be treated as a return of capital.

Applicant's Legal Analysis

1. Section 19(b) of the Act provides that a registered investment company may not, in contravention of such rules, regulations, or orders as the Commission may prescribe, distribute long-term capital gains more often than once every twelve months. Rule 19b-1(a) under the Act permits a registered investment company, with respect to any one taxable year, to make one capital gains distribution, as defined in section 852(b)(3)(c) of the Internal Revenue Code of 1986, as amended (the "Code"). Rule 19b-1(a) also permits a supplemental distribution to be made pursuant to Section 855 of the Code not exceeding 10% of the total amount distributed for the year. Rule 19b-1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under Section 4982 of the Code. In addition, applicants state that Revenue Ruling 89–81 takes the position that if a regulated investment company has two classes of shares, it may not designate distributions made to either class in any years as consisting of more than such class's proportionate share of particular types of income, such as capital gains.

2. The applicants assert that rule 19b-1, by limiting the number of net long-term capital gains distributions and dividends that the applicants may make with respect to any one year, would prohibit the applicants from including available net long-term capital gains in certain of their fixed monthly distributions and periodic dividends. As a result, the applicants state that they could be required to fund these monthly distributions and periodic dividends with returns of capital (to the extent that net investment income and net realized short-term capital gains are insufficient to cover the distributions and dividends). FAX asserts that, with respect to its common shares, in order to distribute all the long-term capital gains within the limits in rule 19b-1, it may be required to make total distributions in excess of the annual amount called for by the Monthly Distribution Plan or retain and pay taxes on the excess amount. The applicants also note that the application of rule 19b-1 to pay-out policies may create pressure to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. the applicants submit that the concerns underlying section 19(b) and rule 19b-1 are not present in their situation. One of the concerns leading to the adoption of section 19(b) and rule 19b-1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. With respect to its common stock, FAX represents that the Monthly Distribution Plan has been described in its periodic communications to its shareholders. In accordance with rule 19a-1 under the Act, a separate statement showing the sources of the distribution will accompany each distribution (or the confirmation of the reinvestment thereof under FAX's dividend reinvestment plan). With respect to the AMPS, the applicants state that there is little chance for investor confusion since all an investor expects to receive is the specified distribution for any specified dividend period, and no more, and that there is little or no chance for shareholder confusion regarding the yield or investment return generated by the dividends. In accordance with rule 19a-1, a separate statement showing the sources of the distribution will accompany each AMPS periodic dividend, with a statement provided near the end of the last dividend period in a fiscal year indicating the sources of each distribution make during the fiscal year (i.e., net income, net capital gains and/or return of capital). In addition, for both the common stock and the AMPS, a statement showing the amount and sources of distributions received during the year will be included on each applicant's IRS Form 1099–DIV report sent to each shareholder who received distributions during the year (including shareholders who have sold shares during the year). This information on an aggregate basis will also be included in each applicant's annual report to shareholders.

4. another concern underlying section 19(b) and rule 19b-1 is that frequent capital gains distributions could

improperly influence distribution practices including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend ("selling the dividend"), when the dividend results in an immediate corresponding reduction in net asset value and is, in effect, a return of the investor's capital. FAX submits that this concern does not arise with regard to closed-end management investment companies, such as the applicant, that do not continuously distribute shares of their common stock. The applicants also believe that this concern does not apply to the preferred stock, which entitles a holder to a specified periodic dividend and no more, and, like a debt security, is initially sold at a price based on its liquidation preference plus an amount equal to an accumulated dividends. Finally, the applicants note that the condition to the requested relief should further assure that the concern about selling the dividend will not arise in connection with a rights offering by either of the applicants.

5. Applicants state that if any rights offerings by either of them will be timed so that shares issuable upon exercise of the rights will be issued only in the 15-day period immediately following the record date for the declaration of a dividend. Thus, the abuse of selling the dividend could not occur as a matter of timing. The applicants further state that any rights offering will comply with all relevant Commission and staff guidelines. In determining compliance with these guidelines, each applicant's board of directors will consider, among other things, the brokerage commissions that would be paid in connection with the offering. Any such offering by either applicant of transferable rights will also comply with any applicable NASD rules regarding the fairness of compensation.

6. The applicants state that increased administrative costs also are a concern underlying section 19(b) and rule 19b-1. The applicants assert that this concern is not present because the applicants will continue to make regular periodic distributions regardless of whether long-term capital gains are included in any particular distribution.

7. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act or any rule under the Act to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, the applicants believe that the requested relief satisfies this standard.

Condition

Each of FAX and FCO agrees that the order granting the requested relief with respect to its common stock will terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by such applicant of its common shares other than:

(i) a rights offering with respect to holders of such applicant's common stock, in which (a) shares are issued only within the 15-day period immediately following the record date of a monthly dividend, (b) the prospectus for such rights offering makes it clear that common shareholders exercising rights will not be entitled to receive such dividend, and (c) the applicant has not engaged in more than one rights offering during any given calendar year; or

(ii) an offering in connection with a merger, consolidation, acquisition, spin-off or reorganization of such applicant, unless the applicant has received from the staff of the Commission written assurance that the order will remain in effect.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30772 Filed 11–24–99 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24145; 812–11466]

SunAmerica Asset Management Corp., *et al,*; Notice of Application

November 19, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under section 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

Summary of Application: Applicants request an order to permit certain open-end management investment companies to settle claims that may arise under a directors' and officers'/errors and omission insurance policy provided by an affiliated insurance company.

Applicants: SunAmerica Asset Management Corp. ("Adviser"); Anchor Pathway Fund, Anchor Series Trust, Season Series trust, Style Select Series, Inc., SunAmerica Equity Funds, SunAmerica Income Funds, SunAmerica Money Market Funds, Inc., SunAmerica Series Trust, and SunAmerica Strategic Investment Series, Inc. (each a "Fund," and collectively, the "Funds").

Filing Date: The application was filed on January 13, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the applicant will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 14, 1999, and should be accompanied by proof and service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 733 Third Avenue, New York, New York 10017–3204.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102, (202) 942–8090.

Applicant's Representations

1. Each fund is registered under the Act as an open-end management investment company. The Adviser is registered as an investment adviser under the Investment Adviser Act of 1940 ("Advisers Act") and advises each of the Funds other than Anchor Pathway Fund. Anchor Pathway Fund is advised by Capital Research and Management Company, an investment adviser registered under the Advisers Act. All of the outstanding shares of Anchor Pathway Fund are held by a separate account of Anchor National Life Insurance Company, an indirect wholly owned subsidiary of SunAmerica Inc. ("SunAmerica"). The

Adviser is also an indirect wholly owned subsidiary of SunAmerica.

2. The Funds the Adviser, and certain other SunAmerica entities are joint insured under a directors' and officer's/errors and omissions insurance policy provided by National Union fire Insurance Company ("National Union"). The Funds first obtained this type of insurance from National Union in 1995. The currently policy ("Existing Policy") was issued in 1996 and expires on September 1, 2000. Applicants state that after the expiration of the Existing Policy, applicants will not obtain insurance coverage from National Union.

3. National Union is an indirect, wholly owned subsidiary of American International Group, Inc. ("AIG"). On January 1, 1999, AIG acquired SunAmerica. As a result of the merger, the Adviser has become an indirect wholly owned subsidiary of AIG, and applicants state that National Union has become an affiliated person of the Adviser and an affiliated person of an affiliated person ("second-tier affiliate") of the Funds. In light of these new affiliations, applicants request relief so that a Fund may settle insurance claims with National Union under the Existing Policy.

Applicant's Legal Analysis

1. Section 17(a) generally prohibits sales or purchases of securities or property between a registered investment company and any affiliated person or second-tier affiliate of the company. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include (a) any person directly or indirectly controlling, controlled by, or under common control with the other person, and (b) if the other person is an investment company, any investment adviser of that company.

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants request an order under section 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act to permit a Fund and National Union to settle claims arising under the Existing Policy. Applicants state that section 17(a) prohibits the settlement of claims under an insurance policy where the insurer is an affiliated person or second-tier affiliate of the insured investment company because the settlement of a claim under an insurance policy entails the release of a property right (*i.e.*, of a right to sue under the policy with respect to the claim). Applicants state that the Adviser is an affiliated person of the Funds by virtue of being investment adviser to the Funds. Because National Union is under common control with the Adviser, applicants state that National Union may be deemed a second-tier affiliate of the Funds.

4. Applicants submit that the interests of the Funds would be best served by permitting extra-judicial settlement of claims because Funds will be able to resolve claims promptly without incurring additional costs of litigation. Applicants note that any settlement would be subject to the approval of a majority of a Fund's board of directors ("Board"), including a majority of the directors who are not "interested persons" of the Fund, the Adviser, or AIG within the meaning of section 2(a)(19) of the Act (Independent Board Members"). In addition, applicants state that in negotiating the amount of any extra-judicial settlement under the Existing Policy on behalf of a Fund, the Adviser has an interest in maximizing the Fund's recovery because its advisory fees are based on Fund assets. Applicants state that even though the Adviser and National Union are both subsidiaries of AIG, each is a separately operated entity with different directors and officers, and each entity is in a separate profit center within the AIG corporate structure.

Condition

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The officers of each Fund will report all losses potentially covered under the Existing Policy to the Fund's Board. The Board, including the Independent Board Members, will evaluate the loss, and a majority of the Board, including a majority of the Independent Board Members, will determine whether to submit a claim to National Union and the amount of any claim. If National Union makes a settlement offer for less than the amount submitted, the adequacy of the settlement offer will be evaluated by the Board, including the Independent Board Members. The settlement may be accepted if a majority of the Board, including a majority of the Independent Board Members (upon the advice of independent counsel), determines that the settlement offer meets the standards specified in section 17(b) of the Act and is in the best interest of the Fund and its shareholders.

2. Each Board will record and preserve a description of all transactions with National Union, its findings, the information or materials upon which its findings are based and the basis for the findings. All such records will be maintained for a period of not less than six years, the first two years in an easily accessible place, and will be available for inspection by the staff of the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30708 Filed 11–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24144; 812–11854]

OLDE Asset Management, Inc.; Notice of Application

November 18, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for and exemption from section 15(a) of the Act.

Summary of Application: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory agreements ("New Agreements") for a period of not more than 150 days beginning on the later of the date on which the acquisition by H&R Block, Inc. "H&R Block") of OLDE Asset Management, Inc. ("OLDE Management") is consummated or the date on which the requested order is issued and continuing through the date the New Agreements are approved or disapproved by the shareholders (but in no event later than April 15, 2000) ("Interim Period"). The order would also permit payment of all fees earned under the New Agreements during the

Interim Period following shareholder approval.

Filing Date: The application was filed on November 12, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 10, 1999, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicant, 751 Griswold Street, Detroit, Michigan 48226.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942–0634, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. No. 202–942–8090).

Applicant's Representations

1. OLDE Management is an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act") and is a wholly-owned subsidiary of OLDE Financial Corporation ("OLDE Financial"), a holding company. OLDE Management serves as investment adviser to OLDE Custodian Fund ("Trust"). The Trust is an open-end management investment company registered under the Act and consists of three series (each a "Fund," and collectively, the "Funds"). OLDE Management manages the assets of the Funds pursuant to investment advisory contracts between OLDE Management and the Trust ("Existing Agreements").

2. On August 31, 1999, H&R Block and OLDE Financial entered a stock purchase agreement pursuant to which H&R Block will acquire OLDE Financial (the "Transaction"). The Transaction is expected to be consummated on or about November 30, 1999 (the "Closing Date"). OLDE Management states that the Transaction will result in an assignment, and thus automatic termination, of the Existing Agreements.

3. OLDE Management requests an exemption to permit (i) the implementation during the Interim Period, prior to obtaining shareholding approval, of the New Agreements between the Trust and OLDE Management, and (ii) OLDE Management to receive from each Fund, upon approval of the respective Fund's shareholders, any and all fees payable under the New Agreements during the Interim Period. The requested exemption would cover the Interim Period of not more than 150 days beginning on the later of the Closing Date or the date the requested order is issued [1] and continuing through the date the New Agreements are approved or disapproved by the shareholders of the Funds (but in no event later than April 15, 2000). The New Agreements will contain terms and conditions identical to those of the Existing Agreements, except for the effective and termination dates.

4. On October 13, 1999, the Trust's Board of Trustees ("Board") met to consider and evaluate the New Agreements and to determine whether the terms of the New Agreements are in the best interests of the Funds and their shareholders. The Board, including a majority of the directors who are not "interested person" within the meaning of section 2(a)(19) of the Act ("Independent Trustees"), voted to approve the New Agreements and to recommend that each Fund's shareholders approve the respective New Agreement. Proxy materials for the shareholder meetings are expected to be mailed on or about December 6, 1999, and the shareholder meeting is scheduled to be held on or about January 18, 2000.

5. OLDE Management proposes to enter into an escrow arrangement with an unaffiliated financial institution ("Escrow Agent"). The fees earned by OLDE Management during the Interim Period under the New Agreements would be paid into an interest-bearing escrow account maintained by the Escrow Agent. The amounts in the escrow account (including any interest earned will be paid (i) to OLDE Management only if shareholders of the respective Fund approve the New Agreement, or (ii) to the respective Fund if the Interim Period has ended and shareholders have not approved the applicable New Agreement. The Escrow Agent will release the moneys as provided only upon a receipt of a certificate from the officers of the applicable Fund that action is appropriate based on shareholder votes. Before any such certificate is sent, the Independent Trustees will be notified.

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires that the written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. OLDE Management states that the Transaction will result in an assignment of the Existing Agreements and their automatic termination.

2. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with an investment company is terminated, the adviser may continue to serve for up to 120 days under a written contract that has not been approved by the investment company's shareholders, provided that: (i) the new contract is approved by the company's board of directors (including a majority of the non-interested directors); (ii) the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most recently approved by company's shareholders; and (iii) neither the adviser nor any controlling person of the adviser "directly or indirectly receives money or other benefit" in connection with the assignment. OLDE Management states that it may not rely on rule 15a–4 because of the benefits arising to OLDE Financial in connection with the Transaction.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that the

[1] OLDE Management states that if the Closing Date precedes the issuance of the requested order, it will continue to serve as investment adviser after the Closing Date (and prior to the issuance of the order) in a manner consistent with its fiduciary duty to continue to provide investment advisory services to the Funds even though shareholder approval of the New Agreements from the respective Fund has not yet been secured. OLDE Management also states that it will be entitled to receive from the Funds, with respect to the period from the Closing Date until the issuance of the order, no more than the actual out-of-pocket costs to OLDE Management for providing investment advisory services to the Funds.

exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. OLDE Management states that the requested relief satisfies this standard.

4. OLDE Management asserts that the Transaction arose out of business considerations unrelated to the Trust and OLDE Management. OLDE Management states that there is insufficient time to obtain shareholder approval of the New Agreements prior to the Closing Date.

5. OLDE Management represents that under the New Agreements, during the Interim Period, the scope and quality of services provided to the Funds will be at least equivalent to the scope and quality of the services it previously provided under the Existing Agreements. OLDE Management states that if any material change in its personnel occurs during the Interim Period, OLDE Management will apprise and consult with the Board to ensure that the Board, including a majority of the Independent Trustees, are satisfied that the scope and quality of the advisory services provided to the Funds will not be diminished. OLDE Management also states that the compensation payable to it under the New Agreements will be no greater than the compensation that would have been paid to OLDE Management under the Existing Agreements.

Applicant's Conditions

OLDE Management agrees as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreements will have the same terms and conditions as the Existing Agreements except for the dates of execution and termination.

2. Fees earned by OLDE Management in respect of the New Agreements during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such fees) will be paid to (i) OLDE Management in accordance with the New Agreements, after the requisite shareholder approvals are obtained, or (ii) the respective Fund, in absence of such shareholder approval.

3. The Trust will convene a meeting of shareholders of each Fund to vote on approval of the respective New Agreements during the Interim Period (but in no event later than April 15, 2000).

4. OLDE Management or an affiliate, not the Funds, will bear the costs of preparing and filing the application and the costs relating to the solicitation of shareholder approval of the Funds necessitated by the Transaction.

5. OLDE Management will take all appropriate steps so that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the Trust's Board, including a majority of the Independent Trustees, to the scope and quality of services previously provided under the Existing Agreements. If personnel providing material services during the Interim Period change materially, OLDE Management will apprise and consult with the Board to assure that the trustees, including a majority of the Independent Trustees, of the Trust are satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30709 Filed 11–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

SUNSHINE ACT MEETING

AGENCY MEETING: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 29, 1999.

A closed meeting will be held on Wednesday, December 1, 1999, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, December 1, 1999, will be:

Institution and settlement of injunctive actions

Institution and settlement of administrative proceedings of an enforcement nature

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: November 23, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–30918 Filed 11–23–99; 2:54 pm]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New and Revised Tasks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new and revised task assignments for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of new tasks assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC) and of revisions to a number of existing tasks. This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Dorenda Baker, Transport Airplane Directorate, Aircraft Certification Service (ANM–110), 1601 Lind Avenue, SW., Renton, WA 98055; phone (425) 227–2109; fax (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is transport airplane and engine issues. These issues involve the airworthiness standards for transport category

airplanes and engines in 14 CFR parts 25, 33, and 35 and parallel provisions in 14 CFR parts 121 and 135. The corresponding Canadian standards are contained in Parts V, VI, and VII of the Canadian Aviation Regulations. The corresponding European standards are contained in Joint Aviation Requirements (JAR) 25, JAR–E, JAR–P, JAR–OPS–Part 1, and JAR–26.

As proposed by the U.S. and European aviation industry, and as agreed between the Federal Aviation Administration (FAA) and the European Joint Aviation Authorities (JAA), an accelerated process to reach harmonization has been adopted. This process is based on two procedures:

(1) Accepting the more stringent of the regulations in Title 14 of the Code of Federal Regulations (FAR), Part 25, and the Joint Airworthiness Requirements (JAR); and

(2) Assigning approximately 41 already-tasked significant regulatory differences (SRD), and certain additional part 25 regulatory differences, to one of three categories:

- Category 1—Envelope
- Category 2—Completed or near complete
- Category 3—Harmonize

The Revised Tasks

ARAC will review the rules identified in the "FAR/JAR 25 Differences List," dated June 30, 1999, and identify changes to the regulations necessary to harmonize part 25 and JAR 25. ARAC will submit a technical report on each rule. Each report will include the cost information that has been requested by the FAA. The tasks currently underway in ARAC to harmonize the listed rules are superseded by this tasking.

New Tasks

The FAA has submitted a number of new tasks for the Aviation Rulemaking Advisory Committee (ARAC), Transport Airplane and Engine Issues. As agreed by ARAC, these tasks will be accomplished by existing harmonization working groups. The tasks are regulatory differences identified in the above-referenced differences list as Rule type = P–SRD.

New Working Group

In addition to the above new tasks, a newly established Cabin Safety Harmonization Working Group will review several FAR/JAR paragraphs as follows:

ARAC will review the following rules and identify changes to the regulations necessary to harmonize part 25 and JAR:

(1) Section 25.787;
(2) Section 25.791(a) to (d);
(3) Section 25.810;
(4) Section 25.811;
(5) Section 25.819; and
(6) Section 25.813(c).

ARAC will submit a technical report on each rule. Each report will include the cost information that has been requested by the FAA.

The Cabin Safety Harmonization Working Group would be expected to complete its work for the first five items (identified as Category 1 or 2) before completing item 6 (identified as Category 3).

Schedule

Within 120 days of tasking/retasking:

- For Category 1 tasks, ARAC submits the Working Groups' technical reports to the FAA to initiate drafting of proposed rulemaking documents.
- For Category 2 tasks, ARAC submits technical reports, including already developed draft rules and/or advisory materials, to the FAA to complete legal review, economic analysis, coordination, and issuance.

June 2000: For Category 3 tasks, ARAC submits technical reports including draft rules and/or advisory materials to the FAA to complete legal review, economic analysis, coordination, and issuance.

ARAC Acceptance of Tasks

ARAC has accepted the new tasks and has chosen to assign all but one of them to existing harmonization working groups. A new Cabin Safety Harmonization Working Group will be formed to complete the remaining tasks. The working groups serve as staff to ARAC to assist ARAC in the analysis of the assigned tasks. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts a working group's recommendations, it forwards them to the FAA and ARAC recommendations.

Working Group Activity

All working groups are expected to comply with the procedures adopted by ARAC. As part of the procedures, the working groups are expected to accomplish the following:

1. Document their decisions and discuss areas of disagreement, including options, in a report. A report can be used both for the enveloping and for the harmonization processes.

2. If requested by the FAA, provide support for disposition of the comments received in response to the NPRM or review the FAA's prepared disposition of comments. If support is requested, the Working Group will review comments/disposition and prepare a report documenting their recommendations, agreement, or disagreement. This report will be submitted by ARAC back to the FAA.

3. Provide a status report at each meeting of ARAC held to consider Transport Airplane and Engine Issues.

Partcipation in the Working Groups

Membership on existing working groups will remain the same, with the formation of subtask groups, if appropriate. The Cabin Safety Harmonization Working Group will be composed of technical experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the Cabin Safety Harmonization Working Group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. All requests to participate must be received no later than December 30, 1999. The requests will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individuals will be advised whether or not the request can be accommodated.

Individuals chosen for membership on the Cabin Safety Harmonization Working Group will be expected to represent their aviation community segment and participate actively in the working group (e.g., attend all meetings, provide written comments when requested to do so, etc.). They also will be expected to devote the resources necessary to ensure the ability of the working group to meet any assigned deadline(s). Members are expected to keep their management chain advised of working group activities and decisions to ensure that the agreed technical solutions do not conflict with their sponsoring organization's position when the subject being negotiated is presented to ARAC for a vote.

Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the assistant executive director, and the working group chair.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public. Meetings of the working groups will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on November 19, 1999.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–30774 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RIN 2120–AA64

General Aviation Summit; Notice of Public Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting on the subject of the continued airworthiness of the U.S. general aviation fleet of aircraft. The purpose of the meeting is to gather information and discuss technical issues related to problems associated with the increasing average age of the general aviation fleet. Particular emphasis will be given to continued field support, service difficulty experiences and reporting, and inspection issues.

DATES: The public meeting will be held January 11–12, 2000, starting at 8:00 a.m. each day, in Kansas City, Missouri. Registration will begin at 8:00 a.m. on the first day of the meeting.

ADDRESSES: The public meeting will be held at the following location: The Adam's Mark Hotel, Grand Ballroom, 9103 East 39th Street, Kansas City, Missouri 64133.

Persons who are unable to attend the meeting may mail their comments to: Federal Aviation Administration, (FAA), Central Region, Small Airplane Directorate, Attention: Mr. Bill Timberlake, 901 Locust, Room 301, Kansas City, Missouri 64106. Written comments regarding the subject of this meeting will receive the same consideration as statements made at the public meeting.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the public meeting and questions regarding the logistics of the meeting should be directed to FAA, Central Region, Small Airplane Directorate, Attention: Mr. Bill Timberlake, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4178; facsimile (816) 329–4091.

SUPPLEMENTARY INFORMATION:

Participation at the Public Meeting

Requests from persons who wish to present oral statements at the public meeting should be received by the FAA no later than 10 days prior to the meeting. Such requests should be submitted to Mr. Bill Timberlake as listed in the section titled **FOR FURTHER INFORMATION CONTACT** above, and should include a written summary of oral remarks to be presented, and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Those persons desiring to have available audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Background

The average airplane in the general aviation fleet of the United States is approximately 34 years old. In the next 10 years, this average age is expected to rise to over 41 years old. By the year 2019, the average general aviation airplane will be almost 50 years old.

Certain type design airplanes may be subject to pending rulemaking, which would require the development of Structural Inspection Documents (SIDs), and a mandated structural inspection program. These actions, if adopted, would not commence for at least 5 years and may not be complete until the year 2010. This rulemaking would not affect airplanes utilized in accordance with Part 91 of the Federal Aviation Regulations (14 CFR part 91). The FAA has determined that as the general aviation fleet gets older, there is concern about ensuring the continued airworthiness of these airplanes.

In addition to these concerns, there are a large number of general aviation airplane manufacturers that have gone out of business or severely curtailed operations. The FAA is concerned about the less than optimum availability of resources to respond to any airworthiness problems on these airplanes. The FAA is aware that many of these "orphaned" airplanes are well supported by owner associations and spare parts manufacturers, but unfortunately, this support is not available in all cases.

The FAA has determined that it is in the public interest to hold a public meeting on this subject for the purpose of sharing information and gathering additional data. Accordingly, the FAA will conduct this public meeting in Kansas City, Missouri.

The FAA anticipates that the agency, industry, and the general public will use the public meeting as a forum to share information, resolve questions, and discuss potential solutions concerning the continued airworthiness of older general aviation airplanes.

Public Meeting Procedures

The following procedures have been established for this meeting:

1. Admission and participation in the public meeting is free. The meeting will be open to all persons who have requested in advance to present statements, or who register on the first day of the meeting (between 8:00 a.m. and 8:30 a.m.). Time availability for presentations and seating will be made according to the order of reservation.

2. Representatives from the FAA will conduct the public meeting. A technical panel of FAA personnel will discuss information presented by participants.

3. The public meeting is intended as a forum to share information and resolve questions concerning the continued airworthiness of older general aviation airplanes. Those sharing information will include industry, the general public, and operators of general aviation aircraft. Participants must limit their presentations to the issue.

4. All interested parties will have the opportunity to present any additional information not currently available to the FAA. The FAA will then have the opportunity to explain the methodology and technical assumptions supporting its current observations.

5. FAA personnel, industry, and public participants may engage in a full discussion of all technical material presented at the meeting. Anyone presenting conclusions will be expected to submit to the FAA data supporting those conclusions.

6. The FAA will try to accommodate all speakers. Time may be limited for each presentation.

7. Sign and oral interpretations will be made available at the meeting, including assistive listening devices, if requested 10 calendar days before the meeting.

8. The meeting (except for any breakout sessions) will be recorded by a court reporter. Any person who is interested in purchasing a copy of the

transcript should contact the court reporter directly. This information will be available at the meeting.

9. The FAA will review and consider all material presented by participants at the public meeting. Position papers or material presenting views or information related to the subject of the meeting may be accepted at the discretion of the presiding officer. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

10. Statements made by FAA personnel are intended to facilitate discussion of the issues or to clarify issues.

11. The meeting is designed to share information and solicit public views and additional information. The meeting will be conducted in an informal and nonadversarial manner.

Issued in Kansas City, Missouri on November 18, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30633 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Greater Peoria Regional Airport, Peoria, Illinois

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Greater Peoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 27, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, 2300 E. Devon Ave., Room 222, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to the Greater Peoria Regional Airport Authority, at the following address: Mr. Fred W. Traub, Director of Airports, Greater Peoria Regional Authority, 6100 W. Everett McKinley Dirksen Parkway, Peoria, Illinois 61607.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Greater Peoria Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Civil Engineer, Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, Room 222, 2300 E. Devon Ave., Des Planes, IL 60018, (847) 294–7195. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Greater Peoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 5, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Greater Peoria Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 4, 2000.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 2001.

Proposed charge expiration date: September 1, 2009.

Total estimated PFC revenue: $5,776,324.00.

Brief description of proposed projects: Rehabilitate Runway 4/22; rehabilitate and widen portions of the parallel taxiway system for Runway 4/22; entrance ring road rehabilitation and improvements; rehabilitate airport beacon; underground fuel storage tanks compliance with FAR 139; terminal expansion gates 2 and 3; passenger loading bridge; remove waivered obstruction from runway safety and object free areas; relocate Runway 31 takeoff threshold; widen southeast air cargo ramp; construct new taxiway from cargo apron to new threshold and relocate Smithville Road; remove taxiway from Runway 31 approach, relocate Runway 31 landing threshold, construct new connecting taxiway to new landing threshold; relocate Runway 31 glideslope, localizer and MALSR; flight information display system; public announcement system; rehabilitate and widen portions of the Runway 13/31 parallel taxiway system; snow removal equipment; construct new exit taxiway for Runway 13/31; construct new exit taxiway for Runway 4/22; rehabilitate/expand terminal apron ramp; landside site development for expansion of southeast air cargo park; rehabilitate baggage delivery system; land reimbursement; update ALP—Phases 1 and 2; airport environmental assessment.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Greater Peoria Regional Airport, 6100 W. Everett McKinley Dirksen Parkway, Peoria, Illinois.

Issued in Des Plaines, Illinois on November 17, 1999.

Benito De Leon,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region

[FR Doc. 99–30736 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charger (PFC) at Rhinelander-Oneida County Airport, Rhinelander, Wisconsin

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Rhinelander-Oneida County Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget

Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 27, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Joseph Brauer, Manager, Rhinelander-Oneida County Airport at the following address: Rhinelander-Oneida County Airport at the following address: Rhinelander-Oneida County Airport, 3375 Airport Road, Rhinelander, WI 54501–9178.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Rhinelander and County of Oneida, Wisconsin under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel J. Millenacker, Program Manager, Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Ave. So., Room 102, Minneapolis, MN 55450, (612) 713–4350. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PTC at Rhinelander-Oneida County Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 10, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Rhinelander and County of Oneida was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 9, 2000.

The following is a brief overview of the application.

PFC application number: 00–06–C–00–RHI.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 2000.

Proposed charge expiration date: October 31, 2004.

Total estimated PFC revenue: $335,056.00.

Brief description of proposed projects: (1.) Runway 5/23 Pavement Demolition; (2.) Y2K Compliance; (3.) Airfield Electrical Improvements; (4.) Terminal Apron Expansion; and (5.) PFC administration cost.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 air taxi/commercial operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Rhinelander-Oneida County Airport.

Issued in Des Plaines, Illinois on November 17, 1999.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 99–30737 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Advisory Council on Transportation Statistics

AGENCY: Bureau of Transportation Statistics.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 72–363; 5 U.S.C. App. 2) notice is hereby given of a meeting of the Bureau of Transportation Statistics (BTS) Advisory Council on Transportation Statistics (ACTS) to be held Monday, December 13, 1999, 10 to 4 p.m. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, in conference room 6332 of the Nassif Building.

The Advisory Council, called for under section 6007 of Public Law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

The agenda for this meeting will include an introduction of a new Advisory Council member, Director's programs update, BTS strategic plan, review of staffing, discussion of customer service outreach and marketing, report on focus groups held on BTS publications, update on safety conferences, identification of substantive issues, review of plans and schedule, other items of interest, discussion and agreement of date(s) for subsequent meetings, and comments from the floor.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Lillian "Pidge" Chapman, Council Liaison, on (202) 366–1270 prior to September 15. Attendance is open to the interested public but limited to space available. With the approval of the Chair, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting, should also contact Ms. Chapman.

Members of the public may present a written statement to the Council at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Chapman (202) 366–1270 at least seven days prior to the meeting.

Issued in Washington, DC, on November 19, 1999.

Ashish Sen,

Director.

[FR Doc. 99–30738 Filed 11–24–99; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before December 27, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1505.

Form Number: IRS Form 8820.

Type of Review: Extension.

Title: Orphan Drug Credit.

Description: Filers use this form to elect to claim the orphan drug credit.

which is 50% of the qualified clinical testing expenses paid or incurred with respect to low or unprofitable drugs for rare diseases and conditions, as designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—6 hr., 13 min. Learning about the law or the form—1 hr., 0 min. Preparing and sending the form to the IRS—1 hr., 8 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 836 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–30707 Filed 11–24–99; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register
Vol. 64, No. 227
Friday, November 26, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 42113; File No. SR-Phlx-99-40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Communications With Customers or Members of the Public

November 8, 1999.

Correction

In notice document 99–29876 beginning on page 62239 in the issue of Tuesday, November 16, 1999, make the following correction:

On page 62239, in the third column, insert the date "November 8, 1999" as in the heading above.

[FR Doc. C9–29876 Filed 11–24–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AGL-52]

Proposed Modification of Class E Airspace; Steubenville, OH

Correction

In proposed rule document 99–28619 beginning on page 59688 in the issue of Wednesday, November 3, 1999, make the following correction:

On page 59689, in the first column, six lines from the bottom, "Stuebenville" should be spelled "Steubenville".

[FR Doc. C9–28619 Filed 11–24–99; 8:45 am]

BILLING CODE 1505–01–D

VOL 64 ISS 227 NO 26 1999 UMI

federal register

Friday
November 26, 1999

Part II

Department of Housing and Urban Development

24 CFR Parts 5 and 200

Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties; Proposed Rules

VOL 64 ISS 227 NO 26 1999 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 200

[Docket No. FR–4452–P–01]

RIN 2501–AC45

Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes for multifamily housing (non-public housing as more fully described in the Supplementary Information section) certain administrative processes by which HUD will notify owners of HUD's assessment of the physical condition of their multifamily housing; the owners, under certain circumstances, will be provided an opportunity to seek technical review of HUD's physical condition assessment of the multifamily housing; and HUD may take action in certain cases where the housing is found not to be in compliance with the physical condition standards.

DATES: Comments Due Date: January 25, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For further information about multifamily issues covered by this rule, contact: Kenneth Hannon, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6274, Washington, DC 20410; telephone (202) 708–0547, ext. 2599 (this is not a toll-free number).

For further information about the scoring methodology or the technical review process, contact: Wanda Funk, Real Estate Assessment Center, Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC, 20024; telephone Customer Service Center at 1–888–245–4860 (this is a toll-free number).

For both offices, persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at 1–800 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background—Uniform Physical Conditions Standards and Uniform Physical Inspection Protocols

On September 1, 1998 (63 FR 46566), HUD published a final rule that established uniform physical condition standards for public housing, and housing that is insured and/or assisted under certain HUD programs (collectively, HUD properties). The September 1, 1998, final rule also established uniform physical inspection protocols, based on computerized software developed by HUD, that allows HUD to determine compliance with these standards. The uniform physical condition standards are intended to ensure that HUD program participants carry out their legal obligations to maintain HUD properties in a condition that is decent, safe, sanitary and in good repair. The uniform inspection protocols are intended to assure that, to the greatest extent possible, there is uniformity and objectivity in the evaluation of the physical condition of HUD properties.

Before issuance of the September 1, 1998, final rule, HUD properties were required to meet physical condition standards and to undergo an annual physical inspection. The standards and inspection protocols which were then applicable to these properties, however, varied from HUD program to HUD program. The September 1, 1998, final rule was the first step directed toward achieving uniformity and consistency in the physical condition standards applicable to all HUD properties and in the inspection procedures to be used. For multifamily housing (as defined in Section IV of this preamble), the September 1, 1998, final rule represented the first step toward uniform and standardized assessment of the physical condition of multifamily housing properties. This proposed rule proceeds to the next stage which is to establish for multifamily housing properties certain administrative processes by which (1) HUD will notify owners of HUD's assessment of the physical condition of their multifamily housing properties; (2) the owners, under certain circumstances, will be provided an opportunity to seek technical or other review of HUD's physical condition assessment of the multifamily housing properties; and (3) HUD may take action in certain cases where a property is found not to be in compliance with the physical condition standards.

II. Assessing and Scoring the Physical Condition of HUD Properties—HUD's Real Estate Assessment Center

The establishment of a system by which all HUD properties are assessed for compliance with physical conditions standards using uniform criteria is one of the key reforms of the HUD 2020 Management Reform Plan. The HUD 2020 Management Reform Plan, announced by Secretary Andrew Cuomo on June 26, 1997, is directed to (1) empowering people and communities to improve themselves, and (2) restoring HUD's reputation and credibility by improving the efficiency and effectiveness of HUD's programs, operations and delivery of services. Under the HUD 2020 Management Reform Plan, HUD's newly established Real Estate Assessment Center (REAC) is charged, among other things, with the responsibility for assessing and scoring the physical condition of HUD properties. Until the establishment of the REAC, HUD's Office of Housing and its Office of Public and Indian Housing independently operated separate real estate assessment operations, yet the administration of both organization's multifamily portfolios is a common function of asset management. In the HUD 2020 Management Reform Plan, HUD advised that the assessment of all properties of the Office of Housing and the Office of Public and Indian Housing would be consolidated, and the evaluation standards and procedures would be made uniform to the greatest extent possible. The REAC is responsible for assessing and scoring the performance of HUD properties.

With the establishment of the REAC, HUD now has in place an effective and comprehensive assessment system for physically inspecting and financially assessing all HUD properties using uniform inspection protocols. Application of uniform physical condition standards to all HUD properties and evaluation through uniform inspection protocols are important to a fair assessment process. One of HUD's objectives under HUD 2020 Management Reform is not only to identify where performance by program participants fails to meet acceptable standards (and to assist these participants in improving their performance or take enforcement action where appropriate), but also to identify those program participants that meet or

exceed acceptable standards and to provide incentives to these participants wherever possible. As part of the administrative processes to be established by this proposed rule, the REAC has begun a baseline physical inspection review of certain multifamily housing properties (baseline review). This review was announced by notice published in the **Federal Register** on February 9, 1999 (64 FR 6370) (February 9, 1999 Baseline Notice). This review was requested by the Congressional conferees in the FY 1999 HUD Appropriations Act.

III. Enforcing Compliance with HUD Program Requirements—HUD's Enforcement Center

Under the HUD 2020 Management Reform Plan, HUD has combined certain non-civil rights enforcement actions into one authority—the Departmental Enforcement Center (DEC). Before establishment of the DEC, each of HUD's program offices (the Office of Community Planning and Development, the Office of Housing, and the Office of Public and Indian Housing) operated independent enforcement functions, with different standards and procedures. The DEC is now the central Departmental office for taking action against owners of HUD assisted or insured properties determined to be in noncompliance with the rules and regulations of the Department or their contractual obligations with the Department. As will be discussed in more detail below, the DEC will have an important role in the administrative process, proposed in this rule, for covered multifamily housing.

IV. This Proposed Rule—Administrative Process for Scoring and Ranking Multifamily Housing Properties

(A) Covered Multifamily Housing Properties

Multifamily housing properties covered by this rule are the same as those listed in 24 CFR 5.701(a) and (b), published on September 1, 1998.

These properties are:

(a) Housing assisted by HUD under the following programs:

(1) All Section 8 project-based assistance. "Project-based assistance" means Section 8 assistance that is attached to the structure (see 24 CFR 982.1(b)(1) regarding the distinction between "project-based" and "tenant-based" assistance);

(2) Section 202 Program of Supportive Housing for the Elderly (Capital Advances);

(3) Section 811 Program of Supportive Housing for Persons with Disabilities (Capital Advances); and

(4) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).

(b) Housing with mortgages insured or held by HUD, or housing that is receiving insurance from HUD, under the following authorities:

(1) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

(2) Section 213 of the NHA (Cooperative Housing Insurance);

(3) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(4) Section 221(d)(3) of the NHA (Market Interest Rate (MIR) Program);

(5) Section 221(d)(3) and (5) of the NHA (Below Market Interest Rate (BMIR) Program);

(6) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(7) Section 231 of the NHA (Housing for Elderly Persons);

(8) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Assisted Living Facilities, Board and Care Homes);

(9) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(10) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(11) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(12) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

As noted above, the covered properties are the same as those listed in 24 CFR 5.701(a) and (b) of the September 1, 1998, final rule. In the September 1, 1998, final rule, the reference to 'section 221(d)(3) and (5) of the NHA (Housing for Moderate Income and Displaced Persons)' is intended to cover both the section 221(d)(3) BMIR (Below-Market Interest Rate) program *and* the section 221(d)(3) MIR (Market Interest Rate) program. HUD now recognizes, however, that there is a possibility for confusion with this reference because one could misconstrue the reference as only applicable to section 221(d)(3) BMIR properties. A section 221(d)(3) BMIR property is insured under section 221(d)(3) of the NHA as is the section 221(d)(3) MIR Program, but the below-market interest rate for the section 221(d)(3) BMIR Program is provided pursuant to section 221(d)(5). Therefore, in this proposed rule, the coverage is more precisely delineated by reflecting the separate references to both programs.

(B) Process for Assessing, Scoring and Ranking Multifamily Housing Properties

For owners of covered multifamily housing properties, this proposed rule would add a new subpart P to 24 CFR part 200, to establish an assessment process for multifamily housing properties which would include the following components.

(1) *Scoring and Ranking the Physical Condition of Multifamily Housing Properties.* The rule proposes to establish a system for ranking multifamily housing properties covered by the February 9, 1999 Baseline Notice. For these properties, the ranking is based on the physical inspection results of the baseline review. Newly endorsed multifamily properties will be inspected in the first year after endorsement and then ranked in accordance with the process described in this proposed rule.

(a) *Physical Condition Designations.* Depending upon the results of its physical condition inspection, a multifamily housing property would be assigned one of the following designations: (1) Standard 1 performing property; (2) standard 2 performing property; or (3) standard 3 performing property. The physical condition designation assigned to a multifamily housing property will be based on numerical thresholds developed as a result of the REAC's baseline review of multifamily properties. This rule does not propose to establish at this time the numerical scores that will distinguish between the three categories of properties. HUD believes that meaningful numerical thresholds can only be determined after the REAC substantially completes its baseline review (using HUD's new uniform and computerized physical inspection protocol), and the REAC has had sufficient time to properly evaluate this data.

(b) *Methodology for Ranking.* When the baseline review is substantially completed, multifamily housing properties will be ranked in accordance with the following methodology. Multifamily housing properties are scored on the basis of 100 point scale. For each designation category, the lowest score in the category becomes the numerical threshold for that category.

(i) *Standard 1 Performing Properties—Highest 20 Percent.* Covered multifamily housing properties scoring in the highest 20 percent of a physical

condition inspection will be designated standard 1 performing properties and will be required to undergo a physical inspection once every three (3) years.

(ii) *Standard 2 Performing Properties—Next Highest 30 Percent.* Covered multifamily housing properties scoring in the next highest 30 percent of a physical condition inspection will be designated standard 2 performing properties and only will be required to undergo physical inspection once every two (2) years.

(iii) *Standard 3 Performing Properties—Remaining 50 Percent.* Covered multifamily housing properties scoring in the remaining 50 percent will be designated standard 3 performing properties, will be required to continue with the annual physical inspection currently required under covered HUD programs.

Example of Designation Process. To illustrate more clearly how the ranking will be done, assume for purposes of this example that the baseline review shows that those multifamily housing properties that rank in the top 20 percent have physical condition scores ranging from 100 to 80 with 100 being the maximum number of points that can be received for a physical condition inspection. As a result of this baseline review, all properties scoring 80 and above will be designated standard 1 performing properties.

Further assume for purposes of this illustration that the multifamily housing properties that fall into the next category of 30 percent have physical condition scores ranging from less than 80 but at least 70. These properties will be designated standard 2 performing properties, and all properties thereafter scoring at least 70, but less than 80, will be standard 2 performing properties.

The remaining 50 percent of multifamily properties will have scores of less than 70. These properties will be designated standard 3 performing properties, with the threshold being less than 70.

Resolving Exigent Health and Safety Deficiencies. Owners of multifamily housing properties scoring in a standard 1 or standard 2 range which have been cited by the REAC as having a Exigent Health and Safety deficiency(s) are obligated to resolve the deficiency(s) to be classified as standard 1 and standard 2 properties. The owners must certify and provide reasonable evidence that the deficiency(s) has been resolved to the applicable Multifamily Hub Director.

Meeting Physical Condition Standards Notwithstanding Performance Designation. Regardless of the performance designation assigned to an owner's property, an owner is obligated to maintain its property in accordance with HUD's uniform physical condition standards as required by 24 CFR part 5, subpart G, the Regulatory Agreement and/or the Housing Assistance Payment (HAP) Contract. Good management principles require an owner to conduct routine inspections of its projects, develop improvement plans, and again, maintain its property to meet the standard of decent, safe, sanitary and in good repair.

(c) *Inspecting and Scoring Individual Properties.* The process by which scores are developed was discussed in HUD's notice, "Public Housing Assessment System; Notice of Physical Condition Scoring," published in the **Federal Register** on May 13, 1999, and again on June 23, 1999. Although this notice was directed to public housing agencies and describes the physical condition scoring process under the Public Housing Assessment System, the process for determining scores is the same for multifamily housing properties. The physical condition scoring process for both public housing and multifamily properties is based on HUD's uniform physical condition standards and use of HUD's uniform physical inspection protocols.

The physical condition designation assigned to a multifamily housing property does not prohibit HUD (the REAC, DEC or the Office of Housing) from conducting an inspection on any covered multifamily housing property at any time that HUD has reason to believe that the property has deteriorated significantly, or if information is brought to HUD that the physical condition of the property has deteriorated significantly, since the date that the last inspection was conducted. If HUD's new inspection verifies that the multifamily housing property has deteriorated significantly, HUD may revise the physical condition designation of the property, or take whatever action may be appropriate.

In addition to physical inspections performed to determine the physical condition of multifamily properties as provided by this rule, HUD may perform interim inspections for certain purposes such as section 8 contract renewal, partial release of security, permission to sell the security, or in connection with mortgage restructuring.

(2) *Technical Review of Physical Inspection Score Results.* This rule proposes to adopt as one of the administrative processes for multifamily housing properties, the technical review of physical inspection results described in HUD's notice, "Real Estate Assessment Center; Technical Review of Physical Inspection Results," published in the **Federal Register** on May 13, 1999. The **Federal Register** notice describes the process for requesting (of the REAC) and the granting (by the REAC) a technical review of physical inspection results for public housing agencies. Based on that notice, this rule proposes to adopt the following procedures for covered multifamily housing properties.

Review of Physical Inspection Report and Identification of Objectively Verifiable and Material Error. Upon completion of a physical inspection of a multifamily housing property, the REAC will provide the owner with a physical inspection report. The physical inspection report includes a copy of the physical inspection results, the physical condition score and ranking, an explanation of the score and the owner's rights to request a technical review no later than 30 days following issuance of the physical inspection results to the owner. The rule imposes the responsibility on the owner to carefully review the report, particularly those items classified as exigent health and safety (EHS). All EHS items must be mitigated immediately, and the owner is required to file a written report with the local HUD office within 72 hours of the inspection. The owner is also responsible for conducting its own survey of the total project based on the REAC's physical inspection findings.

If the owner reasonably believes that an objectively verifiable and material error (or errors) occurred in the inspection of an owner's multifamily housing property, which, if corrected, would result in a significant improvement in the property's overall score, the owner may request a technical review of the physical inspection results of the property.

Request for Technical Review and Burden of Proof. Until electronic transmission is arranged between HUD and the owner, the owner has a period of 30 calendar days to (i) review the physical inspection results and property score and determine if the results and score indicate that an objectively verifiable and material error (or errors) occurred in the inspection, which if corrected would result in a significant improvement in the property's overall score; and (ii) request a technical review by the REAC of the property's physical inspection results. A request for a technical review of physical inspection results must be submitted in writing to the Director of the Real Estate Assessment Center and must be received by the REAC, with a copy to the Multifamily Hub Director (MFD), no later than the 30th calendar day

following issuance of the physical inspection report to the owner. Note that the review period of 30 days will be the requisite review period only until electronic transmission of the physical inspection report is established. When electronic transmission is arranged between HUD and the owner, the review period will be 15 calendar days.

The request must be received by the REAC and be accompanied by the owner's reasonable evidence that an objectively verifiable and material error (or errors) occurred, which if corrected would result in a significant improvement in the property's overall score. A technical review of physical inspection results will not be conducted based on conditions that were corrected subsequent to the inspection nor will the REAC consider a request for a technical review that is based on a challenge to the inspector's findings as to the severity of a deficiency (e.g., categorization of the deficiency as minor, major or severe).

The burden of proof rests with the owner to reasonably demonstrate that an objectively verifiable and material error occurred in the inspection through the submission of evidence, which would result in a significant improvement in the property's overall score. To support its request for a technical review of the physical inspection results, the owner may submit photographic evidence, written material from an objective source such as a local fire marshal or building code official, or other similar evidence.

What Constitutes Material Errors. An objectively verifiable material error must be present to allow for a technical review of physical inspection results. Material errors are those that exhibit specific characteristics and meet specific thresholds. The three types of material errors are as follows.

1. *Building Data Error.* A building data error occurs if the inspection includes the wrong building or a building that was not owned by the subject project owner, including common or site areas that were not a part of the property. Incorrect building data that does not affect the score, such as the address, building name, year built, etc., would not be considered material, but is information that HUD needs to know, and will be corrected upon notice to the REAC.

2. *Unit Count Error.* A unit count error occurs if the total number of units involved in the scoring process is incorrect. Since the scoring process uses total units, the REAC will examine instances where the participant can provide evidence that the total units used is incorrect.

3. *A Non-Existent Deficiency Error.* A non-existent deficiency error occurs if the inspection cites a deficiency that does not exist.

What Constitutes Significant Improvement. Significant improvement refers to the correction of a material error, asserted by the owner, which causes the score for the owner's property to improve by crossing an administratively significant threshold (for example, the property would be redesignated from standard 3 performing to standard 2 performing or from standard 2 performing to standard 1 performing).

Determining Whether Material Error Occurred and What Action Is Warranted. Upon receipt of the owner's request for technical review of a property's physical inspection results, the REAC will evaluate the owner's property file and the evidence provided by the owner that an objectively verifiable and material error occurred which, if corrected, would result in a significant improvement in the property's overall score. If the REAC's evaluation determines that an objectively verifiable and material error (or errors) has been reasonably documented by the owner and if corrected would result in a significant improvement in the property's overall score, then the REAC shall take one or a combination of the following actions: (1) Undertake a new inspection; (2) correct the inspection report; or (3) issue a new physical condition score.

For an owner to understand how the REAC may conclude that a significant improvement may result from a new inspection, the owner may use the REAC's document titled "Items, Weights and Criticality Levels" to determine whether a significant improvement in the property's score may result from a new inspection. This document was included as Appendix 1 in the Notice of Physical Condition Scoring, published in the **Federal Register** on May 13, 1999, and republished on June 23, 1999 (64 FR 33650). The different severity levels of deficiencies (severe, major and minor) are defined in the REAC's "Dictionary of Deficiencies Definitions," which is included as Appendix 2 in the Notice of Physical Condition Score published on May 13, 1999. These two documents are also available on the REAC Internet Site at http://www.hud.gov/reac.

Responsibility for the Cost of a New Inspection. If a new inspection score results in a significant improvement from the original physical inspection score, HUD shall bear the expense of the new inspection. If no significant improvement in the score is shown, then the owner must bear the expense of the new inspection. The cost of the new inspection, if paid by the owner, is not a valid project operating expense. The new inspection score will be considered the final score.

(3) Adjustment of Physical Condition Score Based on Considerations Other Than Technical Review and Reinspection. Under certain circumstances, it may be appropriate for HUD to review the results of a physical inspection which are anomalous or have an incorrect result due to facts and circumstances affecting the inspected property which are not reflected in the inspection or reflected inappropriately in the inspection. Circumstances such as, but not necessarily limited to, inconsistencies between local code requirements and the HUD physical inspection protocol; conditions which are permitted by variance or license or which are preexisting physical features non-conformities and are inconsistent with the HUD physical condition protocol; or cases where the owner has been scored for elements (e.g., roads, sidewalks, mail boxes, resident owned appliances, etc.) that it does not own and is not responsible for maintaining, may be addressed by a formal procedure to be initiated by the owner's notification to the applicable HUD Field Office and submission to that office of appropriate proof of the anomalous or inappropriate application. This process may result in a reinspection and/or rescoring of the inspection based on Office of Housing recommendation after review and approval of the owner's submission of appropriate proof of the anomalous or inappropriate application. An owner may submit the request for this adjustment either prior to or after the physical inspection has been concluded. HUD shall define, by notice, the procedures to be followed to address circumstances described in paragraph (e) of this section. The procedures outlined in this Notice shall be binding on the REAC, the Office of Housing and the DEC. The notice will be applicable to both public housing and multifamily properties.

(C) Administrative Review of Properties Referred to the Departmental Enforcement Center

The files of any of the multifamily housing properties may be submitted to HUD's Departmental Enforcement Center (DEC) or to the appropriate MFD for evaluation, or both, at the discretion of the Office of Housing. For these properties, the following will occur:

(1) *Notification to Owner of Submission of Property File to the MFD and DEC.* The Department will provide

for written notification to the owner that the file on the owner's property is being submitted to the MFD and/or DEC for evaluation. The written notification will be provided by HUD at the time the REAC issues the physical inspection report to the owner or at such other time as referral occurs.

(2) *30-Day Period for Owner to Provide the DEC with Supporting and Relevant Information and Documentation.* The owner has 30 calendar days, from the date of written notification to the owner, to provide comments, proposals, or any other information which will assist the MFD and DEC in conducting a comprehensive evaluation of the property. A proposal provided by an owner may include the owner's plan to correct deficiencies (corrective action plan), which is encouraged by the DEC. During the 30-day response time available to the owner, the DEC may encourage the owner to submit a corrective action plan. The corrective action plan, if timely submitted during the 30-day period (whether on the owner's initiative or at the request of the DEC), may serve as additional information for the DEC to consider in determining appropriate action to take at the conclusion of the evaluation period. A corrective action plan may be required of the owner at the conclusion of the DEC's evaluation of the property.

(3) *Evaluation of the Property.* During the evaluation period, the DEC will perform an analysis of the multifamily housing property. The evaluation may include input from tenants, HUD multifamily officials, elected officials and others as may be appropriate. The MFD will assist with the evaluation of the property. The DEC will have primary responsibility for the conclusion of the evaluation of the property after taking into consideration the input of the individuals and groups listed above. The DEC's evaluation may include a site visit to the owner's property.

The DEC is committed to perform its evaluation as quickly as possible. The comments and proposals of the owners which have been provided since the REAC inspection, and any repairs that have been made since the REAC inspection, will be given serious consideration during the DEC evaluation period. During this evaluation period, since the owner and the Multifamily Hub have now been made aware of serious deficiencies at the property which resulted in the low REAC score, the owner must exert a full measure of oversight and ensure that all deficiencies are corrected.

(4) *Continuing Responsibilities of HUD Multifamily Program Offices and Mortgagee.* During the period of DEC evaluation, HUD's multifamily program offices continue to be responsible for routine asset management tasks on properties and all servicing actions (e.g., rent increase decisions, releases from reserve account approvals). In addition, during this period of evaluation, for insured mortgages, the mortgagee shall continue to carry out its duties and responsibilities with respect to the mortgage.

As part of its evaluation and development of the compliance plan (discussed under Section (D) below), the DEC will put together a team to evaluate and develop a corrective action plan. The Multifamily Hub Program Office will assign a Senior Project Manager to the team, who will be a working member of the team and serve as team liaison to the HUB Director. If conflict or an impasse develops during the team's assignment, the liaison will notify the Multifamily Hub Director who will work to mitigate and eliminate all conflict. The Multifamily Hub Director may, if appropriate, enlist the assistance of the Office of Housing/DEC liaison in Headquarters to resolve any disputes.

(D) Enforcement Action

If, at the conclusion of the evaluation period, the DEC determines that enforcement action is appropriate, the DEC will provide written notification to the owner of the DEC's decision to formally accept the property for enforcement purposes.

(1) *DEC Owner Compliance Plan.* After notification to the owner of the DEC's decision, the DEC will produce a proposed action plan (DEC Compliance Plan), the purpose of which is to improve the physical condition of the owner's property and correct any other known violations by the owner of its regulatory, contractual or other obligations. The DEC Compliance Plan will describe (1) the actions that will be required of the owner to correct, mitigate or eliminate identified property deficiencies, problems, hazards, and/or address legal violations by owners, and (2) the period of time within which these actions must be completed. The DEC Compliance Plan will specify the compliance responsibilities of the owner.

The DEC Compliance Plan will be submitted to the MFD for review and concurrence. If the MFD does not concur, the DEC Compliance Plan will be submitted to the Deputy Assistant Secretary for Housing and the Deputy Director of the DEC for review and concurrence. If the DEC Compliance Plan remains unapproved, a final decision on the plan will be made by HUD's Deputy Secretary in consultation with the General Counsel, the Assistant Secretary for Housing, and the Director of the DEC.

The owner will be provided a period of 30 calendar days to review the DEC Compliance Plan and respond to the DEC. If the owner agrees to comply with the DEC Compliance Plan, the plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(2) *Counter Compliance Plan Proposal By Owner.* The owner may submit a counter proposal to the DEC Compliance Plan. An owner's counter proposal to a DEC Compliance Plan must be submitted no later than the 30th day following submission of the DEC Compliance Plan to the owner. The DEC, in coordination with the MFD, may enter into discussions with the owner to achieve agreement to a revised DEC Compliance Plan. If the owner and the DEC agree on a revised DEC Compliance Plan, the revised plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(3) *Non-Cooperation and Non-Compliance by Owner.* If at the conclusion of the 30th calendar day following submission of the DEC Compliance Plan to the owner, the DEC receives no response from the owner, or the owner refuses to accept the DEC Compliance Plan or to present an acceptable counter compliance plan proposal, or if the owner accepts the DEC Compliance Plan or revised DEC Compliance Plan, but refuses to take the actions required of the owner in the plan, the DEC may take appropriate enforcement action.

(4) *No Limitation on Existing Enforcement Authority.* The proposed rule will emphasize that the administrative process established for multifamily housing properties will not prohibit the Office of Housing, the DEC or HUD generally to take whatever immediate action may be necessary, as authorized under existing statutes, regulations, contracts or other documents, to protect HUD's financial interests in multifamily properties and to protect the residents of these properties.

(E) Clarification of Certain Issues Related to Physical Inspection of Multifamily Housing Properties

(1) *Recurring Inspection of Properties.* In response to concerns raised at the

time of issuance of the September 1, 1998, final rule, about the possibility of more inspections being performed prior to the property's normal inspection schedule, this rule proposes to clarify that any additional inspection will occur under the following circumstances: (i) The REAC's baseline inspection of the property after the mortgagee has conducted its own inspection in accordance with existing requirements; (ii) at the request of the owner in accordance with the procedures discussed earlier in this preamble; (iii) as part of the administrative review process described in this proposed rule; (iv) in response to HUD's belief that the property has deteriorated significantly since its previous physical inspection, or information brought to HUD that a property has significantly deteriorated since its previous physical inspection; (v) as part of quality control to assure that inspections are being conducted properly; (vi) for special purposes including but not limited to partial release of security, permission to sell the security, or in connection with mortgage restructuring; or (vii) to conduct an inspection in conjunction with any possible enforcement action by HUD.

(2) *Information about the Physical Inspection System.* In the preamble to the September 1, 1998, uniform physical conditions final rule, HUD advised that it would make the inspection software and guidebook available from the REAC. Both the software and guidebook are available from the REAC web page at www.hud.gov/reac, or through the REAC Customer Service Center at no cost (besides nominal cost of shipping) by calling 1–888–245–4860. Public versions of the physical inspection software will be available on compact disk (CD) and can be obtained by calling the REAC Customer Service Center. REAC may update or revise the physical inspection software and guidebook from time to time. When requesting the physical inspection software and guidebook, the requestor will be asked to provide the Uniform Resource Locator (URL) for their firm or organization, the requester's e:mail address and post office mailing address.

(3) *Material Alteration of Physical Inspection Software.* In response to concerns raised at the time of issuance of the September 1, 1998, final rule, about the cost of the physical inspection protocol, HUD advises that it will not materially alter the physical inspection requirements in a manner which would materially increase the cost of performing the inspection.

(F) Enforcement Issues of Concern to Small Entities

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 847, approved March 29, 1996) ("SBREFA") provides, among other things, for agencies to establish specific policies or programs to assist small entities. Small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. On May 21, 1998 (63 FR 28214), HUD published a **Federal Register** notice describing HUD's actions on implementation of SBREFA.

Section 223 of SBREFA requires agencies that regulate the activities of small entities to establish a policy or program to reduce or, *under appropriate circumstances*, waive civil penalties when a small entity violates a statute or regulation. Where penalties are determined appropriate, HUD's policy is to consider: (1) The nature of the violation (the violation must not be one that is repeated or multiple, willful, criminal or poses health or safety risks), (2) whether the entity has shown a good faith effort to comply with the regulations; and (3) the resources of the regulated entity. Depending upon the circumstances surrounding the violation, it is not HUD's intent to put any individual or entity out of business by the penalties or settlement amounts paid to the Federal Government.

With respect to DEC enforcement actions taken in accordance with this proposed rule, HUD is cognizant that section 222 of SBREFA requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel." To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices which are provided to small businesses concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call 1–888–REG–FAIR (1–888–734–3247).

As HUD stated in its May 21, 1998 notice, HUD intends to work with the Small Business Administration to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

V. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Estimates of the total reporting and recordkeeping burden that will result from the collection of information are as follows:

Reporting and Recordkeeping Burden:

Section reference	Number of parties	Annual freq. of requirement	Est. Avg. time for requirement (hours)	Est. annual burden (hrs.)
§ 200.857	29,000	1	3	87,000
Total Reporting and Recordkeeping Burden (Hours).				

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within sixty (60) days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4452) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

and

Oliver Walker, Reports Liaison Officer, Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, 451—7th Street, SW, Room 4238, Washington, DC 20410

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review*, issued by the President on September 30, 1993. OMB determined that this proposed rule is a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made in this proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule is not anticipated to have a significant economic impact on a substantial number of small entities. As stated in the June 30, 1998, proposed rule and September 1, 1998, final rule on uniform physical condition standards, all HUD housing has been subject to physical condition standards and a physical inspection requirement. There are statutory directives to maintain HUD housing in a condition that is decent, safe, and sanitary. The rules on uniform physical conditions standards and uniform physical inspections do not alter these requirement, nor do they shift responsibility with respect to who conducts the physical inspection of the property. The entities and individuals responsible for the inspection of HUD subsidized properties remain responsible. This proposed rule is a follow-up to the September 1, 1998, final rule on uniform physical inspection standards by establishing an administrative process by which multifamily housing properties are analyzed, scored and ranked. With the exception of exigent circumstances, the administrative process, as described in the preamble, allows for appropriate and reasonable notice and opportunity for review and comment, and a reasonable period for corrective action. With respect to the physical inspection process itself, in the preamble to this proposed rule, HUD reiterated its commitment to provide the software at no cost to covered entities as well as the accompanying guidebooks and to publish a notice that gives covered entities reasonable notice of when the software and guidance are available. With the implementation of any new or modified program requirement, HUD intends to provide guidance to the covered entities, particularly small entities, to assist them in understanding the changes being made. Notwithstanding HUD's determination that this proposed rule would not have a significant economic impact on small entities, HUD specifically invites comments regarding alternatives to this proposed rule that would meet HUD's objectives as described in this preamble.

Executive Order, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the programs that would be affected by this proposed rule are:

14.126—Mortgage Insurance—Cooperative Projects (Section 213)
14.129—Mortgage Insurance—Nursing Homes, Intermediate Care Facilities, Board and Care Homes and Assisted Living Facilities (Section 232)
14.134—Mortgage Insurance—Rental Housing (Section 207)
14.135—Mortgage Insurance—Rental and Cooperative Housing for Moderate Income Families and Elderly, Market Rate Interest (Sections 221(d) (3) and (4))
14.138—Mortgage Insurance—Rental Housing for Elderly (Section 231)
14.139—Mortgage Insurance—Rental Housing in Urban Areas (Section 220 Multifamily)
14.157—Supportive Housing for the Elderly (Section 202)
14.181—Supportive Housing for Persons with Disabilities (Section 811)
14.188—Housing Finance Agency (HFA) Risk Sharing Pilot Program (Section 542(c))
14.856—Lower Income Housing Assistance Program—Section 8 Moderate Rehabilitation

List of Subjects in 24 CFR Parts 5 and 200

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low- and moderate-income housing, Mortgage insurance, Pets, Public

housing, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, title 24 of the CFR is proposed to be amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for 24 CFR Part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. In § 5.701, paragraph (a) is revised, and a new paragraph (b) is added to read as follows:

§ 5.701 Applicability.

(a) This subpart applies to housing assisted under the HUD programs listed in 24 CFR 200.853(a).

(b) This subpart applies to housing with mortgages insured or held by HUD, or housing that is receiving assistance from HUD, under the programs listed in 24 CFR 200.853(b).

* * * * *

PART 200—INTRODUCTION TO FHA PROGRAMS

3. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715–18; 42 U.S.C. 2535(d).

4. A new subpart P is added to 24 CFR part 200 to read as follows:

Subpart P—Physical Condition of Multifamily Properties

Sec.

200.850 Purpose.
200.853 Applicability.
200.855 Physical condition standards.
200.857 Administrative process for scoring and ranking the physical condition of multifamily housing properties.

Subpart P—Physical Condition of Multifamily Properties

§ 200.850 Purpose.

The purpose of this subpart is to establish the physical conditions standards and physical inspection requirements that are applicable to certain multifamily housing properties.

§ 200.853 Applicability.

This subpart applies to:

(a) Housing assisted by HUD under the following programs:

(1) All Section 8 project-based assistance. "Project-based assistance" means Section 8 assistance that is attached to the structure (see 24 CFR 982.1(b)(1) regarding the distinction between "project-based" and "tenant-based" assistance);

(2) Section 202 Program of Supportive Housing for the Elderly (Capital Advances);

(3) Section 811 Program of Supportive Housing for Persons with Disabilities (Capital Advances); and

(4) Section 202 loan program for projects for the elderly and handicapped (including 202/8 projects and 202/162 projects).

(b) Housing with mortgages insured or held by HUD, or housing that is receiving insurance from HUD, under the following authorities:

(1) Section 207 of the National Housing Act (NHA) (12 U.S.C. 1701 *et seq.*) (Rental Housing Insurance);

(2) Section 213 of the NHA (Cooperative Housing Insurance);

(3) Section 220 of the NHA (Rehabilitation and Neighborhood Conservation Housing Insurance);

(4) Section 221(d)(3) of the NHA (Market Interest Rate (MIR) Program);

(5) Section 221(d)(3) and (5) of the NHA (Below Market Interest Rate (BMIR) Program);

(6) Section 221(d)(4) of the NHA (Housing for Moderate Income and Displaced Families);

(7) Section 231 of the NHA (Housing for Elderly Persons);

(8) Section 232 of the NHA (Mortgage Insurance for Nursing Homes, Intermediate Care Facilities, Assisted Living Facilities, Board and Care Homes);

(9) Section 234(d) of the NHA (Rental) (Mortgage Insurance for Condominiums);

(10) Section 236 of the NHA (Rental and Cooperative Housing for Lower Income Families);

(11) Section 241 of the NHA (Supplemental Loans for Multifamily Projects); and

(12) Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) (Housing Finance Agency Risk Sharing Program).

§ 200.855 Physical condition standards and physical inspection requirements.

The physical condition standards and physical inspection requirements in 24 CFR part 5, subpart G, are applicable to the properties assisted or insured that are listed in § 200.853.

§ 200.857 Administrative process for scoring and ranking the physical condition of multifamily housing properties.

(a) *Scoring and ranking of the physical condition of multifamily housing properties.* (1) HUD's Real Estate Assessment Center (REAC) will score and rank the physical condition of certain multifamily housing insured properties listed in § 200.853 upon the REAC's completion of its physical inspection of these properties (the baseline review), as described in HUD's Baseline Review Notice published on February 9, 1999. Newly endorsed multifamily properties will be inspected in the first year after endorsement and then ranked in accordance with the process described in this proposed rule.

(2) Depending upon the results of its physical condition inspection, a multifamily housing property will be assigned one of three designations—standard 1 performing, standard 2 performing and standard 3 performing—in accordance with the ranking process described in paragraph (b) of this section.

(b) *Methodology for Ranking.* (1) Multifamily housing properties will be ranked in accordance with the methodology provided in this paragraph (b). Multifamily housing properties are scored on the basis of 100 point scale. For each designation category, the lowest score in the category becomes the numerical threshold for that category.

(i) *Standard 1 Performing Property—Highest 20 Percent.* If a property scores in the highest 20 percent of the physical condition inspection of multifamily housing properties, the property will be designated a standard 1 performing property. Properties designated as standard 1 performing properties will be required to undergo a physical inspection once every three (3) years.

(ii) *Standard 2 Performing Property—Next Highest 30 Percent.* If a property scores in the next highest 30 percent of the physical condition inspection of multifamily housing properties, the property will be designated a standard 2 performing property. Properties designated as standard 2 performing properties will be required to undergo a physical inspection once every two (2) years.

(iii) *Standard 3 Performing Property—Remaining 50 Percent.* If a property scores in the remaining 50 percent in the physical condition inspection of multifamily housing properties, the property will be designated a standard 3 performing property. Properties designated as standard 3 performing properties will continue to undergo an annual physical inspection as currently required under covered HUD programs.

(2) Owners of multifamily housing properties scoring in a standard 1 or standard 2 range which have been cited by the REAC as having a Exigent Health and Safety deficiency(s) are obligated to resolve the deficiency(s) to be classified as standard 1 and standard 2 properties. The owners must certify and provide reasonable evidence that the

deficiency(s) has been resolved to the applicable Multifamily Hub Director.

(3) Regardless of the performance designation assigned to an owner's property, an owner is obligated to maintain its property in accordance with HUD's uniform physical condition standards as required by 24 CFR part 5, subpart G, the Regulatory Agreement and/or the Housing Assistance Payment (HAP) Contract. Good management principles require an owner to conduct routine inspections of its projects, develop improvement plans, and again, maintain its property to meet the standard of decent, safe, sanitary and in good repair.

(c) *Owner's review of physical inspection report and identification of objectively verifiable and material error.* (1) Upon completion of a physical inspection of a multifamily housing property, the REAC will provide the owner with a physical inspection report. The physical inspection report includes a copy of the physical inspection results, the physical condition score and ranking, an explanation of the score and the owner's right to request a technical review of the physical inspection results as described in paragraph (d) of this section.

(2) The owner must carefully review the report, particularly those items classified as exigent health and safety (EHS). The owner is also responsible for conducting its own survey of the total project based on the REAC's physical inspection findings. The owner must mitigate all EHS items immediately, and the owner must file a written report with the local HUD office within 72 hours of the inspection.

(3) If, following review of the physical inspection results and score, the owner reasonably believes that an objectively verifiable and material error (or errors) occurred in the inspection, which, if corrected, will result in a significant improvement in the property's overall score, the owner may request a technical review within the following period, as applicable:

(i) 15 calendar days if the results and score are electronically transmitted to the owner; or

(ii) 30 calendar days if the results and score are transmitted to the owner by hard copy by certified mail.

(d) *Technical review of physical inspection results.* A request for a technical review of physical inspection results must be submitted in writing to the Director of the Real Estate Assessment Center and must be received by the REAC no later than the 15th calendar day or 30th calendar day, as applicable under paragraph (c)(3) of this section, following issuance of the physical inspection report to the owner.

(1) *Request for technical review.* The request must be accompanied by the owner's reasonable evidence that an objectively verifiable and material error (or errors) occurred which if corrected will result in a significant improvement in the overall score of the owner's property. A technical review of physical inspection results will not be conducted based on conditions that were corrected subsequent to the inspection. Upon receipt of this request from the owner, and recommendation of the appropriate HUD Multifamily Hub Director, the REAC will review the physical inspection and the owner's evidence. If the REAC's review determines that an objectively verifiable and material error (or errors) has been documented and that it is likely to result in a significant improvement in the property's overall score, the REAC will take one or a combination of the following actions: undertake a new inspection; correct the original inspection; or issue a new physical condition score.

(2) *Burden of proof that error occurred rests with owner.* The burden of proof rests with the owner to demonstrate that an objectively verifiable and material error (or errors) occurred in the REAC's inspection through submission of evidence, which if corrected will result in a significant improvement in the property's overall score. To support its request for a technical review of the physical inspection results, the owner may submit photographic evidence, written material from an objective source such as a local fire marshal or building code official, or other similar evidence.

(3) *Material errors.* An objectively verifiable material error must be present to allow for a technical review of physical inspection results. Material errors are those that exhibit specific characteristics and meet specific thresholds. The three types of material errors are as follows.

(i) *Building data error.* A building data error occurs if the inspection includes the wrong building or a building that was not owned by the property, including common or site areas that were not a part of the property. Incorrect building data that does not affect the score, such as the address, building name, year built, etc., would not be considered material, but is of great interest to HUD and will be corrected upon notice to the REAC.

(ii) *Unit count error.* A unit count error occurs if the total number of units considered in scoring is incorrect. Since scoring uses total units, the REAC will examine instances where the participant can provide evidence that the total units used is incorrect.

(iii) *A non-existent deficiency error.* A non-existent deficiency error occurs if the inspection cites a deficiency that does not exist.

(4) *Significant improvement.* Significant improvement refers to the correction of a material error, asserted by the owner, which causes the score for the owner's property to cross an administratively significant threshold (for example, the property would be redesignated from standard 3 performing to standard 2 performing or from standard 2 performing to standard 1 performing).

(5) *Determining whether material error occurred and what action is warranted.* Upon receipt of the owner's request for technical review of a property's physical inspection results, the REAC will evaluate the owner's property file and the evidence provided by the owner that an objectively verifiable and material error occurred which, if corrected, would result in a significant improvement in the property's overall score. If the REAC's evaluation determines that an objectively verifiable and material error (or errors) has been reasonably documented by the owner and if corrected would result in a significant improvement in the property's overall score, then the REAC shall take one or a combination of the following actions:

(i) Undertake a new inspection;

(ii) Correct the inspection report; or

(iii) Issue a new physical condition score.

(6) *Responsibility for the cost of a new inspection.* If a new inspection is undertaken by the REAC and the new inspection score results in a significant improvement in the property's overall score, then HUD shall bear the expense of the new inspection. If no significant improvement occurs, then the owner must bear the expense of the new inspection. The inspection cost of a new inspection, if paid by the owner, is not a valid project operating expense. The new inspection score will be considered the final score.

(e) *Adjustment of physical condition score based on considerations other than technical review and reinspection.* Under certain circumstances, it may be appropriate for HUD to review the results of a physical inspection which are anomalous or have an incorrect result due to facts and circumstances affecting the inspected property which are not reflected in the inspection or reflected inappropriately in the inspection. Circumstances such as, but not necessarily limited to, inconsistencies between local code

requirements and the HUD physical inspection protocol; conditions which are permitted by variance or license or which are preexisting physical features non-conformities and are inconsistent with the HUD physical condition protocol; or cases where the owner has been scored for elements (*e.g.*, roads, sidewalks, mail boxes, resident owned appliances, etc.) that it does not own and is not responsible for maintaining, may be addressed by a formal procedure to be initiated by the owner's notification to the applicable HUD Field Office and submission to that office of appropriate proof of the anomalous or inappropriate application. This process may result in a reinspection and/or rescoring of the inspection based on Office of Housing recommendation after review and approval of the owner's submission of appropriate proof of the anomalous or inappropriate application. An owner may submit the request for this adjustment either prior to or after the physical inspection has been concluded. HUD shall define, by notice, the procedures to be followed to address circumstances described in paragraph (e) of this section. The procedures outlined in this Notice shall be binding on the REAC, the Office of Housing and the DEC. The notice will be applicable to both public housing and multifamily properties.

(f) *Administrative review of properties.* The files of any of the multifamily housing properties may be submitted to HUD's Departmental Enforcement Center (DEC) or to the appropriate HUD Multifamily Hub Director (MFD) for evaluation, or both, at the discretion of the Office of Housing.

(1) *Notification to owner of submission of property file to the MFD and DEC.* The Department will provide for written notification to the owner that the file on the owner's property is being submitted to the MFD and/or the DEC for evaluation. The notification will be provided at the time the REAC issues the physical inspection report to the owner or at such other time as a referral occurs.

(2) *30-Day period for owner to provide the DEC with supporting and relevant information and documentation.* The owner has 30 calendar days, from the date of the REAC written notification to the owner, to provide comments, proposals, or any other information to the DEC which will assist the MFD and DEC in conducting a comprehensive evaluation of the property. A proposal provided by an owner may include the owner's plan to correct deficiencies (corrective action plan). During the 30-day response time available to the owner, the DEC may encourage the owner to submit a corrective action plan. The corrective action plan, if timely submitted during the 30-day period (whether on the owner's initiative or at the request of the DEC), may serve as additional information for the DEC to consider in determining appropriate action to take at the conclusion of the evaluation period. If not submitted during the 30-day response time, a corrective action plan may be required of the owner at the conclusion of the DEC's evaluation of the property.

(3) *Evaluation of the property.* During the evaluation period, the DEC will perform an analysis of the multifamily housing property, which may include input from tenants, HUD multifamily officials, elected officials, and others as may be appropriate. Although the MFD will assist with the evaluation, for insured mortgages, the DEC will have primary responsibility for the conclusion of the evaluation of the property after taking into consideration the input of interested parties as described in this paragraph (f)(2). The DEC's evaluation may include a site visit to the owner's property.

(4) *Continuing responsibilities of HUD Multifamily Program Offices and Mortgagee.* During the period of DEC evaluation, HUD's multifamily program offices continue to be responsible for routine asset management tasks on properties and all servicing actions (e.g., rent increase decisions, releases from reserve account approvals). In addition, during this period of evaluation, the mortgagee shall continue to carry out its duties and responsibilities with respect to the mortgage.

(g) *Enforcement action.* If, at the conclusion of the evaluation period, the DEC determines that enforcement action is appropriate, the DEC will provide written notification to the owner of the DEC's decision to formally accept the property for enforcement purposes.

(1) *DEC Owner Compliance Plan.* (i) After notification to the owner of the DEC's decision, the DEC will produce a proposed action plan (DEC Compliance Plan), the purpose of which is to improve the physical condition of the owner's property, and correct any other known violations by the owner of its legal obligations. The DEC Compliance Plan will describe:

(A) The actions that will be required of the owner to correct, mitigate or eliminate identified property deficiencies, problems, hazards, and/or correct any other known violations by the owner;

(B) The period of time within which these actions must be completed; and

(C) The compliance responsibilities of the owner.

(ii) The DEC Compliance Plan will be submitted to the MFD for review and concurrence. If the MFD does not concur, the DEC Compliance Plan will be submitted to the Deputy Assistant Secretary for Housing and the Deputy Director of the DEC for review and concurrence. If the DEC Compliance Plan remains unapproved, a final decision on the plan will be made by HUD's Deputy Secretary in consultation with the General Counsel, the Assistant Secretary for Housing, and the Director of the DEC.

(iii) Following submission of the DEC Compliance Plan to the owner, the owner will be provided a period of 30 calendar days to review and accept the DEC Compliance Plan. If the owner agrees to comply with the DEC Compliance Plan, the plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(2) *Counter compliance plan proposal by owner.* The owner may submit an acceptable counter proposal to the DEC Compliance Plan. An owner's counter proposal to a DEC Compliance Plan must be submitted no later than the 30th day following submission of the DEC Compliance Plan to the owner. The DEC, in coordination with the MFD, may enter into discussions with the owner to achieve agreement to a revised DEC Compliance Plan. If the owner and the DEC agree on a revised DEC Compliance Plan, the revised plan will be forwarded to the appropriate Multifamily Office for implementation and monitoring of completion of the plan's requirements.

(3) *Non-cooperation and Non-compliance by owner.* If at the conclusion of the 30th calendar day following submission of the DEC Compliance Plan to the owner, the DEC receives no response from the owner, or the owner refuses to accept the DEC Compliance Plan, or to present a counter compliance plan proposal, or if the owner accepts the DEC Compliance Plan or revised DEC Compliance Plan, but refuses to take the actions required of the owner in the plan, the DEC may take appropriate enforcement action.

(4) *No limitation on existing enforcement authority.* The administrative process provided in this section does not prohibit the Office of Housing, the DEC, or HUD generally, to take whatever action may be necessary when necessary (notwithstanding the commencement of this process), as authorized under existing statutes, regulations, contracts or other

documents, to protect HUD's financial interests in multifamily properties and to protect the residents of these properties.

(h) *Limitations on material alteration of physical inspection software.* HUD will not materially alter the physical inspection requirements in a manner which would materially increase the cost of performing the inspection.

Dated: November 4, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–30814 Filed 11–24–99; 8:45 am]

BILLING CODE 4210–27–P

VOL 64 ISS 227 NO 26 1999 UMI

Reade

CUSTOME

Federal Reg
General Info
aids

Laws

Presidential
Executive or
The United S

Other Servic
Electronic an
Privacy Act
Public Laws
TTY for the

ELECTRONI

World Wide
Full text of t
publications:
ht
Federal Regi
Inspection Li
ht

E-mail

PENS (Public
service for n
subscribe, se
lis
with the text
su
Use listserv@
PENS. We ca

Reference qu
Federal Regis
in
The Federal
regulations.

FEDERAL

58755–59106
59107–59602
59603–60082
60083–60332
60333–60646
60647–61014
61015–61198
61199–61472
61473–61768
61769–62088
62089–62560
62561–62970
62971–63170
63171–63560
63561–65652
65653–66094
66095–66354
66355–66540

Reader Aids

Federal Register

Vol. 64, No. 227

Friday, November 26, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

58755–59106	1
59107–59602	2
59603–60082	3
60083–60332	4
60333–60646	5
60647–61014	8
61015–61198	9
61199–61472	10
61473–61768	12
61769–62088	15
62089–62560	16
62561–62970	17
62971–63170	18
63171–63560	19
63561–65652	22
65653–66094	23
66095–66354	24
66355–66540	26

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7245	59103
7246	60083
7247	60085
7248	61473
7249	62561
7250	62563
7251	66081
7252	66083
7253	66085
7254	66087
7255	66093

Executive Orders:

12170 (See Notice of November 5, 1999)	61471
12938 (See Notice of November 10, 1999)	61767
12958 (Amended by EO 13142)	66089
13067 (See Notice of October 29, 1999)	59105
13096 (See Proc. 7247)	60085
13101 (See Proc. 7250)	62563
13141	63169
13142	66089

Administrative Orders:

Memorandums:

October 27, 1999	60647

Notices:

October 29, 1999	59105
November 5, 1999	61471
November 10, 1999	61767

Presidential Determinations:

No. 99–13 of February 4, 1999 (See Presidential Determination No. 2000–5 of October 29, 1999)	60651
No. 2000–2 of October 21, 1999	58755
No. 2000–3 of October 25, 1999	58757
No. 2000–4 of October 27, 1999	60649
No. 2000–5 of October 29, 1999	60651
No. 2000–7 of November 10, 1999	65653

5 CFR

532	60087, 61769

Proposed Rules:

532	61793
1201	58798

7 CFR

210	61770
220	61770
226	61770
246	61015
301	60088, 60333, 63171
319	59603
354	62089
759	62565
760	66095
761	62565, 62566
762	62566
905	58759, 63160
928	59604
944	58759
959	66411
981	58763, 59107
1001	61776
1002	61776
1004	61776
1005	61776
1006	61776
1007	61776
1012	61776
1013	61776
1030	61776
1032	61776
1033	61776
1036	61776
1040	61776
1044	61776
1046	61776
1049	61776
1050	61776
1064	61776
1065	61776
1068	61776
1076	61776
1079	61776
1106	61776
1124	61776
1126	61199, 61776
1131	61201, 61776
1134	61776
1135	61776
1137	61199, 61776
1138	61201, 61776
1139	61776
1439	58766
1477	58766
1922	62566
1941	62566
1943	62566
1945	62566
1951	62566, 62971
1955	62566
1965	62566

Proposed Rules:

278	59665
770	59131
785	61034
923	60733
1217	59669

1280.....65665
1823.....59131
1946.....61034
1951.....61221
1956.....59131

9 CFR

52.....62569
77.....58769
130.....61689

Proposed Rules:

130.....61689
391.....61223

10 CFR

Proposed Rules:

2.....59669, 59671
20.....65665
50.....59671
72.....59677
73.....59684
150.....66115
430.....61794, 66306
905.....62604

11 CFR

100.....59113
110.....59606
114.....59113
9003.....61475
9004.....59606, 61475
9007.....61777
9008.....61475
9032.....61475
9033.....61475
9034.....59606, 61475, 61777
9035.....61475, 61777
9036.....59607, 61475
9038.....61777

Proposed Rules:

100.....60360
102.....60360
103.....60360
104.....60360
106.....60360
107.....60360
109.....60360
110.....60360
114.....60360
116.....60360

12 CFR

1.....60092
5.....60092
7.....60092
211.....58780
226.....60335
229.....59607
308.....62096
330.....62096
343.....62103
707.....66355
711.....66356
712.....66360
905.....61016
1805.....59076

Proposed Rules:

226.....60368
611.....60370
650.....61740
721.....66413
917.....66115
925.....66115
930.....66115
940.....66115
950.....66115
954.....66115
955.....66115
958.....66115
965.....66115
966.....66115
980.....66115
1102.....58800

13 CFR

Proposed Rules:

120.....60735

14 CFR

21.....65655
34.....60335
39.....59113, 59115, 59116, 59117, 59613, 59614, 60100, 60102, 60336, 61475, 61477, 61478, 61480, 61482, 61484, 61485, 61487, 61491, 61493, 61495, 61782, 61784, 62105, 62106, 62108, 62109, 62570, 62973, 62975, 63171, 63174, 63176, 631778, 63180, 63182, 63184, 63187, 63190, 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668
71.....59615, 60337, 60653, 60654, 61785, 63192, 63676, 63677, 63678, 63679, 63680, 65656, 66361, 66365, 66366, 66369, 66370
73.....60339
91.....66096
95.....66097, 66100
97.....61017, 61018, 63192, 63194
139.....60068

Proposed Rules:

39.....59137, 59685, 60134, 60136, 60138, 60383, 60386, 60742, 60743, 60745, 60748, 60750, 61039, 61042, 61044, 61533, 61540, 61547, 61554, 61794, 61796, 61798, 61801, 62129, 62131, 62613, 62615, 62988, 62990, 62991, 62993, 62995, 63753, 63755, 63757, 63760, 63762, 63764, 65666, 66116, 66118, 66119, 66121, 66415, 66417, 66418, 66419, 66422, 66424, 66426
71.....59687, 59688, 59689, 59690, 60388, 61225, 61689, 61690, 61803, 61804, 63261, 63765, 63767, 65668, 66123, 66528
91.....63140
93.....62133
121.....63140
125.....63140

15 CFR

285.....59616
738.....60339
740.....60339
746.....60339
774.....66372
801.....59119

Proposed Rules:

287.....59691
922.....63262

16 CFR

312.....59888
1616.....61021

Proposed Rules:

310.....66124

17 CFR

5.....66373
200.....61382, 61408
210.....61962
228.....61962
229.....61408, 61962
230.....61382, 61408, 61497, 61962, 62540
232.....61408
239.....61382, 61408, 61962
240.....61382, 61408, 61962, 62540
249.....61382, 61962
260.....61382, 61962
270.....62540
271.....59877

Proposed Rules:

1.....59694, 66428, 66432
5.....66432
31.....66432
34.....65669
35.....65669
230.....62548
239.....59826
240.....59826, 62548
270.....59826
274.....59826
275.....61226
279.....61226

18 CFR

11.....62572
385.....62580

Proposed Rules:

35.....60390
141.....60140
385.....60140

19 CFR

10.....61204

Proposed Rules:

12.....62618
24.....62619
101.....61232
141.....62135

20 CFR

220.....62976
375.....66381

Proposed Rules:

219.....66433
220.....62996
322.....62135
718.....62997
722.....62997
725.....62997
726.....62997
727.....62997

21 CFR

5.....59617
74.....62582
175.....60104
178.....62583, 65657, 66103
207.....63195
225.....63195
310.....62110
510.....63195
514.....63195
515.....63195
520.....66104, 66382, 66382
558.....63195
801.....59618
805.....66105
884.....62977

Proposed Rules:

20.....60143
101.....62746
120.....65669
600.....61045
606.....61045
607.....61045
610.....61045
630.....61045
640.....61045
660.....61045
801.....59695

24 CFR

570.....63680
903.....66106
982.....59620
990.....61516

Proposed Rules:

5.....66530
200.....66530

25 CFR

Proposed Rules:

504.....61234

26 CFR

1.....58782, 59139, 60342, 61205, 61498, 61502
301.....58782, 61498, 61502
602.....61498

Proposed Rules:

1.....59139, 60395, 61236, 63768
26.....62997
301.....63768

27 CFR

Proposed Rules:

9.....66433

28 CFR

0.....58782
2.....59622
16.....61786
27.....58782
50.....59122

Proposed Rules:

16.....60753

29 CFR

37.....61692
1917.....61504
1918.....61504
4003.....65658
4007.....65658, 66383
4011.....65658
4041.....65658
4041A.....65658
4043.....65658
4044.....61787
4050.....65658

Proposed Rules:

1401.....59697
1910.....65768
1952.....62138
2590.....62054
2700.....61236

30 CFR

914.....63681
915.....
920.....
934.....
935.....
948.....

Proposed Rule

70.....
71.....
90.....
946.....

31 CFR

1.....
18.....
538.....
550.....
560.....

Proposed Rule

1.....

32 CFR

199.....
2001.....

Proposed Rule

199.....
767.....

33 CFR

100.....
117.....591
60673, 606
61518, 615

165.....61

Proposed Rule

Ch. I.....
110.....
117.....
147.....
165.....
175.....

34 CFR

668.....

682.....

685.....

Proposed Rule

611.....

36 CFR

211.....

Proposed Rule

5.....
13.....
51.....
251.....
1190.....
1191.....

37 CFR

201.....
202.....

Proposed Rule

1.....
201.....

39 CFR

20.....

Proposed Rule

111.....
3001.....

40 CFR

9.....

915.....66385
920.....63684
934.....60654
935.....63688
948.....61506, 61507

Proposed Rules:
70.....65671
71.....65671
90.....65671
946.....61805

31 CFR

1.....62585, 62586
18.....62112
538.....58789
550.....58789
560.....58789

Proposed Rules:
1.....62620

32 CFR

199.....60671
2001.....62113

Proposed Rules:
199.....66126
767.....63263

33 CFR

100.....59623, 66106
117.....59123, 59624, 60672, 60673, 60674, 61206, 61207, 61518, 61519, 61520, 61521, 62113, 66107
165.....61051, 61209, 62586

Proposed Rules:
Ch. I.....63266
110.....60399
117.....61561
147.....66434
165.....63267
175.....63773

34 CFR

668.....58974, 59016, 59060
682.....58938, 59016
685.....58938, 59016

Proposed Rules:
611.....60632

36 CFR

211.....60675

Proposed Rules:
5.....61563
13.....61563
51.....63775
251.....66342
1190.....62248, 62622
1191.....62248, 62622

37 CFR

201.....66391
202.....62977

Proposed Rules:
1.....59701
201.....59140, 66139

39 CFR

20.....60106

Proposed Rules:
111.....66143
3001.....66436

40 CFR

9.....66392
49.....65660
51.....58792
52.....59625, 59629, 59633, 59635, 59638, 59642, 59644, 60109, 60343, 60346, 60678, 60681, 60683, 60687, 60688, 61213, 61217, 61522, 61523, 63206, 63690, 63693, 65660, 66393
62.....59648, 60689, 62114, 62117, 62978
63.....59650, 63209, 63695, 63702
68.....59650
131.....61182
180.....59652, 60112, 61788, 62588, 62982, 63709, 63711, 63714, 66108
257.....66392
261.....63209
266.....63209
300.....60121, 61526, 63720

Proposed Rules:
49.....65673
50.....63002
51.....62144
52.....59703, 59704, 59705, 59706, 60400, 60401, 60759, 61046, 61051, 61239, 61572, 63002, 63268, 63271, 65673, 66143, 66441
55.....63271
62.....59718, 62144, 62145
63.....59719, 63779
68.....59719
81.....60478
82.....59141
86.....60401
141.....59245
142.....59245
152.....62145
156.....62145
180.....58792
261.....63382
266.....63464
300.....61051
372.....61807
721.....63275

41 CFR

101.....59591
101-11.....60348
101-43.....62146
102.....59591
102-36.....62146

42 CFR

52b.....63721
61.....61218
409.....60122
410.....59379
411.....59379, 60122
413.....60122
414.....59379
415.....59379
420.....66396
460.....66234
462.....66234
466.....66234
473.....66234
476.....66234
485.....59379
489.....60122
1001.....63504, 63518

Proposed Rules:
431.....60882
433.....60882
435.....60882
457.....60882

43 CFR

414.....58986

Proposed Rules:
1300.....61810

44 CFR

64.....62594, 62596, 62598
65.....60706, 60709
67.....60711

Proposed Rules:
67.....60759

45 CFR

Proposed Rules:
160.....59918
161.....59918
162.....59918
163.....59918
164.....59918
303.....62054
612.....66146
613.....66146
2505.....66402

46 CFR

10.....63213
15.....63213

Proposed Rules:
2.....62018
30.....62018
31.....62018
52.....62018
61.....62018
71.....62018
90.....62018
91.....62018
98.....62018
107.....62018
110.....62018
114.....62018
115.....62018
125.....62018
126.....62018
132.....62018
133.....62018
134.....62018
167.....62018
169.....62018
175.....62018
176.....62018
188.....62018
189.....62018
195.....62018
199.....62018

47 CFR

Ch. 1.....61527
0.....60122, 60715, 61022
1.....59656, 60122, 60715, 62119, 63235
2.....60123, 66405
6.....63235
7.....63235
20.....59656, 60126
21.....60715, 63727
25.....61791
27.....60715
52.....62983
54.....60349, 62120
61.....60122
68.....60715
69.....60122, 60349
73.....59124, 59655, 60131, 62123, 63258, 63745
74.....63727
76.....60131
90.....59148, 60123, 60715, 66405
95.....59656
101.....59663, 63727

Proposed Rules:
Ch. I.....63277
1.....59719
15.....62159
18.....62159
20.....59719
43.....59719
61.....66442
73.....59147, 59148, 59728, 60149, 60150, 60151, 61054, 61239, 63783
90.....59148, 60151

48 CFR

201.....58908, 63380
203.....62984
204.....61028
208.....61030
209.....61028, 62984
213.....58908, 63380
215.....61031
219.....62986, 62987
225.....61028, 62984
226.....62987
242.....61028
247.....61028
249.....62984
251.....61030
1845.....62600
1852.....62600

Proposed Rules:
203.....63002
211.....61056
226.....63003

49 CFR

171.....61219
172.....61219
209.....62828
230.....62828
240.....60966
601.....61033

Proposed Rules:
Ch. I.....63279
Ch. II.....59046
178.....62161
209.....59046
552.....60556
567.....66447
568.....66447
571.....60556, 61810, 62622
585.....60556
595.....60556
1039.....66156
1105.....66157
1180.....66157

50 CFR

17.....58910, 63745
20.....61532
222.....60727
600.....60731
622.....59126, 60132
635.....58793, 66114
640.....59126
648.....60359, 61220
660.....59129, 62127, 63259

679.....61966, 63259

Proposed Rules:

16.....59149

17.....58934, 59729, 62627, 62641, 63004

25.....62163

26.....62163

29.....62163

216.....63783

224.....62627

622.....59152, 59153, 60151, 60402, 66449

648.....59156

654.....59153

660.....60402, 66158

679.....58796, 59730, 60157

REMINDERS
The items in
editorially com
to Federal Re
inclusion or e
this list has n
significance.

**RULES GO
EFFECT NO
1999**

**COMMERCE
Export Admi
Bureau**
Export licensi
Commerce
Microproc
by Exp
Classifi
(ECCN
Excepti
expans
11-26-9

**COMMERCE
National Oce
Atmospheric**
Fishery conse
managemer
Northeaster
fisheries–
Summer
and bla
etc.; pu

**ENVIRONMEN
PROTECTION**
Solid wastes:
Criteria clas
waste dis
and pract
11-26-99

**FEDERAL
COMMUNICA
COMMISSION**
Radio stations
assignments
Idaho; publi

**HEALTH AND
SERVICES DE
Food and Dr
Administratio**
Animal drugs,
related proc
New drug a
Lincomyci
powder
26-99
Sulfameth
publishe

**HEALTH AND
SERVICES DE
Health Care
Administratio**
Medicare:
Accounting
basis; rev
9-27-99

**INTERIOR DE
Surface Minin
and Enforcem**
Permanent pr
abandoned

VOL 64 ISS 227 NO 26 1999 UMI

REMINDERS
The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 26, 1999

COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Commerce control list—
Microprocessors controlled by Export Control Classification Number (ECCN); License Exception CIV eligibility expansion; published 11-26-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Northeastern United States fisheries—
Summer flounder, scup, and black sea bass, etc.; published 10-26-99

ENVIRONMENTAL PROTECTION AGENCY
Solid wastes:
Criteria classification of solid waste disposal facilities and practices; published 11-26-99

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Idaho; published 11-3-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Lincomycin soluble powder; published 11-26-99
Sulfamethazine tablets; published 11-26-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Accounting policy accrual basis; revision; published 9-27-99

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Iowa; published 11-26-99

LIBRARY OF CONGRESS
Copyright Office, Library of Congress
Copyright office and procedures:
Nonsubscription digital transmissions; notice and recordkeeping requirements
Filing date extension; published 11-26-99

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Truth in Savings Act—
Electronic form statements; published 11-26-99

RAILROAD RETIREMENT BOARD
Emergency regulations:
Plan of operation during national emergency; procedures update; published 11-26-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; published 10-22-99
Bombardier; published 10-22-99
British Aerospace; published 10-22-99
Construcciones Aeronauticas, S.A.; published 10-22-99
Short Brothers; published 10-22-99

TREASURY DEPARTMENT
Customs Service
Customs bonded warehouses:
Inventory reports filing; published 10-26-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Olive oil promotion, research, and information order
Referendum procedures; comments due by 12-3-99; published 11-3-99

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
Mexican fruit fly; comments due by 11-29-99; published 9-28-99
Oriental fruit fly; comments due by 11-29-99; published 9-28-99
User fees:
Veterinary services; import- and export-related services; comments due by 11-29-99; published 9-30-99
Viruses, serums, toxins, etc.:
Dog; definition; comments due by 11-29-99; published 9-28-99

AGRICULTURE DEPARTMENT
Federal Crop Insurance Corporation
Administrative regulations:
Appeal procedure; comments due by 11-29-99; published 9-30-99

AGRICULTURE DEPARTMENT
Farm Service Agency
Administrative regulations;
Appeal procedure; comments due by 11-29-99; published 9-30-99
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Business-Cooperative Service
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Housing Service
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

AGRICULTURE DEPARTMENT
Rural Utilities Service
Program regulations:
Loans to Indian Tribes and tribal corporations; comments due by 12-2-99; published 11-2-99

COMMERCE DEPARTMENT
Census Bureau
Foreign trade statistics:
Shipper's Export Declaration on behalf of principal party in interest; exporters' and forwarding agents' responsibilities to prepare and file; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT
Export Administration Bureau
Export administration regulations:
Parties to transaction and their responsibilities, routed export transactions, Shipper's Export Declarations, and export clearance; comments due by 12-3-99; published 10-4-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf, and South Atlantic fisheries—
Coastal migratory pelagic resources; comments due by 11-29-99; published 10-25-99
Essential fish habitat; comments due by 12-2-99; published 11-2-99
West Coast States and Western Pacific fisheries—
West Coast salmon; comments due by 12-1-99; published 11-16-99

COMMERCE DEPARTMENT
Patent and Trademark Office
Patent cases:
Patent business goals; comments due by 12-3-99; published 10-4-99
Payment of fees by credit card; changes; comments due by 12-3-99; published 11-3-99

DEFENSE DEPARTMENT
Engineers Corps
Navigation regulations:
Columbia and Snake Rivers, OR and WA; restricted area boundary adjustments; comments due by 11-29-99; published 10-13-99

ENVIRONMENTAL PROTECTION AGENCY
Air pollution control; new motor vehicles and engines:
Heavy duty highway engines and vehicles (2004 and later model years); emissions control, and light-duty truck definition; comments due by 12-2-99; published 10-29-99
Tier 2 motor vehicle emission standards and gasoline sulfur control requirements; comments due by 12-1-99; published 10-27-99
Air programs:

Accidental release prevention—
Risk management programs; comments due by 12-3-99; published 11-3-99
Ozone areas attaining 1-hour standard; identification of areas where standard will cease to apply
Findings rescission; comments due by 12-1-99; published 10-25-99
Findings rescission; comments due by 12-1-99; published 11-5-99
Stratospehric ozone protection—
Essential-use allowances; allocation; comments due by 12-2-99; published 11-2-99
Volatile organic compound (VOC) emmission standards—
t-butyl acetate; comments due by 11-29-99; published 9-30-99
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Maryland; comments due by 12-3-99; published 11-3-99
Air programs; State authority delegations:
Ohio; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; approval and promulgation; various States:
Alabama; comments due by 12-3-99; published 11-3-99
California; comments due by 11-29-99; published 10-28-99
Indiana; comments due by 12-3-99; published 11-3-99
Maryland; comments due by 11-29-99; published 10-28-99
New Jersey; comments due by 12-3-99; published 11-3-99
New York; comments due by 12-3-99; published 11-3-99
Ohio; comments due by 12-3-99; published 11-3-99
Oklahoma; comments due by 12-3-99; published 11-3-99
Tennessee; comments due by 12-3-99; published 11-3-99
Texas; comments due by 11-29-99; published 10-28-99
Virginia; comments due by 12-3-99; published 11-3-99
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio; comments due by 11-29-99; published 10-28-99
Clean Air Act:
Acid rain program—
Nitrogen Oxides Emission Reduction Program; response to court remand; comments due by 11-29-99; published 10-15-99
Hazardous waste:
Identification and listing—
Exclusions; comments due by 11-29-99; published 10-15-99
Exclusions; comments due by 11-29-99; published 10-13-99
Water pollution control:
Great Lakes System; water quality guidance—
Bioaccumulative chemicals of concern; mixing zones prohibition; comments due by 12-3-99; published 10-4-99
Underground injection control program—
Alabama; comments due by 11-29-99; published 10-22-99

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Communications Assistance for Law Enforcement Act; implementation; comments due by 11-29-99; published 9-28-99
Federal-State Joint Board on Universal service—
Telecommunications deployment and subscribership to unserved or underserved areas including tribal and insular areas; comments due by 11-29-99; published 9-30-99
Local telephone service competition status and advanced telecommunications capability (broadband) deployment; comments due by 12-3-99; published 11-3-99
Radio stations; table of assignments:
Minnesota; comments due by 11-29-99; published 10-21-99
Missouri; comments due by 11-29-99; published 10-21-99

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Freedom of Information Act; implementation; comments due by 12-1-99; published 11-1-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Administrative practice and procedure:
Ozone-depleting substances use; essential use determinations; comments due by 11-30-99; published 9-1-99
Biological products:
Blood, blood components, and source plasma requirements; revisions; comments due by 12-3-99; published 8-19-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:
Part B initial claim determinations; telephone and electronic review requests; comments due by 11-29-99; published 9-30-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Low income housing:
Housing assistance payments (Section 8)—
Moderate rehabilitation units; lease execution or termination when remaining term of contract is less than one year; comments due by 12-3-99; published 10-4-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Critical habitat designations—
Tidewater goby; comments due by 11-30-99; published 10-15-99

INTERIOR DEPARTMENT

Minerals Management Service

Outer Continental Shelf; oil, gas, and sulphur operations:
Producer-operated pipelines that cross directly into State waters; comments due by 11-30-99; published 10-1-99

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Virginia; comments due by 11-30-99; published 11-15-99

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:
Aliens; release gratuities, transportation, and clothing; comments due by 12-3-99; published 10-4-99

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
Organization and operations—
Overdraft policy; comments due by 11-29-99; published 9-30-99

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:
Nevada; comments due by 11-29-99; published 9-13-99

PERSONNEL MANAGEMENT OFFICE

Retirement:
Voluntary early retirement authority; comments due by 12-3-99; published 10-4-99

SECURITIES AND EXCHANGE COMMISSION

Securities:
Audit committee disclosure; comments due by 11-29-99; published 10-14-99

TRANSPORTATION DEPARTMENT

Coast Guard

Anchorage regulations:
Alaska; comments due by 11-30-99; published 6-2-99
Alaska; correction; comments due by 11-30-99; published 6-15-99
Ports and waterways safety:
Hudson River, NY; safety zone; comments due by 11-29-99; published 10-29-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

AeroSpace Technologies of Australia Pty Ltd.; comments due by 12-1-99; published 10-12-99

Boeing; comments due by 12-3-99; published 10-19-99

Bombardier; comments due by 12-1-99; published 10-12-99

British Aerospace; comments due by 12-1-99; published 10-8-99

Cessna; comments due by 12-1-99; published 10-12-99

CFE Co.; comments due by 11-29-99; published 9-28-99

Dassault; comments due by 12-3-99; published 11-3-99

Dornier; comments due by 12-1-99; published 10-8-99

Empresa Brasileira de Aeronautica S.A.; comments due by 12-1-99; published 10-8-99

Eurocopter France; comments due by 12-3-99; published 10-4-99

Fairchild; comments due by 12-1-99; published 10-12-99

Harbin Aircraft Manufacturing Corp.; comments due by 12-1-99; published 10-8-99

Industrie Aeronautiche e Meccaniche; comments due by 12-1-99; published 10-8-99

McDonnell Douglas; comments due by 11-29-99; published 9-28-99

Mitsubishi; comments due by 12-1-99; published 10-8-99

New Piper Aircraft, Inc.; comments due by 12-1-99; published 10-12-99

Partenavia Costruzioni Aeronauticas S.p.A.; comments due by 12-1-99; published 10-8-99

Pilatus Aircraft Ltd.; comments due by 12-1-99; published 10-8-99

Pilatus Britten-Norman Ltd.; comments due by 12-1-99; published 10-8-99

Raytheon; comments due by 11-29-99; published 10-14-99

Short Brothers & Harland Ltd.; comments due by 12-1-99; published 10-12-99

SOCATA-Groupe Aerospatiale; comments due by 12-1-99; published 10-12-99

Special conditions—

Garlick Helicopters, Inc. Model GH205A; comments due by 11-29-99; published 9-30-99

Twin Commander Aircraft Corp.; comments due by 12-1-99; published 10-12-99

Class D airspace; comments due by 11-29-99; published 10-28-99

Schools and other certificated agencies:

Repair stations; Part 145 review; comments due by 12-3-99; published 10-21-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Miscellaneous amendments; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:

Diamond Mountain, CA; comments due by 11-29-99; published 9-29-99

TREASURY DEPARTMENT

Comptroller of the Currency

Federal Deposit Insurance Act:

Safety and soundness standards—

Year 2000 guidelines; comments due by 11-29-99; published 9-30-99

TREASURY DEPARTMENT

Fiscal Service

Financial management services:

Collateral acceptability and valuation; comments due by 11-29-99; published 10-29-99

UNITED STATES INFORMATION AGENCY

Exchange visitor program:

Administrative processing fees; comments due by 11-30-99; published 9-27-99

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:

Appeals regulations and rules of practice—

Simultaneously contested claims; comments due by 11-30-99; published 10-1-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 441/P.L. 106–95

Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96

To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97

To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98

District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99

History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100

To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101

Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102

Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103

To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104

To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

Last List November 15, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

VOL
64
ISS
2
2
7
NO
26
1999
JMI

Order Now!

The United States Government Manual 1999/2000

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

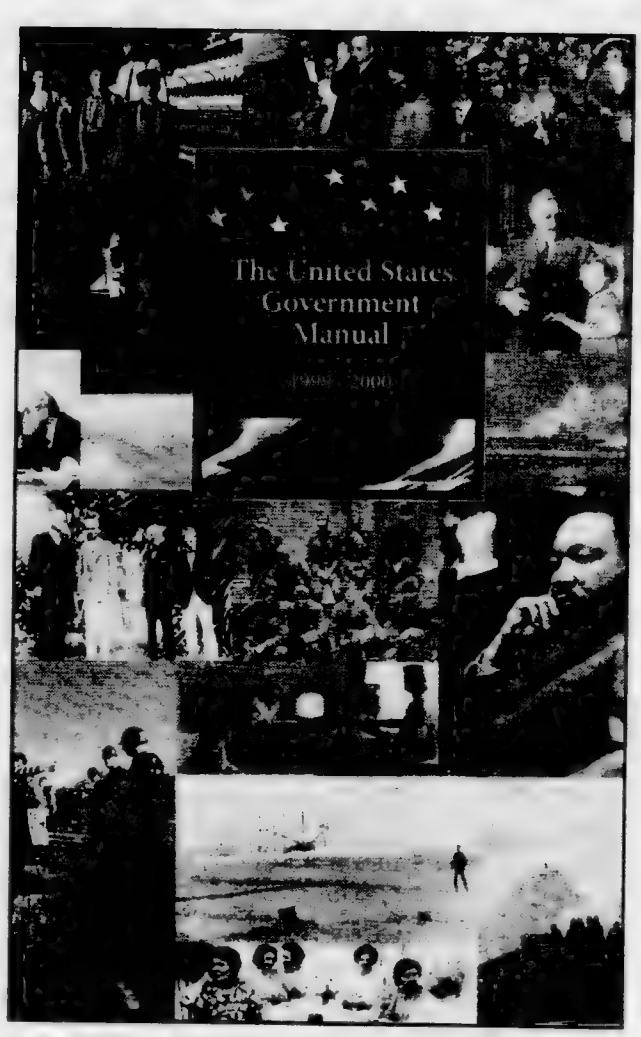

$46 per copy

Superintendent of Documents **Publications** Order Form

United States Government INFORMATION
PUBLICATIONS ★ PERIODICALS ★ ELECTRONIC PRODUCTS

Order Processing Code:
***7917**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please send me ____ copies of **The United States Government Manual** 1999/2000, S/N 069–000–00109–2 at $46 ($57.50 foreign) each.

Total cost of my order is $ _____ . **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/99

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

r copy

VISA

512–2250
512–1800

nge.

ments
–

you for
r order!

9/99

7954

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**

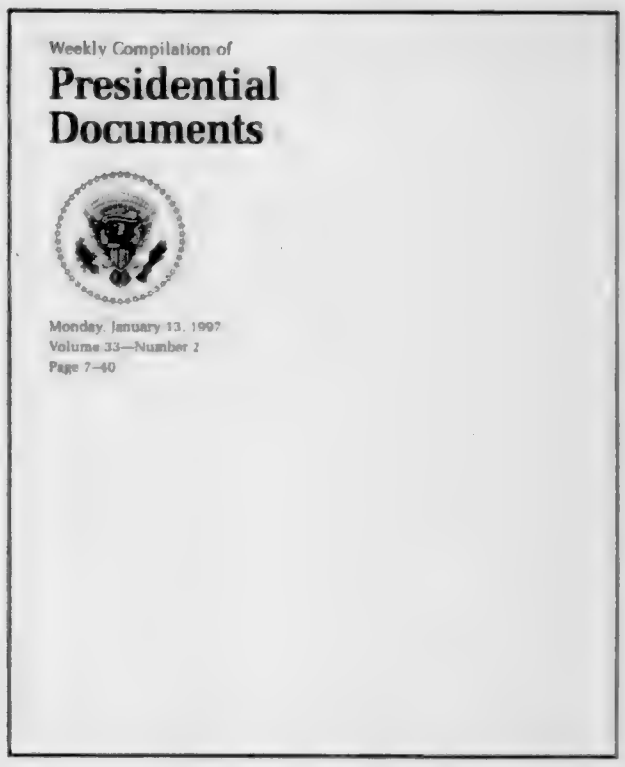

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5420**

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐-☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL

64

ISS

2

2

7

NO

26

1999

JMI

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

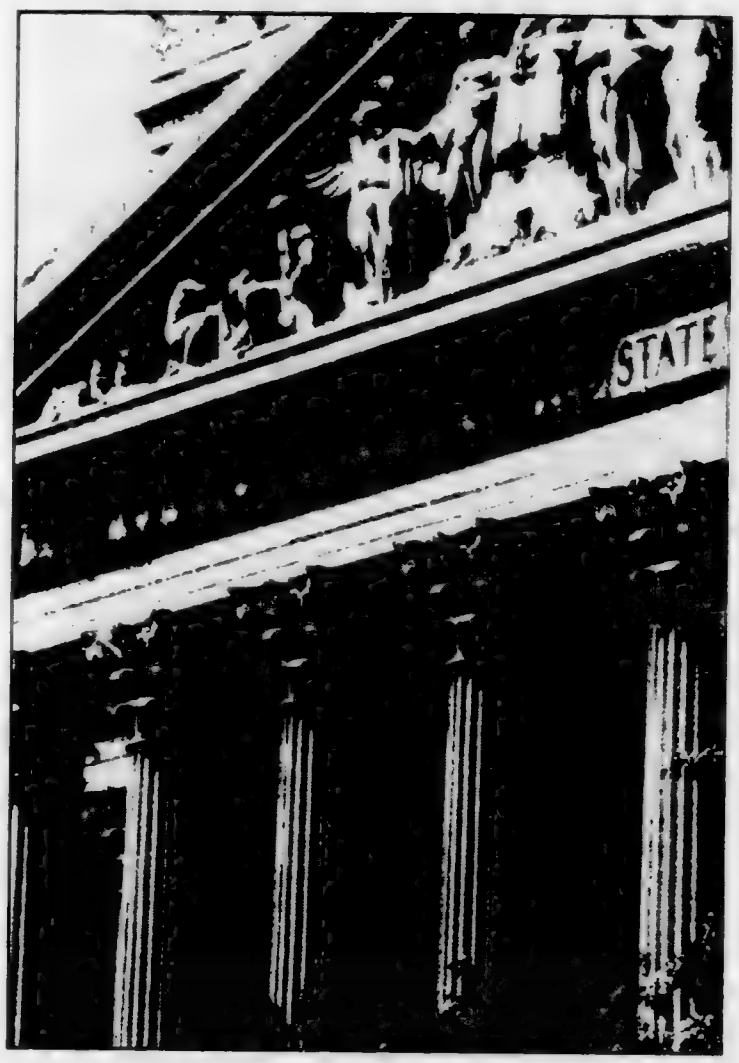

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscriptions for one year:

——— **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.
——— **Federal Register Index** (FRUS) $25 per year.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

INFORM

Know whe
prices dow
learn when
the top line

AFR SM
JOHN S
212 MA
FOREST

To be sure
If your subs
Superintend
will be rein

To change
the Superin
DC 20402–

To inquire
your corres
Stop: SSOM

To order a

Order Processing Co
*** 5468**
☐ YES

The total cos
International

Company or per

Additional addr

Street address

City, State, ZIP

Daytime phone

Purchase order n

May we make yo

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFR SMITH212J                    DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFRDO SMITH212J                  DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5468**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR)**; *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
64
ISS
2
2
7
NO
26
1999
JMI

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5419**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Public Laws

106th Congress, 1st Session, 1999

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 106th Congress, 1st Session, 1999.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara/index.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 106th Congress, 1st Session, 1999 for $136 per subscription.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/98

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
64
ISS
2
2
7
NO
26
1999
JMI

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

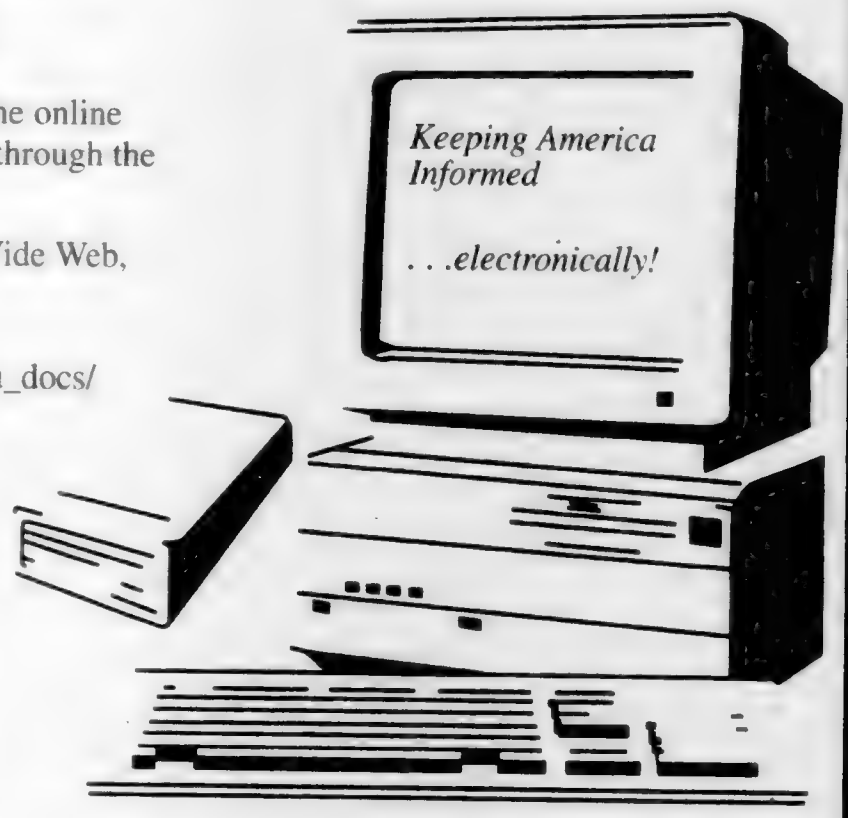

You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

VOL
64

ISS
2
2
7

NO
26

1999

UMI

Printed on recycled paper

VOL
64
ISS
228
NO
29
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11-29-99
Vol. 64

United Sta
Governme
Printing C
SUPERINTEND
OF DOCUMEN
Washington, DC

OFFICIAL BUS
Penalty for priva

11–29–99
Vol. 64 No. 228

Federal Register

Monday
November 29, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
2
2
8
NO
29
1999
UMI

11-29-99
Vol. 64
Pages 6654

11-29-99
Vol. 64 No. 228
Pages 66541-66708

federal register

Monday
November 29, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche 202–512–1800
Assistance with public subscriptions 512–1806
General online information 202–512–1530; 1–888–293–6498
Single copies/back copies:
Paper or fiche 512–1800
Assistance with public single copies 512–1803
FEDERAL AGENCIES
Subscriptions:
Paper or fiche 523–5243
Assistance with Federal agency subscriptions 523–5243

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 7, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 228

Monday, November 29, 1999

Agricultural Marketing Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66604–66605

Agriculture Department
See Agricultural Marketing Service
See Commodity Credit Corporation
See Food Safety and Inspection Service
See Forest Service

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Aetna Inc. et al., 66647–66663
Morgan Drive Away, Inc., et al., 66663

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Coast Guard
RULES
Ports and waterways safety:
Chesapeake Bay, MD; safety zone, 66585–66586

Commerce Department
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 66610–66612

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Guatemala, 66612–66613

Commodity Credit Corporation
NOTICES
Grain cleaning equipment; installation and improvement, 66606

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 66613

Comptroller of the Currency
RULES
Federal Deposit Insurance Act:
Safety and soundness standards, 66706–66708
Year 2000 guidelines, 66699–66706

Consumer Product Safety Commission
RULES
Organization, functions, and authority delegations:
Directorate for Epidemiology and Directorate for Health Sciences, 66579–66580
NOTICES
Settlement agreements:
Black & Decker (U.S.), Inc., 66613–66615

Customs Service
NOTICES
Customs broker permit; user fees, 66692–66693

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66615–66616
Meetings:
Federal Interagency Coordinating Council, 66616

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Biological and Environmental Research Advisory Committee, 66617
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Weldon Spring Site, MO, 66617

Environmental Protection Agency
NOTICES
Air pollution control:
Acid rain program—
Nitrogen oxides compliance plans, 66632–66634
Air programs:
State implementation plans; adequacy status for transportation conformity purposes—
California, 66634
Superfund; response and remedial actions, proposed settlements, etc.:
Gary Lagoons Site, IN, 66634–66635
Water pollution control:
State water quality standards; approval and disapproval lists and individual control strategies; availability—
Louisiana, 66635–66636

Federal Aviation Administration
RULES
Airworthiness directives:
General Electric Co., 66554–66565
VOR Federal airways, 66565–66566
NOTICES
Exemption petitions; summary and disposition, 66687
Meetings:
Aviation Rulemaking Advisory Committee, 66687–66688
Passenger facility charges; applications, etc.:
Lehigh Northampton Airport Authority, PA, et al., 66688–66692

Federal Deposit Insurance Corporation
RULES
Federal Deposit Insurance Act:
Safety and soundness standards, 66706–66708
Year 2000 guidelines, 66699–66706

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Allegheny Energy Unit 1 and Unit 2, L.L.C., et al., 66621–66623
Citizens Power LLC et al., 66623–66625
McDonough Power Cooperative et al., 66625–66626
Midford Power L.P. et al., 66626–66630
Environmental statements; availability, etc.:
Electro Ecology, Inc., 66631
Northeast Hydroelectric Corp. et al., 66631
Hydroelectric applications, 66631–66632
Meetings; Sunshine Act, 66632
Applications, hearings, determinations, etc.:
Advantage Energy, Inc., et al., 66617–66618
Algonquin Gas Transmission Co., 66618
British Columbia Power Exchange Corp. et al., 66618
Illinova Energy Partners, Inc., et al., 66618
Kansas Pipeline Co., 66618–66619
MidAmerican Energy Co., 66619
Millennium Pipeline Co., L.P., et al., 66619
Mississippi River Transmission Corp., 66619
Pennsylvania Electric Co./GPU Genco, 66619
PG&E Energy Services Corp. et al., 66620
Public Service Co. of Colorado, 66620
State Street Bank & Trust Co., 66620
TIFD III-F, Inc., 66620–66621

Federal Labor Relations Authority
PROPOSED RULES
Equal Access to Justice Act; implementation:
Attorney fees regulations, 66589–66590

Federal Reserve System
RULES
Extensions of credit by Federal Reserve banks (Regulation A):
Discount rate change, 66553–66554
Federal Deposit Insurance Act:
Safety and soundness standards, 66706–66708
Year 2000 guidelines, 66699–66706
NOTICES
Banks and bank holding companies:
Change in bank control, 66636
Formations, acquisitions, and mergers, 66636–66637
Permissible nonbanking activities; correction, 66637
Meetings; Sunshine Act, 66637

Federal Trade Commission
NOTICES
Meetings; Sunshine Act, 66637

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Scaleshell mussel, 66600–66601
NOTICES
Endangered and threatened species permit applications, 66639–66640

Food and Drug Administration
NOTICES
Reports and guidance documents; availability, etc.:
Drug master files for bulk antibiotic drug substances; industry guidance, 66638

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Inspection services; enforcement actions; refusal, suspension, or withdrawal, 66541–66547
Pathogen reduction; hazard analysis and critical control point (HACCP) systems—
Generic E. coli testing for sheep, goats, equines, ducks, geese, and guineas, 66547–66553
NOTICES
Reports and guidance documents; availability, etc.:
Canada's Modernized Poultry Inspection Program; description, 66606–66607

Forest Service
NOTICES
Environmental statements; notice of intent:
Bitterroot National Forest, MT, 66607–66609
Idaho Panhandle National Forests, ID, 66609–66610

General Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66638

Health and Human Services Department
See Food and Drug Administration

Immigration and Naturalization Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66663–66664

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office
NOTICES
Meetings:
Delaware and Lehigh National Heritage Corridor Commission, 66639

Internal Revenue Service
RULES
Procedure and administration:
Elective entity classification; treatment of changes, 66580–66585
PROPOSED RULES
Income taxes:
Partnership interests; special basis adjustments for transfer of property to corporation; partial withdrawal, 66591
Procedure and administration:
Entity classification changes; special rule for foreign eligible entities, 66591–66595
NOTICES
Meetings:
Citizen Advocacy Panels—
Brooklyn District, 66693

International Trade Commission
NOTICES
Import investigations:
Fresh and chilled Atlantic salmon from—
Norway, 66644

Harmonized Tariff Schedule—
Modifications, 66644–66645
Sodium thiosulfate from—
Various countries, 66645
Stainless steel butt-weld pipe fittings from—
Various countries, 66645–66646

Justice Department
See Antitrust Division
See Immigration and Naturalization Service
See National Institute of Justice
NOTICES
Meetings:
Global Justice Information Network Advisory Committee, 66646
Pollution control; consent judgments:
Block Island Power Co., Inc., 66646
Bulk Transport LTD. of Bermuda et al., 66646–66647
H.W. Wageley, Inc., et al., 66647

Labor Department
See Labor Statistics Bureau
See Occupational Safety and Health Administration
See Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66665

Labor Statistics Bureau
NOTICES
Meetings:
Labor Research Advisory Council, 66665–66666

Land Management Bureau
NOTICES
Meetings:
Resource Advisory Councils—
Northwest California, 66640
Opening of public lands:
Colorado, 66640

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 66668

National Aeronautics and Space Administration
NOTICES
Environmental statements; availability, etc.:
Mars Surveyor 2001 mission, 66668–66669
Patent licenses; non-exclusive, exclusive, or partially exclusive:
CISC, Inc., 66669

National Institute of Justice
NOTICES
Grants and cooperative agreements; availability, etc.:
W.E.B. DuBois Fellowship Program, 66664

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Prohibited species bycatch management; CFR correction, 66587–66588
Northeastern United States fisheries—
Northeast multispecies; correction, 66587
Summer flounder, scup, and black sea bass, etc.; correction, 66586–66587
Ocean and coastal resource management:
Marine sanctuaries—
Hawaiian Islands Humpback Whale National Marine Sanctuary, HI, 66566–66579
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc—
Columbia River eulachon, 66601–66603
NOTICES
Permits:
Marine mammals, 66612

National Park Service
NOTICES
Environmental statements; availability, etc.:
Fort Bowie National Historic Site, AZ, 66640–66641
Tallgrass Prairie National Preserve, KS, 66641–66642
Environmental statements; notice of intent:
Channel Islands National Park, CA, 66642–66643
Meeting:
Kenilworth Park, DC; clean up and planning for use of park, 66643
Meetings:
Boston Harbor Islands Advisory Council, 66643

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Northern States Power Co., 66670–66671

Occupational Safety and Health Administration
PROPOSED RULES
Construction safety and health standards:
Steel Erection Negotiated Rulemaking Advisory Committee—
Meetings, 66595

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; class exemptions:
Interest free loans, 66666–66668

Public Health Service
See Food and Drug Administration

Railroad Retirement Board
NOTICES
Senior Executive Service:
Performance Review Board; membership, 66671

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Elephant Butte/Caballo Reservoirs, NM; resource management plan, 66643–66644

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Exemption applications—
Conning Asset Management Co. et al., 66679–66681
Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 66681–66684
Philadelphia Stock Exchange, Inc., 66684–66686
Applications, hearings, determinations, etc.:
Public utility holding company filings, 66672–66679

Social Security Administration
NOTICES
Privacy Act:
Computer matching programs, 66686–66687

State Department
NOTICES
Meetings:
International Telecommunication Advisory Committee, 66687

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Pennsylvania, 66595–66600

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
RULES
Federal Deposit Insurance Act:
Safety and soundness standards, 66706–66708
Year 2000 guidelines, 66699–66706

Transportation Department
See Coast Guard
See Federal Aviation Administration
PROPOSED RULES
Air travel; nondiscrimination on basis of disability:
Meeting postponed, 66590–66591

Treasury Department
See Comptroller of the Currency
See Customs Service
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66692

Veterans Affairs Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66693–66697

Separate Parts In This Issue

Part II
Department of the Treasury, Comptroller of the Currency and Office of Thrift Supervision; Federal Reserve System; Federal Deposit Insurance Corporation, 66699–66708

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

VOL 64 ISS 228 NO 29 1999 UMI

CFR PART
A cumulative
Reader Aids
5 CFR
Proposed Rul
2430
9 CFR
304
305
310
327
335
381 (2 docur
500
12 CFR
30 (2 docum
201
208
263
364 (2 docur
570 (2 docur
14 CFR
39
71
Proposed Rul
Ch. I
15 CFR
922
16 CFR
1000
26 CFR
301
Proposed Rul
1
301
29 CFR
Proposed Rul
1926
30 CFR
Proposed Rul
938 (2 docum
33 CFR
165
50 CFR
648 (2 docum
679
Proposed Rul
17
223
224

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Proposed Rules:
2430 66589

9 CFR
304 66541
305 66541
310 66547
327 66541
335 66541
381 (2 documents) 66541, 66547
500 66541

12 CFR
30 (2 documents) 66700, 66706
201 66553
208 66700
263 66706
364 (2 documents) 66700, 66706
570 (2 documents) 66700, 66706

14 CFR
39 66554
71 66565
Proposed Rules:
Ch. I 66590

15 CFR
922 66566

16 CFR
1000 66579

26 CFR
301 66580
Proposed Rules:
1 66591
301 66591

29 CFR
Proposed Rules:
1926 66595

30 CFR
Proposed Rules:
938 (2 documents) 66595, 66598

33 CFR
165 66585

50 CFR
648 (2 documents) 66586, 66587
679 66587
Proposed Rules:
17 66600
223 66601
224 66601

VOL
64

ISS
2
2
8

NO
29

1999

UMI

Rules

This section
contains regu
applicability a
are keyed to
Federal Regi
50 titles purs

The Code of
the Superinte
new books a
REGISTER i

DEPARTM

Food Safet

9 CFR Part
and 500

[Docket No.

RIN 0583–A

Rules of Pr

AGENCY: Fo
Service, US

ACTION: Fin

SUMMARY: T
Inspection
its rules of
enforcemen
each type o
may take, t
is likely to
and the pro
doing so. T
ongoing eff
streamline,
poultry pro

EFFECTIVE D
January 25,

FOR FURTHE
Daniel Engl
Regulations
Division, O
Developme
Room 112,
12th Street,
20250–370

SUPPLEMEN

Backgroun

Under th
Act (FMIA)
Inspection
Agriculture
responsibil
health by as
products di
wholesome
properly ma
To accompl

Rules and Regulations

Federal Register
Vol. 64, No. 228
Monday, November 29, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 305, 327, 335, 381, and 500

[Docket No. 95–025F]

RIN 0583–AC34

Rules of Practice

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its rules of practice that apply to Agency enforcement actions. FSIS is defining each type of enforcement action that it may take, the conditions under which it is likely to take each of these actions, and the procedures that it will follow in doing so. This rule is part of FSIS's ongoing effort to consolidate, streamline, and clarify the meat and poultry product inspection regulations.

EFFECTIVE DATE: This rule is effective January 25, 2000.

FOR FURTHER INFORMATION CONTACT: Daniel Engeljohn Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development and Evaluation, FSIS, Room 112, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

Under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), the Secretary of Agriculture is charged with the responsibility of protecting the public health by assuring that meat and poultry products distributed in commerce are wholesome, not adulterated, and properly marked, labeled, and packaged. To accomplish this objective, the statutes require the Secretary to administer a comprehensive inspection program which includes examining live animals prior to slaughter, inspecting all carcasses to be used for human food, and inspecting facilities where meat and poultry products are produced or stored. FSIS has broad authority to issue regulations to carry out the provisions of the FMIA and PPIA, including authority to prescribe the terms and conditions under which inspection will be provided and maintained and pursuant to which the marks of inspection will be applied.

An establishment's failure to comply with regulatory requirements can result in the Agency's inability to determine that products are not adulterated as required by the inspection statutes. Accordingly, FSIS may find it necessary to take action to prevent the production and shipment of product until the Agency is assured that there is compliance with the statutes and their implementing regulations. For example, FSIS can refuse to grant an application for inspection. It can take regulatory control actions to retain product, to reject equipment or facilities, to slow or stop lines, or to refuse to allow the processing of specifically identified product. The Agency may refuse to allow the marks of inspection to be applied to products or suspend inspection by interrupting the assignment of program employees to all or part of an establishment. FSIS also can withdraw inspection or rescind or refuse to approve markings, labels, or containers.

FSIS takes these types of actions when an establishment fails to: (1) develop and implement a HACCP plan or operate in accordance with 9 CFR Part 417; (2) develop, implement, and maintain Sanitation Standard Operating Procedures (Sanitation SOP's) in accordance with 9 CFR Part 416; (3) conduct generic *E. coli* testing in accordance with 9 CFR 310.25(a) or 381.45(a); (4) comply with the *Salmonella* performance standard requirements prescribed in sections 9 CFR 310.25(b) or 381.94(b); (5) maintain sanitary conditions; (6) humanely slaughter livestock; or (7) destroy condemned product. FSIS also takes these actions when an applicant for inspection, a recipient of inspection, or anyone responsibly connected with the applicant or recipient is unfit to engage in business because of prior criminal convictions, or when establishment personnel assault, intimidate, or interfere with Federal inspection service.

When FSIS refuses to grant an application for inspection, seeks to withdraw inspection, or refuses to approve markings, labels, or containers, the Agency initiates an administrative action under USDA's "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes" (7 CFR subtitle A, part 1, subpart H), as supplemented by FSIS's own "Rules of Practice," which have been set out in 9 CFR part 335 for meat or part 381, subpart W, for poultry and are now replaced by 9 CFR part 500. FSIS's supplemental rules of practice also provide for the withholding of the marks of inspection and the suspension of inspection.

When public health is a concern, FSIS immediately suspends inspection until the problem is corrected. FSIS refuses to mark product as "inspected and passed" or retains an establishment's meat or poultry products if the Agency determines that meat or poultry products are adulterated or cannot determine, as required by the statutes, that those products are not adulterated. Such actions typically are discontinued when the adulterated products have been destroyed or properly controlled, or when the deficiencies or noncompliances are corrected satisfactorily. The current supplemental rules also provide for an opportunity to address and correct problems before the Agency files a formal administrative complaint to suspend or withdraw an establishment's grant of inspection.

On January 12, 1998, FSIS issued a proposed rule (63 FR 1797) to reorganize and revise its supplemental rules of practice to better ensure that its enforcement procedures are fair; to eliminate redundancy; to identify the situations that may lead FSIS to take enforcement action which may include refusing to grant or withholding the marks of inspection and suspending or withdrawing inspection; and to establish the procedures FSIS would follow in taking such actions.

Comments

FSIS received 64 comments in response to the proposed rule. Although the commenters supported the consolidation and streamlining of the

rules of practice, they raised concerns about the actual proposed revisions to the regulations. The following is a discussion of the commenters' issues.

1. FSIS Authority

Several commenters asserted that an establishment's failure to meet the *Salmonella* performance standards, to carry out and meet generic *E. coli* testing requirements, or to prevent a HACCP system failure would not provide an adequate basis to suspend or seek withdrawal of inspection. They contend that the FMIA and PPIA authorize FSIS to remove inspectors only when an establishment fails to follow sanitary practices, refuses to destroy condemned carcasses, fails to comply with the Humane Slaughter Act, or is convicted in a criminal proceeding.

FSIS disagrees with this assessment of the Agency's authority. Under the FMIA and the PPIA, FSIS is charged with the duty and the responsibility to protect the public health by developing and implementing an effective, comprehensive, and scientifically valid inspection system that will ensure that meat and poultry products are wholesome, not adulterated, and properly marked, labeled, and packaged. FSIS is required by these statutes to carry out continuous inspection of slaughter and processing operations at Federal establishments and to make the affirmative determination that the meat and poultry products produced at those establishments are wholesome and not adulterated prior to marking the products as "inspected and passed."

FSIS has specified, through regulations, the conditions under which meat and poultry products must be produced [the HACCP/Pathogen Reduction regulations]. These regulations are essential, integral components of the FMIA and PPIA inspection system, and the failure, inability, or unwillingness of an establishment to comply with these food safety regulations effectively precludes FSIS from making the statutorily-mandated determination that meat and poultry products are wholesome, not adulterated, and entitled to bear the legend "inspected and passed." The inspection system provided for in the FMIA and PPIA is a continuous and real-time inspection program that, by its very nature, requires real-time and continuous inspection determinations. It is clear that the FMIA and the PPIA contemplate and authorize the Agency to take prompt and, if necessary, immediate action to carry out its public health responsibility to ensure that only products that are marked "inspected and passed" are shipped in commerce. It is the Agency view, therefore, that compliance with FSIS's food safety regulations, including the HACCP/Pathogen Reduction regulations, is a necessary predicate for inspection services and for the application of the marks of inspection under the FMIA and the PPIA, and that FSIS has inherent authority to withhold the marks, to suspend inspection services, and to withdraw inspection when these requirements are not satisfied.

In addition, FSIS is required to prescribe the rules and regulations for sanitation, with which slaughter and processing establishments must comply. The term "sanitation" is comprehensive and encompasses the array of procedures, practices, and controls employed by establishments to ensure that the products they produce are wholesome and not adulterated. Sanitation obviously includes procedures for the cleaning of equipment and facilities; proper sanitation also encompasses practices for ensuring the acceptability of incoming products and ingredients, proper product handling and preparation practices, controlling condemned product, and properly storing product. It is also FSIS's view that the SSOP requirements, the HACCP regulations, the *Salmonella* performance standards, and the generic *E. coli* testing requirements are material components of an effective sanitation program that is sufficient to meet the requirements of the FMIA and PPIA. For example, *E. coli* testing is prescribed in the HACCP/Pathogen Reduction regulations to verify that the establishment is employing sanitary dressing procedures to prevent the fecal contamination of carcasses. Also, the *Salmonella* performance standards were adopted to ensure that an establishment's procedures, practices, and controls, as embodied in its HACCP plans, are working properly. The Agency has ample statutory authority to withhold, suspend, or seek withdrawal, in accord with the facts of any particular case, when the Agency's sanitation requirements are not satisfied.

2. Due Process: Notice and Opportunity To Achieve Compliance

Commenters also raised concerns that the proposed rules did not provide adequate due process protections for establishments. The commenters argued, for example, that the taking of withholding actions by inspectors, and the resulting interruption of plant operations, without providing the establishment with notice of the deficiencies and an opportunity to demonstrate or achieve compliance is unreasonable and contrary to applicable law. Commenters underscored this point with particular focus on HACCP regulation noncompliances, contending that notice and opportunity to establish compliance were essential in such cases before taking withholding or suspension actions.

Some commenters believed that the proposed rules of practice were inconsistent with other FSIS regulations and policies related to the suspension of inspection. They cited, for example, the Quality Control (QC) regulations and the Progressive Enforcement Action program. Under these regulations and policies, in situations not involving the preparation and distribution of adulterated product, establishments were provided an opportunity to achieve compliance before FSIS terminated a QC program or imposed progressive sanctions.

FSIS is mindful that withholding the marks of inspection and suspending inspection services are significant enforcement actions to be taken only after careful evaluation of the facts and circumstances. At the same time, as discussed above, it is FSIS's statutory responsibility and duty to protect public health by maintaining an inspection system that will ensure that meat and poultry products produced and shipped in commerce are wholesome and not adulterated. FSIS agrees that fundamental fairness requires that appropriate due process be accorded establishments in connection with enforcement actions under the FMIA and PPIA. FSIS believes that the proposed rules of practice, as modified and specified in this document will, in fact, protect the due process rights of all establishments.

As we make clear in this final rule, FSIS will continue to provide notice and an opportunity to demonstrate or achieve compliance in situations where the violations and deficiencies disclosed by inspection or investigation do not, in the Agency's view, present a public health concern that requires immediate action. Where, however, noncompliance with the requirements of the acts and regulations indicates that continued production and shipment of product do pose, in the Agency's view, an imminent threat to public health, FSIS will take immediate action. Accordingly, section 500.3 of the rules of practice sets out the conditions under which FSIS may withhold the marks of inspection or suspend inspection without prior written notification and section 500.4 sets out the conditions under which FSIS may withhold the marks of inspection or suspend

inspection after providing prior written notification.

Commenters also argued that FSIS's noncompliance records (NRs) should not be deemed adequate to notify an establishment of the Agency's determination that there has been a "system failure."

It is FSIS's view that NRs do constitute valid and effective notice to an establishment that the establishment has not maintained regulatory compliance. An NR informs the establishment of the specific deficiency involved and on its face invites the establishment to respond to the finding and to present in writing its immediate and further planned corrective actions. The NR also specifically notes the right to appeal the inspector's finding and potential regulatory consequences of the NR.

When an NR is issued, it is incumbent upon the establishment to evaluate the NR carefully and to act upon and respond to it promptly and effectively. In particular, it is important that establishments address the NRs related to a HACCP plan noncompliance because such NRs may indicate that the plan is not working properly and should be reassessed. Accordingly, FSIS believes that should the Agency determine that it is necessary to withhold the marks of inspection or to suspend inspection because of multiple or recurring noncompliances, evidenced by NRs, the establishment will have been given appropriate notice as well as ample opportunity to demonstrate or achieve compliance.

Nonetheless, in cases where FSIS has determined that multiple or recurring noncompliances warrant the withholding of the marks of inspection or suspension of inspection, this final rule provides for written notification to the establishment before withholding or suspending inspection when the circumstances do not pose an imminent threat to public health.

Therefore, in response to the comments, FSIS is revising the regulatory language used in the proposed rule. This final rule lists the types of enforcement actions that the Agency may take and identifies the circumstances under which each action may be taken. This final rule also clarifies the procedures FSIS will follow to provide, when appropriate, prior notification to establishments.

Section 500.1 defines a "regulatory control action," "withholding action," and "suspension." A regulatory control action is the retention of product, rejection of equipment or facilities, slowing or stopping of lines, or refusal to allow the processing of specifically identified product. A withholding action is the refusal to allow the marks of inspection to be applied to products. A withholding action may affect all products in the establishment or product produced by a particular process. A suspension is an interruption of the assignment of program employees to all or part of an establishment.

Section 500.2 states that FSIS may take a regulatory control action because of insanitary conditions or practices, product adulteration or misbranding, conditions that preclude FSIS from determining that product is not adulterated or misbranded, or inhumane handling or slaughtering of livestock. These control actions are necessary, indeed essential, in-plant enforcement tools for inspectors to use in cases where the noncompliance is willful or involves public health, interest, or safety. Typically, regulatory control actions involve specific amounts of product or generally well-defined deficiencies such as crushed and open cartons or malfunctioning equipment. If FSIS takes a regulatory control action, it will immediately notify the establishment orally or in writing of the action and of the basis for the action. An establishment may appeal a regulatory control action, as provided in 9 CFR 306.5 and 381.35.

Withholding actions are generally more significant than regulatory control actions and affect a larger part of an establishment or the establishment's processes. In most cases, in-plant inspection personnel take these actions because of systemic problems, such as HACCP plan inadequacies. Typically, the actions necessary to correct the problem that resulted in a withholding action are more complex than those necessary to resolve a problem that resulted in a regulatory control action and are likely to require an establishment to accomplish a HACCP plan reassessment and make any necessary plan modification or to revise its Sanitation SOP.

A suspension of inspection is likely to have an even more significant impact on an establishment than a withholding action. Typically, an FSIS District Manager or Agency official at a higher level suspends inspection after an establishment fails to correct a situation involving a withholding action, or when the nature of the noncompliances are such that the corrective action, such as HACCP plan reassessment or changes in the establishment's operation, may take a significant amount of time to implement.

Section 500.3 states that FSIS may take a withholding or suspension action without providing the establishment prior notification because the establishment produced and shipped adulterated or misbranded product as defined in 21 U.S.C. 453 or 21 U.S.C. 602; the establishment does not have a HACCP plan as specified in section 417.2 of the regulations; the establishment does not have Sanitation SOPs as specified in sections 416.11–416.12 of the regulations; sanitary conditions are such that any products in the establishment are or would be rendered adulterated; an establishment operator, officer, employee, or agent assaulted, threatened to assault, intimidated, or interfered with an FSIS employee; the establishment violated the terms of a regulatory control action; or the establishment did not destroy a condemned meat or poultry carcass, or part or product thereof, in accordance with 9 CFR part 314 or part 381, subpart L, within three days of notification. FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely.

Section 500.4 states that FSIS may take a withholding action or impose a suspension after the Agency provides an establishment prior notification and the opportunity to demonstrate or achieve compliance because the HACCP system is inadequate, as specified in 9 CFR 417.6, due to multiple or recurring noncompliances; the Sanitation SOPs have not been properly implemented or maintained as specified in 9 CFR 416.13–16; the establishment has not maintained sanitary conditions as prescribed in 9 CFR 416.2–416.8 due to multiple or recurring noncompliances; the establishment did not collect and analyze samples for *Escherichia coli* Biotype I and record results in accordance with 9 CFR 310.25(a) or 381.94(a); or the establishment did not comply with the *Salmonella* performance standard requirements prescribed in 9 CFR 310.25(b) or 381.94(b).

Section 500.5 states that if FSIS takes a withholding action or imposes a suspension without prior written notification, the Agency will notify the establishment orally and, as promptly as circumstances permit, in writing. The written notification will provide the effective date of the action, reasons for the action, products or processes affected by the action, opportunity for the establishment to present immediate corrective action and further planned preventive action, and the appeals procedures. This section also addresses the prior notification provided for in section 500.4. This prior notification will state the type of action that may be

taken; describe the reason for the proposed action; identify the products or processes affected by the proposed action; advise the establishment of its right to contact FSIS to contest the basis for the proposed action or to explain how compliance has been or will be achieved; and advise the establishment that it will have three business days from receipt of the written notification to respond to FSIS unless the time period is extended by FSIS.

The provisions in section 500.5 also reiterate that an establishment may appeal the withholding action or suspension, as provided in section 9 CFR 306.5 and 381.35. Also, this section provides that if FSIS suspends inspection and does not hold the suspension action in abeyance, the establishment may request a hearing pursuant to the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H. Upon such request, the Administrator will file a complaint that will include a request for an expedited hearing.

Section 500.6 addresses withdrawal of inspection, and section 500.7 addresses refusal of inspection. These provisions are substantially unchanged from the January 1998 proposal. When FSIS withdraws or refuses inspection, the Agency initiates an administrative action under USDA's Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 CFR subtitle A, part 1, subpart H). Also, FSIS made no significant changes, other than renumbering the sections, to the provisions that relate to rescinding or refusing approval of marks, labels, and containers, (section 500.8) and refusing or withdrawing inspection for applicants or recipients unfit to engage in business (sections 500.6 and 500.7).

3. Appropriateness of Other Aspects of the Regulations

Some commenters suggested that FSIS should better explain the Agency's practice of allowing an establishment to operate while under a suspension if the establishment presents adequate written assurances that corrective actions are being implemented.

It has been FSIS's experience that some establishments, upon being notified that the Agency intends to suspend inspection, offer a plan to address the circumstances that caused FSIS to issue the notification. In these cases, FSIS has concluded that, even though the basis for a suspension existed, it was appropriate to hold the suspension in abeyance and to allow the establishment to continue to operate under its proposed corrective and preventive actions.

Section 500.5(e) states that FSIS may hold a suspension in abeyance and allow the establishment to operate under the conditions agreed to by FSIS and the establishment.

Some commenters suggested that there should be a third-party review of an establishment's response to the notification of the Agency's intent to take an enforcement action, and that this third party should make the decision on whether the enforcement action is warranted.

FSIS concluded that such third-party review is not appropriate under the meat and poultry inspection statutes. The Agency is required to make the determination that the statutes and regulations have been complied with, and that the products produced meet the statutory requirements. The suggested procedure is clearly inconsistent with the statutory authority and plan embodied in the FMIA and PPIA and would be impractical and contrary to the public interest.

A number of commenters raised concerns about FSIS's appeal policy. Some recommended provisions for alternative dispute resolution instead of an administrative hearing before an Administrative Law Judge in cases where there is a scientific dispute. Under the provisions submitted by the commenters, the Agency would create a standing panel of expert advisors to be called upon on an as needed basis. The establishment and the Agency would be permitted to call witnesses and present relevant evidence, especially scientific evidence, to the panel. The panel's decision along with any dissenting views would be written and shared with the establishment and the Agency. The Administrator, as the ultimate decisionmaker for the government, would give the panel's decision due consideration. Other commenters suggested that FSIS establish a special appeals resolution team in the Technical Service Center to which all appeals from inspection decisions would automatically be sent. Some commenters urged FSIS to specify how long it will take to resolve appeals, to allow establishments to continue operating while an appeal of an FSIS decision to suspend or withdraw inspection is pending, except in the event of an "imminent hazard to health," and to reimburse regulated establishments for losses during "down time" when they win an appeal from an inspection decision.

As stated in the proposed rule, FSIS is committed to providing establishments with appropriate notice and an effective opportunity to appeal withholding actions and suspensions of inspection. It recognizes the need for timely resolution of all such appeals. The Agency intends to develop regulations to address how appeals are handled. However, since there were no proposed regulations on appeals included in the proposed rules of practice, establishing such rules in this document is outside the scope of this rulemaking. FSIS plans to issue a proposed rulemaking related to the appeals process at a later date.

Until new regulations on appeals are in place, appeals will continue to be heard through the "chain-of-command" process, which is incorporated into FSIS's existing regulations (9 CFR 306.5 and 381.35). In an attempt to ensure the timely review of appeals, FSIS issued FSIS Notice 14–98 on April 20, 1998. This notice explains FSIS's policy regarding the appeal of inspection findings and decisions. It also established the Inspection Appeals Tracking System (IATS) report which the Agency uses to help ensure a timely response to appeals.

Some commenters stated that FSIS should not delete the provisions in section 335.13. In this regulation, FSIS stated that it will notify an establishment of what actions are necessary to correct an insanitary condition and of the time within which corrections must be made.

It is an establishment's responsibility to identify problems and to determine how best to correct them. Section 335.13 appeared by its terms to place the burden for devising and correcting insanitary conditions on the Agency. Such regulations are not consistent with the Pathogen Reduction/HACCP approach. The Agency will identify problems when an establishment fails to do so, but it is the establishment's responsibility to identify problems on a continuing basis and to identify, select, and implement effective action to correct noncompliances. FSIS will verify that establishments have taken the necessary corrective actions. Accordingly, FSIS is removing section 335.13.

Commenters also questioned the elimination of section 335.40, "Present Your Views (PYV)" provisions, which allow establishments believed to have violated the FMIA an opportunity to present their views to the Agency regarding an alleged criminal violation before FSIS refers the violation to the Department of Justice for prosecution. The commenters pointed out that the PYV provisions are a statutory entitlement for poultry processors, and that by rescinding the regulations, the

Agency is backing away from equity between meat and poultry.

After consideration of these comments, FSIS has reconsidered its proposal and will not remove Part 335, Subpart E.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant, and therefore, has not been reviewed by the Office of Management and Budget.

The Administrator has made a determination that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

There are no direct costs or benefits associated with this final rule. Costs and benefits are related to the regulatory actions, not the proceedings. At the present time, there is no way to predict whether industry "down time" will increase or decrease under these revised rules of practice. To the extent that resolution of disputes in a timely and efficient manner will be facilitated by these rules, there are potential benefits to consumers, industry, and the government. When disputes are related to public health issues, FSIS may reduce health risks to consumers by stopping an establishment's operations until the problem has been resolved.

There are also costs to industry associated with actions that suspend production operations.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. When this rule becomes final: (1) all state and local laws and regulations that are inconsistent with this rule would be preempted; (2) no retroactive effect would be given to this rule; and (3) administrative proceedings would not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

This final rule does not include any new paperwork requirements.

Additional Public Notification

In an effort to better ensure that minorities, women, and persons with disabilities are made aware of this final rule, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update.

FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** Notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information with a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

List of Subjects

9 CFR Part 304

Meat inspection.

9 CFR Part 305

Meat inspection.

9 CFR Part 327

Imports, Meat inspection.

9 CFR Part 381

Poultry and poultry products.

9 CFR Part 500

Rules of practice.

For the reasons set forth in this preamble, 9 CFR chapter III would be amended as follows:

PART 304—APPLICATION FOR INSPECTION; GRANT OF INSPECTION

1. The authority citation for part 304 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Part 304 is amended by revising the heading to read as set forth above, and amending § 304.2 by removing paragraphs (c) and (e), redesignating paragraph (d) as paragraph (c), and revising the last sentence of paragraph (b) to read as follows:

* * * * *

§ 304.2 Information to be provided.

* * * * *

(b) * * * Any application for inspection may be refused in accordance with the rules of practice in part 500 of this chapter.

* * * * *

PART 305—OFFICIAL NUMBERS; INAUGURATION OF INSPECTION; WITHDRAWAL OF INSPECTION; REPORTS OF VIOLATION

3. The authority citation for part 305 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 305.5 [Removed]

4. Part 305 is amended by removing § 305.5.

PART 327—IMPORTED PRODUCTS

5. The authority citation for part 327 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

6. Section 327.6 is amended by removing the last four sentences in paragraph (f) and adding in their place one sentence to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers

* * * * *

(f) * * * Any application for inspection under this section may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

PART 335—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT

§§ 335.1–335.32 (Subparts A—D [Removed]

7. Part 335 Subparts A through D (§§ 335.1–335.32) are removed. Subpart E—Criminal Violations is redesignated as Subpart A.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

8. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450, 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

9. Section 381.21 is amended by removing paragraphs (a), (b), and (c); redesignating paragraph (d) as (b); and adding a new paragraph (a) to read as follows:

§ 381.21 Refusal of inspection.

(a) Any application for inspection in accordance with this part may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

* * * * *

§ 381.29 [Removed]

10. Part 381 is amended by removing § 381.29.

§§ 381.230–381.236 (Subparts VI) [Removed]

11. Part 381 is amended by removing Subpart W (§§ 381.230—381.236).

SUBCHAPTER E—REGULATORY REQUIREMENTS UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT

12. Subchapter E is amended by adding a new Part 500 to read as follows:

PART 500—RULES OF PRACTICE

Sec.

500.1 Definitions.
500.2 Regulatory control action.
500.3 Withholding or suspension of inspection without prior notification.
500.4 Withholding action or suspension of inspection with prior notification.
500.5 Notification, appeals, and actions held in abeyance.
500.6 Withdrawal of inspection.
500.7 Refusal to grant inspection.
500.8 Procedures for rescinding or refusing approval of marks, labels, sizes, and containers.

Authority: 21 U.S.C. 451–470, 601–695; 7 U.S.C. 450, 1901–1906; 7 CFR 2.18, 2.53.

§ 500.1 Definitions.

(a) A "regulatory control action" is the retention of product, rejection of equipment or facilities, slowing or stopping of lines, or refusal to allow the processing of specifically identified product.

(b) A "withholding action" is the refusal to allow the marks of inspection to be applied to products. A withholding action may affect all product in the establishment or product produced by a particular process.

(c) A "suspension" is an interruption in the assignment of program employees to all or part of an establishment.

§ 500.2 Regulatory control action.

(a) FSIS may take a regulatory control action because of:

(1) Insanitary conditions or practices;

(2) Product adulteration or misbranding;

(3) Conditions that preclude FSIS from determining that product is not adulterated or misbranded; or

(4) Inhumane handling or slaughtering of livestock.

(b) If a regulatory control action is taken, the program employee will immediately notify the establishment orally or in writing of the action and the basis for the action.

(c) An establishment may appeal a regulatory control action, as provided in sections 306.5 and 381.35 of this chapter.

§ 500.3 Withholding action or suspension without prior notification.

(a) FSIS may take a withholding action or impose a suspension without providing the establishment prior notification because:

(1) The establishment produced and shipped adulterated or misbranded product as defined in 21 U.S.C. 453 or 21 U.S.C. 602;

(2) The establishment does not have a HACCP plan as specified in § 417.2 of this chapter;

(3) The establishment does not have Sanitation Standard Operating Procedures as specified in §§ 416.11–416.12 of this chapter;

(4) Sanitary conditions are such that products in the establishment are or would be rendered adulterated;

(5) The establishment violated the terms of a regulatory control action;

(6) An establishment operator, officer, employee, or agent assaulted, threatened to assault, intimidated, or interfered with an FSIS employee; or

(7) The establishment did not destroy a condemned meat or poultry carcass, or part or product thereof, in accordance with part 314 or part 381, subpart L, of this chapter within three days of notification.

(b) FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely.

§ 500.4 Withholding action or suspension with prior notification.

FSIS may take a withholding action or impose a suspension after an establishment is provided prior notification and the opportunity to demonstrate or achieve compliance because:

(a) The HACCP system is inadequate, as specified in § 417.6 of this chapter, due to multiple or recurring noncompliances;

(b) The Sanitation Standard Operating Procedures have not been properly implemented or maintained as specified in §§ 416.13 through 416.16 of this chapter;

(c) The establishment has not maintained sanitary conditions as prescribed in § § 416.2 through 416.8 of this chapter due to multiple or recurring noncompliances;

(d) The establishment did not collect and analyze samples for *Escherichia coli* Biotype I and record results in accordance with §§ 310.25(a) or 381.94(a) of this chapter;

(e) The establishment did not meet the *Salmonella* performance standard requirements prescribed in §§ 310.25(b) or 381.94(b) of this chapter.

§ 500.5 Notification, appeals, and actions held in abeyance

(a) If FSIS takes a withholding action or imposes a suspension, the establishment will be notified orally and, as promptly as circumstances permit, in writing. The written notification will:

(1) State the effective date of the action(s),

(2) Describe the reasons for the action(s),

(3) Identify the products or processes affected by the action(s),

(4) Provide the establishment an opportunity to present immediate and corrective action and further planned preventive action; and

(5) Advise the establishment that it may appeal the action as provided in §§ 306.5 and 381.35 of this chapter.

(b) The prior notification provided for in § 500.4 of this part will:

(1) State the type of action that FSIS may take;

(2) Describe the reason for the proposed action;

(3) Identify the products or processes affected by the proposed action;

(4) Advise the establishment of its right to contact FSIS to contest the basis for the proposed action or to explain how compliance has been or will be achieved; and

(5) Advise the establishment that it will have three business days from receipt of the written notification to respond to FSIS unless the time period is extended by FSIS.

(c) An establishment may appeal the withholding action or suspension, as provided in §§ 306.5 and 381.35 of this chapter.

(d) If FSIS suspends inspection and does not hold the suspension action in abeyance as provided in paragraph (e) of this section, the establishment may request a hearing pursuant to the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H. Upon such request, the Administrator will file a complaint that will include a request for an expedited hearing.

(e) FSIS may hold a suspension in abeyance and allow the establishment to operate under the conditions agreed to by FSIS and the establishment.

§ 500.6 Withdrawal of inspection.

The FSIS Administrator may file a complaint to withdraw a grant of Federal inspection in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H because:

(a) An establishment produced and shipped adulterated product;

(b) An establishment did not have or maintain a HACCP plan in accordance with part 417 of this chapter;

(c) An establishment did not have or maintain Sanitation Standard Operating Procedures in accordance with part 416 of this chapter;

(d) An establishment did not maintain sanitary conditions;

(e) An establishment did not collect and analyze samples for *Escherichia coli* Biotype I and record results as prescribed in §§ 310.25(a) or 381.94(a) of this chapter;

(f) An establishment did not comply with the Salmonella performance standard requirements as prescribed in §§ 310.25(b) and 381.94(b) of this chapter;

(g) An establishment did not slaughter or handle livestock humanely;

(h) An establishment operator, officer, employee, or agent assaulted, threatened to assault, intimidated, or interfered with an FSIS program employee; or

(i) A recipient of inspection or anyone responsibly connected to the recipient is unfit to engage in any business requiring inspection as specified in section 401 of the FMIA or section 18(a) of the PPIA.

§ 500.7 Refusal to grant inspection.

(a) The FSIS Administrator may refuse to grant Federal inspection because an applicant:

(1) Does not have a HACCP plan as required by part 417 of this chapter;

(2) Does not have Sanitation Standard Operating Procedures as required by part 416 of this chapter;

(3) Has not demonstrated that adequate sanitary conditions exist in the establishment as required by part 308 or part 381, subpart H, and part 416 of this chapter;

(4) Has not demonstrated that livestock will be handled and slaughtered humanely; or

(5) Is unfit to engage in any business requiring inspection as specified in section 401 of the FMIA or section 18(a) of the PPIA.

(b) If the Administrator refuses to grant inspection, the applicant will be provided the opportunity for a hearing in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H.

§ 500.8 Procedures for rescinding or refusing approval of marks, labels, and containers.

(a) FSIS may rescind or refuse approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat or poultry product under section 7 of the FMIA or under section 8 of the PPIA.

(b) FSIS will provide written notification that:

(1) Explains the reason for rescinding or refusing the approval;

(2) Provides an opportunity for the establishment to modify the marking, labeling, or container so that it will no longer be false or misleading; and

(3) Advises the establishment of its opportunity to submit a written statement to respond to the notification and to request a hearing.

(c) If FSIS rescinds or refuses approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat or poultry product, an opportunity for a hearing will be provided in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H.

Done at Washington, DC on: November 17, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–30603 Filed 11–26–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 310 and 381

[Docket No. 97–004F]

RIN 0583–AC32

Generic *E. coli* Testing for Sheep, Goats, Equines, Ducks, Geese, and Guineas

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is requiring establishments that slaughter sheep, goats, horses, mules, and other equines, and establishments that slaughter ducks, geese, and guineas, to sample and test carcasses for generic *E. coli*. This final rule extends the sampling and testing requirements already applied to establishments that slaughter cattle, swine, chickens, and turkeys. Regular microbial testing by slaughter establishments is necessary to verify the adequacy of the establishment's process controls for the prevention and removal of fecal contamination and associated bacteria.

EFFECTIVE DATE: January 25, 2000.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Director, Regulation Development and Analysis Division, Office of Policy, Program Development, and Evaluation, FSIS, Room 112 Annex Building, Washington, DC 20250–3700; telephone (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1996, FSIS published a final rule, "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems," (61 FR 38806). The new regulations (1) require that each establishment develop, implement, and maintain written sanitation standard operating procedures (Sanitation SOP's); (2) require regular microbial testing for generic *E. coli* by establishments that slaughter cattle, swine, chicken, and turkey to verify the adequacy of each establishment's process control for the prevention and removal of fecal contamination and associated bacteria; (3) establish pathogen reduction performance standards for *Salmonella* that slaughter establishments and establishments producing raw ground products must meet; and (4) require that all meat and poultry establishments develop and implement a system of preventive controls designed to improve the safety of their products, a Hazard Analysis and Critical Control Point (HACCP) system.

At present, all inspected establishments that slaughter cattle, swine, chickens or turkeys must sample and test carcasses for generic *E. coli*. These establishments have developed sampling plans and sample at specified frequencies, locations, and sites. They maintain records of results and evaluate the results using either the m/M criteria developed in FSIS' baseline studies or, if m/M criteria are not available, statistical process control techniques. Establishments defined as "very low volume" may sample at an alternative frequency. Also, establishments operating under HACCP may develop alternative sampling frequencies if certain requirements are met. The Pathogen Reduction/HACCP final rule and the "Pathogen Reduction/HACCP; Technical Corrections and Amendment" final rule (62 FR 26211) provide detailed information about the need for these requirements.

On November 3, 1997, FSIS published a proposed rule in the **Federal Register** (62 FR 59305) proposing to extend the sampling and testing requirements for generic *E. coli* to meat establishments that slaughter sheep, goats, and equines and to poultry establishments that slaughter ducks, geese, and guineas. FSIS believes that regular microbial testing by all slaughter establishments is necessary to verify the adequacy of the establishment's process controls for the prevention and removal of fecal contamination and associated bacteria.

Comments

FSIS received five comments during the public comment period that ended January 2, 1998. Two of the commenters are members of the meat industry, and two commenters represent industry trade associations. The fifth commenter is from the Ministry of Agriculture of a major U.S. trading partner. None of the commenters expressed any opposition to extending the generic *E. coli* sampling and testing requirements to minor species, and one commenter found both the costs and hours necessary for implementation to be reasonable.

The principal areas of disagreement with the proposed rule dealt with sampling/testing rates and sites. One of the commenters proposed that the sampling for sheep and goats be done less frequently than for cattle and swine. Another commenter disagreed with the application of the 1 per 300 sampling frequency and proposed an ovine sampling rate of 1 per 810 as being more appropriate for establishments that slaughter large numbers of sheep and lambs.

The sampling/testing site was another area about which there was disagreement with the proposal. One commenter expressed a preference for a single sampling site rather than the three sites proposed by FSIS. Another commenter disagreed with the proposed sampling sites and recommended that alternative sites be described in the final rule to accommodate different dressing systems.

The flank, brisket, and rump are the same sites that were used by FSIS when conducting the baseline studies for cattle and swine. FSIS' decision not to change sites is based on the fact that there are no available data to demonstrate that one-site sampling will provide results comparable to the baseline survey data.

Moreover, it is appropriate, under HACCP, that the same three sites be used for sampling all livestock carcasses. The Agency's understanding of the minor species' dressing practices is that these three sites are the most likely places where contamination would be found. Although species-specific data are not currently available, researchers at Colorado State University (CSU) are conducting sampling analysis at three locations on lamb carcasses: the leg (rump, for beef), flank, and breast (brisket, for beef). The Agency will consider amending the regulations if the CSU data indicate a persuasive need to considering other sampling sites. With regard to frequency of sampling/testing, FSIS proposed a maximum limit of 13 samples per day, as was done with poultry.

One commenter recommended a smaller template for lamb carcasses, such as an area between 3×3 inches and 5×5 inches. In response to this recommendation, FSIS agrees that a smaller template is reasonable for sheep and goats, smaller species than livestock species, and will specify a 5×10 cm template in its sampling procedures.

The Final Rule

FSIS now is extending these sampling and testing requirements to sheep, goats, horses, mules, and other equines, defined as livestock in 9 CFR 301.2 (qq). All establishments slaughtering sheep, goats, horses, mules, or other equines now are required to meet the sampling and testing requirements in 9 CFR 310.25. Similarly, establishments that slaughter ducks, geese, and guineas now are required to meet the sampling and testing requirements in 9 CFR 381.94. These establishments will only be required to test sheep, goats, equines, ducks, geese, or guineas if they primarily slaughter these types of livestock or poultry. FSIS considers the livestock or poultry an establishment slaughters in the largest number to be that establishment's primary type of livestock or poultry slaughtered. Finally, this final rule also corrects an inadvertent inconsistency in the headings of §§ 310.25 and 381.94 that appeared in the proposed rule by including the phrase "process control verification criteria and testing" as well as removing the phrase "for *Salmonella*" in § 310.25.

Sampling Frequencies and Definitions for Very Low Volume Establishments

For the Pathogen Reduction/HACCP final rule, FSIS used a methodology to select sampling frequencies so that, in the subgroup of establishments accounting for 99 percent of total production for each type of livestock or poultry, the 5 percent of establishments with the highest production volume would each conduct a minimum of 13 *E. coli* tests, or one complete test window each day. Under these frequencies, 90 percent of all cattle, 94 percent of all swine, 99 percent of all chickens, and 99 percent of all turkeys would be slaughtered in establishments conducting a minimum of one complete *E. coli* sampling window per day to provide a minimum, adequate basis for process control verification.

FSIS developed alternative sampling frequencies for establishments defined as "very low volume." If there are published m/M criteria for the type of livestock or poultry primarily slaughtered, the establishment must sample that type of livestock or poultry at a minimum frequency of once per week, starting the first full week of operation after June 1 of each year until a series of 13 tests has met those m/M criteria. If there are no m/M criteria for the type of livestock or poultry primarily slaughtered, a very low volume establishment must collect at least one sample per week, starting the first full week of operation after June 1 of each year, and continue sampling at a minimum of once each week that the establishment operates until June 1 of the following year or until 13 samples have been collected, whichever comes first. This provision will be eliminated once m/M criteria are developed for the primary type of livestock or poultry slaughtered.

FSIS permits very low volume establishments to test at this frequency, in part, because of their relatively simple and stable production environments. Also, FSIS assumes that the total risk of exposure to enteric pathogens from products produced at such establishments would be small and roughly proportional to the amount of products produced. FSIS requires these establishments to begin testing in June because it is most important for these establishments to conduct testing during the summer months, when there is a seasonal peak in the occurrence of foodborne diseases attributable to the major bacterial pathogens.

The Pathogen Reduction/HACCP final rule (61 FR 38842) noted that very low volume cattle and swine establishments account for only 1.5 percent and 1.3 percent of overall production, respectively. Very low volume chicken and turkey establishments account for .05 percent and .01 percent of overall production, respectively.

FSIS is now requiring establishments that slaughter sheep, goats, and equines to sample at the same frequency now required for cattle, one test per 300 carcasses. Similarly, FSIS is requiring establishments that slaughter ducks, geese, and guineas to sample at the same frequency now required for turkeys, one test per 3,000 carcasses. FSIS also is requiring establishments that slaughter sheep, goats, equines, ducks, geese, and guineas, except those defined as very low volume establishments, to conduct sampling at a frequency of at least once per week to provide a minimum, adequate basis for process control verification.

FSIS is requiring "very low volume" establishments that slaughter sheep, goats, equines, ducks, geese, and guineas to collect at least one sample per week, starting the first full week of

operation after June 1 of each year, and continue sampling at a minimum of once each week that the establishment operates until June 1 of the following year or until 13 samples have been collected, whichever comes first. At this time, baseline studies have not been conducted to develop m/M criteria for sheep, goats, equines, ducks, geese, and guineas. When m/M criteria are developed for any of these types of livestock or poultry, FSIS intends to require sampling at a minimum frequency of once per week starting the first full week of operation after June 1 until a series of 13 tests has met those m/M criteria.

Sheep and Goats

In fiscal year 1993, 93 establishments slaughtered primarily sheep and goats. FSIS is requiring that these establishments sample at a frequency of one test per 300 carcasses or at least once a week, whichever is greater, unless they are very low volume establishments. At this sampling frequency, 85 percent of all sheep and goats will be slaughtered in establishments conducting a minimum of 13 samplings each day or one complete *E. coli* test window. A very low volume sheep or goat slaughter establishment is one that annually will slaughter no more than 6,000 head. Based on fiscal year 1993 data, 61 of the 93 establishments will be classified as very low volume and account for 1.9 percent of total sheep and goat production.

Equines

In fiscal year 1995, eight establishments slaughtered equines under Federal inspection for human food. These eight establishments slaughtered only equines. The Agency now is requiring that horse, mule, or other equine slaughter establishments sample at a rate of one per 300 carcasses or at least once a week, whichever is greater, unless they are very low volume establishments. Very low volume equine establishments are those that will annually slaughter no more than 6,000 equines. Two of the equine establishments, slaughtering 5.6 percent of overall production, will be classified as very low volume.

Ducks, Geese, and Guineas

In fiscal year 1995, there were 12 establishments that slaughtered primarily ducks and two establishments that slaughtered primarily geese. FSIS is not aware of any federally inspected establishment currently slaughtering guineas. FSIS now is requiring establishments that slaughter ducks, geese, and guineas to sample at a frequency of one test per 3,000 carcasses or at least once a week, whichever is greater, unless they are very low volume establishments. At this frequency, 96 percent of all ducks will be slaughtered in establishments conducting a minimum of one *E. coli* test per day. Very low volume duck, geese, or guinea establishments are those that will slaughter no more than 60,000 ducks, geese, or guineas, respectively, a year.

In FY 1995, 25 establishments slaughtered 19.2 million ducks. Only 12 establishments slaughtered primarily ducks. These establishments produced 98.7 percent of all ducks slaughtered under Federal inspection. One of the 12 establishments produces less than 0.2 percent of ducks slaughtered and will be defined as a very low volume duck establishment.

Eight establishments under Federal inspection slaughtered 159,000 geese in FY 1995. Only two establishments slaughtered primarily geese and only one of these establishments slaughters more than 60,000 geese.

Alternative Sampling Frequencies

Establishments operating under a validated HACCP plan in accordance with 9 CFR 417.2(b) will be permitted to substitute an alternative frequency if the alternative is an integral part of the establishment's verification procedures for its HACCP plan. Establishments will not be allowed to use an alternative frequency if FSIS determines, and notifies the establishment in writing, that the alternative frequency is inadequate to verify the effectiveness of the establishment's process controls.

Sampling Plans

Establishments that slaughter sheep, goats, equines, ducks, geese, and guineas will prepare written specimen collection procedures. The procedures will include the identification of employees designated to collect samples, the location(s) of sampling, how sampling randomness is achieved, and how samples are handled to ensure sample integrity. The written procedures will be made available to FSIS upon request.

Sampling Locations

Establishments that slaughter sheep, goats, and equines will collect samples from chilled carcasses. Carcasses boned before chilling (hot boned) will be sampled after the final wash. For ducks, geese, and guineas, samples will be taken from the end of the chilling process, after the drip line. If the bird is boned before chilling, the sample will be taken from the end of the slaughter line instead of the end of the drip line.

Sampling Sites

Samples from sheep, goat, and equine carcasses will be taken by sponging tissue from three sites: the flank, brisket, and rump. The sponge is to be placed afterward in an amount of buffer to transfer any *E. coli* to a solution, which then is analyzed for *E. coli*. Hide-on carcasses will be sampled by sponging from inside the flank, inside the brisket, and inside the rump. Samples from ducks, geese, and guineas will be collected by taking whole birds from the end of the chilling process after the drip line and rinsing them in an amount of buffer appropriate to the type of bird being tested.

Recordkeeping

Establishments will enter test results onto a process control chart or table and record the results in terms of colony forming units per milliliter (cfu/ml) for poultry carcasses or per square centimeter (cfu/cm2) for livestock carcasses. Establishments will use the records to evaluate test results. These records will be maintained at the establishment for 12 months and must be made available to inspection program personnel upon request. Inspection program personnel will review results over time to verify effective and consistent process control.

Evaluation Criteria

Establishments will evaluate results using statistical process control techniques until such time as m/M criteria are established for these types of livestock and poultry. FSIS intends to give high priority in its baseline plan to collect data that will support establishing m/M criteria for ducks and geese, and sheep.

International Implementation

The Federal Meat Inspection Act and the Poultry Products Inspection Act require that meat and poultry products imported into the United States be produced under an inspection system that is equivalent to the U.S. inspection system. In determining the equivalency of a foreign country's eligibility to import meat or poultry products into the United States, FSIS evaluates the laws, policies, and administration of that country's inspection system. This assessment includes on-site reviews of individual establishments, laboratories, and other facilities within the foreign system. With this final rule, countries that export products of sheep, goats, equines, ducks, geese, and guineas to the United States must implement

equivalent generic *E. coli* sampling and testing programs as a condition of maintaining eligibility for access to the U.S. market.

The burden for demonstrating equivalence rests with the exporting country, and the United States is free to set any level of protection it considers appropriate to control or eliminate a foodborne hazard. Equivalent regulatory systems need not be identical. FSIS has established a level of protection that domestic establishments must achieve. Exporting countries may propose alternative methods of achieving equivalent levels of protection and are advised to consult with FSIS on any proposed alternatives that they believe will meet U.S. requirements.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant, and therefore, has not been reviewed by the Office of Management and Budget.

The Administrator made an initial determination that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

This final rule is an extension of the Pathogen Reduction/HACCP rule, which is economically significant. Many aspects of that economically significant rule, such as the public health risks associated with pathogens present in fecal contamination and the potential health benefits of pathogen reduction, are applicable to this rule. In the Final Regulatory Impact Assessment (FRIA)(61 FR 38945, July 25, 1996) for the Pathogen Reduction/HACCP rule, FSIS addressed these areas in detail.

By extending the requirement for generic *E. coli* testing to additional types of livestock and poultry, this final rule will increase the effectiveness of pathogen reduction efforts and generate proportional increases in predicted public health benefits. The benefits assessment in the FRIA was based on a proportional reduction assumption: that is, an assumption was made that a reduction in pathogens at the manufacturing level leads to a proportional reduction in foodborne illness. Public health benefits are quantified in terms of reduced cost of foodborne illness.

This final rule will affect an estimated 101 federally inspected livestock slaughter establishments and a smaller number of State inspected livestock slaughter establishments. The total of 101 federally inspected establishments includes 11 establishments that slaughter only sheep and goats, 82 establishments that slaughter cattle and/or swine but slaughter sheep or goats as their primary type of livestock, and eight establishments that slaughter equines. In addition, there are 574 establishments that slaughter sheep or goats but are not affected because they primarily slaughter cattle or swine.

This final rule also will affect an estimated 14 federally inspected poultry slaughter establishments and possibly a few State inspected poultry slaughter establishments. These include 12 federally inspected establishments that slaughter primarily ducks and two establishments that slaughter primarily geese. There are 14 establishments that also slaughter ducks and/or geese, but are not affected because they slaughter primarily chickens or turkeys. There are currently no establishments that slaughter guineas under Federal inspection.

Executive Order 12898

Pursuant to Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," FSIS has considered potential impacts of this final rule on environmental and health conditions in low-income and minority communities.

This final rule extends the sampling and testing requirements already applied to establishments that slaughter cattle, swine, chickens, and turkeys. As explained in the economic impact analysis above, the Final Regulatory Impact Assessment (FRIA) for the Pathogen Reduction/HACCP final rule addressed in detail the fact that this rule will generally benefit FSIS, the regulated industries, and consumers. The final rule will not require or compel meat or poultry establishments to relocate or alter their operations in ways that could adversely affect the public health or environment in low income and minority communities. Further, this final rule will not exclude any persons or populations from participation in FSIS programs, deny any persons or populations the benefits of FSIS programs, or subject any persons or populations to discrimination because of their race, color, or national origin.

Cost Analysis

This analysis is based on the same estimates and assumptions that were used to develop the FRIA for the Pathogen Reduction/HACCP rule and include:

(1) An average cost of $24 for collecting and analyzing a sample for generic *E. coli*.

(2) A cost of $640 for the preparation of a sampling plan. This estimate is based on 25 hours at $25.60 per hour, the average wage of a quality control manager.

(3) A cost of $403 per establishment for an estimated three out of four establishments that would require extra training for aseptic sampling.

(4) An estimate of 26 sample collections annually by very low volume slaughter establishments. (The proposed requirement is a minimum of 13.)

(5) An estimate of five minutes to record and review laboratory results for each sample by an employee earning $13.42 per hour.

Sheep, Goats, and Equines

Unless otherwise specified, this cost analysis is based on data from the Agency's Enhanced Economic Database. This database includes Animal Disposition Retrieval System (ADRS) data from FY 1993. Sheep and goat production were combined in the Enhanced Economic Database. Although the proposed rule treats sheep and goats as two separate types of livestock, the cost analysis is based on combined sheep and goat production. This has a minimal impact on the accuracy of the cost estimates.

There are 11 establishments that slaughter only sheep and goats. This final rule will extend mandatory generic *E. coli* testing to these establishments. Each of these 11 establishments will be required to develop a sampling plan at a cost of $640 per establishment or $7,040 in total. This cost would include items such as preparing a written plan, establishing sampling procedures, locating a laboratory and arranging for necessary supplies, and developing the statistical process control techniques to be used for analyzing results.

This analysis assumes that eight establishments (75 percent) would require training in aseptic sampling at a cost of $3,224 (8 times $403). Three of the eleven establishments will be very low volume establishments and will analyze 26 samples per year for a recurring cost of $1,872. Based on production data and a sampling rate of one in 300, the other eight establishments will analyze a total of 8,015 samples annually at a cost of $192,360. Recording and reviewing costs for 8,015 samples will require 668 hours annually and cost $8,970. The annual recording and reviewing costs for the three very low volume establishments will be $87 (6.5 hours at $13.43 per hour).

As discussed above, there are 82 establishments that slaughter cattle and/or swine but slaughter sheep or goats as their primary type of livestock. There

will be no additional cost for 58 of these establishments because these 58 are now required to conduct sampling as very low volume cattle or swine slaughter establishments and will be very low volume sheep or goat establishments under this rule. The impact on these 58 establishments will be a shift in the type of livestock sampled. The Agency is not aware of any basis to conclude that establishments could not make this shift without additional costs for sampling plan development.

The other 24 establishments within the 82 that slaughter cattle and/or swine and sheep or goats are now required to test cattle or swine. However, under this final rule, they will have to conduct additional analyses based on their sheep or goat production. Their sheep/goat production is greater than the larger of their cattle or swine production. As they shift from cattle or swine to sheep or goats, annual sampling will increase by 2,928 samples or $70,272 per year. Annual recording and reviewing costs will be $3,277 (244 hours at $13.43 per hour).

This final rule will also extend mandatory generic *E. coli* testing to 8 establishments that slaughter equines for human food. Based on FY 1995 ADRS data, these eight establishments will be required to conduct 469 analyses per year. It is assumed they will all have to develop sampling plans ($640 each) and that six will have to obtain training in aseptic sampling ($403 per establishment). Two of the eight establishments that slaughter equines will meet the definition for a very low volume establishment. The total recurring cost for 469 analyses will be $11,256. Recording and reviewing costs will be $525 per year (39 hours at $13.43 per hour).

In conclusion, there are 43 federally inspected livestock slaughter establishments that will experience increased costs under this final rule. The one time up-front costs will total $17,802, $5,642 for training in aseptic sampling and $12,160 for sampling plan development. The total recurring cost for the 43 establishments will be $288,619, $275,760 for sample collection and analysis and $12,859 for recording and reviewing test results.

All the costs discussed above for establishments that slaughter sheep, goats, and equines are summarized in Table 1.

TABLE 1.—COSTS FOR IMPLEMENTING GENERIC E. COLI SAMPLING PROGRAMS IN SHEEP, GOAT, AND EQUINE ESTABLISHMENTS

Production category	Number of establishments	Training for aseptic sampling	Sampling plan development	Sample collection and analysis (recurring)	Recording and review (recurring)
Exclusively Sheep or Goats with Annual Production over 6,000 ..	8	$2,418	$5,120	$192,360	$8,970
Exclusively sheep or Goats with Annual Production under 6,000	3	806	1,920	1,872	87
Primarily Sheep or Goats with Annual Production over 6,000	24	.....	.....	70,272	3,277
Equine	8	2,418	5,120	11,256	525
Total	43	5,642	12,160	275,760	12,859

Ducks, Geese, and Guineas

The ADRS data show that 28 federally inspected establishments slaughtered ducks and/or geese in FY 1995. FSIS is not aware of any establishment slaughtering guineas. Six establishments slaughtered only the types of poultry covered by this final rule. This final rule extends mandatory generic *E. coli* testing to six federally inspected poultry establishments that are not currently required to test. There are eight poultry slaughter establishments that currently test chickens or turkeys, but slaughter more ducks or geese and, therefore, will shift their testing program to ducks or geese. Seven of these establishments will have to conduct more testing because they will not be very low volume establishments based on their duck or goose production. The eighth establishment will shift from a very low volume establishment that slaughters chickens to a very low volume establishment that slaughters ducks, and it and will not incur any additional costs.

In summary, under this final rule, 14 establishments will test ducks or geese. Two of these establishments will be very low volume establishments. All 14 poultry slaughter establishments affected by this final rule were included in the Pathogen Reduction/HACCP FRIA as very low volume poultry slaughter establishments, that is, annual chicken slaughter under 440,000 and annual turkey slaughter under 60,000. The methodology applied in the FRIA started with all 306 poultry slaughter establishments (FY 1993 ADRS data) in the Agency's Enhanced Economic Database. FSIS calculated the costs for 208 establishments processing more than 440,000 chickens annually and the costs for 48 establishments processing more than 60,000 turkeys annually. FSIS treated the remaining 50 poultry slaughter establishments as very low volume establishments.

This methodology most likely overestimated costs; more recent FY 1995 ADRS data include six poultry slaughter establishments processing ducks and/or geese exclusively. This cost analysis separates the costs already addressed and the incremental costs of basing sampling frequency upon duck and geese production. The costs already addressed that are actually costs of this final rule include the cost of six sampling plans at $640 per plan or $3,840; training in aseptic sampling for five establishments at $403 per establishment or $2,015; sample collection and analysis costs for 156 (6 multiplied by 26) samples per year at a cost of $24 per sample or $3,744; and recording and record review costs of $175. Using duck and geese production levels from FY 1995, five of the six establishments slaughtering only ducks and geese will have to collect and analyze an additional 2,281 samples per year at an annual cost of $54,744. The recording and reviewing costs for 2,281 samples will be $2,553 annually. The other establishment is a very low volume establishment.

As discussed above, there are seven establishments that are currently required to test for chickens or turkeys as very low volume establishments, but will have to conduct more analyses under this final rule because they will not be very low volume establishments based on their duck or goose production. These seven establishments will have to collect and analyze an additional 3,769 samples annually at a cost of $90,456. Recording and review costs at five minutes per sample will total $4,218 per year.

The total cost for extending testing to ducks, geese, and guineas includes a one-time cost of $5,855 for training and sampling plan development and an annual recurring sampling and recording cost of $155,890. The cost for requiring generic *E. coli* sampling in establishments that slaughter ducks, geese, and guineas are summarized in Table 2.

TABLE 2: COSTS FOR IMPLEMENTING GENERIC E. COLI SAMPLING PROGRAMS FOR DUCK, GOOSE, AND GUINEA ESTABLISHMENTS

Production category	Number of establishments	Training for aseptic sampling	Sampling plan development	Sample collection and analysis (recurring)	Recording and review (recurring)
Ducks and Geese only-Costs Included in FRIA	6	$2,015	$3,840	$3,744	$175
Ducks and Geese only-Costs not previously accounted for	[1] 5	.....	.....	54,744	2,553
Establishments Currently Required to test Chickens or Turkeys	7	.....	.....	90,456	4,218
Total	13	2,015	3,840	148,944	6,946

[1] Included in the 6 above.

Overall Summary of Cost Analysis

This final rule will extend mandatory generic *E. coli* sampling requirements to 25 federally inspected establishments, 11 that slaughter sheep and goats exclusively, eight that slaughter equines, and six that currently slaughter only ducks and/or geese. The nonrecurring up-front cost for these establishments will total $23,657. The annual recurring cost for collecting and analyzing 10,999 samples and recording and reviewing results for these 25 establishments will be $276,286. There are 31 establishments that currently test cattle, swine, chickens or turkeys that will have to increase their testing programs by 6,697 samples. The increase in annual recurring costs for these 31 establishments will be $168,223.

The costs summarized in Tables 1 and 2 are maximum costs because the final rule will allow for establishments operating under a validated HACCP system to use sampling frequencies other than those specified in this final rule if the alternative sampling frequency is an integral part of the establishment's HACCP plan. The cost estimates in Tables 1 and 2 do not account for possible reductions in sampling frequencies.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Because this rule is final, (1) all state and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

Abstract: As part of microbiological testing, each slaughter establishment will be required to develop written procedures outlining specimen collection and handling. The slaughter establishments will be responsible for entering the results into a statistical process control chart or table. The data and chart will be available for review by FSIS upon request.

Estimate of Burden: Agency subject matter experts estimate that it will take 25 hours for establishments to develop a microbial sampling and analysis plan. It will take an estimated 17.5 minutes to collect samples and 5 minutes per sample to enter data into charts, and then review and file the information.

This final rule will require 25 federally inspected establishments to develop sampling plans. FSIS estimates that each plan will require 25 hours to develop. Plan development for 25 establishments will require 625 burden hours. Fifty-six establishments will be required to collect samples and to record new or additional test results. These 56 establishments will be required to collect and record and review the results of 17,696 analyses, annually. To collect samples at 17.5 minutes per sample, 5,161 burden hours will be required. It will take 1,475 burden hours at 5 minutes per result to record and review results.

Respondents: Livestock and poultry product establishments.

Estimated Number of Respondents: 56.

Estimated Number of Responses per Respondents: 18,402.

Estimated Total Annual Burden on Respondents: 7,261 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street, SW, Room 109, Washington, DC 20250–3700.

List of Subjects

9 CFR Part 310

Meat Inspection, Microbial testing.

9 CFR Part 381

Poultry and poultry products, Microbial testing.

For the reasons set forth in this preamble, 9 CFR chapter III is amended as follows:

PART 310—POST MORTEM INSPECTION

1. The authority citation for part 310 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Section 310.25 is amended by revising the section heading, the first sentence of paragraph (a)(1) introductory text, paragraphs (a)(2)(ii), (a)(2)(iii), and the first sentence of (a)(2)(v)(A) to read as follows:

§ 310.25 Contamination with microorganisms; process control verification criteria and testing; pathogen reduction standards.

(a) * * *

(1) Each official establishment that slaughters livestock must test for *Escherichia coli* Biotype 1 (*E. coli*) * * *.

* * * * * *

(2) * * *

(ii) Sample collection. The establishment must collect samples from all chilled livestock carcasses, except those boned before chilling (hot-boned), which must be sampled after the final wash. Samples must be collected in the following manner:

(A) For cattle, establishments must sponge or excise tissue from the flank, brisket and rump, except for hide-on calves, in which case establishments must take samples by sponging from

inside the flank, inside the brisket, and inside the rump.

(B) For sheep, goat, horse, mule, or other equine carcasses, establishments must sponge from the flank, brisket and rump, except for hide-on carcasses, in which case establishments must take samples by sponging from inside the flank, inside the brisket, and inside the rump.

(C) For swine carcasses, establishments must sponge or excise tissue from the ham, belly and jowl areas.

(iii) Sampling frequency. Slaughter establishments, except very low volume establishments as defined in paragraph (a)(2)(v) of this section, must take samples at a frequency proportional to the volume of production at the following rates:

(A) Cattle, sheep, goats, horses, mules, and other equines: 1 test per 300 carcasses, but a minimum of one sample during each week of operation.

(B) Swine: 1 test per 1,000 carcasses, but a minimum of one sample during each week of operation.

* * * * *

(v) * * *

(A) Very low volume establishments annually slaughter no more than 6,000 cattle, 6,000 sheep, 6,000 goats, 6,000 horses, mules, or other equines, 20,000 swine, or a combination of livestock not exceeding 6,000 cattle and 20,000 total of all livestock. * * *

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470, 7 CFR 2.18, 2.53.

Subpart K—Post Mortem Inspection; Disposition of Carcasses and Parts

4. Section 381.94 is amended by revising paragraph (a)(2)(iii), the first and second sentence of paragraph (a)(2)(v)(A), and table 1 in paragraph (a)(5)(i) as follows:

§ 381.94 Contamination with microorganisms; process control verification criteria and testing; pathogen reduction standards.

(a) * * *

(2) * * *

(iii) Sampling frequency. Slaughter establishments, except very low volume establishments as defined in paragraph (a)(2)(v) of this section, must take samples at a frequency proportional to the establishment's volume of production at the following rates:

(A) Chickens: 1 sample per 22,000 carcasses, but a minimum of one sample during each week of operation.

(B) Turkeys, Ducks, Geese, and Guineas: 1 sample per 3,000 carcasses, but a minimum of one sample during each week of operation.

* * * * *

(v) * * *

(A) Very low volume establishments annually slaughter no more than 440,000 chickens or 60,000 turkeys, 60,000 ducks, 60,000 geese, 60,000 guineas or a combination of all types of poultry not exceeding 60,000 turkeys and 440,000 birds total. Very low volume establishments that slaughter turkeys, ducks, geese, or guineas in the largest number must collect at least one sample during each week of operation after June 1 of each year, and continue sampling at a minimum of once each week the establishment operates until June 1 of the following year or until 13 samples have been collected, whichever comes first.

* * * * *

(5) * * *

(i) * * *

TABLE 1.—EVALUATION OF E. COLI TEST RESULTS

Types of poultry	Lower limit of marginal range (m)	Upper limit of marginal range (M)	Number of sample tested (n)	Maximum number permitted in marginal range (c)
Chickens	[1] 100	[1] 1,000	13	3
Turkeys	*NA	*NA	*NA	*NA
Ducks	*NA	*NA	*NA	*NA
Geese	*NA	*NA	*NA	*NA
Guineas	*NA	*NA	*NA	*NA

[1] CFU/ml.
* Values will be added upon completion of data collection programs.

* * * * *

Done at Washington, DC, on: November 18, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–30602 Filed 11–26–99; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of an increase in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective November 16, 1999. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202) 452–3259; for users of Telecommunications Device for the Deaf (TDD), contact Diane Jenkins, at (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit. In increasing the basic discount rate

from 4.75 percent to 5 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point increase in the discount rate was associated with a similar increase in the federal funds rate announced at the same time.

Although cost pressures appear generally contained, risks to sustainable growth persist. Despite tentative evidence of a slowing in certain interest-sensitive sectors of the economy and of accelerating productivity, the expansion of activity continues in excess of the economy's growth potential. As a consequence, the pool of available workers willing to take jobs has been drawn down further in recent months, a trend that must eventually be contained if inflationary imbalances are to remain in check and economic expansion continue.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	5.0	Nov. 16, 1999
New York	5.0	Nov. 18, 1999
Philadelphia	5.0	Nov. 18, 1999
Cleveland	5.0	Nov. 16, 1999
Richmond	5.0	Nov. 16, 1999
Atlanta	5.0	Nov. 17, 1999
Chicago	5.0	Nov. 18, 1999
St. Louis	5.0	Nov. 18, 1999
Minneapolis	5.0	Nov. 18, 1999
Kansas City	5.0	Nov. 16, 1999
Dallas	5.0	Nov. 17, 1999
San Francisco	5.0	Nov. 16, 1999

By order of the Board of Governors of the Federal Reserve System, November 22, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–30852 Filed 11–26–99; 8:45 a.m.]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–39; Amendment 39–11440; AD 99–24–15]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to General Electric Company (GE) CF6 series turbofan engines, that currently requires initial and repetitive ultrasonic and eddy current inspections of high pressure compressor rotor (HPCR) stage 3-9 spools for cracks. This amendment defines more aggressive inspection intervals for certain HPCR stage 3–9 spools, adds CF6–80E1 engines to the inspection program, adds inspection requirements for spools manufactured from 8 inch diameter billet, adds inspection requirements for stage 3–5 blade slot bottoms, and adds inspection requirements for web and hub-to-web transition areas. This amendment is prompted by analysis of recent HPCR stage 3–9 spool inspection results and separations, and assessment of the adequacy of the existing program to prevent HPCR stage 3–9 spool cracking and separation. As a result of that assessment, the FAA has determined there is a need to make changes to the existing AD. The actions specified by this AD are intended to prevent HPCR stage 3–9 spool cracking and separation, which can result in an uncontained engine failure and aircraft damage.

DATES: Effective January 28, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of January 28, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA 01803–5299; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William S. Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7742, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–23–03, Amendment 39–9423 (60 FR 57803, November 21, 1995), which is applicable to General Electric Company (GE) CF6–45, –50, –80A, –80C2 and –80E1 series turbofan engines, was published in the **Federal Register** on November 25, 1998 (63 FR 65136). That action proposed to define more aggressive inspection intervals for certain high pressure compressor rotor (HPCR) stage 3–9 spools, add CF6–80E1 engines to the inspection program, add inspection requirements for spools manufactured from 8-inch diameter

billet forgings, add a one-time inspection of the stage 3–5 blade slot bottoms, and add a one-time inspection of the web and hub-to-web transition areas.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request for Clarification

One commenter states that the proposed rule needs simplification and clarification. The FAA concurs in part.

The FAA has outlined the organization of the compliance paragraphs in Note 2 of the Compliance Section. The FAA has added paragraph headings and references to applicable paragraphs for all Tables.

Request for Longer Transition Times

One commenter requests longer transition times, for example, by changing transition times that appear in the proposal as "from 18 to 24 months" to read "from 36 to 48 months." The FAA does not concur, as no substantiating data was included with this comment and extensions to the transition times would increase risks to an unacceptable level .

Request for Extended Effective Date

One commenter requests that the final rule be published at least 60 days prior to the effective date. Two operators request that GE compliance aid software be available 60 days before date the AD becomes effective. The FAA concurs in part. The effective date of the AD has been set to 60 days from the date that the AD is published. GE is planning to offer to their customers computer software that will forecast spool cycles since new and cycles since last inspection and automatically compare those projections with the spool inspection limits in effect at any time in the future. In particular, the software would look at the transition plan change points to identify spools that will be affected when the next phase is effective. GE's intention is to have the software available concurrently with the publication of the AD, allowing 60 days to introduce the software before the AD becomes effective.

Comment on Economic Analysis

One commenter states that additional information should be included in the economic analysis, such as the cost of repeat inspection, cost of forced engine removals, cost of lost life for early replacement of spools, and incremental cost of early shop visits forced by inspection. The FAA concurs in part. The work hours stated in the proposed rule was based on an estimated average for a spool that includes the forecast percentage of forced engine removals and the incremental shop disassembly time for three inspections during a spool lifetime. The 10,500 cycle since new (CSN) reinstallation limit will affect approximately 68% of the spools. The average part lost life for all affected spools is estimated to be 12%. At the current catalogue price the total lost life for the 1,197 engines installed on US registered aircraft is $18,948,989. In addition, the cost of the stage 3–5 dovetail slot bottom and the stage 6–9 web repeat inspections is estimated to be 8 work hours at $60 per work hour for 389 engines installed on US registered aircraft, totaling $186,720. The FAA has revised the economic analysis accordingly.

Earlier Versions of Service Bulletins

One commenter states that web and slot bottom inspections performed in accordance with earlier revisions of the Service Bulletins (SBs) are evidence of compliance with the web and slot bottom inspections performed in accordance with the revisions of the SBs incorporated by reference in the AD. The FAA concurs. All changes to the web and web-to-hub transition inspection SBs and to the dovetail slot bottom inspection SBs to date have been administrative. Therefore, inspections performed to all revisions to date of those SBs are technically equivalent. Also, the FAA has added references to these earlier SBs for web and dovetail slot inspections.

Standard Practice Manuals

One commenter states that paragraph (g) of the Compliance Section should not reference specific revisions to Standard Practice Manuals because they may change, or specify working or later revision to the Standard Practice Manuals. The FAA does not concur. It is necessary to include references to the Standard Practice inspection procedures in Table 26 of the Compliance Section because some of the newer spool part numbers were not included in the earlier inspection SBs. Some of these parts have been inspected to the Standard Practices procedures in accordance with the Shop or Engine Manual serviceability inspection instructions. The inclusion of these Standard Practice procedures in Table 26 will enable operators to consider these inspections as compliance to the new AD. The references to the Standard Practices in Table 26 will only be applicable to spool inspections already completed. For the future, all parts requiring inspection under this AD will be included in the SBs also listed in Table 26 and inspections of those parts will be done to the SB requirements which will specify the Standard Practice procedures to be used. Any future approved changes to the Standard Practice procedures will be accompanied by revisions to the applicable SBs and will be processed as alternate methods of compliance (AMOC), if appropriate.

AMOCs

One commenter states that paragraph (k) of the Compliance Section should allow AMOC approved for the current AD 95–23–03 to be valid for compliance to the proposed rule. The FAA does not concur. Previously approved AMOC to AD 95–23–03 may not be considered as AMOC to this AD. However, these AMOC have been reviewed and all service documents that have been approved as AMOC for AD 95-23–03 were considered in formulating this new rule.

Table 26 Changes (Serviceable Spool)

One commenter states that web and slot bottom inspection SBs should be included in Table 26 of the Compliance Section, which defines the requirements for a serviceable spool. The FAA concurs. These SBs have been added to Table 26 of this final rule.

Engine Cycles vs. Calendar Time

One commenter states that the implementation of the transition plan should be governed by engine cycles rather than calendar time. The FAA does not concur. The use of engine cycles to control this aspect of the transition plan was considered. However, the goal of the overall transition plan is to maximize safety by transitioning to the new inspection plan as quickly as shop capacity permits. Calendar time limits were established to achieve that maximum rate of compliance within the limitations of shop capacity and spare engines for the operators most affected by the program.

Consistent Terminology

One commenter states that consistent terminology should be used throughout the AD. Specifically, the inspection tables use the term "module level exposure" but paragraph (h) only defines "core module exposure." The FAA concurs. Paragraph (h) has been changed to define the term "module level exposure" in this final rule.

Request to Change Docket Number

One commenter states that the use of the same docket number (95–ANE–39) for the proposed rule was used for AD 95-23–03 and is confusing to airline computer systems and requests that this AD be given a new docket number. The FAA does not concur. All ADs related to the same unsafe condition are included in the same docket file to facilitate tracking of the history of an issue. The AD number in this final rule has changed but the docket number will remain the same.

Short Haul Operators' Concerns

One commenter states that the use of hard cyclic intervals has a significant impact on short haul operators. The comment implies that the proposal should provide relief for short haul operators by making the compliance intervals unrelated to engine cycles. The FAA does not concur. The underlying spool cracking is related to low cycle fatigue. The greater the number of cycles accumulated, the greater the risk for fatigue induced failure. Therefore, short haul operators or operators with fleets that accumulate a large number of cycles per year are more significantly at risk of spool failure. Hard time limits reflect the increased risk with increased cyclic exposure of the spools.

Reporting Requirement

One commenter requests that the reporting requirement for spools with rejectable inspections be changed to 5 calendar days from the time written notification is received from the inspection facility. The FAA does not concur and believes that 5 days from the detection of a rejectable indication is adequate for the reporting requirement.

Correcting Table References

One commenter notes that some Table references are incorrect. The FAA concurs and has corrected the Table references in this final rule.

Reinspection Limit Changes

One commenter states that the reinspection limits should be changed to be consistent with initial inspection limits. The FAA concurs. Tables 4, 5, and 6 have been changed to become consistent with paragraph (b)(4)(ii). Paragraph (c)(5)(i) has been revised from 3,500 CSN to 5,000 CSN to make the text consistent with Tables 11, 12, and 13. Paragraph (c)(6)(i) has been revised from 3,500 CSN to 5,000 CSN to make the text consistent with Tables 14, 15, and 16.

Spools Manufactured from 8-inch Diameter Billet 2-piece Forgings

One commenter states that repeat inspection requirements for spools manufactured from 8-inch diameter billet 2-piece forgings should be deleted. The FAA concurs. Cracks have not been observed to date in spools manufactured from 8-inch diameter billet forgings. The manufacturer has provided metallurgical and mechanical property data to the FAA indicating that dwell time fatigue cracks will not occur during the life of CF6 spools manufactured from 8" diameter billet forgings. This final rule deletes the repeat inspection requirements for spools manufactured from 8" diameter billet forgings.

Complexity of Inspection Intervals

One commenter states that the inspection intervals are complex. The commenter prefers that the repetitive inspection intervals not be based on Cycles At Last Inspection (CALI). The FAA does not concur. The inspection intervals are complicated but reflect the increased risk with increased cyclic exposure. Therefore, a repetitive inspection interval based on CALI is appropriate.

Additional Part Numbers

One commenter states that additional part numbers (P/Ns) should be added to the Applicability Section. The FAA concurs. These P/Ns, added since the publication of the proposed rule, identify spools that have been repaired for wear in the seal wire grooves. In the Applicability Section and paragraph (d) of this final rule, P/Ns 1854M95P07 and 1854M95P08 have been added.

Latest Revisions to Service Documents

One commenter states that the latest revisions to GE service documents revised to include new P/Ns, new inspection procedures, and new repeat inspection requirements should be included. The FAA concurs and the latest revisions to date of the GE service documents have been included in this final rule.

Reinspection Threshold for CF6–80A 13-inch Billet Diameter Spools

One commenter states that the reinspection threshold for the CF6–80A 13" billet diameter spools should be changed to 15,000 cycles-since-new (CSN). The FAA does not concur. Adequate substantiation for changing the inspection requirements for these spools, which is required by the current AD 95–23–03, has not been provided.

Repeat Inspection Requirements

One commenter states that repeat inspection requirements for certain stage 3–5 dovetail slot bottoms (CF6–50 16" billet, CF6–80A 16" billet, CF6–80C2 13" billet and CF6–180E1 9/10" billet spools), stage 3–5 bores (CF6–50 16" billet, CF6–80A 16" billet, CF6–80C2 13" billet and CF6–180E1 9/10" billet spools) and stage 6–9 webs and web-to-hub transition areas (CF6–80C2 13" billet, CF6–80C2 9/10" billet, and CF6–80E1 9/10" billet spools), should be added to the AD. The commenter also states that a 4,000 CIS limit on the number of cycles that could be accumulated between inspections should be added to the inspection program for CF6–50 and CF6–80A spools manufactured from 13" billet. The FAA concurs. The need for these added inspections and cyclic limits was prompted by recent inspection results and an assessment of the existing inspection program to prevent spool cracking and separation.

Engine Shop Visit Definition

One commenter states that fan forward case replacement should be exempted from the engine shop visit definition.

The FAA concurs. The fan forward case replacement condition has been removed from the engine shop visit definition in this final rule.

Revised Economic Analysis

In this final rule, the economic impact has been changed in response to the comment on the economic analysis. There are approximately 4,506 engines of the affected design in the worldwide fleet. The FAA estimates that 1,197 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 219 work hours per engine to accomplish the required inspections. The total prorated life reduction on affected engines is approximately $18,948,989. Therefore, the revised total estimated cost of this AD on U.S. operators is $34,677,569.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously.

Regulatory Impact

This rule does not have federalism implications, as defined in Executive Order No. 13132, because it does not have a substantial direct effect on the States, on the relationship between the national government and the States, or

on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9423 (60 FR 57803, November 21, 1995) and by adding a new airworthiness directive, Amendment 39–11440, to read as follows:

99–24–15 General Electric Company: Amendment 39–11440. Docket 95–ANE–39. Supersedes AD 95–23–03, Amendment 39–9423.

Applicability: General Electric Company (GE) CF6–45, –50, –80A, –80C2 and –80E1 series turbofan engines, with High Pressure Compressor Rotor (HPCR) stage 3–9 spools, part numbers (P/Ns) 1333M66G01, 1333M66G03, 1333M66G07, 1333M66G09, 1333M66G10, 1669M22G01, 1669M22G03, 1781M52P01, 1781M53G01, 1782M22G01, 1782M22G02, 1782M22G04, 1854M95P01, 1854M95P02, 1854M95P03, 1854M95P04, 1854M95P05, 1854M95P06, 1854M95P07, 1854M95P08, 9136M89G02, 9136M89G03, 9136M89G06, 9136M89G07, 9136M89G08, 9136M89G09, 9136M89G10, 9136M89G11, 9136M89G17, 9136M89G18, 9136M89G19, 9136M89G20, 9136M89G21, 9136M89G22, 9136M89G27, 9136M89G28, 9136M89G29, 9253M85G01, 9253M85G02, 9273M14G01, 9331M29G01, and 9380M28P05 installed. These engines are installed on but not limited to Airbus A300, A310, and A330 series, Boeing 747 and 767 series, and McDonnell Douglas DC–10 and MD–11 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (k) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent HPCR stage 3–9 spool cracking and separation, which can result in an uncontained engine failure and aircraft damage, accomplish the following:

Abbreviations

(a) For the purpose of this AD, the following abbreviations apply:

(1) Cycles Since New (CSN).

(2) Cycles Since Last Inspection (CSLI).

(3) Cycles At Last Inspection (CALI).

(4) Engine Shop Visit (ESV).

Note 2: Paragraph (b) of this AD is only applicable to GE CF6–45/50 series engines. Paragraph (c) of this AD is only applicable to GE CF6–80A series engines. Paragraph (d) of this AD is only applicable to GE CF6–80C2 series engines. Paragraph (e) of this AD is only applicable to GE CF6–80E1 series engines.

CF6–45/50 series engines

(b) For HPCR stages 3–9 spools installed in CF6–45/50 series engines, eddy current and ultrasonic inspect for cracks as follows:

(1) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 9136M89G02, 9136M89G03, 9136M89G06, 9136M89G07, 9136M89G08, 9136M89G09, 9136M89G17, 9136M89G18, 9136M89G19, 9136M89G21, 9136M89G22, 9136M89G27, 9136M89G29, 9253M85G01, 9253M85G02, 9273M14G01, and 9331M29G01, installed in GE CF6–45/–50 series engines, as follows:

Dovetail Slot Bottom Inspection

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–50 Alert Service Bulletin (ASB) No. 72–A1157, Revision 1, dated October 28, 1999 or any earlier version of this SB, perform eddy current and ultrasonic inspections in accordance with GE CF6–50 ASB No. 72–A1157, Revision 1, dated October 28, 1999, at the next piece-part exposure after 1,000 CSN.

(ii) For HPCR stage 3–9 spools with P/Ns 9136M89G08, 9253M85G02, 9273M14G01, and 9331M29G01 with Serial Numbers (S/Ns) listed in Table 801 of GE CF6–50 Shop Manual GEK50481, section 05–11–02 Time Limits, and with P/Ns 9136M89G02 and 9136M89G06, that have been previously inspected using the procedures in GE CF6–50 ASB No. 72–A1157, Revision 1, dated October 28, 1999 or any earlier version of this ASB, perform repeat inspections in accordance with GE CF6–50 ASB No 72–A1157, Revision 1, dated October 28, 1999, at piece-part exposure after 1,000 CSLI and 3,500 CSN.

Web and Web-to-Hub Transition Area Inspection

(iii) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–50 ASB No. 72–A1131, Revision 2, dated October 28, 1999 or any earlier version of this ASB, perform eddy current and ultrasonic inspections in accordance with GE CF6–50 ASB No. 72–A1131, Revision 2, dated October 28, 1999, at the next piece-part exposure after 1,000 CSN.

(iv) Remove from service, prior to further flight, HPCR stage 3–9 spools that equal or exceed the reject criteria established by ASB No. 72–A1157, Revision 1, dated October 28, 1999, or ASB No. 72–A1131, Revision 2, dated October 28, 1999, as applicable, and replace with a serviceable part.

Spools Manufactured from 16-inch Diameter Billet Forgings

(2) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 9136M89G08, 9253M85G02, 9273M14G01, and 9331M29G01 with Serial Numbers (S/Ns) listed in Table 801 of GE CF6–50 Shop Manual GEK50481, section 05–11–02 Time Limits, and with P/Ns 9136M89G02 and 9136M89G06 installed in GE CF6–45/–50 series engines. Perform the inspections in accordance with GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE Service Bulletin (SB) No. 72–888, Revision 6, dated December 22, 1995; or SB No. 72–1000, Revision 3, dated December 22, 1995; or ASB No. 72–A1108, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but prior to accumulating 3,500 CSN, or prior to exceeding 30 days from the effective date of this AD, whichever occurs later.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–888, Revision 6, dated December 22, 1995; or SB No. 72–1000, Revision 3, dated December 22, 1995; or ASB No. 72–A1108, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, perform repeat inspections at the earliest occurrence of the requirements of Table 1, 2, or 3 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (b)(2)(v) of this AD.

Table 1 (reference paragraphs (b)(2)(ii), (iii), (v))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 2,000 CSLI and 3,500 CSN, and before 3,500 CSLI.

Table 2 (reference paragraphs (b)(2)(ii),(iii),(v))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 2,000 CSLI and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 3 (reference paragraphs (b)(2)(ii),(iii),(v))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 2,000 CSLI and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0–5,000, or

8,500 CSN, if spool CALI is 5,001–5,500, or

3,000 CSLI, if spool CALI is 5,501–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 1, Table 2, or Table 3 of this AD, as applicable, based on the elapsed calendar time from the effective date of this AD, as specified in paragraph (b)(2)(v) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, and replace with a serviceable part.

(v) Use the Tables as follows:

(A) Use Table 1 from the effective date of this AD through 18 months from the effective date of this AD.

(B) Use Table 2 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 3 after 36 months from the effective date of this AD.

Spools Manufactured From 13-Inch Diameter Billet Forgings

(3) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 9136M89G08, 9253M85G02, 9273M14G01, and 9331M29G01, with S/Ns not listed in Table 801 of GE CF6–50 Shop Manual GEK50481, section 05–11–02 Time Limits, and with P/Ns 9136M89G03, 9136M89G07, 9136M89G09, 9136M89G17, 9136M89G18, and 9253M85G01 installed in GE CF6–45/–50 series engines. Perform the inspections in accordance with GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–888, Revision 6, dated December 22, 1995; or SB No. 72–1000, Revision 3, dated December 22, 1995; or ASB No. 72–A1108, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but not later than the first ESV after 4,000 CSN, and, after 18 months after the effective date of this AD, not later than 4,000 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–888, Revision 6, dated December 22, 1995; or SB No. 72–1000, Revision 3, dated December 22, 1995; or ASB No. 72–A1108, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, perform repeat inspections at the first piece-part exposure after both 1,000 CSLI and 4,000 CSN, but not later than the first ESV after both 2,000 CSLI and 4,000 CSN, and, after 18 months after the effective date of this AD, before 4,000 CSLI.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the first piece-part exposure after both 1,000 CSLI and 4,000 CSN, but not later than the first ESV after both 2,000 CSLI and 4,000 CSN, and, after 18 months after the effective date of this AD, before 4,000 CSLI.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, and replace with a serviceable part.

Spools Manufactured From 9 or 10-Inch Diameter Billet Forgings

(4) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 9136M89G19, 9136M89G21, 9136M89G22, and 9136M89G27 installed in GE CF6–45/–50 series engines. Perform the inspections in accordance with GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–888, Revision 6, dated December 22, 1995; or SB No. 72–1000, Revision 3, dated December 22, 1995; or ASB No. 72–A1108, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but not later than the first ESV after 3,000 CSN, provided, however, from 19 through 36 months after the effective date of this AD, inspect not later than 9,500 CSN, and after 36 months after the effective date of this AD, inspect not later than 3,500 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–888, Revision 6, dated December 22, 1995; or SB No. 72–1000, Revision 3, dated December 22, 1995; or ASB No. 72–A1108, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, perform repeat inspections at the earliest occurrence of the requirements of Table 4, 5, or 6 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (b)(4)(vi) of this AD.

Table 4 (reference paragraphs (b)(4)(ii), (iii), (vi))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 2,000 CSLI and 3,500 CSN.

Table 5 (reference paragraphs (b)(4)(ii), (iii), (vi))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 2,000 CSLI and 3,500 CSN, and before:

9,500 CSN, if spool CALI is 0–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 6 (reference paragraphs (b)(4) (ii), (iii), (vi))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 2,000 CSLI and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0–5,000, or

8,500 CSN, if spool CALI is 5,001–5,500, or

3,000 CSLI, if spool CALI is 5,501–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 4, Table 5, or Table 6 of this AD, as applicable, based on the elapsed calendar time from the effective date of this AD, as specified in paragraph (b)(4)(vi) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, and replace with a serviceable part.

(v) HPCR stage 3–9 spools with a CSN of 10,500 or greater may not be put back in service after an ESV.

(vi) Use the Tables as follows:

(A) Use Table 4 from the effective date of this AD through 18 months from the effective date of this AD.

(B) Use Table 5 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 6 after 36 months from the effective date of this AD.

Spools Manufactured from 8-inch Diameter Billet Forgings

(5) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/N 9136M89G29 installed in GE CF6–45/–50 series engines. Perform the inspections in accordance with GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–888, Revision 6, dated December 22,1995; or SB No. 72–1000,

Revision3, dated December 22, 1995; or ASB No. 72–A1108, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, or any of the combinations of service documents specified by Table 7 of this AD, inspect at the next piece-part exposure after 1,000 CSN.

Table 7 (reference paragraphs (b)(5)(i), and (c)(7)(i), and (d)(4)(i), and (e)(3)(i))

Either any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–09, Revision 71, dated October 1, 1995,

CF6 Standard Practice Manual GEK9250 Procedures 70–32–09, Revision 72, dated November 15, 1996,

CF6 Standard Practice Manual GEK9250 Procedures 70–32–09, Revision 74, dated May 1, 1998,

and any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–10, Revision 71, dated October 1, 1995,

CF6 Standard Practice Manual GEK9250 Procedures 70–32–10, Revision 72, dated November 15, 1996,

CF6 Standard Practice Manual GEK9250 Procedures 70–32–10, Revision 74, dated May 1, 1998,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–10, Revision 75, dated December 15, 1998,

or any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–13, Temporary Revision 70–25, dated August 26, 1996,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–13, Revision 72, dated November 15, 1996,

CF6 Standard Practice Manual GEK9250 Procedures 70–32–13, Revision 73, dated November 1, 1997,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–13, Revision 75, dated December 15, 1998,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–13, Temporary Revision 70–41, dated February 10, 1999,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–13, Revision 76, dated May 15, 1999,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–17, Temporary Revision 70–39, dated December 15, 1998,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–17, Revision 76, dated May 15, 1999,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–17, Temporary Revision 70–47, dated October 28, 1999,

and any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–14, Temporary Revision 70–26, dated August 26, 1996,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Revision 72, dated November 15, 1996,

CF6 Standard Practice Manual GEK9250 Procedures 70–32–14, Revision 73, dated November 1, 1997,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Revision 75, dated December 15, 1998,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Temporary Revision 70–42, dated February 10, 1999,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Revision 76, dated May 15, 1999,

CF6 Standard Practice Manual GEK9250 Procedures 70–32–18, Temporary Revision No. 70–40, dated December 15, 1998,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–18, Revision 76, dated May 15, 1999,

CF6 Standard Practice Manual GEK9250 Procedure 70–32–18, Temporary Revision 70–48, dated October 28, 1999.

(ii) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999, and replace with a serviceable part.

CF6–80A Series Engines

(c) For HPCR stages 3–9 spools installed in GE CF6–80A/–80A1/–80A2/–80A3 series engines, eddy current and ultrasonic inspect for cracks as follows:

(1) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 9136M89G10, 9136M89G11, 9136M89G20, 9136M89G21, 9136M89G22, 9136M89G27, and 9136M89G28 installed in GE CF6–80A/–80A1/–80A2/–80A3 series engines, as follows:

Dovetail Slot Bottom Inspection

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80A ASB No. 72–A0719, Revision 2, dated October 28, 1999 or any earlier version of this SB, perform eddy current and ultrasonic inspections in accordance with GE CF6–80A ASB No. 72–A0719, Revision 2, dated October 28, 1999, at the next piece-part exposure after 1,000 CSN.

(ii) For HPCR stage 3–9 spools with P/N 9136M89G10, with the following S/Ns: MPOM0054, MPOM7090, MPOM8303, MPOM8304, MPOM9263, MPOM9264, MPON0054, MPON0071, MPON0072, MPON1643, MPON4251; and MPON4253, installed in GE CF6–80A/–80A1/–80A2/–80A3 series engines, that have been previously inspected using the procedures in GE CF6–80A ASB No. 72–A0719, Revision 2, dated October 28, 1999, or any earlier version of this SB, perform repeat inspections in accordance with GE CF6–80A ASB No. 72–A0719, Revision 2, dated October 28, 1999, at each piece-part exposure after 1,000 CSLI and 3,500 CSN.

Web and Web-to-Hub Transition Area Inspection

(iii) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80A ASB No. 72–A0691, Revision 3, dated October 28, 1999 or any earlier version of this SB, perform eddy current and ultrasonic inspections in accordance with GE CF6–80A ASB No. 72–A0691, Revision 3, dated October 28, 1999, at the next piece-part exposure after 1,000 CSN.

(iv) Remove from service, prior to further flight, HPCR stage 3–9 spools that equal or exceed the reject criteria established by the ASB No. 72–A0719, Revision 2, dated October 28, 1999, or ASB No. 72–A0691, Revision 3, dated October 28, 1999, as applicable, and replace with a serviceable part.

Spools Manufactured from 16-inch Diameter Billet Forgings

(2) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/N 9136M89G10, with the following S/Ns: MPOM0054, MPOM7090, MPOM8303, MPOM8304, MPOM9263, MPOM9264, MPON0054, MPON0071, MPON0072, MPON1643, MPON4251, and MPON4253 installed in GE CF6–80A/–80A1/–80A2/–80A3 series engines. Perform the inspections in accordance with GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but before accumulating 3,500 CSN, or prior to exceeding 30 days from the effective date of this AD, whichever is later.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, perform repeat inspections at the earliest occurrence of the requirements of Table 8, 9, or 10 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (c)(2)(vi) of this AD.

Table 8 (reference paragraphs (c)(2)(ii),(iii),(vi))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 3,500 CSN and 2,000 CSLI (for GE CF6–80A1/A3 engines) or 1,500 CSLI (for GE CF6–80A/A2 engines), and before 3,500 CSLI.

Table 9 (reference paragraphs (c)(2)(ii),(iii),(vi))

First piece part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 3,500 CSN and 2,000 CSLI (for GE CF6–80A1/A3 engines) or 1,500 CSLI (for GE CF6–80A/A2 engines), and before:

3,500 CSLI, if spool CALI is 0–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 10 (reference paragraphs (c)(2)(ii),(iii),(vi))

First piece-part exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 2,000 CSLI (for GE CF6–

80A1/A3) or 1,500 CSLI (for GE CF6–80A/A2) and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0–5,000, or

8,500 CSN, if spool CALI is 5,001–5,500, or

3,000 CSLI, if spool CALI is 5,501–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 8, Table 9, or Table 10 of this AD, as applicable, based on the elapsed calendar time from the effective date of this AD, as specified in paragraph (c)(2)(vi) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, and replace with a serviceable part.

(v) HPCR stage 3–9 spools with a CSN of 10,500 or greater may not be put back in service after an ESV.

(vi) Use the Tables as follows:

(A) Use Table 8 from the effective date of this AD through 18 months from the effective date of this AD.

(B) Use Table 9 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 10 after 36 months from the effective date of this AD.

CF6–80A/A2 Spools Manufactured from 13-inch Diameter Billet Forgings

(3) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/N 9136M89G10, with S/Ns other than those listed in paragraph (c)(2) of this AD, and P/N 9136M89G11, installed in GE CF6–80A/A2 series engines. Perform the inspections in accordance with GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN, but not later than the first ESV after 5,000 CSN, and, after 18 months after the effective date of this AD, not later than 5,000 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, perform repeat inspections at the first piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 1,500 CSLI and 5,000 CSN, and, after 18 months after the effective date of this AD, before 4,000 CSLI or 5,000 CSN, whichever is later.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the first piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 1,500 CSLI and 5,000 CSN, and, after 18 months after the effective date of this AD, before 4,000 CSLI or 5,000 CSN, whichever is later.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, and replace with a serviceable part.

CF6–80A1/A3 Spools Manufactured from 13-inch Diameter Billet Forgings

(4) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/N 9136M89G10, with S/Ns other than those listed in paragraph (c)(2) of this AD, and P/N 9136M89G11, installed in GE CF6–80A1/A3 series engines. Perform the inspections in accordance with GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but not later than the first ESV after 5,000 CSN, and, after 18 months after the effective date of this AD, not later than 5,000 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 1,500 CSLI and 5,000 CSN, and, after 18 months after the effective date of this AD, before 4,000 CSLI or 5,000 CSN, whichever occurs later.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the first piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 2,000 CSLI and 5,000 CSN, and, after 18 months after the effective date of this AD, before 4,000 CSLI or 5,000 CSN, whichever occurs later.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, and replace with a serviceable part.

CF6–80A1/A3 Spools Manufactured from 9 or 10-inch Diameter Billet Forgings

(5) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 9136M89G20, 9136M89G21, 9136M89G22 and 9136M89G27, installed in GE CF6–80A1/A3 series engines. Perform the inspections in accordance with GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but not later than the first ESV after 3,000 CSN, provided, however, from 19 through 36 months after the effective date of this AD, inspect not later than 9,500 CSN, and after 36 months after the effective date of this AD, inspect not later than 5,000 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, perform repeat inspections at the earliest occurrence of the requirements of Table 11, 12, or 13 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (c)(5)(vi) of this AD.

Table 11 (reference paragraphs (c)(5) (ii), (iii), (vi))

First piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 2,000 CSLI and 5,000 CSN.

Table 12 (reference paragraphs (c)(5) (ii), (iii), (vi))

First piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 2,000 CSLI and 5,000. CSN, and before:

9,500 CSN, if spool CALI is 0–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 13 (reference paragraphs (c)(5)(ii),(iii),(vi))

First piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 2,000 CSLI and 5,000 CSN, and before

5,000 CSN, if spool CALI is 0–1,500, or

3,500 CSLI, if spool CALI is 1,501–5,000, or

8,500 CSN, if spool CALI is 5,001–5,500, or

3,000 CSLI, if spool CALI is 5,501–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 11, Table 12, or Table 13 of this AD, as applicable, based on the elapsed calendar time from the effective date of this AD, as specified in paragraph (c)(5)(vi) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or

exceed the reject criteria established by GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, and replace with a serviceable part.

(v) HPCR stage 3–9 spools with a CSN of 10,500 or greater may not be put back in service after an ESV.

(vi) Use the Tables as follows:

(A) Use Table 11 from the effective date of this AD through 18 months from the effective date of this AD.

(B) Use Table 12 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 13 after 36 months from the effective date of this AD.

CF6–80A/A2 Spools Manufactured from 9 or 10-inch Diameter Billet Forgings

(6) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 9136M89G20, 9136M89G21, 9136M89G22, and 9136M89G27 installed in GE CF6–80A/A2 series engines. Perform the inspections in accordance with GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but not later than the first ESV after 3,000 CSN, provided, however, from 19 through 36 months after the effective date of this AD, inspect not later than 9,500 CSN, and after 36 months after the effective date of this AD, inspect not later than 5,000 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, perform repeat inspections at the earliest occurrence of the requirements of Table 14, 15, or 16 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (c)(6)(vi) of this AD.

Table 14 (reference paragraphs (c)(6)(ii), (iii), (vi))

First piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 1,500 CSLI and 5,000 CSN.

Table 15 (reference paragraphs (c)(6)(ii), (iii), (vi))

First piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 1,500 CSLI and 5,000 CSN, and before:

9,500 CSN, if spool CALI is 0–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 16 (reference paragraphs (c)(6)(ii),(iii),(vi))

First piece-part exposure after both 1,000 CSLI and 5,000 CSN, but not later than the first ESV after both 1,500 CSLI and 5,000 CSN, and before:

5,000 CSN, if spool CALI is 0–1,500, or

3,500 CSLI, if spool CALI is 1,501–5,000, or

8,500 CSN, if spool CALI is 5,001–5,500, or

3,000 CSLI, if spool CALI is 5,501–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 14, Table 15, or Table 16 of this AD, as applicable, based on the elapsed calendar time from the effective date of this AD, as specified in paragraph (c)(6)(vi) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, and replace with a serviceable part.

(v) HPCR stage 3–9 spools with a CSN of 10,500 or greater may not be put back in service after an ESV.

(vi) Use the Tables as follows:

(A) Use Table 14 from the effective date of this AD through 18 months from the effective date of this AD.

(B) Use Table 15 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 16 after 36 months from the effective date of this AD.

Spools Manufactured from 8-inch Diameter Billet Forgings

(7) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/N 9136M89G28 installed in GE CF6–80A/A1/A2/A3 series engines. Perform the inspections in accordance with GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE SB No. 72–500, Revision 6, dated December 22, 1995; or SB No. 72–583, Revision 5, dated December 22, 1995; or ASB No. 72–A0678, Revision 3, dated November 12, 1999, or any earlier versions of these SBs, or any of the combinations of service documents specified by Table 7 of this AD, inspect at the first piece-part exposure after both 1,000 CSN and the effective date of this AD.

(ii) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999, and replace with a serviceable part.

CF6–80C2 Series Engines

(d) For HPCR stages 3–9 spools installed in GE CF6–80C2 series engines, eddy current and ultrasonic inspect for cracks as follows:

(1) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 1333M66G01, 1333M66G03, 1333M66G07, 1333M66G09, 1333M66G10, 1781M52P01, 1781M53G01, 1854M95P01, 1854M95P02, 1854M95P03, 1854M95P04, 1854M95P05, 1854M95P06, 1854M95P07, 1854M95P08, and 9380M28P05 installed in GE CF6–80C2 series engines, as follows:

Dovetail Slot Bottom Inspections

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80C2 ASB No. 72–A0934, Revision 1, dated October 28, 1999 or any earlier version of this SB, perform eddy current and ultrasonic inspections in accordance with GE CF6–80C2 ASB No. 72–A0934, Revision 1, dated October 28, 1999, at the next piece-part exposure after 1,000 CSN.

(ii) For HPCR stage 3–9 spools with P/Ns 1781M52P01, 1854M95P02, 1854M95P05, and 9380M28P05, installed in GE CF6–80C2 series engines, that have been previously inspected using the procedures in GE CF6–80C2 ASB No. 72–A0934, Revision 1, dated October 28, 1999 or any earlier version of this SB, perform repeat inspections in accordance with GE CF6–80C2 ASB No. 72–A0934, Revision 1, dated October 28, 1999, at piece-part exposure after 1,000 CSLI and 3,500 CSN.

Web and Web-to-Hub Transition Area Inspections

(iii) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80C2 ASB No. 72–A0848, Revision 4, dated November 12, 1999 or any earlier version of this SB, perform eddy current and ultrasonic inspections in accordance with GE CF6–80C2 ASB No. 72–A0848, Revision 4, dated November 12, 1999, at the next piece-part exposure after 1,000 CSN.

(iv) For HPCR stage 3–9 spools with P/Ns 1333M66G01, 1333M66G03, 1333M66G07, 1333M66G09, 1781M52P01, 1781M53G01, 1854M95P01, 1854M95P02, 1854M95P03, 1854M95P04, 1854M95P05, 1854M95P06, 1854M95P07 and 9380M28P05, installed in GE CF6–80C2 series engines, that have been previously inspected using the procedures in GE CF6–80C2 ASB No. 72–A0848, Revision 4, dated November 12, 1999 or any earlier version of this SB, perform repeat inspections in accordance GE CF6–80C2 ASB No. 72–A0848, Revision 4, dated November 12, 1999, at piece-part exposure after 1,000 CSLI and 3,500 CSN.

(v) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by the ASB No. 72–A0934, Revision 1, dated October 28, 1999 or ASB No. 72–A0848, Revision 4, dated November 12, 1999, as applicable and replace with a serviceable part.

Spools Manufactured from 13-inch Diameter Billet Forgings

(2) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 1781M52P01, 1854M95P02, 1854M95P05, and 9380M28P05 installed in GE CF6–80C2 series engines. Perform the inspections in

accordance with GE CF6–80C2 ASB No. 72–A0812, Revision 2, dated October 28, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80C2 SB No. 72–418, Revision 4, dated December 22, 1995; or SB No. 72–758, Revision 1, dated December 22, 1995; or ASB No. 72–A0812, Revision 2, dated October 28, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but prior to accumulating 3,500 CSN, or prior to exceeding 30 days from the effective date of this AD, whichever occurs later.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE CF6–80C2 SB No. 72–418, Revision 4, dated December 22, 1995; or SB No. 72–758, Revision 1, dated December 22, 1995; or ASB No. 72–A0812, Revision 2, dated October 28, 1999, or any earlier versions of these SBs, perform repeat inspections at the earliest occurrence of the requirements of Table 17, 18, or 19 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (d)(2)(vi) of this AD.

Table 17 (reference paragraphs (d)(2)(ii),(iii),(vi))

First piece-part or module level exposure after both 1,000 CSLI and 3500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN, and before 3,500 CSLI.

Table 18 (reference paragraphs (d)(2)(ii),(iii),(vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 19 (reference paragraphs (d)(2)(ii),(iii),(vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0—5,000, or

8,500 CSN, if spool CALI is 5,001—5,500, or

3,000 CSLI, if spool CALI is 5,501—6,500, or

9,500 CSN, if spool CALI is 6,501—7,000, or

2,500 CSLI, if spool CALI is 7,001—8,000, or

10,500 CSN, if spool CALI is 8,001—8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 17, Table 18, or Table 19 of this AD, as applicable, based on the elapsed calendar time from the effective date of this AD, as specified in paragraph (d)(2)(vi) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80C2 ASB No. 72–A0812, Revision 2, dated October 28, 1999, and replace with a serviceable part.

(v) HPCR stage 3–9 spools with a CSN of 10,500 or greater may not be put back in service after an ESV.

(vi) Use the Tables as follows:

(A) Use Table 17 from the effective date of this AD through 18 months from the effective date of this AD.

(B) Use Table 18 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 19 after 36 months from the effective date of this AD.

Spools Manufactured from 9 or 10-inch Diameter Billet Forgings

(3) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 1333M66G01, 1333M66G03, 1333M66G07, 1333M66G09, 1781M53G01, 1854M95P01, 1854M95P03, 1854M95P04, 1854M95P06, and 1854M95P07 installed in GE CF6–80C2 series engines. Perform the inspections in accordance with GE CF6–80C2 ASB No. 72–A0812, Revision 2, October 28, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80C2 SB No. 72–418, Revision 4, dated December 22, 1995; or SB No. 72–758, Revision 1, dated December 22, 1995; or ASB No. 72–A0812, Revision 2, dated October 28, 1999, or any earlier versions of these SBs, inspect at the first piece-part exposure after 1,000 CSN but not later than the first ESV after 3,000 CSN, provided, however, from 19 through 36 months after the effective date of this AD, inspect not later than 9,500 CSN, and after 36 months after the effective date of this AD, inspect not later than 3,500 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected using the procedures in GE CF6–80C2 SB No. 72–418, Revision 4, dated December 22, 1995; or SB No. 72–758, Revision 1, dated December 22, 1995; or ASB No. 72–A0812, Revision 2, dated October 28, 1999, or any earlier versions of these SBs, perform repeat inspections at the earliest occurrence of the requirements of Table 20, 21, or 22 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (d)(3)(vi) of this AD.

Table 20 (reference paragraphs (d)(3)(ii),(iii),(vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN.

Table 21 (reference paragraphs (d)(3)(ii),(iii),(vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN, and before:

9,500 CSN, if spool CALI is 0–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 22 (reference paragraphs (d)(3)(ii),(iii),(vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0–5,000, or

8,500 CSN, if spool CALI is 5,001–5,500, or

3,000 CSLI, if spool CALI is 5,501–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 20, Table 21, or Table 22 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (d)(3)(vi) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80C2 ASB No. 72–A0812, Revision 2, dated October 28, 1999, and replace with a serviceable part.

(v) HPCR stage 3–9 spools with a CSN of 10,500 or greater may not be put back in service after an ESV.

(vi) Use the Tables as follows:

(A) Use Table 20 from the effective date of this AD through18 months from the effective date of this AD.

(B) Use Table 21 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 22 after 36 months from the effective date of this AD.

Spools Manufactured from 8-inch Diameter Billet Forgings

(4) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 1333M66G10 and 1854M95P08 installed in GE CF6–80C2 series engines. Perform the inspections in accordance with GE CF6–80C2 ASB No. 72–A0812, Revision 2, dated October 28, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80C2 SB No. 72–418, Revision 4, dated December 22, 1995; or SB No. 72–758, Revision 1, dated December 22, 1995; or ASB No. 72-A0812, Revision 2, dated October 28, 1999, or any earlier versions of these SBs, or any of the combinations of service documents specified by Table 7 of this AD, inspect at the first piece-part exposure after both 1,000 CSN and the effective date of this AD.

(ii) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80C2 ASB No. 72–A0812, Revision 2, dated October 28, 1999, and replace with a serviceable part.

CF6–80E1 Series Engines

(e) For HPCR stages 3–9 spools installed in GE CF6–80E1 series engines, eddy current and ultrasonic inspect for cracks as follows:

(1) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 1669M22G01, 1669M22G03, 1782M22G01, 1782M22G02, and 1782M22G04 installed in GE CF6–80E1 series engines, as follows:

Dovetail Slot Bottom Inspection

(i) For HPCR stage 3–9 spools that have not been previously inspected using the procedures in GE CF6–80E1 ASB No. 72–A0137, Revision 1, dated October 28, 1999 or any earlier version of this SB, perform eddy current and ultrasonic inspections in accordance with GE CF6–80E1 ASB No. 72–A0137, Revision 1, dated October 28, 1999, at the next piece-part exposure after 1,000 CSN.

(ii) For HPCR stage 3–9 spools with P/Ns 1669M22G01, 1669M22G03, 1782M22G01, and 1782M22G02 installed in GE CF6–80E1 series engines, that have been previously inspected using the procedures with GE CF6–80E1 ASB No. 72–A0137, Revision 1, dated October 28, 1999 or any earlier version of this SB, perform repeat inspections in accordance with GE CF6–80E1 ASB No. 72–A0137, Revision 1, dated October 28, 1999, at piece-part exposure after 1,000 CSLI and 3,500 CSN.

Web and Web-to-Hub Transition Area Inspection

(iii) For HPCR stage 3–9 spools that have not been previously inspected using the procedures GE CF6–80E1 ASB No. 72–A0126, Revision 2, dated October 28, 1999 or any earlier version of this SB, perform eddy current and ultrasonic inspections in accordance with GE CF6–80E1 ASB No. 72–A0126, Revision 2, dated October 28, 1999, at the next piece-part exposure after 1,000 CSN.

(iv) For HPCR stage 3–9 spools with P/Ns 1669M22G01, 1669M22G03, 1782M22G01, and 1782M22G02 installed in GE CF6–80E1 series engines, that have been previously inspected using the procedures in GE CF6–80E1 ASB No. 72–A0126, Revision 2, dated October 28, 1999 or any earlier version of this SB, perform repeat inspections in GE CF6–80E1 ASB No. 72–A0126, Revision 2, dated October 28, 1999, at piece-part exposure after 1,000 CSLI and 3,500 CSN.

(v) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by ASB No. 72–A0137, Revision 1, dated October 28, 1999 or ASB No. 72–A0126, Revision 2, dated October 28, 1999, as applicable, and replace with a serviceable part.

Spools Manufactured from 9 or 10-inch Diameter Billet Forgings

(2) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/Ns 1669M22G01, 1669M22G03, 1782M22G01, and 1782M22G02 installed in GE CF6–80E1 series engines. Perform the inspections in accordance with GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not been previously inspected in accordance with GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999 or any earlier version of this SB , or any of the combinations of service documents specified by Table 7 of this AD, inspect HPCR stage 3–9 spools at the first piece-part exposure after 1,000 CSN, but not later than the first ESV after 3,000 CSN, provided, however, from 19 through 36 months after the effective date of this AD, inspect not later than 9,500 CSN, and after 36 months after the effective date of this AD, inspect not later than 3,500 CSN.

(ii) For HPCR stage 3–9 spools that have been previously inspected in accordance with GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999 or any earlier version of this SB , or any of the combinations of service documents specified by Table 7 of this AD, perform repeat inspections at the earliest occurrence of the requirements of Table 23, 24, or 25 of this AD, as applicable, based on elapsed calendar time from the effective date of this AD, as specified in paragraph (e)(2)(vi) of this AD.

Table 23 (reference paragraphs (e)(2)(ii), (iii), (vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN.

Table 24 (reference paragraphs (e)(2)(ii), (iii), (vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN, and before:

9,500 CSN, if spool CALI is 0–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

Table 25 (reference paragraphs (e)(2)(ii), (iii), (vi))

First piece-part or module level exposure after both 1,000 CSLI and 3,500 CSN, but not later than the first ESV after both 1,500 CSLI and 3,500 CSN, and before:

3,500 CSLI, if spool CALI is 0–5,000, or

8,500 CSN, if spool CALI is 5,001–5,500, or

3,000 CSLI, if spool CALI is 5,501–6,500, or

9,500 CSN, if spool CALI is 6,501–7,000, or

2,500 CSLI, if spool CALI is 7,001–8,000, or

10,500 CSN, if spool CALI is 8,001–8,500, or

2,000 CSLI, if spool CALI is greater than 8,500.

(iii) Thereafter, inspect HPCR stage 3–9 spools at intervals not to exceed the earliest occurrence shown in Table 23, Table 24, or Table 25 of this AD, as applicable, based on the elapsed calendar time from the effective date of this AD, as specified in paragraph (e)(2)(vi) of this AD.

(iv) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999, and replace with a serviceable part.

(v) HPCR stage 3–9 spools with a CSN of 10,500 or greater may not be put back in service after an ESV.

(vi) Use the Tables as follows:

(A) Use Table 23 from the effective date of this AD through 18 months from the effective date of this AD.

(B) Use Table 24 after 18 months from the effective date of this AD through 36 months from the effective date of this AD.

(C) Use Table 25 after 36 months from the effective date of this AD.

Spools Manufactured from 8-inch Diameter Billet Forgings

(3) Eddy current and ultrasonic inspect for cracks HPCR stage 3–9 spools with P/N 1782M22G04 installed in GE CF6–80E1 series engines. Perform the inspections in accordance GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999, as follows:

(i) For HPCR stage 3–9 spools that have not previously been inspected in accordance with GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999, or any earlier version of this SB, or any of the service documents listed in Table 7 of this AD, inspect at first piece-part exposure after both 1,000 CSN and the effective date of this AD.

(ii) Remove from service prior to further flight HPCR stage 3–9 spools that equal or exceed the reject criteria established by GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999, and replace with a serviceable part.

Reporting Requirement

(f) Report within 5 calendar days of inspection the results of inspections that equal or exceed the reject criteria to: William Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (718) 238–7742, fax (781) 238–7199, as follows:

(1) Engine model in which the HPCR stage 3–9 spool was installed;

(2) P/N;

(3) S/N;

(4) Part CSN;

(5) Part CSLI;

(6) Date and location of inspection.

Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

Serviceable Part Definition

(g) For the purpose of this AD, a serviceable part for installation in an engine is defined as an HPCR stage 3-9 spool with less than 1,000 CSN or with less than 1,000 CSLI, in accordance with the inspection and pass/fail criteria contained in the applicable service documents or combinations of service documents provided by Table 26 of this AD.

Table 26 (reference paragraph (g))

GE CF6–50 SB No. 72–888, Revision 3, dated January 31, 1991.

GE CF6–50 SB No. 72–888, Revision 4, dated March 28, 1991.

GE CF6–50 SB No. 72–888, Revision 5, dated November 7, 1994.

GE CF6–50 SB No. 72–888, Revision 6, dated December 22, 1995,
GE CF6–50 SB No. 72–1000, Original, dated December 14, 1990,
GE CF6–50 SB No. 72–1000, Revision 1, dated March 28, 1991,
GE CF6–50 SB No. 72–1000, Revision 2, dated September 9, 1993,
GE CF6–50 SB No. 72–1000, Revision 3, dated December 22, 1995,
GE CF6–50 SB No. 72–1108, Original, dated November 6, 1995,
GE CF6–50 SB No. 72–1108, Revision 1, dated July 29, 1996,
GE CF6–50 ASB No. 72–A1108, Revision 2, dated October 28, 1999,
GE CF6–50 ASB No. 72–A1108, Revision 3, dated November 12, 1999,
GE CF6–50 SB No. 72–1157, Original, dated June 6, 1998,
GE CF6–50 ASB No. 72–A1157, Revision 1, dated October 28, 1999,
GE CF6–50 ASB No. 72–1131, Original, dated October 27, 1997,
GE CF6–50 ASB No. 72–A1131, Revision 1, dated March 12, 1998,
GE CF6–50 ASB No. 72–A1131, Revision 2, dated October 28, 1999,
GE CF6–80A SB No. 72–500, Revision 3, dated March 19, 1991,
GE CF6–80A SB No. 72–500, Revision 4, dated July 1, 1991,
GE CF6–80A SB No. 72–500, Revision 5, dated November 7, 1994,
GE CF6–80A SB No. 72–500, Revision 6, dated December 22, 1995,
GE CF6–80A SB No. 72–583, Original, dated December 20, 1990,
GE CF6–80A SB No. 72–583, Revision 1, dated March 18, 1991,
GE CF6–80A SB No. 72–583, Revision 2, dated July 15, 1991,
GE CF6–80A SB No. 72–583, Revision 3, dated July 24, 1991,
GE CF6–80A SB No. 72–583, Revision 4, dated September 15, 1993,
GE CF6–80A SB No. 72–583, Revision 5, dated December 22, 1995,
GE CF6–80A SB No. 72–678, Original, dated November 6, 1995,
GE CF6–80A SB No. 72–678, Revision 1, dated July 29, 1996,
GE CF6–80A ASB No. 72–A0678, Revision 2, dated October 28, 1999,
GE CF6–80A ASB No. 72–A0678, Revision 3, dated November 12, 1999,
GE CF6–80A SB No. 72–691, Original, dated October 22, 1997,
GE CF6–80A ASB No. 72–A691, Revision 1, dated March 12, 1998,
GE CF6–80A ASB No. 72–A691, Revision 2, dated September 23, 1998,
GE CF6–80A ASB No. 72–A0691, Revision 3, dated October 28, 1999,
GE CF6–80A SB No. 72–719, Original, dated June 10, 1998,
GE CF6–80A SB No. 72–719, Revision 1, dated September 24, 1998,
GE CF6–80A ASB No. 72–A0719, Revision 2, dated October 28, 1999,
GE CF6–80C2 SB No. 72–418, Revision 2, May 14, 1991,
GE CF6–80C2 SB No. 72–418, Revision 3, November 7, 1994,
GE CF6–80C2 SB No. 72–418, Revision 4, December 22, 1995
GE CF6–80C2 SB No. 72–758, Original, dated November 7, 1994,
GE CF6–80C2 SB No. 72–758, Revision 1, dated December 22, 1995,
GE CF6–80C2 SB No. 72–812, Original, dated November 6, 1995,
GE CF6–80C2 SB No. 72–812, Revision 1, dated January 30, 1998,
GE CF6–80C2 ASB No. 72–A0812, Revision 2, dated October 28, 1999,
GE CF6–80C2 SB No. 72–848, Original, dated October 27, 1997,
GE CF6–80C2 SB No. 72–848, Revision 1, dated December 9, 1997,
GE CF6–80C2 ASB No. 72–A848, Revision 2, dated March 12, 1998,
GE CF6–80C2 ASB No. 72–A0848, Revision 3, dated October 28, 1999,
GE CF6–80C2 ASB No. 72–A0848, Revision 4, dated November 12, 1999,
GE CF6–80C2 SB No. 72–934, Original, dated June 10, 1998,
GE CF6–80C2 ASB No. 72–A0934, Revision 1, dated October 28, 1999,
GE CF6–80E1 ASB No. 72–A126, Original, dated January 27, 1998,
GE CF6–80E1 ASB No. 72–A126, Revision 1, dated March 21, 1998,
GE CF6–80E1 ASB No. 72–A0126, Revision 2, dated October 28, 1999,
GE CF6–80E1 ASB No. 72–A135, Original, dated August 13, 1998,
GE CF6–80E1 ASB No. 72–A0135, Revision 1, dated October 28, 1999,
GE CF6–80E1 SB No. 72–137, Original, dated June 9, 1998,
GE CF6–80E1 ASB No. 72–A0137, Revision 1, dated October 28, 1999.

Either any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–09, Revision 71, dated October 1, 1995,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–09, Revision 72, dated November 15, 1996,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–09, Revision 74, dated May 1, 1998,

and any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–10, Revision 71, dated October 1, 1995,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–10, Revision 72, dated November 15, 1996,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–10, Revision 74, dated May 1, 1998,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–10, Revision 75, dated December 15, 1998;

or any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–13, Temporary Revision 70–25, dated August 26, 1996,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–13, Revision 72, dated November 15, 1996,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–13, Revision 73, dated November 1, 1997,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–13, Revision 75, dated December 15, 1998,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–13, Temporary Revision 70–41, dated February 10, 1999,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–13, Revision 76, dated May 15, 1999,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–17, Temporary Revision 70–39, dated December 15, 1998,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–17, Revision 76, dated May 15, 1999,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–17, Temporary Revision 70–47, dated October 28, 1999,

and any one of the following:

CF6 Standard Practice Manual GEK9250 Procedures 70–32–14, Temporary Revision 70–26, dated August 26, 1996,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Revision 72, dated November 15, 1996.
CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Revision 73, dated November 1, 1997.
CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Revision 75, dated December 15, 1998,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Temporary Revision 70–42, dated February 10, 1999,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–14, Revision 76, dated May 15, 1999,
CF6 Standard Practice Manual GEK9250 Procedures 70–32–18, Temporary Revision 70–40, dated December 15, 1998.
CF6 Standard Practice Manual GEK9250 Procedure 70–32–18, Revision 76, dated May 15, 1999,
CF6 Standard Practice Manual GEK9250 Procedure 70–32–18, Temporary Revision 70–48, dated October 28, 1999.

Definition of Module Level Exposure

(h) For the purpose of this AD, module level exposure is defined as separation of the fan module from the engine.

Definition of Piece-Part Exposure

(i) For the purpose of this AD, piece-part exposure is defined as disassembly and removal of the stage 3–9 spool from the HPC rotor structure, regardless of any blades, locking lugs, bolts or balance weights assembled to the spool.

Definition of ESV

(j) For the purpose of this AD, an ESV is defined as the introduction of an engine into a shop where the separation of a major engine flange will occur after the effective date of this AD. The following maintenance actions are not considered ESVs for the purpose of this AD:

(1) Introduction of an engine into a shop solely for removal of the compressor top case for airfoil maintenance;

(2) Introduction of an engine into a shop solely for removal or replacement of the Stage 1 Fan Disk;

(3) Introduction of an engine into a shop solely for replacement of the Turbine Rear Frame;

(4) Introduction of an engine into a shop solely for replacement of the Accessory and/or Transfer Gearboxes;

(5) Introduction of an engine into a shop solely for replacement of the Fan Forward Case;

(6) Introduction of an engine into a shop for any combination of the above specified exceptions.

Alternative Methods of Compliance

(k) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

Ferry Flights

(l) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(m) The actions required by this AD shall be done in accordance with the following service documents:

Document No.	Pages	Revision	Date
GE CF6–50 ASB No. 72–A1108 ..... Total pages: 15.	1–15	3	November 12, 1999.
GE CF6–50 ASB No. 72–A1157 ..... Total pages: 06.	1–6	1	October 28, 1999.
GE CF6–50 ASB No. 72–A1131 ..... Total pages: 46.	1–46	2	October 28, 1999.
GE CF6–80A ASB No. 72–A0678 ..... Total pages: 18.	1–18	3	November 12, 1999.
GE CF6–80A ASB No. 72–A0691 ..... Total pages: 47.	1–47	3	October 28, 1999.
GE CF6–80A ASB No. 72–A0719 ..... Total pages: 6.	1–6	2	October 28, 1999.
GE CF6–80C2 ASB No. 72–A0812 ..... Total pages: 13.	1–13	2	October 28, 1999.
GE CF6–80C2 ASB No. 72–A0848 ..... Total pages: 47.	1–47	4	November 12, 1999.
GE CF6–80C2 ASB No. 72–A0934 ..... Total pages: 6.	1–6	1	October 28, 1999.
GE CF6–80E1 ASB No. 72–A0126 ..... Total pages: 46.	1–46	2	October 28, 1999.
GE CF6–80E1 ASB No. 72–A0135 ..... Total pages: 11	1–11	1	October 28, 1999.
GE CF6–80E1 ASB No. 72–A0137 ..... Total pages: 6.	1–6	1	October 28, 1999.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(n) This amendment becomes effective on January 28, 2000.

Issued in Burlington, Massachusetts, on October 18, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–30724 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–14]

RIN 2120–AA66

Establishment of VOR Federal Airways; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes three Very High Frequency Omnidirectional Range (VOR) Federal airways located in the State of Alaska (AK). This action will improve the management of air traffic operations in the State of Alaska and enhance safety.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Joseph C. White, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1999, the FAA proposed to amend 14 CFR part 71 (part 71) to establish four VOR Federal airways, V–603, V–605, V–617, and V–621 located in the State of Alaska (64 FR 2453). Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to the Notice, a flight inspection of the four proposed Victor Airways was performed. Three of the airways met the flight inspection requirements (V–603, V–617, and V–621). However, the proposed airway V–605, Biorka to Middleton, will only pass flight inspection at flight level 240 and higher, therefore the proposed V–605 was rescinded due to insufficient navigational aid coverage below flight level 180. Except for editorial changes, and the deletion of V–605, this amendment is the same as that proposed in the notice.

Alaskan VOR Federal airways are published in paragraph 6010(b) of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Alaskan VOR Federal airways listed in this document will be published subsequently in the Order.

The Rule

This action amends part 71 by establishing three VOR Federal airways, V–603, V–617, and V–621 located in the State of Alaska.

Prior to this action there were a number of uncharted nonregulatory routes that used the same routings as these VOR Federal airways. Those nonregulatory routings were used daily by air carrier and general aviation aircraft. The FAA is taking this action to establish these three VOR Federal airways for the following reasons: (1) The conversion of these uncharted nonregulatory routes to VOR Federal airways will add to the instrument flight rules (IFR) airway and route infrastructure in Alaska; (2) pilots will be provided with minimum en route altitudes and minimum obstruction clearance altitudes information; (3) this amendment will establish controlled airspace, thus eliminating some of the commercial IFR operations in uncontrolled airspace; and (4) addition of these routes will improve the management of air traffic operations and thereby enhance safety.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6010(b)—Alaskan VOR Federal Airways

* * * * *

V–603 [New]

From Elfee, AK, NDB, 20 AGL; to Dillingham, AK.

* * * * *

V–617 [New]

From Homer, AK; to Johnstone Point, AK.

* * * * *

V–621 [New]

From Barrow, AK, VOR; to Atqasuk, AK, NDB.

* * * * *

Issued in Washington, DC, on November 22, 1999.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–30889 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 990914255–9255–01]

RIN 0648–AN28

Hawaiian Islands Humpback Whale National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule; effective date and modifications.

SUMMARY: Pursuant to the Hawaiian Islands National Marine Sanctuary Act and the National Marine Sanctuaries Act, NOAA developed the comprehensive final management plan for the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS or the Sanctuary). NOAA issued final regulations on March 28, 1997, to implement that plan and govern the conduct of activities within the Sanctuary. Congress and the Governor of the State of Hawaii (Governor) had forty-five days of continuous session of Congress beginning on the day on which the final regulations were published to review those regulations and management plan. After the forty-five day review period, the regulations would become final and take effect, except that any term or terms of the regulations or management plan the Governor certified to the Secretary of Commerce as unacceptable would not take effect in the area of the Sanctuary lying within the seaward boundary of the State.

During the forty-five day review period the Governor submitted to the Secretary of Commerce a certification that implementation of the management plan and certain regulations were unacceptable unless specific amendments were made to the regulations. In response to the Governor's certification, NOAA amended those regulations certified as unacceptable to incorporate the Governor's changes. Consequently, upon their effective date the regulations, as modified by this rule, and management plan, in their entirety, will apply throughout the Sanctuary, including within State waters of the Sanctuary.

This rule amends the regulations published in the March 28, 1997, **Federal Register**, in response to the Governor's certification, and announces the effective date of the regulations.

EFFECTIVE DATE: The final rule published on March 28, 1997, at 62 FR 14799 as amended by the revision of 15 CFR part 922, subpart Q in this document is effective December 29, 1999.

ADDRESSES: The Final Environmental Impact Statement/Management Plan (FEIS/MP) prepared to implement the Sanctuary designation was released on February 18, 1997. Copies of the FEIS/MP, and the March 28, 1997, **Federal Register** document are available on request to the Hawaiian Islands Humpback Whale National Marine Sanctuary Office, 726 South Kihei Road, Kihei, Maui, Hawaii, 96753; or the Marine Sanctuaries Division (MSD), Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1305 East-West

Highway, SSMC–4, 11th Floor, Silver Spring, Maryland, 20910.

FOR FURTHER INFORMATION CONTACT: Allen Tom, Sanctuary Manager, Kihei, Maui, Hawaii, (808) 879–2818 (Maui), (808) 541–3184 (Oahu) or (800) 831–4888 (inter-island toll-free).

SUPPLEMENTARY INFORMATION:

I. Introduction

The HIHWNMS was designated by the Hawaiian Islands National Marine Sanctuary Act (HINMSA; Title II, Subtitle C, Pub. L. No. 102–587) which was signed into law on November 4, 1992. The HINMSA directed the Secretary of Commerce to develop a comprehensive management plan and regulations for the Sanctuary pursuant to sections 303 and 304 of the National Marine Sanctuaries Act (NMSA) (also known as Title III of the Marine Protection, Research, and Sanctuaries Act of 1972), as amended, 16 U.S.C. 1431 *et seq.* The NMSA authorizes the designation of national marine sanctuaries and the development of management plans and regulations for national marine sanctuaries to protect their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

The authority of the Secretary to designate national marine sanctuaries and implement designated sanctuaries was delegated to the Under Secretary of Commerce for Oceans and Atmosphere by the Department of Commerce, Organization Order 10–15, § 3.01(x) (Jan. 26, 1996). The authority to administer the other provisions of the NMSA was delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by NOAA Circular 83–38, Directive 05–50 (Sept. 21, 1983, as amended).

II. Forty-five Day Review Period Under the National Marine Sanctuaries Act and Hawaiian Islands National Marine Sanctuary Act

NOAA published final regulations on March 28, 1997, (62 FR 14799) to implement the HIHWNMS management plan and govern the conduct of activities within the HIHWNMS. Under the NMSA and HINMSA, Congress and the Governor had forty-five days of continuous session of Congress beginning on the day on which the final regulations were published to review the terms of designation (i.e., management plan and regulations). After forty-five days, the regulations would become final and take effect, except that any term or terms the Governor certified within the forty-five day period to the Secretary of Commerce as unacceptable would not take effect in the area of the Sanctuary lying within the seaward boundary of the State. The following discusses the Governor's actions during the forty-five day period and corresponding modifications to the final regulations made by NOAA in response to those actions.

Certification by the Governor of Hawaii

On June 5, 1997, during the forty-five day review period under the NMSA and HINMSA, the Governor of the State of Hawaii certified by letter to the Secretary of Commerce that implementation of the management plan and certain regulations were unacceptable in State waters. However, the management plan and regulations certified as unacceptable would be acceptable if NOAA amended the regulations and the intergovernmental Compact Agreement (Compact), developed by the State and NOAA, as requested in the Governor's certification letter. NOAA has amended the regulations and the Compact to incorporate the modifications requested by the Governor in his letter. By doing so, the regulations and management plan, as modified, are acceptable to the Governor and, therefore, will apply within State waters of the Sanctuary upon the effective date of these regulations.

The following is the text of the June 5, 1997, letter from the Governor of Hawaii to the Secretary of Commerce.

June 5, 1997.

Dr. D. James Baker,
Under Secretary and Administrator, National Oceanic and Atmospheric Administration, Herbert C. Hoover Building, Room 5128, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dear Dr. Baker: This is to inform you that I have agreed to include selected portions of State waters within the boundary of the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS). It is our intention to create a State-Federal partnership with the National Oceanic and Atmospheric Administration (NOAA) for management of the Sanctuary under the provisions of the HIHWNMS management plan, implementing regulations, and the intergovernmental compact agreement, with certain conditions to be applied to the portions of the Sanctuary within State waters. It is my understanding that if the conditions set forth below are not met, the Sanctuary designation and regulations shall not take effect and become final in State waters.

It is also my understanding that the inclusion of State waters within the Sanctuary boundary does not convey title to the Federal government; nor does the State relinquish authority over any State-owned submerged lands, waters or other State-owned resources, including the power to lease or otherwise encumber the same.

In accordance with subsection 304(b)(1) of the National Marine Sanctuaries Act, the following terms are certified as unacceptable in state waters:

1. Sanctuary emergency regulations unless and until first approved by the Governor. Accordingly, the following sentence shall be added to section 922.185 CFR as published on March, 28, 1997: "Emergency regulations shall not take effect in Hawaii territorial waters until approved by the Governor of Hawaii."

2. Sanctuary fees for allowed public uses unless first approved by the Governor.

3. Requirements for the State of Hawaii or county governments to provide funding for the implementation of the Sanctuary management plan, regulations, or the intergovernmental compact agreement.

4. Sanctuary fishing regulations in State waters unless established by the Board of Land and Natural Resources.

5. NOAA's Preferred Sanctuary boundary in State waters except the waters:

a. from Kailiu Point eastward to Mokolea Pt. on Kauai;

b. from Puaena point northward to Mahie Point (just south of Kahana Bay) and from the Ala Wai Canal (Diamond Head side) eastward to Makapuu Pt. on Oahu;

c. from Ilio Pt. south and eastward to Cape Halawa on Molokai;

d. from Lipoa Point south to Hanamanioa Lighthouse on Maui;

e. all State waters surrounding Lanai;

f. from Upolu Pt. south to Keahole Pt. on Hawaii.

Accordingly, NOAA shall amend 15 C.F.R. Section 181 and Appendix A to the HIHWNM Sanctuary Regulations to reflect the State Boundary Selected.

6. Implementation of the management plan in its entirety unless the Intergovernmental Compact Agreement includes the following:

a. The Governor shall designate a State employee to serve as an equal partner to work in consultation with the Sanctuary Manager for the oversight of Sanctuary operations. The State of Hawaii and NOAA shall manage the Sanctuary through a cooperative partnership and consult on all management activities throughout the Sanctuary. The intent of this partnership is that the final resolution of any management issues resulting in policy conflicts between the State and NOAA shall be decided by the managing partners consistent with State and Federal laws.

b. The State reserves the right to initiate proposed changes to the management plan, and NOAA, if necessary, shall initiate the Federal rule promulgation process required to make revisions to Sanctuary regulations requested by the State.

c. The goals and objectives of the Sanctuary management plan were developed to complement and coordinate existing management efforts, and, in part, to address some of the objectives and policies contained in the National Marine Fisheries Service (NMFS) Final Recovery Plan (Recovery Plan) for the Humpback Whale. Throughout the implementation of the management plan, therefore, NOAA's Sanctuaries & Reserves

Division in coordination with the State, will consult with NMFS to evaluate the effectiveness of existing management efforts in achieving those objectives and policies, including whether additional measures (e.g., regulations or critical habitat) to protect the humpback whale and its habitat are needed. Prior to making a final decision on whether to designate critical habitat for humpback whales in Hawaii state waters under the Endangered Species Act, NOAA will fully involve and consult with the State.

d. The designation of the Sanctuary does not limit or restrict in any way State or federal government actions to respond to oil or hazardous material spill. The Sanctuary will work within established procedures of the Oceania Regional Response Team for oil or hazardous material spill response and planning.

e. Section 304(e) of the National Marine Sanctuaries Act requires the Secretary of Commerce to review the Sanctuary's Management Plan and implementing regulations every five years, evaluate the substantive progress toward implementing the management plan and goals for the Sanctuary, especially the effectiveness of the site-specific management techniques, and revise the management plan as necessary to fulfill the purposes and policies of the Act. When the Management Plan and implementing regulations for the HIHWNMS are re-evaluated, the Secretary of Commerce will re-propose the management plan and regulations in their entirety and the State of Hawaii will have the opportunity to review the Management Plan and regulations, in their entirety, and indicate if any of all of the terms are unacceptable, in which case the unacceptable terms shall not take effect in State waters.

Accordingly, the following provisions shall be added to 15 CFR section 922.180: "Section 304(e) of the National Marine Sanctuaries Act requires the Secretary to review management plans and regulations every five years, and make necessary revisions. Upon completion of the five year review of the Sanctuary management plan and regulations, the Secretary will re-propose the Sanctuary regulations in their entirety with any proposed changes thereto. The Governor of the State of Hawaii will have the opportunity to review the re-proposed regulations before they take effect and if the Governor certifies such regulations as unacceptable, they will not take effect in State waters of the Sanctuary."

We believe that implementation of the plan provides for balanced protection of Hawaii's endangered State marine mammal and its marine habitat, and advances the state and federal commitment to jointly manage these resources. We look forward to that continuing relationship.

With warmest personal regards,

Aloha,

Benjamin J. Cayetano.

cc: Mr. Allen Tom, NOAA

NOAA's Response to Governor's Certification

In response to the Governor's certification of June 5, 1997, NOAA has amended those regulations certified by the Governor as being unacceptable in State waters. With the modifications, the entire regulations and management plan are accepted by the Governor and will apply throughout the Sanctuary, including within State waters of the Sanctuary, upon their effective date. The basis and purpose of the changes to the regulations are as follows.

(1) Per item number 1 of the Governor's letter which certified as unacceptable in State waters emergency regulations unless first approved by the Governor, § 922.185 of subpart Q is amended by adding "Emergency regulations shall not take effect in Hawaii State waters until approved by the Governor of Hawaii." This is consistent with the management plan which provides that any new regulation or substantive modification to existing Sanctuary regulations will require the Governor's approval in order to take effect in State waters of the Sanctuary.

(2) Item 2 of the Governor's certification certified as unacceptable in State waters Sanctuary user fees unless first approved by the Governor. However, by law NOAA is precluded from instituting any user fees under the HINMSA or NMSA for any activity within the Sanctuary or any use of the Sanctuary or its resources. Consequently, no amendment to the Sanctuary regulations is necessary. By law, the term "user fee" does not include any fee authorized by section 310 of the NMSA (Special Use Permits); any gift or donation received under section 311 of the NMSA; or any monetary or in-kind contributions under section 316 of the NMSA.

(3) Item 3 of the Governor's certification certified as unacceptable in State waters requirements for the State of Hawaii or County governments to provide funding for the implementation of the management plan, regulations or Intergovernmental Compact Agreement. No changes were made to the regulations as regards this item of the Governor's certification because there is no regulatory component necessary for its implementation. There is no mandate in the management plan for the State or counties to provide funding for the Sanctuary. Further, as stated in the March 28, 1997, **Federal Register** document, the final regulations contain no Federal mandates and therefore are not subject to the Unfunded Mandates Reform Act of 1995.

(4) Per item number 4 of the Governor's letter which certified as unacceptable in State waters Sanctuary fishing regulations unless established by the State of Hawaii's Board of Land and Natural Resources, NOAA amended § 922.184 of subpart Q by adding a new paragraph (c) to read "Any Sanctuary fishery regulations shall not take effect in Hawaii State waters until established by the State Board of Land and Natural Resources." The Governor's certification did not specify a particular regulation to be amended, but NOAA determined that an appropriate place for such provision is in the Sanctuary specific regulations at a new § 922.184(c) of subpart Q. Again, this provision is consistent with the portion of the management plan that provides that any new regulation must be approved by the State (Governor) in order to take effect in State waters of the Sanctuary.

(5) Per item number 5 of the Governor's letter which certified as unacceptable in State waters NOAA's preferred Sanctuary boundary, except the waters:

a. from Kailiu Point, eastward to Mokolea Point on Kauai;

b. from Puaena Point northward to Mahie Point (just south of Kahana Bay) and from the Ala Wai Canal (Diamond Head side) eastward to Makapuu Point on Oahu;

c. from Ilio Point south and eastward to Cape Halawa on Molokai;

d. from Lipoa Point south to Hanamanioa Lighthouse on Maui;

e. all State waters around Lanai;

f. from Upolu Point south to Keahole Point on Hawaii;

NOAA has amended § 922.181 and Appendix A to subpart Q to reflect the modified final Sanctuary boundary to accommodate the Governor's requested changes and to clarify boundary end points. The following list summarizes the changes made, in consultation with the state, to NOAA's preferred alternative boundary listed in the final management plan and regulations. Unless otherwise stated, the boundary goes from the shoreline to the 100 fathom (600 feet) isobath.

Kauai

The location of the western boundary point (Kailiu Point) remains unchanged. The eastern boundary point was changed from Makahuena Point to Mokolea Point to reflect the Governor's letter. Both Hanamaulu Bay and Nawiliwili Harbor were removed from the excluded harbors list since they are no longer physically located within the Sanctuary boundary.

North Oahu

No changes were made to the location of Puaena Point and Mahie Point as identified in the final management plan. However, the final language states from "Puaena Point *eastward* to Mahie Point (just south of Kahana Bay)" using *eastward* instead of *northward* to more

accurately reflect the location of the point.

South Oahu

The Governor's letter requested that the Oahu western boundary point start from the Ala Wai Canal (Diamond Head side). Further consultation with the State of Hawaii clarified the location of this point to be at the Kapahulu Groin in Waikiki, which is the intersection of a perpendicular line from where the Ala Wai Canal begins (near Diamond Head) and the ocean. The Ala Wai Small Boat Basin was removed from the excluded harbors list since it no longer is physically located within the Sanctuary boundary. NOAA also generated two closure bounds (see bounds #21 and #22 on Figure 2 in Appendix A to the final rule) to clarify that Kaupa Pond (Hawaii Kai) is not included in the boundary. The original boundary file given to NOAA from the state mistakenly included this area. The two closure bounds were drawn at the outer side of the bridges for the coast highway crossing the two outlets.

Maui County (Maui, Molokai, Lanai, Penguin Bank)

The final boundary around Maui County was modified to reflect the Governor's request to include the areas from Cape Halawa, Molokai south and westward to Ilio Point, and from Lipoa Point, Maui south to the Hanamanioa Lighthouse. No changes were made to the boundary around Lanai or Penguin Bank. In consultation with the State of Hawaii, the boundary between Cape Halawa, Molokai and Lipoa Point, Maui (across the deepwater Pailolo Channel) was redrawn as a straight line to simplify the boundary. NOAA generated additional boundary coordinates to construct the boundary around the northeast shore of Kahoolawe. This line follows a 3 nautical mile arc around the island of Kahoolawe, which is not included within the Sanctuary, and intersects the 100 fathom line. NOAA also provided some coordinates for a technical closure correction of the boundary in an area north of Kahoolawe (see bound #11 in Figure 2, Appendix A to the final rule). This is an area of complex bathymetry, where the 100 fathom isobath varies tremendously. NOAA and the State agreed to simplify the boundary in the area by drawing a line across the area, thus eliminating the area of complex bathymetry. This was depicted in both the draft and final environmental impact statements and management plans. Kahului Harbor on Maui was removed from the excluded harbors list since it no longer is physically located within the Sanctuary boundary.

Hawaii (Big Island)

The Sanctuary boundary around the Big Island was modified to reflect the Governor's letter requesting that the boundary start at Upolu Pt. and go south to Keahole Point. Hilo Harbor, Honokohau Boat Harbor, and Keauhou Bay boat harbors were removed from the excluded harbor list since they are no longer physically located within the Sanctuary boundary.

These boundary changes made in response to the Governor's certification are within the range of boundary alternatives contained in the draft and final environmental impact statements/management plans for the Sanctuary, and within the scope of the boundary identified in the final regulations published on March 28, 1997. The list of ports and harbors excluded from the Sanctuary boundary has also been modified according to the revised final Sanctuary boundary.

(6) Per item number 6 of the Governor's letter which certifies as unacceptable in State waters the implementation of the management plan unless the Intergovernmental Compact Agreement and § 922.180 is amended to add a provision regarding a five year review of the management plan and regulations, § 922.180 of subpart Q is amended by adding:

Section 304(e) of the NMSA requires the Secretary to review management plans and regulations every five years, and make necessary revisions. Upon completion of the five year review of the Sanctuary management plan and regulations, the Secretary will repropose the Sanctuary management plan and regulations in their entirety with any proposed changes thereto. The Governor of the State of Hawaii will have the opportunity to review the re-proposed management plan and regulations before they take effect and if the Governor certifies any term or terms of the management plan or regulations as unacceptable, the unacceptable term or terms will not take effect in State waters of the Sanctuary.

A corresponding amendment, as well as other amendments to address elements of item 6 of the Governor's letter, have also been made to the Compact Agreement which was signed by the Governor on May 4, 1998. The modification to the regulation essentially codifies the requirement under the NMSA to conduct reviews of Sanctuary management plans and regulations every five years. In the HIHWNMS context, NOAA has determined that at the conclusion of the five year review of the Sanctuary, it will repropose the regulations and management plan for the Governor's review, similar to the forty-five day review period under the NMSA that preceded this notice.

For clarity, this document publishes the revised Sanctuary specific regulations at 15 CFR part 922, subpart Q in their entirety, which will replace subpart Q as published in the March 28, 1997 **Federal Register** document. Consequently, subpart Q as published in this rule and all remaining regulations in the March 28, 1997, rule shall become effective December 29, 1999.

III. Summary of the Changes to the Final Regulations at Subpart Q

The following summarizes the Sanctuary regulations at 15 CFR part 922, subpart Q, as modified by this document. Except as noted below, this section remains the same as in the March 28, 1997, **Federal Register** document. With the changes, the final rule published on March 28, 1997, at 62 FR 14799, and the revision of 15 CFR part 922, subpart Q, in this document shall apply throughout the Sanctuary, including within State waters of the Sanctuary, on December 29, 1999.

Section 922.180 sets forth the purpose of the regulations—to implement the designation of the Hawaiian Islands Humpback Whale National Marine Sanctuary by regulating activities affecting the resources of the Sanctuary or any of the qualities, values, or purposes for which the Sanctuary was designated, in order to protect, preserve, and manage the conservation, ecological, recreational, research, educational, historical, cultural, and aesthetic resources and qualities of the area. Section 922.180 also describes the five-year review of the management plan and regulations for the Sanctuary.

Section 922.181 and Appendix A to subpart Q set forth the boundary of the Sanctuary. Appendix A provides a text description of the Sanctuary boundary with specific lateral closure points and exclusion areas. The Sanctuary boundary is also depicted in Figures 1–3. Digital files, available in three common formats (ESRI Shape File, MapInfo Tables, and an ASCII Exchange Format) are available from the Sanctuary office in Kihei, Maui, at the address listed above. These digital geographies are the best available representation of the verbal legal delineation and were derived from: the Hawaiian shoreline as supplied by State of Hawaii through the Office of Planning GIS Office, the agreed lateral boundary and exclusion areas, and the 100 fathom

isobath digitized from the following 1:80,000 scale NOAA nautical charts:

19327—West Coast of Hawaii (9th ED, 4/29/89),
19347—Channels between Molokai, Maui, Lanai, and Kahoolawe (17th ED, 12/13/97),
19351—Channels between Oahu, Molokai, and Lanai (8th ED, 7/01/1989),
19357—Island of Oahu (20th ED, 9/21/1996), and
19381—Island of Kauai (8th ED, 7/17/1993)].

For the portion of the Lanai region of the HIHWNMS west of Chart 19351, [157°42.8′ west] the 100 fathom contour was derived from the 1:250,000 chart 19340—*Hawaii to Oahu* (24th ED, 1/09/1993).

All digital geography data have been referenced to WGS84 (NAD83) and have been converted to geographic (latitude and longitude) coordinates.

Section 922.184(c) provides that any Sanctuary fishing regulations will not take effect in State waters until established by the State Board of Land and Natural Resources.

Section 922.185 provides that where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource, or imminent risk of such destruction of, loss of, or injury, any and all activities are subject to immediate temporary regulation, including prohibition. No emergency regulation will take effect in State waters of the Sanctuary until approved by the Governor of Hawaii.

IV. Miscellaneous Rulemaking Requirements

Except as noted below, this section remains the same as in the March 28, 1997 **Federal Register** notice.

National Marine Sanctuaries Act

Section 304 of the National Marine Sanctuaries Act provides that Congress and the Governor have forty-five days of continuous session of Congress beginning on the day on which the final regulations were published to review the terms of designation (i.e., regulations and management plan). After forty-five days, the regulations would become final and take effect, except that any term or terms of the regulations or management plan the Governor certified to the Secretary of Commerce as unacceptable would not take effect in the State waters portion of the Sanctuary. The forty-five day review period began on March 28, 1997, the date the final regulations were published in the **Federal Register**, and concluded on June 6, 1997. During that period the Governor submitted to the Secretary a certification that the management plan and certain regulations were unacceptable unless specific amendments were made to such regulations. NOAA amended those regulations certified as unacceptable by incorporating the Governor's changes. Consequently, upon their effective date the regulations, as revised by this **Federal Register** document, and management plan, in their entirety, will apply throughout the Sanctuary, including within State waters of the Sanctuary.

Administrative Procedure Act

The final Sanctuary regulations at 15 CFR part 922, subpart Q, which were promulgated on March 28, 1997, through notice and comment rulemaking, have been amended pursuant to and consistent with the procedures required under the National Marine Sanctuaries Act and Hawaiian Islands National Marine Sanctuary Act. The NMSA and HINMSA provide that during the review period of forty-five day continuous session of Congress, the Governor may certify to the Secretary of Commerce any regulation as unacceptable and, if the Governor so certifies, the regulation shall not take effect in the State waters portion of the Sanctuary. As the changes requested by the Governor and herein made by NOAA are within the scope of the proposed and final rules, additional prior notice and opportunity for public comment are not required by 5 U.S.C. 553. The basis and purpose of the changes to the final regulations requested by the Governor have been set forth above.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

Dated: October 29, 1999.

Ted Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

Accordingly, for the reasons set forth above, 15 CFR part 922 is amended by revising subpart Q to read as follows:

Subpart Q—Hawaiian Islands Humpback Whale National Marine Sanctuary

Section
922.180 Purpose.
922.181 Boundary.
922.182 Definitions.
922.183 Allowed activities.
922.184 Prohibited activities.
922.185 Emergency regulations.
922.186 Penalties; appeals.
922.187 Interagency cooperation.

Appendix A to Subpart Q—Hawaiian Islands Humpback Whale National Marine Sanctuary Boundary Description and Coordinates of the Lateral Boundary Closures and Excluded Areas

Authority: 16 U.S.C. 1431 *et seq.* and subtitle C, title II, Pub. L. 102–587, 106 Stat. 5055.

Subpart Q—[Revised]

§ 922.180 Purpose.

(a) The purpose of the regulations in this subpart is to implement the designation of the Hawaiian Islands Humpback Whale National Marine Sanctuary by regulating activities affecting the resources of the Sanctuary or any of the qualities, values, or purposes for which the Sanctuary was designated, in order to protect, preserve, and manage the conservation, ecological, recreational, research, educational, historical, cultural, and aesthetic resources and qualities of the area. The regulations are intended to supplement and complement existing regulatory authorities; to facilitate to the extent compatible with the primary objective of protecting the humpback whale and its habitat, all public and private uses of the Sanctuary, including uses of Hawaiian natives customarily and traditionally exercised for subsistence, cultural, and religious purposes, as well as education, research, recreation, commercial and military activities; to reduce conflicts between compatible uses; to maintain, restore, and enhance the humpback whale and its habitat; to contribute to the maintenance of natural assemblages of humpback whales for future generations; to provide a place for humpback whales that are dependent on their Hawaiian Islands wintering habitat for reproductive activities, including breeding, calving, and nursing, and for the long-term survival of their species; and to achieve the other purposes and policies of the HINMSA and NMSA.

(b) These regulations may be modified to fulfill the Secretary's responsibilities for the Sanctuary, including the provision of additional protections for humpback whales and their habitat, if reasonably necessary, and the conservation and management of other marine resources, qualities and ecosystems of the Sanctuary determined to be of national significance. The Secretary shall consult with the Governor of the State of Hawaii on any modification to the regulations contained in this part. For any modification of the regulations

contained in this part that would constitute a change in a term of the designation, as contained in the Designation Document for the Sanctuary, the Secretary shall follow the applicable requirements of sections 303 and 304 of the NMSA, and sections 2305 and 2306 of the HINMSA.

(c) Section 304(e) of the NMSA requires the Secretary to review management plans and regulations every five years, and make necessary revisions. Upon completion of the five year review of the Sanctuary management plan and regulations, the Secretary will repropose the Sanctuary management plan and regulations in their entirety with any proposed changes thereto. The Governor of the State of Hawaii will have the opportunity to review the re-proposed management plan and regulations before they take effect and if the Governor certifies any term or terms of such management plan or regulations as unacceptable, the unacceptable term or terms will not take effect in State waters of the Sanctuary.

§ 922.181 Boundary.

(a) Except for excluded areas described in paragraph (b) of this section, the Hawaiian Islands Humpback Whale National Marine Sanctuary consists of the submerged lands and waters off the coast of the Hawaiian Islands seaward from the shoreline, cutting across the mouths of rivers and streams:

(1) To the 100-fathom (183 meter) isobath from Kailiu Point eastward to Mokolea Point, Kauai;

(2) To the 100-fathom (183 meter) isobath from Puaena Point eastward to Mahie Point, and from the Kapahulu Groin in Waikiki eastward to Makapuu Point, Oahu;

(3) To the 100-fathom (183 meter) isobath from Cape Halawa, Molokai, south and westward to Ilio Point, Molokai; southwestward to include Penguin Banks; eastward along the east side of Lanai; to the waters seaward of the three nautical mile limit north of Kahoolawe, to the Hanamanoia Lighthouse on Maui, and northward along the shoreline to Lipoa Point, Maui;

(4) To the deep water area of Pailolo Channel from Cape Halawa, Molokai, to Lipoa Point, Maui, and southward;

(5) To the 100-fathom (183 meter) isobath from Upolu Point southward to Keahole Point, Hawaii.

(b) Excluded from the Sanctuary boundary are the following commercial ports and small boat harbors:

Hawaii (Big Island)

Kawaihae Boat Harbor & Small Boat Basin

Lanai

Kaumalapau Harbor, Manele Harbor

Maui

Lahaina Boat Harbor
Maalaea Boat Harbor

Molokai

Hale o Lono Harbor
Kaunakakai Harbor

Oahu

Kuapa Pond (Hawaii Kai)

(c) The coordinates of the lateral extents of each boundary area within the Sanctuary boundary appear in Appendix A of this subpart Q.

§ 922.182 Definitions.

(a) *Acts* means the Hawaiian Islands National Marine Sanctuary Act (HINMSA; sections 2301–2307 of Pub. L. 102–587), and the National Marine Sanctuaries Act (NMSA; also known as Title III of the Marine Protection, Research, and Sanctuaries Act (MPRSA), as amended, 16 U.S.C. 1431 *et seq.*).

Adverse impact means an impact that independently or cumulatively damages, diminishes, degrades, impairs, destroys, or otherwise harms.

Alteration of the seabed means drilling into, dredging, or otherwise altering a natural physical characteristic of the seabed of the Sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on the seabed of the Sanctuary.

Habitat means those areas that provide space for individual and population growth and normal behavior of humpback whales, and include sites used for reproductive activities, including breeding, calving and nursing.

Military activities means those military activities conducted by or under the auspices of the Department of Defense and any combined military activities carried out by the Department of Defense and the military forces of a foreign nation.

Sanctuary means the Hawaiian Islands Humpback Whale National Marine Sanctuary.

Sanctuary resource means any humpback whale, or the humpback whale's habitat within the Sanctuary.

Shoreline means the upper reaches of the wash of the waves, other than storm or seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

Take or taking a humpback whale means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure a humpback whale, or to attempt to engage in any such conduct. The term includes, but is not limited to, any of the following activities: collecting any dead or injured humpback whale, or any part thereof; restraining or detaining any humpback whale, or any part thereof, no matter how temporarily; tagging any humpback whale; operating a vessel or aircraft or doing any other act that results in the disturbing or molesting of any humpback whale.

(b) Other terms appearing in the regulations in this subpart are defined at 15 CFR 922.3, and/or in the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401 *et seq.*, and 16 U.S.C. 1431 *et seq.*

§ 922.183 Allowed activities.

(a) All activities except those prohibited by § 922.184 may be undertaken in the Sanctuary subject to any emergency regulations promulgated pursuant to § 922.185, subject to the interagency cooperation provisions of section 304(d) of the NMSA [16 U.S.C. 1434(d)] and § 922.187 of this subpart, and subject to the liability established by section 312 of the NMSA and § 922.46 of this part. All activities are also subject to all prohibitions, restrictions, and conditions validly imposed by any other Federal, State, or county authority of competent jurisdiction.

(b) Included as activities allowed under the first sentence of paragraph (a) of this § 922.183 are all classes of military activities, internal or external to the Sanctuary, that are being or have been conducted before the effective date of these regulations, as identified in the Final Environmental Impact Statement/Management Plan. Paragraphs (a)(1) through (a)(5) of § 922.184 do not apply to these classes of activities, nor are these activities subject to further consultation under section 304(d) of the NMSA.

(c) Military activities proposed after the effective date of these regulations are also included as allowed activities under the first sentence of paragraph (a) of this § 922.183. Paragraphs (a)(1) through (a)(5) of § 922.184 apply to these classes of activities unless—

(1) they are not subject to consultation under section 304(d) of the NMSA and § 922.187 of this subpart, or

(2) upon consultation under section 304(d) of the NMSA and § 922.187 of this subpart, NOAA's findings and recommendations include a statement that paragraphs (a)(1) through (a)(5) of

§ 922.184 do not apply to the military activity.

(d) If a military activity described in paragraphs (b) or (c)(2) of this § 922.183 is modified such that it is likely to destroy, cause the loss of, or injure a Sanctuary resource in a manner significantly greater than was considered in a previous consultation under section 304(d) of the NMSA and § 922.187 of this subpart, or if the modified activity is likely to destroy, cause the loss of, or injure any Sanctuary resource not considered in a previous consultation under section 304(d) of the NMSA and § 922.187 of this subpart, the modified activity will be treated as a new military activity under paragraph (c) of this section.

(e) If a proposed military activity subject to section 304(d) of the NMSA and § 922.187 of this subpart is necessary to respond to an emergency situation and the Secretary of Defense determines in writing that failure to undertake the proposed activity during the period of consultation would impair the national defense, the Secretary of the military department concerned may request the Director that the activity proceed during consultation. If the Director denies such a request, the Secretary of the military department concerned may decide to proceed with the activity. In such case, the Secretary of the military department concerned shall provide the Director with a written statement describing the effects of the activity on Sanctuary resources once the activity is completed.

§ 922.184 Prohibited activities.

(a) The following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted.

(1) Approaching, or causing a vessel or other object to approach, within the Sanctuary, by any means, within 100 yards of any humpback whale except as authorized under the Marine Mammal Protection Act, as amended (MMPA), 16 U.S.C. 1361 *et seq.*, and the Endangered Species Act, as amended (ESA), 16 U.S.C. 1531 *et seq.*;

(2) Operating any aircraft above the Sanctuary within 1,000 feet of any humpback whale except as necessary for takeoff or landing from an airport or runway, or as authorized under the MMPA and the ESA;

(3) Taking any humpback whale in the Sanctuary except as authorized under the MMPA and the ESA;

(4) Possessing within the Sanctuary (regardless of where taken) any living or dead humpback whale or part thereof taken in violation of the MMPA or the ESA;

(5) Discharging or depositing any material or other matter in the Sanctuary; altering the seabed of the Sanctuary; or discharging or depositing any material or other matter outside the Sanctuary if the discharge or deposit subsequently enters and injures a humpback whale or humpback whale habitat, provided that such activity:

(i) requires a Federal or State permit, license, lease, or other authorization; and

(ii) is conducted:

(A) without such permit, license, lease, or other authorization, or

(B) not in compliance with the terms or conditions of such permit, license, lease, or other authorization.

(6) Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of either of the Acts or any regulations issued under either of the Acts.

(b) The prohibitions in paragraphs (a)(1) through (a)(5) of this § 922.184 do not apply to activities necessary to respond to emergencies threatening life, property or the environment; or to activities necessary for valid law enforcement purposes. However, while such activities are not subject to paragraphs (a)(1) through (a)(5) of this § 922.184, this paragraph (b) does not exempt the activity from the underlying prohibition or restriction under other applicable laws and regulations (e.g., MMPA, ESA, and CWA).

(c) Any Sanctuary fishery regulations shall not take effect in Hawaii State waters until established by the State Board of Land and Natural Resources.

§ 922.185 Emergency regulations.

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource, or to minimize the imminent risk of such destruction, loss, or injury, any and all activities are subject to immediate temporary regulation, including prohibition. Before issuance of such regulations the Director shall consult to the extent practicable with any relevant Federal agency and the Governor of the State of Hawaii. Emergency regulations shall not take effect in State waters of the Sanctuary until approved by the Governor of Hawaii.

§ 922.186 Penalties; appeals.

(a) Pursuant to section 307 of the NMSA, each violation of either of the Acts, or any regulation in this subpart is subject to a civil penalty of not more than $100,000. Each such violation is subject to forfeiture of property or Sanctuary resources seized in accordance with section 307 of the NMSA. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the procedures governing the administrative proceedings for assessment of civil penalties for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property appear at 15 CFR Part 904.

(c) A person subject to an action taken for enforcement reasons for violation of these regulations or either of the Acts may appeal pursuant to the applicable procedures in 15 CFR Part 904.

§ 922.187 Interagency Cooperation.

Under section 304(d) of the NMSA, Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Director. The Federal agency proposing an action shall determine whether the activity is likely to destroy, cause the loss of, or injure a Sanctuary resource. To the extent practicable, consultation procedures under section 304(d) of the NMSA may be consolidated with interagency cooperation procedures required by other statutes, such as the ESA. The Director will attempt to provide coordinated review and analysis of all environmental requirements.

Appendix A to Subpart Q—Hawaiian Islands Humpback Whale, National Marine Sanctuary Boundary Description and Coordinates of the Lateral Boundary Closures and Excluded Areas.

Appendix A provides a text and pictoral (see Figures 1–3) description of the Sanctuary boundary with specific lateral closure points and exclusion areas. The lateral extents (bounds) of each boundary area are closed by straight lines defined by at least two points. It may be necessary to extend these lines beyond the defining points to intersect the actual 100 fathom contour or the shoreline. Each point corresponds to a bounds number indicated in Figure 2. Digital files of the Sanctuary boundary (available in three common formats, ESRI Shape File, MapInfo Table, and an ASCII Exchange Format) are available from the Sanctuary office in Kihei, Maui, at the address listed above or by calling (808) 879–2818. These digital geographies are the best available representation of the verbal legal delineation and were derived from: the Hawaiian shoreline as

supplied by State of Hawaii through the Office of Planning GIS Office, the NOAA and State of Hawaii agreed upon lateral boundary and exclusion areas, and the 100 fathom isobath digitized from the following 1:80,000 scale NOAA nautical charts-19327—West Coast of Hawaii (9th ED, 4/29/89),

19347—Channels between Molokai, Maui, Lanai, and Kahoolawe (17th ED, 12/13/97),

19351—Channels between Oahu, Molokai, and Lanai (8th ED, 7/01/1989),

19357—Island of Oahu (20th ED, 9/21/1996), and

19381—Island of Kauai (8th ED, 7/17/1993)].

For the portion of the Lanai region of the HIHWNMS west of Chart 19351,[157°42.8′ west] the 100 fathom contour was derived from the 1:250,000 chart 19340—Hawaii to Oahu (24th ED, 1/09/1993).

All digital geography data have been referenced to WGS84 (NAD83) and have been converted to geographic (latitude and longitude) coordinates.

Sanctuary Boundary

A. As defined by the specific lateral boundaries in B, and except for excluded areas described in paragraph C of this section, the Hawaiian Islands Humpback Whale National Marine Sanctuary consists of the submerged lands and waters off the coast of the Hawaiian Islands seaward from the shoreline, cutting across the mouths of rivers and streams (see Figure 1):

1. To the 100-fathom (183 meter) isobath from Kailiu Point eastward to Mokolea Point, Kauai;

2. To the 100-fathom (183 meter) isobath from Puaena Point eastward to Mahie Point, and from the Kapahulu Groin in Waikiki eastward to Makapuu Point, Oahu;

3. To the 100-fathom (183 meter) isobath from Cape Halawa, Molokai, south and westward to Ilio Point, Molokai; southwestward to include Penguin Banks; eastward along the east side of Lanai; to the waters seaward of the three nautical mile limit north of Kahoolawe, to the Hanamanoia Lighthouse on Maui, and northward along the shoreline to Lipoa Point, Maui;

4. To the deep water area of Pailolo Channel from Cape Halawa, Molokai, to Lipoa Point, Maui, and southward;

5. To the 100-fathom (183 meter) isobath from Upolu Point southward to Keahole Point, Hawaii.

BILLING CODE 3510–08–P

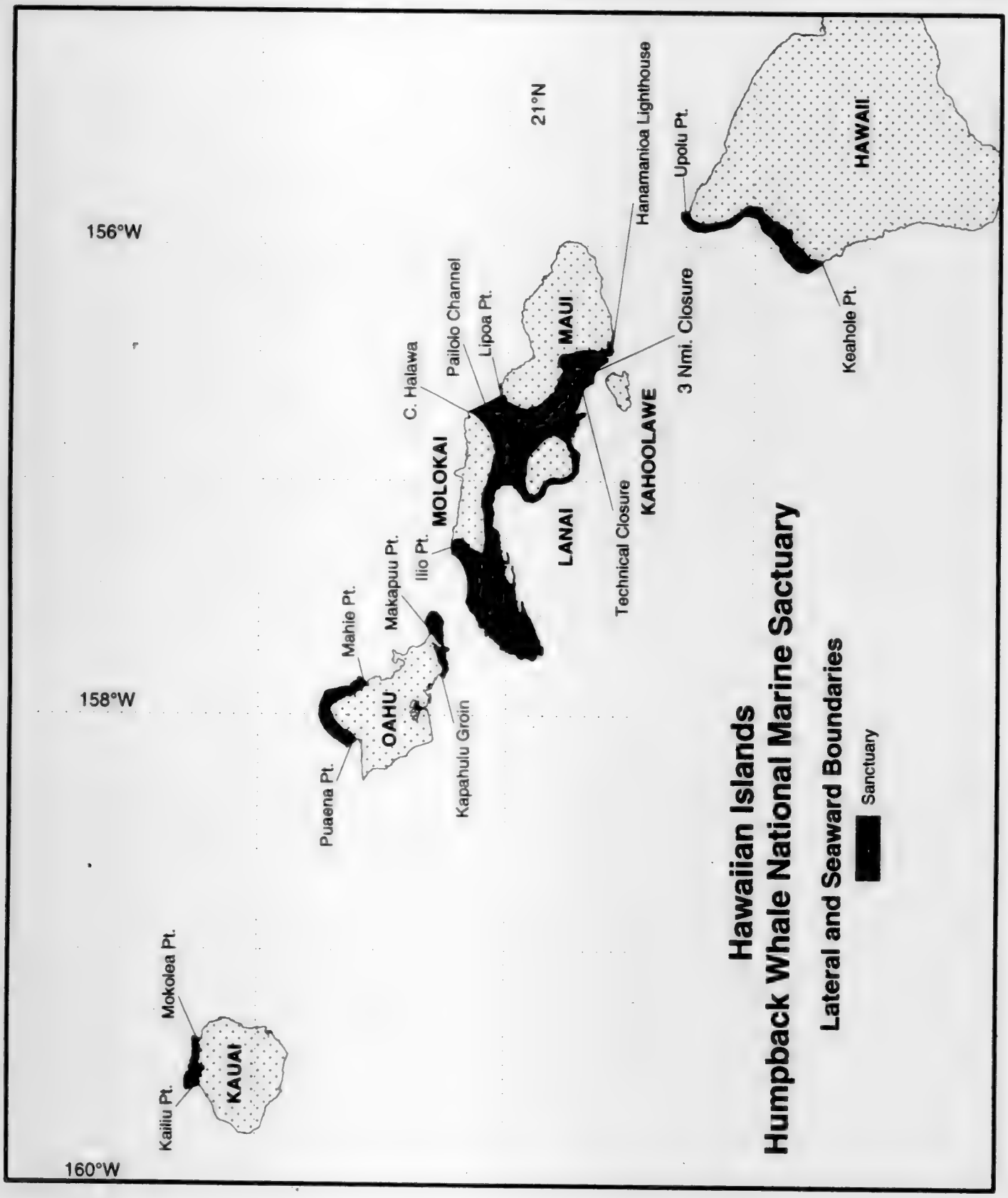

Figure 1

BILLING CODE 3510-08-C

B. Lateral Closure Bounds for the Hawaiian Islands Humpback Whale National Marine Sanctuary Boundary (see Figure 2).

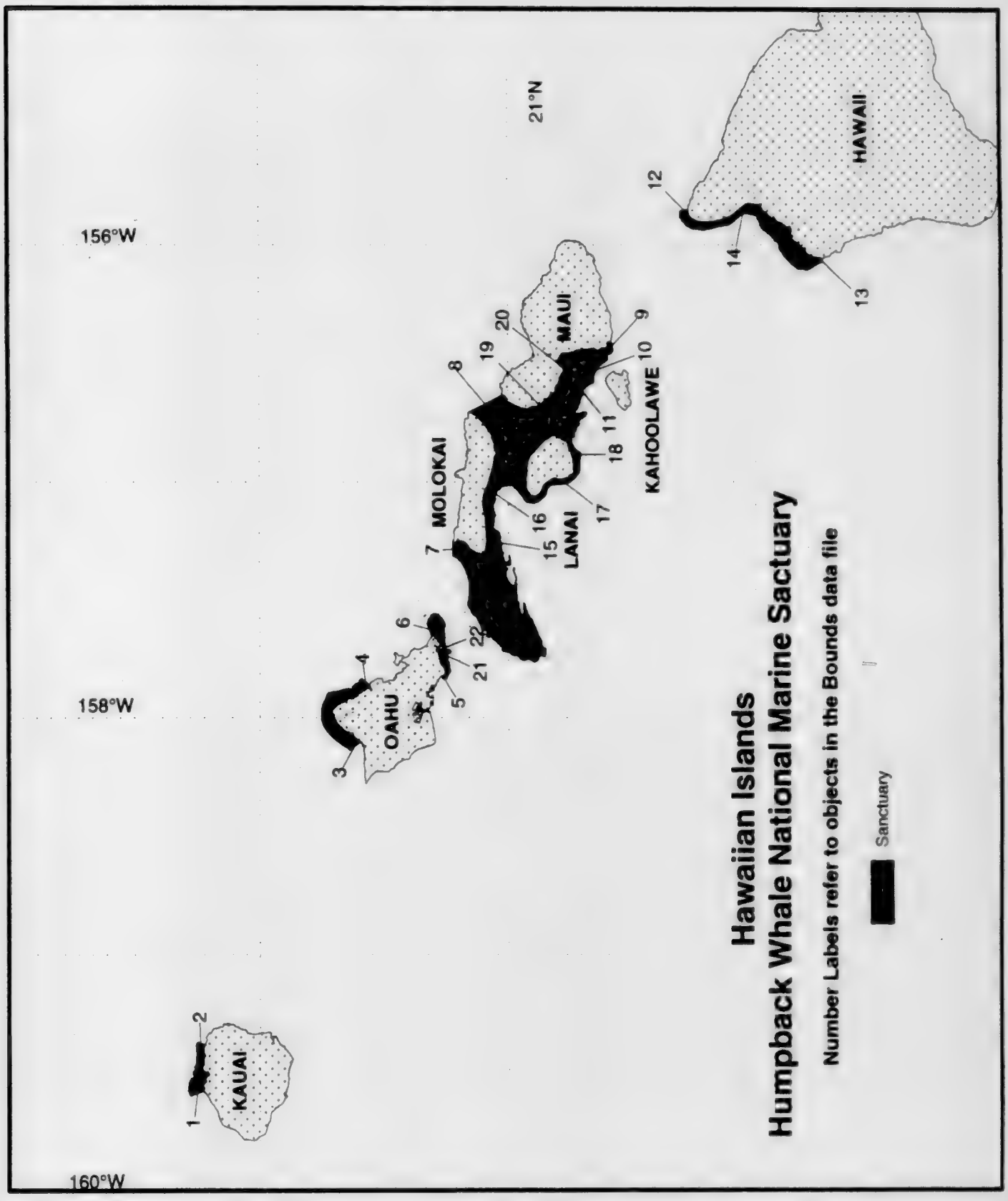

Figure 2

BILLING CODE 3510–08–C

Figure 1

Bound No. (Fig. 2)	Geographic name	No. of points	Latitude	Longitude
1	Kailiu Pt., Kauai	2	22°13′24.7″	−159°34′52.2″
			22°16′33.5″	−159°35′59.4″
2	Mokolea Pt., Kauai	2	22°13′29.9″	−159°22′55.8″
			22°14′55.4″	−159°22′19.3″
3	Puaena Pt., N. Oahu	2	21°38′24.6″	−158°8′26.0″
			21°36′8.4″	−158°6′24.5″
4	Mahie Pt., N. Oahu	2	21°33′37.3″	−157°51′51.9″
			21°35′32.2″	−157°50′5.5″
5	Kapahulu Groin, S. Oahu	3	21°15′5.7″	−157°50′27.5″
			21°16′6.1″	−157°49′25.7″
			21°16′6.2″	−157°49′23.8″
6	Makapuu Pt., S. Oahu	2	21°18′39.6″	−157°38′56.7″
			21°19′44.7″	−157°35′46.1″
7	Ilio Pt, Molokai	2	21°13′25.7″	−157°18′45.8″
			21°13′27.0″	−157°15′14.4″
8	Pailolo Channel, C. Halawa to Lipoa Pt.	2	21°1′29.8″	−156°38′22.0″
			21°9′29.5″	−156°42′37.2″
9	Hanamanoia Lighthouse, Maui	2	20°34′21.8″	−156°26′51.1″
			20°34′58.4″	−156°24′45.2″
10	3 Nmi. closure around Kahoolawe	51	20°35′58.1″	−156°29′32.0″
			20°35′59.9″	−156°29′33.0″
			20°36′3.9″	−156°29′35.5″
			20°36′6.6″	−156°29′36.9″
			20°36′16.3″	−156°29′43.1″
			20°36′25.7″	−156°29′49.9″
			20°36′34.6″	−156°29′57.3″
			20°36′39.9″	−156°30′2.2″
			20°36′43.8″	−156°30′5.5″
			20°36′50.8″	−156°30′12.1″
			20°36′59.0″	−156°30′16.5″
			20°37′8.7″	−156°30′22.7″
			20°37′18.1″	−156°30′29.5″
			20°37′27.0″	−156°30′36.8″
			20°37′35.5″	−156°30′44.8″
			20°37′43.4″	−156°30′53.4″
			20°37′50.9″	−156°31′2.4″
			20°37′56.4″	−156°31′10.0″
			20°37′59.0″	−156°31′13.2″
			20°38′6.0″	−156°31′22.7″
			20°38′8.6″	−156°31′26.8″
			20°38′10.8″	−156°31′29.9″
			20°38′17.2″	−156°31′39.9″
			20°38′18.9″	−156°31′43.0″
			20°38′23.4″	−156°31′48.4″
			20°38′30.3″	−156°31′58.0″
			20°38′36.6″	−156°32′7.9″
			20°38′42.4″	−156°32′18.3″
			20°38′43.4″	−156°32′20.5″
			20°38′46.4″	−156°32′25.9″
			20°38′51.5″	−156°32′36.7″
			20°38′56.0″	−156°32′47.7″
			20°38′59.8″	−156°32′59.1″
			20°39′3.0″	−156°33′10.7″
			20°39′4.0″	−156°33′15.7″
			20°39′4.4″	−156°33′17.0″
			20°39′5.3″	−156°33′21.1″
			20°39′6.8″	−156°33′28.7″
			20°39′8.6″	−156°33′40.7″
			20°39′8.9″	−156°33′44.4″
			20°39′9.7″	−156°33′49.6″
			20°39′10.1″	−156°33′53.8″
			20°39′11.0″	−156°34′0.3″
			20°39′12.1″	−156°34′12.4″
			20°39′12.5″	−156°34′24.4″
			20°39′12.4″	−156°34′25.4″
			20°39′12.6″	−156°34′30.5″
			20°39′12.2″	−156°34′42.6″
			20°39′11.8″	−156°34′47.7″
			20°39′11.7″	−156°34′48.9″
			20°39′11.3″	−156°34′55.8″
11	Technical Closure	2	20°41′39.2″	−156°37′7.5″
	North of Kahoolawe		20°41′45.0″	−156°38′3.6″

Bound No. (Fig. 2)	Geographic name	No. of points	Latitude	Longitude
12	Upolu Pt., Hawaii (Big Island)	2	20°16′5.3″ 20°17′59.9″	−155°51′0.5″ −155°51′17.2″
13	Keahole Pt., Hawaii (Big Island)	2	19°43′39.6″ 19°43′41.5″	−156°3′42.7″ −156°4′14.5″

C. Excluded Ports and Harbors Bounds (see Figure 3).

BILLING CODE 3510–08–P

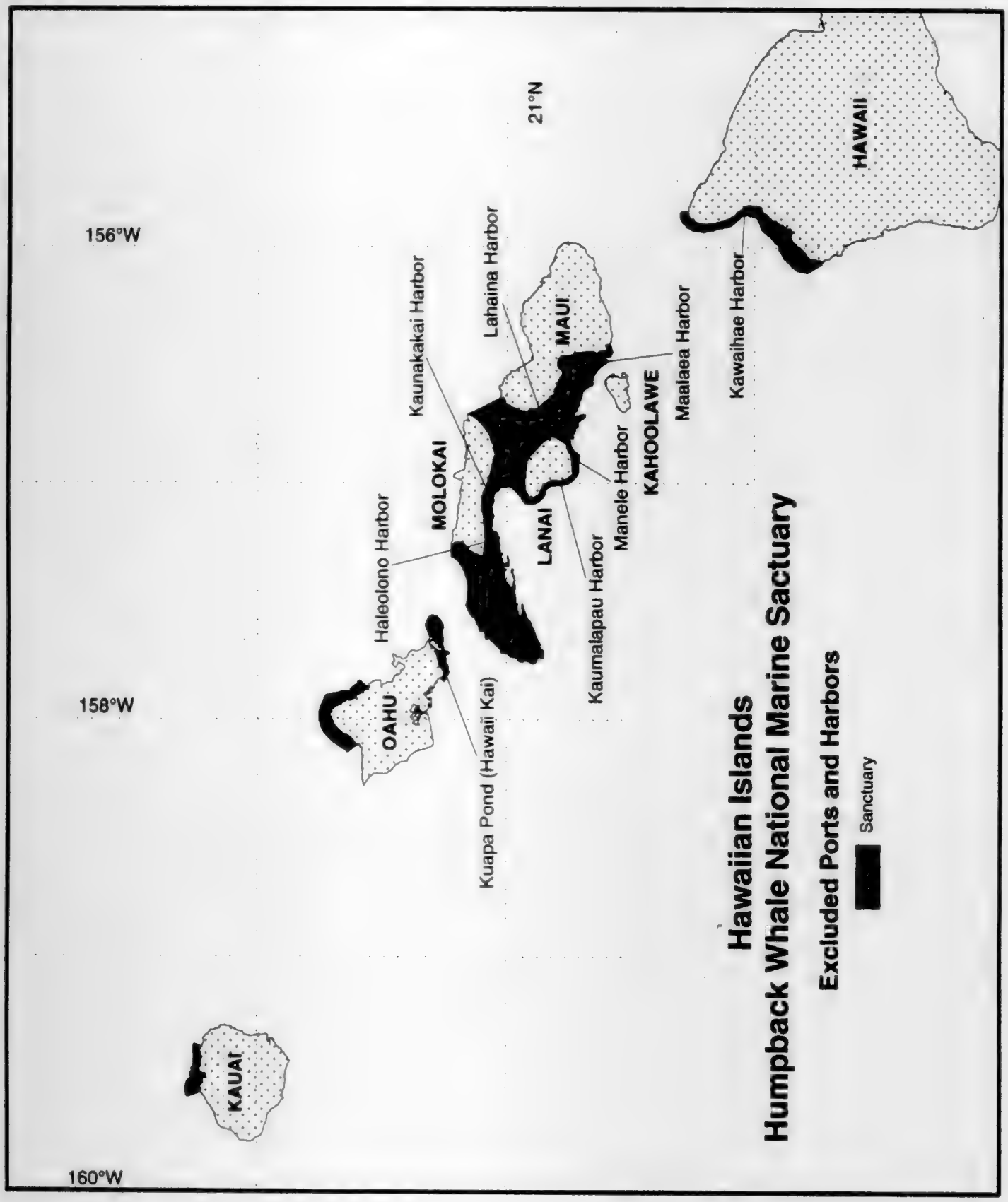

Figure 3

BILLING CODE 3510–08–C

Bound No. (Fig.2)	Geographic Name	No. of Points	Latitude	Longitude
14	Kawaihae Harbor, Big Island exclusion	2	20°2'14.3"	- 155°50'2.5"
			20°2'25.3"	- 155°49'57.7"
15	Haleolono Harbor, Molokai exclusion	2	21°5'3.5"	- 157°14'58.6"
			21°5'4.8"	- 157°14'55.2"
16	Kaunakakai Harbor, Molokai exclusion	4	21°5'13.9"	- 157°1'35.7"
			21°4'49.2"	- 157°1'58.3"
			21°4'38.5"	- 157°1'41.2"
			21°5'7.4"	- 157°1'15.0"
17	Kaumalapau Harbor, Lanai exclusion	2	20°47'9.2"	- 156°59'32.2"
			20°47'1.1"	- 156°59'31.3"
18	Manele Harbor, Lanai exclusion	2	20°44'33.2"	- 156°53'12.9"
			20°44'35.2"	- 156°53'14.1"
19	Lahaina Harbor, Maui exclusion	2	20°52'18.3"	- 156°40'45.0"
			20°52'18.8"	- 156°40'44.0"
20	Maalaea Harbor, Maui exclusion	2	20°47'32.1"	- 156°30'35.0"
			20°47'24.8"	- 156°30'39.6"
21	Western closure Kuapa Pond (Hawaii Kai), Oahu	2	21°17'7.0"	- 157°43'7.7"
			21°17'6.5"	- 157°43'7.0"
22	Eastern closure Kuapa Pond (Hawaii Kai), Oahu	2	21°16'53.3"	- 157°42'42.7"
			21°16'51.9"	- 157°42'40.3"

[FR Doc. 99-29967 Filed 11-26-99; 8:45 am]
BILLING CODE 3510-08-p

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Statement of Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is amending its statement of organization and functions to reflect the division of the Directorate for Epidemiology and Health Sciences into separate directorates for epidemiology and for health sciences.

EFFECTIVE DATE: November 29, 1999.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-504-0980.

SUPPLEMENTARY INFORMATION: The Commission has separated the former Directorate for Epidemiology and Health Sciences into a separate Directorate for Epidemiology and a separate Directorate for Health Sciences. To reflect this change, § 1000.27 is being revised to remove descriptions of the health sciences functions that have been incorporated in a new § 1000.28. Some editorial changes have also been made. Section 1000.12(c), listing the organizational units reporting to the Assistant Executive Director for Hazard Identification and Reduction, is being revised to separately list the Directorate for Epidemiology and the Directorate for Health Sciences.

Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553(b), notice and other public procedures are not required and it is effective immediately upon publication in the **Federal Register**. Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612, and, thus, is exempt from the provisions of the Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (government agencies).

Accordingly, part 1000 is amended as follows:

PART 1000—[AMENDED]

1. The authority citation for part 1000 continues to read as follows:

Authority: 5 U.S.C. 552(a).

2. Paragraph (c) of section 1000.12 is revised to read as follows:

§ 1000.12 Organizational structure.

* * * * *

(c) The following units report directly to the Assistant Executive Director for Hazard Identification and Reduction:

(1) Directorate for Economic Analysis;

(2) Directorate for Epidemiology;

(3) Directorate for Health Sciences;

(4) Directorate for Engineering Sciences;

(5) Directorate for Laboratory Sciences.

§§ 1000.28 and 1000.29 [Redesignated as §§ 1000.29 and 1000.30]

3. Sections 1000.28 and 1000.29 are redesignated as sections 1000.29 and 1000.30 respectively.

4. Section 1000.27 is revised to read as follows:

§ 1000.27 Directorate for Epidemiology.

The Directorate for Epidemiology, managed by the Associate Executive Director for Epidemiology, is responsible for the collection and analysis of data on injuries and deaths associated with consumer products. The Directorate has two divisions: the Data Systems Division and the Hazard Analysis Division. The Data Systems Division operates the national data collection systems which provide the data that serve as the basis for the Commission's estimates of the numbers of deaths and injuries associated with consumer products. These data systems include the National Electronic Injury Surveillance System, a nationally representative sample of hospital emergency departments; a death certificate file, which contains data obtained from death certificates on deaths associated with consumer products; and the Injury and Potential Injury Incident file, which contains information on incidents associated with consumer products, based on news clips, medical examiner reports, hotline reports, internet complaints, referrals, etc. The Hazard Analysis Division conducts statistical analysis of these data and conducts epidemiologic studies to estimate the numbers of injuries and deaths associated with various consumer products and to examine factors associated with these injuries and deaths. In addition, staff in

Figure 3

the Hazard Analysis Division design special studies, design and analyze data from experiments for testing of consumer products, and provide statistical expertise and advice to Commission staff in support of regulation development.

5. Section 1000.28 is added to read as follows:

§ 1000.28 Directorate for Health Sciences.

The Directorate for Health Sciences is managed by the Associate Executive Director for Health Sciences and is responsible for reviewing and evaluating the human health effects and hazards related to consumer products and assessing exposure, uptake and metabolism, including information on population segments at risk. Directorate staff conducts health studies and research in the field of consumer product-related injuries. The Directorate performs risk assessments for chemical, physiological and physical hazards based on methods such as medical injury modeling, and on injury and incident data for mechanical, thermal, chemical and electrical hazards in consumer products. It provides the Commission's primary source of scientific expertise for implementation of the Poison Prevention Packaging Act and the Federal Hazardous Substances Act. The Directorate assists in the development and evaluation of product safety standards and test methods based on scientific and public health principles. It provides support to the Commission's regulatory development and enforcement activities. It manages hazard identification and analysis, and hazard assessment and reduction projects as assigned. The Directorate provides liaison with the National Toxicology Program, the Department of Health and Human Services (including the Food and Drug Administration, the Centers for Disease Control and Prevention, the National Institutes of Health), the Occupational Health and Safety Administration, the Environmental Protection Agency, other federal agencies and programs, and other organizations concerned with reducing the risk to consumers from exposure to consumer product hazards. The Directorate is responsible for managing and safeguarding confidential business information received from the Environmental Protection Agency in accordance with the requirements of that agency.

Dated: November 23, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–30939 Filed 11–26–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8844]

RIN 1545–AV16

Treatment of Changes in Elective Entity Classification

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations describing how elective changes in classification will be treated for federal tax purposes. The final regulations affect business entities and their members. The final regulations provide guidance to taxpayers who elect to change an entity's classification for Federal tax purposes.

DATES: *Effective Date:* These regulations are effective November 29, 1999.

Applicability Dates: These regulations apply on or after November 29, 1999. However, taxpayers may choose to apply certain provisions in these regulations before November 29, 1999 as specified in § 301.7701–2(e) and § 301.7701–3(g)(4).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Dan Carmody, (202) 622–3080 (not a toll-free number); concerning international issues, Mark Harris, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1997, proposed amendments to the regulations under §§ 301.6109–1, 301.7701–2, and 301.7701–3 [REG–105162–97] were published in the **Federal Register** (62 FR 55768). A number of comments were received on the proposed regulations. The public hearing scheduled for February 24, 1998, was canceled because no one requested to speak. After considering the submitted comments, the IRS and Treasury adopt the proposed amendments to the regulations under §§ 301.6109–1, 301.7701–2, and 301.7701–3 as revised by this Treasury decision.

Explanation of Provisions

I. Characterization of Elective Changes in Classification

There are four possible changes in classification of an eligible entity by election under § 301.7701–3: (i) A partnership elects to be an association taxable as a corporation (association); (ii) an association elects to be a partnership; (iii) an association elects to be disregarded as an entity separate from its owner (disregarded entity); and (iv) a disregarded entity elects to be an association. The proposed regulations provide a form that each elective conversion would be treated as having for federal tax purposes. Under the proposed regulations, there is only one form for each elective conversion, and taxpayers could not elect to have a different form apply to the elective conversion.

A. Elective Conversions Treated as Having One Form

Commentators recommended that taxpayers be allowed to choose which form to apply to an elective conversion. This would allow taxpayers to avoid having to take the actual steps of a conversion to produce the most favorable tax results. A commentator suggested that the lack of choice in the proposed regulations is inconsistent with the intent of the check-the-box regulations, which adopted an elective regime for classifying eligible entities.

Because elective conversions are transactions without actual form, the IRS and Treasury believe that it is appropriate to provide that only one transaction form will be applied to each type of elective conversion. Furthermore, while the check-the-box regulations provide an elective regime for classifying eligible entities, the elective regime was not intended to substitute for actual transactions in all situations. Instead, the purpose of implementing the regime was to simplify an area of the law where legal distinctions previously drawn in determining an entity's classification were no longer meaningful. While the factors considered under prior law did not meaningfully distinguish between business organizations, taxpayers still were required to expend considerable resources to ensure that they obtained the classification they desired. Small business organizations often lacked the resources and expertise to achieve their desired tax classification. This was viewed as unfair.

The IRS was also expending considerable resources providing guidance on these classification issues. These same concerns generally are not

present in determining the form of a conversion transaction. Therefore, the final regulations maintain only one form for each type of elective conversion.

B. Form of Conversion From Association to Partnership

The proposed regulations provide that an elective conversion of an association to a partnership is deemed to have the following form: The association distributes all of its assets and liabilities to its shareholders in liquidation of the association, and immediately thereafter, the shareholders contribute all of the distributed assets and liabilities to a newly formed partnership.

A commentator suggested that the proposed form for an elective conversion of an association to a partnership may not minimize the tax consequences of such a conversion under certain circumstances. The commentator suggested that the proposed form should be available as an election, but that the default form should be a deemed transfer of assets and liabilities from the electing corporation to a newly formed partnership for interests in the partnership followed immediately by a liquidation of the electing corporation.

The IRS and Treasury believe that under current law a voluntary formless change from an association to a partnership should be treated as a liquidation of the corporation followed by a contribution of assets to the partnership. See Rev. Rul. 63–107 (1963–2 C.B. 71). Moreover, if the assets were deemed contributed by the electing corporation to the partnership for partnership interests followed by a liquidation of the corporation, the application of section 704(c) (contribution of appreciated property), section 708 (partnership termination), and section 754 (elective adjustments to the basis of partnership assets) could be somewhat complex and difficult for taxpayers and the IRS to administer. Therefore, the proposed form for the elective conversion of an association to a partnership is adopted without change.

C. Timing of Elective Changes in Classification

The proposed regulations provide that a classification election takes effect at the start of the day for which the election is effective. Any transactions that are deemed to occur because of a change in classification are treated as occurring immediately before the close of the day before the effective date of the election. The owners of the entity when the election is effective may be different from the owners of the entity when the conversion transactions are deemed to occur. To ensure that the taxpayers who recognize the tax consequences of a conversion election approve of the election, the proposed regulations require that the election be signed by every owner on the date of the deemed conversion transactions.

A commentator indicated that purchasers who wish to make a classification election effective as of their first day of ownership may endure a burden in obtaining the consents of previous owners. The commentator recommended that the deemed conversion transactions be treated as occurring at the start of the day for which the election is effective, eliminating the need to obtain the consent of prior owners. Under this suggestion, purchasers of an association who wish to elect partnership treatment effective as of the first day of ownership would be treated as owning both stock and partnership interests on that first day of ownership. This would result in the purchasers being responsible for a corporate return for their transitory period of corporate ownership. See § 1.6012–2.

The IRS and Treasury intended that the proposed timing rule generally would be beneficial for taxpayers. The IRS and Treasury believe that any burden imposed by this rule is outweighed by the transactional flexibility that this rule provides. Accordingly, the suggested change to the timing rule is not adopted.

Another commentator noted a conflict between the proposed timing rule and the deemed transactions under section 338. Section 338 allows a purchasing corporation to treat its stock purchase of another corporation as an asset purchase. Under section 338, a purchasing corporation may elect to treat the target corporation as: (1) Selling its assets at fair market value on the acquisition date, and (2) a new corporation that purchased all of the assets at the beginning of the day after the acquisition date. If the purchaser also makes a classification election for the target effective for the purchaser's first day of ownership, the timing of the deemed liquidation under § 301.7701–3(g)(1) would conflict with the timing of the deemed transactions required by section 338.

To address the issue, the final regulations specify that if section 338 applies, an election to convert the target corporation's classification cannot be effective before the day after the acquisition date of the target corporation. Additionally, the deemed liquidation and conversion under § 301.7701–3(g)(1) will occur immediately after the completion of the section 338 transactions. These rules follow the approach of § 1.338–2(c)(1)(i), which provides that when a target corporation liquidates on the acquisition date, the liquidation is treated as occurring on the following day and immediately after the deemed purchase of assets. If a taxpayer makes an election under section 338 (without a section 338(h)(10) election) regarding a target corporation that is subsequently deemed liquidated under these final regulations, the target corporation must file a final or deemed sale return as a C corporation reflecting the deemed sale. See § 1.338–1(e).

Commentators also expressed concern over the effect the proposed timing rule would have on a sequence of elections when a number of corporations are owned through a single ownership chain. If the elections are all effective for the same date, the effect of the interaction of the timing rule with section 332 is unclear. For example, P corporation owns 100 percent of the interest of an eligible entity classified as an association (S1), which owns directly 100 percent of the interest of an eligible entity classified as an association (S2). P wants to convert S1 and S2 to disregarded entities on the same day; however, if both deemed liquidations are treated as occurring simultaneously, it is not clear that section 332 nonrecognition treatment would be available for both liquidations: The final regulations clarify that in such a situation, unless another order is specified for the elections, S1 will be treated as liquidating into P immediately before S2 liquidates into P.

Commentators suggested that this situation could be addressed by allowing taxpayers to make elections effective by the hour, instead of only at the start of the day. The IRS and Treasury believe that the clarification in the final regulations appropriately addresses the treatment of successive elections. Therefore, the final regulations maintain the rule that conversion elections take effect at the start of the day on which the election is effective.

II. Taxpayer Identifying Numbers and Disregarded Entities

The proposed regulations provide clarification of the rules regarding taxpayer identifying numbers (TINs). The proposed regulations restate the rule that when an entity's classification changes under § 301.7701–3, it retains its employer identification number (EIN). The proposed regulations also clarified the rule that a disregarded entity must use its owner's TIN for

federal tax purposes. Furthermore, when a disregarded entity becomes respected as a separate entity, it must use its own EIN and not the TIN of the single owner.

One commentator asked for clarification regarding the use of TINs and EINs in the proposed regulations. TINs include EINs, social security numbers (SSNs), and IRS individual taxpayer identification numbers (ITINs). The regulations require that a disregarded entity report under the owner's TIN. The regulations refer to a taxpayer's TIN because the term TIN encompasses not only an EIN, but also an SSN and an ITIN.

Another commentator suggested that the proposed regulations were too restrictive and prohibited a disregarded entity from applying for and receiving its own TIN. The regulations do not prevent a single member disregarded entity from applying for and receiving its own TIN. The regulations merely provide that, except as otherwise provided in regulations or other guidance, the single owner disregarded entity must use the owner's TIN for federal tax purposes and not the EIN of the disregarded entity. Notice 99–6 (1999–3 I.R.B. 1) provides guidance on the limited circumstances under which a disregarded entity may use its own EIN.

III. Rules for Foreign Entities

These final regulations also contain rules relating to certain foreign entities.

A. Foreign Per Se Entities

The final check-the-box regulations provided a list of the names of certain foreign business entities that are treated as corporations for federal tax purposes. In response to comments from taxpayers, the proposed regulations clarified those provisions. Specifically, clarifications were made with respect to certain business entities formed in Finland, Malaysia, Malta, Mexico, and Norway. These final regulations adopt the proposed regulation's clarifications.

These final regulations also clarify the treatment of an entity formed in Trinidad and Tobago that is specified in the final check-the-box regulations. Prior to April 1997, Trinidad and Tobago's Companies Act distinguished between public and private limited companies. Effective April 1997, Trinidad and Tobago's Companies Act was amended and now only provides for limited companies (and no longer provides for private limited companies). Accordingly, these final regulations have been modified to take into account that change. The effective date of these final regulations with regard to an entity formed in Trinidad and Tobago has been modified so as not to disadvantage taxpayers who relied on the final check-the-box regulations. These final regulations provide that the rule with regard to an entity formed in Trinidad and Tobago will be effective on or after November 29, 1999. Accordingly, this rule only affects those entities which were formed (or made affirmative elections) on or after November 29, 1999.

These regulations also clarify the exception to per se corporate treatment for Canadian companies and corporations. When the final check-the-box regulations were promulgated, the only company or corporation that could be formed where the liability of all of its members was unlimited pursuant to any federal or provincial statute (as opposed to through side agreements of the members), was a Nova Scotia Unlimited Liability Company (NSULC). However, in order to avoid changing the regulations if any other province, or the federal government, subsequently allowed for the formation of unlimited liability companies by statute, these regulations did not specifically list the NSULC. In response to questions from taxpayers, the regulation is clarified, with effect from January 1, 1997, by specifically naming the NSULC, while still providing for any other unlimited liability company that might subsequently be allowed by any other federal or provincial statute.

B. Foreign Eligible Entities

Proposed regulations that provide a special rule for certain foreign eligible entities are published elsewhere in this issue of the **Federal Register**. In addition, the IRS and Treasury are still studying what, if any, consequences occur when a foreign eligible entity that is not relevant for federal tax purposes files an entity classification election. The IRS and Treasury continue to request comments on this topic.

IV. Changes in Number of Members of an Entity

The proposed regulations provide that an entity's classification may change as a result of a change in the number of its members. Specifically, an eligible entity classified as a partnership will become a disregarded entity when the entity's membership is reduced to one member, and a disregarded entity will be classified as a partnership when the entity has more than one member. The final regulations adopt these provisions without substantive change. Guidance on the federal tax consequences of such changes has been provided in Rev. Rul. 99–5 (1999–6 I.R.B. 8) and Rev. Rul. 99–6 (1999–6 I.R.B. 6).

Effective Date

These regulations are applicable on or after November 29, 1999. In response to comments, however, the final regulations include a provision allowing taxpayers to apply the regulations retroactively for elective entity conversions that occurred before November 29, 1999. Taxpayers may apply the final regulations retroactively only if all taxpayers involved in the transaction follow the regulations. The rules contained in § 301.6109–1(h) are applicable as of January 1, 1997. Certain changes to § 301.7701–2(b)(8) may be applied before the effective date as specified in § 301.7701–2(e).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Dan Carmody and Jeff Erickson, Office of Chief Counsel (Passthroughs and Special Industries) and Mark Harris and Philip Tretiak, Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6109–1 is amended as follows:

1. Paragraph (d)(2)(ii) is removed and reserved.

2. Paragraph (h) is redesignated as paragraph (i) and the first sentence of newly designated paragraph (i)(1) is amended by removing the language "paragraph (h)" and adding "paragraph (i)" in its place.

3. A new paragraph (h) is added.

The addition reads as follows:

§ 301.6109–1 Identifying numbers.

* * * * *

(h) *Special rules for certain entities under § 301.7701–3*—(1) *General rule.* Any entity that has an employer identification number (EIN) will retain that EIN if its federal tax classification changes under § 301.7701–3.

(2) *Special rules for entities that are disregarded as entities separate from their owners*—(i) *When an entity becomes disregarded as an entity separate from its owner.* Except as otherwise provided in regulations or other guidance, a single owner entity that is disregarded as an entity separate from its owner under § 301.7701–3, must use its owner's taxpayer identifying number (TIN) for federal tax purposes.

(ii) *When an entity that was disregarded as an entity separate from its owner becomes recognized as a separate entity.* If a single owner entity's classification changes so that it is recognized as a separate entity for federal tax purposes, and that entity had an EIN, then the entity must use that EIN and not the TIN of the single owner. If the entity did not already have its own EIN, then the entity must acquire an EIN and not use the TIN of the single owner.

(3) *Effective date.* The rules of this paragraph (h) are applicable as of January 1, 1997.

* * * * *

Par. 3. Section 301.7701–2 is amended as follows:

1. Paragraph (b)(8)(i) is amended by revising the entries for Finland, Malta, Norway, and Trinidad and Tobago.

2. Paragraph (b)(8)(ii)(A) is redesignated as paragraph (b)(8)(ii)(A)(*1*) and revised.

3. Paragraph (b)(8)(ii)(B) is redesignated as paragraph (b)(8)(ii)(A)(*2*).

4. Paragraph (b)(8)(ii) heading and introductory text are redesignated as paragraph (b)(8)(ii)(A) heading and introductory text, and a new paragraph heading is added for paragraph (b)(8)(ii).

5. Paragraphs (b)(8)(ii)(A)(*3*) and (b)(8)(ii)(B) are added.

6. Paragraphs (b)(8)(iii), (b)(8)(iv), and (e) are revised.

The revisions and additions read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(b) * * *

(8) * * *

(i) * * *

Finland, Julkinen Osakeyhtio/Publikt Aktiebolag

* * * * *

Malta, Public Limited Company

* * * * *

Norway, Allment Aksjeselskap

* * * * *

Trinidad and Tobago, Limited Company

* * * * *

(ii) *Clarification of list of corporations in paragraph (b)(8)(i) of this section*—(A) Exceptions in certain cases. * * *

* * * * *

(*1*) With regard to Canada, a Nova Scotia Unlimited Liability Company (or any other company or corporation all of whose owners have unlimited liability pursuant to federal or provincial law).

* * * * *

(*3*) With regard to Malaysia, a Sendirian Berhad.

(B) *Inclusions in certain cases.* With regard to Mexico, the term Sociedad Anonima includes a Sociedad Anonima that chooses to apply the variable capital provision of Mexican corporate law (Sociedad Anonima de Capital Variable).

(iii) *Public companies.* For purposes of paragraph (b)(8)(i) of this section, with regard to Cyprus, Hong Kong, and Jamaica, the term Public Limited Company includes any Limited Company that is not defined as a private company under the corporate laws of those jurisdictions. In all other cases, where the term Public Limited Company is not defined, that term shall include any Limited Company defined as a public company under the corporate laws of the relevant jurisdiction.

(iv) *Limited companies.* For purposes of this paragraph (b)(8), any reference to a Limited Company includes, as the case may be, companies limited by shares and companies limited by guarantee.

* * * * *

(e) *Effective date.* Except as otherwise provided in this paragraph (e), the rules of this section apply as of January 1, 1997. The reference to the Finnish, Maltese, and Norwegian entities in paragraph (b)(8)(i) of this section is applicable on November 29, 1999. The reference to the Trinidadian entity in paragraph (b)(8)(i) of this section applies to entities formed on or after November 29, 1999. Any Maltese or Norwegian entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999 may elect by February 14, 2000 to be classified for federal tax purposes as an entity other than a corporation retroactive to any period from and including January 1, 1997. Any Finnish entity that becomes an eligible entity as a result of paragraph (b)(8)(i) of this section in effect on November 29, 1999 may elect by February 14, 2000 to be classified for federal tax purposes as an entity other than a corporation retroactive to any period from and including September 1, 1997.

Par. 4. Section 301.7701–3 is amended as follows:

1. A sentence is added at the end of paragraph (c)(1)(iii).

2. A sentence is added at the end of paragraph (c)(1)(iv).

3. Paragraph (c)(2)(iii) is added.

4. A heading is added to paragraph (d)(1).

5. Paragraph (f) is redesignated as paragraph (h) and newly designated paragraph (h)(1) is revised.

6. Paragraphs (f) and (g) are added.

The revision and additions read as follows:

§ 301.7701–3 Classification of certain business entities.

* * * * *

(c) * * *

(1) * * *

(iii) *Effective date of election.* * * * If a purchasing corporation makes an election under section 338 regarding an acquired subsidiary, an election under paragraph (c)(1)(i) of this section for the acquired subsidiary can be effective no earlier than the day after the acquisition date (within the meaning of section 338(h)(2)).

(iv) *Limitation.* * * * An election by a newly formed eligible entity that is effective on the date of formation is not considered a change for purposes of this paragraph (c)(1)(iv).

* * * * *

(2) * * *

(iii) *Changes in classification.* For paragraph (c)(2)(i) of this section, if an election under paragraph (c)(1)(i) of this section is made to change the classification of an entity, each person

who was an owner on the date that any transactions under paragraph (g) of this section are deemed to occur, and who is not an owner at the time the election is filed, must also sign the election. This paragraph (c)(2)(iii) applies to elections filed on or after November 29, 1999.

(d) *Special rules for foreign eligible entities*—(1) *Definition of relevance.*

* * *

* * * * *

(f) *Changes in number of members of an entity*—(1) *Associations.* The classification of an eligible entity as an association is not affected by any change in the number of members of the entity.

(2) *Partnerships and single member entities.* An eligible entity classified as a partnership becomes disregarded as an entity separate from its owner when the entity's membership is reduced to one member. A single member entity disregarded as an entity separate from its owner is classified as a partnership when the entity has more than one member. If an elective classification change under paragraph (c) of this section is effective at the same time as a membership change described in this paragraph (f)(2), the deemed transactions in paragraph (g) of this section resulting from the elective change preempt the transactions that would result from the change in membership.

(3) *Effect on sixty month limitation.* A change in the number of members of an entity does not result in the creation of a new entity for purposes of the sixty month limitation on elections under paragraph (c)(1)(iv) of this section.

(4) *Examples.* The following examples illustrate the application of this paragraph (f):

Example 1. A, a U.S. person, owns a domestic eligible entity that is disregarded as an entity separate from its owner.

On January 1, 1998, *B*, a U.S. person, buys a 50 percent interest in the entity from *A*. Under this paragraph (f), the entity is classified as a partnership when *B* acquires an interest in the entity. However, *A* and *B* elect to have the entity classified as an association effective on January 1, 1998. Thus, B is treated as buying shares of stock on January 1, 1998. (Under paragraph (c)(1)(iv) of this section, this election is treated as a change in classification so that the entity generally cannot change its classification by election again during the sixty months succeeding the effective date of the election.) Under paragraph (g)(1) of this section, *A* is treated as contributing the assets and liabilities of the entity to the newly formed association immediately before the close of December 31, 1997. Because *A* does not retain control of the association as required by section 351, *A*'s contribution will be a taxable event. Therefore, under section 1012, the association will take a fair market value basis in the assets contributed by *A*, and *A* will have a fair market value basis in the stock received. *A* will have no additional gain upon the sale of stock to *B*, and *B* will have a cost basis in the stock purchased from *A*.

Example 2. (i) On April 1, 1998, *A* and *B*, U.S. persons, form *X*, a foreign eligible entity. *X* is treated as an association under the default provisions of paragraph (b)(2)(i) of this section, and *X* does not make an election to be classified as a partnership. *A* subsequently purchases all of *B*'s interest in *X*.

(ii) Under paragraph (f)(1) of this section, *X* continues to be classified as an association. *X*, however, can subsequently elect to be disregarded as an entity separate from *A*. The sixty month limitation of paragraph (c)(1)(iv) of this section does not prevent *X* from making an election because *X* has not made a prior election under paragraph (c)(1)(i) of this section.

Example 3. (i) On April 1, 1998, *A* and *B*, U.S. persons, form *X*, a foreign eligible entity. *X* is treated as an association under the default provisions of paragraph (b)(2)(i) of this section, and *X* does not make an election to be classified as a partnership. On January 1, 1999, *X* elects to be classified as a partnership effective on that date. Under the sixty month limitation of paragraph (c)(1)(iv) of this section, *X* cannot elect to be classified as an association until January 1, 2004 (i.e., sixty months after the effective date of the election to be classified as a partnership).

(ii) On June 1, 2000, *A* purchases all of *B*'s interest in *X*. After *A*'s purchase of *B*'s interest, *X* can no longer be classified as a partnership because *X* has only one member. Under paragraph (f)(2) of this section, *X* is disregarded as an entity separate from *A* when *A* becomes the only member of *X*. *X*, however, is not treated as a new entity for purposes of paragraph (c)(1)(iv) of this section. As a result, the sixty month limitation of paragraph (c)(1)(iv) of this section continues to apply to *X*, and *X* cannot elect to be classified as an association until January 1, 2004 (i.e., sixty months after January 1, 1999, the effective date of the election by *X* to be classified as a partnership).

(5) *Effective date.* This paragraph (f) applies as of November 29, 1999.

(g) *Elective changes in classification*—(1) *Deemed treatment of elective change*—(i) *Partnership to association.* If an eligible entity classified as a partnership elects under paragraph (c)(1)(i) of this section to be classified as an association, the following is deemed to occur: The partnership contributes all of its assets and liabilities to the association in exchange for stock in the association, and immediately thereafter, the partnership liquidates by distributing the stock of the association to its partners.

(ii) *Association to partnership.* If an eligible entity classified as an association elects under paragraph (c)(1)(i) of this section to be classified as a partnership, the following is deemed to occur: The association distributes all of its assets and liabilities to its shareholders in liquidation of the association, and immediately thereafter, the shareholders contribute all of the distributed assets and liabilities to a newly formed partnership.

(iii) *Association to disregarded entity.* If an eligible entity classified as an association elects under paragraph (c)(1)(i) of this section to be disregarded as an entity separate from its owner, the following is deemed to occur: The association distributes all of its assets and liabilities to its single owner in liquidation of the association.

(iv) *Disregarded entity to an association.* If an eligible entity that is disregarded as an entity separate from its owner elects under paragraph (c)(1)(i) of this section to be classified as an association, the following is deemed to occur: The owner of the eligible entity contributes all of the assets and liabilities of the entity to the association in exchange for stock of the association.

(2) *Effect of elective changes.* The tax treatment of a change in the classification of an entity for federal tax purposes by election under paragraph (c)(1)(i) of this section is determined under all relevant provisions of the Internal Revenue Code and general principles of tax law, including the step transaction doctrine.

(3) *Timing of election*—(i) *In general.* An election under paragraph (c)(1)(i) of this section that changes the classification of an eligible entity for federal tax purposes is treated as occurring at the start of the day for which the election is effective. Any transactions that are deemed to occur under this paragraph (g) as a result of a change in classification are treated as occurring immediately before the close of the day before the election is effective. For example, if an election is made to change the classification of an entity from an association to a partnership effective on January 1, the deemed transactions specified in paragraph (g)(1)(ii) of this section (including the liquidation of the association) are treated as occurring immediately before the close of December 31 and must be reported by the owners of the entity on December 31. Thus, the last day of the association's taxable year will be December 31 and the first day of the partnership's taxable year will be January 1.

(ii) *Coordination with section 338 election.* A purchasing corporation that makes a qualified stock purchase of an eligible entity taxed as a corporation may make an election under section 338 regarding the acquisition if it satisfies

the requirements for the election, and may also make an election to change the classification of the target corporation. If a taxpayer makes an election under section 338 regarding its acquisition of another entity taxable as a corporation and makes an election under paragraph (c) of this section for the acquired corporation (effective at the earliest possible date as provided by paragraph (c)(1)(iii) of this section), the transactions under paragraph (g) of this section are deemed to occur immediately after the deemed asset purchase by the new target corporation under section 338.

(iii) *Application to successive elections in tiered situations.* When elections under paragraph (c)(1)(i) of this section for a series of tiered entities are effective on the same date, the eligible entities may specify the order of the elections on Form 8832. If no order is specified for the elections, any transactions that are deemed to occur in this paragraph (g) as a result of the classification change will be treated as occurring first for the highest tier entity's classification change, then for the next highest tier entity's classification change, and so forth down the chain of entities until all the transactions under this paragraph (g) have occurred. For example, Parent, a corporation, wholly owns all of the interest of an eligible entity classified as an association (S1), which wholly owns another eligible entity classified as an association (S2), which wholly owns another eligible entity classified as an association (S3). Elections under paragraph (c)(1)(i) of this section are filed to classify S1, S2, and S3 each as disregarded as an entity separate from its owner effective on the same day. If no order is specified for the elections, the following transactions are deemed to occur under this paragraph (g) as a result of the elections, with each successive transaction occurring on the same day immediately after the preceding transaction S1 is treated as liquidating into Parent, then S2 is treated as liquidating into Parent, and finally S3 is treated as liquidating into Parent.

(4) *Effective date.* This paragraph (g) applies to elections that are filed on or after November 29, 1999. Taxpayers may apply this paragraph (g) retroactively to elections filed before November 29, 1999 if all taxpayers affected by the deemed transactions file consistently with this paragraph (g).

(h) *Effective date*—(1) *In general.* Except as otherwise provided in this section, the rules of this section are applicable as of January 1, 1997.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: November 2, 1999.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 99–30504 Filed 11–26–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–99–094]

RIN 2115–AA97

Safety Zone; Chesapeake Bay, Whitehall Bay, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone covering all waters within a 2,000 foot radius of each of three Very Low Frequency (VLF) towers located between Greenbury Point and Possum Point, near Annapolis, Maryland. Potts and Callahan, Inc. will be demolishing the three towers with explosives. This safety zone is intended to restrict maritime traffic in order to protect mariners from the hazards associated with the demolition.

DATES: This rule is effective from 10 a.m. to 12 p.m. Eastern Standard Time on December 3, 1999, and on December 5, 1999.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD 05–99–094 and are available for inspection or copying at Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Ron Houck, Port Safety and Security Section, at (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with the requirements of 5 U.S.C. 553(B), the Coast Guard finds that good cause exists for not publishing a NRPM. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. We were not notified of the date of the planned demolition until October 20, 1999. There was not sufficient time to publish a proposed rule in advance of the event. Publishing a NPRM and delaying the effective date of this regulation would be contrary to the public interest because action is needed to safeguard mariners during the demolition.

Background and Purpose

Potts and Callahan, Inc. notified us of the planned removal of the Very Low Frequency (VLF) radio towers and array for the U.S. Naval Academy. On December 3, 1999, Potts and Callahan, Inc. will demolish, with explosives, three Very Low Frequency (VLF) towers and array located between Greenbury Point and Possum Point, near Annapolis, Maryland. December 5, 1999 has been designated as an alternate date, if inclement weather precludes demolition on December 3, 1999. The demolition will use 200 pounds of explosives in the form of linear shape charges. Due to the need for vessel control during the demolition, maritime traffic will be temporarily restricted to provide for the safety of transiting vessels.

Regulatory Evaluation

This temporary final rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). This regulation affects a limited area for a limited time and advance notice will allow mariners to plan their transit around the scheduled event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the affected area from 10 a.m. to 12 p.m. on December 3, 1999. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The demolition of the radio towers will only take two hours, the area affected is small, and vessel traffic can pass safely around the safety zone. Therefore, Coast Guard certifies under section 605 (b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates

Under section 201 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531), the Coast Guard assessed the effects of this rule on State, local, and tribal governments, in the aggregate, and the private sector. The Coast Guard determined that this regulatory action requires no written statement under section 202 of the UMRA (2 U.S.C. 1532) because it will not result in the expenditure of $100,000,000 in any one year by State, local, or tribal governments, in the aggregate, or the private sector.

Collection of Information

This temporary final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary final rule under the principles and criteria contained in Executive Order 13132 and has determined that this temporary final rule does not have implications for federalism under that Order.

Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this temporary final rule is categorically excluded from further environmental documentation. This regulation will have no impact on the environment.

List of Subjects

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add § 165.T05–094 to read as follows:

§ 165.T05–094 Safety Zone; Chesapeake Bay, Whitehall Bay, Annapolis, MD.

(a) *Location.* The following area is a safety zone: All waters of the Chesapeake Bay and its tributaries within a 2,000 feet radius of the following three coordinates: Latitude 38°58′56″N, Longitude 076°26′58″W; Latitude 38°59′08″N, Longitude 076°26′49″W; and Latitude 38°59′18″N, Longitude 076°27′00″W; [NAD 1983]

(b) *Effective date.* This section is effective from 10 a.m. to 12 p.m., on December 3, 1999. If the demolition is postponed due to inclement weather, then this section is effective from 10 a.m. to 12 p.m. Eastern Standard Time on December 5, 1999.

(c) *Captain of the Port* means the Commanding Officer of Coast Guard Activities Baltimore, Baltimore, Maryland, or any Coast Guard Commissioned, Warrant or Petty Officer who has been authorized by the Captain of the Port to act on his behalf

(d) *Regulations.*

(1) All persons are required to comply with the general regulations governing safety zones in 165.23 of this part.

(2) Persons or vessels requiring entry into or passage through the safety zone must first request authorization from the Captain of the Port. The Coast Guard vessels enforcing the safety zone can be contacted on VHF-FM channels 13 and 16. The Captain of the Port can also be contacted by telephone at (410) 576–2520.

(3) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port.

(ii) Proceed only as directed by the Captain of the Port.

Dated: November 8, 1999.

C.L. Miller,

Captain, U.S. Coast Guard, Captain of the Port of Baltimore.

[FR Doc. 99–30882 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 011499B]

RIN 0648–AL56

Fisheries of the Northeastern United States; Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP); Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP; and Amendment 12 to the Atlantic Surf Clam and Ocean Quahog FMP; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correction to a final rule.

SUMMARY: NMFS corrects a final rule for Amendment 12 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP); Amendment 8 to the Atlantic Mackerel, Squid, and Butterfish FMP; and Amendment 12 to the Atlantic Surf Clam and Ocean Quahog FMP that was published on October 26, 1999, that omitted several sentences from the regulations.

DATES: Effective November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, Fishery Policy Analyst, 978–281–9221.

Need for Correction

In the final rule document, FR Doc. 99–27921, beginning on page 57587 in the issue of Tuesday, October 26, 1999, in § 648.5 several sentences were inadvertently removed from paragraphs of the section due to oversights in preparing the amendatory language. These deletions would remove requirements from the regulations that were not intended to be removed. Section 648.107 was incorrectly numbered and would unintentionally replace a previously published section. Therefore, that section is renumbered as § 648.108. Because of the renumbering, the references in §§ 648.127 and 648.147 are corrected by a nomenclature change.

Correction

Accordingly, the publication on October 26, 1999, of the final rule document (I.D. 011499B), which was the subject of FR Doc. 99–27921, is corrected as follows:

§ 648.5 [Corrected]

1. On page 57593, in the 1st column, in § 648.5, in paragraph (a), add to the

end the following two sentences, "An operator permit issued pursuant to part 649 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels."

2. On page 57593, in the 1st column, in § 648.5, in paragraph (d), add to the end, the following sentence, "The applicant must also provide two recent (no more than 1 year old), color, passport-size photographs."

§ 648.107 [Corrected]

3. On page 57595, in the 1st column, revise amendatory instruction 13 and the section heading to read as follows:

13. Section 648.108 is added under Subpart G to read as follows:

§ 648.108 Framework adjustments to management measures.

* * * * *

4. On page 57595, in the 2nd and 3rd columns, in § 648.127(a) and (a)(1) through (a)(4), the reference to "648.107" should read "648.108" each time it appears.

5. On page 57595, in the 3rd column, in § 648.147(a) and (a)(1) through (a)(4), the reference to "648.107" should read "648.108" each time it appears.

Dated: November 22, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30914 Filed 11–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990226056–9213–02; I.D. 122498C]

RIN 0648–AL31

Northeast Multispecies Fishery; Amendment 9 to the Northeast Multispecies Fishery Management Plan; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: The final rule to implement measures contained in Amendment 9 to the Northeast Multispecies Fishery Management Plan (FMP) was published on Friday, October 15, 1999. The final rule contained an error in the numbering of a paragraph related to vessel and individual commercial permits. This document corrects the error.

DATES: Effective November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978–281–9221 or e-mail at regina.l.spallone@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The final rule to implement measures contained in Amendment 9 to the Northeast Multispecies FMP was published on October 15, 1999 (64 FR 55821). In § 648.4 of the final rule, amendatory instruction 3 indicated that paragraph (c)(2)(iii)(A) was revised. This amendatory instruction should have indicated that paragraph (c)(2)(iii) was revised. This correction to the final rule corrects the error contained in the October 15, 1999, final rule. Amendatory instruction 3 and the related regulatory text is reprinted in its entirety to avoid any confusion on the part of the reader.

Correction

Accordingly, the publication on October 15, 1999, of the final rule to implement Amendment 9 to the Northeast Multispecies FMP (I.D. 122498C), which was the subject of document FR Doc. 99–26839, is corrected as follows:

On page 55825, second column, amendatory instruction 3 and the numbering of the regulatory text are corrected to read as follows:

3. In § 648.4, paragraph (c)(2)(iii) is revised to read as follows:

§ 648.4 Vessel and individual commercial permits.

* * * * *

(c) * * *

(2) * * *

(iii) An application for a limited access multispecies permit must also contain the following information: For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels fishing under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(k). A vessel owner electing a Day gillnet designation must indicate the number of gillnet tags that he/she is requesting and must include a check for the cost of the tags. A permit holder letter will be sent to the owner of each eligible gillnet vessel informing him/her of the costs associated with this tagging requirement and directions for obtaining tags. Once a vessel owner has elected this designation, he/she may not change the designation or fish under the other gillnet category for the remainder of the fishing year. Incomplete applications, as described in paragraph (e) of this section, will be considered incomplete for the purpose of obtaining authorization to fish in the NE multispecies gillnet fishery and will be processed without a gillnet authorization.

* * * * *

Authority: 16 U.S. C. 1801 *et seq.*

Dated: November 22, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30912 Filed 11–26–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone off Alaska

CFR Correction

In Title 50 of the Code of Federal Regulations, part 600 to End, revised as of October 1, 1998, § 679.21 is corrected in paragraph (d)(3)(i) by revising "Aftny" to read "After" and reinstating the following text between the words "After" and "weekly".

§ 679.21 Prohibited species bycatch management.

* * * * *

(d) * * *

(3) * * *

(i) *Notification.* After consultation with the Council, NMFS will publish notification in the **Federal Register** specifying the proposed halibut PSC limit for vessels using trawl gear.

(ii) *Bycatch allowance.* The halibut PSC limit specified for vessels using trawl gear may be further apportioned as bycatch allowances to the fishery categories listed in paragraph (d)(3)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Trawl fishery categories.* For purposes of apportioning the trawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round–weight equivalents of these GOA groundfish species for which a TAC has been specified under § 679.20:

(A) *Shallow–water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate catch of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species" that is greater than the retained aggregate amount of other GOA groundfish species or species group.

(B) *Deep–water species fishery.* Fishing with trawl gear during any * * * .

[FR Doc. 99–55539 Filed 11–26– 99; 8:45 am]

BILLING CODE 1505-01-p

VOL 64 ISS 228 NO 29 1999 UMI

Prop

This secti
contains r
issuance
purpose o
persons a
rule maki
rules.

FEDERA
AUTHOR

5 CFR P

Amendm
Justice A

AGENCY:
Authorit

ACTION: F

SUMMARY
Authorit
regulatio
Access to
adopting
the maxi
attorney
Specifica
the Bure
Price Ind
City Ave
inflation-
statutory
FLRA als
to allow
increase
on specia

The ba
premised
1981. The

Examp
attorney

Proposed Rules

Federal Register
Vol. 64, No. 228
Monday, November 29, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2430

Amendment of Equal Access to Justice Act Attorney Fees Regulations

AGENCY: Federal Labor Relations Authority.

ACTION: Proposed rule.

SUMMARY: The Federal Labor Relations Authority (FLRA) proposes to amend its regulations implementing the Equal Access to Justice Act (EAJA) by adopting a cost of living adjustment to the maximum rate for the calculation of attorney fees permitted under the EAJA. Specifically, the FLRA proposes to use the Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, U.S. City Average, All Items to create an inflation-based adjustment to the statutory cap on attorney fees. The FLRA also proposes modifying the rules to allow an applicant to request an increase to the maximum fees rate based on special factors.

DATES: Comments must be received on or before January 13, 2000.

ADDRESSES: Mail or deliver written comments to the Office of Case Control, Federal Labor Relations Authority, 607 14th Street, NW, Room 415, Washington, DC 20424–0001.

FOR FURTHER INFORMATION CONTACT: Peter Constantine, Office of Case Control, Federal Labor Relations Authority, 607 14th Street, NW, Washington, DC 20424–0001, or by telephone at (202) 482–6540.

SUPPLEMENTARY INFORMATION: The EAJA, 5 U.S.C. 504(b)(1)(A) (1994 & Supp. III 1997), provides that an agency may not award attorney fees in excess of $125 per hour (or $75 for proceedings commenced prior to March 29, 1996), unless the agency determines by regulation that a higher fee is justified by (1) an increase in the cost of living or (2) some special factor. In a recent decision, 55 FLRA (No. 72) 444 (Apr. 30, 1999), responding to petitions requesting an adjustment to the EAJA fees cap, the FLRA announced its intention to engage in the instant rulemaking to consider appropriate criteria for increasing the maximum rate based on cost of living and other special factors. The FLRA also announced in that decision its intention to amend its regulations implementing the EAJA to permit recovery, in conjunction with adversary adjudications commenced on or after March 29, 1996, of attorney fees not to exceed $125.00 per hour. This was accomplished through the promulgation of the final rule published at 64 FR 30861 (Jun. 9, 1999).

Cost of Living

The FLRA proposes to allow for an increase in the maximum EAJA attorney fees rate based on cost of living increases. For guidance in this regard, the FLRA has looked to the National Transportation Safety Board's EAJA regulations, 49 CFR part 826, and its statement in its proposed rulemaking regarding the cost of living adjustment to the statutory cap (57 FR 60785) (Dec. 22, 1992). The FLRA proposes an inflation-based adjustment to the statutory cap based on the Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (CPI–U). This CPI–U is the generally understood "cost of living" index that is widely used as a price inflator in labor and contract matters.

To determine the appropriate attorney fees rate, adjusted for cost of living, the statutory cap ($125 or $75) is multiplied by an inflation factor. The inflation factor is the CPI–U for the year that legal services were rendered divided by the CPI–U for the base year. Phrased as a formula, the calculation is:

$$\frac{\text{CPI-U-Year of Service}}{\text{CPI-U-Base Year}} \times \$125 \text{ (or } \$75) / \text{hr} = \text{Adjusted Rate}$$

The base year for calculations premised on the $75 statutory cap is 1981. The base year for calculations premised on the $125 statutory cap is 1995.

To illustrate how the calculation works, two examples are provided.

Example 1: The maximum rate for attorney fees for services provided in 1993 is $119/hr, based on the following calculation:

$$\text{Adjusted Rate} = \frac{144.5 \ \text{(CPI-U-1993)}}{90.9 \ \ \text{(CPI-U-1981)}} \times \$75 / \text{hr}$$

Example 2: The maximum rate for attorney fees for services provided in 1997 is $132, based on the following calculation:

$$\text{Adjusted Rate} = \frac{160.5 \ \text{(CPI-U-1997)}}{152.4 \ \text{(CPI-U-1995)}} \times \$125 / \text{hr}$$

The FLRA seeks comments and suggestions concerning its proposed method of adjusting the statutory fee cap.

Other Specific Factors

The FLRA is seeking comment on whether to also amend its EAJA regulations to allow for an adjustment to the statutory fees cap based on "special factors." We note that the Federal Mine Safety and Health Review Commission has recently amended its regulations to allow fee increases based on special factors, 61 FR 66961 (Nov. 12, 1998).

The EAJA, 5 U.S.C. 504(b)(1)(A), lists as a special factor the "limited availability of attorneys qualified to handle certain types of proceedings." This phrase refers to a narrow category of attorneys who have "some distinctive knowledge or specialized skill" such as those who practice patent law. *Pierce* v. *Underwood*, 487 U.S. 552, 572 (1988). Without specifying what other special factors may exist, the Supreme Court noted that they "must be such as are not of broad and general application." *Id.* at 573.

The FLRA reiterates that it is unclear whether expertise in administrative practice before the FLRA qualifies as a "special factor." *See* 55 FLRA at 448 n.4 (citing *F.J. Vollmer Co., Inc.* v. *Magaw*, 102 F.3d 591, 598–99 (D.C. Cir. 1994); *Waterman Steamship Corp.* v. *Maritime Subsidy Bd.*, 901 F.2d 1119, 1124 (D.C. Cir. 1990)).

The FLRA proposes revising § 2430.5 to provide that requests for special factor increases in fees are submitted to the administrative law judge assigned to the matter, and thereafter subject to Authority review. The FLRA asks commentators to address two questions. First, is it appropriate to establish a regulation allowing for increases due to special factors? Second, assuming that such a regulation is established, what, if any, specific criteria should the regulation set out to be considered in analyzing a request for such an increase? As currently proposed, the regulation does not list any specific criteria.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that this regulation, as amended, will not have a significant economic impact on a substantial number of small entities, because this rule applies to Federal employees, Federal agencies, and labor organizations representing Federal employees.

Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulation contains no additional information collection or record keeping requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 5 CFR Part 2430

Administrative practice and procedure, Equal access to justice, Government employees, Labor-management relations.

For the reasons stated in the preamble, the FLRA amends 5 CFR part 2430 as follows:

PART 2430—AWARDS OF ATTORNEY FEES AND OTHER EXPENSES

1. The authority citation for part 2430 is revised to read as follows:

Authority: 5 U.S.C. 504.

2. Revise § 2430.4(a) to read as follows:

§ 2430.4 Allowable fees and expenses.

(a)(1)(i) No award for the fee of an attorney or agent under these rules may exceed $125.00 per hour, or for adversary adjudications commenced prior to March 29, 1996, $75.00 per hour, indexed to reflect cost of living increases as follows:

$$\frac{\text{CPI-U-Year of Service}}{\text{CPI-U-Base Year}} \times \$125 \text{ (or } \$75) / \text{hr} = \text{Adjusted Rate}$$

(ii) The cost of living index to be used is the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (CPI–U). If legal services are provided during more than one year, each year shall be calculated separately. If an annual average CPI–U for a particular year is not yet available, the prior year's annual average CPI–U shall be used.

(2) No award to compensate an expert witness may exceed the highest rate that the Authority pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

* * * * *

3. Revise § 2430.5 to read as follows:

§ 2430.5 Rulemaking on maximum rates for attorney fees.

If warranted by special factors, attorney fees may be awarded at a rate higher than that established in § 2430.4. Any such increase in the rate for attorney fees shall be made only upon a petition submitted by the applicant, pursuant to § 2430.6. Determinations regarding fee adjustments are subject to Authority review as specified in § 2430.13.

Dated: November 23, 1999.

Solly Thomas,

Executive Director.

[FR Doc. 99–30897 Filed 11–26–99; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Ch. I

[Docket No. OST–1996–1880]

Nondiscrimination on the Basis of Handicap in Air Travel

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of postponement of meeting.

SUMMARY: In a document published in the **Federal Register**, the Department announced its intention to convene a public meeting on November 30, 1999, to discuss the possibility of commencing a rulemaking to require certain additional accommodations for deaf and hard-of-hearing air travelers under the Air Carrier Access Act of 1986. This notice announces the postponement of that meeting until January 18, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590, by phone at (202) 366–9310 (voice) or (202) 755–7687 (TTY), or email at bob.ashby@ost.dot.gov.

SUPPLEMENTARY INFORMATION: The Department finds it necessary at this time to postpone the meeting it announced in its November 19, 1999, **Federal Register** notice. 64 FR 63279, November 19, 1999. Some key participants informed us that they would be better able to make informed presentations at a later date, and others were unavailable on the originally scheduled date. The Department continues to place the highest priority on making air travel accessible to deaf and hard-of-hearing persons. The Department has rescheduled the meeting for January 18, 2000.

Issued in Washington, DC, on November 23, 1999.

Robert C. Ashby,

Deputy Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 99–31080 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105162–97]

RIN 1545–AV16

Special Basis Rules for Transfer of Property by a Partnership to a Corporation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of proposed regulations.

SUMMARY: This document partially withdraws certain proposed regulations relating to special basis adjustments under section 743. The withdrawal is in response to the publication of subsequent proposed regulations (REG–209682–94) addressing the same subject matter.

FOR FURTHER INFORMATION CONTACT: Daniel Carmody at (202) 622–3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1997, the IRS published in the **Federal Register** (62 FR 55768) proposed regulations under section 743 of the Internal Revenue Code (the proposed regulations). Section 1.743–2 of the proposed regulations addresses the effect of the special basis adjustment under section 743 for partnerships that participate in section 351 exchanges. This issue is addressed in the proposed regulations published in the **Federal Register** on January 29, 1998 (63 FR 4408), which contain general guidance on basis adjustments under section 743. Therefore, this document withdraws § 1.743–2 of the proposed regulations published in the **Federal Register** on October 28, 1997 (62 FR 55768).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, proposed amendments to 26 CFR part 1 relating to § 1.743–2 are withdrawn.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–30506 Filed 11–26–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–110385–99]

RIN–1545–AX39

Changes in Entity Classification: Special Rule for Certain Foreign Eligible Entities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations addressing certain transactions that occur within a specified period of time before or after a change in entity classification. The proposed regulations prevent, in limited circumstances, the use of changes in entity classification to alter a taxpayer's Federal tax consequences. Under these regulations, a change in classification by a foreign eligible entity that was originally classified as an association taxable as a corporation (and, but for this regulation, would be classified as an entity disregarded as an entity separate from its owner) will be invalidated in certain limited circumstances. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written comments must be received by February 28, 2000. Requests to speak (with outlines of oral comments) at the public hearing scheduled for January 31, 2000, must be submitted by January 10, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–110385–99), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–110385–99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax_regs/regslist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Mark D. Harris, (202) 622–3860 (not a toll-free number); concerning submissions and the hearing, LaNita VanDyke, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document proposes to amend the current Procedure and Administration Regulations (26 CFR Part 301) relating to the classification of entities for Federal tax purposes. On December 18, 1996, the IRS and the Treasury Department published final regulations (61 FR 66584) relating to the classification of business organizations under section 7701. The regulations (the check-the-box regulations) replaced the increasingly formalistic entity classification rules with a simpler, elective regime. The new rules were

designed to ease administrative burdens for taxpayers and the government. They were not, however, intended to change the application of substantive Internal Revenue Code (Code) provisions.

In the preamble to the check-the-box regulations, the IRS and Treasury expressed concern about potential improper uses of the check-the-box regulations involving partnerships:

> [I]n light of the increased flexibility under an elective regime for the creation of organizations classified as partnerships, Treasury and the IRS will continue to monitor carefully the uses of partnerships in the international context and will take appropriate action when partnerships are used to achieve results that are inconsistent with the policies and rules of particular Code provisions or of U.S. tax treaties.

On October 28, 1997, the IRS and Treasury issued a notice of proposed rulemaking (62 FR 55768) under section 7701. These regulations specify the tax consequences resulting from an election to change the Federal tax classification of an eligible entity (the conversion regulations). The conversion regulations also provide that the tax consequences of an elective change in the classification of an entity for Federal tax purposes are determined under all relevant provisions of the Code and general principles of tax law, including the step transaction doctrine. Those final regulations are issued elsewhere in this issue of the **Federal Register**.

As indicated in the preamble to the check-the-box regulations, the IRS and Treasury have been monitoring the manner in which taxpayers have used the check-the-box regulations since their enactment. The focus has been to determine whether taxpayers use the regulations in a manner inconsistent with the application of any Code provisions, and, if so, what, if any, action is appropriate. The preamble to the check-the-box regulations cited the use of partnerships as a primary concern. However, it has become apparent to the IRS and Treasury that taxpayers may attempt to use entities that are disregarded as entities separate from their owners (disregarded entities), in addition to partnerships, to achieve results, in relation to certain transactions, that are inconsistent with the policies and rules of particular Code sections or tax treaties. These regulations are intended to address inappropriate Federal tax consequences that would otherwise result from certain of these transactions under a number of international provisions of the Code. These provisions include the rules governing source of income under sections 861 through 865, foreign tax credit limitation categories under section 904, the disposition of ownership interests under Subpart F (sections 951 through 964), and outbound transfers under section 367 (in this last case, leading to a different result than that outlined in the example in the preamble to the section 367(a) regulations (63 FR 33550)).

The IRS and Treasury considered several responses to these transactions and determined that a special rule completely revoking the entity's classification as a disregarded entity was the most equitable and administrable approach. Of the responses considered, the IRS and Treasury believe that this approach also gives the greatest certainty to all parties involved in the transactions covered by this rule.

Explanation of Provisions

This special rule is limited in scope. It only applies to "extraordinary transactions" (such as sales of a part or whole interest) that occur within a period commencing one day before and ending 12 months after the date that a foreign eligible entity changed its classification to disregarded entity status, provided that the entity had been classified as an association taxable as a corporation within the 12-month period prior to the extraordinary transaction. The rule also applies to certain "shelf" entities that might be used in an attempt to circumvent the 12-month rule. In these cases, the entity would not be treated as a disregarded entity, and instead would be classified as an association taxable as a corporation for all purposes. The regulations provide rules specifying from what date this classification as an association taxable as a corporation will be applicable. Examples of these provisions are included in the regulations.

This special rule will not apply to an extraordinary transaction if a taxpayer establishes to the satisfaction of the Commissioner that the classification as a disregarded entity does not materially alter the Federal tax consequences of the extraordinary transaction.

The IRS and Treasury do not intend that this regulation will invalidate an entity classification election in the absence of a separate extraordinary transaction, even though the deemed consequences of such election under the conversion regulations may constitute an extraordinary transaction. In the preamble to the conversion regulations, however, the IRS and Treasury requested comments on the appropriate tax consequences of an entity classification election made by a foreign eligible entity that is not relevant for Federal tax purposes (*e.g.*, with respect to the basis of property or earnings and profits of the entity). No comments have been received. The IRS and Treasury continue to study and solicit comments on this important issue and are considering whether, in certain circumstances, the election, combined with another event whereby the entity becomes relevant, should be considered to be inappropriate and, therefore, invalid under these regulations.

If an entity made a classification election pursuant to § 301.7701–3(c) to be disregarded, and that election was considered a change in classification, that entity would normally be subject to the 60-month limitation on elections under § 301.7701–3(c)(1)(iv). However, if that classification election under § 301.7701–3(c) is invalid under this regulation, then the election to be a disregarded entity shall not constitute an election for all Federal tax purposes, including the limitation on elections under § 301.7701–3(c)(1)(iv).

These regulations do not prevent the Commissioner from applying all applicable common law doctrines to any extraordinary transaction to which this rule applies, in any administrative or judicial proceeding (and create no inference as to the treatment of such transactions occurring prior to the effective date of these regulations). Conversely, the Commissioner may also provide administrative relief from these regulations by published guidance.

The IRS and Treasury will continue to monitor potentially improper uses of the check-the-box regulations involving partnerships and disregarded entities, and will take appropriate action when such uses achieve results that are inconsistent with the policies and rules of particular Code provisions or of U.S. tax treaties.

This special rule does not apply to the transactions described in the proposed regulations on hybrid branch transactions published in the **Federal Register** on July 13, 1999 (64 FR 37727), issued pursuant to Notice 98–35 (1998–27 IRB 35). These proposed regulations apply only to dispositions of interests in disregarded entities in extraordinary transactions.

The IRS and Treasury request comments with respect to the special rule contained herein. In particular, the IRS and Treasury request comments on the specific types of transactions which should be excluded from the application of the special rule. When this proposed regulation is finalized, the IRS and Treasury intend to issue guidance that will identify specific transactions that will be excluded from the application of this special rule.

Grandfathered Foreign Per Se Entities

The check-the-box regulations allowed for certain corporations under § 301.7701–2(b)(8)(i) to be treated as partnerships if certain conditions enumerated in § 301.7701–2(d)(1) were satisfied. However, upon the occurrence of certain events, such an entity's "grandfathered status" could be terminated. See § 301.7701–2(d)(3)(i). The IRS and Treasury are concerned that taxpayers have been trafficking in these types of entities. Accordingly, these proposed regulations would add a new provision to § 301.7701–2(d)(3)(i) which terminates an entity's "grandfather status" when one or more persons, who were not owners of the entity as of November 29, 1999, become owners of 50 percent or more of the interests in the entity.

Relevance

The check-the-box regulations provide a special rule when the Federal tax classification of a foreign eligible entity is no longer relevant. The rule states that if the classification of a foreign eligible entity which was previously relevant for Federal tax purposes ceases to be relevant for sixty consecutive months, the entity's classification will initially be determined under the default classification when the classification of the foreign eligible entity again becomes relevant (hereinafter 60-month rule). Several practitioners have requested guidance on whether the act of filing an entity classification election (Form 8832, Entity Classification Election) causes an entity to be relevant for purposes of the 60-month rule. Practitioners also have requested clarification regarding whether a newly formed foreign eligible entity, that has never been relevant, is subject to the 60-month rule.

These proposed regulations provide that if a foreign eligible entity files an entity classification election, it is considered relevant on the effective date of the election for purposes of the 60-month rule. However, if the foreign eligible entity is otherwise not relevant within the meaning of § 301.7701–3(d)(1)(i), then for purposes of applying the 60-month rule the entity will be considered to be not relevant on the day after the date the entity classification election was effective.

The preamble to the conversion regulations stated that a foreign eligible entity that is not relevant has a Federal tax classification. The proposed regulations clarify that such an entity is subject to the 60-month rule. However, the proposed regulations provide an exception for a foreign eligible entity that was never relevant (within the meaning of § 301.7701–3(d)(1)) during its existence. Such entity's classification will initially be determined pursuant to the provisions of § 301.7701–3(b)(2) when the entity first becomes relevant.

Proposed Effective Date

Except as otherwise specified, these regulations are proposed to apply as of the date final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed regulation and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for January 31, 2000, beginning at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit timely written comments and an outline of the topics to be discussed and the time to be devoted to each topic by (preferably a signed original and eight (8) copies) January 10, 2000. However, comments not to be presented at the hearing must be submitted by February 28, 2000.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Mark D. Harris, Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Par. 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.7701–2 is amended by:

1. Removing the language "or" at the end of paragraph (d)(3)(i)(B).

2. Removing the period at the end of paragraph (d)(3)(i)(C) and adding "; or" in its place.

3. Adding paragraph (d)(3)(i)(D).

4. Adding a sentence at the end of paragraph (e).

The additions read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(D) The date any person or persons, who were not owners of the entity as of November 29, 1999, own in the aggregate a 50 percent or greater interest in the entity.

* * * * *

(e) *Effective date.* * * * However, paragraph (d)(3)(i)(D) of this section applies on or after the date final regulations are published in the **Federal Register**.

Par. 3. Section 301.7701–3 is amended as follows:

1. The text of paragraph (d)(1) following the paragraph heading is

redesignated as paragraph (d)(1)(i), and a paragraph heading is added for paragraph (d)(1)(i).

2. Paragraph (d)(1)(ii) is added.

3. Paragraph (d)(2) is revised.

4. Paragraphs (d)(3) and (d)(4) are added.

5. Paragraph (h) is redesignated as paragraph (i).

6. A new paragraph (h) is added.

The revision and addition reads as follows:

§ 301.7701–3 Classification of certain business entities.

* * * * *

(d) *Special rules for foreign eligible entities*—(1) *Definition of relevance*—(i) *General rule.* * * *

(ii) *Deemed relevance*—(A) *General rule.* For purposes of this section, except as provided in paragraph (d)(1)(ii)(B) of this section, a foreign eligible entity that files Form 8832 (Entity Classification Election) shall be deemed to be relevant only on the date the entity classification election is effective.

(B) *Exception.* If a foreign eligible entity is relevant within the meaning of paragraph (d)(1)(i) of this section, then the rule in paragraph (d)(1)(ii)(A) of this section shall not apply.

(2) *Entities that were never relevant.* If a foreign eligible entity's Federal tax classification has never been relevant (as defined in paragraph (d)(1) of this section), then the entity's classification will initially be determined pursuant to the provisions of paragraph (b)(2) of this section when the entity first becomes relevant (as defined in paragraph (d)(1)(i) of this section).

(3) *Special rule when classification is no longer relevant.* If the classification of a foreign eligible entity is not relevant for sixty consecutive months, the entity's classification will initially be determined under the default classification when the classification of the foreign eligible entity becomes relevant. The date that the classification of a foreign entity is not relevant is the date an event occurs that causes the classification to no longer be relevant, or, if no event occurs in a taxable year that causes the classification to be relevant, then the date is the first day of that taxable year.

(4) *Effective date.* Paragraphs (d)(1)(ii), (d)(2), and (d)(3) of this section apply on or after the date final regulations are published in the **Federal Register**.

* * * * *

(h) *Special rule when foreign entities that are disregarded as entities separate from their owner are used in an extraordinary transaction*—(1) *General rule*—(i) *When an eligible entity becomes disregarded as an entity separate from its owner.* Notwithstanding any other provision of this section, a foreign eligible entity classified as an entity that is disregarded as an entity separate from its owner, will instead be classified as an association taxable as a corporation, if—

(A) A 10-percent or greater interest in the foreign eligible entity is sold, exchanged, transferred or otherwise disposed of in one or more transactions (collectively, extraordinary transactions) that occur (or are treated as occurring) in the period commencing one day before and ending 12 months after the effective date of that foreign eligible entity's change in classification to an entity that is disregarded as an entity separate from its owner; and

(B) The foreign eligible entity was previously classified as an association taxable as a corporation at any time within the 12-month period prior to the date of the commencement of the extraordinary transaction.

(ii) *Period of reclassification.* If paragraph (h)(1)(i) of this section applies, the foreign eligible entity shall be treated as an association taxable as a corporation (and no intervening Federal tax classification will be valid) from and including the date that the foreign eligible entity ceased to be classified as an association taxable as a corporation.

(2) *Shelf entities*—(i) *Acquisition of assets from another entity.* A foreign eligible entity, classified as an entity that is disregarded as an entity separate from its owner, will instead be classified as an association taxable as a corporation, if—

(A) It acquires the assets of one or more foreign business entities (which were classified as associations taxable as corporations at any time within the 12-month period prior to the date of the commencement of the extraordinary transaction) in a transaction or series of related transactions in which gain or loss is not recognized (for Federal tax purposes), in whole or in part (acquisition transaction);

(B) After the acquisition transaction (or transactions), the acquired assets comprise more than 80 percent of the value of the assets of the entity that is disregarded as an entity separate from its owner; and

(C) Such entity is subsequently involved in an extraordinary transaction within 12 months of the date on which the acquisition transaction (or the last of such transactions) is completed.

(ii) *Calculation of value of entities.* For purposes of calculating the ratio of assets under paragraph (h)(2)(i)(B) of this section, cash and marketable securities of an entity shall not be included to the extent that the cash and marketable securities exceed the reasonable needs of that entity's business.

(iii) *Period of reclassification.* If paragraph (h)(2)(i) of this section applies, the foreign eligible entity shall be treated as an association taxable as a corporation from and including the date of the acquisition transaction, or, if the acquisition transaction involves a series of related transactions, the date of the last of such transactions.

(3) *Exception.* The rules in paragraphs (h)(1) and (2) of this section will not apply to an extraordinary transaction if a taxpayer establishes to the satisfaction of the Commissioner that the classification as an entity that is disregarded as an entity separate from its owner does not materially alter the Federal tax consequences of the extraordinary transaction. The Commissioner may also provide exceptions to paragraphs (h)(1) and (2) of this section by published guidance (see § 601.601(d)(2) of this chapter).

(4) **Examples.** The following examples illustrate the rules of this paragraph (h). These examples assume that all foreign entities (FC) are eligible entities that are classified as associations taxable as corporations, and all U.S. entities (P) are corporations, unless otherwise specified. The examples are as follows:

Example 1. (i) *Facts.* P owns 100 percent of FC1. P plans to sell FC1. An entity classification election under paragraph (c) of this section is made for FC1 such that FC1 is now classified as an entity disregarded as an entity separate from its owner (P). P sells FC1 to an unrelated third party within 12 months of the effective date of the entity classification election.

(ii) *Result.* The sale of FC1, an entity that is disregarded as an entity separate from its owner which was previously classified as an association taxable as a corporation, is an extraordinary transaction, and because it occurred within 12 months of the effective date of the entity classification election, it is subject to the rule of paragraph (h)(1) of this section. Under paragraph (h)(1) of this section, the entity classification election to treat FC1 as an entity that is disregarded as an entity separate from its owner is invalid, and FC1 remains classified as an association taxable as a corporation as if there had been no election to be disregarded as an entity separate from its owner. Therefore, P is taxed as if it sold the stock of FC1, and not the assets of FC1.

Example 2. (i) *Facts.* The facts are the same as *Example 1*, except that an entity classification election is not made for FC1. P wishes to avoid the result in *Example 1*, and not be subject to paragraph (h)(1) of this section. P had formed FC2 two years before the date of the extraordinary transaction. At that time, P had elected for FC2 to be treated as an entity that is disregarded as an entity separate from P. Since that time, FC2 has

conducted no business activities and has held no assets. P causes FC1 to merge into FC2 (under foreign law), with FC2 surviving, in a transaction in which gain or loss is not recognized for Federal tax purposes. On the same day, P sells FC2 to an unrelated third party.

(ii) *Result.* The sale of FC2 is an extraordinary transaction. Furthermore, despite the fact that FC2 was formed two years before the date of the extraordinary transaction, paragraph (h)(2) of this section treats FC2 as an association taxable as a corporation. This is because more than 80 percent of FC2's post-merger assets were acquired from FC1. Thus, the extraordinary transaction is subject to the rule of paragraph (h)(2) of this section, and has the same result as *Example 1.*

(5) *Effective date.* This paragraph (h) applies on or after the date final regulations are published in the **Federal Register**.

* * * * *

C.O. Rossotti,

Commissioner of Internal Revenue.

[FR Doc. 99–30505 Filed 11–26–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

Steel Erection Negotiated Rulemaking Advisory Committee

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Negotiated Rulemaking Advisory Committee meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (FACA), notice is hereby given of a meeting of the Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC). Notice is also given of the location of the meeting. This meeting will be open to the public.

DATES: The meeting is scheduled for December 16th, 1999. The meeting will begin at 8:00 a.m. on December 16th.

ADDRESSES: The meeting will be held at the Hyatt Regency Washington—400 New Jersey Avenue, NW, Washington, D.C. 20001; Telephone (202) 737–1234.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW, Washington DC 20210, (202) 693–1999.

SUPPLEMENTARY INFORMATION: On May 11, 1994, OSHA established the Steel Erection Negotiated Rulemaking Advisory Committee (SENRAC)(59 FR 24389) in accordance with the Federal Advisory Committee Act (FACA), the Negotiated Rulemaking Act of 1990 (NRA) and section 7(b) of the Occupational Safety and Health Act (OSH Act). OSHA appointed representatives from labor, industry, public interests and government agencies to the Committee.

SENRAC began negotiations in mid June, 1994, and met eleven times over an 18-month period. On December 1, 1995, SENRAC agreed on a recommended regulatory text for a revised steel erection standard. In its Notice of Proposed Rulemaking (NPRM), OSHA based its proposed regulatory text on the Committee's recommendations. In addition, the NPRM included a summary and explanation of the provisions, set out the legal tests that OSHA standards must meet and solicited public comments and evidence on the proposed rule. In addition, OSHA asked the public for comments and evidence on specific issues related to the Committee's recommendations. The Committee approved OSHA's NPRM on July 24, 1997. At that time, OSHA stated that it would consult with the Committee prior to the issuance of the final standard.

OSHA's proposed rule for steel erection was published in the **Federal Register** on August 13, 1998. OSHA received 367 sets of comments in response to the notice. A public hearing was held from December 1, 1998, through December 11, 1998, in Washington, DC. Approximately 50 individuals/panels provided testimony on various topics in the proposed rule. Interest was expressed on a number of issues, including controlling contractors, fall protection, providing bolt holes in joists over 40′, controlled decking zones, the scope of subpart R and slippery surfaces (both structural steel and decking). OSHA received 55 comments during the post-hearing comment period that ended April 12, 1999.

Now, the Agency has completed an analysis of the record evidence and has developed a draft final steel erection standard. OSHA is convening this meeting for the purposes of consulting with the SENRAC Committee prior to the issuance of the final standard.

All interested parties are invited to attend the Committee meeting at the time and place indicated above. No advanced registration is required. Seating will be available to the public on a first-come, first-served basis. Persons with disabilities who need special accommodations should contact the Facilitator by December 9, 1999.

During the meeting members of the general public may informally request permission to address the Committee.

After the meeting, minutes of the meeting and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, N–2625, 200 Constitution Ave., NW, Washington, DC 20210; telephone (202) 693–2350. Copies of these materials may be obtained by sending a written request to the Facilitator.

The Facilitator, Philip J. Harter, can be reached at Suite 404, 2301 M Street, NW, Washington, DC 20037; telephone (202) 887–1033, FAX (202) 887–1036.

Authority: This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, pursuant to section 3 of the Negotiated Rulemaking Act of 1990 (104 Stat. 4969, Title 5 U.S.C. 561 *et seq.*); and Section 7(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1597, Title 29 U.S.C. 656).

Signed at Washington, DC, this 18th day of November, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–30822 Filed 11–26–99; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–126–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment revises certain portions of 25 Pennsylvania Code Chapter 86, Surface and Underground Mining: General, pertaining to ownership and control, bonding, civil penalties and areas unsuitable for mining. The amendments are intended to revise the Pennsylvania program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received on or before 4 p.m. on

December 29, 1999. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on December 27, 1999. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on December 14, 1999.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert J. Biggi, Director, Harrisburg Field Office at the first address listed below. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking (or administrative) record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking (or administrative) record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public meetings or hearing, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack), 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

Pennsylvania Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, 400 Market Street, P.O. Box 8476, Harrisburg, Pennsylvania 17101, Telephone: (717) 783–2267.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Harrisburg Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director, Harrisburg Field Office, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments can be found in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the regulatory program amendments are identified at 30 CFR 938.15.

II. Discussion of the Proposed Amendment

By letter dated November 2, 1999 (Administrative Record No. PA–845.02), the Pennsylvania Department of Environmental Protection (PADEP) submitted a proposed amendment to its program pertaining to ownership and control, bonding, civil penalties and areas unsuitable for mining.

PADEP proposes to amend certain provisions of 25 Pennsylvania Code Chapter 86, Surface and Underground Coal Mining: General, as follows:

Section 86.1. Definitions

1. Owned or controlled or owns or controls. PADEP proposes to change this terminology by substituting the word "and" for the second "or" so it now reads—Owned or controlled and owns or controls. PADEP also proposes to modify subparagraph (iii)(E) by deleting the specified percentages of 10–50% and including a reference to percentages in the Federal regulations instead.

2. Related party. PADEP proposes to exclude from this definition persons who are excluded as owners or controllers based on a percentage of ownership under the definition of "owned or controlled and owns or controls'.

3. Willful Violation. PADEP proposes to add this definition which states that a willful violation is an act or omission which violates the acts, this chapter, Chapter 87, 88, 89, or 90, or a permit condition required by them, committed by a person who intends the result which actually occurs.

Section 86.124(a)(6) Areas Unsuitable for Mining

PADEP proposes to remove language allowing petitions for unsuitability to be submitted after an administratively complete surface mining permit has been filed and the first newspaper notice has been published. PADEP also proposes to add a statement that the Department will provide written notice to the petitioner with a statement of its findings.

Section 86.152(d) Adjustments (Bond Amount)

PADEP proposes to add section (d) to require notification of proposed adjustments to bond amounts to the permittee, the surety and any person with a property interest in collateral who have requested such notification. The proposed rule also adds language providing the permittee an opportunity for informal conference on the adjustment.

Section 86.156 Form of the Bond

PADEP proposes to add a self bond to the type of bonds the Department may accept in new subsection (3). Existing subsection (3) is re-numbered as (4) and modified to substitute the term "bonding instruments" for surety and collateral bonds and bond. Existing subsections (4) and (5) are re-numbered as (5) and (6), respectively.

Section 86.160 Combination of Bonding Instruments

PADEP proposes to change the title of this section from "Surety/collateral combination bond" to that above, and to further modify the section to include self bonds as part of the combination of bonds that may be accepted.

Section 86.171 Procedures for Seeking Release of Bond

PADEP proposes to add a phrase to this section that requires the Department to inspect a site for bond release within 30 days or as soon thereafter as weather conditions permit.

Section 86.182 Procedures

PADEP proposes to add new subsection (a) which requires the Department to notify the permittee and surety of its intent to forfeit the bond. Existing subsections regarding bond forfeiture currently lettered as (a) through (g) are re-lettered as (b) through (h) without modification.

Section 86.193 Assessment of Penalty

PADEP proposes to increase the threshold for assessment of a penalty from $1000 to $1100 in subsections (b) and (c). PADEP also proposes to drop mandatory penalties for violations of conducting surface mining activities off the permitted area by deleting subsections (d) through (g).

Section 86.194 System for Assessment of Penalties

PADEP proposes to add language in subsection (b)(1)(vi) allowing an additional civil penalty amount up to the statutory limit to be assessed in extraordinary circumstances.

PADEP also proposes to specify $3,000 as the upper limit to be assessed based on seriousness in subsection (b)(1).

PADEP also proposes to modify subsection (b)(2), Culpability, by lowering the maximum limit from $1500 to $1200. Also, the proposed minimum limit for violations of willful or reckless conduct are to be assessed a minimum of $260, down from $2000.

PADEP also proposes to change the criteria for credit to be given for speed of compliance in subsection (b)(3).

PADEP also proposes to delete the phrase "without limitation" in subsection (b)(4).

PADEP also proposes to reduce the review period for the history of previous violations from two years to one in subsection (b)(6).

PADEP proposes to add new subsection (f) entitled "Revision of civil penalty" . Subsection (1) is added and explains that the Department may revise a civil penalty calculated in accordance with dollar limits included in subsection (b) and that the basis for revision would be fully explained and documented. New subsection (2) is added to explain that if the Department revises the civil penalty, the Department will use the general criteria in subsection (b) and will give a written explanation of the basis for the revision to the person to whom the order was issued.

Section 86.195(c) Penalties Against Corporate Officers

PADEP proposes to add new subsection (c) which provides for a stay and withdrawal of individual civil penalties under certain conditions.

Section 86.201 Procedures for Assessment of Civil Penalties

PADEP proposes to add new subsection (a) to allow operators to submit information to the Department and the inspector concerning violations within 15 days of service of a notice of violation or order. Existing subsections (a) through (d) are re-lettered (b) through (e), respectively. PADEP also proposes to add new subsection (f) to restrict the use of certain evidence in formal review proceedings. Existing subsection (f) is re-lettered as (g).

Section 86.202 Final Action

PADEP proposes to change the title of this section from "Appeal Procedures" to that above.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on December 14, 1999. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of the meetings will be posted in advance at the locations listed above under **ADDRESSES**. A summary of meeting will be included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the

data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 18, 1999.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99–30884 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–127–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Pennsylvania Regulatory Program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Pennsylvania has submitted this proposed amendment to reflect changes made to regulations in the Pennsylvania program dealing with the Small Operator Assistance Program (SOAP). This proposal modifies some requirements and adds other requirements dealing with SOAP.

DATES: Written comments must be received by 4 p.m., on December 29, 1999. If requested, a public hearing on the proposed amendment will be held on December 27, 1999. Requests to speak at the hearing must be received by 4 p.m., on December 14, 1999.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert J. Biggi, Director, Harrisburg Field Office at the first address listed below. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking (or administrative) record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking (or administrative) record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public meetings or hearing, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center, 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation, Rachel Carson State Office Building, Post Office Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5103.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Harrisburg Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director Harrisburg Field Office, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments, can be found in the July 30, 1982, **Federal Register** (47 FR 33079). Subsequent actions concerning the Pennsylvania program amendments are identified at 30 CFR 938.15.

II. Discussion of the Proposed Amendment

By letter dated November 8, 1999 (Administrative Record No. PA–846.02), the Pennsylvania Department of Environmental Protection (PADEP) submitted a proposed amendment to its program regarding changes to SOAP made because of the Department's Regulatory Basics Initiative (RBI). Under the RBI, regulations are revised because they were considered unclear, unnecessary or were more stringent that the corresponding federal regulations.

The changes proposed by PADEP in this amendment apply to the following parts of the Pennsylvania program: 25 PA Code 86.80–86.87, 86.91, 86.92, 86.94, and 86.95. These changes are summarized below.

1. A new section, 25 PA Code 86.80 titled "Definitions," is proposed to be added to the Pennsylvania program. A definition of the term "qualified consultant and qualified laboratory" is proposed to be added to this section. The term is defined as a designated public agency, private consulting firm, institution or analytical laboratory which can provide the required services under this program in accordance with § 86.92 (relating to basic qualifications).

2. Several changes are proposed for 25 PA Code 86.81. The first sentence in this section is proposed to be identified as subsection (a) and the phrase "for qualified small operators who request assistance" is proposed to be removed. A new subsection (a)(1) which states "Review requests for assistance," is proposed and the former subsection (1) is proposed to be designated as (a)(2). A change to former subsection (1)(iii) [now designated as (a)(2)(iii)] proposes that under SOAP the Department will pay a qualified consultant to provide a description of existing resources within and adjacent to the proposed area in accordance with one of the following:

(A) Section 87.41–87.47, 87.50 and 87.54.
(B) Sections 88.21–88.27 and 88.31.
(C) Sections 89.33–89.36, 89.38 and 89.74.

These referenced sections were changed from the original language which required a description of the existing resources in accordance with either §§ 87.41–87.50, 87.52–87.54, 88.21–88.33 or §§ 89.33–89.38, 89.71–89.74, 89.102, 89.121, 89.122, 89.141, 89.142(a).

PADEP is proposing to change references to other regulations in former subsection (1)(iv) [now designated as (a)(2)(iv)]. This subsection requires detailed descriptions of the proposed coal mining activities showing the manner in which the proposed permit area will be mined and reclaimed in accordance with references with other regulations. The proposal now reads: "Provide a detailed description, to

include maps, plans and cross sections, of the proposed coal mining activities showing the manner in which the proposed permit area will be mined and reclaimed in accordance with one of the following:

(A) Sections 87.69, 87.77 and 87.84 (relating to protection of hydrologic balance; protection of public parks and historic places; and, fish and wildlife protection and enhancement plan).

(B) Sections 88.49, 88.56 and 88.62 (relating to protection of hydrologic balance; protection of public parks and historic places; and fish and wildlife protection and enhancement plan).

(C) Sections 89.33–89.36, 89.38 and 89.74.

Former subsection (2) is proposed to be relabeled as (a)(3) and a new subsection (b) is proposed to be added. Subsection (b) states "If funds allocated by the Department for the payment of services provided to the applicant are less than those required to pay for the services, the applicant is responsible for costs exceeding the amount of funds allocated for the services provided to the applicant."

3. The changes proposed for 25 PA Code 86.82 include deleting subsection (a)(1) which states the Department will review requests for assistance and determine qualified operators. This change will cause subsequent subsections to be renumbered, *e.g.*, former subsection (a)(2) is now (a)(1), former subsection (a)(3) is now (a)(2), former subsection (a)(4) is now (a)(3) and former subsection (a)(5) is now (a)(4).

4. One subsection of 25 PA Code 86.83 was proposed to be changed. In subsection (a)(2) the phrase "the applicant's operations during the 12-month period immediately following the date" has been deleted. This subsection as proposed now reads "Establishes that the probable total attributed annual production from all locations on which the applicant is issued the mining activities permit will not exceed 300,000 tons."

Additionally, PADEP is proposing to add subsection (c) to 25 PA Code 86.83. This subsection states "For the purpose of this subchapter, measurement of coal production will be based on the production reported to the office of surface mining reclamation and enforcement for the purpose of the reclamation fee payment."

5. There are several changes proposed for 25 PA Code 86.84. Subsection (a) is proposed to be deleted and former subsection (b) is relabeled as subsection (a). The first phrase in the new subsection (a) is proposed to read "An application for assistance shall contain the following information." Other changes include the proposed deletion of former subsection (a)(2)(iii) which required a SOAP application to contain the surface mining operator's license number, if applicable. A requirement to provide the mine operator's license number now appears as newly proposed subsection 86.84(a)(7). Finally, subsection (c) has been relabeled as subsection (b) and is proposed to be changed to read "The application shall be attested by a notary public or district justice."

6. PADEP is proposing to add subsection (a)(3) to 25 PA Code 86.85. Subsection (a)(3) reads "Provide the applicant a copy of the contract or other appropriate work order for the qualified consultants' services and the consultants' report within 15 days of the Department's final approval." Subsection (b) of 25 PA Code 86.85 is proposed to be changed to read "The granting of assistance under this program does not imply that the Department will approve a subsequent permit application." In addition, PADEP is proposing to add subsection (c) to 25 PA Code 86.85. This proposed subsection reads "Within 45 days of receipt of a complete application for assistance, the Department will inform the applicant in writing if the application is denied and will state the reason for denial."

7. PADEP is proposing to delete 25 PA Code 86.86. This section required the Department to provide the applicant a copy of the contract or other appropriate work order for the consultants' services and the final approval report. This section also required the Department to inform the applicant in writing if the application is denied and to state the reason for denial. PADEP is proposing to retitle this section as "Reserved."

8. PADEP is proposing to change the sentence structure of subsection (a) of 25 PA Code 86.87. The proposed language now reads "The Department will determine the data collection requirements to meet the objectives of the program for each applicant or group of applicants. Development of information on environmental resources, operation plans and reclamation plans may proceed concurrently with data collection and analyses required for the determination of the probable hydrologic consequences of the proposed mining activities if specifically authorized by the Department in an approved work order."

9. PADEP is proposing to delete 25 PA Code 86.91. This section was titled, "Definitions and Responsibilities" and contained in subsection (a) definitions for the terms "qualified consultant" and "qualified laboratory." These terms are now defined under the proposed section 25 PA Code 86.80. Subsection (b) required persons who wanted to be included in a list of qualified consultants or laboratories to apply to the Department. This subsection, with some modifications, has been moved to 25 PA Code 86.92(c). Subsection (c) required the Department to designate and maintain a list of qualified consultants and laboratories who demonstrate that they meet the qualifications of § 86.92. PADEP is proposing to retitle this section as "Reserved."

10. In 25 PA Code 86.92, PADEP is proposing to add subsection (c). This subsection reads "Persons who desire to be included in the list of qualified consultants or qualified laboratories established by the Department under § 86.82 (relating to responsibilities) shall apply to the Department and provide the information necessary to establish the qualifications required by this section."

11. PADEP is proposing two changes to 25 PA Code 86.94. The first change in subsection (a)(3) replaces the word "mine" with the term "commence mining." The proposed revision reads "Fails to commence mining within 3 years after obtaining a permit." The second proposed revision is the deletion of subsection (c) and the subsequent relabeling of subsection (d) as subsection (c). The deleted language of former subsection (c) stated "If funds allocated for the services are less than those required to pay for the services, the applicant is responsible for costs exceeding the amount of funds allocated for the services to the applicant."

12. The final change proposed by PADEP is the deletion of 25 PA Code 86.95. This section was titled, "Measurement" and reads "For the purpose of this program, measurement of coal production will be based on the production reported to the Office of Surface Mining Reclamation and Enforcement for the purpose of the reclamation fee payment." PADEP is proposing to retitle this section as "Reserved."

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Pennsylvania satisfies the applicable requirements for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administration Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on December 14, 1999. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

If a public hearing is held, it will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of the meetings will be posted in advance at the locations listed above under **ADDRESSES.** A summary of meeting will be included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not produce a Federal mandate of $100 million or greater in any year, *i.e.*, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 18, 1999.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99–30883 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF57

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Reopening of Comment Period on the Proposed Rule To List the Scaleshell Mussel as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: We, the Fish and Wildlife Service, pursuant to the Endangered Species Act of 1973, as amended (Act), provide notice that we are holding a public hearing and reopening the comment period on the proposed rule to list the scaleshell mussel (*Leptodea leptodon*) as an endangered species. We invite all interested parties to submit comments on this proposal. The reopening of the comment period will further opportunity for all interested parties to submit comments on the proposal, which is available (see **ADDRESSES**).

DATES: The public hearing will be held from 7 PM to 10 PM on Wednesday, December 8, 1999, in Jefferson City, Missouri. The comment period is reopened on November 29, 1999, and will close on January 7, 2000. In the final decision on this proposal, we will consider any comments received by the closing date.

ADDRESSES: The public hearing will be held at the Runge Conservation Nature Center Auditorium located in Jefferson City, Missouri, approximately 0.5 miles north of Highway 50 on Highway 179. You may submit written comments and materials concerning the proposal at the hearing or send them directly to the Field Supervisor, U.S. Fish and Wildlife Service, 608 East Cherry Street, Room 200, Columbia, Missouri 65201–7712.

Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above U.S. Fish and Wildlife Service address.

FOR FURTHER INFORMATION CONTACT: Andy Roberts (see **ADDRESSES** section), 573/876/1911, extension 110; facsimile 573/876/1914.

SUPPLEMENTARY INFORMATION:

Background

The scaleshell mussel (*Leptodea leptodon*) historically occurred in 13 states in the eastern United States. Currently, the species is known from a few scattered populations within the Mississippi River basin in Missouri, Oklahoma, and Arkansas. Scaleshell inhabits medium-sized to large rivers with stable channels and good water quality. The abundance and distribution of scaleshell has decreased from habitat loss and adverse effects associated with water quality degradation, reservoir construction, sedimentation, channelization, and dredging. These habitat changes have resulted in significant extirpations, restricted and fragmented distributions, and poor recruitment.

On August 13, 1999, we published a rule proposing endangered status for the scaleshell mussel in the **Federal Register** (64 FR 44171). Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*) requires that we hold a public hearing if it is requested within 45 days of the publication of the proposed rule. We received numerous requests for a hearing from the public within the allotted time. Public hearings are designed to gather relevant information that the public may have that we must consider in determining the status of and threats to this species. We invite the public to submit information and comments either at the hearing on December 8, 1999, or in writing on or before the close of business January 7, 2000.

The hearing will be at the Runge Conservation Nature Center, Jefferson City, Missouri on Wednesday, December 8, 1999, from 7:00 PM to 10:00 PM. An informal open forum will be held prior to the public hearing from 5:00 to 6:30 PM at the public hearing location. The purpose of the forum is to answer specific questions regarding the proposed rule. All interested parties are invited to attend. We encourage persons wishing to comment at the formal hearing to provide a written copy of their statement at the start of the hearing. Oral statements given at the formal hearing may be limited in length, if the number of parties who wish to comment necessitates such a limitation. There is no limit on the length of written comments. Persons may also send written comments to our office (see **ADDRESSES** section) at any time during the open comment period. Equal consideration is given to oral and written comments. We are publishing legal notices announcing the date, time, and location of the hearing in newspapers, concurrently with this **Federal Register** notice. The comment period on the proposal initially closed on October 13, 1999. To accommodate the hearing, we are reopening the public comment period upon publication of this notice. The public comment period will close on January 7, 2000.

Author: The primary author of this notice is Andy Roberts (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: November 8, 1999.

Charles M. Wooley,

Assistant Regional Director, Ecological Services.

[FR Doc. 99–29821 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 991116306–9306–01; I.D. 102099C]

RIN 0648–XA40

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List Columbia River Eulachon (*Thaleichthys pacificus*) as Endangered or Threatened

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of petition finding.

SUMMARY: NMFS has received a petition to list Columbia River populations of eulachon (*Thaleichthys pacificus*) as an endangered or threatened species and to designate critical habitat under the Endangered Species Act (ESA). NMFS determines that the petition does not present substantial evidence to warrant the listing of eulachon at this time.

ADDRESSES: Requests for copies of the petition and comments regarding Columbia River eulachon should be submitted to Chief, Protected Resources Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232. The petition and supporting data are available for public inspection, by appointment, Monday through Friday at this address.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region, 503/231-2005 or Marta Nammack, NMFS, Office of Protected Resources, 301/713-1401.

SUPPLEMENTARY INFORMATION:

Background and Analysis of Petition

Section 4 of the ESA contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce (Secretary) to add a species to or remove a species from the List of Endangered and Threatened Wildlife and to designate critical habitat. On July 16, 1999, the Secretary of Commerce (Secretary) received a petition from Mr. Sam Wright of Olympia, Washington, to list and designate critical habitat for Columbia River populations of eulachon (commonly called smelt or candlefish).

Section 4(b)(3)(A) of the Endangered Species Act (16 U.S.C. 1531–1544) requires that the NMFS make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. In determining whether substantial information exists for a petition to list a species, NMFS will take into account information submitted with, and referenced in, the petition and all other information readily available in NMFS' files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the *Federal Register*. If NMFS finds that a petition presents substantial information indicating that the requested action may be warranted, section 4(b)(3)(B) of the ESA requires NMFS to make a finding as to whether or not the petitioned action is warranted within 1 year of the receipt of the petition.

In evaluating a petitioned action, the Secretary considers several factors, including whether the petition contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species (50 CFR 424.14(b)(2)(ii)). In addition, the Secretary considers whether the petition provides information regarding the status of the species over all or a significant portion of its range (50 CFR 424.14(b)(2)(iii).

Under the ESA, a listing determination can address a species,

subspecies, or distinct population segment (DPS) of a species (16 U.S.C. 1532(15)). The petitioner requested listing the "population, stock, or evolutionarily significant unit that is found in the Columbia River system and its tributaries." He further identified these entities as "an important, existing (but severely depressed) indigenous fish resource which is currently at risk (threatened or endangered) and has no reasonable expectation of being able to recover over time by itself and/or from the surplus production of an adjacent or nearby population of the same species." Such a definition is not used in the ESA and it is important to note that the term evolutionarily significant unit or "ESU" is currently defined only for DPSs of Pacific salmonids (see 56 FR 58612, November 20, 1991). For other species such as the eulachon, NMFS would instead rely on the DPS framework described in a NMFS/U.S. Fish and Wildlife Service policy regarding the identification of distinct vertebrate population segments (61 FR 4722, February 7, 1996). Since the petitioner focused on stocks within the Columbia River basin (rather than the entire species), NMFS considered the petition in the context of defining DPSs in this area that may warrant listing under the ESA.

NMFS evaluated whether the information provided or cited in the petition met the ESA's standard for "substantial information." The agency also reviewed other information readily available to NMFS scientists (i.e., currently within agency files) and consulted with fisheries experts from Washington and Oregon about this species to determine if there was general agreement on issues related to the uniqueness, distribution, abundance, and threats to the petitioned species/populations. With respect to uniqueness, NMFS assessed whether the petitioner's and otherwise available information might support the identification of DPSs that may warrant listing under the ESA.

The petitioner accurately identified the major Columbia River tributaries known to have spawning runs of eulachon. However, the species' distribution ranges from northern California to Alaska and the petitioner did not describe why Columbia River eulachon are distinct from other coastal populations. In fact, the petitioner acknowledged that eulachon originating from the Columbia River appear to make spawning runs into other coastal streams, including the Chehalis, Quinault, Quillayute, and Queets Rivers. Washington state and tribal sources substantiate the species' occurrence in these rivers as well as Willapa Bay (J. DeVore, Washington Department of Fisheries, pers. comm.) and the Moclips River (S. Ellis, Northwest Indian Fisheries Commission, pers. comm.). Such behavior may not support the contention that the Columbia River basin is a DPS for this species. Additionally, NMFS reviewed recent genetic data from McLean *et al.* (in press) indicating that there is little genetic differentiation between eulachon stocks from Alaska, Oregon, Washington, and British Columbia. These authors contrast this lack of population structure to the more distinct subdivisions seen in other anadromous fish, notably Pacific salmon. McLean *et al.* (in press) also cite reports of significant recent declines in British Columbia eulachon populations, but assert that genetic data suggest that the long term adaptive potential of this species has likely remained unharmed. The petitioner similarly noted some of the genetic findings in McLean *et al.* (in press), but failed to refute them or provide evidence that the Columbia River populations may be an entity (DPS) suitable for listing under the ESA.

Environmental conditions also appear to play a major role in the choice of spawning areas, as reflected in the opportunistic selection of spawning sites and in the lack of genetic differences between areas. The petitioner cited information indicating a correlation between water temperature and migration timing, noting that "eulachon strayed to a number of Washington coastal areas in 1993 due to the cold water temperature in the Columbia River system." Hence there is evidence indicating that eulachon originating from the Columbia River basin are not necessarily distinct from other coastal populations.

NMFS also assessed whether the petitioner accurately reflected any known trends in abundance or threats to the species, and moreover, whether these trends/threats would lead a reasonable person to believe that the species was threatened or endangered under the ESA. Section 3 of the ESA defines the term "endangered species" as "any species which is in danger of extinction throughout all or a significant portion of its range." The term "threatened species" is defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range."

The petitioner provided data summarizing the commercial catch of eulachon in the Columbia River and five tributaries from 1938–1999. These data suggest that eulachon catches are currently at a historic low. However, a closer examination underscores that caution is needed before interpreting these data as a good estimator of actual population abundance. For example, the data clearly show that catches of zero fish are not necessarily indicative of a population that, as asserted by the petitioner, has "no reasonable expectation of being able to recover over time by itself and/or from the surplus production of an adjacent or nearby population of the same species." All of the tributary catch records presented in the petition contain at least 2 consecutive years when eulachon landings were nonexistent (and as many as 16 consecutive years). Of significance is that several of these "disappearances" have occurred over a period longer than the species' reported life span. Also, zero catch years are not a recent phenomenon; the petition contains data indicating that zero landings were reported in at least one of the major tributaries as early as 1938 and possibly decades earlier.

Eulachon have been a commercially important species for more than 100 years. As noted by the petitioner, variable market demand for the species resulted in annual run sizes that "were often much larger and varied much more from year to year than the catches indicated." Still, these data do allow for a qualitative approximation of run strength which has evidently been much weaker in recent years. Aside from market effects, there have been considerable changes in harvest management for this species during the past 40 years. These changes have generally resulted in more restrictive fisheries (e.g., prompted by suspected population declines), hence catch data in more recent years are not directly comparable to historic data and, moreover, may not accurately reflect recent run strength. While this species' population dynamics are not well understood, even the low harvests seen during 1993–1998 (1999 estimates are probably four times higher than those cited in the petition; J. DeVore, Washington Department of Fisheries, pers. comm.) equate to an average of well over one million eulachon returning to the Columbia River basin in recent years. This figure could be a considerable underestimate as it does not account for additional fish that are harvested by sport fishers as well as fish that escape the fisheries but are unsurveyed.

It is generally believed that this species has a highly variable or possibly cyclical run size. In fact, the petitioner cites a 1959 report by the Washington

Department of Fisheries noting "the erratic behavior of these tiny fish and the difficulty of predicting whether or not a tributary run will appear." Such a contention is also supported by the petition's catch data. A case in point is the Cowlitz River which has produced the highest overall landings and, on average, produced over 56 percent of the commercial catch of eulachon since 1938. However, this fishery has undergone major swings in catch, ranging from zero to nearly 100 percent of the reported landings for the entire Columbia River basin. Of note is a period of historically low catches in 1949 (800 lbs.; 363.20 kg), 1950 (zero), and 1951 (zero). This 3-year low was followed by 3 years when landings totaled approximately 381,000 lbs. (172,974 kg), 795,000 lbs. (360,930 kg), and 793,000 lbs (360,022 kg). Other data provided by the petitioner clearly demonstrate the tremendous variability in this species' catch record. For example, the Sandy River experienced 16 consecutive years of zero catches, followed by a 5-year period which yielded the second (1977) and fourth (1979) highest landings on record. Similar evidence can be seen in the catch records for the Grays, Kalama, and Lewis Rivers where eulachon seemed to disappear from the catch data for 5 or more years (i.e., greater than the species' reported life span) only to return to these rivers, sometimes in near record abundance.

There were few data provided in the petition (or readily available to NMFS) on eulachon run sizes in coastal streams, aside from mention that some Washington coastal streams have had occasional spawning runs. Emmett *et al.* (1991) characterized adult eulachon as abundant in the Columbia and Klamath Rivers, common in Grays Harbor, Willapa Bay, and the Umpqua River, and rare in Puget Sound, the Siuslaw River, Coos Bay, Rogue River, and Humboldt Bay. While these characterizations may not reflect more recent eulachon abundances (which were of primary concern to the petitioner), they do indicate that there are potentially numerous streams - within and outside the Columbia basin - that are unsurveyed but still used by spawning eulachon.

Recent sampling for larval eulachon also demonstrates that the commercial catch record does not represent a complete picture of the species' distribution and abundance. For example, zero eulachon were reported in the 1998 landings for the Grays, Kalama, Lewis, and Sandy Rivers. However, information supplied in the petition indicated that 1998 surveys yielded larval eulachon in all of these tributaries. As noted previously, several large coastal streams in Washington have also had recent spawning runs of eulachon, and other Columbia River tributaries are also believed to attract spawning eulachon, but these populations are of unknown size and largely unsurveyed (P. Frazier, Oregon Department of Fish and Wildlife, pers. comm.). In summary, these catch data are not a reliable measure of population abundance or even eulachon presence/absence.

Finally, the petitioner noted several potential factors for decline, including harvest (recreational, commercial, and bycatch), pinniped and avian predation, competition/predation from American shad (*Alosa sapidissima*), adverse environmental conditions, habitat loss, and productivity concerns potentially attributable to skewed sex ratios in the eulachon population. While much of this is speculation or based on correlations with little or no solid research basis, the NMFS concurs with information presented in the petition indicating that ocean conditions are probably the most important factor controlling eulachon abundance, and even riverine conditions (e.g., water temperature) play a major role in determining the species' spawning distribution and abundance.

Petition Finding

After reviewing the petition, as well as information readily available to NMFS scientists, the NMFS determines that the petition does not present substantial scientific information indicating the petitioned action may be warranted. While the petition does indicate that eulachon catches have recently declined in the Columbia River basin, NMFS does not believe that the information is substantial enough to warrant a status review at this time. This finding is supported by observations that the species is likely more abundant than commercial landings indicate and, based on life history attributes (e.g., the species' high fecundity and short life span) and assumptions from catch data and anecdotal reports, has a demonstrated ability to rebound from periods of low abundance.

The data provided by the petitioner and available to NMFS are far from robust, hence the decision to not initiate a status review relies heavily on the professional judgement of agency scientists. However, there is some cause for concern over the species' apparent decline in the Columbia River basin and NMFS will admonish state and tribal co-managers to redouble efforts focusing on eulachon management and research. In particular, the agency will underscore the need to evaluate whether current harvest strategies are adequately protective of the species and to move apace with additional, more accurate eulachon abundance and life history surveys. The Washington Department of Fish and Wildlife has recently identified the eulachon as a candidate for state listing as threatened or endangered, and the resultant studies and status reports should yield information critical for determining the health of Washington eulachon stocks, including stocks outside the Columbia River basin but potentially related to the petitioned populations. If new information becomes available to suggest that the eulachon may in fact warrant listing under the ESA, NMFS will reconsider conducting a species status review.

References

Emmett, R.L., S.A. Hinton, S.L. Stone, and M.E .Monaco. 1991. Distribution and abundance of fishes and invertebrates in West Coast estuaries, Volume II: species life history summaries. Estuarine Living Marine Resources Program Report No. 8. NOAA/NOS Strategic Environmental Assessments Division, Rockville, MD. 329 p. (Available from Protected Resources Division, NMFS., 525 NE. Oregon Street, Portland, OR 97232.)

McLean, J.E., D.E. Hay, and E.B. Taylor. In Press. Marine population structure in an anadromous fish: life history influences patterns of mitochondrial DNA variation in the eulachon, *Thaleichthys pacificus*. Department of Zoology, University of British Columbia, Vancouver, B.C.

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701; 16 U.S.C. 1361 *et seq.*

Dated: November 22, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–30915 Filed 11–26–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 228
Monday, November 29, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number LS–99–16]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) request for comments on an extension for and revision to a currently approved information collection related to the assessment of State and private organic certifying agencies by the Meat Grading and Certification (MGC) Branch. The assessment program was established to verify that State and private organic certifying agencies comply with the requirements prescribed under the International Organization for Standardization International Electrotechnical Commission Guide 65 "General Requirements for Agencies Operating Product Certification Systems" (ISO Guide 65). This enables organic certifying agencies to comply with European Union (EU) requirements in a consistent and reliable manner thereby, facilitating uninterrupted exports of U.S. organic agricultural commodities to the EU.

DATES: Comments on this notice must be received on or before January 28, 2000 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Contact Mark Bradley, Quality Systems Manager, Meat Grading and Certification Branch, Livestock and Seed Program, AMS, USDA, STOP 0248, Room 2628–S, 1400 Independence Avenue, SW., Washington, DC 20250–0248, Telephone (202) 720–1246, or Fax (202) 690–4119.

SUPPLEMENTARY INFORMATION: The voluntary assessment program at 7 CFR Part 37 was established under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) to verify that State and private organic certifying agencies comply with the requirements prescribed under ISO Guide 65. To be assessed under this program, an organic certifying agency must submit an application to AMS requesting an assessment. Also a manual documenting the organic certifying agency's quality system and associated quality certification procedures used to certify organic producers and handlers of organically produced agricultural commodities (including those involved with wild crop harvesting) in accordance with applicable industry standards must be submitted to AMS.

According to the most complete data available to AMS, there are 11 State and 33 private organic certifying agencies currently providing organic certification for agricultural commodities in the United States. These certifying agencies provide service to approximately 4,000 organic producers and 600 handlers of agricultural commodities in the United States. ISO Guide 65 assessment will ensure that State and private organic certifying agencies operating third-party certification systems are doing so in a consistent and reliable manner; thereby, facilitating their acceptance on an international basis. Assessing organic certifying agencies under ISO Guide 65 enables U.S. organic producers and handlers of U.S. organically produced agriculture commodities to continue to export to the EU.

Title: Program to Accredit Organic Certifying Agencies.

OMB Number: 0581–0183.

Expiration Date of Approval: 11/30/99 (extension sought).

Type of Request: Extension and revision of a currently approved collection.

Abstract: The information collection and recordkeeping requirements in this notice are essential to the voluntary assessment program which verifies State and private organic certifying agencies compliance with the requirements of the International Organization for Standardization (ISO) Guide 65.

Based on information available, the Agency has determined that there are currently 11 State and 33 private organic certifying agencies. These certifying agencies conduct their certification of organic farms and handling operations in a similar manner and have similar recordkeeping systems and business operation practices. The agency also determined that most of the information required to conduct the assessment process could be collected from certifying agencies' existing materials without creating new forms, and that the information currently used by certifying agencies to certify organic producers and handlers could be adapted to comply with this program. The Paperwork Reduction Act also requires the agency to measure the recordkeeping burden. These organic certifying agencies have documented review and auditing procedures and maintain appropriate records and documents for up to 5 years on each certified organic farm or handler of organic products. The recordkeeping burden is the amount of time needed to store and maintain records.

The information collection requirements include: (1) Submission of an application requesting to be assessed to ISO Guide 65, (2) the preparation and submission of a quality manual documenting the procedures that certifying agencies use to provide certification services, and (3) an on-site audit of certifying agencies certification operation programs to determine whether the certifying agencies have implemented the provisions of the quality manual and are in compliance with the requirements of ISO Guide 65. These information collection requirements have been designed to minimize disruption to the normal business practices of organic certifying agencies.

The application form requires the minimal amount of information necessary including: (1) Firm name, address, telephone number, and other information necessary to identify the certifying agency and its location, and (2) other pertinent information to determine that a firm is eligible to apply and receive services available through the program to assess organic certifying agencies. Such information can be supplied without data processing equipment or outside technical expertise.

The on-site audit consists of a review and evaluation of a certifying agency's

process for certifying organic farms and handlers. Verifying implementation of the provisions of a certifying agency's quality manual and compliance with the requirements of ISO Guide 65, includes a review and evaluation of existing records and documents described in the quality manual, interviews of certifiers' employees and customers, and observation of certification activities.

On June 9, 1999, an interim final rule with request for comments was published in the **Federal Register**. That rule established the assessment program under the Agricultural Marketing Act of 1946. Since the interim final rule contained recordkeeping and submission requirements that were subject to public comment and to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, AMS included in the rulemaking the description of the reporting and recordkeeping requirements and an estimate of the annual burden on organic certifying agencies. Further, because there was insufficient time for normal clearance procedures, AMS received temporary approval from OMB for use of the information collection and recordkeeping requirements in order to implement the assessment program for organic certifying agencies on an expedited basis. AMS is seeking an extension of the approval that expires on November 30, 1999. AMS is also publishing for comment this notice of a request for extension and revision of a currently approved information collection. One comment was received that addressed the information collection and recordkeeping requirements as a result of the June 9, 1999, rulemaking. This comment was made concerning a paragraph in the Regulatory Flexibility Act section of the rule stating that "We estimate the cost of providing and obtaining the information required in this rule to assess State and private organic certifying agencies is $590 per certifying agency." The commentor stated that "The above statement combined with the financial contained in the Paperwork Reduction Act section, shows that the AMS is seriously underestimating the time needed for certifying agents to prepare for and complete an ISO Guide 65 audit. Certifiers who have completed such audits were consulted prior to the publishing of the **Federal Register** notice. They estimated that approximately 10 times the figure $590 would be needed to prepare, conduct and come into compliance with an ISO 65 audit." However, the commentor did not specify separately the number of hours required to apply for service, complete a quality manual, and maintain records for on-site audits. Based on this comment AMS has reviewed the estimated burden contained in the interim final rule.

The estimated annual reporting and recordkeeping burden hours in the interim final rule were the agency's best estimates, based on information available at the time, of the costs associated with completing the request for application, preparing and submitting a quality manual, and maintaining records. The revised figures in this notice are based on costs obtained from organic certifying agencies who have been using the service for approximately the last 6 months, thereby giving AMS more information about the time to apply for service, completing and submitting a quality manual, and maintaining records for on-site audits. Three organic certifying agencies provided information. This information indicated that the time required to complete an application ranged from 5 minutes to 30 minutes; time required to complete and submit a quality manual ranged from 5 hours to 40 hours; and time required for maintenance of records ranged from 0 to 40 hours. Therefore, taking into account this information the agency has decided to revise the estimated annual reporting and recordkeeping burden based on the maximum hours provided by the organic certifying agencies. Accordingly, the annual reporting and recordkeeping burden hours have been increased from 1024 to 1760 for the quality manual and from 264 to 1760 for the maintenance of records. The total average cost increased from approximately $590 per certifying agency to approximately $1,605 per certifying agency.

1. Application for Service—Form LS–314.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: State and private organic certifying agencies.

Estimated Number of Respondents: 44.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 11 hours.

Total Cost: $220.

2. Quality Manual.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 40 hours per response.

Respondents: State and private organic certifying agencies.

Estimated Number of Respondents: 44.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1760 hours.

Total Cost: $35,200.

3. Maintenance of records for an on-site audit.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 40 hours per response.

Recordkeepers: State and private organic certifying agencies.

Estimated Number of Recordkeepers: 44.

Estimated Total Recordkeeping Hours: 1760 hours.

Total Cost: $35,200.

The total average cost of the estimated annual reporting burden per certifying agency would be approximately $1,605.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Mark Bradley, Quality Systems Manager, Meat Grading and Certification Branch, Livestock and Seed Program, AMS, USDA, STOP 0248, Room 2628–S, 1400 Independence Avenue, SW., Washington, DC 20250–0248 or by E-mail to Mark.Bradley@usda.gov. Comments should reference docket number LS–99–16. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: November 22, 1999.

Barry Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 99–30948 Filed 11–26–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Installation and Improvement of Grain Cleaning Equipment

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) is soliciting public comment on the merits of whether the CCC should finance, in some manner, the installation or upgrading of grain cleaning systems at wheat export elevators in the United States. The goal of this initiative, if undertaken, would be to improve the quality and competitiveness of U.S. wheat exports by insuring that foreign buyers may readily purchase U.S. wheat with dockage specifications substantially lower than currently available from export elevators.

DATES: Written comments on this notice must be received on or before December 29, 1999 to be assured of consideration. A public meeting concerning the subject matter of this notice will be held. The place, date, and time of the meeting will be announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Please direct written correspondence to: Timothy J. Galvin, Administrator, Foreign Agricultural Service, Room 5071, 1400 Independence Ave. SW, Washington, DC 20250. Telephone, fax or e-mail correspondence may be directed to: Sam Dunlap, Assistant to the Administrator, Foreign Agricultural Service, Phone: (202) 720–1743, Fax: (202) 690–0493, e-mail: dunlaps@fas.usda.gov.

SUPPLEMENTARY INFORMATION: U.S. producers of wheat—particularly growers of Hard Red Winter Wheat—cite on-going complaints from foreign buyers about the cleanliness (and therefore perceived quality) of U.S. wheat, especially in comparison to the wheat available from certain foreign competitors. Although this complaint has been a long-standing theme among some public and private sector buyers, as well as some U.S. producers, the increasing trend toward privatization of grain imports throughout the world during the 1990's may be giving the issue greater importance. The growing ranks of private sector buyers are increasingly more discriminating in making their purchase decisions, compared to their publicly-owned predecessors.

While price competitiveness remains central to purchasing decisions, major wheat export competitors have apparently capitalized on buyers' concerns about U.S. wheat cleanliness in their marketing programs. For example, the wheat offered by key export competitors, notably Australia and Canada, contains average dockage levels of about 0.2%. By comparison, dockage levels for U.S. wheat inspected for export during 1998 averaged from 0.5% to 0.7% depending on class.

A 1992 study by the USDA Economic Research Service concluded that the mandatory cleaning of all U.S. wheat exports could increase wheat exports by 2%, and that voluntary cleaning for selected markets, while not likely to attain the export increase projected by mandatory cleaning, would nevertheless have positive economic results in the form of increased exports. The Economic Research Service concluded that an overall reduction in dockage and foreign material could benefit the U.S. wheat industry only if cleaner U.S. wheat induces sufficient trade benefits to overcome the net domestic cost.

Public and private importers of wheat, especially in Asia, continue to tighten specifications for their imported wheat purchases. For example, the changing purchase specifications of one major buyer in the Pacific Rim, Japan, has already brought about the installation of wheat cleaning systems in the U.S. Pacific Northwest. An apparently growing number of smaller buyers in Latin America and other regions are seeking cleaner wheat but claim not to be able to secure the wheat from U.S. sources. They can, and reportedly have, turned to competitors to fill their needs. Yet some in the U.S. private sector apparently conclude that the costs of installing and operating grain cleaning equipment in many U.S. ports are not justified by the potential returns to private firms.

The CCC is considering providing financial assistance to support the installation or upgrading of grain cleaning equipment at export elevators. Authority for this activity is section 5(b) and (f) of the CCC Charter Act, 15 U.S.C. 714c(b) and (f). These provisions, respectively, authorize CCC to "[m]ake available materials and facilities required in connection with the production and marketing of agricultural commodities" and to "aid in the development of foreign markets" for agricultural commodities.

The CCC must consider numerous issues before initiating any activity to support the installation or upgrading of wheat cleaning facilities, including the likely scope and cost of such an initiative (with a preliminary cost estimate of approximately $5 million per facility); the extent and form of CCC's financing role; and how to ensure that those existing elevators, primarily in the Pacific Northwest, who have already undertaken such investments are not competitively disadvantaged.

Comments are invited on all aspects of this proposed initiative. However, it would be particularly helpful if comments addressed the following:

(1) The size and scope of such an initiative. For example, should the program be available to essentially all elevators providing wheat for export, or should the program be established on a pilot basis at a small number of facilities?

(2) Impact on those elevators in the United States that have already undertaken the expense of installing grain cleaning equipment. Should financing be limited largely to those regions of the country in which elevators have not yet undertaken such expenditures?

(3) The CCC's financing role. What is the appropriate role of government financing when the private sector declines to invest in grain cleaning equipment on its own? What should be the extent of CCC subsidy, ranging from guaranteeing loans on commercial terms to cost-share grants? If cost-share, should the CCC's contribution be established at a fixed percentage? Alternatively, should an elevator's willingness to finance relatively more of the investment be a competitive factor in awarding CCC financing? What costs should be financed by the CCC?

FAS will announce the place, date, and time of the public meeting regarding this proposal.

Signed at Washington DC on November 23, 1999.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service; Vice President, Commodity Credit Corporation.

[FR Doc. 99–30909 Filed 11–26–99; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–048N]

Canada's Modernized Poultry Inspection Program (MPIP)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of a paper prepared by the Canadian Food Inspection Agency (CFIA) that describes its new

Modernized Poultry Inspection Program (MPIP) for chicken, turkey, and fowl slaughter inspection in Canadian establishments that process poultry, including those that export to the United States and to other countries.

DATES: Written comments must be received on or before January 28, 2000.

ADDRESSES: Copies of the MPIP document are available from the FSIS Docket Clerk, Room 102 Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. A copy may also be obtained from the CFIA homepage at *http://www.cfia-acia.agr.ca/english/animal/meat/mmop/*mpip/mpiptoc—e.html. Submit one original and two copies of written comments to the FSIS Docket Clerk, Docket #99–048N, at the address shown above. Facsimile comments may be sent to 202–205–0381. The public can review all received comments in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For further information about the MPIP document, contact Mr. Clark Danford, Acting Director, International Policy Division; Office of Policy, Program Development, and Evaluation; (202) 720–6400; or by electronic mail to *clark.danford@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

In August 1999, CFIA submitted its proposal for a new slaughter inspection system described as the "Modernized Poultry Inspection Program." Copies are available as described in the **ADDRESSES** section above. MPIP would be used in Canadian establishments that slaughter chicken, turkey, and fowl. CFIA describes MPIP as follows: "National and international poultry inspection systems are constantly evolving. Canada and its poultry inspection programs are no exceptions. MPIP represents the latest Canadian advance in poultry inspection methodology. The CFIA is now making MPIP methodology available to federally registered poultry slaughter establishments across Canada. MPIP is a HACCP and science-based inspection system. It enhances the safety and wholesomeness of Canadian poultry products, and as a result, contributes to the viability of the Canadian poultry industry. MPIP focuses on the slaughter process within the gate to plate food safety continuum."

The CFIA has set specific objectives for its MPIP program. These objectives include the following:

"(a) Control of hazards associated with the contamination of live poultry with foodborne pathogens as received at registered establishments, and the subsequent spread of these pathogenic bacteria during the slaughter and processing of poultry;

(b) Promote the proactive control (prevent, eliminate or reduce) of hazards through the implementation of a CFIA-recognized HACCP system in poultry slaughtering establishments;

(c) Facilitate the change from prescriptive regulatory requirements to strictly enforced objective performance standards in poultry inspection;

(d) Facilitate the transition of CFIA staff from hands-on inspection to audit-based verification activities for poultry slaughter establishments operating under a HACCP system;

(e) Facilitate the assumption by industry of the detection and handling of all carcasses with defects (previously performed by CFIA inspectors) under continuous government oversight; and

(f) Respond to changing international trade requirements, e.g., Pathogen Reduction and HACCP Program Rule in the US."

Determination of Equivalence

As a result of the World Trade Organization (WTO) Agreement on Sanitary and Phytosanitary measures (commonly referred to as the "SPS Agreement"), contracting parties, including the United States, are committed to harmonizing their human, animal, and plant health import requirements by basing their sanitary and phytosanitary (SPS) import requirements on "equivalent" sanitary measures or standards. Among other things, the SPS Agreement obliges the United States to respond to requests by other contracting parties to establish the equivalence of specified poultry and poultry processing measures with those of the United States. The Canadian Government has formally requested that the United States consider its MPIP proposal to pilot-test a revised slaughter inspection system. A determination of equivalence will be necessary before any Canadian MPIP establishment may export its poultry to the United States.

FSIS will evaluate the MPIP documentation using two criteria for equivalence:

(1) Does the MPIP meet all USDA requirements for the import of poultry products to the United States?

(2) Does the MPIP afford American consumers the *same* level of public health protection provided by USDA domestic poultry slaughter inspection?

However, before making any equivalence decisions or taking any action on the MPIP document, FSIS is requesting public comment on the Canadian proposal.

Additional Public Notification

FSIS has considered, under Department Regulation 4300–4, "Civil Rights Impact Analysis," dated September 1993, the potential civil rights impact of this notice on minorities, women, and persons with disabilities. FSIS anticipates that this notice will not have a negative or disproportionate impact on minorities, women, and persons with disabilities. Notices generally are designed to provide information and public awareness of important policy developments. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce the publication of this **Federal Register** notice in the *FSIS Constituent Update*.

FSIS provides a weekly *FSIS Constituent Update*, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents. This constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would otherwise be possible. For more information or to be added to the constituent fax list, fax your request to the Agency's Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC on November 19, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–30908 Filed 11–26–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lost Moose Ecosystem Management Project, Bitterroot National Forest, Ravalli County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to disclose the environmental effects of management activities proposed in the Lost Moose Ecosystem Management Project area on the Darby Ranger District on the Bitterroot National Forest. Proposed management activities include: harvesting timber, management ignited prescribed burning, restoring ponderosa pine and aspen; precommercial thinning; fire hazard reduction treatments; and implementing road-use restrictions and watershed and recreation improvements. The Lost Moose Project Area is located in Ravalli County, Montana, approximately five miles west of the city of Hamilton and includes Lost Horse, Canyon, and Roaring Lion Creeks.

A variety of management activities proposed in the project are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25). The purposes of the project are to reduce the fuels hazard, restore site productivity, and return ecosystems to more sustainable conditions. This project level analysis will tier to the Bitterroot National Forest Land and Resource Management Plan (Forest Plan) and Final EIS (September, 1987), which provides overall guidance for all land management activities in the Bitterroot National Forest.

DATE: Written comments and suggestions should be received by January 3, 2000.

ADDRESSES: The Responsible Official is Craig Bobzien, District Ranger, Darby Ranger District, Bitterroot National Forest, PO Box 388, Darby, Montana 59829. Written comments and suggestions concerning the scope of this analysis or a request to be included on the project mailing list should be sent to him at that address.

FOR FURTHER INFORMATION CONTACT: Tami Brewer, Resource Team Leader, Stevensville Ranger District, 88 Main Street, Stevensville, Montana, 59870, phone (406) 777–5461.

SUPPLEMENTARY INFORMATION: The project area encompasses approximately 50,715 acres of land in southwestern Montana on the Bitterroot National Forest. The Lost Moose area contains lands drained by Lost Horse Creek and several other Bitterroot River tributaries including Canyon, Sawtooth, and Roaring Lion Creeks. A map and legal descriptions are available on request.

Proposals in this analysis fall into three categories: Maintaining or restoring terrestrial ecosystems; maintaining or restoring aquatic ecosystems; and managing recreation. Proposals to maintain or restore terrestrial ecosystems include: underburning on about 1, 395 acres; restoring ponderosa pine ecosystems by reducing ladder fuels and underburning on about 307 acres; reducing fire risk along the Forest/residential interface by thinning and/or underburning or burning with shelterwood harvesting, and precommercial thinning on a total of about 2,050 acres; restoring hardwood tree and shrub communities by felling conifers and/or underburning to stimulate aspen reproduction on 260 acres; and creating and maintaining wildlife trees where opportunities exist. These actions are designed to: reduce the fuels hazard—particularly along the wildland/urban interface—and restore fire as a key ecosystem process; maintain and restore vegetative structures and compositions that reflect sustainable, natural patterns and processes; maintain and restore ecosystem health and productivity; enhance wildlife habitat; and provide wood products. Additionally, specific road-use restrictions are proposed to reduce human disturbance of wildlife and comply with Forest Plan standards for elk habitat effectiveness.

Proposals to maintain or restore aquatic ecosystems include: gravelling and/or installing waterbars or drainage dips on specified road segments; road obliteration; constructing a short road segment (about 0.25 mile) to allow access through an existing loop route; and improving drainage on FS Trail #128. Fish habitat improvements include adding large woody debris to specified stream segments, planting conifers, replacing/modifying culverts, and constructing resting pools. These actions would improve stream habitat, contribute to the long-term health of aquatic ecosystems, and improve water quality.

Proposals to manage recreation include: installing interpretative signs; extending the Blodgett Overlook Trail into a loop trail; improving resource conditions on the Foss-McCrossin/Brown irrigation ditch; and improving the Lost Horse dispersed camping sites. These actions would provide a balance of recreation opportunities while managing and enhancing other resource values.

Maps and data describing these proposals in greater detail are available on request.

The Bitterroot Forest Plan provides guidance for management activities through its goals, objectives, standards, and management area direction. The areas of proposed timber harvest occur in Management Areas 2, 3a, 3c, and 5. Aspen restoration is proposed in Management Areas 3a, 3b, and 3c. Prescribed underburning is proposed on lands within Forest Plan Management Areas 3c, 5, and 5–9. The management direction for these areas is briefly described as follows. Management Area 2 emphasizes elk winter range habitat, allows for timber management, and providing roaded dispersed recreation opportunities. Management Area 3a emphasizes visual quality, allows for timber management, and providing roaded dispersed recreation opportunities. Management Area 3b emphasizes protecting riparian habitat and water quality and providing for water-related recreation. Management Area 3c emphasizes visual quality, allows for timber management, and providing dispersed recreation opportunities. Management Area 5 emphasizes semi-primitive recreation and elk security. Management Area 5–9 emphasizes semi-primitive recreation and elk security and also includes proposed research natural areas. Portions of the Selway-Bitterroot Inventoried Roadless Area lie within the analysis area where management activities are proposed. Additionally, areas of unsuitable lands lie within some harvest units.

The analysis process for the Lost Moose Ecosystem Management Project began in 1996. In April 1997 a summary of the existing conditions, purpose and need for action, and management opportunities for the assessment area was mailed. Following several public meetings, a Proposed Action was developed and mailed in March 1999. Primary issues that were identified at that time include the following: 1. How would the proposed timber harvest and prescribed burning affect the undeveloped character of this portion of the Selway-Bitterroot Inventoried Roadless Area? 2. How would the proposed activities affect fish and wildlife species that inhabit the area? 3. Can the vegetation diversity and ecological purposes of the project be met without any further timber extraction or road building in the area? 4. Are the proposed road closures necessary to improve elk habitat? 5. Would the proposed road closures cause more off-road traffic and subsequent resource damage? Other issues commonly associated with prescribed fire and timber harvest include: potential effects on water and air quality, soils, old growth, and scenery

values. This list may be verified, expanded, or modified based on public scoping for this proposal.

The Forest Service will consider a range of alternatives in the EIS. One of these will be the "no action" alternative, in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes as well as to respond to the issues and other resource values. The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Known past, present, and scheduled activities on both private and national forest lands will be considered.

In addition to the scoping that has already occurred for this project, the public is encouraged to visit with Forest Service officials at any time during the analysis prior to the decision. The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies and other organizations and individuals who may be interested in or affected by the proposed action. No further public meetings are scheduled at this time.

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in September 2000. At that time, the EPA will publish a Notice of Availability of the Draft EIS in the **Federal Register.** The Comment period on the draft EIS will be 45 days from the date that the EPA's notice of availability appears in the **Federal Register.** It is very important that those interested in the management of the Lost Moose area participate at that time. To be most helpful, comments on the Draft EIS should be as specific as possible. The Final EIS is scheduled to be completed in January 2001.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp*, v, *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft EIS stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this Proposed Action participate by the close of the scoping comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in developing issues and alternatives.

To assist the Forest Service in identifying and considering issues related to the Proposed Action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The responsible official for this EIS is Craig Bobzien, District Ranger, Darby Ranger District, Bitterroot National Forest, P.O. Box 388. Darby, Montana 59829. The decision to be made is what, if anything, should be done in the Lost Moose Project Area to: (1) Reduce the fuels hazard; (2) restore site productivity and return ecosystems to a more sustainable condition; (3) restore watersheds; (4) promote aspen reproduction to restore hardwood tree and shrub communities; and (5) provide goods and services such as wood products and recreation opportunities. He will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to Forest Service Appeal Regulations.

Dated: November 16, 1999.

Susan L. Heald,

Acting Forest Supervisor, Bitterroot National Forest.

[FR Doc. 99–30826 Filed 11–26–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lakeface-Lamb Fuel Reduction, Idaho Panhandle National Forests, Bonner County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose the potential environmental effects of reducing the wildfire risk and treating stands with insect and disease problems in the Lakeface-Lamb project area on the Priest Lake Range District, Idaho Panhandle National Forests, Bonner County, Idaho.

The proposed action includes unit-specific fuel and silvicultural treatments as well as reforestation needs, harvest techniques, and other site-specific connected actions. The proposed action is divided into several themes based on treatment needs responding to the purpose and need.

These management activities will be administered by the Priest Lake Ranger District of the Idaho Panhandle National Forests in Bonner County, Idaho. This EIS will tier to the Idaho Panhandle National Forests Forest Plan (September 1987).

DATES: Comments should be postmarked on or before December 29, 1999. Please include your name and address and the name of the project you are commenting on.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or request to be placed on the project mailing list to Kent Dunstan, Priest Lake Ranger District, 32203 Highway 57, Priest River, Idaho 83856.

FOR FURTHER INFORMATION CONTACT: David Asleson, Project Team Leader, Priest Lake Ranger District, 32202 Highway 57, Priest River, ID 83856.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27 (d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

SUPPLEMENTARY INFORMATION:

The public has raised concern about the threat of fires escaping from National Forest lands and endangering private land values. On a landscape level, the threat of severe lethal fires as defined in the Interior Columbia Basin Science Assessment has increased by nearly 20 percent, including the moist forest types found in the project area. The buildup of natural fuels is outside acceptable levels and the frequency and

intensity of fire is not within historic pattern for this area. The developed and natural resources on the National Forest lands and private property within the area are of considerable value both locally and regionally. For these reasons, this area has been identified as a top priority to reduce the wildfire potential.

The project includes approximately 7200 acres, encompassing 2030 acres of private lands and 5100 acres of National Forest lands. The area is situated totally within Bonner Country, Idaho, approximately 22 airmiles north of the community of Priest River, Idaho. The legal description for the project includes all or portions of the following sections:

Sections 5–8; Township 59 North; Range 4 West
Sections 1–3 and 10–12; Township 59 North; Range 5 West
Sections 5–7, 17, 19, 20 and 29–32; Township 60 North; Range 4 West
Sections 1–3, 10–15, 22–27, and 34–36; Township 60 North; Range 5 West.

As Deciding Officer, I will decide how much and what, if any, actions including fuel treatments, timber harvesting and related activities, and road construction/reconstruction will occur on National Forest lands. I also will decide specific project mitigation measures, as necessary, to achieve Forest Plan objectives and standards for affected resources.

Public participation plays an important role in the environmental analysis process. The initial scoping process (40 CFR 1501.7) for this analysis began October 1999. Earlier public participation occurred during the preparation of the Lakeface-Lamb Fuel Reduction environmental assessment beginning in 1995. This environmental assessment led us to the conclusion that we needed to further the assessment in the format of an EIS, hence the issuance of this NOI. The mailing list for public scoping will include those individuals who have previously expressed interest in this project as well as those responding to this NOI and to the Idaho Panhandle National Forests Quarterly Schedule of Proposed Actions, October 1999. In addition, the public is encouraged to visit with Forest Service officials during the analysis and prior to the decision. The Forest Service will also be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed actions.

Comments from the public and other agencies will be used in preparation of the Draft EIS. The scoping process is used to:

1. Identify potential issues.
2. Identify major issues to be analyzed in depth.
3. Eliminate minor issues or those covered by a relevant previous environmental analysis
4. Identify alternatives to the proposed action.
5. Identify potential environmental effects of the proposed action and alternatives including cumulative effects.

Some public concerns have already been expressed through earlier scoping and the following significant issues have been identified: scenery; social; and white-tailed deer winter range.

This list will be verified, expanded, or modified based on public scoping and interdisciplinary review for this proposal.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in January 2000. The final environmental impact statement is expected to be completed in March 2000. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental statement stage but that are not raised until after completion of the final environmental statement may be waived or dismissed by the courts. City of Angoon v. Hodel, 803 F. 2d 1016, 1022 (9th Cir. 1986) and Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concern on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapter of the draft statement. Comments may also address the adequacy of the draft environment impact statement or the merits of the alternatives formulated and discussed in statement. Reviews may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex religion, age, disability, political beliefs, and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means of communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center ad (202) 720–2600 (voice and TDD).

To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC 20250, call 1–800–245–6340 (voice) or 202–720–1127 (TDD). USDA is an equal employment opportunity employer.

Dated: November 22, 1999.

David J. Wright,

Forest Supervisor, Idaho Panhandle National Forests.

[FR Doc. 99–30865 Filed 11–26–99; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 29, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Base Supply Center, Operation of Individual Equipment Element Store and HAZMART, Charleston Air Force Base, South Carolina, NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin

Grounds Maintenance/Vegetation Control, Concord Naval Weapons Station, Concord, California, NPA: Phoenix Programs, Incorporated, Concord, California

Janitorial/Custodial

The Library of Congress, Washington, DC for the following buildings:

James Madison Memorial, Thomas Jefferson, John Adams & Little Scholars Child Care Facility, NPA: Ability Unlimited, Inc., Washington, District of Columbia

Operation of Individual Equipment Element Store and HAZMART, Travis Air Force Base, California, NPA: South Texas Lighthouse for the Blind, Corpus Christi, Texas

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–30920 Filed 11–26–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 29, 1999.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On September 3 and 24, and October 8 and 15, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 F.R. 48345, 51736, 54862 and 55897) of proposed additions to the Procurement List.

The Following Comments Pertain to Bookcase, Steel, Contemporary

Comments were received from the current contractor in response to a request for sales data. The contractor suggested that the previous addition to the Procurement List of a portion of the Government requirements for the bookcase hastened the demise of a corporate predecessor to the contractor. The contractor indicated that current Federal sales of the bookcase represent only a very small portion of the contractor's total sales, but are important because they use some of the company's underutilized productive capacity. The contractor also noted its status as a Hubzone Empowerment Contracting Company located in an extremely high unemployment area. According to the Committee's figures, the previous Procurement List addition the contractor mentioned affected a fairly small portion of the sales of the contractor's corporate predecessor. As the contractor admitted, the current Procurement List addition affects an even smaller part of the contractor's current total sales. Persons with severe disabilities have an unemployment rate over twice that cited by the contractor for its area. The Committee therefore believes that addition of this supply requirement for the bookcase will not have a severe adverse impact on the contractor, even taking the past Procurement List addition impact into consideration, and the jobs to be created for persons with severe disabilities outweigh a possible job loss for workers who could more easily find replacement jobs.

The Following Comments Pertain to Cup, Paper, Disposable, Hot

Comments were received from one of the current contractors for this cup. The contractor noted that while sales of the cup are a small part of the company's total sales, they are a "rather significant piece of business" for the company's cup sales. The contractor also asked to be allowed to be a supplier if the cup were added to the Procurement List.

The contractor is a very large business, and its sales of this cup are well below one percent of its total sales, so the Committee's action should have no severe adverse impact on the company or its cup production operation, which the company can easily support if needed. Addition of the cup to the Procurement List will not bar the contractor from serving as a supplier of paper cup stock to the nonprofit agency which will produce the cup for the Government.

The Following Material Pertains to all of the Items Being Added to the Procurement List

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Bookcase, Steel, Contemporary

7110–00–601–9821
7110–00–601–9822
7110–01–135–1997
7110–01–135–1998
(Requirements for GSA Zones 2 and 3 only)

Cup, Paper, Disposable, Hot

7350–00–162–3006

Services

Food Service Attendant
Air National Guard Base
New Castle County Airport
New Castle, Delaware

Laundry/Dry Cleaning
Camp Pendleton Marine Corps Base
Camp Pendleton, California

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–30921 Filed 11–26–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101399G]

Marine Mammals; Scientific Research Permit (PHF# 540–1502–00)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that John Calambokidis, Cascadia Research Collective, Waterstreet Building, 218 ½ West Fourth Avenue, Olympia, WA 89501, has been issued a permit to take several species of cetaceans and pinnipeds for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6426); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4027).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 3, 1999, notice was published in the Federal Register (64 FR 23608) that a request for a scientific research permit to take several species of cetaceans during the course of photo-identification, aerial survey, biopsy sampling, and/or tagging activities, and several species of pinnipeds during aerial surveys, had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222 through 226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 19, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–30913 Filed 11–26–99; 8:45 am]

BILLING CODE 3510–22–F

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

November 19, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 29, 1999.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 351/651 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 63032, published on November 10, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 19, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the period which began on January 1, 1999 and extends through December 31, 1999.

Effective on November 29, 1999, you are directed to increase the current limit for Categories 351/651 to 356,999 dozen [1], as

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998.

provided for under the Uruguay Round Agreement on Textiles and Clothing:

The guaranteed access level for Categories 351/651 remains unchanged.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–30818 Filed 11–26–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, December 3, 1999.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jen A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31017 Filed 11–24–99; 12:13 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, December 10, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31018 Filed 11–24–99; 12:13 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, December 17, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31019 Filed 11–24–99; 12:13 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Thursday, December 23, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31020 Filed 11–24–99; 12:13 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Thursday, December 30, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31021 Filed 11–24–99; 12:13 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Meeting.

TIME AND DATE: 10 a.m.–1 p.m., December 2, 1999.

STATUS: Open.

SUMMARY: This is to give notice that the Commission will hold a public roundtable meeting to discuss regulation of exchange-traded derivatives.

PLACE: 1155 21st St., NW, Washington, DC, Lobby Level Hearing Room.

FOR FURTHER INFORMATION CONTACT: De'Ana H. Dow, Legal Counsel to Chairman Rainer, at 202–418–5030. Written comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

Issued in Washington, D.C. on November 24, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31067 Filed 11–24–99; 11:42 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00–C0001]

Black & Decker (U.S.), Inc., corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Black & Decker (U.S.), Inc., a corporation, containing a civil penalty of $575,000.

DATES: Any interested person may ask the Commission not to accept this

agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by December 14, 1999.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00–C0001, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626, 1382.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: November 23, 1999.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. Black and Decker (U.S.), Inc., ("Black & Decker"), a corporation, enters into this Settlement Agreement and Order with the staff ("the staff") of the U.S. Consumer Product Safety Commission ("the Commission") in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquires under the Consumer Product Safety Act ("CPSA").

I. The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

3. Black & Decker is a corporation organized and existing under the laws of the State of Maryland. Its principal offices are located at 701 East Joppa Road, Baltimore, Maryland.

II. Staff Allegations

The Staff Alleges the Following

4. Between February 1994 and January 1995, Black & Decker manufactured, distributed and sold in the United States a toaster, designed to be affixed to the underside of a cabinet, known as the Spacemaker Optima Model T1000 Type 1, ("Spacemaker Toaster Type 1," or "the Toaster"). Black & Decker is, therefore, a manufacturer, distributor and retailer of a consumer product in U.S. commerce pursuant to 15 U.S.C. 2052(a)(1), (4), (5) and (6).

5. The Spacemaker Toaster Type 1 has a glass door on its front side. Bread and other food products are inserted into the toaster horizontally onto a rack.

6. When the toasting cycle is complete, the glass door on the front of the Spacemaker Type 1 toaster opens automatically and the Toaster rack containing the food product moves forward about one and one-half (1½) inches.

7. Food fires have begun in the Spacemaker Toaster Type 1, sometimes when a food item is re-toasted. When food fires were underway, the door automatically opened, the food rack moved forward, and the newly available oxygen promoted continued burning. Flames from the fire can and did escape the Toaster and contacted the cabinet(s) above, exposing the contents and other nearby materials to fire.

8. Soon after Black & Decker began distributing the Spacemaker toaster Type 1 in 1994, it received consumer complaints of fires in its product. By January 1995, Black & Decker had evaluated the Spacemaker toaster Type 1 and redesigned it so the front door would no longer open automatically. Black & Decker also stopped making the Spacemaker Toaster Type 1 and prepared to manufacture the newly designed Spacemaker Toaster Type 2.

9. In April 1995, Black & Decker purported to file a "full report" with the Commission staff pursuant to 16 CFR part 1115. The company reported that it was aware of seventy-three (73) incidents of fire in the toaster. The staff requested copies of these complaints and accompanying documentation. Black & Decker furnished other information of the type required under the reporting regulations in 16 CFR part 1115, but, unbeknownst to the staff, Black & Decker omitted important information and documents. By failing to provide the information, Black & Decker misled the staff and impeded its investigation and analysis of the risk. Black & Decker claimed consumer complaints of fires had been destroyed, when, in fact, they had not. Black & Decker also failed to reveal the existence of its engineering documents that identified design defects with the Spacemaker Toaster Type 1, identified the fire risk it posed, and supported redesigning the Type 1 Toaster with the Spacemaker Toaster Type 2. In doing so, Black & Decker failed to adequately inform the staff under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

10. The information withheld or otherwise not submitted by Black & Decker contradicted the merits of Black & Decker's negotiation position and needlessly disputed that the Spacemaker Toaster Type 1 contained defects, presented a substantial product hazard, and should be the subject of a consumer recall.

1. Black & Decker's failure to provide requested information forced the staff to prepare to litigate; and to engage unnecessarily in expensive and time-consuming testing.

12. On October 29, 1997, the staff filed an administrative Complaint alleging that the Spacemaker Toaster Type 1 contained defects which created a substantial product hazard to the public. The case was settled on April 22, 1998 when the Commission accepted a corrective action plan for consumers crafted by the parties.

13. Black & Decker obtained information which reasonably supported the conclusion that the Spacemaker Toaster Type 1 contained defects which could create a substantial product hazard but failed to report to the Commission in a timely manner as required by § 15(b) of the CPSA, 15 U.S.C. 2064(b). Nor did Black & Decker adequately inform the Commission as required by section 15(b) of the CPSA and 16 CFR part 1115.

III. Response of Black & Decker

14. Black & Decker denies the allegations of the staff, set forth in paragraphs 4 through 13 above, that the Spacemaker Toaster Type 1 contains any defect which could create a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b) or 16 CFR part 115. This payment is made in settlement of the staff allegations. Neither the payment nor the fact of entering into this Settlement Agreement constitute evidence of or an admission of, any fault, liability or statutory or regulatory violation by Black & Decker, or of the truth of nay allegations made by the staff.

IV. Agreement of The Parties

15. The Commission has jurisdiction over this matter under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*

16. This Settlement Agreement and Order is a compromise resolution of the matter described above, and the parties enter this Agreement solely for the purposes of settlement. Compliance by Black & Decker with this Settlement Agreement and Order resolves the allegations of violations of section 15(b) of the CPSC regarding the Spacemaker Toaster Type 1.

17. Black & Decker knowingly, voluntarily and completely waives any rights it may have (1) to the issuance of a Complaint in this matter, (2) to administrative or judicial hearing with

respect to the staff allegations cited herein, (3) to judicial review or other challenge or contest of the validity of the Commission's Order, (4) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (5) to a statement of findings of fact and conclusions of law with regard to the staff allegations.

18. The Commission has not, and does not, by virtue of this Settlement Agreement and Order, make any determination that the Spacemaker Toaster Type 1 contains a defect which creates or could create a substantial product hazard or creates an unreasonable risk of serious injury or death; or that Black & Decker knowingly violated the reporting provisions of section 15(b) of the CPSA, 15 U.S.C. 2064(b) or 16 CFR part 1115.

19. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20.

20. The Settlement Agreement and Order becomes effective upon final acceptance by the Commission and its service upon Black & Decker. Black & Decker shall pay a civil penalty in the amount of five hundred seventy-five thousand and no/dollars ($575,000.00) within 10 calendar days of receiving service of such final Settlement Agreement and order.

21. for purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), upon final acceptance by the commission, this matter shall be treated as if a Complaint had issued, and the Commission may publicize the terms of the Settlement Agreement and Order.

22. Black & Decker agrees to entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

23. This Settlement Agreement is binding upon Black & Decker and the assigns or successors of Black & Decker.

24. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or to contradict its terms.

Dated: October 27, 1999.

Black & Decker (U.S.), Inc.

James R. O'Brien,

Product Liability Counsel.

Dated: November 19, 1999.

Consumer Product Safety Commission.

Alan H. Schoem,

Assistant Executive Director, Office of Compliance.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

William J. Moore, Jr.,

Attorney, Legal Division, Office of Compliance.

Deborah J. Lewis,

Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Black & Decker (U.S.), Inc., a corporation, and the staff of the consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Black & Decker (U.S.), Inc., and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted; and it is

Further ordered, that, upon final acceptance of the Settlement Agreement and Order, Black & Decker (U.S.), Inc. shall pay the commission a civil penalty in the amount of FIVE HUNDRED SEVENTY FIVE THOUSAND AND no/100 dollars, ($575,000.00) within ten (10) calendar days after service of this Final Order upon the Black & Decker (U.S.), Inc.

Provisionally accepted and Provisional Order issued on the 23rd day of November 1999.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–30938 Filed 11–26–99; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 29, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronicall / mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 22, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Extension.
Title: Guaranty Agency Quarterly/Annual Report.
Frequency: Monthly.
Affected Public: Not-for-profit institutions; State; local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 36.
Burden Hours: 9,000.
Abstract: The Guaranty Agency Quarterly/Annual Report is submitted by 36 agencies operating a student loan insurance program under agreement with the Department of Education. These reports are used to evaluate agency operations, make payments to agencies as authorized by law, and to make reports to Congress. Form 1130 has been significantly altered due to the results of Congressional Reauthorization.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at 202–708–5359 or by e-mail at jackie__montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: New.
Title: Guaranty Agency Financial Report.
Frequency: Monthly.
Affected Public: Businesses or other for-profit; State; local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Burden:
Responses: 36.
Burden Hours: 33,660.
Abstract: The Guaranty Agency Financial Report will be used to request payments from and make payments to the Department of Education under the Federal Family Education Loan (FFEL) program authorized by Title IV, Part B of the Higher Education Act (HEA) of 1965, as amended. The report will also be used to monitor the agency's financial activities, including activities concerning its federal fund; operating fund and the agency's restricted account. Recent negotiated rulemaking sessions had a major impact on the development of this form because of significant changes to guaranty agency reporting requirements, and reporting on two new funds, the Federal Fund and Operating Fund. Guaranty agency representatives spent three full days in Washington, DC working with ED on the development of this form 2000.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

Questions regarding burden and/or the collection activity requirements should be directed to Jacqueline Montague at 202–708–5359 or by e-mail at jackie__montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–30859 Filed 11–26–99; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Interagency Coordinating Council Meeting (FICC)

AGENCY: Federal Interagency Coordinating Council, Education.

ACTION: Notice of a Public Meeting.

SUMMARY: This notice describes the schedule and agenda of a forthcoming meeting of the Federal Interagency Coordinating Council, and invites people to participate. Notice of this meeting is required under section 685(c) of the Individuals with Disabilities Education Act (IDEA) and is intended to notify the general public of their opportunity to attend the meeting. The meeting will be accessible to individuals with disabilities. The FICC will attend to ongoing work including reports from committees and task forces. A delegation of Canadian policy makers will attend the meetings and participate in a policy exchange. A Policy Forum on Service Coordination, sponsored by the Substance Abuse and Mental Health Services Administration (SAMHSA), will be held on Thursday morning from 9:00 a.m.–12:00 noon. An agenda is included in the packet and the meeting is open to the public. The Department of Defense/Education Task Force will meet Tuesday afternoon, November 30 from 1:00 p.m.–4:00 p.m. The monitoring task force will meet on Wednesday morning, December 1, 1999 from 9 a.m.–12 noon. Committee meetings will be held from 12 noon–2 p.m. and a Health Care Financing Administration (HCFA) Listening Session will be held from 2 p.m.–5 p.m. on Wednesday, December 1.

DATE AND TIME: Thursday, December 2, 1999 from 1 p.m. to 4 p.m.

ADDRESSES: U.S. Dept. of Education, Barnard Auditorium, 400 Maryland Avenue, SW, Washington, DC 20202, near the Federal Center Southwest and L'Enfant metro stops.

FOR FURTHER INFORMATION CONTACT: Libby Doggett or Kim Lawrence, U.S. Department of Education, 330 C Street, SW, Room 3080, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–9754.

SUPPLEMENTARY INFORMATION: The Federal Interagency Coordinating Council (FICC) is established under section 685(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1484a). The Council is established to: (1) minimize duplication across Federal, State and local agencies of programs and activities relating to early intervention in services for infants and toddlers with disabilities and their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these purposes, the FICC seeks to: (1) identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities; and (3) coordinate the provision of technical assistance and dissemination of best practice information. The FICC is chaired by the Assistant Secretary for Special Education and Rehabilitative Services.

The meeting of the FICC is open to the public and will be physically accessible. Anyone requiring accommodations such as an interpreter, materials in Braille, large print, or cassette please call Kim Lawrence at (202) 205–5507 (voice) or (202) 205–9754 (TDD) ten days in advance of the meeting.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 330 C Street, SW, Room 3080, Switzer Building, Washington, DC 20202–2644, from the hours of 9 a.m. to 5 p.m., weekdays, except Federal Holidays.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–30881 Filed 11–26–99; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Science; Biological and Environmental Research Advisory Committee Renewal

AGENCY: Department of Energy.

ACTION: Notice of renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and in accordance with section 101–6.1015(a), title 41 of the Code of Federal Regulations, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Biological and Environmental Research Advisory Committee has been renewed for a two-year period beginning in November 1999. The Committee will provide advice to the Director, Office of Science, on the Biological and Environmental Research Program managed by the Office of Biological and Environmental Research.

The renewal of the Biological and Environmental Research Advisory Committee has been determined to be essential to the conduct of the Department of Energy business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Public Law No. 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this Advisory Committee can be obtained from Mrs. Rachel M. Samuel at (202) 586–3279.

Issued in Washington, DC on November 22, 1999.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 99–30878 Filed 11–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Floodplain and Wetlands Involvement for the Weldon Spring Site

AGENCY: Office of Environmental Management, DOE.

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: The U.S. Department of Energy (DOE) is proposing to construct a groundwater interceptor trench near the Weldon Spring Site, located in St. Charles County, Missouri. The groundwater interceptor trench would collect contaminated groundwater for treatment at the Weldon Spring Quarry water treatment plant. The proposed trench is adjacent to two wetland areas and is located within the Missouri River 100-year floodplain. In accordance with 10 CFR part 1022, DOE is preparing a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands.

DATES: Comments are due to the address below no later than December 14, 1999.

ADDRESSES: Comments should be addressed to Mr. Steve McCracken, U.S. Department of Energy, Weldon Spring Site Remedial Action Project, 7295 Highway 94 South, St. Charles, MO 63304. Comments may be faxed to (636) 447–0739.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Mr. Steve McCracken, U.S. Department of Energy, Weldon Spring Site Remedial Action Project, 7295 Highway 94 South, St. Charles, MO 63304, (636) 441–8978.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The DOE is conducting response actions at its Weldon Spring Site under the direction of the DOE Office of Environmental Management. The Weldon Spring Site is located in St. Charles County, Missouri, approximately 48 km (30 miles) west of St. Louis. Cleanup activities at the site include the remediation of the Weldon Spring Quarry. The quarry, approximately 3.9 km (2.5 miles) southwest of the site, was used for the disposal of chemically and radioactively contaminated materials between the 1940s and 1960s. Removal of bulk waste from the quarry was completed in October, 1995, however, elevated levels of uranium occur in groundwater in the vicinity of the quarry. The St. Charles County wellfield, a source of domestic water for the county, is located in the Missouri River floodplain southeast of the quarry. To limit potential exposure to the public, the Record of Decision for Remedial Action for the Quarry Residuals Operable Unit of the Weldon Spring Site outlined field studies for evaluating the effectiveness of technologies to remediate uranium-impacted groundwater in the vicinity of the Weldon Spring Quarry. This action is intended to evaluate the effectiveness of remediation through the extraction of contaminated groundwater from a groundwater interceptor trench.

The DOE is proposing to construct a 550-foot trench approximately 90 m (300 feet) south of the quarry. The trench would be located between the Katy Trail and Femme Osage Slough, within the State of Missouri Weldon Spring Conservation Area, and approximately 1.4 km (0.88 mile) from the Missouri River. The groundwater interceptor trench would provide continuous groundwater access for an extraction system. Contaminated groundwater would be removed from the trench and directed to a treatment plant. The trench would be operated up to two years.

The proposed trench would be located adjacent to Femme Osage Slough, a palustrine, permanently flooded wetland. The area between the proposed trench and the slough contains a small palustrine, seasonally flooded wetland area. The trench would lie entirely within the 100-year floodplain of the Missouri River. Erosion controls would be installed down gradient from the construction site to prevent the transport of silt downstream by stormwater flows.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), the DOE is preparing a floodplain and wetlands assessment for this proposed action. After DOE issues the assessment, a floodplain statement of findings will be published in the **Federal Register**.

Issued in Oak Ridge, Tennessee on November 15, 1999.

James L. Elmore,

Alternate Oak Ridge Operations, National Environmental Policy Act Compliance Officer.

[FR Doc. 99–30879 Filed 11–26–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–2758–008; ER96–1516–009; and ER96–2585–003]

Advantage Energy, Inc.; Southern Energy Marketing Corporation, Inc.; Niagara Mohawk Power Corporation; Notice of Filings

November 17, 1999.

Take notice that on November 10, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These

filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30872 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–70–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 22, 1999.

Take notice that on November 16, 1999, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets to be effective December 17, 1999:

Seventh Revised Sheet No. 600
Fourth Revised Sheet No. 604
Second Revised Sheet No. 617
Second Revised Sheet No. 635
First Revised Sheet No. 645
Original Sheet No. 717
Sheet Nos. 718–798

Algonquin states that the purpose of this filing is to set forth in its tariff a negotiated rates provision pursuant to the Alternative Rates Policy Statement [74 FERC ¶61,076 (1996)].

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30846 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–4024–010 and ER97–4281–010]

British Columbia Power Exchange Corporation; NRG Power Marketing, Inc.; Notice of Filings

November 17, 1999.

Take notice that on November 8, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30873 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER94–1475–018; ER96–795–009; ER97–399–012; ER95–968–010; ER96–146–010; ER96–2580–013; ER95–1314–018; ER98–3048–003; and ER97–2018–002]

Illinova Energy Partners, Inc.; Gateway Energy Marketing; The Montana Power Trading & Marketing Company; Progas Power, Inc.; Yankee Energy Marketing Company; NUI Energy Brokers, Inc.; Hinson Power Company; Northeast Electricity Inc.; SCANA Corporation; Notice of Filings

November 17, 1999.

Take notice that on November 5, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30870 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–152–023]

Kansas Pipeline Company; Notice of Revised Tariff Filing

November 22, 1999.

Take notice that on November 16, 1999, Kansas Pipeline Company (Applicant) tendered for filing, revisions and corrections to its FERC Gas Tariff, Original Volume No. 1. Applicant further requests waiver of the Commission's 30 day filing requirement so that the tariff sheets will be effective December 1, 1999. These tariff sheets are listed in Appendix A to Applicant's filing.

Applicant states that the modified tariff reflect changes directed by the Commission's October 4, 1999, order in the above-captioned docket. Applicant further states that a copy of this filing is available for public inspection during regular business hours at applicant's offices located at 8325 Lenexa Drive, Lenexa, Kansas 66214. Applicant indicates that copies of this filing are being served on all parties to the proceeding in Docket No. CP96–152. It is further indicated that the contact person for this filing is Mr. James Armstrong at (913) 888–7139.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, on or before December 1, 1999, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This application may be viewed on the Commission's website at http://

ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

Appendix A Tariff Sheets Submitted With November 16, 1999, Compliance Filing

Effective December 1, 1999

Second Revised Sheet No. 211
Second Revised Sheet No. 221
Original Sheet No. 222
Second Revised Sheet No. 223
Second Revised Sheet No. 224
Second Revised Sheet No. 261
Second Revised Sheet No. 262
Second Revised Sheet No. 289
Original Sheet No. 290
Original Sheet No. 291
Original Sheet No. 292
Original Sheet No. 293

[FR Doc. 99–30845 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–18–000]

MidAmerican Energy Company; Notice of Filing

November 17, 1999.

Take notice that on November 8, 1999, MidAmerican Energy Company tendered for filing pursuant to Section 203 of the Federal Power Act, an Application for Authorization of Indirect Disposition of Facilities. This application requests the approval of taking private the ownership of MidAmerican Energy's ultimate parent company, MidAmerican Energy Holdings Company, by a small number of private investors, none of whom are public utilities or public utility holding companies.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 8, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30867 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–150–000 and CP98–151–000]

Millennium Pipline Company, L.P and Columbia Gas Transmission Corporation; Notice of Meeting Attendance

November 22, 1999.

On Tuesday, November 30, 1999, the Federal Energy Regulatory Commission staff will attend a meeting (and possible site visit) with representatives from the U.S. Army Corps of Engineers (COE), the National Marine Fisheries Service (NMFS), New York State Department of State's Division of Coastal Resources, Millennium Pipeline Corporation, L.P. (Millennium), and possibly other Federal and New York State agencies in Suffern, New York. The purpose of this meeting is to discuss fisheries concerns of NMFS, Millennium's newly proposed construction method for the Hudson River crossing, and other issues related to the effects of the project on the coastal zone and threatened and endangered species within the coastal zone of the Hudson River.

The meeting will be held at the: Holiday Inn, Meeting Room: Empire 1B, 3 Executive Boulevard, Suffern, New York 10901, Telephone number: (914) 357–8314.

The meeting will begin at 10 A.M. Please contact Mr. Richard Hall of the Millennium staff at (607) 773–9101, Mr. Paul McKee of the Commission's Office of External Affair at (202) 208–1088 for additional information.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30851 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–25–000]

Mississippi River Transmission Corporation; Notice of Technical Conference

November 22, 1999.

In the Commission's order issued on October 28, 1999, the Commission directed that a technical conference be held to address various issues related to Mississippi River Transmission Corporation's filing to adjust its Fuel and Loss Percentages.

Take notice that the technical conference will be held on Wednesday, December 8, 1999, at 9:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

All interested parties and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30650 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 309—Pennsylvania]

Pennsylvania Electric Co./GPU Genco; Notice of Meeting

November 22, 1999.

The applicant has scheduled a meeting to present and discuss issues relevant to the Water Quality Work Group as part of the Alternative Licensing Process. The meeting will be held at the Piney Station beginning at 10 AM on December 8, 1999.

If you want to attend the meeting, require directions, or have other quesetions, please contact Glenn Neiport at (814) 226–8630.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30848 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER95–1614–021; ER97–2681–007; ER99–581–003; ER96–1–016; ER97–181–006; and ER96–1145–013]

PG&E Energy Services Corporation; New Millennium Energy Corporation; Business Discount Plan, Inc.; PowerTec International, LLC; Oceanside Energy, Inc.; Alternate Power Source, Inc.; Notice of Filings

November 17, 1999.

Take notice that on November 9, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

Daivd P. Boergers,

Secretary.

[FR Doc. 99–30871 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–512–000]

Public Service Company of Colorado; Notice of Filing

November 17, 1999.

Take notice that on November 5, 1999, Public Service Company of Colorado filed their quarterly report for the quarter ending September 30, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 26, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30874 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–25–000]

State Street Bank and Trust Company; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

November 17, 1999.

Take notice that on November 9, 1999, State Street Bank and Trust Company (Applicant), a Massachusetts Trust Company, with its principal place of business at c/o State Street Bank and Trust Company of Connecticut, NA, Corporate Trust, Goodwin Square, 225 Asylum Street, 23rd Floor, Hartford, CT 06103 filed with the Federal Energy Regulatory Commission an application for determination, on an expedited basis, of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Pursuant to a sale/leaseback transaction, the Applicant holds legal title to a 165 MW natural gas-fired cogeneration facility located in Pittsfield, Massachusetts (the "Facility") as the owner trustee under a trust agreement with TIFD III–F, Inc. In its capacity as trustee, the Applicant leases the Facility to Pittsfield Generating Company, L.P. All capacity and energy from the facility is sold exclusively at wholesale.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before December 8, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the Internet at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30868 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–26–000]

TIFD III–F, Inc., Notice of Application for Commission Determination of Exempt Wholesale Generator Status

November 17, 1999.

Take notice that on November 9, 1999, TIFD III–F, Inc (Applicant), a Delaware corporation with its principal place of business at 120 Long Ridge Road, Stamford, Connecticut 06927 filed with the Federal Energy Regulatory Commission an application for determination, on an expedited basis, of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Pursuant to a sale/leaseback transaction, the Applicant has beneficial ownership of a 165 MW natural gas-fired cogeneration facility located in Pittsfield, Massachusetts (the Facility) under a trust agreement with State Street Bank and Trust Company. In its capacity as trustee, State Street Bank and Trust Company holds legal title to the Facility and leases the Facility to Pittsfield Generating Company, L.P. for the benefit of the Applicant. All capacity and energy from the facility is sold exclusively at wholesale.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before December 8, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the Internet at http://www.ferc.fed.us/

online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30869 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–101–000, et al.]

Allegheny Energy Unit 1 and Unit 2, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

November 17, 1999.

Take notice that the following filings have been made with the Commission:

1. Allegheny Energy Unit 1 and Unit 2, L.L.C.

[Docket No. ER00–101–000]

Take notice that on November 10, 1999, Allegheny Energy Unit 1 and Unit 2, L.L.C. (Allegheny), tendered for filing an amendment to its application for a market rate tariff of general applicability under which it proposes to sell capacity and energy to non-affiliates at market-based rates, and to make such sales to affiliates at rates capped by a publicly available regional index price.

Allegheny requests an effective date no later that December 1, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: November 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Public Service Company

[Docket No. ER00–536–000]

Take notice that on November 9, 1999, New Century Services, Inc. (NCS), on behalf of Southwestern Public Service Company (SPS), tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, revisions to the New Century Operating Companies Open Access Transmission Tariff (OATT) and changes to the rates charged by SPS under the OATT.

NCS proposes that the filing become effective January 1, 2000.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Cinergy Services, Inc.

[Docket No. ER00–541–000]

Take notice that on November 9, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy Edison Mission Marketing & Trading, Inc., (Edison).

Cinergy and Edison are requesting an effective date of October 9, 1999.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER00–542–000]

Take notice that on November 9, 1999, Cinergy Services, Inc. (Cinergy) and Aquila Energy Marketing Corporation (AEMC), tendered for filing a Notice of Assignment that AEMC will replace Aquila Power Corporation of Cinergy's Market-Based Power Sales Tariff Original Volume No. 7–MB, Service Agreement No. 95, dated October 22, 1997.

Cinergy and AEMC are requesting an effective date of one day after this filing.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER00–543–000]

Take notice that on November 9, 1999, Cinergy Services, Inc. (Cinergy) and TXU Energy Trading Company (TXU), tendered for filing a Notice of Assignment that TXU will replace Enserch Energy Service, Inc., of Cinergy's Cost-Based Power Sales Tariff Original Volume No. 6–CB, Service Agreement No. 217, dated May 1, 1999.

Cinergy and TXU are requesting an effective date of one day after this filing.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Cinergy Services, Inc.

[Docket No. ER00–544–000]

Take notice that on November 9, 1999, Cinergy Services, Inc. (Cinergy) and Aquila Energy Marketing Corporation (AEMC), tendered for filing a Notice of Assignment that AEMC will replace Aquila Power Corporation of Cinergy's Cost-Based Power Sales Tariff Original Volume No. 6–CB, Service Agreement No. 95, dated October 25, 1997.

Cinergy and AEMC are requesting an effective date of one day after this filing.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Kansas Gas and Electric Company

[Docket No. ER00–545–000]

Take notice that on November 9, 1999, Western Resources, Inc. (WRI), on behalf of its wholly owned subsidiary, Kansas Gas and Electric Company (KGE), tendered for filing a Tenth Revised Exhibit B to the Electric Power, Transmission and Service Contract between KGE and the Kansas Electric Power Cooperative, Inc. (KEPCo). KGE states that the filing is to update Exhibit B to reflect the installation of the Wolf Creek delivery point.

This filing is proposed to become effective October 13, 1999.

Copies of the filing were served upon KEPCo and the Kansas Corporation Commission.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company

[Docket No. ER00–546–000]

Take notice that on November 9, 1999, Consumers Energy Company (Consumers) tendered for filing executed service agreements for Non-Firm Point-to-Point Transmission Service with Florida Power & Light.

The agreement is pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and Detroit Edison Company (Detroit Edison) and has an effective date of October 26, 1999.

Copies of the filing were served upon the Michigan Public Service Commission, Detroit Edison and the customer listed above.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Duquesne Light Company; FirstEnergy Operating Companies

[Docket No. ER00–547–000]

Take notice that on November 9, 1999, Duquesne Light Company (Duquesne) and FirstEnergy Operating Companies (The Cleveland Electric Illuminating Company, Ohio Edison Company Pennsylvania Power Company, The Toledo Edison Company and when applicable, American Transmission Systems, Inc.) (FirstEnergy) on November 9, 1999, tendered for filing under Federal Power Act Section 205 proposed Must-Run and Connection and Site Agreements. The Agreements apply to the electric generating plants transferred from FirstEnergy to Duquesne as part of the generation exchange approved by the Commission.

Copies of the filing were served upon the Pennsylvania Public Utility

Commission and the Public Utilities Commission of Ohio.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER00–548–000]

Take notice that on November 9, 1999, Cinergy Services, Inc. (Cinergy) and TXU Energy Trading Company (TXU), on November 8, 1999, are requesting via a Notice of Assignment that TXU will replace Enserch Energy Service, Inc., of Cinergy's Market-Based Power Sales Tariff Original Volume No. 7–MB, Service Agreement No. 220, dated May 1, 1999.

Cinergy and TXU are requesting an effective date of one day after this filing.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Gas and Electric Company

[Docket No. ER00–549–000]

Take notice that on November 10, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing the Large Facilities Authorization Letter No. 2 and the Small Facilities Authorization Letter No. 3, submitted pursuant to the Procedures for Implementation (Procedures) of Section 3.3 of the 1987 Agreement between PG&E and the City and County of San Francisco (City). This is PG&E's second quarterly filing submitted pursuant to Section 4 of the Procedures, which provides for the quarterly filing of Facilities Authorization Letters. The Facilities Authorization Letters streamline the procedures for filing numerous Facilities, and facilitates payment of PG&E's costs of designing, constructing, procuring, testing, placing in operation, owning, operating and maintaining the customer-specific Facilities required for firm transmission and distribution service requested by City under these Facilities Authorization Letters. PG&E has requested permission to use automatic rate adjustments whenever the California Public Utilities Commission (CPUC) authorizes a new Electric Rule 2 Cost of Ownership Rate but cap the monthly transmission-level rates, respectively, at 0.58% and 1.19% for customer-financed and PG&E-financed Facilities, and cap the monthly distribution-level rates, respectively, at 0.77% and 1.34% for customer-financed and PG&E-financed facilities.

PG&E has requested certain waivers.

Copies of this filing have been served upon City and the CPUC.

Comment date: November 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. New York Independent System Operator, Inc.; Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Lighting Company; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; Power Authority of the State of New York

[Docket No. ER00–550–000]

Take notice that on November 10, 1999, the Member Systems of the New York Power Pool (Member Systems) and the New York Independent System Operator, Inc. (NYISO) tendered for filing certain revised tariff sheets to the ISO Open Access Transmission and ISO Services Tariffs, as well as revisions to various ISO-related Agreements previously approved by the Commission. With one exception, the Member Systems request that the above-referenced tariff sheets become effective on the date that the NYISO commences operation.

A copy of this filing was served upon all persons on the Commission's official service list(s) in Docket Nos. ER97–1523, *et al.*, and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: November 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER00–552–000]

Take notice that on November 10, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Illinova Power Marketing, Inc. under the Company's Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide firm point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of November 10, 1999, the date of filing of the Service Agreement.

Copies of the filing were served upon Illinova Power Marketing, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: November 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. California Power Exchange Corporation

[Docket No. ER00–553–000]

Take notice that on November 10, 1999, the California Power Exchange Corporation (CalPX), tendered for filing a tariff change that would permit its current Day-of Market Experiment to become permanent. CalPX requests waiver of the notice period to permit the filing to become effective at the same time that corresponding changes in its Operating Manual take effect. In the interim, CalPX requests that the Commission permit it to continue the experimental Day-of Market timeline without change.

Comment date: November 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Allegheny Power

[Docket No. ER99–4021–000]

Take notice that on November 10, 1999, Allegheny Power (Allegheny), tendered for filing an amendment to Supplement No. 30 to its market rate tariff of general applicability under which the Allegheny Power franchised operating companies propose to sell capacity and energy to one another at a publicly available regional index price.

Allegheny requests an effective date of October 6, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: November 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be

viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30840 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–19–000, et al.]

Citizens Power LLC, et al.; Electric Rate and Corporate Regulation Filings

November 19, 1999.

Take notice that the following filings have been made with the Commission:

1. Citizens Power LLC, Citizens Power Sales and Hartford Power Sales, L.L.C.

[Docket No. EC00–19–000]

Take notice that on November 12, 1999, Citizens Power LLC, Citizens Power Sales, and Hartford Power Sales, L.L.C. filed an application, as supplemented on November 16, 1999, for an order authorizing the proposed sale of CL Hartford, L.L.C.'s 50% equity interest and Citizens Power Sales' 50% equity interest in Hartford Power Sales, L.L.C. to Citizens Power Holdings One, LLC.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Power LLC, Citizens Power Sales, CL Power Sales Six, L.L.C., CL Power Sales Seven, L.L.C., CL Power Sales Eight, L.L.C., and CL Power Sales Nine, L.L.C.

[Docket No. EC00–20–000]

Take notice that on November 12, 1999, Citizens Power LLC, Citizens Power Sales, CL Power Sales Six, L.L.C., CL Power Sales Seven, L.L.C., CL Power Sales Eight, L.L.C., and CL Power Sales Nine, L.L.C. filed an application, as supplemented on November 16, 1999, for an order authorizing the proposed sale of Citizens Power Sales' 99% equity interest and Citizens Power LLC's 1% equity interest in CL Power Sales Six, L.L.C., CL Power Sales Seven, L.L.C., CL Power Sales Eight, L.L.C., and CL Power Sales Nine, L.L.C. to Citizens Power Holdings One, LLC.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Citizens Power LLC, Citizens Power Sales and CL Power Sales Two, L.L.C.

[Docket No. EC00–22–000]

Take notice that on November 12, 1999, Citizens Power LLC, Citizens Power Sales, and CL Power Sales Two, L.L.C. filed an application, as supplemented on November 16, 1999, for an order authorizing the proposed sale of Citizens Power Sales' 51% equity interest and Citizen Power LLC's 49% equity interest in CL Power Sales Two, L.L.C. to Citizens Power Holdings One, LLC.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Citizens Power LLC and CL Power Sales One, L.L.C.

[Docket No. EC00–23–000]

Take notice that on November 12, 1999, Citizens Power LLC and CL Power Sales One, L.L.C. filed an application, as supplemented on November 16, 1999, for an order authorizing the proposed sale of Citizens Power's 99% equity interest and CL Funding, L.L.C.'s 1% interest in CL Power Sales One, L.L.C. to Citizens Power Holdings One, LLC.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. EC00–24–000]

Take notice that on November 15, 1999, PacifiCorp, tendered for filing in accordance with Section 203 of the Federal Power Act and 18 CFR part 33 of the Commission's Rules and Regulations, an application seeking an order authorizing PacifiCorp to sell to Nor-Cal Electric Authority specified transmission facilities associated with PacifiCorp's sale of all of its retail service territory in northern California.

Comment date: December 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. The Power Company of America, L.P.

[Docket Nos. ER95–111–016 and ER00–573–000]

Take notice that on November 15, 1999, The Power Company of America, L.P. filed quarterly reports for the third and fourth quarters of 1998 and the first, second and third quarters of 1999.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. American Energy

[Docket Nos. ER97–360–011 and ER97–360–012]

Take notice that on November 17, 1999, American Energy filed their quarterly report for the quarters ending June 30, 1999 and September 30, 1999, for information only.

8. WKE Station Two Inc.

[Docket No. ER98–1278–006]

Take notice that on November 16, 1999, WKE Station Two Inc. filed their quarterly report for the quarter ending September 30, 1999, for information only.

9. Duquesne Light Company

[Docket No. ER00–534–000]

Take notice that November 8, 1999, Duquesne Light Company (DLC), tendered for filing filed a Service Agreement dated November 5, 1999 with TXU Energy Trading Company under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds TXU Energy Trading Company as a customer under the Tariff.

DLC requests an effective date of November 5, 1999, for the Service Agreement.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER00–555–000]

Take notice that on November 10, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a proposed amendment (Amendment No. 23) to the ISO Tariff. Amendment No. 23 would revise the ISO Tariff to provide an alternative payment option for ISO Dispatch orders. Resources that have not bid into the relevant ISO markets would be given the choice to continue to receive the current pricing for ISO Dispatch orders (the Hourly Ex Post Price) or a new payment option that includes, if applicable, a payment for market capacity, market energy, and verifiable start-up fuel costs and gas imbalance charges.

The ISO asks for waiver of Section 35.3 of the Commission's regulations to permit Amendment No. 23 to become effective on January 1, 2000.

The ISO states that this filing has been served upon the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff.

Comment date: November 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., LIPA, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, New York Power Pool, and New York Independent System Operator

[Docket No. ER00–556–000]

Take notice that on November 12, 1999, the Member Systems of the New York Power Pool and the New York Independent System Operator, Inc., tendered for filing, pursuant to Section 205 of the FPA and Part 35 of the Commission's regulations, proposed revised tariff sheets that contain revisions to the ISO OATT and ISO Services Tariff.

The Member Systems and the NYISO submit that the proposed changes are essential for the commencement of NYISO operations and request an effective date of November 18, 1999, with one exception as noted.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Carolina Power & Light Company

[Docket No. ER00–564–000]

Take notice that on November 12, 1999, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Commonwealth Edison Company. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of November 3, 1999, for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER00–566–000]

Take notice that on November 12, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and NewEnergy, Inc. (NewEnergy) for acceptance by the Commission.

The ISO states that this filing has been served on NewEnergy and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective November 9, 1999.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER00–567–000]

Take notice that on November 12, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and NewEnergy, Inc. (NewEnergy) for acceptance by the Commission.

The ISO states that this filing has been served on NewEnergy and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of November 9, 1999.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Tampa Electric Company

[Docket No. ER00–568–000]

Take notice that on November 12, 1999, Tampa Electric Company (Tampa Electric), tendered for filing a service agreement with Reliant Energy Services, Inc., (Reliant) under Tampa Electric's market-based sales tariff.

Tampa Electric requests that the service agreement be made effective on November 4, 1999.

Copies of the filing have been served on Reliant and the Florida Public Service Commission.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket No. ER00–569–000]

Take notice that on November 12, 1999, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), tendered for filing revised pages to the CSW Operating Companies' open access transmission service tariff.

The CSW Operating Companies state that a copy of the filing was served on all customers taking service under Part IV of the CSW Operating Companies' currently effective open access tariff, the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Delmarva Power & Light Company

[Docket No. ER00–570–000]

Take notice that on November 12, 1999, Delmarva Power & Light (Delmarva) tendered for filing an executed Interconnection Agreement (IA) between itself and Motiva Enterprises LLC (Motiva). The IA provides for the interconnection of Motiva's generating facilities located in Delaware City, Delaware to Delmarva's transmission system and for the delivery of power to Motiva's facilities.

The IA provides for the interconnection of Motiva to Delmarva's transmission system and for the delivery of power to Motiva's facilities.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Jones Black River Services, Inc.

[Docket No. ER00–571–000]

Take notice that on November 12, 1999, Jones Black River Services, Inc., tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, an application for authorization to make sales of electrical capacity, energy, and certain ancillary services at market-based rates and for related waivers and blanket authorizations.

Applicant requests the Commission to act upon the Application, within the next 45 days and to grant a waiver to the extent necessary of the Commission's normal notice requirements so that the Applicant's Rate Schedule can become effective as of January 1, 2000.

JBRSI requests such expedited treatment and waiver in order to permit it to engage in transactions under the Rate Schedule when the Ft. Drum Project's qualifying facility status terminates on December 31, 1999.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Western Kentucky Energy Corp.

[Docket No. ER00–574–000]

Take notice that on November 16, 1999, Western Kentucky Energy Corp. filed their quarterly report for the quarter ending September 30, 1999.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Citizens Power Sales and CL Power Sales Ten, L.L.C.

[Docket No. EC00–21–000]

Take notice that on November 12, 1999, Citizens Power Sales and CL Power Sales Ten, L.L.C. filed an application for an order, as supplemented on November 16, 1999, authorizing the proposed sale of Citizens Power Sales' 75% equity interest in CL Power Sales Ten, L.L.C. to Citizens Power Holdings One, LLC.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–30842 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–14–000, *et al.*]

McDonough Power Cooperative, *et al.*; Electric Rate and Corporate Regulation Filings

November 18, 1999.

Take notice that the following filings have been made with the Commission:

1. McDonough Power Cooperative

[Docket No. EL00–14–000]

Take notice that on November 9, 1999, McDonough Power Cooperative (McDonough) filed a request for waiver of the requirements of Order No. 888 and Order No. 889 pursuant to 18 CFR 35.28(d) of the Federal Energy Regulatory Commission's (Commission) Regulations. McDonough's filing is available for public inspection at its offices in Macomb, Illinois.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Pittsfield Generating Company, L.P.

[Docket No. EL00–15–000]

Take notice that on November 9, 1999, Pittsfield Generating Company, L.P. (Pittsfield) filed with the Federal Energy Regulatory Commission a petition for a declaratory order disclaiming jurisdiction and request for expedited consideration.

Pittsfield is the lessee of a 165 MW natural gas-fired qualifying cogeneration facility in Pittsfield, Massachusetts (the Facility). Pittsfield is seeking a disclaimer of jurisdiction over the owner trustee and the owner participant in a sale/leaseback transaction involving the Facility should the Facility ever become jurisdictional.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. The Legacy Energy Group, LLC and American Energy Trading, Inc.

[Docket Nos. ER99–3571–001 and ER97–360–012]

Take notice that on November 12, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

4. Strategic Energy Management Corp.

[Docket No. ER00–167–000]

Take notice that on November 3, 1999, Strategic Energy Management Corporation tendered for filing an amendment to the Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority filed with the Commission on October 20, 1999, in the above-referenced docket.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. C.C. Pace Resources, Inc.

[Docket No. ER00–558–000]

Take notice that on November 12, 1999, C.C. Pace Resources, Inc. (Pace), tendered for filing a notice of cancellation of Pace's Rate Schedule FERC No. 1 to be effective immediately.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER00–559–000]

Take notice that on November 12, 1999, Florida Power & Light Company (FPL), tendered for filing a Service Agreement with TXU Energy Trading Company for service pursuant to FPL's Market Based Rates Tariff.

FPL requests that the Service Agreement be made effective on October 15, 1999.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Illinova Power Marketing, Inc.

[Docket No. ER00–560–000]

Take notice that on November 12, 1999, Illinova Power Marketing, Inc., tendered for filing an Electric Power Transaction Service Agreement under which UtiliCorp. United will take service pursuant to IPMI's power sales tariff, Rate Schedule FERC No. 1.

IPMI has requested an effective date of October 12, 1999.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Ameren Services Company

[Docket No. ER00–561–000]

Take notice that on November 12, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Services between ASC and AmerenCIPS. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to AmerenCIPS pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

ASC requests that as directed in the Commission's Order No. 888, the Service Agreement be allowed to become effective November 3, 1999, the date of said agreement.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Ameren Services Company

[Docket No. ER00–562–000]

Take notice that on November 12, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between ASC and AmerenCIPS. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to AmerenCIPS pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

ASC requests that as directed in the Commission's Order No. 888, the Service Agreement be allowed to become effective November 3, 1999, the date of said agreement.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Carolina Power & Light Company

[Docket No. ER00–563–000]

Take notice that on November 12, 1999, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Delmarva Power & Light Company. Service to this Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

CP&L is requesting an effective date of October 29, 1999, for this Agreement with Delmarva.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Gas and Electric Company

[Docket No. ER00–565–000]

Take notice that on November 12, 1999, Pacific Gas and Electric Company (PG&E) tendered for filing a Scheduling Coordinator Services Tariff (SCS Tariff). PG&E requests a retroactive effective date as of the commencement of the California System Operator Corporation (CAISO) operations (March 31, 1998). This filing seeks to recover the cost PG&E incurs from the CAISO as Scheduling Coordinator for certain existing transmission service customers.

Copies of this filing have been served upon the California Public Utilities Commission, all parties designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in FERC Docket ER97–2358–002 and the California Independent System Operator Corporation.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PP&L, Inc.

[Docket No. ES00–7–000]

Take notice that on November 5, 1999, PP&L, Inc. submitted an application under Section 204 of the Federal Power Act seeking authority to issue up to $1.5 billion of promissory notes and other evidences of secured and unsecured indebtedness maturing in less than one year from the date of issuance.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. McDonough Power Cooperative

[Docket No. ES00–8–000]

Take notice that on November 9, 1999, McDonough Power Cooperative (McDonough) submitted an application pursuant to Section 204 of the Federal Power Act seeking authorization to issue from time to time long-term promissory notes for an amount no more than $20.9 million. McDonough requests a waiver from the Commission's competitive bidding and negotiated placement requirements. In addition to or in lieu of authorization to borrow money, McDonough requests blanket approval to issue securities or assume additional debt provided that such issue or assumption is for some lawful object within the corporate purposes, compatible with the public interests and reasonably necessary or appropriate for such purposes.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may, also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30841 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–20–000, et al.]

Milford Power Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

November 16, 1999.

Take notice that the following filings have been made with the Commission:

1. Milford Power Limited Partnership

[Docket No. EG00–20–000]

Take notice that on November 5, 1999, Milford Power Limited Partnership, 100 Clinton Square, Suite 403, Syracuse, New York 13202, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Milford Power Limited Partnership owns and operates a cogeneration facility in Milford, New Jersey, with a name plate capacity of approximately 30.5 MW (Facility). Milford Power Limited Partnership sells electric energy and capacity from the Facility at wholesale to CL Power Sales Nine, L.L.C., a power marketer.

Comment date: December 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Liberty Electric Power, LLC

[Docket No. EG00–21–000]

Take notice that on November 5, 1999, Liberty Electric Power, LLC (Liberty Electric), with its principal offices c/o Columbia Electric Corporation, 13880 Dulles Corner Lane, Herndon, VA 20171, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935, as amended, and Part 365 of the Commission's regulations.

Liberty Electric is a Delaware limited liability company which will be engaged exclusively in the business of owning and operating a nominal 500 MW natural gas-fired generating facility in Eddystone, Pennsylvania and selling electricity at wholesale.

Comment date: December 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Sithe New Jersey Holdings LLC

[Docket No. EG00–23–000]

Take notice that on November 5, 1999, Sithe New Jersey Holdings LLC (SNJH) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

SNJH is an indirect subsidiary of Sithe Energies, Inc., and will own and operate five (5) generation facilities in New Jersey (the "SNJH Facilities") after the acquisition of those facilities from Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company. SNJH will be engaged directly and exclusively in the business of owning and/or operating the SNJH Facilities and selling the SNJH Facilities' electric energy at wholesale.

Comment date: December 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Sithe Pennsylvania Holdings LLC

[Docket No. EG00–24–000]

Take notice that on November 5, 1999, Sithe Pennsylvania Holdings LLC (SPH) filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

SPH is an indirect subsidiary of Sithe Energies, Inc., and will own and operate sixteen generation facilities in Pennsylvania (the SPH facilities) after the acquisition of those facilities from Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company. SPH will be engaged directly and exclusively in the business of owning and/or operating the SPH Facilities and selling the SPH Facilities' electric energy at wholesale.

Comment date: December 7, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Pacific Gas and Electric Company

[Docket No. EL98–48–001]

Take notice that on November 1, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing a "First Amendment to the Settlement Agreement Between Turlock Irrigation District and Pacific Gas and Electric Company" in order to comply with the Federal Energy Regulatory Commission's (Commission) September 30, 1999 Letter. Copies of this filing have been served upon the Turlock Irrigation District and the California Public Utilities Commission.

Comment date: December 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Tenaska Power Services Co.; and TransAlta Energy Marketing (U.S.) Inc.

[Docket Nos. ER94–389–021 and ER98–3184–006]

Take notice that on October 29, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

7. Sithe Power Marketing, Inc.

[Docket No. ER98–107–009]

Take notice that on November 2, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

8. INFINERGY Services, LLC; Pacific Energy & Development Corporation; Entergy Power Marketing Corp.; and Quantum Energy Resources, Inc.

[Docket Nos. ER98–3478–004; ER98–1824–007; ER95–1615–020; ER96–947–012; ER96–947–013; and ER96–947–014]

Take notice that on November 4, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

9. CL Power Sales Seven, L.L.C.; CL Power Sales Eight, L.L.C.; CL Power Sales Ten, L.L.C.; CL Power Sales Nine, L.L.C.; CP Power Sales Fifteen, L.L.C.; CP Power Sales Fourteen, L.L.C.; CP Power Sales Thirteen, L.L.C.; CP Power Sales Twelve, L.L.C.; CP Power Sales Nineteen, L.L.C.; CP Power Sales Seventeen, L.L.C.; CP Power Sales Eighteen, L.L.C.; CP Power Sales Twenty, L.L.C.; and H.Q. Energy Services (U.S.) Inc.

[Docket Nos. ER96–2652–038; ER96–2652–039; ER96–652–040; ER96–2652–041; ER99–890–004; ER99–891–004; ER99–892–004; ER99–893–004; ER99–4228–001; ER99–4229–001; ER99–4230–001; ER99–4231–001; and ER97–851–010]

Take notice that on November 1, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

10. Reliant Energy Etiwanda, LLC

[Docket No. ER99–4398–000]

Take notice that on November 4, 1999, Reliant Energy Etiwanda, LLC (Reliant Etiwanda) tendered for filing an amendment to its filing in the above-captioned docket.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Enron Power Marketing, Inc.

[Docket No. ER00–497–000]

Take notice that on November 1, 1999, Enron Power Marketing, Inc. (EPMI), tendered for filing with the Commission an amendment to Electric Rate Schedule No. 1, to allow EPMI to sell specified ancillary services at market-based rates to the New England Power Pool. Consistent with the Commission's current requirements, EPMI also amends its rate schedule to specifically state that it sells the ancillary services of spinning reserve, non-spinning reserve, and regulation to the California ISO at market-based rates.

EPMI requests that the tariff amendment be made effective on January 1, 2000.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Rochester Gas and Electric Corporation

[Docket No. ER00–528–000]

Take notice that on November 8, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and Columbia Energy Power Marketing (Transmission Customer) for service under RG&E's open access transmission tariff. Specifically dealing with the Retail Access Program under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1999, for the Columbia Energy Power Marketing Service Agreement.

A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Idaho Power Company

[Docket No. ER99–4560–000]

Take notice that on September 28, 1999, Idaho Power Company filed a service agreement for firm point-to-point transmission service to Arizona Public Service Company under Idaho Power Company's transmission tariff.

The service agreement is proposed to become effective October 1, 1999.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Illinova Power Marketing, Inc.

[Docket No. ER00–431–000]

Take notice that on November 8, 1999, Illinova Power Marketing, Inc. (IPMI), tendered for filing an errata to the Electric Transaction Service Agreement filed in this docket on November 1, 1999, under which certain customers will take service pursuant to IPMI's power sales tariff, Rate Schedule FERC No. 1.

IPMI has requested an effective date of October 1, 1999, for each service agreement.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Portland General Electric Company

[Docket No. ER00–516–000]

Take notice that on November 8, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96–137–000), executed Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with PG&E Energy Trading-Power, LP.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreement to become effective October 22, 1999.

A copy of this filing was caused to be served upon PG&E Energy Trading-Power, LP, as noted in the filing letter.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. St. Joseph Light & Power Company

[Docket No. ER00–517–000]

Take notice that on November 8, 1999, St. Joseph Light & Power Co., (SJLP), tendered for filing eight executed agreements for transmission service under its Open Access Transmission Tariff. The eight agreements consist of two agreements for each of four customers, one for firm point-to-point service and one for non-firm point-to-point service. The four customers are The Energy Authority, Inc.; Energy Transfer Group, L.L.C.; NewEnergy, Inc.; and TransAlta Energy Marketing (U.S.) Inc. Also included in this filing is the Third Revised Sheet No. 72, to Tariff No.1 which is the Index of SJLP's point-to-point transmission service customers.

Copies of the filing were served on each of these four companies.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Services Company

[Docket No. ER00–518–000]

Take notice that on November 8, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Services between ASC and Omaha Public Power District (Omaha). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to Omaha pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Ameren Services Company

[Docket No. ER00–519–000]

Take notice that on November 8, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between ASC and Omaha Public Power District (Omaha). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to Omaha pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. FirstEnergy Corp., and Pennsylvania Power Company

[Docket No. ER00–520–000]

Take notice that on November 8, 1999, FirstEnergy Corp., tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Network Integration Service and an Operating Agreement for the Network Integration Transmission Service under the Pennsylvania Electric Choice Program with Utility.com, Inc. pursuant to the FirstEnergy System Open Access Tariff. These agreements will enable the parties to obtain Network Integration Service under the Pennsylvania Electric Choice Program in accordance with the terms of the Tariff.

The proposed effective date under these agreements is November 1, 1999.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, (Allegheny Power)

[Docket No. ER00–521–000]

Take notice that on November 8, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement Nos. 64, 65 and 66 to add West Penn Power d/b/a Allegheny Energy to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission.

The proposed effective date under each Service Agreement is December 1, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Alliant Energy Corporate Services, Inc.

[Docket No. ER00–523–000]

Take notice that on November 8, 1999, Alliant Energy Corporate Services, Inc., tendered for filing executed Service Agreements for short-term firm point-to-point transmission service and non-firm point-to-point transmission service, establishing Delmarva Power & Light Company as a point-to-point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc., transmission tariff.

Alliant Energy Corporate Services, Inc., requests an effective date of October 22, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Niagara Mohawk Power Corporation

[Docket No. ER00–524–000]

Take notice that on November 8, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing notice that effective upon the start date of the New York Independent System Operator (NYISO), the portion of Rate Schedule FERC No. 33, effective date December 12, 1983, and any supplements thereto, and filed with the Federal Energy Regulatory Commission by Niagara Mohawk that pertain to 397 MW of capacity from Moses 17–18 and the Niagara Plant to Niagara Mohawk's Edic substation is to be canceled. The balance of Rate Schedule FERC No. 33 is unaffected by this cancellation.

Notice of the proposed cancellation has been served upon Power Authority of the State of New York.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Rochester Gas and Electric Corporation

[Docket No. ER00–525–000]

Take notice that on November 8, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and TXU Energy Services (Transmission Customer) for service under RG&E's open access transmission tariff. Specifically dealing with the Retail Access Program under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1999, for the TXU Energy Services Service Agreement.

A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Rochester Gas and Electric Corporation

[Docket No. ER00–526–000]

Take notice that on November 8, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and North American Energy, Inc., (Transmission Customer) for service under RG&E's open access transmission tariff. Specifically dealing with the Retail Access Program under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1999, for the North American Energy, Inc., Service Agreement

A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Rochester Gas and Electric Corporation

[Docket No. ER00–527–000]

Take notice that on November 8, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and Monroe County (Transmission Customer) for service under RG&E's open access transmission tariff. Specifically dealing with the Retail Access Program under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1999, for the Monroe County Service Agreement

A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Rochester Gas and Electric Corporation

[Docket No. ER00–529–000]

Take notice that on November 8, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and Energetix, Inc., (Transmission Customer) for service under RG&E's open access transmission tariff. Specifically dealing with the Retail Access Program under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1999, for the Energetix, Inc., Service Agreement

A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. New England Power Pool

[Docket No. ER00–530–000]

Take notice that on November 8, 1999, the New England Power Pool (NEPOOL), Participants Committee tendered for filing the Forty-Seventh Agreement Amending the New England Power Pool Agreement (the Forty-Seventh Agreement) which modifies prospectively how capital expenditures and capitalized project costs of the ISO New England Inc., incurred on or after January 1, 2000 are to be allocated among and paid by the Participants.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the NEPOOL Participants.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Duquesne Light Company

[Docket No. ER00–532–000]

Take notice that November 8, 1999, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated November 5, 1999 with FirstEnergy Trading Services, Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds FirstEnergy Trading Services, Inc., as a customer under the Tariff.

DLC requests an effective date of November 5, 1999, for the Service Agreement.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Duquesne Light Company

[Docket No. ER00–533–000]

Take notice that on November 8, 1999, Duquesne Light Company (DLC), tendered for filing a Service Agreement for Network Integration Transmission Service and a Network Operating Agreement for Transmission Service dated November 1, 1999 with Allegheny Power Service under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds Allegheny Power Service as a customer under the Tariff.

DLC requests an effective date of November 1, 1999, for the Service Agreement.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Duquesne Light Company

[Docket No. ER00–535–000]

Take notice that on November 8, 1999, Duquesne Light Company (DLC), tendered for filing a Non-Firm Point-to-Point Service Agreement dated November 5, 1999 with TXU Energy Trading Company under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds TXU Energy Trading Company as a customer under the Tariff.

DLC requests an effective date of November 5, 1999, for the Service Agreement.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. McDonough Power Cooperative

[Docket No. ER00–537–000]

Take notice that on November 9, 1999, McDonough Power Cooperative (McDonough), tendered for filing its Agreement between McDonough Power Cooperative and Central Illinois Public Service Company (CIPS Agreement) pursuant to § 205 of the Federal Power Act (FPA), 16 U.S.C. § 824d, and § 35.12 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.12.

McDonough requests that the Commission accept the agreements with an effective date of November 18, 1999.

McDonough's filing is available for public inspection at its offices in Macomb, Illinois.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Alliant Energy Corporate Services, Inc.

[Docket No. ER00–538–000]

Take notice that on November 9, 1999, Alliant Energy Corporate Services, Inc., tendered for filing executed Service Agreements for short-term firm point-to-point transmission service and non-firm point-to-point transmission service, establishing Conectiv Energy Supply, Inc., as a point-to-point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc., transmission tariff.

Alliant Energy Corporate Services, Inc. requests an effective date of October 22, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Minnesota Power, Inc.

[Docket No. ER00–539–000]

Take notice that on November 9, 1999, Minnesota Power, Inc., tendered for filing a signed Service Agreement with UtiliCorp United Inc., and with OGE Energy Resources, Inc., under its market-based Wholesale Coordination Sales Tariff (WCS–2) to satisfy its filing requirements under this tariff.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Niagara Mohawk Power Corporation

[Docket No. ER00–501–000]

Take notice that on November 5, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Sithe Power Marketing, Inc. This Transmission Service Agreement specifies that Sithe Power Marketing, Inc., has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Sithe Power Marketing, Inc., to enter into separately scheduled transactions under which Niagara Mohawk will provide non-firm transmission service for Sithe Power Marketing, Inc., as the parties may mutually agree.

Niagara Mohawk requests an effective date of November 2, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Sithe Power Marketing, Inc.

Comment date: November 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Cinergy Services, Inc.

[Docket No. ER00–540–000]

Take notice that on November 9, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Edison Mission Marketing & Trading, Inc., (Western).

Cinergy and Western are requesting an effective date of October 9, 1999.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Baltimore Gas and Electric Company; Constellation Power Source, Inc.

[Docket Nos. ER99–2948–001 and ER97–2261–013]

Take notice that on November 12, 1999, Baltimore Gas and Electric Company and its affiliate, Constellation Power Source, Inc., tendered for filing notification of a change in status to reflect certain departures from the facts the Commission relied upon in granting market-based rate authority.

Comment date: December 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Pittsfield Generating Company, L.P.

[Docket No. ER00–496–000]

Take notice that on November 4, 1999, Pittsfield Generating Company, L.P. filed their quarterly report for the quarter ending September 30, 1999.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30839 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3065–009; New York]

Electro Ecology, Inc.; Notice of Availability of Environmental Assessment

November 22, 1999.

An environmental assessment (EA) is available for public review. The EA is for an application to amend the Wappingers Falls Hydroelectric Project. The application is to install a low-flow turbine that will operate on a flow of approximately 7 to 46 cubic feet per second (cfs). The low-flow turbine would allow the project to operate when flows are too low for use of the existing, larger turbines, and to more precisely control reservoir water levels. Approximately 100 feet of new steel pipe would be used to connect the existing penstock with the new low-flow turbine. The EA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The Wappingers Falls Hydroelectric Project is located on Wappinger Creek in Dutchess County, New York.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed at the Commission's Reference and Information Center, 888 First Street, NE, Washington, DC 20426 or on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance). Copies can also be obtained by calling the project manager, Pete Yarrington, at (202) 219–2939.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30849 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 8924–030 and 11055–021]

Northeast Hydrodevelopment Corp.; Wilton Hydro Electric Co.; Notice of Availability of Final Environmental Assessment

November 22, 1999.

A final environmental assessment (FEA) is available for public review. The FEA is for two applications to surrender the licenses for the McLane Dam Hydroelectric Project and the Wilton Hydroelectric Project. The Projects are located on the Souhegan River in Hillsboro County, New Hampshire.

The FEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the FEA can be viewed in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. This document may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

For further information, please contact the project manager, Ms. Rebecca Martin, at (202) 219–2650.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30844 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of an Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

November 19, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 2611–038.

c. *Dated Filed:* November 8, 1999.

d. *Applicants:* Kimberly-Clark Tissue Company (Kimberly-Clark), UAH-Hydro Kennebec Limited Partnership (UAH), and Madison Paper Industries (Madison Paper).

e. *Name of Project:* Hydro-Kennebec Project.

f. *Location:* On the Kennebec River, Kennebec and Somerset Counties, Maine.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicants Contact:* Nancy J. Skancke, Grammar Kissel Robbins Skancke & Edwards, 1225 Eye St., NW., Suite 1225, Washington, DC 20005, (202) 408–5400; Fax: (202) 408–5406. Philip K. Dutton, United American Energy Corp., 50 Tice Boulevard, Woodcliff Lake, New Jersey 07675, (201) 307–1818; Fax: (201) 307–1020. And, Michael J. Kurman, Arent Fox Kintner Plotkin & Khan, PLLC, 1050 Connecticut Ave., NW, Washington, DC 20036–5339, (202) 857–6345; Fax: (202)857–6395.

i. *FERC Contact:* Any questions on this notice should be addressed to Mohamad Fayyad at mohamad.fayyad@ferc.fed.us or 202–219–2665.

j. *Deadline for filing comments and/or motions:* December 22, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the project number (2611–038) on any comments or motions filed.

k. *Description of Filing:* The applicants propose to delete from the license an inoperable old powerhouse and related facilities, and to reduce the installed capacity of the project. The old powerhouse has an authorized capacity of 3,730 kW. The facilities proposed for deletion from the project boundary include a wooden gateway structure, a canal, and an old powerhouse containing 11 non-operating generating units. Also, the licensee is proposing to seal the headgate structure with concrete plugs and reinforce it by adding concrete walls. The total installed capacity of the project would decrease from 19,163 kW to 15,433 kW.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://ferc.fed.us/online/rims.htm, (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item "h" above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedures, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the

filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC. 20426. A copy of any motion to intervene must also be served upon each representative to the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30843 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Extending Deadline for Filing Comments, Final Terms and Conditions, Recommendations and Prescriptions, and Requesting Reply Comments

November 22, 1999.

a. *Type of Application:* New Major License.

b. *Project No.:* 2077–016.

c. *Date Filed:* July 29, 1999.

d. *Applicant:* USGen New England, Inc.

e. *Name of Project:* Fifteen Mile Falls Hydroelectric Project.

f. *Location:* The project is located on the Connecticut River, in Grafton and Coos Counties, New Hampshire, and Caledonia and Essex Counties, Vermont.

g. *Applicant Contact:* Mr. Cleve Kapala, USGen New England, Inc.,, 46 Centerra Parkway, Lebanon, NH 03766.

h. *FERC Contact:* Any questions on this notice should be addressed to William Guey-Lee E-mail address william.gueylee@ferc.fed.us, or telephone (202) 219–2808.

i. *Deadline for filing comments, final terms and conditions, recommendations, and prescriptions:* At the request of the U.S. Fish and Wildlife Service of the collaborative team, the deadline for filing comments, final terms and conditions, recommendations, and prescriptions, is extended to January 31, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426. The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

j. All filing must: (1) Bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," "PRESCRIPTIONS," or "REPLY COMMENTS;" (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30847 Filed 11–26–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: November 19, 1999, 64 FR 63310.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 23, 1999, 10 a.m.

CHANGE IN THE MEETING: The following Docket No. has been added to Item CAE–1 on the Agenda scheduled for the November 23, 1999 meeting:

Item No., Docket No. and Company

CAE–1—EL00–7–000, Illinois Power Company

David P. Boergers,

Secretary.

[FR Doc. 99–30982 Filed 11–23–99; 5:00 pm]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6480–8]

Acid Rain Program: Draft Acid Rain compliance Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft nitrogen oxides compliance plans.

SUMMARY: The Environmental Protection Agency is issuing draft nitrogen oxides (NO_X) compliance plans in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the draft NO_X compliance plans are also being issued as a direct final action in the notice of final NO_X compliance plans published elsewhere in today's **Federal Register**.

DATES: Comments on the draft NO_X compliance plans proposed by this action must be received on or before December 29, 1999.

ADDRESSES: Administrative Records. The administrative record for the NO_X compliance plans, except information protected as confidential, may be viewed during normal operating hours at U.S. EPA Region 4, 100 Alabama Street SW, Atlanta, GA 30303.

Comments. Send comments, requests for public hearings, and requests to receive notice of future actions concerning NO_X compliance plans to Winston A. Smith, Director, Air, Pesticides, and Toxics Management Division (address above).

Submit all comments in duplicate, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units covered by the draft NO_X compliance plans. All timely comments

will be considered, except those pertaining to standard provisions under 40 CFR 72.9 and issues not relevant to the draft NO_X compliance plans.

Hearings. To request a public hearing on the draft NO_X compliance plans, submit a written request stating the issues proposed to be raised in the hearing and explaining how a hearing will contribute to the decision-making process. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting the draft NO_X compliance plans.

FOR FURTHER INFORMATION CONTACT: Jenny Jachim, U.S. EPA Region 4, (404) 562–9126.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to the draft NO_X compliance plans and the NO_X compliance plans issued as a direct final action in the notice of final NO_X compliance plans published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on a draft NO_X compliance plan, the relevant NO_X compliance plan in the notice of final NO_X compliance plans will be withdrawn. Because the Agency will not institute a second comment period on this notice of draft NO_X compliance plans, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the NO_X compliance plans, see the information provided in the notice of final NO_X compliance plans elsewhere in today's **Federal Register**.

Dated: November 18, 1999.

Larry F. Kertcher,

Acting Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 99–30778 Filed 11–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6480–9]

Acid Rain Program: Acid Rain Compliance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final nitrogen oxides compliance plans.

SUMMARY: The Environmental Protection Agency is issuing, as a direct final action, nitrogen oxides (NO_X) compliance plans in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the compliance plans are being issued as a direct final action.

DATES: The NO_X compliance plans issued in this direct final action will be final on January 10, 2000 unless significant, adverse comments are received by December 29, 1999. If significant, adverse comments are timely received on a NO_X compliance plan in this direct final action, the relevant NO_X compliance plan will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: *Administrative Records.* The administrative record for the NO_X compliance plans, except information protected as confidential, may be viewed during normal operating hours at U.S. EPA Region 4, 100 Alabama Street SW, Atlanta, GA 30303.

Comments. Send comments to Winston A. Smith, Director, Air, Pesticides, and Toxic Management Division at the address above.

FOR FURTHER INFORMATION CONTACT: Jenny Jachim, U.S. EPA Region 4, (404) 562–9126.

SUPPLEMENTARY INFORMATION: Significant, adverse public comments received on a NO_X compliance plan in this direct final action that are timely received will be addressed in a subsequent approval or denial of a NO_X compliance plan. Such approval or denial will be based on the draft NO_X compliance plan in the notice of draft NO_X compliance plan that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

U.S. EPA is issuing, under 40 CFR 76.11, a NO_X averaging plan with which the following units shall comply for compliance year 1999: units 1–4 at Arkwright in Georgia, in which the actual annual average rate for NO_X for each unit shall not exceed the alternative contemporaneous annual emission limitation (ACEL) of 1.00 lb/mmBtu, and the actual heat input for units 1–4 shall not be greater than 652,199 mmBtu each; units 1–4 at Bowen in Georgia, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.44 lb/mmBtu, and the actual heat input for units 1–4 shall not be less than 42,974,115, mmBtu, 39,890,926 mmBtu, 59,808,558 mmBtu, and 56,547,329 mmBtu respectively; unit 2 at Branch in Georgia, in which the actual annual average rate for NO_X shall not exceed the ACEL of 0.80 lb/mmBtu, and the actual heat input shall not be greater than 13,635,168 mmBtu; units 4–7 at Crist in Florida, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.59 lb/mmBtu, and the actual heat input for units 4–7 shall not be greater than 4,330,920 mmBtu, 3,518,988 mmBtu, 13,451,097 mmBtu, and 20,422,854 mmBtu respectively; units 1 and 2 at Daniel in Mississippi, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.30 lb/mmBtu, and the actual heat input for units 1 and 2 shall not be less than 21,244,417 mmBtu and 29,987,051 mmBtu respectively; units 1 and 2 at Gadsden in Alabama, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.67 lb/mmBtu, and the actual heat input for units 1 and 2 shall not be greater than 3,412,000 mmBtu and 2,160,000 mmBtu respectively; units 1–5 at Gaston in Alabama, in which the actual annual average rate for NO_X for units 1–4 shall not exceed the ACEL of 0.45 lb/mmBtu, and for unit 5, 0.48 lb/mmBtu, and the actual heat input for units 1–4 shall not be less than 13,871,000 mmBtu, 15,349,000 mmBtu, 13,799,000 mmBtu, 13,796,000 mmBtu respectively, and for unit 5, not greater than 46,496,000 mmBtu; units 1–4 at Hammond in Georgia, in which the actual annual average rate for NO_X for units 1–3 shall not exceed the ACEL of 0.80 lb/mmBtu, and for unit 4, 0.50 lb/mmBtu, and the actual heat input for units 1–3 shall not be greater than 3,252,464 mmBtu each; units 1–3 at Kraft in Georgia, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.60 lb/mmBtu, and the actual heat input for units 1–3 shall not be greater than 1,434,816 mmBtu each; units 1 and 2 at McDonough in Georgia, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.45 lb/mmBtu; unit 1 at McIntosh in Georgia, in which the actual annual average rate for NO_X shall not exceed the ACEL of 0.84 lb/mmBtu, and the actual heat input shall not be greater than 5,272,714 mmBtu; unit 3 at Mitchell in Georgia, in which the actual annual average rate for NO_X shall not exceed the ACEL of 0.65 lb/mmBtu, and the actual heat input shall not be greater than 3,087,400 mmBtu; unit 3 at Scherer in Georgia, in which the actual annual average rate for NO_X shall not exceed the ACEL of 0.32 lb/mmBtu, and the actual heat input shall not be less than 51,627,214 mmBtu; units 1 and 2 at Scholz in Florida, in which the actual

annual average rate for NO_X for each unit shall not exceed the ACEL of 0.70 lb/mmBtu, and the actual heat input for units 1 and 2 shall not be greater than 723,608 mmBtu and 731,528 mmBtu respectively; units 1 and 2 at Wansley in Georgia, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.43 lb/mmBtu, and the actual heat input for units 1 and 2 shall not be less than 43,995,205 mmBtu and 46,349,195 mmBtu respectively; units 4 and 5 at Watson in Mississippi, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.60 lb/mmBtu, and the actual heat input for units 4 and 5 shall not be greater than 12,086,872 mmBtu and 20,127,887 mmBtu respectively; and units 1–7 at Yates in Georgia, in which the actual annual average rate for NO_X for units 1–7 shall not exceed the ACEL of 0.59 lb/mmBtu for units 1–3, 0.44 lb/mmBtu for units 4 and 5, and 0.36 lb/mmBtu for units 6 and 7, and the actual heat input for units 1–3 shall not be greater than 2,185,838 mmBtu for unit 1, and 2,694,591 mmBtu each for units 2 and 3, and not less than 4,188,728 mmBtu each for units 4 and 5, and 10,404,101 mmBtu and 11,655,498 mmBtu each for units 6 and 7, respectively. The Designated Representative is Charles D. McCrary.

U.S. EPA is also issuing, under 40 CFR 76.11, an additional NO_X averaging plan with which the following units shall comply for compliance year 1999: units 1–4 at Gallatin in Tennessee, in which the actual annual average rate for NO_X for each unit shall not exceed the ACEL of 0.42 lb/mmBtu, and the actual heat input for units 1–4 shall not be less than 12,874,000 mmBtu, 14,938,000 mmBtu, 18,188,000 mmBtu, and 18,527,000 mmBtu respectively; units 1–5 at Colbert in Alabama, in which the actual annual average rate for NO_X for each unit 1–4 shall not exceed the ACEL of 0.47 lb/mmBtu, and for unit 5, 0.49 lb/mmBtu, and the actual heat input for units 1–5 shall not be less than 12,412,000 mmBtu, 12,410,000 mmBtu, 12,189,000 mmBtu, 10,372,000 mmBtu, and 26,441,000 mmBtu respectively; and units 1–10 at Johnsonville in Tennessee, in which the actual annual average rate for NO_X for each unit 1–10 shall not exceed the ACEL of 0.51 lb/mmBtu, and the actual heat input for units 1–10 shall not be greater than 7,469,000 mmBtu, 7,440,000 mmBtu, 7,390,000 mmBtu, 6,348,000 mmBtu, 5,590,000 mmBtu, 6,205,000 mmBtu, 8,880,000 mmBtu, 8,805,000 mmBtu, 8,534,000 mmBtu, and 8,451,000 mmBtu respectively. The Designated Representative is Joseph R. Bynum.

Under each plan, the actual Btu-weighted annual average NO_X emission rate for the units in the plans shall be less than or equal to the Btu-weighted annual average NO_X emission rate for the units had they each been operated, during the same period of time, in compliance with the applicable emission limitations under 40 CFR 76.5, 76.6, or 76.7.

Dated: November 18, 1999.

Larry F. Kertcher,

Acting Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 99–30779 Filed 11–26–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AZ–018–NOA; FRL–6481–5]

Adequacy Status of the Maricopa County Submitted CO Attainment Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this document, EPA is notifying the public that we have found that submitted Maricopa County Carbon Monoxide (CO) Attainment Plan is adequate for conformity purposes. As a result of our finding, the Maricopa Association of Governments and the Federal Highway Administration are required to use the CO motor vehicle emissions budget from the submitted CO Attainment Plan for future conformity determinations. This determination is effective December 14, 1999.

DATES: This budget is effective December 14, 1999.

FOR FURTHER INFORMATION CONTACT: The finding and the response to comments are available at EPA's conformity website: *http://www.epa.gov/oms/traq,* (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity"). You may also contact Karina O'Connor, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1247 or *oconnor.karina@epa.gov.*

SUPPLEMENTARY INFORMATION:

Today's document is simply an announcement of a finding that we have already made. EPA Region IX sent a letter to the Arizona Department of Environmental Quality on November 5, 1999 stating that the submitted Maricopa County CO Attainment Plan is adequate for conformity purposes. This finding has also been announced on our conformity website: *http://www.epa.gov/oms/traq,* (once there, click on the "Conformity" button, then look for "Adequacy Review of SIP Submissions for Conformity").

Transportation conformity is required by section 176(c) of the Clean Air Act. Our conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from our completeness review which is required by section 110(k)(1) of the Clean Air Act, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

We've described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision"). We followed this guidance in making our adequacy determination.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 8, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 99–30899 Filed 11–26–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6481–6]

42 U.S.C. 122(h), Proposed Administrative Agreement for Collection of CERCLA Past Costs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is proposing to execute an Administrative Agreement (Agreement) under section 122 of CERCLA for collection of a percentage of past response costs at the Gary

Lagoons Superfund Site. Respondent has agreed, under an ability to pay analysis, to pay $16,000 out of total response costs of approximately $4,047,000, and will also relinquish title to the subject Site property to the Indiana Department of Natural Resources (IDNR), in return for a covenant not to sue and contribution protection from U.S. EPA, and a covenant not to sue for federal and state Natural Resource Damages claims from the the U.S. Department of the Interior (DOI) and the State of Indiana Departments of Environmental Management and Natural Resources. U.S. EPA today is proposing to execute this Agreement because it achieves protection of a portion of a very unique Dune and Swale ecological area.

DATES: Comments on this proposed settlement must be received on or before December 29, 1999.

ADDRESSES: Copies of the proposed settlement are available at the following address for review: (It is recommended that you telephone Mr. Derrick Kimbrough at (312) 886–9789 before visiting the Region V Office). Mr. Derrick Kimbrough, OPA (P19–J) Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P–19J), Chicago, Illinois 60604, (312) 886–9749.

Comments on this proposed settlement should be addressed to: (Please submit an original and three copies, if possible) Mr. Derrick Kimbrough, Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P–19J), Chicago, Illinois 60604, (312) 886–9749.

FOR FURTHER INFORMATION CONTACT: Mr. Derrick Kimbrough, Office of Public Affairs, at (312) 886–9749.

SUPPLEMENTARY INFORMATION: The Site is a 7-acre vacant property located at 5622 and 5624–34 Industrial Highway in Gary, Indiana (Lake County). The Site consisted of two unlined and uncovered lagoons situated in a sandy environment and surrounded by marshes and wetlands. Pursuant to the terms of the administrative agreement the Settling Party has agreed to pay $16,000 towards past costs associated with investigation and enforcement of CERCLA at the Site. The Site is not on the National Priorities List. The Agreement has been executed by the Settling Party, the U.S. Department of the Interior (DOI) and the Indiana Department of Natural Resources (IDNR) and Indiana Department of Environmental Management (IDEM) (as federal and co-state Natural Resources Trustees), waiving all Natural Resources Damages claims against the Settling Party. The Settling Party will also receive CERCLA contribution protection and a covenant not to sue for the past costs associated with the Site.

A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed Administrative Agreement.

Comments should be sent to Mr. Derrick Kimbrough of the Office of Public Affairs (P–19J), U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 99–30898 Filed 11–26–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6481–4]

Clean Water Act Section 303(d): Availability of List Submission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This document announces the availability of a Court Ordered Clean Water Act section 303(d) list and administrative record for the State of Louisiana, and requests public comment. On October 1, 1999, the Court issued a judgment in the following action (*Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La. Oct. 1, 1999)). The judgment incorporates the Court's Orders (Dec. 3, 1998, and Oct. 1, 1999) finding the Agency's approval of Louisiana's 1998 section 303(d) list arbitrary and capricious under the APA. The Court ordered EPA to disapprove the State list, establish a new section 303(d) list within 30 days, and establish TMDLs for these listed waters.

On October 28, 1999, EPA disapproved Louisiana's 1998 section 303(d) list, and on November 1, 1999, submitted to the Court a Court Ordered section 303(d) list and administrative record. The Court Ordered list includes 349 waters and 1,711 pollutants of concern.

DATES: Comments must be submitted to EPA on or before December 29, 1999.

ADDRESSES: Comments on the Court Ordered list should be sent to Ellen Caldwell, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733. For further information, Contact Ellen Caldwell at (214) 665–7513. Copies of the Court Ordered list and the Decision Document concerning the Court Ordered section 303(d) list for Louisiana which explain the rationale for the list can be viewed at www.epa.gov/region6/water/tmdl.htm, or obtained by writing or calling Ms. Caldwell at the above address. Underlying documentation comprising the administrative record for this decision is available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ellen Caldwell at (214) 665–7513.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and the Louisiana Environmental Action Network (Plaintiffs), filed suit in Federal court against the U.S. Environmental Protection Agency (EPA) for violations of the Administrative Procedure Act (APA) and section 303(d) of the Clean Water Act (CWA). The Plaintiffs alleged that EPA improperly approved Louisiana's section 303(d) lists, and failed to identify and list all Louisiana waters that did not satisfy water quality standards.

On October 1, 1999, the Court issued a judgment in this action (*Sierra Club, et al.* v. *Clifford et al.*, No. 96–0527, (E.D. La. Oct. 1, 1999)). The judgment incorporates the Court's Orders (Dec. 3, 1998, and Oct. 1, 1999) finding the Agency's approval of Louisiana's 1998 section 303(d) list arbitrary and capricious under the APA. The Court ordered EPA to:

(a) To disapprove the 1998 list submitted by Louisiana; and

(b) To file with the Court, within 30 days, a new list consistent with this order.

(i) If defendants decide to delete any waters that were included in Louisiana's 1996 list, the new list decision must offer a reasoned explanation for the deletion. In addition, the decision must explain whether the agency is relying on Louisiana's section 305(b) report, the state's 1998 unified watershed assessment, and the state's metals data. If the defendants choose not to rely on any of these documents, the new list decision must include a reasoned explanation for that choice. If the defendants rely on any of these documents, the agency shall include them in the administrative record.

(ii) In preparing the new list, the defendants shall, at a minimum, evaluate "all existing and readily available" data and information on the following waters:

(A) Those identified as not meeting water quality standards in Louisiana's

1996 identification under section 303(d).

(B) Those included on Louisiana's section 319 list of waters that do not meet water quality standards because of nonpoint source pollution.

(C) Those contained in Louisiana's section 304(l) list of waters that do not meet water quality standards because of toxic pollution.

(D) Those interstate waters in Louisiana that other states have previously identified as failing to meet water quality standards.

(iii) In preparing the new list, the defendants shall include all waterbodies on Louisiana's section 319 and section 304(l) lists, unless it is demonstrated on the record that (1) a waterbody on the section 319 or 304(l) list is meeting all applicable water quality standards, including numeric and narrative criteria and designated uses; or (2) if, upon re-examination, the original basis for listing is determined to be inaccurate.

As mentioned earlier, this document announces the availability of a Court Ordered Clean Water Act section 303(d) list and administrative record for the State of Louisiana, and requests public comment. EPA's regulations provide for public participation where the Agency disapproves a State section 303(d) list and establishes a list itself. Pursuant to 40 CFR 130.7(d)(2) EPA is seeking comment on this Court Ordered section 303(d) list. Pursuant to the Court's Order, EPA added numerous waters because the Agency lacked data supporting a decision not to list. In addition, a few waterbody/pollutant combinations were not included on the Court Ordered list. This list was compiled on a very short time frame. EPA requests that the public bring to the Agency's attention any data or information warranting revision of this list. If such data or information is submitted during the public comment period, EPA may revise the Court Ordered section 303(d) list accordingly. After considering public comment and making any appropriate revisions, EPA will transmit the section 303(d) list to the Court, and to the Louisiana Department of Environmental Quality (LDEQ).

Dated: November 19, 1999.

William B. Hathaway,

Director, Water Quality Protection Division, Region 6.

[FR Doc. 99–30900 Filed 11–26–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 10, 1999.

A. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Richard S. Blossman, Jr., Covington, Louisiana; to acquire additional voting shares of Central Progressive Bancshares, Inc., Hammond, Louisiana, and thereby indirectly acquire additional voting shares of Central Progressive Bank of Amite, Amite, Louisiana.

Board of Governors of the Federal Reserve System, November 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30853 Filed 11–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 13, 1999.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Scotty Dan Allen, Stephenville, Texas; to acquire additional voting shares of Town and Country Bancshares, Inc., Stephenville, Texas, and thereby indirectly acquire additional voting shares of Town and Country Bank, Stephenville, Texas.

Board of Governors of the Federal Reserve System, November 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30926 Filed 11–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 20, 1999.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Penn Laurel Financial Corporation, Curwensville, Pennsylvania; to acquire 100 percent of the voting shares of Clearfield Bank and Trust Company, Clearfield, Pennsylvania.

Board of Governors of the Federal Reserve System, November 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30854 Filed 11–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 23, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Wachovia Corporation, Winston Salem, North Carolina; to merge with B C Bankshares, Inc., Canton, Georgia, and thereby indirectly acquire Bank of Canton, Canton, Georgia.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Ellis Bankshares, Inc., Eagle River, Wisconsin; to become a bank holding company by acquiring 81.59 percent of the voting shares of First National Bank of Eagle River, Eagle River, Wisconsin.

Board of Governors of the Federal Reserve System, November 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30927 Filed 11–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 99-30399) published on pages 63814 and 63815 of the issue for Monday, November 22, 1999.

Under the Federal Reserve Bank of Kansas City heading, the entry for Hometown Banc Corp., Grand Island, Nebraska, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Hometown Banc Corp., Grand Island, Nebraska; to retain voting shares of Security State Bank, Sumner, Nebraska, and thereby engage in the operation of a thrift, pursuant to § 225.28(b)(4)(ii) of Regulation Y upon the conversion of Security State Bank to a thrift charter. Security State Bank will be renamed Security Bank, Sumner, Nebraska.

Comments on this application must be received by December 17, 1999.

Board of Governors of the Federal Reserve System, November 23, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–30925 Filed 11–26–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, December 1, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–31008 Filed 11–24–99; 10:58 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10:00 a.m., Tuesday, December 14, 1999.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in VISX Incorporated, Docket 9206.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in VISX Incorporated, Docket 9286.

CONTACT PERSON FOR MORE INFORMATION: Victoria Streitfeld, Office of Public Affairs: (202) 326–2180, Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 99–31022 Filed 11–24–99; 12:14 pm]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Proposed Collection: Submission for OMB Review; Comment Request Entitled Questionnaire: CD–ROM of the Catalog of Federal Domestic Assistance and Federal Assistance Award Data System

AGENCY: Office of Acquisition Policy, GSA

ACTION: Notice of request for approval of a new information collection entitled Questionnaire: CD–ROM of the Catalog of Federal Domestic Assistance and Federal Assistance Award Data System.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), GSA has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection concerning Questionnaire: CD–ROM of the Catalog of Federal Domestic Assistance and Federal Assistance Award Data System.

The Federal Domestic Assistance Catalog Staff, General Services Administration is requesting that users of the CD–ROM version of the Catalog of Federal Domestic Assistance and Federal Assistance Award Data System reply, on a voluntary basis to a survey designed to determine user satisfaction and solicit comments that will help them understand users' needs. The Federal Domestic Assistance Catalog Staff will use information solicited from users to improve its usefulness to customers. Without this information, CD–ROM users' needs may go unrecognized. This is a voluntary survey that will take approximately 5 minutes to complete

DATES: Submit comments on or before January 28, 2000.

ADDRESSES: Comments concerning this notice should be submitted to: Jacqueline Garrett, Governmentwide Information Systems Division, Room 101–Reporters Building, 300 7th Street, SW., Washington, DC 20407, or e-mail to Jackie.Garrett@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Jacqueline Garrett, Governmentwide Information Systems Division, Room 101–Reporters Building, 300 7th Street, SW., Washington, DC 20407, or e-mail to Jackie.Garrett@gas.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The purpose of this Notice is to solicit comments from users of the CD–ROM version of the Catalog of Federal Domestic Assistance (CFDA) and Federal Assistance Award Data System (FAADS) to improve its usefulness to customers.

B. Annual Reporting Burden

Respondents: 1,000; annual responses: 1,000; average hours per response: .10; burden hours: 100.

Copy of Proposal: A copy of this proposal may be obtained by contacting Jacqueline Garrett at the above address.

Dated: November 22, 1999.

J. Les Davison,

Acting Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 99–30863 Filed 11–26–99; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4808]

Guidance for Industry on Drug Master Files for Bulk Antibiotic Drug Substances; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Drug Master Files for Bulk Antibiotic Drug Substances." This guidance is intended to assist those in industry whose approved applications for bulk antibiotic drug substances were converted to Type II drug master files (DMF's) as a result of the repeal of the statutory provision in the Federal Food, Drug, and Cosmetic Act (the act) under which the agency certified antibiotic drugs.

DATES: Written comments may be submitted at any time.

ADDRESSES: Copies of this guidance are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of this guidance for industry to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist the office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Susan M. Rosencrance, Center for Drug Evaluation and Research (HFD–643), Food and Drug Administration, Office of Generic Drugs, 7500 Standish Pl., Rockville, MD 20855, 301–827–5779.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled "Drug Master Files for Bulk Antibiotic Drug Substances." The purpose of this guidance is to provide recommendations to those in industry whose approved applications for bulk antibiotic drug substances were administratively converted, by FDA, to Type II DMF's as a result of the repeal of section 507 of the act (see section 125(b) of the Food and Drug Administration Modernization Act of 1997). This guidance describes the purpose of DMF's, discusses the type of information expected in a Type II DMF, explains the administrative procedures governing review of DMF's, and clarifies the responsibilities of a DMF holder. FDA is issuing this guidance because of a possible misunderstanding by some DMF holders about the need to inform FDA of manufacturing changes to bulk antibiotic drug substances that are covered under a DMF. The information included in the guidance is a compilation of previously published information.

This Level 2 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). FDA is issuing a notice of availability for this Level 2 guidance to ensure that industry is aware of the importance of updating DMF's when changes are made.

The guidance represents the agency's current thinking on DMF's for bulk antibiotic drug substances. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 17, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–30819 Filed 11–26–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Department of Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

Meeting Date and Time: Friday, December 10, 1999; 1–4 p.m.

Address: Hotel Bethlehem, 437 Main Street, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988 and extended through Public Law 105–355, November 13, 1998.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 10 E. Church Street, Room A–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: November 22, 1999.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 99–30862 Filed 11–26–99; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: African Lion Safari & Game Farm Ltd, Ontario, Canada. PRT–817217, 817258, 018894, 018895, 018896, 018897.

The applicant requests a permit to import and re-export captive born and wild Asian elephants (*Elephas maximus*) and progeny of the animals currently held by the applicant and any animals acquired in interstate commerce in the United States by the applicant to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Wildlife Conservation Society, Bronx, NY. PRT–018012.

The applicant requests a permit to import one captive born male black and white ruffed lemur (*Lemur v. variegatus*) from the Mulhouse Zoologique Botanique Parc, Mulhouse, France, for the purpose of captive propagation and acclimatization for possible release to the wild for the enhancement of the survival of the species.

Applicant: Glady's Porter Zoo, Brownsville, TX. PRT–018992.

The applicant requests a permit to import one male and two female Philippine crocodile (*Crocodylus mindorensis*) from the Crocodile Farming Institute, Puerto Princesa, Philippines, for the purpose of a cooperative global effort to maintain genetic diversity in the captive population.

Applicant: Cincinnati Zoo and Botanical Garden, Cincinnati, OH. PRT–018120.

The applicant requests a permit to import ten captive born Chinese giant salamanders (*Andrias davidianus*) from Mr. Thomas Schoettler, Germany, for the purpose of enhancing the captive breeding program and producing a sustainable captive born population in North America.

Applicant: Zool. Society of Pittsburgh/Pittsburgh Zoo, Pittsburgh, PA. PRT–019215.

The applicant requests a permit to import one female captive born Siberian tiger (*Panthera tigris altaica*) from the Sankt Peterburg Zoo, Sankt Peterburg, Russia for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: Center for Endangered Cats, Sandstone, MN. PRT–019526.

The applicant requests a permit to export and re-import captive born and wild snow leopards (*Uncia uncia*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Lisa Bailey Comeaux, University of Tennessee, Knoxville, TN. PRT–018592.

The applicant requests a permit to import blood, tissue, and wing biopsy samples from captive-held/captive born Rodrigues Fruit bats (*Pteropus rodricensis*), both live and dead specimens from various zoos and museums in the United Kingdom, for scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with the application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: November 22, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–30821 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

November 19, 1999.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. TE–830213

Applicant: EcoPlan Associates, Inc., Mesa, Arizona

Applicant requests authorization for scientific research and recovery purposes to conduct presence/absence surveys for the following endangered and threatened species in Arizona.

Black-footed ferret (*Mustela nigripes*)
Hualapai Mexican vole (*Microtus mexicanus hualapaiensis*)
Jaguar (*Panthera onca*)

Lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*)
Mount Graham red squirrel (*Tamiasciurus hudsonicus grahamenis*)
Sonoran pronghorn (*Antilocapra americana sonoriensis*)
Yuma clapper rail (*Rallus longirostris yumanensis*)
Sonora tiger salamander (*Ambystoma tigrinum stebbinsi*)
Gila topminnow (*Poeciliopsis occidentalis occidentalis*)
Apache trout (*Oncorhynchus apache*)
Bonytail chub (*Gila elegans*)
Colorado pikeminnow (*Ptychocheilus lucius*)
Desert pupfish (*Cyprinodon macularius*)
Yaqui topminnow (*Poeciliopsis occidentalis sonoriensis*)
Arizona agave (*Agave arizonica*)
Arizona cliff rose (*Purshia subintegra*)
Arizona hedgehog cactus (*Echinocereus triglochidiatus arizonicus*)
Brady pincushion cactus (*Pediocactus bradyi*)
Peebles Navajo cactus (*Pediocactus peeblesianus peeblesianus*)
Pima pineapple cactus (*Coryphantha scheeri robustispina*)
Nichol's Turk's Head cactus (*Echinocactus horizonthalonius nicholii*)
Canelo Hills ladies'-tresses (*Spiranthes delitescens*)
Huachuca water umbel (*Lilaeopsis schaffneriana recurva*)
Sentry milk-vetch (*Astragalus cremnophlax cremnophyla*)

DATES: Written comments on these permit applications must be received on or before December 29, 1999.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: The U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Bryan Arroyo,

Programmatic Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–30861 Filed 11–26–99; 8:45 am]

BILLING CODE 4510–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–320–1820–XQ]

Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northwest California Resource Advisory Council Ukiah, California.

ACTION: Notice of Meeting Location Change.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Public Law 92–463) and the Federal Land Policy and Management Act (Public Law 94–579), the US Bureau of Land Management's Northwest California Resource Advisory Council will meet Thursday and Friday, December 9 and 10, 1999, for a business meeting and field tour. The meeting and tour are open to the public, but anyone attending must provide their own transportation and lunch. The location of the business meeting has been changed from the Marriott Hotel in Napa to the Embassy Suites, 1075 California Blvd., Napa, California.

SUPPLEMENTARY INFORMATION: The original meeting notice was published in the **Federal Register** on November 18, 1999 (volume 64, number 215, page 60829). Details of the meeting are unchanged from that publication.

FOR ADDITIONAL INFORMATION CONTACT: Rich Burns, BLM Ukiah Field Manager, at (707) 468–4000.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 99–30860 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–EU; COC–58579]

Opening of Lands, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: Pursuant to the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716), this Order terminates the segregative effect of land exchange proposal COC–58579 and opens 1,829.57 acres of public lands in Routt County, Colorado, to the operation of the public land laws and mineral laws. The proponent has decided not to continue with the land exchange proposal at this time.

EFFECTIVE DATE: November 29, 1999.

FOR FURTHER INFORMATION CONTACT: Craig Haynes, Realty Specialist, Little Snake Field Office, 455 Emerson Street, Craig, Colorado 81625; telephone (970) 826–5077.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 206 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716), it is ordered that at 9 a.m. on the date of publication of this notice, all public lands segregated by land exchange proposal COC–58579 within T. 11 N., R. 87 W., 6th P.M., shall be open to the operation of the public land laws generally, the general mining laws, and the mineral leasing laws, subject to valid existing rights. A complete description of the lands affected by this opening order is available at the Little Snake Field Office or at the Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

Dated: November 10, 1999.

John E. Husband,

Field Manager.

[FR Doc. 99–30825 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR
National Park Service

General Management Plan, Draft Environmental Impact Statement, Fort Bowie National Historic Site, AZ

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of Draft Environmental Impact Statement and General Management Plan for Fort Bowie National Historic Site.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Draft Environmental Impact Statement and General Management Plan (DEIS/GMP) for Fort Bowie National Historic Site, Arizona.

DATES: The DEIS/GMP will remain available for public review through January 30, 2000. If any public meetings are held concerning the DEIS/GMP, they will be announced at a later date.

COMMENTS: If you wish to comment, you may mail your comments to the Superintendent, Fort Bowie National Historic Site, Dos Cabezas Route, Box 6500, Willcox, Arizona 85643–9737. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Copies of the DEIS/GMP are available from the Superintendent at the following address. Public reading copies of the DEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Fort Bowie National Historic Site, Dos Cabezas Route, Box 6500, Willcox, Arizona 85643–9737, Telephone: (520) 824–3560.

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, P.O. Box 25287, Denver, CO 80225–0287, Telephone: (303) 969–2851 [or (303) 969–2377].

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW, Washington, D.C. 20240, Telephone: (202) 208–6843.

SUPPLEMENTARY INFORMATION: The DEIS/GMP analyzes two alternatives to identify and assess the various management alternatives and related environmental impacts relative to park operations, visitor use and access, natural and cultural management, and general development at the monument. The general management plan would guide the management of the Fort Bowie National Historic Site for the next 12 to 15 years. The National Park Service proposal continues the concept established—the principle of a very low level of development, intended to allow the visitor a "discovery" experience in a place of "historic abandonment." The No-Action Alternative would maintain visitor services and resource protection at current limited levels throughout the life of the plan.

The DEIS/GMP in particular evaluates the environmental consequences of the proposed action and the other alternatives on visitor experience, cultural resources, long-term health of natural ecosystems, economic contribution to gateway communities, adjacent landowners, and operational efficiency.

FOR FURTHER INFORMATION: Contact Superintendent, Fort Bowie National Historic Site, at the above address and telephone number.

Dated: November 17, 1999.

Michael D. Snyder,

Director, Intermountain Region, National Park Service.

[FR Doc. 99–30858 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Tallgrass Prairie National Preserve

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of the Draft General Management Plan/Draft Environmental Impact Statement for the Tallgrass Prairie National Preserve, Kansas.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of the Draft General Management Plan/Draft Environmental Impact Statement (DGMP/DEIS) for the Tallgrass Prairie National Preserve. This notice also announces public open houses for the purpose of receiving public comments on the DGMP/DEIS.

DATES: There will be a 60-day public review period for comments on this document. Comments on the DGMP/DEIS must be received no later than January 19, 2000. Public open houses for information about, or to make comment on the DGMP/DEIS will be held at the following times and locations: Tuesday, November 30, 1999, 5:00 p.m. to 7:30 p.m. at the Chase County Community Building (Swope Park), Walnut and County Road, Cottonwood Falls, Kansas; Wednesday, December 1, 1999, 6:00 p.m. to 8:30 p.m. at the Great Plains Nature Center, 6232 E. 29th Street North, Wichita, Kansas; and Thursday, December 2, 1999, 6:00 p.m. to 8:30 p.m. at the Holiday Inn, 200 McDonald Drive, Lawrence, Kansas.

ADDRESSES: Copies of the DCMP/DEIS are available by request by writing the Tallgrass Prairie National Preserve, P.O. Box 585, Cottonwood Falls, Kansas 66845, by phone 316–273–6034, or by e-mail from TAPR_Superintendent @nps.gov. The document can be picked-up in person at the Tallgrass National Preserve administrative headquarters, 226 Broadway, Cottonwood Falls, Kansas. The document also can be downloaded via the Internet at http://www.nps.gov/tapr/.

If you wish to comment, you may submit your comment by any one of several methods. You may attend one of the open houses noted above. You may mail comments to Superintendent, Tallgrass Prairie National Preserve, P.O. Box 585, Cottonwood Falls, Kansas 66845. You also may comment via e-mail to TAPR_Superintendent @nps.gov. If you attach a file to your e-mail, please ensure the file is in ASCII format avoiding the use of special characters and any form of encryption. Please also include your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact the Superintendent directly at 316–273–6034. Comments also may be submitted electronically through a form on the Preserve's website (http://www.nps.gov/tapr/). Finally, you may hand-deliver comments to the Tallgrass Prairie National Preserve administrative headquarters at 226 Broadway, Cottonwood Falls, Kansas. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identify, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Superintendent, Tallgrass Prairie National Preserve, at P.O. Box 585, Cottonwood Falls, Kansas 66845 or at telephone number 316–273–6034.

SUPPLEMENTARY INFORMATION: The purpose of the General Management Plan is to set forth the basic

management philosophy for the Preserve and to provide the strategies for addressing issues and achieving identified management objectives. The DGMP/DEIS describes and analyzes the environmental impacts of a proposed action and four action alternatives for the future management direction of the Preserve. A no action alternative is also evaluated.

Alternative A is the no-action alternative. It provides a baseline for comparison of the other alternatives. Each of the action alternatives would strive to achieve all desired futures for the preserve, including those related to prairie enhancement, natural and cultural resources protection, and visitor experiences. The primary difference between alternatives is their central focus. The Preferred Alternative (Proposed Action) would focus on the integrated management of the natural and cultural resources of the Preserve. The alternative is based on the ideas that the Preserve was established to preserve, protect, and interpret a remnant of the tallgrass prairie ecosystem and that the remnant prairie exists today because of a complex history of interaction between people and the land. Alternative B would focus primarily on the preservation, protection, and interpretation of the Preserve's cultural resources, although the prairie ecosystem would be enhanced and natural resources protected. Alternative C would emphasize visitor experience goals. This alternative would provide the broadest range of visitor experiences over the largest area of the Preserve. Alternative D would center on the story of ranching in the Flint Hills region, along the story of human interaction with the tallgrass prairie ecosystem. Finally, Alternative E would more fully focus on management of the natural landscape, including unplowed prairie and associated creeks, springs, and seeps.

The responsible official is Mr. William Schenk, Midwest Regional Director, National Park Service.

Dated: November 15, 1999.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 99–30857 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF INTERIOR

National Park Service

Anacapa Island Restoration Project, Channel Islands National Park, Ventura County, California; Notice of Intent To Prepare an Environmental Impact Statement

SUMMARY: Pursuant to § 102 (2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190) and Council on Environmental Quality regulations (40 CFR 1508.22), the National Park Service intends to prepare an Environmental Impact Statement that addresses eradicating the non-native Black Rat (*Rattus rattus*) from Anacapa Island. In addition, park managers desire to implement preventative actions to keep rats and other non-native rodents from establishing on other islands in the park. These proposed activities would take place within Channel Islands National Park, Ventura County, California.

Background: Anacapa Island, located 17 miles southwest of the Ventura Coast, is comprised of three islets totaling about 700 acres. Known for both its beauty and its biological diversity, Anacapa Island serves as both a destination for visitors as well as habitat for marine and terrestrial species. Anacapa Island as a whole is the largest California Brown Pelican colony in the Southern California Bight. To protect the California Brown Pelican (listed as Endangered under the Endangered Species Act) and its habitat, the west islet has been set aside as a Research Natural Area. The non-native Black Rat impacts the seabird population through predation, and threatens the ecological integrity of intertidal and terrestrial ecosystems. The Black Rat also damages park infrastructure, threatens health and safety, and decreases visitor enjoyment. After careful examination of known impacts of rats on islands generally (and known and potential effects on Anacapa Island in particular), park resource managers and other resource experts conclude that island-wide Black Rat eradication is a prudent management action. This proposed action is consistent with exotic species management direction provided in the Channel Islands National Park General Management Plan (1985) and subsequent Resource Management Plan (1994). Additionally, no other islands in the park are known to have rats. There is a threat of introduction of rats, or other non-native rodents, from shipwrecks or transport of people and materials. Park managers need to have the capability to respond rapidly to eradicate new introductions of non-native rodents.

Scoping: The NPS is requesting comments regarding this proposed initiative from interested individuals, organizations, and agencies. Respondents should address potential environmental issues, applicable research or mitigations, and reasonable alternatives which they feel should be considered in the EIS. Written comments must be postmarked by January 1, 2000, and should be sent to the Superintendent, Channel Islands National Park, 1901 Spinnaker Dr., Ventura, CA 93001. A public scoping meeting is scheduled to be held in Ventura at 7:00pm, December 8, 1999. Additional information, including specific times and locations for public meetings, will be given via local and regional press releases, public notices, the park's website, and direct mailings.

SUPPLEMENTARY INFORMATION: Updated information regarding the conservation planning and environmental impact analysis process for this initiative and proposed actions identified to date will be distributed and periodically updated via direct mailings, regional and local news media, and the park's website (http://www.nps.gov/chis/naturalresources/airp.html). To request being added to the mailing list, interested parties may contact Steve Ortega, Restoration Biologist, at (805) 658–5784 (or HYPERLINK mailto:CHIS__AnacapaRats@nps.gov chis__restoration@nps.gov).

Review and Decision Process

The Draft EIS is expected to be available for public review and comment during winter-spring, 1999–2000. Availability of the Draft EIS for review and written comment will be formally announced by Notice in the **Federal Register**, through local and regional news media, the internet, and direct mailing. At this time it is anticipated that the Final EIS will be completed by July, 2000. Subsequently, notification of an approved Record of Decision would be published in the **Federal Register** not sooner than thirty (30) days after the Final EIS is distributed. This is expected to occur by September, 2000. The official responsible for the decision is the Regional Director, Pacific West Region, National Park Service; the official responsible for implementation is the Superintendent, Channel Islands National Park.

Dated: November 17, 1999.

James R. Shevock,

Acting Regional Director, Pacific West Region.

[FR Doc. 99–30856 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Public Meeting To Be Held on Clean Up and Planning for Use of Kenilworth Park, Washington, DC

ACTION: Announcement of a public meeting regarding clean up of Kenilworth Park and commencement of a new recreational plan for the park's use.

SUMMARY: The National Park Service will hold a public meeting, to apprise the community of the ongoing park directed clean-up and stabilization activities in Kenilworth Park. The meeting will also allow the community to offer their interests and ideas to be considered in a plan that will explore alternatives for future recreational uses of Kenilworth Park. An Environmental Assessment will be prepared for the development plan at Kenilworth Park. The public will be offered varied methods to provide comments to the National Park Service. The comment period will remain open for ten days after the meeting to allow for additional written comments.

DATES: The meeting will take place on Tuesday, November 30, 1999 from 7 p.m. to 9 p.m.

ADDRESSES: The meeting will be held at Kenilworth Elementary School located at 1300 44th Street, NE (at Nash Street), Washington, DC.

For more information, contact the National Capital Parks—East public information officer at (202) 690–5185.

Dated: November 22, 1999.

John Hale,

Superintendent, National Capital Parks—East.

[FR Doc. 99–30855 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Boston Harbor Islands Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (P.L. 92–463) that the Boston Harbor Islands Advisory Council will meet on Thursday, September 16, 1999. The meeting will convene at 4 p.m. at the University Club, University of Massachusetts, 100 Morrissey Boulevard, Healey Library, 11th Floor, Boston, Massachusetts.

The Advisory Council was appointed by the Director of National Park Service pursuant to Public Law 104–333. The 28 members represent business, educational, cultural, and environmental entities; municipalities surrounding Boston Harbor; and Native American interests. The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of a management plan and the operation of the Boston Harbor Islands National Recreation Area.

The Agenda for this meeting is as follows:

1. Introductions and remarks from Robert Durand, Chair, Boston Harbor Islands Partnership.
2. Discussion of the status of the general management plan.
3. Briefing on the economic development plan for the park.

The meeting is open to the public. Further information concerning Council meetings may be obtained from the Superintendent, Boston Harbor Islands. Interested persons may make oral/written presentations to the Council or file written statements. Such requests should be made to: Superintendent, Boston Harbor Islands National Recreation Area, 408 Atlantic Avenue, Suite 228, Boston, Massachusetts, 02110, telephone (617) 223–8667.

Dated: September 9, 1999.

Bruce Jacobson,

Assistant Superintendent, Boston Harbor Islands NRA.

[FR Doc. 99–30890 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Draft Environmental Impact Statement for Elephant Butte/Caballo New Mexico Reservoirs Resource Management Plan

AGENCY: Bureau of Reclamation, Interior.

ACTION: Extension of comment period.

SUMMARY: The Bureau of Reclamation, Upper Colorado Region, is announcing today the extension of the comment period for the Draft Environmental Impact Statement (DEIS) for the Elephant Butte/Caballo Resource Management Plan (RMP).

DATES: The comment period is being extended an additional 30 days from November 23, 1999, to December 23, 1999. All comments are due on or before close of business on December 23, 1999.

ADDRESSES: Written comments may be sent to the Bureau of Reclamation, Attn: ALB–156, Albuquerque Area Office, 505 Marquette NW, Suite 1313, Albuquerque, NM 87102–2162. If you wish to have your name and/or home address withheld from public documents related to the DEIS, please indicate that with your written comments and we will honor your request to the extent allowable by law. For a complete copy of the DEIS, contact Ms. Rosemary Romero, Public Involvement Specialist, Western Network, 811 St. Michaels Drive, Suite 106, Santa Fe, NM 87505, telephone 1–800–326–9805. A summary of the DEIS is also available to download or view online at *http://uc.usbr.gov*. See the Supplementary Information Section for locations where the DEIS may be inspected and reviewed.

FOR FURTHER INFORMATION CONTACT: Clay McDermeit, telephone (505) 248–5391.

SUPPLEMENTARY INFORMATION: A Notice of Availability (NOA) and a summary of the proposed action was published in the **Federal Register** (64 FR 24964) on September 24, 1999. The Draft Environmental Impact Statement, prepared by the Bureau of Reclamation, Albuquerque Area Office, and presently available for public review, analyzes the environmental consequences of proposed future management activities on Elephant Butte and Caballo Reservoirs.

The DEIS may be inspected and reviewed at the following locations:

- Santa Fe Public Library, 145 Washington Ave., Santa Fe, NM 87501.
- Rio Grande Valley Library, 501 Cooper Ave. NW, Albuquerque, NM 87102.
- Socorro Public Library, 401 Park Street, Socorro, NM 87801.
- Truth or Consequences Public Library, 325 Library Lane, Truth or Consequences, NM 87901.
- Las Cruces Public Library, 200 East Picacho, Las Cruces, NM 88001.
- El Paso Public Library, 501 North Oregon Street, El Paso, TX 79901.
- Bureau of Reclamation, Elephant Butte Field Division, HC–32, Box 312, Truth or Consequences, NM 87901, Telephone 505–894–6661.
- Bureau of Reclamation, El Paso Field Division, 700 E. San Antonio Ave., Room B318, El Paso, TX 79901, Telephone 915–534–6300.
- Bureau of Reclamation, Albuquerque Area Office, 505 Marquette

NW, Suite 1313, Albuquerque, NM 87102, Telephone 505–248–5357.

Dated: October 29, 1999.

Charles A. Calhoun,

Regional Director.

[FR Doc. 99–30916 Filed 11–26–99; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–302 and 731–TA–454 (Review)]

Fresh and Chilled Atlantic Salmon From Norway

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject five-year reviews.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On October 1, 1999, the Commission established a schedule for the conduct of these expedited five-year reviews (64 FR 55957, October 15, 1999) and identified the parties to the reviews that have provided individually adequate responses to the notice of institution. Subsequently, the Department of Commerce extended the date for its final results in the expedited reviews from October 29, 1999 to January 27, 2000. In order to have the benefit of the Department of Commerce's findings, the Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the five-year reviews is as follows: the staff report will be placed in the nonpublic record on January 26, 2000; the deadline for interested party comments (which may not contain new factual information) is January 31, 2000; and the deadline for brief written statements (which shall not contain new factual information) pertinent to the reviews by any person that is neither a party to the five-year reviews nor an interested party is January 31, 2000.

For further information concerning these five-year reviews, see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: These five-year reviews are being conducted under authority of title VII of the Tariff Act of 1930; the Commission is using its authority under 19 U.S.C. 1675(c)(5)(B) to extend the deadline for these reviews. Further, this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: November 22, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30935 Filed 11–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation 1205–5]

Proposed Modifications to the Harmonized Tariff Schedule of the United States

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: November 18, 1999.

SUMMARY: On November 18, 1999, the Commission instituted investigation No. 1205–5, Proposed Modifications to the Harmonized Tariff Schedule of the United States, pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988. Section 1205 directs the Commission to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and to recommend modifications to the HTS (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System), and the Protocol thereto, are recommended by the World Customs Organization (WCO) (formerly known as the Customs Cooperation Council) for adoption, and (2) as other circumstances warrant. The Commission's report will set forth the proposed changes and indicate the necessary changes in the HTS that would be needed to conform the HTS to the international nomenclature structure; the report will also include other appropriate explanatory information on the proposed changes.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director (202–205–2592), Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission, Washington, DC, 20436. Hearing impaired individuals are advised that information on this investigation can be obtained by contacting the TDD terminal on (202) 205–1810.

Background

The majority of the proposed changes included in this investigation are the result of the work of the WCO and its Harmonized System Committee (HSC) to update and clarify the Harmonized System nomenclature, as part of the WCO's long-term program to review the nomenclature structure on a formal basis. The WCO has recommended the adoption of certain modifications to the nomenclature of the international Harmonized System, in accordance with Article 16 of the Harmonized System Convention, to become effective in January, 2002. The changes proposed to conform the HTS with the WCO's recommendations, and to reflect in the HTS certain other decisions taken by the HSC, will be made available in the Office of the Secretary, Room 112, United States International Trade Commission, 500 E Street SW, Washington, DC 20436 (telephone 202–205–2000), and will also be posted on the Commission's web site at the address indicated below. These changes encompass all decisions taken by the HSC since the implementation of the last set of WCO modifications to the Harmonized System on January 1, 1996, as well as proposed actions subject to further consideration by the HSC during its sessions in 2000. Future notices will be issued in this investigation indicating the final resolution of all matters and decisions taken by the HSC during the course of Commission consideration.

Other proposed changes included in this investigation are requested by the U.S. Customs Service, in order to clarify the proper tariff classification and duty treatment of particular goods (due to decisions of the Court of International Trade, the HSC, or the Customs Service). These changes will be treated separately by the Commission both during the investigation and in the Commission's report.

The Commission will prepare a non-authoritative cross-reference table to provide guidance to potentially affected parties and to show the likely existing and future tariff classifications of the goods concerned. The Customs Service has domestic legal authority for tariff classification and may provide information, both during the course of the investigation and after the Commission's report is submitted, that

indicates different or additional tariff classifications of some goods. Moreover, the WCO will eventually issue a cross-reference table under Article 16 of the Harmonized System Convention indicating the agreed international classifications (existing and future) of the goods affected by the proposed changes. The latter table may be released later in the Commission's investigation, and differences between the international and domestic classification of a few goods may be suggested (in some cases due to reservations filed by member countries or to theoretical or asserted classifications for some goods). Thus, the classifications shown in the Commission's cross-reference table are subject to change during the study.

Written Submissions

Interested parties are invited to submit written statements concerning the matters being addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on December 17, 1999. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or by electronic means.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

List of Subjects

Tariffs/HTS, Harmonized System, WCO, and imports.

Issued: November 22, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30934 Filed 11–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–465, 466, and 468 (Review)]

Sodium Thiosulfate From China, Germany, and United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject five-year reviews.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On October 1, 1999, the Commission established a schedule for the conduct of these expedited five-year reviews (64 FR 55959, October 15, 1999) and identified the parties to the reviews that have provided individually adequate responses to the notice of institution. Subsequently, the Department of Commerce extended the date for its final results in the expedited reviews from October 29, 1999 to January 27, 2000. In order to have the benefit of the Department of Commerce's findings, the Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the five-year reviews is as follows: the staff report will be placed in the nonpublic record on January 20, 2000; the deadline for interested party comments (which may not contain new factual information) on the staff report is January 25, 2000; the deadline for interested party comments (which may not contain new factual information) on Commerce's final results is January 31, 2000; and the deadline for brief written statements (which shall not contain new factual information) pertinent to the reviews by any person that is neither a party to the five-year reviews nor an interested party is January 31, 2000.

For further information concerning these five-year reviews, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: These five-year reviews are being conducted under authority of title VII of the Tariff Act of 1930; the Commission is using its authority under 19 U.S.C. 1675(c)(5)(B) to extend the deadline for these reviews. Further, this notice is published pursuant to § 207.62 of the Commission's rules.

Issued: November 22, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30936 Filed 11–26–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–376, 563, and 564 (Review)]

Stainless Steel Butt-Weld Pipe Fittings From Japan, Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject five-year reviews.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On October 1, 1999, the Commission established a schedule for the conduct of these expedited five-year reviews (64 FR 55960, October 15, 1999) and identified the parties to the reviews that have provided individually adequate responses to the notice of institution. Subsequently, the Department of Commerce extended the date for its final results in the expedited reviews from

October 29, 1999 to January 27, 2000. In order to have the benefit of the Department of Commerce's findings, the Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the five-year reviews is as follows: The staff report will be placed in the nonpublic record on January 21, 2000; the deadline for interested party comments (which may not contain new factual information) on the staff report is January 26, 2000; the deadline for interested party comments (which may not contain new factual information) on Commerce's final results is January 31, 2000; and the deadline for brief written statements (which shall not contain new factual information) pertinent to the reviews by any person that is neither a party to the five-year reviews nor an interested party is January 31, 2000.

For further information concerning these five-year reviews, see the Commission's notice cited above and the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: These five-year reviews are being conducted under authority of title VII of the Tariff Act of 1930; the Commission is using its authority under 19 U.S.C. 1675(c)(5)(B) to extend the deadline for these reviews. Further, this notice is published pursuant to § 207.62 of the Commission's rules.

Issued: November 22, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–30937 Filed 11–26–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Justice Management Division

Meeting of the Global Justice Information Network Advisory Commission

AGENCY: Justice Management Division, Wireless Management Office, Justice.

ACTION: Notice of meeting of the Global Justice Information Network Advisory Commission.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Global Justice Information Network Advisory Committee will be held on December 8–9, 1999. The Committee will meet from 8:30 am–5 pm at the Loew's L'Enfant Plaza Hotel, located at 480 L'Enfant Plaza, SW, Washington, DC, 20024. The Committee will meet to address the Global Initiative, as described in Initiative A07 "Access America: Reengineering Through Information Technology."

This meeting will be open to the public, and registrations will then be accepted on a space available basis. For information on how to register, contact Susan Ruyle, 901 E Street NW, Suite 510, Washington, DC 20530, or call (202) 353–8594. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the Designated Federal Employee (DFE).

If you need special accommodations due to a disability, please contact Julie Nacke at (202) 646–4419 at least seven (7) days prior to the meeting. Further information with reference to this meeting can be obtained from Kathy Albert, the DFE, 901 E Street NW, Suite 510, Washington, DC 20530, or call (202) 514–3337.

Dated: November 12, 1999.

Kathy Albert,

Global Network Coordinator, Wireless Management Office, Justice Management Division, Department of Justice.

[FR Doc. 99–30830 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that, on November 3, 1999, a modification to the July 14, 1998 Consent Decree in *United States* v. *Block Island Power Company, Inc.*, Civil Action No. 98–045 ML, was lodged in the United States District Court for the District of Rhode Island.

The proposed modification to the Consent Decree extends, by six months, the date by which Block Island Power Company, Inc. ("BIPCO") must achieve final compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.* Under paragraph 22 of the July 14, 1998 Consent Decree, BIPCO agreed to install and operate lowest achievable emission rate ("LAER") pollution controls on its generators by eighteen months from the date that it abandoned the underwater cable project. BIPCO abandoned the cable project on March 1, 1999 and therefore under the July 14, 1998 Consent Decree, BIPCO needed to install and operate LAER by September 1, 2000. The proposed modification to the Consent Decree would extend this September 1, 2000 date by six months, until March 1, 2001. The proposed modification does not affect any other provisions of the July 14, 1998 Consent Decree.

The Department of Justice will accept written comments solely relating to the proposed modification to the July 14, 1998 Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *Block Island Power Company, Inc.*, Civil Action No. 98–045 ML (D.R.I.), DJ # 90–5–2–1–2021.

Copies of the proposed modification to the Consent Decree may be examined at the Office of the United States Attorney for the District of Rhode Island, Assistant United States Attorney, Fleet Center, 8th floor, 50 Kennedy Plaza, Providence, Rhode Island 02903; at the U.S. Environmental Protection Agency, Region I, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114. A copy of the proposed modification to the Consent Decree may also be obtained in person or by mail at the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. When requesting a copy of the proposed modification to the Consent Decree by mail, please enclose a check in the amount of $.75 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 99–30829 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act and the Park System Resource Protection Act

Notice is hereby given that on November 10, 1999, the United States lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas, Civ. A. No. H–99–3917, in *United States and State of Texas* v. *Bulk Transport LTD, of Bermuda and SPT Marine, Inc. et al.*, pursuant to Section 1002 of the Oil Pollution Act, 33 U.S.C. 2702, and

Section 19jj of the Park System Resource Protection Act, 16 U.S.C. 19jj. The proposed Consent Decree resolves natural resource damage claims and park system resource damage claims of the United States and Texas against the defendants arising out of the discharge of fuel oil in the Gulf of Mexico in February 1995. Under the proposed Consent Decree, defendants will conduct specific projects at public beaches to restore some of the natural resources that were lost or injured as a result of the oil spill, pay approximately $1.6 million into a court registry account to help fund projects to restore, replace or acquire the equivalent of resources or services injured by the oil spill, and pay all assessment costs.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044–7761, and should refer to *United States and the State of Texas* v. *Bulk Transport LTD, of Bermuda and SPT Marine, Inc. et al.* The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Texas, Houston, Texas, and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $5.00 for the Decree, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–30827 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Degree Under Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *H.W. Wageley, Inc., et al.*, C.A. No. 3:99–CV–90, was lodged on October 28, 1999 with the United States District Court for the Northern District of West Virginia. The consent decree resolves the United States' claims for response costs, pursuant to section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607, against defendants H.W. Wageley, Inc., Mary P. Perry, Roger Perry, and William C. Perry. These costs were incurred in connection with the cleanup of the Charles Town Coal Tar Site, located in Charles Town, West Virginia. Under the consent decree, the defendants, within thirty days after entry of the decree by the Court, will reimburse the Superfund $80,000 for response costs incurred in connection with the cleanup of the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *H.W. Wageley, et al.*, DOJ Reference No. 90–11–3–06366.

The proposed consent decree may be examined at the office of the United States Attorney, Suite 200, 1100 Main Street, Wheeling, West Virginia 26003; and the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. A copy of the proposed decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044. In requesting a copy, please refer to the rerferenced case and enclose a check in the amount of $22.50 (.25 center per page production costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–30828 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America and the State of Texas v. Aetna Inc. and The Prudential Insurance Company of America; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(c)–(h), the United States publishes below the comments received on the proposed final judgment in *United States of America and the State of Texas* v. *Aetna Inc. and The Prudential Insurance Company of America*, Civil Action No. 3–99CV1398–H, filed in the United States District Court for the Northern District of Texas (Dallas Division), together with the United States' response to those comments.

Copies of the comments and the response are available for inspection and copying at the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Suite 400, Washington, DC 20530 (telephone: (202) 616–5933), and at the Office of the Clerk of the United States District Court for the Northern District of Texas (Dallas Division). Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

Response of the United States to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (the "APPA"), 15 U.S.C. 16(b)–(h), the United States hereby responds to public comments received regarding the proposed Revised Final Judgment in this matter.

The United States filed a civil antitrust Complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, on June 21, 1999, alleging that the proposed acquisition by Aetna Inc. ("Aetna") of The Prudential Insurance Company of America's ("Prudential") health insurance business would violate Section 7 of the Clayton Act ("Section 7"), 15 U.S.C. 18. The State of Texas, by and through its Attorney General, joined the United States as co-plaintiff in this action. On August 4, 1999, the United States and the State of Texas filed a proposed Revised Final Judgment, a Revised Hold Separate Stipulation and Order, and a Revised Competitive Impact Statement ("CIS").

The proposed Revised Final Judgment and CIS were published in the **Federal Register** on Wednesday, August 18, 1999 at 64 FR 44946 (1999). A summary of the terms of the proposed Revised Final Judgment and the CIS and directions for the submission of written comments were published in the *Washington Post* and the *Dallas Morning News* for seven consecutive days, from July 27 through August 2, 1999. The 60-period for comments expired on October 18, 1999.

The United States received six comments on the proposed Revised Final Judgment. Two of the comments were submitted by individuals; one was submitted on behalf of a medical group and physician contracting organization; three were submitted on behalf of

professional medical associations. All six comments are addressed below.

After careful consideration of the comments, copies of which are attached to this Response, the United States has concluded that the additional relief suggested by the comments is either not relevant to the violations investigated by the Department and alleged in the Complaint or unnecessary to remedy the harm caused by the proposed transaction. For that reason, once the comments and the Response have been published in the **Federal Register** pursuant to 15 U.S.C. 16(d), the United States will move this court for entry of the proposed Revised Final Judgment.

I. Background

At the time the Complaint was filed, Aetna was (and remains) the largest health insurance company in the United States, providing health care benefits to approximately 15.8 million people in 50 states and the District of Columbia; Prudential was the ninth largest, providing health care benefits to approximately 4.9 million people in 28 states and the District of Columbia. Aetna and Prudential each offered a wide range of managed health insurance plans, including health maintenance organization ("HMO") plans and point of service ("POS") plans.

As the Complaint alleges, Aetna and Prudential competed head-to-head in the sale of HMO and HMO-based POS ("HMO–POS") plans in Houston and Dallas, Texas; such competition benefited consumers by keeping prices low and quality high; and the proposed acquisition would end such competition and give Aetna sufficient market power to increase prices or reduce quality in the sale of HMO and HMO–POS plans in those geographic areas. The Complaint also alleges that the acquisition would enable Aetna to unduly depress physicians' reimbursement rates in Houston and Dallas, resulting in a reduction of quantity or a degradation in quality of physicians' services in those areas.

With the Complaint, the parties also filed a proposed settlement that would permit Aetna to complete its acquisition of Prudential but would require the divestitures of certain assets sufficient to preserve competition in the sale of HMO and HMO–POS plans and the purchase of physicians' services in Houston and Dallas. This settlement was set forth in a proposed Final Judgment and Hold Separate Stipulation and Order. To further clarify certain aspects of the settlement, on August 4, 1999, the parties jointly moved for entry of a proposed Revised Final Judgment and a Revised Hold Separate Stipulation Order.

The proposed Revised Final Judgment requires Aetna to divest its interests in two previously acquired health plans serving the Houston and Dallas areas: the Houston-area commercial HMO and HMO–POS businesses of NYLCare Health Plans of the Gulf Coast, Inc. ("NYLCare-Gulf Coast"), and the Dallas-area commercial HMO and HMO–POS businesses of NYLCare Health Plans of the Southwest, Inc. ("NYLCare—Southwest"). The NYLCare entities were acquired by Aetna in 1998.

On September 14, 1999, Aetna executed a definitive Stock Purchase Agreement with Health Care Service Corporation ("HCSC"), the parent of Blue Cross/Blue Shield of Illinois and Blue Cross/Blue Shield of Texas. HCSC proposed to buy all of NYLCare—Gulf Coast and NYLCare—Southwest, excepting only the two entities' Medicare business, for a total purchase price of approximately $500 million. The United States and the State of Texas reviewed the proposed transaction to determine whether it satisfied the requirements of Section IV of the proposed Revised Final Judgment regarding the required divestitures. On October 27, 1999, the United States notified Aetna and HCSC that, subject to the terms of the proposed Revised Final Judgment, it did not object to the sale.

The Revised Hold Separate Stipulation and Order, entered by this Court on August 9, 1999, mandates that NYLCare-Gulf Coast and NYLCare-Southwest function as independent, economically viable, ongoing business concerns and that competition be maintained prior to the divestitures. It requires Aetna to take steps immediately to preserve, maintain, and operate NYLCare-Gulf Coast and NYLCare-Southwest as independent competitors until the completion of the divestitures ordered by the proposed Revised Final Judgment, including holding NYLCare's management, sales, service, underwriting, administration, and operations entirely separate, distinct, and apart from those of Aetna. In addition, Aetna is obligated to cause NYLCare-Gulf Coast and NYLCare-Southwest to maintain contracts or agreements for coverage of approximately 260,000 commercially insured HMO and HMO–POS plan enrollees in the Houston area and approximately 167,000 in the Dallas area through the date of signing a definitive purchase and sale agreement for the divestiture of the two NYLCare entities. Until the plaintiffs, in their sole discretion, determined that NYLCare-Gulf Coast and NYLCare-Southwest could function as effective competitors, Aetna was prohibited from taking any action to consummate the proposed acquisition of Prudential. On July 27, 1999, the United States informed Aetna that its efforts to establish and hold separate NYLCare-Gulf Coast and NYLCare-Southwest as effective competitors were sufficient to satisfy Section III of the Revised Hold Separate Stipulation and Order, and that it could close on the purchase of Prudential.

The United States, the State of Texas, and the defendants have stipulated that the proposed Revised Final Judgment may be entered after compliance with the APPA. Entry of the proposed Revised Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Revised Final Judgment and to punish violations thereof.

II. Response to Public Comments

A. Overview

The United States received six comments in response to the proposed Revised Final Judgment. The comments consist of a general concern with the transaction and any further consolidation in the HMO industry in the U.S. (*see* Subsec. B); a concern about the failure of the proposed Revised Final Judgment to address consolidation in the Georgia HMO industry (*see* Subsec. C); a request that the proposed Revised Final Judgment be amended to enjoin Aetna's use of certain contractual provisions as anticompetitive (*see* Subsec. D); and questions regarding the adequacy of the remedial provisions in the proposed Revised Final Judgment, in particular the propriety of requiring Aetna to divest its NYLCare assets rather than its Prudential assets in Dallas and Houston (*see* Subsecs. E and F). For the reasons stated in Subsection B–F, below, the United States believes that the comments provide no basis for determining that the proposed Revised Final Judgment is not in the public interest.

B. The Judgment Adequately Protects Competition Affected by the Proposed Merger and Should Not Address Prior Mergers

Charlene L. Towers of Highland Beach, Florida, quoting a newspaper columnist, contends that the United States's approval of the transaction should be reconsidered because it furthers the on-going consolidation of the HMO industry. Ms. Towers assets that while as recently as a few years ago there were eighteen large HMO plans in

the U.S., only seven remain. Ms. Towers also suggests that the HMOs are now colluding on price and benefits and that consumer choice is suffering.

Ms. Towers argues that because Aetna's acquisition of Prudential—in conjunction with the other mergers and acquisitions in the past—will result in fewer competitors, competition will be harmed. The number of competitors by itself, especially the number of competitors nationally, is a poor indicator of competitiveness. Indeed, Ms. Towers points to no specific market where she believes that the Aetna-Prudential transaction will substantially lessen competition. Our investigation, which examined markets throughout the country, concluded—and the Complaint alleged—that Aetna's acquisition of Prudential would have substantial anticompetitive effects in the Houston and Dallas areas. The Complaint did not allege—nor did the investigation disclose—any evidence of collusion on price or product design. *See United States v. Microsoft Corp.*, 56 F.3d 1448, 1459 (D.C. Cir. 1995) (declining to reach beyond the Complaint to evaluate claims that the government did not make or to inquire as to why they were not made). Moreover, the proposed Revised Final Judgment, requiring Aetna to divest itself of the two NYLCare entities in Houston and Dallas, will ensure the maintenance of competition in those areas, and is fully adequate to address the anticompetitive effects alleged in the Complaint. Indeed, since Prudential had only approximately 172,000 HMO–POS enrollees in Houston and 171,000 in Dallas, while NYLCare covered 260,000 HMO–POS enrollees in Houston and 167,000 in Dallas, the divestiture will not only effectively restore the Houston and Dallas markets to the *status quo ante*, but will result in the creation overall of a larger and stronger competitor than if Prudential had remained independent.[1]

C. The Judgment Adequately Protects Competition Affected by the Proposed Merger and Should Not Address Potential Future Mergers

The Medical Association of Georgia ("MAG") objects to the proposed merger for two reasons. First, it believes that the acquisition of Prudential exacerbates Aetna's bargaining power and will give it the ability to impose "onerous contract terms" on physicians.[2] Second, it alleges that the proposed future acquisition of Blue Cross/Blue Shield of Georgia ("Georgia Blue") by WellPoint Health Networks, Inc. ("WellPoint") will further reduce the number of significant competitors of HMO and HMO–POS plans in Georgia and, in conjunction with Aetna's acquisition of Prudential, produce substantial—but undefined—anticompetitive effects.

The United States investigated the likely effect of the proposed merger of Aetna and Prudential in those areas of the U.S. where Aetna and Prudential compete, including Georgia. The information obtained in the investigation led the United States to conclude that the merger was unlikely to have substantial anticompetitive effects in either the sale of HMO–POS products or the purchase of physician services in Georgia.[3]

The proposed acquisition of Georgia Blue by WellPoint, MAG's second concern, was not announced until after the parties reached agreement on the proposed Revised Final Judgment, and our review of the proposed transaction was on the basis of the market structures existing at the time. However, as MAG acknowledges, Wellpoint currently has only a minimal presence in Georgia (less than 2% of the HMO–POS market). Its acquisition of Georgia Blue is therefore unlikely to have a substantial anticompetitive effect or alter our analysis of the effects of the Aetna-Prudential transaction.[4]

In arguing that the proposed Revised Final Judgment is inadequate because it does not address the harm in Georgia from Aetna's acquisition of Prudential (or Wellpoint's acquisition of Georgia Blue), MAG is, in fact, requesting that the Court assess not the propriety of the relief in light of the allegations of the Complaint, but the propriety of the Complaint itself. This it may not do:

> In part because of the constitutional questions that would be raised if courts were to subject the government's exercise of its prosecutorial discretion to non-deferential review, we have construed the public interest inquiry narrowly. The district court must examine the decree in light of the violations charged in the complaint and should withhold approval only if any of the terms appear ambiguous, if the enforcement mechanism is inadequate, if third parties will be positively injured, or if the decree otherwise makes "a mockery of judicial power."

Massachusettts School of Law at Andover, Inc. v. *United States*, 118 F.3d 776, 783 9D.C. Cir. 1997) *citing Microsoft*, 56 F.3d at 1457–59, 1462).

D. Additional Relief Regarding Certain Clauses in Physician Contracts Is Not Necessary

The American Medical Association, joined by the Texas Medical Association and the Dallas and Harris County Medical Societies, submitted a comment generally supportive of the proposed revised Final Judgment but requesting that the relief be expanded to enjoin Aetna from enforcing for five years certain provisions in its contracts with participating physicians in Dallas and Houston, in particular its "All Products" and "Practice Closure" clauses.[5] The Genesis Physician Group, Inc. and Genesis Physicians Practice Association (collectively "Genesis") also submitted a comment requesting that Aetna's use of its "All Products" clause be prohibited for five years, and further expressing concern with Aetna's practice of reserving, in its contracts with physicians, "the power unilaterally to amend * * * material terms of the contract without any requirement that Aetna notify physicians." The American Podiatric Medical Association, Inc. ("APMA") also submitted a comment requesting that the proposed revised Final Judgment be modified to prevent Aetna's continued use of its "All Products" and "Practice Closure" clauses.[6]

---

[1] In addition to the divestitures required by the proposed Revised Final Judgment, Aetna has decided to sell all the commercial HMO–POS enrollees of NYLCare-Gulf Coast and NYLCare-Southwest outside the Houston and Dallas areas, as well as approximately 12,000 enrollees in Preferred Provider Organization ("PPO") plans. In total, Aetna will be divesting approximately 526,000 enrollees.

[2] Specifically, MAG cites to Aetna's "All Products" clause (discussed in Subsec. D, below), along with contractual provisions that permit Aetna to determine "medical necessity," to "unilaterally amend" the contract, "to compel" physicians to participate in plans of other insurers, to impose "unfair penalties" on physicians, and to "hold Aetna harmless."

[3] While Aetna would control roughly 26% of the HMO–POS market in the Atlanta area after acquiring Prudential, the United States concluded that Aetna would continue to face significant competition from Kaiser, which also has approximately 26% of the market, United HealthCare, with approximately 19%, and Georgia Blue, with approximately 18%. In Macon, Georgia, the only other area of the state where Aetna will have a significant share of the HMO–POS market, Aetna's share will increase only minimally (by approximately 4%) from the acquisition of Prudential, and will continue to be dwarfed by Georgia Blue, with 62% of the market.

[4] MAG's concerns with Wellpoint's "unparalleled focus on its managed care products" and "pattern of abusive [but unspecified] managed care practices," as well as with the fact that Georgia Blue "would no longer be a Georgia-based company, would no longer be owned primarily by Georgians and would have little if any allegiance to Georgians," are not related to this action and need not be addressed here.

[5] The AMA and its co-signatories also expressed concern that the divestiture of the NYLCare assets be carefully monitored to ensure that the result is a viable competitor in the HMO market. This issue is addressed in Subsec. F, below.

[6] The APMA also expressed concern that the increasing concentration of managed care companies generally will diminish the availability

Continued

Aetna's "All Products" clause requires physicians to participate in *all* of Aetna's current and future health plans as a precondition to participating in *any* current Aetna health plan. Thus, a physician who serves on the provider panels of two different Aetna health plans (*e.g.*, an Aetna PPO and an Aetna HMO) cannot terminate his or her participation in only one of those plans without giving up the revenue he or she earns from both. The "All Products" clause, as a result, enhances Aetna's bargaining power in its negotiations with physicians by "significantly increas[ing] the volume of business that a physician would lose if he or she rejected [an Aetna contract demand]." (Complaint, ¶31.) Aetna's "Practice Closure" clause, on the other hand, hinders a physician who wishes to limit his or her dependence on Aetna by requiring that a physician accept Aetna's HMO patients if he or she is accepting HMO patients from other payers, *i.e.*, a physician may not selectively close his or her practice to Aetna's HMO patients.

As alleged in the Complaint, Aetna's proposed acquisition of Prudential would have further enhanced Aetna's bargaining leverage in its contract negotiations with Houston and Dallas physicians. The acquisition would have added to the substantial proportion of a physician's total patient revenue already at stake in a physician's negotiations with Aetna (*i.e.*, all of that physician's Aetna and NYLCare business) a significant additional share of that physician's total patient revenue—his or her Prudential patients. In addition, the acquisition of Prudential would make it even more difficult for a Houston or Dallas physician to replace the lost revenue if he or she were to reject Aetna's contract demands. Post-transaction, Aetna (including NYLCare and Prudential) would account for a significantly larger share of all local health plan enrollees, thereby diminishing the pool of potential replacement patients.

The United States believes that the proposed Revised Final Judgment fully addresses the concerns raised to the extent they are a product of the proposed transaction. It requires Aetna to divest its NYLCare businesses in Houston and Dallas as a pre-condition for acquiring Prudential and, as a result, physicians in those areas will have essentially the same proportion of their revenue at stake in future negotiations with Aetna as they did before the proposed transaction. Aetna's acquisition of Prudential will not increase its bargaining power *vis-a-vis* physicians in those areas.[7]

The comments of the AMA, Genesis, and the APMA, however, were not limited to addressing the harm arising from this particular transaction. They also address the possible consequences of the "All Products" clause independent of any proposed transaction—in particular, its effect on physicians who currently derive a large share of their total patient revenue from an Aetna PPO health plan and who may be forced by the "All Products" clause to agree to participate in Aetna's HMO health plans.

The Complaint in this action is clearly limited to redressing the anticompetitive effects of Aetna's proposed acquisition of Prudential. Aetna's "All Products" clause was considered only in the context of that transaction. The United States did not purport to investigate—or remedy through the proposed Revised Final Judgment—all possible anticompetitive behavior by Aetna, and the proposed Revised Final Judgment is to be evaluated in that context. See Massachusetts School of Law, 118 F.3d at 783 (the proper role in determining whether the public interest would be served is to assess the adequacy of the relief obtained in light of the case brought, not to determine the appropriate relief had a different case been brought).[8]

E. The Plaintiff Is Not Required To Seek Alternative Relief That a Third Party Prefers

Robert D. Gross, M.D., of Forth Worth, Texas, suggests there is a better remedy than requiring Aetna to divest its interests in NYLCare-Gulf Coast and NYLCare-Southwest before being permitted to acquire Prudential. Dr. Gross believes that Prudential's organizations in the Houston and Dallas areas are of substantially higher quality than the former NYLCare organizations, and that Prudential had "made an extraordinarily strong commitment to quality in the Dallas-Ft. Worth market."[9] He suggests that it would be less disruptive to the health care markets and patient populations in those two areas if Aetna divested its Prudential assets rather than its NYLCare assets in those areas.[10]

The goal of the proposed Revised Final Judgment is to return the markets in the Houston and Dallas areas to the *status quo ante*. As discussed in Subsection B, above, the United States believes that the proposed remedy will do so. Indeed, it believes that the divestiture of NYLCare will result in an overall larger and stronger competitor than if Prudential had remained independent.[11] Dr. Gross' suggestion that there is an alternative to the proposed Revised Final Judgment that he thinks would be preferable is not sufficient reason to reject the settlement negotiated in this case. See *United States* v. *Microsoft Corp.*, 56 F.3d at 1460 (a court is not empowered to reject remedies agreed to in a consent decree merely because it believes other remedies are preferable).

F. The Judgment Adequately Protects the Viability and Independence of the NYLCare Businesses To Be Divested

The American Medical Association along with the Texas Medical Association and the Dallas and Harris County Medical Societies also expressed concern about the viability of the NYLCare businesses in Houston and Dallas to be divested, and requested that the United States closely monitor this aspect of the divestiture.

The proposed Revised Final Judgment and the Revised Hold Separate Agreement require Aetna to take "all steps necessary to ensure that NYLCare-Gulf Coast and NYLCare-Southwest are

---

of podiatric services for consumers and reduce the demand for podiatrists. Our investigation did not disclose any evidence that the transaction would diminish the availability or demand for podiatric services.

[7] Similarly, the "Practice Closure" contract provision discussed by the American Medical Association, the Texas Medical Association and the Dallas and Harris County Medical Societies, MAG, and the APMA, the provision reserving for Aetna the right to unilaterally amend the provider contract, discussed by Genesis, and the various other provisions discussed by MAG, all involve contracting practices of Aetna which predate the transaction with Prudential. They are not the result of the proposed transaction, nor are they impacted significantly by the proposed Revised Final Judgment. They are clearly beyond the scope of the Complaint and thus beyond the scope of this proceeding.

[8] It is worth noting that nothing in the proposed Reviewed Final Judgment limits the ability of the United States or the State of Texas to look into Aetna's "All Products" clause or other contractual provisions in the future, nor does it restrict in any way the rights of private parties to pursue the full range of remedies available under the antitrust laws.

[9] Our investigation revealed that many other physicians as well as employers and health care consultants/brokers do not share this view.

[10] Dr. Gross is also concerned with NYLCare's viability as an effective competitor. That issue is addressed in Subsec. F, below.

[11] As noted above, Prudential had approximately 172,000 enrollees in Houston and 171,000 in Dallas in its HMO–POS plans. In contrast, Aetna is required to divest the approximately 260,000 HMO–POS enrollees in Houston and 167,000 HMO–POS enrollees in Dallas covered by NYLCare. Since Aetna has also decided to divest NYLCare's HMO–POS enrollees outside the Dallas and Houston areas, as well as approximately 12,000 enrollees in Preferred Provider Organization ("PPO") plans, it will be selling a total of approximately 526,000 enrollees.

maintained and operated as independent, on-going, economically viable, and active competitors until completion of the divestitures ordered by this Revised Final Judgment * * *." (proposed Revised Final Judgment, Sec. IV H.) Those steps include, but are not be limited to, the appointment of experienced senior management and the creation of separate and independent sales, provider relations, patient management/quality management, commercial operations, network operations, and underwriting organizations for the NYLCare entities. (*Id.*) Aetna is also required to provide specified transitional services, as well as such additional services requested by the management of NYLCare as may be necessary to ensure NYLCare's viability, including the funding of service quality guarantees. (*Id.*) Aetna is also required to fund an incentive pool of at least $500,000, which will be available to management of the NYLCare entities if they meet certain membership targets as of the closing date for the sale of the NYLCare entities. (*Id.*)

In addition, the proposed Revised Final Judgment (and the Revised Hold Separate Stipulation and Order) obligate Aetna to "cause NYLCare-Gulf Coast and NYLCare-Southwest to maintain contracts or agreements for coverage of approximately two hundred sixty thousand (260,000) commercially insured HMO and HMO-based POS plan enrollees in Houston and contracts or agreements for coverage of approximately one hundred sixty seven thousand (167,000) commercially insured HMO and HMO-based POS plan enrollees in Dallas through the date of signing the definitive purchase and sale agreement(s) for the divestiture of the two NYLCare entities." (*Id.* Sec. IV B; Revised Hold Separate Stipulation and Agreement at Sec. III B.)

The United States believes the procedures provided in the proposed Revised Final Judgment and the Revised Hold Separate Stipulation and Order are fully adequate to ensure that Aetna will divest its NYLCare businesses in Houston and Dallas as viable and independent competitors. No further additions or changes to the proposed Revised Final Judgment are necessary.

III. The Legal Standard Governing the Court's Public Interest Determination

Section 2(e) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(e), requires that the proposed Revised Final Judgment be in the public interest. The Act permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement and compliance mechanisms are adequate, and whether the decree may harm third parties. See *Microsoft*, 56 F.3d at 1461–62.

Consistent with Congress' intent to use consent decrees as an effective tool of antitrust enforcement, the Court's function is "not to determine whether the resulting array of rights and liabilities is the one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest." *Id.* at 1460 (internal quotations omitted); see also *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981), *cert. denied*, 454 U.S. 1083 (1981). As a result, a court should withhold approval of a proposed consent decree "only if any of the terms appear ambiguous, if the enforcement mechanism is inadequate, if third parties will be positively injured, or if the decree otherwise makes 'a mockery of judicial power.'" *Massachusetts School of Law at Andover, Inc.* v. *United States*, 118 F.3d 776, 783 (D.C. Cir. 1997) (quoting *Microsoft*, 56 F.3d at 1462).

None of these conditions are present here. The proposed Revised Final Judgment is closely related to the allegations of the Complaint, the terms are unambiguous, the enforcement mechanism adequate, and third parties will not be harmed by entry of this Judgment. The specific acquisition investigated—Aetna's purchase of certain health insurance-related assets from Prudential—is full remedied in the proposed Revised Final Judgment. The fact that Aetna may be acting in other ways detrimental to competition is simply not the issue here and can be addressed by means still available to the plaintiffs and others.

IV. Conclusion

The United States has concluded that the proposed Revised Final Judgment reasonably, adequately, and appropriately addresses the harm alleged in the Complaint. As required by the APPA, the United States will publish the public comments and this response in the **Federal Register**. After such publication, the United States will move this court for entry of the proposed Revised Final Judgment.

Dated: November 9, 1999.

Respectfully submitted,

Paul J. O'Donnell,
John B. Arnett, Sr.,
Steven Brodsky,
Deborah A. Brown,
Claudia H. Dulmage,
Dionne C. Lomax,
Frederick S. Young,
Attorneys, U.S. Department of Justice, Antitrust Division, Health Care Task Force, 325 Seventh St. N.W., Suite 400, Washington, D.C. 20530, Tel: (202) 616–5933, Facsimile: (202) 514–1517.

July 14, 1999.

Attn: Joel L. Klein
Asst. Attorney General
Fax: 202–514–4371
Re: Aetna Inc. acquisition of Prudential Health Care
From: Charlene L. Toews
1057 Boca Cove Lane
Highland Beach, Florida 33487
Fax: 561–278–1306

Dear Mr. Klein: Please find attached some quotes from Molly Ivans regarding the acquisition by Aetna Inc of Prudential Health Care—which I totally agree with. PLEASE reconsider your approval of this acquisition. The citizens of the United States are NOT being served by this approval.

"Late last month, the Justice Department, showing the spinelessness for which it is so noted in these matters, approved the merger of Aetna and Prudential. The merged company will provide health care for one in every eleven Americans, and that makes it big enough to downsize services, hike prices and force doctors to accept unreasonable contract provisions and reimbursement rates."

"Just a few years ago there were 18 big HMO's; today there are seven."

"All seven of the giants decided—independently of course—on the very same day last year to dump rural seniors on Medicare. They also decided, in perfect concert, to cut back on the prescription drug benefits and no co-pay policy that got the seniors into the HMO's in the first place."

"And every one of the seven has substantially hiked premiums for all their patients this year. And just over a week ago, they announced they were dumping another 250,000 Medicare patients, as well as cutting benefits and raising premiums."

"We were supposed to be able to keep HMO's in line by quitting ones that provided poor service or cost too much, but it hasn't worked out that way. Only 17 percent of employers offer workers a choice of plans. Everybody else is stuck with whatever the company chooses; and the company chooses by cost of premiums, not by quality of care. As USA Today recently noted, "Even without consolidation in the industry, patient choice has been slowly but inexorably vanishing."

Mr. Klein, when are the people that "we the people" put in place to serve going to actually SERVE "the people" and put OUR best interests first?

Sincerely,
Charlene L. Toews.

October 18, 1999.

Gail Kursh, JD,
Chief, Professions and Intellectual Property Section, Health Care Task Force, Department of Justice, 600 E Street, NW, Room 9300, Washington, DC 20530.

Re: Proposed Acquisition of Prudential by Aetna

Dear Ms. Kursh: Please accept this letter as the written comments of the Medical Association of Georgia on the proposed acquisition (hereinafter "the Acquisition") by Aetna, Inc. (hereinafter "Aetna") of the Prudential Insurance Company of America's healthcare business (hereinafter "Prudential").

The Medical Association of Georgia ("MAG") is a non-profit, voluntary professional association of Georgia physicians. MAG was founded in 1849, is a part of the American Medical Association and is the largest physicians' association in Georgia. Presently, MAG has over 8,000 members—more than 5,000 of whom are physicians actively practicing medicine in the State of Georgia.

MAG was founded to promote the art and science of medicine and the improvement of public health. With these ends in mind. MAG actively works to advocate physician and patient positions in the United States Congress, the Georgia General Assembly, the courts of this State and the United States, as well as before a variety of state and federal regulatory agencies.

The purpose of this letter is to formally OBJECT to the proposed acquisition of Prudential by Aetna. Our reasons for this objection are numerous and are presented in the following paragraphs. Additionally, we hereby adopt as our own as if stated herein, the positions and rationale proffered by the State of Texas in the civil lawsuit in which that sovereign state joined the United States of America, alleging that the acquisition would violate Section 7 of the Clayton Act and would be detrimental to patients and physicians throughout much of this country.

1. Two Primary Reasons MAG Opposes the Acquisition

A. Increased Market Strength Will Have Adverse Impact on Patient Care

The primary basis for the Medical Association of Georgia's objection to the acquisition of Prudential by Aetna lies in the fact that Aetna has shown a propensity to impose onerous contract provisions that have the effect of adversely impacting the quality of care patients receive. Historically, physicians have played the role of patient advocate. In fact, it is the public policy of the State of Georgia that physicians are encouraged to advocate on behalf of the best interests of their patients.[1] Unfortunately, physicians are unable to fully exercise this role in today's healthcare market.

In today's healthcare market, physicians have no bargaining power whatsoever when it comes to negotiating with health insurance plans regarding the obligations of the insurers, or those of the physicians, under the insurance plans. Given the current antitrust laws applicable to the contracting process between health insurers and physicians, physicians have no ability to collectively bargain on behalf of their patients or themselves. As such, they have no bargaining strength against the health insurers who are able to submit contracts to physicians virtually on a "take it or leave it." basis. The Acquisition will only exacerbate that problem for Georgia physicians and patients as it will further empower Aetna to impose onerous contract provisions on physicians and other healthcare providers, eventually "lead[ing] to a reduction in the quantity or a degradation in the quality of physician services" provided to patients.[2]

B. The Double Whammy Effect of the Aetna/Prudential Acquisition Plus the Georgia Blue/Wellpoint Merger

The second major basis for the Medical Association of Georgia's objection to the Aetna/Prudential Acquisition is that is comes at the same time that Georgia is about to suffer the effects of a merger between the state's largest and oldest health insurer, Blue Cross/Blue Shield of Georgia (hereinafter "Georgia Blue") and Wellpoint Health Networks, Inc. The combination of Blue Cross/Blue Shield of Georgia and Wellpoint will place more than 32% of the Georgia health insurance market in the hands of one of the nation's largest publicly traded managed care insurance behemoths. The corporate entities that will follow the Aetna/Prudential acquisition and the Georgia Blue/Wellpoint merger will control nearly 60% of the HMO/POS markets in Georgia. The concurrence of these two transactions will dramatically reduce the competition among carriers and, therefore, the healthcare options available to all Georgians.

II. What Is There To Fear About an Enlarged Aetna?

Given the monopsony position of some insurers in some locales (such as the position Aetna would enjoy in Georgia if the acquisition were approved), many plans use this "unlevel playing field" to issue contracts to physicians on a "take it or take it" basis. The physicians are not in a position to negotiate any of the terms of the contract. For example, physicians' objections to gag clauses usually go unheeded. Reimbursement rates may not be disclosed in some contracts, much less negotiated. Yet, because of the number of patients that they have under the dominant insurer's plans, they cannot afford—financially or ethnically—to abandon their patients by rejecting the contract submitted to them by the insurer, regardless of how onerous some of the contents of the contract are. Their only option is to "take it." Stated differently, when a physician's revenue from a single insurer gets to a certain point, i.e., a certain percentage of the overall revenue, that physician is "locked in" to the plan and has no bargaining power whatsoever. At that point, the plan's contract becomes a contract of adhesion and the physician has no ability to negotiate for his or her patients' rights and no opportunity to reject the contract.

Aetna has incorporated into their physician agreements many of the most onerous contract provisions popular among the managed care industry today. Some of the provisions that Aetna has used to control the quality and quantity of care that physicians provide to their patients include the following:

• *Aetna's Infamous "All Products" Clause*

Perhaps the single worst contract provision used by Aetna is its often criticized "all products" clause. "All products" clauses provide that if a physician participates in any of the carrier's plans, he or she must participate and take patients covered under all of their plans, now and in the future. These clauses, like most of the provisions discussed below, are usually non-negotiable. They are objectionable for many reasons. Health plan products differ substantially in operation. A physician may feel comfortable participating in a PPO product, but may have very valid reasons for not wanting to participate in an HMO product,

---

[1] O.C.G.A. § 33–20A–7(b). "No healthcare provider may be penalized by a managed care plan for providing testimony, evidence, records, or any other assistance to an enrollee who is disputing a denial, in whole or in part, of a health care treatment or service or claim therefore."

[2] [See, *Competitive impact Statement. U.S.A. and the State of Texas* v. *Aetna, Inc., Et al.*, USDC Northern District of Texas, CA 3–99CV1398–H (1999)].

which is a dramatically different product that requires physicians to assume certain risks. Those risks may not be viable for smaller practices with smaller patient bases because of practice size, patient mix or other valid actuarial and business concerns. Yet, these clauses require physicians to participate in products despite the existence of legitimate concerns.

Moreover, imposing these clauses on physicians (especially as a unilateral amendment to an existing contract) may sever existing patient-physician relationships. This has been seen most vividly in Texas where Aetna US Healthcare enforced its "all products" clause and terminated a large physician group that refused to take new patients under one of the insurer's HMO products. This resulted in thousands of patients losing access to their physicians and, for many of them, having to change doctors in mid-treatment. An additional concern with "all products" clauses is that where plans have significant market share (such as the 58% share WellPoint/Georgia Blue and Aetna/Prudential would have in Georgia), the non-negotiable "all products" clauses will operate to further limit patient choice by facilitating a conscious push of patients into HMO products and away from other options.

"All products" clauses also harm premium-payers. An insured who selects a PPO product, usually does so in order to have access to a more attractive panel of physicians and other healthcare providers. Typically, that insured has to pay for that privilege with a higher premium than the basic HMO member will pay. Yet, if a physician agrees to be an authorized provider under Aetna's PPO plan, and is subject to the "all products" clause contained therein, that physician has to take Aetna HMO patients, as well as PPO patients. So, the HMO member will have the same access to that doctor as the higher premium-paying PPO member. Thus, the PPO member paid the higher premium but got nothing for the higher cost. Is this fair to patients? Is this fair to employers who purchase health insurance for their employees?

• *Aetna's Ability To Determine What Is "Medically Necessary"*

Among the other more egregious contract provisions found in many managed care contracts, especially Aetna's, is the provision that authorizes the health plan to make the determination as to what is "medically necessary" for a patient. Testifying in support of managed care reform before a subcommittee of the United States House of Representatives in 1996 and again before a Georgia State Senate committee just this past March, Dr. Linda Peeno, M.D., a former medical executive for several managed care companies across the country, stated that "the definition of 'medical necessity' is the 'smart bomb' of managed care." She explained that managed care companies can appear to offer all sorts of options and decision-making power to their insureds and providers but as long as they retain control over the definition of what is, and what is not, medically necessary, they have unfettered control over what medical treatment they will pay for on behalf of their insureds, despite the fact that the insured has paid to have the service covered by their plan.

Many insurance plan contracts in existence today, including most Aetna contracts, allow the insurer to supersede a treating physician's determination regarding the necessity of medical services without any consideration whatsoever of that physician's judgment or the patient's true needs. Aetna accomplishes this by retaining for itself the unfettered discretion to determine what they will, and what they will not, pay for—all under the guise of the service not being, "medically necessary." For example, Aetna's contract with physicians provides as follows:

1.1 Provision of Covered Services * * * It is understood and agreed that Company, or when applicable, the Payor, shall have final authority to determine whether any services provided by Provider were Covered Services * * *

12.4 Covered Services. Those Medically Necessary Services which a Member is entitled to receive under the terms and conditions of the Plan.

12.7 Medically Necessary Services. * * * Health care services that are appropriate and consistent with the diagnosis in accordance with accepted medical standards and which are likely are result in demonstratable [sic] medical benefits, and which are the least costly of alternative supplies or levels of service which can be safely and efficiently provided to the patient.

• *Hold Harmless Clauses*

Aetna has unfairly shifted the legal liability associated with its policies to physicians through hold harmless clauses, clauses limiting their liability and clauses shortening the applicable statue of limitations. Aetna has insulated itself from liability by inserting hold harmless clauses in its contracts with physicians in blatant disregard of statutory prohibitions contained in some state's laws. Certainly, health plans should not be allowed to shift their own legal liabilities onto the physician while simultaneously deciding how and under what circumstances physicians can provide care. That is exactly what Aetna does when they have the right to decide what is, and what is not, "medically necessary." Is there any reason to believe that Aetna will adhere to Georgia's newly enacted statutory prohibition against hold harmless clauses.[3]

• *Clauses Which Allow Aetna To Amend Unilaterally the Contract Without the Physician's Consent and Sometimes Knowledge*

Another onerous provision found in managed care plan contracts today is the clause that allows a plan to amend the contract entirely on its own and exclusively within its unfettered discretion. While traditionally such clauses have been utilized by insures to alter very minor features of an insurance contract—*e.g.*, changing the address where claim forms are to be sent, changing the payment dates, and other elements of a clerical nature—managed care plans have more recently been using these unilateral amendments to make major changes in the fundamental, core obligations of the parties which constitute the very essence of the contractual agreement between the insurer and the physicians. These fundamental obligations include the nature of the services that the physicians are to provide under the contract, the physician services that are to be paid for and the method by which reimbursements are to be calculated.

Moreover, the unilateral changes being made today by insurance plans, including those of Aetna, involve not only fees, but also utilization review/case management policies, which, in essence, dictate whether and under what circumstances patients are able to obtain medically necessary services.

• *Requirements That Force Physicians To Participate in Other Insurers' Plans About Which the Physicians Know Noting*

In light of the fact that physicians have no bargaining power whosoever with respect to contracting with health insurers about the contents of their plans, fairness certainly seems to require that the physicians at least be allowed to know with which plans they are contracting. Aetna's contracts have provisions that retain for Aetna the right to require that their physicians also

[3] See O.C.G.A. § 51–1–48(b).

participate with a network of plan "affiliates" or otherwise participate in other insurers' plans. Under such contractual provisions, physicians are not permitted to review the additional contracts to know or understand their terms and conditions. Physicians are not authorized to accept or reject these other insurers' contracts. When patients who are insured under the affiliate plans come to the physician's office for treatment, the physician must provide covered medical treatment to the patient and can only expect to be paid at the same discounted rates Aetna has imposed upon them in their contract. Further, physicians are required to accept payment not from Aetna, but from the "affiliate" insurer. If the affiliate insurer does not pay the physician, the only remedy is to seek payment from the patient. Moreover, when the physician treats the insured patient under the affiliate plan, the physician must follow that plan's definition of what is medically necessary.

• *Provisions Which Impose Unfair Penalties Upon Physicians*

Aetna, like many managed care health plans, reserves the right to punish physicians who do not follow certain plan rules and regulations. These contractual "punishments" often bear no relationship to alleged wrongdoing, run the potential of jeopardizing quality care, and are of questionable legality. Under the Aetna contract, if a physician fails to obtain appropriate prior authorization, he or she shall have their reimbursement reduced for all medical services provided to all patients that they treat after notification by Aetna. This provision is often referred to as a "contamination" clause—the theory being that if one patient goes out of plan, a physician's payment for all patients will be "contaminated," *i.e.*, reduced

Sometimes physicians do not comply with utilization review requirements (such as prior approval rules) because they are not in a patient's best interest. Sometimes the noncompliance is inadvertent. In many cases, there was no mistake at all. Given the proliferation of managed care throughout Georgia and given the fact that physicians contract with numerous health plans, all with different procedures and requirements, billing for medical services has become cumbersome, complex and confusing. This scenario has placed an incredible burden on physicians (and their office staffs). So, it is understandable that some physicians' offices may fail on an isolated occasion to meet each and every billing, utilization review, or other procedure imposed by each and every one of the myriad health plans with which they have contracted. Healthcare insurance company acquisitions and mergers that further empower insurers to impose sanctions against physicians in this manner should not be allowed to occur. This type of disproportionate punishment provision should not be tolerated.

Further, penalizing physicians for failing to comply with a plan's utilization review program in order to advocate for medically necessary treatment or care is contrary to Georgia law. Is there any reason to believe that Aetna will abide by this newly enacted provision of Georgia law? Other managed care companies have continued to enforce such provisions against physicians in direct violation of some states' laws. Is this what Georgia patients and physicians deserve?

The Georgia General Assembly has spoken unequivocally (and nearly unanimously) on this point. With the passage of O.C.G.A. § 33–30A–7(b), the legislature made it clear that it is the public policy of the State of Georgia that a physician should be allowed, in fact encouraged, to advocate for medically appropriate health care for his or her patients. If Aetna is allowed to violate state law by penalizing physicians for such advocacy, as other companies have done (e.g., the way Wellpoint Health Networks, Inc. has done in violation of California law), then such important patient advocacy will be severely chilled and could result in a dangerous threat to patient care in Georgia.

III. The Double Whammy Effect Of Aetna/Prudential and Georgia Blue/ Wellpoint

The second major reason for our objecting to the Acquisition is the fact that it comes at the same time that Georgia's largest and oldest health insurer, Blue Cross/Blue Shield of Georgia, is merging with WellPoint Health Networks, Inc., one of the nation's largest publicly traded managed care insurance behemoths. The combination of Blue Cross/Blue Shield of Georgia and WellPoint Health will control more than 32% of the health insurance market in Georgia [1.8 million persons]. The consequences of having one of the largest managed care networks in the country, which is not Georgia-based, take over one-third of the Georgia healthcare insurance market would be troubling enough for Georgia patients, Georgia physicians and other healthcare providers interested in providing the best quality of healthcare to their patients. However, the ill effects of that merger will be compounded by the fact that it will occur at the same time that Aetna and Prudential, the third and fourth largest health insurers in Georgia are dissolved into one. The concurrence of these two transactions will dramatically reduce the competition among carriers and, therefore, the healthcare options available to all Georgians. It will directly affect nearly 59% of the HMO/POS market in Georgia and more than 52% of that same market in the Metropolitan Atlanta area.[4] Because of the unfair market share that the two resulting insurance carriers will have, however, the effects will be hard felt throughout the entire state's health insurance market. The following market share chart shows how these two consolidating transactions will affect the health insurance market share landscape in Georgia.

[In percent]

HMO/POS market	Market share as of 07/01/99 for Aetna Inc.	Market share as of 07/01/99 for Prudential	Market share for Aetna/Prud following the acquisition	Market share affected by combination of Aetna/Prud acquisition and merger of BC/BS of GA with WellPoint
Market Share for all of Georgia	10.08	15.95	26.03	58.62
Market Share for Metropolitan Atlanta Area	9.35	18.13	27.48	52.34

[4] All statistics are based on information contained in the latest update of Harkey & Associates' 1999 report on managed care insurers operating in Georgia.

The merger of Georgia Blue with WellPoint would increase WellPoint's market share in Georgia from less than 2% of the market [100,000 persons insured currently under Wellpoint's subsidiary, UNICARE] to nearly 32% of the private health insurance market [1.8 million persons]. While the market share increase for Georgia Blue following the merger would appear to be fairly minimal, the dynamics of having one of the largest managed care networks in the country, which is California-based, take over one-third of the Georgia market will be extremely consequential for Georgia insureds and Georgia physicians and other healthcare providers interested in providing the best quality of healthcare to their patients.

The merger between Georgia Blue and WellPoint is worrisome in several respects. First, Georgia Blue would no longer be a Georgia-based company, would no longer be owned primarily by Georgians and would have little, if any, allegiance to Georgians. The influence and presence of California-based WellPoint, as a dominant managed care player, would be significant. WellPoint would immediately assume a dominant position in the Georgia health care insurance market. With this advantage, WellPoint would be expected to rapidly increase its market share in Georgia.

Furthermore, considering WellPoint's unparalleled focus on its managed care products and its dominant power in the managed care industry, it is reasonable to expect that the managed care portion of Georgia Blue will grow at an even faster rate in Georgia than it otherwise would have and with a concomitant decrease in their attention to the traditional indemnity market needs of Georgians. Patients will be faced with a marketplace that is less competitive and that offers far less choice.

If the merger is approved, Georgia Blue, in a period of less than 5 years, will have transformed from a Georgia-based, not-for-profit insurer that was loyal to its insured patients and that was accountable to the people and State of Georgia, into an indivisible piece of one of the nation's largest publicly traded managed care behemoths.

While the corporate entity that would follow the merger of Georgia Blue and WellPoint would not be an illegal monopoly in Georgia, it most certainly would constitute a monopsony with significant market share dominance. Given WellPoint's history of using abusive tactics in California and the significant market share that they would acquire from Georgia Blue, the merger between the two can only spell trouble for Georgia patients and their health care providers. The combination of market share dominance and a pattern of abusive managed care practices could be a lethal dose of bad medicine for Georgians.

Although the Medical Association of Georgia and its members acknowledge that managed care is here to stay, the amount of abuse that is already present in the managed care industry—even in Georgia—presents a significant concern. Thus, it is our obligation, by whatever means are appropriate, to raise the issues and concerns of our members and their patients whenever quality care is threatened by the managed care industry. We strongly feel that allowing the state's third and fourth largest healthcare insurers to merge at the same time the state's largest healthcare insurer is being taken over by one of the nation's largest managed care companies certainly constitutes just such a threat to Georgia patients.

Conclusion

In summary, Aetna, through the use of numerous onerous contract provisions, already constitutes a threat to quality care in Georgia and elsewhere. Allowing it to consume an even larger segment of the healthcare insurance market will only further empower Aetna to drive the delivery of healthcare in any direction that its financial incentives may dictate, regardless of the needs of patients. Aetna has shown in many ways (E.g., by its unrepentant use of its definition of "medical necessity"), that its primary, if not singular, emphasis is in producing returns for its shareholders' investments—all to the detriment of their insureds and without regard for same. The larger they are allowed to become, the greater their dominance over the healthcare market will be and the less physicians and other healthcare providers will be able to determine what care patients can receive.

The concurrence of this Acquisition at the same time that Georgia's largest healthcare insurer and its tremendous market share are being turned over to one of the nation's largest managed care companies can only spell trouble for Georgia patients and physicians. Together, the two resulting corporate giants will control more than 58% of the Georgia HMO/POS markets. With that combined ability, the two insurers will dictate what care is provided throughout all of Georgia and they will lower the standard of healthcare services to that which is "the least costly," just as Aetna says in its definition of "medically necessary." Is this really the single criterion that should control the quality and quantity of healthcare that will be made available in Georgia or anywhere else in the United States? The Medical Association of Georgia arduously submits that it should not be.

Accordingly, and for the many reasons articulated above, the Medical Association of Georgia and its 8,000 Georgia physicians respectfully request that the proposed acquisition by Aetna of Prudential Insurance Company's healthcare insurance business be *disapproved*.

Thank you for your consideration in this matter that is of great importance to all Georgians.

Sincerely,

David A. Cook,

General Counsel.

William T. Clark,

Associate General Counsel.

September 7, 1999.

Gail Kursh, JD,

Chief, Professions and Intellectual Property Section, Health Care Task Force, Department of Justice, 600 E. Street, NW, Room 9300, Washington, DC 20530.

Re: Comments of the American Medical Association, Texas Medical Association, Dallas County Medical Society, and Harris County (Houston) Medical Society to the Proposed Revised Final Judgment pending in *United States* v. *Aetna, Inc.*, Civil Action no. 3–99CV 1398–H

Dear Ms. Kursh: The American Medical Association (AMA), along with the Texas Medical Association (TMA), the Dallas County Medical Society, and the Harris County (Houston) Medical Society (collectively, "the Texas medical societies") submit these comments regarding the proposed consent decree ("consent decree") entered into by the United States Department of Justice, the Texas Attorney General (collectively, "the Government"), and Aetna/U.S. Healthcare ("Aetna") and Prudential Insurance Company of America ("Prudential") in a complaint and final judgment submitted to the United States District Court for the Northern District of Texas on June 22, 1999.

Our organizations submit these comments in order to state to the Government our desire for a fair and balanced healthcare marketplace, including access by patients to the physicians our organizations represent. Our organizations have a first-hand familiarity will marketplace realities and the potential impact of this proposed merger on physicians and patients. During the course of the investigation of this proposed merger,

the AMA and the Texas medical societies have worked in partnership to respond to requests from the United States Department of Justice (DOJ) for information on the impact of this merger on physicians and patients in the Dallas and Houston area.

The AMA is a not-for-profit association of approximately 275,000 physicians in all areas of specialization throughout the United States and is the largest medical society in the United States. The Texas Medical Association (TMA) is a not-for-profit association of 36,000 physicians and medical students practicing in all areas of specialization in the State of Texas. TMA represents more than 83% of all licensed physicians in Texas. The Harris County Medical Society represents 8500 physicians, 80% of all physicians practicing in all areas of specialization in Harris County. The Dallas County Medical Society represents 6000 physicians practicing in Dallas County, 80% of all physicians practicing in all areas of specialization in the county. The foundation of all our organizations is the promotion of the science and art of medicine (including quality of care) and the betterment of public health. We also advocate on behalf of our physicians and their patients at all levels of state and federal government and in the private sector.

The underlying focus of our joint effort is our commitment to the preservation of quality medical care and the patient-physician relationship. The AMA and the Texas medical societies believe that in a well-balanced marketplace, patients and physicians will have the best opportunity to make informed decisions as to the appropriateness of care.

We are filing these comments because we believe there is a strong factual basis for the action taken by the Government to require Aetna to divest its NYLCare business in the Houston and Dallas markets. However, we also believe the consent decree should be broadened to address Aetna/U.S. Healthcare's contracting practices that directly impact and lessen competition in the Dallas and Houston marketplaces. Moreover, we are concerned that the Government continue to closely oversee the divestiture of NYLCare to ensure that there is a viable competitive alternative for patients and physicians in Dallas and Houston.

We also fully support the Government's allegations that the merger of Aetna and Prudential, if unchallenged, would lead to violations of the antitrust law because (1) it would substantially lessen competition in the fully-funded Health Maintenance Organization (HMO) and HMO Point of Service (POS) markets in Dallas and Houston resulting in increased price or decreased quality, thereby increasing prices for or decreasing the quality of services; and (2) it would result in consolidation over purchasing of physician services in Dallas and Houston, giving Aetna the ability to depress physicians' reimbursement rates, and allow Aetna to dictate all terms and conditions in its contracts, which is likely to result in a reduction in the quality or degradation in the quality of those services.

I. The AMA and the Texas medical societies believe that there is a strong factual basis for the Government's findings regarding the anticompetitive impact of the proposed merger in the Dallas and Houston HMO and HMO Point of Service markets

The AMA and the Texas medical societies believe there is a strong factual basis for the allegations that in the Houston and Dallas markets, the HMO and HMO–POS plans are an appropriate relevant product market and that an unchallenged merger would result in a reduction in competition in the sale of HMO and HMO–POS plans in Dallas and Houston. This is a significant shift from a number of litigated cases where the courts refused to recognize a separate market for HMO products and instead defined the relevant product market as all health care plans. A more flexible case-by-case approach that evaluates the actual dynamics of an individual marketplace is necessary to assure that a given marketplace remains competitive in a time of rapid market consolidation.

II. The AMA and the Texas medical societies support the Government's findings regarding the anticompetitive impact of the merger in the market for the purchase of physician services in Dallas and Houston and the potential impact on quality and/or quantity of care

The AMA and the Texas medical societies agree that the Government correctly identified the relevance of and the anticompetitive impact of Aetna's post-merger purchasing power over physician services in Dallas and Houston. There is a strong factual basis for the Government's allegations that physician services constitute a relevant product market within which to assess the likely effects of the proposed acquisition of Prudential by Aetna.

There is a strong factual basis to support the Government's contention that without divestiture. Aetna's consolidated purchasing power over physicians' services will enable the merged entity to unduly reduce the rates paid for those services. This will likely lead to a reduction in quantity and/or degradation in quality of physician services. The Government's recognition of the unique aspects of physician services (compares to other tangible services) that make it very difficult for physicians to replace lost business quickly are consistent with our experience of market realities.

Consistent with that, the Government correctly alleges that the contract terms a physician can negotiate with a health plan depend on the physician's ability to terminate his or her contract if the company demands unfavorable terms. In other words, if a physician cannot "walk away" from a contract, he or she has no ability to reject unfavorable terms—including those with clear patient care implications.

We believe there is a strong factual basis for the Government's allegation that in the Dallas and Houston markets, physicians' limited ability to encourage patient switching and consequent inability to reject Aetna's contracts post-merger will result in a violation of the Section 7 of the Clayton Act by giving Aetna the ability to reduce physician reimbursement rates, which will have a negative impact on the quality and/or quantity of physicians services.

In response to requests from the Department of Justice relating to the investigation of this proposed merger, the Texas Medical Association (TMA) developed a physician practice cost model that simulates the effects of the loss or termination of a family practice physician's managed care contract. Based on this model, should a physician terminate a managed care contract that accounts for 20 percent of total practice revenue, the physician would experience a loss of approximately $40,000 of net medical income. Where a plan accounts for a significant percentage of a physician's practice revenue, the prospect of severe financial repercussions greatly reduces—if not eliminates—the physician's ability to walk away from an unreasonable contract with that plan.

At the request of the Department of Justice (DOJ), the Harris County (Houston) and Dallas County Medical Societies went further and performed a survey to collect practice revenue data to determine the actual impact of the merger at the practice level. The results of the survey showed the impact would create tremendous market imbalance. Before the proposed acquisition of Prudential, 62% of Dallas County physicians limited their exposure to the combined Aetna/NYLCare entity to

under 20% of total practice revenue. However, after the acquisition, if NYLCare were not spun off, only 43% of Dallas physicians would be able to limit their exposure to the merged Aetna/Prudential entity to under 20% of total practice revenue.

In Houston, the results are more dramatic. Prior to Aetna's acquisition of NYLCare, 91% of Houston physicians were able to limit contract exposure to Aetna to under 20%. Subsequent to Aetna's acquisition of NYLCare and Prudential and without the spin-off of NYLCare, only 27% of Houston physicians could still limit exposure to the Aetna entity to under 20%.

Given the substantial financial damage to a physicians' practice that would result from declining an Aetna contract in these circumstances, it is reasonable to conclude that the 57% of Dallas physicians and 73% of Houston physicians with 20% or more practice revenues dependent on the merged Aetna/Prudential entity could not walk away from the Aetna contract.

III. The AMA and the Texas medical societies believe that additional relief is needed to guard against Aetna's ability to exercise anticompetitive power in the purchase of physician services in Dallas and Houston

The AMA and the Texas medical societies believe that the proposed divestiture is an appropriate first step to ward off the anticompetitive impact of the proposed merger in the combined HMO and HMO–POS market. However, we do not believe that the remedy adequately guards against Aetna's ability to exercise anticompetitive power in its purchase of physician services in the relevant geographic markets.

This is because Aetna's contracts include provisions that operate to "lock-in" physicians making it extremely difficult if not impossible to walk away from an Aetna contract that is disadvantageous to them or to their patients. The continuing threat that these provisions will enable Aetna to exert monopsonistic power in spite of the divestiture warrants modification of the Revised Final Judgment to include further relief.

The "all products" policy is the first and most obvious of these provisions. Under this "take-it-or-leave-it" policy, Aetna requires a physician to participate in all of Aetna's current and future health plans as a condition of participating to any current Aetna plan. Aetna has publicly stated that this provision is non-negotiable.

The consent decree recognizes the anticompetitive nature of this policy by noting that in Dallas and Houston, the policy "significantly increases the volume of business that a physician would lose if he or she rejected (an Aetna Contract). Terminating the provider relationship thus would mean that a physician not only would lose his or her own patients who participate in the plan, but also access to other patients in that plan." Although the "all products" policy played a significant role in the Government's finding that the merger would result in an antitrust violation in the market for purchase of physician services, it is not addressed in the Revised Final Judgment.

Based on market realities, the AMA and Texas medical societies believe that the "all products" policy enhances Aetna's market power, operates to "lock-in" physicians to Aetna contracts, and therefore raises serious anticompetitive concerns in the Dallas and Houston markets for purchase of physician services. The "all products" policy enhances Aetna's market power by ensuring that physicians are funneled through the HMO product to have access to Aetna's patient populations within other products such as a PPO.

From a physician's perspective, Aetna's HMO product therefore serves as a "gateway" to Aetna's patient populations enrolled in other products. The provision ensures that Aetna becomes a sizable percentage of a physician's business even if a physician wishes to participate in only one of Aetna's products for legitimate business reasons (such as lack of access to information systems needed to manage risk contracts) or quality of care concerns. The "all products" policy seriously undercuts the ability of Houston and Dallas physicians to walk away from an Aetna contract, a key concern set forth in the Complaint.

Moreover, Aetna's ability to force this provision on Dallas and Houston physicians is further evidence of its anticompetitive market share. The substantial differences between HMO and PPO products from the Physicians' standpoint are poorly understood by most Americans. However, it is critical to understand this difference in order to fully grasp the pernicious nature of Aetna's "all products" policy, particularly as it would operate in Dallas and Houston.

A shorthand explanation is that under an HMO contract, physicians are compensated in a variety of ways. While many are paid using a substantially discounted fee schedule, some are paid on a "capitated" basis which means that the financial risk of insuring HMO members is passed from the insurer—in this case Aetna—to the treating physician. While risk-bearing by physicians in some settings may result in the provision of cost-effective quality medical care, managing insurance risk is a highly complex task that involves equally complex actuarial assumptions that are generally undertaken by large entities.

Entering into risk contracts is inadvisable for physicians without, among other things, (1) Access to the underlying acturial data on which the capitaton rate is based, (2) data to match costs related to patients with reimbursement received from them under a capitated contract; and (3) a large enough patient base to "spread the risk." It is indisputable that entering into an HMO risk contract without a careful evaluation can have severe financial repercussions for a physician's practice, and potentially adversely impact the care that a physician can provide his or her patients.

Our organizations (as well as many other organizations) have developed educational information to assist physicians in deciding whether entering into an HMO risk contract is advisable for their practice and in evaluating capitation rates. Attached are *Capitation: The Physician's Guide:* (American Medical Association 1997) and *The Law of Managed Care, Chapter 5,* "Risk Contracting" (Texas Medical Association, 1997) which provide a more in-depth discussion of the many variables that physicians must consider.

Moreover, in 1997, the AMA Council on Ethical and Judicial Affairs (CEJA) issued a report on Financial Incentives and the Practice of Medicine (attached) which has been adopted by the AMA House of Delegates and Incorporated into the AMA Code of Ethics (see especially Section E–8.051, "The Ethical Implications of Capitation," adopted June 1997) (attached). The Code of Medical Ethics unambiguously states that physicians have an ethical obligation to "evaluate a health plan's capitation payments prior to contracting with the plan to assure that the quality of patient care is not threatened by inadequate rates." It also recommends, for example, that financial incentives be applied across broad physician groups so that an individual physician's incentive to inappropriately limit care is minimized.

The Aetna "all products" policy prohibits physicians from making any of these necessary evaluations. Instead, they are forced to blindly accept risk contracts (without even knowing what they are accepting as capitated risk) that they may be ill-equipped to manage. There is no opportunity for any type of

evaluation. Any physician who wishes to participate in any Aetna contract—including a PPO contract which does not involve sharing financial risk—must accept HMO risk contracts under terms set unilaterally by Aetna (which may be changed by Aetna unilaterally) with absolutely no opportunity to make the critical analysis outlined in the above-referenced document. Even worse, physicians' must agree to participate in future products—which may subject physicians to higher levels of insurance risk—under whatever conditions Aetna sets. Any reasonable attorney, business consultant, or ethicist would advise a client against agreeing to this type of blind risk-sharing contract, particularly a solo or small group practice for whom this kind of arrangement is even riskier.

In addition, another aspect of the Aetna contract works in concert with the "all products" policy to further "lock-in" the physician and significantly undercuts, if not eliminates any real ability of physicians to withdraw from an Aetna contract. This provision states that:

• "To prevent discrimination against Company or its Members for such time as Provider declines to accept new Members as patients, Provider shall not accept as new patients additional members from any other health maintenance organization."

This bar on closing a practice to new Aetna patients prevents a physician from being able to ameliorate the harsh effects of any Aetna policy by accepting patients in other plans or being available to see patients covered by a new entrant. Under this provision, a physician has no ability to limit exposure or reduce exposure to Aetna by increasing his or her participation level with another plan. It undercuts the ability of physicians to manage their "book of business" and thus establish an effective balance between revenue sources. This further exacerbates their dependence on Aetna.[1]

Because the divestiture does not limit Aetna's ability to impose both of these contract provisions on physicians, the Final Judgment does not provide a sufficient remedy to the monopsonistic power that Aetna will wield in the Dallas and Houston markets for physicians post-merger. To better address the anticompetitive effects of these contract provisions, the AMA and the Texas medical societies propose that the Government modify the Final Judgment to enjoin the use or enforcement of these provisions in any Aetna physician contract with a physician practicing in the Dallas and Houston markets for a period of five years following the proposed divestiture. This remedy is addressed toward the type of future injury to competition that Section 2 of the Clayton Act is designed to prevent.

An injunction would preserve a physician's ability to terminate or credibly threaten to terminate his or her relationship with Aetna if Aetna should seek to reduce the prices it pays to physicians in a manner likely to lead to a reduction in the quantity or a degradation in the quality of physician services in those geographic markets. The injunctive relief that the AMA and the Texas medical societies propose is consistent with prior injunctions that courts have issued to prevent enforcement of contract provisions in unlawful restraint of trade or to prevent the maintenance of a monopoly. See, e.g., Cass Student Advertising Inc. v. National Educational Advertising Services, Inc. 537 F. 2d 282 (7th Cir. 1976) (affirming injunction that prohibited defendant from enforcing a provision in its contracts that gave the defendant exclusive rights to represent college newspapers in student advertising).

It should also be noted that the "all-products" and "practice-closure" provisions also serve as substantial barriers to entry in light of Aetna's still significant position in the Dallas and Houston health care markets. The provision of managed care in a particular market is heavily dependent on maintaining a quality physician network. To justify the expense of developing and maintaining the network, there must be potential for competitors to generate some critical level of market penetration.

By using the "all-products" policy and barring participating physicians from reducing the amount of Aetna business in favor of another plan, Aetna's market share is self-perpetuating, and these policies operate to bar the entry of other plans in the Dallas and Houston markets. It is simply too difficult to put together the requisite provider network to compete in this situation. In the future, this may enable Aetna to extract monopoly prices or reduce quality of care to the detriment of consumers.

IV. It is critical that the Government closely monitor the divestiture of NYLCare.

The AMA and the Texas medical societies have serious concerns about the potential viability of a divested NYLCare entry. Prior to the divestiture agreement, Aetna representatives had informed us that they were well underway in their efforts to fully integrate NYLCare's Texas operations into their primary organization. It is our understanding that they had substantially dismantled NYLCare's separate administration, data processing, and claims processing and payment functions.

Although the Hold Separate Provisions require Aetna to recreate separate administrative, sales, provider relations, quality management, operations and underwriting departments for the NYLCare entity, the magnitude of this task is such that it would be very difficult to complete within the time frame specified in the Revised Final Judgment. Furthermore, Aetna will be subject to serious conflicts of interest in regard to its efforts to reassign appropriate staff and resources to NYLCare.

It will be extremely difficult for the Government to determine whether the recreated administration and operations will function effectively enough to preserve NYLCare's viability as a market competitor. Because of the inherent conflict of interest, the plans' assurances in that regard might not be sufficient evidence. We urge the Government to require NYLCare to demonstrate its viability over some reasonable period of time before it allows Aetna to consolidate the merger with Prudential.

We support the Government's action in the Revised Final Judgment to define the number of covered lives that must be divested with the NYLCare business. We are concerned, however, about what appears from Texas Department of Insurance figures to be a 10% decline in NYLCare covered lives in the Houston Market since the fourth quarter of 1998. A decline of this size is material and could be a signal of some ongoing deterioration of NYLCare's market position. Such deterioration could

[1] Another aspect of Aetna's business conduct recently brought to the attention of the AMA is worth noting in this respect. At least in some parts of the country (if not nationally) Aetna is requiring physicians groups and independent practice associations to enter into a two-tiered contract. The group of IPA must agree to secure individual contracts between Aetna and each individual physician member of the group or network that will bind the individual physician to Aetna if there is a termination between Aetna and the group or IPA. We believe that this practice is designed to defeat any leverage physicians have gained by forming legitimate groups and networks, and also in part due to the highly publicized contract disputes Aetna has encountered over the "all products" policies in at least three states—including Texas—with IPAs. When linked with the "two tiered" contracting approach, the all products policy becomes even more onerous because, as noted, it is much more difficult for a solo or small group practice to take on risk or capitated contracts for under any circumstances for obvious actuarial reason, particularly when Aetna requires the group to do so without ever stating the price it is willing to pay for risk or capitated contracts.

signal the beginning of an ongoing decline in market position caused by Aetna's actions prior to the divestiture agreement.

If that is the case, the ongoing loss of market share might continue into the fall reenrollment period, in spite of any current reparative actions undertaken by the new NYLCare administration. For example, we do not know to what extent Aetna may have already (prior to the divestiture agreement) encouraged providers and customers to sign agreements with Aetna in lieu of their former agreements with NYLCare. We urge the Government to monitor NYLCare's covered lives through the fall enrollment period in order to assure that the divested NYLCare business will include the requisite number of covered lives in the Houston market.

We consider the viability of NYLCare's provider network to be essential to NYLCare's overall viability as a competitor in the Houston and Dallas markets. We urge the Government to closely monitor this aspect of the divestiture because of many unknown factors relating to the current Aetna/NYLCare provider network. If the divestiture is to be meaningful, the provider networks that were previously in place for NYLCare business will need to be preserved or, if necessary, re-assembled.

We support the Government's requirements that a buyer for the NYLCare business must be capable of competing effectively and be substantially independent of Aetna. We would further advocate that the buyer be capable of assuming all support services for NYLCare, so that the divested entity would not be dependent on Aetna for critical operations. For example, the Revised Final Judgment allows Aetna to continue to provide "support services" to NYLCare until the divestiture, including software and computer operations support. To the extent that NYLCare continues to rely on Aetna for crucial business functions such as processing, pricing, and paying claims, it will not function as a separate entity and will not b e capable of standing alone as a viable entity. Any potential buyer should be capable of providing NYLCare with these support services without reliance on Aetna. Furthermore, a buyer should be required to have the demonstrated ability to comply with all state laws including those concerning reserves and timely claims payment, and offer a credible plan to continue to comply after absorbing the NYLCare business.

We would advocate that the Government carefully monitor the NYLCare divestiture process in order to assure that the divested plan has a viable administration and operating structure, and that it maintains its provider networks and customer base. Until the new NYLCare administration and operations have been shown to be effective and independent, acquisition of Prudential should not be allowed to proceed. We also suggest that the Final Judgment give this Court the power to evaluate the effectiveness of the divestiture one year from its conclusion.

V. Conclusion

The Proposed Consent Decree and Proposed Revised Final Judgment take a significant and needed step towards addressing the anticompetitive impact of the proposed acquisition of Prudential Health Insurance by Aetna/U.S. Healthcare. However, failure to address the contracting practices that play a key role in the alleged violations of the antitrust laws will undercut the effectiveness of the Consent Decree. Moreover, a commitment by the Government to carefully monitor the divestiture of NYLCare is also essential to achieving the purposes of the proposed settlement.

Sincerely,

Thomas R. Reardon, MD,
President, American Medical Association.
Gordon Green, MD,
President, Dallas County Medical Society.
Alan C. Baum, MD,
President, Texas Medical Association.
Carlos R. Hamilton, Jr., MD,
President, Harris County Medical Society.

September 21, 1999.

Steve Brodsky,
Antitrust Division, Department of Justice, 950 Pennsylvania Ave, NW, Suite 3101, Washington, D.C. 20530.

Re: AetnaUS Healthcare/Prudential Merger.

Dear Mr. Brodsky: This letter is written on behalf of Genesis Physicians Group, Inc. and Genesis Physicians Practice Association (collectively, "Genesis") and is a supplement to our earlier letters on the above matter. GPG believes that some of the current contracting activities related to the merger of AetnaUS Healthcare ("Aetna") and Prudential HealthCare ("Prudential") are anti-competitive and hopes that the information presented below will be helpful to you in your review of these post-merger activities.

Physician Office Practice

Earlier submissions to the Department of Justice have suggested that, once a payor becomes 20% of a physician's practice, the physician is unable to resist the unfair pressures of that payor. This is known as the "lock-in" percentage for physicians and, for primary care physicians ("PCPs"), Genesis believes that this figure is correct. As for specialist physicians ("SPCs"), Genesis believes that the "lock-in" figure is more like 10% because of the different referral patterns between PCPs and SPCs, particularly in the HMO contracts which Aetna has stated is its growth product. This lock-in percentage is important because, when it is reached, physicians are not able to resist the unfair contracting and operational activities of Aetna, some of which are described below.

Aetna/Prudential Contracting Activities

It is important to note that Prudential is requesting all physicians to sign individual contracts, even if they are in a group practice. This request is clearly aimed at isolating individual physicians from their lawfully constituted groups and utilizing the unequal bargaining power of a large insuror against an individual physician. Thus, as Genesis predicted, the size of Aetna/Prudential has led to coercive marketing and contracting activities. Although Aetna and Prudential are offering different contracts to physicians, the terms are very coercive and both result in threats to patient care. Genesis will summarize only two of those terms in this submission, i.e. the all products clause and the unilateral right to change the basic terms of the contract.

All Products Clause

This is the clause that requires physicians to participate in all products of Aetna in order to participate in any Aetna product. Because the contracts that Aetna is presenting to physicians contain a provision for unilateral imposition of a capitation ("risk") reimbursement methodology, physicians may be forced into operational and financial constraints that will adversely affect patient care. Capitation payments shift the cost and administrative risk to the physician, generally with a lower reimbursement to the physicians. Under "risk" products, physicians have higher overhead costs because of the increased medical management and other administrative burdens by the payors. Increased physician overhead is, for example, due to more detailed medical management protocols, longer waiting times for payor pre-certification and referral procedures and more personnel to handle the increased administrative burden. Common sense dictates that physicians would not want to sign a contract that gives such unilateral rights to Aetna.

Coupled with the lack of full disclosure about the financial risks of capitation payment methodology, it is clear that the "all products" clause is a deceptive practice that could adversely affect patients, as well as physicians.

Aetna has libelled physicians by stating that their opposition to this clause is based on a desire to avoid treating poor patients that Aetna claims is the primary user of HMOs. Aetna has no evidence that Dallas-area physicians discriminate on the basis of HMO participation nor that only poor people use HMO products. The truth is that the all products clause (with its imposition of capitation reimbursement methdology) is a mechanism to shift costs and risks to the physicians without proper disclosure of the material aspects of the "risk" products offered by Aetna. Such cost and risk shifting is done to enhance shareholder value, not patient care.

Unilateral Right To Change Contract Terms

Under its proposed contract with physicians, Aetna has the power unilaterally to amend certain material terms of the contract without any requirement that Aetna notify physicians. In addition, the contract lacks a price term, which in a contract for services is an essential term. The power to unilaterally amend has major potential impact on patients. By reserving the right to unilaterally amend all terms, including clinical protocols, the contract gives Aetna very real power to impose barriers to care and to decrease medical expenses, especially if it is under financial pressure to meet shareholder expectations. These barriers can result in delays and denial of care to patients.

Aetna's National Focus on HMO Growth

Aetna has stated publicly that its growth will be in HMO contracts and that it is actively pursuing this aspect of their business. With this product's added burdens of onerous medical management, random reimbursement changes and other interference in the patient/physician relationship, the 20% lock-in threshold becomes even more important. Physicians believe that there must be a balance between insuror's rules and regulations and the objective decisions made by a physician for his/her patient's best interest. At the 20% level, that becomes problematic from the standpoint of the physician being able to say no to an onerous contract.

Aetna seeks to use its market position to require physicians who may wish to participate in a PPO product, to participate in an HMO—a substantially different product. This pressure occurs despite the fact that the physician may have ethical, operational or clinical objections to capitated HMO plans, and even if the practice is not in a position to accept the substantial amount of insurance risk involved in such HMO products.

Conclusion

The pressure on employers to offer HMO plans means more pressure on primary care physicians since they are a necessary element of any successful HMO strategy by Aetna. Because of the current method of financing premiums, either through Medicare or employer payments, there is a limit to the physicians' ability to influence payors and patients. Thus, patients—the true consumer of health care—have very little control over choice of plan. Physicians have an ethical and legal obligation to their patients and the clinical decisions made in the course of the patient-physician relationship, not the insurer/insured relationship. Consequently, physicians will always play a critical role as patient advocate in an increasingly financially-driven health care system. This role can be easily undermined when a physician has no leverage in the face of an antagonistic and monopsonistic health plan.

Because Aetna has exhibited such anti-patient and anti-physician behavior, it is obvious that their market power in selected markets will lead to increased use of their anti-competitive contractual provisions. Genesis requests that the Department of Justice prohibit the use of the "all products" clause for 5 years and to require more balanced contractual provisions, all in an effort to protect patients, physicians and employers, particularly small business owners, from the power of Aetna.

Sincerely,

J. Scott Chase.

October 8, 1999.

Gail Kursh,
Chief, Health Care Task Force, Antitrust Division, U.S. Department of Justice, 325 Seventh Street, N.W., Suite 400, Washington, D.C. 20530.

Re: Comment of the American Podiatric Medical Association to the Proposed Revised Final Judgment in *United States, et al.* v. *Aetna, Inc., et al.* (No. 3–99 CV 1398–H).

Dear Ms. Kursh: This comment is being submitted by the American Podiatric Medical Association (APMA), the oldest and largest association representing podiatrists in the United States. These comments are submitted regarding the proposed Revised Final Judgment entered into by the plaintiffs, the United States of America and the State of Texas, and the defendants, Aetna, Inc. and The Prudential Insurance Company of America. Notification of the 60-day comment period regarding the consent decree and Revised Final Judgment was published in the **Federal Register** on August 18, 1999.

Podiatric medicine is the profession of the health sciences concerned with the diagnosis and treatment of conditions affecting the human foot and ankle. The podiatric medical education is based upon accepted principles of allopathic medicine. Podiatrists may employ both surgical and non-surgical modalities in the treatment of the ailments of the human foot and ankle. Since the late 1960s, foot and ankle services provided by doctors of podiatric medicine have been covered by Medicare. Podiatrists are recognized as physicians by Medicare and under many state licensure acts.[1]

The APMA is a non-profit organization representing over 10,000 licensed doctors of podiatric medicine in the United States; this number represents more than 80% of those licensed to practice podiatry. There are component state organizations for each of the 50 states, District of Columbia and Puerto Rico, and for those podiatrists employed by the federal government. The APMA is in a unique position in the field of podiatry to comment upon the subject matter of this litigation.

The general concern raised by the APMA is that a concentration of market power by insurance companies in general, and in this case by Aetna through its acquisition of The Prudential Life Insurance Company, is harmful to the provision of quality podiatric medical care. Patient care and the welfare of the patient is paramount in the practice of podiatry, as in other health care professions. The corporate interests of Aetna, in its accountability to its shareholders, is not necessarily compatible with the provision of the highest quality of care and the broadest availability of services to the public-at-large. The concentration of too much economic power in any one market reduces, rather than enhances, health care options and may lead to distortions to, and even interference in, the physician/patient relationship. The APMA has serious concerns when third parties, whose interests may not coincide with that of the patient, are

[1] Unless otherwise made plain by the context, the term "podiatrist" and "physician" are used interchangeably.

making financial decisions which ultimately impact on the availability and quality of care.

In addition, podiatrists are often confronted with other problems which are exacerbated when there is a concentration of power in the hands of third-party payors. As noted above, there are more than 10,000 podiatrists who are members of the APMA throughout the United States. By way of comparison, there are over 14,000 allopathic physicians practicing in Harris County and Dallas County alone; there are 145 podiatrists in the Houston area and 128 podiatrists in the Dallas area. Because of the relatively small number of podiatrists, as compared with the allopathic/osteopathic physicians, podiatrists have had the added burden of fighting for access to managed health care plans. The concern among podiatrists is that a concentration of power would restrict rather than enhance the ability of podiatrists to provide quality, cost-effective care to its patients within managed care plans. When HMO and HMO–POS plans prevent podiatrists from participating in their programs, it limits the choices of the patient in the health care market with the potential of harm to the patient's well-being and care. It is for those reasons that the APMA, on behalf of its members, files these comments with the Department of Justice.

I. The Complaint of the Department of Justice and the State of Texas is Justified Regarding the Potential Anti-Competitive Effects of the Merger of the Aetna and Prudential HMO and HMO–POS Plans

The concerns of the Antitrust Division of the U.S. Department of Justice and the State of Texas were well-founded regarding the anti-competitive effects of the proposed merger. As alleged by the Department of Justice and the State of Texas, the proposed transaction is part of a clear trend towards the increasing consolidation among health insurance companies. Managed care companies are clearly engaged in a separate market from fee-for-service-based plans. While all facets of the health care industry are concerned regarding rising health care costs, managed care programs (such as HMOs), which place limits on treatment options, restrict access to out-of-network providers, and use primary physicians as gatekeepers, are in a greater position to affect the physician/patient relationship. The concern that the insurance companies are making decisions that may interfere in the course of treatment and the management of patient care is real. Any aggregation of power which would reduce the competition among HMO and HMO–POS plans or consolidate the purchasing power of a managed care plan over podiatric services, would be inimical to the well-being of the patient consumer and, ultimately, contrary to the provision of the lowest, cost-effective provision of health care services to the public.

The Justice Department complaint amply demonstrates the economic power that Aetna would acquire in the Houston and Dallas markets if corrective action were not taken. In Houston, Aetna presently has 44% and Prudential has 19% of the HMO and HMO–POS enrollees. After the merger, without divestiture, almost two-thirds of the enrollees in the Houston metropolitan area would be enrolled under the Aetna HMO-controlled plans. In Dallas, while not as large, the numbers are nonetheless quite substantial. The combination of Aetna's current 26% of the HMO and HMO–POS enrollees with the 16% now controlled by Prudential totals 42% in the Dallas metropolitan area. These numbers, in and of themselves, represent significant market penetration by one insurer.

The experience of podiatrists in the Houston and Dallas area, as well as elsewhere, indicate that the concerns regarding a potential reduction in the quantity or in the degradation in the quality of physician services provided to patients are genuine. Due to a number of factors, most health insurance is provided to consumers by employers. In an effort to reduce costs, as more and more employers move to managed care programs, podiatrists are finding that their patients are not able to maintain their relationships with their chosen podiatrists because of the limitations in the managed care plans. As the number of fee-for-service programs shrink, there is not a readily available pool of other patients waiting to fill the slots of those patients who have been restricted in their access to podiatrists.

Further, as will be discussed more fully later, the experiences of podiatrists are that the managed care programs, where they utilize podiatric services, engage closed panels to perform such services. Fewer and fewer podiatrists are performing more and more services. The natural effect is to ultimately reduce the availability of podiatric services to the public-at-large. This is the very degradation in both the quantity and quality of services which the Justice Department was rightly concerned. The divestitures of NYLCare, and the maintenance of a separate plan until NYLCare is sold, is clearly warranted in the Houston and Dallas markets.

II. The Concentration of Economic Power in the Hands of a Few Managed Care Companies Creates the Potential for Greater Exclusion of Podiatrists in the Health Care Market Place

One of the principal concerns of podiatrists throughout the country, as well as in the affected markets in this case, is the propensity of managed care organizations to prohibit access to podiatrists or to offer podiatric services through such a small number of podiatrists that it acts as a barrier to the participation of podiatrists in the HMO and HMO–POS markets.

Large scale participation of podiatrists on hospital staffs is a relatively recent phenomenon, having principally occurred since the 1960s within the United States. With the development of managed care programs, podiatrists have found that in a number of plans, again particularly initially, podiatric services were not included within the benefits offered by the plans. With the passage of time, podiatric participation in managed health care plans, including HMOs and HMO–POS plans, has increased. Nonetheless, there are numbers of plans which do not include podiatric services or so limit the number of podiatrists included in the panel as to effectively foreclose large numbers of podiatrists from participating in the managed care plans.

The APMA undertook a nationwide survey of its members to determine what participation barriers exist in the managed care market. The most recent data available, from the 1993 survey, provided that 60% of those podiatric physicians who responded indicated that major HMO and PPO organizations had prevented, limited, or attempted to prevent or limit, them from participating in such plans. Aetna, U.S. Health Care, and Prudential were all prominently mentioned in the survey. Of those who responded, 73% found that there were closed panels of podiatrists (a small number of podiatrists who could exclusively handle the foot care needs under the plan) or that the plans were closed to podiatrists entirely. In a 1998 survey, of those podiatrists who reported that there net income decreased from the prior year, 44.7% indicated it was because of the impact on managed care.

To the extent that there is a concentration of ownership and operation of these managed care plans in any one area, such as in Dallas or Houston, it necessarily follows that the number of options available to consumers (either employers or individual patients) will be limited. The more limited the options within the

HMO and HMO–POS plans, such limitations may lead to a further reduction in the number of podiatrists participating in such plans.

While podiatrists provide many services which may be classified as primary care, podiatrists frequently receive referrals because of the specialist nature that they provide for the treatment of the human foot. Many general practitioners, whether allopathic or osteopathic, make referrals to podiatrists to handle specific foot ailments which require certain treatment (including surgeries) that the general practitioner believes in the best interest of a patient should be treated by a specialist. To the extent that an HMO neither permits podiatric participation or so limits the number of podiatrists on its panel, such limitation reduces the availability of podiatric services and may prevent the referring physician from making the referral to the podiatrist best-suited to handle the particular condition.

Again, it is for these reasons that the APMA believes that divestiture, as set forth in the Revised Final Judgment, and for the purpose of maintaining competition, is the minimum condition to be imposed in order to permit the merger to proceed.

III. Anti-Competitive Provisions of the Aetna Contracts, Which Operate to Lock in Physicians and Reduce the Ability of Physicians to Provide Quality Health Care Should Be Purged

While highlighted by the U.S. Department of Justice and the State of Texas in their complaint, the proposed remedy of divestiture does nothing as it relates to certain onerous contract provisions incorporated in the Aetna contracts. The APMA joins the American Medical Association and others in urging that these provisions be stricken as a further condition of approval for the merger.

Certain of Aetna's contract provisions have the effect of binding a physician, whether or not a podiatrist, to the Aetna plans, whether or not such continued participation is in the physician's best interest. Aetna includes an "all products" policy which requires that if you are a member of one plan you must participate in all of Aetna's plans. In the Dallas and Houston area, Aetna does permit podiatric participation in its plans. Like other physicians, once a podiatrist is included in the plan, the podiatrist must participate in all of the Aetna plans.

The result of this is that in a number of the Aetna plans, there are circumstances and conditions which make the provision of care unprofitable and there are certain requirements which arguably interfere in the physician/patient relationship. Without this all-products policy, podiatrists might choose not to treat patients under such circumstances. However, because that policy is in place, podiatrists are required to provide services at times for less than cost and to go through procedures which may not necessarily be in the best interest of the patient. A provision such as the all-products policy is not in the best interest of the consumer or the physician, particularly if the Aetna line of business represents a very significant portion of the podiatrist's practice.

Further, while a relatively innocuous anti-discrimination provision is included in the contract, its effects is likewise to restrict choices by podiatrists. The anti-discrimination provision provides that if a physician declines to accept new Aetna patients under the HMO or HMO–POS plans, that podiatrist "shall not" accept as new patients additional members from any other health maintenance organization. That is, regardless of the unprofitability or the concerns that a provider may have as it relates to the strictures on treatment as imposed by certain plans, if the podiatrist refuses to accept any new Aetna enrollees, podiatrists cannot provide services to members of any other HMOs. In conjunction with the "all products" policy, once a podiatrist is in the plan, if that podiatrist desires to treat participants of any other HMO program, that podiatrist must always be willing to accept participants under any Aetna HMO or HMO–POS program.

These "lock-in" provisions do nothing to enhance quality of care or to enhance or to further the physician/patient relationship. There effect is to virtually eliminate any of the bargaining power that providers, whether or not podiatrists, need when dealing with these plans. In addition to the requirement of divestiture, the Justice Department should require that these clauses be stricken from the Aetna contracts.

IV. Conclusion

The Revised Final Judgment, with the requirements of the maintenance of the NYL–HMO and HMO–POS plans with the specified number of enrollees, addresses the anti-competitive impact posed by the original Aetna/Prudential merger. It is requested that the clauses highlighted above be deleted as well in order to further reduce the anti-competitive effect of this merger.

Sincerely,

Ronald S. Lepow, DPW,

President, American Podiatric Medical Association.

Glenn B. Gastwirth, DPM,

Executive Director, American Podiatric Medical Association.

June 25, 1999.

Ms. Gail Kursh,

Chief, Healthcare Task Force, Antitrust Division, U.S. Department of Justice, 325 Seventh Street, NW—Suite 400, Washington, DC 20530.

Re: Proposed consent decree allowing acquisition of Prudential Healthcare by Aetna in the Dallas-Fort Worth market.

Dear Ms. Kursh: I wish to express my disappointment in and opposition to the proposed consent decree requiring Aetna to divest NYLCare in the Dallas-Fort Worth and Houston markets.

As you are aware, NYLCare has already been absorbed by Aetna. As is usually the case when Aetna absorbs another company, all of the best management staff within the absorbed organization, such as NYLCare, are not kept with the new entity. This destroys all of the previous relationship that the absorbed entity had established in the marketplace and replaces them with less desirable Aetna relationships. This has led to contract terminations and disruption of care for countless NYLCare members, both in terms of their access to physicians and in terms of their access to hospitals.

On the other hand, it just so happens that Prudential Healthcare has made an extraordinarily strong commitment to quality in the Dallas-Fort Worth market. The medical director and associate medical directors of the Dallas-Forth Worth Prudential operation represents the "who's who" among medical directors in our region. They are individuals of the highest ethical and professional caliber. Their approach to managing care runs counter to Aetna's previous track record.

It makes no sense to dissemble a high quality operation which is serving its members well and then have Aetna divest a now disemboweled shell of a former HMO devoid of its experienced leadership. There is no rational basis for allowing Aetna to take over another HMO and give up one that has already taken over. The membership in question is approximately the same and Aetna should be allowed to retain its ownership of NYLCare in Dallas-Fort Worth and should be prohibited from absorbing Prudential Healthcare in this market.

In many consent decrees organized by your division it is not uncommon for

corporations to take over another corporation and then be required to sell that corporations holdings in only specific markets. It is my premise that the Department of Justice would be serving the healthcare needs of the patient population in the Dallas-Fort Worth market in a much better way and with much less disruption by simply allowing Aetna to continue business as it has been with NYLCare and require them to divest the Dallas-Forth Worth Prudential Healthcare portion of their new acquisition with the requirement that they make no changes in its management or business prior to sale.

In my view, this would create a much more level playing field and provide for significantly improved quality and continuity of care for managed care patients in the Dallas-Fort Worth market.

Your consideration of these comments is appreciated.

With best regards,

Sincerely yours,

Robert D. Gross, MD

Certificate of Service

I hereby certify that on this 9th day of November, 1999, I caused a copy of the Response of the United States to Public Comments to be served on counsel for all parties by U.S. First Class Mail, at the following addresses:

Mark Tobey, Esq.

Assistant Attorney General, Chief, Antitrust Section, State Bar No. 20082960, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711–2548.

Robert E. Bloch, Esq.,

Mayer, Brown & Platt, 1909 K Street, N.W., Washington, DC 20006.

Michael L. Weiner, Esq.,

Skadden, Arps, Slate, Meagher & Flom LLP, 919 Third Avenue, New York, NY 10022.

Paul J. O'Donnell.

[FR Doc. 99–30832 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. *Morgan Drive Away, Inc., et al.*, Civ. Action No. 74–1781 (TAF) (D. D.C. 1976); United States Notice of Defendant's Motion To Terminate Final Judgment

Notice is hereby given that Morgan Drive Away, Inc. ("Morgan"), the only remaining defendant in the captioned matter, has moved to terminate the Final Judgment entered by the United States District Court for the District of Columbia on June 30, 1976. In a stipulation also filed with the Court, the Department of Justice ("Department") has tentatively consented to termination of the Judgment, but has reserved the right to withdraw its consent pending receipt of public comments.

On December 5, 1974, the United States filed its complaint in this case. The complaint charged the defendants with conspiracy in restraint of trade, conspiracy to monopolize and monopolization of the for-hire transportation of mobile homes in the United States in violation of Sections 1 and 2 of the Sherman Act. Among the violations alleged in the complaint were that the defendants deprived applicants to state and federal regulatory agencies for mobile home transportation authority of meaningful access to and fair hearings before those agencies. This was done by various means including (1) protesting virtually all applications regardless of the merits, (2) including others to protest such applications, (3) jointly financing the protests and providing personnel to aid in the protests, (4) using tactics to deter, delay and increase the costs of the applications, and (5) providing, procuring, and relying on testimony in agency application proceedings that they knew to be false and misleading. The suit also charged that the companies conspired to coerce competitors to charge the same rates as they charged and to fix rates without authorization of federal or state law.

The Final Judgment, filed January 21, 1976 and entered by the Court on June 30, 1976 after a Tunney Act review, prohibited the defendants from using litigation before administrative agencies to exclude competition in the interstate transportation of mobile homes. The Judgment also enjoined the defendants from joint activities in connection with regulatory applications, from fixing interstate, intrastate, or military rates without proper legal authorization, from mutual stabilization of driver compensation, and from agreements to refrain from hiring one another's personnel.

In the period between 1976 and 1999 substantial changes have been made in the regulation of motor carriers, including transporters of mobile homes, effectively eliminating the opportunity for firms to manipulate the regulatory process to exclude competitors, to limit their growth, or to fix rates.

The Department and Morgan have filed memoranda with the Court setting forth the reasons they believe termination of the Final Judgment would serve the public interest. Copies of Morgan's motion to terminate, the stipulation containing the Department's consent, the supporting memoranda, and all additional papers field with the Court in connection with this motion will be available for inspection at the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, Room 215, North, Liberty Place Building, 325 Seventh Street, NW., Washington, DC 20004, and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the duplicating fee set out in Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination to the Department. Such comments must be received by the Antitrust Division within sixty (60) days and will be filed with the Court by the Department. Comments should be addressed to Roger W. Fones, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, 325 Seventh St. NW., Suite 500, Washington, DC 20530, telephone: 202–307–6456.

Rebecca P. Dick,

Director of Civil Non-Merger Enforcement.

[FR Doc. 99–30831 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request.

ACTION: Notice of Information Collection under Review: Study of Employment Eligibility.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the Federal Register on August 17, 1999 at 64 FR 44747. The notice allowed for a 60-day public review and comment period. No public comment was received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 29, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the

estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* Study of Employment Eligibility.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number (File No. OMB–21). Office of Policy and Planning, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Businesses or other for-profit. the surveys will be used to collect data that will be analyzed to determine the effectiveness of the pilots to deter the hiring of aliens who are not legally authorized to work.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,327 respondents with 7,158 responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 5,323 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 22, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–30866 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP (NIJ)–1255]

RIN 1121–ZB89

Announcement of the Availability of the National Institute of Justice Solicitation for The W.E.B. DuBois Fellowship Program

AGENCY: Office of Justice Programs, National Institute of Justice(NIJ), Justice.

ACTION: Notice of Solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice "W.E.B. DuBois Fellowship Program."

DATES: Proposals must be received by close of business Tuesday, February 1, 2000.

ADDRESSES: National Institute of Justice, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, sections 201–203, as amended, 42 U.S.C. 3721–23 (1994).

Background

Through the W.E.B. DuBois Fellowship Program, NIJ seeks to advance the field of knowledge with respect to the confluence of crime, justice, and culture in various societal contexts. NIJ supports the investigation, analysis, and development of innovative approaches that enhance justice and advance public policy decision making on issues relating to crime, violence, and the administration of justice. Recognizing the dynamic influence of community factors on the aforementioned issues, NIJ has included in its research portfolio a body of work that explores diverse cultural perspectives in order to address criminal justice research questions. DuBois Fellows will be asked to focus on these questions in a manner that is policy relevant and reflective of their saliency as an integral part of the American past, present, and future.

The DuBois Fellowship provides talented researchers with the opportunity to elevate independently-generated research and ideas to the level of national discussion.

To be eligible to receive an award under the DuBois Fellowship program, an applicant must hold a Ph.D. or other doctoral-level degree or a legal degree of J.D. or higher. NIJ will fund successful applicants for an amount of up to $100,000 (subject to available appropriations) for a period to last from 6 to 12 months. The period in residency and starting date at NIJ are negotiable. It is anticipated that up to two awards of approximately $50,000 each will be made annually. Funding allocations for this program are based on the quality of the proposals received and the extent to which they are related to ongoing research, evaluation, or science and technology priorities.

Interested individuals should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of "The W.E.B. DuBois Fellowship Program." (refer to document no. SL000391). For World Wide Web access, connect to either NIJ at http://www.ojp.usdoj.gov/nij/funding.htm, or the NCJRS Justice Information Center at http://www.ncjrs.org/fedgrant.htm#nij.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 99–30875 Filed 11–26–99; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 19, 1999.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King at (202) 219–5096 ext. 151 or E-Mail to King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA); Labor.

Title: Mechanical Power Presses, Inspection Certification Records.

OMB Number: 1218–0229.

Frequency: Monthly; Weekly.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 191,750.

Estimated Time Per Respondent: Varies from 5 minutes (0.08 hour) to 20 minutes (0.33 hour).

Total Burden Hours: 1,372,930.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The purpose of the information requirements (inspection certification records) is to provide information which can be used to properly maintain mechanical power presses and to ensure safe operating conditions for employees. If this information is not provided, maintenance programs could become deficient through inadequate monitoring and not contribute to the safe use of mechanical power presses. In addition, OSHA compliance officers may require employers to disclose the required certification records at the time of an inspection.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 99–30930 Filed 11–26–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Notice of Meetings and Agenda

The Fall meetings of committees of the Labor Research Advisory Council will be held on December 7 and 8. The Committee on Occupational Safety and Health Statistics will not meet this Fall. All of the meetings will be held in Rooms 8/10 of the Conference Center, in the Postal Square Building (PSB), 2 Massachusetts Avenue, NE., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, December 7, 1999

9:30 a.m.—Committee on Employment and Unemployment Statistics

1. Current Employment Statistics (CES)—
   a. Impact of North American Industry Classification System (NAICS) implementation on CES
   b. Discussion of time series breaks
2. Current Population Survey (CPS)—
   a. Impact of new race/ethnic and industry and occupation classification on CPS
   b. Discussion of time series breaks
3. Job Openings and Labor Turnover Survey—
   a. Discussion of definitions for job openings, hires, and separations and availability of these data
   b. Discussion of upcoming Response Analysis Survey
4. Mass Layoff Statistics—Discussion of program review
5. Discussion of proposed metropolitan area standards
6. Ideas for the agenda of the next meeting

1:30 p.m.—Committee on Compensation and Working Conditions

1. Overview of union/non-union wage and benefit trends.
2. Discussion of stock options data collection test.
   a. Phase 1 results.
   b. Plans for Phase 2 incidence collection.
   c. Types of data on options of interest to Committee members.
3. Ideas for the agenda of the next meeting.

Wednesday, December 8, 1999

9:30 a.m.—Committee on Productivity, Technology and Growth/Office of Employment Projections

1. New employment projections (Employment Outlook 1998–2008).
2. Activities of the Division of International Technical Cooperation.
3. Report on the new set of measures of unit labor costs.
4. Ideas for the agenda of the next meeting.

Committee on Foreign Labor Statistics

1. Report on compendium of comparative labor force statistics.
2. Report on unemployment rate comparisons.
3. Ideas for the agenda of the next meeting.

1:30 p.m.—Committee on Prices and Living Conditions

1. Consumer Price Index.
   a. Quality adjustment and new goods.
   b. Report on Consumer Price Index (CPI) research series.
2. International Prices—proposed program improvements.
3. Producer Price Index (PPI).
   a. Effects on the PPI of deregulation in the utilities industries.
   b. Efforts to minimize new product bias in the PPI.
4. Ideas for the agenda of the next meeting.

The meeting are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on (Area Code 202) 691–5970.

Signed at Washington, DC this 22nd day of November, 1999.

Katharine G. Abraham,

Commissioner.

[FR Doc. 99–30931 Filed 11–26–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Number D–10830]

Proposed Amendment to Prohibited Transaction Exemption 80–26 (PTE 80–26) for Certain Interest Free Loans to Employee Benefit Plans

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of Proposed Amendment to PTE 80–26.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to PTE 80–26. PTE 80–26 is a class exemption that permits parties in interest with respect to employee benefit plans to make interest free loans to such plans, provided the conditions of the exemption are met. The proposed amendment, if adopted, would affect all employee benefit plans, their participants and beneficiaries, and parties in interest with respect to those plans engaging in the described transactions.

DATES: If adopted, the proposed amendment would be effective from November 1, 1999 through December 31, 2000. Written comments and requests for a public hearing should be received by the Department on or before January 13, 2000.

ADDRESSES: All written comments and requests for a public hearing (preferably three copies) should be addressed to the U.S. Department of Labor, Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, 200 Constitution Avenue, NW, Washington, DC 20210, (attention: Y2K Interest Free Loans).

FOR FURTHER INFORMATION CONTACT: Mr. J. Martin Jara, Office of Exemptions Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8881. (This is not a toll-free number); or Wendy McColough, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor (202) 219–4600. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed amendment to PTE 80–26 (45 FR 28545, Apr. 29, 1980) [1]. PTE 80–26 provides an exemption from the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(B) and (D) of the Code.

The Department is proposing the amendment on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[2]

A. General Background

The prohibited transaction provisions of the Act generally prohibit transactions between a plan and a party in interest (including a fiduciary) with respect to such plan. Specifically, section 406(a)(1)(B) and (D) of the Act states that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(B) Lending of money or other extension of credit between a plan and a party in interest; or

(D) Transfer to, or use by or for the benefit of, a party in interest of any assets of a plan. Accordingly, loans, including interest free loans, to a plan from a party in interest and the repayment of such loans may be prohibited by those provisions of the Act.

In addition, section 406(b)(2) of the Act provides that a fiduciary with respect to a plan shall not, in his individual or any other capacity, act in a transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

B. Description of Existing Relief

PTE 80–26 permits the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, and the repayment of such loan or other extension of credit in accordance with its terms or other written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only:

(1) For the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract; or

(2) For a period of no more than three days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

C. Discussion of the Proposed Exemption

The Department, on its own motion, proposes an amendment to PTE 80–26 in order to expand its interest free loan exemption to address potential Y2K problems. The Y2K problem is a computer problem where date-dependent computations or operations produce erroneous results because systems recognize years only by the last two digits, causing a "00" entry to be read as the year "1900" rather than the year "2000". Congress has passed several Acts [3] to address the Y2K problem and has found that it could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, government, and safety and defense systems, in the United States and throughout the world.

Employee benefit plans rely on computers to perform critical operations such as benefit calculations and

---

[1] A minor correction was made to the title of the final exemption in a notice published in the **Federal Register** on May 23, 1980. (45 FR 35040).

[2] Section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978, 5 U.S.C. App. 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

In discussion of the exemption, references to section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[3] Year 2000 Information and Readiness Disclosure Act, Pub. L. 105–271, 112 Stat. 2386 (1998) (encourages the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with Y2K); Y2K Act, Pub. L. 106–37, 106 Stat. 185 (1999) (established uniform legal standards to provide businesses and technology product users reasonable incentives to solve Y2K problems before they develop, encourages continued remediation and testing efforts, encourages parties to resolve Y2K disputes by alternative dispute mechanisms, and discourages insubstantial lawsuits).

payments, eligibility, vesting, start dates for required distributions, normal retirement age, QDROs, ESOP diversification rights, funding calculations, health claims processing, plan investments, and so on. Calculations performed by service providers, such as TPAs, insurance companies, banks, investment managers, and others, having systems that are not Y2K compliant, may result in a temporary interruption of plan operations.

To date, PWBA has implemented a comprehensive national outreach program designed to assist fiduciaries in preparing to address Y2K. Nevertheless, it remains possible that Y2K related problems could result in a temporary disruption of computer operations. As a result, plan fiduciaries must establish a contingency plan that will be implemented in the event that the plans' essential operations are affected.

Current information indicates that in some cases small and medium size businesses are taking a "wait-and-see" approach to Y2K and that, although the financial services sector appears highly prepared, the industry remains susceptible to secondary risks, such as borrowers failing to meet their obligations as a result of Y2K.[4]

Furthermore, there is some uncertainty about the cost and availability of funds to individual depository institutions. Potential liquidity exigencies created by Y2K might arise from the conversion of deposits to currency, heightened credit demands, greater lender and depositor caution, and potential market disruptions. In this regard, the Board of Governors of the Federal Reserve System established a special lending program under which Federal Reserve Banks may extend credit to depository institutions[5] and, in addition, Congress has passed the "Small Business Year 2000 Readiness Act"[6] to provide a loan guarantee program to small businesses.

The potential liquidity problem created by Y2K could be detrimental to employee benefit plans in trying to meet the many demands of plan participants and beneficiaries. Plan officials need to assure themselves that sufficient liquidity is available to pay benefits and administer the plan, including transfers among investment options, distributions, hardship withdrawals, health claim payments, and loans to participants and beneficiaries. In addition, employee benefit plans may incur costs associated with addressing and fixing Y2K problems that may arise. As a result, the Department has determined to amend PTE 80–26 to expand its provisions for interest free loans to employee benefit plans to meet Y2K contingencies.

In the event of a possible Y2K disruption to ordinary plan operations related to the payment of benefits or insurance premiums, relief for an interest free loan or extension of credit on an unlimited basis from a party in interest to deal with these problems would already be available under the first prong, paragraph (b)(1) of PTE 80–26.

However, plans may need interest free loans to address potential Y2K problems that are only incidental to the ordinary operation of the plan. Specifically, the Department notes that the three day limit on loans for purposes incidental to the ordinary operation of the plan, under the second prong, paragraph (b)(2), of PTE 80–26, may not be a sufficient period of time to address such Y2K contingencies. Accordingly, beginning November 1, 1999 and ending December 31, 2000, the proposed amendment to PTE 80–26 would permit certain interest free loans for an extended period of no more than fourteen months. All loans made pursuant to this amendment must be repaid by December 31, 2000.

Examples of transactions that may require loans or other extensions of credit for a period longer than three days due to temporary cash flow problems or computer malfunctions created by Y2K would include: (1) The transfer of all or part of a participant's account balance from one investment option to another; (2) participant loans; (3) temporary overdraft protection; (4) failure of a plan's internal computer systems; and (5) the crediting of dividends or interest by a bank trustee prior to receipt of such dividends or interest.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under section 406(b)(1) and (3) of the Act or section 4975(c)(1)(E) and (F) of the Code.

(3) Before an exemption may be granted under section 408(a) of ERISA and 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(4) If granted, the proposed amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(5) The proposed amendment, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

The Department invites all interested persons to submit written comments or requests for a public hearing on the proposed amendment to the address and within the time period set forth above. All comments received will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection at the above address.

Proposed Amendment

Under section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990), the Department proposes to amend PTE 80–26 as set forth below:

Section I: General Exemption

Effective January 1, 1975, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section

[4] "Investigating the Year 2000 Problem: The 100 Day Report," issued by the United States Senate Special Committee on the Year 2000 Technology Problem on September 22, 1999.

[5] 64 FR 41765 (1999).

[6] Pub. L. 106–8, 113 Stat. 13 (1999).

4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only:

(1) For the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract; or

(2) For a period of no more than three days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

Section II: Temporary Exemption

Effective November 1, 1999 through December 31, 2000, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only for a purpose incidental to the ordinary operation of the plan which arises in connection with the plan's inability to liquidate, or otherwise access its assets or data as a result of the Y2K problem.

(c) The loan or extension of credit is unsecured;

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan;

(e) The loan or extension of credit begins on or after November 1, 1999 and is repaid or terminated no later than December 31, 2000.

Section III: Definition

For the purposes of section II, a Y2K problem is a disruption of computer operations resulting from a computer system's inability to process data because such system recognizes years only by the last two digits, causing a "00" entry to be read as the year "1900" rather than the year "2000."

Signed at Washington, DC, this 23rd day of November, 1999.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 99–30932 Filed 11–26–99; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on November 29, 1999 via conference call. The meeting will begin at 11:00 a.m and continue until conclusion of the Board's agenda.

LOCATION: 750 First Street, NE, 11th Floor, Washington, DC 20002, in Room 11026.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the agenda.
2. Consider and act on the Board of Directors' Semiannual Report to Congress for the period of April 1, 1999 to September 30, 1999.
3. Consider and act on a staff proposal to move funds from Grant Recoveries to Grants line in order to fund an emergency grant to Legal Services of North Carolina.
4. Consider and act on staff request to revise the Corporation's FY 2000 Consolidated Operating Budget to add to U.S. Court of Veterans Appeals line an additional $15,000 received from the U.S. Court of Veterans Appeals.
5. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336–8810.

Dated: November 24, 1999.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 99–31066 Filed 11–24–99; 1:44 pm]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE 99–147]

National Environmental Policy Act; Mars Surveyor 2001 Mission

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of draft environmental impact statement (DEIS) for implementation of the Mars Surveyor 2001 (MS 01) mission.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR Part 1216 Subpart 1216.3), NASA has prepared and issued a DEIS for the MS 01 mission. The DEIS addresses the potential environmental impacts associated with continuing the preparations for and implementing the MS 01 mission. The purpose of this proposal is to continue global reconnaissance of Mars and perform surface exploration.

The mission is planned to consist of two components. NASA proposes to launch an orbiter spacecraft from Vandenberg Air Force Base (VAFB), California in March-April 2001, and a lander/rover spacecraft from Cape Canaveral Air Station (CCAS), Florida in April 2001. The orbiter would be launched aboard a Delta II 7925, while the lander/rover would be launched aboard a Delta II 7425. The lander/rover would include four small radioactive sources for instrument calibration and would use three radioisotope heater units (RHU's) for thermal control. The orbiter would carry no radioactive material.

DATES: Interested parties are invited to submit comments or environmental concerns on or before January 13, 2000, or 45 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's notice of availability of the MS 01 mission DEIS, whichever is later.

ADDRESSES: Comments should be addressed to Mr. Mark R. Dahl, NASA Headquarters, Code SD, Washington, DC

20546–0001. While hard copy comments are preferred, comments by electronic mail may be sent to marsscop@hq.nasa.gov. The DEIS may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street, SW., Washington, DC 20546.

(b) Spaceport U.S.A., Room 2001, John F. Kennedy Space Center, FL 32899. Please call Lisa Fowler beforehand at 407–867–2497 so that arrangements can be made.

(c) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

In addition, the DEIS may be examined at the following NASA locations by contacting the pertinent Freedom of Information Act Office:

(d) NASA, Ames Research Center, Moffett Field, CA 94035 (650–604–4191).

(e) NASA, Dryden Flight Research Center, P.O. Box 273, Edwards, CA 93523 (661–258–3449).

(f) NASA, Glenn Research Center at Lewis Field, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2755).

(g) NASA, Goddard Space Flight Center, Greenbelt Road, Greenbelt, MD 20771 (301–286–0730).

(h) NASA, Johnson Space Center, Houston, TX 77058 (281–483–8612).

(i) NASA, Langley Research Center, Hampton, VA 23681 (757–864–2497).

(j) NASA, Marshall Space Flight Center, Huntsville, AL 35812 (256–544–2030).

(k) NASA, Stennis Space Center, MS 39529 (228–688–2164).

Limited hard copies of the DEIS are available, on a first request basis, by contacting Mark Dahl at the address or telephone number indicated herein.

FOR FURTHER INFORMATION CONTACT: Mark R. Dahl, 202–358–1544; electronic mail (*marsscop@hq.nasa.gov*). The DEIS also is available in Acrobat® format at *http://www.hq.nasa.gov/office/oss* or *http://www.hq.nasa.gov/office/oss/mars.htm*.

SUPPLEMENTARY INFORMATION: MS 01 mission is part of a series of missions to characterize Mars' atmosphere, geologic history, climate, and the relationship to Earth's climate change process. These missions aim to determine what resources Mars provides for future exploration, and to search for evidence of past and present life. The MS 01 mission would specifically continue the global reconnaissance of Mars via an orbiter spacecraft, and continue the intense study of local areas of the surface via a lander/rover spacecraft.

The proposed action consists of continuing preparations for and implementing the MS 01 mission. The MS 01 orbiter would be launched on a Delta II 7925 from VAFB in March-April 2001. The MS 01 lander carrying the rover would be launched on a Delta II 7425 from CCAS in April 2001. Alternatives that were evaluated included an Orbiter-and-Lander-Only mission, an Orbiter-Only mission, and the No-Action alternative.

For the MS 01 mission, the potentially affected environment for normal launches includes the areas at and in the vicinity of the two launch sites, CCAS in Florida and VAFB in California. The environmental impacts of normal launches of the two spacecraft for the proposed action would be associated principally with the exhaust emissions from each of the Delta II launch vehicles. These effects would include short-term impacts on air quality within the exhaust cloud and near the launch pads, and the potential for acidic deposition on the vegetation and surface water bodies at and near each launch complex, particularly if a rain storm occurred. The potential exists for disturbance of some protected wildlife species, which has been addressed by the U.S. Air Force and the U.S. Fish and Wildlife Service pursuant to consultations under Section 7 of the Endangered Species Act, and incidental take permits and mitigation plans are in place.

A concern associated with launch of the MS 01 lander/rover spacecraft involves potential launch accidents that could result in the release of some of the radioactive material on board the lander/rover spacecraft. The lander would employ two instruments which use small quantities of cobalt-57 (1.30×10^{10} Becquerels or 350 millicuries) and curium-242 (up to 7.40×10^{5} Becquerels or 20 microcuries) as instrument sources. The rover would have three RHU's that use plutonium dioxide to provide heat to the electronics and batteries on board the rover. The radioisotope inventory of the three RHU's would total approximately 3.69×10^{12} Becquerels (99.6 curies) of plutonium. The rover would also carry curium-244 (up to 3.70×10^{9} Becquerels or 100 millicuries)) on its spectrometer and a small americium-241 source (up to 1.11×10^{6} Becquerels or 30 microcuries) on a dust experiment package.

The U.S. Department of Energy (DOE), in cooperation with NASA, has performed a risk assessment of potential accidents for the MS 01 lander/rover. This assessment used a methodology refined through applications to the Galileo, Cassini, and Mars Pathfinder missions and incorporates safety tests on the RHU's, as well as evaluation of the January 17, 1997, Delta II accident at CCAS. DOE's risk assessment for this mission indicates that in the event of a launch accident the expected impacts of released radioactive material at and in the vicinity of the launch area, and on a global basis, would be small.

Jeffrey E. Sutton,

Associate Administrator for Management Systems.

[FR Doc. 99–30864 Filed 11–26–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–146)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that CISC, Inc. of Akron, Ohio, has applied for a partially exclusive license to practice the invention described and claimed in U.S. Patent No. 5,379,469, entitled "Constant Current Loop Impedance Measuring Device That Is Immune to the Effects of Parasite Impedances," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The fields of use will be limited to medical applications and sleep disorder devices. Written objections to the prospective grant of a license should be sent to the Assistant Patent Counsel of the NASA Management Office at the Jet Propulsion Laboratory.

DATE: Responses to this notice must be received by January 28, 2000.

FOR FURTHER INFORMATION CONTACT: John H. Kusmiss, Assistant Patent Counsel, NASA Management Office—JPL, 4800 Oak Grove Drive, Mail Station 180–802, Pasadena, CA 91109–8099; Telephone (818) 354–7770.

Dated: November 19, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–30817 Filed 11–26–99; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses DPR–42 and DPR–60 Proposed No Significant Hazards; Consideration Determination, and Opportunity for a Hearing

[Docket Nos. 50–282 and 50–306]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR–42 and DPR–60 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would change Technical Specification Section 3.1.A.1.b to allow continued operation in Mode 3 with no reactor coolant pumps in operation for a period not to exceed 72 hours, provided that specified actions have been accomplished. The proposed amendments would also increase the time period in which both reactor coolant pumps are permitted to be turned off from 1 hour to 12 hours to allow sufficient time to conduct either preplanned maintenance or electrical lineup switching that would require both reactor coolant pumps to be turned off while in Mode 3.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does operation of the facility with the proposed amendment[s] involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not significantly affect any system that is a contributor to initiating events for previously evaluated accidents. The probability of occurrence for the "Uncontrolled RCCA [reactor control cluster assembly] Withdrawal From a Subcritical Condition" abnormal operational transient will be decreased by the actions required by the proposed change, and the consequences will remain unchanged. The probability of occurrence and consequences for the "Chemical and Volume Control System Malfunction" (Uncontrolled Boron Dilution) abnormal operational transient will not be changed by the actions required by the proposed change. Neither does the change significantly affect any system that is used to mitigate any previously evaluated accidents. The proposed change extends the time that the plant can remain in Mode 3 on natural circulation. This will not degrade the ability of the plant to later reduce reactor coolant system temperature and pressure to Mode 4 conditions where the diesel generators and RHR [residual heat removal] system are still available to remove decay heat. The proposed changes do not involve any significant increase in the probability or consequence of an accident previously evaluated.

2. Does operation of the facility with the proposed amendment[s] create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not alter the design, function, or manner of operation of any plant component and does not install any new or different equipment. The proposed change extends the time that the plant can remain in Mode 3 on natural circulation. A possibility of a new or different kind of accident from those previously analyzed has not been created.

3. Does operation of the facility with the proposed amendment[s] involve a significant reduction in a margin of safety?

The proposed change extends the time that the plant can remain in Mode 3 on natural circulation. Sufficient capacity to remove decay heat is still available. Under natural circulation conditions the availability of both steam generators provides the expected redundancy of this required safety function associated with the reactor coolant system Technical Specification basis. The proposed change does not involve a significant reduction in the margin of safety associated with the safety limits inherent in either the principle barriers to a radiation release (fuel cladding, RCS [reactor coolant system] boundary, and reactor containment), the maintenance of critical safety functions (subcriticality, core cooling, ultimate heat sink, RCS inventory, RCS boundary integrity, and containment integrity), or other structures, systems or components (SSCs) significant to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By, December 29, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 19, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 23d day of November 1999.

For the Nuclear Regulatory Commission.

Claudia M. Craig,

Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–30910 Filed 11–26–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Appointment to the Senior Executive Service Performance Review Board

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: The Railroad Retirement Board (Board) is announcing the membership on its Senior Executive Service Performance Review Board.

ADDRESSES: Comments concerning this notice may be addressed to the Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT:

Charlene T. Kukla, Director of Personnel, telephone (312) 751–4674.

SUPPLEMENTARY INFORMATION: Agencies are required to publish notices of appointments to their Senior Executive Service Performance Review Boards (5 U.S.C. 4314(c)(4) and 5 CFR 430.307(b)).

The members of the Railroad Retirement Board's Performance Review Board are:

Chairman

Robert J. Duda, Director of Operations

Members

Steven A. Bartholow, General Counsel

Kenneth P. Boehne, Chief Financial Officer

Frank J. Buzzi, Chief Actuary

John L. Thoresdale, Director of Administration

Dated: November 18, 1999.

By authority of the Board.

For the Board,

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–30953 Filed 11–26–99; 8:45 am]

BILLING CODE 7905–01–M

VOL 64 ISS 228 NO 29 1999 UMI

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27105]

Filing Under the Public Utility Holding Company Act of 1935, as amended ("Act")

November 19, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested person wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 14, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 14, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System, et al. (70–9537)

New England Electric System ("NEES"), a registered public utility holding company, located at 25 Research Drive, Westborough, Massachusetts 01582; its electric utility subsidiaries: Massachusetts Electric Company ("Mass. Electric"), located at 55 Bearfoot Road, Northboro, Massachusetts 01532; Granite State Electric Company ("Granite State"), located at 9 Lowell Road, Salem, New Hampshire 03079, The Narragansett Electric Company ("Narragansett"), located at 280 Melrose Street, Providence, Rhode Island 02901, Nantucket Electric Company ("Nantucket"), New England Power Company ("NEP"), New England Hydro-Transmission Corporation ("N.H. Hydro") and New England Hydro-Transmission Electric Company, Inc. ("Mass. Hydro"), all located at 25 Research Drive, Westborough, Massachusetts 01582, and New England Electric Transmission Corporation ("NEET"), 4 Park Street, Concord, New Hampshire 03301; its nonutility subsidiaries: Research Drive LLC ("LLC"), New England Power Service Company ("Service Company"), New England Energy Incorporated ("NEEI"), all located at 25 Research Drive, Westborough, Massachusetts 01582; and Eastern Utilities Associates ("EUA") a registered public utility holding company, located at One Liberty Square, P.O. Box 2333, Boston, Massachusetts 02109, and its electric utility subsidiaries; Blackstone Valley Electric Company ("Blackstone"), Eastern Edison Company ("Eastern Edison"), Montaup Electric Company ("Montaup") and Newport Electric Corporation ("Newport"), all located at 750 West Center Street, P.O. Box 543, Bridgewater, Massachusetts 02379 (together, "Applicants"), have filed an application-declaration under sections 6, 7, 9, 10, 11, 12 and 13 of the Act, and rules 45, 46, 54, 80–91, 93 and 94 under the Act.

NEES proposes to acquire all of the outstanding common shares of EUA ("Transaction"). The Transaction will be carried out in a two-step process under the terms of an Agreement and Plan of Merger dated as of February 1, 1999 ("Merger Agreement"), among NEES, EUA and LLC, a Massachusetts limited liability company wholly-owned by NEES. First, LLC will be merged with and into EUA, with EUA as the surviving entity. Then, EUA will be merged with and into NEES, with NEES as the surviving entity. After the Transaction, EUA shall cease to exist and NEES will remain a registered holding company under the Act.[1]

Under the Merger Agreement, each one percent of the issued and outstanding membership interests in LLC will be converted into one transferable certificate of participation or share in EUA. All EUA shares that are owned by EUA as treasury shares and any EUA shares owned by NEES or any other wholly owned subsidiary of NEES will be canceled and retired and shall cease to exist, and no cash or other consideration shall be delivered in exchange. The remaining EUA shares issued and outstanding immediately prior to the Effective Date (as defined below) will be canceled and converted into the right to receive cash in the amount of $31.00 per share, as this amount may be adjusted. The Effective Date shall be the date upon which a certificate of merger has been executed and filed by EUA and LLC with the Secretary of Massachusetts, or any later date specified by the certificate.

The boards of directors of NEES and EUA, and the members of LLC have approved the Transaction. On May 17, 1999, a majority of the EUA shareholders approved the Transaction.[2]

NEES owns all of the voting securities of the following five electric public utility subsidiaries: Mass. Electric, Narragansett, Granite State, Nantucket, and NEET.

Mass. Electric provides electric service to approximately 980,000 customers in an area comprising approximately 43% of Massachusetts. For the year ended December 31, 1998, Mass Electric had total assets of $1.45 billion, operating revenues of $1.5 billion and net income of $49.4 million. Mass. Electric is subject to regulation by the Massachusetts Department of Telecommunications and Energy ("MDTE"), and the Federal Energy Regulatory Commission ("FERC") under the Federal Power Act.

Narragansett provides electric service to approximately 335,000 customers in Rhode Island. For the year ended December 31, 1998, Narragansett had total assets of $664.1 million, operating revenues of $475.7 million, and net income of $30.5 million. Narragansett is subject to the regulation of the Rhode Island Public Utilities Commission ("RIPUC"), the Rhode Island Division of Public Utilities and Carriers ("RIDIV"), and the FERC.

Granite State provides electric service to approximately 37,000 customers in New Hampshire. For the year ended December 31, 1998, Granite State had total assets of $61.8 million, operating revenues of $65.7 million, and net income of $3.2 million. Granite State is subject to the regulation of the New Hampshire Public Utilities Commission ("NHPUC") and the FERC.

Nantucket provides electric service to approximately 10,000 customers on Nantucket Island. For the year ended

---

[1] Under another Agreement and Plan of Merger, dated as of December 11, 1998, by and among The National Grid Group plc ("NGG"), NGG Holdings LLC, a Massachusetts limited liability company and a wholly owned subsidiary of NGG, and NEES, NGG Holdings LLC would be merged with and into NEES with NEES as the surviving entity ("NGG Merger"). As a result, NEES would become an indirect, wholly owned subsidiary of NGG, which would become a registered holding company under the Act. An application by NGG seeking approval of its acquisition of NEES is pending with the Commission (File No. 70–9519). The Commission issued a notice of the filing on October 12, 1999 (HCAR No. 27086).

[2] Under the merger Agreement, no vote of NEES shares or any class or series of equity securities of NEES or its subsidiaries is required for approval of the Transaction.

December 31, 1998, Nantucket had total assets of $44 million, operating revenues of $15.1 million, and net income of $500,000. Nantucket is subject to the regulation of the MDTE and the FERC.

NEET owns and operates a direct current/alternating current converter terminal facility for the first phase of the Hydro-Quebec and New England interconnection ("Interconnection") and six miles of high voltage direct current transmission lines in New Hampshire.

NEES also owns 99.97 percent of the outstanding voting securities of NEP, its principal transmission subsidiary. NEP is engaged in the purchasing, transmitting and selling electric energy at wholesale. In 1998, 98% of NEP's revenues from the sale of electricity was derived from sales for resale to affiliated companies and two percent from sales to municipal and other utilities. NEP recently has completed the sale of substantially all of its non-nuclear generating business and currently is attempting to sell its minority interests in three operating nuclear power pants and one fossil-fueled generating station in Maine.[3] With the sale of its non-nuclear generating business, NEP is principally an electric transmission company. For the year ended December 31, 1998, NEP had total assets of $2.41 billion, operating revenues of $1.2 billion, and net income of $121.5 million. NEP is subject to regulation by the MDTE, the NHPUC, the Vermont Public Service Board, the Connecticut Department of Public Utility Control, the Maine Public Utilities Commission, the FERC, the Nuclear Regulatory Commission, and this Commission.[4]

NEES also owns 53.97 percent of the common stock of N.H. Hydro. N.H. Hydro operates 121 miles of high voltage direct current transmission lines in New Hampshire for the second phase of the Interconnection, extending to the Massachusetts border.

In addition, NEES owns 53.97 percent of Mass. Hydro. Mass. Hydro operates a direct current/alternating current terminal and related facilities for the second phase of the Interconnection and 12 miles of high voltage direct current lines in Massachusetts.

NEES is engaged in non-utility businesses through the following subsidiaries: LLC; Service Company, New England Hydro Finance Company ("N.E. Hydro Finance"), NEES Communications, Inc. ("NEESCom"), NEES Global, NEES Energy, Inc. ("NEES Energy"), *All*Energy Marketing Company, L.L.C., ("*All*Energy"), Granite State Energy, Inc. ("Granite State Energy"), NEEI, and Metrowest Realty, LLC.

LLC was formed solely to effect the Transaction. Service Company provides, at cost, administrative, engineering, construction, legal, and financial services as NEES and its subsidiaries request under a service agreement approved by the Commission in accordance with the Requirements of Rule 90. N.E. Hydro Finance provides debt financing required by Mass. Hydro and N.H. Hydro. NEESCom provides telecommunications and information-related products and services. NEES Global provides consulting services and product licenses to unaffiliated utilities in the areas of electric utility restructuring and customer choice. NEES Energy is a marketing subsidiary of NEES. *All*Energy markets energy commodities (natural gas, propane and oil) and provides energy-related services, such as marketing, brokering and sales of energy, audits, fuel supply, repair, maintenance, construction, operation, design, engineering and consulting to customers in New England and New York. Granite State Energy provides energy and energy-related services including sales of electric energy, audits, power quality, fuel supply, repair, maintenance, construction, design, engineering and consulting. NEEI participated in domestic and gas exploration, development and production. As part of NEES' plan to divest its generating business NEEI sold its oil and gas properties in February 1998. Metrowest Realty, LLC owns NEES' headquarters complex and the service center complex occupied by Mass. Electric in Massachusetts.

EUA directly owns all of the shares of common stock of the three following electric public utility companies: Blackstone, Eastern Edison, and Newport.[5]

Blackstone provides retail electric service to approximately 86,000 customers in Rhode Island. For the year ended December 31, 1998, Blackstone had total assets of $134.1 million, operating revenues of $130.2 million, and net income of $4.9 million. Blackstone is subject to the regulation of the RIDIV, RIPUC and the FERC.

Eastern Edison provides retail electric service to approximately 186,000 customers in Massachusetts. For the year ended December 31, 1998, Eastern Edison had total assets of $831.6 million, operating revenues of $408.2 million, and net income of $29.7 million. Eastern Edison is subject to regulation by the MDTE and the FERC.

Newport provides retail electric service to approximately 33,000 customers in Rhode Island. For the year ended December 31, 1998, Newport had total assets of $71.9 million, operating revenues of $59.5 million, and net income of $2.9 million. Newport is subject to the regulation of the RIDIV, RIPUC and the FERC.

EUA is engaged in nonutility business through the following subsidiaries: EUA Cogenex; EUA Energy Investment Corporation ("EUA Energy"); EUA Ocean State; EUA Energy Services, Inc. ("EUA Energy Services"); EUA Telecommunications Corporation ("EUA Telecommunications"), and Eastern Edison Electric Company. In addition, EUA owns all of the common stock of EUA Service.

EUA Cogenex is an energy services company. It has a number of subsidiary companies: EUA Citizens Conservation Services, Inc., which serves public and private multi-family housing; EUA Cogenex West (formerly EUA Highland Corporation), an energy services company that provides energy conservation services in Colorado, Texas, Ohio, North Carolina, and certain midwestern states; Northeast Energy Management, Inc., a demand side management company. and EUA Cogenex-Canada, Inc. (which holds all of the voting control of EUA Cogenex-Canada Energy Services, Inc., a company formed to participate in a marketing and development joint venture with Monenco Agra, an Ontario-based engineering firm). EUA Cogenex is also the managing general partner of the following general partnerships which operate and monitor existing demand side management and/or energy management services contractual obligations: EUA WestCoast L.P., EUA Energy Capital and Services I, EUA Energy Capital and Services II, EUA

[3] NEP also is a holding company because it owns more than ten percent of the outstanding voting securities of Vermont Yankee Nuclear Power Corporation, the licensed operator of the Vermont Yankee nuclear power facility. NEP also has minority interests in Yankee Atomic Electric Company and Connecticut Yankee Atomic Power Company, all of which permanently have ceased operations. NEP has been declared an exempt holding company by Commission order dated November 25, 1955 (HCAR No. 13048).

[4] Narragansett, Mass. Electric, Granite State, NEP and *All*Energy Marketing Company, L.L.C. are members of the New England Power Pool.

[5] Eastern Edison presently owns all of the outstanding securities of Montaup. Montaup currently is a subsidiary of Eastern Edison. On July 12, 1999, EUA filed an application with this Commission (File No. 70–9527) seeking authority for Eastern Edison to transfer to EUA, and for EUA to acquire from Eastern Edison, all of Eastern Edison's investment in Montaup's capitalization. The Commission issued a notice of the filing on August 23, 1999 (HCAR No. 27066).

FRC II Energy Associates, and Micro Utility Partners of America. As of December 31, 1998, EUA Cogenex also owned half of the voting power in APS Cogenex L.L.C., a limited liability company formed to develop, engineer and construct projects at the National Cancer Institute in an Army garrison at Fort Detrick, Maryland. For the year ended December 31, 1998, EUA Cogenex had total consolidated assets of $157.2 million, operating revenues of $54.8 million, and a net loss of $1.3 million.

EUA Energy invests in energy-related projects. The following are subsidiaries of EUA Energy: Renova LLC, which manufactures energy efficient lighting products; EUA BIOTEN, Inc. ("EUA BIOTEN"), which was formed to develop biomass-fueled generating units. EUA BIOTEN owns all of the common stock of the following companies: BIOTEN Operations, Inc., which owns a demonstration facility in Tennessee; Eastern Unicord Corporation, which was formed to invest in the construction of a wood burning energy plant in New Hampshire; EUA Compression Services, Inc., which was formed to provide compression stations along transmission lines; and EUA TransCapacity, Inc., which was formed to develop and market services and computer software for natural gas industry clients.[6] EUA Energy also holds 9.9 percent of the voting power of Separation Technologies, Inc. which markets and installs its own proprietary equipment for separating unburned carbon from coal fly-ash. For the year ended December 1998, EUA Energy had total assets of $30.4 million, operating revenues of $3.9 million, and a net loss of $5.3 million.

EUA Ocean State has ownership interests in two gas-fired generating units in Rhode Island. For the year ended December 31, 1998, EUA Ocean State had total assets of $49.2 million and net income of $4.1 million.

EUA Energy Services markets energy and energy-related services. For the year ended December 31, 1998, EUA Energy Services had total assets of $500,000 and a net loss of $200,000. EUA states that it plans to dissolve EUA Energy Services before the Transaction.

EUA Telecommunications provides telecommunications and information services. For the year ended December 31, 1998, EUA Telecommunications had total assets of $70,000 and a net loss of $100,000. EUA states that it plans to dissolve EUA Telecommunications before the Transaction.

EUA Service is a service company under section 13 of the Act. EUA provides various accounting, financial, engineering, planning; data processing, and other services to all EUA system companies under rule 90. For the year ended December 31, 1998, EUA Service had total assets of $35.3 million and net income of $260,000.

Eastern Edison Electric Company has been inactive for over six years. EUA states that it plans to dissolve Eastern Edison Electric Company before the Transaction.

As a part of the Transaction, Applicants propose the following mergers among their electric utility subsidiaries ("Subsidiary Mergers"): Eastern Edison and Mass. Electric, with Mass. Electric being the surviving entity,[7] NEP and Montaup, with NEP being the surviving entity; and Blackstone, Newport and Narragansett, with Narragansett being the surviving entity.

Also, as part of the Transaction, Applicants propose the merger of EUA Service into Service Company, with Service Company being the surviving service company, and the former EUA companies entering into service agreements with Service Company in the form authorized by the Commission.

Applicants also seek authority for NEES to assume certain guarantees under various debt instruments of EUA and its subsidiaries ("EUA System"), including EUA's guaranty of long-term debt of EUA Cogenex, EUA Cogenex's equity maintenance agreement and EUA Cognex's short-term debt under the EUA System revolving credit line, and including EUA's guaranty of the debt of EUA Ocean State.

As part of the Transaction, Applicants propose to acquire indirectly EUA's nonutility subsidiaries.

Applicants also state that following the Transaction, there will be a time period before the merger of EUA subsidiaries into NEES subsidiaries. Applicants request authority, during this time period, for the EUA subsidiaries to participate in the NEES holding company system money pool.

If the NGG Merger has not been consummated before the consummation of the Transaction, Applicants request approval of NEES' financing arrangements with a syndicate of banks, and authority for NEES to issue commercial paper or to engage in short-term borrowing, under which NEES may borrow up to $650 million aggregate amount of debt outstanding at any one time, in addition to debt borrowings currently authorized,[8] for the purpose of consummating the Transaction.

Applicants state that as a result of the application of the purchase method of accounting to the Transaction, the current retained earnings of EUA and its subsidiary companies will be recharacterized as additional paid-in-capital. In addition, Applicants state that the Transaction will give rise to a substantial level of goodwill, the difference between the aggregate fair values of all identifiable tangible and intangible (non-goodwill) assets on the one hand, and the total consideration to be paid for EUA and the fair value of the liabilities assumed, on the other. Applicants request authority to pay dividends out of the additional paid-in-capital account up to the amount of the EUA subsidiary companies' aggregate retained earnings just before the Transaction and out of earnings before the amortization of the goodwill after the Transaction.

Northeast Utilities, et al. (70–9541)

Northeast Utilities ("NU"), a registered public utility holding company, Western Massachusetts Electric Company ("WMECO"), an electric utility subsidiary of NU, both located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090; The Connecticut Light and Power Company ("CL&P"), an electric utility subsidiary of NU, NU Enterprises, Inc., ("NUEI") a sub holding company over certain of NU's nonutility subsidiaries, Northeast Generation Company ("NGC") and Northeast Generation Services Company ("NGSC"), Select Energy, Inc. ("SE"), Select Energy Portland Pipeline Inc. ("SEPPI"), each a direct subsidiary of NUEI and an indirect nonutility subsidiary of NU, all located at 107 Selden Street, Berlin Connection 06037; Public Service Company of New Hampshire ("PSNH") and North Atlantic Energy Corporation ("NAEC"), and an electric utility subsidiary of NU, and both located at 1000 Elm Street, Manchester, New Hampshire 03015; HEC Inc. ("HEC"), a direct subsidiary of NUEI and an indirect nonutility subsidiary of NU, and Select Energy Contracting, Inc. ("SECI"), a direct subsidiary of HEC and an indirect nonutility subsidiary of NU, both

[6] EUA states that EUA Energy plans to dissolve Eastern Unicord Corporation and EUA Compression Services, Inc. before the Transaction. TransCapacity, L.P. ceased normal operations effective July 31, 1999.

[7] As part of this merger, Applicants propose that Mass. Electric will assume Eastern Edison's pollution control revenue bonds and preferred stock.

[8] NEES currently has authority, through December 31, 2002, to issue short-term notes and/or commercial paper to dealers up to an aggregate amount of $500 million outstanding at any one time. HCAR No. 26793 (December 10, 1997).

located at 24 Prime Parkway, Natick, Massachusetts 01760; Reeds Ferry Supply Co., Inc. ("Reeds") a direct subsidiary of HEC and an indirect nonutility subsidiary of NU, located at 605 Front Street, Manchester, New Hampshire 03102; and HEC Energy Consulting Canada Inc. ("HEC Energy") direct subsidiary of HEC and an indirect nonutility subsidiary of NU, located at 242 Simcoe Street, Niagara on the Lake, Ontario, Canada L0S1J0 (collectively, "Applicants") have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and rules 46(a) and 54 under the Act.

Applicants request authorization, through December 31, 2004, for: (1) CL&P to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $310 million; (2) CL&P to pay dividends and/or repurchase stock in accordance with the provisions of CL&P's dividend covenant under its first mortgage indenture and deed of trust ("Mortgage Indenture")[9] dated May 1, 1921 to the Bankers Trust Company as trustee; (3) WMECO to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $145 million; (4) PSNH to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $297 million; (5) NAEC to pay dividends to and/or repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $164 million; (6) NUEI to pay dividends to and/or the repurchase stock from NU out of capital or unearned surplus in an amount not to exceed $132 million; (7) NGC to pay dividends to and/or the repurchase stock from NUEI out of capital or unearned surplus in an amount not to exceed $10 million; (8) NGSC to pay dividends to and/or repurchase stock from NUEI out of capital or unearned surplus in an amount not to exceed $10 million; (9) SE to pay dividends to and/or repurchase stock from NUEI out of capital or unearned surplus in an amount not to exceed $70 million; (10) HEC and SEPPI to pay dividends to and/or repurchase stock from NUEI out of the capital or unearned surplus; and (11) Reeds, SECI and HEC Energy to pay dividends to and/or repurchase stock from HEC out of capital or unearned surplus.[10] Further, NU requests authorization to issue 8.5 million shares of NU stock through December 31, 2000.

Applicants note that each of the states in which CL&P, WMECO, PSNH and NAEC (collectively, "Utilities") operate, i.e., Connecticut, Massachusetts, and New Hampshire, has enacted or will enact in the near future, restructuring legislation ("Restructuring Legislation") that is intended to deregulate the electric utility industry and provide retail customers with a choice of electricity providers.[11] The Restructuring Legislation has, or will, require the Utilities to, among other things, divest their generating assets.

Applicants state that because the Restructuring Legislation mandates divestiture of generating assets and allows for the issuance of rate reduction bonds, the Utilities will almost simultaneously experience a significant decrease in the amount of tangible assets that they own and receive a significant influx of cash. Applicants propose to reduce their common equity capitalizations to reflect the Utilities unique financial situation.

Under the Restructuring Legislation, the electric generating assets of CL&P, PSNH and WMECO will be sold, and PSNH will buy out its power purchase agreement with NAEC. In addition to the proceeds raised from these sales of generating assets, CL&P, PSNH and WMECO, will receive proceeds from the issuance of rate reduction bonds as part of the restructuring process.[12] the Utilities plan to apply the net proceeds of their restructuring transactions, among other things, to retire outstanding debt and preferred stock, to buy down existing power purchase agreements with independent power producers (except NAEC, which has no such agreements) and to reduce their capitalizations.[13]

Applicants note that as a result of securitization debt, the issuance of rate reduction bonds, and the accounting treatment of the debt, NU and the Utilities equity-to-capitalization ratio will fall below the Commission's 30% equity standard.[14] Therefore, the Utilities request an exemption from the 30% equity standard through December 31, 2012 and NU seeks an exemption from the 30% equity standard through December 31, 2001.

CL&P expects to use approximately $310 million to reduce its common equity capitalization, WMECO expects to use approximately $145 million to reduce its common equity capitalization, PSNH expects to use approximately $297 million to reduce its common equity capitalization and NAEC expects to use approximately $164 million to reduce its common equity capitalization.[15]

Applicants state that the payment of dividends would not impair the financial integrity of CL&P, PSNH, WMECO or NAEC because, after the payment of these dividends, each Utility would still have adequate cash to operate its substantially smaller business.

NU seeks to reduce its equity capitalization through NUEI, NGC, NGSC, SE, HEC, Reeds, SECI, HEC Energy, and SEPPI, (collectively, "competitive Subsidiaries"). To reduce common equity capitalizations, the Competitive Subsidiaries will either pay dividends to either NU or NUEI, buy back a portion of their outstanding common stock owned by NU or NUEI, or some combination of the above transactions. NU may also reduce its equity capitalization through the payment of dividends and/or the repurchase of stock from HEC by Reeds, SECI and HEC Energy; in each case out of capital or unearned surplus.

The Competitive Subsidiaries anticipate that they may have unrestricted cash available from time to time for distribution in excess of their current or retained earnings. To best arrange and deploy the NU system's equity capital, the Competitive Subsidiaries propose to use some of this unrestricted cash for the payment of dividends to NU, HEC and NUEI or to effect a stock repurchase from NU, HEC and NUEI, the proceeds of which NU ultimately would use to reduce its

[9] The Mortgage Indenture provides, among other things, that cash dividends may not be paid on the capital stock of CL&P, or distributions made, or capital stock purchased by CL&P, in an aggregate amount which exceeds CL&P's earned surplus after December 31, 1966, plus the earned surplus of CL&P accumulated prior to January 1, 1967 in an amount not exceeding $13,500,000, plus such additional amount as may be authorized or approved by the Commission under the Act.

[10] Collectively, HEC, SECI, HEC Energy and Reeds will pay dividends and/or repurchase stock out of capital or unearned surplus in an amount not to exceed $19 million. SEPPI will pay dividends and/or repurchase stock out of capital or unearned surplus in an amount not to exceed $8.5 million.

[11] The transmission and distribution of electricity will continue to be provided by the local utilities at regulated rates.

[12] The Restructuring Legislation allow for the issuance of rate reduction bonds to finance a portion of a utility's standard costs through securitization transactions. NAEC does not expect to receive proceeds from the issuance of rate reduction bonds.

[13] The buy-down of power purchase contracts and the retirement of debt and preferred stock can be accomplished without Commission approval.

[14] *See Georgia Pacific Co.*, 45 S.E.C. 610, 615 (1974).

[15] To reduce common equity capitalizations, the Utilities will either pay dividends to NU, buy back a portion of their outstanding common stock owned by NU, or some combination of the above transactions.

capitalization or for other corporate purposes.[16]

NU seeks authority to issue 8.5 million shares through December 31, 2000, in order to fund the share portion of its proposed merger with Yankee Energy System, Inc. (see File No. 70–9535). To facilitate the merger, NU anticipates entering into one or more forward stock purchase contracts (collectively, "Forwards") with a third party to repurchase NU shares.[17] Applicants state that because NU does not yet have sufficient proceeds from the various restructuring transactions described above, Forwards provide NU with a viable method of obtaining its own shares at anti-dilutive prices and with no balance sheet impact during the carrying period.

Northeast Utilities, et al. (70–9543)

Northeast Utilities ("NU"), a registered public utility holding company, located at 174 Brush Hill Avenue, West Springfield, Massachusetts 01090 and Northeast Generation Services Company ("NGSC"), an indirect nonutility subsidiary of NU, located at 107 Selden Street, Berlin, Connecticut 06037 have filed an application-declaration under sections 6(a), 7, 12(b), 13(b), 32 and 33 of the Act and rules 45, 53, 54, 87, 90 and 91 under the Act.

Background

NU and each of its utility subsidiaries[18] are currently subject to, or will be subject to in the near future, state mandated electric utility restructuring legislation ("Restructuring Legislation"). The Connecticut and Massachusetts Restructuring Legislation provided that CL&P and WMECO divest their non nuclear generating assets and further allowed for the issuance of rate reduction bonds to finance a portion of the utility's stranded costs through securitization transactions.

In July 1999, CL&P and WMECO contracted to sell, for $865.5 million, 1,329 megawatts of hydroelectric and pumped storage generating assets ("Utility Assets")[19] to Northeast Generation Company ("NGC"), an indirect nonutility subsidiary of NU that intends to file for exempt wholesale generator ("EWG") status with the Federal Energy Regulatory Commission ("Generation Transaction"). As a result of the Generation Transaction, NGC executed purchase and sale agreements ("PSA") with CL&P and WMECO, respectively.

Transactions

NU seeks authority to enter two assumption agreements (" Assumption Agreements"). At the time of the Generation Transaction, NGC did not have financial resources, and therefore, NU executed Assumption Agreements to facilitate the Generation Transactions. The Assumption Agreements provide that NU will, subject to regulatory approval, perform the obligations set forth in the PSA as if it were the purchaser of the Utility Assets if NGC does not perform its obligations. NU estimates its obligations under the Assumption Agreement to be approximately $13 million.

NU further requests authorization, through June 30, 2001, to contribute $475 million ("Equity Investment") to NU Enterprises, Inc. ("NUEI"), a sub holding company over certain of NU's nonutility subsidiaries. Thereafter, NUEI will contribute the Equity Investment to NGC and NGC will use the Equity Investment to finance the acquisition of the Utility Assets.

NGSC will provide services to NGC under a service agreement ("Service Agreement"),[20] and requests an exemption from the at-cost standards of section 13(b) and rules 87, 90 and 91 under the Act.

As a result of NGC's acquisition of Utility Assets and the Equity Investment, NU's aggregate investment in EWGs and foreign utility companies ("FUCOs") will be approximately 85% of "consolidated retained earnings," as defined in rule 53 under the Act.

By order dated November 12, 1998 (HCAR No. 26939) ("Order"), the Commission authorized NU and NEWCO (now known as "NUEI")[21] to, among other things, provide guarantees and similar forms of credit support or enhancements (collectively "Guarantees") in an amount not to exceed $75 million. The Order further authorized NU and NUEI to issue Guarantees in support of NU's investment in EWG or FUCO. By order dated May 19, 1999 (HCAR No. 27029), the Commission authorized an increase in Guarantee authority from $75 million to $250 million, and by order dated October 21, 1999 (HCAR No. 27093), the Commission authorized an increase in Guarantee authority from $250 million to $500 million.

Under the terms of these orders and rule 53(a)(1) under the Act, NU may not use the net proceeds of issuances of securities to invest in EWGs or FUCOs or issue guarantees for obligations in support of EWGs or FUCOs in NU's "aggregate investment," as defined in rule 53(a) under the Act, exceeds 50% of NU's consolidated retained earnings. NU requests that the Commission modify this limitation and exempt NU from the requirements of rule 53(a)(1). Specifically, NU requests an order that would allow it, through June 30, 2001, to use financing proceeds to invest in EWGs and FUCOs and to issue guarantees of the obligations of these entities in an aggregate amount that, when added to NU's aggregate investment in EWGs and FUCOs, would not at any time exceed 100% of NU's consolidated retained earnings.

As of June 30, 1999, NU has invested an aggregate amount of approximately $6 million in EWGs or FUCOs, or approximately 1% of its consolidated retained earnings. NU's consolidated retained earnings was approximately $579 million at June 30, 1999.

NU states that the issuance and sale of securities to finance an investment in EWGs or to guarantee the securities of an EWG in an aggregate amount of up to 100% of consolidated retained earnings will not have a substantial adverse impact on the financial integrity of the NU system, or an adverse impact on any utility subsidiary of NU, its customers, or the ability of the affected state commissions to protect customers. In addition, NU states that it will not seek recovery through higher rates to its utility subsidiaries' customers in order to compensate for any possible losses that may be sustained on the investment in NGC or for any inadequate returns on these investments.

Chevron Corporation (70–9553)

Chevron Corporation ("Chevron"), 575 Market Street, San Francisco, California 94105; Chevron U.S.A. Inc. ("Chevron USA"), 1301 McKinney,

---

[16] Applicants state that the payment of dividends by the Competitive Subsidiaries directly or indirectly to NU or the repurchase of stock by the Competitive Subsidiaries is part of the NU system's overall plan to maintain its level of investment in each subsidiary that will most benefit its shareholders and ratepayers, and that this flexibility will improve, rather than harm, the financial integrity of the NU system and its operating companies.

[17] NU estimates that the issuance of 8.5 million shares is adequate to compensate for the possibility of negative Forward settlements.

[18] NU's utility subsidiaries are: The Connecticut Light and Power Company ("CL&P"), Western Massachusetts Electric Company ("WMECO"), Public Service Company of New Hampshire and North Atlantic Energy Corporation.

[19] The Utility Assets are comprised of 10 hydroelectric facilities owned by CL&P located in Connecticut, the Northfield Mountain pumped storage station (81% owned by CL&P and 19% owned by WMECO) located in Massachusetts, and the Cabot and Turners Falls No. 1 hydroelectric stations owned by WMECO and located in Massachusetts.

[20] Under the Service Agreement, NGSC will provide NGC with a variety of administrative, operation, management and support services.

[21] NUEI is engaged, through the use of multiple subsidiaries, in various energy-related and other activities.

Houston, Texas 77010; Illinova Corporation ("Illinova"), 500 South 27th Street, Decatur, Illinois 62521, an Illinois public-utility holding company exempt from registration under section 3(a)(1) of the Act; and Energy Convergence Holding Company ("New Dynegy"), 1000 Louisiana, Suite 5800, Houston, Texas 77002 (collectively "Applicants") have filed an application under sections 9(a)(2) and 10 of the Act.

Chevron USA is a wholly owned subsidiary of Chevron. Upon completion of the proposed transactions described below, Chevron USA will own approximately 28% of the common stock of New Dynegy. New Dynegy proposes to acquire Illinova. New Dynegy states that it will qualify for the exemption from registration provided for in section 3(a)(1) of the Act and rule 2 under the Act. Chevron and Chevron USA will seek no-action relief under section 2(a)(7) of the Act concerning their status following the acquisition.

Chevron, a Delaware corporation, manages its investments in, and provides administrative, financial, and management support to, domestic and foreign subsidiaries and affiliates that engage in petroleum and chemical operations in the United States and approximately 90 other countries. Neither Chevron nor Chevron USA currently has any public-utility company subsidiaries, neither is an affiliate of a public-utility company, and no part of either company's income is derived from the operations of a public-utility company as defined by the Act. Chevron USA is a Pennsylvania corporation which conducts operations worldwide through its various divisions. Its principal business activity is in its domestic upstream division that explores for and produces crude oil, natural gas liquids, and natural gas in the United States and its domestic downstream division that refines, markets, and transports gasoline and other refined products in the United States.

Chevron USA owns approximately 29% of the outstanding common and preferred stock of Dynegy Inc. ("Dynegy"), which markets and trades natural gas, natural gas liquids, electricity, and coal. Dynegy also owns power generation subsidiaries that develop, own, and operate projects that are not electric utility companies under the Act, including exempt wholesale generators ("EWGs"), as defined in section 32 of the Act, and companies with interests in qualifying facilities ("QFs") under the Public Utility Regulatory Policies Act of 1978. The majority of Chevron's natural gas production, as well as the natural gas liquids extracted from that gas, are committed to Dynegy under various commercial agreements. In addition to Chevron USA, Dynegy has two industrial shareholders: NOVA Gas Services (U.S.) Inc. ("NOVA") and BG Holdings, Inc. ("BG"), each of which owns approximately 25% of the outstanding voting stock of Dynegy.[22]

Illinova, an Illinois corporation, owns four subsidiaries with either public utility or energy-related operations: Illinois Power Company ("Illinois Power"); Illinova Generating Company ("Illinova Generating"); Illinova Energy Partners, Inc. ("Illinova Energy"); and Illinova Power Marketing, Inc. ("Illinova Marketing"). Illinois Power is Illinova's principal public-utility company subsidiary and is engaged in the generation, transmission, and distribution of electric energy and the sale of electric energy at wholesale and retail. Illinois Power also owns facilities for the distribution of natural gas and is engaged in the sale of natural gas at retail. It provides traditional utility service subject to state regulation to approximately 570,000 retail electric and 400,000 retail gas distribution customers located throughout central Illinois, and also transmits and sells power at wholesale. All of Illinois Power's utility assets are located in Illinois. Illinois Power is regulated by the Illinois Commerce Commission ("ICC") and the Federal Energy Regulatory Commission ("FERC").

Illinova Marketing, a wholly owned subsidiary of Illinova, is undertaking to own and operate 3,812 megawatts ("MW") of fossil-fired generating capacity in Illinois formerly owned by Illinois Power. Illinova Marketing will use this generating capacity primarily to meet the power requirements of Illinois Power during the period of transition to competition in the electric power industry established under Illinois law.

Illinova Generating owns interests in EWGs and QFs located throughout North America, as well as interests in several generation facilities located outside of North America. It also owns 20% of the stock of Electric Energy Incorporated ("EEInc"), a public-utility company which generates electricity at a plant located in Joppa, Illinois for sale to the United States government nuclear processing plant near Paducah, Kentucky. Approximately 70% of the revenues associated with the Joppa plant are derived from sales to the United States Department of Energy under a contract that extends until 2005. Sponsoring utilities, including Illinois Power, purchase electric power from EEInc in excess of the federal government's requirements.

Illinova Energy brokers and markets electric power and gas. It also develops and sells energy-related services to the unregulated energy markets in the United States and Canada and owns interests in several gas marketing companies.

Illinova's revenues for 1998 were $2.43 billion, producing a net loss of $1.38 billion. Recently, the public-utility income of Illinova derived from Illinois Power has been negative and is the primary source of Illinova's consolidated net loss. In 1998, approximately 73% of Illinova's operating revenues were derived from Illinois Power's sale, transmission, and distribution of electricity, and 12% of Illinova's operating revenues were derived from Illinois Power's sale and transportation of natural gas. Approximately 15% of Illinova's operating revenues in 1998 came from its other, diversified enterprises.

New Dynegy is an Illinois corporation formed for the purposes of effectuating the transaction described below ("Transaction"). New Dynegy currently has no material assets and no public utility assets, subsidiaries, or affiliates.

The Transaction involves a combination of Dynegy and Illinova through a series of mergers that will establish New Dynegy as a public-utility holding company. New Dynegy will initially have two wholly owned subsidiaries, an Illinois corporation and a Delaware corporation, that will serve as acquisition companies. Illinova will be merged with the Illinois acquisition company, with Illinova surviving the merger, and Dynegy will be merged with the Delaware acquisition company, with Dynegy surviving the merger. Upon completion of the transaction, Illinova and Dynegy will be wholly owned subsidiaries of New Dynegy. The parties intend to simplify the New Dynegy holding company system after the Transaction by eliminating Illinova as a tier in the holding company structure.

In the Transaction, each Dynegy shareholder will elect to receive either cash or shares in New Dynegy. However, only approximately 40% of the shares of Dynegy common stock will be exchangeable for cash, with the remaining shares of Dynegy being exchangeable for shares of New Dynegy Class A common stock, Class B common stock, or Series A preferred stock.[23]

[22] Of the remaining outstanding voting stock of Dynegy, 11% is owned by management and the balance is publicly owned.

[23] The New Dynegy Class A common stock will be issued to the management and public

Continued

Each share of Illinova common stock will be exchangeable for one share of New Dynegy Class A common stock.

BG and NOVA have elected to receive all cash for their Dynegy shares, but the 40% limit on the cash portion of the merger consideration results in their receiving at least some portion of their consideration in the form of Series A preferred stock. To facilitate the Transaction and assist NOVA and BG in liquidating their investment in Dynegy, Chevron USA has agreed to purchase from New Dynegy additional shares of New Dynegy's Class B Common Stock for an aggregate purchase price of between $200 and $240 million. To the extent that BG and NOVA would otherwise receive less than 75% cash in exchange for shares of Dynegy Common Stock, Chevron USA has agreed to increase its investment, up to a maximum of $240 million.

Illinova states that it seeks this business combination with Dynegy in order to achieve financial, managerial and operating benefits that will position Illinova and Illinois Power to compete in the increasingly competitive wholesale and retail energy markets that have developed as a result of state and federal regulatory change. In these restructured markets, Illinova expects that customers, whether wholesale or retail, will purchase generated electricity separately from transmission and distribution services. In the case of electricity, recently enacted Illinois legislation provides that customers will have a choice in selecting their electricity provider, regardless of the geographic proximity of the source of physical generation to the customer. Illinova believes Dynegy will complement the utility operations of Illinois Power and allow Illinova to combine its small energy trading operations with the larger trading and marketing operations of Dynegy. A broader slate of energy products and an effective marketing organization will permit Illinova to remain competitive both for customers and for capital needed for exempt operations and public-utility company operations.

The Southern Company, et al. (70–9557)

The Southern Company ("Southern"), a registered holding company, 270 Peachtree Street, NW, Atlanta, Georgia 30303; and its subsidiary companies, Alabama Power Company, 600 North 18th Street, Birmingham, Alabama 35291; Gulf Power Company, One Energy Place, Pensacola, Florida 32520; Mississippi Power Company, 2992 West Beach, Gulfport, Mississippi 39501; Savannah Electric and Power Company, 600 Bay Street East, Savannah, Georgia 31401; Southern Communications Services, Inc., 5555 Glenridge Connector, Suite 500, Atlanta, Georgia 30342; Georgia Power Company, Southern Company Energy Solutions, Inc., and Southern Company Services, Inc., all located at 241 Ralph McGill Boulevard, N.E., Atlanta, Georgia 30308; Southern Energy Resources, Inc., 900 Ashwood Parkway, Suite 500, Atlanta, Georgia 30338; and Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Birmingham, Alabama 35242, (collectively, "Applicants") have filed an application-declaration under sections 6(a), 7, 9(a), 10, 32 and 33 of the Act and rules 53 and 54 under the Act.

Southern proposes to issue and sell up to 60,000,000 additional shares of its authorized but unissued common stock, par value $5 per share, under its Southern Investment Plan ("SIP").[24] Southern also proposed to issue and sell up to 25,000,000 additional shares of its authorized but unissued common stock, par value $5 per share, under The Southern Company Employee Savings Plan ("Savings Plan"). Southern further proposes to issue and sell up to 3,000,000 additional shares of its authorized but unissued common stock, par value $5 per share in order to provide common stock for The Southern Company Employee Stock Ownership Plan ("ESOP"). Southern proposes to issue and sell shares of its common stock for these plans from time to time on or before September 30, 2004.

Southern Investment Plan

The SIP provides shareholders of record of Southern's common stock with a means of purchasing additional shares through the reinvestment of cash dividends and/or through optional cash payments. In addition, the SIP has a direct purchase feature that enables other eligible investors to become participants by making initial cash payments for the purchase of common stock.

Shares of common stock are purchased under the SIP, at the option of Southern, from newly issued shares or shares purchased on the open market. The price per share for shares purchased on the open market will be the weighted average price paid to acquire the shares, excluding broker commissions. When shares are purchased from Southern using cash dividends, the price per share generally will be equal to the average of the high and low sale prices on the dividend payment date. When shares are purchased from Southern with the investor's cash payments, the price per share generally will be equal to the average of the high and low sale prices on the 10th or 25th of the month, as applicable.

Employee Savings Plan

Under the Savings Plan, each employee of Southern's subsidiaries may generally contribute, through payroll deductions, up to sixteen percent of his compensation to an account administered on his behalf under the Savings Plan ("Voluntary Participant Contribution"). In addition, a Savings Plan member may elect to have his taxable compensation reduced up to sixteen percent, with that amount to be contributed to his account under the Savings Plan ("Elective Employer Contribution"). The maximum Voluntary Participant Contribution would be reduced by the percent, if any, which is contributed as an Elective Employer Contribution on behalf of the Savings Plan member. In addition, each Southern associate employing a Savings Plan member currently contributes, on behalf of the member, an amount equal to seventy-five percent of his combined Voluntary Participant Contribution and Elective Employer Contribution, but only to the extent that the sum of the Voluntary Participant Contribution and the Elective Employer Contribution does not exceed six percent of his compensation. Each Savings Plan member must direct that his contributions be invested in one or more of several funds, including a Southern Company Stock Fund consisting of Southern's common stock.

Investment purchases for the funds may be made either on the open market or by private purchase, provided that no private purchase may be made of common stock of Southern at a price greater than the last sale price or the highest current independent bid price, whichever is higher, for the stock on the New York Exchange, plus any applicable commission. In addition, common stock of Southern may be purchased directly from Southern under the SIP or under any other similar plan made available to holders of record of shares of common stock of Southern, at the purchase price provided for in that plan.

shareholders of Dynegy. The New Dynegy Class II common stock will be issued to Chevron USA. NOVA and BG will receive New Dynegy Class A preferred stock in the Transaction.

[24] The number of shares Southern proposes to issue for the plans discussed in the application-declaration may be adjusted from time to time for any share split or distributions later authorized by the Commission.

Employee Share Ownership Plan

The purpose of the ESOP is to enable eligible employees of Southern Company Services, Inc. ("SCS") and other affiliates or subsidiaries of Southern that adopt the ESOP (the "Employing Companies") to share in the future of Southern, to provide participants with an opportunity to accumulate capital for their future economic security, and to enable participants to acquire Southern common stock. All of the Applicants are currently Employing Companies.

The ESOP permits the Employing Companies to contribute cash or common stock in an amount or under a formula that SCS will determine in its sole and absolute discretion. Cash contributions would be used to purchase common stock at market value, as determined by SCS. Cash dividends paid on the contributed common stock allocated to participating employees' accounts generally would be reinvested in additional shares of common stock, unless the employees elects to have the dividends distributed to him.

Southern states that the proceeds from the proposed sale of the common stock will be used by Southern to acquire the securities of associate companies and interests in other businesses, including interests "exempt wholesale generators" ("EWGs") and "foreign utility companies" ("FUCOs"), in any transaction permitted under the Act, and for other general corporate purposes. Southern does not seek in this proceeding any increase in the amount it is permitted to invest in EWGs and FUCOs.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30919 Filed 11–26–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24148; 812–11846]

Conning Asset Management Company, et. al., Notice of Application

November 19, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (The "Act") for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory and subadvisory and subadvisory agreements (collectively, "New Agreements") for a period of up to 150 days beginning on the later of the date on which Metropolitan Life Insurance Company ("MetLife") acquires all the common stock of GenAmerica Corporation ("GAC") from General American Mutual Holding Company ("GAMHC") or the date the requested order is issued and continuing until the date the New Agreements are approved or disapproved by shareholders of the respective investment companies (but in no event later than April 30, 2000) ("Interim Period"). The order also would permit payment of all fees earned under the New Agreements during Interim Period following shareholder approval.

APPLICANTS: Conning Asset Management Company ("Conning Management") and Cova Investment Advisory Corporation ("COVA") (collectively, "Advisers").

FILING DATE: The application was filed on November 5, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 by 5:30 p.m. on December 13, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants: Conning Asset Management Company, 700 Market Street, St. Louis, Missouri 63101; Cova Investment Advisory Corporation, One Tower Lane, Suite 3000, Oakbrook Terrace, Illinois 60181–4644.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120 or Nadya B. Roytblat, Assistant Director, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation.)

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (Telephone (202) 942–8090).

Applicants' Representations

1. Conning Management, a Missouri corporation, is an investment adviser registered under the Investment Advisers Act of 1940 Act ("Advisers Act"). Conning Management is a wholly-owned, indirect subsidiary of Conning Corporation, which in turn is a majority-owned, indirect subsidiary of GAC. COVA, an Illinois corporation, is an investment adviser registered under the Advisers Act, and a wholly-owned, indirect subsidiary of GAC. General American Life Insurance Company ("General American") is a wholly-owned subsidiary of GAC and indirectly owns 100% of COVA and a controlling interest in Conning Management. GAC is a wholly-owned subsidiary of GAMHC, a Missouri mutual holding company.

2. Conning Management serves as investment adviser or subadviser to certain open-end management investment companies, or their portfolios, registered under the Act.[1] COVA serves as investment adviser to series of the Cova Series Trust, an open-end management investment company registered under the Act.[2] The Advisers serve as investment advisers to the Funds pursuant to existing advisory or subadvisory agreements ("Existing Agreements").

3. On August 26, 1999, GAMHC and MetLife entered into a stock purchase agreement under which GAMHC agreed to sell all of the stock it owns in GAC to MetLife (the "Transaction"). The Transaction is currently expected to occur during December 1999 or during

[1] Conning Management serves as investment adviser to the following portfolios of General American Capital Company: Money Market Fund, Bond Index Fund, Asset Allocation Fund, Managed Equity Fund, S&P 500 Index Fund, Mid-Cap Equity Fund, Small-Cap Equity Fund, and International Index Fund. Conning Management also serves as subadviser to the Money Market Fund, a portfolio of Sage Life Investment Trust, and the Conning Money Market Portfolio, a portfolio of Mercantile Funds, Inc.

[2] The portfolios include the Quality Bond Portfolio, Small Cap Stock Portfolio, Large Cap Stock Portfolio, Select Equity Portfolio, International Equity Portfolio, Emerging Markets Equity Portfolio, Bond Debenture Portfolio, Mid-Cap Value Portfolio, Large Cap Research Portfolio, Developing Growth Portfolio, Lord Abbett Growth and Income Portfolio, Balanced Portfolio, Small Cap Equity Portfolio, Equity Income Portfolio, Growth & Income Equity Portfolio, Riggs Stock Portfolio, Riggs Small Company Stock Portfolio, and Riggs U.S. Government Securities Portfolio.

the first quarter of 2000 ("Closing Date").

4. Applicants state that the Transaction will result in a change of control of the Advisers, which will result in an assignment and automatic termination of the Existing Agreements. Applicants request an exemption to: (i) Permit the Advisers to provide investment advisory services to the Funds pursuant to the New Agreements during the Interim Period without obtaining prior shareholder approval, and (ii) permit the Advisers to receive fees earned under the respective New Agreements with respect to each Fund during the Interim Period if, and to the extent that, the New Agreements are approved by the shareholders of the Funds. The requested exemption would cover an Interim Period commencing on the later of the date the Transaction is consummated or the date the requested order is issued and continuing until the New Agreements are approved or disapproved by the Funds' shareholders (but in no event later than April 30, 2000).[3] Applicants state that the New Agreements will have the same terms and conditions as the Existing Agreements except for the effective and termination dates.

5. Applicants state that the boards of directors ("Boards"), including a majority of directors who are not "interested persons" as that term is defined in section 2(a)(19) of the Act (the "Independent Directors"), of Mercantile Funds, Inc., General American Capital Company, and Cova Series Trust held an in-person meeting in accordance with section 15(c) of the Act on October 19, October 27, and November 12, 1999, respectively, to evaluate whether the terms of the New Agreements are in the best interests of the Funds and their shareholders and to approve the New Agreements.[4] The Boards, including the Independent Directors, voted to approve the relevant New Agreements and to recommend that Fund shareholders approve the New Agreements. Proxy materials seeking the approval of the New Agreements are expected to be mailed to shareholders of each Fund during the last quarter of 1999 or the first quarter of 2000.

6. Applicants propose to enter into an escrow arrangement with an unaffiliated financial institution ("Escrow Agent"). The fees payable to the Advisers during the Interim Period under the New Agreements will be paid into an interest-bearing escrow account maintained by the Escrow Agent. The Escrow Agent will release the amounts held in the escrow account (including any interest earned): (a) To the relevant Adviser only if that Fund's shareholders approve the applicable New Agreement or (b) to the applicable Fund if the Interim Period has ended and the New Agreements have not been approved by the requisite shareholder vote. The Escrow Agent will release the moneys as provided only upon receipt of a certificate from officers of the Adviser that the action is appropriate based on shareholder votes. Before any such certificate is sent, the Adviser will notify the relevant Board, including the Independent Directors.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it is unlawful for any person to serve as an investment adviser to a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of the investment company. Section 15(a) further requires the written contract to provide for its automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company, and beneficial ownership of more than 25% of the voting securities of a company is presumed under section 2(a)(9) to reflect control. Applicants state that the Transaction will result in a change of control of the Advisers. Accordingly, applicants state that the Transaction may result in an assignment of each Existing Agreement and, therefore, that each agreement will terminate according to its terms.

2. rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with a registered investment company is terminated by assignment, the adviser may continue to serve for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (a) The new contract is approved by that company's board of directors (including a majority of the non-interested directors); (b) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (c) neither the adviser nor any controlling person of the adviser "directly or indirectly receives money or other benefit" in connection with the assignment. Applicants state that because of the benefits to GAMHC, the Advisers' indirect parent, arising from the Transaction, applicants cannot rely on rule 15a–4.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

4. Applicants state that the terms and timing of the Transaction were determined in response to a number of factors beyond the scope of the Act and substantially unrelated to the Funds. Applicants assert that there is insufficient time to obtain shareholder approval of the New Agreements before the Transaction is consummated. Applicants further assert that the requested relief would prevent any disruption in the delivery of investment advisory and subadvisory services to the Funds during the period following consummation of the Transaction. Applicants represent that, under the New Agreements during the Interim Period, the Funds will receive substantially identical investment advisory and subadvisory services, provided in substantially the same manner, as they received prior to the consummation of the Transaction. Applicants state that, in the event of any material change in personnel of either Adviser providing services pursuant to the New Agreements during the Interim Period, the respective Adviser will apprise and consult the relevant Fund's Board to assure that the Board, including a majority of the Independent Directors, is satisfied that the services provided by the Adviser will not be diminished in scope and quality.

---

[3] Applicants state that if the consummation of the Transaction precedes the issuance of the requested order, the Advisers will serve after the consummation of the Transaction and prior to the issuance of the order in a manner consistent with their fiduciary duties to provide investment advisory and subadvisory services to the Funds even though approval of the New Agreements has not yet been secured from the Funds' shareholders. Applicants also state that, in such event, the Advisers will be entitled to receive from the Funds, with respect to the period from the date of consummation of the Transaction until the issuance of the order, no more than the actual out-of-pocket costs to the Advisers for providing investment advisory or subadvisory services to the Funds.

[4] Applicants acknowledge that, to the extent that the Board of any other Fund cannot meet to approve a New Agreement prior to the Closing Date, the Fund may not rely on the exemptive relief requested in the application.

Applicants' Conditions

The Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The New Agreements will have the same terms and conditions as the corresponding Existing Agreements, except for their dates of effectiveness and termination.

2. Fees earned by the Advisers in respect of the relevant New Agreements during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such fees) will be paid to (a) an Adviser in accordance with the New Agreements only after the requisite approvals are obtained, or (b) the respective Fund, in the absence of such approval with respect to such Fund.

3. Each Fund will hold shareholders' meetings to vote on approval of the relevant New Agreements within the Interim Period (but in no event later than April 30, 2000).

4. The Advisers, or an entity controlling, controlled by, or under common control with the Advisers, not the Funds, will bear the costs of preparing and filing the application and the costs relating to the solicitation of the relevant shareholders and beneficial owners of the approval or disapproval of the applicable New Agreements.

5. The Advisers will take all appropriate steps so that the scope and quality of advisory and other services provided to the Funds during the Interim Period will be at least equivalent, in the judgment of the Fund's Board, including a majority of the Independent Directors, to the scope and quality of services previously provided under the Existing Agreements. If personnel providing material services during the Interim Period change materially, the relevant Adviser will apprise and consult with the Board to assure that the Board, including a majority of the Independent Directors, of the Fund are satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30835 Filed 11–26–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42160; File No. SR–NASD–98–74]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to NASD Rule 3110(f) Governing Use of Predispute Arbitration Agreements With Customers

November 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On May 26, 1999 and July 27, 1999 the NASD submitted Amendments No. 1 and 2 to the proposed rule change, respectively.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend NASD Rule 3110(f) to: require additional disclosure in predispute arbitration agreements regarding the arbitration process, including possible limits on eligibility of claims; require member firms to provide certain information regarding arbitration and predispute arbitration agreements to customers upon request; and clarify the rule regarding use of choice of law provisions in predispute arbitration agreements. Below is the text of the proposed rule change. Proposed new language is in italic; proposed deletions are in brackets.

* * * * *

RULES OF THE ASSOCIATION

3000. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS, EMPLOYERS, AND OTHERS' EMPLOYEES

3110. BOOKS AND RECORDS

(f) Requirements When Using Predispute Arbitration Agreements [With] *for* Customer *Accounts*

(1) Any predispute arbitration agreement clause shall be highlighted and shall be immediately preceded by the following [disclosure] language [(printed] in outline form [as set forth herein) which shall also be highlighted].

This agreement contains a predispute arbitration clause. By signing an arbitration agreement, the parties agree as follows:

(A) [Arbitration is final and binding on the parties.] *All parties to this agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.*

(B) [The parties are waiving their right to seek remedies in court, including the right to a jury trial.] *Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.*

(C) [Pre-arbitration discovery is generally more limited than and different from court proceedings.] *The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.*

(D) [The arbitrators' award is not required to include factual findings or legal reasoning and any party's right to appeal or seek modification of rulings of the arbitrators is strictly limited.] *The arbitrators do not have to explain the reason(s) for their award.*

(E) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.

(F) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.

(G) The rules of the arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this agreement.

(2) (A) [Immediately preceding the signature line,] *In any agreement containing a predispute arbitration agreement,* there shall be a *highlighted* statement *immediately preceding any signature line or other place for*

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, from Alden S. Adkins, Sr. Vice President and General Counsel, NASD Regulation, dated May 26, 1999 and letter to Richard C. Strasser, Assistant Director, Division of Market Regulation, Commission, from Joan C. Conley, Sr. Vice President and Corporate Secretary, NASD Regulation, dated July 26, 1999.

indicating agreement [which shall be highlighted] that *states that* the agreement contains a predispute arbitration clause. the statement shall also indicate at what page and paragraph the arbitration clause is located.

(B) At the time of signing, a copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.

(3) [A copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.]

(A) A member shall provide a customer with a copy of any predispute arbitration clause or customer agreement executed between the customer and the member, or inform the customer that the member does not have a copy thereof, within ten business days of receipt of the customer's request.

(B) Upon request by a customer, a member shall provide the customer with the names of, and information on how to contact or obtain the rules of, all arbitration forums in which a claim may be filed under the agreement.

(4) [No agreement shall include any condition which limits or contradicts the rules of any self-regulatory organization or limits the ability of a party to file any claim in arbitration or limits the ability of the arbitrators to make any award.]

(A) No predispute arbitration agreement shall include any condition that:

(i) limits or contradicts the rules of any self-regulatory organization;

(ii) limits the ability of a party to file any claim in arbitration;

(iii) limits the ability of a party to file any claim in court permitted to be filed in court under the rules of the forums in which a claim may be filed under the agreement;

(vi) limits the ability of arbitrators to make any award.

(B) No member may seek to enforce any choice-of-law provision unless there is a significant contact or relationship between (i) the law selected and (ii) either the transaction at issue or one or more of the parties.

(5) [The requirements of subapragraphs (1) through (4) shall apply only to new agreements signed by an existing or new customer of a member after September 7, 1989.[*If a customer files a complaint in court against a member that contains claims that are subject to arbitration pursuant to predispute arbitration agreement between the member and the customer, the member may seek to compel arbitration of the claim that are subject to arbitration. If the member seeks to compel arbitration of such claims, the member must agree to arbitrate all of the claims contained in the complaint if the customer so requests.*

(6) All agreements shall include a statement that "No person shall bring a putative or certified class action to arbitration, nor seek to enforce any predispute arbitration agreement against any person who has initiated in court a putative class action; or who is a member of a putative class action who has not opted out of the class with respect to any claims encompassed by the putative class action until: (i) the class certification is denied; or (ii) the class is decertified; or (iii) the customer is excluded from the class by the court. Such forbearance to enforce an agreement to arbitrate shall not constitute a waiver of any rights under this agreement except to the extent stated herein."

(7) [The requirements of subparagraph (6) shall apply only to a new agreements signed by an existing or new customer of a member after October 28, 1993.] *The provisions of this Rule shall become effective on (effective date). Agreements signed by a customer before (effective date) are subject to the provisions of this Rule in effect at the time the agreement was signed.*

(g)–(h) Unchanged.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these staements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is threefold: to require additional disclosure in predispute arbitration agreements regarding the arbitration process, including possible limits on eligibility of claims; to require member firms to provide certain information regarding arbitration and predispute arbitration agreements to customers upon request; and to clarify the rule regarding use of choice-of-law provisions in predispute arbitration agreements.

Background

Many broker-dealers require that customers seeking to open accounts, particularly margin and option accounts or accounts with a checking or money market feature, agree in writing to arbitrate disputes concerning the account, typically in an SRO-sponsored forum. These agreements, called "predispute arbitration agreements," are generally part of the non-negotiated customer agreement drafted by the firm.

To ensure that customers are advised about what they are agreeing to when they sign predispute arbitration agreements, NASD Conduct Rule 3110(f) requires that such agreements contain highlighted disclosure about the differences between arbitration and litigation, including notice that by agreeing to arbitrate their disputes, customers may be waiving certain rights that would be available in court. Rule 3110(f) also requires that the agreement itself be highlighted, and that a copy of the agreement be given to the customer and acknowledged by the customer in writing.

Despite these precautions, investor representatives have expressed concern that many customers who sign predispute arbitration agreements still do not adequately understand what they are agreeing to. For example, some predispute arbitration agreements contain "choice-of-law" provisions that specify that the law of a certain state will govern disputes arising out of the agreement. In some cases, the member knows that the law of the chosen state may limit the ability of a customer to bring a claim or obtain an award, but the customer would not be aware of these restrictions from the face of the agreement. By signing an agreement that contained a choice-of-law provision, a customer might inadvertently waive certain rights and remedies. Customers' perceptions of unfairness are heightened by the fact that, when customers must sign predispute arbitration agreements in order to open accounts, their participation in SRO-sponsored arbitration may be involuntary.

Consequently, in its 1996 report, *Securities Arbitration Reform: Report of the Arbitration Policy Task Force to the Board of Governors, National Association of Securities Dealers, Inc.* ("Task Force Report"), the Arbitration Task Force, chaired by David Ruder (formerly Chairman of the SEC and a

former NASD Board member), recommended that members be required to provide more disclosure about arbitration to customers who sign predispute arbitration agreements, and that the use of certain provisions that limit rights and remedies be restricted.

Moreover, the NASD noted in its rule filings concerning the proposed eligibility (SR–NASD–97–44) and punitive damages rules (SR–NASD–97–47) that the NASD would amend Rule 3110(f) to require disclosure of the limitations contained in those rules. This rule filing amends Rule 3110(f) to provide disclosure of the proposed eligibility rules. Simultaneous with this filing, the NASD filed an amendment to the punitive damages rule filing to include proposed amendments to Rule 3110(f) relating to punitive damages.

Proposed Amendments

Required Disclosure and Notice of Possible Restrictions on Eligibility

Currently, paragraph (f)(1) of Rule 3110 mandates certain disclosure language about the differences between litigation and arbitration that must be included in predispute arbitration agreements. The proposed amendments would simplify the existing language in some existing provisions, and would add new provisions.

One of the most significant new provisions concerns notice of possible limits in some arbitration forums on the time for bringing claims. Paragraph (f)(1)(F) would require disclosure that the rules of some arbitration forums may impose time limits for bringing claims in arbitration, and that, in some cases, claims that are ineligible for arbitration may be brought in court. This provision is intended to give notice to customers of the NASD's proposed eligibility rule, as well as the rules in other forums.

Applicability of Disclosure Requirements to New and Existing Account Agreements

Members would be required to add the new disclosure requirements to all *new* customer account agreements containing predispute arbitration agreements as of the effective date of the rule. The proposed rule does not require members to replace existing agreements with current customers.

Incorporation of Arbitration Forum Rules

Paragraph (f)(1)(G) would provide that the rules of the arbitration forum in which a claim is brought, and any amendments thereto, shall be incorporated into the agreement. The purpose of this provision is to ensure that the rules of a forum apply to cases brought in that forum, and to avoid having to execute new agreements each time a forum changes its rules. For example, if a customer filed a complaint in an NASD Regulation arbitration forum, the NASD's arbitration rules would apply in all respects to the agreement.

Requirement That Members Provide Copies of Customer Agreements and Information Regarding Arbitration Forums to Customers Upon Request

In some cases, customers have complained that they have not been able to obtain copies of the predispute arbitration agreements they have signed from members in a timely manner, and that they had unequal access to information about the respective rules of the arbitration forums in which claims may be filed under a given agreement. Under the proposed amendments, paragraph (f)(3)(A) would require that, within ten days of receiving a request, members must provide a customer with a copy of any predispute arbitration agreement clause or agreement that the customer had signed, or inform the customer that the member does not have a copy of the agreement. In addition, paragraph (f)(3)(B) would require that, upon request of a customer, a member must provide the customer with the names of, and information on how to contact or obtain the rules of, all arbitration forums in which a claim may be filed under the agreement.

Restrictions on Provisions That Limit Rights and Remedies

Much of the criticism of predispute arbitration agreements has focused on the use of choice-of-law provisions. A choice-of-law provision specifies that the law of a certain state will govern disputes arising our of an agreement. In some cases, the law of a state might limit the availability of certain remedies, such as punitive damages, or the ability of a customer to bring a claim. For example, previously under New York law, courts could award punitive damages, but arbitrators could not. A customer who agree to arbitrate disputes under New York law could inadvertently forfeit the ability to obtain punitive damages that might have been available in court. (New York law on this subject has begun to shift in favor of arbitrators being able to award punitive damages.) Customers have argued that it is unfair for members to include provisions in predispute arbitration agreements that limit the availability of remedies, particularly when the effects of the provisions are not explained in the agreement.

Currently, Rule 3110(f) prohibits any choice-of-law provision that limits or contradicts the rules of any self-regulatory organization, or that limits the ability of a party to file any claim in arbitration or of arbitrators to make any award. However, the application of this provision has not always been consistent or clear. In addition, some investors have expressed concern that choice-of-law provisions select arbitrary jurisdictions that have no relationship to the customer or the transaction at issue.

To address these concerns, paragraph (f)(4) of the Rule would be amended to clarify the prohibition against provisions that limit rights or remedies, including provisions that would circumvent the eligibility rule. The amendment rule would also state that no choice-of-law provision will be enforceable unless there is a significant contact or relationship between the law selected and either the transaction at issue or the one or more of the parties.

Non-Bifurcation Provision

The NASD's proposed eligibility rule contains certain provisions intended to provide customers with a forum for all of their claims but to prevent them from having to bifurcate their claims, that is, from being forced to litigate their claims in two forums (court and arbitration) at the same time.[4] NASD Regulation also stated in the eligibility rule filing that it would amend Rule 311(f) to include a provision prohibiting members from seeking to compel arbitration of some but not all of a customer's court-filed claims, in order to prevent members from forcing customers to litigate in two forums when they filed a complaint in court that contained both eligible and ineligible claims. Therefore, NASD Regulation is proposing to add a new paragraph (f)(5) to Rule 3110(f) that would require members seeking to compel arbitration of claims filed in court to agree to arbitrate all of the claims contained in the court-filed complaint, even if some of the claims would be ineligible for arbitration under the eligibility rule. The purpose of these provisions in the eligibility rule and Rule 3110(f) is to give the customer

[4] Under the proposed eligibility rule, if the Director of Arbitration rules that the claims contained in a complaint are ineligible for arbitration because they are based on occurrences or events that took place more than six years before the complaint was filed, the customer may file the complaint in court. If the Director rules that some of the transactions are eligible for arbitration, the customer has the option either to pursue the eligible claims in arbitration and the ineligible claims in court, or to pursue both the eligible and ineligible claims in court.

control over whether claims are bifurcated.

Effective Date Provisions

The proposed amendments to Rule 3110(f) would require various changes to the customer agreements used by member firms, including adding disclosure of proposed amendments to the NASD's eligibility rule contained in a currently-pending rule filing (SR–NASD–97–44). The proposed punitive damages rule (SR–NASD–97–47) would also require changes to the customer agreements used by member firms. In order to prevent multiple amendments to customer agreements as a result of these three rule filings, the NASD has determined that these three rule filings, if approved, should take effect at the same time. In addition, the effective date of the rules must provide enough time for firms to modify their customer agreements. Therefore, the proposed amendments to Rule 3110(f) and the eligibility rule, and the proposed punitive damages rule, will become effective 120 days after final Commission action on the last of the three rule filings. The NASD will announce the effective date of the rules in a Notice to Members published prior to the effective date.

The proposed amendments to Rule 3110(f) would also provide that agreements signed before the effective date of the Rule amended would be subject to the provisions of 3110(f) in effect at the time the agreement was signed.

Restriction of Rule of Customer Account Agreements

Some members of the NASD's National Arbitration and Mediation Committee ("NAMC") expressed concern that the rule, which currently applies to all predispute arbitration clauses in any agreement between member firms and customers, could be construed to apply to agreements between a member firm and large institutional clients with whom they had face-to-face negotiations over the terms of the agreement. To address this concern, the rule would be amended to clarify that it only applies to customer accounts and not to other agreements between member firms and large institutional clients with whom they had negotiated contract terms.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed amendments to Rule 3110(f) will serve the public interest by providing customers with more complete information about the arbitration process.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–74 and should be submitted by December 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30836 Filed 11–26–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42156, File No. SR–Phlx–99–42]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Exchange Rule 98, Emergency Committee

November 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder[2] notice is hereby given that on October 13, 1999, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 98, *Emergency Committee* ("Emergency Committee") to update the composition of the Emergency Committee to correspond with previous revisions to the Exchange's governance structure, and to clarify that the Emergency Committee is authorized to take action if any emergency condition is created by the Year 2000 date change. The proposed rule change also deletes a provision authorizing the Emergency Committee to take action regarding CENTRAMART, an equity order entry system which is no longer used on the Exchange's equity trading floor. The text of the proposed

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

rule change is available at the PHLX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change updates the Emergency Committee's composition to reflect recent changes to the Exchange's governance structure. In 1997, various amendments to the Exchange's Certificate of Incorporation and By-Laws dealing with the governance structure of the Exchange were approved by the Commission.[3] Among other things, a provision was added authorizing the Board of Governors to appoint a Chairman of the Board who would be the full-time, paid Chief Executive Officer of the Exchange, and the President position was eliminated.[4] This filing conforms the membership of the PHLX's Emergency Committee to the 1997 structural amendments.

The Emergency Committee was formed in 1989,[5] prior to the aforementioned changes to the Exchange's governance structure. Currently, Rule 98 provides that the Emergency Committee shall consist of the Chairman of the Exchange, the President of the Exchange and the Chairmen of the Floor Procedure, Options, and Foreign Currency Options Committees. The proposed rule change would replace the "Chairman of the Exchange" with the current "Chairman of the Board" designation, delete the word "President" from the rule as the Exchange no longer has a "President"; and include the Exchange's On-Floor Vice Chairman[6] as a member of the Emergency Committee.

Thus, under the proposed rule, the Emergency Committee would include five individuals: The Chairman of the Board of Governors; the On-floor Vice Chairman of the Board of Governors; and the Chairmen of the Floor Procedure Committee, the Options Committee, and the Foreign Currency Options Committee. The Exchange represents that replacing the President with the On-Floor Vice Chairman preserves the five-member structure of the Emergency Committee, minimizing the possibility of a tie vote on the Emergency Committee, and provides the Emergency Committee with the most qualified replacement for the President; that is, a member that can contribute direct knowledge of any potential or existing emergencies existing on the trading floor.[7]

The proposed rule change also clarifies that potential emergency conditions created by the Year 2000 date change are considered "extraordinary market or emergency conditions" warranting action by the Emergency Committee.[8] Previously, the Exchange described "extraordinary market or emergency conditions" as, among other things, a declaration of war, a presidential assassination, an electrical blackout, or events such as the 1987 market break or other highly volatile trading conditions that require intervention for the market's continued efficient operation.[9] The proposed rule also relates to a component of the Year 2000 contingency plan designed by the Exchange's Year 2000 Task Force.[10]

Finally, the proposed rule change also deletes references to CENTRAMARK, an equity order system which is no longer used on the Exchange Equity Floor.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5),[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest by updating the composition of the Emergency Committee to reflect the current governance structure of the Exchange, by clarifying the procedures for taking the necessary and appropriate action to respond to extraordinary market conditions or other emergencies, and by eliminating reference to a defunct Exchange trading system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

---

[3] *See* Securities Exchange Act Release No. 38960 (August 22, 1997), 62 FR 45904 (August 29, 1997).

[4] *Id.* Other corresponding amendments to the By-Laws were made in connection with the 1997 changes to the Exchange's governance structure. For example, references to "President" were changed to "Chief Executive Officer" or "Chairman of the Board." *See* PHLX By-Law Article IV, Section 4–1 and PHLX By—Law Article V, Section 5–1.

[5] *See* Securities Exchange Act Release No. 26858 (May 22, 1989), 54 FR 23007 (May 30, 1989).

[6] *See* PHLX By-law, Article IV, Section 4–2.

[7] Letter from Richard S. Rudolph, Counsel, PHLX, to Rebekah Liu, Special Counsel, Division of Market Regulation ("Division"), SEC, dated November 16, 1999 (Amendment No. 1).

[8] Telephone conversation between Richard S. Rudolph, Counsel, PHLX, and Mandy Cohen, Special Counsel, Division, SEC, on November 16, 1999.

[9] Letter from William W. Uchimoto, General Counsel, PHLX, to Sharon L. Itkin, Division, SEC, dated March 15, 1989.

[10] Telephone conversation between Richard S. Rudolph, Counsel, PHLX, and Rebekah Liu, Special Counsel, Division, SEC, on November 17, 1999.

[11] 15 U.S.C. 78F(b)(5).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–99–42, and should be submitted by December 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30837 Filed 11–26–99; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/States, SDX/BENDEX Files—Match Numbers 6001, 6002, 6004)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with the States.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate; the Committee on Government Reform and Oversight of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Associate Commissioner for Program Support, 4400 West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

[12] 17 CFR 200.30–3(a)(12).

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the Data Integrity Boards' approval of the match agreements;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Susan M. Daniels,

Deputy Commissioner for Disability and Income Security Programs.

Dated: November 9, 1999.

Notice of Computer Matching Program, Social Security Administration (SSA) with the States

A. Participating Agencies

SSA and the States.

B. Purpose of the Matching Program

Section 1137 of the Social Security Act requires individual States to have in effect an income and eligibility verification system meeting certain requirements in order to administer certain State benefit programs.

A chief purpose of this matching program is to facilitate administration of this provision. Individual agreements with the States will describe the conditions under which SSA and other States agree to disclose information to each other relating to the eligibility for, and payment of, Social Security and supplemental security income benefits and State-administered income, food assistance, and medical assistance programs described in section 1137, including tax return information disclosed by SSA in accordance with applicable provisions of the Internal Revenue Code.

The matching program will also be used to implement provisions of Pub. L. 104–193, the Personal Responsibility and Work Reconciliation Act of 1996, involving the significance of Social Security coverage information to the eligibility of certain aliens for some Federal and State public benefits. Under this matching program, SSA will disclose certain Social Security coverage information on specific persons to States administering appropriate benefit programs.

C. Authority for Conducting the Matching Program

Sections 1106 and 1137 of the Social Security Act. Sections 402, 412, 421 and 435 of Pub. L. 104–193. Relevant provisions of the Internal Revenue Code under 26 U.S.C. 6103.

D. Categories of Records and Individuals Covered by the Match

States will provide SSA with names and other identifying information of appropriate benefit applicants or recipients. Specific information from participating States will be matched as provided in the agreement for the specific program with the following systems of records maintained by SSA:

1. SDX—Supplemental Security Income Record, SSA/OSR (09–60–0103);

2. BENDEX—Master Beneficiary Record, SSA/OSR (09–60–0090) and the Earnings Recording and Self-Employment Income System, SSA/OSR (09–60–0059);

3. EVS—Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OSR (09–60–0058).

4. SVES—Supplemental Security Income Record, SSA/OSR (09–60–0103), Master Beneficiary Record, SSA/OSR (09–60–0090), the Earnings Recording and Self-Employment Income System, SSA/OSR (09–60–0059), and the Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OSR (09–60–0058).

5. Quarters of Coverage Query—the Earnings Recording and Self-Employment Income System, SSA/OSR (09–60–0059), and the Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OSR (09–60–0058).

SSA and the States will exchange information through the File Transfer Management System (FTMS). Cartridge or magnetic tape will be used in the event FTMS is inoperable.

E. Inclusive Dates of the Match

The matching program shall become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever is later. Individual State matching agreements under the program may also become effective upon the signature of the agreements by the parties to the agreements. The agreements with individual States will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 99–30945 Filed 11–26–99; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice No.3149]

United States International Telecommunication Advisory Committee, Radiocommunication Sector (ITAC–R); Notice of Meeting

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee Radiocommunication Sector (ITAC–R). The purpose of the Committee is to advise the Department on policy and positions with respect to the International Telecommunication Union and international radiocommunication matters.

The ITAC–R will meet from 9:30 to 12:30 on December 1, 1999 at the Department of State in room 1205 to prepare for the Radiocommunication Advisory Group meeting, January 17–21, 2000 and the special joint meeting of Study Groups 10 and 11 December 15–17, 2000. Members of the general public may attend this meeting and join in the discussions, subject to the instructions of the Chair. Admission of public members will be limited to seating available. Entrance to the Department of State is controlled; people intending to attend ITAC–R meeting and subsequent preparatory meetings for the CPM should send an e-mail to Cheryl Williams (williamscd@state.gov) or fax to (202) 647–7407 no later than 48 hours before the meeting. The fax should include the name of the meeting (Prep for Radio communications Advisory Group), date of the meeting, your name, social security number, date of birth, and organization. One of the following will be required for admission. U.S. driver's license, U.S. passport, or U.S. Government identification card. Enter from the 23rd Street Entrance; in view of escorting requirement, non-government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Dated: November 19, 1999.

John T. Gilsenan,

Chairman, ITAC–R National Committee.

[FR Doc. 99–30904 Filed 11–26–99; 8:45 am]

BILLING CODE 4710–45–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–41]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 20, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack (202) 267–7271 or Vanessa Wilkins (202) 267–8029 Office of Rulemaking (ARM–10, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on November 23, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29741.

Petitioner: Air Platforms, Inc.

Section of the FAR Affected: 14 CFR 21.25(a), part 36 and 91.313(e) (1) and (2).

Description of Relief Sought: To (1) Permit API to obtain a restricted-category airworthiness certificate for its English Electric Canberra B.6 airplanes without meeting the part 36 noise standards and (2) operate the Canberra over a densely populated area and in a congested airway.

Dispositions of Petitions

Docket No.: 28718.

Petitioner: The Goodyear Tire & Rubber Company.

Section of the FAR Affected: 14 CFR 21.325(b)(3).

Description of Relief Sought/ Disposition: To allow Goodyear to issue export airworthiness approvals for aircraft tires produced at its Bangkok, Thailand, facility.

Grant 11/12/99, Exemption No. 6682B.

[FR Doc. 99–30888 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for December 7–8, 1999, beginning at 8:30 a.m. on December 7. Arrange for oral presentations by December 2.

ADDRESSES: Aerospace Industries Association of America, 1250 I Street, NW, Suite 1200, Goddard Room, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW, Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held December 7–8, 1999, at Aerospace Industries Association of America, 1250 I Street, NW, Suite 1200, Goddard Room, Washington, DC.

The agenda will include:

Tuesday, December 7, 1999

- Open Remarks
- FAA Report
- Joint Aviation Authorities Report
- Transport Canada Report
- Executive Committee Report
- Harmonization Management Team Report
- Engine Harmonization Working Group (HWG) Report and Vote
- Flight Guidance System HWG Report
- Ice Protection HWG Report
- Powerplant Installation HWG Report and Vote
- Seat Test HWG Report
- Avionics Systems HWG Report and Vote

Thursday, September 8, 1999

- Human Factors HWG Report
- General Structures HWG Report and Vote
- Airworthiness Assurance WG Report
- Flight Test HWG Report and Vote
- Electromagnetics Effects HWG Report
- Loads and Dynamics HWG Report and Vote
- Flight Control HWG Report
- Mechanical Systems HWG Report and Vote
- Electrical Systems HWG Report and Vote
- Review Action Items

Six harmonization working groups—Powerplant Installation, Avionics Systems, General Structures, Flight Test, Mechanical Systems, and Electrical Systems—plan to request TAE agreement on reports completed to address tasking statements.

The Engine HWG plans to request a vote for formal FAA legal and economic reviews for proposed rules addressing fatigue pressure test/safety analysis and 30-second and 2-minute one-engine out ratings, and rotor integrity for engine components. The working group also plans to request a vote to submit its disposition of comments addressing bird ingestion to the FAA. The Loads and Dynamics HWG plans to request approval of a proposed rule addressing interaction of systems and structures.

Attendance is open to the public, but will be limited to the space available. The public must make arrangements by December 2 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine issues or by providing copies at the meeting. Copies of the documents to be voted upon may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Sign and oral interpretation as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on November 22, 1999.

Brenda D. Courtney,

Acting Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–30885 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Emergency Evacuation Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss emergency evacuation issues.

DATES: The meeting is scheduled for December 9, 1999, beginning at 8:30 a.m. Arrange for oral presentation by December 2.

ADDRESSES: Aerospace Industries Association of America, 1250 I Street, NW., Suite 1200, Goddard Room, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM-209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held December 9, 1999, at Aerospace Industries Association of America, 1250 I Street, NW., Suite 1200, Goddard Room, Washington, DC.

The agenda will include:

- Opening Remarks
- FAA/Joint Aviation Authorities (JAA) Harmonization Report
- JAA Report
- FAA Report
- ARAC Executive Committee Report
- New Task Assignments
- Performance Standard Work Group Report and Work Plan Proposal

Attendance is open to the public, but will be limited to the space available. The public must make arrangements by December 2 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Emergency Evacuation issues or by providing copies at the meeting. Copies of the documents to be voted upon may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on November 22, 1999.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 99–30887 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In October 1999, there were 13 applications approved. This notice also includes information on one application, approved in September 1999, inadvertently left off the September 1999 notice. Additionally, four approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Lehigh Northampton Airport Authority, Allentown, Pennsylvania.

Application Number: 99–04–C–00–ABE.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $1,500,000.

Earliest Charge Effective Date: December 1, 1999.

Estimated Charge Expiration Date: February 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: Air taxi and commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lehigh Valley International Airport.

Brief Description of Project Approved for Collection and Use: Renovate original satellite.

Decision Date: September 15, 1999.

FOR FURTHER INFORMATION CONTACT: Roxane Wren, Harrisburg Airports District Office, (717) 730–2830.

Public Agency: City of Naples Airport Authority, Naples, Florida.

Application Number. 99–02–C–00–APF.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $250,000.

Earliest Charge Effective Date: November 1, 1999.

Estimated Charge Expiration Date: August 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: Non-scheduled air carriers and charter flights using aircraft with less than 10 seats.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Naples Municipal Airport.

Brief Description of Project Approved for Collection and Use: Purchase of three commute-a-walks.

Brief Description of Project Disapproved: Commercial airline terminal renovation.

Determination: Disapproved. Based on information contained in the PFC application, this project consists of stand-alone carpet replacement, painting, and wallpapering without major renovations associated with interior reconstruction. The FAA has, therefore, determined that this project involves regular or recurring work necessary on a continuing basis to preserve the existing terminal facilities in good condition, i.e, maintenance. Therefore, this project is ineligible in accordance with paragraph 501, FAA Order 5100.38A, Airport Improvement Program Handbook (October 24, 1989).

Decision Date: October 8, 1999.

FOR FURTHER INFORMATION CONTACT: Miguel A. Martinez, Orlando Airports District Office, (407) 812–6331, ext. 23.

Public Agency: City of Philadelphia, Division of Aviation, Philadelphia, Pennsylvania.

Application Number: 99–08–U–00–PHL.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $672,000,000.

Charge Effective Date: January 1, 1999.

Estimated Charge Expiration Date: July 1, 2011.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use

Terminal One Building (new international terminal), including associated renovations.

Terminal F building (new commuter terminal).

Aircraft parking apron for Terminal One.

Aircraft parking apron for Terminal F.

Airport roadway modifications—phase II.

Acquisition of property west of Terminal One.

Planning and design of new highway access ramps from I–95.

Decision Date: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Roxane Wren, Harrisburg Airports District Office, (717) 730–2830.

Public Agency: City of Durango and the La Plata County Board of County Commissioners, Durango, Colorado.

Application Number: 99–03–C–00–DRO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $699,627.

Earliest Charge Effective Date: August 1, 2000.

Estimated Charge Expiration Date: June 1, 2003.

Class of Air Carriers Not Required to Collected PFC's: None.

Brief Description of Projects Approved for Collection and Use: Construct connector taxiway A2, Acquire rotary snowblower, Update airport master plan, Install glycol retrieval system, Replace aircraft rescue and firefighting (ARFF) vehicle.

Brief Description of Projects Approved for Collection Only: Rehabilitate runway 2/20, Install distance remaining signs.

Brief Description of Project Disapproved: Replace snowplow blades.

Determination: Disapproved. The FAA has determined that snowplow blades are an expendable item and, therefore, replacement of snowplow blades is considered a regular maintenance expenses. Maintenance expenses are not AIP eligible per paragraphs 501 and 565c of FAA Order 5100.38A. AIP Handbook (October 24, 1989). Therefore, maintenance expenses are not PFC eligible.

Decision Date: October 13, 1999.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (301) 342–1258.

Public Agency: State of Alaska, Department of Transportation and Public Facilities, Anchorage, Alaska.

Application Number: 99–01–C–00–ANC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $15,000,000.

Earliest Charge Effective Date: January 1, 2000.

Estimated Charge Expiration Date: April 1, 2003.

Class of Air Carriers Not Required to Collected PFC's: Passengers enplaned by any class of carrier or foreign air carrier if the passengers are enplaned on a flight to an airport serving a community which has a population of less than 10,000 and is not connected by a land highway to the land-based national

highway system (as defined by § 103(b)(5) of Title 23).

Determination: Disapproved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for more than 1 percent of the total annual enplanements at Anchorage International Airport. Therefore, under the terms of $158.11, the requested class would not qualify for exclusion. Furthermore, the requested exemption does not fit within the definition of a class of carriers in the PFC regulation. In this context, a class of carriers is most commonly determined by the size of aircraft and/or type of operation such as air taxis or charters.

Brief Description of Project Approved for Collection and Use: Terminal redevelopment.

Decision Date: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Debbie Roth, Alaska Region Airports Division, (907) 271–5443.

Public Agency: State of Alaska, Department of Transportation and Public Facilities, Fairbanks, Alaska.

Application Number: 99–01–C–00–FAI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $5,460,000.

Earliest Charge Effective Date: January 1, 2000.

Estimated Charge Expiration Date: March 1, 2006.

Class of Air Carriers Not Required To Collect PFC'S: Passengers enplaned by any class of carrier or foreign air carrier if the passengers are enplaned on a flight to an airport serving a community which has a population of less than 10,000 and is not connected by a land highway to the land-based national highway system (as defined by § 103(b)(5) of Title 23.)

Determination: Disapproved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for more than 1 percent of the total annual enplanements at Fairbanks International Airport. Therefore, under the terms of § 158.11, the requested class would not qualify for exclusion. Furthermore, the requested exemption does not fit within the definition of a class of carriers in the PFC regulation. In this context, a class of carriers is most commonly determined by the size of aircraft and/or type of operation such as air taxis or charters.

Brief Description of Projects Approved for Collection and use:

Terminal improvements.
ARFF and snow removal equipment.
Maintenance facility.

Decision Date: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Debbie Roth, Alaska Region Airports Division, (907) 271–5543.

Public Agency: City of Detroit, Michigan.

Application Number: 99–01–C–00–DET.

Application Type: Impose and use a PFC.

PFC Level: $3.00

Total PFC Revenue Approved in This Decision: $3,650,000.

Earliest Charge Effective Date: January 1, 2000.

Estimated Charge Expiration Date: March 1, 2004.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Detroit City Airport.

Brief Description of Projects Approved for Collection and use:

Snow removal equipment.
Jetways.
Terminal expansion study.

Brief Description of Project Approved for Collection Only: Terminal expansion.

Decision Date: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Gary J. Migut, Detroit Airports District Office, (734) 487–7278.

Public Agency: Tri-Cities Airport Commission, Blountville, Tennessee.

Application Number: 99–02–C–00–TRI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $5,829,873.

Earliest Charge Effective Date: November 1, 2005.

Estimated Charge Expiration Date: August 1, 2013.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use

Extend runway 5 safety area 200 feet.
Terminal concourse expansion.

Decision Date: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Cager Swauncy, Jr., Memphis Airports District Office, (901) 544–3495.

Public Agency: City of Aberdeen, South Dakota.

Application Number: 99–01–C–00–ABR.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $677,809.

Earliest Charge Effective Date: January 1, 2000.

Estimated Charge Expiration Date: May 1, 2007.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Aberdeen Regional Airport.

Brief Description of Projects Approved for Collection and Use

Snow removal equipment.
Snow removal equipment—snow blower/sweeper.
Taxiway D rehabilitation.
Taxiway B reconstruction.
Runway 13/31 reconstruction and narrowing.
Taxiway C construction.
Runway 17/35 reconstruction.
Runway 17/35 extension.
ARFF vehicle.
PFC application.

Decision Date: October 15, 1999.

FOR FURTHER INFORMATION CONTACT: Irene R. Porter, Bismarck Airports District Office, (701) 250–4385.

Public Agency: Akron-Canton Regional Airport Authority Board, Akron, Ohio.

Application Number: 99–04–C–00–CAK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $3,175,200.

Earliest Charge Effective Date: April 1, 2002.

Estimated Charge Expiration Date: July 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Akron-Canton Regional Airport.

Brief Description of Projects Approved for Collection and Use

Snow removal equipment, spreader truck (A).

Ground run-up noise study.
Storm water drainage improvements.
Passenger loading bridge.
Storm water pollution prevention plan.
Snow removal equipment, spreader truck (B).
Environmental assessment for runway 1 extension phase II.
Benefit cost analysis for runway 1 extension.
Part 107 security access control system upgrade.
Terminal master plan.
Airport entrance road signage design.
Property acquisition—Daily.
Airport layout plan update.
Property acquisition—Kuhar.
Airport entrance road signage.
Storm water drainage control.

Brief Description of Projects Approved for Collection Only

Ground run-up enclosure.
Relocate Mount Pleasant and Frank Roads.
Runway 1 extension.
Runway 19 threshold relocation.
Decision Date: October 18, 1999.

FOR FURTHER INFORMATION CONTACT: Stephanie R. Swann, Detroit Airports District Office, (734) 487–7277.

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.
Application Number: 99–06–C–00–BNA.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in This Decision: $2,660,000.
Earliest Charge Effective Date: October 1, 2001.
Estimated Charge Expiration Date: January 1, 2002.
Class of Air Carriers Not Required to Collect PFC's: Part 135 (air taxi).
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Nashville International Airport.

Brief Description of Projects Approved for Collection and Use

Surface movement guidance and control system.
Airport operations center relocation.
Airfield lighting control panel.
Runway deicer truck.
Decision Date: October 18, 1999.

FOR FURTHER INFORMATION CONTACT: Cynthia Wills, Memphis Airports District Office, (901) 544–3495, ext. 16.

Public Agency: County of Kern, Bakersfield, California.
Application Number: 99–02–C–00–BFL.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in This Decision: $792,605.
Earliest Charge Effective Date: January 1, 2000.
Estimated Charge Expiration Date: May 1, 2002.
Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use

Planning and design new terminal and apron/master plan.
Design and install touchdown and centerline lights for runway 30R/12L.
Install midfield and rollout runway visual range sensors on runway 30R/12L.
Brief Description of Project Approved in Part For Collection: Land Acquisition for airport expansion.
Determination: Partially approved. The public agency did not propose sufficient alternatives to cover the entire proposed PFC amount for this project. Therefore, the approved PFC amount has been reduced to equal the cost of the alternative listed.
Brief Description of Disapproved Project: Construct an ARFF station.
Determination: This project was previously approved for authority to impose a PFC on March 30, 1995. However, the public agency failed to obtain approval to use PFC revenue, submit an application to use PFC revenue, or receive FAA approval granting an extension of time to submit a use application prior to June 1, 1998. Therefore, in accordance with § 158.33(c), the authority to impose a PFC for this project expired on June 1, 1998, resulting in no PFC revenue to be used on the project.
Decision Date: October 22, 1999.

FOR FURTHER INFORMATION CONTACT: John P. Milligan, Western Pacific Region Airports Division, (310) 725–3621.

Public Agency: Kenton County Airport Board, Covington, Kentucky.
Application Number: 99–05–C–00–CVG.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in This Decision: $15,050,000.
Earliest Charge Effective Date: March 1, 2000.
Estimated Charge Expiration Date: August 1, 2000.
Class of Air Carriers Not Required To Collect PFC's: (1) Part 121 supplemental operators which operate at the airport without an operating agreement with the public agency and enplane less than 1,500 passengers per year; and (2) Part 135 on-demand air taxis, both fixed wing and rotary.
Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Cincinnati/Northern Kentucky International Airport.

Brief Description of Projects Approved for Collection and Use

Replacement of security identification display area perimeter fence.
Taxiway K–2, taxiway M–2, and runway 27 threshold reconstruction, and taxiway K–3 construction.
Crossfield taxiway N phase 2 construction.
Part 107 security system replacement.
Terminal area master plan.
Replacement of two crash trucks.
Deicing system enhancements: increase storage capacity.
Snow removal equipment—runway 36R large hold pad and deicing recovery systems.
Replacement of snow broom.
Terminal 1 and 2 apron rehabilitation.
Decision Date: October 22, 1999.

FOR FURTHER INFORMATION CONTACT: Jerry O. Bowers, Memphis Airports District Office, (901) 544–3495.

Public Agency: Virgin Islands Port Authority, St. Thomas, U.S. Virgin Islands.
Application Number: 99–06–C–00–STT.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in This Decision: $3,000,000.
Earliest Charge Effective Date: December 1, 1999.
Estimated Charge Expiration Date: December 1, 2002.
Class of Air Carriers Not Required to Collect PFC's: None.
Brief Description of Project Approved for Collection and Use: Construct new air traffic control tower.
Determination: Approved. This project is AIP eligible in accordance with Program Guidance Letter 93–4. This relocation of the air traffic control tower is AIP eligible under § 47102(3)(E) of Title 49 U.S.C. if the relocation is necessary to carry out an AIP or PFC project. This relocation is needed to accommodate an AIP-funded 2,400-foot extension of runway 9/27 and its parallel taxiway. The current control

tower would not provide air traffic controllers with an adequate line-of-sight to aircraft using the extended runway and taxiway. The FAA's Air Traffic and National Airspace System Implementation Offices concluded that there was no feasible alternative to relocating the control tower.

Decision Date: October 26, 1999.

FOR FURTHER INFORMATION CONTACT: Pablo Auffant, Orlando Airports District Office, (407) 812–6331, ext. 30.

Amendments to PFC Approvals

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
96–03–C–02–TUL, Tulsa, OK	08/30/99	13,586,900	16,356,000	11/01/99	06/01/00
92–01–C–04–DTW, Detroit, MI	10/06/99	1,802,657,000	1,604,483,000	10/01/31	10/01/29
97–03–C–02–DTW, Detroit, MI	10/06/99	60,000,000	54,967,000	10/01/31	10/01/29
99–04–C–01–DBQ, Dubuque, IA	10/19/99	171,391	365,003	11/01/00	01/01/02

Issued in Washington, DC. on November 22, 1999.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 99–30886 Filed 11–26–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 29, 1999 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0096.
Form Number: ATF F 5130.12 (1689).
Type of Review: Extension.
Title: Beer for Exportation.
Description: Untaxpaid beer may be removed from a brewery for exportation without payment of the excise tax normally due on removal. In order to ensure that exportation took place as claimed and that untaxpaid beer does not reach domestic market, ATF requires certification on Form 5130.12.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 392.
Estimated Burden Hours Per Respondent: 1 hour, 39 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 38,808 hours.
OMB Number: 1512–0133.
Form Number: ATF F 5400.8.
Type of Review: Extension.
Title: Explosive Delivery Record.
Description: This information collection activity is used to verify distributor's compliance with Federal law and regulations, thereby document the flow of explosives in commerce; and as a tracing tool to prevent misuse and traffic stolen explosives.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 25,000.
Estimated Burden Hours Per Respondent: 6 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 2,500 hours.
OMB Number: 1512–0298.
Recordkeeping Requirement ID Number: ATF REC 5120/1.
Type of Review: Extension.
Title: Usual and Customary Business Records Relating to Wine.
Description: Usual and customary business records relating to wine are routinely inspected by ATF officers to ensure the payment of alcohol taxes due to the Federal Government.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1,650.
Estimated Burden Hours Per Respondent: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 165 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW, Washington, DC 20226.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–30917 Filed 11–26–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Customs Service

[T. D. 99–86]

Annual User Fee for Customs Broker Permit; General Notice

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of due date for broker user fee.

SUMMARY: This is to advise Customs brokers that the annual fee of $125 that is assessed for each permit held by an individual, partnership, association or corporate broker is due by January 3, 2000. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for fee: January 3, 2000.

FOR FURTHER INFORMATION CONTACT: Adline Tatum, Broker Management, (202) 927–0380.

SUPPLEMENTARY INFORMATION: Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub.L. 99–272) established that an annual user fee of $125 is to be assessed for each Customs broker permit held by an individual, partnership, association, or corporation. This fee is set forth in the Customs Regulations in § 111.96 (19 CFR 111.96).

Customs Regulations provide that this fee is payable for each calendar year in each location where the broker was issued a permit to do business by the due date which will be published in the **Federal Register** annually.

Section 1893 of the Tax Reform Act of 1986 (Pub.L. 99–514), provides that notice of the date on which a payment

is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the **Federal Register** no later than 60 days before such due date. This document notifies brokers that for 2000, the due date for payment of the user fee is January 3, 2000. It is expected that annual user fees for brokers for subsequent years will be due on or about the third of January of each year.

Dated: November 22, 1999.

Raymond W. Kelly,

Commissioner.

[FR Doc. 99–30820 Filed 11–26–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Tuesday December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Tuesday December 7, 1999, 6:00 p.m. to 7:00 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, NY 11201.

For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555.

The public is invited to make oral comments from 6:50 p.m. to 7:00 p.m. on Tuesday December 7, 1999.

Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY, 11201. The Agenda will include the following: various IRS issues. Note: Last minute changes to the agenda are possible and could prevent effective advance notice. This meeting is scheduled in place of the meeting that had been scheduled for Friday, December 10, 1999. The December 10th meeting is cancelled.

Dated: November 22, 1999.

John J. Mannion,

Chief, Special Projects.

[FR Doc. 99–30943 Filed 11–26–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0104]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to support a claim for disability benefits based on accidental injury.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0104" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of Accidental Injury in Support of Claim for Compensation or Pension, VA Form 21–4176.

OMB Control Number: 2900–0104.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used in support of claims for disability benefits based on disability, which is the result of an accident. The information given by the veteran is used as a source to gather specific data regarding the accident and to afford the veteran an opportunity to provide information from his or her own knowledge regarding the accident.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,200.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 4,400.

Dated: October 28, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–30757 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0105]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of

1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine if a claimant's accidental injury was the result of the claimant's misconduct.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0105" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement of Witness to Accident, VA Form Letter 21–806.

OMB Control Number: 2900–0105.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used to gather information to support veterans' claims for disability benefits based on disability(ies) which is/are the result of an accident. The information given by a witness to the accident is used as a source to gather specific data regarding the accident and to obtain from the witness opinions as well as facts based on his or her own knowledge and beliefs regarding the accident. Benefits may be paid if a disability is incurred in the line of duty and is not the result of the veteran's own willful misconduct.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,400 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 13,200.

Dated: November 4, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30758 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0133]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the proper individual(s) who may be entitled to accrued benefits of deceased beneficiaries.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0133" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Amounts on Deposit for Deceased Veteran, VA Form 21–6898.

OMB Control Number: 2900–0133.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to gather the necessary information to determine the individual(s) who may be entitled to accrued benefits of deceased beneficiaries.

Affected Public: Individuals or households.

Estimated Annual Burden: 175 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 700.

Dated: October 29, 1999.

By direction of the Secretary.

Sandy McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–30759 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0165]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, with change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine the financial status of a debtor, his/her ability to pay, and the feasibility of exploring a compromise on debts due the United States under the Federal Claims Collection Act of 1966 and the Joint Regulations issued by the General Accounting Office and Department of Justice (Title 4, CFR Part 102).

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0165" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Financial Status Report, VA Form 20–5655.

OMB Control Number: 2900–0165.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: VA Form 20–5655 is mailed with the first and second demand letters to debtors who owe amounts over $50. The information collection on the form enables VA to determine the financial status of the debtor, his ability to pay, and the feasibility of exploring compromise.

Affected Public: Individuals or households.

Estimated Annual Burden: 41,800 hours.

Estimated Average Burden Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: 41,800.

Dated: November 1, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30760 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0399]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to confirm the continued entitlement of a beneficiary under the Restored Entitlement Program for Survivors (REPS) program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0399" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Student Beneficiary Report—REPS, VA Form 21–8938.

OMB Control Number: 2900–0399.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to verify that an individual who is receiving the REPS (Restored Entitlement Program for Survivors) benefits based on schoolchild status is in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. The form is released each March and sent to all student beneficiaries. If the form were not used, payments would continue to

be made to ineligible payees and substantial overpayments would result.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,767.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 5,300.

By direction of the Secretary.

Dated: November 2, 1999.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 99–30761 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0459]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each reinstatement, with change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to reimburse management brokers for expenses and payment of fees associated with management of VA-acquired properties.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0459" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Property Management Consolidated Invoice, VA Form 26–8974.

OMB Control Number: 2900–0459.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: The Consolidated Property Management Invoice is computer-generated by VA and sent to management brokers monthly to obtain management brokers' bills for reimbursement of expenses and payment of fees associated with management of VA-acquired properties.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 44,000 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 1,080.

Estimated Number of Responses: 22,000.

Dated: October 29, 1999.

By direction of the Secretary.

Sandy McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–30762 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0564]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to enroll VA Compensation and Pension beneficiaries in the Direct Deposit/Electronic Funds Transfer (DD/EFT) program for recurring benefits payments.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0564" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501 " 3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the

quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Direct Deposit Enrollment, VA Form 24–0296.

OMB Control Number: 2900–0564.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 24–0296 is used to gather the necessary information required to enroll VA Compensation and Pension beneficiaries in the DD/EFT program for recurring benefits payments. The information will be used to process the payment data from VA to the beneficiary's designated financial institution.

Affected Public: Individuals or households.

Estimated Annual Burden: 6,600 hours.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 198,000.

By direction of the Secretary.

Dated: November 1, 1999.

Sandra S. McIntyre,

Program Analyst, Information Management Service.

[FR Doc. 99–30763 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0573]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to extend the eligibility period of a spouse or surviving spouse to use Survivors' and Dependents' Educational Assistance (DEA).

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 28, 2000.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to "OMB Control No. 2900–0573" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Extension of Eligibility Period under Survivors' and Dependents' Educational Assistance (Title 38 CFR 21.3047).

OMB Control Number: 2900–0573.

Type of Review: Extension of a previously approved collection.

Abstract: VA is required by statue (Title 38, U.S.C., Section 3512) to extend the period of eligibility a spouse or surviving spouse has to use Survivors' and Dependents' Educational Assistance (DEA) if during that period she or he was prevented from initiating or completing a program of education due to a physical or mental disability. VA has no way of knowing who needs such an extension unless the individual applies for it. In order for VA to make the proper decision on such an application, VA requires that the claimant provide medical evidence to support the claim that the disability exists. If VA doesn't collect supporting medical evidence, the department may give this extension to someone who doesn't meet the criteria for an extension, or, conversely, the department may deny the extension to someone who meets the criteria for an extension.

Affected Public: Individuals or households.

Estimated Annual Burden: 120 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 120.

By direction of the Secretary.

Dated: November 2, 1999.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 99–30764 Filed 11–26–99; 8:45 am]

BILLING CODE 8320–01–P

VOL
64
ISS
2
2
8
NO
29
1999
UMI

federal register

Monday
November 29, 1999

Part II

Department of the Treasury
Office of the Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

Department of the Treasury
Office of Thrift Supervision

12 CFR Part 30, et al.
Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness; Final Rule
Safety and Soundness Standards; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 30

[Docket No. 99–16]

RIN 1557–AB67

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Docket No. R–1017]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 364

RIN 3064–AC18

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 570

[Docket No. 99–35]

RIN 1550–AB27

Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Final uniform guidelines.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) are adopting in final form the interim guidelines establishing Year 2000 safety and soundness standards for insured depository institutions published by the Agencies on October 15, 1998, and in effect since that date. This issuance of final guidelines (Guidelines), pursuant to section 39 of the Federal Deposit Insurance Act (FDI Act), is a technical action of the Agencies, which remain confident that, based on their reviews, insured depository institutions are appropriately preparing for the Year 2000.

EFFECTIVE DATE: The final Guidelines are effective November 29, 1999.

FOR FURTHER INFORMATION CONTACT: OCC: Mark L. O'Dell, Director, Year 2000 Bank Supervision Policy (202) 874–2340; Brian McCormally, Assistant Director, Enforcement and Compliance (202) 874–4800; Karl Betz, Attorney, Legislative and Regulatory Activities (202) 874–5090; or Stuart E. Feldstein, Assistant Director, Legislative and Regulatory Activities (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board of Governors: Angela Desmond, Special Counsel, Division of Banking Supervision and Regulation (202) 452–3497; or Nancy Oakes, Counsel, Division of Banking Supervision and Regulation (202) 452–2743. For the hearing impaired only, Telecommunication Device for Deaf (TDD), Diane Jenkins (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington DC 20551.

FDIC: Frank Hartigan, Year 2000 Project Manager, Division of Supervision (202) 898–6867; Sandy Comenetz, Year 2000 Project Manager, Legal Division (202) 898–3582; Richard Bogue, Counsel, Legal Division (202) 898–3726; or Nancy Chase Burton, Counsel, Legal Division (202) 898–6533, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Dorothy Van Cleave, National Year 2000 Coordinator (202) 906–7380; Stephen E. Hart, Assistant Chief Counsel, Office of Enforcement, Office of Chief Counsel (202) 906–7204; or Timothy P. Leary, Counsel (Banking & Finance), Regulations and Legislation Division, Office of Chief Counsel (202) 906–7170, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

The Agencies today are issuing Guidelines establishing Year 2000 standards for safety and soundness pursuant to section 39 of the FDI Act. 12 U.S.C. 1831p–1. Section 39 requires the Agencies to establish operational and managerial standards either in the form of a regulation or guidelines for insured depository institutions relating to, among other things, internal controls, information systems, and internal audit systems. Section 39 also authorizes the Agencies to prescribe operational and managerial standards as they determine to be appropriate, and to require institutions that fail to meet such standards to submit corrective action plans.[1]

On October 15, 1998, the Agencies requested comment on joint interim guidelines establishing Year 2000 standards for safety and soundness. 63 FR 55480. After careful review of the comments received, the Agencies adopt the interim guidelines with only minor technical changes, discussed in the following.

The Guidelines are distilled from—and are intended to be consistent with—key principles contained in several FFIEC guidance papers[2] on important aspects of Year 2000 readiness. Among other things, the Guidelines describe certain essential steps that insured depository institutions must take at the awareness, assessment, renovation, validation (testing), and implementation phases of their efforts to achieve Year 2000 readiness. The Guidelines, for instance, establish standards for management and boards of directors in developing and managing Year 2000 project plans, validating remediation efforts, and planning for contingencies. The Guidelines do not replace or supplant the FFIEC guidance, which will continue to apply to all entities regulated or examined by the Agencies. Insured depository institutions also should refer to the FFIEC guidance.[3]

The Agencies will use the existing rules regarding safety and soundness standards to require submission of

[1] Standards issued under section 39 may take the form of regulations or guidelines. If an agency determines that an insured depository institution fails to meet any standard established by regulation, then, by the terms of the statute, the agency must require the institution to submit an acceptable plan to achieve compliance with the standard. If an agency determines that an insured depository institution fails to meet any standard established by guideline, the agency may require the institution to submit an acceptable compliance plan.

[2] Additional Questions and Answers Concerning Year 2000 Business Resumption Contingency Planning (May 6, 1999); Year 2000 Customer Communication Outline (February 17, 1999); Questions and Answers Concerning Year 2000 Contingency Planning (December 11, 1998); Guidance Concerning Fiduciary Services and Year 2000 Readiness (September 2, 1998); Questions and Answers Concerning FFIEC Year 2000 Policy (August 31, 1998); Guidance Concerning Contingency Planning in Connection with Year 2000 Readiness (May 13, 1998); Guidance on Year 2000 Customer Awareness Programs (May 13, 1998); Guidance Concerning Testing for Year 2000 Readiness (April 10, 1998); Guidance Concerning the Year 2000 Impact on Customers (March 17, 1998); Guidance Concerning Institution Due Diligence in Connection with Service Provider and Software Vendor Year 2000 Readiness (March 17, 1998); Safety and Soundness Guidelines Concerning the Year 2000 Business Risk (December 17, 1997); Year 2000 Project Management Awareness (May 5, 1997); and The Effect of Year 2000 on Computer Systems (June 1996) [collectively, the FFIEC guidance].

[3] The standards in the Guidelines are described in mandatory terms in order to clarify the specific actions insured depository institutions are expected to take to achieve Year 2000 readiness. Nevertheless, as explained in the following, an Agency will decide whether to require corrective action under section 39 for an institution's noncompliance with these standards based on the circumstances of the particular case.

compliance plans by institutions that fail to comply with the Guidelines. Under those rules, an insured depository institution must file a compliance plan within 30 days of a request to do so from an appropriate Federal banking agency, unless a different date is prescribed by the agency. Within 30 days of the compliance plan's receipt, the agency must provide written notice to the insured depository institution of whether the compliance plan has been approved or if additional information is required.

An insured depository institution that fails to submit an acceptable compliance plan within the time allowed or fails in any material respect to implement an accepted compliance plan will be subject to supervisory action, including an agency order directing the institution to correct the deficiency. The agency order is directly enforceable in Federal district court; there is no requirement for a prior administrative adjudication. *See* 12 U.S.C. 1818(i)(1). A violation of such an order can serve as the basis for assessing civil money penalties and other enforcement remedies. *See* 12 U.S.C. 1818(i)(2). Section 39 also describes certain supervisory actions that an agency may take, and in certain cases must take, until the deficiency is corrected.

Description of the Guidelines and Comments Received

In response to the interim guidelines, the Agencies received nine comments. The commenters include three depository institutions, three trade associations, one state banking regulator, and two individuals. The commenters supported the interim guidelines. Several commenters, however, suggested modifications to the interim guidelines. A discussion of these comments and changes to the interim guidelines follows.

Definitions (I.B.)

The Guidelines define certain key terms to help clarify the types of actions insured depository institutions are expected to undertake. For example, the Guidelines define the terms "external system," "internal system," "external third party supplier," "other material third party," "renovation," and "remediation contingency plan." The Agencies received no comments on these definitions and are adopting them without any changes.

The Guidelines also define the key term "mission-critical system." The interim guidelines defined a mission-critical system as "an application or system that is vital to the successful continuance of a core business activity." The Agencies made one clarifying change to this definition in the Guidelines so that it covers "an application or system that is vital to the successful continuance of a core business activity or process." The FFIEC guidance interchangeably uses the terms core business activity, core business process, or core business function in the context of discussing a mission-critical system. The Agencies find that these terms are synonymous and, therefore, may be used interchangeably for purposes of defining a mission-critical system.

Under the Guidelines, applications or systems interfacing with designated mission-critical systems and software products also may be mission-critical. Two commenters suggested that the Agencies revise the definition of a mission-critical system to clarify further the types of interfacing applications and software products that may be mission-critical. The first commenter urged the Agencies to consider an application that interfaces with a mission-critical system to be mission-critical only if the application's failure would prevent the continuance of the core business activity supported by such mission-critical system. The second commenter requested additional guidance on what systems and applications, particularly software products, are mission-critical and suggested that the definition contrast mission-critical systems with non-mission-critical systems.

To address these concerns, the Agencies emphasize that the question whether a specific system or application qualifies as "mission-critical" depends on whether it is "*vital to the successful continuance of a core business activity or process.*" Since it is conceivable that a system or application that is mission-critical for one insured depository institution may not be mission-critical for another, neither the FFIEC guidance nor the Guidelines provide illustrative examples of mission-critical systems. The FFIEC guidance, however, further describes core business activities or processes. As stated in the FFIEC guidance, a core business activity or process means a task or group of tasks that must be performed together to ensure that an insured depository institution continues to be viable. A core business activity or process is generally defined along functional lines. For example, the deposit function, lending function, payments function, and investment function are examples of a core business activity or process.

Likewise, an application or system that interfaces with a designated mission-critical system also qualifies as mission-critical if it is vital to the successful continuance of a core-business activity or process. Specific mission-critical systems may be components of a number of core business activities or processes and may serve as interfaces between and among the operations of core business activities or processes. For example, the deposit taking function is a core business activity or process that could depend on various interfacing mission-critical systems, such as the automated clearing house (ACH), proof, and deposit systems.[4]

The Guidelines also define "business resumption contingency plan" as a plan that "describes how mission-critical systems of the insured depository institution will continue to operate if there are system failures * * *" One commenter requested the Agencies to revise this definition to focus on the resumption of core business activities in the event of Year 2000-related system failures. As noted above, the term "mission-critical system" covers those systems and applications that are vital to the successful continuance of a core business activity or process. Accordingly, the Agencies find that the definition of a business resumption contingency plan, as stated in the interim guidelines, already focuses only on the resumption of systems vital to the successful continuance of a core business activity or process and, therefore, no change to the Guidelines is necessary.

Finally, the Agencies made minor, but clarifying changes to the definitions of "business resumption contingency plan" and "Year 2000 ready or readiness." The interim guidelines inadvertently used the conjunction or instead of and in these two definitions, and this has been corrected in the final Guidelines.

Review of Mission-Critical Systems for Year 2000 Readiness (II.A.)

The Guidelines specify that an insured depository institution's initial review of mission-critical systems for Year 2000 readiness should provide the basis for establishing priorities and deadlines and for identifying and allocating available resources. The development and implementation of a written due diligence process to monitor and evaluate Year 2000 efforts by third party service providers and software vendors is a critical component of an institution's initial assessment. The

[4] See FFIEC Questions and Answers Concerning Year 2000 Contingency Planning (December 11, 1998) (discussing how core business processes relate to mission-critical systems).

Guidelines also require each insured depository institution to develop and adopt a written project plan that addresses each phase of the planning process. However, an insured depository institution that has already developed and adopted an adequate written project plan, or other plans and procedures for achieving Year 2000 readiness, need not prepare a new, separate project plan, or other plans and procedures, just to satisfy the Guidelines. Plans and procedures already adopted may suffice if they have been reviewed and deemed acceptable under the Guidelines by the appropriate Agency. The Agencies did not receive any comments on these provisions and, therefore, adopt them without any changes.

Renovation of Internal and External Mission-Critical Systems (II.B. and II.C.)

The Guidelines distinguish between renovation of systems controlled by the insured depository institution (internal mission-critical systems) and those controlled by a third party (external mission-critical systems). Renovation of internal mission-critical systems must be completed in sufficient time for testing to be substantially complete by December 31, 1998.

Insured depository institutions relying on systems controlled and renovated by external third party suppliers must determine the ability of their service providers and software vendors to address Year 2000 readiness for external mission-critical systems that are not Year 2000 ready and to establish programs that allow testing and remediation to be substantially completed by March 31, 1999. Insured depository institutions also must develop in writing an ongoing due diligence process to monitor and evaluate the efforts of external third party suppliers to achieve Year 2000 readiness. As part of this process, the institutions must maintain written documentation of their communications with external third party suppliers regarding the third party suppliers' efforts to achieve Year 2000 readiness and review the institution's contractual arrangements with third party suppliers to determine the parties' respective rights and obligations to achieve Year 2000 readiness. In response to one commenter's concerns, the Agencies clarify that the Guidelines require the institution to review only those contracts pertaining to external mission-critical systems.

Testing of Mission-Critical Systems (II.D.)

The Agencies consider testing to be a critical process in achieving Year 2000 readiness. Failure of an insured depository institution to perform adequate testing of mission-critical systems poses a risk to the safe and sound operation of the institution. Failure to conduct thorough testing may mask serious remediation problems. Failure to properly identify or correct those problems could threaten the safety and soundness of the institution. The Guidelines reflect the Agencies' expectations on the timing and scope of required testing.

One commenter raised concerns about the inability of an institution to meet the internal testing deadline because of extended delays by software vendors in producing software that is Year 2000 ready. Software products may be either internal or external systems, depending on whether the insured depository institution has control over the renovation. For example, in "turnkey" situations, where an institution has purchased software from a vendor and does all the data processing in-house or where it has a software license from a vendor and does all the data processing in-house, these are "internal" systems. Under the Guidelines, the purchase or license arrangement is deemed to give the institution responsibility for renovation, even though the software vendor must perform the actual renovation. Therefore, these situations were subject to the testing deadline for "internal" systems, which was December 31, 1998.

Contingency Planning (II.E. and II.F.)

Another essential component of achieving Year 2000 readiness addressed in the Guidelines is the development and implementation of effective contingency plans for Year 2000 technology failures. The Guidelines require an insured depository institution to design contingency plans appropriate for the institution's technological systems and operating structure that describe how the institution will mitigate the risks associated with the failure of systems (the business resumption contingency plan) and, as applicable, the failure to complete renovation, testing, or implementation of its mission-critical systems (the remediation contingency plan).

As noted in recent FFIEC guidance, contingency planning is a dynamic process. An effective contingency plan may become inadequate at a later date if the institution does not revise the plan to address current needs. Accordingly, each insured depository institution must continue to update the contingency plans it has developed and implemented, as needed, to ensure that the plans remain effective. For example, some institutions rated less than satisfactory after June 1999 may need to establish plans that address obtaining alternative sources of service, transitioning to a new service provider, discontinuing the provision of certain bank services, and/or creating standardized backup programs for their deposit and loan accounts.

Customer Risk (II.G.)

The Guidelines require insured depository institutions to implement a due diligence process that identifies customers posing material Year 2000 risks, evaluates their Year 2000 preparedness, assesses their Year 2000 risk, and implements appropriate risk controls. The Agencies received no comments on this section and, therefore, adopt this section without any changes.

Involvement of the Board of Directors and Management (II.H.)

The Guidelines require the board of directors and management to be involved in all stages of the institution's efforts to achieve Year 2000 readiness. Management and the board of directors together must be actively involved in efforts to plan, allocate resources, and monitor progress towards attaining Year 2000 readiness. Management must provide to the board of directors written status reports at least quarterly or as otherwise required to keep the board of directors fully informed of the institution's Year 2000 efforts.

One commenter noted that the Guidelines are inconsistent with the FFIEC guidance in that they impose on the board of directors an inappropriate management function and a greater burden than would exist under accepted notions of corporate governance. The Agencies do not intend to alter traditional notions of corporate responsibility of the board of directors. The FFIEC guidance, as reflected in the Guidelines, emphasizes that Year 2000 issues present an enterprise-wide challenge, necessitating the active involvement of both senior management and the board of directors in overseeing the insured depository institution's internal Year 2000 efforts and monitoring its business risks. As stated in the FFIEC guidance, however, senior management continues to be responsible for the day-to-day management of the project. In order to erase any confusion on this point, however, the Agencies deleted the word "managing" from

section H.1. of the Guidelines. The Guidelines now require only that the board of directors and management "be actively involved in efforts to plan, allocate resources, and monitor progress towards attaining Year 2000 readiness."

Another commenter noted that management, in the past, generally provided oral status reports to the board of directors documented in the minutes. The commenter requested clarification whether this practice would satisfy the requirement for written status reports. The Agencies recognize that practices for documenting management's status updates to the board of directors varied from institution to institution. To ensure consistency in documenting an institution's progress in attaining Year 2000 readiness, however, the Agencies will require management to provide to the board of directors written status reports. Therefore, the Agencies are adopting this section without any changes.

Section 39 Remedies

The Guidelines enable the Agencies to use the streamlined compliance and enforcement mechanisms provided by section 39 to address, in appropriate circumstances, Year 2000 readiness-related safety and soundness concerns in insured depository institutions. Section 39 remedies for insured depository institutions allow the Agencies to move promptly in situations where immediate supervisory action is essential for safety and soundness reasons.

Nonetheless, issuance of a safety and soundness order pursuant to section 39 may not be the most appropriate remedy in every case where an insured depository institution fails to comply with the Guidelines. It is for this reason the Agencies have chosen to proceed by guideline, within the meaning of section 39, rather than by regulation. As is the case with respect to the Agencies' 1995 safety and soundness guidelines, the Agencies also wish to preserve their discretion to require supervisory actions different from those prescribed by section 39 with respect to the Guidelines if a different action is warranted by the facts and circumstances of a particular situation.

The Guidelines do not limit the authority of an Agency to address unsafe or unsound practices or conditions, violations of law, or other practices, or to adopt appropriate remedies to achieve compliance with the Guidelines, including requiring actions by dates that are different from those set forth in the Guidelines. Actions under section 39 and the Guidelines may be taken independently of, in conjunction with, or in addition to, other appropriate enforcement actions.

The Agencies note that by law the Guidelines apply only to insured depository institutions, not to all financial institutions supervised by the Agencies, such as bank holding companies and U.S. offices of foreign banking organizations. The Agencies will continue to examine and inspect all financial institutions that they supervise for compliance with the FFIEC guidance and may use their authority under section 8 of the FDI Act if these institutions fail to comply with the FFIEC guidance.

Effective Date

The Agencies find good cause for issuing the Guidelines effective immediately. *Cf.* 5 U.S.C. 553(d) (good cause exception to APA requirement for a 30 day delayed effective date for final rule); 12 U.S.C. 4802(b)(1) (good cause exception to the CDRIA requirement that the Federal banking agencies make rules effective on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form). Making the Guidelines effective immediately is essential for ensuring that the Agencies can properly and timely address the Year 2000 problem and that insured depository institutions can achieve Year 2000 readiness in the relatively short time remaining before Year 2000 problems may begin to occur. The Agencies note that Congress has recently underscored the importance and urgency of ensuring Year 2000 readiness in the financial services sector by passing the Examination Parity and Year 2000 Readiness for Financial Institutions Act, Public Law 105–164, sec. 2, 112 Stat. 32, 32 (1998). Congress expressly found that the Year 2000 problem poses a serious challenge to the American economy, including the Nation's banking and financial services industries, and that Federal financial regulatory agencies must have sufficient examination authority to ensure that the safety and soundness of the Nation's financial institutions will not be at risk. Under these circumstances, the Agencies conclude that they have good cause for issuing the Guidelines with an immediate effective date.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking. 5 U.S.C. 603. In issuing the interim guidelines, the Agencies concluded, for good cause, that they are not required to publish a notice of proposed rulemaking. Accordingly, they issued the interim guidelines without prior notice and comment to be effective immediately. Since the RFA does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking, the Agencies also conclude that the RFA does not require a regulatory flexibility analysis of these joint final guidelines.

Nonetheless, the Agencies considered the likely economic impact of the Guidelines on small entities and believe that the Guidelines do not have a significant impact on a substantial number of small entities. The potential inability of computers to correctly recognize certain dates in 1999 and on and after January 1, 2000, compels all institutions, including small institutions, to formulate appropriate and timely management responses. The Guidelines provide a procedural framework for formulating that response and reiterate the Agencies' expectations, distilled from existing FFIEC guidance, regarding appropriate business practices for achieving Year 2000 readiness. For example, as indicated earlier in this preamble, plans and procedures that institutions have already developed to achieve Year 2000 readiness can satisfy the Guidelines if they have been reviewed and deemed acceptable by the appropriate Agency. The Agencies requested comments on the impact of the Guidelines on small entities and received no comments.

Paperwork Reduction Act

These Guidelines contain no continuing information collections that must be approved by the Office of Management and Budget (OMB).

Executive Order 12866

The OCC and OTS have determined that the Guidelines are not a significant regulatory action under Executive Order 12866.

OCC and OTS: Unfunded Mandates Reform Act Analysis

The Unfunded Mandates Reform Act of 1995 (UMA), Public Law 104–4, applies only when an agency is required to promulgate a general notice of proposed rulemaking or to a final rule for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. As noted above, the Agencies did not publish a general notice of proposed rulemaking when they, for good cause, issued the interim guidelines with an immediate effective date. Accordingly, the OCC and OTS conclude that the UMA does not require an unfunded mandates analysis of the Guidelines.

Moreover, the OCC and OTS believe that the Guidelines will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, neither the OCC nor the OTS has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Text of Uniform Final Guidelines (All Agencies)

The text of the Agencies' uniform final guidelines appears below:

Appendix ___ To Part ___ Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

Table of Contents

I. Introduction
A. Preservation of existing authority
B. Definitions
II. Year 2000 Standards for Safety and Soundness
A. Review of mission-critical systems for Year 2000 readiness
B. Renovation of internal mission-critical systems
C. Renovation of external mission-critical systems
D. Testing of mission-critical systems
E. Business resumption contingency planning
F. Remediation contingency planning
G. Customer risk
H. Involvement of the board of directors and management

I. Introduction

The Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness (Guidelines) set forth safety and soundness standards pursuant to section 39 of the Federal Deposit Insurance Act (section 39) (12 U.S.C. 1831p–1) that are applicable to an insured depository institution's efforts to achieve Year 2000 readiness. The Guidelines, which also interpret the general standards in the Interagency Guidelines Establishing Standards for Safety and Soundness adopted in 1995, apply to all insured depository institutions.

A. Preservation of Existing Authority

Neither section 39 nor the Guidelines in any way limits the authority of the Federal banking agencies to address unsafe or unsound practices, violations of law, unsafe or unsound conditions, or other practices. The Federal banking agencies, in their sole discretion, may take appropriate actions so that insured depository institutions will be able to successfully continue business operations after January 1, 2000, including on a case-by-case basis requiring actions by dates that are later than the key dates set forth in the Guidelines. Action under section 39 and the Guidelines may be taken independently of, in conjunction with, or in addition to any other action, including enforcement action, available to the Federal banking agencies.

B. Definitions

1. In general. For purposes of the Guidelines the following definitions apply:

a. *Business resumption contingency plan* means a plan that describes how mission-critical systems of the insured depository institution will continue to operate in the event there are system failures in processing, calculating, comparing, or sequencing date or time data from, into, or between the 20th and 21st centuries; and the years 1999 and 2000; and with regard to leap year calculations.

b. *External system* means a system the renovation of which is not controlled by the insured depository institution, including systems provided by service providers and any interfaces with external third party suppliers and other material third parties.

c. *External third party supplier* means a service provider or software vendor that supplies services or products to insured depository institutions.

d. *Internal system* means a system the renovation of which is controlled by the insured depository institution, including software, operating systems, mainframe computers, personal computers, readers/sorters, and proof machines. An internal system also may include a system controlled by the insured depository institution with embedded integrated circuits (e.g., heating and cooling systems, vaults, communications, security systems, and elevators).

e. *Mission-critical system* means an application or system that is vital to the successful continuance of a core business activity or process. An application or system may be mission-critical if it interfaces with a designated mission-critical system. Software products also may be mission-critical.

f. *Other material third party* means a third party, other than an external third party supplier, to whom an insured depository institution transmits data or from whom an insured depository institution receives data, including business partners (e.g., credit bureaus), other insured depository institutions, payment system providers, clearinghouses, customers, and utilities.

g. *Remediation contingency plan* means a plan that describes how the insured depository institution will mitigate the risks associated with the failure to successfully complete renovation, testing, or implementation of its mission-critical systems.

h. *Renovation* means code enhancements, hardware and software upgrades, system replacements, and other associated changes that ensure that the insured depository institution's mission-critical systems and applications are Year 2000 ready.

i. *Year 2000 ready or readiness* with respect to a system or application means a system or application accurately processes, calculates, compares, or sequences date or time data from, into, or between the 20th and 21st centuries; and the years 1999 and 2000; and with regard to leap year calculations.

II. Year 2000 Standards for Safety and Soundness

A. Review of Mission-Critical Systems For Year 2000 Readiness. Each insured depository institution shall in writing:

1. Identify all internal and external mission-critical systems that are not Year 2000 ready;

2. Establish priorities for accomplishing work and allocating resources to renovating internal mission-critical systems;

3. Identify the resource requirements and individuals assigned to the Year 2000 project on internal mission-critical systems;

4. Establish reasonable deadlines for commencing and completing the renovation of such internal mission-critical systems;

5. Develop and adopt a project plan that addresses the insured depository institution's Year 2000 renovation, testing, contingency planning, and management oversight process; and

6. Develop a due diligence process to monitor and evaluate the efforts of external third party suppliers to achieve Year 2000 readiness.

B. Renovation of Internal Mission-Critical Systems. Each insured depository institution shall commence renovation of all internal mission-critical systems that are not Year 2000 ready in sufficient time that testing of the renovation can be substantially completed by December 31, 1998.

C. Renovation of External Mission-Critical Systems. Each insured depository institution shall:

1. Determine the ability of external third party suppliers to renovate external mission-critical systems that are not Year 2000 ready and to complete the renovation in sufficient time to substantially complete testing by March 31, 1999;

2. Maintain written documentation of all its communications with external third party suppliers regarding their ability to renovate timely and effectively external mission-critical systems that are not Year 2000 ready; and

3. Develop in writing an ongoing due diligence process to monitor and evaluate the efforts of external third party suppliers to achieve Year 2000 readiness, including:

a. monitoring the efforts of external third party suppliers to achieve Year 2000 readiness on at least a quarterly basis and documenting communications with these suppliers; and

b. reviewing the insured depository institution's contractual arrangements with external third party suppliers to determine the parties' rights and obligations to achieve Year 2000 readiness.

D. Testing of Mission-Critical Systems. Each insured depository institution shall:

1. Develop and implement an effective written testing plan for both internal and external systems. Such a plan shall include the testing environment, testing methodology, testing schedules, budget projections, participants to be involved in testing, and the critical dates to be tested to achieve Year 2000 readiness;

2. Verify the adequacy of the testing process and validate the results of the tests with the assistance of the project manager responsible for Year 2000 readiness, the owner of the system tested, and an objective independent party (such as an auditor, a consultant, or a qualified individual from within or outside of the insured depository institution who is independent of the process under review);

3. Substantially complete testing of internal mission-critical systems by December 31, 1998;

4. Commence testing of external mission-critical systems by January 1, 1999;

5. Substantially complete testing of external mission-critical systems by March 31, 1999;

6. Commence testing with other material third parties by March 31, 1999; and

7. Complete testing of all mission-critical systems by June 30, 1999.

E. Business Resumption Contingency Planning. Each insured depository institution shall develop and implement an effective written business resumption contingency plan that, at a minimum:

1. Defines scenarios for mission-critical systems failing to achieve Year 2000 readiness;

2. Evaluates options and selects a reasonable contingency strategy for those systems;

3. Provides for the periodic testing of the business resumption contingency plan; and

4. Provides for independent testing of the business resumption contingency plan by an objective independent party, such as an auditor, consultant, or qualified individual from another area of the insured depository institution who was not involved in the formulation of the business resumption contingency plan.

F. Remediation Contingency Planning. Each insured depository institution that has failed to successfully complete renovation, testing, and implementation of a mission-critical system, or is in the process of remediation and is not on schedule with the key dates in section II.D., shall develop and implement an effective written remediation contingency plan that, at a minimum:

1. Outlines the alternatives available if remediation efforts are not successful, including the availability of alternative external third party suppliers, and selects a reasonable contingency strategy; and

2. Establishes trigger dates for activating the remediation contingency plan, taking into account the time necessary to convert to alternative external third party suppliers or to complete any other selected strategy.

G. Customer Risk. Each insured depository institution shall develop and implement a written due diligence process that:

1. Identifies customers, including fund providers, fund takers, and capital market/asset management counterparties, that represent material risk exposure to the institution;

2. Evaluates their Year 2000 preparedness;

3. Assesses their existing and potential Year 2000 risk to the institution; and

4. Implements appropriate risk controls, including controls for underwriting risk, to manage and mitigate their Year 2000 risk to the institution.

H. Involvement of the Board of Directors and Management.

1. During all stages of the renovation, testing, and contingency planning process, the board of directors and management of each insured depository institution shall:

a. be actively involved in efforts to plan, allocate resources, and monitor progress towards attaining Year 2000 readiness;

b. oversee the efforts of the insured depository institution to achieve Year 2000 readiness and allocate sufficient resources to resolve problems relating to the institution's Year 2000 readiness; and

c. evaluate the Year 2000 risk associated with any strategic business initiatives contemplated by the insured depository institution, including mergers and acquisitions, major systems development, corporate alliances, and system interdependencies.

2. In addition, the board of directors, at a minimum, shall require from management, and management shall provide to the board of directors, written status reports, at least quarterly and as otherwise appropriate to keep the directorate fully informed, of the insured depository institution's efforts in achieving Year 2000 readiness. Such written status reports shall, at a minimum, include:

a. The overall progress of the insured depository institution's efforts in achieving Year 2000 readiness;

b. The insured depository institution's interim progress in renovating, validating, and contingency planning measured against the insured depository institution's Year 2000 project plan as adopted under section II.A.5. of appendix B;

c. The status of efforts by key external third party suppliers and other material third parties in achieving Year 2000 readiness;

d. The results of the testing process;

e. The status of contingency planning efforts; and

f. The status of the ongoing assessment of customer risk.

[End of text of Uniform Interagency Guidelines]

List of Subjects

12 CFR Part 30

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Safety and soundness, Securities.

12 CFR Part 364

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

Adoption of Uniform Interagency Final Guidelines

The agency specific adoptions of the uniform interagency final guidelines, which appear at the end of the common preamble, are set forth below.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

Authority and Issuance

For the reasons set forth in the common preamble, part 30 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 30—SAFETY AND SOUNDNESS STANDARDS

1. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 93a, 1818, 1831p–1, 3102(b).

2. Appendix B to part 30 is revised to read as set forth at the end of the common preamble:

Appendix B to Part 30—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

Dated: October 12, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

Federal Reserve System

12 CFR CHAPTER II

Authority and Issuance

For the reasons set forth in the common preamble, part 208 of chapter II of title 12 of the Code of Federal Regulations is amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for 12 CFR Part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1823(j), 1828(o), 1831o, 1831p–1, 1831r–1, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909, 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. The interim rule redesignating Appendix D to 12 CFR part 208 as Appendix D–1 to 12 CFR part 208 published at 63 FR 55480 on October 15, 1998, is adopted as final.

3. Appendix D–2 to part 208 is revised to read as set forth at the end of the common preamble:

Appendix D–2 to Part 208—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

By Order of the Board of Governors of the Federal Reserve System.

Dated: October 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

Authority and Issuance

For the reasons set forth in the common preamble, part 364 of chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

1. The authority citation for 12 CFR part 364 continues to read as follows:

Authority: 12 U.S.C. 1819 (Tenth), 1831p–1.

2. Appendix B to part 364 is revised to read as set forth at the end of the common preamble:

Appendix B to Part 364—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

By Order of the Board of Directors.

Dated at Washington, DC, this 8th Day of November, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

Authority and Issuance

For the reasons set forth in the common preamble, part 570 of chapter V of title 12 of the Code of Federal Regulations is amended as follows:

PART 570—SUBMISSION AND REVIEW OF SAFETY AND SOUNDNESS COMPLIANCE PLANS AND ISSUANCE OF ORDERS TO CORRECT SAFETY AND SOUNDNESS DEFICIENCIES

1. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p–1.

2. Appendix B to part 570 is revised to read as set forth at the end of the common preamble:

Appendix B to Part 570—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness

Dated: October 15, 1999.

Ellen Seidman,

Director.

[FR Doc. 99–30284 Filed 11–26–99; 8:45 am]

BILLING CODE 4810–33–U; 6210–01–U; 6714–01–U; 6720–01–U

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 30

[Docket No. 99–17]

RIN 1557–AB67

FEDERAL RESERVE SYSTEM

12 CFR Part 263

[Docket No. R–1018]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 364

RIN 3064–AC18

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 570

[Docket No. 99–50]

RIN 1550–AB27

Safety and Soundness Standards

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Joint final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) are issuing this joint final rule to update their procedural rules pertaining to safety and soundness standards issued under section 39 of the Federal Deposit Insurance Act (FDI Act). This joint final rule adopts, with only one technical change, the Agencies' interim rules. This final rule is intended only to incorporate appropriate references to the Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness published elsewhere in this issue of the **Federal Register**.

EFFECTIVE DATE: This joint final rule is effective on November 29, 1999.

FOR FURTHER INFORMATION CONTACT: OCC: Karl Betz, Attorney, Legislative and Regulatory Activities (202) 874–5090; or Brian McCormally, Assistant Director, Enforcement and Compliance (202) 874–4800, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Board: Stephanie Martin, Managing Senior Counsel, Legal Division (202) 452–3198. For the hearing impaired only, Telecommunication Device for Deaf (TDD), Diane Jenkins (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Sandy Comenetz, Year 2000 Project Manager, Legal Division (202) 898–3582; Richard Bogue, Counsel, Legal Division (202) 898–3726; or Nancy Chase Burton, Counsel, Legal Division (202) 898–6533, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OTS: Dorothy Van Cleave, National Year 2000 Coordinator (202) 906–7380; Stephen E. Hart, Assistant Chief Counsel, Office of Enforcement, Office of Chief Counsel (202) 906–7204; or Timothy P. Leary, Counsel (Banking & Finance), Regulations and Legislation Division, Office of Chief Counsel (202) 906–7170, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background and Discussion of Final Rule

In 1995, the Agencies jointly adopted Guidelines Establishing Standards for Safety and Soundness pursuant to section 39 of the FDI Act. 12 U.S.C. 1831p–1. At the same time, each Agency adopted rules establishing procedures for requiring submission of a compliance plan and issuing an enforceable order for violation of safety and soundness standards pursuant to section 39. The Guidelines Establishing Standards for Safety and Soundness are set forth in an appendix to each Agency's procedural rules. 60 FR 35674 (July 10, 1995).

On October 15, 1998, the Agencies adopted interim Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness (Year 2000 Guidelines) under section 39 of the FDI Act. 63 FR 55480. Elsewhere in this issue of the **Federal Register**, the Agencies are publishing final Year 2000 Guidelines. These Year 2000 Guidelines

will appear as a second appendix to the Agencies' respective procedural rules.

On October 15, 1998, the Agencies also published interim rules that made minor conforming amendments to their procedural rules to incorporate appropriate references to the Year 2000 Guidelines. 63 FR 55486. The Agencies received one comment on the interim rule. The commenter, a banking trade association, supported the interim rule.

The Agencies are now adopting the interim rule as published with two exceptions.

First, the OTS is making a minor, technical change to a reference in its rule.

Second, the OCC's current rules of procedure, set forth at §§ 30.1 through 30.6, differ slightly from those in the interim rule dated October 15, 1998 (63 FR 55486). On September 30, 1999, the OCC published its Guidelines Establishing Year 2000 Standards for Safety and Soundness for National Bank Transfer Agents and Broker-Dealers (64 FR 52638) (Supplemental Guidelines). The Supplemental Guidelines added a new appendix C to part 30 and made conforming changes to §§ 30.2 and 30.3(a) to incorporate appropriate references to appendix C to part 30. After adoption of this final rule, §§ 30.2 and 30.3(a) will continue to read as amended by the Supplemental Guidelines (that is, these sections will contain references to appendix C to part 30). Otherwise, the OCC adopts the interim rule as it was published.

Effective Date

The Agencies find good cause for issuing this final rule to be effective immediately. *Cf.* 5 U.S.C. 553(d) (good cause exception to the requirement in the Administrative Procedure Act for a 30 day delayed effective date for a final rule); 12 U.S.C. 4802(b)(1) (good cause exception to the requirement in the Riegle Community Development and Regulatory Improvement Act that the Federal banking agencies make rules effective on the first day of a calender quarter which begins on or after the date on which the regulations are published in final form). The Agencies are finalizing, with one technical change, already effective interim rules. The interim rule made only conforming amendments to the Agencies' current rules of procedure to refer to the Year 2000 Guidelines. This final rule imposes no new substantive requirements on insured depository institutions. Therefore, each of the Agencies finds good cause to dispense with the delayed effective date requirements.

Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking. 5 U.S.C. 603. In issuing the interim rule, the Agencies concluded, for good cause, that they are not required to publish a notice of proposed rulemaking. Accordingly, they issued the interim rule without prior notice and comment to be effective immediately. Since the RFA does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking, the Agencies also conclude that the RFA does not require a regulatory flexibility analysis of this final rule.

Nevertheless, since the final rule imposes no new requirements on insured depository institutions and makes only conforming amendments to the Agencies' current rules of procedure, the Agencies find that the final rule does not have a significant effect on a substantial number of small entities or create any additional burden on small entities under the RFA.

Paperwork Reduction Act

The Agencies have determined that the final rule does not involve a collection of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12866

The OCC and OTS have determined that the final rule is not a significant regulatory action under Executive Order 12866.

OCC and OTS: Unfunded Mandates Reform Act Analysis

The Unfunded Mandates Reform Act of 1995 (UMA), Public Law 104–4, does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking. 2 U.S.C. 1532. In issuing the interim rule, the Agencies concluded, for good cause, that they are not required to publish a notice of proposed rulemaking. Accordingly, the OCC and OTS conclude that the UMA does not require an unfunded mandates analysis of this final rule.

Nevertheless, since this final rule imposes no new requirements on insured depository institutions and makes only conforming amendments to the Agencies' current rules of procedure, the OCC and OTS find that this final rule will not result in expenditure by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, neither the OCC nor the OTS has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects

12 CFR Part 30

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 263

Administrative practice and procedure, Claims, Crime, Equal access to justice, Federal Reserve System, Lawyers, Penalties.

12 CFR Part 364

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Safety and soundness.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

Office of the Comptroller of the Currency

12 CFR CHAPTER I

Authority and Issuance

For the reasons set out in the joint preamble, the OCC amends part 30 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 30—SAFETY AND SOUNDNESS STANDARDS

Accordingly, the interim rule amending 12 CFR part 30, which was published at 63 FR 55486 on October 15, 1998, was superseded by an interim rule published at 64 FR 52638 on September 30, 1999.

Dated: October 12, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

Federal Reserve System

12 CFR CHAPTER II

For the reasons set out in the joint preamble, the Board amends part 263 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 263—RULES OF PRACTICE FOR HEARINGS

Accordingly, the interim rule amending 12 CFR part 263, which was published at 63 FR 55486 on October 15, 1998, is adopted as a final rule without change.

By Order of the Board of Governors of the Federal Reserve System.

Dated: October 22, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

For the reasons set out in the joint preamble, the FDIC amends part 364 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

Accordingly, the interim rule amending 12 CFR part 364, which was published at 63 FR 55486 on October 15, 1998, is adopted as a final rule without change.

By Order of the Board of Directors.

Dated at Washington, DC, this 8th Day of November, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Office of Thrift Supervision

12 CFR CHAPTER V

Authority and Issuance

For the reasons set out in the joint preamble, the interim rule amending 12 CFR part 570, which was published at 63 FR 55486 on October 15, 1998, is adopted as a final rule with the following change:

PART 570—SUBMISSION AND REVIEW OF SAFETY AND SOUNDNESS COMPLIANCE PLANS AND ISSUANCE OF ORDERS TO CORRECT SAFETY AND SOUNDNESS DEFICIENCIES

1. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p–1.

2. Section 570.1(c) is revised to read as follows:

§ 570.1 Authority, purpose, scope and preservation of existing authority.

* * * * *

(c) *Scope.* This part and the Interagency Guidelines Establishing Safety and Soundness Standards as set forth at Appendix A to this part and the Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness as set forth at Appendix B to this part implement the provisions of section 39 of the FDI Act as they apply to savings associations.

* * * * *

Dated: October 15, 1999.

Ellen Seidman,

Director.

[FR Doc. 99–30285 Filed 11–26–99; 8:45 am]

BILLING CODE 4810–33–U; 6210–01–U; 6714–01–U; 6720–01–U

Reader Aids

Federal Register

Vol. 64, No. 228

Monday, November 29, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

58755–59106	1
59107–59602	2
59603–60082	3
60083–60332	4
60333–60646	5
60647–61014	8
61015–61198	9
61199–61472	10
61473–61768	12
61769–62088	15
62089–62560	16
62561–62970	17
62971–63170	18
63171–63560	19
63561–65652	22
65653–66094	23
66095–66354	24
66355–66540	26
66541–66708	29

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7245	59103
7246	60083
7247	60085
7248	61473
7249	62561
7250	62563
7251	66081
7252	66083
7253	66085
7254	66087
7255	66093

Executive Orders:

12170 (See Notice of November 5, 1999)	61471
12938 (See Notice of November 10, 1999)	61767
12958 (Amended by EO 13142)	66089
13067 (See Notice of October 29, 1999)	59105
13096 (See Proc. 7247)	60085
13101 (See Proc. 7250)	62563
13141	63169
13142	66089

Administrative Orders:

Memorandums:

October 27, 1999	60647

Notices:

October 29, 1999	59105
November 5, 1999	61471
November 10, 1999	61767

Presidential Determinations:

No. 99–13 of February 4, 1999 (See Presidential Determination No. 2000–5 of October 29, 1999)	60651
No. 2000–2 of October 21, 1999	58755
No. 2000–3 of October 25, 1999	58757
No. 2000–4 of October 27, 1999	60649
No. 2000–5 of October 29, 1999	60651
No. 2000–7 of November 10, 1999	65653

5 CFR

532	60087, 61769

Proposed Rules:

532	61793
1201	58798
2430	66589

7 CFR

210	61770
220	61770
226	61770
246	61015
301	60088, 60333, 63171
319	59603
354	62089
759	62565
760	66095
761	62565, 62566
762	62566
905	58759, 63160
928	59604
944	58759
959	66411
981	58763, 59107
1001	61776
1002	61776
1004	61776
1005	61776
1006	61776
1007	61776
1012	61776
1013	61776
1030	61776
1032	61776
1033	61776
1036	61776
1040	61776
1044	61776
1046	61776
1049	61776
1050	61776
1064	61776
1065	61776
1068	61776
1076	61776
1079	61776
1106	61776
1124	61776
1126	61199, 61776
1131	61201, 61776
1134	61776
1135	61776
1137	61199, 61776
1138	61201, 61776
1139	61776
1439	58766
1477	58766
1922	62566
1941	62566
1943	62566
1945	62566
1951	62566, 62971
1955	62566
1965	62566

Proposed Rules:

278	59665
770	59131
785	61034
923	60733
1217	59669

1280.....65665
1823.....59131
1946.....61034
1951.....61221
1956.....59131

9 CFR

52.....62569
77.....58769
130.....61689
304.....66541
305.....66541
310.....66547
327.....66541
335.....66541
381.....66541, 66547
500.....66541

Proposed Rules:

130.....61689
391.....61223

10 CFR

Proposed Rules:

2.....59669, 59671
20.....65665
50.....59671
72.....59677
73.....59684
150.....66115
430.....61794, 66306
905.....62604

11 CFR

100.....59113
110.....59606
114.....59113
9003.....61475
9004.....59606, 61475
9007.....61777
9008.....61475
9032.....61475
9033.....61475
9034.....59606, 61475, 61777
9035.....61475, 61777
9036.....59607, 61475
9038.....61777

Proposed Rules:

100.....60360
102.....60360
103.....60360
104.....60360
106.....60360
107.....60360
109.....60360
110.....60360
114.....60360
116.....60360

12 CFR

1.....60092
5.....60092
7.....60092
30.....66700, 66706
201.....66553
208.....66700
211.....58780
226.....60335
229.....59607
263.....66706
308.....62096
330.....62096
343.....62103
364.....66700, 66706
570.....66700, 66706
707.....66355
711.....66356
712.....66360
905.....61016
1805.....59076

Proposed Rules:

226.....60368
611.....60370
650.....61740
721.....66413
917.....66115
925.....66115
930.....66115
940.....66115
950.....66115
954.....66115
955.....66115
958.....66115
965.....66115
966.....66115
980.....66115
1102.....58800

13 CFR

Proposed Rules:

120.....60735

14 CFR

21.....65655
34.....60335
39.....59113, 59115, 59116, 59117, 59613, 59614, 60100, 60102, 60336, 61475, 61477, 61478, 61480, 61482, 61484, 61485, 61487, 61491, 61493, 61495, 61782, 61784, 62105, 62106, 62108, 62109, 62570, 62973, 62975, 63171, 63174, 63176, 631778, 63180, 63182, 63184, 63187, 63190, 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668, 66554
71.....59615, 60337, 60653, 60654, 61785, 63192, 63676, 63677, 63678, 63679, 63680, 65656, 66361, 66365, 66366, 66369, 66370, 66565
73.....60339
91.....66096
95.....66097, 66100
97.....61017, 61018, 63192, 63194
139.....60068

Proposed Rules:

Ch. I.....66590
39.....59137, 59685, 60134, 60136, 60138, 60383, 60386, 60742, 60743, 60745, 60748, 60750, 61039, 61042, 61044, 61533, 61540, 61547, 61554, 61794, 61796, 61798, 61801, 62129, 62131, 62613, 62615, 62988, 62990, 62991, 62993, 62995, 63753, 63755, 63757, 63760, 63762, 63764, 65666, 66116, 66118, 66119, 66121, 66415, 66417, 66418, 66419, 66422, 66424, 66426
71.....59687, 59688, 59689, 59690, 60388, 61225, 61689, 61690, 61803, 61804, 63261, 63765, 63767, 65668, 66123, 66528
91.....63140
93.....62133
121.....63140
125.....63140

15 CFR

285.....59616
738.....60339
740.....60339
746.....60339
774.....66372
801.....59119
922.....66566

Proposed Rules:

287.....59691
922.....63262

16 CFR

312.....59888
1000.....66579
1616.....61021

Proposed Rules:

310.....66124

17 CFR

5.....66373
200.....61382, 61408
210.....61962
228.....61962
229.....61408, 61962
230.....61382, 61408, 61497, 61962, 62540
232.....61408
239.....61382, 61408, 61962
240.....61382, 61408, 61962, 62540
249.....61382, 61962
260.....61382, 61962
270.....62540
271.....59877

Proposed Rules:

1.....59694, 66428, 66432
5.....66432
31.....66432
34.....65669
35.....65669
230.....62548
239.....59826
240.....59826, 62548
270.....59826
274.....59826
275.....61226
279.....61226

18 CFR

11.....62572
385.....62580

Proposed Rules:

35.....60390
141.....60140
385.....60140

19 CFR

10.....61204

Proposed Rules:

12.....62618
24.....62619
101.....61232
141.....62135

20 CFR

220.....62976
375.....66381

Proposed Rules:

219.....66433
220.....62996
322.....62135
718.....62997
722.....62997
725.....62997
726.....62997
727.....62997

21 CFR

5.....59617
74.....62582
175.....60104
178.....62583, 65657, 66103
207.....63195
225.....63195
310.....62110
510.....63195
514.....63195
515.....63195
520.....66104, 66382, 66382
558.....63195
801.....59618
805.....66105
884.....62977

Proposed Rules:

20.....60143
101.....62746
120.....65669
600.....61045
606.....61045
607.....61045
610.....61045
630.....61045
640.....61045
660.....61045
801.....59695

24 CFR

570.....63680
903.....66106
982.....59620
990.....61516

Proposed Rules:

5.....66530
200.....66530

25 CFR

Proposed Rules:

504.....61234

26 CFR

1.....58782, 59139, 60342, 61205, 61498, 61502
301.....58782, 61498, 61502, 66580
602.....61498

Proposed Rules:

1.....59139, 60395, 61236, 63768, 66591
26.....62997
301.....63768, 66591

27 CFR

Proposed Rules:

9.....66433

28 CFR

0.....58782
2.....59622
16.....61786
27.....58782
50.....59122

Proposed Rules:

16.....60753

29 CFR

37.....61692
1917.....61504
1918.....
4003.....
4007.....
4011.....
4041.....
4041A.....
4043.....
4044.....
4050.....

Proposed

1401.....
1910.....
1926.....
1952.....
2590.....
2700.....

30 CFR

914.....
915.....
920.....
934.....
935.....
948.....

Proposed

70.....
71.....
90.....
938.....
946.....

31 CFR

1.....
18.....
538.....
550.....
560.....

Proposed

1.....

32 CFR

199.....
2001.....

Proposed

199.....
767.....

33 CFR

100.....
117.....
60673,
61518,

165.....

Proposed

Ch. I.....
110.....
117.....
147.....
165.....
175.....

34 CFR

668.....

682.....

685.....

Proposed

611.....

36 CFR

211.....

1918.....61504
4003.....65658
4007.....65658, 66383
4011.....65658
4041.....65658
4041A.....65658
4043.....65658
4044.....61787
4050.....65658

Proposed Rules:
1401.....59697
1910.....65768
1926.....66595
1952.....62138
2590.....62054
2700.....61236

30 CFR

914.....63681
915.....66385
920.....63684
934.....60654
935.....63688
948.....61506, 61507

Proposed Rules:
70.....65671
71.....65671
90.....65671
938.....66595, 66598
946.....61805

31 CFR

1.....62585, 62586
18.....62112
538.....58789
550.....58789
560.....58789

Proposed Rules:
1.....62620

32 CFR

199.....60671
2001.....62113

Proposed Rules:
199.....66126
767.....63263

33 CFR

100.....59623, 66106
117.....59123, 59624, 60672, 60673, 60674, 61206, 61207, 61518, 61519, 61520, 61521, 62113, 66107
165.....61051, 61209, 62586, 66585

Proposed Rules:
Ch. I.....63266
110.....60399
117.....61561
147.....66434
165.....63267
175.....63773

34 CFR

668.....58974, 59016, 59060
682.....58938, 59016
685.....58938, 59016

Proposed Rules:
611.....60632

36 CFR

211.....60675

Proposed Rules:
5.....61563
13.....61563
51.....63775
251.....66342
1190.....62248, 62622
1191.....62248, 62622

37 CFR

201.....66391
202.....62977

Proposed Rules:
1.....59701
201.....59140, 66139

39 CFR

20.....60106

Proposed Rules:
111.....66143
3001.....66436

40 CFR

9.....66392
49.....65660
51.....58792
52.....59625, 59629, 59633, 59635, 59638, 59642, 59644, 60109, 60343, 60346, 60678, 60681, 60683, 60687, 60688, 61213, 61217, 61522, 61523, 63206, 63690, 63693, 65660, 66393
62.....59648, 60689, 62114, 62117, 62978
63.....59650, 63209, 63695, 63702
68.....59650
131.....61182
180.....59652, 60112, 61788, 62588, 62982, 63709, 63711, 63714, 66108
257.....66392
261.....63209
266.....63209
300.....60121, 61526, 63720

Proposed Rules:
49.....65673
50.....63002
51.....62144
52.....59703, 59704, 59705, 59706, 60400, 60401, 60759, 61046, 61051, 61239, 61572, 63002, 63268, 63271, 65673, 66143, 66441
55.....63271
62.....59718, 62144, 62145
63.....59719, 63779
68.....59719
81.....60478
82.....59141
86.....60401
141.....59245
142.....59245
152.....62145
156.....62145
180.....58792
261.....63382
266.....63464
300.....61051
372.....61807
721.....63275

41 CFR

101.....59591
101-11.....60348
101-43.....62146
102.....59591
102-36.....62146

42 CFR

52b.....63721
61.....61218
409.....60122
410.....59379
411.....59379, 60122
413.....60122
414.....59379
415.....59379
420.....66396
460.....66234
462.....66234
466.....66234
473.....66234
476.....66234
485.....59379
489.....60122
1001.....63504, 63518

Proposed Rules:
431.....60882
433.....60882
435.....60882
457.....60882

43 CFR

414.....58986

Proposed Rules:
1300.....61810

44 CFR

64.....62594, 62596, 62598
65.....60706, 60709
67.....60711

Proposed Rules:
67.....60759

45 CFR

Proposed Rules:
160.....59918
161.....59918
162.....59918
163.....59918
164.....59918
303.....62054
612.....66146
613.....66146
2505.....66402

46 CFR

10.....63213
15.....63213

Proposed Rules:
2.....62018
30.....62018
31.....62018
52.....62018
61.....62018
71.....62018
90.....62018
91.....62018
98.....62018
107.....62018
110.....62018
114.....62018
115.....62018
125.....62018
126.....62018
132.....62018
133.....62018
134.....62018
167.....62018
169.....62018
175.....62018
176.....62018
188.....62018
189.....62018
195.....62018
199.....62018

47 CFR

Ch. 1.....61527
0.....60122, 60715, 61022
1.....59656, 60122, 60715, 62119, 63235
2.....60123, 66405
6.....63235
7.....63235
20.....59656, 60126
21.....60715, 63727
25.....61791
27.....60715
52.....62983
54.....60349, 62120
61.....60122
68.....60715
69.....60122, 60349
73.....59124, 59655, 60131, 62123, 63258, 63745
74.....63727
76.....60131
90.....59148, 60123, 60715, 66405
95.....59656
101.....59663, 63727

Proposed Rules:
Ch. I.....63277
1.....59719
15.....62159
18.....62159
20.....59719
43.....59719
61.....66442
73.....59147, 59148, 59728, 60149, 60150, 60151, 61054, 61239, 63783
90.....59148, 60151

48 CFR

201.....58908, 63380
203.....62984
204.....61028
208.....61030
209.....61028, 62984
213.....58908, 63380
215.....61031
219.....62986, 62987
225.....61028, 62984
226.....62987
242.....61028
247.....61028
249.....62984
251.....61030
1845.....62600
1852.....62600

Proposed Rules:
203.....63002
211.....61056
226.....63003

49 CFR

171.....61219
172.....61219
209.....62828
230.....62828
240.....60966
601.....61033

Proposed Rules:
Ch. I.....63279

Ch. II 59046
178 62161
209 59046
552 60556
567 66447
568 66447
571 ..... 60556, 61810, 62622
585 60556
595 60556
1039 66156
1105 66157
1180 66157

50 CFR

17 ..... 58910, 63745
20 61532
222 60727
600 60731
622 ..... 59126, 60132
635 ..... 58793, 66114
640 59126
648 ..... 60359, 61220, 66586, 66587
660 ..... 59129, 62127, 63259
679 ..... 61966, 63259, 66587

Proposed Rules:

16 59149
17 ..... 58934, 59729, 62627, 62641, 63004, 66600
25 62163
26 62163
29 62163
216 63783
223 66601
224 ..... 62627, 66601
622 ..... 59152, 59153, 60151, 60402, 66449
648 59156
654 59153
660 ..... 60402, 66158
679 ..... 58796, 59730, 60157

VOL 64 ISS 228 NO 29 1999 UMI

REMINDE
The items i
editorially c
to Federal
Inclusion or
this list has
significance

**RULES G
EFFECT
1999**

**AGRICULT
DEPARTME**
**Agricultura
Service**
Cherries (ta
Michigan
10-29-9

**AGRICULT
DEPARTME**
Acquisition
Contracti
part 41
publish

**CONSUME
SAFETY C**
Organizatio
authority
Directorat
and Di
Science
29-99

**ENVIRONM
PROTECTI**
Air quality i
plans; ap
promulgat
States:
California
Connecti
99
District of
publish
Minnesota
99
New Ham
9-29-99
Air quality i
plans; √A
promulgat
States; ai
purposes;
areas:
Minnesota
99
Tennesse
99

**FEDERAL
INSURANC**
Federal Dep
Safety an
standar
29-99
Year 20
publis

**FEDERAL
SYSTEM**
Federal Dep

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 29, 1999

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Cherries (tart) grown in—
Michigan et al.; published 10-29-99

AGRICULTURE DEPARTMENT
Acquisition regulations:
Contracting by negotiation; part 415 reorganization; published 9-30-99

CONSUMER PRODUCT SAFETY COMMISSION
Organization, functions, and authority delegations:
Directorate for Epidemiology and Directorate for Health Sciences; published 11-29-99

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
California; published 9-30-99
Connecticut; published 9-28-99
District of Columbia; published 9-30-99
Minnesota; published 10-29-99
New Hampshire; published 9-29-99
Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
Minnesota; published 10-29-99
Tennessee; published 9-30-99

FEDERAL DEPOSIT INSURANCE CORPORATION
Federal Deposit Insurance Act:
Safety and soundness standards; published 11-29-99
Year 2000 Guidelines; published 11-29-99

FEDERAL RESERVE SYSTEM
Federal Deposit Insurance Act:
Safety and soundness standards; published 11-29-99
Year 2000 Guidelines; published 11-29-99

POSTAL RATE COMMISSION
Freedom of Information Act; implementation; published 10-29-99
Privacy Act; implementation; published 10-28-99

TRANSPORTATION DEPARTMENT
Coast Guard
Vessel documentation and measurement:
Standard measurement system exemption from gross tonnage; published 8-31-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
AlliedSignal, Inc.; published 9-29-99
Transport category airplanes—
Mode ≥C≥ transponders with single Gillham code altitude input; published 11-12-99

TREASURY DEPARTMENT
Comptroller of the Currency
Federal Deposit Insurance Act:
Safety and soundness standards; published 11-29-99
Year 2000 Guidelines; published 11-29-99

TREASURY DEPARTMENT
Internal Revenue Service
Procedure and administration:
Elective entity classification; treatment of changes; published 11-29-99

TREASURY DEPARTMENT
Thrift Supervision Office
Federal Deposit Insurance Act:
Safety and soundness standards; published 11-29-99
Year 2000 Guidelines; published 11-29-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
Women, infants, and children; special supplemental nutrition program—
Local agency expenditure reports; comments due by 12-9-99; published 11-9-99

AGRICULTURE DEPARTMENT
Food Safety and Inspection Service
Meat and poultry inspection:
Inspection services; fee increase; comments due by 12-10-99; published 11-10-99

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
Americans with Disabilities Act; implementation:
Accessibility guidelines—
Recreation facilities; comments due by 12-8-99; published 8-3-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Environmental statements; notice of intent:
Western Pacific Region; Exclusive Economic Zone; pelagics fisheries; comments due by 12-6-99; published 10-6-99
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
West coast salmon; comments due by 12-6-99; published 11-19-99
Western Pacific Region pelagic species; environmental impact statement; comments due by 12-6-99; published 10-20-99
Western Pacific Region pelagics; comments due by 12-6-99; published 11-5-99

EDUCATION DEPARTMENT
Elementary and secondary education:
Safe and Drug-Free Schools and Communities Act Native Hawaiian Program; comments due by 12-6-99; published 10-6-99
Postsecondary education:
Teacher Quality Enhancement Grants Program; comments due by 12-6-99; published 11-5-99

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Electric utilities (Federal Power Act):
Rate schedules filing—
Electric rate schedule sheets; designation procedures; comments due by 12-6-99; published 11-5-99
Practice and procedure:
FERC Form Nos. 423, 714, and 715; electronic filing; comments due by 12-6-99; published 11-4-99

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Arizona; comments due by 12-8-99; published 11-8-99
California; comments due by 12-8-99; published 11-9-99
Michigan; comments due by 12-9-99; published 11-9-99
North Carolina; comments due by 12-10-99; published 11-10-99
Oklahoma; comments due by 12-8-99; published 11-8-99
Tennessee; comments due by 12-6-99; published 11-5-99
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 12-9-99; published 11-9-99

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Florida; comments due by 12-6-99; published 10-27-99
Illinois; comments due by 12-6-99; published 10-27-99
Iowa; comments due by 12-6-99; published 10-27-99
Montana; comments due by 12-6-99; published 10-27-99
South Dakota; comments due by 12-6-99; published 10-27-99
Texas; comments due by 12-6-99; published 10-27-99
Regulatory Flexibility Act; review of regulations; comments due by 12-10-99; published 10-14-99

HEALTH AND HUMAN SERVICES DEPARTMENT
Children and Families Administration
Child support enforcement program:

Incentive payments and audit penalties; comments due by 12-7-99; published 10-8-99

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation—

State self-assessment review and report; comments due by 12-7-99; published 10-8-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicaid:

Flexibility in payment methods for services of hospitals, nursing facilities, and intermediate care facilities for mentally retarded; comments due by 12-6-99; published 10-6-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Vicuna populations in South America; comments due by 12-7-99; published 9-8-99

National Wildlife Refuge System:

Land usage; compatibility policy; comments due by 12-8-99; published 11-16-99

JUSTICE DEPARTMENT

Privacy Act; implementation; comments due by 12-8-99; published 11-8-99

LABOR DEPARTMENT

Employment Standards Administration

Federal Coal Mine Health and Safety Act of 1969, as amended:

Black Lung Benefits Act—

Individual claims by former coal miners and dependents processing and adjudication; regulations clarification and simplification; comments due by 12-7-99; published 10-8-99

MINE SAFETY AND HEALTH FEDERAL REVIEW COMMISSION

Federal Mine Safety and Health Review Commission

Procedural rules; comments due by 12-10-99; published 11-10-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:

Central Contractor Registration; comments due by 12-6-99; published 10-6-99

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list additions; comments due by 12-6-99; published 9-22-99

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems; comments due by 12-6-99; published 11-4-99

POSTAL SERVICE

Domestic Mail Manual:

Nonautomation mail processing instructions and letter tray label revisions; comments due by 12-9-99; published 10-25-99

International Mail Manual:

Priority Mail Global Guaranteed; enhanced expedited service from selected U.S. locations to selected European countries; comments due by 12-6-99; published 11-4-99

SMALL BUSINESS ADMINISTRATION

Business loans:

Certified development companies; areas of operations; comments due by 12-8-99; published 11-8-99

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

New York Harbor, NY; safety zone; comments due by 12-6-99; published 10-6-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 12-9-99; published 11-9-99

Airbus; comments due by 12-6-99; published 11-4-99

Bombardier; comments due by 12-9-99; published 11-9-99

British Aerospace; comments due by 12-8-99; published 11-8-99

CFM International; comments due by 12-6-99; published 10-7-99

Eurocopter Deutschland GmbH; comments due by 12-7-99; published 10-8-99

Fairchild; comments due by 12-6-99; published 10-6-99

Fokker; comments due by 12-8-99; published 11-8-99

General Electric Co.; comments due by 12-6-99; published 10-7-99

International Aero Engines AG; comments due by 12-6-99; published 10-7-99

Pratt & Whitney; comments due by 12-6-99; published 10-7-99

Class E airspace; comments due by 12-6-99; published 10-19-99

Commercial space transportation:

Licensed reentry activities; financial responsibility requirements; comments due by 12-6-99; published 10-6-99

TRANSPORTATION DEPARTMENT

Federal Transit Administration

Buy America requirements:

Microcomputers; permanent waiver; comments due by 12-7-99; published 10-8-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 441/P.L. 106–95

Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96

To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97

To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98

District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99

History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100

To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101

Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102

Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103

To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104

To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

Last List November 15, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to

VOL 64 ISS 228 NO 29 1999 UMI

listserv@www.gsa.gov with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–038–00001–6)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
4	(869–038–00003–2)	7.00	[5] Jan. 1, 1999
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–038–00005–9)	27.00	Jan. 1, 1999
1200–End, 6 (6 Reserved)	(869–038–00006–7)	44.00	Jan. 1, 1999
7 Parts:			
1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–038–00010–5)	47.00	Jan. 1, 1999
300–399	(869–038–00011–3)	25.00	Jan. 1, 1999
400–699	(869–038–00012–1)	37.00	Jan. 1, 1999
700–899	(869–038–00013–0)	32.00	Jan. 1, 1999
900–999	(869–038–00014–8)	41.00	Jan. 1, 1999
1000–1199	(869–038–00015–6)	46.00	Jan. 1, 1999
1200–1599	(869–038–00016–4)	34.00	Jan. 1, 1999
1600–1899	(869–038–00017–2)	55.00	Jan. 1, 1999
1900–1939	(869–038–00018–1)	19.00	Jan. 1, 1999
1940–1949	(869–038–00019–9)	34.00	Jan. 1, 1999
1950–1999	(869–038–00020–2)	41.00	Jan. 1, 1999
2000–End	(869–038–00021–1)	27.00	Jan. 1, 1999
8	(869–038–00022–9)	36.00	Jan. 1, 1999
9 Parts:			
1–199	(869–038–00023–7)	42.00	Jan. 1, 1999
200–End	(869–038–00024–5)	37.00	Jan. 1, 1999
10 Parts:			
1–50	(869–038–00025–3)	42.00	Jan. 1, 1999
51–199	(869–038–00026–1)	34.00	Jan. 1, 1999
200–499	(869–038–00027–0)	33.00	Jan. 1, 1999
500–End	(869–038–00028–8)	43.00	Jan. 1, 1999
11	(869–038–00029–6)	20.00	Jan. 1, 1999
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–038–00033–4)	25.00	Jan. 1, 1999
500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–038–00035–1)	45.00	Jan. 1, 1999
13	(869–038–00036–9)	25.00	Jan. 1, 1999
14 Parts:			
1–59	(869–038–00037–7)	50.00	Jan. 1, 1999
60–139	(869–038–00038–5)	42.00	Jan. 1, 1999
140–199	(869–038–00039–3)	17.00	Jan. 1, 1999
200–1199	(869–038–00040–7)	28.00	Jan. 1, 1999
1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–038–00042–3)	25.00	Jan. 1, 1999
300–799	(869–038–00043–1)	36.00	Jan. 1, 1999
800–End	(869–038–00044–0)	24.00	Jan. 1, 1999
16 Parts:			
0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–038–00046–6)	37.00	Jan. 1, 1999
17 Parts:			
1–199	(869–038–00048–2)	29.00	Apr. 1, 1999
200–239	(869–038–00049–1)	34.00	Apr. 1, 1999
240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–038–00051–2)	48.00	Apr. 1, 1999
400–End	(869–038–00052–1)	14.00	Apr. 1, 1999
19 Parts:			
1–140	(869–038–00053–9)	37.00	Apr. 1, 1999
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
1–99	(869–038–00059–8)	24.00	Apr. 1, 1999
100–169	(869–038–00060–1)	28.00	Apr. 1, 1999
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
200–299	(869–038–00062–8)	11.00	Apr. 1, 1999
300–499	(869–038–00063–6)	50.00	Apr. 1, 1999
500–599	(869–038–00064–4)	28.00	Apr. 1, 1999
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
800–1299	(869–038–00066–1)	35.00	Apr. 1, 1999
1300–End	(869–038–00067–9)	14.00	Apr. 1, 1999
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
300–End	(869–038–00069–5)	32.00	Apr. 1, 1999
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–038–00072–5)	32.00	Apr. 1, 1999
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–038–00075–0)	18.00	Apr. 1, 1999
25	(869–038–00076–8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
§§ 1.61–1.169	(869–038–00078–4)	50.00	Apr. 1, 1999
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–038–00080–6)	25.00	Apr. 1, 1999
§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441–1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[7] Apr. 1, 1999
§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
§§ 1.851–1.907	(869–038–00085–7)	40.00	Apr. 1, 1999
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–038–00090–3)	28.00	Apr. 1, 1999
40–49	(869–038–00091–1)	17.00	Apr. 1, 1999
50–299	(869–038–00092–0)	21.00	Apr. 1, 1999
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–038–00094–6)	11.00	Apr. 1, 1999
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–038–00096–2)	53.00	Apr. 1, 1999

Title	Stock Number	Price	Revision Date
200–End	(869–038–00097–1)	17.00	Apr. 1, 1999
28 Parts:			
0–42	(869–038–00098–9)	39.00	July 1, 1999
43–end	(869–038–00099–7)	32.00	July 1, 1999
29 Parts:			
0–99	(869–038–00100–4)	28.00	July 1, 1999
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–038–00102–1)	40.00	[8] July 1, 1999
900–1899	(869–038–00103–9)	21.00	July 1, 1999
1900–1910 (§§ 1900 to 1910.999)	(869–038–00104–7)	46.00	July 1, 1999
1910 (§§ 1910.1000 to end)	(869–038–00105–5)	28.00	July 1, 1999
1911–1925	(869–038–00106–3)	18.00	July 1, 1999
1926	(869–038–00107–1)	30.00	July 1, 1999
1927–End	(869–038–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–038–00109–8)	35.00	July 1, 1999
200–699	(869–038–00110–1)	30.00	July 1, 1999
700–End	(869–038–00111–0)	35.00	July 1, 1999
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
200–End	(869–038–00113–6)	48.00	July 1, 1999
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–038–00114–4)	46.00	July 1, 1999
191–399	(869–038–00115–2)	55.00	July 1, 1999
400–629	(869–038–00116–1)	32.00	July 1, 1999
630–699	(869–038–00117–9)	23.00	July 1, 1999
700–799	(869–038–00118–7)	27.00	July 1, 1999
800–End	(869–038–00119–5)	27.00	July 1, 1999
33 Parts:			
1–124	(869–038–00120–9)	32.00	July 1, 1999
125–199	(869–038–00121–7)	41.00	July 1, 1999
200–End	(869–038–00122–5)	33.00	July 1, 1999
34 Parts:			
1–299	(869–038–00123–3)	28.00	July 1, 1999
300–399	(869–038–00124–1)	25.00	July 1, 1999
400–End	(869–038–00125–0)	46.00	July 1, 1999
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–038–00127–6)	21.00	July 1, 1999
200–299	(869–038–00128–4)	23.00	July 1, 1999
300–End	(869–038–00129–2)	38.00	July 1, 1999
37	(869–038–00130–6)	29.00	July 1, 1999
38 Parts:			
0–17	(869–038–00131–4)	37.00	July 1, 1999
18–End	(869–038–00132–2)	41.00	July 1, 1999
39	(869–038–00133–1)	24.00	July 1, 1999
40 Parts:			
1–49	(869–038–00134–9)	33.00	July 1, 1999
50–51	(869–038–00135–7)	25.00	July 1, 1999
52 (52.01–52.1018)	(869–038–00136–5)	33.00	July 1, 1999
52 (52.1019–End)	(869–038–00137–3)	37.00	July 1, 1999
53–59	(869–038–00138–1)	19.00	July 1, 1999
60	(869–038–00139–0)	59.00	July 1, 1999
61–62	(869–038–00140–3)	19.00	July 1, 1999
63 (63.1–63.1119)	(869–038–00141–1)	58.00	July 1, 1999
63 (63.1200–End)	(869–038–00142–0)	36.00	July 1, 1999
64–71	(869–038–00143–8)	11.00	July 1, 1999
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87–135	(869–038–00146–1)	53.00	July 1, 1999
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–038–00150–1)	23.00	July 1, 1999
260–265	(869–038–00151–9)	32.00	July 1, 1999
266–299	(869–038–00152–7)	33.00	July 1, 1999
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–038–00154–3)	34.00	July 1, 1999
425–699	(869–038–00155–1)	44.00	July 1, 1999
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–038–00157–8)	23.00	July 1, 1999
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–038–00160–8)	16.00	July 1, 1999
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	14.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	30.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998

Title	Stock Number	Price	Revision Date
600-End	(869-034-00201-3)	33.00	Oct. 1, 1998
CFR Index and Findings Aids	(869-038-00047-4)	48.00	Jan. 1, 1999
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.

VOL 64 ISS 228 NO 29 1999 UMI

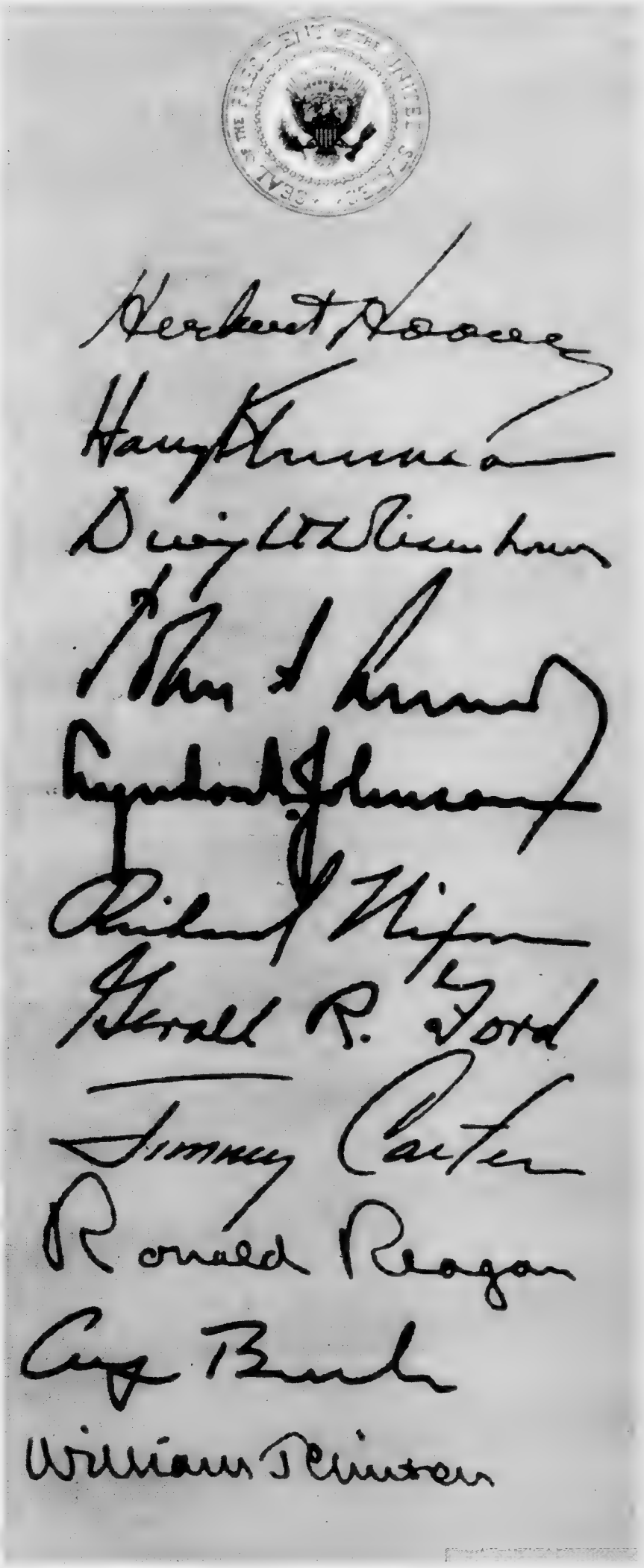

Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	**$51.00**
1993 (Book II)	**$51.00**
1994 (Book I)	**$56.00**
1994 (Book II)	**$52.00**
1995 (Book I)	**$60.00**
1995 (Book II)	**$65.00**
1996 (Book I)	**$66.00**
1996 (Book II)	**$72.00**
1997 (Book I)	**$69.00**
1997 (Book II)	**$78.00**

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev 9/23/99)

VOL
64
ISS
2
2
8
NO
29
1999
UMI

Order Now!

The United States Government Manual 1999/2000

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

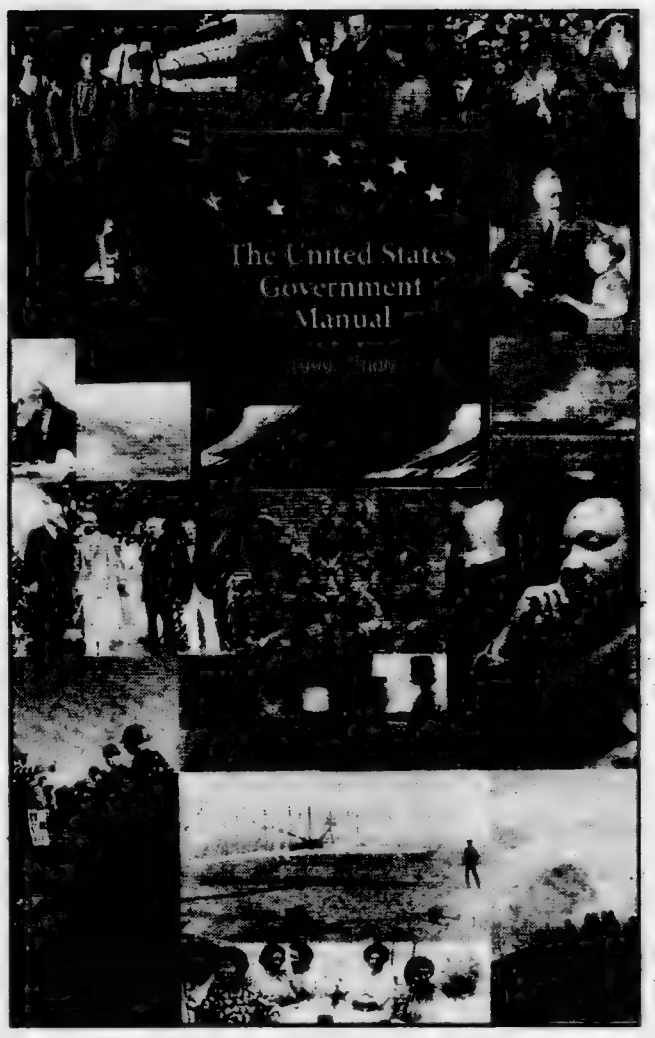

$46 per copy

Superintendent of Documents **Publications** Order Form

United States Government INFORMATION
PUBLICATIONS ★ PERIODICALS ★ ELECTRONIC PRODUCTS

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
***7917**

☐ **YES**, please send me ——— copies of **The United States Government Manual** 1999/2000,
S/N 069–000–00109–2 at $46 ($57.50 foreign) each.

Total cost of my order is $ ———— . **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/99

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

r copy

VISA

512–2250
512–1800

nge.

uments
–

k you for
ur order!

9/99

-7954

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**

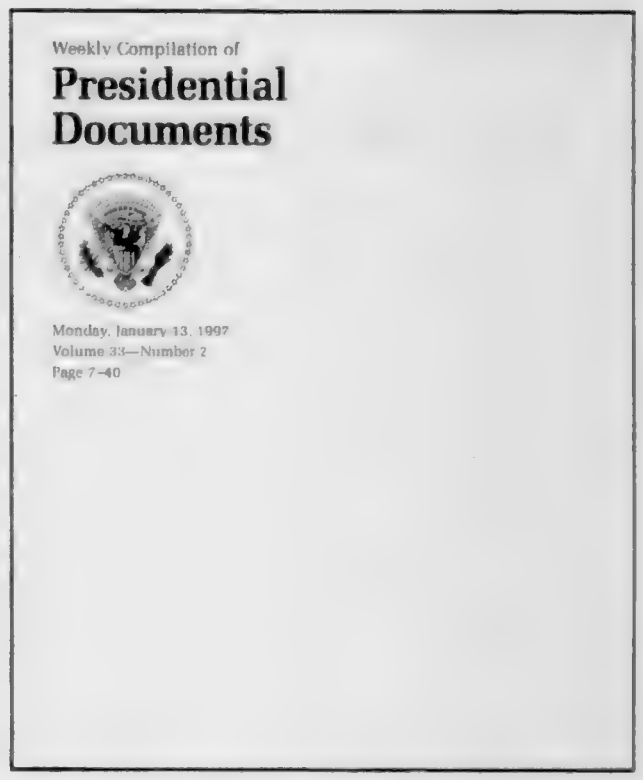

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5420**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
64
ISS
2
2
8
NO
29
1999
UMI

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $27 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $25 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

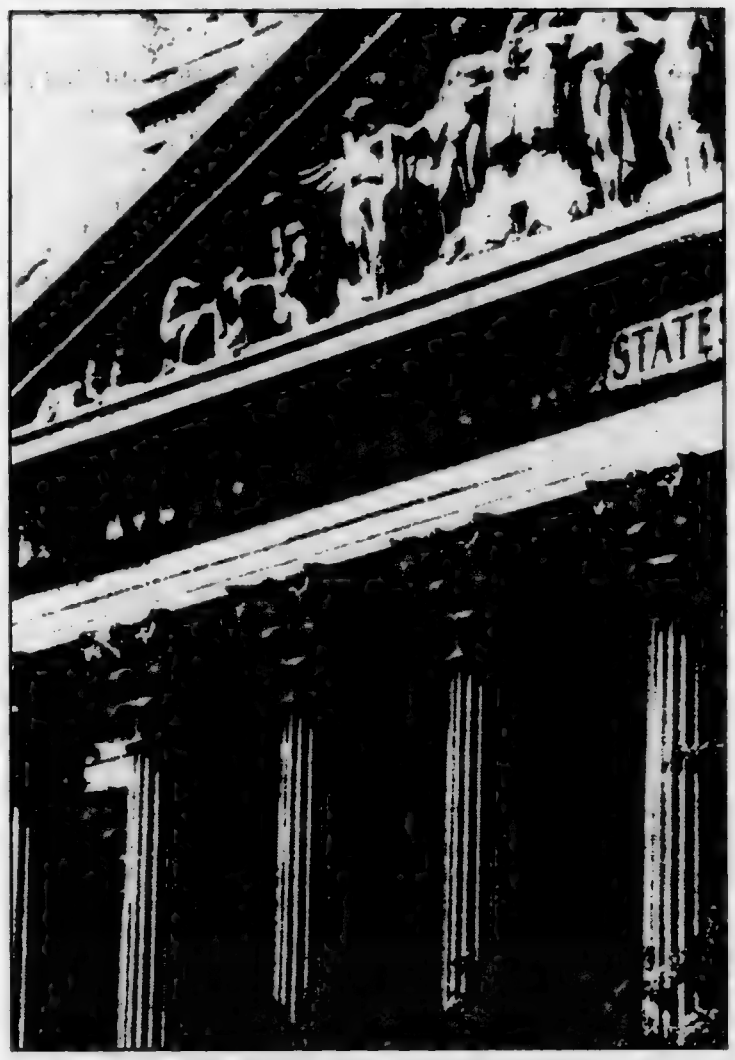

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5421**

☐ **YES**, enter the following indicated subscriptions for one year:

——— **LSA (List of CFR Sections Affected)**, (LCS) for $27 per year.
——— **Federal Register Index** (FRUS) $25 per year.

Charge your order. It's Easy! MasterCard VISA
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFR SMITH212J                    DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                        /
AFRDO SMITH212J                  DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $607 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $555 each per year.

The total cost of my order is $_____. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
64
ISS
2
2
8
NO
29
1999
JMI

Public Laws

106th Congress, 1st Session, 1999

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 106th Congress, 1st Session, 1999.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara/index.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 106th Congress, 1st Session, 1999 for $136 per subscription.

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 11/98

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VISA

512–2250
512–1800

hange.

ments
☐ – ☐

☐☐☐

you for
ur order!

11/98

7954

VOL
64
ISS
2
2
8
NO
29
1999
UMI

Printed on recycled paper

VOL
64
ISS
2
2
9
NO
30
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

11–30–99
Vol. 64 No

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for pnvate use,

11–30–99
Vol. 64 No. 229

federal register

Tuesday
November 30, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

**********3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

VOL
64
ISS
229
NO
30
1999
UMI

11–30–99
Vol. 64
Pages 667

11–30–99
Vol. 64 No. 229
Pages 66709–67146

federal register

Tuesday
November 30, 1999

VOL
64
ISS
229
NO
30
1999
UMI

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche — **202–512–1800**
Assistance with public subscriptions — **512–1806**
General online information — **202–512–1530; 1–888–293–6498**
Single copies/back copies:
Paper or fiche — **512–1800**
Assistance with public single copies — **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche — **523–5243**
Assistance with Federal agency subscriptions — **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 7, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 229

Tuesday, November 30, 1999

Agricultural Research Service
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
AgriVir, LLC, 66838
Akron Rubber Machinery, International, et al., 66839

Agriculture Department
See Agricultural Research Service
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation
See Farm Service Agency
See Federal Crop Insurance Corporation
See Food and Nutrition Service
See Food Safety and Inspection Service
See Forest Service
See Natural Resources Conservation Service
See Rural Business-Cooperative Service
See Rural Utilities Service
RULES
Nondiscrimination in federally conducted programs and activities, 66709–66710
NOTICES
Committees; establishment, renewal, termination, etc.:
National Agricultural Research, Extension, Education, and Economics Advisory Board, 66838

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, foreign:
Rhododendron in established growing media; importation from Europe, 66710–66717
PROPOSED RULES
Interstate transportation of animals and animal products (quarantine):
Scrapie in sheep and goats; movement restrictions and indemnity program, 66791–66812

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66876–66877

Coast Guard
RULES
Vessel documentation and measurement:
Standard measurement system exemption from gross tonnage
Effective date, 66778

Commerce Department
See Census Bureau
See Economic Development Administration
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Commodity Credit Corporation
RULES
Loan and purchase programs:
Tobacco, 66717–66718

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 66903

Defense Nuclear Facilities Safety Board
NOTICES
Meetings; Sunshine Act, 66903–66904

Economic Development Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66878

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66904

Employment and Training Administration
NOTICES
Meetings:
Registered Apprenticeship Federal Committee, 66935

Employment Standards Administration
See Wage and Hour Division

Energy Department
See Federal Energy Regulatory Commission
PROPOSED RULES
Nuclear waste repositories:
Yucca Mountain Site, NV; suitability guidelines, 67053–67089
NOTICES
Environmental statements; notice of intent:
Brookhaven National Laboratory, NY; high flux beam reactor; withdrawn, 66904–66905
Meetings:
Environmental Management Site-Specific Advisory Board—
Los Alamos National Laboratory, NM, 66905
Paducah Gaseous Diffusion Plant, KY, 66905–66906

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Massachusetts, 66775–66778
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
Commercial and industrial solid waste incineration units, 67091–67127
Air programs:
Transportation conformity rule; grace period deletion, 66832–66837
Air quality implementation plans; approval and promulgation; various States:
Massachusetts, 66829–66832

NOTICES
Agency public participation policies; review; comment request, 66906–66913
Pesticide programs:
Federal Insecticide, Fungicide, and Rodenticide Act—
University of Maryland; genetically modified microbial pesticide; small-scale field testing, 66913–66915

Export Administration Bureau
PROPOSED RULES
Export administration regulations:
Foreign policy-based export controls; effects, 66821–66822
NOTICES
Meetings:
Materials Technical Advisory Committee, 66878
President's Export Council, 66878–66879

Farm Service Agency
RULES
Farm marketing quotas, acreage allotments, and production adjustments:
Tobacco, 66717–66718
PROPOSED RULES
Farm marketing quotas, acreage allotments, and production adjustments:
Peanuts, 66790–66791

Federal Aviation Administration
RULES
Air traffic operating and flight rules, etc.:
Airports/locations special operating restrictions; technical amendment, 66768–66769
Airworthiness directives:
Boeing, 66752–66756, 66765–66767
Empresa Brasileira de Aeronautica S.A., 66760–66762
Eurocopter France, 66762–66763
Lockheed, 66756–66758
Precise Flight, Inc., 66747–66752
Raytheon, 66764–66765
Saab, 66758–66760
Airworthiness standards:
Special conditions—
McDonnell Douglas Corp. Model MD-17 series airplane, 66723–66747
Piper Cheyenne PA-31T2 airplane, 66719–66721
Raytheon Model 390 airplane, 66721–66723
Class D and Class E airspace, 66767–66768
PROPOSED RULES
Airworthiness directives:
McDonnell Douglas, 66816–66820

Federal Communications Commission
RULES
Organization, functions, and authority delegations:
National Exchange Carrier Association, Inc. Board of Directors and Federal-State Joint Board on Universal Service, 66778–66787
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66915

Federal Crop Insurance Corporation
NOTICES
Crop revenue coverage:
Corn, grain sorghum, soybeans, cotton, rice, and spring wheat, 66839–66866

Federal Emergency Management Agency
NOTICES
Disaster loan areas:
Maine, 66915–66916
Puerto Rico, 66916
Virgin Islands, 66916–66917
Meetings:
Emergency Management Institute Board of Visitors, 66917
Technical Mapping Advisory Council, 66917–66918

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Mid-Continent Area Power Pool, 66906
Transcontinental Gas Pipe Line Corp. et al., 66906

Federal Highway Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66960

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 66918

Federal Trade Commission
NOTICES
Prohibited trade practices:
Quigley Corp., 66918–66919
QVC, Inc., 66919–66920

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
Shasta County, CA; valley elderberry longhorn beetle, 66926–66928
Saddle Mountain National Wildlife Refuge, WA; acquisition boundary extension, 66928–66929
Marine mammals permit applications, 66929

Food and Drug Administration
PROPOSED RULES
Administrative practice and procedure:
Citizen petitions; miscellaneous amendments, 66822–66828
NOTICES
Meetings:
Universal leukoreduction implementation; workshop, 66920
Reports and guidance documents; availability, etc.:
Drug Evaluation and Research Center; materials disclosure provided to advisory committees concerning open advisory committee meetings; industry guidance, 66920–66921

Food and Nutrition Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66866–66872

Food Safety and Inspection Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66873–66874

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
South Carolina; correction, 66879
Texas, 66879

Forest Service
NOTICES
Meetings:
Willamette Provincial Advisory Committee, 66874
Strategic plan (2000 revision); comment request, 66874–66875

General Services Administration
RULES
Federal Management Regulation:
Transportation—
Motor vehicle management; correction, 66778, 66967

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
NOTICES
Meetings:
Blood Safety and Availability Advisory Committee, 66920

Health Care Financing Administration
RULES
Medicare and Medicaid programs:
Religious nonmedical health care institutions and advance directives, 67027–67052

Housing and Urban Development Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66925–66926

Indian Affairs Bureau
RULES
Tribal government:
Indian child protection and family violence prevention; character and suitability standards for employment, etc.; correction, 66770–66771
PROPOSED RULES
Land and water:
Land held in trust for benefit of Indian Tribes and individual Indians; title acquisition, 66828–66829
NOTICES
Environmental statements; availability, etc.:
Flathead Indian Reservation, MT; forest management plan, 66929
Muckleshoot Indian Reservation, WA; White River Amphitheatre construction and operation, 66929–66930

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Minerals Management Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Invasive Species Advisory Committee, 66926

International Trade Administration
NOTICES
Antidumping:
Anhydrous sodium metasilicate from—
France, 66881–66882
Collated roofing nails from—
Taiwan, 66882–66883
Fresh garlic from—
China, 66884
Malleable cast iron pipe fittings from—
Brazil, 66886
Thailand, 66884–66886
Oil country tubular goods from—
Canada, 66886–66889
Roller chain, other than bicycle, from—
Japan, 66889–66890
Tapered roller bearings and parts, finished and unfinished, from—
Japan, 66891–66892
Tin mill products from—
Japan, 66892–66894
Antidumping and countervailing duties:
Five-year (sunset) reviews—
Preliminary results; time limit extension, 66879–66880
Hot-rolled lead and bismuth carbon-steel products from—
United Kingdom, 66880–66881
Countervailing duties:
Cotton shop towels from—
Peru, 66894–66895
Welded carbon steel pipes and tubes from—
Turkey, 66895–66900
Export trade certificates of review, 66900

Justice Department
NOTICES
Pollution control; consent judgments:
Western Processing Co. et al., 66932

Labor Department
See Employment and Training Administration
See Wage and Hour Division
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66932–66935

Minerals Management Service
RULES
Royalty management:
Natural gas from Indian leases; valuation, 66771–66775
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66930–66931

National Credit Union Administration
PROPOSED RULES
Credit unions:
Share insurance and appendix; update and clarification, 66812–66816

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Partnerships Advisory Panel, 66936

National Institute of Standards and Technology
NOTICES
National Voluntary Conformity Assessment System Evaluation Program:
Accreditors that accredit laboratories that test telecommunications equipment and/or perform electromagnetic compatibility testing; recognition, 66900–66901

National Institutes of Health
NOTICES
Grants and cooperative agreements; availability, etc.:
Antitumor and antimicrobial lead-discovery and development from natural products, 66921–66923
Meetings:
National Cancer Institute, 66923
National Center for Complementary and Alternative Medicine, 66923–66924
National Institute of Neurological Disorders and Stroke, 66924
Scientific Review Center, 66924–66925
Organization, functions, and authority delegations:
Budget Office, 66925
Privacy Act:
Systems of records, 66969–67026

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Northeastern United States fisheries—
Scup, 66788–66789
NOTICES
Environmental statements; notice of intent:
Cook Inlet, AK; beluga whale stock recovery; scoping meetings, 66901–66902
Permits:
Marine mammals, 66903

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Snake River Watershed, MN, 66875

Office of Motor Carrier Safety
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66960–66961
Motor carrier safety standards:
Driver qualifications—
Aldridge, Terry J., et al.; vision requirement exemptions, 66961–66965

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66936

Public Health Service
See Food and Drug Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Environmental statements; notice of intent:
Central Valley Project, CA, 66931

Research and Special Programs Administration
RULES
Pipeline safety:
Drug and alcohol testing; random testing rate, 66788

Rural Business-Cooperative Service
NOTICES
Loan guarantee authority; maximum portion available (2000 FY), 66875

Rural Utilities Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66875–66876
Environmental statements; availability, etc.:
Pohnpei Utilities Corp., 66876

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
Exemption applications—
Alger Fund et al., 66943–66945
Fortis Series Fund, Inc., et al., 66941–66943
Joint transaction applications—
Putnam American Government Income Fund et al., 66945–66946
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 66947–66951
Chicago Board Options Exchange, Inc., 66951–66955
New York Stock Exchange, Inc., 66955–66957
Philadelphia Stock Exchange, Inc., 66957–66959
Applications, hearings, determinations, etc.:
Public utility holding company filings, 66936–66938
Southwestern Bell Telephone Co.; correction, 66938
SSgA Funds et al., 66938–66941

State Department
RULES
Consular services; fee schedule, 66769–66770

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66932

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Office of Motor Carrier Safety
See Research and Special Programs Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 66959
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 66959–66960

Treasury Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66965–66966

Wage and Hour Division
PROPOSED RULES
Child labor; civil money penalties; inflation adjustment, 67129–67145

Separate

Part II
Departmer
Institu

Part III
Departmer
Finan

Part IV
Departmer

Separate Parts In This Issue

Part II
Department of Health and Human Services, National Institutes of Health, 66969–67026

Part III
Department of Health and Human Services, Health Care Financing Administration, 67027–67052

Part IV
Department of Energy, 67053–67089

Part V
Environmental Protection Agency, 67091–67127

Part VI
Department of Labor, Wage and Hour Division, 67129–67145

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
15.....66709
15d.....66709
319.....66710
723.....66717
1464.....66717
Proposed Rules:
729.....66790

9 CFR
Proposed Rules:
54.....66791
79.....66791

10 CFR
Proposed Rules:
960.....67054
963.....67054

12 CFR
Proposed Rules:
745.....66812

14 CFR
23 (2 documents).....66719, 66721
25.....66723
39 (9 documents).....66747, 66752, 66754, 66756, 66758, 66760, 66762, 66764, 66765
71.....66764
91.....66768
Proposed Rules:
39.....66816

15 CFR
Proposed Rules:
Ch. VII.....66821

21 CFR
Proposed Rules:
10.....66822

22 CFR
22.....66769

25 CFR
63.....66770
Proposed Rules:
151.....66828

29 CFR
Proposed Rules:
570.....67130
579.....67130

30 CFR
202.....66771
206.....66771

40 CFR
52.....66775
Proposed Rules:
52.....66829
60.....67092
93.....66832

41 CFR
102-34 (2 documents).....66778, 66967

42 CFR
403.....67028
412.....67028
431.....67028
440.....67028
442.....67028
456.....67028
446.....67028
488.....67028
489.....67028

46 CFR
69.....66778

47 CFR
54.....66778

49 CFR
199.....66788

50 CFR
648.....66788

Rules

This section
contains reg
applicability
are keyed to
Federal Reg
50 titles pur

The Code o
the Superint
new books a
REGISTER

DEPARTM

Office of t

7 CFR Par

RIN 0503–A

**Nondiscrir
Programs**

AGENCY: O
Departmen
ACTION: Fi

SUMMARY:
of Agricult
Departmen
governing
programs a
the Departr
the Departr
do so in the
62962). The
current reg
at 7 CFR pa
it in a new
regulation a
conducted
just to direc
familial sta
orientation,
to the prote
regulation;
retaliation;
Department
efforts; refle
Office of Ci
the authorit
determinati
discriminat
corrective a
program co
appendix to
Department
provisions;
clarification

DATES: *Effec*

FOR FURTHE
Delores H. F
(202) 720–5
Attorney-Ad

VOL 64 ISS 229 NO 30 1999 UMI

Rules and Regulations

Federal Register
Vol. 64, No. 229
Tuesday, November 30, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 15 and 15d

RIN 0503–AA15

Nondiscrimination in USDA Conducted Programs and Activities

AGENCY: Office of the Secretary, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (USDA or the Department) is revising its regulations governing nondiscrimination in programs and activities conducted by the Department. On November 10, 1998, the Department published a proposal to do so in the **Federal Register** (63 FR 62962). The revision: Removes the current regulation on this subject found at 7 CFR part 15, subpart B, and places it in a new part 15d; clarifies that the regulation applies to all Department-conducted programs and activities, not just to direct assistance programs; adds familial status, marital status, sexual orientation, and public assistance status to the protected classes contained in the regulation; adds a provision on retaliation; adds a provision on Department agencies' compliance efforts; reflects that the Director of the Office of Civil Rights has been delegated the authority to make final determinations as to whether prohibited discrimination occurred and the corrective action required to resolve program complaints; removes the appendix to the regulation that lists the Department programs subject to these provisions; and makes other clarifications to the regulation.

DATES: *Effective:* November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Delores H. Ruffin, Office of Civil Rights, (202) 720–5212; or Ron Walkow, Attorney-Advisor, Office of the General Counsel, (202) 720–6056. If a copy of this final rule in an alternate format, e.g., braille, is necessary, contact (202) 720–0353 (voice or TDD).

SUPPLEMENTARY INFORMATION: Subpart B currently contains the Department's civil rights regulations for programs and activities conducted by the Department. As noted in the Department's proposed rule, the rule is in need of revision. The Department's proposal to revise the rule was published November 10, 1998, and a 30-day comment period followed. The Department now is prepared to amend the rule as provided with one modification discussed below.

The only comment the Department received was from a USDA employee group that applauded the Department's intention to add sexual orientation as a protected class in the Department's non-discrimination policy in its conduct programs and activities.

Apart from any comments received, the Department has decided on its own to make one minor modification to the rule. As discussed in the preliminary material to the proposed rule, the Department seeks to prohibit discrimination against individuals in any USDA credit program because all or part of their income is derived from any public assistance program since this prohibition is contained in the Equal Credit Opportunity Act, 15 U.S.C. 1691(a)(3), (63 FR 62963). However, the Department merely added the term "public assistance status" to the proposed rule rather than using the full phrase and referencing the applicability to credit programs. In retrospect, this shorthand phrase is somewhat confusing; therefore, the Department will use the full phrase in the final rule.

This final rule has been determined to be "non-significant" for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget. USDA certifies that this final rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.). USDA also certifies that this final rule would not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

List of Subjects in 7 CFR Parts 15 and 15d

Nondiscrimination.

Accordingly, the Department of Agriculture hereby amends Title 7 of the Code of Federal Regulations, Subtitle A, as follows:

PART 15—[AMENDED]

1. The authority citation for Part 15 continues to read as follows:

Authority: 5 U.S.C. 301; 29 U.S.C. 794.

§§ 15.50–15.52 (Subpart B) and the Appendix to Subpart B [Removed]

2. Part 15, subpart B (§§ 15.50–15.52) and the appendix to Subpart B is removed; and

3. A new part 15d is added as follows:

PART 15d—NONDISCRIMINATION IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE

Sec.
15d.1 Purpose.
15d.2 Discrimination prohibited.
15d.3 Compliance.
15d.1 Complaints.

Authority: 5 U.S.C. 301.

§ 15d.1 Purpose.

The purpose of this part is to set forth the nondiscrimination policy of the United States Department of Agriculture in programs or activities conducted by the Department, including such programs and activities in which the Department or any agency thereof makes available any benefit directly to persons under such programs and activities.

§ 15d.2 Discrimination prohibited.

(a) No agency, officer, or employee of the United States Department of Agriculture shall, on the ground of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, or disability, or because all of part of an individual's income is derived from any public assistance program, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the United States Department of Agriculture.

(b) No person shall be subjected to reprisal for opposing any practice prohibited by this part or for filing a complaint or participating in any other manner in a proceeding under this part.

§ 15d.3 Compliance.

The Director of the Office of Civil Rights shall evaluate each agency's efforts to comply with this part and shall make recommendations for improving such efforts.

§ 15d.4 Complaints.

(a) Any person who believes that he or she (or any specific class of individuals) has been, or is being, subjected to practices prohibited by this part may file on his or her own, or through an authorized representative, a written complaint alleging such discrimination. No particular form of complaint is required. The written complaint must be filed within 180 calendar days from the date the person knew or reasonably should have known of the alleged discrimination, unless the time is extended for good cause by the Director of the Office of Civil Rights or his or her designee. Any person who complains of discrimination under this part in any fashion shall be advised of his or her right to file a complaint as herein provided.

(b) All complaints under this part should be filed with the Director of the Office of Civil Rights, United States Department of Agriculture, Washington, D.C. 20250, who will investigate the complaints. The Director of the Office of Civil Rights will make final determinations as to the merits of complaints under this part and as to the corrective actions required to resolve program complainants. The complaint will be notified of the final determination on his or her complaint.

(c) Any complaint filed under this part alleging discrimination on the basis of disability will be processed under 7 CFR part 15e.

Dated: November 16, 1999.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 99–30951 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 89–154–5]

RIN 0579–AB00

Importation From Europe of Rhododendron Established in Growing Media

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of plants established in growing media to allow the importation of rhododendron from Europe under conditions designed to prevent the introduction of dangerous plant pests. This action will relieve restrictions on the importation of rhododendron plants from Europe while continuing to protect against introduction of plant pests.

EFFECTIVE DATE: December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne D. Burnett, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of plants, plant parts, and plant products into the United States to prevent the introduction of plant pests. The regulations contained in "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37–14 (referred to below as the regulations), prohibit or restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

Section 319.37–8, paragraph (a) of the regulations requires, with certain exceptions, that plants offered for importation into the United States be free of sand, soil, earth, and other growing media. This requirement is intended to help prevent the introduction of plant pests that might be present in the growing media; the exceptions to the requirement take into account factors that mitigate that plant pest risk. Those exceptions, which are found in paragraphs (b) through (e) of § 319.37–8, consider either the origin of the plants and growing media (paragraph (b)), the nature of the growing media (paragraphs (c) and (d)), or the use of a combination of growing conditions, approved media, inspections, and other requirements (paragraph (e)).

On September 7, 1993, we published in the **Federal Register** (58 FR 47074–47084, Docket No. 89–154–1) a proposed rule to amend the regulations to allow the importation of five genera of plants established in growing media. That proposal is referred to below as "the proposed rule." We accepted comments on the proposed rule for a period of 90 days, ending December 6, 1993.

In a final rule published in the **Federal Register** on January 13, 1995, and effective on February 13, 1995 (60 FR 3067–3078, Docket No. 89–154–2), the Animal and Plant Health Inspection Service (APHIS) finalized provisions for the importation of *Alstroemeria, Ananas, Anthurium,* and *Nidularium* species. The final rule postponed action on *Rhododendron* species established in growing media to allow consultation regarding the action with the U.S. Fish and Wildlife Service, in accordance with the Endangered Species Act.

On April 30, 1998, we published in the **Federal Register** (63 FR 23683–23685, Docket No. 89–154–3) a notice reopening and extending the comment period on the proposal to allow the importation of *Rhododendron* species established in growing media. The notice also announced that, as a result of formal consultation with the Fish and Wildlife Service in accordance with Section 7 of the Endangered Species Act, APHIS intended to limit the proposed action to *Rhododendron* species imported from Europe only. The limitation to Europe was made because there is little importation of rhododendron from places outside Europe, and limited data on pests of rhododendron outside Europe. We believe the data available on rhododendron pest distribution outside Europe, and pest interceptions on rhododendron commodities from outside Europe, is insufficient to support a conclusion of negligible risk for importation of rhododendron from all countries at this time.

Comments were required to be received on or before June 1, 1998. We received two requests from trade organizations to extend the period during which comments would be accepted. In response, on June 1, 1998, we published in the **Federal Register** (63 FR 29675–29676, Docket No. 89–154–4) a notice extending the comment period until July 30, 1998.

During this reopened comment period of April 30 through July 30, 1998, we received 11 comments on the rhododendron proposal. Additionally, we received approximately 60 comments from domestic nurseries and nursery associations, importers, State governments, and environmental interest groups during the original 1993 comment period on the proposed rule that specifically addressed importation of rhododendron. The issues addressed by all of these comments are discussed below.

Comment: APHIS identified rhododendron pests of concern for this rule using reports from the scientific literature and reports of pest interceptions associated with rhododendron at ports under the

premise that these sources would reveal all pests of concern. This premise is fallacious because the lack of citations in the scientific literature may merely reflect scientists not choosing to address pests that attack rhododendron, and a lack of interception reports may reflect the small amount of trade in rhododendron in growing media. This approach misses potential pest problems.

Response: The purpose of the literature search and review of interception reports was to identify all known pests of concern and to collate information about these pests that would also allow us to make informed assumptions concerning potential unknown pests of concern. Pest risk analysis is a combination of the processes of pest risk assessment (determining whether a pest is harmful and evaluating its introduction potential) and pest risk management (the decision-making process of reducing the risk of introduction of a quarantine pest). It is standard scientific procedure in conducting a pest risk assessment to review the available scientific literature and interception records, conduct surveys, and communicate with foreign and domestic scientists and government officials. The process of pest risk assessment is a well-established procedure within APHIS. Some of the earliest pest risk assessments were done over 75 years ago and have proved their utility over time, because program requirements based on them have successfully excluded or controlled the quarantine pests that were the targets of the assessments.

When conducting a pest risk assessment, the relative richness or paucity of information on particular pests is a factor in the analysis. If in-depth pest data is lacking and there is reason to believe pests of concern are not well characterized, the assessment employs conservative assumptions that maximize the potential hazard presented by the uncharacterized pests.

Scientists choose to study particular pests for a variety of reasons, but economic factors clearly direct much scientific research toward pests of economic importance. Pests of rhododendron and other major ornamental plants are clearly of economic importance, and a great deal of research has in fact been directed toward these pests.

Interception records vary with the commodity, source, volume, host susceptibility, and other factors. Rhododendron have been imported from Europe in varying amounts for over 50 years, both as cargo and in passenger baggage. Most of the pest interceptions have been made in passenger baggage, presumably in plants taken from the wild. It is true that there are few records of interception of pests associated with commercial importation of rhododendron because our regulations have previously prohibited importation of rhododendron in soil or growing media, and there is limited commercial incentive to import bare-rooted plants. We believe it is unproductive for commenters to support limiting rhododendron imports to bare-rooted plants only, and then to argue that to justify importing the plants in growing media we would need years of interception records for this (prohibited) trade in rhododendron in growing media. When considering changes to the regulations, we cannot collect data about activities we have prohibited (except for occasional data about shipments smuggled in violation of the regulations).

Overall, we believe there is sufficient pest information about which pests occur in Europe and in the United States to analyze the pest risk and reach a sound biological decision on how to handle the rhododendron in growing media.

Comment: APHIS wrongly evaluated pests based on their known damage potential. Many pests now causing harm in the United States were innocuous in their place of origin and only caused significant harm when introduced into an area free of their natural enemies.

Response: One of the elements of pest risk assessment is an evaluation of the potential damage that may be caused by a pest using a set of criteria. While some introduced pests have found a favorable niche in the United States, others have never become serious pests. The establishment of a pest is determined by many factors, such as climate, survival, finding a suitable host, etc., which are considered in a pest risk assessment. The absence of natural enemies may play an important role in the establishment of a pest, especially for insects. APHIS is well aware of this natural phenomenon and has considered it in conducting its pest risk assessments. The basis of a good quarantine system is to prevent the introduction of the pests before they reach our shores.

Comment: The short-spored rhododendron rust caused by *Chrysomyxa ledi* var. *rhododendri* should be considered a pest of quarantine significance, as it causes serious defoliation and its spores are spread by wind. Presence of this disease would not be revealed by the proposal's greenhouse growing requirements, and the Kahn report (a report of the APHIS committee of researchers who prepared worksheets on pests and evaluations of pest risk prior to this rulemaking) notes that "if the host/rust interaction were in the incubation period at the time of inspection, the infection would not be detected."

Response: APHIS considers *Chrysomyxa ledi* var. *rhododendri* a quarantine pest because it can cause economic losses to both *Rhododendron* and *Picea* species. When it is detected on intercepted plant material, the plant material is seized and destroyed. Concerning its epidemiology and other characteristics, the fungus may cause defoliation and the spores are indeed spread by wind, like most rusts. For infection to occur the disease pathway must lead to the vicinity of a target host. The conditions and safeguards in the proposed rule are sufficient to preclude establishment of the disease in the United States. While there are growth periods when signs of the pathogen are not obvious in the host plant, there are signs of infection visible to close scrutiny. That is the reason for the lengthy observed growing periods required by the proposed rule for both mother stock and progeny: to provide an opportunity to detect incipient infection that might not be obvious during a one-time inspection. Besides the regular surveillance of the plants during the long growing period, the detailed inspection at a U.S. quarantine inspection station at the first port of entry provides additional safety.

Comment: The proposal cites APHIS' experience in importing plants in media without introducing pests as one basis for the proposal and suggests there have been no problems with plants currently allowed to be imported in media in 20 years. This is not true. Pest movement on plant material used in greenhouse production was the likely cause for spread of a serpentine leafminer (*Liriomyza trifoili* (Burgess)), a pea leafminer (*L. huidobrensis* (Blanchard)), the beet armyworm (*Spodoptera exigua* (Hubner)), the western flower thrips (*Frankliniella occidentalis* (Pergrande)), and the sweetpotato whitefly (*Bemisia tabaci* (Gennadius)). Also, in comments on an earlier rule, Dr. Ken Horst identified several cases where U.S. growers had to destroy material imported in media due to disease. Also, simply pointing to the successes of the current program does not justify extending it.

Response: The experience of growing certain plants in growing media, as cited by APHIS, forms the basis of a model for a systems approach that uses modern and advanced horticultural practices to

prevent the introduction and spread of plant pests. The commenter correctly identifies pest movement on plant material used in greenhouse production as the likely cause for the spread of the enumerated pests, and we do not doubt that those and other pests have spread from unregulated greenhouse cultivation where infested plants were grown. The growing of plant material under controlled conditions such as those in the regulations will prevent or greatly reduce the spread and movement of plant pests. The pests cited by the commenter did not originate from greenhouse cultivation under the system described in the proposal. Greenhouse production in accordance with the proposed regulations would have prevented the dissemination of such pests.

APHIS is not aware of the details of the specific cases where U.S. growers had to destroy material imported in media due to disease as reported by Dr. Ken Horst, because the entry of these pests apparently was not reported to APHIS or State quarantine officials at the time of their discovery. When a quarantine pest is discovered, it should be reported immediately to APHIS or State quarantine officials so its eradication can be confirmed and the pathway of entry studied. Since APHIS did not have the opportunity to investigate these cases at the time, APHIS cannot comment on the incidents cited by the commenter.

Comment: The current state of the science of risk analysis still acknowledges major areas of uncertainty when it comes to assessing the actual impacts of new pest introductions; the full extent of the damage they may cause cannot be accurately estimated. This uncertainty makes it unwise to adopt the proposed action for rhododendron.

Response: Pest risk analysis is the best tool currently available to evaluate and manage pest risk. It is being standardized, refined, and promoted globally. Uncertainties are acknowledged in the risk analysis process, and for this reason APHIS uses great care in arriving at its decisions and involves the best and most competent risk analysts available to the agency among its staff and outside resources. While all the information about pest damage caused to rhododendron may not be fully known, there is sufficient and reliable information to evaluate importing rhododendron under the conditions we proposed. Should pest risk change at any time, APHIS is prepared to change any or all aspects of the program, including denying approval of greenhouses, shutting them down, or making any other changes necessary to the program to safeguard the United States against invading pests.

Comment: Increasingly, APHIS quarantine decisions appear to be driven by trade policy (attempting to expand and liberalize opportunities for international trade under the World Trade Organization agreement) rather than the primary APHIS mandate of pest prevention based on science. We believe, consistent with the Office of Technology Assessment report, "Agriculture, Trade, and the Environment: Achieving Complimentary Policies," that APHIS should not try to achieve an unrealistic zero risk standard, but should seek to target controls to protect those agricultural systems that are at greatest risk from harmful nonindigenous species. We further believe that nursery crops represent an "at greatest risk" category with regard to pests associated with foreign rhododendron in media.

Response: APHIS' first and primary responsibility is to protect U.S. agriculture from foreign quarantine pests. The United States is a signatory to World Trade Organization (WTO) agreements and is bound to comply with certain WTO policies guiding national activities to protect plant health, and it expects that other countries do the same. The United States strongly supports and sponsors initiatives to achieve global standardization in plant quarantine activities. APHIS is applying these standards in complying with the agreements, which is in the interest of U.S. agriculture. Nursery stock has been, and continues to be, an area of great concern to APHIS. We attempt to employ the most effective, practical, and cost-effective strategies to prevent the introduction of plant pests, including exclusion of the host plant when necessary. We do not and cannot employ a "zero risk standard." It is not possible to eliminate all risk. We reduce risk to a negligible level. Our regulations establish controls and prioritize agency resources to maximize protection to those agricultural systems that are at greatest risk.

Comment: The proposed visual inspection of stock in participating European greenhouses would be largely ineffective because many pests are not readily found by inspection at some life stages.

Response: In this rule APHIS requires a lengthy pre-importation detention period or holding period in the greenhouses in foreign countries. This should give plant inspectors time for inspection and evaluation of plants and facilities to determine whether the rhododendron plant material meets entry requirements. By the same token, this long detention period allows more time for the development of pests so that they may be visible to the inspector. If the inspector determines that methods other than a visual inspection are necessary to determine the presence of a pest, then suspect material may be investigated, detained, treated, tested, etc. Additionally, all shipments of rhododendron will be directed to an APHIS Plant Inspection Station at a port of entry for inspection and final release.

Comment: The proposed pesticide dip offers no detail on active ingredient, rate, or efficacy against pests. Also, in some cases, pesticide treatments may mask, but not eliminate, pest presence.

Response: APHIS does not normally include informational details of a pesticide such as active ingredients, dose rate, or efficacy against pests in a rule because, in many cases, to do so would be to repeat a large volume of scientific and testing data that was used in the process of approving the pesticide for use against targeted pests. The approval process for pesticides is a separate function of other Federal agencies and agencies of foreign governments. APHIS' discussion of a pesticide is usually limited to discussing that a pesticide is in fact approved for use against a target pest in a given commodity and that use of the pesticide meets operational needs of APHIS and the affected industry. The exporter is required to use only pesticides prescribed by the plant protection service of the exporting country and must inform the inspector prior to their use. The recommended dip with a pesticide is a precautionary treatment and just one more additional safeguard, so while the masking of pest presence by pesticide use may occasionally be a problem, other components of the systems approach of the regulations compensate for this possible effect. It is APHIS policy that, should the pesticide make inspection difficult or hinder inspection in any way, the shipment or consignment may be denied. Such pesticide dips are not unique to the rhododendron import rule; they are also recommended and are effectively used in the United States on other imported and domestic plant and plant products.

Comment: Inspection at the port of entry under the best conditions is still not adequate to detect many pests. Further, the reality is that APHIS inspects many cargoes at a rate of less than one-half of one percent, and allows unsound inspection practices such as "tailgate" inspections and allowing brokers to select the samples to be

inspected. Because the proposal partly relies on inspection to mitigate the risks, these inadequacies mean the proposal will not achieve its claimed level of risk reduction.

Response: Inspection at ports of entry is an internationally accepted strategy in plant quarantine. It is rarely ever used alone, and in addition to visual examination by an inspector, may include any number of techniques to arrive at a decision. In this rule, inspection at the port of entry is not the only, or even primary, protection. Additional safeguards include growing site inspection, monitoring, surveillance, certification, and specific growing conditions in the country of origin to reduce the risk of the introduction of pests to a negligible level. Port of entry inspection of bare-rooted rhododendron has been used successfully for many years. Now that the regulations allow importation of the plants in growing media, we are retaining port of entry inspection but are also requiring additional safeguards.

The rate or percentages employed by APHIS in the inspection of cargoes varies depending on the pest risk, origin of the commodity, and other factors connected with the type of shipment. An inspection of 100 percent of the commodity may be ordered when the conditions warrant. The many thousands of interceptions made by the United States and other countries are evidence that inspection has considerable merit for some pests, but the volume of interceptions is likewise a sign that inspection alone is not enough and that a systems approach that addresses growing conditions in the country of origin is needed to keep dangerous pests that are not visible to inspectors from arriving at U.S. ports. This rule establishes such a systems approach.

Comment: APHIS bases part of its argument on the lack of pest problems associated with imports of bare-rooted rhododendron in recent years. However, this trade amounts to only a few thousand dollars a year, compared to an expectation of importing many times that volume of plants in media under the proposed rule. The minuscule amount of bare-root imports provides no basis for assessing risk.

Response: APHIS makes a logical comparison between the importation of bare-rooted rhododendron and its importation in approved growing media. If pest problems are not associated with bare-rooted plants, which are grown in the open field and exposed to the environment, one might conclude that the risk is even less when the plants are grown under a system of controlled conditions in a greenhouse—barring the possibility that there are pests associated with the media but not the plant. The proposal included strict media standards to preclude the presence of pests associated with the media. Furthermore, the importation of plants in growing media as proposed should eliminate the occasional pest problems that were associated with importing bare-rooted plants, by providing an even safer and economically more attractive method to import rhododendron. Consider that at one time ferns were imported bare-rooted, and there were many pest problems both for the importers and for APHIS. Producing them in growing media under controlled conditions resolved the problems to the satisfaction of both the importers and APHIS. The system for importing ferns in growing media has worked for a large volume of plants imported over an extended period of time. In view of this and the more limited data from importing small volumes of bare-rooted rhododendron over many years, it is reasonable to believe the rule's requirements for importing rhododendron will work.

Comment: The Endangered Species Act consultation did not assess the risk to listed species other than *Rhododendron* in the family Ericaceae, such as five *Arctostaphylos* species that occur in California and may be vulnerable to pests introduced by rhododendron.

Response: Pest risk assessment for plants is generally done at the genera level, and for this rule it was done for the entire genus *Rhododendron*. Based on pest and host data collected in the early stages of assessment, projects may be expanded to include other plant genera. If data showed *Arctostaphylos* to be a host of any of the pests associated with *Rhododendron*, the genus would have been seriously considered in the analysis. We have not received any specific pest or host data in comments and are not aware of any that indicates it is necessary to perform an assessment for the entire family Ericaceae. The Fish and Wildlife Service was a great help in evaluating any effects pests of rhododendron would have on endangered species. Consultation with the Fish and Wildlife Service was a valid and legally mandated approach to reaching an understanding of these matters.

Comment: The pest risk potential associated with imported rhododendron will remain largely unknown and uncharacterized until APHIS performs additional pest risk analyses, particularly focused on horticultural and environmental impacts, to determine the possible impact on all hosts, both native and agricultural.

Response: Pest risk analysis follows specific guidelines in order that the assessments may be as uniform and consistent as possible. When circumstances warrant, there may be a reevaluation of the pest risk. It would appear from the investigation, reviews, and evaluations already conducted for rhododendron that an additional pest risk assessment at this time is not necessary, particularly in the absence of new data or pertinent information on pest risk. The importation of rhododendron in growing media under the prescribed conditions is limited to imports from Europe. The cultivation practices used for rhododendron in Europe, and the environmental effects of the horticulture and pest issues associated with it, are fairly well known and were considered in analyzing pest risk. No number of additional pest risk assessments could ever give us the precise effect of all possible introduction scenarios on all U.S. hosts, both native and agricultural.

Comment: The proposed 0.2 mm screen size for greenhouses will not adequately prevent the entry of airborne pests or pathogens without additional requirements for door openings, air filtration systems, etc. The Zandvoort paper, "Wind Dispersal of *Puccinia horiana* of Chrysanthemum," clearly illustrates how rust spores can easily enter and exit greenhouses via ventilation windows, for example.

Response: The proposed 0.2 mm screen size for greenhouses is intended for those vents where outside air is necessary. The 0.2 mm screen size is considered very small. It is so small that many believe it to be a hindrance to adequate air circulation. It is a much smaller opening than has been approved for other genera now permitted to be grown in media. The very small screen size and the additional safeguards for greenhouses growing plants in media are believed to be more than satisfactory.

Regarding door openings, § 319.37–8(e)(2)(ii) of the regulations requires that greenhouses be equipped with automatic closing doors to reduce pest entry into the greenhouses. This requirement was intended to limit the entry of both insects and wind-borne spores through entryways. Based on this comment, we have reexamined options for greater quarantine security at entryways, and have concluded that it is advisable to require a double-door system for all greenhouses growing articles in accordance with § 319.37–8(e). We also have discovered that, for some years, the inspectors employed by

plant protection services in Europe who inspect and approve greenhouses and mother stock in accordance with the regulations have been enforcing a double-door requirement. Therefore, requiring double doors would improve greenhouse security without adding any expense for greenhouses already growing articles in accordance with the regulations. Since this final rule only addresses requirements for rhododendron, at this time we are amending the greenhouse door provision only for greenhouses growing rhododendron articles, but we intend to initiate rulemaking to require double doors for all greenhouses growing articles in accordance with § 319.37–8(e). This final rule requires that for *Rhododendron* species only, the plants must be grown solely in a greenhouse equipped with automatic closing double doors of an airlock type, so that whenever one of the doors in an entryway is open the other is closed. This automatic double door requirement will create an additional barrier in the entryway.

APHIS only requires air filtration systems and other extreme forms of containment for high risk quarantine facilities that are used to maintain high risk material and dangerous pests. These must be constructed in the manner described by the commenter to prevent the escape of dangerous pests. We do not believe such a high level of security is appropriate for greenhouses growing plants from healthy stock where the plants are under surveillance for pests and disease over a considerable period, as required for rhododendron. Should serious pests or diseases be discovered in a greenhouse operating under this rule, additional containment requirements will be imposed as needed. Should the pest risk for growing rhododendron at any location or site be elevated for any reason, the greenhouses for growing them will not be approved.

The Zandvoort paper, "Wind Dispersal of *Puccinia horiana* of Chrysanthemum," is not contested. *Puccinia horiana* is a fast moving rust and has largely been distributed with planting material around the globe. This distribution, however, resulted from international trade in chrysanthemums under conditions far less stringent than those required for importing rhododendron into the United States.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, and are adding the requirement of automatic closing double doors in greenhouses. We are also making minor, nonsubstantive word changes.

Executive Order 12866 and the Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. We have prepared a final regulatory flexibility analysis and cost-benefit analysis for the rule, which are summarized below.

This final rule allows *Rhododendron* spp. to be imported from Europe in growing media if the plants are grown in secure greenhouses and meet other conditions to exclude plant pests and diseases. This action was originally proposed on September 7, 1993 (58 FR 47074–47084, Docket No. 89–154–1) as part of a proposal to allow importation from all countries of five genera of plants in growing media. Based on comments, action on *Rhododendron* spp. was deferred while an Endangered Species Act consultation was performed between APHIS and the U.S. Fish and Wildlife Service (FWS). Importation of the other four genera (*Alstroemeria*, *Ananas*, *Anthurium*, and *Nidularium*) has been allowed since the effective date of the final rule published on January 13, 1995 (60 FR 3067–3078, Docket No. 89–154–2). APHIS recently concluded its consultation with the FWS and determined that there were no endangered species concerns that would preclude importing potted *Rhododendron* spp. from Europe.

Comments on the initial regulatory flexibility analysis indicated that there is little existing economic data on import trade in plants in growing media and that neither risks nor economic effects can be projected on the basis of the small amount of data available for this trade. This fact is acknowledged in the risk assessments prepared for this action and in the economic analysis below, which explain our analytical basis for projecting risks and economic effects. No changes to the proposed requirements were made based on these comments.

Alleviating unnecessary quarantine restrictions often can be equated to elimination of trade barriers. Removal of trade barriers has two broad economic objectives. First, freer trade between countries results in lower consumer prices and increases the variety and quality of goods and services available in the local economy. Second, freer trade encourages a nation's resources to be invested in areas of comparative advantage. This enhances the economic well-being of all countries.

U.S. consumers are direct beneficiaries of government policies that promote freer trade. Domestic consumers benefit by having access to higher quality goods and services at lower prices. Freer trade increases consumer purchasing power by lowering prices and eliminating the deadweight loss associated with quarantine restrictions and other trade barriers.

Relaxation of trade barriers also results in changes in producer revenue. The amount of total producer income can increase or decrease depending on the elasticity of demand. When U.S. trade restrictions are lifted, a portion of industry profit will be transferred from domestic to foreign producers. Additionally, any increase in the amount of total producer income will go to foreign producers.

The economic effects on producers and consumers of potted *Rhododendron* spp. can be analyzed by comparing potential changes in consumer and producer surpluses. Producer surplus is measured by estimating the changes in profit (economic rent) based on potential fluctuations in product prices and quantities. Consumer surplus is the change in aggregate purchasing power and consumer utility when the price and quantity of goods change. An increase (decrease) in supply will decrease (increase) prices and translate into an increase (decrease) in consumer purchasing power (consumer surplus). The net effect on society of regulatory changes is the sum of the estimated changes in consumer and producer surpluses.

This analysis focuses on the U.S. wholesale plant market. Therefore, domestic consumers of potted *Rhododendron* spp. include retail firms, landscape brokers, contractors, dealers, and other retail or garden centers.

Initially, APHIS does not expect this rule to have an economic effect on the domestic potted plant market because phytosanitary restrictions will preclude any increased availability of imported *Rhododendron* spp. in the domestic market. European producers will be required to meet stringent phytosanitary standards before plants can be shipped to the United States. To date, no European facilities have received APHIS approval to export *Rhododendron* spp. in growing media to the United States. European producers would likely be required to upgrade existing greenhouses or construct new production units before receiving permission to ship products to the United States. Time will be required for European producers to upgrade and adjust their production practices to meet

the new requirements. Therefore, APHIS anticipates an 8- to 10-month delay between publication of the final rule and the appearance of potted European-origin *Rhododendron* spp. in the domestic marketplace.

The total value of the domestic nursery and floriculture crop (nursery stock, plants, roots, bulbs, seeds, and other plant products) industry is estimated to be about $6.1 billion. This represents about 3.7 percent of the value of domestic agriculture.[1] Annual U.S. floriculture crop sales total about $3.5 billion. Therefore, floriculture crop sales account for about 57.4 percent of total cash receipts for the U.S. nursery and floriculture industry.[2] The estimated value of annual potted *Rhododendron* spp. production in the United States totals about $48.3 million annually (Table 1). This accounts for about 1.4 percent of the annual sales volume for domestic floriculture producers.

TABLE 1.—ESTIMATED U.S. PRODUCTION OF RHODODENDRON SPP.

Genera	No. of wholesale nurseries	No. of plants sold	Estimated value of annual sales
Rhododendron spp.[3]	493	14,225,000	$48,334,000

Source: Floriculture Crops Summary (1998).

Imports of *Rhododendron* spp. in media would increase the supply and establish a new market equilibrium. A larger quantity of plants would be available at a lower price. Consumer and producer surpluses would be affected by the supply shift. The consumer surplus would be expanded and the producer surplus would increase.

In summary, this rule will allow U.S. consumers to purchase more potted *Rhododendron* spp. at lower prices. This increases U.S. consumer welfare and decreases U.S. producer surplus. Therefore, this rule will result in a net welfare gain to U.S. society.

We developed low- and high-impact scenarios to estimate the potential change in net U.S. welfare. This study assumes that prices will drop by 10 and 30 percent in the low- and high-impact scenarios, respectively (see page 7 of the full economic impact analysis).

Analysis indicates that this rule will increase net welfare for U.S. society by between $0.339 and $0.484 million when prices are assumed to drop by 10 percent (Table 2). A 10 percent price reduction increases domestic consumer welfare by between $4.933 and $5.078 million. However, U.S. producers of *Rhododendron* spp. will incur welfare losses totaling about $4.595 million (Table 2).

When prices are reduced by 30 percent, net welfare is increased by between $3.047 and $4.353 million (Table 2). Consumer welfare would be increased by between $15.380 and $16.686 million, and producer welfare would be decreased by about $12.333 million (Table 2).

TABLE 2.—ESTIMATED WELFARE EFFECTS ASSUMING UNITARY SUPPLY ELASTICITIES AND PRICE DECREASES OF 10 AND 30 PERCENT

Estimated percentage price decrease	$E_d = -0.4$			$E_d = -0.6$			$E_d = -1.0$		
	U.S. producer loss	U.S. consumer gain	Net welfare impact	U.S. producer loss	U.S. consumer gain	Net welfare impact	U.S. producer loss	U.S. consumer gain	Net welfare impact
$E_s = 1.0$	Million Dollars			Million Dollars			Million Dollars		
Scenario 1: 10 Percent	−4.595	4.933	0.339	−4.595	4.982	0.387	−4.595	5.078	0.484
Scenario 2: 30 Percent	−12.333	15.380	3.047	−12.333	15.815	3.482	−12.333	16.686	4.353

The Regulatory Flexibility Act requires that APHIS specifically consider the economic effect of rules on "small" business entities. The Small Business Administration (SBA) has set forth size criteria by Standard Industrial Classification (SIC), which was used as a guide in determining which economic entities meet the definition of a "small" business. This final rule will have a minor economic effect on small business entities.

The SBA does not maintain specific size standards for domestic entities that produce potted *Rhododendron* spp. Therefore, this analysis uses the size standards established for Retail Nurseries, Lawn and Garden Supply Stores (SIC code 5261). The SBA's definition of a "small" entity included in the Retail Nurseries, Lawn and Garden Supply Stores classification is one that collects less than $3.5 million in annual receipts.

Rhododendron spp. are grown by about 493 domestic producers (Table 1). Nurseries that collect less than $3.5 million in annual receipts are considered "small" for the purposes of this analysis. APHIS estimates that all of these nurseries are "small" according to the above criteria.[4] These nurseries are diversified operations that produce many varieties of potted plants and other greenhouse products. Therefore, we anticipate that the rule will not have a significant economic effect on small producers.

The SBA definition of a "small" business engaged in the import/export business is one that employs no more than 100 employees. The number of

[1] U.S. Department of Commerce, Bureau of the Census, *1992 Census of Agriculture*; October 1994.

[2] USDA, National Agricultural Statistics Service, *1997 Floriculture Crops Summary*; April 1988.

[3] We used 1997 production data for finished florist azaleas as a proxy measure for total *Rhododendron* spp. production in this analysis. We did not include nursery azaleas and rhododendron production in this analysis due to data limitations associated with the 1987 Census of Horticultural Specialties.

[4] Note that the definition of a "small" nursery has changed since publication of the final rule for importation of *Alstroemeria*, *Ananas*, *Anthurium*, and *Nidularium*. At that time a "small" nursery was defined as having annual sales of $1 million or less.

firms that may qualify as a "small" business under this definition cannot be determined. Small importers will likely benefit from the rule. The rule will enable some "small" importers to enhance their income through imports of *Rhododendron* spp. in growing media.

Small retailers will benefit from importation of *Rhododendron* spp. in growing media. The rule will enhance the availability and quality of potted plants in the U.S. market. Plant retailers will benefit from lower wholesale prices and will likely pass any savings on to their customers. This would increase annual sales volume and revenue.

Summary

This rule will allow importation from Europe of *Rhododendron* spp. in growing media. The regulations will require that imported *Rhododendron* spp. originate from secure greenhouses and meet other conditions to exclude plant pests and diseases.

During 1997, about 14.2 million potted *Rhododendron* spp. valued at $48.3 million were produced in the United States.[5] We developed low- and high-impact scenarios to estimate potential changes in net U.S. welfare. This study assumes that prices will drop by 10 and 30 percent in the low- and high-impact scenarios, respectively.

This rule will increase net welfare for U.S. society by between $0.339 and $0.484 million if prices drop by 10 percent. The rule will increase the welfare of domestic consumers of *Rhododendron* spp. by between $4.933 and $5.078 million if prices drop by 10 percent. However, U.S. producers of *Rhododendron* spp. will incur welfare losses totaling about $4.595 million.

If prices are reduced by 30 percent, net welfare will increase by between $3.047 and $4.353 million, consumer welfare will increase by between $15.380 and $16.686 million, and producer welfare will decrease by about 12.333 million.

Rhododendron spp. are grown by about 493 domestic producers. Nurseries that collect less than $3.5 million in annual receipts are considered "small" for the purposes of this analysis. APHIS estimates that all of these nurseries are "small" according to the above criteria. These nurseries are diversified operations that produce many varieties of potted plants and other greenhouse products. Therefore, we anticipate that the rule will not have a significant economic effect on small producers.

[5] Production data for finished florist azaleas was used as a proxy measure for all domestic *Rhododendron* spp. production. Nursery azaleas and rhododendron production were not included in this analysis due to data limitations associated with the 1987 Census of Horticultural Specialties.

Executive Order 12988

This final rule has been reviewed under under Executive Order 12988, Civil Justice Reform. This rule allows the importation from Europe of *Rhododendron* established in growing media. State and local laws and regulations regarding articles imported under this rule will be preempted while the articles are in foreign commerce. Some nursery stock is imported for immediate distribution and sale to the consuming public and will remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the importation of *Rhododendron* from Europe will not present a risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) the National Environmental Policy Act of 1969, as amended (NEPA)(42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). All information collection requirements associated with this rulemaking have been previously approved by OMB and assigned control number 0579–0049.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80 and 371.2(c).

2. Section 319.37–8 is amended as follows:

a. In paragraph (e) introductory text, by adding the phrase "Rhododendron from Europe," immediately before the phrase "and *Saintpaulia*."

b. In paragraph (e)(2)(ii), the second sentence, by adding the phrase "(0.2 mm for greenhouses growing *Rhododendron* spp.)" immediately after the phrase "0.6 mm".

c. In paragraph (e)(2)(vii), by removing the word "and," immediately after the word "pests;".

d. In paragraph (e)(2)(viii), by removing the period at the end of the paragraph and adding a semicolon in its place.

e. By adding new paragraphs (e)(2)(ix) and (e)(2)(x) to read as follows:

§ 319.37–8 Growing media.

* * * * *

(e) * * *

(2) * * *

(ix) For *Rhododendron* species only, the plants must be propagated from mother plants that have been visually inspected by an APHIS inspector or an inspector of the plant protection service of the exporting country and found free of evidence of diseases caused by the following pathogens: *Chrysomyxa ledi* var. *rhododendri, Erysiphe cruciferarum, Erysiphe rhododendri, Exobasidium vaccinnum* and *vaccinum* var. *japonicum*, and *Phomopsis theae;* and

(x) For *Rhododendron* species only, the plants must be grown solely in a greenhouse equipped with automatic closing double doors of an airlock type, so that whenever one of the doors in an entryway is open the other is closed, and the plants must be introduced into the greenhouse as tissue cultures or as rootless stem cuttings from mother plants that:

(A) Have received a pesticide dip prescribed by the plant protection service of the exporting country for mites, scale insects, and whitefly; and

(B) Have been grown for at least the previous 6 months in a greenhouse that meets the requirements of § 319.37–8(e)(2)(ii).

Done in Washington, DC, this 19th day of November 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–30994 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AF49

1999 Marketing Quota and Price Support for Flue-Cured Tobacco

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to codify determinations made by the Secretary of Agriculture (the Secretary) with respect to the 1999 crop of flue-cured tobacco (types 11–14). In accordance with the Agricultural Adjustment Act of 1938, as amended, (the 1938 Act), the Secretary determined the 1999 marketing quota for flue-cured tobacco to be 666.2 million pounds. In accordance with the Agricultural Act of 1949, as amended, (the 1949 Act), the Secretary determined the 1999 price support level to be 163.2 cents per pound.

EFFECTIVE DATE: December 15, 1998.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Tobacco and Peanuts Division, USDA, FSA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514, telephone 202–720–5346. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant for purposes of Executive Order 12866 and has been reviewed by OMB.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Commodity Loans and Purchases—10.051.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Commodity Credit Corporation (CCC) nor Farm Service Agency (FSA) are required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain any information collection requirements that require clearance through the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Statutory Background

This rule is issued pursuant to the provisions of the 1938 Act and the 1949 Act. Section 1108(c) of Pub. L. 99–272 provides that the determinations made in this rule are not subject to the provisions for public participation in rulemaking contained in 5 U.S.C. 553 or in any directive of the Secretary. Further, this rule affirms existing determinations which are time-sensitive. For these reasons, it was determined that to delay the implementation of the rule would be impracticable, unnecessary, and counter to the public interest and that the rule would be made effective as of the date the underlying determinations were made.

Proclamation

On December 15, 1998, the Secretary announced the national marketing quota and the price support level for the 1999 crop of flue-cured tobacco. A number of related determinations were made at the same time, which this final rule affirms.

Marketing Quota

Section 317(a)(1)(B) of the 1938 Act provides, in part, that the national marketing quota for a marketing year for flue-cured tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) The amount of flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the 3 marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, that the Secretary, in the Secretary's discretion, determines necessary to adjust loan stocks to the reserve stock level.

The reserve stock level is defined in section 301(b)(14)(C) of the 1938 Act as the greater of 100 million pounds or 15 percent of the national marketing quota for flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 1999 crop of flue-cured tobacco by December 1, 1998. Five such manufacturers were required to submit such a statement for the 1999 crop and the total of their intended purchases for the 1999 crop is 327.0 million pounds. The 3-year average of exports is 355.2 million pounds.

The national marketing quota for the 1998 crop year was 807.6 million pounds published at (63 FR 55937) October 20, 1998. Thus, in accordance with section 301(b)(14)(C) of the 1938 Act, the reserve stock level for use in determining the 1999 marketing quota for flue-cured tobacco is 121.1 million pounds.

Due to short crops in 1995 and 1996, all pre-1997 loan stocks held by the Flue-Cured Tobacco Cooperative Stabilization Corporation have been sold. In addition, cigarette

manufacturers agreed to purchase 103.8 million pounds of the 1997 loan inventory. Loans made on the 1998 crop total 82.4 million pounds. Based on these figures, it was determined that the adjustment to maintain loan stocks at the reserve supply level should be a decrease of 35.4 million pounds.

The total of the three marketing quota components for the 1999 Marketing Year (MY) is 646.8 million pounds. In addition, the discretionary authority to increase the three-component total by 3 percent was used due to the adverse impact on small farmers of the large reduction (still 18 percent) in the 1999 marketing quota. Accordingly, the national marketing quota for the MY beginning July 1, 1999, for flue-cured tobacco was set at 666.2 million pounds.

Section 317(a)(2) of the 1938 Act provides that the national average yield goal be set at a level that the Secretary determines will improve or insure the useability of the tobacco and increase the net return per pound to the producers. Since average yields have not changed significantly in recent years, the national average yield goal for the 1999 MY will be 2,088 pounds per acre, the same as last year's level.

In accordance with section 317(a)(3) of the 1938 Act, the national acreage allotment for the 1999 crop of flue-cured tobacco is determined to be 319,061.30 acres, derived from dividing the national marketing quota by the national average yield goal.

In accordance with section 317(e) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 3 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that a national reserve for the 1999 crop of flue-cured tobacco of 900 acres is adequate for these purposes.

In accordance with section 317(a)(4) of the 1938 Act, the national acreage factor for the 1999 crop of flue-cured tobacco for uniformly adjusting the acreage allotment of each farm is determined to be 0.820, which is the result of dividing the 1999 national allotment (319,061.30 acres) minus the national reserve (900 acres) by the total of allotments established for flue-cured tobacco farms in 1998 (387,987.69 acres).

In accordance with section 317(a)(7) of the 1938 Act, the national yield factor for the 1999 crop of flue-cured tobacco is determined to be 0.9264, which is the result of dividing the national average yield goal (2,088 pounds) by a weighted national average yield (2,254 pounds).

Price Support

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level determined in accordance with a formula prescribed in section 106 of the 1949 Act.

With respect to the 1999 crop of flue-cured tobacco, the level of support must be determined, in particular, in accordance with sections 106(d) and (f) of the 1949 Act. Section 106(f)(7)(A) of the 1949 Act provides that the level of support for the 1999 crop of flue-cured tobacco shall be:

(1) The level, in cents per pound, at which the 1998 crop of flue-cured tobacco was supported, plus or minus, respectively;

(2) An adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which:

(I) The average price received by producers for flue-cured tobacco on the U.S. auction markets, as determined by the Secretary, during the 5 MYs immediately preceding the MY for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than;

(II) The average price received by producers for flue-cured tobacco on the U.S. auction markets, as determined by the Secretary, during the 5 MYs immediately preceding the MY prior to the MY for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(B) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of certain prices paid by the tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year for which the determination is made.

The difference between the two 5-year averages (*i.e.*, the difference between (A) (I) and (A) (II)) is 1.9 cents per pound. The change in the cost index from January 1, 1998, to December 31, 1998, is −2.8 cents per pound. Applying these components to the price support formula (1.9 cent per pound, two-thirds weight; −2.8 cents per pound, one-third weight) results in a weighted total of +0.4 cent per pound. As indicated, section 106 of the 1949 Act provides that the Secretary may, on the basis of supply and demand conditions, limit the change in the price support level to no less than 65 percent of that amount. However, because the formula increase is very small, this discretion was not used for 1999. Accordingly, the 1999 crop of flue-cured tobacco will be supported at 163.2 cents per pound, 0.4 cent higher than the 1998 crop.

List of Subjects

7 CFR Part 723

Acreage allotments, marketing quotas, penalties, reporting and recordkeeping requirements, cigarettes.

7 CFR Part 1464

Loan programs-tobacco, price support programs-tobacco, reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 723 and 1464 are amended as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Section 723.111 is amended by adding paragraph (g) to read as follows:

§ 723.111 Flue-cured (types 11–14) tobacco.

* * * * *

(g) The 1999 crop national marketing quota is 666.2 million pounds.

PART 1464—TOBACCO

3. The authority citation for 7 CFR part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1 and 1445–2, 15 U.S.C. 714b, 714c.

4. Section 1464.12 is amended by adding paragraph (g) to read as follows:

§ 1464.12 Flue-cured (types 11–14) tobacco.

* * * * *

(g) The 1999 crop national price support level is 163.2 cents per pound.

Signed at Washington, DC, on November 24, 1999.

Keith Kelly,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–31082 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE156, Special Condition 23–100–SC]

Special Conditions; Piper Cheyenne PA–31T2; Protection of Systems for High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Carpenter Avionics, Inc., 624–B Fitzhugh Blvd., Smyrna Airport, Smyrna, Tennessee 37167, for a Supplemental Type Certificate for the Piper Cheyenne PA–31T2 airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. These novel and unusual design features include the installation of electronic flight instrument system (EFIS) displays for which the applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is November 18, 1999. Comments must be received on or before December 30, 1999.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE156, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE156. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4123, or Les Taylor, Aerospace Engineer, at the same address, telephone (816) 329–4134.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. CE156." The postcard will be date stamped and returned to the commenter.

Background

On June 25, 1999, Carpenter Avionics Inc., 624–B Fitzhugh Blvd., Smyrna Airport, Smyrna, Tennessee 37167, made an application to the FAA for a new Supplemental Type Certificate for the Piper Cheyenne PA–31T2 airplane. The Cheyenne is currently approved under TC No. A8EA. The proposed modification incorporates a novel or unusual design feature, such as digital avionics consisting of an EFIS, that is vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.101, Carpenter Avionics, Inc. must show that the Piper Cheyenne PA–31T2 aircraft meets the following provisions, or the applicable regulations in effect on the date of application for the change to the Cheyenne PA–31T2: CAR 3 effective May 15, 1956, through Amendment 3–8, effective December 18, 1962; FAR 23.205, 23.1545, 23.1563 and 23.1583, as amended by Amendment 23–3, effective November 11, 1965; and FAR 23.1557(c) as amended by Amendment 23–7, effective September 14, 1969; and the Eastern Region Engineering and Manufacturing Branch letter of December 6, 1965, addressing the showing of equivalent safety with regard to CAR 3.682, 3.771 and 3.772. Special Conditions No. 23–3–EA–1, Docket No. 9245, including Amendment No. 1 and AEA–210 letter of November 11, 1971, as amended by AEA–210 letter of February 1, 1978, referring to Amendment 23–14 and FAR 23.991 as amended by Amendment 23–7, effective September 14, 1969. Noise Certification—FAR 36 up to Amendment 10, as applicable. Fuel Venting Emissions—SFAR 27 up to Amendment 3, as applicable, and § 23.1301 of Amendment 23–20; §§ 23.1309, 23.1311, and 23.1321 of Amendment 23–49; and § 23.1322 of Amendment 23–43; exemptions, if any; and the special conditions adopted by this rulemaking action.

Discussion

If the Administrator finds that the applicable airworthiness standards do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane, special conditions are prescribed under the provisions of § 21.16.

Special conditions are normally issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), and become a part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

Carpenter Avionics Inc. plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFIS, which are susceptible to the HIRF environment, that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems from High Intensity Radiated Fields (HIRF): Recent advances in technology have given rise to the application in aircraft designs of

advanced electrical and electronic systems that perform functions required for continued safe flight and landing. Due to the use of sensitive solid state advanced components in analog and digital electronics circuits, these advanced systems are readily responsive to the transient effects of induced electrical current and voltage caused by the HIRF. The HIRF can degrade electronic systems performance by damaging components or upsetting system functions.

Furthermore, the HIRF environment has undergone a transformation that was not foreseen when the current requirements were developed. Higher energy levels are radiated from transmitters that are used for radar, radio, and television. Also, the number of transmitters has increased significantly. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit-installed equipment through the cockpit window apertures is undefined.

The combined effect of the technological advances in airplane design and the changing environment has resulted in an increased level of vulnerability of electrical and electronic systems required for the continued safe flight and landing of the airplane. Effective measures against the effects of exposure to HIRF must be provided by the design and installation of these systems. The accepted maximum energy levels in which civilian airplane system installations must be capable of operating safely are based on surveys and analysis of existing radio frequency emitters. These special conditions require that the airplane be evaluated under these energy levels for the protection of the electronic system and its associated wiring harness. These external threat levels, which are lower than previous required values, are believed to represent the worst case to which an airplane would be exposed in the operating environment.

These special conditions require qualification of systems that perform critical functions, as installed in aircraft, to the defined HIRF environment in paragraph 1 or, as an option to a fixed value using laboratory tests, in paragraph 2, as follows:

(1) The applicant may demonstrate that the operation and operational capability of the installed electrical and electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the HIRF environment defined below:

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

or,

(2) The applicant may demonstrate by a system test and analysis that the electrical and electronic systems that perform critical functions can withstand a minimum threat of 100 volts per meter, peak electrical field strength, from 10 kHz to 18 GHz. When using this test to show compliance with the HIRF requirements, no credit is given for signal attenuation due to installation.

A preliminary hazard analysis must be performed by the applicant, for approval by the FAA, to identify either electrical or electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane. The systems identified by the hazard analysis that perform critical functions are candidates for the application of HIRF requirements. A system may perform both critical and non-critical functions. Primary electronic flight display systems, and their associated components, perform critical functions such as attitude, altitude, and airspeed indication. The HIRF requirements apply only to critical functions.

Compliance with HIRF requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or any combination of these. Service experience alone is not acceptable since normal flight operations may not include an exposure to the HIRF environment. Reliance on a system with similar design features for redundancy as a means of protection against the effects of external HIRF is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

Applicability

As discussed above, these special conditions are applicable to Piper Cheyenne PA–31T2 airplane. Should Carpenter Avionics Inc. apply at a later date for a supplemental type certificate to modify any other model on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR part 21, §§ 21.16 and 21.101; and 14 CFR part 11, §§ 11.28 and 11.49.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Piper Cheyenne PA–31T2 airplane modified by Carpenter Avionics Inc. to add an EFIS.

1. Protection of Electrical and Electronic Systems from High Intensity Radiated Fields (HIRF). Each system

that performs critical functions must be designed and installed to ensure that the operations, and operational capabilities of these systems to perform critical functions, are not adversely affected when the airplane is exposed to high intensity radiated electromagnetic fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies: Critical Functions: Functions whose failure would contribute to, or cause, a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Kansas City, Missouri, on November 18, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate.

[FR Doc. 99–31040 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE145; Special Conditions No. 23–096A–SC]

Special Conditions: Raytheon Model 390 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amended final special conditions; request for comments.

SUMMARY: This document amends special conditions issued to the Raytheon Aircraft Company for the Raytheon Model 390 airplane and requests comments on the revised portion of the amended special conditions. The Small Airplane Directorate issued final special conditions for this airplane on July 9, 1999, and published them on July 23, 1999 (64 FR 39899). The special conditions contained a requirement for operating limitations for weight and loading distribution already covered by an exemption issued to Raytheon Aircraft Company on December 12, 1996 (Exemption No. 6558, Docket No. 132CE). Accordingly, the portion of the special conditions that covers the operating limitations has been amended to remove the additional requirement. Only the revised sections are contained in this document.

Additionally, the special condition for turning flight and accelerated turning stalls has been amended to include a power-at-idle condition. This condition is included to make these special conditions consistent with previously approved special conditions for a similar airplane.

DATES: The effective date of these special conditions is November 15, 1999. Comments must be received on or before December 30, 1999.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket CE145, 901 Locust, Room 506, Kansas City, Missouri 64106; or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: CE145. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, Room 301, 901 Locust, Kansas City, Missouri 64106; telephone (816) 329–4125.

SUPPLEMENTARY INFORMATION: The FAA has determined that the substance of these special conditions has been subject to the public comment process and those comments were resolved. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to CE145." The postcard will be date stamped and returned to the commenter.

Background

On August 1, 1995, Raytheon Aircraft Company (then Beech Aircraft Corporation), 9707 East Central, Wichita, Kansas 67201, applied for a type certificate for their new Raytheon Model 390 Airplane. The Raytheon Model 390 has a composite fuselage, a metal wing with 22.8 degrees of leading-edge sweepback, and a combination composite/metal empennage in a T-tail configuration with trimmable horizontal tail with 27.3 degrees of leading-edge sweepback. The airplane will accommodate six passengers and a crew of two. The Model 390 will have a V_{MO}/M_{MO} of 320 knots/m.83, and has two turbofan engines mounted on the aft fuselage above and behind the wing.

Raytheon plans to incorporate certain novel and unusual design features into the Model 390 airplane for which the airworthiness regulations do not contain adequate or appropriate safety standards. These features include turbofan engines, engine location, swept wings and stabilizer, and certain performance characteristics necessary for this type of airplane.

The final special conditions issued for this airplane on July 9, 1999, which were published on July 23, 1999 (64 FR 39899), contained a requirement covered by an exemption issued to Raytheon Aircraft Company on December 12, 1996 (Exemption No. 6558, Docket No. 132CE). The Small Airplane Directorate has amended SC23.1583 in the special conditions to remove the weight and loading distribution paragraph in the operating limitations portion of the special condition and to add idle thrust stalls to be consistent with past policy. The amended version of the operating limitations and the idle thrust stalls special conditions are published below.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, Raytheon Aircraft Company must show that the Raytheon Model 390 meets the applicable provisions of 14 CFR part 23, effective February 1, 1965, as amended by Amendments 23–1 through 23–52, effective July 25, 1996; 14 CFR part 36, effective December 1, 1969, through the amendment effective on the date of type certification; 14 CFR part 34; exemptions, if any; and the special conditions adopted by this rulemaking action.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 23) do not contain adequate or appropriate safety standards for the Raytheon Model 390 because of a novel or unusual design feature,

special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Raytheon Model 390 will incorporate the following novel or unusual design features: These features include turbofan engines, engine location, swept wings and stabilizer, and certain performance characteristics necessary for this type of airplane. These amended special conditions only address the operating limitations and the addition of idle thrust stalls. The remaining features are addressed in the original special conditions published on July 23, 1999 (64 FR 39899)

Discussion of Previous Comments

A notice of proposed special conditions No. 23–98–01–SC for the Raytheon Aircraft Company Model 390 airplanes was published on November 2, 1998 (63 FR 58660). Comments on the notice were discussed in the final version published on July 23, 1999 (64 FR 39899).

Applicability

As discussed above, these amended special conditions are applicable to the Raytheon Model 390 Airplane. Should Raytheon Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period and those comments were resolved. It is unlikely that further public comment on the original special conditions would result in a significant change from the substance contained herein. For that reason, and since a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that good cause exists for adopting these special conditions upon issuance. However, the FAA is requesting comments to the revisions in the amended special conditions to allow interested persons to submit such written data, views, or arguments as they may desire.

List of Subjects in 14 CFR Part 23

The authority citation for these special conditions is as follows: 49 U.S.C. 106(g); 40113, 44701, 44702, and 44704; 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following amended special conditions are issued as part of the type certification basis for Raytheon Aircraft Company Model 390 airplane.

SC23.203 Turning flight and accelerated turning stalls

Instead of compliance with § 23.203(c), the following apply:

(c) Compliance with the requirements of this section must be shown with:

(1) Flight idle thrust and the thrust necessary to maintain level flight at 1.6 V_{S1} (where V_{S1} corresponds to the stalling speed with flaps in the approach position, the landing gear retracted, and maximum landing weight).

(2) Flaps, landing gear, and deceleration devices in any likely combination of positions.

(3) Trim at 1.4V_{S1} or at the minimum trim speed, whichever is higher.

(4) Representative weights within the range for which certification is requested.

SC23.1583 Operating limitations

Instead of the requirements of § 23.1583, the following apply:

(a) Airspeed limitations. The following airspeed limitations and any other airspeed limitations necessary for safe operation must be furnished:

(1) The maximum operating limit speed, V_{MO}/M_{MO}, and a statement that this speed limit may not be deliberately exceeded in any regime of flight (climb, cruise, or descent) unless a higher speed is authorized for flight test or pilot training.

(2) If an airspeed limitation is based upon compressibility effects, a statement to this effect and information as to any symptoms, the probable behavior of the airplane, and the recommended recovery procedures.

(3) The maneuvering speed, V_O, and a statement that full application of rudder and aileron controls, as well as maneuvers that involve angles of attack near the stall, should be confined to speeds below this value.

(4) The maximum speed for flap extension, V_{FE}, for the takeoff, approach, and landing positions.

(5) The landing gear operating speed or speeds, V_{LO}.

(6) The landing gear extended speed, V_{LE} if greater than V_{LO}, and a statement that this is the maximum speed at which the airplane can be safely flown with the landing gear extended.

(b) Powerplant limitations. The following information must be furnished:

(1) Limitations required by § 23.1521.

(2) Explanation of the limitations, when appropriate.

(3) Information necessary for marking the instruments, required by § 23.1549 through § 23.1553.

(c) Maneuvers. A statement that acrobatic maneuvers, including spins, are not authorized.

(d) Maneuvering flight load factors. The positive maneuvering limit load factors for which the structure is proven, described in terms of accelerations, and a statement that these accelerations limit the angle of bank in turns and limit the severity of pull-up maneuvers must be furnished.

(e) Flightcrew. The number and functions of the minimum flightcrew must be furnished.

(f) Kinds of operation. The kinds of operation (such as VFR, IFR, day, or night) and the meteorological conditions in which the airplane may or may not be used must be furnished. Any installed equipment that affects any operating limitation must be listed and identified as to operational function.

(g) Additional operating limitations must be established as follows:

(1) The maximum takeoff weights must be established as the weights at which compliance is shown with the applicable provisions of part 23 (including the takeoff climb provisions of special condition SC23.67(a) through (c) for altitudes and ambient temperatures).

(2) The maximum landing weights must be established as the weights at which compliance is shown with the applicable provisions of part 23 (including the approach climb and balked landing climb provisions of special conditions SC23.67(d) and SC23.77 for altitudes and ambient temperatures).

(3) The minimum takeoff distances must be established as the distances at

which compliance is shown with the applicable provisions of part 23 (including the provisions of special conditions SC23.55 and SC23.59 for weights, altitudes, temperatures, wind components, and runway gradients).

(4) The extremes for variable factors (such as altitude, temperature, wind, and runway gradients) are those at which compliance with the applicable provision of part 23 and these special conditions is shown.

(h) Maximum operating altitude. The maximum altitude established under § 23.1527 must be furnished.

(i) Maximum passenger seating configuration. The maximum passenger seating configuration must be furnished.

(j) Ambient temperatures. Where appropriate, maximum and minimum ambient air temperatures for operation.

(k) Allowable lateral fuel loading. The maximum allowable lateral fuel loading differential, if less than the maximum possible.

(l) Baggage and cargo loading. The following information for each baggage and cargo compartment or zone.

(1) The maximum allowable load; and

(2) The maximum intensity of loading.

(m) Systems. Any limitation on the use of airplane systems and equipment.

(n) Smoking. Any restriction on smoking in the airplane.

Issued in Kansas City, Missouri, on November 15, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–31041 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM156, Special Conditions No. 25–151–SC]

Special Conditions: McDonnell Douglas Corporation (MDC) Model MD–17 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the McDonnell Douglas Corporation Model MD–17 airplane. This airplane incorporates novel and unusual design features, including the use of power-augmented-lift from externally blown flaps, for which the applicable airworthiness standards for transport category airplanes do not contain adequate or appropriate safety standards. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

EFFECTIVE DATE: December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Gerry Lakin, Project Officer, FAA Transport Airplane Directorate, Standardization Branch, ANM–113, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–1187; facsimile (425) 227–1149; Email: gerald.lakin@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On July 7, 1996, McDonnell Douglas Corporation, 2401 E. Wardlow Rd., Long Beach, CA 90807–5309, a wholly owned subsidiary of The Boeing Company, submitted an application for type certification of a commercial version of the Model C–17 military airplane, designated as the MDC Model MD–17. The MD–17 is a long range, transport category airplane powered by four Pratt & Whitney F–117–PW–100 engines, which are a military version of the PW2040 engines used on other civil transport category airplane types. The airplane will be offered in a cargo configuration only and is designed for carriage of outsized cargo into short runways.

The MD–17 airplane will be certified as a part 25 transport category airplane and, as such, pilots and flight instructors who operate it will have a standard airplane multiengine rating.

Type Certification Basis

Under the provisions of § 21.17, McDonnell Douglas must show that the MD–17 complies with the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–87. In addition, the certification basis includes part 36, as amended at the time of certification; part 34, as amended at the time of certification; any subsequent amendments to part 25 that are required for operation under part 121; and these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the MD–17 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the MD–17 must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36, and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the "Noise Control Act of 1972."

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

MD–17 Design Features

The MD–17 has novel and unusual design features to support the operation of a large transport category sized airplane at airports with very short runways. The MD–17 has externally blown flaps (EBF), which are fixed-vane double slotted flaps that deflect directly into the engine exhaust stream. The MD–17 integrated EBF design includes positioning the engines to provide engine exhaust blowing on the flaps, and flap slots sized to provide engine exhaust flow over both the upper and lower flap and vane surfaces. The resulting flap/exhaust stream interaction provides power-augmented-lift relative to conventional transport category airplane designs. The total lift produced by the EBF is made up of three components: (1) conventional aerodynamic lift produced by the wing and flap; (2) lift due to thrust deflection (the vertical component of the thrust force); and (3) the powered circulation lift (the additional aerodynamic lift resulting from the interaction of the engine exhaust stream on the wing flaps).

To distinguish the new and novel power-augmented-lift design feature of the MD–17 from conventional transport category airplanes, the following definition has been established: Power-augmented-lift means a heavier-than-air airplane capable of operation in regimes of short field takeoff and short field landing, and low speed flight. The airplane depends upon the propulsion system for a significant portion of lift and control during these flight regimes, but relies primarily on conventional wing lift when in the en route configuration.

The MD–17 features Direct Lift Control (DLC), which uses spoilers to provide rapid control of the flight path

angle in the down direction for large flight path adjustments without throttle movement. DLC is actuated via push button switches placed on both sides of the thrust levers. Another feature of the MD–17 design that differs from conventional transport category airplanes is that the spoilers are biased to a non-flush position when the flaps are extended. When in this configuration, separate from the DLC function, the spoilers are electronically linked to the thrust levers to provide airplane response equivalent to instantaneous engine response to thrust lever movement.

The MD–17 Primary Flight Control System (PFCS) provides three-axis control and envelope protection using conventional cockpit controls and control surfaces, and a full authority fly-by-wire Electronic Flight Control System (EFCS) with single-strand mechanical backup. The PFCS provides stability and command augmentation to improve basic airplane characteristics and also integrates the trim and high lift controls.

Pitch and roll control inputs are made through a one-handed center stick controller centrally mounted to the floor in front of each pilot station. In addition to four electronic displays, the cockpit display system incorporates pilot and co-pilot full-time head up displays that can be used as primary flight displays.

The MD–17 will utilize electrical and electronic systems that perform critical functions. Examples of these systems include the electronic displays and electronic engine controls.

As the type design of the MD–17 contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards, special conditions are considered necessary in the following areas:

Power-Augmented-Lift

1. Stall Speeds and Minimum Operating Speeds

The primary purpose of the EBF design feature on the MD–17 is to reduce the takeoff and landing speeds, and hence the required takeoff and landing distances. The benefits provided by this novel design feature are not adequately addressed by the current part 25 stall speed and minimum operating speeds requirements. A special condition is needed to fully address the benefits of the MD–17 design features on stall speeds and minimum operating speeds, and to provide appropriate safety standards to ensure equivalent safety with current part 25 requirements.

The part 25 minimum allowable operating speeds are derived from power-off (i.e., zero thrust or power) stall speeds (V_S), except in those instances where the operating speeds are limited by some other constraint. Appropriate multiplying factors are applied to these power-off stall speeds to provide adequate safety in the one-engine-inoperative power-on condition. The beneficial effects of power-on available lift due to both circulation effects and thrust inclination were well known at the time the airworthiness requirements were developed. Evidence for this point is provided by the requirements associated with the minimum takeoff safety speed, V_{2MIN}, in § 25.107(b). For airplanes without "significant" power-augmented-lift effects in the one-engine-inoperative condition, V_{2MIN} must not be less than 1.20 V_S, or 1.13 V_S if the 1-g stall speed is used. However, for airplanes that realize a significant reduction in stall speed in the one-engine-inoperative power-on condition, the multiplying factor is reduced to 1.15. According to the explanatory information associated with this requirement that is provided in Civil Aeronautics Manual 4b, "The difference in the required factors * * * provides approximately the same margin over the actual stalling speed under the power conditions which are obtained after the loss of an engine. * * *"

The MD–17 power-augmented-lift design, however, achieves significantly more lift from power than would be taken into account by the part 25 requirements. At the conditions applicable to the determination of the takeoff safety speed, V_2, the MD–17 achieves a 15 percent reduction in power-on stall speed. The four percent reduction in V_2 speed permitted by § 25.107(b)(2) for "turbojet powered airplanes with provisions for obtaining a significant reduction in the one-engine-inoperative power-on stalling speed" would therefore not provide "approximately the same margin over the actual stalling speed" as conventional transport category airplanes in the one-engine-inoperative power-on condition. A further reduction in V_2 speed could be made while maintaining the same margin over the one-engine-inoperative power-on stall speed.

At approach thrust, the MD–17 achieves over a 50 percent increase in lift due to power-augmented-lift effects. In the maximum landing flap configuration, the thrust used for a stable approach results in a stall speed reduction of approximately 20 percent relative to the zero thrust stall speed. There are no provisions in part 25, however, for allowing the landing approach speed to be reduced to account for the beneficial effects of power-augmented-lift on stall speeds. For a conventional transport category airplane, thrust or power may vary considerably during the landing approach, including reductions to idle thrust or power. During the landing flare for a conventional transport category airplane, thrust is typically reduced to idle.

The MD–17 power-augmented-lift design, however, requires a significant thrust level to be maintained during the approach to remain on the desired approach flight path. Unlike conventional transport category airplanes, only minor thrust modulation may be necessary during the approach to maintain or recover the desired flight path. The MD–17 design features and operational procedures will discourage use of thrust reductions to make flight path adjustments during approach. Adjustments in speed are obtained through changes in airplane pitch attitude during approach. In addition, the MD–17 is designed to provide very stable controllability characteristics to allow very slow approach speeds using a backside control technique, which is explained later in this preamble. With the backside control technique, airplane pitch attitude is used to control airspeed and thrust is used to control flight path angle.

As stated earlier, the MD–17 incorporates a DLC feature, which uses the spoilers to provide rapid control of the flight path angle in the down direction for large flight path adjustments without throttle movement. DLC is actuated via push button switches placed on both sides of the thrust levers. Separate from the DLC function, the spoilers are biased to a non-flush position in the flaps extended configurations. In this configuration, the spoilers are electronically linked to the thrust levers to provide an airplane response equivalent to instantaneous engine response to thrust lever movement. This feature provides a high level of control feedback and further minimizes the need for thrust adjustments. Because of the unique characteristics of the MD–17 power-augmented-lift design, thrust reduction is not used to reduce the rate of descent at touchdown. Instead, a slight thrust increase and a throttle-coupled reduction in spoiler deflection may sometimes be used to accomplish this task when desired.

To establish a level of safety equivalent to that established in the regulations, the MD–17 minimum

operating speeds should provide approximately the same margin over the stall speed as conventional transport category airplanes under the power conditions that are obtained after the loss of an engine. In a power-augmented-lift airplane like the MD–17, significant increases in lift capability can be achieved not only by increasing angle of attack, but also by increasing thrust. During the takeoff phase of flight, there is no capability to add lift due to power because operation is already based on the use of the maximum thrust available. For approach and landing, however, the lift reserve due to thrust is much greater than that available on conventional transport category airplanes. A rapid lift increase due to increasing thrust is achievable on the MD–17 because it uses not only a higher approach power setting than conventional transport category airplanes, but also spoiler modulation to compensate for engine spool-up time. The higher approach power setting is necessary to compensate for the high induced drag from the power-augmented-lift effects, and to compensate for the relatively high profile drag of the approach and landing configurations, which include spoilers that are biased in the up direction. Advancing the thrust levers modulates the spoilers such that engine spool-up time is compensated for and a rapid increase in lift is achieved.

In addition, the MD–17 design incorporates a feature in which the deployed spoilers will be retracted should the airplane exceed a predetermined angle-of-attack that is less than the stall angle-of-attack. The stall speeds are defined assuming that the spoilers are flush to the wing at the point of stall. McDonnell Douglas must demonstrate to the FAA that the probability of the failure of any system that could change the calculated stall speeds by one-half knot or more is improbable.

Because there is no regulatory requirement to determine one-engine-inoperative power-on stall speeds, there is only limited data available to the FAA for assessing the margins attained under these conditions by the current fleet of conventional transport category airplanes. Based on the limited data that are available, and on the precedent established by Civil Air Regulations part 4b and part 25 for powered-lift credit, on average, conventional transport category airplanes without provisions for obtaining significant lift from power obtain approximately a 4–5 percent reduction in stall speed in the one-engine-inoperative power-on condition. This 4–5 percent reduction in stall speed applies to both the takeoff configuration at takeoff power and the landing configuration at the power for a 3-degree glideslope.

To retain equivalent safety, the MD–17 minimum operating speed in the takeoff configuration, V_2, should retain the additional 4–5 percent safety margin in the one-engine-inoperative power-on stall speed currently obtained on conventional transport category airplanes. To use one-engine-inoperative power-on stall speeds to determine V_{2MIN} for the MD–17, the multiplying factor used to derive V_{2MIN} from power-off stall speeds for conventional transport category airplanes should therefore be increased by not less than 4 percent (i.e., V_{2MIN} must be 1.18 times the power-on 1-g stall speed, rather than 1.13 times the power-off 1-g stall speed). In determining the thrust effects on stall speeds for V_{2MIN} determination, the thrust or power on the operating engines should be no greater than the minimum power that may exist at any point in the takeoff flight path. This means that the takeoff (or derated takeoff) power or thrust for the minimum engine would normally be determined at a height of 1500 feet above the runway surface at the appropriate takeoff power setting for the conditions existing at the time of takeoff. However, if the effect of altitude on takeoff thrust or power up to 1500 feet above the runway surface has a negligible impact on power-on stall speed used for V_{2MIN} determination, thrust or power at the runway height may be used. McDonnell Douglas has provided the FAA with data which show, for the MD–17 power-augmented-lift design, that the effect of altitude on takeoff thrust up to 1500 feet above the runway surface has a negligible (less than 0.5 knots) impact on MD–17 power-on stall speeds used for V_{2MIN} determination.

As noted above, the MD–17 incorporates several design features and operating characteristics that result in significant fundamental differences from the way conventional transport category airplanes are flown in the approach and landing phase of flight. During approach to landing, the MD–17's power-augmented-lift allows it to fly at speeds that are less than the speed at which total airplane drag is a minimum. Therefore, the MD–17 will be operating on the "backside" of the drag (or power) curve, which means that drag increases as speed is reduced and drag is reduced as speed increases. This variation of drag with speed is in the opposite sense to that normally encountered on conventional transport category airplanes operating at higher approach speeds.

A significant consequence of operating on the backside of the drag curve is that MD–17 pilots will use a different technique for controlling airspeed and flight path than is used on conventional transport category airplanes. In the MD–17, the thrust levers (including the DLC switches) are the primary means for controlling flight path for approach and landing. Thrust is increased to reduce descent angle. To increase descent angle, the MD–17 pilot will use small reductions in thrust to make small down flight path adjustments, and will use the DLC thumb switch on the thrust lever to make large down flight path corrections. In effect, the MD–17 pilot uses the throttles in a similar manner to the way a helicopter pilot uses the collective pitch lever. In contrast, the pilot of a conventional transport category airplane primarily uses the pitch control device for flight path control. For airspeed control, the MD–17 pilot uses pitch, while the pilot of a conventional transport category airplane primarily uses thrust.

Another significant characteristic of the power-augmented-lift MD–17 design is that, while operating on the backside of the drag curve, there is not much cross-coupling between pitch and thrust controls. This means that changes in thrust result primarily in changes to the flight path with very little effect on airspeed. Similarly, changes in pitch affect primarily airspeed with little change to the flight path. In combination with a full-authority three-axis fly-by-wire stability and control augmentation system, this characteristic ensures accurate airspeed control during manipulation of the thrust levers to control the flight path descent angle. On a conventional transport category airplane, manipulation of the pitch control to change the flight path will result in unwanted airspeed excursions. For example, a one-degree change in flight path takes four seconds in a conventional transport category airplane and is accompanied by a seven-knot speed change, while the same change in flight path for a powered-lift airplane takes one second and does not result in a speed change.

Analysis of C–17 flight test and piloted simulator data support a conclusion that airspeed can be controlled to a much higher degree of precision during an approach with this airplane than with a conventional transport category airplane. The analysis shows that the standard deviation in speed due to maneuvering varied from 1 to 1.3 knots, while the speed

excursions due to horizontal gusts ranged from 1.6 to 5.3 knots for light to severe turbulence levels. (The 5.3 knot deviation corresponded with severe turbulence, including a 30-knot crosswind and 33-knot headwind at a height of 50 feet above the runway.) The standard deviation for the flight test approaches for reported crosswinds of 13 to 31 knots, including both steep and normal path approaches, was about 3.5 knots.

The unique MD–17 design features and operating characteristics discussed above support a reevaluation of the minimum operating speed for the approach and landing phase of flight. These design features and operating characteristics provide the capability for rapid increases in lift from thrust in the approach and landing configurations. Unlike conventional transport category airplanes, there is no need to reduce thrust to idle at any point in the approach or landing (until after touchdown) for controlling either the flight path or rate of sink at touchdown. Also, airspeed can be controlled very accurately even when flight path changes are being made. Since large thrust decreases will not be necessary nor will thrust be reduced to idle during the approach, and rapid lift increases are available through the use of the thrust levers, the FAA considers the use of one-engine-inoperative power-on stall speeds in determining the reference landing speed, V_{REF}, for the MD–17 to provide equivalent safety to conventional transport category airplanes. In addition, due to the capability for more accurate airspeed control during the approach, the FAA considers it appropriate to reduce the multiplying factor applied to the reference stall speed in determining V_{REF}. For the MD–17, V_{REF} may not be less than 1.20 times the one-engine-inoperative power-on stall speed.

However, until more operational experience is gained with power-augmented-lift airplanes, the FAA will not allow an applicant to establish operating speeds for transport category airplanes lower than the power-off stall speed. To provide some margin between the operating speeds and the power-off stall speed, the MD–17's minimum operating speeds must provide at least a 3 percent speed margin above the power-off stall speed.

In addition to the speed margin obtained by applying factors to the one-engine-inoperative power-on stall speeds, other constraints on the minimum operating speeds must be considered due to the unique characteristics of power-augmented-lift airplanes. For conventional transport category airplanes, providing an airspeed margin between the operating speed and the stall speed provides an adequate angle-of-attack margin to stall. For a power-augmented-lift airplane like the MD–17, however, separate airspeed, angle-of-attack, and thrust margins must be considered. Maneuvering capability may also be more of a concern on a power-augmented-lift airplane because of the difference in thrust effects for a maneuver at a constant airspeed compared to a slowdown maneuver.

Thrust Margin

On the MD–17, variations in thrust at a constant airspeed result in variations in the stall speed margin. While this characteristic provides the capability to increase lift (and hence stall speed margin) simply by increasing thrust, there is also a potential for reductions in stall speed margin following a thrust reduction. On a conventional transport category airplane, where thrust is used primarily to control airspeed, thrust reductions to idle can and do occur. On the MD–17, thrust is used to control flight path rather than airspeed. The DLC feature removes the need for large thrust reductions, and loss of stall margin due to transient thrust reductions can be recovered quickly. Additionally, because V_{REF} is based on the one-engine-inoperative power-on stall speed, additional margin is present in the normal all-engines-operating condition. For the MD–17, the V_{REF} would result in a speed approximately 1.27 times the power-on stall speed with all-engines-operating at the thrust required to maintain the reference approach flight path angle. At maximum thrust, the V_{REF} would be 1.30 times greater than the resulting power-on stall speed.

Another type of thrust variation would be a steady-state thrust reduction that may, for example, be caused by a steady or increasing tailwind, or a decreasing headwind. In this type of situation, attempting to maintain a steady approach path with respect to the ground would result in a steeper descent path angle, which would most likely be attained by a lower thrust setting rather than through use of the DLC. For an approach at the limiting tailwind condition, the steeper approach flight path angle relative to the air mass reduces the MD–17 airspeed margin to stall by less than one knot for normal and steep approaches.

Based on the information presented above, an additional airspeed margin to allow for thrust variation is not considered necessary. The thrust or power on the operating engines used in the stall speed determination for V_{REF} should be the power or thrust used to maintain the steady-state reference flight path angle at V_{REF}. For the MD–17, the reference flight path angle is defined as -3 degrees for a normal approach, and the shallower of -5 degrees or the flight path angle associated with a descent rate of 1000 feet per minute for a steep approach.

Maneuvering Capability

During a banked turn, a portion of the lift generated by the wings provides a force to help turn the airplane. To remain at the same altitude, the airplane must produce additional lift. Therefore, banking the airplane (at a constant speed and altitude) reduces the stall margin, which is the difference between the lift required for the maneuver and the maximum lift capability of the wing. As the bank angle increases, the stall margin is reduced proportionately. Ignoring Mach effects, this bank angle effect on the stall margin can be determined analytically for conventional airplanes, and the multiplying factors applied to the stall speed to determine the minimum operating speeds are intended to ensure that an adequate stall margin is maintained.

For the MD–17, however, the effect of power-augmented-lift on stall speeds differs between a slowdown maneuver (i.e., a wings level deceleration) and a banked turning maneuver at a constant airspeed. The speed reduction during a slowdown maneuver results in a larger contribution of lift from thrust than is provided in a constant speed maneuver. Therefore, for a power-augmented-lift airplane like the MD–17, the stall C_L would be lower in a constant speed turning maneuver than in a slowdown maneuver. To ensure an equivalent level of safety, the MD–17 minimum operating speeds should provide a maneuver margin equivalent to conventional transport category airplanes.

The existing part 25 regulations do not prescribe specific maneuvering margin requirements. However, as part of the proposed 1-g stall amendment to part 25, maneuvering margin requirements are proposed in Notice 95–17 (61 FR 1260, January 18, 1996). These proposed maneuvering margin requirements represent the minimum maneuvering margin to stall warning (or other characteristic that might interfere with normal maneuvering) expected for the current fleet of transport category airplanes. To provide equivalent maneuvering capability within the operational flight envelope, the MD–17 must comply with maneuvering margin requirements equivalent to those

proposed in Notice 95–17, except that the thrust used for the maneuvering capability at V_{REF} may be adjusted as necessary during the maneuver to maintain the reference approach flight path angle. This change is considered appropriate for the backside control technique that will be used on the MD–17, where thrust, rather than pitch, is used as the primary parameter to control flight path.

Angle-of-Attack Margin

Another characteristic of power-augmented-lift airplanes like the MD–17 is that the stall angle-of-attack during a slowdown maneuver can be higher than the stall angle-of-attack achieved at higher speeds. Again, this characteristic results from the variation of the effect of power on lift as speed varies. At higher airspeeds, the contribution of power-augmented-lift can be less than at lower airspeeds. From an operational standpoint, this characteristic can be critical during the approach to landing phase of flight, where a sharp-edged vertical gust could induce a large change in the angle-of-attack at approach speed. For a conventional transport category airplane, where the angle-of-attack margin is generally directly related to airspeed, vertical gust margins are assured by the speed multiples applied to stall speeds when determining the minimum allowable operating speeds. For power-augmented-lift airplanes, this may not be true; therefore, the vertical gust margin must be evaluated independently.

For conventional transport category airplanes, it has been determined that approximately 20 knots of vertical gust margin is provided at the minimum landing approach speed. (Reference: Report No. FAA–RD–76–100, "Progress Toward Development of Civil Airworthiness Criteria for Powered-Lift Aircraft," May 1976, a copy of which is included in the official docket for these special conditions.) To provide equivalent safety, a vertical gust margin of 20 knots will be included as a constraint on V_{REF} for the MD–17 with all engines operating. To ensure safety in the event of an engine failure, the vertical gust margin in the one-engine-inoperative condition must also be considered. Considering the short time period for operation in this failure condition, the FAA has concluded that a vertical gust margin of 15 knots will be required.

Special Condition 1 for MD–17 stall speeds and minimum operating speeds takes into account power-augmented-lift effects for configurations with flaps extended. Additionally, the FAA has determined that the MD–17 stall speeds will be based on 1-g stall criteria consistent with those proposed in Notice 95–17.

Systems

2. Head Up Display (HUD) Used as Primary Flight Display (PFD)

The MD–17 flight deck is equipped with two monochrome head up displays (HUD), one at each pilot station. They are centrally located in front of each pilot, above the glareshield at the pilot's eye level, and between the pilot and the forward window. The MD–17 dual HUD functions as the Primary Flight Display (PFD) for all regimes of normal and abnormal operation and performs the functions of certain primary flight instruments required for transport category airplanes by § 25.1303. The information is electronically projected on a transparent surface with monochrome strokes. It may be used as the only visible display, without any alternative flight instrument indications displayed at the pilot station.

Until recently, HUD certification did not require a special condition because conventional, certified primary flight instruments were also provided at each pilot station and were always visible. The MD–17 dual-HUD installation has the novel and unique feature of being used when it is the only visible display of primary flight information, which is not fully addressed by the current regulations. Therefore, special conditions are adopted for the MD–17 dual HUD installation in the following areas.

Arrangement and Visibility

Section 25.1321(b) states that the "flight instruments required by § 25.1303 must be grouped on the instrument panel. . . ." Section 25.1303 does not adequately address the MD–17 HUD's novel and unique location for a primary flight display, which is above the instrument panel and in the field of view of the forward window.

As described above, the HUD is not in the same visual field as the instrument displays on the instrument panel. The electronically displayed information is projected on a transparent surface and focused at a distance (i.e., optical infinity). Unlike instrument scanning between displays on the instrument panel, when scanning between the HUD and the instrument panel the pilot's eyes must substantially change viewing angle (about 15 degrees), light adaptation, and focus (from infinity to 2 feet). Furthermore, information displayed on the instrument panel cannot as easily be viewed in the pilot's peripheral vision while simultaneously viewing the HUD, when compared to viewing the suite of conventional flight instruments.

Therefore, in addition to compliance with § 25.1321(b), the special condition requires that the HUD provide all information necessary for rapid pilot evaluation of the airplane's flight state and position, during all phases of flight, for manual control of the airplane, and for pilot monitoring of the performance of the automatic flight control system. The HUD must provide equivalent situational awareness of critical information that is normally displayed near but not on the conventional PFD.

Pilot Compartment View and HUD Optical Characteristics

Section 25.1321(a) requires that "[e]ach flight, navigation, and powerplant instrument for use by any pilot must be plainly visible to him from his station with the minimum practicable deviation from his normal position and line of vision when he is looking forward along the flight path." When the pilot is viewing conventional flight instruments, the variations of pilot seating positions are not significant in the pilot's ability to view the flight instruments. However, the optical characteristics of HUD's require that the pilot's eyes be located within a very small volume to view all of the required information, which is not adequately addressed by § 25.1321(a). There is much less tolerance for changes in eye position and viewing angles when viewing the HUD. Hence, the special condition ensures that primary flight information remains visible to the pilot without inadvertent lapses. In addition to compliance with § 25.1321(a), the special condition ensures that the HUD information is fully visible from the cockpit design eye position, at which the required angular dimensions of the external field of view, visibility of other cockpit instruments, and access to cockpit controls are simultaneously realized. Furthermore, the special condition ensures that pilot viewing of the HUD does not unduly restrict pilot head movement, cause unacceptable fatigue or discomfort, or interfere with other required pilot duties.

Also, unlike conventional flight displays, the HUD displays certain flight information symbols conformally (i.e., graphically with angular position and movement corresponding to the external view and in the same angular scale). Mispositioning of conformal symbolic information can be more hazardous than mispositioning the same information on conventional displays. There is no specific rule that addresses the use of

conformal symbolic information as primary flight information. Therefore, the special condition does not permit the display of electronic or optical misalignment of conformal symbology that would be hazardously misleading.

Compatibility With Other Cockpit Displays

The existing regulations did not anticipate and do not address the display limitations of a monochrome HUD. The HUD electronically displays information with monochrome strokes, while on conventional displays color is used to highlight and distinguish different types of information. On color displays, the warning and caution indications follow the same color scheme, red and amber, respectively, as described in § 25.1322 for warning, caution, and advisory lights. This use of red and amber is consistent across the cockpit and serves to give unmistakable meaning to the indications. A monochrome HUD must have an equivalent means to unmistakably highlight and distinguish the same information.

The monochrome HUD must also have certain display design features to make other essential flight information conspicuous, distinct, and meaningful to compensate for the lack of multiple colors. For example, the conventional primary attitude indication distinguishes angles on the pitch scale above the horizon (sky) and angles below the horizon (earth) with different colors, such as blue and brown, respectively. To perform its intended function as the primary attitude indicator, and to ensure satisfactory pilot recognition of unusual attitudes, the HUD must provide clear visual distinction between positive and negative pitch angles by means other than color.

In summary, the display format of the HUD can differ from the format of other cockpit displays of the same information due to differences in their capabilities and limitations. These differences must be regulated to ensure that one format is not so unlike the other that the pilot can misinterpret the information hazardously, or that excessive time and attention is required for the pilot to interpret the information. During critical high workload or emergency conditions, the pilot may need to quickly make a transition from the HUD to other flight instruments to continue safe flight. The existing rules do not adequately address the compatibility of different display formats. This special condition is required to avoid potentially hazardous workload and pilot confusion due to display incompatibility.

To address the above identified inadequacies in current regulations as related to the acceptability of the HUD as the primary source of flight information, Special Condition 2 is adopted as an appropriate set of requirements.

Additional Recommendations or Supporting Data

In addition to the special condition for the HUD system, there are other regulations and advisory material that, although adequate, warrant special attention due to the unique features of the MD–17 HUD installation. The following discussion of applicable regulations is provided for information in the context of this special condition.

Regulations

- Section 25.771(e): "Vibration and noise characteristics of cockpit equipment may not interfere with safe operation of the airplane." Attention should be paid to the visual effects resulting from vibration of the cockpit and the optical components of the HUD, including vibration associated with engine imbalance resulting from fan blade failure.
- Section 25.773(a)(1): "Each pilot compartment must arranged to give the pilots a sufficiently extensive, clear, and undistorted view, to enable them to safely perform any maneuvers within the operating limitations of the airplane, including taxiing, takeoff, approach, and landing." Special attention should be paid to this requirement because of the unique location of the HUD combiner, between the pilot's eyes and the forward windshield, compared to conventional displays. The potential of each combiner structure to obstruct the outside view of both pilots (on-side and off-side) should be considered.
- Section 25.773(a)(2): "Each pilot compartment must be free of glare and reflection that could interfere with the normal duties of the minimum flight crew (established under § 25.1523). This must be shown in day and night flight tests under non-precipitation conditions." Special attention should be paid to this requirement because the unique HUD optical system and the location of the combiner, between the pilot's eyes and the forward windshield, can be especially susceptible to and be the cause of a variety of glare and reflections in the cockpit.
- Section 25.785(k): "Each projecting object that would injure persons seated or moving about the airplane in normal flight must be padded." Typical installations of HUD's include components that project into the space near the pilot's head. Attention should be paid to head contact with these components during all expected operations and pilot activities, especially during turbulence.
- Section 25.1301(a): "Each item of installed equipment must be of a kind and design appropriate to its intended function."

Previously, HUD's for transport category airplanes have been certified with a fully certificated set of primary flight instruments/displays visible on a full-time basis; therefore, the HUD was not required to meet all of the requirements for primary flight instruments. However, the MD–17 HUD's are a primary source of flight information and must comply with those requirements, because alternate instrument flight displays that comply are not in full-time use. Therefore, consideration should be given to the functionality of the MD–17 HUD under all foreseeable operating conditions. For example, looking directly at the sun through the HUD combiner can be painful or harmful to the pilot's eyes; therefore, an alternate display of primary flight information, which complies with the applicable regulatory requirements, must be available on demand. The MD–17 is capable of displaying primary flight information on any of its four multi-function displays (MFD's). To comply with § 25.1321, the two MFD's centered in front of each pilot must be available to display instrument flight information on demand, and the other two center displays must be able to simultaneously display other essential information, such as navigation and engine indications. Selectable display functionality needs special attention in determining compliance with § 25.1301 for the MD–17 suite of displays, including HUD's and MFD's.

The installation of the HUD system must not interfere with or restrict the use of other installed equipment such as emergency oxygen masks, headsets, or microphones. HUD installations typically result in the placement of protruding equipment (e.g., projector, combiner) in the vicinity of the pilot's head and thereby provide the potential for compromising the intended function of the equipment identified above.

The HUD is capable of presenting a large amount of static and dynamic symbology, numbers, and text that can appear cluttered, difficult to interpret, and difficult to see through. Special attention should be given to the potential effects of display clutter, such as interference between moving symbols, other symbols, and alphanumeric information on display functionality, flightcrew task performance, and workload (§ 25.1523; Appendix D).

"Declutter" modes can selectively remove certain data from the display, so special attention should be given to ensuring that essential data cannot be removed, when needed to continue safe flight and landing.

- Section 25.1381a(2)(ii): "Instrument lights must be installed so that no objectionable reflections are visible to the pilot." Attention should be paid both to reflections from other sources on the HUD and those from the HUD on to windows and other displays.

Advisory Material

Advisory Circular (AC) 25–11, "Transport Category Airplane Electronic Display Systems," provides guidance and policy information regarding means to demonstrate the acceptability of electronic displays, including HUD's. All portions of AC 25–11 are applicable to demonstrate compliance for the

special conditions, except for the color unique criteria of paragraph 5. However, note that the fundamental principles specified in subparagraph 5b, Color Perception vs. Workload, do apply and should be followed with non-color means such as size, shape, and location. Although the HUD does not have color, criteria for evaluation of clutter, workload, and display perception, considering distinctive symbology features such as size, shape, and location, are applicable. Also note that, for HUD's, excessive clutter affects not only the workload and readability of the presentation, but also the pilot's ability to see the outside view and visually detect operational hazards. Also, in spite of its title, the luminance criteria of subparagraph 6b, Chromaticity and Luminance, applies to evaluation of the HUD display luminance. Unique HUD requirements for HUD brightness capability and control are specified in Special Condition 2(b)(2).

3. Protection From Unwanted Effects of High Intensity Radiated Fields (HIRF)

The MD–17 uses electrical and electronic systems that perform critical and essential functions. These systems include electronic displays, electronic engine controls, fly-by-wire flight controls, and others. There is no specific regulation that addresses protection requirements for these systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

Changes in technology have given rise to advanced electrical and electronic airplane systems, use of composite materials in airplane structures, and higher energy levels from radio, television, and radar transmitters. The combined effect of these developments has been an increased susceptibility of electrical and electronic systems to electromagnetic fields.

Many advanced digital systems are prone to upsets and/or damage at energy levels lower than analog systems. Digital systems also allow the location of more complex functions in fewer components. These functions were previously performed manually, electromechanically, or hydraulically. The implementation of such advanced systems has found rapid acceptance since they lower cost, crew workload, and maintenance requirements, while airplane performance and fuel efficiency are enhanced.

Propelled by the need to attain higher efficiency, industry has also proceeded to adopt composite materials for use in airplane structures, thus reducing or replacing the use of aluminum. Due to their low conductivity properties, composite materials afford poor shielding effectiveness, further exposing electrical and electronic systems to the electromagnetic environment.

At this time, the FAA and other airworthiness authorities are unable to precisely define or control the HIRF energy level to which the airplane will be exposed in service. Therefore, to ensure that a level of safety is achieved equivalent to that intended by the current regulations, Special Condition 3 requires that new electrical and electronic systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

Airframe

4. Interaction of Systems and Structures

The MD–17 airplane utilizes a full-time electronic flight control system (EFCS). Pilot control commands are sent to flight control computers which condition the input signals, combine them with other sensor data indicating airplane configuration and flight condition, and apply servo position commands to the actuation systems of the control surfaces. In this way, the EFCS affects control surface actuation and therefore the airplane flight loads. Failures that occur in the EFCS may further affect flight loads, both at the time of the event and thereafter.

The current part 25 airworthiness standards were intended to account for control laws for which control surface deflection is proportional to control device deflection. They do not address any nonlinearities or other effects on control surface actuation that may be caused by the EFCS, whether fully operative or in a failure mode. Since the EFCS may affect flight loads, and therefore the structural capability of the airplane, specific regulations are needed to address these effects. Thus, Special Condition 4 is adopted.

If a failure occurs within the EFCS, the airplane may still be capable of operating within a reduced structural envelope. That is, the airplane may be able to meet the strength and flutter requirements of part 25, but at reduced factors of safety or airspeed, as applicable. This reduced structural envelope is considered acceptable provided that it is based on failure probabilities within the EFCS. Special Condition 4 provides specific structural load and aeroelastic stability requirements with reduced factors of safety and/or airspeeds based on the probability of failure. These requirements ensure that the airplane structural design safety margins will be dependent on system reliability. The requirements of Special Condition 4 also ensure that any influence of the EFCS on airplane flight loads will be accounted for when the system is fully operative.

5. Design Maneuvering Requirements for Fly-by-Wire

Use of the EFCS also affects the maneuvering capability of the MD–17, which is not adequately addressed by the current part 25 design maneuver requirements. Special Condition 5 differs from current requirements in that it requires that certain maneuvers be performed by actuation of the cockpit control device as opposed to the corresponding control surface. In addition, the special condition requires consideration of loads induced by the EFCS itself. These requirements ensure that any influence of the EFCS on airplane flight loads will be accounted for.

6. Limit Engine Torque Loads for Sudden Engine Stoppage

McDonnell Douglas proposes to treat the rare sudden engine stoppage condition resulting from structural failure as an ultimate load condition. Section 25.361(b)(1) specifically defines the seizure torque load, resulting from structural failure, as a limit load condition.

The limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming) has been a specific requirement for transport category airplanes since 1957. The size, configuration, and failure modes of jet engines has changed considerably from those envisioned by § 25.361(b) when the engine seizure requirement was first adopted. Engines are much larger and are now designed with large bypass fans capable of producing much larger torque loads if they become jammed. It is evident from service history that the frequency of occurrence of the most severe sudden engine stoppage events, resulting from structural failures, is rare.

Relative to the engine configurations that existed when the rule was developed in 1957, the present generation of engines are sufficiently different and novel to justify issuance of a special condition to establish appropriate design standards. The latest generation of jet engines are capable of producing engine seizure torque loads that are significantly higher than previous generations of engines.

The FAA is developing a new regulation and a new AC that will provide more comprehensive criteria for treating engine torque loads resulting from sudden engine stoppage. In the meantime, a special condition is needed to establish appropriate criteria for the MD–17 type design.

In order to maintain the level of safety envisioned by § 25.361(b), more comprehensive criteria are needed for the new generation of high-bypass engines. Special condition 6 would distinguish between the more common seizure events and those rare seizure events resulting from structural failures. For these more rare but severe seizure events, the criteria would allow deformation in the engine supporting structure (ultimate load design) in order to absorb the higher energy associated with the high-bypass engines, while at the same time protecting the adjacent primary structure in the wing and fuselage by providing an additional safety factor.

To provide appropriate structural design criteria for the engine torque on the MD–17, Special Condition 6 is adopted.

Flight Characteristics

7. Flight Characteristics Compliance via Handling Qualities Rating Method

The EFCS will provide an electronic interface between the pilot's flight controls and the flight control surfaces (for both normal and failure states), generating the actual surface commands that provide for stability augmentation and control about all three airplane axes. Because EFCS technology has outpaced existing regulations (written essentially for unaugmented airplanes, with provision for limited ON/OFF augmentation), a suitable special condition is needed to aid in the certification of flight characteristics.

In addition, service history and certification experience have shown that EFCS-type airplanes and others may be susceptible to airplane-pilot coupling (A–PC) tendencies. Pilot induced oscillations can be considered a subset of A–PC problems. An example of these problems are control systems that are rate or position limited during some pilot commands in which the pilot has no feedback through the controller.

The special condition provides a means by which flight characteristics ("satisfactory," "safe flight and landing," etc.) can be evaluated and compliance found. The Handling Qualities Rating System (HQRS) was developed for airplanes with control systems having similar functions and is employed to aid in the evaluation of the following:

- For all EFCS/airplane failure states not shown to be extremely improbable, and where the envelope (task) and atmospheric disturbance probabilities are each 1.
- For all combinations of failures, atmospheric disturbance level, and flight envelope that yield flight conditions expected to occur more frequently than extremely improbable.
- For any other flight condition or characteristic where part 25 proves to be inadequate for proper assessment of unique MD–17 flight characteristics.

The HQRS provides a systematic approach to handling qualities assessment. It is not intended to dictate program size or need for a fixed number of pilots to achieve multiple opinions. The airplane design itself and success in defining critical failure combinations from the many reviewed in systems safety assessments would dictate the scope of any HQRS application.

Handling qualities terms, principles, and relationships familiar to the aviation community have been used to formulate the HQRS. For example, similarity has been established between the well-known Cooper-Harper rating scale and the FAA three-part rating system. This approach is derived, in part, from work on flying qualities of highly augmented/relaxed static stability airplanes, namely regulatory and flight test guide requirements.

In addition, experience has shown that compliance with only the qualitative, open-loop (pilot-out-of-the-loop) requirements does not guarantee that the required levels of flying qualities are achieved. There must be an evaluation by certification pilots conducting high gain (wide band width) closed-loop (pilot-in-the-loop) tasks, to ensure that the airplane demonstrates the flying qualities required by §§ 25.143(a) and (b) and to minimize the hazards associated with encountering adverse A–PC tendencies in service.

For the most part, these tasks must be performed in actual flight. For conditions that are considered too dangerous to attempt in actual flight (i.e., certain flight conditions outside of the operational flight envelope, flight in severe atmospheric disturbances, flight with certain failure states, etc.), the closed loop evaluation tasks may be performed on a validated high fidelity simulator.

Special Condition 7 is adopted for the MD–17 to aid in the certification of flight characteristics. An acceptable means of compliance with this special condition is provided in AC 25–7A, "Flight Test Guide for the Certification of Transport Category Airplanes."

8. Static Longitudinal Stability

Like other airplanes with similar highly augmented electronic flight control systems, the MD–17 does not literally comply with the requirements prescribed by § 25.173 for static longitudinal stability. In one control mode of the electronic flight control system, no control force is needed to maintain a speed change from the trimmed condition. Although this operating system mode provides quick, accurate pitch response with minimal pilot effort, it does not comply with the literal requirements for static longitudinal stability.

Static longitudinal stability has been required in accordance with part 25 for the following reasons:

- Provides additional speed change cues to the pilot through control force changes.
- Ensures that short periods of unattended operation do not result in any significant changes in attitude, airspeed, or load factor.
- Provides predictable pitch response.
- Provides acceptable level of pilot attention (workload) to attain and maintain trim speed and altitude.
- Provides gust stability.

In order to achieve an equivalent level of safety with part 25, the MD–17 should meet the intent of these principles, even though it may not comply with the literal terms of § 25.173. Special Condition 8 ensures that the MD–17 has suitable static longitudinal stability in any condition normally encountered in service. The HQRS prescribed by Special Condition 7 may be used to make this assessment.

9. Static Lateral-Directional Stability

Because of the MD–17 roll axis design feature in which the commanded roll rate is proportional to roll stick position, aileron control movements and forces do not comply with § 25.177 as they are not proportional to angle of sideslip. This feature is active during all flight phases and conditions, except when the flap/slat handle is at or greater than the 1/2 detent setting, or during a rudder pedal input.

Dihedral effect (as indicated by aileron forces proportional to the angle of sideslip) has been required in accordance with § 25.177 for the following reasons:

- In the event that primary lateral control is lost, roll can be produced by use of the rudder.
- In an airplane with positive dihedral effect, the bank angle and the

lateral control forces required to hold heading provide positive indication of an inadvertent sideslip.

- It can have a beneficial effect on spiral stability.
- In the event of an engine failure, the roll due to the asymmetric yawing moment contributes to the ease of identifying the failed engine.

In order to achieve an equivalent level of safety with part 25, the MD–17 should meet the intent of these principles even though it may not comply with the literal terms of § 25.177.

In lieu of showing compliance with § 25.177, Special Condition 9 is adopted to ensure that the MD–17 has suitable static lateral-directional stability in any condition normally encountered in service. The HQRS prescribed by Special Condition 7 may be used to make this assessment.

10. Control Surface Awareness

In airplanes with electronic flight control systems, there may not always be a direct correlation between pilot control position and the associated airplane control surface position. Under certain circumstances, a commanded maneuver that may not involve a large control input may nevertheless require a large control surface movement, possibly encroaching on a control surface or actuation system limit without the flightcrew's knowledge. This situation can arise in both manually piloted and autopilot flight, and may be further exacerbated on airplanes where the pilot controls are not back-driven during autopilot system operation. Unless the flightcrew is made aware of excessive deflection or impending control surface limiting, piloted or auto-flight system control of the airplane might be inadvertently continued in such a manner as to cause airplane loss of control or other unsafe stability or performance characteristics.

As a result of these concerns, Special Condition 10 is adopted to require that suitable flight control position annunciation be provided to the flightcrew when a flight condition exists in which near full surface authority (not crew-commanded) is being utilized. Suitability of such a display or alerting must take into account that some pilot-demanded maneuvers are necessarily associated with intended full performance, which may saturate the surface. Therefore, simple alerting systems, which would function in both intended or unexpected control-limiting situations, must be properly balanced between needed crew awareness and nuisance factors. A monitoring system that compares airplane motion, surface deflection, and pilot demand could be useful for eliminating nuisance alerting.

Approach and Landing Limitations

11. Steep Approach Air Distance

The MD–17 has a number of design features to support steep approach flight path capability with precision landing. McDonnell Douglas proposes to certify MD–17 landing performance for both conventional 3-degree approach glideslope operation and steep approach operation.

Novel and unique features on the MD–17 provide for increased touchdown dispersion accuracy during steep approach operations relative to conventional transport category airplanes. McDonnell Douglas has proposed an alternative method for defining the airborne portion of the landing distance in lieu of the demonstrated distance from a 50-foot height to touchdown. A special condition is adopted to redefine the air distance portion of the MD–17 landing distance for steep approach operations conducted under a proposed Special Federal Aviation Regulation (SFAR), "Requirements for operational approval of special approaches to short field landings for the McDonnell Douglas Model MD–17 power-augmented-lift airplane," currently being developed by the FAA.

Steep approach operations are intended to minimize the air run to help achieve short field performance. Steep approach for the MD–17 is defined as an approach flight path angle no steeper than −5 degrees, with an approach rate of descent not to exceed 1,000 feet per minute. For the landing reference speeds used by the MD–17, almost all operations are limited by the 1,000 feet per minute constraint, which yields approach flight path angles predominantly in the range from 4 to 4.8 degrees.

Several design features on the MD–17 are intended to enable the airplane to safely fly steep approaches. First, the landing gear is designed to withstand touchdown rates of descent of up to 12.5 feet per second for weights up to 435,800 pounds and 11 feet per second for weights up to 502,100 pounds. Second, the high lift system with externally blown flaps allows operation at relatively low landing reference speeds which, when combined with the MD–17 lift/drag characteristics, allows this airplane to be flown using a backside control technique. Third, a spoiler function electronically linking spoilers and throttle movement provides much more precise flight path control. Fourth, the MD–17 is equipped with a HUD, which displays the airspeed and the flight path vector, and a pilot-selectable flight path marker to indicate the desired flight path. The HUD assists the pilot in precisely controlling the airplane flight path to an aim point on the runway. With no pitch flare needed, the aim point is very close to the actual touchdown point. Considered together, these MD–17 features allow pilots to fly steep approaches and accurate touchdowns near the aim point, while maintaining control over speed and the rate of descent at touchdown.

The backside control technique mentioned above uses thrust changes to primarily affect flight path angle, and pitch changes to primarily affect airspeed. As with all airplanes, there is some control coupling such that any control input will affect both flight path angle and airspeed, but the coupling is minimized for the low speed backside operation used by the MD–17. Reduced control coupling leads to greater precision in airspeed and flight path control. The backside control technique allows throttle inputs to be used to control vertical speed all the way to touchdown instead of the "pitch flare" maneuver used on other airplanes.

The throttle-spoiler interconnect feature of the MD–17 design allows spoiler motion to simulate the effect of immediate engine response to throttle movement. The spoilers are nominally biased in the up direction during steady-state operation. When the throttles are moved, the spoilers move in the direction necessary to provide essentially the same airplane response as an immediate thrust change. As the engine responds, the spoilers, over time, return to their original (biased) positions. This feature eliminates the lag often associated with thrust control.

Over 175 steep approach landings were performed during C–17 testing to demonstrate the precision landing characteristics. All of these runs were made using an operational technique performed by pilots with only three practice runs to gain familiarity with the technique. These approaches were conducted to establish that no exceptional piloting skill or training was required to achieve the tested performance levels. During the demonstrations, only a limited portion of the flight manual allowable wind and temperature conditions were accounted for. The purpose of the testing was to demonstrate that the precision approach accuracy could yield touchdowns with a ±2 standard deviation (σ) band of less than 500 feet relative to the mean touchdown point, while also maintaining an acceptable rate of descent at touchdown.

There are two distinct types of landing operations for the MD–17: (1) conventional landings that will be conducted in accordance with existing part 25 and 121 regulations, and applicable special conditions; and (2) special approaches to short field landings that will be conducted in accordance with existing part 25, a proposed SFAR (to be published at a later date), and applicable special conditions. The proposed SFAR would address additional equipment, training, and operating requirements associated with conducting special approaches to short field landings. McDonnell Douglas intends to provide steep approach capability (allowing operators to seek steep approach approval) for both types of landing operations.

For conventional landings, the steep approach air distance would be determined by using the existing applicable type certification and operating requirements. This special condition for steep approach air distance would only apply to special approaches to short field landings conducted in accordance with the proposed SFAR and Special Condition 12, "Landing Distances for Special Approaches to Short Field Landings." It addresses only the determination of landing distance to be used in conjunction with those operations and does not imply approval to conduct steep approach operations.

For MD–17 steep approach operations conducted under the proposed SFAR, Special Condition 11 is adopted in conjunction with Special Condition 12, in lieu of § 25.125(a).

12. Landing Distances for Special Approaches to Short Field Landings

As noted in the discussion of Special Condition 11, McDonnell Douglas proposes two distinct types of landing operations for the MD–17: (1) conventional landings that will be conducted in accordance with existing part 25 and 121 regulations, and (2) special approaches to short field landings that will be conducted in accordance with a proposed SFAR and associated special conditions.

The operational landing distance margin provided by part 121 takes into account steady-state variables that are not included in the part 25 landing distances, differences in operational procedures and techniques from those used in determining the part 25 landing distances, non steady-state variables, and differences in the conditions forecast at dispatch and those existing at the time of landing. Examples of each of these categories include:

Steady-state variables	Non steady-state variables	Operations vs. flight test	Actual vs. forecast conditions
Runway slope	Wind gusts/turbulence	Flare technique	Runway or direction (affecting slope).
Temperature	Flight path deviations	Time to activate deceleration devices.	Airplane weight.
Runway surface condition (dry, wet, icy, texture).		Flight path angle	Approach speed.
Brake/tire condition		Rate of descent at touchdown	Environmental conditions (e.g., temperature, wind, pressure altitude).
Speed additives		Approach/touchdown speed	Engine failure.
Crosswinds		Height at threshold	
		Speed control.	

Note: This is not intended to be an exhaustive list of variables to be considered.

In order to allow the part 121 operational landing distance margins to be reduced as proposed in the SFAR for special approaches to short field landings, additional type certification requirements are needed. In addition to what is currently required by § 25.125, the landing distances to be used under the proposed SFAR would be required to include the effects of runway slope and ambient temperature. Landing distances on a wet runway would also have to be determined in a manner acceptable to the FAA. In addition, during the flight testing to determine the landing distances, the average touchdown rate of descent and the approach flight path angle would be limited to no greater than 4 feet per second and no steeper than −3 degrees, respectively.

The applicant would be required to establish operating procedures for use in service that are consistent with those used to establish the performance data and can be executed by crews of average skill. The applicant would be required to include, as applicable, procedures associated with speed additives for turbulence and gusts for approaches with all engines operating and with an engine failure on final approach, and the use of thrust reversers on all operative engines during the landing rollout.

The operational landing distance margins applicable to the MD–17, and additional operational considerations associated with the use of these reduced margins (e.g., runway markings, meteorological conditions, and flightcrew procedures and training), are covered in the proposed SFAR.

Although this special condition will explicitly take into account many of the variables currently accounted for by the part 121 operational landing distance margins, some operational landing distance margin is still necessary to account for variables that remain. For example, because § 121.195(d) specifies the maximum takeoff weight for the conditions forecast at the time of landing (including environmental conditions such as temperature and pressure altitude, airport conditions such as runway and direction, and airplane conditions such as fuel burnoff and approach speed), potential differences in the forecast and actual conditions should be taken into account. Other operational issues that should be considered in the operational landing distance margins include piloting technique and time to activate deceleration means, unsteady winds and crosswinds, and airspeed and flight path deviations. Therefore, the proposed SFAR will still contain operational landing distance margins, although reduced from those margins currently required by §§ 121.195 and 121.197, that would be applied to the landing distance determined in accordance with this special condition.

Special Condition 12 provides the additional requirements noted above that the FAA considers necessary to allow operational use of the landing distance margins prescribed in the proposed SFAR. Note that the determination of landing distances in accordance with this special condition does not constitute operational approval

to use landing distance margins reduced from those specified in part 121. Operational approval to use the reduced landing distance margins must be obtained in accordance with the proposed SFAR.

13. Thrust for Landing Climb

Section 25.119(a) states that the airplane must achieve a 3.2 percent climb gradient after initiating a thrust increase from the minimum flight idle position. The thrust allowed is that thrust attained within eight seconds of engine spool-up time from the initiation of thrust lever movement. Because of the power-augmented-lift design, the MD–17 thrust required for a stabilized approach is significantly above a conventional turbojet minimum flight idle setting, and thrust would not be reduced to idle during the approach.

Section 25.119(a) was written to assure that the flightcrew would have sufficient airplane performance to safely transition to a climb during a go-around in the landing configuration. The rule assumes that the approach power setting may be as low as the flight idle position. The MD–17 power-augmented-lift design requires a significant approach thrust level during the approach to maintain the approach flight path. Unlike conventional transport category airplanes, thrust reductions during the approach are not necessary to maintain or recover the flight path. The MD–17 operational procedures will discourage use of thrust reduction to make down flight path adjustments during approach. The direct lift control (DLC) feature provides a down path angle control for large flight path adjustments without throttle movement.

To improve the control response to throttle movement, the MD–17 uses a spoiler function where the spoilers are linked with the throttles to simulate the effect of instantaneous engine response to throttle movement. The throttle-spoiler function is a short-term response; as the engine responds to throttle movement, the spoilers return to their original positions. The approach is flown with a non-zero spoiler bias to allow spoilers to react upward or downward in response to throttle movement. This function provides instantaneous response to control input and allows throttle movement to be minimized.

During the segment from 50 feet to touchdown, the MD–17 uses a backside control technique that does not require either thrust to be reduced to an idle power setting or the use of a pitch-up flare maneuver prior to touchdown. With the backside control technique, airplane pitch attitude is used to control airspeed, and thrust is used to control flight path angle.

In lieu of compliance with § 25.119(a), Special Condition 13 is adopted. The thrust for a stabilized approach, including an appropriate margin for operational safety, will be used as a basis for determining the thrust available for the landing climb requirement. The initial thrust level at the start of the 8-second spool-up time will be the thrust for a stabilized approach at a flight path angle 2 degrees steeper than the desired flight path angle. This thrust level will account for thrust variations during the approach and conservatively represents the initial thrust level.

This special condition is applicable only when the following design features are present:

- At no time in the landing configuration should the thrust be reduced to idle.
- A backside control technique must be used such that a thrust reduction is not used to reduce the rate of descent at touchdown.
- Procedures must be provided in the Airplane Flight Manual to define the proper technique for flight path angle adjustments during approach and landing.
- The airplane must have DLC spoilers or other aerodynamic means of making down path angle adjustments without thrust reduction.
- Throttle movement should activate a short-term aerodynamic surface motion in order to provide a high level of control feedback and to avoid excessive throttle adjustments.
- The airplane and engine state (e.g., airplane weight and engine bleed configuration) and operating conditions (e.g., pressure altitude and temperature) should be the most critical combination relative to the thrust level used to show compliance with this special condition.

Discussion of Comments

Notice of Proposed Special Conditions 25–99–04–SC for the McDonnell Douglas Corporation Model MD–17 airplane was published in the **Federal Register** on May 18, 1999 (64 FR 26900). Two commenters, including the applicant, responded. Some of the comments were of an editorial or clarifying nature and have been incorporated where appropriate. A discussion of the remainder of the comments follows, corresponding to the special conditions as proposed in Notice 25–99–04–SC.

General Comments

The commenter asks what the military certification basis is for the Model MD–17 military version (the C–17), and states that it would be interesting to compare it with the civil basis.

The C–17 was designed for the U.S. Air Force in accordance with the design standards defined in the C–17 System Specification and C–17 Air Vehicle Specification documents per the contractual agreement between the company and the U.S. Air Force.

The specifications for C–17 power-augmented-lift performance speeds include: (1) criteria for power-on minimum margins from stall speeds; (2) angle-of-attack margins from stall expressed in terms of vertical gust margins; and (3) maneuvering capabilities. These C–17 criteria and the corresponding MD–17 criteria, which meet the applicable airworthiness standards of part 25 and are discussed in the MD–17 special condition for power-augmented-lift, are similar or identical in both the nature and magnitude of the required margins.

In the areas of flight controls and flying qualities, previously existing military standards were invoked as part of the overall C–17 specifications. For instance, the flying qualities specifications were a tailored revision of Mil–F–8785B. Similarly, for the MD–17, the FAA adopted previous special conditions issued for other fly-by-wire airplanes.

In summary, the MD–17 special conditions are similar to the standards used for contractual acceptance of the C–17 by the U.S. Air Force, but reflect the part 25 airworthiness standards and do not include U.S. Air Force mission specific items.

The commenter would like to know more about the assumptions made when thrust handling techniques were developed, and further states that the technique proposed for flying the approach on the "backside of the drag curve" is radically different than conventional airplanes, and from airplanes on which most, if not all, civil pilots will have been trained. The commenter is concerned that while such pilots may be able to demonstrate sufficient proficiency during training, there is a real risk that under certain conditions of high workload they may revert to conventional flying techniques. The commenter believes that there should be some safeguarding of the human factors aspects.

The thrust handling techniques for the backside approach for power-augmented-lift aircraft were developed from flight simulator research dating back to the 1970's. Test pilots from several regulatory agencies, including the FAA and the U.K. CAA, participated in these development tests. Test

findings are summarized in FAA Report No. FAA–RD–76–100, "Progress Toward Development of Civil Airworthiness Criteria for Powered-Lift Aircraft," dated May 1976, a copy of which is in the docket for this rulemaking. The results of this research indicate that the ease of flying the backside approach and the capability to accurately hold airspeed and flight path depend to a great extent on minimizing pitch and thrust coupling. Minimizing airspeed changes as a result of thrust changes and minimizing flight path angle changes as a result of pitch changes not only allows more precise speed and path control, but also provides better feedback to the pilot on the effect of the use of the throttle and pitch controls. As noted in the preamble to the proposed special conditions, the MD–17 design minimizes pitch and thrust coupling.

Notwithstanding the research results noted above, and the MD–17 adherence to the design principles resulting from that research, the FAA considered the potential for pilots to revert to the control techniques used on conventional transport category airplanes to be a major concern during the development of the special conditions. To address this concern, the FAA interviewed U.S. Air Force reserve pilots, flew simulator exercises, and reviewed the C–17 service history.

The interviews with the U.S. Air Force reserve pilots were considered to be especially valuable as many of these pilots also fly as line pilots for major airlines, flying conventional transport category airplanes ranging from older Boeing 727's to more modern Boeing MD–11's. These pilots appeared to have little difficulty in transitioning back and forth between the conventional airplanes and the MD–17 with its unique characteristics. Training was essential for introducing the backside technique, but after being exposed to the differences in techniques in the simulator, reversion has not proven to be a problem. The piloting cues and airplane response are significantly different from those of a conventional transport category airplane, which reinforces the use of the backside technique.

The simulator exercises flown by the FAA reinforced both the conclusions of the earlier research efforts and the experiences of the U.S. Air Force reserve pilots. The service history of the C–17 with the U.S. Air Force has been very good, including experience under high workload, high stress conditions. It should also be noted that the Lockheed C–130 airplane, in the short takeoff and landing mode, also flies on the backside and has had a good safety record.

1. Stall Speeds and Minimum Operating Speeds

The commenter states that credit over and above that already given in the part 25 requirements is given for a reduced factor to obtain V_2 as a result of increased effects of power on stalling speed, and asks if adequate stall margins will be available with the use of reduced thrust/EPR techniques.

The credit for power-augmented lift for stall speed in the takeoff phase of flight is based on the minimum power that exists at any point in the takeoff flight path. This requirement includes consideration of derated/reduced power techniques. The same speed margin will exist between the power-on stall speed and the minimum takeoff safety speed for a derated/reduced power takeoff as for a full power takeoff.

The commenter considers the justification for the reduction in V_{REF} resulting from a lower factor applied to a power-on stall speed to be insufficient, at least until some operational experience is gained. For example, one of the reasons given for using the power-on stall speed is that there is no need to reduce thrust to idle at any point during the approach. The commenter further states that while this may be accurate, it is no guarantee that thrust will never be reduced to idle (unless of course a physical movement restriction is provided). The commenter asks how the probability of the airplane being operated, albeit inadvertently, outside of the certification assumptions has been considered within the special conditions.

The FAA considered inadvertent speed and flight path excursions not only due to piloting issues, but also due to environmental conditions and other reasons. The requirements address each of these concerns by providing margins for speed, angle-of-attack, thrust, and maneuverability. Also, certain design features, combined with the piloting cues and operating characteristics of the airplane, reduce the probability of inadvertent and excessive thrust reduction, as well as provide the capability for a quick recovery from both speed and flight path excursions.

Minimal coupling between pitch and thrust reinforces the proper operating techniques of using thrust to control flight path and pitch to control airspeed. Targets for pitch angle, flight path angle, and thrust level are displayed in the head-up primary flight display, along with the current values to assist the pilot in making appropriate control inputs. Large downward flight path changes are enabled through the use of the Direct Lift Control, and rapid changes in the upward direction are possible because of the separate spoiler bias design feature.

The FAA considers the proposed margins provided at the reference landing speed, V_{REF}, to be adequate considering the specific design features and operating characteristics of the MD–17.

Given that the probability of engine failure for part 25 airplanes is generally assumed to be 1.0, the commenter asks what the justification is for the 5-knot reduction in one-engine-inoperative vertical gust margin based solely on the short exposure time in that condition.

Although ensuring safe flight characteristics and performance capability in the event of an engine failure is a fundamental principle embodied in part 25, this does not mean that the probability of an engine failure is generally assumed to be 1.0. The FAA continues to consider a vertical gust margin of 15 knots is adequate to ensure safety in the event of engine failure. For the normal all-engines-operating condition, the FAA considers it appropriate to require a larger margin, equivalent to the vertical gust margin typical of conventional transport category airplanes operating at their minimum landing approach speed. The commenter states that it is not clear how the power is required to be set for the one-engine-inoperative power-on stall speed demonstrations, and that in any case the thrust must be set asymmetrically to simulate a realistic condition, rather than to have thrust set symmetrically.

The power-on stall speeds for the MD–17 power-augmented-lift design are influenced by which engines are operating. The distribution of the engine efflux interacting with the externally blown flaps is different for the all-engines-operating, outboard-engine-inoperative, and inboard-engine-inoperative configurations. As a result, the power-on stall speeds differ between engines-operating configurations for a given weight and total airplane thrust level. Accordingly, the one-engine-inoperative stall speeds for the C–17, the military version of the MD–17, were determined from flight testing with asymmetric thrust.

In addition to the all-engines-operating configuration, the C–17 one-engine-inoperative power-on stall speeds were determined from flight testing of both the outboard-engine-inoperative and inboard-engine-inoperative configurations. The power-on stall speeds for these different engine operating configurations were determined at airplane thrust levels ranging from idle to takeoff thrust. For

test safety purposes, the one-engine-inoperative stall speeds were determined from flight testing with a majority of the one-engine-inoperative test points flown with the "inoperative" engine at idle thrust and the remaining engines at the thrust level desired for a particular test point. A smaller number of power-on stall test points were flown for both the outboard-engine-inoperative and inboard-engine-inoperative configurations with the "inoperative" engine shut down. These test points provided a basis for correcting the majority of the power-on stall speed test data, flown with the "inoperative" engine at idle thrust, to a power-on stall speed level for the "inoperative" engine shut down. This same technique will be acceptable to the FAA for showing compliance with Special Condition 1.

Another commenter points out that the last sentence of Special Condition 1, paragraph (2)(i), "Approach," defines a 2.7 percent gradient of climb requirement without specifying the number of engines. The commenter states that for consistency with the takeoff requirements for gradient of climb [paragraph 1(h)], this should specify the gradient of climb required based on the number of engines.

The inconsistency identified by the commenter was not intended by the FAA when developing the special conditions. The FAA has tailored these special conditions specifically for the MD–17, which is a four-engine airplane. To correct this inconsistency, paragraph 1(h) of the special condition has been revised to limit the applicability to a four-engine airplane.

The commenter states that the preamble description of the spoiler system may imply that the throttle-to-spoiler coupling is a mechanical linkage, and believes that wording changes are needed to clarify that the linkage is not mechanical.

The FAA agrees. The general discussion of the MD–17 design features has been revised to provide clarification that the linkage is electronic. Also, the discussion of "Stall Speeds and Minimum Operating Speeds" has been revised to clarify that in addition to a slight thrust increase to reduce the rate of descent at touchdown, "a throttle-coupled reduction in spoiler deflection" may be used.

2. Head-Up Display (HUD) Used as Primary Flight Display (PFD)

One commenter considers the reliance on dual HUD's for the display of primary flight information to be radical and in need of careful attention, and further considers that better guidance is required for the unusual attitude recovery training using HUD.

The FAA agrees that the use of the HUD as a primary flight display, which includes its use by the pilots for unusual attitude recognition and recovery, is a novel design feature. This is one of the key reasons for the HUD special condition.

The FAA recognizes that unlike conventional primary attitude displays, the HUD is monochrome and "stroke-written," without the contrast of color and shading found in conventional headdown attitude displays. The FAA conducted a multiple expert opinion team study of the C–17 HUD to explore this and several other factors related to its use as a primary flight display. In addition, FAA test pilots flew several unusual attitude recognition and recovery scenarios.

The special condition specifically requires that the HUD perform the function of conventional color primary flight instruments and that the flightcrew must be able to immediately recognize and perform a safe recovery from unusual attitudes. One of many factors that the FAA must evaluate is the ability of the monochrome HUD symbology to effectively distinguish positive (sky) and negative (ground) pitch attitudes. The FAA will carefully determine compliance with these requirements through the use of flight test and simulation.

The commenter states that the preamble discussion of this special condition seems to imply that the dual HUD installation is the novel feature of the MD–17, and that it should emphasize the HUD as the primary flight display (PFD) for each pilot, not just a dual HUD installation.

The FAA considers that the current preamble discussion does, in fact, adequately emphasize that these HUD's will be used as the primary flight display. The fact that this is a dual-HUD installation is also potentially significant, due to their location, depending on the information content displayed and the concurrent use of both HUD's by the flightcrew. The preamble discussion therefore remains unchanged.

The commenter requests that under the preamble discussion of the "Arrangement and Visibility" of the HUD, the second sentence be revised to read, "Section 25.1303 does not adequately address the MD–17 HUD's location, and novel, unique features which allow the pilots to keep their heads up and eyes out of the cockpit while viewing primary flight data." The commenter states that this revision reinforces that the MD–17 HUD installation deviates from the strict location requirements of § 25.1321(b) in order to enhance crew awareness outside the cockpit.

The purpose of this discussion is to explain what is unique and novel about the design that requires the special condition, not to endorse potential advantages of the design. However, to address the commenter's concern, the sentence in question has been revised to read, "Section 25.1303 does not adequately address the MD–17 HUD's novel and unique location for a primary flight display, which is above the instrument panel and in the field of view of the forward window."

The commenter requests that the last sentence of the preamble discussion of the "Arrangement and Visibility" of the HUD be deleted, stating that it is too vague and implies, too generally, that additional data must be displayed on the HUD.

The FAA disagrees. This portion of the preamble discussion describes the scope of, and need for, the kind of requirements specified in the special condition. It is not meant to state the specific requirements of the special condition that require compliance. This discussion therefore remains unchanged.

The commenter requests that the first sentence of the preamble discussion of the "Compatibility with Other Cockpit Displays," be rewritten as it implies that the MD–17 HUD has monochrome limitations that other current HUD's would not have.

The FAA agrees and has revised this discussion accordingly.

The commenter further states that because the MD–17 monochrome HUD represents current state-of-the art, it should not be made to sound as if it is less than current technology. The commenter adds that this requirement for HUD's to highlight certain information is important only if a monochrome HUD is specifically used as a PFD.

This special condition applies only to the MD–17 HUD, not generally to all HUD's. The FAA did not intend to imply that the MD–17 monochrome HUD, alone, has limitations due to the lack of color. However, to address the commenter's concern, the FAA has revised the preamble discussion referred to by the commenter to state that a "monochrome HUD" must have an equivalent means to unmistakably highlight and distinguish the same information.

The commenter states that the wording of the last sentence of the discussion of the "Compatibility with Other Cockpit Displays" which reads,

"the existing rules do not adequately address the compatibility of different display formats in the MD–17 cockpit" implies that the MD–17 cockpit design has a display compatibility problem. The commenter asserts that the MD–17 display formats were designed using human factors design principles to be compatible with other cockpit displays, and recommends that the phrase "in the MD–17 cockpit" be removed to prevent potential misunderstandings of the Boeing display design philosophy.

The FAA agrees and has revised the discussion accordingly.

The commenter recommends that the discussion of the "Additional Recommendations and Supporting Data" be removed, stating that it provides no additional or revised requirements, but simply collects into one location part 25 requirements that the MD–17 must meet.

The FAA does not agree. The regulations and advisory material referred to by the commenter are not part of the special conditions and are not additional requirements. They are listed in the preamble discussion for information only in the context of this special condition. The FAA considers that they should be given special attention due to the uniqueness of the HUD.

Further to the above discussion, the commenter states that the discussion of § 25.1301(a) digresses into a minimum equipment list set of requirements, dictating which displays must be operative and how displays must be used. The commenter considers these to be operational issues that do not belong in this discussion.

The FAA disagrees. Unlike other transport HUD's, the MD–17 HUD's are used as PFD's. Certain environmental light conditions significantly affect the pilot's ability to use the HUD compared to headdown instruments. In some of these conditions, the HUD cannot be relied on as the PFD, so another PFD must be available. The safety objective is to ensure that the flight has functional primary flight displays in all foreseeable conditions. While it may also have MEL implications, this requirement is stated for the sake of the design and functional allocation of the display suite of the flight deck in which these HUD's are installed.

The commenter states that paragraph (a)(2) of the special condition is confusing. The first sentence allows for guidance to be displayed in "close proximity" to the HUD field of view, while the second sentence begins "Likewise" and yet implies that the information must be displayed on the HUD, not in close proximity. The commenter suggests that the second sentence be revised to read "Likewise, other essential information and alerts that are related to displayed information and may require pilot action must be displayed for instant recognition, either on the HUD or in close proximity to the HUD field of view."

The FAA agrees and has revised the special condition as proposed by the commenter.

The commenter requests that the wording of the third sentence of paragraph (a)(7) of the special condition be revised to state that the HUD symbology must not "excessively" interfere with the pilot's forward view, etc. The commenter's reason for the change is that without the word "excessively," a strict FAA interpretation might require all HUD symbology to be removed so as not to interfere with the pilot's forward view at all, thus defeating the intended purpose of the HUD.

The word "excessively" was removed because the criteria for what is and is not excessive were undefined at the time. This is a compliance finding based on FAA flight test pilot judgement. The word "excessively" has been restored, as suggested by the commenter, with an explanation added that "interference would be considered excessive if it prevents the pilot from seeing flight hazards, such as airborne traffic, terrain, and obstacles, or outside visual references required for safe operation such as approach lights, runway lights, runways, and runway markings."

The commenter notes that the term "slowovers" in paragraph (a)(9)(ii) of the special condition is used when discussing autopilot failures, and points out that the unique MD–17 fly-by-wire control design is not subject to slowovers in the same way as conventional designs.

The use of the term "slowover" was intended only as an example of autopilot failures that may cause an upset; the emphasis is actually on the upset. However, to avoid any confusion in this regard, the reference to "slowover" has been removed and the words "as applicable to the MD–17 type design" have been added in its place.

In paragraph (b)(5), the commenter recommends that the FAA maintain the portion of the sentence that reads, "There must be no adverse physiological effects of long term use of the HUD system, such as fatigue or eye strain" and delete the remainder of that sentence and the sentence that follows. The commenter maintains that the design of the MD–17 is such that the pilot can always choose to use the head-down PFD instead of the HUD while seated in a reclined position, and that the HUD is not intended to be relied on as the sole PFD.

The FAA agrees with the change recommended by the commenter and has revised the special condition accordingly.

The same commenter recommends that paragraphs (c)(2)(i) through (viii) be removed, stating that these paragraphs impose a series of safety requirements interpretations for hazards associated with loss or erroneous display of parameters on the HUD and/or elsewhere in the cockpit. The commenter further states that most of these interpretations are already provided in AC 25–11, "Transport Category Airplane Electronic Display Systems." The commenter questions the value of a special condition that applies criteria with which the MD–17 will comply using existing guidance.

The FAA disagrees that this information should be removed. Since direct reference to the AC cannot be included in the text of the special condition, the applicable criteria were inserted instead. This does not change the requirements that were originally agreed to by the applicant and imposes no additional burden.

The commenter states that the MD–17 HUD, by design, will not display any data unless the combiners are fully deployed and aligned, so the warning called out in paragraph (c)(4) of the special condition is of little value. The commenter suggests revising this paragraph to say that the HUD system must monitor the position of the combiner and must not display conformal data that is hazardously aligned due to combiner position. A suitable warning, alerting the crew of this condition, is also acceptable.

The FAA agrees with the intent of the comment and has revised paragraph (c)(4) accordingly.

4. Interaction of Systems and Structure

The commenter points out that a sentence appears to be missing from the special condition.

The FAA agrees. The sentence the commenter is referring to concerns the flutter clearance speeds that may be based on the speed limitation specified for the remainder of the flight. The omission of this sentence in the proposed special condition was an inadvertent oversight, which has been corrected.

7. Flight Characteristics Compliance via Handling Qualities Rating System

The commenter states that in order to determine whether the airplane has suitable stability, objective requirements

are necessary against which to make the assessment. The commenter does not consider the Handling Qualities Rating System to be an acceptable alternative.

The FAA disagrees. The special conditions for flight characteristics evaluation of the MD–17 are the same as those used on other airplanes with similar fly-by-wire flight control systems. The FAA Handling Qualities Rating System has been used successfully to evaluate airplanes with fly-by-wire flight control systems since the early 1980's.

11. Steep Approach Air Distance, and 12. Landing Distances for Approaches to Short Field Landings

The commenter states that the intention to distinguish between conventional and special approaches to short field landings is noted and would be interested in reviewing the complete SFAR, which will address short field operations, when it becomes available. The commenter further states that there also needs to be a clear distinction operationally between the two and asks, "While there is a clear upper limit on the steep approach angle (i.e., 5 degrees or 1,000 fpm), what will be the upper limit for a conventional approach?"

The commenter has misunderstood the proposals related to steep approach operations and special approaches to short field landings. There are two distinct types of landing operations for the MD–17: (1) conventional landings that will be conducted in accordance with existing part 25 and 121 regulations; and (2) special approaches to short field landings that will be conducted in accordance with a proposed SFAR (to be published at a later date) and associated special conditions. These two types of landing operations would be distinguished by the additional equipment, training, and operating requirements associated with approval to conduct special approaches to short field landings. The applicant intends to provide steep approach capability (allowing operators to seek steep approach approval) for both types of landing operations.

The Steep Approach Air Distance special condition, which provides an alternative methodology for determining the airborne part of the landing distance, would apply only to those steep approaches flown as part of a special approach to a short field landing conducted in accordance with the proposed SFAR. In general, the FAA considers a steep approach to be any approach conducted at angles steeper than 3.77 degrees. This value is derived from the normal 3 degrees approach path angle, plus the outside limit for vertical displacement from the 3 degrees glide slope on the Instrument Landing System (ILS), as established by the FAA Flight Standardization Board.

Another commenter notes that the steep approach air distance definition in paragraph (a) of Special Condition 11 does not reflect the specific distance between the runway threshold and the touchdown aim point to be used in operation.

The FAA has revised the wording of this special condition to provide the clarification requested by the commenter.

The same commenter notes that Special Conditions 11(a)(4) and 12(a)(4) refer to a "water loop" maneuver and questions whether this maneuver has ever been demonstrated with a land-based airplane.

The FAA has determined that there is no need to consider this maneuver for a land-based airplane such as the MD–17, and has removed the reference to the water loop maneuver from both special conditions.

This commenter points out that there are several references to approach flight path angle in both the preamble discussion of Special Conditions 11 and 12, and in the text of paragraph 12(b)(4) of Special Condition 12, that use a negative sign convention that could lead to confusion.

The FAA agrees and has revised the wording accordingly.

With the exception of the changes discussed above, the special conditions are adopted as proposed in Notice 25–99–04–SC.

Applicability

As discussed above, these special conditions are applicable to the McDonnell Douglas Model MD–17 series airplanes. Should McDonnell Douglas apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval to use these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for McDonnell Douglas Model MD–17 series airplanes:

1. Stall Speeds and Minimum Operating Speeds

(a) In addition to the general definitions, abbreviations, and symbols provided in §§ 1.1 and 1.2, this special condition relies on the following additional definitions, abbreviations, and symbols:

"Reference flight path angle means -3 degrees for a normal approach, and the shallower of -5 degrees or the flight path angle resulting from a 1000 feet per minute rate of descent for a steep approach."

"V_{SR} means reference stall speed."

"$V_{SR_{PWR}}$ means power-on reference stall speed."

"V_{SRO} means reference stall speed in the landing configuration."

"$V_{SRO_{PWR}}$ means power-on reference stall speed in the landing configuration."

"V_{SR1} means reference stall speed in a specific configuration."

"$V_{SR1_{PWR}}$ means power-on reference stall speed in a specific configuration."

"V_{REF} means reference landing speed."

"V_{FTO} means final takeoff speed."

"V_{SW} means speed at which onset of natural or artificial stall warning occurs."

(b) In lieu of compliance with § 25.103, the following applies:

(1) The reference stall speed, V_{SR}, is a calibrated airspeed as defined in paragraph (3) below. V_{SR} is determined with—

(i) Engines idling, or, if that resultant thrust causes an appreciable decrease in stalling speed, not more than zero thrust at the stall speed;

(ii) The airplane in other respects (such as flaps and landing gear) in the condition existing in the test in which V_{SR} is being used;

(iii) The weight used when V_{SR} is being used as a factor to determine compliance with a required performance standard;

(iv) The center of gravity position that results in the highest value of reference stall speed; and

(v) The airplane trimmed for straight flight at a speed selected by the applicant, but not less than 1.13 V_{SR} and not greater than 1.30 V_{SR}.

(2) Starting from the stabilized trim condition, apply elevator control to decelerate the airplane so that the speed

reduction does not exceed one knot per second.

(3) The reference stall speed, V_{SR}, may not be less than a 1-g stall speed, which is a calibrated airspeed determined in the stalling maneuver and expressed as:

$$V_{SR} = V_{C_{L\,MAX}} / \sqrt{n_{zw}}$$

where:

$V_{C_{LMAX}}$ = Speed occurring when lift coefficient is first a maximum; and

n_{ZW} = Flight path normal load factor (not greater than 1.0) at $V_{C_{LMAX}}$.

(4) The power-on reference stall speed, $V_{SR_{PWR}}$, is a calibrated airspeed as defined in paragraph (6) below. $V_{SR_{PWR}}$ is determined with—

(i) The critical engine inoperative and the power or thrust setting on the remaining engines at the minimum power or thrust level appropriate for the flight condition used to show compliance with a required performance standard;

(ii) The airplane in other respects (such as flaps and landing gear) in the condition existing in the test in which $V_{SR_{PWR}}$ is being used;

(iii) The weight used when $V_{SR_{PWR}}$ is being used as a factor to determine compliance with a required performance standard;

(iv) The center of gravity position that results in the highest value of the power-on reference stall speed; and

(v) The airplane trimmed for straight flight at a speed selected by the applicant, but not less than 1.18 $V_{SR_{PWR}}$ and not greater than 1.36 $V_{SR_{PWR}}$.

(5) Starting from the stabilized trim condition, apply elevator control to decelerate the airplane so that the speed reduction does not exceed one knot per second.

(6) The power-on reference stall speed, $V_{SR_{PWR}}$, may not be less than a 1-g power-on stall speed, which is a calibrated airspeed determined in the stalling maneuver and expressed as:

$$V_{SR_{PWR}} = V_{C_{L_{MAX}}} / \sqrt{n_{zw}}$$

where:

$V_{C_{LMAX}}$ = Speed occurring when lift coefficient is first a maximum; and

n_{ZW} = Flight path normal load factor (not greater than 1.0) at $V_{C_{LMAX}}$.

(c) In lieu of compliance with § 25.107(b), the following applies: V_{2MIN}, in terms of calibrated airspeed, may not be less than—

(1) 1.03 V_{SR};

(2) 1.18 $V_{SR_{PWR}}$, with the operative engines at the minimum thrust or power existing at any point in the takeoff path; and

(3) 1.10 times V_{MC} established under § 25.149.

(d) In addition to compliance with §§ 25.107(c)(1) and (c)(2), the following also applies: A speed that provides the maneuvering capability specified in paragraph (k) below.

(e) In addition to compliance with § 25.107(a) and §§ 25.107(c) through (f), the following also applies: V_{FTO}, in terms of calibrated airspeed, must be selected by the applicant to provide at least the gradient of climb required by paragraph (h) below, but may not be less than—

(1) 1.18 V_{SR}; and

(2) A speed that provides the maneuvering capability specified in paragraph (k) below.

(f) In lieu of compliance with § 25.111(a), the following applies: The takeoff path extends from a standing start to a point in the takeoff at which the airplane is 1,500 feet above the takeoff surface, or at which the transition from the takeoff to the en route configuration is completed and V_{FTO} is reached, whichever point is higher. In addition—

(1) The takeoff path must be based on the procedures prescribed in § 25.101(f);

(2) The airplane must be accelerated on the ground to V_{EF}, at which point the critical engine must be made inoperative and remain inoperative for the rest of the takeoff; and

(3) After reaching V_{EF}, the airplane must be accelerated to V_2.

(g) In lieu of compliance with § 25.119 (b), the following applies: A climb speed of not more than V_{REF}.

(h) In lieu of compliance with § 25.121(c), the following applies:

Final takeoff. In the en route configuration at the end of the takeoff path determined in accordance with § 25.111, the steady gradient of climb may not be less than 1.7 percent at V_{FTO} and with—

(1) The critical engine inoperative and the remaining engines at the available maximum continuous power or thrust; and

(2) The weight equal to the weight existing at the end of the takeoff path, determined under § 25.111.

(i) In lieu of compliance with § 25.121(d), the following applies:

Approach. In a configuration corresponding to the normal all-engines-operating procedure in which $V_{SR_{PWR}}$ for this configuration, with the operative engines at the minimum thrust or power existing at any point in the go-around, does not exceed 110 percent of the $V_{SR_{PWR}}$ for the related all-engines-operating landing configuration, with the operative engines at the power or thrust setting for approach at the reference flight path angle at V_{REF}, the steady gradient of climb may not be less than 2.7 percent with—

(1) The critical engine inoperative, the remaining engines at the go-around power or thrust setting;

(2) The maximum landing weight;

(3) A climb speed established in connection with normal landing procedures, but not more than 1.4 $V_{SR_{PWR}}$ with the operative engines at the minimum power or thrust setting existing at any point in the go-around; and

(4) The landing gear retracted.

(j) In lieu of compliance with § 25.125(a)(2), the following applies: A stabilized approach, with a calibrated airspeed of not less than V_{REF} or V_{MCL}, whichever is greater, must be maintained down to the 50 foot height. V_{REF} may not be less than—

(1) 1.03 V_{SR0};

(2) 1.20 $V_{SR0_{PWR}}$ with the operative engines at the power or thrust setting for approach at the reference flight path angle;

(3) The airspeed that provides an angle-of-attack margin to stall for not less than a 20 knot equivalent airspeed vertical gust with all engines operating at the power or thrust setting for approach at the reference flight path angle;

(4) The airspeed that provides an angle-of-attack margin to stall for not less than a 15 knot equivalent airspeed vertical gust with the critical engine inoperative at the power or thrust setting for approach at the reference flight path angle; and

(5) A speed that provides the maneuvering capability specified in paragraph (k) below.

(k) In addition to compliance with § 25.143, the following applies: The maneuvering capabilities in a constant speed coordinated turn, as specified in the table below, must be free of stall warning or other characteristics that might interfere with normal maneuvering. .

Configuration	Speed	Maneuvering Bank Angle (degrees)	Thrust Representative of
Takeoff	V_2	30	Asymmetric WAT-Limited.[1]

Configuration	Speed	Maneuvering Bank Angle (degrees)	Thrust Representative of
Takeoff	V_2+XX [2]	40	All-engines operating climb.[3]
En route	V_{FTO}	40	Asymmetric WAT-Limited.[1]
Landing	V_{REF}	40	Symmetric for approach at the reference approach flight path angle.[4]

[1] A combination of Weight, Altitude and Temperature (WAT) such that the thrust or power setting produces the minimum climb gradient specified in § 25.121 for the flight condition.
[2] Airspeed approved for all-engines-operating initial climb.
[3] That thrust or power setting which, in the event of failure of the critical engine and without any crew action to adjust the thrust or power of the remaining engines, would result in the thrust or power specified for the takeoff condition at V_2, or any lesser thrust or power setting that is used for all-engines-operating initial climb procedures.
[4] Thrust may be adjusted during the maneuver to maintain the reference approach flight path angle.

(l) In lieu of compliance with § 25.145(a), the following applies: It must be possible at any speed between the trim speed prescribed in paragraph (b)(1)(v), or (b)(4)(v), of this special condition for flaps extended configurations, and the minimum speed obtained in conducting a stalling maneuver, to pitch the nose downward so that the acceleration to this selected trim speed is prompt with—

(1) The airplane trimmed at the speed prescribed in paragraph (b)(1)(v) of this special condition for flaps retracted configurations, or as prescribed in paragraph (b)(4)(v) of this special condition for flaps extended configurations;

(2) The landing gear extended;

(3) The wing flaps—

(i) retracted, and

(ii) extended; and

(4) Power—

(i) off with the flaps retracted and, with the flaps extended, with all engines operating at the minimum power or thrust level consistent with that used to determine the power-on reference stall speeds; and

(ii) at maximum continuous power on the engines.

(m) In lieu of compliance with § 25.145(b)(2), the following applies: Repeat paragraph (b)(1) of this section, except begin with the flaps fully extended and all engines at the minimum power or thrust level consistent with that used to determine the power-on reference stall speed for that flap position, and then retract the flaps as rapidly as possible.

(n) In lieu of compliance with § 25.145(b)(5), the following applies: Repeat paragraph (b)(4) of this section, except with the flaps extended and all engines at the minimum power or thrust level consistent with that used to determine the reference power-on stall speed.

(o) In lieu of compliance with § 25.145(b)(6), the following applies: With all engines at the minimum power or thrust level consistent with that used to determine the reference power-on stall speed, flaps extended, and the airplane trimmed at 1.3 V_{SR1PWR}, obtain and maintain airspeeds between V_{SW}, and either 1.6 V_{SR1PWR} or V_{FE}, whichever is lower.

(p) In lieu of compliance with § 25.161(c)(2), the following applies: A glide with the landing gear extended, the most unfavorable center of gravity position approved for landing with the maximum landing weight, and the most unfavorable center of gravity position approved for landing, regardless of weight with the wing flaps—

(1) retracted with power off at a speed of 1.3 V_{SR1}, and

(2) extended with all engines at the minimum power or thrust level consistent with that used to determine the power-on reference stall speed at a speed of 1.3 V_{SR1PWR}.

(q) In lieu of compliance with § 25.175(d)(4), the following applies: All engines at the minimum power or thrust level consistent with that used to determine the power-on reference stall speed.

(r) In lieu of compliance with § 25.175(d)(5), the following applies: The airplane trimmed at 1.3 V_{SR0PWR}.

(s) In lieu of the speeds given in the following part 25 requirements, comply with the speeds as follows:

§§ 25.145(b)(1) and (b)(4), 1.3 V_{SR1}, in lieu of 1.4 V_{S1}.

§ 25.145(b)(1), 30 percent, in lieu of 40 percent.

§ 25.145(b)(1), power-on reference stall speed, in lieu of stalling speed.

§ 25.145(c), 1.08 V_{SR1}, in lieu of 1.1 V_{S1}.

§ 25.145(c), 1.18 V_{SR1PWR}, in lieu of 1.2 V_{S1}.

§ 25.147(a), (a)(2), (c), and (d), 1.3 V_{SR1}, in lieu of 1.4 V_{S1}.

§ 25.149(c), 1.13 V_{SR}, in lieu of 1.2 V_S.

§ 25.161(b), (c)(1), and (c)(2), 1.3 V_{SR1}, or 1.3 V_{SR1PWR} for flaps extended configurations, in lieu of 1.4 V_{S1}.

§ 25.161(c)(3), 1.3 V_{SR1}, in lieu of the first instance of 1.4 V_{S1}, and 1.3 V_{SR1PWR}, in lieu of the second instance of 1.4 V_{S1}.

§ 25.161(d), 1.3 V_{SR1} in lieu of 1.4 V_{S1}.

§ 25.161(e)(3), 0.013 V_{SR0}^2, in lieu of 0.013 V_{S02}.

§ 25.175(a)(2), (b)(1), (b)(2), and (b)(3), 1.3 V_{SR1}, in lieu of 1.4 V_{S1}.

§ 25.175(b)(2)(ii), (V_{MO} + 1.3 V_{SR1})/2, in lieu of V_{MO} + 1.4 V_{S1}/2.

§ 25.175(c), V_{SW} and 1.7 V_{SR1PWR}, in lieu of 1.1 V_{S1} and 1.8 V_{S1}.

§ 25.175(c)(4), 1.3 V_{SR1PWR}, in lieu of 1.4 V_{S1}.

§ 25.175(d), V_{SW} and 1.7 V_{SR0PWR}, in lieu of 1.1 V_{S0} and 1.3 V_{S0}.

§ 25.177(c), 1.13 V_{SR1}, or 1.18 V_{SR1PWR} for flaps extended configurations, in lieu of 1.2 V_{S1}.

§ 25.181(a) and (b), 1.13 V_{SR1}, or 1.18 V_{SR1PWR} for flaps extended configurations, in lieu of 1.2 V_{S1}.

§ 25.201(a)(2), 1.5 V_{SR1PWR} (where V_{SR1PWR} corresponds to the power-on reference stall speed with flaps in the approach position, the landing gear retracted, and maximum landing weight), in lieu of 1.6 V_{S1} (where V_{S1} corresponds to the stalling speed with flaps in the approach position, the landing gear retracted, and maximum landing weight).

(t) In addition to compliance with §§ 25.201(a)(1) and (a)(2), the following also applies: The critical engine inoperative and the power or thrust setting on the remaining engines at the minimum power or thrust level appropriate for the flight condition used to show compliance with a required performance standard.

(u) In lieu of compliance with § 25.207(b), the following applies: The warning may be furnished either through the inherent aerodynamic qualities of the airplane or by a device that will give clearly distinguishable indications under expected conditions of flight. However, a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself. If a warning device is used, it must provide a warning in each of the airplane configurations prescribed in paragraph (a) of this section at the speed prescribed in paragraph (v)(1) and (2) below.

(v) In lieu of compliance with § 25.207(c), the following applies:

(1) In each normal configuration with the flaps retracted, when the speed is reduced at rates not exceeding one knot per second, stall warning must begin at a speed, V_{SW}, exceeding the speed at which the stall is identified in accordance with § 25.201(d) by not less than five knots or five percent, whichever is greater. Once initiated, stall warning must continue until the angle of attack is reduced to approximately that at which stall warning began.

(2) In addition to the requirement of paragraph (v)(1) above, when the speed is reduced at rates not exceeding one knot per second, in straight flight with engines idling and at the center of gravity position specified in paragraph (b)(1)(iv) above, V_{SW}, in each normal configuration with the flaps retracted, must exceed V_{SR} by not less than three knots or three percent, whichever is greater.

(3) In each normal configuration with the flaps extended, when the speed is reduced at rates not exceeding one knot per second, stall warning must begin at a speed, V_{SW}, exceeding the speed at which the stall is identified in accordance with § 25.201(d) by not less than five knots or five percent, whichever is greater. Once initiated, stall warning must continue until the angle of attack is reduced to approximately that at which stall warning began.

(4) In addition to the requirement of paragraph (v)(3) above, when the speed is reduced at rates not exceeding one knot per second, in straight flight with the critical engine inoperative and the power or thrust setting on the remaining engines at the minimum power or thrust level appropriate for the flight condition used to show compliance with a required performance standard, and at the center of gravity position specified in paragraph (b)(4)(i) above, V_{SW}, in each normal configuration with the flaps extended, must exceed $V_{SR_{PWR}}$ by not less than three knots or three percent, whichever is greater.

(5) In slow-down turns with at least 1.5g load factor normal to the flight path and airspeed deceleration rates greater than 2 knots per second, with the flaps and landing gear in any normal position, the stall warning margin must be sufficient to allow the pilot to prevent stalling (as defined in § 25.201(d)) when recovery is initiated not less than one second after the onset of stall warning. Compliance with this requirement must be demonstrated with—

(i) The airplane trimmed for straight flight at a speed of 1.3 V_{SR} with the flaps retracted or 1.3 $V_{SR_{PWR}}$ with the flaps extended; and

(ii) The power or thrust necessary to maintain level flight at 1.3 V_{SR} with the flaps retracted or 1.3 $V_{SR_{PWR}}$ with the flaps extended.

(w) In addition to compliance with § 25.207(a) and paragraphs (u) and (v) above, the following applies: Stall warning must also be provided in each abnormal configuration of the high lift devices likely to be used in flight following system failures (including all configurations covered by Airplane Flight Manual procedures).

(x) In lieu of the speeds given in §§ 25.233(a) and 25.237(a), comply with speeds as follows: 0.2 $V_{SRO_{PWR}}$ in lieu of 0.2 V_{SO}.

(y) In lieu of the definition of V in § 25.735(f)(2), the following apply:

$V=V_{REF}/1.3$

V_{REF}=Airplane steady landing approach speed, in knots, at the maximum design landing weight and in the landing configuration at sea level.

(z) In lieu of compliance with § 25.735(g), the following applies: The minimum speed rating of each main wheel-brake assembly (that is, the initial speed used in the dynamometer tests) may not be more than the V used in the determination of kinetic energy in accordance with paragraph (f) of this section, assuming that the test procedures for wheel-brake assemblies involve a specified rate of deceleration, and, therefore, for the same amount of kinetic energy, the rate of energy absorption (the power absorbing ability of the brake) varies inversely with the initial speed.

(aa) In lieu of the speeds given in the following part 25 requirements, comply with the speeds as follows:

§ 25.773(b)(1)(i), 1.5 V_{SR1}, in lieu of 1.6 V_{S1}.

§ 25.1001(c)(1) and (c)(3), 1.3 V_{SR1}, in lieu of 1.4 V_{S1}.

§ 25.1323(c)(1), 1.23 V_{SR1}, in lieu of 1.3 V_{S1}.

§ 25.1323(c)(2), 1.20 $V_{SRO_{PWR}}$, in lieu of 1.3 V_{SO}.

§ 25.1325(e), 1.20 $V_{SRO_{PWR}}$, in lieu of 1.3 V_{SO}, and 1.7 V_{SR1}, in lieu of 1.8 V_{S1}.

2. Head-up Display Used as a Primary Flight Display

(a) Display Requirements.

(1) The HUD must provide information necessary to enable rapid pilot interpretation of the airplane's flight state and position during all phases of flight. This information shall enable the flightcrew to manually control the airplane and monitor the performance of the automatic flight control system. The HUD display shall enable manual airplane control including guidance, if necessary, during an engine failure during any phase of flight. The monochrome HUD must equivalently perform the intended function of conventional color primary flight instruments and utilize display features that compensate for the lack of color. Operational acceptability of the HUD system for use while manually controlling the airplane shall be demonstrated and evaluated by the FAA. This task-oriented demonstration will evaluate crew workload and pilot compensation for normal, abnormal, and emergency operations, with single and multiple failures not shown to be extremely improbable by the system safety analysis, and is extended to all HUD display formats, unless use of specific formats is prohibited for specific phases of flight.

(2) The current mode of the flight guidance/automatic flight control system shall be clearly annunciated in the HUD, unless it is displayed elsewhere in close proximity to the HUD field of view and shown to be equivalently conspicuous. Likewise, other essential information and alerts that are related to displayed information and may require immediate pilot action must be displayed for instant recognition, either on the HUD or in close proximity to the HUD field of view. Such information, depending on the phase of flight, includes malfunctions of primary data sources, guidance and control, and excessive deviations that require a go-around maneuver.

(3) If a windshear detection system or a traffic alert and collision avoidance system (TCAS) is installed, the guidance will be provided on the HUD. When the ground proximity warning system detects excessive terrain closure, appropriate annunciations are displayed on the HUD. Additional warnings and annunciations that are required to be a part of these systems, and are normally required as part of the approved design to be in the pilot's primary field of view (i.e., the line of vision when looking forward along the flight path), must remain in the pilot's primary field of view when utilizing the HUD for flight information.

(4) Symbols must appear clean-shaped, clear, and explicit. Lines must be narrow, sharp-edged, and without halo or aliasing. Symbols must be stable with no discernible flicker or jitter.

(5) The optical qualities (accommodation, luminance, vergence) of the HUD shall be uniform across the entire field of view. When viewed by both eyes from any off-center position

within the eyebox, non-uniformities shall not produce perceivable differences in binocular view.

(6) For all phases of flight, the HUD must update the positions and motions of primary control symbols with sufficient rates and latencies to support satisfactory manual control performance.

(7) The HUD display must present all information in a clear and unambiguous manner. Display clutter must be minimized. The HUD symbology must not excessively interfere with the pilots' forward view, ability to visually maneuver the airplane, acquire opposing traffic, and see the runway environment. Interference would be considered excessive if it prevents the pilot from seeing flight hazards, such as airborne traffic, terrain, and obstacles, or outside visual references required for safe operation such as approach lights, runway lights, runways, and runway markings. Critical and essential data elements of primary flight displays must not be removed by any declutter function. Changes in the display format and primary flight data arrangement should be minimized to prevent confusion and to enhance the pilots' ability to interpret vital data.

(8) The content, arrangement, and format of the information must be sufficiently compatible with the head down displays to preclude pilot confusion, misinterpretation, or excessive cognitive workload. Immediate transition between the two displays, whether required by navigation duties, failure conditions, unusual airplane attitudes, or other reasons, must not present difficulties in data interpretation or delays/interruptions in the crew's ability to manually control the airplane or to monitor the automatic flight control system.

(9) The HUD display must enable the flightcrew to immediately recognize and perform a safe recovery from unusual airplane attitudes. This capability must be shown in a simulator and on the airplane for all foreseeable modes of upset. However, "corner conditions" (i.e., test conditions where more than one attitude parameter is at its extreme value) may be demonstrated in the simulator. Foreseeable modes of upset include—

(i) flightcrew mishandling;

(ii) autopilot failure, as applicable to the MD–17 type design; and

(iii) turbulence/gust encounters.

(b) *Installation Requirements.*

(1) The arrangement of HUD display controls must be visible to and within reach of the pilot from any normal seated position. The position and movement of the controls must not lead to inadvertent operation. The HUD controls must be illuminated to be visible for all normal cockpit lighting conditions, and must not create any objectionable reflections on the HUD or other flight instruments.

(2) The HUD combiner brightness must be controllable to ensure uninterrupted visibility of all displayed information in the presence of dynamically changing background (ambient) lighting conditions. If automatic control of HUD brightness is not provided, it must be shown that a single setting is satisfactory. When the HUD brightness level is changed, the relative luminance of each displayed symbol, character, or data shall vary smoothly. In no case shall any selectable brightness level allow any information to be invisible while other data remains discernible. There shall be no objectionable brightness transients when switching between manual and automatic control. The HUD data shall be visible in lighting conditions from 0 fL to 10,000 fL. If certain lighting conditions prevent the crew from seeing and interpreting HUD data (for example, flying directly toward the sun), accommodation must be provided to permit the crew to make a ready transition to the head down displays.

(3) To the greatest extent practicable, the HUD controls must be integrated with other controls, including the flight director, to minimize the crew workload associated with HUD operation and to ensure flightcrew awareness of engaged flight guidance modes.

(4) The visibility of the HUD and the primary flight information displayed is paramount to the HUD's ability to perform its intended function as a primary flight display. The fundamental requirements for instrument arrangement and visibility specified in §§ 25.1321, 25.773, and 25.777 apply to these devices.

(i) The design eyebox should be laterally and vertically centered around the respective pilot's design eye position, and should be large enough that the minimum monocular field of view is visible at the following minimum displacements from the cockpit design eye position:

Lateral: 1.5 inches left and right
Vertical: 1.0 inches up and down
Longitudinal: 2.0 inches fore and aft

(ii) The HUD installation must accommodate pilots from 5′2″ to 6′3″ tall, seated with seat belts fastened and positioned at the design eye position (ref. § 25.777(c)). Larger eyebox dimensions may be required for meeting operational requirements for use as a full time primary flight display. Operational suitability and compliance with the requirements of the above cited regulations must be demonstrated and evaluated by the FAA. The design eye position must comply with the above cited regulations.

(5) Notwithstanding compliance with the minimum eyebox dimensions given above, the HUD eyebox must be large enough to serve as a primary flight display without inducing adverse effects on pilot vision and fatigue. Use of the HUD system shall not place physiologically burdensome limitations on head position. There must be no adverse physiological effects of long term use of the HUD system, such as fatigue or eye strain.

(c) *System Requirements.*

(1) The HUD system must be shown to perform its intended function as a primary flight display during all phases of flight. The normal operation of the HUD system cannot adversely affect, or be adversely affected by, other airplane systems. Malfunctions of the HUD system that cause loss of all primary flight information, including that displayed on the HUD and head down instruments, shall be extremely improbable.

(2) The classification of the HUD system's failure to display flight information and navigation information, as applicable to the airplane type design, including the potential to display hazardously misleading information, must be assessed according to §§ 25.1309 and 25.1333. All alleviating flightcrew actions that are considered in the HUD safety analysis must be validated during testing for incorporation in the airplane flight manual procedures section or for inclusion in type-specific training. The failure cases discussed below, which consider the entire suite of cockpit displays of each flight parameter, hazardously misleading failures are, by definition, not associated with a suitable warning.

(i) *Attitude.* Display of attitude in the cockpit is a critical function. Loss of all attitude display, including standby attitude, is classified as a catastrophic failure and must be extremely improbable. Loss of primary attitude display for both pilots is classified as a major failure and must be improbable. Display of hazardously misleading roll or pitch attitude simultaneously on the primary attitude displays for both pilots is classified as a catastrophic failure and must be extremely improbable. Display of hazardously misleading roll or pitch attitude on any single primary attitude display is classified as a major failure and must be improbable.

(ii) *Airspeed.* Display of airspeed in the cockpit is a critical function. Loss of all airspeed display, including standby, is classified as a catastrophic failure and must be extremely improbable. Loss of primary airspeed display for both pilots is classified as a major failure and must be improbable. Displaying hazardously misleading airspeed simultaneously on both pilots' displays, coupled with the loss of stall warning or overspeed warning functions, is classified as a catastrophic failure and must be extremely improbable.

(iii) *Barometric Altitude.* Display of altitude in the cockpit is a critical function. Loss of all altitude display, including standby, is classified as a catastrophic failure and must be extremely improbable. Loss of primary altitude display for both pilots is classified as a major failure and must be improbable. Displaying hazardously misleading altitude simultaneously on both pilots' displays is classified as a catastrophic failure and must be extremely improbable.

(iv) *Vertical Speed.* Display of vertical speed in the cockpit is an essential function. Loss of vertical speed display to both pilots is classified as a major failure and must be improbable.

(v) *Slip/Skid Indication.* The slip/skid or side slip indication is an essential function. Loss of this function to both pilots is classified as a major failure and must be improbable. Simultaneously misleading slip/skid or side slip information to both pilots is classified as a major failure and must be improbable.

(vi) *Heading.* Display of stabilized heading in the cockpit is an essential function. Displaying hazardously misleading heading information on both pilots' primary displays is classified as a major failure and must be improbable. Loss of stabilized heading in the cockpit is classified as a major failure and must be improbable. Loss of all heading information in the cockpit is classified as a catastrophic failure and must be extremely improbable.

(vii) *Navigation.* Display of navigation information (excluding heading, airspeed, and clock data) in the cockpit is an essential function. Loss of all navigation information is classified as a major failure and must be improbable. Displaying hazardously misleading navigational or positional information simultaneously on both pilots' displays is classified as a major failure and must be improbable. However, the nonrestorable loss of the combination of all navigation and communication functions is classified as a catastrophic failure and must be extremely improbable.

(viii) *Crew Alerting Displays.* Loss of crew alerting for essential functions is classified as a major failure and must be improbable. Display of hazardously misleading crew alerting messages is classified as a major failure and must be improbable.

(3) The display of hazardously misleading information on more than one primary flight display is classified as a catastrophic failure and must be extremely improbable; therefore, the HUD system software which generates, displays, or affects the generation or display of primary flight information shall be developed to Level A requirements, as specified by RTCA Document DO–178B, "Software Considerations in Airborne Systems and Equipment Certification," or similar processes that provide equivalent product and compliance data. Monitoring software shown to have no ability to generate, display, or affect the generation or display of primary flight information, and which has the capability to command shutdown of the HUD system, shall be developed to no less rigor than that defined for Level C, or criticality as determined by a safety assessment of the HUD system.

(4) The HUD system must monitor the position of the combiner and must not display conformal data that is hazardously aligned due to combiner position, without a warning to alert the crew of the condition.

(5) The HUD system must be shown to comply with the high intensity radiated fields certification requirements of Special Condition 3.

3. Protection from Unwanted Effects of High Intensity Radiated Fields

(a) Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

(b) For the purpose of this special condition, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Discussion: With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 OR 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

1a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Field strength (Volts per meter)	
	Peak	Average
10 KHz–100 KHz	30	30
100 KHz–500 KHz	40	30
500 KHz–2 MHz	30	30
2 MHz–30 MHz	190	190
30 MHz–70 MHz	20	20
70 MHz–100 MHz	20	20
100 MHz–200 MHz	30	30
200 MHz–400 MHz	30	30
400 MHz–700 MHz	80	80
700 MHz–1 GHz	690	240
1 GHz–2 GHz	970	70
2 GHz–4 GHz	1570	350
4 GHz–6 GHz	7200	300
6 GHz–8 GHz	130	80
8 GHz–12 GHz	2100	80
12 GHz–18 GHz	500	330
18 GHz–40 GHz	780	20

4. Interaction of Systems and Structures

(a) *General.* Airplanes equipped with systems that affect structural performance, either directly or as a result of a failure or malfunction, must account for the influence of these systems and their failure conditions in showing compliance with the requirements of subparts C and D of part 25. The following criteria must be used to evaluate the structural performance of airplanes equipped with flight control systems, autopilots, stability augmentation systems, load alleviation systems, flutter control systems, and fuel management systems. If these criteria are used for other systems, it may be necessary to adapt the criteria to the specific system.

(b) *System fully operative.* With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the systems from all the limit conditions specified in subpart C, taking into account any special behavior of such systems or associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined in paragraph (b)(1) above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the systems presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that make it impossible to exceed those limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) *System in the Failure Condition.* For any system failure condition not shown to be extremely improbable, the following apply:

(1) *At the time of occurrence.* Starting from 1–g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure. The airplane must be able to withstand these loads, multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure. The factor of safety (F.S.) is defined in Figure 1.

Figure 1
Factor of Safety at Time of Occurrence

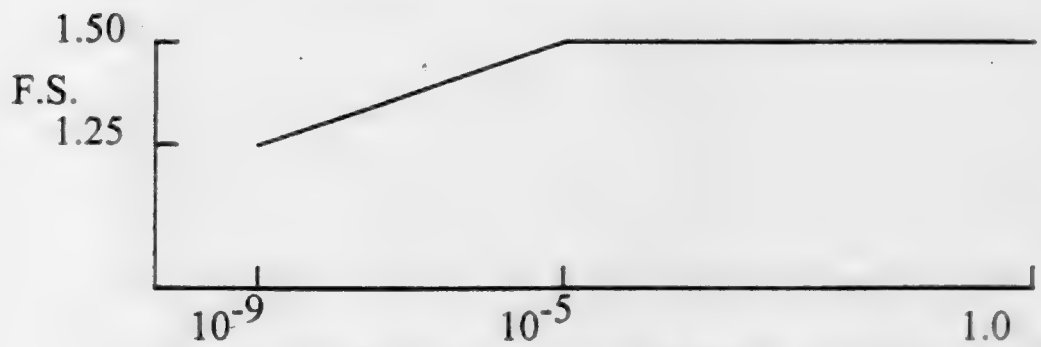

P_j - Probability of occurrence of failure mode j (per hour)

BILLING CODE 4910–13–C

(i) These loads must also be used in the damage tolerance evaluation required by § 25.571(b) if the failure condition is probable.

(ii) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speed increases beyond V_C/M_C, freedom from aeroelastic instability must be shown to the increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce peak loads that could result in catastrophic fatigue failure or detrimental deformation of primary structure.

(2) *For the continuation of the flight.* For the airplane in the system failed state, and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) Static and residual strength must be determined for loads derived from the following conditions at speeds up to V_c, or the speed limitation prescribed for the remainder of the flight:

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.345.

(B) The limit gust conditions specified in § 25.341, but using the gust velocities for V_c, and in § 25.345.

(C) The limit rolling conditions specified § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427(b) and (c).

(D) The limit yaw maneuvering conditions specified in § 25.351.

(E) The limit ground loading conditions specified in §§ 25.473 and 25.491.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads specified in subparagraph (2)(i) of this paragraph, multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2
Factor of Safety for Continuation of Flight

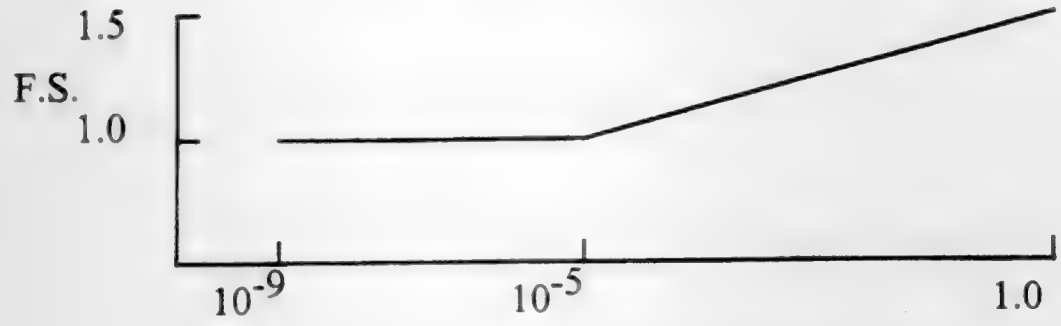

Q_j - Probability of being in failure condition j

BILLING CODE 4910–13–C

$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in subpart C.

(iii) For residual strength substantiation as defined in § 25.571(b), structures affected by failure of the system and with damage in combination with the system failure, a reduced factor may be applied to the loads of subparagraph (2)(i) of this paragraph. However, the residual strength level must not be less than the 1-g flight load, combined with the loads introduced by the failure condition, plus two-thirds of the load increments of the conditions specified in subparagraph (2)(i) of this paragraph, applied in both positive and negative directions (if appropriate). The residual strength factor (R.S.F.) is defined in Figure 3.

Figure 3
Residual Strength Factor

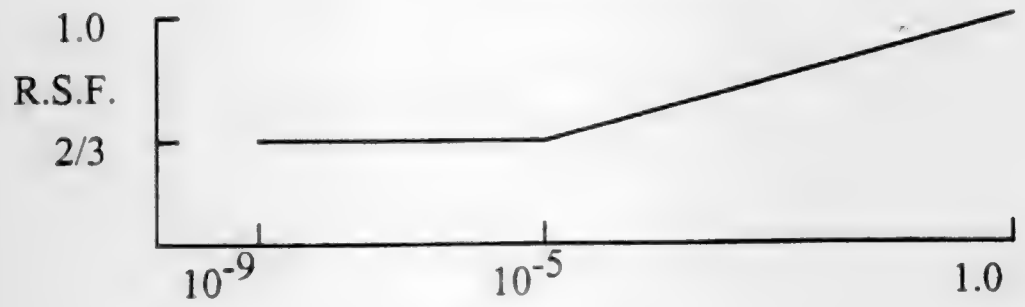

Q_j- Probability of being in failure condition j

BILLING CODE 4910–13–C

$Q_j=(Tj)(Pj)$ where:

T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per Hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a residual strength factor of 1.0 must be used.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from aeroelastic instability must be shown up to the speeds determined from Figure 4. Flutter clearance speeds V′ and V″ may be based on the speed limitation specified for the remainder of the flight, using the margins defined by § 25.629(b).

Figure 4
Clearance Speed

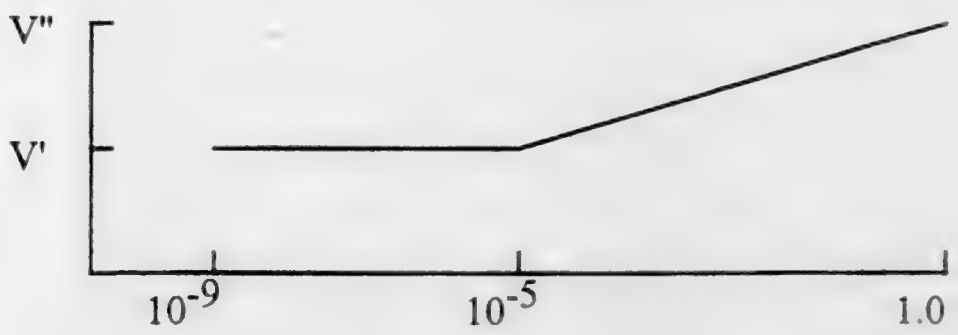

Q_j - Probability of being in failure condition j

BILLING CODE 4910–13–C

V'=Clearance speed as defined by § 25.629(b)(2).
V"=Clearance speed as defined by § 25.629(b)(1).
Q_j=(Tj)(Pj) where:
T_j=Average time spent in failure condition j (in hours)
P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V".

(vi) Freedom from aeroelastic instability must also be shown up to V' in Figure 4 above, for any probable system failure condition combined with any damage considered in the evaluation required by § 25.571(b).

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the value prescribed in appendix G to part 25.

(3) Consideration of certain failure conditions may be required by other sections of this part, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(d) *Warning Considerations.* For system failure detection and warning, the following apply:

(1) The system must be checked for failure conditions, not shown to be extremely improbable, that degrade the structural capability of the airplane below the level required by part 25 or significantly reduce the reliability of the remaining system. The flightcrew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems, to ensure failure detection. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not shown to be extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flightcrew. For example, failure conditions that result in a factor of safety below 1.25, as determined by paragraph (c) of this special condition, or flutter clearance speeds below V", as determined by paragraph (c) of this special condition, must be signaled to the flightcrew during flight.

(e) *Dispatch with Known Failure Conditions.* If the airplane is to be dispatched in a known system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of this special condition must be met for the dispatched condition and for subsequent failures. Operational and flight limitations may be taken into account.

(f) The following definitions are applicable to this special condition:

Structural performance: The capability of the airplane to meet the structural requirements of part 25.

Flight limitations: Limitations that can be applied to the airplane flight conditions following an in-flight occurrence and that are included in the flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., fuel and payload limitations).

Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in this special condition are the same as those used in Advisory Circular (AC) 25.1309–1A.

Failure condition: The term failure condition is the same as that used in AC 25.1309–1A; however, this special condition applies only to system failure conditions that affect the structural performance of the airplane (e.g., failure conditions that induce loads, change the response of the airplane to inputs such as gusts or pilot actions, or lower flutter margins).

5. Design Maneuvering Requirements for Fly-by-Wire

(a) *Maximum elevator displacement at V_A.* In lieu of compliance with § 25.331(c)(1) of the FAR; the airplane is assumed to be flying in steady level flight (point A_1, § 25.333(b)) and, except as limited by pilot effort in accordance with § 25.397, the cockpit pitching control device is suddenly moved to obtain extreme positive pitching acceleration (nose up). In defining the tail load condition, the response of the airplane must be taken into account. Airplane loads that occur subsequent to the normal acceleration at the center of

gravity exceeding the maximum positive limit maneuvering factor, n, need not be considered.

(b) *Pitch maneuver loads.* In addition to the requirements of § 25.331; it must be established that pitch maneuver loads induced by the system itself (e.g., abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are accounted for.

(c) *Roll maneuver loads.* In lieu of compliance with § 25.349(a), the following conditions, speeds, and spoiler and aileron deflections (except as the deflections may be limited by pilot effort) must be considered in combination with an airplane load factor of zero and of two-thirds of the positive maneuvering factor used in design. In determining the required aileron and spoiler deflections, the torsional flexibility of the wing must be considered in accordance with § 25.301(b).

(1) Conditions corresponding to steady rolling velocities must be investigated. In addition, conditions corresponding to maximum angular acceleration must be investigated. For the angular acceleration conditions, zero rolling velocity may be assumed in the absence of a rational time history investigation of the maneuver.

(2) At V_A, sudden deflection of the cockpit roll control up to the limit is assumed.

(3) At V_C, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than that obtained in paragraph (2).

(4) At V_D, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than one third of that obtained in paragraph (2).

(5) It must also be established that roll maneuver loads induced by the system itself (i.e., abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

(d) *Yaw maneuver loads.* In lieu of compliance with § 25.351, the airplane must be designed for loads resulting from the conditions specified in paragraph (e) below. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner considering the principal masses furnishing the reacting inertia forces. Physical limitations of the airplane from the cockpit yaw control device to the control surface deflection, such as control stop position, maximum power and displacement rate of the servo controls, or control law limiters, may be taken into account.

(e) *Maneuvering.* At speeds from V_{MC} to V_D, the following maneuvers must be considered. In computing the tail loads, the yawing velocity may be assumed to be zero.

(1) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit yaw control device (pedal) is suddenly displaced (with critical rate) to the maximum deflection, as limited by the stops.

(2) With the cockpit yaw control device (pedal) deflected as specified in paragraph (1) above, it is assumed that the airplane yaws to the resulting side slip angle (beyond the static side slip angle).

(3) With the airplane yawed to the static sideslip angle with the cockpit yaw control device deflected as specified in paragraph (1) above, it is assumed that the cockpit yaw control device is returned to neutral.

6. Limit Engine Torque Loads for Sudden Engine Stoppage

In lieu of showing compliance with § 25.361(b); the following apply:

(a) For turbine engine and auxiliary power unit installations, the mounts and local supporting structure must be designed to withstand each of the following:

(1) The maximum limit torque load imposed by—

(i) A sudden deceleration due to a malfunction that could result in a temporary loss of power or thrust capability, and could cause a shutdown due to vibrations; and

(ii) The maximum acceleration of the engine and auxiliary power unit.

(2) The maximum torque load, considered as ultimate, imposed by sudden engine or auxiliary power unit stoppage due to a structural failure, including fan blade failure.

(3) The load condition defined in paragraph (a)(2) of this section is also assumed to act on adjacent airframe structure, such as the wing and fuselage. This load condition is multiplied by a factor of 1.25 to obtain ultimate loads when the load is applied to the wing and fuselage structure.

7. Flight Characteristic Compliance Determination by Use of the Handling Qualities Rating System (HQRS) for EFCS Failure Cases

(a) In lieu of showing compliance with § 25.672(c), a handling qualities rating system will be used for evaluation of EFCS configurations resulting from single and multiple failures not shown to be extremely improbable. The handling qualities ratings are:

(1) Satisfactory: Full performance criteria can be met with routine pilot effort and attention.

(2) Adequate: Adequate for continued safe flight and landing; full or specified reduced performance can be met, but with heightened pilot effort and attention.

(3) Controllable: Inadequate for continued safe flight and landing, but controllable for return to a safe flight condition, safe flight envelope, and/or reconfiguration so that the handling qualities are at least adequate.

(b) Handling qualities will be allowed to progressively degrade with failure state, atmospheric disturbance level, and flight envelope. Specifically, within the normal flight envelope, the pilot-rated handling qualities must be satisfactory/adequate in moderate atmospheric disturbance for probable failures, and must not be less than adequate in light atmospheric disturbance for improbable failures.

8. Static Longitudinal Stability

In lieu of compliance with § 25.173, the airplane must be shown to have suitable static longitudinal stability in any condition normally encountered in service, including the effects of atmospheric disturbance. The HQRS may be used to make this assessment.

9. Static Lateral-Directional Stability

In lieu of compliance with § 25.177, the following applies:

(a) The airplane must be shown to have suitable static lateral directional stability in any condition normally encountered in service, including the effects of atmospheric disturbance. The HQRS may be used to make this assessment.

(b) In straight, steady sideslips, the rudder control movements and forces must be substantially proportional to the angle of sideslip in a stable sense; and the factor of proportionality must lie between limits found necessary for safe operation throughout the range of sideslip angles appropriate to the operation of the airplane. At greater angles, up to the angle at which full rudder is used or a rudder force of 180 pounds is obtained, the rudder pedal forces may not reverse; and increased rudder deflection must be needed for increased angles of sideslip. Compliance with this paragraph must be demonstrated for all landing gear and flap positions and symmetrical power conditions at speeds from 1.13 V_{SR1}, or 1.18 V_{SR1PWR} for flaps extended configurations, to V_{FE}, V_{LE}, or V_{FC}/ M_{FC}, as appropriate.

10. Control Surface Awareness

In addition to compliance with §§ 25.143, 25.671, and 25.672, when a flight condition exists where, without being commanded by the crew, control surfaces are coming so close to their limits that return to the normal flight envelope and (or) continuation of safe flight requires a specific crew action, a suitable flight control position annunciation shall be provided to the crew, unless other existing indications are found adequate or sufficient to prompt that action.

Note: The term suitable also indicates an appropriate balance between nuisance and necessary operation.

11. Steep Approach Air Distance

In lieu of compliance with § 25.125(a) for steep approach landing distances, the following applies:

(a) The horizontal distance necessary to land and to come to a complete stop, including an airborne distance of no less than the greater of 500 feet or the distance resulting from the combination of an aim point on the runway offset 300 feet from the runway threshold to be used in operations plus the demonstrated 3σ touchdown dispersion distance from the touchdown aim point, must be determined (at each weight for temperature, altitude, and wind within the operational limits established by the applicant for the airplane) as follows:

(1) The airplane must be in the landing configuration.

(2) A stabilized approach, with a calibrated airspeed of not less than V_{REF} or V_{MCL}, whichever is greater, must be maintained down to the 50 foot height. V_{REF} may not be less than—

(i) 1.03 V_{SR0};

(ii) 1.20 $V_{SR0_{PWR}}$ with the operative engines at the power or thrust setting for approach at the reference flight path angle;

(iii) The airspeed that provides an angle-of-attack margin to stall for not less than a 20 knot equivalent airspeed vertical gust with all engines operating at the power or thrust setting for approach at the reference flight path angle;

(iv) The airspeed that provides an angle-of-attack margin to stall for not less than a 15 knot equivalent airspeed vertical gust with the critical engine inoperative at the power or thrust setting for approach at the reference flight path angle; and

(v) A speed that provides the maneuvering capability specified in paragraph (k) of Special Condition 1.

(3) Changes in configuration, power or thrust, and speed, must be made in accordance with the established procedures for service operation.

(4) The landing must be made without excessive vertical acceleration, tendency to bounce, nose over, ground loop, or porpoise.

(5) The landings may not require exceptional piloting skill or alertness.

12. Landing Distances for Special Approaches to Short Field Landings

(a) In lieu of compliance with § 25.125(a), the following applies: The horizontal distance necessary to land and come to a complete stop from a point 50 feet above the landing surface must be determined (for each weight, altitude, wind, temperature, and runway slope within the operational limits established for the airplane) as follows:

(1) The airplane must be in the landing configuration.

(2) A stabilized approach, with a calibrated airspeed of not less than V_{REF} or V_{MCL}, whichever is greater, must be maintained down to the 50 foot height. V_{REF} may not be less than—

(i) 1.03 V_{SR0};

(ii) 1.20 $V_{SR0_{PWR}}$ with the operative engines at the power or thrust setting for approach at the reference flight path angle;

(iii) The airspeed that provides an angle-of-attack margin to stall for not less than a 20 knot equivalent airspeed vertical gust with all engines operating at the power or thrust setting for approach at the reference flight path angle;

(iv) The airspeed that provides an angle-of-attack margin to stall for not less than a 15 knot equivalent airspeed vertical gust with the critical engine inoperative at the power or thrust setting for approach at the reference flight path angle; and

(v) A speed that provides the maneuvering capability specified in paragraph (k) of Special Condition 1.

(3) Changes in configuration, power or thrust, and speed, must be made in accordance with the established procedures for service operation.

(4) The landing must be made without excessive vertical acceleration, tendency to bounce, nose over, ground loop, or porpoise.

(5) The landings may not require exceptional piloting skill or alertness.

(b) In lieu of compliance with § 25.125(b), the following applies: For land planes, the landing distance on land must be determined on level, smooth, dry and wet, hard-surfaced runways. In addition—

(1) The pressures on the wheel braking systems may not exceed those specified by the brake manufacturer;

(2) The brakes may not be used so as to cause excessive wear of brakes or tires; and

(3) Means other than wheel brakes may be used if that means—

(i) Is safe and reliable;

(ii) Is used so that consistent results can be expected in service; and

(iii) Is such that exceptional skill is not required to control the airplane.

(4) The average touchdown rate of descent must not exceed 4 feet per second and the approach flight path angle must be no steeper than −3 degrees for a normal approach.

(c) Procedures must be established by the applicant for use in service that are consistent with those used to establish the performance data under this special condition. These procedures must be able to be consistently executed in service by crews of average skill, and must include, as applicable, speed additives for turbulence and gusts for approaches with all engines operating and with an engine failure on final approach, and the use of thrust reversers on all operative engines during the landing rollout.

(d) The procedures and performance data established under this special condition must be furnished in the Airplane Flight Manual.

13. Thrust for Landing Climb

In lieu of compliance with § 25.119(a), the following applies: The engines at the power or thrust that is available eight seconds after initiation of movement of the power or thrust controls to the go-around power or thrust setting from the thrust level necessary to maintain a stabilized approach at a flight path angle two degrees steeper than the desired flight path angle.

Issued in Renton, WA on November 17, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30891 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–87–AD; Amendment 39–11434; AD 99–24–10]

RIN 2120–AA64

Airworthiness Directives; Precise Flight, Inc. Model SVS III Standby Vacuum Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all aircraft equipped with Precise Flight, Inc. Model SVS III standby vacuum systems installed in accordance with the applicable supplemental type certificate (STC) or through field approval. This AD requires incorporating revised operating limitations for the affected standby vacuum systems into the airplane flight manual (AFM), and repetitively inspecting the push-pull cable, vacuum lines, saddle fittings, and shuttle valve for correct installation and damage (wear, chafing, deterioration, etc.). This AD also requires immediately correcting any discrepancy found and conducting a function test of the vacuum system after the inspections. This AD is the result of reports of shuttle valve failure and standby vacuum system malfunction on aircraft. The actions specified by this AD are intended to detect and correct problems with the standby vacuum system before failure or malfunction and to provide operating procedures for the pilot regarding the use and limitations of this system.

DATES: Effective January 14, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 14, 2000.

ADDRESSES: Service information that applies to this AD may be obtained from Precise Flight, Inc., 63120 Powell Butte Road, Bend, Oregon 97701; telephone: (800) 547–2558. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–87–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy Lundy, Aerospace Engineer, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW, Renton, Washington 98055–4065; telephone: (425) 227–2260; facsimile: (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all aircraft equipped with Precise Flight, Inc. Model SVC III standby vacuum systems installed in accordance with the applicable supplemental type certificate (STC) or through field approval was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 7, 1999 (64 FR 36618). The NPRM proposed to require incorporating revised operating limitations for the affected standby vacuum systems into the airplane flight manual (AFM), and repetitively inspecting the push-pull cable, vacuum lines, saddle fittings, and shuttle valve for correct installation and damage (wear, chafing, deterioration, etc.). The NPRM also proposed to require immediately correcting any discrepancy found and conducting a function test of the vacuum system after each inspection.

The NPRM was the result of reports of shuttle valve failure and standby vacuum system malfunction on aircraft.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The compliance times of this AD are presented in calendar time. Although malfunction or failure of the standby vacuum systems is only unsafe while the aircraft is in flight, the condition is not a direct result of repetitive aircraft operation. The unsafe condition could exist on a standby vacuum system installed on an aircraft with only 50 hours time-in-service (TIS), but may not develop on another standby vacuum system installed on an aircraft until 1,000 hours TIS. The inspection compliance times are utilized to coincide with annual inspections so as to allow the owner/operator of the aircraft to have the required action accomplished at a time when he/she has already scheduled maintenance activities.

Cost Impact

The FAA estimates that 10,000 standby vacuum systems will be affected by this AD, that it will take approximately 3 workhours per vacuum system to accomplish the actions, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $1,800,000, or $180 per airplane.

These figures only take into account the costs of the initial inspection and initial functional test of the standby vacuum systems; subsequent inspections and functional tests and any corrective actions are not included in the cost impact. The FAA has no way of determining the number of repetitive inspections and functional tests each airplane owner/operator will incur over the life of an airplane incorporating one of the affected standby vacuum systems. The FAA also has no way of determining the number of standby vacuum systems that will require corrective action based on the inspection results.

Regulatory Impact

This rule does not have Federalism implications as defined in Executive Order No. 13132. This means it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The FAA has not consulted with state authorities prior to publication of this rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–24–10 Precise Flight, Inc.: Amendment 39–11434; Docket No. 98–CE–87–AD.

Applicability: Model SVS III standby vacuum systems, installed on, but not limited to, the aircraft listed in the following chart. These systems can be installed either in accordance with the applicable supplemental type certificate (STC) or through field approval:

Affected STC	Make and model airplanes
SA2160NM	Raytheon Beech Models 23, A23, A23A, A23–19, 19A, B19, B19A, A23–24, B23, C23, A24, A24R, B24R, C24R, 35, A35, B35, C35, D35, E35, F35, G35, 35R, H35, J35, K35, M35, N35, P35, S35, V35, V35A, V35B, 35–33, 35–A33, 35–B33, 35–C33, 35–C33A, E33, E33A, E33C, F33, F33A, F33C, G33, 36, A36, A36TC, B36TC, 4S (YT–34), A45 (T–34A, B–45), D45(T–34B), and 77 Series.
SA2161NM	Raytheon Beech Model V35B.
SA2162NM	Cessna Models 120, 140, 140A, 150, 150A, 150B, 150C, 150D, 150E, 150F, 150G, 150H, 150J, 150K, 150L, A150L, 150M, 152, A152, A150K, A150M, 170, 170A, 170B, 172, 172A, 172B, 172C, 172D, 172E, 172F (USAFT–41A), 172G, 172H (USAFT–41A), 172I, 172K, 172L, 172M, 172N, 172P, 172Q, 175, 175A, 175B, 175C, P172D, R172E (USAFT–41B, USAFT41–3, and USAFT–41D), R172F (USAFT–41D and USAFT–41C), R172G (USAFT–41D), R172H (USAFT–41D), R172J, R172K, 172RG, 177, 177A, 177B, 177RG, 180, 180A, 180B, 180C, 180D, 180E, 180F, 180G, 180H, 180J, 180K, 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, 182R, 182RG, T182, T182RG, T182R, 185, 185A, 185B, 185C, 185D, 185E, A185E, A185F, 188, 188A, 188B, A188, A188B, T188C, 206, P206, P206A, P206B, P206C, P206D, P206E, TP206A, TP206B, TP206C, TP206D, TP206E, U206–A, U206–B, U206–C, U206–D, U206–E, U206–F, U206G, TU206–A, TU206–B, TU206–C, TU206–D, TU206–E, TU206–F, TU206–G, 207, 207A, T207, T207A, 210, 210A, 210B, 210C, 210D, 210E, 210F, 210–5 (205), 210–5A (205A), T210F, 210G, T–210G, 210H, T–210H, 210J, 205P, T–210J, 210K, T–210K, T210L, 210L, 210M, T210M, 210N, P210N, T210N, 205T, 210R, P210R, 205U, T210R, 210–5, 210–5A, 305A (USAF 0–1A), 305C (USAF 0–1E), 305D (USAF 0–1F), 305F, 305B (USAF T0–1D), 305E (0–1D or 0–1F), and 321 (Navy 0E–2).
SA2163NM	Cessna Model U206G.
SA2164NM	Cessna Model 180Q.
SA2166NM	Cessna Model 177.
SA2167NM	The New Piper Aircraft, Inc. (Piper) Models L–14, PA–12, PA–12S, PA–14, PA–15, PA–16, PA–16S, PA–17, PA–18, PA–18A, PA–18S, PA–18–105 (Special), PA–18S–105 (SP), PA–18–125 (Army L–21A), PA–18AS–125, PA–18S–125, PA–18–135, PA–18A–135, PA–18AS–135, PA–18S–135, PA–18–150, PA–18A–150, PA–18AS–150, PA–18S–150, PA–19 (Army L–18C), PA–19S, PA–20, PA–20S, PA–20–115, PA–20S–115, PA–20–135, PA–22, PA–22–108, PA–22–135, PA–22S–135, PA–22–150, PA–22S–150, PA–22–160, PA–22S–160, PA–24, PA–24–250, PA–24–260, PA–24–400, PA–25, PA–25–235, PA–25–260, PA–32–260, PA–32RT–300, PA–32RT–301T, PA–32–300, PA–32RT–300T, PA–32–301, PA–32S–300, PA–32R–301, PA–32–301T, PA–32R–300, PA–32R–301T, PA–28–140, PA–28–141, PA–28–150, PA–28–151, PA–28–160, PA–28S–160, PA–28–180, PA–28R–180, PA–28S–180, PA–28–235, PA–28S–235, PA–28–181, PA–28–161, PA–28R–200, PA–28R–201, PA–28R–201T, PA–28–236, PA–28RT–201, PA–28RT–201T, PA–28–201T, PA–36–285, PA–36–300, PA–36–375, PA–38–112, and PA–46–310P.
SA2168NM	Mooney Models M20, M20A, M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K, M20M, and M22.

Affected STC	Make and model airplanes
SA2683NM	Aerocar, Inc. Model I, Aerodifusion, S.L. Model Jodel D–1190S, Aeromere, S.A. Model Falco F.8.L., Aeronautica Macchi S.P.A. Models AL60, AL60–B, AL60–F5, and AL60–C5, Aeronautica Macchi & Aerfer Model AM–3, Aeronca Inc. Models 15AC and S15AC, Aerospatiale Model TB20 Trinidad, Arctic Aircraft Co., Inc. Models S–1A, S–1A–65F, S–1A–85F, S–1A–90F, S–1B1 (Army L–67 XL–6), and S–1B2, Avions Mudry et Cie Model CAP 10B, American Champion Models (Bellanca, Aeronca) 7AC, 7ACA, S7AC (L–16A), 7BCM (L–16B), 7CCM, 7DC, S7DC, 7EC, S7EC, 7ECA, 7FC, 7GC, 7GCA, 7GCCA, 7GCB, 7GCBA, 7GCBC, 7HC, 7JC, 7KC, 7KCAB, 8KCAB, 8GCBC, 11AC, S11AC, 11BC, S11BC, 11CC, and S11CC, Bellanca Aircraft Corporation, Models 14–9, 14–9L, 14–12F–3, 14–13, 14–13–2, 14–13–3, 14–13–3W, 14–19, 14–19–2, 14–19–3A, 17–30, 17–31, 17–31TC, 17–30A, 17–31A, and 17–31ATC, Biemond, C. Model Teal CB1, Board, G.R. Models Columbia XJL–1 and Bolkow Jr., Clark Aircraft, Inc. Models 12 and 1000, Falcon Aircraft Corporation Model F–1, Flug und Fahrzeugwerke AG Model AS 202/15 "Brand," Found Brothers Model FBA–2C, Fuji Heavy Industries Models FA–200–160, FA–200–180, and FA–200–180AO, Funk Aircraft Model Funk C, Kearns, Edward Scott (Garcia, Henry S.) Model (Emigh) Trojan A–2, Swift Museum Foundation, Inc. Model (Globe) GC–1A, GC–1B, Goodyear Aircraft Model GA–22A, Great Lakes Aircraft Model 2T–1A–1 and 2T–1A–2, Grumman American Models G–164, G–164A, G–164B, AA–1, AA–1A, AA–1B, AA–1C, AA–5, AA–5A, and AA–5B, Commander Aircraft (Gulfstream) Models 112, (112A, 112B, 112TC, 112TCA, 114, and 114A, Helio Enterprises Models H–250, H–295 (USAF U–10D), H–391 (USAF YL–24), H–395 (SAF L–28A), H–395A, HT–295, and H–700, Prop–Jets, Inc. (Interceptor Corp., Aero Commander, Meyers) Models 200, 200A, 200B, 200C, and 200D, C. Itoh Aircraft Maintenance & Engineering Co. LTD. Model N–62, Jamieson Corporation Model J–2–L1B, Jodel, Avion Models D–140–B, DR–1050, D–1190, and 150, Lake Models C–1, C–2–IV, LA–4, LA–4–200, and LA–4–250, Luscombe Aircraft Corp. Models 8, 8A, 8B, 8C, 8D, 8E, 8F, T–8F, and 11A, Maule Aerospace Technology Corp. Models Bee Dee M–4, M–4, M–4C, M–4S, M–4T, M–4–180C, M–4–180S, M–4–210, M–4–201C, M–4–210S, M–4–210T, M–4–220S, M–4–220T, M–5–180C, M–5–200, M–5–210C, M–5–210TC, M–T–220C, M–5–235, M–5–235C, M–6–180, M–6–235, M–7–235, MX–7–180, MX–7–235, Messerschmitt-Bolkow Models BO–209–150 FV&RV, BO209–160 FV&RV, BO–209, and 150OFF, Nardi S.A. Model FN–333, Jimmie Thompson Enterprise (Navion Rangemaster Aircraft Corporation) Models Navion (L–17A), Navion A (L–17B, L–17C), Navion B, D, E, F, G, and H, White International Ltd. Models (Pitts) S–1S, S–1T, S–2, and S–2A, Procaer S.P.A. Models F 15/B, F 15/C, and F 15/E, Gulfstream Aerospace Corporation (Rockwell) Models 111, 112, 112B, 112TC, 112TCA, and 114, Aermacchi S.p.A Models S.205, S.205–18F, S.205–18/R, S.205–20/F, S.205–20/R, S.205–22/R, S.208, S.208A, F.260, and F.260B, Socata—Groupe Aerospatiale Models Rallye Series MS880B, MS885, MS892–A–150, MS892E–150, MS893A, MS893E, MS894A, MS894E, TB9, TB10, and TB21, Stinson Models 108–2 and108–3, Sud Aviation Models Gardan GY.80–1500, GY.80–160, and GY.80–180, Taylorcraft Aircraft Company Models F19, F21, and F21A, Univair Aircraft Corporation (Forney) Models F–1, F–1A, (ERCO) E, 415D, (ALON) A–2, A20a, (Mooney) M10, (Mooney) (ERCO) 415–C, and 415–CD, Augustair, Inc. (Varga Aircraft Corporation) Models 2150, 2150A, and 2180.

Note 1: The above list includes the aircraft where the Precise Flight, Inc. Model SVS III standby vacuum systems could be installed through STC. This list is not meant to be exhaustive nor does it include all aircraft with the systems installed through field approval.

Note 2: This AD applies to any aircraft with a standby vacuum system installed that is identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished. To detect and correct problems with the standby vacuum system before failure or malfunction and to provide operating procedures for the pilot regarding the use and limitations of this system, accomplish the following:

(a) Within the next 30 calendar days after the effective date of this AD, accomplish whichever (paragraph (a)(1) or (a)(2) below) of the following that applies:

(1) For airplanes with the affected standby vacuum system installed in accordance with the applicable STC, incorporate the applicable Precise Flight, Inc. Airplane Flight Manual Supplement (AFMS) for Standby Vacuum Systems (each document corresponds with the applicable STC as presented in the chart below) into the Airplane Flight Manual (AFM), including installing all placards specified in these AFMS's; or insert a copy of the Appendix to this AD into the AFM, including installing all placards specified in the Appendix:

Applicable STC	AFMS date
SA2160NM	May 7, 1998.
SA2161NM	August 6, 1998.
SA2162NM	August 6, 1998.
SA2163NM	August 6, 1998.
SA2164NM	August 6, 1998.
SA2166M	August 6, 1998.
SA2167NM	August 6, 1998.
SA2168NM	August 6, 1998.
SA2683NM	August 6, 1998; or

(2) For airplanes with the affected standby vacuum system installed through field approval, insert the Appendix to this AD into the AFM, including installing all placards specified in the Appendix.

(b) Within the next 12 calendar months after the effective date of this AD, and thereafter at intervals specified in the following paragraphs, inspect the push-pull cable, vacuum lines, saddle fittings, and shuttle valve for correct installation and damage (wear, chafing, deterioration, etc.). Accomplish these inspections in accordance with Precise Flight Instructions for Continued Airworthiness (Section 3.3 of Installation Report No. 50050), Revision 25, dated August 26, 1996.

(1) Reinspect the push-pull cable, vacuum lines, and saddle fittings at intervals not to exceed 12 calendar months; and

(2) Reinspect the shuttle valve at intervals not to exceed 24 calendar months.

(c) Prior to further flight after each inspection required by paragraph (b) of this AD, accomplish the following in accordance with Precise Flight Instructions for Continued Airworthiness (Section 3.3 of Installation Report No. 50050), Revision 25, dated August 26, 1996.

(1) Correct any discrepancy found; and

(2) Conduct a function test of the vacuum system and assure proper function.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW, Renton,

Washington 98055–4065. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) The inspections, corrections, and test required by this AD shall be done in accordance with Precise Flight Instructions for Continued Airworthiness (Section 3.3 of Installation Report No. 50050), Revision 25, dated August 26, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Precise Flight, Inc., 63120 Powell Butte Road, Bend, Oregon 97701. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment becomes effective on January 14, 2000.

Appendix to Docket No. 98–CE–87–AD—Precise Flight, Inc. AFMS for Standby Vacuum System

System Description

A Precise Flight Standby Vacuum System may be installed to provide a temporary vacuum system in the event of a primary vacuum failure. The Standby Vacuum System operates on the differential between the intake manifold and ambient air pressure and is directed through a shuttle valve system to drive your flight instruments.

I. Operating Limitations

A. Instructions

1. The Standby Vacuum System is for emergency or standby use only and not for dispatch purposes.

2. Vacuum powered and/or Vacuum gyro directed autopilot operation may be unreliable when the Standby Vacuum System is the sole source of vacuum. Vacuum powered or vacuum gyro directed autopilot should be OFF when operating with a failed primary vacuum system.

3. The Supplemental Vacuum System is not designed to operate pneumatic de-ice systems. DO NOT operate a pneumatic de-ice system when operating with a failed primary vacuum system.

4. Above 10,000 ft. pressure altitude, engine power settings may have to be significantly reduced to provide adequate vacuum power for proper gyro instrument operation.

5. The following placards are required to be in full view of pilot:

B. Placards

Placard to be located on the push/pull control cable.

Placard to be located around the LED for the pump inop warning light.

Placard to be placed in front and in full view of the pilot.

STANDBY VACUUM SYSTEM EQUIPPED: FOR OPERATING INSTRUCTIONS AND LIMITATIONS SEE SUPPLEMENT IN OWNERS MANUAL OR PILOTS OPERATING HANDBOOK

One of the following placards must be placed in full view of the pilot near the instrument vacuum indicator after appropriate entries have been made.

APPROXIMATE STANDBY VACUUM AVAILABLE—ALTITUDE—POWER CHART FOR AIRCRAFT WITH CONSTANT SPEED PROPELLER—MAXIMUM CONTINUOUS RPM

Press alt. (ft.)	RPM	Man. pressure	SVS Vacuum in. hg min.
2000	Max. Cont.		
4000	Max. Cont.		
6000	Max. Cont.		
8000	Max. Cont.		
10,000	Max. Cont.		

APPROXIMATE STANDBY VACUUM AVAILABLE—ALTITUDE—POWER CHART FOR AIRCRAFT WITH A FIXED PITCH PROPELLER

Press alt. (ft.)	RPM	SVS Vacuum in. hg min.
2000		
4000		
6000		
8000		
10,000		

II. Operating Procedures

A. Normal Procedures

1. Ground Check

a. Cycle the Standby Vacuum Control Knob OUT—ON—and return Control Knob IN—OFF—position.

2. Before Takeoff

a. Idle Engine at low speed, momentarily pull the standby vacuum knob out—ON—and check vacuum gauge. Normally, the vacuum reading will be slightly higher. After checking system push Standby Vacuum System knob IN—OFF—. Check that vacuum gauge has returned to the previous reading.

3. Enroute

a. Regularly check vacuum gauge and monitor warning light for proper vacuum system operation.

B. Emergency Procedures

1. Primary Vacuum Failure Warning Light Illuminates

a. Pull the Standby Vacuum System knob OUT—ON—and adjust throttle setting as required to maintain adequate vacuum for the primary instruments—Suction Gauge Reading in the Green Arc—If necessary descend to a lower altitude to obtain a larger differential between manifold and ambient pressure. Vacuum power must be closely monitored by checking the vacuum gauge frequently.

b. The SVS is not designed for continued IFR flight. Immediate steps should be taken to return to VFR conditions or to land. If this is not possible, IFR flight should be continued only as long as necessary to return to VFR conditions or land the airplane.

WARNING: FAILURE OF THE VACUUM SYSTEM STILL CONSTITUTES AN EMERGENCY SITUATION REGARDLESS OF THE INSTALLATION OF THE SVS. IT MAY NOT BE POSSIBLE TO MAINTAIN A SAFE ALTITUDE AND MAKE USE OF THE SVS. IN SUCH A SITUATION THE AIRPLANE MUST BE FLOWN USING NON-VACUUM POWERED INSTRUMENTS.

c. If descent is impractical:

- Periodically and temporarily reduce power as required to provide adequate vacuum to the aircraft primary instruments.
- Reapply power as required, while comparing vacuum driven gyros against the Turn and Bank Indicator, Turn Coordinator, VSI and/or other flight instruments.
- When an obvious discrepancy is noted between the vacuum driven instruments and other flight instrumentation. Periodically and temporarily reduce power as required to provide adequate vacuum to the aircraft primary instruments.

III. Performance

No Change.

Issued in Kansas City, Missouri, on November 15, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30519 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–46–AD; Amendment 39–11441; AD 99–24–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires removal of cable guards in the lateral control system and replacement with new, improved cable guards. This amendment is prompted by reports of high control wheel forces and restricted control wheel movement. The actions specified by this AD are intended to prevent deterioration of cable guards in the lateral control system, which could result in a jam of the lateral control system and consequent reduced lateral controllability of the airplane.

DATES: Effective January 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on July 16, 1999 (64 FR 38383). That action proposed to require removal of cable guards in the lateral control system and replacement with new, improved cable guards.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request To Revise Cost Impact Information

One commenter requests that the cost impact information be revised to include the work hours required to gain access and close up, and to test the lateral flight control system after the replacement of the cable guards. The commenter states that cost impact information provided in the proposed rule estimates 10 work hours per airplane is necessary for the replacement, whereas the Boeing service bulletin estimates 31.5 work hours per airplane.

The FAA does not concur with the commenter's request. The cost impact information, below, describes only the "direct" costs of the specific actions required by this AD. The number of work hours necessary to accomplish the required actions, specified as 10 in the cost impact information, below, was provided to the FAA by the manufacturer based on the best data available to date. This number represents the time necessary to perform only the actions actually required by this AD. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur "incidental" costs in addition to the "direct" costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. No change to the final rule is necessary in this regard.

Request To Extend the Compliance Time

One commenter requests that the compliance time for the replacement of the cable guards be extended from 2 years to 4 years. The commenter states that it has replaced deteriorated cable guards found during various inspection and maintenance tasks in the area, but that it is unaware of any cases where deterioration of the cable guards has led to binding of the control cables. Due to the access required for the replacement, the commenter states that a longer compliance time would better accommodate its work schedule.

The FAA does not concur with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modification. In consideration of these items, as well as two reports of cable binding due to cable guard deterioration in service, the FAA has determined that 2 years represents an appropriate interval of time allowable wherein the modifications can be accomplished during scheduled maintenance intervals for the majority of affected operators, and an acceptable level of safety can be maintained. No change to the final rule is necessary in this regard.

Request To Consider Repetitive Inspections in Lieu of Replacement

One commenter requests that the FAA consider allowing repetitive inspections of the cable guards in lieu of the required replacement. The commenter states that repetitive inspections and on-condition replacement of cable guards, as well as the elimination of existing cable guards from spares, provides an acceptable level of safety. The commenter also notes that, on freighters, the lateral control cables are exposed and can be easily inspected.

The FAA does not concur with the commenter's request. The FAA has determined that the eventual replacement of all existing cable guards is required because it is not known how long the cable guards will remain intact after exposure to airplane grease. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 956 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 219 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $11,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,540,400, or $11,600 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–24–16 Boeing: Amendment 39–11441. Docket 99–NM–46–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–27A2364, dated September 3, 1998, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent deterioration of cable guards in the lateral control system, which could result in a jam of the lateral control system and consequent reduced lateral controllability of the airplane, accomplish the following:

Replacement

(a) Within 2 years after the effective date of this AD, remove existing cable guards in the lateral control system and replace with new, improved cable guards in accordance with Boeing Alert Service Bulletin 747–27A2364, dated September 3, 1998.

Note 2: Removal of existing cable guards and replacement with new, improved cable guards between Stations 300 and 420 accomplished prior to the effective date of this AD in accordance with Boeing Service Letter 747–SL–27–134, dated December 23, 1993, is considered acceptable for compliance with paragraph (a) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install a cable guard with a part number and dash number listed in Table 1 of this AD, on any airplane.

TABLE 1.—CABLE GUARDS NOT TO BE INSTALLED

Part No.	Part dash No.
65B82025	65B82025–2 through 65B82025–4 inclusive 65B82025–9 through 65B82025–10 inclusive 65B82025–17 through 65B82025–22 inclusive 65B82025–25 65B82025–27 through 65B82025–46 inclusive 65B82025–48 through 65B82025–57 inclusive
65B82204	65B82204–9 through 65B82204–10 inclusive 65B82204–18 through 65B82204–22 inclusive 65B82204–25 65B82204–31 through 65B82204–40 inclusive 65B82204–43 through 65B82204–44 inclusive 65B82204–61 through 65B82204–76 inclusive 65B82204–81 through 65B82204–86 inclusive
65B82443	65B82443–9 through 65B82443–10 inclusive 65B82443–12 65B82443–14 through 65B82443–18 inclusive 65B82443–21 through 65B82443–22 inclusive 65B82443–26 through 65B82443–31 inclusive

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance

Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin 747–27A2364, dated September 3, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 4, 2000.

Issued in Renton, Washington, on November 18, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30629 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–89–AD; Amendment 39–11435; AD 99–24–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757–200 and –300 series airplanes, that requires modification of the slide/raft evacuation system by installing a girt reinforcement chafing patch. This amendment is prompted by reports of holes in the inflatable area of the slide/raft evacuation system due to chafing against the installation support bracket. The actions specified by this AD are intended to prevent holes in the inflatable portion of the slide/raft evacuation system, which could result in the slide/raft being less effective as a raft during an emergency water landing.

DATES: Effective January 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Air Cruisers Company, Technical Publications Department, P.O. Box 180, Belmar, New Jersey 07719–0180. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2780; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757–200 and –300 series airplanes was published in the **Federal Register** on July 20, 1999 (64 FR 38846). That action proposed to require modification of the slide/raft evacuation system by installing a girt reinforcement chafing patch.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Two commenters support the proposed rule. One commenter states that it is not affected by the proposed rule because its airplanes are not equipped with the slide/rafts referenced in the proposal. Another commenter states that it is in the process of accomplishing the actions specified by Air Cruisers Company Service Bulletin 757–105–25–51, dated January 29, 1999.

Request To Revise the Unsafe Condition

One commenter suggests that the unsafe condition cited in the notice of proposed rulemaking (NPRM) be revised to state that holes caused by the slide/raft chafing on the harness bracket could result in the slide/raft being "less effective" as a raft during an emergency water landing rather than "unusable." The commenter contends that the escape slide/rafts are designed with two independent inflation chambers. Each independent chamber is capable of supporting the rated occupancy of the slide/raft, and there have been no reports of holes in both chambers.

The FAA concurs with the commenter's statement that the holes caused by the slide/raft chafing against the bracket could result in the slide/raft being "less effective" rather than "unusable." Based on reports that only one chamber of the slide/raft would be affected, the FAA has determined that this change is appropriate and has changed the final rule accordingly.

Request To Add an Inspection Requirement

One commenter states that an immediate inspection of the slide/rafts is required to ensure that any slide/raft already chafed "to the point of failure" be repaired immediately.

The FAA does not concur that an immediate inspection of the slide/rafts is necessary. To date, the FAA has received only two reports of chafing/scuffing of the slide/rafts that have resulted in a small hole being worn through one of the two inflatable chambers. The FAA adds that such a condition would result in a slow leak that would only affect the rafting use of the escape slide/raft. In light of this, the FAA has determined that accomplishment of paragraph (a) of this AD to require modification of the slide/raft within 36 months after the effective date of this AD is adequate in ensuring operational safety. No change to the final rule is necessary in this regard.

Request To Revise Paragraph (a) of the Proposed Rule

One commenter questions the effectiveness of the proposed repair (modification) action of adding a chafing patch, as specified by paragraph (a) of the proposed AD, since that patch may cause wear of another component, or simply delay the onset of a hole from wear. The commenter states that "a corrective action to eliminate the interference and subsequent repetitive abrasion would seem more appropriate in order to solve this problem."

The FAA does not concur with the commenter's request to revise the action (modification) required by paragraph (a) of the proposed AD. Although the FAA acknowledges the concerns of the commenter regarding corrective action to eliminate damage to the slide/raft, the FAA has evaluated this modification for

its wear resistance and determined that modification of the slide/raft, in accordance with the requirements of paragraph (a) of the AD, is adequate to ensure the continued safety of the affected fleet.

Request To Extend the Compliance Time in Paragraph (b)

One commenter requests that the compliance time in paragraph (b) of the proposed AD be extended from "As of the effective date of this AD" to "As of 30 days after the effective date of this AD." The commenter contends that the compliance time should be extended to allow additional time for obtaining the slide/raft spares and to ensure that sufficient stock levels of those parts can be maintained.

The FAA does not concur with the commenter's request to extend the compliance time in paragraph (b) of the proposed AD to 30 days. The FAA considers that the specified compliance time allows sufficient time for obtaining spares and maintaining stock levels. Further, the intent of that paragraph is to prohibit the installation of spares that have been determined to create an unsafe condition, and to simply require the use of one part rather than another. In general, once an unsafe condition has been determined to exist, it is the FAA's policy not to allow that condition to be introduced into the fleet. When it is determined that approved parts are immediately available to operators, the installation of unsafe parts after the effective date of the AD is prohibited. Further, the FAA considers that the period of time between publication of the final rule AD in the **Federal Register** and the effective date of the final rule (usually 30 days) is sufficient to provide operators with an opportunity to determine their immediate need for modified spares and to obtain them. However, in individual cases where this is not possible, every AD contains a provision that allows an operator to obtain an extension of compliance time based upon a specific showing of need. The FAA considers that this policy does increase safety and does not impose undue burdens on operators. Therefore, no change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 445 Model 757–200 and –300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 310 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the modification, and that the average labor rate is $60 per work hour. Required parts will cost approximately $145 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $137,950, or $445 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–24–11 Boeing: Amendment 39–11435. Docket 99–NM–89–AD.

Applicability: Model 757–200 and –300 series airplanes, equipped with Air Cruisers Company slide/raft evacuation systems having part and serial numbers identified in Table 1 of this AD; certificated in any category.

TABLE 1.—AIR CRUISERS COMPANY SLIDE/RAFT EVACUATION SYSTEMS SUBJECT TO THIS AD

Name	Part No.	Serial No.
Air Cruisers	D30657–( )	Prior to 1132.
Air Cruisers	D30658–( )	Prior to 0859.
Air Cruisers	D30659–( )	Prior to 0860.
Air Cruisers	61570–( )	Prior to 0321.
Air Cruisers	61475–( )	Prior to 0137.
Air Cruisers	61475–( )	0138, 0139.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent holes in the inflatable portion of the slide/raft evacuation system, which could result in the slide/raft being less effective as a raft during an emergency water landing, accomplish the following:

Modification

(a) Within 36 months after the effective date of this AD, modify the slide/raft evacuation system in accordance with Air Cruisers Company Service Bulletin 757–105–25–51, dated January 29, 1999.

Spares

(b) As of the effective date of this AD, no person shall install a slide/raft evacuation system having a part number and serial number identified in Table 1 of this AD, on any airplane, unless that slide/raft evacuation system has been modified in accordance with Air Cruisers Company Service Bulletin 757–105–25–51, dated January 29, 1999.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The modification shall be done in accordance with Air Cruisers Company Service Bulletin 757–105–25–51, dated January 29, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Air Cruisers Company, Technical Publications Department, P.O. Box 180, Belmar, New Jersey 07719–0180. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 4, 2000.

Issued in Renton, Washington, on November 18, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30628 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–122–AD; Amendment 39–11436; AD 99–24–12]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Lockheed Model L–1011–385 series airplanes, that currently requires revision of the Airplane Flight Manual (AFM) to prohibit operation of the fuel boost pumps when fuel quantities are below certain levels, and to add maintenance procedures for operating the airplane under certain conditions. That AD also requires the installation of a placard on the engineer's fuel panel to advise the maintenance crew that operation of the fuel boost pumps is prohibited under certain conditions. This amendment adds a terminating modification for the requirements of the existing AD. This amendment is prompted by reports of internal electrical failures in the fuel boost pump of the wing fuel tanks that could result in either electrical arcing or localized overheating. The actions specified by this AD are intended to prevent such electrical arcing or overheating, which could breech the protective housing of the fuel boost pump and expose it to fuel vapors and fumes, and consequent potential fire or explosion in the wing fuel tank.

DATES: Effective January 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–08–09, amendment 39–10492 (63 FR 20062, April 23, 1998), which is applicable to certain Lockheed Model L–1011–385 series airplanes, was published in the **Federal Register** on July 14, 1999 (64 FR 37920). The action proposed to supersede AD 98–08–09 to continue to require revision of the Airplane Flight Manual (AFM) to prohibit operation of the fuel boost pumps when fuel quantities are below certain levels, and to add maintenance procedures for operating the airplane with an inoperative fuel boost pump assembly or with an inoperative flight station fuel quantity indicating system. The action also proposed to continue to require the installation of a placard on the engineer's fuel panel to advise the maintenance crew that operation of the fuel boost pumps when less than 1,200 pounds of fuel are in the corresponding wing fuel tank is prohibited. It also proposed to require installation of a modified fuel boost pump assembly, which would terminate the requirements of the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request to Revise Note 2

One commenter requests that the FAA revise Note 2 [following paragraph (c) of the proposed AD] to read "**Note 2**: Modification of the fuel boost pump assemblies, prior to the effective date of this AD, in accordance with Lockheed Service Bulletin 093–28–093, dated

January 15, 1999, or Revision 1, dated February 8, 1999, is considered acceptable for compliance with paragraph (c) of this AD." The commenter contends that accomplishment of the modification required by Lockheed Service Bulletin 093–28–093, Revision 1, would be an acceptable means of compliance with paragraph (c) of the proposed AD, irrespective of whether the modification was accomplished prior to, or within 18 months after the effective date of the proposed AD.

The FAA does not concur with the commenter's request. Operators are given credit for work previously performed by means of the phrase in the "Compliance" section of the AD that states, "Required as indicated, unless accomplished previously." The FAA's intent is that operators accomplish the requirements of this AD after the effective date of this AD in accordance with the latest FAA-approved revision of Lockheed Service Bulletin 093–28–093 (*i.e.*, Revision 1, dated February 8, 1999). **Note 2** gives credit to operators that accomplished the modification prior to the effective date of this AD in accordance with the original version of the service bulletin. Therefore, no change to the final rule is necessary.

Explanation of Change Made to Proposal

Since issuance of the proposed rule, the FAA has become aware that Lockheed Service Bulletin 093–28–093, dated January 15, 1999, which was referenced in Note 2 of the proposed AD, was never released by the manufacturer. Therefore, the FAA has deleted **Note 2** from the final rule and renumbered the subsequent notes accordingly.

The FAA also has added paragraph (d)(2) to the final rule to inform operators that alternative methods of compliance, approved previously in accordance with AD 98–08–09, amendment 39–10492, are approved as alternative methods of compliance for this final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 235 Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 98–08–09 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $7,020, or $60 per airplane.

The modification that is required in this AD action will take approximately 8 work hours (1 hour per fuel pump assembly) per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $18,880 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $2,265,120, or $19,360 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10492 (63 FR 20062, April 23, 1998), and by adding a new airworthiness directive (AD), amendment 39–11436, to read as follows:

99–24–12 Lockheed Aeronautical Systems Company: Amendment 39–11436. Docket 99–NM–122–AD. Supersedes AD 98–08–09, Amendment 39–10492.

Applicability: Model L–1011–385–1, -385–1–14, -385–1–15, and -385–3 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a potential fire or explosion in the wing fuel tank, accomplish the following:

Restatement of Requirements of AD 98–08–09, Amendment 39–10492 AFM Revision

(a) Within 50 flight hours or 10 days after April 28, 1998 (the effective date of AD 98–08–09, amendment 39–10492), whichever occurs first, revise the Limitations and Procedures Sections of the FAA-approved Airplane Flight Manual (AFM) to include the following information. This may be accomplished by inserting a copy of this AD into the AFM.

Add to Limitations Section:

"FUEL SYSTEM

Fuel Pumps

Do not operate the fuel boost pumps of the affected wing tank in the air or on the ground when fuel quantities are less than the following:

Wing tanks 1 and 3: Less than 1,200 lbs (545 kg) in each tank.

Wing tanks 2L and 2R: Less than 1,200 lbs (545 kg) total in the two compartments (inboard and outboard) of each tank.
These quantities should be considered unusable fuel for the purposes of fuel management.

When operating with a fuel boost pump assembly inoperative per Master Minimum Equipment List (MMEL) item number 28–24–01, add the following maintenance procedure:

Pull and collar the affected circuit breaker.

When operating with an inoperative flight station fuel quantity indicating system per MMEL item 28–41–00, do not operate the fuel boost pumps of the affected wing tank in the air or on the ground when fuel quantities are less than the following:

Wing tanks 1 and 3: Less than 7,000 lbs (3,175 kg) in the affected tank.
Wing tanks 2L and 2R: Less than 1,200 lbs (545 kg) total in the two compartments (inboard and outboard) of the affected tank."

Add to Procedures Section:

"FUEL SYSTEM

Fuel Pumps

If the circuit breaker for any wing tank fuel boost pump (circuit breakers U3, U4, U7, U8, U9, U10, U13, U14) trips, do not reset. If the pump trips while in flight, continue flight in accordance with the procedures in the "Tank Pumps LOW Lights On" portion of the Procedures section of the AFM. If the breaker trips while on the ground, do not reset without first identifying the source of the electrical fault.

ELECTRICAL SYSTEM

Fuel Pumps

If the circuit breaker for any wing tank fuel boost pump (circuit breakers U3, U4, U7, U8, U9, U10, U13, U14) trips, do not reset. If the pump trips while in flight, continue flight in accordance with the procedures in the "Tank Pumps LOW Lights On" portion of the Procedures section of the AFM. If the breaker trips while on the ground, do not reset without first identifying the source of the electrical fault."

Placard Installation

(b) Within 50 flight hours or 10 days after April 28, 1998, whichever occurs first, install a placard on the engineer's fuel panel that states:

"If FQIS is operative, do not operate the fuel boost pumps when less than 1,200 pounds of fuel are in the corresponding wing tanks."

New Requirements of this AD

Modification

(c) Within 18 months after the effective date of this AD: Modify each fuel boost pump assembly in accordance with Parts 2.A. through 2.I. inclusive of the Accomplishment Instructions of Lockheed Service Bulletin 093–28–093, Revision 1, dated February 8, 1999. Accomplishment of this modification terminates the requirements of this AD. Following accomplishment of the modification, the AFM revision may be removed from the AFM, and the placard may be removed.

Alternative Methods of Compliance

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(d)(2) Alternative methods of compliance, approved previously in accordance with AD 98–08–09, amendment 39–10492, are approved as alternative methods of compliance with this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The modification shall be done in accordance with Lockheed Service Bulletin 093–28–093, Revision 1, dated February 8, 1999, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–4, 6	Original	January 15, 1999.
5	1	February 8, 1999.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 4, 2000.

Issued in Renton, Washington, on November 18, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30627 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–197–AD; Amendment 39–11442; AD 99–24–17]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires modification of the airplane by coldworking fastener holes at the front and rear wing spars and by installing modified support angles for the lower trailing edge panel of the wing. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent fatigue cracking in the lower spar cap of the wing rear spar and in the lower skin at the wing front spar, just outside the nacelle, on the left-hand and right-hand side of the airplane, which could result in fuel leakage and consequent fire in or around the wing.

DATES: Effective January 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the

Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes was published in the **Federal Register** on September 23, 1999 (64 FR 51486). That action proposed to require modification of the airplane by coldworking fastener holes at the front and rear wing spars and by installing modified support angles for the lower trailing edge panel of the wing.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry will be affected by this AD, that it will take approximately 180 work hours per airplane to accomplish the actions, at an average labor rate of $60 per work hour. The manufacturer states that necessary parts will be provided at no cost to operators. Based on these figures, the cost impact of the this AD on U.S. operators is estimated to be $32,400, or $10,800 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–24–17 SAAB Aircraft AB: Amendment 39–11442. Docket 99–NM–197–AD.

Applicability: Model SAAB 2000 series airplanes, as listed in Saab Service Bulletin 2000–57–029, dated June 4, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To prevent fatigue cracking in the lower spar cap of the wing rear spar and in the lower skin at the wing front spar, just outside the nacelle, on the left-hand and right-hand side of the airplane, which could result in fuel leakage and consequent fire in or around the wing, accomplish the following:

(a) Prior to the accumulation of 13,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later, modify the airplane by coldworking the fastener holes at the front and rear wing spar (including all applicable nondestructive test and detailed visual inspections and repairs of holes) and installing modified support angles for the lower trailing edge panel of the wing, in accordance with the instructions of Saab Service Bulletin 2000–57–029, dated June 4, 1999.

(b) Where Saab Service Bulletin 2000–57–029, dated June 4, 1999, specifies that Saab be contacted for repair instructions for certain damage conditions, this AD requires that such damage conditions must be repaired in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Luftfartsverket (LFV) (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) Except as provided by in paragraph (b) of this AD, the actions shall be done in accordance with Saab Service Bulletin 2000–57–029, dated June 4, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD 1–142, dated June 4, 1999.

(f) This amendment becomes effective on January 4, 2000.

Issued in Renton, Washington, on November 18, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30626 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–340–AD; Amendment 39–11437; AD 99–24–13]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–135 and EMB–145 scries airplanes. This action requires a revision to the Airplane Flight Manual (AFM) to prohibit in-flight operations of the autopilot coupled to flight director #2 during certain conditions; and installation of an associated warning placard. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent failure of the autopilot to automatically disconnect from flight director #2, as intended, at a low altitude during windshear conditions. Such failure could result in reduced controllability of the airplane.

DATES: Effective December 15, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before December 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–340–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Angela Compton, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6070; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on all EMBRAER Model EMB–135 and EMB–145 series airplanes. The DAC advised that tests indicated that, when the autopilot system is coupled to the co-pilot's flight director (flight director #2), the autopilot system does not automatically disengage when a windshear is detected by the ground proximity warning system at a height below 1,500 feet above ground level (AGL). The cause of this malfunction has been attributed to a software discrepancy in the autoflight IC–600 integrated avionics computer, which causes the autopilot to remain engaged in windshear mode. This condition, if not corrected, could result in failure of the autopilot to automatically disconnect from flight director #2, as designed, at a low altitude during windshear conditions, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Embraer has issued Service Bulletin No. 145–31–0017, Change No. 01, dated October 22, 1999, which describes procedures for installation of a warning placard on the glareshield panel of the cockpit that states, "DO NOT OPERATE FLIGHT DIRECTOR #2 COUPLED TO AUTOPILOT BELOW 1,500 FT. AGL." The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 1999–10–01, dated October 20, 1999, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

These airplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the autopilot to automatically disconnect from flight director #2, as intended, at a low altitude during windshear conditions. Such failure could result in reduced controllability of the airplane. This AD requires a revision to the Limitations section of the FAA-approved Airplane Flight Manual (AFM) to provide the flightcrew with revised procedures to prohibit in-flight operations of the autopilot coupled to flight director #2 below 1,500 feet AGL; and installation of an associated warning placard.

Difference Between This AD, the Service Bulletin, and the Brazilian Airworthiness Directive

Operators should note that, although the service bulletin and the Brazilian airworthiness directive specify effectivity based on manufacturer serial numbers, the applicability of this AD is expanded to include all Model EMB–135 and EMB–145 series airplanes. The FAA has determined that the autoflight IC–600 integrated avionics computer, which is the probable cause of the unsafe condition, is installed on all Model EMB–135 and EMB–145 series airplanes.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the

FAA may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–340–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–24–13 Empresa Brasileira De Aeronautica S.A. (Embraer): Amendment 39–11437. Docket 99–NM–340–AD.

Applicability: All Model EMB–135 and EMB–145 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the autopilot to automatically disconnect from flight director #2, as intended, at a low altitude during windshear conditions, which could result in reduced controllability of the airplane, accomplish the following:

AFM Revision/Placard Installation

(a) Within 20 flight hours after the effective date of this AD, accomplish the actions required by paragraphs (a)(1) and (a)(2) of this AD.

(1) Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

"Operations are prohibited with flight director #2 coupled to autopilot below 1,500 feet above ground level (AGL)."

(2) Install a warning placard on the glareshield panel of the cockpit in accordance with Embraer Service Bulletin No. 145–31–0017, Change No. 01, dated October 22, 1999, which states:

"DO NOT OPERATE FLIGHT DIRECTOR #2 COUPLED TO AUTOPILOT BELOW 1,500 FT. AGL."

Note 1: Installation of the warning placard, prior to the effective date of this AD, in accordance with Embraer Service Bulletin No. 145–31–0017, dated October 15, 1999, is considered acceptable for compliance with the requirements of paragraph (a)(2) of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The placard installation shall be done in accordance with Empresa Brasileira De Aeronautica Service Bulletin 145–31–0017, Change No. 01, dated October 22, 1999 which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 2	01	October 22, 1999.
3–5	Original	October 15, 1999.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos–SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 1999–10–01, dated October 20, 1999.

(e) This amendment becomes effective on December 15, 1999.

Issued in Renton, Washington, on November 18, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30625 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–41–AD; Amendment 39–11443; AD 99–24–18]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS–350B, B1, B2, B3, BA, and D, and AS–355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Eurocopter France Model AS–350B, B1, B2, B3, BA, and D, and AS–355E, F, F1, F2, and N helicopters, that requires inspecting certain versions of the tail rotor spider plate bearing (bearing) for the proper rotational torque, axial play, and any brinelling of the bearing. This amendment has the same inspection requirements as the current AD. Also, this AD expands the applicability to include additional part numbers (P/N's) and reduces the initial and recurring inspection compliance times. This amendment is prompted by additional reports of deterioration of the bearing. The actions specified by this AD are intended to prevent seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Effective December 15, 1999. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 31, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–41–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On April 14, 1999, the FAA issued AD 99–09–06, Amendment 39–11139 (64 FR 19881, April 23, 1999), to require inspecting the bearing for the proper rotational torque, axial play, and any brinelling of the bearing. That action was prompted by service difficulty reports citing the need to prematurely replace bearings due to wear and by two in-flight incidents of increased tail rotor vibration levels due to bearing wear. That condition, if not corrected, could result in seizure of the bearing, loss of tail rotor control, and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has received additional reports of deterioration of the bearing affected by AD 99–09–06 and other bearings not covered by AD 99–09–06. Therefore, this AD expands the applicability to include additional bearing P/N's and to reduce the initial and recurring inspection compliance times.

Eurocopter France has issued Service Bulletin (SB) 05.00.29, Revision 2, applicable to Model AS–350 series helicopters, and SB 05.00.30, Revision 2, applicable to Model AS–355 series helicopters, both dated September 29, 1999. These SB's specify a check of the bearing for rotational torque. The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, classified these SB's as mandatory and issued AD's 1999–085–076(A)R2 and 1999–084–057(A)R2, both dated October 20, 1999, to ensure the continued airworthiness of these helicopters in France.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model AS–350B, B1, B2, B3, BA, and D, and AS–355E, F, F1, F2, and N helicopters of the same type design, this AD supersedes AD 99–09–06 (64 FR 19881, April 23, 1999). This AD has the same requirements as the current AD. This AD also expands the applicability to include additional P/N's 350A33–2004–00, –01 and –02, and 350A33–2009–00 and –01, installed, and excludes a bearing which has MOD 076551 incorporated. This AD also revises the initial and recurring inspection compliance times. The actions are required to be accomplished in accordance with the SB's described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, including additional P/N's in the applicability, requiring an initial inspection within 10 hours time-in-service (TIS) to measure the bearing rotational torque, and inspecting the bearing for axial play or brinelling at intervals not to exceed 50 hours TIS or 6 months, whichever occurs first, are required and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 507 helicopters will be affected by this AD, that it will take approximately 1 work hour to accomplish the inspection, and 4 work hours to replace a bearing, if required, and that the average labor rate is $60 per work hour. Required parts will cost approximately $60 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $182,520 to inspect all affected helicopters and to replace one bearing in each helicopter in the fleet.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and

suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99–SW–41–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not impose substantial direct compliance costs on states or local governments or have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the FAA has not consulted with States or local authorities prior to the publication of this rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11139 (64 FR 19881, April 23, 1999), and by adding a new airworthiness directive (AD), Amendment 39–11443, to read as follows:

AD 99–24–18 Eurocopter France: Amendment 39–11443. Docket No. 99–SW–41–AD. Supersedes AD 99–09–06, Amendment 39–11139, Docket No. 98–SW–44–AD.

Applicability: AS–350B, B1, B2, B3, BA, and D, and AS–355E, F, F1, F2, and N helicopters, with tail rotor spider assembly, part number (P/N) 350A33–2004–00, –01, –02, –03, –05, or 350A33–2009–00 or –01, installed, and which do not incorporate MOD 076551, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent seizure of the tail rotor spider plate bearing (bearing), loss of tail rotor control, and subsequent loss of control of the helicopter, accomplish the following in accordance with the specified paragraphs of Eurocopter Service Bulletin (SB) 05.00.29, Revision 2, applicable to Model AS–350 helicopters, or SB 05.00.30, Revision 2, applicable to Model AS 355 helicopters, both dated September 29, 1999, as applicable.

(a) Within 10 hours time-in-service (TIS), measure the rotational torque of the bearing using the operational procedure in paragraph 2.B.1) of the Accomplishment Instructions in the applicable SB. If the rotational load is equal to or greater than 300 grams, replace the pitch change spider plate assembly with an airworthy pitch change spider plate assembly before further flight.

(b) At intervals not to exceed 50 hours TIS or at intervals not to exceed 6 months, whichever occurs first, measure the axial play and inspect for rotational binding or brinelling of the bearing using the operational procedure in paragraph 2.B.2) of the Accomplishment Instructions in the applicable SB.

(c) If the bearing fails to meet the airworthiness criteria stated in paragraph 2.B.3)b) of the Accomplishment Instructions in the applicable SB, replace the pitch change spider plate assembly with an airworthy pitch change spider plate assembly before further flight.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group, Rotorcraft Directorate.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) The inspections and replacements, if necessary, shall be done in accordance with paragraph 2.B of Eurocopter SB 05.00.29, Revision 2, applicable to Model AS–350 helicopters, or Eurocopter SB 05.00.30, Revision 2, applicable to Model AS 355 helicopters, both dated September 29, 1999, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, Rules Docket No. 99–SW–41–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on December 15, 1999.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 1999–084–057(A)R2 and AD 1999–085–076(A)R2, both dated October 20, 1999.

Issued in Fort Worth, Texas, on November 19, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–30797 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–176–AD; Amendment 39–11444; AD 99–25–01]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model BAe.125 Series 1000A and 1000B, and Model Hawker 1000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Raytheon Model BAe.125 series 1000A and 1000B, and Model Hawker 1000 series airplanes, that requires inspection of P1 pitot pipes for chafing or damage, and various follow-on actions. This amendment is prompted by reports of P1 pitot pipes chafing against adjacent flight control cables. The actions specified by this AD are intended to prevent a hole in the P1 pitot pipes, which would lead to erroneous input to the instrumentation and warning systems associated with the pilot's instruments.

DATES: Effective January 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67206. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul C. DeVore, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4142; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Raytheon Model BAe.125 series 1000A and 1000B, and Model Hawker 1000 series airplanes, was published in the **Federal Register** on September 15, 1999 (64 FR 50018). That action proposed to require inspection of P1 pitot pipes for chafing or damage, and various follow-on actions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 52 airplanes of the affected design in the worldwide fleet. The FAA estimates that 39 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $2,340, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–25–01 Raytheon Aircraft Company: Amendment 39–11444. Docket 99–NM–176–AD.

Applicability: All Model BAe.125 series 1000A and 1000B, and Model Hawker 1000 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a hole in the P1 pitot pipes, which would lead to erroneous input to the instrumentation and warning systems associated with the pilot's instruments, accomplish the following:

Inspections and Corrective Actions

(a) Within 150 flight hours after the effective date of this AD, perform a one-time general visual inspection to detect chafing or damage of the P1 pitot pipes, in accordance with Raytheon Service Bulletin SB.34–3028, dated January 1998.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior

area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) If no chafing or damage is found, prior to further flight, ensure a clearance of 0.25 inch or more exists between the P1 pitot pipes and flight control cables. If clearance is less than 0.25 inch, prior to further flight, reposition the P1 pitot pipes to achieve 0.25-inch clearance, in accordance with the service bulletin.

(2) If a pitot pipe is found to be chafed or damaged, prior to further flight, accomplish the requirements of paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD.

(i) Replace the discrepant pitot pipe with a new pipe, and ensure that a clearance of 0.25 inch or more exists between the flight control cables and the new pitot pipe, in accordance with the service bulletin. If clearance is less than 0.25 inch, reposition the P1 pitot pipes to achieve 0.25-inch clearance, in accordance with the service bulletin.

(ii) Perform a general visual inspection for damage of the flight control cables adjacent to the area of chafing or damage of the P1 pitot pipes, in accordance with the service bulletin. If damage is found, replace the damaged flight control cables with new cables in accordance with Chapter 20–10–31 of the Aircraft Maintenance Manual.

(iii) Perform a test of the P1 pitot system to ensure proper function, in accordance with the service bulletin. If the P1 pitot system fails the test, perform the corrective actions specified in Chapter 34–11–00 of the Aircraft Maintenance Manual.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) Except as provided by paragraphs (a)(2)(ii) and (a)(2)(iii) of this AD, the action shall be done in accordance with Raytheon Service Bulletin SB.34–3028, dated January 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67206. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 4, 2000.

Issued in Renton, Washington, on November 22, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30947 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–332–AD; Amendment 39–11445; AD 99–25–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. This action requires a one-time inspection to verify correct installation of the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank, and corrective actions, if necessary. For certain airplanes, this action requires replacement of the nut, bolt, and cotter pin that connects the input rod of the spoiler mixer mechanism to the torque tube crank with a new or serviceable nut, bolt, and cotter pin. This amendment is prompted by reports indicating numerous discrepancies in the installation of the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank. The actions specified in this AD are intended to prevent the linkage between the ratio changer input rod and the aft aileron control quadrant from becoming disconnected, which could result in reduced controllability of the airplane.

DATES: Effective December 15, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 31, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–332–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert C. Jones, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1118; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating numerous discrepancies in the installation of the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank on Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. These discrepancies include the use of incorrect hardware, the lack of secondary means of retention, and the incorrect (inverted) installation of the bolt. Additionally, the airplane manufacturer has indicated that the torque values specified, in a previously issued service bulletin, for the nut and bolt of the fastener in the spoiler mixer mechanism were too high. The previously specified torque values could cause the nut and bolt to fail, which could result in a disconnection of the linkage between the ratio changer input rod and the aft aileron control quadrant. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–27A1213, Revision 1, dated May 21, 1998, which describes procedures for a one-time visual inspection to verify

correct installation of the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank, and corrective actions, if necessary. The corrective actions involve either re-installation of the existing fastener, or replacement of the fastener with a new or serviceable fastener.

For certain airplanes on which the initial issue of the alert service bulletin has been accomplished, the alert service bulletin describes procedures for replacement of the nut, bolt, and cotter pin that connects the input rod of the spoiler mixer mechanism to the torque tube crank with a new or serviceable nut, bolt, and cotter pin.

Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent the linkage between the ratio changer input rod and the aft aileron control quadrant from becoming disconnected, which could result in reduced controllability of the airplane. The actions are required to be accomplished in accordance with the alert service bulletin described previously, except as discussed below. This AD also requires that operators report certain results of the one-time inspections to the FAA.

Differences Between AD and Alert Service Bulletin

Operators should note that the Boeing alert service bulletin recommends that the inspection to verify correct installation of the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank be performed at the operator's earliest maintenance opportunity. However, the FAA has determined that such an interpretive compliance time may not address the identified unsafe condition in a timely manner. In developing appropriate compliance times for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, the accessibility of the area to be inspected, the time necessary to accomplish the inspection (approximately 1 hour), and the time necessary to accomplish the replacement (approximately 1 hour). In light of all these factors, the FAA finds that inspecting to verify correct installation of the fastener in the spoiler mixer mechanism within a 90-day compliance time is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Operators also should note that the Boeing alert service bulletin specifies the effectivity to be Boeing Model 737–100, –200, –300, –400, and –500 series airplanes having line numbers 1 through 2681. However, the FAA has determined that this effectivity would not address all the affected airplanes on which the identified unsafe condition is likely to exist or develop. Therefore, the applicability of this AD includes all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–332–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–25–02 Boeing: Amendment 39–11445. Docket 99–NM–332–AD.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the linkage between the ratio changer input rod and the aft aileron control quadrant from becoming disconnected, which could result in reduced controllability of the airplane; accomplish the following:

Detailed Visual Inspection

(a) Within 90 days after the effective date of this AD, accomplish the actions required by paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 737–27A1213, Revision 1, dated May 21, 1998.

(1) For airplanes on which Boeing Alert Service Bulletin 737–27A1213, dated April 23, 1998, has not been accomplished: Perform a one-time detailed visual inspection to verify correct installation of the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank, in accordance with Revision 1 of the alert service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required."

(i) If the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank is installed correctly, no further action is required by this AD.

(ii) If the fastener that connects the input rod of the spoiler mixer mechanism to the torque tube crank is not installed correctly, prior to further flight, either re-install the existing fastener, or install a new or serviceable fastener, in accordance with Revision 1 of the alert service bulletin.

(2) For airplanes on which Boeing Alert Service Bulletin 737–27A1213, dated April 23, 1998, has been accomplished: Replace the nut, bolt, and cotter pin that connects the input rod of the spoiler mixer mechanism to the torque tube crank with a new or serviceable nut, bolt, and cotter pin in accordance with Revision 1 of the alert service bulletin.

Reporting Requirement

(b) Within 10 days after accomplishing the actions required by paragraph (a)(1) of this AD, submit a report of any findings of fasteners that connect the input rod of the spoiler mixer mechanism to the torque tube crank that require corrective action to the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 737–27A1213, Revision, 1, dated May 21, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 15, 1999.

Issued in Renton, Washington, on November 22, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–30946 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AWP–19]

Revocation of Class E and Class D Airspace, El Toro MCAS, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This action revokes the Class E surface area (E2) and Class D extension (D2) at El Toro MCAS, CA. The U.S. Marine Corps ceased operations at El Toro MCAS on July 2, 1999, thereby eliminating the necessity and criteria for controlled airspace.

EFFECTIVE DATE: 0901 UTC December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, A WP–520.10, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6613.

SUPPLEMENTARY INFORMATION:

History

In order to meet federal mandates with regard to Base Realignment and Closure, the U.S. Marine Corps ceased operations at El Toro MCAS on July 2, 1999. The airport was closed, air traffic control services were suspended, and all associated instrument procedures were cancelled. The cessation of all air operations and the closure of the airport have necessitated the revocation of the associated controlled airspace. The intended effect of this action is to revoke the class E surface area (E2) and Class D extension (D2) at El Toro MCAS, CA, as published in Paragraphs 6002 and 5000 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E2 and Class D2 airspace designations listed in this document would be subsequently removed from this Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) revokes previously designated controlled airspace associated with El Toro MCAS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally

current. Therefore, this regulation—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) Does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AWP CA E2 El Toro MCAS, CA [Removed]

* * * * *

Paragraph 5000 Class D airspace area designated as an extension to a Class C surface area.

* * * * *

AWP CA D2 El Toro MCAS, CA [Removed]

* * * * *

Issued in Los Angeles, California, on November 4, 1999.

Dawna J. Vicars,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 99–31042 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29833; Amendment No. 91–258]

RIN 2120–AA66

General Operating and Flight Rules; Airports/Locations Special Operating Restrictions; Amendment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends the Appendix listing airports/locations with special operating restrictions in FAA's general operating and flight rules. Specifically, this action adds a new entry for Covington, KY, in alphabetical order and revises the entries for Houston, TX, and Washington, DC, in section 1 of the Appendix, which lists the airports where aircraft operating within 30 nautical miles of the listed airports, from the surface upward to 10,000 feet mean sea level (MSL) must be equipped with an altitude encoding transponder. Additionally, this action "Reserves" section 2 which is no longer required, and revises the entries for Covington, KY, Houston, TX, and Washington, DC, in section 3 which lists locations at which fixed-wing special VFR operations are prohibited. The FAA is taking this action to correctly identify applicable airports under the appropriate sections in the Appendix.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Terry Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

Part 91, Appendix D, Section 1

This section of 14 CFR part 91, Appendix D, lists airports where special operating restrictions apply. Specifically, section 1 lists locations at which aircraft operating within 30 nautical miles of the listed airports, from the surface upward to 10,000 MSL are required to be equipped with an altitude encoding transponder.

On November 30, 1998, the FAA issued the Establishment of Cincinnati/Northern Kentucky International Airport Class B Airspace Area, and Revocation of the Cincinnati/Northern Kentucky International Airport Class C Airspace Area, KY, Final Rule (63 FR 65972). This rule established a Class B airspace area for the Cincinnati/Northern Kentucky International Airport (CVG). However, in the final rule the FAA inadvertently did not include CVG in part 91, Appendix D, section 1. This action corrects that omission.

Additionally, on December 17, 1991, the FAA issued the Airspace Reclassification Final Rule (56 FR 65638). This rule established the Washington Tri-Area, DC, Class B airspace area. This airspace area is comprised of four primary airports (Baltimore-Washington International, Ronald Reagan Washington National, Washington Dulles International, and Andrews Air Force Base). At the time this rule was published, the Andrews Air Force Base was omitted from part 91, Appendix D, section 1. This action corrects that inadvertent error.

Lastly, this amendment makes editorial corrections to part 91, Appendix D, section 1 by replacing the words "Washington National Airport" with "Ronald Reagan Washington National Airport" and "Houston Intercontinental Airport" with "George Bush Intercontinental Airport/ Houston."

Part 91, Appendix D, Section 2

Section 2 lists those locations at which the requirements of § 91.215(b)(5)(ii) apply. This section requires any aircraft, except any aircraft which was not originally certificated with an engine-driven electrical system or which has not subsequently been certified with such a system installed, balloon, or glider, from the surface to 10,000 feet MSL within a 10-nautical-mile radius of any airport listed in Appendix D, section 2 of this part, excluding the airspace below 1,200 feet outside of the lateral boundaries of the surface area of the airspace designated for that airport must be equipped with an altitude encoding transponder. The two airport airspace areas that met the criteria of § 91.215(b)(5)(ii) were reclassified as Class C and Class D airspace areas in accordance with the Airspace Reclassification Final Rule (56 FR 65655). Consequently, this particular section of the appendix is no longer required. Therefore, the FAA reserves section 2 of Appendix D.

Part 91, Appendix D, Section 3

This section lists airports where fixed-wing special visual flight rule operations are prohibited. Currently, this section lists the name of the Covington, KY, international airport as

"Greater Cincinnati International Airport," the Washington, DC, airport as "Washington National Airport," and the Houston, TX, airport as "Houston Intercontinental Airport."

This amendment makes editorial corrections to reflect the name changes for the above airports by replacing the words "Greater Cincinnati International Airport" with "Cincinnati Northern Kentucky International Airport," "Washington National Airport" with "Ronald Reagan Washington National Airport" and "Houston Intercontinental Airport" with "George Bush Intercontinental Airport/Houston" in section 3 of Appendix D.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

2. Amend Appendix D to part 91 as follows:

a. In *Section 1*, by adding a new entry in alphabetical order and by revising the entries for Houston, TX, and Washington, DC.

b. In *Section 2*, by adding "[Reserved]" at the end of the existing text.

c. In *Section 3*, by revising the entries for Covington, KY, Houston, TX, and Washington, DC.

The additions and revisions read as follows:

Appendix D to Part 91—Airports/Locations: Special Operating Restrictions

Section 1. * * *

* * * * *

Covington, KY (Cincinnati Northern Kentucky International Airport)

* * * * *

Houston, TX (George Bush Intercontinental Airport/Houston)

* * * * *

Washington, DC (Ronald Reagan Washington National Airport and Andrews Air Force Base, MD)

Section 2. * * * *[Reserved]*

Section 3. * * *

* * * * *

Covington, KY (Cincinnati Northern Kentucky International Airport)

* * * * *

Houston, TX (George Bush Intercontinental Airport/Houston)

* * * * *

Washington, DC (Ronald Reagan Washington National Airport and Andrews Air Force Base, MD)

* * * * *

Issued in Washington, DC, on November 5, 1999.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–29683 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice 3163]

Bureau of Consular Affairs; Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

AGENCY: Bureau of Consular Affairs, State Department.

ACTION: Final rule.

SUMMARY: This final rule amends the Department's Schedule of Fees for Consular Services by adding to regulations containing the list of certifications and fees and to regulations on the requests for services the certification of documents relating to births, marriages, and deaths of citizens of the United States and foreign nationals from records maintained by the former Canal Zone Government prior to September 30, 1979, and transferred as of December 1, 1999, from the Panama Canal Commission to the Department of State.

DATES: This rule becomes effective December 1, 1999.

FOR FURTHER INFORMATION CONTACT: William Crawford, Passport Services Correspondence Branch, Bureau of Consular Affairs, Department of State, Washington, DC 20524, telephone (202) 955–0307; telefax (202) 955–0300.

SUPPLEMENTARY INFORMATION:

Background

From 1904 until 1979, when the vital records function was transferred to the Republic of Panama, the U.S.-administered Canal Zone Government recorded all civil acts of birth, marriage and death of United States citizens and foreign nationals within the Canal Zone. The Panama Canal Commission was created in 1979 as an agency of the U.S. Government for the operation, management and improvement of the Canal Area. Since October 1, 1979, it has processed requests from the public for certified copies of certificates of birth, marriage or death recorded prior to September 30, 1979, concerning both United States citizens and foreign nationals born, married or deceased in the former Canal Zone while it was under United States administration.

The Panama Canal Commission will cease to exist on December 31, 1999, when the Canal Area is transferred to the Panama Canal Authority, a Panamanian agency. By December 1, 1999, the records will be transferred to the Department of State as the custodian for such documents issued abroad. This rule provides that, as successor custodian, the Department upon request will provide certified copies of those records, for both U.S. citizens and foreign nationals, under procedures similar to the certification of documents relating to births, marriages and deaths abroad of U.S. citizens issued by a U.S. Embassy or Consulate, and as currently provided for in the regulations. This rule also identifies the Department's office to which requests are to be made.

Section 9701 of Title 31, United States Code requires charging a fee for services provided to individuals that are not generally for the benefit of all the public, and Executive Order 10718 of June 27, 1957, authorizes the Secretary of State to establish fees to be charged for official services by embassies and consulates. All consular fees and exemptions therefrom must be reflected in the Schedule of Fees for Consular Services. Therefore, the Department is revising paragraph (c) under item 36 (certifications) of 22 CFR Subchapter C—Fees and Funds, Part 22—Schedule of Fees for Consular Services—Department of State and Foreign Service, § 22.1. The Department has established the fee for processing and

certifying Panama Canal Zone vital records at $20.00 for the initial certified copy under official seal, with a fee of $10.00 for each additional copy thereof, for each request. This fee is the same as the fee charged for the certification of consular records issued abroad for United States citizens, and reflects the actual costs incurred to provide this service.

Since the rule provides a benefit to the class of affected persons for a fee that recovers the cost of the service, the Department has determined that prepublication notice and comment are unnecessary and is exempted by 5 U.S.C. 553(b)(B), the "good cause" exemption.

The Department does not consider this rule to be a major rule for purposes of E.O. 12291. These changes to the regulations are hereby certified as not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35. Nor does the rule have federalism implications warranting the application of Executive Order No. 12372 and No.13132. This rule is exempt from E.O. 12866, but the Department has reviewed the rule to ensure consistency with the objectives of the Executive Order, as well as with E.O. 12988, and the Office of Management and Budget has determined this rule would not constitute a significant regulatory action under E.O. 12866.

Final rule

List of Subjects in 22 CFR Part 22

Foreign Service, Fees, Passports and visas.

Accordingly, this rule amends 22 CFR Part 22 as follows:

PART 22—[AMENDED]

1. The authority citation for Part 22 continues to read as follows:

Authority: 8 U.S.C. 1153 note. 1351, 1351 note; 22 U.S.C. 214, 4201, 4206, 4215, 4219; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632, 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

2. Section 22.1 is amended by revising paragraph (c) at item (36) to read as follows:

§ 22.1 Schedule of Fees

Item No.	Fee
. . . . .	
Documentary Services	
. . . . .	
36. Certifications:	
(c) Certifying the fact of issuance of a Report of Birth Abroad of a Citizen of the United States and certifying copies of documents relating to births, marriages, and deaths of citizens abroad issued by a U.S. Embassy or Consulate (obtainable from the Department of State, Washington, D.C.); and, certifying copies of documents relating to births, marriages, and deaths of citizens of the United States or foreign nationals within the former Canal Zone of Panama from records maintained by the Canal Zone Government from 1904 to September 30, 1979 (obtainable from the Department of State, Washington, D.C.).	Fee: $20.00; each additional copy $10.00.
. . . . .	

3. Section 22.2(a) is revised to read as follows:

§ 22.2 Requests for services in the United States.

(a) Requests for records. Requests by the file subject or the individual's authorized agent for services involving U.S. passport applications and related records, including consular birth, marriage and death records and authentication of other passport file documents, as well as records of births, marriages and deaths within the former Canal Zone of Panama recorded and maintained by the Canal Zone Government from 1904 to September 30, 1979, shall be addressed to Passport Services, Correspondence Branch, Department of State, Washington, D.C. 20524. Requests for consular birth records should specify whether a Consular Report of Birth (Form FS 240, or long form) or Certification of Birth (Form DS 1350, or short form) is desired. Advance remittance of the exact fee is required for each service.

* * * * *

Dated: November 15, 1999.

Bonnie R. Cohen,

Under Secretary for Management.

[FR Doc. 99–30905 Filed 11–29–99; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 63

RIN 1076–AC97

Indian Child Protection and Family Violence Prevention; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations which were published on June 21, 1996 (61 FR 32272). The regulations implemented the provisions of the Indian Child Protection and Family Violence Prevention Act of 1990.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Bettie Rushing, Bureau of Indian Affairs, P.O. Box 1887, Albuquerque, New Mexico 87103–1887, (505) 248–6082.

SUPPLEMENTARY INFORMATION:

Background

The Indian Child Protection and Family Violence Prevention Act of 1990, Pub. L. 101–630, 26 U.S.C. 3201 *et seq.*, authorizes such actions as are necessary to ensure effective child protection in Indian country, including character investigations to ensure no individual appointed to a position with duties and responsibilities involving regular

contact with, or control over, Indian children has been found guilty of, or entered a plea of *nolo contendere* or guilty to, any offense under Federal, State or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons. See 25 U.S.C. 3201(b) and 3207. This was the first Federal statute to authorize background investigations by tribes and tribal organizations and mandate screening standards for the Bureau of Indian Affairs, as well as tribes and tribal organizations that receive funds under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988.

The following day, the Crime Control Act of 1990, Pub. L. 101–647, 42 U.S.C. § 13041, was enacted. It authorized Federal agencies and facilities operated by the Federal Government or operated under contract with the Federal Government to conduct criminal history background checks for individuals providing child care services. It provides that an individual who has been convicted of a sex crime, an offense involving a child victim, or a drug felony may be denied employment for or dismissed from a child care services position. This is in contrast to the absolute prohibition in Pub. L. 101–630, that is cited above. Pub. L. 101–647 further provides that conviction for a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children. See 42 U.S.C. 13041(c).

The Bureau conducted extensive consultation with tribes and Indian organizations prior to and following the publication of the proposed rule. The regulations were intended to describe the process for determining suitability for positions with duties and responsibilities involving regular contact with, or control over, Indian children, including the standards set forth in 5 CFR part 731, the Indian Child Protection and Family Violence Prevention Act and the Crime Control Act. Section 63.19 currently reads:

(a) An employer may deny employment or dismiss an employee when an individual has been found guilty of or entered a plea of guilty or *nolo contendere* to any Federal, state or tribal offense involving a crime of violence, sexual assault, sexual molestation, child exploitation, sexual contact, prostitution, or crimes against persons.

(b) An employer may deny employment or dismiss an employee when an individual has been convicted of an offense involving a child victim, a sex crime, or a drug felony. Paragraph (a) refers to the requirements of the Indian Child Protection and Family Violence Prevention Act, while subsection (b) refers to the Crime Control Act. While the screening requirements in Section 408 of the Indian Child Protection and Family Violence Prevention Act [25 U.S.C. 3207(a)], are clearly not permissive, the Bureau's regulations imply that its practice and application are. In fact, when the Bureau determines the suitability of volunteers for, selectees to, and employees in positions with duties and responsibilities involving regular contact with or control over Indian children, the standard in Section 408 (25 U.S.C. 3207) serves as a permanent statutory bar to employment as contemplated by the Indian Child Protection and Family Violence Prevention Act, Office of Personnel Management Suitability requirements found at 5 CFR 731.202, and the Office of Indian Education Programs Suitability Disqualifications found at 62 BIAM 11.36(A)(7). Based upon a finding of guilt or a plea of *nolo contendere* or guilty to any offense under Federal, State or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons, volunteers, selectees and employees have been determined unsuitable for Public Trust positions with duties and responsibilities involving regular contact with or control over Indian children.

Although these individuals may be determined suitable for Federal employment under 5 CFR part 731, a suitability determination under the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. 3207, serves as a statutory bar to employment with the Office of Indian Education Programs, Social Services, and with few exceptions, the Office of Law Enforcement Services. Such positions include not only teachers, social workers, and law enforcement officers and investigators, but cooks, custodians, bus drivers, correctional personnel, and volunteers as well. In addition, the same standard is applied to Bureau facilities management personnel if their duties and responsibilities include the provision of services to schools or housing and other programs where children may be present.

The Bureau now proposes to correct this obvious error and to clarify that other convictions may be considered when determining suitability for employment if they bear on the question of whether an individual is fit to have responsibility for the safety and well-being of children.

Need for Correction

As published, the final rules contain errors which may prove misleading and are in need of correction.

List of Subjects in 25 CFR Part 63

American Indians, Alaska Natives, Children, Child Care, Employment.

Accordingly, 25 CFR part 63 is corrected by making the following correcting amendment.

PART 63—INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION

1. The authority citation for 25 CFR part 63 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 200, 3201 *et seq.*; 42 U.S.C. 13041.

§ 63.19 [Amended]

2. In § 63.19, paragraph (a), in the first sentence, the word "may" is changed to "must."

Dated: November 22, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–30959 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202 and 206

RIN 1010–AB57

Amendments to Gas Valuation Regulations for Indian Leases—Additional Information Related to Valuing Indian Gas Produced From Leases Located in Index Zones

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Eligible Index Zones.

SUMMARY: On August 10, 1999, MMS published a final rule titled "Amendments to Gas Valuation Regulations for Indian Leases," (64 FR 43506) with an effective date of January 1, 2000. The gas regulations apply to all gas production from Indian (tribal or allotted) oil and gas leases (except leases on the Osage Indian Reservation). The new regulations resulted from a negotiated rulemaking between Indian tribes and allottees, oil and gas industry, and Government. The rule requires that MMS publish additional information related to valuing Indian gas produced from leases located in index zones. This document lists: the Index Zones Eligible

for the Index-Based Valuation Method; the Acceptable Publications and Indices to Use for the Index-Based Method; the lease prefixes associated with each MMS-Designated Area; and the new MMS-Designated Areas.

EFFECTIVE DATE: January 1, 2000.

ADDRESSES: Address all comments concerning this document to David S. Guzy, Chief, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado, 80225–0165.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff; telephone (303) 231–3432; FAX, (303) 231–3385; E-mail David.Guzy@mms.gov; mailing address, Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado, 80225–0165.

SUPPLEMENTARY INFORMATION: The intent of the amendments to the valuation regulations is to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary of the Interior's (Secretary) trust responsibility and lease terms. It is also our desire to improve the regulatory framework so that information is available which would permit lessees to comply with the regulatory requirements at the time that royalties are due.

Under the rule, the lessee will determine the value of gas production based upon whether the gas is produced from an index zone or not produced from an index zone. MMS defines an index zone as a field or area with an active spot market and published indices applicable to that field or area that are acceptable to MMS.

The rule requires that MMS publish the following: the index zones that are eligible for the index-based valuation method; leases that MMS excluded from index-based valuation; and any index zones that MMS disqualified. If market conditions change so that an index-based method for determining value is no longer appropriate for an index zone, MMS will hold a technical conference to consider disqualification of an index zone. Under the rule, if an index is disqualified, then production from leases under that index zone cannot be valued under the index-based valuation method. At this time, MMS has not disqualified any index zones.

The rule also requires that MMS periodically publish a list of MMS-approved publications and indices to use in computing the index-based formula price and the lease prefixes associated with each MMS-designated area (including any new MMS-designated areas.) MMS will publish future notices in the **Federal Register** announcing any changes to the index zones, changes to the acceptable publications and indices, and any new MMS-designated areas.

Table No. 1 below provides a list of the index zones that are *eligible* for the index-based valuation method.

TABLE NO. 1.—MMS-DESIGNATED AREAS AND INDEX ZONES

MMS-Designated areas	Index zones
Uintah and Ouray Reservation	Central Rocky Mountains East Texas Northern Rocky Mountains San Juan Basin
Alabama-Coushatta	
Wind River Reservation	
Jicarilla Apache Reservation, Navajo Reservation, Southern Ute Reservation, Ute Mountain Ute Reservation.	
Counties: Alfalfa, Beaver, Cimarron, Cleveland, Creek, Garfield, Grant, Harper, Kay, Lincoln, Noble, Nowata, Oklahoma, Pawnee, Payne, Pottawatomie, Rogers, Texas, Tulsa, Washington, Woods.	Oklahoma-Zone 1.
Counties: Beckham, Blaine, Caddo, Canadian, Comanche, Cotton, Custer, Dewey, Ellis, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, Kingfisher, Kiowa, Logan, Major, McClain, Roger Mills, Stephens, Tillman, Washita, Woodward	Oklahoma-Zone 2.
Counties: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Coal, Craig, Delaware, Haskell, Hughes, Johnston, Latimer, Le Flore, Love, Marshall,Mayes, McCurtain, McIntosh, Murray, Muskogee, Okfuskee, Okmulgee, Ottawa, Pittsburg, Pontotoc, Pushmataha, Seminole, Sequoyah, Wagoner.	Oklahoma-Zone 3

Table No. 2 below contains the MMS-approved publications that establish index prices that accurately reflect the value of production in the field or area where the production occurs.

TABLE NO. 2.—MMS-APPROVED PUBLICATIONS

MMS-approved publications	Which issue?	Which table?	Which spot gas prices?
Inside F.E.R.C.'s Gas Market Report.	Use the issue containing the spot gas prices for the first of the month.	Use the table labeled "Prices of Spot Gas Delivered to Pipelines".	Use the high end of the range of the applicable spot gas price.
Natural Gas Intelligence Weekly Gas Price Index.	Use the issue containing the Bidweek Range for the month.	Use the table labeled "Spot Gas Prices.".	Use the high end of the range of the applicable Bidweek price.

Under the rule, any publication may petition MMS to be added to the list of acceptable publications by writing to: Minerals Management Service, Royalty Valuation Division, P.O. Box 25165, Mail Stop 3150, Denver, Colorado 80225–0165.

As stated in 30 CFR 206.172 (64 FR 43517), an Indian tribe may ask MMS to exclude some or all of its leases from valuation under the index-based valuation method. After consulting with the Bureau of Indian Affairs (BIA), MMS may also exclude any Indian allotted leases from valuation under the index-based valuation method. If MMS approves any requests for exclusion from an index zone, the lessee must value the production under the non-index-based valuation method.

Revenue analysis indicated that some Indian leases would receive less revenue under the index methodology than under gross proceeds methodology. As a result of this analysis and after consulting with BIA, MMS excluded the Ute allotted leases in the Uintah and Ouray Reservation and the Navajo allotted leases in the Navajo Reservation from valuation under the index-based method. MMS also approved the Ute Indian Tribe's request to exclude the Ute Tribal leases in the Uintah and

Ouray Reservation from valuation under the index-based method.

Because of these exclusions, MMS also terminated the previously defined designated areas for Uintah and Ouray Reservation and the Navajo Reservation. MMS designated these two areas for royalty computation purposes in the August 10, 1999, final rule (64 FR 43506). Accordingly, we created the following four new MMS-designated areas:

1. Ute Tribal Leases in the Uintah and Ouray Reservation;
2. Ute Allotted Leases in the Uintah and Ouray Reservation;
3. Navajo Tribal Leases in the Navajo Reservation; and
4. Navajo Allotted Leases in the Navajo Reservation.

Table No. 3 below contains the index zones with the associated MMS-designated areas and also includes the list of acceptable publications and the indices to use for the index-based valuation method. Lessees should use this table when calculating the value of gas produced from leases from an index zone.

TABLE NO. 3.—INDEX ZONES, MMS-DESIGNATED AREAS, AND INDICES

Index zone	MMS-approved publications for index zones		
	Inside FERC's	Natural gas intel. report	Spot gas prices
East Texas	X		Natural Gas Pipeline Co. of America
Includes: Alabama-Coushatta			Louisiana Zone
	X		Texas Eastern Transmission Corp.
			East Texas Zone
			South Texas Zone
	X		Tennessee Gas Pipeline Co.
			Texas (zone 0)
	X		Transcontinental Gas Pipe Line Corp.
			Zone 2 (pooling point)
	X		Trunkline Gas Co.
			Texas
		X	East Texas
			NGPL Texok
			Tennessee
			Texas Eastern E. TX
			Trunkline
			Houston Pipeline
			MidCon Texas
		X	South Texas
			Florida Gas Zone 1
			Texas Eastern S. TX
			Tennessee
Northern Rocky Mountains	X		Colorado Interstate Gas Co.
			Rocky Mountains
Includes: Wind River Reservation		X	Rocky Mountains
			CIG
San Juan Basin	X		El Paso Natural Gas Co.
			San Juan Basin
Includes: Jicarilla Apache Reservation		X	Rocky Mountains
			El Paso non-Bondad
			Transwestern San Juan
Navajo Tribal Leases in the Navajo Reservation			
Southern Ute Reservation			
Ute Mountain Ute Reservation			
Oklahoma—Zone 1			
Includes the following counties: Alfalfa, Beaver, Cimarron, Cleveland, Creek, Garfield, Grant, Harper, Kay, Lincoln, Noble, Nowata, Oklahoma, Pawnee, Payne, Pottawatomie, Rogers, Texas, Tulsa, Washington, Woods.	X		ANR Pipeline Co.
			Oklahoma Natural Gas Pipeline Co. of America
	X		Mid-Continent Zone
	X		Northern Natural Gas Co.
			Texas, Oklahoma, Kansas
	X		Panhandle Eastern Pipe Line Co.
			Texas, Oklahoma (mainline)
	X		Reliant Energy Gas Transmission Co.
			West
	X		Williams Gas Pipelines Central Inc.
			Texas, Oklahoma, Kansas
		X	Mid-Continent
			ANR SW
			NGPL Mid-Continent
			Northern Natural Mid 10–13
			Panhandle Eastern
			Enogex
			Reliant West (NorAm)
			Williams

TABLE NO. 3.—INDEX ZONES, MMS-DESIGNATED AREAS, AND INDICES—Continued

Index zone	MMS-approved publications for index zones		
	Inside FERC's	Natural gas intel. report	Spot gas prices
Oklahoma—Zone 2 Includes the following counties: Beckham, Blaine, Caddo, Canadian, Comanche, Cotton, Custer, Dewey, Ellis, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, Kingfisher, Kiowa, Logan, Major, McClain, Roger Mills, Stephens, Tillman, Washita, Woodward.	X		ANR Pipeline Co. Oklahoma
	X		Natural Gas Pipeline Co. of America Mid-Continent Zone
	X		Reliant Energy Gas Transmission Co. West
	X		Northern Natural Gas Co. Texas, Oklahoma, Kansas
	X		Panhandle Eastern Pipe Line Co. Texas, Oklahoma (mainline)
	X		Williams Gas Pipelines Central Inc. Texas, Oklahoma, Kansas
		X	Mid-Continent ANR SW NGPL Mid-Continent Reliant West (NorAm) Northern Natural Mid 10–13 Panhandle Eastern Enogex Williams
Oklahoma—Zone 3 Includes the following counties: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Coal, Craig, Delaware, Haskell, Hughes, Johnston, Latimer, Le Flore, Love, Marshall, Mayes, McCurtain, McIntosh, Murray, Muskogee, Okfuskee, Okmulgee, Ottawa, Pittsburg, Pontotoc, Pushmataha, Seminole, Sequoyah, Wagoner.	X		Natural Gas Pipeline Co. of America Texok Zone
	X		Reliant Energy Gas Transmission Co. East
	X		Williams Gas Pipelines Central Inc. Texas, Oklahoma, Kansas
		X	East Texas NGPL Texok
		X	Mid-Continent Reliant East (NorAm) Williams

Most Indian lease terms require accounting for comparison (dual accounting) when gas produced from the lease is processed. Under the rule, the lessee may elect to perform actual dual accounting or alternative dual accounting. The rule requires that MMS publish a list of the lease prefixes associated with each MMS-designated area for the purpose of the dual accounting election. The dual accounting election for a designated area must apply to all of the lessee's Indian leases in that area.

Table No. 4 contains the lease prefixes and associated MMS-designated areas:

TABLE NO. 4.—LEASE PREFIXES AND MMS-DESIGNATED AREAS

MMS-designated areas	Lease prefixes
Alabama-Coushatta	615.
Blackfeet Reservation	507, 512, 513, 514, 515, 517, 526.
Crow Reservation	520, 619.
Fort Belknap	538.
Fort Berthold	528, 529, 540.
Fort Peck Reservation	506, 523, 533, 536, 622.
Oklahoma Counties: Alfalfa, Beaver, Cimarron, Cleveland, Creek, Garfield, Grant, Harper, Kay, Lincoln, Noble, Nowata, Oklahoma, Pawnee, Payne, Pottawatomie, Rogers, Texas, Tulsa, Washington, Woods.	503, 505, 510, 511, 518, 521, 601, 602, 607, 615, 714.
Oklahoma Counties: Beckham, Blaine, Caddo, Canadian, Comanche, Cotton, Custer, Dewey, Ellis, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, Kingfisher, Kiowa, Logan, Major, McClain, Roger Mills, Stephens, Tillman, Washita, Woodward.	503, 505, 518, 601, 602, 607.
Oklahoma Counties: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Coal, Craig, Delaware, Haskell, Hughes, Johnston, Latimer, Le Flore, Love, Marshall, Mayes, McCurtain, McIntosh, Murray, Muskogee, Okfushee, Okmulgee, Ottawa, Pittsburg, Pontotoc, Pushmataha, Seminole, Sequoyah, Wagoner.	503, 505, 511, 601, 602, 607, 615.
Navajo Allotted Leases in the Navajo Reservation	516, 525, 527, 621, 623.
Navajo Tribal Leases in the Navajo Reservation	415, 516, 525, 527, 620, 621, 623.

TABLE NO. 4.—LEASE PREFIXES AND MMS-DESIGNATED AREAS—Continued

MMS-designated areas	Lease prefixes
Northern Cheyenne Reservation	None.
Rocky Boys Reservation	053, 154, 537, 889.
Southern Ute Reservation	519, 522, 524, 614, 750.
Turtle Mountain Reservation	610.
Ute Mountain Ute Reservation	519, 522, 524, 614, 750.
Ute Allotted Leases in the Uintah and Ouray Reservation	509, 531, 532.
Ute Tribal Leases in the Uintah and Ouray Reservation	509, 531, 532.
Wind River Reservation	502, 535, 634.

Dated: November 23, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–30991 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA073–7207A;A–1–FRL–6481–2]

Approval and Promulgation of Air Quality Implementation Plans; State of Massachusetts; Interim Final Determination That Massachusetts Has Corrected the Deficiencies of Its I/M SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: On September 27, 1999, EPA published in the **Federal Register** (64 FR 51937) a rulemaking action proposing approval of the Commonwealth of Massachusetts' motor vehicle inspection and maintenance (I/M) program, and in a separate action (64 FR 51943) proposing approval of rate-of-progress (ROP) plans as part of the State Implementation Plan (SIP), under Section 110 of the Clean Air Act (CAA). Elsewhere in today's **Federal Register** EPA is publishing a supplemental proposed rulemaking notice for comment clarifying the test method used in Massachusetts' I/M program, providing additional information on the emission reduction credit projected for the program, and explaining the impact on the ROP plans. Based on the proposed action, today's supplemental document, the commencement of I/M program roll-out on October 1, 1999, and the commitments made by the Commonwealth, including a commitment to fully enforce compliance with the I/M program as of December 15, 1999, EPA is making an interim final determination that the State will have more likely than not implemented an approvable enhanced I/M program when it becomes effective on December 15, 1999. Today's action will, beginning on December 15, 1999, defer the application of the offset sanction that has been in effect since May 15, 1999, and the federal highway fund sanctions that take effect on November 15, 1999.

DATES: *Effective Date:* This rule is effective December 15, 1999. *Comments:* Written comments must be received on or before December 30, 1999. Public comments on this document are requested and, although this action will be effective on December 15, 1999, comments will be considered for appropriate subsequent action.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress St., Suite 1100, Boston, MA 02114–2023. Copies of the Commonwealth's submittal are available for public inspection during normal business hours, by appointment, at the above EPA address and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Peter X. Hagerty, (617) 918–1049.

SUPPLEMENTARY INFORMATION: On March 27, 1997 Massachusetts submitted an inspection and maintenance plan under the provisions of the National Highway Systems Designation Act. On July 14, 1997, EPA published in the **Federal Register** (62 FR 37506) an Interim Final Rule conditionally approving the I/M SIP submitted by the Commonwealth. The notice conditioned approval on start-up of the program by November 15, 1997 which was based on a commitment made by Massachusetts as part of the SIP submittal. That **Federal Register** notice also listed other elements of the I/M program for which Massachusetts was required to submit additional information. By means of a November 14, 1997, letter, EPA notified Massachusetts that EPA was converting the conditional approval of the Massachusetts enhanced I/M SIP revision to a disapproval on November 15, 1997 due to the fact that the program was not starting on November 15, 1997. The letter triggered the 18-month time clock for the mandatory application of sanctions under section 179(a) of the CAA. Therefore, the Act's offset sanction applied beginning May 15, 1999 because Massachusetts still had no enhanced I/M program started or approved as part of its SIP.

In order to remedy that failure, on May 14, 1999, Massachusetts submitted a revision to its SIP for an enhanced I/M program to begin on October 1, 1999. Massachusetts in fact commenced operation of the program on October 1, 1999. Although the SIP revision provided for start-up of an enhanced I/M program, there were other elements of the I/M SIP identified in the September 27, 1999 **Federal Register** proposed approval which needed to be addressed prior to final action by EPA. These elements will be addressed by the contractor Massachusetts has retained to implement the program and are listed as work elements of the contractor's scope of services. Since the focus of Massachusetts and the contractor has been program start-up, these elements have not been addressed by the contractor to date. In response to EPA's September 27, 1999 proposed approval which describes the program elements Massachusetts must supplement, Massachusetts submitted a letter dated November 3, 1999 with a schedule for submitting these elements from January to March 2000. An additional letter dated November 15, 1999 informed EPA that Massachusetts has taken steps that ensure the I/M program will be fully enforced starting December 15, 1999. Additional information submitted in support of the Massachusetts I/M program is included in the contract with Keating Technologies signed January 28, 1999, Department of Environmental Protection (DEP) Regulations, chapter 310 CMR 60.02, Registry of Motor Vehicles Regulations, chapter 540 CMR 4.00–4.09, and administrative items,

including a description of the program being implemented and DEP's response to comments document dated May 14, 1999.

II. EPA's Current Rulemaking Actions

On September 27, 1999 EPA proposed approval of the Massachusetts I/M SIP revision to meet the requirements of the federal I/M rule. In addition, on the same day EPA proposed approval of the Massachusetts rate-of-progress emission reduction plans which includes the 15% plan. In order for Massachusetts to meet the low enhanced performance standard for I/M the 15% plan must be approvable. In today's **Federal Register** EPA is publishing a supplemental notice of proposed rulemaking providing additional information concerning testing in the I/M program, estimates of emission reductions achieved by the program, and the schedule for submittal of additional elements for the Massachusetts I/M program. The same notice addresses the impact of the changes in estimated emission reduction credits from I/M on the 15% plan.

Critical to EPA's finding to stay sanctions is the Agency's determination that Massachusetts has taken the steps necessary to ensure program start-up by December 15, 1999. Although Massachusetts commenced operation of the I/M program on October 1, 1999, there were routine start-up difficulties which required that DEP temper full enforcement of the program for two and one half months. During October, November and early December 1999, the Commonwealth is allowing drivers to obtain pre-printed stickers approving cars to operate for a year if a station in the program did not have fully operational test equipment ready when a driver came in for a test. In its November 15, 1999 letter to EPA, Massachusetts has indicated that such pre-printed stickers will not be available starting December 15, 1999, and any car that must get tested will be required to find a station with operable testing equipment. This step ensures that the I/M program will meet EPA's definition of start-up and that Massachusetts will be fully enforcing an approvable I/M as of December 15, 1999.

EPA believes, as a result of the proposed rulemaking actions and the fact that Massachusetts commenced operation of the I/M program on October 1, 1999, has committed to submitting additional information necessary to fully approve that program and has prohibited the use of pre-printed stickers to meet EPA's definition of start-up by December 15, 1999, that it is more likely than not that Massachusetts will have a fully approvable I/M SIP that has started up as of December 15, 1999. Given the fact that the contract was not signed until late January 1999 and the magnitude of the Massachusetts program, it is commendable that Massachusetts met the start-up criteria by December 15, 1999. The state's failure to start-up an approvable enhanced I/M program by November 15, 1997 was what triggered the sanctions clock in Massachusetts. The state has now taken the steps necessary to fully enforce a transient testing program by December 15, 1999 to cure the problem which triggered the sanctions clock.

This interim determination will not halt or reset the sanctions deadlines, but will defer the implementation of sanctions until EPA takes final action on the SIP. In the proposed rule for the Massachusetts I/M program, EPA proposed in the alternative to issue a limited approval/limited disapproval of the program if Massachusetts failed to start the program in a timely manner or failed to submit any of the program elements that the Contractor will provide under its scope of work. The limited disapproval would effectively withdraw the proposed approval. Withdrawal of the proposed approval would result in growth and highway sanctions being imposed again immediately.

This action will take effect on December 15, 1999, when vehicles can no longer postpone the emissions inspection in Massachusetts through the use of pre-printed stickers. Should Massachusetts continue to issue pre-printed stickers after December 15, 1999, EPA will withdraw this determination and sanctions will go back in effect until pre-printed stickers are no longer issued and EPA reinstates this determination. EPA will take comment on this interim final determination. EPA will publish a final notice taking into consideration any comments received on EPA's proposed actions and this interim final action. If, based on any comments received by EPA upon this interim final determination action and any comments on EPA's proposed approval or supplemental proposed approval with respect to Massachusetts' I/M SIP or rate-of-progress revisions, EPA determines that those actions are inappropriate and the SIP revisions are not approvable and, therefore, this final action was also inappropriate, EPA will take further action to withdraw this action and the proposed approval of the Massachusetts I/M SIP revision, thereby returning the SIP to disapproved status. If this action is withdrawn or EPA's proposed approval of the Massachusetts I/M SIP revision is disapproved, then sanctions would be applied as required under Section 179(a) of the CAA and 40 CFR 52.31.

III. EPA Action

Based on the proposed approval of the Massachusetts I/M SIP in the September 27, 1999 **Federal Register** and the start-up of the program on December 15, 1999, EPA believes that it is more likely than not that the Commonwealth has taken the steps necessary to start an approvable enhanced I/M program. Disapproval of the Massachusetts I/M SIP and initiation of sanctions clocks on November 15, 1997 was based on the fact that Massachusetts did not start-up an approved enhanced I/M program. Therefore, EPA concludes that since Massachusetts is operating an I/M program that will be fully enforceable on December 15, 1999, the Commonwealth will have met the start-up definition and sanctions should be stayed on December 15, 1999. In the event the Commonwealth fails to submit the other elements of the program, EPA will issue a limited disapproval which will lift this stay of sanctions and reimpose them at that time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

Because Massachusetts has met the start-up requirements as defined by EPA, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.[1] 5 U.S.C. section 553(b)(B). The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed and proposed approval of the State's May 14, 1999 I/M SIP revision. Through this interim final determination action, the Agency believes that it is more likely than not that the Commonwealth will have submitted all the necessary information to meet the requirements for start-up of

[1] As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

an approvable I/M program, therefore eliminating the basis for imposition of sanctions. Therefore, it is not in the public interest to apply sanctions when the Commonwealth has submitted an enforceable program which will start-up on December 15, 1999. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State is no longer subject to that requirement prior to the date sanctions would take effect. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while EPA completes its rulemaking process. In addition, EPA is invoking the good cause exception to the 30-day advance notice requirement of the APA because the purpose of this notice is to relieve a restriction. *See* 5 U.S.C. 553(d)(1).

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not economically significant under E.O. 12866 and does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities because it does not create any new requirements. Therefore, because this rule does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under Sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the General Accounting Office

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made a good cause finding, including reasons thereof, and established an effective date of December 15, 1999. EPA will submit a report containing this rule and other required information to the United States Senate, the House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 15, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–30780 Filed 11–29–99; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–34

[FPMR Amendment G–114]

RIN 3090–AG12

Motor Vehicle Management; Correction

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule; correction.

SUMMARY: The General Services Administration (GSA) published a final rule on November 2, 1999, revising Federal Property Management Regulation (FPMR) coverage on motor vehicle management, and moving it into the Federal Management Regulation (FMR). This correction fixes an inadvertent error in one of the amendatory instructions of that final rule.

EFFECTIVE DATE: November 2, 1999.

FOR FURTHER INFORMATION CONTACT: Shari Kiser, Federal Acquisition Policy Division, (202) 501–2164.

SUPPLEMENTARY INFORMATION: The final rule published on November 2, 1999 (64 FR 59592), which revised the FPMR coverage on motor vehicle management and moved it into the FMR, inadvertently stated in one of the amendatory instructions that the new part 102–34 was added to subchapter D of 41 CFR chapter 102 when in fact it should have been added to subchapter B. This document corrects that error. Another correction to the same final rule is being published elsewhere in this issue of the **Federal Register**.

In rule document 99–27747 beginning on page 59592 in the issue of Tuesday, November 2, 1999, make the following correction:

CHAPTER 102—[CORRECTED]

On page 59592, in the second column, in amendatory instruction 3., correct "subchapter D" to read "subchapter B".

Dated: November 23, 1999.

Sharon A. Kiser,

Federal Acquisition Policy Division.

[FR Doc. 99–30933 Filed 11–29–99; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 69

[USCG–1999–5118]

RIN 2115–AF76

Standard Measurement System Exemption from Gross Tonnage

AGENCY: Coast Guard.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On August 31, 1999, the Coast Guard published a direct final rule (64 FR 47402; USCG–1999–5118). This direct final rule notified the public of the Coast Guard's intent to amend its vessel tonnage regulations to reinstate a previously allowed method of holding tonnage opening cover plates in place. This amendment will increase flexibility and can decrease costs in vessel design and construction, while in no way diminishing vessel safety. The reinstated method was omitted in error during a comprehensive revision of the tonnage regulations in 1989. We have not received an adverse comment, or notice of intent to submit an adverse comment, objecting to this rule. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule is confirmed as November 29, 1999.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, call Mr. Peter Eareckson, Project Manager, Marine Safety Center, Coast Guard, telephone 202–366–6441.

SUPPLEMENTARY INFORMATION:

Discussion of Comment

We received one comment, which took issue with the prohibition against the use of battens, caulking, or gaskets in the installations of tonnage opening cover plates, citing maintenance concerns. While we sympathize with the concerns cited, we do not consider the comment to be an adverse comment to this rulemaking, as "adverse comment" is defined in 33 CFR 1.05–55(f). The underlying premise of this rulemaking is to reinstate a method of securing tonnage opening cover plates in place that was deleted in error in the 1989 revision. The prohibition against sealing tonnage openings is one of long-standing and predates the 1989 revision. Regardless of the merits of the request to eliminate this prohibition, it is outside the scope of this rulemaking.

Dated: November 19, 1999.

Jeffrey P. High,

Acting Assistant Commandant for Marine Safety & Environmental Protection.

[FR Doc. 99–30894 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 97–21 and 96–45; FCC 99–269]

Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerning the Changes to the Board of Directors of the National Exchange Association, Inc. and Federal-State Joint Board simplifies the process for rural health care providers to receive support from the

universal service support mechanism, among other things, and adopts rules to permit the Universal Service Administrative Company to provide support for any commercially available telecommunications service, regardless of the bandwidth. It also requires USAC to calculate support based upon all actual distance-based charges, unless the rural health care provider or carrier requests a more comprehensive support calculation and substantiates that request.

DATES: Effective July 1, 2000.

FOR FURTHER INFORMATION CONTACT: Linda Armstrong, Assistant Division Chief, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Sixth Order on Reconsideration in CC Docket No. 97–21, Fifteenth Order on Reconsideration in CC Docket No. 96–45 released on November 1, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this *Fifteenth Order on Reconsideration*, we reconsider, on our own motion, some of the Commission's conclusions in the *Universal Service Order*, 62 FR 32862 (June 17, 1997), in order to simplify the process for rural health care providers to receive support from the universal service support mechanism. Specifically, we amend our rules to permit the Universal Service Administrative Company (USAC) to provide support for any commercially available telecommunications service, regardless of the bandwidth. We further modify our rules to require USAC to calculate support based upon all actual distance-based charges, unless the rural health care provider or carrier requests a more comprehensive support calculation and substantiates that request. We affirm the conclusion reached in the *Universal Service Order* that, despite the difficulties of allocating costs and preventing abuses, the benefits of permitting rural health care providers to join consortia with other subscribers of telecommunications service outweigh the danger that such arrangements will lead to significant abuse of the prohibition on resale. Accordingly, we clarify that new members may be added to a consortium at any time after the rural health care provider applies for universal service support, and we clarify our use of the term "tariffed or market rate" to permit a rural health care provider participating in a consortium with ineligible private sector members to receive support. Finally, in order to achieve a more equitable distribution of USAC's joint and common billing and collection costs, we clarify that USAC should include these costs in the projected administrative expenses of the high-cost, low-income, schools and libraries, and rural health care programs, based upon the volume of disbursements by each program.

II. Scope of Services Eligible for Support

A. Per-Location Funding Limit

2. We eliminate the per-location funding limit because it has made it more difficult for rural health care providers to receive the benefits of the rural health care support mechanism, and it is no longer necessary to ensure that demand for support remains below the $400 million per year cap that the Commission established in the *Universal Service Order*. We believe that eliminating the per-location funding limit will make it easier for rural health care providers to select and receive support for the telecommunications services that they need for telemedicine. We find that, even if USAC substantially underestimated the demand for support by rural health care providers, demand would still be well within the $400 million cap. Moreover, we find that the Commission's initial decision to limit support to a T–1 or some combination of lesser services was driven by two express concerns that are no longer relevant. We further find that, because the per-location funding limit imposes some cost and generates no apparent benefit, it would be contrary to the public interest to maintain it. Accordingly, we conclude that the universal service support mechanism for rural health care providers shall support any commercially available telecommunications services, necessary for the provision of health care services in a state, regardless of the bandwidth, and we revise § 54.613 of the Commission's rules to reflect this change.

3. Based upon the information in the record, we find that the Commission's initial demand estimate was much too high. Section 254(g) directs that universal service support mechanisms should be specific, predictable, and sufficient. The only qualification, in section 254(h)(1)(A), of the type of telecommunications service that may be supported is the requirement that the telecommunications service be "necessary for the provision of health care services in a [s]tate." In order to establish a "specific, predictable, and sufficient" mechanism for a program with no track record, the Commission concluded that it must limit the telecommunications services that a rural health care provider may receive for the provision of health care services in a state.

4. The Commission's original estimate for the cost of the program predicted that maximum demand for support would be $366 million per year. The Commission arrived at this conclusion without the benefit of expert assessment of the cost of leaving rural health care providers free to purchase whatever telecommunications services they deemed necessary for the provision of health care. According to the USAC Report, "[t]he best current estimates show that this Program is not likely to exceed $10 million in annual support level in the near term." Specifically, the USAC Report estimates that the total demand for support for rural health care providers will not exceed $3.1 million for the 18 month period from January 1, 1998 through June 30, 1999. USAC projects that the total demand for rural health care provider support for the second funding year (July 1, 1999 through June 30, 2000) will be no more than $9.3 million. Although armed with a significantly more comprehensive set of data than used in the *Universal Service Order*, USAC estimates that, even if we remove the per-location funding limit, demand would not exceed $10 million per year. Apparently, as the Advisory Committee believed, the urban rates for telecommunications services are costly enough to deter rural health care providers from demanding excessive levels of telecommunications service. USAC also reports that there are a number of other factors that have served to reduce demand, which we discuss. Accordingly, we conclude that, beginning with the third funding cycle, the universal service support mechanism for health care providers will support all commercially available telecommunications services necessary for the provision of health care services, and that this expansion of eligible telecommunications services will not increase demand beyond the funding cap.

5. The Commission's initial decision to limit support to a T–1 or some combination of lesser services was based upon two factors that are now irrelevant, given that there is little risk of demand exceeding the cap. First, the Commission's initial decision to limit support to a T–1 or some combination of lesser services was based in part upon

a finding that the record did not demonstrate that rural health care providers would require higher bandwidths than T–1. Specifically, the Commission found that the Advisory Committee and the majority of commenters who recommended a specific level of telecommunications bandwidth recommended a capacity of up to and including 1.544 Mbps or its equivalent. The Advisory Committee and the majority of commenters contended that rural health care providers did not need higher bandwidths for the provision of health care services, and that the cost of higher bandwidth connections would outweigh the benefits. It is still unclear to us whether rural health care providers need services with greater or lesser bandwidth than 1.544 Mbps for the provision of health care. On the one hand, the Rural Utilities Service (RUS) argues that the current supported bandwidth of 1.544 Mbps may be inadequate because, with the rapid evolution of high-speed broadband networks approaching the 1.544 Mbps capability, the medical community's needs are expected to significantly exceed this level in the near future. On the other hand, the National Rural Health Association (NRHA) asserts that it appears that many telehealth applications are moving away from dedicated point-to-point T–1 type services to switched, lower bandwidth applications such as ISDN and POTs. Further, a letter jointly filed by the American Telemedicine Association, the American College of Nurse Practitioners, the Association of Telemedicine Service Providers, and the NRHA states that:

> The program should include discounts for all forms of communications services when used in the delivery of health care to rural health care providers. As currently designed, services eligible for the rural health care program are effectively limited to a T1 line, largely because of the use of distance costs associated with this service. However, advancements over the past few years in technology and communications have enabled health care providers to transmit and receive information at speeds lower than that required of T1 lines. Although lower in cost, this still remains an impediment to many health providers due to the few resources available in support of rural health care.

6. We, therefore, affirm our finding in the *Universal Service Order* that rural health care providers are best able to determine what telecommunications services best meet their needs; moreover, we find that allowing rural health care providers to choose the transmission speeds necessary for health care services in rural areas, outweigh our need to determine with certainty the required bandwidth. Accordingly, we conclude that, given that the per-location funding limit is not necessary for keeping demand on the fund within the $400 million cap, as long as the telecommunications services are necessary for health care services in rural areas, there is little reason to ascertain definitively whether rural health care providers need telecommunications services with greater or lesser bandwidth than T–1.

7. The second reason that the Commission decided to support only bandwidths up to 1.544 Mbps was because it agreed with the parties who weighed the cost of higher services against the benefits and found that the limited data suggested that the cost of higher bandwidths could unnecessarily increase the cost of the program by a significant amount. While very few respondents to the *USAC Report Public Notice* discussed the cost of supporting higher services, the USAC Report suggests that the cost of higher bandwidths would not unnecessarily increase the cost of the program by a significant amount.

8. More importantly, it appears from the record, particularly the USAC Report, that maintaining the current limits on services does not adequately serve the public interest. That is, regardless of whether rural health care providers need services with greater or lower bandwidth, the public interest would be better served by allowing rural health care providers to have affordable access to all modern telecommunications services necessary to provide medical services. The majority of interested parties in this proceeding assert that the per-location funding limit imposed by the Commission's rules increases the cost of participating in the program, while reducing the value of the potential benefit that a rural health care provider may receive. For example, USAC reports that one of the costs of the restriction is that it discourages some rural health care providers from seeking services. This is in part because of the complexity of securing some combination of services of less than 1.544 bandwidth. Specifically, in May 1999, USAC reported that "calculation of the PLFL for each applicant to this program has taken a significant amount of effort by carriers and RHCD staff." Consistent with the findings reported by USAC, RUS asserts that the Commission's rules significantly limit the value of the support provided by the program.

9. Finally, we reject the argument by USTA that any change to the Commission's rules that would expand the class of eligible services would be inconsistent with the Act. Although USTA admits that the per-location funding limit could be made simpler to administer, USTA argues that the Commission should not expand the scope of eligible services for the sole purpose of increasing demand to the level that we previously anticipated would be reached. We agree with USTA that the Commission should not expand the scope of eligible services solely for the sake of increasing demand. Instead, we expand the scope of eligible services because the current restrictions are in large part the result of the per-location funding limit, and for the reasons discussed, we now reject the per-location funding limit. The per-location funding limit is not necessary to ensure that demand for support remains below the $400 million per year cap. We find that demand will be sufficiently limited by the statutory requirement that supported telecommunications services must be necessary for the provision of health care. Moreover, as previously discussed, we find that a rural health care provider is ill served by our current rule, which further limits the rural health care provider's choices to telecommunications services within bandwidths up to and including 1.544 Mbps, and limits the total amount of support that a rural health care provider can receive to the cost of one T–1 connection. We believe that a rural health care provider may under some circumstances need, for the provision of health care services, telecommunications services with a higher bandwidth than 1.544 Mbps; a single service with a lesser bandwidth that requires more support than a T–1; or a number of services with lesser bandwidth that together require more support than one T–1. Accordingly, while we recognize that removing the per-location funding limit will potentially increase the amount of support for services that are already eligible for support, and expand the list of eligible services, we conclude that this result is consistent with the Act.

B. Long Distance Charges

10. Based upon the information in this record, we remain unconvinced that the rural health care program should provide additional support for long distance and toll charges, with the exception of support for toll charges incurred by accessing an Internet service provider (for those unable to secure toll-free Internet access). We find that section 254(h)(1)(A) does not obligate telecommunications carriers to deliver service to rural health care providers at rates that are *less* than those

charged to urban health care providers. We note that section 254(h)(1)(A) directs telecommunications carriers to deliver service to rural health care providers at rates that are *reasonably comparable* to those charged to health care providers in urban areas of the state. Further, we note that, although many of the commenters argue that using long distance service makes it more expensive for rural health care providers to engage in the practice of telemedicine, none have argued that telecommunications carriers charge more for long distance service provided to rural health care providers than for similar service provided to urban residents. Based on the record before us, therefore, we find no basis for providing additional support for long distance and toll charges.

C. Urban/Rural Rate Calculation

11. In light of the entire record now before us, we determine that most of the base rates for telecommunications service elements charged to rural health care providers are already reasonably comparable to those charged in urban areas. This position is consistent with USTA's recommendation. Accordingly, we conclude that the Administrator need not compare the tariffed or publicly available base rates for telecommunications service elements to determine the amount of support that it can provide for the benefit of a rural health care provider. We, therefore, direct that, beginning with the third funding cycle, the Administrator must calculate support based upon all actual distance-based charges.

12. At the time that the rural health care program was established, the Commission did not realize the extent to which directing the parties to identify the highest tariffed or publicly available rate actually being charged to urban customers, in order to set rates for telecommunications services "that are reasonably comparable to rates charged for similar services in urban areas in that State," would consume an unwarranted amount of resources for very little benefit. In the *Universal Service Order*, the Commission specifically acknowledged that most base rates for telecommunications services are averaged across a state or study area, and concluded, therefore, that it is often the distance-based charges that account for the difference between the urban and rural rates charged to rural health care providers. As a result, the Commission directed that, in addition to providing rural health care providers with support for the difference between the highest tariffed or publicly available rate actually being charged to urban customers and the rate charged to the rural health care providers (i.e. the base rates for telecommunications service elements), the Administrator must also provide support for distance-based charges. We have since learned that, because of the need to refer to the various tariffs, calculating the difference between the urban and rural base rates for telecommunications service elements is extremely labor intensive. For many carriers and rural health care providers, the cost of calculating the difference between the urban and rural base rates for telecommunications service elements outweighs the benefits of participating in the rural health care program, because it is the distance charges that account for the rate differences of any significance. For example, Alaska argues that FCC Forms 466 and 468 should be simplified because,

> [r]equirements for detailed diagramming of circuits have proven confusing and time-consuming to some LECs in Alaska. Rural health care providers throughout the State have often encountered complaints or resistance from telecommunications carriers with respect to this task. Moreover, the information is also of questionable value, particularly when the rate for the service provided is not distance-sensitive.

Because the failure to properly calculate the difference between the urban and rural base rates for telecommunications service elements must be corrected by the Administrator, this activity has proven to be a burden for the Administrator as well.

13. We, therefore, simplify the method for calculating support found in § 54.609 of the Commission's rules. Consistent with the approach proposed by USTA in response to the *USAC Report Public Notice*, we direct the Administrator to consider the base rates for telecommunications services elements in rural areas to be reasonably comparable to the base rates charged for similar telecommunications service elements in urban areas in that state. The Administrator, therefore, shall not include these charges in calculating support. In addition, we direct the Administrator to treat a rural health care provider as if it is located in the nearest large city in the state, in the same manner as it does under the current rules. That is, if the requested service distance is less than or equal to the SUD for the state, the distance-based charge for that service can be no higher than the distance-based charged for a similar service over the same distance in the large city nearest to the rural health care provider. If the requested service distance is greater than the SUD for the state, but less than the maximum allowable distance, the distance-based charge for that service can be no higher than the distance-based charged for a similar service, transmitted the length of the SUD, in the large city nearest to the rural health care.

14. Consistent with the approach proposed by USTA, we also conclude that, in the event a rural health care provider or carrier can establish that there is a difference between the urban and rural base rates charged for a telecommunications service, the rural health care provider or the telecommunications carrier may request a more comprehensive rate comparability calculation consistent with the Commission's current rules. We note that it would not be feasible for the Administrator to document the tariffed or publicly available urban rates for all commercially available telecommunications services to establish a benchmark for comparison of the base rates of telecommunications service elements. Consequently, in the rare instance where there is a difference between the urban and rural base rates for services, we require the rural health care provider or carrier to provide the evidence thereof.

15. We do not modify our rules to require the Administrator to deduct a standardized SUD from the total distance-based charge. We believe that such an approach would generally result in establishing a national SUD to calculate the support amount. We reject this approach because the Administrator has already established the average of the longest diameters of all cities with a population of 50,000 or more within each state, and adding the state averages together to ultimately arrive at a national SUD would not be as accurate as using each state's SUD. We also reject this suggestion because we believe that it would not result in rural health care providers paying distance-based charges that are reasonably comparable to those required of urban subscribers as required by section 254(h)(1)(A), since it would require a rural health care provider to pay the balance of the distance-based charge. We find that this balance would generally be more than urban subscribers are required to pay.

16. We reject USAC's proposal to establish statewide average discount percentages to apply to the rural base rates and/or distance sensitive charges for eligible services. Section 254(h)(1)(A) requires the Commission to adopt mechanisms designed to make telecommunications services available to rural health care providers at rates reasonably comparable to "*rates charged* for similar services in urban

areas." As the Joint Board previously stated, however, use of an average rate "would entitle some rural customers to rates below those paid by some urban customers, creating fairness problems for those urban customers and arguably going farther with this mechanism than Congress intended."

D. Equipment

17. Section 254(h)(1)(A) does not authorize the provision of universal service support for equipment needed by rural health care providers to establish telemedicine programs. We note that section 254(h)(1)(A) directs telecommunications carriers to provide telecommunications services to rural health care providers at a discounted rate, and permits the telecommunications carriers to have the amount of the discount treated as part of their obligation to participate in the mechanisms to preserve and advance universal service. There is nothing in section 254(h)(1)(A) that authorizes the provision of universal service support for the purchase of equipment by rural health care providers. Indeed, the Joint Explanatory Statement indicates that Congress' intent was that "the rural health care provider receive an affordable rate for the services necessary for the purposes of telemedicine and instruction relating to such services." Consistent with the Joint Explanatory Statement, USTA argues that it would be inappropriate and unlawful to provide support for equipment, or any other non-telecommunications service component of telemedicine. RUS similarly opposes providing support to reduce the cost of any non-telecommunications service expenses of telemedicine. RUS notes that other federal programs, such as the RUS Distance Learning and Telemedicine Loan and Grant Program are available to assist with the financing of end-user hardware and facilities used in telemedicine projects. Under these circumstances, we conclude that the rural health care support mechanism cannot assist in reducing the cost of the equipment necessary for rural health care providers to provide telemedicine services.

E. Insular Areas

18. Because we still lack sufficient information to ensure that health care providers located in the insular areas have access to the telecommunications services available in urban areas in the country at affordable rates, on August 5, 1999, the Commission adopted the *Unserved, Tribal, and Insular Areas FNPRM*, 64 FR 52738 (September 30, 1999), seeking public input on these and many related issues. We note that the record here contains insufficient information about the status and availability of health care services and telemedicine in most of the insular areas.

19. We are concerned that, to the extent that section 254(h)(1)(A) was intended solely to help equalize the rates paid by residents of urban and rural areas within a state, the Commission would be constrained in its ability to provide relief to rural health care providers in the insular areas. We note that Congress could have provided discounts on the telecommunications service that rural health care providers use to connect to the nearest *major urban hospital within or outside the state* when rural health care providers rely on such hospitals for consultations. This approach would have directed assistance to rural health care providers hindered by the high costs of linking to major hospitals they need to reach outside of their states. Moreover, the Act could have sought to equalize rates paid by rural health care providers in different states, ensuring that no rural health care provider paid significantly more than hospitals in the largest urban areas, regardless of state boundaries. The language of section 254(h)(1)(A), however, merely directs the Commission to provide universal service support to rural health care providers to enable them to pay rates similar to those paid in urban areas *of their states*.

20. On the other hand, we have always recognized that our method for determining the amount of support that a rural health care provider may receive is ill suited to insular areas. In the *Universal Service Order*, for example, we noted that ninety-five percent of American Samoa's population of 56,000 lives on the island of Tutuila, where the territory's single hospital is located. Since we designated Tutuila as an urban area for purposes of setting the urban rate, rural health care providers in American Samoa will be constrained in their ability to take full advantage of the benefits of the rural health care support mechanism.

21. The Commission concluded in the *Universal Service Order* that section 254(h)(2)(A) authorizes the Commission to adopt special mechanisms to calculate support for the insular areas. Section 254(h)(2)(A) directs the Commission, in part, to establish competitively neutral rules "to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications . . . services for all public and nonprofit . . . health care providers." In order to implement the statute's directives, among other things, we need to identify the necessary services and determine what is "technically feasible and economically reasonable." That is, we need additional data about the specific needs of insular areas in this context, as well as the estimated cost of providing such support for those needs. We also note that, were we to grant support for links between rural health care providers in insular areas and the nearest advanced health care facilities in some other jurisdiction, we would need to set standards for identifying such facilities. We would also need to ensure that such rules would not be inconsistent with state physician licensing requirements that might preclude a rural health care provider from establishing a telemedicine connection with an advanced facility in the nearest large city in another state. Consequently, we encourage interested parties to submit their comments in the *Unserved, Tribal, and Insular Areas FNPRM* proceeding that we initiated on August 5, 1999, as we will be addressing these issues in the near future.

III. Eligibility of Health Care Providers

A. Definition of Health Care Provider

22. We affirm our initial conclusion that section 254(h)(5)(B) adequately describes those entities Congress intended to be eligible for universal service support. We find that, given the specific categories of health care providers listed in section 254(h)(5)(B), if Congress had intended to include nursing homes, hospices, or other long-term care facilities, and emergency medical service facilities, it would have done so explicitly. Thus, we find that the definition of "health care provider" does not include nursing homes, hospices, or other long-term care facilities, and emergency medical service facilities.

23. Moreover, we clarify that a rural nursing home is ineligible to receive universal service support from the rural health care support mechanism, whether or not it is part of a not-for-profit hospital or rural health clinic. We are not persuaded that an entity omitted from the list in the statute should be allowed to apply for and receive the benefits of the program directly from the universal service support mechanism simply because of the relationship between the ineligible and eligible entity. Moreover, we find no rational basis for distinguishing between a rural nursing home that is part of a not-for-profit hospital or rural health clinic and a rural nursing home that is associated with any of the other categories of

eligible entities listed in the statute. Finally, we believe that allowing nursing homes to receive support directly from the rural health care support mechanism based upon their association with eligible entities would very likely result in a flood of other types of ineligible entities requesting similar treatment, and thus would render meaningless the limitations imposed by Congress in section 254(h)(5)(B). We find, therefore, that, to the extent that the instructions for the current version of the FCC Form 465 state that nursing homes that are "part of a not-for-profit hospital or rural health care clinic" are health care providers eligible to receive support, those instructions are incorrect.

B. Restrictions on Resale and Aggregated Purchases

24. We affirm the conclusion that we reached in the *Universal Service Order* that, despite the difficulties of allocating costs and preventing abuses, the benefits of permitting rural health care providers to join consortia with other subscribers of telecommunications service outweigh the danger that such arrangements will lead to abuse of the prohibition on resale. Accordingly, we clarify that new members may be added to a consortium at any time after the rural health care provider applies for universal service support. We note that the Commission's rules do not restrict a rural health care provider's ability to join a consortium with other eligible health care providers, or public sector governmental entities (such as schools and libraries). The Commission's rules also do not restrict a rural health care provider's ability to continue to participate in a consortium to which any of the above are added after the rural health care provider applies for universal service support. The Commission's rules limit a rural health care provider's ability to receive universal service support only if the consortium includes a private sector entity. Section 54.601(b) of the Commission's rules state that, in the event that a consortium includes a private sector entity, a rural health care provider may receive support only if the consortium is paying tariffed or market rates for the subject services. We believe that our interpretation is consistent with both the section 254(h)(1)(A) requirement to ensure that health care providers located in rural areas have access to telecommunications services at rates available to urban residents, and the section 254(h)(3) prohibition against the sale, resale, or other transfer of supported services for money.

25. We also clarify that a tariffed or market rate received by a consortium of eligible and ineligible entities may include a volume discount, or otherwise reflect consideration of the unique characteristics of the subscribers, to the extent that characteristic is not a rural health care provider's eligibility to receive support from the rural health care program. This is because the Commission's restriction on consortium membership was intended to prohibit ineligible private entities from receiving the benefits of the rural health care support mechanism. The *Universal Service Order* clearly states that the Commission and the Joint Board supported broad-based participation in consortia and intended to encourage their growth. The Commission explained, in the *Universal Service Order*, that this restriction is necessary to "deter ineligible, private entities from entering into aggregated purchase arrangements with rural health care providers to receive below-tariff or below-market rates that they otherwise would not be entitled to receive." We find that an ineligible private entity that enters into an aggregated purchase arrangement with a rural health care provider, and receives a tariff or market rate that includes a volume discount, would not be receiving a below-tariff or below-market rate because of the eligibility status of a rural health care provider participating in the consortium. We, therefore, find that such an arrangement would not violate our rules, as long as entities and individuals not eligible for universal service support pay the full contract rates for their portion of the services.

26. The section of the *Universal Service Order* that addresses the universal service support mechanism for schools and libraries offers an additional reason for the Commission's restriction on consortium membership, which would not be contradicted by the finding. In the section of the *Universal Service Order* that discusses the universal service support mechanism for schools and libraries, the Commission noted that it was concerned that "permitting large private sector firms to join with eligible schools and libraries to seek prices below tariffed rates could compromise both the federal and state policies of non-discriminatory pricing." The Commission found congressional support for permitting eligible schools and libraries to secure prices below tariffed rates, and no basis for extending that exception to enable all private sector firms to secure such prices. The Commission concluded that eligible schools and libraries would generally qualify for universal service discounts and prices below tariffed rates for interstate services, only if any consortia they join include only other eligible schools, libraries, rural health care providers, and public sector customers. Although the *Universal Service Order* does not define the term "tariffed rates," the definition of the term "pre-discount price," and the explanation of the Commission's intent in the schools and libraries section of the *Universal Service Order* is instructive in determining whether permitting a consortium of eligible and ineligible entities to obtain tariff rates that include a volume discount could compromise the policies of non-discriminatory pricing. The *Universal Service Order* defines pre-discount price as the price of services to schools and libraries prior to the application of a discount from the universal service support mechanism. It is "the total amount that carriers will receive for the services they sell to schools and libraries: the sum of the discounted price paid by a school or library and the discount amount that the carrier can recover from universal service support mechanisms for providing such services." The *Universal Service Order* explains:

> Although consortia-negotiated prices might commonly be characterized as "discounted prices," because they are lower than the prices that individual members of the consortia would be able to secure on their own, we still characterize them as "pre-discount prices" for the purposes of section 254(h) because they are the prices eligible schools and libraries could obtain even without application of the relevant universal service support discounts. All members of such consortia, including those ineligible for universal service support, would benefit from these lower "pre-discount" prices produced by such statewide, regional, or large group contracts. . . . While those consortium participants ineligible for support would pay the lower pre-discount prices negotiated by the consortium, only eligible schools and libraries would receive the added benefit of universal service discount mechanisms.

It is clear from this statement that the Commission's intent as expressed in both the rural health care and schools and libraries sections of the *Universal Service Order* is the same; to wit, to ensure that only eligible entities receive the benefit of the universal service support mechanism, not to prohibit a consortium from taking advantage of the tariff or other publicly available rates that reflect the economies of scale. Accordingly, we conclude that it would not violate section 254, or compromise Federal and state policies of non-discriminatory pricing to permit a rural health care provider to benefit from the

rural universal service support mechanism, where the rural health care provider is a member of a consortium of eligible and ineligible entities receiving service at tariffed or other publicly available rates that include a volume discount.

27. The fact that the Commission's rules prohibit a rural health care provider from receiving support if it is in a consortium that includes private sector members, unless the consortium is receiving tariffed rates or market rates, has apparently largely been erroneously interpreted as requiring the consortium members to be paying rates that do not include volume discounts. As a result, commenters such as the Rural Telecommunications Policy Working Group (RTP) and the Health Care Systemic Change Initiative (HCSCI) believe that the Commission's treatment of consortia discourages community-based telecommunications facilities. Consequently, they request that the Commission generally encourage the community use of telecommunications service facilities that the rural health care providers use for telemedicine. Similarly, RUS argues that community use should be allowed because it is not resale.

28. We find that, to the extent that the Commission's exception is being narrowly interpreted as requiring a rural health care provider in a consortium with ineligible private entities to receive rates that do not include a volume discount, the interpretation largely defeats the purpose of participating in a consortium, and, therefore, is inconsistent with our intention to encourage participation in consortia. OAT and NTIA provide ample justification for rejecting the narrow interpretation of the terms "tariffed rates" and "market rates." OAT and NTIA indicate that together they support over 400 rural telemedicine sites in the United States, and about ninety percent of those sites organize their networks into formal and informal consortia to achieve greater economic efficiency. They further indicate that the consortium typically includes an urban "hub" site such as a medical college, urban hospital, medical center, or state governmental unit associated with several small rural "spoke" sites. According to OAT and NTIA, many rural health care providers use telecommunication infrastructures established and maintained by the "hub" site. We are not convinced that requiring a consortium to receive tariffed or market rates should mean that the rate cannot take volume into consideration, and reflect the economies of scale. We believe that a better interpretation is one that recognizes that there are tariffed and market rates that include volume discounts, just as there are tariffed and market rates that recognize the unique characteristics of other subscribers of telecommunications service. Consequently, we conclude that entities not explicitly eligible for support cannot gain eligibility for support by participating in consortia with those that are eligible, but every member of the consortium may receive the benefits otherwise available to them in tariffed or other publicly available rates without jeopardizing a rural health care provider's eligibility to receive the benefits of the rural health care support mechanism.

29. Because of the difficulties of allocating costs and preventing abuses, we also find that, in addition to telecommunications carriers, health care providers and consortia of health care providers must share in the responsibility for calculating and justifying the request for support by maintaining documentation of the amount of support for which each member of a consortium is eligible. Health care providers and consortia of health care providers must also carefully maintain complete records of how they allocate the costs of shared facilities among consortium participants in order to charge eligible health care providers the correct amounts. Accordingly, we revise § 54.601 of the Commission's rules to extend the record-keeping requirement to health care providers and consortia of health care providers. Finally, to the extent that a telecommunications carrier will not be applying the discount directly to a billing telephone number in the name of the rural health care provider, the rural health care provider and the lead member of the consortium must certify to the proper disposition of the benefits of the rural health care support mechanism.

30. Based upon the information in the record, we also clarify that it is not necessary to set a time limit for rural health care providers to report the identities of all of the consortia participants in order to enforce the statutory prohibition against the resale of telecommunications services by rural health care providers, or to otherwise ensure that the support provided by the rural health care universal service support mechanism is used for the purposes intended by Congress. We find that USAC should permit a rural health care provider to add new consortium members by submitting a new form 465 that the Administrator will use to re-evaluate the eligibility of the rural health care provider. The rural health care provider must satisfy anew the competitive bidding requirements only if the addition of a new consortium member would be more than a minor change in the contract or other arrangement for service from the carrier. Consistent with the *Fourth Reconsideration Order*, a rural health care provider must look to state or local procurement laws and regulations to determine whether a proposed contract modification would be considered minor, and, therefore, exempt from state or local competitive bid processes. If a proposed modification would be exempt from state or local competitive bid requirements, the applicant would not be required to undertake an additional competitive bid process in connection with the applicant's request to add a new member to the consortium. Similarly, if a proposed modification would have to be re-bid under state or local competitive bid requirements, then the applicant would also be required to comply anew with the Commission's universal service competitive bid requirements in order to be eligible to receive the benefits of the rural health care program. Consistent with the *Fourth Reconsideration Order*, 63 FR 2093 (January 13, 1998), where state and local procurement laws and regulations are silent, or otherwise inapplicable with respect to whether a proposed contract modification must be re-bid under state or local competitive bid processes, the Commission will look to the "cardinal change doctrine" to determine whether the contract modification requires re-bidding. The "cardinal change doctrine" generally examines the extent to which a modification exceeds the scope of the original contract. We understand that USAC might prefer that rural health care providers list all possible participants in their initial applications, thus, permitting USAC to evaluate all participants at once. We, however, are not persuaded that the administrative difficulties are so great as to warrant restricting joint purchasing and network-sharing arrangements.

IV. Administration

A. Billing and Collection

31. Consistent with the USAC Report, we direct USAC to include its joint and common billing and collection costs in the projected administrative expenses of the high cost, low-income, schools and libraries, and rural health care programs, based upon the volume of disbursements by each program, beginning January 1, 2000. We agree with USAC that, in order to ensure a fair and accurate allocation of billing and

collection costs among the four support mechanisms, it is better to use an allocator that takes into account the actual size of the programs. The Commission did not know, in 1997, the actual size of the individual programs, or the extent of the difference in their sizes. Based upon the information in the record, we find that there is no longer any rational basis for requiring the rural health care program to be responsible for twenty-five percent of the joint and common billing and collection costs in question. We further find that continuing to include one-fourth of USAC's joint and common billing and collection costs in the projected administrative expenses of the rural health care program would place a disproportionate burden on the rural health care support mechanism.

B. Consolidation of Support Mechanisms

32. Consistent with the *USAC Reorganization Order*, we conclude that, where efficiencies can be achieved, USAC should consolidate the functions and operations that are common to the administration of all three universal service support mechanisms. We decline, however, to further direct the consolidation of any additional specific functions and operations at this time. There is very little information in the record upon which to base any decision to further consolidate additional functions of the various universal service support mechanisms. Although both the schools and libraries, and rural health care programs have completed their first funding cycle, there will be enough changes to the rural health care program as a result of this Order, that the rural health care program will, in essence, be repeating its first program year. We believe that, under these circumstances, not only would it be difficult to identify with any certainty the division with which we should merge RHCD, we find that there would be little benefit to merging RHCD with any of the other divisions of USAC while RHCD is undergoing significant change. Moreover, as we indicated in the *USAC Reorganization Order*, we will review USAC's performance after one year from the merger to assess whether USAC has succeeded in eliminating duplicative functions, and whether it has succeeded in preserving the distinct missions of the schools and libraries, and rural health care support mechanisms. Given that it has been less than one year since the merger, we conclude that it would be premature to further direct the consolidation of additional functions and operations that are common to the administration of the support mechanisms.

V. Supplemental Final Regulatory Flexibility Analysis

33. In compliance with the Regulatory Flexibility Act (RFA), this Supplemental Final Regulatory Flexibility Analysis (SFRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) included in the *Universal Service Order* only to the extent that changes to that Order adopted herein on reconsideration require changes in the conclusions reached in the FRFA. As required by 603 RFA, 5 U.S.C. 603, the FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), and an IRFA, prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision.

34. *Need for and Objective of this Order.* The Commission is required by section 254 of the Act to promulgate rules to implement promptly the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules whose principle goal is to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. In this Order, we reconsider two aspects of those rules and clarify one aspect of those rules. First, we direct USAC to provide support for any commercially available telecommunications service necessary for health care in rural areas, regardless of the bandwidth. Second, we find that the Administrator need not compare the tariffed or publicly-available base rates for telecommunications service elements to ensure that rural health care providers are receiving rates that are reasonably comparable to those in urban areas, and we direct the Administrator to calculate support based upon all actual distance-based charges. Finally, we clarify that new members may be added to a consortia at any time after the rural health care provider applies for universal service support. We also conclude that, a rural health care provider participating in a consortium with eligible private sector members may receive support, even if the consortium is receiving a tariffed or market rate that includes a volume discount. Because of the difficulties of allocating costs and preventing abuses, we find that, in addition to telecommunications carriers, health care providers, and consortia of health care providers must share in the responsibility for calculating and justifying the request for support by maintaining documentation of the amount of support for which each member of a consortium is eligible.

35. *Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the IRFA.* In this Order, the Commission simplifies the process for rural health care providers to receive support from the universal service support mechanism. The Commission reconsiders, on its own motion, the rules that define the services that are eligible for support, and clarifies the definition of the entities eligible to receive the benefits of that support. In addition, the Commission clarifies the rules associated with the administration of the universal service support mechanisms. Specifically, the Order modifies the rules to allow the universal service mechanism for rural health care providers to support any commercially available telecommunications service regardless of the bandwidth, and allow the Administrator to calculate support based solely upon all actual distance-based charges. The Order clarifies the rules to allow a rural health care provider participating in a consortium with ineligible private sector members to be able to receive support even if the consortium is receiving a tariffed or market rate that includes a volume discount. It also clarifies the rules to enable USAC to include its joint and common billing and collection costs in the projected administrative expenses of the high cost, low-income, schools and libraries, and rural health care programs, based upon the volume of disbursements by each program.

36. *Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Order Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently

owned and operated and is not dominant in its field."

37. In the FRFA of the *Universal Service Order*, we estimated and described in detail the number of small entities that might be affected by the new universal service rules. The rules adopted in this Order, however, would affect primarily rural health care providers. Specifically, the Commission modifies the rules that define the services that are eligible for support. Health care providers will now receive universal service support for any commercially available telecommunications services, necessary for the provision of health care services in a state, regardless of the bandwidth. The Commission also revises the rules that calculate support based on the urban/rural rate. Rural health care providers' universal service support will now be calculated using actual distance-based charges. Finally, the Commission clarifies the rules that define limitations on supported services for rural health care providers. Rural health care providers are allowed to participate in a consortium with ineligible private sector members and will be able to receive support even if the consortium is receiving a tariffed or market rate that includes a volume discount. The adopted rules will allow rural health care providers to benefit more fully from the rural health care universal service support mechanism, constituting a positive economic impact on these small entities.

38. As noted, small entities includes "small businesses," "small organizations," and "small governmental jurisdictions." All three types of small entities may also constitute rural health care providers for the purpose of this analysis. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. As for "small organizations," as of 1992, there were approximately 275,801.

39. In addition, the Commission noted in the *Universal Service Order* that neither the Commission nor the SBA has developed a definition of small, rural health care providers. Section 254(h)(5)(B) defines the term "health care provider" and sets forth the seven categories of health care providers eligible to receive universal service support. We estimated that there is less than 12,296 health care providers potentially affected by the rules in the *Universal Service Order*. We note that these small entities may potentially be affected by the rules adopted in this Order.

40. *Summary Analysis of the Projected Reporting, Record keeping, and Other Compliance Requirements and Significant Alternatives.* In the FRFA to the *Universal Service Order*, we described the projected reporting, record keeping, and other compliance requirements and significant alternatives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order*. Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 956 through 960, 968 through 971, and 980 of the *Universal Service Order*, which describe those requirements and provide the following analysis of the new requirements adopted herein.

41. Under the rules adopted herein, we revise the rules governing the eligibility of services that the universal service support mechanism will support. We find that regardless of whether rural health care providers need services with greater or lower bandwidths, the public interest would be better served by allowing rural health care providers to have affordable access to all modern telecommunications service to provide medical services without regard for the bandwidth thereof. We also revise the rules to allow the Administrator to calculate the support based upon all distance-based charges. We've learned that because of the need to refer to the various tariffs, calculating the difference between the urban and rural base rates for telecommunications is extremely labor intensive. We have determined that most of the base rates for telecommunications service elements charged to rural health care providers are already comparable to those charged in urban areas so there is no need to continue to require the comparison of tariffs to other publicly available rates. Finally, we revise the rules to show that a rural health care provider participating in a consortium with ineligible private sector members may receive support even if the consortium is receiving a tariffed or market rate that includes a volume discount. We find that, an ineligible private entity that enters into an aggregated purchase agreement with a rural health care provider, and receives a tariff or market rate that includes a volume discount, would not be receiving a below-tariff or below-market rate because of the eligibility status of a rural health care provider participating in the consortium. We also find that new members may be added to a consortium even after the rural health care provider submits it application for support. Finally, because of the difficulties of allocating costs and preventing abuses in consortium arrangements, we find that, in addition to telecommunications carriers, health care providers and consortia of health care providers must maintain documentation of the amount of support for which each member of a consortium is eligible. These changes will not have a significant impact on the reporting, record keeping, and other compliance requirements for participation in the rural health care support program.

42. *Steps Taken To Minimize the Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives.* In the FRFA to the *Universal Service Order*, we described the steps taken to minimize the significant economic impact on a substantial number of small entities consistent with stated objectives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order*. Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 961 through 967, 972 through 976, and 981 through 982 of the *Universal Service Order*, which describe those requirements and provide the following analysis of the new requirements adopted herein.

43. Our decision to simplify the process for rural health care providers to receive support from the universal service support mechanism, will benefit rural health care providers, as well as their chosen service providers, who may be small entities. We also find that this approach should permit all parties to use fewer resources (*i.e.* less time and labor) to access the benefits of the universal service support program.

VI. Ordering Clauses

44. The authority contained in 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403, and 405, § 1.108 of the Commission's rules, 47

CFR 1.108, the Fifteenth Order on Reconsideration is adopted.

45. The authority contained in 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403, and 405, § 1.108 of the Commission's rules, 47 CFR 1.108, Part 54 of the Commission's rules, 47 CFR Part 54, are amended.

46. This Fifteenth Order on Reconsideration, the rule changes set forth are effective beginning with the third funding cycle of the rural health care universal service support program.

47. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Fifteenth Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Universal service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 54—UNIVERSAL SERVICE

1. The authority for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Amend § 54.601 by revising paragraphs (b)(3), (b)(4), and (c)(1) to read as follows:

§ 54.601 Eligibility.

* * * * *

(b) * * *

(3) Telecommunications carriers, health care providers, and consortia of health care providers shall carefully maintain complete records of how they allocate the costs of shared facilities among consortium participants in order to charge eligible health care providers the correct amounts. Such records shall be available for public inspection.

(4) Telecommunications carriers, health care providers, and consortia of health care providers shall calculate and justify with supporting documentation the amount of support for which each member of a consortium is eligible.

(c) * * *

(1) Any telecommunications service that is the subject of a properly completed bona fide request by a rural health care provider shall be eligible for universal service support, subject to the limitations described in this paragraph. The length of a supported telecommunications service may not exceed the distance between the health care provider and the point farthest from that provider on the jurisdictional boundary of the nearest large city as defined in § 54.605(c).

* * * * *

3. Amend § 54.609 by adding paragraphs (a)(1), (a)(2), and by revising paragraphs (b) and (c) to read as follows:

§ 54.609 Calculating support.

(a) * * *

(1) With one exception, the Administrator shall consider the base rates for telecommunications services elements in rural areas to be reasonably comparable to the base rates charged for similar telecommunications service elements in urban areas in that state, and, therefore, the Administrator shall not include these charges in calculating the support. The Administrator shall include, in the support calculation, all other charges specified, and all actual distance-based charges as follows:

(i) If the requested service distance is less than or equal to the SUD for the state, the distance-based charge for that service can be no higher than the distance-based charged for a similar service over the same distance in the large city nearest to the rural health care provider;

(ii) If the requested service distance is greater than the SUD for the state, but less than the maximum allowable distance, the distance-based charge for that service can be no higher than the distance-based charged for a similar service in the large city nearest to the rural health care provider over the SUD.

(iii) "Distance-based charges" are charges based on a unit of distance, such as mileage-based charges.

(iv) Except with regard to services provided under § 54.621, a telecommunications carrier that provides telecommunications service to a rural health care provider participating in an eligible health care consortium, and the consortium must establish the actual distance-based charges for the health care provider's portion of the shared telecommunications services.

(2) If a telecommunications carrier, health care provider, and/or consortium of health care providers reasonably determines that the base rates for telecommunications services elements in rural areas are *not* reasonably comparable to the base rates charged for similar telecommunications service elements in urban areas in that state, the telecommunications carrier, health care provider, and/or consortium of health care providers may request that the Administrator perform a more comprehensive support calculation. The requester shall provide to the Administrator the information to establish both the urban and rural rates consistent with § 54.605 and § 54.607, and submit to the Administrator all of the documentation necessary to substantiate the request.

(i) Except with regard to services provided under § 54.621, a telecommunications carrier that provides telecommunications service to a rural health care provider participating in an eligible health care consortium, and the consortium must establish the applicable rural base rates for telecommunications service elements for the health care provider's portion of the shared telecommunications services, as well as the applicable urban base rates for the telecommunications service elements.

(b) Absent documentation justifying the amount of universal service support requested for health care providers participating in a consortium, the Administrator shall not allow telecommunications carriers to offset, or receive reimbursement for, the amount eligible for universal service support.

(c) The universal service support mechanisms shall provide support for intrastate telecommunications services, as set forth in § 54.101 paragraph (a), provided to rural health care providers as well as interstate telecommunications services.

4. Revise § 54.613 to read as follows:

§ 54.613 Limitations on supported services for rural health care providers.

(a) Upon submitting a bona fide request to a telecommunications carrier, each eligible rural health care provider is entitled to receive the most cost-effective, commercially-available telecommunications service at a rate no higher than the highest urban rate, as defined in this paragraph, at a distance not to exceed the distance between the eligible health care provider's site and the farthest point from that site that is on the jurisdictional boundary of the nearest large city, as defined in § 54.605(c).

(b) This section shall not affect a rural health care provider's ability to obtain supported services under § 54.621.

[FR Doc. 99–30989 Filed 11–29–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket RSPA–97–2995; Notice 7]

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations; Alcohol Misuse Prevention Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of revision of random drug testing.

SUMMARY: RSPA has received and evaluated the 1999 Management Information System (MIS) Data Collection forms for the drug testing pipeline industry personnel. RSPA determined that the random positive drug testing rate for pipeline industry for the period of January 1, 1998, through December 31, 1998, was 0.7 percent. Therefore, the minimum random drug testing rate for the pipeline industry will be maintained at 25 percent of the covered employees for the period of January 1, 2000, through December 31, 2000.

DATES: Effective January 1, 2000 through December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Catrina M. Pavlik, Office of Pipeline Safety, Compliance and State Programs, (DPS–23), Research and Special Programs Administration, 400 7th Street SW., Room 7128, Washington, DC 20590, telephone (202) 366–6199.

SUPPLEMENTARY INFORMATION: In a final rule published on December 23, 1993 (58 FR 68257), RSPA announced that it would require operators of gas, hazardous liquid and carbon dioxide pipelines and liquefied natural gas facilities, who are subject to 49 CFR parts 192, 193 and 195 to implement, maintain, and submit an annual report of their drug testing program data. Any operator with 51 or more covered employees had to submit this information on an annual basis. Operators with 50 or fewer covered employees had to maintain this information, and RSPA randomly selected 100 operators in this category to submit their data. The drug testing statistical data was essential for RSPA to use the data to analyze its current approach to deterring and detecting illegal drug abuse in the pipeline industry, and, as appropriate, plan a more efficient and effective approach. In 1997, RSPA lowered the random drug testing rate to 25 percent. Since the positive random testing rate continues to be less than 1 percent industry-wide, RSPA announces that in accordance with Section 199.11(c)(3) the minimum random drug testing rate is 25 percent of covered pipeline employees for the period of January 1, 2000, through December 31, 2000.

Submission of MIS reports are due to the Office of Pipeline Safety, Research and Special Programs Administration, DPS–23, Room 7128, 400 7th Street SW., Washington, DC 20590, not later than March 15 each calendar year. Notice of statistical data will be published in the future to report results of each calendar year's MIS Data Collection results. RSPA will also publish at that time whether or not the random rate will be reduced or increased for the pipeline industry pursuant to Section 199.11.

Issued in Washington, DC, on November 23, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 99–30985 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259–8312–02; I.D. 122299B]

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for Winter II Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest for Winter II period.

SUMMARY: NMFS announces that the scup commercial quota available in the Winter II period to the coastal states from Maine to North Carolina has been harvested. Commercial vessels may not land scup in the northeast region for the remainder of the 1999 Winter II quota period (through December 31, 1999). Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing scup in these states.

DATES: DATES: Effective 0001 hours November 26, 1999, through 2400 hours December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the scup fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into three quota periods, based upon percentages of the annual quota. The Winter II commercial quota (November through December) is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.120.

The initial total commercial quota for scup for the 1999 calendar year was set equal to 2,534,000 lb (1,149,403 kg)(63 FR 72203, December 31, 1998). The Winter II period quota, which is equal to 15.94 percent of the annual commercial quota (minus a discard estimate), was set at 403,920 lb (183,215 kg).

Section 648.121 requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the commercial scup quota for each quota period, and based upon dealer reports, state data, and other available information, to determine when the commercial quota has been harvested. NMFS is further required to publish notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective upon a specific date, the scup commercial quota has been harvested and no commercial quota is available for landing scup for the remainder of the Winter II period.

The regulations at § 648.4(b) provide that Federal scup moratorium permit holders agree as a condition of the permit not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for the scup is available. The Regional Administrator has determined, based upon dealer reports and other available information, that the scup commercial quota for the 1999 Winter II period has been harvested and that the Winter II period for scup no longer has commercial quota available. Therefore, effective 0001 hours November 26, 1999, further landings of scup in coastal states from Maine through North Carolina by vessels holding Federal scup moratorium permits are prohibited through 2400 hours December 31, 1999.

The Winter I period for commercial scup harvest will open on January 1, 2000. Effective 0001 hours November 26, 1999, Federally permitted dealers are also advised that they may not purchase scup from Federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the Winter II period (through December 31, 1999).

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 23, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–31065 Filed 11–24–99; 2:17 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 229
Tuesday, November 30, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 729

RIN 0560–AF83

2000 Crop Peanut National Poundage Quota for Quota Peanuts

AGENCY: Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Adjustment Act of 1938, as amended, (the 1938 Act) requires that the national peanut poundage quota for the 2000 crop be announced by December 15, 1999. This proposed rule suggests a national poundage quota figure in the range between 1,170,000 short tons (st) and 1,190,000 st.

DATES: Comments must be received by December 10, 1999, in order to be assured of consideration.

ADDRESSES: Comments must be submitted to the Director, Tobacco and Peanuts Division, Farm Service Agency (FSA), United States Department of Agriculture, STOP 0514, 1400 Independence Avenue, S.W., Washington, DC 20250–0514. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, except holidays, in Room 5750–South Building, 1400 Independence Avenue, S.W., Washington, DC 20250–0514.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Robison, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, S.W., Washington, DC 20250–0514, telephone 202–720–9255. Copies of the cost-benefit assessment prepared for the rule can be obtained from Mr. Robison.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by OMB.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Executive Order 12998

This proposed rule has been reviewed in accordance with Executive Order 12998. The provisions of this proposed rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since neither the Farm Service Agency (FSA) nor Commodity Credit Corporation (CCC) are required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of these determinations.

Paperwork Reduction Act

This proposed amendment does not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Unfunded Federal Mandates

This proposed rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Discussion

This proposed rule would amend 7 CFR part 729 to set forth the 2000-crop peanut national poundage quota.

A. Determination of the Quota

Peanut producers voting in a mail referendum December 1 through 4, 1997, approved poundage quotas for the 1998 through 2002 marketing years (MY) by an affirmative vote of 94.8 percent. Therefore, as provided for in the 1938 Act, the Secretary is required to administer a peanut program in which marketings are governed through the use of federally-granted quota and in which price support is offered.

Section 358–1(a)(1) of the 1938 Act, as amended by the Agricultural Market Transition Act (the 1996 Act), requires that the national poundage quota for peanuts for each of the 1996 through 2002 MYs be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each MY to domestic edible use (excluding seed use) and related uses. Under the 1996 amendments to the 1938 Act, seed use remains a quota use but, unlike in the past, the seed aspect of the quota is accounted for through the grant of a temporary seed quota to all producers. As a result, seed is no longer part of the basic quota calculation which will be codified through this determination. The MY for 2000-crop peanuts runs from August 1, 2000, through July 31, 2001.

The national poundage quota for MY 1999 was set at 1,180,000 st. This rule proposes that the national poundage quota for MY 2000 be set between 1,170,000 st and 1,190,000 st based on the following data:

ESTIMATED DOMESTIC EDIBLE, EXCLUDING SEED, AND RELATED USES FOR 2000–CROP PEANUTS WITH MARKETING LEVELS OF 97.6 PERCENT AND 99.3 PERCENT

Item	Farmer Stock Equivalent (Short tons)	
	99.3% of quota marketed	97.6% of quota marketed
Regular domestic food use	989,000	989,000

ESTIMATED DOMESTIC EDIBLE, EXCLUDING SEED, AND RELATED USES FOR 2000–CROP PEANUTS WITH MARKETING LEVELS OF 97.6 PERCENT AND 99.3 PERCENT—Continued

Item	Farmer Stock Equivalent (Short tons)	
	99.3% of quota marketed	97.6% of quota marketed
Related uses		
Crushing residual	128,500	128,500
Shrinkage and other losses	44,000	44,000
Unused quota	8,500	28,500
Totals	1,170,000	1,190,000

The estimate of 2000 domestic food use was developed in two steps. First, normal commercial use was estimated based upon figures from the USDA Interagency Commodity Estimates Committee (ICEC) adjusted to take out peanut imports, peanut butter imports, and peanut butter exports (which are normally comprised of additional peanuts only). Then, farm sales and other direct marketings to consumers were added based upon differences between production data and Federal-State Inspection Service inspection data. Insofar as related uses are concerned, an added allowance is made for the normal crushing residual that cannot effectively be used for food use, and that amount has traditionally been about 12 percent, on a farmer stock basis, of the total of MY domestic production. An allowance for shrinkage and other losses is made to account for reduced kernel and other kernel losses during storage, using the customary factor of 4 percent of domestic food use. In addition, disaster transfers of poor quality peanuts are included as part of other losses. Finally, the unused quota allowance goes to those instances where the farmer cannot fulfill a quota either because of underplanting or because the farmer is unable to produce enough Segregation 1 peanuts to fill the full quota. Because of the program changes in the 1996 Act, which have been outlined in previous notices, there is now a greater incentive than in the past to fully market the quota and it is expected that, after discounting for quality problems, somewhere between 97.6 percent and 99.3 percent of the quota will be marketed.

In MY 1996 about 97.3 percent was marketed; in MY 1997 about 99.7 percent of quota was marketed; in MY 1998 about 98.0 percent of quota was marketed; and for MY 1999 between 94.0 percent and 98 percent of the quota is anticipated to be marketed. Also, it is anticipated that between 97.6 and 99.3 percent of the MY 2000 quota will be marketed.

The proposed 2000 quota range, as set forth above, reflects the uncertainty in domestic consumption of peanut products. Although a small increase in demand has resulted from new uses and from lower peanut support prices in recent years, Government Domestic Feeding and Child Nutrition Program purchases in MY 1998 decreased 32 percent from 38,053, 476 pounds in MY 1997 to 28,831,842 pounds in MY 1998. Also, peanut butter consumption, the major food use of peanuts, declined almost 2 percent during 1998. Overall demand may change little from the current level.

List of Subjects in 7 CFR Part 729

Peanuts, Penalties, Poundage quotas, Reporting and recordkeeping requirements.

Accordingly, it is proposed that 7 CFR part 729 be amended as follows:

PART 729—PEANUTS

1. The authority citation for 7 CFR part 729 continues to read as follows:

Authority: 7 U.S.C. 1301, 1357 *et seq.*, 1372, 1373, 1375, and 7271.

2. Section 729.216 paragraph (c) is revised to read as follows:

§ 729.216 National poundage quota.

* * * * *

(c) Quota determination for individual marketing years:

(1) The national poundage quota (excluding seed) for quota peanuts for marketing year 1996 is 1,100,000 short tons.

(2) The national poundage quota (excluding seed) for quota peanuts for marketing year 1997 is 1,133,000 short tons.

(3) The national poundage quota (excluding seed) for quota peanuts for marketing year 1998 is 1,167,000 short tons.

(4) The national poundage quota (excluding seed) for quota peanuts for marketing year 1999 is 1,180,000 short tons.

(5) The national poundage quota (excluding seed) for quota peanuts for marketing year 2000 will be set between 1,170,000 and 1,190,000 short tons.

* * * * *

Signed at Washington, DC, on November 24, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 99–31111 Filed 11–24–99; 3:33 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 97–093–2]

RIN 0579–AA90

Scrapie in Sheep and Goats; Interstate Movement Restrictions and Indemnity Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to restrict the interstate movement of sheep and goats from States that do not follow effective flock management practices for scrapie. We also propose to require animal identification for sheep and goats moving interstate and to reinstate a scrapie indemnity program to compensate owners of certain animals destroyed due to scrapie. These changes would help prevent the interstate spread of scrapie, an infectious disease of sheep and goats.

DATES: Consideration will be given only to comments received on or before December 30, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–093–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comments refer to Docket No. 97–093–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Diane Sutton, Senior Staff Veterinarian, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235, (301) 734–7709.

SUPPLEMENTARY INFORMATION: Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats, a member of a class of diseases called transmissible spongiform encephalopathies (TSEs). Its control is complicated because the disease has an extremely long incubation period without clinical signs of disease, and because there is no live-animal test for the disease that has been validated (demonstrated to be accurate by impartial research).

Scrapie is not a highly contagious disease; however, transmission to uninfected and susceptible animals can sometimes occur following exposure to small amounts of tissues from an infected animal. The exact conditions favorable to animal-to-animal transmission are not fully understood, though some factors that increase the risk are known (e.g., contact of a young animal with the afterbirth of an infected female animal). The scrapie agent moves from infected to susceptible animals by direct animal-to-animal contact, or indirect contact through contaminated premises and may enter through the gastrointestinal tract, open wounds, or other routes. Consequently, its spread appears to be both maternal (mother to offspring) and horizontal (direct contact between unrelated sheep).

There is no evidence that any human has ever contracted scrapie or any similar disease by eating lamb or mutton. However, it has been theorized that scrapie may have been spread to other animals when whole scrapie-positive animals have been rendered and used as animal feed. This is a prominent theory for the origin of bovine spongiform encephalopathy (BSE) in cattle in the United Kingdom. As a precautionary measure to prevent the possible spread of TSEs via ruminant feed in the United States, the U.S. Food and Drug Administration published a final rule on June 5, 1997 (62 FR 30935–30978) that prohibited the use of animal protein derived from most mammalian tissues in ruminant feed.

While diseases caused by TSEs do not frequently or easily cross species lines, there is reason to be concerned that TSEs infecting one species could at some point lead to diseases in other animal species or humans, as has been demonstrated with BSE in cattle in the United Kingdom. New variant Creutzfeldt Jakob Disease (vCJD) is a human neurological disease recently identified in the United Kingdom that is believed to have its origins in the BSE outbreak in cattle in the United Kingdom. The agent that causes vCJD is indistinguishable from the causative agent of BSE. As of September 21, 1999, 46 cases of vCJD had been identified in the United Kingdom and one in France. The exact means by which the victims were exposed to the agent is uncertain; it may have been through eating beef products that contained high risk materials (brain and spinal cord) from BSE-positive cattle or through some other exposure.

Based on the above facts, it is reasonable to conclude that control of scrapie in the United States, in addition to addressing a disease problem in sheep, would also reduce concerns about the apparently low but undefined risks that the scrapie agent could lead to diseases in other species.

There are nearly 8 million sheep and lambs in the United States. It is impossible to estimate with any accuracy how many of them are infected with scrapie. This is because the disease may go undiagnosed. Scrapie has a lengthy incubation period, which complicates epidemiological studies, and there has been no live-animal test to diagnose it. These factors have impeded surveillance programs for scrapie, requiring it to be identified by symptoms and postmortem examination. However, the following information can be used to develop a rough estimate of the number of sheep in the United States that may be infected with scrapie: (1) In a 1996 NAHMS report, 1.2 percent of participating producers reported that they had seen scrapie in their flock in the last 5 years; (2) The average flock size in the United States is 105 animals; (3) The number of flocks in the United States is 68,800; (4) In a flock that has had one case, the percent of animals that will come down with scrapie is highly variable. Based on this data, it is likely that at least 826 flocks are affected and that at least 86,730 sheep have been exposed to and may be infected with scrapie. It is likely that the number of exposed and potentially infected animals is significantly higher since owners are likely to under report disease because it is confused with another disease.

To control the spread of scrapie within the United States, the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), administers regulations at 9 CFR part 79, which restrict the interstate movement of certain sheep and goats. APHIS also administers the Voluntary Scrapie Flock Certification Program (the VSFCP), described in regulations at 9 CFR part 54, and produces a program standards document entitled "Program Standards—Voluntary Scrapie Flock Certification Program," which is available at http://www.aphis.usda.gov/vs/scrapie/umr. A hard-copy of the Program Standards may be obtained by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**. The regulations at 9 CFR parts 54 and 79 are referred to below as the scrapie regulations.

For over 40 years USDA has had programs to eradicate or reduce the incidence of scrapie in the United States. While comprehensive data on the incidence of scrapie has always been hard to assemble due to the nature of the disease and its diagnosis, these programs apparently have not resulted in a major reduction in the incidence of scrapie. A major reason for this result is that State programs for scrapie have varied tremendously in their resources and effectiveness, from State to State and over time. States where sheep are not a major agricultural commodity may not invest sufficient resources to identify infected flocks or reduce the incidence of scrapie within that State, and sheep with undiagnosed cases of scrapie could then easily move to other States, infecting new flocks. Therefore, we believe that to build an effective national scrapie program, the current regulations must be adjusted to recognize that sheep from States with minimal or nonexistent scrapie programs represent a higher risk than sheep from other States.

In an advance notice of proposed rulemaking (ANPR) published in the **Federal Register** on January 26, 1998 (63 FR 3671–3673, Docket No. 97–093–1), we solicited public comments to help us develop options for potential changes to the scrapie regulations. The primary issues on which we sought comment were:

- Should APHIS further restrict interstate movement of animals from States that do not consider scrapie a reportable disease or do not quarantine infected flocks or source flocks? Should APHIS define how a State must conduct a quarantine in order to avoid further

restrictions on interstate movement of animals from that State?

- Should APHIS restrict interstate movement of high-risk animals from flocks that are not infected flocks or are not source flocks, and if so, how?
- Should any of the definitions in the scrapie regulations be revised (e.g., the definitions of source flock, trace flock, and high-risk animal)?
- Should there be additional permit or official identification requirements for the interstate movement of any classes of sheep and goats to allow for a more effective national program for surveillance for scrapie and traceback of scrapie-positive animals?
- Should APHIS continue to provide the following information on the World Wide Web: The identity of scrapie infected flocks and source flocks designated under part 79, and the identity and certification status of flocks participating in the VSFCP?

We solicited comments concerning our ANPR for 60 days ending March 27, 1998. We received 27 comments by that date. The commenters were sheep producers, industry associations, State agencies, and individuals. The comments and data submitted were carefully reviewed, and helped us develop this proposed rule.

Briefly, the three major changes we are proposing to the scrapie regulations are:

- Further restrictions on the interstate movement of sheep and goats from States that do not consider scrapie a reportable disease or do not quarantine infected flocks or source flocks. We are also proposing standards describing how a State must conduct a quarantine in order to avoid further restrictions on interstate movement of animals.
- Additional official identification requirements for the interstate movement of sheep and goats to allow for a more effective national program for surveillance for scrapie and traceback of scrapie-positive animals. The proposed identification requirements are similar to current requirements for cattle and swine.
- Reinstatement of a scrapie indemnification program for sheep and goats that owners agree to destroy. The owners of destroyed high-risk animals and animals diagnosed as scrapie positive by an approved live-animal test would be eligible for indemnity payments.

State Quarantine Activities and Interstate Movement Restrictions

Many commenters supported the idea that States should have intrastate quarantines and controls on the movement of sheep and goats sufficient to prevent intrastate spread of scrapie from known sources, and that States lacking such quarantines and controls should have the interstate movement of their sheep and goats further restricted. These commenters expressed the opinion that the current regulations do not do enough to prevent the spread of scrapie from States with weak scrapie programs into States with more effective scrapie programs. Most of these commenters supported the idea that an adequate State program is one that considers scrapie to be a reportable disease, that quarantines scrapie infected and source flocks and maintains them under a flock plan, and that imposes intrastate movement restrictions equivalent to Federal interstate movement restrictions imposed under current part 79.

Commenters generally stated that if a State has or develops such an intrastate program, and APHIS determines the State program to be comparable in effectiveness to its interstate regulations in part 79, that State should not be subject to further interstate movement restrictions. However, a few commenters suggested that if a State implements a program of intrastate restrictions, that should be sufficient to avoid further interstate movement restrictions on sheep from that State, without an APHIS determination that the State program is comparable in effectiveness to the Federal program under part 79.

Commenters also generally stated that flocks participating in the VSFCP should not be subject to further interstate movement restrictions, even if they are in a State that does not have an adequate intrastate program as described above.

We believe that programs developed and implemented by States are essential to the control and eradication of scrapie, and we encourage varying approaches to these programs to meet individual State needs and to try and evaluate different control methods. However, we also believe APHIS should have a role in determining that each State program achieves a minimum level of effectiveness to serve national needs. Valid complaints in the past have noted that some State programs exist as little more than a name, and are ineffective. This introduces unacceptable hazards when sheep and goats from such States move in interstate commerce. Additionally, the creation of a uniform minimal standard on the national level would be consistent with the recommendations of international animal health organizations and the World Trade Organization, both of which recommend that a national authority establish minimum standards for programs affecting trade.

Therefore, we are proposing that if a State is to avoid the requirements described below under "Additional Interstate Movement Restrictions for Sheep and Goats," the State program must be reviewed by APHIS and determined to be comparable to the Federal program contained in part 79. APHIS would conduct this review by evaluating the State statutes, regulations, and directives pertaining to animal health activities to determine whether the State has established authority to conduct a scrapie control program comparable to the Federal one, and would also examine reports and publications of the State animal health agency to determine whether the existing authorities are being exercised in the form of an effective program. The States would be required to submit a written statement containing this information and certifying that they are in compliance with this section.

Additional Interstate Movement Restrictions for Sheep and Goats

Most commenters supported the idea that APHIS should further restrict interstate movement of sheep and goats from States that do not consider scrapie a reportable disease, or that do not quarantine infected and source flocks. Most commenters also stated APHIS should set minimum criteria for how a State must conduct a quarantine. Four commenters opposed APHIS setting minimum criteria in this area because they were concerned that APHIS would dictate detailed command-and-control requirements to State programs, rather than minimum effectiveness criteria. This is not the intention of APHIS.

In this proposal, we describe two sets of interstate movement restrictions: One set for "Consistent States" and another set for "Inconsistent States." Consistent States would be States that conduct an active State scrapie program which effectively enforces certain requirements to identify scrapie in flocks and control its spread. We propose to establish in the new § 79.6 the requirements a State would have to meet to be a Consistent State. These requirements include reporting and investigating any scrapie suspect animal, affected animal, or scrapie-positive animal; identifying and quarantining infected and source flocks; and individually identifying certain exposed animals and individually identifying and monitoring certain high-risk animals in all flocks, not just source or infected flocks. All States that are not Consistent States would be Inconsistent States. APHIS believes almost all States currently have the State legislative

authority and animal health infrastructure to qualify as Consistent States. However, this must be confirmed on a State-by-State basis through discussions between APHIS and State animal health authorities. Before this proposal is finalized, APHIS will develop and publish for comment a list of States that qualify as Consistent States. After finalizing the rule, APHIS will insert the list of "Consistent States" in § 79.1. From time to time, APHIS will amend the list when it is determined that States meet or do not meet the definition of Consistent State in § 79.1.

While this proposal does not require it, it may also be desirable to require all Consistent States to sign a compliance agreement with APHIS describing the State scrapie program operations; we would appreciate public comment on whether our regulations should require such an APHIS-State compliance agreement.

Such an agreement would provide evidence of the intent of a State to impose the requirements and provide the services necessary for it to be considered a Consistent State. The agreement could also describe cooperative activities between the State and APHIS to support the State scrapie regulatory activities. This agreement would be similar to, or could be made a part of, the cooperative agreement or memorandum of understanding that some States have signed with APHIS to cooperate in a number of animal disease control programs, including the VSFCP (see § 54.13). Under part 54, some States may have already signed a cooperative agreement with APHIS that describes the respective roles of APHIS and State personnel in implementing the VSFCP. Such agreements also specify the financial, material, and personnel resources to be committed by the State and APHIS and assign specific activities to APHIS or State personnel.

APHIS considered adding one other requirement to the standard for a State to qualify as a Consistent State. The proposed requirement states that Consistent States must report and investigate any scrapie suspect animal, affected animal, or scrapie-positive animal, but it does not specify any particular level of effectiveness in these investigations, nor does it require that States be able, in their investigation, to trace back a scrapie-positive animal to its flock of birth, if it was born in that State, and otherwise to its State of origin. When an animal that has moved through several flocks is identified as scrapie-positive, e.g., at slaughter, it greatly aids the scrapie control program when the animal can be traced back to its flock of birth. This is not always possible to do with the records and identification required by current State programs. However, it might significantly increase the burden on States to upgrade their programs to the point where any animal sold for slaughter, breeding, or other purposes can be traced back to its flock of birth. Therefore, we would appreciate receiving comments on whether the standard for declaring a State to be a Consistent State should include a requirement that the State's scrapie control program must be able to trace any animal from a flock in that State back to its flock of birth, if it was born in that State, and otherwise to its State of origin, and whether provisions for monitoring and when available live-animal testing of such flocks should be required.

The interstate movement restrictions proposed for Consistent States are similar to the regulations in current part 79, except that they include additional identification requirements and would restrict the interstate movement of high-risk animals and prohibit the interstate movement of scrapie positive, affected, and suspect animals (except when they are moved for destruction or research under conditions approved by the Administrator). The restrictions proposed for Inconsistent States are stricter, and are designed to minimize several areas of risk associated with the indeterminate scrapie status of sheep and goats from these States. Sheep and goats from Inconsistent States would be subject to stricter movement conditions to minimize their contact with other animals, and stricter identification requirements to aid traceback from any scrapie outbreak that may be associated with the animals. Also, sheep and goats from Inconsistent States could not move interstate for breeding purposes unless they are enrolled in the VSFCP or an equivalent APHIS-recognized State flock certification program. An equivalent APHIS-recognized State flock certification program does not equate to a Consistent State. It is possible, though unlikely, that a State might not institute the Statewide controls that would qualify it as a Consistent State—investigation and identification of all suspect and high-risk animals, quarantine of all source and infected flocks, etc.—but would have a program providing VSFCP-like standards for particular individual flocks within the State whose owners request it.

The following chart describes the proposed interstate movement conditions.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS

Type of interstate movement	Moved from INCONSISTENT State	Moved from CONSISTENT State
Sale or other movement of breeding animals, show animals or any other animal not specifically addressed below:		
High-risk animal, scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.
Non-high risk animal from an infected or source flock.	Prohibited*	Prohibited*.
Other animal	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS-recognized program and have certificate.	Individual animal ID and certificate.
Sale or other movement directly to slaughter or through slaughter channels to slaughter of animals under 6 months of age:		
Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS—Continued

Type of interstate movement	Moved from INCONSISTENT State	Moved from CONSISTENT State
High-risk animals and animals from infected or source flock.	Individual animal ID and permit, or sealed conveyance and permit (no individual ID) when moving directly to slaughter, or a permit (no individual ID) and an indelible "S" mark on the left jaw.	Individual animal ID and permit, or sealed conveyance and permit (no individual ID) when moving directly to slaughter, or a permit (no individual ID) and an indelible "S" mark on the left jaw.
Other animal	Premises ID** and certificate	None.
Sale or other movement directly to slaughter or through slaughter channels to slaughter of animals over 6 months of age, or animals of any age to feedlots for later movement to slaughter:		
Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.
High-risk animals and animals from infected or source flock.	Individual animal ID and permit	Individual animal ID and permit.
Other exposed animals	Individual animal ID and permit	Individual animal ID.
Other animals over 1 year of age	Individual animal ID and certificate	Individual animal ID.
Other animals between 6 months and 1 year of age, or animals under 6 months of age moving to feedlots for later movement to slaughter.	Individual animal ID and certificate	Premises ID**.
Movement of animals for grazing or other management purposes without change of ownership		
Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited*.
High-risk animal or animal from infected or source flock.	Prohibited*	Prohibited*.
Exposed animals	Individual animal ID and certificate	Premises ID.
Other animal	Premises ID and certificate	None.

*Animals prohibited movement may be moved interstate only if they are moving interstate for destruction or research approved by the Administrator.

**Premises ID is not required for slaughter animals if the animals are kept as a group on the same premises on which they were born and are not commingled with animals from another premises at any time, including throughout the slaughter process, or, if they are commingled during the slaughter process, they are officially identified on arrival at the slaughter facility such that any animal can be traced back to its flock of origin.

Note: A CONSISTENT STATE is one whose intrastate identification, quarantine and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

As summarized in the above chart, there are different interstate movement conditions depending on the State's scrapie program status, age of the animal moved, and on whether the animal is moved for slaughter or for other purposes. The movement conditions vary with the risk of spreading scrapie by the movement, and range from no requirements for animals of no known risk moved to slaughter from a State with a strong scrapie program, through severe requirements for animals of known risk moving from Inconsistent States, to outright prohibition of movement for the highest risk categories. The requirements employed to control risk in the middle range include premises identification (ID), individual animal ID, certificates, permits, and sealed conveyances. The meanings of these terms are discussed below under "Changes to Definitions in Parts 54 and 79."

The interstate movement of all scrapie-positive animals, suspect animals, and affected animals is prohibited unless the Administrator approves their movement for destruction or research. Uncontrolled movement of these animals always poses a risk that they may come in contact with other sheep and goats and spread scrapie to these other animals. Therefore, when the Administrator approves movement for destruction or research, the animals must be moved and maintained under conditions to prevent the spread of scrapie.

The interstate movement of high-risk animals and animals from infected or source flocks is subject to various restrictions that depend on the age and source of the animal and the purpose of the movement. High-risk animals and animals from infected or source flocks are prohibited movement unless they are moving to slaughter or moving in slaughter channels. Such animals of any age may be moved to a feedlot for later slaughter if they have individual animal ID and a permit. High-risk animals and animals from infected or source flocks may move directly to slaughter if they are over 6 months old and have individual animal ID and a permit. The purpose of the permit is to trace the movement of each lot of animals, and the purpose of the individual ID is to make it easy to ensure that individual animals are not diverted out of slaughter channels, e.g., by becoming mixed with other animals at feedlots prior to slaughter.

High-risk animals and animals from infected or source flocks animals under 6 months of age may be moved directly to slaughter if they meet one of three conditions: (1) Individual animal ID and a permit; (2) A sealed conveyance (no animal ID) and a permit; or (3) A permit and an indelible "S" mark on the jaw, in lieu of animal ID. These additional options are provided for animals under 6 months of age due to the large volume of lambs shipped to slaughter, and because it is often impractical or uneconomical to individually identify younger lambs.

Animals that are not in the categories described above (i.e., they are not scrapie-positive animals, suspect animals, affected animals, or high-risk animals) may move interstate to slaughter under conditions that vary depending on their age, and whether they are moving from a Consistent or

Inconsistent State. Generally, the older the animal moving to slaughter, the more requirements apply, because older animals may have had more opportunities to move from one flock to another and thereby increase their exposure to scrapie. The program is more likely to need records that allow the older animals to be traced back to earlier premises. While it would usually be possible to trace the movement of an animal from flock to flock in a Consistent State based on flock records, individual animal ID makes this task easier for animals over 1 year of age, which have a longer history than lambs and may have had several owners. Also, it is currently impossible to diagnose scrapie in animals under 6 months of age, by either a live-animal test or necropsy, so there is no opportunity to identify a scrapie-positive animal under 6 months of age and trace it back to its origin. Therefore, individual animal ID is seldom required for animals under 6 months of age; it is only required when the point of the identification is not traceback, but to ensure individual animals are not commingled with animals from other lots (e.g., when they are sent to a feedlot en route to slaughter).

When animals that are not scrapie-positive animals, suspect animals, affected animals, or high-risk animals move from a Consistent State, the animals may move with no requirements if they are under 6 months of age and are moving to slaughter. However, if such animals under 6 months of age are moving from an Inconsistent State to slaughter, they require a premises ID and a certificate. When they are over 6 months of age but less than 1 year of age, such animals may move from a Consistent State to slaughter, or to a feedlot, with only a premises ID; but if they are moving from an Inconsistent State, they require individual animal ID and a certificate. In this case the individual animal ID is required for animals from Inconsistent States because it is sometimes possible to diagnose scrapie in an animal between 6 months to 1 year of age, and tracing these animals back to origin in an Inconsistent State is not possible with only a premises ID because Inconsistent States would not require records that would allow the animal to be traced back farther than the premises from which the animal was shipped to slaughter. When they are over 1 year of age, such animals may move from a Consistent State to slaughter, or to a feedlot, only if they have individual animal ID; but if they are moving from an Inconsistent State, they require both individual animal ID and a certificate. The higher requirements for animals from Inconsistent States are largely due to the fact that Consistent States impose significant restrictions on movements between flocks within the State but Inconsistent States do not, so our regulations must use certificates and individual animal ID more extensively for Inconsistent States to increase the probability of successful tracebacks.

The proposed requirements also address interstate movement for purposes other than slaughter. Animals that are not scrapie-positive animals, suspect animals, affected animals, high-risk animals, or animals from infected or source flocks may move interstate from a Consistent State for grazing or other management purposes, without change of ownership, with no requirements (unless the animal is an exposed animal as defined in the regulations, in which case a premises ID is required). Such animals moving interstate from an Inconsistent State must have a premises ID and certificate, unless they are exposed animals, in which case individual animal ID and a certificate is required.

Indemnification Program

We are also proposing to reinstate an indemnification program to compensate the owners for destruction of high-risk animals, animals diagnosed scrapie-positive by an approved live-animal test, affected animals, suspect animals (if the postmortem indicates them to be scrapie-positive), and other groups of animals when the Administrator determines that their destruction will contribute to the eradication of scrapie. We believe indemnification is necessary to contribute to scrapie control, mainly by providing the economic incentive to remove scrapie-positive and high-risk animals from flocks and reduce the number of flocks under quarantine. This economic incentive, combined with advances in diagnostic techniques that allow faster and more accurate identification of scrapie-positive animals, should contribute substantially to reducing the incidence of scrapie in the United States.

The types of animals proposed as eligible for indemnity are animals diagnosed with scrapie, or known to be closely associated with animals diagnosed with scrapie under conditions where they could contract the disease. These animals could potentially cause many new cases of scrapie, and, therefore, we believe paying indemnity to destroy them is in the interest of effective scrapie control.

The indemnity payments would be $150 for registered animals and $50 for other animals. As of January 1, 1999, the national average sale price of a sheep was $88; as of January 1, 1998, it was $102. These average sale prices reflect the sale of millions of slaughter sheep and a few thousand valuable registered breeding sheep. The average price for registered breeding sheep is in the range of $300, with some selling for thousands of dollars. Therefore, if sale prices persist in the range experienced in the past 2 years, the average owners of both slaughter and registered sheep who accept indemnity for their animals rather than selling them would recover about half the market value of the animals.

The indemnity amounts of $150 and $50 represent an effort to provide an indemnity that will be attractive, while also stretching available indemnity funds to ultimately remove as large a number of diseased animals as possible. The indemnity amounts are not so high, compared to fair market value, as to provide a perverse incentive, *i.e.*, to encourage flock owners to expose animals to scrapie to obtain a higher price. The indemnity amounts were decided based on our past experience with industry participation in scrapie indemnity programs, and the $150 and $50 amounts are the same indemnities used in our previous scrapie indemnity program which expired in 1996, at which time the national average sale price of a sheep was $87.

We considered whether it would be appropriate to pay a lower indemnity, either for all eligible animals or for those that test positive for scrapie on a future live-animal test, in view of the economic fact that sheep infected with scrapie really have little or no economic value. However, we believe that reducing the indemnities below the proposed values would encourage owners to hide the presence of scrapie and thus hurt the effectiveness of the scrapie control program. This view is supported by the experience of the British Government in controlling BSE. When the British Government increased the indemnity for BSE-infected cattle from 50 percent of market value to 100 percent, the number of reported BSE cases increased by 73 percent.[1]

It should be noted that if this proposal is adopted, the total number of animals that can be indemnified each year and the total amount of indemnity funds expended will be limited by the amount of program funding appropriated for that purpose. We invite comments on the total amount of indemnity that should be needed, and on whether the payment amounts are appropriate.

[1] Food Microbiology (1990) 7:253–279.

In deciding to propose this indemnity program, we examined alternatives to determine whether the same funds could be expended on other activities to control scrapie and achieve a greater reduction in the disease. Two activities that could produce substantial reductions in scrapie are development of a live-animal test and education of sheep producers and veterinarians to recognize and control scrapie. However current and planned funds for both of these initiatives appear to be at a level that will produce optimal results, and we do not believe diverting indemnity funds to them would accelerate their progress. Instead, an indemnity program would complement use of a live-animal test and education programs. The three approaches together will be needed to successfully control scrapie.

Another alternative we considered, under the assumption that a live-animal test for scrapie will soon be available, was to impose a large-scale, mandatory live-animal testing requirement of all animals moved interstate for other than slaughter purposes. For this approach to be effective, we would need to condemn and destroy any animals that tested positive, to ensure they do not come in contact with and infect other animals in the future. This alternative was rejected because an approved live-animal test is not currently available. Once a live-animal test has been approved and fully evaluated, this option will be reconsidered.

We also considered prohibiting the movement in interstate commerce for any purpose of any animal that was considered to be at high risk of being scrapie infected. This was rejected because: (1) There is no evidence that scrapie is a threat to public health; (2) Scrapie-infected animals moving to slaughter pose little risk of spreading the disease; and (3) Given the past history of scrapie indemnity funding, it is likely that we would be unable to indemnify all of these animals causing a significant economic hardship on owners of high-risk sheep. To mitigate the remote risk that these animals pose when moving in slaughter channels, we have proposed to indemnify and destroy them whenever possible. Finally, we considered restricting these animals without compensation. This option was rejected for the reasons discussed under indemnification.

Live-Animal Testing

While no live-animal test for scrapie has yet been approved, several varieties of live-animal tests show promise, and we anticipate the availability of a live-animal test in the near future. Therefore, this proposed rule includes reference to live-animal tests as a means to identify scrapie-positive animals and affected animals, without specifying the exact protocols of the live-animal tests. As discussed below, the definitions for *live-animal screening test* (used to identify affected animals) and *scrapie-positive animal* state that the tests must use protocols approved by the Administrator and must be performed by laboratories approved by the Administrator. Once developed, the Administrator will initiate rulemaking in the **Federal Register** to publish these protocols or incorporate them by reference.

The availability of a validated live-animal test will significantly affect the nature of the scrapie control program. Such a test would make it possible to identify confirmed infected live animals for destruction, reducing the need to destroy large groups or entire flocks of suspect animals in order to control the spread of scrapie.

Changes to Definitions in Parts 54 and 79

Three definitions would be removed because they are no longer needed for the proposed regulations (*bloodline animal*, because this category has not been used since termination of an earlier indemnity program; *department*, because we refer instead in this proposal to APHIS; and trace flock, because its definition has been absorbed by the new definition of *source flock* discussed below). Nine other definitions would be amended (*affected animal, destroyed, exposed animal, flock, flock plan, high-risk animal, infected flock, scrapie-positive animal*, and *source flock*). Some of these changes would be made to adapt the regulations to the probability that a validated live-animal test for scrapie may be available in the near future. The definition of *destroyed* would be changed to remove movement to slaughter as a means of destruction. Animals to be destroyed would have to be euthanized, and the carcasses disposed of by means authorized by the Administrator. Animals for which an indemnity is paid under the regulations must be destroyed, rather than sent to slaughter, for two reasons. First, any movement of animals eligible for indemnity represents a potential risk of spreading scrapie, and we do not want to encourage movement of these animals to slaughter when we have the alternative of destroying them on their home premises and disposing of the carcasses safely. Second, if animals eligible for indemnity are slaughtered, this may result in the scrapie agent entering the animal food chain, and we want to avoid this. The Food and Drug Administration has published regulations (62 FR 30935–30978, June 5, 1997) requiring that ruminant feed must not contain animal protein derived from mammalian tissues, in order to prevent the possible spread of transmissible spongiform encephalopathies, such as scrapie, to ruminants. However, sheep protein is still used for other nonruminant animal feed, such as zoo animal foods. Research has shown that a variety of species can conceivably contract some form of spongiform encephalopathy by oral inoculation with protein from a scrapie-positive animal. The wide distribution of meat byproducts from slaughter plants makes it likely that if indemnity animals were allowed to go to slaughter, some of their protein would be used in nonruminant animal feed. The risk that nonruminants could contract a transmissible spongiform encephalopathy from consuming animal feed containing protein from a scrapie-positive animal is extremely small. However, we propose to control this small risk by taking the opportunity presented by the indemnity program to order indemnity animals to be destroyed, rather than sent for slaughter. The Administrator will authorize disposal methods (often incineration or burial) that are consistent with local laws and conditions and that minimize the dispersal of possibly infectious material. The proposed definition of *destroyed* ties into the proposed *Procedures for destruction of animals* in § 54.7. These procedures include a requirement that carcasses may not be processed for animal food unless subjected to a treatment process approved by the Administrator and known to eliminate the agents of transmissible spongiform encephalopathies. This requirement would address the established risk that some species of animals conceivably could contract scrapie by consuming animal feed generated from scrapie-positive animals.

Exposed animal would be redefined as any animal that has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts, and any animal born in a flock after a scrapie-positive animal was born into that flock, if born before that flock completes the requirements of a flock plan. The earlier definition of this term also defined limited contacts, which would now be defined in a separate definition. The earlier definition also did not include animals that were born into a flock after the removal of a scrapie-positive animal born into that flock. We believe such animals should

be considered exposed because there is some risk that they may contract scrapie from objects or animals the earlier scrapie-positive animal came in contact with, unless this risk has been mitigated by the completion of a flock plan.

Because the definition of *flock plan* currently contains a large volume of procedures not appropriate for a definition, this definition would be shortened by expanding and moving some of its text to new § 54.14, "Requirements for flock plans and post-exposure management monitoring plans." The definition of *Uniform methods and rules—voluntary scrapie flock certification* would be updated and renamed *Scrapie Flock Certification Program standards*, consistent with the program name change discussed elsewhere in this document. For the same reason, a definition would be added for the *Scrapie Flock Certification Program*.

The following new definitions for terms used in the proposed rule would also be added to part 54, part 79, or both:

Area veterinarian in charge would be defined as "The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned." This definition is needed to identify those veterinarians who perform certain duties under the regulations including processing of indemnification applications.

Certificate would be defined as "An official document issued in accordance with § 79.5 of this part by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals, which includes a statement that the animals were not exhibiting clinical signs associated with scrapie at the time of examination." A certificate is required by the regulations for interstate movement of certain animals.

Consistent State would be defined as "A State which the Administrator has determined conducts an active State scrapie control program which either: (1) meets the requirements of § 79.6 of this part, or (2) effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of § 79.6 of this part." This definition would be the basis for determining whether animals from a particular State qualify for the less restrictive, or more restrictive, interstate movement requirements proposed in § 79.3. When the list of Consistent States is developed, it will be added to this definition. Any State not listed would be an Inconsistent State.

Designated scrapie epidemiologist would be defined as "An epidemiologist selected by the State animal health official and the area veterinarian in charge to reclassify animals already designated as high-risk, exposed, or affected with scrapie, based on epidemiologic investigation or the results of a live-animal test. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must concur in the selection and appointment of the designated scrapie epidemiologist." Designated scrapie epidemiologists would operate under proposed § 79.4 to reclassify animals as necessary.

Electronic implant, one form of allowed animal identification, would be defined as "Any radio frequency identification device approved for use in the scrapie program by the Administrator. The Administrator will approve an electronic implant after determining that it is tamper resistant, not harmful to the animal, and readable by equipment available to APHIS and State representatives."

The definition of *flock* would be amended to clarify when more than one flock may be maintained on a single premises without being considered a single flock. This definition considers that flocks on a premises are separate if they never commingle, never share facilities and equipment, and have separate flock records and identification. To address questions raised by flock owners, this revised definition also states that changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock.

Individual animal identification would be defined as "An electronic implant, flank tattoo, ear tattoo, or tamper-resistant ear tag approved by APHIS. In the case of goats, the form of identification may alternatively be a tail fold tattoo. The official identification must provide a unique identification number that is applied by the owner of the flock or his or her agent in accordance with instructions by an APHIS representative or State representative."

Inconsistent State would be defined as "Any State other than a Consistent State."

Interstate commerce would be defined as "Trade, traffic, transportation, or other commerce between a place in a State and any place outside of that State, or between points within a State but through any place outside that State."

Limited contacts would be defined as "Incidental contacts between animals off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized between animals for these contacts to be considered limited contacts. Limited contacts do not include any contact with an animal during, or up to 60 days after, lambing or kidding. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or transportation to other flocks for breeding, except as allowed by the Scrapie Flock Certification Program standards." This definition is needed to help distinguish between contacts that do not present a pronounced risk of spreading scrapie (e.g., casual contacts between animals at fairs or shows) and contacts that present a pronounced risk (e.g., contacts with animals during or within 60 days following lambing, when infectivity is high and infectious materials such as afterbirth are present).

Post-exposure management and monitoring plan would describe an agreement written jointly by the flock owner, an accredited veterinarian, and an APHIS or State representative in which each participant agrees to undertake certain actions to monitor for the occurrence or recurrence of scrapie in the flock for at least 5 years after the flock was exposed to a scrapie-positive animal, or contained a high-risk animal. Experience in monitoring flocks has shown that if scrapie recurs from a previous outbreak in a flock, its signs are likely to become evident within 5 years. This definition, like the definition of flock plan, would refer to new § 54.14, "Requirements for flock plans and post-exposure management monitoring plans." Federally required post-exposure monitoring is necessary to guard against recurrence of scrapie, because flocks whose owners receive indemnity payments may or may not be subject to State quarantines, and even if they are subject to State quarantine there is great variation in the effectiveness of State quarantine procedures in detecting signs of scrapie in a timely manner. As discussed in proposed § 54.5, in order to receive indemnity an owner must agree to maintain their flock under a post-exposure monitoring management plan for 5 years after removal of the last high-risk or scrapie-positive animal. Based on the typical clinical progress of scrapie, we believe any renewed outbreak of

scrapie in the flock would show signs within 5 years.

Premises identification, one requirement of proposed § 79.3 for moving certain animals interstate, would be defined as "An APHIS approved eartag, backtag, or tattoo bearing the premises identification number assigned by a State or Federal animal health official to the premises on which the sheep or goats originated, or a brand registered with an official brand registry."

The definition of *scrapie-positive animal* would be updated by referring to additional laboratory techniques (western blotting, bioassay, fibril detection by electron microscopy) that have proven useful in confirming scrapie from tissue samples, by allowing confirmation of scrapie-positive status by "any other test method approved by the Administrator," and by adding a footnote describing how the Administrator will approve laboratories to conduct tests for scrapie-positive animals.

The definition of *infected flock* would be changed to include any flock in which a scrapie-positive animal had lambed within the past 18 months, counted from the time the tissues used to diagnose the scrapie-positive animal were collected from the scrapie-positive animal. This change would be made as a result of evidence that placenta shed 15½ months prior to death may contain infectious agent. Since the progress of the disease and the level of infectivity can be expected to vary somewhat among individual animals, we set the lambing limit at 18 months rather than 15½ months to allow a margin of error, and because 18 months is an easier figure than 15½ months for planning and compliance activities of both regulators and sheep producers. Also, in the definitions for infected flock and source flock, we are dropping a reference limiting their application to cases where the scrapie-positive diagnosis was made "after March 31, 1989." This date was added to the regulations in 1992 to cover a temporary situation where diagnoses employed one standard before 1989 and another afterwards. Due to the lifespan of sheep and goats, there are no more flock situations where a diagnosis prior to that date would be relevant or used, and so the date would be deleted as superfluous and confusing.

The current definition of *source flock* includes flocks in which at least two animals later diagnosed as scrapie-positive are born. Because we agree with comments that stated that the birth of a single animal later determined to be scrapie-positive indicates that a flock is a significant risk as a source of scrapie, we would change this definition to include flocks where a single animal later diagnosed as scrapie-positive is born.

The definition of *affected animal* would be changed to allow the use of a live-animal test as a screening test without affecting flock status. The designation "affected animal" could be used if a live-animal test is developed that proves to be less specific than the current tests used to classify an animal as a scrapie-positive animal as defined in § 54.1. The type of test that may be approved to identify affected animals is described in a new definition for *live-animal screening test*, which reads "Any test for the diagnosis of scrapie in a live animal that is approved by the Administrator as usually reliable but not definitive for diagnosing scrapie, and that is conducted in a laboratory approved by the Administrator." This definition also includes a footnote describing how the Administrator will approve laboratories to conduct this test.

Genetics and DNA Testing Issues

Much current research addresses methods for identifying gene sequences in sheep that affect the animal's resistance or susceptibility to scrapie, or the length of the incubation period. As answers emerge from research, we will propose further changes to our scrapie programs to take advantage of new knowledge about the role of genetics in the disease-host interaction. In time, it may be possible to exempt certain breeds of sheep, or sheep that have been tested for particular codon sequences, from some program requirements because of their "natural immunity." We are prepared to amend our regulations when specific, relevant genetic results are confirmed, but we do not believe any such changes to the regulations would be appropriate at the current time.

Change of Name—Voluntary Scrapie Flock Certification Program to Scrapie Flock Certification Program

We are proposing to change the name of the Voluntary Scrapie Flock Certification Program, described in 9 CFR part 54, to the Scrapie Flock Certification Program (SFCP). The purpose of the change is to increase acceptance of the program for export purposes. There has been some confusion and administrative delay in the acceptance by other national governments of health certificates and other documents issued for U.S. sheep and goats and sheep and goat products when these documents base their determination of health status on a "voluntary" program; the term is not used consistently in international commerce. In some uses it has implied that participants adhere to some standards part of the time, rather than meaning that participants voluntarily commit to following all standards the entire time they participate in a program. Removing the term "voluntary" will result in expedited processing of these documents, and a clearer understanding that this program is a valid determination of flock status that is monitored by the U.S. Government. There is no intent to change the voluntary nature of the program, as should be clear from the unchanged description of the nature of the program contained in § 54.10, "Administration," and § 54.11, "Participation."

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We do not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is summarized below. We are inviting comments concerning potential effects. In particular, we are interested in determining whether sheep and goat producers would be affected positively or negatively by this rule, and whether any additional costs may result from this rule that are not discussed in this analysis.

Below is a summary of the economic analysis for the changes to the scrapie regulations proposed in this document. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and the initial analysis of impacts on small entities as required by the Regulatory Flexibility Act. A copy of the full economic analysis is available for review at the location listed in the **ADDRESSES** section at the beginning of this document.

We are considering taking the actions described in this proposed rule in order to strengthen scrapie control programs on the national level, to reduce the losses that scrapie causes to the sheep and goat industries. This action is considered necessary because not all State scrapie control programs are effective in identifying animals that may be infected with scrapie and controlling

their movement in intrastate and interstate commerce in a manner that will prevent the further spread of scrapie. Statutory authorities including 21 U.S.C. 111, 114, 114a, and 134a–134h authorize the Department of Agriculture to conduct programs for the control of communicable animal diseases and to restrict the interstate movement of animals that may spread disease.

As alternatives to this action, APHIS considered a complete ban on interstate movement of sheep and goats from States that do not have effective scrapie control programs. We also considered adding stricter certification, recordkeeping, and animal identification requirements for all sheep and goats moving interstate, without regard to the effectiveness of individual State scrapie programs. We also considered setting up a system to employ a prospective live-animal test in mandatory testing of sheep and goats before they could be sold for any commercial purpose, with mandatory destruction and disposal of animals that fail the test. All of these alternatives would impose more costs and recordkeeping requirements than the proposed alternative, and we do not believe any of these alternatives would control scrapie more effectively than the selected alternative. A complete ban on movements from Inconsistent States would hurt the economies of those States, and while it would provide other States with some protection against infection from Inconsistent States, it would not eradicate the reservoirs of scrapie in those States. The alternative of stricter recordkeeping and identification for all interstate movements would not be effective as long as some of the information to be recorded is unknown or dubious, as can frequently happen when the animal originates in a State with a weak scrapie program. The alternative of mandatory testing and destruction of animals that fail was discussed earlier in this proposal, it is not a practical option because a live-animal test has not been validated and approved and also impractical at this time on economic grounds.

This rule would result in the expenditure of indemnity funds by APHIS to compensate the owners of certain animals destroyed to prevent the spread of scrapie. This would also encourage certain States to improve the effectiveness of their State scrapie programs, to avoid additional restrictions on the movement of sheep and goats from their States. Finally, because this rule allows certain interstate movements only if the flock is enrolled in the Scrapie Flock Certification Program or an equivalent State program, this rule would encourage producers to enroll in such programs and bear the resulting flock management and identification costs.

The budgetary effects on APHIS of this proposal would fall into three categories: A small increase in outlays for staff to work with States and producers as they adapt to the new scrapie program requirements, a new program for indemnity payments, and the cost of providing official eartags and backtags, all within available funds. The initial amount of indemnity payments (the first year) is estimated to be approximately $384,250, based on an estimated 3,074 animals eligible for indemnity in known scrapie-infected and source flocks, but may be more than that if producer response to the availability of indemnity results in new admissions of infection that reveal additional cases of scrapie. The amount of indemnity paid should decline in subsequent years, although if slaughter surveillance is initiated or if live-animal tests are approved and widely used, this decline may not occur for several years, depending on the number of scrapie-positive animals that are revealed by initial use of these tests. This indemnity program would be less costly than *some* previous indemnity programs since it focuses on eliminating individual infected and high-risk animals rather than entire flocks, a focus that should be aided in the near future by the availability of a validated live-animal test. If a live-animal test is accepted for official use, an increase in indemnity costs would be expected initially as new infected flocks are identified.

Some States would bear additional costs to improve their State scrapie programs so that the producers in their States could avoid additional interstate movement restrictions proposed for States without effective intrastate programs. However, we believe that most States already have effective intrastate programs that would qualify them as Consistent States and that all but two or three States have the necessary authority and infrastructure to run an effective intrastate program.

Overview of U.S. Sheep and Goat Industry Operations, Inventory and Trade

There were 7.822 million sheep and lambs in the United States based on 1997 Census of Agriculture reports. In the national inventory, 5.85 million were breeding sheep and lambs and the rest were market sheep, based on National Agricultural Statistics Service reports. Ewes, 1 year old or older, totaled 4.57 million during the same period.

Small farms, as shown in Table 1, accounted for over 99 percent of all the farms raising sheep and lambs, while farms considered to be large accounted for less than 0.3 percent. About 85 percent of the farms had an inventory of less than 100 animals and accounted for about 17 percent of the total inventory of sheep and lambs. On the other hand, sheep operations with an inventory of 5,000 sheep or more represented less than 0.3 percent of the farms but accounted for nearly 26 percent of the total inventory.

Table 1 Sheep and Lambs: Farms and Inventory by Size, 1997

Farm inventory	Number of farms	Farm share	Inventory share
1 to 24	35,584	0.54	0.045
25 to 99	20,461	0.31	0.123
100 to 299	6,010	0.09	0.123
300 to 999	2,429	0.04	0.158
1,000 to 2,499	820	0.01	0.160
2,500 to 4,999	297	0.005	0.128
5,000 or more	189	0.003	0.263
Total	65,790		

Source: USDA, *Census of Agriculture* 1997.

Of the total number of operations, about 60 percent were full owners, about 32 percent were part owners, and about 8 percent were tenants.

Sheep are produced in all parts of the United States, although stock levels vary from State to State. Ten States accounted for nearly 73 percent of the total inventory, mostly in western and central areas. Northern and southeastern States have the smallest sheep populations, accounting only for 5.2 percent of the total. About 3.805 million sheep were commercially slaughtered in 1997. Additionally, about 57,000 sheep were slaughtered on the farms, yielding a total of about 3.861 million sheep slaughtered in 1997. About 3.62 million slaughtered sheep were Federally inspected, of which 3.46 million were lambs and yearlings and about 211,000 were mature sheep.

There were about 1.99 million goats in the United States in 1997, of which 52 percent were goats other than Angora or milk goats, 41 percent were Angora goats and about 7 percent were milk goats. The State of Texas accounted for about 64.3 percent of the goat inventory. Other States where goats are raised include Arizona, California, Georgia, New Mexico, North Carolina, Oklahoma, and Tennessee. These States together represented another 14.2 percent of the U.S. goats holdings. An average holding was about 35 goats. All goat holdings were considered to be small.

During 1997 the United States produced about 267 million pounds of mutton, lamb and goat meat. It exported 6.4 million pounds and imported about 84 million pounds valued at $145 million. The United States exported 1,474,060 sheep and goats valued at $63 million in 1997, of which 1,457,144 went to Mexico. The United States imported 47,405 sheep and goats valued at $6.684 million in 1997, of which 46,991 were from Canada, 364 from New Zealand, 40 from Mexico, and 10 from Australia. The United States imported 83,472,084 pounds of sheep and goat meat valued at $145.174 million and exported 6,528,605 pounds of sheep and goat meat valued at $7.362 million in 1997. Most lamb and mutton imports came from Australia and New Zealand, countries recognized as being free from scrapie. The United States is a net importer of lamb and mutton.

Sheep and Goats Affected by Scrapie Interstate Movement Restrictions

At present, of the approximately 8 million sheep and 2 million goats in the United States,[2] over 90 percent belong to commercial flocks (operations rearing sheep for sale, mostly to be slaughtered). There are 14 States altogether with 72 flocks that were on the infected or source flock list as of June 6, 1999 (66 are scrapie infected flocks, 6 are scrapie source flocks). Also, 31 other flocks contained a scrapie-positive animal during FY 1998, but the implicated animals were destroyed and the flocks are therefore not infected or source flocks. Infected and source flocks are potential candidates for destruction and indemnity payments. Additionally, over the last 8 years (1990–1997), an annual average of 132 individual suspect scrapie cases have been reported, of which approximately 48.6 percent were determined to be scrapie-positive animals. However, it is likely that the number of reported cases will increase as the indemnity payments become available. There are about 1.932 million breeding sheep and lambs in the 14 States in which positive cases have occurred in FY 1998 or in which a source or infected flock exists. These animals represent approximately 33 percent of all breeding sheep and lambs in the United States and have a market value of about $185 million.

The average size of a flock in an operation in the 14 States was 86, with between 21 and 479 per operation. Approximately 82.5 percent of these sheep are marketed, in most cases across State lines. However, nearly 33 percent of the marketed sheep are lambs less than 6 months of age, and would be exempt from individual animal identification under the proposed rule.

Indemnity Costs for Animals Destroyed Due to Scrapie

The exact number of scrapie-positive and high-risk animals that would qualify for indemnity payments is not known. However, an estimate of the number of animals potentially eligible for indemnity would be 48.6 percent of the animals in an average scrapie infected or source flock (based on past field experience). There are currently 66 scrapie infected flocks and 6 scrapie source flocks. Additionally there were 64 other infected animals diagnosed in the past year that are no longer in flocks on the infected flock list, because the flock owners voluntarily destroyed the implicated animals. Thus, based on average flock size and the average percentage of scrapie-positive animals in infected and source flocks, the number that could be estimated to qualify for indemnity payments during the first year would be 3,074 animals (=(72×86×.0486+64)). This estimate implies that about 0.15 percent of the total number of breeding sheep and goats in the 14 States that could potentially move interstate would be designated as high-risk animals and be eligible for indemnity. The proportion of more expensive registered animals was 74.38 percent (8,199/11,023).[3] Assuming a 75 percent registered to 25 percent nonregistered animal composition, with a $150 and $50 per animal indemnity payments, the estimated indemnity expenditure would be about $384,250 (3.074×0.75×150+3,074×0.25×50). If the producer response to indemnity payment availability is positive, resulting in an increased number of indemnity requests, the expenditure would increase accordingly. However, even if a much larger number of animals were to be indemnified, the destruction of all known infected animals would greatly advance the goal of scrapie eradication, and could only be positive in terms of long-term reduced expenditure.

Costs to Producers and APHIS for Official Identification of Animals Moving Interstate

The animal identification that would be required by this proposed rule would result in additional costs. Of the approximately 8 million sheep and lambs and 2 million goats in the United States, about 82.5 percent are potentially interstate movers and of these about 33 percent are lambs less than 6 months of age, which would not require identification tags under the new rule. Currently, the cost of metal identification tags for cattle is about $0.15 per animal. Assuming the total number of sheep and goats that would need identification tags is 4.633 million, the tag cost would be approximately $695,000 (4,633,000×0.15) for identifying interstate movers. If the time it takes the owner to apply the tag (about 2 minutes per animal) is valued at $7.36 per hour (the average wage for livestock workers in April, 1999), this labor cost represents another $1.137 million. In some States, tags are provided by APHIS free to accredited veterinarians, while in others, they are purchased by accredited veterinarians through the State. Generally, wherever APHIS directly distributes tags they are free; where States distribute them, there may be no charge, a small processing fee, or a fee covering the full cost of the

[2] USDA, *Sheep and Goats*. Washington, DC: Agricultural Statistics Board, Februrary 1991.

[3] Based on the composition of 8,199 registered and 2,824 commercial animals as reported by APHIS personnel.

tags, depending on State regulations. If owners elect to use backtags, the costs would be less. Owners will incur the costs of applying identification. The impact on goat owners would be less, since about 72 percent of goats are the angora type, which are raised for their mohair and are less frequently moved interstate. Thus the total potential identification cost for goat owners would be in the range of $37,000.

International Trade Effects

The United States has limited foreign trade both in live sheep and goats and their products. Australia, a potential major importer of U.S. sheep for breeding purposes, is scrapie-free and prohibits imports of sheep from the United States. Australia allows imports of live goats from the United States only if they undergo a 3-year quarantine upon arrival. Canada and Mexico both allow the importation of U.S. sheep only if the sheep are from flocks enrolled in the Voluntary Scrapie Flock Certification Program or if USDA can certify the flock's scrapie status. In 1997 the total earnings from exports of live sheep, goats, and sheep and goat meat and meat products was approximately $65 million. The United States is a net exporter of live animals, while it is a net importer of mutton, lamb and goat meat. Both the sources of imports and destinations of exports are concentrated in a few countries. Scrapie-free animals, and to some extent their products, are likely to be highly valued in the domestic and international markets. U.S. breeding stock that can be certified scrapie-free is expected to be in high demand internationally. While scrapie-free status would do little to enhance domestic or export consumption of U.S. mutton and lamb, the lack of scrapie-free status could seriously reduce demand for these products if public fears about transmissible spongiform encephalopathies ever become associated with U.S. sheep products.

The U.S. competitiveness in the domestic and international markets depends upon its reputation for producing high quality animals and products. The actual product, as well as the purchasers' perception of quality, both contribute to continued market acceptance. Thus, efforts to eradicate scrapie and secure the health of U.S. sheep and goats will continue to serve the economic interests of the industry and nation. This proposed rule could give incentive for more rigorous efforts to find infection and proceed rapidly to eradicate infected animals in order to preserve a scrapie-free status.

This proposed rule should benefit U.S. producers in a number of ways, especially by avoiding a number of direct costs and market losses. Associations representing breeding sheep owners, slaughter sheep owners, and wool-production sheep owners have all submitted comments supporting the approach of this proposed rule and also stated their associations' opinion that the benefits of the program would greatly exceed the costs. Scrapie may cost the sheep industry as much as $20.1 million per year in direct losses ($10 million in lost breeding stock and embryo export sales, $3.95 million in disposal costs for offal, and $6.176 to divert offal from ruminant food chains and in loss of offal export markets. Scrapie also costs an unknown amount in lost potential international markets and lost flock productivity. Additionally, the sheep industry currently loses sales to drug companies because the U.S. Food and Drug Administration requires scrapie-free sources of sheep or goat materials for pharmaceutical or biological products implanted or injected in humans.

Therefore, adopting this proposal could make the U.S. sheep industry more competitive, particularly in live sheep and goat exports, since current trade shows that the value of live animal exports is almost four times that of the meat in the global market. This proposal also addresses consumer concerns about the presence of a transmissible spongiform encephalopathy in food. While there is no evidence that scrapie is a human health risk, there is a perception of risk. This perception might be playing a significant role in encouraging U.S. imports of over $170 million worth of lamb and mutton, since imported lamb sells at a higher price than domestic lamb and mutton.

In summary, this proposed rule would regulate the interstate movement of sheep and goats from States that do not follow effective flock management practices for scrapie. Interstate movement of sheep and goats is beneficial, as it reduces interstate price differences faced by consumers of livestock products, and allows producers to seek the best available prices for their products. The proposed rule would encourage States to carry out the necessary surveillance and quarantine activities quickly, thereby reducing the spread of the disease. The process outlined in the proposed rule would encourage these States to begin stringent surveillance procedures immediately to identify any additional infected flocks and help to realize the goal of eradicating scrapie from the United States. The proposed rule would also encourage flock owners to participate in State scrapie programs or the Federal Scrapie Flock Certification Program, contributing further to the control of scrapie. Apart from the cost of program activities by APHIS and State agencies, and expenditure of indemnity funds by APHIS, the cost of identifying animals for interstate movement is the primary cost imposed by this proposed rule. This cost will impose some burden upon owners, which will be passed along to those who are interested in buying these animals, possibly reducing interstate commerce in sheep and goats slightly.

The proposed changes to the regulations would result in new information collection or recordkeeping requirements, as described below under the heading "Paperwork Reduction Act." Executive Order 12612 and Federalism

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The provisions contained in this proposed rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

The Administrator has examined the federalism implications of the requirements in this proposal, i.e., different interstate movement requirements for sheep and goats depending on whether they are moving from a Consistent State or an Inconsistent State. The Administrator believes that this action adheres to Constitutional principles for the exercise of Federal power and is clearly authorized by statutory authorities delegated to APHIS.

This action would not absolutely impose any new compliance costs on State or local governments, but it is true that, if adopted, this rule would strongly encourage some States to expend additional funds to upgrade their State programs for disease control in sheep and goats. Owners of sheep and goats in States that do not fund their programs to an extent that allows them to qualify as Consistent States would face additional restrictions on the interstate movement of their sheep and goats.

As discussed above, this proposal was preceded by an advance notice of proposed rulemaking which sought comments from the public, industry, and State and local officials. That notice specifically requested comments addressing "the alignment of Federal interstate movement restrictions with State standards." The comments that we received and considered when drafting

this proposal, including comments on State issues, are addressed above. Additionally, in drafting this proposal, APHIS had many discussions with officials of animal health agencies in affected States.

During these consultations, most States supported the proposal's intention to establish a system to certify that State programs for sheep and goats meet certain minimum standards, in order to provide a baseline of protection against the spread of disease when moving sheep and goats in interstate commerce. A very few officials commented that APHIS should accept any State animal health program without enforcing minimum standards. APHIS disagrees with this position because experience in animal health programs on a national level has shown that the absence of effective programs for scrapie in a few States can quickly cause animal disease problems and financial losses affecting many States as animals move in interstate commerce.

State and local governments have the opportunity to comment on this proposed rule, and we encourage them to submit comments on federalism concerns or any other issues. As this rulemaking continues, APHIS intends to continue active consultation with State animal health agencies and the elected officials of affected State and local governments.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 97–093–2. Please send a copy of your comments to: (1) Docket No. 97–093–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would revise various recordkeeping and notification requirements of APHIS scrapie regulations and the Voluntary Scrapie Flock Certification Program. The purpose of these requirements is primarily to prevent the uncontrolled interstate movement of animals that could spread scrapie, and to identify and certify flocks that are free of scrapie in order to prevent the disease from spreading.

Collecting this information necessitates the use of a number of information-gathering documents, including certificates and permits, that are critical to our ability to locate flocks infected with scrapie and to prevent the interstate spread of scrapie. The collection of this information is therefore crucial to the success of scrapie control. State animal health agencies would also have to submit descriptions of their scrapie program activities to assist APHIS in determining whether they qualify for Consistent State status.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses).

Estimate of burden: The public reporting burden for this collection of information is estimated to average 2.5049 hours per response.

Respondents: Flock owners, State animal health officials, accredited veterinarians, State and Federal veterinary medical officers, and State and Federal diagnostic laboratory personnel.

Estimated annual number of respondents: 1,180.

Estimated annual number of responses per respondent: 5.3610.

Estimated annual number of responses: 6,326.

Estimated total annual burden on respondents: 15,846 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, tribal governments, and the private sector. Under section 202 of the UMRA, APHIS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires APHIS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that may result in expenditures by State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. A few States may not qualify as Consistent States under this rule unless and until they choose to increase their expenditures on scrapie control programs, but based on knowledge of current State budgets and our experience with the costs involved in conducting sheep and goat disease programs, we estimate that the possible increases in expenditures by these States will fall far below $100 million. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects

9 CFR Part 54

Animal diseases, Goats, Indemnity payments, Scrapie, Sheep.

9 CFR Part 79

Animal diseases, Goats, Quarantine, Reporting and recordkeeping requirements, Scrapie, Sheep, Transportation.

Accordingly, we are proposing to revise 9 CFR parts 54 and 79 as follows:

PART 54—CONTROL OF SCRAPIE

Sec.

54.1 *Definitions.*

Subpart A—Scrapie Indemnification Program

54.3 *Animals eligible for indemnity payments.*
54.4 *Application by owners for indemnity payments.*
54.5 *Certification by owners.*
54.6 *Amount of indemnity payments.*
54.7 *Procedures for destruction of animals.*

Subpart B—Scrapie Flock Certification Program

54.10 Administration.
54.11 *Participation.*
54.12 *State scrapie certification boards.*
54.13 *Cooperative agreements with States.*
54.14 *Requirements for flock plans and post-exposure management monitoring plans.*

Authority: 21 U.S.C. 111, 114, 114a, and 134a–134h; 7 CAR 2.22, 2.80, and 371.2(d).

§ 54.1 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, or any employee of the United States Department of Agriculture authorized to act for the Administrator.

Affected animal. An animal for which a diagnosis of scrapie has been made by an APHIS or State representative based on the results of a live-animal screening test approved for this use by the Administrator. A live-animal screening test may be approved for this use without also being approved for the official diagnosis of a scrapie-positive animal.

Animal. A sheep or goat.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS in animal health activities who is authorized by the Administrator to perform the function involved.

Area veterinarian in charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

Breed association and registries. Organizations that maintain the permanent records of ancestry or pedigrees of animals (including the animal's sire and dam), individual identification of animals, and ownership of animals.

Commingled, commingling. Animals grouped together and having physical contact with each other, including contact through a fence, but not limited contacts. Commingling also includes sharing the same section in a transportation unit where there is any physical contact.

Destroyed. Euthanized by means other than slaughter, and the carcass disposed of, by means authorized by the Administrator.

Electronic implant. Any radio frequency identification implant device approved for use in the scrapie program by the Administrator. The Administrator will approve an electronic implant after determining that it is tamper resistant, not harmful to the animal, and readable by equipment available to APHIS and State representatives.

Exposed animal. Any animal that has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts. Any animal born in a flock after a scrapie-positive animal was born into that flock, if born before that flock completes the requirements of a flock plan.

Flock. All animals that are maintained on a single premises and all animals under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. More than one flock may be maintained on a single premises if:

(1) The flocks are enrolled as separate flocks in the SFCP, or an APHIS representative determines based upon examination of flock records that no animals have moved between the flocks;

(2) The flocks never commingle and are kept at least 30 feet apart at all times;

(3) The flocks have separate flock records and identification;

(4) The flocks have separate lambing facilities, including buildings and pastures, and a pasture or building used for lambing by one flock is not used by the other flock at any time;

(5) The flocks do not share equipment without cleaning and disinfection in accordance with the guidelines published in the Scrapie Flock Certification Program standards; and

(6) There is no interchange of animals between the flocks.

Flock plan. A written flock management agreement designed by the owner of a flock, an accredited veterinarian, and an APHIS representative or State representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in § 54.14 of this part.

High-risk animal. An animal that is:

(1) The progeny of a scrapie-positive dam;

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups; or

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born, or during any subsequent lambing season.

Infected flock. Any flock in which an APHIS representative or a State representative has determined an animal to be a scrapie-positive animal or in which an APHIS representative or a State representative has determined that a scrapie-positive animal had lambed within 18 months of the time at which the tissues used for diagnosis were collected from the scrapie-positive animal. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.

Limited contacts. Incidental contacts between animals off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized between animals for these contacts to be considered limited contacts. Limited contacts do not include any contact, incidental or otherwise, with an animal during, or up to 60 days after, lambing or kidding.

Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or transportation to other flocks for breeding, except as allowed by the Scrapie Flock Certification Program standards.

Live-animal screening test. Any test for the diagnosis of scrapie in a live animal that is approved by the Administrator as usually reliable but not definitive for diagnosing scrapie, and that is conducted in a laboratory approved by the Administrator.[1]

Mortgage. Any mortgage, lien, or other security or beneficial interest held by any person other than the one claiming indemnity.

Owner. A person, partnership, company, corporation, or any other legal entity who has legal or rightful title to animals, whether or not they are subject to a mortgage.

Post-exposure management and monitoring plan. A written agreement designed by the owner of a flock, an accredited veterinarian, and an APHIS representative or State representative in which each participant agrees to undertake actions specified in the agreement to monitor for the recurrence of scrapie in the flock for at least 5 years after the last high-risk or scrapie-positive animal is removed from the flock or to monitor for occurrence of scrapie for 5 years after the last exposure of the flock to a scrapie-positive animal, unless otherwise specified by an APHIS or state animal health official. As part of a post-exposure management and monitoring plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the plan. The plan must include the requirements in § 54.14 of this part.

[1] The names and addresses of laboratories approved by the Administrator to conduct live-animal screening tests will be published in the Notices Section of the **Federal Register**. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) Follows standard test protocols; (c) Meets check test proficiency requirements; and (d) Will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory, and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

Scrapie Flock Certification Program (SFCP). The cooperative Federal-State-industry voluntary program for the control of scrapie conducted in accordance with this subpart.

Scrapie Flock Certification Program standards. Cooperative procedures and standards adopted by APHIS and State scrapie certification boards for reducing the incidence and controlling the spread of scrapie through flock certification.[2]

Scrapie-positive animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, United States Department of Agriculture, or another laboratory authorized by the Administrator to conduct scrapie tests in accordance with this part, through:

(1) Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;

(2) The use of protease-resistant protein analysis methods including but not limited to immunohistochemistry and/or western blotting on CNS and/or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the Administrator for use on that tissue;

(3) Bioassay;

(4) Scrapie associated fibrils (SAF) detected by electron microscopy; or

(5) Any other test method approved by the Administrator.[3]

Separate contemporary lambing groups. To be a separate contemporary lambing group, the group must be maintained separately such that the animals cannot come into physical contact with other lambs, kids, ewes or does or birth fluids or placenta from other ewes or does. This separate maintenance must preclude contact through a fence, during lambing and for 60 days following the date the last lamb or kid is born in a lambing season, and must preclude using the same lambing facility as other ewes or does, unless the lambing facility is cleaned and disinfected between lambings in accordance with the guidelines published in the Scrapie Flock Certification Program standards.

Source flock. A flock in which an APHIS representative or a State representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 54 months or less. A flock will no longer be a source flock after it has completed the requirements of a flock plan.

State. Each of the 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all territories or possessions of the United States.

State representative. An individual employed in animal health activities by a State or a political subdivision of a State, and who is authorized by the State or political subdivision to perform the function involved.

Suspect animal. A sheep or goat exhibiting any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian, an APHIS representative, or a State representative: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, "star gazing," head pressing, recumbency, or other signs of neurological disease or chronic wasting. A suspect animal will no longer be a suspect animal upon determination by an APHIS representative or a State representative that it no longer exhibits such signs, or that the signs are not caused by scrapie.

[2] Individual copies of the Scrapie Flock Certification Program standards may be obtained on the World Wide Web at URL http://www.aphis.usda.gov/vs/scrapie, or from the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

[3] The names and addresses of laboratories approved by the Administrator to conduct tests are published in the Notices Section of the **Federal Register**. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) Follows standard test protocols; (c) Meets check test proficiency requirements; and (d) Will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory, and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

Subpart A—Scrapie Indemnification Program

§ 54.3 Animals eligible for indemnity payments.

(a) Indemnity may be paid for an animal only after the owner of the animal has applied for indemnification and been approved in accordance with 54.4 of this part. Indemnity may be paid only for the following:

(1) Destruction of high-risk animals;

(2) Destruction of animals based on an epidemiologic investigation, when the Administrator determines that the destruction of these animals will contribute to the eradication of scrapie;

(3) Destruction of live scrapie-positive animals;

(4) Destruction of affected animals; and

(5) Destruction of suspect animals that are subsequently determined to be scrapie-positive animals.

(b) No indemnity will be paid for an animal if the owner of the animal fails to provide APHIS, within 30 days of request, with animal registration certificates, sale and movement records, or other records requested in accordance with § 54.5 of this part. No indemnity will be paid until the premises, including all structures, holding facilities, conveyances, and materials contaminated because of occupation or use by the depopulated animals, have been properly cleaned and disinfected in accordance with the guidelines published in the Scrapie Flock Certification Program standards. Premises or portions of premises may be exempted from such cleaning and disinfecting requirements if the APHIS or State representative determines that the exempted buildings, holding facilities, conveyances, or other materials on the premises do not require cleaning and disinfection to prevent the spread of scrapie.

§ 54.4 Application by owners for indemnity payments.

(a) Normally, an application for indemnification will be initiated by an APHIS or State representative who is working with the owner of a flock that has already been determined to be an infected flock or source flock, or that is already under a State quarantine. In such cases, the flock owner will confirm information about the flock's eligibility for indemnity that is contained in the application submitted by the APHIS or State representative. However, an owner of a flock that has or has not been determined to be an infected flock or source flock, and is not under a State quarantine, may apply directly to receive indemnification by submitting to the Administrator a written request containing the following information:

(1) Name, address, and social security number of the flock owner;

(2) Number and breed(s) of animals in the flock, including a current inventory;

(3) Location of flock premises;

(4) Reasons the owner believes animals in his or her flock may be eligible for indemnification, including any diagnosis of scrapie made for animals in the flock; any signs of scrapie observed in the flock by the owner; and any movement of animals into the flock from flocks infected with or exposed to scrapie;

(5) A copy of the registration papers issued in the name of the owner for any registered animals in the flock. If the registration papers are unavailable or if the animals are less than 1 year old and are not registered at the time the claim for indemnity is submitted, the area veterinarian in charge may grant a 60-day extension or the Administrator may grant an extension longer than 60 days for the presentation of registration papers; and

(6) Signed release letters addressed to any sheep or goat registry associations that maintain records of the owner's sheep or goats, requesting the associations to release to APHIS all records maintained by the association on sheep or goats currently or formerly owned by the applicant.

(b) APHIS will evaluate each application to determine whether the owner's flock contains animals eligible for indemnity in accordance with 54.3 of this part.

§ 54.5 Certification by owners.

Before any indemnity is paid to an owner, the owner must sign a written agreement with APHIS, certifying the following:

(a) The owner will make available for review upon request by an APHIS representative all bills of sale, pedigree registration certificates, and other records regarding movement of animals into and from the flock;

(b) If the owner maintains any flock after the payment of indemnity or acquires a new flock that is housed on the same premises within 5 years after the last high-risk or scrapie-positive animal is removed, the owner will maintain the flock in accordance with a post-exposure management and monitoring plan;

(c) If the animal for which indemnity is paid is subject to any mortgage, the owner consents to the payment of the indemnity, up to the value of the mortgage, to the person(s) holding the mortgage.

§ 54.6 Amount of indemnity payments.

Indemnity paid in accordance with 54.3 of this part will be $150 for each registered animal destroyed and $50 for each unregistered animal destroyed.

§ 54.7 Procedures for destruction of animals.

(a) Animals for which indemnification is sought must be destroyed on the premises where held, pastured, or penned at the time indemnity is approved, unless the APHIS representative involved approves in advance of destruction moving the animals to another location for destruction.

(b) The carcasses of animals destroyed in accordance with this section are authorized by the Administrator to be buried, incinerated, or disposed of by other methods in accordance with local, State, or Federal law. The carcasses must not be processed for animal food, unless subjected to a treatment process approved by the Administrator and known to eliminate the agents of transmissible spongiform encephalopathies. The carcasses may not be processed for human food.

(c) The destruction of animals and disposition of their carcasses in accordance with this part must be monitored by an APHIS representative who will prepare and transmit to the Administrator a report identifying the animals and showing their disposition.

(d) APHIS will not be responsible for any costs or charges for the destruction and disposal of animals in accordance with this part.

Subpart B—Scrapie Flock Certification Program

§ 54.10 Administration.

The Scrapie Flock Certification Program is a cooperative effort between APHIS; members of the sheep and goat industry, including owners of flocks, slaughtering and rendering establishments, and breed associations and registries; accredited veterinarians; and State governments. APHIS coordinates with State scrapie certification boards and State animal health agencies to encourage flock owners to reduce the incidence of scrapie by voluntarily complying with the Scrapie Flock Certification Program standards.

§ 54.11 Participation.

Any owner of a sheep or goat flock may apply to enter the Scrapie Flock Certification Program by sending a written request to a State scrapie certification board or to the Administrator. A notice containing a current list of flocks participating in the Scrapie Flock Certification Program, and the certification status of each flock, may be obtained from the APHIS website at URL http://www.aphis.usda.gov/vs/scrapie, and may also be obtained by writing to the Animal and Plant Health Inspection Service, National Animal Health Programs Staff, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

(Approved by the Office of Management and Budget under control number 0579–0101)

§ 54.12 State scrapie certification boards.

An area veterinarian in charge, after consulting with a State representative and industry representatives, may appoint a State scrapie certification board for the purpose of coordinating activities for the Scrapie Flock Certification Program, including making decisions to admit flocks to the Scrapie Flock Certification Program and to change flock status in accordance with the Scrapie Flock Certification Program standards. No more than one State scrapie certification board may be formed in each State. Each State scrapie certification board shall include as members the area veterinarian in charge, one or more State representatives, one or more accredited veterinarians, and one or more owners of flocks, and, at the discretion of the area veterinarian in charge, may include other members.

§ 54.13 Cooperative agreements with States.

APHIS may execute a cooperative agreement with the animal health agency of any State to cooperatively administer the Scrapie Flock Certification Program within that State. These cooperative agreements will describe the respective roles of APHIS and State personnel in implementing the Scrapie Flock Certification Program standards and other scrapie control measures. The agreement may specify the financial, material, and personnel resources to be committed to the Scrapie Flock Certification Program and other scrapie control measures by APHIS and the State; assign specific Scrapie Flock Certification Program activities and other activities related to the control of scrapie within a State to APHIS or State personnel; establish schedules for APHIS representatives or State representatives to visit participating flocks; establish procedures for maintaining and sharing Scrapie Flock Certification Program records specified in the Scrapie Flock Certification Program standards, and specify other responsibilities of State representatives and APHIS representatives in support of the Scrapie Flock Certification Program and the State scrapie control program.

(Approved by the Office of Management and Budget under control number 0579–0101)

§ 54.14 Requirements for flock plans and post-exposure management and monitoring plans.

(a) The owner of the flock or his or her agent must identify all animals 1 year of age or over within the flock. All animals less than 1 year of age must be identified when a change of ownership occurs, with the exception of those animals under 6 months of age moving within slaughter channels that must be identified in accordance with § 79.2 of this chapter. The form of identification must be an electronic implant, flank tattoo, ear tattoo, or tamper-resistant ear tag approved by APHIS. In the case of goats, the form of identification may alternatively be a tail fold tattoo. The official identification must provide a unique identification number that is applied by the owner of the flock or his or her agent.

(b) Upon request of an APHIS or State representative, the owner of the flock or his or her agent must have an accredited veterinarian collect and submit tissues from animals for scrapie diagnostic purposes to a laboratory designated by an APHIS or State representative.

(c) The owner of the flock or his or her agent, upon request, must make animals in the flock and the records required to be kept as a part of these plans available for inspection by APHIS representatives and State representatives.

(d) The owner of the flock or his or her agent must meet requirements found necessary by the APHIS representative or State representative to monitor for scrapie and to prevent the recurrence of scrapie in the flock. These other requirements may include, but are not limited to: Utilization of an approved live-animal test, segregated lambing, cleaning and disinfection of lambing facilities, and/or education of the owner of the flock and personnel working with the flock in techniques to recognize clinical signs of scrapie and to control the spread of scrapie.

(e) The owner of the flock or his or her agent must immediately report to a State representative, APHIS representative, or an accredited veterinarian any animals in the flock exhibiting the following: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, swaying of back end; increased sensitivity to noise and sudden movement; tremor, "star gazing", head pressing, recumbency, or other signs of neurological disease or chronic wasting illness. Such animals must not be removed from the flock without written permission of an APHIS representative or State representative.

(f) *Requirements for flock plans only:*

(1) An epidemiologic investigation must be conducted to identify high-risk and exposed animals that currently reside in the flock or that previously resided in the flock, and all high-risk animals, scrapie-positive animals, affected animals, and suspect animals must be removed from the flock. The animals must be removed by euthanization and disposal of the carcasses by burial, incineration, or other methods in accordance with State or Federal law, or, in the case of high-risk animals, by movement to slaughter (slaughtered animals are not eligible for indemnity) in accordance with the provisions of part 79 of this chapter, or upon request in individual cases by another means determined by the Administrator to be sufficient to prevent the spread of scrapie;

(2) The premises of a flock under a flock plan must be cleaned and disinfected in accordance with the guidelines published in the Scrapie Flock Certification Program standards;

(3) The owner of the flock, or his or her agent, must request breed associations and registries, livestock markets, and packers to disclose records to APHIS representatives or State representatives, to be used to identify source flocks and trace exposed animals, including high-risk animals; and

(4) The flock owner must agree to conduct post-exposure management and monitoring.

(g) *Requirements for post-exposure management and monitoring plans only:* The plan will require that an APHIS representative or State representative inspect the flock and flock records at least once every 12 months. The owner of the flock or his or her agent must maintain, and keep for a minimum of 5 years after an animal dies or is otherwise removed from a flock, the following records for each animal in the flock:

(1) Any identifying marks or tags present on the animal including the animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo tamper resistant ear tag, or, in the case of goats, it may be a tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain;

(2) Sex, breed, sire, dam, and offspring of the animal;

(3) Date of acquisition and previous flock, if the animal was not born in the flock; and

(4) Disposition of the animal, including the date and cause of death, if known, or date of removal from the flock and name and address of the person to whom the animal was transferred.

PART 79—SCRAPIE IN SHEEP AND GOATS

Sec.

79.1 *Definitions.*
79.2 *Identification of sheep and goats in interstate commerce.*
79.3 *General restrictions.*
79.4 *Designation of scrapie-positive animals, affected animals, high-risk animals, exposed animals, suspect animals, source flocks, and infected flocks; notice to owners.*
79.5 *Issuance of certificates.*
79.6 *Standards for State programs to qualify as Consistent States.*

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 79.1 Definitions.

Accredited veterinarian. A veterinarian approved by the Administrator in accordance with part 161 of this chapter to perform functions specified in subchapters B, C, and D of this chapter.

Administrator. The Administrator of the Animal and Plant Health Inspection Service, or any employee of the United States Department of Agriculture authorized to act for the Administrator.

Affected animal. An animal for which a diagnosis of scrapie has been made by an APHIS or State representative based on the results of a live-animal screening test approved for this use by the Administrator. A live-animal screening test may be approved for this use without also being approved for the diagnosis of a scrapie-positive animal.

Animal. A sheep or goat.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative. An individual employed by APHIS in animal health activities who is authorized by the Administrator to perform the function involved.

Area veterinarian in charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official animal health work of APHIS in the State concerned.

Breed association and registries. Organizations that maintain the permanent records of ancestry or pedigrees of animals (including the animal's sire and dam), individual identification of animals, and ownership of animals.

Certificate. An official document issued in accordance with § 79.5 of this part by an APHIS representative, State representative, or accredited veterinarian at the point of origin of an interstate movement of animals, which includes a statement that the animals were not exhibiting clinical signs associated with scrapie at the time of examination.

Commingled, commingling. Animals grouped together and having physical contact with each other, including contact through a fence, but not limited contacts. Commingling also includes sharing the same section in a transportation unit where there is physical contact.

Consistent State. A State that the Administrator has determined conducts an active State scrapie control program that either:

(1) Meets the requirements of § 79.6 of this part; or

(2) Effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of § 79.6 of this part.

Designated scrapie epidemiologist. An epidemiologist selected by the State animal health official and the area veterinarian in charge to reclassify animals already designated as high-risk, exposed, or affected with scrapie, based on epidemiologic investigation or the results of a live-animal test. The regional epidemiologist and the APHIS National Scrapie Program Coordinator must concur in the selection and appointment of the designated scrapie epidemiologist.

Electronic implant. Any radio frequency identification implant device approved for use in the scrapie program by the Administrator. The Administrator will approve an electronic implant after determining that it is tamper resistant, not harmful to the animal, and readable by equipment available to APHIS and State representatives.

Exposed animal. Any animal that has been in the same flock at the same time within the previous 60 months as a scrapie-positive animal, excluding limited contacts. Any animal born in a flock after a scrapie-positive animal was born into that flock, if born before that flock completes the requirements of a flock plan.

Flock. All animals that are maintained on a single premises and all animals under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. More than one flock may be maintained on a single premises if:

(1) The flocks are enrolled as separate flocks in the SFCP, or an APHIS representative determines based upon examination of flock records that no animals have moved between the flocks;

(2) The flocks never commingle and are kept at least 30 feet apart at all times;

(3) The flocks have separate flock records and identification;

(4) The flocks have separate lambing facilities, including buildings and pastures, and a pasture or building used for lambing by one flock is not used by the other flock at any time;

(5) The flocks do not share equipment without cleaning and disinfection in accordance with the guidelines published in the Scrapie Flock Certification Program standards; and

(6) There is no interchange of animals between the flocks.

Flock plan. A written flock management agreement designed by the owner of a flock, an accredited veterinarian, and an APHIS representative or State representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or an exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in § 54.14 of this chapter.

High-risk animal. An animal that is:

(1) The progeny of a scrapie-positive dam;

(2) Born in the same flock during the same lambing season as progeny of a scrapie-positive dam, unless the progeny of the scrapie-positive dam are from separate contemporary lambing groups; or

(3) Born in the same flock during the same lambing season that a scrapie-positive animal was born, or during any subsequent lambing season.

Inconsistent State. Any State other than a Consistent State.

Infected flock. Any flock in which an APHIS representative or a State representative has determined an animal to be a scrapie-positive animal or in which an APHIS representative or a State representative has determined that a scrapie-positive animal had lambed within 18 months of the time at which the tissues used for diagnosis were collected from the scrapie-positive animal. A flock will no longer be considered an infected flock after it has completed the requirements of a flock plan.

Interstate commerce. Trade, traffic, transportation, or other commerce between a place in a State and any place

outside of that State, or between points within a State but through any place outside that State.

Limited contacts. Incidental contacts between animals off the flock's premises such as at fairs, shows, exhibitions and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized between animals for these contacts to be considered limited contacts. Limited contacts do not include any contact, incidental or otherwise, with an animal during, or up to 60 days after, lambing or kidding. Limited contacts do not include any activity where uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or transportation to other flocks for breeding, except as allowed by the Scrapie Flock Certification Program standards.

Live-animal screening test. Any test for the diagnosis of scrapie in a live animal that is approved by the Administrator as usually reliable but not definitive for diagnosing scrapie, and that is conducted in a laboratory approved by the Administrator.[1]

Owner. A person, partnership, company, corporation, or any other legal entity who has legal or rightful title to animals, whether or not they are subject to a mortgage.

Permit. An official document issued in connection with the interstate movement of animals (VS Form 1–27 or a State form that contains the same information) that is issued by an APHIS representative, State representative, or an accredited veterinarian authorized to sign such permits. A new permit is required for each change in destination for an animal. A permit lists the owner's name and address, points of origin and destination, number of animals covered, purpose of the movement, whether the animals are from an infected flock or a source flock, transportation vehicle license number or other identification number, and seal number (if a seal is required). A permit also lists all official identification on the animals covered, including the official eartag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, United States Department of Agriculture backtag (when applied serially, only the beginning and the ending numbers need be recorded), individual animal registered breed association registration number, or any other form of official identification present on the animal.

Premises identification. An APHIS approved eartag, backtag, or tattoo bearing the premises identification number assigned by a State or Federal animal health official to the premises on which the sheep or goats originated, or a brand registered with an official brand registry.

Scrapie Flock Certification Program (SFCP). The cooperative Federal-State-industry voluntary program for the control of scrapie conducted in accordance with 9 CAR part 54, subpart B.

Scrapie Flock Certification Program standards. Cooperative procedures and standards adopted by APHIS and State Scrapie Certification Boards for reducing the incidence and controlling the spread of scrapie through flock certification.[2]

Scrapie-positive animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, United States Department of Agriculture, or another laboratory authorized by the Administrator to conduct scrapie tests in accordance with this part, through:

(1) Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;

(2) By the use of protease-resistant protein analysis methods including but not limited to immunohistochemistry and/or western blotting on CNS and/or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the Administrator for use on that tissue;

(3) Bioassay;

(4) Scrapie associated fibrils (SAF) detected by electron microscopy; or

(5) Another test method approved by the Administrator.

Separate contemporary lambing groups. To be a separate contemporary lambing group, the group must be maintained separately such that the animals cannot come into physical contact with other lambs, kids, ewes or does or birth fluids or placenta from other ewes or does. This separate maintenance must preclude contact through a fence, during lambing and for 60 days following the date the last lamb or kid is born in a lambing season, and must preclude using the same lambing facility as other ewes or does, unless the lambing facility is cleaned and disinfected between lambings in accordance with the guidelines published in Scrapie Flock Certification Program standards.

Source flock. A flock in which an APHIS representative or a State representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 54 months or less. A flock will no longer be a source flock after it has completed the requirements of a flock plan.

State. Each of the 50 States, the District of Columbia, the Northern Mariana Islands, Puerto Rico, and all territories or possessions of the United States.

State representative. An individual employed in animal health activities by a State or a political subdivision of a State, and who is authorized by the State or political subdivision to perform the function involved.

Suspect animal. A sheep or goat exhibiting any of the following possible signs of scrapie and that has been determined to be suspicious for scrapie by an accredited veterinarian, an APHIS representative, or a State representative: Weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, "star gazing," head pressing, recumbency, or other signs of neurological disease or chronic wasting. A suspect animal will no longer be a suspect animal upon determination by an APHIS representative or a State representative that it no longer exhibits such signs, or that the signs are not caused by scrapie.

(Approved by the Office of Management and Budget under control number 0579–0101)

[1] The names and addresses of laboratories approved by the Administrator to conduct live-animal screening tests will be published in the Notices Section of the **Federal Register**. A list of approved laboratories is also available upon request from the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. State, Federal, and university laboratories will be approved by the Administrator when he or she determines that the laboratory: (a) Employs personnel trained by the National Veterinary Services Laboratories assigned to supervise the testing; (b) follows standard test protocols; (c) meets check test proficiency requirements; and (d) will report all test results to State and Federal animal health officials. Before the Administrator may withdraw approval of any laboratory for failure to meet any of these conditions, the Administrator must give written notice of the proposed withdrawal to the director of the laboratory, and must give the director an opportunity to respond. If there are conflicts as to any material fact, a hearing will be held to resolve the conflict.

[2] Individual copies of the Program Standards may be obtained on the World Wide Web at URL http://www.aphis.usda.gov/vs, or from the Animal and Plant Health Inspection service, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

§ 79.2 Identification of sheep and goats in interstate commerce.

(a) No sheep or goat that is required to be individually identified by § 79.3 of this part may be sold, transported, received for transportation, or offered for sale or transportation, in interstate commerce, unless each sheep or goat is identified in accordance with this section.

(1) The sheep or goat must be identified at whichever of the following comes first:

(i) The point of first commingling of the sheep or goats in interstate commerce with sheep or goats from any other source;

(ii) Upon unloading of the sheep or goats in interstate commerce at any livestock market;

(iii) Upon transfer of ownership of the sheep or goats in interstate commerce; or

(iv) Upon arrival of the sheep or goats in interstate commerce at their final destination.

(2) The sheep or goats must be identified by one of the following means of identification, and must remain so identified while they are in interstate commerce:

(i) Electronic implants for animals required to be identified by the SFCP, when used in a flock participating in the SFCP;

(ii) Official eartags, including tags approved for use in the SFCP, when used on any sheep or goat;

(iii) United States Department of Agriculture backtags, when used on sheep or goats moving to slaughter;

(iv) Official sheep or goat tattoos, when used on sheep or goats participating in the SFCP; or

(v) Official registry tattoos that have been recorded in the book of record of a sheep or goat registry association.

(3) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce is responsible for the identification of the sheep or goats as provided by this section.

(b) Serial numbers of United States Department of Agriculture backtags and official sheep and goat tattoos will be assigned to each person who applies to the State animal health official or the area veterinarian in charge for the State in which that person maintains his or her place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or State or Federal representative who requests official eartags from the State animal health official or the area veterinarian in charge, whoever is responsible for issuing official eartags in that State. Premises identification numbers will be assigned to participants in the SFCP by the State animal health official or the area veterinarian in charge, whoever is responsible for assigning premises codes in that State. Persons assigned serial numbers of United States Department of Agriculture backtags, official sheep and goat tattoos, and official eartags must:

(1) Record the following information on a document:

(i) All serial numbers applied to the sheep or goat;

(ii) Any other serial numbers and approved identification appearing on the sheep or goat;

(iii) The street address, including the city and State, or the township, county, and State, of the premises where the approved means of identification was applied; and

(iv) The telephone number, if available, of the person who owns or possesses the sheep or goat;

(2) Maintain these records for 5 years; and

(3) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture, and presentation of his or her official credentials.

(c) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles sheep or goats in interstate commerce must keep records relating to the transfer of ownership, shipment, or handling of the sheep or goats, such as yarding receipts, sale tickets, invoices, and waybills.

(1) The records must include:

(i) If individual animal identification is required, all serial numbers and other approved means of identification appearing on the sheep or goat; and

(ii) The street address, including city and State, or the township, county, and State, and the telephone number, if available, of the person from whom the sheep or goats were purchased or otherwise obtained.

(2) Each person required to keep records under this paragraph must maintain the records for at least 5 years after the person has sold or otherwise disposed of the sheep or goat to another person, and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the sheep or goat identified in the records. The person must make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(d) No person may remove or tamper with any approved means of identification required to be on sheep or goats pursuant to this section while the animals are in interstate commerce, and at the time of slaughter animal identification must be maintained throughout postmortem inspection in accordance with regulations of the Food Safety Inspection Service in chapter III of this title.

(e) Written requests for approval of sheep or goat identification devices and markings not listed in paragraph (b) of this section should be sent to the Animal and Plant Health Inspection Service, Veterinary Services, National Animal Health Programs Staff, 4700 River Road Unit 43, Riverdale, MD 20737–1235. If the Administrator determines that the devices and markings will provide a means of tracing sheep and goats in interstate commerce, a proposal will be published in the **Federal Register** to add the devices and markings to the list of approved means of sheep and goat identification.

§ 79.3 General restrictions.

The following prohibitions and movement conditions apply to the interstate movement of sheep and goats, and no sheep or goat may move interstate except in compliance with them.

INTERSTATE MOVEMENT GENERAL RESTRICTIONS FOR SHEEP AND GOATS

Type of interstate movement	Moved from INCONSISTENT State	Moved from CONSISTENT State
(a) Sale or other movement of breeding animals, show animals or any other animal not specifically addressed below:		
(1) High-risk animal, scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) Non-high risk animal from an infected or source flock.	Prohibited*	Prohibited.*
(3) Other animal	Flock must be enrolled in the Complete Monitored category of the Scrapie Flock Certification Program or equivalent APHIS-recognized program and have certificate.	Individual animal ID and certificate.
(b) Sale or other movement directly to slaughter, or through slaughter channels to slaughter, of animals under 6 months of age:		
(1) Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) High-risk animals and animals from infected or source flock.	Individual animal ID and permit or sealed conveyance and permit when moving directly to slaughter, or a permit and an indelible "S" mark on the left jaw.	Individual animal ID and permit or sealed conveyance and permit when moving directly to slaughter, or a permit and an indelible "S" mark on the left jaw.
(3) Other animal	Premises ID** and certificate	None.
(c) Sale or other movement directly to slaughter, or through slaughter channels to slaughter, of animals over 6 months of age, or animals of any age to feedlots for later movement to slaughter:		
(1) Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) High-risk animals and animals from infected or source flock.	Individual animal ID and permit	Individual animal ID and permit.
(3) Other exposed animals	Individual animal ID and permit	Individual animal ID.
(4) Other animals over 1 year of age	Individual animal ID and certificate	Individual animal ID.
(5) Other animals between 6 months and 1 year of age, or animals under 6 months of age moving to feedlots for later movement to slaughter.	Individual animal ID and certificate	Premises ID.**
(d) Movement of animals for grazing or other management purposes without change of ownership:		
(1) Scrapie positive, suspect, or affected animal.	Prohibited*	Prohibited.*
(2) High-risk animal or animal from infected or source flock.	Prohibited*	Prohibited.*
(3) Exposed animals	Individual animal ID and certificate	Premises ID.
(4) Other animal	Premises ID and certificate	None.

*Animals prohibited movement may be moved interstate only if they are moving interstate for destruction or research as approved by the Administrator.

**Premises ID is not required for slaughter animals if the animals are kept as a group on the same premises on which they were born and are not commingled with animals from another premises at any time, including throughout the slaughter process, or, if they are commingled dunng the slaughter process, they are officially identified on arrival at the slaughter facility such that any animal can be traced back to its flock of origin.

Note: A CONSISTENT STATE is one whose intrastate identification, quarantine and movement restrictions for infected and source flocks and high-risk animals are consistent with the APHIS standards for State scrapie programs.

§ 79.4 Designation of scrapie-positive animals, affected animals, high-risk animals, exposed animals, suspect animals, source flocks, and infected flocks; notice to owners.

(a) *Designation.* An APHIS representative or State representative will designate an animal to be a scrapie-positive animal, affected animal, high-risk animal, exposed animal, or suspect animal after determining that the animal meets the criteria of the relevant definition in § 79.1 of this part. An APHIS representative or State representative will designate a flock to be a source flock after reviewing sale, movement, and breeding records that indicate the flock meets the definition of a source flock in § 79.1 of this part. An APHIS representative or State representative will designate a flock to be an infected flock after determining that the flock meets the definition of an infected flock in § 79.1 of this part.

(b) *Reclassification.* A designated scrapie epidemiologist may reclassify an exposed animal by removing that designation after completing an epidemiologic investigation and determining that the exposure was limited to a scrapie-positive male animal that was not born in the flock (the scrapie-positive animal must have individual animal identification traceable to the flock of origin), and was not housed in lambing facilities or commingled with lambs while in the flock. A designated scrapie epidemiologist may reclassify an animal designated a high-risk animal as an exposed animal after receiving negative results from an approved live-animal test.

(c) *Notice to owner.* As soon as possible after making such a determination, an APHIS representative or State representative will attempt to notify the owner(s) of the flock(s) in

writing that their flock contained or contains a scrapie-positive animal, an affected animal, a suspect animal, a high-risk animal or an exposed animal, or that the flock is an infected flock, or source flock. The notice will include a description of the interstate movement restrictions and identification requirements contained in this part.

§ 79.5 Issuance of certificates.

(a) Certificates are required as specified by § 79.3 of this part for certain interstate movements of animals. A certificate must show the official ear tag number, individual animal registered breed association registration tattoo, individual animal registered breed association registration brand, individual animal registered breed association registration number, and any other official individual identification of each animal to be moved; the number of animals covered by the certificate; the purpose for which the animals are to be moved; the points of origin and destination; the consignor; and the consignee. Ownership brands or other premises identification may be used in place of individual animal identification on certificates for sheep and goats moved interstate when premises identification is required under this part, provided the ownership brands are registered with the official brand recording agency. Except as provided in paragraphs (b) and (c) of this section, all of the information required by this paragraph must be typed or written on the certificate.

(b) As an alternative to typing or writing individual animal identification on a certificate, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals;

(2) A legible copy of the document must be stapled to the original and each copy of the certificate;

(3) Each copy of the document must identify each animal to be moved with the certificate, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be typed or written in ink in the identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

(c) As an alternative to typing or writing ownership brands on a certificate, an official brand inspection certificate may be used to provide this information, but only under the following conditions:

(1) A legible copy of the official brand inspection certificate must be stapled to the original and each copy of the certificate;

(2) Each copy of the official brand inspection certificate must show the ownership brand of each animal to be moved with the certificate, but any other ownership brands, and any unused space for recording ownership brands, must be crossed out in ink; and

(3) The following information must be typed or written in ink in the official identification column on the original and each copy of the certificate and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the attached document; and

(ii) Either the serial number on the official brand inspection certificate or, if the official brand inspection certificate is not imprinted with a serial number, both the name of the person who prepared the official brand inspection certificate and the date it was signed.

§ 79.6 Standards for State programs to qualify as Consistent States.

(a) In reviewing a State for Consistent State status, the Administrator will evaluate the State statutes, regulations and directives pertaining to animal health activities, reports and publications of the State animal health agency, and a written statement from the State animal health agency describing State scrapie control activities and certifying that these activities meet the requirements of this section. In determining whether a State is a Consistent State, the Administrator will consider whether the State's scrapie control program:

(1) Requires the reporting of and investigation of any suspect animal, affected animal, or scrapie-positive animal;

(2) Requires the official permanent individual identification of any live scrapie-positive, affected, or suspect animal of any age, and of any exposed animal, including high-risk animals, 1 year of age or over and any exposed animals less than 1 year of age when a change of ownership occurs, except those animals under 6 months of age moving within slaughter channels in accordance with this part (whether or not the exposed animal resides in a source or infected flock);

(3) Effectively enforces quarantines of all source and infected flocks;

(4) Effectively enforces quarantines of all high-risk, affected, suspect, and scrapie-positive animals throughout their lives unless moved in accordance with this part;

(5) If an affected, suspect or scrapie-positive animal dies or is destroyed, requires that tissues be submitted for diagnostic testing to a laboratory authorized by the Administrator to conduct scrapie tests in accordance with this part and that the carcass be completely destroyed; and

(6) Releases quarantines of these flocks only upon completion of a flock plan and agreement by the owner to participate in a post-exposure monitoring and management plan as defined in part 54 of this chapter.

(b) [Reserved]

Done in Washington, DC, this 23rd day of November 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–31087 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–34–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

Share Insurance and Appendix

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: The NCUA proposes to revise its share insurance regulations with respect to living trusts, joint revocable trusts, IRA accounts, public unit accounts, guardian accounts and the application of local law to share insurance determinations. NCUA also proposes to revise the substance and format of the Appendix to part 745. These proposals, which parallel the Federal Deposit Insurance Corporation's (FDIC's) insurance rules, are intended to maintain parity between NCUA's and FDIC's insurance programs and to prevent confusion in understanding and applying the share insurance rules.

DATES: NCUA welcomes comments on these proposals. Comments must be received on or before January 31, 2000.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union

Administration, 1775 Duke Street, Alexandria, VA 22314–3428. You may also fax comments to (703) 518–6319 or e-mail comments to boardmail@ncua.gov. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, at the above address, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

In accordance with NCUA's regulatory review process, NCUA staff has identified part 745 as one of the regulations in need of updating, clarification and simplification. On March 23, 1999, the Board of Directors of the FDIC adopted deposit insurance rule changes regarding joint accounts and revocable trust accounts. 64 FR 15653 (April 1, 1999). The NCUA Board adopted similar changes on April 15, 1999. 64 FR 19685 (April 22, 1999). At that time, NCUA was aware that additional changes to part 745 were necessary and would be forthcoming, but believed that it was important to implement the amendments immediately regarding joint accounts and revocable trust accounts. NCUA has completed a more comprehensive review of part 745 and reviewed the comments submitted in connection with the joint accounts and revocable trust accounts rule changes. NCUA is now proposing additional amendments to improve part 745.

B. Proposed Amendments

Living Trust Accounts

A living trust is a formal trust that an owner creates and retains control over during his or her lifetime. NCUA intends to treat a revocable trust account that is held in connection with a living trust in the same manner it treats all other revocable trust accounts, if the living trust otherwise meets all requirements that pertain to revocable trust accounts. Living trusts that include conditions that could prevent a beneficiary from acquiring a vested and non-contingent interest in the account funds upon the owner's death, however, would not be entitled to insurance coverage under this section. NCUA will consider the grantor of a living trust as the owner of the funds in the account during that person's life. The owner must be a member of the credit union or otherwise eligible to open the account and qualify for insurance.

Joint Revocable Trust Accounts

Joint revocable trust accounts are revocable trust accounts, as described in § 745.4 of NCUA's regulations, that are established by more than one owner and held for the benefit of others. NCUA proposes to provide separate insurance coverage for qualifying accounts of this kind.

Application of State or Local Law To Share Insurance Determinations

In the interest of maintaining uniform national rules and consistent share insurance determinations, NCUA proposes to clarify the degree of control that state or local law has on share insurance determinations. NCUA regulations presently do not state as clearly as they could that the provisions of part 745 control over state or local law in determining share insurance coverage. Section 745.2(a) currently provides that, to the extent local law enters into a share insurance determination, the law of the jurisdiction in which the insured credit union's principal office is located will govern. This should be understood to mean that where an insured credit union has offices in multiple jurisdictions, the local law of the jurisdiction in which the insured credit union's principal office is located will control over the local law of the other jurisdictions where the insured credit union may have branch offices or service facilities. This is no way effects the supremacy of federal law. Generally, state law is used to determine property interests in an account and may be used to determine the extent of coverage available to particular individuals based on those rights. However, state law will not extend coverage beyond that provided under the Federal Credit Union Act or part 745.

Individual Retirement Accounts (IRAs)

NCUA proposes to specify that Roth IRAs and Education IRAs are included among member accounts eligible for share insurance. These accounts were first made available to consumers on January 1, 1998. Although both are colloquially known as IRA accounts, only the Roth IRA will be treated the same as a traditional IRA for share insurance purposes under § 745.9–2 of NCUA's regulations. Education IRAs, for share insurance purposes, will be treated as irrevocable trust accounts under § 745.9–1 of NCUA's regulations.

Public Unit Accounts

NCUA proposes to liberalize its share insurance coverage for some kinds of public unit accounts. Currently, public funds invested by an official custodian of funds of: (1) the United States; (2) any state of the United States or any county, municipality, or political subdivision thereof; (3) the District of Columbia; (4) specified territories or possessions of the United States and (5) tribal funds of any Indian tribe are generally separately insured up to $100,000. For share insurance purposes, NCUA proposes to distinguish share draft accounts from share certificate and regular share accounts in this context. The result will be to provide insurance coverage up to $100,000 for share draft accounts and up to an additional $100,000 for share certificate and regular share accounts. This more liberal coverage will only be available when an official custodian establishes public unit accounts in an authorized, federally-insured credit union that is located within the jurisdiction from which the custodian's authority is derived. Accounts established outside of that jurisdiction will be limited to the current $100,000 limit without regard to whether the funds are held in share draft accounts or share certificate and regular share accounts.

Guardian Accounts

Currently, funds held in the name of a guardian, custodian or conservator for the benefit of a ward or minor are insured up to $100,000 in the aggregate, separately from any other accounts of the guardian, custodian, conservator, ward or minor. FDIC, however, treats these accounts as agency or nominee accounts and does not provide separate insurance coverage. Rather, FDIC adds the guardian account together with the individual accounts of the beneficiary of the guardian account and insures that aggregate up to $100,000. NCUA proposes to treat these accounts in a manner consistent with FDIC's treatment. This will result in a reduction in insurance coverage.

Appendix to part 745

The Appendix to part 745 provides examples that illustrate the application of share insurance coverage. NCUA proposes to enhance the usefulness of the Appendix by incorporating additional information and examples and putting it into an easy to read question-and-answer format. The Appendix is not expected to answer every share insurance question that could conceivably be asked. Rather, its function is to address and clarify the most common insurance coverage issues in a simple and manageable format. NCUA intends to continue to update the Appendix periodically as circumstances arise necessitating further clarification.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small credit unions, meaning those under $1 million in assets.

The NCUA has determined and certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. The reasons for this determination are that the proposed changes to the share insurance regulations will not increase the premiums paid by credit unions nor will the proposed changes impose any additional requirements on insured credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed amendments do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope." The proposed rule will not have a direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this rule does not constitute a significant regulatory action for purposes of the executive order.

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive, if implemented as proposed. We also encourage comments that address any other share insurance issues we have not discussed here.

List of Subjects in 12 CFR Part 745

Credit unions, Pension plans, Share insurance, Trustee.

By the National Credit Union Administration Board, on November 18, 1999.

Becky Baker,

Secretary of the Board.

For the reasons stated above, it is proposed that 12 CFR part 745 be amended as follows:

PART 745—SHARE INSURANCE AND APPENDIX

1. The authority citation for part 745 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789.

2. Section 745.2(a) is amended by revising the last sentence to read as follows:

§ 745.2 General principles applicable in determining insurance of accounts.

(a)* * * While the provisions of this part govern in determining share insurance coverage, to the extent local law enters into a share insurance determination, the local law of the jurisdiction in which the insured credit union's principal office is located will control over the local law of other jurisdictions where the insured credit union has offices or service facilities.

* * * * *

3. Section 745.3 is amended by revising paragraph (b) to read as follows:

§ 745.3 Single ownership accounts.

* * * * *

(b) Funds held by a guardian, custodian, or conservator for the benefit of a ward or for the benefit of a minor under a Uniform Gifts to Minors Act or Uniform Transfer to Minors Act and deposited in one or more accounts in the name of the guardian, custodian, or conservator will, for purposes of this part, be deemed to be accounts held by agents or nominees and will be insured in accordance with paragraph (a)(2) of this section.

4. Section 745.4 is amended by adding paragraphs (e) and (f) to read as follows:

§ 745.4 Revocable trust accounts.

* * * * *

(e) *Living trusts.* Insurance treatment under this section also applies to revocable trust accounts held in connection with a so-called "living trust," meaning a formal trust which an owner creates and retains control over during his or her lifetime. If a named beneficiary in a living trust is a qualifying beneficiary under this section, then the share account held in connection with the living trust may be eligible for share insurance under this section, assuming compliance with all the provisions of this part. If the living trust includes a defeating contingency that relates to a beneficiary's interest in the trust assets, then insurance coverage under this section will not be provided. For purposes of this section, a defeating contingency is defined as a condition that would prevent the beneficiary from acquiring a vested and non-contingent interest in the funds in the share account upon the owner's death.

(f) *Joint revocable trust accounts.* Where an account described in paragraph (a) of this section is established by more than one owner and held for the benefit of others, some or all of whom are within the qualifying degree of kinship, the respective interests of each owner held for the benefit of each qualifying beneficiary will be separately insured up to $100,000. Those interests will be deemed equal unless otherwise stated in the share account records of the federally-insured credit union. Interests held for non-qualifying beneficiaries will be added to the individual accounts of the owners. Where a husband and a wife establish a revocable trust account naming themselves as the sole beneficiaries, the account will not be insured according to the provisions of this section, but will instead be insured in accordance with the joint account provisions of § 745.8.

5. Section 745.9–1 is amended by adding paragraph (c) to read as follows:

§ 745.9–1 Trust accounts.

* * * * *

(c) This section applies to trust interests created in Education IRAs established in connection with § 530 of the Internal Revenue Code (26 U.S.C. 530).

6. Section 745.9–2(a) is revised to read as follows:

§ 745.9–2 IRA/Keogh accounts.

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under § 401(d) (Keogh account), § 408(a) (IRA) and § 408A (Roth IRA) of the Internal Revenue Code (26 U.S.C. 401(d), 408(a) and 408A) will be insured up to $100,000 separately from other accounts of the participant or designated beneficiary. For insurance purposes, IRA and Roth IRA accounts will be combined together and insured in the aggregate up to $100,000. A Keogh account will be separately insured from an IRA account, Roth IRA account or, where applicable, aggregated IRA and Roth IRA accounts.

* * * * *

7. Section 745.10 is amended by revising paragraphs (a)(1) through (a)(5) and (b), and adding a second sentence to paragraph (c) to read as follows:

§ 745.10 Public unit accounts.

(a) * * *

(1) Each official custodian of funds of the United States lawfully investing the same in a federally-insured credit union will be separately insured in the amount of:

(i) Up to $100,000 in the aggregate for all share draft accounts; and

(ii) Up to $100,000 in the aggregate for all share certificate and regular share accounts;

(2) Each official custodian of funds of any state of the United States or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in the same state will be separately insured in the amount of:

(i) Up to $100,000 in the aggregate for all share draft accounts; and

(ii) Up to $100,000 in the aggregate for all share certificate and regular share accounts;

(3) Each official custodian of funds of the District of Columbia lawfully investing the same in a federally-insured credit union in the District of Columbia will be separately insured in the amount of:

(i) Up to $100,000 in the aggregate for all share draft accounts; and

(ii) Up to $100,000 in the aggregate for all share certificate and regular share accounts;

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Panama Canal Zone, or any territory or possession of the United States, or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively, will be separately insured in the amount of:

(i) Up to $100,000 in the aggregate for all share draft accounts; and

(ii) Up to $100,000 in the aggregate for all share certificate and regular share accounts;

(5) Each official custodian of tribal funds of any Indian tribe (as defined in Section 3(c) of the Indian Financing Act of 1974) or agency thereof lawfully investing the same in a federally-insured credit union will be separately insured in the amount of:

(i) Up to $100,000 in the aggregate for all share draft accounts; and

(ii) Up to $100,000 in the aggregate for all share certificate and regular share accounts;

(b) Each official custodian referred to in paragraphs (a)(2), (3), and (4) of this section lawfully investing such funds in share accounts in a federally-insured credit union outside of their respective jurisdictions shall be separately insured up to $100,000 in the aggregate for all such accounts regardless of whether they are share draft, share certificate or regular share accounts.

(c) * * * Where an officer, agent or employee of a public unit has custody of certain funds which by law or under a bond indenture are required to be set aside to discharge a debt owed to the holders of notes or bonds issued by the public unit, any investment of such funds in an account in a federally-insured credit union will be deemed to be a share account established by a trustee of trust funds of which the noteholders or bondholders are pro rata beneficiaries, and the beneficial interest of each noteholder or bondholder in the share account will be separately insured up to $100,000.

* * * * *

8. The introductory text to the Appendix to part 745 is amended by adding a heading to read as follows:

APPENDIX TO PART 745—EXAMPLES OF INSURANCE COVERAGE AFFORDED ACCOUNTS IN CREDIT UNIONS INSURED BY THE NATIONAL CREDIT UNION INSURANCE FUND

What is the Purpose of This Appendix?

* * * * *

9. Part A of the Appendix to part 745 is amended by revising the heading of Part A, the introductory paragraph and Examples 5 and 6 to read as follows:

A. How are Single Ownership Accounts Insured?

All funds owned by an individual member or, in a community property state, by the husband-wife community of which the individual is a member and invested in one or more individual accounts are added together and insured to the $100,000 maximum. This is true whether the accounts are maintained in the name of the individual member owning the funds, in the name of the member's agent or nominee, or in a custodial loan account on behalf of the member as a borrower (§§ 745.3(a)(1), (2) and (3)). For this purpose, funds held by a guardian, custodian or conservator for the benefit of a ward or minor shall be treated as an agent or nominee account.

* * * * *

Example 5

Question: Member C, a minor, maintains an individual account of $750. C's grandfather makes a gift to him of $100,000, which is invested in another account by C's father, designated on the credit union's records as custodian under a Uniform Gift to Minors Act. C's father, also a member, maintains an individual account of $100,000. What is the insurance coverage?

Answer: C's individual account and the custodial account held for him by his father are added together and insured to the $100,000 maximum, leaving $750 uninsured. The individual account held by C's father is separately insured up to the $100,000 maximum (§§ 745.3(a)(1), (a)(2) and b).

Example 6

Question: Member G, a court-appointed guardian, invests $100,000, which belongs to member W, his ward, in a properly designated custodial account. W and G each maintain $25,000 in individual accounts. What is the insurance coverage?

Answer: W's individual account and the guardianship account in G's name are added together and insured to the $100,000 maximum leaving $25,000 uninsured. G's individual account is separately insured to the $100,000 maximum (§§ 745.3(a)(1), (a)(2) and (b)).

* * * * *

10. Part B of the Appendix to part 745 is amended by revising the heading of Part B and adding Example 4 to read as follows:

B. How are Revocable Trust Accounts Insured?

* * * * *

Example 4

Question: Member H invests $200,000 in a revocable trust account held in connection with a living trust with his son, S, and his daughter, D, as named beneficiaries. What is the insurance coverage?

Answer: Since S and D are children of H, the owner of the account, the funds would normally be insured under the rules governing revocable trust accounts up to $100,000 as to each beneficiary (§ 745.4(b)). However, because this account is held in connection with a living trust whose named beneficiaries are qualifying beneficiaries under § 745.4, it must be scrutinized to determine whether the account complies with all other provisions of this part and whether the living trust contains any defeating contingencies. Assuming there are no defeating contingencies and that the account complies with all other requirements of this part, then it will be treated as any other revocable trust. In this instance, it will be insured up to $100,000 as to each beneficiary (§ 745.4(e)). Assuming that S and D have equal beneficial interests ($100,000 each), H is fully insured for this account.

11. Part C of the Appendix to part 745 is amended by revising the heading of Part C to read as follows:

C. How are Accounts Held by Executors or Administrators Insured?

* * * * *

12. Part D of the Appendix to part 745 is amended by revising the heading of Part D to read as follows:

D. How are Accounts Held by a Corporation, Partnership or Unincorporated Association Insured?

13. Part E of the Appendix to part 745 is amended by revising the heading of

Part E, the first introductory paragraph and Examples 4 through 7 and adding new Example 9 to read as follows:

E. How are Public Unit Accounts Insured?

For insurance purposes, the official custodian of funds belonging to a public unit, rather than the public unit itself, is insured as the account holder. All funds belonging to a public unit and invested by the same custodian in a federally-insured credit union are categorized as either share draft accounts or share certificate and regular share accounts. If these accounts are invested in a federally-insured credit union located in the jurisdiction from which the official custodian derives his authority, then the share draft accounts will be insured separately from the share certificate and regular share accounts. Under this circumstance, all share draft accounts are added together and insured to the $100,000 maximum and all share certificate and regular share accounts are also added together and separately insured up to the $100,000 maximum. If, however, these accounts are invested in a federally-insured credit union located outside of the jurisdiction from which the official custodian derives his authority, then insurance coverage is limited to $100,000 for all accounts regardless of whether they are share draft, share certificate or regular share accounts. If there is more than one official custodian for the same public unit, the funds invested by each custodian are separately insured. If the same person is custodian of funds for more than one public unit, he is separately insured with respect to the funds of each unit held by him in properly designated accounts. The maximum coverage for an official custodian of funds of the United States would be $100,000.

* * * * *

Example 4

Question: A city treasurer invests city funds in each of the following accounts: "General Operating Account," "School Transportation Fund," "Local Maintenance Fund," and "Payroll Fund." Each account is available to the custodian upon demand. By administrative direction, the city treasurer has allocated the funds for the use of and control by separate departments of the city. What is the insurance coverage?

Answer: All of the accounts are added together and insured in the aggregate to $100,000. Because the allocation of the city's funds is not by statute or ordinance for the specific use of and control by separate departments of the city, separate insurance coverage to the maximum of $100,000 is not afforded to each account (§§ 745.1(d) and 745.10(a)(2)).

Example 5

Question: A, the custodian of retirement funds of a military exchange, invests $1,000,000 in an account in an insured credit union. The military exchange, a non-appropriated fund instrumentality of the United States, is deemed to be a public unit. The employees of the exchange are the beneficiaries of the retirement funds but are not members of the credit union. What is the insurance coverage?

Answer: Because A invested the funds on behalf of a public unit, in his capacity as custodian, those funds qualify for $100,000 share insurance even though A and the public unit are not within the credit union's field of membership. Since the beneficiaries are neither public units nor members of the credit union they are not entitled to separate share insurance. Therefore, $900,000 is uninsured (§ 745.10(a)(1)).

Example 6

Question: A is the custodian of the County's employee retirement funds. He deposits $1,000,000 in retirement funds in an account in an insured credit union. The "beneficiaries" of the retirement fund are not themselves public units nor are they within the credit union's field of membership. What is the insurance coverage?

Answer: Because A invested the funds on behalf of a public unit, in his capacity as custodian, those funds qualify for $100,000 share insurance even though A and the public unit are not within the credit union's field of membership. Since the beneficiaries are neither public units nor members of the credit union they are not entitled to separate share insurance. Therefore, $900,000 is uninsured (§ 745.10(a)(2)).

Example 7

Question: A county treasurer establishes the following share draft accounts in an insured credit union each with $100,000:

"General Operating Fund"
"County Roads Department Fund"
"County Water District Fund"
"County Public Improvement District Fund"
"County Emergency Fund"

What is the insurance coverage?

Answer: The "County Roads Department," "County Water District" and "County Public Improvement District" accounts would each be separately insured to $100,000 if the funds in each such account have been allocated by law for the exclusive use of a separate county department or subdivision expressly authorized by State statute. Funds in the "General Operating" and "Emergency Fund" accounts would be added together and insured in the aggregate to $100,000, if such funds are for countywide use and not for the exclusive use of any subdivision or principal department of the county, expressly authorized by State statute (§§ 745.1(d) and 745.10(a)(2)).

* * * * *

Example 9

Question: A, an official custodian of funds of a state of the United States, lawfully invests $250,000 of state funds in a federally-insured credit union located in the state from which he derives his authority as an official custodian. What is the insurance coverage?

Answer: If A invested the entire $250,000 in a share draft account, then $100,000 would be insured and $150,000 would be uninsured. If A invested $125,000 in share draft accounts and another $125,000 in share certificate and regular share accounts, then A would be insured for $100,000 for the share draft accounts and $100,000 for the share certificate and regular share accounts leaving $50,000 uninsured (§ 745.10(a)(2)). If A had invested the $250,000 in a federally-insured credit union located outside the state from which he derives his authority as an official custodian, then $100,000 would be insured for all accounts regardless of whether they were share draft, share certificate or regular share accounts, leaving $150,000 uninsured (§ 745.10(b)).

14. Part F of the Appendix to part 745 is amended by revising the heading of Part F to read as follows:

F. How are Joint Accounts Insured?

* * * * *

15. Part G of the Appendix to part 745 is amended by revising the heading of Part G and the second sentence of the seventh introductory paragraph to read as follows:

G. How are Trust Accounts and Retirement Accounts Insured?

* * * Although credit unions may serve as trustees or custodians for self-directed IRA, Roth IRA and Keogh accounts, once the funds in those accounts are taken out of the credit union, they are no longer insured.

* * * * *

[FR Doc. 99–30694 Filed 11–29–99; 8:45 am]
BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–108–AD]
RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 and MD–11 Series Airplanes, and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–10 and MD–11 series airplanes, and KC–10A (military) airplanes. This proposal would require installation of thrust reverser interlocks on certain airplanes, inspections of the thrust reverser systems to detect discrepancies on certain other airplanes, and corrective actions, if necessary. This proposal is prompted by a determination that the current thrust reverser systems do not adequately preclude unwanted deployment of a thrust reverser. The actions specified by the proposed AD are intended to prevent unwanted deployment of a thrust reverser, which

could result in reduced controllability of the airplane.

DATES: Comments must be received by January 14, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–108–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5245; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NM–108–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–108–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Boeing recently completed an update of the System Safety Analysis (SSA) for McDonnell Douglas Model DC–10 and MD–11 series airplanes. This SSA identified a number of latent (hidden) failures that could contribute to unwanted deployment of a thrust reverser in flight. Based on this SAA, the FAA has determined that the thrust reverser systems on all McDonnell Douglas Model DC–10 and MD–11 series airplanes, and KC–10A (military) airplanes, do not adequately preclude unwanted deployment of a thrust reverser. This condition, if not corrected, could result in unwanted deployment of a thrust reverser, which could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979, which describes procedures for installation of thrust reverser interlocks on certain Model DC–10–10, –30, and –40 series airplanes. This installation includes installing two relays on the forward relay panel and revising associated wiring.

The FAA also has reviewed and approved McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 2, dated February 18, 1999. This service bulletin describes procedures for repetitive detailed visual inspections, functional checks, and torque checks of the thrust reverser systems and the thrust reverser interlocks of certain Model DC–10 series airplanes and KC–10A (military) airplanes powered by General Electric engines. These inspections and checks are intended to detect discrepancies [i.e., below minimum torque required to overcome the pneumatic drive motor (PDM) disc brake; cuts, tears, or missing sections of the translating cowl seals; dents, cracks, holes, or loose fasteners on the Dagmar fairing or aft frame; improper alignment of the feedback rod; hidden faults in the translating cowl auto re-stow system; a failed over pressure shutoff valve (OPSOV); and improper operation of the fan reverser actuation system].

McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 2, dated February 18, 1999, references Middle River Aircraft Systems (MRAS) Service Bulletins (S/B) 78–3001, Revision 2, dated December 18, 1997, and S/B 78–2004, Revision 1, dated December 18, 1997, as additional sources of service information for accomplishment of the inspections and corrective actions. The corrective actions include replacement of the discrepant parts or deactivation of the thrust reversers.

The FAA also has reviewed and approved McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 1, dated February 18, 1999. This service bulletin describes procedures for repetitive detailed visual inspections, functional checks, and torque checks of the thrust reverser systems on certain Model DC–10–40 series airplanes powered by Pratt & Whitney engines. These inspections and checks are intended to detect discrepancies (i.e., damaged or improperly functioning stow latch hooks; cuts, gouges, or holes in the pneumatic seal/bullnose seal; improper functioning of the pneumatic drive unit (PDU) position locking retention feature; improper installation or improper operation of the system wiring, switches, or indicator lights; damage to the fan reverser flexshafts, actuators, or translating sleeve tracks or sliders; improper function of the in-flight interlock system; and improper operation of the thrust reverser power source, translating sleeve, throttle interlocks, or cockpit indicators). The alert service bulletin specifies that corrective actions for discrepancies found during these actions are to be accomplished in accordance with normal maintenance practices.

The FAA also has reviewed and approved McDonnell Douglas MD–11 Certification Maintenance Requirements (CMR), Revision P, dated April 5, 1999, which, among other things, describes procedures for repetitive inspections and tests for all MD–11 thrust reverser systems. The procedures include inspection of the cone brake within the Center Drive Unit (CDU) to detect slipping or a failed CDU brake; and functional tests of the two position microswitches on the CDU and their associated wiring to detect failed open

switches or open wire runs. These procedures also include inspection of the aerodynamic seal between the reverser translating sleeves and the main reverser structure to detect damage to the aerodynamic seal or its interface surface on the reverser structure; and functional tests of the thrust reverser In-Flight Lockout System (IFLS) to detect failure of the flight control computer (FCC), radio altimeter input to the FCC, main landing gear wheel speed input to the FCC, ground sensing system, or wiring that causes an on-ground status in the IFLS while the aircraft is airborne. These procedures also include inspections to detect failed open pressure switches on the hydraulic control unit, failed stow position microswitches, or failed locking mechanisms. In addition, the procedures include testing of the thrust reverser pressurization system to detect an uncommanded pressurized thrust reverser system and/or a failed thrust reverser pressure switch, as applicable. Corrective actions for discrepancies found during these actions are to be accomplished in accordance with normal maintenance practices.

The FAA also has reviewed and approved MRAS Alert Service Bulletin CF6–80C2D1F SB 78A1082, dated August 25, 1999. This service bulletin describes procedures for a pressure differential inspection of the directional pilot valves (DPV) on the thrust reverser systems to detect a partially open solenoid or failed O-ring, and corrective actions, if necessary. The corrective actions include replacement of a discrepant DPV with a DPV that has been inspected, or deactivation of the thrust reverser. In lieu of accomplishing the inspection, this service bulletin also describes procedures for replacement of a DPV with a DPV that has been inspected.

The FAA also has reviewed and approved documents which describe corrective actions for the discrepancies specified above, as applicable:

- Chapter 78 of McDonnell Douglas DC–10 Aircraft Maintenance Manual (AMM);
- Chapter 78 of McDonnell Douglas DC–10 Turn Around Fault Isolation Manual (TAFIM);
- Chapter 78 of General Electric Shop Manual;
- MRAS Service Bulletin 78–2004, Revision 1, dated December 18, 1997;
- MRAS Service Bulletin 78–3001 Revision 2, dated December 18, 1997;
- McDonnell Douglas Alert Service Bulletin DC10–78A056, dated January 1, 1998, Revision 1, dated June 4, 1998, or Revision 2, dated February 18, 1999;
- McDonnell Douglas Alert Service Bulletin DC10–78A057, dated November 30, 1998, or Revision 1, dated February 18, 1999;
- Chapters 71 and 78 of McDonnell Douglas MD–11 Aircraft Maintenance Manual; and
- Chapter 78 of McDonnell Douglas MD–11 Fault Isolation Manual (FIM).

Accomplishment of the actions specified in the service bulletins, CMR, and Master Minimum Equipment Lists (MMEL) is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service information described previously, except as discussed below.

Differences Between the Proposed Rule and the Relevant Service Information

Operators should note that, although McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979, recommends accomplishing the modification at the "operator's convenience", the FAA has determined that this would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modification (less than 10 hours). In light of all of these factors, the FAA finds a compliance time of within 1,500 flight hours or 6 months after the effective date of this AD, whichever occurs first, for initiating the proposed actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Additionally, operators should note that the applicability of paragraphs (b) and (c) of the proposed AD differs from the effectivity listing specified in McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979. Some of the airplanes that are listed in McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979, have been removed from service. Therefore, those airplanes are not included in the applicability of paragraphs (b) and (c) of the proposed AD.

Interim Action

For all Model DC–10 series airplanes, this is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

There are approximately 259 Model DC–10–10, -30, and -40 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet that are listed in McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979. The FAA estimates that 135 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed actions related to this service bulletin, and that the average labor rate is $60 per work hour. The required parts would be obtained from the operator's stock. Based on these figures, the cost impact of this portion of the proposed AD on U.S. operators is estimated to be $81,000, or $600 per airplane.

There are approximately 359 Model DC–10–10, -15, -30, and -40 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet that are listed in McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 2, dated February 18, 1999. The FAA estimates that 187 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions related to this service bulletin, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the proposed AD on U.S. operators is estimated to be $56,100, or $300 per airplane, per inspection cycle.

There are approximately 41 Model DC–10–40 series airplanes of the affected design in the worldwide fleet that are listed in McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 1, dated February 18, 1999. The FAA estimates that 22 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 31 work hours per airplane to accomplish the proposed actions related to this service bulletin, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the proposed AD on U.S. operators is

estimated to be $40,920, or $1,860 per airplane, per inspection cycle.

There are approximately 165 Model MD–11 airplanes of the affected design in the worldwide fleet that are equipped with General Electric engines. The FAA estimates that 86 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the proposed AD on U.S. operators is estimated to be $30,960, or $360 per airplane, per inspection cycle.

There are approximately 19 Model MD–11 airplanes of the affected design in the worldwide fleet that are equipped with Pratt & Whitney engines. The FAA estimates that 5 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 31 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this portion of the proposed AD on U.S. operators is estimated to be $9,300, or $1,860 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 99–NM–108–AD.

Applicability: All Model DC–10 series airplanes, MD–11 series airplanes, and KC–10A (military) airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (j) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent unwanted deployment of the thrust reverser, which could result in reduced controllability of the airplane, accomplish the following:

Modification of Certain Model DC–10 Series Airplanes

(a) For Model DC–10–10, –30, and –40 series airplanes listed in McDonnell Douglas DC–10 Service Bulletin 78–40, Revision 1, dated July 24, 1979: Within 1,500 flight hours or 6 months after the effective date of this AD, whichever occurs first, install a thrust reverser interlock (in-flight lockout) by installing two relays on the forward relay panel and revising the associated wiring, in accordance with the service bulletin. The requirements of this paragraph must be accomplished prior to or in conjunction with the requirements of paragraph (b) or (c) of this AD, as applicable.

Inspection of Model DC–10 Airplanes Powered by General Electric Engines

(b) For DC–10–10, –15, –30, and –40 series airplanes listed in McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 2, dated February 18, 1999: Within 1,500 flight hours or 6 months after the effective date of this AD, whichever occurs first, perform a detailed visual inspection, functional check, and torque checks of the thrust reverser system and the thrust reverser interlocks to detect discrepancies [i.e., below minimum torque required to overcome the pneumatic drive motor (PDM) disc brake; cuts, tears, or missing sections of the translating cowl seals; dents, cracks, holes, or loose fasteners on the Dagmar fairing or aft frame; improper alignment of the feedback rod; hidden faults in the translating cowl auto re-stow system; a failed over pressure shutoff valve (OPSOV); and improper operation of the fan reverser actuation system], in accordance with the service bulletin. Repeat the inspections at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs first.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: Inspection of the thrust reverser system accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin DC10–78A056, dated January 19, 1998, or Revision 1, dated June 4, 1998, is considered acceptable for compliance with the initial inspections required by paragraph (b) of this AD.

Note 4: McDonnell Douglas Alert Service Bulletin DC10–78A056, Revision 2, dated February 18, 1999, references Middle River Aircraft Systems (MRAS) Service Bulletin (S/B) 78–3001, Revision 2, dated December 18, 1997, and MRAS S/B 78–2004, Revision 1, dated December 18, 1997, as additional sources of service information for accomplishment of the inspections and corrective actions.

Inspection of Model DC–10–40 Series Airplanes Powered by Pratt & Whitney Engines

(c) For Model DC–10–40 series airplanes listed in McDonnell Douglas Alert Service Bulletin DC10–78A057, Revision 01, dated February 18, 1999: Within 1,500 flight hours or 6 months after the effective date of this AD, whichever occurs first, perform a detailed visual inspection, functional check, and torque checks of the thrust reverser system to detect discrepancies [i.e. damaged or improperly functioning stow latch hooks; cuts, gouges, and holes in the pneumatic seal/bullnose seal; improper functioning of the PDU position locking retention feature; improper installation or improper operation of the system wiring, switches, or indicator lights; damage to the fan reverser flexshafts,

actuators, translating sleeve tracks, or sliders; improper function of the in-flight interlock system; and improper operation of the thrust reverser power source, translating sleeve, throttle interlocks, or cockpit indicators], in accordance with the service bulletin. Repeat the inspections thereafter at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs first.

Note 5: Inspection of the thrust reverser system in accordance with McDonnell Douglas Alert Service Bulletin DC10–78A057, dated November 30, 1998, accomplished prior to the effective date of this AD, is considered acceptable for initial compliance with the applicable action specified in paragraph (c) of this AD.

Inspection of Model MD–11 Series Airplanes Powered by General Electric Engines

(d) For Model MD–11 series airplanes equipped with General Electric engines: Perform a detailed visual inspection and functional check of the two position microswitches on the Center Drive Unit (CDU) and their associated wiring to detect failed open switches or open wire runs, and the aerodynamic seal between the reverser translating sleeves and the main reverser structure to detect damage to the aerodynamic seal or its interface surface on the reverser structure; and perform an inspection to determine the torque value of the cone brake within the CDU to detect slipping or a failed CDU brake. These inspections and functional check shall be done in accordance with pages 17 and 18 of the McDonnell Douglas MD–11 Certification Maintenance Requirements (CMR), Revision P, dated April 5, 1999; at the times specified in paragraph (d)(1) or (d)(2) of this AD, as applicable.

(1) For airplanes on which the modification (i.e., translating cowl double P-seal configuration) specified in Lockheed Martin/Middle River Aircraft Systems (MRAS) Service Bulletin 78A1005, dated March 29, 1995; Revision 1, dated June 6, 1996; Revision 2, dated October 18, 1996; Revision 3, dated August 18, 1997; or Revision 4, dated December 21, 1998; has been accomplished: Inspect within 7,000 flight hours after the effective date of this AD. Repeat the inspections thereafter at intervals not to exceed 7,000 flight hours.

(2) For airplanes on which the modification (i.e., translating cowl double P-seal configuration) specified in MRAS Service Bulletin 78A1005, dated March 29, 1995; Revision 1, dated June 6, 1996; Revision 2, dated October 18, 1996; Revision 3, dated August 18, 1997; or Revision 4, dated December 21, 1998; has not been accomplished: Inspect within 2,000 flight hours after the effective date of this AD. Repeat the inspections thereafter at intervals not to exceed 2,000 flight hours.

(e) For Model MD–11 series airplanes equipped with General Electric engines, without an Electronic Control Unit (ECU), part number 1519M91P06, installed: Within 2,000 flight hours after the effective date of this AD, test the thrust reverser pressurization system to detect an uncommanded pressurized thrust reverser system and/or a failed thrust reverser pressure switch, as applicable, in accordance with pages 52 and 53 of the McDonnell Douglas MD–11 CMR, Revision P, dated April 5, 1999. Repeat the inspections thereafter at intervals not to exceed 2,000 flight hours.

(f) For Model MD–11 series airplanes equipped with General Electric engines: Within 7,000 flight hours after the effective date of this AD, inspect the thrust reverser In-Flight Lockout System (IFLS) to detect failure of the flight control computer (FCC), radio altimeter input to the FCC, main landing gear wheel speed input to the FCC, ground sensing system, or wiring that causes an on-ground status in the IFLS while the aircraft is airborne, in accordance with page 54 of the McDonnell Douglas MD–11 Certification Maintenance Requirements (CMR), Revision P, dated April 5, 1999. Repeat the inspections thereafter at intervals not to exceed 7,000 flight hours.

(g) For Model MD–11 series airplanes equipped with General Electric engines: Within 600 flight hours after the effective date of this AD, accomplish the actions specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD in accordance with MRAS Alert Service Bulletin CF6–80C2D1F SB 78A1082, dated August 25, 1999.

(1) Perform a pressure differential inspection of the directional pilot valves (DPV) to detect a partially open solenoid or failed O-ring. If any partially open solenoid or failed O-ring is detected, prior to further flight, replace the discrepant DPV with a DPV that has been inspected in accordance with this paragraph. Repeat the inspection thereafter at intervals not to exceed 2,000 flight hours. Or

(2) Replace the DPV with a DPV that has been inspected in accordance with paragraph (g)(1) of this AD. Repeat the replacement thereafter at intervals not to exceed 2,000 flight hours. Or

(3) Deactivate the thrust reverser in accordance with the MD–11 Master Minimum Equipment List, and reactivate the thrust only after accomplishing the actions specified in paragraph (g)(1) or (g)(2) of this AD.

Inspection of Model MD–11 Series Airplanes Powered by Pratt & Whitney Engines

(h) For MD–11 series airplanes equipped with Pratt & Whitney engines: Within 7,000 flight hours after the effective date of this AD, perform a detailed visual inspection and functional checks, as applicable, of the thrust reverser system and the thrust reverser In-Flight Lockout System to detect failed open pressure switches on the hydraulic control unit, to detect failed stow position microswitches, or failed locking mechanisms; and failure of the FCC, radio altimeter input to the FCC, main landing gear wheel speed input to the FCC, ground sensing system, or wiring that causes an on-ground status in the IFLS while the aircraft is airborne, in accordance with pages 19, 20, and 54 of the McDonnell Douglas MD–11 Certification Maintenance Requirements CMR, Revision P, dated April 5, 1999. Repeat the inspections thereafter at intervals not to exceed 7,000 flight hours.

Corrective Actions

(i) If any discrepancy is detected during any inspection required by this AD, prior to further flight, accomplish the actions specified in either paragraph (i)(1) or (i)(2) of this AD.

(1) Perform applicable corrective action in accordance with the following service documents:

- Chapter 78 of McDonnell Douglas DC–10 Aircraft Maintenance Manual;
- Chapter 78 of McDonnell Douglas DC–10 Turn Around Fault Isolation Manual; Chapter 78 of General Electric Shop Manual;
- MRAS Service Bulletin 78–2004, Revision 1, dated December 18, 1997;
- MRAS Service Bulletin 78–3001 Revision 2, dated December 18, 1997;
- McDonnell Douglas Alert Service Bulletin DC10–78A056, dated January 1, 1998, Revision 1, dated June 4, 1998, or Revision 2, dated February 18, 1999;
- McDonnell Douglas Alert Service Bulletin DC10–78A057, dated November 30, 1998, or Revision 1, dated February 18, 1999;
- Chapters 71 and 78 of McDonnell Douglas MD–11 Aircraft Maintenance Manual;
- Chapter 78 of McDonnell Douglas MD–11 Fault Isolation Manual; or
- A method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) Deactivate the thrust reverser in accordance with the DC–10 Master Minimum Equipment List or the MD–11 Master Minimum Equipment List, as applicable.

Alternative Methods of Compliance

(j) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(k) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 23, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–31072 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Ch. VII

[Docket No. 991122312–9312–01]

RIN 0694–XX12

Effects of Foreign Policy-Based Export Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Request for comments on foreign policy-based export controls.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the foreign policy-based export controls in the Export Administration Regulations to determine whether they should be modified, rescinded or extended. To help make these determinations, BXA is seeking comments on how existing foreign policy-based export controls have affected exporters and the general public.

Under the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), foreign policy controls expire one year after imposition unless they are extended. The EAA requires a report to Congress whenever foreign policy-based export controls are extended. Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101, August 13, 1999). The Department of Commerce, insofar as appropriate, is following the provisions of section 6 in reviewing foreign policy-based export controls and requesting comments on such controls. Foreign Policy controls need to be extended in January 2000.

DATES: Comments must be received by December 30, 1999.

ADDRESSES: Written comments (three copies) should be sent to Frank Ruggiero, Regulatory Policy Division (Room 2096), Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4196. Copies of the current Annual Foreign Policy Report to the Congress are available at our website: www.bxa.doc.gov and copies may also be requested by calling the Office of Strategic Trade.

SUPPLEMENTARY INFORMATION: The current foreign policy controls maintained by the Bureau of Export Administration (BXA) are set forth in the Export Administration Regulations (EAR), parts 742 (CCL Based Controls), 744 (End-User and End-Use Based Controls) and 746 (Embargoes and Special Country Controls). These controls apply to: high performance computers (§ 742.12); significant items (SI): hot section technology for the development, production, or overhaul of commercial aircraft engines, components, and systems (§ 742.14); encryption items (§ 742.15 and § 744.9); crime control and detection commodities (§ 742.7); specially designed implements of torture (§ 742.11); regional stability commodities and equipment (§ 742.6); equipment and related technical data used in the design, development, production, or use of missiles (§ 742.5 and § 744.3); chemical precursors and biological agents, associated equipment, technical data, and software related to the production of chemical and biological agents (§ 742.2 and § 744.4); activities of U.S. persons in transactions related to missile technology or chemical or biological weapons proliferation in named countries (§ 744.6); nuclear propulsion (§ 744.5); aircraft and vessels (§ 744.7); embargoed countries (part 746); countries designated as supporters of acts of international terrorism (§§ 742.8, 742.9, 742.10, 746.2, 746.3, 746.5, and 746.7); and, Libya (§§ 744.8 and 746.4). Attention is also given in this context to the controls on nuclear-related commodities and technology (§ 744.2 and § 744.2), which are, in part, implemented under section 309(c) of the Nuclear Non Proliferation Act.

In January 1999, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy controls then in effect.

To assure maximum public participation in the review process, comments are solicited on the extension or revision of the existing foreign policy controls for another year. Among the criteria considered in determining whether to continue or revise U.S. foreign policy controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;
2. Whether the foreign policy purpose of such controls can be achieved through negotiations or other alternative means;
3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;
4. The reaction of other countries to the extension of such controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or be counterproductive to United States foreign policy interests;
5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and
6. The ability of the United States to enforce the controls effectively.

BXA is particularly interested in the experience of individual exporters in complying with the proliferation controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. BXA is also interested in industry information relating to the following:

1. Information on the effect of foreign policy controls on sales of U.S. products to third countries (*i.e.*, those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy controls.
2. Information on controls maintained by U.S. trade partners (*i.e.*, to what extent do they have similar controls on goods and technology on a worldwide basis or to specific destinations)?
3. Information on licensing policies or practices by our foreign trade partners which are similar to U.S. foreign policy controls, including license review criteria, use of conditions, requirements for pre and post shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).
4. Suggestions for revisions to foreign policy controls that would (if there are any differences) bring them more into line with multilateral practice.
5. Comments or suggestions as to actions that would make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy controls on the trade or acquisitions by intended targets of the controls.

7. Data or other information as to the effect of foreign policy controls on overall trade, either for individual firms or for individual industrial sectors.

8. Suggestions as to how to measure the effect of foreign policy controls on trade.

9. Information on the use of foreign policy controls on targeted countries, entities, or individuals.

BXA is also interested in comments relating generally to the extension or revision of existing foreign policy controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BXA in reviewing the controls and developing the report to Congress.

All information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, BXA requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Freedom of Information Records Inspection Facility, Room 6883, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about inspection and copying of records at this facility may be obtained from the BXA Freedom of Information Officer at the above address or by calling (202) 482–0500.

Dated: November 23, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99–31061 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 10

[Docket No. 99N–2497]

Citizen Petitions; Actions That Can be Requested by Petition; Denials, Withdrawals, and Referrals for Other Administrative Action

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations pertaining to citizen petitions. The proposal would cover citizen petition requests to issue, amend, or revoke a regulation; requests to amend or revoke an order that FDA has issued or published; or any other action specifically authorized by another FDA regulation. The document further clarifies that persons who wish to contact the agency on matters outside these three types of actions would still be able to do so through informal means, such as letters and telephone calls. In addition the proposal would also revise certain content requirements for citizen petitions and would permit FDA to refer petitions for other administrative action, seek clarification of a petitioner's requests, withdraw certain petitions, and combine petitions. These changes are intended to improve the citizen petition mechanism.

DATES: Submit written comments by February 28, 2000. Submit written comments on the information collection provisions by December 30, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the information collection provisions to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, ATTN: Wendy Taylor, Desk Officer for FDA

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION:

I. Introduction

There are several mechanisms which can be used to contact FDA on a particular matter or issue. These mechanisms can be informal, such as calling the agency, sending a fax or electronic mail, writing a letter (see § 10.65(a) (21 CFR 10.65(a))), or requesting a meeting (see, e.g., § 10.65(b) and (c)). They may also be more formal, such as requesting a public hearing (see, e.g., 21 CFR 12.20) or submitting a citizen petition (see § 10.30 (21 CFR 10.30)).

Many persons use citizen petitions under § 10.30 to contact FDA on a diverse range of issues. The issues can be very specific, such as detailed scientific concerns about a particular product's safety or bioequivalence, but occasionally pertain to matters outside FDA's jurisdiction or to matters that would require legislative, rather than regulatory, relief. This results in a large number of citizen petitions filed at FDA. As of April 1999, several hundred citizen petitions have been filed and remain pending.

In many instances, it is readily apparent that citizen petitions may not be the best or most efficient mechanism for addressing the underlying subject or issue. For example, FDA often receives petitions requesting prompt or immediate action, yet each petition, after being filed and assigned to the appropriate office or center, must compete against other agency priorities, including other citizen petitions filed earlier. In contrast, a telephone call, letter, or a request for a meeting, while lacking the formal processing associated with citizen petitions, is usually an easier, faster, and more efficient way to discuss the same issue with the agency.

Reviewing and responding to these petitions can also be, and often is, a resource-intensive and time-consuming task because FDA must research the petition's subject, examine scientific, medical, legal, and sometimes economic issues, and coordinate internal agency review and clearance of the petition response. In many instances, FDA must issue a tentative response stating that the agency is unable to reach a decision on the petition within the 180-day response period established in FDA's regulations.

Questions have also arisen whether a citizen petition can be used for improper purposes, such as delaying competition (see, e.g., Noah, L., "Sham Petitioning as a Threat to the Integrity of the Regulatory Process," 74 N. *Carolina L. Rev.* 1 (1995) (also noting that the Federal Trade Commission, in 1993, had concerns that petitions were being submitted to FDA for anticompetitive reasons)) or delaying agency action. Some petitioners have submitted multiple citizen petitions concerning the same subject or product

with each petition containing one or few requests, while others have submitted several citizen petitions on the same subject or product over an extended time period. These petitions drain FDA resources both repeatedly and inefficiently because they commit FDA to multiple reviews and responses rather than having FDA consider and respond to all issues at one time.

Recently, the Office of the Inspector General (OIG) in the Department of Health and Human Services reviewed FDA's citizen petitions process to assess the agency's effectiveness in handling citizen petitions and to identify ways that the process can be improved. The OIG noted that FDA had examined various options for reducing the citizen petition backlog and suggested that those options be thoroughly discussed within the agency and "implemented where practical."

This proposed rule contains several of those options and is intended to facilitate and to improve interactions between FDA and interested persons. The proposed rule would clarify the types of requests that may be the subject of a citizen petition and increase FDA's flexibility in responding to or taking action in response to a citizen petition.

FDA emphasizes that the proposed rule is not intended to and does not reduce or curtail access to or discussions with the agency. For example, FDA's regulations provide for meetings and correspondence (see, e.g., § 10.65), and other FDA regulations provide for meetings under certain situations (see, e.g., 21 CFR 314.102 (communication between FDA and persons who have submitted new drug application or abbreviated new drug application (ANDA))). Informal avenues of communication, such as telephone calls, faxes, and electronic mail, also exist. These avenues of communication can be faster and more efficient methods for discussing issues or addressing concerns than citizen petitions.

In addition to this rule, FDA has taken, or is exploring, various administrative approaches to reduce its citizen petition backlog and improve its handling of citizen petitions. These actions have included contacting petitioners whose requests are of long standing to determine whether they still want FDA to take action on their petitions and revising delegations of authority so that certain FDA centers may issue a greater range of petition responses. FDA is also considering options for improving managerial and oversight responsibility for citizen petitions to ensure that the citizen petition process is efficient and effective.

II. Description of the Proposed Rule

Under FDA's existing regulations, any person may submit a citizen petition to the agency requesting that the Commissioner of Food and Drugs (the Commissioner): (1) Issue, amend, or revoke a regulation; (2) issue, amend, or revoke an order; or (3) take or refrain from taking any other form of administrative action (§ 10.30(a) and (b)). The regulations also direct the agency to issue a response to a citizen petition within 180 days after receiving a petition (§ 10.30(e)(2)). (For petitions requesting permission to submit an ANDA for certain drugs, the response period is 90 days (see § 10.30(e)(4)).) The response can either approve the petition, deny the petition, or provide a tentative response, indicating why the agency has been unable to reach a decision on the petition (§ 10.30(e)(2)).

A. Proposed § 10.30(b)

1. Actions That May be Requested in a Citizen Petition

The proposed rule would amend the citizen petition requirements at § 10.30(b) and its description of the actions that may be requested in a citizen petition. Under the proposal, a citizen petition could request that the agency: (1) Issue, amend, or revoke a regulation; (2) amend or revoke an order that the agency has issued or published; or (3) take an action as specifically authorized by another FDA regulation.

The proposal would not alter a person's ability to petition the agency for the issuance, amendment, or revocation of a regulation. The Administrative Procedure Act (5 U.S.C. 553(e)) expressly provides for such petitions, and the proposal would preserve a person's ability to petition for rulemaking.

The proposal would, however, require that the requested regulation pertain to a subject that is appropriately and ordinarily addressed by regulation rather than other administrative action. For example, a petition that sought to amend the format and content requirements for an ANDA may be within the proposed rule because the requested change would be applicable to all ANDA's. However, a petition that sought a regulation directly or indirectly prohibiting the approval of a particular generic drug product, declaring a particular generic product to be unsafe, ineffective, or not bioequivalent, or prohibiting a class of generic drug products would, in most cases, not fall within the proposed rule because FDA generally does not issue regulations to prohibit the approval of individual generic drug products.

FDA considered, but did not include in this proposed rule, a requirement that petitioners show why the requested rulemaking or action is within FDA's legal authority. The existing regulations require a petitioner to provide the factual and legal grounds on which the petitioner relies, but despite this requirement, the agency sometimes receives petitions requesting actions that are beyond FDA's legal authority or actions that are a matter of State law. For example, a petition requesting that FDA, under its existing statutory authority for drug products, regulate a particular class of drugs products would be appropriate, whereas a petition requesting that FDA require firms to observe certain employment practices (a matter that is generally not within FDA's legal authority) would not. Consequently, the agency contemplated various ways to have would-be petitioners request only those actions that fall under FDA's authority, but without requiring petitioners to provide a detailed or exhaustive legal analysis or to retain legal services to draft arguments on FDA's legal authority. The agency invites comments on how a rule might ask petitioners to ensure that their requested actions are within FDA's legal authority without making those petitioners do a detailed or exhaustive legal analysis.

For citizen petitions concerning agency orders, the proposal would amend § 10.30(b) to limit citizen petitions to requests that FDA amend or revoke an order that FDA has issued. In other words, a citizen petition could not be used to request that FDA amend pending FDA orders or issue future FDA orders. This change will enable FDA to focus its resources on addressing substantive issues or controversies, rather than devote resources to speculating about future orders or to addressing subjects which may not be an agency priority or present any significant public health issues.

The proposal would also require the citizen petition to be based on more than unsupported claims, allegations, or general descriptions of positions or arguments. Although the existing regulation requires petitioners to provide a full statement of the factual grounds on which the petitioner relies, some petitions contain little or no evidence or support or rely on obsolete, irrelevant, or erroneous information. Thus, the proposal would deter the submission of frivolous or unsupported petitions and petitions which simply disagree with an agency decision regardless of the scientific evidence or legal authority supporting that decision, the importance of the public health

policies supporting that decision, or the petitioner's lack of sound scientific evidence or legal authority to support its request.

FDA is aware that the proposed change would remove a person's ability to petition FDA to issue an order or to affect a pending order and that some may object to this proposed change on the ground that persons should be able to present arguments and evidence to FDA before it makes a decision. Again, the agency emphasizes that the proposal does not prevent a person from contacting FDA nor does it curtail access to the agency. Persons who desire to present information to FDA would be able to do so through letters, electronic mail, meetings, discussions, and other avenues of communication. If FDA receives important information before it makes a decision, it will make appropriate use of that information. For example, if a person submitted information to FDA to argue that a particular test should be conducted before FDA approves a specific product, the agency may consider that information during its review of the product's application and consult the applicant and others on the issue. The fact that the information may not have been submitted in a citizen petition does not make the information any less persuasive or mean that it will receive less attention from FDA. In short, the citizen petition mechanism is not the sole mechanism for contacting FDA, especially with respect to persons who wish to provide information to FDA before the agency decides on or takes a specific course of action.

The proposal would also change the third category of citizen petitions — petitions requesting that the Commissioner "take or refrain from taking any other form of administrative action"–to petitions requesting that the Commissioner take an action "as specifically provided by regulation" and would require the petitioner to cite the regulation at issue. The reference to actions "specifically provided by regulation" is intended to reflect over 20 FDA regulations which expressly provide for or instruct interested persons to submit citizen petitions in order to achieve a particular result. For example, under 21 CFR 60.30(b), a person may file a citizen petition if that person wishes to challenge the regulatory review period determination for a particular product which is being considered for patent term extension. FDA's regulations permit persons to submit a citizen petition if they seek an exemption from the pregnancy nursing warning (21 CFR 201.63(d)). Under 21 CFR 861.38(b)(2), an interested person may petition to establish, amend, or revoke a performance standard. The proposed rule would continue to allow petitions under these and other FDA regulations that expressly refer to the citizen petitions process, but the proposal would no longer provide an unqualified ability to use the citizen petition process for "any other form of administrative action."

FDA reiterates that persons who wish to contact FDA on matters outside the three types of actions described in proposed § 10.30(b) would still be able to do so through other means, such as correspondence, electronic mail, telephone calls, etc., and FDA will respond to such correspondence and other communications promptly. The agency is simply reorganizing its citizen petition mechanism to make it more focused and responsive.

2. Certification Statement for Citizen Petitions

Currently, § 10.30(b) requires a petitioner to certify, to its best knowledge and belief, that the petition includes all information and views on which the petitioner relies and includes "representative data and information known to the petitioner which are unfavorable to the petition." To complement the other proposed changes to § 10.30(b), FDA is proposing to revise the certification statement. The proposed revision would have petitioners certify that, to the petitioner's best knowledge and belief, its citizen petition "includes all information and views on which the petition relies, that it is well grounded in fact and is warranted by existing laws or regulations, that it is not submitted for any improper purpose, such as to harass or to cause unnecessary delay, and that it includes representative data and information known to the petitioner which are unfavorable to the petition."

B. Proposed § 10.30(e)(2)(ii)—Denial of Citizen Petitions

To facilitate responses to citizen petitions and to promote more efficient use of agency resources, the proposed rule would amend § 10.30(e)(2)(ii) to state that FDA's denial of a citizen petition may be "brief, as appropriate." This is intended to conserve FDA's resources by eliminating the need to conduct exhaustive or comprehensive analyses and responses to requests or issues that the agency has already decided earlier in a different administrative proceeding or action and to give FDA the flexibility to act quickly on petitions where detailed responses are unnecessary. For example, under the proposal, if the citizen petition asked the agency to amend a regulation in a particular way, and FDA considered and rejected the same comment or a similar comment when the agency was drafting the final regulation, and the citizen petition contained no new evidence warranting a change in FDA's earlier decision, the agency's denial letter might simply state that the agency considered the same matter during the rulemaking and that the petition did not provide any new information that would change FDA's earlier decision.

Other examples of where a brief response denying a petitioner's request may be appropriate include, but are not limited to:

1. A citizen petition that makes a request that is outside FDA's legal authority or is based on unsupported claims or allegations. This would complement the changes in proposed § 10.30(b).

2. A citizen petition that is substantially similar or identical, in terms of its requests or issues, to an earlier administrative proceeding or action, and the citizen petition has not identified any significant change in evidence, laws, or regulations that affect the previous administrative proceeding or action. For example, in the past, some petitioners have submitted the same or similar petitions after receiving an unfavorable response. In these situations, when there has been no change in evidence, laws, or regulations since FDA's earlier response, the agency's denial letter might simply say that the agency has previously considered the same or similar request and that the petition has provided no new information that would change the agency's earlier decision.

3. A citizen petition where the agency has determined that the petition does not implicate a significant public health issue, and the agency lacks the resources to provide a more detailed response or to take the action requested by the petitioner. This may occur, for example, where the petitioner requests a change in FDA's regulations that has no significant public health implications, such as amending or establishing common or usual names regulations or standards of identity, quantity, and fill of container regulations for foods or allowing the use of a different test or method or a different manufacturing standard when the difference has no significant public health advantage over the existing test, method, or standard. In the absence of a significant public health issue, and considering the intense demand on FDA's resources, the agency must allocate its resources carefully and

wisely, so brief denial of these types of citizen petitions would be appropriate.

4. A citizen petition where changes in fact, science, or law since the date on which the citizen petition was submitted have made the petition moot. For example, if a citizen petition requested a change to a regulation that has been rescinded or withdrawn, drafting a detailed response to the petitioner's requested change would not be an efficient use of agency resources. Thus, a brief denial for these petitions would be appropriate.

C. Proposed § 10.30(e)(4)—Referral and Withdrawal of Citizen Petitions and Consolidation of Multiple Petitions

Proposed § 10.30(e)(4)(i) would authorize FDA to take administrative action other than preparing a formal response to a citizen petition. This would occur when a citizen petition involves a subject that is being addressed in another administrative proceeding (such as an ongoing or future rulemaking) or presents issues or involves requests that can be addressed through correspondence, meetings, or other agency action. Under such circumstances, the proposed rule would permit, but not require, the agency to refer the petitioner's information to the other administrative proceeding or to refer the petitioner's information to the relevant FDA center for its consideration and any appropriate action. If FDA refers a citizen petition to another administrative proceeding, the citizen petition would remain filed in FDA's Dockets Management Branch, but the agency would place a note in the citizen petition's docket stating that the petitioner's information has been referred to another administrative proceeding and that the petition's docket is closed.

For example, FDA sometimes receives petitions on topics that are the subject of a pending FDA regulation. Under the proposed rule, FDA could refer the petition to the docket for the rulemaking where it would be treated as if it were a comment on the rule, and the petition's docket would contain a note referring to the rulemaking. Referring information to the appropriate administrative proceeding would be an efficient and practical mechanism for reviewing scientific or technical issues because it would ensure that the relevant FDA office considers the petitioner's information in conjunction with the data and information contained in the administrative proceeding (as opposed to allocating separate resources to the administrative proceeding and to the citizen petition or completing the administrative proceeding and citizen petition at different times).

As another example, some petitions raise substantive scientific issues and request that the agency not approve or rescind approval of a specific product. In these cases, it may be more appropriate for the agency to investigate the scientific issues or conduct a meeting to discuss those issues before deciding what regulatory action, if any, to take against the product. Thus, the proposed rule would preserve FDA's flexibility to develop the appropriate administrative response. This flexibility may be particularly valuable when, after reviewing the petitioner's request, the agency determines that the best solution is different from the one suggested by the petitioner.

Proposed § 10.30(e)(4)(ii) would permit the agency to seek clarification of a petitioner's requests. Occasionally, FDA receives citizen petitions that make vague or conflicting requests, but the existing regulations do not expressly permit FDA to request clarification from the petitioner. The proposal would remedy this by permitting FDA to seek clarification. The request for clarification would include a time period for providing the clarifying information to FDA. If the petitioner fails to provide the requested clarification to FDA within that time period, proposed § 10.30(e)(4)(ii) would permit the agency to consider the petition to be withdrawn.

Proposed § 10.30(e)(4)(iii) would permit FDA to consider a citizen petition to be withdrawn where the agency is aware that the petitioner no longer exists or the petitioner cannot be located, or where the petitioner has expressly stated that it does not seek a response to its petition. For example, if a firm submitted a citizen petition and subsequently went out of business, the proposal would permit FDA to consider the petition to be withdrawn. As another example, in rare cases, persons have submitted citizen petitions to protest a particular FDA action. These petitions state that they are submitted as a protest or for symbolic reasons and that no response is sought or expected. Nevertheless, existing regulations do not give FDA express authority to withdraw these petitions even though it is both illogical and a waste of agency resources to require FDA to develop and to issue petition responses when the petitioner no longer exists or when the petitioner seeks no response. The agency does not contemplate using this authority often.

Proposed § 10.30(e)(4)(iv) would apply where FDA has received multiple citizen petitions on the same subject or involving the same product or has received similar or identical citizen petitions from different parties. These citizen petitions, which sometimes contain only a single request and are submitted over an extended period of time, divert FDA resources repeatedly and, from FDA's perspective, inefficiently when the petitioner or petitioners could have easily submitted all requests in the same petition or when the petitioner submits essentially the same petition repeatedly. The proposal, therefore, would enable FDA to combine multiple citizen petitions on the same issue or product. The agency encourages potential petitioners to combine petitions and requests to the greatest extent practicable.

D. Conforming or Miscellaneous Amendments

Section 10.25(a) (21 CFR 10.25(a)) currently states how petitions can be used to initiate an administrative proceeding. Because proposed § 10.30 would redefine the types of actions that may be the subject of a citizen petition, the agency is proposing to revise § 10.25(a) to enable interested persons to request (rather than "petition" for) the initiation of an administrative proceeding. Such requests would be made when the desired administrative proceeding falls outside the scope of proposed § 10.30.

Because the proposed rule would permit the agency to refer and to withdraw citizen petitions under certain conditions, two conforming amendments to § 10.30(e)(1) and (e)(2) would be necessary. Currently, § 10.30(e)(1) states that the Commissioner shall "rule upon" each petition. Arguably, because a decision to withdraw a citizen petition does not necessarily involve a decision directly on the citizen petition's merits, FDA is proposing to amend § 10.30(e)(1) to state that the Commissioner shall "act upon" each citizen petition.

Similarly, § 10.30(e)(2) states that the Commissioner shall furnish a response to each petitioner within 180 days (except to persons who submitted suitability petitions, in which case the response time period is 90 days). Arguably, a decision to refer or withdraw a citizen petition under the proposed rule might not be considered a "response," so FDA is proposing to amend § 10.30(e)(2) to state that, "Except as provided in paragraphs (e)(4) and (e)(5) of this section * * *."

The proposal would also revise § 10.30(b) to update the address for the Dockets Management Branch.

III. Legal Authority

When first issued over 20 years ago, FDA's citizen petition regulations were intended to reflect the right to petition the government and to reduce "confusion and uncertainty on the part of those who wish to petition the agency on a particular matter, as well as on the part of those in the agency who have received various forms of requests and have been unable to determine how they should be handled" (see 40 FR 40682 at 40686, September 3, 1975).

The right to petition, however, is not absolute; it does not include the right to speak to government officials (see *Welch* v. *Board of Education of Baltimore County*, 477 F. Supp. 959 (D. Md. 1979)), nor does it include the right to an oral hearing (see *Stengel* v. *City of Columbus, Ohio*, 737 F. Supp. 1457 (S.D. Ohio 1988)). Neither does the right to petition the government create an affirmative duty on the government to act or to investigate. See *Minnesota State Board for Community Colleges* v. *Knight*, 104 S. Ct. 1058, 1067 (1984); *Smith* v. *Arkansas State Highway Employees*, 441 U.S. 463, 465 (1979); *Gordon* v. *Heimann*, 514 F. Supp. 659 (N.D. Ga. 1980); *Town of Brookline* v. *Goldstein*, 447 N.E.2d 641, 646 (Mass. 1983).

In fact, court opinions indicate that agencies have broad discretion in establishing and applying rules for public participation in agency matters (see *Cities of Statesville, et al.* v. *Atomic Energy Commission*, 441 F. 2d 962 (D.C. Cir. 1969); *Pasco Terminals, Inc.* v. *United States*, 477 F. Supp. 201 (1979), aff'd 634 F. 2d 610)). Moreover, the Supreme Court has indicated that courts cannot require more than minimum procedural boundaries even if a proposed regulation would establish complex or technical factual issues or important public issues; in those instances, an agency is to decide whether additional procedures are needed. See *Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council, Inc.*, 98 S. Ct. 1197, 1202 (1978).

Here, the proposed rule does not restrict access to or contact with the agency; it simply redefines the types of actions that may be the subject of "citizen petitions" under § 10.30 in order to make that formal administrative mechanism more responsive and efficient. Indeed, given that other FDA's regulations provide other means for contacting the agency (see, e.g., § 10.65(a) (regarding correspondence)), the citizen petition regulation at § 10.30 cannot and should not be viewed as being the sole or exclusive mechanism for "petitioning" FDA or as an exclusive mechanism for exercising a right to petition FDA.

Certain aspects of the proposed rule, such as the proposed provisions concerning brief denials, withdrawals, and referrals to other administrative action, would affect how citizen petitions are handled. However, as stated earlier, agencies have broad discretion in establishing and applying rules for public participation in administrative matters. The proposal furthers an important government interest–permitting the agency to concentrate its resources on agency priorities and statutory obligations instead of diverting those resources to, for example, citizen petitions that request actions outside FDA's authority, that repeat requests that the agency has already addressed, or that are submitted for symbolic purposes.

Furthermore, as court decisions readily indicate, the right to petition does not impose any duty on the government to take any specific action. Given this case precedent, it would be illogical to conclude that the right to petition demands that FDA continue to receive citizen petitions under § 10.30 requesting actions which FDA cannot legally perform or to have FDA decide how it might act on a particular issue in the future. The proposed rule preserves an individual's ability to submit a citizen petition to FDA for actions that FDA has taken and for actions that are within FDA's legal authority, as well as other types of actions specified in proposed § 10.30.

Persons who wish to contact or "petition" FDA on issues that are outside the scope of proposed § 10.30 would still be able to contact the agency, through letters, calls, or other means of communication. FDA emphasizes, again, that the proposed rule would not reduce public access to FDA; instead, it is intended to make the formal citizen petition process more efficient and more responsive.

IV. Environmental Impact

The agency has determined under 21 CFR 25.30(a) and (h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impacts of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize new benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, unless an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the agency must analyze regulatory options that would minimize the impact of the rule on small entities.

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation).

The agency has reviewed this proposed rule and determined that it is consistent with the regulatory philosophy and the principles identified in the Executive Order 12866 and these two statutes. Though this proposed rule is not economically significant, it has been determined by OMB that this proposed rule is a significant regulatory action.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant economic impact on small entities. The proposed rule would define the actions that may be the subject of a citizen petition and facilitate efficient resolution of citizen petitions. It would not preclude persons from using less formal means (such as letters) to contact the agency. In fact, because less formal means of communication lack the format and procedures associated with citizen petitions, the economic impact on small businesses should be reduced when compared against the existing citizen petition mechanism. Thus, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VI. Paperwork Reduction Act of 1995

This rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of these provisions is given

below in this section of the document with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Citizen Petitions; Actions That Can be Requested by Petition; Denials, Withdrawals, and Referrals for Other Administrative Action

Description: The proposed rule would specify the types of actions that could be requested through a citizen petition. The proposal would also revise the content requirements for citizen petitions and provide authority for the agency to refer petitions for other administrative action, seek clarification of a petitioner's requests, withdraw certain petitions, and combine petitions.

Description of Respondents: Businesses, trade organizations, public interest groups, and individuals.

The proposed rule would increase the estimated burden associated with the information collection requirements from 1,440 hours to 2,646 hours. FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
10.30	189	1	189	14	2,646

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates in Table 1 reflect the reporting burden that would be attributable solely to the rule. FDA derived these estimates by examining its records to determine the average number of citizen petitions submitted to FDA and by decreasing the number of respondents by 30 percent. The agency calculated the percentage reduction in citizen petitions by reviewing all citizen petitions filed in a 6-month period in 1997 against the proposed rule's citizen petition criteria. The review suggested that the proposed rule would reduce the number of citizen petitions by over 30 percent, but the agency is adopting the 30 percent estimate as an initial estimate.

Additionally, FDA has revised the hours per response from 12 hours to 14 hours. The additional two hours reflect the proposed rule's changes to the content requirements for a citizen petition and the change to the certification statement. This additional amount of time may be overestimated because, under the existing citizen petition regulation, petitioners are already required to provide all relevant information and views and a certification as part of their petitions.

The agency has submitted the information collection requirements of this rule to OMB for review. Interested persons are requested to send comments regarding information collection by December 30, 1999, to the Office of Information and Regulatory Affairs, OMB (address above).

Interested persons may, on or before February 28, 2000, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 10

Administrative practice and procedure, News media.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 10 be amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. The authority citation for 21 CFR part 10 continues to read as follows:

Authority: 5 U.S.C. 551–558; 701–706; 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–397, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 236b, 264.

2. Section 10.25 is amended by revising paragraph (a) to read as follows:

§ 10.25 Initiation of administrative proceedings.

* * * * *

(a) An interested person may petition the Commissioner to issue, amend, or revoke a regulation or order, or request that the Commissioner take or refrain from taking any other form of administrative action. For petitions involving a regulation or order, the petition must be either:

(1) In the form specified in other applicable FDA regulations, e.g., the form for a color additive petition in § 71.1 of this chapter, for a food additive petition in § 171.1 of this chapter, for a new drug application in § 314.50 of this chapter, for a new animal drug application in § 514.1 of this chapter, or

(2) In the form for a citizen petition in § 10.30. For requests involving administrative action, the request may be made in any written form (e.g., letter, facsimile).

* * * * *

3. Section 10.30 is amended by revising paragraphs (b), (e)(1), the introductory text of paragraph (e)(2), paragraph (e)(2)(ii), by redesignating paragraph (e)(4) as (e)(5), and by adding a new paragraph (e)(4) to read as follows:

§ 10.30 Citizen petition.

* * * * *

(b) A petition (including attachments) shall be submitted in accordance with § 10.20 and in the following form:

(Date) _____

Dockets Management Branch (HFA–305), Food and Drug Administration, Department of Health and Human Services, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

CITIZEN PETITION

The undersigned submits this petition under ___ (relevant statutory sections, if known) of the ___ (Federal Food, Drug, and Cosmetic Act or the Public Health Service Act or any other statutory provision for which authority has been delegated to the

Commissioner of Food and Drugs under 21 CFR 5.10) to request that the Commissioner of Food and Drugs ___ (issue, amend, or revoke a regulation or amend or revoke an order that the agency has issued or published or take an action as specifically provided by regulation).

A. Action requested

((1) If the petition requests that the Commissioner issue, amend, or revoke a regulation, the exact wording of the existing regulation (if any) and the proposed regulation or amendment requested.)

((2) If the petition requests that the Commissioner amend or revoke an order, the date on which the order was issued or published, the exact wording and the citation for the existing order and, if the request is to amend an order, the exact wording requested for the amended order.)

((3) If the petition requests that the Commissioner take an action, and a petition is specifically required by regulation, a citation of the regulation and the specific action requested.)

B. Statement of grounds

(A full statement, in a well organized format, of the factual and legal grounds on which the petitioner relies, including all relevant information and views on which the petitioner relies, as well as representative information known to the petitioner which is unfavorable to the petitioner's position. Additionally, for petitions requesting that FDA issue, amend, or revoke a regulation, the petition shall show why the requested regulation pertains to a subject that is appropriately addressed by regulation rather than other administrative action. For petitions requesting that FDA amend or revoke an order that was issued or published, the petition shall be based on more than unsupported claims, allegations, or general descriptions of positions or arguments.

C. Environmental impact

(A claim for categorical exclusion under §§ 25.30, 25.31, 25.32, 25.33, or § 25.34 of this chapter or an environmental assessment under § 25.40 of this chapter.)

D. Economic impact

(The following information is to be submitted only when requested by the Commissioner following review of the petition: A statement of the effect of the requested action on: (1) Cost (and price) increases to industry, government, and consumers; (2) productivity of wage earners, businesses, or government; (3) competition; (4) supplies of important materials, products, or services; (5) employment; and (6) energy supply or demand.)

E. Certification

The undersigned certifies, that, to the best knowledge and belief of the undersigned, this petition includes all information and views on which the petition relies, that it is well grounded in fact and is warranted by existing laws or regulations, that it is not submitted for any improper purpose, such as to harass or to cause unnecessary delay, and that it includes representative data and information known to the petitioner which are unfavorable to the petition.

(Signature) _____
(Name of petitioner) _____
(Mailing address) _____
(Telephone number) _____

* * * * *

(e)(1) The Commissioner shall, in accordance with paragraph (e)(2) of this section, act upon each petition filed under paragraph (c) of this section, taking into consideration:

(i) Available agency resources for the category of subject matter;

(ii) The priority assigned to the petition considering both the category of subject matter involved and the overall work of the agency; and

(iii) Time requirements established by statute.

(2) Except as provided in paragraphs (e)(4) and (e)(5) of this section, the Commissioner shall furnish a response to each petitioner within 180 days of receipt of the petition. The response will either:

* * * * *

(ii) Deny the petition; the denial may be brief, as appropriate; or

* * * * *

(4) The Commissioner may:

(i) Refer a petition for other administrative action instead of issuing a response. In such cases, the agency shall place a note in the docket for the petition stating that the petition has been referred for other administrative action and close the docket for the petition. FDA may refer a petition for other administrative action if the petition:

(A) Involves issues that are the subject of an ongoing or future administrative proceeding. In such cases, the agency may consider the issues raised by the petition as part of the administrative record for the administrative proceeding;

(B) Presents scientific or technical issues or data that are specific to a particular product or class of products;

(C) Requests a regulation on an issue that is not appropriately addressed by regulation;

(D) Does not involve a significant public health or consumer protection issue; or

(E) Involves a subject that is appropriately addressed by other administrative action.

(F) For petitions described in paragraphs (e)(4)(i)(B) through (e)(4)(i)(E) of this section, the agency may treat the petition as correspondence under § 10.65.

(ii) Request clarification if the petition presents vague or conflicting requests. If the petitioner does not respond to the request for clarification within a time specified by FDA, the petition may be considered withdrawn;

(iii) Consider the petition to be withdrawn if the petitioner no longer exists or cannot be located or the petitioner has stated that it does not seek a response from the agency; or

(iv) Combine petitions and supplements submitted by the same petitioner or by different petitioners if those petitions concern the same or similar subjects or products.

* * * * *

Dated: August 10, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–30957 Filed 11–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

RIN 1076—AD90

Acquisition of Title to Land in Trust

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; Reopening of comment period.

SUMMARY: This notice reopens the comment period for submission of electronic access and filing of comments only for the proposed rule published at 64 FR 17574–17588, April 12, 1999, Acquisition of Title to Land in Trust. Due to circumstances beyond our control, a malfunction in the computer system prevented receipt of comments via the Internet after August 1, 1999. Comments submitted via the Internet between August 1, 1999 and November 12, 1999 were not received. Please resubmit your Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: 1076–AD90" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact the Office of Trust Responsibilities directly at (202) 208–5831.

DATES: Comments must be received on or before December 29, 1999.

ADDRESSES: Please resubmit your e-mail comments to: landcomments@bia.gov.

FOR FURTHER INFORMATION CONTACT: Terry Virden, Director, Office of Trust Responsibilities, Bureau of Indian Affairs, MS–4513, Main Interior Building, 1849 C Street, NW,

Washington, DC 20240; by telephone at (202) 208–5831; or by telefax at (202) 219–1065.

SUPPLEMENTARY INFORMATION: On Monday, April 12, 1999, the Bureau of Indian Affairs published a proposed rule, 64 FR 17574–17588, concerning the Acquisition of title to land in trust. The deadline for receipt of comments was July 12, 1999, which was extended to October 12, 1999 and extended again to November 12, 1999. The comment period is extended for an additional thirty days to allow additional time for receipt of e-mail comments on the proposed rule. Intranet comments must be received on or before December 29, 1999.

Dated: November 23, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–31036 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA72–7206C; A–1–FRL–6481–1]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Enhanced Motor Vehicle Inspection and Maintenance Program and Rate of Progress Emission Reduction Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplementary proposed rule.

SUMMARY: The EPA is providing additional information and reopening the comment period for two notices of proposed rulemaking to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These documents were published in the **Federal Register** on September 27, 1999. The first is a rulemaking action proposing approval of the Massachusetts motor vehicle inspection and maintenance (I/M) program (64 FR 51937), and the second is a rulemaking action proposing approval of the Massachusetts rate-of-progress plans for reducing the emissions of ozone precursors in the Springfield ozone nonattainment area (64 FR 51943). This document reopens the comment period on both of these rules and provides additional information on the I/M test to be used in Massachusetts and the timing of 15% and 9% rate-of-progress plan reductions. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before December 30, 1999. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of Massachusetts' submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 918–1049.

SUPPLEMENTARY INFORMATION: On March 27, 1997, the Commonwealth of Massachusetts submitted an inspection and maintenance plan under the provisions on the National Highway Systems Designation Act. On July 14, 1997, EPA published in the **Federal Register** (62 FR 37506) an Interim Final Rule conditionally approving the Commonwealth's I/M SIP. The notice conditioned approval on start-up of the program by November 15, 1997, which was based on a commitment made by the Commonwealth as part of the SIP submittal. That **Federal Register** notice also listed other elements of the I/M program for which the Commonwealth was required to submit additional information. By means of a November 14, 1997, letter, EPA notified Massachusetts that EPA was converting the conditional approval of the enhanced I/M SIP revision to a disapproval on November 15, 1997 due to the fact that the program was not starting on November 15, 1997. The letter triggered the 18-month time clock for the mandatory application of sanctions under section 179(a) of the CAA. Therefore, the Act's offset sanction applied beginning May 15, 1999 because Massachusetts still had no enhanced I/M program started or approved as part of its SIP.

I. Enhanced I/M SIP

In order to remedy the failure to start its enhanced I/M program in November 1997, Massachusetts submitted a revision to its SIP on May 14, 1999 for an enhanced I/M program to begin on October 1, 1999. The Commonwealth in fact commenced operation of the program on October 1, 1999. Although the Commonwealth commenced operation of the I/M program on October 1, 1999, there were routine start-up difficulties which required that DEP temper full enforcement of the program for two and one half months. During October, November and early December 1999, the Commonwealth is allowing drivers to obtain temporary stickers approving cars to operate for a year if a station in the program did not have fully operational test equipment ready when a driver came in for a test. In a November 15, 1999 letter to EPA, the Commonwealth has indicated that such temporary stickers will not be available starting December 15, 1999, and any car that must get tested will be required to find a station with operable testing equipment. This step ensures that the I/M program will meet EPA's definition of start-up and that the Commonwealth is fully enforcing an approvable I/M program as of December 15, 1999.

In the September 27, 1999 proposed approval of the I/M program (64 FR 51937), there were other elements of the I/M SIP which needed to be addressed prior to final action by EPA. These elements will be addressed by the contractor the Commonwealth has retained to implement the program and are listed as work elements of the contractor's scope of services. Since the focus of the contractor and the Commonwealth has been program start-up, these elements have not been addressed by the contractor to date. In response to EPA's September 27, 1999 proposed approval which describes the program elements Massachusetts must supplement, the Commonwealth submitted in a letter dated November 3, 1999 a schedule for submitting these elements from January to March 2000. As stated before, a November 15, 1999 letter informed EPA that the Commonwealth has taken steps that ensure the I/M program will be fully enforced starting December 15, 1999. Additional information submitted in support of the Commonwealth's I/M program is included in the contract with Keating Technologies signed January 28, 1999, Department of Environmental Protection (DEP) Regulations, chapter 310 CMR 60.02, and Registry of Motor Vehicles Regulations, chapter 540 CMR 4.00–4.09, and administrative items, including a description of the program being implemented and DEP's response to comments document dated May 14, 1999.

Starting on October 1, 1999, the Commonwealth began implementing a 31 second transient test utilizing the BAR 31 trace and NYTEST equipment. In the September 27, 1999 proposed

rulemaking, EPA inaccurately stated that the Commonwealth will use an IM240 test with NYTEST equipment and inaccurately implied that the test the Commonwealth was conducting should be allowed IM240 emission reduction credit. There is no data available at this time to assign the exact emission reduction credit for the combination of test type and equipment that the Commonwealth is implementing. Nevertheless, even if one makes extremely conservative assumptions about the efficacy of the Massachusetts test, EPA's mobile modeling shows that the I/M program demonstrates compliance with EPA's performance standard for a low enhanced program. EPA's analysis of these conservative assumptions is available in a technical support document in the docket for this action.

II. Massachusetts 15% and 9% Plans for the Springfield Nonattainment Area

On April 1, 1999, June 25, 1999, and September 9, 1999, the Commonwealth of Massachusetts submitted revisions to its 15% and 9% rate-of-progress plans for the Springfield serious ozone nonattainment area. These revisions contain a new start-up date for the Commonwealth's automobile I/M program (i.e., October 1, 1999), and revised emission reduction estimates for this program. In the September 27, 1999 **Federal Register**, EPA proposed approval of the rate-of-progress (ROP) emission reduction plans as revisions to the Commonwealth's SIP (64 FR 51943). As stated in the September 27, 1999 proposed rulemaking, the Commonwealth's ROP plans contain a demonstration that the amount of emission reductions required in its 15% and 9% plans pursuant to sections 182 (b)(1) and (c)(2) of the Federal Clean Air Act can be achieved despite lessening the emission reductions attributable to the I/M program because of its delayed start-up date. The Commonwealth achieved the required reductions in ozone precursors by November 15, 1999, primarily by changing the way that emission increases due to growth were determined, based on more accurate date of actual growth rates rather than earlier inflated projections. This demonstration was the basis of EPA's September 27, 1999 proposed approval.

As discussed above, however, emission tests under the enhanced I/M program were phased in over a two and one half month period in October, November and December, 1999. Also, EPA is using more conservative assumptions of the amount of credit derived from the combination of I/M test type and equipment that the Commonwealth is implementing. Therefore, it is no longer certain that the Commonwealth will achieve the emission reductions required of 15% and 9% plans by the November 15, 1999 evaluation date originally assumed. What is more certain is that the required reductions will be achieved sometime in early 2000 as more and more of the vehicles registered in Massachusetts are subject to more stringent emission testing under the Commonwealth's enhanced I/M program which started on October 1, 1999. Based on the volume of vehicles subject to emission testing each month, EPA believes the estimated reductions from I/M needed for the 15% and 9% plans will definitely be achieved and surpassed by the end of April 2000, prior to the next ozone season. EPA believes that these reductions are being achieved as expeditiously as practicable and that no other reasonable emissions control strategy would allow the Commonwealth or EPA to achieve these reductions sooner. In the future, Massachusetts will conduct necessary comparison testing to determine the appropriate emission reduction for SIP credit using the combination of the BAR 31 transient trace with NYTEST equipment. This will be important for purposes of approving the ozone attainment demonstration for the one-hour ozone standard submitted by the Commonwealth on July 27, 1998. In that submittal, the Commonwealth is relying on more substantial reductions from the enhanced I/M program it is implementing to show attainment with the one-hour ozone standard. When EPA acts on the attainment demonstration, we will evaluate whether Massachusetts has adequately demonstrated that the emission reduction credit it is claiming for its I/M program in that attainment demonstration is warranted for the combination of test type and equipment that the Commonwealth is implementing.

For a more detailed discussion of EPA's evaluation of when the emission reductions required of 15% and 9% plans will be achieved, the reader should refer to the Technical Support Document (TSD) entitled, "Revised Technical Support Document for the Massachusetts 15% and 9% plans" dated November 10, 1999. Copies of this TSD are available at the previously mentioned addresses.

III. EPA's Current Rulemaking Actions

On September 27, 1999, EPA proposed approval of the Massachusetts I/M SIP revision to meet the requirements of the federal I/M rule. In addition, on the same day EPA proposed approval of the Massachusetts rate-of-progress emission reduction plans which includes the 15% plan. These actions are tied together because in order for Massachusetts to meet the low enhanced performance standard for I/M, the 15% plan must be approvable. Elsewhere in today's **Federal Register**, EPA is publishing an Interim Final Determination that Massachusetts has taken the actions necessary to fully enforce an approvable I/M SIP as of December 15, 1999. This action will stay the imposition of sanctions starting December 15, 1999, until the SIP is either approved or partially disapproved. In the proposed rule for the Massachusetts I/M program, EPA proposed in the alternative to issue a limited approval/limited disapproval of the program if Massachusetts fails to start the program in a timely manner or fails to submit any of the program elements that the Contractor will provide under its scope of work. The limited disapproval would effectively withdraw the proposed approval. Withdrawal of the proposed approval would result in growth sanctions and highway sanctions going into effect immediately.

IV. Proposed Action

EPA is reproposing approval of both the Massachusetts inspection and maintenance program statewide and the rate of progress plans for the Springfield nonattainment area which were originally proposed for approval on September 27, 1999 (64 FR 51937, 64 FR 51943). EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this action.

The Agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements.

Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 15, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–30781 Filed 11–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[FRL–6481–9]

RIN 2060–AI76

Transportation Conformity Amendment: Deletion of Grace Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to delete a provision of the transportation conformity rule that was overturned by the U.S. Court of Appeals for the District of Columbia Circuit (*Sierra Club* v. *EPA, et al.*, 129 F.3d 137 (D.C. Cir. 1997)). In 1995, we amended the conformity rule so that new nonattainment areas would have a one-year grace period before transportation conformity began applying. In 1997, the court overturned this grace period. This action formally deletes the provision from the transportation conformity rule in compliance with the court ruling.

In addition, we discuss in this document some issues that were raised in a Petition for Reconsideration of the original transportation conformity rule (finalized November 24, 1993). We are not proposing any changes to the conformity rule in response to these issues.

We are required by a court settlement to finalize rulemaking on these issues by December 31, 1999. We agreed to this settlement in 1998 in response to litigation by the Environmental Defense Fund.

Transportation conformity is a Clean Air Act requirement for transportation plans, programs, and projects to conform to state air quality plans. Conformity to a state air quality plan means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national air quality standards.

Our transportation conformity rule establishes the criteria and procedures for determining whether or not transportation activities conform to the state air quality plan.

DATES: Written comments on this proposal must be submitted on or before December 30, 1999.

ADDRESSES: Interested parties may submit written comments in response to this rule (in duplicate, if possible) to: Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Attention: Docket No. A–99–35, 401 M Street, SW., Washington, DC 20460. (Those desiring notification of receipt of comments must include a self-addressed, stamped postcard).

Materials relevant to this rulemaking are in Public Docket A–99–35 at the above EPA address in room M–1500 Waterside Mall (ground floor). You may look at them from 8:00 a.m. to 5:30 p.m. on weekdays, except holidays. You may have to pay a reasonable fee for copying docket material.

The notice of proposed rulemaking is also available electronically from our web site. See **SUPPLEMENTARY INFORMATION** for information on accessing and downloading files.

FOR FURTHER INFORMATION CONTACT: Laura Voss, Transportation and Market Incentives Group, Regional and State Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, voss.laura@epa.gov. (734) 214–4858.

SUPPLEMENTARY INFORMATION: You can access and download files on your first call using a personal computer according to the following information:

Internet Web Sites

http://www.epa.gov/docs/fedrgstr/EPA–AIR/ (either select desired date or use Search feature)

OR

http://www.epa.gov/OMSWWW/ (look in What's New or under the Conformity file area)

A version should be available today on any of the above-listed sites. Please note that you may see format changes due to differences in software.

Regulated Entities

Entities potentially regulated by the conformity rule are those which adopt, approve, or fund transportation plans, programs, or projects under title 23 U.S.C. or title 49 U.S.C. Regulated categories and entities include: .

Category	Examples of regulated entities
Local government	Local transportation and air quality agencies.
State government	State transportation and air quality agencies.
Federal government	Department of Transportation (Federal Highway Administration and Federal Transit Administration).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this rule. This table lists the types of entities that EPA is now aware could potentially be regulated by the conformity rule. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 93.102 of the conformity rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The contents of this preamble are listed in the following outline:

I. Background
II. How Soon Does Conformity Apply to a New Nonattainment Area?
III. Issues From Petition for Reconsideration
A. Fiscal Constraint
B. Horizon Years for Hot-Spot Analyses
C. Assumptions Regarding Regional Distribution of Emissions
D. Credit for Delayed TCMs
IV. How Would this Action Affect Conformity SIPs?
V. Administrative Requirements

I. Background

In 1998, we entered into a settlement with the Environmental Defense Fund (EDF) in response to litigation. We agreed to finalize rulemaking by December 31, 1999, to repeal the grace period in 40 CFR 93.102(d) and respond to four issues identified in EDF's May 1994 Petition for Reconsideration of the original conformity rule.

Section 93.102(d) and the four issues from the petition for reconsideration are described below.

The original conformity rule was finalized on November 24, 1993 (58 FR 62188). We subsequently amended the rule on August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), and August 15, 1997 (62 FR 43780).

II. How Soon Does Conformity Apply to a New Nonattainment Area?

According to a November 4, 1997, court decision, conformity must apply as soon as we designate an area nonattainment. As a result, we are proposing to delete § 93.102(d) of the conformity rule. This section allowed newly designated nonattainment areas a one-year grace period before conformity starts applying.

We included this provision in our November 14, 1995, conformity amendments (60 FR 57179). However, the Sierra Club challenged it and the court overturned it.

Therefore, as soon as we designate your area as nonattainment, you must have a conforming transportation plan and transportation improvement program (TIP) in order to approve transportation projects. This plan and TIP must conform with respect to all pollutants for which the area is designated nonattainment. You may have to delay approving projects until this is done.

Since designation is done through notice-and-comment rulemaking, you will be aware of pending designations at the time of proposal and will have the time until the final designation is effective to develop a conforming plan and TIP.

III. Issues From Petition for Reconsideration

On May 26, 1994, the Environmental Defense Fund, the Natural Resources Defense Council, and the Sierra Club Legal Defense Fund submitted to EPA a Petition for Reconsideration of the November 1993 conformity rule. We have already responded to most of the concerns raised in this petition through previous conformity amendments.

However, there are four outstanding issues which we agreed to reconsider and respond to through this rulemaking. As explained below, we have now reconsidered these issues. However, we are not proposing any changes to the existing conformity rule as a result of our reconsideration.

The full Petition for Reconsideration is in the docket for this proposal (see **ADDRESSES**).

A. Fiscal Constraint

1. What Is the Issue?

As described in issue 6 of the Petition for Reconsideration, the petitioners believe that we should have adopted our own regulatory language requiring transportation plans and TIPs to be fiscally constrained, rather than referencing the Department of Transportation's (DOT's) metropolitan planning regulations. These DOT regulations require fiscally constrained transportation plans and TIPs; that is, that the proposed projects in plans and TIPs must be consistent with already available or projected sources of revenue.

The petitioners are concerned that DOT could unilaterally modify its regulations. The petitioners believe that by referencing DOT's planning regulations, we have unlawfully delegated our rulemaking authority to DOT.

In addition, the petitioners object that DOT's metropolitan planning regulations do not properly implement the Intermodal Surface Transportation Efficiency Act's (ISTEA's) funding requirements for TIPs. ISTEA has since been reauthorized as the Transportation Equity Act for the 21st Century, or TEA–21.

2. What Is EPA's Response?

We believe that it is appropriate to refer to DOT's regulations on fiscal constraint for several reasons. First, the Clean Air Act does not direct us to issue regulations regarding fiscal constraint. Congress has given DOT the authority to create the regulations that implement ISTEA and TEA–21. Second, it would not be practical for our fiscal constraint requirements to be different from DOT's rules; in order to be effectively implemented and enforced, they need to be exactly the same.

Third, the conformity rule as a whole is based on DOT's transportation planning process as it is outlined in DOT's metropolitan planning regulations, including the rules for developing plans and TIPs. Although these planning regulations provide a foundation for the conformity rule, it is not necessary or appropriate for us to use the conformity rule to issue our own interpretation of ISTEA's planning requirements. Our reliance on DOT's fiscal constraint requirements is an illustration of this general principle. Therefore, EPA believes it is appropriate to defer to DOT's interpretation of the requirements for fiscal constraint as adopted in DOT's planning regulations.

Finally, we do not share the petitioners' concern that DOT will unilaterally change its regulations. EPA and DOT are federal partners in transportation and air quality planning. There are mechanisms to ensure federal coordination, and we are involved in DOT's drafting of the metropolitan planning regulations. Further, petitioners will have an opportunity to comment directly on any changes DOT may propose to their regulation on fiscal constraint through DOT's regulatory process.

B. Horizon Years for Hot-Spot Analyses

1. What Is the Issue?

In issue 9B of the Petition for Reconsideration, the petitioners state that we should require hot-spot analyses to examine the 20-year timeframe of the transportation plan.

The existing transportation conformity rule does not specify the horizon for hot-spot analyses.

2. What Are the Conformity Rule's Requirements About Hot Spots?

The rule requires carbon monoxide (CO) and particulate matter (PM–10) areas to demonstrate that transportation projects will not cause or contribute to new hot spots or increase the frequency or severity of existing hot spots. In some cases, CO nonattainment areas must demonstrate that they reduce localized CO violations. The conformity rule requires these demonstrations to be based on modeling procedures and assumptions that are decided through interagency consultation.

At the present time, quantitative PM–10 hot-spot analysis is not required. According to § 93.123(b)(4) of the conformity rule, quantitative PM–10 hot-spot analysis is not required until EPA releases modeling guidance on this subject. However, projects' impact on localized PM–10 violations must be qualitatively considered.

3. What Is EPA's Response?

In most areas, hot-spot analyses are done for the year of project completion. Areas decide whether they should examine other analysis years in the future. For example, some areas analyze the last year of the transportation plan (i.e., the twentieth year) or the tenth year after the project's date of completion.

We do not believe it is necessary to specify that hot-spot analyses must model the twentieth year of the transportation plan in all cases. We allow a considerable amount of flexibility for areas to decide through the interagency consultation process how to demonstrate that hot spots are not caused or worsened in any area. There is even an opportunity for qualitative demonstrations.

Because current emissions models show that CO emissions per vehicle are decreasing over time, it may be most conservative to analyze a year in the nearer term, rather than a year that is 20 years distant. Thus, it would not be appropriate for us to mandate that all hot-spot analyses must examine the twentieth year. Instead, we believe the horizon year of the hot-spot analysis should be decided through interagency

consultation, as appropriate to the individual area, on a case-by-case basis.

C. Assumptions Regarding Regional Distribution of Emissions

1. What Is the Issue?

As described in issue 12 of the Petition for Reconsideration, the petitioners believe that Metropolitan Planning Oganizations (MPOs) should be required to demonstrate that regional land use policies and the proposed transportation plan will achieve the same spatial distribution of motor vehicle emissions as was used in the state implementation plan (SIP) to demonstrate attainment.

We believe that the petitioners are in effect requesting that we should always require SIPs to establish subarea budgets, and that we should then require MPOs and DOT to show conformity to these subarea budgets. The petitioners request that we eliminate § 93.124(d) of the conformity rule, which states that when the SIP includes emissions estimates by subarea, these are not considered to be budgets for conformity purposes unless the SIP explicitly states that intent.

2. What Is EPA's Response?

We believe that the conformity rule's provisions should be retained. The Clean Air Act does not require subarea budgets. We have always interpreted the Clean Air Act to allow for a single budget for a nonattainment area for a given criteria pollutant or precursor, although states have the option to disaggregate the budget at their discretion (see our General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, at 57 FR 13448, April 16, 1992).

If we were to compel states to include subarea budgets in their SIPs, it is not clear what level of disaggregation would be appropriate. Creating budgets for each grid cell used in the photochemical modeling would be impractical, because each grid cell is small. Grid cells can be as small as one square kilometer. The transportation plan and TIP would have to be apportioned into subareas, and the transportation model would have to be altered so it could produce estimates for each separate subarea.

We believe the costs of this requirement would generally outweigh the benefits. Where spatial distribution of emissions is very important to the attainment of the standards, states should specify subarea budgets in their SIPs as necessary to demonstrate attainment, according to the degree of disaggregation they deem appropriate. Where such subarea budgets are identified, all plans and TIPs would have to show conformity to each subarea budget. On the other hand, if subarea budgets are not necessary for attainment demonstration purposes, EPA believes that the conformity rule need not require them.

D. Credit for Delayed TCMs

1. What Is the Issue?

As described in issue 15 of the Petition for Reconsideration, the petitioners believe that where a transportation control measure (TCM) has been delayed beyond the scheduled implementation date(s) in the SIP, an area's conformity determination should not be allowed to take emissions reduction credit for the TCM until after the TCM has actually been brought into service. This would be more stringent than the current conformity rule, which prohibits emission reduction credit only until "such time as implementation has been assured" (see § 93.122(a)(2)).

2. What Is EPA's Response?

We believe that in general, it is appropriate for areas to take credit for measures even before they have been implemented, provided that there are good reasons to believe that the measures will be implemented on the anticipated schedule. The main purpose of conformity is to prospectively analyze the impacts of future transportation activities, whether their impacts are positive or negative.

The conformity rule has a number of provisions to ensure that areas analyze only those projects that are reasonably expected to occur. For example, we do not allow areas to take credit for TCMs on their original implementation schedule when they have already been delayed. We do not allow areas to take credit for regulatory measures until they have been adopted or committed to in a SIP.

However, the petitioners' suggestion would not allow for any prospective credit for any TCM that had been delayed at any point in its life. Although the petitioners' suggestion could perhaps provide an incentive to avoid TCM delays, we believe that the requirements for timely implementation of TCMs already serve that purpose.

We believe that the petitioners' suggestion would be punitive in nature and is not necessary to fulfill the requirements of Clean Air Act section 176(c). We do not see any reason to forbid areas to take credit for a TCM if all obstacles have been overcome and its implementation is assured, even if the project is not on its original implementation schedule.

Once implementation has been assured, emissions analyses could take credit for the TCM in the analysis years during which the TCM would actually be in service (under the revised schedule). Obviously, an area would not be allowed to take credit for the TCM according to its original schedule, unless the area could demonstrate how it was making up for the past delays.

The petitioners do point out that we have not defined what we mean by the phrase, "such time as implementation has been assured." Although the interpretation of this phrase will vary from case to case, assurance of implementation would require at least the following: (a) Past obstacles to implementation of the TCM have been overcome; (b) state and local agencies are giving maximum priority to approval or funding of TCMs over other projects within their control; (c) funding for the TCM is identified and reasonably expected to be available; and (d) the legal or regulatory authority necessary to implement the TCM has been secured or appropriate commitments are in place.

Section 93.113 of the conformity rule requires that if TCMs in an approved SIP are behind schedule, the area must demonstrate that past obstacles to implementation of the TCM have been overcome and that the TCM is receiving maximum priority. This demonstration must be based on consultation among the federal, state, and local air and transportation agencies.

The preamble to the 1993 conformity rule (58 FR 62197, November 24, 1993) provides more explanation of these points, including guidance on what is considered "maximum priority."

We take this opportunity to also address some other questions that have arisen about timely TCM implementation. First, what does it mean for a TCM or other measure in the SIP to be "delayed beyond the scheduled date(s)" We consider a measure "delayed" if the current schedule for its implementation (for example, as described in the TIP) indicates that the upcoming scheduled dates in the SIP will be missed.

In other words, a measure can be considered delayed even before the implementation date is actually missed. If current projections indicate the project will miss scheduled implementation dates, it is considered delayed.

In addition, we would like to clarify that once a TCM has been implemented, this implementation must continue permanently unless the approved SIP specifically stipulates that

implementation will cease at a specific time.

IV. How Would this Action Affect Conformity SIPs?

Clean Air Act section 176(c)(4)(C) requires states to submit revisions to their SIPs in order to include the criteria and procedures for determining conformity.

If we approved your area's conformity SIP and it includes a provision for a one-year grace period (§ 93.102(d)), that provision cannot be implemented. This has been the case ever since the November 4, 1997, court decision, which found such provisions to be inconsistent with the Clean Air Act.

Future conformity SIP submissions may not include § 93.102(d). If your area has submitted a conformity SIP to us that contains this provision (and we have not yet approved the conformity SIP), we are not able to approve such a provision as part of the SIP.

V. Administrative Requirements

A. Administrative Designation

Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or otherwise adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This proposal does not impose any new information collection requirements from EPA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq*. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

C. Regulatory Flexibility Analysis

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires the agency to conduct a regulatory flexibility analysis of any significant impact a proposed rule will have on a substantial number of small entities. Small entities include small businesses, small not-for-profit organizations and small government jurisdictions.

EPA has determined that today's regulations will not have a significant impact on a substantial number of small entities. This regulation affects federal agencies and metropolitan planning organizations, which by definition are designated only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities. The Regulatory Flexibility Act defines "small governmental jurisdiction" as the government of a city, county, town, school district or special district with a population of less than 50,000.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Furthermore, this proposal simply formalizes what the court has already decided as a legal matter, and which is already being implemented in practice.

This rule affects only those areas that are newly designated as nonattainment, and it simply applies conformity one year earlier than our previous rule had required. Therefore, this rule could require a limited number of areas to perform perhaps one additional transportation plan/TIP conformity determination each.

A 1992 DOT survey of metropolitan planning organizations (MPOs) found that most MPOs spend less than $50,000 per transportation plan/TIP conformity determination. The largest MPOs (serving a population over one million) spent up to $250,000. Thus, even if EPA were to designate 200 areas as nonattainment in one year and each one

incurred the maximum costs, the expenditures would not exceed $100 million.

Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. NTTAA

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

F. Executive Order 13045

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is not economically significant within the meaning of Executive Order 12866 and it does not establish an environmental standard intended to mitigate health or safety risks.

G. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

The Clean Air Act requires conformity to apply in nonattainment and maintenance areas, and the U.S. Court of Appeals for the District of Columbia Circuit has determined that the Clean Air Act requires conformity to apply immediately upon nonattainment designation. As a result, this regulation is required by statute. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

H. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

The Clean Air Act requires conformity to apply in nonattainment and maintenance areas, and the U.S. Court of Appeals for the District of Columbia Circuit has determined that the Clean Air Act requires conformity to apply immediately upon nonattainment designation. As a result, this regulation is required by statute. Furthermore, today's rule would not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. Executive Orders on Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's Prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule

with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification form the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The Clean Air Act requires conformity to apply in nonattainment and maintenance areas, and the U.S. Court of Appeals for the District of Columbia Circuit has determined that the Clean Air Act requires conformity to apply immediately upon nonattainment designation. As a result, this rule is codifying in regulation the statutory interpretation by the court that is currently in effect. Consequently, this rule itself will not have substantial impact on States. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

List of Subjects in 40 CFR Part 93

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen Dioxide, Ozone, Particulate matter, Transportation, Volatile organic compounds.

Dated: November 22, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 93 is proposed to be amended as follows:

PART 93—[AMENDED]

1. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

§ 93.102 [Amended]

2. In § 93.102, paragraph (d) is removed.

[FR Doc. 99–30903 Filed 11–29–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 64, No. 229
Tuesday, November 30, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Announcement of New Appointments to the Membership of the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Announcement of Appointments.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces the appointments by the Secretary of Agriculture to fill 11 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATE: Effective October 1, 1999.

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agricultural Improvement and Reform Act of 1996 (The Farm Bill) authorized the creation of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The Board is composed of 30 members, each representing a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others.

The Board was first appointed in September 1996 and one-third of the 30 members were appointed for a 1, 2, and 3 year term, respectively. As a result of the staggered appointments, the terms for 10 of the 30 members expired September 30, 1999, and one member resigned which made a total of 11 vacancies to be filled. Secretary of Agriculture Dan Glickman made the following appointments effective October 1, 1999, to begin a 3-year term to the Advisory Board (listed by category of representation: Category B, Farm Cooperatives, David Harlow, Harlow Farms, Inc., Palouse, Washington; Category D, Plant Commodity Producers, Daniel M. Dooley (reappointed), Dooley and Herr, LLD, Visalia, California; Category G, National Aquaculture Associations, T. Michael Freeze (reappointed), Keo Fish Farm, Keo, Arkansas; Category J, National Food Science Organizations, Susan Kay Harlander, The Pillsbury Company, Minneapolis, Minnesota; Category L, National Nutritional Science Societies, Cutberto Garza, Cornell University, Ithaca, New York; Category M, Land-Grant Colleges and Universities—1862—Victor L. Lechtenberg (reappointed), Purdue University, West Lafayette, Indiana; Category R, Scientific Community not closely associated with Agriculture, William Scouten (reappointed), Utah State University, Logan, Utah; Category S, Transportation of Food and Agricultural Products (foreign and domestic), Emma Jean Cervantes, Farmer/Producer, La Mesa, NM; Category AA, An agency of USDA lacking Research Capabilities, Homer L. Wilkes, Natural Resources Conservation Service, Jackson, Mississippi; Category BB, Research agency of the Federal Government other than USDA, Mary Clutter (reappointed), National Science Foundation, Arlington, Virginia; and Category DD, National Organization directly concerned with REE, Marlyn Jorgensen, Jorg-Anna Farms, Inc., Garrison, Iowa.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 344A Jamie L. Whitten Building, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199, or e-mail: lshea@reeusda.gov.

Done at Washington, DC, this 2nd day of November 1999.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 99–31079 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to AgriVir, LLC, of Washington, DC, an exclusive license to U.S. Patent No. 5,023,182 issued on June 11, 1991, entitled "Novel Virus Composition to Protect Agricultural Commodities From Insects." Notice of Availability was published in the **Federal Register** on September 22, 1988.

DATES: Comments must be received on or before January 29, 2000.

ADDRESS: Send comments to: USDA, ARS, Office of Technology Transfer, 5106 Sunnyside Avenue, Room 4–1158, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as AgriVir, LLC, submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 99–31078 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Co-Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that the Federally owned inventions U.S. Patent Application No. 09/107,760 filed June 30, 1998, entitled "A Method for Separating Elastomeric Particulates from Fibers" and U.S. Patent Application No. 09/287,300 filed on April 7, 1999, entitled "An Improved Method and Apparatus for Separating Elastomeric Particulates and Fibers from a Pulvertized Mixture" are available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Akron Rubber Machinery, International, of Akron, Ohio; Continental Eagle Corporation of Prattville, Alabama, and Granutech-Saturn Systems Corporation of America of Grand Prairie, Texas, co-exclusive licenses to Serial Nos. 09/107,760 and 09/287,300.

DATES: Comments must be received on or before February 28, 2000.

ADDRESS: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1158, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Akron Rubber Machinery, International; Continental Eagle Corporation; and Granutech-Saturn Systems Corporation of America, have submitted a complete and sufficient application for a license. The prospective co-exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective co-exclusive licenses may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 99–31077 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Crop Revenue Coverage

ACTION: Notice of availability.

SUMMARY: In accordance with section 508(h) of the Federal Crop Insurance Act (Act), since 1996 the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board) has approved for reinsurance and subsidy the insurance of corn, grain sorghum, soybeans, cotton, rice, and spring wheat in select states and counties under the Crop Revenue Coverage (CRC) plan of insurance submitted by American Agrisurance (AmAg). This notice is intended to inform eligible producers and the private insurance industry of coverage changes for corn, grain sorghum, soybeans, cotton, rice, spring wheat, and durum wheat for the 2000 crop year.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Missouri, 64131, telephone (816) 926–7387.

SUPPLEMENTARY INFORMATION: Section 508(h) of the Act allows for the submission of a policy to FCIC's Board and authorizes the Board to review and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, approve the policy for reinsurance and subsidy in accordance with section 508(e) of the Act.

In accordance with section 508(h) of the Act, the Board approved a program of insurance known as CRC, submitted by American Agrisurance, a managing general agency for Redland Insurance Company. All terms and conditions of the policy and all premium rates are determined by AmAg. FCIC does not have the authority to modify or waive any terms or conditions. FCIC only has the authority to approve or disapprove the terms and conditions submitted by AmAg.

The CRC program has been approved for reinsurance and premium subsidy, including subsidy for administrative and operating expenses in an amount authorized under section 508(e) of the Act. CRC is designed to protect producers against both price and yield losses.

AmAg has requested the following changes in the CRC program for corn, grain sorghum, soybeans, cotton, rice, and spring wheat for the 2000 crop year: (1) to expand the CRC program for corn into all counties in the states of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia where multiple peril crop insurance (MPCI) is available for corn; (2) to expand the CRC program for soybeans into all counties in the states of Colorado, Delaware, New Jersey, New York, Pennsylvania, and West Virginia where MPCI is available for soybeans; (3) to provide written agreements for CRC coverage on those crops approved for CRC in counties without a CRC actuarial table, provided an MPCI rate is made available from FCIC; (4) to provide written unit agreements for optional units formed across section lines or optional units from oversized sections; (5) to remove the 95 percent price percentage option; (6) allow AmAg to offer 80 and 85 percent coverage where RMA offers such coverage; (7) revise the CRC program for durum wheat to allow durum wheat coverage only in 15 counties in North Dakota; (8) use the Minneapolis Grain Exchange (MGE) durum wheat futures market price to determine base and harvest prices for spring durum wheat; and (9) require durum wheat producers who apply for CRC coverage to use their approved durum wheat actual production history (APH) yield or if the producer does not have a durum wheat APH yield, a wheat T-yield will be used to establish coverage.

FCIC herewith gives notice of the above stated changes for the 2000 crop year for CRC corn, grain sorghum, soybeans, cotton, rice, and spring wheat for use by private insurance companies.

The CRC policies, underwriting rules, and rate factors for 2000 spring crops will be released electronically to all reinsured companies through FCIC's Website.

Notice: The revised Basic Provisions, Crop Provisions, and Commodity Exchange Endorsements for the 2000 CRC spring crop programs of insurance are as follows:

Crop Revenue Coverage (CRC) Insurance Policy

(This is a continuous policy. Refer to section 3.)

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the authority of section

508(h) of the Federal Crop Insurance Act, as amended (7 U.S.C. 1508(h)). The provisions of the policy may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC or us. In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by FCIC. No state guarantee fund will be liable to pay the loss.

Throughout the policy, "you" and "your" refer to the named insured shown on the accepted application and "we," "us," and "our" refer to the insurance company providing insurance. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in the policy. If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) the Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) these Basic Provisions, with (1) controlling (2), etc.

Basic Provisions

Terms and Conditions

1. Definitions

Abandon. Failure to continue to care for the crop, providing care so insignificant as to provide no benefit to the crop, or failure to harvest in a timely manner, unless an insured cause of loss prevents you from properly caring for or harvesting the crop or causes damage to it to the extent that most producers of the crop on acreage with similar characteristics in the area would not normally further care for or harvest it.

Acreage report. A report required by section 7 of these Basic Provisions that contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county, whether insurable or not insurable.

Acreage reporting date. The date contained in the Special Provisions or as provided in section 7 by which you are required to submit your acreage report.

Act. The Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*).

Actuarial documents. The material for the crop year which is available for public inspection in your agent's office, and which show the revenue guarantees, coverage levels, premium rates, practices, insurable acreage, and other related information regarding crop insurance in the county.

Additional coverage. Plans of crop insurance providing a level of coverage equal to or greater than 65 percent of the approved yield indemnified at 100 percent of the Base Price, or a comparable coverage.

Administrative fee. An amount you must pay for limited and additional coverage for each crop year as specified in section 8.

Agricultural commodity. All insurable crops and other fruit, vegetable or nut crops produced for human or animal consumption.

Another use, notice of. The written notice required when you wish to put acreage to another use (see section 15).

Application. The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If cancellation or termination of insurance coverage occurs for any reason, including but not limited to indebtedness, suspension, debarment, disqualification, cancellation by you or us, or violation of the controlled substance provisions of the Food Security Act of 1985, a new application must be filed for the crop. Insurance coverage will not be provided if you are ineligible under the contract or under any Federal statute or regulation.

Approved yield. The yield determined in accordance with 7 CFR part 400, subpart G. This yield is established for basic or optional units. The approved yield for each basic or optional unit comprising an enterprise unit is retained for premium and final guarantee purposes under an enterprise unit.

Assignment of indemnity. A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

Base price. The initial price determined in accordance with the Commodity Exchange Endorsement and used to calculate your premium and Minimum Guarantee.

CRC low price factor. A premium factor, as set forth in the actuarial documents, used to calculate the risk associated with a decrease in the Harvest Price relative to the Base Price.

CRC high price factor. A premium factor, as set forth in the actuarial documents, used to calculate the risk associated with an increase in the Harvest Price relative to the Base Price.

CRC rate. A premium rate, as set forth in the actuarial documents, used to calculate the risk associated with producing a level of production.

Calculated revenue—The production to count for the insured crop multiplied by the Harvest Price.

Cancellation date. The calendar date specified in the Crop Provisions on which coverage for the crop will automatically renew unless canceled in writing by either you or us, or terminated in accordance with the policy terms.

Claim for indemnity. A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the Harvest Price is released (see section 15).

Consent. Approval in writing by us allowing you to take a specific action.

Contract. (see "Policy".)

Contract change date. The calendar date by which we make any policy changes available for inspection in the agent's office (see section 5).

County. Any county, parish, or other political subdivision of a state shown on your accepted application, including acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

Coverage. The insurance provided by this policy, against insured loss of revenue by unit as shown on your summary of coverage.

Coverage begins, date. The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date planting begins on the unit (see section 12 of these Basic Provisions for specific provisions relating to prevented planting).

Crop provisions. The part of the policy that contains the specific provisions of insurance for each insured crop.

Crop year. The period within which the insured crop is normally grown, regardless of whether or not it is actually grown, and designated by the calendar year in which the insured crop is normally harvested.

Damage. Injury, deterioration, or loss of revenue of the insured crop due to insured or uninsured causes.

Damage, notice of. A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 15).

Days. Calendar days.

Deductible. The amount determined by subtracting the coverage level percentage you choose from 100 percent. For example, if you elected a 65

percent coverage level, your deductible would be 35 percent (100% – 65%=35%).

Delinquent account. Any account you have with us in which premiums, and interest on those premiums, is not paid by the termination date specified in the Crop Provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

Earliest planting date. The earliest date established for planting the insured crop (see Special Provisions and section 14).

End of insurance period, date of. The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 12).

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within USDA.

Field. All acreage of tillable land within a natural or artificial boundary (*e.g.*, roads, waterways, fences, etc.).

Final guarantee. The number of dollars guaranteed per acre determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum Guarantee—The approved yield per acre multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) Harvest Guarantee—The approved yield per acre multiplied by the Harvest Price, multiplied by the coverage level percentage you elect. If you elect enterprise unit coverage, the basic units or optional units comprising the enterprise unit will retain separate Final Guarantees.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full Final Guarantee.

FSA. The Farm Service Agency, an agency of the USDA, or a successor agency.

FSA farm serial number. The number assigned to the farm by the local FSA office.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the Final Guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest Price. The final price determined in accordance with the Commodity Exchange Endorsement and used to calculate your Calculated Revenue and the Harvest Guarantee.

Insured. The named person shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application.

Insured crop. The crop for which coverage is available under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the Final Guarantee on the irrigated acreage planted to the insured crop.

Late planted. Acreage initially planted to the insured crop after the final planting date.

Late planting period. The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date, unless otherwise specified in the Crop Provisions or Special Provisions.

Limited coverage. Plans of insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the Base Price, or a comparable coverage, but less than 65 percent of the approved yield indemnified at 100 percent of the Base Price, or a comparable coverage.

Limited resource farmer. A producer or operator of a farm:

(a) With an annual gross income of $20,000 or less derived from all sources, including income from a spouse or other members of the household, for each of the prior two years; or

(b) With less than 25 acres aggregated for all crops, where a majority of the producer's gross income is derived from such farm or farms, but the producer's gross income from farming operations does not exceed $20,000.

Loss, notice of. The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period, whichever is earlier (see section 15).

MPCI. Multiple peril crop insurance program, a program of insurance offered under the Act and implemented in 7 CFR chapter IV.

Negligence. The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Person. An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. "Person" does not include the United States Government or any agency thereof.

Planted acreage. Land in which seed, plants, or trees have been placed appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

Policy. The agreement between you and us consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the actuarial documents for the insured crop, and the applicable regulations published in 7 CFR chapter IV.

Practical to replant. Our determination, after loss or damage to the insured crop, based on all factors, including, but not limited to moisture availability, marketing window, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period, or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. Unavailability of seed or plants will not be considered a valid reason for failure to replant.

Premium billing date. The earliest date upon which you will be billed for insurance coverage based on your acreage report. The premium billing date is contained in the Special Provisions.

Prevented planting. Failure to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county. You may also be eligible for a prevented planting payment if you failed to plant the insured crop with the proper equipment within the late planting period. You must have been prevented from planting the insured crop due to an insured

cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.

Production report. A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 4). The report contains yield information for previous years, including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop, by measurement of farm-stored production, or by other records of production approved by us on an individual case basis.

Replanting. Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed insured crop and then replacing the seed or plants of the same crop in the insured acreage with the expectation of producing at least the yield used to determine the Final Guarantee.

Representative sample. Portions of the insured crop that must remain in the field for examination and review by our loss adjuster when making a crop appraisal, as specified in the Crop Provisions. In certain instances we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

Sales closing date. A date contained in the Special Provisions by which an application must be filed. The last date by which you may change your crop insurance coverage for a crop year.

Section (for the purposes of unit structure). A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

Share. Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss, or the beginning of harvest.

Special Provisions. The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

State. The state shown on your accepted application.

Substantial benefit interest. An interest held by any person of at least 10 percent in the applicant or insured.

Summary of coverage. Our statement to you, based upon your acreage report, specifying the insured crop and the Revenue Guarantee provided by unit.

Tenant. A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of "share" above).

Termination date. The calendar date contained in the Crop Provisions upon which your insurance ceases to be in effect because of nonpayment of any amount due us under the policy, including premium.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Unit.

(a) Basic unit—A unit established in accordance with section 2(a).

(b) Optional unit—A unit established from basic units in accordance with section 2(b).

(c) Enterprise unit—A unit established from basic units or optional units in accordance with section 2(c).

USDA. United States Department of Agriculture.

Void. When the policy is considered not to have existed for a crop year as a result of concealment, fraud, or misrepresentation (see section 27).

Written Agreement. A document that alters designated terms of a policy as authorized under these Basic Provisions (see section 34).

2. Unit Structure

(a) Basic unit—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have 100 percent crop share; or

(2) Which is owned by one person and operated by another person on a share basis. (Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.) Land rented for cash, a fixed commodity payment, or a consideration other than a share in the insured crop, or proceeds from the sale of the insured crop, on such land will be considered as owned by the lessee (see definition of "share" above).

(b) Optional unit—Unless limited by the Crop Provisions or Special Provisions, a basic unit as defined in section 2(a) may be divided into optional units if, for each optional unit:

(1) You meet the following:

(i) You have records, that are acceptable to us, of planted acreage and the production from each optional unit for at least the last crop year used to determine your Final Guarantee;

(ii) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(iii) All optional units you select for the crop year are identified on the acreage report for that crop year (Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. No further unit division may be made after the acreage reporting date for any reason); and

(iv) You have records of marketed or stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each optional unit is kept separate until loss adjustment is completed by us.

(2) It meets one or more of the following, unless otherwise specified in the Crop Provisions or allowed by written agreement (Note: No written agreement is allowed for optional units created across section lines or in oversized sections if the acreage is located in a high risk area):

(i) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure such as Spanish grants, as the equivalents of sections for unit purposes. In areas which have not been surveyed using sections, section equivalents or in areas where boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; and

(ii) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, optional units may be based on irrigated and non-irrigated acreage. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the Final Guarantee is based, except the corners of a field in which a center-pivot irrigation system is used may be considered as irrigated acreage if the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit. In this case, production from both practices will be used to determine your approved yield.

(3) If you do not comply fully with the provisions in this section, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they

were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined by us to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(c) Enterprise unit—A unit that consists of all insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year. If you select and qualify for an enterprise unit, you will qualify for a premium discount based on the insured crop and number of acres in the enterprise unit. The following requirements must be met to qualify for an enterprise unit:

(1) The enterprise unit must contain 50 or more acres;

(2) The acreage that comprises the enterprise unit must also qualify:

(i) For two or more basic units of the same insured crop as defined in section 2(a) that are located in two or more separate sections, section equivalents or FSA farm serial numbers; or

(ii) For two or more optional units of the same insured crop established by separate sections, section equivalents, or FSA farm serial numbers as defined in section 2(b)(2)(i).

(3) These basic units or optional units that comprise the enterprise unit must each have insurable acreage of the same crop in the crop year insured;

(4) You must comply with all reporting requirements for the enterprise unit (You must maintain required production records on a basic or optional unit basis if you wish to change your unit structure for any subsequent crop year);

(5) The qualifying basic units or optional units may not be combined into an enterprise unit on any basis other than as described herein; and

(6) If you do not comply with the reporting provisions for the enterprise unit, your yield for the enterprise unit will be determined in accordance with section 4.

(d) Selection of unit structure—Basic, optional, or enterprise units will be determined when the acreage is reported but may be adjusted, combined, or separated to reflect the actual unit structure when adjusting a loss. If you select an enterprise unit structure, you must elect that option in writing by the earliest sales closing date for the insured crops. If you do not qualify for an enterprise unit when the acreage is reported, we will assign the basic unit structure.

All applicable unit structures must be stated on the acreage report for each crop year.

3. Life of Policy, Cancellation, and Termination

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application until canceled by you in accordance with the terms of the policy or terminated by operation of the terms of the policy, or by us.

(b) Your application for insurance must contain all the information required by us to insure the crop. Applications that do not contain all social security numbers and employer identification numbers, as applicable, (except as stated herein) coverage level, price percentage, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable. If a person with a substantial beneficial interest in the insured crop refuses to provide a social security number or employer identification number, the amount of coverage available under the policy will be reduced proportionately by that person's share of the crop.

(c) After acceptance of the application, you may not cancel this policy for the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(d) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(e) If any amount due, including administrative fees or premium, is not paid, or an acceptable arrangement for payment is not made on or before the termination date for the crop on which the amount is due, you will be determined to be ineligible to participate in any crop insurance program authorized under the Act in accordance with 7 CFR part 400, subpart U.

(1) For a policy with unpaid administrative fees or premium, the policy will terminate effective on the termination date immediately subsequent to the billing date for the crop year;

(2) For a policy with other amounts due, the policy will terminate effective on the termination date immediately after the account becomes delinquent;

(3) Ineligibility will be effective as of the date that the policy was terminated for the crop for which you failed to pay an amount owed and for all other insured crops with coincidental termination dates;

(4) All other policies that are issued by us under the authority of the Act will also terminate as of the next termination date contained in the applicable policy;

(5) If you are ineligible, you may not obtain any crop insurance under the Act until payment is made, you execute an agreement to repay the debt and make the payments in accordance with the agreement, or you file a petition to have your debts discharged in bankruptcy;

(6) If you execute an agreement to repay the debt and fail to timely make any scheduled payment, you will be ineligible for crop insurance effective on the date the payment was due until the debt is paid in full or you file a petition to discharge the debt in bankruptcy and subsequently obtain discharge of the amounts due. Dismissal of the bankruptcy petition before discharge will void all policies in effect retroactive to the date you were originally determined ineligible to participate;

(7) Once the policy is terminated, the policy cannot be reinstated for the current crop year unless the termination was in error;

(8) After you again become eligible for crop insurance, if you want to obtain coverage for your crops, you must reapply on or before the sales closing date for the crop (Since applications for crop insurance cannot be accepted after the sales closing date, if you make any payment after the sales closing date, you cannot apply for insurance until the next crop year); and

(9) If we deduct the amount due us from an indemnity, the date of payment for the purpose of this section will be the date you sign the properly executed claim for indemnity.

(10) For example, if crop A, with a termination date of October 31, 1999, and crop B, with a termination date of March 15, 2000, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for crop insurance as of October 31, 1999, and crop A's policy is terminated on that date. Crop B's policy is terminated as of March 15, 2000. If you enter an agreement to repay the debt on April 25, 2000, you can apply for insurance for crop A by the October 31, 2000, sales closing date and crop B by the March 15, 2001, sales closing date. If you fail to make a scheduled payment on November 1, 2000, you will be ineligible for crop insurance effective on November 1, 2000, and you will not be eligible unless the debt is paid in full or you file a petition to have the debt discharged in bankruptcy and subsequently receive discharge.

(f) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. The premium will be deducted from the indemnity or collected from the estate. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(g) We may terminate your policy if no premium is earned for 3 consecutive years.

(h) The cancellation and termination dates are contained in the Crop Provisions.

(i) You are not eligible to participate in the Crop Revenue Coverage program if you have elected the MPCI Catastrophic Risk Protection Endorsement except if you execute a High Risk Land Exclusion Option for a Crop Revenue Coverage Policy, you may elect to insure the "high risk land" under an MPCI Catastrophic Risk Protection Endorsement, provided the Catastrophic Risk Protection Endorsement is obtained from us. If both policies are in force, the acreage of the crop covered under the Crop Revenue Coverage policy and the acreage covered under an MPCI Catastrophic Risk Protection Endorsement will be considered as separate crops for insurance purposes, including the payment of administrative fees.

4. Coverage Level, and Approved Yield for Determining Final Guarantee and Indemnity

(a) For each crop year, the Final Guarantee, coverage level, and price percentage at which an indemnity will be determined for each unit will be those used to calculate your summary of coverage. The information necessary to determine those factors will be contained in the Special Provisions or in the actuarial documents.

(b) You may select only one coverage level from among those offered by us for each insured crop. By written notice to us, you may change the coverage level for the following crop year not later than the sales closing date for the affected insured crop. If you do not change the coverage level for the succeeding crop year you will be assigned the same coverage level that was in effect the previous crop year.

(c) This policy is an alternative to the MPCI program and satisfies the requirements of section 508(b)(7) of the Act.

(d) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date unless otherwise stated in the Special Provisions.

(1) If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75 percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your Approved Yield for the purpose of determining your Final Guarantee for the current crop year.

(2) If you have filed a claim for any crop year, the documents signed by you that state the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC.

(3) Production and acreage for the prior crop year must be reported for each proposed optional unit by the production reporting date. If you do not provide the information stated above, the optional units will be combined into the basic unit.

(e) We may revise your Final Guarantee for any unit, and revise any indemnity paid based on that Final Guarantee, if we find that your production report under paragraph (d) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of production report; or

(2) Fails to accurately report actual production, acreage, or other material information.

(f) Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such a person to sign.

5. Contract Changes

(a) We may change the terms of your coverage under this policy from year to year.

(b) Any changes in policy provisions, premium rates, and program dates will be provided by us to your crop insurance agent not later than the contract change date contained in the Crop Provisions. You may view the documents or request copies from your crop insurance agent.

(c) You will be notified, in writing, of changes to the Basic Provisions, Crop Provisions, and Special Provisions not later than 30 days prior to the cancellation date for the insured crop. Acceptance of changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

6. Liberalization

If we adopt any revision that broadens the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

7. Report of Acreage

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date contained in the Special Provisions, except as follows:

(1) If you insure multiple crops with us that have final planting dates on or after August 15 but before December 31, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops; and

(2) If you insure multiple crops with us that have final planting dates on or after December 31 but before August 15, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops.

(3) Notwithstanding the provisions in sections 7(a)(1) and (2):

(i) If the Special Provisions designate separate planting periods for a crop, you must submit an acreage report for each planting period on or before the acreage reporting date contained in the Special Provisions for the planting period; and

(ii) If planting of the insured crop continues after the final planting date or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(A) The acreage reporting date contained in the Special Provisions;

(B) The date determined in accordance with sections 7(a)(1) or (2); or

(C) Five (5) days after the end of the late planting period for the insured crop, if applicable.

(b) If you do not have a share in an insured crop in the county for the crop year, you must submit an acreage report on or before the acreage reporting date, so indicating.

(c) Your acreage report must include the following information, if applicable:

(1) All acreage of the crop in the county (insurable and not insurable) in which you have a share;
(2) Your share at the time coverage begins;
(3) The practice;
(4) The type; and
(5) The date the insured crop was planted.

(d) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity that may be due, you may not revise this report after the acreage reporting date without our consent.

(e) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances we determine to have existed, subject to the provisions contained in section 7(g).

(f) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice, or to deny liability on such units. If we deny liability for the unreported units, your share of any production from the unreported units will be allocated, for loss purposes only, as production to count to the reported units in proportion to the liability on each reported unit. However, such production will not be allocated to prevented planting acreage or otherwise affect any prevented planting payment.

(g) If the information reported by you on the acreage report for share, acreage, practice, type or other material information is inconsistent with the information that is determined to actually exist for a unit and results in:

(1) A lower liability than the actual liability determined, the Final Guarantee on the unit will be reduced to an amount that is consistent with the reported information. In the event that insurable acreage is under-reported for any unit, all production or value from insurable acreage in that unit will be considered production or value to count in determining the indemnity; and

(2) A higher liability than the actual liability determined, the information contained in the acreage report will be revised to be consistent with the correct information. If we discover that you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years that substantiates your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense.

(h) Errors in reporting units may be corrected by us at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

8. Annual Premium and Administrative Fees

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the premium billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if it is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount you owe us related to any crop insured with us under the authority of the Act will be deducted from any prevented planting payment or indemnity due you for any crop insured with us under the authority of the Act.

(c) The annual premium amount is determined by:

(1) Multiplying the Approved Yield times the coverage level, times the MPCI Base Premium Rate specified in the actuarial documents, and times the Base Price as defined in the Commodity Exchange Endorsement;

(2) Multiplying the Approved Yield times the coverage level, times the CRC Rate Factor specified in the actuarial documents, and times the Low Price Factor specified in the actuarial documents;

(3) Multiplying the Approved Yield times the coverage level, times the MPCI Base Premium Rate specified in the actuarial documents, and times the High Price Factor specified in the actuarial documents;

(4) Adding sections 8(c)(1), (2), and (3); and

(5) Multiplying the result of section 8(c)(4) times the acres insured, times your share at the time coverage begins, and as applicable, times any High Risk Map Area Adjustment Factor; Rate Class Option Factor; CRC Option Factor; Yield Adjustment Surcharge; and/or CRC Enterprise Option Factor.

(d) To determine the amount of annual premium paid by you:

(1) Multiply the Approved Yield times the coverage level, times the MPCI Base Premium Rate specified in the applicable actuarial documents, times the MPCI Market Price Election, times the acres insured, times your share at the time coverage begins, and as applicable, times any High Risk Map Area Adjustment Factor; Rate Class Option Factor; CRC Option Factor; Yield Adjustment Surcharge; CRC Enterprise Option Factor; and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level and is contained in the actuarial documents; and

(2) Subtract section 8(d)(1) from section 8(c)(5).

(e) In addition to the premium charged:

(1) If you elect limited coverage, you must pay an administrative fee each crop year of $50 per crop per county, not to exceed $200 per county, or $600 for all counties in which you elected to obtain limited coverage.

(2) If you elect additional coverage, you must pay an administrative fee of $20 per crop for each crop year in which crop insurance coverage remains in effect.

(3) The administrative fee must be paid no later than the time that premium is due.

(4) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage reporting date for the crop. If you falsely file a zero acreage report, you may be subject to criminal and administrative sanctions.

(5) The administrative fee for limited coverage will be waived if you request it and you qualify as a limited resource farmer.

(6) The administrative fee for additional coverage is not subject to any limits and may not be waived.

(7) Failure to pay the administrative fees when due may make you ineligible for certain other USDA benefits.

9. Insured Crop

(a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions or Special Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates or Final Guarantee have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the policy provisions;

(3) That is a volunteer crop;

(4) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(5) That is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions; or

(6) That is used solely for wildlife protection or management. If the lease states that specific acreage must remain

unharvested, only that acreage is uninsurable. If the lease specifies that a percentage of the crop must be left unharvested, your share will be reduced by such percentage.

10. Insurable Acreage

(a) Acreage planted to the insured crop in which you have a share is insurable except acreage:

(1) That has not been planted and harvested within one of the 3 previous crop years, unless:

(i) Such acreage was not planted:

(A) To comply with any other USDA program;

(B) Because of crop rotation, (*e.g.*, corn, soybean, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again);

(C) Due to an insurable cause of loss that prevented planting; or

(D) Because a perennial tree, vine, or bush crop was grown on the acreage.

(ii) Such acreage was planted but was not harvested due to an insurable cause of loss; or

(iii) The Crop Provisions specifically allow insurance for such acreage.

(2) That has been strip-mined, unless an agricultural commodity other than a cover, hay, or forage crop (except corn silage), has been harvested from the acreage for at least five crop years after the strip-mined land was reclaimed;

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) That is interplanted, unless allowed by the Crop Provisions;

(5) That is otherwise restricted by the Crop Provisions or Special Provisions; or

(6) That is planted in any manner other than as specified in the policy provisions for the crop.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and adequate water, or the reasonable expectation of receiving adequate water at the time coverage begins, to carry out a good irrigation practice. If you knew or had reason to know that your water may be reduced before coverage begins, no reasonable expectation exists.

(c) Notwithstanding the provisions in section 9(b)(1), if acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as "non-irrigated," or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage that we will insure to the amount allowed under any acreage limitation program established by the USDA if we notify you of that restriction prior to the sales closing date.

11. Share Insured

(a) Insurance will attach only to the share of the person completing the application and will not extend to any other person having a share in the crop unless the application clearly states that:

(1) The insurance is requested for an entity such as a partnership or a joint venture; or

(2) You as landlord will insure your tenant's share, or you as tenant will insure your landlord's share. In this event, you must provide evidence of the other party's approval (lease, power of attorney, etc.). Such evidence will be retained by us. You also must clearly set forth the percentage shares of each person on the acreage report.

(b) We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share.

(c) Acreage rented for a percentage of the crop, or a lease containing provisions for BOTH a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) AND a crop share will be considered a crop share lease.

(d) Acreage rented for cash, or a lease containing provisions for EITHER a minimum payment OR a crop share (such as a 50/50 share or $100.00 per acre, whichever is greater) will be considered a cash lease.

12. Insurance Period

(a) Except for prevented planting coverage (see section 18), coverage begins on each unit or part of a unit at the later of:

(1) The date we accept your application (For the purposes of this paragraph, the date of acceptance is the date that you submit a properly executed application in accordance with section 3);

(2) The date the insured crop is planted; or

(3) The calendar date contained in the Crop Provisions for the beginning of the insurance period.

(b) Coverage ends at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on a unit;

(4) The calendar date contained in the Crop Provisions for the end of the insurance period;

(5) Abandonment of the crop on the unit; or

(6) As otherwise specified in the Crop Provisions.

13. Causes of Loss

The insurance provided is against only unavoidable loss of revenue directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) Failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop, if applicable.

14. Replanting Payment

(a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured planted acreage for the unit (as determined on the final planting date or within the late planting period if a late planting period is applicable.)

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the earliest planting date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) No replanting payment will be paid if we determine it is not practical to replant.

15. Duties in the Event of Damage or Loss

Your Duties—

(a) In case of damage to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop (we may accept a notice of loss provided later than 72 hours after your initial discovery if we still have the ability to accurately adjust the loss);

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions;

(4) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:

(i) Show us the damaged crop;

(ii) Allow us to remove samples of the insured crop; and

(iii) Provide us with records and documents we request and permit us to make copies; and

(5) Give us notice of your expected revenue loss not later than 45 days after the date the Harvest Price is released.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop that is not harvested;

(2) Put the insured crop to an alternative use;

(3) Put the acreage to another use; or

(4) Abandon any portion of the insured crop. We will not give consent for any of the actions in sections 15(b)(1) through (4) if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the date the Harvest Price is released. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath.

(e) You must establish the total production or value received for the insured crop on the unit, that any loss of production or value occurred during the insurance period, and that the loss of production or value was directly caused by one or more of the insured causes specified in the Crop Provisions.

(f) All notices required in this section that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties—

(a) If you have complied with all the policy provisions, we will pay your loss within 30 days after:

(1) We reach agreement with you;

(2) Completion of arbitration or appeal proceedings; or

(3) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30-day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by FCIC.

16. Production Included in Determining Indemnities

(a) The total production to be counted for a unit will include all production determined in accordance with the policy.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

(c) Appraised production will be used to calculate your claim if you will not be harvesting the acreage. To determine your indemnity based on appraised production, you must agree to notify us if you harvest the crop and advise us of the production. If the acreage will be harvested, harvested production will be used to determine any indemnity due, unless otherwise specified in the policy.

(d) The amount of an indemnity that may be determined under the applicable provisions of your crop policy may be reduced by an amount, determined in accordance with the Crop Provisions or Special Provisions, to reflect out-of-pocket expenses that were not incurred by you as a result of not planting, caring for, or harvesting the crop. Indemnities paid for acreage prevented from being planted will be based on a reduced Final Guarantee as provided for in the crop policy and will not be further reduced to reflect expenses not incurred.

17. Late Planting

Unless limited by the Crop Provisions, insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

(a) The Final Guarantee for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.

(b) Acreage planted after the late planting period (or after the final planting date for crops that do not have a late planting period) may be insured as follows:

(1) The Final Guarantee for each acre planted as specified in this subsection will be determined by multiplying the Final Guarantee that is provided for acreage of the insured crop that is timely planted by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Planting on such acreage must have been prevented by the final planting date (or during the late planting period, if applicable) by an insurable cause occurring within the insurance period for prevented planting coverage; and

(3) All production from acreage as specified in this section will be included as production to count for the unit.

(c) The premium amount for insurable acreage specified in this section will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for such acreage exceeds the liability, coverage for those acres will not be provided (no premium will be due, and no indemnity will be paid).

(d) Any acreage on which an insured cause of loss is a material factor in preventing completion of planting, as specified in the definition of "planted acreage" (*e.g.*, seed is broadcast on the soil surface but cannot be incorporated) will be considered as acreage planted after the final planting date and the Final Guarantee will be calculated in accordance with section 17(b)(1).

18. Prevented Planting.

(a) Unless limited by the policy provisions, a prevented planting payment may be made to you for eligible acreage if:

(1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence;

(2) You include any acreage of the insured crop that was prevented from being planted on your acreage report; and

(3) You did not plant the insured crop during or after the late planting period. If such acreage was planted to the insured crop during or after the late planting period, it is covered under the late planting provisions.

(b) The actuarial documents may contain additional levels of prevented planting coverage that you may purchase for the insured crop:

(1) Such purchase must be made on or before the sales closing date.

(2) If you do not purchase one of those additional levels by the sales closing date, you will receive the prevented planting coverage specified in the Crop Provisions.

(3) If you have an MPCI Catastrophic Risk Protection Endorsement for any acreage of "high risk land," the additional levels of prevented planting coverage will not be available for that acreage; and

(4) You may not increase your elected or assigned preventing planting coverage level for any crop year if a cause of loss that will or could prevent planting is evident prior to the time you wish to change your prevented planting coverage level.

(c) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage that is prevented from being planted exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

(d) Drought or failure of the irrigation water supply will be considered to be an insurable cause of loss for the purposes of prevented planting only if on the final planting date (or within the late planting period if you elect to try to plant the crop):

(1) For non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed and progress toward crop maturity due to a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study the weather, including, but not limited to, local weather reporting stations of the National Weather Service; or

(2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 18(f)(4) or (5). The eligible acres for each insured crop will be determined in accordance with the following table:

Type of Crop	Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee.	Eligible acres if, in any of the 4 most recent crop years, you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee.
(i) The crop is not required to be contracted with a processor to be insured.	(A) The maximum number of acres certified for approved yield purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop). The number of acres determined above for a crop may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us that for the current crop year you have purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program, in time to plant it for the current crop year using good farming practices. No cause of loss that will or could prevent planting may be evident at the time the acreage is purchased, leased, or released from the USDA program.	(B) The number of acres specified on your intended acreage report which is submitted to us by the sales closing date for all crops you insure for the crop year and that is accepted by us. The total number of acres listed may not exceed the number of acres of cropland in your farming operation at the time you submit the intended acreage report. The number of acres determined above for a crop may only be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the number of acres listed on your intended acreage report, if you meet the conditions stated in section 18(e)(1)(i)(A).
(ii) The crop must be contracted with a processor to be insured.	(A) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year; or the result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted. (For the purposes of establishing the number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used.).	(B) The number of acres of the crop as determined in section 18(e)(1)(ii)(A).

(2) Any eligible acreage determined in accordance with the table contained in section 18(e)(1) will be reduced by subtracting the number of acres of the crop (insured and uninsured) that are timely and late planted, including acreage specified in section 17(b).

(f) Regardless of the number of eligible acres determined in section 18(e), prevented planting coverage will not be provided for any acreage:

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. Any prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field unless the acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you produced both crops, crop types, or followed both practices in the same field in the same crop year within any of the 4 most recent crop years;

(2) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(3) For which the actuarial documents do not designate a premium rate unless a written agreement designates such premium rate;

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year (excluding share arrangements), unless you have coverage greater than the Catastrophic Risk Protection Endorsement and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop which may be hayed or grazed after the final planting date for the insured crop), unless you have coverage greater than that applicable to the Catastrophic Risk Protection Endorsement and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage. (If one of the crops being double-cropped is not insurable, other verifiable records of it being planted may be used);

(6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only). If you state that you will not be cash renting the acreage and claim a prevented planting payment on the acreage, you could be subject to civil and criminal sanctions if you cash rent the acreage and do not return the prevented planting payment for it;

(7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(8) That exceeds the number of acres eligible for a prevented planting payment;

(9) That exceeds the number of eligible acres physically available for planting;

(10) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the Final Guarantee (Evidence that you have previously planted the crop on the unit will be considered adequate proof unless your planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop);

(11) Based on an irrigated practice Final Guarantee unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting. Acreage with an irrigated practice Final Guarantee will be limited to the number of acres allowed for that practice under sections 18(e) and (f); or

(12) Based on a crop type that you did not plant, or did not receive a prevented planting insurance guarantee for, in at least one of the four most recent crop years. Types for which separate insurance guarantees are available must be included in your approved yield database in at least one of the four most recent crop years, or crops that do not require yield certification (crops for which the insurance guarantee is not based on an approved yield) must be reported on your acreage report in at least one of the four most recent crop years except as allowed in section 18(e)(1)(i)(B). We will limit prevented planting payments based on a specific crop type to the number of acres allowed for that crop type as specified in sections 18(e) and (f).

(g) If you purchased a limited or additional coverage policy for a crop, and you executed a High Risk Land Exclusion Option that separately insures acreage which has been designated as "high risk" land by FCIC under ■ Catastrophic Risk Protection Endorsement for that crop, the maximum number of acres eligible for a prevented planting payment will be limited for each policy as specified in sections 18(e) and (f).

(h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 18(e)(1), your prevented planting production guarantee, premium, and prevented planting payment will be based on the crops insured for the current crop year, for which you have remaining eligible prevented planting acreage. The crops used for this purpose will be those that result in a prevented planting payment most similar to the prevented planting payment that would have been made for the crop that was prevented from being planted.

(1) For example, assume you were prevented from planting 200 acres of corn and have 100 acres eligible for a corn prevented planting guarantee that would result in a payment of $40 per acre. You also had 50 acres of potato eligibility that would result in a $100 per acre payment, 90 acres of grain sorghum eligibility that would result in a $30 per acre payment, and 100 acres of soybean eligibility that would result in a $25 per acre payment. Your prevented planting coverage for the 200 acres would be based on 100 acres of corn ($40 per acre), 90 acres of grain sorghum ($30 per acre), and 10 acres of soybeans ($25 per acre).

(2) Prevented planting coverage will be allowed as specified in this section (18(h)) only if the crop that was prevented from being planted meets all policy provisions, except for having an adequate base of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop on which payment is being based.

(i) The prevented planting payment for any eligible acreage within a basic or optional unit will be determined by:

(1) Multiplying the Final Guarantee for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(i)(1) by the number of eligible

prevented planting acres in the unit; and

(3) Multiplying the result of section 18(i)(2) by your share.

(j) The prevented planting payment for any eligible acreage within an enterprise unit will be determined by:

(1) Multiplying the Final Guarantee for each basic unit or optional unit within the enterprise unit, for timely planted acreage of the insured crop by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 18(j)(1) by the number of eligible prevented planting acres in each basic unit or optional unit within the enterprise unit;

(3) Multiplying the result of section 18(j)(2) by your share; and

(4) Total the results from section 18(j)(3).

19. Crops As Payment

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

20. Arbitration

(a) If you and we fail to agree on any factual determination, the disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11.

(b) No award determined by arbitration or appeal can exceed the amount of liability established or which should have been established under the policy.

21. Access to Insured Crop and Records, and Record Retention

(a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also provide upon our request, separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records will, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to the units by us;

(3) Combination of the optional units; or

(4) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the authority of the Act or by continuing insurance for which you previously applied, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist us in obtaining all records which we request from third parties.

22. Other Insurance

(a) Other Like Insurance—You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the sanctions authorized under this policy, the Act, or any other applicable statute. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents you from obtaining other insurance not issued under the Act.

(b) Other Insurance Against Fire—If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to such other insurance; or

(2) The amount by which the loss from fire is determined to exceed the indemnity paid or payable under such other insurance.

(c) For the purpose of section 22(b), the amount of loss from fire will be the reduction in revenue of the insured crop on the unit involved determined pursuant to this policy.

23. Conformity to Food Security Act

Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be specifically aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act due to violation of the controlled substance provision (title XVII of the Food Security Act of 1985 (Pub. L. 99–198)) and the regulations promulgated under the Act by USDA. Your insurance policy will be canceled if you are determined, by the appropriate Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you during your period of ineligibility, and your premium will be refunded, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid or to be paid by you.

24. Amounts Due Us

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any portion thereof, on any unpaid amount due us. For the purpose of premium amounts due us, the interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start to accrue on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see section 24(d)) if any, second to the reduction of accrued interest, and then to the reduction of the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection.

(e) Amounts owed to us by you may be collected in part through administrative offset from payments you receive from United States government agencies in accordance with 31 U.S.C. chapter 37.

25. Legal Action Against Us

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us, you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(j).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal regulations.

26. Payment and Interest Limitations

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year, and may vary with each publication.

27. Concealment, Misrepresentation or Fraud

(a) If you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act or if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy:

(1) This policy will be voided; and

(2) You may be subject to remedial sanctions in accordance with 7 CFR part 400, subpart R.

(b) Even though the policy is void, you may still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned.

(c) Voidance of this policy will result in you having to reimburse all indemnities paid for the crop year in which the voidance was effective.

(d) Voidance will be effective on the first day of the insurance period for the crop year in which the act occurred and will not affect the policy for subsequent crop years unless a violation of this section also occurred in such crop years.

28. Transfer of Coverage and Right to Indemnity

If you transfer any part of your share during the crop year, you may transfer your coverage rights, if the transferee is eligible for crop insurance. We will not be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transfer of coverage rights must be on our form and will not be effective until approved by us in writing. Both you and the transferee are jointly and severally liable for the payment of the premium and administrative fees. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

29. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy. If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60-day period has expired. We will honor the terms of the assignment only if we can accurately determine the amount of the claim. However, no action will lie against us for failure to do so.

30. Subrogation (Recovery of Loss From a Third Party)

Since you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

31. Descriptive Headings

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

32. Notices

(a) All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day.

(b) All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. Notice sent to such address will be conclusively presumed to have been received by you. You should advise us immediately of any change of address.

33. Multiple Benefits

(a) If you are eligible to receive an indemnity under a limited or additional coverage plan of insurance and are also eligible to receive benefits for the same loss under any other USDA program, you may receive benefits under both programs, unless specifically limited by the crop insurance contract or by law.

(b) The total amount received from all such sources may not exceed the amount of your actual loss. The total amount of the actual loss is the difference between the fair market value of the insured commodity before and after the loss, based on your production records and the higher of the Base Price or the Harvest Price available for the crop.

(c) FSA will determine and pay the additional amount due you for any applicable USDA program, after first considering the amount of any crop insurance indemnity.

34. Written Agreements

Only rates of premium or unit division for this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 34(f);

(b) The application for a written agreement must contain the unit division or rate of premium that will be in effect if the written agreement rate is not approved;

(c) A written agreement may only be used to insure a CRC crop in a county without a CRC actuarial table if the

county without a CRC rate is adjacent to a county with a CRC actuarial table;

(d) If approved, the written agreement will specify the rate of premium or unit division that will be in effect;

(e) Each written agreement will only be valid for one crop year (If the written agreement is not specifically renewed the following year, the unit division will be in accordance the terms of the Basic Provisions and Crop Provisions, and the rates of premium for subsequent crop years will be the rates of premium specified in the actuarial document), or if no rate is specified the acreage will not be insurable; and

(f) An application for a written agreement submitted after the sales closing date may be approved if you demonstrate your physical inability to apply prior to the sales closing date, or it is submitted in accordance with any regulation which may be promulgated under 7 CFR 400, and after physical inspection of the acreage by us, if required, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Crop Revenue Coverage Insurance Policy

Coarse Grains Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) the Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

1. Definitions

Coarse grains. Corn, grain sorghum, and soybeans.

Grain sorghum. The crop defined as sorghum under the United States Grain Standards Act.

Harvest. Combining, threshing, or picking the insured crop for grain.

Local market price. The cash grain price per bushel for U.S. No. 2 yellow corn, U.S. No. 2 grain sorghum, or U.S. No. 1 soybeans, offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade for yellow corn and grain sorghum, or U.S. No. 1 grade for soybeans. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein and oil, will not be considered.

Planted acreage. In addition to the definition contained in the Basic Provisions, coarse grains must initially be planted in rows (corn must be planted in rows far enough apart to permit mechanical cultivation), unless otherwise provided by the Special Provisions or actuarial documents.

Prevented Planting Guarantee. The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 12.

Silage. A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

2. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of each crop in the county insured as grain under this policy will have the same coverage level and price percentage elections.

3. Contract Changes

In accordance with section 5 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

4. Cancellation and Termination Dates

In accordance with section 3(h) of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination dates
(a) For corn and grain sorghum:	
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	January 15.
El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina.	February 28.
All other Texas counties and all other states	March 15.
(b) For soybeans:	
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, and Dimmit Counties, Texas and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 28.
All other Texas counties and all other states	March 15.

5. Insured Crop

(a) In accordance with section 9 of the Basic Provisions, the crop insured will be each coarse grain crop you elect to insure for which premium rates and prices are provided by the actuarial documents (or by written agreement):

(1) In which you have a share;

(2) That is adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area, including air seeded soybeans subject to our approval;

(3) That is not (unless allowed by the Special Provisions):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume; and

(4) Planted for harvest as grain.

(b) For corn only, in addition to the provisions of section 5(a), the corn crop insured will be all corn that is yellow dent or white corn, including mixed yellow and white, waxy, high-lysine corn, high-oil corn blends containing

mixtures of at least ninety percent high yielding yellow dent female plants with high-oil male pollinator plants, commercial varieties of high-protein hybrids, and excluding:

(1) High-amylose, high-oil except as defined in section 5(b), flint, flour, Indian, or blue corn, or a variety genetically adapted to provide forage for wildlife or any other open pollinated corn.

(2) A variety of corn adapted for silage use when the corn is reported for insurance as grain.

(c) For grain sorghum only, in addition to the provisions of section 5(a), the grain sorghum crop insured will be all of the grain sorghum in the county:

(1) That is a combine-type hybrid grain sorghum (grown from hybrid seed); and.

(2) That is not a dual-purpose type of grain sorghum (a type used for both grain and forage).

(d) For soybeans only, in addition to the provisions of section 5(a), the soybean crop insured will be all of the soybeans in the county that are planted for harvest as beans.

6. Insurable Acreage

In addition to the provisions of section 10 of the Basic Provisions, any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

7. Insurance Period

In accordance with the provisions under section 12 of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows:

(a) For corn:	
(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	September 30.
(2) Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom Counties, Washington.	October 31.
(3) All other counties and states	December 10.
(b) For grain sorghum:	
(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	September 30.
(2) All other Texas counties and all other states	December 10.
(c) For soybeans:	
All states	December 10.

8. Causes of Loss

In accordance with the provisions of section 13 of the Basic Provisions insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply, if due to a cause of loss contained in sections 8(a) through (g) occurring within the insurance period; or

(i) A Harvest Price that is less than the Base Price.

9. Replanting Payments

(a) In accordance with section 14 of the Basic Provisions, replanting payments for coarse grains are allowed if the coarse grains are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or:

(1) For corn, 8 bushels multiplied by the Base Price, multiplied by your insured share;

(2) For grain sorghum, 7 bushels multiplied by the Base Price, multiplied by your insured share; and

(3) For soybeans, 3 bushels multiplied by the Base Price, multiplied by your insured share.

(c) When the crop is replanted using a practice that is uninsurable as an original planting, the Final Guarantee for the unit will be reduced by the amount of the replanting payment which is attributable to your share. The premium amount will not be reduced.

10. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 15 of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide, extend the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) In addition to the requirements of section 15 of the Basic Provisions, you must notify us before harvest begins if you intend to harvest corn acreage for silage.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit of coarse grains by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 11(b)(1); and

(3) Multiplying the result of section 11(b)(2) by your share.

If the result of section 11(b)(3) is greater than zero, an indemnity will be paid. If the result of section 11(b)(3) is less than zero, no indemnity will be due.

(c) In the event of loss or damage covered by this policy, we will settle

your claim on any insured enterprise unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;

(2) For each basic unit or optional unit in section 11(c)(1), compute the Calculated Revenue;

(3) Subtract each result in section 11(c)(2) from the respective result of section 11(c)(1); and

(4) Multiplying each result of section 11(c)(3) by your share; and

(5) Total the results of section 11(c)(4).

If the result of section 11(c)(5) is greater than zero, an indemnity will be paid. If the result of section 11(c)(5) is less than zero, no indemnity will be due.

(d) The total production in bushels to count from all insurable acreage for the crop on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for the acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Planted for grain but harvested as silage, if you fail to give us notice before harvest begins;

(D) Damaged solely by uninsured causes; or

(E) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 11(e)); and

(iv) Potential production on insured acreage you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(e) Mature coarse grain production may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of:

(i) Fifteen percent for corn (If moisture exceeds 30 percent, production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent);

(ii) Fourteen percent for grain sorghum; and

(iii) Thirteen percent for soybeans.

We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in:

(A) Corn not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor;

(B) Grain sorghum not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except smut odor), or meets the special grade requirements for smutty grain sorghum; or

(C) Soybeans not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except garlic odor), or which meet the special grade requirements for garlicky soybeans; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iii) The samples are analyzed by a grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. (Test weight for quality adjustment purposes may be determined by our loss adjuster).

(4) Coarse grain production that is eligible for quality adjustment, asspecified in sections 11(e)(2) and 11(e)(3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Prevented Planting

Your prevented planting coverage will be 60 percent of your Final Guarantee for timely planted acreage. You may increase your prevented planting coverage to a level specified in the actuarial documents by paying an additional premium.

Crop Revenue Coverage

Mandatory Actuarial Document Endorsement

Commodity Exchange Endorsement—Coarse Grains (This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage:

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Coarse Grains crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Coarse Grains policy are determined.

(III) You may only select 100 percent of the Base Price and Harvest Price.

(IV) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by totaling the daily settlement prices for the contract specified in the applicable Base Price or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price or Harvest Price definition, and dividing that sum by the total number of days included in the total. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of the contract specified in the Base Price or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(V) This endorsement defines the Base Price and Harvest Price as shown in Section 1 of the Crop Revenue Coverage Basic Provisions by Cancellation Date as follows:

Corn (for Grain)—Chicago Board of Trade (CBOT)—Counties with a March 15 Cancellation Date

Base Price (CBOT)—The February harvest year's average daily settlement price for the harvest year's CBOT December corn futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by March 10 of the harvest year.

Harvest Price (CBOT)—The November harvest year's average daily settlement price for the harvest year's CBOT December corn futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Harvest Price will be released as an actuarial document addendum by December 10 of the harvest year.

Corn (for Grain)—CBOT—Counties with a Cancellation Date prior to March 15

Base Price (CBOT)—The December pre-harvest year's average daily settlement price for the harvest year's CBOT September corn futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by January 10 of the harvest year.

Harvest Price (CBOT)—The August harvest year's average daily settlement price for the harvest year's CBOT September corn futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Grain Sorghum (for Grain)—CBOT—Counties with a March 15 Cancellation Date

Base Price (CBOT)—The Preliminary Grain Sorghum Base Price equals the February harvest year's average daily settlement price for the harvest year's CBOT December corn futures contract rounded to the nearest whole cent, multiplied times .95 and rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by March 10 of the harvest year.

Harvest Price (CBOT)—The Preliminary Grain Sorghum Harvest Price equals the November harvest year's average daily settlement price for the harvest year's CBOT December corn futures contract rounded to the nearest whole cent, multiplied times .95 and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Harvest Price will be released as an actuarial document addendum by December 10 of the harvest year.

Grain Sorghum (for Grain)—CBOT—Counties with a Cancellation Date prior to March 15

Base Price (CBOT)—The Preliminary Grain Sorghum Base Price equals the December pre-harvest year's average daily settlement price for the harvest year's CBOT September corn futures contract rounded to the nearest whole cent, multiplied times .95 and rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by January 10 of the harvest year.

Harvest Price (CBOT)—The Preliminary Grain Sorghum Harvest Price equals the August harvest year's average daily settlement price for the harvest year's CBOT September corn futures contract rounded to the nearest whole cent, multiplied times .95 and rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus one dollar and fifty cents ($1.50), or greater than the Base Price plus one dollar and fifty cents ($1.50). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Soybeans—CBOT—Counties with a March 15 Cancellation Date

Base Price (CBOT)—The February harvest year's average daily settlement price for the harvest year's CBOT November soybean futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by March 10 of the harvest year.

Harvest Price (CBOT)—The October harvest year's average daily settlement price for the harvest year's CBOT November soybean futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus three dollars ($3.00), or greater than the Base Price plus three dollars ($3.00). The Harvest Price will be released as an actuarial document addendum by November 10 of the harvest year.

Soybeans—CBOT—Counties with a Cancellation Date prior to March 15

Base Price (CBOT)—The December pre-harvest year's average daily settlement price for the harvest year's CBOT September soybean futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by January 10 of the harvest year.

Harvest Price (CBOT)—The August harvest year's average daily settlement price for the harvest year's CBOT September soybean futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus three dollars ($3.00), or greater than the Base Price plus three dollars ($3.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

All other terms and conditions of the Policy remain unchanged.

Crop Revenue Coverage Insurance Policy

Cotton Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) the Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

1. Definitions

Cotton. Varieties identified as American Upland Cotton.

Final Guarantee. In lieu of the definition contained in the Basic Provisions, the number of dollars guaranteed per acre is determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum Guarantee—The Approved Yield per acre, multiplied by the applicable cotton yield conversion factor for non-irrigated skip-row planting patterns, multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) Harvest Guarantee—The Approved Yield per acre, multiplied by the applicable cotton yield conversion factor for non-irrigated skip-row planting patterns, multiplied by the Harvest Price, multiplied by the coverage level percentage you elect. If you elect enterprise unit coverage, the Basic Units or Optional Units comprising the enterprise unit will retain separate Final Guarantees.

Growth area. A geographic area designated by the Secretary of Agriculture for the purpose of reporting cotton prices.

Harvest. The removal of the seed cotton from the open cotton boll, or the severance of the open cotton boll from the stalk by either manual or mechanical means.

Mature cotton. Cotton that can be harvested either manually or mechanically.

Planted acreage. In addition to the definition contained in the Basic Provisions, cotton must be planted in rows, unless otherwise provided by the Special Provisions or actuarial documents. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

Prevented Planting Guarantee. The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 11.

Skip-row. A planting pattern that:

(1) Consists of alternating rows of cotton and fallow land or land planted to another crop the previous fall; and

(2) Qualifies as a skip-row planting pattern as defined by FSA.

2. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of cotton in the county insured as cotton under this policy will have the same coverage level and price percentage elections.

3. Contract Changes

In accordance with section 5 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

4. Cancellation and Termination Dates

In accordance with section 3(h) of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	January 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, and Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crocket, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 28.
All other Texas counties and all other states	March 15.

5. Insured Crop

In accordance with section 9 of the Basic Provisions, the crop insured will be all the cotton lint, in the county for which premium rates are provided by the actuarial documents (or by written agreement):

(a) In which you have a share; and

(b) That is not (unless allowed by the Special Provisions):

(1) Colored cotton lint;

(2) Planted into an established grass or legume;

(3) Interplanted with another spring planted crop;

(4) Grown on acreage from which a hay crop was harvested in the same calendar year unless the acreage is irrigated; or

(5) Grown on acreage on which a small grain crop reached the heading stage in the same calendar year unless the acreage is irrigated or adequate measures are taken to terminate the small grain crop prior to heading and less than 50 percent of the small grain plants reach the heading stage.

6. Insurable Acreage

In addition to the provisions of section 10 of the Basic Provisions:

(a) The acreage insured will be only the land occupied by the rows of cotton when a skip row planting pattern is utilized; and

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

7. Insurance Period

(a) In lieu of section 12(b)(2) of the Basic Provisions, insurance will end upon the removal of the cotton from the field.

(b) In accordance with the provisions under section 12 of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows:

(1) September 30 in Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof;

(2) January 31 in Arizona, California, New Mexico, Oklahoma, and all other Texas counties; and

(3) December 31 in all other states.

8. Causes of Loss

In accordance with the provisions of section 13 of the Basic Provisions, insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;
(c) Insects, but not damage due to insufficient or improper application of pest control measures;
(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;
(e) Wildlife;
(f) Earthquake;
(g) Volcanic eruption;
(h) Failure of the irrigation water supply, if due to a cause of loss contained in sections 8(a) through (g) occurring within the insurance period; or
(i) A Harvest Price that is less than the Base Price.

9. Duties in the Event of Damage or Loss

(a) In addition to your duties under section 15 of the Basic Provisions, in the event of damage or loss:
(1) The cotton stalks must remain intact for our inspection; and
(2) If you initially discover damage to the insured crop within 15 days of harvest, or during harvest, you must leave representative samples of the unharvested crop in the field for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit.
(b) The stalks must not be destroyed, and required samples must not be harvested, until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed and written notice of probable loss is given to us.

10. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:
(1) For any optional unit, we will combine all optional units for which such production records were not provided; or
(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.
(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit by:
(1) Multiplying the insured acreage of the crop by the Final Guarantee;
(2) Subtracting the Calculated Revenue from the result of section 10(b)(1); and
(3) Multiplying the results of section 10(b)(2) by your share.
If the result of section 10(b)(3) is greater than zero, an indemnity will be paid. If the result of section 10(b)(3) is less than zero, no indemnity will be due.
(c) In the event of loss or damage covered by this policy, we will settle your claim on any insured enterprise unit by:
(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;
(2) For each basic unit or optional unit in section 10(c)(1), compute the Calculated Revenue;
(3) Subtract each result in section 10(c)(2) from the respective result of section 10(c)(1); and
(4) Multiplying each result of section 10(c)(3) by your share; and
(5) Total the results of section 10(c)(4).
If the result of section 10(c)(5) is greater than zero, an indemnity will be paid. If the result of section 10(c)(5) is less than zero, no indemnity will be due.
(d) The total production (in pounds) to count from all insurable acreage on the unit will include:
(1) All appraised production as follows:
(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for the acreage:
(A) That is abandoned;
(B) Put to another use without our consent;
(C) Damaged solely by uninsured causes;
(D) For which you fail to provide records of production that are acceptable to us; or
(E) On which the cotton stalks are destroyed, in violation of section 9;
(ii) Production lost due to uninsured causes;
(iii) Unharvested production (mature unharvested production of white cotton may be adjusted for quality deficiencies in accordance with section 10(e)); and
(iv) Potential production on insured acreage you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:
(A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or
(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and
(2) All harvested production from the insurable acreage, including any mature cotton retrieved from the ground.
(e) Mature white cotton may be adjusted for quality when production has been damaged by insured causes. Unless otherwise provided by the Special Provisions, such production to count will be reduced if the price quotation for cotton of like quality (price quotation "A") for the applicable growth area is less than 75 percent of price quotation "B". Price quotation "B" is defined as the price quotation for the applicable growth area for cotton of the color and leaf grade, staple length, and micronaire reading designated in the Special Provisions for this purpose. Price quotations "A" and "B" will be the price quotations contained in the Daily Spot Cotton Quotations published by the USDA Agricultural Marketing Service on the date the last bale from the unit is classed. If not available on the date the last bale was classed, the price quotations will be determined on the date the last bale from the unit was delivered to the warehouse, as shown on the insured's account summary obtained from the gin. If eligible for quality adjustment, the amount of production to be counted will be determined by multiplying the number of pounds of production eligible for such adjustment by the factor derived from dividing price quotation "A" by price quotation "B".
(f) Colored cotton lint will not be eligible for quality adjustment.

11. Prevented Planting

(a) In addition to the provisions contained in section 18 of the Basic Provisions, your prevented planting Final Guarantee will be based on your approved yield without adjustment for skip-row planting patterns.
(b) Your prevented planting coverage will be 50 percent of your Final Guarantee for timely planted acreage. You may increase your prevented planting coverage to a level specified in the actuarial documents by paying an additional premium.

Crop Revenue Coverage

Mandatory Actuarial Document Endorsement

Commodity Exchange Endorsement—Cotton (This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Cotton crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Cotton policy are determined.

(III) You may only select 100 percent of the Base Price and Harvest Price.

(IV) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by totaling all the daily settlement prices for the contract specified in the applicable Base Price or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price or Harvest Price definition, and dividing that sum by the total number of days included in the total. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of the contract specified in the Base Price or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(V) This endorsement defines the Base Price and Harvest Price as shown in Section 1 of the Crop Revenue Coverage Basic Provisions by Cancellation Date as follows:

Cotton—New York Cotton Exchange (NYCE)—Counties with a February 28 or March 15 Cancellation Date

Base Price (NYCE)—The January 15 to February 14 harvest year's average daily settlement price for the harvest year's NYCE December cotton futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by February 20 of the harvest year.

Harvest Price (NYCE)—The November harvest year's average daily settlement price for the harvest year's NYCE December cotton futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus seventy cents ($0.70), or greater than the Base Price plus seventy cents ($0.70). The Harvest Price will be released as an actuarial document addendum by December 10 of the harvest year.

Cotton—NYCE—Counties with a January 15 Cancellation Date

Base Price (NYCE)—The December pre-harvest year's average daily settlement price for the harvest year's NYCE October cotton futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by January 10 of the harvest year.

Harvest Price (NYCE)—The September harvest year's average daily settlement price for the harvest year's NYCE October cotton futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus seventy cents ($0.70), or greater than the Base Price plus seventy cents ($0.70). The Harvest Price will be released as an actuarial document addendum by October 10 of the harvest year.

All other terms and conditions of the Policy remain unchanged.

Crop Revenue Coverage Insurance Policy

Rice Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) The Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) The Basic Provisions, with (1) controlling (2), etc.

1. Definitions

Average Daily Settlement Price. Refer to the definition contained in the Commodity Exchange Endorsement—Rice.

Flood irrigation. An irrigated practice commonly used for rice production whereby the planted acreage is intentionally covered with water that is maintained at a uniform and shallow depth throughout the growing season.

Harvest. Combining or threshing the rice for grain. A crop that is swathed prior to combining is not considered harvested.

Local market price. The cash price per pound for the U.S. No. 3 grade of rough rice offered by buyers in the area in which you normally market rice. Factors not associated with grading under the United States Standards for Rice including, but not limited to, protein and oil content or milling quality will not be considered.

Planted. The uniform placement of an adequate amount of rice seed into a prepared seedbed by one of the following methods:

(a) Drill seeding—Using a grain drill to incorporate the seed to a proper soil depth;

(b) Broadcast seeding—Distributing seed evenly onto the surface of an un-flooded seedbed followed by either timely mechanical incorporation of the seed to a proper soil depth in the seedbed or flushing the seedbed with water; or

(c) Broadcast seeding into a controlled flood—Distributing the rice seed onto a prepared seedbed that has been intentionally covered to a proper depth by water. The water must be free of movement and be completely contained on the acreage by properly constructed levees and gates.

Acreage seeded in any other manner will not be insurable unless otherwise provided by the Special Provisions.

Prevented planting guarantee. The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 13.

Saline water. Water that contains a concentration of salt sufficient to cause damage to the insured crop.

Second crop rice. The regrowth of a stand of rice following harvest of the initially insured rice crop that can be harvested in the same crop year.

Swathed. Severance of the stem and grain head from the ground without removal of the rice kernels from the plant and placing in a windrow.

Total milling yield. Rice production consisting of heads, second heads, screenings, and brewer's rice as defined by the official United States Standards for Rice.

2. Unit Structure

Provisions in the Basic Provisions that allow optional units by irrigated and

non-irrigated practices are not applicable.

3. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of rice in the county insured as grain under this policy will have the same coverage level and price percentage elections.

4. Contract Changes

In accordance with section 5 in the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 3(h) of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination date
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas; and all Texas Counties south thereof.	January 15.
Florida	February 15.
All other Texas counties and all other states	February 28.

6. Insured Crop

In accordance with section 9 of the Basic Provisions, the crop insured will be all the rice in the county for which a premium rate is provided by the actuarial documents (or by written agreement):

(a) In which you have a share;

(b) That is planted for harvest as grain;

(c) That is flood irrigated; and

(d) That is not wild rice.

7. Insurable Acreage

In addition to the provisions of section 10 of the Basic Provisions:

(a) We will not insure any acreage planted to rice:

(1) The preceding crop year unless allowed by the Special Provisions; or

(2) That does not meet the rotation requirements shown in the Special Provisions; and

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant.

8. Insurance Period

In accordance with the provisions of section 12 of the Basic Provisions, the calendar date for the end of the insurance period is October 31 immediately following planting.

9. Causes of Loss

(a) In accordance with the provisions of section 13 of the Basic Provisions, insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(1) Adverse weather conditions (except drought);

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption;

(8) Failure of the irrigation water supply, if due to a cause of loss contained in sections 9(a)(1) through 9(a)(7) occurring within the insurance period; or

(9) A Harvest Price that is less than the Base Price.

(b) In addition to the causes of loss not insured against in section 13 of the Basic Provisions, we will not insure against any loss of revenue due to the application of saline water.

10. Replanting Payment

(a) A replanting payment for rice is allowed as follows:

(1) You must comply with all requirements regarding replanting payments contained under section 14 of the Basic Provisions;

(2) The rice must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage; and

(3) The replanted rice must be seeded at a rate that is normal for initially planted rice (if new seed is planted at a reduced seeding rate into a partially damaged stand of rice, the acreage will not be eligible for a replanting payment).

(b) In accordance with the provisions of section 14 of the Basic Provisions, the maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or 400 pounds, multiplied by the Base Price, multiplied by your insured share.

(c) When rice is replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

11. Duties in the Event of Damage or Loss

In addition to your duties under section 15 of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit of rice by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 12(b)(1); and

(3) Multiplying the result of 12(b)(2) by your share.

If the result of section 12(b)(3) is greater than zero, an indemnity will be paid. If the result of section 12(b)(3) is less than zero, no indemnity will be due.

(c) In the event of loss or damage covered by this policy, we will settle your claim on any insured enterprise unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;

(2) For each basic unit or optional unit in section 12(c)(1), compute the Calculated Revenue;

(3) Subtract each result in section 12(c)(2) from the respective result of section 12(c)(1); and

(4) Multiplying each result of section 12(c)(3) by your share; and

(5) Total the results of section 12(c)(4).

If the result of section 12(c)(5) is greater than zero, an indemnity will be paid. If the result of section 12(c)(5) is less than zero, no indemnity will be due.

(d) The total production to count (in pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(e));

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage, including any production from a second rice crop harvested in the same crop year.

(e) Mature rough rice may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 12 percent. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Rice, result in rice not meeting the grade requirements for U.S. No. 3 (grades U.S. No. 4 or worse) because of red rice, chalky kernels or damaged kernels;

(ii) The rice has a total milling yield of less than 68 pounds per hundredweight;

(iii) The whole kernel weight is less than 55 pounds per hundredweight of milled rice for medium and short grain varieties;

(iv) The whole kernel weight is less than 48 pounds per hundredweight of milled rice for long grain varieties; or

(v) Substances or conditions are present that are identified by the Food and Drug Administration of other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions specified in section 12(e)(2) resulted from a cause of loss against which insurance is provided under these crop provisions and which occurs within the insurance period;

(ii) The deficiencies, substances, or conditions specified in section 12(e)(2) result in a net price for the damaged production that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions specified in section 12(e)(2) are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader licensed to grade rice under the authority of the United States Agriculture Marketing Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Notwithstanding the preceding sentence, test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Rice production that is eligible for quality adjustment, as specified in sections 12(e)(2) and (3), will be reduced by the quality adjustment factors contained in the Special Provisions:

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

13. Prevented Planting

Your prevented planting coverage will be 45 percent of your Final Guarantee for timely planted acreage. You may increase your prevented planting coverage to a level specified in the actuarial documents by paying an additional premium.

Crop Revenue Coverage

Mandatory Actuarial Document Endorsement

Commodity Exchange Endorsement—Rice (This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage:

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Rice crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Rice policy are determined.

(III) You may only select 100 percent of the Base Price and Harvest Price.

(IV) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by totaling all the daily settlement prices for the contract specified in the applicable Base Price or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price or Harvest Price definition, and dividing that sum by the total number of days included in the total. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price or Harvest Price definition. A full active trading day is any day on which there are fifty (50) or more open interest contracts of

the contract specified in the Base Price or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(V) This endorsement defines the Base Price and Harvest Price as shown in section 1 of the Crop Revenue Coverage Basic Provisions by Cancellation Date as follows:

Rice—Chicago Board of Trade (CBOT)—Counties With a January 15 Cancellation Date

Base Price (CBOT)—The December pre-harvest year's average daily settlement price per pound for the harvest year's CBOT September rough rice futures contract rounded to the nearest one-tenth (1/10th) of a cent. The Base Price will be released as an actuarial document addendum by January 10 of the harvest year.

Harvest Price (CBOT)—The August harvest year's average daily settlement price per pound for the harvest year's CBOT September rough rice futures contract rounded to the nearest one-tenth (1/10th) of a cent. The Harvest Price cannot be less than the Base Price minus five cents ($0.05), or greater than the Base Price plus five cents ($0.05). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Rice—(CBOT)—Counties With February 15 or February 28 Cancellation Dates

Base Price (CBOT)—The January harvest year's average daily settlement price per pound for the harvest year's CBOT November rough rice futures contract rounded to the nearest one-tenth (1/10th) of a cent. The Base Price will be released as an actuarial document addendum by February 10 of the harvest year.

Harvest Price (CBOT)—The October harvest year's average daily settlement price per pound for the harvest year's CBOT November rough rice futures contract rounded to the nearest one-tenth (1/10th) of a cent. The Harvest Price cannot be less than the Base Price minus five cents ($0.05), or greater than the Base Price plus five cents ($0.05). The Harvest Price will be released as an actuarial document addendum by November 10 of the harvest year.

All other terms and conditions of the Policy remain unchanged.

Crop Revenue Coverage Insurance Policy

Wheat Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Special Provisions; (2) the Commodity Exchange Endorsement; (3) these Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

1. Definitions

Adequate Stand. A population of live plants per unit of acreage which will produce at least the yield used to establish your Final Guarantee.

Average Daily Settlement Price. Refer to the definition contained in the Commodity Exchange Endorsement—Wheat.

Harvest. Combining or threshing the insured crop for grain or cutting for hay or silage on any acreage. A crop which is swathed prior to combining is not considered harvested.

Initially planted. The first occurrence of planting the insured crop on insurable acreage for the crop year.

Latest final planting date.

(a) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate a final planting date for spring-planted acreage only;

(b) The final planting date for fall-planted acreage in all counties for which the Special Provisions designate a final planting date for fall-planted acreage only; or

(c) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate final planting dates for both spring-planted and fall-planted acreage.

Local market price. The cash grain price per bushel for the U.S. No. 2 grade of the insured crop offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade of the insured crop. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein, oil or moisture content, or milling quality will not be considered.

Nurse crop (companion crop). A crop planted into the same acreage as another crop, that is intended to be harvested separately, and which is planted to improve growing conditions for the crop with which it is grown.

Planted acreage. In addition to the definition contained in the Basic Provisions, land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth, will be considered planted.

Prevented planting. In lieu of the definition contained in the Basic Provisions, failure to plant the insured crop with proper equipment by the latest final planting date designated in the Special Provisions for the insured crop in the county or by the end of the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that also prevented most producers from planting on acreage with similar characteristics in the surrounding area.

Prevented planting guarantee. The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 13(b).

Sales closing date. In lieu of the definitions contained in the Basic Provisions, a date contained in the Special Provisions by which an application must be filed and by which you may change your crop insurance coverage for a crop year. If the Special Provisions provide a sales closing date for both winter and spring types of the insured crop and you plant any insurable acreage of the winter type, you may not change your crop insurance coverage after the sales closing date for the winter type.

Swathed. Severance of the stem and grain head from the ground without removal of the seed from the head and placing into a windrow.

Wheat. Wheat for grain only.

2. Unit Structure

In addition to the requirements of section 2(b) of the Basic Provisions, in addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number and by irrigated and non-irrigated practices, optional units may be established if each optional unit contains only initially planted winter wheat or only initially planted spring wheat. Optional units may be established in this manner only in counties having both winter and spring type final planting dates as designated in the Special Provisions.

3. Coverage Level and Price Percentage

In addition to the requirements of section 4 of the Basic Provisions all the insurable acreage of wheat in the county

insured as grain under this policy will have the same coverage level and price percentage elections.

4. Contract Changes

In accordance with section 5 in the Basic Provisions, the contract change date is December 31 preceding the cancellation date for counties with a March 15 cancellation date and June 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates

In accordance with section 3(h) of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation date	Termination date
All Colorado counties except Alamosa, Archuleta, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, and San Miguel Counties; all Iowa Counties except Plymouth, Cherokee, Buena Vista, Pocahontas, Humbolt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties and all Iowa counties north thereof; all Wisconsin Counties except Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties and all Wisconsin counties north and west thereof; and all other states except Alaska, Arizona, California, Connecticut, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New York, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming.	September 30 ...	September 30.
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel Counties, Colorado; Connecticut; Idaho; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa, and all Iowa counties north thereof; Massachusetts; all Montana counties except Daniels, Roosevelt, Sheridan, and Valley Counties; New York; Oregon; Rhode Island; all South Dakota counties except Harding, Perkins, Corson, Walworth, Edmonds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties and all South Dakota counties north and east thereof; Washington; and all Wyoming counties except Big Horn, Fremont, Hot Springs, Park, and Washakie Counties.	September 30 ...	November 30.
Matanuska-Susitna County, Alaska; Arizona; California; Nevada; and Utah	October 31	November 30.
All Alaska Counties except Matanuska-Susitna County; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Harding, Perkins, Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota, and all South Dakota counties north and east thereof; Vermont; Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin, and all Wisconsin counties north and west thereof; Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.	March 15	March 15.

6. Insured Crop

(a) In accordance with section 9 of the Basic Provisions, the crop insured will be wheat you elect to insure, that is grown in the county on insurable acreage, and for which premium rates are provided by the actuarial documents (or by written agreement):

(1) In which you have a share;

(2) That is planted for harvest as grain;

(3) That is not:

(i) Interplanted with another crop;

(ii) Planted into an established grass or legume; or

(iii) Planted as a nurse crop, unless planted as a nurse crop for new forage seeding, but only if seeded at a normal rate and intended for harvest as grain.

(b) If you anticipate destroying any acreage prior to harvest you:

(1) May report all planted acreage when you report your acreage for the crop year and specify any acreage to be destroyed as uninsurable acreage (By doing so, no coverage will be considered to have attached on the specified acreage and no premium will be due for such acreage. If you do not destroy such acreage, you will be subject to the under-reporting provisions contained in section 7 of the Basic Provisions); or

(2) If the actuarial documents provide a reduced premium rate for acreage destroyed by a date designated in the Special Provisions, you may report all planted acreage as insurable when you report your acreage for the crop year. Premium will be due on all the acreage. Your premium amount will be reduced by the amount shown on the actuarial documents for any acreage you destroy prior to a date designated in the Special Provisions if you do not claim an indemnity on such acreage. In accordance with section 15(b) of the Basic Provisions, you must obtain our consent before and give us notice after you destroy any of the insured crop so your acreage report can be revised to make you eligible for this reduction in premium.

(c) In counties for which the wheat Special Provisions designate both fall and spring final planting dates, you may elect a winter wheat coverage endorsement. This endorsement provides two options for alternative coverage for wheat that is damaged between the fall final planting date and the spring final planting date. Coverage under the endorsement will be effective only if you designate the coverage option you elect by executing the endorsement by the sales closing date for winter wheat in the county.

7. Insurance Period

In lieu of the requirements under section 12 of the Basic Provisions, and subject to any provisions provided by the Winter Wheat Coverage Endorsement if you have elected such endorsement, the insurance period is as follows:

(a) Insurance attaches on each unit or part thereof on the later of the date we accept your application or the date the insured crop is planted subject to the following limitations:

(1) The acreage must be planted on or before the final planting date designated in the Special Provisions for the type (winter or spring) except as allowed in section 12 of these Crop Provisions and section 17 of the Basic Provisions.

(2) Whenever the Special Provisions designate only a fall final planting date, any acreage of winter wheat damaged before such final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(3) Whenever the Special Provisions designate both fall and spring final planting dates, winter wheat planted on or before the fall final planting date which is damaged:

(i) Before the fall final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(ii) On or after the fall final planting date, but before the spring final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to an appropriate variety of the insured crop unless we agree that replanting is not practical.

If you have elected coverage under one of the available Winter Wheat Coverage Endorsement Options available in the county, the insurance period for wheat will be in accordance with the selected option.

(4) Whenever the Special Provisions designate only a spring final planting date:

(i) Any acreage of spring wheat damaged before such final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a spring type of the insured crop unless we agree that replanting is not practical; and

(ii) Whenever the Special Provisions designate only a spring final planting date, any acreage of fall planted wheat is not insured unless you request such coverage and we agree in writing that the acreage has an adequate stand in the spring to produce the yield used to determine your Final Guarantee. Insurance will then attach to acreage having an adequate stand on the earlier of the spring final planting date or the date we agree to accept the acreage for insurance. If such fall planted acreage is not to be insured it must be recorded on the acreage report as an uninsured fall planted crop.

(b) Insurance ends on each unit at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

(3) Final adjustment of a loss on the unit;

(4) September 25 following planting in Alaska, or October 31 of the calendar year in which the crop is normally harvested in all other states; or

(5) Abandonment of the crop on the unit.

8. Causes of Loss

In accordance with the provisions of section 13 of the Basic Provisions insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply if due to a cause of loss contained in sections 8(a) through (g) occurring within the insurance period; or

(i) A Harvest Price that is less than the Base Price.

9. Replanting Payments

(a) A replant payment for wheat is allowed as follows:

(1) You comply with all requirements regarding replanting payments contained under section 14 of the Basic Provisions and in the Winter Wheat Coverage Endorsement for which you are eligible and which you have elected;

(2) The wheat must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage;

(3) The acreage must have been initially planted to spring wheat in those counties with only a spring final planting date;

(4) The damage must occur after the fall final planting date in those counties where both a fall and spring final planting date are designated;

(5) Replanting must take place not later than 25 days after the spring final planting date; and

(6) The replanted wheat must be seeded at a rate that is normal for initially planted wheat (if new seed is planted at a reduced seeding rate into a partially damaged stand of wheat, the acreage will not be eligible for a replanting payment).

(b) No replanting payment will be made for acreage initially planted to winter wheat in any county for which the Special Provisions contain only a fall final planting date.

(c) In accordance with section 14(c) of the Basic Provisions, the maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or 3 bushels, times the Base Price times your share.

(d) When wheat is replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

10. Duties In The Event of Damage or Loss

In addition to your duties under section 15 of the Basic Provisions, if you initially discover damage to the insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured basic or optional unit of wheat by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 11(b)(1); and

(3) Multiplying the result of section 11(b)(2) by your share.

If the result of section 11(b)(3) is greater than zero, an indemnity will be paid. If the result of section 11(b)(3) is less than zero, no indemnity will be due.

(c) In the event of loss or damage covered by this policy, we will settle your claim on any insured enterprise unit by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee for each basic unit or optional unit within the enterprise unit;

(2) For each basic unit or optional unit in section 11(c)(1), compute the Calculated Revenue;

(3) Subtract each result in section 11(c)(2) from the respective result of section 11(c)(1); and

(4) Multiplying each result of section 11(c)(3) by your share; and

(5) Total the results of section 11(c)(4).

If the result of section 11(c)(5) is greater than zero, an indemnity will be paid. If the result of section 11(c)(5) is less than zero, no indemnity will be due.

(d) The total production (bushels) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for acreage:

(A) Which is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 11(e)); and

(iv) Potential production on insured acreage you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If:

(A) Agreement on the appraised amount of production is not reached, you may elect to continue to care for the crop, or we will give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.

(B) You elect to continue to care for the crop, we will determine the amount of production to count for the acreage using the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested.

(2) All harvested production from the insurable acreage.

(e) Mature wheat production may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by .12 percent for each .1 percentage point of moisture in excess of 13.5 percent. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in wheat not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight, total damaged kernels (excluding heat damage), shrunken or broken kernels, or defects (excluding foreign material and heat damage), or grading garlicky, light smutty, smutty or ergoty;

(ii) Substances or conditions are present, including mycotoxins, that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is specified in section 8;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iii) The samples are analyzed by a grain grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Production of wheat that is eligible for quality adjustment, as specified in sections 11(e)(2) and 11(e)(3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Late Planting

A late planting period is not applicable to fall-planted wheat. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions also contain a final planting date for spring wheat will not be insured. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions contain only a fall final planting date will not be insured unless you were prevented from planting the winter wheat by the fall final planting date. Such acreage will be insurable, and the Final Guarantee and premium for the acreage will be determined in accordance with sections 17(b) and (c) of the Basic Provisions.

13. Prevented Planting

(a) In addition to the provisions contained in section 18 of the Basic Provisions, in counties for which the Special Provisions designate a spring final planting date, your prevented planting Final Guarantee will be based on your approved yield for spring-planted acreage of the insured crop.

(b) Your prevented planting coverage will be 60 percent of your Final Guarantee for timely planted acreage. You may increase your preventing planting coverage to a level specified in the actuarial documents by paying an additional premium.

Crop Revenue Coverage

Mandatory Actuarial Document Endorsement

Commodity Exchange Endorsement—Wheat (This is a Continuous Endorsement)

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Special Provisions; (2) this Commodity Exchange Endorsement; (3) the Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

How this endorsement affects your coverage:

(I) This endorsement is attached to and made a part of your Crop Revenue Coverage (CRC) Wheat crop policy provisions and actuarial documents, subject to the terms and conditions described herein.

(II) This endorsement specifies how, where, and when commodity prices for your CRC Wheat policy are determined.

(III) You may only select 100 percent of the Base Price and Harvest Price.

(IV) This endorsement defines the Average Daily Settlement Price, as used in the Base Price and Harvest Price, as—The average calculated by totaling all the daily settlement prices for the contract specified in the applicable Base Price or Harvest Price definition (established on full active trading days), during the month specified in the applicable Base Price or Harvest Price definition, and dividing that sum by the total number of days included in the total. The average must include at least fifteen (15) days and each day included in the average must be a full active trading day for the contract specified in the applicable Base Price or Harvest Price definition. A full active trading day is any day on which there are twenty-five (25) or more open interest contracts of the contract specified in the

Base Price or Harvest Price definition. If there are less than fifteen (15) full active trading days for the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, then additional daily settlement prices, established on full active trading days, for the contract immediately prior to the contract specified in the applicable Base Price or Harvest Price definition, during the month specified in the applicable Base Price or Harvest Price definition, will be used until there are fifteen (15) prices from fifteen (15) full active trading days included in the average.

(V) This endorsement defines the Base Price and Harvest Price as shown in Section 1 of the Crop Revenue Coverage Basic Provisions by wheat type and state as follows:

Winter Wheat—(Insured as winter wheat), Chicago Board of Trade (CBOT)

Illinois, Indiana, Michigan, Ohio, and Wisconsin

Base Price (CBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (CBOT)—The July 15 to August 14 harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by August 20 of the harvest year.

Winter Wheat—(Insured as winter wheat), (CBOT)

Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia

Base Price (CBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (CBOT)—The June harvest year's average daily settlement price for the harvest year's CBOT July soft red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by July 10 of the harvest year.

Winter Wheat—(Insured as winter wheat), Kansas City Board of Trade (KCBOT)

Iowa, Montana, Nebraska, South Dakota, and Wyoming

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (KCBOT)—The July 15 to August 14 harvest year's average daily settlement price for the harvest year's KCBOT September hard red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by August 20 of the harvest year.

Winter Wheat—(Insured as winter wheat), (KCBOT)

Arizona, Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (KCBOT)—The June harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by July 10 of the harvest year.

Spring Wheat—(Insured as spring wheat in counties with a 3/15 cancellation date), Minneapolis Grain Exchange (MGE)

Colorado, Minnesota, Montana, North Dakota, South Dakota, and Wyoming

Base Price (MGE)—The February harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by March 10 of the harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Spring Wheat—(Insured as spring wheat in counties with a 9/30 cancellation date), (KCBOT/MGE)

Colorado, Iowa, Montana, South Dakota, Wisconsin, and Wyoming

Base Price (KCBOT)—The August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's KCBOT July hard red winter wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for the harvest year's MGE September hard red spring wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Wheat—Portland Grain Exchange (PGE)

California, Idaho, Oregon, Utah, and Washington

Base Price (PGE)—The Portland Price equals the August 15 to September 14 pre-harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) plus an adjustment equal to the current five-year average difference between the August average daily

settlement price for the nearby CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) and the August average daily settlement price for the PGE soft white wheat contract (rounded to the nearest whole cent). The Base Price will be released as an actuarial document addendum by September 20 of the pre-harvest year.

Harvest Price (PGE)—The August harvest year's average daily settlement price for the PGE soft white wheat contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Durum Wheat—(Insured as durum wheat in counties with a 3/15 cancellation date), (MGE)

North Dakota

Base Price (MGE)—The February harvest year's average daily settlement price for the harvest year's MGE September durum wheat futures contract rounded to the nearest whole cent. The Base Price will be released as an actuarial document addendum by March 10 of the harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for the harvest year's MGE September durum wheat futures contract rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

Durum Wheat—(Insured as durum wheat in counties with a 10/31 cancellation date), (MGE)

Arizona and California

Base Price (MGE)—The Southern Durum Price equals the September 15 to October 14 pre-harvest year's average daily settlement price for the harvest year's CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) plus an adjustment equal to the average of the current year nearby basis, determined during the months of May, June, July and August of the current crop year, and the current five-year average difference between the August average daily settlement price for top milling durum wheat as reported by the MGE (rounded to the nearest whole cent) and the August average daily settlement price for the nearby CBOT September soft red winter wheat futures contract (rounded to the nearest whole cent) not to exceed $1.00. During the months of May and June the nearby futures contract used to determine the current year nearby basis for top milling durum wheat will be the July contract. During the months of July and August the nearby futures contract used to determine the current year nearby basis for top milling durum wheat will be the September contract. The Base Price will be released as an actuarial document addendum by October 20 of the pre-harvest year.

Harvest Price (MGE)—The August harvest year's average daily settlement price for top milling durum wheat as reported by the MGE rounded to the nearest whole cent. The Harvest Price cannot be less than the Base Price minus two dollars ($2.00), or greater than the Base Price plus two dollars ($2.00). The Harvest Price will be released as an actuarial document addendum by September 10 of the harvest year.

All other terms and conditions of the Policy remain unchanged.

Signed in Washington, D.C. on November 17, 1999.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 99–30952 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection, Comment Request—Commodity Supplemental Food Program, the Food Distribution Program on Indian Reservations, and the Food Stamp Program: Title VI Civil Rights Collection Reports

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension of a collection currently approved under OMB No. 0584–0025, Civil Rights Title VI Collection Reports—Forms FNS–191 and FNS–101, for the Commodity Supplemental Food Program, the Food Distribution Program on Indian Reservations, and the Food Stamp Program.

DATES: Comments on this notice must be received by January 31, 2000.

ADDRESSES: Send comments and requests for copies of this information collection to Barbara Hallman, Chief, State Administration Branch, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302. Copies of the estimate of the information collection can be obtained by contacting Ms. Hallman.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, telephone number (703) 305–2383.

SUPPLEMENTARY INFORMATION:

Title: Civil Rights Title VI Collection Reports—FNS–191 and FNS–101.

OMB Number: 0584–0025.

Expiration Date: March 2000.

Type of Request: Extension of a currently approved collection.

Abstract: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d–7, requires the collection of racial/ethnic data for all programs receiving Federal financial assistance. The Department of Justice (DOJ) regulations, 28 CFR 42.406, require all Federal agencies to provide for the collection of racial/ethnic data and information from applicants for and recipients of Federal assistance sufficient to permit effective enforcement of Title VI in each assisted program.

For purposes of the Information Collection Notice only, the Food and Nutrition Service (FNS) employs program terminology in place of the standard Title VI terminology adopted by the U.S. Department of Agriculture (USDA) and codified at 7 CFR 15.2. Thus, "State agencies," "local

agencies," and/or "operators" are the program entities responsible for fulfilling the data collection requirements associated with "primary recipients" and/or "recipients" as defined by Title VI. Moreover, the program terms "respondents," "applicants," and/or "participants" refer to the "potential beneficiaries," "applicant beneficiaries," and/or "actual beneficiaries" of Federal financial assistance as defined by Title VI.

In order to conform with the statutory mandates of Title VI of the Civil Rights Act of 1964, DOJ regulations, and USDA regulations on nondiscrimination in Federally assisted programs, the USDA's Food and Nutrition Service (FNS) requires State agencies to submit data on the racial/ethnic categories of persons receiving benefits from FNS food assistance programs. Local agencies use the two forms referenced above (i.e., the FNS–191 and FNS–101) to collect data on the Commodity Supplemental Food Program (CSFP), the Food Distribution Program on Indian Reservations (FDPIR), and the Food Stamp Program (FSP) as explained below. FNS' data collection requirement for operators is found in the regulations for the CSFP at 7 CFR Part 247.13(d), and for the FSP at 7 CFR Part 272.6(g); the requirement for the FDPIR is found in FNS Handbook 501.

All State or local agencies must submit the appropriate form in order to receive benefits and comply with applicable legislation. If a State or local agency does not comply voluntarily, the State or local agency is subject to fund termination, suspension, or denial; or judicial action.

CSFP local agencies complete the FNS–191 for the CSFP. FNS requires local agencies to provide the actual number and racial/ethnic designations women, infants, children and elderly who receive CSFP benefits during the month of April.

FSP and FDPIR State or local agencies complete the FNS–101. FNS requires State or local agencies to report annually the actual number and racial/ethnic designation of households who receive FDPIR and/or FSP benefits during the month of July.

FNS requests that an applicant voluntarily designate a racial/ethnic category on his or her application. However, racial/ethnic information will not affect an applicant's request for benefits. In all three programs, State and local agencies collect racial/ethnic information on the benefits application form which applicants may complete and file manually or electronically. All three programs allow the individual to self-identify his or her racial/ethnic status on the application. Observation is used when the individual does not self-identify. The Federal reporting forms do not identify individual participants.

FNS is proposing to extend the current forms unchanged (except for editorial changes such as the updating of the Agency's name) through FY 2001 reporting. In addition, at this time FNS is proposing substantial changes to be made to the forms for reporting for FY 2002. These changes are discussed below.

The New Categories and Reporting Forms.

Background

The racial and ethnic categories, which have been in place for nearly 20 years, conform to standards set by the Office of Management and Budget (OMB) in Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting. On October 30, 1997, OMB issued a revision of Statistical Policy Directive No. 15 in a notice in the **Federal Register** (62 FR 58781 (Oct. 30, 1997)). The new standards revise the categories and manner of reporting. All Federal agencies are to comply with the new standards. In turn, States will have to comply with the new standards.

State Collection of Data

The new standards revise the racial/ethnic categories by separating the "Asian and Pacific Islander" category into two separate categories. The five racial categories for future State agency reporting are: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. The two new ethnic categories are: "Hispanic or Latino" and "Not Hispanic or Latino." These categories are to be included on the application or data input screen.

The new standards also require that State and local agencies offer applicants the option of selecting one or more racial designations from the above categories. State agencies may not offer respondents (applicants) a "multi-racial" category. Instructions on race reporting on the application form should ask the respondent to "Mark one or more . . ." or "Select one or more . . . ." State agencies shall use separate questions on the application form or data input screen for collecting data on race and ethnicity, collecting ethnicity data first, then race. Applicants may choose only one response to the Hispanic ethnicity question. State agencies will need to modify their application forms, computer input screens and information systems to capture and retrieve data in the new categories.

The new multiracial reporting is intended to capture information on the number of people reporting that they are of more than one race. For the CSFP, State agencies currently collect the data by groups of participants (Women, Infants, Children and Elderly). CSFP State agencies shall continue to collect the data by participant but will have to use the new racial and ethnic categories and provide for multiracial reporting. However, to reduce the paperwork burden associated with the administration of the CSFP at the State and local level, we are recommending that the data no longer be reported separately by each group of participants but simply by the total number of participants in the program.

For FDPIR and FSP, State agencies currently collect the data by "household" with each household unit being counted under only one race. In actuality, most State agencies collect racial/ethnic data for one person in the household, normally the person who completes the application or is interviewed. This is done because the reporting of racial information by an applicant is voluntary and not all household members are required to be present for the eligibility interview. When an applicant chooses not to self-identify, capturing or determining racial information on absent household members based on observation of present household members or other means would be burdensome and error prone for States. FDPIR and FSP State agencies may continue to collect the data for one person per household but must use the new racial and ethnic categories and provide for multiracial reporting.

Reporting of Data

FNS is proposing drafts of the revised forms discussed above for comment at this time in order to begin to comply with the revised racial and ethnic categories and to inform State agencies of the reporting changes to come. The FNS–191 will continue to collect data for each participant. However, the FNS–191 is being revised to collect data on the number of participants in the new racial and ethnic categories and the number of participants choosing more than one race. In addition for the CSFP, States will no longer be required to report racial ethnic data separately for women, infants, children and elderly.

The FNS–101 will continue to collect data only on one person per household. We plan to refer to this individual as "household contact" on the reporting

form. FNS believes this is a more appropriate term than "household." The FNS–101 is being revised to collect data on the number of household contacts in the new racial and ethnic categories and the number choosing more than one race.

For both forms, FNS is proposing to have the State agencies report the number of people who selected only one racial category, separately for each of the five racial categories, and to provide a count of all people who selected more than one racial category. In addition, State agencies shall report the number of persons in each racial category who are Hispanic or Latino. Detailed reporting instructions will be issued by FNS when the new forms are approved by OMB and finalized. The new proposed forms are displayed at the end of this section.

Implementation

FNS recognizes that State and local agencies will need time to modify their application forms, data input screens, and information systems in order to begin capturing and tabulating the new data. We also recognize that State and local agencies may currently be involved in doing high priority Year 2000 system modifications to keep their systems operational after 1999 as well as doing other system modifications due to welfare reform and other program changes. It is crucial for FNS' information system that all State agencies for a given program implement the new reporting format at the same time.

FNS proposes that CSFP, FDPIR, and FSP State and local agencies begin collecting the racial/ethnic data for the new reporting with new applications filed beginning October 2001. The new reporting to FNS would be effective for the report month of April 2002 for the FNS–191 and the report month of July 2002 for the FNS–101.

FNS requests comments on the proposed reporting forms and the above proposed implementation dates from State and local agencies for each program. FNS is also interested if State agencies could implement sooner than the above proposed implementation date. After considering the comments, FNS will finalize the revised forms and include them in the next burden package for OMB approval. FNS will announce the effective date(s) for each of the affected programs either through rulemaking (for the FSP) or implementing memoranda. The two revised forms follow this notice.

Burden Estimate

Respondents: Local agencies that administer the CSFP, FDPIR, and FSP.

Number of Respondents: 2,939 (72 for CSFP, 106 for FDPIR, and 2,761 for FSP).

Estimated Number of Responses per Respondent:

Form FNS–191: 72 local CSFP agencies once a year.

Form FNS–101: 106 local FDPIR agencies and 2,761 local FSP agencies once a year.

Estimate of Burden:

Form FNS–191: The local CSFP agencies submit Form FNS–191 at an estimate of 1.75 hours per respondent, or 126 total hours. There is an additional recordkeeping burden of .25 hours per respondent for maintaining the responses, or 18 hours. Total burden is 144 hours.

Form FNS–101: The local FDPIR and FSP agencies submit Form FNS–101 at an estimate of 2 hours per respondent, or 5,734 total hours. There is an additional burden of .25 hours per respondent for maintaining the responses, or 717 hours. Total burden is 6,451 hours.

Estimated Total Annual Burden on Respondents: The revised annual reporting and recordkeeping burden for OMB No. 0584–0025 is estimated to be 6,595 hours. The burden is unchanged.

Dated: November 18, 1999.

George A. Braley,

Acting Administator.

BILLING CODE 3410–30–P

U.S. DEPARTMENT OF AGRICULTURE - FOOD AND NUTRITION SERVICE

RACIAL/ETHNIC GROUP PARTICIPATION COMMODITY SUPPLEMENTAL FOOD PROGRAM

FNS INSTRUCTION 113-2

No further monies or other benefits may be paid out under this program unless this report is completed and filed as required by existing regulation. *(Instructions on reverse of last copy.)*

1. STATE | 2. STATE # | LA# | NO. OF CLINICS

3. REPORTING
LOCAL AGENCY NAME
ADDRESS
CITY
STATE | ZIP CODE | TELEPHONE NUMBER

4. REPORTING YEAR: APRIL

ACTUAL NUMBER OF PARTICIPANTS FOR THE MONTH OF APRIL

	AMERICAN INDIAN OR ALASKA NATIVE	ASIAN	BLACK OR AFRICAN AMERICAN	NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER	WHITE	MORE THAN ONE RACE	TOTAL *(See Note Below)*
5. NO. OF PARTICIPANTS BY RACIAL/ETHNIC GROUP							
6. NO. OF HISPANIC OR LATINO PARTICIPANTS BY RACE							

DATE | TITLE | SIGNATURE

FORM FNS-191 (10-98) *Previous editions are obsolete*
Electronic Form Version Designed in JetForm 5.01 Version

ORIGINAL - FNS REGIONAL OFFICE

NOTE: Total number of participants should agree with the data reported on the April Form FNS-153 Monthly Report of the Commodity Supplemental Food Program and Quarterly Administrative Financial Status Report.

INSTRUCTIONS

This report will be prepared annually covering the month of April.

LOCAL AGENCIES - shall forward the original and one copy to the State agency by the 7th day of July, retaining the second copy.

STATE AGENCIES - shall determine that reports have been received from all local agencies and review all information prior to forwarding the original copy to the appropriate FNS regional office in time to reach that office no later than the 31st day of July. The duplicate copy form shall be retained and used for analysis in monitoring local agencies and State agency compliance with civil rights requirements.

FNS REGIONAL OFFICES - shall determine that all local agency reports have been received from the State agencies and reviewed for completeness. The regional office shall enter all local agency information into the National Master database by the 19th day of September.

Item 1 and 4 - Self-Explanatory.

Item 2 - For State agency, enter the 4-digit Letter of Credit number. For local agency, enter the 3-digit identification number used in previous year(s) that was assigned by FNS. New local agencies shall obtain the identification number from the State agency. The new local agency 3-digit number should be the next unused consecutive identification number. Enter the number (001 or more) of clinics under each local agency's supervision.

Item 3 - Enter the name, address and 10-digit telephone number for the local Agency. For the name and address, enter one letter or number in each block. Abbreviations are permitted, where necessary. This will be used as input information for the CSFP Local Agency Directory.

Items 5 - Report for each racial group the number of participants who received commodities during April and that selected one race. Report the number of participants in April that reported they are more than one race in the "More than One Race" block.

Using the same racial categories from item 5, report for each racial group the number of participants who participated in April who are Hispanic or Latino.

OMB BURDEN STATEMENT: According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0025. The time required to complete this information collection is estimated to average 1-3/4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

FORM FNS-191 (10-98) *Previous editions are obsolete*
Electronic Form Version Designed in JetForm 5.01 Version

VOL 64 ISS 229 NO 30 1999 UMI

FORM APPROVED OMB NO. 0584-0025

U.S. DEPARTMENT OF AGRICULTURE - FOOD AND NUTRITION SERVICE

PARTICIPATION IN FOOD PROGRAMS - BY RACE

FNS Instruction 113-1

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0584-0025. The time required to complete this information collection is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1. STATE/ITO	2. PROGRAM ("X" one only). Use separate form for each program). ☐ FOOD STAMP ☐ FDPIR	3A. NAME OF PROJECT AREA	4. NAME & ADDRESS OF REPORTING WELFARE AGENCY OR DISTRIBUTING AGENCY
5. REPORTING YEAR July _____		3B. PROJECT AREA CODE	

	AMERICAN INDIAN OR ALASKA NATIVE	ASIAN	BLACK OR AFRICAN AMER	NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER	WHITE	MORE THAN ONE RACE	TOTAL *(See Note Below)*
6. NO. OF HOUSEHOLD CONTACTS PARTICIPATING BY RACE							
7. NO. OF HISPANIC OR LATINO HH CONTACTS BY RACE							

NOTE: Total number of participating household contacts in item 6 should agree with the data reported on the respective monthly report (July) submitted for the Food Stamp Program (Form FNS-388A) or the Food Distribution Program on Indian Reservations (Form FNS-152).

8. REMARKS

DATE	TITLE	SIGNATURE

FORM FNS-101 (8-98) *Previous edition obsolete*

Electronic Form Version Designed in JetForm 5.01

ORIGINAL - FNS Regional Office

No further monies or other benefits may be paid out under these programs unless this report is completed and filed as authorized by existing law (Title VI of the Civil Rights Act of 1964.

INSTRUCTIONS

This report will be prepared annually covering the month of July.

REPORTING UNITS - Send the original and one copy to reach the State Agency as soon as possible, but no later than the 20th of August.

STATE AGENCIES AND INDIAN TRIBAL ORGANIZATIONS (ITOs) - shall determine that reports have been received from all reporting units. The original copy shall be forwarded to the appropriate FNS Regional Office to reach that office as soon as possible, but no later than the 19th of September.

REGIONAL OFFICES - shall determine that reports have been received from all State Agencies, Indian Tribal Organizations, and reporting units. *The regional office shall enter all local agency information into FSPIIS and SNPIIS databases by the 20th of November.*

Items 1 thru 5 and 8 - self explanatory.

Item 6 - A household contact is the person who completes the application or is interviewed. Report for only one household contact per participating household. Report for each racial group the number of household contacts that participated (received coupon benefits or commodities) during July and that selected one race. Report the number of household contacts that participated in July and that reported they are more than one race in the "More Than One Race" block.

Item 7 - Using the same racial categories from item 6, in item 7 blocks, report for each racial group the number of household (HH) contacts who participated in July who are Hispanic or Latino.

FORM FNS-101 (8-98) *(Reverse)*

[FR Doc. 99–30907 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–10–C

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–049N]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request an extension for and revision to a currently approved information collection regarding applications for inspection, accreditation for laboratories, and exemptions for retail store, custom, and religious slaughter operations.

DATES: Comments on this notice must be received on or before January 31, 2000.

ADDITIONAL INFORMATION OR COMMENTS: Contact Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street, SW, Room 109, Washington, DC 20250–3700, (202) 720–0346.

SUPPLEMENTARY INFORMATION:

Title: Application for Inspection, Laboratory Accreditation, and Retail Store, Custom, and Religious Slaughter Exemptions.

OMB Number: 0583–0082.

Expiration Date of Approval: December 31, 1999.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Product Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS requires meat and poultry establishments and FSIS accredited non-Federal analytical laboratories to maintain certain paperwork and records. FSIS uses this collected information to ensure that all meat and poultry establishments produce safe, wholesome, and unadulterated product, and that non-federal laboratories operate in accordance with FSIS regulations. In addition, FSIS also collects information to ensure that meat and poultry establishments exempted from the provisions of the FMIA and PPIA do not commingle inspected and non-inspected meat and poultry products and to ensure that establishments qualifying for a retail store exemption and that have violated the prohibition on commingling product are no longer violating the prohibition.

FSIS is requesting OMB extension and revision of this Information Collection Request that covers the following paperwork and recordkeeping activities: (1) The completion and submission to FSIS of an application for Federal inspection by all meat, poultry, and egg seeking a grant of Federal inspection; (2) the completion and submission of forms establishing accreditation and maintenance of laboratory results by FSIS-accredited non-Federal analytical laboratories used in lieu of an FSIS laboratories for analyzing official regulatory samples; (3) the maintenance of records by establishments engaging in custom or religious slaughter, as defined in the FMIA and PPIA; and (4) the maintenance of records by establishments that have been found to be in violation of the terms of a retail store exemption.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 1.49 hours per response.

Respondents: Meat and poultry establishments.

Estimated Number of Respondents: 12,460.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18,565 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street, SW, Room 109, Washington, DC 20250–3700, (202) 720–0346.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) The accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both Lee Puricelli, Paperwork Specialist, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

This notice is designed to provide information to the public and request their comments on FSIS' information collection requirements regarding applications for inspection, accreditation for laboratories, and exemptions for retail store custom, and religious slaughter operations. Public involvement is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are made aware of this request for the extension and revision of the currently approved information collection request 0583–0082 and are informed about the mechanism for providing their comments, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update.

FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** Notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information with a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Done at Washington, DC, on: November 23, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–30993 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Willamette Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Meeting notice.

SUMMARY: The Willamette Province Advisory Committee (PAC) will meet on Monday, December 6, 1999. The meeting is scheduled to begin at 9:00 a.m., and will conclude at approximately 3:00 p.m. The meeting will be held at the Salem Office of the Bureau of Land Management, 1717 Fabry Road SE, Salem, Oregon, (503) 375–5646. The tentative agenda includes: (1) Presentation of the Draft Supplemental EIS to amend the survey and manage direction in the Northwest Forest Plan, (2) Review and critique of PAC accomplishments in 1999, (3) Set agenda topics and PAC focus for 2000, (4) Presentation on the national roadless initiative on Forest Service lands, and (5) Roundtable information sharing by Pac members and federal agency representatives including status reports from PAC subcommittees.

The Public Forum is tentatively scheduled to begin at 11:30 a.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the December 6 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue, Eugene, Oregon 97401; (541) 465–6924.

Dated: November 23, 1999.

Neal W. Forrester,

Acting Forest Supervisor.

[FR Doc. 99–30995 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Draft USDA Forest Service Strategic Plan (2000 Revision)

AGENCY: Forest Service, USDA.

ACTION: Notice, request for public comment

SUMMARY: The Government Performance and Results Act of 1993 requires the Forest Service to ask for the views and suggestions of anyone "potentially affected by or interested in" the Agency's strategic plan. Between October 1998 and January 1999, public meetings and other means were used to solicit input from the public about the development of the draft 2000 Revision. These comments were used, along with other information, to develop the draft 2000 Revision, which has now been completed by the Agency. This notice announces the opportunity for public review and comment on the draft 2000 Revision and provides information about where to send written comments.

DATES: Written comments must be received by the Strategic Planning and Resource Assessment Staff by January 31, 2000.

EFFECTIVE DATE: Written comments on the draft 2000 Revision may be sent to: Director, Strategic Planning and Resource Assessment Staff, USDA Forest Service, PO Box 96090, Washington, DC 20090–6090 or via internet at *resources.program/wo@fs.fed.us*. Written comments also may be faxed to (202) 205–1546. Additional information about the draft 2000 revision can be found on the internet on the Strategic Planning and Resource Assessment Staff home page at *http://www.fs.fed.us/plan*.

FOR FURTHER INFORMATION CONTACT: For additional information concerning opportunities for public review and comment, the submission of comments, or to request a copy of the draft 2000 Revision, contact the Strategic Planning and Resource Assessment Staff. Washington, DC at (202) 205–1292 or via internet at *resources.program/wo@fs.fed.us*. A list of "USDA Forest Service Strategic Planning contacts" from whom additional information can be requested is included in the **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION: The draft 2000 Revision contains long-term goals for the Agency; long-term objectives associated with the goals; indicator measures tied to each objective; and, the strategies to be pursued to achieve the long-term goals and objectives.

USDA FOREST SERVICE STRATEGIC PLANNING CONTACTS

Regional office or research station HQ	Strategic planning contacts	Telephone
Region 1 (Missoula, MT)	Tom Rhodes	(406) 329–3399
Region 2 (Denver, CO)	Pam Skeels	(303) 275–5152
Region 3 (Albuquerque, NM)	Parks Hilliard	(505) 842–3202
Region 4 (Ogden, UT)	Dave Iverson	(801) 625–5278
Region 5 (Vallejo, CA)	Mike Srago	(707) 562–8951
Region 6 (Portland, OR)	Richard Phillips	(503) 808–2281
Region 8 (Atlanta, GA)	Bob Wilhelm	(404) 347–7076
Region 9 (Milwaukee, WI)	Paul Monsoon	(414) 297–3181
Region 10 (Anchorage, AK)	Randy Coleman	(907) 586–8814
Forest Products Laboratory (Madison, WI)	Deb Dietzman	(608) 231–9320
Rocky Mountain Research Station (Fort Collins, CO)	Marcia Patton-Mallory	(970) 487–1157
North Central Research Station (Chicago, IL) or (St. Paul, MN)	John F. Dwyer	(847) 866–9311
	Nancy Lorimer	(612) 649–5249
Northeastern Research Station (Radnor, PA)	Margaret Harris	(610) 975–4017
Pacific Northwest Research Station (Portland, OR)	Thomas J. Mills	(503) 808–2100
Pacific Southwest Research Station (Albany, CA)	Carol DeMuth	(510) 559–6217
Southern Research Station (Asheville, NC)	Rob Doudrick	(828) 257–4305
Northeastern Area S&PF (Radnor, PA)	Kenneth Knauer	(610) 975–4103
International Institute of Tropical Forestry (Rio Piedras, PR)	William Edwards	(809) 766–5335
Washington Office	Nancy Osborne	(202) 205–1292

Comments on the draft 2000 Revision, including other issues and concerns that need to be considered in the development of the 2000 Revision, are requested.

Dated: November 24, 1999.

Mike Dombeck,

Chief.

[FR Doc. 99–31109 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural National Resources Conservation Service

Snake River Watershed, Marshall, Pennington, and Polk Counties, Minnesota

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability of record of decision.

SUMMARY: William Hunt, responsible Federal official for projects administered under the provisions of Public Law 83–566, 16 U.S.C. 1001–1008, in the State of Minnesota, is hereby providing notification that a record of decision to proceed with the installation of the Snake River Watershed project is available. Single copies of this record of decision may be obtained from William Hunt at the address shown below.

FOR FURTHER INFORMATION CONTACT: William Hunt, State Conservationist, Natural Resources Conservation Service, 375 Jackson Street, Suite 600, St. Paul, MN 55101, Telephone: (651) 602–7854.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention-and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: November 18, 1999.

William Hunt,

State Conservationist.

[FR Doc. 99–31100 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Maximum Portion of Guarantee Authority Available for Fiscal Year 2000

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: As set forth in 7 CFR part 4279, subpart B, each fiscal year the Agency shall establish a limit on the maximum portion of guarantee authority available for that fiscal year that may be used to guarantee loans with a guarantee fee of 1 percent or guaranteed loans with a guarantee percentage exceeding 80 percent.

Allowing the guarantee fee to be reduced to 1 percent or exceeding the 80 percent guarantee on certain guaranteed loans that meet the conditions set forth in 7 CFR 4279.107 and 4279.119 will increase the Agency's ability to focus guarantee assistance on projects which the Agency has found particularly meritorious, such as projects in rural communities that remain persistently poor, experience long-term population decline and job deterioration, are experiencing trauma as a result of natural disaster or are experiencing fundamental structural changes in the economic base.

Not more than 7 percent of the Agency quarterly apportioned guarantee authority will be reserved for loan requests with a guarantee fee of 1 percent, and not more than 15 percent of the Agency quarterly apportioned guarantee authority will be reserved for guaranteed loan requests with a guaranteed percentage exceeding 80 percent. Once the above quarterly limits have been reached, all additional loans guaranteed during the remainder of that quarter will require a 2 percent guarantee fee and not exceed an 80 percent guarantee limit. As an exception to this paragraph and for the purposes of this notice, loans developed by the North American Development Bank (NADBANK) Community Adjustment and Investment Program (CAIP) will not count against the 15 percent limit. CAIP loans are subject to a 50 percent limit of the overall CAIP loan program.

Written requests by the Rural Development State Office for approval of a guaranteed loan with a 1 percent guarantee fee or a guaranteed loan exceeding 80 percent must be forwarded to the National Office, Attn: Director, Business Programs Processing Division, for review and consideration prior to obligation of the guaranteed loan. The Administrator will provide a written response to the State Office confirming approval or disapproval of the request.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Hennings, Senior Loan Specialist, Business Programs Processing Division, Rural Business-Cooperative Service, USDA, Stop 3221, Washington, DC 20250–3221, telephone (202) 690–3809.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866.

Dated: November 23, 1999.

Wilbur T. Peer,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 99–31081 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by January 31, 2000.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Program Development & Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW., STOP 1522, Room 4034 South Building, Washington, D.C. 20250–1522. Telephone: (202) 720–0736. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION:

Title: Inventory of Work Orders.

OMB Control Number: 0572–0019.

Type of Request: Extension of currently approved information collection.

Abstract: When a prospective borrower requests and is granted an RUS loan, a loan contract is established between the Federal government, acting through the RUS Administrator, and the borrower. At the time this contract is entered into, the borrower must provide RUS with a list of projects for which loan funds will be spent, along with an itemized list of the estimated costs of these projects. Thus, the borrower receives a loan based upon estimated cost figures.

RUS Form 219, Inventory of Work Orders, is one of the documents the borrower submits to RUS to support actual expenditures and an advance of loan funds. The form also serves as a connecting link and provides an audit trail that originates with the advance of

funds and terminates with evidence supporting the propriety of expenditures for construction or retirement projects.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.5 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 758.

Estimated Number of Responses per Respondent: 9.

Estimated Total Annual Burden on Respondents: 11,233.

Copies of this information collection, and related form and instructions, can be obtained from Bob Turner, Program Development and Regulatory Analysis, Rural Utilities Service, at (202) 720–0696.

Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and, (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Comments may be sent to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1522, Room 4034 South Building, Washington, D.C. 20250–1522.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: November 19, 1999.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 99–31084 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Pohnpei Utilities Corporation, Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an environmental assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing an environmental assessment with respect to the potential environmental impacts related to the construction and operation of a 6.5 megawatt (MW) diesel electric generating plant at Dekehtik on the Island of Pohnpei. Pohnpei is the largest state in the Federated States of Micronesia. RUS may provide financing assistance to the Pohnpei Utilities Corporation (PUC) for the project.

FOR FURTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, Rural Utilities Service, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone: (202) 720–1414. His e-mail address is nislam@rus.usda.gov. Information is also available from Mr. Marcelino Actouka, General Manager, Pohnpei Utilities Corporation, P.O. Box C, Kolonia, Pohnpei FM96941 and Mr. Peter Howard, Executive Vice President, Oceanic Companies, Inc., 1287 Kalani Street, Suite 203, Honolulu, Hawaii 96817–4961, telephone (808) 874–0207.

SUPPLEMENTARY INFORMATION: The Dekehtik Generating Station will consist of a 6.5 MW diesel generating unit that will be located within an enclosed building. The same building could also house three smaller diesel units (2.4 MW total capacity) that may be relocated from the existing Nampohnmal Generating Station. Low sulfur light diesel fuel will be delivered via pipeline from the port facility and stored in four storage tanks. An existing substation and transmission line will distribute electricity generated by the facility to the island. The location of the proposed project is a 123,00 square feet section of the soon to be closed municipal waste dump site at Dekehtik. This area would be cleared of trash and refuse and filled with crushed coral or rock. Located in the immediate area, all of which has been designated as an industrial development zone, are the airport and the commercial port that serve Pohnpei.

Oceanic Companies, Inc. prepared an environmental report for RUS, which describes the project and assesses its environmental impacts. RUS has conducted an independent evaluation of the environmental report and believes that it accurately assesses the impacts of the proposed project. This environmental report will serve as RUS' environmental assessment of the project. No significant impacts are expected as a result of the construction of the project.

The environmental assessment can be reviewed at the headquarters of Pohnpei Utilities Corporation, Oceanic Companies, Inc., and the headquarters of RUS, at the addresses provided above.

Questions and comments should be sent to RUS at the address provided. RUS will accept questions and comments on the environmental assessment for at least 30 days from the date of publication of this notice.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal environmental laws and regulations and completion of environmental review procedures as prescribed by the 7 CFR Part 1794, Environmental Policies and Procedures.

Dated: November 23, 1999.

Lawrence R. Wolfe,

Acting Director, Engineering and Environmental Staff.

[FR Doc. 99–31083 Filed 11–29–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Current Industrial Reports Surveys—WAVE I (Mandatory and Voluntary Submissions)

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 31, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to: Judy Dodds, Assistant Chief for Census and Related Programs, (301) 457–4587, Census Bureau, Manufacturing and Construction Division, Room 2101, Building #4, Washington, DC 20233.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts a series of monthly, quarterly, and annual surveys as part of the Current Industrial Reports (CIR) program. The CIR surveys deal mainly with the quantity and value of shipments of particular products and occasionally with data on production and inventories; unfilled orders, receipts, stocks and consumption; and comparative data on domestic production, exports, and imports of the products they cover. These surveys provide continuing and timely national statistical data on manufacturing. The results of these surveys are used extensively by individual firms, trade associations, and market analysts in planning or recommending marketing and legislative strategies.

The CIR program includes both mandatory and voluntary surveys. Typically the monthly and quarterly surveys are conducted on a voluntary basis. Those companies that choose not to respond to the voluntary surveys are required to submit a mandatory annual counterpart. The annual counterpart collects annual data from those firms not participating in the more frequent collection.

In 1998, the Census Bureau converted the Current Industrial Reports (CIR) survey form names to reflect the switch from the old U.S. Standard Industrial Classification (SIC) system to the new North American Industry Classification System (NAICS). For example, the M37L under the old SIC system converted to M336L under the NAICS.

Due to the large number of surveys in the CIR program, for clearance purposes, we group the surveys into three waves. The mandatory and voluntary surveys in each wave are separately submitted. Thus, a total of six clearances cover all of the surveys in the CIR program. One wave is submitted for reclearance each year. This year the Census Bureau plans to submit mandatory and voluntary surveys of Wave I for clearance. The surveys in Wave I are:

Mandatory surveys	Voluntary surveys
M311H—Fats and Oils (Warehouse)	M336L—Truck Trailers*
M311M—Fats and Oils (Consumers)	MQ325B—Inorganic Fertilizer Materials and Related Products
M311N—Fats and Oils (Producers)	MQ327D—Clay Construction Products*
MA325F—Paints and Allied Products	MQ322E—Plumbing Fixtures*
MA327C—Refractories	
MA331A—Iron and Steel Castings	
MA331B—Steel Mill Products	
MA331E—Nonferrous Castings	
MA332K—Steel Shipping Drums and Pads	
MA333A—Farm Machinery and Lawn and Garden Equipment	
MA333M—Refrigeration, Air Conditioning & Warm Air Equipment	
MA332Q—Antifriction Bearings	
MA334R—Computers & Office & Accounting Machines	
MA335A—Switchgear, Switchboard Apparatus Relays, & Industrial Controls	
MA335F—Major Household Appliances	
MA335H—Motors and Generators	
MA335K—Wiring Devices and Supplies	
MA334B—Selected Instrument & Related Products	

*These voluntary surveys have mandatory annual counterparts.

II. Method of Collection

The Census Bureau will use mail out/mail back survey forms to collect data. We ask respondents to return monthly report forms within 10 days, quarterly report forms within 15 days, and annual report forms within 30 days of the initial mailing. Telephone calls and/or letters encouraging participation will be mailed to respondents that have not responded by the designated time.

III. Data

OMB Number: 0607–0392—Mandatory Surveys. 0607–0393—Voluntary & Annual Counterparts Surveys.

Form Number: Set Chart Above.

Type of Review: Regular Review.

Affected Public: Businesses, Other for Profit, or Organizations.

Estimated Number of Respondents: Mandatory Surveys—13,829. Voluntary & Annual Counterparts Surveys—2,991. Total—16,820.

Estimated Time Per Response: Mandatory Surveys—1.26 hrs. avg. Voluntary & Annual Counterparts Surveys—2.22 hrs. avg.

Estimated Total Annual Burden: Mandatory Surveys—13,032 hours. Voluntary & Annual Counterparts Surveys—1,877 hours. Total—14,909 hours.

Estimated Total Annual Cost: The estimated cost to respondents for all the CIR reports in Wave I for fiscal year 2001 is $197,395.

Respondent's Obligation: The CIR program includes both mandatory and voluntary surveys.

Legal Authority: Title 13, United States Code, Sections 61, 182, 224, and 225.

IV. Request for Comments

Comments are Invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 23, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–31005 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Award for Excellence in Economic Development—Request for Comments

ACTION: New collection, comment request.

The Department of Commerce (DoC) has submitted to the Office of Management and Budget (OMB) for clearance the following Emergency information collection under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 5).

Agency: Economic Development Administration (EDA).

Title: Award for Excellence in Economic Development

Agency Form Number: Not Applicable.

OMB Approval Number:

Type of Request: New.

Burden: 150 hours.

Average Hours Per Response: 3.

Number of Respondents: Approximately 50 respondents.

Needs and Uses: EDA provides a broad range of economic development assistance to help distressed communities design and implement effective economic development strategies. Part of this assistance includes disseminating information about best practices and encouraging collegial learning among economic development practitioners. EDA has created the Award for Excellence in Economic Development to recognize outstanding economic development activities of national importance. In order to make Awards for Excellence in Economic Development, EDA must collect two kinds of information: (a) Information identifying the nominee and contacts within the organization being nominated and (b) information explaining why the nominee should be given the award. The information will be used to determine those applicants best meeting the preannounced selection criteria. Use of a nomination form standardizes and limits the information collected as part of the nomination process. This makes the competition fair and eases any burden on applicants and reviewers alike. Participation in the competition is voluntary. The award is strictly honorary.

Affected Public: State, local or Tribal Government and not-for profit organizations.

Frequency: Annually.

Respondent's Obligation: Required to obtain benefits.

OMB Desk Officer: David Rostker, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DoC Forms Clearance Officer, (202) 482–3272, U.S. Department of Commerce, Room 5027, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 10 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: November 23, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–31004 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on December 16, 1999, 10:30 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening remarks and introductions.
2. Presentation of papers and comments by the public.
3. Presentation on status of implementation of the Chemical Weapons Convention.

Closed Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

However, to facilitate distribution of public presentation materials to the Committee members, the materials should be forwarded prior to the meeting to the address below:

Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, U.S. Department of Commerce, 14th St. & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 24, 1998, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information call Ms. Lee Ann Carpenter at (202) 482–2583.

Dated: November 23, 1999.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 99–31038 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Encryption; Notice of Partially Closed Meeting

The President's Export Council Subcommittee on Encryption (PECSENC) will meet on December 14, 1999, at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC. The meeting will begin in open session at 9:30 a.m. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

Open Session: 9:30 a.m.–12:30 p.m.

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.
3. Update on Bureau of Export Administration initiatives.
4. Issue briefings.
5. Open discussion.

Closed Session: 1:30 p.m.–5 p.m.

6. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the PECSENC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSENC members, the PECSENC suggests that public presentation materials or comments be forwarded before the meeting to the address listed below:

Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, U.S. Department of Commerce, 14th St. & Pennsylvania Ave., NW, Washington, DC 20230.

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved October 25, 1999, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information, contact Ms. Lee Ann Carpenter on (202) 482–2593.

Dated: November 23, 1999.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 99–31039 Filed 11–26–99; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 54–99]

Foreign-Trade Zone 21—Charleston, South Carolina, Area; Application for Expansion; Correction

The **Federal Register** notice (64 FR 61820, November 15, 1999) describing the application submitted to the Foreign-Trade Zones Board by the South Carolina State Ports Authority, grantee of FTZ 21, requesting an expansion of its general-purpose zone to include an additional site at the former Charleston Naval Base and Shipyard, Cosgrove Avenue, N. Charleston, SC, is corrected as follows: last paragraph on page 61821, giving the location for the public inspection facility in N. Charleston, SC, has been changed to "Office of the Port Director, U.S. Customs Service, 200 East Bay Street, Charleston, SC 29401."

Dated: November 19, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–30966 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 58–99]

Foreign-Trade Zone 84—Houston, Texas; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting authority to expand its zone to include a site at the George Bush Intercontinental Airport in Houston, Texas, within the Houston-Galveston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 17, 1999.

FTZ 84 was approved on July 15, 1983 (Board Order 214, 48 FR 34792, 8/1/83), and the zone project currently consists of thirteen sites (1,499.92) at port facilities, industrial parks and warehouse facilities in Harris County.

The applicant is now requesting authority to expand the general-purpose zone to include the jet fuel storage and distribution system (22 acres) at the George Bush Intercontinental Airport on Fuel Storage Road, Houston, Texas. The site includes the existing jet fuel storage facility (17 acres) and an adjacent proposed 5-acre expansion of the facility planned for the year 2001. This facility consists primarily of jet fuel storage tanks, a pumping station, pipelines and other facilities and structures for loading and unloading fuel. The facility is owned by the City of Houston. The jet fuel system activity is currently handled by Ogden Aviation Services.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 31, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 14, 2000).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 500 Dallas, Suite 1160, Houston, TX 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW, Washington, DC 20230

Dated: November 19, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–31095 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Extension of Time Limit for Preliminary Results of Full Five-Year Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of full five-year ("Sunset") Reviews.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of seven full sunset reviews initiated on August 2, 1999 (64 FR 41915) covering various antidumping and countervailing duty orders and suspended investigations. Based on adequate responses from domestic and respondent interested parties, the Department is conducting full sunset reviews to determine whether revocation of the antidumping and countervailing duty orders or termination of the suspended investigations would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy. As a result

of these extensions, the Department intends to issue its preliminary results not later than February 18, 2000.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mark D. Young or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207, or (202) 482–1560 respectively.

Extension of Preliminary Results

In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended ("the Act"), the Department may treat a sunset review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). The Department has determined that the sunset reviews of the following antidumping and countervailing duty orders and suspended investigations are extraordinarily complicated:

A–201–802 Grey Portland Cement and Cement Clinker from Mexico
A–307–803 Grey Portland Cement and Cement Clinker from Venezuela
C–122–815 Pure Magnesium from Canada
C–122–815 Alloy Magnesium from Canada
A–122–814 Pure Magnesium from Canada
A–821–802 Uranium from Russia
A–844–802 Uranium from Uzbekistan

Therefore, the Department is extending the time limit for completion of the preliminary results of these reviews until not later than February 18, 2000, in accordance with section 751(c)(5)(B) of the Act.

Dated: November 22, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30964 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–810, C–412–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Changed-Circumstances Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed-circumstances antidumping and countervailing duty administrative reviews.

SUMMARY: On October 5, 1999, the Department of Commerce published a notice of initiation and preliminary results of changed-circumstances antidumping and countervailing duty administrative reviews of the antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel products from the United Kingdom, in which we preliminarily determined that Niagara LaSalle (UK) Limited is the successor-in-interest to Glynwed Metals Processing Limited for purposes of determining antidumping and countervailing duty liability. We are now affirming our preliminary results.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson (Antidumping) or Dana Mermelstein (Countervailing), Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4007, (202) 482–4929, or (202) 482–3208, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations at 19 CFR Part 351 (1998).

Background

On March 22, 1993, the Department published in the **Federal Register** the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom (58 FR 15324). Also, on March 22, 1993, the Department published in the **Federal Register** the companion countervailing duty order (58 FR 15327).

On August 18, 1999, Niagara LaSalle (UK) Limited (Niagara) submitted a letter stating that it is the successor-in-interest to Glynwed Metals Processing Limited (Glynwed), and requested that the Department conduct a changed-circumstances review to determine whether Niagara should receive the same antidumping and countervailing duty treatment as is accorded Glynwed with respect to the subject merchandise. Niagara requested that the result of the Department's changed-circumstances review be retroactive to May 21, 1999, the date of its acquisition of Glynwed.

On October 5, 1999, we published a notice of initiation and preliminary results of changed-circumstances antidumping and countervailing duty administrative reviews (64 FR 53994) in which we preliminarily found that Niagara is the successor-in-interest to Glynwed for purposes of determining antidumping and countervailing duty liability. We stated that this finding would be effective as of the publication date of our final results for the purposes of antidumping duties, and as of May 21, 1999 for purposes of countervailing duties, if affirmed in our final results. We received comments from Niagara on October 15, 1999.

Scope of the Review

The products covered by this review are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00; 7213.31.60.00; 7213.39.00.30; 7213.39.00.60; 7213.39.00.90; 7213.91.30.00; 7213.91.45.00; 7213.91.60.00; 7213.99.00; 7214.40.00.10, 7214.40.00.30, 7214.40.00.50; 7214.50.00.10; 7214.50.00.30, 7214.50.00.50; 7214.60.00.10; 7214.60.00.30; 7214.60.00.50; 7214.91.00; 7214.99.00; 7228.30.80.00; and 7228.30.80.50. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Interested Party Comments

Niagara argues that, while the Department properly recognized that Niagara's antidumping deposit rate as of May 21, 1999, should be that of the former Glynwed, the preliminary notice

fails to apply the correct rate as of that date. Niagara argues that the Department's determination to apply Glynwed's antidumping duty deposit rate to Niagara prospectively from the publication date of the final results, is contrary to the Department's finding that Niagara is the successor-in-interest to Glynwed as of May 21, 1999, and inconsistent with the retroactive application of Glynwed's countervailing duty deposit rate to Niagara. Niagara states that this failure to retroactively apply Glynwed's antidumping deposit rate of 7.69 percent to Niagara unjustly subjects it to the higher all-others rate of 25.82 percent for the entire period from May 21, 1999, to the date on which the final results in this case are published.

Finally, Niagara asserts that it has no practical means of obtaining a refund of the higher deposits, since the costs of undertaking an administrative review would exceed the value of the excess deposits it was erroneously required to pay.

Department's Position

We disagree with Niagara that it has been treated inconsistently with respect to the applicable cash deposit rates under the antidumping and countervailing duty orders. The basis for Niagara's apparent misunderstanding is that it fails to recognize that Glenwyd, the predecessor company to Niagara, was excluded, *ab initio,* from the countervailing duty order, but has always been subject to the antidumping duty order. As such, Glenwyd, and now its successor-in-interest Niagara, was never liable for any estimated cash deposits under the countervailing duty order. Thus, with the Department's determination that Niagara is the successor-in-interest to Glenwyd, Niagara (like Glenwyd) is not now, and never was subject to the countervailing duty order. Therefore, with respect to the countervailing duty order, it is appropriate to apply the changed circumstances-determination retroactively to May 21, 1999, the date Glenwyd became Niagara. (This is analogous to revocation, which may also apply retroactively. *See, e.g., Certain Fresh Cut Flowers From Ecuador: Final Results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Order; Termination of Administrative Reviews,* 64 FR 56327, Oct. 9, 1999.)

However, with respect to the antidumping duty order, it is appropriate to change the estimated cash deposit rate for Niagara only as of the effective date of the Department's final changed-circumstances determination. Because Glenwyd was always subject to the antidumping duty order, it was always potentially liable for estimated cash deposits. Further, any new company under the antidumping duty order in question, even if it were subsequently determined to be the successor-in-interest to an existing company, would also be subject to estimated cash deposits.

In this instance, subject merchandise was entered under the name of Niagara, a company not heretofore assigned its own rate. Accordingly, its entries were properly subject to the all-others cash deposit rate at the time of entry. The all-others rate is by its very nature a prospective rate in that it is simply an estimate of the amount of duties to be paid by importers on future entries. It is not the assessment rate. Furthermore, in accordance with section 751(a)(2)(C) of the Act, a company's estimated cash deposit rate is only changed as the result of an administrative review. Thus, until the Department makes a final determination that a company subject to this antidumping duty order should be assigned a different cash deposit rate, the cash deposit rate assigned to its entries is the rate in effect at the time of entry.

Accordingly, in this instance, it is appropriate that the applicable cash deposit rate for Niagara's entries prior to these final results is the all-others cash deposit rate. That rate will, of course, be changed prospectively to Glenwyd's previous rate upon the effective date of this notice because the Department has determined that Niagara is, in fact, the successor-in-interest to Glenwyd. However, because cash deposits are only estimates of the amount of antidumping duties that will be due, changes in cash deposit rates are not made retroactive. Any given cash deposit rate may, ultimately, be too high or too low. If Niagara believes that the deposits paid exceed the actual amount of dumping, it is entitled to request a review of those entries to determine the proper assessment rate and receive a refund of any excess deposits. This is the normal operation of our retrospective system.

Final Results

We determine that Niagara is the successor-in-interest to Glynwed for purposes of determining antidumping and countervailing duty liability. Because Glynwed is excluded from the countervailing duty order, we will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise produced and sold by Niagara (formerly Glynwed) entered, or withdrawn from warehouse, for consumption on or after May 21, 1999, the date of Niagara's acquisition of Glynwed. With regard to antidumping duties, a cash deposit rate of 7.69 percent will be effective for Niagara (formerly Glynwed) for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this changed-circumstances review.

We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and section 351.216 of the Department's regulations.

Dated: November 19, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31098 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–427–098

Anhydrous Sodium Metasilicate From France: Notice of Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 23, 1999, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on anhydrous sodium metasilicate from France for the period January 1, 1998, through December 31, 1998. We gave interested parties an opportunity to comment on the preliminary results of review but received no comments. Therefore, these final results of review have not changed from those presented in the preliminary results of review, in which we applied total adverse facts available.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Stacey King or Richard Rimlinger, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–1757/4477.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations codified at 19 CFR Part 351 (1998).

Background

On August 23, 1999, the Department published in the **Federal Register** (64 FR 45949) the preliminary results of the review of this order. We gave interested parties an opportunity to comment on our preliminary results. We received no comments. In the preliminary results, we determined the weighted-average dumping margin for the period January 1, 1998, through December 31, 1998, to be 60.0 percent. The Department has now completed the administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by the review are shipments of ASM, a crystallized silicate which is alkaline and readily soluble in water. Applications include waste paper de-inking, ore-flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. This merchandise is classified under Harmonized Tariff Schedules (HTS) item numbers 2839.11.00 and 2839.19.00. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Final Results of the Review

Because we received no comments from interested parties, we have determined that no changes to the preliminary results are warranted for purposes of these final results. The weighted-average dumping margin for the period January 1, 1998, through December 31, 1998, is as follows:

Company	Margin (percent)
Rhone-Poulenc, S.A	60.0

The Department will issue appraisement instructions for Rhone-Poulenc merchandise directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for Rhone-Poulenc, S.A., will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 60.0 percent, the "all others" rate established in the LTFV investigation (45 FR 77498, November 24, 1980). This deposit rate, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination in accordance with sections 751(a)(1) 777(i)(1) of the Act.

Dated: November 19, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31096 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–826]

Collated Roofing Nails From Taiwan: Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 10, 1999, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on collated roofing nails from Taiwan (64 FR 4334). This review covers Dinsen Fastening System, Inc, a manufacturer/exporter of the subject merchandise to the United States, and the period November 20, 1997, through October 31, 1998. We conducted a verification of Dinsen Fastening System, Inc.'s antidumping duty questionnaire responses and gave interested parties an opportunity to comment on the preliminary results. No parties filed comments on the preliminary results. We have revised our margin calculation to correct an error in the verification report that was brought to our attention by the respondent on July 30, 1999. However, the correction did not change the final margin results from the preliminary margin results. The final results are listed below in the "Final Results of Review" section of this notice.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Katherine Johnson, Office 2, AD/CVD Enforcement Group I, Import Administration, Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–1756, or 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1999, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of the 1997–1998 administrative review of the antidumping duty order on collated roofing nails from Taiwan (64 FR 43344) (*Preliminary Results*). We conducted verification of Dinsen Fastening System, Inc's, ("Dinsen") antidumping duty questionnaire responses from June 1, 1999, through June 4, 1999, and issued

our report on July 6, 1999 (*see* Memorandum to the File: Sales and Cost of Production Verification). On July 30, 1999, Dinsen ("the respondent"), informed the Department of an error made with respect to Dinsen's threading cost for one control number in connection with the Department's verification of its sales and cost questionnaire response. While this submission was received too late to be analyzed for the preliminary results, we have considered it for purposes of these final results.

The Department has now completed its administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (1998).

Scope of the Review

The product covered by this review is collated roofing nails made of steel, having a length of 13/16 inch to 1 13/16 inches (or 20.64 to 46.04 millimeters), a head diameter of 0.330 inch to 0.415 inch (or 8.38 to 10.54 millimeters), and a shank diameter of 0.100 inch to 0.125 inch (or 2.54 to 3.18 millimeters), whether or not galvanized, that are collated with two wires.[1]

Collated roofing nails within the scope of this investigation are classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 7317.00.55.06. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Changes Since the Preliminary Results

We made the following change since the preliminary results: We deleted the adjustment made to Dinsen's threading cost for one control number to correct the per-kilogram threading cost, as described in Dinsen's July 30, 1999, submission.

Interested Party Comments

Interested parties did not file briefs in this review.

Final Results of the Review

As a result of this review, we have determined that the following margin exists for the period November 20, 1997, through October 31, 1998:

Manufacturer/exporter	Period	Margin (percent)
Dinsen Fastening System, Inc.	11/20/97–10/31/98	0.02 percent (*de minimis*).

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because the respondent was unable to report importer-specific data, as facts available, we have calculated assessment rates based on the identity of the trading company involved in the sales transaction. We have calculated an assessment rate, based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of those same sales. This rate will be assessed uniformly on all entries of that particular trading company made during the period of review ("POR"). The Department will issue appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of the subject merchandise during the POR for which the trading-company-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent).

Further, the following deposit requirements shall be effective for all shipments of the subject merchandise from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for Dinsen will be zero; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters of this merchandise will continue to be 2.98 percent, the all others rate established in the final determination of the less-than-fair-value investigation (52 FR 61729, November 19, 1997). The deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: November 19, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31099 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] On September 2, 1999, the Department made a final scope ruling that the scope of the antidumping duty orders on collated roofing nails from Taiwan and the People's Republic of China do not include stainless steel collated roofing nails.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for final results of antidumping duty administrative review.

SUMMARY: The Department of Commerce is extending the time limit for the final results of the administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The review covers three producers/exporters of subject merchandise. The period of review is November 1, 1997, through October 31, 1998.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Farah Naim, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4203, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3174.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 120 days after the date on which the notice of preliminary results was published in the **Federal Register**. In the instant case, the preliminary results were published in the **Federal Register** on July 21, 1999 (64 FR 39115). The Department has determined that more time is needed to consider comments made by petitioners in their August 23, 1999, case brief. Therefore, pursuant to section 751(a)(3)(A) of the Act, because it is not practicable to complete this review within the original time limit, the Department is extending the time limit for the final results to no later than March 15, 2000.

Dated: November 18, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30968 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–601]

Final Results of Full Sunset Review: Malleable Cast Iron Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of full sunset review: Malleable cast iron pipe fittings from Thailand.

SUMMARY: On July 29, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the antidumping duty order on malleable cast iron pipe fittings from Thailand (64 FR 41082) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We received comments from respondent interested parties and rebuttal comments from domestic interested parties. The Department did not receive a request for a public hearing and, therefore, no hearing was held. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 30, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

Imports covered by this order are shipments of certain malleable cast iron pipe fittings, other than grooved, from Thailand. These products are currently classifiable under item numbers 7307.19.90.30, 7307.19.90.60, and 7307.19.90.80 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS item numbers are provided for convenience and customs purposes.

Background

On May 28, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Malleable Cast Iron Pipe Fittings from Thailand* (64 FR 41082) ("*Preliminary Results*"). In our *Preliminary Results*, we found that revocation of the order would likely result in continuation or recurrence of dumping. In addition, we preliminarily determined that the magnitude of the margin of dumping likely to prevail if the order were revoked was 1.70 percent for Siam Fittings Co., Ltd. ("Siam") as well as for all other producers and/or exporters.

On September 13, 1999, within the deadline specified in 19 CFR 351.309(c)(1)(i), we received comments on behalf of Siam, Thai Malleable Iron and Steel Co., Ltd., and BIS Pipe Fittings Industry Co., Ltd. (collectively, "the Thai respondents"). On September 20, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from the Cast Iron Pipe Fittings Committee and its individual members, Grinnell Corporation and Ward Manufacturing, Inc. (collectively, "CIPFC"). No public hearing was requested or held in this sunset review. We have addressed the comments received below.

Comments

Comment 1: The Thai respondents argue that the Department's preliminary determination concerning the likelihood of continuation or recurrence of dumping fails to reflect congressional intent. They argue that the Statement of Administrative Action ("SAA") expressly states that increasing exports after the issuance of an antidumping duty order is indicative that dumping is not likely to continue or resume if the order were revoked. Specifically,

quoting the SAA at 889–90, the Thai respondents state that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping is less likely to continue or recur if the order were revoked. The Thai respondents state that imports of the subject merchandise from Thailand increased three-fold over the life of the order. Moreover, the Thai respondents assert that, during the past five years, exports of subject merchandise from Thailand consistently exceeded the quantity exported from Thailand prior to the issuance of the order. Thus, according to the Thai respondents, increasing imports of subject merchandise from Thailand favors a determination that dumping is not likely to prevail.

In rebuttal, the CIPFC argues that the Thai respondents increasing import volumes argument is inaccurate. The CIPFC states that the Thai respondents, in their February 3, 1999, substantive response, admitted that exports of pipe fittings from Thailand have fluctuated during the last five years. Furthermore, the CIPFC states that there has actually been a decline in import volumes in four of the last five years (1994–1998). Therefore, according to CIPFC, there are not legitimate grounds for the Department to make a "no likelihood" determination.

Department: The Department disagrees with the Thai respondents. The existence of increasing imports by itself does not indicate that there would be no likelihood of continuation or recurrence of dumping. Rather, as provided in the SAA and *Sunset Policy Bulletin*, declining or no dumping margins *accompanied* by steady or increasing imports may indicate that a company does not have to dump in order to maintain market share. In this case, there has been no decline in dumping margins. Rather, absent administrative review, the dumping margin from the original investigation is the only indicator available to the Department with respect to the level of dumping. Because 1.70 percent is above the 0.5 percent *de minimis* standard applied in sunset reviews, we find that dumping has continued over the life of the order and is likely to continue if the order were revoked.

Comment 2: The Thai respondents argue that the fact that the domestic producers have never bothered to request that the Department conduct an administrative review of this order further supports a finding of no likelihood of continuation or recurrence of dumping. Citing to the preamble of the Department's May 1997 final regulations, the Thai respondents indicate that the Department itself has recognized that, "[i]f domestic interested parties do not request a review, presumably it is because they acknowledge that subject merchandise continues to be fairly traded". Furthermore, the Thai respondents cite to the Department's final determination in the sunset review of sugar and syrups from Canada (64 FR 48362 (September 3, 1999)) in which, according to the Thai respondents, the Department concluded that the absence of a domestic party request for an administrative review points to a finding of no dumping.

The CIPFC argues that the Thai respondents have completely mischaracterized the Department's sunset determination in sugar and syrups from Canada. The CIPFC asserts that the Department specifically rejected the proposition that the absence of administrative reviews could be equated with a lack of domestic industry interest in the order. More importantly, according to CIPFC, the sugar and syrups from Canada case involved a zero deposit rate which had remained in effect for many years, whereas respondents in this case have a 1.70 percent deposit rate.

Department: We do not agree that the absence of a request for an administrative review of this order supports an inference that the subject merchandise *continues* to be fairly trades or points to finding of no dumping. Unlike the facts in sugar and syrups from Canada, in which a zero deposit rate had been in effect for many years, the record in this case demonstrates the existence of an above *de minimis* deposit rate. Therefore, the domestic interested parties' lack of request of an administrative review presumably reflects their belief that dumping continues at a rate of 1.70.

Comment 3: The Thai respondents reiterate their arguments from their February 3, 1999, substantive response concerning the *de minimis* standard in their comments on the Department's *Preliminary Results*. The Thai respondents argue that, under current WTO standards, a 1.70 percent dumping margin would be *de minimis*. According to the Thai respondents, Article 5.8 of the Agreement on Implementation of Article VI ("Antidumping Agreement") defines a *de minimis* margin of dumping as one that is less than two percent. The Thai respondents acknowledge that the Department's regulations impose a 0.5 percent *de minimis* standard for reviews (*see* 19 CFR 351.106(c)(1)), however, they argue that regulations which are inconsistent with the Antidumping Agreement should not be given effect.

The CIPFC, in its September 20, 1999, rebuttal comments, states that the Department has already soundly rejected the treatment of Siam's 1.70 dumping margin as *de minimis*. The CIPFC further states that the statute and the regulations encompassing the Uruguay Round commitments establish a *de minimis* rate of 0.5 percent (*see* 19 USC § 1675a(c)(4)(B) and 19 CFR 351.106(c)(1). Furthermore, according to the CIPFC, 19 USC § 3512(d) specifically provides that rates above 0.5 percent are not *de minimis* in sunset reviews.

Department: The Department agrees with the CIPFC. Both the statute and regulations clearly provide that in reviews of orders, the Department will treat as *de minimis* any weighted average dumping margin that is less than 0.5 percent *ad valorem* (*see* section 752(c)(4)(B) of the Act and 19 CFR 351.106(c)(1)). Further, section 752(c)(4)(B) of the Act specifically provides that the *de minimis* standard to be applied in sunset reviews is the standard applied in reviews conducted under subsections (a) and (b) of section 751 (*i.e.*, 0.5 percent). Finally, we note that the SAA at 845 specifies that the requirements of Article 5.8 apply only to investigations, not to reviews of antidumping duty orders or suspended investigations. Therefore, we find that the 1.70 percent deposit are applied to Siam as well as all other Thai producers and/or exporters, is not *de minimis* for the purposes of this sunset review.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping for the reasons set forth in our *Preliminary Results* of review and those above. Furthermore, for the reasons set forth in our *Preliminary Results* of review and those above, we find that margins calculated in the original investigations are probative of the behavior of Thai producers and/or exporters of the subject merchandise. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation listed below:

Manufacturer/exporter	Margin (percent)
Siam	1.70
All Other Producers/Exporters	1.70

This notice serves as the only reminder to parties subject to

administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion of judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 22, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30961 Filed 11–29–99; 8:45]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–505]

Final Results of Full Sunset Review: Malleable Cast Iron Pipe Fittings From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of full sunset review: malleable cast iron pipe fittings from brazil.

SUMMARY: On July 29, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the antidumping duty order on malleable cast iron pipe fittings from Brazil (64 FR 41089) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We did not receive comments from any interested party. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 30, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

Imports covered by this order are shipments of certain malleable cast iron pipe fittings, other than grooved, from Brazil. These products are currently classifiable under item numbers 7307.19.90.30, 7307.19.90.60, and 7307.19.90.80 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Background

On July 29, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Malleable Cast Iron Pipe Fittings from Brazil* (64 FR 41089) ("*Preliminary Results*"). In our preliminary results, we found that revocation of the order would likely result in the continuation or recurrence of dumping. In addition, we preliminarily determined that the magnitude of the margin of dumping likely to prevail if the order were revoked was 5.64 percent for Industria de Fundicao Tupy, S.A. ("Tupy") as well as for all other producers and/or exporters. No interested party commented on our *Preliminary Results*.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping for the reasons set forth in our *Preliminary Results* of review. Furthermore, for the reasons set forth in our *Preliminary Results* of review, we find that the margins calculated in the original investigation are probative of the behavior of Brazilian producers/exporters of the subject merchandise. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation listed below:

Manufacturer/exporter	Margin (percent)
Tupy	5.64
All Other Producers/Exporters	5.64

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 18, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30965 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–506]

Notice of Preliminary Results of Antidumping Duty New Shipper Review and Extension of Time Limit for Final Results of New Shipper Review: Oil Country Tubular Goods From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty new shipper review and extension of time limit for final results of new shipper review.

SUMMARY: In response to a request from the respondent, Atlas Tube, Inc. ("Atlas"), the Department of Commerce (the "Department") is conducting a new shipper review of the antidumping duty order on oil country tubular goods ("OCTG") from Canada. This review covers one manufacturer/exporter, Atlas, and the period June 1, 1998 through November 30, 1998.

We have preliminarily determined the dumping margin for Atlas to be 0.86 percent during the period June 1, 1998, through November 30, 1998. Interested

parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Nithya Nagarajan, AD/CVD Enforcement Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3936 or (202) 482–5253 respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations at 19 CFR part 351 (1998).

Background

The Department published an antidumping duty order on OCTG from Canada on June 16, 1986 (51 FR 21782) and an amended order on August 19, 1986 (51 FR 29579). On December 30, 1998, Atlas Tube Inc., requested the Department to initiate a new shipper review pursuant to section 751(a)(2)(B) of the Act, and 19 CFR 351.214(b). We initiated this new shipper review on February 3, 1999, (64 FR 5265) for the period June 1, 1998 through November 30, 1998.

The Department issued its questionnaire on February 24, 1999, and received Atlas' response to Section A on March 15, 1999, Sections B and C on April 2, 1999, and supplemental responses on August 30, 1999. Subsequently, on June 23, 1999, (64 FR 33475) due to the complexity of the issues raised in this review, the Department extended the time limit for the completion of preliminary results of the new shipper review. After an analysis of Atlas' Section A, B, and C responses, the Department initiated on August 6, 1999, an investigation to determine whether Atlas made sales below the cost of production. Respondent submitted its Section D response on August 30, 1999, and supplemental Section D response on October 29, 1999.

The Department is conducting this new shipper review in accordance with section 751(a)(2)(B) of the Act. Concurrent with the instant new shipper review, the Department is also conducting an administrative review of Atlas under section 751(a)(1) of the Act. Pursuant to respondent's request, due to the fact that the new shipper review covers shipments through November 30, 1999, the administrative review of Atlas (which would normally cover the period June 1, 1998 through May 31, 1999) is limited to the examination of shipments during the period December 1, 1998 through May 31, 1999. *See* 19 CFR 351.214(j). The preliminary results of administrative review are currently scheduled for February 29, 2000.

Extension of Final Results of Review

Section 751(a)(2)(B)(iv) of the Act permits the Department to extend the deadlines for the final results of review if the review is extraordinarily complicated. We have determined that this review is extraordinarily complicated and that we are unable to complete this review in the time frame provided by the statute. The Department is hereby extending the time limit for issuing the final results to 120 days after the publication of this preliminary results of review in the **Federal Register**.

Scope of the Review

The products covered by this review include shipments of OCTG from Canada. This includes American Petroleum Institute ("API") specification OCTG and all other pipe with the following characteristics except entries which the Department determined through its end-use certification procedure were not used in OCTG applications: Length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for OCTG with tolerances of plus 1/8 inch for diameters less than or equal to 8 5/8 inches and plus 1/4 inch for diameters greater than 8 5/8 inches, minimum wall thickness as identified for a given outer diameter as published in the API or proprietary specifications for OCTG; a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength; and if with seams, must be electric resistance welded. Furthermore, imports covered by this review include OCTG with non-standard size wall thickness greater than the minimum identified for a given outer diameter as published in the API or proprietary specifications for OCTG, with surface scabs or slivers, irregularly cut ends, ID or OD weld flash, or open seams; OCTG may be bent, flattened or oval, and may lack certification because the pipe has not been mechanically tested or has failed those tests. This merchandise is currently classifiable under the Harmonized Tariff Schedules (HTS) item numbers 7304.20, 7305.20, and 7306.20. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

Fictitious Market

On April 22, 1999, petitioners alleged that Atlas had created a fictitious home market sale for comparison purposes. Petitioners based their allegation on the fact that all of the subject merchandise sold in the United States during the POR was of one outside diameter size and that there was only a single sale of subject merchandise with the same outside diameter in the home market. Furthermore, they allege that the Department does not have sufficient information to make a determination, pursuant to section 773(a)(2) of the Act, whether there have been different movements in the prices at which different forms of subject merchandise have been sold in the home market and whether any such movement appears to reduce the amount by which foreign market value exceeds the U.S. price of the merchandise. Petitioners cite the Department's findings in *Porcelain-on-Steel Cookware from Mexico*, 58 FR 32095, 32096 (June 8, 1993), as support for their argument.

In our August 6, 1999, Section B supplemental questionnaire, we requested Atlas to demonstrate that the single home market sale of subject merchandise of the same outside diameter as the merchandise sold in the United States was made in the normal course of trade. In its August 30, 1999 response, Atlas stated that the circumstances surrounding this sale involved a shipping error where its customer inadvertently received merchandise of the wrong outside diameter size. Although the customer did not order the size of material delivered, Atlas stated that the customer kept the merchandise after it negotiated certain adjustments to the terms of the sale. Upon reviewing the information on the record, we note the following: (1) the sale in question accounts for a small percentage of total home market sales, (2) Atlas sold subject merchandise with the same outside diameter as the merchandise sold in the United States to only one customer while its home market sales of subject merchandise with other diameters were to multiple customers, and (3) Atlas was forced to negotiate certain adjustments to the terms of the sale in order to persuade its

customer to accept the delivery. Based upon these facts, the Department concludes that the sale at issue is most appropriately considered in the context of the ordinary course of trade provision of the statute rather than the fictitious market context. The Department preliminarily finds that the circumstances surrounding this sale are unusual enough to determine that this sale was made outside the ordinary course of trade. *See Decision Memorandum: Oil Country Tubular Goods from Canada—Petitioners' Allegation That Atlas Tube Inc.'s Matching Home Market Sale Is Outside the Ordinary Course of Trade,* November 24, 1999. Therefore, consistent with section 773(a)(1)(B) of the Act, we have excluded this sale from our calculations for the preliminary results because it is outside the ordinary course of trade. For this reason, we need not address whether to exclude this sale pursuant to section 773(a)(2) of the Act. However, we will continue to examine this issue in the final results of this review.

United States Price

Atlas reported as export price ("EP") transactions sales of subject merchandise to unaffiliated U.S. customers prior to importation.

We calculated EP, in accordance with section 772(a) of the Act, because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and constructed export price ("CEP") methodology was not otherwise warranted, based on the facts of record. We based EP on the delivered price to unaffiliated purchasers in the United States. We adjusted the starting price by the amount Atlas reported for billing adjustments and made deductions to the starting price for discounts. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included foreign inland freight, U.S. inland freight, and U.S. brokerage and handling charges.

Normal Value

After testing (1) home market viability and (2) whether home market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" section of this notice.

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Atlas' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Atlas' aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for Atlas.

2. Cost of Production Analysis

On April 22, 1999, petitioners filed an allegation that Atlas made home market sales at prices that were below the cost of production ("COP"). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that Atlas had sold OCTG in the home market at prices less than the COP. Accordingly, on August 30, 1999, pursuant to section 773(b) of the Act, we initiated a COP investigation with respect to Atlas to determine whether sales were made at prices less than the COP.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Atlas' cost of materials and fabrication for the foreign like product, direct and indirect selling expenses, plus an amount for home market SG&A, interest expenses, and packing costs.

B. Test of Home Market Sales Prices

We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below COP. In determining whether to disregard home market sales made at prices less than the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and rebates.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to be made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compare prices to weighted-average COPs for the POI, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded such below-cost sales.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value ("CV"), that of the sales from which we derive selling, general and administrative ("SG&A") expenses and profit. With respect to U.S. price for EP transactions, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

Atlas reported one customer category and one channel of distribution (*i.e.*, sales to unaffiliated distributors) for its home market sales. Atlas reported EP sales in the U.S. market. For EP sales, Atlas also reported one customer

category and one channel of distribution (*i.e.*, direct sales to unaffiliated distributors). Atlas claimed in its response that its EP sales were made at the same LOT as home market sales to unaffiliated distributors. For this reason, Atlas has not asked for a LOT adjustment to NV for comparison to its EP sales.

In determining whether separate LOTs actually existed in the home market and U.S. market, we examined whether Atlas' sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions. Atlas reported that its selling functions for home market sales are arranging for freight, warehousing, and warranty service; however, we noted that Atlas did not report any warehouse or warranty expenses for home market sales during the POR. After reviewing the record evidence, we agree with Atlas that its home market sales comprise a single LOT.

In analyzing Atlas' selling activities for its EP sales, we noted that the sales generally involved the same selling functions associated with the home market LOT described above. Atlas reported that these selling activities are arranging for freight, warehousing, and warranty services; however, we noted that Atlas did not report any warehouse or warranty expenses for U.S. market sales during the POR. Based upon the record evidence, we have determined that there is one LOT for all EP sales and that it is the same LOT as that in the home market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) is warranted.

Price-to-Price Comparisons

We calculated NV based on delivered prices to unaffiliated customers, where appropriate. The NV price was reported on a Goods and Services Tax-exclusive basis. We adjusted the starting price by the amount Atlas reported for billing adjustments. We made deductions from the starting price for rebates, inland freight, and inland freight insurance. We made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

Currency Conversion

Pursuant to section 773A(a) of the Act, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results

As a result of this review, we preliminarily determine that a 0.86 percent dumping margin exists for Atlas for the period June 1, 1998, through November 30, 1998.

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). A party may request a hearing within thirty days of publication. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Upon completion of this new shipper review, the Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. There was only one importer during the POR. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of examined sales. Atlas reported entered value on an actual basis by subtracting discounts, freight, and brokerage and handling costs from the its reported U.S. price. This rate will be assessed uniformly on all entries made during the POR. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of OCTG from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Atlas will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 16.65 percent, the "all-others" rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of administrative review for a subsequent review period.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 351.213 and 351.214.

Dated: November 19, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30963 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Roller Chain, Other Than Bicycle, From Japan: Final Results of Changed Circumstances Review; Revocation of Finding

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances review and revocation of antidumping findings.

SUMMARY: On October 27, 1999, the Department of Commerce ("the Department") published a notice of initiation of a changed circumstances

review and preliminary results of review with intent to revoke the antidumping finding on roller chain from Japan. We are now revoking this finding, retroactive to April 1, 1997, based on the fact that domestic parties no longer have interest in maintaining the antidumping finding.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Zev Primor on Tom Futtner, AD/CVD Enforcement Group II, Office 4, Import Administration-Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4114 or (202) 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (April 1998).

Background

On October 13, 1999, the petitioner, American Chain Association ("ACA"), requested that the Department conduct a changed circumstances review to revoke the antidumping finding on roller chain from Japan retroactive to April 1, 1997. The petitioner stated that circumstances have changed such that the petitioner no longer has an interest in maintaining the antidumping finding. Additionally, the petitioner indicated that it represents virtually all roller chain producers in the United States accounting for over 90 percent of the U.S. roller chain production.

We preliminarily determined that the affirmative statement of no interest by the ACA constituted changed circumstances sufficient to warrant revocation of this finding. Consequently, on October 27, 1999, we published a notice of initiation of a changed circumstances review and preliminary results of review with intent to revoke the finding. *See Roller Chain, Other Than Bicycle from Japan: Initiation and Preliminary Results of Changed Circumstances Review and Intent to Revoke Finding, Rescission of Antidumping Duty Administrative Reviews, and Termination of Scope Inquiry* (64 FR 57863). We received no comments from interested parties on the preliminary results of this changed circumstances review.

Scope of Review

The merchandise subject to this review is roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmissions and/or conveyance. This chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside from the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain. This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7315.11.00 through 7619.90.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

On March 24, 1998, the Department determined that certain models of silent timing chain produced and exported by Kaga for use in automobiles are outside the scope of the antidumping finding. (*See Final Scope Ruling: Kaga's Request for Scope Ruling on Automotive Silent Timing Chain*, March 24, 1998, on file in the Central Records Unit (CRU) in room B–099 of the Main Commerce Building).

Final Results of Changed Circumstances Review; Revocation of Finding

Pursuant to section 751(d)(1) of the Act, the Department may revoke, in whole or in part, an antidumping finding based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 351.216(d) require the Department to conduct a changed circumstances review in accordance with 19 CFR 351.221, if the Department determines that there exist changed circumstances sufficient to warrant a review. Section 782(h) of the Act and 19 CFR 351.222(g)(1)(i) provide further that the Department may revoke a finding, in whole or in part, if it concludes that the finding under review is no longer of interest to producers accounting for substantially all of the production of the domestic like product.

The ACA is a domestic interested party as defined by section 771(9)(E) of the Act and 19 CFR 351.102(b). Furthermore, the ACA was the petitioner in the less-than-fair-value ("LTFV") investigation of this proceeding and represents substantially all of the production of the domestic like product. Based on the affirmative statement by the ACA of no interest in the continued application of the finding and the fact that no interested parties objected to or otherwise commented on our preliminary results of this review, we determine that there are changed circumstances sufficient to warrant revocation of the finding. Therefore, the Department is revoking the antidumping finding on roller chain from Japan, retroactive to April 1, 1997.

In accordance with 19 CFR 351.222(g)(4), we will instruct the Customs Service to end suspension of liquidation and to refund any estimated antidumping duties collected for all unliquidated entries of roller chain from Japan made on or after April 1, 1997. We will also instruct the Customs Service to pay interest on such refunds in accordance with section 778 of the Act.

This notice is in accordance with sections 751(b)(1), 751(d) and 782(h) of the Act and 19 CFR 351.216 and 351.222.

Dated: November 19, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30970 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–05–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–604]

Amended Final Results of Expedited Sunset Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of expedited sunset review: Tapered roller bearings and parts thereof, finished and unfinished, from Japan.

SUMMARY: On November 4, 1999, the Department of Commerce ("the Department") issued its final results of the sunset review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished ("TRBs"), over four inches, from Japan (64 FR 60266). On November 3, 1999, Koyo Corporation U.S.A.-Manufacturing Division, Koyo Seiko Co., Ltd., and Koyo Corporation U.S.A. (collectively, "Koyo") timely alleged that the Department made a ministerial error in its final results. The domestic interested parties did not respond to the ministerial error comments. We agree with Koyo and, therefore, are amending the final results.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 30, 1999.

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping duty order on TRBs, over four inches, from Japan (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On November 4, 1999, the Department issued its final results of the sunset review of the antidumping duty order on TRBs, over four inches, from Japan (64 FR 60266), in which we determined that there was a likelihood of continuation or recurrence of dumping if the order were revoked. In this determination, the Department forwarded to the Commission two company-specific weighted-average dumping margins and the "all others" rate from the original investigation.

On November 3, 1999, the Department received allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from Koyo that the Department made a ministerial error in its final results. Koyo alleged that the Department, in its final results of the sunset review for this case, reported to the Commission the margin for Koyo from the original less than fair value ("LTFV") determination, but overlooked the fact that this margin had been amended due to the correction of clerical errors.[1] Koyo therefore urged the Department to report the corrected margin to the Commission.

After analyzing Koyo's November 3, 1999, submission, we have determined, in accordance with 19 CFR 351.224, that a ministerial error was made in the final determination of this sunset review. The Department notes that the definition of a ministerial error provides not only for the correction of errors in arithmetic but also for "any other similar type of unintentional error which the Secretary considers ministerial" (*see* 19 CFR 351.224(f)). In the Department's final results of the sunset review for this case, we inadvertently overlooked the fact that the original LTFV determination had been subsequently amended. The Department's reliance the original unamended margins from the final determination in the sunset review was in error.

Amended Final Results of Review

For the reasons stated above and in our November 4, 1999, final results of expedited sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the amended margins listed below.

Manufacturer/exporter	Margin (percent)
Koyo Seiko Co., Ltd	36.21
NTN Toyo Bearing Co., Ltd	36.53
All Others	36.52

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 22, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30969 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan*, 52 FR 47955 (December 17, 1987).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–604]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan: Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final court decisions and amended final results of antidumping duty administrative reviews.

SUMMARY: On February 11, 1992, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping finding on tapered roller bearings (TRBs), finished and unfinished, and parts thereof, from Japan during the period October 1, 1989 through September 30, 1990. See *Tapered Roller Bearings, Finished and Unfinished, From Japan; Final Results of Antidumping Duty Administrative Review* 57 FR 4960. Subsequent to our publication of these final results, parties to the proceeding challenged certain aspects of our final results determinations before the United States Court of International Trade (CIT) and, in certain instances, before the United States Court of Appeals for the Federal Circuit (CAFC).

The CIT recently affirmed final remand results with respect to the 1989–90 final results. On April 10, 1998, we amended our final results of review with respect to certain respondents for which litigation was completed. See *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan, and Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan: Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 17815 (*1989–90 TRB Final Results*). As there is now a final and conclusive court decision with respect to litigation for the remaining respondent, we are hereby amending our final results of review and will subsequently instruct Customs to liquidate entries subject to these reviews.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2657 or (202) 482–5222, respectively.

SUPPLEMENTARY INFORMATION:

Background

Below is a summary of the litigation for the 1989–90 final results for which the CIT and CAFC have issued final and conclusive decisions. It is important to note that, due to the fact that litigation for each TRBs final results was unconsolidated, the CIT issued two or more orders throughout the course of litigation, which required us to recalculate a respondent's final results margin several times. To ensure the accurate calculation of amended final results, any recalculation we performed for a given respondent pursuant to a specific order reflected all recalculations we performed for that respondent pursuant to earlier orders. As a result, the last CIT order requiring a recalculation of a respondent's margin reflects the final amended margin for the respondent, provided that final and conclusive decisions have been made by the CIT and CAFC with respect to litigation which affected the respondent's final results.

On February 11, 1992, we published in the **Federal Register** our notice of the final results of administrative reviews for the 1989–90 period of review (POR). This notice covered the administrative reviews for Koyo Seiko Co., Ltd. (Koyo), NSK Ltd. (NSK), Nachi-Fujikoshi Corporation, and NTN Toyo Bearing Co., Ltd (NTN). Subsequent to the publication of these final results, three respondents " NTN, Koyo, and NSK " and The Timken Company (Timken), the petitioner in this case, challenged certain issues before the CIT. The CIT and CAFC issued final and conclusive decisions with respect to the NSK and Timken litigation; on April 10, 1998, we published in the **Federal Register** our notice of final court decisions and amended final results for NSK. See *1989–90 TRB Final Results* at 17818. The CIT has now issued a final and conclusive decision with respect to the NTN litigation (CIT Ct. Nos. 92–03–00168 and 92–04-00257). We are hereby amending our final results of the 1989–90 administrative review for NTN.

The decisions issued by the CIT and CAFC with respect to the Department's final results for NTN were:

- *NTN* v. *U.S.*, Slip Ops. 94–200 (December 29, 1994) and 95–1 (January 3, 1995) (The CIT ordered the Department to apply the 10 percent cap for the model match methodology, explain its disregard of NTN's credit expense calculation methodology, and correct the margin calculation program for errors in the deduction of discounts from home market price for the cost of production test).
- *NTN* v. *U.S.*, Slip Op. 95–104 (June 7, 1995) (The CIT affirmed the remand results and dismissed the 92–03–00168 and 92–04–00257 litigation).
- *NTN* v. *U.S.*, Slip Op. 95–1477 and -1479 (July 10, 1996) (The CAFC overturned the CIT on its decision regarding the 10 percent cap for the model match methodology used for the final results for NTN.)
- *NTN* v. *U.S., Slip Ops. 96–150 (August 28, 1996) and 96–151 (August 29, 1996)* (In light of the CAFC's decision in Slip Op. 95–1479, the CIT ordered the Department to recalculate the dumping margin for NTN without imposing the 10 percent cap under the 92–03–00168 and 92–04–00257 litigation.)
- *NTN* v. *U.S.*, Slip Op. 98–90 (June 30, 1998) (The CIT affirmed the remand results and dismissed the 92–03–00168 and 92–04–00257 litigation).

As there are now final and conclusive court decisions with respect to the 92–03–000168 and –04–00257 (NTN) litigation, we are amending our final results of review for NTN based on the last court order which required a recalculation of NTN's rate (*NTN* v. *U.S.*, CIT Slip Ops. 96–150 and –151). The amended final results margin for NTN is 29.63 percent. We will issue instructions to Customs to liquidate entries of subject merchandise made by NTN during this period pursuant to these amended final results.

Amendment to Final Determinations

Pursuant to 19 U.S.C. 1516(f), we are now amending the final results of the 1989–90 administrative review of the antidumping finding on TRBs from Japan. The weighted-average margin is:

Manufacturer/exporter	Margin (percent)
NTN Toyo Bearing Co., Ltd.	29.63

Accordingly, the Department will determine and Customs will assess appropriate antidumping duties on entries of the subject merchandise made by firms covered by the review of the period listed above. The Department will issue appraisement instructions directly to Customs.

Dated: November 22, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31097 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–854]

Initiation of Antidumping Duty Investigation: Certain Tin Mill Products From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg at (202) 482–1386 or Linda Ludwig at (202) 482–3833, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1998).

The Petition

On October 28, 1999, the Department of Commerce ("the Department") received a petition filed in proper form by Weirton Steel Corporation, Independent Steelworkers Union, and United Steelworkers of America, AFL–CIO (collectively petitioners). The Department received supplemental information to the petition on November 8, 1999.

In accordance with section 732(b) of the Act, petitioners allege that imports of certain tin mill products ("TMP") from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation they are requesting the Department to initiate (*see Determination of Industry Support for the Petition* below).

Scope of Investigation

The scope of this investigation includes tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single-or double-reduced), and whether or not coated with a plastic material.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS"), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7210.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel. Although the subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. Moreover, petitioners do not offer a definition of domestic like product distinct from the scope of the investigation.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigation" section, above. The Department has no basis on the record to find the petition's definition of the domestic like product to be inaccurate. The Department has, therefore, adopted the domestic like product definition set forth in the petition. In this case, the Department has determined that the petition and supplemental information to the petition contain adequate evidence of sufficient industry support (see Attachment to the Initiation Checklist Re: Industry Support, November 17, 1999). Producers and workers supporting the petition represent over 50 percent of total production of the domestic like product. Accordingly, both tests under section 732(c)(4)(A) are satisfied, and the Department determines that this petition is filed on behalf of the domestic industry within the meaning of 732(b)(1) of the Act.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which our decision to initiate this investigation is based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

Japan

Petitioners identified Nippon Steel Corporation, NKK Corporation, Kawasaki Steel Corporation, and Toyo Kohan Co. Ltd. as possible exporters of TMP from Japan. Petitioners further identified these exporters as the primary producers of subject merchandise in Japan. Petitioners based export price ("EP") for imports from Japan on import values as recorded in official U.S. Department of Commerce IM–145 statistics. In calculating import values, petitioners used the customs values reported for the HTS categories which represent imports of tin plate (*e.g.*, HTSUS 7210.12.0000) and imports of tin free steel (*e.g.*, HTSUS 7210.50.0000). Petitioners used average customs values for each product (for the month of June 1999) which approximate the FOB price of the merchandise, packaged and ready for delivery in the exporter's country. Petitioners did not deduct foreign inland freight and handling in Japan because they had no information regarding these expenses.

With respect to normal value ("NV"), petitioners stated that the volume of Japanese home market sales was sufficient to form a basis for normal value, pursuant to section 773(a)(1)(C)(ii) of the Act. Petitioners constructed normal values based on the average prices of tin mill products sold in Japan by Nippon Steel Corporation ("Nippon") to large end users during June 1999. Petitioners determined that, because Nippon is the largest producer of the subject merchandise in the Japanese market, Nippon's prices would be representative of the normal value in the Japanese tin mill market. The Japanese home market prices for five sample models of tin plate products and thirteen sample models of tin free steel were obtained by foreign market research consultants in Japan. The prices used in the calculation of NV were delivered, VAT exclusive prices. Petitioners derived NV by deducting a commission from the delivered price, which represents payment made to large trading companies. Petitioners also deducted expenses for freight, handling, and other movement related expenses such as storage during transportation and tolls. For the calculation of dumping margins, petitioners compared the average unit value for all five sample sales of tin plate to the average customs value for the corresponding HTSUS item for the month of June 1999, and the average unit value for all thirteen sample sales of tin free steel to the

[1] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

average customs value for the corresponding HTSUS item for the month of June 1999.

The estimated dumping margins in the petition, based on a comparison between Nippon's home market prices and U.S. prices derived from IM–145 statistics, range from 0.78 percent to 95.29 percent.

Fair Value Comparisons

Based on the data provided by petitioners, there is reason to believe that imports of certain tin mill products from Japan are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than fair value. Petitioners explained that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, and capacity utilization. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation, and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see Attachments to Initiation Checklist, Re: Material Injury*, November 17, 1999).

Initiation of Antidumping Investigations

Based upon our examination of the petition on TMP and petitioners' supplemental information clarifying the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of certain tin mill products from Japan are being, or are likely to be, sold in the United States at less than fair value. Unless the deadline is extended, we will make our preliminary determination no later than 140 days after the date of publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of Japan. We will attempt to provide a copy of the public version of each petition to each exporter named in the petition (as appropriate).

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine, by December 13, 1999, whether there is a reasonable indication that imports of certain tin mill products from Japan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: November 17, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30972 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–333–401]

Final Results of Full Sunset Review and Termination of Suspended Investigation: Cotton Shop Towels From Peru

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of full sunset review and termination of suspended investigation: Cotton shop towels from Peru.

SUMMARY: On July 29, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the suspended countervailing duty investigation on cotton shop towels from Peru (64 FR 41089) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We did not receive comments from any interested party. As a result of this review, the Department finds that termination of the suspended countervailing duty investigation would not be likely to lead to continuation or recurrence of a countervailable subsidy. Therefore, we are terminating this suspended investigation effective January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: January 1, 2000.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and in 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

The merchandise subject to this suspended countervailing duty investigation is cotton shop towels from Peru. Shop towels are absorbent industrial wiping cloths made from a loosely woven fabric. Shop towels are currently classifiable under item numbers 6307.10.2005 and 6307.10.2015 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description remains dispositive.

Background

On July 29, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Cotton Shop Towels From Peru* (64 FR 41089) ("*Preliminary Results*"). In our *Preliminary Results*, we found that termination of the suspended countervailing duty investigation would not be likely to result in recurrence of a countervailable subsidy. In addition, we indicated our intent, pursuant to section 782(i)(2) of the Act, to verify the previously unverified information relied on in making our determination. Prior to verification, we invited interested parties to comment on the information to be verified. We received no comments.

From August 24, 1999, to August 26, 1999, we verified information used in making this determination. The Department's verification report was made available to the domestic and respondent interested parties. In addition, a copy of this report is available in the Central Records Unit of the Import Administration, Room B–099, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW, Washington, DC 20230 (*see* Verification Report: Cotton Shop Towels from Peru, dated September 7, 1999).

Following the issuance of our verification report, we again received no comments from any interested party.

Final Results of Review

As a result of this review, we find that termination of the suspended countervailing duty investigation would not be likely to lead to continuation or recurrence of a countervailable subsidy for the reasons set forth in our *Preliminary Results* of review and confirmed in our verification report.

As a result of this determination by the Department that termination of the suspended countervailing duty investigation on cotton shop towels from Peru would not be likely to lead to continuation or recurrence of a countervailable subsidy, the Department, pursuant to section 751(d)(2) of the Act, is terminating this suspended investigation. Pursuant to 751(c)(6)(A)(iv) of the Act, this termination is effective January 1, 2000. The Department will complete any pending administrative reviews of this suspended investigation and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Dated: November 22, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30962 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Preliminary Results of Full Sunset Review: Welded Carbon Steel Pipes and Tubes From Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Full Sunset Review: Welded Carbon Steel Pipes and Tubes from Turkey.

SUMMARY: On May 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty order on welded carbon steel pipes and tubes from Turkey (63 FR 23596) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of the notices of intent to participate and adequate substantive responses filed on behalf of the domestic and respondent interested parties, the Department is conducting a full (240 day) review. In conducting this sunset review, the Department preliminarily finds that termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the "Preliminary Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–1930 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 30, 1999.

Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and 19 C.F.R. Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

This order covers shipments of Turkish welded carbon steel pipes and tubes, having an outside diameter of 0.375 inch or more, but not more than 16 inches, of any wall thickness. These products, commonly referred to in the industry as standard pipe and tube or structural tubing, are produced in accordance with various American Society Testing and Materials (ASTM) specifications, most notably A–53, A–120, A–500, or A–501. The subject merchandise was originally classifiable under item number 416.30 of the Tariff Schedules of the United States Annotated ("TSUSA"); currently, they are classifiable under item numbers 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the TSUSA and HTSUS item numbers are provided for convenience and customs purposes, the written description remains dispositive.

This review covers all producers and exporters of subject merchandise from Turkey.

History of the Order

The Department published its final affirmative countervailing duty determination on welded carbon steel pipes and tubes from Turkey in the **Federal Register** on January 10, 1986 (51 FR 1268) and issued the countervailing duty order on March 7, 1986 (51 FR 7984). The Department found the following programs to confer subsidies: (1) *Export Tax Rebate and Supplemental Tax Rebate;* (2) *Preferential Export Financing;*[1] (3) *Deduction from Taxable Income for Export Revenues;* and (4) *Resource Utilization Support Fund ("RUSF").* The country-wide countervailing duty rate was 18.81 percent, and after taking into account several program-wide changes, the Department established a duty deposit rate of 17.80 percent. The following companies were investigated in the original investigation: the Borusan group of companies, Mannesmann-Suemerbank Boru Endustris ("Mannesmann-Suemerbank"), Yucel Boru ve Profil

[1] Short-term export financing under Decree number 84/7557 was abolished by Decree number 84/8861, which became effective on January 1, 1985. The Department verified that all such loans were repaid prior to our preliminary determinations, and we took the elimination of this program into account by excluding it from the duty deposit rate (*see Final Affirmative Countervailing Duty Determinations: Certain Welded Carbon Steel Pipe and Tube Products from Turkey*, 51 FR 1268 (January 10, 1986)).

Endustrisi ("Yucel Boru"), Erkboru Profil Sanayi ve Ticaret, and Umran Spiral Welded Pipe, Inc.[2]

The Department has conducted the following administrative reviews since the issuance of the order:

Review	Period of review	Final result citation
(1)	28 Oct 85–31 Dec 86	53 FR 9791 (March 25, 1988).
(2)	1 Jan 95–31 Dec 95	62 FR 43984 (August 18, 1997).
(3)	1 Jan 96–31 Dec 96	63 FR 18885 (April, 18, 1997).
(4)	1 Jan 97–31 Dec 97	64 FR 44496 (August 16, 1999).

During administrative reviews of this order, the Department investigated programs and companies in addition to those covered in the original investigation. In the first administrative review, covering the 1985/86 period, the *Export Revenue Tax Deduction* and *General Incentives Program ("GIP")* were found to confer subsidies. The *Export Tax Rebate*, with respect to the U.S. and *RUSF* programs, were found to have been terminated,[3] and the Department determined a rate of 1.43 percent for Bant Boru Sanayi ve Ticaret A.S. ("Bant Boru") and a rate of 12.67 percent for all others (53 FR 9791, March 25, 1988). After taking into account the program terminations, the Department established a deposit rate of 7.26 percent for all others, and, based on a zero subsidy rate, waived duty deposit requirements for Bant Boru.

In the second administrative review, the Department found that the *Pre-Shipment Export Credit* program conferred a countervailable subsidy on producers/exporters of subject merchandise.[4] Additionally, the following new programs were determined to confer subsidies: (1) *Investment Allowance* under the *GIP;* (2) *Foreign Exchange Loan Assistance;* (3) *Freight Program;* (4) *Resource Utilization Support Premium;*[5] and (5) *Export Incentive Certificate Customs duty and Other Tax Exemptions. Deduction from Taxable Income for Export Revenues was found to have been terminated in the second administrative review.*[6] The Department determined net subsidies of 4.06 percent for Erciyas Boru Sanayii ve Ticaret A.S. ("Erbosan").[7]

In the third administrative review, the Department found that the new program, *Deduction from Taxable Income for Export Revenues,* conferred a countervailable subsidy of less than 0.005 percent for Borusan Birlesik Boru Fabrikalari A.S. ("BBBF") and Borusan Ihracat Ithalat ve Dagitim A.S. ("Borusan Dagitim") (BBBF and Borusan Dagitim are hereinafter referred to as the "Borusan Group".).[8] The following programs identified in previous reviews were found to confer subsidies: (1) *Investment Allowance;* (2) *Foreign Exchange Loan Assistance;* (3) *Incentive Premium on Domestically Obtained Goods; and* (4) *Pre-Shipment Export Credit* (63 FR 18885, April 16, 1998). The *Freight Program* was found to have been terminated in the preliminary results of the third review.[9] The Department determined a net subsidy of 3.10 percent for the Borusan Group (63 FR 18885, April 16, 1998).

In the fourth administrative review, programs that were determined to confer subsidies include: (1) *Pre-Shipment Export Credit;* (2) *the* Freight Program; and (3) *Foreign Exchange Loan Assistance. Export Incentive Certificate Customs Duty & Other Tax Exemptions* was found to be terminated (64 FR 16924, April 7, 1999). The Department determined net subsidies of 0.84 percent for Yucel Boru and its affiliated companies, Cayirova Boru Sanayi ve Ticaret A.S., and Yucelboru Ihracat Ithalat ve Pazarlama A.S. (collectively "Yucel Boru Group").

Background

On May 3, 1999, the Department published a notice of initiation of a sunset review of the countervailing duty ("CVD") order on welded carbon steel pipes and tubes from Turkey (64 FR 23596), pursuant to section 751(c) of the Act. On May 18, 1999, the Department received, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations,* a notice of intent to participate on behalf of domestic producers Allied Tube and Conduit Corp., Sawhill Tubular Division-Armco, Inc., Century Tube, IPSCO Tubular Inc., LTV Steel Tubular Products, Maverick Tube Corporation, Sharon Tube Company, Western Tube and Conduit, and Whetland Tube Co. (hereinafter, collectively "domestic interested parties") and the Government of the Republic of Turkey ("GRT") and the Borusan Group (collectively "respondent interested parties"). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as domestic producers of subject merchandise. The GRT is an interested party pursuant to section 771(9)(B) of the Act as the government of a country in which subject merchandise is produced and exported; the Borusan Group is an interested party pursuant to section 771(9)(A) of the Act as a foreign producer and exporter of subject merchandise.

The domestic interested parties participated in the original investigation and subsequent administrative reviews of the subject order; the GRT and Borusan Group have been actively involved in this case since 1985, the

[2] Because Erkboru Profil Sanayi ve Ticaret, and Umran Spiral Welded Pipe Inc. did not export to the United States during 1984 and the first six months of 1985, their responses were not used in the final determination. *Id.*

[3] *See Certain Welded Carbon Steel Pipe and Tube Products from Turkey: Preliminary Results of Countervailing Duty Administrative Review,* 52 FR 47621 (December 15, 1987).

[4] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Reviews,* 62 FR 43984 (August 18, 1997).

[5] The Department determined the benefit from this program to be 0.05 percent. However, in the same review, the Department verified that the GRT terminated the RUSP program in 1991, and that GIP investment incentive certificates issued after 1991 were no longer eligible to receive RUSP payments. *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Preliminary Results of Countervailing Duty Administrative Reviews,* 62 FR 16782, 16787 (April 8, 1997).

[6] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Reviews,* 62 FR 43984, 43986 (August 18, 1997).

[7] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Preliminary Results of Countervailing Duty Administrative Reviews,* 62 FR 16782, 16788 (April 8, 1997).

[8] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Reviews,* 63 FR 18885, 18887 (April 16, 1998).

[9] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe From Turkey; Preliminary Results and Partial Recission of Countervailing Duty Administrative Reviews,* 62 FR 64808 (December 9, 1997).

year in which the countervailing duty petition on subject merchandise from Turkey was filed. The GRT participated in the original investigation and the four administrative reviews; the Borusan Group participated in the original investigation and all but the second administrative review.

We received adequate substantive responses from the domestic and respondent interested parties on June 2, 1999 and June 3, 1999, respectively, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). As a result, pursuant to 19 CFR 351.218(e)(2), the Department determined to conduct a full review.

In accordance with 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, the Department determined that the sunset review of the countervailing duty order on carbon steel pipe and tube from Turkey is extraordinarily complicated, and extended the time limit for completion of the preliminary and final results of this review until not later than November 19, 1999 and March 28, 2000, respectively, in accordance with section 751(c)(5)(B) of the Act.[10]

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred and is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission ("the Commission") the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide to the Commission information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures ("Subsidies Agreement").

The Department's preliminary determinations concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, comments of the interested parties on each of these issues are addressed within the respective sections.

Continuation or Recurrence of a Countervailable Subsidy

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the SAA, H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (see section III.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (*see* section III.A.3.a of the *Sunset Policy Bulletin*). Exceptions to this policy are provided where a company has a long record of not using a program (*see* section III.A.3.b of the *Sunset Policy Bulletin*).

Interested Party Comments

In their substantive response, the domestic interested parties assert that prior to the issuance of the 1985 order, there were over 30,000 tons of imports of subject merchandise from Turkish producers to the United States (*see* June 2, 1999, Substantive Response of the domestic interested parties at 3). However, according to the domestic interested parties, imports have since dropped dramatically: in 1998, imports amounted to only 7400 tons—a 75 percent drop from 1985 figures. *Id.* Moreover, the domestic interested parties note that, in subsequent administrative reviews, subsidization of the subject merchandise by the GRT for the benefit of Turkish producers continues. Thus, the domestic interested parties believe that the reduction of imports of the subject merchandise from Turkey into the United States and the continuing existence of countervailable subsidy programs indicate that there is a strong likelihood of continuation of a countervailable subsidy should this order be revoked.

The respondent interested parties assert that the GRT has eliminated or severely limited the availability of the incentive programs that led to the initiation of the countervailing duty investigation on standard pipe in 1985 (*see* June 3, 1999, Substantive Response of respondent interested parties at 4). They note that three programs—Export Tax Rebate and Supplemental Tax Rebate, Deduction from Taxable Income for Export Revenue, and the Resource Utilization Support Fund—that were found to provide countervailable benefits to Turkish producers/exporters of pipe and tube in the original investigation were confirmed by the Department to be terminated or eliminated in the final results of the 1995 and 1996 reviews, and the preliminary results of the 1997 review. *Id.* at 6–7. According to the GRT, only three other programs currently confer subsidies: the Pre-Shipment Export Credit program, which provides short term pre-shipment export loans to exporters through intermediary commercial banks;[11] the Foreign Exchange Loan Assistance, which allows commercial banks to exempt certain fees on loans used in export-related activities;[12] and the Deduction from Taxable Income for Export Revenues,[13] which allows companies to deduct 0.05 percent of their hard currency income derived from export activities from their corporate income taxes.[14]

Department's Determination

The Department verified the elimination of benefits provided by the Export Tax Rebate and Supplemental Tax Rebate and the RUSF; the duty

[10] *See Welded Carbon Steel Pipes and Tubes from Turkey: Extension of Time Limit for Preliminary Results of Five-Year Review*, 64 FR 46885 (August 27, 1999).

[11] In the 1996 review, the Department determined that the net countervailable subsidy received by the Borusan Group from the Pre-shipment Export Credit Program was 0.22 percent.

[12] The exempted fees include a Resource Utilization Stabilization Fund fee of 6 percent of the loan principal, a Banking Insurance Tax equal to 5 percent of the interest paid, and a stamp tax equal to 0.6 percent of the principal (62 FR 64810).

[13] A program from the original investigation, Deduction from Taxable Income for Export Revenues was terminated in the second review (62 FR 43984, August 18, 1997). In the third review, however, the Department determined a new, similar program, also called Deduction from Taxable Income for Export Revenues (63 FR 18885, April 16, 1998).

[14] In the 1996 review, the Department calculated a subsidy for this program of less than 0.005 percent for the Borusan Group (*see* June 3, 1999, Substantive Response of respondent interested parties at 14).

deposit rate from the 1985/86 review reflects the elimination of benefits from these two programs on importers of subject merchandise. Specifically, we found that, effective January 1, 1987, pursuant to Communique 87/3 of Decree 86/11237, the GRT eliminated basic and supplemental export tax rebates on exports of iron and steel products to the United States (52 FR 47621, December 15, 1987). Also effective January 1, 1987, pursuant to Decree 86/11085, the GRT eliminated RUSF payments on exports. *Id.*

In the preliminary results of the 1995 period of review, the Department determined that the Resource Utilization Support Premium ("RUSP"), which distributed benefits on a regional basis under the umbrella of the GIP, conferred a net countervailable benefit of 0.05 percent on Erbosan. However, the GRT terminated the RUSP program in 1991, and GIP investment certificates issued after 1991 were no longer eligible to receive RUSP payments.[15]

As noted above, the Deduction from Taxable Income for Export Revenues was found terminated in the second administrative review. However, a similar program was subsequently found to confer subsidies of less than 0.005 percent for the Borusan Group for welded pipe and tube in the third review (63 FR 1888, April 18, 1992). In the fourth and most recent review, the program was found "not used" (64 FR 44496, August 16, 1999).

Finally, two programs investigated since the original investigation have been found to be terminated: the Freight Program was found terminated in the third review (62 FR 65808, 64811, December 9, 1997), and Export Incentive Certificate Customs Duty & Other Tax Exemptions was found terminated in the 1997 review when Communique No. 96/1, effective January 1, 1996, rescinded Communique No. 95/7, which provided export incentive certificates for the exclusion of taxes and duties, with no residual benefits.[16]

The Department finds that three of the programs that were investigated since the original investigation continue to confer subsidies on Turkish producers/exporters of pipe and tube. In the second review, although the Department found that the 30 percent minimum investment allowance under GIP is not countervailable, the Investment Allowance program conferred benefits of 0.02 percent (62 FR 43984, August 18, 1997) on Erbosan. In the third review, the Department determined that the net countervailable subsidies received by the Borusan Group from Foreign Exchange Loan Assistance and Incentive Premium on Domestically Obtained Goods were 0.43 percent and 0.01 percent, respectively (63 FR 18885, April 16, 1998). In the fourth review, the Pre-shipment Export Credit program conferred on the Yucel Group a subsidy of 0.84 percent (64 FR 44496, August 16, 1999).

Of the four programs, Deduction from Taxable Income for Export Revenues, Pre-Shipment Export Credit, Incentive Premium on Domestically Obtained Goods, and Foreign Exchange Loan Assistance that continue to exist, only Pre-Shipment Export Credit was determined to provide a subsidy above de minimis—1.77 percent—in the second review. Since at least one of the existing countervailable programs continues to confer benefits above *de minimis*, the Department, consistent with section III.A.3.a of the *Sunset Policy Bulletin*, preliminarily determines that termination of the subject order would likely result in the continuation or recurrence of countervailable subsidies.

Net Countervailable Subsidy

In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, the Department normally will select a rate from the investigation as the net countervailable subsidy likely to prevail if the order is revoked, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place. The Department noted that this rate may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.[17]

Additionally, section III.B.2 of the *Sunset Policy Bulletin* states that the Department, where possible, calculates the individual countervailable subsidy rate in an investigation for each known exporter or producer of the subject merchandise. Although the original investigation resulted in a country-wide rate, the Department, in accordance with section 777A(e)(1) of the Act, will provide to the Commission company-specific margins for those companies that were investigated in subsequent reviews.

Interested Party Comments

In their substantive response, the domestic interested parties assert that both the overall decrease in imports of the subject merchandise from Turkey into the United States and the continuing existence of countervailable subsidy programs will injure the domestic industry. Accordingly, the Department should find that the magnitude of the net countervailable subsidy that is likely to prevail is identical to the net countervailable subsidy determined in the original investigation.

The respondent interested parties assert that the Department should exclude the amount of subsidies found to be provided in prior reviews by the Freight Program, Incentive Premium on Domestically Obtained Goods, Investment Allowance and Export Incentive Certificates Customs Duty and Other Tax Exemptions programs because the benefits associated with these programs have been terminated (*see* June 2, 1999, Substantive Response of respondent interested parties, at 16). Furthermore, the rate likely to prevail should be based upon the rate from the most recently completed administrative review since that rate is most representative of the current level of benefits associated with a program. *Id.* Accordingly, the new margin should be 0.655 percent, the sum of the margins from three programs in the third review: 0.43 percent from Foreign Exchange Loan Assistance; less than 0.005 percent from the *Deduction from Taxable Income* for Export Revenues; and 0.22 percent from Pre-Shipment Export Credits.

Department's Determination

In the *Sunset Policy Bulletin*, the Department states that, consistent with the SAA and House Report, the Department normally will select a rate from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order or suspension agreement in place (*see* section III.B.1 of the *Sunset Policy Bulletin*). However, the Department notes that the rate from the original investigation may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change,

[15] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Reviews*, 62 FR 43984 (August 18, 1997).

[16] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Preliminary Results of Countervailing Duty Administrative Reviews*, 64 FR 16924, 16928 (April 7, 1999).

[17] *See* section III.B.3 of the *Sunset Policy Bulletin*.

or the rate ignores a program found to be countervailable in a subsequent administrative reviews (see section III.B.3 of the *Sunset Policy Bulletin*).

The Department disagrees with the domestic interested parties' argument that the rate likely to prevail should be the 17.80 percent margin from the original investigation, because, as noted above, many of the benefits of countervailable subsidy programs have been eliminated. Thus, the Department determines that, as argued by the GRT, benefits from three programs from the original investigation—Export Tax Rebate and Supplemental Tax Rebate, Deduction from Taxable Income for Export Revenues and the RUSF—have been terminated. Of the programs investigated since the original investigation, benefits from the Freight Program and Export Incentive Certificate Customs Duty & Other Tax Exemptions were terminated.[18] Additionally, in the 1995 review, the Department found that the *RUSP* was terminated. Accordingly, the Department will adjust the new company-specific rates to reflect the elimination of the above programs.

Of the programs investigated since the original investigation, the Department determined that Deduction from Taxable Income for Export Revenues conferred on the Borusan Group a subsidy of less than 0.005 percent in the 1996 review. Additionally, the benefits from the Incentive Premium on Domestically Obtained Goods are "recurring," because once a company has received an investment incentive certificate, it becomes eligible for the Incentive Premium benefits automatically and on a yearly basis (62 FR 64808, December 9, 1997). Accordingly, the Department will adjust the margin to include their respective subsidies of less than 0.005 percent and 0.01 percent for the Borusan Group.

The Department agrees with the respondent interested parties that two additional programs investigated since the original investigation, Foreign Exchange Loan Assistance and *Pre-Shipment Export Credit*, continue to confer benefits on Turkish producers/exporters of subject merchandise. Thus, we will include their respective subsidies in the company-specific margins.

Considering the termination of the Export and Supplemental Tax Rebate and RUSF programs in the first review, and the subsequent waiver of the duty deposit for Bant Boru, the Department will report to the Commission a margin of 0.00 percent for Bant Boru.

The Department will report a rate of 2.89 percent for Erbosan, the sum of 1.77 percent from the Pre-Shipment Export Credit Program; 0.02 percent from Investment Allowance under GIP; and 1.10 percent from the Foreign Exchange Loan Assistance, from the second review.

For the Borusan Group, the Department will report to the Commission a rate of 0.68 percent, which includes, from the third review: 0.22 percent from the Pre-Shipment Export Credit; 0.02 from Investment Allowance under *GIP;* 0.43 percent from Foreign Exchange Loan Assistance; 0.01 percent from the Incentive Premium on Domestically Obtained Goods; and less than 0.005 percent from Deduction from Taxable Income for Export Revenues.

For the Yucel Boru Group, the Department will report to the Commission a rate of 0.84 percent from Pre-Shipment Export Credit in the fourth review. Finally, the Department will report to the Commission a rate of 2.90 percent for all others. This rate includes 1.77 percent from Pre-Shipment Export Credit; 0.02 percent from Investment Allowance under *GIP;* 1.10 percent from Foreign Exchange Loan Assistance, 0.01 from Incentive Premium on Domestically Obtained Goods, and less than 0.005 percent from Deduction from Taxable Income for Export Revenues.

Nature of the Subsidy

In the Sunset Policy Bulletin, the Department states that, consistent with section 752(a)(6) of the Act, the Department will provide to the Commission information concerning the nature of the subsidy, and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. The domestic and respondent interested parties did not address this issue in their substantive responses.

Deduction from Taxable Income for Export Revenues and Pre-Shipment Export Credit fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement because the receipt of benefit is contingent on export performance. The remaining programs, although not falling within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement, could be found to be inconsistent with Article 6 if the net countervailable subsidy exceeds five percent, as measured in accordance with Annex IV of the Subsidies Agreement. However, the Department has no information with which to make such a calculation, nor do we believe it appropriate to attempt such a calculation in the course of a sunset review. Rather, we are providing the Commission with the following program descriptions.

Foreign Exchange Loan Assistance. The GRT Resolution Number: 94/5782, Article 4, effective June 13, 1994, concerns the encouragement of exportation, allowing commercial banks to exempt certain fees provided that the loans are used in the financing of exportation and other foreign exchange earning activities. The exempted fees include a Resource Utilization Stabilization Fund fee of 6 percent of the loan principle, a Banking Insurance Tax equal to 5 percent of the interested and a stamp tax equal to 0.6 percent of the principal.[19]

Incentive Premium on Domestically Obtained Goods. Companies holding investment incentive certificates under the *GIP* are eligible for a rebate of 15 percent VAT paid on locally-sourced machinery and equipment. Imported machinery and equipment are subject to the VAT and are not eligible for the rebate. These VAT rebates are countervailable subsidies within the meaning of section 777(5)(D)(ii) of the Act because the rebates constituted revenue foregone by the GRT, and they provide a benefit in the amount of the VAT savings to the company. Also, they are specific under section 771(5A)(C) because their receipt is contingent upon the use of domestic goods rather than imported goods (62 FR 64808, December 9, 1997).

Preliminary Results of Review

As a result of this review, the Department preliminarily finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

Producer/exporter	Margin (percent)
Bant Boru	0.00
Erbosan	2.89
Borusan Group	0.68
Yucel Boru Group	0.84
All Others	2.90

[18] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Preliminary Results of Countervailing Duty Administrative Reviews*, 64 FR 64808, 64811 (December 9, 1997) and *Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Preliminary Results of Countervailing Duty Administrative Reviews*, 64 FR 44496 (August 16, 1999).

[19] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Reviews*, 62 FR 64808 (December 9, 1997).

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on January 17, 2000, in accordance with 19 CFR 351.310(d). Interested parties may submit case briefs no later than January 10, 2000, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than January 13, 2000. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than March 28, 2000, in accordance with section 751(c)(5)(B) of the Act.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 19, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–30967 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 99–00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to JV Export Trading Company, Inc ("JV Export Trading Co."). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) ("the Act") authorizes the Secretary of Commerce with the concurrence of the Attorney General, to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1999).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

All products.

2. Services

All services.

Export Markets

The Export Markets include all parts of Latin America, but not the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

JV Export Trading Co. may engage in the following activities with respect to the Export Markets:

1. Enter into exclusive export distribution agreements with U.S. manufacturers for export to the Export Markets.

2. Enter into agreements, exclusive or otherwise, with U.S. manufacturers regarding the prices for which their respective Products will be sold in the Export Market.

3. Enter into agreements with other exporters regarding Products, prices, and territories in the Export Markets.

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, JV Export Trading Co. will not intentionally disclose, directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not generally available to the trade or public.

2. JV Export Trading Co. will comply with requests made by the Secretary of Commerce, on behalf of the Secretary or the Attorney General, for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Secretary of Commerce or the Attorney General believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

Definition

1. "Supplier" means a person who produces, provides, or sells a Product and/or Service.

Protection Provided by Certificate

This Certificate protects JV Export Trading Co. and its officers, directors, and employees acting on its behalf from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in this Certificate and carried out during its effective period in compliance with its terms and conditions.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: November 23, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–31058 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 99102–0281–9281–01]

RIN 0693–XX48

National Voluntary Conformity Assessment System Evaluation (NVCASE) Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) hereby announces the establishment of a sub-program under the National Voluntary Conformity Assessment System Evaluation (NVCASE) program to recognize accreditors that accredit laboratories that test telecommunications equipment and/or perform electromagnetic compatibility testing. The sub-program is being established pursuant to NVCASE regulations in response to a request from a Federal Agency, the Federal Communications Commission. Accreditation bodies recognized by

NIST may then accredit laboratories to perform specified testing to satisfy designated foreign or domestic government regulatory (i.e., mandated) requirements. NIST will explore with the National Cooperation for Laboratory Accreditation a cooperative and joint approach for recognizing applicant laboratory accreditors.

The action being taken under this notice addresses both generic and specific NVCASE requirements relating to two sectoral annexes (telecommunications equipment and electromagnetic compatibility (EMC)) of the United States (U.S.)/European Union (EU) Mutual Recognition Agreement (MRA) and the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for the Conformity Assessment of Telecommunications Equipment. If additional MRAs covering these areas are negotiated between the United States and another country or region, any additional specific requirements will be included under this NVCASE activity.

Sub-program requirements have been developed in accordance with NVCASE regulations and with public consultation.

Public input was obtained at two open meetings on April 27 and April 28, 1999 and from comments received through May 30, 1999.

DATES: Applications will be received beginning November 30, 1999.

ADDRESSES: Applications for recognition may be obtained from, and returned to, Robert L. Gladhill, NVCASE Program Manager, NIST, 100 Bureau Drive, Mailstop 2100, Gaithersburg, MD 20899–2100, by fax (301) 975–5414, or email at robert.gladhill@nist.gov.

FOR FURTHER INFORMATION CONTACT: Robert L. Gladhill, NVCASE Program Manager, at NIST, 100 Bureau Drive, Mailstop 2100, Gaithersburg, MD 20899–2100, telefax: (301) 975–5414, email: robert.gladhill@nist.gov

SUPPLEMENTARY INFORMATION: The NVCASE sub-program to recognize accreditation bodies that accredit laboratories to test telecommunications equipment and/or perform electromagetic compatibility testing is being established in accordance with the NVCASE Regulations (15 CFR Part 286.2(b)(3)(ii)) and in response to requiements as described in FCC GEN Docket 98–68 (FCC 98–338) adopted on December 17, 1998 and FCC Public Notice DA 99–1640 released August 17, 1999. The generic and specific requirements are also being established pursuant to NVCASE regulations (15 CFR Part 286.5). Public consultation on these requirements was conducted at two workshops held at the Department of Commerce on April 27 and 28, 1999. These workshops were announced in the **Federal Register** Sol. 64, No. 53/ Friday, March 19, 1999. Follow-up comments were accepted from the public through May 30, 1999.

This program is also being established to support NIST's responsibilities as a designating authority for the United States in both the Telecommunication Equipment and EMC Sectoral Annexes of the U.S./EU MRA (which may be located at http://www.iep.doc.gov/mra/mra.htm) and the APEC MRA for Conformity Assessment of Telecommunications Equipment (which may be located at http://www.apii.or.kr/telwg/mraTG/mraTG-frame.html).

Telecommunications equipment testing as referenced in this notice covers tests of equipment for network terminal attachment and other equipment subject to telecommunications regulation, including wire and wireless equipment, transmitters, and terrestrial and satellite equipment, whether or not connected to a Public Telecommunications Network. EMC testing relates to measuring the electromagnetic emissions from the product under test, both intended and unintended, and their effect on other products (emissions testing), as well as the effects of electromagnetic emissions from other products on the product under test (immunity testing).

NIST will apply the generic requirements contained in the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 58—"Calibration and Testing Laboratory Accreditation Systems—General Requirements for Operation and Recognition," to all applicant accreditation bodies. All laboratories applying to recognized accreditors shall be assessed against the requirements of ISO/IEC Guide 25—"General Requirements for the Competence of Calibration and Testing Laboratories." These generic requirements will be supplemented by specific technical requirements contained in individual NVCASE handbooks, available on request from NIST.

NIST will accept applications from interested accreditation bodies for recognition to accredit laboratories under the U.S./EU MRA or the APEC MRA. Evaluation of an initial group of applicant accreditation bodies for NVCASE recognition will begin on or about December 30, 1999. All accreditation bodies that have submitted a complete application and required fees to NIST by December 15, 1999, will be included in this initial group. Applications received subsequently will be considered on an as-received basis for evaluation after the initial group of applicants has been considered.

NIST expects to announce recognition of qualified accreditation bodies on or about April 1, 2000. At about the same time, NIST also expects to identify and list an initial group of qualified laboratories for each of the areas noted. Each laboratory listed under the provisions of the U.S./EU MRA or under the APEC MRA will be designated by NIST as a conformity assessment body (CAB).

This notice contains a collection of information requirement subject to the Paperwork Reduction Act. This collection of information has been approved by OMB under the following control Number: 0693–0019.

Notwithstanding any other provision of law, no person is required to respond nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget Control Number.

Dated: November 19, 1999.

Karen Brown,

Deputy Director.

[FR Doc. 99–31108 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111699B]

Environmental Impact Statement for Federal Activities to Recover the Cook Inlet, Alaska, Stock of Beluga Whale, Including the Management of a Subsistence Harvest

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; scoping meetings; request for comments.

SUMMARY: NMFS announces its intent to prepare a programmatic Environmental Impact Statement (EIS) on Federal activities necessary to halt the observed decline and promote recovery of the Cook Inlet, Alaska, stock of beluga whale. This will include, but is not limited to, the management of the subsistence harvest by Alaska Natives.

NMFS will hold a scoping meeting to receive public input on structuring the

alternatives and the range of issues to be assessed in the programmatic EIS. In addition to holding the scoping meeting, NMFS is accepting written comments on the same topics.

DATES: Written comments must be received by December 30, 1999. A scoping meeting will be held in Anchorage, Alaska at the following time and location: December 16, 1999, 1–5 p.m., Anchorage Federal Office Building, Room 154, 222 West 7th Avenue, Anchorage, AK.

ADDRESSES: Written comments and requests to be included on a mailing list of persons interested in the programmatic EIS should be sent to Mr. Brad Smith, 222 West 7th Avenue, Box 43, Anchorage, Alaska, 99513, or sent via facsimile to (907) 271–3030. Comments may also be hand-delivered to NMFS at Room 517 in the Anchorage Federal Office Building, 222 West 7th Avenue, Anchorage, Alaska. Comments will not be accepted if submitted via electronic mail or via the Internet.

FOR FURTHER INFORMATION CONTACT: Brad Smith, (907) 271-5006.

SUPPLEMENTARY INFORMATION: A relatively small, isolated stock of beluga whales exists in south-central Alaska. This stock is found primarily in upper Cook Inlet during ice-free periods (April though October), often concentrating near the mouths of rivers. This stock is called the Cook Inlet Beluga (CIB) stock because the entire stock is believed to occur in Cook Inlet during the ice-free period, although its winter range is presently poorly understood. Genetic and distributional analyses by NMFS indicate that the CIB stock is genetically isolated from the four other beluga whale stocks in Alaska and constitutes a distinct population.

Early estimates of stock size, including estimates by Alaska Native hunters, ranged from 1,000 to 2,000 beluga whales. The most recent estimate by NMFS is 347 whales from 1998, indicating a decline of nearly 50 percent below the estimate by NMFS of 653 for 1994. NMFS has proposed that the CIB be designated as a depleted stock (64 FR 56298, 19 October 1999) under the Marine Mammal Protection Act (MMPA).

The MMPA provides an exemption for Alaska Natives from prohibitions on the taking of marine mammals. The CIB stock is hunted by Alaska Natives for subsistence uses, including food and traditional handicrafts. Data collected by Alaska Native Organizations (ANOs) and NMFS indicate subsistence harvest has recently been at unsustainable levels. Subsistence harvests averaged 37 whales per year between 1994 and 1998. This estimate does not include animals that were struck and lost which may occur at a ratio of 1–2 whales for each whale landed.

The MMPA allows ANOs to enter into agreements with NMFS to conserve marine mammals and provide for co-management of subsistence uses. Several such groups have expressed interest in entering into a co-management agreement with NMFS for the CIB stock. It is possible that such an agreement would include annual harvest levels determined under a harvest management plan, as well as means to allocate the harvest among Native hunters.

The National Marine Fisheries Service may regulate the subsistence hunting of a marine mammal when (1) that marine mammal is designated as depleted under the MMPA, and (2) specific regulations have been promulgated for this management. NMFS has taken separate action to designate the CIB stock as depleted and may, therefore, proceed with regulations to manage the Native harvest.

The National Environmental Policy Act requires preparation of an EIS for any major Federal action that may significantly impact the quality of the human environment. NMFS finds that an EIS is appropriate in this matter.

NMFS will assess the potential impacts of Federal activities necessary to halt the observed decline and promote recovery of the CIB stock of whales, including the management of a subsistence harvest by Alaska Natives. In a review of existing information, NMFS does not find that non-harvest factors, such as degradation of habitat, appear to have caused the rapid decline of the stock; however, NMFS has not conducted research designed specifically to determine the effects of habitat degradation on the stock. NMFS reviewed existing information on fish runs, oil and gas activities, sewage problems, and other sources of contaminants. The existing information suggests that beluga are not stressed by anthropogenic factors in Cook Inlet. The size of fish runs, especially salmon, may have some effect on the population; however, food limitations do not appear capable of causing the declines of beluga noted in recent years. Consequently, the level of harvest between 1994 and 1998 appear to be a significant factor in the observed declines in the population. Therefore, initial recovery actions would likely be directed at developing a subsistence harvest that would be consistent with recovery goals for the stock.

An assessment of the harvest would use a model based on three alternatives: (1) Maximizing short-term opportunity for subsistence harvests and prolonging the recovery of the stock; (2) maximizing the recovery of the stock by prohibiting harvest until the stock had recovered to optimum sustainable population levels; or (3) allowing an intermediate level of harvest that would provide some subsistence use and promote recovery of the stock faster than alternative (1) but slower than alternative (2).

The cumulative impacts section of the EIS would review the combined impacts of Federal and non-Federal activities on the CIB stock of beluga whale and their habitat. This would include, but not be limited to, the effects of fishing, vessel activities, industrial development, and oil exploration and development. The environmental consequences section of the EIS will also assess the impacts of the various CIB harvest management strategies (as described above) on the human environment. Major issues include the impact of subsistence removals on this stock; the impacts of regulated harvests on the traditional and cultural values of Alaska Natives; methods to allocate a limited harvest among Native groups and individuals; and the social and economic impacts of various population levels of the CIB stock of whales. Scoping for the programmatic EIS begins with publication of this document. To identify the scope of issues that will be addressed in the EIS and to identify potential impacts on the quality of the human environment, public participation is invited by providing written comments to NMFS and attending the scoping meeting. A scoping meeting will be held in Anchorage, Alaska at the following time and location: December 16, 1999, 1–5 p.m., Anchorage Federal Office Building, Room 154, 222 West 7th Avenue, Anchorage, AK.

Special Accommodations

The meeting will be physically accessible to people with disabilities. Special accommodations requests, such as requests for sign language interpretation or other auxiliary aids, should be directed to Brad Smith (907) 271–5006 at least 5 days before the meeting date.

Dated: November 22, 1999.

Art Jeffers,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–31069 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101599G]

Marine Mammals; Scientific Research Permit (PHF# 638–1519–00)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Mr. Thomas R. Kieckhefer, Pacific Cetacean Group, UC Monterey Bay Education, Science & Technology Center, 3239 Imjin Road #122, Marina, CA 93933, has been issued a permit to take humpback whales (*Megaptera novaeangliae*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On July 21, 1999, notice was published in the Federal Register (64 FR 39118) that a request for a scientific research permit to take (*i.e.* harass) up to 300 humpback whales (*Megaptera novaeangliae*) annually in California waters had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222 through 226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 23, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–31068 Filed 11–29–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Meeting Notice

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Meeting.

Time and Date: 1 p.m.–4:30 p.m., December 7, 1999.

Status: Open.

SUMMARY: This is to give notice that Chairman William J. Rainer will hold a public roundtable meeting to discuss emerging technology related issues as they pertain to the financial services and commodities markets.

PLACE: 1155 21st St., NW, Washington, DC, Lobby Level Hearing Room.

FOR FURTHER INFORMATION CONTACT: De'Ana H. Dow, Legal Counsel to Chairman Rainer, at 202–418–5030, or Elizabeth Fox, Legal Counsel to Commissioner Newsome, at 202–418–5052. Written comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

Issued in Washington, D.C. on November 24, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31180 Filed 11–26–99; 11:17 am]

BILLING CODE 6351–01–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

Time and Date of Meeting: 6:00 p.m., December 8, 1999.

Place: Red Lion Hotel, Richland/Hanford House, McNary Room; 802 George Washington Way, Richland, WA 99352.

Status: Open. While the Government in the Sunshine Act does not require that the scheduled discussion be conducted in a meeting, the Board has determined that an open meeting in this specific case furthers the public interests underlying both the Sunshine Act and the Board's enabling legislation.

Matters to be considered: The Board is visiting the Hanford Site as a part of its oversight of the Department of Energy's (DOE) safety management of its defense nuclear facilities. The Board's enabling legislation requires health and safety oversight encompassing design, construction, operation and decommissioning activities. The Board's Strategic Plan, submitted to the Office of Management and Budget and Congress, has identified the facilities and operations at Hanford that represent the greatest hazards and has worked with DOE to establish action plans to address them. These include emptying the K-basins, characterizing and stabilizing high-level tank wastes, stabilizing and safely storing or disposing of the weapons program radioactive residuals, and clean-up and decommissioning of contaminated facilities.

The Board will review DOE's progress on these stabilization and clean-up activities. The Board wishes to avail itself of the opportunity of this visit to learn the public's views on the Hanford clean-up program as it exists today, where they believe it should be focused in the future, and the reasons for that focus.

The Board's meeting will provide an opportunity for members of the public, DOE, and its contractor employees or their representatives to comment on or provide information directly to the Board regarding matters affecting health or safety at Hanford, including, but not limited to, those subject areas and facilities the Board will review during this visit.

CONTACT PERSON FOR MORE INFORMATION: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: Requests to speak at the meeting may be submitted in writing or by telephone. Commentators should describe the nature and scope of their oral presentations. Those who contact the Board prior to close of business on December 7, 1999, will be scheduled for time slots, beginning at approximately 6:00 p.m. Prior to the meeting, the Board will post a schedule for those speakers who have contacted the Board. The posting will be made at the entrance to the McNary Room at the start of the 6:00 p.m. meeting.

Anyone who wishes to comment, provide technical information or data may do so in writing, either in lieu of, or in addition to, making an oral presentation. Documents will be accepted at the meeting or may be sent to the Defense Nuclear Facilities Safety Board's Washington, DC, office.

The Board reserves its right to further schedule and otherwise regulate the course of the meeting, to recess, reconvene, postpone or adjourn the meeting, conduct further reviews, and otherwise exercise its power under the Atomic Energy Act of 1954, as amended.

Dated: November 26, 1999.

A.J. Eggenberger,

Vice-Chairman.

[FR Doc. 99–31182 Filed 11–26–99; 11:20 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 30, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 23, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: The Study of Personnel Needs in Special Education (SPeNSE).

Frequency: One-time.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 8,083

Burden Hours: 5,578

Abstract: The Study of Personnel Needs in Special Education (SPeNSE) will describe the number and qualifications of personnel serving students with disabilities. SPeNSE will explore variation in workforce adequacy and identify working conditions, State and local policies, preservice education, and continuing professional development practices that explain that variation.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *OCIO IMG Issues@ed.gov* or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Sheila Carey at 202–708–6287 or electronically mail her at internet address sheila__carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–30990 Filed 11–29–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Withdrawal of Notice of Intent To Prepare an Environmental Impact Statement for the High Flux Beam Reactor at the Brookhaven National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of withdrawal.

SUMMARY: On November 24, 1997, the Department of Energy announced its intent to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for the High Flux Beam Reactor (HFBR) at the Brookhaven National Laboratory (BNL) in Upton, New York. The EIS would evaluate the range of reasonable alternatives regarding the future of the reactor including resumption of operation at a power level of up to 60 MW. On November 16, 1999, the Secretary of Energy announced that the HFBR would be permanently closed. Therefore, the preliminary draft environmental impact statement (EIS) that was under review in the Department is no longer necessary. The NEPA process is hereby terminated. The preliminary draft EIS has been released as an environmental report.

FOR FURTHER INFORMATION CONTACT: For information on the HFBR, please contact: George Malosh, U.S. Department of Energy, 53 Bell Avenue, Bldg. 464, P.O. Box 5000, Upton, NY 11973–5000. Telephone: (516) 344–3424; facsimile (516) 344–3214; electronic mail: *gmalosh@bnl.gov.*

The report is available on the World Wide Web at http://www.doe.bnl.gov, or a hard copy may be requested through Dr. Nand Narain at (516) 344–5435.

For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0119. Telephone: (202) 586–4600 or leave a message on (800) 472–2756.

SUPPLEMENTARY INFORMATION: The Brookhaven National Laboratory was established in 1947 as a multi-disciplinary scientific research center. It is located close to the geographic center of Suffolk County, Long Island, about 56 miles (91 kilometers) east of New York City. The HFBR is centrally located within the BNL site. HFBR was commissioned in 1965 as a scientific facility dedicated to neutron scattering research and other research programs in solid state physics, nuclear physics,

materials technology, structural biology, medicine, and chemistry.

On December 21, 1996, the HFBR was shut down for refueling and maintenance. Before the reactor returned to scheduled scientific operations, monitoring indicated that a plume of tritiated water was contaminating the groundwater in excess of drinking water standards south and down gradient of the reactor, within the site boundary. Data collection and analysis identified the HFBR spent fuel pool as the likely source of the tritium plume. Cleanup of this contamination has been incorporated into the site's overall cleanup program. All fuel was removed from the reactor and the pool and shipped off-site. The pool was drained and decontaminated to eliminate the source of the tritium to the groundwater beneath the HFBR.

After analysis of the time and expense to restart the HFBR, the Department has decided to permanently close the HFBR. This decision is categorically excluded under DOE's NEPA regulators. Therefore, preparation of the draft EIS has been stopped. Additional NEPA review will be necessary in the future for a proposal to decontaminate and decommission the reactor.

Issued in Washington, DC, this 23rd day of November, 1999.

Patricia M. Dehmer,

Associate Director of the Office of Science for the Office of Basic Energy Sciences.

[FR Doc. 99–31016 Filed 11–29–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, December 15, 1999, 6 p.m.–9 p.m.

ADDRESSES: New Mexico Oil and Gas Conservation Service, 2040 Pacheco Street, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ann DuBois, Northern New Mexico Citizens' Advisory Board, 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Phone: 505–989–1662; Fax: 505–989–1752; E-mail: *adubois@doeal.gov;* or Internet http:www.nmcab.org.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Public Comment, 6:30 p.m.–7 p.m.
2. Committee Reports:
   - Environmental Restoration
   - Monitoring and Surveillance
   - Waste Management
   - Community Outreach
   - Budget
3. Other Board business will be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 528 35th Street, Los Alamos, NM 87544. Hours of operation for the Public Reading Room are 9 a.m. and 4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above.

Issued at Washington, DC on November 24, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–31025 Filed 11–29–99; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, December 16, 1999: 5:30 p.m.–8:30 p.m.

ADDRESSES: Paducah Information Age Park Resource Center, 2000 McCracken Boulevard, Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: John D. Sheppard, Site Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6804.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda

5:30 p.m.	Call to order/Discussion
6:00 p.m.	Approve Meeting Minutes
6:05 p.m.	Public Comments/Questions
6:30 p.m.	Presentations
7:15 p.m.	Sub Committee Reports
8:15 p.m.	Administrative Issues
8:30 p.m.	Adjourn.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact John D. Sheppard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes

The minutes of this meeting will be available for public review and copying

at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8 a.m. and 5 p.m. Monday–Friday or by writing to John D. Sheppard, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6804.

Issued at Washington, DC on November 24, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–31026 Filed 11–29–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–4166–001]

Mid-Continent Area Power Pool; Notice of Filing

November 23, 1999.

Take notice that on November 8, 1999, Mid-Continent Area Power Pool (MAPP), tendered for filing motion to withdraw its filing changes to its Restated Agreement filed with the Commission on August 20, 1999, in the above-referenced docket.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 29, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30983 Filed 11–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP99–392–000, CP00–17–000 and CP00–19–000]

Transcontinental Gas Pipe Line Corp., South Carolina Public Service Authority; Notice of Site Visit

November 22, 1999.

On November 30, 1999 through December 3, 1999, the Office of Pipeline Regulation staff and representatives of Transcontinental Gas Pipe Line Corp. will conduct a site visit of facilities proposed for the SouthCoast Expansion Project in Choctaw, Marengo, Coosa, and Coweta Counties, Alabama and Chilton, Walton, Gwinnett and Henry Counties, Georgia. The staff and representatives of South Carolina Public Service Authority (Santee Cooper) will also visit Santee Cooper's proposed facilities in Hart County, Georgia and Anderson County, South Carolina.

All interested parties may attend. Those planning to attend must provide their own transportation.

For further information, please contact Paul McKee at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–30984 Filed 11–29–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6482–1]

Review of Environmental Protection Agency Public Participation Policies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: The EPA Administrator, in EPA Report 100–R–99–006, dated July 1999, entitled "Aiming for Excellence—Actions to Encourage Stewardship and Accelerate Environmental Progress, Report of the EPA Innovations Task Force," pledges the Agency to, "Evaluate and update EPA's public participation requirements. We will assess how well our regulations and policies ensure public participation in decision making. We will report on what we find and develop an action plan to upgrade requirements and fill gaps." EPA has convened an internal workgroup to conduct a review of EPA public participation regulations and policies in accordance with this pledge.

The workgroup is scheduled to give a report to the Administrator by January 31, 2000, which will contain an inventory of EPA regulations and policies regarding public participation and an initial assessment of how well these regulations and policies ensure public participation in decision making. The report will also contain an action plan to update requirements and fill gaps.

One of the primary policies being reviewed is the Final EPA Policy on Public Participation (**Federal Register**/Vol. 46/no. 12/Monday, January 19, 1981), herein referred to as the 1981 Policy. The statements in the 1981 Policy have been the basis for many of EPA's public participation requirements in the nineteen years since its initial publication.

The workgroup is seeking public comment on two issues at this time:

1. What changes need to be made to the 1981 Policy on Public Participation?

(1a) What is working well, and how does the experience of the past nineteen years suggest the need for improvements in the general procedures for involving the public in EPA programs and decisions?

2. How can we further engage the public in the effort to revise the 1981 Policy and other EPA regulations and policies which may need to be updated in regard to public participation?

(2a) What are the suggested elements of a strategy to further engage the public in updating requirements and filling gaps in EPA's regulations and policies concerning public participation?

Comments received within the 30-day period designated in this notice will be taken under consideration as the workgroup writes the initial report to the Administrator in January 2000. Comments received after the 30-day period will be reviewed as the Agency further develops and implements an action plan to update the 1981 policy and, as necessary, other regulations and policies.

DATES: Comments must be submitted on or before December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah Dalton at EPA by fax at (202) 260–5478, by email at: *stakeholders@epa.gov*. The 1981 Policy on Public Participation, without the responsiveness summary and preamble,

has been attached to this FR Notice. You may also review the all inclusive 1981 Policy, as well as other information on EPA stakeholder involvement activities on EPA's website: www.epa.gov/stakeholders . The Report of the EPA Innovations Task Force may be reviewed on EPA's website: *www.epa.gov/reinvent/taskforce/report99.*

SUPPLEMENTARY INFORMATION:

Title: Review of EPA Public Participation Regulations and Policies

Abstract: The EPA's Regulatory Steering Committee has convened an internal workgroup to conduct a review of EPA public participation regulations and policies in accordance with a pledge made by the EPA Administrator in EPA Report 100–R–99–006, dated July 1999, entitled "Aiming for Excellence—Actions to Encourage Stewardship and Accelerate Environmental Project, Report of the EPA Innovations Task Force." Action 9 of the Report reads: "Build leadership capacity in communities to participate in local environmental problem solving. Task 5 of Action 9 reads: "Evaluate and update EPA's public participation requirements. We will assess how well our regulations and policies ensure public participation in decision making. We will report on what we find and develop an action plan to upgrade requirements and fill gaps."

The workgroup is scheduled to give a report to the Administrator by January 31, 2000, which will contain an inventory of EPA regulations and policies regarding public participation and an initial assessment of how well these regulations and policies ensure public participation in decision making. The report will also contain an action plan to update requirements and fill gaps.

One of the primary policies being reviewed is the Final EPA Policy on Public Participation (**Federal Register**/Vol. 46/no. 12/Monday, January 19, 1981), herein referred to as the 1981 Policy. The purpose of this policy is to "strengthen EPA's commitment to public participation and to establish uniform procedures for participation by the public in EPA's decision-making process. This in turn will assist EPA in carrying out its mission, by giving a better understanding of the public's viewpoints, concerns and preferences. It should also make the agency's decisions more acceptable to those who are most concerned and affected by them." The statements in the 1981 Policy have been the basis for many of EPA's public participation requirements in the nineteen years since its initial publication.

Since 1981, EPA has made great strides in incorporating public participation in all facets of its work—from rulemaking to Superfund cleanups, program implementation, and permitting.

The workgroup views the 1981 Policy's overall purpose and objectives as still generally appropriate, but it recognizes the need to update some of the specifics of the policy, *e.g.*, to include the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Negotiated Rulemaking Act, the Administrative Dispute Resolution Act, and Executive Order 12898 on Environmental Justice.

The workgroup will not actually update the policy by January 31, 2000, but will make general recommendations to the Administrator on the scope and timing of the update effort for the 1981 policy as well as other EPA regulations and policies. After the report is made to the Administrator in January 2000, the workgroup will address the changes to the 1981 policy in more detail and will be conducting a more intensive public participation effort to work on those changes. Specific EPA program offices may also be conducting processes to update their public participation policies.

The workgroup members feel strongly that it is essential for the public to have an opportunity to participate in the review of EPA's public participation regulations and policies. However, the short duration of the time available to present the initial report to the Administrator poses difficulties in obtaining meaningful participation in the review of a multitude of EPA regulations and policies. Therefore, the workgroup has decided to use the 1981 policy as the overarching statement of EPA's intentions and procedures.

The workgroup is seeking public comment on two issues at this time:

1. What changes need to be made to the 1981 Policy on Public Participation?

(1a) What is working well, and how does the experience of the past nineteen years suggest the need for improvements in the general procedures for involving the public in EPA programs and decisions?

2. How can we further engage the public in the effort to revise the 1981 Policy and other EPA regulations and policies which may need to be updated in regard to public participation?

(2a) What are the suggested elements of a strategy to further engage the public in updating requirements and filling gaps in EPA's regulations and policies concerning public participation?

Comments received within the 30-day period designated in this notice will be taken under consideration as we write the initial report to the Administrator in January 2000. Comments received after the 30-day period will be reviewed as the Agency further develops and implements an action plan to update the 1981 policy and, as necessary, other regulations and policies.

Your comments are valuable to us and, while we have a short deadline for receiving them before we submit our report to the Administrator, we feel that your experiences and opinions will enrich both the initial report and subsequent action steps.

Attachment

Final EPA Policy on Public Participation (1981)

This Policy addresses participation by the public in decision-making, rulemaking, and program implementation by the Environmental Protection Agency (EPA), and other governmental entities carrying out EPA programs. The term, "the public" as it is used here, means the people as a whole, the general population. There are a number of identifiable "segments of the public" who may have a particular interest or who may be affected one way or another by a given program or decision. In addition to private citizens, "the public" includes, among others, representatives or consumer, environmental, and minority groups; the business and industrial communities; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; universities, educational, and governmental associations: and public officials, both elected and appointed.

"Public participation" is that part of the agency's decision-making process that provides opportunity and encouragement for the public to express their views to the agency, and assures that the agency will give due consideration to public concerns, values, and preferences when decisions are made.

A. Scope

The requirements and procedures contained in this Policy apply to the Environmental Protection Agency and other governmental entities carrying out EPA programs (referred to herein as "agency"). The activities covered by this Policy are:

EPA rulemaking, when regulations are classified as significant, (under terms of Executive Order 12044);

The administration of permit programs as delineated in applicable permit program regulations;

Program activities supported by EPA financial assistance (grants and cooperative agreements) to State and substate governments;

—The process leading to a determination of approval of State administration of a program in lieu of Federal administration;

—Major policy decisions, as determined by the Administrator, appropriate Associate Administrator, Regional Administrator, or Deputy Assistant Administrator, in view of EPA's responsibility to involve the public in important decisions.

When covered activities are governed by EPA regulations or program guidance, the provisions of the Policy shall be included at appropriate points in these documents. Before those changes are made, the provisions of the existing regulations or program guidance shall govern.

B. Purpose

The purpose of this Policy is to strengthen EPA's commitment to public participation and establish uniform procedures for participation by the public in EPA's decision-making process. A strong policy and consistent procedures will make it easier for the public to become involved and affect the outcome of the agency's decisions.

This in turn will assist EPA in carrying out its mission, by giving a better understanding of the public's viewpoints, concerns, and preferences. It should also make the agency's decisions more acceptable to those who are most concerned and affected by them.

Agency officials will provide for, encourage, and assist participation by the public. Officials should strive to communicate with and listen to all sectors of the public. Where appropriate, this will require them to give extra encouragement and assistance to some sectors, such as minorities, that may have fewer opportunities or resources.

The Policy identifies those actions which are required and others that are discretionary, on the part of agency managers. The Policy assumes, however, that agency employees will strive to do more than the minimum required, and is not intended to create barriers to more substantial or more significant participation. The Policy recognizes the agency's need to set priorities for its use of resources, and emphasizes participation by the public in decisions where options are available and alternatives must be weighed, or where substantial agreement is needed from the public if a program is to be carried out.

Public participation must begin early in the decision-making process and continue throughout the process as necessary. The agency must set forth options and alternatives beforehand, and seek the public's opinion on them. Merely conferring with the public after a decision is made does not achieve this purpose.

Agency officials must avoid advocacy and precommitment to any particular alternative prior to decision-making. The role of agency officials is to plan and conduct public participation activities that provide equal opportunity for all individuals and groups to be heard. Officials should actively seek to facilitate resolution of issues among disagreeing interests whenever possible.

Decision makers are aware that issues which are not resolved to the satisfaction of the concerned public may ultimately face time-consuming review. If the objectives of EPA's public participation program are achieved, delays to accommodate litigation should be reduced.

C. Objectives

In establishing a policy on public participation, EPA has the following objectives:

—To use all feasible means to create early and continuing opportunity for public participation in agency decisions;

—To promote the public's involvement in implementing environmental protection laws;

—To make sure that the public understands official programs and the implications of potential alternative courses of action;

—To solicit assistance from the public in identifying alternatives to be studied. And in selecting among alternatives considered;

—To keep the public informed about significant issues and changes in proposed programs or projects, as they arise;

—To create an equal and open access for the interested and affected parties to the regulatory process;

—To make sure that the government understands public goals and concerns, and is responsive to them;

—To demonstrate that the agency consults with interested or affected segments of the public and takes public viewpoints into consideration when decisions are made;

—To anticipate conflicts and encourage early discussions of differences among affected parties;

—To foster a spirit of mutual trust, confidence, and openness between public agencies and the public.

D. General Procedures for All Programs

Each Assistant Administrator, Office Director, or Regional Administrator shall determine forthcoming decisions or activities to which this Policy should be applied, and take the steps needed to assure that adequate public participation measures are developed and implemented.

To ensure effective public participation in any decision or activity, the agency must carry out five basic functions: Identification, Outreach, Dialogue, Assimilation, and Feedback.

1. Identification

It is necessary to identify groups or members of the public who may be interested in, or affected by, a forthcoming action. This may be done by a variety of means: developing a contact list of person and organization who may have expressed an interest in, may by the nature of their purposes or activities be affected by or have an interest in forthcoming activity; requesting from others in the agency or from key public groups, the names of interested and affected individuals to include; using questionnaires or surveys to find out levels of awareness; or by other means. If EPA is required to file an Environmental Impact Statement (EIS), the scoping process can be used to identify interested parties.

The responsible official(s) shall develop a contact list for each program or projects, and add to the list whenever members of the public request it. The list should be updated frequently, and it will be most useful if subdivided by category of interest or geographic area.

The contact list shall be used to send announcements of participation opportunities, notices of meetings, hearings, field trips and other events, notices of available reports and documents, and for identifying members of the public who may be considered for advisory group membership and other activities.

2. Outreach

The public can contribute effectively to agency programs only if it is provided with accurate, understandable, pertinent and timely information on issues and decisions. The agency shall make sure that adequate, timely information concerning a forthcoming action or decision reaches the public. The agency shall provide policy, program, and technical information at the earliest practical times, and at places easily accessible to interested and affected

persons and organizations, so they can make informed and constructive contributions to decision-making. Information and educational programs shall be developed so that all levels of government and the public have an opportunity to become familiar with the issues and the technical data from which they emerge. Informational materials shall highlight significant issues that will be the subject of decision-making. Special efforts shall be made to summarize complex technical materials for the public.

a. *Methods.* The objective of the agency's public outreach program is to insure that the public understands the significance of the technical data so that rational public choices can be made. Outreach programs require the use of appropriate communication tools, and should be tailored to start at the public's level of familiarity with the subject.

The following, among other approaches, may be used for this purpose:

(1) Publications, fact sheets, technical summaries, bibliographies;

(2) Questionnaires, surveys, interviews;

(3) Public service announcements, and news releases;

(4) Educational activities carried out by public organizations.

b. *Content.* Outreach materials must include background information (*e.g.* statutory basis, rationale, or the triggering event of the action); a timetable of proposed actions; summaries of lengthy documents or technical material where relevant; a delineation of issues; alternative courses of action or tentative determination which the agency may have made; whether an EIS is, or will be, available; specific encouragement to stimulate active participation by the public; and the name of an individual to contact for further information.

Whenever possible, the social, economic, and environmental consequences of proposed decisions and alternatives should be clearly stated in outreach material. Technical evidence and research methodology should be explained. Summaries of technical documents should be footnoted to refer to the original data. Fact sheets, news releases, summaries, and similar publications may be used to provide notice of availability of materials and to facilitate public understanding of more complex documents, but should not be a substitute for public access to the complete documents.

c. *Notification.* The agency must notify all parties on the contact list and the media of opportunities to participate and provide appropriate information. As described in the first paragraph of Section 2.b. above. Printed legal notices are often required by program regulations, but do not substitute for the broader notice of the media and contact list required by this section.

d. *Timing.* Notification (above) must take place well enough in advance of the agency's action to permit the public to respond. Generally, it should take place not less than 30 days before the proposed action, or 45 days in the case of public hearings (exceptions in the case of public hearings are discussed under Dialogue, below).

Where complex issues or lengthy documents are presented for public comment, the comment period should allow enough time for interested parties to conduct their review. This period generally should be no less than 60 days. Where participation opportunities are to be provide in programs of State, substate, and local governments supported by EPA financial assistance, notice shall be given by the recipient to the public within 45 days after award acceptance.

e. *Fees for copying.* Whenever possible, the agency should provide copies of relevant documents, free of charge. Free copies may be reserved for private citizens and public interest organizations with limited funds. Any charges must be consistent with requirements under the Freedom of Information Act as set forth in 40 CFR part 2.

f. *Depositories.* The agency shall provide one or more central collections of documents, reports, studies, plans, etc. relating to controversial issues or significant decisions in a location or locations convenient to the public. Depository arrangements should be made when possible with public libraries and university libraries. Consideration must be given to accessibility, travel time, parking, transit, and to availability during off-work hours. Copying facilities, at reasonable charges, should be available at depositories.

3. *Dialogue.* There must be dialogue between officials responsible for the forthcoming action or decision and the interested and affected members of the public. This involves exchange of views and open exploration of issues, alternatives, and consequences.

Public consultation must be preceded by timely distribution of information and must occur sufficiently in advance of decision-making to make sure that the public's options are not foreclosed, and to permit response to public views prior to agency action. Opportunities for dialogue shall be provided at times and places which, to the maximum extent feasible. Facilitate attendance or participation by the public. Whenever possible, public meetings should be held during non-work hours, such as evenings or weekends, and at locations accessible to public transportation.

Dialogue may take a variety of forms, depending upon the issues to be addressed and the public whose involvement is sought. Public hearings are the most familiar forum for dialogue and often are legally required, but their use should not serve as the only forum for citizen input. When used, hearings should be at the end of a process that has given the public earlier opportunity for becoming informed and involved. Often other techniques may serve a broader purpose:

- Review groups or ad hoc committees may confer on the development of a policy or written materials;
- Workshops may be used to discuss the consequences of various alternatives, or to negotiate differences among diverse parties;
- Conferences provide an important way to develop consensus for changing a program or the momentum to undertake new directions;
- Task forces can give concentrated and experienced attention to an issue;
- Personal conversations and personal correspondence gives the individualized attention that some issues require;
- Meetings offer a good opportunity for diverse individuals and groups to express their questions or preferences;
- A series of meetings may be the best way to address a long and complex agenda of topics;
- Toll-free lines can aid dialogue, especially when many questions can be anticipated or time is short;
- A hearing panel compiled of persons from representative public groups may be used in non-adjudicatory hearings to listen to presentations and review the hearing summary.

This list is not exhaustive, but it indicates the importance for program managers in being flexible and choosing the right techniques for the right occasions.

a. *Requirements for public hearings.*

(1) Timing of Notice. Notices must be well publicized and mailed to all interested and affected parties on the contact list (see 1. above) and to the media at least 45 days prior to the date of the hearing. However, when the Assistant Administrator or Regional Administrator find that no review of substantial documents is necessary for effective participation and there are no complex or controversial matters to be addressed, the notice requirement may

be reduced to no less than 30 days in advance of the hearing. Additionally, in permit programs, notice requirements will be governed by permit regulations and will be no less than 30 days. Notice for EIS's are covered by EIS regulation which calls for a 45-day review period, with an optional 15-day extension. Notice of the EIS hearing is generally contained in the Draft EIS. Hearings on EIS's are usually held before the end of the EIS review period, but no earlier than 30 days after the EIS notice. Assistant Administrators or Regional Administrators may further reduce or waive the requirements for advance notice of a hearing in emergency situations where there is imminent danger to public health and safety or in situations where there is a legally mandated timetable. Assistant Administrators may also reduce this requirement if they determine that all affected parties would benefit from a shorter time period.

Members of the public who object to a waiver may appeal to the Administrator, stating their reasons in detail.

(2) Content of Notice. The notice must identify the matters to be discussed at the hearing and must include or be accompanied by: (a) A discussion of alternatives the public is being asked to comment upon and the agency's tentative conclusions on major issues (if any); (b) information on the availability of an EIS and bibliography of other relevant materials (if appropriate); (c) procedures and contact for obtaining further information; and (d) information which the agency particularly solicits from the public.

(3) Provision of Information. All reports, EIS's and other documents and data relevant to the discussions at the public hearings must be available to the public on request after the notice, as soon as they become available to agency staff. Background information should be provided no later than 30 days prior to the hearing.

(4) Conduct of Hearing. The agency conducting the hearing must inform the audience of the issues involved in the decision to be made, the considerations the agency will take into account under law and regulations, the agency's tentative conclusions (if any), and the information which the agency particularly solicits from the public. Whenever possible, the hearing room should be set up informally. The agency should allocate time for presentations, questions and answers, as well as formal commentary on the record. When needed, a pre-hearing meeting to discuss the issues should be held. Procedures must not inhibit free expression of views. When the subject of a hearing addresses conditions in a specific geographic area, the hearing itself should be held in that general area.

(5) Record of Hearing. The hearing record must be left open for at least ten days to receive additional comment, including any from those unable to attend in person, and may be kept open longer, at the discretion of the hearing officer. The agency must prepare a transcript or record of the hearing itself and add additional comments to the complete record of the proceeding. This must be available for public inspection and copying at cost at convenient locations. Alternatively, copies shall be provided free. If tapes are used, they should be available for use and copying on conventional equipment. When a Responsiveness Summary (see Assimilation below) is prepared after a hearing, it must be provided to those who testified at or attended the hearing, as well as anyone who requests it.

b. *Requirements for advisory groups.* Formation of an advisory group is one of the methods that can be chosen to gain sustained advice from a representative group of citizens.

The primary function of an advisory group is to assist elected or appointed officials by making recommendations to them on issues which the decision making body and the advisory group consider relevant. These issues may include policy development, project alternatives, financial assistance applications, work plans, major contracts, interagency agreements, budget submissions, among others. Advisory groups can provide a forum for addressing issues, promote constructive dialogue among the various interests represented on the group, and enhance community understanding of the agency's action.

(1) Requirements for Federal EPA Advisory Committees: When EPA establishes an advisory group, provisions of the Federal Advisory Committee Act (Public Law 92–463) and General Service Administration (GSA) Regulations on Federal Advisory Committee Management must be followed.

(2) Requirements for State and Substate and Local Advisory Committees: (Explanatory Note: The following guidelines do not apply to advisory committees, as defined by the Federal Advisory Committee Act, which are established or utilized by EPA.) In instances where regulations, program guidance, or the public participation work plans of State, substate, or local agencies, call for advisory groups, the following special requirements will apply:

(A) Composition of Advisory Groups. Agencies must try to constitute advisory groups so that the membership includes the major affected parties, reflects a balance of interests, and consists of substantially equivalent proportions of the following groups:

- Private citizens. This portion of the advisory group would not include anyone who is likely to incur a financial gain or loss greater than that of an average homeowner, taxpayer, or consumer as a result of any action that is likely to be taken by the managing agency;
- Individual citizens or representatives of organizations that have substantial economic interests in the plan or project;
- Federal, State, local, and tribal officials. These may be both elected and policy-level appointed officials, so long as the elected officials do not come from the decision-making body the group is advising;
- Representatives of public interest groups. A "public interest group" is an organization which has a general civic, social, recreational, environmental, or public health perspective in the area, and which does not directly reflect the economic interests of its membership.

Generally, where an activity has a particular geographic focus, the advisory group should be composed of persons from that geographic area, unless issues involved are of wider application.

Where problems in meeting the membership composition arise, the agency should request advice and assistance from EPA or the State in the case of a delegated program. EPA shall review the agency's efforts to comply, and approve the advisory group composition or, if the agency's efforts were inadequate, require additional actions.

(b) Resources for Advisory Groups. To the extent possible, agencies shall identify professional and clerical staff time which the advisory group may depend upon for assistance, and provide the advisory group with an operating budget which may be used for mailing, duplicating, technical assistance, and other purposes the advisory group and the agency have agreed upon. The agency should establish a system for reimbursing advisory group members for reasonable out-of-pocket expenses that relate to their participation on the advisory group.

(3) Advisory Group Recommendations: Recommendations, including minority reports and the minutes of all meetings of an advisory

group, are matters of public information. As soon as these become available to agency staff, the agency must provide them to the public on request and distribute them to relevant public agencies. Advisory groups may communicate with EPA or the public as needed, or request EPA to perform an evaluation of the assisted agency's compliance with the requirements of this part.

4. Assimilation

The heart of public participation lies in the degree to which it informs and influences final agency decisions.

Assimilating public viewpoints and preferences into final conclusions involves examining and analyzing public comments, considering how to incorporate them into final program decisions, and making or modifying decisions according to carefully considered public views. The agency must then demonstrate, in its decisions and actions, that it has understood and fully considered public concerns. Assimilation of public views must include the following three elements:

a. *Documentation.* The agency must briefly and clearly document consideration of the public's views in Responsiveness Summaries, regulatory preambles, EIS's or other appropriate forms. This should be done at key decision points specified in program guidance or in work for public participation.

b. *Content.* Each Responsiveness Summary (or similar document) must:

—Explain briefly the type of public participation activity that was conducted;
—Identify or summarize those who participated and their affiliation;
—Describe the matters on which the public was consulted;
—Summarize the public's views, important comments, criticisms and suggestions;
—Disclose the agency's logic in developing decisions; and
—Set forth the agency's specific responses, in terms of modifying the proposed action, or explaining why the agency rejected proposals made by the public.

c. *Use.* The agency must use Responsiveness Summaries in its decision-making.

In addition, final Responsiveness Summaries that are prepared by an agency receiving financial assistance from EPA must also include that agency's (and, where applicable, its advisory group's) evaluation of its public participation program.

5. Feedback

The agency must provide feedback to participants and interested parties concerning the outcome of the public's involvement. Feedback may be in the form of personal letters or phone calls, if the number of participants is small. Alternatively, the agency may mail a Responsiveness Summary to those on the contact list, or may publish it.

a. *Content.* The feedback that the agency gives must include a statement of the action that was taken, and must indicate the effect the public's comments had on that action.

b. *Availability.* Agency officials must take the initiative in giving appropriate feedback, and must assure that all public participants in a particular activity are provided that feedback. As Responsiveness Summaries are prepared, their availability should be announced to the public. When regulations are developed, reprints of Preambles and final regulations must be provided to all who commented.

E. Work Plans

A work plan is a written document used for planning a public participation program. It may be an element of regulatory development plans or program plans. Each work plan should include the following elements: objectives, schedules, techniques, audiences and resources requirements. Work plans should be completed on both a program and project level or for each activity identified under Scope of the Policy.

Public participation work plans, undertaken by EPA or by applicants for EPA financial assistance, shall set forth, at a minimum:

1. Key decisions subject to public participation;
2. Staff contacts and budget resources to be allocated to public participation;
3. Segments of the public targeted for involvement;
4. Proposed schedule for public participation activities to impact program decisions;
5. Mechanism to apply the five basic functions—Identification, Outreach, Dialogue, Assimilation, and Feedback—outlined in section D of this Policy.

Reasonable costs of public participation incurred by assisted agencies, including advisory group expenses, and identified in an approved public participation work plan, will be eligible for financial assistance, subject to statutory or regulatory limitations.

Assistant Administrators and Regional Administrators will ensure that program work plans are developed in a timely manner for use in the annual budget planning process. Work plans will be reviewed by the Special Assistant for Public Participation, who will work with program and regional managers to ensure that work plans adequately carry out this Policy. Work plans may be used as public information documents.

F. Assistance to the Public

EPA recognizes that responsible participation by the various elements of the public in some of the highly technical and complex issues addressed by the agency requires substantial commitments of time, study, research analysis, and discussion. While the Agency needs the perspectives and ideas that citizens bring, it cannot always expect the public to contribute its efforts on a voluntary basis.

Assistant Administrators, office Directors, and Regional Administrators can provide funds to outside organizations and individuals for public participation activities which they, as EPA managers, deem appropriate and essential for achieving program goals, and which clearly do not involve rulemaking or adjudicative activities.

Participation funding criteria—Any financial assistance awarded by the Agency for non-regulatory or non-adjudicatory participation should be based on the following criteria:

(1) whether the activity proposed will further the objectives of this Policy:

(2) whether the activity proposed will result in the participation of interests not adequately represented;

(3) whether the applicant does not otherwise have adequate resources to participate; and

(4) whether the applicant is qualified to accomplish the work.

These are the primary tests for public participation financial assistance. From among those who meet these tests, the Agency will make special efforts to provide assistance to groups who may have had fewer opportunities or insufficient resources to participate.

G. Authority and Responsibility

Public participation has an integral part in the accomplishment of any program. It should routinely be included in decision-making and not be treated as an independent function. Managers shall assure that personnel are properly trained, and that funding needs are incorporated in their specific budgets.

Responsibility and accountability for the adequacy of public participation programs belong primarily to the Regional Administrators and the Assistant Administrators, under the overall direction of the Administrator.

1. *The Administrator* maintains overall direction and responsibility for the Agency's public participation activities. Specifically, the Administrator, aided by the Special Assistant for Public Participation, will:

(a) establish policy direction and guidance for all EPA public participation programs;

(b) review public participation program work plans, including resource allocation;

(c) coordinate public participation funding to outside groups to ensure the most economical expenditures;

(d) provide technical advice and assistance as appropriate;

(e) develop guidance and training needed to ensure that program personnel are equipped to implement the Policy;

(f) provide incentives to agency personnel to ensure commitment and competence; and

. (g) evaluate at least annually the adequacy of public participation activities conducted under this Policy, and the appropriateness and results of public participation expenditures.

2. *Assistant Administrators* have the following responsibilities:

(a) identify and address those activities where application of this Policy is require;

(b) identify and address those forthcoming major policy decisions where the Policy should be applied;

(c) ensure that program work plans are developed annually to provide for adequate public participation in the above decisions and activities;

(d) implement approved work plans for public information and public participation activities;

(e) ensure that, as regulations for the programs cited in the Appendix of the Policy are amended, they incorporate the Policy's provisions;

(f) evaluate the appropriateness of public participation expenditures and activities under their jurisdiction, revising and improving them as necessary;

(g) encourage coordination of public participation activities;

(h) provide guidance and assistance to support regional office activities;

(i) seek public participation in decisions to modify or develop major national policies, at their discretion;

(j) consider funding authorized pilot and/or innovative demonstration projects;

(k) consider measures to ensure Policy implementation in appropriate managers' performance standards;

(l) provide financial assistance, as appropriate and available, for authorized public participation activities at the national level.

3. *Regional Administrators* have the following responsibilities:

(a) identify and address those EPA and EPA-assisted activities where application of this Policy is required;

(b) identify and address those forthcoming EPA and EPA-assisted major policy decisions where the Policy should be applied;

(c) ensure that work plans are developed annually by the programs and recipients to provide for adequate public participation in the above decisions and activities;

(d) implement approved work plans for public information and public participation activities;

(e) ensure that public participation is included by applicants in the development of program funding applications to EPA, and in other decisions as identified by this Policy;

(f) provide guidance and technical assistance to recipients on the conduct of public participation activities;

(g) evaluate annually public participation activities of State, substate, or local entities revising and improving them as necessary;

(h) encourage coordination of public participation activities;

(i) support and assist the public participation activities of Headquarters;

(j) ensure that Regional staff are trained, and resources allocated for public participation program;

(k) incorporate measures to ensure Policy implementation in managers' performance standards;

(l) provide small grants to representative public groups for needed public participation work;

(m) evaluate the appropriateness of public participation expenditures and activities, revising and improving them as necessary.

4. *The Director, Office of Public Awareness* has an important role in the development and support of Agency public participation activities. The Director will:

(a) Assist Headquarters and regional programs in identifying interested and affected members of the public in compiling project contacts lists;

(b) Support Headquarters and regional program in development and distribution of outreach materials to inform and educate the public about environmental programs and issues, and participation opportunities;

(c) Develop annual public awareness/participation support plans to complement public participation work plans and identify resources requirements.

H. Compliance

Assistant Administrator, Office Directors, and Regional Administrators are responsible for making certain that, for the activities under their jurisdiction, all those concerned comply with the public participation requirements set forth in this Policy.

Regional Administrators will evaluate compliance with public participation requirements in appropriate State and substate programs supported by EPA financial assistance. This will be done during the annual review of the States' program(s) which is required by grant provisions, and during any other program audit or review.

If the Regional Administrator is not satisfied that this Policy is being carried out, he or she should defer the grant award until these conditions can be met where that course is legally permissible. A Regional Administrator may grant a waiver from specific requirements in this Policy upon a showing by the agency that proposed action will result in substantially greater public participation that would be provided by the Policy.

The Administrator of EPA has final authority and responsibility for ensuring compliance. Citizens with information concerning apparent failures to comply with these public participation requirements should first notify the appropriate Regional Administrator or Assistant Administrator, and then if necessary, the Administrator. The Regional Administrator, Assistant Administrator, or Administrator will make certain that instances of alleged noncompliance are promptly investigated and that corrective action is taken where necessary.

Appendix—List of Citations Covering Program Grants, Delegations, or Permits to States and Substate Governments

The Public Participation Policy will be incorporated in program regulations that cover financial assistance or delegations of authority to State or substate governments or approval of State programs. Where consolidated awards exist under these provisions, they also will be covered. Programs under the Clean Water Act, Safe Drinking Water Act, and the Resource Conservation Recovery Act are already covered by this Policy insofar as they have been amended, or will be amended, to incorporate 40 CFR part 25. Consolidated permit programs are covered by 40 CFR parts 122, 123, and 124. Regulations that refer to existing programs now covered by the Policy will have to be amended to incorporate its provisions. Where programs regulations are not yet written, the Policy shall be incorporated.

Clean Air Act (Public Law 95–95)

Air Pollution Control Program Grants

Sec. 105—Grants to State and local air pollution control agencies for support of air

pollution planning and control programs. (Catalogue of Federal Domestic Assistance No. 66001.)

Sec. 106—Grants to interstate air quality agencies and commissions to develop implementation plans for interstate air quality agencies and commissions to develop implementation plans for interstate air quality control regions. (When funded.)

Urban Mass Transportation Technical Studies Grants (DOT)

Sec. 175—Grants to organizations of local elected officials with transportation or air quality maintenance responsibilities for air quality maintenance planning. (CFDA No. 20.505)

Sec. 210—Grants to State agencies for developing and maintaining effective vehicle emission devices and systems inspection and emission testing and control programs. (When funded.)

Quiet Communities Act (Public Law 95–609)

Quiet Communities—State and Local Capacity Building Assistance

Sec. 14(c)—Grants to State and substate governments and regional planning agencies for planning, developing, evaluating, and demonstrating techniques for quiet communities. (CFDA No. 66.031.)

Toxic Substances Control Act (Public Law 94–469)

State Toxic Substance Control Projects

Sec. 28—Grants to State for establishing and operating programs to complete EPA efforts in preventing or eliminating risks to health or environment from chemicals. (CFDA No. 66.800.)

Federal Insecticide, Fungicide and Rodenticide Act (Public Law 95–398)

Pesticides Enforcement Program Grant

Sec. 23(a)—Funding to States/Indian tribes through cooperative agreements for enforcement and applicator training and certification. (CFDA No. 66–700.)

Resource Conservation and Recovery Act (Public Law 94–580)

Sec. 3005(a)—Issuance of permits for treatment, storage and disposal of hazardous waste.

Sec. 3006—Delegation of authority to administer and enforce hazardous waste program.

Sec. 4002—State planning guidelines. Solid and hazardous waste management program support grants

Sec. 4007—Approval for State, local, and regional authorities to implement State or regional solid waste plans and be eligible for Federal assistance. (CFDA No. 66.451)

Sec. 4008—Grants to State and substate agencies for solid waste management, resource recovery and conservation, and hazardous waste management. (CFDA No. 66.451.)

Sec. 4009—Grants to States for rural areas solid waste management facilities. (CFDA No. 66.451.)

Solid Waste Management Demonstration Grants

Sec. 8006—Grants to State, municipal, interstate or intermunicipal agency for resource recovery systems or improved solid waste disposal facilities. (CFDA No. 66.452.)

Solid Waste Management Training Grants

Section 7007—Grants or contracts for States, interstate agency, municipality and other organizations for training personnel in occupations related to solid waste management and resource recovery. (CFDA No 66.453.)

Safe Drinking Water Act (Public Law 95–190)

Sec. 1421(b)—Issuance of permits for underground injection control programs.

State Public Water System Supervision Program Grants

Sec. 1443(a)—Grants to States for public water system supervision. (CFDA 66.432.)

State Underground Water Source Protection—Program Grants

Sec. 1443(b)—Grants to States for underground water source protection programs. (CFDA 66.433.)

Clean Water Act (Public Law 95–217)

Construction Grants for Wastewater Treatment Works

Sec. 201—Grants to State, municipality, or intermunicipal agencies for construction of wastewater treatment works. (CFDA 66.418.)

Water Pollution Control—State and Interstate Program Grants

Sec. 106—Grants to State and interstate agencies for water pollution control administration. (CFDA 66.419.)

Water Pollution Control—State and Areawide Water Quality Management Planning Agency

Sec. 205(g)—Delegation of management of construction grants programs to State designated agency(ies). (CFDA 66.438.)

Sec. 208—Grants for State and areawide waste treatment management planning. (CFDA 66.426.)

Water Pollution Control—Lake Restoration Demonstration Grants

Sec. 314—Clean Lakes Program.

Sec. 402(a)—Issuance of permits under National Pollutant Discharge Elimination System.

Sec. 404—Issuance of permits for disposal of dredge and fill materials.

Public Law 94—580, sections 3005 & 3006;

Public Law 95–190, sections 1421–1423;

Public Law 95–217, section 402; Public Law 95–217, section 404;

Public Law 95–95, section 165;

Proposed consolidated permit regulations, covering; Hazardous Waste Program under RCRA; UIC Program under SDWA. NPDES and section 404 of the Clean Water Act, and the PSD Program under the Clean Air Act.

Dated: November 23, 1999.

Kathleen Bailey,

Senior Management Analyst.

[FR Doc. 99–31047 Filed 11–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50863; FRL–6396–1]

Receipt of a Notification to Conduct Small-Scale Field Testing of a Genetically Modified Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces a receipt from the University of Maryland, of a notification of intent to conduct small-scale field testing of a genetically modified *Metarhizium* strain. The modified strain contains duplicate *Metahizium* genes to improve the suppression of *Tricoplusia ni* species (cabbage loopers) from infesting cabbage plants. The Agency had determined that the application may be of regional and national significance, and may help develop alternatives to traditional pesticides to protect human health and the environment. Therefore in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50863, must be received on or before January 14, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50863 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Carl Etsitty, Biopesticides, and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 703–605–0749; fax number: 703–308–7026; e-mail address: etsitty.carl@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of pesticide interest to those persons who are or may be required to conduct small-scale field testing of genetically modified microbial pesticide under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also

be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related ocuments that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." Also, you can go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/, to access information about OPP-Docket OPP-50863, or go directly to Office of Pesticide Programs' web page http://www.epa.gov/pesticides/ and select Biopesticides, then FR Notice.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–50863. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50863 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50863. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under "FOR FURTHER INFORMATION CONTACT."

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

The Agency will reviewed and evaluate this Notification and will make a decision as described in 40 CFR 172.50. Notice of receipt of this Notification does not imply a decision by the Agency on this Notification. This small-scale field testing is designed to evaluate the modified *Metarhizium* strain, to control Tricoplusia ni species from infesting cabbage plants. The tested organism, *Metarhizium anisopliae*, contains duplicates of a cuticle-degrading protease gene from *Metarhizium anisopliae*, under a constitutive *Aspergillus nidulans* promoter. A green-fluorescent protein molecular marker is also incorporated to allow monitoring of the genetic stability and fate.

The design of the test site is as follows: The plot, located in Maryland, will consist of a 0.05 hectare (ha) barren area containing a circular 0.02 ha planting of cabbages designed to allow for efficient maintenance. There will be monitoring to detect dispersal outside the confines of the plot of any *Metarhizium* containing the complete complemental *Metarhizium* cuticle-degrading protease gene sequence. A low-maintenance fallow zone outside the plot will also be monitored. A 0.20 ha^2 cabbage plant control is included-60 m from the edge of the barren zone. Background soil samples will be taken prior to initiation of study; Indigenous

Metarhizium strains will be analyzed by isozyme, and RAPD analysis to obtain strain-specific probes for population analysis.

In accordance with 40 CFR 172.3, the small-scale field test will be conducted on a cumulative total of no greater than 10 acres of land. Any food or feed crops will be destroyed.

B. What is the Agency's Authority for Taking this Action?

The Agency's Authority for reviewing this Notification is described in 40 CFR 172 Subpart C. This notice of receipt is published in accordance with 40 CFR 172.11.

List of Subjects

Environmental protection, Genetically modified organism.

Dated: November 23, 1999.

Janet L. Anderson,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–31197 Filed 11–29–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

November 22, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 30, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0573.

Title: Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise.

Form No.: FCC Form 394.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, state, local or tribal governments.

Number of Respondents: 2,000 respondents; 1,000 total annual responses.

Estimated Time Per Response: 1–5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 7,000 hours.

Total Annual Cost: $377,000.

Needs and Uses: FCC Form 394 is a standardized form that is completed by cable operators in connection with the transfer of control of cable television systems. The form is used by cable operators to apply for local franchise authority (LFA) approval to assign or transfer control of a cable television system.

The data are used by the LFA's to restrict profiteering transactions and other transfers that are likely to adversely affect cable rates or service in the franchise area.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–31059 Filed 11–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1308–DR]

Maine; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–1308–DR), dated November 18, 1999, and related determinations.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 18, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Maine, resulting from Hurricane Floyd on September 16–19, 1999, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint A.D. Rodham of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maine to have been affected adversely by this declared major disaster:

Androscoggin, Cumberland, Kennebec, Oxford, and Somerset Counties for Public Assistance.

All counties within the State of Maine are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–31088 Filed 11–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3151–EM]

Commonwealth of Puerto Rico; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the Commonwealth of Puerto Rico (FEMA–3151–EM), dated November 17, 1999, and related determinations.

EFFECTIVE DATE: November 17, 1999

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 17, 1999, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the emergency conditions in the Commonwealth of Puerto Rico, resulting from Hurricane Lenny on November 17, 1999, and continuing is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such an emergency exists in the Commonwealth of Puerto Rico.

You are authorized to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the emergency on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the emergency. I have further authorized direct Federal assistance at 75 percent Federal funding. This assistance excludes regular time costs for subgrantees regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act, as you may deem appropriate.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jose Bravo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the Commonwealth of Puerto Rico to have been affected adversely by this declared emergency:

All 78 municipalities of the Commonwealth of Puerto Rico for assistance as follows:

Appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to identify, mobilize, and provide at its discretion, equipment and resources necessary to alleviate the impacts of the emergency. Direct Federal assistance at 75 percent Federal funding will be provided.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–31089 Filed 11–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3152–EM]

U.S. Virgin Islands; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the U.S. Virgin Islands (FEMA–3152–EM), dated November 17, 1999, and related determinations.

EFFECTIVE DATE: November 17, 1999

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 17, 1999, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the emergency conditions in the U.S. Virgin Islands, resulting from Hurricane Lenny on November 17, 1999, and continuing, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended ("the Stafford Act"). I, therefore, declare that such an emergency exists in the U.S. Virgin Islands.

You are authorized to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the emergency on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the emergency. I have further authorized direct Federal assistance, at 75 percent Federal funding. This assistance excludes regular time costs for subgrantees regular employees. In addition, you are authorized to provide such other forms of assistance under Title V of the Stafford Act, as you may deem appropriate.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Barbara T. Russell of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the U.S. Virgin Islands to have been affected adversely by this declared emergency:

The U.S. Virgin Islands for assistance as follows:

Appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to identify, mobilize, and provide at its discretion, equipment and resources necessary to alleviate the impacts of the disaster. Direct Federal assistance at 75 percent Federal funding will be provided.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–31090 Filed 11–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3152–EM]

U.S. Virgin Islands; Amendment to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the U.S. Virgin Islands (FEMA–3152–EM), dated November 17, 1999, and related determinations.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael Byrne of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

This action terminates my appointment of Barbara T. Russell as Federal Coordinating Officer for this emergency.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–31091 Filed 11–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Board of Visitors for the Emergency Management Institute

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

NAME: Board of Visitors for the Emergency Management Institute.

DATES OF MEETING: December 9–10, 1999.

PLACE: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Room 408, Emmitsburg, Maryland 21727.

TIME: Thursday, December 9, 1999, 8:30 a.m.–5:00 p.m. Friday, December 10, 1999, 8:30 a.m.–1:00 p.m.

PROPOSED AGENDA: Status reports on training in response and recovery, planning, mitigation, and simulation and exercises; informal working sessions regarding EMI activities; expansion of the Independent Study program and EMI's Higher Education Program.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with approximately 10 seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1286.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Superintendent, Emergency Management Institute, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: November 15, 1999

Kay C. Goss, CEM(*),

Associate Director for Preparedness, Training and Exercises.

[FR Doc. 99–31092 Filed 11–29–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with § 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

Name: Technical Mapping Advisory Council.

Date of Meeting: December 6–7, 1999.

Place: Bank of America Main, 730 15th Street, NW, Washington, DC 20005. Room: The Penthouse, 10th floor (December 6), 9th floor conference room (December 7).

Times: 8:30 a.m. to 5:00 p.m., both days.

Proposed Agenda

1. Call to Order and Announcements.
2. Action on Minutes of Previous 2 Meetings.
3. 1999 Annual Report Discussion.
4. Map Modernization Update:
   (a) DFIRM Graphic Specifications.
   (b) Assessment of Mapping Needs Process.
   (c) Stream Gage Network Discussion.
5. Actions for Year 2000.
6. New Business.
7. Adjournment.

Status: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC

20472, telephone (202) 646–2756 or by facsimile at (202) 646–4596.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Sally P. Magee, Federal Emergency Management Agency, 500 C Street SW., room 442, Washington, DC 20472, telephone (202) 646–8242 or by facsimile at (202) 646–4596 on or before September 6, 1999.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved by the next Technical Mapping Advisory Council meeting.

Dated: November 22, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–31093 Filed 11–29–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, December 6, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 26, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–31193 Filed 11–26–99; 12:29 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 982 3152]

Quigley Corporation; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices of unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 31, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Daniel Kaufman or Michelle Rusk, FTC/S–4002, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2888 or 326–3148.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 23, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing consent order from respondent the Quigley Corporation ("Quigley").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged deceptive representations for Cold-Eeze Zinc Lozenges and Cold-Eezer Plus Zinc Gluconate Lozenges (hereinafter, collectively "Cold-Eeze") and Kids-Eeze Bubble Gum ("Kids-Eeze").

The Commission's proposed complaint alleges that Quigley made unsubstantiated representations that Cold-Eeze will prevent users from contracting colds and pneumonia; will treat allergies; will reduce the severity of colds in children; and that Kids-Eeze will reduce the severity of cold symptoms in children.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits the respondent from making the representations about Cold-Eeze and Kids-Eeze challenged in the complaint, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Part II of the proposed order prohibits respondent from making any representation that any food, drug, or dietary supplement can or will cure, treat or prevent any disease, or have any effect on the structure or function of the human body, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Part III of the proposed order allows the respondent to make any representations for any drug that are permitted in labeling for the drug under any tentative final or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA.

Part IV of the proposed order allows the respondent to make representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Parts V through VIII require the respondent to keep copies of advertisements making representations covered by the order; to keep records concerning those representations, including material that they relied upon when making the representations; to provide copies of the order to certain of the respondents' personnel; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission.

Part IX of the proposed order is a "sunset" provision, dictating that the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, but either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–31055 Filed 11–29–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 982 3152]

QVC, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 31, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Daniel Kaufman or Michelle Rusk, FTC/S–4002, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2888 or 326–3148.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 23, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules or practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing consent order from respondent QVC, Inc. ("QVC").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged deceptive representations for Cold-Eeze Zinc Lozenges and Cold-Eezer Plus Zinc Gluconate Lozenges (hereinafter, collectively "Cold-Eeze").

The Commission's proposed complaint alleges that QVC made unsubstantiated representations that Cold-Eeze will prevent users from contracting colds and pneumonia; will treat allergies; and will reduce the severity of colds in children.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits the respondent from making the representations about Cold-Eeze challenged in the complaint, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Part II of the proposed order prohibits the respondent from making any representation that any dietary supplement can or will cure, threat or prevent any disease, or have any effect on the structure or function of the human body, unless it possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

Part III of the proposed order allows the respondent to make any representations for any drug that are permitted in labeling for the drug under any tentative final or final Food and Drug Administration ("FDA") standard or under any new drug application approved by the FDA.

Part IV of the proposed order allows the respondent to make representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Parts V through VIII require the respondent to keep copies of advertisements making representations covered by the order; to keep records concerning those representations, including material that they relied upon when making the representations; to provide copies of the order to certain of the respondents' personnel; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission.

Part IX of the proposed order is a "sunset" provision, dictating that the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–31054 Filed 11–29–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice of meeting.

The Advisory Committee on Blood Safety and Availability will meet on Wednesday, January 26, 2000, from 9:00 a.m. to 5:00 p.m. and on Thursday, January 27, 2000 from 9:00 a.m. to 3:00 p.m. The meeting will take place at the Hyatt Regency Hotel On Capitol Hill, 400 New Jersey Ave., NW, Washington, DC 20001. The meeting will be entirely open to the public.

The topic of the meeting will be errors and accidents in blood administration and what might be done to reduce the occurrence of these events.

Public comment will be solicited both days. Public comment will be limited to three minutes per speaker. Those who wish to have printed material distributed to Advisory Committee members should submit thirty (30) copies to the Executive Secretary prior to close of business January 12, 2000.

FOR FURTHER INFORMATION CONTACT: Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Department of Health and Human Services, Office of Public Health and Safety, 200 Independence Avenue SW, Rm 736E, Washington, DC 20201. Phone (202) 690–5560 FAX (202) 690–7560 e-mail stephendnightingale@osophs.dhhs.gov.

Dated: November 19, 1999.

Stephen D. Nightingale,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. 99–30981 Filed 11–29–99; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Implementation of Universal Leukoreduction; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing a public workshop entitled "Workshop on Implementation of Universal Leukoreduction." The purpose of the public workshop is to stimulate public discussion on how to implement pre-storage leukoreduction as a routine step in the manufacture of whole blood, red blood cells, and platelets that are intended for human transfusion.

Date and Time: The public workshop will be held on December 10, 1999, 8:30 a.m. to 4:45 p.m.

Location: The public workshop will be held at the National Institutes of Health, Natcher Conference Center, 45 Center Dr., Bldg. 45, Bethesda, MD.

Contact: For information regarding this notice: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–6129, FAX 301–827–2843. For information regarding the public workshop and registration: Jennifer Gormley, Laurel Consulting Group, 1815 Fort Meyer Dr., suite 300, Arlington, VA 22209, 703–351–7676, FAX 703–528–0716, E-mail: jgormley@lcgnet.com.

Registration: Early registration is recommended on or before December 3, 1999. Mail or fax registration information (including name, title, firm name, address, telephone, and fax number) to Jennifer Gormley (address above). Registration at the site will be on a space available basis on the day of the workshop, beginning at 7:30 a.m. There is no registration fee for the workshop. If you need special accommodations due to a disability, please contact Jennifer Gormley at least 7 days in advance.

Agenda: FDA anticipates that the ideas and experiences exchanged at the workshop will serve as a source of information for the blood industry and the public in planning for universal leukoreduction, as well as guide FDA in formulating specific regulatory recommendations. Issues to be discussed include: (1) The experiences in implementing leukoreduction as a routine blood manufacturing step and in the use of leukocyte reduced blood products; (2) whether and in what timeframe universal leukoreduction should be recognized as a blood manufacturing standard; and (3) what experiences exist to date in the United States with respect to implementing leukoreduction as a routine blood manufacturing step. An open panel discussion will include a critique of the experiences in the United States to date in implementing leukoreduction as a routine blood manufacturing step, as well as proposals for the FDA to consider in formulating new blood recommendations and regulations. All members of the transfusion community are encouraged to participate with the understanding that the workshop will focus on operational issues, rather than scientific, clinical and economic merits of universal leukoreduction.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16,Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. In addition, the transcript will be placed on the FDA Internet site at www.fda.gov/cber/minutes/workshop-min.htm.

Dated: November 23, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–30956 Filed 11–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–4959]

Guidance for Industry on the Disclosure of Materials Provided to Advisory Committees in Connection with Open Advisory Committee Meetings Convened by the Center for Drug Evaluation and Research Beginning on January 1, 2000; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Disclosure of Materials Provided to Advisory Committees in Connection with Open Advisory Committee Meetings Convened by the Center for Drug Evaluation and Research Beginning on January 1, 2000." This

document provides guidance for industry on how FDA interprets the Federal Advisory Committee Act (FACA) with respect to the disclosure of materials provided to advisory committees convened by the Center for Drug Evaluation and Research (CDER).

DATES: Written comments may be submitted on the guidance document by February 28, 2000. General comments on the agency guidance documents are welcome at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of this guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD–2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled "Disclosure of Materials Provided to Advisory Committees in Connection with Open Advisory Committee Meetings Convened by the Center for Drug Evaluation and Research Beginning on January 1, 2000." The document provides guidance on how FDA interprets the FACA (5 U.S.C. App. 2) and § 314.430 (21 CFR 314.430) with respect to the disclosure of materials provided to advisory committees and how FDA will exercise its discretion under § 314.430(d)(1) in connection with open advisory committee meetings convened by CDER beginning on January 1, 2000.

FDA construes the FACA to require that, with respect to any open advisory committee meeting convened pursuant to the FACA, whenever practicable and subject to any applicable exemptions of the Freedom of Information Act (FOIA) (5 U.S.C. 552), those materials that are provided to the members of an advisory committee in connection with that meeting must be made available for public inspection and copying before or at the time of the advisory committee meeting. FDA interprets § 314.430 to be consistent with the FACA and therefore will exercise its discretion under § 314.430(d)(1) in a manner consistent with the FACA and the FOIA as described in the previous sentence to make available for public inspection and copying materials provided to the members of an advisory committee in connection with open advisory committee meetings convened by CDER, beginning on January 1, 2000.

FDA will issue further guidance on what sponsors may expect concerning the disclosure of the materials they submit to advisory committees in connection with open advisory committee meetings convened by CDER beginning on January 1, 2000.

This level 1 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It is being implemented immediately without prior public comment because the guidance is needed to implement a court-approved settlement agreement. However, the agency wishes to solicit comment from the public and is providing a 90-day comment period and establishing a docket for the receipt of comments.

The guidance represents the agency's current thinking on the disclosure of materials provided to advisory committees in connection with open advisory committee meetings convened by CDER beginning on January 1, 2000. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 22, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–30955 Filed 11–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Antitumor and Antimicrobial Lead—Discovery and Development From Natural Products

Opportunities for Cooperative Research and Development Agreements (CRADAs) are available for collaborations with the NCI intramural Laboratory of Drug Discovery Research and Development (LDDRD) to discover and identify novel antitumor and antimicrobial leads from natural products. Collaborative projects will focus upon cancer and/or areas of infectious diseases of high public health significance and high national and international priority.

AGENCY: National Cancer Institute, National Institutes of Health, PHS, DHHS.

ACTION: Notice of opportunities for Cooperative Research and Development Agreements (CRADAs).

SUMMARY: Pursuant to the Federal Technology Transfer Act of 1986 (FTTA, 15 U.S.C. 3710; and Executive Order 12591 of April 10, 1987, as amended by the National Technology Transfer and Advancement Act of 1995), the National Cancer Institute (NCI) of the National Institutes of Health (NIH) of the Public Health Service (PHS) of the Department of Health and Human Services (DHHS) seeks one or more Cooperative Research and Development Agreements (CRADAs) with pharmaceutical or biotechnology companies to discover and develop new potential antitumor and/or antimicrobial drug leads from natural products. The CRADA would have an expected duration of one (1) to five (5) years. The goals of the CRADA include the rapid publication of research results and timely commercialization of products, methods of treatment or prevention that may result from the research. The CRADA Collaborator will have an option to negotiate the terms of an exclusive or non-exclusive commercialization license to subject inventions arising under the CRADA and which are subject of the CRADA Research Plan.

ADDRESSES: Proposals and questions about this CRADA opportunity may be addressed to Dr. Bjarne Gabrielsen, Technology Development & Commercialization Branch, National Cancer Institute—Frederick Cancer Research & Development Center, Fairview Center, Room 502, Frederick,

MD 21701 (phone: 301–846–5465, fax: 301–846–6820).

Scientific inquires should be submitted to Dr. Michael R. Boyd, Chief, Laboratory of Drug Discovery Research & Development, National Cancer Institute—Frederick Cancer Research & Development Center, Bldg. 1052, Rm 121, Frederick MD, 21702–1201 (phone: 301–846–5391; Fax: 301–846–6919; e-mail boyd@dtpax2.ncifcrf.gov).

EFFECTIVE DATE: Inquiries regarding CRADA proposals and scientific matters may be forwarded at any time. Confidential, preliminary CRADA proposals, preferably two pages or less, must be submitted to the NCI on or before January 31, 2000. Guidelines for preparing final CRADA proposals will be communicated shortly thereafter to all respondents with whom initial confidential discussions will have established sufficient mutual interest.

SUPPLEMENTARY INFORMATION:

Technology Available:

The LDDRD is an NCI intramural research laboratory dedicated to the discovery of new potential lead molecules for antitumor and/or antimicrobial drug development. Some general background and contact information for the LDDRD are available on the Internet at http://dtp.nci.nih.gov/docs/branches/lddrd/lddrd_home.html.

The primary starting materials for LDDRD's discovery research principally comprise the remarkable library of natural product extracts residing in the NCI Natural Products Repository (NPR).

The NPR contains the largest and most diverse natural products extracts collection in the world, derived during the past 15 years from an NCI contracts-based collections consortium led by renowned botanical, marine science and microbial research professionals and organizations globally. Most of these collections have been performed subject to legally-binding agreements between the NCI and relevant Source Country organizations or government agencies which commit the NCI to terms of collaboration and compensation in the event of discovery of a compound which meets the criteria for drug development. Even in instances where no agreement has been signed, the NCI still considers itself bound to the same policies of collaboration and compensation. Therefore, CRADA partners will be subject to similar requirements to those governing the NCI. (Further information may be obtained from the NCI—Developmental Therapeutics Program website, http://dtp.nci.nih.gov).

The LDDRD also engages in selected lead-discovery collaborations based upon natural product extracts originating directly from specific collaborating researchers or organizations rather than from the NCI–NPR. In such cases, collaborative projects are undertaken based both upon unique and mutual scientific and drug discovery and development interests, expertise and resources of the collaborating parties.

LDDRD's principal lead-discovery strategy employs bioassay-guided fractionation, isolation, purification and structural elucidation of bioactive molecules. The sought-for bioactivity is defined by the specific type(s) of assay and/or target(s) employed in the primary screen(s) used for bioassay support of the process.

The LDDRD comprises an interdisciplinary research team, and appropriate resources, expertise and experience, to carry out all essential aspects of natural products lead-discovery, including high-throughput screening, cell-based bioassays, chemical isolation, purification and structural determinations.

Technology Sought

LDDRD now seeks potential collaborators with expertise or resources in several areas including but not limited to: novel screening technologies, bioassays, reagents or targets; synthetic chemistry capabilities pertinent to the specific collaboration; novel or distinctive extract and/or compound collections; preclinical and/or clinical drug research and development expertise and experience; proven track record in moving preclinical lead-discoveries through lead-optimization, drug candidate selection, preclinical and clinical development, regulatory approvals, and commercialization.

Collaborators Sought:

Accordingly, DHHS now seeks collaborative arrangements for the joint LDDRD and collaborator discovery research and development of novel, natural product lead-derived, clinically useful, antitumor and/or antimicrobial drugs of high public health priority. For collaborations with the commercial sector, a Cooperative Research and Development Agreement (CRADA) will be established to provide for equitable distribution of intellectual property rights developed under the CRADA. CRADA aims will include rapid publication of research results as well as full and timely exploitation of any commercial opportunities.

As a minimum, the successful Collaborator should either possess broad experience in most if not all of the following areas; or possess highly specialized, unique expertise in one or more of the following areas, as particularly pertinent to natural products lead-discovery and development: (a) Preclinical and clinical drug development; (b) ability to carry out or direct chemical synthetic studies supporting lead-optimization, drug candidate selection and development; (c) application of automation and robotics technologies to antitumor and/or antimicrobial high-throughput screening (HTS) assays; (d) experience with other pertinent enzyme-based, biochemical, cellular *in vitro* and/or *in vivo* assays; (e) application of database and bioinformatics technologies for the manipulation, storage and analysis of high-throughput assay data, including the development of software as required; (f) the use of high-throughput assay methods to support antitumor and/or antimicrobial lead-discovery from natural products; (g) elucidation and validation of novel antitumor and/or antimicrobial molecular targets; and, (h) specific experience in development and applications of lead-discovery HTS assays addressing novel antitumor and/or antimicrobial molecular targets.

NCI and Collaborator Responsibilities

The role of the National Cancer Institute in this CRADA will include, but not be limited to:

1. Providing intellectual, scientific, and technical expertise and experience to the research project.
2. Providing the Collaborator with isolated lead-molecules for evaluation.
3. Planning research studies and interpreting research results.
4. Publishing research results.

The role of the CRADA Collaborator may include, but not be limited to:

1. Providing significant intellectual, scientific, and technical expertise or experience to the research project.
2. Providing essential research materials, such as extracts, enzymes or other reagents, compounds, hardware or software.
3. Planning research studies and interpreting research results,
4. Providing technical expertise and/or financial support (*e.g. facilities, personnel and expertise) for CRADA-related research as outlined in the CRADA Research Plan.*
5. Publishing research results.

Selection criteria for choosing the CRADA Collaborator may include, but not be limited to:

1. The ability to collaborate with NCI on research and development of this technology involving lead discovery/optimization and biological evaluation.

This ability can be demonstrated through experience, expertise, and the ability to contribute intellectually in this or related areas of drug developmental research and development.

2. The demonstration of adequate resources to perform the research, development and commercialization of this lead discovery/optimization and biological evaluation technology (*e.g.* facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the CRADA Collaborator's proposal.

3. The willingness to commit best effort and demonstrated resources to the research, development and commercialization of this technology as defined above.

4. The demonstration of expertise in the commercial development, production, marketing and sales of antitumor and/or antimicrobial natural products.

5. The willingness to cooperate with the National Cancer Institute in the timely publication of research results.

6. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.

7. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern the equitable distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization that is the employer of the inventor, with: (1) The grant of a license for research and other Government purposes to the Government when the CRADA Collaborator's employee is the sole inventor; or (2) the grant of an option to elect an exclusive or non-exclusive license to the CRADA Collaborator when the Government employee is the sole inventor.

Dated: November 19, 1999.

Kathleen Sybert,

Chief, Technology Development & Commercialization Branch, National Cancer Institute, National Institutes of Health.

[FR Doc. 99–30996 Filed 11–29–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee E—Cancer Epidemiology, Prevention & Control.

Date: December 6–7, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave, NW, Washington, DC 20007.

Contact Person: Mary C. Fletcher, PhD., Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, EPN-Room 643G, Bethesda, MD 20814, 301/496–7413.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31002 Filed 11–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Trustees of Indian University.

Date: December 13, 1999.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Boulevard, 8th Floor, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Ray Bramhall, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd, Rockville, MD 20892, (301) 496–3428.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31003 Filed 11–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) notice is hereby given of the Cancer Advisory Panel for Complementary and Alternative Medicine (CAPCAM) meeting on Monday, December 13, 1999. The meeting will be held at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public, with attendance limited to space available. The agenda includes: Remarks from the Director, NCCAM; CAPCAM Chair; and Director, OCCAM, NCI.

scientific presentations, CAPCAM process overview, public comments session, and other business of the Panel.

The public comments session is scheduled from 4:30 p.m. to 5 p.m. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Richard Nahin, National Center for Complementary and Alternative Medicine, NIH, 31 Center Drive, (MSC 2182), Building 31, Room 5B37, Bethesda, Maryland 20892, 301–594–2013, Fax: 301–480–9500. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5 p.m. on December 7, 1999. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Nahin at the address listed above up to ten calendar days (December 23, 1999) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by Dr. Richard Nahin, Executive Secretary, CAPCAM, National Institutes of Health, Building 31, Room 5B37, 31 Center Drive, Bethesda, Maryland 20892, (301) 594–2013, Fax: 301–480–9500. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Nahin.

Dated: November 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, National Institutes of Health.

[FR Doc. 99–30997 Filed 11–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: December 6–7, 1999.

Time: .7:30 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Town Center Hotel, 8727 Colesville Rd., Silver Spring, MD 20910.

Contact Person: Katherine Woodbury, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS; Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 19, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30999 Filed 11–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: December 16, 1999.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 19, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31001 Filed 11–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 2, 1999.

Time: 11 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (telephone conference call).

Contact Person: Jo Pelham, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 6, 1999.

Time: 1:00 PM to 2:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (telephone conference call).
Contact Person: Richard Marcus, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, (301) 435–1245.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 9, 1999.
Time: 2 PM to 3 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (telephone conference call).
Contact Person: N. Krish Krishnan, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 14, 1999.
Time: 2 PM to 3 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (telephone conference call).
Contact Person: Leonard Jakubczak, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.
This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.
(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–30998 Filed 11–29–99; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Organizations, Functions, and Delegations of Authority

Part N, National Institutes of Health, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 64 FR 24167, May 5, 1999, and redesignated from Part HN as Part N at 60 FR 56606, November 9, 1995), is amended as set forth below to reflect the following: (1) Establish the Office of Budget (OB), Office of the Director, NIH; (2) transfer the budget functions from the Office of Financial Management, Office of Management, OD, to the OB; and (3) establish the Program Budget Branch with the OB.

Section N–B, Organization and Functions, under the heading *Office of the Director (NA, formerly HNA,* is amended by inserting the following:

Office of Budget (NA7, formerly HNA7). (1) Has primary responsibility for NIH-wide budget policy, planning, analysis, formulation and presentation; (2) responsible for budget management once appropriations have been made, including reprogramming and coordination of the use of the Director's Discretionary Fund and transfer authority; and (3) provides budget advice to the Director, NIH, and senior OD and IC officials.

Program Budget Branch (NA72, formerly HNA72). (1) Services as the central NIH organizational component for budget policy, planning, formulation, justification and execution of annual direct appropriated funds; (2) develops budget policies and guidelines for use by the NIH components including development of guidance for budget preparation; (3) serves as the focal point at NIH for the interpretation, preparation, dissemination and implementation of OS and OMB financial policies and procedures; (4) analyzes relevant legislation and subsequent Congressional actions with regard to budgetary implications; (5) develops recommendations to the Associate Director for Budget (ADB) on the allocation of dollar resources to the NIH; (6) coordinates responses to Congressional inquires, Congressional appropriations reports and report language; (7) serves as budget advisor with NIH organizations on the preparation, receipt, and review of budgetary data required for formulation and presentation of the budget; (8) coordinates and consolidates NIH budget execution, administration and financial reporting which include development of apportionments, allotments, allowances, reprogrammings, transfers, reserves, etc; (9) implements fiscal controls; and (10) develops, coordinates and monitors all functions related to the management of FTE resources and makes recommendations to the Associate Director for Budget on the allocation of FTEs/positions for NIH.

Dated: November 17, 1999.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 99–31000 Filed 11–29–99; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–55]

Submission for OMB Review: Community Outreach Partnership Centers Program (COPC)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: This program provides competitive grants to public and private nonprofit institutions of higher education to assist in establishing and/or carrying out research and outreach activities addressing the problems of urban areas. This data collection will support the grantee selection process and monitoring of grantee performance. The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 30, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410; e-mail Wayne__Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice

lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Community Outreach Partnership Centers (Program (COPC).

OMB Approval Number: 2528–0108.

Description of the Need for the Information and its Proposed Use: This program provides competitive grants to public and private nonprofit institutions of higher education to assist in establishing and/or carrying out research and outreach activities addressing the problems of urban areas. This data collection will support the grantee selection process and monitoring of grantee performance.

Respondents: Not-for-profit institutions.

Frequency of Submissions: Semi-annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	160		1		80		12,800
Annual Report	22		44		16		704
Final Report	22		22		16		352
Recordkeeping	22		22		16		352

Total Estimated Burden: 14,208.
Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 24, 1999.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 99–31074 Filed 11–29–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Invasive Species Advisory Committee

ACTION: Establishment.

SUMMARY: Pursuant to Executive Order 13112, and acting as administrative lead on behalf of the new interdepartmental Invasive Species Council (Council), the Secretary of the Interior is establishing the Invasive Species Advisory Committee (ISAC). This notice is published in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463).

FOR FURTHER INFORMATION CONTACT: Gordon Brown, Invasive Species Council, telephone (202) 208–6336; fax (202) 219–0229; e-mail a__gordon__brown@ios.doi.gov.

SUPPLEMENTARY INFORMATION: Invasive species are transforming America's lands and waters. Foreign animal and plant species are replacing native wildlife and wreaking enormous financial and ecological damage. Invasive species are second only to habitat destruction in causing species to be endangered, and estimates of economic harm from these biological invaders run as high as $123 billion annually. Among other things, invasive species crowd out nutritious native forage, create fire hazards, limit recreation, clog lakes and waterways, undermine fisheries, and corrupt water pipes.

Invasive species causing harm include weeds like yellow starthistle and leafy spurge, which cattle cannot eat; purple loosestrife, which chokes wetlands; miconia, which may destroy the Hawaiian rainforest; and melaleuca trees now expanding across the Everglades. Animals are also problems, such as the zebra mussel, corrupting water supply facilities; the brown tree snake, which has extirpated forest birds on Guam; and the Asian tiger mosquito, which has spread avian malaria to wild birds and other diseases to both humans and other animals.

Purpose and Objective

To advise the Council as authorized by Executive Order 13112 on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce.

The ISAC will maintain an intensive and regular dialogue with stakeholders and existing organizations to actively explore these issues and will draw on the expertise of its members and other sources to provide advice. The ISAC will meet up to four times per year.

Balanced Membership Plans

The Committee consists of up to 25 United States citizens. Members of the ISAC will be appointed by the Secretary of the Interior in consultation with the other members of the Council. Members will be selected based on specific needs of the Council in order to balance viewpoints, institutions, geographic diversity, and the advisory functions required to effectively address invasive species science and management. These factors are important and weight is given to geographical distribution, gender, minority status, and institution.

No member may serve on the ISAC for more than three consecutive terms of 2 years. Reappointment terms will be staggered within stakeholder groups (2 or 3 years) to avoid turnover.

Responsible DOI Officials

Gordon Brown, Invasive Species Council, Department of the Interior, 1849 C. St., NW, Room 6635, Washington, DC 20240.

Dated: November 19, 1999.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 99–30974 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Ox Yoke Road Development, Shasta County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability and Receipt of Application.

SUMMARY: This notice advises the public that William Schmitt (applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize the incidental take of the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), federally listed as threatened, and modification of its habitat during the construction of approximately 140,000 square feet of industrial warehouse space just west of the Anderson City limits in Shasta County. The permit would be in effect for 10 years.

The Service announces the receipt of the applicant's incidental take permit application that includes the proposed "Low-Effect Habitat Conservation Plan for the Incidental Take of the Valley Elderberry Longhorn Beetle at the Ox Yoke Road Development, Shasta County, California." The proposed habitat conservation plan (Plan) is available for public comment. The Plan describes the proposed project and the measures the applicant would undertake to minimize and mitigate project impacts to the valley elderberry longhorn beetle. The Service has made a preliminary determination that the applicant's Plan qualifies as a "low-effect" habitat conservation plan eligible for categorical exclusion under the National Environmental Policy Act. We explain the basis for this determination in an Environmental Action Statement, which is also available for public review. This notice is provided pursuant to section 10(c) of the Act.

DATES: Written comments should be received on or before December 30, 1999.

ADDRESSES: Comments should be addressed to Mr. Wayne White, Field Supervisor, Fish and Wildlife Service, 2800 Cottage Way, Suite W2605, Sacramento, California 95825–1826. Comments may be sent by facsimile to 916–414–6712.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp or Jim Browning, staff biologists, Sacramento Fish and Wildlife Office; telephone (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Document Availability

Individuals wishing copies of the Plan and associated documents for review should immediately contact the above office. Documents also will be available for review by appointment, during normal business hours at the above address.

Background

Section 9 of the Act and Federal regulation prohibit the "take" of fish or wildlife species listed as endangered or threatened, respectively. Take of listed fish or wildlife is defined under the Act to include kill, harm, or harass. The Service may, under limited circumstances, issue permits to authorize "incidental take." Incidental take is defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The applicant proposes to construct 140,000 square feet of commercial warehouse space on approximately 10 acres of a 19-acre site. The remaining 9 acres of the project site lies in the 100-year floodplain of Spring Gulch and will not be developed. Instead, this area will be improved by removing asphalt, wood, and other debris that has been dumped there over the years. Riparian vegetation will be allowed to colonize this area. Mature valley oaks and other riparian vegetation located along the southeastern property line will be preserved.

The project site is located on the northeast corner of State Highway 273 and Ox Yoke Road in Shasta County, California. The proposed project consists of an industrial development comprising 12 lots. The building site, which consists of approximately 10 acres on the eastern portion of the 19-acre site would be graded and leveled. Earthwork on the 10 acres would involve approximately 11,000 cubic yards of cuts, 19,000 cubic yards of fill, and 8,000 cubic yards of imported earthen material. Land adjacent to the site is zoned for commercial use.

In 1998, biologists surveyed the proposed project area for special-status wildlife and plant species that could be affected by the project. Based upon the surveys, only one federally listed species, the valley elderberry longhorn beetle, has the potential to occur on site and to be directly impacted by the proposed project. The applicant has agreed to implement the following measures to minimize and mitigate impacts that may result from incidental take of the beetle: (1) Mitigation and monitoring of transplanted elderberry shrubs and supplemental plants would be conducted according to the Service's Mitigation Guidelines for the Valley Elderberry Longhorn Beetle, dated July 9, 1999; (2) two affected elderberry bushes would be transplanted to a mitigation site at the proposed Stillwater Mitigation Bank located approximately 4 miles northeast of the proposed project site; (3) six additional elderberry cuttings (4 stems at a 1:1 ratio and one stem at a 2:1 ratio) and six associated native plants (1:1 ratio) would be planted to compensate for any adverse impacts to valley longhorn beetle habitat resulting from the proposed project; and (4) the mitigation area would be managed for the purpose of long-term protection of the valley elderberry longhorn beetle habitat.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the Plan, which includes measures to minimize and mitigate impacts of the project on the valley elderberry longhorn beetle. An alternative to the taking of listed species under the Proposed Action is considered in the Plan. Under the No Action Alternative, no permit would be issued. The two elderberry shrubs would remain on the project site and development would be planned around the shrubs. Because this is an industrial site, it is likely that large buildings would be constructed near the elderberry shrubs, thereby reducing their suitability as valley elderberry longhorn beetle habitat. Additionally, all other vegetation would be removed, leaving the two elderberry shrubs isolated from other riparian vegetation.

The Service has made a preliminary determination that the applicant's Plan qualifies as a "low-effect" habitat conservation plant as defined by the Service's Habitat Conservation Planning Handbook (November 1996). Low-effect habitat conservation plans are those involving: (1) Minor or negligible effects on federally listed, proposed, and candidate species and their habitats; and (2) minor or negligible effects on other environmental values or resources. The Ox Yoke Road Development Plan qualifies as a low-effect habitat conservation plan for the following reasons:

1. Approval of the Plan would result in minor or negligible effects on the valley elderberry longhorn beetle and its habitat. The Service does not anticipate significant direct or cumulative effects to the valley elderberry longhorn beetle

resulting from construction of the warehouse.

2. Approval of the Plan would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the Plan would not result in any cumulative or growth inducing impacts and, therefore, would not result in significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Flood plain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service therefore has preliminarily determined that approval of the Plan qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further National Environmental Policy Act documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the Plan, and comments submitted therein to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the valley elderberry longhorn in conjunction with implementation of the Ox Yoke Road Development project. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: November 22, 1999.

Elizabeth H. Stevens,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 99–31006 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Extension of the Saddle Mountain National Wildlife Refuge Acquisition Boundary

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice and availability of the Record of Decision.

SUMMARY: This notice advises the public that we have adopted the Final Environmental Impact Statement (FEIS) adopting the Hanford Reach of the Columbia River Final Enviornmental Impact Statement for Comprehensive River Conservation Study, prepared a Record of Decision (ROD) based on the FEIS, and are making it available to the public. We have expanded an approved refuge acquisition boundary around the portions of the Hanford Site (the Saddle Mountain National Wildlife Refuge and the land known as the Wahluke State Wildlife Recreation Area) approximately 90,000 acres that are north and east of the Columbia River, to enable us to manage the land as part of the National Wildlife Refuge System (NWRS). Region 1 will be implementing the new approved acquisition boundary by adding most of the area within the boundary to Saddle Mountain Refuge in the near future. To ensure that the decision is in concert with Department of Energy (DOE) land-use policy, we also adopted the Habitat Conservation Plan (HCP) EIS. The HCP EIS and ROD provide DOE policies and procedures to guide development at the Hanford Site for 50 years or more.

DATES: We issued the Record of Decision on November 5, 1999.

ADDRESSES: Public reading copies of the ROD and the FEIS are available at the following libraries: Hanford Technical Library, Richland, Washington; Kennewick City Library, Kennewick, Washington; Mid-Columbia Regional Library, Kennewick, Washington; Othello City Library, Othello, Washington; Pasco Public Library, Pasco, Washington; Portland City Library, Portland, Oregon; Prosser City Library, Prosser, Washington; Richland City Library, Richland, Washington; Seattle City Library, Seattle, Washington; Vancouver City Library, Vancouver, Washington.

Copies of the ROD are available from U.S. Fish and Wildlife Service, Region 1, Division of Refuge Planning, 911 NE 11th Avenue, Portland Oregon, 97232–4181, phone number (503) 231–2231.

FOR FURTHER INFORMATION CONTACT: Anne Badgley, Regional Director, US Fish and Wildlife Service, Region 1, 911 NE 11th Avenue, Portland Oregon, 97232–4181, phone number (503) 231–6118.

SUPPLEMENTARY INFORMATION: Public Law 100–605 required the Secretary of the Interior to prepare, in consultation with the Secretary of Energy, a report for Congress evaluating the outstanding features of the Hanford Reach of the Columbia River and its immediate environment (including fish, wildlife, geologic, scenic, recreational, historical, cultural and other natural values) and to examine alternatives for preserving those values. The alternatives considered were to include, but not be limited to, inclusion of the Hanford Reach in the National Wild and Scenic Rivers System.

The Secretary selected the National Park Service (NPS) to lead the study. The NPS prepared the Environmental Impact Statement in compliance with section 102 of the National Environmental Policy Act of 1969 (NEPA) (40 U.S.C. 1051 *et seq.*) and pursuant to regulations promulgated by the Council on Environmental Quality (40 CFR Section 1505.2) and the implementing procedures of the National Park Service and the Department of the Interior.

We were a cooperating agency in the NEPA process under Interagency Agreement Number IA9000–0–0007 with the NPS, and pursuant to 40 CFR 1501.6. As a cooperating agency, FWS actively participated in the preparation of the Draft and Final EIS's and independently reviewed each document.

In July of 1994, the NPS released the Final Hanford Reach of the Columbia River Comprehensive River Conservation Study and Environmental Impact Statement (FEIS), followed by the Secretary's Record of Decision recommending that Congress establish a National Wildlife Refuge on the North Slope, and a Wild and Scenic River on the Hanford Reach. The Wild and Scenic River designation was recommended from river mile 346.5 to river mile 396, including a one-quarter mile wide corridor on both river banks. The Secretary selected the proposed action from the FEIS.

We adopted the FEIS to administratively establish an approved refuge acquisition boundary over the area known as the North Slope. The North Slope is comprised of the Saddle Mountain Refuge and the Wahluke Wildlife Recreation Area. This boundary provides our Region 1 with authority to acquire land and manage it as part of the NWRS. We may acquire lands through

direct land transfer from another Federal agency, fee acquisition, conservation easement, withdrawal, or cooperative agreement. The FEIS complies with NEPA and meets our regulatory requirements for making a decision (341 FW 2).

Since the 1994 FEIS, no significant new circumstances or information relevant to environmental concerns bearing on this decision or its impacts have occurred. In the interim, we have added four species that may occur in the study area to the Federal list of threatened and endangered species. The FWS Record of Decision will benefit these species in a manner substantially similar to the 1994 FEIS proposed action.

We incorporate by reference and adopt a second EIS, the 1999 HCP EIS, prepared by the DOE with the Service participating as a cooperating agency. The DOE's Preferred Alternative includes increasing recreational access to the Columbia River and expanding the Saddle Mountain National Wildlife Refuge to include all of the Wahluke Slope, the McGee Ranch and Riverlands, and the Fitzner-Eberhardt Arid Lands Ecology Reserve. The Comprehensive Land Use Plan (CLUP) is the template that the DOE will use to define the range of management options on Refuge lands at the Hanford Site, including the potential for future Refuge additions. The DOE's decision anticipates multiple uses of the Hanford Site, including future DOE missions, non-DOE Federal missions, and other public and private-sector land uses.

Our jurisdiction with regard to DOE-administered Hanford land will be secondary to the DOE jurisdiction because of DOE's contaminants cleanup responsibilities, and because the known inventory of contaminated areas may not be complete. A vast majority of the North Slope is unaffected by past activities, and we will manage these lands as part of the NWRS. Management, as part of the NWRS, will occur under a permit with DOE and be secondary to DOE's jurisdiction. We will provide DOE with technical assistance on areas where DOE is conducting cleanup activities. We provide technical assistance under agreements with other agencies that need our wildlife, fish, or plant habitat management advice expertise. Areas for which we provide technical assistance are not part of the NWRS.

Dated: November 24, 1999.

Jamie Rappaport,

Clark, U.S. Fish and Wildlife Service.

[FR Doc. 99–31105 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On October 2, 1998, a notice was published in the **Federal Register**, Vol. 63, No. 191, Page 53088, that an application had been filed with the Fish and Wildlife Service by Dallas World Aquarium for a permit (PRT–001425) to import 2 manatees (*Trichechus manatus*) for the purpose of enhancement of the survival of the species.

Notice is hereby given that on November 10, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: November 23, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–30958 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Environmental Impact Statement for the Proposed Forest Management Plan for the Flathead Indian Reservation, Pablo, MT

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for the Final Environmental Impact Statement (FEIS) for the proposed Forest Management Plan for the Flathead Indian Reservation, Pablo, Montana, which was published in the **Federal Register** on November 8, 1999 (64 FR 60828). This change is being made in order to make the comment period consistent with that in the anticipated November 26, 1999, publication of the Notice of Availability for this FEIS by the U.S. Environmental Protection Agency.

DATES: The comment period is extended from December 6, 1999 to December 27, 1999.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand carry written comments to Mr. Ernest "Bud" Moran, Superintendent, Flathead Field Office, Bureau of Indian Affairs, P.O. Box 40, Pablo, Montana 59855. You may also comment via the Internet to BudMoran@bia.gov. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (406) 675–0242.

Comments, including names and home addresses of respondents, will be available for public review at the Flathead Field Office during regular business hours, 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Trickey, (406) 676–3755.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 23, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–31104 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement for the White River Amphitheatre, Muckleshoot Indian Reservation, King County, Washington

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice; Reopening of comment period.

SUMMARY: This notice reopens the public comment period for the Draft Environmental Impact Statement for the White River Amphitheatre, Muckleshoot Indian Reservation, King County, Washington, which was published in the **Federal Register** on Friday, August 27, 1999 (64 FR 46932). The comment period is reopened to accommodate the high degree of public interest sparked by the proposed amphitheatre project.

DATES: Comments must be received on or before December 15, 1999.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand carry written comments to Stanley Speaks, Portland Area Director, Bureau of Indian Affairs, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169. You may also comment via the Internet to Jboynton@PORT.BIA.GOV. Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (503) 231–6749.

Comments, including names and home addresses of respondents, will be available for public review at the above address during regular business hours, 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: June Boynton, (503) 231–6749.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 23, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–31103 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service.

Agency Information Collection Activities: Submitted for Office of Management and Budget Review, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of information collection.

SUMMARY: Under the Paperwork Reduction Act of 1995, we are soliciting comments on an information collection titled Royalty-In-Kind Small Refiner Sale Program, OMB Control Number 1010–0135, which expires on April 30, 2000.

DATES: Written comments should be received on or before January 31, 2000.

ADDRESSES: The mailing address for written comments regarding this information collection is David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225. Courier address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225. Email address is RMP.comments@mms.gov.

PUBLIC COMMENT PROCEDURE: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165. Courier or overnight delivery address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225. You may also comment via the Internet to RMP.comments@mms.gov. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include Attn: Royalty-In-Kind Small Refiner Sale Program, OMB Control Number 1010–0135, and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact David S. Guzy directly at (303) 231–3432.

We will post public comments after the comment period closes on the Internet at *http://www.rmp.mms.gov*. You may arrange to view paper copies of the comments by contacting David S. Guzy, Chief, Rules and Publications Staff, telephone (303) 231–3432, fax (303) 231–3385. Our practice is to make comments, including names and addresses of respondents, available for public review on the Internet and during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231–3046, fax (303) 231–3385, email Dennis.C.Jones@mms.gov.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency "to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the

respondents, including the use of automated collection techniques or other forms of information technology.

Interior is the department within the Federal Government responsible for matters relevant to mineral resource development on Federal and Indian Lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian Lands and the OCS, for collecting royalties from lessees who produce minerals, and for distributing the funds collected in accordance with applicable laws. MMS performs the royalty management functions for the Secretary.

When the Secretary determines that sufficient need exists among small refining companies to justify taking royalty oil in kind and offering this oil for sale to eligible refiners, small refiners may apply to participate in this sale of Federal royalty oil and follow procedures under which contracts for the purchase of royalty oil will be awarded. Completed applications to participate in the sale bid proposals, signed contracts, and surety instruments must be submitted to MMS.

The application must be complete and timely filed, and applicants for royalty oil will be required to provide a surety instrument with their bid package. This surety instrument must be a Letter of Credit, Form MMS–4071, or a Royalty-In-Kind Contract Surety Bond, Form MMS–4072. We estimate the annual reporting burden for refiners submitting either surety document is 1 hour. Both surety documents are approved for use through April 30, 2000, and can be found on our web site at http://www.rmp.mms.gov/custserv/pubserv/forms.htm.

Dated: November 19, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–30992 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Long-Term Refuge Water Service Agreements, Central Valley Project, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare environmental documents (environmental assessments or environmental impact statements) and notice of scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, the Bureau of Reclamation (Reclamation), the lead Federal agency, proposes to prepare environmental documents for entering into long-term Water Service Contracts/Agreements to provide water supplies to wildlife refuges in California's Central Valley, up to and including Level 4 water supplies. Certain actions may also require review under the California Environmental Quality Act as well; it is anticipated that joint NEPA/CEQA documents will be prepared.

The Central Valley Project Improvement Act (CVPIA), Title 34 of Public Law 102–575, requires the delivery of water to Central Valley refuges pursuant to two 1989 federal reports, the Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California, and the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. The impacts of providing this additional water were assessed in the Programmatic Environmental Impact Statement (PEIS) prepared for the CVPIA. As required by the CVPIA, Reclamation is now proposing to enter into long-term water service agreements with the refuges to allow the delivery of those quantities of water supplies needed for full habitat management. The site-specific impacts of this action will be considered in the environmental documents for the long-term water service agreements, which will tier from the analysis contained in the CVPIA PEIS.

The purpose of the public/agency scoping process initiated by this Notice of Intent is to solicit comments from interested parties regarding the scope of the environmental analysis and the potential impacts that should be considered in the site-specific assessment being undertaken in this tier of the environmental review. In preparing the environmental documents, Reclamation will consider written and oral comments on the project scope and potential impacts raised during the scoping process.

DATES: Four scoping meetings will be held to solicit comments from interested parties to assist in determining the scope of the environmental analysis and to identify the significant issues related to this proposed action. The meeting dates are:

- December 13, 1999, from 6:00–8:00 p.m. in Willows
- December 14, 1999, from 6:00–8:00 p.m. in Los Banos
- December 15, 1999, from 6:00–8:00 p.m. in Oakland
- December 16, 1999, from 3:00–5:00 p.m. in Sacramento

Written comments on the scope of the environmental documents should be sent to Reclamation at the address below by January 7, 2000.

ADDRESSES: The meeting locations are:

- City of Willows Council Chambers, 201 North Lassen Street, Willows, California
- Merced County Spring Fairgrounds (Floral Room), 403 F Street, Los Banos, California
- Oakland Marriott City Center (Room 208), 1001 Broadway, Oakland, California
- Expo Inn-Hotel (Expo Room), 1413 Howe Avenue, Sacramento, California

Send written comments on the scope of the environmental documents to: Bureau of Reclamation, Attn. Long-Term Refuge Water Service Contracts/Agreements, 2800 Cottage Way, Sacramento CA 95825.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

FOR FURTHER INFORMATION CONTACT: Mona Jefferies-Soniea, (916) 978–5068 or TTD (916) 978–5068.

SUPPLEMENTARY INFORMATION: Reclamation would enter into long-term water agreements with the agencies that manage the refuges: The U.S. Fish and Wildlife Service (for National Wildlife Refuges), The California Department of Fish and Game (for state Wildlife Management Areas), and The Grassland Water District (for lands within the Grassland Resource Conservation District). At this time, it is envisioned that three environmental documents would be prepared corresponding to the following hydrologic regions:

- The Sacramento River Basin, covering the Sacramento, Delevan, Colusa, and Sutter National Wildlife Refuges and the Gray Lodge Wildlife Management Area;
- The San Joaquin River Basin, covering the Kesterson, San Luis, and Merced National Wildlife Refuges; the Los Banos, Volta, and Mendota Wildlife Management Areas; the Grassland

Resource Conservation District; and additional lands identified in the San Joaquin Basin Action Plan; and

• The Tulare Basin, covering the Kern and Pixley National Wildlife Refuges.

Persons requiring special assistance services should contact Matt Franck, CH2M HILL, at (916) 920–0212 ext. 272. Please notify Mr. Franck as far in advance of the particular meeting as possible, but no later than 3 working days prior to the meeting to enable Reclamation to secure the services. If a request cannot be honored, the requester will be notified.

Dated: November 23, 1999.

Frank Michny,

Regional Environmental Officer.

[FR Doc. 99–31007 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for 30 CFR part 783, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources.

DATES: Comments on the proposed information collection must be received by January 31, 2000, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies an information collection activity that OSM will be submitting to OMB for extension. This collection is contained in 30 CFR part 783, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will require a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Underground Mining Permit Applications—Minimum Requirements for Information on Environment Resources—30 CFR Part 783.

OMB Control Number: 1029–0038.

Summary: Applicants for underground coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed underground coal mining activities.

Bureau Form Number: None.

Frequency of Collection: Once, at time of application submission.

Description of Respondents: Underground coal mining applicants and State regulatory authorities.

Total Annual Responses: 105.

Total Annual Burden Hours: 16,918 hours.

Dated: November 24, 1999.

Andrew F. DeVito,

Acting Chief, Division of Regulatory Support.

[FR Doc. 99–31035 Filed 11–29–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the policy of the Department of Justice, notice is hereby given that a proposed consent decree in *United States* v. *Western Processing Co., et al.*, Civ. No. C83–252M, was lodged with the United States District Court for the Western District of Washington, on November 23, 1999. That action was brought against defendants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for payment of past costs incurred, and future costs to be incurred, by the United States at the Western Processing Superfund Site in Kent, Washington. (The site is being cleaned up and some past costs have already been recovered pursuant to several prior settlements.) This decree requires Union Oil Company of California (d/b/a Unocal) ("Unocal") to pay $879,593 in satisfaction of the United States' claims against it for response costs incurred in connection with the site between January 1, 1992 and December 31, 1996. Unocal remains liable for response costs incurred after that date. The United States is also continuing to pursue other defendants to recover past and future costs.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Western Processing Co., et al.*, D.J. Ref. 90–7–1–233.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of Washington, 3600 Seafirst 5th Avenue Plaza, 800 5th Avenue, Seattle, Washington 98104; and at the Region X office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $4.00 (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States* v. *Western*

Processing Co., et al., D.J. Ref. 90–7–1–233.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural resources Division.

[FR Doc. 99–31102 Filed 11–29–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 22, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ({202} 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, and VETS contact Darrin King ({202} 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Portable Fire Extinguishers (Hydrostatic Test Certification Record).

OMB Number: 1218–0218.

Frequency: On occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal government; State, local or tribal government.

Number of Respondents: 8,500,000.

Estimated time Per respondent: Varies from 2 to 35 minutes.

Total Burden Hours: 127,500.

Total Annualized capital/startup costs: $10,596,667.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The information collection requirement (hydrostatic test certification record) in the Portable Fire Extinguishers standard (29 CFR 1910.157(f)(16)) ensures that employers properly inform employees about the condition of fire extinguishers they may be using in the workplace. OSHA compliance officers may require employers to disclose the certification records during an Agency inspection.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–31011 Filed 11–29–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 22, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ({202} 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OHSA, and VETS contact Darrin King ({202} 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Crawler, Locomotive, and Truck Cranes, Inspection Certification Records.

OMB Number: 1218–0221.

Frequency: Monthly.

Affected Public: Business or other for-profit institutions; Federal government; State, local or tribal government.

Number of Respondents: 19,000.

Estimated Time Per respondent: Varies from 15 to 30 minutes.

Total Burden Hours: 174,000.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The major purpose of the information collection requirements (inspection certification records) in the standard on Crawler, Locomotive, and Truck Cranes (29 CFR 1910.180) is to provide information for properly maintaining crawler, locomotive and truck cranes and, therefore, ensuring safe operating conditions for employees. Specifically, employers must establish certification records to demonstrate that crane inspections comply with the requirements specified in the standard.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–31012 Filed 11–29–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 22, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz, ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OHSA, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Derricks (Inspection Certification).

OMB Number: 1218–0222.

Frequency: Monthly; Semi-annually.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal government.

Number of Respondents: 10,000.

Estimated Time Per respondent: 15 minutes.

Total Burden Hours: 28,500.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The major purpose of the information collection requirements in the standard on Derricks (29 CFR 1910.181 (g)(1) and (g)(3) are to provide information for properly maintaining derricks and, therefore, to ensure safe operating conditions for employees. Specifically, employers must establish certification records to demonstrate that derrick inspections comply with the requirements specified in the standard.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–31013 Filed 11–29–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 22, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202)–219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OHSA, and VETS contact Darrin King ((202)–219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202)–395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Manlifts (Inspection Certifications).

OMB Number: 1218–0226.

Frequency: Varies (monthly, daily.

Affected Public: Business or other for-profit, not-for-profit institutions; Federal government ; State, local or tribal government.

Number of Respondents: 3,000.

Estimated Time Per respondent: Varies from 5 to 69 minutes.

Total Burden Hours: 3,000.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services: $0.

Description: The information collection requirement in the standard on Manlifts (29 CFR 1910.86(e)) is necessary to insure compliance with the requirement for manlifts to be inspected by a competent person. This provision requires the employer to designate a person to record the results of these inspections. The inspection is intended to ensure that the manlifts are in safe operating condition, and all safety devices, such as belt switches, are working properly. The failure of belts or switches could cause serious injury or death to an employee. In addition, OSHA compliance officers may require employers to disclose to required certification record at the time of an inspection.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–31014 Filed 11–29–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 22, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King at (202) 219–5096 ext. 151 or E-Mail to King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA); Labor.

Title: Certification Records for Slings.

OMB Number: 1218–0223.

Frequency: Varies (On occasion, Annually).

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 155,675.

Estimated Time Per Respondent: Varies (3 minutes (0.05 hour) to 15 minutes (0.25 hour)).

Total Burden Hours: 21,435.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services: $0.

Description: The standard on Slings (29 CFR 1910.184) requires employers to generate and maintain records regarding the inspection of alloy steel chain slings, and to obtain and retain certificates showing that the equipment manufacturer (or equivalent entity) proof tested new, repaired, or reconditioned alloy steel chain slings, wire rope slings that have welded end attachments, and repaired synthetic web slings. The standard also requires that employers affix a durable marking to metal mesh slings stating the rated capacity for the vertical basket hitch and choker hitch loadings; repaired metal mesh slings must indicate the date and type of repair, as well as the person or organization performing the repair, using permanent marking or tagging, or by maintaining a written record.

Agency: Occupational Safety and Health Administration (OSHA); Labor.

Title: Telecommunications, Training Certification.

OMB Number: 1218–0225.

Frequency: On occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 107,138.

Estimated Time Per Respondent: Varies from 2 minutes (0.03 hour) to 4 minutes (0.07 hour).

Total Burden Hours: 7,487.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services: $0.

Description: The information collection requirements (training certification records) contained in the standard on Telecommunications (29 CFR 1910.268(c)) are to ensure that employers properly train their employees in the various precautions and safe practices in the work performed at telecommunications centers and at telecommunications field installations.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–31015 Filed 11–29–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

Public Meeting; Federal Committee on Registered Apprenticeship

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Committee (Pub. Laws 92–4613;5 U.S.C. APP. 1), notice is hereby given of a meeting of the Federal Committee on Registered Apprenticeship (FCRA).

DATES: The meeting will begin at 9:00 a.m. on Wednesday, December 8, 1999 and continue until approximately 5:00 p.m. The meeting will reconvene at 9:00 a.m. on Thursday, December 9, 1999, and continue until approximately 5:00 p.m. The meeting will reconvene at 9:00 a.m. on Friday, December 10, 1999, and adjourn at 12:00 noon.

Place: The Congressional Room of the Holiday Inn, Washington, DC on the Hill, 415 New Jersey Avenue, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–4649, 200 Constitution Avenue, NW, Washington, DC 20210.

Telephone: (202) 219–5921 (this is not a toll-free number).

Matters to be Considered.

The agenda will focus on the following topics: (1) the reestablishment of the FCRA (2) Advisory Committee Act Procedures/Ethics (3) overview of the Registered Apprenticeship System (4) current status of the Government Performance and Results Act (GPRA) (5) current status of the WIA implementation efforts (6) implementation of School-to-Work Opportunities Act (7) formation of FCRA Work Groups (8) NASTAD report (9) NAGLO REPORT (10) Child Care Program report (11) election of FCRA Vice Chairs.

Status

Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Marion Winters at (202) 219–5921 no later than December 3, 1999, if special accommodations are needed.

Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending it to Mr. Anthony Swoope, Administrator, Office of Apprenticeship

Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room–N4649, 200 Constitution Avenue, NW, Washington, DC 20210. Such submittals should be sent by December 3, 1999 to be included in the record for the meeting.

Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official by December 3. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, DC, this 24th day of November 1999.

Raymond L. Bramucci,

Assistant Secretary for Employment and Training.

[FR Doc. 99–31053 Filed 11–29–99; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Partnerships Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a teleconference meeting of the Partnerships Advisory Panel, Regional Partnership Agreements section, to the National Council on the Arts will be held from 3 p.m. to 5 p.m. on December 13, 1999 in Room 726 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 12, 1999, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: November 23, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–31056 Filed 11–29–99; 8:45 am]

BILLING CODE 7537–01–M

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Survey of Nonparticipating Single Premium Group Annuity Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") is requesting that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of a collection of information (OMB control number 1212–0030; expires December 31, 1999). This voluntary collection of information is a quarterly survey of insurance company rates for pricing annuity contracts. The survey is conducted by the American Council of Life Insurance for the PBGC. This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by December 30, 1999.

ADDRESSES: Comments may be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attn: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) may be obtained from the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY and TDD, call the Federal relay service toll-free at 1–800–877–8339 and request connection to 202–326–4024).

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's regulations prescribe actuarial valuation methods and assumptions (including interest rate assumptions) to be used in determining the actuarial present value of benefits under single-employer plans that terminate (29 CFR Part 4044) and under multiemployer plans that undergo a mass withdrawal of contributing employers (29 CFR Part 4281). Each month the PBGC publishes the interest rates to be used under those regulations for plans terminating or undergoing mass withdrawal during the next month.

The interest rates are intended to reflect current conditions in the investment and annuity markets. To determine these interest rates, the PBGC gathers pricing data from insurance companies that are providing annuity contracts to terminating pension plans through a quarterly "Survey of Nonparticipating Single Premium Group Annuity Rates." The survey is distributed by the American Council of Life Insurance and provides the PBGC with "blind" data (i.e., is conducted in such a way that the PBGC is unable to match responses with the companies that submitted them).

The survey is directed at insurance companies that have volunteered to participate, most or all of which are members of the American Council of Life Insurance. The survey is conducted quarterly and will be sent to approximately 12 insurance companies. Based on experience under the current approval, the PBGC estimates that 8 insurance companies will complete and return the survey. The PBGC further estimates that the average annual burden of this collection of information is 32 hours and $48.

The collection of information has been approved by OMB under control number 1212–0030 through December 31, 1999. The PBGC is requesting that OMB extend its approval for another three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Issued in Washington, D.C., this 24th day of November, 1999.

Stuart Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 99–31063 Filed 11–29–99; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27107]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

November 23, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by December 20, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 20, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities; 70–9535

Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and rule 54 under the Act.

Northeast proposes to acquire, by means of a merger, all of the issued and outstanding common stock of Yankee Energy System, Inc. ("YES"), a Connecticut corporation and an exempt holding company under section 3(a)(2) of the Act, pursuant to an Agreement and Plan of Merger dated as of June 14, 1999 ("Merger Agreement"). Northeast proposes to cause the organization of a wholly-owned subsidiary ("Merger Sub") by Merger Sub issuing and Northeast acquiring one hundred shares of Merger Sub common stock, par value $10 per share for $1000. Under the Merger Agreement, YES will merge with and into Merger Sub. Holders of the common stock of YES will receive consideration in cash and Northeast common stock valued at $45.00 per YES share. The total consideration to be paid by Northeast for the outstanding shares of YES common stock will be approximately $478 million, based on approximately 10.6 million shares of YES common stock outstanding.

Each YES shareholder can elect the form of consideration, but this election is subject to proration and adjustment. Under the Merger Agreement, 55% of all issued and outstanding YES shares will be exchanged for cash, and 45% will be exchanged for Northeast common stock. If YES shareholders owning more than 55% of YES shares elect to receive cash, the number of YES shares converted into cash will be less than the number elected. If YES shareholders owning more than 45% of YES shares elect to receive Northeast common stock, the number of YES shares converted into stock will be less than the number elected.

Northeast currently anticipates that the full amount necessary to fund the cash consideration to be paid to YES shareholders will be financed through debt issued by Northeast. Northeast requests authorization to issue from time to time through June 30, 2002 short or long-term debt securities in an amount sufficient to satisfy the cash portion of the consideration in connection with the merger, estimated not to exceed $275 million. Such debt securities may include notes, debentures and medium-term notes and/or borrowings from banks and others financial institutions. Any long-term debt security would have such designation, aggregate principal amount, maturity, interest rates or methods of determining the same, terms of payment of interest, redemption provisions, non-refunding provision, sinking fund terms and other terms and conditions as Northeast may determine at the time of issuance. The effective cost of money on short-term debt borrowings will not exceed at issuance 400 basis points over the comparable term London Interbank Offered Rate and the effective cost of money on long-term borrowing will not exceed at issuance 400 basis over comparable term U.S. Treasury securities. The maturity of indebtness will not exceed 10 years from the date of issuance and the underwriting fees, commissions, or other similar remuneration paid in connection with the noncompetitive issue, sale or distribution of a security will not exceed 2.5% of the principal or total amount of the financing.

Merger Sub, as a wholly-owned subsidiary of Northeast and as successor to YES, will register as a holding company under section 5 of the Act and will act as the holding company for Northeast's gas utility subsidiary and related companies. Northeast's existing operating electric utility subsidiaries will remain direct operating subsidiaries of Northeast.

Northeast is the parent of a number of companies comprising the Northeast Utilities system ("System"). Northeast has traditionally furnished franchised retail electric service in Connecticut, New Hampshire and western Massachusetts through three of Northeast's wholly-owned subsidiaries, The Connecticut Light and Power Company ("CL&P"), Public Service Company of New Hampshire ("PSNH") and Western Massachusetts Electric Company ("WMECO"). Northeast has also furnished retail electric service to a limited number of customers through another wholly-owned subsidiary, Holyoke Water Power Company ("HWP"), doing business in and around Holyoke, Massachusetts. In addition to their retail electric service business, CL&P, PSNH, WMECO and HWP (including its wholly owned subsidiary, Holyoke Power and Electric Company), together furnish wholesale electric service to various municipalities and other utilities throughout the Northeast.[1] The System serves approximately 30% of New England's electric needs and is one of the 24th largest electric utility systems in the country as measured by revenues.

North Atlantic Energy Corporation is a special-purpose operating subsidiary of Northeast that owns a 35.98 percent interest in the Seabrook nuclear generating facility in Seabrook, New Hampshire, and sells its share of the capacity and output from Seabrook to PSNH under two life-of-unit, full-cost recovery contracts. Several wholly-owned subsidiaries of Northeast provide support services for the Northeast companies and, in some cases, for other New England utilities.[2]

[1] CL&P, PSNH and WMECO furnish retail delivery franchise service in 149, 198 and 59 cities and towns in Connecticut, New Hampshire and Massachusetts, respectively. In 1998, CL&P furnished retail franchise service to approximately 1.11 million customers in Connecticut, PSNH provided retail service to approximately 422,000 customers in New Hampshire and WMECO served approximately 196,000 retail franchise customers in Massachusetts. HWP serves 32 retail customers in Holyoke, Massachusetts.

[2] Northeast Utilities Service Company ("NUSCO"), provides centralized accounting, administrative, information resources, engineering, financial, legal, operational, planning, purchasing and other services to the System companies. North

Continued

YES, is primarily engaged in the retail distribution of natural gas through its wholly-owned subsidiary, Yankee Gas Services Company ("Yankee Gas"), a Connecticut public utility service company. Yankee Gas serves approximately 185,000 residential, commercial and industrial customers in 69 cities and towns, and covers approximately 1,995 square miles in Connecticut.[3] Yankee Gas operates the largest natural gas distribution system in Connecticut as measured by number of customers and size of service territory.

YES also owns four active non-utility subsidiaries including: (1) NorConn Properties Inc., which holds property and facilities of Yes; (2) Yankee Energy Financial Services Company, which provides customers with financing for energy equipment installations; (3) Yankee Energy Services Company, which provides a wide range of energy-related services for its customers; and (4) R.M. Services, Inc., which provides debt collection service to utilities and other businesses nationwide.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31033 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

Atlantic Energy Service Corporation has operational responsibility for Seabrook. Northeast Nuclear Energy Company acts as agent for the System companies and other New England utilities in operating the Millstone nuclear generating facilities in Waterford, Connecticut. Three other subsidiaries (Rocky River Realty Company, The Quinnehtuk Company, and Properties, Inc.) construct, acquire or lease some of the property and facilities used by the System companies.

In January 1999, Northeast added three new corporations to the System: NU Enterprises, Inc. ("NUEI"), the holding company for the System's unregulated businesses; Northeast Generation Company and Northeast Generation Services Company. Also in January 1999 Northeast transferred to NUEI the stock of three other of its subsidiaries, making them wholly owned subsidiaries of NUEI: Select Energy, Inc.; HEC Inc.; and Mode 1 Communications, Inc. These companies engage, either directly or indirectly through subsidiaries, in a variety of energy-related and telecommunications activities, as applicable, primarily in the unregulated energy retail and wholesale commodity, marketing and service fields.

[3] Yankee Gas' assets include distribution lines, meters, pumps, valves and pressure and flow controllers. Yankee Gas owns approximately 2,820 miles of distribution mains, 133,033 service lines, and 185,000 active meters for customer use, all located in Connecticut. Yankee Gas also owns and operates various propane facilities and six gas storage holders.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42141A; File No. 1–2346]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Southwestern Bell Telephone Company, Seven Year 6⅛% Notes, Due March 1, 2000; Eight Year 6⅜% Notes, Due April 1, 2001; Twelve Year 6⅝% Notes, Due April 1, 2005; Twenty-Two Year 7% Debentures, Due July 1, 2015; Thirty Year 7⅝% Debentures, Due March 1, 2023; and Thirty-Two Year 7¼% Debentures, Due July 15, 2025); Correction

November 23, 1999.

In notice document 99–30318, beginning on page 63833, in the issue of Monday, November 22, 1999, the heading should read as set forth above.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31029 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24173; 812–11702]

SSgA funds, et al.; Notice of Application

November 23, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act") under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: SSgA Funds and its existing and future series; any other existing or future registered open-end management investment company or series thereof that is advised or subadvised by State Street Bank and Trust Company ("SSB&T") or a person controlling, controlled by, or under common control with SSB&T ("State Street") and that is part of the same group of investment companies as SSgA Funds (together with SSgA Funds, the "Funds"); and State Street.

FILING DATES: The application was filed on July 22, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 16, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, c/o Philip H. Newman, Esq., Goodwin, Procter & Hoar LLP, Exchange Place, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Michael W. Mundt, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (tel. 202/942–8090).

Applicants' Representations

1. SSgA Funds is registered under the Act as an open-end management investment company and is organized as a Massachusetts business trust. SSB&T serves as the investment adviser, custodian, and transfer agent for each series of SSgA Funds. SSB&T is a bank within the meaning of section 202(a)(2) of the Investment Advisers Act of 1940 ("Advisers Act") and currently is not required to register as an investment adviser under the Advisers Act.

2. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments. Other Funds may borrow money from the same or other banks for temporary purposes to satisfy redemption requests

or to cover unanticipated cash shortfalls such as a trade "fail" in which cash payment for a portfolio security sold by a Fund has been delayed. Currently, some Funds have committed lines of credit with unaffiliated third party banks under which the banks are obligated to lend money to the Funds to meet the Funds' temporary cash needs.

3. If the Funds were to borrow money from any bank under their current arrangement, the Funds would pay interest on the borrowed cash at a rate that would be significantly higher than the rate that would be earned by other (non-borrowing) Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants state that this differential represents the bank's profit for serving as a middleman between a borrower and lender. With respect to committed lines of credits, the Funds pay substantial commitment fees in addition to interest.

4. Applicants request an order that would permit the Funds to enter into lending agreements ("Interfund Lending Agreements") under which the Funds would lend and borrow money for temporary purposes directly to and from each other through a credit facility ("Interfund Loan").[1] Applicants state that the proposed credit facility would substantially reduce the Funds' potential borrowing costs and enhance Funds' ability to earn higher rates of interest on short-term lending. Although the proposed credit facility would substantially reduce the Funds' need to borrow from banks, the Funds would be free to continue their committed lines of credit or other borrowing arrangements with banks.

5. Applicants anticipate that the credit facility would provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. The situation could arise when redemptions exceed anticipated volumes and the Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also propose using the credit facility when a sale of securities fails due to circumstances such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if the fund has undertaken to purchase a security with the proceeds from securities sold. Under such circumstances, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

7. While borrowing arrangements with banks may continue to be available to cover unanticipated redemptions and sale fails, under the proposed credit facility, a borrowing Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or purchasing shares of an SSgA Fund that is a money market fund or short-term bond fund ("Central Fund").[2] Thus, applicants believe that the proposed credit facility would benefit both borrowing and lending Funds.

8. The interest rate charged to the Funds on any Interfund Loan (the "Interfund Loan Rate") would be the average of the "Repo Rate" and the "Bank Loan Rate," both as defined below. The Repo Rate for any day would be the highest rate available to a lending Fund from investment in overnight repurchase agreements.[3] The Bank Loan Rate for any day would be calculated by State Street each day an Interfund Loan is made according to a formula established by the Funds' trustees (the "Trustees") designed to approximate the lowest interest rate at which bank short-term loans would be available to the funds. The formula would be based upon a publicly available rate (*e.g.*, Federal Funds plus 25 basis points) that would vary so as to reflect changing bank loan rates. Each Fund's Trustees periodically would review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Trustees.

9. The credit facility would be administered by a representative of State Street's fund accounting group and a compliance officer of the Funds (collectively, the "Credit Facility Team"). Under the proposed credit facility, the portfolio managers for each participating Fund may provide standing instructions to participate daily as a borrower or lender. State Street on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. Once it has determined the aggregate amount of cash available for loans and borrowing demand, the Credit Facility Team would allocate loans among borrowing Funds without any further communication from portfolio managers. Applicants expect far more available uninvested cash each day than borrowing demand. After allocating cash for Interfund Loans, the Credit Facility Team will invest any remaining cash in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds. The money market Funds would not participate as borrowers.

10. The Credit Facility Team would allocate borrowing demand and cash available for lending among the Funds on what the Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction.

11. State Street would (i) monitor the interest rates charged and the other terms and conditions of the loans, (ii) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (iii) ensure equitable treatment of each Fund, and (iv) make quarterly reports to the

[1] All Funds that currently intend to rely on the order have been named as applicants, and any other existing or future Fund that subsequently may rely on the order will comply with the terms and conditions in the application.

[2] SSgA Funds and State Street have applied for an order from the SEC to permit certain SSgA Funds to invest cash balances in shares of Central Funds.

[3] SSgA Funds and State Street may in the future apply for an order from the SEC to permit the Funds to deposit cash balances that remain at the end of a trading day in one or more joint trading accounts to be used to enter into short-term investments. If such an order is obtained, the "Repo Rate" would be the highest rate from investments in overnight repurchase agreements that is available to a lending Fund or to a joint account in which a lending fund may participate.

Trustees concerning any transactions by the Funds under the credit facility and the interest rates charged. The method of allocation and related administrative procedures would be approved by each Fund's Trustees, including a majority of Trustees who are not "interested persons" of the Funds, as defined in section 2(a)(19) of the Act ("Independent Trustees"), to ensure that both borrowing and lending Funds participate on an equitable basis.

12. State Street would administer the credit facility as part of its duties under its existing management or advisory and service contract with each Fund and would receive no additional fee as compensation for its services. State Street may collect standard pricing, recordkeeping, bookkeeping, and accounting fees applicable to repurchase and lending transactions generally, including transactions effected through the credit facility. Fees would be no higher than those applicable for comparable bank loan transactions.

13. No Fund may participate in the credit facility unless: (i) the Fund has obtained shareholder approval for its participation or, if such approval is not required by law, the Fund's prospectus and/or statement of additional information have, prior to the Fund's lending or borrowing any amounts under the credit facility, disclosed the possibility of the Fund's participation in the credit facility; (ii) the Fund has fully disclosed all material information concerning the credit facility in its prospectus and/or statement of additional information; and (iii) the Fund's participation in the credit facility is consistent with its investment objectives, limitations, and organizational documents.

14. In connection with the credit facility, applicants request an order under (i) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an "affiliated person" of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having State Street as their common investment adviser, and/or by reason of having common officers, directors and/or trustees.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a person with potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because (i) State Street would administer the program as a disinterested fiduciary; (ii) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through the Central Funds; (iii) the Interfund Loans would not involve a greater risk than other similar investments; (iv) the lending Fund would receive interest at a rate higher than it could obtain through other similar investments; and (v) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security. Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b) and 12(d)(1)(J) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed credit facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Funds or shareholders, and that State Street would receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, if immediately after the borrowing, there is an asset coverage of at least 300 per cent for all borrowings of the company. Under section 18(g) of the Act, the term "senior security" includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

6. No equity, taxable bond or money market Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to

exceed 5%, 7.5% or 10%, respectively, of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions and 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Credit Facility Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Credit Facility Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The Credit Facility Team will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds.

13. State Street will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Trustees concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit under the facility.

14. The Trustees of each Fund, including a majority of the Independent Trustees: (a) Will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, State Street will promptly refer the loan for arbitration to an independent arbitrator selected by the Trustees of any Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[4] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Trustees setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on overnight repurchase agreements and bank borrowings, the yield of any Central Fund in which the lending Fund could otherwise invest, and such other information presented to the Fund's Trustees in connection with the review required by conditions 13 and 14.

17. State Street will prepare and submit to the Trustees for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are created fairly. After commencement of operations of the credit facility, State Street will report on the operations of the credit facility at the Trustees' quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund shall prepare an annual report that evaluates State Street's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) that the Interfund Loan Rate will be higher than the Repo Rate, and, if applicable, the yield of the Central Funds, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Trustees; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its statement of additional information all material facts about its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31030 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

[4] If the dispute involves Funds with separate Boards, the Trustees of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24158; 812–11684]

Fortis Series Fund, Inc. and Fortis Advisers, Inc.

November 23, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants, Fortis Series Fund, Inc. (the "Company") and Fortis Advisers, Inc. (the "Adviser"), request an order to permit them to enter into and materially amend sub-advisory agreements without shareholder approval and to grant relief from certain disclosure requirements.

FILING DATES: The application was filed on July 2, 1999 and amended on October 29, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 20, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issue contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609; Applicants, c/o Kathleen L. Prudhomme, Esq., Dorsey & Whitney LLP, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: George J. Zornada, Branch Chief, at 202–942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMAITON: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicant's Representations

1. The Company, a Minnesota corporation, is registered under the Act as an open-end management investment company. The Company is currently comprised of eighteen series (each a "Fund" and collectively the "Funds"), each of which has its own investment objective, policies and restrictions.[1] Shares of the Funds currently are available exclusively as funding vehicles for variable annuity and variable life contracts of Fortis Benefits Insurance Company and First Fortis Life Insurance Company, entities under common control with the Adviser. The Adviser, registered under the Investment Advisers Act of 1940 ("Adviser Act") serves as the investment adviser to the Funds pursuant to investment advisory agreements ("Advisory Agreements").

2. Under the Advisory Agreements, the primary responsibilities of the Adviser, subject to the supervision of the board of directors of the Company (the "Board"), are to provide the Funds with business and investment management services. Under certain Advisory Agreements, the Adviser, subject to the oversight of the Board, may delegate portfolio management to one or more sub-adviser (each a "sub-Adviser" and collectively the "sub-Advisers"). Currently, each sub-advised Fund has only one Sub-Adviser. Each Sub-Adviser recommended by the Adviser is selected and approved by the Board, including a majority of the directors who are not "interested persons" (as defined in section 2(a)(19) of the Act) ("Independent Directors"). Each Sub-Adviser is, and any future Sub-Adviser will be, registered as an investment adviser under the Advisers act and will perform services under a sub-advisory agreement ('sub-Advisory Agreement") between the Adviser and the sub-Adviser. Each Sub-Adviser's fees are paid by the Adviser out of the management fees received by the Adviser from the respective Fund.

3. The Adviser recommends Sub-Advisers based on a quantitative and qualitative evaluation of the Sub-Adviser's skills managing assets for specific asset classes, investment styles, and strategies. The Adviser reviews, monitors and reports to the Board regarding the performance and investment procedures of the Sub-Advisers. The Adviser also is responsible for recommending whether to terminate a Sub-Adviser under appropriate circumstances.

4. Applicants request reflief to permit the Adviser to enter into and materially amend Sub-Advisory Agreements without seeking shareholder approval.[2] The requested relief will not extend to a Sub-Adviser that is an "affilaiated person," as defined in section 2(a)(3) of the Act, of the Company or the Adviser, other than by reason of serving as a Sub-Adviser to one or more of the Funds ("Affiliated Sub-Adviser"). Currently, that are no Affiliated Sub-Adviser.

5. Applicants also request an exemption from the various disclosure provisions described below that may require each Fund to disclose fees paid by the adviser to the Sub-Advisers. The Company will disclose for each Fund (both as a dollar amount and as a percentage of the Fund's net assets): (a) aggregate fees paid to the Adviser and Affiliated Sub-Advisers, and (b) aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers ("Aggregate Fee Disclosure"). The Aggregate Fee Disclosure also will include separate disclosure of any advisory fees paid to any Affiliated Sub-Adviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (the "Exchange Act"). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fee," a description of the "terms of the contract to be acted upon," and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Sub-Advisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require that investment companies include in their financial statements

[1] Applicants also request relief with respect to all future Funds and to all subsequently registered open-end management investment companies including all series thereof that in the future are advised by the Adviser (or an entity controlling, controlled by, or under common control with the Adviser), provided that such companies or series (a) operate in substantially the same manner as the Company and (b) comply with the terms and conditions of the requested order ("Future Funds"). Applicants state that the Company is the only existing registered open-end management investment company that currently intends to rely on the requested order.

[2] The term "shareholders" includes variable contract owners, as applicable.

information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that shareholders are relying on the Advisor to select and monitor the activities of Sub-Advisers best suited for the respective Funds. Applicants assert that, from the perspective of the shareholders, the role of Sub-Advisers with respect to a Fund is substantially equivalent to the role of portfolio managers employed by an investment adviser in a traditional investment advisory arrangement. Applicants contend that requiring shareholder approval of Sub-Advisory Agreements may impose unnecessary costs and delays on the Funds, and may preclude the Adviser from acting promptly in a manner in the best interests of a Fund. Applicants note that the Advisory Agreements will remain fully subject to the requirements of section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that some Sub-Advisers use a "posted" rate schedule to set their fees. Applicants state that the Adviser may not be able to negotiate below "posted" fee rates with Sub-Advisers if each Sub-Adviser's fees are required to be disclosed. Applicants submit that the nondisclosure of the individual Sub-Advisers' fees is in the best interest of the Funds and their shareholders, where the disclosure of such fees would increase costs to shareholders without an offsetting benefit to the Funds and their shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before an existing fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of the outstanding securities (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or, in the case of a Future Fund whose public shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition (2) below, by the sole initial shareholder(s) before offering shares of that Future Fund to the public (or the variable contract owners through a separate account).

2. Any Fund relying on the requested relief will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, any such Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. Within ninety (90) days of the hiring of any new Sub-Adviser, shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unitholders of the sub-account) will be furnished all information about the new Sub-Adviser that would be included in a proxy statement, except as modified by the order to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Sub-Adviser. The Adviser will meet this condition by providing these shareholders with an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. The Adviser will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without that Sub-Advisory Agreement, including the compensation to be paid thereunder, being approved by the Fund's shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account).

5. At all times, a majority of the Board will be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then-existing Independent Directors.

6. When a Sub-Adviser change is proposed for a Fund with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Board's minutes, that the change is in the best interests of the Fund and its shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Fund and the unitholders of any sub-account) and does not involve a conflict of interest from which the Adviser or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. The Adviser will provide general management services to the Company and the Funds, including overall supervisory responsibility for the general management and investment of each Fund's securities portfolio and, subject to review and approval by the Board, will: (a) set each Fund's overall investment strategies; (b) evaluate, select, and recommend sub-advisers to manage all or a part of Fund's assets; (c) allocate and, when appropriate, reallocate a Fund's assets among multiple Sub-Advisers; (d) monitor and evaluate the performance of Sub-Advisers; and (e) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the relevant Fund's investment objective, policies, and restrictions.

8. No director or officer of the Company or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in any Sub-Adviser except for: (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Sub-Adviser or an entity that controls, is controlled by or is under common control with a Sub-Adviser.

9. The Company will disclose in its registration statement the Aggregate Fee Disclosure.

10. Independent counsel knowledgeable about the Act and the duties of Independent Directors will be engaged to represent the Independent Directors of the Company. The selection of such counsel will be within the discretion of the then-existing Independent Directors.

11. The Adviser will provide the Board, no less than quarterly, with information about the Adviser's profitability on a per-Fund basis. This information will reflect the impact on profitability of the hiring or termination of any Sub-Adviser during the applicable quarter.

12. Whenever a sub-adviser is hired or terminated, the Adviser will provide the Board with information showing the

expected impact on the Adviser's profitability.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31031 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24157; 812–11796]

The Alger Fund, et al.; Notice of Application

November 23, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the "Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit redemptions in-kind of shares of certain registered investment companies by certain shareholders who are affiliated persons of the investment companies.

APPLICANTS: The Alger Fund, The Alger American Fund, The Alger Retirement Fund, Spectra Alger Management, Inc. (together, the "Funds"), and Fred Alger Management, Inc. (the "Adviser").

FILING DATE: The application was filed on October 5, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 20, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicants: c/o Gregory S. Duch, Fred Alger Management, Inc., One World Trade Center, Suite 9333, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Michael W. Mundt, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Each of the Funds is registered under the Act as an open-end management investment company and is organized as a Massachusetts business trust. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to each Fund.

2. The prospectus of each of the Funds provides that, if the board of trustees ("Board") of the Fund determines that cash payments would be detrimental to the interests of remaining shareholders, any request for redemption of the Fund's shares may be honored by making payment in whole or in part in securities. The payment would be made on a pro rata basis, monitored by the Adviser, with the securities valued in the same manner as they would be for purposes of computing the Fund's net asset value. Each of the Funds also has elected to be governed by rule 18f–1 under the Act. This redemption procedure presently applies to all shareholders other than shareholders who are "affiliated persons" of the Funds within the meaning of section 2(a)(3) of the Act ("Non-Covered Shareholders").

3. Applicants request relief to permit the Funds to satisfy redemption requests made by shareholders who are "affiliated persons" of a Fund solely within the meaning of section 2(a)(3)(A) of the Act ("Covered Shareholders") because they own 5% or more of the Fund's outstanding shares by distributing portfolio securities in-kind.[1]

[1] Applicants request that the relief extend to any registered open-end management investment company created in the future and each series thereof, as well as each series of the Funds created in the future, for which the Adviser or a person controlling, controlled by or under common control with the Adviser acts as investment adviser ("Future Funds"). Any Future Fund that relies on the order requested will do so only in accordance with the terms and conditions contained in the application.

Applicants' Legal Analysis

1. Section 17(a)(2) of the Act makes it unlawful for an affiliated person of a registered investment company or an affiliated person of such a person, acting as principal, to knowingly "purchase" from such registered investment company any security or other property (except securities of which the seller is the issuer). Under section 29(a)(3)(A) of the Act, an "affiliated person" includes any person owning 5% or more of the outstanding voting securities of such other person. Applicants state that to the extent that an in-kind redemption could be deemed to involve the purchase of portfolio securities by a Covered Shareholder, the proposed redemptions in-kind would be prohibited by section 17(a)(2).

2. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) provided that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the Commission may exempt classes of persons or transactions from the Act, where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants request an order under sections 6(c) and 17(b) of the Act exempting them from the provisions of section 17(a) of the Act to permit Covered Shareholders to redeem their shares in-kind from the Funds. The requested order would not apply to redemptions by shareholders who are affiliated persons of the Funds within the meaning of sections 2(a)(3)(B) through (F) of the Act.

5. Applicants submit that the proposed transactions meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants assert that the terms of the proposed in-kind redemptions are reasonable and fair. Applicants state that Covered Shareholders who wish to redeem shares will receive the same "in-kind" distribution of securities and cash on the same basis as Non-Covered Shareholders wishing to redeem shares. Applicants state that the securities to be distributed in-kind will be valued in the

same manner as that used by each Fund to determine its net asset value.

6. Applicants state that the proposed in-kind redemptions are consistent with the policies of the Funds. Applicants also state that the proposed in-kind redemptions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The portfolio securities distributed pursuant to a redemption in-kind (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which quoted bid and asked prices are available.

2. The In-Kind Securities will be distributed on a pro-rata basis after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; (b) securities issued by entities in countries which (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as a fund, or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; and (c) certain portfolio assets (such as forward foreign currency exchange contracts, futures and options contracts and repurchase agreements) that, although they may be liquid and marketable, must be traded through the marketplace or with the counterparty to the transaction in order to effect a change in beneficial ownership. Cash will be paid for that portion of a fund's assets represented by cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements) and other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, a Fund will distribute cash in lieu of securities held in its portfolio not amounting to round lots (or which would not amount to round lots if included in the in-kind distribution), fractional shares and accruals on such securities.

3. The In-Kind Securities will be valued in the same manner as they would be valued for purposes of computing a Fund's net asset value, which, in the case of securities traded on a public securities market for which quotations are available, is their last reported sales price on the exchange on which the securities are primarily traded or the last sales price on the national securities market, or, if the securities are not listed on an exchange or the national securities market, or if there is no such reported price, the average of the most recent bid and asked price (or, if no such price is available, the last quoted bid price).

4. The Funds' boards, including a majority of the trustees who are not "interested persons" of a Fund as defined in section 2(a)(19) of the Act, will determine no less frequently than annually: (a) whether the In-Kind Securities, if any, have been distributed in accordance with conditions 1 and 2; (b) whether the In-Kind Securities, if any, have been valued in accordance with conditions 3; and (c) whether the distribution of any such In-Kind Securities is consistent with the policies of each affected Fund as reflected in its prospectus. In addition, the Boards will make and approve such changes as they deem necessary in the procedures for monitoring the applicants' compliance with the terms and conditions of the application.

5. The relevant Funds will maintain and preserve for a period of not less than six years from the end of the fiscal year in which the proposed in-kind redemption occurs, the first 2 years in an easily accessible place, a written record of each redemption setting forth a description of each security distributed, the identity of the Covered Shareholder, the terms of the distribution, and the information or materials upon which the valuation was made.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31032 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24156; 812–11756]

Putnam American Government Income Fund, et al.; Notice of Application

November 23, 1999.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under section 17(d) of the Investment Company Act of 1940 (the "Act") and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF THE APPLICATION: Applicants seek to amend a prior order that permits the operation of certain joint accounts.

APPLICANTS: Putnam American Government Income Fund, Putnam Arizona Tax Exempt Income Fund, Putnam Asia Pacific Growth Fund, Putnam Asset Allocation Funds, Putnam Balanced Retirement Fund, Putnam California Investment Grade Municipal Trust, Putnam California Tax Exempt Income Fund, Putnam California Tax Exempt Money Market Fund, Putnam Capital Appreciation Fund, Putnam Convertible Income-Growth Trust, Putnam Convertible Opportunities and Income Trust, Putnam Diversified Equity Trust, Putnam Diversified Income Trust, Putnam Dividend Income Fund, Putnam Equity Income Fund, Putnam Europe Growth Fund, Putnam Florida Tax Exempt Income Fund, Putnam Funds Trust, The George Putnam Fund of Boston, Putnam Global Governmental Income Trust, Putnam Global Growth Fund, Putnam Global Natural Resources Fund, The Putnam Fund for Growth and Income, Putnam Growth and Income Fund II, Putnam Health Sciences Trust, Putnam High Income Convertible and Bond Fund, Putnam High Quality Bond Fund, Putnam High Yield Advantage Fund, Putnam High Yield Trust, Putnam High Yield Municipal Trust, Putnam Income Fund, Putnam U.S. Intermediate Government Income Trust, Putnam International Growth Fund, Putnam Investment Funds, Putnam Investment Grade Municipal Trust, Putnam Investment Grade Municipal Trust II, Putnam Investment Grade Municipal Trust III, Putnam Investors Fund, Putnam Managed High Yield Trust, Putnam Managed Municipal Income Trust, Putnam Massachusetts Tax Exempt Income Fund, Putnam Master Income Trust, Putnam Master Intermediate Income Trust, Putnam Michigan Tax Exempt Income Fund, Putnam Minnesota Tax Exempt Income Fund, Putnam Money Market Fund, Putnam Municipal Income Fund, Putnam Municipal Opportunities Trust, Putnam New Jersey Tax Exempt Income Fund, Putnam New Opportunities Fund, Putnam New York Investment Grade Municipal Trust, Putnam New York Tax Exempt Income Fund, Putnam New York Tax Exempt Money Market Fund, Putnam New York Tax Exempt Opportunities Fund, Putnam Ohio Tax Exempt Income Fund, Putnam OTC & Emerging Growth Fund, Putnam Pennsylvania Tax Exempt Income Fund, Putnam Preferred Income Fund, Putnam Premier Income Trust, Putnam Strategic Income Fund, Putnam Tax Exempt Income Fund, Putnam Tax Exempt Money Market Fund, Putnam Tax-Free Health Care Fund, Putnam Tax-Free Income Trust, Putnam Tax Managed Funds Trust, Putnam U.S. Government

Income Trust, Putnam Utilities Growth and Income Fund, Putnam Variable Trust, Putnam Vista Fund, Putnam Voyager Fund and Putnam Voyager Fund II, each on its own behalf and on behalf of its series (collectively, the "Funds"), Putnam Investment Management, Inc. (the "Adviser"), Putnam Mutual Funds Corp., and Putnam Fiduciary Trust Company.[1]

FILING DATES: The application was filed on August 18, 1999. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 17, 1999 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Brian D. McCabe, Esq., Ropes & Gray, One International Place, Boston, Massachusetts 02110–2624.

FOR FURTHER INFORAMTION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Managewment, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

[1] Applicants also seek relief for all registered open-end management investment companies and their series that are advised in the future by the Adviser or an entity controlling, controlled by, or under common control with the Adviser ("Future Companies"). Applicants state that all investment companies that currently intend to rely on the requested relief are included as applicants and that any Future Company will comply with the terms and conditions contained in the application.

Applicants' Representations

1. On October 5, 1992, the Commission issued an order (the "Original Order") to applicants under section 17(d) of the Act and rule 17d–1 under the Act.[2] The Original Order permits applicants to operate joint accounts ("Joint Accounts") that invest in repurchase agreements and short-term money market instruments, as specified in the Original Order ("Short-Term Investments"), that have overnight, over-the-weekend, or over-the-holiday maturities.

2. Applicants seek to amend the Original Order to permit the Joint Accounts to invest in Short-Term Investments that have maturities or remaining maturities of 60 days or less. Applicants state that the board of trustees of each Fund has determined that permitting the Joint Accounts to invest in Short-Term Investments with maturities or remaining maturities of 60 days or less is in the best interests of each Fund and its shareholders. Applicants also state that any such investments will be consistent with each Fund's investment policies and restrictions.

3. Applicants represent that any repurchase agreements entered into through the Joint Accounts will comply with the terms of Investment Company Release Act No. 13005 (Feb. 2, 1983), as modified by the staff's positions relating to repurchase agreements as set forth in Investment Company Institute (pub. avail. June 15, 1999). The Funds will not enter into "hold-in-custody" repurchase agreements, in which the counterparty or one of its affiliated persons may have possession of, or control over, the collateral subject to the agreement, except in instances when cash is received very late in the business day or would otherwise be unavailable for investment.

4. Applicants acknowledge that they have a continuing obligation to monitor the Commission's and the staff's published statements on repurchase agreements entered into by registered management investment companies, and represent that the repurchase agreement transactions entered into through a Joint Account will comply with future positions of the Commission and its staff to the extent that such positions set forth different or additional requirements regarding repurchase agreements entered into by management investment companies. In the event that the Commission or the staff sets forth guidelines with respect to other Short-Term Investments purchased by registered management investment companies, all such investments made through the Joint Accounts will comply with those guidelines.

5. Applicants therefore request an order under rule 17d–1 under the Act amending the Original Order under section 17(d) of the Act and rule 17d–1 under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Applicants will comply with all conditions of the Original Order other than that part of condition 4 restricting a Joint Account to investing in Short-Term Investments with overnight, over-the-holiday, or over-the-weekend maturities.

2. All repurchase agreements held through a Joint Account will be "collateralized fully" (as defined in rule 2a–7 under the Act) and will have a remaining maturity of 60 days or less, and all Short-Term Investments held through a Joint Account will have a remaining maturity of 60 days or less, each as calculated in accordance with rule 2a–7 under the Act.

3. Short-Term Investments held in a Joint Account generally will not be sold prior to maturity unless: (a) The Adviser believes the investment no longer presents minimal credit risk; (b) the investment no longer satisfies the investment criteria of all Funds participating in the investment because of a credit downgrading or otherwise; or (c) in the case of a repurchase agreement, the counterparty defaults. The Adviser may, however, sell any Short-Term Investment (or any fractional portion thereof) on behalf of some or all of the Funds prior to the maturity of the investment if the cost of such transactions will be borne solely by the selling Funds and the transaction will not adversely affect other Funds participating in that Joint Account. In no case would an early termination by less than all participating Funds be permitted if it would reduce the principal amount or yield received by other Funds in a particular Joint Account or otherwise adversely affect the other participating Funds. Each Fund participating Funds. Each Fund participating in a Joint Account will be deemed to have consented to such sale and partition of the investments in the Joint Account.

4. Short-Term Investments held through a Joint Account with a remaining maturity of more than seven days, as calculated pursuant to rule 2a–

[2] Investment Company Act Release Nos. 18932 (Sept. 8, 1992) (notice) and 18998 (Oct. 5, 1992) (order).

7 under the Act, will be considered illiquid and subject to the restriction that no open-end Fund may invest more than 15%, or in the case of a money market Fund, more than 10%, (or such other percentage as set forth by the Commission from time to time) of its net assets in illiquid securities, if the Adviser cannot sell the instrument, or the funds' fractional interest in such instrument, pursuant to the preceding condition.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31034 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42159; File No. SR–Amex–99–46]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 by the American Stock Exchange LLC Relating to the Listing and Trading of Biotech HOLDRs

November 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 28, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items and I and II below, which Items have been prepared by the Exchange. The proposal was amended on November 1, 1999.[3] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons and to grant accelerated approval to the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to trade Biotechnology HOLDRs ("Biotech HOLDRs"), a trust issued receipt. The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to list for trading, pursuant to Rules 1200 *et seq.*, trust issued receipts that are intended to provide investors with a flexible, cost-effective way of purchasing, holding and transferring the securities of one or more specified companies. Trust issued receipts are unleveraged instruments, and therefore do not possess many of the attributes of stock index options.

Except for the composition of basket of securities deposited in the trust, the proposed Biotech HOLDERs are structurally identical to the Internet HOLDRs trust issued receipts previously approved for listing and trading on the Exchange.[4] The newly proposed trust issued receipts will evidence beneficial ownership of the specific deposited securities represented by the receipts. The Exchange belives that the level risk and sale of trust/issue receipts is almost identical to the risk involved in the purchase or sale of the common stocks represented by the receipt. Under this proposal the Exchange anticipates listing trust issued receipts on one or more groups of securities. The Exchange notes that it will be required to submit a proposal, pursuant to Section 19(b) of the Exchange Act, before it lists a trust issued receipt on a new group of securities.

(a) Description of Trust Issued Receipts

The Exchange expects that this issuance of trust issued receipts will represent 20 companies involved in various segments of the biotechnology industry. The proposed companies and their specific share amounts for each round-lot of 100 trust issued receipts are set forth in the chart below and were determined as of October 25, 1999, so that the initial weightings of each underlying security included in the trust approximated the relative market capitalizations of the specified companies, subject to a maximum weight of 20%, as of that date. Because these weightings are a function of market prices, they are expected to change substantially over time, including during the period between the date of this proposed rule change and the date the trust issued receipts are issued to the public.

Name of company	Symbol	Share amounts	Initial weighting (percent)	Primary trading market
Amgen Inc	AMGN	20	19.58	Nasdaq.
Genetech, Inc	DNA	11	18.62	NYSE.
Biogen, Inc	BGEN	13	11.61	Nasdaq
Immunex Corporation	IMNX	13	9.87	Nasdaq.
PE Corp-PE Biosystems Group	PEB	8	6.33	NYSE.
Chiron Corporation	CHIR	18	5.77	Nasdaq.
MedImmune, Inc	MEDI	4	5.10	Nasdaq.
Genzyme Corporation	GENZ	9	4.20	Nasdaq.
BioChem Pharma Inc	BCHE	9	2.55	Nasdaq.
Millennium Pharmaceuticals, Inc	MLNM	3	2.81	Nasdaq.
Affymetric, Inc	AFFX	2	2.36	Nasdaq.
QLT Photo Therapeutics Inc	QLTI	2	2.01	Nasdaq.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Scott Van Hatten, Legal Counsel, Derivative Securities, Exchange to Nancy Sanow, Senior Special Counsel, Division of Market Regulation, Commission dated November 1, 1999 ("Amendment No. 1").

[4] Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999).

Name of company	Symbol	Share amounts	Initial weighting (percent)	Primary trading market
Gilead Sciences, Inc	GILD	3	2.34	Nasdaq.
Sepracor Inc	SEPR	2	1.73	Nasdaq.
IDEC Pharmaceuticals Corporation	IDPH	2	2.41	Nasdaq.
Human Genome Sciences, Inc	HGSI	2	1.97	Nasdaq.
ICOS Corporation	ICOS	3	1.05	Nasdaq.
Enzon, Inc	ENZN	3	1.00	Nasdaq.
Celera Genomics	CRA	2	0.80	Nasdaq.
ImClone Systems Incorporated	IMCL	3	0.89	Nasdaq.

The companies represented in the Biotech HOLDRs meet the following minimum criteria, which are set forth in Amex Rule 1200: (1) The companies' common stocks are registered under Section 12 of the Act; (2) the minimum public float of each company included in the portfolio is at least $150,000,000; (3) each stock is either listed on a national securities exchange or traded through the facilities of Nasdaq and is a reported national market system security; (4) the average daily trading volume for each stock was at least one hundred thousand shares during the preceding 60-day trading period; (5) the average daily dollar value of the shares traded during the preceding 60-day trading period was at lest $1 million; and (6) the initial weighting of each stock in the receipt was based on market capitalization, however, if on the date such weighting is determined, a stock represented more than 20% of the overall value of the receipt, then the amount of such stock was reduced to no more than 20% of the receipt value. Once initially set, the securities represented by a receipt will not change, except in accordance with the reconstitution events described below.

Trust Issued Receipts

Trust issued receipts are negotiable receipts which are issued by a trust representing securities of issuers that have been deposited and are held on behalf of the holders of the trust issued receipts. Trust issued receipts are designed to allow investors to hold certain securities investments in a single, exchange-listed and traded instrument representing their beneficial ownership in the deposited securities. Holders of trust issued receipts maintain beneficial ownership of each of the deposited securities evidenced by trust issued receipts. Holders may cancel their trust issued receipts at any time to receive the deposited securities.

Benefical owners of the receipts will have the same rights, privileges and obligations as they would have if they beneficially owned the deposited securities outside of the trust issued receipt program. Holders of the receipts have the right to instruct the trustee to vote the deposited securities evidenced by the receipts, will receive reports, proxies and other information distributed by the issuers of the deposited securities to their security holders, and will receive dividends and other distributions declared and paid by the issuers of the deposited securities to the trustee.

The trust will issue trust issued receipts under the depositary trust agreement, among The Bank of New York, as trustee, Merrill Lynch Pierce Fenner & Smith Incorporated, other depositors and the owners of the trust issued receipts. After the initial offering, a trust may issue additional receipts on a continuous basis when an investor deposits the requisite securities with the trust.

A round-lot of 100 trust issued receipts represents a holder's individual and undivided beneficial ownership interest in the whole number of securities represented by the receipt. Trust issued receipts may be acquired, held or transferred only in round-lot amounts (or round-lot multiples) of 100 receipts. The amounts of deposited securities for each round-lot of 100 trust issued receipts will be determined at the beginning of the marketing period and will be disclosed in the prospectus to investors. An investor in trust issued receipts will be permitted to withdraw his or her deposited securities upon delivery to the trustee of one or more round-lots of 100 trust issued receipts and to deposit such securities to receive trust issued receipts. Orders for less than a round-lot will be rejected, while orders for greater than a round-lot, but not a round-lot multiple will be executed to the extent of the largest round lot multiple, rejecting the remaining odd-lot (*e.g.*, orders for 50 trust issued receipts will be rejected, and for orders of 1050 trust issued receipts, 1000 will be executed and 50 will be rejected). The initial offering price for a trust issued receipt will be established on the date the receipts are priced for sale to the public.

Based upon the potential for arbitrage opportunities, the Exchange believes that trust issued receipts will not trade at a material discount or premium to the assets held by the issuing trust. The arbitrage process, which provides the opportunity to profit from differences in prices of the same or similar securities (*e.g.*, the trust issued receipts and the portfolio of deposited securities), increases the efficiency of the markets and serves to prevent potentially manipulative efforts. If the price of the trust issued receipts deviate enough from the portfolio of deposited securities to create a material discount or premium, an arbitrage opportunity is created allowing the arbitrageur to either buy the trust issued receipts at a discount, immediately cancel them in exchange for the deposited securities and sell the shares in the cash market at a profit, or sell the trust issued receipts short at a premium and buy the securities represented by the receipts to deposit in exchange for the trust issued receipts to deliver against the short position. In both instances the arbitrageur locks in a profit and the markets move back into line.

Trust issued receipts will be deemed "Eligible Securities," as defined in Amex Rule 230, for purposes of the Intermarket Trading System ("ITS") Plan and therefore will be subject to the trade through provisions of Amex Rule 236, which require that Amex members avoid initiating trade-throughs for ITS securities. Further, specialist transactions with the trust issued receipts' trade made in connection with the creation and redemption of trust issued receipts will not be subject to the prohibitions of Rule 190.[5]

Minimum Fractional Change

Trust issued receipts will trade in minimum fractional increments pursuant to Amex Rule 127. Application of Rule 127 will result in a minimum fractional change of 1/16th of $1.00 for

[5] Amex Rule 190 prohibits, among other things, any business transaction between a specialist and the company in which stock the specialist is registered.

those trust issued receipts selling at or above $0.25 and 1/32nd of $1.00 for those selling below $0.25.

Maintenance of Trust Issued Receipts

Except when a reconstitution event occurs, as described below, the securities represented in a trust issued receipt will not change.[6] Additionally, the number of each security represented in a receipt will not change except for changes due to certain corporate events such as stock splits or reverse stock splits on the deposited securities or when a reconstitution event occurs. Under no circumstances will a new security be added to the list of securities after a particular receipt program is established.

The relative weightings among the deposited securities will change based on the current market price of the deposited securities and upon the reconstitution events discussed below. Once established, the component securities held by the trust and represented by trust issued receipts will not change unless an event described below occurs.

Reconstitution Events

The trust agreement provides for the automatic distribution of specified deposited securities to the beneficial owner of such receipts in the circumstances referred to in the prospectus as "reconstitution events": (1) If a company with deposited securities evidenced by a trust issued receipt no longer has a class of common stock registered under Section 12 of the Securities Exchange Act of 1934, then its securities will no longer be a deposited security and the trustee will distribute the securities of that company to the owners of the trust receipts; (2) if the Commission finds that a company with deposited securities evidenced by the trust issued receipts is a company that should be registered as an investment company under the Investment Company Act of 1940, and the trustee has actual knowledge of the Commission's finding, then the trustee will distribute the securities of that company to the owners of the trust issued receipts; (3) if the deposited securities of a company evidenced by a trust issued receipt are no longer outstanding because the securities were acquired by another company, the trustee will distribute the consideration paid by and received from the acquiring company to the beneficial owners of trust issued receipts, unless the consideration is additional deposited securities (*i.e.*, the acquiring company's securities are already included in the trust issued receipt as deposited securities), in which case such additional securities will be deposited into the trust; and (4) if an underlying issuer's deposited securities are delisted from trading on their primary exchange or market and not listed for trading on another national securities exchange or through Nasdaq within five business days from the date the deposited securities are delisted.[7] If the trustee removes a deposited security from the trust due to the occurrence of one of the reconstitution events described above, the trustee, in accordance with the depositary trust agreement, will deliver the deposited security to the investor as promptly as practicable after the date that the trustee has knowledge of the occurrence of a reconstitution event.

The trust will issue and cancel, and an investor may obtain, hold, trade or surrender, receipts only in a round-lot of 100 trust issued receipts or round-lot multiples. While investors will be able to acquire, hold, transfer and surrender a round-lot of 100 trust issued receipts, the bid and asked prices will be quoted on a per receipt basis.[8] The trust will issue additional receipts on a continuous basis when an investor deposits the required securities with the trust.

A holder may obtain trust issued receipts by either purchasing them on the Exchange or delivering to the trust during its normal business hours the requisite securities evidencing a trust issued receipt. The trustee will charge an issuance fee of up to $10.00 per 100 trust issued receipts. If a holder wants to cancel trust issued receipts and withdraw the deposited securities, the holder may do so by surrendering the receipts to the trust during normal business hours. The trustee will charge a cancellation fee of up to $10.00 per 100 trust issued receipts. The holder should receive the deposited securities no later than the business day after the trustee receives the request.

Termination of the Trust

The trust shall terminate upon the earlier of: (i) The removal of the receipts from Amex listing if they are not listed for trading on another national securities exchange or through the facilities of Nasdaq within five business days from the date the receipts are delisted; (ii) the trustee resigns and no successor trustee is appointed within 60 days from the date the trustee provides notice to the initial depositor of its intent to resign; (iii) 75 percent of beneficial owners of outstanding trust issued receipts vote to dissolve and liquidate the trust; or (iv) December 31, 2039. If a termination event occurs, the trustee will distribute the underlying securities to the investor as promptly as practicable after the termination event.

(b) Criteria for Initial and Continued Listing

Because of the continuous issuance and cancellation of trust issued receipts, the Exchange believes that it is necessary to maintain appropriate flexibility in connection with listing a specific trust. In connection with initial listing, the Exchange proposes that, for each trust, the Exchange will establish a minimum number of receipts required to be outstanding at the time of commencement of Exchange trading, and such minimum number will be filed with the Commission in connection with any required submission under Rule 19b–4 under the Act for each trust. It is anticipated that a minimum of 150,000 receipts will be required to be outstanding when trading begins.

Because of the continuous issuance and cancellation of trust issued receipts, and because the number of holders is subject to substantial fluctuations depending on market conditions, the Exchange believes that it would be inappropriate and burdensome on trust issued receipt holders to consider suspending trading in or delisting a series of receipts with the consequent termination of the trust, unless the number of holders remains severely depressed over an extended time period. Therefore, the Exchange will consider suspending or delisting a trust from trading when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(i) If the trust has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the trust issued receipts for 30 or more consecutive trading days;

[6] The Amex will consult with the Commission to confirm the appropriateness of the continued listing of trust issued receipts should the portfolio of securities held by the trust become fewer than nine.

[7] This provision is designed for the purpose of permitting a deposited security to move its listing between, for example, the Amex and Nasdaq without requiring the automatic distribution of the deposited security to beneficial owners of the receipts. Should deposited securities be delisted to a market other than a national securities exchange or Nasdaq (*e.g.*, the OTC Bulletin Board), such securities will be automatically distributed to the beneficial owners of the receipts.

[8] The receipt amount will be disseminated by the Amex every 15 seconds over the Consolidated Tape Association's Network B.

(ii) if the aggregate number of trust issued receipts outstanding is less than 50,000;

(iii) if the aggregate market value of trust issued receipts publicly held is less than $1,000,000; or

(iv) if such other event shall occur or condition exists which in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

However, the Exchange will not be required to suspend or delist from trading, based on the above factors, any trust issued receipts for a period of one year after the initial listing of such trust issued receipts for trading on the Exchange.

(c) Exchange Rules Applicable to the Trading of Trust Issued Receipts

Trust issued receipts will be deemed equity securities subject to all Amex rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, responsibilities of the specialist, account opening and customer suitability (Amex Rule 411), and the election, with the prior approval of a floor official, of a stop or limit order by a quotation (Amex Rule 154, Commentary .04(c)). Initial Exchange equity margin requirements of 50 percent and the regular equity trading hours of 9:30 am to 4:00 pm will apply to transactions in trust issued receipts. However, trading rules pertaining to the availability of odd-lot trading in Amex equities will not apply to the trading of trust issued receipts, because they can only be traded in round-lots. The Amex applied for exemption from the short sale rate, Rule 10a–1 under the Act,[9] for Internet HOLDRs, which was granted on November 3, 1999.[10] This exemption applies to Biotech HOLDRs as well. The Exchange will issue a notice to its members detailing the terms of the exemption. Amex's surveillance procedures for trust issued receipts will be similar to those used for portfolio depositary receipts and will incorporate and rely upon existing Amex surveillance procedures governing options and equities.

With respect to investor disclosure, the Exchange notes that all investors is trust issued receipts who purchase in the initial offering will receive a prospectus. In addition, anyone purchasing a trust issued receipt directly from the trust (by delivering the underlying securities to the trust) will also receive a prospectus. Finally, all Amex members purchasing trust issued receipts from the trust for resale to customers will deliver a prospectus to such customers.

Prior to the commencement of trading in trust issued receipts, the Exchange will issue a circular to members informing them of, among other things, Exchange policies regarding trading halts in such securities. First, the circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in Rule 117 have been reached. Second, the circular will advise that, in addition to other factors that may be relevant, the Exchange may consider factors such as the extent to which trading is not occurring in a deposited share(s) and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5)[11] of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–99–46 and should be submitted by December 21, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

A. Generally

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b)(5).[12] Specifically, the Commission finds, as it did in the Amex order approving the listing and trading of trust issued receipts generally, and Internet HOLDRs specifically, that the proposal to list and trade Biotech HOLDRs will provide investors with a convenient and less expensive way of participating in the securities markets. The Exchange's proposal should advance the public interest by providing investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell a single security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day. Accordingly, the Commission finds that the Exchange's proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[13]

The Commission believes that trust issued receipts will provide investors with an alternative to trading a broad range of securities on an individual basis, and will give investors the ability to trade trust issued receipts representing a portfolio of securities continuously throughout the business day in secondary market transactions at negotiated prices. Trust issued receipts will allow investors to: (1) Respond quickly to changes in the overall securities markets generally and for the

[9] 17 CFR 240.10a–1.

[10] See Letter to Claire P. McGrath, Vice President and Special Counsel Derivative Securities, from James A. Brigagliano, Assistant Director, Division of Market Regulation, SEC, dated November 3, 1999.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(5).

[13] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

industry represented by a particular trust; (2) trade, at a price disseminated on a continuous basis, a single security representing a portfolio of securities that the investor owns beneficially; (3) engage in hedging strategies similar to those used by institutional investors; (4) reduce transaction costs for trading a portfolio of securities; and (5) retain beneficial ownership of the securities underlying the trust issued receipts.

Although trust issued receipts are not leveraged instruments, and, therefore, do not possess many of the attributes of stock index options, their prices will be derived and based upon the securities held in their respective trusts. Accordingly, the level of risk involved in the purchase or sale of trust issued receipts is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for trust issued receipts is based on a basket of securities.[14] Nevertheless, the Commission believes that the unique nature of trust issued receipts raises certain product design, disclosure, trading, and other issues that must be addressed.

B. Listing and Trading of Trust Issued Receipts

The Commission finds that the Amex's proposal, as amended, to trade Biotech HOLDRs meets all of the specific criteria and listing standards that were approved in the Amex order approving the listing and trading of Internet HOLDRs.[15] Biotech HOLDRs are equity securities that will be subject to the full panoply of Amex rules governing the trading of equity securities on the Amex, including, among others, rules governing the priority, parity and precedence of orders, responsibilities of the specialist, account opening and customer suitability requirements, and the election of a stop or limit order.[16]

Moreover, in approving this proposal, the Commission notes the Exchange's representation that Biotech HOLDRs will not trade at a material discount or premium in relation to the overall value of the trusts' assets because of potential arbitrage opportunities. The Exchange represents that the potential for arbitrage should keep the market price of a trust issued receipt comparable to the overall value of the deposited securities.

Furthermore, the Commission believes that the Exchange's proposal to trade Biotech HOLDRs in minimum fractional increments of 1/16th of $1.00 is consistent with the Act. The Commission believes that such trading should enhance market liquidity, and should promote more accurate pricing, tighter quotations, and reduced price fluctuations. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in trust issued receipts.

Finally, the Amex has developed surveillance procedures for trust issued receipts that incorporate and rely upon existing Amex surveillance procedures governing equities. The Commission believes that these surveillance procedures are adequate to address concerns associated with listing and trading of Biotech HOLDRs, including any concerns associated with purchasing and redeeming round-lots of 100 receipts. Accordingly, the Commission believes that the rules governing the trading of trust issued receipts provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

C. Disclosure and Dissemination of Information

The Commission believes that the Exchange's proposal, as amended, will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading trust issued receipts. The prospectus will address the special characteristics of Biotech HOLDRs, including a statement regarding their redeemability and method of creation. The Commission notes that all investors in Biotech HOLDRs who purchase in the initial offering will receive a prospectus. In addition, anyone purchasing Biotech HOLDRs directly from the trust (by delivering the underlying securities to the trust) will also receive a prospectus. Finally, all Amex member firms who purchase Biotech HOLDRs from the trust for resale to customers must deliver a prospectus to such customers.

The Commission also notes that upon the initial listing of any trust issued receipts, the Exchange will issue a circular to its members explaining the unique characteristics and risks or this type of security. The circular will note the Exchange members' prospectus delivery requirements, and highlight the characteristics of Biotech HOLDRs. The circular will inform members of Exchange policies regarding trading halts in Biotech HOLDRs.

D. Accelerated Approval

Amex has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that the Exchange's proposal to trade Biotech HOLDRS, will provide investors with a convenient and less expensive way of participating in the securities markets. Specifically, the Commission believes that by increasing the availability of trust issued receipts, and in particular Biotech HOLDRs, as an investment tool, the Amex's proposal should help provide investors with increased flexibility in satisfying their investment needs. This is achieved by allowing investors to purchase and sell a single security replicating the performance of a broad portfolio of stocks at negotiated prices throughout the business day. The Commission notes however, that, notwithstanding approval of the listing of Biotech HOLDRs, other similarly structured products, including trust issued receipts based on other industries, will require review by the Commission prior to being listed and traded on the Exchange. Moreover, additional series cannot be listed prior to the Exchange contacting Division staff. Finally, the Amex may be required to submit a rule filing prior to listing and trading a new issue or series of trust issued receipts on the Exchange.

The Commission believes that the trading of this product raises no new regulatory issues and, except for the composition of securities deposited in trust, the Biotech HOLDRs are structurally the same as the Internet HOLDRs trust receipts previously approved by the Commission for listing and trading on the Amex. Accordingly, the Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–99–46), as amended, us hereby approved on an accelerated basis.

---

[14] The Commission has concerns about continued listing of the trust issued receipts if the number of component securities falls to a level below nine securities, because the receipts may no longer adequately reflect a cross section of the selected industry. Accordingly, the Amex has agreed to consult the Commission, once the trust has fewer than nine component securities, and for each subsequent loss of a security thereafter.

[15] *See supra*, note 3.

[16] Trading rules pertaining to the availability of odd-lot trading do not apply because trust issued receipts only can be traded in round-lots.

[17] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30977 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42168; File No. SR–CBOE–99–61]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Non-Automatic Handling of RAES Orders

November 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 8, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On November 22, 1999, CBOE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis for a ninety day pilot to expire on February 21, 2000.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its rule governing the operation of its Retail Automatic Execution System ("RAES") to allow, under certain circumstances, orders to be rejected from RAES and routed to the Public Automated Routing terminal ("PAR") for manual handling. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, CBOE shortened the length of the pilot program from one year to ninety days. *See* letter from Timothy Thompson, Director, Regulatory Affairs, CBOE, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated November 19, 1999.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to allow, under certain circumstances, orders to be rejected from RAES for manual handling where the bid or offer for a series of options generated by the Exchange's Autoquote system becomes crossed or locked with the best offer or bid for that series as established by a booked order. The proposed rule is intended to correct an unintended consequence of the planned implementation of the Automated Book Priority ("ABP") system that could have significant detrimental effects on the operation of the RAES as described further below. The CBOE anticipates that the number of orders that will be rejected from RAES under this proposed rule should represent only a small subset of the orders that have been and currently are rejected pending implementation of the ABP system.

The Exchange's ABP system will allow an order entered into RAES to trade directly with an order on the Exchange's customer limit order book where the prevailing market bid or offer is equal to the best bid or offer on the Exchange's book.[4] The Commission recently approved the Exchange's rules implementing the ABP system,[5] which has not yet been implemented.[6]

The Exchange recently became aware of an unintended consequence of the operation of the ABP system. That is, in situations where the best bid or offer for one or more series of a particular option class is established by one or more orders in the book, the market-makers logged on to RAES for that class of options could be subject to a substantial risk in the event that the market in the underlying stock moves significantly and quickly in a direction that makes the booked order price substantially better than the price calculated by CBOE's Autoquote formula. In that event, while the booked order would quickly be executed, CBOE represents that the ABP system may not be able to react quickly enough to remove the executed order from the limit order book. As a result, once ABP is implemented, orders entered in RAES would automatically be executed against the stale bid or offer still being shown in the book notwithstanding the booked order having already been executed. CBOE contends that this result could cause direct and substantial economic disadvantage to the market-makers who are obligated to participate in RAES executions. The Exchange believes that implementing ABP without addressing this potential risk could cause market-makers to avoid participating on RAES (thus, affecting the liquidity of lower volume series traded on RAES and endangering the viability of RAES), or to widen their quotes to minimize the possible adverse consequences of executing orders based on stale quotes and to account for the potential losses (thus, affecting the ability of CBOE's market-makers to compete with competing specialists or market-makers). In the alternative, market-makers might request that the Equity Floor Procedure Committee reduce the size of orders eligible for RAES to minimize the impact of these orders (thus, eliminating a significant advance in automatic execution that CBOE represents its customers have requested).

[4] In the event the order in the book is for a smaller number of contracts than the RAES order, the balance of the RAES order will be assigned to participating market-makers at the same price at which the rest of the order was executed.

[5] *See* Securities Exchange Act Release No. 41995 (October 8, 1999), 64 FR 56547 (October 20, 1999) (File No. SR–CBOE–99–29).

[6] Currently, with certain exceptions discussed below, when a RAES order is entered into the Exchange's Order Routing System when the prevailing market bid or offer is equal to the best bid or offer on the Exchange's book, the order will be routed electronically to a Floor Broker's terminal or work station in the crowd subject to the volume parameters of each firm. Today, the orders are routed to the Floor Brokers instead of being automatically executed in the crowd at the market price, because execution with the crowd would be inconsistent with CBOE Rule 6.45, which provides that bids or offers displayed on the customer limit order book are entitled to priority over other bids or offers at the same price. CBOE permits RAES orders in options on IBM, options on the Dow Jones Industrial Average (DJX) and options on the Standard & Poor's 100 Stock Index (OEX) to be executed on RAES even if the prevailing market bid or offer equals the best bid or offer on the Exchange's book. In other words, RAES orders in these options classes are currently allowed to "trade through" the book. Upon implementation of the ABP system, RAES orders in these option classes, like all other option classes, will trade against orders in the book in these circumstances.

CBOE explains the potential risk market-makers could be subject to by implementing the ABP system without the proposed "carve out" by way of example. Assume that in a volatile internet stock (where the maximum order size for RAES has been established at 50 contracts) small customer orders in the book are establishing the best bid in six different series. In one particular series, Series A, assume that the CBOE market is 5 (bid)—5⅛ (offer), with a book order to buy 5 contracts at $5 (which establishes the best bid). Assume further that the price of the underlying internet stock drops precipitously in a matter of seconds. When the underlying stock moves, the Exchange's Autoquote system will update CBOE market-makers' quotes for the options overlying that stock.[7] Assume with the drop in the underlying stock, the Exchange's Autoquote system establishes a bid and offer of 4¾—4⅞ for Series A. (The same scenario would play out with the other five series whose best bid is established by an order in the book.) The order in the book representing the best bid will likely be immediately executed by the crowd in the auction market. For some period of time after the trade has been consummated in open outcry, however, the bid will still be displayed as CBOE's bid while the Order Book Official physically punches the keys to take the bid down from the display. During the period, the displayed bid of 5 in the book will be out of line with the theoretical bid 4¾ generated by CBOE's Autoquote system. In the meantime, traders who have equipped themselves with the necessary computer equipment and communications facilities could have identified the pricing disparity between the theoretical price of the options and the displayed best bids, could automatically generate orders to sell the affected options and route those orders to RAES. If RAES is allowed to operate as it does under normal circumstances, each order to sell that arrives at the Exchange from these investors, for so long as the out-of-line book bid continues to be displayed, will be assigned to market-makers in the trading crowd who are logged on to RAES. These market-makers in turn will be obligated to buy at the $5 bid, which could be significantly away from the theoretical bid.[8] Of course, the same adverse consequence could be experienced in the other five series of the class in which the bid was established by a booked order.

The Exchange believes that by rejecting orders from RAES in the limited situation where the bids or offers generated by Autoquote become crossed or locked with the CBOE's best bid or offer as established by an order in the Exchange's customer limit order book, the problem described above can be resolved without any significant disruption in the proper handling of customer orders or to the market as a whole. The Exchange will then be able to offer RAES to its customers together with the benefit of the ABP system, which will allow RAES orders to trade directly with orders on the Exchange's customer limit order book. Those orders that are rejected from RAES in the limited circumstances when Autoquote crosses or locks the book will be immediately and automatically routed to a broker's PAR terminal in the trading crowd (absent contrary instructions of the firm), where they will be represented by the broker and, if executable, will ordinarily be executed in seconds. Because these orders remain RAES eligible, they will be entitled to receive firm quote treatment when they are represented in the crowd.

The Exchange represents that during the course of the pilot program, the Exchange will monitor those situations in which RAES orders are rejected as provided in the rule and will prepare a report to the Commission describing its experience with the rule before the end of the pilot program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5)[9] of the Act in that it is designed to remove impediments to a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–61 and should be submitted by December 21, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed pilot is consistent with the requirements of the Act.[10] In particular, the Commission finds the proposal is consistent with Section 6(b)(5)[11] of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Commission believes that it is imperative that CBOE implement the ABP system as expeditiously as possible to ensure that all customer limit orders on CBOE are, where appropriate, given priority over other interest on the Exchange. After the ABP system is implemented, RAES orders will be able to trade against orders in the book when the prevailing market bid or offer equals the best bid or offer in the Exchange's

[7] In approving this pilot, the Commission takes no position with respect to the procedures involved in CBOE's Autoquote system, which are the subject of pending proposal SR–CBOE–98–04.

[8] If, for example, six different traders use such a system to identify pricing disparities and to generate and send orders instantly for automatic execution, market-makers in the trading crowd could be responsible for trading 295 or 300 contracts of Series A options alone, reflecting an aggregate payment of as much as $150,000 more than their theoretical value. The maximum number of contracts to be purchased in response to six orders for 50 contracts each would be 300 contracts, except in the unlikely event that the original 5 contract order on the book had not yet been filled, in which case 5 contracts of the orders received would trade with the booked order, and market makers would be obligated to buy the remaining 295 contracts.

[9] 15 U.S.C. 78f(b)(5).

[10] In addition, pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

limit order book. Implementation of the ABP system should provide for more efficient execution of both RAES and booked orders. The proposed rule change, which would result in RAES orders being routed to the trading crowd when the Exchange's Autoquote system locks or crosses CBOE's best bid or offer as established by the book, limits market-maker risk where CBOE is unable to remove a quote based on a customer limit order that has already been executed. The Exchange has represented that this exception should occur very infrequently.

In light of the likely benefits to customer limit orders expected to be gained by implementation of the ABP system, particularly in those classes, discussed above, where CBOE currently permits RAES orders to trade through orders on the limit order book, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission hereby requests that CBOE provide monthly reports to the Commission regarding the number of times the exception that is the subject of this pilot is used to allow the Commission to determine whether to approve the proposal permanently.[12]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–99–61) is hereby approved through February 21, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31027 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

[12] The approval of the pilot should not be interpreted as suggesting that the Commission is predisposed to approving the proposal permanently.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42167; File No. SR–CBOE–99–57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Inc. Governing the Operation of Its Retail Automatic Execution System

November 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 14, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. Additionally, on November 15, 1999, the Exchange filed with the Commission Amendment No. 1 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules governing the operation of its Retail Automatic Execution System ("RAES"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Timothy Thompson, Director of Regulatory Affairs, CBOE, to Gordon Fuller, Special Counsel, Division of Market Regulation, SEC, dated November 15, 1999. The Amendment clarifies the wording of the proposed rule change. Because of the substantive nature of the amendment, the Commission deems the filing date of the proposed rule change to be November 15, 1999.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the appropriate Floor Procedure Committee ("FPC") to designate that RAES orders for a particular option series will default for manual representation in the trading crowd in situations where the National Best Bid or Offer ("NBBO") for that particular series of that class is crossed (*e.g.*, 6⅛ bid, 6 asked) or locked (*e.g.*, 6 bid, 6 asked). The proposed rule will provide market-makers participating on RAES protection from having to fill orders at crossed or locked prices since the NBBO can become crossed or locked as a result of one market disseminating inaccurate or delayed quotes.

Currently, under CBOE Rule 6.8(a)(ii), when RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry into the system, except as otherwise provided in Interpretation .02 of CBOE Rule 6.8 in respect of multiply-traded options. A buy order will pay the offer; a sell order will sell at the bid.

Pursuant to Interpretation .02, when RAES receives an order for a multiply-traded option at a time when a better bid or offer for that option is displayed on another exchange, the order will either be rejected for manual handling (so that the order is not automatically executed at an inferior price to the NBBO) or the order will be executed at the NBBO, if the NBBO is better than the CBOE bid or offer by no more than the designated number of minimum trading variations ("ticks"). The appropriate FPC determines which option classes will be entitled to be executed automatically at the better bid or offer and also determines the number of ticks better than the CBOE bid or offer that the NBBO may be and at which the order still will be executed automatically on RAES.[4] In situations where the NBBO for a particular series is more than the designated number of ticks better than the CBOE bid or offer, the order for that multiply-traded class will be rerouted for manual handling.[5]

[4] *See* Securities Exchange Act Release No. 41821 (September 1, 1999), 64 FR 50313 (September 16, 1999), approving SR–CBOE–99–17. SR–CBOE–99–17 amends Interpretation .02 to authorize the appropriate FPC to establish a step-up amount greater than the one-tick increment established under CBOE Rule 6.42.

[5] Any orders prevented from being automatically executed by operation of this policy will be

In addition, pursuant to the Exchange's firm quote rule, CBOE Rule 8.51, any order that is rerouted will be entitled to be executed at the Exchange's displayed bid or offer when that order is represented in the trading crowd. Depending on the circumstances, that order may be filled at a price better than the CBOE's displayed bid or offer.

The proposal adds another situation in which an order for a multiply-traded class may be rerouted for manual handling. The authority for determining when these orders will be rejected for manual handling will be set forth in Interpretation .06 to CBOE Rule 6.8. The Exchange is proposing to allow the appropriate FPC to designate option classes that will be rerouted for manual handling in situations in which the NBBO for a particular series of that class is crossed or locked. Depending on the circumstances, the appropriate FPC may determine to have such orders rerouted only when the NBBO is crossed but not locked.[6] The appropriate FPC may also determine to have orders be rejected only when the CBOE's market becomes crossed or locked as a result of the step-up amount having been applied to a particular options series. Also, the FPC may determine to allow for automatic executions of the orders notwithstanding that the NBBO is crossed or locked (assuming no other reason for the order to be rerouted exists) if the circumstances warrant such action to maintain a fair and orderly market.

The proposed rule would allow for the rerouting of RAES orders of a particular class notwithstanding that the orders of that particular class may not have been designated to automatically step up to the NBBO and notwithstanding that the NBBO may be more ticks away from the CBOE market than the designated step-up amount. Nonetheless, the CBOE believes that market makers are at risk for filling orders automatically in situations in which the NBBO is crossed or locked even if they are not stepping up to the NBBO on RAES because the fact that the NBBO is crossed or locked may be an indication that the prices are inaccurate. The NBBO may become crossed or locked because of communications or systems problems, or due to keystroke errors, or quotation dissemination delays. The proposal will allow the floor broker or DPM to determine if the locked or crossed market is actually a true market.

2. Statutory Basis

The CBOE believes that this proposal will enhance its ability to provide instantaneous, automatic execution of public customers' orders at the best available prices. This furthers the objectives of Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5)[8] in particular by promoting just and equitable principles of trade, removing impediments to and perfecting the mechanism of a free and open market and national market system, and protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Amendment No. 1 and Timing for Commission Action

The proposed rule filing has been filed by the Exchange pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] The proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative until thirty days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The Exchange has requested that the Commission accelerate the operative date of the proposal. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, more than five business days prior to the date of the filing the proposed rule change.

The Commission finds that it is appropriate to designate the proposal to become operative today because such designation is consistent with the protection of investors and the public interest. Specifically, the Commission finds that it is appropriate to accelerate the operative date of the proposed rule change because it will limit market-maker risk in situations where the NBBO becomes locked or crossed, by removing the requirement that market-makers execute transactions at prices that may not accurately reflect true market prices at the time the trade is initiated. For these reasons, the Commission finds that designation of the proposal to become operative today is consistent with the protection of investors and the public interest.

The Commission requests, however, that the CBOE provide it with information regarding the occasions in which the Interpretation is applied and the promptness of the manual execution of orders that are prevented from automatic execution by operation of the Interpretation. This data should cover, at a minimum, the period commencing as of the proposed Interpretation's operative date and concluding six months thereafter.

At any time within 60 days of the filing of this rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

---

rerouted to the Public Automated Routing ("PAR") machine of the Designated Primary Market-Maker ("DPM") for manual handling. Upon receipt of that order, in accordance with CBOE Rule 6.73, the floor broker or DPM will be obligated to use due diligence in the handling of the order to execute the order at the best price or prices available to him.

[6] The Commission recently published an order declaring immediately effective CBOE's proposal to adopt new Interpretation .08 to Rule 6.8. New Interpretation .08 requires a RAES order to be rerouted for representation in the trading crowd when the CBOE market becomes crossed as a result of quotes "stepping-up" to match the NBBO. *See* Securities Exchange Act Release No. 42012 (October 15, 1999), 64 FR 57502 (October 25, 1999). The current filing will supersede that filing because it will provide the appropriate FPC with the discretion to have orders rejected from RAES when the CBOE market is not only crossed as a result of quotes "stepping-up" to match the NBBO, but also when it becomes locked as a result of application of the "step-up" Interpretation.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File Number SR–CBOE–99–57 and should be submitted by December 21, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31028 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42163; File No. SR–NYSE–98–33]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change to Amend NYSE Rule 64

November 19, 1999.

I. Introduction

On October 16, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 64. The proposed rule change was published for comment in the **Federal Register** on November 12, 1998.[3] On November 1, 1999, the Exchange filed Amendment No. 1.[4] The Commission received no comments on the proposal. This notice and order approves the proposed rule change, as amended, and solicits comments from interested persons on Amendment No. 1.

II. Description of Proposal

Currently, NYSE Rule 64 requires Floor Official approval for all "non-regular way"[5] trades during all but the final calendar week of the year. During the last calendar week of the year such approval is required only for sales more than 4/16 point away from the regular way bid or offer. The Exchange proposes to amend the rule to eliminate the requirement of Floor Official approval for certain non-regular way trades that do not occur during the final calendar week of the year. Under the proposed rule change, Floor Official approval would be required only for those non-regular way trades that are more than 2/16 point away from the regular way bid or offer throughout the year, but not during the final calendar week of the year.[6] The proposal does not change the existing requirement for Floor Official approval for non-regular way trades that are more than 4/16 point away from the regular way bid or offer during the last calendar week of the year.[7] Under the proposed rule change, Floor Officials will still be required to "take into consideration whether the price of the transaction is reasonable in relation to the 'regular way' market" when deciding whether to grant approval for a non-regular way trade.

Exchange staff and analyzed price changes from the current bid or offer for non-regular way trades during June 1998.[8] The Exchange's analysis showed that approximately 80% of non-regular way trades occurred at 2/16 point or less away from the regular way bid or offer. The Exchange believes that the proposed rule change would relieve members of the burden of obtaining Floor Official approval for routine non-regular way trades at small price variations, while preserving Floor Official supervision for those instances were it is most needed.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act.[9] Section 6(b)(5)[10] requires, among other things, that an exchange have rules which are designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change should help to alleviate the administrative burden for Floor Officials and members with regard to non-regular way trades, which should in turn permit the reallocation of valuable resources, and thereby increase operational efficiency for Floor Officials and members. As mentioned above, the Exchange's analysis of non-regular way trades indicates that this proposal should substantially reduce the number of Floor Official approvals required for such trades.[11] The Commission believes that by requiring Floor Official approval for non-regular way trades that are more than 2/16 point away from the regular way bid or offer throughout the year, but not during the final calendar week of the year, the proposal should facilitate transactions in securities and help to remove impediments to and perfect the mechanism of a free and open market. The Commission notes, however, that the approval of the elimination of the requirement for Floor Official approval for non-regular way trades with a 2/16 point, or less, deviation from the regular way bid or offer does not relieve brokers of their best execution duty. The Commission further notes that Floor Officials, as per NYSE guidelines, will still be required to consider whether the price of the transaction is reasonable in relation to the regular way market when deciding whether to grant approval for

---

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 40631 (November 3, 1998), 63 FR 63347 (November 12, 1998).

[4] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated October 29, 1999 ("Amendment No. 1"). Amendment No. 1 changes the proposal to require Floor Official approval for non-regular way trades throughout the year, but not during the last calendar week of the year, to 3/16 point away from the regular way bid or offer from 4/16 point away. Initially, the proposed rule change would have extended the existing requirement of NYSE Rule 64 for Floor Official approval for end-of-the-year non-regular way trades to the entire year. In other words, Floor Official approval would have been required for non-regular way trades that were more than 4/16 point away from the regular way bid or offer throughout the year.

[5] A "non-regular way" trade is a trade that is settled in a different time frame from "regular-way" trades, which settle on the third business day following the transaction. *See* NYSE Rule 64(a)(3).

[6] *See* note 4, *above*.

[7] *Id.*

[8] *See* NYSE Analysis of Non-Regular Way Trades for June 1998.

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *See* note 8, *above*.

a non-regular way trade when such approval is required.

The Commission finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the amendment in the **Federal Register**. Specifically, Amendment No. 1 changes the proposal to require Floor Official approval for non-regular way trades throughout the year, but not during the last calendar week of the year, from 4/16 point away from the regular way bid or offer to 2/16 point away. Initially, the proposed rule change would have extended the existing requirement of NYSE Rules 64 for Floor Official approval for end-of-the-year non-regular way trades to the entire year. In other words, Floor Official approval would have been required for non-regular way trades that were more than 4/16 point away from the regular way bid or offer throughout the year. The Commission finds that reducing the deviation from the regular way bid or offer that would require Floor official approval for a non-regular way trade is consistent with Section 6(b)(5) of the Act.[12] The Exchange's analysis of non-regular way trades indicated that approximately 97% of such trades occur at a 4/16 point or less deviation from the regular way market, while approximately 80% of such trades occur at a 2/16 point or less deviation from the regular way market. Therefore, the Commission believes that Amendment No. 1 helps to achieve the Exchange's goal of alleviating a substantial administrative burden for Floor Officials and members while preserving the investor protection provided by Floor Official review of non-regular way trades that occur at 2/16 point or more away from the regular way market throughout the year, but not during the final calendar week of the year. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b) of the Act,[13] to approve Amendment No. 1 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendments No. 1, including whether Amendment No. 1 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–33 and should be submitted by December 21, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NYSE–98–33), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30979 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(5) and 78s(b).

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42162; File No. SR–NYSE–99–32]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Exchange Rule 22(b)

November 19, 1999.

I. Introduction

On July 9, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4[2] thereunder, a proposed rule change. In its proposal, the NYSE seeks to codify an interpretation of a section of its Disqualification Because of Personal Interest Rule.[3] The proposed rule change was published for comment in the **Federal Register** on September 21, 1999.[4] The Commission received no comments on the proposal. This order approves the proposal.

II. Description of the Proposal

The NYSE seeks to codify an interpretation of Exchange Rule 22(b), which addresses circumstances under which Board and committee members and other persons are obliged to disqualify themselves from participating in matters in which they have a personal interest. Exchange Rule 22(b) currently states that no person(s) shall participate in the "adjudication" of any matter in which they are personally interested. The proposed amendment to this rule would bar person(s) from participating in the "consideration, review or adjudication" of any matter in which they are personally interested.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act.[5] In particular, the Commission finds the proposal is consistent with Section 6(b)(5)[6] of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the Act in that the change promotes fairness and impartiality in the operation and oversight of the NYSE. The proposal codifies an interpretation of Exchange Rule 22(b). This rule prevents persons with conflicts of interests from participating in matters in which they have a personal interest. The Commission believes the amendment clarifies those situations in which a person with a conflict of interest should disqualify himself.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSE–99–32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30980 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 22(b).

[4] *See* Securities Exchange Act Release No. 41871 (September 13, 1999), 64 FR 51170.

[5] In addition, pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42161; File No. SR–PHLX–99–39]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Amending Phlx Rule 1014(g) Regarding Specialist Enhanced Participation

November 19, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 4, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx") or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On November 4, 1999, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 1014, "Obligations and Restrictions Applicable to Specialists and Registered Options Traders," and its corollary Option Floor Procedure Advice B–6 to revise the enhanced participation available to Exchange specialists. Under the proposal, if three or more controlled accounts [4] are on parity with an Exchange specialist, the specialist will receive 30% of the contracts of the initiating order.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Background

On August 26, 1994, the Commission approved the Exchange's proposal to adopt and enhanced participation for Exchange specialists in equity options.[5] The enhancement, or "enhanced parity split," provided Exchange specialists with a greater participation in parity trades than the specialists would otherwise be entitled to receive. Initially, the enhanced parity split was approved as a one year pilot expiring August 26, 1995. On November 30, 1994, the Commission approved the Exchange's proposal to make the enhanced parity split available to index option specialist.[6] The enhanced parity split was later revised with respect to situations where less than three controlled accounts are on parity with a specialist.[7] The enhanced parity split was renewed unaltered and on a continuing pilot basis on three subsequent occasions.[8] Thereafter, the enhanced parity split was extended until December 31, 1998, and revised or that it would apply to: (1) All index options; (2) 50% of each specialist's equity options; and (3) all new options allocated to a specialist during the year. In addition, specialists were permitted to revised the list of eligible equity options on a quarterly basis, instead of annually.[9] Finally, in July 1999, the enhanced parity was permanently approved.[10]

Currently, the enhanced parity split applies to orders for more than five contracts. Specifically, when an equity or index option specialist is on parity with one controlled account, the specialist receives 60% of the initiating order and the controlled account receives 40%. When the specialist is on parity with two controlled accounts, the specialist receives 40% of the initiating order and each controlled account receives 30%. When the specialist is on parity with three or more controlled accounts, the specialist is counted as two crowd participants when dividing up the contracts. In any of these situations, if a customer is on parity, the customer will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.

b. Proposal

The Exchange proposes to revise the manner in which the enhanced parity split operates. Specifically, in those cases where the specialist is on parity with three or more controlled accounts, the specialist will receive 30% of the contracts instead of being counted as two crowd participants. However, if a customer is on parity, the customer will not be disadvantaged by receiving a lesser allotment that any other crowd participant including the specialist. Pursuant to the current text of the rule, the Exchange will continue to limit the enhanced parity split to 50% for each of the specialist unit's equity issues.

The Exchange believes that fixing the percentage of an order that a specialist receives under the enhanced parity split should provide more certainty because a fixed percentage is ascertained more easily than a percentage that varies depending on the number of controlled accounts on parity. In addition, in larger crowds, a specialist may not receive a significant enhanced participation using the current two-for-one split because the potentially large number of controlled accounts on parity would significantly dilute the specialist's share of the order. For example, if there are seventy controlled accounts on parity, and there is an initiating order for seventy contracts, the specialist will only receive two contracts and the rest of the crowd will divide the remaining sixty-eight. However, with the proposed 30% enhanced parity split, the specialist will receive twenty-one contracts and the

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange made technical changes to the proposal. *See* letter from Nandita Yagnik, Phlx, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated November 3, 1999 ("Amendment No. 1").

[4] Pursuant to Phlx Rule 1014(g)(i), a controlled account includes any account controlled by or under the common control with a member broker-dealer.

[5] *See* Securities Exchange Act Release No. 34606 (August 26, 1994), 59 FR 45741 (September 2, 1994).

[6] *See* Securities Exchange Act Release No. 35028 (November 30, 1994), 59 FR 63151 (December 7, 1994).

[7] *See* Securities Exchange Act Release No. 35429 (March 1, 1995), 60 FR 12802 (March 8, 1995).

[8] *See* Securities Exchange Act Release Nos. 36122 (August 18, 1995), 60 FR 44530 (August 28, 1995); 37254 (August 5, 1996), 61 FR 42080 (August 13, 1996); and 38924 (August 11, 1997), 62 FR 44160 (August 19, 1997).

[9] *See* Securities Exchange Act Release No. 39401 (December 4, 1997), 62 FR 65300 (December 11, 1997).

[10] *See* Securities Exchange Act Release No. 41588 (July 1, 1999), 64 FR 37185 (July 9, 1999). The Exchange also received approval to give specialists and enhanced parity split when they develop and trade a new product. The enhanced parity split works as follows: when the specialist is on parity with three or more controlled accounts, the specialist receives 40% of the contracts and the controlled accounts receive the remaining 60%. When the specialists is on parity with less than three controlled accounts in the crowd, the specialist receives 60% of the contracts and the controlled accounts receive 40%. In either these situations, if a customer is on parity, the customer may not receive a lesser allotment than any other crowed participant including the specialist.

rest of the crowd will divide the other forty-nine equally. Thus, the 30% enhanced parity split should help to ensure that specialists in larger crowds receive participations that encourage them to make deep and liquid markets.[11] In addition, the proposal should allow the Exchange to recruit and retain well-capitalized specialists who attract order flow to the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[12] in general, and with Section 6(b)(5),[13] in particular, in that it is designed to promote just and equitable principles of trade; prevent fraudulent and manipulative acts and practices; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; remove impediments to and perfect the mechanism of a free and open market and a national market system; and protect investors and the public interest. The Exchange further believes that the proposal balances the competing interests of specialists and market makers while helping specialists protect the public interest by making tight and liquid markets in assigned issues.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[11] In those instances where three of four controlled accounts are on parity, the Exchange recognizes that the proposed 30% enhanced parity split will provide specialists with a lesser number of contracts than under the current two-for-one enhanced parity split. For example, if there is an initiating order of fifty contracts, and three controlled accounts are on parity, the specialist will currently receive twenty contracts and the controlled accounts will each receive ten contracts. In contrast, under the proposed 30% enhanced parity split the specialist will only receive fifteen contracts. However, the Exchange believes that the proposed 30% enhanced parity split will provide a more equitable treatment to all specialists such that specialists of both large and small crowds shall receive a significant enhanced participation when there are five or more controlled accounts on parity. *See* Amendment No. 1, *supra* note 3.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–99–39 and should be submitted by December 21, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–30978 Filed 11–29–99; 8:45 am]

BILLING CODE 8010–01–M

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending November 19, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6508.
Date Filed: November 16, 1999.
Parties: Members of the International Air Transport Association.
Subject:
Mail Votes 037 and 038
PTC12 NMS–ME 0092 dated 20 September 1999
Mid Atlantic-Middle East Resolutions r1–r10
PTC12 NMS–ME 0093 dated 20 September 1999
South Atlantic-Middle East Resolutions r11–r22
PTC12 NMS–ME 0097 and 0098 dated 5 November 1999
Adoption of Mail Votes 037 and 038
Minutes—PTC12 NMS–ME 0095 dated 1 October 1999
Tables—PTC12 NMS–ME Fares 0052 and 0053 dated 12 November 1999
Intended effective date: 1 April 2000

Docket Number: OST–99–6511.
Date Filed: November 16, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC23 ME–TC3 0077 dated 8 October 1999
Middle East–TC3 except South East Asia Resolutions r1–r43
PTC23 ME–TC3 0081 dated 2 November 1999 Technical Correction
PTC23 ME–TC3 0078 dated 14 October 1999 (Mail Vote 041)
Middle East-South East Asia Resolutions r44–r58
PTC23 ME–TC3 0082 dated 9 November 1999 (Adoption Mail Vote 041)
Minutes—PTC23 ME–TC3 0080 dated 29 October 1999
Tables—PTC23 ME–TC3 Fares 0038 dated 15 October 1999 and PTC23 ME–TC3 Fares 0040 dated 12 November 1999
Intended effective date: 1 April 2000

Docket Number: OST–99–6512.
Date Filed: November 16, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC1 0126 dated 16 November 1999
Mail Vote 050 Resolution 010s
TC1 Special Passenger Amending

Resolution Excursion and Pex Fares Within South America
Intended effective date: 1 December 1999

Docket Number: OST–99–6514.
Date Filed: November 17, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC2 ME–AFR 0041 dated 16 November 1999
Mail Vote 049 Resolution 010r
TC2 Middle East-Africa Special Passenger Amending Resolution from Iran to Libya
Intended effective date: 18 November 1999

Docket Number: OST–99–6523.
Date Filed: November 19, 1999.
Parties: Members of the International Air Transport Association.
Subject:
PTC COMP 0530 dated 19 November 1999
Mail Vote 051—Resolution 011a (Amending)
Mileage Manual non-TC Member/non-IATA Carrier Sectors
New Sector between Kristianstad and Palanga
Intended effective date: 1 December 1999

Andrea Jenkins,
Federal Register Liaison.
[FR Doc. 99–31106 Filed 11–29–99; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 19, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–6538.
Date Filed: November 19, 1999.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 17, 1999.

Description

Application of Continental Airlines, Inc. pursuant to 49 U.S.C. Sections 41108 and 41102 and Subpart Q, applies for a certificate of public convenience and necessity authorizing Continental to provide scheduled foreign air transportation of persons, property and mail between any point or points in the United States via any intermediate point or points and any point or points in Italy and beyond Italy to any point or points in third countries.

Andrea Jenkins,
Federal Register Liaison.
[FR Doc. 99–31107 Filed 11–29–99; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on May 20, 1999 (64 FR 27615).

DATES: Comments must be submitted on or before December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. James Getzewich, (202) 366–0175, Highway Systems Performance, Office of Highway Policy Information, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Highway Performance Monitoring System (HPMS)—Field Manual.

OMB Number: 2125–0028.

Type of Request: Renewal of a currently-approved information collection.

Affected Public: State governments of the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the four territories (American Samoa, Guam, Northern Marianas, and Virgin Islands).

Abstract: The HPMS data which is collected is used for management decisions affecting transportation, such as estimates of future highway needs of the Nation and assessments of the highway system performance. This data is essential to FHWA and Congress in evaluating effectiveness of the Federal-aid highway program providing miles, lane-miles, and travel components of apportionment formulae. The information is used by FHWA to develop and implement legislation and by State and Federal transportation officials to adequately plan, design, and administer effective, safe, and efficient transportation systems. A recently completed reassessment of the HPMS resulted in the elimination and/or streamlining of approximately 20 percent of the required data. Therefore, a reduction in burden hours for this currently-approved information collection is anticipated.

Frequency: Annually.

Estimated Burden: The estimated average burden per response for the annual collection and processing of the HPMS data is 1,440 hours for the States, the District of Columbia and the Commonwealth of Puerto Rico; and 20 hours for each of the four territories. The estimated total annual burden for all respondents is 74,960 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this Notice.

Issued on: November 22, 1999.

Michael J. Vecchietti,
Director, Office of Information and Management Services.
[FR Doc. 99–30987 Filed 11–29–99; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Office of Motor Carrier Safety

[Docket No. OMCS–96–6488, (formerly Docket No. MC–96–32)]

Notice of Request for Renewal of a Currently-Approved Information Collection: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property

AGENCY: Office of Motor Carrier Safety (OMCS), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (Section 3506(c)(2)(A)), this notice announces the agency's intention to request the Office of Management and Budget (OMB) to renew its clearance of a currently approved information collection identified below under Supplementary Information. In this regard, the agency is requesting OMB approval to combine two information collections (formerly authorized under Federal Highway Administration OMB approval numbers 2125–0074 and 2125–0518) into one information collection authorized under OMB Approval Number 2126–0518. The two collections cover similar requirements for motor carriers to document their minimum levels of financial responsibility. The only difference is the regulated audiences who are required to provide information—motor carriers of property and motor carriers of passengers. Combining these two collections will not result in increased burdens.

DATES: Comments must be submitted on or before January 31, 2000.

ADDRESSES: Signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mrs. Valerie Height, (202) 366–1790, Office of Motor Carrier Safety, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Revised Title: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property.

OMB Number: 2126–0518.

The Secretary of Transportation has rescinded the authority previously delegated to the Federal Highway Administrator to perform motor carrier functions and operations. This authority has been redelegated to the Director, Office of Motor Carrier Safety (OMCS), a new office within the Department of Transportation [64 FR 56270, October 19, 1999]. This is the reason for the revised information collection prefix number (being changed from 2125 to 2126) and the docket transfer.

The new OMCS assumes the motor carrier functions previously performed by the FHWA's Office of Motor Carrier and Highway Safety (OMCHS). Ongoing rulemaking, enforcement, and other activities of the OMCHS, initiated while part of the FHWA, will be continued by the new OMCS. The redelegation will cause no changes in the motor carrier functions and operations of the offices or resource centers.

Background: Sections 29 and 30 of the Motor Carrier Act of 1980 (codified at 49 U.S.C. 31139) require the Secretary of Transportation to promulgate regulations which establish minimal levels of financial responsibility for motor carriers of property to cover public liability, property damage, and environmental restoration. Sections 18 of the Bus Regulatory Reform Act of 1982 (codified at 49 U.S.C. 31138) requires the Secretary of Transportation to establish regulations to require minimal levels of financial responsibility for for-hire motor carriers of passengers to cover public liability and property damage.

The Endorsement for Motor Carrier Policies of Insurance for Public Liability (Form MCS–90/90B) and the Motor Carrier Public Liability Surety Bond (Form MCS–82/82B) contain the minimum amount of information necessary to document that a motor carrier has obtained and has in effect the minimum levels of financial responsibility as set forth in applicable regulations (motor carriers of property—49 CFR 387.9; motor carriers of passengers—49 CFR 387.33). The information within these documents is used by the OMCS and the public to verify that a motor carrier of property or passengers has obtained and has in effect the required minimum levels of financial responsibility.

Respondents: Insurance and surety companies of motor carriers of property (Form MCS–90 and Form MCS–82) and motor carriers of passengers (Form MCS–90B and Form MCS–82B).

Average Burden per Response: Two minutes to complete the Endorsement for Motor Carrier Policies of Insurance for Public Liability or the Motor Carrier Public Liability Surety Bond; one minute to file the Motor Carrier Public Liability Surety Bond; one minute to have either document on board the vehicle (foreign-domiciled motor carriers only).

Estimated Total Annual Burden: 3,658 hours.

Frequency: Upon creation, change, or replacement of an insurance policy or surety bond.

Public Comments Invited

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the OMCS; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Electronic Availability

An electronic copy of this document may be downloaded using a computer, modem, and suitable communications software from the Government Printing Office electronic bulletin board service (telephone: 202–512–1661). It may also be downloaded over the Internet, from the home page of the **Federal Register** at: *http://www.nara.gov/fedreg*, or the database of the Government Printing Office at: *http://www.access.gpo.gov/nara*. Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. This service is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Authority: 23 U.S.C. 315; 44 U.S.C. 3506(c)(2)(A); 49 CFR 1.73.

Issued on: November 22, 1999.

Julie Anna Cirillo,

Acting Director, Office of Motor Carrier Safety.

[FR Doc. 99–30988 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Office of Motor Carrier Safety

[OMCS Docket No. 99–5748 (formerly FHWA Docket No. 99–5748)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Office of Motor Carrier Safety (OMCS), DOT.

ACTION: Notice of final disposition.

SUMMARY: The OMCS announces its decision to exempt 33 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: November 30, 1999.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Motor Carrier Research and Standards, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara*.

Background

The Secretary has rescinded the authority previously delegated to the Federal Highway Administration to perform motor carrier functions and operations. This authority has been redelegated to the Director, Office of Motor Carrier Safety (OMCS), a new office within the Department of Transportation (64 FR 56270, October 19, 1999). This explains the docket transfer. The new OMCS assumes the motor carrier functions previously performed by the FHWA's Office of Motor Carrier and Highway Safety (OMCHS). Ongoing rulemaking, enforcement, and other activities of the OMCHS, initiated while part of the FHWA, will be continued by the OMCS. The redelegation will cause no changes in the motor carrier functions and operations of the offices or resource centers.

Thirty-three individuals petitioned the FHWA for an exemption of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. The OMCS is now responsible for processing the vision exemption applications of the 33 drivers. They are Terry James Aldridge, Jerry D. Bridges, Michael L. Brown, Duane D. Burger, Charlie Frank Cook, Greg L. Dinsmore, Donald D. Dunphy, Ralph E. Eckels, Jerald C. Eyre, Russell W. Foster, Arnold D. Gosser, Eddie Gowens, Gary R. Gutschow, Richard J. Hanna, Jack L. Henson, Richard K. Jensrud, David R. Jesmain, Albert E. Malley, Clifford E. Masink, Tyrone O. Mayson, Rodney M. Mimbs, Charles E. O'Dell, Richard W. O'Neill, Jerry L. Reese, Frances C. Ruble, Johnny L. Stiff, Robert J. Townsley, Thomas R. Trumpeter, Steven M. Veloz, Thomas E. Walsh, James T. White, Harry Ray Littlejohn, and Mark K. Cheely. Under 49 U.S.C. 31315 and 31136(e), the OMCS (and previously the FHWA) may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, the OMCS evaluated the petitions on their merits and made a preliminary determination that the waivers should be granted. On July 26, 1999, the agency published notice of its preliminary determination and requested comments from the public (64 FR 40404). The comment period closed on August 25, 1999. Three comments were received, and their contents were carefully considered by the OMCS in reaching the final decision to grant the petitions.

Vision And Driving Experience of the Applicants

The vision requirement in 49 CFR 391.41(b)(10) provides:

> A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

Since 1992, the FHWA has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket). The panel's conclusion supports the OMCS' (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The OMCS also recognizes that some drivers do not meet the vision standard but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 33 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal detachment, macular defect, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but seven applicants were either born with their vision impairments or have had them since childhood. The seven individuals who sustained their vision conditions as adults have had them for periods ranging from 5 to 34 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, can perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL). Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL, these 33 drivers have been authorized to drive a CMV in intrastate commerce even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from

4 to 45 years. In the past 3 years, the 33 drivers had only one conviction for a traffic violation among them and that was a non-moving offense. Five drivers were involved in accidents in their CMVs, but there were no injuries and only one of the CMV drivers received a citation which was later dismissed under local authority.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in a July 26, 1999, notice (64 FR 40404). Since the docket comments did not focus on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group, however, is supported by the information published at 64 FR 40404.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the OMCS may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the OMCS considered not only the medical reports about the applicants' vision but also their driving records and experience with the vision deficiency. Recent driving performance is especially important in evaluating future safety according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996). That experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions to those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors, such as age, sex, geographic location, mileage driven and conviction history, are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 33 applicants, we note that cumulatively the applicants have had only six accidents and one non-moving traffic violation in the last 3 years. None of the violations involved a serious traffic violation as defined in 49 CFR 383.5, and neither of the accidents resulted in bodily injury. In one of the accidents, a citation was issued, but was later dismissed under local authority. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the OMCS concludes their ability to drive safely can be projected into the future.

We believe applicants' intrastate driving experience provides an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 4 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the OMCS finds that exempting applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the OMCS will impose requirements on the 33 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) By an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) By a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) That each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) That each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The OMCS received three comments in this proceeding. Each comment was considered and is discussed below.

The wife of a Florida truck driver supports a change to the Federal vision requirements for operating CMVs in interstate commerce citing the economic hardship imposed on her family because her husband is restricted to driving only in Florida. In support of her position, she cites her husband's good driving record and suggests that his vision problem has made him a more vigilant driver. As stated above, the OMCS believes that the present standard is reasonable and necessary as a general standard to ensure highway safety. The OMCS recognizes, however, that some drivers who do not meet the vision standard have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely and therefore, supports the granting of individual exemptions from 49 CFR 391.41(b)(10) on a case-by-case evaluation.

In another comment, Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FHWA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs) including the driver qualification standards. Specifically, the AHAS: (1) Asks the agency to clarify the consistency of the exemption application information provided at 64 FR 40404, (2) Objects to the agency's reliance on conclusions drawn from the vision waiver program, (3) Suggests that the criteria used by the FHWA for considering exemptions is flawed, (4) Raises procedural objections to this proceeding, (5) Claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally, (6) Suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

On the first issue regarding clarification of exemption application information, the AHAS points to what it sees as "inconsistencies and differences in the types of information" provided in individual applications. The AHAS questions why the FHWA omitted information on mileage driven for 11 of the 33 applicants, total years of experience for applicant 32 (Harry Ray Littlejohn), and the vision in the better eye for applicant 3 (Michael L. Brown). In the case of applicant 3, the agency inadvertently left out the information on the vision in the better eye which was 20/30 with correction. Otherwise, this difference in the presentation of information simply reflects the OMCS' case-by-case assessments of individual applications. Total mileage driven was provided as an indicator of overall CMV experience. The omission of total mileage information for 11 of the 33 applicants is not significant since all 33 applicants have 3 years of experience operating a CMV with their vision deficiency in a period recent enough for the OMCS to verify their safety records. Applicant 32, whose application information on total years of experience was left out, has 27 years experience operating a CMV.

Other apparent inconsistencies identified by the AHAS, such as, the use of different terminology describing the driving records of applicants, reflects the agency's case-by-case assessments of individual applications as to whether there were any accidents or traffic violations in CMV in the past 3 years. Regardless of how the agency states this information—that is, in a CMV, in any vehicle or no accidents or violations, it indicates that the applicant has not had an accident or traffic violation in a CMV in the last 3 years. The use of different terminology is not, as the AHAS suggests, an attempt by the OMCS to manipulate information in such a way as to "put the best possible appearance on each petition for exemption."

Specific information provided on the 6 accidents and one non-moving violation of the 33 applicants is a presentation of the facts as we know them and not any attempt to downplay or explain away accidents and citations as the AHAS suggests. Regarding applicant 16 (Richard K. Jensrud) who was initially cited for an accident which was later dismissed under local authority, the FHWA is not questioning the judgment of the police officer at the scene of the accident or the validity of the citation, as AHAS suggests, but merely reporting the facts of the case. Furthermore, information presented indicating that applicant 16 drove 1.8 million miles in 6 years is an error. The information at 64 FR 40404 should have indicated that this applicant drove 50,000 per year for a total of 300,000 miles.

The second issue raised by the AHAS, which questions the agency's reliance on conclusions drawn from the vision waiver program, was addressed at length in the agency's final decision to exempt 32 individuals from the vision requirement in 49 CFR 391.41(b)(10). (64 FR 51568, September 23, 1999) In that notice, the FHWA's position, based on various assessments of external and internal validity, was that the results generated by the waiver program have a high degree of validity and therefore, support inferences drawn from the results of the waiver program. The notice also clarifies that the target of inference in the waiver program was the process of granting waivers, and that if the inferences drawn from these results focus on the process tested, the conclusions are valid. Thus, the application of the waiver program to future screening is also justified.

In its third point, the AHAS contends that the criteria used by us for considering exemptions is flawed because the exemption criteria includes consideration of an applicant's driving history for a three-year period and disregards FMCSRs which would require reliance upon a ten-year driving history. The AHAS believes that drivers exempted from the Federal vision standard are "also exempted from reporting convictions for disqualifying offenses that took place more than 3 years prior to the application." As the agency has already discussed at 64 FR 51568, there is no basis for that belief. The exemption granted to these applicants applies only to the qualification standard in 49 CFR 391.41(b)(10). The exempted drivers are subject to all other regulations including all the CDL and other qualification standards.

In its fourth point, the AHAS raises procedural objections to this proceeding, claiming that there is no statutory basis for making a preliminary determination which tends to pre-judge the outcome. We believe, as previously stated at 64 FR 51568, that its preliminary determination is analogous to a notice of proposed rulemaking, where the agency evaluates the basis for new or amended regulation and then proposes that new rule. Under the agency's vision exemption process, completed applications are evaluated and only when the agency proposes to grant a petition is the proposal and the analysis in support of the application published for public comment. More that 170 applications have been denied outright. Denials will be summarized periodically and published in the **Federal Register**, consistent with 49 U.S.C. 31315 and 31136(e).

In its fifth point, the AHAS argues that the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)) by considering them slightly more lenient than the previous law. As previously stated in 64 FR 51568, this was unquestionably the intention of Congress in drafting section 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat.107, (See 63 FR 67601, quoting from H.R. Conf. Rep. No. 105–550, at 489–490).

The AHAS' final point suggesting that the recent Supreme Court decision, *Albertsons, Inc.* v. *Kirkingburg*, 119 S.Ct. 2162 (June 22, 1999) affects the legal validity of vision exemptions is without

support. This case is significant because of the Court's treatment of various provisions of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101 *et seq.*), and the fact that this decision significantly narrows application of the ADA. In this case, Mr. Kirkingburg was fired by his employer, Albertsons, after a re-examination in 1992 determined that he did not meet the Federal vision requirements. Mr. Kirkingburg obtained a waiver of the vision standard from the FHWA in 1993, which allowed him to operate a CMV in interstate commerce. However, Albertsons would not rehire him because it did not view the vision waiver as a substitute for the vision standard. Mr. Kirkingburg sued Albertsons claiming his firing violated the ADA. Since the ADA does not apply to the Federal regulations, the decision did not directly affect the agency's motor carrier safety program. Under the court's ruling, a motor carrier may require that its drivers meet all physical qualification requirements in 49 CFR 391 as a condition of employment. The employer is not required to accept an OMCS exemption as a substitute for compliance with a physical qualification standard. This finding is consistent with 49 CFR 390.3(d) of the FMCSRs which allows carriers to establish more stringent safety requirements. As a result, the OMCS will continue to issue exemptions from the vision standard to drivers who demonstrate an ability to drive safely with their vision condition. However, after making that safety determination, the OMCS has no power to require motor carriers to hire drivers with vision exemptions.

In its comments, the American Trucking Associations, Inc. (ATA) opposes the agency's preliminary determination to grant these 33 exemptions. The ATA states that its opposition has been continuous and cites written comments to the docket in support of its position. Although the ATA expressed opposition to the broad issuance of vision waivers in its comments to the FHWA docket MC–96–2 (61 FR 13338, March 26, 1996), the ATA stated, "it would support a case-by-case evaluation that considered the merits of individual waived drivers." That is precisely what the agency has done in the case of these 33 applicants for exemptions from 49 CFR 391.41(b)(10). The previous discussion explains that the agency's preliminary determination that these individuals have demonstrated an ability to drive safely with their vision deficiency is based on a case-by-case evaluation of the merits of each applicant. Current medical reports about each applicant's vision, driving records and experience have been evaluated for each applicant.

Notwithstanding its opposition to the granting of vision exemptions, the ATA recommends that if the agency decides to exempt drivers from the vision requirements that it require exempted drivers to have "annual medical examinations and annual vision checks by an optometrist or ophthalmologist." The previous discussion states specifically that, as a condition of the exemption, a driver must be examined every year by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41.

The ATA further recommends, in the case of recordable accident involvement, that exempted drivers report such involvement directly to the agency and undergo a medical examination prior to returning to driving a CMV. Although the OMCS does not require the reporting of accidents by exempted drivers, it does monitor the performance of these drivers through periodic checks of their motor vehicle records and, if necessary, can take action relative to a particular accident. Regarding a post-accident medical examination, current regulations, specifically 49 CFR 391.45(c), already require drivers operating in interstate commerce, including these exempted drivers, to be medically examined and certified as qualified to operate a CMV any time their ability to perform their duties is impaired by a physical or mental condition.

In its final comment, the ATA recommends that the agency "clarify its predominance over the Americans with Disabilities Act as it applies to safety-sensitive jobs and tasks by: (1) Issuing a notice in (the) **Federal Register** summarizing the aforementioned Supreme Court case (*Albertsons, Inc.* v. *Kirkingburg*, 119 S.Ct. 2162 (June 22, 1999)), as it applies to FHWA's vision waiver/exemption program; and (2) amending 49 CFR 391.64 to clarify that a employer still retains the right to consider a driver who fails FHWA's vision requirements, as medically unqualified to operate a CMV in interstate commerce."

As previously discussed, the decision in *Albertsons, Inc.* v. *Kirkingburg* significantly narrows the application of the ADA. Since the ADA does not apply to the FMCSRs, this decision does not affect the OMCS' motor carrier safety programs, including its process for granting vision exemptions. Moreover, the agency does not require employers to incorporate the exemptions in their employment practices. In fact, current regulations allow employers to establish more stringent safety requirements than those of the agency (49 CFR 390.3(d)), making an amendment to 49 CFR 391.64, as ATA suggests, unnecessary.

Notwithstanding the OMCS' ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, the OMCS must comply with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration*, 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 33 veteran drivers in this case have demonstrated to our satisfaction that they can continue to operate a CMV with their current vision safely in interstate commerce because they have demonstrated their ability in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

Conclusion

After considering the comments to the docket and based upon its evaluation of the 33 waiver applications in accordance with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration, supra*, the OMCS exempts Terry James Aldridge, Jerry D. Bridges, Michael L. Brown, Duane D. Burger, Charlie Frank Cook, Greg L. Dinsmore, Donald D. Dunphy, Ralph E. Eckels, Jerald C. Eyre, Russell W. Foster, Arnold D. Gosser, Eddie Gowens, Gary R. Gutschow, Richard J. Hanna, Jack L. Henson, Richard K. Jensrud, David R. Jesmain, Albert E. Malley, Clifford E. Masink, Tyrone O. Mayson, Rodney M. Mimbs, Charles E. O'Dell, Richard W. O'Neill, Jerry L. Reese, Frances C. Ruble, Johnny L. Stiff, Robert J. Townsley, Thomas R. Trumpeter, Steven M. Veloz, Thomas E. Walsh, James T. White, Harry Ray Littlejohn, and Mark K. Cheely from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) By an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) By a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) That each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual

medical examination; and (3) That each individual provide a copy of the annual medical certification to the employer for retention in its driver qualification file, or keep a copy in his/her driver qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the OMCS. The exemption will be revoked if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the OMCS for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 322, 31315 and 31136; 49 CFR 1.73.

Julie Anna Cirillo,

Acting Director, Office of Motor Carrier Safety.

[FR Doc. 99–31062 Filed 11–29–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 30, 1999 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0536.

Form Number: None.

Type of Review: Extension.

Title: Notification to Fire Marshal and Chief, Law Enforcement Officer of Storage of Explosive Materials.

Description: Title 18 U.S.C., Chapter 40, gives the Secretary of Treasury authority to issue regulations intended to help prevent accidents involving explosives. The collection of information contained herein is necessary for the safety of emergency response personnel responding to fires at sites where explosives are stored.

Respondents: Business or other for-profit, Individuals or households, Farms, State, Local or Tribal Government.

Estimated Number of Respondents: 10,057.

Estimated Burden Hours Per Respondent: 90 minutes.

Frequency of Response: Semi-annually.

Estimated Total Reporting Burden: 60,342 hours.

OMB Number: 1512–0537.

Form Number: ATF F 5154.3.

Type of Review: Extension.

Title: Bond for Drawback Under 26 U.S.C. 5131.

Description: Businesses that use taxpaid alcohol to manufacture nonbeverage products may file a claim for drawback (refund or remittance). Claims may be filed monthly or quarterly. Monthly claimants must file a bond on ATF F 5154.3 to protect the Government's interest.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 60.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 12 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW, Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–30976 Filed 11–29–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 19, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 30, 1999 to be assured of consideration.

Bureau of the Public Debt (PD)

OMB Number: 1535–0052.

Form Number: PD F 1011.

Type of Review: Extension.

Title: Resolution Authorizing (1) Disposition of Securities Held by Organization, and (2) Execute and Delivery of Bonds of Indemnity.

Description: Form PD F 1011 is used by an organization to dispose of securities and/or execute bonds of indemnity.

Respondents: Not-for-profit institutions, business or other for-profit.

Estimated Number of Respondents: 485.

Estimated Burden Hours per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 243 hours.

Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–31010 Filed 11–29–99; 8:45 am]

BILLING CODE 4810–40–P

Corrections

Federal Register

Vol. 64, No. 229

Tuesday, November 30, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–34

RIN 3090–AG12

[FPMR Amendment G–114]

Motor Vehicle Management

Correction

In document 99–27747 beginning on page 59592 in the issue of Tuesday, November 2, 1999, make the following correction:

§102–34.170 [Corrected]

On page 59598, in the second column, in the amendatory text for § 102–34.170, add the following sentence to the end of paragraph (d): "Inspections and stickers are free."

[FR Doc. C9–27747 Filed 11–29–99; 8:45 am]

BILLING CODE 1505–01–D

VOL
64
ISS
2
2
9
NO
30
1999
UMI

federal register

Tuesday
November 30, 1999

Part II

Department of Health and Human Services

National Institutes of Health

Privacy Act of 1974; Annual Publication of Systems of Records; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Privacy Act of 1974; Annual Publication of Systems of Records

AGENCY: National Institutes of Health, DHHS.

ACTION: Privacy Act: Annual republication of notices of revised systems of records.

SUMMARY: The National Institutes of Health (NIH) has conducted a comprehensive review of all Privacy Act systems of records and is publishing the resulting revisions. None of the revisions meet the OMB criteria for a new or altered system of records requiring an advance period for public comment. These changes are in compliance with Circular A–130, Appendix 1. The notices republished below are complete and accurate as of October 16, 1999.

SUPPLEMENTARY INFORMATION: The following information summarizes the current status of systems of records which had minor modifications during 1998 and lists all systems maintained by NIH:

A. System Name

The following systems have been updated to reflect a change in the name of the system:

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, and Others Who Receive Medical Care Through the Employee Health Unit, HHS/NIH/ORS.
09–25–0106, Administration: Office of the NIH Director and Institute/Center Correspondence Records, HHS/NIH/OD.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/CSR.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.

B. System Location

The following systems have been updated to reflect a change in the system location or location address. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD.
09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC.
09–25–0054, Administration: Property Accounting, HHS/NIH/ORS.
09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID.
09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, and Others Who Receive Medical Care Through the Employee Health Unit, HHS/NIH/ORS.
09–25–0106, Administration: Office of the NIH Director and Institute/Center Correspondence Records, HHS/NIH/OD.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.
09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI.
09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.
09–25–0169, Medical Staff-Credentials Files, HHS/NIH/CC.
09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/NIDA.
09–25–0203, National Institute on Drug Abuse, Intramural Research Program, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.
09–25–0209, Subject-Participants in Drug Abuse Research Studies on Drug Dependence and in Research Supporting New Drug Applications, HHS/NIH/NIDA.
09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA.

C. Categories of Individuals Covered by the System

The following systems have been updated to reflect a change in the categories covered by the system. This change does not alter the character or purpose of the system.

09–25–0054, Administration: Property Accounting, HHS/NIH/ORS.
09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, and Others Who Receive Medical Care Through the Employee Health Unit, HHS/NIH/ORS.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0209, Subject-Participants in Drug Abuse Research Studies on Drug Dependence and in Research Supporting New Drug Applications, HHS/NIH/NIDA.

D. Categories of Records

The following systems have been updated to reflect a change in the categories of records in the system. This change does not alter the character or purpose of the system.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD.
09–25–0106, Administration: Office of the NIH Director and Institute/Center Correspondence Records, HHS/NIH/OD.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.

E. Authority

The following system has been updated to reflect a change in the authority. This change does not alter the character or purpose of the system.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.
09–25–0200, Clinical, Epidemiologic, and Biometric Studies of the National Institutes of Health (NIH), HHS/NIH/OD.

F. Storage

The following systems have been updated to reflect a change in system storage practices:

09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.

G. Retrieval

The following systems have been updated to reflect a change in retrieval practices.

09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.

H. Safeguards

The following systems have been updated to reflect a change in safeguard practices.

09–25–0014, Clinical Research: Student Records, HHS/NIH/CC.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.
09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA.

I. Retention and Disposal

The following systems have been updated to reflect a change in retention and disposal:

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC.
09–25–0106, Administration: Office of the NIH Director and Institute/Center Correspondence Records, HHS/NIH/OD.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0165, National Institutes of Health Loan Repayment Program, HHS/NIH/OD.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.
09–25–0203, National Institute on Drug Abuse, Intramural Research Program, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.

J. System Manager(s) and Address(es)

The following systems have been updated to reflect a change in the system manager or the address of the system manager. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD.
09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC.
09–25–0014, Clinical Research: Student Records, HHS/NIH/CC.
09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC.
09–25–0054, Administration: Property Accounting, HHS/NIH/ORS.
09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID.
09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC.
09–25–0106, Administration: Office of the NIH Director and Institute/Center Correspondence Records, HHS/NIH/OD.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI.
09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/CSR.
09–25–0166, Administration: Radiation and Occupational Safety and Health Management Information Systems, HHS/NIH/ORS.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.
09–25–0169, Medical Staff-Credentials Files, HHS/NIH/CC.
09–25–0200, Clinical, Epidemiologic, and Biometric Studies of the National Institutes of Health (NIH), HHS/NIH/OD.
09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse and on Treatment Medications, HHS/NIH/NIDA.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.
09–25–0209, Subject-Participants in Drug Abuse Research Studies on Drug Dependence and in Research Supporting New Drug Applications, HHS/NIH/NIDA.
09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA.

K. Record Access

The following systems have been updated to reflect a change in the record access procedure.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

L. Notification Procedure

The following systems have been updated to reflect a change in the office, official, and/or address to write to in order to determine whether or not the system contains a record about the individual.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0200, Clinical, Epidemiologic and Biometric Studies of the National Institutes of Health (NIH), HHS/NIH/OD.

M. The Following Systems Have Been Changed for Clarity and Editing Purposes

09–25–0014, Clinical Research: Student Records, HHS/NIH/CC.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.
09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.
09–25–0169, Medical Staff-Credentials Files, HHS/NIH/CC.

N. Organization Name Change

There are no changes in this category.

O. Deleted Systems of Records

The following systems of records which appeared in the last annual publication are now being deleted because:

09–25–0035, International Activities: Health Scientist Exchange Programs, HHS/NIH/FIC.

The records have been destroyed
09–25–0091, Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI.

The records have been destroyed
09–25–0102, Administration: Grants Associates Program Working Files, HHS/NIH/OER.
The records have been destroyed.

The following is a list of active systems of records maintained by NIH.

Table of Contents

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.
09–25–0007, Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.
09–25–0011, Clinical Research: Blood Donor Records, HHS/NIH/CC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.
09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.
09–25–0014, Clinical Research: Student Records, HHS/NIH/CC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.
09–25–0033, International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0036, Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/Chartered Advisory Committee Information), HHS/NIH/CSR and HHS/NIH/CMO, published **Federal Register**, Vol. 63, No. 122, June 25, 1998.

09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0054, Administration: Property Accounting, HHS/NIH/ORS, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0078, Administration: Consultant File, HHS/NIH/NHLBI, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0093, Administration: Authors, Reviewers, Editorial Board, and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, and Others Who Receive Medical Care Through the Employee Health Unit, HHS/NIH/ORS, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0106, Administration: Office of the NIH Director and Institute/Center Correspondence Records, HHS/NIH/OD, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0108, Personnel: Guest Researchers, Special Volunteers, and Scientists Emeriti, HHS/NIH/OHRM, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0124, Administration: Pharmacology Research Associates, HHS/NIH/NIGMS, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0160, United States Renal Data System (USRDS), HHS/NIH/NIDDK publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0161, Administration: NIH Consultant File, HHS/NIH/CSR, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0165, National Institutes of Health Loan Repayment Program, HHS/NIH/OD, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0166, Administration: Radiation and Occupational Safety and Health Management Information Systems, HHS/NIH/ORS, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0167, National Institutes of Health (NIH) TRANSHARE Program, HHS/NIH/OD, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0168, Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/NIH/OTT, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0169, Medical Staff-Credentials Files, HHS/NIH/CC, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0200, Clinical, Epidemiologic, and Biometric Studies of the National Institutes of Health (NIH), HHS/NIH/OD, published **Federal Register**, Vol. 62, No. 66, Monday, April 7, 1997.

09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/NIDA, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0203, National Institute on Drug Abuse, Intramural Research Program, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse and on Treatment Medications, HHS/NIH/NIDA, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0209, Subject-Participants in Drug Abuse Research Studies on Drug Dependence and in Research Supporting New Drug Applications, HHS/NIH/NIDA, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

09–25–0211, Intramural Research Program Records of In-and Out-Patients with Various Types of Alcohol Abuse and Dependence, Relatives of Patients with Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA, publ. Privacy Act Issuances, 1997 Compilations Online via GPO Access.

Dated: November 17, 1999.

Timothy J. Wheeles,

Director, Division of Management Support, OMA, OA, National Institutes of Health.

09–25–0005

SYSTEM NAME:

Administration: Library Operations and User I.D. File, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate system manager listed below for list of current contractor locations.

National Institutes of Health, Building 10, Room 1L07, 9000 Rockville Pike, Bethesda, MD 20892 and

National Institutes of Health, Building 38, Room 1S33, 8600 Rockville Pike, Bethesda, MD 20894 and

National Institutes of Health, Building 38, Room 1N21, 8600 Rockville Pike, Bethesda, MD 20894 and

National Institutes of Health, Building 38, Room B1E21, 8600 Rockville Pike, Bethesda, MD 20894 and

National Institutes of Health, Building 38A, Room 4N419, 8600 Rockville Pike, Bethesda, MD 20894 and

National Technical Information Service, Accounting Department, 8001 Forbes Place, Room 208F, Springfield, VA 22151.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of Library Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, address, phone number, photographs, issue date, email address, signature, user code and identification number; and when applicable, credit card number and billing information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, describing the general powers and duties of the Public Health Service relating to research and investigation (42 U.S.C. 241).

PURPOSE(S):

1. To monitor library material, services, and circulation control.
2. To provide user documentation.
3. To provide copying services (duplication of library materials).
4. To manage invoice and billing transactions for library services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors and staff to monitor library material, services, circulation control; to provide user documentation; and to process or refine the records. Recipients are required to maintain Privacy Act safeguards with respect to those records.

4. Disclosure may be made for billing purposes to: (a) contractors providing copying services: and (b) NTIS for Medlars Services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer tape and disk, microfiche, paper and file cards.

RETRIEVABILITY:

Records are retrieved by name, user code and/or identification number.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to Library staff members who need to verify that Library identification cards have been issued to those Library users requesting services such as MEDLINE and other computer online bibliographic searches, translations and interlibrary loans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager. The contractor maintains a list of personnel having authority to access records to perform their duties.

2. *Physical Safeguards:* The offices housing the cabinets and file drawers for storage of records are locked during all library off-duty hours. During all duty hours offices are attended by employees who maintain the files. The contractor has secured records storage areas which are not left unattended during the working hours and file cabinets which are locked after hours.

3. *Procedural Safeguards:* Access to the file is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized employees. Access to computerized records is controlled by the use of security codes known only to authorized users. Contractor personnel receive instruction concerning the significance of safeguards under the Privacy Act.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 8000–D–2, which allows records to be kept until superseded or for a maximum period of six years. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER(S) AND ADDRESS:

The Policy Coordinating Official for this system is the Management Analyst, Office of Administration, National Library of Medicine, Building 38, Room 2N21, 8600 Rockville Pike, Bethesda, MD 20894.

Chief, Reference and Bibliographic Services Section, Library Branch, National Center for Research Resources, National Institutes of Health, Building 10, Room 1L21, 9000 Rockville Pike, Bethesda, MD 20892.

Head, Quality Assurance Unit, Preservation and Collection Management Section, Public Services Division, Library Operations, National Library of Medicine, National Institutes of Health, Building 38, Room B1E21, 8600 Rockville Pike, Bethesda, MD 20894.

Chief, Public Services Division, Library Operations, National Library of Medicine, National Institutes of Health, Building 38, Room 1S33, 8600 Rockville Pike, Bethesda, MD 20894.

Librarian, History of Medicine Division, NLM, NIH, Building 38, Room 1N21, 8600 Rockville Pike, Bethesda, MD 20894.

Chief, Medlars Management Section, Bibliographic Services Division, Library Operations, National Institutes of Health, National Library of Medicine, Building 38A, Room 4N419, 8600 Rockville Pike, Bethesda, MD 20894.

NOTIFICATION PROCEDURE:

Write to the system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being

sought. Individuals may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under Notification Procedure above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, NIH Library ID card data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0007

SYSTEM NAME:

Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 13, Room G904, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH employees who apply for safety glasses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Explanation of eye impact and hazard occupation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902.

PURPOSE(S):

Records are used for proper distribution of safety glasses and for proof of delivery.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized Users:* Access is limited to personnel involved in safety glasses issuance program, to supervisors of employees who have requested glasses, and to personnel involved in accounting.

2. *Physical Safeguards:* Record storage locations are locked when unattended.

3. *Procedural Safeguards:* Access to file rooms and files is controlled by system manager or designee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1300–B–3, which allows records to be kept for a maximum period of five years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Division of Safety, ORS, Building 31, Room 1C02, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under Notification Procedure above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting information to how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Previous employer and education institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0011

SYSTEM NAME:

Clinical Research: Blood Donor Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Transfusion Medicine Department, 10 Center Drive, MSC 1184, Bethesda, MD 20892–1184.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors of blood and blood components to be used in the NIH Clinical Center for patient infusions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Past donations, blood types, phenotypes. Laboratory results of hepatitis testing, serologic reactions on all blood samples, donations of blood or blood components.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Preparation of Biological Products" of the Public Health Service Act (42 U.S.C. 263).

PURPOSE(S):

1. To provide a means for contacting blood donors for patient care and research.

2. To provide a medical history of all donors for the transfusion records of each blood unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and their staff in order to accomplish the purposes for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Certain diseases and conditions, including infectious diseases, may be reported to State or Federal government as required by State or Federal law.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

5.(a). PHS may inform the sexual and/or needle-sharing partner(s) of a subject individual who is infected with the human immunodeficiency virus (HIV) of their exposure to HIV, under the following circumstances: (1) The information has been obtained in the course of clinical activities at PHS facilities carried out by PHS personnel or contractors; (2) The PHS employee or contractor has made reasonable efforts to counsel and encourage the subject individual to provide the information to the individual's sexual or needle-sharing partner(s); (3) The PHS employee or contractor determines that the subject individual is unlikely to provide the information to the sexual or needle-sharing partner(s) or that the provision of such information cannot reasonably be verified; and (4) The notification of the partner(s) is made, whenever possible, by the subject individual's physician or by a professional counselor and shall follow standard counseling practices.

(b). PHS may disclose information to State or local public health departments, to assist in the notification of the subject individual's sexual and/or needle-sharing partner(s), or in the verification that the subject individual has notified such sexual or needle-sharing partner(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a computer file, on donor cards, and on microfilm.

RETRIEVABILITY:

Records are retrieved by a unique control number assigned to each individual donor.

SAFEGUARDS:

Access is granted only to authorized employees in the Department of Transfusion Medicine including physicians, nurses, technologists, computer operators, and the department's administrative officer.

1. *Authorized Users:* Access is granted only to authorized employees of the Department of Transfusion Medicine including physicians, nurses technologists, computer operators and the secretary to the Chief.

2. *Physical Safeguards:* Record facilities are locked when system personnel are not present.

3. *Procedural Safeguards:* Access to manual files is limited to authorized users. Access to computerized records is controlled by the use of security codes known only to the authorized users.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–E–50. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Transfusion Medicine Department, National Institutes of Health, 10 Center Drive, MSC 1184, Bethesda, MD 20892–1184.

NOTIFICATION PROCEDURE:

Write to the system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact the system manager at the address specified above. Requesters should provide the same information as is required under the Notification Procedure above. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under Notification Procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Data are collected from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0012

SYSTEM NAME:

Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Clinical Research Volunteer Program, 10 Cloister Ct., Bldg. 61, Bethesda, MD 20892–4754.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Normally healthy individuals who volunteer to participate in NIH studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Program application, health questionnaire and record of participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 263.

PURPOSE(S):

1. To determine suitability for participation in the normal volunteer program.

2. To document remuneration of normal volunteers.

3. To provide a record of participation to be used (a) in writing letters of recommendation/reference for the volunteer, and (b) preparing reports on the normal volunteer program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees.

2. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

3. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Program applications and health questionnaires are stored in file folders. Records of participation are stored on index cards.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. *Authorized Users:* Access is granted only to the Normal Volunteer Program staff and to NIH physicians who have requested the recruitment of volunteers for their clinical research projects.

2. *Physical Safeguards:* Access to the files is strictly controlled by the files staff. Records may be removed from the file only at the request of the system manager or other authorized employees. Record facilities are locked when system personnel are not present.

3. *Procedural Safeguards:* Access to the files is strictly controlled by the files staff. Records may be removed from the file only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–E–61, which allows records to be kept for a maximum period of three years after the volunteer period ends. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Clinical Research Volunteer Program, 10 Cloister Ct., Bldg. 61, Bethesda, MD 20892–4745.

NOTIFICATION PROCEDURE:

Write to the system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact: Chief, Social Work Department, National Institutes of Health, Social Work Department, 10 Center Drive, MSC 1160, Bethesda, MD 20892–1160 and provide the information described under Notification Procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under Notification Procedure above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Volunteer, sponsoring contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0014

SYSTEM NAME:

Clinical Research: Student Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Office of Education, 10 Center Drive, MSC 1158, Bethesda, MD 20892–1158.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential and accepted Medical Staff and Research Fellows, medical students, and other students in NIH training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application form, transcripts, references, evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241.

PURPOSE(S):

1. To identify candidates for clinical and research fellow, clinical elective, and other training positions.

2. To maintain a permanent record of those individuals who have received clinical research training at the NIH for historical and reference uses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information may be used to respond to congressional inquiries regarding constituents who have applied for training programs.

2. Information may be used to respond to prospective employers who seek training verification on NIH alumni.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and year.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to health care personnel of the NIH who are involved in the evaluation and selection of candidates for training programs.

2. *Physical Safeguards:* Records are maintained in locked cabinets with access limited to authorized personnel, including the systems manager and staff in the Office of Education.

3. *Procedural safeguards:* Access to the files is strictly controlled by the staff. Records may be removed from the file only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items 2300–320–1–13, which allows records to be kept up to a maximum period of ten years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Education, National Institutes of Health, Bldg. 10, Room 1C129, 10 Center Drive, MSC 1158, Bethesda, MD 20892–1158.

NOTIFICATION PROCEDURE:

Write to the system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

To obtain access to a record, contact the system manager at the above address and provide the information described under Notification Procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the system manager at the address specified above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicants, universities and teachers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0033

SYSTEM NAME:

International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room B2C29, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens qualified in health-related sciences submitting applications through NIH for fellowships for study abroad.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and associated records and reports.

PURPOSE(S):

To perform scientific reviews and evaluations of applicants' suitability of referral to awarding organization in foreign countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. After review by the operating agency review panel the applications and all supporting documents are forwarded to the foreign organizations or agencies making awards.

2. In addition, such application may be made available to authorized employees and agents of the Federal Government for purposes of investigations, inspections and audits, and, in appropriate cases, to the Department of Justice for prosecution under civil and criminal laws.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective

representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and fellowship number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* The records are maintained in locked file cabinets, and offices are locked during off-duty hours.

3. *Procedural Safeguards:* Access to file rooms and files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items 2300–320–5, which allows records to be destroyed after a maximum period of six years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Fogarty International Center, Chief, International Research Awards Branch, National Institutes of Health, Building 31, Room B2C29, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager, as listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Applicants and persons supplying references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0034

SYSTEM NAME:

International Activities: Scholars-in-Residence Program, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 16, Room 202, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Distinguished scientists and scholars invited to accept NIH scholarships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment and education histories; references.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2421, "International Cooperation" of the PHS Act.

PURPOSE(S):

To administer and award scholarships to distinguished scientists.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information is made available to authorized employees and agents of the Federal Government for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for prosecution under civil and criminal laws.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to FIC program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* Records are kept in file cabinets. Offices are locked during off-duty hours.

3. *Procedural safeguards:* Access to files is strictly controlled by files staff. Files may be removed only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–7 which allows records to be destroyed after a maximum period of six years after the close of a case. Refer to the NIH Manual Chapter for specific retention instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Acting Director, Division of International Advanced Studies, Fogarty International Center, National Institutes of Health, Building 16, Room 202, 31 Center Drive, MSC 6705, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager, as listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURES:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information is obtained from invitees, reference sources, and persons supplying recommendations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0036

SYSTEM NAME:

Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement Information/Chartered Advisory Committee Information), HHS/NIH/OER and HHS/NIH/CMO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Rockledge Centre II, 6701 Rockledge Drive, Bethesda, MD 20817.

Building 12, NIH Computer Center, 9000 Rockville Pike, Bethesda, MD 20892.

Building 31, Room 3B–59, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principal investigators; program directors; program and projects staff and others named in the application; National Research Service Awards (NRSA) trainees and fellows; research career awardees; chartered advisory committee members; contractor personnel; subcontractor personnel; and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Funding applications, awards, associated records, trainee appointments, current and historical information pertaining to chartered advisory committees, and past performance information pertaining to contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 42 U.S.C. 217a, 241, 282(b)(6), 284a, and 288. 48 CFR subpart 15.3 and subpart 42.15.

PURPOSE(S):

1. To support centralized grant programs of the Public Health Service. Services are provided in the areas of grant application assignment and referral, initial review, council review, award processing and grant accounting. The database is used to provide complete, accurate, and up-to-date repoıts to all levels of management.

2. To maintain communication with former fellows and trainees who have incurred a payback obligation through the National Research Service Award Program.

3. To maintain current and historical information pertaining to the establishment of chartered advisory committees of the National Institutes of Health and the appointment or designation of their members.

4. To maintain current and historical information pertaining to contracts awarded by the National Institutes of Health, and performance evaluations on NIH contracts and contracts awarded by other Federal agencies that participate in the NIH Contractor Performance System.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the National Technical Information Service (NTIS), Department of Commerce, for dissemination of scientific and fiscal information on funded awards (abstract of research projects and relevant administrative and financial data).

2. Disclosure may be made to the cognizant audit agency for auditing.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department regulations for opinions as a part of the application review process.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision in the matter.

6. Disclosure of past performance information pertaining to contractors may be made to a Federal agency upon request. In addition, routine access to past performance information on contractors will be provided to Federal agencies that subscribe to the NIH Contractor Performance System.

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) justifies the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the

individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining that information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; and (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. Disclosure may be made to a private contractor or Federal agency for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. The contractor or Federal agency will be required to maintain Privacy Act safeguards with respect to these records.

9. Disclosure may be made to a grantee or contract institution in connection with performance or administration under the conditions of the particular award or contract.

10. Disclosure may be made to the Department of Justice, or to a court or other adjudicative body, from this system of records when (a) HHS, or any component thereof; or (b) any HHS officer or employee in his or her official capacity; or (c) any HHS officer or employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the officer or employee; or (d) the United States or any agency thereof where HHS determines that the proceeding is likely to affect HHS or any of its components, is a party to proceeding or has any interest in the proceeding, and HHS determines that the records are relevant and necessary to the proceeding and would help in the effective representation of the governmental party.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are retrieved by name, application, grant or contract ID number, and contractor tax ID number.

RETRIEVABILITY:

Records are retrieved by name, application, grant or contract ID number, and contractor tax ID number.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to NIH extramural and committee management staff, NIH contract management staff, and Federal acquisition personnel. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Physical access to Office of Extramural Research (OER) work areas is restricted to OER employees. Physical access to Office of Contracts Management (OCM) work areas is restricted to OCM employees. Physical access to Committee Management Office (CMO) work areas is restricted to CMO employees. Access to the contractor performance files is restricted through the use of secure socket layer encryption and through an IBM password protection system. Only authorized government contracting personnel are permitted access. Access is monitored and controlled by OCM.

3. *Procedural Safeguards:* Access to source data files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee. Access to computer files is controlled by the use of registered accounts, registered initials, keywords, and similar limited access systems.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–A–2, which allows records to be destroyed when no longer needed for administrative purposes. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

For extramural awards: Director, Extramural Information Systems, OD/OER/OPERA, Rockledge II, Room 2172, Bethesda, MD 20892.

For chartered Federal advisory committees of the National Institutes of Health: NIH Committee Management Officer, Building 31, Room 3B–59, 31 Center Drive, Bethesda, MD 20892.

For contracts: Office of Contracts Management, 6100 Executive Boulevard, Room 6D01, Rockville, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Privacy Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicant institution, individual, individual's educational institution and references, and participating Federal acquisition personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0041

SYSTEM NAME:

Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Westwood Building, Room 605, NIH, 5333 Westbard Avenue, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Scientists requesting hormones from the National Institute of Diabetes, and Digestive and Kidney Diseases (NIDDK).

CATEGORIES OF RECORDS IN THE SYSTEM:

Justification for request for hormones, including requester's competence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 263, 289a, 289c.

PURPOSE(S):

1. For review of applications requesting hormones and antibodies for research purposes, prior to awarding these substances.

2. To determine if the requester is qualified to receive these materials.

3. To determine if requests for human hormones for clinical research follow acceptable protocols. In this connection, records may be disclosed to the Food and Drug Administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to NIDDK Contractors for distribution of various hormones to requesters.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for PHS who do not technically have the status of agency employees, if they need the records in the performance of their agency functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to staff working for the contractor who need the records for hormone distribution, to NIH staff who supervise the Hormone Distribution Program, and, as approved by the system manager, to scientists and physicians who may have need of the information for research.

2. *Physical Safeguards:* Records are kept in cabinets in offices which are locked during off-duty hours and which have alarms.

3. *Procedural Safeguards:* Access to files is strictly controlled by files staff. Files may be obtained only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Hormone Distribution Officer, Westwood Building, Room 605, NIH, 5333 Westbard Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists write to: Administrative Officer, NIDDK, Building 31, Room 9A46, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Data is obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0054

SYSTEM NAME:

Administration: Property Accounting, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Computer Center, Building 12, 9000 Rockville Pike, Bethesda, MD 20892 and

National Institutes of Health, Building 31, Room B3B16, 31 Center Drive, MSC 2012, Bethesda, MD 20892 and

National Institute of Environmental Health Sciences, Office of Facilities Engineering, 102–01, P.O. Box 12233, Research Triangle Park, NC 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the National Institutes of Health who are issued card keys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Property management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. 5901; 5 U.S.C. 7903; 40 U.S.C. 318a; 42 U.S.C. 241.

PURPOSE(S):

Used for card keys issuance and control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a

routine use, to the appropriate agency, whether federal or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic media.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Textual records are stored in offices which are locked when not in use.

3. *Procedural Safeguards:* Computer files are password protected.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1300–C–14, which allows records to be destroyed after all listed credentials are accounted for or three months after the return of credentials to the issuing office. Refer to the NIH Manual Chapter for specific instructions.

SYSTEM MANAGER(S) AND ADDRESS(ES):

For card keys: National Institutes of Health, Chief, Crime Prevention Branch, Division of Public Safety, ORS, Building 31, Room B3B16, 31 Center Drive, MSC 2012, Bethesda, MD 20892; or

National Institute of Environmental Health Sciences, Chief, Office of Facilities Engineering, 102–01, P.O. Box 12233, Research Triangle Park, NC 27709.

NOTIFICATION PROCEDURE:

Write to the system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under Notification Procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Data is obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

69–25–0078

SYSTEM NAME:

Administration: Consultant File, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

List of consultants available for use in evaluation of National Heart, Lung, and Blood Institute special grants and contracts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and resumes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d), 281.

PURPOSE(S):

1. To identify and select experts and consultants for program reviews and evaluations.

2. For use in evaluation of NHLBI special grants and contracts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disk and file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. *Authorized Users:* Data on computer files is accessed by keyword known only to authorized users.

2. *Physical Safeguards:* Rooms where records are stored are locked when not in use.

3. *Procedural Safeguards:* During regular business hours, rooms are unlocked but are controlled by on-site personnel.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Review Branch, National Heart, Lung, and Blood Institute, Westwood Building, Room 557A, 5333 Westbard Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: Privacy Act Coordinator, NHLBI, National Institutes of Health, 31/5A10, 31 Center Drive, MSC 2490, Bethesda, MD 20892–2490.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0087

SYSTEM NAME:

Administration: Senior Staff, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A50, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former key professional employees of the Institute and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Press releases, curricula vitae, nominations for awards, and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d), 289a.

PURPOSE(S):

For background records to provide public announcements on National Institute of Allergy and Infectious Diseases (NIAID) research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to staff whose duties require the use of such information. Authorized users are located in the Office of the Director, NIAID. Other one time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Records in this system are stored in file folders which are kept in locked cabinets. The room is locked during off-duty hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Communications and Public Liaison, National Institutes of Health, Building 31, Room 7A–50, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: National Institutes of Health, Privacy Act Coordinator, NIAID, Solar Bldg., Room 3C–23, 6003 Executive Blvd., Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager at the address above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals and newspaper clippings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0093

SYSTEM NAME:

Administration: Authors, Reviewers, Editorial Board, and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 82, Room 239, 9030 Old Georgetown Road, Bethesda, MD 20814.

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authors and manuscript reviewers and members of the Journal of the National Cancer Institute (JNCI) editorial board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Accepted, rejected and pending manuscripts and review comments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 281.

PURPOSE(S):

Manuscript review by NCI staff of manuscripts submitted for possible publication in the Journal of the National Cancer Institute (JNCI) or JNCI Monographs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to qualified experts not within the definition of Department employees for opinions as a part of the review of manuscripts.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and manuscript number.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant access only to JNCI staff personnel, the Editor in Chief, and members of the Board of Editors whose duties require the use of such information.

2. *Physical Safeguards:* Records are kept in a limited access area where an employee is present at all times during working hours. The building is locked during off-duty hours.

3. *Procedural Safeguards:* Access to manual files is tightly controlled by office staff. Only authorized users may have access to the files.

Information that identifies reviewers is not maintained in computer files.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 8000–A–1(b), which allows records to be kept for a maximum period of one year after year in which published or presented. Refer to the NIH Manual Chapter for specific dispcsition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Systems Specialist, Scientific Publications Branch, Building 82, Room 239, 9030 Old Georgetown Road, Bethesda, MD 20814.

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Authors and reviewers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0099

SYSTEM NAME:

Clinical Research: Patient Medical Records, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Medical Record Department, 10 Center Drive, MSC 1192, Bethesda, MD 20892–1192 and at private organizations under contract. Write to the system manager for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registered Clinical Center patients. Some individuals not registered as patients but seen in Clinical Center for diagnostic tests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical treatment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 248: "Research and Investigation," and "Hospitals, Medical Examinations, and Medical Care."

PURPOSE(S):

1. To provide a continuous history of the treatment afforded individual patients in the Clinical Center.

2. To provide a data base for the clinical research conducted within the hospital.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information may be used to respond to Congressional inquiries for

constituents concerning their admission to NIH Clinical Center.

2. Social Work Department may give pertinent information to community agencies to assist patients or their families.

3. Referring physicians receive medical information for continuing patient care after discharge.

4. Information regarding diagnostic problems, or having unusual scientific value may be disclosed to appropriate medical or medical research organizations or consultants in connection with treatment of patients or in order to accomplish the research purposes of this system. For example, tissue specimens may be sent to the Armed Forces Institute of Pathology; X-rays may be sent for the opinion of a radiologist with extensive experience in a particular kind of diagnostic radiology. The recipients are required to maintain Privacy Act safeguards with respect to these records.

5. Records may be disclosed to representatives of the Joint Commission on Accreditation of Hospitals conducting inspections to ensure that the quality of Clinical Center medical record-keeping meets established standards.

6. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

7. Medical information may be disclosed to tumor registries for maintenance of health statistics.

8. The Department contemplates that it may contract with a private firm for transcribing, updating, copying, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

9. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

10. (a). PHS may inform the sexual and/or needle-sharing partner(s) of a subject individual who is infected with the human immunodeficiency virus (HIV) of their exposure to HIV, under the following circumstances: (1) The information has been obtained in the course of clinical activities at PHS facilities carried out by PHS personnel or contractors; (2) The PHS employee or contractor has made reasonable efforts to counsel and encourage the subject individual to provide the information to the individual's sexual or needle-sharing partner(s); (3) The PHS employee or contractor determines that the subject individual is unlikely to provide the information to the sexual or needle-sharing partner(s) or that the provision of such information cannot reasonably be verified; and (4) The notification of the partner(s) is made, whenever possible, by the subject individual's physician or by a professional counselor and shall follow standard counseling practices.

(b). PHS may disclose information to State or local public health departments, to assist in the notification of the subject individual's sexual and/or needle-sharing partner(s), or in the verification that the subject individual has notified such sexual or needle-sharing partner(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and/or on microfiche, and on computer tapes.

RETRIEVABILITY:

Records are retrieved by unit number and patient name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees maintaining records in this system are instructed to grant regular access only to physicians and dentists and other health care professionals officially participating in patient care, to contractors, or to NIH researchers specifically authorized by the system manager.

2. *Physical Safeguards:* All record facilities are locked when system personnel are not present.

3. *Procedural Safeguards:* Access to files is strictly controlled by the system manager. Records may be removed only by system personnel following receipt of a request signed by an authorized user. Access to computerized records is controlled by the use of security codes known only to the authorized user. Codes are user-and function-specific.

Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records in this system are instructed to make no disclosure of the records except as authorized by the system manager.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–E–22, which allows records to be kept until no longer needed for scientific reference. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGERS(S) AND ADDRESS:

Director, Medical Record Department, National Institutes of Health, 10 Center Drive, MSC 1192, Bethesda, MD 20892–1192.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the above address. The requester must provide tangible proof of identity, such as a driver's license. If no identification papers are available, the requester must verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the

request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. The representative may be a physician, or other health professional, or other responsible individual. The subject individual will be granted direct access unless it is determined that such access is likely to have an adverse effect on him or her. In that case, the medical/dental record will be sent to the designated representative. The individual will be informed in writing if the record is sent to the representative.

A parent or guardian who requests notification of or access to a child's/incompetent person's record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent personas as well as his/her own identity.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably identify the specific reports and related dates pertaining to the information to be released. There may be a fee for reproducing more than 20 pages of material. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager and reasonably identify the record and specify the information to be contested, and state the corrective action sought and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Referring physicians, other medical facilities (with patient's consent), patients, relatives of patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0105

SYSTEM NAME:

Administration: Health Records of Employees, Visiting Scientists, Fellows, and Others Who Receive Medical Care Through the Employee Health Unit, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Buildings 10 and 13, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Rocky Mountain Laboratories, Hamilton, Montana 59840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, fellows, visiting scientists, relatives of inpatients, visitors, and others who receive medical care through the Employee Health Unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901.

PURPOSE(S):

1. For medical treatment.

2. Upon researcher request with individual's written permission, release of record for research purposes to medical personnel.

3. Upon request by HHS personnel offices for determination of fitness for duty, and for disability retirement and other separation actions.

4. For monitoring personnel to assure that safety standards are maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to Federal, State, and local government agencies for adjudication of benefits under workman's compensation, and for disability retirement and other separation actions.

2. To district office of OPEC, Department of Labor with copies to the U.S. Office of Personnel Management for processing of disability retirement and other separation actions.

3. Upon non-HHS agency request, for examination to determine fitness for duty with copies to requesting agency and to the U.S. Office of Personnel Management.

4. Disclosure may be made to a congressional office from the record of an individual in response to any inquiry from the congressional office made at the request of the individual.

5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name and social security number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized Users:* Access is limited to authorized personnel (system manager and staff; Occupational Medicine Service staff; and personnel and administrative officers with need for information for fitness for duty, disability, and other similar determinations).

2. *Physical Safeguards:* Files are maintained in locked cabinets.

3. *Procedural Safeguards:* Access to files is strictly controlled by authorized staff.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule, Manual Chapter 1743 (HHS Records Management Manual, Appendix B–361), item 2300–792–3.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Division of Safety, NIH, Building 31, Room 1C02, 9000 Rockville Pike, Bethesda, MD 20892.

Chief, Rocky Mountain Operations Branch, Rocky Mountain Laboratories (RML), National Institutes of Health, Hamilton, MT 59840.

NOTIFICATION PROCEDURE:

Contact system manager at appropriate treatment location listed above, to determine if a record exists.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requester should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under Notification Procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Records contain data resulting from clinical and preventative services provided at treatment location, and data received from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0106

SYSTEM NAME:

Administration: Office of the NIH Director and Institute/Center Correspondence Records, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Executive Secretariat, Office of the Director, Building 1, Room B1–55, 9000 Rockville Pike, Bethesda, MD 20892 and

Office of Legislative Policy and Analysis, Office of the Director, Building 1, Room 244, 9000 Rockville Pike, Bethesda, MD 20892 and

Office of Science Education, Office of the Director, 6100 Executive Blvd., Suite 5H01, Bethesda, MD 20892 and

Institute/Center staff offices that retain correspondence files.

Write to the appropriate system manager listed in Appendix I for a list of current locations and for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have contacted the NIH Director or his/her subordinates, or have been contacted in writing by one of these officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and other supporting documents; mailing lists.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101.

PURPOSE(S):

1. To control, address, and track all correspondence documents addressed or directed to the NIH Director or his/her subordinates, as well as documents/supporting documents initiated by them, in order to assure timely and appropriate attention.

2. Incoming correspondence and supporting documentation is forwarded to other HHS components when a response from them is warranted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made from this system of records by the Department of Health and Human Services (HHS) to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored by computer index, optical image and in file folders.

RETRIEVABILITY:

Records are retrieved by name, document number, date, and subject.

SAFEGUARDS:

1. *Authorized Users:* Access to textual records is limited to authorized personnel (system managers and staff).

2. *Physical Safeguards:* Physical access to records is restricted to authorized personnel.

3. *Procedural Safeguards:* Access to textual records is strictly controlled by system managers and staff. Records may be removed from files only at the request of system managers or other authorized employees. Computer files are password protected.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1700–C, which allows records to be kept for a maximum period of ten years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS

System managers are listed in Appendix I; each maintains full responsibility for their specific correspondence system.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate system manager as listed in Appendix I. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Records are derived from incoming and outgoing correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Managers

Assistant to the Director, Executive Secretariat, Office of the Director, Building 1, Room B146, 9000 Rockville Pike, Bethesda, MD 20892.
Acting Associate Director, Office of Legislative Policy and Analysis, Office of the Director, Building 1, Room 244, 9000 Rockville Pike, Bethesda, MD 20892.
Privacy Act Systems Manager, Office of Science Education, 6100 Executive Blvd., Suite 5H01, Bethesda, MD 20892.
National Cancer Institute (NCI), Secretary to the Director, Building 31, Room 11A48, Bethesda, MD 20892.
National Heart, Lung and Blood Institute (NHLBI), Secretary to the Director, OD, Director's Office, Building 31, Room 5A52, 31 Center Drive, MSC 2486, Bethesda, MD 20892–2486.
National Institute of Diabetes and Digestive and Kidney (NIDDK), Director, OHRR, Building 31, Room 9A04, Bethesda, MD 20892.
National Institute of Environmental Health Sciences (NIEHS), Executive Secretariat, PO Box 12233, South Campus, Building 2, Room B201, Research Triangle Park, NC 27709.
National Eye Institute (NEI), Administrative Officer, Building 31, Room 6A–03, 31 Center Drive, MSC 2510, Bethesda, MD 20892–2510.
National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), Executive Officer, Building 31, Room 4C32, 31 Center Drive, MSC 2350, Bethesda, MD 20892–2350.
National Institute on Deafness and Other Communication Disorders (NIDCD), Chief, Administrative Management Branch, Building 31, Room 3C21, Bethesda, MD 20892.
National Institute of General Medical Sciences (NIGMS), Secretary to the Director, Natcher Building, Room 2AN.12D, 45 Center Drive, Bethesda, MD 20892.
National Library of Medicine (NLM), Secretary to the Director, Office of the Director, Building 38, Room 2E17, Bethesda, MD 20894.
Fogarty International Center (FIC), Secretary to the Director, Building 31, Room B2C06, Bethesda, MD 20892.
Office of AIDS Research (OAR), Special Assistant for Liaison Activities, Building 31, Room 5C12, Bethesda, MD 20892.
National Institute on Drug Abuse (NIDA), Executive Secretariat, Neuroscience Center, 6001 Executive Blvd., Room 5101, MSC 9585, Rockville, MD 20892–9585.
National Institute on Alcohol Abuse and Alcoholism (NIAAA), Secretary to the Director, Willco Building, Suite 400, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003.
National Institute of Mental Health (NIMH), Executive Secretariat, Neuroscience Center, 6001 Executive Blvd., Room 8213, Rockville, MD 20852.
Washington National Records Center, 4205 Suitland Road, Washington, DC 20857.

09–25–0108

SYSTEM NAME:

Personnel: Guest Researchers, Special Volunteers, and Scientists Emeriti, HHS/NIH/OHRM.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system is located in the personnel/administrative offices of individual Institutes/Centers of the National Institutes of Health.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals using NIH facilities who are not NIH employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information including name, address, date and place of birth, education, employment, purpose for which NIH facilities are desired, outside sponsor, and NIH sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(a)(2), 42 U.S.C. 282(b)(10), and 42 U.S.C. 284(b)(1)(k).

PURPOSE(S):

To determine eligibility to use NIH facilities, to document the individual's presence at NIH, and to record that the individual is not an employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to U.S. Office of Personnel Management for program evaluation purposes; to General Accounting Office for fund disbursement determinations.

2. Disclosure may be made to institutions providing financial support.

3. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to the Department of Justice or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

5. Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for PHS who do not technically have the status of agency employees, if they need the records in the performance of their agency functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

For each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized Users:* Access is granted only to personnel staff, administrative office staff, and management officials directly involved in the administration of the Guest Researcher, Special Volunteer, and Scientist Emeriti programs.

2. *Physical Safeguards:* Record facilities are locked when system personnel are not present.

3. *Procedural Safeguards:* Access to files is strictly controlled by system personnel. Records may be removed from the file only with the approval of the system manager or other authorized employees.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records

Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–3(a), which allows records to be destroyed after a maximum period of two years after the individual completes work at NIH. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel/Administrative Officers of National Institutes of Health Institutes/Centers.

NOTIFICATION PROCEDURE:

To determine if a record exists and where it is located, contact:

National Institutes of Health, Office of Human Resources Management, Privacy Act Coordinator, Building 31, Room 1C39, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Contact the Personnel Officer or Administrative Officer in whose office the record is located and provide verification of identity as described under Notification Procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under Notification Procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual, NIH sponsor, funding institution.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0112

SYSTEM NAME:

Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant applicants and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees; and other employees of Applicant and/or grantee institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant and cooperative agreement applications and review history, awards, financial records, progress reports, payback records, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Research and Investigation," "Appointment and Authority of the Directors of the National Research Institutes," "National Institute of Mental Health," "National Institute on Drug Abuse," "National Institute on Alcohol Abuse and Alcoholism," "National Cancer Institute," "National Heart, Lung and Blood Institute," "National Institute of Diabetes, and Digestive and Kidney Diseases," "National Institute of Arthritis and Musculoskeletal and Skin Diseases," "National Institute on Aging," "National Institute on Allergy and Infectious Diseases," "National Institute of Child Health and Human Development," "National Institute of Dental and Craniofacial Research," "National Eye Institute," "National Institute of Neurological Disorders and Stroke," "National Institute of General Medical Sciences," "National Institute of Environmental Health Sciences," "National Institute on Deafness and Other Communication Disorders," "National Institute of Nursing Research," "National Library of Medicine," and the "National Center for Research Resources" of the Public Health Service Act. (42 U.S.C. 241, 284, 285, 285(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), 286b–286b–7, 287a–2, 287a–3.)

PURPOSE(S):

1. Information provided is used by NIH staff for review, award, and administration of grant programs.

2. Information is also used to maintain communication with former fellows who have incurred an obligation through the National Research Service Award Program.

3. Staff may also use curricula vitae to identify candidates who may serve as ad hoc consultants or committee and council members in the grant peer review process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made of assignments of research investigators and project monitors to specific research projects to the National Technical Information Service (NTIS), Department of Commerce, to contribute to the Smithsonian Science Information Exchange, Inc.

2. Disclosure may be made to the cognizant audit agency for auditing.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department Regulations, 45 CFR 56.2, for opinions as a part of the application review and award administration processes.

6. Disclosure may be made to a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or

policy limitations under which the record was provided, collected; or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. Disclosure may be made to a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in a system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

9. Disclosure may be made to the grantee institution in connection with the review of an application or performance or administration under the terms and conditions of the award, or in connection with problems that might arise in performance or administration if an award is made on a grant proposal.

10. Disclosure may be made to the profit institution's president or official responsible for signing the grant application in connection with the review or award of a grant application and in connection with the administration and performance of a grant under the terms and conditions of the awards.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

The Department may disclose to consumer reporting agencies information on individuals who have failed to meet payback obligations incurred under awards made under authority of the National Research Service Awards Program (41 U.S.C. 289l–1). Information disclosed includes data identifying the individual, the amount, status and history of the obligation, and that the obligation arose from an award made under the National Research Service Awards Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, on computer tapes and disks, cards and in notebooks.

RETRIEVABILITY:

Retrieved by name and grant number.

SAFEGUARDS:

A variety of physical and procedural safeguards are implemented, as appropriate, at the various locations of this system:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. These officials include review groups, grants management staff, other extramural program staff, health scientist administrators, data processing and analysis staff and management officials with oversight responsibilities for extramural programs. Other one-time and special access is granted on an individual basis as specifically authorized by the system manager. Authorization for access to computerized files is controlled by the system manager or designated official and is granted on a need-to-know basis. Lists of authorized users are maintained.

2. *Physical Safeguards:* Secured facilities, locked rooms, locked cabinets, personnel screening; records stored in order of grant numbers which are randomly assigned.

3. *Procedural Safeguards:* Access to file rooms and files is strictly controlled by files staff or other designated officials; charge-out cards identifying users are required for each file used; inactive records are transferred to controlled storage in Federal Records Center in a timely fashion; retrieval of records from inactive storage is controlled by the system manager or designated official and by the NIH Records Management Officer; computer files are password protected and access is actively monitored by the Computer Center to prevent abuse. Employees are given specialized training in the requirements of the Privacy Act as applied to the grants program.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items: 4000–B–1; 4000–B–4; 4000–C–1 and, 4000–D–1. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix II.

NOTIFICATION PROCEDURE:

Write to official at the address specified in Appendix II to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the official at the address specified in Appendix IV to obtain access to a record, and provide the same information as is required under the Notification Procedure above. Requesters should also reasonably specify the record contents being sought.

Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified in Appendix II, and reasonably identify the record and specify the information being contested, the corrective action sought, and your

reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information submitted by applicant; supplemented by outside reviewers and internal staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Location

National Cancer Institute, Executive Plaza South, Suite T–42, 6120 Executive Boulevard, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute, Westwood Building, Room 4A09, 5333 Westbard Avenue, Bethesda, MD 20892.
National Library of Medicine, Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817.
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Solar Bldg., Room 4C–09, 6003 Executive Blvd., Rockville, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Management Information Systems Section, FMISB, OAM, Solar Building, Room 4A–03, 6003 Executive Blvd., Rockville, MD 20892.
National Institute of Diabetes and Digestive and Kidney Diseases, Westwood Building, Room 610, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Building, Room 5A352, Bethesda, MD 20892–6500.
National Institute of Child Health and Human Development, 6100 Executive Blvd., Room 8A–01, Bethesda, MD 20892–7510.
National Institute on Aging, Gateway Building, Room 2N–212, 7201 Wisconsin Avenue, Bethesda, MD 20892.
National Institute of Dental and Craniofacial Research, Grants Management Officer, Natcher Building, Room 4AS–55, 45 Center Drive, MSC 6402, Bethesda, MD 20892–6402.
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709.
National Institute of General Medical Sciences, Grants Management Officer, Natcher Building, Room 2AN52, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Neurological Disorders and Stroke, Federal Building, Room 10A12, 7550 Wisconsin Avenue, Bethesda, MD 20892.
National Institute on Deafness and Other Communication Disorders, Executive Plaza South, Room 400B, 6120 Executive Boulevard, Rockville, MD 20892–7180.
National Eye Institute, Executive Plaza South, Room 350, 6120 Executive Boulevard, Bethesda, MD 20892.
National Center for Research Resources, 6705 Rockledge Drive, Room 6086, Bethesda, MD 20892.
National Institute of Nursing Research, Building 45, Room 3AN32, MSC 6301, Bethesda, MD 20892–6301.
Fogarty International Center, Building 31, Room B2C32, 9000 Rockville Pike, Bethesda, MD 20892.
Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409.
National Institute on Drug Abuse, Grants Management Branch, 6001 Executive Blvd., Room 3131, MSC 9541, Bethesda, MD 20892–9541.
National Institute on Alcohol Abuse and Alcoholism, Grants Management Branch, Willco Building, Suite 504, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003.
National Institute of Mental Health, Grants Management Branch, ORM, Neuroscience Center, 6001 Executive Blvd., Room 6122, Bethesda, MD 20892.

Appendix II: System Manager(s) and Address(es)

National Cancer Institute, Grants Management Analyst, Executive Plaza South, Suite 234, 6120 Executive Boulevard, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute, Chief, Grants Operations Branch, Division of Extramural Affairs, Westwood Building, Room 4A10, 5333 Westbard Avenue, Bethesda, MD 20852.
National Library of Medicine, Associate Director for Extramural Programs, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817.
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Solar Bldg., Room 4B–21, 6003 Executive Blvd., Bethesda, MD 20892.
National Institute of Allergy and Infectious Diseases, Chief, Management Information Systems Section, FMISB, OAM, Solar Building, Room 4A–03, 6003 Executive Blvd., Bethesda, MD 20892.
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Grants Management Officer, Natcher Building, Room 5AS49, Bethesda, MD 20892–6500.
National Institute of Diabetes and Digestive and Kidney Disease, Grants Management Officer, Room 637, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.
National Institute of Child Health and Human Development, Chief, Grants Management Branch, 6100 Executive Blvd., Room 8A01, Bethesda, MD 20892.
National Institute on Aging, Grants Management Officer, Gateway Building, Room 2N–212, 7201 Wisconsin Avenue, Bethesda, MD 20892.
National Institute of Dental and Craniofacial Research, Grants Management Officer, NIDCR, Natcher Building, Room 4AS–55, 45 Center Drive, MSC 6402, Bethesda, MD 20892–6402.
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709.
National Institute of General Medical Sciences, Grants Management Officer, NIGMS, Natcher Building, Room 2AN24, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Neurological Disorders and Stroke, Grants Management Officer, Federal Building, Room 1004A, Bethesda, MD 20892.
National Institute on Deafness and Other Communication Disorders, Chief, Grants Management Branch, Executive Plaza South, Room 400B, MSC 7180, 6120 Executive Boulevard, Bethesda, MD 20892–7180.
National Institute of Nursing Research, Grants Management Officer, Building 45, Room 3AN32, MSC 6301, Bethesda, MD 20892–6301.
National Eye Institute, Grants Management Officer, Executive Plaza South, Room 350, 6120 Executive Boulevard, Bethesda, MD 20892.
National Center for Research Resources, Office of Grants Management, 6705 Rockledge Drive, Room 6086, Bethesda, MD 20892.
Fogarty International Center, Scientific Review Administrator, International Studies Branch, Building 31, Room B2C32, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute on Drug Abuse, 6001 Executive Blvd., Room 3131, MSC 9541, Bethesda, MD 20892–9541.
National Institute on Alcohol Abuse and Alcoholism, Chief, Grants Operation Section, Willco Building, Suite 504, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003.
National Institute of Mental Health, Grants Management Officer, ORM, Neuroscience Center, 6001 Executive Blvd., Room 6122, Bethesda, MD 20892.

Appendix III: Notification Procedure

National Cancer Institute, see Appendix II.
National Heart, Lung, and Blood Institute, Privacy Act Coordinator, Building 31, Room 5A10, 31 Center Drive, MSC 2490, Bethesda, MD 20892–2490.
National Library of Medicine, see Appendix II.
National Institute of Allergy and Infectious Diseases, see Appendix II.
National Institute of Diabetes and Digestive and Kidney Diseases, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Child Health and Human Development, see Appendix II.
national Institute of Aging, see Appendix II.
National Institute of Dental and Craniofacial Research (NIDCR), Privacy Act Coordinator, Natcher Building, Room 4AS–43A, 45 Center Drive, MSC 6401, Bethesda, MD 20892–6401.
National Institute of Environmental Health Sciences, see Appendix II.
National Institute of General Medical Sciences, see Appendix II.

National Institute of Neurological Disorders and Stroke, see Appendix II.
National Institute on Deafness and Other Communication Disorders, see Appendix II.
National Eye Institute, see Appendix II.
National Center for Nursing Research, see Appendix II.
National Center for Research Resources, see Appendix II.
Fogarty International Center, see Appendix II.
National Institute on Drug Abuse, see Appendix II.
National Institute on Alcohol Abuse and Alcoholism, see Appendix II.
National Institute of Mental Health, Privacy Act Coordinator, Room 15–81, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.
National Institute of Arthritis and Musculoskeletal and Skin Diseases, see Appendix II.

Appendix IV: Records Access Procedure

National Cancer Institute, Privacy Act Coordinator, Building 31, Room 10A30, 9000 Rockville Pike, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute, see Appendix III.
National Library of Medicine, see Appendix II.
National Institute of Allergy and Infectious Diseases, Privacy Act Coordinator, Solar Bldg., Room 3C–23, Bethesda, MD 20892.
National Institute of Diabetes and Digestive and Kidney Diseases, see Appendix II.
National Institute of Child Health and Human Development, see Appendix II.
National Institute on Aging, see Appendix II.
National Institute of Dental and Craniofacial Research (NIDCR), Grants Management Officer, Natcher Building, Room 4AS–55, 45 Center Drive, MSC 6402, Bethesda, MD 20892–6402.
National Institute of Environmental Health Sciences, see Appendix II.
National Institute of General Medical Sciences, Privacy Act Coordinator, Natcher Building, Room 3AS43, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Neurological Disorders and Stroke, Chief, Grants Management Branch, Executive Plaza South, Room 400B, 6120 Executive Blvd., Rockville, MD 20892–7180.
National Institute on Deafness and Other Communication Disorders, see Appendix II.
National Eye Institute, Administrative Officer, Building 31, Room 6A17, 9000 Rockville Pike, Bethesda, MD 20892.
National Center for Research Resources, Privacy Act Coordinator, 6705 Rockledge Drive, Room 5142, Bethesda, MD 20892.
Fogarty International Center, see Appendix II.
National Institute on Drug Abuse, see Appendix II.
National Institute on Alcohol Abuse and Alcoholism, see Appendix II.
National Institute of Mental Health, see Appendix II.
National Institute of Nursing Research, see Appendix II.
National Institute of Arthritis and Musculoskeletal and Skin Diseases, see Appendix II.

09–25–0115

SYSTEM NAME:

Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Solar Bldg., 6003 Executive Blvd., Room 3A37, MSC 7630, Bethesda, MD 20892 and
McKesson BioServices Corporation, 7501 Standish Place, Rockville, MD 20850.
Write to the system manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and Clinical Investigators under National Institute of Allergy and Infectious Diseases (NIAID) Investigational New Drug Applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curricula vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a.

PURPOSE(S):

1. To maintain a record of the investigators under Investigational New Drug (IND) applications.
2. To appoint consultants to the NIAID Institutional Review Board (IRB).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in books.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Clinical and Regulatory Affairs Branch, Division of Microbiology and Infectious Diseases, NIAID. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.
2. *Physical Safeguards:* Building is locked during off-duty hours.
3. *Procedural safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Clinical and Regulatory Affairs Branch, DMID, NIAID, Solar Bldg., Room 3A–01, 6003 Executive Blvd., Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator,

Solar Bldg., Room 3C–23, 6003 Executive Blvd., Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under Notification Procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0118

SYSTEM NAME:

Contracts: Professional Services Contractors, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Write to system manager at the address below for the address of the Federal Records Center where records may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals under contract with the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Professional services contracts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d), 281.

PURPOSE(S):

Used by staff for general administrative purposes to assure compliance with contract program requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

1. *Authorized Users:* Access is limited to authorized personnel (system manager and staff).

2. *Physical Safeguards:* Records are maintained in offices which are locked when not in use.

3. *Procedural Safeguards:* Access to files is strictly controlled by system manager and staff.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2600–A–4, which allows records to be destroyed after a maximum period of six years and three months after final payment. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

ARC Manager, NCI/DCTD, Building 31, Room 3A44, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/OD–31, Building 31, Room 11A33, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/OD–EP, Executive Plaza South, Room 531, 6120 Executive Blvd., Rockville, MD 20852.

ARC Manager, NCI/6116, Executive Plaza South, Room 531, 6120 Executive Blvd., Rockville, MD 20852.

ARC Manager, NCI/DCP, Building 31, Room 10A50, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/DCB, Executive Plaza North, Room 500, 6130 Executive Blvd., Rockville, MD 20852.

ARC Manager, NCI/DCCPS, Executive Plaza North, Room 306, 6130 Executive Blvd., Rockville, MD 20852.

ARC Manager, NCI/Bldg. 41, Building 41, Room A101, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/Bldg. 37, Building 37, Room 5A15, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/FCRDC, FCRDC, Building 428, Room 43, Frederick, MD 21702.

ARC Manager, NCI/DCEG, Executive Plaza South, Room 8086, 6120 Executive Blvd., Rockville, MD 20852.

ARC Manager, NCI/31–DBS, Building 31, Room 3A20, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/31–DCS, Building 31, Room 3A11, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/10A, Building 10, Room 12N210, 9000 Rockville Pike, Bethesda, MD 20892.

ARC Manager, NCI/10B, Building 10, Room 12N210, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to the appropriate system manager listed above to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably

identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals in the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0121

SYSTEM NAME:

International Activities: Senior International Fellowships Program, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room B2C39, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records from this system are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Senior International Fellowships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and associated records and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 242e.

PURPOSE(S):

For award and administration of fellowships to outstanding faculty members in mid-career from U.S. biomedical research and educational institutions for study abroad.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Each fellow's home institution receives a notice of award and funding for the fellowship.

2. Applications are made available to authorized employees and agents of the U.S., including the General Accounting Office for purposes of investigations, inspections and audits, and in appropriate cases, to the Department of Justice for proper action under civil and criminal laws.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and computer disks.

RETRIEVABILITY:

Name and fellowship number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to Fogarty International Center (FIC) program staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* The records are stored in locked file cabinets and offices are locked during off-duty hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees. For computerized records access is controlled by the use of security codes known to authorized users and access codes are changed periodically. The computer system maintains an audit record of all requests for access.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–7, which allows records to be destroyed after a maximum period of six years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, International Research Awards Branch, Fogarty International Center, National Institutes of Health, Building 31, Room B2C39, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Requests for notification of or access to records should be addressed to the system manager, listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information obtained from applicants and persons supplying

recommendations through the Center for Scientific Review.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0124

SYSTEM NAME:

Administration: Pharmacology Research Associates, HHS/NIH/NIGMS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Director, PRAT Program, Pharmacological Sciences, NIGMS, Natcher Building, Room 2AS.43D, 9000 Rockville Pike, Bethesda, MD 20892.

Write to system manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions as Pharmacology Research Associates with the National Institute of General Medical Sciences (NIGMS) and current and former Pharmacology Research Associates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual application forms, addresses, telephone numbers, lists of awards received, research keywords, preceptor and institute during time of fellowship for former fellows, academic transcripts, reprints and references, curricula vitae, and salary adjustment memorandum for fellows.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 209.

PURPOSE(S):

For review, award and administration of the Pharmacology Research Associate Program (PRAT).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

By name of applicant.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain the system are instructed to grant access only to authorized personnel (system manager and staff assigned to the program).

2. *Physical Safeguards:* The records are maintained in locked file cabinets when not in use and system location is locked during non-working hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by responsible individuals who have been instructed in the Privacy Act requirements. Records are returned to the locked cabinets when not in use.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–2(a). Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, PRAT Program, Pharmacological Sciences, NIGMS, Natcher Building, Room 2AS.49K, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to system manager and provide the following information: Applicant's name and date of application. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under Notification Procedure above, and reasonably identify the record and specify the information to be contested, the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information obtained from applicants, university registrars, and persons supplying recommendations through the PRAT Program. Salary adjustment memos from preceptors. Information on former fellows obtained from former fellows.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0140

SYSTEM NAME:

International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Fogarty International Center, Building 16A, Room 101, 9000 Rockville Pike, Bethesda, MD 20892, and

Center for Information Technology, Building 12A, Room 3061, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Ancillary records are located in the Office of the Associate Director for Intramural Affairs, laboratories, administrative and personnel offices where participants are assigned. Write to system manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health scientists at all levels of their pre- and postdoctoral or equivalent research careers who are invited to the National Institutes of Health to conduct research related to their doctoral studies, for further postdoctoral training, or to conduct research in their biomedical specialties under the auspices of FIC's administration of International Activities. Most of these scientists are foreign; however, some may be resident aliens.

Individuals in these categories include the following: Visiting Scientists (*i.e.*, Title 42 employees) and Foreign Special Experts (also employees) and Visiting Fellows, Guest Researchers, Exchange Scientists, International Research Fellows, Fogarty Scholars, and Special Volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

History of fellowship, employment and/or stay at NIH; education, previous institution of affiliation, immigration data, and references. For payroll purposes, social security numbers are requested of all applicants accepted into the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 242l and Section 307 of the Public Health Service Act.

PURPOSE(S):

To document the individual's presence at the NIH, to record immigration history of the individual in order to verify continued eligibility in existing programs, and to meet requirements in the code of Federal Regulations (8 CFR, "Aliens and Nationality," and 22 CFR, "Foreign Relations").

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information is made available to authorized employees and agents of the U.S. Government including, but not limited to, the General Accounting Office, the Internal Revenue Service, the FBI and Immigration and Naturalization Service, Department of Justice, and the Department of State for purposes of investigations, inspections and audits.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, computer hard disks and tapes, and computer diskettes.

RETRIEVABILITY:

By name, country of citizenship, country of birth, gender, fellowship case number, visa and immigration status, program category, NIH institute and lab, sponsor, degree attained, stipend or salary level, dates of stay at NIH, termination date, work address and telephone number, and home address.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records included under this system according to the sensitivity of the data they contain.

1. *Authorized Users:* NIH administrative and personnel staff screened by FIC staff to access information on a need-to-know basis. Only FIC staff are authorized to add, change, or delete data. Access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* The records are maintained in file cabinets in offices that are locked during off-duty hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees. For computerized records, access is controlled by the use of security codes known only to authorized users; access codes are changed periodically. The computer system maintains an audit record of all requests for access.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320, which allows records to be destroyed after a maximum period of six years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, International Services Branch, National Institutes of Health, Fogarty International Center, Building 16A, Room 101, 16A Center Drive, MSC 6710, Bethesda, MD 20892–6710.

NOTIFICATION PROCEDURE:

Write to the system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official listed under Notification Procedure above, and reasonably identify the record, and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individuals and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0156

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the Public Health Service, HHS/PHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located either in the organizations responsible for conducting evaluations or at the sites of programs or activities under evaluation. Locations include Public Health Service (PHS) facilities, or facilities of contractors of the PHS. Write to the appropriate system manager below for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those who provide information or opinions that are useful in evaluating programs or activities of the PHS other persons who have participated in or benefitted from PHS programs or activities; or other persons included in evaluation studies for purposes of comparison. Such individuals may include (1) participants in research studies; (2) applicants for and recipients of grants, fellowships, traineeships or other awards; (3) employees, experts and consultants; (4) members of advisory committees; (5) other researchers, health care professionals, or individuals who have or are at risk of developing diseases or conditions studied by PHS; (6) persons who provide feedback about the value or usefulness of information they receive about PHS programs, activities or research results; (7) persons who have received Doctorate level degrees from U.S. institutions; (8) persons who have worked or studied at U.S. institutions that receive(d) institutional support from PHS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This umbrella system of records covers a varying number of separate sets of records used in different evaluation studies. The categories of records in each set depend on the type of program being evaluated and the specific purpose of the evaluation. In general, the records contain two types of information: (1) Information identifying subject individuals, and (2) information which enables PHS to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, social security number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Information used for evaluation varies according to the program evaluated. Categories of evaluative information include personal data and medical data on participants in clinical and research programs; personal data, publications, professional achievements and career history of researchers; and opinions and other information received directly from individuals in evaluation surveys and studies of PHS programs.

The system does not include any master list, index or other central means of identifying all individuals whose records are included in the various sets of records covered by the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the authorities regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and its general authority to maintain records in connection with these and its other functions (42 U.S.C. 203, 241, 2891–1 and 44 U.S.C. 3101), and Section 301 and 493 of the Public Health Service Act.

PURPOSE(S):

This system supports evaluation of the policies, programs, organization, methods, materials, activities or services used by PHS in fulfilling its legislated mandate for (1) conduct and support of biomedical research into the causes, prevention and cure of diseases; (2) support for training of research investigators; (3) communication of biomedical information.

This system is not used to make any determination affecting the rights, benefits, or privileges of any individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and State and local officials for the purpose of conducting evaluation studies or collecting, aggregating, processing or analyzing records used in evaluation studies. The recipients are required to protect the confidentiality of such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. The Department may disclose information from this system of records to the Department of Justice, to court or other tribunal, or to another party before such tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible media (e.g., magnetic tapes, disks, cartridges, CD–ROMs, etc.).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number within each evaluation study. There is no central collection of records in this system, and no central means of identifying individuals whose records are included in the separate sets of records that are maintained for particular evaluation studies.

SAFEGUARDS:

A variety of safeguards are implemented for the various sets of records in this system according to the sensitivity of the data each set contains. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information, such as personal or medical history or individually identified opinions, is protected according to its level of sensitivity.

Records derived from other systems of records will be safeguarded at a level at least as stringent as that required in the original systems. Minimal safeguards for the protection of information which is not available to the general public include the following:

1. *Authorized Users:* Regular access to information in a given set of records is limited to PHS or to contractor employees who are conducting, reviewing, or contributing to a specific evaluation study. Other access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the system manager or designated responsible official.

2. *Physical Safeguards:* Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use. Records collected in each evaluation project are maintained separately from those of other projects. Sensitive records are not left exposed to unauthorized persons at any time. Sensitive data in machine-readable form may be encrypted.

3. *Procedural Safeguards:* Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in mainframe computers is accessed only through the use of keywords known only to authorized personnel. When personal computers are used, magnetic media (e.g. diskettes, CD–ROMs, etc.) are protected as under *Physical Safeguards*. When data is stored within a personal computer (i.e., on a "hard disk"), the machine itself is treated as though it were a record, or records, under *Physical Safeguards*. Contracts for operation of this system of records require protection of the records in accordance with these safeguards; PHS project and contracting officers monitor contractor compliance.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–C–2. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix I.

Policy coordination for this system is provided by: Acting Director, Office of Reports and Analysis, Office of Extramural Research, Office of the Director, National Institutes of Health, Bldg. 1, Room 252, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the official of the organization responsible for the evaluation, as listed in Appendix II. If you are not certain which component of PHS was responsible for the evaluation study, or if you believe there are records about you in several components of PHS, write to: NIH Privacy Act Officer, 6011 Executive Blvd., Room 601L, MSC 7669, Rockville, MD 20852.

Requesters must provide the following information:

1. Full name, and name(s) used while studying or employed;

2. Name and location of the evaluation study or other PHS program in which the requester participated or the institution at which the requester was a student or employee, if applicable;

3. Approximate dates of participation, matriculation or employment, if applicable.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under Notification Procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants; from systems of records 09–25–0036, "Extramural Awards and Chartered Advisory Committees: IMPAC (Grants/Contract Information/Cooperative Agreement Information/Chartered Advisory Committee Information), HHS/NIH/OER and HHS/NIH/CMO;" 09–25–0112, "Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD;" NSF–6, "Doctorate Record File", NSF–43, "Doctorate Work History File" (previously entitled NSF–43, "Roster and Survey of Doctorate Holders in The United States" and other records maintained by the operating programs of NIH; the National Academy of Sciences, professional associations such as the AAMC and ADA, and other contractors; grantees or collaborating researchers; or publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Managers

Office of Reports and Analysis, Office of Extramural Research, Office of the Director, National Institutes of Health, RKL2, 6701 Rockledge Drive, Room 6212, Bethesda, MD 20892.

National Institutes of Health, Office of the Director, Director, Division of Personnel Management, Building 1, Room B1–60, 9000 Rockville Pike, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute (NHLBI), NHLBI Minority Coordinator, OD, OPPE, Building 31, Room 5A03/5A06, 31 Center Drive, MSC 2482, Bethesda, MD 20892–2482.

National Library of Medicine (NLM), Associate Director for Health Information Programs Development, Building 38, Room 2S20, Bethesda, MD 20894.
National Eye Institute (NEI), Associate Director for Science Policy and Legislation, Building 31, Room 6A25, Bethesda, MD 20892.
National Cancer Institute (NCI), Public Health Educator, OCC, NCI, National Institutes of Health, Building 31, Room 10A03, Bethesda, MD 20892.
National Institute on Aging (NIA), Chief, Office of Planning, Analysis, Technical Information and Evaluation, Federal Building, Room 6A09, 7550 Wisconsin Avenue, Bethesda, MD 20892.
National Institute of Child Health and Human Development (NICHD), Associate Director for Science Policy, Analysis, and Communication, Building 31, Room 2A18, Bethesda, MD 20892.
National Institute on Deafness and Other Communication Disorders, Chief, Program Planning and Health Reports Branch, Building 31, Room 3C35, 9000 Rockville Pike, Bethesda, MD 20892.
National Institute of Dental and Craniofacial Research (NIDCR), Evaluation Officer, Office of Science Policy and Analysis, Building 31, Room 5B55, 31 Center Drive, MSC 2190, Bethesda, MD 20892–2190.
National Institute of Environmental Health Sciences (NIEHS), Program Analyst, Office of Program Planning and Evaluation, P.O. Box 12233, Research Triangle Park, NC 27709.
National Institute of General Medical Sciences (NIGMS), Chief, Office of Program Analysis and Evaluation, Natcher Building, Room 2AS–55F, 9000 Rockville Pike, Bethesda, MD 20892.
Fogarty International Center (FIC), National Institutes of Health, Assistant Director for International Science Policy and Analysis, Building 31, Room B2C08, Bethesda, MD 20892.
Center for Scientific Review (CSR), Information Officer, Rockledge Centre II, Room 6160, 6701 Rockledge Drive, Bethesda, MD 20817.
National Center for Research Resources (NCRR), Director, Office of Science Policy, Rockledge Building, Room 5046, Bethesda, MD 20892.
National Institute of Nursing Research (NINR), Chief, Office of Planning, Analysis and Evaluation, Building 31, Room 5B09, Bethesda, MD 20892.
Office of Research Integrity, Policy Analyst, Division of Policy and Education, U.S. Public Health Service, 5515 Security Lane, Suite 700, Rockwall-II Building, Rockville, MD 20852.

Appendix II: Notification and Access Officials

NIH, Office of the Director, Office of Extramural Research, Acting Director, Office of Reports and Analysis, Building 1, Room 252, 9000 Rockville Pike, Bethesda, MD 20892.
National Institutes of Health, Office of the Director, Director, Division of Personnel Management, Building 1, Room B1–60, 9000 Rockville Pike, Bethesda, MD 20892.
National Heart, Lung, and Blood Institute (NHLBI), Privacy Act Coordinator, Building 31, Room 5A29, Bethesda, MD 20892.
National Library of Medicine (NLM), Assistant Director for Planning and Evaluation, Building 38, Room 2S18, Bethesda, MD 20894.
National Eye Institute (NEI), Executive Officer, Building 31, Room 6A25, Bethesda, MD 20892.
Fogarty International Center (FIC), National Institutes of Health, Assistant Director for International Science Policy and Analysis, Building 31, Room B2C08, Bethesda, MD 20892.
Center for Scientific Review (CSR), Information Officer, Rockledge Centre II, Room 6160, 6701 Rockledge Drive, Bethesda, MD 20817.
National Center for Research Resources (NCRR), Director, Office of Science Policy, Rockledge Bldg., Room 5046, Bethesda, MD 20892.
National Cancer Institute, Privacy Act Coordinator, National Institutes of Health, Building 31, Room 10A30, Bethesda, MD 20892.

09–25–0158

SYSTEM NAME:

Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system is located in each of the intramural offices and laboratories where the Intramural Research Training Awards (IRTA) Fellow is located and assigned, including the respective Scientific Director's office, the administrative and personnel offices, and in Division of Personnel Management branches responsible for administering the IRTA Program, and the Office of Education, Building 10, Room 1C125, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRTA Fellowships, current IRTA Fellows, and former IRTA Fellows.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, scientific publications; research goals; letters of reference; and personal information such as name, date of birth, social security number, home address and citizenship; and information related to fellowship awards such as stipend levels, training assignments, training expenses and travel allowances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 284(b)(1)(C), 286b–3, and 287c–1 authorizes PHS to make awards for biomedical research and research training.

PURPOSE(S):

Records in this system are used to determine individuals' eligibility and evaluate their qualifications for IRTA Fellowships; to document the basis for management actions relating to Fellowships that are awarded; and to provide data for program evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the Office of Personnel Management for evaluation of NIH Personnel programs.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual.

3. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. Disclosure may be made to a Federal, State or local agency maintaining civil, criminal or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the selection or retention of a fellow.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with hiring or

retention of an employee, the issuance of a security clearance, an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for PHS who do not technically have the status of agency employees, if they need the records in the performance of their agency functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic tapes and disks.

RETRIEVABILITY:

Records are retrieved by name, social security number, or institute list number.

SAFEGUARDS:

1. *Authorized Users:* Access is granted only to NIH scientists, administrative office staff, personnel staff, and financial management staff directly involved in the administration of the IRTA Program.

2. *Physical Safeguards:* File folders are kept in locked drawers or locked rooms when system personnel are not present.

3. *Procedural Safeguards:* Access to file folders is controlled by system personnel. Records may be removed from the files only with the approval of the system manager or other authorized employees. Data stored in the automated system is accessed through the use of keywords known only to authorized personnel.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–E–3. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel/Administrative Officers of the National Institutes of Health Institutes/Centers. Contact the individual listed under Notification Procedure for the name and address of the appropriate system manager.

NOTIFICATION PROCEDURE:

To determine if a record exists and where it is located, contact: Chief, Staffing Management Branch, Division of Personnel Management, NIH, Building 31, Room 1C31, 9000 Rockville Pike, Bethesda, MD 20892.

The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORDS ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under the Notification Procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is untimely, incomplete, irrelevant or inaccurate. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicants, persons and institutions supplying references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0160

SYSTEM NAME:

United States Renal Data System (USRDS), HHS/NIH/NIDDK.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at contractor operated coordinating center. Write to the system manager at address below for address of current location. U.S. Renal Data System, Coordinating Center (CC), 2100 M Street NW, Suite 400, Washington, DC 20037.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons with end-stage renal disease (ESRD), providers of ESRD services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Health and medical record data; fiscal information; patient names, social security number, Health Care Financing Administration (HCFA) beneficiary ID, patient demographic, epidemiologic and survival characteristics; physician provider characteristics; facility provider characteristics.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241a, 289c, as last amended by Pub. L. 100–607, November 4, 1988 under the Health Omnibus Programs Extension of 1988.

PURPOSE(S):

1. To design and implement a consolidated renal disease system that will provide the biostatistical, data management and analytical expertise necessary to characterize the total renal patient population and describe the distribution of patients by sociodemographic variables across treatment modalities.

2. To report on the incidence, prevalence, and mortality rates of renal disease by primary diagnosis.

3. To identify the modalities of treatment best suited to individual patients. To compare the various treatment alternatives to examine the prevention and progression of renal disease by morbidity, mortality, and quality of life criteria.

4. To identify problems and opportunities for more focused investigations of renal research issues currently unaddressed by the consolidated data system.

5. To share data with other PHS agencies and HCFA for their use in research analysis and program administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure from the record of an individual may be made to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her official capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof

where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

2. Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the written request of the individual.

3. Disclosure may be made to the HHS contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system for developing, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications systems containing or supporting records in the system. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) Has secured a written statement attesting to the recipients understanding of, and willingness to abide by these provisions.

Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for PHS who do not technically have the status of agency employees, if they need the records in the performance of their agency functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic medium; selected hard copy backup.

RETRIEVABILITY:

Information will be retrieved by patient identification number such as social security number and HCFA beneficiary ID. Individual patient data provided only as noted above. Statistical data provided as noted above and to the general public as part of periodic published reports.

SAFEGUARDS:

A variety of safeguards are implemented for the various sets of records in this system according to the sensitivity of the records:

1. *Authorized Users:* Regular access is limited to National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), HCFA and contract personnel who have a need for the data in performance of their duties as determined by the system manager.

2. *Physical Safeguards:* Records are stored in areas where access is restricted to areas where data are maintained and processed; data tapes and hard copy data are stored in locked files in secured areas; terminal access controlled by user ID and keywords; off-site data backups in two locations—a remote area of the same building and a separate building; and fire protection secured by Halon fire extinguisher system and fire alarm system present in the computer room.

3. *Procedural Safeguards:* Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act.

Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project directors, contract officers, and project officers oversee compliance with these requirements.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3(b), which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Epidemiology Program Director, National Institute of Diabetes and Digestive and Kidney Diseases, Division of Kidney, Urologic and Hematologic Diseases, 5333 Westbard Avenue, Westwood Building, Room 621, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address noted above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) title of project individual participated in; and (c) approximate dates of participation.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager at the address specified under Notification Procedure above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

The majority of health, medical, fiscal and other demographic information on patients and health care providers is from the end stage renal disease program of the Health Care Financing Administration (HCFA). Additional data comes from other HCFA Medicare patient records, the National Death Index, and other sources of non-Medicare ESRD patient records such as the NIH Continuous Ambulatory Peritoneal Dialysis (CAPD) Registry, the United Network of Organ Sharing (UNOS) transplant patients, the Veteran's Administration, and the Indian Health Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0161

SYSTEM NAME:

Administration: NIH Consultant File, HHS/NIH/CSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH.

Center for Information Technology, Data Management Branch, Building 12A, Room 4041B, National Institutes of Health, Bethesda, MD 20892.

Write to the appropriate system manager listed in Appendix I for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants who provide the evaluation of extramural grants and cooperative agreement applications and research contract proposals, including the NIH Reviewers' Reserve and/or advise on policy. Consultants who participate in NIH conferences, workshops, evaluation projects and/or provide technical assistance at site locations arranged by contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, social security numbers, resumes, curricula vitae (C.V.s), areas of expertise, gender, minority status, business status, AREA-eligible status, publications, travel records, and payment records for consultants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, describing the general powers and duties of the Public Health Service relating to research and investigation, and Section 402 of the Public Health Service Act, describing the appointment and authority of the Director of the National Institutes of Health, (42 U.S.C. 241, 282 and 290aa).

PURPOSE(S):

This umbrella system comprises separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH. These records are used: (1) To identify and select experts and consultants for program reviews and evaluations; (2) To identify and select experts and consultants for the review of special grant and cooperative agreement applications and research contract proposals; (3) To obtain and pay consultants who participate in NIH conferences, workshops, evaluation projects and/or provide technical assistance at site locations arranged by contractors; and (4) To provide necessary reports related to payment to the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors to process or refine the records. Contracted services may include transcription, collation, computer input, and other records processing.

4. Information in this system of records is used routinely to prepare W–2 and 1099 Forms to submit to the Internal Revenue Service and applicable state and local governments those items to be included as income to an individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, computer tapes and disks, microfiche, and microfilm.

RETRIEVABILITY:

Records are retrieved by name, expertise, gender, minority status, business status, AREA-eligible status and experimental system used.

SAFEGUARDS:

1. *Authorized Users:* Data on computer files is accessed by keyword known only to authorized users who are PHS or contractor employees involved in managing a review or program advisory committee, conducting a review of extramural grant applications, cooperative agreement applications, or research contract proposals, performing an evaluation study or managing the consultant file. Access to information is thus limited to those with a need to know.

2. *Physical Safeguards:* Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel.

3. *Procedural Safeguards:* Names and other identifying particulars are deleted when data from original records are encoded for analysis. Data stored in computers is accessed through the use of keywords known only to authorized users. Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

The policy coordinator for this system is also the system manager listed for the Center for Scientific Review (CSR).

Chief, Biochemical Sciences Initial Review Group, Division of Molecular and Cellular Mechanisms, Center for Scientific Review, Rockledge Centre II, Room 5150, 6701 Rockledge Drive, Bethesda, Maryland 20817 and

See Appendix I.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate system manager as listed in Appendix I.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is whom he or she claims to be. The request should include: (a) full name, and (b) appropriate dates of participation.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under Notification Procedure above, reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting information. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Managers

Office of the Director (OD), Extramural Programs Management Officer, Building 31, Room 5B31, Bethesda, MD 20892.

National Center for Research Resources (NCRR), Director, Office of Review, 6705 Rockledge Drive, Room 6018, Bethesda, MD 20892.

National Cancer Institute (NCI), Chief, Applied Information Systems Branch, Executive Plaza North, Room 643, Bethesda, MD 20892.

National Eye Institute (NEI), Review and Special Projects Officer, Executive Plaza South, Room 350, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute (NHLBI), Chief, Review Branch, Westwood Building, Room 557A, 5333 Westbard Avenue, Bethesda, MD 20892.

National Institute on Aging (NIA), Chief, Scientific Review Office, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases (NIAID), Director, Scientific Review Program, Division of Extramural Activities, Solar Bldg., Room 3C–16, 6003 Executive Blvd., Bethesda, MD 20892.

National Institute of Child Health and Human Development (NICHD), Director, Division of Scientific Review, 6100 Executive Boulevard, Room 5E03H, Bethesda, MD 20892.

National Institute on Deafness and Other Communication Disorders (NIDCD), Chief, Scientific Review Branch, Executive Plaza South, Room 400C, 6120 Executive Boulevard, Rockville, MD 20852.

National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), Chief, Review Branch, Natcher Building, Room 6AS–37F, Bethesda, MD 20892.

National Institute of Dental and Craniofacial Research (NIDCR), Chief, Scientific Review Section, Natcher Building, Room 4AN–44F, 45 Center Drive, MSC 6402, Bethesda, MD 20892–6402.

National Institute of Environmental Health Sciences (NIEHS), Chief, Scientific Review Branch, Division of Extramural Research and Training, PO Box 12233, Research Triangle Park, NC 27709.

National Institute of General Medical Sciences (NIGMS), Chief, Office of Scientific Review, Natcher Building, Room 1AS–13F, Bethesda, MD 20892.

National Institute of Neurological Disorders and Stroke (NINDS), Chief, Scientific Review Branch, Federal Building, Room 9C10A, Bethesda, MD 20892.

National Institute of Nursing Research (NINR), Chief, Office of Review, Natcher Building, Room 3AN24, MSC 6302, Bethesda, MD 20892–6302.

National Library of Medicine (NLM), Extramural Programs, Scientific Review Administrator, 6705 Rockledge Drive, Bethesda, MD 20817.

National Center for Human Genome Research (NCHGR), Chief, Office of Scientific Review, Building 38A, Room 604, Bethesda, MD 20892.

National Institute of Mental Health, Committee Management Officer, Division of Extramural Activities, 6100 Executive Blvd., Room 6133, Bethesda, MD 20892.

National Institute on Alcohol Abuse and Alcoholism, Committee Management Officer, Willco Building, Suite 504, 6000 Executive Blvd, MSC 7003, Bethesda, MD 20892–7003.

National Institute on Alcohol Abuse and Alcoholism, Deputy Director, Office of Scientific Affairs, Willco Building, Suite 409, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003.

National Institute on Drug Abuse, Office of Extramural Program Review, Neuroscience Center, 6001 Executive Blvd., Room 3158, Bethesda, MD 20892.

09–25–0165

SYSTEM NAME:

National Institutes of Health Loan Repayment Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Loan Repayment Program (LRP), Office of the Director, National Institutes of Health, Federal Building, Room 102, 7550 Wisconsin Avenue, Bethesda, MD 20892–9015.

Center for Information Technology (CIT), National Institutes of Health, Building 12A, Room 4037, 9000 Rockville Pike, Bethesda, Maryland 20892.

Office of Financial Management (OFM), National Institutes of Health, Building 31, Room B1B55, 9000 Rockville Pike, Bethesda, Maryland 20892.

See Appendix I for a listing of other NIH offices responsible for administration of the Loan Repayment Program. Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for, who have been approved to receive, who are receiving, and who have received funds under the NIH LRP; and individuals who are interested in participation in the NIH LRP.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, social security number; service pay-back obligations, standard school budgets, educational loan data including deferment and repayment/delinquent/default status information; employment data; professional and credentialing history of licensed health professionals including schools of attendance; personal, professional, and demographic background information; employment status verification (which includes certifications and verifications of continuing participation in AIDS research); Federal, State and local tax information, including copies of tax returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 487A (42 U.S.C. 288–1) of the PHS Act, as amended, authorizes the NIH to implement a program of educational loan repayment for qualified health professionals who agree to conduct, as employees of NIH, AIDS research (the NIH AIDS Research LRP). The provisions of section 338B of the PHS Act (42 U.S.C. 254l–1), as amended, governing the NHSC loan repayment program, are incorporated except as inconsistent. Section 487E (42 U.S.C. 288–5) of the PHS Act authorizes

the NIH to establish and implement a program of educational loan repayment for qualified health professionals who agree to conduct, as employees of the NIH, clinical research (the NIH Clinical Research LRP). Eligibility for the Clinical Research LRP is restricted to individuals who are from disadvantaged backgrounds. The provisions of section 338C and 338E of the PHS Act (42 U.S.C. 254l–1), as amended, governing the NHSC loan repayment program, are incorporated except as inconsistent. The Internal Revenue Code at 26 U.S.C. 6109 requires the provision of the social security number for the receipt of loan repayment funds under the NIH LRP.

PURPOSE(S):

1. To identify and select applicants for the NIH LRP.

2. To monitor loan repayment activities, such as payment tracking, deferment of service obligation, and default.

3. To assist NIH officials in the collection of overdue debts owed under the NIH LRP.

Records may be transferred to system No. 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA," for debt collection purposes when NIH officials are unable to collect overdue debts owed under the NIH LRP.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States of any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

4. NIH may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

5. NIH may disclose information from this system of records to private parties such as present and former employers, references listed on applications and associated forms, other references and educational institutions. The purpose of such disclosures is to evaluate an individual's professional accomplishments, performance, and educational background, and to determine if an applicant is suitable for participation in the NIH LRP.

6. NIH may disclose information from this system of records to a consumer reporting agency (credit bureau) to obtain a commercial credit report to assess and verify the ability of an individual to repay debts owed to the Federal Government. Disclosures are limited to the individual's name, address, social security number and other information necessary to identify him/her; the funding being sought or amount and status of the debt; and the program under which the applicant or claim is being processed.

7. NIH may disclose from this system of records a delinquent debtor's or a defaulting participant's name, address, social security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose, as follows:

a. To another Federal agency so that agency can effect a salary offset for debts owed by Federal employees; if the claim arose under the Social Security Act, the employee must have agreed in writing to the salary offset.

b. To another Federal agency so that agency can effect an unauthorized administrative offset; i.e., withhold money, other than Federal salaries, payable to or held on behalf of the individual.

c. To the Treasury Department, Internal Revenue Service (IRS), to request an individual's current mailing address to locate him/her for purposes of either collecting or compromising a debt, or to have a commercial credit report prepared.

8. NIH may disclose information from this system of records to another agency that has asked the Department to effect a salary or administrative offset to help collect a debt owed to the United States. Disclosure is limited to the individual's name, address, social security number, and other information necessary to identify the individual to information about the money payable to or held for the individual, and other information concerning the offset.

9. NIH may disclose to the Treasury Department, Internal Revenue Service (IRS), information about an individual applying for loan repayment under any loan repayment program authorized by the Public Health Service Act to find out whether the applicant has a delinquent tax account. This disclosure is for the sole purpose of determining the applicant's creditworthiness and is limited to the individual's name, address, social security number, other information necessary to identify him/her, and the program for which the information is being obtained.

10. NIH may report to the Treasury Department, Internal Revenue Service (IRS), as taxable income, the written-off amount of a debt owed by an individual to the Federal Government when a debt becomes partly or wholly uncollectible, either because the time period for collection under the statute of limitations has expired, or because the Government agrees with the individual to forgive or compromise the debt.

11. NIH may disclose to debt collection agents, other Federal agencies, and other third parties who are authorized to collect a Federal debt, information necessary to identify a delinquent debtor or a defaulting participant. Disclosure will be limited to the individual's name, address, social security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose.

12. NIH may disclose information from this system of records to any third party that may have information about a delinquent debtor's or a defaulting participant's current address, such as a U.S. post office, a State motor vehicle administration, a professional organization, an alumni association,

etc., for the purpose of obtaining the individual's current address. This disclosure will be strictly limited to information necessary to identify the individual, without any reference to the reason for the agency's need for obtaining the current address.

13. NIH may disclose information from this system of records to other Federal agencies that also provide loan repayment at the request of these Federal agencies in conjunction with a matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal loan repayment programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

14. NIH may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's or a defaulting participant's name, address, social security number, and other information necessary to identify the individual; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the individual.

15. NIH may disclose information provided by a lender to other Federal agencies, debt collection agents, and other third parties who are authorized to collect a Federal debt. The purpose of this disclosure is to identify an individual who is delinquent in loan or benefit payments owed to the Federal Government.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable NIH to improve the quality of loan repayment decisions by taking into account the financial reliability of applicants, including obtaining a commercial credit report to assess and verify the ability of an individual to repay debts owed to the Federal Government. Disclosure of records will be limited to the individual's name, social security number, and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, computer tape, disks, and file cards.

RETRIEVABILITY:

Records are retrieved by name, social security number, or other identifying numbers.

SAFEGUARDS:

1. *Authorized Users:* Data on computer files is accessed by keyword known only to authorized users who are NIH employees responsible for implementing the NIH LRP. Access to information is thus limited to those with a need to know.

2. *Physical Safeguards:* Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel. Security guards perform random checks on the physical security of the data.

3. *Procedural and Technical Safeguards:* A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs (see *Authorized Users,* above) protect information from public view and from unauthorized personnel entering an unsupervised office.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–537–1. Participant case files are transferred to a Federal Records Center one year after closeout and destroyed ten years later. Closeout is the process by which it is determined that all applicable administrative actions and loan repayments have been completed by the LRP and service obligations have been completed by the participant. Applicant case files are destroyed three years after disapproval or withdrawal of their application. Official appeal and litigation case files are destroyed six years after the calendar year in which the case is closed. Other copies of these files are destroyed two years after the calendar year in which the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NIH Loan Repayment Program, Office of the Director, National Institutes of Health, Federal Building, Room 102, 7550 Wisconsin Avenue, Bethesda, MD 20892–9015

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation. The requester must also understand that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. Requesters appearing in person must provide a valid driver's license or passport, including photo, and at least one other form of identification.

RECORD ACCESS PROCEDURE:

Write to the system manager specified above to attain access to records and provide the same information as is required under the Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual; participating lending institutions; educational institutions attended; other Federal agencies; consumer reporting agencies/credit bureaus; and third parties that provide references concerning the subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Locations

Loan Repayment Program, National Institutes of Health, Federal Building, Room 102, 7550 Wisconsin Avenue, Bethesda, MD 20892–9015.

Center for Information Technology, National Institutes of Health, Building 12A, Room 4018, 9000 Rockville Pike, Bethesda, MD 20892.

Operations Accounting Branch, Division of Financial Management, National Institutes of Health, Building 31, Room B1B55, 9000 Rockville Pike, Bethesda, MD 20892.

Division of Cancer Treatment, National Cancer Institute, National Institutes of Health, Building 31, Room 3A44, 9000 Rockville Pike, Bethesda, MD 20892.

Division of Cancer Etiology, National Cancer Institute, National Institutes of Health, Building 31, Room 11A11, 9000 Rockville Pike, Bethesda, MD 20892.

Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, National Institutes of Health, Building 31, Room 3A05, 9000 Rockville Pike, Bethesda, MD 20892.

National Heart, Lung, and Blood Institute, National Institutes of Health, Building 10, Room 7N220, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Dental and Craniofacial Research, National Institutes of Health, Building 31, Room 2C23, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Neurological Disorders and Stroke, National Institutes of Health, Building 10, Room 5N220, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A05, 9000 Rockville Pike, Bethesda, MD 20892.

Pharmacological Sciences Program, National Institute of General Medical Sciences, National Institutes of Health, Building 45, Room 2AS, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Child Health and Human Development, National Institutes of Health, Building 31, Room 2A25, 9000 Rockville Pike, Bethesda, MD 20892.

National Eye Institute, National Institutes of Health, Building 10, Room 10N202, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Environmental Health Sciences, National Institutes of Health, South Campus, Building 101, Room B–248, 111 Alexander Drive, Research Triangle Park, NC 27709.

Gerontology Research Center, National Institute on Aging, National Institutes of Health, 4940 Eastern Avenue, Baltimore, MD 21224.

National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, Room 4C13, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Deafness and Communication Disorders, National Institutes of Health, Building 31, Room 3C02, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute for Nursing Research, National Institutes of Health, Building 31, Room 5B06, 9000 Rockville Pike, Bethesda, MD 20892.

National Center for Research Resources, National Institutes of Health, Building 31, Room 3B36, 9000 Rockville Pike, Bethesda, MD 20892.

Clinical Center, National Institutes of Health, Building 10, Room 1N312, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Parklawn Building, Room 16C05, 5600 Fishers Lane, Rockville, MD 20857.

National Institute on Drug Abuse, National Institutes of Health, Parklawn Building, Room 10A38, 5600 Fishers Lane, Rockville, MD 20857.

National Institute of Mental Health, National Institutes of Health, Parklawn Building, Room 1599, 5600 Fishers Lane, Rockville, MD 20857.

Clinical Center Nursing Recruitment Office, National Institutes of Health, Building 10, Room 2C206, 9000 Rockville Pike, Bethesda, MD 20892.

09–25–0166

SYSTEM NAME:

Administration: Radiation and Occupational Safety and Health Management Information Systems, HHS/NIH/ORS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Radiation Safety Branch (RSB), Division of Safety, Office of Research Services, NIH, Building 21, Room 134, 9000 Rockville Pike, Bethesda, MD 20892.

Occupational Safety and Health Branch (OSHB), Division of Safety, National Institutes of Health, Building 13, Room 3K04, 9000 Rockville Pike, Bethesda, Maryland 20892.

Write to appropriate system manager at the address below for the address of contractor locations, including the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Radiation Safety Branch (RSB): NIH employees using radioactive materials or radiation producing machinery, contractor employees who provide service to the Radiation Safety Branch, and any other individuals who could potentially be exposed to radiation or radioactivity as a result of NIH operations and who, therefore, must be monitored in accordance with applicable regulations.

Occupational Safety and Health Branch (OSHB): Individuals (including NIH employees and NIH service contract employees) who use or come into contact with potentially hazardous biological or chemical materials, and participants of occupational safety and health monitoring/surveillance programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, title, organizational affiliation, birth date, social security number (optional), work address, work telephone number, name of supervisor, and other necessary employment information; radiation/occupational safety and health training information; medical and technical information pertaining to safety and health related initiatives; research protocols and other related documents used to monitor and track radiation exposure and exposure to potentially hazardous biological or chemical materials; radiation materials usage data; and incident data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, regarding the general powers and duties of the Public Health Service relating to research and investigation; 5 U.S.C. 7902 regarding agency safety programs; and 42 U.S.C. 2201, regarding general duties of the Nuclear Regulatory Commission including the setting of standards to cover the possession and use of nuclear materials in order to protect health.

PURPOSE(S):

1. To provide adequate administrative controls to assure compliance with internal NIH policies, and applicable regulations of the Occupational Safety and Health Administration (OSHA), Department of Labor, and other Federal and/or State agencies which may establish health and safety requirements or standards. Ensure legal compliance with requirements of Nuclear Regulatory Commission to maintain internal and external radiation exposure data.

2. To identify, evaluate and monitor use or contact (including incident follow-up) with:

a. Radiation (exposure maintained at lowest levels reasonable);

b. Biological and/or chemical (potentially hazardous materials).

3. To monitor, track, and assess the use of personal protective equipment in the work place to ensure availability, effectiveness, and proper maintenance.

4. To address emergent safety and health issues or concerns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States of any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors for the purpose of processing or refining the records. Contracted services may include monitoring, testing, sampling, surveying, evaluating, transcription, collation, computer input, and other records processing. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. Disclosure may be made to: (a) Officials of the United States Nuclear Regulatory Commission which, by Federal regulation, licenses, inspects and enforces the regulations governing the use of radioactive materials; and (b) OSHA, which provides oversight to ensure that safe and healthful work conditions are maintained for employees. Disclosure will also be permitted to other Federal and/or State agencies which may establish health and safety requirements or standards.

5. Radiation exposure and/or training and experience history may be transferred to new employer.

6. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file cabinets or in computer databases maintained by the RSB and OSHB. Records may be stored in file folders, binders, magnetic tapes, magnetic disks, optical disks, and/or other types of data storage devices.

RETRIEVABILITY:

Records are retrieved by name, social security number, office address, or unique RSB or OSHB assigned identification number.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain this system are instructed to grant regular access only to RSB/OSHB staff, authorized contractor personnel, U.S. Nuclear Regulatory Commission Inspectors, Radiation Safety Committee Members, Biosafety Committee members, and other appropriate NIH administrative and management personnel with a need to know. Access to information is thus limited to those with a need to know.

2. *Physical Safeguards:* Rooms where records are stored are locked when not in use. During regular business hours, rooms are unlocked but are controlled by on-site personnel. Individually identifiable records are kept in locked file cabinets or rooms under the direct control of the Project Director.

3. *Procedural Safeguards:* Names and other identifying particulars are deleted when data from original records are encoded for analysis. Data stored in computers is accessed through the use of keywords known only to authorized users. All users of personal information in connection with the performance of their jobs (see Authorized Users, above) will protect information from public view and from unauthorized personnel entering an unsupervised office. The computer terminals are in secured areas and keywords needed to access data files will be changed frequently.

4. *Additional RSB Technical Safeguards:* Computerized records are accessible only through a series of code or keyword commands available from and under direct control of the Project Director or his/her delegated representatives. The computer records are secured by a multiple level security system which is capable of controlling access to the individual data field level. Persons having access to the computer database can be restricted to a confined application which only permits a narrow "view" of the data. Data on computer files is accessed by keyword known only to authorized users who are NIH or contractor employees involved in work for the program.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361): item 1300–B which applies to Division of Safety records. Refer to the NIH Manual Chapter for specific disposition instructions. Radiation exposure records are retained under item 1300–B–10, which does not allow disposal at this time.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief, Information Technology, Radiation Safety Branch, DS, ORS, Building 21, Room 134, 9000 Rockville Pike, Bethesda, Maryland 20892.

Chief, Occupational Safety and Health Branch, Division of Safety, National Institutes of Health, Building 13, Room 3K04, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate system manager as listed above.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is whom he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the appropriate system manager specified above and reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting documentation. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information is obtained from the subject individual, previous employers and educational institutions, contractors, safety and health monitoring/surveillance records, employee interviews, site visits, or other relevant NIH organizational components.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0167

SYSTEM NAME:

National Institutes of Health (NIH) TRANSHARE Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Employee Transportation Services Office (ETSO), National Institutes of Health, Building 31, Room B3B08, 9000 Rockville Pike, Bethesda, MD 20892.

Recreation and Welfare Association Activities Desk, National Institutes of Health, Building 31, Room B1W30A, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NIH employees who apply for and participate in the NIH TRANSHARE Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home address, parking hanger permit number, unique computer identification number, NIH TRANSHARE commuter card number, NIH pay plan, grade level, office phone number, building and room, Institute/Center designation, name of supervisor, commute mode to work, and type of fare media used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 629 of Pub. L. 101–509, "State or Local Government Programs Encouraging Employee Use of Public Transportation; Federal Agency Participation," found at 5 U.S.C. note prec. section 7901.

PURPOSE(S):

1. To manage the NIH TRANSHARE Program, including receipt and processing of employee applications, and coordination of the fare media distribution to employees.

2. To monitor the use of appropriated funds used to support the NIH TRANSHARE Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. NIH may disclose applicant's name, unique computer identification number, NIH TRANSHARE commuter card number, and type of participant's fare media to be disbursed to cashiers of the Recreation and Welfare Association of the National Institutes of Health, Inc. (R&W Association) who are responsible for distribution of fare media. Cashiers are required to maintain Privacy Act safeguards with respect to such records.

4. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments or utilization review.

5. NIH may disclose statistical reports containing information from this system of records to city, county, State, and Federal Government agencies (including the General Accounting Office).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and computer disks.

RETRIEVABILITY:

Records are retrieved by name and NIH TRANSHARE commuter card number.

SAFEGUARDS:

1. *Authorized Users:* Data on computer files is accessed by keyword known only to authorized users who are ETSO employees and cashiers of the R&W Association who are responsible for implementing the Program. Cashier access will be limited to applicant's name, unique computer identification number, NIH TRANSHARE computer card number, and type of fare media disbursed. Access to information is thus limited to those with a need to know.

2. *Physical Safeguards:* Rooms where records are stored are locked when not in use. During regular business hours, rooms are unlocked but are controlled by on-site personnel.

3. *Procedural and Technical Safeguards:* A password is required to access the terminal, and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs (see *Authorized Users*, above) protect information from public view and from unauthorized personnel entering an unsupervised office.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1500–A–3. Records are retained for a maximum of two years following the last month of an employee's participation in the NIH TRANSHARE Program. Paper copies are destroyed by shredding. Computer files are destroyed by deleting the record from the file.

SYSTEM MANAGER(S) AND ADDRESS:

Traffic Management Specialist, Employee Transportation Service Officer, Division of Security Operations, National Institutes of Health, Building 31, Room B3B08, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation. The requester must also understand that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the system manager specified above to attain access to records and provide the same information as is required under the Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0168

SYSTEM NAME:

Invention, Patent, and Licensing Documents Submitted to the Public Health Service by its Employees, Grantees, Fellowship Recipients, and Contractors, HHS/PHS/FDA/NIH/OTT.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Third Floor, Room 325, Rockville, MD 20852.

Office of Financial Management (OFM), National Institutes of Health, Building 31, Room B1B55, 9000 Rockville Pike, Bethesda, Maryland 20892.

Office of Reports and Analysis, Office of Extramural Research, National Institutes of Health, Building 1, Room 252, 1 Center Drive, Bethesda, MD 20892–2184.

Public Health Service (PHS) Technology Development Coordinators and PHS Contract Attorneys retain files supplemental to the records maintained by the Office of Technology Transfer. Write to the system manager at the address below for office locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PHS employees, grantees, fellowship recipients and contractors who have reported inventions, applied for patents, have been granted patents, and/or are receiving royalties from patents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inventor name, address, social security number (required if inventor is receiving royalties, otherwise optional), title and description of the invention, Employee Invention Report (EIR) number, Case/Serial Number, prior art related to the invention, evaluation of the commercial potential of the invention, prospective licensees' intended development of the invention, associated patent prosecution and licensing documents and royalty payment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 U.S.C. 200 and 15 U.S.C. 3710 provide authority to maintain the records; 37 CFR part 401 "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements;" 37 CFR part 404 "Licensing of Government Owned Inventions;" and 45 CFR part 7 "Employee Inventions."

PURPOSE(S):

Records in this system are used to: (1) Obtain patent protection of inventions submitted by PHS employees; (2) monitor the development of inventions made by grantees, fellowship recipients and contractors and protect the government rights to patents made with NIH support; (3) grant licenses to patents obtained through the invention reports; and (4) provide royalty payments to PHS inventors, non-government contractors, and nonprofit and educational institutions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected. Disclosure may also be made to the Department of Justice to obtain legal advice concerning issues raised by the records in this system.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or

implementing the statute or rule, regulation or order issued pursuant thereto.

4. NIH may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

5. NIH may disclose information from this system of records for the purpose of obtaining patent protection for PHS inventions and licenses for these patents to: (a) Scientific personnel, both in this agency and other Government agencies, and in non-Governmental organizations such as universities, who possess the expertise to understand the invention and evaluate its importance as a scientific advance; (b) contract patent counsel and their employees and foreign contract personnel retained by the Department for patent searching and prosecution in both the United States and foreign patent offices; (c) all other Government agencies whom PHS contacts regarding the possible use, interest in, or ownership rights in PHS inventions; (d) prospective licensees or technology finders who may further make the invention available to the public through sale or use; (e) parties, such as supervisors of inventors, whom PHS contacts to determine ownership rights, and those parties contacting PHS to determine the Government's ownership; and (f) the United States and foreign patent offices involved in the filing of PHS patent applications.

6. NIH will report to the Treasury Department, Internal Revenue Service (IRS), as taxable income, the amount of royalty payment paid to PHS inventors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records will be stored in file folders, computer tapes and computer disks.

RETRIEVABILITY:

Records are retrieved by name of the inventor, EIR number, or keywords relating to the nature of the invention, Case/Serial Number, Licensing Number, internal reference numbers, contractor, agency, Institute, and/or Center.

SAFEGUARDS:

1. *Authorized Users:* Data on computer files is accessed by password known only to authorized users who are NIH or contractor employees involved in patenting and licensing of PHS inventions. Access to information is thus limited to those with a need to know.

2. *Physical Safeguards:* Records are stored in a dedicated file room or in locking file cabinets in file folders. During normal business hours, OTT Records Management on-site contractor personnel regulate availability of the files. During evening and weekend hours the offices are locked and the building is closed.

3. *Procedural and Technical Safeguards:* Data stored in computers will be accessed through the use of passwords known only to the authorized users. A password is required to access the database. All users of personal information in connection with the performance of their jobs (see Authorized Users, above) protect information, including confidential business information submitted by potential licensees, from public view and from unauthorized personnel entering an unsupervised office.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–L, which allows records to be kept for a maximum of thirty years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS

Acting Director for Administrative Services, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Third Floor, Room 325, Rockville, Maryland 20852.

Office of Reports and Analysis, Office of Extramural Research, National Institutes of Health, Building 1, Room 252, 1 Center Drive, Bethesda, MD 20892–2184.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. The request should include: (a) Full name, and (b) appropriate identifying information on the nature of the invention.

RECORD ACCESS PROCEDURE:

Write to the system manager specified above to attain access to records and provide the same information as is required under the Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Inventors and other collaborating persons, grantees, fellowship recipients and contractors; other Federal agencies; scientific experts from non-Government organizations; contract patent counsel and their employees and foreign contract personnel; United States and foreign patent offices; prospective licensees; PHS Technology Development Coordinators, Internet and commercial databases, and third parties whom PHS contacts to determine individual invention ownership or Government ownership.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0169

SYSTEM NAME:

Medical Staff-Credentials Files, HHS/NIH/CC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Medical Record Department, National Institutes of Health, 10 Center Drive, MSC 1192, Bethesda, MD 20892–1192.

Write to the system manager at the address below for a list of Contractor locations, including the address of any

Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been approved as members of the medical staff at the Warren G. Magnuson Clinical Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical staff names, date of birth, home address and telephone number, office address and telephone number, citizenship, visa information, appointment date, hospital-wide computer access privileges, Institute/Center designation, branch/lab, type of medical staff membership, privilege delineation, professional degree(s) including school of attendance and graduation dates, foreign medical examinations, specialty board certifications, licensing information (including state of licensure and license number), record of disciplinary actions, documentation of training, and admitting privileges.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for collecting the requested information is contained in section 301 (42 U.S.C. 241) of the Public Health Service Act, as amended, outlining the authority of the Secretary to, within the Public Health Service (PHS), promote the coordination of various research and associated activities, including for purposes of study, admitting and treating individuals at PHS facilities. Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)), as amended, outlining the authority of the Director of the National Institutes of Health (NIH) with respect to the admission and treatment of individuals at NIH facilities for purposes of study.

PURPOSE(S):

These records are used to: (1) Maintain information used in the credentialing and privileging of active medical staff members at the Warren G. Magnuson Clinical Center; (2) document patient care privileges for active members of the medical staff; (3) provide information about active and non-active members of the medical staff to authorized individuals; and (4) report to the National Practitioner Data Bank as required by the provisions of Title IV of Pub. L. 99–660, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

4. NIH may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

5. NIH may disclose information to representatives of the Joint Commission on Accreditation of Healthcare Organizations for the purpose of conducting quality assurance reviews and inspections of the Warren G. Magnuson Clinical Center credentialing policies and procedures.

6. NIH may disclose information from this system of records to State medical boards for purposes of professional quality assurance activities.

7. NIH may disclose information from this system of records to health care facilities for the purpose of verifying that an individual to whom they intend to grant medical staff or patient care privileges has or previously held such privileges at the Warren G. Magnuson Clinical Center.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper forms in file folders and on computer disks.

RETRIEVABILITY:

Records are retrieved by name, date of birth, type of medical staff membership, Institute/Center and licensing status.

SAFEGUARDS:

1. *Authorized Users:* Data on the computer network system is accessed by a password known only to authorized users who are NIH employees and contractor staff responsible for implementing the medical staff credentials data system. Access to information is thus limited to those with a need to know.

2. *Physical Safeguards:* Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but entry is controlled by on-site personnel.

3. *Procedural and Technical Safeguards:* Access to files is strictly controlled by the system manager. Names and other identifying particulars are deleted when data from original records are encoded for analysis. Data stored in computers is accessed through a network system by use of a password known only to authorized users. All authorized users of personal information in connection with the performance of their jobs (see *Authorized Users*, above) protect information from public view and from unauthorized personnel entering an unsupervised office.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1" "Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–293–4, "Medical Staffs' Credential Files," which allows inactive records to be transferred to the Federal Records Center at five year intervals and to be

destroyed after thirty years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Medical Record Department, National Institutes of Health, 10 Center Drive, MSC 1192, Bethesda, MD 20892–1192.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the above address. The requester must provide tangible proof of identity (e.g., driver's license). If no identification papers are available, the requester must verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the system manager specified above to attain access to records and provide the same information as that required under the Notification Procedure. Requesters should also reasonably specify the record contents being requested. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0200

SYSTEM NAME:

Clinical, Epidemiologic, and Biometric Studies of the National Institutes of Health (NIH), HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at NIH and Contractor research facilities which collect or provide research data for this system. Contractors may include, but are not limited to: Research centers, clinics, hospitals, universities, medical schools, research institutions/foundations, national associations, commercial organizations, collaborating State and Federal Government agencies, and coordinating centers. A current list of sites, including the address of any Federal Records Center where records from this system may be stored, is available by writing to the appropriate Coordinator listed under Notification Procedure.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Adults and/or children who are the subjects of clinical, epidemiologic, and biometric research studies of the NIH. Individuals with disease. Individuals who are representative of the general population or of special groups including, but not limited to: Normal controls, normal volunteers, family members and relatives; providers of services (e.g., health care and social work); health care professionals and educators, and demographic sub-groups as applicable, such as age, sex, ethnicity, race, occupation, geographic location; and groups exposed to real and/or hypothesized risks (e.g., exposure to biohazardous microbial agents).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains data about individuals as relevant to a particular research study. Examples include, but are not limited to: Name, study identification number, address, relevant telephone numbers, social security number (voluntary), driver's license number, date of birth, weight, height, sex, race; medical, psychological and dental information, laboratory and diagnostic testing results; registries; social, economic and demographic data; health services utilization; insurance and hospital cost data, employers, conditions of the work environment, exposure to hazardous substances/compounds; information pertaining to stored biologic specimens (including blood, urine, tissue and genetic materials), characteristics and activities of health care providers and educators and trainers (including curricula vitae); and associated correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Research and Investigation," "Appointment and Authority of the Directors of the National Research Institutes," "National Cancer Institute," "National Eye Institute," "National Heart, Lung and Blood Institute," "National Institute on Aging," "National Institute on Alcohol Abuse and Alcoholism," "National Institute on Allergy and Infectious Diseases," "National Institute of Arthritis and Musculoskeletal and Skin Diseases," "National Institute of Child Health and Human Development," "National Institute on Deafness and Other Communication Disorders," "National Institute of Dental and Craniofacial Research," "National Institute of Diabetes, and Digestive and Kidney Diseases," "National Institute of Drug Abuse," "National Institute of Environmental Health Sciences," "National Institute of Mental Health," "National Institute of Neurological Disorders and Stroke," and the "National Human Genome Research Institute" of the Public Health Service Act. (42 U.S.C. 241, 242, 248, 281, 282, 284, 285a, 285b, 285c, 285d, 285e, 285f, 285g, 285h, 285i, 285j, 285l, 285m, 285n, 285o, 285p, 285q, 287, 287b, 287c, 289a, 289c, and 44 U.S.C. 3101.)

PURPOSE(S):

To document, track, monitor and evaluate NIH clinical, epidemiologic, and biometric research activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; e.g., disclosure of alcohol or drug abuse patient records will be made only in accordance with the restrictions of confidentiality statutes and regulations 42 U.S.C. 241, 42 U.S.C. 290dd–2, 42 CFR part 2, and where applicable, no disclosures will be made inconsistent with an authorization of confidentiality under 42 U.S.C. 241 and 42 CFR part 2a; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless

the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; and (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

2. Disclosure may be made to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is, therefore, deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

4. Disclosure may be made to agency contractors, grantees, experts, consultants, collaborating researchers, or volunteers who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. Information from this system may be disclosed to Federal agencies, State agencies (including the Motor Vehicle Administration and State vital statistics offices, private agencies, and other third parties (such as current or prior employers, acquaintances, relatives), when necessary to obtain information on morbidity and mortality experiences, and to locate individuals for follow-up studies. Social security numbers, date of birth and other identifiers may be disclosed: (1) To the National Center for Health Statistics to ascertain vital status through the National Death Index; (2) to the Health Care Financing Agency to ascertain morbidities; and (3) to the Social Security Administration to ascertain disabilities and/or location of participants. Social security numbers may also be given to other Federal agencies, and State and local agencies when necessary to locating individuals for participation in follow-up studies.

6. Medical information may be disclosed in identifiable form to tumor registries for maintenance of health statistics, *e.g.*, for use in epidemiologic studies.

7. (a). PHS may inform the sexual and/or needle-sharing partner(s) of a subject individual who is infected with the human immunodeficiency virus (HIV) of their exposure to HIV, under the following circumstances: (1) The information has been obtained in the course of clinical activities at PHS facilities carried out by PHS personnel or contractors; (2) The PHS employee or contractor has made reasonable efforts to counsel and encourage the subject individual to provide the information to the individual's sexual or needle-sharing partner(s); (3) The PHS employee or contractor determines that the subject individual is unlikely to provide the information to the sexual or needle-sharing partner(s) or that the provision of such information cannot reasonably be verified; and (4) The notification of the partner(s) is made, whenever possible, by the subject individual's physician or by a professional counselor and shall follow standard counseling practices.

(b.) PHS may disclose information to State or local public health departments, to assist in the notification of the subject individual's sexual and/or needle-sharing partner(s), or in the verification that the subject individual has notified such sexual or needle-sharing partner(s).

8. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

9. Disclosure may be made to authorized organizations which provide health services to subject individuals or provide third-party reimbursement or fiscal intermediary functions, for the purpose of planning for or providing such services, billing or collecting third-party reimbursements.

10. The Secretary may disclose information to organizations deemed qualified to carry out quality assessment, medical audits or utilization reviews.

11. Disclosure may be made for the purpose of reporting child, elder, or spousal abuse or neglect or any other type of abuse or neglect as required by State or Federal law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on index cards, file folders, computer tapes and disks (including optical disks), photography media, microfiche, microfilm, and audio and video tapes. For certain studies, factual data with study code numbers are stored on computer tape or disk, while the key to personal identifiers is stored separately, without factual data, in paper/computer files.

RETRIEVABILITY:

During data collection stages and follow-up, retrieval is by personal identifier (*e.g.*, name, social security number, medical record or study identification number, etc.). During the data analysis stage, data are normally retrieved by the variables of interest (*e.g.*, diagnosis, age, occupation).

SAFEGUARDS:

1. *Authorized Users:* Access to identifiers and to link files is strictly limited to the authorized personnel whose duties require such access. Procedures for determining authorized access to identified data are established as appropriate for each location. Personnel, including contractor personnel, who may be so authorized include those directly involved in data collection and in the design of research studies, *e.g.*, interviewers and interviewer supervisors; project managers; and statisticians involved in designing sampling plans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager. Researchers authorized to conduct research on biologic specimens will typically access the system through the use of encrypted identifiers sufficient to link individuals with records in such a manner that does not compromise confidentiality of the individual.

2. *Physical Safeguards:* Records are either stored in locked rooms during off-duty hours, locked file cabinets, and/or secured computer facilities. For certain studies, personal identifiers and link files are separated and stored in locked files. Computer data access is limited

through the use of key words known only to authorized personnel.

3. *Procedural Safeguards:* Collection and maintenance of data is consistent with legislation and regulations in the protection of human subjects, informed consent, confidentiality, and confidentiality specific to drug and alcohol abuse patients where these apply. When anonymous data is provided to research scientists for analysis, study numbers which can be matched to personal identifiers will be eliminated, scrambled, or replaced by the agency or contractor with random numbers which cannot be matched. Contractors who maintain records in this system are instructed to make no further disclosure of the records. Privacy Act requirements are specifically included in contracts for survey and research activities related to this system. The OHS project directors, contract officers, and project officers oversee compliance with these requirements. Personnel having access are trained in Privacy Act requirements. Depending upon the sensitivity of the information in the record, additional safeguard measures may be employed.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Collaborative Perinatal Project records are retained in accordance with item 3000–G–4, which does not allow records to be destroyed. Refer to the NIH Manual Chapter for specific conditions on disposal or retention instructions.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix I for a listing of current system managers. This system is for use by all NIH Institutes and Centers. The following system notices have been subsumed under this umbrella system notice.

09–25–0001, Clinical Research: Patient Records, HHS/NIH/NHLBI.

09–25–0010, Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS.

09–25–0016, Clinical Research: Collaborative Perinatal Project, HHS/NIH/NINDS.

09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/NINDS.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS.

09–25–0037, Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA.

09–25–0038, Clinical Research: Patient Data, HHS/NIH/NIDDK.

09–25–0039, Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK.

09–25–0040, Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK.

09–25–0042, Clinical Research: National Institute of Dental and Craniofacial Research Patient Records, HHS/NIH/NIDCR.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDCR.

09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID.

09–25–0053, Clinical Research: Vision Studies, HHS/NIH/NEI.

09–25–0057, Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI.

09–25–0060, Clinical Research: Division of Clinical Sciences Clinical Investigations, HHS/NIH/NCI.

09–25–0067, Clinical Research: National Cancer Incidence Surveys, HHS/NIH/NCI.

09–25–0069, NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.

09–25–0074, Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI.

09–25–0077, Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI.

09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD.

09–25–0130, Clinical Research: Epidemiologic Studies in the Division of Cancer Epidemiology and Genetics, HHS/NIH/NCI.

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.

09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.

09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

09–25–0145, Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD.

09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental and Craniofacial Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDCR.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD.

09–25–0154, Biomedical Research: Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

09–25–0170, Diabetes Control and Complications Trial (DCCT) Data System, HHS/NIH/NIDDK.

09–25–0172, Clinical Research: National Human Genome Research Institute, HHS/NIH/NHGRI.

09–25–0201, Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH.

09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/NIDA and HHS/NIH/NIMH.

09–25–0212, Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate IC Privacy Act Coordinator listed below. In cases where the requester knows specifically which system manager to contact, he or she may contact the system manager directly (see Appendix I). Notification requests should include: Individual's name; current address; date of birth; date, place and nature of participation in specific research study; name of individual or organization administering the research study (if known); name or description of the research study (if known); address at the time of participation; and in specific cases, a notarized statement (some

highly sensitive systems require two witnesses attesting to the individual's identity). A requester must verify his or her identity by providing either a notarization of the request or by submitting a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

Individuals will be granted direct access to their medical records unless the system manager determines that such access is likely to have an adverse effect (i.e., could cause harm) on the individual. In such cases when the system manager has determined that the nature of the record information requires medical interpretation, the subject of the record shall be requested to designate, in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. The representative may be a physician, other health professional, or other responsible individual. In this case, the medical/dental record will be sent to the designated representative. Individuals will be informed in writing if the record is sent to the representative. This same procedure will apply in cases where a parent or guardian requests notification of, or access to, a child's or incompetent person's medical record. The parent or guardian must also verify (provide adequate documentation) their relationship to the child or incompetent person as well as his or her own identity to prove their relationship.

If the requester does not know which Institute or Center Privacy Act Coordinator to contact for notification purposes, he or she may contact directly the NIH Privacy Act Officer at the following address: NIH Privacy Act Officer, Office of Management Assessment, 6011 Executive Blvd., Room 601L, Rockville, MD 20852.

NIH Privacy Act Coordinators

Office of the Director, (OD), NIH, Associate Director for Disease Prevention, OD, NIH, Building 1, Room 260, 1 Center Drive, Bethesda, MD 20892.

National Cancer Institute (NCI), Privacy Act Coordinator, NCI, NIH, Building 31, Room 10A34, 31 Center Drive, Bethesda, MD 20892.

National Eye Institute (NEI), Privacy Act Coordinator, NEI, NIH, Building 31, Room 6A32, 31 Center Drive, MSC 2510, Bethesda, MD 20892–2510.

National Heart, Lung and Blood Institute (NHLBI), Privacy Act Coordinator, NHLBI, NIH, Building 31, Room 5A08, 31 Center Drive, Bethesda, MD 20892.

National Institute on Aging (NIA), Privacy Act Coordinator, NIA, NIH, Building 31, Room 2C12, 31 Center Drive, Bethesda, MD 20892.

National Institute on Alcohol Abuse and Alcoholism (NIAAA), Privacy Act Coordinator, NIAAA, NIH, Willco Building, Suite, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003.

National Institute of Allergy and Infectious Diseases (NIAID), Privacy Act Coordinator, NIAID, NIH, Solar Building, Room 3C–23, 6003 Executive Blvd., Bethesda, MD 20892.

National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), Privacy Act Coordinator, NIAMS, NIH, Natcher Building, Room 5AS49, 45 Center Drive, Bethesda, MD 20892.

National Institute of Child Health and Human Development (NICHD), Privacy Act Coordinator, NICHD, NIH, 6100 Executive Blvd., Room 5D01, Bethesda, MD 20892.

National Institute on Deafness and Other Communication Disorders (NIDCD), Privacy Act Coordinator, NIDCD, NIH, Building 31, Room 3C02, 9000 Rockville Pike, Bethesda, MD 20892.

National Institute of Dental and Craniofacial Research (NIDCR), Privacy Act Coordinator, NIDCR, NIH, Natcher Building, Room 4AS–43A, 45 Center Drive, MSC 6401, Bethesda, MD 20892–6401.

National Institute of Diabetes and Digestive and Kidney Disease (NIDDK), Privacy Act Coordinator, NIDDK, NIH, Building 31, Room 9A47, 31 Center Drive, Bethesda, MD 20892.

National Institute on Drug Abuse (NIDA), Privacy Act Coordinator, NIDA, NIH, Parklawn Building, Room 10A–42, 5600 Fishers Lane, Rockville, MD 20857.

National Institute of Environmental Health Sciences (NIEHS), Privacy Act Coordinator, NIEHS, NIH, PO Box 12233, Research Triangle Park, NC 27709.

National Institute of Mental Health (NIMH), Privacy Act Coordinator, NIMH, NIH, Parklawn Building, Room 7C–22, 5600 Fishers Lane, Rockville, MD 20857.

National Institute of Neurological Disorders and Stroke (NINDS), Privacy Act Coordinator, NINDS, NIH, Federal Building, Room 816, 7550 Wisconsin Avenue, Bethesda, MD 20892.

National Human Genome Research Institute (NHGRI), Office of Policy Coordination, Bldg. 31, Room 4B09, Bethesda, MD 20892.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURE:

Contact the appropriate official at the address specified under Notification Procedure, and reasonably identify the record, specify the information being contested, and state corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The system contains information obtained directly from the subject individual by interview (face-to-face or telephone), written questionnaire, or by other tests, recording devices or observations, consistent with legislation and regulation regarding informed consent and protection of human subjects. Information is also obtained from other sources, including but not limited to: Referring medical physicians, mental health/alcohol/drug abuse or other health care providers; hospitals; organizations providing biological specimens; relatives; guardians; schools; and clinical medical research records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I: System Manager(s) and Address(es)

Office of the Director, NIH, Associate Director for Disease Prevention, OD, NIH, Building 1, Room 260, 1 Center Drive, Bethesda, MD 20892.

National Cancer Institute, Computer Systems Analyst, DCBD, NCI, NIH, Executive Plaza North, Room 344, Bethesda, MD 20892.

American Burkitt's Lymphoma Registry, Division of Cancer Etiology, NCI, NIH, Executive Plaza North, Suite 434, 6130 Executive Blvd., Bethesda, MD 20892.

Chief, Genetic Epidemiology Branch, DCEG, NCI, NIH, Executive Plaza South, Room 7122, MSC 7236, 6120 Executive Blvd., Bethesda, MD 20892–7236.

Program Director, Research Resources, Biological Carcinogenesis Branch, DCE, NCI, NIH, Executive Plaza North, Room 540, 6130 Executive Blvd., Bethesda, MD 20892.

Chief, Environmental Epidemiology Branch, DCE, NCI, NIH, Executive Plaza North, Room 443, 6130 Executive Blvd., Bethesda, MD 20892.

Associate Director, Surveillance Program, DCPC, NCI, NIH, Executive Plaza North, Room 343K, 6130 Executive Blvd., Bethesda, MD 20892.

Head, Biostatistics and Data Management Section, DCS, NCI, NIH, 6116 Executive Blvd., Room 702, Bethesda, MD 20892.

Chief, Clinical Research Branch, Biological Response Modifiers Program, Frederick Cancer Research and Development Center, DCT, NCI, NIH, 501 W. 7th Street, Suite #3, Frederick, MD 21701.

Deputy Branch Chief, Navy Hospital, NCI—Naval Medical Oncology Branch, DCT, NCI, NIH, Building 8, Room 5101, Bethesda, MD 20814.
Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, DCT, NCI, NIH, Executive Plaza North, Suite 804, Bethesda, MD 20892.
Director, Extramural Clinical Studies, BRB, BRMP, DCT, NCI, NIH, Frederick Cancer Research and Development Center, Fort Detrick, Frederick, MD 21701.
National Eye Institute, Clinical Director, NEI, NIH, Building 10, Room 10N–202, 10 Center Drive, Bethesda, MD 20892.
Director, Division of Biometry and Epidemiology, NEI, NIH, Building 31, Room 6A–52, 31 Center Drive, Bethesda, MD 20892.
National Heart Lung and Blood Institute, Administrative Officer, Division of Intramural Research, NHLBI, NIH, Building 10 Room 7N220, 10 Center Drive, MSC 1670, Bethesda, MD 20892–1670.
Senior Scientific Advisor, OD, Division of Epidemiology and Clinical Applications, NHLBI, NIH, Federal Building, 220, 7550 Wisconsin Avenue, Bethesda, MD 20892.
National Institute on Aging, Computer Scientist, Longitudinal Studies Branch, IRP, NIH, Gerontology Research Center, GRC, 4940 Eastern Avenue, Baltimore, MD 21224.
Associate Director, Epidemiology, Demography and Biometry Program, NIA, NIH, Gateway Building, Suite 3C309, 7201 Wisconsin Avenue, Bethesda, MD 20892.
National Institute on Alcohol Abuse and Alcoholism, Deputy Director, Division of Biometry and Epidemiology, NIAAA, NIH, Willco Building, Suite 514, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003.
Deputy Director, Div. of Clinical and Prevention Res., NIAAA, NIH, Willco Building, Suite 505, 6000 Executive Blvd., MSC 7003, Bethesda, MD 20892–7003.
National Institute of Allergy and Infectious Diseases, Chief, Respiratory Viruses Section, LID, NIAID, NIH, Building 7, Room 106, 9000 Rockville Pike, Bethesda, MD 20892.
Chief, Hepatitis Virus Section, LID, NIAID, NIH, Building 7, Room 202, 9000 Rockville Pike, Bethesda, MD 20892.
Chief, Epidemiology and Biometry Branch, DMID, NIAID, NIH, Solar Building, Room 3A24, Bethesda, MD 20892.
Special Assistant, Clinical Research Program, DAIDS, NIAID, NIH, Solar Building, Room 2C–20, 6003 Executive Blvd., Bethesda, MD 20892.
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Clinical Director, NIAMS, NIH, Building 10, Room 9S205, 10 Center Drive, Bethesda, MD 20892.
National Institute of Child Health and Human Development, Chief, Contracts Management Branch, NICHD, NIH, Executive Plaza North, Room 7A07, 6100 Executive Blvd., North Bethesda, MD 20892.
National Institute on Deafness and Other Communication Disorders, Acting Director of Intramural Research, NIDCD, NIH, Building 31, Room 3C02, 31 Center Drive, Bethesda, MD 20892.
Director, Division of Human Communication, NIDCD, NIH, Executive Plaza South, Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180.
National Institute of Dental and Craniofacial Research, Deputy Clinical Director, NIDCR, NIH, Building 10, Room 1N–113, 10 Center Drive, MSC 1190, Bethesda, MD 20892–1190.
Research Psychologist, Gene Therapy and Therapeutics Branch, NIDCR, NIH, Building 10, Room 1N114, 10 Center Drive, MSC 1190, Bethesda, MD 20892–1190.
National Institute of Diabetes and Digestive and Kidney Diseases, Chief, Clinical Investigations, NIDDK, NIH, Building 10, Room 9N222, 10 Center Drive, Bethesda, MD 20892.
Chief, Phoenix Clinical Research Section, NIDDK, NIH, Phoenix Area Indian Hospital, Room 541, 4212 North 16th Street, Phoenix, AZ 85016.
Chief, Diabetes Research Section, DPB, DDEMD, NIDDK, NIH, Natcher Building, Room 5AN–18G, 45 Center Drive, MSC 6600, Bethesda, MD 20892.
National Institute on Drug Abuse, Privacy Act Coordinator, NIDA, NIH, Parklawn Building, Room 10A–42, 5600 Fishers Lane, Rockville, MD 20857.
National Institute of Environmental Health Sciences, Chief, Epidemiology Branch, NIEHS, NIH, PO Box 12233, Research Triangle Park, NC 27709.
National Institute of Mental Health, Director, Intramural Research Program, NIMH, NIH, Building 10, Room 4N–224, 9000 Rockville Pike, Bethesda, MD 20892.
Privacy Act Coordinator, NIMH, NIH, 6001 Executive Blvd., Room 6112, Bethesda, MD 20982.
National Institute of Neurological Disorders and Stroke, Privacy Act Coordinator, NINDS, NIH, Neuroscience Center, 6001 Executive Blvd., Suite 3305, MSC 9531, Bethesda, MD 20892–9531.
Chief, Epilepsy Branch, NINDS, NIH, Neuroscience Center, 6001 Executive Blvd., Suite 2110, MSC 9523, Bethesda, MD 20892–9523.
Assistant Director, CNP, DIR, NINDS, NIH, Building 10, Room 5N226, 10 Center Drive, Bethesda, MD 20892.
Deputy Chief, Laboratory of Central Nervous Systems Studies, Intramural Research Program, NINDS, NIH, Building 36, Room 5B21, 9000 Rockville Pike, Bethesda, MD 20892.
Director, Division of Fundamental Neuroscience and Developmental Disorders, NINDS, NIH, Neuroscience Center, 6001 Executive Blvd., Suite 2136, MSC 9527, Bethesda, MD 20892–9527.
Director, Division of Convulsive, Infectious and Immune Disorders, NINDS, NIH, Neuroscience Center, 6001 Executive Blvd., Suite 2110, MSC 9521, Bethesda, MD 20892–9521.
Director, Division of Stroke, Trauma, and Neurodegenerative Disorders, NINDS, NIH, Neuroscience Center, 6001 Executive Blvd., Suite 2209, MSC 9525, Bethesda, MD 20892–9525.
Division of Experimental Therapeutics and Clinical Trials, NINDS, NIH, Neuroscience Center, 6001 Executive Blvd., Suite 2213, MSC 9520, Bethesda, MD 20892–9520.
National Human Genome Research Institute (NHGRI), Clinical Director, NHGRI, Bldg. 10, Room 10C101D, 10 Center Drive, Bethesda, MD 20892.

09–25–0202

SYSTEM NAME:

Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Drug Abuse, Intramural Research Program, Johns Hopkins Bayview Medical Center, P.O. Box 5180, Baltimore, MD 21224.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

Iron Mountain, 8200 Preston Court, Suite One, Jessup, MD 20794.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilly committed narcotic addicts (1967–1976) and adult PHS beneficiaries (1935–1974) treated at either the PHS hospital in Fort Worth, Texas, or Lexington, Kentucky.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative records, such as treatment admission and release dates, name and address, and other demographic data; medical records, such as, but not limited to, medical history information, drug abuse/use data as well as treatment information, any laboratory tests, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Narcotic Addict Rehabilitation Act of 1966, and Narcotic Addict Rehabilitation Amendments of 1971, Titles I and III (42 U.S.C. 3411 *et seq.* and 28 U.S.C. 2901 *et seq.*), and Public Health Service Act, sections 321–326, 341(a) and (c) (42 U.S.C. 248–253, 257(a) and (c)).

PURPOSE(S):

The records were collected originally to monitor the individual's progress

while being treated at either of two PHS hospitals and to ensure continuity of that care. These systems are now inactive. The records are used to respond to requests from subject individuals (or his/her designated representative) to (1) establish eligibility for certain Federal benefits for the individual or his/her dependent(s), and (2) provide information to subsequent health care providers at the request of the individual regarding medical treatment received to ensure continuity of care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records at National Institute on Drug Abuse (NIDA) are on microfilm and contain only part of the admission and discharge information. The microfilm is stored in a file cabinet in a locked room. Records sent to Federal Records Center are stored in GSA-approved storage containers.

RETRIEVABILITY:

The administrative records and microfilm are filed by patient name. The medical records are filed either by patient name or by patient's hospital number with a cross-reference list at NIDA matching number to name.

SAFEGUARDS:

1. *Authorized Users:* Only the system manager and designated staff.

2. *Physical Safeguards:* The microfilm is in a room which has limited access, or stored at a security coded warehouse. The room is located in a building with a 24-hour security patrol/television surveillance system. Sign in and out procedures are used at all times. The warehouse has security access; records can only be retrieved by the system manager or designated staff using a confidential code number. The warehouse is patrolled on a 24-hour basis with television surveillance.

3. *Procedural Safeguards:* Only the system manager and his/her staff have access to the microfilm information and have been trained in accordance with the Privacy Act.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

All administrative and medical records have been retired to a Federal Records Center. The records collected under the Narcotic Addict Rehabilitation Act of 1966 will be destroyed when they are 25 years old, which will be in 2001 because the last patient was released from treatment in 1976. The PHS beneficiaries' records will be destroyed at the same time. The records will be shredded in 2003 upon written request from the system manager.

SYSTEM MANAGER(S) AND ADDRESS:

Medical Records Officer, National Institute on Drug Abuse, Intramural Research Program, Johns Hopkins Bayview Medical Center, Box 5180, Baltimore, MD 21224.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address above. An individual may learn if a record exists about himself or herself upon written request with a notarized signature. The request should include, if known: Patient hospital record number, full name or any alias used, patient's address during treatment, birth date, veteran status (if applicable) and approximate dates in treatment, and social security number.

An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under Notification Procedure above, and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Patients; patients' drug treatment program counselors; court records; hospital personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0203

SYSTEM NAME:

National Institute on Drug Abuse, Intramural Research Program, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Drug Abuse, Intramural Research Program, PO Box 5180, Baltimore, MD 21224.

Quest, Pathology Building, 1901 Silver Spring Road, Baltimore, MD 21227.

Federal Records Center, 1557 St. Joseph Avenue, East Point, GA 30344.

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.

NOVA, Johns Hopkins Bayview Medical Center, Building C, 4940 Eastern Avenue, Baltimore, MD 21224.

Iron Mountain, 8200 Preston Court, Suite One, Jessup, MD 20794.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteers, adult males (from 1968 to present), adult females (beginning in 1985) and adolescents (ages 13–18, beginning in 1983), and children (neonate to 12 beginning in 1989). Clinical research projects conducted at the Addiction Research Center (ARC). This system also includes records on adult Federal prisoners involved in research projects at ARC when located at Lexington, Kentucky, from 1968–1976, and some records from system 09–30–0020 to be used for statistical research only.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records involved are administrative, medical and research records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 301(a) (42 U.S.C. 241(a)); sections 341(a) and 344(d) (42 U.S.C. 257(a) and 260(d)); sections 503 and 515 (42 U.S.C. 290aa–2 and 290cc). These sections authorize the conduct of research in all areas of drug abuse.

PURPOSE(S):

1. To collect and maintain a data base for research activities at NIDA/IRP.

2. To enable Federal drug abuse researchers to evaluate and monitor the subjects' health during participation in a research project. The areas of research

include, but are not limited to, biomedical, clinical, behavioral, pharmacological, psychiatric, psychosocial, epidemiological, etiological, statistical, treatment and prevention of narcotic addiction and drug abuse.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The National Institute on Drug Abuse (NIDA) uses a contractor to recruit volunteers and to screen these individuals for their acceptability to participate in specific research projects, and limits the contractor's access to the records to these procedures. NIDA also uses a contractor to perform routine medical laboratory tests on blood and urine samples. These routine tests verify that the subject is in good health. Both contractors disclose records from this system only to NIDA and are required to maintain Privacy Act safeguards with respect to such records.

2. (a) PHS may inform the sexual and/or needle-sharing partner(s) of a subject individual who is infected with the human immunodeficiency virus (HIV) of their exposure to HIV, under the following circumstances: (1) The information has been obtained in the course of clinical activities at PHS facilities carried out by PHS personnel or contractors; (2) The PHS employee or contractor has made reasonable efforts to counsel and encourage the subject individual to provide the information to the individual's sexual or needle-sharing partner(s); (3) The PHS employee or contractor determines that the subject individual is unlikely to provide the information to the sexual or needle-sharing partner(s) or that the provision of such information cannot reasonably be verified; and (4) The notification of the partner(s) is made, whenever possible, by the subject individual's physician or by a professional counselor and shall follow standard counseling practices.

(b) PHS may disclose information to State or local public health departments, to assist in the notification of the subject individual's sexual and/or needle-sharing partner(s), or in the verification that the subject individual has, notified such sexual or needle-sharing partner(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders or on computer disks, magnetic tapes, or microfilm.

RETRIEVABILITY:

Administrative and medical records are indexed and retrieved by the subject's name and identification code number. Research records are indexed and retrieved by the subject's name and identification code number.

SAFEGUARDS:

1. *Authorized Users:* Only authorized ARC staff (Principal Investigator and his/her research team) are allowed access to these files. The contractor staff has access to the files during the recruitment/screening process.

2. *Physical Safeguards:* Files and file rooms are locked after business hours. Building has electronic controlled entry at all times with a 24-hour guard/television surveillance system. The computer terminals are in a further secured area.

3. *Procedural Safeguards:* All users of personal information in connection with the performance of their jobs protect information from unauthorized personnel. Access codes to the research records are available only to the Principal Investigator and his/her research team. Access to the records is strictly limited to those staff members trained in accordance with the Privacy Act. The contractor staff members are required to secure the information in accordance with the Privacy Act. ARC Project Officer and contracting officials will monitor contractor compliance.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

In addition, because much of the data collected in these research projects are sensitive and confidential, special safeguards have been established. Certificates of confidentiality have been issued under Protection of Identity—Research Subjects Regulations (42 CFR part 2a) to those projects initiated since February 1980. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding their names or other identifying characteristics from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals. In addition, these records are subject to 42 CFR part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state: "Where the content of patient records has been disclosed pursuant to these regulations for the purpose of conducting scientific research * * * information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State."

RETENTION AND DISPOSAL:

Records will be disposed of in accordance with the NIH Records Control Schedule, *i.e.*, when the records are ten years old or no longer required for administrative or research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Medical Records Officer, NIDA, Intramural Research Program, Johns Hopkins Bayview Medical Center—Building C, PO Box 5180, Baltimore, MD 21224.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address above. Provide a notarized signature as proof of identity. This can be waived if the request is made through official Federal, State, or local channels. The request should include the patient's register number and/or the number of years of incarceration (for prisoner subjects), full name at time of participation in the research project, date(s) of research participation, and title of research project or name of drug being studied. An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or legal guardian who requests notification of an adolescent's record shall designate a family physician or other health professional (other than a family member) of the Addiction Research Center staff to whom the record, if any, will be sent. The parent or legal guardian must verify in writing the relationship to the adolescent as well as his/her own identity.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures that have been made of his/her records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under Notification Procedure above and reasonably identify the record, specify the information being contested, and state the corrective action sought and reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The individual; observations and medical recordings (such as blood pressure, dosage of compound administered, *etc.*) made by the Principal Investigator and his/her research team; system of records number 09–30–0020; drug treatment programs; Bureau of Prisons; case workers; psychiatrists; research laboratories; and pharmacies and hospitals. Many of these records are confidential and privileged communication is guaranteed under Section 344(d) of the PHS Act.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0207

SYSTEM NAME:

Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse and on Treatment Medications, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

University of California, San Francisco, Langley Porter Psychiatric Institute, San Francisco, CA 94143.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Normal, healthy adults who voluntarily participate in studies on the pharmacokinetics and pharmacodynamics of psychoactive drugs at Langley Porter Psychiatric Institute, during the period September 1987 through June 1997.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research records on each subject-participant contain the following information: Name; clinician's records including medical history, laboratory test results, physical examinations, psychological profile, and drug use profile; drug study data including records of drugs administered, exposures to radioactivity, and drug reactions; and date of study in which the subject participated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301(a), 503 and 405 (42 U.S.C. 241 and 284).

PURPOSE(S):

The primary purpose of this system is to support research on the pharmacokinetics and pharmacodynamics of drugs of abuse as well as treatment drugs. The term "pharmacokinetics" refers to the manner in which the human body processes a drug. "Pharmacodynamics" refers to the manner in which the drug affects the human body.

The clinical investigator used data of a medical nature that is contained in the system to make determinations regarding drug dosages and/or radiochemical exposures appropriate to the individual human subject-participants, in order to preserve and protect the health of each. The system also provides baseline data for studying the drug effects.

The Food and Drug Administration (FDA) also may use the records in routine inspections FDA conducts in accordance with its responsibilities to develop standards on the composition, quality, safety, and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. We may disclose to a congressional office the record of an individual in response to a verified inquiry from the congressional office made at the written request of the individual.

2. NIH contractors, use the records in this system to accomplish the research purpose for which the records are collected. The contractors are required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The contractor maintains the records on paper in file folders.

RETRIEVABILITY:

The contractor indexes and retrieves the records by the subject-participant's name.

SAFEGUARDS:

1. *Authorized Users:* Only the contract Project Director and his/her research team and the Federal Project Officer and his/her support staff have access to these records.

2. *Physical Safeguards:* The contractor keeps all records in a locked metal file cabinet in premises with limited accessibility. Only the clinical investigator (Project Director) has the key to the locked files.

3. *Procedural Safeguards:* Only the contract staff have access to the files. Persons other than subject participants who request individually identifiable data from a record, must provide written consent from the subject participant permitting the requested disclosure. The only exception would be for disclosure to persons or organizations permitted by the Privacy Act, section 3(B) to obtain personally identifiable data.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook. In addition, the contract staff complies with contractor's (University of California, San Francisco) standard procedures for safeguarding data.

RETENTION AND DISPOSAL:

The records will be kept no later than June 2002 (five years after the anticipated completion of the studies). At that time, the NIDA project officer will authorize in writing the clinical investigators to destroy the records by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Pharmacokinetic Studies on Drugs of Abuse, Medications Development Division, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Blvd., Room 4123, MSC 9551, Rockville, MD 20892–9551.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager listed above.

Provide the following information: Subject-participant's full name and a letter of request (or permission, if the requester is not the subject-participant) with notarized signature of the individual who is the subject of the record, approximate date(s) of experiment(s) in which the individual participated, and drug name (if known). In addition, an individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURE:

Contact the system manager at the address above and reasonably identify the record, specify the information to be contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The subject-participants and the contractor personnel conducting the research studies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0208

SYSTEM NAME:

Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Research Triangle Institute, Center for Social Research and Policy Analysis, Research Triangle Park, NC 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of Federally-funded treatment programs, including Treatment Alternative Street Crime (TASC) Programs of the Department of Justice, who requested to be included in TOPS from 1979 through 1986. New data collected from voluntary adults/adolescent clients of public and private funded-treatment programs beginning in 1991 and will continue through 1995.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories are: Demographic data, treatment outcome data, treatment process data, client locator information, and personal identifiers (name and assigned numerical identifier).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301 and 405 (42 U.S.C. 241 and 284.

PURPOSE(S):

The purpose of the system is to compile information on drug abusers in drug abuse treatment programs in order to derive information on the treatment environments and abusers' behaviors and characteristics subsequent to treatment. Researchers and drug abuse service providers may use the aggregate data to address issues and generate hypotheses to understand better the interactions among the client and community.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Within the restrictions set forth in HHS regulations concerning the confidentiality of drug abuse patient records (42 CFR 2.56), we may disclose a record for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except: (A) In emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to, abide by these provisions.

2. The Research Triangle Institute, an NIH contractor, uses the records in this system to accomplish the research purpose for which the records are collected. In the event of follow-up studies or continuation studies because the contract has been terminated for convenience by the Government, we may disclose records in this system to a subsequent NIH contractor. We would require the new contractor to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interview forms, magnetic tapes, and disks.

RETRIEVABILITY:

Records are indexed and retrieved by unique alpha numerical identifier. In order to relate the data collected to specific individuals, one must use the link file discussed under Safeguards.

SAFEGUARDS:

1. *Authorized Users:* Contractor personnel, the agency project officer, and agency employees whose duties require the use of the information in the system.

2. *Physical Safeguards:* The data management task leader, the project leader, or the project director provide technical supervision of all data collection and processing activities. Individually identified forms are stored in a secure, vault-like room provided for this purpose. Authorized personnel have access to the room by one locked door with controlled entry, i.e., only on the written authority of the professional staff member in charge. Computerized records are kept in a vault area with limited accession.

3. *Procedural Safeguards:* Because some of the data collected in this study, such as data on drug use, are sensitive and confidential, special safeguards have been established. A Certificate of Confidentiality has been issued under 42 CFR part 2a. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding the names or other identifying characteristics from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals. In addition, these records are subject to 42 CFR part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state: "Where the content of patient records has been disclosed pursuant to (these regulations) for the purpose of conducting scientific research . . . information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof

either voluntarily or in response to any legal process whether Federal or State."

Another safeguard is that the forms containing subject identification information for client follow-up and data matching purposes do not include any reference to the purpose of the study. Identification and location information is kept separate from any information that would suggest that the respondent has been in a drug treatment program.

Information on completed forms is entered immediately on the computer. Completed forms and computerized data are released only to authorized persons. Only aggregate data are provided and used in the preparation of necessary and appropriate reports.

A link file system is used. This system has three components: (1) Personal information, (2) data base information, and (3) the link file, which contains identifying number pairs which can be used to match data with individuals. The advantage of this system is that the data base can be used directly for report generation, etc., without the use of decrypting subroutines or access to the personal information or matching link files.

In addition, the computer center being utilized has developed an extensive security system to protect computer account codes and data. This system is described in a publication that is available from the system manager upon request.

We do not anticipate any disclosure of individually identifiable information to other persons or organizations within the Department of Health and Human Services. Nor does the contractor provide individually identification information to the Department of Justice, with which NIDA has a cooperative agreement for this study.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook. In addition, project staff complies with the contractor's (Research Triangle Institute) standard procedures for safeguarding data.

The contractor provides only aggregate information to NIDA.

RETENTION AND DISPOSAL:

The contractor destroys interview forms by shredding or burning immediately after contractor staff have completed and verified direct entry on magnetic tape or disk storage. The contractor will destroy individual identification and location data by shredding or burning, under the explicit written authorization of the system manager, which is anticipated to be no longer than five years after the termination of the study unless the information is needed for research purposes. We will retain aggregate data tapes for research purposes. These tapes will not have any individually identifiable information. In accordance with the NIH Records Control Schedule, these tapes will be retained for five years after completion of the project (approximately 2000). At that time, the tapes will be retired to the Federal Records Center and destroyed when they are ten years old or when they are no longer needed for research purposes.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Drug Abuse Treatment Outcome Study (DATOS), Project Officer, Services Research Branch, Division of Clinical and Services Research, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Blvd., Room 4222, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address above. An individual may learn if a record exists about himself/herself upon written request, with notarized signature. The request should include, if known, name of the researcher, location of the research site, approximate date of data collection, any alias used, and subject identification number.

An individual who requests notification of a medical record shall, at the time the request in made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or legal guardian who requests notification of an adolescent's record shall designate a family physician or other health professional (other than a family member) of the Division of Clinical Research staff to whom the record, if any, will be sent. The parent or legal guardian must verify in writing the relationship to the adolescent as well as his/her own identity.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

Persons other than subject individuals, who request individually identifiable data from a record must provide written consent from the subject individual permitting the requested disclosure. The only exception (if not in conflict with confidentiality regulations) would be for disclosure to persons or organizations permitted by the Privacy Act, section 3(b), to obtain personally identifiable data.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under Notification Procedure above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Research subjects, and staff in participating drug abuse treatment programs, written clinical evaluations, counselors, psychiatrists, psychotherapists, family members, research assistants, hospitals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0209

SYSTEM NAME:

Subject-Participants in Drug Abuse Research Studies on Drug Dependence and in Research Supporting New Drug Applications, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Veterans Administration Hospital, Cooperative Studies Program, Department of Veterans Medical Center, Perry Point, MD 21902.

Dixon and Williams Pharmaceutical, 5775 Hyde Park Circle, Jacksonville, FL 32210.

Medications Development Division and Division of Clinical Research, National Institute on Drug Abuse, 6001 Executive Blvd., Room 4123, Bethesda, MD 20892.

Veterans Affairs Medical Center, 50 Irving Street, NW, Washington, DC 20422.

Veterans Affairs Medical Center, University and Woodland Avenues, Philadelphia, PA 19104.

Veterans Affairs Medical Center, Brentwood Division, Wilshire and Sawtell Boulevards, Los Angeles, CA 90073.

National Institute on Drug Abuse, Division of Intramural Research Programs, 4940 Eastern Avenue, Baltimore, MD 21224.

Write to the system manager at the address below for the address of any new locations where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of Federally-funded and other drug abuse treatment programs who have requested to receive investigational new or marketed drugs, such as but not limited to, naltrexone, levo-alpha acetylmethadol (LAAM), or buprenorphine as part of their treatment. Data collection for the earlier LAAM studies began in 1975 and continued through September 1979; additional LAAM studies began in 1992 and continued through September 1997, naltrexone studies began in 1977 and continued through June 1984; and studies for other investigational new compounds (buprenorphine, gepirone, etc,) began in 1992 and may continue through calendar year 2005.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic data, treatment outcome data, treatment process data, client locator information, and personal identifiers (name and assigned numerical identifier).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Sections 301, 464p, and 405 (42 U.S.C. 241, and 284).

PURPOSE(S):

1. To maintain information on the safety and effectiveness of drugs for treatment of drug dependence with or without abuse potential in various treatment environments and modalities and changes in the behavior and characteristics of drug abusers who received these substances as part of their treatment regimen.

2. To provide data required by the Food and Drug Administration (FDA) to support research on drug dependence and potential new drug applications for various drugs, and to treat drug dependence with or without abuse potential. A new drug application is a notice to FDA that a pharmaceutical company believes they have enough data to demonstrate the safety and efficacy of a substance to satisfy FDA for marketing the substance. FDA may also use the records in routine inspections that FDA conducts in accordance with its responsibilities to develop standards on the composition, quality, safety and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

3. To conduct research on the pharmacology, toxicology, and behavioral characteristics of drugs of abuse alone or in combination with proposed treatment drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NIH contractor(s) use the records in the system in order to accomplish the research and development purposes for which the records were collected. In the event of a follow-up study or continuation study, the responsible project officer may disclose records in this system to a subsequent NIH contractor(s). Any new contractor(s) is and would be required to maintain Privacy Act safeguards with respect to such records and to comply with the confidentiality restrictions of 42 CFR Part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interview and assessment forms, video tapes, magnetic tapes, disks, and microfiche in boxes in closed cabinets in a locked room with limited accessibility.

RETRIEVABILITY:

The records are indexed and retrieved by subject-participant's name code (*i,e.,* initials—not name) and unique numerical identifier. In order to relate the data collected to specific individuals, however, one must use the link file discussed under safeguards.

SAFEGUARDS:

1. *Authorized Users:* For the naltrexone study, the system manager or Federal Project Officer and only authorized contract staff have access to the records (computerized and hard copy files) in the system. The contractor provides only aggregate data in reports to NIDA, FDA, or the public. Only the NIDA personnel mentioned previously and selected authorized contract staff have access to the stored LAAM records.

A certificate of confidentiality has been issued to researchers conducting the naltrexone study under 42 CFR, part 2, Protection of Identity—Research Subjects. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding the names or other identifying characteristics from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals. The earlier LAAM study (from 1975 through 1979) was not conducted under a certificate of confidentiality. The 1992 LAAM studies were conducted under the protection afforded by a confidentiality certificate. These regulations do not prohibit voluntary disclosure by the researcher. However, the records of these studies also are subject to 42 CFR part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state: "Where the content of patient records has been disclosed. Pursuant to (these regulations) for the purpose of conducting scientific research * * * information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily of in response to any legal process whether Federal or State."

The contractor's institutional review board reviewed and approved the safeguards described above in accordance with 45 CFR part 46 on the Protection of Human Subjects.

2. *Physical Safeguards:* For the naltrexone records, the contractor(s) stored individually identified forms in a locked room with controlled entry, i.e., only on written authority of the professional staff member in charge of data handling and processing). The contractor staff entered the collected information onto computer tape or disks as soon after contact with the subject-participant as possible, and stores the computerized records in a secured area with access limited as above.

For the LAAM, buprenorphine and other compound records, NIDA stores the individually identified forms in a lockable cabinet in a secure room. Only authorized NIDA personnel, *i.e.,* Division of Clinical Research and Medications Development professional staff and their support staff (program assistant, clerk-typist, or secretary), have access to the room with controlled entry. The room is in a building which has a 24-hour guard/television surveillance system and has controlled entry (picture identification sign in and out procedures) before and after normal working hours.

Another safeguard for these studies is that the forms containing subject identification information do not include any reference to the purpose of the study. The identification information is separate from any information that would suggest that the respondent is or has been in a drug abuse treatment program. In addition, the computer center being utilized for naltrexone has developed an extensive

security system to protect computer account codes and data.

3. *Procedural Safeguards:* Access to the computerized records of the studies (naltrexone and other research) is protected by a computerized password routine which is changed periodically. In addition, the project staff complies with the contractor's standard procedures for safeguarding data. The link file system that identifies individuals with personal data has three components: (1) Identification information, (2) data base information, and (3) the link file, which contains identifying number pairs which match data with individuals. The advantage of this system is that one may use the baseline data directly for report generation, etc., without using the subroutines or accessing the personal information or link files.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

The naltrexone staff will destroy identifiable information by shredding or burning when it is no longer needed for analysis or research purposes; then the tapes will be erased. NIDA will destroy individual identification and match-up information from other studies by shredding or burning five years after FDA completes the review and approves the new drug applications or when they are no longer needed for research purposes.

NIDA will retain the aggregate data tapes and/or paper records from studies for research purposes. These tapes will not have any individually identifiable information. In accordance with the FDA regulations governing new drug applications, the aggregate tapes will be retained for at least two years after FDA approves the new drug applications. At that time, the tapes will be retired to the Federal Records Center and destroyed when they are five years old or when they are no longer needed for research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Naltrexone Study, Division of Clinical Research, National Institute on Drug Abuse, 6001 Executive Blvd., Room 4234, Bethesda, MD 20892.

Project Officer, LAAM and Other Research Records, Medications Development Division, National Institute on Drug Abuse, 6001 Executive Blvd., Room 4128, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

An individual may determine if a record exists about himself/herself upon written request, with notarized signature if request is made by mail, or with suitable identification if request is made in person, to the appropriate system manager at the address above. The following information should be included, if known: Subject-participant's full name and a letter of request with notarized signature of the subject-participant of the record, any alias used, subject-participant's identification number, name of the researcher, name of clinic or research center, name of substance, and approximate date of study participation.

An individual who requests notification of a medical record must, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under Notification Procedure above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Research subject-participants, staff in the participating drug abuse treatment programs, written clinical evaluations, private physicians, counselors, psychiatrists, psychotherapists, family members, research assistants, and hospital records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0210

SYSTEM NAME:

Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Basic Neurobiology and Biological Systems Research Branch (BNBSRB), Division of Basic Research, National Institute on Drug Abuse, 6001 Executive Blvd., Room 4282, MSC 9555, Bethesda, MD 20892–9555.

Research Triangle Institute, Research Triangle Park, NC 27709.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual researchers and organizations who are registered with the Drug Enforcement Administration (DEA), Department of Justice (DOJ), some since 1966, and who have voluntarily submitted documentation to the National Institute on Drug Abuse (NIDA) in order to obtain, through the NIDA Drug Supply Program (DSP), drugs of abuse for use in a research project.

CATEGORIES OF RECORDS IN THE SYSTEM:

While the records in this system are research project-related, they support the eligibility of individual researchers to receive drugs of abuse. Types of information contained in the records are: Researcher's name, curricula vitae, research protocol, DEA and (if applicable) Nuclear Regulatory Commission registration numbers (when a radiolabeled compound is requested and shipped), business address (location of research project) and telephone number, summary of research project(s), requests for substance(s), name and amount of each compound requested and shipped, dates material is shipped and received, shipment numbers, and order form numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301, and 405 (42 U.S.C. 241 and 284); Controlled Substances Act of 1970 (21 U.S.C. 801 *et seq.*); Atomic Energy Act of 1954, as amended, section 81 (42 U.S.C 2111); and Energy Reorganization Act of 1974, section 201 (42 U.S.C. 5841).

PURPOSE(S):

To facilitate operation of DSP which is a centralized research support service through which the United States Government supplies to the national and international scientific community for research purposes, most Schedule I and many Schedule II-V controlled and non-controlled substances as specified in the Controlled Substances Act (CSA) of 1970 (21 U.S.C. 801 *et seq.*). Controlled substances are chemicals and other substances, and their immediate precursors, that the Attorney General has determined to have such potential

for abuse as to warrant regulation under the CSA. Some of these substances are radiolabeled materials. Radiolabeled materials are substances to which a small amount of radioactivity is added for use in various studies, such as drug metabolism and mechanisms of drug actions.

This system of records was established to facilitate DSP by enabling NIDA:

1. To verify that requests for drugs of abuse, some of which are radiolabeled, are from authorized individuals/organizations for use in a research project;

2. To verify that the amounts of the materials requested by researchers for animal, in vivo, and in vitro research are justified and available;

3. To supply controlled substances in amounts approved by the Food and Drug Administration (FDA) to researchers conducting research with human subjects;

4. To ship these materials securely in accordance with CSA and the Atomic Energy Act; and

5. To maintain records of these transactions.

FDA also may use the records in routine inspections in accordance with FDA's responsibilities to develop standards on the composition, safety, and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. We may disclose the record of an individual to a congressional office in response to a verified inquiry from the congressional office made at the written request of the individual.

2. We may disclose information to DEA, DOJ, to enable DEA to carry out its responsibilities as described in the Controlled Substances Act of 1970.

3. An NIH contractor routinely uses the records in this system to ship controlled substances to authorized recipients. Such contractor is required to maintain Privacy Act safeguards with respect to these records.

4. An NIH contractor may have access to the records in this system in the performance of its software modification/correction tasks specified in its contract. Such contractor is required to maintain Privacy Act safeguards with respect to these records.

5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

NIDA maintains "hard copy" records in file folders and automated records on computer disk.

RETRIEVABILITY:

Authorized NIDA and contractor personnel index and retrieve the computerized records by a researcher code number assigned by a computer program at the time a new record is established. Authorized NIDA personnel index and retrieve "hard copy" records by researcher's name. NIDA maintains a computerized, alphabetical cross-reference list that matches names and numbers.

SAFEGUARDS:

1. *Authorized Users:* The Chief, BNBSR Branch and his or her support staff, program assistant and clerk-typist, and the contracts' project directors and their support staffs have access to the records.

2. *Physical Safeguards:* The "hard copy" records and main computer are physically located at the Neuroscience Center, Bethesda, Maryland.

The computerized records are kept in a room with limited admittance. The room is locked after working hours. The "hard copy" records are stored in locked file cabinets in a room with very limited admittance. This room is also locked after working hours. The Neuroscience Center has a 24-hour guard patrol service.

3. *Procedural Safeguards:* The terminals are housed in a secured work area with limited admittance. Contract personnel use a password identification system to obtain access; NIDA changes the passwords periodically.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

NIDA maintains an individual's record for five years after the researcher's last request for, or shipment of, a drug of abuse. We consider the record inactive after that, and erase it from the computer disk by a delete routine. The delete routine automatically deletes the computerized cross-reference as well. We destroy the "hard copy" record by shredding. The system is checked once a year for inactive records.

SYSTEM MANAGER(S) AND ADDRESS:

Project Director, Drug Supply Program, BNBSR Branch, Division of Basic Research, Neuroscience Center, 6001 Executive Blvd., Room 4282, MSC 9555, Bethesda, MD 20892–9555.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address above. An individual may learn if a record exists about himself or herself upon written request. The request should include the researcher's name and business address at the time of last shipment. The request must be signed in ink by the individual researcher. Verifiable proof of identity is required.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under Notification Procedure above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Initial source is the individual researcher. Some of the DEA registration information provided by a researcher is verified through a DEA computer check. FDA provides information concerning type and amount of controlled substance(s) to be shipped to an

individual researcher for research projects involving human subjects.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0211

SYSTEM NAME:

Intramural Research Program Records of In- and Out-Patients with Various Types of Alcohol Abuse and Dependence, Relatives of Patients with Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892. A list of specific project sites is available from the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In-and out-patients with alcohol abuse and dependence, alcohol-induced organic brain syndromes; their relatives; and healthy volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research data of wide variety including biochemical measures, psychophysiological and psychological tests, questionnaires, clinical and behavioral observations and interviews, physical examinations, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, as amended, sections 301 (42 U.S.C. 241) and 510 (42 U.S.C. 290bb). These sections authorize the conduct of general health research and research into alcoholism and alcohol abuse.

PURPOSE(S):

These records are used for diagnosis and treatment of patients with alcohol abuse and dependence and related conditions; behavioral research relating to the causes, diagnoses, and treatment of addictions; and basic research on behavioral and biological processes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system are covered by section 527 of the Public Health Service Act (42 U.S.C. 290ee–3) and 42 CFR, Chapter I, subchapter A, part 2, on confidentiality of alcohol and drug abuse patient records. In accordance with these regulations, the records are confidential and may only be disclosed with the written consent of the patient with specific restrictions, and without the patient's consent in the following instances: (1) To medical personnel to the extent necessary to meet a bona fide emergency; (2) to qualified personnel for the purpose of conducting scientific research; or (3) if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefore, after certain considerations, and with appropriate safeguards. Routine uses of information in this system are limited to the following:

1. A record may be disclosed for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose: (1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office at the written request of that individual, in accordance with 42 CFR, chapter I, subchapter A, part 2.

Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for PHS who do not technically have the status of agency employees, if they need the records in the performance of their agency functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, on index cards, computer tapes and disks, microfiche, microfilm and audio and video tapes. Normally the factual data, with study code numbers, are stored on computer tape or disk, while the key to personal identifiers is stored separately, without factual data, in paper files.

RETRIEVABILITY:

During data collection stages and follow-up, retrieval by personal identifier (e.g., name or medical record number) is necessary. During the data analysis stage, data are normally retrieved by variables of interest, *e.g.*, age, diagnosis, *etc.*

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for the particular records maintained in each project. Depending on the sensitivity of the project, additional safeguards may be added.

1. *Authorized Users:* Only NIAAA medical and research staff have access to these records, as authorized by the system manager.

2. *Physical Safeguards:* Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities. Personal identifiers and link codes are separated as much as possible and stored in locked files.

3. *Procedural Safeguards:* Collection and maintenance of data are consistent with legislation and regulations for protection of human subjects, informed consent, confidentiality, and confidentiality specific to drug and alcohol abuse patients. Computer data access is limited through the use of key words, a series of account numbers, and passwords which are changed frequently and known only to authorized personnel.

4. *Implementation Guidelines:* These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and the HHS Automated Information Systems Security Program Handbook.

RETENTION AND DISPOSAL:

Records are held for five years after completion of the project, retired to a

Federal Records Center, and subsequently disposed of after ten years.

SYSTEM MANAGER(S) AND ADDRESS:

Clinical Director, Laboratory of Clinical Studies, Division of Intramural Clinical and Biological Research, National Institutes of Health, Building 10, Room 3B–19, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager at the address above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) nature of illness (if any); (c) title of study; (d) name of researcher conducting study. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of child's/incompetent person's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under Notification Procedure above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information gathered from individuals under study, either patient or normal subject, contract surveys, hospital records, medical and nursing staff notes, and from Privacy Act system of records 90–25–0099, "Clinical Research: Patient Medical Records, HHS/NIH/CC."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99–30419 Filed 11–29–99; 8:45 am]

BILLING CODE 4140–01–P

VOL 64 ISS 229 NO 30 1999 UMI

federal register

Tuesday
November 30, 1999

Part III

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 403, 412, 431, etc.
Medicare and Medicaid Programs; Religious Nonmedical Health Care Institutions and Advance Directives; Interim Rule

VOL 64 ISS 229 NO 30 1999 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 403, 412, 431, 440, 442, 456, 446, 488, and 489

[HCFA–1909–IFC]

RIN 0938–AI93

Medicare and Medicaid Programs; Religious Nonmedical Health Care Institutions and Advance Directives

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This rule deletes all references to Christian Science sanatoria and sets forth the Medicare requirements for coverage and payment of services furnished by religious nonmedical health care institutions. It also sets forth the conditions of participation that religious nonmedical health care institutions must meet before they can participate in Medicare. It sets forth the methods we will use to pay religious nonmedical health care institutions and monitor expenditures for religious nonmedical health care institution services. Additionally, the rule presents the rules governing optional coverage of religious nonmedical health care institution services by States under the Medicaid program.

DATES: *Effective date:* These regulations are effective January 31, 2000.

The incorporation by reference of the publication in this rule was approved by the Director of the Federal Register as of January 31, 2000.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 31, 2000.

ADDRESSES: Mail an original and 3 copies of written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1909–IFC, P.O. Box 8017, Baltimore, MD 21244–9016.

If you prefer, you may deliver an original and 3 copies of your written comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

For further information on ordering copies of the **Federal Register** contained in this document, see the beginning of SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

General Information, Medicare Coverage, and Payment Issues: Jean-Marie Moore, (410) 786–3508

Medicare Conditions of Participation: Nancy Archer, (410) 786–0596

Medicaid Issues: Linda Tavener, (410) 786–3838.

SUPPLEMENTARY INFORMATION:

Comments, Procedures, and Availability of Copies

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1909–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

I. Introduction

Section 4454 of the Balanced Budget Act of 1997 (BBA'97), Public Law No. 105–33, enacted August 5, 1997, which amended the Social Security Act (the Act), deletes all references to Christian Science sanatoria. Section 4454 provides for coverage of inpatient hospital services and post-hospital extended care services furnished in qualified religious nonmedical health care institutions (RNHCIs) under Medicare and as a State Plan option under Medicaid. (We will refer to these services as "RNHCI services.") While the previous provisions were specific to Christian Science sanatoria, the new amendments make it possible for institutions other than Christian Science facilities to qualify as RNHCIs and to participate in Medicare and Medicaid. The programs will only pay for nonmedical health care services furnished in RNHCIs, as defined in the law.

This interim final rule with comment period sets forth the requirements that an RNHCI must meet to participate in the Medicare or Medicaid programs. This rule permits a Medicare beneficiary to elect to receive care in an RNHCI based on his or her own religious convictions or to revoke that election if for any reason he or she decides to pursue medical care. The rule describes the process involved in making future elections. The rule sets forth conditions of participation that an RNHCI must fully meet to participate in the Medicare program. If we find that the accreditation of an RNHCI by a State, regional, or national organization provides reasonable assurances, in accordance with 42 CFR part 488, subpart A, that all of our requirements are met or exceeded, we may treat that RNHCI as meeting the conditions of participation.

The rule presents the methodologies under which we will pay RNHCIs, monitor the Medicare expenditure level for RNHCI services for any given federal fiscal year (FFY), and implement a "sunset" of the RNHCI benefit. Finally, the rule revises Medicaid regulations to reflect statutory changes and makes necessary nomenclature and conforming changes.

II. Background

Since the beginning of the Medicare program, the Act contained provisions authorizing payment for certain services furnished in Christian Science sanatoria. There were similar provisions authorizing payment for such services under Medicaid. Section 4454 of BBA'97 repealed the existing Medicare

and Medicaid provisions authorizing payment for services furnished in Christian Science sanatoria. Section 4454 authorizes Medicare and Medicaid payment for certain services provided in an RNHCI, as defined in the statute. Services furnished in any facility that meets the definition of an RNHCI may qualify for payment, not just those provided in Christian Science sanatoria. It should be noted that the Medicaid RNHCI provisions are optional and not an essential component of the basic Medicaid State plan. As in the past, the new provisions do not mention the use of a religious practitioner since we consider the cost of using a religious practitioner the financial responsibility of the patient.

III. Regulatory Provisions

A. RNHCI Medicare Benefits, Conditions of Participation, and Payment

We are revising part 403 (Special Programs and Projects) of the Code of Federal Regulations by adding a new subpart G, "Religious Nonmedical Health Care Institutions-Benefits, Conditions of Participation, and Payment."

1. Basis and Purpose (§ 403.770)

This rule implements Section 4454 of BBA'97, which amended the following sections of the Act: 1821, and 1861(e), (y) and (ss) (Medicare provisions); 1902(a) and 1908(e)(1) (Medicaid provisions); and 1122(h) and 1162 (conforming provisions).

Section 4454 of BBA'97 modified section 1861 of the Act in several ways. First, section 4454 removed the reference to Christian Science from the definition of the term "hospital" in section 1861(e) and substituted "religious nonmedical health care institution." Section 4454 also changed the title of section 1861(y) from "Extended Care in Christian Science Skilled Nursing Facilities" to "Extended Care in Religious Nonmedical Health Care Institutions" and substituted "religious nonmedical health care institution" for the reference to Christian Science sanatorium in that section.

Section 4454 added new section 1861(ss) to the Act. New section 1861(ss)(1) of the Act defines the ten minimum characteristics that a facility must have to be considered an RNHCI and provides the basis for the Medicare conditions of participation described in this rule.

Section 4454 also added a new section 1821 to the Act, providing conditions for coverage of RNHCI services. New section 1821(a) and (b) of the Act addresses the requirements that the beneficiary must fulfill to qualify for coverage and payment of RNHCI services. New section 1821(c) and (d) of the Act addresses the monitoring of expenditures for RNHCI services, safeguards against excessive expenditures for those services, and the circumstances under which the RNHCI benefit created by section 4454 will "sunset".

Section 4454 also amends the third sentence in section 1902(a) after the phrase "shall not apply" by removing the phrase "to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientists, Boston, Massachusetts" and inserting "to a religious nonmedical health care institution (as defined in section 1861(ss)(1)." Section 4454 also amends 1908(e)(1) after the phrase "does not include" by removing "a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "a religious nonmedical health care institution (as defined in section 1861(ss)(1))." These amendments to the Act provide for RNHCI services as a State option under the Medicaid program.

2. Definitions and Terms (§ 403.702)

In the first section of subpart G we have included a "definitions section" to assist readers with terms or acronyms that are used in the rule. However, if a term is defined within the text of the rule, then it is not included in the definitions section. The terms and acronyms presented in the definitions section are as follows:

Election means a written statement signed by a beneficiary or the beneficiary's legal representative indicating the beneficiary's choice to receive nonmedical care or treatment for religious reasons. The term is specific to the section 4454 provisions: it is the new process by which a beneficiary elects to choose RNHCI services rather than other covered medical services.

Excepted medical care means medical care that is received involuntarily or required under Federal, State, or local laws. It is a new term specific to the provisions implementing section 4454 and is intended to identify the kinds of medical services that can be provided to a beneficiary with an election for RNHCI services without revoking the election.

FFY is the acronym for the Federal fiscal year, which is the period used in calculating budget figures for the RNHCI program.

Medical care or treatment means health care furnished by or under the direction of a licensed physician that can involve diagnosing, treating, or preventing disease and other damage to the mind and body. It may involve the use of pharmaceuticals, die., exercise, surgical intervention, and technical procedures.

Nonexcepted medical care means medical care, other than excepted medical care, that is sought by or for a beneficiary who has elected religious nonmedical health care institution services. It is a new term specific to the provisions implementing section 4454 and is intended to define the kinds of medical services that, if received by a beneficiary who has previously elected RNHCI services, would revoke the individual's election of services.

Religious nonmedical care or religious method of healing means health care furnished under established religious tenets that prohibit conventional or unconventional medical care for the treatment of a beneficiary. It is a term specific to the provisions implementing section 4454 and defines a specific approach to health care management.

RNHCI stands for "religious nonmedical health care institution" (as defined in section 1861(ss)(1) of the Act).

Religious nonmedical nursing personnel means individuals who are grounded in the religious beliefs of the RNHCI, trained and experienced in the principles of nonmedical care, and formally recognized as competent in the administration of care within their religious nonmedical health care group. The term is specific to the provisions implementing section 4454 and defines a specific group of health care workers.

3. Requirements for Coverage (§ 403.720)

In order for a Medicare or Medicaid provider to meet the definition of an RNHCI, it must satisfy the ten qualifying provisions as contained in new section 1861(ss)(1) of the Act, which are simply restated in the rule. While the requirements contained in sections 1861(ss)(1)(B) (lawful operation), (G) (ownership by or in a provider of medical services), and (H) (utilization review) of the Act are explicitly addressed in the Medicare conditions of participation, it is essential that a facility meet all ten elements to qualify as an RNHCI for both the Medicare and Medicaid programs. Section 1861(ss)(1) of the Act states that an RNHCI means an institution that:

(a) Is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986 and is exempt from taxes under subsection (a) of that section. The inability to either gain or retain this

status will disqualify an institution from participation as an RNHCI.

(b) Is lawfully operated under all applicable Federal, State, and local laws and regulations. Federal law supersedes State and local laws unless the State and local requirements are more stringent than the Federal requirements.

(c) Furnishes only nonmedical nursing items and services to patients who choose to rely solely upon a religious method of healing and for whom the acceptance of medical services would be inconsistent with their religious beliefs. The religious component of the healing is not covered by Medicare or Medicaid.

(d) Furnishes nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of these patients. This care frequently involves: assistance with activities of daily living; assistance in moving, turning, positioning, and ambulation; meeting nutritional needs; and comfort and support measures.

(e) Furnishes nonmedical items and services to inpatients on a twenty-four hour basis.

(f) Does not furnish, on the basis of its religious beliefs, through its personnel or otherwise, medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients.

(g) Is not owned by, under common ownership with, or has an ownership interest of five percent or more in, a provider of medical treatment or services, and is not affiliated with a provider of medical treatment or services, or with an individual who has an ownership interest of five percent or more in, a provider of medical treatment or services. For purposes of this requirement, an affiliation does not exist in the circumstances described in section 1861(ss)(4)of the Act or § 403.738(c).

(h) Has in effect a utilization review plan that:

- Provides for review of admissions to the institution, of the duration of stays, of cases of continuous extended duration, and of the items and services furnished by the institution.
- Requires that the reviews be made by an appropriate committee of the institution that includes the individuals responsible for overall administration and for supervision of nursing personnel at the institution.
- Provides that records be maintained of the meetings, decisions, and actions of the committee.
- Meets other requirements as the Secretary finds necessary to establish an effective utilization review plan.

(i) Provides information the Secretary may require to implement section 1821 of the Act, including information relating to quality of care and coverage determinations.

(j) Meets other requirements the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution. These requirements are the conditions of participation in this subpart. The RNHCI must meet or exceed the conditions of participation in order to qualify as a Medicare provider. The conditions of participation will be discussed individually in section III.A.5. of this preamble. The RNHCI must also have a valid provider agreement with HCFA.

In addition to the above requirements, section 4454 of BBA'97 added section 1821 to the Act, establishing conditions of coverage for RNHCI services. Section 1821(a) of the Act requires that as a condition for Part A Medicare coverage:

- The beneficiary must have a condition that would qualify under Medicare Part A for inpatient hospital services or extended care services furnished in a hospital or skilled nursing facility that is not an RNHCI.

When a Medicare beneficiary has an effective election on file with us but does not have a condition that would qualify for Medicare Part A inpatient hospital or post-hospital extended care services if the beneficiary were an inpatient of a hospital or a resident of an SNF that is not an RNHCI, then services furnished in a RNHCI are not covered by Medicare. A Medicare claim for services that were furnished to that beneficiary would be treated as a claim for uncovered services. If the beneficiary only needs assistance with activities of daily living, then the beneficiary's condition could not be considered as meeting the Medicare Part A requirements.

- The beneficiary must have a valid election in effect to receive RNHCI services.

A beneficiary who meets all other applicable requirements and who has in effect a valid election to receive services in an RNHCI is eligible for coverage of those services in an RNHCI.

If no valid election is filed or the election has been revoked and no new election is in effect, the beneficiary does not have Medicare coverage for services furnished in an RNHCI. Consequently, a Medicare claim for services furnished to such a beneficiary would also be treated as a claim for uncovered services.

- The RNHCI may not accept a patient as a Medicare or Medicaid beneficiary after the sunset provision (§ 403.756) is implemented unless the patient has an election in effect prior to January 1 of the year in which the sunset provision is implemented. A claim filed for payment for services furnished to a patient with no valid election in effect before January 1 of the year the sunset provision is implemented would be denied.
- The RNHCI must, after reasonable investigation, determine that the beneficiary has not received nonexcepted medical treatment that would have caused his or her election to be revoked. We believe that the RNHCI is in the best position to gain information from the patient about health care incidents that may have occurred since first signing an election statement that might change the election status.

Examples:

(a) During the admission interview the RNHCI became aware that the beneficiary had been in an accident in which he or she suffered lacerations and contusions and was massively confused when transferred to a local emergency room. The emergency room staff controlled the bleeding and completed repair of the lacerations and initiated a neurological assessment before the patient's religious preferences were known. This is considered excepted medical care since the patient was not mentally competent to refuse the initiation of medical care and did not voluntarily seek medical attention. Receipt of excepted care does not revoke the beneficiary's election for RNHCI services.

(b) During the admission interview the RNHCI becomes aware that the beneficiary had visited a chiropractor to gain relief from persistent back pain. This chiropractor visit is considered nonexcepted care since the beneficiary voluntarily sought Medicare covered medical care, which effectively revokes the election for RNHCI services.

If the election has been revoked, it means the beneficiary and RNHCI are responsible for the cost of services that are denied by Medicare.

4. Valid Election Requirements (§ 403.724)

The new section 1821(b) of the Act addresses the issues involved in beneficiary election of RNHCI services. None of the provisions in this section existed prior to the passage of BBA'97.

(a) General Requirements

(i) The election must be a written statement that includes the following statements:

- The beneficiary is conscientiously opposed to acceptance of nonexcepted medical treatment as defined in § 403.702. This is a statutory requirement that is restated in the rule.

• The beneficiary acknowledges that the acceptance of nonexcepted or conventional medical treatment is inconsistent with his or her sincere religious beliefs. This is a statutory requirement that is restated in the rule.

• The beneficiary acknowledges that the receipt of nonexcepted medical treatment constitutes a revocation of the election and may limit further receipt of services in an RNHCI. We believe that it is essential that the election indicate the beneficiary's understanding as to what acts on his or her part could revoke the election.

• The beneficiary acknowledges that the election may be revoked by submitting a written statement to HCFA. We believe that it is essential that the election indicate the beneficiary's understanding as to how he or she can revoke the election.

• The beneficiary acknowledges that revocation of the election will not prevent or delay access to medical services available under Medicare Part A in facilities other than RNHCIs. We believe that it is essential that the election indicate the beneficiary's understanding that at no time will he or she be denied access to Medicare Part A services.

(ii) The election must be signed and dated by the beneficiary or his or her legal representative. We believe the election for RNHCI services can only be made by a Medicare beneficiary or his or her legal representative. An election may not be made by or on behalf of an individual prior to reaching Medicare eligibility and beneficiary status. The election may not be made for an individual by a friend or family member who is not the legal representative of the beneficiary.

(iii) The election must be notarized. We are requiring that election statements be signed by the beneficiary or his or her legal representative and notarized. We believe that this is necessary to assure the identity and relationship of the parties involved and the beneficiary's understanding of the content of the election statement. An election statement may neither be predated to seek coverage and payment for services furnished prior to the date of an election nor post-dated to meet the time limitations on making a new election imposed by an earlier revocation (see § 403.724(b)). We believe that the beneficiary must be eligible to enter an election at the time the document is signed and notarized.

(iv) The RNHCI must keep a copy of the election statement on file and submit the original to HCFA with any information obtained regarding prior elections or revocations. The maintenance of a double entry system will assure the accuracy of a beneficiary's status and eligibility for RNHCI services. While we require the receipt of an original copy of the election in order to complete the filing process, there is nothing that precludes the signing of multiple originals at the same time. The provider or the beneficiary and his or her legal representative may be more comfortable in having an original rather than a copy for future reference. Having an original of the election may be particularly important to beneficiaries who feel they might relocate at some future date and may not be readmitted to the same RNHCI.

(v) The election becomes effective on the date it is signed. The dating of the election is required to establish a history that documents the beneficiary's eligibility for RNHCI services.

(vi) The election remains in effect until revoked. Since there is no time limitation on the term of the election statement, it will remain effective until revoked by the written request of the beneficiary or action of the beneficiary in seeking nonexcepted medical care as defined in § 403.702.

(b) Revocation of Election

(i) A beneficiary's election is revoked by one of the following:

• The beneficiary receives nonexcepted medical treatment for which Medicare payment is requested. Under section 1821(b)(3) of the Act, an election by a beneficiary will be revoked if the beneficiary receives nonexcepted medical treatment for which Medicare payment is sought.

Nonexcepted medical treatment in this rule refers to any medical care or treatment other than excepted medical treatment.

Examples of nonexcepted medical care could include but are not limited to the following:

+ A beneficiary receiving medical diagnosis and/or treatment for persistent headaches and/or chest pains.

+ A beneficiary in an RNHCI who is transferring to a community hospital to have radiological studies and the reduction of a fracture.

+ A beneficiary with intractable back pain receiving medical, surgical, or chiropractic services.

• Under section 1821(b)(3) of the Act, an election by an individual may also be revoked voluntarily by notifying us in writing.

(ii) The receipt of excepted medical treatment as defined in § 403.702 does not revoke the election made by a beneficiary. Examples of excepted services include but are not limited to the following:

+ A beneficiary who receives vaccinations required by a State or local jurisdiction. This is compliant behavior to meet government requirements and not considered as voluntarily seeking medical care or services.

+ A beneficiary who is involved in an accident and receives medical attention at the accident scene, or in transport to a hospital, or at the hospital before being able to make their beliefs and wishes known.

+ A beneficiary who is unconscious and receives emergency care and is hospitalized before regaining consciousness or being able to locate his or her legal representative.

(c) Limitation on Subsequent Elections

(i) If a beneficiary's election has been made and revoked twice, the following limitations on subsequent elections apply:

• The third election is not effective until 1 year after the date of the most recent revocation.

• Any succeeding elections are not effective until 5 years after the date of the most recent revocation.

Section 1821(b)(4) of the Act provides limitations on subsequent elections. An individual may file an election and revoke it twice with no affect on benefits paid under Medicare Part A for services furnished in an RNHCI. However, once an individual's election has been made and revoked twice, the next (third) election may not become effective until the date that is one year after the date of the most recent revocation. Any succeeding election (fourth or later) will not become effective until the date that is five years after the date of the most recent revocation. While there are progressive waiting periods for an individual to file an election following the second revocation, there is never a waiting period for the individual to be able to receive covered medical services as a Medicare beneficiary.

(ii) HCFA will not accept as the basis for payment of any claim any election filed on or after January 1 of the calendar year in which the sunset provision described in § 403.756 becomes effective. Section 1821(d) of the Act provides that if the sunset provision becomes effective we may not accept any more elections for RNHCI services. The sunset provision is discussed in detail in section III. A.9. and § 403.756 of this rule.

5. Conditions of Participation

(a) Patient Rights (§ 403.730)

Under section 1861(ss)(1)(J) of the Act, we may accept an RNHCI as a participating Medicare provider only if, in addition to meeting the specific requirements of that section, it meets other requirements we find necessary in the interest of patient health and safety.

Patient health and safety cannot be protected simply by avoiding obvious risk factors such as safety hazards or inadequate staff. Therefore, patient rights dealing with freedom from physical, psychological, and verbal abuse, misappropriation of property, and physical restraints are examples of direct protections of patients' physical and emotional health and safety. Successful restoration of health depends on many factors related to emotional health, including a general feeling of well-being. We believe patient health and safety can be protected only if the RNHCI delivers patient care in an atmosphere of respect for the individual patient's comfort, dignity, and privacy. Therefore, we are setting forth a condition of participation that recognizes explicitly that the RNHCI must protect and promote certain patient rights.

The patients' rights condition at § 403.730 has four standards. The first standard requires that the RNHCI inform each patient of his or her rights before furnishing care. We are not prescribing a specific method by which a RNHCI should notify each patient of his or her rights, because we believe that each RNHCI should implement a policy that reflects its specific manner of operations and minimizes administrative burden. This standard also requires that a RNHCI have a process for prompt resolution of grievances and that it inform patients of this process. The process must include a specific person within the facility whom a patient can contact to file a grievance. In addition, the facility must provide patients with contact information for appropriate State and Federal resources.

The remaining three standards (Exercise of rights, Privacy and safety, and Confidentiality of patient records) under the patient rights condition establish a minimum set of required patient rights. In developing these provisions, we closely examined the regulations concerning patient rights for other provider types, such as nursing homes and home health agencies. Because the nature of patient care varies among provider types, we are including only those patient rights that we believe are appropriate and necessary in the religious nonmedical setting. We are requiring that a patient have the following rights:

- The right to be informed of his or her rights, to participate in the development and implementation of his or her plan of care, and to make decisions regarding his or her care.
- The right to formulate advance directives and to have those directives followed.
- The right to privacy and to receive care in a safe setting.
- The right to be free from verbal, psychological, and physical abuse, and misappropriation of property.
- The right to confidentiality of his or her care records.
- The right to be free from the use of restraints.
- The right to be free from involuntary seclusion.

We believe these patient rights are necessary in the interest of patient health and safety. We note that the rights regarding advance directives may seem superfluous for those patients seeking nonmedical care, but we believe that a patient always has the right to change his or her mind regarding the method of health care he or she chooses. Advance directives are particularly important for a patient choosing to rely solely upon a religious nonmedical method of healing as it makes his or her wishes known in the event he or she becomes incapacitated and unable to make health care choices.

HCFA policy in HCFA's nursing home interpretive guidelines defines restraints as any manual method or physical or mechanical device, material, or equipment attached to or adjacent to the patient's body that the individual cannot remove easily that restricts freedom of movement or normal access to one's own body. Physical restraints include, but are not limited to: Using bed rails to keep a patient from voluntarily getting out of bed (as opposed to enhancing mobility while in bed); tucking in a sheet so tightly that a bed bound patient cannot move; using wheelchair safety bars to prevent a patient from rising from the chair; placing a patient in a chair that prevents rising; and placing a patient in a wheelchair so close to a wall that the wall prevents the patient from rising. Bed rails may be used either as restraints or to assist in mobility and transfer of a patient only. The use of bed rails as restraints is prohibited unless they are necessary to treat a patient's medical symptoms.

Restraint use may constitute an accident hazard and professional standards of practice have eliminated the need for physical restraints except under limited medical circumstances. Potential negative outcomes for restraint use include incontinence, decreased range of motion, and decreased ability to ambulate, symptoms of withdrawal or depression, reduced social contact, and death. Studies have shown that bed rails as restraints add risk to the patient by potentially increasing the risk of more significant injury from a fall from a bed with raised rails than from a fall from a bed without bed rails. There are other, safer methods to reduce the risk of falls from a bed such as lowering the bed or putting the mattress on the floor and frequent staff monitoring. Therefore, if a cognizant, able patient requests bed rails to assist in mobility, it is not considered a restraint. If, on the other hand, a legal representative requests bed rails for a bed bound relative with no medical need for bed rails, then it is considered a restraint. The representative cannot give permission to use restraints, including bed rails for "safety," if it is not necessary to treat the patient's medical symptoms. Restraining someone to keep him or her "safe" is limited to circumstances in which the patient has medical symptoms and a physician's order that warrant the use of a restraint (see nursing home regulations and interpretive guidelines). Since the RNHCI recognizes neither medical symptoms or physicians (and it is prohibited to do so by the Act), there is no reason that a restraint may be used in a RNHCI.

HCFA has worked for many years to reduce restraint use and is very proud of the progress it has made in doing so. Not only would allowing restraints in RNHCIs be counterproductive to their mission and niche, but it would be utterly contrary to the standards that we have developed in conjunction with other stakeholders in health care that would permit restraints only with a medical diagnosis and medical orders.

(b) Quality Assessment and Performance Improvement (§ 403.732)

We are requiring a participating RNHCI to implement a continuous effort to improve its performance, incorporating an approach that focuses on the RNHCI's efforts to improve patient care and satisfaction. Specifically, we are requiring each RNHCI to develop, implement, maintain and evaluate an effective quality assessment and performance improvement program. We are not prescribing specific methodologies to achieve this objective. Each RNHCI is free to pursue quality improvement in a manner best suited to its individual characteristics and resources. However, every RNHCI is responsible for implementing actions that result in

performance improvements across the full range of the RNHCI's services to patients. Also, we are requiring an RNHCI's quality assessment and performance improvement program to track performance to ensure that improvements are sustained over time.

The quality assessment and performance improvement condition (§ 403.732) contains two standards, the first addressing the scope of the program and the second concerning the responsibility for the program. The first standard requires that an RNHCI's quality assessment and performance improvement contain the minimum items that must be in the RNHCI's program. Specifically, we require that the RNHCI objectively evaluate the following areas that we believe are critical: access to care, patient satisfaction, staff performance, complaints and grievances, discharge planning activities, and safety issues, including physical environment. We believe that these items comprise the fundamental building blocks of a well-managed RNHCI.

Additionally, § 403.732 states that for each area listed above, and any other areas the RNHCI includes, the RNHCI must define and describe quality assessment and performance improvement activities that are appropriate for the services furnished by or in the RNHCI.

Because of the unique nature of the care furnished in RNHCIs, we are not prescribing a specific definition of quality or outlining what activities are appropriate to meet this standard. However, we welcome any comments on whether the regulations should include some prescribed methods and some definitions on the nature of quality in an RNHCI.

Additionally, the RNHCI must measure, analyze, and track performance that the RNHCI adopts or develops that reflects processes of care and RNHCI operations. By "measure" we mean that the RNHCI must use an objective means of tracking performance that enables the RNHCI to identify differences in performance between two points in time. For an RNHCI to consider that it is "doing better" is a subjective statement and is not an acceptable measure. There must be some identifiable units of measurement that a knowledgeable person can distinguish as evidence of change. Not all objective measures must be shown as valid and reliable (that is, subjected to scientific development) to be usable in improvement projects, but they will at least identify a starting point and an ending point stated in objective terms that relate to the objectives and outcomes of the improvement projects. However, rather than mandating specific performance measures, we are allowing each RNHCI the flexibility to identify its own measures of performance for the activities it identifies as priorities in its quality assessment and performance improvement strategy. We are also requiring that the RNHCI inform the patients of the scope and responsibilities of the quality assessment and performance improvement program.

We also are requiring in § 403.732 that an RNHCI set priorities for performance improvement, based on the prevalence and severity of the identified problem(s). Lastly, this standard requires the RNHCI to take action to correct problems identified through its quality assessment and performance improvement program. We envision an RNHCI meeting this requirement by conducting an analysis when adverse outcomes are identified and then taking action to enact long-term correction and improvement of the identified problems.

The second standard, Program responsibilities, requires that the RNHCI's governing body ensure that there is an effective quality assessment and performance improvement program. We are requiring that the governing body and administration officials be responsible for ensuring that the quality assessment and performance improvement program addresses identified priorities and be responsible for implementing and evaluating improvements. Additionally, the standard requires that all programs, departments, and functions be a part of the RNHCI's quality assessment and performance improvement program. This also includes any services carried out under contract.

(c) Food services (§ 403.734)

This condition has two standards. The first standard, Sanitary conditions, requires that food provided to patients be obtained, stored, prepared, distributed and served under sanitary conditions. We believe that it is necessary for any acceptable food services program to serve food that meets these criteria. The other standard requires that meals be prepared which furnish adequate nutrition based on the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. We believe this standard is necessary to protect the health and safety of patients in an RNHCI and that the Board's guidelines can appropriately be used here because they represent accepted practices that are in widespread use in other providers. We are not requiring therapeutic diets or parenteral nutrition as these are considered medical practices.

Additionally, this standard requires that food furnished be palatable, attractive and served at the proper temperature. The RNHCI is also required to offer substitutes of similar nutritional value to patients who refuse food served or desire alternative choices. All meals are to be furnished at regular times comparable to normal mealtimes in the community and in no instance may there be more than 14 hours between a substantial evening meal and breakfast the next day. Additionally, there RNHCI must offer snacks at bedtime.

(d) Discharge Planning (§ 403.736)

Under this condition, we are requiring the RNHCI to implement a discharge planning process to assure that appropriate post-RNHCI services are obtained for each patient, as necessary. The discharge planning process will apply to services furnished by the RNHCI to ensure a timely and smooth transition to the most appropriate type of setting for the patient. To be compatible with other regulations for other providers, we are dividing the condition into several standards—Discharge planning evaluation, Discharge plan, Transfer or referral, and Reassessment.

The first standard concerns the identification of patients in need of evaluation. We are requiring an RNHCI to assess the need for a discharge plan for patients likely to suffer any adverse consequences if there is no planning and for other patients upon their request. The discharge planning process must be initiated when the patient is admitted to the facility. Additionally, we are requiring that discharge planning be initiated upon the request of the patient or a legal representative acting on his or her behalf. The discharge planning evaluation must include an assessment of the possibility of a patient needing services after discharge and the patient's capacity for self-care or care in the environment from which he or she entered the RNHCI. We are requiring that the evaluation be completed on a timely basis and included in the patient's rights record, thus ensuring that appropriate arrangements for post-RNHCI care are made before discharge and avoiding unnecessary delays. We believe these requirements are necessary because they emphasize the need for prompt action to assess and act on the discharge planning needs of the patients.

The second standard requires that qualified and experienced personnel develop the discharge plan and that the RNHCI be responsible for the implementation of the plan. We assume this plan to be thoughtful and tailored to each individual's needs. A statement such as "the patient was discharged to XYZ facility" is not considered a discharge plan. We assume the plan would provide recommendations and arrangements for placement, either in the community or in the environment from which the patient was admitted. The RNHCI is also responsible for reassessing each individual's plan for factors that may affect the appropriateness of the plan. The patient or the legal representative must be informed and prepared for any post-RNHCI care. Additionally, the RNHCI must inform the patient or legal representative of his or her ability to choose among any (medical facilities or otherwise) participating Medicare providers that will respect the preferences of the patient and family.

The third standard requires the RNHCI to transfer or refer patients in a timely manner to another facility (including a medical facility, if requested by the beneficiary or his or her legal representative), in accordance with § 403.730(b)(2). The RNHCI must notify the patient of his or her rights to make decisions about care, including transfers and discharges, and must involve the patient in decisions about the transfers and discharges. Furthermore, the patient always has the choice to revoke his or her election for RNHCI care (in accordance with the revocation provisions in § 403.724(b)) in order to receive care in a traditional medical setting. While we expect that all transfers and referrals will be made in a timely manner, we expect that RNHCIs will act as expeditiously as needed to implement transfers or referrals to a medical facility that are requested by a patient after the patient's revokes his or her election for RNHCI care.

The last standard requires the RNHCI to reassess its discharge planning process on an ongoing basis. This reassessment must include reviewing a sampling of discharge plans and follow-up with the patient, if necessary, to ensure that the RNHCI was responsive to his or her discharge needs.

(e) Administration (§ 403.738)

The first standard is the same as section 1861(ss)(1)(B) of the Act, which requires the RNHCI to be operated under all Federal, State, and local laws. The administration condition requires the RNHCI to have written policies regarding organization, services, and administration. This condition consists of three standards—Compliance with Federal, State, and local laws, Governing body, and Ownership and disclosure.

In addition, we are requiring that the RNHCI meet the applicable provisions of other HHS regulations, including but not limited to those pertaining to nondiscrimination on the basis of race, color or national origin (45 CFR part 80); nondiscrimination on the basis of handicap (45 CFR part 84); nondiscrimination on the basis of age (45 CFR part 91); protection of human subjects of research (45 CFR part 46); and fraud and abuse (42 CFR part 455). Although these regulations are not in themselves considered requirements under this part, their violation may result in the termination of the provider agreement or the suspension of, or the refusal to grant or continue, payment of Federal funds to an RNHCI.

The second standard, Governing body, described in § 403.738(b), requires that the RNHCI appoint a governing body, or a person designated to function as a governing body, to be responsible for establishing and implementing policies regarding the RNHCI's management and operation. We assume that the governing body will create an environment that ensures high quality care that is consistent with patient needs and the effective administration of the RNHCI.

We want to emphasize that the governing body is responsible for the entire operation of the RNHCI, including contracts, arrangements, and the appointment of an administrator. While the governing body requirements may necessitate the implementation of certain processes, we believe they are essential to ensuring that the RNHCI with which HCFA has entered into a provider agreement is, in fact, able to ensure patient health and safety. To ensure this accountability, we have specified the responsibility of the governing body for establishing and implementing all policies regarding the RNHCI's management and operation. We believe the performance of these basic organizational functions is necessary for a patient-centered environment.

The third standard states the provisions of sections 1861(ss)(1)(G)(I) and 1861(ss)(4) of the Act, which permit ownership interests and affiliations if they meet certain criteria. Under the third standard, a RNHCI may not be owned by, be under common ownership with, or have an interest in a provider of medical treatment services. Additionally, the RNHCI may not be affiliated with a provider of medical treatment or services or affiliated with an individual who has an ownership interest in a provider of medical treatment or services. Permissible affiliations are one of the following:

- An individual serving as an uncompensated director, trustee, officer, employee, or other member of the governing body of the RNHCI, or
- An individual who is a director, trustee, officer, employee, or staff member of a RNHCI having a family relationship with an individual who is affiliated with (or has an ownership interest in) a provider of medical treatment or services, or
- An individual or entity furnishing goods or services as a vendor of medical treatment to both providers of medical treatment or services and RNHCIs.

We have included the requirement that the RNHCI also comply with ownership disclosure requirements of §§ 420.206 and 455.104 of 42 CFR Chapter 4.

In order to adequately monitor the potential for fraud and abuse in the program, we have added an additional requirement that the RNHCI also furnish written notice to HCFA if a change occurs in any of the following:

- Persons with ownership or controlling interest.
- The officers, directors, agents or managing employees.
- The religious entity, corporation, association, or other company responsible for the management of the RNHCI.
- The administrator or director of nonmedical nursing services.

(f) Staffing (§ 403.740)

Under the condition for staffing we are requiring the RNHCI to have qualified experienced personnel present in sufficient numbers to meet the specific needs of the patients. The overall goal of this condition is to ensure that all the RNHCI's areas, not just those directly involved with patient care, are staffed with sufficient, qualified personnel. We believe an efficient and well-run institution is the product of all staffing areas working to improve the overall quality of the facility.

This condition is composed of three standards which support the objective that the RNHCI be staffed with qualified personnel. The first of these standards, Personnel qualifications, concerns qualifications of those individuals who furnish care to patients. We want to emphasize that the standard applies to all such individuals, whether or not they are employed or compensated by the RNHCI or, if they are compensated,

whether salaried or contractors. This standard reflects our view that the conditions of participation for RNHCIs should not prescribe specific Federal personnel requirements for nonmedical personnel or attempt to limit or specify the functions they may perform.

The next standard, Education, training, and performance evaluation, is intended to ensure that the RNHCI staff are aware of their job responsibilities and are capable of meeting them. We are requiring that personnel receive education or training needed to help them achieve this goal. This education may include training that is related to the individual job description, performance expectations, applicable organizational policies and procedures, and safety responsibilities. We are emphasizing that under this standard, the RNHCI is responsible only for ensuring that the individual adequately knows the nature of his or her specific job duties. The individual is responsible for his or her own basic education, and for any continuing education needed to retain specific certification(s), unless the RNHCI chooses to assume this responsibility as part of the staff development process.

The second part of this standard requires all personnel in the RNHCI, as well as contractors and individuals working under arrangement, to demonstrate in practice the skills and techniques necessary to perform their assigned duties and responsibilities. It is not enough that the RNHCI demonstrates that staff has received training, or indicate how much training has been offered or provided. For effective health and safety of the patients, it is critical that all staff use the skills and techniques necessary to do their jobs correctly.

Lastly, this standard requires the RNHCI to evaluate the performance of the staff and implement measures for improvement as needed. We assume that all staff, whether directly or indirectly involved in patient care, will perform their duties competently and efficiently and it is the RNHCI's responsibility to ensure that the staff meet these expectations on an ongoing basis.

(g) Physical Environment (§ 403.742)

As with other providers, we expect an RNHCI to maintain a physical environment that ensures the safety of the patients, staff, and the public. We developed the physical environment standards based upon our experiences with other providers participating in the Medicare or Medicaid program. Section 403.742 consists of two standards, Buildings and Patient rooms. We have set forth requirements that we believe are fundamental to effective management of an RNHCI's physical environment.

The first standard, Buildings, requires that the condition of the physical plant and the overall environment be developed and maintained so that the safety and well-being of the patients are ensured. These requirements state that there must be emergency power for emergency lights and for fire detection, alarm, and extinguishing systems; procedures for proper storage and disposal of trash; proper ventilation, light, and temperature control throughout the RNHCI; a written disaster plan to address loss of power, water, and sewage; facilities for emergency gas and water supply; an effective pest control program; a preventive maintenance program for essential equipment; and a working call system for patients to summon aid or assistance.

The second standard, Patient rooms, requires that all patient rooms be designed and equipped for the adequate care, comfort and privacy of the patient. We have designated that each room accommodate no more than four patients and measure at least 80 square feet per patient if a multiple patient room, and 100 square feet per patient for a single patient room. We may permit variances in the standards relating to room size on a case-by-case basis if these variances are intended for the special needs of the patients and will not adversely affect the patients' health or safety. Additionally, each room must have direct access to an exit corridor, have at least one window to the outside, and have a floor at or above grade level. Each room must be designed or equipped to ensure full visual privacy for each patient.

The rest of the patient rooms standard concerns what furnishings the RNHCI must provide each patient. The RNHCI is responsible for furnishing a separate bed of the proper size and height outfitted with a clean, comfortable mattress and bedding appropriate for the weather and climate. Functional furniture appropriate for the patient's needs must also be provided including individual closet space with clothes racks and shelves that are accessible to the patient.

(h) Life Safety From Fire (§ 403.744)

The Life Safety Code, developed by the National Fire Protection Association, serves as the basis for many Federal, State, and local fire safety regulations. The Life Safety Code is a nationally recognized standard that includes fire protection requirements necessary to protect patients in health care facilities. The Life Safety Code covers construction, fire protection, and occupancy features needed to reduce danger to life from fire, smoke and fumes. The code is applied to both new and existing buildings. The National Fire Protection Association revises the code periodically to reflect advancements in fire protection.

Under the condition we are requiring that an RNHCI comply with the 1997 edition of the Life Safety Code that we have incorporated by reference. We are adopting the 1997 edition of the code because we believe that it provides the highest available level of protection for patients, staff and the public. The regulations also provide that we may waive specific provisions of the code that would result in unreasonable hardship upon an RNHCI, if the waiver does not adversely affect patient health and safety. Additionally, the regulations permit an RNHCI to meet a fire and safety code imposed by State law if HCFA finds that the State imposed code adequately protects patients.

The balance of the condition requires that an RNHCI have written fire control plans that contain provisions for prompt reporting of fires; protection of patients, staff and the public; evacuation; and cooperation with the fire fighting authorities. Other written evidence must be maintained by the RNHCI that documents the regular inspection and approval by the State or local fire agency.

(i) Utilization Review (§ 403.746)

Section 1861(ss)(1)(H) of the Act requires an RNHCI to have in effect a utilization review plan. Each RNHCI must have in effect its own utilization review plan, including the establishment of a utilization review committee to carry out the functions of the program.

Under the first standard, we are requiring that the UR plan contain written procedures for evaluating admissions, the duration of care, the need for extended care, and the items and services furnished by the RNHCI.

The second standard provides for the establishment of a UR committee which will be responsible for all functions of the UR program. We expect the utilization review committee to be responsible for evaluating each admission to the facility to ensure that the admission is necessary and appropriate. We are requiring that the committee consist of the governing body, the administrator or other individual responsible for the administration of the RNHCI, the nursing supervisor, and other staff as

appropriate. The committee will evaluate the estimated duration of care and, in the event of an extended stay, review the necessity and appropriateness of the continued stay. We assume that the committee will establish criteria and select norms to be used in determining the necessity of admissions, extended stays and other services offered by or in the facility as well as an ongoing review of these items. If the committee cannot establish necessity or appropriateness of care, we assume that the RNHCI will recommend that the patient's admission, extended stay, or other services not be approved for payment.

Unlike other providers participating in the Medicare and Medicaid programs, RNHCIs do not offer any medical treatments or procedures, conventional or otherwise. Therefore, we do not believe it is appropriate to prescribe a specific method or form for the utilization review plan. While we have initially decided that allowing flexibility for each RNHCI in the process of development and implementation of a utilization review plan in a RNHCI will aid in more efficient and appropriate delivery of services, we welcome comments on whether a more prescriptive method should be required.

6. Estimate of Expenditures and Adjustments (§ 403.750)

Section 1821(c)(1) of the Act requires us to estimate the level of Medicare expenditures for RNHCI benefits before the beginning of each federal fiscal year (FFY) starting in FFY 2000. In addition, beginning with FFY 1999, section 1821(c)(3) of the Act requires us to monitor the expenditure level for RNHCI services provided in each FFY.

The estimation of expenditure levels is necessary to determine if adjustments are required to limit payments to RNHCIs in the following FFY. In addition, the estimate is used to determine if the sunset provision is implemented.

The estimation of expenditures will take into consideration factors that could impact on this budget projection. These factors include, but are not limited, to projection of new facilities, the number of beneficiaries making elections under this provision, trends in discharges, length of stays, inflation, and other events that could affect future expenditures. As required by section 1861(e) of the Act, we will issue an annual Report to Congress, reviewed by OMB, as the vehicle for reporting potential need to make adjustments in payments and proposed mechanisms to be employed in order to stay within the established expenditure trigger level.

The first objective of the yearly estimate is to determine if payment adjustments are required during the FFY to prevent the level of estimated expenditures from exceeding the "trigger level." The trigger level is defined in section 1821(c)(2)(C) of the Act as the "unadjusted trigger level" for an FFY increased or decreased by the carry forward from the previous FFY. Section 1821(c)(2)(C)(ii)(I) of the Act establishes the unadjusted trigger level at $20,000,000 for FFY 1998, which is also the trigger level for that year. To calculate each succeeding unadjusted trigger level for an FFY, it is necessary to adjust the unadjusted trigger level from the prior year by the average percentage increase in the consumer price index for the 12-month period ending with July preceding the beginning of the next FFY. To calculate the trigger level for the current FFY, the unadjusted trigger level (after being modified by the consumer price index for the current year) is either increased or decreased by the carry forward from the previous FFY; that is, by the amount by which expenditures for RNHCI services either exceeded or fell short of the trigger level for that previous FFY.

We believe that adhering to the terminology that appears in the statute to explain the calculation of the trigger level might be confusing because it requires an unadjusted trigger level to be adjusted twice, once by the consumer price index and once by the carry forward. Therefore, to help clarify our explanation of the calculation of the trigger level, we use a new term to identify the unadjusted trigger level from the prior FFY. The new term, "base year amount," is the unadjusted trigger level from the previous FFY. To calculate the unadjusted trigger level for the current FFY, the base year amount is adjusted by the average consumer price index. This unadjusted trigger level is then increased or decreased by the carry forward to compute the trigger level for the current FFY.

To help explain the statutory provision, we have prepared the following example.

Example (1). Trigger Level Calculation. This example shows the calculation of the trigger level starting with FFY 1998. For FFY 1998, the unadjusted trigger level and the trigger level are the same. The initial unadjusted trigger level is established in the statute at $20,000,000 for FFY 1998. For FFY 1999, the base year amount is the unadjusted trigger level from the prior year, $20,000,000. The unadjusted trigger level for 1999 is $20,700,000, which is the base year amount ($20,000,000) increased by the multiplication of the base year amount by the consumer price index of 3.5 percent ($20,000,000 times .035 = $700,000). For FFY 1999 the trigger level equals the unadjusted trigger level since there is no carry forward. For FFY 2000, the base year amount is $20,700,000, which is the unadjusted trigger level from the prior year.

Fiscal year	Base year amount	CPI	Unadjusted trigger Level	Trigger level	Actual outlays	Carry forward
Column	1	2	3	4	5*	6
1998	$-0-	N/A	$20,000,000	$20,000,000	Not Required	$-0 -
1999	20,000,000	3.5%	20,700,000	20,700,000	$8,500,000	12,200,000
2000	20,700,000	3.5%	21,424,500	33,624,500	16,000,000	17,624,500
2001	21,424,500	3.5%	22,174,358	39,798,858	20,000,000	19,798,858
2002	22,174,358	3.5%	22,950,460	42,749,318	30,000,000	12,749,318
2003	22,950,460	3.5%	23,753,726	36,503,044	40,000,000	(3,496,956)
2004	23,753,726	3.5%	24,585,107	21,088,151	25,000,000**	(3,911,849)
2005	24,585,107	3.5%	25,445,585	21,533,736	25,000,000**	(3,466,264)
2006	25,445,585	3.5%	26,336,180	22,869,916	25,000,000**	(2,130,084)
2007	26,336,180	3.5%	27,257,946	25,127,862	27,000,000**	(1,872,138)

*Note: Column 5 actual outlays are for this example only and do not represent a projection of expenditures. These numbers were created solely for this example.

**Adjustments required by section 1861(c)(2) of the Act.

Calculations:

Column 1—Base Year = Prior Year Unadjusted Trigger.

Column 2—CPI = For simplicity, this example uses 3.5% for each year.
Column 3—Unadjusted Trigger = Current base year times one plus the result of the base year times the consumer price index.
FFY 2000—$21,424,500 = $20,700,000 × 1.035 (1+ .035).
Column 4—Trigger Level = Unadjusted triggers level for the current fiscal year plus or minus the carry forward from the prior year.
FFY 2000—$33,624,500 = $21,424,500 + $12,200,000.
Column 6—Carry forward = Trigger level minus actual outlays.
FFY 2000—$17,624,500 = $33,624,500 − $16,000,000.
*Note: For FFY 2004 adjustments in payments would be imposed to prevent estimated expenditures from exceeding the trigger level of $21,088,151.

Example (2). Trigger Level Calculation—Carry Forward. This example calculates the trigger level when the $50 million limitation on the carry forward applies. For FFY 2003, the trigger level is $62,503,044 and actual outlays were $10 million. The difference is $52,503,044, which is the potential carry forward to the next FFY. However, since this difference is greater than $50 million, the carry forward used to compute the trigger level for FFY 2004 is limited to $50 million. The trigger level for FFY 2004 is $74,585,107, which is computed by adding the unadjusted trigger level of $24,585,107 to the allowed carry forward amount of $50 million.

Fiscal year	Base year amount	CPI	Unadjusted trigger level	Trigger level	Actual outlays	Carry forward
Column	1	2	3	4	*5	6
1998	$-0-	N/A	$20,000,000	$20,000,000	Not Required	$-0 -
1999	20,000,000	3.5%	20,700,000	20,700,000	$8,500,000	12,200,000
2000	20,700,000	3.5%	21,424,500	33,624,500	10,000,000	23,624,500
2001	21,424,500	3.5%	22,174,358	45,798,858	15,000,000	30,798,858
2002	22,174,358	3.5%	22,950,460	53,749,318	15,000,000	38,749,318
2003	22,950,460	3.5%	23,753,726	62,503,044	10,000,000	**52,503,044
2004	23,753,726	3.5%	24,585,107	74,584,107	15,000,000	**59,585,107
2005	24,585,107	3.5%	25,445,585	75,445,585	20,000,000	**55,445,585
2006	25,445,585	3.5%	26,336,180	76,336,180	35,000,000	41,336,180
2007	26,336,180	3.5%	27,257,946	68,594,126	40,000,000	28,594,126

*Note: Column 5 actual outlays are for this example only and do not represent a projection of expenditures. These numbers were created solely for this example.
** Carry forward limited to $50 million in computing subsequent fiscal years trigger level.

Section 1821 (c)(2)(A) of the Act provides for a proportional reduction in payments for covered RNHCI services when the level of estimated expenditures exceeds the trigger level for any FFY. The reduction is designed to prevent the level of estimated expenditures from exceeding the trigger level for that FFY. However, if actual expenditures surpass the trigger level then the trigger level for the next FFY is decreased by the excess expenditures. Since the excess is a negative carry forward adjustment, it reduces the trigger level for the next FFY beginning with FFY 2004, as shown in Example 1.

In addition to a proportional reduction in payments, section 1821(c)(2)(B) of the Act authorizes us to impose other conditions or limitations to keep Medicare expenditure levels below the trigger level. The statute provides us with authority to decide which type of adjustment to apply but is silent about when to apply a proportional adjustment or when to apply alternative adjustments. Therefore, we have extremely broad authority to decide what type of adjustments to impose.

The rule at § 403.750 follows the statute and provides for imposing either a proportional adjustment to payments or alternative adjustments, depending on the magnitude of the adjustment required to keep the level of estimated expenditures from exceeding the trigger level. To account for any error in the estimation of expenditure levels, the trigger level for the next FFY is adjusted by the carry forward. If expenditures were to exceed the trigger level, the trigger level for the subsequent year must be decreased, resulting in more drastic payment adjustments in future years. We will do this in an attempt to prevent expenditures from exceeding the trigger level for three consecutive years and thus avoid having to implement the sunset provision.

We decided not to list the possible alternative adjustments in the rule. We considered establishing specific alternative adjustments in the regulation but believed this would not provide the flexibility needed to modify services and expenditures that section 1821(c)(2) of the Act requires in a changing environment. If, in any new FFY, the level of estimated expenditures were to exceed the trigger level, and we believe that the proportional adjustment alone would be inappropriate to reduce expenditures, we will consider making alternative adjustments including but not limited to: (1) Not certifying new facilities, (2) limiting Medicare payments to the number of patient stays from the prior year, (3) limiting the days for which Medicare would pay while a beneficiary was an inpatient, or (4) limiting the number of new elections that could be filed for RNHCI benefits. These alternative adjustments are only a few of the possible adjustments that we will consider imposing. We will consider making other adjustments depending on the magnitude of the adjustments required to prevent estimated expenditures from exceeding the trigger level. We will notify RNHCIs of the type or kind of adjustments that we will impose in a given FFY. This notification will take place before the start of the FFY in which the adjustments are to be effective.

7. Payment Provisions (§ 403.752)

(a) Payment to RNHCIs

Sections 1861(e) and (y)(1) of the Act grant us broad authority to construct a payment methodology for RNHCIs. The Congressional committee reports which accompanied this statutory provision reflected the intent of the enactors that we continue to pay facilities likely to qualify under this benefit on an interim basis until the regulations to implement the statute were in place, and we have

done so. The only providers that could qualify as RNHCIs at the time of enactment were Christian Science Sanatoria, and for that reason we decided to continue to pay those facilities based on the methodology under which they had previously been paid; that is, a reasonable cost methodology. We have decided to continue to pay RNHCIs under a reasonable cost methodology to insure a smooth transition to prospective payment, as described below.

We currently regulate Christian Science sanatoria under the regulations described in §§ 412.90 and 412.98. These regulations authorize payments to these facilities under the hospital prospective payment system or, if the facility was excluded from the prospective payment system, under reasonable cost principles. This final rule will formally eliminate § 412.90(c) and § 412.98, and treat all RNHCIs the same for payment purposes. We considered establishing different payment methodologies for inpatient hospital services and post-hospital extended care services furnished in RNHCIs, but have decided not to do so. Since the nonmedical component of both inpatient hospital services and post-hospital extended care services furnished in RNHCIs are similar, and there are no differentiating medical components, we believe it is appropriate to have one payment methodology for both types of services.

We will pay RNHCIs under the same reasonable cost methodology we have used for Christian Science sanatoria. Based on the historical data available to us, Christian Science sanatoria have had average lengths of stay exceeding 25 days, similar to long term care hospitals, and we anticipate that this pattern will continue. The Christian Science sanatoria have all qualified for exclusion from the hospital prospective payment system on this basis. We will pay RNHCIs the reasonable cost of furnishing covered services to Medicare beneficiaries subject to the rate of increase limits in accordance with the provisions in 42 CFR 413.40, which implement section 101 of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248).

As will be the case for most types of providers after the implementation of BBA'97, we eventually intend to pay all RNHCIs based on a prospective payment methodology. We are planning to look specifically at the SNF, home health, and rehabilitation hospital PPS systems as models for payment system development. The SNF PPS is resource-based and driven by an assessment instrument that captures both resources and functional status. The home health and rehabilitation hospital PPS also will be resource-based and driven by assessment instruments and functional status. Thus, they appear to have the features necessary to capture the resources needed to provide religious nonmedical care. One key challenge is to identify a system whose classification mechanism can be adapted to use the information available in the RNHCI setting, i.e., functional status and resource use but not diagnosis or other medical information. At this point, we are not sure how that can be achieved fully in any of these settings.

The application of a prospective payment methodology is a multi-step process, most of which is carried out by the fiscal intermediary. That process would require the RNHCI to complete an assessment instrument, for each beneficiary/patient on admission and at designated intervals, excluding all identified medical elements contained in the instrument. The assessment instrument is primarily geared to identifying patient capabilities and the need for assistance with activities of daily living and mobility. A completed copy of the assessment instrument would be transmitted to the fiscal intermediary to be read by computer and converted to a resource/payment classification. This would afford an individual RNHCI the ability to elect not to participate in the assessment instrument process for each beneficiary with the understanding that it would result in the automatic assignment of the minimum resource classification for payment purposes.

We believe a prospective payment approach would be effective in identifying RNHCI patient needs and appropriately paying for covered services to meet beneficiaries' health care needs. Details on the SNF prospective payment system were published in the **Federal Register** on May 12, 1998 (63 FR 26252). BBA '97 outlines the requirements for prospective payment systems to be developed for HHAs in section 4603 and for inpatient rehabilitation facilities in section 4421. Details on the proposed HHA prospective payment system will be published in the **Federal Register** in the near future. The proposed inpatient rehabilitation facility prospective payment system is expected to be published as a proposed rule in December of this year. We solicit the views of interested entities regarding the development of a prospective payment system for RNHCIs. We will consider these views in developing a proposal to pay RNHCIs under a prospective payment methodology.

(b) Administrative and Judicial Review

Under section 1821(c)(2)(D) of the Act there is no administrative or judicial review of our estimates of the level of expenditures for RNHCI services or the application of the adjustment in payments for those services. We are incorporating this provision into our regulations.

(c) Beneficiary Liability

Under the new regulations, RNHCIs are subject to Medicare rules for deductibles and coinsurance. Under normal Medicare rules, a provider of services may only bill a beneficiary deductible and coinsurance amounts. However, section 1821(c)(2)(E) authorizes RNHCIs to bill individuals an amount equal to the reduction in payments applied under sections 1821(c)(2) (A) or (B) of the Act.

Because the statute gives us authority to impose a wide variety of alternative reductions, and because we are not specifying those alternative adjustments in the rule, we also decided not to include in the rule a formula for the computation of the amount of the Medicare reduction. Establishing a set formula in regulations also would not provide flexibility to compute the liability of a beneficiary if there was a change in the way RNHCIs are paid later. Instead of limiting the computation to a rigid set of rules, the regulations only state that RNHCIs have the right to bill beneficiaries for the amount of the Medicare reduction.

To inform beneficiaries of this liability, the regulations require RNHCIs to inform each beneficiary in writing of any proportional adjustment in effect at the time of their admission or any proportional adjustment that may become effective during the beneficiary's Medicare-covered length of stay. At least 30 days before the Medicare reduction is to take effect, RNHCIs must give written notification to beneficiaries who are already receiving care. The notification includes an explanation that the law permits the RNHCI to bill beneficiaries the amount of the allowed Medicare reduction. When the RNHCI bills the beneficiary, the regulations require the RNHCI to furnish a calculation of the Medicare reduction.

If we are required to reduce payments to RNHCIs for an FFY, we will notify RNHCIs of the amount of the required payment reduction. This notification will explain how RNHCIs will calculate the additional amount that they may bill the beneficiaries.

Unless there is an unexpected growth in services furnished by RNHCIs, we do

not anticipate the need to reduce payments in the near future. However, we are using example 3 in section L below to show the potential effects on the financial liability of a Medicare beneficiary. This example assumes a proportional payment reduction of 12 percent to prevent the level of estimated expenditures from exceeding the trigger level. Because payments are required to be reduced by 12 percent (in this example), the statute permits RNHCIs to bill beneficiaries the amount of the Medicare reduction. To calculate the additional amount billable to the beneficiary in this example we would instruct RNHCIs to use the cost per diem from their most recently filed Medicare cost report multiplied by the number of days included in the individual's Medicare covered length of stay. This cost per discharge would then be reduced by any coinsurance and deductible amounts billable to the individual and any amounts billable to a third party payer. This net amount would be multiplied by the proportional adjustment required for the FFY. The result is the Medicare reduction amount that the RNHCI may bill the beneficiary. If, in this example, the cost of furnishing a covered inpatient service was $5,000 (25 days times $200 per day), the RNHCIs could bill the individual an additional $508 ($5,000—$764 × 12%). The $508 was computed by subtracting from the cost of the stay ($5,000) a deductible of $764 and any coinsurance amount ($0 in this example) times the proportional adjustment to payment of 12%. The RNHCI could bill the individual $1,272, which consists of the deductible of $764 and the amount of the Medicare reduction attributable to the beneficiary, $508.

8. Monitoring Expenditure Level (§ 403.754)

Section 1821(c)(3)(A) of the Act requires us to monitor the expenditure level of RNHCIs beginning with FFY 1999. The regulation follows the requirements of the statute and requires us to track actual Medicare expenditures for services furnished in RNHCIs. The purpose of monitoring Medicare expenditure levels is to calculate the carry forward adjustment to the trigger level required by § 403.750(d).

The carry forward adjustment is defined in section 1821(c)(3)(B)(I) of the Act and is the difference between actual expenditures and the trigger level for the prior FFY. When the level of Medicare expenditures for an FFY exceeds or is less than the trigger level for that FFY, then the trigger level for the next FFY will be reduced or increased by the amount of the excess or deficit in expenditures. However, the carry forward may not exceed $50 million for any FFY, in accordance with section 1861(c)(3)(B)(ii) of the Act.

9. Sunset Provision (§ 403.756)

Section 1821(d) of the Act contains the RNHCI sunset provision. This provision, when activated, will prevent beneficiaries from making elections to receive Medicare payment for religious nonmedical health care services after a certain date. The sunset provision will be activated when the level of estimated expenditures exceeds the trigger level for three consecutive FFYs, beginning in FFY 2002. Under the sunset provision, only those individuals with a valid election in effect before January 1 following the end of the third consecutive FFY in which expenditures exceed the trigger level can have benefits paid under part 403, subpart G. After that date, we will not accept any elections to pay for services furnished in RNHCIs. The earliest the sunset provision could become effective is January 1, 2005. Under this scenario, only Medicare beneficiaries with a valid election in effect before January 1, 2005, could have religious nonmedical health care benefits paid by Medicare, and payment could be made only for RNHCI services provided during those elections.

We will publish a notice in the **Federal Register** at least 60 days before the effective date of the sunset provision to alert the public that no elections will be accepted for services in an RNHCI.

The following example shows when adjustments are made and when the sunset provision is activated.

Example (3). This example compares the trigger level to the level of estimated expenditures to determine if adjustment in payments or alternative adjustments are required. In addition, it tracks the trigger level and the level of estimated expenditures to determine if the sunset provision is activated. For the sunset provision to become effective, estimated expenditures must exceed the trigger level for three consecutive FFYs. In FFY 2001, this example presumes that estimated expenditures for Medicare would exceed the trigger level. To prevent estimated expenditures from exceeding the trigger level, we would need to adjust payments to RNHCIs in the next FFY. This example also assumes that estimated expenditures starting in FFY 2003 will exceed the trigger level for three consecutive FFYs. In this circumstance, the sunset provision would be activated, and, therefore, no elections would be accepted after December 31, 2005. Individuals with elections in effect on or before December 31, 2005, would continue to have benefits paid under this provision for services provided for the duration of those elections.

Fiscal Year	Trigger Level	Estimated Expenditures	Adjustments in Payments
Column	1	2	3
1998	20,000,000		
1999	20,700,000		
2000	33,624,500	20,000,000	NONE REQUIRED.
2001	39,798,858	45,000,000	REDUCE PAYMENTS.
2002	42,749,318	40,000,000	NONE REQUIRED.
2003	36,503,044	45,000,000 (1 yr.)	REDUCE PAYMENTS.
2004	21,088,151	30,000,000 (2 yr.)	REDUCE PAYMENTS.
2005	21,533,736	25,000,000 (3 yr.)	REDUCE PAYMENTS.
2006	22,869,916	28,000,000	REDUCE PAYMENTS.

Note: Expenditures in this table are an example only and do not represent projection of expenditures. These numbers were created solely for this example.

B. Medicaid Provisions (§ 440.170)

Services in RNHCIs are optional Medicaid services that a State may elect to include in its title XIX State plan in accordance with section 1905(a)(22) of the Act. This section permits the inclusion of any other medical care and any other type of remedial care and any other type of remedial care recognized under State law, specified by HCFA. Federal financial participation is only

available to a State for these services if they are included in the State Plan.

Prior to passage of the Balanced Budget Act of 1997, the Medicaid program reimbursed for services provided in Christian Science sanitoria, or by Christian Science nurses. The Social Security Act exempted Christian Science sanitoria from the requirements of section 1902(a)(9)(A)(State responsibility for establishing and maintaining health standards for private or public institutions in which recipients of Medicaid may receive care or services), 1902(a)(31)(requirements for plans of care, on-site inspections and evaluations of care by professional, independent review teams and subsequent reporting to the State agency by these teams concerning patients receiving care in intermediate care facilities for the mentally retarded) and 1902(a)(33) of the Act (condition of participation reviews). The statute also exempted Christian Science sanitoria from the utilization review requirements of section 1903(I)(4) of the Act and from the requirements applicable to the licensing of nursing home administrators specified in section 1908(e)(1) of the Act.

The Balanced Budget Act amended these sections of the statute to delete the references to Christian Science sanitoria and to substitute references to RNHCIs, as defined in section 1861(ss)(1) of the Act. We are incorporating these revisions into the regulations. Consequently, there is no longer authority for inclusion of Christian Science sanitoria as a coverage category in Medicaid regulations. Section 4454(b) of the BBA'97 now provides for coverage of a religious nonmedical health care institution as defined in section 1861(ss)(1) of the Act. Specific ownership and affiliation requirements related to RNHCIs are described in section 1861(ss)(4). We are therefore removing § 440.170(c), Services in Christian Science sanitoriums. Additionally, a RNHCI as defined in section 1861(ss)(1) of the Act furnishes exclusively inpatient services. Consequently, we are removing § 440.170(b), Services of Christian Science nurses, since it deals with care in the home setting. These sections are being replaced with a new § 440.170(b), which defines a RNHCI for Medicaid coverage purposes as one which meets the requirements of section 1861(ss)(1) of the Act, and a new § 440.170(c), which describes the specific ownership and affiliation requirements applicable to Medicaid RNHCIs.

In order to be eligible to bill the Medicaid program, we are requiring that a RNHCI meet the Medicare conditions of participation described in part 403 of this rule. Section 4454(b) of the BBA'97 provides for Medicaid coverage of RNHCIs as defined in section 1861(ss)(1). Section 1861(ss)(1)(J) requires that a RNHCI meet such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution. This statutory requirement is implemented for the Medicare program by the conditions of participation, which set quality and safety standards for RNHCIs. We believe that Congress' intent in incorporating section 1861(ss)(1)(J) in the Medicaid definition of a RNHCI was to ensure the inclusion of similar health and safety requirements in the Medicaid regulations. Based on our experience with Christian Science sanitoria, we expect that the majority of RNHCIs which will serve Medicaid beneficiaries will also serve Medicare beneficiaries.

Therefore, rather than developing separate Medicaid requirements, we are specifying that RNHCIs must meet the Medicare conditions of participation in order to receive Medicaid reimbursement.

C. Part 488 Survey, Certification and Enforcement Procedures

Section 1861(ss)(2) provides that we may accept the accreditation of an approved group that RNHCIs meet or exceed some or all of the applicable Medicare requirements. Therefore, we are amending the regulations at § 488.2 to add section 1861(ss)(2) as the statutory basis for accreditation of RNHCIs and § 488.6 to add the RNHCIs to the list of providers in this section.

D. Part 489—Provider Agreements and Supplier Approval

Technical Change

Section 4641 of the Balanced Budget Act of 1997 requires that the patient's advance directive be placed in a "prominent part" of his or her medical record. Therefore, we are adding "prominent part" to § 489.102(a)(2) to reflect this requirement; that is, providers are required to "Document in a prominent part of the individual's current medical record * * * an advance directive."

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the OMB for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are, however, requesting an emergency review of this interim final rule with comment period. In compliance with section 3506(c)(2)(A) of the PRA, we are submitting to OMB the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320, to ensure compliance with section 4454 of BBA'97. This section requires that a Medicare beneficiary (or his or her legal representative) who is entering, or who is already in, an RNHCI file an election statement 30 days after the publication of this rule in order to meet the requirements of the rule. We cannot reasonably comply with normal clearance procedures because public harm is likely to result if the agency cannot enforce the requirements of this section 4454 of BBA'97 in order to ensure that the Medicare beneficiary receives covered services in an RNHCI.

HCFA is requesting OMB review and approval of this collection 11 working days after the publication of this rule, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 10 working days after the publication of this rule.

During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

We are soliciting public comment on each of the issues for the provisions summarized below that contain information collection requirements:

Section 403.724 Valid Election Requirements

In summary, § 403.724(a)(1) requires an RNHCI to utilize a written election statement that includes the requirements set forth in this section.

The burden associated with this requirement is the one-time effort required to agree on the format for the election statement. It is estimated that it will take each RNHCI 2 hours to comply with these requirements. There are currently 19 Christian Science sanatoria participating in Medicare that are expected to apply as RNHCIs; thus, there will be a total of 38 burden hours. The burden associated with signing, filing and submitting the election statement is described in §§ 403.724(a)(2)and(3) and 403.724(a)(4).

In summary, § 403.724(a)(2) and (3) require that an election must be signed and dated by the beneficiary or his or her legal representative and have it notarized.

The burden associated with this requirement is the time required for the beneficiary or his or her legal representative to read, sign, and date the election statement and have it notarized. It is estimated that it will take each beneficiary approximately 10 minutes to read, sign, and date the election statement. We anticipate that the RNHCI will have a notary present to witness and notarize the election statement. There are approximately 1,000 beneficiaries that will be affected by this requirement for a total of 167 burden hours during the first year.

Section 403.724(a)(4) requires that the RNHCI keep a copy of the election statement on file and submit the original to HCFA with any information obtained regarding prior elections or revocations.

The burden associated with this requirement is the time required for an RNHCI to keep a copy of the election statement and submit the original to HCFA. It is estimated that it will take 5 minutes to comply with this requirement. During the first year there will be approximately 1,000 election statements for a total of 84 burden hours.

If not revoked, an election is effective for life and does not need to be completed during future admissions. Section 403.724(b)(1) states that a beneficiary can revoke his or her election statement by the receipt of nonaccepted medical treatment or the beneficiary may voluntarily revoke the election and notify HCFA in writing. We anticipate that there would be very few (fewer than 10 beneficiaries) if any instances in which a beneficiary will notify HCFA in writing that he or she will revoke his or her election statement. We believe the above requirement is not subject to the PRA in accordance with 5 CFR 1320.3(c)(4) since this requirement does not collect information from ten or more entities on an annual basis.

Section 403.730 Condition of Participation: Patient Rights

Section 403.730(a)(1) states that the RNHCI must inform each patient of his or her rights in advance of furnishing patient care.

The burden associated with this requirement is the time and effort necessary to disclose the notice requirements referenced above to each patient. We estimate that on average it will take each of the 19 estimated RNHCIs 8 hours to develop the required notice and that it will take each RNHCI 5 minutes to provide each notice, with an average of 109 notices provided per RNHCI on an annual basis. Therefore, the total annual burden associated with this requirement is 173 hours after the first year. For the first year there will be an additional one-time burden of 152 hours.

In its resolution of the grievance, a RNHCI must provide the patient with written notice of its decision that contains the name of the RNHCI contact person, the process of the facility in resolving the grievance, and contact information for appropriate State and Federal resources.

The burden associated with this requirement is the time and effort necessary to disclose the written notice to each patient who filed a grievance. We estimate that on average it will take each RNHCI 15 minutes to develop and disseminate the required notice. We further estimate that 19 RNHCIs will provide 5 notices on an annual basis, a total annual burden of 1.5 hours, with an additional one-time burden of 5 hours the first year.

Section 403.736 Condition of Participation: Discharge Planning

While the information collection requirement (ICR) summarized below is subject to the PRA, we believe the burden associated with this ICR is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement would be incurred by persons in the normal course of their activities.

Section 403.736(a)(1) requires that the discharge planning evaluation must be initiated at admission and must include the following: (1) An assessment of the possibility of a patient needing post-RNHCI services and of the availability of those services and (2) an assessment of the probability of a patient's capacity for self-care or of the possibility of the patient being cared for in the environment from which he or she entered the RNHCI.

Section 403.736(a)(3) states that the discharge planning evaluation must be included in the patient's rights record for use in establishing an appropriate discharge plan and must discuss the results of the evaluation with the patient or a legal representative acting on his or her behalf.

Section 403.736(b)(1) states that, if the discharge planning evaluation indicates a need for a discharge plan, qualified and experienced personnel must develop or supervise the development of the plan.

Section 403.736(b)(2) states that, in the absence of a finding by the RNHCI that the beneficiary needs a discharge plan, the beneficiary or his or her legal representative may request a discharge plan. In this case, the RNHCI must develop a discharge plan for the beneficiary.

Section 403.736(b)(3) states that the RNHCI must arrange for the initial implementation of the patient's discharge plan.

Section 403.736(b)(4) states that, if there are factors that may affect continuing care needs or the appropriateness of the discharge plan, the RNHCI must reevaluate the beneficiary's discharge plan.

Section 403.736(b)(5) states that the RNHCI must inform the beneficiary or legal representative about the beneficiary's post-RNHCI care requirements.

Section 403.736(b)(6) states that the discharge plan must inform the beneficiary or his or her legal representative about the freedom to choose among providers of care when a variety of providers is available that are willing to respect the discharge preferences of the beneficiary or legal representative.

Section 403.736(c) states that the RNHCI must transfer or refer patients to appropriate facilities (including medical facilities if the beneficiary so desires) as needed for follow up or ancillary care and notify the patient of his or her right to participate in planning the transfer or referral in accordance with § 403.730(a)(2).

Section 403.736(d) states that the RNHCI must reassess its discharge planning process on an ongoing basis. The reassessment must include a review of discharge plans to ensure that they are responsive to discharge needs.

Section 403.738 Condition of Participation: Administration

While the information collection requirement (ICR) summarized below is subject to the PRA, we believe the

burden associated with this ICR is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement would be incurred by persons in the normal course of their activities.

Section 403.738(a) states that an RNHCI must have written policies regarding its organization, services, and administration.

While the following ICR is an information collection requirement, we believe the ICR is exempt from the PRA as defined in 5 CFR 1320.3(c)(4), since it does not collect information from 10 or more entities on an annual basis.

Section 403.738(c)(4) states that the RNHCI must furnish written notice, including the identity of each new individual or company, to HCFA at the time of a change, if a change occurs in any of the following: persons with an ownership or control interest, as defined in 42 CFR 420.201 and 455.101; the officers, directors, agents, or managing employees; the religious entity, corporation, association, or other company responsible for the management of the RNHCI; and the RNHCI's administrator or director of nonmedical nursing services.

Section 403.742 Condition of Participation: Physical Environment

While the information collection requirement (ICR) summarized below is subject to the PRA, we believe the burden associated with this ICR is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement would be incurred by persons in the normal course of their activities.

Section 403.742(a)(4) requires that a RNHCI have a written disaster plan to address loss of power, water, sewage disposal, and other emergencies.

Section 403.744 Condition of Participation: Life Safety From Fire

While the information collection requirement (ICR) summarized below is subject to the PRA, we believe the burden associated with this ICR is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with the requirement would be incurred by persons in the normal course of their activities.

Section 403.744(a)(2) states that the RNHCI must have written fire control plans that contain provisions for prompt reporting of fires; extinguishing fires; protection of patients, staff and the public; evacuation; and cooperation with fire fighting authorities.

Section 403.744(a)(3) states that the RNHCI must maintain written evidence of regular inspection and approval by State or local fire control agencies.

Section 403.746 Condition of Participation: Utilization Review

In summary, § 403.746 states that the RNHCI must have in effect a written utilization review plan to assess the necessity of services furnished. The plan must provide that records be maintained of all meetings, decisions, and actions by the utilization review committee. The utilization review plan must contain written procedures for evaluating the following: admissions, the duration of care, continuing care of an extended duration, and items and services furnished.

Drafting a utilization review plan will take each current RNHCI 3 hours, for a total one time burden of 57 hours. Though we have received no inquiries from any entity about becoming a RNHCI, for purposes of this paperwork collection requirement, we estimate that there will be one additional RNHCI each year, which will create a 3 hour burden annually.

Section 403.752 Payment Provisions

The following section describes the burden associated with the payment provisions and is subject to the PRA.

Based on the most recent data available, Medicare expenditures for Christian Science sanatoria were approximately $8 million annually. The trigger level for FFY 1998, the first year of RNHCI implementation, is $20 million. Beginning in FFY 2000, when estimated expenditures for RNHCI services exceed the trigger level for a FFY, HCFA must adjust the RNHCI payment rates.

However, because of the amount of the gap between current expenditures and the trigger level, and because we do not anticipate that the number of RNHCIs will increase significantly, we do not anticipate having to adjust the payment rates for a minimum of 3 years. Thus, the section will not be implemented and there will be no paperwork burden associated with it for several years. Therefore, there is no burden associated with the following section at this time.

Section 403.752(d)(I) states that the RNHCI must notify the beneficiary in writing at the time of admission of any proposed or current proportional Medicare adjustment. A beneficiary currently receiving care in the RNHCI must be notified in writing 30 days before the Medicare reduction is to take effect. The notification must inform the beneficiary that the RNHCI can bill him or her for the proportional Medicare adjustment.

Section 403.752(d)(ii) states that the RNHCI must, at time of billing, provide the beneficiary with his or her liability for payment, based on a calculation of the Medicare reduction pertaining to the beneficiary's covered services permitted by § 403.750(b).

Section 440.170 General Provisions—Medicaid

We believe the following paperwork burden is not subject to the Act, as defined by 5 CFR 1320.4(a)(2), since the collection action is conducted during an investigation or audit against specific individuals or entities.

Section 440.170(b)(9) states that an RNHCI must provide information HCFA may require, upon request, to implement section 1821 of the Act, including information relating to quality of care coverage and determinations.

Section 489.102 Requirements for Providers

The ICR in the following section, except for its application to RNHCIs, has been approved under OMB approval number 0938–0610.

In summary, § 489.102(a) requires that hospitals, critical access hospitals, skilled nursing facilities, home health agencies, providers of home health care (and for Medicaid purposes, providers of personal care services), hospices, and religious nonmedical health care institutions document and maintain written policies and procedures concerning advance directives with respect to all adult individuals receiving medical care.

For the current approval, we stated that it will take each facility 3 minutes to document a beneficiary's record whether he or she has implemented an advance directive. We anticipate that it will also take each RNHCI 3 minutes per patient to comply with this requirement, for a total of 104 burden hours on an annual basis. In addition, there will be a one-time burden of 8 hours per RNHCI to maintain written policies and procedures concerning advance directives, for a total of 152 hours.

We will submit a revision to OMB Approval Number 0938–610 to reflect the addition of RNHCIs to the paperwork burden.

We have submitted a copy of this rule to OMB for its review of the ICRs. These requirements are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained.

If you comment on any of these information collection and record

keeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Julie Brown HCFA–1909–IFC, Fax number: (410) 786–0262 and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

V. Regulatory Impact Analysis

We have examined the impacts of this rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually).

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million.

In accordance with the provisions of Executive Order 13132, this regulation will not significantly affect the States beyond what is required by basic State Plans for Medicaid. It follows the intent and letter of the law and does not usurp State authority beyond the basic Medicaid requirements. This regulation describes only processes that must be undertaken if a State exercises its option to amend the State plan to include coverage of inpatient religious nonmedical health care institutions (RNHCIs) as set forth in section 4454 of the BBA'97.

Those States that have RNHCI facilities and have selected to offer the optional RNHCI service are very limited. At the moment we only have 18 facilities participating in Medicare and four in Medicaid. The monitoring of the program is conducted by staff in the Boston Regional Office (Region I) and they will be responsible for the survey and certification activity that is usually conducted by the State Agency.

Section 4454 of the BBA'97 amended the Act to remove the authorization for payment for services furnished in Christian Science sanatoria from both Medicare and Medicaid law. Section 4454 authorizes payment for inpatient services in a RNHCI for beneficiaries who, for religious reasons, are conscientiously opposed to the acceptance of medical care. Section 4454 of BBA'97 provides for coverage of the nonmedical aspects of inpatient care services in RNHCIs under Medicare and as a State option under Medicaid. In order for a provider to satisfy the definition of a religious nonmedical health care institution, for both Medicare and Medicaid, it must satisfy the ten qualifying provisions contained in new section 1861(ss)(1) of the Act. The RNHCI choosing to participate in Medicare must also be in compliance with both the conditions for coverage and the conditions of participation contained in the new regulation. Neither Medicare nor Medicaid will pay for any religious aspects of care provided in these facilities. HCFA has used one fiscal intermediary to handle all Christian Science sanatoria and the Boston Regional Office to monitor the process, and we plan to continue that arrangement for RNHCIs.

Currently, there are 19 Christian Science sanatoria that are furnishing services and receiving payment under Medicare. Three of these facilities are dually eligible to participate in Medicare and Medicaid, and there are two that only participate in Medicaid. Medicare expenditure levels for Christian Science sanatoria has been approximately $8 million annually.

We anticipate that most if not all existing Christian Science sanatoria will be certified as RNHCIs but do not know how many other facilities will be eligible to apply for participation. Therefore, we cannot project the impact this regulation will have on payments or the number of organizations that will elect to furnish services to what we believe is a very small beneficiary population.

Section 4454 of BBA'97 establishes certain controls on the amount of expenditures for RNHCI services in a given FFY. Section 1821(c)(2)(C) explains the operation of these controls through the use of a trigger level. The trigger level for FFY 1998 is $20 million. Thereafter, this amount is increased each FFY by the average consumer price index. This amount is further increased or decreased by a carry forward amount, which is the difference between the previous FFY's expenditures and the previous FFY's trigger level.

The trigger level is used to determine if Medicare payments for the current FFY need to be adjusted. Beginning with fiscal year 2000, if the estimated level of expenditures for a FFY exceeds the trigger level for that FFY, we are required by law to make a proportional adjustment to payments or alternative adjustments to prevent expenditures from exceeding the trigger level.

BBA'97 precludes administrative or judicial review of adjustments that we determine are necessary to control expenditures. The trigger level is also used to activate the sunset provision, which prohibits us from accepting any new elections when estimated expenditures exceed the trigger level for three consecutive fiscal years.

Since the Congress has established controls over the amount of money that can be spent for RNHCI services and because Christian Science sanatoria that qualify as RNHCIs will continue to be paid on a reasonable cost basis, there should be no adverse impact on beneficiaries or on existing facilities within the next five years unless there is a dramatic increase in the number of RNHCIs and their Medicare/Medicaid patients.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act. We have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

IV. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all health care providers are considered to be small entities. Individuals and States are not included in the definition of a small entity.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

Section 4454 of the BBA'97 amended the Act to remove the authorization for payment for services furnished in Christian Science sanatoria from both Medicare and Medicaid law. Section 4454 authorizes payment for inpatient services in a RNHCI for beneficiaries who, for religious reasons, are conscientiously opposed to the acceptance of medical care. Section 4454 of BBA'97 provides for coverage of the nonmedical aspects of inpatient care services in RNHCIs under Medicare and as a State option under Medicaid. In order for a provider to satisfy the definition of a religious nonmedical health care institution, for both Medicare and Medicaid, it must satisfy the ten qualifying provisions contained in new section 1861(ss)(1) of the Act. The RNHCI choosing to participate in Medicare must also be in compliance with both the conditions for coverage and the conditions of participation contained in the new regulation. Neither Medicare nor Medicaid will pay for any religious aspects of care provided in these facilities. HCFA has used one fiscal intermediary to handle all Christian Science sanatoria and the Boston Regional Office to monitor the process, and we plan to continue that arrangement for RNHCIs.

Currently, there are 19 Christian Science sanatoria that are furnishing services and receiving payment under Medicare. Three of these facilities are dually eligible to participate in Medicare and Medicaid, and there are two that only participate in Medicaid. Medicare expenditure levels for Christian Science sanatoria has been approximately $8 million annually.

We anticipate that most if not all existing Christian Science sanatoria will be certified as RNHCIs but do not know how many other facilities will be eligible to apply for participation. Therefore, we cannot project the impact this regulation will have on payments or the number of organizations that will elect to furnish services to what we believe is a very small beneficiary population.

Section 4454 of BBA'97 establishes certain controls on the amount of expenditures for RNHCI services in a given FFY. Section 1821(c)(2)(C) explains the operation of these controls through the use of a trigger level. The trigger level for FFY 1998 is $20 million. Thereafter, this amount is increased each FFY by the average consumer price index. This amount is further increased or decreased by a carry forward amount, which is the difference between the previous FFY's expenditures and the previous FFY's trigger level.

The trigger level is used to determine if Medicare payments for the current FFY need to be adjusted. Beginning with fiscal year 2000, if the estimated level of expenditures for a FFY exceeds the trigger level for that FFY, we are required by law to make a proportional adjustment to payments or alternative adjustments to prevent expenditures from exceeding the trigger level.

BBA'97 precludes administrative or judicial review of adjustments that we determine are necessary to control expenditures. The trigger level is also used to activate the sunset provision, which prohibits us from accepting any new elections when estimated expenditures exceed the trigger level for three consecutive fiscal years.

Since the Congress has established controls over the amount of money that can be spent for RNHCI services and because Christian Science sanatoria that qualify as RNHCIs will continue to be paid on a reasonable cost basis, there should be no adverse impact on beneficiaries or on existing facilities within the next five years unless there is a dramatic increase in the number of RNHCIs and their Medicare/Medicaid patients.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the OMB for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are, however, requesting an emergency review of this interim final rule with comment period. In compliance with section 3506(c)(2)(A) of the PRA, we are submitting to OMB the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320, to ensure compliance with section 4454 of BBA'97. This section requires that a Medicare beneficiary (or his or her legal representative) who is entering, or who is already in, an RNHCI file an election statement 30 days after the publication of this rule in order to meet the requirements of the rule. We cannot reasonably comply with normal clearance procedures because public harm is likely to result if the agency cannot enforce the requirements of this section 4454 of BBA'97 in order to ensure that the Medicare beneficiary receives covered services in an RNHCI.

HCFA is requesting OMB review and approval of this collection 11 working days after the publication of this rule, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 10 working days after the publication of this rule.

During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

We are soliciting public comment on each of the issues for the provisions summarized below that contain information collection requirements:

Section 403.724 Valid Election Requirements

In summary, § 403.724(a)(1) requires an RNHCI to utilize a written election statement that includes the requirements set forth in this section.

The burden associated with this requirement is the one-time effort required to agree on the format for the election statement. It is estimated that it will take each RNHCI 2 hours to comply with these requirements. There are currently 19 Christian Science sanatoria participating in Medicare that are expected to apply as RNHCIs; thus, there will be a total of 38 burden hours. The burden associated with signing, filing and submitting the election statement is described in §§ 403.724(a)(2) and (3) and 403.724(a)(4).

In summary, § 403.724(a)(2) and (3) require that an election must be signed and dated by the beneficiary or his or her legal representative and have it notarized.

The burden associated with this requirement is the time required for the beneficiary or his or her legal representative to read, sign, and date the election statement and have it notarized. It is estimated that it will take each beneficiary approximately 10 minutes to read, sign, and date the election statement. We anticipate that the RNHCI will have a notary present to witness and notarize the election statement. There are approximately 1,000 beneficiaries that will be affected by this requirement for a total of 167 burden hours during the first year.

Section 403.724(a)(4) requires that the RNHCI keep a copy of the election statement on file and submit the original to HCFA with any information obtained regarding prior elections or revocations.

The burden associated with this requirement is the time required for an RNHCI to keep a copy of the election statement and submit the original to HCFA. It is estimated that it will take 5 minutes to comply with this requirement. During the first year there will be approximately 1,000 election statements for a total of 84 burden hours.

If not revoked, an election is effective for life and does not need to be completed during future admissions. Section 403.724(b)(1) states that a beneficiary can revoke his or her election statement by the receipt of nonexcepted medical treatment or the beneficiary may voluntarily revoke the election and notify HCFA in writing. We anticipate that there would be very few (fewer than 10 beneficiaries) if any instances in which a beneficiary will notify HCFA in writing that he or she will revoke his or her election statement. We believe the above requirement is not subject to the PRA in accordance with 5 CFR 1320.3(c)(4) since this requirement does not collect information from ten or more entities on an annual basis.

While the information collection requirements (ICR) summarized below are subject to the PRA, we believe the burden associated with these ICRs is exempt as defined in 5 CFR 1320.3(b)(2) because the time, effort, and financial resources necessary to comply with these requirements would be incurred by persons in the normal course of their activities.

Section 403.730 Condition of Participation: Patient Rights

Section 403.730(a)(1) states that the RNHCI must inform each patient of his or her rights in advance of furnishing patient care.

Section 403.732 Condition of participation: Quality Assessment and Evaluation

In summary, § 403.732 states that the RNHCI must develop, implement, and maintain a quality assessment and evaluation program.

Section 403.736 Condition of Participation: Discharge Planning

Section 403.736(a)(1) requires that the discharge planning evaluation must be initiated at admission and must include the following: (1) an assessment of the possibility of a patient needing post-RNHCI services and of the availability of those services and (2) an assessment of the probability of a patient's capacity for self-care or of the possibility of the patient being cared for in the environment from which he or she entered the RNHCI.

Section 403.736(a)(3) states that the discharge planning evaluation must be included in the patient's rights record for use in establishing an appropriate discharge plan and must discuss the results of the evaluation with the patient or a legal representative acting on his or her behalf.

Section 403.736(b)(1) states that, if the discharge planning evaluation indicates a need for a discharge plan, qualified and experienced personnel must develop or supervise the development of the plan.

Section 403.736(b)(2) states that, in the absence of a finding by the RNHCI that the beneficiary needs a discharge plan, the beneficiary or his or her legal representative may request a discharge plan. In this case, the RNHCI must develop a discharge plan for the beneficiary.

Section 403.736(b)(3) states that the RNHCI must arrange for the initial implementation of the patient's discharge plan.

Section 403.736(b)(4) states that, if there are factors that may affect continuing care needs or the appropriateness of the discharge plan, the RNHCI must reevaluate the beneficiary's discharge plan.

Section 403.736(b)(5) states that the RNHCI must inform the beneficiary or legal representative about the beneficiary's post-RNHCI care requirements.

Section 403.736(b)(6) states that the discharge plan must inform the beneficiary or his or her legal representative about the freedom to choose among providers of care when a variety of providers is available that are willing to respect the discharge preferences of the beneficiary or legal representative.

Section 403.736(c) states that the RNHCI must transfer or refer patients to appropriate facilities (including medical facilities if the beneficiary so desires) as needed for follow up or ancillary care and notify the patient of his or her right to participate in planning the transfer or referral in accordance with § 403.730(a)(2).

Section 403.736(d) states that the RNHCI must reassess its discharge planning process on an ongoing basis. The reassessment must include a review of discharge plans to ensure that they are responsive to discharge needs.

Section 403.738 Condition of Participation: Administration

In summary § 403.738 states that an RNHCI must have written policies regarding its organization, services, and administration.

Section 403.742 Condition of Participation: Physical Environment

Section 403.742(a)(4) requires that a RNHCI have a written disaster plan to address loss of power, water, sewage disposal, and other emergencies.

Section 403.744 Condition of Participation: Life Safety From Fire

Section 403.744(a)(2) states that the RNHCI must have written fire control plans that contain provisions for prompt reporting of fires; extinguishing fires; protection of patients, staff and the public; evacuation; and cooperation with fire fighting authorities.

Section 403.744(a)(3) states that the RNHCI must maintain written evidence

of regular inspection and approval by State or local fire control agencies.

Section 403.746 Condition of Participation: Utilization Review

In summary, § 403.746 states that the RNHCI must have in effect a written utilization review plan to assess the necessity of services furnished. The plan must provide that records be maintained of all meetings, decisions, and actions by the utilization review committee. The utilization review plan must contain written procedures for evaluating the following: admissions, the duration of care, continuing care of an extended duration, and items and services furnished.

Section 489.102 Requirements for Providers

In summary, § 489.102(a) requires that hospitals, critical access hospitals, skilled nursing facilities, home health agencies, providers of home health care (and for Medicaid purposes, providers of personal care services), hospices, and religious nonmedical health care institutions document and maintain written policies and procedures concerning advance directives with respect to all adult individuals receiving medical care.

While the following ICR is subject to the PRA, we believe the burden associated with this ICR is exempt as defined in 5 CFR 1320.3(c)(4), since it does not collect information from 10 or more entities on an annual basis.

Section 403.738 Condition of Participation: Administration

Section 403.738(c)(4) states that the RNHCI must furnish written notice, including the identity of each new individual or company, to HCFA at the time of a change, if a change occurs in any of the following: persons with an ownership or control interest, as defined in 42 CFR 420.201 and 455.101; the officers, directors, agents, or managing employees; the religious entity, corporation, association, or other company responsible for the management of the RNHCI; and the RNHCI's administrator or director of nonmedical nursing services.

The following sections describe the burden associated with the payment provisions. Based on the most recent data available, Medicare expenditures for Christian Science sanatoria were approximately $8 million annually. The trigger level for FFY 1998, the first year of RNHCI implementation, is $20 million. Beginning in FFY 2000, when estimated expenditures for RNHCI services exceed the trigger level for a FFY, HCFA must adjust the RNHCI payment rates. Therefore, the burden associated with the following sections is not subject to the PRA at this point in time.

Section 403.752 Payment provisions

Section 403.752(d)(i) states that the RNHCI must notify the beneficiary in writing at the time of admission of any proposed or current proportional Medicare adjustment. A beneficiary currently receiving care in the RNHCI must be notified in writing 30 days before the Medicare reduction is to take effect. The notification must inform the beneficiary that the RNHCI can bill him or her for the proportional Medicare adjustment.

Section 403.752(d)(ii) states that the RNHCI must, at time of billing, provide the beneficiary with his or her liability for payment, based on a calculation of the Medicare reduction pertaining to the beneficiary's covered services permitted by § 403.750(b).

We believe the following ICR is not subject to the Act, as defined by 5 CFR 1320.4(a)(2), since the collection action is conducted during an investigation or audit against specific individuals or entities.

Section 440.170 General Provisions—Medicaid

Section 440.170(b)(9) states that an RNHCI must provide information HCFA may require, upon request, to implement section 1821 of the Act, including information relating to quality of care coverage and determinations.

PRA Summary of Burden

The table below indicates the annual number of responses for each regulation section in this rule containing ICRs, the average burden per response in minutes or hours, and the total annual burden hours.

ESTIMATED ANNUAL BURDEN

CFR section	Responses	Average burden per response	Burden hours
403.724(a)(1)	19	2 hours	38 hours.
403.724(a)(2)(3)	1,000	10 minutes	167 hours.
403.724(a)(4)	1,000	5 minutes	84 hours.
Total			289 hours.

We have submitted a copy of this rule to OMB for its review of the ICRs. These requirements are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained.

If you comment on any of these information collection and record keeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Louis Blank HCFA–1909–IFC, Fax number: (410) 786–0262 and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn.: Allison Herron Eydt, HCFA Desk Officer, Fax numbers: (202) 395–6974 or (202) 395–5167

VI. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite prior public comment on proposed rules. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

Section 4454 of BBA'97 requires us to publish this rule in final with a comment period and bypass the normal notice-and-comment period.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a

60-day comment period for public comment.

VII. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

List of Subjects

42 CFR Part 403

Health insurance, Hospitals, Incorporation by refrence, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR Part 442

Grant programs-health, Health facilities, Health professions, Medicaid, Nursing homes, Reporting and recordkeeping requirements.

42 CFR Part 456

Administrative practice and procedure, Grant programs-health, Health facilities, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 466

Grant programs-health, Health facilities, Reporting and recordkeeping requirements.

42 CFR Part 488

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

Accordingly, 42 CFR chapter IV is amended as follows:

PART 403—SPECIAL PROGRAMS AND PROJECTS

1. The authority citation for part 403 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh)

2. Subpart F is added and reserved.

3. Subpart G is added to read as follows:

Subpart G—Religious Nonmedical Health Care Institutions—Benefits, Conditions of Participation, and Payment

Sec.

403.700 Basis and purpose.
403.702 Definitions and terms.
403.720 Conditions for coverage.
403.724 Valid election requirements.
403.730 Condition of participation: Patient rights.
403.732 Condition of participation: Quality assessment and performance improvement.
403.734 Condition of participation: Food services.
403.736 Condition of participation: Discharge planning.
403.738 Condition of participation: Administration.
403.740 Condition of participation: Staffing.
403.742 Condition of participation: Physical environment.
403.744 Condition of participation: Life safety from fire.
403.746 Condition of participation: Utilization review.
403.750 Estimate of expenditures and adjustments.
403.752 Payment provisions.
403.754 Monitoring expenditure level.
403.756 Sunset provision.

Subpart G—Religious Nonmedical Health Care Institutions—Benefits, Conditions of Participation, and Payment

§ 403.700 Basis and purpose.

This subpart implements sections 1821; 1861(e),(y), and (ss); 1869; and 1878 of the Act regarding Medicare payment for inpatient hospital or posthospital extended care services furnished to eligible beneficiaries in religious nonmedical health care institutions.

§ 403.702 Definitions and terms.

For purposes of this subpart, the following definitions and terms apply:

Election means a written statement signed by the beneficiary or the beneficiary's legal representative indicating the beneficiary's choice to receive nonmedical care or treatment for religious reasons.

Excepted medical care means medical care that is received involuntarily or required under Federal, State, or local laws.

FFY stands for Federal fiscal year.

Medical care or treatment means health care furnished by or under the direction of a licensed physician that can involve diagnosing, treating, or preventing disease and other damage to the mind and body. It may involve the use of pharmaceuticals, diet, exercise, surgical intervention, and technical procedures.

Nonexcepted medical care means medical care (other than excepted medical care) that is sought by or for a beneficiary who has elected religious nonmedical health care institution services.

Religious nonmedical care or religious method of healing means health care furnished under established religious tenets that prohibit conventional or unconventional medical care for the treatment of a beneficiary, and the sole reliance on these religious tenets to fulfill a beneficiary's total health care needs.

RNHCI stands for "religious nonmedical health care institution," as defined in section 1861(ss)(1) of the Act.

Religious nonmedical nursing personnel means individuals who are grounded in the religious beliefs of the RNHCI, trained and experienced in the principles of nonmedical care, and formally recognized as competent in the administration of care within their religious nonmedical health care group.

§ 403.720 Conditions for coverage.

Medicare covers services furnished in an RNHCI if the following conditions are met:

(a) The provider meets the definition of an RNHCI as defined in section 1861(ss)(1) of the Act. That is, it is an institution that:

(1) Is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxes under section 501(a).

(2) Is lawfully operated under all applicable Federal, State, and local laws and regulations.

(3) Furnishes only nonmedical nursing items and services to beneficiaries who choose to rely solely upon a religious method of healing and for whom the acceptance of medical services would be inconsistent with their religious beliefs.

(4) Furnishes nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of nonmedical patients.

(5) Furnishes nonmedical items and services to inpatients on a 24-hour basis.

(6) Does not furnish, on the basis of religious beliefs, through its personnel or otherwise medical items and services

(including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients.

(7) Is not owned by, is not under common ownership with, or does not have an ownership interest of 5 percent or more in, a provider of medical treatment or services and is not affiliated with a provider of medical treatment or services or with an individual who has an ownership interest of 5 percent or more in, a provider of medical treatment or services. (Permissible affiliations are described at § 403.738(c).)

(8) Has in effect a utilization review plan that sets forth the following:

(i) Provides for review of the admissions to the institution, the duration of stays, and the need for continuous extended duration of stays in the institution, and the items and services furnished by the institution.

(ii) Requires that reviews be made by an appropriate committee of the institution that included the individuals responsible for overall administration and for supervision of nursing personnel at the institution.

(iii) Provides that records be maintained of the meetings, decisions, and actions of the review committee.

(iv) Meets other requirements as the Secretary finds necessary to establish an effective utilization review plan.

(9) Provides information HCFA may require to implement section 1821 of the Act, including information relating to quality of care and coverage decisions.

(10) Meets other requirements HCFA finds necessary in the interest of the health and safety of the patients who receive services in the institution. These requirements are the conditions of participation in this subpart.

(b) The provider meets the conditions of participation cited in §§ 403.730 through 403.746. (A provider may be deemed to meet conditions of participation in accordance with part 488 of this chapter.)

(c) The provider has a valid provider agreement as a hospital with HCFA in accordance with part 489 of this chapter and for payment purposes is classified as an extended care hospital.

(d) The beneficiary has a condition that would make him or her eligible to receive services covered under Medicare Part A as an inpatient in a hospital or SNF.

(e) The beneficiary has a valid election as described in § 403.724 in effect for Medicare covered services furnished in an RNHCI.

§ 403.724 Valid election requirements.

(a) *General requirements.* An election statement must be made by the Medicare beneficiary or his or her legal representative.

(1) The election must be a written statement that must include the following statements:

(i) The beneficiary is conscientiously opposed to acceptance of nonexcepted medical treatment.

(ii) The beneficiary acknowledges that the acceptance of nonexcepted medical treatment is inconsistent with his or her sincere religious beliefs.

(iii) The beneficiary acknowledges that the receipt of nonexcepted medical treatment constitutes a revocation of the election and may limit further receipt of services in an RNHCI.

(iv) The beneficiary acknowledges that the election may be revoked by submitting a written statement to HCFA.

(v) The beneficiary acknowledges that revocation of the election will not prevent or delay access to medical services available under Medicare Part A in facilities other than RNHCIs.

(2) The election must be signed and dated by the beneficiary or his or her legal representative.

(3) The election must be notarized.

(4) The RNHCI must keep a copy of the election statement on file and submit the original to HCFA with any information obtained regarding prior elections or revocations.

(5) The election becomes effective on the date it is signed.

(6) The election remains in effect until revoked.

(b) *Revocation of election.* (1) A beneficiary's election is revoked by one of the following:

(i) The beneficiary receives nonexcepted medical treatment for which Medicare payment is requested.

(ii) The beneficiary voluntarily revokes the election and notifies HCFA in writing.

(2) The receipt of excepted medical treatment as defined in § 403.702 does not revoke the election made by a beneficiary.

(c) *Limitation on subsequent elections.* (1) If a beneficiary's election has been made and revoked twice, the following limitations on subsequent elections apply:

(i) The third election is not effective until 1 year after the date of the most recent revocation.

(ii) Any succeeding elections are not effective until 5 years after the date of the most recent revocation.

(2) HCFA will not accept as the basis for payment of any claim any elections executed on or after January 1 of the calendar year in which the sunset provision described in § 403.756 becomes effective.

§ 403.730 Condition of participation: Patient rights.

An RNHCI must protect and promote each patient's rights.

(a) *Standard: Notice of rights.* The RNHCI must do the following:

(1) Inform each patient of his or her rights in advance of furnishing patient care.

(2) Have a process for prompt resolution of grievances, including a specific person within the facility whom a patient may contact to file a grievance. In addition, the facility must provide patients with information about the facility's process as well as with contact information for appropriate State and Federal resources.

(b) *Standard: Exercise of rights.* The patient has the right to:

(1) Be informed of his or her rights and to participate in the development and implementation of his or her plan of care.

(2) Make decisions regarding his or her care, including transfer and discharge from the RNHCI. (See § 403.736 for discharge and transfer requirements.)

(3) Formulate advance directives and expect staff who furnish care in the RNHCI to comply with those directives, in accordance with part 489, subpart I of this chapter. For purposes of conforming with the requirement in § 489.102 that there be documentation in the patient's medical records concerning advanced directives, the patient care records of a beneficiary in an RNHCI are equivalent to medical records held by other providers.

(c) *Standard: Privacy and safety.* The patient has the right to the following:

(1) Personal privacy.

(2) Care in a safe setting.

(3) Freedom from verbal, psychological, and physical abuse, and misappropriation of property.

(4) Freedom from the use of restraints.

(5) Freedom from involuntary seclusion.

(d) *Standard: Confidentiality of patient records.* For any patient care records or election information it maintains on patients, the RNHCI must establish procedures to do the following:

(1) Safeguard the privacy of any information that identifies a particular patient. Information from, or copies of, records may be released only to authorized individuals, and the RNHCI must ensure that unauthorized individuals cannot gain access to or alter patient records. Original patient care records must be released only in accordance with Federal or State laws, court orders, or subpoenas.

(2) Maintain the records and information in an accurate and timely manner.

(3) Ensure timely access by patients to the records and other information that pertains to that patient.

(4) Abide by all Federal and State laws regarding confidentiality and disclosure for patient care records and election information.

§ 403.732 Condition of participation: Quality assessment and performance improvement.

The RNHCI must develop, implement, and maintain a quality assessment and performance improvement program.

(a) *Standard: Program scope.* (1) The quality assessment and performance improvement program must include, but is not limited to, measures to evaluate:

(i) Access to care.

(ii) Patient satisfaction.

(iii) Staff performance.

(iv) Complaints and grievances.

(v) Discharge planning activities.

(vi) Safety issues, including physical environment.

(2) In each of the areas listed in paragraph (a)(1) of this section, and any other areas the RNHCI includes, the RNHCI must do the following:

(i) Define quality assessment and performance improvement measures.

(ii) Describe and outline quality assessment and performance improvement activities appropriate for the services furnished by or in the RNHCI.

(iii) Measure, analyze, and track performance that reflect care and RNHCI processes.

(iv) Inform all patients, in writing, of the scope and responsibilities of the quality assessment and performance improvement program.

(3) The RNHCI must set priorities for performance improvement, considering the prevalence of and severity of identified problems.

(4) The RNHCI must act to make performance improvements and must track performance to assure that improvements are sustained.

(b) *Standard: Program responsibilities.* (1) The governing body, administration, and staff are responsible for ensuring that the quality assessment and performance improvement program addresses identified priorities in the RNHCI and are responsible for the development, implementation, maintenance, and performance improvement of assessment actions.

(2) The RNHCI must include all programs, departments, functions, and contracted services when developing, implementing, maintaining, and evaluating the program of quality assessment and performance improvement.

§ 403.734 Condition of participation: Food services.

The RNHCI must have an organized food service that is directed and adequately staffed by qualified personnel.

(a) *Standard: Sanitary conditions.* The RNHCI must furnish food to the patient that is obtained, stored, prepared, distributed, and served under sanitary conditions.

(b) *Standard: Meals.* The RNHCI must serve meals that furnish each patient with adequate nourishment in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. The RNHCI must do the following:

(1) Furnish food that is palatable, attractive, and at the proper temperature and consistency.

(2) Offer substitutes of similar nourishment to patients who refuse food served or desire alternative choices.

(3) Furnish meals at regular times comparable to normal mealtimes in the community. There must be no more than 14 hours between a substantial evening meal and breakfast the following day.

(4) The RNHCI must offer snacks at bedtime.

§ 403.736 Condition of participation: Discharge planning.

The RNHCI must have in effect a discharge planning process that applies to all patients. The process must assure that appropriate post-institution services are obtained for each patient, as necessary.

(a) *Standard: Discharge planning evaluation.* (1) The RNHCI must assess the need for a discharge plan for any patient identified as likely to suffer adverse consequences if there is no planning and for any other patient upon his or her request or at the request of his or her legal representative. This discharge planning evaluation must be initiated at admission and must include the following:

(i) An assessment of the possibility of a patient needing post-RNHCI services and of the availability of those services.

(ii) An assessment of the probability of a patient's capacity for self-care or of the possibility of the patient being cared for in the environment from which he or she entered the RNHCI.

(2) The staff must complete the assessment on a timely basis so that arrangements for post-RNHCI care are made before discharge and so that unnecessary delays in discharge are avoided.

(3) The discharge planning evaluation must be included in the patient's rights record for use in establishing an appropriate discharge plan and must discuss the results of the evaluation with the patient or a legal representative acting on his or her behalf.

(b) *Standard: Discharge plan.* (1) If the discharge planning evaluation indicates a need for a discharge plan, qualified and experienced personnel must develop or supervise the development of the plan.

(2) In the absence of a finding by the RNHCI that the beneficiary needs a discharge plan, the beneficiary or his or her legal representative may request a discharge plan. In this case, the RNHCI must develop a discharge plan for the beneficiary.

(3) The RNHCI must arrange for the initial implementation of the beneficiary's discharge plan.

(4) If there are factors that may affect continuing care needs or the appropriateness of the discharge plan, the RNHCI must reevaluate the beneficiary's discharge plan.

(5) The RNHCI must inform the beneficiary or legal representative about the beneficiary's post-RNHCI care requirements.

(6) The discharge plan must inform the beneficiary or his or her legal representative about the freedom to choose among providers of care when a variety of providers is available that are willing to respect the discharge preferences of the beneficiary or legal representative.

(c) *Standard: Transfer or referral.* The RNHCI must transfer or refer patients in a timely manner to another facility (including a medical facility if requested by the beneficiary, or his or her legal representative) in accordance with § 403.730(b)(2).

(d) *Standard: Reassessment.* The RNHCI must reassess its discharge planning process on an ongoing basis. The reassessment must include a review of discharge plans to ensure that they are responsive to discharge needs.

§ 403.738 Condition of participation: Administration.

An RNHCI must have written policies regarding its organization, services, and administration.

(a) *Standard: Compliance with Federal, State, and local laws.* The RNHCI must operate in compliance with all applicable Federal, State, and local laws, regulations, and codes including, but not limited to, those pertaining to the following:

(1) Protection against discrimination on the basis of race, color, national

origin, age, or handicap (45 CFR parts 80, 84, and 91).

(2) Protection of human research subjects (45 CFR part 46).

(3) Application of all safeguards to protect against the possibility of fraud and abuse (42 CFR part 455).

(b) *Standard: Governing body.* (1) The RNHCI must have a governing body, or a person designated to function as a governing body, that is legally responsible for establishing and implementing all policies regarding the RNHCI's management and operation.

(2) The governing body must appoint the administrator responsible for the management of the RNHCI.

(c) *Standard: Affiliations and disclosure.* (1) An affiliation is permissible if it is between one of the following:

(i) An individual serving as an uncompensated director, trustee, officer, or other member of the governing body of an RNHCI and a provider of medical treatment or services.

(ii) An individual who is a director, trustee, officer, employee, or staff member of an RNHCI and another individual, with whom he or she has a family relationship, who is affiliated with (or has an ownership interest in) a provider of medical treatment or services.

(iii) The RNHCI and an individual or entity furnishing goods or services as a vendor to both providers of medical treatment or services and RNHCIs.

(2) The RNHCI complies with the disclosure requirements of §§ 420.206 and 455.104 of this chapter.

(3) The RNHCI furnishes written notice, including the identity of each new individual or company, to HCFA at the time of a change, if a change occurs in any of the following:

(i) Persons with an ownership or control interest, as defined in §§ 420.201 and 455.101 of this chapter.

(ii) The officers, directors, agents, or managing employees.

(iii) The religious entity, corporation, association, or other company responsible for the management of the RNHCI.

(iv) The RNHCI's administrator or director of nonmedical nursing services.

§ 403.740 Condition of participation: Staffing.

The RNHCI must be staffed with qualified experienced personnel who are present in sufficient numbers to meet the needs of the patients.

(a) *Standard: Personnel qualifications.* The RNHCI must ensure that staff who supervise or furnish services to patients are qualified to do so and that staff allowed to practice without direct supervision have specific training to furnish these services.

(b) *Standard: Education, training, and performance evaluation.* (1) The RNHCI must ensure that staff (including contractors and other individuals working under arrangement) have the necessary education and training concerning their duties so that they can furnish services competently. This education includes, but is not limited to, training related to the individual job description, performance expectations, applicable organizational policies and procedures, and safety responsibilities.

(2) Staff must demonstrate, in practice, the skills and techniques necessary to perform their duties and responsibilities.

(3) The RNHCI must evaluate the performance of staff and implement measures for improvement.

§ 403.742 Condition of participation: Physical environment.

A RNHCI must be designed, constructed, and maintained to ensure the safety of the patients, staff, and the public.

(a) *Standard: Buildings.* The physical plant and the overall environment must be maintained in a manner that ensures the safety and well-being of the patients. The RNHCI must have the following:

(1) Emergency power for emergency lights, for fire detection and alarm systems, and for fire extinguishing systems.

(2) Procedures for the proper storage and disposal of trash.

(3) Proper ventilation and temperature control and appropriate lighting levels to ensure a safe and secure environment.

(4) A written disaster plan to address loss of power, water, sewage, and other emergencies.

(5) Facilities for emergency gas and water supply.

(6) An effective pest control program.

(7) A preventive maintenance program to maintain essential mechanical, electrical, and fire protection equipment operating in an efficient and safe manner.

(8) A working call system for patients to summon aid or assistance.

(b) *Standard: Patient rooms.* Patient rooms must be designed and equipped for adequate care, comfort, and privacy of the patient.

(1) Patient rooms must meet the following conditions:

(i) Accommodate no more than four patients.

(ii) Measure at least 80 square feet per patient in multiple patient rooms and at least 100 square feet in single patient rooms.

(iii) Have direct access to an exit corridor.

(iv) Be designed or equipped to assure full visual privacy for each patient.

(v) Have at least one window to the outside.

(vi) Have a floor at or above grade level.

(2) The RNHCI must furnish each patient with the following:

(i) A separate bed of proper size and height for the convenience of the patient.

(ii) A clean, comfortable mattress.

(iii) Bedding appropriate to the weather and climate.

(iv) Functional furniture appropriate to the patient's needs and individual closet space with clothes racks and shelves accessible to the patient.

(3) HCFA may permit variances in requirements specified in paragraphs (b)(1)(i) and (ii) of this section relating to rooms on an individual basis when the RNHCI adequately demonstrates in writing that the variances meet the following:

(i) Are in accordance with the special needs of the patients.

(ii) Will not adversely affect patients' health and safety.

§ 403.744 Condition of participation: Life safety from fire.

(a) *General.* An RNHCI must meet the following conditions:

(1) Except as provided in paragraph (b) of this section, the RNHCI must meet the new or existing health care occupancies provisions of the 1997 edition of the Life Safety Code of the National Fire Protection Association (NFPA 101), which is incorporated by reference. Incorporation by reference of NFPA 101, the Life Safety Code, 1997 edition, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.[1] (See § 483.70).

(2) The RNHCI must have written fire control plans that contain provisions for prompt reporting of fires; extinguishing fires; protection of patients, staff, and the public; evacuation; and cooperation with fire fighting authorities.

(3) The RNHCI must maintain written evidence of regular inspection and approval by State or local fire control agencies.

(b) *Exceptions.* (1) If application of the Life Safety Code required under

[1] The 1997 edition of the Life Safety Code (NFPA 101) is available for inspection at the HCFA Information Resource Center, 7500 Security Boulevard, Central Building, Baltimore, MD, and at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC. Copies of this publication may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02263–9101.

paragraph (a)(1) of this section would result in unreasonable hardship upon the RNHCI, HCFA may waive specific provisions of the Life Safety Code, but only if the waiver does not adversely affect the health and safety of patients.

(2) If HCFA finds that the fire and safety code imposed by State law adequately protects patients in the institution, the provisions of the Life Safety Code required in paragraph (a)(1) of this section do not apply in that State.

§ 403.746 Condition of participation: Utilization review.

The RNHCI must have in effect a written utilization review plan to assess the necessity of services furnished. The plan must provide that records be maintained of all meetings, decisions, and actions by the utilization review committee.

(a) *Standard: Utilization review plan.* The utilization review plan must contain written procedures for evaluating the following:

(1) Admissions.

(2) Duration of care.

(3) Continuing care of an extended duration.

(4) Items and services furnished.

(b) *Standard: Utilization review committee.* The committee is responsible for evaluating each admission and ensuring that the admission is necessary and appropriate. The utilization review plan must be carried out by the utilization review committee, consisting of the governing body, administrator or other individual responsible for the overall administration of the RNHCI, the supervisor of nursing staff, and other staff as appropriate.

§ 403.750 Estimate of expenditures and adjustments.

(a) *Estimates.* HCFA estimates the level of expenditures for services provided under this subpart before the start of each FFY beginning with FFY 2000.

(b) *Adjustments to payments.* When the level of estimated expenditures is projected to exceed the FFY trigger level as described in paragraph (d) of this section, for the year of the projection, payments to RNHCIs will be reduced by a proportional percentage to prevent estimated expenditures from exceeding the trigger level. In addition to reducing payments proportionally, HCFA may impose alternative adjustments.

(c) *Notification of adjustments.* HCFA notifies participating RNHCIs before the start of the FFY of the type and level of expenditure reductions to be made and when these adjustments will apply.

(d) *Calculation of trigger level.* The trigger level for FFY 1998 is $20,000,000. For subsequent FFYs, the trigger level is the unadjusted trigger level increased or decreased by the carry forward as described in § 403.754(b). The unadjusted trigger level is the base year amount (the unadjusted trigger level dollar amount for the prior FFY) increased by the average consumer price index (the single numerical value published monthly by the Bureau of Labor Statistics that presents the relationship in United States urban areas for the current cost of goods and services compared to a base year, to represent the change in spending power) for the 12-month period ending on July 31 preceding the beginning of the FFY.

§ 403.752 Payment provisions.

(a) *Payment to RNHCIs.* Payment for services may be made to an RNHCI that meets the conditions for coverage described in § 403.720 and the conditions of participation described in §§ 403.730 through 403.746. Payment is made in accordance with § 413.40 of this chapter to an RNHCI meeting these conditions.

(b) *Review of estimates and adjustments.* There is no administrative or judicial review of the level of estimated expenditures or the adjustments in payments described in §§ 403.750(a) and (b).

(c) *Effect on beneficiary liability.* When payments are reduced in accordance with § 403.750(b), the RNHCI may bill the beneficiary the amount of the Medicare reduction attributable to his or her covered services.

(d) *Notification of beneficiary liability.* (1) The RNHCI must notify the beneficiary in writing at the time of admission of any proposed or current proportional Medicare adjustment. A beneficiary currently receiving care in the RNHCI must be notified in writing at least 30 days before the Medicare reduction is to take effect. The notification must inform the beneficiary that the RNHCI can bill him or her for the proportional Medicare adjustment.

(2) The RNHCI must, at time of billing, provide the beneficiary with his or her liability for payment, based on a calculation of the Medicare reduction pertaining to the beneficiary's covered services permitted by § 403.750(b).

§ 403.754 Monitoring expenditure level.

(a) *Tracking expenditures.* Starting in FFY 1999 HCFA begins monitoring Medicare payments to RNHCIs.

(b) *Carry forward.* The difference between the trigger level and Medicare expenditures for a FFY results in a carry forward that either increases or decreases the unadjusted trigger level described in § 403.750(d). In no case may the carry forward exceed $50,000,000 for an FFY.

§ 403.756 Sunset provision.

(a) *Effective date.* Beginning with FFY 2002, if the level of estimated expenditures for all RNHCIs exceeds the trigger level for 3 consecutive FFYs, HCFA will not accept as the basis for payment of any claim any election executed on or after January 1 of the following calendar year.

(b) *Notice of activation.* A notice in the **Federal Register** will be published at least 60 days before January 1 of the calendar year that the sunset provision becomes effective.

(c) *Effects of sunset provision.* Only those beneficiaries who have a valid election in effect before January 1 of the year in which the sunset provision becomes effective will be able to claim Medicare payment for care in an RNHCI, and only for RNCHI services furnished during that election.

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SYSTEMS

1. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 412.90 [Removed]

2. In § 412.90, paragraph (c) is removed and reserved.

§ 412.98 [Removed]

3. Section 412.98 is removed and reserved.

PART 440—SERVICES: GENERAL PROVISIONS

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.170, paragraphs (b) and (c) are revised to read as follows:

§ 440.170 Any other medical care or remedial care recognized under State law and specified by the Secretary.

* * * * *

(b) *Services furnished in a religious nonmedical health care institution.* Services furnished in a religious nonmedical health care institution are services furnished in an institution that:

(1) Is an institution that is described in (c)(3) of section 501 of the Internal Revenue Code of 1986 and is exempt from taxes under section 501(a) of that section.

(2) Is lawfully operated under all applicable Federal, State, and local laws and regulations.

(3) Furnishes only nonmedical nursing items and services to patients who choose to rely solely upon a religious method of healing and for whom the acceptance of medical health services would be inconsistent with their religious beliefs.

(4) Furnishes nonmedical items and services exclusively through nonmedical nursing personnel who are experienced in caring for the physical needs of nonmedical patients.

(5) Furnishes these nonmedical items and services to inpatients on a 24-hour basis.

(6) Does not furnish, on the basis of its religious beliefs, through its personnel or otherwise, medical items and services (including any medical screening, examination, diagnosis, prognosis, treatment, or the administration of drugs) for its patients.

(7) Is not owned by, is not under common ownership with, or does not have an ownership interest of 5 percent or more in, a provider of medical treatment or services and is not affiliated with a provider of medical treatment or services or with an individual who has an ownership interest or 5 percent or more in a provider of medical treatment or services. Permissible affiliations are described in paragraph (c) of this section.

(8) Has in effect a utilization review plan that meets the following criteria:

(i) Provides for the review of admissions to the institution, duration of stays, cases of continuous extended duration, and items and services furnished by the institution.

(ii) Requires that the reviews be made by a committee of the institution that included the individuals responsible for overall administration and for supervision of nursing personnel at the institution.

(iii) Provides that records be maintained of the meetings, decisions, and actions of the utilization review committee.

(iv) Meets other requirements as HCFA finds necessary to establish an effective utilization review plan.

(9) Provides information HCFA may require to implement section 1821 of the Act, including information relating to quality of care and coverage determinations.

(10) Meets other requirements as HCFA finds necessary in the interest of the health and safety of patients who receive services in the institution. These requirements are the conditions of participation found at part 403, subpart G of this chapter.

(c) *Affiliations.* An affiliation is permissible for purposes of paragraph (b)(7) of this section if it is between one of the following:

(1) An individual serving as an uncompensated director, trustee, officer, or other member of the governing body of an RNHCI and a provider of medical treatment or services.

(2) An individual who is a director, trustee, officer, employee, or staff member of an RNHCI and an another individual, with whom he or she has a family relationship, who is affiliated with (or has an ownership interest in) a provider of medical treatment or services.

(3) The RNHCI and an individual or entity furnishing goods or services as a vendor to both providers of medical treatment or services and RNHCIs.

* * * * *

PART 488—SURVEY, CERTIFICATION, AND, ENFORCEMENT PROCEDURES

1. The authority citation for part 488 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 488.2 is amended by adding "1861(ss)(2)—Accreditation of religious nonmedical health care institutions." after "1861(ee)—Discharge planning guidelines for hospitals" and before "1864—Use of State survey agencies."

3. Section 488.6 (a) is amended by adding "religious nonmedical health care institutions;" after "hospices;" and before "screening mammography services;"

PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL

1. The authority citation for part 489 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 489.102, introductory paragraph (a) is republished and paragraph (a)(2) is revised to read as follows:

§ 489.102 Requirements for providers

(a) Hospitals, critical access hospitals, skilled nursing facilities, nursing facilities, home health agencies, providers of home health care (and for Medicaid purposes, providers of personal care services), hospices, and religious nonmedical health care institutions must maintain written policies and procedures concerning advance directives with respect to all adult individuals receiving medical care, or patient care in the case of a patient in a religious nonmedical health care institution, by or through the provider and are required to:

* * * * *

(2) Document in a prominent part of the individual's current medical record, or patient care record in the case of an individual in a religious nonmedical health care institution, whether or not the individual has executed an advance directive;

* * * * *

PARTS 431, 440, 442, 456 and 466—[AMENDED]

1. In the following sections, "Christian Science Sanitoria operated or listed and certified, by the First Church of Christ Scientist, Boston, Mass." is revised to read "religious nonmedical institutions as defined in § 440.170(b) of this chapter":

a. § 431.610(b);

b. § 442.12(b); and

c. § 456.601.

2. In the following sections, "a Christian Science Sanitorium, operated or listed and certified, by the First Church of Christ Scientist, Boston, Mass." is revised to read "a religious nonmedical institution as defined in § 440.170(b) of this chapter":

a. § 431.701(a); and

b. § 466.1

3. In § 440.155(b)(1), "Christian Science sanatorium operated, or listed and certified by the First Church of Christ, Scientist, Boston Mass." is revised to read "religious nonmedical institution as defined in § 440.170(b)."

4. In § 456.351, "Christian Science Sanitoria" is revised to read "religious nonmedical institutions as defined in § 440.170(b) of this chapter".

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program; and Program No. 93.778, Medical Assistance Program)

Dated: November 17, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: April 29, 1999.

Donna E. Shalala,

Secretary.

Note: This document was received at the Office of the Federal Register on November 15, 1999.

[FR Doc. 99–30181 Filed 11–29–99; 8:45 am]

BILLING CODE 4120–01–P

Federal Register

Tuesday
November 30, 1999

Part IV

Department of Energy

10 CFR Parts 960 and 963
Office of Civilian Radioactive Waste Management; Nuclear Waste Repositories; Yucca Mountain Site Suitability Guidelines; Proposed Rulemaking

DEPARTMENT OF ENERGY

10 CFR Parts 960 and 963

[Docket No. RW–RM–99–963]

RIN No. 1901–AA72

Office of Civilian Radioactive Waste Management; General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories; Yucca Mountain Site Suitability Guidelines

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy (DOE).

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: DOE invites public comment on a revised proposal to amend the policies under the Nuclear Waste Policy Act of 1982 for evaluating the suitability of Yucca Mountain, Nevada, as a site for development of a nuclear waste repository. Today's revised proposal focuses on the criteria and methodology to be used for evaluating relevant geological and other related aspects of the Yucca Mountain site. Consistent with longstanding policy to conform DOE regulations regarding its nuclear waste repository program to comparable regulations of the Nuclear Regulatory Commission, DOE's proposed criteria and methodology are based on the Nuclear Regulatory Commission's recently proposed regulations for licensing a nuclear waste repository at Yucca Mountain.

DATES: Written comments must be received by February 14, 2000. DOE requests one copy of the written comments. DOE will hold two public hearings on this supplemental notice of proposed rulemaking. A subsequent **Federal Register** document, that will announce hearing dates, locations, and times, will be issued during the comment period.

ADDRESSES: Written comments should be addressed to Dr. William J. Boyle, U.S. Department of Energy, Yucca Mountain Site Characterization Office, P.O. Box 98608, Las Vegas, Nevada 89193–8608, or provided by electronic mail to 10CFR963@notes.ymp.gov.

Copies of the transcripts of the hearings, written comments, and documents referenced in this notice may be inspected and photocopied in the Yucca Mountain Science Center, 4101B Meadows Lane, Las Vegas, Nevada, (702) 295–1312, and the DOE Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC (202) 586–3142, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, except for Federal holidays. For more information concerning public participation in this rulemaking, please refer to the Opportunity for Public Comment section of this notice.

FOR FURTHER INFORMATION CONTACT: Dr. William J. Boyle, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 98608, Las Vegas, Nevada 89193–8608, (800) 967–3477.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Background
A. Enactment of the Nuclear Waste Policy Act
1. Development of the Nuclear Waste Policy Act
2. Overview of the Nuclear Waste Policy Act
B. DOE Promulgation of the General Guidelines at 10 CFR part 960
1. Overview of the General Guidelines
2. Structure of the General Guidelines
3. Bases for Structure of the General Guidelines
4. Consistency with NRC Technical and Procedural Conditions
C. DOE Application of the Guidelines
D. 1987 Amendments to NWPA
E. Yucca Mountain Site Characterization Plan
1. Statutory Requirements
2. Structure of the Site Characterization Plan
F. Energy Policy Act of 1992
G. Evolution of the Site Characterization Program
H. The 1993–1995 Public Dialogue on the Guidelines
I. The 1996 Notice of Proposed Rulemaking
J. Proposed NRC Regulation, 10 CFR part 63
1. Background
2. Structure of Proposed part 63
K. Proposed EPA Regulation, 40 CFR part 197
1. Background
2. Structure of Proposed part 197
III. Basis for Proposal
A. Legal Authority and Necessity to Amend the Guidelines and Criteria
1. Overview
2. Section 112
3. Section 113
B. Events Necessitating Amendment of the Guidelines and Criteria
1. Congressional Redirection of the Program
2. Consistency Between DOE and NRC Regulations
3. Improvements in Analytical Methods
IV. Response to Public Comments on the 1996 Proposal
A. Legal Authority
B. C–K
V. Description of Proposal—10 CFR part 960
A. Subpart A—General Provisions
B. Subpart B—Implementation Guidelines
C. Appendix III
VI. Description of Proposal—10 CFR part 963
A. Subpart A—General Provisions
B. Subpart B—Yucca Mountain Site Characterization Suitability Determination, Methods and Criteria
VII. Opportunity for Public Comment
A. Participation in Rulemaking
B. Written Comment Procedures
C. Hearing Procedures
VIII. Regulatory Review
A. Review for Compliance with the National Environmental Policy Act (NEPA)
B. Review under the Regulatory Flexibility Act
C. Review under the Paperwork Reduction Act
D. Review under the Unfunded Mandates Reform Act
E. Review under Executive Order 12612
F. Review under Executive Order 12866
G. Review under Executive Order 12875
H. Review under Executive Order 12988
I. Review under Executive Order 13084
J. Review under the Treasury and General Government Appropriations Act, 1999

I. Introduction

DOE today publishes this supplementary notice of proposed rulemaking in order to revise its December 16, 1996, proposal (61 FR 66158) to amend the "General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories") (Guidelines) (10 CFR part 960) that DOE promulgated under the Nuclear Waste Policy Act (NWPA) in 1984 (42 U.S.C. 10101, *et seq.*). The General Guidelines describe the DOE policies applicable to three sequential stages of the NWPA siting process, which are: (1) Preliminary site screening; (2) nomination of sites for site characterization (geological investigation of selected sites); and (3) selection of a site for recommendation to the President. The Guidelines are consistent with the licensing regulations of the Nuclear Regulatory Commission (NRC) in 10 CFR part 60.

In its December 16, 1996, proposal, DOE published proposed regulatory amendments to the Guidelines to reflect the prevailing scientific view on how to evaluate the suitability of the Yucca Mountain site for the development of a nuclear waste repository. Because the preliminary site screening stage was complete and Congress has required DOE to focus on Yucca Mountain, Nevada, DOE's proposed regulatory amendments dealt with provisions of the Guidelines applicable to the site recommendation stage. Today DOE is revising the terms of its proposal for three reasons.

First, during the comment period on the December 16, 1996, proposal, DOE received comments from members of the public, State and local officials of Nevada, the U.S. Environmental

Protection Agency (EPA), and the U.S. Nuclear Waste Technical Review Board, that in substance criticized the omission from the proposed regulatory amendments of the essential details of the criteria and methodology for evaluating the suitability of the Yucca Mountain site for the location of a nuclear waste repository. Some of the comments made pointed recommendations for guidelines at a more definitive level of specificity than the proposed regulatory text provided. Also, there were comments critical of the legal basis for DOE's proposal and its consistency with what those commenters viewed as DOE's past position on the meaning of sections 112(a) and 113(b) of the Act. As explained in detail later in this notice, DOE concluded that there was enough merit in these comments to warrant revision of the proposed regulatory amendments and expansion of the explanation of the factual and legal bases for them.

Second, in December, 1998, DOE issued, pursuant to Congressional direction, the Viability Assessment of a Repository at Yucca Mountain (Viability Assessment) (DOE/RW–0508). This document, which is available through the Internet on the web site (www.ymp.gov) or in hard copy upon request (see above, Further Information) sets forth the bases for the site suitability criteria DOE is proposing to use and the methodology for applying the criteria to a design for a proposed repository at the Yucca Mountain site. DOE can now assist commenters in responding to DOE's proposal with appropriate descriptions of, and references to, key portions of the Viability Assessment in the Supplementary Information.

Third, after the close of the comment period, the U.S. Nuclear Regulatory Commission (NRC), consistent with Congressional direction to the EPA to develop a site-specific radiation protection standard for the Yucca Mountain site, proposed to issue site-specific licensing requirements for that site in a new 10 CFR part 63 and to eliminate the site from coverage under 10 CFR part 60. Thereafter, EPA issued the Congressionally-mandated proposal for site-specific public health and safety standards for a repository at Yucca Mountain, to be codified at 40 CFR part 197. Section 113(c) of the NWPA provides that a determination of site suitability for development as a repository is largely an *estimate* that an application to the NRC for a construction authorization would be successful. 42 U.S.C. 10133(c). Thus, the details of the NRC proposal, which were not available when DOE formulated its December 16, 1996, proposal, affect the continuing usefulness of existing 10 CFR part 960, the text of DOE's proposed regulatory amendments, and the bases for those amendments in performing the analysis required by section 113. For reasons explained in detail below, DOE is of the view that the proposed part 63, if finalized without significant change, would make it illogical to apply the existing provisions of 10 CFR part 960, which are explicitly linked to provisions of the NRC's part 60. Moreover, the details of the NRC's proposal suggest the need for making conforming changes to the December 16, 1996, proposal to set forth the requirements for carrying out a total system performance assessment as the method for applying the site suitability criteria to the data developed during site characterization of the Yucca Mountain site.

Consistent with EPA's proposal for site-specific public health standards and NRC's proposal to limit part 60 and to establish a new part 63 for the Yucca Mountain site, DOE today is proposing regulations to: (1) Limit 10 CFR part 960 to preliminary site screening for repositories located elsewhere than Yucca Mountain; and (2) establish a new part 963 to contain the site suitability criteria and the methods for considering the potential of the Yucca Mountain site for a nuclear waste repository under those criteria. The proposed suitability criteria and methods provide a link between the geologic considerations identified in section 112(a) of the NWPA as primary criteria for siting a repository, and the current scientific understanding of site characteristics and related processes that are important to assessing the performance and safety of a potential geologic repository at the Yucca Mountain site. Although closely linked to the NRC's proposed part 63 licensing criteria and requirements, as is necessary and appropriate, DOE's proposed regulations in part 963 are not the equivalent of a *determination* that the site necessarily will meet all requirements to obtain a license from the NRC, or to be recommended by the Secretary for development as a geologic repository. Rather, DOE is proposing this new rule to better define its policies and criteria for determining the suitability of the Yucca Mountain site only in terms of, and based on, the information and data developed through the program of site characterization activities DOE has conducted over the years at Yucca Mountain under section 113(b) of the NWPA.

In issuing this notice, DOE is seeking to improve its policies for determining site suitability by enhancing their transparency, validity, and verifiability. In terms of transparency, DOE is aiming at regulations that are easier to read and understand. In terms of validity, DOE is aiming at an explanation of the legal and scientific basis for the regulations that shows how DOE's policies logically follow from scientifically supportable and legally sound premises. In terms of verifiability, DOE is aiming to show that the scientific conclusions underlying its policies are based on documented empirical results of experiments, and computer analyses of relevant data sufficient to warrant the conclusions DOE may eventually draw from known facts in a supporting statement for site recommendation to the President.

DOE hereby invites interested members of the public, State and local officials, and other Executive Branch agencies to review today's revised proposal and to provide comments on how well this rulemaking achieves these objectives. In addition, DOE intends to follow the consultation procedures set forth in section 112(a) of the NWPA for promulgation of the Guidelines in seeking review and comment on this revised proposal.

II. Background

This section provides an overview of the developments which have led DOE to propose to revise certain sections of the existing General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories and to adopt a new rule governing the site suitability criteria for the Yucca Mountain site.

A. Enactment of the Nuclear Waste Policy Act of 1982

1. Development of the Nuclear Waste Policy Act

The Nuclear Waste Policy Act of 1982 (NWPA) was enacted to provide for the siting, construction, and operation of repositories for which there is a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by spent nuclear fuel and high-level radioactive waste (hereinafter referred to as "spent fuel" or "high-level waste" or both). The NWPA established the Federal responsibility and defined Federal policy for the disposal of spent fuel and high-level waste. Because this waste remains radioactive for many thousands of years, Congress recognized that disposal involved many complex and novel technical and societal issues. To develop an appropriate framework for the resolution of these issues, several

years of intense legislative effort were required before a political consensus emerged to support enactment of the NWPA.

To meet the well-recognized reluctance of communities to host such facilities, the NWPA included a national site selection process that was designed to ensure fairness and objectivity in the identification of potential candidate sites for a repository. To ensure that the DOE would consider only candidate sites that had good potential for being licensed by the NRC, the NWPA required the DOE to obtain NRC concurrence on the DOE's general siting guidelines. And to ensure that the regulatory requirements for a repository would be set independently of any responsibility assigned to the DOE to develop that repository, the EPA was authorized to promulgate generally applicable standards for the protection of the environment. The NRC was authorized to establish repository licensing requirements and criteria, although these requirements and criteria could not be inconsistent with any comparable standards promulgated by the EPA.

2. Overview of the Nuclear Waste Policy Act

As originally enacted in 1982, the NWPA set forth requirements for selecting sites for the disposal of spent fuel and high-level wastes in a geological repository. 42 U.S.C. 10101, *et seq.* Several stages were established for the evaluation of potential sites, and these stages were defined in section 112, Recommendation of Candidate Sites for Site Characterization; section 113, Site Characterization; and section 114, Site Approval and Construction Authorization.

Section 112 of the NWPA addresses the initial stage of the site selection process, and includes four distinct steps: (1) DOE preliminary site screening (42 U.S.C. 10132(a)); (2) DOE nomination of at least five sites as suitable for characterization (42 U.S.C. 10132(b)(1)(A)); (3) DOE recommendation to the President of three of the five nominated sites as candidates for characterization (42 U.S.C. 10132(b)(1)(B)); and (4) Presidential approval of nominated sites for characterization (42 U.S.C. 10132(c)). Specifically, section 112(a) directs the DOE to issue general guidelines for the recommendation of candidate sites for site characterization. Section 112 directed DOE to consult with several federal agencies and obtain NRC concurrence on these guidelines.

Under section 112(a), DOE was required to specify in the guidelines: (1) detailed geologic considerations that were to be the primary criteria for the selection of sites for characterization in various geologic media; (2) certain factors (e.g., hydrology, geophysics, seismic activity) that would either qualify or disqualify a site from characterization; and (3) population density and distribution factors that would disqualify any site for characterization. 42 U.S.C. 10132(a). Section 112(a) also required DOE to include certain factors related to the comparative advantages among candidate sites. The DOE was directed to use the guidelines to consider candidate sites for recommendation as candidates for characterization. Section 112(a) explicitly authorized DOE to modify the guidelines consistent with the provisions of section 112(a).

Furthermore, section 112(a) directed DOE to develop certain qualifying or disqualifying factors for the preliminary site screening stage of the site selection process. Except for population density, the specific content of the qualifying or disqualifying factors was left to DOE's informed discretion. Because these factors are part of the Guidelines, their specific content could be modified in accordance with the authority in section 112(a).

Section 112(b) of the NWPA addressed DOE's recommendation to the President of sites for site characterization, that is, for intensive investigation of geologically related characteristics through surface and subsurface testing, among other investigative techniques. DOE was to nominate at least five sites as suitable for characterization. Each nominated site was to be accompanied by an environmental assessment. Of the five sites, DOE was to recommend three to the President for characterization. Section 112(c) of the NWPA addresses the President's review and approval of candidate sites for characterization.

Section 113 of the NWPA addresses site characterization, which involves activities that could proceed only after the section 112 actions had been completed. Section 113(a) authorizes DOE to conduct site characterization activities at the sites that had been approved by the President for characterization. Section 113(b) establishes the scope of DOE's site characterization activities, and directs the publication of a general plan for these activities. 42 U.S.C. 10133(b)(1)(A). DOE is to report semiannually on its ongoing and planned site characterization activities and the information derived therefrom. 42 U.S.C. 10133(b)(3). Section 113(b) also directs that the DOE include in the site characterization plan, criteria to be used to determine the suitability of a site for the location of a repository, developed pursuant to section 112(a). 42 U.S.C. 10133(b)(1)(A)(iv). Section 113(c) establishes limits on DOE's site characterization activities, and provides direction on how DOE is to proceed if at any time it determines that a site would be unsuitable for development as a repository.

Section 114 addresses site approval and construction authorization, and can only proceed as the section 113 site characterization activities near completion. Four distinct steps are defined in this section: (1) DOE recommendation of a site to the President for approval to develop as a repository [42 U.S.C. 10134(a)]; (2) recommendation of a site by the President to Congress [42 U.S.C. 10134(a)(2)]; (3) Congressional designation of the site [42 U.S.C. 10134(b)]; and (4) conduct of a licensing proceeding by the NRC [42 U.S.C. 10134(c)]. Further, under section 115, after the President recommends a site to Congress, the Governor and the legislature of the host State may submit a notice of disapproval. If the State disapproves, Congress must enact a resolution of siting approval in order to designate the site. 42 U.S.C. 10135(b). If the Congressional designation takes effect, DOE must submit an application to the NRC for a construction authorization. 42 U.S.C. 10134(b).

Section 114(a) provides for DOE activities necessary to prepare a recommendation to the President for Presidential approval of a site for development as a repository. These activities include public hearings in the vicinity of the site to inform residents of the area and receive their comments, and the completion of site characterization. Upon completion of these hearings and site characterization, the Secretary may decide to recommend the site to the President. A comprehensive statement of the basis for this recommendation is to accompany the recommendation, and be made available to the public. 42 U.S.C. 10134(a)(1). Section 114(b) then authorizes DOE to apply to the NRC for construction authorization, if the President recommends a site to the Congress and that recommendation is permitted to take effect. Sections 114(c)-(e) direct the NRC and DOE on certain aspects of the construction authorization process. Section 114(f) requires that a final Environmental Impact Statement (EIS) accompany the Secretary's recommendation of a site to the President.

B. DOE Promulgation of General Guidelines at 10 CFR Part 960

1. Overview of the General Guidelines

Section 112(a) of the NWPA directed DOE to issue general guidelines for the recommendation of sites for characterization, in consultation with certain Federal agencies and interested Governors, and with the concurrence of the NRC. These general guidelines were to be comparative in nature, as DOE was required to consider various geologic media and such considerations as proximity to where spent fuel and high-level waste were stored. The general guidelines were also to consider non-geologic factors, such as population density and distribution, that would not be examined in site characterization. No other procedural requirements were imposed on the issuance of these guidelines.

DOE promulgated the section 112(a) guidelines by notice and comment rulemaking, in addition to the consultation and concurrence process specified in the NWPA. The DOE also conducted several public meetings on the guidelines. These additional activities, although not required by the NWPA, enabled DOE to receive comments from interested members of the public. The general guidelines were promulgated on December 6, 1984, and codified in the Code of Federal Regulations at 10 CFR part 960, General Guidelines for the Recommendation of Sites for the Nuclear Waste Repositories. 49 FR 47714.

2. Structure of the General Guidelines

The Guidelines promulgated by DOE defined the basic technical requirements that candidate sites must meet, and specified how DOE would implement its site-selection process. The Guidelines were structured according to three categories: implementation guidelines, preclosure guidelines and postclosure guidelines. The implementation guidelines addressed general application of all the guidelines, and established the methodology for applying the guidelines during the various stages of the siting process: site screening and nomination, recommendation for characterization, and recommendation for repository development. The preclosure guidelines governed the siting considerations that dealt with the operation of a geologic repository before it is closed. The postclosure guidelines governed the siting considerations that dealt with the long-term behavior of a geologic repository after waste emplacement and closure.

Both the preclosure and postclosure guidelines were organized under general categories of interest, for example, geohydrology and geochemistry. Each category was further divided into system guidelines and corresponding technical guidelines. The system guidelines addressed broad requirements for a geologic repository under preclosure and postclosure conditions; the corresponding technical guidelines specified conditions that would qualify or disqualify a site, and conditions that would be considered favorable or potentially adverse. 49 FR 47724. In effect, the technical guidelines and the associated qualifying and disqualifying conditions imposed specific "subsystem" performance requirements; each subsystem requirement would be used to evaluate the merits of a site, independent of the other requirements.

Section 112 of the NWPA described the minimum steps that DOE was to take during site screening and prior to site characterization. When promulgating the Guidelines in 1984, DOE determined that application of the Guidelines should extend beyond preliminary site screening to encompass site characterization activities and site recommendation to the President. Appendix III to the Guidelines explained how certain of the Guidelines would be applied at the principal decision points of the siting process: (1) identification of a site as being potentially acceptable under section 112(b); (2) nomination and recommendation of sites as suitable for characterization under sections 112(b) and (c); and (3) recommendation of a site for development as a repository (sections 113 and 114). 49 FR 47729–47730. With respect to the third decision point, which would be reached only after completion of site characterization activities and non-geologic data gathering activities, DOE did not promulgate separate Guidelines. Instead, DOE indicated that the preclosure and postclosure Guidelines would be applied to this decision, and appropriate findings issued, in the manner prescribed in Appendix III. Appendix III specified the types of findings that were to be issued from the application of the disqualifying and the qualifying conditions at each of the three decision points. The types of findings corresponded with the level of confidence required to make a finding; that is, a lower level finding required one degree of confidence in the finding, and a higher level finding required an increased level of confidence in the finding over the lower level. 49 FR 47728–47729. Appendix III included a table summarizing the level of the finding required at each of the three decision points.

Appendix III represents the analytical process DOE would follow to issue findings relative to the disqualifying and qualifying conditions of a site, and use in its decision-making on site selection. This analytical process dictates a higher-level of confidence in the findings of qualifying or disqualifying conditions at the last stage of the siting process, site selection for repository development, compared to the initial stage of the siting process, site nomination for site characterization. DOE anticipated that the higher-level of confidence in its technical findings would be obtained through the site characterization process undertaken at the later stages of the selection process.

3. Bases for the Structure of the General Guidelines

The structure and development of the Guidelines were based on four primary sources of information and considerations: (1) The direction in the NWPA, as originally enacted; (2) the extant understanding of geologic disposal in the scientific and technical community; (3) applicable regulations proposed by the NRC and the FPA governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories; and (4) public comments.

DOE initiated the rulemaking process by assembling a task force of program experts. 49 FR 47718. The task force developed draft Guidelines based on criteria used earlier in the National Waste Terminal Storage Program, including program objectives, system performance criteria, and site performance criteria. At the time, the task force reviewed other criteria defined for geologic repositories by the National Academy of Sciences and the International Atomic Energy Agency.

The task force also sought consistency with NRC regulations and proposed EPA regulations related to geologic repositories. 49 FR 47718. NRC is the statutory agency responsible for licensing the construction and operation of a geologic repository; EPA is the statutory agency responsible for setting public health and safety standards for a geologic repository. Consistency of the DOE Guidelines with these regulatory standards was essential, since any potential site would be evaluated based on its ability to meet applicable regulatory requirements. 49 FR 47721.

In sum, the structure and content of the Guidelines was based on the state of knowledge in the late-1970s and early-

1980s in the regulatory community, as well as the national and international scientific community, regarding the development of geologic repositories.

DOE sought and received extensive public comments on a draft of the Guidelines before submitting them to the NRC for concurrence. On February 7, 1983, the proposed Guidelines were published in the **Federal Register** (48 FR 5670) for public review and comment. In addition, DOE published a separate notice soliciting comment from the Governors of the six States with potentially acceptable sites, and then met individually with officials from each of these States. DOE also held a series of regional public hearings. After considering the comments received, DOE drafted a set of alternate Guidelines to address the comments. The alternate Guidelines and public comments were made available in a second notice on June 7, 1983 (48 FR 26441), followed by a second public comment period. Further regional meetings and consultations with Federal agencies were held before DOE submitted the Guidelines to NRC for concurrence on November 22, 1983. 49 FR 47718–47719.

4. Consistency With NRC Technical and Procedural Conditions

Of particular importance to DOE's formulation of the Guidelines was consistency with NRC licensing regulations for the disposal of waste in a geologic repository. 49 FR 47718. In June 1983, NRC amended its licensing regulations at 10 CFR part 60 with respect to subpart E, technical criteria addressing siting, design and performance objectives of a geologic repository. 48 FR 28194. NRC concurred in the Guidelines subject to conditions that would satisfy the overall need to maintain consistency between NRC regulations and the DOE Guidelines. Among the NRC conditions were: (1) DOE clarifications and deletions of certain limiting terms such as "permanent" and "significant"; (2) DOE modifications for consistency with NRC criteria regarding anticipated processes and events, potentially adverse conditions, and the role of engineered barriers during the process for screening candidate sites for characterization; and (3) DOE revisions and additions to disqualifying conditions to ensure that unacceptable sites would be eliminated as early as practicable. 49 FR 47719–47722.

NRC concurrence conditions also addressed general, procedural aspects of how the DOE was to apply the Guidelines. For example, NRC concurrence was conditioned on a lack of conflict between NRC regulations at 10 CFR part 60 and the Guidelines, recognition by DOE that NRC regulations were controlling in the event of any differences, and a commitment that DOE would obtain NRC concurrence on any future revisions to the Guidelines. 49 FR 47719–47720. NRC also requested DOE to specify in greater detail how the Guidelines would be applied at each siting stage. This specificity was provided by the addition of Appendix III to the Guidelines. Appendix III indicated how the Guidelines would be applied at all of the site selection stages, including the recommendations to the President for site characterization and for the development of a site as a repository.

The NRC required additional changes after it met publicly with representatives of several interested states, Indian tribes, and DOE. After DOE committed to making those changes, the NRC voted to concur in the Guidelines. 49 FR 47720. Thus, the current Guidelines represent the substantial input provided by the NRC in 1984 through the statutory concurrence process.

C. DOE Application of the Guidelines

Consistent with section 112(b) of the NWPA, DOE applied the Guidelines to: (1) Nominate five sites as suitable for characterization; and (2) recommend to the President three of those five nominated sites for characterization as candidate sites for the first repository. On May 27, 1986, the President approved each of the sites that had been recommended for characterization. Yucca Mountain was one of the three sites that DOE recommended. The recommendation to the President was documented in a DOE report, Recommendation by the Secretary of Energy for Site Characterization for the First Radioactive-Waste Repository (May 1986; DOE/S–0048). In addition, a draft environmental assessment was prepared for each of the five sites and final environmental assessments were prepared for each of the three sites that were recommended.

This action concluded the process that had been established by the NWPA for identifying sites for characterization. The Guidelines' role of structuring DOE's process for identifying sites for characterization was completed in accordance with the Congressional directives to DOE. Under DOE's formulation of the Guidelines at that time, however, the Guidelines would remain relevant and applicable through the third principal siting decision point, the selection of a site to be recommended for the development of a repository.

D. 1987 Amendments to NWPA

In 1987, Congress amended the NWPA to mandate Yucca Mountain as the sole site to be characterized. 42 U.S.C. 10172 (Supp. V 1987). The processes for site characterization under section 113 and site approval under section 114 were made applicable to only Yucca Mountain. Under sections 113(a) and (b), Yucca Mountain was designated as the site for which site characterization activities would take place, and a site characterization plan would be issued, respectively. Under section 113(c), Congress amended the statute to name Yucca Mountain as the site for which the restrictions on site characterization activities would be applicable. That is, DOE was directed to conduct only such activities at Yucca Mountain that are necessary to evaluate the suitability of the site for an application to the NRC for a construction authorization, and to comply with requirements under the National Environmental Policy Act (NEPA). Section 114 was amended to restrict DOE's analysis of alternative sites in any environmental impact statement (EIS) that may be prepared for the Yucca Mountain site under NEPA. Any such EIS would analyze the Yucca Mountain site, and no other sites, for potential development of a geologic repository. Further, section 160(b) directed DOE to "terminate all site specific activities (other than reclamation activities) at all candidate sites, other than the Yucca Mountain site." 42 U.S.C. 10172(a)(2).

In sum, Congress made clear its intent for DOE to focus its resources on investigating Yucca Mountain, and only Yucca Mountain, as a potential site for a high-level radioactive waste repository.

E. Yucca Mountain Site Characterization Plan

1. Statutory Requirements

Under sections 113 and 160 of the NWPA, as amended, DOE was authorized to conduct site characterization activities at the Yucca Mountain site. Prior to initiating site characterization under section 113, DOE was required to prepare a general plan for site characterization activities at the Yucca Mountain site. DOE was required to submit the plan to the NRC and the State of Nevada for their review and comment [42 U.S.C. 10133(b)(1)], as well as to members of the public in the vicinity of Yucca Mountain [42 U.S.C. 10133(b)(2)]. Certain contents of the

plan were mandated by section 113(b), including, among other things, a description of planned excavation and other testing activities, a description of the possible form or packaging of the high-level waste, and the criteria to be used to determine the suitability of the site for the location of a repository, developed pursuant to section 112(a). Section 113(b)(3) also required DOE to report every six months on the progress of site characterization activities at Yucca Mountain, and to provide the reports to the NRC, and the Governor and the legislature of the State of Nevada.

DOE prepared the site characterization plan in draft form in January 1988. In preparing the plan, DOE followed NRC guidance, as specified in the document, Standard Format and Content of Site Characterization Plans for High Level Waste Geologic Repositories, Regulatory Guide 4.17 (NRC 1987). After review and comment by NRC, the State of Nevada, and interested members of the public, DOE finalized the Site Characterization Plan: Yucca Mountain Site, Nevada Research and Development Area, Nevada (December 1988; DOE/RW–0198) (hereinafter also the SCP), in December 1988.

2. Structure of the Site Characterization Plan

"Site characterization" is defined in the NWPA to include research activities undertaken to establish the geologic condition of a site, for example, borings and surface excavations, and in situ testing necessary to evaluate the suitability of a candidate site for the location of a repository. 42 U.S.C. 10101(21). In the SCP, DOE described the purpose of its site characterization program at Yucca Mountain was to obtain the information necessary to determine whether the site is suitable for a repository, and could satisfy NRC licensing requirements (which must be consistent with EPA public health and safety standards). DOE also explained there that the information obtained from site characterization, such as the geologic, geoengineering, hydrologic, and climatological conditions at a site, would be used to develop and optimize repository design and to evaluate the performance of the site and the engineered barriers as an integrated system.

The purpose of the SCP was threefold: (1) To describe the site, and the preliminary designs for the repository and the waste packages in sufficient detail to form the basis for the site characterization program; (2) identify issues to be resolved during site characterization and present the strategy for resolving the issues; and (3) describe the plans for the work needed to obtain the information deemed necessary and to resolve outstanding issues. The SCP was organized along two lines: (1) An issues hierarchy, which embodies the DOE, NRC and EPA regulations governing the repository system; and (2) an issue-resolution strategy.

The issues hierarchy was a three-tiered framework laying out what must be known before the Yucca Mountain site could be selected and licensed. "Issues" were defined as questions related to performance of the repository that must be resolved to demonstrate compliance with applicable regulations of DOE, NRC and EPA. DOE identified four key issues to be addressed, based on regulatory requirements and the four system guidelines in part 960: (1) Postclosure performance; (2) preclosure performance; (3) environment, socioeconomic, and transportation impacts of a repository; and (4) ease and cost of repository siting, construction, operation and closure. DOE also explained that only the first, second, and part of the fourth key issue would be addressed in the site characterization program, since resolution of these other key issues (that is, key issue 3 and part of key issue 4) were not dependent on information from site characterization activities. The issue-resolution strategy consisted of four parts: Issue identification, performance allocation, data collection and analysis, and documentation of issue resolution. This framework was used to develop test programs and explain why the test programs were adequate and necessary. The object was to collect information to be used in a concluding set of analyses to resolve the issues, and to document resolution of the issues.

As required by section 113(b)(1)(A)(iv), the SCP included criteria to determine the suitability of the site for development of a repository. Those "criteria" were the provisions within the Guidelines pertinent to site characterization activities, namely, the postclosure guidelines, and the preclosure guidelines related to radiological safety and technical feasibility of repository siting, construction and operation, to be applied in the manner described in Appendix III. Appendix III set out the level of findings DOE must make relative to the system and technical requirements found in the postclosure guidelines (subpart C) and preclosure guidelines (subpart D) at the final decision point of recommending a site for development as a repository. DOE believed that the information gained through site characterization and the issue resolution process would form the basis for these findings.

DOE also explained in the SCP that not all of the Guidelines would be addressed as part of site characterization activities. The SCP would not address the environmental, socioeconomic and transportation guidelines, or certain guidelines related to ease and cost of repository siting, construction, operation, and closure, since DOE would not develop information related to those guidelines through site characterization activities. Those guidelines would be addressed in other investigations and plans to be conducted concurrently with the site characterization program. Also, in light of the 1987 amendments to the NWPA permitting site characterization to proceed only at Yucca Mountain, DOE stated in the SCP that the comparative portions of the Guidelines would not be applied in the site suitability determination to be made under section 113(b).

In accordance with section 113(b)(3), approximately every six months DOE issues a report updating information on the conduct of site characterization activities at the Yucca Mountain site. Those reports briefly summarize the characterization activities undertaken at the site, the technical and scientific issues of key interest and their resolution, and issues that remain for further characterization and resolution. In addition, the semiannual reports provide references and a bibliography of other reports and documents containing more detailed information regarding site characterization activities. DOE provides the reports to the NRC, the Governor of Nevada, and the legislature of the State of Nevada.

The progress reports reflect DOE's ongoing interaction with the NRC. In July 1986, the NRC amended its regulations at 10 CFR part 60 (51 FR 27158) to establish the method of interaction between DOE and the NRC on the development and implementation of the site characterization plan. NRC established a system for DOE to report on the results of site characterization, identify issues, plan for additional studies, eliminate planned studies no longer necessary, and identify decision points reached. In this manner, the NRC established a clear pathway to interact with DOE in the management and direction of the site characterization program.

Site characterization activities have continued up to and including the present, and are described in greater detail below in section II.G.

UMI

VOL 64 ISS 229 NO 30 1999

F. Energy Policy Act of 1992

In 1992, Congress enacted certain provisions in the Energy Policy Act of 1992 (Pub. L. No. 102–486) impacting the nation's nuclear waste repository program. In section 801(a) of the Energy Policy Act of 1992 (EPACT), Congress directed EPA to promulgate a new, health-based standard to ensure protection of the public health from high-level radioactive waste that may be disposed in a geologic repository located at Yucca Mountain. The new standards could depart from the generic EPA standards promulgated at 40 CFR part 191, and would be specific to Yucca Mountain. In section 801(b), Congress also directed the NRC, within one year of EPA adopting a new standard, to modify its technical requirements and criteria under section 121(b) of the NWPA [42 U.S.C. 10141(b)] (i.e., 10 CFR part 60), as necessary, to be consistent with the new EPA standards.

Before setting the new standard, however, EPA was required to contract with the National Academy of Sciences (NAS) to conduct a study to provide findings and recommendations on reasonable standards for protection of the public health and safety. Under section 801(a) of the EPACT, EPA was required to promulgate its new standards based on, and consistent with, the NAS findings and recommendations. Under the EPACT and accompanying congressional instruction, NAS's charge was to answer three specific questions embodied in section 801(a)(2), and to advise EPA on the technical basis for the health-based standards it was mandated to prepare. The three questions posed in section 801(a)(2) addressed: (1) Whether a health-based standard based on doses to individual members of the public would provide a reasonable basis for protecting public health and safety; (2) whether it is reasonable to assume that a system for postclosure oversight of the repository, using active institutional controls, will prevent an unreasonable risk of breaching the repository's engineered or natural barriers, or of increasing the exposure of individual members of the public to radiation beyond allowable limits; and (3) whether it is possible to make scientifically supportable predictions of the probability that the repository's engineered or natural barriers will be breached as a result of human intrusion over a period of 10,000 years.

In August 1995, NAS published the statutorily mandated report, entitled Technical Bases for Yucca Mountain Standards. In sum, NAS issued findings that: (1) A health standard for Yucca Mountain based on risk to individuals of adverse health effects from releases from the repository (rather than EPA's generic standards which contain both individual dose and release limits) was an appropriate standard that would adequately protect the health and safety of the general public; (2) it is not reasonable to assume that a system for postclosure oversight can be developed, based on active institutional controls, which will itself prevent an unreasonable risk of breaching the repository's engineered barriers or of increasing the exposure of individual members of the public to radiation beyond allowable limits; and (3) it is not possible to make scientifically supportable predictions of the probability that a repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years. Notwithstanding the latter two findings, the NAS recommended EPA include in its regulations a stylized human intrusion event. The NAS reasoned that such an analysis may provide useful insight into the degree to which the ability of a repository to protect the public health and safety would be degraded by an intrusion.

In reaching its findings and recommendations, the NAS consulted with numerous entities, including local, state and federal government agencies, private organizations, and scientists and engineers, both national and international, familiar with the technical issues under study, and held five open technical meetings to ensure a thorough review of the scientific literature on the subject. In the Technical Bases for Yucca Mountain Standards, the NAS provides a detailed explanation of the assumptions and analyses underlying the study, and the reasons for NAS's findings and recommendations. Among the more important of these is the NAS assumption, confirmed by its technical review, that it is possible to conduct scientifically justifiable analyses of repository behavior over thousands of years in order to assess whether a repository can comply with the applicable public health standard. In addition, based on its analyses, the NAS concluded that the proper way to evaluate the risks of adverse health effects, and to compare those risks to the proposed standard, is to assess the estimated potential future behavior of the entire repository system and its potential effect on humans. The procedure used to perform this analysis is called performance assessment (alternately called total system performance assessment).

In discussing the possible implications of its conclusions, the NAS noted that, if EPA issues standards based on individual risk (as recommended by the NAS), then the NRC would be required to revise its regulations embodied in 10 CFR part 60 to be consistent with EPA. This is because NRC's 10 CFR part 60 is directed in part to subsystem technical requirements, whereas the NAS concluded that it is the performance of the total system, rather than that of its individual elements in isolation, that is crucial in the context of a risk-based standard. Under a risk-based standard, imposing subsystem performance requirements might result in a deficient repository design even if each subsystem element meets or exceeds a certain performance standard. The NAS also observed that its recommendations, if adopted, implied the development by EPA of different regulatory and analytical approaches than those employed in the past, and that the process of establishing the new standards would require significant time and opportunity for public comment and review. Nevertheless, NAS noted that these potential changes should not impede site characterization work by DOE at Yucca Mountain.

At present, EPA is in the process of preparing new standards pursuant to EPACT and in light of the NAS findings and recommendations. Those new standards have proposed in a rulemaking proceeding for public review and comment. Also consistent with EPACT, section 801(b), the NRC has proposed new regulations governing the technical requirements and criteria for licensing a potential geologic repository at the Yucca Mountain site based on the NAS findings and recommendations and in anticipation of new EPA standards. The EPA's and NRC's proposed regulations are discussed in greater detail below, in section II.J, and II.K, respectively.

G. Evolution of the Site Characterization Program

Since publication of the SCP in 1988, DOE's site characterization program at Yucca Mountain has made substantial progress in developing information and data about the site and resolving outstanding technical issues. Over time, the site characterization program has evolved and been driven by advances in science and technology, as well as legislative and managerial changes. The following summarizes the evolution and status of the site characterization program.

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION

Technical Components of the Site Characterization Program. The three main technical components of the site characterization program are testing, design, and performance assessment. Testing encompasses the investigation of natural features and processes at the site through field testing, conducted above and below ground, and laboratory testing of rock and water samples. Design refers to work on development of the description of a repository and waste packages tailored to the site features, supported by laboratory testing of candidate materials for waste packages and design-related testing in the underground tunnels similar to those in which waste would be emplaced. Performance assessment refers to the quantitative estimates of the performance of the total repository system, over a range of possible conditions and for different repository configurations, by means of computer modeling techniques that are based on site and materials testing data and accepted principles of physics and chemistry.

Through the testing program, DOE has learned a great deal about the geologic conditions of the site. The single largest effort undertaken in this regard has been construction of the Exploratory Studies Facility (ESF). Construction of this facility began in 1992 and was completed in 1998. The ESF, a 4.9 mile long underground tunnel, has enabled DOE to conduct testing and exploration activities at the depth of the proposed repository. Utilization of this facility has formed the basis for increased knowledge and understanding of the mechanical and hydrologic characteristics of the geologic formation in which the repository would be constructed. Ongoing work at this facility will focus primarily on thermal and hydrologic testing in the cross drift to extend and, where necessary, modify this understanding of the properties of the host rock.

The design component of the site characterization program comprises those activities aimed at developing concepts for the engineered components of the geologic repository. Design activities use information about the site gained through the testing program, and information about the engineered barrier system gained through other scientific investigations, to generate and develop design concepts that can meet the requirements placed on the engineered components of the repository. Site characterization activities are structured to acquire data needed to support the design. For example, a number of the site characterization program tests focus on the hydrological, geomechanical and thermal properties of Yucca Mountain. These tests are significant because they provide the fundamental information needed to specify the approach to be used in developing the geologic repository thermal loading and underground support schemes. Also, under the design program, DOE examines various approaches to meeting engineered facility requirements, and conducts comparative evaluations of the costs and benefits of different approaches to developing design concepts.

The performance assessment component of site characterization represents the analytical method (i.e., computer modeling) DOE uses to forecast the performance of the repository within the Yucca Mountain setting and assess that performance against regulatory standards. Put in simplified terms, performance assessment uses the information and data collected under the testing and design programs to feed computer models that describe how the site would behave in the presence of a repository and how the engineered system would behave within the environmental setting of the mountain. Each model, called a process model, is designed to describe the behavior of individual and coupled physical and chemical processes. A total system performance assessment (TSPA) links the results of individual process models to construct a computer model of the repository system and surrounding environment that are important to assessment of overall repository performance. With the TSPA model, DOE can estimate releases of radionuclides from a repository under a range of conditions, over thousands of years, and forecast the consequent probable doses to persons.

Performance assessment (or TSPA), as described above, is an accepted method to assess the performance of a repository at Yucca Mountain. DOE's use of performance assessment models began even before issuance of the SCP in 1988. Since that time, however, significant advancements have been made in the technical capability, acceptance, and use of this analytical tool. In 1991, the Nuclear Energy Agency Radioactive Waste Management Committee and the International Atomic Energy Agency International Radioactive Waste Management Advisory Committee confirmed that TSPA provides an adequate means to evaluate long-term radiological impacts of a waste disposal system. On a national level, the NRC, the NAS and the Nuclear Waste Technical Review Board (a Congressionally mandated committee of experts chartered to evaluate the technical and scientific validity of activities undertaken by DOE to characterize Yucca Mountain to determine its suitability as a location for a repository) have acknowledged the value of this method for evaluating postclosure performance for a repository at Yucca Mountain.

A significant portion of the DOE site characterization program has been aimed at developing the scientific bases that serve as the foundation for the process models used in performance assessment. DOE developed performance assessment models and conducted benchmark performance assessments of the total repository system in 1991, 1993 and 1995. Between these benchmark assessments, DOE conducted many performance assessments to evaluate selected features of the site and the evolving design. DOE used these total system and subsystem performance assessments to evaluate design options and to determine further data needed from site investigations. The most recent TSPA was conducted in 1998, the results of which are contained in the report, Viability Assessment of a Repository at Yucca Mountain (December 1998; DOE/RW–0508).

Redirection of the Site Characterization Program. In 1994, DOE conducted extensive internal and external reviews of the program. As a result of those reviews, documented in the Civilian Radioactive Waste Management Program Plan (December 1994; DOE/RW–0458) (Program Plan), DOE identified cost-cutting measures to reduce the cost of completing site characterization. In response to Congressional concern with the 1994 Program Plan, DOE submitted a revised Program Plan to Congress that was designed to maintain scientific investigations at the site, and retain target dates for determining site suitability and recommendation for construction authorization. Civilian Radioactive Waste Management Program Plan, Revision 1 (May 1996; DOE/RW–0458). As part of the revised strategy, DOE redirected project efforts to address the major unresolved technical questions and to complete an assessment of the viability of licensing and constructing a repository at Yucca Mountain. Congress indicated its approval of the revised Program Plan in the Conference Report on the Energy and Water Development Appropriations Act, 1997, H.R. Rep. No. 782, 104th Cong., 2d Sess. 82 (1996), by directing that the appropriated funds be used in accordance with the revised Program Plan issued by DOE in May 1996.

In the Fiscal Year 1997 Energy and Water Development Appropriations Act (Pub. L. No. 104–206), Congress directed DOE to provide the viability assessment of the Yucca Mountain site, referenced in DOE's revised Program Plan, to Congress and the President as a basis for making future decisions on program funding and direction. DOE issued the Viability Assessment of a Repository at Yucca Mountain (Viability Assessment) in December 1998. Drawing on 15 years of scientific investigation and design work, the Viability Assessment summarizes a large technical basis of field investigations, laboratory tests, models, analyses and engineering. The Viability Assessment also identifies major uncertainties relevant to the technical defensibility of DOE's analyses and designs, the approach to managing these uncertainties, and the status of work relative to the target dates of 2001 for a determination on recommendation of Yucca Mountain and 2002 for submittal of a license application to NRC. The Viability Assessment also includes the most recent iteration of the TSPA, and the results of that process.

Coordination with NRC. DOE's implementation of its site characterization program and the issue resolution strategy embodied in the SCP has been conducted in close coordination with the NRC. In 1995, the NRC revised its prelicensing repository program as a result of changes in the DOE civilian radioactive waste management program, the findings of a NAS committee recommending changes to the public health standard for a potential Yucca Mountain repository, and budgetary constraints imposed by Congress. The NRC adjusted the scope of its program to focus only on those topics most critical to repository performance, termed "key technical issues." These issues were intended to be a vehicle to communicate to DOE those technical matters for which the NRC had remaining unanswered questions regarding the performance of the Yucca Mountain site, or the data needed to assess that performance. DOE's management of the site characterization program includes activities to obtain information to address the NRC key technical issues. DOE has structured the site characterization program such that one of its goals is for DOE and NRC to reach consensus that the remaining key technical issues have been addressed adequately, or that adequate plans are in place to address the issues.

H. The 1993–1995 Public Dialogue on the Guidelines

In the SCP, issued in December 1988, DOE described how it would apply the Guidelines as part of the site characterization program to evaluate the suitability of the site. DOE indicated in the SCP that the Guidelines related to site characterization activities would be applied as the suitability criteria. DOE also indicated there that the comparative provisions of those requirements would not be applied in light of the 1987 amendments to the NWPA limiting site characterization activities to Yucca Mountain. Notwithstanding this explanation, a number of interested parties suggested it remained unclear how DOE would apply the Guidelines in the future. Because of this continuing stated uncertainty, the DOE instituted an ongoing dialogue with external parties on the Guidelines.

In October 1993, DOE briefed the representatives of the affected units of local government and the State of Nevada on its plans for activities related to site suitability evaluation. DOE followed this briefing with a Notice of Inquiry in the **Federal Register** (59 FR 19680), dated April 25, 1994, eliciting the views of the public on the appropriate role of the Guidelines. A public meeting was held on May 21, 1994 in Las Vegas, Nevada. The purposes of the meeting were to follow-up on a previous public meeting held in August 1993; to update the public on site characterization activities; and to provide an opportunity to discuss the development of a process to evaluate site suitability. DOE then published a second **Federal Register** notice (59 FR 39766) on August 4, 1994, announcing that it intended to use the Guidelines as currently written, subject to the programmatic reconfiguration directed in the 1987 NWPA amendments. Through that notice, DOE also announced the availability of a draft description of the proposed process and its intention to hold two additional public meetings to discuss the matter. Although several options were discussed, DOE discerned no clearly preferred option from this public comment process. In response to public comments at the meetings, DOE committed to provide background information and its rationale for maintaining the use of the Guidelines as originally promulgated, with modification to eliminate application of the comparative portions of the Guidelines. In September 1995, DOE published in the **Federal Register** the background information and its rationale, as committed to in previous public meetings. 60 FR 47737.

In the September 1995 public notice, DOE explained that amending the Guidelines, either to remove those portions that are primarily used for comparative purposes or to develop guidelines tailored to evaluation of the suitability of the Yucca Mountain site, was not required at that time. DOE recognized then that the Guidelines might have to be amended at some future date to be consistent with any changes to EPA or NRC requirements. 60 FR 47740. Among the options considered in the 1993–1995 public dialogue was abandonment of the Guidelines and adoption of the NRC siting criteria in 10 CFR 60.122. DOE noted that the Guidelines were expressly derived from, and are tied to, the part 60 siting criteria. In addition, DOE noted that, should any differences between 10 CFR part 960 and 10 CFR part 60 be identified, 10 CFR part 60 would prevail in the licensing process. While recognizing that much of 10 CFR 960 subpart B, the implementation guidelines, was no longer applicable, DOE concluded that the Guidelines could be selectively interpreted to avoid the comparative aspects while applying the relevant provisions of subparts C and D, the postclosure and preclosure guidelines.

I. The 1996 Notice of Proposed Rulemaking

For many of the reasons described earlier in this notice, including changes in congressional direction of the repository program and advancements in site characterization, on December 16, 1996, DOE published in the **Federal Register** a notice of proposed rulemaking for 10 CFR part 960. 61 FR 66158. In that notice, DOE proposed to clarify and focus the Guidelines and to add a new, site-specific subpart E to the Guidelines. Subpart E would apply only to the Yucca Mountain site, and would contain preclosure and postclosure system guidelines, each with a single qualifying condition. 61 FR 66163. In each of the periods, the qualifying condition would be that a repository at Yucca Mountain be capable of limiting radiological releases within applicable standards to be set by EPA and implemented by the NRC through the repository licensing process. DOE would demonstrate this capability through performance assessments. 61 FR 66164. These performance assessments would forecast the performance of a proposed geologic repository at Yucca Mountain and compare the results of the assessments to the applicable regulatory standards to

determine whether the site would be suitable for development as a repository.

The 1996 proposal was consistent with the system-level evaluation originally envisioned for the conclusion of site characterization. DOE recognized in 1984 in the Guidelines that, only after the entire process of narrowing the number of potentially acceptable sites to one and after site characterization, would it be possible to conduct complete performance assessments. Such assessments require detailed information that can be obtained only during site characterization. 49 FR 47717. In addition, the 1996 proposal was consistent with DOE's longstanding position that the Guidelines must complement and not conflict with EPA and NRC regulations, since the ability to meet applicable public health and safety standards and develop information adequate to support a license application has always been central to the site suitability determination.

The 1996 proposal attracted a wide variety of comments from members of the public, the NRC, the EPA, and the Nuclear Waste Technical Review Board. The major issues that emerged from the public comment process are discussed in detail later in this Supplementary Information. For reasons also explained below, these comments persuaded DOE to reassess the clarity of the proposed regulations and the legal and policy basis for them.

J. Proposed NRC Regulation, 10 CFR Part 63

1. Background

On February 22, 1999, the NRC published in the **Federal Register** a proposed new rule, 10 CFR part 63, containing licensing criteria for disposal of spent nuclear fuel and high-level radioactive waste in the proposed geologic repository at Yucca Mountain, along with proposed revisions to 10 CFR part 60 and other related regulations. 64 FR 8640. The proposed licensing criteria at part 63 would apply exclusively to Yucca Mountain; part 60 would be revised to make it applicable to any geologic repository other than one at Yucca Mountain. NRC's proposal seeks to establish a new system of risk-informed, performance-based regulation. Under this approach, risk insights, engineering analysis and judgment, and performance history are used to: (1) Focus attention on the most important activities; (2) establish objective criteria based upon risk insights for evaluating performance; (3) develop measurable or calculable parameters for monitoring system and licensee performance; (4) provide flexibility to determine how performance criteria are met; and (5) focus on results as the primary basis for regulatory decision-making. 64 FR 8643.

The NRC's rationale for proposing part 63 stems from the requirements of the EPACT. 64 FR 8641–8643. Section 801(b) of EPACT requires that, within one year after EPA promulgates its new standards for protection of public health and safety, the NRC must modify its technical requirements and criteria for repository licensing (*i.e.*, part 60) to be consistent with the new EPA standards. In addition, the EPACT requires NRC to include in its modifications, consistent with the NAS findings and recommendations, certain assumptions that are specified in the EPACT with regard to the effectiveness of DOE's postclosure oversight of the repository.

The NAS issued its findings and recommendations in the report, Technical Bases for Yucca Mountain Standards, August 1995. The NAS findings and recommendations reported there, along with consultation NRC has had with EPA, provide the basis for NRC's proposed modifications. 64 FR 8641, 8643. The NAS recommended approach to setting a public health and safety standard has a different objective from the NRC approach reflected in the existing part 60 requirements and criteria. 64 FR 8643. Accordingly, the modifications proposed by the NRC, based on the NAS report, and the subsequently proposed EPA rule marked a change in methodology and licensing philosophy.

2. Structure of Proposed Part 63

Preclosure Requirements. Proposed part 63 would require DOE to demonstrate compliance with the applicable preclosure regulatory standards by the use of an integrated safety analysis. 64 FR 8652. An integrated safety analysis is a systematic examination of the geologic repository operations area's hazards and their potential for initiating events (for example, accidents), the potential consequences of the events, and the site, structures, systems, components, equipment and activities of personnel. The analysis would be conducted to ensure that all relevant hazards that could result in unacceptable consequences have been adequately evaluated and appropriate protective measures have been identified. "Integrated" means joint consideration of safety measures that otherwise might conflict, including such measures as fire protection, radiation safety, criticality safety, and chemical safety. The results of the analysis would be used to support a finding of compliance with a performance objective for the preclosure period of limiting radiation exposures and releases within a dose limit of 25 millirem (mrem) to any member of the public beyond the site boundary.

Postclosure Requirements. While certain parts of proposed part 63 are similar to part 60, in particular with respect to many procedural and administrative regulations, the substance of the regulations governing postclosure performance objectives is fundamentally different. The part 60 technical criteria for postclosure rely on several quantitative, subsystem performance objectives. In 1983–4, NRC believed this approach was best suited to meet its statutory requirement under section 121(b)(1)(B) of the NWPA to prescribe criteria that would involve use of a system of multiple barriers in the design of the repository. 64 FR 8648. At the time part 60 was written, NRC's technical opinion was that compliance with this requirement could be best demonstrated by specifying subsystem technical requirements, thereby assuring multiple, independent and redundant systems and barriers. Given advancements in technical understanding and analytical capability, and information acquired through site-characterization at Yucca Mountain, the NRC no longer believes this approach is an optimal and reliable approach to assure compliance with public health and safety standards. 64 FR 8648–8649.

Part 63 does not contain subsystem performance requirements, or analogs for those requirements, as found in part 60. The part 63 requirements are based on only one quantitative standard—demonstrating compliance with an individual dose limit. The part 63 technical criteria are compatible with the NRC's philosophy of risk-informed, performance-based regulation. This approach is consistent with NAS recommendations that would require compliance with a health-based standard established in consideration of risk to a hypothetical critical group as the only quantitative standard for postclosure repository performance. 64 FR 8643. The NRC concept of critical group means the hypothetical group of individuals reasonably expected to receive the greatest exposure to radioactive materials potentially released from a geologic repository at Yucca Mountain. The EPA proposes in its rule (described in section II. K) the use of a reasonably maximally exposed individual (RMEI). The RMEI is a hypothetical individual having certain characteristics that include where the RMEI lives, what the RMEI's diet would consist of and the amount of water consumed by the RMEI on daily basis.

For the purposes of this proposed rule, the term receptor is used in lieu of either the EPA or NRC concept. A receptor is intended to represent a member of the public, either an individual or group, that could be exposed to releases of radiation from a repository at Yucca Mountain. When the suitability determination is made, DOE would implement the regulatory concept applicable at that time.

This approach is also consistent with NRC's obligation to ensure a multiple barrier system by requiring DOE to demonstrate that the natural barriers and the engineered barriers will work in combination to enhance overall performance of the repository.

Part 63 would require DOE to demonstrate compliance with the applicable postclosure regulatory standard by the use of performance assessment. 64 FR 8650. Performance assessment is a systematic analysis that identifies the features, events, and processes that might affect performance of the geologic repository, examines their effects on performance, and estimates the resulting expected annual dose. Demonstrating compliance with the postclosure performance of 10 CFR part 63 would require a performance assessment to quantitatively estimate the expected annual dose, over the compliance period, to the average member of the critical group. The critical group would be a hypothetical group of individuals reasonably expected to receive the greatest exposure to radioactive materials released from the geologic repository. Consistent with the EPACT and the 1995 NAS report, the NRC proposed that the results of the performance assessment be the sole quantitative measure used to demonstrate compliance with the individual dose limit. 64 FR 8650.

Because of the importance of the performance assessment, part 63 is structured to establish certain minimum requirements governing the content and validation methods for the performance assessment. 64 FR 8650–8651. For example, DOE would be required to include in the performance assessment data related to the geology, hydrology and geochemistry of Yucca Mountain, as well as data related to the design of the engineered barrier system; to account for uncertainties and variabilities in the data used to model performance of the repository; to provide the technical basis for either inclusion or exclusion of specific features, events, and processes of the geologic setting; and to provide the technical basis for the models used in the overall performance assessment by providing, for example, comparisons of the output of detailed process-level models and empirical observations. In addition, part 63 would prescribe the characteristics of the reference biosphere and receptor to be used in the performance assessment. DOE also would be required to conduct a separate performance assessment based on a limited human intrusion scenario prescribed by the NRC.

K. Proposed EPA Regulation, 40 CFR Part 197

1. Background

On August 27, 1999, the EPA published in the **Federal Register** a proposed new rule, 40 CFR part 197, to establish public health and safety standards governing the storage and disposal of spent nuclear fuel and high level waste in a potential repository at Yucca Mountain, Nevada. 64 FR 46975. EPA is promulgating this rulemaking pursuant to section 801(a) of the EPACT. As explained earlier in this preamble (section I.F.), in section 801(a)(1) of the EPACT Congress directed EPA to promulgate a health-based standard for the protection of the public from releases from radioactive materials stored or disposed of in a repository at the Yucca Mountain site. Also under EPACT, Congress directed that the EPA standard was to be the only standard applicable to the Yucca Mountain site, and that the EPA standard must be based upon and consistent with NAS' findings and recommendations.

As directed by Congress in the EPACT, it is EPA's role to establish the public health and safety standard, and NRC's role to implement that standard in any licensing process NRC may conduct for a repository at Yucca Mountain. It is anticipated that NRC would conform its proposed licensing regulation at 10 CFR part 63 to the final EPA radiation protection standards, as necessary and appropriate.

2. Structure of Proposed Part 197

The proposed EPA rule is structured in two parts. Part A of the rule would establish the environmental standards for storage of spent nuclear fuel and high level waste at Yucca Mountain; part B would establish the environmental standards for disposal of spent nuclear fuel and high level waste at Yucca Mountain. The following is an overview of the main components of EPA's proposed rule; in many areas of the rule EPA has proposed alternative language and requirements for public review and consideration. For simplicity, not all of those alternative considerations will be presented here.

For storage of spent nuclear fuel and high level waste, EPA proposes a standard limiting the annual committed effective dose equivalent (CEDE) to no more than 15 millirems to any member of the public in the general environment. This limit would apply to releases from the combination of management and storage of spent nuclear fuel and high level waste that is within the Yucca Mountain repository (below ground) and outside the Yucca Mountain repository but within the Yucca Mountain site (aboveground). EPA proposes this standard to be consistent with the risk level set in its generic standards for management and storage of spent nuclear fuel, high level waste, and transuranic waste, codified at subpart A of 40 CFR part 191 and with its interpretation of section 801 of EPACT requiring it to set site-specific standards for storage of waste at Yucca Mountain. In EPA's view, storage of waste, whether inside the Yucca Mountain repository or outside the Yucca Mountain repository but within the Yucca Mountain site, presents the same technical situation and is analogous to the storage of radioactive waste at other facilities covered by 40 CFR part 191. Accordingly, EPA proposes the storage standard for Yucca Mountain be essentially the same as the standard applicable to other facilities subject to subpart A of 40 CFR part 191.

For disposal of spent nuclear fuel and high level waste, EPA proposes essentially three standards—an individual protection standard, a human intrusion standard, and a groundwater standard—that DOE would need to demonstrate to the satisfaction of the NRC to ensure protection of public health and safety. Under the individual protection standard, DOE would demonstrate that there is a reasonable expectation that for 10,000 years following disposal the reasonably maximally exposed individual (RMEI) receives no more than an annual committed effective dose equivalent (CEDE) of 15 millirems (mrem) from releases from the undisturbed Yucca Mountain disposal system. All potential pathways must be included in this analysis. In proposing this individual protection standard, EPA concluded that radiation release limits, such as those embodied in 40 CFR part 191, were not necessary in order to protect members of the general public from releases from a repository at Yucca Mountain.

For the proposed human intrusion standard, EPA proposes two alternative rules, one of which would impose a CEDE limit of 15 mrem to a RMEI based on an assumed human intrusion event,

while the alternative rule would impose the dose limit if complete waste package penetration can be shown to occur before 10,000 years after disposal. EPA also proposes a rule outlining the elements of the human intrusion scenario to be used in the analysis.

Under the proposed groundwater protection standard, EPA would require DOE to provide in its license application a reasonable expectation that for 10,000 years of undisturbed performance after disposal, releases of radionuclides from radioactive material in the Yucca Mountain disposal system will not cause the level of radioactivity in the representative volume of ground water at the point of compliance to exceed certain limits (*e.g.*, combined beta and photon emitting radionuclides cannot exceed a limit of 4 millirems per year to the whole body or any organ). EPA presents for public review and comment several alternatives for the selection of the representative volume of water and for the location of the point of compliance.

EPA's proposed approach to setting public health and safety standards for a repository at Yucca Mountain follows the NAS recommendations and findings, and the regulatory approach proposed by the NRC in its proposed licensing regulations. Although EPA has proposed some requirements in its rulemaking that differ from certain NAS findings and recommendations and NRC's proposed licensing regulations, (for example, EPA proposes use of a dose standard instead of a risk standard, and use of the RMEI concept instead of critical group), EPA's proposed rule is consistent with the primary NAS findings and recommendations that a public health standard based on risk or dose to an individual member of the public can be protective of general public health and safety, and that the Yucca Mountain-related physical and geologic processes are sufficiently quantifiable and the related uncertainties sufficiently boundable that the performance can be assessed over certain time frames.

EPA assumes, and, in the case of the individual protection standard, EPA would expressly require DOE to use performance assessment to calculate the dose limits established in its proposed radiation protection standards for disposal. Although EPA generally would not prescribe requirements on how the performance assessments would be conducted, it would impose certain limitations. For example, proposed section 197.40 would limit consideration by DOE in its performance assessments of events that are estimated to have less than one chance in 10,000 of occurring within 10,000 years of disposal. In addition, EPA, similar to the NRC, acknowledges certain inherent limitations in DOE's ability to demonstrate compliance with the public health and safety standard through use of performance assessment, but nevertheless mandates the use of that method of assessment. EPA's rule recognizes, through the concept of reasonable expectation, that, among other things, there are inherent uncertainties in making long-term projections of the performance of the Yucca Mountain disposal system, that performance assessments and analyses should be focused upon the full range of defensible and reasonable parameter distributions, and that assessments should not exclude important parameters simply because they are difficult to precisely quantify to a high degree of confidence.

III. Basis for Proposal

A. Legal Authority and Necessity To Amend the Guidelines and Criteria

1. Overview

Section 112(a) of the NWPA explicitly establishes DOE authority to "issue general guidelines for the recommendation of sites for repositories" and to "use [the] guidelines established under this subsection in considering candidate sites for recommendation under subsection (b)." Subsection (b) of section 112 provides for a process, to be conducted following promulgation of the guidelines that would result in: (1) the nomination of 5 potential sites for characterization; and (2) the selection of 3 of those 5 sites for recommendation to the President as suitable for site characterization activities. Section 112(a) also includes explicit authority to revise the guidelines, from time to time, consistent with the provisions of 112(a).

Shortly after the enactment of the NWPA, DOE promulgated the Guidelines (codified at 10 CFR part 960) to implement section 112. The approach taken at that time was to structure the Guidelines to provide a framework not only for the section 112 decisions (for which it was statutorily required) but also for subsequent steps in the site selection process. Consistent with this view, the Guidelines as originally promulgated also addressed actions to be taken under sections 113 and 114. The rationale permitting that approach was the provision in section 113(b) that DOE include in its site characterization plan "criteria to be used to determine the suitability of [a] site for the location of a repository, developed pursuant to section 112(a)." 49 FR 47730. DOE reasoned that, since the site characterization plan was to be an element supporting any Secretarial recommendation of one site for development under section 114, the Guidelines were "intended to be used in deciding which among the characterized sites is to be recommended to the President, the Congress, and finally to the NRC for appropriate approvals." 47 FR 47730. That approach was understandable in 1984 when DOE anticipated the need to evaluate by comparison multiple characterized sites, a comparison similar to the choosing of sites for characterization for which the Guidelines were required by section 112(a) of the NWPA. After the 1987 amendments to the NWPA designated Yucca Mountain as the only site to be characterized, DOE chose to apply some, but not all, of the Guideline provisions in the Site Characterization Plan prepared under section 113(b) of the NWPA as criteria to determine site suitability. DOE/RW–0199 (1988). In 1995, DOE reconsidered the Guidelines in the context of evaluating the suitability of the Yucca Mountain site under the Site Characterization Plan. DOE decided then that "[b]ecause DOE need apply only the relevant provisions" of the Guidelines, amending or supplanting them with "Guidelines specifically tailored" to evaluating the suitability of the Yucca Mountain site was "not required at this time." 60 FR 47737, 47740 (1995).

As discussed in greater detail below, DOE now has determined that a new approach is called for in light of the cumulative effect of the intervening legislative, regulatory, and technical developments that have occurred since 1984. DOE now proposes to develop criteria, using section 112(a) in the development of the criteria, but not adopting the particular section 112(a) Guidelines as those criteria, to form the basis for a determination of the suitability of the Yucca Mountain site for the location of a repository. The rationale for this approach stems from the basic analysis recommended by the National Academy of Sciences, which differed from that embedded in the 1984 Guidelines, and the advent of new regulations proposed by the NRC that, under the NWPA's structure, must define the areas and methodology of DOE's inquiries into Yucca Mountain's suitability.

Accordingly, DOE today proposes to revise the existing Guidelines at 10 CFR part 960 to limit their application to only the initial site selection process set forth in section 112. DOE may make additional revisions to the Guidelines if, in the future, circumstances were to

change and DOE were to reinitiate a preliminary site screening process under section 112. Further, DOE proposes today to promulgate a new rule, consistent with section 113(b)(1)(A)(iv), to establish criteria to be used to determine the suitability of Yucca Mountain for the location of a geologic repository. The criteria identified in this new rule are based on the geologic factors and considerations referenced in section 112(a), as they relate to DOE's current scientific understanding and methodology for assessing the suitability of the Yucca Mountain site as a location for a repository.

2. Section 112

DOE's approach in today's proposal is grounded on the text of section 112(a) and the basic structure of the NWPA, as originally enacted and as amended. As originally enacted, the NWPA set up a sequential process for selecting, comparing, and evaluating potential sites for the development of a geologic repository for high-level waste. The 1987 amendments eliminated any continued comparison of sites; only Yucca Mountain is authorized for site characterization activities leading to possible recommendation as a repository site. Beyond the first step in the process, recommendation of multiple sites for site characterization (section 112), there is no explicit direction in the Act (in its original enactment or amendment) whether or how to utilize the Section 112(a) Guidelines in the succeeding site selection processes (sections 113 and 114). Instead, section 112(a) specifies the intended use of the Guidelines: "[t]he Secretary shall use guidelines established under this subsection in considering sites to be recommended for site characterization under section 112(b)." Likewise, the environmental assessment of the various sites nominated for characterization pursuant to section 112 is to include "evaluation" of each nominated site under each Guideline not requiring characterization for its application and all the Guidelines pertinent to whether a site is "suitable for site characterization." 42 U.S.C. 10132(b)(1)(D)(i)&(ii). Nowhere in its text does section 112 require any additional use of the Guidelines.

In sum, the text of section 112 and its relation to other provisions in the NWPA indicate that the Guidelines are to govern the process of selecting and comparing among potential sites to determine which sites are appropriate to proceed to the next, more detailed evaluation stage, site characterization. In contrast, nothing in the text of section 112 specifies that the Guidelines are also to govern the process for determining site suitability and site recommendation under sections 113 and 114.

3. Section 113

Section 113 of the NWPA requires DOE to prepare a site characterization plan for a candidate site selected under section 112 for site characterization activities. A required element of a site characterization plan is "criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a)." 42 U.S.C. 10133(b)(1)(A)(iv) (emphasis added). The NWPA does not define the term "*criteria*." The NWPA does, however, define the term "site characterization" as activities "undertaken to establish the geologic condition" of a candidate site. 42 U.S.C. 10101(21)(B). This definition indicates that the required scope of the general site characterization plan and therefore of the section 113(b) "criteria" is limited to geologic considerations. This reading of section 113(b) is reinforced by the provisions of section 112(a) in which the only usage of the term "criteria" in that section are the "primary criteria" that are explicitly equated to "geological considerations."

Section 113(b) requires that the "criteria" to be included in the Site Characterization Plan be "developed pursuant to section 112(a)" of the NWPA. Because section 112(a) of the NWPA is devoted to the "Guidelines" for selecting candidate sites while section 113(b) is devoted to the "criteria" under which selected candidate sites subsequently are to be characterized, it is necessary to consider how the Guidelines are required to relate to the criteria by section 113's requirement that the criteria be "developed pursuant to section 112(a)."

It is unlikely that the Congress intended to require the "criteria" to be the Guidelines themselves. It would have been simple enough for Congress to have legislated that policy in section 113(b) by a straightforward requirement that the Site Characterization Plan specify that the "*Guidelines* developed pursuant to section 112(a)" would be used "to determine the suitability of each candidate site." Compare 42 U.S.C. 10133(b)(1)(A)(iv). Had Congress intended this policy result it is unlikely that it would have chosen such an elliptical and opaque way of expressing it as the actual statutory text that does not use the term "Guidelines" at all. And a construction of section 113(b) requiring the suitability "criteria" to be the same as the section 112 Guidelines would risk tension with section 113(c)'s restriction that limits DOE to conducting "only" characterization activities "necessary to provide the data required" to prepare an NRC license application. The NRC, of course, is not required to base its licensing standards on the Guidelines adopted by DOE under section 112(a) of the NWPA (although it was required to concur in them), nor does section 112 afford the NRC the ability to compel DOE to reformulate the Guidelines should the NRC determine to amend or supplant its licensing standards.

Section 112(a) contains specific procedural mandates required to be employed by DOE in issuing or revising the Guidelines. Before DOE may promulgate the Guidelines DOE must consult with several specified federal agencies and with "interested Governors." 42 U.S.C. 10132(a). In addition, the NRC must "concur[]" in the issuance of the Guidelines. *Id.* These distinctive procedural requirements obviously are tailored to the particular circumstances of site decision-making under the NWPA and therefore specify procedural requirements that would not otherwise obtain under the rulemaking provisions of the Administrative Procedure Act or the rulemaking provisions of the Department of Energy Organization Act that were in force when the NWPA was adopted.

The requirement of section 113(b) that the SCP's "criteria" for characterizing sites be "developed pursuant to section 112(a)" therefore is best understood as mandating observance of the special procedural requirements of section 112(a) in formulating or altering the section 113(b) "criteria." This understanding of the statutory text seems the most faithful to its explicit terms and the larger statutory context in which it occurs. Moreover, it seems the only understanding of section 113(b) that is consistent with the 1987 changes to the NWPA (which mandated exclusive characterization work for the Yucca Mountain site without amending section 113(b) despite amending the statute elsewhere to remove the element of comparing sites, to which the Guidelines of section 112(a) were devoted). This understanding of the requirements of section 113(b) also comports with DOE's prior understanding, as was described in the 1995 notice, that not all the original Guideline elements need be applied in site characterization under section 113 of the NWPA.

VOL 64 ISS 229 NO 30 1999 UMI

THE PAPER AND INK
PUBLICATION MAY A
THE MICROFORM ED

B. Events Necessitating Amendment of the Guidelines and Criteria

1. Congressional Redirection of the Program

Since the NWPA was enacted in 1982 and the Guidelines promulgated in 1984, Congress has made major changes to the framework for developing a geologic repository. Those changes are described below and, in part, form the basis for the revisions to 10 CFR part 960 and the promulgation of a new 10 CFR part 963 proposed in this notice.

1987 Amendments to the NWPA. Congress amended the NWPA in 1987 to select Yucca Mountain as the only site to be characterized. In support of that decision, Congress directed DOE to terminate site-specific activities at the two other sites that had been recommended for site characterization in 1986. 42 U.S.C. 10172. Further, Congress restricted DOE's characterization activities at Yucca Mountain to only those the Secretary considers necessary to provide the data required for evaluation of the suitability of the site for NRC construction authorization (*i.e.*, license application), and for compliance with the National Environmental Policy Act of 1969. A provision was added to the NWPA to provide for termination of site characterization activities at Yucca Mountain if at any time the Secretary determines that Yucca Mountain is unsuitable for development as a repository.

Although the 1987 amendments to the Act were decisive in focusing the repository program and DOE's efforts on one specific site, for many years DOE maintained that these changes were not so significant as to warrant amendment of the Guidelines. Instead, DOE believed the Guidelines, for the most part, could be applied to Yucca Mountain for purposes of determining the suitability of the site (because Yucca Mountain already had been found suitable for characterization under other provisions of the Guidelines) in support of a possible site recommendation by the Secretary. The only changes to the Guidelines necessitated by the 1987 amendments were to eliminate consideration of those parts of the Guidelines related to comparative analysis. Similarly, the NRC had not made significant modifications to its technical requirements and criteria in 10 CFR part 60 as a result of the 1987 amendments to the Act.

1992 Energy Policy Act. In the 1992 Energy Policy Act, Congress reinforced its intent that Yucca Mountain was the exclusive focus of the nation's repository program, not only for DOE, but also for the other federal agencies. EPA and NRC, with authority and responsibility over the repository program. Section 801 of the EPACT directed the EPA to promulgate, by rule, new public health and safety standards for the protection of the public from releases from radioactive materials stored or disposed of in a repository at the Yucca Mountain site. Unlike the previous standard, which was generic to geologic repositories and included limits on radioactive releases to the environment, the new standards were required to prescribe maximum annual radioactive dose limits to individual members of the public based on releases to the accessible environment from materials stored or disposed of at Yucca Mountain. To aid EPA in this process, Congress directed a National Academy of Sciences (NAS) study to provide findings and recommendations on reasonable standards for protection of the public health and safety. EPA was required to base its new rule on the findings and recommendations of the NAS. For Yucca Mountain, these standards would replace the generally applicable standards for the protection of the general environment that the EPA had promulgated at 40 CFR part 191 under the authority of section 121 of the NWPA.

The EPACT also directed the NRC to modify its technical requirements and criteria, as necessary, to be consistent with the EPA's new standards. In addition, NRC was directed to ensure that, consistent with the NAS findings and recommendations, its requirements and criteria for postclosure oversight of a Yucca Mountain repository would be sufficient to prevent any activities at the site posing an unreasonable risk of breaching the engineered and natural barriers of the site, and to prevent any increase in exposure of individual members of the public beyond allowable limits.

These changes were significant because they set the stage for future regulatory changes governing the standards a Yucca Mountain repository must meet to ensure public health and safety, and to obtain a license for construction. The ability to meet regulatory standards has always been a dominant factor in the site selection process. This requirement is reflected in the structure of the Guidelines, is reinforced by the 1987 amendments to the Act, and is a prime focus of DOE's site characterization program. Thus, the Congressional mandate in the EPACT directing new and revised regulations governing geologic disposal at Yucca Mountain necessarily impacts DOE's formulation of the criteria that will be used to determine the suitability of Yucca Mountain as a site for development of a repository. Until recently, however, the full extent and nature of those impacts have not been defined. The NRC's recent proposal to amend 10 CFR part 60, its technical requirements and criteria for licensing a repository, to add a new part 63 specific to Yucca Mountain, provides DOE with an outline of anticipated regulatory changes, and signals for DOE how and why it must conform its Guidelines and criteria for determining the suitability of the Yucca Mountain site for the location of a repository.

Fiscal Years 1996 and 1997 Appropriations Acts and the Viability Assessment. Finally, in response to budgetary concerns, the Conference Report on the Energy and Water Development Appropriations Act, 1996 (Pub. L. No. 104–46) (H.R. Rep. No. 293, 104th Cong., 1st Sess. 68 (1995)) directed the DOE to focus on only those activities necessary to assess the performance of a repository at the Yucca Mountain site and to collect the scientific information needed to determine the site's suitability. DOE responded by revising its Program Plan for 1996 in which it indicated that, among other changes, DOE would complete a viability assessment of the Yucca Mountain site in 1998, and would develop a proposal to amend the Guidelines and develop new regulations specific to the Yucca Mountain site. Congress indicated its approval of the changes by directing that appropriated funds be used in accordance with the revised program plan. Congress reinforced this direction in the Fiscal Year 1997 Energy and Water Appropriations Act, where it mandated that DOE provide to the Congress and the President a viability assessment of the Yucca Mountain site in 1998.

These changes in budget for DOE's civilian radioactive waste management program indicate congressional intent for DOE to focus site characterization activities on assessing the viability and suitability of Yucca Mountain, and to complete those activities in the near term. In light of this congressional direction, it is reasonable for DOE to amend the Guidelines in a manner that acknowledges Yucca Mountain as the only site at which site characterization has occurred and for which DOE would need to conduct a suitability evaluation under section 113(b).

2. Consistency Between DOE and NRC Regulations

Procedural Consistency. The DOE's site characterization suitability criteria must be consistent with the NRC's

USED IN THE ORIGINAL
FFECT THE QUALITY OF
ITION.

THE MICROFORM EDITION

licensing criteria if the DOE is to present a potentially successful license application to the NRC. Such consistency originally was attained in the Guidelines through the NRC's concurrence process, as required by section 112(a) of the NWPA. DOE will preserve this consistency in these proposed suitability criteria by ensuring that they reflect the changes to the licensing criteria that recently have been proposed by the NRC in a new rule to be codified at 10 CFR part 63, and by soliciting NRC concurrence on DOE's proposed amendments to the Guidelines and the promulgation of a new regulation at 10 CFR part 963.

Substantive Consistency. NRC's proposed new rule establishing the technical requirements and criteria for repository licensing at Yucca Mountain, proposed 10 CFR part 63, is different from its existing general rule on repository licensing, 10 CFR part 60. DOE now has little choice but to propose site suitability criteria that are consistent with the NRC's proposed licensing requirements. The suitability of a site for the location of a repository is a function of the DOE's ability to demonstrate the site can meet applicable regulatory requirements. DOE has conducted the site characterization program at Yucca Mountain with the statutory objective [42 U.S.C. 10133(c)] of demonstrating its ability to obtain construction authorization from the NRC (*i.e.*, to meet NRC licensing requirements and EPA health and safety standards, as implemented by NRC through the license). DOE could not scientifically and technically support a suitability determination, and, hence, a license application, without conforming its criteria for suitability to the proposed NRC technical requirements and criteria for a repository license. Such conforming criteria are proposed in this notice.

The NRC proposed rule part 63 is a departure from the philosophy and technical requirements of 10 CFR part 60. The new rule would be based on the 1995 NAS report recommending a risk-limit standard for a repository at Yucca Mountain. The NRC timed publication of its proposal now to ensure NRC has sufficient time, once EPA issues its new standard, to put the new licensing standards in effect. The proposed rule embodies a new approach of risk-informed, performance-based regulation, and is specific to Yucca Mountain. The old rule relied on subsystem performance objectives and a release limit standard. Under the proposed rule, the performance of a Yucca Mountain repository would be evaluated against a health-based standard in consideration of risk to a hypothetical critical group and this standard would be the only quantitative standard for the postclosure performance of the repository. The new rule would require DOE to demonstrate compliance with postclosure technical criteria through performance assessments, and preclosure criteria through an integrated safety analysis. The new approach embodied in the proposed rule would eliminate current part 60 design and siting criteria, as well as quantitative subsystem requirements, but would add specific requirements for the content of performance assessments to ensure their sufficiency and adequacy. In other words, a proposed Yucca Mountain repository would be evaluated as an entire system, not by assessing its individual parts in isolation, in order to determine whether it meets applicable standards to protect public health and safety.

Once the proposal is finalized, the current structure of DOE's technical guidelines, which is premised on a demonstration of system and subsystem technical requirements, will no longer be consistent with, and in some cases may conflict with, the NRC technical requirements to support a license application. For example, several of DOE's technical guidelines require compliance with the siting and design requirements set forth in 10 CFR parts 60.113, 60.122 and 60.133. Those requirements would not exist in proposed part 63 and would not be applicable to Yucca Mountain under proposed amendments to part 60. Those requirements are subsystem performance requirements that are inconsistent with the NRC's new approach of evaluating the technical merits of a potential site based on the performance of the repository system as an integrated whole, and not on the performance of each part independent of the other parts.

A good example of this is the geohydrology guideline at 960.4–2–1. Under this guideline, DOE set qualifying and disqualifying conditions for the geohydrology of a site. The qualifying condition for geohydrology requires a site be capable of compliance with radionuclide release limits set by EPA in 40 CFR part 191, and by NRC in 10 CFR part 60.112, as well as compliance with DOE subsystem performance requirements that mirror NRC requirements in 60.113. At present, there is no applicable release limit set by EPA under 40 CFR part 191, and the NRC's proposed amendments to 10 CFR part 60 would nullify the applicability of 60.113 to Yucca Mountain and create a new part 63 for which there is no analogous release limit or subsystem performance objective for geohydrology. Accordingly, it would be illogical for DOE to reach a finding relative to this qualifying condition, as required by Appendix III, based on regulatory requirements that no longer would be applicable to the Yucca Mountain site and would not support a determination of site suitability for the Yucca Mountain site.

The DOE Guideline 960.4–2–1 also contains a disqualifying condition. Under this condition, DOE would disqualify a site if the pre-waste emplacement ground water travel time from the disturbed zone to the accessible environment is expected to be less than 1,000 years along any pathway of likely and significant radionuclide travel. Under the analogous NRC provision, 60.113, there is a performance objective directing that the pre-waste emplacement ground water travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment must be at least 1,000 years or such other travel time as approved by the NRC. Under NRC's proposed revisions to its regulations, this subsystem performance requirement would no longer apply to a repository at Yucca Mountain under part 60, and it would not exist, nor would there be any requirement similar to it, under new part 63. Accordingly, it would be illogical for DOE to reach a finding relative to this disqualifying condition, as required by Appendix III, based on regulatory requirements that no longer would be applicable to the Yucca Mountain site and would not support a determination of site suitability for the Yucca Mountain site.

Below is a table further illustrating the inconsistencies between the current Guidelines and the proposed part 63. Table 1 provides a cross walk between the technical guidelines to be applied as the criteria under section 113(b), their analog in existing part 60, and their analog, if any, in proposed part 63.

BILLING CODE 6450–01–P

VOL 64 ISS 229 NOV 30 1999 UMI

THE MICROFORM EDITION.

Table 1

Section	Guideline	Condition	10 CFR 60	New 10 CFR 63
4-1(a)	System	Qualifying	60.112	63.113
4-2-1(a)	Geohydrology	Qualifying	60.112/113	63.113/None
4-2-1(d)	• •	Disqualifying	60.113(a)(2)	None
4-2-2(a)	Geochemistry	Qualifying	60.112/113	63.113/None
4-2-3(a)	Rock Characteristics	Qualifying	60.112/113	63.113/None
4-2-4(a)	Climatic Changes	Qualifying	60.112	None
4-2-5(a)	Erosion	Qualifying	60.112	None
4-2-5(d)	• •	Disqualifying	60.122(b)(5)	None
4-2-6(a)	Dissolution	Qualifying	60.112	None
4-2-6(d)	• •	Disqualifying	60.112	None
4-2-7(a)	Tectonics	Qualifying	60.112	None
4-2-7(d)	• •	Disqualifying	60.112	None
4-2-8(a)	Natural Resources	Qualifying	60.122(c)(1)	None
4-2-8(d)(1)	• •	Disqualifying	60.122(c)(1)	None
4-2-8(d)(2)	• •	Disqualifying	60.122(c)(1)	None
4-2-9 (a)	Site Ownership and Control	Qualifying	60.121	63.121
5-1(a)(1)	System	Qualifying	60.111	63.111
5-1(a)(3)	System	Qualifying	None	None
5-2-1(a)	Population Density and Distribution	Qualifying	60.111	63.111
5-2-1(a)(1)	• •	Disqualifying	60.122(6)	None
5-2-1(a)(2)	• •	Disqualifying	60.122(6)	None
5-2-1(a)(3)	• •	Disqualifying	None	None
5-2-2(a)	Site Ownership and Control	Qualifying	60.121	63.121
5-2-3(a)	Meteorology	Qualifying	60.111	63.111
5-2-4(a)	Offsite Installations and Operations	Qualifying	None	None
5-2-4(d)	• •	Disqualifying	None	None
5-2-8(a)	Surface Characteristics	Qualifying	60.122(c)(1)	None
5-2-9(a)	Rock Characteristics	Qualifying	60.133(a)(1)	None
5-2-9(d)	• •	Disqualifying	None	None
5-2-10(a)	Hydrology	Qualifying	60.111	None
5-2-10(d)	• •	Disqualifying	None	None
5-2-11(a)	Tectonics	Qualifying	60.122(b)(1)	None
5-2-11(d)	• •	Disqualifying	None	None

BILLING CODE 6450-01-C

As demonstrated in the above table, in most cases there is no analog between the DOE Guidelines and NRC's proposed part 63. In addition, the Guidelines could not continue to reference and rely on revised part 60, since NRC's proposed revisions to part 60 would make them inapplicable to a repository at Yucca Mountain. Under the circumstances, it would be irrational and difficult, if not impossible, for DOE to apply the Guidelines in their current form.

Under these changed circumstances, DOE must act to propose amendments to its outdated Guidelines and conform its site suitability criteria to the NRC proposed rule for licensing a Yucca Mountain repository.

3. Improvements in Analytical Methods

DOE's proposed changes will also serve to conform the rules for assessing the suitability of a site with the current scientific and technical methods developed and utilized by DOE in its site characterization program. The proposed changes in the regulatory scheme reflect the advances in the scientific and technological understanding of the processes relevant to assessing the long-term performance of a geologic repository. The regulatory revisions proposed by EPA, NRC and DOE, mark a change from generic regulations based on limited information about geologic disposal developed early in the Nation=s quest for sites for geologic disposal, to regulations promulgated specifically for the Yucca Mountain site that reflect over 20 years of data collection and intensive site characterization activities at the Yucca Mountain site. It would be irrational for DOE to ignore these changes, and continue to rely on technical requirements that are not aligned with, and are not supported by, the prevailing scientific knowledge and understanding.

As recognized by the NRC in its proposed part 63, during the more than 15 years since the NRC promulgated its initial technical criteria at 10 CFR part 60 (and DOE promulgated matching technical requirements in 10 CFR part 960), there has been considerable evolution in the capability of technical methods for assessing the performance of a geologic repository at Yucca Mountain. 64 FR 8640–8641. These advances result from both improved computer capability and better analytical methods. Indeed, these changes for the first time enable the vast quantities of data that have been collected through site characterization to all be used in models that more accurately model site performance. NRC stated that these new methods were not envisioned when the part 60 criteria were established, and that their implementation allows for the use of more effective and efficient methods of analysis for evaluating conditions at Yucca Mountain than do the existing NRC generic criteria in part 60. 64 FR 8641. Moreover, NRC believes that implementation of these new analytical methods for evaluating Yucca Mountain will avoid the imposition of unnecessary, ambiguous, or potentially conflicting criteria that could result from the application of some of the generic requirements of 10 CFR part 60. 64 FR 8641.

The evolution in performance assessment methodology formed the basis for DOE's 1996 proposal to amend the Guidelines. In that proposal, DOE explained that only by assessing how specific design concepts will work within the natural system at Yucca Mountain and comparing the results of these assessments to the applicable regulatory standards, can DOE reach a meaningful conclusion regarding the site's suitability for development as a repository. The proposed amendments to the Guidelines would have required a comprehensive evaluation focused on whether a geologic repository at Yucca Mountain would adequately protect the public and the environment from the hazards posed by high-level radioactive waste and spent nuclear fuel (61 FR 66160). DOE explained that recent results in four major areas have advanced the ability to evaluate the Yucca Mountain site, and geologic disposal, to the point that a system approach is now appropriate. These four areas are: (1) Analysis and integration of data collected from surface-based testing and regional studies; (2) examination of the potential repository horizon made possible by the excavation of the Exploratory Studies Facility; (3) the site-specific conceptual design of the engineered facilities; and (4) performance assessment analyses (61 FR 66161).

As with the NRC, DOE recognizes that this improved understanding now allows the reconsideration of general Guidelines that may be unnecessary, ambiguous, or potentially conflicting for Yucca Mountain. Based on the DOE's accumulated knowledge, and significantly enhanced understanding, DOE has determined that a system performance approach provides the most meaningful method for evaluating whether the Yucca Mountain site is suitable for development as a repository. In this revised proposal, DOE expands on its earlier proposal to modify the Guidelines and incorporate performance assessment as the appropriate approach to assess the forecasted performance of a repository, and to serve as the basis for site characterization suitability criteria. This revised proposal provides greater detail, comprehension and transparency of information describing the performance assessment methodology, and how it serves as a foundation for site characterization suitability criteria.

IV. Response to Public Comments on the 1996 Proposal

DOE requested public comments and announced a public hearing on the proposed amendments to the Guidelines in the Notice of Proposed Rulemaking published in the **Federal Register** on December 16, 1996. 61 FR 66157.

DOE received written and oral comments on the proposed amendments to the Guidelines from numerous organizations including Federal, state, and local government agencies; citizen and environmental groups; a nuclear industry group; a Native American group; and from individual citizens. Oral comments were also received during the January 23, 1997, public hearing in Las Vegas, Nevada. DOE received many comments concerned with issues that are not related to the proposed amendments to the Guidelines, such as issues that pertain to activities at the Nevada Test Site, the continued use of nuclear power, the broad powers of the federal government, as well as activities related generally to the civilian radioactive waste program but not at issue in this rulemaking, such as consideration of alternatives to geologic disposal, the Western Shoshone claims to land under the Ruby Valley Treaty, and opposition to or support of geologic disposal and the study of Yucca Mountain. Because these issues lie outside the scope of the proposed amendments to the Guidelines, they are not addressed in this notice. DOE notes that many of the comments received, especially from individuals, expressed a strong opposition to the selection of Yucca Mountain as the only site to be characterized. As explained in section II above, in the 1987 amendments to the NWPA, Congress limited DOE to characterizing only the site at Yucca Mountain. The wisdom of that decision is not the subject of this rulemaking proceeding.

The following discussion summarizes the issues emerging from the comments that bear on DOE's current proposal, and DOE's response to those comments. All issues and comments on the 1996 proposal may not be addressed here in light of DOE's decision in this notice to revise the 1996 proposal and provide a

full public comment period on the revised proposal.

A. Legal Authority.

Several commenters, including the State of Nevada, stated that DOE's proposal to amend the Guidelines is contrary to section 112(a) of the Act and cited the following three decisions by the U.S. Court of Appeals for the Ninth Circuit as support for this view: Nevada versus Watkins, 914 F.2d 1545 (9th Cir. 1990) (Watkins I), Nevada versus Watkins, 939 F.2d 710 (9th Cir. 1991) (Watkins II), and Nevada versus Watkins, 943 F.2d 1080 (9th Cir. 1991) (Watkins III). Specifically, the Attorney General of Nevada stated at the public hearing that section 112(a) of the Act and the Watkins I and II decisions stand for the proposition that the Guidelines were to be used to determine the suitability of the site, and at the time of a suitability determination the validity of the current Guidelines would be subject to review by the Court.

DOE recognizes that it did not set forth in the 1996 Notice of Proposed Rulemaking a full legal analysis of the statutory basis for the proposed rule, nor did DOE address the rulings of the 9th Circuit Court of Appeals in the three "Watkins" decisions cited by the State. In this notice, DOE has included an extensive discussion entitled "Legal Authority and the Necessity to Amend the Guidelines and Criteria" in order to more fully explain to the public DOE's interpretation of the pertinent sections of the NWPA and why DOE believes that it not only may but must amend the Guidelines and promulgate a new part 963. While DOE believes that the "Watkins" rulings are instructive in interpreting various provisions of the NWPA, DOE does not believe that these rulings support the contention that DOE may not amend the Guidelines, or that the criteria used for the suitability determination under section 113 must be identical to the conditions in the Guidelines that are used for site selection under section 112.

B. Relationship between DOE suitability determination and NRC licensing requirements.

Nye County expressed the view that due to funding cuts DOE was attempting to cut corners and accelerate the process toward licensing. Nye County was concerned that this would mask what it views as the distinction between site suitability and NRC licensing. Several individual commenters stated that DOE appeared to be: (1) Dropping the NRC licensing requirements for Yucca Mountain; (2) lowering the licensing requirements; or (3) deleting some of the NRC requirements.

The following responds to the Nye County comments. First, although DOE suffered funding shortages in 1996, funding shortages were not the reason for the decision to propose amendments to the Guidelines in 1996. DOE stated the reasons for the 1996 proposal in the **Federal Register** notice announcing the proposal, and included DOE's intent to focus and clarify the site suitability evaluation of the Yucca Mountain site to reflect anticipated regulatory changes and the most current scientific and technical methods for assessing the expected performance of a geologic repository at Yucca Mountain.

Second, the 1996 proposed amendments to the Guidelines, as well as those proposed in this notice, are not an attempt to accelerate the licensing process, or otherwise mask the distinction between site suitability and licensing. Rather, they are an attempt to carry out the site characterization program for its intended purpose, that is, to determine if the site is suitable and potentially licensable. The site suitability criteria developed by DOE within the context of the site characterization program, and proposed here as new rule 963, are closely linked to the determination of the site's potential licensability, as they must be. DOE must conduct its site characterization process in accordance with section 113(c) of the NWPA, which provides that DOE may conduct only such site characterization activities as DOE considers necessary to provide the data required for evaluation of the suitability of such site for an application to be submitted to the NRC for a construction authorization (often referred to as a "license") at such site, and for compliance with NEPA. 42 U.S.C. 10133(c). Therefore, DOE is required to base its site characterization activities on NRC licensing requirements and the environmental impact statement to be conducted under NEPA.

While today's proposal relies, in part, on newly proposed NRC licensing requirements, it is completely consistent with the letter and the purpose of the NWPA. Although DOE is utilizing NRC's proposal to develop DOE's own proposal, DOE is not attempting to accelerate the licensing process. DOE must first complete all the steps in section 113 and section 114(a)(1) of the NWPA before making a recommendation to the President, and receive presidential and congressional approval before submitting an application for a construction authorization to the NRC. Then, DOE would have to participate in the licensing process outlined by NRC in its regulations. DOE, as a potential licensee subject to NRC regulation, has no authority to accelerate the licensing process; only NRC is authorized to do that.

The following responds to concerns raised by other commenters that DOE's proposal to change to part 960 is an attempt to eliminate or degrade NRC licensing requirements. That was not DOE's intent in the 1996 proposal, nor in today's proposal. To the contrary, DOE's proposed amendments to the Guidelines and new part 963 are designed to better align DOE's suitability criteria with newly proposed NRC licensing requirements. The NRC's recent proposed amendments to 10 CFR part 60 and proposed new part 63 are based on its own legal responsibilities and technical judgment. DOE has no authority to amend NRC requirements. DOE's objective in promulgating a new part 963 is to conform to, rather than deviate from, NRC requirements so that DOE can determine whether NRC is likely to approve an application from DOE for a construction authorization for a repository at Yucca Mountain.

C. The rules should not be changed to fit the site.

Some commenters stated their belief that Yucca Mountain would be disqualified under the existing Guidelines and therefore DOE is attempting to change the rules to fit the site.

DOE is not proposing to amend part 960 and adopt a new part 963 because it believes Yucca Mountain cannot satisfy the conditions in the current Guidelines. Rather, this proposal is intended to implement the statutory mandate in section 113 in a rational manner, consistent with the current regulatory framework and technical basis for assessing the performance of a geologic repository as an integrated system. DOE is convinced that the transition to a system performance approach will not result in a lower level of protection of public health and safety. DOE's reasons for proposing amendments to the Guidelines in 1996 were provided in the notice announcing that proposal. In this notice, DOE provides an extensive discussion of the basis and reasons for its revised proposal to amend part 960 and add new part 963.

Notwithstanding these explanations, DOE recognizes that many commenters believe that DOE is changing the Guidelines because of the fear that those requirements cannot be met. In particular, several commenters stated

their belief that the site could not meet the ground-water travel time disqualifying condition in the Guidelines (§ 960.4–2–1(d)).

DOE has not reached a conclusion on this issue. The disqualifying condition at § 960.4–2–1(d) requires disqualification if DOE determines that the pre-waste emplacement ground-water travel time is expected to be less than 1,000 years along any pathway of likely and significant radionuclide travel. Calculations performed in 1998 as part of the total system performance assessment for the Viability Assessment indicate that the average ground-water travel time is greater than 1,000 years. Based on investigations and calculations to date, DOE has not determined whether the ground-water travel time along any pathway of likely and significant radionuclide travel is less than 1,000 years. DOE continues to investigate and conduct research on ground-water travel time at Yucca Mountain to reduce uncertainties, to the extent possible, and to gain confidence in its calculations. In the meantime, DOE believes that there is no basis at this time to find that this disqualifying condition exists at Yucca Mountain.

In addition, under NRC's proposed changes to its licensing criteria and requirements for high-level waste repositories, the analogous provision to 960.4–2–1 in existing 10 CFR part 60 would no longer be applicable to a geologic repository at Yucca Mountain, and new 10 CFR part 63 would not contain such a condition, or any condition similar to it. As previously explained in section III.B.2. of this Supplementary Information, it would be illogical—and questionable in view of the characterization restrictions contained in section 113(a)(1) of the NWPA—for DOE to apply the Guidelines as currently written, including this particular guideline, in light of these proposed regulatory changes by the NRC.

D. Any amendments to the Guidelines should continue to address all the pre- and post-closure factors, as well as the qualifiers and disqualifiers.

Several commenters requested that DOE leave the Guidelines virtually intact and apply all of the pre-or post-closure guidelines. Some suggested that DOE only amend those specific guidelines that need to be amended. Some commenters were concerned that by eliminating certain individual guidelines and the qualifiers and disqualifiers, DOE was trying to ensure that Yucca Mountain would be found suitable for a repository even if it is an inadequate site.

As explained in previous sections of this Supplementary Information, DOE is proposing revisions to the Guidelines that are permissible under the NWPA, and that are intended to conform the Guidelines to anticipated changes in EPA and NRC regulations, and to the current state of scientific understanding of how to assess the suitability of a repository at Yucca Mountain. Nevertheless, in response to the comments about maintaining the pre- and post-closure factors in the Guidelines, DOE has structured the proposed suitability criteria to make transparent what characteristics and traits of a geologic repository at Yucca Mountain are most important to determining the suitability of the site during the preclosure and postclosure periods. The suitability criteria address and reflect the geologic considerations identified in section 112(a) that are relevant to and informed by site characterization activities. Siting considerations that are not addressed in the suitability criteria developed under section 113 (that is, as part of the site characterization program) would be addressed elsewhere by the Secretary when deciding whether to recommend the site to the President under section 114 of the NWPA. For example, environmental, transportation, and socioeconomic impacts would be considered in the EIS; the technical feasibility of constructing, operating, and closing a repository at the site would be included in the design work required for recommending the site. In sum, the considerations listed in section 112(a) of the NWPA and in the current Guidelines that are not addressed in either the preclosure or postclosure site suitability criteria proposed in part 963 would be addressed during the section 114 site recommendation process.

With respect to qualifying and disqualifying conditions, DOE believes that it is not reasonable or necessary to maintain these conditions in a proposed new rule. DOE proposes eliminating individual disqualifiers, since maintaining them would mask how the system as an integrated whole would function, and would be inconsistent with the NRC proposal. The only appropriate disqualifier is the applicable public health and safety standard.

As explained previously, the prevailing scientific view is that the most appropriate method for evaluating whether a site is suitable for a repository is through TSPAs. Under the proposed 10 CFR part 963, DOE would use the total system performance assessment method to evaluate whether a repository at the Yucca Mountain site is likely to meet applicable NRC regulations, and thus is suitable for development of a repository.

In response to the 1996 proposal, several commenters expressed the common view that use of TSPA is appropriate and the Guidelines should be revised to match current technical understandings. For example, the NWTRB commented that the proposal's linking of suitability directly and unambiguously to overall system performance is a sounder approach than the approach in the original Guidelines. Also, the U.S. Department of the Interior (DOI) commented that the original guidelines are a relic of the early 1980s and now impose an unnecessary burden on the program. DOI observed that it makes little sense to comply with existing Guidelines based on EPA and NRC regulations that no longer apply to Yucca Mountain.

E. DOE rationale for changing its position on the need to revise the Guidelines.

In 1994, DOE issued a **Federal Register** notice stating that it had decided not to revise the Guidelines (59 FR 39766), despite the 1987 amendments to the NWPA. In a 1995 **Federal Register** notice, following continued public dialogue on this issue, DOE provided its rationale for not revising the Guidelines "at this time." 60 FR 47737. Ignoring the qualifying phrase "at this time," some commenters argued that by issuing the 1996 Notice of Proposed Rulemaking, DOE reversed its position from the 1994 and 1995 notices without a credible and persuasive explanation.

DOE has reassessed its 1994 and 1995 positions and has determined that now is the proper time to amend the Guidelines. DOE believes that events have transpired since the 1994 and 1995 notices were published and the 1996 amendments proposed, in particular NRC's proposed changes to its licensing regulations, that present DOE with a situation in which the most responsible and appropriate action is for DOE to amend the Guidelines. The nature of those amendments and the reasons for DOE's proposal to amend are provided in this notice. The public will be provided a full and fair opportunity to comment on DOE's proposal, and DOE will respond to those comments.

F. Public participation process.

The NWTRB suggested that DOE formally connect its site suitability determination to a public process for making the decision on whether to recommend to the President that Yucca Mountain be developed as a repository.

Such a process is provided for in section 114(a) of the NWPA. Before recommending the site for development as a repository, DOE must hold public hearings in the vicinity of the Yucca Mountain site to inform residents of the area and to receive their comments regarding the possible site recommendation. The preliminary suitability evaluation conducted under this proposed part 963 would be part of the information provided for public comment. In addition to these subsection 114(a) consideration hearings, the public will have opportunities to comment on the DOE's analyses of the potential impacts of developing a repository at the Yucca Mountain site during the repository EIS process.

Further, the site recommendation must be accompanied by a comprehensive statement of DOE's basis for the recommendation that will include the final EIS and the views and comments of the Governor and legislature of any State, or the governing body of any Indian tribe, together with the Secretary's response to those views. This comprehensive statement must be made available to the public, as well as submitted to the President. As further required by section 114 of the Act, the Secretary will notify the Governor and legislature of the State of Nevada of a decision to recommend the site at least 30 days before submitting a recommendation to the President.

G. Clarification of, and suggested modifications to, the performance assessment methodology.

A number of commenters asked for clarification or further explanation of the method and process for implementing the proposed total system performance assessment approach. The EPA and the NWTRB noted that a comprehensive explanation of TSPA would provide transparency and verifiability to DOE's evaluation process.

DOE has decided not to finalize the proposed Subpart E of the Guidelines but, instead, to propose a new part 963 that provides the level of detail, transparency and verifiability requested by the commenters. In this preamble, in particular sections II.G and VI, DOE provides a more comprehensive explanation of the background and evolution of the TSPA methodology and approach, and a description of how this methodology will be implemented in the postclosure suitability evaluation, than was provided for proposed Subpart E. In addition, DOE has structured the 963 rule itself to contain more specific requirements than those enunciated in proposed Subpart E as to how and what must be evaluated in the TSPA analysis of postclosure suitability. For example, section 963.16 would require that DOE determine postclosure suitability based on TSPA analyses of repository performance in cases with and without a stylized human intrusion event. That section also enumerates certain required elements of those analyses, such as, inclusion of data related to the suitability criteria specified in 963.17, an accounting of uncertainties and variabilities in parameter values, identification of the natural and engineered barriers important to waste isolation, demonstration of the technical bases for the models used in the TSPA, and the conduct of appropriate sensitivity analyses. Moreover, DOE's proposed method and process for implementing the TSPA approach in part 963 is consistent with the TSPA concepts and requirements proposed by the NRC in section 63.102 and 63.114, as well as the implementation requirements proposed by EPA in proposed 40 CFR 197.13. DOE believes that conducting the TSPA analysis in the manner prescribed by the requirements of proposed 963 are responsive to public comments on the TSPA approach, and will provide a level of transparency and verifiability comparable to that proposed by the regulatory requirements of NRC and EPA.

Role of Natural and Engineered Barriers. Some commenters suggested that the proposed approach should include explicit requirements for performance of the natural and engineered barriers. The EPA recommended that the site suitability evaluation approach should distinguish contributions of site features to performance for extended periods of time and should make the role of natural barriers in containing waste clear to the public. The NWTRB also commented that the DOE should assess the relative roles of natural and engineered barriers and their interactions, but noted that specific requirements for individual components of the system could be arbitrary and unworkable.

DOE has responded to this comment by providing the specifications for how it will conduct a TSPA in support of determining site suitability. The relative contribution of the natural and engineered barriers to the waste containment and their interaction will be demonstrated through the conduct of the TSPA. Through the TSPA, the requirements of which are contained in proposed part 963, DOE can examine the contributions of site features important to performance and the relative roles of the natural and engineered barriers. For example, by conducting sensitivity analyses, DOE can examine a specific feature, whether natural or engineered, and thereby determine its relative impact on the performance of the total repository system.

Robust Compliance. The NWTRB suggested that, in responding to comments that the proposed amendments "change the rules in the middle of the game," DOE should modify the amendments to strengthen confidence in the technical validity of the overall system performance assessment. The NWTRB submitted that the TSPA should not only show that the repository system complies with a standard, but does so "robustly." The NWTRB suggested three indicators of robust compliance: (1) Address uncertainties fully and accurately; (2) describe the results of sensitivity studies; and (3) specify a margin of safety, *i.e.*, require performance in excess of applicable radiation protection standards.

In conducting and documenting the TSPA under the proposed rule, DOE would identify the processes used to carry out the performance assessment, state the assumptions used in the assessments, address all uncertainties fully and accurately, and describe the results of sensitivity studies. By so doing, DOE would address two of the three indicators the NWTRB identified for showing robust compliance.

The NWTRB's third indication of robust compliance would be for DOE to require performance in excess of applicable standards. The EPA is required to establish radiological protection standards that are adequately protective of public health and safety. DOE believes that compliance with the required applicable standards, as described in this proposed rule, is a sufficient basis for evaluating the Yucca Mountain site's suitability for development. However, DOE would indicate, in its underlying technical documentation, by what margin the expected performance of the repository exceeds the applicable radiation protection standards.

Specific Level of Confidence. The NWTRB also suggested that DOE should modify the amendments to strengthen confidence in the technical validity of the overall system performance assessment. The NWTRB suggested that DOE specify the level of confidence that must be reached in its performance calculation before it is prepared to make a positive site suitability determination.

In the proposed rule, DOE is defining the criteria that would be considered in conducting the overall total system performance assessment. In this way, DOE believes that overall confidence in the calculation will be increased because the key building blocks (criteria) of the TSPA would each be identified and considered.

Moreover, while DOE appreciates the importance of the NWTRB comment that there should be a level of confidence in the performance calculation, DOE does not believe it is appropriate or most effective to address that comment by specifying or quantifying a level of confidence as part of the proposed rule. The reasons not to quantify the level of confidence in the rule are threefold. First, at this time, there is no universally accepted or standard technical basis for DOE to rely upon to quantify that level of confidence for inclusion in the proposed rule for a first of its kind facility for spent fuel and high-level waste; to adopt such a quantitative standard could inappropriately constrain the Secretary's determination of site suitability. Second, through the TSPA described in the proposed rule, DOE will generate, and the public will have access to, information about the probabilistic distribution of values around the expected value in order to assess the level of confidence in the performance calculation. Finally, in its proposed regulations at part 63 (which serve as the model for the TSPA method described in this proposed rule), the NRC does not specify or require a quantitative level of confidence to be shown in order to determine whether the Yucca Mountain site would meet applicable radiation protection standards. Taken together, these reasons suggest the better course is for DOE to not quantify the level of confidence for the performance calculation, but to utilize other mechanisms, such as defining the criteria that would be considered, to strengthen confidence in the technical completeness and validity of the performance calculation.

Defense-in-Depth. Another specific NWTRB comment was that DOE should demonstrate in its performance assessment how the repository system preserves the principle of defense-in-depth using multiple barriers.

In response, DOE believes that the issue of defense-in-depth will be addressed by the NRC's proposed requirements for using multiple barriers for the repository. Those requirements include descriptions of site characteristics and design components, process and performance assessment model analyses, and sensitivity studies. However, DOE does not believe that it is appropriate for part 963 to articulate an explicit defense-in-depth strategy nor to require significant redundancy in repository design. The DOE rejected this approach in 1984 when the general Guidelines were promulgated (49 FR 47721) in choosing not to set numerical limits on individual site characteristics. The NRC, in its proposed part 63, also has rejected explicit, subsystem performance requirements as a means to demonstrate defense-in-depth.

H. Data requirements for performance assessment.

Two commenters expressed concern that, if DOE issues amended Guidelines prior to the EPA's promulgation of radiological standards specific to Yucca Mountain, the DOE may not have a full understanding of the health and safety standards, may need additional data collection and analysis, and may need to alter the Guidelines again after the EPA standards are issued. The EPA also commented that the new standards may warrant gathering different or additional data to provide the basis for compliance with the standards.

DOE responds to these comments by including in the proposed part 963 criteria that must be considered in a TSPA that are important to assessing the ability of a repository at the Yucca Mountain site to meet applicable NRC standards for the preclosure and postclosure periods, which will implement applicable EPA public health and safety standards. DOE believes that the criteria in proposed part 963 are related sufficiently to the data and analytical needs to address the proposed EPA standard as to warrant proposing it at this time. In addition, NRC's proposed part 63 is based on a dose standard, and includes data and analytical requirements necessary to meet that standard. DOE has structured the proposed part 963 based on NRC's proposed Part 63 and consistent with EPA's proposed 40 CFR part 197. Therefore, DOE believes that part 963 could be implemented without substantial revision.

In a similar vein, a variety of commenters questioned the state of DOE's understanding of the site and the potential repository system at Yucca Mountain. Some commenters indicated that the DOE does not yet know enough about the site to make the proposed changes to the Guidelines, others questioned whether the DOE would know enough at the planned time for a site recommendation, and others contended that the DOE could never know enough to apply a total system performance assessment approach to a suitability evaluation.

In response, DOE notes that, although it is advantageous to limit uncertainties and strive to gain as much data and scientific understanding as practicable, the prevailing scientific view is that certainty, in the normal sense of that word, is not possible to achieve with respect to assessing the postclosure performance of a geologic repository intended to last for tens of thousands of years. The NRC's existing regulations at part 60 and proposed regulations at part 63 require "reasonable assurance" that the public and environment will be adequately protected from the radiation hazards posed by a repository. That standard reflects that there are inherent uncertainties in understanding the evolution of the geologic setting, the reference biosphere, and an engineered barrier system. Performance assessments are necessarily probabilistic; they can only analyze future repository performance in terms of the probabilities of different events and results.

Equally important, EPA recognizes the inherent uncertainty in this process in its proposed public health and safety standards. EPA would have the NRC implement the public health standard based on "reasonable expectation." According to EPA, reasonable expectation "means that the Commission is satisfied that compliance will be achieved based upon the full record before it. Reasonable expectation (a) requires less than absolute proof because absolute proof is impossible to attain for disposal due to the uncertainty of projecting long-term performance; (b) is less stringent than the reasonable assurance concept that NRC uses to license nuclear power plants; (c) takes into account the inherently greater uncertainties in making long-term projections of the performance of the Yucca Mountain disposal system; (d) does not exclude important parameters from assessments and analyses simply because they are difficult to precisely quantify to a high degree of confidence; and (e) focuses performance assessments and analyses upon the full range of defensible and reasonable parameter distributions rather than only upon extreme physical situations and parameter values."

I. The ability to understand results of total systems performance assessment.

The NWTRB commented that the performance assessment should be carried out in a manner that is highly transparent to the technical community, regulators, and interested members of the general public. Some commenters

stated that total system performance assessment would not likely be easily understood. Other commenters asserted that the approach in the 1996 proposed rule would be misleading or mask uncertainties and, therefore, not recognize potentially insufficient waste isolation capabilities of the site.

DOE has developed proposed part 963 taking into account these considerations. Proposed part 963 includes specific site suitability criteria and a description of the evaluation method to ensure the public is informed of how and what DOE will consider in reaching a suitability evaluation for completion of site characterization. DOE will conduct performance assessments in a manner that is transparent, valid and verifiable. In other words, these assessments will be clear, logical, technically defensible and adequately documented. A transparent system performance assessment will be clear not only to the technical analysts, but also to readers who are familiar with the particular aspects of the assessment, such as the fundamental scientific and engineering principles, numerical analytical methods, or regulatory implications.

In addition, DOE is currently using several methods to increase the traceability of these analyses. Analyses are traceable to the extent that a complete and unambiguous record exists of decisions and assumptions, and of models and data, and their use in arriving at the results of the analyses. These methods include abstraction workshops to ensure the completeness of models and approaches used in performance assessment, detailed documentation of each model, formal expert elicitations, and a participatory external peer review of the development, documentation, and results of the performance assessment for the Viability Assessment. The results of this peer review will be considered, as will be the comments of all oversight groups, to assist DOE's development of a TSPA for a possible site recommendation and subsequent license application. These actions should enhance confidence in the analyses and help communicate the complexities of predicting system behavior to a wide range of audiences.

A related concern is that system analyses could dilute or somehow mask the importance of specific, independent technical characteristics. On the contrary, it is the system analyses that assess the significance of any independent technical characteristic. The Yucca Mountain total system performance assessment is not a single computer model or analysis, but the integrated result of several discrete process models, each of which in turn is supported by a group of more detailed data sets, models, and analyses. The total system performance assessment method permits evaluation of how certain individual characteristics, either alone or in combination, could cause the site to fail to meet the applicable standards, and how such failures are related to the performance of the total system. By not placing reliance on any single component of the system, the total system performance assessment method supports a multiple barriers approach, as required by NRC licensing regulations in order to provide reasonable assurance that the repository system will perform adequately.

J. The relation of DOE and NRC requirements.

The NRC commented that its regulations have a broader role than just to implement the EPA standards. They contain the technical criteria and requirements for licensing a geologic repository, as provided by subsection 121(b) of the NWPA. The NRC recommended that the DOE proposed postclosure guideline be changed to reflect that broader role and proposed that it be revised to read, " * * * repository shall perform in accordance with both the EPA standards established specifically for the Yucca Mountain site and NRC's regulations applicable to the Yucca Mountain site."

DOE understands that the applicable NRC regulations containing the technical requirements and criteria for construction, operation, and closure of a geologic repository, as provided for by section 121 of the NWPA, will have a broader role regarding Yucca Mountain than just to implement the EPA standards for the Yucca Mountain site. The NRC regulations will govern the licensing process if the Yucca Mountain site is recommended by the Secretary to the President, approved by the President, and is designated by Congress under section 115 of the Act.

The use of the phrase "likely to meet applicable radiation protection standard" in the proposed part 963 is meant to clarify the role of NRC and EPA regulations in evaluating suitability and reaching a suitability determination. DOE would refer to applicable health and safety standards, both those promulgated by EPA and NRC, in determining site suitability in the preclosure and postclosure periods. In recognition of NRC's broader role in the licensing process, and in anticipation of submitting an application for a license, DOE has structured its rule regarding the methods and procedure for evaluating suitability to be consistent with proposed NRC licensing criteria and requirements.

Notwithstanding these similarities in DOE's and NRC's proposed rules, DOE's determination of suitability is not the equivalent of a licensing decision. DOE's assessment of whether the Yucca Mountain site is suitable is a more preliminary assessment than the subsequent NRC licensing decision. Proposed part 963 would include many but not all NRC licensing requirements in the suitability determination; the intent is to provide the Secretary with sufficient information to determine whether the site should be recommended to the President based on, among other things, the likelihood the site would meet applicable regulatory standards for licensing.

K. Definition of closure.

Nye County, Nevada, suggested that the language of the general guidelines should allow for the possibility of having an open, naturally ventilated repository, to ensure that regulatory flexibility exists if such a design provides for greater protection of the public's health and safety and the environment. The County proposed that the definition of "closure" at § 960.2 be amended to eliminate reference to the "sealing of shafts" and add an explicit reference to "any extended period of natural ventilation."

DOE agrees that, during the design process, it would be appropriate to consider the potential benefits and consequences of maintaining a ventilated repository for an extended period of time. Any decision of whether and how to continue ventilation of the repository will consider the costs and benefits of that option, in light of the information available at that time. In response to this comment, DOE has modified the prior definition of "closure" by proposing in § 963.2 a definition including the phrase "except those openings that may be designed for ventilation or monitoring" to ensure that the option of a ventilated repository is not foreclosed.

V. Description of Proposal—10 CFR Part 960

A. Subpart A—General Provisions

This section of the Guidelines contains the statement of applicability and definitions. The proposed revisions to section 960.1, Applicability, would limit the application of the Guidelines to evaluations of the suitability of sites for site characterization under section 112(b) of the NWPA. The revisions

would eliminate the applicability of the Guidelines to determinations of suitability of a site at the site characterization stage under section 113, or the site recommendation stage under section 114. These revisions would clarify the applicability of the Guidelines to the preliminary site screening stage, which entails a comparative analysis process, and thereby better align the application of the Guidelines with the structure of the NWPA, as originally enacted and as amended in 1987. The revisions to the third and fourth sentences would update the reference to other regulatory requirements of the NRC and EPA, in light of the current status of applicable NRC and EPA regulations relative to high-level waste geologic repositories. The fifth through seventh sentences would remain unchanged.

The proposed revisions to the definitions section would make the terms consistent with the NWPA and with the other proposed revisions to the Guidelines limiting applicability of subparts B, C, and D of the Guidelines to determinations of site suitability for site characterization under section 112 of the NWPA.

B. Subpart B—Implementation Guidelines

The proposed revisions to the Implementation Guidelines would limit the procedures and basis for application of the postclosure and preclosure guidelines of subparts C and D, respectively, to evaluations of the suitability of sites for site characterization.

Section 960.3, Implementation Guidelines, would be revised to eliminate the sentences in that section setting forth the procedures and basis for application of subparts C and D in evaluations and determinations of the suitability of a site under section 113 and section 114 of the NWPA. These revisions would remove section 960.3–1–4–4, Site Recommendation for Repository Development, in its entirety. That section pertains to the procedure and evidence required to make a site recommendation decision under section 113 and 114. Those decisions would not be governed by the Guidelines, and therefore reference to them would be removed. Section 960.3–1–5, Basis for Site Evaluation, would be revised to eliminate all references to Appendix III and the application of the requirements of that section in making suitability determinations at the site characterization or site recommendation stages. Only the last sentence of section 960.3–2, Siting Process, would be revised. This revision would limit the applicability of the siting process to the recommendation of sites for site characterization. Section 960.3–2–4, Recommendation of Sites For the Development of Repositories, would be removed in its entirety. That section pertains to the comparison of characterized sites, leading to a recommendation by the Secretary to the President of a site for development as a repository. The proposed revisions would eliminate that decision process from evaluation under the Guidelines, and the section in its entirety would be removed.

C. Appendix III

The proposed revisions to Appendix III would remove and eliminate the applicability of this Appendix to decisions for repository site selection and siting decisions. The qualifying and disqualifying conditions of the technical guidelines in subparts C and D would apply only to the decision point for selecting sites for site characterization. All references to the site selection and site recommendation decisions under sections 113 and 114 would be removed, including the tabular column in Appendix III referencing the repository site selection siting decision.

With respect to the guidelines listed in Appendix III that apply to environmental quality, socioeconomics and transportation considerations, DOE considered whether to propose continuing to require their applicability to a Yucca Mountain site recommendation under section 114 of the NWPA. DOE decided not to do so because the issues addressed by these guidelines will be covered in the environmental impact statement for the Yucca Mountain site, and section 114(a)(1)(D) requires that the final environmental impact statement be part of the comprehensive statement of the basis for a site recommendation to the President. 42 U.S.C. 10134(a)(1)(D). Members of the public concerned about the analysis of environmental quality, socioeconomics and transportation issues will have ample opportunity to comment on these issues as part of the public review and comment process on the draft environmental impact statement and in additional public hearings required by section 114. In sum, DOE is of the view that the environmental quality, socioeconomics and transportation guideline requirements are substantially and unnecessarily duplicative of requirements under the procedures for developing an environmental impact statement and for formulating and informing a site recommendation under section 114.

VI. Description of Proposal—10 CFR Part 963

The purpose of this part of the Supplementary Information is to explain the meaning and basis for those provisions of proposed part 963 that are not self-explanatory. The following is a section by section analysis of the proposed rule, and the accompanying explanation.

A. Subpart A—General Provisions

Subpart A comprises two parts, the statement of Purpose, section 963.1, and Definitions, section 963.2.

(a) Purpose—section 963.1. The purpose of the proposed rule is as stated in this section: to establish the methods and criteria for determining the suitability of the Yucca Mountain site for the location of a geologic repository in completing DOE's site characterization program activities to be conducted under section 113(b) of the NWPA. The suitability evaluation methods to be used by DOE are consistent with the methods proposed by the NRC for assessing the potential of a geologic repository at the Yucca Mountain site to meet licensing criteria and requirements. The suitability criteria relate to the geologic considerations identified in section 112(a) as they reflect current scientific understanding and regulatory expectations (both NRC and EPA) regarding the performance and safety of a geologic repository during the preclosure and postclosure periods of operation. Because the suitability criteria are part of the site characterization program, these criteria relate to site characterization activities. Site characterization activities relate to scientific and technical investigations of the site to determine its natural properties and features, for example, studying the geohydrology and geochemistry of the site, as distinct from consideration of other features, such as cost, socioeconomics and transportation of waste to the repository. An explanation of how the suitability criteria were derived is provided below.

The proposed rule does not address the site recommendation process in its entirety. Other information required under section 114 of the NWPA that must be considered and submitted to the President and made available to the public if the site is recommended for development as a geologic repository is not addressed by the proposed rule. Regarding any repository site recommendation the Secretary of Energy shall make available to the public, and submit to the President, a comprehensive statement of the basis of

such recommendation, including the following: (a) A description of the proposed repository, including preliminary engineering specifications for the facility; (b) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between the waste form or packaging and the geologic medium of the site; (c) a discussion of data, obtained in site characterization activities, relating to the safety of such site; (d) a final environmental impact statement prepared for the Yucca Mountain site; (e) the preliminary comments of the NRC concerning the extent to which the at-depth site characterization analysis and the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository; (f) the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views; (g) such other information as the Secretary considers appropriate; and (h) any impact report submitted under section 116(c)(2)(B) of the NWPA [42 U.S.C. 10136(c)(2)(B)] by the State of Nevada.

(b) Definitions—section 963.2. The proposed rule includes definitions of certain words and terms. The definitions clarify DOE's intent and meaning in the context of this rule. The definitions are also intended to make the terms consistent with proposed NRC regulation governing the construction and licensing of a repository at the Yucca Mountain site. Several of the terms are important to understanding the suitability evaluation process, and are addressed here.

Criteria are those characterizing traits that are relevant to assessing the performance of a geologic repository at the Yucca Mountain site. The criteria relate to the geologic considerations identified in section 112(a) of the NWPA that are relevant to the assessment of the performance of a geologic repository at the Yucca Mountain site. The geologic repository includes the natural barriers of the geologic setting and the engineered barriers of the repository design. The suitability criteria of the proposed rule are specific characterizing traits of the Yucca Mountain site that, through the site characterization process, DOE has identified as important indicators of the performance of the total repository system (that is, the integrated natural and engineered barrier systems).

Consistent with varying definitions in standard dictionaries, DOE considered narrowly defining the term "criteria" as benchmark, pass-fail standards rather than more broadly as "characterizing traits." DOE decided not to adopt the more narrow definition for four reasons. First, in section 112(a) of the NWPA, the term "primary criteria" is used synonymously with the term "detailed geologic considerations," a term that does not necessarily imply any benchmark. Second, as used in context in section 113 of the NWPA, the term "criteria" appears to refer to the considerations for evaluating whether a repository in a particular geologic medium is likely to meet applicable NRC standards, thus indicating that the site suitability criteria and the NRC standards are not one and the same. Third, section 121 of the NWPA (which addresses NRC's regulatory responsibilities) distinguishes between "criteria" and "standards," a distinction which implies that "criteria" are not necessarily benchmark standards themselves. Finally, although some are inclined to define the term "criteria" narrowly, that inclination is not universal. For example, in 10 CFR part 50, the NRC sets forth quality assurance "criteria" that are in the nature of considerations, rather than benchmark, pass-fail standards.

The performance of the total system is evaluated using a computer modeling tool called total system performance assessment. Total system performance assessment identifies the features, events and processes that might affect the performance of a repository, as well as the probabilities and significance of occurrence. Total system performance assessment examines the effects of those features, events and processes on that performance by estimating the expected annual dose to the receptor as a result of releases from the repository.

For the preclosure period, suitability would be evaluated through a preclosure safety evaluation method. The preclosure safety evaluation would consider site characteristics and preliminary engineering specifications to assess the adequacy of the repository facilities to perform their intended functions and to mitigate the effects of design basis events, or credible accidents that could affect the ability of the geologic repository to operate safely. Design basis events are categorized in two ways: (1) those events, both natural and human-induced, that are expected to occur one or more times before permanent closure; or (2) those events, both natural and human-induced, that have at least one chance in 10,000 of occurring before permanent closure. The preclosure safety evaluation would assess the ability of the geologic repository to meet the applicable radiation protection standard for the preclosure period under both categories of design basis events.

DOE's evaluation of the suitability of a geologic repository at the Yucca Mountain site would be based on consideration of a preliminary design for the geologic repository. The design is the description of the potential geologic repository, which includes multiple barriers to the release and transport of radionuclides. These multiple barriers consist of both the natural barriers and an engineered barrier system. The geologic repository includes not only the facilities and areas where radioactive wastes are handled, but also that portion of the geologic setting that provides isolation of the radioactive wastes. As used in the proposed rule, and in NRC's proposed part 63, isolation means inhibiting the movement of radioactive material from the repository to the location where the receptor resides, so that radiation exposures will be less than the radiation dose limits prescribed in NRC's proposed regulation.

B. Subpart B—Site Suitability Determination, Methods and Criteria

(a) Scope—section 963.10. The scope of subpart B includes, for both the preclosure and postclosure periods, the basis for DOE's suitability determination for the Yucca Mountain site. There are separate sections of the proposed rule for the preclosure and postclosure time periods. The scope of these sections also includes the site suitability criteria to be applied in accordance with section 113(b) of the NWPA, the methods for applying the criteria and evaluating suitability, and the basis for the resulting suitability determination.

The proposed rule is divided into two sections corresponding to the preclosure and postclosure periods, and within each period, three subsections. The subsections present for each period: (1) the suitability determination; (2) the suitability evaluation method; and (3) the criteria to be used for the evaluation. The purpose of separating the preclosure and the postclosure periods is to make clear the differences in determining the suitability of a geologic repository during these two periods. This separation is consistent with the current structure of the Guidelines, and the structure of the current and proposed new NRC licensing regulations, which have separate performance objectives for the preclosure and the postclosure periods.

The preclosure method and criteria govern the suitability considerations that deal with the operation of the repository before it is closed, while waste is being received, stored and emplaced, and allow for the possibility of retrieval. These are the considerations important in protecting the public and repository workers from exposures to radiation during repository operations, especially if an accident should occur. The postclosure method and criteria govern the suitability considerations that deal with the long-term behavior of the repository. The behavior of interest here is after waste emplacement and repository closure.

(b) Suitability determination—section 963.11. This section describes how DOE will determine the suitability of the site based on the information and data developed through the program of site characterization activities at Yucca Mountain. DOE may find the Yucca Mountain site suitable for the location of a repository based on its determinations relative to the preclosure and postclosure suitability evaluations under sections 963.12 and 963.15. Those determinations, in turn, entail assessment of preclosure and postclosure suitability using the designated evaluation method and criteria for each time period. The overall suitability determination, if affirmative, will be one part of the Secretary's decision, under section 114, whether to recommend the Yucca Mountain site to the President for development of a repository.

(c) Preclosure suitability determination—section 963.12. The suitability evaluation of the Yucca Mountain site will consider the safety of the geologic repository during the operational or preclosure time period. The preclosure criteria to evaluate the suitability of a geologic repository operations area at Yucca Mountain will be considerations that are important to determining safety during construction and active operation and to demonstrating compliance with the applicable radiation protection standard.

(d) Preclosure suitability evaluation method—section 963.13. The preclosure suitability criteria will be applied through a preclosure safety evaluation method. The preclosure safety evaluation would support the recommendation to approve the Yucca Mountain site for submittal of a license application. The NRC provides a framework indicating how to conduct this type of evaluation in proposed 10 CFR 63.112. DOE designed the preclosure safety evaluation method proposed in this rule based on this NRC framework and a DOE assessment of what information would be necessary and sufficient to determine, at the site suitability stage, whether a proposed geologic repository at Yucca Mountain is likely to meet the applicable radiation protection standards for the preclosure period.

The preclosure safety evaluation method, using preliminary engineering specifications, will assess the adequacy of the repository facilities to perform their intended functions and prevent or mitigate the effects of postulated design basis events that are deemed sufficiently credible to warrant consideration. The preclosure safety evaluation will consider: a preliminary description of the site characteristics, the surface facilities, and the underground facilities; a preliminary description of the expected design bases for the operating facilities and a preliminary description of any associated limits on operation; a preliminary description of potential hazards (for example, seismic activity, flooding and severe winds), event sequences, and their consequences; and, a preliminary description of the structures, systems, components, equipment, and operator actions intended to mitigate or prevent accidents. The purpose of the preclosure safety evaluation is to ensure that relevant hazards that could result in unacceptable consequences have been adequately evaluated and appropriate protective measures have been identified such that the geologic repository operations area will comply with the preclosure requirements for protection against radiation exposures and releases of radioactive material.

The preclosure safety evaluation will emphasize performance requirements, analytical bases and technical justifications, and evaluations that show how safety functions will be accomplished. The adequacy of the facility design will be evaluated by consideration of postulated design basis events viewed as sufficiently credible that the facility should be designed to prevent or mitigate their effects. Design basis events are those natural and human-induced events that are either expected to occur before closure, or have one chance in 10,000 of occurring before permanent closure. DOE will evaluate the probability of the event and the associated consequences. For events of high frequency, the consequences should be low. For less probable accidents that are potentially more severe, the allowable consequences are higher. In either case, the suitability determination will be supported by a design that DOE considers likely to meet the applicable radiation protection standard.

(e) Preclosure suitability criteria—section 963.14. DOE will evaluate the suitability of the Yucca Mountain site during the preclosure period using the following criteria: (a) ability to contain and limit releases of radioactive materials; (b) ability to implement control and emergency systems to limit exposures to radiation; (c) ability to maintain a system and components that perform their intended safety functions; and (d) ability to preserve the option to retrieve wastes during the preclosure period. These criteria are considerations important to determining the performance of a potential repository at Yucca Mountain. For example, in applying the first criterion, DOE will ensure repository facilities are designed to keep the radioactive materials confined in order to limit releases of radioactive material. The second and third criteria address DOE's ability to ensure that emergency controls and procedures are developed to limit releases should an accident occur, and that the system and its components will perform their safety function as intended. The fourth and final criterion is also important to the safe functioning of a repository; that is, ensuring the capability to retrieve or recover the wastes from the repository should conditions warrant.

These criteria also relate to certain geologic considerations in section 112(a) of the NWPA. The geologic considerations identified in section 112(a) that are relevant to the preclosure period are hydrology, geophysics, seismic activity, atomic energy defense activities, proximity to water supplies and proximity to populations. These considerations are relevant to the evaluation of preclosure suitability because they bear on the evaluation of repository system safety during the preclosure period. The hydrology and geophysics of the site are important to preclosure safety because they are indicators of possible initiating events for accidents. Seismic activity is also important in this regard, as it is an indication of the potential for earthquake activity to disrupt normal functioning of a repository surface facility. The location of atomic energy defense activities in relation to the Yucca Mountain site is important to preclosure safety and would be considered to the extent they exist and may impact operations of the repository facility. Proximity to water supplies and proximity to populations are important to preclosure safety because they relate to potential locations where people could eventually be exposed to

radionuclides either through airborne transport or through a water pathway.

(f) Postclosure suitability determination—section 963.15. The postclosure suitability evaluation of the Yucca Mountain site will consider the safety of the geologic repository during the time after operations cease, the postclosure period. DOE will determine the suitability of the Yucca Mountain site for the postclosure period by examining the results of a TSPA conducted under section 963.16. If the results indicate a repository at Yucca Mountain is likely to meet the applicable radiation protection standard, then DOE may determine, on the basis of site characterization activities, that the site is suitable for the postclosure period.

(g) Postclosure suitability evaluation method—section 963.16. DOE will evaluate the suitability of a potential repository at the Yucca Mountain site using the TSPA method (described in greater detail below). Using the TSPA method, DOE will estimate quantitatively the expected annual dose, over the compliance period, to the receptor. With this estimate, DOE will evaluate the performance of the repository and its ability to limit radiological exposures within the applicable radiation protection standard.

(1) Section 963.16(a). Section 963.16(a) describes how DOE will conduct separate performance assessments in order to evaluate the postclosure performance of a geologic repository at Yucca Mountain. One TSPA will be conducted in accordance with the method described in 963.16(b) and using all of the criteria identified in section 963.17, except the criterion assuming a human intrusion into the repository. A second TSPA will be conducted in accordance with the method described in 963.16(b) (except not all engineered and natural barriers will be considered), and using all of the criteria in section 963.17, including the criterion assuming a stylized human intrusion into the repository, as defined by NRC regulations. The results of each performance assessment will be examined by DOE to determine the suitability of the site for the postclosure period.

The conduct of separate assessments is consistent with EPA's proposed 40 CFR part 197 and NRC's proposed regulations at 10 CFR part 63. The proposed regulations, in turn, are based on NAS recommendations in the report, Technical Bases for Yucca Mountain Standards, on how best to assess the performance and resilience of a potential repository. Because the manner and likelihood of human intrusion occurring many hundreds or thousands of years into the future cannot be estimated reliably by examining either the historic or geologic record, the NAS recommended an approach that will assess how resilient the geologic repository would be against a postulated intrusion. The consequences of the assumed human intrusion event will be addressed in a "stylized" manner, that is, by assuming a particular human intrusion event occurs in a certain way, at a specified time. Proposed EPA and NRC regulations define different stylized human intrusion events to be examined by DOE. At the time of the suitability determination, DOE will conduct the human intrusion analysis within the framework of the applicable regulatory concept, and use the results of the performance assessment to evaluate the suitability of the site for the postclosure period.

(2) Section 963.16(b). Section 963.16(b) provides an outline of the contents and manner in which DOE will conduct its performance assessments. As described previously in this notice, and briefly summarized here, performance assessment in this context is a method of forecasting how a system or parts of a system designed to contain radioactive waste will behave over time. Its goal is to aid in determining whether the system can meet established performance requirements. A TSPA is a type of performance assessment analysis in which the components of a system are integrated or linked into a single analysis.

The TSPA treats both the engineered and natural system components. The engineered system is to some extent controllable, but the natural system generally is not. The responses of the total system extend over periods beyond those for which data have been or can be obtained. The relationship of the components of a TSPA is often described as a pyramid. The lowest level of the pyramid represents the complete suite of process and design data and information (that is, field and laboratory studies that are the first step in understanding the system). The next higher level indicates how the data feed into conceptual models that portray the operation of the individual system components. The next higher level represents the synthesis of information from the lower levels of the pyramid into computer models. The term abstraction often is used to indicate the extraction of essential information from large quantities of data. The TSPA models are usually referred to as abstracted models. At this point, the subsystem behavior may be described by linking models together into representations; this is the point at which performance assessment modeling is usually thought to begin. This is also the basis for the identification of the Yucca Mountain specific suitability criteria contained in the proposed rule.

The upper level is the final level of distillation of information into the most significant aspects to represent the total system. At this point, the models are linked together. These are the models used to forecast system performance and estimate the likelihood that the performance will comply with regulations and ensure long-term safety.

As information flows up the pyramid, it generally is distilled into progressively more simplified or essential forms, or becomes more abstracted. However, abstraction is not synonymous with simplification. If a particular component model cannot be simplified without losing essential aspects of the model, then the model becomes part of the TSPA calculation tool. Thus, an abstracted model in a TSPA may take the form of something as simple as a table of values that were calculated using a complex computer model, or the abstraction may take the form of a fully three dimensional computer simulation.

The TSPA method described in section 963.16(b) is a systematic analysis that identifies the features, events, and processes (*i.e.*, specific conditions or attributes of the geologic setting, degradation, deterioration, or alteration processes of engineered barriers, and interactions between the natural and engineered barriers) that might affect performance of the geologic repository; examines their effects on performance; and estimates the expected annual dose. The features, events, and processes considered in the TSPA will represent a wide range of effects on geologic repository performance. Those features, events, and processes expected to affect compliance significantly or be potentially adverse to performance are included, while events of very low probability can be excluded from the analysis. The expected annual dose to the receptor is estimated using the selected features, events, and processes, and incorporating the probability that the estimated dose will occur.

The TSPA method described in section 963.16(b) is a systematic analysis that identifies the features, events, and processes (*i.e.*, specific conditions or attributes of the geologic setting, degradation, deterioration, or alteration processes of engineered

barriers, and interactions between the natural and engineered barriers) that might affect performance of the geologic repository; examines their effects on performance; and estimates the expected annual dose. The features, events, and processes considered in the TSPA will represent a wide range of effects on geologic repository performance. According to proposed EPA and NRC regulations, those features, events, and processes expected to affect compliance significantly or be potentially adverse to performance are included, while events of very low probability (less than one chance in 10,000 of occurring within 10,000 years of disposal) can be excluded from the analysis. The expected annual dose to the average member of the critical group is estimated using the selected features, events, and processes, and incorporating the probability that the estimated dose will occur.

The TSPA that will be used to assess the postclosure performance of the Yucca Mountain repository will be conducted in the manner described in section 963.16(b). It will synthesize data and information into a set of models that simulate the behavior of the individual system components. DOE will abstract essential information from its initial models and refine them into linked models, including computer models, that represent important aspects of system performance. DOE will use these models to forecast system behavior and the likelihood of system compliance with the applicable radiation protection standard.

The TSPA calculations will be used to address conditions in the natural and engineered components of a repository at Yucca Mountain over the time that the standards apply. The TSPA calculations will also be used to consider disruptive events that are improbable, but that are important to understanding the repository behavior in the future. A requirement for TSPA will be to identify the identification of those natural features of the geologic setting and the design features of the engineered barrier system that are considered barriers important to waste isolation. TSPA will be used to assess the capability of the barriers, identified as important to waste isolation, to isolate waste, taking into account uncertainties in characterizing and modeling the barriers. Sensitivity studies and the regulatory definition of very-low probability events will provide the technical basis for inclusion or exclusion of specific features, events, and processes of the geologic setting in the TSPA.

Specific features, events, and processes of the geologic setting will be evaluated through sensitivity analyses to determine if the magnitude and time of the resulting expected annual dose would be significantly changed by their omission. Sensitivity analysis is a technique that is used to examine how a system responds if one of its components is changed. Systems are said to be sensitive to such a component if the results of the calculation are changed significantly in response to changes in that component's values. The sensitivity calculations will also provide the technical basis for either inclusion or exclusion of degradation or alteration processes of engineered barriers in the TSPA. Degradation or alteration processes will be evaluated further if the magnitude and timing of the resulting expected annual dose would be significantly changed by their omission.

Using the TSPA results, DOE can examine the sensitivity of one or more components of the calculations in the assessment. DOE can examine the response of the geologic repository system with regard to sensitivities of the system to the suitability criteria, in order to evaluate whether the geologic repository meets the applicable radiation protection standard.

As part of the TSPA, DOE will account for uncertainties and variabilities in both calculations and data, and provide the technical bases for parameter ranges, probability distributions, and bounding values. The reason for this accounting is that it is recognized, by the NRC and others, that there are inherent uncertainties in the understanding of the evolution of the geologic setting, biosphere, and engineered barrier system. Under the circumstances, proof that the geologic repository will be in conformance with the applicable radiation protection standard is not to be had in the ordinary sense of the word. Instead, DOE will demonstrate compliance and the performance of the potential repository using sophisticated, complex predictive models that are supported by limited data from field and laboratory tests, site-specific monitoring, and natural analog studies that may be supplemented with expert judgment.

Another aspect of DOE's conduct of the TSPA is the analysis of alternative models of features and processes. Under 963.16(b)(3), DOE will consider alternative models of features and processes that are consistent with available data and current scientific understanding, and evaluate the effects that alternative models would have on the estimated performance of the geologic repository. In this regard, if other interested persons suggest and present to DOE alternative models that are consistent with available data and current scientific understanding, DOE will evaluate those other models. In implementing this requirement, however, DOE does not believe it would be scientifically or technically useful, and may be administratively burdensome, to require that, in every case, DOE provide the bases for not using an alternative model suggested by another party. Other interested persons may suggest any number of alternative models, some of which may not be consistent with available data and current scientific thinking and therefore not add significant value to the TSPA analysis. Nevertheless, DOE may decide, on a case-by-case basis, to document consideration of alternative models that were suggested by other interested persons, but not used because, among other things, the model is not consistent with available data and current scientific understanding.

(h) *Postclosure suitability criteria*—section 963.17. The postclosure criteria to evaluate the suitability of a geologic repository at Yucca Mountain will be considerations that reflect both the processes and the models used to simulate those processes that are important to the total system performance of the geologic repository. These criteria are characterizing traits that are relevant and important in the processes to be modeled in the TSPA that evaluates the suitability of the Yucca Mountain site for the postclosure period. These criteria also are related to the section 112(a) geologic considerations identified in the NWPA. Following is a description of how the section 112(a) geologic considerations relate to the postclosure suitability criteria, as well as a discussion of the criteria as they relate to the processes and computer models to be used in evaluating the performance of a geologic repository in the postclosure period.

(1) Section 112(a) geologic considerations. The geologic considerations identified in section 112(a) of the NWPA that are relevant to the postclosure performance of a repository at Yucca Mountain are: location of valuable natural resources, hydrology, geophysics, seismic activity, proximity to water supplies, and proximity to populations. These considerations are relevant to postclosure performance because they impact components and processes of the repository system related to potential transport of radionuclides via ground water to members of the public.

The location of valuable natural resources is a relevant geologic

condition for postclosure performance because the presence of these resources in the geologic setting of Yucca Mountain could lead to exploratory drilling or excavation and a consequent breach of the repository's safety barriers. Hydrology- and geophysics-related conditions are relevant because they describe some of the geologic features of the site that are related to safety and the physical characteristics that are related to potential transport of radionuclides to the biosphere. Seismic activity is relevant to postclosure performance because it is related to the potential for changes in geologic structures that could lead to enhanced transport of radionuclides. Proximity to water supplies and populations are relevant to postclosure performance because they are related to potential locations where people could eventually be exposed to radionuclides in their water.

Table 2 provides a cross-reference between the section 112(a) factors related to geologic considerations, and the postclosure suitability criteria. As previously stated, the postclosure suitability criteria largely represent the process model components of the total system performance assessment that DOE will use to evaluate the performance of the repository during the postclosure period. DOE has identified these processes as pertinent to assessing the performance of a repository at Yucca Mountain through information and data developed under its site characterization program. These processes also are related to, and impacted by, the geologic considerations found in section 112(a) of the NWPA.

TABLE 2

NWPA § 112(a) factors	Postclosure suitability criteria
(a) Processes pertinent to total system performance:	
Hydrology, geophysics, seismic activity	(1) Site characteristics.
Hydrology, geophysics, seismic activity	(2) Unsaturated-zone flow characteristics.
Hydrology, geophysics, seismic activity	(3) Near-field environment characteristics.
Hydrology, geophysics, seismic activity	(4) Engineered barrier system degradation characteristics.
Hydrology, geophysics, seismic activity	(5) Waste form degradation characteristics.
Hydrology, geophysics, seismic activity	(6) Engineered barrier system degradation, flow, and transport characteristics.
Hydrology, geophysics, seismic activity	(7) Unsaturated-zone flow and transport characteristics.
Hydrology, geophysics, seismic activity	(8) Saturated-zone flow and transport characteristics.
Hydrology, proximity to water supplies, proximity to populations	(9) Biosphere characteristics.
(b) Disruptive processes and events:	
Hydrology, geophysics	(1) Volcanism.
Seismic activity, geophysics	(2) Seismic events.
Hydrology, geophysics, seismic activity	(3) Nuclear criticality.
Location of valuable natural resources, proximity to populations	(4) Inadvertent human intrusion.

(2) Suitability criteria. DOE has developed its site characterization program to address those processes of the repository system that are pertinent to understanding how a repository at Yucca Mountain would comply with applicable radiation protection standards. The program also has been developed to better understand these processes, and resolve or put in place methods to resolve issues related to those processes. DOE has described these processes, and the methods to resolve issues related to the processes, in the SCP, semi-annual progress reports on site characterization program activities, in several TSPAs conducted over the years, and most recently in the Viability Assessment. These processes are simulated through performance assessment models; those models are integrated and refined to a point resulting in a representation of the performance of the system in total.

Put in simple terms, the processes that are pertinent to understanding the performance of a repository at Yucca Mountain, and that form the basis for the numerical models in the TSPA and the suitability criteria in section 963.17, are those physical processes of water falling on Yucca Mountain as rain and snow, moving into the mountain, down through the unsaturated zone to the potential repository level, from the repository level to the saturated zone, and from there to the outside environment. At the repository level, the water would be affected by the physical processes associated with the repository and with the waste packages and the waste forms. Eventually, the water could move out of the repository horizon and further downward through the unsaturated zone. Subsequently, it could move into the saturated zone where it could be transported to a point where humans could be exposed to any radionuclides carried in the water. Disruptive events could potentially affect these processes and, therefore, need to be considered. This set of physical processes is simulated in the numerical modeling method of the TSPA that will be used to assess quantitatively the radionuclide releases to the public and, consequently, the safety and suitability of the Yucca mountain site.

The suitability criteria proposed in this rule are derived from these pertinent physical processes. These criteria represent the characteristic traits pertinent to assessing the performance of a geologic repository at the Yucca Mountain site. They also reflect and represent in a larger sense the geologic considerations identified in section 112(a) of the NWPA such as hydrology, geophysics, seismic activity, and proximity to water supplies and populations.

The sequence in which the suitability criteria are presented in the proposed rule generally corresponds to the process of water flow presented above. In general, the criteria can be thought of as building blocks; each criterion in the sequence is evaluated on its own, with the results of that evaluation incorporated into the evaluation of the succeeding criteria, and so on until the final analysis. As the site characterization program evolves, DOE may refine these process models to better reflect and assess the processes pertinent to performance of a geologic repository at the Yucca Mountain site. It is possible that the processes, as well as the design selected, could dictate other ways to arrange the information included under the individual criteria. While the individual components of the process models may vary according to improvements in data and information, DOE's resultant suitability

determination would be based on an evaluation of each of the postclosure suitability criteria.

The criteria are separated into two categories. The first category, presented in section 963.17(a), represent those criteria important to the total system performance assessment without accounting for disruptive processes and events that could impact that performance. The second category, presented in section 963.17(b), are those criteria representing disruptive processes and events that could adversely affect the characteristics of the repository system, and consequently release radionuclides to the human environment. Each criterion in the first category is linked to a specific TSPA model component that will be used to evaluate the performance of that criterion. Each criterion in the second category is generally treated as an effect imposed on the system at a time that reflects the probability of occurrence of the disruptive event.

Under section 963.17(a), the first and a fundamental criterion that will be modeled to assess performance of a repository at the Yucca Mountain site is the representation of pertinent site characteristics. The criterion of site characteristics includes: (a) The geologic properties of the site—for example, stratigraphy, rock type and physical properties, and structural characteristics; (b) the hydrologic properties of the site—for example, porosity, permeability, moisture content, saturation, and potentiometric characteristics; (c) the geophysical properties of the site—for example, thermal properties, densities, velocities and water contents, as measured or deduced from geophysical logs, and (d) the geochemical properties of the site—for example, precipitation, dissolution characteristics, and sorption properties of mineral and rock surfaces. Together, as reflected in the performance assessment, these characteristics enable a representative simulation of the behavior of a geologic repository at the Yucca Mountain site.

The second criterion, unsaturated zone flow characteristics, relates to the processes affecting the limitations and amount of water entering the unsaturated zone above the repository and contacting wastes in the repository. Unsaturated zone flow characteristics include: (a) Climate—for example, precipitation and postulated future climatic conditions; (b) infiltration—for example, precipitation entering the mountain in excess of water returned to the atmosphere by evaporation and plant transpiration; (c) unsaturated-zone flux—for example, water movement through the pore spaces, or flowing along fractures or through perched water zones above the repository; and (d) seepage—for example, water dripping into the underground repository openings from the surrounding rock. Together, the first and second criteria define the temporal and spatial distribution of water flow through the unsaturated zone above the water table at Yucca Mountain, and the temporal and spatial distribution of water seepages into the underground openings of the repository.

The third criterion, near field environment characteristics, also relates to processes important to limiting the amount of water that could contact wastes. This criterion includes: (a) Thermal hydrology—for example, effects of heat from the waste on water flow through the site, and the temperature and humidity at the engineered barriers; and, (b) near-field geochemical environment—for example, the chemical reactions and products resulting from water contacting the waste and the engineered barriers materials. The thermal regime generated by the decay of the radioactive wastes can mobilize water over the first hundreds to thousands of years. For these reasons, the amount of water flowing in the rock and seeping into drifts is expected to vary with time.

The fourth criterion, engineered barrier system degradation characteristics, relates to the processes important to long waste package lifetimes. This criterion includes: (a) engineered barrier system component performance—for example, drip shields, backfill, coatings, or chemical modifications; and (b) waste package degradation—for example, the corrosion of the waste package materials within the near-field repository environment. This criterion and the first criterion, site characteristics, define the spatial and temporal distribution of the time periods when waste packages are expected to breach. The thermal, hydrologic, and geochemical processes acting on the waste package surface are the most important environmental factors affecting the waste package lifetime. In addition, the degradation characteristics of the waste package materials significantly impact the timing of waste package breaches.

The fifth criterion, waste form degradation characteristics, addresses the initial aspects of low rate of release of radionuclides. This criterion includes: (a) cladding degradation—for example, corrosion or break-down of the cladding on the individual spent fuel pellets; and, (b) waste form dissolution—for example, the ability of individual radionuclides to dissolve in water penetrating breached waste packages. This criterion is important to understanding how and in what manner the waste forms will break down, permitting the release of radionuclides to the immediately surrounding environment.

The sixth criterion, engineered barrier system degradation, flow, and transport characteristics, addresses the processes important to the manner in which radionuclides can begin to move outward once the engineered barrier system has been degraded. This criterion includes : (a) colloid formation and stability—for example, the formation of colloidal particles and the ability of radionuclides to adhere to these particles as they may be washed through the remaining barriers; and (b) engineered barrier transport—for example, the movement of radionuclides dissolved in water or adhering to colloidal particles to be transported through the remaining engineered barriers and in the underlying unsaturated zone. This criterion and the first criterion, site characteristics, lead to a determination of the spatial and temporal distribution of the mass of radioactive wastes released from the waste packages. Each characteristic depends on the thermal, hydrologic, and geochemical conditions inside the waste package, which change with time.

The next two criteria—unsaturated zone flow and transport characteristics (criterion seven), and saturated zone flow and transport characteristics (criterion eight)—relate to processes important to radionuclide concentration reduction during transport. To assess the movement of radionuclides away from the degraded engineered barrier system, the first important process to understand is the unsaturated zone flow characteristics in combination with the unsaturated zone transport characteristics. The unsaturated zone flow and transport characteristics criterion includes: (a) unsaturated-zone transport—for example, the movement of water with dissolved radionuclides or colloidal particles through the unsaturated zone underlying the repository, including retardation mechanisms such as sorption on rock or mineral surfaces; and (b) thermal hydrology—for example, effects of heat from the waste on water flow through the site. The next criterion, saturated zone flow and transport characteristics, addresses similar radionuclide transport processes, only in the saturated zone. This criterion includes: (a) saturated zone transport—for example, the movement of water with dissolved

radionuclides or colloidal particles through the saturated zone underlying and beyond the repository, including retardation mechanisms such as sorption on rock or mineral surfaces; and (b) dilution—for example, diffusion of radionuclides into pore spaces, dispersion of radionuclides along flow paths, and mixing with non-contaminated ground water.

The ninth criterion, biosphere characteristics, addresses the characteristics that describe the lifestyle and habits of individuals who potentially could be exposed to radioactive material at a future time. Because of the difficulty in predicting the lifestyles and habits of future generations, such assessments are to be based on representative current conditions. Both the EPA and the NRC have proposed rules that would require DOE to apply current conditions in assessments of the reference biosphere. This criterion includes: (a) a reference biosphere and receptor defined, for example, by considering pathways, location and behavior representative of current conditions; and (b) biosphere transport and uptake—for example, the consumption of ground or surface waters through direct extraction or agriculture, including mixing with non-contaminated waters and exposure to contaminated agricultural products.

Together, the criteria of unsaturated zone flow and transport characteristics, saturated zone flow and transport characteristics, and biosphere characteristics, address the spatial and temporal variations of radionuclide concentrations in ground water. The ground water concentration ultimately yields the mass of radionuclides that may be ingested or inhaled by individuals exposed to that ground water, which in turn leads to a level of radiological dose or risk associated with that potential exposure. The concentration depends on both the mass release rate of the radionuclides as well as the volumetric flux of water along the different pathways in the different components.

Section 963.17(b) presents four final criteria (separately enumerated from section 963.17(a)) under the category of disruptive processes and events. These criteria relate to disruptive processes and events that could potentially release radionuclides directly to the human environment, or otherwise adversely affect the characteristics of the system. The criteria pertinent to assessing repository performance relative to this attribute include: (1) Volcanism—for example, the probability and potential consequences of a volcanic eruption intersecting the repository; (2) seismic events—for example, the probability and potential consequences of a earthquake on the underground facilities or hydrologic system; and (3) nuclear criticality—for example, the probability and potential consequences of a self-sustaining nuclear reaction as a result of chemical or physical processes affecting the waste either in or after release from breached waste packages.

The last of the four disruptive processes and events criteria, inadvertent human intrusion, is a special criterion to be applied and assessed in its own performance assessment. Although characterization of the Yucca Mountain site and region indicates that it is not a likely choice for future exploration for natural resources, the NRC has identified the examination of a human intrusion scenario through drilling as a requirement for a TSPA in its proposed part 63. Accordingly, inadvertent human intrusion—for example, consequences to repository system performance following a stylized human intrusion scenario, is included in the criteria for disruptive processes and events, although it will be treated in a separate performance assessment. In making its suitability determination, DOE would apply the regulatory concept for human intrusion applicable at that time.

VII. Opportunity for Public Comment

A. Participation in Rulemaking

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or comments with respect to the subject set forth in this notice. The Department encourages the maximum level of public participation possible in this rulemaking. Individuals, coalitions, states or other government entities, and others are urged to submit written comments on the proposal.

B. Written Comment Procedures

The DOE invites public comments on the proposed rule. Written comments should be identified on the outside of the envelope, and on the comments themselves, with the designation: "Site Characterization Suitability Criteria NOPR, Docket Number [RW–RM–99–963]" and must be received by the date specified at the beginning of this notice in order to be considered. In the event any person wishing to submit written comments cannot provide them directly, alternative arrangements can be made by calling [(800) 967–3477]. All comments received on or before the date specified at the beginning of this notice and other relevant information will be considered by the DOE before final action is taken on the proposed rule. All comments submitted will be available for examination in the Rule Docket File in the Yucca Mountain Science Center in Las Vegas, Nevada, and the DOE's Freedom of Information Reading Room. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data that is believed to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information considered confidential has been deleted. The Department of Energy will make its own determination of any such claim and treat it according to its determination.

C. Hearing Procedures

At the beginning of this notice, DOE indicated that there would be a separate **Federal Register** Notice informing the public of the time and location of the public hearings on this supplemental notice of proposed rulemaking. For obvious reasons, DOE will hold these hearings in the vicinity of Yucca Mountain because nearby residents would be especially impacted by the location of a nuclear waste repository at Yucca Mountain. These hearings will not be trial-type evidentiary hearings that require a lawyer. They will be informal, and DOE intends to use a facilitator in an effort to ensure they are fair and productive.

DOE is considering a format wherein DOE officials would make a presentation that summarizes the supplemental notice of proposed rulemaking, and members of the public would have the opportunity to make oral comments. Prior to or following the hearing, DOE officials may be available to answer technical questions about the proposed regulation articulated in this notice. However, the DOE officials could not make any commitments about the final rule, and in some instances, they might be limited to taking the oral comments under advisement. In fairness to all commenters, decisions about the final rule must await the close of the comment period and consideration by DOE senior policy makers.

VIII. Regulatory Review

A. Review for Compliance with the National Environmental Policy Act (NEPA)

The issuance of these amendments to the guidelines is a preliminary decision-making activity pursuant to subsection 112(d) and 113(d) of the Act and therefore does not require the preparation of an environmental impact statement pursuant to subsection

102(2)(C) of the NEPA or any other environmental review under subsection 102(2)(E) or (F) of the NEPA.

B. Review under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, was enacted by Congress to ensure that a substantial number of small entities do not unnecessarily face significant negative economic impact as a result of Government regulations. The DOE certifies that the rule amending the guidelines will not have a significant impact on a substantial number of small entities. The final rule will not regulate or otherwise economically burden anyone outside of the DOE. It merely articulates considerations for the Secretary of Energy to use in determining whether the Yucca Mountain site is suitable for development as a repository. Moreover, in response to the initial notice of proposed rulemaking , a few entities who commented were small entities, and none of them identified economic burdens that the proposed regulations would impose. Accordingly, no regulatory flexibility analysis is required under the Regulatory Flexibility Act.

C. Review under the Paperwork Reduction Act

The DOE has determined that this rule, as proposed, contains no new or amended record keeping, reporting, or application requirements, or any other type of information collection requirements subject to the Paperwork Reduction Act (Pub. L. No. 96–511).

D. Review under Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4) generally requires Federal agencies to closely examine the impacts of regulatory actions on State, local, and tribal governments. Subsection 101(5) of Title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose an enforceable duty upon State, local, or tribal governments, except, among other things, a condition of Federal assistance or a duty arising from participating in a voluntary federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, or to the private sector, of $100 million or more. Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and tribal governments.

This rule, as proposed, is not likely to result in any Federal mandate that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year. Further, the guidelines in 10 CFR part 960, the proposed amendments to part 960 and the proposed part 963 largely incorporate requirements specifically provided in Sections 112 and 113 of the Act. Moreover, Sections 112, 113 and 114 of the Act provide for meaningful and timely input from elected officials of State, local and tribal governments. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

E. Review under Executive Order 12612

Executive Order 12612, 52 FR 41685, requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effect on States, on the relationship between the Federal government and the States, or in the distribution of power and responsibilities among various levels of government. If there are substantial effects, then the Executive Order requires a preparation of a Federalism assessment to be used in all decisions involved in promulgating and implementing policy action.

The rule, as proposed in this notice, will not have a substantial direct effect on the institutional interests or traditional functions of the States. Accordingly, no assessment or analysis is required under Executive Order 12612.

F. Review under Executive Order 12866

Section 1 of Executive Order 12866 ("Regulatory Planning and Review"), 58 FR 51735, establishes a philosophy and principles for Federal agencies to follow in promulgating regulations. Section 1(b)(9) of that Order provides: "Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, agencies shall seek to harmonize Federal regulatory actions with regulated State, local and tribal regulatory and other governmental functions."

Section 6 of Executive Order 12866 provides for a review by the Office of Information and Regulatory Affairs (OIRA) of a "significant regulatory action," which is defined to include an action that may have an effect on the economy of $100 million or more, or adversely affect, in a material way, the economy, competition, jobs, productivity, the environment, public health or safety, or State, local, or tribal governments. The Department has concluded that this proposed rule is a significant regulatory action that requires a review by the OIRA. DOE submitted this rule for OIRA clearance, and OIRA has completed its review.

G. Review under Executive Order 12875

Executive Order 12875 ("Enhancing Intergovernmental Partnership"), provides for reduction or mitigation, to the extent allowed by law, of the burden on State, local and tribal governments of unfunded Federal mandates not required by statute. The analysis under the Unfunded Mandates Reform Act of 1995, above, satisfies the requirements of Executive Order 12875. Accordingly, no further analysis is required under Executive Order 12875.

H. Review under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting

simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. The DOE has completed the required review and determined that, to the extent permitted by law, the rule, as proposed, meets the relevant standards of Executive Order 12988.

I. Review under Executive Order 13084

Under Executive Order 13084, "Consultation and Coordination with Indian Tribal Governments," DOE may not issue a discretionary rule that significantly or uniquely affects Indian tribal governments and imposes substantial direct compliance costs. This proposed rulemaking would not have such effects. Accordingly, Executive Order 13084 does not apply to this rulemaking.

J. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Public Law 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's proposal would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

List of Subjects in 10 CFR Parts 960 and 963

Environmental protection, Geologic repositories, Nuclear energy, Nuclear materials, Radiation protection, Waste disposal.

Issued in Washington, D.C. on November 19, 1999.

Lake H. Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

For the reasons stated in the preamble, DOE hereby proposes to amend part 960, and to add a new part 963 to, Chapter II of Title 10 of the Code of Federal Regulations as follows:

PART 960—GENERAL GUIDELINES FOR THE PRELIMINARY SCREENING OF POTENTIAL SITES FOR A NUCLEAR WASTE REPOSITORY

1. The authority for 10 CFR part 960 is revised to read as follows:

Authority: 42 U.S.C. 2011, *et seq.*, 42 U.S.C. 7101, *et seq.*, 42 U.S.C. 10101, *et seq.*

2. The part heading for Part 960 is revised to read as set forth above:

§ 960.1 [Amended]

3. Section 960.1 is amended by removing the phrase "for the development of repositories" from the first sentence and removing the phrase "and any preliminary suitability determinations required by Section 114(f)" from the second sentence.

4. Section 960.2 is amended by revising the definitions of "Act," "Application" and "Determination" to read as follows:

§ 960.2 Definitions.

* * * * *

Act means the Nuclear Waste Policy Act of 1982, as amended.

* * * * *

Application means the act of making a finding of compliance or noncompliance with the qualifying or disqualifying conditions specified in the guidelines of subparts C and D of this part.

* * * * *

Determination means a decision by the Secretary that a site is suitable for site characterization for the selection of a repository, consistent with applications of the guidelines of subparts C and D of this part in accordance with the provisions set forth in subpart B of this part.

* * * * *

§ 960.3 [Amended]

5. Section 960.3 is amended by removing the phrase "for the development of repositories" from the first sentence.

§ 960.3–1–4–4 [Removed]

6. Section 960.3–1–4–4 is removed.

7. Section 960.3–1–5 is revised to read as follows:

§ 960.3–1–5 Basis for site evaluations.

(a) Evaluations of individual sites and comparisons between and among sites shall be based on the postclosure and preclosure guidelines specified in subparts C and D of this part, respectively. Except for screening for potentially acceptable sites as specified in § 960.3–2–1, such evaluations shall place primary significance on the postclosure guidelines and secondary significance on the preclosure guidelines, with each set of guidelines considered collectively for such purposes. Both the postclosure and the preclosure guidelines consist of a system guideline or guidelines and corresponding groups of technical guidelines.

(b) The postclosure guidelines of subpart C of this part contain eight technical guidelines in one group. The preclosure guidelines of subpart D of this part contain eleven technical guidelines separated into three groups that represent, in decreasing order of importance, preclosure radiological safety; environment, socioeconomics, and transportation; and ease and cost of siting, construction, operation, and closure.

(c) The relative significance of any technical guideline to its corresponding system guideline is site specific. Therefore, for each technical guideline, an evaluation of compliance with the qualifying condition shall be made in the context of the collection of system elements and the evidence related to that guideline, considering on balance the favorable conditions and the potentially adverse conditions identified at a site. Similarly, for each system guideline, such evaluation shall be made in the context of the group of technical guidelines and the evidence related to that system guideline.

(d) For purposes of recommending sites for development as repositories, such evidence shall include analyses of expected repository performance to assess the likelihood of demonstrating compliance with 40 CFR part 191 and 10 CFR part 60, in accordance with § 960.4–1. A site shall be disqualified at any time during the siting process if the evidence supports a finding by the DOE that a disqualifying condition exists or the qualifying condition of any system or technical guideline cannot be met.

(e) Comparisons between and among sites shall be based on the system guidelines, to the extent practicable and in accordance with the levels of relative significance specified above for the postclosure and the preclosure guidelines. Such comparisons are intended to allow comparative evaluations of sites in terms of the capabilities of the natural barriers for waste isolation and to identify innate deficiencies that could jeopardize compliance with such requirements. If the evidence for the sites is not adequate to substantiate such comparisons, then the comparisons shall be based on the groups of technical guidelines under the postclosure and the preclosure guidelines, considering the levels of relative significance appropriate to the

postclosure and the preclosure guidelines and the order of importance appropriate to the subordinate groups within the preclosure guidelines. Comparative site evaluations shall place primary importance on the natural barriers of the site. In such evaluations for the postclosure guidelines of subpart C of this part, engineered barriers shall be considered only to the extent necessary to obtain realistic source terms for comparative site evaluations based on the sensitivity of the natural barriers to such realistic engineered barriers. For a better understanding of the potential effects of engineered barriers on the overall performance of the repository system, these comparative evaluations shall consider a range of levels in the performance of the engineered barriers. That range of performance levels shall vary by at least a factor of 10 above and below the engineered-barrier performance requirements set forth in 10 CFR 60.113, and the range considered shall be identical for all sites compared. The comparisons shall assume equivalent engineered barrier performance for all sites compared and shall be structured so that engineered barriers are not relied upon to compensate for deficiencies in the geologic media. Furthermore, engineered barriers shall not be used to compensate for an inadequate site; mask the innate deficiencies of a site; disguise the strengths and weaknesses of a site and the overall system; and mask differences between sites when they are compared. Releases of different radionuclides shall be combined by the methods specified in appendix A of 40 CFR part 191.

(f) The comparisons specified above shall consist of two comparative evaluations that predict radionuclide releases for 100,000 years after repository closure and shall be conducted as follows. First, the sites shall be compared by means of evaluations that emphasize the performance of the natural barriers at the site. Second, the sites shall be compared by means of evaluations that emphasize the performance of the total repository system. These second evaluations shall consider the expected performance of the repository system; be based on the expected performance of waste packages and waste forms, in compliance with the requirements of 10 CFR 60.113, and on the expected hydrological and geochemical conditions at each site; and take credit for the expected performance of all other engineered components of the repository system. The comparison of isolation capability shall be one of the significant considerations in the recommendation of sites for the development of repositories. The first of the two comparative evaluations specified in the preceding paragraph shall take precedence unless the second comparative evaluation would lead to substantially different recommendations. In the latter case, the two comparative evaluations shall receive comparable consideration. Sites with predicted isolation capabilities that differ by less than a factor of 10, with similar uncertainties, may be assumed to provide equivalent isolation.

8. In section 960.3–2, the last sentence is revised to read as follows:

§ 960.3–2 Siting process.

* * * The recommendation of sites as candidate sites for characterization shall be accomplished in accordance with the requirements specified in § 960.3–2–3.

§ 960.3–2–4 [Removed]

9. Section 960.3–2–4 is removed.

Appendix III to Part 960 [Amended]

10. Appendix III to Part 960 is amended as follows:

In paragraph 1, introductory text, first sentence, revise the phrase "the "principal to read acertain"

In paragraph 1, remove the definition (decision point) for "Repository Site Selection."

In paragraph 2, remove the definition for the numeral "4" and paragraphs "(a)" and "(b)" which follow.

In the table, Findings Resulting From the Application of the Qualifying and Disqualifying Conditions of the Technical Guidelines at Major Siting Decisions, remove the column heading and corresponding entries for "Repository Site Selection" under the heading "Siting Decision."

4. New part 963 is added to read as follows:

PART 963—YUCCA MOUNTAIN SITE SUITABILITY GUIDELINES

Subpart A—General Provisions

963.1 Purpose.
963.2 Definitions.

Subpart B—Site Suitability Determination, Methods and Criteria

963.10 Scope.
963.11 Suitability determination.
963.12 Preclosure suitability determination.
963.13 Preclosure suitability evaluation method.
963.14 Preclosure suitability criteria.
963.15 Postclosure suitability determination.
963.16 Postclosure suitability evaluation method.
963.17 Postclosure suitability criteria.

Authority: 42 U.S.C. 2011 *et seq.*; 42 U.S.C. 7101 *et seq.*; 42 U.S.C. 10101, *et seq.*

Subpart A—General Provisions

§ 963.1 Purpose.

(a) The purpose of this part is to establish DOE methods and criteria for determining the suitability of the Yucca Mountain site for the location of a geologic repository. DOE will use these methods and criteria in analyzing the data from the site characterization activities required under section 113 of the Nuclear Waste Policy Act.

(b) This part does not address other information that must be considered and submitted to the President, and made available to the public, by the Secretary under section 114 of the Nuclear Waste Policy Act if the Yucca Mountain site is recommended for development as a geologic repository.

§ 963.2 Definitions.

For purposes of this Part:

Barrier means any material, structure or process that prevents or substantially delays the movement of water or radionuclides.

Cladding means the corrosion-resistant material, typically a zirconium alloy, that binds and contains the nuclear fuel material in individual fuel pellets.

Closure means the final closing of the remaining open operational areas of the underground facility and boreholes after termination of waste emplacement, culminating in the sealing of shafts and ramps, except those openings that may be designed for ventilation or monitoring.

Colloid means any fine-grained material in suspension, or any such material that can be easily suspended.

Criteria means the characterizing traits relevant to assessing the performance of a geologic repository, as defined by this section, at the Yucca Mountain site.

Design means a description of the engineered structures, systems, components and equipment of a geologic repository at Yucca Mountain that includes the engineered barrier system.

Design basis event means:

(1) Those natural and human-induced events that are expected to occur one or more times before permanent closure; or

(2) Other natural and human-induced events that have at least one chance in 10,000 of occurring before permanent closure.

DOE means the U.S. Department of Energy, or its duly authorized representatives.

Engineered barrier system means the waste packages and the underground facilities.

Expected means assumed to be probable on the basis of existing

evidence and in the absence of significant evidence to the contrary.

Geologic repository means a system that is intended to be used for, or may be used for, the disposal of radioactive wastes in excavated geologic media including the engineered barrier system and the portion of the geologic setting that provides isolation of the radioactive waste.

Geologic setting means geologic, hydrologic, and geochemical system of the region in which a geologic repository operations area at Yucca Mountain is or may be located.

Infiltration means the flow of a fluid into a solid substance through pores or small openings; specifically, the movement of water into soil and fractured or porous rock.

Near-field means the region where the adjacent natural geohydrologic system has been significantly impacted by the excavation of the repository and the emplacement of the waste.

NRC means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

Perched water means ground water of limited lateral extent separated from an underlying body of ground water by an unsaturated zone.

Preclosure or *preclosure period* means the period of time before and during closure of the geologic repository.

Preclosure safety evaluation means a preliminary assessment of the adequacy of repository support facilities to prevent or mitigate the effects of postulated design basis events (including fire, radiation, criticality, and chemical hazards), and the site, structures, systems, components, equipment, and operator actions that would be relied on for safety.

Postclosure means the period of time after the closure of the geologic repository.

Radioactive waste means high-level radioactive waste and other radioactive materials, including spent nuclear fuel, that are received for emplacement in the geologic repository.

Reference biosphere means the description of the environment, inhabited by the receptor, comprising the set of specific biotic and abiotic characteristics of the environment, including, but not limited to, climate, topography, soils, flora, fauna, and human activities.

Repository support facilities means all permanent facilities constructed in support of site characterization activities and repository construction, operation, and closure activities, including surface structures, utility lines, roads, railroads, and similar facilities, but excluding the underground facility.

Seepage means the inflow of ground water moving in fractures or pore spaces of permeable rock to an open space in the rock such as an excavated drift.

Sensitivity study means an analytic or numerical technique for examining the effects on outcomes, such as radionuclide releases, of varying specified parameters, such as the infiltration rate due to precipitation, when a model run is performed.

Site characterization means activities, whether in the laboratory or in the field, undertaken to establish the geologic conditions and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

Surface facilities means repository support facilities within the restricted area located on or above the ground surface.

System performance means the complete behavior of a geologic repository system at Yucca Mountain in response to the conditions, processes, and events that may affect it.

Total system performance assessment means a probabilistic analysis that is used to:

(1) Identify the features, events and processes that might affect the performance of the geologic repository;

(2) Examine the effects of such features, events, and processes on the performance of the geologic repository; and

(3) Estimate the expected annual dose to the receptor as a result of releases from the geologic repository.

Underground facility means the underground structure, backfill materials, if any, and openings that penetrate the underground structure (e.g., ramps, shafts and boreholes, including their seals)

Waste is synonymous with "*radioactive waste.*"

Waste form means the radioactive waste materials and any encapsulating or stabilizing matrix.

Waste package means the waste form and any containers, shielding, packing, and other absorbent materials immediately surrounding an individual waste container.

Yucca Mountain site means the candidate site in the State of Nevada recommended by the Secretary to the President under section 112(b)(1)(B) of the Nuclear Waste Policy Act of 1982 (NWPA) [42 U.S.C. 1032(b)(1)(B)] on May 27, 1986.

Subpart B—Site Suitability Determination, Methods, and Criteria

§ 963.10 Scope.

(a) The scope of this subpart includes the following for both the preclosure and postclosure periods:

(1) The bases for the suitability determination for the Yucca Mountain site as a location for a geologic repository;

(2) The suitability evaluation methods for applying the site suitability criteria to a geologic repository at the Yucca Mountain site; and

(3) The site suitability criteria that DOE will apply in accordance with section 113(b)(1)(A)(iv) of the NWPA.

(b) DOE will seek NRC concurrence on any future revisions to this subpart.

§ 963.11 Suitability determination.

DOE will evaluate whether the Yucca Mountain site is suitable for the location of a geologic repository on the basis of the preclosure and postclosure determinations described in §§ 963.12 and 963.15. If DOE's evaluation of the Yucca Mountain site for the location of a geologic repository under §§ 963.12 and 963.15 shows that the geologic repository is likely to meet the applicable radiation protection standards for the preclosure and postclosure periods, then DOE may determine that the site is a suitable location for the development of such a repository.

§ 963.12 Preclosure suitability determination.

DOE will apply the method and criteria described in §§ 963.13 and 963.14 to evaluate the suitability of the Yucca Mountain site for the preclosure period. If DOE finds that the results of the preclosure safety evaluation conducted under § 963.13 show that the Yucca Mountain site is likely to meet the applicable radiation protection standard, DOE may determine the site suitable for the preclosure period.

§ 963.13 Preclosure suitability evaluation method.

(a) DOE will evaluate preclosure suitability using a preclosure safety evaluation method. DOE will evaluate the performance of the geologic repository at the Yucca Mountain site using the method described in paragraph (b) of this section and the criteria in § 963.14. DOE will consider the performance of the system in terms

of the criteria to evaluate whether the geologic repository is likely to comply with the applicable radiation protection standard.

(b) The preclosure safety evaluation method, using preliminary engineering specifications, will assess the adequacy of the repository facilities to perform their intended functions and prevent or mitigate the effects of postulated design basis events that are deemed sufficiently credible to warrant consideration. The preclosure safety evaluation will consider:

(1) A preliminary description of the site characteristics, the surface facilities and the underground operating facilities;

(2) A preliminary description of the design bases for the operating facilities and a preliminary description of any associated limits on operation;

(3) A preliminary description of potential hazards, event sequences, and their consequences; and

(4) A preliminary description of the structures, systems, components, equipment, and operator actions intended to mitigate or prevent accidents.

§ 963.14 Preclosure suitability criteria.

DOE will evaluate preclosure suitability using the following criteria:

(a) Ability to contain radioactive material and to limit releases of radioactive materials;

(b) Ability to implement control and emergency systems to limit exposure to radiation;

(c) Ability to maintain a system and components that perform their intended safety functions; and

(d) Ability to preserve the option to retrieve wastes during the preclosure period.

§ 963.15 Postclosure suitability determination.

DOE will apply the method and criteria described in §§ 963.16 and 963.17 to evaluate the suitability of the Yucca Mountain site for the postclosure period. If DOE finds that the results of the total system performance assessments conducted under § 963.16 show that the Yucca Mountain site is likely to meet the applicable radiation protection standard, DOE may determine the site suitable for the postclosure period.

§ 963.16 Postclosure suitability evaluation method.

(a) DOE will evaluate postclosure suitability using the total system performance assessment method. DOE will conduct a total system performance assessment to evaluate the ability of the geologic repository to meet the applicable radiation protection standard under the following circumstances:

(1) DOE will conduct a total system performance assessment to evaluate the ability of the geologic repository to limit radiological exposures in the case where there is no human intrusion into the repository. DOE will model the performance of the geologic repository at the Yucca Mountain site using the method described in paragraph (b) of this section and the criteria in § 963.17, excluding the criterion in paragraph (b)(4) of § 963.17. DOE will consider the performance of the system in terms of the criteria to evaluate whether the geologic repository is likely to comply with the applicable radiation protection standard.

(2) Consistent with applicable NRC regulations regarding a stylized human intrusion case, DOE will conduct a total system performance assessment to evaluate the ability of the geologic repository to limit radiological exposures in a stylized limited human intrusion case. DOE will model the performance of the geologic repository at the Yucca Mountain site using the method described in paragraph (b) of this section and the criteria in § 963.17. DOE will consider the performance of the system in terms of the criteria to evaluate whether the geologic repository is likely to comply with the applicable radiation protection standard. The human intrusion evaluation under this paragraph will be separate from the evaluation conducted under paragraph (a)(1) of this section.

(b) In conducting a total system performance assessment under this section, DOE will:

(1) Include data related to the suitability criteria in § 963.17;

(2) Account for uncertainties and variabilities in parameter values and provide the technical basis for parameter ranges, probability distributions, and bounding values;

(3) Consider alternative models of features and processes that are consistent with available data and current scientific understanding, and evaluate the effects that alternative models would have on the estimated performance of the geologic repository;

(4) Consider only events that have at least one chance in 10,000 of occurring over 10,000 years;

(5) Provide the technical basis for either inclusion or exclusion of specific features, events, and processes of the geologic setting, including appropriate details as to magnitude and timing regarding any exclusions that would significantly change the expected annual dose;

(6) Provide the technical basis for either inclusion or exclusion of degradation, deterioration, or alteration processes of engineered barriers, including those processes that would adversely affect natural barriers, (such as degradation of concrete liners affecting the pH of ground water or precipitation of minerals due to heat changing hydrologic processes), including appropriate details as to magnitude and timing regarding any exclusions that would significantly change the expected annual dose;

(7) Provide the technical basis for models used in the total systems performance assessment such as comparisons made with outputs of detailed process-level models and/or empirical observations (for example, laboratory testing, field investigations, and natural analogs);

(8) Identify natural features of the geologic setting and design features of the engineered barrier system important to isolating radioactive waste;

(9) Describe the capability of the natural and engineered barriers important to isolating radioactive waste, taking into account uncertainties in characterizing and modeling such barriers;

(10) Provide the technical basis for the description of the capability of the natural and engineered barriers important to isolating radioactive waste;

(11) Use the reference biosphere and group receptor assumptions specified in applicable NRC regulations; and

(12) Conduct appropriate sensitivity studies.

§ 963.17 Postclosure suitability criteria.

(a) DOE will evaluate the postclosure suitability of a geologic repository at the Yucca Mountian site through suitability criteria that reflect both the processes and the models used to simulate those processes, that are important to the total system performance of the geologic repository. The applicable criteria are:

(1) *Site characteristics,* which include:

(i) Geologic properties of the site—for example, stratigraphy, rock type and physical properties, and structural characteristics;

(ii) Hydrologic properties of the site—for example, porosity, permeability, moisture content, saturation, and potentiometric characteristics;

(iii) Geophysical properties of the site—for example, densities, velocities and water contents, as measured or deduced from geophysical logs; and

(iv) Geochemical properties of the site—for example, precipitation, dissolution characteristics, and sorption properties of mineral and rock surfaces.

(2) *Unsaturated zone flow characteristics,* which include:

(i) Climate—for example, precipitation and postulated future climatic conditions;

(ii) Infiltration—for example, precipitation entering the mountain in excess of water returned to the atmosphere by evaporation and plant transpiration;

(iii) Unsaturated zone flux—for example, water movement through the pore spaces, or flowing along fractures or through perched water zones above the repository;

(iv) Seepage—for example, water dripping into the underground repository openings from the surrounding rock;

(3) *Near field environment characteristics,* which include:

(i) Thermal hydrology—for example, effects of heat from the waste on water flow through the site, and the temperature and humidity at the engineered barriers.

(ii) Near field geochemical environment—for example, the chemical reactions and products resulting from water contacting the waste and the engineered barrier materials;

(4) *Engineered barrier system degradation characteristics,* which include:

(i) Engineered barrier system component performance—for example, drip shields, backfill, coatings, or chemical modifications, and

(ii) Waste package degradation—for example, the corrosion of the waste package materials within the near-field environment;

(5) *Waste from degradation characteristics,* which include:

(i) Cladding degradation—for example, corrosion or break-down of the cladding on the individual spent fuel pellets;

(ii) Waste from dissolution—for example, the ability of individual radionuclides to dissolve in water penetrating breached waste packages;

(6) *Engineered barrier system degradation, flow, and transport characteristics,* which include:

(i) Colloid formation and stability—for example, the formation of colloidal particles and the ability of radionuclides to adhere to these particles as they may be washed through the remaining barriers; and

(ii) Engineered barrier transport—for example, the movement of radionuclides dissolved in water or adhering to colloidal particles to be transported through the remaining engineered barriers and in the underlying unsaturated zone;

(7) *Unsaturated zone flow and transport characteristics,* which include:

(i) Unsaturated zone transport—for example, the movement of water with dissolved radionuclides or colloidal particles through the unsaturated zone underlying the repository, including retardation mechanisms such as sorption on rock or mineral surfaces;

(ii) Thermal hydrology—for example, effects of heat from the waste on water flow through the site;

(8) *Saturated zone flow and transport characteristics,* which include:

(i) Saturated zone transport—for example, the movement of water with dissolved radionuclides or colloidal particles through the saturated zone underlying and beyond the repository, including retardation mechanisms such as sorption on rock or mineral surfaces; and

(ii) Dilution—for example, diffusion of radionuclides into pore spaces, dispersion of radionuclides along flow paths, and mixing with non-contaminated ground water;

(9) *Biosphere characteristics,* which include:

(i) Reference biosphere and receptor—for example, biosphere water pathways, location and behavior of receptor; and

(ii) Biosphere transport and uptake—for example, the consumption of ground or surface waters through direct extraction or agriculture, including mixing with non-contaminated waters and exposure to contaminated agricultural products.

(b) DOE will evaluate the postclosure suitability of a geologic repository at the Yucca Mountain site using criteria that consider disruptive processes and events important to the total system performance of the geologic repository. The applicable criteria related to disruptive processes and events include:

(1) *Volcanism*—for example, the probability and potential consequences of a volcanic eruption intersecting the repository;

(2) *Seismic events*—for example, the probability and potential consequences of an earthquake on the underground facilities or hydrologic system;

(3) *Nuclear criticality*—for example, the probability and potential consequences of a self-sustaining nuclear reaction as a result of chemical or physical processes affecting the waste either in or after release from breached waste packages;

(4) *Inadvertent human intrusion*—for example, consequences to repository system performance following a stylized human intrusion scenario.

[FR Doc. 99–30668 Filed 11–29–99; 8:45 am]
BILLING CODE 6450–01–P

VOL
64
ISS
2
2
9
NO
30
1999
UMI

federal register

Tuesday
November 30, 1999

Part V

Environmental Protection Agency

40 CFR Part 60

Commericial and Industrial Solid Waste Incineration Units; Proposed Standards and Guidelines; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–6478–9]

RIN 2060–AG31

Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed standards and guidelines.

SUMMARY: The EPA is proposing standards and guidelines for new and existing commercial and industrial solid waste incineration (CISWI) units. The standards and guidelines fulfill the requirements of sections 111 and 129 of the Clean Air Act (CAA) which require EPA to promulgate standards and guidelines for solid waste incineration units. These requirements are based on the Administrator's determination that these waste incinerators cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. These standards and guidelines will protect public health by reducing exposure to air pollution. These regulations address only nonhazardous wastes.

DATES: *Comments.* Comments on the proposed standards and guidelines or on the Information Collection Request (ICR) document associated with these standards and guidelines must be received on or before January 31, 2000.

Public Hearing. The EPA will hold a public hearing if individuals request to speak. Persons wishing to speak at a public hearing must contact EPA by December 20, 1999. If the EPA receives requests to speak, the hearing will take place on January 11, 2000.

ADDRESSES: *Comments.* Submit comments (in duplicate, if possible) to: The Air and Radiation Docket and Information Center, Attn: Docket No. A–94–63 (industrial and commercial waste incineration), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Rick Crume, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5294, e-mail: crume.rick@epa.gov.

SUPPLEMENTARY INFORMATION:

Comment Information. Comments may be submitted electronically via electronic mail (e-mail) or on disk. Electronic comments on this proposed rule may be filed via e-mail at most Federal Depository Libraries. E-mail submittals should be sent to: "A-and-R-Docket@epamail.epa.gov". Electronic comments must be submitted as an American Standard Code for Information Interchange (ASCII) file avoiding the use of special characters or any form of encryption. Comments and data will also be accepted on disks or as an e-mail attachment in WordPerfect® 5.1, 6.1, or Corel 8.0 file format or ASCII file format. All comments and data for this proposal, whether in paper form or electronic forms such as through e-mail or on diskette, must be identified by Docket No. A–94-63. No confidential business information should be submitted through e-mail.

Persons wishing to submit proprietary information for consideration must clearly distinguish such information from other comments by clearly labeling it "Confidential Business Information" (CBI). Submit CBI directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Rick Crume, c/o Ms. Melva Toomer, OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 740B, Durham, North Carolina 27701. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality is made with the submission, the submission may be made available to the public without further notice.

Public Hearing. If a public hearing is held, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, NC, or at an alternate site nearby. Persons wishing to speak at a public hearing should contact Libby Bradley, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5578.

Background Information. A list of combustion related rules is available on the Combustion Group website on the EPA Technology Transfer Network website (TTN Web) at http://www.epa.gov/ttn/uatw/combust/list.html. You may obtain background information, technical documents, and a docket index on these combustion related rules.

Docket. Docket No. A–94–63 contains the supporting information used in developing the proposed standards and guidelines and is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, telephone (202) 260–7548, fax (202) 260–4000. The docket is available at the above address in Room M–1500, Waterside Mall (ground floor, central mall). A reasonable fee may be charged for copying.

Regulated Entities. The promulgation of these standards and guidelines would affect the following North American Industrial Classification System (NAICS) and Standard Industrial Classification (SIC) codes:

Category	NAICS code	SIC code	Examples of potentially regulated entities
Any industry using a solid waste incinerator as defined in the regulations.	325	28	Manufacturers of chemicals and allied products.
	325	34	Manufacturers of electronic equipment.
	421	36	Manufacturers of wholesale trade, durable goods.
	321, 337	24, 25	Manufacturers of lumber and wood furniture.
Any State, local, or Tribal government using a solid waste incinerator as defined in the regulations.	922	9229	Law enforcement agencies.
Any Federal government agency using a solid waste incinerator as defined in the regulations.	928	9711	Department of defense (labs, military bases, munition facilities).
Any university using a solid waste incinerator as defined in the regulations.	6113	8221	Research centers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists examples of the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility, company, business organization, etc., is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 60.2010 of subpart CCCC and 40 CFR 60.2505 of subpart DDDD. If you have any questions regarding the applicability of this action to your solid waste incineration unit, refer to the **FOR FURTHER INFORMATION CONTACT** section.

Organization of This Document. The following outline is provided to aid in locating information in this preamble. Each section heading of the preamble is presented as a question and the text in the section answers the question.

I. Background Information
- A. What information is covered in this preamble and how is it organized?
- B. Where in the Code of Federal Regulations will these standards and guidelines be codified?
- C. What is the regulatory development background of this source category?
- D. What is the statutory authority for these standards?
- E. What are new source performance standards?
- F. What are emission guidelines?
- G. How are the emission guidelines implemented?

II. Summary of the Standards and Guidelines
- A. Do the proposed standards and guidelines apply to me?
- B. What emission limits must I meet?
- C. What are the other requirements for new and existing units?
- D. What are the requirements for air curtain incinerators?

III. Rationale of the Standards and Guidelines
- A. How did EPA determine which pollution sources would be regulated under the proposed standards and guidelines?
- B. How did EPA select the format for the proposed standards and guidelines?
- C. How did EPA determine the proposed emission limits for new units?
- D. How did EPA determine the proposed emission limits for existing units?
- E. How did EPA determine testing and monitoring requirements for the emission standards and guidelines?
- F. How did EPA determine compliance times for the emission standards and guidelines?
- G. How did EPA determine the required records and reports for the emission standards and guidelines?
- H. How did EPA determine operator training and qualification requirements for the emission standards and guidelines?
- I. How did EPA determine the waste management plan requirements?
- J. How did EPA determine the siting requirements for new units?
- K. How does this regulation affect permits?

IV. Impacts of the Proposed Standards for New Units
- A. What are the air impacts?
- B. What are the water and solid waste impacts?
- C. What are the energy impacts?
- D. What are the control costs and economic impacts?

V. Impacts of the Proposed Guidelines for Existing Units
- A. What are the air impacts?
- B. What are the water and solid waste impacts?
- C. What are the energy impacts?
- D. What are the control costs and economic impacts?

VI. Definition of Solid Waste

VII. Public Participation and Request for Comments

VIII. Administrative Requirements
- A. Public Hearing
- B. Docket
- C. Executive Order 12866: Regulatory Planning and Review
- D. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act (SBREFA)
- E. Paperwork Reduction Act
- F. Unfunded Mandates Reform Act
- G. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
- H. National Technology Transfer and Advancement Act
- I. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- J. Executive Order 13132: Federalism

Abbreviations and Acronyms Used in This Document

ASCII—American Standard Code for Information Interchange
ASME—American Society of Mechanical Engineers
Btu—British thermal units
CBI—Confidential Business Information
CAA—Clean Air Act
CEMS—Continuous emission monitoring systems
CFR—Code of Federal Regulations
CISWI—Commercial and industrial solid waste incineration
EPA—Environmental Protection Agency
FACA—Federal Advisory Committee Act
FR—Federal Register
HMIWI—Hospital/medical/infectious waste incineration
ICCR—Industrial Combustion Coordinated Rulemaking
ICR—Information Collection Request
kg/hr—Kilograms per hour
kWh/yr—Kilowatt hours per year
lbs/hr—Pounds per hour
MACT—Maximum achievable control technology
mg/dscm—Milligrams per dry standard cubic meter
Mg/yr—Megagrams per year
MWC—Municipal waste combustor
NAICS—North American Industrial Classification System
ng/dscm—Nanograms per dry standard cubic meter
NSPS—New source performance standards
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
Pub. L.—Public Law
ppm—parts per million
RFA—Regulatory Flexibility Act
SBREFA—Small Business Regulatory Enforcement Fairness Act
SIC—Standard Industrial Classification
SWDA—Solid Waste Disposal Act
TTN Web—Technology Transfer Network Website
UMRA—Unfunded Mandates Reform Act
U.S.C.—United States Code

I. Background Information

A. What Information Is Covered in This Preamble and How Is It Organized?

In this preamble, EPA summarizes the important features of these proposed standards and guidelines that apply to CISWI units. This preamble describes the environmental, energy, and economic impacts of these standards and guidelines; describes the basis for each of the decisions made regarding the proposed standards and guidelines; requests public comments on certain issues; and discusses administrative requirements relative to this action.

B. Where in the Code of Federal Regulations Will These Standards and Guidelines Be Codified?

The Code of Federal Regulations (CFR) is a codification of the general and permanent rules published in the **Federal Register** by the Executive departments and agencies of the Federal Government. The code is divided into 50 titles that represent broad areas subject to Federal regulation. These proposed rules for solid waste incineration units would be published in Title 40, Protection of the Environment. Part 60 of title 40 includes standards of performance for new stationary sources and emission guidelines and compliance times for existing sources. The table below lists the subparts in which the standards and guidelines will be codified.

Title of the regulation	Subpart in title 40, part 60
Standards of Performance for New Stationary Sources: Commercial and Industrial Solid Waste Incineration Units.	Subpart CCCC.
Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units.	Subpart DDDD.

C. What Is the Regulatory Development Background of This Source Category?

Section 129 of the CAA requires the EPA to develop new source performance standards (NSPS) and emission guidelines for "solid waste incineration units combusting commercial or industrial waste." On December 28, 1994 (59 FR 66850), the EPA published an advance notice of proposed rulemaking. That notice requested information and data concerning the operation, location, emissions, and emission controls for CISWI units. The data from that information request were compiled by the EPA to assist in identifying and characterizing CISWI units.

In September 1996, the EPA chartered the Industrial Combustion Coordinated Rulemaking (ICCR) advisory committee under the Federal Advisory Committee Act (FACA). The committee's objective was to develop recommendations for regulations for several combustion source categories under sections 112 and 129 of the CAA. The ICCR advisory committee, known as the Coordinating Committee, formed Source Work Groups for the various combustor types covered under the ICCR. One work group, the Incinerator Work Group, was formed to research issues related to CISWI units. The Incinerator Work Group submitted recommendations, information, and data analysis results to the Coordinating Committee, which in turn considered them and submitted recommendations and information to the EPA. The Committee's recommendations were considered by EPA in developing these regulations for CISWI units. The Committee's 2-year charter expired in September 1998.

Pursuant to a February 1995 consent decree (as modified in July 1997), EPA was required to complete the entry of responses received from an ICR (issued by the ICCR) into an electronic database by October 15, 1997, and to develop regulatory options for the CISWI rulemaking by November 16, 1998. The EPA met both of these deadlines. That consent decree also requires the Administrator to sign a notice of proposed rulemaking to establish emission standards and other requirements applicable to commercial and industrial solid waste incinerators, pursuant to section 129 of the CAA, by November 15, 1999. Additionally, a July 23, 1997 consent decree requires the EPA to promulgate final emission standards and other requirements for CISWI units, pursuant to section 129, by November 15, 2000.

This proposed rule satisfies the consent decree requirement for the Administrator to sign a notice of proposed rulemaking for emission standards applicable to CISWI units by November 15, 1999.

D. What Is the Statutory Authority for These Standards?

Section 129 of the CAA requires EPA to develop and adopt performance standards and emission guidelines for solid waste incineration units pursuant to section 111 of the CAA. Section 111(b) requires EPA to establish standards of performance for new sources, and section 111(d) requires EPA to establish procedures for States to submit plans for implementing emission guidelines for existing sources. Under section 111, performance standards and guidelines must be developed for new and existing stationary sources that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare.

Congress specifically added section 129 to the CAA to address concerns about emissions from solid waste combustion units. Under section 129, the standards and guidelines adopted for solid waste combustion units must reflect maximum achievable control technology (MACT). The MACT is the maximum degree of reduction in emissions of specified air pollutants that the Administrator determines is achievable, taking into consideration the cost of achieving the reductions and any non-air quality health and environmental impacts and energy requirements.

E. What Are New Source Performance Standards?

The NSPS for solid waste incineration units are developed according to sections 111 and 129. These standards apply to new stationary sources of emissions, that is, sources whose construction begins after a standard is proposed or that are modified on or after a specified date. An NSPS is the end product of a series of decisions related to certain key elements for the source category being considered for regulation. The key elements in this rulemaking are generally defined as:

1. *Source category to be regulated* means the industries or types of processes that are regulated. Today's proposed standards apply to the CISWI category specified in section 129.

2. *Affected facility* means the solid waste incineration units that will be sources subject to the NSPS. Today's proposed standards will affect each individual CISWI unit.

3. *Pollutants to be regulated* means the particular substances emitted by the affected facility that the standards regulate. Section 129 specifies nine pollutants: cadmium, carbon monoxide, dioxins/furans, fine and total particulate matter, hydrogen chloride, lead, mercury, oxides of nitrogen, and sulfur dioxide. Opacity standards may also be required as appropriate. The EPA is not proposing emission limits for fine particulate matter because testing and monitoring methods are not available. The section 129 pollutants represent the minimum requirements; EPA can add other pollutants, if appropriate, but has elected not to do so in this rulemaking.

4. *Maximum achievable control technology* means the technology on which the emission standards will be based. Section 129(a)(2) specifies that standards be based on "the maximum degree of reduction in emissions * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable * * *." (Note that solid waste incineration standards under section 129 are different from typical NSPS under section 111, which are based on "best demonstrated technology" rather than MACT.)

5. *Format for the standards* means the form in which the standards are expressed; for example, as pollutant concentration emission limits, as a percent reduction in emissions, or as equipment or work practice standards. Section 129 also directs EPA to establish siting requirements for new incineration units and operator certification and training requirements for all units.

6. *Actual standards* generally means emission limits based on the level of reduction that the MACT can achieve. Under certain circumstances, it may not be possible to develop emission limits if the level of performance cannot be identified. Only in unusual cases do standards require that a specific technology be used. In general, the source owner or operator may select any method for complying with the standards.

7. *Other considerations in addition to emission limits* for NSPS usually include: standards for visible emissions, modification and reconstruction provisions, monitoring requirements, performance test methods and compliance procedures, and reporting and recordkeeping requirements.

F. What Are Emission Guidelines?

Emission guidelines are similar to the NSPS, except that they apply to existing sources, that is, sources whose construction begins on or before the date a standard is proposed or that are

modified before a specified date. Unlike NSPS, the emission guidelines are not enforceable until EPA approves a State plan or adopts a Federal plan for implementing and enforcing them, and the State or Federal plan becomes effective.

G. How Are the Emission Guidelines Implemented?

When standards of performance for solid waste incineration units are promulgated under sections 111 and 129, the CAA requires States under sections 111(d) and 129(b) to submit plans that: (1) Establish emission standards for existing sources and (2) provide for implementation and enforcement of these emission standards.

States are required to adopt and submit to the Administrator a State plan implementing the emission guidelines within 1 year after the promulgation of the guidelines (section 129(b)(2)). The State plan carries out and provides for enforcing the emission guidelines. Section 129 provides that the State plan for existing incineration units must be at least as protective as the emission guidelines and must provide for compliance by affected facilities no later than 3 years after the Administrator approves the State plan, but no later than 5 years after EPA promulgates the guidelines. The CAA (section 111(d)) further requires that the procedures for submitting a State plan must be similar to the procedures for submitting State implementation plans under section 110 of the CAA. (The EPA has established specific procedures in 40 CFR part 60, subpart B.) Sections 111(d) and 129(b) also require EPA to develop, implement, and enforce a Federal plan if a State fails to submit a satisfactory State plan.

II. Summary of the Standards and Guidelines

This preamble discusses the proposed standards and guidelines as they apply to "you," the owner or operator of a new or existing CISWI unit. This preamble describes the major requirements of the CISWI regulations. For a full description of the proposed requirements and compliance times, see the attached regulations.

A. Do the Proposed Standards and Guidelines Apply to Me?

The proposed standards and guidelines apply to you if you own or operate an incineration unit burning solid waste (as defined in §§ 60.2245 and 60.2850) at any commercial or industrial facility. A commercial or industrial solid waste incineration unit is considered an enclosed device using controlled flame combustion that burns solid waste, or an air curtain incinerator that burns solid waste, and that is a distinct operating unit of any commercial or industrial facility. Note that the definition of solid waste includes solid, liquid, semisolid, or contained gaseous materials.

Incineration units that burn more than 90 percent by weight (on an instantaneous basis) pathological waste or agricultural waste (as defined in §§ 60.2245 and 60.2850) are not covered by the proposed standards and guidelines. Additionally, incineration units that are regulated under any of the following existing standards or guidelines are not covered by the proposed standards or guidelines:

- Subpart Cb of this part (Emission Guidelines and Compliance Times for Municipal Waste Combustors That Are Constructed on or Before December 19, 1995).
- Subpart Ce of this part (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators).
- Subpart Ea of this part (Standards of Performance for Municipal Waste Combustors).
- Subpart Eb of this part (Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994).
- Subpart Ec of this part (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).
- Subpart AAAA of this part (Standards of Performance for New Stationary Sources: Small Municipal Waste Combustion Units).
- Subpart BBBB of this part (Emission Guidelines: Small Municipal Waste Combustion Units).

Section 129(g)(1) of the CAA excludes the following incineration units from the definition of a solid waste incineration unit:

- Incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act (*e.g.*, hazardous waste incinerators).
- Materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals.
- Qualifying small power production facilities, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes.

Therefore, these units are not covered by the proposed standards and guidelines. The CAA also specifies that air curtain incinerators that burn 100 percent wood waste and clean lumber and that comply with opacity limitations established by the Administrator are excluded from the definition of solid waste incineration unit. Therefore, the requirements for air curtain incinerators that burn 100 percent wood waste and clean lumber are limited to opacity limits and associated recordkeeping and reporting requirements.

If you began the construction of your unit on or before November 30, 1999 it is considered an existing unit and is subject to the emission guidelines. If you began the construction of your unit after November 30, 1999 it is considered a new unit and is subject to the NSPS. If you began reconstruction or modification of your unit prior to 6 months after promulgation of the rule it is considered an existing unit and is subject to the emission guidelines. Likewise, if you began reconstruction or modification of your unit 6 months (or later) after promulgation of this subpart it is considered a new unit and is subject to the NSPS.

B. What Emission Limits Must I Meet?

As the owner or operator of a new or existing CISWI unit, you would be required to meet the emission limits specified in table 1. You must do a stack test to show compliance within 60 days after a new CISWI unit reaches the charge rate at which it will operate, but no later than 180 days after the unit's initial start-up. As the owner or operator of an existing CISWI unit, you would be required to meet the emission limits specified in table 1 within 3 years after the Administrator approves the State plan or promulgates a Federal plan. Each existing CISWI unit must be in compliance with these emission guidelines within 5 years of promulgation of the guidelines.

TABLE 1.—EMISSION LIMITS FOR NEW AND EXISTING CISWI UNITS

For these pollutants	You must meet these emission limits[a]	And determine compliance using these methods
Cadmium	0.03 mg/dscm	EPA Method 29.
Carbon Monoxide	157 ppm by dry volume	Not required.
Dioxins/Furans (total mass basis)	0.37 ng/dscm	EPA Method 23.
Hydrogen Chloride	62 ppm by dry volume	EPA Method 26.
Lead	2.1 mg/dscm	EPA Method 29.
Mercury	0.005 mg/dscm	EPA Method 29.
Opacity	10 percent	EPA Method 9.
Oxides of Nitrogen	388 ppm by dry volume	Not required.
Particulate Matter	70 mg/dscm	EPA Method 5 or 29.
Sulfur Dioxide	20 ppm by dry volume	EPA Method 6.

[a] All emission limits are measured at 7 percent oxygen, dry basis at standard conditions.

C. What Are the Other Requirements for New and Existing Units?

As the owner or operator of a new or existing CISWI unit, you would be required to meet the following additional requirements.

Waste Management Plan:

- Submit a written plan that identifies both the feasibility and the approach to separate certain components of solid waste from the waste stream to reduce toxic emissions from waste incineration.

Operator Training and Qualification Requirements:

- Qualify operators or their supervisors (at least one per facility) by ensuring that they complete the operator training course.
- Ensure that qualified operators or their supervisors complete an annual review or refresher course specified in the regulation.
- Maintain plant-specific information regarding operator training and update this information annually.

Compliance and Stack Testing Requirements:

- Conduct initial stack tests to determine compliance with the cadmium, dioxins/furans, hydrogen chloride, lead, mercury, opacity, particulate matter, and sulfur dioxide emission limits and establish operating parameters.
- Conduct annual stack tests to determine compliance with the particulate matter and hydrogen chloride emission limits and opacity limit. (An owner or operator may conduct less frequent testing if the facility demonstrates it is in compliance with the limits for 3 consecutive years.)
- Operate the unit and control equipment so that operating parameters do not exceed the established maximum values or fall below the established minimum values.

Monitoring Requirements:

- If using a wet scrubber to comply, install and maintain equipment to continuously monitor operating parameters including maximum charge rate, minimum pressure drop across the wet scrubber (or minimum horsepower or amperage), and scrubber liquid flow rate and pH.
- If something other than a wet scrubber is used to comply, establish and monitor other site-specific operating parameters, as approved by the Administrator.

Recordkeeping and Reporting Requirements:

- Maintain for 5 years records of the initial stack tests and all subsequent stack tests, operating parameters, any maintenance, the siting analysis (for new units only), and operator training and qualification.
- Submit the results of the initial stack tests and all subsequent stack tests and values for the operating parameters.

D. What Are the Requirements for Air Curtain Incinerators?

Air curtain incinerators operate by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. These units can be constructed above or below ground and with or without refractory walls and floors. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.) Under section 129(g)(1) of the CAA, new and existing air curtain incinerators that burn 100 percent wood wastes, yard wastes, and clean lumber are not required to comply with the proposed CISWI emission limits provided that such incinerators comply with opacity limitations to be established by the Administrator. Standards and guidelines for municipal waste combustion (MWC) units establish air curtain incinerator opacity limits for yard wastes. This proposed rule establishes opacity limits for wood wastes and clean lumber.

The proposed opacity limit for air curtain incinerators burning 100 percent wood wastes and clean lumber is 10 percent, except 35 percent opacity is allowed during start-up periods that are within the first 30 minutes of operation. These requirements apply at all times except during malfunction, which must not exceed 3 hours. The proposed opacity limits are based on levels achievable by incineration devices burning materials such as municipal and medical waste. Initial and annual performance tests for opacity as well as recordkeeping are required.

III. Rationale of the Standards and Guidelines

A. How Did EPA Determine Which Pollution Sources Would Be Regulated Under the Proposed Standards and Guidelines?

The source category for the CISWI standards in subparts CCCC and DDDD is new and existing "solid waste incineration units combusting commercial or industrial waste," as required by section 129 of the CAA. The affected facility is each individual waste combustion unit.

The CISWI standards in subparts CCCC and DDDD apply to new and existing commercial and industrial waste incineration units that burns solid waste as defined in the subparts. (Also, see section VI of this preamble.) To avoid any potential for overlapping regulations, incineration units are not covered under the CISWI standards if they are covered by regulations in 40 CFR part 60 for MWC units (subparts Cb, Ea, Eb, AAAA, and BBBB); or hospital/medical/infectious waste incineration (HMIWI) units (subparts Ce and Ec).

The CISWI standards also do not apply to incineration units that burn greater than 90 percent by weight pathological materials, including human remains, animal tissues, and any associated containers or bedding materials. The EPA selected a cutoff of 90 percent to distinguish those units designed and used primarily for pathological material destruction, including human cremation. Units that burn less than 90 percent pathological materials are covered under the CISWI standards. Additionally, the CISWI standards do not apply to incineration units that burn greater than 90 percent

by weight agricultural wastes, including nut and grain hulls and chaff, bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds, and other vegetative waste materials generated as a result of agricultural operations. The EPA selected a cutoff of 90 percent to distinguish those units designed and used primarily for agricultural material destruction.

The MACT floor and the proposed emission limits for each of the nine pollutants and opacity in the CISWI category differ somewhat from limits established for other categories of incineration units, such as HMIWI units, MWC units, and hazardous waste incinerators. Such differences are to be expected since each category contains incineration units that differ from units in the other categories with respect to waste type, incinerator size and design, and emission control requirements. Each of these incinerator characteristics can have a significant impact on the emissions from an incinerator and, consequently, on the data upon which EPA must base its emission standards. Because of such differences, EPA has developed individual standards for each category of incinerators.

To clarify which solid waste incineration units are covered by section 129 regulations such as these CISWI standards and guidelines, the EPA is proposing today a definition of solid waste. The proposed definition is discussed in detail in section VI of this preamble. The proposed definition applies only to section 129 regulations. The definition does not affect any other regulations that control the combustion or disposal of solid waste, such as regulations that control emissions from burning hazardous waste or other regulations developed under the Resource Conservation and Recovery Act.

Categories may be divided into subcategories when differences (such as design, fuel, or waste type, etc.) between given types of units lead to corresponding differences in the technical feasibility of applying emission control techniques. The design and operating information that EPA reviewed to date for CISWI units does not indicate the need for subcategorization of this category. For the CISWI category, no particular waste type appears to dominate a given design or size range, nor does waste type or size appear to determine the technical feasibility of control. While the CISWI database and the information collected suggest that we have considered all relevant CISWI units, we request comment on any classes or types of CISWI units, or CISWI unit size considerations, that we have not addressed in this proposed rule. Any comments regarding such units should include a discussion about how the units should be treated under this rulemaking.

B. How Did EPA Select the Format for the Proposed Standards and Guidelines?

The EPA selected emission limitations as the format for the proposed CISWI standards and guidelines. As required by section 129 of the CAA, the proposed standards and guidelines would establish numerical emission limitations for cadmium, carbon monoxide, dioxins/furans, hydrogen chloride, lead, mercury, opacity, oxides of nitrogen, particulate matter, and sulfur dioxide. For regulating cadmium, lead, mercury, and total particulate matter, the EPA is proposing numerical concentration limits in milligrams per dry standard cubic meter (mg/dscm). The EPA is not proposing standards for fine particulate matter because monitoring and testing methods are not available.

Dioxins/furans emission limits are in units of total nanograms per dry standard cubic meter (ng/dscm), based on measuring emissions of each tetra- through octa-chlorinated dibenzo-p-dioxin and dibenzofuran and summing them. For carbon monoxide, hydrogen chloride, oxides of nitrogen, and sulfur dioxide, the proposed standards and guidelines are volume concentrations (parts per million (ppm) dry volume). Standards and guidelines for opacity are proposed on a percentage basis. All measurements are corrected to 7 percent oxygen to provide a common basis.

The EPA selected an outlet concentration format because outlet data are available for CISWI units using the control technologies that are the basis of the MACT emission limits. The individual limits reflect the achievable performance of CISWI units using these controls for each type of emission.

In addition to numerical emission limits, the CISWI standards include operator training and qualification provisions and siting requirements (for new sources only) as required by section 129. Owners or operators of a new CISWI unit must also prepare a waste management plan.

The EPA considered an alternative percent reduction format for some of the pollutants such as cadmium, dioxins/furans, hydrogen chloride, lead, mercury, and sulfur dioxide, but data were insufficient to determine the percent reductions the control devices achieve. Given the variability of waste materials combusted and the limited emission test data available on which to base the emission limits, it is possible that some CISWI units burning "dirtier" materials may have difficulty achieving the proposed emission limits, even when emission controls are applied. Consequently, EPA considered including with each of the emission limitations, alternative percent reduction requirements to ensure that the limits are technically achievable while still reducing emissions. However, data upon which to base percent reduction requirements were not available. Therefore, the EPA requests comments on the appropriateness of percent reduction requirements, any data upon which those requirements could be based, and any other emissions test data available for the MACT floor technologies applied to CISWI units. The EPA also requests comments on whether emission limits should be established for pollutants in addition to the nine pollutants plus opacity that are specified in section 129. Comments should include any emissions data or estimates.

C. How Did EPA Determine the Proposed Emission Limits for New Units?

All standards established pursuant to section 129 of the CAA must reflect MACT, the maximum degree of reduction in emissions of air pollutants that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for each category. The CAA also specifies that the degree of reduction in emissions that is deemed achievable for new CISWI units must be at least as stringent as the emissions control that is achieved in practice by the best-controlled similar unit. This requirement constitutes the MACT "floor" for new CISWI units. However, the EPA may not consider costs or other impacts in determining the MACT floor. The EPA may require a control option that is more stringent than the floor (beyond the floor) if the Administrator considers the cost, environmental, and energy impacts to be reasonable.

1. How Did EPA Determine the MACT Floor?

To determine the MACT floor for new CISWI units, the EPA examined the database of CISWI units recommended by the ICCR FACA Committee. Data for units not meeting the definition of a CISWI unit were removed from the database, and information on other CISWI units, obtained after expiration of

the ICCR FACA, was added to supplement the FACA recommendation. The EPA next identified the types of air pollution controls currently used by existing CISWI units and ranked those controls according to their effectiveness in removing the pollutants of concern. Emissions data were available for only a limited number of units, so the EPA ranked the technologies based upon emission reduction information in the literature and engineering judgement.

Based on the emission reduction potential of existing air pollution controls, the EPA listed all the CISWI units in the database in order of decreasing control device effectiveness. The EPA determined the MACT technology basis of the floor for each pollutant by identifying the best-controlled unit on a pollutant-by-pollutant basis. Thus, for each pollutant, the basis for the MACT floor for new units is the technology used by the best-performing unit.

After establishing the technology basis for the floor, the EPA examined the emissions data available for CISWI units controlled by that technology to determine appropriate emission limits. The resulting emission limits associated with the MACT floor technology for each pollutant represent the maximum concentration of emissions reported for the given pollutant/control technology combination. This approach is designed to ensure that units using the MACT floor technology could achieve the proposed emission limits under the worst reasonable, foreseeable circumstances (*i.e.*, a lower level could not be demonstrated to be consistently achievable).

The EPA's review of emissions data indicates that some CISWI units may be able to meet the floor emission levels without using the air pollution control technology representing the basis of the floor. This is to be expected, given the wide variety of waste materials combusted by CISWI units and the resulting variability in emissions. Thus, units combusting "cleaner" materials may be able to achieve the emission limits without the need for control devices. (Under the CAA, facilities are allowed to use any means to achieve emission limits and do not need to rely on the specific technology on which the limits are based.)

The most effective technologies identified for removing particulate matter are fabric filters and wet scrubbers (*i.e.*, units having these controls represent the best-controlled similar units for the purpose of determining the floor for new units.) Emissions test data for CISWI units showed no significant difference in the outlet concentrations of particulate matter between units using fabric filters and units using wet scrubbers. Therefore, the EPA considers either a fabric filter or wet scrubber to be the MACT floor for particulate matter control. Similarly, because non-volatile metals are captured in particulate form, the MACT floor for lead and cadmium also reflects a fabric filter or wet scrubber. The EPA determined that the MACT floor for dioxins/furans, hydrogen chloride, mercury, and sulfur dioxide reflects wet scrubbing. Fabric filters do not remove significant amounts of these pollutants, and no CISWI unit in the database reported using a fabric filter with carbon injection, which is a more effective technique for reducing dioxins/furans and possibly mercury emissions.

The EPA's experience is that for other combustion source categories, fabric filters and other control techniques such a electrostatic precipitators are capable of achieving particulate matter emission levels significantly lower than the proposed limit of 70 mg/dscm. Therefore, the EPA requests comments on whether fabric filters or other control techniques can achieve lower particulate matter emissions for CISWI units, and whether one of these techniques should represent the basis of the CISWI particulate matter emission limit. Comments should include any available information on emission rates, control efficiencies for particulate matter and other pollutants, and control costs for CISWI and similar units using control techniques capable of achieving particulate matter levels below 70 mg/dscm.

Data upon which to base emission limits for mercury and dioxins/furans are limited, and only two emission tests were available for each of these pollutants for CISWI units equipped with wet scrubbers. Therefore, the EPA requests comments on the proposed emission limits for mercury and dioxins/furans and requests additional emissions and control efficiency data applicable to CISWI units with wet scrubbers.

While the proposed mercury emission limit is based on data showing that units using wet scrubber control technology are able to meet the limit, this relatively low limit may be unachievable for incinerators burning wastes having relatively high amounts of water-insoluble mercury species (*e.g.*, elemental mercury and mercury oxides). This is because a wet scrubber generally does not remove significant amounts of mercury species that are not soluble in water. In addressing other types of incinerators, such as MWC and HMIWI units, EPA has estimated that most of the mercury emitted from these facilities comprises water soluble species, such as mercury chloride, and that a small amount of the mercury emitted is not soluble in water. While units in the CISWI category may differ in some respects from MWC and HMIWI units, there are likely to be some similarities among the wastes burned by all of these units and the resulting emissions. Nevertheless, depending on the nature of the waste combusted, the proposed mercury emission limits may not necessarily be achievable for all CISWI units using wet scrubbers.

The EPA believes that wet scrubbing can be an effective mercury removal technique for CISWI units, and that it is the appropriate control technology upon which to base the MACT floor. However, EPA requests comments on the emission limits for mercury and requests additional data (especially waste feed analyses and emission test data). Additionally, the EPA requests comments on whether CISWI units can meet the proposed mercury limit using wet scrubbers or pollution prevention techniques (*e.g.*, removing mercury from the waste stream) regardless of the type of commercial and industrial waste burned.

Although some CISWI units appear to use combustion modification techniques to reduce oxides of nitrogen emissions, the limited available emissions data do not demonstrate associated reductions in oxides of nitrogen emissions, and none of the CISWI units reported the use of add-on controls for oxides of nitrogen. Similarly, many CISWI units are equipped with afterburners that may help to reduce carbon monoxide emissions. The emissions data, however, show no significant difference in carbon monoxide emissions between those units reporting afterburners and those that do not. Because oxides of nitrogen and carbon monoxide controls have not been demonstrated on CISWI units, the MACT floor reflects no control of these pollutants. However, because the CAA requires EPA to set numerical emission limits for oxides of nitrogen and carbon monoxide, the limits corresponding to the MACT floor represent the highest uncontrolled emission rates for oxides of nitrogen and carbon monoxide in the emissions database. The EPA requests comments on these emission limits and whether these levels accurately reflect uncontrolled emissions of oxides of nitrogen and carbon monoxide from CISWI units.

2. How Did EPA Determine Whether Options More Stringent Than the Floor Were Appropriate?

The EPA considered one regulatory option more stringent than the MACT floor (*i.e.*, a technology basis that could result in lower emissions.) The system EPA evaluated comprised a fabric filter with carbon injection and a wet scrubber. Carbon injection would provide greater removal of dioxins/furans and possibly mercury, and the fabric filter would be required to collect the spent carbon. However, the incremental cost effectiveness of applying this dry/wet system for the pollutants of concern is considered excessive. (Incremental cost effectiveness is the difference in annual costs between this regulatory option and the MACT floor divided by the difference in annual emission reductions achieved. It is often used as a measure of the economic feasibility of applying control techniques.)

The fabric filter with carbon injection and wet scrubber system considered by EPA represents the next logical step in improved emission control beyond wet scrubbing, and EPA was not able to identify other beyond the floor control systems that achieve good emission control at a reasonable cost effectiveness. However, EPA requests comments on whether other control technologies should be considered as beyond the floor regulatory options. Comments should include any information on emissions, current applications, and costs.

Because regulatory options that are more stringent than the floor and economically feasible were not identified, the EPA selected emission limits associated with the floors as MACT for each regulated pollutant. These emission limits are shown in table 1 in section II of this preamble.

D. How Did EPA Determine the Proposed Emission Limits for Existing Units?

The CAA specifies in section 129 that MACT for existing CISWI units must be at least as stringent as the average emission limitation achieved by the best-performing 12 percent of units in the source category. This requirement constitutes the MACT floor for existing CISWI units. The EPA may not consider costs or other impacts in determining the MACT floor. A control option more stringent than the floor can be required if the Administrator considers the cost, environmental, and energy impacts to be reasonable.

The process used to establish emission standards for existing CISWI units is virtually identical to the process used to establish standards for new CISWI units. Moreover, for each pollutant, the best-performing similar unit (used to establish the floor for new units) employs the same technology as the average of the best-performing 12 percent of units (used to establish the floor for existing units) in the CISWI category. Therefore, because the MACT floor emission limits for each pollutant for both new and existing CISWI units are based on the same pollution control efficiency of the same type of pollution control technology, the MACT floors (and resulting emission limits) for new and existing CISWI units are the same.

1. How Did EPA Determine the MACT Floor?

To determine the MACT floor for existing CISWI units, the EPA first examined the database of CISWI units recommended by the ICCR FACA Committee. Data for units not meeting the definition of a CISWI unit were removed from the database, and information on other CISWI units, obtained after expiration of the ICCR FACA, was added to supplement the FACA recommendation. Next, the EPA identified the types of air pollution controls currently used by existing CISWI units and ranked those controls according to their effectiveness in removing the pollutants of concern. Emissions data were available for only a limited number of units, so the EPA ranked the technologies based upon information about emission reduction in the literature and engineering judgement.

Based upon the emission reduction potential of available air pollution controls, the EPA listed all the CISWI units in the database in order of decreasing control device effectiveness. The EPA determined the technology basis of the MACT floor for each pollutant by identifying the best-performing 12 percent of the units on a pollutant-by-pollutant basis. The EPA then selected the median of the top 12 percent as the MACT floor.

After establishing the technology basis for the floor, the EPA examined the emissions data available for CISWI units controlled by that technology to determine achievable emission limits. The resulting emission limits associated with the MACT floors for each pollutant represent the maximum concentration of emissions reported for the given pollutant/control technology combination. This approach is designed to ensure that any units using the MACT floor technology could achieve the proposed emission limits under the worst reasonably foreseeable circumstances (*i.e.*, a lower level could not be demonstrated to be consistently achievable).

The EPA's review of emissions data indicates that some CISWI units may be able to meet the floor emission levels without using the air pollution control technology representing the basis of the floor. This is to be expected, given the wide variety of waste materials combusted by CISWI units and the resulting variability in emissions. Thus, units combusting "cleaner" materials may be able to achieve the emission limits without the need for control devices. (Under the CAA, facilities are allowed to use any means to achieve emission limits and do not need to rely on the specific technology on which the limits are based.)

The most effective technologies identified for removing particulate matter are fabric filters and wet scrubbers. These techniques are used by over 20 percent of the units in EPA's CISWI database. Emissions test data for CISWI units showed no significant difference in the outlet concentrations of particulate matter between units using fabric filters and units using wet scrubbers. Therefore, the EPA considers either a fabric filter or wet scrubber to be the MACT floor for particulate matter control. Similarly, because non-volatile metals are captured in particulate form, the MACT floor for lead and cadmium also reflects a fabric filter or wet scrubber. Based on the median of the best-performing 12 percent of units, the EPA determined that the MACT floor for dioxins/furans, hydrogen chloride, mercury, and sulfur dioxide reflects wet scrubbing. Fabric filters do not remove significant amounts of these pollutants, and no CISWI unit in the database reported using a fabric filter with carbon injection, which is a more effective technique for reducing dioxins/furans and possibly mercury emissions.

The EPA's experience is that for other combustion source categories, fabric filters and other control techniques such as electrostatic precipitators are capable of achieving particulate matter emission levels significantly lower than the proposed limit of 70 mg/dscm. Therefore, the EPA requests comments on whether fabric filters or other control techniques can achieve lower particulate matter emissions for CISWI units, and whether one of these techniques should represent the basis of the CISWI particulate matter emission limit. Comments should include any available information on emission rates, control efficiencies for particulate matter and other pollutants, and control costs for CISWI and similar units using control techniques capable of achieving

particulate matter levels below 70 mg/dscm.

Data upon which to base emission limits for mercury and dioxins/furans are limited, and only two emission tests were available for each of these pollutants for CISWI units equipped with wet scrubbers. Therefore, the EPA requests comments on the proposed emission limits for mercury and dioxins/furans and requests additional emission and control efficiency data applicable to CISWI units with wet scrubbers.

While the proposed mercury emission limit is based on data showing that units using wet scrubber control technology are able to meet the limit, this relatively low limit may be unachievable for incinerators burning wastes having relatively high amounts of water-insoluble mercury species (*e.g.*, elemental mercury and mercury oxides). This is because a wet scrubber generally does not remove significant amounts of mercury species that are not soluble in water. In addressing other types of incinerators, such as MWC and HMIWI units, EPA has estimated that most of the mercury emitted from these facilities comprises water soluble species, such as mercury chloride, and that a small amount of the mercury emitted is not soluble in water. While units in the CISWI category may differ in some respects from MWC and HMIWI units, there are likely to be some similarities among the wastes burned by all of these units and the resulting emissions. Nevertheless, depending on the nature of the waste combusted, the proposed mercury emission limits may not necessarily be achievable for all CISWI units using wet scrubbers.

The EPA believes that wet scrubbing can be an effective mercury removal technique for CISWI units, and that it is the appropriate control technology upon which to base the MACT floor. However, EPA requests comments on the emission limits for mercury and requests additional data (especially waste feed analyses and emission test data). Additionally, the EPA requests comments on whether CISWI units can meet the proposed mercury limit using wet scrubbers or pollution prevention techniques (*e.g.*, removing mercury from the waste stream) regardless of the type of commercial and industrial waste burned.

Although some CISWI units appear to use combustion modification techniques to reduce oxides of nitrogen emissions, the limited available emissions data do not demonstrate associated reductions in oxides of nitrogen emissions, and none of the CISWI units reported the use of add-on controls for oxides of nitrogen. Similarly, many CISWI units are equipped with afterburners that may help to reduce carbon monoxide emissions. The emissions data, however, show no significant difference in carbon monoxide emissions between those units reporting afterburners and those that do not. Because oxides of nitrogen and carbon monoxide control has not been demonstrated on CISWI units, the MACT floor reflects no control of these pollutants. However, because the CAA requires EPA to set numerical emission limits for oxides of nitrogen and carbon monoxide, the limits corresponding to the MACT floor represent the highest uncontrolled emission rates of oxides of nitrogen and carbon monoxide in the emissions database. The EPA requests comments on these emission limits and whether these levels accurately reflect uncontrolled emissions of oxides of nitrogen and carbon monoxide from CISWI units.

2. How Did EPA Determine Whether Options More Stringent Than the Floor Were Appropriate?

The EPA considered one regulatory option more stringent than the MACT floor (*i.e.*, a technology basis that could result in lower emissions). The system that EPA evaluated comprised a fabric filter with carbon injection and a wet scrubber. Carbon injection would provide greater removal of dioxins/furans and possibly mercury, and the fabric filter would be required to collect the spent carbon. However, the incremental cost effectiveness of applying this dry/wet system for the pollutants of concern is considered excessive. (Incremental cost effectiveness is the difference in annual costs between this regulatory option and the MACT floor divided by the difference in annual emission reductions achieved. It is often used as a measure of the economic feasibility of applying control techniques.)

The fabric filter with carbon injection and wet scrubber system considered by EPA represents the next logical step in improved emission control beyond wet scrubbing, and EPA was not able to identify others beyond the floor control systems that achieve good emission control at a reasonable cost effectiveness. However, EPA requests comments on whether other control technologies should be considered as beyond the floor regulatory options. Comments should include any information on emissions, current applications, and costs.

E. How Did EPA Determine Testing and Monitoring Requirements for the Emission Standards and Guidelines?

The EPA determined testing and monitoring for the emission standards and guidelines that are consistent with the CAA. Section 129(c) of the CAA requires the EPA to develop regulations that include monitoring and testing requirements. The purpose of these requirements is to allow the EPA to determine whether a source is operating in compliance with the regulations. The proposed CISWI monitoring and testing requirements are discussed below.

1. Continuous Emission Monitoring Systems

The most direct means of ensuring compliance with emission limits is the use of continuous emission monitoring systems (CEMS). As a matter of policy, the first and foremost option considered by the EPA is to require the use of CEMS to demonstrate continuous compliance with specific emission limits. The EPA considers other options only when CEMS are not available or when the impacts of including such requirements are considered unreasonable. When monitoring options other than CEMS are considered, it is often necessary for the EPA to balance more reasonable costs against the quality or accuracy of the actual emissions monitoring data. Although monitoring of operating parameters cannot provide a direct measurement of emissions, it is often a suitable substitute for CEMS. The information provided can be used to ensure that the incinerator and associated air pollution control equipment are operating properly. This information reasonably assures the EPA and the public that the reductions envisioned by the regulations are being achieved.

The EPA evaluated the costs of applying CEMS to a CISWI unit. For a small (150 lbs/hr) batch-operated CISWI unit, the annual costs for operating CEMS for hydrogen chloride alone are approximately $36,000. The annual costs of operating a wet scrubber, which represents MACT for new and existing CISWI units, are estimated to be about $49,000. Thus, the costs of operating CEMS for just this one pollutant amount to over 70 percent of the costs of operating the wet scrubber. In addition, dioxins/furans and toxic metals are not directly measurable with CEMS, and CEMS for particulate matter and mercury have not been demonstrated in the United States for the purpose of determining compliance. Consequently, the EPA considers CEMS an

unreasonable monitoring option for CISWI units.

Because CEMS are not feasible, the proposed rules include requirements for annual stack testing using EPA methods, coupled with monitoring of operating parameters. The annual testing will ensure, on an ongoing basis, that the air pollution control device is operating properly and that its performance has not deteriorated. The owner or operator may skip two annual tests for a pollutant if all stack tests over the 3 previous years show compliance with the emission limit for that pollutant.

The majority of emission tests upon which the proposed emission limits are based were conducted using approved EPA test methods. Therefore, the EPA proposes that EPA test methods be followed when performing any emission testing required to determine compliance with the emission limits. This requirement will ensure that compliance testing follows the same procedures used to generate the emissions data upon which the emission limits in the proposed regulations were based. An average of three test runs would be required to determine compliance with the proposed regulations.

Parameter monitoring is also proposed on a rolling 3-hour basis to correspond to the approximate length of the required emission tests. The EPA selected parameters to monitor that indicate the proper operation of a wet scrubber and that can be monitored continuously at a reasonable expense. Maximum and minimum values for the operating parameters must be established during emission testing. The maximum and minimum operating parameters are established by determining what range of operating parameter values represents good operation of the unit and control device and is necessary to achieve compliance with the proposed emission limits. The unit must then be operated within this range. An owner or operator of CISWI units that chooses to comply with the emission limits using controls other than wet scrubbers must propose for approval by the Administrator other operating parameters (such as temperature requirements for dry systems).

2. Stack Testing

The proposed rules require the owner or operator of each new and existing CISWI unit to perform an initial stack test for emissions of seven of the nine pollutants identified in section 129 of the CAA (cadmium, dioxins/furans, hydrogen chloride, lead, mercury, particulate matter, and sulfur dioxide), plus an initial opacity test. Two of the statutory pollutants (carbon monoxide and oxides of nitrogen) are excluded from the testing requirement because the control technology on which the floor is based does not significantly reduce emissions of these pollutants (see discussion in section III.C). The owner or operator of each CISWI unit would use the initial stack test to calibrate the monitoring parameters as explained above. Additionally, the proposed rules require annual stack tests for particulate matter, hydrogen chloride, and opacity. (Annual testing for the other pollutants is not required.)

The annual testing will ensure, on an ongoing basis, that the air pollution control device is operating properly and its performance has not deteriorated without requiring the added expense of testing for every pollutant. Annual testing for the three pollutants is sufficient to demonstrate that the control device is operating properly and that compliance with the proposed emission limits is being achieved. The owner or operator may skip two annual tests for a pollutant if all stack tests over the previous 3 years show compliance with the emission limit for that pollutant. The EPA believes that testing every 3 years will provide sufficient certainty about control device performance while reducing the overall costs of testing to the regulated source.

The majority of emission tests upon which the proposed emission limits are based were conducted using approved EPA test methods. No applicable voluntary consensus standards were identified during the ICCR or during the subsequent development of this rulemaking. Therefore, the EPA proposes that the identified EPA test methods be followed when performing any emission testing required to determine compliance with the emission limits. This requirement will ensure that compliance testing follows the same procedures used to generate the emission data upon which the emission limits in the proposed regulations are based.

F. How Did EPA Determine Compliance Times for the Emission Standards and Guidelines?

Section 129(f) of the CAA specifies the dates by which affected or designated facilities must comply with the standards or guidelines, respectively. New units must be in compliance with the standards within 6 months after the date of promulgation or 6 months after start-up, whichever is later. Existing units must be in compliance with the guidelines as expeditiously as practicable after approval of a State plan, but no later than 3 years after the State plan is approved or 5 years after promulgation of the guidelines, whichever is earlier.

G. How Did EPA Determine the Required Records and Reports for the Emission Standards and Guidelines?

Section 129 of the CAA requires the EPA to develop regulations that include requirements for reporting the results of testing and monitoring performed to determine compliance with the standards and guidelines. The requirements must specify the form and frequency of the reports demonstrating compliance. If there are no exceedances, compliance reports are submitted annually. However, if there is an exceedance, reports showing the exceedance of any standard or guideline must be submitted separately for review and potential enforcement action. This out-of-compliance report is due on August 1 if the exceedance occurs during the first 6 months of the year, and February 1 of the next year if the exceedance occurs during the second 6 months of the year. Copies of testing and monitoring results must be maintained on file at the affected facility. Other types of records are necessary to ensure that all provisions of the standards or guidelines are being met. Examples include siting analyses and operator training and qualification records.

H. How Did EPA Determine Operator Training and Qualification Requirements for the Emission Standards and Guidelines?

The proposed standards and guidelines include operator training and qualification requirements for CISWI unit operators. These requirements provide flexibility by allowing State-approved training and qualification programs. Where there are no State-approved programs, the proposed regulations include minimum requirements for training and qualification. The minimum requirements include completion of a training course covering specified topics.

In developing these requirements, the EPA considered recommendations by the ICCR FACA Committee on the content and format for operator training and qualification programs. Training and qualification programs currently proposed or promulgated for other types of solid waste incineration units were also reviewed and used to supplement the FACA Committee recommendations to develop requirements appropriate for the CISWI source category.

I. How Did EPA Determine the Waste Management Plan Requirements?

The proposed standards and guidelines require facilities operating new or existing units to submit a waste management plan. Each facility is unique, and site-specific strategies are needed to achieve the most efficient results. Through the development of individual waste management programs, owners or operators of CISWI units can reduce or eliminate certain wastes in their waste streams, thereby reducing the amount of air pollution emissions associated with those wastes.

The waste management plan would identify both the feasibility and the approach to separating certain components of solid waste from the waste stream to reduce the amount of toxic emissions from incinerated waste. The waste management plan may include the reduction or separation of waste stream elements such as paper, cardboard, plastics, glass, batteries, or metals; or the use of recyclable materials. The waste management plan may include different goals or approaches for different areas or departments of the facility and need not include waste management goals for every waste stream. It should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other associated environmental or energy impacts.

J. How Did EPA Determine the Siting Requirements for New Units?

Section 129 of the CAA states that performance standards for new solid waste incineration units must incorporate siting requirements that minimize, on a site-specific basis and to the maximum extent practicable, potential risks to public health or the environment. In accordance with section 129, the EPA is proposing site selection criteria for CISWI units that commence construction after the date of proposal of this rule (i.e., "new" units). The siting requirements would not apply to existing CISWI units.

The siting requirements proposed today would require the owner or operator of a new unit to prepare an analysis of the impacts of the new unit. The owner or operator must consider air pollution control alternatives that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to public health or the environment. In considering such alternatives, the owner or operator may consider costs, energy impacts, non-air environmental impacts, or any other factors related to the practicability of the alternatives. To avoid duplication, analyses of facility impacts prepared to comply with State, local, or other Federal regulatory requirements may be used to satisfy this requirement, provided they include the consideration of air pollution control alternatives specified above. Such State, local, or Federal requirements may include, but are not limited to, State-specific criteria or national criteria established by the National Environmental Policy Act or new source permitting requirements. The owner or operator must submit the siting information to EPA prior to commencing construction of the facility.

K. How Does This Regulation Affect Permits?

Section 129 of the CAA requires CISWI units subject to the standards and guidelines to be operated pursuant to a permit issued under the EPA-approved State operating permit program. In accordance with section 129, the EPA is proposing to require a permit by the date 36 months after the date of promulgation, or on the effective date of an EPA-approved operating permit program in the State in which the facility is located, whichever date is later. The operating permit programs are developed under title V of the CAA and the implementing regulations under 40 CFR parts 70 and 71.

IV. Impacts of the Proposed Standards for New Units

Information provided to the EPA by the ICCR FACA Committee indicates that no significant growth is expected in the population of CISWI units. With no net change in the number of CISWI units, impacts could be estimated by assuming that retiring uncontrolled units will be replaced with units controlled by wet scrubbers to meet the proposed NSPS. In this case, air emissions would decrease, and water and energy usage and wastewater generation would increase. However, the proposed emission guidelines for existing CISWI units include requirements identical to those in the proposed NSPS. Once these guidelines are in force, the emission performance of new units would be essentially the same as the units being replaced. Therefore, the proposed NSPS would reduce air emissions (and create secondary impacts) only until the emission guidelines are in place, and after that would simply maintain the emission reductions already achieved by the emission guidelines for existing units.

To illustrate the potential impact of the proposed NSPS with respect to new CISWI units under conditions where growth in the population of CISWI units does occur, the EPA modeled hypothetical CISWI units with capacities of 100 and 1500 pounds per hour (lb/hr) (45 and 680 kilograms per hour (kg/hr)) and estimated the impacts associated with application of wet scrubbers. The resulting impact estimates are discussed below.

A. What Are the Air Impacts?

Table 2 below illustrates, on a model unit basis, the emission reduction achieved by the proposed NSPS (i.e., the difference in emissions between a CISWI unit with a wet scrubber and an uncontrolled CISWI unit).

TABLE 2. Emission Reductions on a Model Unit Basis

Pollutant	Emission Reduction, tons/yr (Mg/yr)	
	100 lb/hr (45 kg/hr) capacity	1500 lb/hr (680 kg/hr) capacity
Cadmium	5.6×10^{-4} (5.1×10^{-4})	0.01 (0.01).
Dioxins/furans	7.1×10^{-9} (6.5×10^{-9})	1.5×10^{-7} (1.4×10^{-7})
Hydrogen chloride	1.5 (1.4)	32.3 (29.3)
Lead	0.04 (0.04)	0.84 (0.76)
Mercury	5.2×10^{-5} (4.7×10^{-5})	1.1×10^{-3} (1.0×10^{-3})
Particulate matter	0.51 (0.46)	10.8 (9.8)
Sulfur dioxide	0.37 (0.34)	7.9 (7.2)

B. What Are the Water and Solid Waste Impacts?

The EPA estimated, on a model unit basis, the additional water usage that would result from the use of a wet scrubber. The water requirements vary from 340,000 to 7,250,000 gallons (1.3 to 27.4 million liters) per year per CISWI unit, depending on the size of the unit. In addition to the increased water usage, an additional 50,000 to 1,056,000 gallons (189,000 to 4,000,000 liters) per year of wastewater would be produced per unit. No additional solid waste production is expected as a result of these standards.

C. What Are the Energy Impacts?

The EPA estimated, on a model unit basis, the additional energy required to operate a wet scrubber. The additional electricity requirements range from 28,000 to 424,000 kWh/yr per CISWI unit, depending on the capacity of the unit.

D. What Are the Control Costs and Economic Impacts?

The EPA estimated, on a model unit basis, the costs associated with applying wet scrubbers on new CISWI units to meet the proposed standards. The total annual costs, including costs for the wet scrubber testing, monitoring, and operator training and qualification, range from $69,000 for a unit rated at 100 lbs/hr (45 kg/hr) to $186,000 for a unit rated at 1500 lbs/hr (680 kg/hr). No economic impacts have been estimated as a result of the regulation of new sources because no new sources in the CISWI population are projected.

V. Impacts of the Proposed Guidelines for Existing Units

The emission guidelines for existing CISWI units are based on emission levels achievable using wet scrubbers. Therefore, the EPA estimated the air, water and solid waste, energy, control cost, and economic impacts associated with applying wet scrubbers to those units in the existing CISWI database not currently using wet scrubbers.

A. What Are the Air Impacts?

Table 3 summarizes the national air emission impacts of the proposed emission guidelines. These impacts are expressed in two ways. First, the impacts are expressed as annual nationwide mass reductions; and second as percent reductions compared to current estimated national emissions for existing CISWI units.

Table 3.. Emission Reductions for Existing CISWI Units

Pollutant	National emission reduction tons/yr (Mg/yr)	Percent reduction from current (baseline) emissions
Cadmium	0.45 (0.41)	87
Dioxins/furans	6.5×10^{-6} (5.9×10^{-6})	88
Hydrogen chloride	1315 (1193)	89
Lead	31.4 (28.5)	87
Mercury	0.045 (0.041)	79
Particulate matter	409 (371)	71
Sulfur dioxide	322 (292)	72

B. What are the water and solid waste impacts?

Assuming that no CISWI unit will shutdown as a result of the proposed guidelines, there would be no solid waste impacts associated with this proposed rule. If alternative disposal methods, such as landfills, become more cost effective for some CISWI units as a result of the proposed guidelines, solid waste by such units would increase in proportion to the reduction in feedstream to the CISWI unit. National annual water consumption would increase by 295 million gallons (1,117 million liters), and an additional 43 million gallons (163 million liters) per year of wastewater would be released.

C. What are the energy impacts?

The EPA expects an increase of approximately 16.7 million kilowatt hours (kWh) in national annual energy usage as a result of these emission guidelines. The increase results from the electricity required to operate wet scrubbers installed to meet the guidelines.

D. What are the control costs and economic impacts?

To estimate the national cost impacts of the proposed guidelines, the EPA assigned model CISWI units to each existing unit in the database. The analysis considered all air pollution control equipment currently in operation at existing CISWI units. Model costs for wet scrubbers were then assigned to all existing units that could not otherwise meet the proposed emission limits. The resulting total national cost impact of the proposed guidelines is $31.5 million in capital expenditures and $11.6 million per year in total annual costs.

This proposal would affect a small number of facilities in many different industries and government entities. Of the 112 affected facilities analyzed, 92 are spread among 25 different industries, 15 are spread among State, Federal and city governments, and 5 are located at universities.

Because of the competitive nature of the markets and the relatively small number of affected facilities in each market, producers will be unable to pass along the cost of the regulation to consumers in the short run. Hence, these costs will be borne primarily by the affected domestic producers. This conclusion also implies that the impact of the regulation on imports and exports will be negligible. The economic analysis further indicates that the impact of the proposed regulation on total employment in the industries affected will be negligible. The ratio of control costs to company sales is low: only 9 of the 79 companies owning affected facilities in the 25 different industries had cost-to-sales ratios of 3 percent or more, and 15 had ratios exceeding 1 percent. It is anticipated that no plants will close as a result of the regulation. However, the use of alternative waste management decisions, such as the use of landfills or selling materials as fuels or intermediate products, should lower the total social cost of the regulation below the annual cost estimate of $11.6 million, assuming add-on control technology is used for all affected units.

VI. Definition Of Solid Waste

Section 129 of the CAA directs EPA to develop regulations limiting emissions from solid waste incineration units. Section 129 also states, however,

that the term "solid waste incineration unit" does not include units required to have a permit under section 3005 of the Solid Waste Disposal Act (SWDA). This reference to section 3005 of the SWDA refers to the hazardous waste regulatory program authorized under the SWDA. As a result, the focus of the regulatory program authorized by section 129 is the burning of nonhazardous solid waste.

Section 129 does not define nonhazardous solid waste, but directs EPA to use the meaning of solid waste established by the Administrator pursuant to the SWDA. As a point of reference, the SWDA defines solid waste as follows:

> * * * any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

To develop and implement the hazardous waste regulatory program authorized by the SWDA, the Administrator adopted a definition of hazardous waste pursuant to the SWDA. This definition is found in part 261 of title 40 of the CFR. In defining hazardous waste, part 261 also defines solid waste.

However, in doing so, part 261 states explicitly in 40 CFR 261.1(b)(1) that this definition of solid waste is only for the purpose of materials that are hazardous wastes. This regulatory definition of the term solid waste found in part 261, therefore, does not apply to nonhazardous solid wastes.

The Administrator has also adopted several other definitions of solid waste pursuant to the SWDA. These definitions are found throughout parts 240 to 259 of 40 CFR. However, these definitions are little more than a restatement, with occasional small variation, of the statutory definition of the term solid waste contained in the SWDA. Consequently, they do little to clarify the meaning of nonhazardous solid waste for the purpose of developing and implementing the regulatory program authorized under section 129 of the CAA.

The Administrator, therefore, proposes to adopt a definition of solid waste (*i.e.*, nonhazardous solid waste) jointly under the authority of the CAA and the SWDA. The purpose of this definition would be solely to identify nonhazardous solid waste for the regulatory program authorized by section 129. Also, since section 129 only authorizes development of regulations to control emissions from the burning of nonhazardous solid waste, this definition would apply only to materials that are burned; it would not apply to materials managed by any other means (*e.g.*, treatment, storage, transportation and handling, *etc.*).

As mentioned, section 129 authorizes development of regulations to limit emissions from the burning of nonhazardous solid waste. In contrast, section 112 of the CAA authorizes development of regulations to limit emissions from stationary sources of toxic air pollutants, including sources burning hazardous waste and fuels. The EPA has adopted regulations under section 112 to limit emissions from hazardous waste combustion in incinerators and kilns and is developing regulations to limit emissions from hazardous waste combustion in boilers and industrial furnaces. In addition, EPA is also developing regulations under section 112 to limit emissions from burning fuels in stationary sources, such as boilers. Consequently, the main purpose of this definition of nonhazardous solid waste is merely to identify which materials (when burned) are subject to regulations developed under section 129 and which materials (when burned) are subject to regulations developed under section 112.

One option, in terms of adopting a definition of nonhazardous solid waste for regulations developed under section 129, is to adopt the definition of solid waste found in part 261 of 40 CFR. Although considered, this option is rejected. That definition was adopted for the sole purpose of identifying hazardous waste in order to develop regulations for the proper management of these materials. Management of hazardous waste covers an extremely broad area and ranges from handling and transportation, to reuse and recycling, to storage, treatment, and/or disposal of these materials.

Regulations developed under section 129 apply only to the burning of nonhazardous solid waste—they do not apply to any other form of waste management. As a result, a definition of solid waste for the purpose of section 129 can be much simpler and less complex; it need only focus on burning and need not consider any of the complexities associated with other forms of waste management. Another factor also greatly simplifies the development of a definition of nonhazardous waste—a definition of hazardous solid waste already exists.

Therefore, the EPA believes that materials that are burned fall into three categories: hazardous waste, nonhazardous solid waste, or fuel. If the materials meet the definition of hazardous waste, they cannot be nonhazardous solid waste or fuel. Only if the materials do not meet the definition of hazardous waste can they be nonhazardous solid waste or fuel. This makes the task of developing a definition of nonhazardous solid waste relatively straightforward. The definition must first answer the question: "Are the materials being burned nonhazardous solid waste or fuel?"

It is basically the composition or the level of hazardous constituents present in wastes that determines whether they are hazardous in nature (*i.e.*, in the RCRA program under 40 CFR 261.3, hazardous wastes are specifically defined as wastes that meet a particular listing description or that exhibit a characteristic of hazardous waste). However, it is basically the heat value of materials and whether or not they are burned with energy recovery that determines whether they are nonhazardous solid waste or fuel. Only materials with a high heat value contain sufficient energy to be used as fuel. Materials with little heat value contain little energy and if they are burned, it is not as a fuel but rather for destruction or disposal. In addition, although materials with high heat value may contain sufficient energy to be used as fuel, they are not used as fuel when they are burned without energy recovery.

In considering how to structure a definition for nonhazardous solid waste that answers the question "Are the materials being burned nonhazardous solid waste or fuel?", it is useful to consider the definition of hazardous waste under part 261, in terms of how this definition distinguishes between hazardous waste and fuel, when materials are burned. While this definition applies only to hazardous waste, it provides several insights into a basic outline for a definition of nonhazardous solid waste for the purpose of regulations under section 129 of the CAA. This definition, as it applies to waste combustion, can be summarized as follows:

- Materials are solid waste if they are discarded; discarded materials are abandoned materials, and materials are considered abandoned when burned or incinerated.
- Discarded materials also include certain recycled materials. Recycled materials are

considered discarded when the materials are burned to recover energy, except for various commercial chemical products that are fuels.

Furthermore, part 261 includes the following specific exemptions from the definition of solid waste that are related to burning: pulping liquors when burned and reclaimed in a pulping liquor recovery furnace, spent sulfuric acid when burned to produce virgin sulfuric acid, and comparable fuels when burned to recover energy.

This can be restated simply as: the act of burning materials, with some exceptions, serves to identify those materials as solid waste. One exception is commercial chemical products that are fuels as well as other materials that are "comparable fuels" when these materials are burned to recover energy. Thus, fuels and comparable fuels are not solid wastes when they are burned to recover energy. Other exceptions are certain materials, such as pulping liquors and spent sulfuric acid, which are burned to recover their chemical constituents.

Consequently, the basic structure of a definition of nonhazardous solid waste that emerges follows this premise: materials that are burned are not nonhazardous solid waste if they are hazardous solid waste, if they are fuels burned to recover energy, or if they are certain identified materials burned to recover their chemical constituents. All other materials, when burned, are nonhazardous solid waste.

With a definition of hazardous waste available, a definition of those materials that are fuels (when burned to recover energy) is the next piece necessary to develop this definition of nonhazardous waste, for the purpose of regulations developed under section 129.

Some materials, when burned to recover energy (*e.g.*, for the production of hot water or steam), have a long history of being considered fuels. These materials are coal, oil, gas, and biomass (e.g., wood and other vegetative agricultural and silvicultural materials). Burning coal, oil, gas, and biomass produces the majority of the energy consumed in the United States. In addition to these materials, other materials are often burned as fuel to recover energy and meet the needs of consumers, as well as industrial, manufacturing, and commercial operations.

As mentioned earlier, the prime indicator of whether materials could be used as fuel (*i.e.*, can be burned to recover energy) is their heat value—the British thermal units (Btu) of energy released from burning a pound (lb) of these materials. With continuing advances in combustion technology, materials with lower and lower heat value can be burned to recover energy; however, those materials with a "high" heat value are the best fuels, and it is these types of materials that are commonly and widely viewed as fuels. Thus, for the purpose of regulations developed under section 129 of the CAA, the Administrator proposes that materials with high heat value, when burned to recover energy, are fuels. (When materials are burned without heat recovery, regardless of their heat value, they are considered wastes.)

A delineator of high heat value emerges when considering the heat values of those materials mentioned above, which are clearly fuels when burned to recover energy (*i.e.*, gas, oil, coal, and biomass). Heat values for gas are the highest and frequently above 20,000 Btu/lb; those for oil can range from about 17,000–20,000 Btu/lb; those for coal can range from about 6,000–15,000 Btu/lb; and those for biomass can range from about 5,000–10,000 Btu/lb. Thus, a heat value of 5,000 Btu/lb serves to delineate between materials with high heat value and materials with low heat value. The Administrator proposes that materials with a heat value of 5,000 Btu/lb or more, when burned to recover energy, are fuel (subject to regulation under section 112) and not nonhazardous solid waste subject to regulation under section 129.

The final area of the definition outlined above that needs to be identified is that of any other materials that (when burned) are not considered nonhazardous solid waste for the purpose of regulations developed under section 129. The criteria for these materials seems simple, in concept. Burning—with some exceptions—is considered a form of discarding materials. However, EPA believes that certain other materials are not burned to discard them. The primary example where burning materials is not a form of discard is where materials are burned to recover their chemical constituents. An example is burning spent sulfuric acid to produce fresh sulfuric acid. Burning spent pulping liquors to produce fresh pulping liquors is yet another example. Burning wood or coal to produce charcoal or coke are other examples. There may be additional examples as well.

Consequently, the Administrator proposes that these materials, when burned in the manner identified in the examples above, are not nonhazardous solid waste and are not subject to regulation under section 129. On the other hand, the Administrator also concludes that these materials, when burned in the manner identified in the examples above, are subject to regulation under section 112 of the CAA.

Since there may be other examples where materials are burned to recover chemical constituents, the Administrator solicits public comment on additional materials that should be added to those mentioned above. In submitting comments, commenters should. (1) Describe the "source" of these materials; (2) identify the composition of these materials, highlighting the chemical constituents in these materials which are recovered; (3) describe the "process" in which these materials are burned, highlighting the type, design, and operation of the equipment used in this process; (4) describe the chemical constituent recovery "process," highlighting the type, design, and operation of the equipment used in this process; (5) identify the markets and/or use for the recovered chemical constituents; and (6) identify the composition of the recovered chemical constituents and compare their composition to that of comparable commercially available products.

Most of the above discussion focuses on materials that are not nonhazardous solid waste, for the purpose of regulations developed under section 129. There are materials, however, that are always solid waste (e.g., hazardous waste). In addition, there are also materials that (when burned) are always nonhazardous solid waste for the purpose of regulations developed under section 129: municipal solid waste, as defined in subparts Ea, Eb, AAAA, and BBBB in 40 CFR part 60; and hospital waste and medical/infectious waste, as defined in subpart Ec in 40 CFR part 60. Because the proposed definition of nonhazardous solid waste applies only to section 129, previous and future determinations under subpart E, Standards of Performance for Incinerators, in 40 CFR part 60 would not be affected.

In summary, the definition we propose today of (nonhazardous) solid waste is consistent with the requirements of section 129 of the CAA because it incorporates the definition of solid waste in the SWDA and builds upon the definition established by the Administrator pursuant to the SWDA to comprehensively identify those wastes which are, when burned, nonhazardous solid wastes.

VII. Public Participation and Request for Comments

The ICCR Federal Advisory Committee (i.e., the Coordinating Committee), which is discussed in

section I.C., was designed and created to foster active participation from stakeholders, including environmental groups, regulated industries, local governments, Federal agencies, and State and local regulatory agencies. The stakeholders were able to participate in the development of FACA Committee recommendations on many regulatory issues.

The ICCR Coordinating Committee also encouraged the public to provide input on its decisions and recommendations throughout the 2-year charter. To enhance the public's ability to participate, the EPA maintained a bulletin board on the TTN Web internet site to disseminate information on Coordinating Committee and Work Group meeting schedules and minutes, works in progress, and final recommendations. The public could submit comments on any information posted on the bulletin board to members of the Coordinating Committee or Work Group. Individuals could also attend Coordinating Committee and Work Group meetings and comment on the information being presented and discussed. After the FACA charter expired, individual stakeholders and members of the public were encouraged to submit individual comments and information to EPA staff.

To continue the participation of stakeholders in the rulemaking process, the EPA is requesting comments and data to support this proposed regulation. The EPA requests comments on any classes or types of CISWI units, or CISWI unit size considerations, that have not been addressed in this proposed rule, including a discussion about how the units should be treated under this rulemaking (section III.A). The EPA requests comments on whether it would be appropriate to include alternative percent reduction requirements for CISWI units, any data upon which those requirements could be based, and whether emission limits should be established for pollutants in addition to the nine pollutants plus opacity (section III.B). The EPA requests comments on whether fabric filters or other control techniques can achieve lower particulate matter emissions for CISWI units, and whether one of these techniques should represent the basis of the CISWI particulate matter emission limit (section III.C). The EPA also requests any other emissions test data available for the MACT floor technologies applied to CISWI units (section III.C). The EPA requests comments on whether other control technologies should be considered as beyond the floor regulatory options (section III.C). Finally, the EPA requests comments on the mercury, dioxins/furans, oxides of nitrogen, and carbon monoxide emission limits (section III.D), materials burned to recover chemical constituents (section VI), and the recordkeeping and reporting burden (section VIII.E).

VIII. Administrative Requirements

A. Public Hearing

In accordance with section 307(d)(5) of the CAA, EPA will hold a public hearing if individuals request to speak. If a public hearing is held, EPA may ask clarifying questions during the oral presentation but will not respond to the presentations or comments. To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each. Any member of the public may submit written comments (see the DATES and ADDRESSES sections). The EPA will consider written comments and supporting information with equivalent weight as any oral statement and supporting information presented at a public hearing.

B. Docket

The docket is an organized and complete file of all the information considered by the EPA in developing this proposal. Material is added to the docket throughout the rulemaking process. The docketing system is intended to allow members of the public to identify and locate documents so that they can effectively participate in the rulemaking process. The contents of the docket will serve as the record in case of judicial review (see 42 U.S.C. 7607(d)(7)(A)) except for interagency review material. The docket number for the CISWI source category is A–94–63. (See the **ADDRESSES** section for the availability of docket material.)

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(3) Materially alters the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a "significant regulatory action" within the meaning of the Executive Order. The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

D. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act (SBREFA)

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include businesses, small not-for-profit enterprises, and small governmental jurisdictions. The proposed regulation will affect 112 existing facilities owned by 90 parent companies. Based on Small Business Administration guidelines, 26 of the companies are small businesses. The lumber and wood products industry includes the largest number (7) of the small businesses, followed by fabricated metals, veterinary hospitals, and wholesale trade sectors with three companies each. Also, four cities are classified as small governments because they have fewer than 50,000 residents. The remaining six small businesses are distributed across six different industries. Only nine small businesses had cost-to-sales ratios greater than 3 percent (ranging from 3.4 to 27.7 with a median of 4.0 percent), and fifteen small businesses had cost-to-sales ratios greater than 1 percent, assuming add-on control is employed to meet the standard rather than alternative disposal methods. For the nine entities that had cost-to-sales ratios greater than 3 percent, the median amount of material incinerated was about 50 tons per year. Because of the relatively small number of tons per year being incinerated, the alternative net cost for sending waste to a landfill for many of these facilities is likely to be less than the control costs, based on an estimated total alternative disposal cost (i.e., transportation cost plus tipping fee) of about $58/ton. Thus, it may be economically feasible for some

of these small entities to switch to an alternative disposal method, such as off-site landfills, and lower their net compliance costs.

For the four identified small governments, cost-to-revenue ratios were low, ranging from 0.11 to 1.7 percent. The annualized cost per capita ranged from $1.68 to $19.81.

Based on the low number of affected small entities and the relatively low control cost, this analysis suggests that the proposed regulation should not generate a significant small business impact on a substantial number of small entities in the commercial, industrial, and government sectors. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

The information collection requirements in these proposed rules have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. The ICR documents have been prepared by EPA (ICR No. 1926.01 for subpart CCCC and 1927.01 for subpart DDDD), and copies may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. Copies may also be downloaded from the internet at http://www.epa.gov/icr.

These proposed rules contain monitoring, reporting, and recordkeeping requirements. The information would be used by the EPA to identify new, modified, or reconstructed incineration units subject to the NSPS and to ensure that new incineration units undergo a siting analysis and that the analysis is reviewed by the public. Records and reports would be necessary to enable EPA to identify waste incineration units that may not be in compliance with the requirements. Based on reported information, EPA would decide which units and what records or processes should be inspected.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

The estimated average annual burden for the first 3 years after promulgation of the NSPS for industry and the implementing agency is outlined below.

Affected entity	Total hours	Labor costs	Capital costs	O&M costs	Total costs
Industry	11,209	$685,269	$13,440	$1,266	$699,975
Implementing agency	794	32,608	0	0	32,608

The EPA expects the NSPS to affect 18 CISWI units over the first 3 years, based on the assumption that 6 existing units will be replaced by 6 new units each year. The EPA estimates the total annualized capital and start-up costs for these new units to be $13,440. Continuous parameter monitoring equipment would be required for new units. When a wet scrubber is used to meet the emission limits, monitoring equipment must be installed to monitor maximum charge rate, minimum pressure drop across the wet scrubber or minimum horsepower or amperage to the wet scrubber, minimum scrubber liquor flow rate, and minimum scrubber liquor pH. The estimated total operation, maintenance, and purchase costs for the monitoring equipment averaged over the first 3 years are expected to be $1,266. The implementing agency would not incur any capital or start-up costs.

The estimated average annual burden for the first 3 years after promulgation of the emission guidelines for industry and the implementing agency is outlined below.

Affected entity	Total hours	Labor costs	Capital costs	O&M costs	Total costs
Industry	9,145	$407,067	0	0	$407,067
Implementing agency	1,817	48,386	0	0	48,386

EPA expects the emission guidelines to affect a maximum of 116 units over the first 3 years. The EPA assumes that 6 existing units will be replaced by 6 new units each year. There are no capital, start-up, or operation and maintenance costs for existing units during the first 3 years. The implementing agency would not incur any capital or start-up costs.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR

between 30 and 60 days after November 30, 1999, a comment to OMB is best assured of having its full effect if OMB receives it by December 30, 1999. In the final rule, the EPA will respond to any OMB or public comments on the information collection requirements contained in this proposal.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, thereby enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, today's proposal is not subject to the requirements of sections 202 and 205 of the UMRA. Additionally, the EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

G. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposal does not significantly or uniquely affect the communities of Indian tribal governments. The EPA does not know of any CISWI units owned by Indian tribal governments. However, if there are any, the effect of these rules on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, § 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The purpose of the NTTAA is to reduce the costs to the private and public sectors by requiring Federal agencies to use existing technical standards used in commerce or industry. The NTTAA requires the EPA to provide Congress, through OMB, explanations when the EPA decides not to use available and applicable voluntary consensus standards.

The EPA evaluated these subparts to determine if any of the requirements of the NTTAA are applicable. The EPA has concluded that this proposal does not establish or modify technical standards, therefore, the requirements of the NTTAA do not apply. Several test methods are required to demonstrate compliance with the guidelines and standards; however, all of these test methods are established EPA methods and have been commonly used to test emission levels at incineration units in the past. The EPA requests public comments on the existence of voluntary consensus standards that should be considered for this proposal.

I. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that EPA determines: (1) Is "economically significant" as defined under Executive Order 12866, (2) is based on health or safety risks, and (3) for which the EPA has reason to believe may disproportionately affect children. If the regulatory action meets these criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposal is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Additionally, this proposal is not economically significant as defined by Executive Order 12866.

J. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have

federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement. The federalism summary impact statement must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule establishes national performance standards and other requirements for certain solid waste incineration units. The EPA is required by section 129 of the CAA, 42 U.S.C. § 7429, to establish the standards and guidelines embodied in this proposed rule. This proposed regulation primarily affects private industry, and does not impose significant economic costs on State or local governments. The standards established by this rule apply to new facilities that operate commercial or industrial incineration units (and the owners or operators of such facilities), and require States to submit State plans that include standards applicable to existing incineration units that are at least as protective as the standards specified in the proposed rule. If a State does not submit an approvable plan, any covered incineration units in that State will become subject to a Federal plan to implement this proposed rule. The proposed regulation does not include an express provision preempting State or local regulations. However, once a State or Federal plan is in effect, covered facilities would be subject to the standards established by this proposed rule, regardless of any less protective State or local regulations that contain emission limitations for the pollutants addressed by this proposed rule. To the extent that this might preempt State or local regulations, it does not significantly affect the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Thus, the requirements of section 6 of the Executive Order do not apply to this rule, and EPA has complied with the requirements of section 4(e), to the extent that they may be applicable to the proposed regulations, by providing notice to potentially affected State and local officials through publication of this proposed rule.

Although section 6 of Executive Order 13132 does not apply to this proposed rule, EPA consulted with representatives of State and local governments to enable them to provide meaningful and timely input into the development of this rule. This consultation took place during the ICCR FACA committee meetings, where members representing State and local governments participated in developing recommendations for EPA's combustion-related rulemakings, including this proposed rule (see section I.C. of this preamble). Additionally, the EPA sponsored the Small Communities Outreach Project, which involved meetings with elected officials and other government representative to provide them with information about this proposed rule and to solicit their comments. The concerns raised by representative of State and local governments were considered during the development of this proposed rule.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Carbon monoxide, Metals, Nitrogen dioxide, Particular matter, Sulfur oxides, Waste treatment and disposal.

Dated: November 15, 1999.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, Part 6, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7429, and 7601.

2. Part 60 is amended by adding subpart CCCC to read as follows:

Subpart CCCC—Standards of Performance for New Stationary Sources: Commercial and Industrial Solid Waste Incineration Units

Sec.

Introduction

60.2000 What does this subpart do?
60.2005 When does this subpart become effective?

Applicability

60.2010 Does this subpart apply to my incineration unit?
60.2015 What is a new incineration unit?
60.2020 Does this subpart allow any exemptions?
60.2025 Can the Administrator delegate authority to enforce these Federal standards to a State agency?
60.2030 How are the standards structured?
60.2035 Do all seven components of the standards apply at the same time?

Preconstruction Siting Analysis

60.2040 Who must prepare a siting analysis?
60.2045 What is a siting analysis?

Waste Management Plan

60.2050 What is a waste management plan?
60.2055 When must I submit my waste management plan?
60.2060 What should I include in my waste management plan?

Operator Training and Qualification

60.2065 What are the operator training and qualification requirements?
60.2070 When must the operator training course be completed?
60.2075 How do I obtain my operator qualification?
60.2080 How do I maintain my operator qualification?
60.2085 How do I renew my lapsed operator qualification?
60.2090 What site-specific documentation is required?
60.2095 What if all the qualified operators are temporarily unavailable?

Emission Limits

60.2100 What pollutants are regulated by this subpart?
60.2105 What emission limits must I meet, and by when?
60.2110 What happens during periods of startup, shutdown, and malfunction?

Stack Testing and Compliance

60.2115 What types of stack tests must I conduct?
60.2120 How are the stack test data used?
60.2125 May I conduct stack testing less often?
60.2130 How do I conduct the initial stack test?
60.2135 What are my operating parameter requirements?
60.2140 How do I determine compliance?
60.2145 May I conduct a repeat stack test to establish new operating parameters?

Monitoring

60.2150 What monitoring equipment must I install and what parameters must I monitor?
60.2155 Is there a minimum amount of monitoring data I must obtain?

Recordkeeping and Reporting

60.2160 What records must I keep?
60.2165 Where must I keep my records?
60.2170 What must I submit prior to commencing construction?
60.2175 What information must I submit prior to initial startup?
60.2180 What information must I submit following my initial stack test?
60.2185 When must I submit my annual report?
60.2190 What information must I include in my annual report?
60.2195 What else must I report if I am out-of-compliance with these standards?
60.2200 If an out-of-compliance report is required, when must I submit it?
60.2205 What must I include in the out-of-compliance reports?
60.2210 Are there any other notifications or reports that I must submit?
60.2215 In what form can I submit my reports?
60.2220 Can reporting dates be changed?

Air Curtain Incinerators That Burn 100 Percent Wood Wastes and Clean Lumber

60.2225 What is an air curtain incinerator?
60.2230 What are the emission limits for air curtain incinerators that burn 100 percent wood wastes and clean lumber?
60.2235 How must I monitor opacity for air curtain incinerators that burn 100 percent wood wastes and clean lumber?
60.2240 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

Definitions

60.2245 What definitions must I know?

Tables of Subpart CCCC

Table 1 of Subpart CCCC—Emission Limits for New Sources.

Table 2 of Subpart CCCC—Operating Parameters to be Monitored and Minimum Measurement and Recording Frequencies for Wet Scrubbers.

Introduction

§ 60.2000 What does this subpart do?

This subpart establishes new source performance standards for commercial and industrial solid waste incineration (CISWI) units.

§ 60.2005 When does this subpart become effective?

This subpart takes effect 6 months after promulgation of the final rule in the **Federal Register**. Some of the requirements in this subpart apply to planning the CISWI unit and must be completed even before construction is initiated on the CISWI unit (*i.e.*, the preconstruction requirements in §§ 60.2040 and 60.2045). Other requirements such as the emission limits apply after the CISWI unit begins operation.

Applicability

§ 60.2010 Does this subpart apply to my incineration unit?

Yes, if your incineration unit meets all of the following criteria:

(a) Your incineration unit is a new incineration unit as defined in § 60.2015—"What is a new incineration unit?";

(b) Your CISWI unit burns solid waste as defined in § 60.2245—"What definitions must I know?".

(c) Your incineration unit burns less than 90 percent by weight (instantaneous basis) pathological waste as defined in § 60.2245.

(d) Your incineration unit burns less than 90 percent by weight (instantaneous basis) agricultural wastes as defined in § 60.2245.

(e) Your incineration unit is not regulated under subpart Ea of this part (Standards of Performance for Municipal Waste Combustors), subpart Eb of this part (Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994), or subpart AAAA of this part (Standards of Performance for New Stationary Sources: Small Municipal Waste Combustion Units).

(f) Your incineration unit is not regulated under subpart Ec of this part (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).

§ 60.2015 What is a new incineration unit?

(a) A new incineration unit is an incineration unit that meets either of the following two criteria:

(1) Commenced construction after November 30, 1999.

(2) Commenced reconstruction or modification 6 months (or later) after promulgation of this subpart.

(b) This subpart does not affect your incineration unit if you make physical or operational changes to your incineration unit primarily to comply with the emission guidelines in subpart DDDD of this part (Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units). Such changes do not qualify as reconstruction or modification under this subpart.

§ 60.2020 Does this subpart allow any exemptions?

Yes. This subpart allows the following statutory exemptions:

(a) *Small power production facilities.* You are exempt from this subpart if you meet all of the following four requirements:

(1) Your unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) Your unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(3) You notify the Administrator that the unit qualifies for this exemption.

(4) You provide the Administrator with documentation that the unit qualifies for this exemption.

(b) *Cogeneration facilities.* You are exempt from this subpart if you meet all of the following four requirements:

(1) Your unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) Your unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) You notify the Administrator that the unit qualifies for this exemption.

(4) You provide the Administrator with documentation that the unit qualifies for this exemption.

(c) *Hazardous waste combustion units.* You are exempt from this subpart if you get a permit for your unit under section 3005 of the Solid Waste Disposal Act.

(d) *Materials recovery units.* You are exempt from this subpart if your unit combusts waste for the primary purpose of recovering metals. This includes primary and secondary smelters.

(e) *Air curtain incinerators.* If your air curtain incinerator (see § 60.2245 for definition) burns 100 percent wood waste and clean lumber, you must only meet the requirements under "Air Curtain Incinerators That Burn 100 Percent Wood Wastes and Clean Lumber" (§§ 60.2225 through 60.2240).

§ 60.2025 Can the Administrator delegate authority to enforce these Federal standards to a State agency?

Yes. The Administrator may delegate all authorities in all sections of this subpart to the State for direct State enforcement.

§ 60.2030 How are the standards structured?

The standards contain seven major components, as follows:

(a) Preconstruction siting analysis.
(b) Waste management plan.
(c) Operator training and qualification.
(d) Emission limits.
(e) Stack testing and compliance.
(f) Monitoring.
(g) Recordkeeping and reporting.

§ 60.2035 Do all seven components of the standards apply at the same time?

No. You must meet the preconstruction siting analysis and waste management plan requirements before you commence construction of the CISWI unit. The operator training and qualification, emission limits, stack testing and compliance, monitoring, and most recordkeeping and reporting requirements are met after the CISWI unit begins operation.

Preconstruction Siting Analysis

§ 60.2040 Who must prepare a siting analysis?

(a) You must prepare a siting analysis if you plan to commence construction of a CISWI unit after promulgation of this subpart in the **Federal Register**.

(b) You must prepare a siting analysis if you are required to submit an initial application for a construction permit under 40 CFR part 51, subpart I, or 40 CFR part 52, as applicable, for the reconstruction or modification of your CISWI unit.

§ 60.2045 What is a siting analysis?

(a) The siting analysis must consider air pollution control alternatives that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to public health or the environment. In considering such alternatives, the analysis may consider costs, energy impacts, non-air environmental impacts, or any other factors related to the practicability of the alternatives.

(b) Analyses of your CISWI unit's impacts that are prepared to comply with the State, local, or other Federal regulatory requirements may be used to satisfy the requirements of this section, provided they include the consideration of air pollution control alternatives specified in paragraph (a) of this section.

(c) You must complete and submit the siting requirements of this section as required under § 60.2170(c) prior to commencing construction.

Waste Management Plan

§ 60.2050 What is a waste management plan?

A waste management plan is a written plan that identifies both the feasibility and the approach to separate certain components of solid waste from the waste stream in order to reduce the amount of toxic emissions from incinerated waste.

§ 60.2055 When must I submit my waste management plan?

You must submit a waste management plan prior to commencing construction.

§ 60.2060 What should I include in my waste management plan?

A waste management plan may include, but is not limited to, the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals; or the use of recyclable materials. The waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. It should identify, where possible, reasonably available additional waste management measures, taking into account the effectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have.

Operator Training and Qualification

§ 60.2065 What are the operator training and qualification requirements?

(a) No CISWI unit can be operated unless a fully trained and qualified CISWI unit operator is accessible, either at the facility or available within 1 hour. The trained and qualified CISWI unit operator may operate the CISWI unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified CISWI unit operators are temporarily unavailable, you must follow the procedures in § 60.2095.

(b) Operator training and qualification must be obtained through a State-approved program or by completing the requirements included in paragraph (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the following elements:

(1) Training on the following subjects:
(i) Environmental concerns, including types of emissions;
(ii) Basic combustion principles, including products of combustion;
(iii) Operation of the specific type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures;
(iv) Combustion controls and monitoring;
(v) Operation of air pollution control equipment and factors affecting performance (if applicable);
(vi) Inspection and maintenance of the incinerator and air pollution control devices;
(vii) Actions to correct malfunctions or conditions that may lead to malfunction;
(viii) Bottom and fly ash characteristics and handling procedures;
(ix) Applicable Federal, State, and local regulations, including Occupational Safety and Health Administration workplace standards;
(x) Pollution prevention; and
(xi) Waste management practices.

(2) An examination designed and administered by the instructor.

(3) Written material covering the training course topics that serve as reference material following completion of the course.

§ 60.2070 When must the operator training course be completed?

The operator training course must be completed by the later of three dates:

(a) Six months after your CISWI unit starts up.

(b) One year after promulgation of this subpart.

(c) The date before an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

§ 60.2075 How do I obtain my operator qualification?

(a) You must obtain operator qualification by completing a training course that satisfies the criteria under § 60.2065(b).

(b) Qualification is valid from the date on which the training course is completed and the operator successfully passes the examination required under § 60.2065(c)(2).

§ 60.2080 How do I maintain my operator qualification?

To maintain qualification, you must complete an annual review or refresher course covering, at a minimum, the following:

(a) Update of regulations.

(b) Incinerator operation, including startup and shutdown procedures, waste charging, and ash handling.

(c) Inspection and maintenance.

(d) Responses to malfunctions or conditions that may lead to malfunction.

(e) Discussion of operating problems encountered by attendees.

§ 60.2085 How do I renew my lapsed operator qualification?

You must renew a lapsed operator qualification by one of the following methods:

(a) For a lapse of less than 3 years, you must complete a standard annual refresher course described in § 60.2080.

(b) For a lapse of 3 years or more, you must repeat the initial qualification requirements in § 60.2075(a).

§ 60.2090 What site-specific documentation is required?

(a) You must maintain documentation at the facility that addresses the following:

(1) Summary of the applicable standards under this subpart.

(2) Procedures for receiving, handling, and charging waste.

(3) Incinerator startup, shutdown, and malfunction procedures.

(4) Procedures for maintaining proper combustion air supply levels.

(5) Procedures for operating the incinerator and associated air pollution control systems within the standards established under this subpart.

(6) Procedures for monitoring incinerator operating parameters.

(7) Reporting and recordkeeping procedures.

(8) The waste management plan required under §§ 60.2050 through 60.2060.

(9) Procedures for handling ash.

(b) You must establish a program for reviewing the information listed in paragraph (a) of this section with each incinerator operator.

(1) The initial review of the information listed in paragraph (a) of this section must be conducted within 6 months after the effective date of this subpart or prior to an employee's assumption of responsibilities for operation of the CISWI unit, whichever date is later.

(2) Subsequent reviews of the information listed in paragraph (a) of this section must be conducted not later than 12 months following the previous review.

(c) The information listed in paragraph (a) of this section must be kept in a readily accessible location for all CISWI unit operators. This information, along with records of training must be available for inspection by the EPA or its delegated enforcement agent upon request.

§ 60.2095 What if all the qualified operators are temporarily unavailable?

If all qualified operators are temporarily unavailable, you must meet one of two criteria, depending on the length of time that a qualified operator is away:

(a) When all qualified operators are unavailable for more than 8 hours, but less than 2 weeks, the CISWI unit may be operated by other plant personnel familiar with the operation of the CISWI unit. However, you must record the period when all qualified operators were unavailable and include this information in the annual report as specified under § 60.2190.

(b) When all qualified operators are unavailable for 2 weeks or more, you must take two actions:

(1) Notify the Administrator in writing within 10 days. In the notice, state what caused the absence and what you are doing to ensure that a qualified operator is available.

(2) Submit a status report and corrective action summary to the Administrator every 4 weeks. If the Administrator notifies you that the status report and corrective action summary are disapproved, the CISWI unit may continue operation for 90 days, then must cease operation. If corrective actions are taken within the 90-day period and the Administrator withdraws the disapproval, the CISWI unit may continue operation.

Emission Limits

§ 60.2100 What pollutants are regulated by this subpart?

Ten pollutants are regulated:

(a) Cadmium.

(b) Carbon monoxide.

(c) Dioxins/furans.

(d) Hydrogen chloride.

(e) Lead.

(f) Mercury.

(g) Opacity.

(h) Oxides of nitrogen.

(i) Particulate matter.

(j) Sulfur dioxide.

§ 60.2105 What emission limits must I meet, and by when?

You must meet the emission limits specified in table 1 of this subpart. You must meet these limits 60 days after your CISWI unit reaches the charge rate at which it will operate but no later than 180 days after its initial startup.

§ 60.2110 What happens during periods of startup, shutdown, and malfunction?

(a) The standards of this subpart apply at all times except during CISWI unit startups, shutdowns, or malfunctions.

(b) Each startup, shutdown, or malfunction must last no longer than 3 hours.

Stack Testing and Compliance

§ 60.2115 What types of stack tests must I conduct?

(a) You must conduct an initial stack test to measure the emission levels of the pollutants listed in table 1 of this subpart (except for carbon monoxide and oxides of nitrogen) within 60 days after your CISWI unit reaches the charge rate at which it will operate, but no later than 180 days after its initial startup.

(b) You must conduct annual stack tests for particulate matter, hydrogen chloride, and opacity within 12 months following the initial stack test. Conduct subsequent annual stack tests within 12 months following the previous one.

§ 60.2120 How are the stack test data used?

You use results of stack tests to demonstrate compliance with the emission limits in table 1 of this subpart.

§ 60.2125 May I conduct stack testing less often?

(a) You can test less often for a given pollutant if you have test data for at least 3 years, and all stack tests for the pollutant (particulate matter, hydrogen chloride, or opacity) over 3 consecutive years show that you comply with the emission limit. In this case, you do not have to conduct a stack test for that pollutant for the next 2 years. You must do a stack test during the third year and no more than 36 months following the previous stack test.

(b) If your CISWI unit continues to meet the emission limit for particulate matter, hydrogen chloride, or opacity, you may choose to conduct stack tests for these pollutants every third year, but each such test must be within 36 months of the previous stack test.

(c) If a stack test shows noncompliance with an emission limit for particulate matter, hydrogen chloride, or opacity, you must conduct annual stack tests for that pollutant until all stack tests over a 3-year period show compliance.

§ 60.2130 How do I conduct the initial stack test?

You must conduct an initial stack test for each CISWI unit as required under § 60.2115 to determine compliance with the emission limits using the test methods listed in table 1 of this subpart and the procedures listed in paragraphs (a) through (e) of this section. The use of the bypass stack during a stack test invalidates the stack test.

(a) All stack tests must consist of a minimum of three test runs conducted under conditions representative of normal operations.

(b) All stack tests must be conducted using the minimum run duration specified in the test method.

(c) Method 1 of appendix A of this part must be used to select the sampling location and number of traverse points.

(d) Method 3 or 3A of appendix A of this part must be used for gas composition analysis, including measurement of oxygen concentration. Method 3 or 3A of appendix A of this part must be used simultaneously with each method.

(e) The pollutant concentrations must be adjusted to 7 percent oxygen using the following equation:

$C_{adj} = Cmeas\ (20.9 - 7)/(20.9 - \%O_2)$

Where:

C_{adj} = pollutant concentration adjusted to 7 percent oxygen;

C_{meas} = pollutant concentration measured on a dry basis;

(20.9 − 7) = 20.9 percent oxygen − 7 percent oxygen (defined oxygen correction basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$ = oxygen concentration measured on a dry basis, percent

§ 60.2135 What are my operating parameter requirements?

(a) If you are using a wet scrubber to comply, you must:

(1) Establish the appropriate maximum and minimum site specific operating parameters indicated in table 2 of this subpart during the initial stack test; and

(2) Following the date on which the initial stack test is completed, you must not operate the CISWI unit above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in table 2 of this subpart. Parameters must be measured and calculated as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown, and malfunction. Operating parameter limits do not apply during stack tests.

(b) If you are using an air pollution control device other than a wet scrubber to comply with the emission limits under § 60.2105, you must petition the Administrator for other site-specific operating parameters to be established during the initial stack test and continuously monitored thereafter. You must not conduct the initial stack test until after the petition has been approved by the Administrator.

§ 60.2140 How do I determine compliance?

(a) Compliance with the emission limits is determined by the initial and the annual stack tests.

(b) Operation above the established maximum or below the established minimum operating parameter(s) constitutes a violation of established operating parameter requirements. Three-hour rolling average values are used to determine compliance unless a different averaging period is established under § 60.2135(b).

§ 60.2145 May I conduct a repeat stack test to establish new operating parameters?

Yes. You may conduct a repeat stack test at any time to establish new values for the operating parameters. The Administrator may request a repeat stack test at any time.

Monitoring

§ 60.2150 What monitoring equipment must I install and what parameters must I monitor?

(a) You must install, calibrate (to manufacturers' specifications), maintain, and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in table 2 of this subpart. These devices (or methods) must measure and record values for these operating parameters at the frequencies indicated in table 2 of this subpart at all times except during periods of startup, shutdown, and malfunction.

(b) You must also install, calibrate (to manufacturers' specifications), maintain, and operate a device or establish a procedure for measuring the use of the bypass stack including date, time, and duration.

(c) If you are using something other than a wet scrubber to comply with the emission limits under § 60.2105 you must install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor the site-specific operating parameters established using the procedures in § 60.2135(b).

§ 60.2155 Is there a minimum amount of monitoring data I must obtain?

Yes. You must obtain monitoring data at all times during CISWI unit operation except as required in § 60.2135 or during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data must be obtained for 75 percent of the CISWI unit operating hours, per calendar day, for 90 percent of the CISWI unit operating days, per calendar quarter, that the CISWI unit is burning solid waste.

Recordkeeping and Reporting

§ 60.2160 What records must I keep?

You must maintain the following information (as applicable) for a period of at least 5 years:

(a) Calendar date of each record.

(b) Records of the following data:

(1) CISWI unit charge dates, times, weights, and hourly charge rates.

(2) Liquor flow rate to the wet scrubber inlet during each minute of operation, as applicable.

(3) Horsepower or amperage to the wet scrubber during each minute of operation, as applicable.

(4) Pressure drop across the wet scrubber system during each minute of operation, as applicable.

(5) Liquor pH as introduced to the wet scrubber during each minute of operation, as applicable.

(6) Records indicating use of the bypass stack, including dates, times, durations, reasons, and corrective actions taken.

(7) For affected CISWI units that establish operating parameters for controls other than wet scrubbers under § 60.2135(b), you must maintain all operating parameter data collected.

(c) Identification of calendar dates for which the minimum amount of data on operating parameters specified under paragraph (b) of this section have not been obtained. The minimum amount of data is specified in § 60.2155. Identify the operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken.

(d) Identification of calendar dates, times, and durations of malfunctions, and a description of the malfunction and the corrective action taken.

(e) Identification of calendar dates for which data on operating parameters specified under paragraph (b) of this section exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken. Three-hour rolling average values must be used to determine operating parameter exceedances, unless a

different averaging period is established under § 60.2135(b).

(f) The results of the initial, annual, and any subsequent stack tests conducted to determine compliance with the emission limits and/or to establish operating parameters, as applicable. Retain a copy of the complete test report including calculations.

(g) All documentation produced as a result of the siting requirements of § 60.2045.

(h) Records showing the names of CISWI unit operators who have completed review of the information in § 60.2090(a) as required by § 60.2090(b), including the date of the initial review and all subsequent annual reviews.

(i) Records showing the names of the CISWI operators who have completed the operator training requirements under § 60.2065, including documentation of training and the dates of the training.

(j) Records showing the names of the CISWI operators who have met the criteria for qualification under § 60.2075, and the dates of their qualification, and all subsequent renewals of such qualifications.

(k) Records of calibration of any monitoring devices as required under § 60.2150.

(l) Equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment.

§ 60.2165 Where must I keep my records?

All records must be maintained onsite in either paper copy or computer-readable format that can be printed upon request, unless an alternative format is approved by the Administrator.

§ 60.2170 What must I submit prior to commencing construction?

You must submit a notification prior to commencing construction that includes the following information:

(a) A statement of intent to construct.

(b) The anticipated date of commencement of construction.

(c) All documentation produced as a result of the siting requirements of § 60.2045.

(d) The waste management plan as specified in §§ 60.2050 through 60.2060.

§ 60.2175 What information must I submit prior to initial startup?

You must submit the information specified in paragraphs (a) through (d) of this section prior to initial startup.

(a) The type(s) of waste to be burned.

(b) The maximum design waste burning capacity.

(c) The anticipated maximum charge rate.

(d) If applicable, the petition for site-specific operating parameters under § 60.2135.

(e) The anticipated date of initial start-up.

§ 60.2180 What information must I submit following my initial stack test?

You must submit the information specified in paragraphs (a) and (b) of this section no later than 60 days following the initial stack test. All reports must be signed by the facilities manager.

(a) The complete test report for the initial stack test results obtained under § 60.2130, as applicable.

(b) The values for the site-specific operating parameters established in § 60.2135.

§ 60.2185 When must I submit my annual report?

You must submit an annual report no later than 12 months following the submission of the information in § 60.2180. You must submit subsequent reports no more than 12 months following the previous report. (Once the unit is subject to permitting requirements under title V of the Clean Air Act, you may be required by the permit to submit these reports semiannually.)

§ 60.2190 What information must I include in my annual report?

The annual report required under § 60.2185 must include the information specified in paragraphs (a) through (f) of this section. All reports must be signed by the facility manager.

(a) The values for the site-specific operating parameters established pursuant to § 60.2135.

(b) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported.

(c) Information recorded under § 60.2160 (c) through (e) for the calendar year being reported. If no exceedances or malfunctions were reported, a statement that no exceedances occurred during the reporting period.

(d) If a stack test was conducted during the reporting period, the results of that test.

(e) Any use of the bypass stack, the duration, reason for bypass, and corrective action taken.

(f) Documentation of periods when all qualified CISWI unit operators were unavailable for more than 8 hours.

§ 60.2195 What else must I report if I am out-of-compliance with these standards?

You must submit a report if any recorded 3-hour average parameter level is above the maximum value or below the minimum value established under this subpart, or if a stack test was conducted that exceeded any emission limit.

§ 60.2200 If an out-of-compliance report is required, when must I submit it?

If you are required to submit a report under § 60.2195:

(a) For data collected during the first half of a calendar year (January 1 to June 30), submit your report by August 1 of that year.

(b) For data you collected during the second half of the calendar year (July 1 to December 31), submit the report by February 1 of the following year.

§ 60.2205 What must I include in the out-of-compliance reports?

In each report required under § 60.2195, for any pollutant or parameter that exceeded the limits specified in this subpart, include the following information:

(a) The calendar date your unit exceeded the limits.

(b) The averaged and recorded data for that date.

(c) The reasons for exceeding the limits and your corrective actions.

(d) A copy of the operating parameter monitoring data and any test report that documents the emission levels.

§ 60.2210 Are there any other notifications or reports that I must submit?

(a) You must submit notifications as provided by § 60.7.

(b) If all qualified operators are unavailable for more than 2 weeks, you must submit a notification within 10 days. In addition, you must submit a status report and corrective action summary to the Administrator every 4 weeks.

§ 60.2215 In what form can I submit my reports?

Submit initial, annual, and semiannual electronic or paper reports, postmarked on or before the submittal due dates.

§ 60.2220 Can reporting dates be changed?

If the Administrator agrees, you may change the semiannual or annual reporting dates. See § 60.19(c) for procedures to seek approval to change your reporting date.

Air Curtain Incinerators That Burn 100 Percent Wood Wastes and Clean Lumber

§ 60.2225 What is an air curtain incinerator?

An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

§ 60.2230 What are the emission limits for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

(a) Within 60 days after your air curtain incinerator reaches the charge rate at which it will operate, but no later than 180 days after its initial startup, you must meet two limits:

(1) The opacity limit is 10 percent (6-minute average).

(2) The opacity limit is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(b) Except during malfunctions, the requirements of this subpart apply at all times, and each malfunction must not exceed 3 hours.

§ 60.2235 How must I monitor opacity for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

(a) Use Method 9 of appendix A of this part to determine compliance with the opacity limit.

(b) Conduct an initial test for opacity as specified in § 60.8.

(c) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of your previous test.

§ 60.2240 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

(a) Prior to commencing construction on your air curtain incinerator, submit three items:

(1) Notification of your intent to construct the air curtain incinerators.

(2) Your planned initial startup date.

(3) Types of materials you plan to burn in your air curtain incinerator.

(b) Keep records of results of all initial and annual opacity tests onsite in either paper copy or electronic format, unless the Administrator approves another format, for at least 5 years.

(c) Make all records available for submittal to the Administrator or for an inspector's onsite review.

(d) You must submit the results (each 6-minute average) of the initial opacity tests no later than 60 days following the initial test. Submit annual opacity test results within 12 months following the previous report.

(e) Submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date.

(f) Keep a copy of the initial and annual reports onsite for a period of 5 years.

Definitions

§ 60.2245 What definitions must I know?

Terms used but not defined in this subpart are defined in the Clean Air Act and subpart A (General Provisions) of this part.

Administrator means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or Administrator of a State Air Pollution Control Agency, if delegated by EPA.

Agricultural waste means vegetative agricultural materials such as nut and grain hulls and chaff (*e.g.*, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds, and other vegetative waste materials generated as a result of agricultural operations.

Air curtain incinerator means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

Biomass fuel means untreated wood and wood products (*e.g.*, trees, tree stumps, tree limbs, bark, lumber, sawdust, sanderdust, chips, scraps, slabs, millings, and shavings); vegetative agricultural and silvicultural materials, such as logging residues (slash), nut and grain hulls and chaff (*e.g.*, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds; and alcohol fuels derived from these materials. Biomass does not include: painted, pigment-stained, or pressure-treated materials (*e.g.*, telephone poles and railroad ties); sewage sludge, paper mill sludge, fermentation tank bottoms, or other sludges; or construction, renovation, and demolition wastes. Pressure treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

Calendar quarter means three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

Calendar year means 365 consecutive days starting on January 1, and ending on December 31.

Clean lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

Clean wood means untreated wood or untreated wood products including clean lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include two items:

(1) Yard waste, which is defined elsewhere in this section.

(2) Construction, renovation, or demolition wastes.

Coal means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials in ASTM D388–77, Standard Specification for Classification of Coals by Rank (see § 60.17), coal refuse, and petroleum coke. Synthetic fuels derived from coal for the purpose of creating useful heat, including but not limited to solvent-refined coal, gasified coal, coal-oil mixtures, and coal-water mixtures, are included in this definition for the purposes of this subpart.

Coal refuse means any by-product of coal mining or coal cleaning operations with an ash content greater than 50 percent (by weight) and a heating value less than 13,900 kilojoules per kilogram (6,000 Btu per pound) on a dry basis.

Commercial and industrial solid waste incineration (CISWI) unit means an enclosed device using controlled flame combustion that burns solid waste or an air curtain incinerator that burns solid waste, and that is a distinct operating unit of any commercial or industrial facility. This definition includes field-erected, modular, and custom built incineration units (starved- or excess-air), and air curtain incinerators. The boundaries of a CISWI unit are defined as follows. The CISWI unit includes, but is not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and

industrial solid waste hopper (if applicable) and extends through two areas:

(1) The combustion unit flue gas system, which ends immediately after the last combustion chamber.

(2) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

Dioxins/furans means tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions.

Modification or *modified CISWI unit* means a CISWI unit you have changed later than 6 months after promulgation of this subpart and that meets one of two criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including the cost of land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

(2) Any physical change in the CISWI unit or change in the method of operating it that increases the amount of any air pollutant emitted for which section 129 or section 111 of the Clean Air Act has established standards.

Natural gas means:

(1) A naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane.

(2) Liquid petroleum gas, as defined by the American Society of Testing and Materials in ASTM D1835–82, Standard Specification for Liquid Petroleum Gases (IBR-see § 60.17).

Oil means crude oil or petroleum or a liquid or gaseous fuel derived from crude oil or petroleum, including distillate oil (Nos. 1–4) and residual oil (Nos. 5 and 6).

Particulate matter means total particulate matter emitted from CISWI units as measured by Method 5 or Method 29 of appendix A of this part.

Pathological waste means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

Reconstruction means rebuilding a CISWI unit and meeting two criteria:

(1) The reconstruction begins 6 months or more after promulgation of this subpart.

(2) The cumulative cost of the construction over the life of the incineration unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

Refuse-derived fuel means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

(1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(2) Pelletized refuse-derived fuel.

Shutdown means the period of time after all waste has been combusted in the primary chamber.

Solid waste means, for the purpose of this subpart only, any solid, liquid, semisolid, or contained gaseous material, which is combusted, including but not limited to materials listed in paragraph (1) of this definition. Solid waste excludes fuels defined in paragraph (2) of this definition and materials specifically listed in paragraph (3) of this definition.

(1) The following materials are solid wastes, regardless of the provisions in paragraph (2) of this definition:

(i) Any material which is combusted without energy recovery (*i.e.*, where the material displaces other fuels to produce useful heat), except as provided in paragraph (3) of this definition.

(ii) Municipal solid waste, as defined in 40 CFR part 60, subpart Ea, subpart Eb, subpart AAAA and subpart BBBB.

(iii) Hospital waste, as defined in 40 CFR part 60, subpart Ec.

(iv) Medical/infectious waste, as defined in 40 CFR part 60, subpart Ec.

(v) Resource Conservation and Recovery Act hazardous wastes, as defined in 40 CFR part 261.

(2) The following materials are fuels when combusted in a device that incorporates energy recovery as part of its integral design (*e.g.*, for the production of hot water or steam). The combustion chamber and the energy recovery system must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the energy recovery system are joined only by ducts or connections carrying flue gas is not integrally designed.

(i) Biomass fuel, coal, natural gas, and oil, as defined elsewhere in this section;

(ii) Materials that have a heat content of 5,000 Btu/lb or more as fired. This criterion applies to each individual feed stream to a combustion unit.

(3) The following materials are not solid waste when combusted for the primary purpose of recovering chemical constituents: pulping liquors (*i.e.*, black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process; spent sulfuric acid used to produce virgin sulfuric acid; and wood and coal feedstock for the production of charcoal.

Standard conditions, when referring to units of measure, means a temperature of 68° F (20° C) and a pressure of 1 atmosphere (101.3 kilopascals).

Startup period means the period of time between the activation of the system and the first charge to the unit.

Total mass dioxins/furans or *total mass* means the total mass of tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans as determined using Method 23 of appendix A of this part.

Wet scrubber means an add-on air pollution control device that utilizes an alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

Yard waste means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. It comes from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include:

(1) Construction, renovation, and demolition wastes.

(2) Clean wood, which is defined elsewhere in this section.

TABLE 1 OF SUBPART CCCC—EMISSION LIMITS FOR NEW SOURCES.

	You must meet these emission limits[a]	Using these averaging times	And determining compliance using these methods
Cadmium	0.03 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 29 of appendix A of this part).
Carbon monoxide	157 parts per million by dry volume.	Not applicable	Not required.
Dioxins/furans (total mass basis)	0.37 nanograms per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 23 of appendix A of this part).
Hydrogen chloride	62 parts per million by dry volume	3-run average (run duration specified in test method).	Stack test (Method 26 of appendix A of this part).
Lead	2.1 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 29 of appendix A of this part).
Mercury	0.005 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 29 of appendix A of this part).
Opacity	10 percent	6-minute averages	Stack test (Method 9 of appendix A of this part).
Oxides of nitrogen	388 parts per million by dry volume.	Not applicable	Not required.
Particulate matter	70 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 5 or 29 of appendix A of this part).
Sulfur dioxide	20 parts per million by dry volume	3-run average (run duration specified in test method).	Stack test (Method 6 of appendix A of this part).

[a] All emission limits are measured at 7 percent oxygen, dry basis at standard conditions.

TABLE 2 OF SUBPART CCCC.—OPERATING PARAMETERS TO BE MONITORED AND MINIMUM RECORDING FREQUENCIES FOR WET SCRUBBERS

You must monitor these operating parameters	Using these minimum frequencies		
	Data measurement	Data recording	Averaging time
Maximum operating parameters: Maximum charge rate.	Continuous	Every hour	3-hour rolling.
Minimum operating parameters:			
Minimum pressure drop across the wet scrubber, or minimum horsepower or amperage to wet scrubber.	Continuous	Every minute	3-hour rolling.
Minimum scrubber liquor flow rate	Continuous	Every minute	3-hour rolling.
Minimum scrubber liquor pH	Continuous	Every minute	3-hour rolling.

3. Part 60 is amended by adding subpart DDDD to read as follows:

Subpart DDDD—Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units

Sec.

Introduction

60.2500 What is the purpose of this subpart?
60.2505 Am I affected by this subpart?
60.2510 Is a State plan required for all States?
60.2515 What must I include in my State plan?
60.2520 Is there an approval process for my State plan?
60.2525 What if my State plan is not approvable?
60.2530 Is there an approval process for a negative declaration letter?
60.2535 What compliance schedule must I include in my State plan?
60.2540 Are there any State plan requirements for this subpart that apply instead of the requirements specified in subpart B?
60.2545 Does this subpart directly affect CISWI unit owners and operators in my State?

Applicability of State Plans

60.2550 What CISWI units must I address in my State plan?
60.2555 Are any CISWI units exempt from my State plan?

Use of Model Rule

60.2560 What is the purpose of the "model rule" in this subpart?
60.2565 How does the model rule relate to the other elements of my State plan?
60.2570 What are the principal components of the model rule?

Model Rule—Increments of Progress

60.2575 What are my requirements for meeting increments of progress and achieving final compliance?
60.2580 When must I complete each increment of progress?
60.2585 What must I include in the notifications of achievement of increments of progress?
60.2590 When must I submit the notifications of achievement of increments of progress?
60.2595 What if I do not meet an increment of progress?
60.2600 How do I comply with the increment of progress for submittal of a control plan?
60.2605 How do I comply with the increment of progress for achieving final compliance?
60.2610 What must I do if I close my CISWI unit and then restart it?
60.2615 What must I do if I plan to permanently close my CISWI unit and not restart it?

Model Rule—Waste Management Plan

60.2620 What is a waste management plan?
60.2625 When must I submit my waste management plan?
60.2630 What should I include in my waste management plan?

Model Rule—Operator Training and Qualification

60.2635 What are the operator training and qualification requirements?
60.2640 When must the operator training course be completed?
60.2645 How do I obtain my operator qualification?
60.2650 How do I maintain my operator qualification?
60.2655 How do I renew my lapsed operator qualification?
60.2660 What site-specific documentation is required?
60.2665 What if all the qualified operators are temporarily unavailable?

Model Rule—Emission Limits

60.2670 What pollutants are regulated by this subpart?
60.2675 What emission limits must I meet, and by when?
60.2680 What happens during periods of startup, shutdown, and malfunction?

Model Rule—Stack Testing and Compliance

60.2685 What types of stack tests must I conduct?
60.2690 How are the stack test data used?
60.2695 May I conduct stack testing less often?
60.2700 How do I conduct the initial stack test?
60.2705 What are my operating parameter requirements?
60.2710 How do I determine compliance?
60.2715 May I conduct a repeat stack test to establish new operating parameters?

Model Rule—Monitoring

60.2720 What monitoring equipment must I install and what parameters must I monitor?
60.2725 Is there a minimum amount of monitoring data I must obtain?

Model Rule—Recordkeeping and Reporting

60.2730 What records must I keep?
60.2735 Where must I keep my records?
60.2737 When must I submit my waste management plan?
60.2740 What information must I submit following my initial stack test?
60.2745 When must I submit my annual report?
60.2750 What information must I include in my annual report?
60.2755 What else must I report if I am out of compliance with these standards?
60.2760 If an out-of-compliance report is required, when must I submit it?
60.2765 What must I include in the out-of-compliance reports?
60.2770 Are there any other notifications or reports that I must submit?
60.2775 In what form can I submit my reports?
60.2780 Can reporting dates be changed?

Model Rule—Air Curtain Incinerators That Burn 100 Percent Wood Wastes and Clean Lumber

60.2785 What is an air curtain incinerator?
60.2790 What are my requirements for meeting increments of progress and achieving final compliance?
60.2795 When must I complete each increment of progress?
60.2800 What must I include in the notifications of achievement of increments of progress?
60.2805 When must I submit the notifications of achievement of increments of progress?
60.2810 What if I do not meet an increment of progress?
60.2815 How do I comply with the increment of progress for submittal of a control plan?
60.2820 How do I comply with the increment of progress for achieving final compliance?
60.2825 What must I do if I close my air curtain incinerator and then restart it?
60.2830 What must I do if I plan to permanently close my air curtain incinerator and not restart it?
60.2835 What are the emission limits for air curtain incinerators that burn 100 percent wood wastes and clean lumber?
60.2840 How must I monitor opacity for air curtain incinerators that burn 100 percent wood wastes and clean lumber?
60.2845 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

Model Rule—Definitions

60.2850 What definitions must I know?

Tables of Subpart DDDD

Table 1 of Subpart DDDD—Model Rule—Increments of Progress and Compliance Schedules
Table 2 of Subpart DDDD—Emission Limits of New Sources
Table 3 of Subpart DDDD—Operating Parameters to be Monitored and Minimum Recording Frequencies for Wet Scrubbers

Introduction

§ 60.2500 What is the purpose of this subpart?

This subpart establishes emission guidelines and compliance schedules for the control of emissions from commercial and industrial solid waste incineration (CISWI) units. The pollutants addressed by these emission guidelines are listed in table 2 of this subpart. These emission guidelines are developed in accordance with sections 111(d) and 129 of the Clean Air Act and subpart B of this part.

§ 60.2505 Am I affected by this subpart?

(a) If you are the Administrator of an air quality program in a State or United States protectorate with one or more existing CISWI units that commenced construction on or before November 30, 1999, you must submit a State plan to EPA that implements the emission guidelines contained in this subpart.

(b) You must submit the State plan to EPA within 1 year after the promulgation of this subpart.

§ 60.2510 Is a State plan required for all States?

No. You are not required to submit a State plan if there are no existing CISWI units in your State and you submit a negative declaration letter in place of the State plan.

§ 60.2515 What must I include in my State plan?

(a) You must include nine items in your State plan:

(1) Inventory of affected CISWI units, including those that have ceased operation but have not been dismantled.

(2) Inventory of emissions from affected CISWI units in your State.

(3) Compliance schedules for each affected CISWI unit.

(4) Emission limits, operator training and qualification requirements, a waste management plan, and operating parameter requirements for affected CISWI units that are at least as protective as the emission guidelines contained in this subpart.

(5) Stack testing, recordkeeping, and reporting requirements.

(6) Transcript of the public hearing on the State plan.

(7) Provision for State progress reports to EPA.

(8) Identification of enforceable State mechanisms that you selected for implementing the emission guidelines of this subpart.

(9) Demonstration of your State's legal authority to carry out the sections 111(d) and 129 State plan.

(b) Your State plan may deviate from the format and content of the emission guidelines contained in this subpart. However, if your State plan does deviate, you must demonstrate that your State plan is at least as protective as the emission guidelines contained in this subpart. Your State plan must address regulatory applicability, increments of progress for retrofit, operator training and qualification, a waste management plan, emission limits, stack testing, operating parameter requirements, monitoring, recordkeeping and reporting, and air curtain incinerator requirements.

(c) You must follow the requirements of subpart B of this part (Adoption and Submittal of State Plans for Designated Facilities) in your State plan.

§ 60.2520 Is there an approval process for my State plan?

Yes. The EPA will review your State plan according to § 60.27.

§ 60.2525 What if my State plan is not approvable?

If you do not submit an approvable State plan (or a negative declaration letter) within 2 years after promulgation

of this subpart, EPA will develop a Federal plan according to § 60.27 to implement the emission guidelines contained in this subpart. Owners and operators of CISWI units not covered by an approved State plan must comply with the Federal plan. The Federal plan is an interim action and will be automatically withdrawn when your State plan is approved.

§ 60.2530 Is there an approval process for a negative declaration letter?

No. The EPA has no formal review process for negative declaration letters. Once your negative declaration letter has been received, EPA will place a copy in the public docket and publish a notice in the **Federal Register**. If, at a later date, an existing CISWI unit is found in your State, the Federal plan implementing the emission guidelines contained in this subpart would automatically apply to that CISWI unit until your State plan is approved.

§ 60.2535 What compliance schedule must I include in my State plan?

(a) Your State plan must include compliance schedules that require CISWI units to achieve final compliance as expeditiously as practicable after approval of the State plan but not later than the earlier of two dates:

(1) Five years after [*the date of promulgation of the final rule*].

(2) Three years after the effective date of State plan approval.

(b) For compliance schedules more than 1 year following the effective date of State plan approval, State plans must include dates for enforceable increments of progress as specified in § 60.2580.

§ 60.2540 Are there any State plan requirements for this subpart that apply instead of the requirements specified in subpart B?

Yes. Subpart B established general requirements for developing and processing section 111(d) plans. This subpart applies instead of the requirements in subpart B of this part for the following:

(a) State plans developed to implement this subpart must be as protective as the emission guidelines contained in this subpart. State plans must require all CISWI units to comply within 5 years after promulgation of this subpart or 3 years after the effective date of State plan approval, whichever is sooner. This applies instead of the option for case-by-case less stringent emission standards and longer compliance schedules in § 60.24(f).

(b) State plans developed to implement this subpart are required to include two increments of progress for the affected CISWI units. These two minimum increments are the final control plan submittal date and final compliance date in § 60.21(h)(1) and (5). This applies instead of the requirement of § 60.24(e)(1) that would require a State plan to include all five increments of progress for all CISWI units.

§ 60.2545 Does this subpart directly affect CISWI unit owners and operators in my State?

(a) No. This subpart does not directly affect CISWI unit owners and operators in your State. However, CISWI unit owners and operators must comply with the State plan you develop to implement the emission guidelines contained in this subpart. Some States may choose to incorporate the emission guidelines contained in this subpart into their State plans by direct incorporation by reference. Others may want to include the model rule text directly in their State plan.

(b) If you do not submit an approvable plan to implement and enforce the guidelines contained in this subpart within 2 years after promulgation of this subpart, the EPA will implement and enforce a Federal plan, as provided in § 60.2525, to ensure that each unit within your State reaches compliance with all the provisions of this subpart within 5 years after promulgation of this subpart.

Applicability of State Plans

§ 60.2550 What CISWI units must I address in my State plan?

(a) Your State plan must address all existing CISWI units in your State that commenced construction on or before November 30, 1999.

(b) If the owner of operator of a CISWI unit makes changes that meet the definition of modification or reconstruction 6 months (or later) after promulgation of subpart CCCC of this part (New Source Performance Standards for Commercial and Industrial Solid Waste Incineration Units), the CISWI unit becomes subject to subpart CCCC of this part and the State plan no longer applies to that unit.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with your State plan, subpart CCCC of this part does not apply to that unit. Such changes do not qualify as modifications or reconstructions under subpart CCCC of this part.

(d) Your State plan must address all incineration units that meet all of the following criteria:

(1) The incineration unit burns solid waste as defined in § 60.2850—"What definitions must I know?".

(2) The incineration unit burns less than 90 percent by weight (instantaneous basis) pathological waste as defined in § 60.2850.

(3) The incineration unit burns less than 90 percent by weight (instantaneous basis) agricultural wastes as defined in § 60.2850.

(4) The incineration unit is not regulated under subpart Ea of this part (Standards of Performance for Municipal Waste Combustors), subpart Eb of this part (Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994), subpart Cb of this part (Emission Guidelines and Compliance Times for Municipal Waste Combustors That are Constructed on or Before December 19, 1995), subpart AAAA of this part (Standards of Performance of New Stationary Sources: Small Municipal Waste Combustion Units), or subpart BBBB of this part (Emission Guidelines: Small Municipal Waste Combustion Units).

(5) The incineration unit is not regulated under subpart Ec of this part (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) or subpart Ce of this part (Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators).

§ 60.2555 Are any CISWI units exempt from my State plan?

Yes. This subpart allows the following statutory exemptions:

(a) *Small power production facilities.* A unit is exempt from your State plan if four requirements are met:

(1) The unit qualifies as a small power production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) The unit combusts homogeneous waste (not including refuse-derived fuel) to produce electricity.

(3) You are notified by the owner or operator that the unit qualifies for this exemption.

(4) You receive documentation from the owner or operator that the unit qualifies for this exemption.

(b) *Cogeneration facilities.* A unit is exempt from your State plan if four requirements are met:

(1) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) The unit combusts homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) You are notified by the owner or operator that the unit qualifies for this exemption.

(4) You receive documentation from the owner or operator that the unit qualifies for this exemption.

(c) *Hazardous waste combustion units.* A unit is exempt from your State plan if the unit has received a permit under section 3005 of the Solid Waste Disposal Act.

(d) *Materials recovery units.* A unit is exempt from your State plan if the unit combusts waste for the primary purpose of recovering metals. This includes primary and secondary smelters.

(e) *Air curtain incinerators.* If an air curtain incinerator (see § 60.2850 for definition) combusts 100 percent wood waste and clean lumber, then the unit must meet only the requirements under "Model Rule—Air Curtain Incinerators That Burn 100 Percent Wood Wastes and Clean Lumber" (§§ 60.2785 through 60.2845).

Use of Model Rule

§ 60.2560 What is the purpose of the "model rule" in this subpart?

(a) The model rule provides the emission guidelines requirements in a standard regulation format. You must develop a State plan that is at least as protective as the model rule. You may use the model rule language as part of your State plan. Alternative language may be used in your State plan if you demonstrate that the alternative language is at least as protective as the model rule contained in this subpart.

(b) In the "model rule" of §§ 60.2575 to 60.2850, "you" means the owner or operator of a CISWI unit.

§ 60.2565 How does the model rule relate to the required elements of my State plan?

Use the model rule to satisfy the State plan requirements specified in § 60.2515(a)(4) and (5).

§ 60.2570 What are the principal components of the model rule?

The model rule contains seven major components, as follows:

(a) Increments of progress toward compliance.

(b) Waste management plan.

(c) Operator training and qualification.

(d) Emission limits.

(e) Stack testing and compliance.

(f) Monitoring.

(g) Recordkeeping and reporting.

Model Rule—Increments of Progress

§ 60.2575 What are my requirements for meeting increments of progress and achieving final compliance?

If you plan to achieve compliance more than 1 year following the effective date of State plan approval, you must meet two increments of progress:

(a) Submit a final control plan.

(b) Achieve final compliance.

§ 60.2580 When must I complete each increment of progress?

Table 1 of this subpart specifies compliance dates for each of the increments of progress.

§ 60.2585 What must I include in the notifications of achievement of increments of progress?

Your notification of achievement of increments of progress must include three items:

(a) Notification that the increment of progress has been achieved.

(b) Any items required to be submitted with each increment of progress (see § 60.2600).

(c) Signature of the owner or operator of the CISWI unit.

§ 60.2590 When must I submit the notifications of achievement of increments of progress?

Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment.

§ 60.2595 What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the Administrator postmarked within 10 business days after the date for that increment of progress in table 1 of this subpart. You must inform the Administrator that you did not meet the increment and you must continue to submit reports each subsequent calendar month until the increment of progress is met.

§ 60.2600 How do I comply with the increment of progress for submittal of a control plan?

For your control plan increment of progress, you must satisfy two requirements:

(a) Submit the final control plan that includes the following:

(1) A description of the devices for air pollution control and process changes that you will use to comply with the emission limits and other requirements of this subpart.

(2) The type(s) of waste to be burned.

(3) The maximum design waste burning capacity.

(4) The anticipated maximum charge rate.

(5) If applicable, the petition for site-specific operating parameters under § 60.2705(b).

(b) Maintain an onsite copy of the final control plan.

§ 60.2605 How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected CISWI unit is brought online, all necessary process changes and air pollution control devices would operate as designed.

§ 60.2610 What must I do if I close my CISWI unit and then restart it?

(a) If you close your CISWI unit but will restart it prior to the final compliance date in your State plan, you must meet the increments of progress specified in § 60.2575.

(b) If you close your CISWI unit but will restart it after your final compliance date, you must complete emission control retrofits and meet the emission limits on the date your unit restarts operation.

§ 60.2615 What must I do if I plan to permanently close my CISWI unit and not restart it?

If you plan to close your CISWI unit rather than comply with the State plan, submit a closure notification, including the date of closure, to the Administrator by the date your final control plan is due.

Model Rule—Waste Management Plan

§ 60.2620 What is a waste management plan?

A waste management plan is a written plan that identifies both the feasibility and the approach to separate certain components of solid waste from the waste stream in order to reduce the amount of toxic emissions from incinerated waste.

§ 60.2625 When must I submit my waste management plan?

You must submit a waste management plan no later than the date specified in table 1 for submittal of the final control plan.

§ 60.2630 What should I include in my waste management plan?

A waste management plan may include, but is not limited to, the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals; or the use of recyclable materials. The waste management plan may include different goals or approaches for different areas or departments of the facility and need not include new waste management goals for every waste stream. It should identify, where possible, reasonably available additional

waste management measures, taking into account the efffectiveness of waste management measures already in place, the costs of additional measures, the emission reductions expected to be achieved, and any other environmental or energy impacts they might have.

Model Rule—Operator Training and Qualification

§ 60.2635 What are the operator training and qualification requirements?

(a) No CISWI unit can be operated unless a fully trained and qualified CISWI unit operator is accessible, either at the facility or available within 1 hour. The trained and qualified CISWI unit operator may operate the CISWI unit directly or be the direct supervisor of one or more other plant personnel who operate the unit. If all qualified CISWI unit operators are temporarily unavailable, you must follow the procedures in § 60.2665.

(b) Operator training and qualification must be obtained through a State-approved program or by completing the requirements included in paragraph (c) of this section.

(c) Training must be obtained by completing an incinerator operator training course that includes, at a minimum, the following elements:

(1) Training on the following subjects:

(i) Environmental concerns, including types of emissions.

(ii) Basic combustion principles, including products of combustion.

(iii) Operation of the specific type of incinerator to be used by the operator, including proper startup, waste charging, and shutdown procedures.

(iv) Combustion controls and monitoring.

(v) Operation of air pollution control equipment and factors affecting performance (if applicable).

(vi) Inspection and maintenance of the incinerator and air pollution control devices.

(vii) Actions to correct malfunctions or conditions that may lead to malfunction.

(viii) Bottom and fly ash characteristics and handling procedures.

(ix) Applicable Federal, State, and local regulations, including Occupational Safety and Health Administration workplace standards.

(x) Pollution prevention.

(xi) Waste management practices.

(2) An examination designed and administered by the instructor.

(3) Written material covering the training course topics that can serve as reference material following completion of the course.

§ 60.2640 When must the operator training course be completed?

The operator training course must be completed by the later of three dates:

(a) The final compliance date (Increment 2).

(b) Six months after CISWI unit start up.

(c) Six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

§ 60.2645 How do I obtain my operator qualification?

(a) You must obtain operator qualification by completing a training course that satisfies the criteria under § 60.2635(b).

(b) Qualification is valid from the date on which the training course is completed, and the operator successfully passes the examination required under § 60.2635(c)(2).

§ 60.2650 How do I maintain my operator qualification?

To maintain qualification, you must complete an annual review or refresher course covering, at a minimum, the following:

(a) Update of regulations.

(b) Incinerator operation, including startup and shutdown procedures, waste charging, and ash handling.

(c) Inspection and maintenance.

(d) Responses to malfunctions or conditions that may lead to malfunction.

(e) Discussion of operating problems encountered by attendees.

§ 60.2655 How do I renew my lapsed operator qualification?

You must renew a lapsed operator qualification by one of the following methods:

(a) For a lapse of less than 3 years, you must complete a standard annual refresher course described in § 60.2650.

(b) For a lapse of 3 years or more, you must repeat the initial qualification requirements in § 60.2645(a).

§ 60.2660 What site-specific documentation is required?

(a) You must maintain documentation at the facility that addresses the following:

(1) Summary of the applicable standards under this subpart.

(2) Procedures for receiving, handling, and charging waste.

(3) Incinerator startup, shutdown, and malfunction procedures.

(4) Procedures for maintaining proper combustion air supply levels.

(5) Procedures for operating the incinerator and associated air pollution control systems within the standards established under this subpart.

(6) Procedures for monitoring incinerator operating parameters.

(7) Reporting and recordkeeping procedures.

(8) Procedures for handling ash.

(9) The waste management plan required under §§ 60.2620 through 60.2630.

(b) You must establish a program for reviewing the information listed in paragraph (a) of this section with each CISWI unit operator.

(1) The initial review of the information listed in paragraph (a) of this section must be conducted by the later of:

(i) The final compliance date (Increment 2).

(ii) Six months after CISWI unit start up.

(iii) Six months after being assigned to operate CISWI unit.

(2) Subsequent reviews of the information listed in paragraph (a) of this section must be conducted no later than 12 months following the previous review.

(c) The information listed in paragraph (a) of this section must be kept in a readily accessible location for all CISWI unit operators. This information, along with records of training, must be available for inspection by the EPA or its delegated enforcement agent upon request.

§ 60.2665 What if all the qualified operators are temporarily unavailable?

If all qualified operators are temporarily unavailable, you must meet one of two criteria, depending on the length of time that a qualified operator is away:

(a) When all qualified operators are unavailable for more than 8 hours, but less than 2 weeks, the CISWI unit may be operated by other plant personnel familiar with the operation of the CISWI unit. However, you must record the period when all qualified operators were unavailable and include this information in the annual report as specified under § 60.2750(g).

(b) When all qualified operators are unavailable for 2 weeks or more, you must take two actions:

(1) Notify the Administrator in writing within 10 days. In the notice, state what caused the absence and what you are doing to ensure that a qualified operator is available.

(2) Submit a status report and corrective action summary to the Administrator every 4 weeks. If the Administrator notifies you that the status report and corrective action summary are disapproved, the CISWI

unit may continue operation for 90 days, then must cease operation. If corrective actions are taken within the 90-day period and the Administrator withdraws the disapproval, the CISWI unit may continue operation.

Model Rule—Emission Limits

§ 60.2670 What pollutants are regulated by this subpart?

Ten pollutants are regulated:

(a) Cadmium.

(b) Carbon monoxide.

(c) Dioxins/furans.

(d) Hydrogen chloride.

(e) Lead.

(f) Mercury.

(g) Opacity.

(h) Oxides of nitrogen.

(i) Particulate matter.

(j) Sulfur dioxide.

§ 60.2675 What emission limits must I meet, and by when?

After the date the initial stack test is required or completed (whichever is earlier), you must meet the emission limits specified in table 2 of this subpart.

§ 60.2680 What happens during periods of startup, shutdown, and malfunction?

(a) The standards of this subpart apply at all times except during CISWI unit startups, shutdowns, or malfunctions.

(b) Each startup, shutdown, or malfunction must last no longer than 3 hours.

Model Rule—Stack Testing and Compliance

§ 60.2685 What types of stack tests must I conduct?

(a) You must conduct an initial stack test to measure the emission levels of the pollutants listed in table 2 of this subpart (except for carbon monoxide and oxides of nitrogen) no later than 180 days after your final compliance date. Your final compliance date is specified in table 1 of this subpart.

(b) You must conduct annual stack tests for particulate matter, hydrogen chloride, and opacity beginning within 12 months following the initial stack test. Conduct subsequent annual stack tests within 12 months following the previous one.

§ 60.2690 How are the stack test data used?

You use results of stack tests to demonstrate compliance with the emission limits in table 2 of this subpart.

§ 60.2695 May I conduct stack testing less often?

(a) You may test less often for a given pollutant if you have test data for at least 3 years, and all stack tests for the pollutant (particulate matter, hydrogen chloride, or opacity) over 3 consecutive years show that you comply with the emission limit. In this case, you do not have to conduct a stack test for that pollutant for the next 2 years. You must do a stack test during the third year and no more than 36 months following the previous stack test.

(b) If your CISWI unit continues to meet the emission limit for particulate matter, hydrogen chloride, or opacity, you may choose to conduct stack tests for these pollutants every third year, but each such test must be within 36 months of the previous stack test.

(c) If a stack test shows noncompliance with an emission limit for particulate matter, hydrogen chloride, or opacity, you must conduct annual stack tests for that pollutant until all stack tests over a 3-year period show compliance.

§ 60.2700 How do I conduct the initial stack test?

You must conduct an initial stack test for each CISWI unit as required under § 60.2685(a) to determine compliance with the emission limits using the test methods listed in table 2 of this subpart and the procedures listed in paragraphs (a) through (e) of this section. The use of the bypass stack during a stack test invalidates the stack test.

(a) All stack tests must consist of a minimum of three test runs conducted under conditions representative of normal operations.

(b) All stack tests must be conducted using the minimum run duration specified in the test method.

(c) Method 1 of appendix A of this part must be used to select the sampling location and number of traverse points.

(d) Method 3 or 3A of appendix A of this part must be used for gas composition analysis, including measurement of oxygen concentration. Method 3 or 3A of appendix A of this part must be used simultaneously with each method.

(e) The pollutant concentrations must be adjusted to 7 percent oxygen using the following equation:

$$C_{adj} = C_{meas}\,(20.9-7)/(20.9-\%O_2)$$

Where:

C_{adj} = pollutant concentration adjusted to 7 percent oxygen;

C_{meas} = pollutant concentration measured on a dry basis;

$(20.9-7)$ = 20.9 percent oxygen − 7 percent oxygen (defined oxygen correction basis);

20.9 = oxygen concentration in air, percent; and

$\%O_2$ = oxygen concentration measured on a dry basis, percent.

§ 60.2705 What are my operating parameter requirements?

(a) If you are using a wet scrubber to comply, you must:

(1) Establish the appropriate maximum and minimum site specific operating parameters indicated in table 3 of this subpart during the initial stack test; and

(2) Following the date on which the initial stack test is completed you must not operate the CISWI unit above any of the applicable maximum operating parameters or below any of the applicable minimum operating parameters listed in table 3 of this subpart. Parameters must be measured and calculated as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during stack tests.

(b) If you are using an air pollution control device other than a wet scrubber to comply with the emission limits under § 60.2675, you must petition the Administrator for other site-specific operating parameters to be established during the initial stack test and continuously monitored thereafter. You must not conduct the initial stack test until after the petition has been approved by the Administrator.

§ 60.2710 How do I determine compliance?

(a) Compliance with the emission limits is determined by the initial and the annual stack tests.

(b) Operation above the established maximum or below the established minimum operating parameter(s) constitutes a violation of established operating parameter requirements. Three-hour rolling average values are used to determine compliance unless a different averaging period is established under § 60.2705(b).

§ 60.2715 May I conduct a repeat stack test to establish new operating parameters?

Yes. You may conduct a repeat stack test at any time to establish new values for the operating parameters. The Administrator may request a repeat stack test at any time.

Model Rule—Monitoring

§ 60.2720 What monitoring equipment must I install and what parameters must I monitor?

(a) You must install, calibrate (to manufacturers' specifications),

maintain, and operate devices (or establish methods) for monitoring the applicable maximum and minimum operating parameters listed in table 3 of this subpart. These devices (or methods) must measure and record values for these operating parameters at the frequencies indicated in table 3 of this subpart at all times except during periods of startup, shutdown, and malfunction.

(b) You must also install, calibrate (to manufacturers' specifications), maintain, and operate a device or establish a procedure for measuring the use of the bypass stack including date, time, and duration.

(c) If you are using something other than a wet scrubber to comply with the emission limits under § 60.2675, you must install, calibrate (to the manufacturers' specifications), maintain, and operate the equipment necessary to monitor the site-specific operating parameters established using the procedures in § 60.2705(b).

§ 60.2725 Is there a minimum amount of monitoring data I must obtain?

Yes. You must obtain monitoring data at all times during CISWI unit operation except as required in § 60.2720 or during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data must be obtained for 75 percent of the CISWI unit operating hours, per calendar day, for 90 percent of the CISWI unit operating days, per calendar quarter, that the CISWI unit is burning solid waste.

Model Rule—Recordkeeping and Reporting

§ 60.2730 What records must I keep?

You must maintain the following information (as applicable) for a period of at least 5 years:

(a) Calendar date of each record.

(b) Records of the following data:

(1) CISWI unit charge dates, times, weights, and hourly charge rates.

(2) Liquor flow rate to the wet scrubber inlet during each minute of operation, as applicable.

(3) Horsepower or amperage to the wet scrubber during each minute of operation, as applicable.

(4) Pressure drop across the wet scrubber system during each minute of operation, as applicable.

(5) Liquor pH as introduced to the wet scrubber during each minute of operation, as applicable.

(6) Records indicating use of the bypass stack, including dates, times, durations, reasons, and corrective actions taken.

(7) For affected CISWI units that establish operating parameters for controls other than wet scrubbers under § 60.2705(b), you must maintain all operating parameter data collected.

(c) Identification of calendar dates for which the minimum amount of data on operating parameters specified under paragraph (b) of this section have not been obtained. The minimum amount of data is specified in § 60.2725. Identify the operating parameters not measured, reasons for not obtaining the data, and a description of corrective actions taken.

(d) Identification of calendar dates, times, and durations of malfunctions, and a description of the malfunction and the corrective action taken.

(e) Identification of calendar dates for which data on operating parameters specified under paragraph (b) of this section exceeded the applicable limits, with a description of the exceedances, reasons for such exceedances, and a description of corrective actions taken. Three-hour rolling average values must be used to determine operating parameter exceedances, unless a different averaging period is established under § 60.2705(b).

(f) The results of the initial, annual, and any subsequent stack tests conducted to determine compliance with the emission limits and/or to establish operating parameters, as applicable. Retain a copy of the complete test report including calculations.

(g) Records showing the names of CISWI unit operators who have completed review of the information in § 60.2660(a) as required by § 60.2660(b), including the date of the initial review and all subsequent annual reviews.

(h) Records showing the names of the CISWI operators who have completed the operator training requirements under § 60.2635, including documentation of training and the dates of the training.

(i) Records showing the names of the CISWI operators who have met the criteria for qualification under § 60.2645 and the dates of their qualification, and all subsequent renewals of such qualifications.

(j) Records of calibration of any monitoring devices as required under § 60.2720.

(k) Equipment vendor specifications and related operation and maintenance requirements for the incinerator, emission controls, and monitoring equipment.

§ 60.2735 Where must I keep my records?

All records must be maintained onsite in either paper copy or computer-readable format that can be printed upon request, unless an alternative format is approved by the Administrator.

§ 60.2737 When must I submit my waste management plan?

You must submit the waste management plan no later than the date specified in table 1 for submittal of the final control plan.

§ 60.2740 What information must I submit following my initial stack test?

You must submit the information specified in paragraphs (a) and (b) of this section no later than 60 days following the initial stack test. All reports must be signed by the facilities manager.

(a) The complete test report for the initial stack test results obtained under § 60.2700, as applicable.

(b) The values for the site-specific operating parameters established in § 60.2705.

§ 60.2745 When must I submit my annual report?

You must submit an annual report no later than 12 months following the submission of the information in § 60.2740. You must submit subsequent reports no more than 12 months following the previous report. (Once the unit is subject to permitting requirements under title V of the Clean Air Act, you may be required by the permit to submit these reports semiannually.)

§ 60.2750 What information must I include in my annual report?

The annual report required under § 60.2745 must include the information specified in paragraphs (a) through (f) of this section. All reports must be signed by the facility manager.

(a) The values for the site-specific operating parameters established pursuant to § 60.2705.

(b) The highest maximum operating parameter and the lowest minimum operating parameter, as applicable, for each operating parameter recorded for the calendar year being reported.

(c) Information recorded under § 60.2730 (c) through (e) for the calendar year being reported. If no exceedances or malfunctions were reported, a statement that no exceedances occurred during the reporting period.

(d) If a stack test was conducted during the reporting period, the results of that test.

(e) Any use of the bypass stack, the duration, reason for bypass, and corrective action taken.

(f) Documentation of periods when all qualified CISWI unit operators were unavailable for more than 8 hours.

§ 60.2755 What else must I report if I am out-of-compliance with these standards?

You must submit a report if any recorded 3-hour average parameter level is above the maximum value or below the minimum value established under this subpart, or if a stack test was conducted that exceeded the emission limit.

§ 60.2760 If an out-of-compliance report is required, when must I submit it?

If you are required to submit a report under § 60.2195:

(a) For data collected during the first half of a calendar year (January 1 to June 30), submit your report by August 1 of that year.

(b) For data you collected during the second half of the calendar year (July 1 to December 31), submit the report by February 1 of the following year.

§ 60.2765 What must I include in the out-of-compliance reports?

In each report required under § 60.2755, for any pollutant or parameter that exceeded the limits specified in this subpart, include the following information:

(a) The calendar date your unit exceeded the limits.

(b) The averaged and recorded data for that date.

(c) The reasons for exceeding the limits and your corrective actions.

(d) A copy of the operating parameter monitoring data and any test report that documents the emission levels.

§ 60.2770 Are there any other notifications or reports that I must submit?

(a) You must submit notifications as provided by § 60.7.

(b) If all qualified operators are unavailable for more than 2 weeks, you must submit a notification within 10 days. In addition, you must submit a status report and corrective action summary to the Administrator every 4 weeks.

(c) You must submit notifications of increments of progress, as described in §§ 60.2585 through 60.2605.

§ 60.2775 In what form can I submit my reports?

Submit initial, annual and semiannual electronic or paper reports, postmarked on or before the submittal dates.

§ 60.2780 Can reporting dates be changed?

If the Administrator agrees, you may change the semiannual or annual reporting dates. See § 60.19(c) for procedures to seek approval to change your reporting date.

Model Rule—Air Curtain Incinerators That Burn 100 Percent Wood Wastes and Clean Lumber

§ 60.2785 What is an air curtain incinerator?

An air curtain incinerator operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

§ 60.2790 What are my requirements for meeting increments of progress and achieving final compliance?

If you plan to achieve compliance more than 1 year following the effective date of State plan approval, you must meet two increments of progress:

(a) Submit a final control plan.

(b) Achieve final compliance.

§ 60.2795 When must I complete each increment of progress?

Table 1 of this subpart specifies compliance dates for each of the increments of progress.

§ 60.2800 What must I include in the notifications of achievement of increments of progress?

Your notification of achievement of increments of progress must include three items:

(a) Notification that the increment of progress has been achieved.

(b) Any items required to be submitted with each increment of progress (see § 60.2815).

(c) Signature of the owner or operator of the incinerator.

§ 60.2805 When must I submit the notifications of achievement of increments of progress?

Notifications for achieving increments of progress must be postmarked no later than 10 business days after the compliance date for the increment.

§ 60.2810 What if I do not meet an increment of progress?

If you fail to meet an increment of progress, you must submit a notification to the Administrator postmarked within 10 business days after the date for that increment of progress in table 1 of this subpart. You must inform the Administrator that you did not meet the increment, and you must continue to submit reports each subsequent calendar month until the increment of progress is met.

§ 60.2815 How do I comply with the increment of progress for submittal of a control plan?

For your control plan increment of progress, you must satisfy two requirements:

(a) Submit the final control plan, including a description of any devices for air pollution control and any process changes that you will use to comply with the emission limits and other requirements of this subpart.

(b) Maintain an onsite copy of the final control plan.

§ 60.2820 How do I comply with the increment of progress for achieving final compliance?

For the final compliance increment of progress, you must complete all process changes and retrofit construction of control devices, as specified in the final control plan, so that, if the affected incinerator is brought online, all necessary process changes and air pollution control devices would operate as designed.

§ 60.2825 What must I do if I close my air curtain incinerator and then restart it?

(a) If you close your incinerator but will reopen it prior to the final compliance date in your State plan, you must meet the increments of progress specified in § 60.2790.

(b) If you close your incinerator but will restart it after your final compliance date, you must complete emission control retrofits and meet the emission limits on the date your incinerator restarts operation.

§ 60.2830 What must I do if I plan to permanently close my air curtain incinerator and not restart it?

If you plan to close your incinerator rather than comply with the State plan, submit a closure notification, including the date of closure, to the Administrator by the date your final control plan is due.

§ 60.2835 What are the emission limits for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

(a) After the date the initial stack test is required or completed (whichever is earlier), you must meet the following limits.

(1) The opacity limit is 10 percent (6-minute average).

(2) The opacity limit is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(b) Except during malfunctions, the requirements of this subpart apply at all times, and each malfunction must not exceed 3 hours.

§ 60.2840 How must I monitor opacity for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

(a) Use Method 9 of Appendix A of this part to determine compliance with the opacity limit.

(b) Conduct an initial test for opacity as specified in § 60.8 no later than 180 days after your final compliance date.

(c) After the initial test for opacity, conduct annual tests no more than 12 calendar months following the date of your previous test.

§ 60.2845 What are the recordkeeping and reporting requirements for air curtain incinerators that burn 100 percent wood wastes and clean lumber?

(a) Keep records of results of all initial and annual opacity tests onsite in either paper copy or electronic format, unless the Administrator approves another format, for at least 5 years.

(b) Make all records available for submittal to the Administrator or for an inspector's onsite review.

(c) Submit an initial report no later than 60 days following the initial opacity test that includes:

(1) The types of materials you plan to combust in your air curtain incinerator.

(2) The results (each 6-minute average) of the initial opacity tests.

(d) Submit annual opacity test results within 12 months following the previous report.

(e) Submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date and keep a copy onsite for a period of 5 years.

Definitions

§ 60.2850 What definitions must I know?

Terms used but not defined in this subpart are defined in the Clean Air Act and subparts A and B of this part.

Administrator means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or Administrator of a State Air Pollution Control Agency, if delegated by EPA.

Agricultural waste means vegetative agricultural materials such as nut and grain hulls and chaff (*e.g.*, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds, and other vegetative waste materials generated as a result of agricultural operations.

Air curtain incinerator means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. (Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.)

Biomass fuel means untreated wood and wood products (*e.g.*, trees, tree stumps, tree limbs, bark, lumber, sawdust, sanderdust, chips, scraps, slabs, millings, and shavings); vegetative agricultural and silvicultural materials, such as logging residues (slash), nut and grain hulls and chaff (*e.g.*, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds; and alcohol fuels derived from these materials. Biomass does not include: painted, pigment-stained, or pressure-treated materials (*e.g.*, telephone poles and railroad ties); sewage sludge, paper mill sludge, fermentation tank bottoms, or other sludges; or construction, renovation, and demolition wastes. Pressure treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

Calendar quarter means three consecutive months (nonoverlapping) beginning on: January 1, April 1, July 1, or October 1.

Calendar year means 365 consecutive days starting on January 1 and ending on December 31.

Clean lumber means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

Clean wood means untreated wood or untreated wood products including clean lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include two items:

(1) Yard waste, which is defined elsewhere in this section.

(2) Construction, renovation, or demolition wastes.

Coal means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials in ASTM D388–77, Standard Specification for Classification of Coals by Rank (see § 60.17), coal refuse, and petroleum coke. Synthetic fuels derived from coal for the purpose of creating useful heat, including but not limited to solvent-refined coal, gasified coal, coal-oil mixtures, and coal-water mixtures, are included in this definition for the purposes of this subpart.

Coal refuse means any by-product of coal mining or coal cleaning operations with an ash content greater than 50 percent (by weight) and a heating value less than 13,900 kilojoules per kilogram (6,000 Btu per pound) on a dry basis.

Commercial and industrial solid waste incineration (CISWI) unit means an enclosed device using controlled flame combustion that burns solid waste or an air curtain incinerator that burns solid waste, and that is a distinct operating unit of any commercial or industrial facility. This definition includes field-erected, modular, and custom built incineration units (starved- or excess-air), and air curtain incinerators. The boundaries of a CISWI unit are defined as follows. The CISWI unit includes, but is not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas:

(1) The combustion unit flue gas system, which ends immediately after the last combustion chamber.

(2) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

Dioxins/furans means tetra-through octachlorinated dibenzo-p-dioxins and dibenzofurans.

Malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions.

Modification or *modified CISWI unit* means a CISWI unit you have changed later than 6 months after promulgation of this subpart and that meets one of two criteria:

(1) The cumulative cost of the changes over the life of the unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including the cost of land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

(2) Any physical change in the CISWI unit or change in the method of operating it that increases the amount of any air pollutant emitted for which

section 129 or section 111 of the Clean Air Act has established standards.

Natural gas means:

(1) A naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane.

(2) Liquid petroleum gas, as defined by the American Society of Testing and Materials in ASTM D1835–82, Standard Specification for Liquid Petroleum Gases (see § 60.17).

Oil means crude oil or petroleum or a liquid or gaseous fuel derived from crude oil or petroleum, including distillate oil (Nos. 1–4) and residual oil (Nos. 5 and 6).

Particulate matter means total particulate matter emitted from CISWI units as measured by Method 5 or Method 29 of Appendix A of this part.

Pathological waste means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

Reconstruction means rebuilding a CISWI unit and meeting two criteria:

(1) The reconstruction begins 6 months or more after promulgation of this subpart.

(2) The cumulative cost of the construction over the life of the incineration unit exceeds 50 percent of the original cost of building and installing the CISWI unit (not including land) updated to current costs (current dollars). To determine what systems are within the boundary of the CISWI unit used to calculate these costs, see the definition of CISWI unit.

Refuse-derived fuel means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including two fuels:

(1) Low-density fluff refuse-derived fuel through densified refuse-derived fuel.

(2) Pelletized refuse-derived fuel.

Shutdown means the period of time after all waste has been combusted in the primary chamber.

Solid waste means, for the purpose of this subpart only, any solid, liquid, semisolid, or contained gaseous material, which is combusted, including but not limited to materials listed in paragraph (1) of this definition. Solid waste excludes fuels defined in paragraph (2) of this definition and materials specifically listed in paragraph (3) of this definition.

(1) The following materials are solid wastes, regardless of the provisions in paragraph (2) of this definition:

(i) Any material that is combusted without energy recovery (*i.e.*, where the material displaces other fuels to produce useful heat), except as provided in paragraph (3) of this definition.

(ii) Municipal solid waste, as defined in 40 CFR part 60, subpart Ea, subpart Eb, subpart AAAA and subpart BBBB.

(iii) Hospital waste, as defined in 40 CFR part 60, subpart Ec.

(iv) Medical/infectious waste, as defined in 40 CFR part 60, subpart Ec.

(v) Resource Conservation and Recovery Act hazardous wastes, as defined in 40 CFR part 261.

(2) The following materials are fuels when combusted in a device that incorporates energy recovery as part of its integral design (*e.g.*, for the production of hot water or steam). The combustion chamber and the energy recovery system must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the energy recovery system are joined only by ducts or connections carrying flue gas is not integrally designed.

(i) Biomass fuel, coal, natural gas, and oil, as defined elsewhere in this section.

(ii) Materials that have a heat content of 5,000 Btu/lb or more as fired. This criterion applies to each individual feed stream into the furnace.

(3) The following materials are not solid waste when combusted for the primary purpose of recovering chemical constituents: Pulping liquors (*i.e.*, black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process; spent sulfuric acid used to produce virgin sulfuric acid; and wood and coal feedstock for the production of charcoal.

Standard conditions, when referring to units of measure, means a temperature of 68°F (20°C) and a pressure of 1 atmosphere (101.3 kilopascals).

Startup period means the period of time between the activation of the system and the first charge to the unit.

Total mass dioxins/furans or *total mass* means the total mass of tetra—through octachlorinated dibenzo-p-dioxins and dibenzofurans as determined using Method 23.

Wet scrubber means an add-on air pollution control device that utilizes an alkaline scrubbing liquor to collect particulate matter (including nonvaporous metals and condensed organics) and/or to absorb and neutralize acid gases.

Yard waste means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. It comes from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include:

(1) Construction, renovation, and demolition wastes.

(2) Clean wood, which is defined elsewhere in this section.

TABLE 1 OF SUBPART DDDD.—MODEL RULE—INCREMENTS OF PROGRESS AND COMPLIANCE SCHEDULES

Comply with these increments of progress	By these dates[a]
Increment 1—Submit final control plan	(Dates to be specified in State plan).
Increment 2—Final compliance	(Dates to be specified in State plan)[b]

[a] Site-specific schedules can be used at the discretion of the State.

[b] The date can be no later than 3 years after the effective date of State plan approval or 5 years after promulgation of this subpart, whichever is sooner.

TABLE 2 OF SUBPART DDDD.—EMISSION LIMITS FOR NEW SOURCES

	You must meet these emission limits[a]	Using these averaging times	And determining compliance using these methods
Cadmium	0.03 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 29 of appendix A of this part).
Carbon monoxide	157 parts per million by dry volume.	Not applicable	Not required.

TABLE 2 OF SUBPART DDDD.—EMISSION LIMITS FOR NEW SOURCES—Continued

	You must meet these emission limits[a]	Using these averaging times	And determining compliance using these methods
Dioxins/furans (total mass basis)	0.37 nanograms per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 23 of appendix A of this part).
Hydrogen chloride	62 parts per million by dry volume	3-run average (run duration specified in test method).	Stack test (Method 26 of appendix A of this part).
Lead	2.1 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 29 of appendix A of this part).
Mercury	0.005 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 29 of appendix A of this part).
Opacity	10 percent	6-minute averages	Stack test (Method 9 of appendix A of this part).
Oxides of Nitrogen	388 parts per million by dry volume.	Not applicable	Not required.
Particulate matter	70 milligrams per dry standard cubic meter.	3-run average (run duration specified in test method).	Stack test (Method 5 or 29 of appendix A of this part).
Sulfur dioxide	20 parts per million by dry volume	3-run average (run duration specified in test method).	Stack test (Method 6 of appendix A of this part).

[a] All emission limits are measured at 7 percent oxygen, dry basis at standard conditions.

TABLE 3 OF SUBPART DDDD.—OPERATING PARAMETERS TO BE MONITORED AND MINIMUM RECORDING FREQUENCIES FOR WET SCRUBBERS

You must monitor these operating parameters	Using these minimum frequencies		
	Data measurement	Data recording	Averaging time
Maximum operating parameters: Maximum charge rate.	Continuous	Every hour	3-hour rolling.
Minimum operating parameters:			
Minimum pressure drop across the wet scrubber, or minimum horsepower or amperage to wet scrubber.	Continuous	Every minute	3-hour rolling
Minimum scrubber liquor flow rate	Continuous	Every minute	3-hour rolling
Minimum scrubber liquor pH	Continuous	Every minute	3-hour rolling.

[FR Doc. 99–30405 Filed 11–29–99; 8:45 am]
BILLING CODE 6560–50–P

VOL
64
ISS
2
2
9
NO
30
1999
UMI

federal register

Tuesday
November 30, 1999

Part VI

Department of Labor

Wage and Hour Division, Employment Standards Administration

29 CFR Parts 570 and 579

Child Labor Regulations, Orders and Statements of Interpretation Child Labor Violations—Civil Money Penalties; Proposed Rules

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Parts 570 and 579

RIN 1215–AA09

Child Labor Regulations, Orders and Statements of Interpretation Child Labor Violations—Civil Money Penalties

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Department of Labor (Department or DOL) is proposing to revise the child labor regulations in order to implement two amendments of the Fair Labor Standards Act's child labor standards—the Compactors and Balers Safety Standards Modernization Act, Public Law 104–174 (August 6, 1996) (The Compactor and Baler Act); and the Drive for Teen Employment Act, Public Law 105–334 (October 31, 1998). The Compactor and Baler Act sets conditions which permit 16- and 17-year-old workers to load, but not operate or unload, certain scrap paper balers and paper box compactors. The Act also specifies that civil money penalties may be assessed for violations of these conditions. The Drive for Teen Employment Act prohibits minors under 17 years of age from driving automobiles and trucks on public roadways on the job, and establishes the conditions and criteria under which 17-year-olds may drive automobiles and trucks on public roadways on the job.

The Department is also proposing to revise regulation concerning government-issued Certificates of Age. Presently, the regulation requires that the employer return the certificate to the issuing agency, except that a certificate issued for employment in agriculture may be given to the named minor and a certificate issued to an 18- or 19-year-old shall be given to the named worker. The Department proposes to modify the regulation so as to allow all workers to retrieve the certificates from their employers when their employment ends.

Further, the Department is proposing revisions regarding the types of cooking that 14- and 15-year-olds may perform. The Department proposes to update the regulation and modify a long-standing DOL interpretation of this child labor standard.

Finally, the Department is proposing revisions to certain provisions which prescribe certain hazardous employment for 16- and 17-year-olds. Currently, the regulation prohibits these minors from working in roofing operations. The Department is proposing to revise the regulation to prohibit all work on roofs. In addition, the Department is proposing to revise the regulation to update the definition of the terms explosives and articles containing explosive components in the prohibition on employment of minors in establishments which manufacture or store explosives.

DATES: Comments are due on or before January 31, 2000.

ADDRESSES: Submit written comments to John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Attention: Child Labor and Special Employment Team, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped postcard, or to submit comments by certified mail, return receipt requested. As a convenience, commenters may transmit comments by facsimile ("FAX") machine to (202) 693–1432. This is not a toll free number. If comments are transmitted by FAX and a hard copy is also submitted by mail, please indicate on the hard copy that it is a duplicate copy of the FAX transmission.

FOR FURTHER INFORMATION CONTACT: Arthur M. Kerschner, Jr., Office of Enforcement Policy, Child Labor and Special Employment Team, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–0072. This is not a toll free number. Copies of this proposed rulemaking may be obtained in alternative formats by calling (202) 693–0072 or (202) 693–1461 (TTY). The alternative formats available are large print, electronic file on computer disk (Word Perfect, ASCII, Mates with Duxbury Braille System) and audio-tape.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

Title: Form WH–14, Application for Federal Certificate of Age.

Summary: Section 3(l) of the Fair Labor Standards Act (FLSA), 29 U.S.C. 203(l), provides, in part, that an employer may protect against unwitting employment of "oppressive child labor" (as defined in section 3(l)) by having on file a certificate issued pursuant to DOL regulations, certifying that the named person meets the FLSA minimum age requirements for employment.

Section 11(c) of the FLSA, 29 U.S.C. 211(c), requires that all employers covered by the Act make, keep and preserve records of wages, hours and other conditions and practices of employment with respect to their employees. The employer is to maintain the records for such period of time and make such reports as prescribed by regulations issued by the Secretary of Labor.

Regulations, at 29 CFR Part 570, subpart B, set forth the requirements for obtaining certificates of age from the Department. The regulations provide that State-issued age, employment or working certificates, which substantially meet the Federal regulatory requirements for certificates of age, are an acceptable alternative to obtaining a Federal certificate of age. The regulations contain a list of States that may issue such acceptable certificates. Since age certificates are issued by most States, these are widely used as proof of age for FLSA child labor purposes.

Federal certificates of age are issued by the Department upon request by the youth and the prospective employer. Form WH–14 is the DOL application form. As a practical matter, it is used in those States where no State certificates are issued or State certificates do not meet the Federal regulatory requirements. The Wage and Hour Division reviews each WH–14 application and the accompanying proof of age, which is identified in the regulation as sufficient to establish the young applicant's age and thus to achieve the intended purpose of the statutory provision (*i.e.*, to assure that the employer is protected against unwitting violations of the child labor restrictions). As appropriate, a Federal certificate of age is issued and forwarded to the employer (if the youth is under 18 years of age) or to the youth (if he/she is 18 or 19 years of age). The supporting evidence of age is returned to the applicant(s). The 18- or 19-year-old presents the certificate to his/her employer upon entering employment.

The employer is required to keep the certificate on file for the duration of the youth's employment, in order to achieve the intended purpose of the FLSA provision (*i.e.*, to protect the employer in situations where compliance with the child labor standards is questioned). The estimated average employment period is 6 months. When a youth under 18 years of age leaves employment, the employer is directed by the current regulation to return the certificate to the office that issued it, except that a

certificate for employment in agriculture may be given to the youth; any subsequent certificate of age requested for that youth may be issued without additional proof of age. A certificate of age issued for a youth 18 or 19 years of age is to be given by the employer to the youth upon his/her leaving employment.

Need: In August 1998, the Office of Management and Budget (OMB), in its review and approval of the Form WH–14 under the Paperwork Reduction Act, approved this information collection (OMB No. 1215–0083). OMB's approval was contingent upon DOL's agreement to eliminate the requirement for an employer to return the certificate to the issuing official in certain circumstances. The Department is proposing, as agreed with OMB, to revise the regulation at § 570.6(b)(1), to direct employers to give to each employee, upon termination of employment, any Federal age certificate issued in his/her name. This would occur regardless of the age of the employee and regardless of the type of employment (*i.e.*, agriculture or nonagriculture). This proposed regulatory revision will enable young workers to provide future employer(s) with a properly issued age certificate without having to make another application to a government official. The Department is also proposing to revise the statement at the end of § 570.6(b)(2) to reflect the new OMB control number.

Respondents and proposed frequency of response: It is estimated that 45 such WH–14 applications will be submitted annually.

Estimated total annual burden: It is estimated that each such application will take approximately ten minutes to complete for a total annual burden of seven and one-half hours (45 reports×10 minutes).

Employees and employers of any of a wide variety of businesses, from small farms or retail stores to large manufacturing plants, may request Federal certificates of age. Absent specific wage data regarding applicants, respondent costs are estimated utilizing the average hourly rate of nonsupervisory workers on nonfarm payrolls of $12.26 for 1997 (Monthly Labor Review, U.S. Department of Labor, Bureau of Labor Statistics, June 1998). Total annual respondent hour costs are estimated at $91.95 ($12.26×7.5 hours).

Total estimated annual postage and envelope costs for transmitting these applications are $16.20 (45 reports×$.33 postage+$.03 per envelope).

Total annual respondent costs for form WH–14, application for federal certificate of age—$108.15 ($91.95+$16.20).

Request for comments: The public is invited to provide comments on this information collection requirement so that the Department may:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimates of the burdens of the collections of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Written comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment Standards Administration, U.S. Department of Labor, Washington, DC 20503.

II. Background

The child labor provisions of the Fair Labor Standards Act (FLSA) establish a minimum age of 16 years for employment in nonagricultural occupations, but the Secretary of Labor is authorized to provide by regulation for 14- and 15-year-olds to work in suitable occupations other than manufacturing or mining, and during periods and under conditions that will not interfere with their schooling or health and well-being. These FLSA provisions permit 16- and 17-year-olds to work in the nonagricultural sector, without hours or time limitations, except in certain occupations found and declared by the Secretary to be particularly hazardous, or detrimental to the health or well-being of persons under age 18.

The regulations for 14- and 15-year-olds are known as Child Labor Regulation No. 3 (Reg. 3) and are contained in subpart C of part 570 (29 CFR 570.31–.38). Reg. 3 limits the hours and times of day that such minors may work, and identifies occupations that are either permitted or prohibited for such minors. Under Reg. 3, 14- and 15-year-olds may work in certain occupations in retail, food service, and gasoline service establishments, but are not to work in certain other occupations (including all occupations found by the Secretary to be particularly hazardous for 16- and 17-year-olds). Reg. 3, originally promulgated in 1939, was revised to reflect the 1961 amendments to the FLSA which extended the Act's coverage to include enterprises engaged in commerce or the production of goods for commerce. These amendments opened up new areas of employment for young workers in retail, food service, and gasoline service establishments.

The regulations concerning nonagricultural hazardous occupations are contained in subpart E of 29 CFR part 570 (29 CFR 570.50–.68). These Hazardous Occupations Orders (HOs) apply either on an industry basis, specifying the occupations in the industry that are prohibited, or on an occupational basis, irrespective of the industry in which performed. The seventeen HOs were adopted individually during the period of 1939 through 1963.

Because of changes in the workplace, the introduction of new processes and technologies, the emergence of new types of businesses where young workers may find employment opportunities, the existence of differing Federal and State standards, and divergent views on how best to correlate school and work experiences, the Department has long been reviewing the criteria for permissible child labor employment. In this review, the Department published a Proposed Rule in 1982, a Final Rule in 1991, both an Advance Notice of Proposed Rulemaking and a Proposed Rule in 1994, and a Final Rule in 1995.

On July 16, 1982, a Proposed Rule was published in the **Federal Register** (47 FR 31254) which proposed to revise several elements of Reg. 3, including the permissible hours and times of employment for 14- and 15-year-olds and the types of cooking operations those minors would be permitted to perform. The Proposed Rule generated considerable public interest and controversy, most having to do with the expansion of the hours and times of work for this age group. The Department subsequently suspended the proposal from further consideration and no final rule was implemented (50 FR 17434, April 29, 1985; DOL's Semiannual Regulatory Agenda).

The Department continued to receive communications from the public suggesting that certain changes should be made to the child labor regulations on a number of issues. In 1987, the Department established a Child Labor Advisory Committee (CLAC) composed

of 21 members representing employers, education, labor, child guidance professionals, civic groups, child advocacy groups, State officials and safety groups. The mission of the CLAC was to give advice and guidance in developing possible proposals to change existing standards. After reviewing a number of issues, the CLAC proposed making certain changes to the child labor regulations. In December 1991, the Department promulgated a Final Rule which revised three HOs (56 FR 58626).

The Department continued to review the child labor regulations and, in an effort to accumulate data concerning all aspects of the provisions, published both a Notice of Proposed Rulemaking (NPRM) (59 FR 25164) and an Advance Notice of Proposed Rulemaking (ANPRM) (59 FR 25167) on May 13, 1994.

The NPRM proposed to exempt 14- and 15-year-olds from Reg. 3 hours standards when employed under certain restrictions as sports attendants for professional sports teams, to standardize the Reg. 3 process for issuing occupational variances for Work Experience and Career Exploration Program (WECEP) participants, to remove an outdated exemption for enrollees in certain work training programs, and to revise the process by which HOs are promulgated. A Final Rule on these issues was published April 17, 1995 (60 FR 19336).

The 1994 ANPRM requested public comment on several specific topics as well as all aspects of the child labor provisions. Several individuals and organizations submitted comments. The National Institute for Occupational Safety and Health (NIOSH) provided the Department with epidemiological data on a number of issues related to both Reg. 3 and the HOs. NIOSH also provided the Department with statistics regarding occupational injuries and made several recommendations. A number of child guidance professionals, educators, unions and child labor advocates also commented and made various recommendations. Among these were the Child Labor Coalition (CLC); the National Consumers League (NCL); the Defense for Children International USA (DCI); the National PTA (PTA); the United Food & Commercial Workers International Union, AFL–CIO (UFCW); the Food & Allied Service Trades Department, AFL–CIO (FAST); Letitia K. Davis, Sc.D, Ed.M, of the Massachusetts State Department of Health, Occupational Health Surveillance Program; the American Academy of Pediatrics (AAP); Professor Laurence Steinberg of Temple University; and Susan H. Pollack, M.D., Assistant Professor, Department of Pediatrics and Preventive Medicine, University of Kentucky. Comments to the ANPRM are discussed below in the pertinent sections of this preamble.

Twice in the last three years, Congress has amended the child labor provisions of the FLSA. The Compactors and Balers Safety Standards Modernization Act, Public Law 104–174 (Compactor and Baler Act), was signed by the President on August 6, 1996. This legislation adds a section 13(c)(5) to the FLSA, permitting minors 16 and 17 years of age to load, but not operate or unload, certain scrap paper balers and paper box compactors if certain requirements are met. The Drive for Teen Employment Act, Public Law 105–334, was signed by the President on October 31, 1998. This legislation adds a section 13(c)(6) to the FLSA, prohibiting minors under 17 years of age from driving automobiles and trucks on public roadways on the job and establishing the conditions and criteria for 17-year-olds to drive automobiles and trucks on public roadways on the job.

In the present Notice of Proposed Rulemaking, the Department proposes revisions of regulations to implement the recent legislation and to update certain regulatory standards. The Compactor and Baler Act affects the HO 12 standards (Occupations involved in the operation of paper-products machines) (29 CFR 570.63) and certain other related regulations; amendments of those regulations are proposed. The Drive for Teen Employment Act affects the HO 2 standards (Occupations of motor-vehicle driver and outside helper) (29 CFR 570.52); an amendment of that regulation is proposed. As a result of its ongoing review of the child labor provisions, the Department is also proposing changes to HO 1 (Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components) (29 CFR 570.51), HO 16 (Occupations in roofing operations) (29 CFR 570.67), the Reg. 3 limitations on cooking (29 CFR 570.34), and 29 CFR 570.6(b)(1) which deals with the disposition of a Certificate of Age when the named individual's employment ends. The proposals are discussed below.

III. Proposed Regulatory Revisions

A. Certificates of Age (29 CFR 570.5–.27)

Section 3(l) of the FLSA provides an affirmative defense against the citation of child labor violations for employers who "have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such [employee] is above the oppressive child labor age" (29 U.S.C. 203(l)). The use of such certificates is not mandatory under the FLSA. As described above (Item I), the Department's regulations, at 29 CFR 570.5–.27, set out the procedures for application, issuance, retention and disposition of certificates of age. The regulations authorize the issuance of certificates by most of the States as well as by the Wage and Hour Division. Most certificates are, in fact, requested from and issued by the States.

Section 570.6(b) currently directs the employer to return the certificate to the issuing authority when the named worker's employment terminates, except that a certificate issued for employment in agriculture may be given to the worker and a certificate issued to an 18- or 19-year-old shall be given to the worker. The Department proposes to revise § 570.6(b) to specify that the worker's certificate issued by DOL be given to him/her when employment ends, regardless of the worker's age or type of employment. The youth may then provide the certificate to any future employer(s). This regulatory amendment, suggested by the Office of Management and Budget, would preclude unneeded repetition of the certification process and reduce paperwork burdens on employers.

B. Reg. 3 Occupations: Cooking (29 CFR 570.34)

Reg. 3 established restrictions on the type of cooking and cooking-related work which 14- and 15-year-olds may perform as employees of retail, food service, and gasoline service establishments. At § 570.34(b)(5), the regulation prohibits these minors from "cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking." Under § 570.34(a)(7), however, 14- and 15-year-olds are permitted to perform "kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as but not limited to, dish-washers, toasters, dumbwaiters, popcorn poppers, milkshake blenders, and coffee grinders."

These regulatory standards were added to Reg. 3 after the 1961 FLSA amendments which extended the child labor provisions to certain enterprises engaged in commerce or in the production of goods for commerce. New areas of employment in retail, food service, and gasoline service establishments were opened to minors.

The regulations were the Department's response to the challenge of identifying those food preparation activities which 14- and 15-year-olds could safely perform without interfering with their schooling, health or well-being.

In establishing these standards, the Department recognized that some forms of cooking were not appropriate for persons under 16 years of age. Lifting large containers of hot materials, working over a hot stove for long periods of time, cooking over an open flame, and operating pressure cookers were all considered too dangerous for young workers. On the other hand, preparing an occasional hamburger or grilled cheese sandwich or performing simple cooking functions like those which minors might do in their own homes did not seem to place young workers at risk. The Department determined that the type of cooking performed at a snack bar or soda fountain, where the worker would not only take the customer's order but also prepare and serve the light fare, did not pose serious risks to the minor's health or well-being. The work was not strenuous, did not require continuous cooking at a grille or stove, and did not require the minor to use complicated or dangerous equipment.

The Department's promulgation and interpretation of the Reg. 3 standards were based, to some extent, upon a factor common to snack bars and soda fountains—namely, that the cooking performed in such food service operations was performed "in plain view" of the customer. This factor, in and of itself, did not make the activity safer, but it did tend to limit the scope of the cooking to activities that were relatively free of risk. By limiting cooking work to soda fountains and snack bars, Reg. 3 barred the "heavy duty" and more strenuous types of cooking performed in full-service restaurants, while permitting other, less strenuous types of "light" cooking. Over a period of time in the 1960's, the Department developed an "in plain view" interpretation of the regulation, making the Reg. 3 standard dependent upon whether the 14- and 15-year-olds are performing their cooking duties within the customers' sight. Under this interpretation, cooking performed "in plain view" would be permissible even if the minor was not working at a traditional soda fountain or snack bar, and cooking performed out of plain view (*i.e.*, in the kitchen or behind a partition) would not be permissible.

The snack bars and soda fountains upon which the Reg. 3 standards were established have been largely, if not entirely, replaced by different kinds of fast food establishments during the decades of the 1970's, 1980's and 1990's. In recognition of the changing nature of the retail food service industry, the Wage and Hour Division examined fast food restaurants in 1977 and conducted a survey of fast food establishments in 1979 to determine what, if any, changes were needed in the cooking prohibitions. Interested parties, including major fast food chains, organized labor, and child labor advocates, were consulted.

In 1982, the Department published a Proposed Rule (47 FR 31254) which would have revised several elements of Reg. 3, including the permissible hours and times of employment for 14- and 15-year-olds and the types of cooking operations they would be allowed to perform. Under the proposal, all cooking would have been permitted except: cooking with hot oils at temperatures over 140 °F; cooking over an open flame; and cooking involving the use of pressure cookers without proper safety valves. The "in plain view" interpretation would no longer have been applied. The Proposed Rule generated considerable public interest and controversy, most having to do with the expansion of the hours and times of employment standards. The Department subsequently suspended the proposal from further consideration and no final rule was implemented (50 FR 17434, April 29, 1985; DOL's Semiannual Regulatory Agenda).

The Department continues to receive communications from the public suggesting that certain changes should be made to the regulations concerning cooking. A general consensus seems to have developed that the "in plain view" interpretation no longer serves as an important safety standard as it did in the 1960's, because the activities involved are no longer limited to "light" cooking. Nor does the interpretation provide sufficient guidance to employers, parents, and working teens. The proscription of tasks mainly on the basis of place of performance complicates the regulation and leads to confusion. For example, in one fast food establishment, 14- and 15-year-olds may perform most cooking jobs because all cooking is performed in the plain view of the customers; but at another food service establishment, those minors would not be able to perform the identical functions because all cooking is done in a closed kitchen away from the customer's view. Complications may also exist within a single establishment when some cooking equipment is placed so customers may view the cooking operation and additional pieces of the same equipment are placed outside of the customer's line of sight.

The Department recognizes the need to review and update the Reg. 3 standards. New generations of cooking devices have been introduced since the cooking regulation was published in the 1960s, including microwaves, automatic cooking machines and systems, and computerized equipment and systems. Any proposed changes to the cooking prohibitions—to take into account all of these changes in the food service industry—must carefully consider the safety risks to young workers.

In an effort to accumulate data concerning all aspects of the child labor provisions, the Department in 1994 published an Advance Notice of Proposed Rulemaking (ANPRM) (59 FR 25167). The ANPRM requested public comment on many aspects of the child labor provisions, specifically including the Reg. 3 cooking standards. The Department received numerous comments on this matter.

The National Institute for Occupational Safety and Health (NIOSH) submitted epidemiological data supporting its recommendation of a general prohibition against 14- and 15-year-old minors cooking and working in close proximity of cooking appliances. NIOSH provided statistics regarding numbers and risks of burns. NIOSH cited as especially dangerous the contact burns associated with the cooking process, servicing the cooking equipment and working in the general area of cooking appliances. NIOSH also cited the hazard of slipping into or against equipment, particularly when floors near deep fryers and grilles become slippery from the oil. NIOSH cited the specific types of accidents that occur and noted that occupational burns to adolescents are frequently severe. NIOSH estimated that 5,200 adolescents sought emergency room treatment for work-related burns associated with cooking or working in a place where food was being prepared during the eighteen-month period of July 1992 through December 1993, and noted that the rate of burns in eating and drinking places—2.1 per 100 fulltime workers—was over 10 times greater than the rate for all other industries (0.2 per 100 fulltime workers). Citing that teenagers comprise nearly one-quarter of total employment in eating and drinking places, and stating that the "in plain view" policy provides no additional safety factors for teens, NIOSH recommended that cooking be prohibited regardless of where performed.

The Child Labor Coalition opposed 14- and 15-year-olds performing any

cooking, grilling, or frying, citing some of the same studies as NIOSH showing that burns are a leading cause of injuries among young workers. The Defense for Children International USA (DCI) stated that no cooking by 14- and 15-year-olds should be permitted in retail and food establishments, citing accident and injury data reporting that such work is dangerous. The DCI also endorsed the information provided by NIOSH as to the physical dangers of cooking.

The Food and Allied Service Trades Department, AFL–CIO (FAST) opposed any change that would relax or remove the restrictions against workers under the age of 18 cooking in retail and food establishments. The FAST based its comments on the incorrect premise that cooking is prohibited for those under 18 (*i.e.*, in fact, all cooking and baking are permitted for 16- and 17-year-olds unless included in the HO 10 and 11 prohibitions (food slicers and bakery machines)). The FAST cited the accident data regarding fast food workers, and noted that teenage cooks suffer more burns than adult cooks and that the most common sources of burns are cooking oils, grilles, and other cooking equipment.

An official of the Massachusetts Department of Health, Occupational Health Surveillance Program, recommended prohibiting cooking by all 14- and 15-year-olds irrespective of where the cooking takes place. The recommendation was based on a study of injury data from emergency departments in fourteen Massachusetts communities during 1979–1982. The estimated occupational injury rate for all employed teens was 16 per 100 fulltime equivalent employees. Burns accounted for 6 percent of occupational injuries to teens (but the study source data did not contain information about the industries in which injured teens were working). In an ongoing analysis of worker's compensation claims for teens in Massachusetts, the official reported that burns accounted for 6 percent of all occupational injuries to teens and that burns also accounted for 6 percent of cases of lost workdays of five or more days leading to Worker's Compensation claims. The official also reported that occupational burn injuries to teens are often severe, finding that 12 percent of occupational burns to teens covered multiple parts of the body.

The National Consumers League opposed 14- and 15-year-olds performing any cooking and cited several studies regarding the risks of cooking. The Washington State Child Labor Committee and the Washington State Department of Labor and Industries recommended that the Department use the Washington State law as a model for Federal regulations; those State child labor regulations contain a provision banning cooking and baking by workers under 16 years of age.

The Ohio State Department of Education opposed any changes to the cooking provisions and was the only commenter to recommend retaining the "in plain view" interpretation. The agency also recommended continuing the current policy of issuing variances to allow students in Work Experience and Career Exploration Programs (WECEP) to cook under certain conditions, as those students receive safety instruction and are closely supervised throughout their WECEP participation.

The National Restaurant Association (NRA) supported allowing 14- and 15-year-old minors to perform cooking, including immersing foods in grease or tending cooking foods. The NRA suggested prohibiting minors from handling hot grease (140 °F or higher) before or after cooking, working over an open flame which is not contained in such a way as to prevent the flame from igniting clothing, and cooking with containers under pressure which have no safety valve. The NRA cited the current regulations as "a product of a bygone era" and stated that cooking and baking should be permitted regardless of where they are performed. The NRA's proposal was similar to the Department's 1982 Proposed Rule.

The National Council of Chain Restaurants (NCCR) also supported allowing 14- and 15-year-old minors to cook and bake. It labeled the current regulations as outdated and stated that the "in plain view" interpretation does not lend itself to practical and consistent application in the restaurant industry. The NCCR commented that modern technology and equipment make cooking and baking safer than at any time in the past. Six other comments, those from a State restaurant association, a city government, and four restaurants or chains, urged that cooking be permitted under conditions which make it safer (such as under adult supervision or after safety training).

With respect to the types of cooking equipment that may be used and temperatures of such equipment, one restaurant recommended allowing the use of all cooking equipment but added that stricter reporting of occupational injuries would be necessary. The Child Labor Coalition (CLC) recommended a complete review of all machines and injury data, in particular those which can cause burns from hot water and steam. The CLC cited its research which showed that burns often occur in connection with work involving deep fat fryers, dishwashers, and cooking liquids.

The North Carolina State Department of Labor proposed that a hazardous occupations order be adopted which would ban all minors under age 18 from using deep fat or oil fryers not equipped with automated food lowering devices, cleaning or removing of grease or oil filters from any deep fat or oil fryer, and lifting, moving or carrying receptacles or containers of hot grease or oil.

In addition to the comments summarized above, the Department also received—in response to the 1994 ANPRM—several articles, studies, and papers that discuss dangers associated with cooking.

The Department has carefully considered all the comments and materials received, and has reviewed the Reg. 3 standards. The Department recognizes the delicate balance between the value of jobs that provide positive, formative experiences and the negative effects that the wrong type of jobs can have on the health and well-being of young workers. Just as in 1962, there are still some types of cooking that are not appropriate for minors under 16 years of age because of safety considerations. But as mentioned by several organizations that commented on the ANPRM, the Department believes that there are certain cooking duties minors can safely perform in modern food service establishments. The Department has preliminarily concluded that the current regulations should be revised so that 14- and 15-year-olds may perform a limited number of cooking activities—*i.e.*, only those that are safe and appropriate for their age group. The Department believes that this regulatory revision can be done without negatively impacting employment opportunities for young workers.

The Department is proposing to establish standards for cooking duties which the Department believes are safe and appropriate for these minors regardless of where the cooking is performed within the food service establishment. Thus, the current "in plain view" interpretation would be eliminated.

The proposal would permit 14- and 15-year-olds to: (1) Cook with electric or gas grilles which do not involve cooking over an open flame; (2) use deep fat fryers which are equipped with devices which automatically raise and lower the "baskets," but not pressurized fryers; (3) clean, maintain (including the changing, cleaning, and disposing of oil or grease and oil or grease filters) and repair cooking devices (other than power-

driven equipment) when the surfaces of the equipment or liquids do not exceed a temperature of 140 °F.

The maximum temperature of 140 °F was originally proposed in 1982 because it had been established as the minimum temperature at which a first-degree burn can occur. Recent consultations between the Wage and Hour Division and the Occupational Safety and Health Administration (OSHA) have led the Department to believe that this maximum temperature will protect minors who clean, maintain and repair non-power-driven equipment and handle cooking oils and grease.

The proposal would prohibit 14- and 15-year-olds from cleaning equipment such as grilles, deep fat fryers, and steam tables; removing grease filters; and lifting, moving or carrying receptacles or containers of hot grease or oil when the minor would be exposed to or working with liquid or equipment surfaces which exceed a temperature of 140 °F. This ban on carrying hot oil would apply regardless of the type of oil.

The ban on all baking activities by those under 16 years of age would continue. These minors would still be prohibited from performing all jobs that are part of the baking process, such as weighing and mixing ingredients; operating ovens, including convection ovens, microwave ovens (except those used for warming food as described below), pizza ovens, and automatic feeding ovens; removing items from ovens to cooling trays; and finishing baked products. This ban on baking tasks exists because of the dangers to young workers in activities such as lifting heavy bags of ingredients, filling hot pans, moving hot pans and trays into and out of ovens, emptying hot pans and trays, having clothing or fingers entangled in conveyors or other mechanisms of ovens, and operating power-driven equipment. However, the Department is reviewing this position and is seeking evidence regarding whether certain activities would be safe for 14- and 15-year-olds to perform in the baking process in retail establishments, and if so, whether we should therefore consider modifying the ban on the baking process performed in retail establishments by 14- and 15-year-olds. Specifically, the Department seeks evidence and comments on whether such youths should be permitted to perform certain prescribed activities such as measuring and weighing ingredients and finishing baked goods, provided that operation of power-driven equipment is not performed. The weighing and measuring of ingredients could entail lifting and moving large containers of materials. NIOSH, in its October 24, 1994 comments on the 1994 ANPRM, recommended certain weight limits be adopted for jobs requiring lifting to reduce occupational musculoskeletal injuries (sprains and strains) to workers. Specifically, NIOSH recommended that the Department consider issuing a Hazardous Occupation Order imposing the following restrictions on manual handling jobs performed by minors under 18 years of age: "(1) Frequent lifting/lowering rates (not to exceed 6 lifts per minute), maximum weight should not exceed 15 lbs per lift; (2) Infrequent lifting/lowering rates (not to exceed once per minute), maximum weight should not exceed 30 lbs per lift; (3) in all cases, maximum lifting work duration should not exceed two continuous hours of work." The Department therefore seeks evidence and comments as to whether, if the Department does amend the rules to allow certain backing activities to be performed, there should be a weight limit, such as 10 pounds, for jobs requiring lifting by 14- and 15-year-olds.

Additionally, the proposal would continue the current ban against minors under 16 using such equipment as rotisseries, pressurized equipment including fryolators, and cooking devices that operate at extremely high temperatures such as "Neico broilers."

This proposal would incorporate the Department's long-standing policy of permitting 14- and 15-year-olds to operate microwave ovens that are used only to warm prepared food and do not have the capacity to warm above 140 °F, and to use, dispense, and serve food from warmers, steam tables, and other warming devices (even if the temperatures exceed 140 °F). The proposal would also preserve the current Reg. 3 standard allowing 14- and 15-year-olds to perform kitchen work and other work to prepare and serve food and beverages.

Finally, the proposal would preserve the current Reg. 3 process whereby State agencies operating approved Work Experience and Career Exploration Programs (WECEP) (in which students are closely supervised and receive safety instruction) may seek variances from the Department to authorize students to cook and to perform certain jobs that would otherwise be banned.

C. Explosives and Articles Containing Explosive Materials (HO 1) (29 CFR 570.51)

Hazardous Occupations Order No. 1, originally issued in 1939, greatly restricts the employment of minors in any establishment which manufactures or stores explosives or articles containing explosive components (*e.g.*, plants that manufacture dynamite, fireworks, or gunpowder). HO 1 also prohibits minors from handling and transporting primers and blasting caps.

The regulation's definition of the crucial terms "explosives and articles containing explosive components" has become, in part, obsolete. The definition states that these terms "mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the Interstate Commerce Commission in regulations for the transportation of explosives and other dangerous substances by common carriers * * * issued pursuant to the (Interstate Commerce Act) * * *". Congress abolished the Interstate Commerce Commission in 1995. The HO 1 incorporation of ICC regulatory standards is, therefore, no longer feasible and the Department proposes to revise the definition to eliminate this ICC reference.

The Department considers it to be essential that the HO 1 definition of "explosives and explosive components" be as complete, clear, and user-friendly as possible, so as to best serve the FLSA's purpose of protecting young workers from hazards. Therefore, while preparing to delete the incorporation of ICC standards, DOL has sought an alternate source of expertise in the identification of explosives and explosive components. After careful consideration, the Department is of the view that the appropriate source of expertise is the Bureau of the Alcohol, Tobacco and Firearms, Department of the Treasury (ATF). Under statutory and regulatory mandates (18 U.S.C. 841(d); 27 CFR 55.23), the Director of ATF must revise and publish at least annually in the **Federal Register** a list of explosives covered by the U.S. Code Title 18 provisions concerning importation, manufacture, distribution and storage of explosive materials. The ATF list, which covers explosives, blasting agents and detonators, is intended to include any and all mixtures containing any of the materials on the list. The most recent list was published in the **Federal Register** on May 1, 1998 (63 FR 24207). The Department proposes to revise the HO 1 definition of "explosives and articles containing explosive components" to include the materials identified in the 1998 ATF list, which will appear in an appendix to the HO 1 subsection. By comparing this alphabetical list to the product information for materials that are used or stored at the work site (*e.g.*, the list

of contents found on the product package), employers and other parties can readily determine whether any product or material is an explosive or contains explosive components, so as to be within the HO 1 prohibition.

D. Driving on Public Roads or Highways (HO 2) (29 CFR 570.52).

Hazardous Occupations Order No. 2, originally issued in 1940, generally prohibits minors under 18 years of age from employment in the occupations of motor-vehicle driver and outside helper on any public road or highway; in or about any mine, logging or sawmilling operations; or in any excavation covered by HO 17 (which includes excavation in trenches, building construction, or tunnels; 29 CFR 570.68). The occupational dangers specifically identified by the original HO 2 included the high degree of accident risk for persons of any age in these occupations, the fact that 16- and 17-year-old drivers experience a proportionately larger number of fatal accidents than older drivers, and the restrictions that numerous States placed on employees who perform as drivers and driver helpers.

HO 2 contains two limited exemptions to the prohibition on minors driving on public roads and highways: "Incidental and occasional" driving under certain restrictions; and, school bus drivers for a limited period under certain restrictions. These two exemptions are addressed in this proposed rule, and are discussed separately below.

1. "Incidental and Occasional Driving" (§ 570.52(b)(1))

HO 2 provides a limited exemption (§ 570.52(b)(1)) permitting 16- and 17-year-olds to drive automobiles and trucks on public roads and highways on an "incidental and occasional" basis when all the following criteria are met:

- The automobile or truck being driven does not exceed 6,000 pounds gross vehicle weight;
- The driving is restricted to daylight hours;
- The minor holds a State driver's license valid for the type of driving involved in the job performed and has completed a State-approved driver education course; and
- The vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used.
- The limited exemption is not applicable to any occupation of motor-vehicle driver that involves towing a vehicle.

The term "incidental and occasional"—while not defined in the regulations—was for many years interpreted by the Department to mean only driving that involves emergency-type situations or that happens at rare intervals. Thus, the Department enforced the exemption as not including driving which, even if only infrequent or sporadic, is an integral part of the job. The Department's interpretation excluded from the exemption any situations where a minor's employment requires routine and regular driving, such as to deliver auto parts, make pizza deliveries, or run errands.

The Department reviewed HO 2 in 1984 and concluded, based upon data involving vehicle-related injuries and fatalities, that HO 2 should be retained in its current form. The Department found that 16-year-olds were involved in a disproportionate share of accidents and tended to be responsible for fatal accidents more often than other drivers. Seventeen-year-old drivers were the next most likely to be involved in such accidents. Teenagers accounted for 8 percent of the population at the time but sustained 17 percent of fatal injuries in automobile accidents.

In 1987, concerned that some of the child labor regulations needed updating, the Department created the Child Labor Advisory Committee (CLAC), a committee whose mandate was to consider, among other things, the appropriate scope of "incidental and occasional" driving in the HO 2 exemption. In 1989, after careful consideration of HO 2, the CLAC recommended clarification of the term "incidental and occasional" driving. The committee's recommendation, discussed below, was later adopted with modifications and issued by the Department as interpretative guidance.

In 1994, in its continuing effort to review its child labor regulations, the Department published an Advance Notice of Proposed Rulemaking (59 FR 25167) seeking the views of the public on possible changes in the child labor regulations, including the Hazardous Occupations Orders. Although HO 2 was not specifically mentioned in the ANPRM, the Department received comments from various groups with differing views of HO 2. For example, the National Automobile Dealers Association (NADA), individual automobile dealerships, and florists requested more flexibility in the Department's interpretation of "incidental and occasional" driving and urged a change to HO 2 to permit minors to spend more time driving on the job. Child advocacy groups, on the other hand, sought to further limit or abolish completely job-related teenage driving. The Child Labor Coalition, for example, supported a definition of "incidental and occasional" which permitted emergency-situation driving only. The Washington State Child Labor Advisory Committee recommended a complete ban on teenagers driving on-the-job.

As a result of comments received in response to the ANPRM, the Department decided to review HO 2. In 1995, in order to clarify the appropriate scope of "incidental and occasional" driving until further rulemaking could be completed, the Wage and Hour Division adapted the Child Labor Advisory Committee's 1989 recommended interpretation. Under this Departmental interpretation of the regulatory language, driving was deemed "incidental" if it was limited to no more than 20% of the minor's work in any workday and did not exceed 5% of the minor's work time in any workweek when performed. Driving was deemed "occasional" if the minor drove on average no more than once in a workweek and no more than four times in a calendar month. A "single episode" of driving meant an occurrence when the employee was working and operated a motor vehicle on behalf of the employer. Although the Child Labor Advisory Committee also recommended that the HO 2 exception should be permitted only for 17-year-olds, the Department did not address this point because it was considered too substantive to be adopted without rulemaking.

The Drive for Teen Employment Act (Pub. L. 105–334) was signed by the President on October 31, 1998. The Act amended the FLSA by adding a new subsection 13(c)(6). This provision prohibits employees under 17 years of age from performing any on-the-job driving of automobiles and trucks on public roadways. It permits 17-year-old minors to drive automobiles and trucks on public roadways only if such driving meets all of the following conditions:

"(A) such driving is restricted to daylight hours;

"(B) the employee holds a State license valid for the type of driving involved in the job performed and has no records of any moving violation at the time of hire;

"(C) the employee has successfully completed a State approved driver education course;

"(D) the automobile or truck is equipped with a seat belt for the driver and any passengers and the employee's employer has instructed the employee

that the seat belts must be used when driving the automobile or truck;

"(E) the automobile or truck does not exceed 6,000 pounds of gross vehicle weight;

"(F) such driving does not include—

"(i) the towing of vehicles;

"(ii) route deliveries or route sales;

"(iii) the transportation for hire of property, goods, or passengers;

"(iv) urgent, time-sensitive deliveries;

"(v) more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the employee's employer or to a customer (other than urgent, time-sensitive deliveries);

"(vi) more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers (other than employees of the employer);

"(vii) transporting more than three passengers (including employees of the employer); or

"(viii) driving beyond a 30 mile radius from the employee's place of employment; and

"(G) such driving is only occasional and incidental to the employee's employment.

"For purposes of subparagraph (G), the term 'occasional and incidental' is no more than one-third of an employee's worktime in any workday and no more than 20 percent of an employee's worktime in any workweek."

While the Drive for Teen Employment Act affects the current HO 2 exemption for "occasional and incidental" driving, the Act does not affect any other parts of HO 2. The HO applies to driving on public roadways and has no effect on driving of motor vehicles by 16- and 17-year-old employees when performed exclusively on private property (except in or about any mine, logging or sawmilling operations, or any excavation covered by HO 17). The HO 2 prohibition regarding the employment of 16- and 17-year-olds to drive motor vehicles other than cars and truck—such as truck-tractors, trailers, semitrailers, and motorcycles—on public roads remains the same. The HO 2 prohibition concerning the employment of 16- and 17-year-olds as "outside helpers" on motor vehicles is unchanged. The Act also leaves unchanged the applicability of HO 2 regardless of the registration or ownership of the vehicle being driven by the minor. Further, the Act has no effect on the relationship between the FLSA, HO 2, and State laws. Many States have laws setting standards for child labor and teen drivers. When both Federal and State laws apply, the law setting the more stringent standard must be observed.

The Department proposes to revise HO 2 to incorporate the provisions of the Drive for Teen Employment Act and to provide guidance regarding what constitutes "urgent, time-sensitive deliveries." The Department is of the view that such deliveries—prohibited by the Act—would include trips which, because of such factors as customer satisfaction, the rapid deterioration of the quality or change in temperature of the product, and/or economic incentives, are subject to time-lines, schedules, and/or turn-around times which might impel the driver to hurry in the completion of the delivery. Such trips would include, but are not limited to, the delivery of pizzas and prepared foods to the customer; the delivery of materials under a deadline (such as deposits to a bank at closing); and the shuttling of passengers to and from transportation depots to meet transport schedules. "Urgent, time-sensitive deliveries" would not depend on the delivery's points of origin and termination, and would include the delivery of people and things to the employer's place of business as well as from that business to some other location.

The Department notes that the employer bears the burden of proving compliance with several conditions contained in the Drive for Teen Employment Act that must be met before a 17-year-old employee may drive automobiles and trucks on public roadways in his/her job performance. These conditions include—the employee must have a State license valid for the type of driving being performed; the employee must have successfully completed a State approved driver education course; and the employee must have no records of any moving violations at the time of hire. The Department does not propose to require that employers create or maintain any records with regard to compliance with the Drive for Teen Employment Act.

In order to better protect themselves against unwitting violations of HO 2, employers may wish to obtain, at the time of hire, sufficient documentation from 17-year-old employees who will be expected to drive on-the-job. This documentation could include such things as an age certificate issued in accordance with the child labor regulations (29 CFR 570.5–.27), photocopies of the minor's driver license and his/her certificate of completion or diploma issued by the State approved driver education course, and correspondence from State or local authorities and/or the minor's insurance company verifying that the minor has no records of moving violations. The Department also notes that the Drive for Teen Employment Act limits the type and extent of driving a 17-year-old may perform on-the-job. In order to better protect themselves against unwitting violations of these HO 2 restrictions, employers may wish to maintain logs to keep track of on-the-job driving performed by 17-year-old employees. These logs could identify the driver and show such things as the starting and stopping times of each trip, the destination of each trip, the purpose of each trip, the number of miles driven, the vehicle driven, and the number of passengers riding in the vehicle.

2. School Bus Drivers (§ 570.52(b)(2))

Hazardous Occupations Order No. 2 provides a limited exemption for driving on public roads and highways by certain youths employed as school bus drivers (§ 570.52(b)(2)). This exemption has been included in HO 2 for decades, but was revised to its present form in 1991. The Department conducted a review of the school bus driver exemption in 1990, and gave particular attention to the views of the Child Labor Advisory Committee (discussed above). A Proposed Rule was published in 1990, addressing this exemption along with some other issues concerning other HOs (55 FR 42812). A Final Rule was issued in 1991 (56 FR 58626), revising the school bus drivers exemption to permit employment of young workers as school bus drivers only through the 1995–1996 school year, for certain schools that were already employing young drivers under authorizations previously issued by the Department.

The Department proposes to delete from HO 2 the now-expired school bus driver exemption. The exemption was available only to certain "grandfathered" school districts and, by the explicit language of the regulation, expired with the 1995–1996 school year. The Department sees no justification for a revival of the exemption, since our records reflect that this exemption was last used by a school district in the 1994–1995 school year, one year before the exemption's last available school term under the regulation.

E. Scrap Paper Balers and Paper Box Compactors (HO 12) (29 CFR 570.63)

Hazardous Occupations Order No. 12 generally prohibits minors under 18 years of age from working in occupations involving the operation of paper-products machines. The HO prohibits the loading, operation and

unloading of scrap paper balers, including paper box balers and compacting machines, and other power-driven machines used in the remanufacture or conversion of paper or pulp into a finished product. When HO 12 was promulgated in 1954, the dangers specifically associated with the operation of scrap paper balers involved being caught in the plungers during the compression process and suffering strains and other injuries while moving the compressed bales.

The Department has consistently interpreted HO 12 to apply to any establishment that used such paper-products machines, including retail stores. The Department has long interpreted the regulation as applying to paper box compactors (which generally perform the same function, utilize the same processes of compacting, and present the same dangers as scrap paper balers) although paper box compactors are not specifically named in the HO. The Department has also interpreted the prohibitions of HO 12 as applying to equipment used exclusively to process paper products, even though machines used to process other solid materials, in addition to paper products, share the identical machine designs, operation methods, and potential risks.

As a result of reports the Department received in the 1980s of injuries to minors employed in retail stores involving paper balers, in 1990–91 the Wage and Hour Division conducted a review of HO 12 as it applied to grocery stores and other retail operations. Through a Proposed Rule (55 FR 42812), followed by a Final Rule (56 FR 58626), HO 12 was amended in December 1991. The regulation was clarified as applying where the baled paper products were recycled, as well as where they were disposed of as trash. Further, the regulation's prohibition on "operation" was clarified as not including the stacking of materials in areas adjacent to the machine. Finally, the regulation was revised to explicitly state that HO 12 applied to all establishments that used such machines, consistent with long-established Departmental interpretation.

The Department published an Advance Notice of Proposed Rulemaking in 1994 (59 FR 25167), seeking the public's views on possible changes in the child labor regulations, including the Hazardous Occupations Orders. Although HO 12 was not specifically mentioned in the ANPRM, the Department received comments from representatives of the grocery industry asserting that recent technological changes have rendered certain new balers and compactors safe for minors to load. The Food and Allied Service Trades Department, AFL-CIO, opposed any relaxation of the prohibitions contained in HO 12. The Child Labor Coalition also opposed any relaxation of HO 12 and suggested that it should be expanded to include all compactors.

The Compactor and Baler Act was signed by the President on August 6, 1996 (Pub. L. 104–174). This legislation amends the FLSA by adding a new subsection 13(c)(5) to permit 16- and 17-year-olds to load, but not operate or unload, scrap paper balers and paper box compactors only if all of the following conditions are met:

"(A) (the loading involves) * * * scrap paper balers and paper box compactors—

"(i) that are safe for 16- and 17-year-old employees loading the [machines]; and

"(ii) that cannot be operated while being loaded.

"(B) For purposes of subparagraph (A), scrap paper balers and paper box compactors shall be considered safe for 16- and 17-year-old employees to load only if :

"(i)(I) the scrap paper balers and paper box compactors meet the American National Standard Institute's Standard ANSI Z245.5–1990 for scrap paper balers and Standard ANSI Z245.2–1992 for paper box compactors; or

"(II) the scrap paper balers and paper box compactors meet an applicable standard that is adopted by the American National Standards Institute after the date of enactment of this paragraph and that is certified by the Secretary to be at least as protective of the safety of minors as the standard described in subclause (I);

"(ii) the scrap paper balers and paper box compactors include an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;

"(iii) the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the scrap paper balers and paper box compactors are not in operation; and

"(iv) the employer of 16- and 17-year-old employees provides notice, and posts a notice, on the scrap paper balers and paper box compactors stating that:

"(I) the scrap paper balers and paper box compactors meet the applicable standard described in clause (i);

"(II) 16- and 17-year-old employees may only load the scrap paper balers and paper box compactors; and

"(III) any employee under the age of 18 may not operate or unload the scrap paper balers and paper box compactors."

The Department notes that the employer bears the burden of proving compliance with the conditions established by the Compactor and Bailer Act which allow 16- and 17-year-olds to load certain scrap paper balers and paper box compactors.

The amendment also required that all employers subject to the FLSA submit a report to the Secretary of Labor when an employee under 18 years of age died or suffered an injury requiring medical treatment (other than first aid) as a result of contact with a scrap paper baler or a paper box compactor during the loading, operation, or unloading of the equipment. (§ 13(c)(5)(C)). This reporting obligation, which expired on August 6, 1998, required that the report be submitted within ten days of the occurrence of the injury or death. Only one report, involving the serious injury of a minor in Cass County, Texas, was received by the Department during the mandatory reporting period.

The Compactor and Baler Act also modified section 16(e) of the FLSA—concerning civil money penalties—to specify that such penalties may be assessed for violations of the new subsection 13(c)(5) as well as other child labor provisions. The Act did not modify the amount of the penalty under section 16(e), which sets a maximum of $10,000 per violation for each minor who was the subject of the violation.

The Department proposes to amend HO 12 to incorporate the provisions of the Compactor and Baler Act. The regulation's prohibition on 16- and 17-year-olds operating and unloading compactors and balers would not be changed, and the regulation would specify that these minors may load machines only in accordance with the following standards set by the Act. The Department notes that employers bear the burden of proving compliance with these standards.

(1) *The equipment must meet the ANSI standards imposed by the Act.* The Department recognizes that Congress explicitly applied certain industry standards for the determination of which balers and/or compactors are safe for minors to load: American National Standards Institute's (ANSI) Standard ANSI Z245.5–1990 for scrap paper balers or Standard ANSI Z245.2–1992 for paper box compactors. ANSI is a national organization that coordinates the development of voluntary, consensus standards in a wide range of areas, including product and worker safety. Congress has used ANSI standards in other contexts as expressions of the best available

technology in the safety area. For example, the Occupational Safety and Health Act of 1970 directed the Department of Labor to adopt the then-existing ANSI standards, rather than delay any activity until the agency promulgated particular occupational safety and health standards (see section 6(a) of the Occupational Safety and Health Act, 29 U.S.C. 655(a)). The ANSI standards for scrap paper balers and paper box compactors govern the manufacture and modification of the equipment, the operation and maintenance of the equipment, and employee training. Because these ANSI standards are copyright-protected, the Department cannot include them in the regulations or reproduce them for distribution to the public. Copies of the applicable ANSI standards are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, 20408, at the Occupational Safety and Health Administration Docket Office at Room N2625, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, and at any of the OSHA regional offices. Copies of these standards are available for purchase at the American National Standards Institute, 11 West 42nd Street, New York, New York 10036.

The Department proposes that the employer will be required to make an initial determination of whether its machine(s) meet the ANSI standards, and that the Wage and Hour Division may make a final determination in any investigation concerning minors' work with the machines.

The Compactor and Baler Act applies specific ANSI standards, issued by the organization in 1990 and 1992. However, the Act also provides that any new standard(s) adopted by ANSI would be sufficient for the determination of safety of the balers and compactors if the Secretary of Labor certifies the new standards to be at least as protective of the safety of minors as Standard ANSI Z245.5–1990 for scrap paper balers or Standard ANSI Z245.2–1992 for paper box compactors. The Department is at this time proposing a regulation which incorporates only the two ANSI standards specified by Congress.

The Department is aware that ANSI has adopted newer standards for scrap paper balers (Standard ANSI Z245.5–1997) and for paper box compactors (Standard ANSI Z245.2–1997). The Department is reviewing these standards to determine if they are at least as protective of the safety of minors as those standards cited in the Compactor and Baler Act. A preliminary review indicates the new standards are as protective as those cited in the Compactor and Baler Act and we are considering whether to include them along with the older standards when the final rule is promulgated. The public is invited to provide comment on whether Standard ANSI Z245.5–1997 is as protective of the safety of minors as Standard ANSI S245.5–1990 and whether Standard ANSI Z245.2–1997 is as protective of the safety of minors as Standard ANSI Z245.2–1992.

(2) *Notice is provided and posted on each piece of equipment.* The Compactor and Baler Act requires that, before any 16- or 17-year-olds may load materials into scrap paper balers and paper box compactors, the employer must provide notice and post a notice on each piece of equipment stating that 16- and 17-year-olds may only load the equipment, and any employee under age 18 may not operate or unload such equipment. The Department is proposing that the employer meets this statutory requirement by posting a permanent notice—containing the necessary information—in a place on the machine that is prominent and easily visible to any persons loading, operating, or unloading it. The Department proposes no specific form of notice but proposes specific language taken from the statutory requirements to be included in the notice.

(3) *The equipment must have certain controls and locks.* The Compactor and Baler Act requires that the equipment must include an on-off switch incorporating a key-lock or other system, that the control of the system must be maintained in the custody of employees who are 18 years of age or older, and that the on-off switch must be maintained in an off position when the equipment is not in operation. The Department proposes to include these explicit requirements in the regulation.

The Department also proposes to include in the regulation a specific identification of paper box compactors among the types of equipment subject to HO 12. This addition is required by the legislation, which explicitly includes paper box compactors. In addition, this regulatory change will communicate the Department's long held position that HO 12 also applies to paper box compactors which perform the same function, operate in a similar manner, and present the same risks as scrap paper balers, which are explicitly listed in the current regulation.

In addition to the regulatory changes necessitated by the Compactor and Baler Act, the Department proposes to modify HO 12 to include scrap paper balers and paper box compactors that are used to process other materials in addition to paper products. In the past, HO 12 has prohibited minors from loading, operating, and unloading only those scrap paper balers and paper box compactors that are used exclusively to process paper products. This narrow application ignored the fact that these machines are used to compress materials other than paper without any changes in design or procedures for loading, operating and unloading, and that the risks to minors associated with the loading, operating, and unloading of the machines remain the same regardless of the materials. Such other materials which may be processed by scrap paper balers and paper box compactors include, but are not limited to, plastics, rubber, foam rubber and aluminum cans. This modification of HO 12 is needed to prevent injuries to minors and, in addition, is supported by the definitions of both balers and compactors contained in the ANSI Standards which Congress adopted in the Compactor and Baler Act. We have preliminarily concluded that occupations involving the loading, operating and unloading of scrap paper bailers and paper box compactors that process other materials in addition to paper are particularly hazardous for minors between 16 and 18 years of age. The proposal would also revise the title of the HO to reflect its expanded coverage.

The proposed rule also amends the regulations in part 579 concerning civil money penalties, to implement the Compactor and Baler Act's explicit authorization for penalties not to exceed $10,000 for each employee who was the subject of a violation of new subsection 13(c)(5) of the FLSA.

F. Work in Roofing Occupations (HO 16) (29 CFR 570.67)

Hazardous Occupations Order No. 16 covers "occupations in roofing operations." It bans all occupations in roofing, but not all work on roofs. Roofing operations, as defined by the regulation, include most roofing activities and related occupations whether performed at elevations or at ground level. Not included are other tasks performed on or near roofs such as the installation, repair and maintenance of roofing sheathing, television and microwave antennas, air conditioning equipment, and gutters and downspouts.

The Department has received inquiries questioning why employees under 18 years of age may perform any work on a roof. Available data, such as that provided by the National Institute for Occupational Safety and Health and

the Massachusetts State Department of Health, indicates that working at heights is a major contributor to injuries and deaths of young workers.

The Department's 1994 Advance Notice of Proposed Rulemaking (59 FR 25167) raised the issue of minors working at heights. The ANPRM requested comments regarding a ban on all work performed by minors on roofs. The ANPRM also requested information as to whether such a prohibition should be a generic restriction or one limited to a particular industry or industries. Finally, the ANPRM sought information regarding exemptions from HO 16 for apprentices and student learners.

The Department received a number of comments on this issue, the vast majority of which supported the prohibition of roofing work and all work on a roof. The comments came from a variety of sources, including industry organizations, child advocates, and State and Federal agencies.

The National Roofing Contractors Association and the United Union of Roofers, Waterproofers and Allied Workers, via a single letter signed by their Presidents, supported a continuation of the prohibition against minors working in roofing occupations. They also recommended expanding the ban to include "any phase of roofing work, including the construction or repair of roof sheathing, installation of gutters and downspouts or any other related roofing work." They saw "no value to exchanging the safety and health of 16- or 17-year-old minors for the opportunity to learn limited phases of roofing." They stated the risk was too great and the price was too high.

The Child Labor Coalition (CLC) and the National Consumers League (NCL) supported a generic restriction with cross-industry application involving all work at elevations; they recommended using the Occupational Safety and Health Administration (OSHA) height standard which lowered the fall protection standard from 16 feet to 6 feet and which became effective on February 6, 1995 (59 FR 40672). The CLC and the NCL supported a prohibition on all workplace activities by minors involving elevations above 6 feet, whether on roofs, hanging out windows, or working on ladders, scaffolds or other elevated surfaces. The NCL cited injury and fatality data from OSHA and the Roofer's Union that supported a ban on any work above 6 feet. The NCL also cited NIOSH data from 1980 to 1985 which identified falls as a major cause of injuries to construction workers.

An official of the Massachusetts State Department of Public Health, Occupational Health Surveillance Program, noted that falls are a leading cause of occupational fatalities in Massachusetts, as they are nationally. She cited 1993 statistics in which deaths involving falls exceeded motor vehicle related deaths and homicides, making them the leading cause of fatal occupational injuries. The majority of falls occurred in the construction industry (60 percent), but falls were a problem in a wide spectrum of industries. The official favored a generic approach to banning working at heights and would ban all work on ladders or at heights greater than 6 feet (the OSHA standard).

Similarly, the North Carolina State Department of Labor supported a ban on working at heights. It suggested banning "any work which involves the risk of falling from any elevated place located 10 feet or more above the ground, including work involving the use of ladders and scaffolds in which work is performed higher than 10 feet from the ground surface." A member of the Washington State House of Representatives who also served as a member of the Washington State Child Labor Advisory Committee noted that the State of Washington's child labor regulations contain a limit on working more than 10 feet above ground or floor level and recommended that the Federal regulations adopt a similar provision.

The single commenter not in favor of prohibiting all work on a roof was the Associated Builders and Contractors, Inc. (ABC), which opposed a ban on 16- and 17-year-olds working at heights. ABC noted that most construction jobs require working at heights, and suggested that the Department should take into consideration the strides OSHA has made in protecting all construction workers. ABC commented that a ban would jeopardize valuable career-advancing opportunities and that proper supervision, safety instructions, and training are sufficient to reduce or alleviate any heightened risk of injury without sacrificing the benefit of work experience. ABC also stated that such a ban would bar the construction industry from participating in school-to-work programs. ABC stated that any blanket prohibition on occupations involving heights or working with electricity would chill potential career opportunities and prevent the brightest and best of non-college-bound adolescents from being recruited into careers in the construction industry.

The Department has carefully considered the comments and available data and has concluded that the dangers cited in the original report when HO 16 was first issued still persist for youths working on roofs. The main danger for such youths is from falls which, as noted by several commenters, may occur in any occupation performed on a roof. We have preliminarily concluded that occupations involving working on roofs, as well as all occupations in roofing operations, are particularly hazardous for minors between 16 and 18 years of age. The Department, therefore, is proposing to amend HO 16 to expand the ban from all roofing occupations to include all work performed on a roof. This ban would include, but not be limited to, occupations on or in close proximity to roofs such as the installation, repair, and maintenance of gutters and downspouts, sheathing or roof bases, television antennas, air conditioners, exhaust and ventilating equipment, heating equipment, and similar appliances attached to roofs. The exemption for apprentices and student-learners employed under the conditions prescribed in 29 CFR 570.50 (b) and (c) would continue to apply under HO 16. The Department believes that the additional supervision and training required by the exemption, coupled with the limited exposures provided by the exemption, will help to reduce safety risks to 16- and 17-year-olds working on roofs.

IV. Executive Order 12866

This proposed rule is being treated as a "significant regulatory action" within the meaning of Executive Order 12866, because of its importance to the public and the Administration's priorities. Therefore, the Office of Management and Budget has reviewed the proposed rule. However, because this proposed rule is not "economically significant" as defined in section 3(f)(1) of EO 12866, it does not require a full economic impact analysis under section 6(a)(3)(C) of the Order.

This proposal would revise the child labor regulations in response to two statutory amendments enacted by the Congress that altered two of the child labor hazardous occupation orders: HO 12, affecting activities involving certain scrap paper balers and paper box compactors; and HO 2, affecting the operation of motor vehicles. The economic impact of these statutory provisions is expected to be minimal. The additional revisions that are being proposed are also expected to have little or no direct cost impact. The revisions affecting the types of cooking and related food preparation activities that 14- and 15-year-olds may perform in food service establishments (Reg. 3 Occupations) are primarily clarifications of existing provisions. An amendment to HO 16 to prohibit youth under age 18

from performing all work on roofs and an update of definitions for the term "explosives" in HO 1 that prohibits minors working where "explosives" are made or stored are expected to affect few minors. A change in the regulation on government-issued certificates of age intended to reduce paperwork when a minor's employment ends would reduce the cost impact of the existing regulation. The proposal thus overall relieves certain existing restrictions under two of the HOs and Reg. 3 occupations, expands restrictions under one HO, reduces paperwork burden involving age certificates, and makes other technical, clarifying changes. Although a small number of employers may be required to hire an older worker to perform the prohibited tasks, we believe that any resulting costs directly incurred would be minimal. Rules that limit permissible job activities for working youth to those that are safe do not, by themselves, impose significant added costs on employers, in our view. In fact, ensuring that permissible job opportunities for working youth are safe and healthy and not detrimental to their education, as required by the statute, produces many positive benefits and actually reduces health and productivity costs that employers may otherwise incur because of higher accident and injury rates to young and inexperienced workers. In any event, the direct, incremental costs imposed by this proposed rule are expected to be minimal. Collectively, they will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy or its individual sectors, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. Therefore, this rule is not "economically significant" and no regulatory impact analysis has been prepared.

V. Small Business Regulatory Enforcement Fairness Act

The Department has similarly concluded that this proposed rule is not a "major rule" requiring approval by the Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It will not likely result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

VI. Unfunded Mandates Reform Act of 1995; Executive Order 12875

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector, "* * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)." For purposes of the Unfunded Mandates Reform Act, and as noted above, this rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or tribal governments in the aggregate, or by the private sector. Moreover, two of the changes constitute "regulations [that] incorporate requirements specifically set forth in law" (*i.e.*, amendments to HO 2 and HO 12).

For similar reasons, the proposed rule does not impose a significant "unfunded mandate" within the meaning of Executive Order 12875. This order requires agencies to consult with State, local, and tribal governments when developing regulatory proposals containing significant unfunded mandates. By its terms, section 1 of E.O. 12875 applies to "any regulation that is not required by statute and that creates a mandate upon a State, local or tribal government." Two provisions (driving and paper balers) are specifically required by statutory amendments enacted by Congress. Furthermore, the Department believes that there are very few if any minors employed by State, local and tribal governments in the affected occupations. To the extent that any minors may be so employed, the Department believes that any costs that might result from using older employees to perform the prohibited tasks would be minimal, and would be more than offset by reduced health and productivity costs resulting from accidents and injuries to minors on the job. Thus, as described above, this proposed rule does not contain changes not otherwise required by statute that create significant unfunded mandates on affected units of government.

VII. Regulatory Flexibility Act

This rule is not expected to have a significant economic impact on a substantial number of small entities. Two provisions (driving and paper balers) are specifically required by statutory amendments enacted by Congress. It is anticipated that the other provisions would have little or no cost impact on any small entities. The amendment to the provisions concerning the circumstances when 14- and 15-year-olds are permitted to cook is primarily a clarification of the existing provision. We believe that the prohibition against work on a roof and the revision to the paper balers provision would affect few minors, and therefore few small businesses. Although a small number of employers would be required to use an older employee to perform the prohibited tasks, we believe that any resulting costs directly incurred would be minimal. Indeed, we believe that the child labor regulations, by fostering safer work environments for working youth, would reduce health and productivity costs to employers, including covered small business, resulting from accidents and injuries to minors on the job. Thus, given the nature of the changes proposed by the rule, and for the reasons discussed above, we do not believe the rule will have a significant economic impact on a substantial number of small entities. The Department has certified to this effect to the Chief Counsel for Advocacy of the U.S. Small Business Administration. Therefore, no Regulatory Flexibility Analysis is required.

Document Preparation: This document was prepared under the direction and control of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects

29 CFR Part 570

Child labor, Child labor occupations, Employment, Government, Incorporation by reference, Intergovernmental relations, Investigations, Labor, Law enforcement, Minimum age.

29 CFR Part 579

Child labor, Penalties.

Signed at Washington, D.C. on the 22nd day of November, 1999.

Bernard E. Anderson,

Assistant Secretary, Employment Standards Administration.

For the reasons set forth above, title 29, parts 570 and 579, of the Code of Federal Regulations are proposed to be amended as follows:

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

1. The authority citation for part 570, subpart B, continues to read as follows:

Authority: Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066 as amended, 1067 as amended; 29 U.S.C. 203, 211, 212.

2. In § 570.6, the section heading, paragraph (b)(1) and the parenthetical statement following paragraph (b)(2) are proposed to be revised to read as follows:

§ 570.6 What information is contained in Federal certificates of age and how does an employer use it?

* * * * *

(b) * * *

(1) We will send a certificate of age for a minor under 18 years of age to the prospective employer of the minor. That employer must keep the certificate on file at the minor's workplace. When the minor terminates employment, the employer must give the certificate to the minor. The minor may then present the previously issued certificate to future employers as proof of age as described in § 570.5.

(2) * * *

(The information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1215–0083.)

3. The authority citation for part 570, subpart C, is proposed to be revised to read as follows:

Authority: Sec. 3, 52 Stat. 1060, as amended; 29 U.S.C. 203, 212.

4. In § 570.34, the section heading, paragraphs (a)(7) and (b)(5) are proposed to be revised to read as follows:

§ 570.34 Which occupations are minors 14 and 15 years of age permitted to perform in retail, food service, and gasoline service establishments?

(a) * * *

(7) Kitchen work and other work involved in preparing and serving food and beverages, including operating machines and devices used in performing such work. Examples of permitted machines and devices include, but are not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, coffee grinders, automatic coffee machines, and devices used to maintain the temperature of prepared foods (such as warmers, steam tables, and heat lamps). Minors are permitted to clean kitchen equipment (not otherwise prohibited), remove oil or grease filters, pour oil or grease through filters, and move receptacles containing hot grease or hot oil, but only when the equipment, surfaces, containers and liquids do not exceed a temperature of 140 °F;

* *

(b) * * *

(5) Baking and cooking except:

(i) Cooking with electric or gas grilles which does not involve cooking over an open flame; and

(ii) Cooking with deep fryers which are equipped with a device which automatically lowers the baskets into the hot oil or grease and automatically raises the baskets from the hot oil or grease;

* * * * *

5. The authority citation for part 570, subpart E, is proposed to be revised to read as follows:

Authority: Secs. 3, 12, 13(c), 18, 52 Stat. 1060, 1069; 29 U.S.C. 203, 212, 213(c), 218.

6. The heading of subpart E is proposed to be revised to read as follows:

Subpart E—What Occupations Are Particularly Hazardous for the Employment of 16- and 17-Year-Olds or Detrimental to Their Health or Well-Being?

7. In § 570.51, paragraph (b)(2) is proposed to be revised to read as follows:

§ 570.51 Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1).

* * * * *

(b) * * *

(2) The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods identified in appendix A to this section.

* * * * *

8. A new Appendix A to § 570.51 is proposed to be added to read as follows:

Appendix A to § 570.51—List of Explosive Materials

Acetylides of heavy metals; aluminum containing polymeric propellant; aluminum ophorite explosive; amatex; amatol; ammonal; ammonium nitrate explosive mixtures (cap sensitive); ammonium nitrate explosive mixtures (non cap sensitive)* ; aromatic nitro compound explosive mixtures; ammonium perchlorate explosive mixtures; ammonium perchlorate composite propellant; ammonium picrate (picrate of ammonia, Explosive D); ammonium salt lattice with isomorphously substituted inorganic salts; ANFO (ammonium nitrate-fuel oil); * baratol; baronol; BEAF (1,2-bis (2,2-diflouro-2-nitroacetoxyethane)); black powder; black powder based explosive mixtures; blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water gel explosives* ; blasting caps; blasting gelatin; blasting powder; BTNEC (bis (trinitroethyl) carbonate); bulk salutes; BTNEN (bis (trinitroethyl) nitramine); BTTN (1,2,4 butanetriol trinitrate); butyl tetryl; calcium nitrate explosive mixture; cellulose hexanitrate explosive mixture; chlorate explosive mixtures; composition A and variations; composition B and variations; composition C and variations; copper acetylide; cyanuric triazide; cyclotrimethylenetrinitramine (RDX); cyclotetramethylenetetranitramine (HMX); cyclonite (RDX); cyclotol; DATB (diaminotrinitrobenzene); DDNP (diazodinitrophenol); DEGDN (diethyleneglycol dinitrate); detonating cord; detonators; dimethylol dimethyl methane dinitrate composition; dinitroethyleneurea; dinitroglycerine (glycerol dinitrate); dinitrophenol; dinitrophenolates; dinitrophenyl hydrazine; dinitroresorcinol; dinitrotoluene-sodium nitrate explosive mixtures; DIPAM; dipicryl sulfone; dipicrylamine; display fireworks; DNPD (dinitropentano nitrile); DNPA (2,2-dinitroprophy acrylate); dynamite; EDDN (ethylene diamine dinitrate); EDNA; ednatol; EDNP (ethyl 4,4-dinitropentanoate), erythritol tetranitrate explosives; esters of nitro-substituted alcohols; EGDN (ethylene glycol dinitrate); ethyl-tetryl; explosive conitrates; explosive gelatine; explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons; explosive mixtures containing oxygen releasing inorganic salts and nitro bodies; explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels; explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels; explosive mixtures containing sensitized nitromethane; explosive mixtures containing tetranitromethane (nitroform); explosive nitro compounds of aromatic hydrocarbons; explosive organic nitrate mixtures; explosive liquids; explosive powders; flash powder; fulminate of mercury; fulminate of silver; fulminating gold; fulminating mercury; fulminating platinum fulminating silver; gelatinized nitrocellolose; gem-dinitro aliphatic explosive mixtures; guanyl nitrosamino guanyl tetrazene; guanyl nitrosamino guanylidene hydrazine; guncotton; heavy metal azides; hexanite; hexanitrodiphenylamine; hexanitrostilbene; hexogen (RDX); hexogene or octogene and a nitrated N-methylaniline; hexolites; HMX (cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; octogen); hydrazinium nitrate/hydrazine/aluminum explosive system; hydrazoic acid; igniter cord; igniters; initiating tube systems; KDNBF (potassium dinitrobenzofuroxane); lead azide; lead mannite; lead mononitroresorcinate; lead picrate; lead salts, explosive; lead styphnate (styphnate of lead, lead trinitroresorcinate); liquid nitrated polyol and trimethylolethane; liquid oxygen explosives; magnesium ophorite explosives; mannitol hexanitrate; MDNP (methyl 4,4-dinitropentanoate); MEAN (monoethanolamine nitrate); mercuric fulminate; mercury oxalate; mercury tartrate; metriol trinitrate; minol-2 (40% TNT, 40% ammonium nitrate, 20% aluminum); MMAN (monomethylamine nitrate), methylamine nitrate; mononitrotoluene-nitroglycerin mixture; monopropellants; NIBTN (nitroisobutametriol trinitrate); nitrate sensitezed with gelled nitroparaffin; nitrated

carbohydrate explosive; nitrated glucoside explosive; nitrated polyhydric alcohol explosives; nitrates of soda explosive mixtures; nitric acid and a nitro aromatic compound explosive; nitric acid and carboxylic fuel explosive; nitric acid explosive mixtures; nitro aromatic explosive mixtures; nitro compounds of furane explosive mixtures; nitrocellulose explosive; nitroderivative of urea explosive mixture; nitrogelatin explosive; nitrogen tricloride; nitrogen tri-iodide; nitroglycerine (NG, RNG, nitro, glycerlyl trinitrate, trinitroglycerine); nitroglycide; nitroglycol (ethylene glycol dinitrate, EGDN); nitroguanidine explosives; nitroparaffins explosive grade and ammonium nitrate mixtures; nitronium perchlorate propellant mixtures; nitrostarch; nitro-substituted carboxylic acids; nitrourea; octogen (HMX); octol (75 percent HMX, 25 percent TNT); organic amine nitrates; organic nitramines; PBX (RDX and plasticizer); pellet powder; penthrinite composition; pentolite; perchlorate exploxive mixtures; peroxide based explosive mixtures; PETN (nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate); picramic acid and its salts; picramide; picrate of potassium explosive mixtures; picratol; picric acid (manufactured as an explosive); picryl chloride; picryl fluoride; PLX (95% nitromethane, 5% ethylenediamine); polynitro aliphatic compounds; polyolpolynitratenitrocellulose explosive gels; potassium chlorate and lead sulfocyanate explosive; potassium nitrate explosive mixtures; potassium nitroaminotetrazole; pyrotechnic compositions; PYX (2,6-bis(picrylamino))3,5-dinitropyridine; RDX (cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6, -trinitramine; hexahydro-1,3,5-trinitro-S-triazine); safety fuse; salutes, (bulk); salts of organic amino sulfonic acid explosive mixture; silver acetylide; silver azide; silver fulminate; silver oxalate explosive mixtures; silver styphnate; silver tartrate explosive mixtures; silver tetrazene; slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer (cap sensitive); smokeless powder; sodatol; sodium amatol; sodium azide explosive mixture; sodium dinitro-ortho-cresolate; sodium nitrate-potassium nitrate explosive mixture; sodium picramate; special fireworks; squibs; styphnic acid explosives; tacot (tetranitro-2,3,5,6-dibenzo-1, 3a,4,6a tetrazapentalene); TATB (triaminotrinitrobenzene); TEGDN (triethylene glycol dinitrate); tetrazene (tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate); tetranitrocarbazole; tetryl (2,4,6 tetranitro-N-methylaniline); tetrytol; thickened inorganic oxidizer salt slurried explosive mixture; TMETN (trimethylolethane trinitrate); TNEF (trinitroethyl formal); TNEOC (trinitroethylorthocarbonate); TNEOF (trinitroethylorthoformate); TNT (trinitrotoluene, trotyl, trilite, triton); torpex, tridite; trimethylol ethyl methane trinitrate composition; trimethylolthane trinitrate-nitrocellulose; trimonite; trinitroanisole; trinitrobenzene; trinitrobenzoic acid; trinitrocresol; trinitro-meta-cresol; trinitronaphthalene; trinitrophenetol; trinitrophloroglucinol; trinitroresorcinol; tritonal; urea nitrate; water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive); water-in-oil emulsion explosive compositions; xanthamonas hydrophilic colloid explosive mixture.

This list was published in the **Federal Register** by the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, pursuant to 18 U.S.C. 841(d) and 27 CFR 55.23.

* The asterisks indicate materials that constitute blasting agents.

9. In § 570.52, paragraph (b) is proposed to be revised and new paragraphs (c)(5) and (c)(6) are proposed to be added to read as follows:

§ 570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

* * * * *

(b) *Exemption—Incidental and occasional driving by 17-year-olds.* Minors who are at least 17 years of age may drive automobiles and trucks on public roadways when all the following criteria are met:

(1) The automobile or truck does not exceed 6,000 pounds gross vehicle weight, and the vehicle is equipped with a seat belt or similar restraining device for the driver and for any passengers and the employer has instructed the employee that such belts or other devices must be used;

(2) The driving is restricted to daylight hours;

(3) The minor holds a State license valid for the type of driving involved in the job performed and has no records of any moving violations at the time of hire;

(4) The minor has successfully completed a State-approved driver education course;

(5) The driving does not involve the towing of vehicles; route deliveries or route sales; the transportation for hire of property, goods, or passengers; urgent, time-sensitive deliveries; or the transporting at any one time of more than three passengers, including the employees of the employer;

(6) The driving performed by the minor does not involve more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the minor's employer to a customer (except urgent, time-sensitive deliveries which are completely banned in paragraph (b)(5) of this section);

(7) The driving performed by the minor does not involve more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers (other than the employees of the employer);

(8) The driving takes place within a thirty (30) mile radius of the minor's place of employment; and,

(9) The driving is only occasional and incidental to the employee's employment.

(c) * * *

(5) The term *occasional and incidental* means no more than one-third of an employee's worktime in any workday and no more than 20 percent of an employee's work time in any workweek.

(6) The term *urgent, time-sensitive deliveries* means trips which, because of such factors as customer satisfaction, the rapid deterioration of the quality or change in temperature of the product, and/or economic incentives, are subject to time-lines, schedules, and/or turn-around times which might impel the driver to hurry in the completion of the delivery. Prohibited trips would include, but are not limited to, the delivery of pizzas and prepared foods to the customer; the delivery of materials under a deadline (such as deposits to a bank at closing); and the shuttling of passengers to and from transportation depots to meet transport schedules. "Urgent, time-sensitive deliveries" would not depend on the delivery's points of origin and termination, and would include the delivery of people and things to the employer's place of business as well as from that business to some other location.

10. In § 570.63, the section heading and paragraphs (a)(1)(i), (b) and (c) are proposed to be revised to read as follows:

§ 570.63 Occupations involved in the operation of paper-products machines, scrap-paper balers, and paper box compactors (Order 12).

(a) * * *

(1). * * *

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combing machine, sheeting machine, scrap paper baler, paper box compactor, or vertical slotter.

* * * * *

(b) *Definitions.*

(1) The term *operating or assisting to operate* means all work which involves starting or stopping a machine covered by this section, placing materials into or removing materials from a machine, including clearing a machine of jammed paper or cardboard, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in

an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term *paper products machine* means all power-driven machines used in:

(i) Remanufacturing or converting paper or pulp into a finished product, including preparing such materials for recycling; or

(ii) Preparing such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment. The term applies to those machines which, in addition to paper products, also process other material for disposal.

(3) The term *scrap-paper baler* means a powered machine used to compress paper and possibly other solid waste, with or without binding, to a density of form that will support handling and transportation as a material unit without requiring a disposable or reusable container.

(4) The term *paper box compactor* means a powered machine that remains stationary during operation, used to compact refuse, including paper boxes, into a detachable or integral container or into a transfer vehicle.

(5) The term *applicable ANSI Standard* means the American National Standard Institute's Standard ANSI Z245.5–1990 for scrap paper balers or the American National Standard Institute's Standard ANSI Z245.2–1992 for paper box compactors which are incorporated by reference as specified in this paragraph, or any replacement standard adopted by the American National Standard Institute which the Secretary of Labor has certified to be at least as protective of the safety of minors as Standard ANSI Z245.5–1990 for scrap paper balers or ANSI Z245.2–1992 for paper box compactors. The ANSI standards for scrap paper balers and paper box compactors govern the manufacture and modification of the equipment, the operation and maintenance of the equipment, and employee training.

(i) The standards which are incorporated by reference in this paragraph have the same force and effect as other standards in this part. Only the mandatory provisions (*i.e.*, provisions containing the word "shall" or other mandatory language) of these standards are adopted as standards under this part.

(ii) These standards are incorporated by reference as they exist on the date of the approval; if any changes are made in these standards which the Secretary of Labor finds to be as protective of the safety of minors as the current standards, the Secretary will publish a Notice of the change of standards. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(iii) Copies of these standards are available for purchase from the American National Standards Institute (ANSI), 11 West 42nd St., New York, NY, 10036. In addition, these standards are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, 20408, and through the Occupational Safety and Health Administration Docket Office, Room N2625, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC, 20210, or any of its regional offices.

(c) *Exemptions.* (1)(i) Sixteen- and 17-year-old minors may load materials into, but not operate or unload, those scrap paper balers and paper box compactors that are safe for 16- and 17-year-old employees to load and cannot be operated while being loaded. For the purpose of this exemption, a scrap paper baler or a paper box compactor is considered to be safe for 16- and 17-year-old to load only if all of the following conditions are met:

(A) The scrap paper baler or paper box compactor meets the applicable ANSI standard (the employer must initially determine if the equipment meets the applicable ANSI standard, and the Administrator or his/her designee may make a final determination when conducting an investigation of the employer);

(B) The scrap paper baler or paper box compactor includes an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;

(C) The on-off switch of the scrap paper baler or paper box compactor is maintained in an off position when the machine is not in operation; and

(D) The employer posts a notice on the scrap paper baler or paper box compactor (in a prominent position and easily visible to any person loading, operating, or unloading the machine) stating that:

> The scrap paper baler or compactor meets the industry safety standard applicable to the machine (Standard ANSI Z245.5–1990 for scrap paper balers and Standard ANSI Z245.2–1992 for paper box compactors).
>
> Sixteen- and 17-year-old employees may only load the scrap paper baler or paper box compactor.
>
> Any employee under the age of 18 may not operate or unload the scrap paper baler or paper box compactor.

(2) This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

11. In § 570.67 the heading and paragraphs (a) and (b) are proposed to be revised to read as follows:

§ 570.67 Occupations in roofing operations and on or about a roof (Order 16).

(a) *Finding and declaration of fact.* All occupations in roofing operations and all occupations on or about a roof are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health.

(b) *Definitions.*

(1) The term *roofing operations* means all work performed in connection with the installation of roofs, including related metal work such as flashing, and applying weatherproofing materials and substances (such as waterproof membranes, tar, slag or pitch, asphalt prepared paper, tile, composite roofing materials, slate, metal, translucent materials, and shingles of asbestos, asphalt, wood or other materials) to roofs of buildings or other structures. The term also includes all jobs on the ground related to roofing operations such as roofing laborer, roofing helper, materials handler and tending a tar heater.

(2) The term *on or about a roof* includes all work performed upon a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs (wood or metal); gutter and downspout work; the installation and servicing of television and communication equipment such as cable and satellite dishes; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed upon or about roofs.

* * * * *

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

12. The authority citation for part 579 is proposed to be revised to read as follows:

Authority: 29 U.S.C. 203, 211, 212, 213, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263. 5 U.S.C. App; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 1371, 36 FR 8755; sec. 3103, Pub. L. 101–508; sec. 2, Pub. L. 104–174.

13. In § 579.1, the section heading and paragraphs (a), (a)(1), (a)(6) and (b) are proposed to be revised to read as follows:

§ 579.1 What does this regulation cover?

(a) Section 16(e), added to the Fair Labor Standards Act of 1938, as amended, by the Fair Labor Standards Amendments of 1974, and as further amended by the Fair Labor Standards Amendments of 1989, the Omnibus Budget Reconciliation Act of 1990, and the Compactors and Balers Safety Standards Modernization Act of 1996, provides that—

(1) Any person who violates the provisions of section 12 relating to child labor, section 13(c)(5), or any regulation issued under those sections shall be subject to a civil penalty of not to exceed $10,000 for each employee who was the subject of such a violation.

* * * * *

(6) Except for civil money penalties collected for violations of sections 12 and 13(c)(5), sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties in accordance with the provision of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" (29 U.S.C. 9a).

* * * * *

(b) This part explains our procedures for issuing a notice of civil penalty to an employer that has violated section 12 or section 13(c)(5) of the Act, or any regulation issued under those sections; describes the types of violations for which we may impose a penalty and the factors we will consider in assessing the amount of the penalty; outlines the procedure for a person charged with violations to file an exception to the determination that the violations occurred; and summarizes the methods we will follow for collecting and recovering the penalty.

14. In § 579.5, the section heading and paragraph (a) are proposed to be revised to read as follows:

§ 579.5 How is the amount of the penalty determined and how is the penalty assessed?

(a) The administrative determination of the amount of the civil penalty, not to exceed $10,000 for each employee who was the subject of a violation of section 12 or section 13(c)(5) of the Act, or of any regulation issued under those sections, shall be based on the available evidence of the violation or violations and shall take into consideration the size of the business of the person charged and the gravity of the violation as provided in paragraphs (b) through (d) of this section.

§ 579.9 [Removed]

15. Section 579.9 is proposed to be removed.

[FR Doc. 99–30776 Filed 11–29–99; 8:45 am]
BILLING CODE 4510–27–P

VOL
64

ISS
2
2
9

NO
30

1999

JMI

Reac

CUSTOM

Federal Re
General In
aids

Laws

Presidenti
Executive
The Unitec

Other Serv
Electronic
Privacy Ac
Public Law
TTY for th

ELECTRON

World Wid

Full text of
publication

Federal Reg
Inspection

E-mail

PENS (Publ
service for
subscribe, s

with the tex

Use listserv
PENS. We c

Reference q
Federal Reg

The Federal
regulations.

FEDERAL

58755–5910
59107–5960
59603–6008
60083–6033
60333–6064
60647–6101
61015–6119
61199–6147
61473–6176
61769–6208
62089–6256
62561–6297
62971–6317
63171–6356
63561–6565
65653–6609
66095–6635
66355–6654
66541–6670
66709–6714

Reader Aids

Federal Register

Vol. 64, No. 229

Tuesday, November 30, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

58755–59106 1
59107–59602 2
59603–60082 3
60083–60332 4
60333–60646 5
60647–61014 8
61015–61198 9
61199–61472 10
61473–61768 12
61769–62088 15
62089–62560 16
62561–62970 17
62971–63170 18
63171–63560 19
63561–65652 22
65653–66094 23
66095–66354 24
66355–66540 26
66541–66708 29
66709–67146 30

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7245 59103
7246 60083
7247 60085
7248 61473
7249 62561
7250 62563
7251 66081
7252 66083
7253 66085
7254 66087
7255 66093

Executive Orders:
12170 (See Notice of November 5, 1999) 61471
12938 (See Notice of November 10, 1999) 61767
12958 (Amended by EO 13142) 66089
13067 (See Notice of October 29, 1999) 59105
13096 (See Proc. 7247) 60085
13101 (See Proc. 7250) 62563
13141 63169
13142 66089

Administrative Orders:
Memorandums:
October 27, 1999 60647
Notices:
October 29, 1999 59105
November 5, 1999 61471
November 10, 1999 61767
Presidential Determinations:
No. 99–13 of February 4, 1999 (See Presidential Determination No. 2000–5 of October 29, 1999) 60651
No. 2000–2 of October 21, 1999 58755
No. 2000–3 of October 25, 1999 58757
No. 2000–4 of October 27, 1999 60649
No. 2000–5 of October 29, 1999 60651
No. 2000–7 of November 10, 1999 65653

5 CFR

532 ..... 60087, 61769
Proposed Rules:
532 61793
1201 58798
2430 66589

7 CFR

15 66709
15d 66709
210 61770
220 61770
226 61770
246 61015
301 ..... 60088, 60333, 63171
319 ..... 59603, 66710
354 62089
723 66717
759 62565
760 66095
761 ..... 62565, 62566
762 62566
905 ..... 58759, 63160
928 59604
944 58759
959 66411
981 ..... 58763, 59107
1001 61776
1002 61776
1004 61776
1005 61776
1006 61776
1007 61776
1012 61776
1013 61776
1030 61776
1032 61776
1033 61776
1036 61776
1040 61776
1044 61776
1046 61776
1049 61776
1050 61776
1064 61776
1065 61776
1068 61776
1076 61776
1079 61776
1106 61776
1124 61776
1126 ..... 61199, 61776
1131 ..... 61201, 61776
1134 61776
1135 61776
1137 ..... 61199, 61776
1138 ..... 61201, 61776
1139 61776
1439 58766
1464 66717
1477 58766
1922 62566
1941 62566
1943 62566
1945 62566
1951 ..... 62566, 62971
1955 62566
1965 62566
Proposed Rules:
278 59665

729.....66790
770.....59131
785.....61034
923.....60733
1217.....59669
1280.....65665
1823.....59131
1946.....61034
1951.....61221
1956.....59131

9 CFR

52.....62569
77.....58769
130.....61689
304.....66541
305.....66541
310.....66547
327.....66541
335.....66541
381.....66541, 66547
500.....66541

Proposed Rules:

54.....66791
79.....66791
130.....61689
391.....61223

10 CFR

Proposed Rules:

2.....59669, 59671
20.....65665
50.....59671
72.....59677
73.....59684
150.....66115
430.....61794, 66306
905.....62604
960.....67054
963.....67054

11 CFR

100.....59113
110.....59606
114.....59113
9003.....61475
9004.....59606, 61475
9007.....61777
9008.....61475
9032.....61475
9033.....61475
9034.....59606, 61475, 61777
9035.....61475, 61777
9036.....59607, 61475
9038.....61777

Proposed Rules:

100.....60360
102.....60360
103.....60360
104.....60360
106.....60360
107.....60360
109.....60360
110.....60360
114.....60360
116.....60360

12 CFR

1.....60092
5.....60092
7.....60092
30.....66700, 66706
201.....66553
208.....66700
211.....58780
226.....60335
229.....59607
263.....66706
308.....62096
330.....62096
343.....62103
364.....66700, 66706
570.....66700, 66706
707.....66355
711.....66356
712.....66360
905.....61016
1805.....59076

Proposed Rules:

226.....60368
611.....60370
650.....61740
721.....66413
745.....66812
917.....66115
925.....66115
930.....66115
940.....66115
950.....66115
954.....66115
955.....66115
958.....66115
965.....66115
966.....66115
980.....66115
1102.....58800

13 CFR

Proposed Rules:

120.....60735

14 CFR

21.....65655
23.....66719, 66721
25.....66723
34.....60335
39.....59113, 59115, 59116, 59117, 59613, 59614, 60100, 60102, 60336, 61475, 61477, 61478, 61480, 61482, 61484, 61485, 61487, 61491, 61493, 61495, 61782, 61784, 62105, 62106, 62108, 62109, 62570, 62973, 62975, 63171, 63174, 63176, 631778, 63180, 63182, 63184, 63187, 63190, 63561, 63568, 63576, 63584, 63591, 63599, 63607, 63615, 63622, 63630, 63638, 63645, 63653, 63661, 63668, 66554, 66747, 66752, 66754, 66756, 66758, 66760, 66762, 66764, 66765
71.....59615, 60337, 60653, 60654, 61785, 63192, 63676, 63677, 63678, 63679, 63680, 65656, 66361, 66365, 66366, 66369, 66370, 66565, 66767
73.....60339
91.....66096, 66768
95.....66097, 66100
97.....61017, 61018, 63192, 63194
139.....60068

Proposed Rules:

Ch. I.....66590
39.....59137, 59685, 60134, 60136, 60138, 60383, 60386, 60742, 60743, 60745, 60748, 60750, 61039, 61042, 61044, 61533, 61540, 61547, 61554, 61794, 61796, 61798, 61801, 62129, 62131, 62613, 62615, 62988, 62990, 62991, 62993, 62995, 63753, 63755, 63757, 63760, 63762, 63764, 65666, 66116, 66118, 66119, 66121, 66415, 66417, 66418, 66419, 66422, 66424, 66426, 66816
71.....59687, 59688, 59689, 59690, 60388, 61225, 61689, 61690, 61803, 61804, 63261, 63765, 63767, 65668, 66123, 66528
91.....63140
93.....62133
121.....63140
125.....63140

15 CFR

285.....59616
738.....60339
740.....60339
746.....60339
774.....66372
801.....59119
922.....66566

Proposed Rules:

Ch. VII.....66821
287.....59691
922.....63262

16 CFR

312.....59888
1000.....66579
1616.....61021

Proposed Rules:

310.....66124

17 CFR

5.....66373
200.....61382, 61408
210.....61962
228.....61962
229.....61408, 61962
230.....61382, 61408, 61497, 61962, 62540
232.....61408
239.....61382, 61408, 61962
240.....61382, 61408, 61962, 62540
249.....61382, 61962
260.....61382, 61962
270.....62540
271.....59877

Proposed Rules:

1.....59694, 66428, 66432
5.....66432
31.....66432
34.....65669
35.....65669
230.....62548
239.....59826
240.....59826, 62548
270.....59826
274.....59826
275.....61226
279.....61226

18 CFR

11.....62572
385.....62580

Proposed Rules:

35.....60390
141.....60140
385.....60140

19 CFR

10.....61204

Proposed Rules:

12.....62618
24.....62619
101.....61232
141.....62135

20 CFR

220.....62976
375.....66381

Proposed Rules:

219.....66433
220.....62996
322.....62135
718.....62997
722.....62997
725.....62997
726.....62997
727.....62997

21 CFR

5.....59617
74.....62582
175.....60104
178.....62583, 65657, 66103
207.....63195
225.....63195
310.....62110
510.....63195
514.....63195
515.....63195
520.....66104, 66382, 66382
558.....63195
801.....59618
805.....66105
884.....62977

Proposed Rules:

10.....66822
20.....60143
101.....62746
120.....65669
600.....61045
606.....61045
607.....61045
610.....61045
630.....61045
640.....61045
660.....61045
801.....59695

22 CFR

22.....66769

24 CFR

570.....63680
903.....66106
982.....59620
990.....61516

Proposed Rules:

5.....66530
200.....66530

25 CFR

63.....66770

Proposed Rules:

151.....66828
504.....61234

26 CFR

1.....58782, 59139, 60342, 61205, 61498, 61502
301.....58782, 61498, 61502, 66580
602.....61498

Proposed Rules:

1.....59139, 60395, 61236,

63768, 66591
26.....62997
301.....63768, 66591

27 CFR

Proposed Rules:
9.....66433

28 CFR

0.....58782
2.....59622
16.....61786
27.....58782
50.....59122

Proposed Rules:
16.....60753

29 CFR

37.....61692
1917.....61504
1918.....61504
4003.....65658
4007.....65658, 66383
4011.....65658
4041.....65658
4041A.....65658
4043.....65658
4044.....61787
4050.....65658

Proposed Rules:
570.....67130
579.....67130
1401.....59697
1910.....65768
1926.....66595
1952.....62138
2590.....62054
2700.....61236

30 CFR

202.....66771
206.....66771
914.....63681
915.....66385
920.....63684
934.....60654
935.....63688
948.....61506, 61507

Proposed Rules:
70.....65671
71.....65671
90.....65671
938.....66595, 66598
946.....61805

31 CFR

1.....62585, 62586
18.....62112
538.....58789
550.....58789
560.....58789

Proposed Rules:
1.....62620

32 CFR

199.....60671
2001.....62113

Proposed Rules:
199.....66126
767.....63263

33 CFR

100.....59623, 66106
117.....59123, 59624, 60672, 60673, 60674, 61206, 61207, 61518, 61519, 61520, 61521, 62113, 66107
165.....61051, 61209, 62586, 66585

Proposed Rules:
Ch. I.....63266
110.....60399
117.....61561
147.....66434
165.....63267
175.....63773

34 CFR

668.....58974, 59016, 59060
682.....58938, 59016
685.....58938, 59016

Proposed Rules:
611.....60632

36 CFR

211.....60675

Proposed Rules:
5.....61563
13.....61563
51.....63775
251.....66342
1190.....62248, 62622
1191.....62248, 62622

37 CFR

201.....66391
202.....62977

Proposed Rules:
1.....59701
201.....59140, 66139

39 CFR

20.....60106

Proposed Rules:
111.....66143
3001.....66436

40 CFR

9.....66392
49.....65660
51.....58792
52.....59625, 59629, 59633, 59635, 59638, 59642, 59644, 60109, 60343, 60346, 60678, 60681, 60683, 60687, 60688, 61213, 61217, 61522, 61523, 63206, 63690, 63693, 65660, 66393, 66775
62.....59648, 60689, 62114, 62117, 62978
63.....59650, 63209, 63695, 63702
68.....59650
131.....61182
180.....59652, 60112, 61788, 62588, 62982, 63709, 63711, 63714, 66108
257.....66392
261.....63209
266.....63209
300.....60121, 61526, 63720

Proposed Rules:
49.....65673
50.....63002
51.....62144
52.....59703, 59704, 59705, 59706, 60400, 60401, 60759, 61046, 61051, 61239, 61572, 63002, 63268, 63271, 65673, 66143, 66441, 66829
55.....63271
60.....67092
62.....59718, 62144, 62145
63.....59719, 63779
68.....59719
81.....60478
82.....59141
86.....60401
93.....66832
141.....59245
142.....59245
152.....62145
156.....62145
180.....58792
261.....63382
266.....63464
300.....61051
372.....61807
721.....63275

41 CFR

101.....59591
101-11.....60348
101-43.....62146
102.....59591
102-34.....66778, 66967
102-36.....62146

42 CFR

52b.....63721
61.....61218
403.....67028
409.....60122
410.....59379
411.....59379, 60122
412.....67028
413.....60122
414.....59379
415.....59379
420.....66396
431.....67028
440.....67028
442.....67028
446.....66234, 67028
456.....67028
460.....66234
462.....66234
473.....66234
476.....66234
485.....59379
488.....67028
489.....60122, 67028
1001.....63504, 63518

Proposed Rules:
431.....60882
433.....60882
435.....60882
457.....60882

43 CFR

414.....58986

Proposed Rules:
1300.....61810

44 CFR

64.....62594, 62596, 62598
65.....60706, 60709
67.....60711

Proposed Rules:
67.....60759

45 CFR

Proposed Rules:
160.....59918
161.....59918
162.....59918
163.....59918
164.....59918
303.....62054
612.....66146
613.....66146
2505.....66402

46 CFR

10.....63213
15.....63213
69.....66778

Proposed Rules:
2.....62018
30.....62018
31.....62018
52.....62018
61.....62018
71.....62018
90.....62018
91.....62018
98.....62018
107.....62018
110.....62018
114.....62018
115.....62018
125.....62018
126.....62018
132.....62018
133.....62018
134.....62018
167.....62018
169.....62018
175.....62018
176.....62018
188.....62018
189.....62018
195.....62018
199.....62018

47 CFR

Ch. 1.....61527
0.....60122, 60715, 61022
1.....59656, 60122, 60715, 62119, 63235
2.....60123, 66405
6.....63235
7.....63235
20.....59656, 60126
21.....60715, 63727
25.....61791
27.....60715
52.....62983
54.....60349, 62120, 66778
61.....60122
68.....60715
69.....60122, 60349
73.....59124, 59655, 60131, 62123, 63258, 63745
74.....63727
76.....60131
90.....59148, 60123, 60715, 66405
95.....59656
101.....59663, 63727

Proposed Rules:
Ch. I.....63277
1.....59719
15.....62159
18.....62159
20.....59719
43.....59719
61.....66442
73.....59147, 59148, 59728, 60149, 60150, 60151, 61054,

61239, 63783
90.....59148, 60151

48 CFR

201.....58908, 63380
203.....62984
204.....61028
208.....61030
209.....61028, 62984
213.....58908, 63380
215.....61031
219.....62986, 62987
225.....61028, 62984
226.....62987
242.....61028
247.....61028
249.....62984
251.....61030
1845.....62600
1852.....62600

Proposed Rules:

203.....63002
211.....61056
226.....63003

49 CFR

171.....61219
172.....61219
199.....66788
209.....62828
230.....62828
240.....60966
601.....61033

Proposed Rules:

Ch. I.....63279
Ch. II.....59046
178.....62161
209.....59046
552.....60556
567.....66447
568.....66447
571.....60556, 61810, 62622
585.....60556
595.....60556
1039.....66156
1105.....66157
1180.....66157

50 CFR

17.....58910, 63745
20.....61532
222.....60727
600.....60731
622.....59126, 60132
635.....58793, 66114
640.....59126
648.....60359, 61220, 66586, 66587, 66788
660.....59129, 62127, 63259
679.....61966, 63259, 66587

Proposed Rules:

16.....59149
17.....58934, 59729, 62627, 62641, 63004, 66600
25.....62163
26.....62163
29.....62163
216.....63783
223.....66601
224.....62627, 66601
622.....59152, 59153, 60151, 60402, 66449
648.....59156
654.....59153
660.....60402, 66158
679.....58796, 59730, 60157

VOL 64 ISS 229 NO 30 1999 UMI

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 30, 1999

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Accurate weights, repairs, adjustments, and replacement after inspection; scale requirements; published 10-1-99

AGRICULTURE DEPARTMENT

Nondiscrimination in federally conducted programs and activities; published 11-30-99

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste program authorizations:

Indiana; published 9-1-99

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Wireless telecommunications services—

Universal licensing system; development and use facilitation; published 10-1-99

INTERIOR DEPARTMENT

Indian Affairs Bureau

Tribal government:

Indian child protection and family violence prevention; character and suitability standards for employment, etc.

Correction; published 11-30-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air traffic operating and flight rules, etc.:

Airports/locations special operating restrictions; technical amendment; published 11-30-99

Airworthiness directives:

Bell; published 11-15-99

Eurocopter France; published 10-26-99

McDonnell Douglas; published 10-26-99

Raytheon; published 10-26-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:

Women, infants, and children; special supplemental nutrition program—

Local agency expenditure reports; comments due by 12-9-99; published 11-9-99

AGRICULTURE DEPARTMENT

Farm Service Agency

Farm marketing quotas, acreage allotments, and production adjustments:

Peanuts; comments due by 12-10-99; published 11-30-99

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Inspection services; fee increase; comments due by 12-10-99; published 11-10-99

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Americans with Disabilities Act; implementation:

Accessibility guidelines—

Recreation facilities; comments due by 12-8-99; published 8-3-99

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Environmental statements; notice of intent:

Western Pacific Region; Exclusive Economic Zone; pelagics fisheries; comments due by 12-6-99; published 10-6-99

Fishery conservation and management:

West Coast States and Western Pacific fisheries—

West coast salmon; comments due by 12-6-99; published 11-19-99

Western Pacific Region pelagic species; environmental impact statement; comments due by 12-6-99; published 10-20-99

Western Pacific Region pelagics; comments due by 12-6-99; published 11-5-99

EDUCATION DEPARTMENT

Elementary and secondary education:

Safe and Drug-Free Schools and Communities Act Native Hawaiian Program; comments due by 12-6-99; published 10-6-99

Postsecondary education:

Teacher Quality Enhancement Grants Program; comments due by 12-6-99; published 11-5-99

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Rate schedules filing—

Electric rate schedule sheets; designation procedures; comments due by 12-6-99; published 11-5-99

Practice and procedure:

FERC Form Nos. 423, 714, and 715; electronic filing; comments due by 12-6-99; published 11-4-99

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Arizona; comments due by 12-8-99; published 11-8-99

California; comments due by 12-8-99; published 11-9-99

Michigan; comments due by 12-9-99; published 11-9-99

North Carolina; comments due by 12-10-99; published 11-10-99

Oklahoma; comments due by 12-8-99; published 11-8-99

Tennessee; comments due by 12-6-99; published 11-5-99

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 12-9-99; published 11-9-99

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Florida; comments due by 12-6-99; published 10-27-99

Illinois; comments due by 12-6-99; published 10-27-99

Iowa; comments due by 12-6-99; published 10-27-99

Montana; comments due by 12-6-99; published 10-27-99

South Dakota; comments due by 12-6-99; published 10-27-99

Texas; comments due by 12-6-99; published 10-27-99

Regulatory Flexibility Act; review of regulations; comments due by 12-10-99; published 10-14-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Child support enforcement program:

Incentive payments and audit penalties; comments due by 12-7-99; published 10-8-99

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation—

State self-assessment review and report; comments due by 12-7-99; published 10-8-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicaid:

Flexibility in payment methods for services of hospitals, nursing facilities, and intermediate care facilities for mentally retarded; comments due by 12-6-99; published 10-6-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Vicuna populations in South America; comments due by 12-7-99; published 9-8-99

National Wildlife Refuge System:

Land usage; compatibility policy; comments due by 12-8-99; published 11-16-99

JUSTICE DEPARTMENT

Privacy Act; implementation; comments due by 12-8-99; published 11-8-99

LABOR DEPARTMENT
Employment Standards Administration
Federal Coal Mine Health and Safety Act of 1969, as amended:
Black Lung Benefits Act—
Individual claims by former coal miners and dependents processing and adjudication; regulations clarification and simplification; comments due by 12-7-99; published 10-8-99
MINE SAFETY AND HEALTH FEDERAL REVIEW COMMISSION
Federal Mine Safety and Health Review Commission
Procedural rules; comments due by 12-10-99; published 11-10-99
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Acquisition regulations:
Central Contractor Registration; comments due by 12-6-99; published 10-6-99
NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list additions; comments due by 12-6-99; published 9-22-99
PERSONNEL MANAGEMENT OFFICE
Prevailing rate systems; comments due by 12-6-99; published 11-4-99
POSTAL SERVICE
Domestic Mail Manual:
Nonautomation mail processing instructions and letter tray label revisions; comments due by 12-9-99; published 10-25-99
International Mail Manual:
Priority Mail Global Guaranteed; enhanced expedited service from selected U.S. locations to selected European countries; comments due by 12-6-99; published 11-4-99
SMALL BUSINESS ADMINISTRATION
Business loans:
Certified development companies; areas of operations; comments due by 12-8-99; published 11-8-99
TRANSPORTATION DEPARTMENT
Coast Guard
Ports and waterways safety:
New York Harbor, NY; safety zone; comments due by 12-6-99; published 10-6-99
TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Aerospatiale; comments due by 12-9-99; published 11-9-99
Airbus; comments due by 12-6-99; published 11-4-99
Bombardier; comments due by 12-9-99; published 11-9-99
British Aerospace; comments due by 12-8-99; published 11-8-99
CFM International; comments due by 12-6-99; published 10-7-99
Eurocopter Deutschland GmbH; comments due by 12-7-99; published 10-8-99
Fairchild; comments due by 12-6-99; published 10-6-99
Fokker; comments due by 12-8-99; published 11-8-99
General Electric Co.; comments due by 12-6-99; published 10-7-99
International Aero Engines AG; comments due by 12-6-99; published 10-7-99
Pratt & Whitney; comments due by 12-6-99; published 10-7-99
Class E airspace; comments due by 12-6-99; published 10-19-99
Commercial space transportation:
Licensed reentry activities; financial responsibility requirements; comments due by 12-6-99; published 10-6-99
TRANSPORTATION DEPARTMENT
Federal Transit Administration
Buy America requirements:
Microcomputers; permanent waiver; comments due by 12-7-99; published 10-8-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 441/P.L. 106–95
Nursing Relief for Disadvantaged Areas Act of 1999 (Nov. 12, 1999; 113 Stat. 1312)

H.R. 609/P.L. 106–96
To amend the Export Apple and Pear Act to limit the applicability of the Act to apples. (Nov. 12, 1999; 113 Stat. 1321)

H.R. 915/P.L. 106–97
To authorize a cost of living adjustment in the pay of administrative law judges. (Nov. 12, 1999; 113 Stat. 1322)

H.R. 974/P.L. 106–98
District of Columbia College Access Act of 1999 (Nov. 12, 1999; 113 Stat. 1323)

H.R. 2303/P.L. 106–99
History of the House Awareness and Preservation Act (Nov. 12, 1999; 113 Stat. 1330)

H.R. 3122/P.L. 106–100
To permit the enrollment in the House of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch. (Nov. 12, 1999; 113 Stat. 1332)

H.J. Res. 54/P.L. 106–101
Granting the consent of Congress to the Missouri-Nebraska Boundary Compact. (Nov. 12, 1999; 113 Stat. 1333)

S. 900/P.L. 106–102
Gramm-Leach-Bliley Act (Nov. 12, 1999; 113 Stat. 1338)

H.R. 348/P.L. 106–103
To authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs. (Nov. 13, 1999; 113 Stat. 1482)

H.R. 3061/P.L. 106–104
To amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refugee assistance program under chapter 2 of title IV of the Immigration and Nationality Act. (Nov. 13, 1999; 113 Stat. 1483)

Last List November 15, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L
Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Mic
Federal
The Federa
24x microfi
subscribers
class mail.
Federal Reg
(List of CFR
Cumulative
mailed mon
Code of F
The Code o
comprising
and revised
quarterly ba
microfiche f
year's volum
subscribers
Microfich
Federal R
One year: $
Six months:
Code of F
Current yea
Order Processing C
★ 5419
☐ YES
The total cos
International
Company or pe
Additional addr
Street address
City, State, ZIP
Daytime phone i
Purchase order n
May we make yo

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

Microfiche Subscription Prices:

Federal Register:

One year: $220.00
Six months: $110.00

Code of Federal Regulations:

Current year (as issued): $247.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5419**

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ One year at $220 each ☐ Six months at $110

_____ **Code of Federal Regulations** (CFRM7) ☐ One year at $247 each

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐☐☐☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature

11/3

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
64
ISS
2
2
9
NO
30
1999
UMI

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

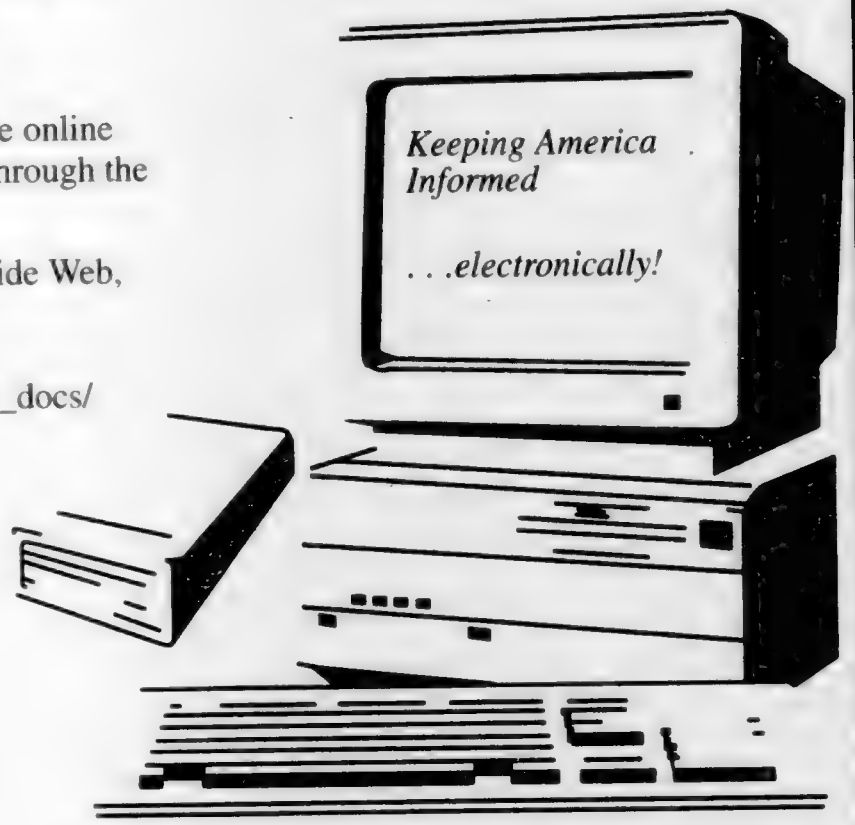

You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 11/3)

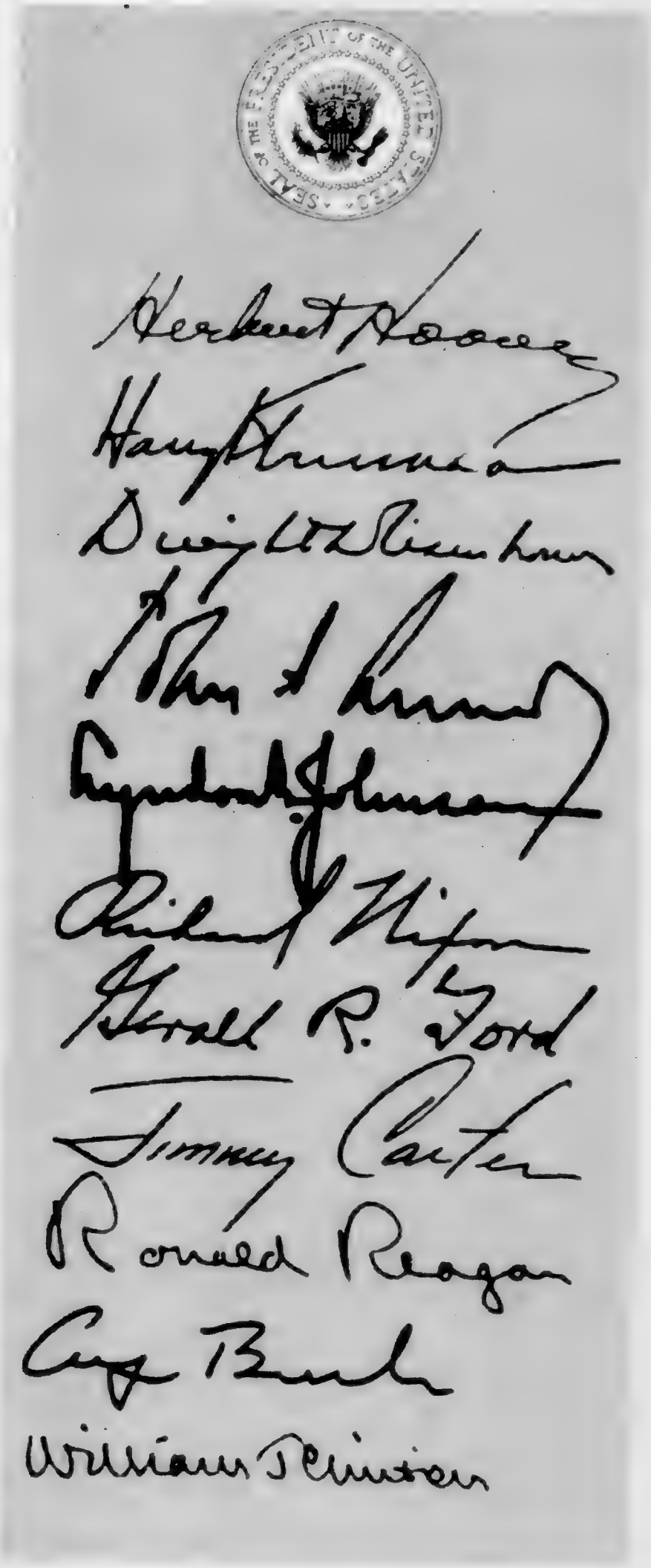

Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	$51.00
1993 (Book II)	$51.00
1994 (Book I)	$56.00
1994 (Book II)	$52.00
1995 (Book I)	$60.00
1995 (Book II)	$65.00
1996 (Book I)	$66.00
1996 (Book II)	$72.00
1997 (Book I)	$69.00
1997 (Book II)	$78.00

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev. 9/23/99)

VOL
64
ISS
2
2
9
NO
30
1999
JMI

Order Now!

The United States Government Manual 1999/2000

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

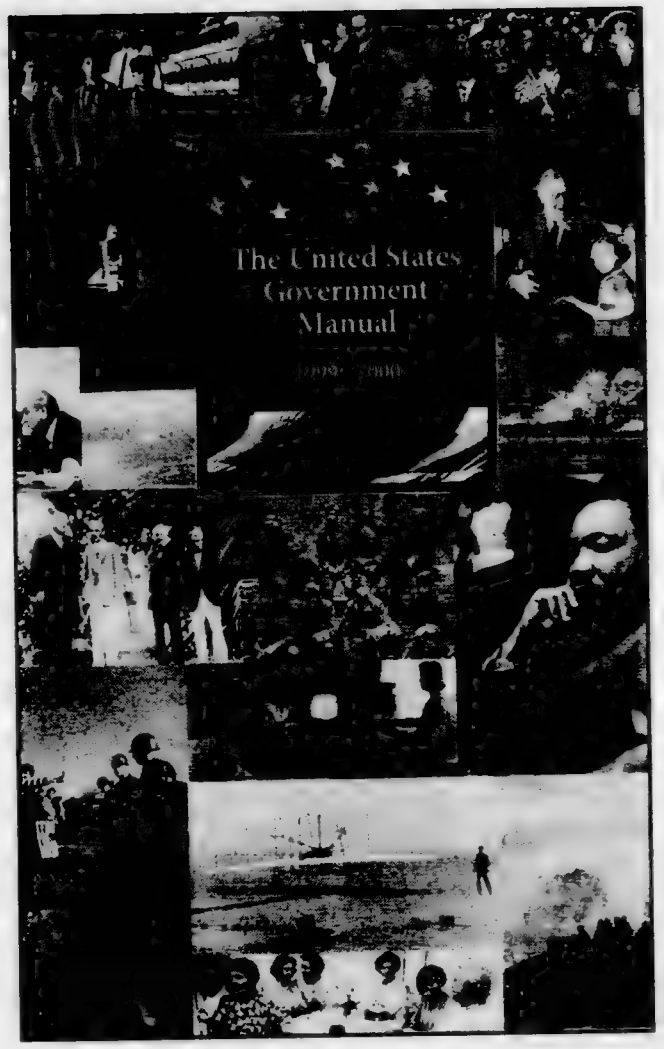

$46 per copy

Superintendent of Documents **Publications** Order Form

United States Government INFORMATION
PUBLICATIONS ★ PERIODICALS ★ ELECTRONIC PRODUCTS

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
***7917**

☐ **YES**, please send me ——— copies of **The United States Government Manual** 1999/2000,
S/N 069–000–00109–2 at $46 ($57.50 foreign) each.

Total cost of my order is $ ———— . **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/99

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

er copy

VISA

) 512–2250
) 512–1800

change.

ocuments

– ☐

ank you for your order!

9/99

50–7954

VOL
64
ISS
2
2
9
NO
30
1999
UMI

Printed on recycled paper

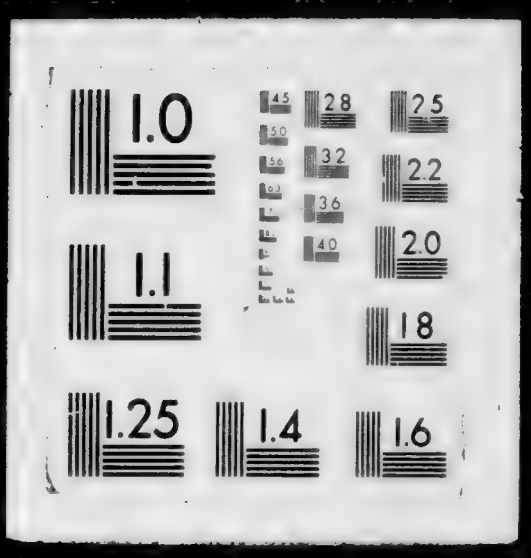
1.0
1.1
1.25
1.4
1.6
45
50
56
63
71
80
28
32
36
40
25
22
20
18

VOL
64
ISS
2
3
0
DE
1
1999
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

12-1-99
Vol. 64

United S
Governm
Printing
SUPERINTEN
OF DOCUME
Washington, D

OFFICIAL BU
Penalty for pr

12–1–99
Vol. 64 No. 230

Federal Register

Wednesday
December 1, 1999

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

******************3-DIGIT 481
A FR UMI 346U DEC 99 R
UMI
PERIODICALS CHECK IN
PO BOX 1346
ANN ARBOR MI 48106

PERIODICALS

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

VOL
64
ISS
2
3
0
DE
1
999
UMI

12-1-99
Vol. 64
Pages 6

12-1-99
Vol. 64 No. 230
Pages 67147-67468

federal register

Wednesday
December 1, 1999

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 64 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530; 1–888–293–6498

Single copies/back copies:

Paper or fiche	512–1800
Assistance with public single copies	512–1803

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: December 7, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 64, No. 230

Wednesday, December 1, 1999

African Development Foundation
NOTICES
Meetings; Sunshine Act, 67245

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
Southern Illinois-Eastern Missouri, 67201–67202

Agriculture Department
See Agricultural Marketing Service
See Grain Inspection, Packers and Stockyards Administration

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Iowa, 67247

Coast Guard
RULES
American Society for Testing and Materials (ASTM); standards incorporated by reference; update, 67170–67187
Drawbridge operations:
Massachusetts, 67169–67170
Regattas and marine events:
New Year's Celebration Fireworks, 67168–67169
Regattas and marine parades:
Eastport Yacht Club Lighted Boat Parade, 67169
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67367–67369

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Hong Kong, 67253–67254

Comptroller of the Currency
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67369–67370

Copyright Office, Library of Congress
RULES
Copyright arbitration royalty panel rules and procedures:
Musical compositions performance by colleges and universities; cost of living adjustment, 67187–67188

Corporation for National and Community Service
PROPOSED RULES
AmeriCorps education awards, 67235–67236

Defense Department
See Navy Department
RULES
Freedom of Information Act; implementation
Defense Information Systems Agency and Office of Manager, National Communications System, 67166–67168
PROPOSED RULES
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE program—
Retiree Dental Program; expansion of dependent eligibility, 67220–67222
Federal Acquisition Regulation (FAR):
Yugoslavia and Afghanistan; acquisition restrictions, 67445–67447

Drug Enforcement Administration
PROPOSED RULES
List I chemical manufacturers, distributors, importers, and exporters; registration:
Registration and reregistration fees, 67216–67220

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Connecticut, 67188–67193
Water supply:
National primary and secondary drinking water regulations—
Chemical and microbiological contaminants, analytical methods; and laboratory certification requirements revisions, 67449–67467
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Connecticut, 67222–67223
NOTICES
Pesticide programs:
Organophosphates; risk assessments and public participation in risk management—
Dimethoate, 67262–67263
Propetamphos, 67263–67265
Pesticide registration, cancellation, etc.:
Triphenyltin hydroxide, 67265–67267

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness standards:
Special conditions—
Boeing Model 767-400ER airplane, 67147–67148
PROPOSED RULES
Airworthiness directives:
Turbomeca Arrius, 67206–67207

Federal Communications Commission
RULES
Common carrier services:
Federal-State Joint Board on Universal Service—
Customers served by non-rural carriers; intrastate rates, 67416–67433
Non-rural local exchange carriers; high cost support; forward-looking mechanism, 67371–67416
Radio services, special:
Private land mobile services—
Exclusivity and frequency assignments policies; examination; correction, 67199–67200
Television broadcasting:
Cable Television Consumer Protection and Competition Act of 1992—
Horizontal ownership limts, 67198–67199
Telecommunications Act of 1996; Cable Act reform provision; cable attribution rules review, 67193–67197
PROPOSED RULES
Television broadcasting:
Video description of video programming for individuals with visual disabilities; implementation, 67236–67244
NOTICES
Television broadcasting:
New analog television stations; applications and allotment petitions; window filing opportunity, 67267–67269

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Erie Boulevard Hydropower L.P., 67261
Lower Valley Power & Light, Inc., 67262
Environmental statements; notice of intent:
El Dorado Irrigation District et al., 67262
Applications, hearings, determinations, etc.:
Ameren Operating Companies, 67255
CNG Transmission Corp., 67255–67256
Columbia Gas Transmission Corp., 67256
Commonwealth Edison Co. et al., 67256–67257
Eastern Shore Natural Gas Co., 67257
El Paso Natural Gas Co., 67257
Gas Transport, Inc., 67257
Michigan Gas Storage Co., 67258
Natural Gas Pipeline Co. of America, 67258
Northern States Power Co., 67258
Questar Pipeline Co., 67258–67259
Sabine Pipe Line Co. et al., 67259–67260
Southern California Edison Co. et al., 67260
Tennessee Gas Pipeline Co., 67260
Transcontinental Gas Pipe Line Corp., 67260–67261
Wells Rural Electric Co., 67261
Wyoming Interstate Co., Ltd., 67261

Federal Maritime Commission
NOTICES
Agreements filed, etc., 67269
Freight forwarder licenses:
E&H Transport Network, Inc., et al., 67269

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 67270
Formations, acquisitions, and mergers, 67270
Permissible nonbanking activities, 67271

Federal Trade Commission
NOTICES
Prohibited trade practices:
Reckitt & Coleman plc, 67271–67273

Fish and Wildlife Service
NOTICES
Marine mammals:
Incidental taking; authorization letters, etc.—
Oil and gas industry activities; polar bears and Pacific walruses, 67293

Food and Drug Administration
PROPOSED RULES
Human drugs and biological products:
Postmarketing studies; status reports, 67207–67216
NOTICES
Food for human consumption:
Food labeling—
Dietary supplements; health claims and label statements; Pearson court decision implementation strategy, 67289–67291
Reports and guidance documents; availability, etc.:
Over-the-counter human drug products; labeling using column format; industry guidance, 67291

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Yugoslavia and Afghanistan; acquisition restrictions, 67445–67447

Grain Inspection, Packers and Stockyards Administration
NOTICES
Agency designation actions:
Various States, 67245–67247

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
NOTICES
Meetings:
Genetic Testing Advisory Committee, 67273–67289

Health Care Financing Administration
PROPOSED RULES
Medicaid:
Managed care organizations; external quality review, 67223–67235
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67291–67292

Housing and Urban Development Department
NOTICES
Meetings:
Department tribal consultation policy; regional meeting, 67292

Immigration and Naturalization Service
NOTICES
Immigration:
Direct mail program—
Armed services personnel; naturalization based on qualifying military service;application processing, 67323–67324

VOL 64 ISS 230 DEC 1 1999 UMI

Indian Affairs Bureau
NOTICES
Liquor and tobacco sale or distribution ordinance:
Oneida Nation of New York, 67293–67294

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service
RULES
Watches, watch movements, and jewelry:
Allocation of duty-exemptions—
Virgin Islands, Guam, American Samoa, and Northern Mariana Islands, 67148–67152
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67292–67293

International Trade Administration
RULES
Watches, watch movements, and jewelry:
Allocation of duty-exemptions—
Virgin Islands, Guam, American Samoa, and Northern Mariana Islands, 67148–67152
NOTICES
Antidumping:
Oil country tubular goods from—
Canada and Taiwan, 67248–67251
Antidumping and countervailing duties:
Five-year (sunset) reviews—
Initiation of reviews, 67247–67248

International Trade Commission
NOTICES
Import investigations:
Aramid from—
Netherlands, 67302–67304
Bearings from—
Various countries, 67304
Cased pencils from—
China, 67304–67307
Cold-rolled steel products from—
Various countries, 67307–67308
Color negative photo paper and chemicals from—
Japan and Netherlands, 67308–67311
Defrost timers from—
Japan, 67311–67313
Forged stainless steel flanges from—
India and Taiwan, 67313–67315
Fresh garlic from—
China, 67315–67318
Grain-oriented silicon electrical steel from—
Italy and Japan, 67318–67320
Paper clips from—
China, 67320–67323
Polyethylene terephthalate film from—
Korea, 67323

Justice Department
See Drug Enforcement Administration
See Immigration and Naturalization Service

Labor Department
See Mine Safety and Health Administration
See Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67324–67325

Land Management Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
Mojave-Southern Great Basin Resource Advisory Council, 67294–67295
Meetings:
Resource Advisory Councils—
Central Montana, 67295
Public land orders:
Colorado, 67295
New Mexico, 67295–67297
Survey plat filings:
Montana, 67297–67298

Library of Congress
See Copyright Office, Library of Congress

Medicare Payment Advisory Commission
NOTICES
Meetings, 67326

Minerals Management Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67298–67300

Mine Safety and Health Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67325–67326

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Yugoslavia and Afghanistan; acquisition restrictions, 67445–67447

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 67251–67252
New England Fishery Management Council, 67252–67253

National Park Service
NOTICES
Environmental statements; availability, etc.:
Great Basin National Park, NV; visitor and education center construction, 67300–67301
Meetings:
National Park System Advisory Board, 67301
National Register of Historic Places:
Pending nominations, 67301–67302

National Skill Standards Board
NOTICES
Meetings, 67326

Navy Department
NOTICES
Inventions, Government-owned; availability for licensing, 67255

Meetings:
Chief of Naval Operations Executive Panel, 67255

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
Quigley, Barry, 67202–67205
NOTICES
Meetings:
Nuclear Waste Advisory Committee, 67327–67328
Pilot Program Evaluation Panel, 67328–67329
Reactor Safeguards Advisory Committee, 67329
Standards development organizations; coordination, 67329–67330
Meetings; Sunshine Act, 67330
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 67330–67348
Applications, hearings, determinations, etc.:
GPU Nuclear Corp., 67327
Northeast Nuclear Energy Co., 67327

Office of United States Trade Representative
See Trade Representative, Office of United States

Pension and Welfare Benefits Administration
PROPOSED RULES
Employee Retirement Income Security Act:
Small pension plan assets; security, 67435–67444

Pension Benefit Guaranty Corporation
RULES
Single employer plans:
Allocation of assets—
Valuation of benefits and assets; expected retirement age, 67165–67166
Benefits payable in terminated plans; disclosure to participants, 67163–67165

Postal Rate Commission
NOTICES
Visits to facilities, 67348

Public Health Service
See Food and Drug Administration

Securities and Exchange Commission
RULES
Accounting bulletins, staff:
Exit activities and business combinations: expenses accounting and disclosure, 67154–67163
NOTICES
Self-regulatory organizations; proposed rule changes:
International Securities Clearing Corp., 67362–67363
MBS Clearing Corp., 67363–67364
National Securities Clearing Corp., 67364–67365
New York Stock Exchange, Inc., 67365–67366
Pacific Exchange, Inc., 67366–67367
Applications, hearings, determinations, etc.:
INVESCO Bond Funds, Inc., et al., 67348–67353
MAS Funds et al., 67353–67357
Scudder California Tax Free Trust et al., 67357–67362

Small Business Administration
PROPOSED RULES
Business loans:
Certified development companies; areas of operations, 67205–67206

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
RULES
Tariff-rate quota implementation for imports of sugar-containing products, 67152–67154

Transportation Department
See Coast Guard
See Federal Aviation Administration

Treasury Department
See Comptroller of the Currency
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 67369

Utah Reclamation Mitigation and Conservation Commission
NOTICES
Environmental statements; availability, etc.:
Central Utah Project—
Diamond Fork System; pipelines, tunnels, and other facilities; construction, 67370

Separate Parts In This Issue

Part II
Federal Communications Commission, 67371–67433

Part III
Department of Labor, Pension and Welfare Benefits Administration, 67435–67444

Part IV
Department of Defense, General Services Administration, National Aeronautics and Space Administrationn, 67445–67447

Part V
Environmental Protection Agency, 67449–67467

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

VOL 64 ISS 230 DE 1 1999 UMI

CFR PA
A cumulat
Reader Ai
7 CFR
Proposed
1032
10 CFR
Proposed
26
13 CFR
Proposed
120
14 CFR
25
Proposed
39
15 CFR
303
2015
17 CFR
211
21 CFR
Proposed
314
601
1309
29 CFR
4011
4022
4044
Proposed
2520
32 CFR
287
Proposed
199
33 CFR
100 (2 doc
117
127
154
155
159
164
183
37 CFR
253
40 CFR
52
141
143
Proposed
52
42 CFR
Proposed
433
438
45 CFR
Proposed
2522
2525
46 CFR
28
30
32
34
35
38
39
54

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
1032.....67201

10 CFR
Proposed Rules:
26.....67202

13 CFR
Proposed Rules:
120.....67205

14 CFR
25.....67147
Proposed Rules:
39.....67206

15 CFR
303.....67148
2015.....67152

17 CFR
211.....67154

21 CFR
Proposed Rules:
314.....67207
601.....67207
1309.....67216

29 CFR
4011.....67163
4022.....67163
4044.....67165
Proposed Rules:
2520.....67436

32 CFR
287.....67166
Proposed Rules:
199.....67220

33 CFR
100 (2 documents).....67168, 67169
117.....67169
127.....67170
154.....67170
155.....67170
159.....67170
164.....67170
183.....67170

37 CFR
253.....67187

40 CFR
52.....67188
141.....67450
143.....67450
Proposed Rules:
52.....67222

42 CFR
Proposed Rules:
433.....67223
438.....67223

45 CFR
Proposed Rules:
2522.....67235
2525.....67235

46 CFR
28.....67170
30.....67170
32.....67170
34.....67170
35.....67170
38.....67170
39.....67170
54.....67170
56.....67170
58.....67170
61.....67170
63.....67170
76.....67170
77.....67170
78.....67170
92.....67170
95.....67170
96.....67170
97.....67170
105.....67170
108.....67170
109.....67170
110.....67170
111.....67170
114.....67170
119.....67170
125.....67170
151.....67170
153.....67170
154.....67170
160.....67170
161.....67170
162.....67170
163.....67170
164.....67170
170.....67170
174.....67170
175.....67170
182.....67170
190.....67170
193.....67170
195.....67170
199.....67170

47 CFR
36 (2 documents).....67372, 67416
54 (2 documents).....67372, 67416
69.....67372
76 (2 documents).....67193, 67198
90.....67199
Proposed Rules:
73.....67236

48 CFR
Proposed Rules:
25.....67446
52.....67446

VOL
64
ISS
2
3
0
DE
1
1999
UMI

Rule

This sect
contains
applicabil
are keyed
Federal R
50 titles p

The Code
the Super
new book
REGISTE

DEPART

Federal

14 CFR

[Docket N
25–152–S

Special
400ER;

AGENCY:
Adminis

ACTION:

SUMMARY
issued fo
airplane
avionics
critical d
applicab
not conta
safety sta
these sys
intensity
condition
standard
consider
of safety
by the ex

EFFECTIVI

FOR FURT
Massoud
Airplane
Certificat
Flight Cr
111, 160
Washingt
(425) 227
1320.

SUPPLEME

Backgrou

On Jan
Commerc
an amend
A1NM to
400ER, a
200/300 s
767–400E
conventio

Rules and Regulations

Federal Register
Vol. 64, No. 230
Wednesday, December 1, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM158; Special Conditions No. 25–152–SC]

Special Conditions: Boeing Model 767–400ER; High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 767–400ER airplane. This airplane will utilize new avionics/electronic systems that provide critical data to the flightcrew. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. These special conditions provide the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: January 3, 2000.

FOR FURTHER INFORMATION CONTACT: Massoud Sadeghi, FAA, Transport Airplane Directorate, Aircraft Certification Service, Airplane and Flight Crew Interface Branch, ANM–111, 1601 Lind Avenue SW., Renton, Washington, 98055–4056, telephone (425) 227–2117 or facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1997, the Boeing Commercial Airplane Group applied for an amendment to Type Certificate No. A1NM to include the new Model 767–400ER, a derivative of the Model 767–200/300 series airplanes. The Model 767–400ER is a swept-wing, conventional-tail, twin-engine, turbofan-powered transport airplane. The airframe has been strengthened to accommodate the increased design loads and weights. The airplane has a seating capacity of up to 375, and a maximum takeoff weight of 450,000 pounds (204,120 kg). Each engine will be capable of delivering 62,000 pounds of thrust. The flight controls are unchanged beyond those changes deemed necessary to accommodate the stretched configuration.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that the Model 767–400ER airplane meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A1NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A1NM include 14 CFR part 25, as amended by Amendments 25–1 through 25–45 with a few exceptions, and certain other later amended sections of part 25 that are not relevant to these special conditions. Except for certain earlier amended sections of part 25 that are not relevant to these special conditions, Boeing has chosen to comply with part 25 as amended by Amendments 25–1 through 25–89, the applicable regulations in effect on the date of application.

In addition to the applicable airworthiness regulations and special conditions, the Model 767–400ER must comply with the fuel vent and exhaust emission requirements of part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and the noise certification requirements of part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for the Model 767–400ER because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model 767–400ER airplane will utilize electrical and electronic systems that perform critical functions, including the following: primary electronic flight displays and full authority digital engine controls (FADEC). These systems may be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters, and the growing use of sensitive electrical and electronic systems to command and control airplanes, have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Model 767–400ER. The Model 767–400 requires that new technology electrical and electronic systems be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane and the use of composite material in the airplane structure, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak root-mean-square (rms) values.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions would be applicable initially to the Model 767–400ER airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Discussion of Comments

Notice of proposed special conditions No. 25–99–06–SC was published in the **Federal Register** on July 21, 1999 (64 FR 39095). One comment in support of the special condition was received.

Conclusion

This action affects certain design features only on the Model 767–400ER. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Boeing 767–400ER series airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of this special condition, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on November 17, 1999.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 99–31185 Filed 11–30–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Insular Affairs

15 CFR Part 303

[Docket No. 990813222–9309–02]

RIN 0625–AA55

Extend Production Incentive Benefits to Jewelry Manufacturers in the U.S. Insular Possessions

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: This action amends the Departments' regulations governing duty-exemption allocations and duty-refund benefits for watch producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands) due to the enactment of Pub. L. 106–36. This law amends additional U.S. notes to chapter 71 of the Harmonized Tariff Schedule of the United States ("HTSUS") to provide a duty-refund benefit for any article of jewelry within heading 7113 which is the product of the Virgin Islands, Guam, American Samoa or the Northern Mariana Islands in accordance with the new provisions of the note in chapter 71 and additional U.S. note 5 to chapter 91. The rule amends the regulations by changing Title 15 CFR part 303 to include jewelry, creating a Subpart A for the current insular watch and watch movement regulations and a Subpart B for the new regulations pertaining to jewelry duty-refund benefits authorized by Pub. L. 106–36.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526.

SUPPLEMENTARY INFORMATION: We published proposed regulatory revisions on August 27, 1999 (64 FR 46872) and invited comments. Referring to the requirement in the proposed section 303.16(a)(5) that a new jewelry firm be "completely separate from and not associated with, by way of ownership or control" with other jewelry program participants in a territory, one commenter suggested that we replace "ownership or control" with "ownership and control". The commenter hoped to be free to have, as

a new jewelry firm, a non-controlling association with another firm in the territory.

The Departments agree that the language "completely separate from and not associated with, by way of ownership or control" may be too restrictive and might have the effect of discouraging widespread participation in the expanded benefits enacted by Congress. A mere association, whether by way of overlapping ownership or of family relationships, may not necessarily disqualify otherwise qualified new firm applicants.

The change suggested by the applicant, however, would not remove this perceived difficulty because both terms in the phrase "ownership and control" are modified by the unexceptionable "completely separate from." Nevertheless, in order to evaluate the unique circumstances of each applicant, we have revised the proposed language to include new terminology borrowed from existing fair trade law regulations. The final language will enable the Secretaries to make case-by-case determinations and ensure that the purpose of the restrictions, to prevent circumvention of the statutory 750,000 unit benefit ceiling and the declining duty-refund benefits received after the first 300,000 units, is observed in all instances.

The insular possessions watch industry provision in Sec. 110 of Pub. L. No. 97–446 (96 Stat. 2331) (1983), as amended by Sec. 602 of Pub. L. No. 103–465 (108 Stat. 4991) (1994); additional U.S. Note 5 to chapter 91 of the HTSUS, as amended by Pub. L. 94–241 (90 Stat 263) (1976) requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands ("CNMI"). After the Departments have verified the data submitted on the annual application (Form ITA–334P), the producers' duty-exemption allocations are calculated from the territorial share in accordance with Section 303.14 of the regulations (15 CFR 303.14) and each producer is issued a duty-exemption license. The law further requires the Secretaries to issue duty-refund certificates to each territorial watch and watch movement producer based on the company's duty-free shipments and creditable wages paid during the previous calendar year.

Pub. L. 106–36 authorizes the issuance of a duty-refund certificate to each territorial jewelry producer for any article of jewelry provided for in heading 7113 of the HTSUS which is the product of any such territory based on creditable wages paid and duty-free units shipped into the United States during the previous calendar year. Although the law specifically mentions the U.S. Virgin Islands, Guam and American Samoa, the issuance of the duty-refund certificate would also apply to the CNMI due to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94–241), which states that goods from the CNMI are entitled to the same tariff treatment as imports from Guam. (*See also* 19 CFR 7.2(a)). The law provides that during the first two years, beginning August 9, 1999 (45 days after the date of enactment), jewelry that is assembled in the territories shall be treated as a product of such territories. Thereafter, in order to be considered a product of such territories, the jewelry must meet the U.S. Customs Service substantial transformation requirements (the jewelry must become a new and different article of commerce as a result of production or manufacture performed in the territory). To receive duty-free treatment, the jewelry must also satisfy the requirements of General Note 3(a)(iv) of the HTSUS and applicable Customs Regulations (19 CFR 7.3).

The law specifies, in addition, that watch producer benefits shall not to be diminished as a consequence of extending duty-refund benefits to jewelry manufacturers. In the event that the aggregate amount of the calculated duty refunds for both watches and jewelry exceeds the total amount available under Pub. L. 97–446, as amended by Pub. L. 103–465, the watch producers shall receive their calculated amounts; the jewelry producers would then receive amounts proportionately redu d from the remainder.

Under the Administrative Procedure Act, 5 U.S.C. 553(d)(1), the effective date of this rule need not be delayed for 30 days because this rule relieves a restriction by making insular jewelry producers eligible to receive a duty-refund benefit similar to the duty-refund benefit insular watch producers receive.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. This rulemaking will not affect the five watch companies currently participating in the insular possessions watch program because Pub. L. 106–36 does not allow watch producers' benefits to be reduced as a consequence of extending benefits to jewelry manufacturers. We expect up to five jewelry companies to set up production facilities in the insular possessions in response to the extension to them of existing incentives by Pub. L. 106–36. However, as with watch producers, the duty refund benefit per company does not apply to shipments exceeding 750,000 units of jewelry into the United States per year. The last Census of Manufacturers statistics (1992) indicate that there are 2,180 precious jewelry manufacturers located in the U.S. employing 32,300 employees. Because the insular jewelry industry would represent such a small percentage of the existing U.S. industry and because there is a limit on the benefit extended to insular jewelry producers, the regulations will not have a significant adverse impact on any small business entities. We expect a positive impact in the form of new jobs in the small U.S. insular economies. No comments were received on this certification.

Paperwork Reduction Act

This rulemaking involves new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 which have been approved under OMB control number 0625–0040 and 0625–0134. The extension of the insular watch program to include the jewelry benefit will require the use of three of the current forms, modified to accommodate jewelry. The public reporting burden for these collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Form ITA–334P, the annual application, would be completed once a year by each jewelry producer and requires one burden hour. Form ITA–360P, the certificate of refund, would also be used once a year and is completed by the Department of Commerce and imposes no burden hours. Form ITA–361P, the request for refund of duties, would normally be used once or twice a year per jewelry producer and takes about 10 minutes to complete.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

E.O. 12866

It has been determined that the rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, The Departments amend 15 CFR part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

1. The authority citation for 15 CFR Part 303 is revised to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103–465, 108 Stat. 4991; Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106–36, 113 Stat. 127,167.

2. Revise the heading for part 303 to read as set forth above.

3. Designate § 303.1 through 303.14 as subpart A and add a subpart heading as set forth below.

Subpart A—Watches and Watch Movements

4. Add subpart B to read as follows:

Subpart B—Jewelry

Sec.

303.15 Purpose.
303.16 Definitions and forms.
303.17 Annual jewelry application.
303.18 Sale and transfer of business.
303.19 Issuance and use of production incentive certificates.
303.20 Duty refund.
303.21 Appeals.

Subpart B—Jewelry

§ 303.15 Purpose.

(a) This subpart implements the responsibilities of the Secretaries of Commerce and the Interior ("the Secretaries") under Pub. L. 106–36, enacted 25 June 1999 which substantially amended Pub. L. 97–446, enacted 12 January 1983, amended by Pub. L. 89–805, enacted 10 November 1966, amended by Pub. L. 94–88, enacted 8 August 1975, amended by Pub. L. 94–241, enacted 24 March 1976, and amended by Pub. L. 103–465, enacted 8 December 1994.

(b) The amended law provides for the issuance of certificates to insular jewelry producers who have met the requirements of the laws and regulations, entitling the holder (or any transferee) to obtain refunds of duties on watches and watch movements and parts (except discrete watch cases) imported into the customs territory of the United States. The amounts of these certificates may not exceed specified percentages of the producers' verified creditable wages in the insular possessions (90% of wages paid for the production of the first 300,000 duty-free units and declining percentages, established by the Secretaries, of wages paid for incremental production up to 750,000 units by each producer) nor an aggregate annual amount for all certificates exceeding $5,000,000 adjusted for growth by the ratio of the previous year's gross national product to the gross national product in 1982. However, the law specifies that watch producer benefits are not to be diminished as a consequence of extending the duty refund to jewelry manufacturers. In the event that the amount of the calculated duty refunds for watches and jewelry exceeds the total aggregate annual amount that is available, the watch producers shall receive their calculated amounts and the jewelry producers would receive amounts proportionately reduced from the remainder. Refund requests are governed by regulations issued by the Department of the Treasury (*see* 19 CFR 7.4).

(c) Section 2401(a) of Pub. L. 106–36 and additional U.S. note 5 to chapter 91 of the HTSUS authorize the Secretaries to issue regulations necessary to carry out their duties. The Secretaries may cancel or restrict the certificate of any insular manufacturer found violating the regulations.

§ 303.16 Definitions and forms.

(a) *Definitions.* For purposes of the subpart, unless the context indicates otherwise:

(1) *Act* means Pub. L. 97–446, enacted 12 January 1983 (19 U.S.C. 1202), 96 Stat. 2329, as amended by Pub. L. 103–465, enacted on 8 December 1994, 108 Stat. 4991 and, as amended by Pub. L. 106–36, enacted on 25 June 1999.

(2) *Secretaries* means the Secretary of Commerce and the Secretary of the Interior or their delegates, acting jointly.

(3) *Director* means the Director of the Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce.

(4) *Sale or transfer of a business* means the sale or transfer of control, whether temporary or permanent, over a firm which is eligible for a jewelry program duty-refund to any other firm, corporation, partnership, person or other legal entity by any means whatsoever, including, but not limited to, merger and transfer of stock, assets or voting trusts.

(5) *New firm* means a jewelry company which has requested in writing to the Secretaries permission to participate in the program. In addition to any other information required by the Secretaries, new firm requests shall include a representation that the company agrees to abide by the laws and regulations of the program, an outline of the company's anticipated economic contribution to the territory (including the number of employees) and a statement as to whether the company is affiliated by ownership or control with any other watch or jewelry company in the insular possessions. The Secretaries will then review the request and make a decision based on the information provided and the economic contribution to the territory. A new jewelry firm may not be affiliated through ownership or control with any other jewelry duty-refund recipient. In assessing whether persons or parties are affiliated, the Secretaries will consider the following factors, among others: stock ownership; corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The Secretaries may not find that control exists on the basis of these factors unless the relationship has the potential to affect decisions concerning production, pricing, or cost. Also, no jewelry duty-refund recipient may own or control more than one watch duty-refund recipient.

(6) *Jewelry producer* means a company, located in one of the insular territories (*see* paragraph (a)(8) of this section), that produces jewelry provided for in heading 7113, HTSUS, which meets all the U.S. Customs Service requirements for duty-free entry set forth in General Note 3(a)(iv), HTSUS, and 19 CFR 7.3, and has maintained its eligibility for duty refund benefits by complying with these regulations.

(7) *Unit of jewelry* means a single article, pair (example: earrings, cufflinks), subassembly or component which is contained in HTSUS heading 7113.

(8) *Territories, territorial and insular possessions* refers to the insular possessions of the United States (i.e., the U.S. Virgin Islands, Guam,

American Samoa and the Northern Mariana Islands).

(9) *Creditable wages* means all wages—up to the amount per person of $38,650—paid to permanent residents of the territories employed in the firm's manufacture of HTSUS heading 7113 articles of jewelry which are a product of the insular possessions and have met the U.S. Customs Service's criteria for duty-free entry into the United States, plus any wages paid for the repair of non-insular HTSUS heading 7113 jewelry up to an amount equal to 50 percent of the firm's total creditable wages. Excluded, however, are wages paid for special services rendered to the firm by accountants, lawyers, or other professional personnel plus any wages paid for the assembly of dutiable jewelry or the repair of dutiable jewelry to the extent that such wages exceed the percentage set forth above. Wages paid to persons engaged in production of jewelry that has entered the U.S. both duty-free and duty-paid may be credited proportionately *provided* the firm maintains production and payroll records adequate for the Departments' verification of the creditable wages portion (*see* Sec. 303.17(b)).

(10) *Dutiable jewelry* includes jewelry which does not meet the requirements for duty-free entry under General Note 3(a)(iv), HTSUS, and 19 CFR 7.3, contains any material which is the product of any country with respect to which Column 2 rates of duty apply or is ineligible for duty-free treatment pursuant to other laws or regulations.

(b) *Forms.*

(1) *ITA—334P* "Annual Application for License to Enter Watches and Watch Movements into the Customs Territory of the United States." The Director shall issue instructions for jewelry manufacturers on the completion of the relevant portions of the form. The form must be completed annually by all jewelry producers desiring to receive a duty refund.

(2) *ITA—360P* "Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements." This document authorizes a territorial jewelry producer to request the refund of duties on imports of watches, watch movements and parts therefor, with certain exceptions, up to a specified value. Certificates may be used to obtain duty refunds only when presented with a properly executed Form ITA–361P.

(3) *ITA—361P* "Request for Refund of Duties on Watches and Watch Movements." This form must be completed to obtain the refund of duties authorized by the Director through Form ITA–360P. After authentication by the Department of Commerce, it may be used for the refund of duties on items which were entered into the customs territory of the United States during a specified time period. Copies of the appropriate Customs entries must be provided with this form to establish a basis for issuing the claimed amounts. The forms may also be used to transfer all or part of the producer's entitlement to another party (*see* Sec. 303.19(c)).

(The information collection requirements in paragraph (b)(1) were approved by the Office of Management and Budget under control number 0625–0040. The information collection requirements in paragraphs (b) (2) and (3) were approved under control number 0625–0134.)

§ 303. 17 Annual jewelry application.

(a) Form ITA–334P shall be furnished to producers by January 1 and must be completed and returned to the Director no later than January 31 of each calendar year.

(b) All data supplied are subject to verification by the Secretaries and no duty refund shall be made to producers until the Secretaries are satisfied that the data are accurate. To verify the data, representatives of the Secretaries shall have access to relevant company records including, but not limited to:

(1) Work sheets used to answer all questions on the application form, as specified by the instructions;

(2) Original records from which such data are derived;

(3) Records pertaining to ownership and control of the company;

(4) Records pertaining to all duty-free and dutiable shipments of HTSUS 7113 jewelry, including Customs entry documents;

(5) Records pertaining to corporate income taxes, gross receipts taxes and excise taxes paid by each producer in the territories;

(6) Customs, bank, payroll, and production records;

(7) Records on purchases of components and sales of jewelry, including proof of payment; and

(8) Any other records in the possession of the parent or affiliated companies outside the territory pertaining to any aspect of the producer's jewelry operations.

(c) Data verification shall be performed in the territories, unless other arrangements satisfactory to the Departments are made in advance, by the Secretaries' representatives by the end of February of each calendar year. In the event a company cannot substantiate the data in its application, the Secretaries shall determine which data will be used.

(d) Records subject to the requirements of paragraph (b) of this section, shall be retained for a period of two years following their creation.

§ 303.18 Sale or transfer of business.

(a) The sale or transfer of a business together with its duty refund entitlement shall be permitted with prior written notification to the Departments. Such notification shall be accompanied by certifications and representations, as appropriate, that:

(1) The transferee is neither directly nor indirectly affiliated with any other territorial duty refund jewelry recipient in any territory;

(2) The transferee will not modify the jewelry operations in a manner that will significantly diminish its economic contributions to the territory.

(b) At the request of the Departments, the transferee shall permit representatives of the Departments to inspect whatever records are necessary to establish to their satisfaction that the certifications and representations contained in paragraph (a) of this section have been or are being met.

(c) Any transferee who is either unwilling or unable to make the certifications and representations specified in paragraph (a) of this section shall secure the Departments' approval in advance of the sale or transfer of the business. The request for approval shall specify which of the certifications specified in paragraph (a) of this section the firm is unable or unwilling to make, and give reasons why such fact should not constitute a basis for the Departments' disapproval of the sale or transfer.

§ 303.19 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) Certificates of Entitlement, Form ITA–360, shall be issued before March 1 of each year.

(2) Certificates shall not be issued to more than one jewelry company in the territories owned or controlled by the same corporate entity.

(b) *Security and handling of certificates.* (1) Certificate holders are responsible for the security of the certificates. The certificates shall be kept at the territorial address of the producer or at another location having the advance approval of the Departments.

(2) All refund requests made pursuant to the certificates shall be entered on the reverse side of the certificate.

(3) Certificates shall be returned by registered, certified or express carrier mail to the Department of Commerce when:

(i) A refund is requested which exhausts the entitlement on the face of the certificate.

(ii) The certificate expires, or

(iii) The Departments request their return with good cause.

(4) Certificate entitlements may be transferred according to the procedures described in paragraph (c) of this section.

(c) *The use and transfer of certificate entitlements.* (1) Insular producers issued a certificate may request a refund by executing a Form ITA–361P (*see* Sec. 303.16(b)(3)) and the instructions on the form). After authentication by the Department of Commerce, Form ITA–361P may be used to obtain duty refunds on watch movements, watches, and parts therefor. Duties on watch cases not containing a movement and on articles containing any material which is the product of a country with respect to which Column 2 rates of duty apply may not be refunded. Articles for which duty refunds are claimed must have entered the customs territory of the United States during the two-year period prior to the issue date of the certificate or during the one-year period the certificate remains valid. Copies of the appropriate Customs entries must be provided with the refund request in order to establish a basis for issuing the claimed amounts. Certification regarding drawback claims and liquidated refunds relating to the presented entries is required from the claimant on the form.

(2) Regulations issued by the U.S. Customs Service, U.S. Department of the Treasury, govern the refund of duties under 19 CFR 7.4. If the Departments receive information from the Customs Service that a producer has made unauthorized use of any official form, they may cancel the affected certificate.

(3) The territorial producer may transfer a portion of all of its certificate entitlement to another party by entering in block C of Form ITA–361P the name and address of the party.

(4) After a Form ITA–361P transferring a certificate entitlement to a party other than the certificate holder has been authenticated by the Department of Commerce, the form may be exchanged for any consideration satisfactory to the two parties. In all cases, authenticated forms shall be transmitted to the certificate holder or its authorized custodian for disposition (*see* paragraph (b) of this section).

(5) All disputes concerning the use of an authenticated Form ITA–361P shall be referred to the Departments for resolution. Any party named on an authenticated Form ITA–361P shall be considered an "interested party" within the meaning of § 303.21 of this part.

§ 303.20 Duty refund.

(a) Territorial jewelry producers are entitled to duty refund certificates only for jewelry that they produce which is provided for in heading 7113, HTSUS, is a product of a territory and otherwise meets the requirements for duty-free entry under General Note 3 (a)(iv), HTSUS, and 19 CFR 7.3.

(1) An article of jewelry is considered to be a product of a territory if:

(i) The article is wholly the growth or product of the territory; or

(ii) The article became a new and different article of commerce as a result of production or manufacture performed in the territories.

(2) *Two-year exception.* Any article of jewelry provided for in heading 7113, HTSUS, entered or withdrawn from warehouse for consumption during the two-year period beginning August 9, 1999, that is assembled in a territory shall be considered a product of the insular possessions. At the expiration of the two-year period, only jewelry which satisfies either of the criteria set forth in paragraph (a)(1) of this section shall be considered a product of an insular possession.

(b) Calculation of the value of production incentive certificates. (1) The value of each producer's certificate shall equal the producer's average creditable wages per unit shipped free of duty into the United States multiplied by the sum of:

(i) The number of units shipped up to 300,000 units times a factor of 90%; plus

(ii) Incremental units shipped up to 450,000 units times a factor of 85%; plus

(iii) Incremental units shipped up to 600,000 times a factor of 80%; plus

(iv) Incremental shipments up to 750,000 units times a factor of 75%.

(2) The Departments may make adjustments for these data in the manner set forth in § 303.17(c).

§ 303.21 Appeals.

(a) Any official decision or action relating to the issuance or use of production incentive certificates may be appealed to the Secretaries by any interested party. Such appeals must be received within 30 days of the date on which the decision was made or the action taken in accordance with the procedures set forth in paragraph (b) of this section. Interested parties may petition for the issuance of a rule, or amendment or repeal of a rule issued by the Secretaries. Interested parties may also petition for relief from the application of any rule on the basis of hardship or extraordinary circumstances resulting in the inability of the petitioner to comply with the rule.

(b) Petitions shall bear the name and post office address of the petitioner and the name and address of the principal attorney or authorized representative (if any) for the party concerned. They shall be addressed to the Secretaries and filed in one original and two copies with the U.S. Department of Commerce, Import Administration, International Trade Administration, Washington, DC 20230, Attention: Statutory Import Programs Staff. Petitions shall contain the following:

(1) A reference to the decision, action or rule which is the subject of the petition;

(2) A short statement of the interest of the petitioner;

(3) A statement of the facts as seen by the petitioner;

(4) The petitioner's argument as to the points of law, policy or fact. In cases where policy error is contended, the alleged error together with the policy the submitting party advocates as the correct one should be described in full;

(5) A conclusion specifying the action that the petitioner believes the Secretaries should take.

(c) The Secretaries may at their discretion schedule a hearing and invite the participation of other interested parties.

(d) The Secretaries shall communicate their decision, which shall be final, to the petitioner by registered, certified or express mail.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration, Department of Commerce.

Ferdinand Aranza,

Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 99–30971 Filed 11–30–99; 8:45 am]

BILLING CODE 3510–DS–P 4310–93–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

15 CFR Part 2015

Implementation of Tariff-Rate Quota for Imports of Sugar-Containing Products

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Interim rule with request for comments.

SUMMARY: This rule provides for export certificates to accompany imports of certain sugar-containing products under the tariff-rate quota for sugar-containing products established as a result of the Uruguay Round Agreements.

DATES: Effective Date: Interim rule effective on January 31, 2000.

Comments: Comments must be received by January 31, 2000.

ADDRESSES: Comments may be sent to Sharon Bomer Lauritsen, Director of Agricultural Affairs and Technical Barriers to Trade, Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Sharon Bomer Lauritsen, Director of Agricultural Affairs and Technical Barriers to Trade, Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508; telephone: (202) 395–3167.

SUPPLEMENTARY INFORMATION:

Background

As a result of the Uruguay Round Agreements, approved by the Congress in section 101 of the Uruguay Round Agreements Act (URAA) (Pub. L. 103–465, the President, by Presidential Proclamation No. 6763, has established a tariff-quota for sugar-containing products. (Under a tariff-rate quota, the United States applies one tariff rate, known as the "in-quota tariff rate," to imports of a product up to a particular amount, known as the "in-quota quantity," and a different, higher tariff rate, known as the "over-quota tariff rate," to imports of the product in excess of that amount.) The United States has assigned Canada a particular share of the in-quota quantity. Sugar-containing products from Mexico may enter the United States under a separate tariff-rate quota established under the North American Free Trade Agreement.

Pursuant to Presidential Proclamation No. 7235, October 7, 1999, the United States Trade Representative is delegated authority under section 404(a) of the URAA to take such action as may be necessary in implementing the tariff-rate quotas for sugar-containing products to ensure that imports do not disrupt the orderly marketing of commodities in the United States.

As part of the implementation of the tariff-rate quotas, the United States is offering exporting countries that have an allocation of the in-quota quantity the opportunity to use export certificates for their sugar-containing product exports to the United States. Using export certificates assures an exporting country that only those exports that it intends for the United States market are counted against its in-quota allocation, and in this ensures that imports do not disrupt the orderly marketing of sugar-containing products in the United States. However, a country does not need to participate in the export certificate program to receive its in-quota tariff rate for its share of the in-quota quantity.

In Annex 17 of the December 4, 1998, Record of Understanding between the Governments of the United States of America and Canada regarding Areas of Agricultural Trade, the United States agreed to require an export permit issued by the Government of Canada as a condition for eligibility for the in-quota duty for certain sugar-containing products of Canadian origin for which the exporter or importer is claiming preferential tariff treatment on entry into the United States.

Under the interim rule, a country wishing to avail itself of export certificates must notify USTR, provide the necessary supporting information, and otherwise satisfy USTR that the country is a participating country. (USTR intends to publish a notice in the **Federal Register** whenever a country becomes, or ceases to be, a participating country.) In light of the request by the Government of Canada to participate in the export certificate program, the United States will require as a condition of eligibility for the in-quota duty that all sugar-containing products entered into the United States from Canada be accompanied by an export certificate issued by the Government of Canada. The United States Customs Service will then be responsible for ensuring that no imports of sugar-containing products from that country are counted against Canada's in-quota allocation unless there is a proper export certificate issued for that sugar-containing product.

The United States Customs Service will separately issue regulations governing Customs implementation of this rule.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to USTR. Each person submitting a comment should include his or her name and address, and give reasons for any recommendation. After the comment period closes, USTR will publish in the **Federal Register** a final rule on this subject, together with a discussion of comments received and any amendments made to the interim rule as a result of the comments.

To simplify the processing and consideration of comments, commenters are encouraged to submit documents in electronic form accompanied by an original and one paper copy. All documents submitted in electronic form should be on DOS formatted 3.5″ diskettes, and should be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect.

The Regulatory Flexibility Act and Executive Order 12866

Pursuant to the provisions of 5 U.S.C. 553(a), public notice is inapplicable to this interim rule because it is within the foreign affairs function of the United States. Also, for the above reason, there is no need for a delayed effective date under 5 U.S.C. 553(d). No regulatory flexibility analysis is required for this rule since neither 5 U.S.C. 553 nor any other provision of law requires publication of a general notice of proposed rulemaking with respect to this rule. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply; and because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

List of Subjects in 15 CFR Part 2015

Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Sugar.

For the reasons set out in the preamble, 15 CFR is amended by adding the following new part 2015 to read as follows:

PART 2015—IMPLEMENTATION OF TARIFF-RATE QUOTAS FOR SUGAR-CONTAINING PRODUCTS

Sec.
2015.1 Purpose.
2015.2 Definitions.
2015.3 Export certificates.

Authority: Sec. 404, Pub. L. 103–465, 108 Stat. 4809; Proclamation 6763, 3 CFR, 1994 Comp., p. 147; Proclamation 7235, 64 FR 55611, October 13, 1999.

§ 2015.1 Purpose.

The purpose of this part is to provide for the implementation of the tariff-rate quota for sugar-containing products established as a result of the Uruguay Round Agreements, approved by the Congress in section 101 of the Uruguay Round Agreements Act (Pub. L. 103–465). In particular, this party provides for the administration of export certificates where a country that has an allocation of the in-quota quantity under a tariff-rate quota has chosen to use export certificates.

§ 2015.2 Definitions.

For the purpose of this subpart, the following terms shall have the following meanings:

(a) *In-quota sugar-containing products* means any article classified under any of the subheadings of the HTS specified in additional U.S. note 8 to chapter 17 of the HTS that is entered under the in-quota rate of duty.

(b) *Allocated country* means a country to which an allocation of a particular quantity of sugar-containing products has been assigned.

(c) *Enter* or *Entered* means to enter, or withdraw from warehouse, for consumption.

(d) *HTS* means the Harmonized Tariff Schedule of the United States.

(e) *Participating Country* means any allocated country that USTR has determined is, and has notified the U.S. Customs Service as being, eligible to use export certificates.

(f) *USTR* means the United States Trade Representative or the designee of the United States Trade Representative.

§ 2915.3 Export certificates.

(a) To claim the in-quota rate of duty on sugar-containing products of a participating country, the United States importer must make a declaration to the United States Customs Service, in the form and manner determined by the United States Customs Service, that a valid export certificate is in effect with respect to those sugar-containing products.

(b) To be valid, an export certificate shall:

(1) Be issued by or under the supervision of the government of the participating country;

(2) Specify the name of the party to whom the certificate is issued, the product description and quantity, shipment date, and the quota year for which the export certificate is in effect;

(3) Have a distinct and uniquely identifiable number; and

(4) Be used in the quota year for which it is in effect.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 99–30808 Filed 11–30–99; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 100]

Staff Accounting Bulletin No. 100

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: This staff accounting bulletin expresses views of the staff regarding the accounting for and disclosure of certain expenses commonly reported in connection with exit activities and business combinations. This includes accrual of exit and employee termination costs pursuant to Emerging Issues Task Force (EITF) Issues No. 94–3, *Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (Including Certain Costs Incurred in a Restructuring)*, and No. 95–3, *Recognition of Liabilities in Connection with a Purchase Business Combination*, and the recognition of impairment charges pursuant to Accounting Principles Board (APB) Opinion No. 17, *Intangible Assets*, and Statement of Financial Accounting Standards (SFAS) No. 121, *Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of*.

DATES: Effective November 24, 1999.

FOR FURTHER INFORMATION CONTACT: Eric Jacobsen, Paul Kepple, or Eric Casey, Office of the Chief Accountant (202–942–4400), Robert Bayless, Division of Corporation Finance (202–942–2960), Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549; electronic addresses: JacobsenE@sec.gov; KeppleP@sec.gov; CaseyE@sec.gov; BaylessR@sec.gov.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission, nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: November 24, 1999.

Margaret H. McFarland,

Deputy Secretary.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 100 to the table found in Subpart B.

STAFF ACCOUNTING BULLETIN NO. 100

1. Amend Section A of Topic 2 of the Staff Accounting Bulletin Series to add new subsection 9. *Liabilities Assumed in a Purchase Business Combination*. Revise the title of Section P of Topic 5 to *Restructuring Charges*, designate the current section P as subsection 3 of Section P of Topic 5, *Income Statement Presentation of Restructuring Charges*, deleting the first paragraph under that subsection, and renumbering Questions 1, 2, and 3 in that subsection to be Questions 13, 14, and 15. Add new subsection 1. *Characteristics of an Exit Plan to Section P of Topic 5*. Add new subsection 2. *Characteristics of an Exit Cost to Section P of Topic 5*. Add new subsection 4. *Disclosures*. to Section P of Topic 5. Furthermore, add new Sections BB. *Inventory Valuation Allowances* and CC. *Impairments* to Topic 5.

TOPIC 2: BUSINESS COMBINATIONS

A. *Purchase Method*

* * * * *

8. Business Combinations Prior to an Initial Public Offering

* * * * *

9. Liabilities Assumed in a Purchase Business Combination

Facts: Company A acquires Company Z in a business combination accounted for as a purchase. Company Z has recorded liabilities for contingencies such as product warranties and environmental costs.

Question: Are there circumstances in which it is appropriate for Company A to adjust Company Z's carrying value for these liabilities in the purchase price allocation?

Interpretive Response: Yes. Accounting Principles Board Opinion No. 16, *Business Combinations*, requires that receivables, liabilities, and accruals be recorded in the purchase price allocation at their fair value, typically the present value of amounts to be received or paid, determined using appropriate current market interest rates. In some cases, fair value is readily determinable from contemporaneous arms-length transactions involving substantially identical assets or liabilities, or from amounts quoted by a third party to purchase the assets or assume the liabilities. More frequently, fair values are based on estimations of the underlying cash flows to be received or paid, discounted to their present value using appropriate current market interest rates.

The historical accounting by Company Z for receivables or liabilities may often be premised on estimates of the amounts to be received or paid. Amounts recorded by Company A in its purchase price allocation may be expected to differ from Company Z's historical carrying values due, at least, to the effects of the acquirer's discounting, including differences in interest rates. Estimation of probable losses and future cash flows involves judgment, and companies A and Z may

differ in their systematic approaches to such estimation. Nevertheless, assuming that both companies employ a methodology that appropriately considers all relevant facts and circumstances affecting cash flows, the staff believes that the two estimates of undiscounted cash inflows and outflows should not differ by an amount that is material to the financial statements of Company Z, unless Company A will settle the liability in a manner demonstrably different from the manner in which Company Z had planned to do so (for example, settlement of the warranty obligation through outsourcing versus an internal service department). But the source of other differences in the estimates of the undiscounted cash flows to be received or paid should be investigated and reconciled. If those estimates of undiscounted cash flows are materially different, an accounting error in Company Z's historical financial statements may be present, or Company A may be unaware of important information underlying Company Z's estimates that also is relevant to an estimate of fair value.

The staff is not suggesting that an acquiring company should record assumed liabilities at amounts that reflect an unreasonable estimate. If Company Z's financial statements as of the acquisition date are not fairly stated in accordance with generally accepted accounting principles (GAAP) because of an improperly recorded liability, that liability should not serve as a basis for recording assumed amounts. That is, the correction of a seller's erroneous application of GAAP should not occur through the purchase price allocation. Rather, Company Z's financial statements should be restated to reflect an appropriate amount, with the resultant adjustment being applied to the historical income statement of Company Z for the period(s) in which the trends, events, or changes in operations and conditions that gave rise to the needed change in the liability occurred. It would also be inappropriate for Company Z to report the amount of any necessary adjustment in the period just prior to the acquisition, unless that is the period in which the trends, events, or changes in operations and conditions occurred. The staff would expect that such trends, events, and changes would be disclosed in Management's Discussion and Analysis in the appropriate period(s) if their effect was material to a company's financial position, results of operations or cash flows.

In summary, the staff believes that purchase price adjustments necessary to record liabilities and loss accruals at fair value typically are required, while merely adding an additional "cushion" of 10 or 20 or 30 percent to such account balances is not appropriate. To arrive at those fair values, the undiscounted cash flows must be projected, period by period, based on historical experience and discounted at the appropriate current market discount rate.

* * * * *

TOPIC 5: MISCELLANEOUS ACCOUNTING

* * * * *

P. *Restructuring Charges*

The term "restructuring charge" is not defined in the existing authoritative literature. While the events or transactions triggering the recognition [1] of what are often identified as restructuring charges vary, these charges typically result from the consolidation and/or relocation of operations, or the disposition or abandonment of operations or productive assets. Restructuring charges may be incurred in connection with a business combination, a change in an enterprise's strategic plan, or a managerial response to declines in demand, increasing costs, or other environmental factors.

Some types of restructuring charges, such as "exit costs," as defined in Emerging Issues Task Force [2] (EITF) Issue No. 94–3, *Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in a Restructuring)* (EITF 94–3), are recognized as liabilities and charged to operations when management commits to a restructuring plan, while other types of restructuring charges contemplated by the plan may not be recognized until they are actually incurred. The circumstances in which the intended actions of management result in the recognition of a liability are identified in either EITF 94–3 or EITF Issue No. 95–3, *Recognition of Liabilities in Connection with a Purchase Business Combination* (EITF 95–3), collectively referred to as the "Consensuses."

1. *Characteristics of an Exit Plan*

Accrual of certain involuntary employee termination benefits and exit costs under the Consensuses requires a commitment by the company to a termination or exit plan (hereinafter collectively referred to as an exit plan) that specifically identifies all significant actions to be taken.[3] Not all plans qualify under the Consensuses as a basis for recognizing a liability for exit costs or involuntary employee termination benefits.

Facts: Prior to year end, senior management of a company approves a plan to exit certain activities and terminate employees involuntarily. Approval by the board of directors is required by the Company's policies to implement the exit plan, but is not obtained until after year end.

Question 1: Would it be appropriate for the company to accrue exit costs and involuntary employee termination benefits as of year end pursuant to the Consensuses?

Interpretive Response: No. The Consensuses do not permit accrual of exit costs or involuntary employee termination benefits prior to the date the company is committed to an exit plan by management having the appropriate level of authority (the commitment date). The staff believes that if the Company's policies require board of directors' approval, or management elects to seek board of directors' approval, the appropriate level of authority needed to commit the company under the Consensuses would be that of the board of directors. If board of directors' approval is neither required nor sought, the appropriate level of authority would be at a level below the board of directors (e.g., chief executive officer). The appropriate level of authority would be a division or branch manager if that manager can and will commit the enterprise to incur particular exit costs or involuntary employee termination benefits without additional ratification or budget authorization.

Facts: Corporate management is developing an exit plan which will include involuntary employee terminations, plant shutdowns, and

---

[1] The Financial Accounting Standards Board (FASB) has on its agenda currently three projects which are expected to improve existing financial reporting with regard to certain aspects of liability recognition and presentation, including the recognition or nonrecognition of constructive obligations. In the interim, pending completion of the FASB's efforts to improve financial reporting in this area, the staff is providing interpretive guidance regarding the existing accounting requirements for exit costs. The staff will reconsider the guidance provided herein upon completion of the FASB's projects.

[2] The Emerging Issues Task Force is a private sector body established by the FASB. The Commission's Chief Accountant participates in the body's deliberations.

[3] Registrants should refer to the Consensuses for their specific requirements. Registrants are reminded that they are required at the commitment date to account for those types of costs (exit, termination, etc.) falling within the scope of the Consensuses that are incurred in connection with a qualifying exit plan in accordance with the Consensuses. That is, applying the Consensuses (being Level C GAAP per AU411.16) is not optional.

asset dispositions associated with the consolidation and reduction of operations in several of its business units. Senior management of the company has set a target of reducing its North American distribution costs by 50 percent within two years. However, the exit plan is in the development stage, with only initial cost estimates having been developed. The corporate management team currently is developing the more detailed plans, significant actions, and related budgets for which individual business units and plant managers will be held accountable and be required to execute. The more detailed plans will set forth how, when, and by whom the cost reductions will be achieved.

Question 2: Does the staff believe that exit costs may be accrued prior to the completion of a more detailed exit plan?

Interpretive Response: No. The EITF set restrictive standards for plan specificity when it stated in EITF 94–3, "The exit plan *specifically identifies all significant actions* to be taken to complete the exit plan . . . *and the period of time to complete the exit plan indicates that significant changes to the exit plan are not likely* (emphasis added)." Consistent with the intent of the EITF, and to minimize the opportunities for earnings management, the staff believes that a liability for exit costs arising from a discretionary management action should be accrued only if the discretionary action is part of a comprehensive plan that has been rigorously developed and thoroughly supported.

In assessing whether an exit plan has sufficient detail, the staff would expect generally that a company's exit plan would be at least comparable in terms of the level of detail and precision of estimation to other operating and capital budgets the company prepares, such as annual business unit budgets. The absence of controls and procedures to detect, explain and, if necessary, correct variances or adjust accounting accruals would indicate that the plan lacked the authenticity and management commitment necessary for it to serve as a basis for recognizing a liability for exit costs.

The staff also believes that as a prerequisite to accruing exit costs at the commitment date, the company must be able to estimate reliably [4] the nature, timing, and amount of the exit costs associated with the significant actions it has specifically identified. Factors the staff believes should be considered when determining whether exit costs can be estimated reliably include whether:

- The estimate reflects the most likely expected outcome given all the information currently available to management;
- The exit plan identifies all significant actions expected to be taken;
- The exit plan includes an expected timetable for completing those actions;
- The plan is the one that will be used to evaluate the performance of those responsible for executing the plan and for making periodic comparisons of planned versus actual results and variances;
- *All significant actions* are documented in the plan in sufficient detail, including but not limited to details such as, geographic locations, estimated costs, expected cash flows, *etc.*;
- The components used in making the detailed calculation in the plan and arriving at the estimated liability (for example, per person costs, number of people, *etc.*) have a reasonably supportable basis; and
- The key assumptions used in developing the plan have a reasonably supportable basis.

Repeated material changes in the nature, timing, or amount of the estimated exit costs and involuntary termination benefits subsequent to the commitment date may also indicate an inability to make reliable estimates.

Facts: Company A operates five hundred retail outlets and has identified the specific location of 80 out of 100 stores which it intends to close pursuant to a store consolidation plan. The exit plan for the 80 stores identifies all significant actions and related costs in budget line item detail, such as lease termination costs, involuntary employee termination costs, store closure costs, subcontractor costs (where appropriate), *etc.* for each facility, as well as all other information specifically enumerated by the Consensuses. Management believes that the average cost to close the additional 20 stores will approximate the average cost of closing the 80 identified stores.

Question 3: Assuming that all other provisions of EITF 94–3 have been met, may Company A recognize a liability at the commitment date for the exit costs and involuntary termination benefits associated with all 100 stores?

Interpretive Response: No. While recognition of estimated exit costs and involuntary termination benefits for the 80 identified stores is appropriate, the staff believes that Company A has not met the requirements in EITF 94–3 for the 20 stores yet to be identified. The staff believes that all exit costs and involuntary termination benefits should be identified by specific property location and that no higher level of identification or aggregation (*e.g.*, country, region, state, county, *etc.*) is appropriate under the guidance in EITF 94–3. If and when Company A identifies the specific locations of other stores, the involuntary termination benefits, the exit costs, and the exit plan associated with those stores should be evaluated and accounted for as a new exit plan under the Consensuses rather than a revision of the exit plan for the 80 stores.

Although Company A may be unable to specifically identify significant actions to be taken to complete some parts of the exit plan (and so recognizing a liability currently under the Consensuses is not appropriate), management should consider its disclosure obligations under the Commission's rules and regulations regarding its future plans, including those obligations relating to Management's Discussion and Analysis (MD&A).

Question 4: If Company A decides not to close one of the stores in a period following the quarter in which it recognized a liability for exit costs and involuntary employee termination benefits for the 80 identified stores, may Company A leave the accrued exit costs and involuntary employee termination benefits for that store on its balance sheet in anticipation of costs expected to be incurred when other stores are identified for closing?

Interpretive Response: No. Exit costs and involuntary employee termination benefits accrued for the store should be reversed. At each balance sheet date (annual or interim), exit cost and involuntary employee termination benefits accruals should be evaluated to ensure that any accrued amount no longer needed for its originally intended purpose is reversed in a timely manner. When an exit, termination, or other loss accrual is no longer appropriate, reversal of the liability should be recorded through the same income statement line item that was used when the liability was initially recorded. Generally accepted accounting principles (GAAP) do not permit unused or excess liability accruals to be retained as general accruals, used for purposes other than that for which the liability was established initially, or returned to earnings over time and in small amounts. Furthermore, costs actually incurred in connection with an exit plan should be charged to the exit accrual only to the extent those costs

[4] See FASB Concept Statement No. 2, *Qualitative Characterisitics of Accounting Information* and FASB Concept Statement No. 5, *Recognition and Measurement in Financial Statements of Business Enterprises*, paragraph 63.

were specifically included in the original estimation of the accrual. Costs incurred in connection with an exit plan but not specifically contemplated in the original estimate of the liability for exit costs and involuntary employee termination benefits should be charged to operating expense in the period incurred, or the period that the exit cost or involuntary termination benefit qualifies for accrual under EITF 94–3, with appropriate explanation in MD&A.

Companies should have appropriate internal accounting controls with respect to exit, termination, or other loss accruals and the related expenses. These controls must ensure the company is in compliance with Section 13(b) of the Securities Exchange Act of 1934 and provide a reasonable basis for ensuring adjustments required by GAAP (increases or decreases) with respect to such liabilities are made on a timely basis.

Question 5: The Consensuses require that the exit plan begin as soon as possible after the commitment date and that the time needed to complete it indicates that significant changes in the plan (due to changing market conditions or other external factors, for example) are unlikely. What factors may indicate that an exit plan will not begin or be executed within a period of time that significant changes in the plan are unlikely?

Interpretive Response: Based on the staff's experience, a number of factors may indicate that an exit plan might not begin or be executed within a period of time that is short enough to allow a company to appropriately conclude that significant changes in the exit plan are unlikely (and consequently, that recognizing a liability pursuant to the Consensuses would not be appropriate), including:

1. Where all significant actions to be undertaken pursuant to the plan have not been identified with sufficient specificity or are not reasonably estimable,
2. Where it is likely that execution of the plan will be delayed due to events or circumstances that are reasonably likely to occur, or
3. Where a company lacks the internal controls or information needed to monitor effectively the activities being performed, compare the costs incurred to the plan, and make adjustments to the plan on a timely basis.

Facts: In the first quarter of 2000, a company develops a strategic plan to restructure four divisions during the next three years. The exit plan will be implemented one division at a time.

Question 6: May the company recognize a liability for the exit costs and involuntary employee termination benefits for all four divisions in the first quarter of 2000?

Interpretive Response: The Consensuses contemplate completion of an exit plan within a time period that indicates that significant changes in the exit plan are unlikely. In order to satisfy that condition, the staff believes that management must be able to make reasonable estimates of the exit costs and involuntary employee termination benefits, and that those estimates would not be likely to change materially within that time period. Today's dynamic and constantly changing business environment often affects a company's ability to identify exit activities to be undertaken and estimate exit costs and involuntary employee termination benefits to be incurred after the commitment date with sufficient precision and specificity to permit the accrual of those costs at the commitment date [5] under the Consensuses. Thus, the staff generally believes that the further out an exit activity is from the commitment date, the greater the risk that either all or part of the exit plan will be materially revised in response to events or circumstances that are reasonably likely to occur. Furthermore, the staff also observes that many of the illustrative examples in EITF 94–3 assume completion of significant actions within one year of the commitment date.[6] Therefore, the staff believes that a rebuttable presumption exists that the exit plan should be completed and the exit costs and involuntary employee termination benefits incurred within one year from the commitment date.

The staff recognizes, however, that an exit plan might not be completed within one year of the commitment date due to circumstances outside the company's control. Circumstances outside the company's control would include, for example, legal or contractual restrictions on the company's ability to complete the exit plan, such as existing union contracts or enacted legal restrictions concerning the length of notice required to involuntarily terminate employees. In such circumstances, management should have appropriate evidence and support for concluding that execution of its plan will not be materially affected by intervening developments and that reasonable estimates of the nature, timing, and amount of exit costs and involuntary employee termination benefits can be made so far in advance.

Facts: As of the balance sheet date, Company A's exit plan provides only that it will terminate involuntarily a certain number of employees within certain grades and classes of employees in connection with consolidation of 10 facilities in Europe. The specific grades of employees to be terminated involuntarily have not been identified at the balance sheet date. Company A has not made any announcement regarding its exit or termination plans. The involuntary termination benefits are expected to vary based on the grade and class of employee as well as the country in which the worker is employed.

Question 7: Assuming that the board of directors of Company A approves the exit and termination plans in the condition described above by year end, in the staff's view, may Company A recognize a liability at the balance sheet date for the costs it expects to incur to terminate involuntarily certain grades of employees within certain classes of employees pursuant to the Consensuses?

Interpretive Response: No. In order to recognize a liability for the cost to terminate employees involuntarily, the Consensuses require that the exit plan must specifically identify (a) the benefit formula to be used for determining individual employee involuntary termination payments, (b) the number of employees to be involuntarily terminated, and (c) the employees' job classifications or functions and locations.

Furthermore, the EITF considered notification to be an essential element obligating the employer to fulfill its commitment, giving rise to a liability. Therefore, the employees within the classifications or functions at risk of being involuntarily terminated must also be notified of the pending involuntary termination prior to the balance sheet date. The notification must include the provisions of the involuntary termination benefit formula in sufficient detail such that each employee would be able to calculate the severance benefit to be received if terminated involuntarily.

In this example, Company A has not met the notification requirements of the

---

[5] For purposes of EITF 95–3, the date the plan is finalized, not to exceed one year from consummation.

[6] A one-year period is also consistent with Accounting Principles Board Opinion (APB) No. 30, *Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions* (APB 30), SAB No. 93, *Accounting and Disclosures Regarding Discontinued Operations*, FASB Statement of Financial Accounting Standards No. 38, *Accounting for Preacquisition Contingencies of Purchased Enterprises*, EITF Issue No. 87–11, *Allocation of Purchase Price to Assets to Be Sold* and Statement on Auditing Standards No. 59, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern*.

Consensuses, nor does it appear that Company A has finalized the information called for under (a), (b), or (c) referred to above.[7]

2. *Characteristics of Exit Costs*

Under the Consensuses, an exit cost is a cost that results from a plan to exit an activity pursuant to a qualified exit plan and that meets all of the following conditions:

1. The cost is not associated with or does not benefit activities that will be continued.

2. The cost is not associated with or is not incurred to generate revenues after the commitment date.

3. The cost meets one of the following criteria:

a. It is incremental to other costs incurred in the company's conduct of its activities prior to the commitment date and will be incurred as a direct result of the exit plan; or

b. The cost will be incurred under a contractual obligation that existed prior to the commitment date and will either continue after the exit plan is completed with no economic benefit to the company or be a penalty to cancel the contractual obligation.

FASB Concept Statement No. 6, *Elements of Financial Statements* (SFAC 6), paragraphs 35 to 43 and FASB Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies* (SFAS 5) provide guidance for when to recognize liabilities in general and loss contingencies in particular. Registrants should not analogize to the Consensuses for costs that are outside the scope of the Consensuses. Moreover, to fall within the scope of the Consensuses, a cost cannot be associated with or benefit continuing activities.

Facts: For existing customers of a product line or service that is to be discontinued, a company is developing a plan to transition the customers over the next year to a new product line or service.

Question 8: May the costs the company expects to incur to complete this transition be recognized as a liability for exit costs pursuant to the Consensuses as of the date the company commits to a plan to transition these existing customers?

Interpretive Response: No. The costs are being incurred in order to benefit future periods through the retention of customers, and with the expectation of generating future revenues. The staff believes that the costs to transition the customers may not be recognized as a liability for exit costs under the Consensuses and should be recognized and expensed as incurred in operating income.

Facts: A franchiser announces a franchisee cash incentive program in order to induce its franchisees to upgrade their equipment over the next year. The franchiser is not contractually obligated to make any payments to individual franchisees until the franchisees accept the offer and incur "qualifying" costs to upgrade their equipment, which costs are reimbursable by the franchiser.

Question 9: May the franchiser accrue the estimated cost of the incentive program at the date it announces the plan pursuant to the Consensuses?

Interpretive Response: No. The franchiser is incurring the cost in order to benefit continuing activities and with the expectation of indirect future economic benefit. Therefore, the staff believes that these are not exit costs. Furthermore, considering the definition and characteristics of a liability as provided in paragraphs 35 through 43 of SFAC 6 and SFAS 5, costs such as the above should not be accrued until the franchiser becomes contractually obligated to make such payments.

Facts: Company A licenses technology from Company B on a perpetual, exclusive basis, paying an annual royalty of 10 percent of sales. Prior to the balance sheet date, the board of directors of Company A approves a plan to renegotiate terms of the royalty arrangement. In exchange for reducing the annual royalty rate from 10 percent of all sales to 5 percent of the first $20 million in annual sales, Company A will propose to pay Company B a nonrecurring, lump-sum payment of $5 million. Although internally committed to the plan, as of the balance sheet date, Company A has not yet approached Company B regarding renegotiating the royalty terms of the technology license.

Question 10: May Company A recognize a liability at the balance sheet date pursuant to the Consensuses for its estimate of the cost to modify the royalty arrangement as well as the estimated nonrecurring, lump-sum payment by the company?

Interpretive Response: No. The lump-sum payment is outside the scope of exit costs contemplated by the Consensuses because it is being incurred to modify terms of an existing and continuing relationship. The staff does not believe that the modification of an executory contract (for example, license and royalty, purchase or sales commitments, servicing, *etc.*) represents the "exiting" of one contract and the initiation of a new, unrelated contract.[8] In addition, the staff notes that, although the board of directors of Company A has committed to a plan, Company B has not agreed to the terms under which it would accept modification of the royalty arrangement. Under these facts and circumstances, it does not appear to the staff that Company A would have a basis upon which to reasonably estimate the costs of changing the arrangement.

Under these facts and circumstances, the staff believes that any costs to modify the contract would not fall within the scope of the Consensuses. Furthermore, GAAP would not permit recognition of liabilities for costs associated with modifying the contract prior to their being incurred.

Facts: A company, in responding to significant staffing shortages, hires an executive search firm, agreeing to pay the firm a fixed fee for each successful recruitment. In addition, the company commits to pay the relocation costs of future employees recruited by the executive search firm.

Question 11: May the company accrue the estimated fees to be paid to the executive search firm as well as the estimated cost to relocate new employees at the date the company engages the firm and commits to the plan to pay relocation costs?

Interpretive Response: No. Such costs are being incurred to benefit continuing activities, are not necessarily incremental to other costs incurred by the company in the normal course of business, and do not represent obligations of the company at the date the company engages the executive search firm. That is, the staff believes that these costs are neither exit nor integration costs that will be incurred as a result of a purchase business combination and thus, they do not fall within the scope of the Consensuses.[9]

---

[7] While recognizing a liability at the commitment date pursuant to the Consensuses would not be appropriate, registrants are reminded to consider the requirements of FASB Statement of Financial Accounting Standards No. 88, *Employers Accounting for Settlements and Curtailments of Defined Pension Plans and for Termination Benefits* and FASB Statement of Financial Accounting Standards No. 112, *Employer's Accounting for Postemployment Benefits* for those involuntary termination benefits that may be payable pursuant to pre-existing contractual arrangements (*e.g.*, union contracts) or regulatory requirements (*e.g.*, national labor laws).

[8] The staff observes that not all contract terminations are exit activities within the scope of the Consensuses. The applicability of the Consensuses depends on the particular facts and circumstances surrounding the termination.

[9] For employee relocation costs incurred relative to employees of a company acquired in a business combination accounted for under the purchase method, registrants are reminded to consider the requirements of EITF 95–3.

VOL 64 ISS 230 DEC 1 1999 UMI

Rather, the fees to be paid to the executive search firm and the relocation costs should be recognized as liabilities as and when the services are provided.

Question 12: May the company accrue as an exit cost at the balance sheet date an asset impairment in accordance with the Consensuses for facilities it expects to close or dispose of?

Interpretive Response: No. The Consensuses address recognition of liabilities associated with exit plans and not recognition of losses associated with asset impairments. That is, the recognition of losses on asset impairments, even in connection with exit plans, does not fall within the scope of the Consensuses. The closure and disposition or abandonment of a registrant's own long-lived assets, such as manufacturing plants, not constituting a business segment in accordance with APB 30, would be accounted for in accordance with SFAS 121, with any losses on asset impairment being charged to operating income.[10]

3. *Income Statement Presentation of Restructuring Charges*

Facts: Because restructuring charges typically do not relate to "a single separate major line of business or class of customer," [11] they do not qualify for presentation as losses on the disposal of a discontinued operation. Additionally, since the charges are not both unusual and infrequent [12] they are not presented in the income statement as extraordinary items.

Question 13. * * *
Question 14. * * *
Question 15. * * *

4. *Disclosures*

Beginning with the period in which the exit plan is committed to, the Consensuses require disclosure, in *all* periods, *including interim* periods, until the exit plan is completed, of the following:

1. The amount of involuntary termination benefits accrued and charged to expense and their income statement classification.
2. The number of employees to be terminated.
3. A description of the employee group(s) to be terminated.
4. The actual amount of involuntary termination benefits paid and charged against the liability and the number of employees actually terminated pursuant to the exit plan.
5. Where the activities that will not be continued are significant to the enterprise's revenue or operating results or if the exit costs recognized at the commitment date are material:

a. A description of the major actions comprising the exit plan, activities that will not be continued, including the method of disposition, and the anticipated date of completion.

b. A description of the type and amount of exit costs recognized as liabilities and their income statement classification.[13]

c. A description of the type and amount of exit costs paid and charged against the liability.

d. The revenue and net operating income or losses from activities that will not be continued if those activities have separately identifiable operations for all periods presented.

6. The amount of any adjustment(s) to the liability account and whether the corresponding entry was recorded as an adjustment of the cost of an acquiree or included in the determination of net income for the period.
7. Where an acquirer has not finalized the plan to exit an activity or involuntarily terminate (relocate) employees of the acquiree as of the balance sheet date, a description of any unresolved issues, the types of additional liabilities that may result in a change to the purchase price allocation, and how any adjustments will be reported.[14]

Question 16: What specific disclosures about restructuring charges has the staff requested to fulfill the disclosure requirements of the Consensuses and Management's Discussion and Analysis (MD&A)?

Interpretive Response: The staff often has requested greater disaggregation and more precise labeling when exit and involuntary termination costs are grouped in a note or income statement line item with items unrelated to the exit plan.[15] For the reader's understanding, the staff has requested that discretionary, or decision-dependent, costs of a period, such as exit costs, be disclosed and explained in MD&A separately. Also to improve transparency, the staff has requested disclosure of the nature and amounts of additional types of exit costs and other types of restructuring charges [16] that appear quantitatively or qualitatively material, and requested that losses relating to asset impairments be identified separately from charges based on estimates of future cash expenditures.

The staff frequently reminds registrants that in periods subsequent to the commitment date that material changes and activity in the liability balances of each significant type of exit cost and involuntary employee termination benefits (either as a result of expenditures or changes in/reversals of estimates) should be disclosed in the footnotes to the interim and annual financial statements and discussed in MD&A. In the event a company recognized liabilities for exit costs and involuntary employee termination benefits relating to multiple exit plans, the staff believes presentation of separate information for each individual exit plan that has a material effect on the balance sheet, results of operations or cash flows generally is appropriate.

For material exit or involuntary employee termination costs related to an acquired business, the staff has requested disclosure in either MD&A or the financial statements of—

a. When the registrant began formulating exit plans for which accrual may be necessary,

b. The types and amounts of liabilities recognized for exit costs and involuntary employee termination benefits and included in the acquisition cost allocation, and

c. Any unresolved contingencies or purchase price allocation issues and the types of additional liabilities that may result in an adjustment of the acquisition cost allocation.

The staff has noted that the economic or other events that cause a registrant to consider and/or adopt an exit plan or

---

[10] Where an acquirer intends, at the consummation date, to dispose of certain of an acquiree's long-lived assets, registrants are reminded to consider the requirements of APB 16, EITF Issue No. 87–11, and EITF Issue No. 90–6 in allocating the purchase price to and subsequently accounting for such assets held for disposal.

[11] See APB 30, paragraph 13.

[12] See APB 30, paragraph 20.

[13] Registrants should refer to EITF Issue No. 96–9, *Classification of Inventory Markdowns and Other Costs Associated with a Restructuring* for additional comments as to income statement presentation. For example, the staff believes that inventory writedowns should be classified in the income statement as a component of cost of goods sold.

[14] Registrants are reminded of the requirements in FASB Statement No. 38, paragraph 4(b) and SAB Topic 2–A (7). The staff believes that the allocation period should not extend beyond the minimum reasonable period necessary to gather the information that the registrant has arranged to obtain for purposes of the estimate, and in any event usually should not exceed one year.

[15] EITF 94–3 requires that the effect of recognizing a liability for exit costs should be presented in income from continuing operations and not net of taxes. Refer to EITF 94–3 for additional guidance regarding the income statement presentation.

[16] Examples of common components of exit costs and other types of restructuring charges which should be considered for separate disclosure include, but are not limited to, involuntary employee terminations and related costs, changes in valuation of current assets such as inventory writedowns, long term asset disposals, adjustments for warranties and product returns, leasehold termination payments, and other facility exit costs, among others.

that impair the carrying amount of assets, generally occur over time. Accordingly, the staff believes that as those events and the resulting trends and uncertainties evolve, they often will meet the requirement for disclosure pursuant to the Commission's MD&A rules prior to the period in which the exit costs and liabilities are recorded pursuant to GAAP. Whether or not currently recognizable in the financial statements, material exit or involuntary termination costs that affect a known trend, demand, commitment, event, or uncertainty to management, should be disclosed in MD&A. The staff believes that MD&A should include discussion of the events and decisions which gave rise to the exit costs and exit plan, and the likely effects of management's plans on financial position, future operating results and liquidity unless it is determined that a material effect is not reasonably likely to occur. Registrants should identify the periods in which material cash outlays are anticipated and the expected source of their funding. Registrants should also discuss material revisions to exit plans, exit costs, or the timing of the plan's execution, including the nature and reasons for the revisions.

The staff believes that the expected effects on future earnings and cash flows resulting from the exit plan (for example, reduced depreciation, reduced employee expense, *etc.*) should be quantified and disclosed, along with the initial period in which those effects are expected to be realized. This includes whether the cost savings are expected to be offset by anticipated increases in other expenses or reduced revenues. This discussion should clearly identify the income statement line items to be impacted (for example, cost of sales; marketing; selling, general and administrative expenses; *etc.*). In later periods if actual savings anticipated by the exit plan are not achieved as expected or are achieved in periods other than as expected, MD&A should discuss that outcome, its reasons, and its likely effects on future operating results and liquidity.

The staff often finds that, because of the discretionary nature of exit plans and the components thereof, presenting and analyzing material exit and involuntary termination charges in tabular form, with the related liability balances and activity (*e.g.*, beginning balance, new charges, cash payments, other adjustments with explanations, and ending balances) from balance sheet date to balance sheet date, is necessary to explain fully the components and effects of significant restructuring charges. The staff believes that such a tabular analysis aids a financial statement user's ability to disaggregate the restructuring charge by income statement line item in which the costs would have otherwise been recognized, absent the restructuring plan (for example, cost of sales; selling, general, and administrative; *etc.*).

* * * * *

A.A. * * *

B.B. *Inventory Valuation Allowances*

Facts: Accounting Research Bulletin No. 43 (ARB 43), Chapter 4, Statement 5, specifies that: "A departure from the cost basis of pricing the inventory is required when the utility of the goods is no longer as great as its cost. Where there is evidence that the utility of goods, in their disposal in the ordinary course of business, will be less than cost, whether due to physical obsolescence, changes in price levels, or other causes, the difference should be recognized as a loss of the current period. This is generally accomplished by stating such goods at a lower level commonly designated as market."

Footnote 2 to that same chapter indicates that "In the case of goods which have been written down below cost at the close of a fiscal period, such reduced amount is to be considered the cost for subsequent accounting purposes."

Lastly, Accounting Principles Board Opinion No. 20, *Accounting Changes*, provides "inventory obsolescence" as one of the items subject to estimation and changes in estimates under the guidance in paragraphs 10–11 and 31–33 of that standard.

Question: Does the write-down of inventory to the lower of cost or market, as required by ARB 43, create a new cost basis for the inventory or may a subsequent change in facts and circumstances allow for restoration of inventory value, not to exceed original historical cost?

Interpretive Response: Based on ARB 43, footnote 2, the staff believes that a write-down of inventory to the lower of cost or market at the close of a fiscal period creates a new cost basis that subsequently cannot be marked up based on changes in underlying facts and circumstances.[17]

C.C. *Impairments*

Standards for recognizing and measuring impairment of the carrying amount of long-lived assets, certain identifiable intangibles, and goodwill related to those assets to be held and used are found in Statement of Financial Accounting Standards No. 121, *Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of* (SFAS 121). Additional guidance related to goodwill impairment is also provided in Accounting Principles Board (APB) Opinion No. 17, *Intangible Assets* (APB 17). The FASB currently has active projects addressing both SFAS 121 and APB 17 issues. The staff will reconsider the guidance provided below upon completion of those projects.

Facts: Company X has mainframe computers that are to be abandoned in six to nine months as replacement computers are put in place. The mainframe computers were placed in service in January 19X0 and were being depreciated on a straight-line basis over seven years. No salvage value had been projected at the end of seven years and the original cost of the computers was $8,400. The board of directors, with the appropriate authority, approved the abandonment of the computers in March 19X3 when the computers had a remaining carrying value of $4,600. No proceeds are expected upon abandonment. Abandonment cannot occur prior to the receipt and installation of replacement computers, which is expected prior to the end of 19X3. Management had begun reevaluating its mainframe computer capabilities in January 19X2 and had included in its 19X3 capital expenditures budget an estimated amount for new mainframe computers. The 19X3 capital expenditures budget had been prepared by management in August 19X2, had been discussed with the company's board of directors in September 19X2 and was formally approved by the board of directors in March 19X3. Management had also begun soliciting bids for new mainframe computers beginning in the fall of 19X2. The mainframe computers, when grouped with assets at the lowest level of identifiable cash flows, were not impaired on a "held and used" basis throughout this time period. Management had not adjusted the original estimated useful life of the computers (seven years) since 19X0.

Question 1: Company X proposes to recognize an impairment charge under SFAS 121 for the carrying value of the mainframe computers of $4,600 in March 19X3. Does Company X meet the requirements in SFAS 121 to classify the mainframe computer assets as "to be disposed of?"

Interpretive Response: No. SFAS 121, paragraph 15, provides that when management, having the authority to approve the action, has committed to a plan to dispose of the assets, whether by

[17] See also disclosure requirements for inventory balances in Rule 5–02–6 of Regulation S–X.

sale or abandonment, the assets to be disposed of should be reported at the lower of carrying amount or fair value less cost to sell. The staff believes that registrants must also consider the criteria in APB Opinion No. 30, *Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions* (APB 30), paragraph 14, and Emerging Issues Task Force Issue No. 94–3, *Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (Including Certain Costs Incurred in a Restructuring)* (EITF 94–3) to determine whether a plan is sufficiently robust to designate the assets as assets to be disposed of. APB 30 and EITF 94–3 require a plan to have the following characteristics:

- Prior to the date of the financial statements, management having the appropriate level of authority approves and commits the enterprise to a formal plan of disposal, whether by sale or abandonment;
- The plan specifically identifies all major assets to be disposed of, significant actions to be taken to complete the plan, including the method of disposition and location of those activities, and the expected date of completion;
- There is an active program to find a buyer if disposal is to be by sale;
- Management can estimate proceeds to be realized on disposal;
- Actions required by the plan will begin as soon as possible after the commitment date; and
- The period of time to complete the plan indicates that significant changes to the plan are not likely.

The staff believes that a necessary condition of a plan to dispose of assets in use is that management have the current ability to remove the assets from operations. For example, the staff believes that the above fact pattern would not qualify as a plan of disposal under SFAS 121 in March 19X3 because the mainframe computer assets cannot be taken out of service and abandoned prior to installing the new, but not yet available, mainframe computers. The operational requirement to continue to use the assets is indicative that the assets are still held for use. The staff does not intend this guidance to mean that assets to be sold must be removed from service in order to be designated as assets held for disposal. Rather, the company must be able to remove the assets from service upon identification of a buyer or receipt of an acceptable bid, but the assets can otherwise remain in service provided the criterion in SFAS 121 has been met. If a buyer is found and an acceptable offer is received, but the assets must be retained by the seller for some period due to ongoing operational needs, the criterion for "to be disposed of" treatment has not been met.

The staff also believes that an active program to find a buyer exists only if the marketing effort commenced promptly after the commitment date and continued unabated until the sale was accomplished.

Question 2: Would the staff accept an adjustment to write down the carrying value of the computers to reflect a "normalized depreciation" rate for the period from March 19X3 through actual abandonment (*e.g.*, December 19X3)? Normalized depreciation would represent the amount of depreciation otherwise expected to be recognized during that period without adjustment of the asset's useful life, or $1,000 ($100/month for ten months) in the example fact pattern.

Interpretive Response: No. Whether the mainframe computers are viewed as "to be disposed of" or "held and used" at March 19X3, there is no basis under SFAS 121 to write down an asset to an amount that would subsequently result in a "normalized depreciation" charge through the disposal date. For an asset that meets the requirements to be classified as "to be disposed of" under SFAS 121, paragraph 15 of that standard requires the asset to be valued at the lower of carrying amount or fair value less cost to sell. For assets that are classified as "held and used" under SFAS 121, an assessment must first be made as to whether the asset is impaired. Paragraph 6 of SFAS 121 indicates that an impairment loss should be recognized only if the sum of the expected future cash flows (undiscounted and without interest charges) is less than the carrying amount of the asset(s) grouped at the lowest level of identifiable cash flows. If an impairment loss is to be recognized for an asset to be "held and used," it is measured as the amount by which the carrying amount of the asset exceeds the fair value of the asset. The staff would object to a write down of long-lived assets to a "normalized depreciation" value as representing an acceptable alternative to the approaches required in SFAS 121.

The staff also believes that registrants must continually evaluate the appropriateness of useful lives assigned to long-lived assets, including identifiable intangible assets and goodwill.[18] In the above fact pattern, management had contemplated removal of the mainframe computers beginning in January 19X2 and, more formally, in August 19X2 as part of compiling the 19X3 capital expenditures budget. At those times, at a minimum, management should have reevaluated the original useful life assigned to the computers to determine whether a seven year amortization period remained appropriate given the company's current facts and circumstances, including ongoing technological changes in the market place. This reevaluation process should have continued at the time of the September 19X2 board of directors' meeting to discuss capital expenditure plans and, further, as the company pursued mainframe computer bids. Given the contemporaneous evidence that management's best estimate during much of 19X2 was that the current mainframe computers would be removed from service in 19X3, the depreciable life of the computers should have been adjusted prior to 19X3 to reflect this new estimate. The staff does not view the recognition of an impairment charge to be an acceptable substitute for choosing the appropriate initial amortization or depreciation period or subsequently adjusting this period as company or industry conditions change. The staff's view applies also to selection of, and changes to, estimated residual values. Consequently, the staff may challenge impairment charges for which the timely evaluation of useful life and residual value cannot be demonstrated.

Question 3: Although the carrying amount of goodwill related to assets to be held and used must be assessed for impairment in conformity with SFAS 121, paragraph 107 of that standard observes that cost of goodwill that is not identified with impaired assets (*i.e.*, "enterprise level") continues to be accounted for under APB 17. Companies are required by paragraph 31 of APB 17 to evaluate continually whether events and circumstances warrant revised estimates of useful lives or recognition of a charge-off of carrying amounts. APB 17 does not specify a particular quantitative methodology for measuring the existence or extent of an impairment. What methodologies are acceptable for determining impairment of "enterprise level" goodwill under APB 17?

Interpretive Response: Several methodologies have evolved for measuring impairment of enterprise level goodwill under APB 17. These

[18] See APB 17, paragraph 31, and SFAS 121, paragraph 6 and footnote 1.

methodologies appear to fall within three general categories: market value method, undiscounted cash flows methods, and discounted cash flows methods. A market value method compares the enterprise's net book value to the value indicated by the market price of its equity securities; if net book value exceeds market capitalization, the excess carrying amount of goodwill is written off. Cash flow methods employ forecasts of the enterprise's future cash flows, with comparison of the enterprise's net book value to (a) aggregate cash flow, or (b) the present value of those cash flows. The staff has observed variations in practice with respect to when a registrant will recognize an impairment of the carrying amount of enterprise goodwill depending on which of these methods is applied, how an enterprise's capitalization will be considered in cash flow forecasts, and how the discount rate is selected.

Regardless of the method used and the diversity in application of some of those methods, the staff believes that the evaluation of enterprise level goodwill cannot occur at a level which does not include all of the operations which benefit directly from that acquired intangible. If an acquired business has been managed as a separate business unit, the business unit may be the appropriate level to evaluate the related goodwill. In contrast, if the acquired business has been fully integrated into the registrant's operations, evaluation of the purchased goodwill would be appropriate only at the level of the registrant as a whole.

Question 4: A registrant's method of assessing and measuring the impairment of enterprise level goodwill under APB 17 is an accounting policy subject to APB Opinion No. 22, *Disclosure of Accounting Policies* (APB 22).[19] What disclosures would the staff expect regarding the method selected?

Interpretive Response: Until diversity in practice is reduced, a company that reports material amounts of unamortized cost of goodwill or that recognizes material amounts of goodwill amortization should describe the manner in which the carrying amount of enterprise level goodwill is assessed for recoverability and how and when any impairment would be measured. Materiality is to be assessed based on the relationship of the unamortized asset balance to other financial position measurements (including shareholders' equity) or of the relationship of the amortization expense to income statement measurements.

The staff believes that the policy adopted by the company, and the description of that policy included in the financial statements, should be explicit and refer to objective, rather than discretionary, factors. The staff would expect the following to be addressed:

- What conditions would trigger an impairment assessment of the carrying amount of enterprise level goodwill;
- What method—market value, discounted or undiscounted cash flows—would be used to measure an impairment;
- How the method would be implemented, including how interest charges would be considered in the assessment, how the discount rate would be selected, and other significant aspects of the policy.

When there is a change in the method used to assess the carrying value of goodwill, the Commission's rules[20] require a preferability letter from the company's auditors. The staff does not believe that it would be appropriate to rely on the guidance in SFAS 121 concerning impairments of long-lived assets to justify preferability of changes in the method of evaluating impairment of the carrying amount of enterprise level goodwill. For example, a company that previously changed from an undiscounted cash flow method to assess recoverability of enterprise level goodwill to a method that uses discounted cash flow could not justify a change back to an undiscounted cash flow method by reference to SFAS 121. The staff believes that, generally, a discounted cash flows approach is preferable to an undiscounted cash flows approach and a market value approach is preferable to using a discounted cash flows approach, assuming that market value is reliably determinable.

The staff believes that an impairment triggered by a change in accounting policy should be treated as a change in accounting principle inseparable from a change in estimate.[21] The impairment charge should be presented as a change in estimate within operating income (or loss) and not as the cumulative effect of a change in accounting principle.

Facts: Company A acquires 100 percent of Company B in a purchase business combination, with Company B becoming a wholly owned subsidiary of Company A. The acquisition cost of $1,000 is pushed down to Company B's financial records, resulting in an allocation of $300 to fixed assets, $600 to goodwill, and $100 to other net assets. The fixed assets are composed entirely of four manufacturing facilities.

Two years after the acquisition, Company A commits to a reorganization plan that calls for the relocation of Company B's manufacturing operations to facilities separately owned and operated by Company A. Company B's line of products will continue to be marketed. There will be no reduction in the level of output of Company B's products as a result of the relocation, nor will there be any diminution in expected profitability in future years. That level of profitability is expected to recover the remaining cost of the unamortized goodwill. Company A has committed to dispose of the manufacturing facilities of Company B and has met all of the criteria necessary to classify those assets as "to be disposed of" under SFAS 121. Company A expects to realize $200 in net proceeds from the sale of the four manufacturing facilities. The current carrying amounts for the facilities and goodwill are $280 and $480, respectively, which are not impaired on a "held and used" basis.

Question 5: Is it appropriate to recognize an impairment loss of $560 ($280+$480 − $200) based on the excess of the carrying amount of goodwill and fixed assets over net sales proceeds?

Interpretive Response: No. An impairment loss can be recognized only for the $80 loss ($280 − $200) on the sale of the facilities. Paragraph 123 of SFAS 121 indicates that goodwill related to assets to be disposed of by an entity should be accounted for under the provisions of APB 17, paragraph 32, which states:

"Ordinarily goodwill and similar intangible assets cannot be disposed of apart from the enterprise as a whole. However, a large segment or separable group of assets of an acquired company or the entire acquired company may be sold or otherwise liquidated, and all or a portion of the unamortized cost of the goodwill recognized in the acquisition should be included in the cost of the assets sold."

In the above fact pattern, the staff believes that the operations and business of Company B, which supported the initial premium resulting in the recognition of goodwill, were not diminished by the disposition of solely physical facilities. The underlying operations, customer relationships, future revenue streams, and business outlook remained intact and, as a result, the staff believes that it is inappropriate to treat the disposition of manufacturing

[19] See also APB Opinion No. 12, *Omnibus Opinion—1967*, regarding disclosure requirements for depreciable assets.

[20] See Rule 10–01(b)(6) of Regulation S–X.

[21] See paragraph 32 of APB Opinion No. 20, *Accounting* Changes.

VOL 64 ISS 230 DE 1 1999 UMI

facilities as if the business itself had been disposed of. The staff would object to the allocation of goodwill to the disposed manufacturing facilities.

Paragraph 19 of SFAS 121 requires disclosure of the results of operations of assets held for disposal. If revenues attributable to assets to be disposed of, that remain in operation for some period of time prior to their disposal, cannot be segregated because substantially the same revenues will continue after the assets are disposed of, the amount of the benefit from suspending depreciation, in accordance with SFAS 121, paragraph 16, should be disclosed. The effect associated with assets held for disposal should be discussed in Management's Discussion and Analysis (MD&A), if material.

Facts: Assume the same fact pattern as for Question 5, except that the four manufacturing facilities will be shut down, but not disposed of or abandoned. The four manufacturing facilities do not meet the criteria necessary to be classified as "to be disposed of" under SFAS 121 but are impaired on a "held and used" basis under SFAS 121. Company A intends to retain the four facilities in case the need arises in the future for further manufacturing capacity.

Question 6: Would the staff object to the company's proposal to recognize an impairment loss based on the excess of the carrying amount of goodwill and fixed assets over fair value?

Interpretive Response: Yes. Paragraph 12 of SFAS 121 specifies:

"If an asset being tested for recoverability was acquired in a business combination accounted for using the purchase method, the goodwill that arose in that transaction shall be accounted for as part of the asset grouping * * * in determining recoverability. If some but not all of the assets acquired in that transaction are being tested, goodwill shall be allocated to the assets being tested for recoverability on a pro rata basis using the relative fair values of the long-lived assets and identifiable intangibles acquired at the acquisition date unless there is evidence to suggest that some other method of associating the goodwill with those assets is more appropriate."

In the above fact pattern, the staff believes that it is inappropriate to allocate the carrying amount of the goodwill balance to the four facilities being evaluated for impairment. In this instance, the goodwill that existed at the time Company B was acquired principally was the result of a customer base, marketing activities, existing product lines and new products being developed. It did not relate to the fixed assets but, rather, the ongoing operations of the business, which have not been reduced in any way. The goodwill represents the inherent value of the going concern element of Company B and the ability of the entity to generate a return in excess of the return that could be generated on the acquired assets individually, all of which are still in place. The staff contrasts this scenario with one where facilities are eliminated in conjunction with a subsequent decision to abandon the product or business line housed in those facilitites. If the revenue producing activity and the facilities had been acquired in a business combination giving rise to recognition of goodwill, a portion of goodwill should be allocated to the facilities based on their relative fair value, unless another allocation method is more appropriate.

Question 7: Has the staff expressed any views with respect to company-determined estimates of cash flows used for assessing and measuring impairment of assets under SFAS 121?

Interpretive Response: In providing guidance on the development of cash flows for purposes of applying the provisions of SFAS 121, paragraph 9 of that standard indicates that estimates of expected future cash flows should be the best estimate based on reasonable and supportable assumptions and projections. Additionally, paragraph 9 indicates that all available evidence should be considered in developing estimates of expected future cash flows and that the weight given to the evidence should be commensurate with the extent to which the evidence can be verified objectively.

The staff recognizes that various factors, including management's judgments and assumptions about the business plans and strategies, affect the development of future cash flow projections for purposes of applying SFAS 121. The staff, however, cautions registrants that the judgments and assumptions made for purposes of applying SFAS 121 must be consistent with other financial statement calculations and disclosures and disclosures in MD&A. The staff also expects that forecasts made for purposes of applying SFAS 121 be consistent with other forward-looking information prepared by the company, such as that used for internal budgets, incentive compensation plans, discussions with lenders or third parties, and/or reporting to management or the board of directors.

For example, the staff has reviewed a fact pattern where a registrant developed cash flow projections for purposes of applying the provisions of SFAS 121 using one set of assumptions and utilized a second, more conservative set of assumptions for purposes of determining whether deferred tax valuation allowances were necessary when applying the provisions of Statement of Financial Accounting Standards No. 109, *Accounting for Income Taxes*. In this case, the staff objected to the use of inconsistent assumptions.

In addition to disclosure of key assumptions used in the development of cash flow projections, the staff also has required discussion in MD&A of the implications of assumptions. For example, do the projections indicate that a company is likely to violate debt covenants in the future? What are the ramifications to the cash flow projections used in the impairment analysis? If growth rates used in the impairment analysis are lower than those used by outside analysts, has the company had discussions with the analysts regarding their overly optimistic projections? Has the company appropriately informed the market and its shareholders of its reduced expectations for the future that are sufficient to cause an impairment charge? The staff believes that cash flow projections used in the impairment analysis must be both internally consistent with the company's other projections and externally consistent with financial statement and other public disclosures.

* * * * *

[FR Doc. 99–31160 Filed 11–30–99; 8:45 am]
BILLING CODE 8010–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4011 and 4022

Disclosure to Participants; Benefits Payable in Terminated Single-employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the appendix to the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans by adding the maximum guaranteeable pension benefit that may be paid by the PBGC with respect to a plan participant in a single-employer pension plan that terminates in 2000. This rule also amends the PBGC's regulation on Disclosure to Participants by adding information on 2000 maximum guaranteed benefit

amounts. The amendment is necessary because the maximum guarantee amount changes each year, based on changes in the contribution and benefit base under section 230 of the Social Security Act. The effect of the amendment is to advise plan participants and beneficiaries of the increased maximum guarantee amount for 2000.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4022(b) of the Employee Retirement Income Security Act of 1974 provides for certain limitations on benefits guaranteed by the PBGC in terminating single-employer pension plans covered under Title IV of ERISA. One of the limitations, set forth in section 4022(b)(3)(B), is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant (in the form of a life annuity beginning at age 65) by the PBGC. The ceiling is equal to "$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [$13,200]." This formula is also set forth in § 4022.22(b) of the PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022). The appendix to Part 4022 lists, for each year beginning with 1974, the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated in that year.

Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) provides special rules for determining the contribution and benefit base for purposes of ERISA section 4022(b)(3)(B). Each year the Social Security Administration determines, and notifies the PBGC of, the contribution and benefit base to be used by the PBGC under these provisions, and the PBGC publishes an amendment to the appendix to Part 4022 to add the guarantee limit for the coming year.

The PBGC has been notified by the Social Security Administration that, under section 230 of the Social Security Act, $56,700 is the contribution and benefit base that is to be used to calculate the PBGC maximum guaranteeable benefit for 2000. Accordingly, the formula under section 4022(b)(3)(B) of ERISA and 29 CFR § 4022.22(b) is: $750 multiplied by $56,700/$13,200. Thus, the maximum monthly benefit guaranteeable by the PBGC in 2000 is $3,221.59 per month in the form of a life annuity beginning at age 65. This amendment updates the appendix to Part 4022 to add this maximum guaranteeable amount for plans that terminate in 2000. (If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount is the actuarial equivalent of $3,221.59 per month.)

Section 4011 of ERISA requires plan administrators of certain underfunded plans to provide notice to plan participants and beneficiaries of the plan's funding status and the limits of the PBGC's guarantee. The PBGC's regulation on Disclosure to Participants (29 CFR Part 4011) implements the statutory notice requirement. This rule amends Appendix B to the regulation on Disclosure to Participants by adding information on 2000 maximum guaranteed benefit amounts. Plan administrators may, subject to the requirements of that regulation, include this information in participant notices.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and these amendments make no change in its method of calculation but simply list 2000 maximum guaranteeable benefit amounts for the information of the public, general notice of proposed rulemaking is not required.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects

29 CFR Part 4011

Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4022

Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR parts 4011 and 4022 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for Part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. The appendix to part 4022 is amended by adding a new entry to the table to read as follows. The introductory text is reproduced for the convenience of the reader and remains unchanged.

Appendix to Part 4022—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 4022.22(b) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
* * *	* *
2000	3,221.59

PART 4011—DISCLOSURE TO PARTICIPANTS

3. The authority citation for Part 4011 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1311.

4. Appendix B to part 4011 is amended by adding a new entry to the table to read as follows. The introductory text is reproduced for the convenience of the reader and remains unchanged.

APPENDIX B TO PART 4011—TABLE OF MAXIMUM GUARANTEED BENEFITS

If a plan terminates in—	The maximum guaranteed benefit for an individual starting to receive benefits at the age listed below is the amount (monthly or annual) listed below:							
	Age 65		Age 62		Age 60		Age 55	
	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual
*	*	*	*	*	*	*	*	*
2000	$3,221.59	$38,659.08	$2,545.06	$30,540.72	$2,094.03	$25,128.36	$1,449.72	$17,396.64

Issued in Washington, DC, this 19th day of November, 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–31044 Filed 11–30–99; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table that applies to any plan being terminated either in a distress termination or involuntarily by the PBGC with a valuation date falling in 2000, and is used to determine expected retirement ages for plan participants. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974. Under ERISA section 4041(c), guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with part 4044, subpart B. In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA Section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b), early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach "unreduced retirement age" (*i.e.*, the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by the PBGC to reflect changes in the cost of living, etc.

Tables II–A, II–B, and II–C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I–99 with Table I–00 in order to provide an updated correlation, appropriate for calendar year 2000, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I–00 will be used to value benefits in plans with valuation dates during calendar year 2000.

The PBGC has determined that notice of and public comment on this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2000, the plan administrator needs the updated table being promulgated in this rule. Accordingly, the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 2000.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—[AMENDED]

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. Appendix D to part 4044 is amended by removing Table I–99 and adding in its place Table I–00 to read as follows:

Appendix D to Part 4044—Tables Used to Determine Expected Retirement Age

TABLE I–00—SELECTION OF RETIREMENT RATE CATEGORY

(For Plans with valuation dates after December 31, 1999, and before January 1, 2001)

Participant reaches URA in year—	Participant's Retirement Rate Category is—			
	Low [1] if monthly benefit at URA is less than—	Medium [2] if monthly benefit at URA is		High [3] if monthly benefit at URA is greater than—
		From	To	
2001	430	430	1,814	1,814
2002	440	440	1,856	1,856
2003	450	450	1,899	1,899
2004	461	461	1,942	1,942
2005	471	471	1,987	1,987
2006	482	482	2,033	2,033
2007	493	493	2,080	2,080
2008	504	504	2,127	2,127
2009	516	516	2,176	2,176
2010 or later	528	528	2,226	2,226

[1] Table II–A.
[2] Table II–B.
[3] Table II–C.

* * * * *

Issued in Washington, DC, this 19th day of November, 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–31043 Filed 11–30–99; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 287

[DISA Instruction 630–225–8]

Defense Information Systems Agency Freedom of Information Act Program

AGENCY: Defense Information Systems Agency, DoD.

ACTION: Final rule.

SUMMARY: This part applies to the Department of Defense, Defense Information Systems Agency and the Office of the Manager, National Communications System (OMNCS). The regulation provides guidance on the implementation of the "Freedom of Information Act Program" within the Defense Information Systems Agency and the OMNCS. It was written to comply with the Freedom of Information Act, as amended by the "Electronic Freedom of Information Act" amendments of 1996.

EFFECTIVE DATE: November 30, 1999.

ADDRESSES: Defense Information Systems Agency, Attn: RGC (FOIA Officer), 701 South Courthouse Road, Arlington, VA 22204.

FOR FURTHER INFORMATION CONTACT: Robin M. Berger, (703) 607–6515.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 287 is not a significant regulatory action. The rule does not:

(1) Have an annual effect of the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This part would provide guidance on the implementation of the Freedom of Information Act Program within the Defense Information Systems Agency and the Office of the Manager, National Communications System (OMNCS). It was written to comply with the Freedom of Information Act, as amended by the Electronic Freedom of Information Act amendments of 1996.

Public Law 104–13, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This part would provide guidance on the implementation of the Freedom of Information Act Program within the Defense Information Systems Agency and the Office of the Manager, National Communications System (OMNCS). It was written to comply with the Freedom of Information Act, as amended by the Electronic Freedom of Information Act amendments of 1996.

List of Subjects in 32 CFR Part 287

Freedom of information.

Accordingly, 32 CFR part 287 is revised to read as follows:

PART 287—DEFENSE INFORMATION SYSTEMS AGENCY FREEDOM OF INFORMATION ACT PROGRAM

Sec.
287.1 Purpose.
287.2 Applicability.
287.3 Authority.
287.4 Duties of the FOIA Officer.
287.5 Responsibilities.

287.6 Duties of the DITCO and the DTIC FOIA Officers.
287.7 Fees.
287.8 Appeal rights.
287.9 Reports.
287.10 Questions.
287.11 "For Official Use Only" Records.

Authority: 5 U.S.C. 552.

§ 287.1 Purpose.

This part assigns responsibilities for the Freedom of Information Act (FOIA) Program for DISA.

§ 287.2 Applicability.

This part applies to DISA and the Office of the Manager, National Communications System (OMNCS).

§ 287.3 Authority.

This part is published in accordance with (IAW) the authority contained in 32 CFR part 286. It supplements 32 CFR part 286 to accommodate specific requirements of the DISA FOIA Program. However, 32 CFR part 286 takes precedence and shall be used for all issues not covered by this part.

§ 287.4 Duties of the FOIA officer.

The DISA FOIA Officer, located at DISA Headquarters, 701 S. Courthouse Road, Arlington, Virginia, is vested with the authority, within DISA, to release documentation for all requests of Agency records received by DISA directorates and field activities. The DISA FOIA Officer will:

(a) Make the materials described in 32 CFR 286.7 available for public inspection and reproduction. (A current index of this material will be maintained in accordance with 32 CFR 286.8).

(b) Establish education and training programs for all DISA employees who contribute to the DISA FOIA Program.

(c) Respond to all requests for records from private persons IAW 32 CFR part 286 whether the requests are received directly by DISA Headquarters or by DISA field activities. Coordinate proposed releases with the General Counsel in any case in which the release is, or may be, controversial. Coordinate all proposed denials with the General Counsel.

(d) Be the DISA principal point of contact for coordination with the Directorate for Freedom of Information and Security Review (DFOISR) Washington Headquarters Services, reference FOIA issues.

(e) Ensure the cooperation of DISA with DFOISR in fulfilling the responsibilities of monitoring the FOIA Program.

(f) Coordinate cases of significance with DFOISR, after coordination with the General Counsel and with the approval of the Chief of Staff, when the issues raised are unusual, precedent setting, or otherwise require special attention or guidance.

(g) Advise DFOISR prior to the denial of a request or prior to an appeal when two or more DoD components are affected by the request for a particular record or when circumstances suggest a potential public controversy.

(h) Ensure completion of the annual reporting requirement contained in 32 CFR part 286.

§ 287.5 Responsibilities

(a) *Deputy Directors, Headquarters, DISA; Commanders and Chiefs of DISA Field Activities; and the Deputy Manager, NCS.* These individuals will furnish the FOIA Officer, when requested, with DISA documentary material, which qualifies as a record IAW 32 CFR part 286, for the purpose of responding to FOIA requests.

(b) *Chief of Staff.* The Chief of Staff will, on behalf of the Director, DISA, respond to the corrective or disciplinary action recommended by the Merit Systems Protection Board for arbitrary or capricious withholding of records requested, pursuant to the Freedom of Information Act, by military members or civilian employees of DISA. (This will be coordinated with the General Counsel.)

(c) *General Counsel.* The General Counsel or, in his or her absence, the Deputy General Counsel, is vested with the authority to deny, in whole or in part, a FOIA request received by DISA. The General Counsel will:

(1) Make the decision to deny a record in whole or in part; to deny a fee category claim; to deny a request for waiver or reduction in fees; to deny a request to review an initial fee estimate; to deny a request for expedited processing; or to confirm that no records were located during the initial search IAW 5 U.S.C. 552, as supplemented by the guidance provided in 32 CFR part 286

(2) Inform the person denied the basis for the denial of the request and of his or her right to appeal the decision to the Director, DISA, via written correspondence.

(3) Review any appeal the public may consider adverse in nature and ensure that the basis for the determination by the Director, DISA, be in writing, state the reasons for the denial, and inform the requester of his or her right to a judicial review in the appropriate U.S. District Court.

(4) Arrange for the publication of this part in the **Federal Register**.

(d) Chief, Legal Counsel, Defense Information Technology Contracting Organization (DITCO). The Chief Legal Counsel, DITCO, or, in his or her absence, the Deputy Legal Counsel, DITCO, is vested with same authority and responsibilities, for DITCO, as stated in paragraph (c) of this section.

(e) Administrator, Defense Technical Information Center (DTIC). The Administrator, DTIC, is vested with the same authority and responsibilities, for DTIC, as stated in paragraph (c) of this section.

§ 287.6 Duties of the DITCO and the DTIC FOIA officers.

(a) *DITCO FOIA Officer.* The DITCO FOIA Officer, located at 2300 East Drive, Scott AFB, IL 62225, is vested with the authority, within DITCO, to release documentation for all requests of records received by DITCO and its field activities, as stated in § 287.4 (a), (b), and (c) and assist the DISA FOIA officer in carrying out the duties stated in § 287.4 (d) and (h).

(b) *DTIC FOIA Officer.* The DTIC FOIA Officer, located at 8725 John J. Kingman Road, Suite 0944, Ft. Belvoir, VA 22060, is vested with the authority, within DTIC, to release documentation for all requests of records within DTIC, as stated in § 287.4 (a), (b), and (c) and assist the DISA FOIA officer in carrying out the duties stated in § 287.4 (d) and (h).

§ 287.7 Fees.

Fees charged to the requester are contained in 32 CFR part 286.

§ 287.8. Appeal rights.

All appeals should be addressed to the Director, DISA, and be postmarked no later than 60 days after the date of the initial denial letter.

§ 287.9. Reports.

An annual report will be furnished to the FOIA Officer by the field activities by 15 October IAW 32 CFR part 286.

§ 287.10 Questions.

Questions on both the substance and procedures of the FOIA and the DISA implementation thereof should be addressed to the FOIA Officer by the most expeditious means possible, including telephone calls, faxes, and electronic mail. FOIA requests should be addressed as follows: Defense Information Systems Agency, 701 S. Courthouse Road, Arlington, VA 22204–2199, Attn: RGC. Calls should be made to (703) 607–6515. Faxed requests should be addressed to the FOIA Officer at (703) 607–4344. Electronic mail requests should be addressed to bergerr@ncr.disa.mil.

§ 287.11 "For Official Use Only" Records.

The designation "For Official Use Only" will be applied to documents and other material only as authorized by 32 CFR part 286 and DoD 5200.1–R.[1]

Dated: November 24, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–31118 Filed 11–30–99; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–089]

RIN 2115–AE46

Special Local Regulations for Marine Events; New Year's Celebration Fireworks, Patapsco River, Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the New Year's Celebration Fireworks, to be held over the waters of the Patapsco River, Baltimore, Maryland. These special local regulations are needed to protect spectators and other vessels transiting the event area from the dangers associated with the fireworks displays. The effect will be to restrict general navigation in the regulated areas in order to enhance the safety of life and property during the event.

DATES: This rule is effective from 11:45 p.m. on December 31, 1999 to 12:35 a.m. on January 1, 2000, and from 6:45 p.m. to 7:35 p.m. on January 1, 2000.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD 05–99–089] and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia, 23704–5004, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Operations Division, Auxiliary Section, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

[1] Copies may be obtained via Internet at http://web7.whs.osd.mil/corres.htm

Regulatory Information

On October 8, 1999, we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations for Marine Events; New Year's Celebration Fireworks, Patapsco River, Baltimore, MD" in the **Federal Register** (64 FR 54849). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The Baltimore Office of Promotions will sponsor the New Year's Celebration Fireworks, to be held over the waters of the Patapsco River, Baltimore, Maryland. The event will consist of pyrotechnic displays fired from 2 barges positioned in the Inner Harbor and Northwest Harbor. A fleet of spectator vessels is anticipated. Due to the need for vessel control during the fireworks displays, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulated area will only be in effect for a limited amount of time, extensive advisories will be made to the affected maritime community so that they may adjust their schedules accordingly, and the event schedule will allow commercial interests to coordinate their activities to allow for minimum disruption to their enterprise.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

The Coast Guard expects the impact of this proposed rule to be minimal. The regulated area will only be in effect for a limited amount of time, extensive advisories will be made to the affected maritime community so that they may adjust their schedules accordingly, and the event schedule will allow commercial interests to coordinate their activities to allow for minimum disruption to their enterprise.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. No requests for assistance were received.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. An "Environmental Analysis Checklist" and a "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C 1233 through 1236; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T05–089 is added to read as follows:

§ 100.35–T05–089 New Year's Celebration Fireworks, Patapsco River, Baltimore, MD.

(a) *Regulated areas:*

(1) *Inner Harbor Regulated Area.* The waters of the Patapsco River enclosed within the arc of a circle with a radius of 400 feet and with its center located at latitude 39°16′54″ North, longitude 076°36′18″ West. All coordinates reference Datum NAD 1983.

(2) *Northwest Harbor Regulated Area.* The waters of the Patapsco River enclosed within the arc of a circle with a radius of 500 feet and with its center located at latitude 39°16′36″ North, longitude 076°35′48″ West. All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(c) *Special local regulations:*

(1) All persons and/or vessels not authorized as official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Activities Baltimore.

(2) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(3) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by the official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by the official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(d) *Effective dates.* This section is effective from 11:45 p.m. on December 31, 1999 to 12:35 a.m. on January 1, 2000, and from 6:45 p.m. to 7:35 p.m. on January 1, 2000.

Dated: 22 November 1999.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard, Commander Fifth Coast Guard District.

[FR Doc. 99–31127 Filed 11–30–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–096]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.511 for the Eastport Yacht Club Lighted Boat Parade, a marine event to be held December 11, 1999, on the waters of Spa Creek and the Severn River at Annapolis, Maryland. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and vessels transiting the event area.

DATES: This rule is effective from 4:45 p.m. to 9:15 p.m. on December 11, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. L. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, (401) 576–2674.

SUPPLEMENTARY INFORMATION: The Eastport Yacht Club will sponsor a lighted boat parade on the waters of the Severn River and Spa Creek at Annapolis, Maryland. The event will consist of approximately 50 vessels, ranging in length from 20 to 55 feet, traveling at slow speed along two separate parade routes in Annapolis Harbor. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.511 will be in effect for the duration of the event. Under provisions of 33 CFR 100.511, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will only be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: November 22, 1999.

J. E. Shkor,

Vice Admiral, U.S. Coast Guard Commander Fifth Coast Guard District.

[FR Doc. 99–31130 Filed 11–30–99 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–187]

Drawbridge Operation Regulations: Acushnet River, Annisquam River, Fore River, and Taunton River, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations and request for comments.

SUMMARY: The Commander, First Coast Guard District has issued a temporary deviation from the existing drawbridge regulations governing the Route 6 Bridge, mile 0.0, across the Acushnet River between New Bedford and Fairhaven; the Route 127 Bridge, mile 0.0, across the Annisquam River in Gloucester; the SR3A Bridge, mile 3.5, across the Fore River between Quincy and Weymouth, and the Route 6 Bridge, mile 1.8, across the Taunton River between Fall River and Somerset, all located in Massachusetts. This deviation from the operating regulations is necessary to test an alternate drawbridge operation schedule for the Christmas and New Year holidays. It is expected

that this alternate schedule will relieve the bridge owner of the requirement to crew the bridge on the holidays and still meet the reasonable needs of navigation.

DATES: This deviation is effective from December 24, 1999 to January 1, 2000. Comments must reach the Coast Guard on or before January 31, 2000.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, 408 Atlantic Avenue, Boston, MA 02110–3350, or deliver them at the same address between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at the above address, 7 a.m. to 3 p.m., Monday through Friday, except, Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit comments, written data, views, or arguments, concerning this deviation from the drawbridge operation regulations. Persons submitting comments should include their names and addresses, identify this notice (CGD01–99–187) and give reasons for each comment. The Coast Guard requests that all comments and attachments be no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. Persons may submit comments by writing to, Commander (obr), First Coast Guard District, 408 Atlantic Avenue, Boston, Massachusetts 02110–3350.

Background

The Route 6 Bridge (Acushnet River) has a vertical clearance of 8 feet at mean high water (MHW) and 12 feet at mean low water (MLW). The Route 127 Bridge has a vertical clearance of 7 feet at MHW and 16 feet at MLW. The Quincy-Weymouth SR3A Bridge has a vertical clearance of 33 feet at MHW and 43 feet at MLW. The Route 6 Bridge (Taunton River) has a vertical clearance of 27 feet at MHW and 31 feet at MLW.

The existing regulations for the Route 6 Bridge (Acushnet River) listed at 33 CFR 117.585 require the bridge to open on signal on the hour between 6 a.m. and 10 a.m., open at a quarter past the hour from 11:15 a.m. to 6:15 p.m., and at all other times on signal. The Route 127 Bridge is governed by 33 CFR 117.5 and is required to open on signal at all times. The existing regulations for the Quincy Weymouth SR3A Bridge listed at 33 CFR 117.621 require it to open on signal; except that, from 6:30 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, except holidays, the draw will not open for vessel traffic. The draw opens at all times for self-propelled vessels greater than 10,000 gross tons. The existing regulations for the Route 6 Bridge (Taunton River) listed at 117.5 require it to open on signal at all times.

The bridge owner, Massachusetts Highway Department (MHD), asked the Coast Guard to change the operating regulations for the above bridges to require a two-hour advance notice from 6 p.m. on December 24, 1999, to midnight on December 25, 1999, and from 6 p.m. on December 31, 1999, to midnight on January 1, 2000. There have been no requests to open these bridges on the above dates in past years.

The purpose of this temporary deviation is to test an alternate operating schedule for holiday hours at the above bridges. Under this temporary deviation from the regulations the Route 6 Bridge, mile 0.0, across the Acushnet River, between New Bedford and Fairhaven, the Route 127 Bridge, mile 0.0, across the Annisquam River in Gloucester, the SR3A Bridge, mile 3.5, across the Fore River between Quincy and Weymouth, and the Route 6 Bridge, mile 1.8, across the Taunton River between Fall River and Somerset, all located in Massachusetts, shall operate as follows: The draws shall open on signal if at least a two-hour advance notice for bridge openings is given from 6 p.m. on December 24, 1999, to midnight December 25, 1999, and from 6 p.m. on December 31, 1999, to midnight on January 1, 2000. Requests for openings may be made by calling the Massachusetts Highway Department at 1–(800) 227–0608.

Vessels that can pass under the bridges without openings may do so at all times. This deviation is authorized under 33 CFR 117.43.

Dated: November 22, 1999.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 99–31128 Filed 11–30–99 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 127, 154, 155, 159, 164, and 183; and

46 CFR Parts 28, 30, 32, 34, 35, 38, 39, 54, 56, 58, 61, 63, 76, 77, 78, 92, 95, 96, 97, 105, 106, 109, 110, 111, 114, 119, 125, 151, 153, 154, 160, 161, 162, 163, 164, 170, 174, 175, 182, 190, 193, 195, and 199

[USCG–1999–5151]

RIN 2115–AF80

Update of Standards From the American Society for Testing and Materials (ASTM)

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard amends Titles 33 and 46, Code of Federal Regulations, to render current the standards incorporated by reference from the American Society for Testing and Materials (ASTM). Some of the standards incorporated were over 30 years out of date. This rule incorporates the most recent editions of the standards to ensure the use by regulated industry of the latest technology.

DATES: This direct final rule is effective on February 29, 2000, unless a written adverse comment, or written notice of intent to submit an adverse comment, reaches the Docket Management Facility on or before January 31, 2000. If you submit an adverse comment, or notice of intent to submit an adverse comment, the Coast Guard will withdraw this rule and publish a timely notice of withdrawal in the **Federal Register**. The incorporation by reference of publications in this rule was approved by the Director of the Federal Register on February 29, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–1999–5151), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

You may inspect the material incorporated by reference at room 1312, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, between 9 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–0257. Copies of the material are available as indicated in the "Incorporation by Reference" section of this preamble.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, call Ms. Janet Walton, Office of Standards, Evaluation and Development (G–MSR), U.S. Coast Guard, telephone 202–267–0257. For questions on viewing, or submitting material to, the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–1999–5151), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures for which appear in 33 CFR 1.05–55, because it anticipates no adverse comment. Unless, during the specified comment period, it receives either a written adverse comment or written notice of intent to submit one, this rule will become effective on February 29, 2000. In that case, shortly before or after that date, the Coast Guard will publish a document in the **Federal Register** stating that it received neither any written adverse comment nor any written notice of intent to submit one and confirming that this rule will or did become effective on February 29, 2000.

Nevertheless, if the Coast Guard receives either a written adverse comment or written notice of intent to submit one, it will publish a document in the **Federal Register** announcing withdrawal of all or part of this rule. If an adverse comment or a notice of intent to submit one applies to only part of this rule, and removal of that part is possible without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which it received no such comment or notice. In either case it will withdraw any part of this rule that was the subject of any such comment or notice. If it decides to proceed with a rulemaking following receipt of any such comment or notice, it will publish a separate Notice of Proposed Rulemaking (NPRM) and provide a new opportunity for comment.

A comment counts as "adverse" if it explains why this rule would be inappropriate or would be ineffective or unacceptable without a change, or challenges the premise or approach of the rule.

Background and Purpose

The Coast Guard uses standards established by other organizations, such as ASTM, as a means of establishing technical requirements. Incorporation by reference allows the Coast Guard to include these technical standards in its rules without increasing the volume of the Code of Federal Regulations (CFR). The **Federal Register** is the only medium through which the Coast Guard and other agencies can incorporate by reference. 1 CFR part 51 prescribes the methods and procedures for incorporation by reference.

This rule changes most of the 170 standards from ASTM now incorporated by reference in titles 33 and 46 of the CFR. Standards B 858, D 4268, F 1387, F 1548, and Adjunct F 1626 continue to call for the most recent technology and have not yet been withdrawn or updated by ASTM. ASTM typically updates each standard every 5 years.

ASTM has discontinued standards A 7, A 300, A 430, A 442, A 525, B 97, B 141, and D 1692 and replaced each with a different standard from ASTM. The Coast Guard has eliminated standards F 808 and F 989 from its rules without replacement since ASTM discontinued them, and the Coast Guard has determined that no replacement is necessary. The Coast Guard will incorporate the rest, which ASTM has updated. It will incorporate these because, in addition to its desire for industry to use the most recent technology, the older editions may be difficult for some parties to find.

Discussion of Rule

This rule contains two kinds of updates of standards from ASTM: (1) updates of those standards that bear the same numbers and same general technical contents but that ASTM has brought into more recent year-versions, and (2) updates of those that ASTM has discontinued and replaced or combined with others. A brief description of the two kinds follows:

(1) More Recent Year-Versions of Standards

ASTM has brought the standards listed below into more recent versions. The later versions bear the same general technical contents as the standards currently incorporated, but have been reviewed by ASTM committees on a five-year schedule and brought into new "year-versions." For example, ASTM standard A 27–80 (1980 version of standard A 27) is currently incorporated into the rules of the Coast Guard. The newer version of this standard is A 27–95 (1995 version of standard A 27).

In some cases, ASTM reviews the standards in its 5-year cycle and re-certifies them unchanged. Such standards appear here with the years of their re-certification in parentheses. For example, standard A 192–91 (1996) is the 1991 version of standard A 192 re-certified in 1996 unchanged.

During the review of standards, changes occur—or not—by consensus of the members of committees of ASTM. Since this process provides the opportunity for members of industry, government, and academia to participate, the Coast Guard considers the updated standards to have been adequately reviewed and to be technically sound.

ASTM has brought the following standards into more recent year-versions:

A 20, A 27, A 36, A 47, A 53, A 106, A 126, A 134, A 135, A 139, A 178, A 179, A 182, A 192, A 193, A 194, A 197, A 199, A 203, A 210, A 213, A 214, A 216, A 226, A 234, A 249, A 268, A 276, A 302, A 307, A 312, A 320, A 325, A 333, A 334, A 335, A 336, A 350, A 351, A 352, A 358, A 369, A 370, A 376, A 387, A 395, A 403, A 420, A 449, A 508, A 516, A 520, A 522, A 524, A 533, A 536, A 537, A 575, A 576, A 612, A 662, A 653, A 724, B 16, B 21, B 26, B 42, B 43, B 68, B 75, B 85, B 88, B 96, B 111, B 117, B 122, B 124, B 127, B 152, B 154, B 161, B 165, B 167, B 171, B 209, B 210, B 234, B 241, B 280, B 283, B 315, B 361, C 177, C 518, D 92, D 93, D 323, D 413, D 471, D 570, D 635, D 665, D 751, D 882, D 975, D 1004, D 1434, D 1435, D 1518, D 1621, D 1622, D 1785, D 2241, D 2464, D 2466, D 2467, D 2665, D 2777, D 2842, D 2863, D 4066, D 4986, E 11, E 23, E 84, E 119, E 208, E 648, E 662, F 631, F 682, F 715, F 722, F 1003, F 1006, F 1007, F 1014, F 1020, F 1120, F 1121, F 1122, F 1123, F 1139, F 1155, F 1172, F 1173, F 1196, F 1197, F 1199, F 1200, F 1201, F 1271, F 1273, F 1321, F 1323, F 1476, F 1546, and F 1548.

(2) Discontinued, Replaced, and Combined Standards

ASTM has completely discontinued some standards incorporated into the rules of the Coast Guard for either a lack of need by industry or the development of other, more modern standards. In some cases, ASTM has replaced the discontinued standards with current ones. In others, ASTM has discontinued standards with no replacements, and the Coast Guard has either removed them from its rules or replaced them with similar standards. In yet others, ASTM has combined two or more standards to form one common one.

Each of the following eleven standards falls into one of these three categories:

(1) ASTM A 7–65, "Standard Specifications for Steel for Bridges and Buildings." ASTM discontinued this standard in 1967 and replaced it with A 36–97a, "Standard Specification for Carbon Structural Steel." The Coast Guard has determined that this replacement is appropriate in its rules. The Coast Guard originally incorporated by reference ASTM A 7 into 46 CFR 160.032–1, which governs materials used for davits. It requires that structural steel made by the open-hearth or electric-furnace process meet this standard.

(2) ASTM A 199–84, "Specification for Seamless Cold-Drawn Intermediate Alloy-Steel Heat-Exchanger and Condenser Tubes." ASTM discontinued this standard in 1995 and replaced it with A 200, "Specification for Seamless Intermediate Alloy-Steel Still Tubes for Refinery Service, and A 213, Standard Specification for Seamless Ferritic and Austenitic Alloy-Steel Boiler, Superheater, and Heat-Exchanger Tubes." The Coast Guard originally incorporated by reference ASTM A 199 into 46 CFR Table 56.60–1(a) as an acceptable piping standard for alloy-steel condenser tubes. Since ASTM no longer promulgates ASTM A 199, the Coast Guard has removed it from its rules. But the Coast Guard cannot substitute ASTM A 200 for it yet, because too little time remained before this rule's going to press for the Coast Guard to analyze the new standard. Nevertheless, the same rules allow piping systems selected from the material specifications of the Code of the American Society of Mechanical Engineers (ASME), Section I, III, or VIII. And ASME may be adding A 200 to its own list of accepted standards in the near future; this, even without reference to ASTM, would allow its use. ASTM A 213, which is also a replacement for A 199, already appears in 46 CFR Table 56.60–1(a) and therefore does not need to be added to the rules.

(3) ASTM A 300, "Standard Specification for Notch Toughness Requirements for Normalized Steel Parts for Pressure Vessels." ASTM discontinued this standard in 1995 with no replacement, but expanded and incorporated it into A 20, "Standard Specification for General Requirements for Steel Plates for Pressure Vessels." This applies to the testing of plate materials. The Coast Guard has determined that ASTM A 20 will serve its purposes and by this rule incorporates it into 46 CFR 54.05–10. The Coast Guard edited its rules to direct the reader to the sections of ASTM A 20 that will apply.

(4) ASTM A 430–84a, "Standard Specification for Austenitic Steel, Forged and Bored Pipe for High-Temperature Service." ASTM discontinued this standard in 1995, and replaced it with A 312–95, "Standard Specification for Seamless and Welded Austenitic Stainless Steel Pipes." The Coast Guard has determined that it should eliminate ASTM A 430 from 46 CFR subpart 56.01 and also from Table 56.60–1(A), which lists standards acceptable for specific piping. ASTM A 312 already appears in this subpart, and remains available for use regardless of ASTM A 430.

(5) ASTM A 442, "Standard Specification for Pressure Vessel Plates, Carbon Steel, Improved Transition Properties." ASTM discontinued this standard in 1991 with no formal (committee-balloted) replacement. However, ASTM A 516, "Standard Specification for Pressure Vessel Plates, Carbon Steel, for Moderate and Lower Temperature Service" is the ASTM-recommended replacement. Both standards appear in 46 CFR 54.25–10, which concerns low-temperature operation of ferritic steels. In that section, certain materials, if below specified thicknesses, are exempt from the requirement for "Charpy impact tests." Material of Grade 55, called out by ASTM A 442, is one of these. Since ASTM has discontinued ASTM A 442, the Coast Guard has determined that it should delete it from this section. ASTM A 516 already appears there and therefore does not need to be added to the rules.

(6) ASTM A 525, "Standard Specification for General Requirements for Steel Sheet, Zinc-Coated (Galvanized) by the Hot-Dip Process." ASTM discontinued this standard in 1994 with no replacement. ASTM recommends using A 653, "Standard Specification for Steel Sheet, Zinc-Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process" in its place. The Coast Guard has determined that it should eliminate ASTM A 525 in 46 CFR 160.035–3(b), which specifies plating requirements for steel oar-propelled lifeboats. The Coast Guard has replaced ASTM A 525 with ASTM A 653.

(7) ASTM B 97, "Standard Specification for Copper Silicon-Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes." ASTM discontinued this standard in 1982, and replaced it with B 96, "Standard Specification for Copper Silicon Alloy Plate, Sheet, Strip and Rolled Bar for General Purposes and Pressure Vessels." The Coast Guard has determined that ASTM B 96 serves its purposes and can replace ASTM B 97 where the latter appears: in rules for construction of fuel tanks (46 CFR 58.50–5, 119.440, and 182.440). The Coast Guard has modified regulatory text in each of these rules, so that alloys "A and B" in ASTM B 97 give way to alloys C65100 and C65500 in B 96. (Alloy "C," referred to in the rules, is no longer manufactured and does not require an equivalent in B 96.)

(8) ASTM B 141–45, "Standard Specifications for Electrodeposited Coatings of Nickel and Chromium on Copper and Copper-base Alloys." ASTM discontinued this standard in 1967, and replaced it with B 456, "Standard Specification for Electro-deposited Coatings of Copper Plus Nickel Plus Chromium and Nickel Plus Chromium." The Coast Guard has determined that

ASTM B 456 serves its purposes. ASTM B 141 originally governed construction of searchlight reflectors, in 46 CFR 161.006–4. When the Coast Guard incorporated the new standard, it also revised regulatory text to accommodate the new standard, so that "type K C" in ASTM B 141 gives way to "service condition SC 1" in ASTM B 456.

(9) ASTM D 1692 and D 1692T, "Rate of Burning [or] Extent and Time of Burning of Cellular Plastics Using a Specimen Supported by a Horizontal Screen." ASTM discontinued these standards in 1978 with no formal (committee-balloted) replacement. ASTM D 4986–98, "Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials" will serve in their places. ASTM D 1692 is incorporated by reference into 46 CFR subparts 32.57 and 151.15, and helps test the fire-resistance of insulating-materials. This rule will incorporate ASTM D 4986–98 into § 38.01–3.

(10) ASTM F 989, "Standard Test Methods for Spill Control Barrier Tension Members." ASTM discontinued this standard in 1995 with no replacement. This standard was originally incorporated in 33 CFR parts 154 (Appendix C) and 155 (Appendix B), which include requirements for the testing of oil-response boom. The Coast Guard has determined that it is appropriate to eliminate the standard from the text without adding a replacement: The current regulatory text gives the reader the option of using old ASTM F 989, ASTM F 715 (Standard Methods of Testing Spill Control Barrier Membrane Materials), or any of several tests approved by the Coast Guard; and the latter two options remain available.

(11) ASTM F 808, "Standard Guide for Collecting Skimmer Performance Data in Uncontrolled Environments." ASTM discontinued this standard in 1997, and recommended that the Coast Guard use F 631, "Standard Method for Testing Full-Scale Advancing Spill Removal Devices" in its place. ASTM F 808 is incorporated in 33 CFR parts 154 (Appendix C) and 155 (Appendix B), which include requirements for collecting data on performance of oil skimmers. The Coast Guard has determined that it is appropriate to eliminate ASTM F 808 from the text without adding a replacement, since the current regulatory text states that ASTM F 631 or an equivalent test approved by the Coast Guard will serve as well.

Regulatory Evaluation

This direct final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Costs to Industry

This direct final rule involves administrative changes (updates) to rules that incorporate ASTM standards. Industry will need to purchase the updated standards. Each business will incur costs based on the number of standards it must purchase, which will vary greatly. Costs for purchasing these standards will be minimal. The average cost of an ASTM standard is $18 to $20. Because of copyright restrictions, businesses must purchase standards from ASTM.

Benefits to Industry

While it is not possible to accurately quantify the benefits of requiring industry to use recent versions of ASTM's standards, the net result will be improved product quality, which translates into improved maritime safety. Industry already uses these standards in many applications including the manufacture of searchlights, lifejackets, immersion suits, and fire-protective equipment, which have direct implications for safety. Further, since some of the standards have been discontinued, it will be easier for industry to obtain copies of the incorporated updated ones from ASTM.

An added benefit is reduced administrative burden. Industry may already be aware of a new standard and want to use it, but be bound by rule to using the older standard unless the Coast Guard authorizes, case by case, the use of a newer version. If the newer version is already listed, it obviates this need.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this direct final rule will have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Given the wide range of ASTM standard applications, involving the manufacture of products such as sheet metal, metal coatings, metal castings, piping, pressure vessels, plastics, rubber, and many others, it is not practicable to accurately determine the types and numbers of small entities affected by this rule.

Because of copyright, as we note, industry must purchase the standards from ASTM. But the costs associated with purchasing the new standards are minimal, and the Coast Guard believes that purchasing the standards will not create a financial burden for any small business.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule will economically affect it.

Collection of Information

This direct final rule will not call for new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Indeed, it should reduce administrative difficulty for everyone affected by it.

Federalism

We have analyzed this direct final rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal rules that impose unfunded mandates. An unfunded mandate is a rule that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This direct final rule will not impose an unfunded mandate.

Taking of Private Property

This direct final rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Reform of Civil Justice

This direct final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Reform of Civil Justice, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this direct final rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this direct final rule and concluded that under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. Under paragraph (34)(a), this exclusion is appropriate for rules that are "editorial or procedural, such as those updating addresses or establishing application procedures." A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 127

Fire prevention, Harbors, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 154

Fire prevention, Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 159

Incorporation by reference, Sewage disposal, Vessels.

33 CFR Part 164

Incorporation by reference, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 183

Incorporation by reference, Marine safety.

46 CFR Part 28

Fire prevention, Fishing vessels, Incorporation by reference, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 32

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 34

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

46 CFR Part 35

Cargo vessels, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 38

Cargo vessels, Fire prevention, Gases, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 39

Cargo vessels, Fire prevention, Hazardous materials transportation, Incorporation by reference, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 54

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 56

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 58

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 63

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 76

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels.

46 CFR Part 77

Incorporation by reference, Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 78

Incorporation by reference, Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 92

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 95

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

46 CFR Part 96

Cargo vessels, Incorporation by reference, Marine safety, Navigation (water).

46 CFR Part 97

Cargo vessels, Incorporation by reference, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 105

Cargo vessels, Fishing vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Petroleum, Seamen.

46 CFR Part 108

Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 109

Incorporation by reference, Marine safety, Occupational safety and health, Oil and gas exploration, reporting and recordkeeping requirements, Vessels.

46 CFR Part 110

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 111

Incorporation by reference, Vessels.

46 CFR Part 114

Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 119

Incorporation by reference, Marine safety, Passenger vessels.

46 CFR Part 125

Administrative practice and procedure, Authority delegation, Hazardous materials transportation, Incorporation by reference, Marine safety, Offshore supply vessels, Oil and gas exploration, Vessels.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 154

Cargo vessels, Gases, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 160

Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 161

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Incorporation by reference, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 163

Incorporation by reference, Marine safety.

46 CFR Part 164

Applicable Specification and Referenced Material, Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 170

Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 174

Incorporation by reference, Marine safety, Vessels.

46 CFR Part 175

Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 182

Incorporation by reference, Marine safety, Passenger vessels.

46 CFR Part 190

Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Oceanographic research vessels.

46 CFR Part 193

Fire prevention, Incorporation by reference, Marine safety, Oceanographic research vessels.

46 CFR Part 195

Incorporation by reference, Marine Safety, Navigation (water), Oceanographic research vessels.

46 CFR Part 199

Cargo vessels, Incorporation by reference, Marine Safety, Oil and Gas exploration, Passenger vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 127, 154, 155, 159, 164, and 183 and 46 CFR parts 28, 30, 32, 34, 35, 38, 39, 54, 56, 58, 61, 63, 76, 77, 78, 92, 95, 96, 97, 105, 108, 109, 110, 111, 114, 119, 125, 151, 153, 154, 160, 161, 162, 163, 164, 170, 174, 175, 182, 190, 193, 195, and 199 as follows:

TITLE 33—[AMENDED]

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

1. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. In § 127.003(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 127.003 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications—127.611; 127.1511.

* * * * *

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

3. Revise the authority citation for part 154 to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

4. In § 154.106(b), revise the entry for "American Society for Testing Materials" to read as follows:

§ 154.106 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 631–93, Standard Guide for Collecting Skimmer Performance Data in Controlled Environments—Appendix C

ASTM F 715–95, Standard Test Methods for Coated Fabrics Used for Oil Spill Control and Storage—Appendix C

ASTM F 722–82 (1993), Standard Specification for Welded Joints for Shipboard Piping Systems—Appendix A; Appendix B

ASTM F 1122–87 (1992), Standard Specification for Quick Disconnect Couplings—154.500

ASTM F 1155–98, Standard Practice for Selection and Application of Piping System Materials—Appendix A; Appendix B

* * * * *

Appendix C to Part 154 [Amended]

5–7. In Appendix C to part 154, in paragraph 2.3.1, remove the words ", ASTM F 989,"; in paragraph 6.3, remove the words ", ASTM F 808,"; and, in paragraph 6.3.1, remove the number "13.1.15" and add, in its place, the number "13.2.16".

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

8. The authority citation for part 155 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715; sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

Sections 155.100 through 155.130, 155.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) also issued under 33 U.S.C. 1903(b); and §§ 155.1110 through 155.1150 also issued under 33 U.S.C. 2735.

9. In § 155.140(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 155.140 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 631–93, Standard Guide for Collecting Skimmer Performance Data in Controlled Environments—Appendix B

ASTM F 715–95, Standard Test Methods for Coated Fabrics Used for Oil Spill Control and Storage—Appendix B

ASTM F 722–82 (1993), Standard Specification for Welded Joints for Shipboard Piping Systems—Appendix A; Appendix B

* * * * *

Appendix B to Part 155 [Amended]

10. In Appendix B to part 155—

a. In paragraph 2.4, remove the words "ASTM F 715–81 (Reapproved 1986)," and add, in their place, the words "ASTM F 715 (incorporated by reference, see § 155.140)"; and remove the words "and ASTM F 989–86, Standard Test Methods for Spill Control Barrier Tension Members";

b. In paragraph 6.3, remove the words "ASTM F 631–80, Reapproved 1985)" and add, in their place, the words "ASTM F 631 (incorporated by reference, see § 155.140)"; and remove the words ", and ASTM F 808–83 (1988), Standard Guide for Collecting Skimmer Performance Data in Uncontrolled Environments"; and

c. In paragraph 6.3.1, remove the words "Item 26 in ASTM F 808;" and remove the number "13.1.15" and add, in its place, the number "13.2.16".

PART 159—MARINE SANITATION DEVICES

11. The authority citation for part 159 continues to read as follows:

Authority: Sec. 312(b)(1), 86 Stat. 871 (33 U.S.C. 1322(b)(1)); 49 CFR 1.45(b) and 1.46 (l) and (m).

12. Add § 159.4 to read as follows:

§ 159.4 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard Office of Design and Engineering Standards (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected, are as follows:

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM E 11–95, Standard Specification for Wire Cloth and Sieves for Testing Purposes—159.125

§ 159.125 [Amended]

13. In § 159.125, remove the words "ASTM E–11–70" and add, in their place, the words "ASTM E 11 (incorporated by reference, see § 159.4)".

PART 164—NAVIGATION SAFETY REGULATIONS

14. The authority citation for part 164 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703; 49 CFR 1.46. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.03 [Amended]

15. In § 164.03(b), under the entry for "American Society for Testing and Materials", remove the words "1916 Race Street, Philadelphia, PA 19103" and add, in their place, the words "100 Barr Harbor Drive, West Conshohocken, PA 19428–2959".

§ 164.74 [Amended]

16. In § 164.74(a)(3) (i) and (ii), remove the words "ASTM D4268–93", wherever they appear, and add, in their place, the words "ASTM D 4268 (incorporated by reference, see § 164.03)".

PART 183—BOATS AND ASSOCIATED EQUIPMENT

17. The authority citation for part 183 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

18. In § 183.5(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 183.5 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 471–96, Standard Test Method for Rubber Property—Effect of Liquids—183.114; 183.516; 183.607; 183.620

ASTM D 1621–94, Standard Test Method for Compressive Properties of Rigid Cellular Plastics—183.516

ASTM D 1622–93, Standard Test Method for Apparent Density of Rigid Cellular Plastics—183.516

ASTM D 2842–97, Standard Test Method for Water Absorption of Rigid Cellular Plastics—183.114

* * * * *

§ 183.110 [Amended]

19. In § 183.110, remove the definition of "ASTM".

§ 183.620 [Amended]

20. In § 183.620, in the note following paragraph (a)(5)(ii), remove the number "D–471–1979" and add, in its place, the words "D 471 (incorporated by reference, see § 183.5)".

TITLE 46—[AMENDED]

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

21. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; 49 CFR 1.46.

22. In § 28.40(b), add an entry for "American Society for Testing and Materials" in alphabetical order to read as follows:

§ 28.40 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1321–92, Standard Guide for Conducting a Stability Test (Lightweight Survey and Inclining Experiment) to Determine the Light Ship Displacement and Centers of Gravity of a Vessel—28.535

* * * * *

§ 28.535 [Amended]

23. In § 28.535(d), remove the words "ASTM Standard F 1321–90" and add, in their place, the words "ASTM F 1321 (incorporated by reference, see § 28.40)".

PART 30—GENERAL PROVISIONS

24. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. 5103, 5106; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–5 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

25. Add § 30.01–3 to read as follows:

§ 30.01–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard Office of Design and Engineering Standards (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are as follows:

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 323–94, Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)—30.10–22; 30.10–59

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

26. The authority citation for part 32 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Section 32.22T–5 and subpart 32.59 also issued under 46 U.S.C. 3703 note.

27. In § 32.01–1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 32.01–1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 4986–98, Standard Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials—32.57–10

ASTM F 1273–91 (1997), Standard Specification for Tank Vent Flame Arresters—32.20–10

§ 32.57–10 [Amended]

28. In § 32.57–10(d)(7–a), remove the words "American Society for Testing and Materials (ASTM) Specification D–1692, 'Rate of Burning or Extent of Burning of Cellular Plastics Using a Supported Specimen by a Horizontal Screen'" and add, in their place, the words "ASTM D 4986, 'Standard Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials' (incorporated by reference, see § 32.01–1)".

PART 34—FIREFIGHTING EQUIPMENT

29. The authority citation for part 34 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 34.01–15 [Amended]

30. In § 34.01–15(b), remove the words "ASTM F–1121" and add, in their place, "ASTM F 1121–87 (Reapproved 1993)".

PART 35—OPERATIONS

31. The authority citation for part 35 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

32. In § 35.01–3(b), remove the words "ASTM F1014–1986" and add, in their place, the words "ASTM F 1014–92"; and add an entry for "ASTM D 93" to read as follows:

§ 35.01–3 Incorporation by reference.

* * * * *

(b) * * *

ASTM D 93–97, Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester—35.25–10

* * * * *

§ 35.30–20 [Amended]

33. In § 35.30–20(c)(3), remove the words "ASTM F1014–1986" and add, in their place, the words "ASTM F 1014 (incorporated by reference, see § 35.01–3)".

PART 38—LIQUEFIED FLAMMABLE GASES

34. The authority citation for part 38 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. 5101, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

35. In § 38.01–3(b), add an entry for "American Society for Testing and Materials" to read as follows:

§ 38.01–3 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 4986–98, Standard Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials—38.05–20

* * * * *

§ 38.05–20 [Amended]

36. In § 38.05–20(a)(1)(ii), remove the words "American Society for Testing and Materials Specification D–1692, 'Flammability of Plastics, Foam and Sheeting,'" and add, in their place, "ASTM D 4986, 'Standard Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials,' (incorporated by reference, see § 38.01–3)".

PART 39—VAPOR CONTROL SYSTEMS

37. The authority citation for part 39 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. 3306, 3703, 3715(b); 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 39.10–5 [Amended]

38. In § 39.10–5(b), remove the words "ASTM F 1271" and add, in their place, the words "ASTM F 1271–90 (1995)"; and remove the words ", December 29, 1989".

PART 54—PRESSURE VESSELS

39. The authority citation for part 54 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

40. In § 54.01–1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 54.01–1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM A 20/A 20M–97a, Standard Specification for General Requirements for Steel Plates for Pressure Vessels—54.05–10; 54.25–10
ASTM A 203/A 203M–97, Standard Specification for Pressure Vessel Plates, Alloy Steel, Nickel—54.05–20
ASTM A 370–97a, Standard Test Methods and Definitions for Mechanical Testing of Steel Products—54.25–20
ASTM E 23–96, Standard Test Methods for Notched Bar Impact Testing of Metallic Materials—54.05–5
ASTM E 208–95a, Standard Test Method for Conducting Drop-Weight Test to Determine Nil-Ductility Transition Temperature of Ferritic Steels—54.05–5

* * * * *

§ 54.05–10 [Amended]

41. In § 54.05–10(a), remove the words "as outlined in section 4(b) of ASTM A–300" and add, in their place, the words "as outlined in section 12 of ASTM A 20 (incorporated by reference, see § 54.01–1)".

§ 54.25–10 [Amended]

42. In § 54.25–10, remove paragraphs (d)(1)(v) and (d)(2)(ii); redesignate paragraphs (d)(1)(vi) through (d)(1)(viii) as (d)(1)(v) through (d)(1)(vii); and redesignate paragraphs (d)(2)(iii) through (d)(2)(ix) as (d)(2)(ii) through (d)(2)(viii).

PART 56—PIPING SYSTEMS AND APPURTENANCES

43. The authority citation for part 56 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O.12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

44. In § 56.01–2(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 56.01–2 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM A 36/A 36M–97a, Standard Specification for Carbon Structural Steel—56.30–10
ASTM A 47–90 (1995), Standard Specification for Ferritic Malleable Iron Castings—56.60–1
ASTM A 53–98, Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless—56.10–5; 56.60–1
ASTM A 106–95, Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service—56.60–1
ASTM A 126–95, Standard Specification for Gray Iron Castings for Valves, Flanges, and Pipe Fittings—56.60–1
ASTM A 134–96, Standard Specification for Pipe, Steel, Electric-Fusion (Arc)-Welded (Sizes NPS 16 and Over)—56.60–1
ASTM A 135–97c, Standard Specification for Electric-Resistance-Welded Steel Pipe—56.60–1
ASTM A 139–96, Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (NPS 4 and Over)—56.60–1
ASTM A 178/A 178M–95, Standard Specification for Electric-Resistance-Welded Carbon Steel and Carbon-Manganese Steel Boiler and Superheater Tubes—56.60–1
ASTM A 179/A 179M–90a (1996), Standard Specification for Seamless Cold-Drawn Low-Carbon Steel Heat-Exchanger and Condenser Tubes—56.60–1
ASTM A 182/A 182M–97c, Standard Specification for Forged or Rolled Alloy-Steel Pipe Flanges, Forged Fittings, and Valves and Parts for High-Temperature Service—56.50–105
ASTM A 192/A 192M–91 (1996), Standard Specification for Seamless Carbon Steel Boiler Tubes for High-Pressure Service—56.60–1
ASTM A 194/A 194M–98b, Standard Specification for Carbon and Alloy Steel Nuts for Bolts for High Pressure or High Temperature Service, or Both—56.50–105
ASTM A 197–87 (1992), Standard Specification for Cupola Malleable Iron—56.60–1
ASTM A 210/A 210M–96, Standard Specification for Seamless Medium-Carbon Steel Boiler and Superheater Tubes—56.60–1
ASTM A 213/A 213M–95a, Standard Specification for Seamless Ferritic and Austenitic Alloy-Steel Boiler, Superheater, and Heat-Exchanger Tubes—56.60–1
ASTM A 214/A 214M–96, Standard Specification for Electric-Resistance-Welded Carbon Steel Heat-Exchanger and Condenser Tubes—56.60–1
ASTM A 226/A 226M–95, Standard Specification for Electric-Resistance-Welded Carbon Steel Boiler and Superheater Tubes for High-Pressure Service—56.60–1
ASTM A 234/A 234M–97, Standard Specification for Piping Fittings of Wrought Carbon Steel and Alloy Steel for Moderate and High Temperature Service—56.60–1
ASTM A 249/A 249M–96a, Standard Specification for Welded Austenitic Steel Boiler, Superheater, Heat-Exchanger, and Condenser Tubes—56.60–1
ASTM A 268/A 268M–96, Standard Specification for Seamless and Welded Ferritic and Martensitic Stainless Steel Tubing for General Service—56.60–1
ASTM A 276–98, Standard Specification for Stainless Steel Bars and Shapes—56.60–2
ASTM A 307–97, Standard Specification for Carbon Steel Bolts and Studs, 60,000 PSI Tensile Strength—56.25–20
ASTM A 312/A 312M–95a, Standard Specification for Seamless and Welded Austenitic Stainless Steel Pipes—56.50–105; 56.60–1
ASTM A 320/A 320M–97, Standard Specification for Alloy/Steel Bolting Materials for Low-Temperature Service—56.50–105
ASTM A 333/A 333M–94, Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service—56.50–105; 56.60–1
ASTM A 334/A 334M–96, Standard Specification for Seamless and Welded Carbon and Alloy-Steel Tubes for Low-Temperature Service—56.50–105; 56.60–1
ASTM A 335/A 335M–95a, Standard Specification for Seamless Ferritic Alloy-Steel Pipe for High-Temperature Service—56.60–1
ASTM A 350/A 350M–97, Standard Specification for Carbon and Low-Alloy Steel Forgings, Requiring Notch Toughness Testing for Piping Components—56.50–105
ASTM A 351/A 351M–94a, Standard Specification for Castings, Austenitic, Austenitic-Ferritic (Duplex), for Pressure-Containing Parts—56.50–105
ASTM A 352/A 352M–93 (1998), Standard Specification for Steel Castings, Ferritic and Martensitic, for Pressure-Containing Parts, Suitable for Low-Temperature Service—56.50–105
ASTM A 358/A 358M–95a, Standard Specification for Electric-Fusion-Welded Austenitic Chromium-Nickel Alloy Steel Pipe for High-Temperature Service—56.60–1
ASTM A 369/A 369M–92, Standard Specification for Carbon and Ferritic Alloy Steel Forged and Bored Pipe for High-Temperature Service—56.60–1
ASTM A 376/A 376M–96, Standard Specification for Seamless Austenitic Steel Pipe for High-Temperature

Central-Station Service—56.07–10; 56.60–1; 56.60–2
ASTM A 395/A 395M–98, Standard Specification for Ferritic Ductile Iron Pressure-Retaining Castings for Use at Elevated Temperatures—56.50–60; 56.60–1; 56.60–15
ASTM A 403/A 403M–98, Standard Specification for Wrought Austenitic Stainless Steel Piping Fittings—56.60–1
ASTM A 420/A 420M–96a, Standard Specification for Piping Fittings of Wrought Carbon Steel and Alloy Steel for Low-Temperature Service—56.50–105; 56.60–1
ASTM A 520–97, Standard Specification for Supplementary Requirements for Seamless and Electric-Resistance-Welded Carbon Steel Tubular Products for High-Temperature Service Conforming to ISO Recommendations for Boiler Construction—56.60–1
ASTM A 522/A 522M–95b, Standard Specification for Forged or Rolled 8 and 9% Nickel Alloy Steel Flanges, Fittings, Valves, and Parts for Low-Temperature Service—56.50–105
ASTM A 536–84 (1993), Standard Specification for Ductile Iron Castings—56.60–1
ASTM A 575–96, Standard Specification for Steel Bars, Carbon, Merchant Quality, M-Grades—56.60–2
ASTM A 576–90b (1995), Standard Specification for Steel Bars, Carbon, Hot-Wrought, Special Quality—56.60–2
ASTM B 16–92, Standard Specification for Free-Cutting Brass Rod, Bar, and Shapes for Use in Screw Machines—56.60–2
ASTM B 21–96, Standard Specification for Naval Brass Rod, Bar, and Shapes—56.60–2
ASTM B 26/B 26M–97, Standard Specification for Aluminum-Alloy Sand Castings—56.60–2
ASTM B 42–96, Standard Specification for Seamless Copper Pipe, Standard Sizes—56.60–1
ASTM B 43–96, Standard Specification for Seamless Red Brass Pipe, Standard Sizes—56.60–1
ASTM B 68–95, Standard Specification for Seamless Copper Tube, Bright Annealed—56.60–1
ASTM B 75–97, Standard Specification for Seamless Copper Tube—56.60–1
ASTM B 85–96, Standard Specification for Aluminum-Alloy Die Castings—56.60–2
ASTM B 88–96, Standard Specification for Seamless Copper Water Tube—56.60–1
ASTM B 96–93, Standard Specification for Copper-Silicon Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes and Pressure Vessels—56.60–2
ASTM B 111–95, Standard Specification for Copper and Copper-Alloy Seamless Condenser Tubes and Ferrule Stock—56.60–1
ASTM B 124–96, Standard Specification for Copper and Copper Alloy Forging Rod, Bar, and Shapes—56.60–2
ASTM B 161–93, Standard Specification for Nickel Seamless Pipe and Tube—56.60–1
ASTM B 165–93, Standard Specification of Nickel-Copper Alloy (UNS NO4400) Seamless Pipe and Tube—56.60–1
ASTM B 167–97a, Standard Specification for Nickel-Chromium-Iron Alloys (UNS NO6600, NO6601, NO6603, NO6690, NO6025, and NO6045) Seamless Pipe and Tube—56.60–1
ASTM B 171–95, Standard Specification for Copper-Alloy Plate and Sheet for Pressure Vessels, Condensers, and Heat Exchangers—56.60–2
ASTM B 210–95, Standard Specification for Aluminum and Aluminum-Alloy Drawn Seamless Tubes—56.60–1
ASTM B 234–95, Standard Specification for Aluminum and Aluminum-Alloy Drawn Seamless Tubes for Condensers and Heat Exchangers—56.60–1
ASTM B 241/B 241M–96, Standard Specification for Aluminum and Aluminum-Alloy Seamless Pipe and Seamless Extruded Tube—56.60–1
ASTM B 280–97, Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service—56.60–1
ASTM B 283–96, Standard Specification for Copper and Copper-Alloy Die Forgings (Hot-Pressed)—56.60–2
ASTM B 315–93, Standard Specification for Seamless Copper Alloy Pipe and Tube—56.60–1
ASTM B 361–95, Standard Specification for Factory-Made Wrought Aluminum and Aluminum-Alloy Welding Fittings—56.60–1
ASTM B 858M–95, Standard Test Method for Determination of Susceptibility to Stress Corrosion Cracking in Copper Alloys Using an Ammonia Vapor Test—56.60–2
ASTM D 635–97, Standard Test Method for Rate of Burning and/or Extent and Time of Burning of Plastics in a Horizontal Position—56.60–25
ASTM D 1785–96b, Standard Specification for Poly (Vinyl Chloride)(PVC) Plastic Pipe, Schedules 40, 80, and 120—56.60–25
ASTM D 2241–96b, Standard Specification for Poly (Vinyl Chloride)(PVC) Pressure-Rated Pipe (SDR Series)—56.60–25
ASTM D 2464–96a, Standard Specification for Threaded Poly (Vinyl Chloride)(PVC) Plastic Pipe Fittings Schedule 80—56.60–25
ASTM D 2466–97, Standard Specification for Poly (Vinyl Chloride)(PVC) Plastic Pipe Fittings, Schedule 40—56.60–25
ASTM D 2467–96a, Standard Specification for Poly (Vinyl Chloride)(PVC) Plastic Pipe Fittings, Schedule 80—56.60–25
ASTM D 2665–97b, Standard Specification for Poly (Vinyl Chloride)(PVC)Plastic Drain, Waste, and Vent Pipe and Fittings—56.60–25
ASTM D 2863–95, Standard Test Method for Measuring the Minimum Oxygen Concentration to Support Candle-like Combustion of Plastics (Oxygen Index)—56.60–25
ASTM E 23–96, Standard Test Methods for Notched Bar Impact Testing of Metallic Materials—56.50–105
ASTM F 682–82a (1993), Standard Specification for Wrought Carbon Steel Sleeve-Type Pipe Couplings—56.60–1
ASTM F 1006–86 (1992), Standard Specification for Entrainment Separators for Use in Marine Piping Applications—56.60–1
ASTM F 1007–86 (1996), Standard Specification for Pipe-Line Expansion Joints of the Packed Slip Type for Marine Application—56.60–1
ASTM F 1020–86 (1996), Standard Specification for Line-Blind Valves for Marine Applications—56.60–1
ASTM F 1120–87 (1993), Standard Specification for Circular Metallic Bellows Type Expansion Joints for Piping Applications—56.60–1
ASTM F 1123–87 (1993), Standard Specification for Non-Metallic Expansion Joints—56.60–1
ASTM F 1139–88 (1993), Standard Specification for Steam Traps and Drains—56.60–2
ASTM F 1172–88 (1993), Standard Specification for Fuel Oil Meters of the Volumetric Positive Displacement Type—56.60–1
ASTM F 1173–95, Standard Specification for Thermosetting Resin Fiberglass Pipe and Fittings to be Used for Marine Applications—56.60–1
ASTM F 1199–88 (1993), Standard Specification for Cast (All Temperature and Pressures) and Welded Pipe Line Strainers (150 psig and 150 Degrees F Maximum)—56.60–1
ASTM F 1200–88 (1993), Standard Specification for Fabricated (Welded) Pipe Line Strainers (Above 150 psig and 150 Degrees F)—56.60–1
ASTM F 1201–88 (1993), Standard Specification for Fluid Conditioner

Fittings in Piping Applications above 0 Degrees F—56.60–1

ASTM F 1387–93, Standard Specification for Performance of Mechanically Attached Fittings—56.30–25

ASTM F 1476–95a, Standard Specification for Performance of Gasketed Mechanical Couplings for Use in Piping Applications—56.30–35

ASTM F 1548–94, Standard Specification for the Performance of Fittings for Use with Gasketed Mechanical Couplings, Used in Piping Applications 56.30–35

* * * * *

§ 56.30–25 [Amended]

45. In § 56.30–25(a), remove the words "ASTM F 1387–93" and add, in their place, the words "ASTM F 1387 (incorporated by reference, see § 56.01–2)".

§ 56.30–35 [Amended]

46. In § 56.30–35(a), remove the words "ASTM F 1476–93" and add, in their place, the words "ASTM F 1476 incorporated by reference, see § 56.01–2)"; and remove the words "ASTM F 1548–94" and add, in their place, the words "ASTM F 1548 (incorporated by reference, see § 56.01–2)".

§ 56.60–1 [Amended]

47. In § 56.60–1(a), revise the heading of Table 56.60–1(A) and the note between the heading and the table itself to read, respectively, as follows: "Table 56.60–1(A)-Adopted Specifications and Standards" and "Note: Table 56.60–1(A) replaces Table 126.1 in ANSI B31.1 and sets forth specifications of pipes, tubing, and fittings intended for use in piping-systems. The first column lists acceptable standards from ASTM; the second lists those from ANSI. The Coast Guard will consider use of alternative pipes, tubing, and fittings when it receives certification of their mechanical properties. Without this certification it will restrict use of such alternatives to piping-systems inside heat exchangers that ensure containment of the material inside pressure shells."; and, in the table, remove the entries for "A430 Austenitic alloy" and "A199 Alloy steel condenser tubes".

§ 56.60–2 [Amended]

48. In § 56.60–2, in Table 56.60–2(A), in footnote 7, remove the words "ASTM B 858M–95" and add, in its place, "ASTM B 858M (incorporated by reference, see § 56.01–2)"; and, in footnote 9, remove the words "ASTM B 858–95" and add, in its place, "ASTM B 858 (incorporated by reference, see § 56.01–2)".

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

49. The authority citation for part 58 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 58.01–10 [Amended]

50. In § 58.01–10(b), remove the words "ASTM-D93–80" and add, in their place, the words "ASTM D 93 (incorporated by reference, see § 58.03–1)".

51. In § 58.03–1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 58.03–1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM A 193/A 193M–98a, Standard Specification for Alloy-Steel and Stainless Steel Bolting Materials for High-Temperature Service—58.30–15

ASTM B 96–93, Standard Specification for Copper–Silicon Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes and Pressure Vessels—58.50–5

ASTM B 122/B 122M–95, Standard Specification for Copper-Nickel-Tin Alloy, Copper-Nickel-Zinc Alloy (Nickel Silver), and Copper-Nickel Alloy Plate, Sheet, Strip, and Rolled Bar—58.50–5

ASTM B 152–97a, Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar—58.50–5

ASTM B 209–96, Standard Specification for Aluminum and Aluminum-Alloy Sheet and Plate—58.50–5; 58.50–10

ASTM D 92–97, Standard Test Method for Flash and Fire Points by Cleveland Open Cup 58.30–10

ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—58.01–10

ASTM D 323–94, Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method) 58.16–5

* * * * *

§ 58.30–10 [Amended]

51a. In § 58.30–10(b), remove the words "ASTM D92–57" and add, in their place, the words "ASTM D 92 (incorporated by reference, see § 58.03–1)".

§ 58.50–5 [Amended]

52. In § 58.50–5(a), in Table 58.50–5(A), in the heading of column two, immediately following the words "(latest edition)" add the words "[see also § 58.03–1]"; and in column two remove the words "B97, Alloys A, B, and C" and add, in their place, the words "B 96, alloys C65100 and C65500".

§ 58.50–10 [Amended]

52a. In § 58.50–10(a), in Table 58.50–10(A), in the heading of column two, immediately following the words "(latest edition)" add the words "[see also § 58.03–1]".

PART 61—PERIODIC TESTS AND INSPECTIONS

53. The authority citation for part 61 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

54. In § 61.03–1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 61.03–1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 665–98, Standard Test Method for Rust-Preventing Characteristics of Inhibited Mineral Oil in the Presence of Water—61.20–17

* * * * *

§ 61.20–17 [Amended]

55. In § 61.20–17(a), remove the words "ASTM D 665–92" and add, in their place, the words "ASTM D 665 (incorporated by reference, see § 61.03–1)".

PART 63—AUTOMATIC AUXILIARY BOILERS

56. The authority citation for part 63 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

57. In § 63.05–1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 63.05–1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1323–98, Standard Specification for Shipboard Incinerators—63.25–9

* * * * *

§ 63.25–9 [Amended]

58. In § 63.25–9, remove the words "ASTM F–1323–90" and add, in their place, the words "ASTM F 1323 (incorporated by reference, see § 63.05–1)".

PART 76—FIRE PROTECTION EQUIPMENT

59. The authority citation for part 76 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

60. In § 76.01–2(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 76.01–2 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications—76.10–10

* * * * *

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

61. The authority citation for part 77 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

62. In § 77.01–3(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 77.01–3 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1014–92, Standard Specification for Flashlights on Vessels—77.35–5

§ 77.35–5 [Amended]

63. In § 77.35–5(c), remove the words "ASTM F1014–1986" and add, in their place, the words "ASTM F 1014 (incorporated by reference, see § 77.01–3)".

PART 78—OPERATIONS

64. The authority citation for part 78 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

65. In § 78.01–2(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 78.01–2 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—78.17–75

* * * * *

PART 92—CONSTRUCTION AND ARRANGEMENT

66. The authority citation for part 92 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 92.01–2 [Removed]

67. Remove § 92.01–2.

PART 95—FIRE PROTECTION EQUIPMENT

68. The authority citation for part 95 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

69. In § 95.01–2(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 95.01–2 Incorporation by reference.

* * * * *

(b) * * *

82. In § 109.105(b), revise the entry for "American Society for Testing and Materials" to read as follows:

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications—95.10–10

* * * * *

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

70. The authority citation for part 96 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

71. In § 96.01–3(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 96.01–3 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1014–92, Standard Specification for Flashlights on Vessels—96.35–5

* * * * *

§ 96.35–5 [Amended]

72. In § 96.35–5(c), remove the words "ASTM F1014–1986" and add, in their place, the words "ASTM F 1014 (incorporated by reference, see § 96.01–3)".

PART 97—OPERATIONS

73. The authority citation for part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

74. In § 97.01–2(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 97.01–2 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—97.15–55

ASTM Adjunct F 1626, Symbols for Use in Accordance with Regulation II–2/20 of the 1974 SOLAS Convention as amended PCN: 12–616260–01 (1996)—97.36–1

* * * * *

PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

75. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703, 4502; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

76. Add § 105.01–3 to read as follows:

§ 105.01–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard Office of Design and Engineering Standards (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected are as follows:

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 323–94, Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)—105.10–15

PART 108—DESIGN AND EQUIPMENT

77. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; 49 CFR 1.46.

78. In § 108.101(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 108.101 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—108.500

ASTM F 1014–92, Standard Specification for Flashlights on Vessels—108.497

ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications—108.427

* * * * *

§ 108.497 [Amended]

79. In § 108.497(b), remove the words "ASTM F1014–1986" and add, in their place, the words "ASTM F 1014 (incorporated by reference, see § 108.101)".

§ 108.500 [Amended]

80. In § 108.500(b), remove the words "ASTM D–93–94" and add, in their place, the words "ASTM D 93 (incorporated by reference, see § 108.101)".

PART 109—OPERATIONS

81. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; 49 CFR 1.46.

82. In § 109.105(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 109.105 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM Adjunct F 1626, Symbols for Use in Accordance with Regulation II–2/20 of the 1974 SOLAS Convention as amended PCN: 12–616260–01 (1996)—109.563

* * * * *

PART 110—GENERAL PROVISIONS

83. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 110.01–2 also issued under 44 U.S.C. 3507.

84. In § 110.10–1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 110.10–1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—110.15–1

ASTM D 4066–96a, Standard Classification System for Nylon Injection and Extrusion Materials (PA)—111.60–1

* * * * *

PART 111—ELECTRICAL SYSTEMS—GENERAL ENGINEERING

85. The authority citation for part 111 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46.

§ 111.60–1 [Amended]

86. In § 111.60–1(c)(4), remove the words "ASTM D 4066–94b Type VIII" and add, in their place, the words "ASTM D 4066 (incorporated by reference, see § 110.10–1 of this chapter)".

PART 114—GENERAL PROVISIONS

87. The authority citation for part 114 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46. Sec. 114.900 also issued under 44 U.S.C. 3507.

88. In § 114.600(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 114.600 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM B 96–93, Standard Specification for Copper-Silicon Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes and Pressure Vessels—119.440

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—114.400

ASTM B 122/B 122M–95, Standard Specification for Copper-Nickel-Tin Alloy , Copper-Nickel-Zinc Alloy (Nickel Silver), and Copper-Nickel Alloy Plate, Sheet, Strip, and Rolled Bar—119.440

ASTM B 127–98, Standard Specification for Nickel-Copper Alloy (UNS NO4400) Plate, Sheet, and Strip—119.440

ASTM B 152–97a, Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar—119.440

ASTM B 209–96, Standard Specification for Aluminum and Aluminum-Alloy Sheet and Plate—119.440

ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—114.400

ASTM D 635–97, Standard Test Method for Rate of Burning and/or Extent and Time of Burning of Plastics in a Horizontal Position—119.440

ASTM D 2863–95, Standard Test Method for Measuring the Minimum Oxygen Concentration to Support Candle-like Combustion of Plastics (Oxygen Index)—119.440
ASTM E 84–98, Standard Test Method for Surface Burning Characteristics of Building Materials—116.405; 116.422; 116.423
ASTM E 648–97, Standard Test Method for Critical Radiant Flux of Floor-Covering Systems Using a Radiant Heat Energy Source—114.400; 116.423
ASTM E 662–97, Standard Test Method for Specific Optical Density of Smoke Generated by Solid Materials—114.400; 116.423
* * * * *

PART 119—ADDITIONAL EQUIPMENT

89. The authority citation for part 119 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 119.440 [Amended]

90. In § 119.440(a)(1), in Table 119.440(A)(1), in the heading of column two, immediately following the words "(latest edition)" add the words "[see also § 114.600 of this chapter]"; and in column two, remove the words "B97, Alloys A, B, and C" and add, in their place, the words "B 96, alloys C65100 and C65500".

PART 125—GENERAL

91. The authority citation for part 125 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; 49 CFR 1.46.

92. In § 125.180(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 125.180 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.
ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—128.310
* * * * *

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

93. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703; 49 CFR 1.46.

94. In § 151.01–2(b), add an entry for "American Society for Testing and Materials" to read as follows:

§ 151.01–2 Incorporation by reference.

* * * * *

(b)* * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.
ASTM D 4986–98, Standard Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials—151.15–3
ASTM E 84–98, Standard Test Method for Surface Burning Characteristics of Building Materials—151.15–3
* * * * *

§ 151.15–3 [Amended]

95. In § 151.15–3(g)(2)(iii), remove the words "D–1692, "Flammability of Plastics" " and add, in their place, the words "D 4986, "Horizontal Burning Characteristics of Cellular Polymeric Materials" (incorporated by reference, see § 151.01–2)".

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

96. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

97. In § 153.4(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 153.4 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.
ASTM F 1122–87 (1992), Standard Specification for Quick Disconnect Couplings—153.940
ASTM F 1271–90 (1995), Standard Specification for Spill Valves for Use in Marine Tank Liquid Overpressure Protections Applications—153.365
* * * * *

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

98. The authority citation for part 154 continues to read as follows:

Authority: 46 U.S.C. 3703, 9101; 49 CFR 1.46.

99. In § 154.1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 154.1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.
ASTM A 20/A 20M–97a, Standard Specification for General Requirements for Steel Plates for Pressure Vessels—154.610
ASTM F 1014–92, Standard Specification for Flashlights on Vessels—154.1400
* * * * *

§ 154.610 [Amended]

100. In § 154.610(c), remove the words "ASTM A–20–75" and add, in their place, the words "ASTM A 20 (incorporated by reference, see § 154.1)".

§ 154.1400 [Amended]

101. In § 154.1400, remove the words "ASTM F1014–1986" wherever they appear and add, in their place, the words "ASTM F 1014 (incorporated by reference, see § 154.1)".

PART 160—LIFESAVING EQUIPMENT

102. The authority citation for part 160 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

103. In § 160.032–1, revise paragraph (a)(1) to read as follows; and, in paragraph (b), remove the words "The A.S.T.M. Standards may be purchased from the American Society for Testing Materials, 1916 Race Street, Philadelphia, Pa., 19103" and add, in their place, the words "You may purchase the standards of ASTM from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959":

§ 160.032–1 Applicable Specifications.

(a) * * *

(1) Standards of ASTM:

ASTM A 27/ A 27M–95, Standard Specification for Steel Castings, Carbon, for General Application—160.032–3
ASTM A 36/A 36M–97a, Standard Specification for Carbon Structural Steel—160.032–3
ASTM A 216/A 216M–93 (1998), Standard Specification for Steel

Castings, Carbon, Suitable for Fusion Welding for High-Temperature Service—160.032–3

* * * * *

§ 160.032–3 [Amended]

104. In § 160.032–3(c), remove the words "A.S.T.M. Standard Specification A7" and add, in their place, the words "ASTM A 36/A 36 M (incorporated by reference, see § 160.032–1)".

105. In § 160.035–1, revise paragraph (a)(1) to read as follows; and, in paragraph (b), remove the words "The A.S.T.M. standards may be purchased from the American Society for Testing Materials, 1916 Race Street, Philadelphia, Pa., 19103" and add, in their place, the words "You may purchase the standards of ASTM from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959":

§ 160.035–1 Applicable specifications.

(a) * * *

(1) Standards of ASTM:

ASTM A 36/A 36M–97a, Standard Specification for Carbon Structural Steel—160.035–3

ASTM A 653/A 653M–98, Standard Specification for Steel Sheet, Zinc-Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process—160.035–3

* * * * *

106. Revise § 160.035–3(b)(1) to read as follows:

§ 160.035–3 Construction of steel oar-propelled lifeboats.

* * * * *

(b) *Materials.* (1) Plating for shell, floors, air tanks, etc., must be in accordance with ASTM A 653, Coating Designation G90 (incorporated by reference, see § 160.035–1). The bend test required by these specifications must be made after the galvanizing or other anticorrosive treatment has been applied.

* * * * *

107. Revise § 160.055–1(a)(4) to read as follows:

§ 160.055–1 Applicable specifications.

(a) * * *

(4) Standards of ASTM:

ASTM D 413–82 (1993), Standard Test Methods for Rubber Property—Adhesion to Flexible Substrate—160.055–3

ASTM D 570–95, Standard Test Method for Water Absorption of Plastics—160.055–3

ASTM D 882–97, Standard Test Method for Tensile Properties of Thin Plastic Sheeting—160.055–3

ASTM D 1004–94a, Standard Test Method for Initial Tear Resistance of Plastic Film and Sheeting—160.055–3

* * * * *

108. In § 160.076–11(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 160.076–11 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 751–95, Standard Test Methods for Coated Fabrics—160.076–25

ASTM D 1434–82 (1988), Standard Test Method for Determining Gas Permeability Characteristics of Plastic Film and Sheeting—160.076–25

* * * * *

109. In § 160.077–5(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 160.077–5 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—160.077–11

ASTM D 751–95, Standard Test Methods for Coated Fabrics—160.077–19

ASTM D 1434–82 (1988), Standard Test Method for Determining Gas Permeability Characteristics of Plastic Film and Sheeting—160.077–19

* * * * *

110. In § 160.151–5(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 160.151–5 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1014–92, Standard Specification for Flashlights on Vessels—160.151–21

* * * * *

111. In § 160.171–3(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 160.171–3 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—160.171–17

ASTM C 177–85 (1993), Standard Test Method for Steady-State Heat Flux Measurements and Thermal Transmission Properties by Means of the Guarded-Hot-Plate Apparatus—160.171–17

ASTM C 518–91, Standard Test Method for Steady-State Heat Flux Measurements and Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus—160.171–17

ASTM D 975–98, Standard Specification for Diesel Fuel Oils—160.171–17

ASTM D 1004–94a, Standard Test Method for Initial Tear Resistance of Plastic Film and Sheeting—160.171–17

* * * * *

112. In § 160.174–3(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 160.174–3 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM C 177–85 (1993), Standard Test Method for Steady-State Heat Flux Measurements and Thermal Transmission Properties by Means of the Guarded-Hot-Plate Apparatus—160.174–17

ASTM C 518–91, Standard Test Method for Steady-State Heat Flux Measurements and Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus—160.174–17

ASTM D 975–98, Standard Specification for Diesel Fuel Oils—160.174–17

ASTM D 1004–94a, Standard Test Method for Initial Tear Resistance of Plastic Film and Sheeting—160.174–17

ASTM D 1518–85 (1990), Standard Test Method for Thermal Transmittance of Textile Materials—160.174–17

* * * * *

113. In § 160.176–4(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 160.176–4 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—160.176–8; 160.176–13

ASTM D 751–95, Standard Test Methods for Coated Fabrics—160.176–13

ASTM D 975–98, Standard Specification for Diesel Fuel Oils—160.176–13

ASTM D 1434–82 (1988), Standard Test Method for Determining Gas Permeability Characteristics of Plastic Film and Sheeting—160.176–13

* * * * *

PART 161—ELECTRICAL EQUIPMENT

114. The authority citation for part 161 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

115. In § 161.002–1(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 161.002–1 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—161.002–4

* * * * *

116. In § 161.006–1, revise paragraph (a)(3) to read as follows:

§ 161.00 6–1 [Amended]

(a) * * *

* * * * *

(3) Standards of ASTM:

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—161.006–5

ASTM B 456–95, Standard Specification for Electrodeposited Coatings of Copper Plus Nickel Plus Chromium and Nickel Plus Chromium—161.006–4

You may obtain these standards from The American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

* * * * *

§ 161.006–4 [Amended]

117. In § 161.006–4(h), remove the words "A.S.T.M. Specification B141–45, Type K.C., or as otherwise approved" and add, in their place, the words "ASTM B 456 (incorporated by reference, see § 161.006–1), Service Condition 1, or as otherwise approved".

§ 161.006–5 [Amended]

118. In § 161.006–5(b)(3), remove the words "A.S.T.M. Standard B117–44T" and add, in their place, the words "ASTM B 117 (incorporated by reference, see § 161.006–1)".

PART 162—ENGINEERING EQUIPMENT

119. Revise the authority citation for part 162 to read as follows:

Authority: 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 162.027–1 [Amended]

120. In 162.027–1(b), remove the words "ASTM F 1546–94" and add, in their place, the words "ASTM F 1546 [or] F 1546 M–96".

§ 162.027–2 [Amended]

121. In § 162.027–2, remove the words "ASTM F 1546–94" wherever they appear and add, in their place, the words "ASTM F 1546 (incorporated by reference, see § 162.027–1)".

§ 162.027–3 [Amended]

122. In 162.027–3(a), remove the words "ASTM F 1546–94" and add, in their place, the words "ASTM F 1546 (incorporated by reference, see § 162.027–1)".

123. In 162.050–4, revise paragraphs (a)(3) and (b)(2) to read as follows:

§ 162.050–4 Documents incorporated by reference.

(a) * * *

(3) ASTM D 2777–98, Standard Practice for Determination of Precision and Bias of Applicable Test Methods of Committee D–19 on Water—162.050–15.

(b) * * *

(2) You may obtain the ASTM Standard from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

* * * * *

§ 162.050–15 [Amended]

124. In 162.050–15(f)(1), remove the words "the method described in paragraph 10.3.2 of" and the number "D–2777–77", and add, in place of the latter, the number "D 2777 (incorporated by reference, see § 162.050–4)".

PART 163—CONSTRUCTION

125. The authority citation for part 163 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

126. Revise § 163.003–3 to read as follows:

§ 163.003–3 ASTM standard.

The following standard of the American Society for Testing and Materials (ASTM) is incorporated by reference into this subpart: ASTM D 1435–94, Standard Practice for Outdoor Weathering of Plastics. You may obtain this standard from the Society at 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

PART 164—MATERIALS

127. The authority citation for part 164 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

128. Revise § 164.007–1(b) to read as follows:

§ 164.007–1 Applicable specification and referenced material.

* * * * *

(b) *Guidance.* For guidance you may use the following technical reference: ASTM E 119–98, Standard Test Methods for Fire Tests of Building Construction and Materials. You may obtain it from The American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

* * * * *

129. Revise § 164.008–1(b) to read as follows:

§ 164.008–1 Applicable specification and referenced material.

* * * * *

(b) *Guidance.* For guidance you may use the following technical reference: ASTM E 119–98, Standard Test Methods for Fire Tests of Building Construction and Materials. You may obtain it from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

* * * * *

§ 164.012–1 [Amended]

130. In 164.012–1, in paragraph (a)(1), remove the words "E 84–50T—Tentative Method of Fire Hazard Classification for Building Materials" and add, in their place, the words "E 84–98, Standard Test Method for Surface Burning Characteristics of

Building Materials"; and, in paragraph (b), remove the words "1916 Race Street, Philadelphia, Pa., 19103" and add, in their place, the words "100 Barr Harbor Drive, West Conshohocken, PA 19428–2959".

131. In 164.015–1, revise paragraph (a)(4) to read as set forth below and, in paragraph (b)(3), remove the words "1916 Race Street, Philadelphia, Pa. 19103" and add, in their place, the words "100 Barr Harbor Drive, West Conshohocken, PA 19428–2959".

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

§ 164.015–1 Applicable Specifications and Standards.

(a) * * *

(4) ASTM D 4986–98, Standard Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials.

* * * * *

132. The authority citation for part 170 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

133. In § 170.015(b), revise the entry for American Society for Testing and Materials" to read as follows:

§ 170.015 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1196–94, Standard Specification for Sliding Watertight Door Assemblies—170.270

ASTM F 1197–89 (1994), Standard Specification for Sliding Watertight Door Control Systems—170.270

* * * * *

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

134. The authority citation for part 174 continues to read as follows:

Authority: 42 U.S.C. 9118, 9119, 9153; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

135. In § 174.007(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 174.007 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1196–94, Standard Specification for Sliding Watertight Door Assemblies—174.100

ASTM F 1197–89 (1994), Standard Specification for Sliding Watertight Door Control Systems—174.100

PART 175—GENERAL PROVISIONS

136. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; 175.900 also issued under authority of 44 U.S.C. 3507.

137. In § 175.600(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 175.600 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM B 96–93, Standard Specification for Copper-Silicon Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes and Pressure Vessels—182.440

ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus—175.400

ASTM B 122/B 122M–95, Standard Specification for Copper-Nickel-Tin Alloy, Copper-Nickel-Zinc Alloy (Nickel Silver), and Copper-Nickel Alloy Plate, Sheet, Strip and Rolled Bar—182.440

ASTM B 127–98, Standard Specification for Nickel-Copper Alloy (UNS NO4400) Plate, Sheet, and Strip—182.440

ASTM B 152–97a, Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar—182.440

ASTM B 209–96, Standard Specification for Aluminum and Aluminum-Alloy Sheet and Plate—182.440

ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—175.400

ASTM D 635–97, Standard test Method for Rate of Burning and or Extent and Time of Burning of Self-Supporting Plastics in a Horizontal Position—182.440

ASTM D 2863–95, Standard Method for Measuring the Minimum Oxygen Concentration to Support Candle-Like Combustion of Plastics (Oxygen Index)—182.440

ASTM E 84–98, Standard Test Method for Surface Burning Characteristics of Building Materials—177.410

* * * * *

PART 182—MACHINERY INSTALLATION

138. The authority citation for part 182 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 182.440 [Amended]

139. In § 182.440(a)(1), in Table 182.440(A)(1), in the heading of column two, immediately following the words "(latest edition)" add the words "[see also § 175.600 of this chapter]"; and in column two, remove the words "B97, alloys A, B, and C" and add, in their place, the words "B 96, alloys C65100 and C65500".

PART 190—CONSTRUCTION AND ARRANGEMENT

140. The authority citation for part 190 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 190.01–3 [Removed]

141. Remove § 190.01–3.

PART 193—FIRE PROTECTION EQUIPMENT

142. The authority citation for part 193 continues to read as follows:

Authority: 46 U.S.C. 2213, 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

143. In § 193.01–3(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 193.01–3 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications—193.10–10

* * * * *

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

144. The authority citation for part 195 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

145. In § 195.01–3(b), revise the entry for "American Society For Testing and Materials" to read as follows:

§ 195.01–3 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM F 1014–92, Standard Specification for Flashlights on Vessels—195.35–5

* * * * *

§ 195.35–5 [Amended]

146. In 195.35–5(c), remove the words "ASTM F1014–1986" and add, in their place, the words "ASTM F 1014 (incorporated by reference, see § 195.01–3)".

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

147. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 46 CFR 1.46.

148. In § 199.05(b), revise the entry for "American Society for Testing and Materials" to read as follows:

§ 199.05 Incorporation by reference.

* * * * *

(b) * * *

American Society for Testing and Materials (ASTM)

100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester—199.261; 199.290

ASTM F 1003–86(1992), Standard Specification for Searchlights on Motor Lifeboats—199.175

ASTM F 1014–92, Standard Specification for Flashlights on Vessels—199.175

* * * * *

§ 199.261 [Amended]

149. In 199.261(g), remove the words "ASTM D93–94" and add, in their place, the words "ASTM D 93 (incorporated by reference, see § 199.05)".

§ 199.290 [Amended]

150. In 199.290(b), remove the words "ASTM D93–94" and add, in their place, the words "ASTM D 93 (incorporated by reference, see § 199.05)".

Dated: October 26, 1999.

T.H. Gilmour,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–28611 Filed 11–30–99; 8:45 am]

BILLING CODE 4910–15–U

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 99–7 CARP]

37 CFR Part 253

Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress announces a cost of living adjustment of 2.6% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio, for the use of copyrighted published nondramatic musical compositions. The cost of living adjustment is based on the change in the Consumer Price Index from October, 1998, to October, 1999.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, at Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118(c). The last proceeding to adjust the terms and rates for the section 118 license began in 1996. 61 FR 54458 (October 18, 1996).

On January 14, 1998, the Copyright Office announced final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works, including the 1998 rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities. 63 FR 2142 (January 14, 1998).

Pursuant to these regulations, on December 1 of each year "the Librarian of Congress shall publish a notice of the change in the cost of living during the period from the most recent Index published prior to the previous notice, to the most recent Index published prior to December 1, of that year." 37 CFR 253.10(a). The regulations also require that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertories by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. 37 CFR 253.10(b).

Accordingly, the Copyright Office of the Library of Congress is hereby announcing the change in the Consumer Price Index and performing the annual cost of living adjustment to the rates set out in § 253.5(c). 63 FR 2142 (January 14, 1998).

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 1998, to the most recent Index published before December 1, 1999, was 2.6% (1998's figure was 164.0; 1999's figure is 168.4, based on 1982–1984=100 as a reference base). Rounding off to the nearest dollar, the adjustment in the royalty rate for the use of musical compositions in the repertory of ASCAP and BMI is $231, each, and $63 for the use of musical compositions in the repertory of SESAC.

List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

Final Regulation

For the reasons set forth in the preamble, part 253 of title 37 of the Code of Federal Regulations is amended as follows:

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

2. 37 CFR 253.5 is amended by revising paragraphs (c)(1) through (c)(3).

§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(1) For all such compositions in the repertory of ASCAP, $231 annually.

(2) For all such compositions in the repertory of BMI, $231 annually.

(3) For all such compositions in the repertory of SESAC, $63 annually.

* * * * *

Dated: November 22, 1999.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 99–30929 Filed 11–30–99; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT060–7219a; A–1–FRL–6479–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Removal of Oxygenated Gasoline Requirement for the Connecticut Portion of the New York-N. New Jersey-Long Island Area (the "Southwest Connecticut Area")

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In today's action, EPA is approving a State Implementation Plan (SIP) revision under the Clean Air Act submitted by the State of Connecticut on October 7, 1999 to remove Connecticut's oxygenated gasoline program as a carbon monoxide control (CO) measure from the SIP. The SIP revision includes revised regulations adopted by Connecticut which redefine the control period for oxygenated gasoline in southwest Connecticut such that the oxygenated gasoline program is not required to be implemented except in the unlikely event of a violation of the CO standard in the area. EPA supports this regulatory amendment since it is consistent with the CO redesignation and maintenance plan for the southwest Connecticut area that EPA approved on March 10, 1999 (64 FR 12005).

DATES: This direct final rule is effective on January 31, 2000 without further notice, unless EPA receives adverse comment by January 3, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100 Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Jeff Butensky, Environmental Planner; (617) 918–1665; butensky.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Table of Contents

What action is EPA taking today?
What is the oxygenated gasoline program and how does it apply to Connecticut?
What is the purpose and content of Connecticut's SIP Revision?
How have the criteria for removing oxygenated gasoline been met?
What is the contingency plan for carbon monoxide?
Conclusion

What Action Is EPA Taking Today?

On October 7, 1999, the State of Connecticut submitted a formal revision to its SIP removing the oxygenated gasoline program as a CO control measure for the southwest Connecticut area. In the CO redesignation published on March 10, 1999 (64 FR 12005), EPA agreed that Connectocut's CO SIP does not rely on the oxygenated gasoline program to maintain the CO National Ambient Air Quality Standard (NAAQS) in the southwest Connecticut area.

Under Clean Air Act section 211(m), 42 U.S.C. 7545(m), States with certain CO nonattainment areas are required to implement oxygenated gasoline programs. Once such an area subsequently attains the CO NAAQS, oxygenated gasoline requirements may be removed if it is demonstrated that the program is not needed to maintain attainment in that area. See Clean Air Act section 110(l), 42 U.S.C. 7410(l). CO concentrations throughout the New York City area (which includes the southwest Connecticut area) have been below the CO NAAQS for more than four years, and the CO NAAQS has not been exceeded in southwest Connecticut since 1985.

Through the use of EPA's MOBILE computer model and air quality dispersion modeling, it has been determined that the oxygenated gasoline program no longer needs to be implemented to maintain attainment of the CO NAAQS. The CO NAAQS will not be violated in the future if the program is removed as a control strategy. Improved CO levels are attributable primarily to three sources of emission reductions: (1) turnover of vehicle fleets in the area to more sophisticated cleaner technology vehicles; (2) implementation of reformulated gasoline year round; and (3) the recent implementation of the enhanced vehicle inspection and maintenance (I/M) program in Connecticut. This modeling supports the conclusion that the area will remain well below the NAAQS without the wintertime oxygenated gasoline program in place.

What Is the Oxygenated Gasoline Program and How Does It Apply to Connecticut?

The oxygenated gasoline program is designed to reduce CO pollution from gasoline powered vehicles including passenger cars, sport utility vehicles and light trucks, which are significant contributors of CO emissions. Inhaling CO inhibits the blood's capacity to carry oxygen to organs and tissues. Persons with heart disease, infants, elderly persons, and individuals with respiratory diseases are particularly sensitive to CO. Effects of CO on healthy adults include impaired exercise capacity, visual perception, manual dexterity, learning functions, and ability to perform complex tasks.

On March 3, 1978, (43 FR 8962), EPA published a rulemaking that set forth the attainment status for all States in relation to the NAAQS. The Connecticut portion of the New York—N. New Jersey-Long Island area was designated as nonattainment for CO through this notice.

The Clean Air Act sets forth a number of SIP requirements for States with areas designated as nonattainment for the CO NAAQS. Section 211(m) of the Clean Air Act requires States with CO nonattainment areas, having design values of 9.5 parts per million (ppm) CO or above for any two-year period after 1989, to implement oxygenated gasoline programs. The requirement for an oxygenated gasoline program is to apply during the high CO season, which is generally during the colder winter

months when cars tend to have higher tailpipe CO emissions. Oxygenated gasoline programs require that, during the high CO season, gasoline contain at least 2.7% oxygen by weight. This requirement was intended to assure more complete gasoline combustion, thus achieving a reduction in tailpipe emissions.

The requirement for an oxygenated gasoline program applies to southwest Connecticut because this area is included in the New York City CO nonattainment area which had a design value for CO above 9.5 ppm. In a letter to EPA dated March 14, 1991, the Connecticut Department of Environmental Protection (CTDEP) recommended that the southwest Connecticut area be classified as moderate nonattainment for CO based on monitoring data measured outside the Connecticut portion of the nonattainment area, which includes the aforementioned parts of New York State and New Jersey. Therefore, although the southwest Connecticut area was attaining the standard prior to 1990, the area had to implement the oxygenated gasoline program as part of the New York-N. New Jersey-Long Island Area. The municipalities included in the Connecticut area are Bethel, Bridgeport, Bridgewater, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, New Fairfield, New Milford, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, Stratford, Trumbull, Weston, Westport, and Wilton.[1] EPA also determined that oxygenated gasoline must contain a minimum oxygen content of 2.7 percent by weight of oxygen, specific labeling requirements, and enforcement procedures (57 FR 47849 (October 20, 1992)).

On September 30, 1994, Connecticut submitted to EPA its oxygenated gasoline program contained in section 22a–174–28 of the Regulations of Connecticut State Agencies, entitled "Oxygenated gasoline." EPA approved this submittal as it applies to southwest Connecticut on July 25, 1996 (61 FR 38574), thereby satisfying the requirements of section 211(m) of the Clean Air Act. This action also defined the control period (i.e, the period that oxygenated gasoline must be sold in the area) to be the four month period from November 1 through the last day of February.

[1] Because Clean Air Act section 211(m) applies to the larger of the Consolidated Metropolitan Statistical Areas (CMSA) or the metropolitan statistical area in which the nonattainment area is located, the oxygenated gasoline requirement for the area applies throughout the larger CMSA.

What Is the Purpose and Content of Connecticut's SIP Revision?

Connecticut submitted an oxygenated gasoline SIP revision to EPA on October 7, 1999. The submittal revised the SIP to remove Connecticut's oxygenated gasoline program as a CO control measure. The SIP revision documents that the Connecticut Department of Environmental Protection held a public hearing on August 5, 1999 to take comment on the State's proposed rulemaking to remove the State requirements for its oxygenated gasoline program in Connecticut. The rulemaking was adopted by the State of Connecticut on September 28, 1999, and submitted to EPA as a formal SIP revision on October 7, 1999.

The 1990 Clean Air Act required areas to achieve the CO standard by December 31, 1995, and the Connecticut area has measured no violations of the CO standard since 1985. This area was allowed to redesignate based on the entire area attaining, and the southwest Connecticut area was redesignated to attainment on March 10, 1999 (64 FR 12005). As a result of the redesignation to attainment, the area became eligible to drop the oxygenated gasoline requirement and convert it to a contingency measure. Removal of the oxygenated gasoline program is supported by the State's demonstration that the area is attaining the CO NAAQS and will continue to attain even without implementation of the oxygenated gasoline program. EPA supports this regulatory amendment since it is consistent with the CO redesignation and maintenance plan for the southwest Connecticut area that EPA approved on March 10, 1999 (64 FR 12005).

On September 9, 1999 (64 FR 48974), EPA approved the removal of the oxygenated gasoline program for the New Jersey portion of the CO control area. The submittal from New Jersey contained an analysis of multi-state air quality and impacts of oxygenated gasoline removal which confirmed that the area will continue to attain the CO NAAQS with the removal of oxygenated gasoline. In addition, the CO redesignation submitted by Connecticut on May 29, 1998 and approved by EPA on March 10, 1999 (64 FR 12005) also demonstrated that removing oxygenated gasoline in Connecticut would have inconsequential impact on the other two states CO attainment.

Based on EPA's determination that the entire CMSA is attaining the CO NAAQS, EPA is approving Connecticut's SIP revision, submitted on October 7, 1999, to remove the State's oxygenated gasoline program and convert it to a contingency measure in the CO SIP.

How Have the Criteria for Removing Oxygenated Gasoline Been Met?

The entire New York-N. New Jersey-Long Island area (which includes the southwest Connecticut area) has attained the CO NAAQS since 1995. In 1994, New Jersey experienced two violations of the CO NAAQS that were recorded at monitoring stations in North Bergen and Elizabeth in Northern New Jersey. Since 1995, no subsequent violations were recorded in Northern New Jersey. Since 1994, no violations of the CO NAAQS were recorded in the New York portion of the area, and southwest Connecticut area has not had an exceedance of the standard since 1985.[2]

Two CO monitors meeting EPA siting criteria are maintained in the southwest Connecticut portion of the New York City CO nonattainment area. Locations for these monitors were selected to assure good representation of both CO exposure to people and the maximum CO concentrations which would occur, and were placed in the cities of Bridgeport and Stamford.

Monitoring data from these locations are collected and quality-assured in accordance with 40 CFR part 58. In accordance with EPA's protocol for determining CO exceedances, the following table lists the second highest recorded CO concentrations, in ppm, at each monitoring station for the calendar years 1994 through 1998:

CONNECTICUT CO AIR QUALITY DATA SUMMARY—CO NAAQS EXCEEDANCE LEVEL = 9.5 PPM

Year	Bridgeport	Stamford
1994	5.8	6.2
1995	4.9	5.4
1996	3.0	4.1
1997	4.0	5.1
1998	2.8	3.8

Prior to today's action, EPA approved the redesignation of the southwest Connecticut portion of the New York City CO nonattainment area (64 FR 12005, March 10, 1999). As part of its action to approve Connecticut's redesignation, EPA also approved the maintenance demonstration for southwest Connecticut. Furthermore, EPA has also determined that CO

[2] An exceedance occurs when an average CO concentration greater than or equal to 9.5 ppm is recorded over an eight-hour period. A violation occurs when two non-overlapping exceedances are recorded at the same monitoring site during the same calendar year.

maintenance is demonstrated in southwest Connecticut without reliance on oxygenated gasoline implementation. Connecticut has demonstrated that any increase in CO emissions that might result from removing the oxygenated gasoline requirement will not contribute to CO emissions that exceed the CO emissions budget EPA approved in Connecticut's maintenance plan. In addition, the redesignation included an analysis of the impacts that removing the Connecticut program would have on New York and New Jersey, and these impacts were deemed inconsequential. Additional detail on the CO maintenance demonstration analysis for Connecticut can be found at 63 FR 58637 (November 2, 1998) and 64 FR 12005 (March 10, 1999).

Based on EPA's determination that the entire area is attaining the CO NAAQS and will continue to meet the standard even without the oxygenated gasoline program, EPA is approving Connecticut's SIP revision, submitted on October 7, 1999, which removes the State's oxygenated gasoline requirement program from its CO SIP.

What Is the Contingency Plan for Carbon Monoxide?

In the March 10, 1999 **Federal Register** (64 FR 12005), EPA determined, through Connecticut's use of EPA's MOBILE computer model and air quality dispersion modeling, that the oxygenated gasoline program is no longer necessary for Connecticut because it has been demonstrated that the CO NAAQS will not be violated anywhere in the CMSA if the program is removed. Furthermore, since the area was redesignated to attainment for CO, Connecticut is no longer required to implement the oxygenated gasoline program but must keep it in the SIP as a contingency measure. See Clean Air Act section 175A(d), 42 U.S.C. 7505a(d). However, the State is required to implement the maintenance plan approved into the SIP on March 10, 1999.

Connecticut developed a three-stage contingency plan for the southwest Connecticut area to be implemented in the unlikely event of an exceedance. The State will implement contingency measures when a CO exceedance occurs even though they are only required if a violation occurs, therefore making the continency plan more stringent than is required (again, see March 10, 1999 redesignation at 64 FR 12005). As mentioned earlier, an exceedance occurs when a monitor measures CO levels of 9.5 parts per million as a mean concentration over an eight-hour period. If this were to occur, the first stage of the plan is to investigate the local traffic conditions where the exceedance occurred. The second stage is the implementation of the enhanced inspection and maintenance program, and the third is the low emission vehicle program (both are already being implemented for ground-level ozone purposes.) The State believes that an early trigger (an exceedance rather than violation) will allow Connecticut to take early measures in response to the emission problem to avoid another exceedance and/or persistence of a problem that could lead to a NAAQS violation.

Connecticut's revised "Oxygenated gasoline" regulation contained in section 22a–174–28 of the Regulations of Connecticut State Agencies only applies if a violation of the CO standard (the NAAQS is violated if there are two or more exceedances in a given year) is recorded. Therefore, the oxygenated gasoline program essentially becomes a fourth contingency measure for the southwest Connecticut area. See the technical support document and the March 10, 1999 **Federal Register** for more information on CO contingency measures.

Conclusion

EPA has determined that the southwest Connecticut CO nonattainment area has attained the CO National Ambient Air Quality Standard and can maintain attainment without the continued implementation of its oxygenated gasoline program. As a consequence of this determination, EPA is approving Connecticut's October 7, 1999 SIP revision to remove the State's oxygenated gasoline program requirement from the federally approved State Implementation Plan and convert it to a contingency measure.

II. Final Action

EPA is approving removal of oxygenated gasoline requirement for the Connecticut portion of the New York-N. New Jersey-Long Island Area. The Agency has reviewed this request for revision of the federally-approved State implementation plan for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. EPA is also making a minor technical correction to the Code of Federal Regulations to remove a CO attainment date extension that is no longer relevant to the State.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective January 31, 2000 without further notice unless the Agency receives relevant adverse comments by January 3, 2000.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 31, 2000 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Orders on Federalism

Executive Order 13132 on Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism

implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 31, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 12, 1999.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(83) to read as follows:

§ 52.370 Identification of plan

* * * * *

(c) * * *

(83) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on October 7, 1999 to discontinue the oxygenated gasoline program in the Connecticut portion of the New York—N. New Jersey—Long Island Area.

(i) Incorporation by reference.

(A) CTDEP; "Abatement of Air Pollution: Oxygenated Gasoline,"

State Regulation 22a–174–28.

(ii) Additional materials.

(A) Letter from the Connecticut Department of Environmental Protection dated October 7, 1999 submitting a revision to the Connecticut State Implementation Plan.

§ 52.372 [Amended]

3. Section 52.372 is amended by removing and reserving paragraph (a).

4. Section 52.376 is amended by adding paragraph (g) to read as follows:

§ 52.376 Control Strategy: Carbon Monoxide.

* * * * *

(g) Approval—On October 7, 1999, the Connecticut Department of Environmental Protection submitted a revision to the carbon monoxide State Implementation Plan that removes the oxygenated fuel requirement for the Connecticut portion of the New York—N. New Jersey—Long Island area and converts the program to a contingency measure. If a violation of the carbon monoxide ambient air quality standard were to occur, the State would be required to reimplement the program.

5. In § 52.385, Table 52.385 is amended by adding a entry in numerical order to read as follows:

§ 52.385 EPA—approved Connecticut regulations.

* * * * *

TABLE 52.385—EPA—APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	52.370	Comments/ description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–28	SIP revision concerning Oxygenated Gasoline.	September 28, 1999.	January 31, 2000	[64 FR 67188] ..	(c)(83)	This SIP revision removes the oxygenated gasoline requirement for the Connecticut portion of the New York—N. New Jersey—Long Island area and changes it to a continency measure for maintaining the carbon monoxide National Ambient Air Quality Standard in the southwest Connecticut area
*	*	*	*	*	*	*

[FR Doc. 99–31045 Filed 11–30–99; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–82; CS Docket No. 96–85; FCC 99–288]

Cable Television Consumer Protection and Competition Act of 1992; Cable Act Reform Provision of the Telecommunications Act of 1996: Review of the Commission's Cable Attribution Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts amendments to the cable attribution and affiliation rules, which determine whether an entity is subject to the Commission's cable regulations, in order to more accurately identify interests that confer on their holders the ability to influence or control the operations of a held entity or create the type of economic incentives that the Commission's rules relating to the provision of cable television services are designed to address.

DATES: Effective February 9, 2000, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise.

Written comments by the public on the new and/or modified information collections are due January 31, 2000.

ADDRESSES: In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Darryl Cooper at (202) 418–7200 or via Internet at *dacooper@fcc.gov*. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, FCC 99–288, adopted on October 8, 1999 and released October 20, 1999. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service ("ITS"), (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036, or may be reviewed via internet at http://www.fcc.gov/Bureaus/Cable/WWW/csb.html. For copies in alternative formats, such as braille, audio cassette or large print, please contact Sheila Ray at ITS.

This *Report and Order* contains new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection(s) contained in this proceeding.

Paperwork Reduction Act

This *Report and Order* contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this *Report and Order* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due January 31, 2000. Comments should address: (a) whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–XXXX.
Title: Cable Attribution Rules.
Form No.: Not applicable.
Type of Review: New collection.
Respondents: Business or other for-profit.
Number of Respondents: 20.
Estimated Time per Response: 4 hours.
Total Annual Burden: 80 hours.
Cost to Respondents: $3200.
Needs and Uses: Filings will be used by the Commission to determine the nature of the corporate, financial, partnership, ownership and other business relationships that confer on their holders a degree of ownership or other economic interest, or influence or control over an entity engaged in the provision of communications services such that the holders are subject to the Commission's regulations.

Synopsis of Report and Order

1. The Commission's *Report and Order* amends the Commission's cable attribution and affiliation rules to more accurately identify interests that confer on their holders the ability to influence the operations of the held entity such that the holders should be subject to the cable rules.

2. *Key Decisions:*

- The *Report and Order* maintains the 5% voting equity attribution standard and adopts this standard for the Commission's cable-telco buyout prohibition rule, cable/SMATV cross-ownership rule, and the competing provider prong of the effective competition test. 47 CFR 76.505, 76.501(d), 76.905(h).
- *The Report and Order* raises the passive institutional investor threshold from 10% to 20%.
- The *Report and Order* eliminates the cable attribution rule's single majority shareholder exemption.
- The *Report and Order* attributes nonvoting equity and debt where an investor's interest is greater than 33% of a company's total assets, which is the sum of all equity and debt. This equity debt rule will also act as an exemption to the insulated limited partner exception.
- For the horizontal ownership and channel occupancy rules, 47 CFR 503, 504, the *Report and Order* narrowly tailors the insulated limited partnership criteria to permit a limited partner to insulate its interest so long as the limited partner is not involved in the video-programming activities of the partnership. In addition, for these two rules, the *Report and Order* permits interlocking and appointed directors and officers to petition the Commission for a waiver from attribution where the directors and officers are not involved in the video-programming activities of either company.
- The *Report and Order* adopts a 10% partnership or voting equity attribution threshold for the local exchange carrier prong of the effective competition test. 47 CFR 76.905(b)(4).
- The *Report and Order* permits investors in limited liability companies to insulate their interests under the insulated limited partnership criteria.
- The *Report and Order* clarifies the attribution and affiliation standards for the following rules: 47 CFR 76.1000 (program access); 47 CFR 76.1300 (program carriage); 47 CFR 76.924 (allocation of service cost categories); 47

CFR 76.922 (rates for the basic service tier and cable programming services tiers); 47 CFR 76.970 (commercial leased access); and 47 CFR 76.1500 (open video systems). Under these rules, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

• The *Report and Order* adopts transitional provisions. For the ownership rules covered in the *Report and Order*, the new attribution rules apply only to interests acquired on or after June 26, 1998. For the other rules covered in the *Report and Order*, the new attribution rules apply to all interests, no matter when acquired.

Ordering Clauses

3. Accordingly, pursuant to Sections 4(i), 303 and 612, 613(f)(1)(A)&(B), 616, 623, 628 and 652 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 532, 533(f)(1)(A)&(B), 536(a), 543, 548(b), 572 and 573, the amendments discussed in this *Report and Order Are adopted*. These amendments shall become effective 70 days after publication in the **Federal Register**, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise.

4. The Commission's Office of Public Affairs, Reference Operations Division, *Shall send* a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C.A. 601 *et seq.*

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Equal employment opportunity, Political candidates, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.501 is amended by revising Notes 1, 2, 5 and 6 to read as follows:

§ 76.501 Cross-ownership.

* * * * *

Note 1: Actual working control, in whatever manner exercised, shall be deemed a cognizable interest.

Note 2: In applying the provisions of this section, ownership and other interests in an entity or entities covered by this rule will be attributed to their holders and deemed cognizable pursuant to the following criteria:

(a) Except as otherwise provided herein, partnership and direct ownership interests and any voting stock interest amounting to 5% or more of the outstanding voting stock of a corporation will be cognizable;

(b) Investment companies, as defined in 15 U.S.C. 80a–3, insurance companies and banks holding stock through their trust departments in trust accounts will be considered to have a cognizable interest only if they hold 20% or more of the outstanding voting stock of a corporation, or if any of the officers or directors of the corporation are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.

(c) Attribution of ownership interests in an entity covered by this rule that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50%, it shall not be included for purposes of this multiplication. [For example, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of "Licensee," then X's interest in "Licensee" would be 25% (the same as Y's interest since X's interest in Y exceeds 50%), and A's interest in "Licensee" would be 2.5% (0.1 x 0.25). Under the 5% attribution benchmark, X's interest in "Licensee" would be cognizable, while A's interest would not be cognizable.]

(d) Voting stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust. An otherwise qualified trust will be ineffective to insulate the grantor or beneficiary from attribution with the trust's assets unless all voting stock interests held by the grantor or beneficiary in the relevant entity covered by this rule are subject to said trust.

(e) Subject to paragraph (i) of this Note, holders of non-voting stock shall not be attributed an interest in the issuing entity. Subject to paragraph (i) of this Note, holders of debt and instruments such as warrants, convertible debentures, options or other non-voting interests with rights of conversion to voting interests shall not be attributed unless and until conversion is effected.

(f)(1) Subject to paragraph (i) of this Note, a limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the relevant entity so certifies. An interest in a Limited Liability Company ("LLC") or Registered Limited Liability Partnership ("RLLP") shall be attributed to the interest holder unless that interest holder is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the relevant entity so certifies.

(2) In the case of a limited partnership, in order for an entity to make the certification set forth in paragraph (g)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. In the case of an LLC or RLLP, in order for an entity to make the certification set forth in paragraph (g)(1) of this section, it must verify that the organizational document, with respect to the particular interest holder exempt from attribution, establishes that the exempt interest holder has no material involvement, directly or indirectly, in the management or operation of the media activities of the LLC or RLLP. The criteria which would assume adequate insulation for purposes of these

certifications are described in the Memorandum Opinion and Order in MM Docket No. 83–46, FCC 85–252 (released June 24, 1985), as modified on reconsideration in the Memorandum Opinion and Order in MM Docket No. 83–46, FCC 86–410 (released November 28, 1986). Irrespective of the terms of the certificate of limited partnership or partnership agreement, or other organizational document in the case of an LLC or RLLP, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners, or other interest holders in the case of an LLC or RLLP, in the management or operation of the media businesses of the partnership or LLC or RLLP.

(3) In the case of an LLC or RLLP, the entity seeking insulation shall certify, in addition, that the relevant state statute authorizing LLCs permits an LLC member to insulate itself as required by our criteria.

(g) Officers and directors of an entity covered by this rule are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in businesses in addition to its primary media business, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a media entity, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the media subsidiary, and a certification properly documenting this fact is submitted to the Commission. The officers and directors of a sister corporation of a media entity shall not be attributed with ownership of that entity by virtue of such status.

(h) Discrete ownership interests held by the same individual or entity will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

(1) The sum of the interests held by or through "passive investors" is equal to or exceeds 20 percent; or

(2) The sum of the interests other than those held by or through "passive investors" is equal to or exceeds 5 percent; or

(3) The sum of the interests computed under paragraph (i)(1) of this section plus the sum of the interests computed under paragraph (i)(2) of this section is equal to or exceeds 20 percent.

(i) Notwithstanding paragraphs (e) and (f) of this Note, the holder of an equity or debt interest or interests in an entity covered by this rule shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value (all equity plus all debt) of that entity, provided however that:

(1) in applying the provisions of paragraph (i) of this note to §§ 76.501, 76.505 and 76.905(b)(2), the holder of an equity or debt interest or interests in a broadcast station, cable system, SMATV or multiple video distribution provider subject to §§ 76.501, 76.505, or 76.905(b)(2) ("interest holder") shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value (defined as the aggregate of all equity plus all debt) of that entity; and

(i) the interest holder also holds an interest in a broadcast station, cable system, SMATV, or multiple video distribution provider that operates in the same market, is subject to §§ 76.501, 76.505, or 76.905(b)(2) and is attributable without reference to this paragraph (i); or

(ii) the interest holder supplies over fifteen percent of the total weekly broadcast programming hours of the station in which the interest is held.

(2) For purposes of applying subparagraph (i)(1), the term "market" will be defined as it is defined under the rule that is being applied.

* * * * *

Note 5: Certifications pursuant to this section and these notes shall be sent to the attention of the Cable Services Bureau, Federal Communications Commission, 445 12th Street, NW Washington, DC 20554.

Note 6: In applying paragraph (a) of § 76.501, no minority voting stock interest will be cognizable if there is a single holder of more than 50% of the outstanding voting stock of the corporation in which the minority interest is held, provided however, that an investor that has an interest under the terms of Note 2(i) of this section shall have that interest attributed.

3. Section 76.503 is amended by adding a Note 2 to read as follows:

§ 76.503 National subscriber limits.

* * * * *

Note 2: *Attributable Interest* shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided however, that:

(a) Notes 2(f) and 2(g) to § 76.501 to shall not apply;

(b)(1) Subject to Note 2(i) to § 76.501, a limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the video programming-related activities of the partnership and the relevant entity so certifies. An interest in a Limited Liability Company ("LLC") or Registered Limited Liability Partnership ("RLLP") shall be attributed to the interest holder unless that interest holder is not materially involved, directly or indirectly, in the management or operation of the video programming-related activities of the partnership and the relevant entity so certifies.

(2) In the case of a limited partnership, in order for an entity to make the certification set forth in paragraph (b)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the video programming activities of the partnership. In the case of an LLC or RLLP, in order for an entity to make the certification set forth in paragraph (g)(1) of this section, it must verify that the organizational document, with respect to the particular interest holder exempt from attribution, establishes that the exempt interest holder has no material involvement, directly or indirectly, in the management or operation of the video programming activities of the LLC or RLLP. The criteria which would assume adequate insulation for purposes of these certifications are described in the Report and Order, FCC No. 99–288, CS Docket No. 98–82 (released October 20, 1999). In order for the Commission to accept the certification, the certification must be accompanied by facts, e.g. in the form of documents, affidavits or declarations, that demonstrate that these insulation criteria are met. Irrespective of the terms of the certificate of limited partnership or partnership agreement, or other organizational document in the case of an LLC or RLLP, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners, or other interest holders in the case of an LLC or RLLP, in the

management or operation of the video-programming activities of the partnership or LLC or RLLP.

(3) In the case of an LLC or RLLP, the entity seeking insulation shall certify, in addition, that the relevant state statute authorizing LLCs permits an LLC member to insulate itself as required by our criteria.

(c) Officers and directors of an entity covered by this rule are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in activities other than video-programming activities, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to the entity's video-programming activities. In the case of common or appointed directors and officers, if common or appointed directors or officers have duties and responsibilities that are wholly unrelated to video-programming activities for both entities, the relevant entity may request the Commission to waive attribution of the director or officer. The officers and directors of a parent company of a video-programming business, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the video-programming subsidiary, and a certification properly documenting this fact is submitted to the Commission. The officers and directors of a sister corporation of a cable system shall not be attributed with ownership of that entity by virtue of such status.

4. Section 76.504 is amended by removing paragraph (h) and adding a Note 1 to read as follows:

§ 76.504 Limits on carriage of vertically integrated programming.

* * * * *

Note 1: Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided however, that:

(a) Notes 2(f) and 2(g) to § 76.501 to shall not apply;

(b)(1) Subject to Note 2(i) to § 76.501, a limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the video programming-related activities of the partnership and the relevant entity so certifies. An interest in a Limited Liability Company ("LLC") or Registered Limited Liability Partnership ("RLLP") shall be attributed to the interest holder unless that interest holder is not materially involved, directly or indirectly, in the management or operation of the video programming-related activities of the partnership and the relevant entity so certifies.

(2) In the case of a limited partnership, in order for an entity to make the certification set forth in paragraph (b)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the video programming activities of the partnership. In the case of an LLC or RLLP, in order for an entity to make the certification set forth in paragraph (g)(1) of this section, it must verify that the organizational document, with respect to the particular interest holder exempt from attribution, establishes that the exempt interest holder has no material involvement, directly or indirectly, in the management or operation of the video programming activities of the LLC or RLLP. The criteria which would assume adequate insulation for purposes of these certifications are described in the Report and Order, FCC No. 99–288, CS Docket No. 98–82 (released October 20, 1999). In order for the Commission to accept the certification, the certification must be accompanied by facts, e.g. in the form of documents, affidavits or declarations, that demonstrate that these insulation criteria are met. Irrespective of the terms of the certificate of limited partnership or partnership agreement, or other organizational document in the case of an LLC or RLLP, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners, or other interest holders in the case of an LLC or RLLP, in the management or operation of the video-programming activities of the partnership or LLC or RLLP.

(3) In the case of an LLC or RLLP, the entity seeking insulation shall certify, in addition, that the relevant state statute authorizing LLCs permits an LLC member to insulate itself as required by our criteria.

(c) Officers and directors of an entity covered by this rule are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in activities other than video-programming activities, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to the entity's video-programming activities. In the case of common or appointed directors and officers, if common or appointed directors or officers have duties and responsibilities that are wholly unrelated to video-programming activities for both entities, the relevant entity may request the Commission to waive attribution of the director or officer. The officers and directors of a parent company of a video-programming business, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the video-programming subsidiary, and a certification properly documenting this fact is submitted to the Commission. The officers and directors of a sister corporation of a cable system shall not be attributed with ownership of that entity by virtue of such status.

5. Section 76.505 is amended by adding paragraphs (f) and (g) to read as follows:

§ 76.505 Prohibition on buy outs.

* * * * *

(f) For purposes of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(g) Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501.

6. Section 76.905 is amended by adding paragraphs (h) and (i) to read as follows:

§ 76.905 Standards for identification of cable systems subject to effective competition.

* * * * *

(h) For purposes of paragraph (b)(2) of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities. Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501.

(i) For purposes of paragraph (b)(4) of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities. Attributable interest shall be defined as follows:

(1) A 10% partnership or voting equity interest in a corporation will be cognizable.

(2) Subject to paragraph (i)(3), a limited partnership interest of 10% or

VOL 64 ISS 230 DEC 1 1999 UMI

more shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the relevant entity so certifies. An interest in a Limited Liability Company ("LLC") or Registered Limited Liability Partnership ("RLLP") shall be attributed to the interest holder unless that interest holder is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the relevant entity so certifies. Certifications must be made pursuant to the guidelines set forth in Note 2(f) to § 76.501.

(3) Notwithstanding paragraph (i)(2), the holder of an equity or debt interest or interests in an entity covered by this rule shall have that interest attributed if the equity (including all stockholdings, whether voting or nonvoting, common or preferred, and partnership interests) and debt interest or interests, in the aggregate, exceed 33 percent of the total asset value (all equity plus all debt) of that entity.

(4) Discrete ownership interests held by the same individual or entity will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if the sum of the interests other than those held by or through "passive investors" is equal to or exceeds 10%.

7. Section 76.922 is amended by adding paragraphs (f)(6) (i) and (ii) to read as follows:

§ 76.922 Rates for the basic service tier and cable programming services tiers.

* * * * *

(f) * * *

(6)(i) For purposes of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(ii) Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(A) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(B) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

* * * * *

8. Section 76.924 is amended by adding paragraphs (i)(6) and (i)(7) to read as follows:

§ 76.924 Allocation to service cost categories.

* * * * *

(i) * * *

(6) For purposes of this section, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(7) Attributable interest shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(i) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(ii) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

* * * * *

9. Section 76.970 is amended by redesignating paragraphs (c), (d), (e), (f), (g) and (h) as paragraphs (d), (e), (f), (g), (h) and (i); revising paragraph (b); and adding a new paragraph (c) to read as follows:

§ 76.970 Commercial leased access rates.

* * * * *

(b) In determining whether an entity is an "affiliate" for purposes of commercial leased access, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(c) Attributable interest shall be defined by reference to the criteria set forth in Notes 1–5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

* * * * *

10. Section 76.1000 is amended by revising paragraph (b) to read as follows:

§ 76.1000 Definitions.

* * * * *

(b) *Cognizable interests.* In applying the provisions of this subpart, ownership and other interests in cable operators, satellite cable programming vendors or satellite broadcast programming vendors will be attributed to their holders and subject the interest holders to the rules of this subpart. Cognizable and attributable interests shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

* * * * *

11. Section 76.1300 is amended by redesignating paragraphs (b), (c) and (d) as paragraphs (c), (d) and (e); revising paragraph (a) and adding a new paragraph (b) to read as follows:

§ 76.1300 Definitions.

* * * * *

(a) *Affiliated.* For purposes of this subpart, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(b) *Attributable interest.* The term "attributable interest" shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

* * * * *

§ 76.1401 [Removed]

12. Section 76.1401 is removed.

13. Section 76.1500 is amended by redesignating paragraph (h) as paragraph (i), revising paragraph (g) and adding a new paragraph (h) to read as follows:

§ 76.1500 Definitions.

* * * * *

(g) *Affiliated.* For purposes of this subpart, entities are affiliated if either entity has an attributable interest in the other or if a third party has an attributable interest in both entities.

(h) *Attributable Interest.* The term "attributable interest" shall be defined by reference to the criteria set forth in Notes 1 through 5 to § 76.501 provided, however, that:

(1) The limited partner and LLC/LLP/RLLP insulation provisions of Note 2(f) shall not apply; and

(2) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

* * * * *

[FR Doc. 99–31023 Filed 11–30–99; 8:45 am]

BILLING CODE 5712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–264; FCC 99–289]

Cable Television Consumer Protection and Competition Act of 1992: Horizontal Ownership Limits

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the method by which the cable horizontal ownership limit is calculated in order to further implements Congress' directive that a cable horizontal cap be established and to reflect dynamic changes in the marketplace.

DATES: Effective February 9, 2000, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise. Written comments by the public on the new and/or modified information collections are due January 31, 2000.

ADDRESSES: In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Darryl Cooper at (202) 418–7200 or via Internet at *dacooper@fcc.gov*. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Third Report and Order*, FCC 99–289, adopted on October 8, 1999 and released October 20, 1999. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service ("ITS"), (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036, or may be reviewed via Internet at http://www.fcc.gov/Bureaus/Cable/WWW/csb.html. For copies in alternative formats, such as braille, audio cassette or large print, please contact Sheila Ray at ITS.

This Third Report & Order contains new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection(s) contained in this proceeding.

Paperwork Reduction Act

This *Third Report and Order* contains either a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this R&O as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due January 31, 2000. Comments should address: (a) whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–0581.
Title: Section 76.503 National Subscriber Limits.
Form No.: Not applicable.
Type of Review: Revision of an existing collection.
Respondents: Business or other for-profit.
Number of Respondents: 10.
Estimated Time per Response: 1 hour.
Total Annual Burden: 20 hours.
Cost to Respondents: $400.00.
Needs and Uses: The certification filings will be used by the Commission to: (1) Ensure that cable operators do not violate the 30 percent share rule in their acquisitions of additional multi-channel programming providers; (2) verify that limited partners who so certify are not involved in management or operations of the media-related activities of the partnership. The waiver allowance filings will be used to verify that certain directors and officers are not involved in the video programming activities of partnership.

Synopsis of Report and Order

1. The Commission's *Third Report and Order* amends the method by which the cable 30% horizontal ownership cap is calculated. The amendments recognize dynamic changes in the video distribution marketplace and will encourage further competition that will benefit consumers.

2. *Key Decisions*:

• The old horizontal ownership rule directed that no person or entity should be permitted to reach more than 30% of all homes passed nationwide through cable systems. The old rule measured the 30% limit in terms of the number of homes a cable operator is capable of serving in its franchise areas against the total number of homes in the nation that all cable systems are capable of serving. This standard is known as cable homes passed. The *Third Report and Order* changed the standard to the actual number of subscribers that a cable operator serves. This decision recognized that subscriber numbers more accurately represent a cable operator's programming market power.

• The *Third Report and Order* recognized the impact that competition from satellite and other video providers has had on a cable operator's market power. In 1994, cable operators served approximately 93% of the multichannel marketplace. In 1999, the market share of cable operators fell to 82% due to increased competition from non-cable video providers. To recognize competition from satellite providers and others, the *Third Report and Order* decided to calculate a cable operator's 30% horizontal limit as a percentage of the total multichannel video programming market, including all cable and non-cable multichannel video programming subscribers. This new method of calculation creates a sliding horizontal scale that will grow as competition to cable grows and diminish as competition diminishes. Under market conditions at the time the *Third Report and Order* was adopted, a 30% limit on all multichannel video programming subscribers was effectively equal to a 36.7% limit on cable subscribers alone, thereby effectively raising the horizontal limit to 36.7%.

• The *Third Report and Order* decided to encourage competition between cable operators by not including in their limit subscribers that the cable operators serve through overbuilding other cable systems.

• Because the changes in the method of calculating the limit reflected the changes in the cable marketplace since the limit was initially established, the *Third Report and Order* found that it was unnecessary to raise or lower the 30% limit. The *Third Report and Order* found that the 30% limit strikes a balance between the dangers that a cable operator's size pose to programmers and the benefits to cable operators of economies of scale.

• The *Third Report and Order* eliminated the minority control allowance. This allowance was designed to permit a cable operator to have ownership interests in up to 35% of the market if 5% of its systems were controlled by minorities. However, given that no parties have used this allowance or have argued that they will use the allowance, the allowance was eliminated.

• The *Third Report and Order* denied a motion to lift the Commission's stay of the horizontal ownership rule pending consideration by the United States Court of Appeals for the District of Columbia Circuit on challenges to Section 613(f)(1)(A) of the Communications Act, as amended, and the horizontal ownership rule. The Commission had decided that affected parties must comply with the horizontal rule within 60 days of the court's issuance of a mandate upholding Section 613(f)(1)(A) and the rules. In the *Third Report and Order*, the Commission found that 60 days was an unduly burdensome time frame for affected parties to dispose of property to comply with the newly effective rules. The Commission decided that the horizontal ownership rules would become effective immediately upon the court's issuance of a mandate upholding the statute and the rules and that parties in violation of the rules on that date would have 180 days to comply with the rules.

Ordering Clauses

3. Accordingly, pursuant to Sections 4(i), 303 and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303 and 533, the amendments to 47 CFR 76.503 discussed in this Third Report and Order *Are adopted*. These amendments shall become effective 70 days after publication in the **Federal Register**, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise.

4. The August 17, 1999 Consumers Union, Consumer Federation of America, and Media Access Project's Motion to Vacate Stay of Enforcement of Horizontal Ownership Limits and other requested relief *Is denied* in its entirety.

5. 47 CFR 503(a) through (f) *is Stayed* until the United States Court of Appeals for the District of Columbia Circuit issues a decision upholding Section 613(f)(1)(A) of the Communications Act, as amended, 47 U.S.C. 533(f)(1)(A), and 47 CFR 76.503, and affected parties in violation of 47 CFR 503(a) through (f) will come into compliance within one hundred and eighty (180) days after the court issues its mandate.

6. Parties shall continue to comply with the reporting requirements of Section 503 of our rules, as modified by 47 CFR 76.503(g) and as discussed in note 10 of the *Third Report and Order*.

7. The Commission's Office of Public Affairs, Reference Operations Division, *Shall Send* a copy of this Third Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C.A. 601 *et seq.*

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Equal employment opportunity, Political candidates, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.503 is revised to read as follows:

§ 76.503 National subscriber limits.

(a) Subject to paragraph (b) of this section, no cable operator shall serve more than 30% of all multichannel-video programming subscribers nationwide through multichannel video programming distributors owned by such operator or in which such cable operator holds an attributable interest.

(b) Cable subscribers that a cable operator does not serve through incumbent cable franchises shall be excluded from the cable operator's limit.

(c) For purposes of this section, "incumbent cable franchise" means a cable franchise in existence as of October 20, 1999 and all successors in interest to these franchises.

(d) Subscribers that a cable operator serves through incumbent cable franchises shall include all subscribers served by those incumbent cable franchises, regardless of when the subscribers were added to the incumbent cable franchise system.

(e) "Multichannel video-programming subscribers" means subscribers who receive multichannel video-programming from cable systems, direct broadcast satellite services, direct-to-home satellite services, multichannel multipoint distribution services, local multipoint distribution services, satellite master antenna television services (as defined in § 76.5(a)(2)), and open video systems.

(f) "Cable operator" means any person or entity that owns or has an attributable interest in an incumbent cable franchise.

(g) Prior to acquiring additional multichannel video-programming providers, any cable operator that serves 20% or more of multichannel video-programming subscribers nationwide shall certify to the Commission, concurrent with its applications to the Commission for transfer of licenses at issue in the acquisition, that no violation of the national subscriber limits prescribed in this section will occur as a result of such acquisition.

Note 1 to Section 76.503: Certifications made under this section shall be sent to the attention of the Cable Services Bureau, Federal Communications Commission, 445 Twelfth Street, SW, Washington, DC 20554.

[FR Doc. 99–31024 Filed 11–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[FCC 99–138—PR Docket No. 92–235]

Private Land Mobile Radio Services; Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Preamble correction and correcting amendment.

SUMMARY: This document contains corrections to the final rule published in the **Federal Register** on September 16, 1999 (64 FR 50257). The rules relate to trunking of radio channels in the shared Private Land Mobile Radio bands below 512 MHz.

DATES: Effective December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Wilhelm, 202–418–0870 (not a toll-free call) or mwilhelm@fcc.gov.

SUPPLEMENTARY INFORMATION:

Background

The final rules that are the subject of this correction amended 47 CFR 90.187 and affect the procedures to be followed by Private Land Mobile Radio applicants who propose the use of trunked radio facilities.

Need for Correction

As published, the final rule, omitted a reference to paragraph (b)(2)(iii). In addition, the **DATES** section of the preamble contained a typographical error.

List of Subjects in 47 CFR Part 90

Private land mobile radio services.

On page 50257, in the third column, in the **DATES** section, the reference to "§ 90.187(b)(2)(b)" is corrected to read "§ 90.187(b)(2)(v)".

Accordingly, 47 CFR Part 90 is corrected by making the following correcting amendment:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309 and 332, 48 Stat. 1066, 1062, as amended: 47 USC 154, 251–2, 303, 309 and 332 unless otherwise noted.

2. Revise § 90.187(b)(2) introductory text to read as follows:

§ 90.187 Trunking in the bands between 150 and 512 Mhz.

* * * * *

(b) * * *

(2) Trunking will be permitted on frequencies where an applicant or licensee does not have an exclusive service area provided that all frequency coordination requirements are complied with and written consent is obtained from affected licensees using either the procedure set forth in (b)(2)(i) and (b)(2)(ii) of this section (mileage separation) or the procedure set forth in (b)(2)(iii) (protected contours).

* * * * *

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–31060 Filed 11–30–99; 8:45 am]

BILLING CODE 6712–01–P

Prop

This section contains no issuance of purpose of persons an rule making rules.

DEPARTM

Agricultur

7 CFR Par

[DA–00–02]

Milk in the Missouri M Suspensio the Order

AGENCY: A USDA.

ACTION: Pr

SUMMARY: comments portion of definition Eastern Mi marketing period of D January 20 (Prairie Fa action. The suspension inefficient ensure that associated to have the under the o

DATES: Com or before D

ADDRESSES should be f Dairy Progr Branch, Ro P.O. Box 96 6456. Adva comments 0552 or e-m OFB_FMM Reference s action and

FOR FURTHE Nicholas M USDA/AMS Formulatio Building, P DC 20090-6 address nic

SUPPLEMENT Department

VOL 64 ISS 230 DEC 1 1999 UMI

Proposed Rules

Federal Register
Vol. 64, No. 230
Wednesday, December 1, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1032

[DA–00–02]

Milk in the Southern Illinois-Eastern Missouri Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; suspension.

SUMMARY: This document invites written comments on a proposal to suspend a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk marketing order (Order 32) for the period of December 1999 through January 2000. Prairie Farms Dairy, Inc. (Prairie Farms), requested the proposed action. The cooperative contends the suspension is necessary to prevent inefficient movements of milk and to ensure that producers historically associated with Order 32 will continue to have their milk priced and pooled under the order.

DATES: Comments must be submitted on or before December 8, 1999.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456. Advance, unofficial copies of such comments may be faxed to (202) 690–0552 or e-mailed to OFB_FMMO_Comments@usda.gov. Reference should be given to the title of action and docket number.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690–1932, e-mail address nicholas.memoli@usda.gov.

SUPPLEMENTARY INFORMATION: The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

During August 1999, 1,312 dairy farmers were producers under Order 32. Of these producers, 1,277 producers (i.e., 97%) were considered small businesses. For the same month, 10 handlers were pooled under Order 32, of which three were considered small businesses.

The supply plant shipping standard is designed to ensure that the market's fluid needs will be met. Prairie Farms, the proponent of the suspension, anticipates that there will be an increase in milk production based on current market trends and experiences in prior years.

The proposal would allow a supply plant operated by a cooperative association that delivered milk to Order 32 pool distributing plants during each of the months of September 1998 through August 1999 to meet the Order's pool supply plant standard by shipping at least 25 percent of its milk to pool distributing plants during the months of December 1999 and January 2000. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provision of the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area is being considered for the period of December 1, 1999, through January 31, 2000:

In § 1032.7(b), the words "and 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered" and the words "and physically received at".

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection at the address above during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed rule would suspend a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk marketing order for the period of December 1999 through January 2000. The proposed action would allow a plant operated by a cooperative association to qualify as a pool supply plant by shipping at least 25 percent of its milk to pool distributing plants during December 1999 and January 2000 if such plant delivered milk to Order 32 pool distributing plants during each of the immediately preceding months of September 1998 through August 1999. Without the suspension, such plants would have to meet the minimum 25 percent pool supply plant standard and at least 75 percent of the total producer milk marketed in that 12-month period would have to have been delivered or physically received at pool distributing plants to qualify as a pool supply plant.

In Prairie Farms' letter requesting the suspension, the cooperative indicated that they currently operate processing plants in Carlinville, Olney, and Quincy, Illinois, and a multi-product plant in Granite City, Illinois, which are all regulated under the Southern Illinois-Eastern Missouri order. Prairie Farms notes that, from fiscal year 1998 to fiscal year 1999, milk processed at their Order 32 plants was approximately 6 percent higher and milk production of their member producers also increased about 8 percent. Based on current market trends and experiences in prior years, the cooperative expects an increase in milk production from its member producers during December 1999 and January 2000. Accordingly, it anticipates having a problem pooling all of its member producers' milk and the milk of its suppliers during the proposed suspension period.

Prairie Farms states that the proposed suspension would provide some relief for December 1999 and January 2000 and prevent large amounts of milk from being disassociated with the order. The cooperative contends that the proposed action is necessary to prevent inefficient movements of milk and to ensure that producers historically associated with Order 32 will continue to have their milk priced and pooled under the order. The cooperative points out that a portion of the supply plant provision was suspended in December 1994 and January 1995 for virtually the same reasons.

Accordingly, it may be appropriate to suspend the aforesaid provisions from December 1, 1999, through January 31, 2000.

List of Subjects in 7 CFR Part 1032

Milk marketing orders.

The authority citation for 7 CFR Part 1032 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: November 23, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–31137 Filed 11–30–99; 8:45 am]

BILLING CODE 3410–02–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM–26–2]

Barry Quigley

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment a notice of receipt of a petition for rulemaking dated September 28, 1999, that was filed with the Commission by Mr. Barry Quigley. The petition was docketed by the NRC on October 7, 1999, and has been assigned Docket No. PRM–26–2. The petitioner requests that the NRC: (1) Add enforceable working hour limits to 10 CFR Part 26; (2) add a criterion to 10 CFR Part 55.33 (a)(1) to require evaluation of known sleeping disorders; (3) revise the Enforcement Policy to include examples of working hour violations warranting various NRC sanctions; and (4) revise NRC Form-396 to include self-disclosure of sleeping disorders by licensed operators. The petitioner also requests changes to NRC Inspection Procedure 81502, Fitness for Duty Program. The petitioner believes that clear and enforceable working hour limits are required to ensure that the impact of personnel fatigue is minimized.

DATES: Submit comments by February 14, 2000. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. Federal workdays.

For a copy of the petition and the two reports submitted with the petition (referenced below), write to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

You may also provide comments via the NRC's interactive rulemaking website at *http://ruleforum.llnl.gov*. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: *cag@nrc.gov*).

The petition and copies of comments received may be inspected and copied for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–7162 or Toll Free: 1–800–368-5642.

SUPPLEMENTARY INFORMATION:

The Petitioner

The petitioner is licensed by the NRC as a Senior Reactor Operator who is required to comply with all applicable Commission regulations.

Background

The petitioner states that in an increasingly competitive electricity market, the battle cry is "do more with less." According to the petitioner, this translates into fewer people who are working more and sometimes many more hours at nuclear power plants. The petitioner believes that personnel

mistakes at nuclear power plants can be attributed to fatigue and believes that work-hour limits should be required to minimize personnel fatigue.

The petitioner states that in a letter dated May 18, 1999, to Congressman Edward J. Markey, then-NRC Chairman Shirley Jackson stated that few significant industry events can be attributed to fatigue. While the petitioner agrees that this statement is correct, he asserts that a review of the NRC's Human Factors Information System (HFIS) database suggests that events related to fatigue occur but are not reported, or not properly attributed to fatigue. According to the petitioner, NRC inspection reports listed 87 occurrences of staffing as less than adequate while the industry, using data from the Licensee Events Report, only listed 11. For occurrences attributable to excessive overtime/acute fatigue, the petitioner states that NRC reported 59 occurrences, as compared to 3 occurrences reported by the nuclear industry, and for frequent use of overtime/cumulative fatigue, NRC reported 28 cases and the industry reported none.

The petitioner believes that, based on NRC's much higher reporting of fatigue-type events, industry's accounting and reporting process is non-conservative. The petitioner believes that the tendency of the industry to under-report events related to fatigue is all the more significant in light of the NRC's trend, as asserted by the petitioner, of reducing its inspection efforts at nuclear power plants.

The petitioner states that while NRC's HFIS database contains more events related to fatigue than industry's reporting, the NRC also under-reports fatigue issues. The petitioner states that among other things, fatigue causes inattention to detail, increased risk-taking, and poor work practices. The petitioner cites the following categories in the HFIS database to support his position:

Work practices or skill of the craft less than adequate—If the skill of the craft activities are not performed consistent with management expectations, safety significance of activity or industry standard. 4913 occurrences (NRC and industry combined).

Non-conservative decision making or questioning attitude less than adequate—If personnel fail to stop work or establish appropriate controls when presented with unfavorable or uncertain work conditions. 1805 combined occurrences.

Self-checking less than adequate—If a worker fails to self-check adequately before performing task (Stop, Think, Act, Review). 618 combined occurrences.

Awareness or attention less than adequate—Includes problems that are due to failing to maintain situational awareness, infrequent or ineffective control board monitoring and problems arising from being distracted or interrupted. 2389 combined occurrences.

The petitioner states that the 9725 occurrences included in these four categories account for almost 30% of the total HFIS entries for 1996 through 1998. The petitioner believes that while there are certainly other causes for these occurrences, such as distractions and interruptions, fatigue most probably played a role in a respectable percentage of them. The petitioner cites a National Transportation Safety Board (NTSB) report, which was attached to the petition, that found that, depending on the transportation mode, 21% to 33% of consequential events were fatigue-related, whereas the NRC only attributed 90 occurrences (out of the 9725 included in the HFIS database) directly to fatigue. The petitioner states that it is highly unlikely that less than 1% were caused by fatigue. The petitioner compares the fact that the Department of Transportation (DOT) spent over $30 million on fatigue research in fiscal years 1990 to 1998, while no figures could be found in the NRC budget related to fatigue research. The petitioner compares NTSB and DOT research reports to recent NRC research reports and asserts that the NRC may not be qualified to detect fatigue-related events until they grow to the size of the Peach Bottom occurrence (the NRC ordered two reactors at Peach Bottom nuclear plant to be shut down in March 1987 after NRC inspectors discovered licensed operators asleep in the control room).

The petitioner specifies three other factors that reduce faith in NRC and the industry's reporting on fatigue:

1. Some fatigue errors have latent effects that may not be discovered for quite sometime. The examples the petitioner provided were valve mispositionings and procedures with technical errors caused by an over-worked and fatigued staff. The petitioner asserts that the cause for such errors would be difficult to trace.

2. The HFIS database shows 392 occurrences for which a root cause analysis was determined to be less than adequate. The petitioner questions the quality of the LER's presented by industry to identify all causes of an event.

3. The NRC is not aggressive in looking for fatigue issues. The petitioner notes that NRC indicated that it is very difficult to get overtime issues into Inspection Reports because it is concerned that the licensee may object.

The petitioner states that it appears that the policy of NRC is to wait for something bad to happen and then raise the issue with licensee management.

Petitioner's Conclusion

The petitioner states that the NRC issued a Generic Letter 82–12 on June 15, 1982, to all plant owners that provided guidelines that established controls to prevent situations where fatigue could reduce the ability of personnel to maintain the reactor in a safe condition. According to the petitioner, the issuance of the Generic Letter 17 years ago indicates that NRC is well aware of the threat and undue risk posed by fatigue on workers to safely operate a nuclear power plant, and therefore required plant owners to control working hours. The petitioner notes that with electricity deregulation forcing plant owners to slash staffing levels and work the survivors longer and longer hours, that the NRC has redefined the fatigue risk because few significant events can be precisely attributed to fatigue. However, according to the petitioner, the NRC shut down the Peach Bottom plant without first proving that a single significant event at the facility could be attributed to operator inattentiveness (*i.e.*, napping). The petitioner also states that in the 1980's, although few significant events were attributed to drug or alcohol abuse, the NRC took action to reduce the risk of an accident caused by degraded human performance. Specifically, the NRC implemented a Fitness-for-Duty rule that includes individual and corporate sanctions. The petitioner requests that the NRC take comparable steps to prevent degraded human performances resulting from fatigue.

The Petitioner's Proposed Amendments

The petitioner recommends the following amendments to 10 CFR Part 26.

(1) The following limits apply for personnel performing safety-related work:

(a) During non-outage periods:

(i) 60 hours per week, and

(ii) 108 hours in two weeks.

(b) During outage periods [1]:

(i) 72 hours per week, and

[1] Outage periods are defined as the 48 hours prior to reactor shutdown, the duration of the shutdown and the 48 hours after synchronizing to the grid.

(ii) 132 hours in two weeks.

(c) The maximum annual limits [2] as a percentage over 2080 hours are:

Year ending	Shift workers		Non-shiftworkers	Roving crews
	Licensed	Non-licensed		
Dec 31, 2003 [3]	20	20	30	30
Dec 31, 2002	25	20	35	35
Dec 31, 2001	30	25	40	40

(d) No part of a 16-hour shift shall occur between the hours of 11 pm and 7 am, except for turnover.

(e) No more than two 16-hour shifts shall occur in a rolling 7-day period. The first 16-hour shift shall be followed by a 16-hour rest period. The second 16-hour shift shall be preceded by a 24-hour rest period. The rest periods may be combined.

(f) No more than 24 hours in a 48 hour period.

(g) The limits apply to an individual regardless of work location or employer.

(h) Turnovers:

(i) A turnover time of 1 hour (1½ hours outage) may be allocated in any manner between an individual's oncoming and offgoing turnovers. Any balance of time remaining from turnover shall not be used for other purposes.

(ii) Exceeding the turnover time limit shall not constitute violation of the working hour limits provided:

(I) The condition is entered into the Licensee's Corrective Action program, and

(II) There is no more than one occurrence per individual per week.

(iii) The turnover time allowance shall only apply to written turnovers conducted face-to face.

(2) The following exceptions apply to the work hour limits of paragraph (1) provided the licensee takes action to minimize the effects of fatigue on human performance. Such actions may be demonstrated by compliance with paragraph (3) in addition to increased supervisory oversight.

(a) Activation of the Emergency Plan under 10 CFR 50.47,

(b) For those plants which shutdown for severe weather, the limits are suspended from the beginning of the power reduction until the severe weather has passed,

(c) The transition to Daylight Savings time in the Fall. No showing of minimization of fatigue is required for this exemption.

(d) Plant transients, typically large unplanned power changes or initiation of major Engineered Safety Features. Avoidance of Technical Specifications required shutdowns is not a transient covered by this exemption.

(e) For extended shutdown, the biweekly limit increases to 144 hours per week (weekly remains at 72 hours) provided:

(i) Prior to restart or fuel load, a plan is in place to ensure adequate rest for personnel performing critical tasks. Critical tasks are on a higher tier than safety-related work and are physical and administrative tasks directly related to fuel load and startup of the primary and secondary plant. Critical tasks would typically be those related to fuel load, primary and secondary system fill and vents, safety-related system testing, plant heatup and reactor startup (through the reaching of full power).

(ii) The role of fatigue is specifically and promptly evaluated for all— [4]

(I) Events classified as Conditions Adverse to Quality under 10 CFR part 50, Appendix B, Criterion XVI,

(II) Events classified as Conditions Adverse to Quality under 10 CFR part 50, Appendix B, Criterion XVI and attributed to personnel error,

(III) Reportable events of 10 CFR parts 20 and 50,

(IV) OSHA recordable injuries,

(V) Traffic accidents involving employees on their way home from work [5]

(3) Training and monitoring of fatigue.

(a) Licensees shall provide initial and continuing fatigue mitigation training to personnel performing safety-related work, their supervisors and managers. This training shall be developed in accordance with the systems approach to training of 10 CFR 55.4. At a minimum this training will cover:

(i) Effects of diet, gender, and age on fatigue,

(ii) Importance and ways to maximize rest in off-hours,

(iii) Symptoms of major sleep disorders, and

(iv) Other items as determined during the rule comment period.

(b) Licensees shall provide training to supervisors of personnel performing safety-related work in the monitoring and detection of fatigue.

(4) Section 26.20, "Written Policy and Procedures," should be revised to remove the word "fatigue" from:

"Licensee policy should also address other factors that could affect fitness for duty such as mental stress, fatigue and illness." (The purpose of this change is to eliminate conflicts with the prescriptive working hour limits and inclusion of the word "fatigue" in a statement that is essentially only a recommendation as indicated by the word "should".)

(5) A new definition should be added to 10 CFR Part 26 for the term "Working Hours:"

Working Hours—All hours performing safety-related services for the licensee while on property owned or controlled by the licensee. This includes training and meetings. Breaks, paid, or unpaid, are also included in the calculation of working hours for fatigue. This is appropriate since fatigue is related to several factors, including time since awakening.

Proposed Revisions to NRC Form 396 and 10 CFR Part 55

NRC Form 396 and 10 CFR Part 55 should be revised to require self-disclosure and evaluation of known sleep disorders.

(6) Other Changes: A full set of examples ranging from non-cited to Level I violations should be provided in the Enforcement Manual.

Bases for Proposed Changes

Weekly/Biweekly

The petitioner states that the weekly and biweekly limits are to prevent cumulative fatigue over the short-term. A 60-hour limit allows 5 twelve-hour shifts or 7 eight-hour shifts. The biweekly limit would limit one of the weeks to 48 hours. The 108-hour total is based on limiting the total hours worked for twelve hour shifts to a

[3] And all subsequent years.

[4] This includes events on other units of multi-unit sites if the personnel are under the extended outage provision.

[5] Letter from D. Lochbaum, Union of Concerned Scientists to Chairman Jackson, NRC, March 18, 1999.

reasonable number and ensuring those working eight-hour shifts have at least one day off every two weeks.

Annual

The petitioner states that the annual limits address longer-term cumulative fatigue and are based on NUREG/CR–4248, "Recommendation for NRC Policy on Shift Scheduling and Overtime at Nuclear Power Plants,"[6] which recommended limiting overtime to 2,260 hours per year. The petitioner specifies that the maximum allowed by this petition exceeded this amount but it is not likely that the limit of 2260 hours could be reached. According to the petitioner, the table includes a workdown curve for each of the categories to ensure that some amount of immediate relief is provided while allowing a gradual transition period. The shiftworker limits are lower to allow for the impact of rotating shiftwork, constant disruption of circadian rhythms and working during the pre-dawn trough in performance. The licensed operator curve is more gradual to allow more time to increase the number of operators, if the licensee chooses to do so. The roving crew limits are needed to prevent multi-site utilities from almost constantly having people move from site to site using the outage limits on working hours.

16-Hour Shifts

The petitioner states that the 16-hour shift limits address acute fatigue. The petitioner offers that a substantial amount of first- and second-hand experience is available to him that shows that any 16-hour shift involving a midshift is foolhardy. The petitioner offers the following scenario for a 16-hour shift from 3 pm to 7 am.

Assume the worker arises at 8 am, after a restful sleep, on the day he is to work. A nap prior to 3 pm will be difficult, absent the use of sleeping aids, since sleeping during the day is not natural and the worker should still be rested from the previous night. Near the end of the shift, the worker will have been awake for almost 24 hours.

The petitioner states that Australian researchers[7] show that after 24 hours awake, the performance degradation is equivalent to a Blood Alcohol Content of 0.10%. Additionally, the petitioner states that with the increase in online maintenance, midshifts are no longer the quiet times they were a few years ago and that although the increased workload provides increased stimulation, stimulation is no substitute for rest. The petitioner believes the increased activities provide more opportunities for mishaps.

The petitioner offers a similar scenario for a worker who rises at 8 am and works on a shift from 11 pm to 3 pm. The petitioner states that at the end of the shift, the worker will have been up for 31 hours with a 3-hour nap. The petitioner states that although short naps (30 minutes) may have some restorative ability, they must be taken when tired. The petitioner notes that this would qualify as a "split rest period" under NTSB rules and that NTSB is requesting the DOT to abolish split rest periods due to lack of effectiveness.

Individual Basis

The petitioner believes that limiting hours worked, regardless of employer or location, is necessary to ensure that contractors or others are not excessively fatigued.

Turnover Limits

The petitioner states that turnovers require special consideration. The petitioner believes that orderly transfer of information from one shift to the next is essential for plant safety and that it is as equally important that the work hours are minimized and the turnover allowance is not abused. The petition states there is substantial potential for abuse of the turnover allowance since some may see it as a "free" extra hour. For example, a maintenance worker or engineer (personnel who typically do not have written turnover) could simply tack on an hour to their workday, absent a specific prohibition. The petitioner also notes that abuses are possible for personnel using written turnovers, i.e., if a turnover is normally completed in 15 minutes, the extra 45 minutes shall not be used for other administrative duties. The petitioner states that this is consistent with the requirement to control working hours to limit the effect of fatigue.

The petitioner further states that there are times when plant events require extended turnovers. The once a week exception is judged adequate based on the petitioner's experience as an on-shift SRO. The petitioner indicated that the requirement to enter the condition into the Licensee's Corrective Action program is required to provide both visibility and tracking, the assumption being that a high number indicates either an excessive administrative burden or an individual performance issue.

Exemption

The list of exemptions is considered reasonable based on the petitioner's experience. It is anticipated to grow slightly during the rulemaking phase as more experience is added. The overriding goal of the exemptions is that they be limited both in circumstance and number. The purpose is to avoid the ambiguity of Generic Letter 82–12.

NRC Form 396 and 10 CFR Part 55

The petitioner believes this revision would allow the NRC to issue conditional licenses with the appropriate compensatory actions. The petitioner states that this approach was adopted by the Coast Guard.

Other Changes

The petitioner believes that a full set of examples in the Enforcement Manual would provide clear guidance to NRC staff on the appropriate level of sanctions required.

Reference Documents

The petitioner states that documents used in support of this petition were readily available on websites of the NRC and the NTSB and in the NRC Public Document Room. The petitioner also attached two documents that in his view summarize the hazards of fatigue. They are *Overtime and Staffing Problems in the Commercial Nuclear Power Industry*, Union of Concerned Scientists (March 1999), and *Evaluation of U.S. Department of Transportation Efforts in the 1990s to Address Operator Fatigue*, NTSB Safety Report NTSB/SR–99/01 (May 1999).

Dated at Rockville, Maryland, this 24th date of November 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–31192 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

[6] Battelle Pacific Northwest Laboratories, Richland, WA July 1985.

[7] Nature, Vol. 388, July 17, 1997 pg 235.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Notice of extension of comment period.

SUMMARY: On November 8, 1999, SBA published a proposed rule to amend the regulations governing Certified Development Companies ("CDCs"). The original comment period closes on December 8, 1999. This Notice extends the comment period for 60 days.

DATES: Continue to submit comments on or before January 31, 2000.

ADDRESSES: Comments should be mailed to Jane Palsgrove Butler, Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street, S.W., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jane Palsgrove Butler, Associate Administrator for Financial Assistance, (202) 205–6490.

SUPPLEMENTARY INFORMATION: On November 8, 1999, SBA published a proposed rule to amend the regulations governing Certified Development Companies ("CDCs") (64 FR 60735). The original comment period closes on December 8, 1999. SBA is extending the comment period for 60 days.

SBA will also plan a public hearing on this proposed rule and will publish in the **Federal Register** a Notice providing further information on the public hearing.

Dated: November 24, 1999.

Jane Palsgrove Butler,

Associate Administrator for Financial Assistance.

[FR Doc. 99–31214 Filed 11–30–99; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–42–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Arrius 1A Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Turbomeca Arrius 1A and series turboshaft engines. This proposal would require installation of module TU63, which provides a separate supply of fuel for one of the 10 main injectors of the fuel injection system. This proposal is prompted by reports of unexpected power loss during test flights. The actions specified by the proposed AD are intended to prevent unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing.

DATES: Comments must be received by January 31, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–42–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be submitted to the Rules Docket by using the following Internet address: "9-ane-adcomment@faa.gov". Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Turbomeca, 40220 Tarnos, France; telephone +33 05 59 64 40 00, fax +33 05 59 64 60 80. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Glorianne Niebuhr, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 99–NE–42–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–42–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Turbomeca Arrius 1A series turboshaft engines. The DGAC advises that they have received reports of unexpected power loss during test flights. This power loss is due to lack of fuel supply to the main fuel injectors during low fuel flow conditions. The power loss occurred during a very quick decrease of power consumption caused by displacing collective pitch of the helicopter to minimum stop, for example, during a "quick stop." This condition, if not corrected, could result in unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing.

Service Information

Turbomeca has issued Service Bulletin (SB) No. 319 72 0016, Revision 1, dated December 22, 1997, that specifies procedures for installing module TU63, which provides a separate supply of fuel for one of the 10 main injectors of the fuel injection system. The DGAC classified this SB as mandatory and issued Airworthiness Directive (AD) 98–200(A), dated May 20, 1998, in order to assure the airworthiness of these engines in France.

Bilateral Airworthiness Agreement

This engine model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design registered in the United States, the proposed AD would require installation of module TU63, at the earliest of the following: the next shop visit after the effective date of this AD, 120 cycles-in-service after the effective date of this AD, or within 30 days after the effective date of this AD. The actions would be required to be accomplished in accordance with the SB described previously.

Economic Analysis

There are approximately 100 engines of the affected design in the worldwide fleet. The FAA estimates that 9 engines installed on aircraft of US registry would be affected by this proposed AD, that it would take approximately 1 work hour per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $5,500.00 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $ $50,040. The manufacturer has advised the DGAC that they may provide module TU63 at no cost to the operator, thereby substantially reducing the cost impact of this proposed rule.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order No. 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Turbomeca: Docket No. 99–NE–42–AD.

Applicability: Turbomeca Arrius 1A series turboshaft engines, installed on but not limited to Ecureuil AD355 series helicopters.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent unexpected power loss, which could result in an uncommanded in-flight engine shutdown, autorotation, and forced landing, accomplish the following:

Installation of Module TU63

(a) Install module TU63 in accordance with, the Instructions for Incorporation of Turbomeca Service Bulletin (SB) No. 319 72 0016, Revision 1, dated December 22, 1997, at the earliest of the following after the effective date of this AD:

- The next shop visit, or
- Within 120 cycles-in-service, or
- Within 30 days.

Definition

(b) For the purpose of this AD, a shop visit is defined as whenever the engine is removed from the helicopter for maintenance.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

Ferry Flights

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on October 24, 1999.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–31171 Filed 11–30–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 314 and 601

[Docket No. 99N–1852]

RIN 0910–AB83

Postmarketing Studies for Human Drugs and Licensed Biological Products; Status Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise the status reports section of the postmarketing annual reporting requirements for drug and biological products, and to require applicants to submit annual status reports for certain postmarketing studies of licensed biological products. This proposed rule would describe the types of postmarketing studies covered by these status reports, the information to be included in the reports, and the type of information that FDA would consider appropriate for public disclosure. The agency is taking this action to implement section 130 of the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Submit written comments on the proposed rule by February 14, 2000. Submit written comments on the information collection provisions by January 3, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch

VOL 64 ISS 230 DE 1 1999 UMI

(HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT:

Paula S. McKeever, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6344; or

Audrey A. Thomas, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5625.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 21, 1997, the President signed the FDAMA into law (Public Law 105–115). Section 130(a) of the FDAMA amended the Federal Food, Drug, and Cosmetic Act (the act) by adding a new provision on reports of postmarketing studies) (section 506B of the act (21 U.S.C. 356b)). Section 506B of the act provides FDA with additional authority for monitoring the progress of postmarketing studies that companies have made a commitment to conduct and also requires the agency to make information that pertains to the status of these studies publicly available.

Under section 506B(a) of the act, applicants that have committed to conduct a postmarketing study for a drug or biological product that is approved for marketing must submit to FDA a report on the progress of the study or the reasons for the failure of the applicant to conduct the study. This provision directs FDA to issue regulations that prescribe the content of these reports.

Section 506B(a) of the act also states that these reports must be submitted to FDA within 1 year after the approval of the product and annually thereafter until the study is completed or terminated. This provision applies to commitments for postmarketing studies that were made on or after enactment of FDAMA, as well as those made prior to enactment of FDAMA. For commitments made prior to enactment of FDAMA, the act requires that an initial report be submitted to FDA within 6 months after the date of issuance of the final rule implementing section 506B of the act. Section 506B(b) of the act specifies which information in a status report may be considered public information. Under section 506B(b) of the act, FDA may publicly disclose any information pertaining to a status report under section 506B(a) to the extent that the information is necessary to identify the applicant, or to establish the status of a study and the reasons, if any, for failure to conduct, complete, and report the study.

Section 506B(c) of the act directs FDA to develop and publish annually in the **Federal Register** a report concerning this activity. This report must provide information on the status of postmarketing studies that applicants have committed to conduct under this provision and for which reports have been submitted.

FDAMA also directs FDA, under section 130(b), to submit a specific report to Congress by October 1, 2001. This report must contain a summary of the status reports submitted under section 506B of the act, an evaluation of the performance of applicants in fulfilling their commitments to conduct postmarketing studies under this provision and of FDA's timeliness in reviewing these postmarketing studies, and any legislative recommendations regarding postmarketing studies.

Under the agency's existing postmarketing reporting regulations for human drug products, at § 314.81(b)(2) (21 CFR 314.81(b)(2)), each applicant holding an approved new drug application (NDA) or abbreviated new drug application (ANDA) must submit an annual report to FDA for the drug product. This annual report is required to contain, among other information, a section on status reports that includes a statement on the current status of any postmarketing studies of the drug product performed by, or on behalf of, the applicant (§ 314.81(b)(2)(vii)). This section also permits applicants to include a list of any open regulatory business with FDA concerning the drug product. In the **Federal Register** of December 2, 1998 (63 FR 66632), FDA issued a final rule amending these postmarketing reporting regulations to require that annual reports contain, among other information, specific information about the status of postmarketing clinical studies in pediatric populations. In this proposed rule, FDA is proposing to amend these regulations, including the new provisions issued in the final rule of December 2, 1998, to implement the requirements of section 506B of the act for human drug products. In a separate rulemaking, FDA plans to propose additional amendments to the annual report requirements pertaining to the nonclinical laboratory studies and clinical data sections of the annual report. However, these amendments are beyond the scope of this proposed rule.

Each applicant holding a biologics license application (BLA) must submit an annual report to FDA describing any minor changes that may relate to the safety or effectiveness of the product (§ 601.12(d) (21 CFR 601.12(d)) and must also submit a separate annual report, in accordance with the final rule of December 2, 1998 (63 FR 66632), regarding postmarketing pediatric studies (§ 601.37 (21 CFR 601.37)). In this proposed rule, FDA is proposing to amend the biologics regulations at part 601 (21 CFR part 601) by revising the postmarketing annual reporting requirement at § 601.37 and by adding a new postmarketing annual reporting requirement, § 601.70, to implement the requirements of section 506B of the act for licensed biological products. Proposed § 601.70 would only apply to licensed biological products that meet the definition of "drug" under the act; it would not apply to biological products that also meet the definition of "medical device" under the act, since section 506B does not cover medical devices.

This proposed rule would only apply to human drug and biological products; it would not apply to animal drug products. FDA intends to amend its regulations to implement section 506B of the act for animal drug products in a separate rulemaking.

In May 1996, the Office of Inspector General of the Department of Health and Human Services issued a report regarding FDA's oversight of postmarketing study commitments for prescription drugs (Ref. 1). This study found that the number of postmarketing study commitments was increasing and that the agency did not have formal standards or procedures for monitoring postmarketing studies or for establishing whether a postmarketing study commitment had been met. At the same time, FDA was developing formal procedures for tracking the progress of postmarketing study commitments, an effort that began in February 1995 when the agency recognized the need for such procedures. These procedures were implemented in October 1996. The proposed revisions to the human drug and biologics regulations in this rule will facilitate FDA's current system for tracking postmarketing study commitments.

In addition to the regulatory changes proposed in this rule, FDA will issue guidance regarding section 506B of the act. This guidance will describe in greater detail the type of information

that applicants should submit to the agency in a status report for a postmarketing study of an approved drug or licensed biological product, the implementation schedule for submission of these status reports to the agency, how FDA will track information obtained for postmarketing studies, and the schedule for FDA review of status reports and final study reports for postmarketing studies. In accordance with the agency's Good Guidance Practices (62 FR 8961, February 27, 1997), FDA will make the guidance available in draft form for public comment before issuing a final guidance. FDA is also in the process of reviewing and revising, as necessary, its internal operating procedures related to tracking commitments made for the conduct of postmarketing studies under this provision for approved drug and licensed biological products.

II. Description of the Proposed Rule

A. Introduction

The proposed rule would amend the postmarketing annual reporting requirements for human drug products under § 314.81(b)(2) by reorganizing the status reports section, at § 314.81(b)(2)(vii), to require that the information contained in this section be provided to FDA in a different format. FDA is proposing that this information be included in the annual report in three different sections. One section would contain, as described below (see section II.B of this document), status reports for those postmarketing studies of the drug product (i.e., clinical safety, clinical efficacy, clinical pharmacology and nonclinical toxicology) that are required by FDA (e.g., pediatric studies) or that an applicant has committed, in writing, to conduct either at the time of approval of an application or a supplement to an application, or after approval of an application or a supplement consistent with section 506B of the act (proposed § 314.81(b)(2)(vii)). This section would also include, for pediatric studies, a statement that indicates whether postmarketing clinical studies in pediatric populations were required by FDA under § 201.23 (21 CFR 201.23). Another section would contain status reports for any other postmarketing studies of the drug product (proposed § 314.81(b)(2)(viii)) (e.g., chemistry, manufacturing, and controls, stability of the product), and the third section would contain, at the applicant's discretion, a list of any open regulatory business with FDA concerning the drug product (proposed § 314.81(b)(2)(ix)). FDA would use the information provided under proposed § 314.81(b)(2)(vii) to meet its reporting obligations under section 506B of the act (annual report in the **Federal Register**) and section 130(b) of FDAMA (report to congressional committees by October 1, 2001). FDA does not intend to use information provided under proposed § 314.81(b)(2)(viii) for this purpose. This proposed change in the structure of the annual report would facilitate FDA's preparation of its annual reports and its report to Congress without imposing a new reporting burden on applicants with approved NDA's and ANDA's because these applicants are currently required to report such information to FDA.

The proposed rule would also create a new subpart G under part 601 entitled "Postmarketing Studies" and a new § 601.70 under subpart G. Proposed § 601.70 would require, as described in section II.B of this document, annual reports of the status of postmarketing studies for licensed biological products (i.e., clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology) that are required by FDA (e.g., pediatric studies) or that an applicant has committed, in writing, to conduct either at the time of approval of an application or a supplement to an application, or after approval of an application or a supplement. Proposed § 601.37(c) would require that the status of postmarketing pediatric studies that are covered under proposed § 601.70 be reported to FDA under proposed § 601.70 rather than under § 601.37. FDA notes that biological products previously approved under the product license application and establishment license application process are included wherever BLA, the new form of application for biological products, is used in this preamble.

B. Scope of Proposed Rule

Postmarketing studies for marketed human drug and licensed biological products are conducted for a variety of purposes (e.g., new indication, safety, medication errors, pharmacokinetics, pharmacology, chemistry, marketing, stability, use in special populations such as children). Some of these postmarketing studies are conducted by an applicant on its own initiative. Other postmarketing studies are required by FDA to be conducted by applicants such as assessing the safety and effectiveness of new drugs and biologics in pediatric patients (§ 314.55 (21 CFR 314.55) and § 601.27. Others result from an applicant's commitment, in writing, to the agency to conduct the study at the time of approval of an application (e.g, an NDA, ANDA, BLA, or supplement), after approval of an application (e.g., as a result of suspected adverse drug reaction reports), as a condition of accelerated approval of new drugs and biological products for serious or life-threatening illnesses (subpart H of part 314 (21 CFR part 314), and subpart E of part 601 respectively), or as a deferred submission of pediatric studies (§§ 314.55(b) and 601.27(b)). Studies that applicants commit to conduct at the time of approval of an application are usually intended to address concerns about the risks, benefits, or optimal use of a drug or biological product that do not warrant delaying approval of the application.

This proposed rule would define postmarketing studies for which status reports must be submitted under section 506B of the act as those that concern clinical safety, clinical efficacy, clinical pharmacology or nonclinical toxicology studies and that are required by FDA (e.g., pediatric studies) or that are committed to, in writing, either at the time of approval of an application or a supplement or after approval of an application or supplement. FDA is proposing to include clinical studies such as safety, efficacy, and pharmacology studies within the scope of this rule because these types of studies provide the most relevant and useful additional information about the risks, benefits, and optimal use to patients and consumers of an approved drug or licensed biological product. In addition, FDA is proposing to include nonclinical toxicology studies within the scope of this rule, although such studies typically cannot be performed on human subjects, because they are very useful to further evaluate the safety of a marketed drug or biological product.

For the purpose of this rule, clinical safety and clinical efficacy studies would include human epidemiological studies. Examples of clinical pharmacology studies are pharmacokinetic and pharmacodynamic studies. For all of the postmarketing studies described previously, §§ 314.81(b)(2)(vii) and 601.70 would require applicants to provide status reports to FDA regarding the progress of such studies.

Postmarketing studies designed to evaluate other types of issues such as manufacturing and control issues (e.g., stability of the product, development of new tests or specifications) and medication errors (e.g., attributable to the labels, labeling and/or packaging of the product) would be reported for drug products, as described below, under proposed § 314.81(b)(2)(viii) rather than under proposed § 314.81(b)(2)(vii), and

would not be required to be reported under § 601.70 for licensed biological products.

This proposed rule would require, as stated previously, status reports, under proposed §§ 314.81(b)(2)(vii) and 601.70, for postmarketing studies that either are required by FDA (e.g., pediatric studies) or that applicants commit, in writing, to conduct either at the time of approval of an application or a supplement to an application, or after approval of an application or a supplement.

Under proposed § 314.81(b)(2)(viii), applicants with approved NDA's and ANDA's would be required to provide status reports for any postmarketing study not reported under proposed § 314.81(b)(2)(vii) (e.g., chemistry, manufacturing, and controls, stability of the product, medication errors). These would include postmarketing studies performed by, or on behalf of, the applicant, whether or not the studies are required or subject to commitments. Proposed § 314.81(b)(2)(viii) does not represent a new reporting burden for applicants with approved NDA's or ANDA's because these applicants are currently required to provide status reports for these studies in their postmarketing annual reports. FDA is not proposing a similar reporting requirement for postmarketing studies of licensed biological products in this proposed rule. Applicants with licensed biological products may voluntarily submit status reports to FDA for postmarketing studies that are not required to be reported under proposed § 601.70.

The agency is committed to harmonizing its reporting requirements for drugs and biologics as much as possible. Section 123(f) of FDAMA requires FDA to take measures to minimize differences in the review and approval of products required to have approved BLA's under section 351 of the Public Health Service Act (42 U.S.C. 262) and products required to have approved NDA's under section 505(b)(1) of the act (21 U.S.C. 355(b)(1)). At the present time, FDA is considering whether to amend its biologics regulations in a separate rulemaking to require the submission of information in postmarketing annual reports currently submitted to the agency by applicants with approved NDA's and ANDA's under § 314.81(b)(2)(i) through (b)(2)(vi). FDA requests comment on whether the postmarketing annual report for licensed biological products under § 601.12(d), (changes to an approved application), § 601.37 (annual reports of postmarketing pediatric studies), and proposed § 601.70 should be combined into a single annual report and whether such a report should include additional information as required in § 314.81(b)(2)(i) through (b)(2)(vi). However, FDA has determined that requiring such additional information is beyond the scope of this proposed rulemaking and that it is appropriate, at this time, to harmonize only the drugs and biologics postmarketing annual reporting requirements as they relate to section 506B of the act.

C. Content of Status Reports

Current regulations (§ 314.81(b)(2)(vii)) do not prescribe the content of status reports of postmarketing studies. In this proposed rule, FDA is proposing to set forth the format and content of these reports, as described in section 506B of the act, which requires sufficient information to identify the applicant of the postmarketing study, the specific study being conducted, the status of the study, and the reasons, if any, for the applicant's failure to complete the study. Under proposed § 314.81(b)(2)(vii) and (b)(2)(viii) and § 601.70(b), a status report for a postmarketing study would be required to contain the following information:

1. Applicant's name.

2. Product name. This would include the approved product's established/proper name and proprietary name, if applicable.

3. NDA number, ANDA number, BLA/reference number, or supplement number of the approved product.

4. Date of product's U.S. approval.

5. Date of postmarketing study commitment. This date would be the same as the date of the product's U.S. approval for commitments made, in writing, at the time of U.S. approval of an application; would be the date of U.S. approval of the supplement for commitments made, in writing, at the time of U.S. approval of a supplement; and would be the date of written commitment for commitments made after U.S. approval of an application or supplement.

6. Description of postmarketing study commitment. For clinical studies, this section would include the purpose of the postmarketing study, the patient population addressed by the study, the number of patients and/or subjects to be included in the study, and the indication and dosage(s) that are to be studied. For nonclinical studies, this section would include the type and purpose of the study (e.g., carcinogenicity study to determine effects of chronic dosing).

7. Schedule for conduct, completion, and reporting of the postmarketing study commitment. This section would include projected dates for initiation of the different phases of the study, for completion of the study, and for submission of the final study report to FDA. This schedule should reflect a reasonable, but aggressive timetable for completing the postmarketing study commitment. Although some delays in a study may be unanticipated, it is expected that studies would progress as originally scheduled. If the original schedule is revised under section 9 of this status report, the revised schedule would also be reported in this section (i.e., section 7) in the next report with a note indicating that the schedule has been revised as reported in the previous status report.

8. Current status of the postmarketing study commitment. Applicants would categorize the status of each postmarketing study using one of the following terms that describe the study's status on the U.S. anniversary date of approval of the application or other agreed upon date:

a. *Pending*. The study has not been initiated (i.e., first patient has not been enrolled).

b. *Ongoing*. The study is proceeding according to or ahead of the original schedule described in section 7 of the status report. If a study has been completed but the final study report has not been submitted to FDA, the date the study was completed would be provided.

c. *Delayed*. The study is proceeding but is behind the original schedule described in section 7 of the status report. The original schedule would serve as the basis for defining a study as "delayed," even if a revised schedule is provided.

d. *Terminated*. The study was ended before completion.

e. *Submitted*. The study has been completed (i.e., last patient finished the protocol) or terminated and a final study report has been submitted to FDA. This category would include the date the final study report was submitted to FDA.

9. Explanation of the study's status. This section would include a brief description of the status of the study, including the number of patients and/or subjects enrolled to date and an explanation of the study's status identified under section 8 of the status report (e.g., delayed due to difficulty in patient accrual, terminated because study would no longer provide useful information, terminated because study is no longer feasible, terminated because of adverse events or other safety issues associated with the use of the product). This section would also include a

revised schedule, as well as the reason(s) for the revision, if the schedule under section 7 of the status report has changed since the last annual report. This revised schedule would be included, as noted previously, under section 7 of the next report.

FDA believes that the information proposed to be required in status reports would provide the agency with sufficient data for review of the progress of ongoing postmarketing studies under this section. These reports would also provide FDA with sufficient information to meet the agency's reporting obligations under section 130 of FDAMA (i.e., annual report in the **Federal Register** on the status of postmarketing studies, report to congressional committees by October 1, 2001).

D. Log of Outstanding Regulatory Business

Current regulations (§ 314.81(b)(2)(vii)), as noted previously (see section I of this document), permit applicants with approved NDA's and ANDA's to include in the status reports section of annual reports a list of any open regulatory business with FDA concerning the drug product that is the subject of the annual report. FDA would continue to permit applicants to submit such information in annual reports under proposed § 314.81(b)(2)(ix). For clarification, FDA is proposing to provide examples of the types of open regulatory business that would be reported under proposed § 314.81(b)(2)(ix). These would include a list of the applicant's unanswered correspondence with the agency and a list of the agency's unanswered correspondence with the applicant.

Proposed § 601.70 does not contain a similar provision for outstanding regulatory business. However, as noted previously (see section II.B of this document), FDA is considering a separate rulemaking that would require the same postmarketing annual reporting requirements for drugs and biologics.

E. Report Submission Requirements

Current regulations at § 314.81(b), require applicants with approved drug products to submit two copies of an annual report to FDA. Under § 314.81(b)(2), these annual reports are required to be submitted within 60 days of the anniversary date of U.S. approval of the application to the FDA division responsible for reviewing the application and these reports. Each annual report is required to be accompanied by a completed transmittal Form FDA–2252 (Transmittal of Periodic Reports for Drugs for Human Use) that includes all the information required under § 314.81(b)(2) that the applicant received or otherwise obtained during the annual reporting interval, which ends on the U.S. anniversary date. FDA is proposing to amend these regulations by replacing the phrase "Periodic Reports" with the phrase "Annual Reports" to correct an error and by making other minor changes to provide clarity.

Currently, applicants with licensed biological products must submit reports, under § 601.12(d), describing certain minor changes to an approved BLA, and under § 601.37, providing information on postmarketing pediatric studies, each year within 60 days of the anniversary date of approval of the application. Proposed § 601.70(c) and (d) would require applicants with licensed biological products to submit a separate annual report to FDA describing the status of certain postmarketing studies using submission requirements similar to those required for drugs under § 314.81(b)(2) and for licensed biologics under §§ 601.12(d) and 601.37. Applicants with licensed biological products would submit two copies of an annual progress report to FDA within 60 days of the anniversary date of the U.S. approval of the application for the product. Each annual progress report would be accompanied by a completed transmittal Form FDA–2252 that includes all the information required under proposed § 601.70 that the applicant received or otherwise obtained during the annual reporting interval, which ends on the U.S. anniversary date. These annual progress reports would be submitted for all postmarketing studies of a licensed biological product covered under the scope of this proposed rule including those that are required by FDA (e.g., pediatric studies) and those that an applicant committed, in writing, to conduct on or after the effective date of any final rule that may issue based on this proposed rule and prior to the effective date.

For drugs and biologics with approved NDA's, ANDA's, and BLA's, FDA intends, as noted previously (see section II.A of this document), to fulfill its annual reporting requirement mandated by section 506B(c) of the act by publishing in the **Federal Register**, the status of postmarketing study commitments reported under proposed §§ 314.81(b)(2)(vii) and 601.70. Furthermore, FDA will post additional information on the agency's web page (see section G.2 of this document). This additional information will include an applicant's failure to submit a status report under proposed §§ 314.81(b)(2)(vii) and 601.70 for any postmarketing study commitment that the agency has formally tracked (i.e., commitments included in agency databases which were made, in writing, at the time of approval or after approval of an application or a supplement to an application, and commitments made as a condition of accelerated approval, or required studies for assessing the safety and effectiveness of drugs and biologics in pediatric patients).

A status report under proposed §§ 314.81(b)(2)(vii) and 601.70 would be submitted to FDA until the agency notifies the applicant, in writing, that the study commitment has been fulfilled or acknowledges that the study is either no longer feasible or would no longer provide useful information. Applicants may indicate in their status report that a study has been terminated because it is either no longer feasible or would no longer provide useful information. However, these applicants would be required to submit a final study report to FDA and continue to submit status reports for the study until the agency evaluates the final study report and concurs, in writing, with the applicant's determination. To expedite the process, FDA encourages applicants to submit a final study report to the agency as soon as they have determined that a postmarketing study commitment is to be terminated.

F. Public Disclosure of Information

Section 506B(b) of the act requires FDA to publicly disclose any information pertaining to a status report described in section 506B(a) of the act to the extent that such information is necessary to: (1) Identify the sponsor or (2) establish the status of the postmarketing study and the reasons, if any, for any failure to carry out the study. Therefore, FDA is proposing to state in the rule its authority to disclose any information contained within or relating to postmarketing studies under proposed § 314.81(b)(2)(vii) or proposed § 601.70, if the information is necessary to establish the identity of the applicant or the status of the study, including the reasons, if any, for the applicant's failure to conduct, complete, and report the study. However, FDA would not disclose trade secrets as defined in 21 CFR 20.61(a) or information described in 21 CFR 20.63, the disclosure of which would constitute an unwarranted invasion of personal privacy. Information necessary to establish the status of a postmarketing study would include the study protocol, patient accrual rates, reports of unexpected (i.e., unlabeled) suspected adverse drug

reactions, and study results. Some of these types of information such as study protocols for certain postmarketing studies and adverse event reports for certain postmarketing studies are currently publicly available. Section 130(b) of FDAMA provides FDA with statutory authority to disclose data and information, including certain information that may be considered to constitute confidential commercial information. Section 130(b) of FDAMA constitutes authorization by law for the purposes of 18 U.S.C. 1905 to disclose certain information that could otherwise be considered nondisclosable confidential commercial information.

G. Proposed Implementation Scheme

1. Effective Dates

FDA proposes that any final rule that may issue based on this proposed rule become effective 90 days after its date of publication in the **Federal Register**. Applicants with approved applications for human drug and licensed biological products (that are not medical devices) would be subject to the annual reporting requirements in this proposed rule. In addition, applicants that have entered into a commitment prior to November 21, 1997, to conduct a postmarketing study described under proposed § 314.81(b)(2)(vii) or proposed § 601.70 would be required, as mandated by FDAMA, to submit an initial report to FDA within 6 months after the effective date of any final rule that may issue based on this proposed rule. Thus, in some cases, an applicant would be required to submit two reports to FDA in the first year after the effective date of the final rule (i.e., an initial report containing only information required under proposed § 314.80(b)(2)(vii) or proposed § 601.70 due within 6 months after the effective date and a complete annual report based on the product's anniversary date of U.S. approval due in the 7th to 12th month after the effective date). After the first year, applicants would only be required to submit one annual report to FDA each year.

This proposed rule does not affect the existing reporting requirements issued in the final rule of December 2, 1998 (63 FR 66632). Any changes to the provisions in the final rule of December 2, 1998, that are proposed in this rule would be in effect on the effective date of any final rule that may issue based on this proposed rule.

2. Annual **Federal Register** Report

Consistent with section 506B(c) of the act, FDA will publish annually a report in the **Federal Register**. This report will provide a brief summary of the status of postmarketing study commitments for approved drugs and licensed biological products that applicants have submitted to FDA under proposed §§ 314.81(b)(2)(vii) and 601.70. The report will include the number of pending, ongoing, delayed, and terminated postmarketing study commitments, as well as the number of final study reports that have been submitted to FDA, the number of study commitments that FDA has deemed fulfilled, and the number of applicants that failed to submit a status report to the agency for unfulfilled postmarketing study commitments. Detailed information regarding the status of these postmarketing studies will be posted on FDA's web page at "http://www.fda.gov". The web site will contain, at a minimum, the following information for each postmarketing study commitment: Name of the applicant, application number, product name, dosage form, product use category, type of study, commitment description, commitment date, projected study completion date, current status of commitment, applicant summary of status, annual report due date, and date annual report received.

III. Request for Comments

Interested persons may, on or before February 14, 2000, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted; except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

IV. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

FDA has examined the impact of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule would have a significant economic impact on a substantial number of small entities, the agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million (adjusted annually for inflation) in any 1 year.

The agency believes that this rule is consistent with the principles set out in the Executive Order and in these two statutes. OMB has determined that the proposed rule is a significant regulatory action as defined by the Executive Order and so is subject to review. The rule would require applicants that have committed, in writing, to conduct a postmarketing study for an approved drug or biologic product to submit annual reports on the progress of the study or on the reasons for the failure of the applicant to conduct, complete, and report the study. The rule would permit FDA to publicly disclose information concerning these postmarketing studies, thereby providing patients, consumers, and the medical community with access to important and useful information.

A. Nature of Impact

Currently, applicants holding approved NDA's or ANDA's are required to submit annual reports to the agency that include information on the current status of any postmarketing studies of the drug product performed by, or on the behalf of the applicant. Although the proposed rule prescribes the format for the required information, this requirement would add no new economic burden for the majority of NDA and ANDA applicants. About half of the applicants holding approved NDA's or ANDA's with outstanding postmarketing study commitments made prior to the enactment of FDAMA may incur a small cost the first year, if their annual report is due within the last 6 months after the effective date of issuance of the final rule and they must submit one initial report within the first 6 months after the effective date. FDA estimates that there will be approximately 116 such reports submitted, which will require about 16 hours per report to complete. Assuming an average wage rate of $35 per hour,

the estimated, one-time cost of this provision is $64,960.

Applicants with licensed biological products are currently required to submit information on postmarketing studies in pediatric populations in annual reports to the agency. These applicants will incur additional costs to comply with the proposed requirements in this proposed rule. The agency estimates that about 33 applicants will submit approximately 43 postmarketing status reports annually for approved licensed biological products. As the reporting requirements are not extensive and the information is readily accessible to the applicant, FDA estimates that establishments will require about 16 hours to complete the required information. Assuming an average wage rate of $35 per hour, the estimated incremental cost of the annual reporting requirement will be $560 per report, for an industry total of $24,080 per year. As with applicants holding NDA's or ANDA's, a few applicants with licensed biological products with outstanding postmarketing study commitments may also incur an additional, one-time cost because they must submit their initial report within the first 6 months after the effective date of the final rule and an annual report within the last 6 months of the year. FDA estimates there will be approximately seven such reports, for a total one-time cost of about $4,000.

B. Small Business Impacts

The requirements in this proposed rule will not have a significant economic impact on a substantial number of small entities. Although it is possible that some firms may feel added pressure to honor the agreed upon commitments, the agency does not expect the proposed rule to result in an increased number of completed postmarketing studies. Nor does it believe that applicants will incur significantly increased costs from completing studies earlier than intended, as a result of the reporting, tracking, and disclosure activities implemented by the agency. Because affected applicants holding NDA's and ANDA's must currently submit annual reports to the agency, they already have procedures in place to monitor their postmarketing studies. The additional reporting requirement for applicants holding approved BLA's and the reformatting of the annual reports for applicants holding NDA's and ANDA's would be minimal. To simplify the reporting requirement further, however, the agency will publish a guidance for industry to aid applicants in preparing reports in the proper format.

C. Conclusion

The previous cost estimates demonstrate that this rule is not economically significant under Executive Order 12866. The Unfunded Mandates Reform Act does not require a cost-benefit analysis of this rule, because the rule will not result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million in any 1 year. Finally, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

VI. The Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of these provisions is shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Reporting the Status of Postmarketing Studies for Human Drugs and Licensed Biological Products.

Description: Section 506B of the act provides FDA with additional authority for monitoring the progress of postmarketing studies that companies have made a commitment to conduct and also requires the agency to make the status of these studies publicly available.

Under section 506B(a) of the act, applicants that have committed to conduct a postmarketing study for an approved human drug or biological product must submit to FDA a report of the progress of the study or the reasons for the failure of the applicant to conduct the study. This report must be submitted within 1 year after the U.S. approval of the product and annually thereafter until the study is completed or terminated. Under §§ 314.81(b)(2)(vii) and (b)(2)(viii), and 601.70(b), information submitted in a status report would be limited to that which is needed to sufficiently identify each applicant that has committed to conduct a postmarketing study, the status of the study that is being reported, and the reasons, if any, for the applicant's failure to conduct, complete, and report the study.

Currently under § 314.81(b)(2), applicants holding an NDA or an ANDA must submit status reports on postmarketing studies for the approved human drug product as part of an annual report to FDA. The agency is proposing to amend § 314.81(b)(2)(vii) to specify information that must be included in status reports submitted under section 506B of the act (studies of clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that are required by FDA or that an applicant commits, in writing, to conduct either at the time of approval of an application or a supplement to an application or after approval of an application or supplement). Proposed § 314.81(b)(2) also adds paragraph (b)(2)(viii) which would require status information on any postmarketing study commitments not reported under paragraph (b)(2)(vii) that are being performed by, or on behalf of, the applicant; and paragraph (b)(2)(ix) which would allow the applicant to list any open regulatory business with FDA concerning the drug product subject to the application. For licensed biological products, FDA proposes to create § 601.70 to require postmarketing status reports for studies of clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology that are required by FDA or that an applicant of a BLA commits to conduct, in writing, at the time of approval of an application or a supplement to an application or after approval of an application or a supplement. FDA is also proposing to revise § 601.37(c) to require that the status of postmarketing pediatric studies described in proposed § 601.70 be reported under proposed § 601.70 rather than § 601.37.

This proposed rule is intended to provide FDA with specific procedures for monitoring the progress of postmarketing studies that companies have made a commitment, in writing, to conduct and also to permit the agency to make the status of these studies publicly available.

Description of Respondents: Applicants holding approved

applications for human drugs and biological products that have committed to conduct postmarketing studies.

Under current § 314.81(b)(2), applicants with approved NDA's and ANDA's for human drugs are required to submit to the agency two copies of the annual reports that must include information on the current status of any postmarketing study (OMB No. 0910–0001).

Proposed § 314.81(b)(2)(vii), (b)(2)(viii), and (b)(2)(ix) would expressly require status information to be provided in a specific format as part of the status reports of postmarketing study commitments (clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology), a subpart of the annual report. Based on past experience, the agency estimates that each applicant holding an approved NDA or ANDA would expend an additional 8 hours, to reformat the annual report. This is a one-time burden required under proposed § 314.81(b)(2)(vii). Based on the number of drug applicants in past years who have committed to conduct postmarketing studies, the agency estimates that this provision would apply to approximately 183 applicants and approximately 462 postmarketing studies.

Based upon information obtained from the Center for Biologics Evaluation and Research's computerized application and license tracking database, the agency estimates that approximately 33 applicants with 43 approved BLA's have committed to conduct approximately 86 postmarketing studies (clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology) and would be required to submit an annual progress report on those postmarketing studies under proposed § 601.70. Proposed § 601.70 requires postmarketing studies status reports for the first time for biological products. Based on past experience with reporting under § 314.81(b)(2), the agency estimates that approximately 8 hours annually is required for an applicant to gather, complete, and submit the appropriate information for each report (approximately two studies per report). Included in these 8 hours is the time necessary to initially format the status report.

Applicants holding NDA's, ANDA's, and BLA's whose anniversary date of U.S. approval of the application falls within the latter half of the year after the effective date of any final rule that may issue based on this proposed rule are required under section 506B of the act to submit an initial report to FDA for postmarketing studies committed to be conducted prior to November 21, 1997, within 6 months after the effective date of any final rule in addition to the reports required by the final rule. This information collection is a statutory requirement for which the proposed regulations add no additional burden other than prescribing the format. The burden of setting up the format is calculated under §§ 314.81(b)(2)(vii) and 601.70(b).

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
314.81(b)(2)(vii), (b)(2)(viii), (b)(2)(ix)[2]	183	2.5	462	8	3,696
601.70(b) and (d)	33	2.6	86	8	688
Total					4,384

[1] There are no capital costs or operating and maintenance costs with this collection of information.
[2] One-time burden for reformatting annual report.

In compliance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding this information collection by January 3, 2000, to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

VII. Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. "Postmarketing Studies of Prescription Drugs," Department of Health and Human Services, Office of the Inspector General Final Report, May 1996.

List of Subjects

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 314 and 601 be amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

1. The authority citation for 21 CFR part 314 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356b, 371, 374, 379e.

2. Section 314.81 is amended by revising the introductory text of paragraph (b)(2), by revising paragraph (b)(2)(vii), and by adding paragraphs (b)(2)(viii) and (b)(2)(ix) to read as follows:

§ 314.81 Other postmarketing reports.

* * * * *

(b) * * *

(2) *Annual report.* The applicant shall submit the following information each year within 60 days of the anniversary date of U.S. approval of the application. The applicant shall submit two copies of the report to the FDA division responsible for reviewing the application. Each annual report is required to be accompanied by a completed transmittal Form FDA–2252 (Transmittal of Annual Reports for Drugs for Human Use), which may be obtained from the PHS Forms and Publications Distribution Center, 12100 Parklawn Dr., Rockville, MD 20857, and is required to include all the information required under this section that the applicant received or otherwise obtained during the annual reporting interval, which ends on the U.S. anniversary date. The report is required to contain in the order listed:

* * * * *

(vii) *Status reports of postmarketing study commitments.* A status report of each postmarketing study of the drug product concerning clinical safety, clinical efficacy, clinical pharmacology,

and nonclinical toxicology that is required by FDA (e.g., pediatric studies) or that the applicant has committed, in writing, to conduct either at the time of approval of an application for the drug product or a supplement to an application, or after approval of an application or a supplement. For pediatric studies, the status report shall include a statement indicating whether postmarketing clinical studies in pediatric populations were required by FDA under § 201.23 of this chapter. The status of these postmarketing studies shall be reported annually until FDA notifies the applicant, in writing, that the agency concurs with the applicant's determination that the study commitment has been fulfilled or that the study is either no longer feasible or would no longer provide useful information.

(*a*) *Content of status report.* The following information shall be provided for each postmarketing study reported under this paragraph:

(*1*) *Applicant's name.*

(*2*) *Product name.* Include the approved drug product's established name and proprietary name, if applicable.

(*3*) *NDA, ANDA (abbreviated new drug application), or supplement number.*

(*4*) *Date of product's U.S. approval.*

(*5*) *Date of postmarketing study commitment.*

(*6*) *Description of postmarketing study commitment.* For clinical studies, include the purpose of the postmarketing study, the patient population addressed by the study, the number of patients and/or subjects to be included in the study, and the indication and dosage(s) that are to be studied. For nonclinical studies, include the type and purpose of the study.

(*7*) *Schedule for conduct, completion, and reporting of the postmarketing study commitment.* Include projected dates for initiation of the different phases of the study, for completion of the study, and for submission of the final study report to FDA. Provide a revised schedule, in addition to the original schedule, if the original schedule was revised in the previous report.

(*8*) *Current status of the postmarketing study commitment.* Categorize the status of each postmarketing study using one of the following terms that describes the study's status on the anniversary date of U.S. approval of the application or other agreed upon date:

(*i*) *Pending.* The study has not been initiated.

(*ii*) *Ongoing.* The study is proceeding according to or ahead of the original schedule described under paragraph (b)(2)(vii)(*a*)(*7*) of this section. Include the date the study was completed, if a study has been completed but the final study report has not been submitted to FDA.

(*iii*) *Delayed.* The study is proceeding but is behind the original schedule described under paragraph (b)(2)(vii)(*a*)(*7*) of this section.

(*iv*) *Terminated.* The study was ended before completion.

(*v*) *Submitted.* The study has been completed or terminated and a final study report has been submitted to FDA. Include the date the final study report was submitted to FDA.

(*9*) *Explanation of the study's status.* Provide a brief description of the status of the study, including the number of patients and/or subjects enrolled to date and an explanation of the study's status identified under paragraph (b)(2)(vii)(*a*)(*8*) of this section. Provide a revised schedule, as well as the reason(s) for the revision, if the schedule under paragraph (b)(2)(vii)(*a*)(*7*) of this section has changed since the last report.

(*b*) *Public disclosure of information.* Except for the information described in this paragraph, FDA may publicly disclose any information concerning a postmarketing study, within the meaning of paragraph (b)(2)(vii) of this section, if the agency determines that the information is necessary to identify the applicant or to establish the status of the study including the reasons, if any, for failure to conduct, complete, and report the study. Information necessary to establish the status of a postmarketing study includes the study protocol, patient accrual rates, reports of unexpected suspected adverse drug reactions, and study results. Under this section, FDA will not publicly disclose trade secrets, as defined in § 20.61 of this chapter, or information, described in § 20.63 of this chapter, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(viii) *Status of other postmarketing studies.* A status report of any postmarketing study not included under paragraph (b)(2)(vii) of this section that is being performed by, or on behalf of, the applicant. The applicant shall provide information as prescribed under paragraphs (b)(2)(vii)(*a*)(*1*) through (b)(2)(vii)(*a*)(*9*) of this section for each of the postmarketing studies required to be reported under this paragraph.

(ix) *Log of outstanding regulatory business.* To facilitate communications between FDA and the applicant, the report may, at the applicant's discretion, also contain a list of any open regulatory business with FDA concerning the drug product subject to the application (e.g., a list of the applicant's unanswered correspondence with the agency, a list of the agency's unanswered correspondence with the applicant).

PART 601—LICENSING

3. The authority citation for 21 CFR part 601 is revised to read as follows:

Authority: 15 U.S.C. 1451–1561; 21 U.S.C. 321, 351, 352, 353, 355, 355b, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381; 42 U.S.C. 216, 241, 262, 263, 264; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note).

4. Section 601.37 is amended by revising the second sentence in paragraph (c) to read as follows:

§ 601.37 Annual reports of postmarketing pediatric studies.

* * * * *

(c) * * * The statement shall include whether postmarketing clinical studies in pediatric populations were required or agreed to, and, if so, the status of these studies shall be reported to FDA in annual progress reports of postmarketing studies under § 601.70 rather than under this section.

5. Subpart G, consisting of § 601.70, is added to part 601 to read as follows:

Subpart G—Postmarketing Studies

§ 601.70 Annual progress reports of postmarketing studies

(a) *General requirements.* This section applies to all required postmarketing studies (e.g., pediatric studies) and postmarketing studies that an applicant has committed, in writing, to conduct either at the time of approval of an application or a supplement to an application, or after approval of an application or a supplement. Postmarketing studies within the meaning of this section are those that concern:

(1) Clinical safety;

(2) Clinical efficacy;

(3) Clinical pharmacology; and

(4) Nonclinical toxicology.

(b) *What to report.* Each applicant of a licensed biological product shall submit a report to FDA on the status of postmarketing studies for each approved product application. The report shall include the status of each study which is required by FDA (e.g., pediatric studies) or which the applicant has committed, in writing, to conduct, including any reasons for the applicant's failure to conduct or to progress with the study. The status of these postmarketing studies shall be•

reported annually until FDA notifies the applicant, in writing, that the agency concurs with the applicant's determination that the study commitment has been fulfilled, or that the study is either no longer feasible or would no longer provide useful information. Each annual progress report shall be accompanied by a completed transmittal Form FDA–2252, which may be obtained from the PHS Forms and Publications Distribution Center, 12100 Parklawn Dr., Rockville, MD 20857, and shall include all the information required under this section that the applicant received or otherwise obtained during the annual reporting interval, which ends on the U.S. anniversary date. The report shall provide the following information for each postmarketing study:

(1) *Applicant's name.*

(2) *Product name.* Include the approved product's proper name and the proprietary name, if applicable.

(3) *Biologics license application (BLA)/reference or supplement number.* The biologics license application number, reference number, or supplement number of the approved product.

(4) *Date of product's U.S. approval.*

(5) *Date of postmarketing study commitment.*

(6) *Description of postmarketing study commitment.* For clinical studies, include the purpose of the postmarketing study, the patient population addressed by the postmarketing study, the number of patients and/or subjects to be included in the study, and the indication and dosage(s) that are to be studied. For nonclinical studies, include the type and purpose of the study.

(7) *Schedule for conduct, completion, and reporting of the postmarketing study commitment.* Include projected dates for initiation of the different phases of the study, for completion of the study, and for submission of the final study report to FDA. Provide a revised schedule, in addition to the original schedule, if the original schedule was revised in the previous report.

(8) *Current status of the postmarketing study commitment.* Categorize the status of each postmarketing study using one of the following terms that describes the study's status on the anniversary date of the U.S. approval of the application or other agreed date:

(i) *Pending.* The study has not been initiated.

(ii) *Ongoing.* The study is proceeding according to or ahead of the original schedule described under paragraph (b)(7) of this section. Include the date the study was completed, if a study has been completed but the final study report has not been submitted to FDA.

(iii) *Delayed.* The study is proceeding but is behind the original schedule described under paragraph (b)(7) of this section.

(iv) *Terminated.* The study was ended before completion.

(v) *Submitted.* The study has been completed or terminated, and a final study report has been submitted to FDA. Include the date the final study report was submitted to FDA.

(9) *Explanation of the study's status.* Provide a brief description of the status of the study, including the number of patients and/or subjects enrolled to date and an explanation of the study's status identified under paragraph (b)(8) of this section. Provide a revised schedule, as well as the reason(s) for the revision, if the schedule under paragraph (b)(7) of this section has changed since the previous report.

(c) *When to report.* Annual progress reports for postmarketing study commitments entered into by applicants shall be reported to FDA within 60 days of the anniversary date of the U.S. approval of the application for the product.

(d) *Where to report.* Submit two copies of the annual progress report of postmarketing studies to the Food and Drug Administration, Center for Biologics Evaluations and Research, Document Control Center (HFM–99), suite 200N, 1401 Rockville Pike, Rockville, MD 20852–1448.

(e) *Public disclosure of information.* Except for the information described in this paragraph, FDA may publicly disclose any information concerning a postmarketing study, within the meaning of this section, if the agency determines that the information is necessary to identify an applicant or to establish the status of the study including the reasons, if any, for failure to conduct, complete, and report the study. Information necessary to establish the status of a postmarketing study includes the study protocol, patient accrual rates, reports of unexpected suspected adverse drug experiences, and study results. Under this section, FDA will not publicly disclose trade secrets, as defined in § 20.61 of this chapter, or information described in § 20.63 of this chapter, the disclosure of which would constitute an unwarranted invasion of personal privacy.

Dated: August 9, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–31123 Filed 11–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1309

[DEA NUMBER 185–P]

RIN 1117–AA50

Chemical Registration and Reregistration Fees

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Proposed rule.

SUMMARY: The Drug Enforcement Administration (DEA) proposes to amend its application fees for registration and reregistration of manufacturers, distributors, importers, and exporters of List I chemicals, as authorized by section 3(a) of the Domestic Chemical Diversion Control Act of 1993 (DCDCA), reducing the fees from $595 to $326 for initial registration, and the reregistration fees from $477 to $171. Fees for retail registrants will increase from $255 to $326 for registration, and from $116 to $171 for reregistration. Office of Management and Budget (OMB) Circular A–25 requires a periodic review of user charges for agency programs. This review will bring fees into alignment with current changes in costs or market values.

DATES: Written comments or objections must be submitted on or before January 31, 2000.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Patricia Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION:

Impact of the Proposed Rule

What Is the Effect of This Proposed Rule, and to Whom Does It Apply?

The Drug Enforcement Administration (DEA) proposes to reduce the registration and

reregistration fees for persons manufacturing, distributing (non-retail), importing and exporting List I chemicals. There are currently 3,685 such registrants. Fees are reduced from $595 to $326 for registration, and from $477 to $171 for reregistration. Registration and reregistration fees for the 47 current retail registrants increase slightly, from $255 to $326 for registration, and from $116 to $171 for reregistration. At this time, DEA is receiving, on average, fewer than the new retail applications per year.

Legislative History

What is the Legal Basis for Registering Persons Manufacturing, Distributing, Importing and Exporting List I Chemicals

The Chemical Diversion and Trafficking Act (CDTA) of 1988 was passed by Congress to control the diversion of certain chemicals that are necessary for the illicit manufacture of controlled substances. The CDTA and its regulations, set forth in Title 21 Code of Federal Regulations (CFR) parts 1310 and 1313, established a system of record keeping and reporting requirements through which DEA and the chemical industry could identify persons seeking to divert listed chemicals for the manufacture of illicit controlled substances.

The Domestic Chemical Diversion Control Act of 1993 (DCDCA), which became effective on April 16, 1994, established a number of new requirements intended to close avenues used by illicit controlled substance manufacturers to circumvent the CDTA. One of the main provisions of the DCDCA was the requirement that manufacturers, distributors, importers and exporters of List I chemicals obtain a registration from DEA.

Concurrent with the establishment of the registration requirement, DEA established, by regulations, the fees to be charged for registration and reregistration of List I chemical handlers, as required under the Independent Offices Appropriations act (IOAA) and the guidelines set forth in the Office of Management and Budget (OMB) Circular A–25.

OMB Circular A–25, Section 6 provides that "[A] user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public." The section further requires that the user charge be sufficient to "* * * recover the full cost to the Federal Government for providing the special benefit." A special benefit is described as a Government service which "Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those that accrue to the general public (*e.g.*, receiving a patient, insurance, or guarantee provision, *or a license to carry on a specific activity or business* [emphasis added] or various kinds of public land use)."

Sections 822 and 957 of Title 21, United States Code, as amended by the DCDCA, require that any person who manufactures, distributes, imports or exports a List I chemical must obtain annually a registration in accordance with DEA rules and regulations. A registration to manufacture, distribute, import or export List I chemicals is a special benefit under Circular A–25, in that it allows the registrant to engage in certain activities while a member of the general public may not. Therefore, the costs associated with DEA's issuance of a registration to manufacture, distribute, import or export a List I chemical; certain costs associated with advising registrants of their responsibilities; and maintenance of the integrity of the registration system must be recovered through assessment of a user fee.

Section 6(d) of Circular A–25 describes the requirements for determining the full cost of a service or benefit. "Full cost" is defined as all direct and indirect costs, including, but not limited to: direct and indirect personnel costs, including salaries, fringe benefits (such as life and health insurance and retirement) and travel; physical overhead, including material and supply costs, rent and utilities; management and supervisory costs; and the costs of enforcement, collection, research, establishment of standards, and regulations. Section 6(d)(1)(e) provides that the cost figures shall be established utilizing "the best available records of the agency, and new cost accounting systems need not be established solely for this purpose." The costs of the services provided by DEA were determined by use of proven and accepted budget estimating techniques as outlined in the DOJ budget guidelines and OMB Circular A–11.

Initial Fee Implementation

How did DEA Implement the Initial Fees

DEA established two distinct categories of chemical registrants: retail distributors, such as convenience stores, gas stations, truck stops, liquor stores, etc., whose regulated activities consist of the direct sales to walk-in customers of drug products that are regulated as List I chemicals; and non-retail registrants, such as manufacturers which distribute, distributors, importers, and exporters of List I chemicals. Each category of registrant was addressed independently during the original establishment of the fees.

Establishment of the initial application fee was a simple matter since the costs associated with the processing of each application for registration were direct costs applicable to each individual application; there were minimal general program costs that were required to be averaged across the applicant population. For renewal applications the calculation of the fee required identification of general program maintenance costs which were to be averaged across the registrant population. However, because List I chemical registration was a new requirement, there was no existing registrant population and the fees had to be calculated based on estimates of the potential population. For purposes of calculating the fee DEA estimated 10,000 retail registrants and 1,500 non-retail registrants.

Full details regarding the calculation of the original fees are contained in DEA's proposed rule regarding Implementation of the Domestic Chemical Diversion Control Act of 1993 (Pub. L. 103–200) which was published in the **Federal Register** on October 13, 1994 (59 FR 51887).

New Applications

What Factors Were Involved in Establishing New Application Fees

Due to industry comments regarding the financial impact of the registration fee received at the time the requirements of the MCA were implemented, DEA reviewed the preregistration process and waived a significant portion of the initial registration fee for manufacturers, distributors, importers, and exporters of regulated drug products, requiring that only $116 of the $595 fee be paid. Notice regarding the fee waiver was published in the **Federal Register** on October 17, 1997 (62 FR 53958). Since that time, DEA has continued to assess the situation and has become aware of a number of incidents involving the theft of significant quantities of drug products and raw materials from persons distributing controlled substances and listed chemicals. At least five million dosage units of drug products and 75 kilograms of pseudoephedrine powder have been reported stolen. DEA is concerned that with the emphasis placed on "knowing the customer" and ensuring that all sales are legitimate, there may be

insufficient emphasis placed on maintaining security of the listed chemicals that registrants have in their possession. It is clear that a strong DEA presence at the time of initial registration remains necessary to ensure that applicants are fully aware of all requirements, not only in terms of "knowing the customer" and ensuring that sales are legitimate, but also ensuring that appropriate safeguards are in place to prevent theft or diversion of listed chemicals from the regulated location. However, while DEA will continue to conduct on-site activities as part of the preregistration investigation, at this time, due to the demand on resources for the pursuit of criminal investigations, DEA will only be able to allocate six hours of investigative time for each preregistrant investigation. However, DEA anticipates that, over time, these demands will lessen and resources currently dedicated to criminal investigations will be reallocated to other chemical regulatory activities, including preregistration investigations. DEA will reexamine chemical registration and reregistration fees when this reallocation of resources occurs.

Reregistration Applications

What Factors Were Involved in Establishing Reregistration Application Fees

Two factors have affected the calculation of the reregistration fees. First, due to the continued demand for resources for the pursuit of investigations, DEA anticipates dedicating a total of six investigator work years to regulatory audits of both retail and non-retail registrants. Second, the actual non-retail registrant population is greater than the originally estimated population of 1,500 registrants, due in part to the expanded registration requirements of the MCA. At the time of drafting of this notice, there are 47 retail registrants and 3,685 non-retail registrants, for a total of 3,732 chemical registrants.

Fees

What Specific Costs Were Included in the Calculation of the Fees?

DEA utilized the standard modular costing method used throughout the federal government to calculate fees. This methodology relates costs to the number of personnel within the program and accounts for inflationary increase. Funding for salaries, benefits, equipment, training, and other position-related expenses is predicted on the modular formula which is reviewed and revised each budget year by the Department of Justice (DOJ) and OMB, the latter having ultimate authority in finalizing the formula for each fiscal year.

As previously stated, the personnel costs listed below include all direct and indirect costs, including salaries, fringe benefits (such as life and health insurance and retirement) and travel; physical overhead, including material and supply costs such as forms, postage, equipment, rent and utilities. Direct costs are those costs which are apportionable to a specific registration or reregistration application, *i.e.*, direct personnel and materials costs, whereas indirect costs are costs not directly apportionable to a specific registration or reregistration application, *i.e.*, managerial, regulatory, and supervisory costs.

In light of the minimal number of retail registrants (47), the fact that direct costs are the same for retail and non-retail registrants, and the indirect costs are averaged across the entire retail/non-retail registrant population, DEA has determined that the initial fee for retail and non-retail registrants can be calculated together rather than separately, and that the renewal fee for retail and non-retail registrants can be calculated together rather than separately.

Based on the costs as laid out in the following tables, the initial registration fee will be $326.00, and the reregistration fee will be $171.00.

Costs for Processing an Application and Issuing an Initial Registration

Direct Costs:		
Clerical Time [1]	.5 hour	$10.34
Material Costs: [2]		
Application Form		.043
Postage		.064
Chemical Handlers Manual		0.30
Registration Certificate		0.10
Investigator Time [3]	6 hours	237.44
Total Direct Costs		249.25
Indirect Costs:		
Management/Supervisory time [4]		23.87
Regulatory/Policy Development [5]		7.82
Applicant/Registrant Support [6]		44.26
Total Indirect Costs		75.95
Total Direct and Indirect Costs		325.20

Notes Regarding the Costs Associated With Issuance of an Initial Registration

1. Clerical time includes the time required for preparing and mailing application packages, time for processing applications received, including computer data entry, encoding the application form, filing, and transmitting a copy of the application to the appropriate DEA field office for the registration review process. Following the registration review, time is required to approve the registration, initiate issuance of the registration certificate, and file copies of the report and application.

2. The printing cost for application forms for chemical registration is $4,500 for 20,000 forms or 22.5 cents per form. The cost for the last printing of the Chemical Handlers Manual was $2,250 for 7,500 copies, or 30 cents per copy.

3. DEA is including an average of six hours of investigator time toward the following: travel, on-site visits, telephonic communications, and paperwork processing.

4. Management/Supervisory time is that time spent by management and supervisory personnel in the overall development and maintenance of the registration program, including establishment of program priorities and policy, resource allocation, and administrative direction. The following positions are involved:

Deputy Assistant Administrator and Deputy Director of the Office of Diversion Control.	.05 work year each	$22,304
Chief, Chemical Control Section	.1 work year	13,067
Chief, Data Processing and Analysis Unit	.25 work year	29,030
Chief, Liaison and Policy Section	.1 work year	13,067
Chief, Policy Unit	.1 work year	11,612
Total Costs		89,080

Because the Management/Supervisory costs are related to the general operation of the registration program, they must be averaged across the entire applicant population. For 3,732 applicants, the average cost would be $23.87.

5. Regulatory and policy development time consists of .5 work year of a program analyst time for drafting new/amended regulations and **Federal Register** notices, issuance of policy statements and directives related to the registration program and responding to registrant queries regarding registration matters. This time is for general chemical registration program purposes and must be spread equally across the applicant population. The cost of that time, $29,192, divided by 3,732 applicants equals $7.82.

6. Applicant/Registrant Support time will consist of 2 work years of Diversion Investigator time, which will be dedicated to providing technical assistance, advice and informational materials to the industry to assist in complying with the registration, record keeping and reporting requirements. The total cost for 2 work years of Diversion Investigator time is $165,178, divided by 3,732 applicants equals $44.26.

Cost for Processing a Reregistration Application

Direct Costs:		
Clerical Time [1]	.25 hours	$5.17
Material Costs [2]		.43
Forms		.64
Postage		.64
Total Direct Costs		6.24
Indirect Costs:		
Management/Supervisory Time [3]		23.87
Regulatory/Policy Development [4]		7.82
Regulatory Audit Time [5]		132.78
Total Indirect Costs		164.47
Total Direct and Indirect Costs		170.71

Notes Regarding the Costs Associated With Reregistration

1. Clerical time includes the time required for preparing and mailing application packages, time for processing applications received, including computer data entry, encoding the application form, filing, and preparing the fee for deposit.

2. The forms cost covers both the reregistration application form and the registration certificate. Postage is for mailing the reregistration application and the registration certificate.

3. Management/Supervisory time is that time spent by management and supervisory personnel in the overall development and maintenance of the registration program, including establishment of program priorities and policy, resource allocation, and administrative direction. The following positions are involved:

Deputy Assistant Administrator and Deputy Director of the Office of Diversion Control.	.05 work year each	$22,304
Chief, Chemical Control Section	.1 work year	13,067
Chief, Data Processing and Analysis Unit	.25 work year	29,030
Chief, Liaison and Policy Section	.1 work year	13,067
Chief, Policy Unit	.1 work year	11,612
Total Costs		89,080

Because the Management/Supervisory costs are related to the general operation of the registration program, they must be averaged across the entire reregistration applicant population. DEA has received 3,732 retail and non-retail reregistration applications. The average cost per applicant would be $23.87.

4. Regulatory and policy development time consists of .5 work year of a program analyst time for drafting new/amended regulations and **Federal Register** notices, issuance of policy statements and directives related to the registration program and responding to registrant queries regarding registration matters. This time is for general chemical registration program purposes and must be spread equally across the reregistration applicant population. The cost of that time, $29,192, divided by 3,732 reregistration applicants, equals $7.82.

5. DEA will conduct regulatory audits to ensure that registrants are complying with the chemical control requirements and that chemicals are not being distributed to persons seeking to divert them. The investigations will consist of a comprehensive review of each registrant's records, reporting systems, and security provisions. Each investigation will require comprehensive on-site review of the registrant's records; verification of transactions and purchasers, including record checks of and visits to purchasers; travel; and report preparation. DEA anticipates that all such investigations combined will require 6 work years of Diversion Investigator time. The total cost for 6 work years of Diversion Investigator time is $495,534, divided by 3,732 reregistration applicants equals $132.78.

Refund of Fees for Certain Registrants

Section 8(e) of OMB Circular A–25 requires periodic review of user fees. DEA's initial review of these fees in 1997 was delayed due to passage of the Comprehensive Methamphetamine Control Act of 1996 (MCA) which significantly expanded the scope of the registration requirement. DEA postponed the review of the fees until all persons affected by the MCA had submitted their applications. Due to this delay, there are registrants who have been required to pay the full reregistration fee of $477.00. DEA will

be making arrangements to refund the difference between the current and proposed reregistration fees. Refunds will be provided to those registrants who have renewed their registration in the year preceding the effective date of the final rule published in conjunction with this notice. Refunds will only be provided to those registrants who renewed their registration on time, not those applicants who, by virtue of renewing late, fell into this payment period.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Assistant Administrator hereby certifies that this proposed rulemaking has been drafted in a manner consistent with the principles of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It will not have a significant economic impact on a substantial number of small business entities. This notice reduces the registration and reregistration fee substantially for the larger portion of the industry, *i.e.*, those persons required to submit applications for renewal of registration, reducing the registration fee from $595 to $326, and the reregistration fee from $447 to $171, providing economic relief to the small businesses affected. With respect to the one category of fee that increased, for retail distributors, there are currently less than 50 retail distributor registrants and DEA is receiving, on average, less than 10 new applications from retail distributors per year.

Executive Order 12866

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles of Executive Order 12866 Section 1(b). DEA has determined that this is not a significant regulatory action. As noted above, this proposed rule reduces the existing fee structure for most registrants, thus providing economic relief to the registrant population . DEA has determined that this rulemaking is not significant. Therefore, it has not been submitted to the Office of Management and Budget for review.

Executive Order 13132

This action has been analyzed with the principles and criteria in Executive Order 13132, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

The Drug Enforcement Administration makes every effort to write clearly. If you have suggestions as to how to improve the clarity of these regulations, call or write Patricia Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. Telephone (202) 307–7297.

List of Subjects in 21 CFR Part 1309

Administrative practice and procedure, Drug traffic control, List I and List II chemicals, Security measures For the reasons set out above, 21 CFR Part 1309 is proposed to be amended as follows:

PART 1309—[AMENDED]

1. The authority citation for 21 CFR Part 1309 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 830, 871(b), 875, 877, 958.

2. Section 1309.11 is revised to read as follows:

§ 1309.11 Fee amounts.

(a) For each initial registration to manufacture for distribution, distribute (either retail distribution or non-retail distribution), import, or export a List I chemical, the applicant shall pay a fee of $326 for an annual registration.

(b) For each reregistration to manufacture for distribution, distribute (either retail distribution or non-retail distribution), import, or export a List I chemical, the registrant shall pay a fee of $171 for an annual registration.

3. Section 1309.12 is revised to read as follows:

§ 1309.12 Time and method of payment; refund.

(a) For each application for registration or reregistration to manufacture for distribution, distribute (either retail distribution or non-retail distribution), import, or export a List I chemical, the applicant shall pay the fee when the application for registration or reregistration is submitted for filing.

(b) Payment should be made in the form of a personal, certified, or cashier's check or money order made payable to "Drug Enforcement Administration." Payments made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. These application fees are not refundable.

Dated: October 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 99–30960 Filed 11–30–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA54

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Expansion of Dependent Eligibility for TRICARE Retiree Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements a change to the TRICARE Retiree Dental Program (TRDP) required by the National Defense Authorization Act for Fiscal Year 1999. This change expands eligibility for enrollment in the program to allow dependents of certain retired members of the Uniformed Services to enroll in the program even if the retired member does not enroll. In addition, this rule clarifies the existing regulatory provisions for election of TRDP coverage and disenrollment.

DATES: Comments must be received on or before January 31, 2000.

ADDRESSES: TRICARE Management Activity, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Linda Winter, TRICARE Management Activity, (303) 676–3682.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the TRICARE Retiree Dental Program (TRDP), a

program completely funded by enrollee premiums, was directed by Congress in section 703 of the National Defense Authorization Act for Fiscal Year 1997, Public Law 104–201, which amended title 10, United States Code, by adding section 1076c. Section 1076c was subsequently amended by the National Defense Authorization Act for Fiscal Year 1998 to expand eligibility to retirees of the Public Health Service and the National Oceanic and Atmospheric Administration and to surviving spouses and dependents of deceased active duty members. As amended, the law directs the implementation of a dental program for: (1) Members of the uniformed services who are entitled to retired pay, (2) Members of the Retired Reserve who would be entitled to retired pay but are under the age of 60, (3) Eligible dependents of a member in (1) or (2) who are covered by the enrollment of the member, and (4) The unremarried surviving spouse and eligible child dependents of a deceased member who died while in status described in (1) or (2); the unremarried surviving spouse and eligible child dependents who receive a surviving spouse annuity; or the unremarried surviving spouse and eligible child dependents of a deceased member who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible or no longer eligible for the Active Duty Dependents Dental Plan.

Eligibility of dependents (other than surviving spouses and dependents) for the TRDP was contingent on the enrollment of the retired member. This applied even in cases where the member could not benefit from TRDP coverage. In such cases, members had a choice of enrolling solely to obtain coverage for their dependents, or doing without the program altogether.

With regard to amending section 1076c of title 10 to rectify this situation, the House National Security Committee reported, "Presently, dependents may enroll in the retiree dental program only if the retired member also enrolls. However, some retired members are entitled to receive dental care from the Secretary of Veterans Affairs or have medical or dental conditions which preclude their use of the dental program. The committee believes it is not reasonable to ask these retirees to enroll in, and pay premiums for, a program which offers them no benefits only so their dependents may also enroll in the program. Therefore, this provision would allow the dependents of these specific retirees to enroll in the retiree dental program independently."

Section 702 of the National Defense Authorization Act for Fiscal Year 1999, Public Law 105–261, addressed this situation by extending eligibility for the TRDP to eligible dependents of certain retired members who are not enrolled and whose benefit from enrollment would be severely limited at best. These are members who are enrolled with Veterans Affairs to receive dental care, members who are enrolled through employment in a dental plan that is not available to the member's dependents, and members who are prevented by a medical or dental condition from being able to use TRDP benefits.

II. Provisions of the Proposed Rule To Expand Eligibility of Dependents

This proposed rule extends eligibility for the TRDP to eligible dependents when the retired member is not enrolled because the member would not benefit from the program due to any of the three conditions stipulated in the law, which are, briefly, dental care from Veterans Affairs, employee-only dental coverage, or medical or dental condition which precludes dental care. To facilitate understanding and convey the intent of the law, the proposed rule mandates that each of these conditions must meet the test of being on-going, long-term, or enduring as opposed to episodic, conditional, temporary, or short-term. The retired member's circumstance must be such that the benefits of the TRDP would not be useful currently and in the foreseeable future. This distinction is also necessary to help limit the potential for adverse selection and higher costs.

Given the absence of any systems of information that a member meets any of the three qualifying conditions, the proposed rule requires that retired members desiring to enroll their dependents under the dependent-only provision provide documentation attesting to the existence of these conditions. The documentation requirements are specified as being (1) confirmation by the Department of Veterans Affairs of its authorization for the member's ongoing, comprehensive dental care, (2) confirmation by a member's employer or the employer's dental plan administrator that the member is enrolled in a dental plan through employment that is separate from the member's uniformed service, and the dental plan is not available to the member's dependents, or (3) confirmation by the member's physician or dentist of the member's inability to utilize TRDP benefits due to a current and enduring medical or dental condition. These criteria and documentation requirements were developed with the recognition that the three situations specified by Congress for allowing dependent-only enrollment represent exceptional circumstances.

The availability of dental care from the Department of Veterans Affairs is extremely limited. Sections 1710(c) and 1712 of title 38, United States Code, and sections 17.93, and 17.160 through 17.166 of title 38, Code of Federal Regulations specify the criteria which a veteran must meet to be considered for dental care. The policies and procedures for the Veterans Health Administration (VHA) Dental Program are covered in the VHA Directive 1130 (December 7, 1998) and the VHA Handbook 1130.1 (December 7, 1998).

The determinations of eligibility or authorization for dental care are not based simply on enrollment for Veterans Affairs healthcare nor are such decisions recorded in a centralized system. These are accomplished by the Veterans Affairs at local and regional levels. In general, entitlement to continuous, comprehensive dental benefits from Veterans Affairs is limited to those veterans who are in receipt of a compensable service connected dental rating, a 100% service connected rating, or a permanent and totally disabled (unemployable) rating, or who have been classified as former Prisoners of War (for at least 90 days). In most other cases, the dental care provided to eligible veterans is episodic and short-term.

Just as the dental care available from Veterans Affairs is limited, employee-only dental coverage is not prevalent in the health insurance industry according to sources at the Health Insurance Association of America and Delta Dental Plan of California. Similarly, expectations are that the prevalence of medical or dental conditions that would preclude any use for the coverage offered by the TRDP is relatively small.

The proposed rule prohibits retroactive dependent-only enrollments and requires that enrolled retirees satisfy any remaining enrollment commitment prior to enrolling dependents under the dependent-only provision. Once the initial enrollment commitment is fulfilled, retirees who meet one of the dependents-only eligibility conditions may disenroll with dependents remaining enrolled on a month-to-month basis.

III. Other Provisions of the Proposed Rule

In addition to implementing dependent-only eligibility, this proposed rule clarifies the process for electing to enroll in the TRDP by removing the apparently restrictive

reference to written election, thereby recognizing the existence of the variety of methods in which an election of enrollment can be conveyed, *e.g.*, by written, telephonic, or e-mailed application. The proposed rule also clarifies the 12-month enrollment lock-out provision by specifying that the provision applies to disenrollment occurring at any time and for any reason. This includes disenrollment after the enrollee has fulfilled the 24-month initial enrollment commitment and disenrollment of the retired member to convert to dependent-only coverage.

IV. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any "significant regulatory action," defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This rule is not a significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Individuals with disabilities, Military personnel, and Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

2. Section 199.22 is proposed to be amended by revising paragraphs (d)(1)(iii), (d)(3), and (d)(4); redesignating paragraph (d)(1)(iv) as paragraph (d)(1)(v); and adding a new paragraph (d)(1)(iv) to read as follows:

§ 199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(d) * * *

(1) * * *

(iii) Eligible dependents of a member described in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section who are covered by the enrollment of the member;

(iv) Eligible dependents of a member described in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section when the member is not enrolled in the program and the member meets at least one of the conditions in paragraphs (d)(1)(iv)(A) through (C) of this section. Already enrolled members must satisfy any remaining enrollment commitment prior to enrollment of dependents becoming effective under this paragraph, at which time the dependent-only enrollment will continue on a voluntary, month-to-month basis as specified in paragraph (d)(4) of this section. Members must provide documentation to the TRDP contractor giving evidence of compliance with paragraphs (d)(1)(iv)(A), (B), or (C) of this section at the time of application for enrollment of their dependents under this paragraph.

(A) The member is enrolled under section 1705 of title 38, United States Code, to receive ongoing, comprehensive dental care from the Secretary of Veterans Affairs pursuant to section 1712 of title 38, United States Code, and §§ 17.93, 17.161, or 17.166 of title 38, Code of Federal Regulations. Authorization of such dental care must be confirmed in writing by the Department of Veterans Affairs.

(B) The member is enrolled in a dental plan that is available to the member as a result of employment of the member that is separate from the uniformed service of the member, and the dental plan is not available to dependents of the member as a result of such separate employment by the member. Enrollment in this dental plan and the exclusion of dependents from enrollment in the plan must be confirmed by documentation from the member's employer or the dental plan's administrator.

(C) The member is prevented by a current and enduring medical or dental condition from being able to obtain benefits under the TRDP. The specific medical or dental condition and reason for the inability to use the program's benefits over time, if not apparent based on the condition, must be documented by the member's physician or dentist.

* * * * *

(3) *Election of coverage.* In order to initiate dental coverage, election to enroll must be made by the retired member or eligible dependent. Enrollment in the TRICARE Retiree Dental Program is voluntary and will be accomplished by submission of an application to the TRDP contractor.

(4) *Enrollment periods.* Initial enrollment shall be for a period of 24 months followed by month-to-month enrollment as long as the enrollee chooses to continue enrollment. An enrollee's disenrollment from the TRDP at any time for any reason is subject to a lock-out period of 12 months. After any lock-out period, eligible individuals may elect to reenroll and are subject to a new initial 24-month enrollment period.

* * * * *

Dated: November 24, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–31117 Filed 11–30–99; 8:45 am]

BILLING CODE 5001–10–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT060–7219B; A–1–FRL–6479–5]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Removal of Oxygenated Gasoline Requirement for the Connecticut Portion of the New York—N. New Jersey—Long Island Area (the "Southwest Connecticut Area")

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In today's action, EPA is proposing to approve a State Implementation Plan (SIP) revision under the Clean Air Act submitted by the State of Connecticut on October 7, 1999, to remove Connecticut's oxygenated gasoline program as a carbon monoxide control measure from the State's SIP and convert it to a contingency measure for maintaining the National Ambient Air Quality Standard for carbon monoxide. In the Final Rules Section of this **Federal Register**, EPA is approving this submittal as a direct final rule without a prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule

based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before January 3, 2000.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100 Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Jeff Butensky, Environmental Planner; (617) 918–1665; butensky.jeff@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: November 10, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–31046 Filed 11–30–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 433 and 438

[HCFA–2015–P]

RIN 0938–AJ06

Medicaid Program; External Quality Review of Medicaid Managed Care Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish requirements and procedures for external quality review (EQR) of Medicaid managed care organizations (MCOs). The rule would implement section 1932(c)(2) of the Social Security Act (the Act), which was enacted in section 4705(a) of the Balanced Budget Act of 1997 (BBA), and section 1903(a)(3)(C)(ii) of the Act, which was enacted in section 4705(b) of the BBA. Under section 1932(c)(2) each contract between a State Medicaid agency (State agency) and an MCO must provide for an annual EQR of the quality outcomes, the timeliness of, and access to, the services for which the MCO is responsible under the contract. Section 1903(a)(3)(C) provides enhanced matching for these activities.

This annual external review is to be conducted by an independent entity that meets the qualifications set forth in this rule, using protocols also set forth in this rule.

In addition, these BBA provisions allow State agencies to exempt certain Medicare MCOs from all EQR requirements or from particular review activities that would duplicate review activities conducted as part of a Medicare MCO's external review or accreditation processes.

These BBA provisions require that the results of the EQR be made available to participating health care providers, enrollees and potential enrollees of the MCO, and also authorize the payment of enhanced Federal financial participation at the 75 percent rate for the administrative costs of EQRs that are conducted by approved entities.

DATES: *Comment date.* Comments will be considered if we receive them at the appropriate address, as provided below no later than 5 p.m. on January 31, 2000.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2015–P, P.O. Box 7517, Baltimore, MD 21207–0517.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC, or

Room C5–16–03, 7500 Security Boulevard, Baltimore, MD.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2015–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's office at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Sharon Gilles, (410) 786–1177.

SUPPLEMENTARY INFORMATION:

I. Background

In 1965, the Congress passed Title XIX of the Social Security Act (the Act) which established the Medicaid program. Under this title, we pay Federal financial participation (FFP) to State Medicaid agencies (State agencies) to assist in the costs of health care for low-income pregnant women, families, and aged, blind and disabled individuals. The Medicaid program is administered by State agencies subject to Federal statutory and regulatory requirements, which are implemented in accordance with a "State plan" that must be approved by the Health Care Financing Administration (HCFA).

In the early years of the Medicaid program, State agencies provided most Medicaid coverage by paying health care providers on a fee-for-service (FFS) basis. Beginning in the 1980s and continuing throughout the 1990s, State agencies have increasingly provided Medicaid coverage through managed care contracts, under which they pay a health maintenance organization (HMO) or other similar entity a fixed monthly capitation payment for each Medicaid beneficiary [1] enrolled with the entity.

As these managed care programs have grown in number and complexity, so has Federal oversight, particularly oversight of quality of care. Many studies conducted by health services researchers indicate that, with few exceptions, the quality of care furnished by managed care organizations [2] (MCO) is similar to that furnished by FFS providers. Despite these findings, the quality of managed care has received increased attention from the Congress, HCFA and the States. This has been—

- Prompted originally by the fact that, in the early years of Medicaid managed care, there were highly publicized accounts of Medicaid enrollees encountering barriers to accessing care, and other quality-related problems;
- Encouraged by developments in the private sector, such as the use of "continuous quality improvement" and "value-based purchasing", which can be applied in the public sector to obtain

[1] The term "beneficiary", used throughout the preamble is synonymous with the term "recipient", used in the text of the regulation. Both refer to an individual who is eligible for and receiving Medicaid benefits.

[2] Section 4701(b) of the Balanced Budget Act of 1997 (BBA) established this term to encompass not only HMOs but also M+C organizations, other types of organizations that may participate in the Medicare program, and other public or private organizations that meet specified statutory requirements.

high quality health care for Medicaid beneficiaries; and

• Made feasible by the fact that an MCO that contracts to furnish defined services to a defined population can be held accountable in a way that is not possible under FFS Medicaid. For example, under FFS Medicaid, if a child does not receive an immunization, it is difficult to place responsibility on any of the providers that may have treated that child for different illnesses.

As a result of the above, the number of legislative, regulatory, and HCFA initiatives to improve health care quality have increased both in number and in sophistication.

Federal statutes governing Medicaid managed care contracts did not contain provisions explicitly addressing quality of care until 1986. However, before that date, our regulations required HMOs to have an internal quality assurance system and required State agencies to conduct periodic medical audits to ensure the furnishing of quality health care and access to that care. In the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), the Congress called for a new approach that complemented an HMO's internal quality assurance program and the periodic medical audits conducted by State agencies. OBRA '86 required that each State agency that contracted with an HMO use an independent external organization to conduct an annual review of the quality of services furnished to Medicaid beneficiaries served by each HMO.

Between 1986 and 1997, we and the State agencies developed tools to use in implementing these quality oversight responsibilities. In 1991, we began the Quality Assurance Reform Initiative (QARI), which in 1993, resulted in the publication of, "A Health Care Quality Improvement System for Medicaid Managed Care-A Guide for States." This document contained: (1) A framework for quality improvement systems for Medicaid managed care programs; (2) guidelines for internal quality assurance programs of Medicaid HMOs and similar organizations; (3) guidelines for clinical and health services focus areas and use of quality indicators and clinical practice guidelines; and (4) guidelines for the conduct of external quality reviews (EQRs) mandated in OBRA '86.

In 1995, HCFA in collaboration with the National Committee for Quality Assurance (NCQA) and the American Public Human Services Association (APHSA), produced a Medicaid version of the Health Plan Employer Data and Information Set (HEDIS), a standardized quality performance measurement system used by private sector purchasers of managed care. We also contracted with NCQA to produce, "Health Care Quality Improvement Studies in Managed Care Settings—Design and Assessment: A Guide for State Medicaid Agencies".

II. The Balanced Budget Act of 1997

The Balanced Budget Act of 1997 (BBA) added to the Act a new section 1932 that pertains to Medicaid managed care. Most of the provisions of section 1932 would be implemented in accordance with a proposed rule that was published in September, 1998 and is discussed under part III C of this preamble.

Section 1932(c), added by section 4705 of the BBA, describes in detail how quality measurement and performance improvement methods should be applied to Medicaid managed care programs through two specific approaches:

• All State agencies must develop and implement a quality assessment and improvement strategy that includes: (1) standards for access to care; (2) examination of other aspects of care and services related to improving quality; and (3) monitoring procedures for regular and periodic review of the strategy. (This requirement was addressed in the September proposal.)

• State agencies that contract with Medicaid MCOs must provide for an annual external, independent review of the access to, timeliness of, and quality outcomes of the services included in the contract between the State agency and the MCO. (This requirement is addressed in this proposed rule.)

Section 1932(c) of the Act also requires the Secretary—

• In consultation with the States, to establish a method for identifying entities qualified to conduct EQR (section 1932(c)(2)(A)(ii)); and

• In coordination with the National Governors' Association (NGA), to contract with an independent quality review organization to develop the protocols to be used in EQRs (section 1932(c)(2)(A)(iii)).

For the first requirement, we obtained the input of an expert panel convened by the National Academy for State Health Policy (NASHP).

To meet the second requirement, on July 7, 1998, we issued a Request for Proposal (RFP) for one or more contractors to develop a set of review protocols for external quality review organizations (EQROs) to use in the conduct of EQRs. Two State representatives selected by the NGA were members of the panel which reviewed responding proposals. As a result of this competitive procurement, a contract was awarded to the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to develop protocols for the activities we believed were most frequently conducted by EQROs. Our belief was subsequently confirmed through surveys conducted by the Department's Office of the Inspector General (OIG) and the NASHP. The JCAHO has not completed development of the protocols for EQR. Although the text of the protocols themselves will not be included in regulations text, this proposed rule does identify the areas to be covered by them and what is to be included in such protocols.

The other section 1932 provisions that are pertinent to this proposal are provisions that—(1) Require that the results of EQRs be made available to participating health care providers, enrollees and potential enrollees (section 1932(c)(2)(A)(iv)), and (2) Provide that a State agency—

• May, at its option, take steps to ensure that an EQR does not duplicate a review conducted either by a private independent accrediting organization or as part of an external review conducted under the Medicare program (section 1932(c)(2)(B)); and

• May exempt an MCO from EQR under certain specified conditions (section 1932(c)(2)(C)).

Section 4705(b) of the BBA provides for increased FFP (75%) for the costs of conducting EQR under Section 1932(c)(2)(A), providing the EQRO meets the requirements set forth in regulations. Under the OBRA '86 provision, 75% FFP is available only if EQR is conducted by a utilization and quality control peer review organization (PRO) or an entity that meets the requirements to be a PRO but does not have a PRO contract with Medicare. Accreditation organizations may also be used to conduct EQR, but their review activities are matched at the 50 percent rate under the current OBRA '86 rules.

III Development of the Proposed Rule

A. Major Purposes

In developing this proposed rule, we had two major purposes: (1) To provide flexibility for State agencies; and (2) to reflect the well-accepted advances in the technology of quality measurement and improvement.

Flexibility is particularly important because the EQR requirement is not new. States have been monitoring quality under the OBRA '86 requirements for which final regulations were never published. Accordingly, this proposal would not require State

agencies to dismantle EQR mechanisms that they have used and found to be effective and efficient. The BBA language calling for State agencies to develop their own Quality Assessment and Improvement Strategies, supports our approach of recognizing the unique characteristics of States, their managed care programs and the sophistication of the managed care marketplace within each State.

In addition, the BBA provides greater flexibility in the types of entities that State agencies may use to conduct EQR. Consequently, this rule allows State agencies to coordinate EQRs with other similar quality reviews conducted for other purposes, thereby reducing the burden to State agencies and EQROs in complying with the requirement.

Despite the necessary flexibility, the BBA ensures comparability among State EQR results by requiring us to develop protocols to be used by all State agencies and EQROs in conducting the reviews.

Although the definition of EQR (shown under part IV of this preamble) makes clear that EQR must be conducted by an EQRO, it does not preclude State agencies from using other entities to conduct additional activities to monitor quality. For example, State agencies may themselves collect performance measures or encounter data, or monitor MCOs for compliance with structural and operational quality standards, or contract with an entity other than an EQRO to perform these projects. This approach allows State agencies considerable flexibility in the conduct of quality review activities and permits them to continue current practices at the 50% administrative match rate.

With respect to the second purpose, there is growing acceptance of the health care industry's ability to measure and improve health care quality, as documented in the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, and the development of stronger tools to accomplish this measurement (such as the Consumer Assessment of Health Plans Study (CAHPS)). In developing this rule, we have incorporated best practices in the assessment and improvement of health care quality.

B. Information Used

In order to develop this proposal we needed information on—

- How States have implemented EQR requirements under OBRA '86; and
- What qualifications to require for EQROs.

State Experience Under OBRA '86

Because a final regulation for the OBRA '86 requirement was never published, State agencies have considerable latitude in defining the activities conducted as part of EQR. We knew that State agencies were using the EQR requirement to implement different approaches to quality review. For example, some State agencies use EQR to monitor HMO compliance with QARI standards, while others use EQRs to conduct focused studies on defined clinical topics, such as immunizations, to determine HMO performance. We did not know how widely State practices varied.

In order to determine the extent and the success of each variation, we relied on information from two sources. The first was a study conducted by the Department's Office of Inspector General (OIG) entitled, "Lessons Learned From Medicaid's Use of External Quality Review Organizations" published in September, 1998. This study reviewed the practices of seven States (Arizona, California, Massachusetts, Minnesota, Missouri, Ohio and Washington) that had considerable experience with Medicaid managed care or in working with EQROs. The study documented that focused studies of quality of care, that is, review of medical records to obtain information on services delivered to a group of individuals with the same health care needs, was the most frequent activity performed by EQROs. In these States, focused studies accounted for nearly 80 percent of their budgets for EQRO. However, in the OIG study, States expressed an awareness of the limitations of the use of focused studies alone, stating that they fail to offer a broad assessment of the care delivered to all those enrolled in a State's Medicaid managed care program. As summarized by the study: "At best they capture a slice of care delivered to one or two sub populations. Even if a Medicaid agency designed the perfect system to capture prenatal care visits or child immunizations, this is only a tiny fraction of care provided to the Medicaid population." For this reason, State agencies are beginning to use EQROs to undertake other approaches to quality review, including: (1) Validation of encounter data or aggregate MCO-level performance measures; (2) individual case review; (3) evaluation of quality studies conducted by MCOs; (4) conducting beneficiary surveys; and (5) provision of technical assistance.

The OIG study also documented that these seven States had typically used Medicare PROs to conduct the EQRO function. This was generally satisfactory to the States, especially because most States use EQR to conduct focused studies. However, some State agencies expressed reservations about using PROs for other EQR functions, such as processing and verifying encounter data or conducting consumer surveys. As a result, all of the State agencies in this study contracted with entities other than their EQRO contractors to perform additional quality review activities even though the FFP rate for these services was 50%, rather than 75%. These entities included: universities, consulting groups, claims or data management groups, and survey firms. In addition, four of the seven had additional arrangements with State agencies other than the Medicaid agency, including Departments of Health, Departments of Mental Health, or State data entities. The two overall conclusions expressed by the OIG, report were that Medicaid agencies find value in using a variety of quality oversight functions in EQR, and that they would prefer to use several different types of contractors.

To obtain additional information, we contracted with the NASHP to conduct a more comprehensive survey of all State agencies using EQROs. The NASHP survey reaffirmed the OIG survey finding that focused quality of care studies were the most common EQRO activity, with additional activities including: data validation, random medical record review, surveys, data audits and validation, and contract compliance reviews. The survey also affirmed the States' desire to contract with additional types of organizations for their EQRs, although three State agencies explicitly recommended that new entities not be permitted. Those State agencies wishing to contract with new entities identified State entities other than Medicaid such as public health or insurance departments, and other entities such as universities, consulting firms and research foundations, as desirable organizations.

EQRO Qualifications

OBRA '86 as amended by OBRA '87 specified the types of entities State agencies could contract with to conduct EQR. The BBA, instead of specifying types of entities, requires the Secretary to consult with States and establish a method for the identification of entities that are qualified to conduct EQR. To fulfill this requirement, we contracted with the NASHP to convene an expert panel comprised of a majority of State representatives but also including consumer advocates and other stakeholders, an MCO representative, a

quality improvement expert and members of our staff. The expert panel met for two days to discuss the following:

- What is the skill set required to conduct the EQR scope of work?
- What does it mean for an EQRO to be "independent"?
- Who should be the authority to designate "qualified" entities to serve as EQROs?
- Should these designations be made on a categorical or case-by-case basis?
- Must all EQR activities be conducted by a single entity or may several entities conduct EQR activities, and may entities use subcontractors?

We used the recommendations included as part of the NASHP report of the meeting to develop the provisions of this proposed rule.

C. Relation to Other Proposed Rules

On September 29, 1998, at 63 FR 520220, we published a proposed rule identified as HCFA–2001–P, Medicaid Managed Care Provisions (September proposal). That rule proposed to add to the Medicaid regulations a new part 438 that includes a subpart E—Quality Assessment and Performance Improvement. Under subpart E, it is a State's responsibility to arrange for an annual external independent review of the timeliness, access, and quality of the services that each contracting MCO furnishes to its Medicaid enrollees. The September proposal did not include the specific EQR provisions because we had not yet complied with the BBA's requirement to consult with States to establish a method for identifying entities that are qualified to conduct EQR. Now that we have complied with this requirement, we can propose the rules for EQR.

The September proposal includes a § 438.8(h) which lists those requirements, set forth elsewhere in part 438, that also apply to Prepaid Health Plans (PHPs). Prepaid Health Plans, like MCOs, are organizations paid on a prepaid capitation basis for services furnished to enrollees, but unlike MCOs, they do not always provide comprehensive health care services nor do they always assume risk. (Examples of PHPs, are managed dental or behavioral health plans.)

When part 438 is published in final form (following consideration of comments received on both proposed rules), we plan to amend the § 438.8(h) list to include the EQR requirements as applicable to PHPs, for the benefit of PHP enrollees. As in the case of PHP requirements generally, this requirement would be promulgated under section 1902(a)(4) of the Act which authorizes the Secretary to establish requirements necessary "for the proper and efficient operation of the plan." We also believe that this is consistent with Congressional intent. In the Joint Explanatory Statement of the Committee of the Conference accompanying the BBA, the section entitled "Current Law," includes the following: "States are required to obtain an independent assessment of the quality of services furnished by contracting HMOs and prepaid health plans (those offering a non-comprehensive set of services under partial capitation), using either a utilization and quality control peer review organization (PRO) under contract to the Secretary or another independent accrediting body." Although the OBRA '86 requirement did not apply to PHPs, the fact that the Congress believed that it did and chose not to exempt PHPs, as it did primary care case managers, we take as a sign that the Congress perceives EQR requirements as appropriately applied to PHPs.

Currently, 42 CFR 434.53 requires States to have a system of periodic medical audits to ensure that each HMO and PHP furnishes quality and accessible health care to enrollees. Our September proposal eliminates the periodic Medical Audit requirement. We intend this new EQR requirement to replace the requirement on PHPs for periodic medical audits.

Because PHPs do not always provide comprehensive services, we intend that an EQR of a PHP will assess only the scope of services for which the State has contracted. We invite comment on our decision to apply the EQR requirement to PHPs. We will only consider comments that pertain specifically to our proposal to include EQR requirements in § 438.8(h), and not on the broader issue of subjecting PHPs to other MCO quality requirements. Comments on those other requirements would have been appropriate in response to the September proposal.

In addition to proposing that these provisions apply to PHPs, we are also proposing to apply the EQR provisions to organizations that have comprehensive risk contracts but are exempt from 1903(m) requirements, such as Health Insuring Organizations (HIOs) which began operating prior to January 1, 1986, certain county-operated HIOs in California, and entities described in section 1903(m)(2)(B). As reflected in § 438.6 of the September 29, 1998 proposed rule, only contracts with HIOs that began operating on or after January 1, 1986 are subject to MCO requirements unless they have been specifically exempted by statute from these requirements, as in the case of certain county operated HIOs in California. As discussed above, pursuant to our authority under section 1902(a)(4) to establish requirements necessary for "proper and efficient administration," we have proposed to apply several beneficiary protections and quality-related requirements (including the EQR requirement proposed in this rule) to PHPs, which do not have comprehensive risk contracts.

Entities with comprehensive risk contracts that have been exempted by statute from the MCO requirements in section 1903(m) and section 1932, however, were not included in our proposed revised definition of PHP. As discussed above, we did not believe it was appropriate to subject these entities, in effect, to virtually the full range of MCO requirements (as we proposed to do in the case of PHPs) when Congress had provided these entities with explicit statutory exemptions from these requirements. We do not believe, however, that these entities should be exempted entirely from any check on the quality of the services they provide to their enrollees. We accordingly are proposing in section § 438.1 (c) to require compliance with EQR requirements by entities with comprehensive risk contracts that are statutorily exempt from the requirements in section 1903(m)(2)(A). We believe this is consistent with Congressional intent to ensure quality outcomes and timeliness of and access to services of all Medicaid beneficiaries enrolled in capitated risk arrangements. We invite comment on our decision to apply the EQR requirement to entities with statutory exemptions from section 1903(m)(2)(A) requirements.

The final rule for part 438 will probably assign a separate subpart for the rules specific to EQR.

IV. Provisions of the Proposed Rule

A. Definitions (Section 438.2)

Section 438.2 establishes "EQR" and "EQRO" as representing "external quality review" and "external quality review organization" respectively. It also defines four terms frequently used in the text:

"External quality review" means the analysis and evaluation, by an EQRO, of aggregated information on timeliness, access, and quality of health care services furnished to Medicaid enrollees by each MCO, and other related activities performed by an EQRO.

"External quality review organization" means an organization

that meets the competence and independence requirements set forth in § 438.354, and performs EQR.

"Quality", as it pertains to EQR, means the degree to which an MCO maintains or improves the health outcomes of its enrollees through its structural and operational characteristics and through the provision of services. This definition recognizes structure, process, and outcomes as the variables that affect and constitute the delivery of appropriate health care and that have historically been used in the review of quality of care.

"Validation" means the review of information, data, and procedures to determine the extent to which they are accurate, reliable, free from bias, and in accord with standards for data collection and analysis.

B. State Responsibilities (Section 438.350)

Section 438.350 sets forth the State's responsibilities related to EQR. Each State agency that contracts with MCOs under section 1903(m) of the Act must ensure that—

- Except as provided in § 438.362, an annual EQR is performed by a qualified EQRO for each contracting MCO;
- The EQRO has sufficient information to use in performing the review;
- The information that the State agency provides to the EQRO is obtained through methods consistent with protocols specified by HCFA; and
- The results of the EQR are made available, upon request, to specified groups and to the general public.

The information that the State agency must make available to the EQRO is specified in § 438.358. The information that constitutes the "results" of the EQR is specified in § 438.364.

Section 1932(c)(2)(A) of the Act requires that each contract with an MCO "provide for an annual (as appropriate) external independent review, conducted by a qualified independent entity* * *". We have interpreted the parenthetical statement (for which there is no explanation in the legislative history) to be a reference to those MCOs that may be exempted from EQR under section 1932(c)(2)(C) of the Act on the basis of "deemed compliance." We invite comment on other possible interpretations.

C. External Quality Review Protocols (Section 438.352)

In our RFP for the development of protocols, we defined them as "detailed instructions to be followed by personnel performing reviews of health care quality." Protocols must specify: (1) The data to be gathered, that is, the substantive areas to be covered by the protocol; (2) the source of the data; (3) detailed procedures to be followed in collecting the data to promote its accuracy, validity, and reliability; (4) the proposed methods for valid analysis and interpretation of the data; and (5) all instructions, guidelines, worksheets and any other documents or tools necessary for implementing the protocol.

The protocols that the JCAHO is developing under the guidance of an expert panel are reflected in proposed section 438.358 discussed below. They will address: (1) Monitoring for compliance with structural and operational quality standards; (2) validating client-level data; (3) calculating performance measures; (4) validating performance measures produced by MCOs; (5) conducting quality-assessment and performance-improvement projects; (6) validating MCO-conducted quality-assessment and performance-improvement projects; (7) conducting studies on quality, focused on a particular aspect of clinical or non-clinical services furnished at a particular time; (8) validating consumer or provider surveys; and (9) administering consumer or provider surveys.

We have asked the JCAHO to draw from existing protocols that have been tested for reliability and validity and that have been used in the public and private sectors to conduct reviews of the quality of MCO services, consistent with current industry practice. We have also expressed a preference for protocols that are in the public domain.

We expect that the protocols will be detailed and many pages in length. This is one reason for not including them in our regulations. Another reason is the fact that quality measurement is a rapidly changing technology. Protocols developed in the private sector for validation of performance measures and administration of consumer surveys are revised at least annually. The delays inherent in revising regulations would make it difficult to make such frequent changes.

All activities that provide information for EQR must use protocols that are consistent with those that we specify. This will ensure that the conduct of the activities enhances the quality of EQR for State agencies and that the conduct of the activities is methodologically sound. However, by requiring protocols that are "consistent", rather than "identical", with those that we specify, we leave the State agencies free to improve their protocols continuously, as the art and science of quality measurement improve.

D. Qualifications of External Quality Review Organizations (Section 438.354)

Section 438.354 sets forth the requirements that an entity must meet in order to qualify as an EQRO. We worked in consultation with States, consumer advocates, and other stakeholders, under the auspices of NASHP, to determine how to ensure that EQROs are both "competent" and "independent".

This proposed rule does not define categories of entities that are qualified to perform EQR. Rather, it proposes that in order to qualify, entities must meet specified competence and independence standards. To meet the competence standards, the entity must have at least the following:

- Staff with knowledge of (1) Medicaid beneficiaries, policies, data systems, and processes; (2) managed care delivery systems, organizations, and financing; (3) quality assessment and improvement technologies; and (4) research design and methodology;
- Sufficient physical, technological, and financial resources to conduct EQR; and
- Other clinical and nonclinical skills to carry out the review and to supervise the work of any subcontractors.

To meet the independence requirement, we propose two tests:

- The EQRO and any subcontractors must be independent from the State Medicaid agency and from any MCO they review.
- The relationship between the MCO and the EQRO must be such as to preclude conflict of interest.

The first test would allow State entities to qualify as EQROs, with the following limitations:

A State entity could not qualify if it (1) Has Medicaid purchasing or managed care licensing authority; (2) delivers any health care services to Medicaid beneficiaries; or (3) conducts, on the State's behalf, any other ongoing Medicaid program operations related to oversight of the quality of MCO services. In addition, the State entity must be governed by a Board or similar body, the majority of whose members are not government employees.

We were concerned about the limitation on board membership. We wondered whether it was feasible to have a State entity with an oversight body composed predominantly of non-State employees. We found that a number of State entities do have such boards. For example, Vermont's Program for Quality in Health Care is an organization authorized by the Vermont

legislature to oversee the quality of care for both commercial and public consumers. It is a non-profit organization that is governed by a board of directors, the majority of whom, are not government employees and which includes representatives of consumers, hospitals, insurers, MCOs, employers, physicians, and State government. The organization is charged with improving the quality, efficiency, and cost effectiveness of Vermont's health care system. It measures health care quality through data collection and analysis, and works with health care providers and others to develop standards of care and indicators of quality.

Maryland's Health Care Access and Cost Commission (HCACC), created in 1993, is an independent commission with nine members who are appointed by the governor with the advice and consent of the Senate. The majority of the nine Board members are not government employees. Among its responsibilities, the HCACC is required to establish and implement a system to comparatively evaluate the quality and performance of MCOs.

The NASHP expert panel also recommended that EQROs be required to have participation by Medicaid beneficiaries. With respect to this recommendation, we welcome such participation, however, we do not propose to mandate it, for two reasons:

1. EQR is only one facet of the State's quality assessment and performance improvement strategy.

2. We believe that stakeholder input on EQR might be more effective if provided to the State agency (rather than the EQRO), as it develops that strategy.

The second test of independence from the MCO applies to all entities contracting under EQR. The NASHP summary report, based on its expert panel's input, recommended providing that an EQRO may not review an MCO if either has an ownership interest greater than 5 percent in the other, or if they share management or corporate board membership. That would be consistent with our disclosure of ownership and related information requirements under our program integrity regulations (part 420 for Medicare, and part 455 for Medicaid). However, we are proposing a broader approach that is consistent with other HCFA regulations on contracting and is based on the concept of "affiliation",[3] as the term is explained in 48 CFR 19.101.[4] In accordance with that regulation, an EQRO and an MCO would be considered to be "affiliated" if either one controls or has the power to control the other, or another entity controls or has the power to control both. We believe that this concept of "control" can better ensure that no actual conflicts of interest exist between the EQRO and the MCO it reviews. We request comments on how better to identify situations that create conflict of interest, on our proposing to allow State entities to qualify as EQROs, and on our decision to apply the "independence " requirement to subcontractors as well as contractors.

Another NASHP summary report recommendation based on its expert panel's input was that EQROs be selected by State agencies through RFPs that would not require prior approval by us, but would be subject to review later to ensure that, as a condition for FFP at the 75 percent rate, the State agency followed all applicable procedures and criteria. We note that this recommendation requires no changes or additions to current law because it is current practice for State agencies to use RFPs to select EQROs. It is also standard practice for our regional office staff to monitor implementation of Medicaid managed care initiatives. With respect to EQR, Regional Office staff may review the State's most recent RFP for external review services, the EQR contract, or the EQR reports.

E. State Contract Options (Section 438.356)

Section 438.356 sets forth requirements that State agencies must follow, and options that they may use in selecting EQROs. On the basis of the NASHP expert panel's recommendations, as well as the findings of the OIG report, we propose that State agencies may contract with more than one EQRO and each EQRO may use subcontractors. EQROs that use subcontractors are accountable for and required to oversee all EQR activities performed by the subcontractors. In addition, each contractor must meet the competency requirements and each contractor and subcontractor must meet the independence requirement.

We considered requiring only the contractor to meet the test of independence. We determined that such an approach would permit entities with conflicts of interest to serve as subcontractors under a "shell" contractor, and thus not ensure a truly independent review.

This section also requires that State agencies follow an open competitive procurement process that is in accordance with State law and regulation and consistent with 45 CFR part 74, as it applies to State procurement of Medicaid services.

F. Activities Related to External Quality Review (Section 438.358)

Section 438.358 requires that the EQR use information obtained from specified mandatory activities that must be performed by the State agency or the EQRO; and identifies other optional activities that the State agency may wish to perform, or have the EQRO perform, to produce additional information for use in the EQR. The mandatory activities are consistent with the requirements set forth in the September proposal. The optional activities were not included in that proposal. They are, however, activities that both the OIG and the NASHP surveys identified as activities that States have found useful in reviewing quality. Inclusion of these optional activities would permit States to use their EQROs for the full range of activities they are now conducting. This section also authorizes States to use EQROs to provide technical assistance to MCOs.

This rule proposes that each year, information to be used by the EQRO be obtained from the validation of performance improvement projects performed that year and the validation of performance measures reported that year. However, we recognize that a State, or Medicare, or a private accreditation organization may review MCO compliance with structural and operational quality standards less frequently than once a year. For example, NCQA and JCAHO generally perform their accreditation reviews once every three years. Because of this, we propose that the information used by the EQRO on this type of review must be from the most recent review performed within the previous three years.

G. Non-Duplication of Mandatory Activities (Section 438.360)

Section 438.360 is based on section 1932(c)(2)(B) of the Act which provides the option for a State agency to exempt an MCO from specified EQR-related activities that would duplicate activities conducted as part of Medicare reviews or independent accreditation surveys.

---

[3] That is the concept we propose to use in implementing the Medicare Integrity Program (MIP) established by the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191). The MIP proposed rule published in March 1998, identifies offerors or entities as having a conflict of interest if they are "affiliated."

[4] Title 48 of the CFR contains the Federal Acquisition Regulations (FAR) system, which "is established for the codification and publication of uniform policies and procedures for acquisition by all executive agencies." Most government acquisition is accomplished through contracting.

For this provision, we had to determine how a State agency could obtain information about the quality of care found through Medicare reviews or accreditation if there was no EQR to provide information. Moreover, because Medicare serves the elderly and disabled, while Medicaid predominantly serves families and children, we needed to take into account that review activities usually differ for these populations in terms of the types of data collected, the measures used, and the studies conducted. These differences limit the extent to which they can be considered to duplicate each other. Accordingly, we propose that an MCO that is a certified M+C organization with a current Medicare contract—

- Qualifies for exemption if it has had an independent quality review under Medicare or is fully accredited by a private accreditation organization; but
- The exemption applies only to the activities specified in § 438.358(a)(2). Those are specific to reviewing compliance with standards for (1) availability of services; (2) continuity and coordination of care; (3) coverage and authorization of services; (4) establishment of provider networks; (5) enrollee information; (6) enrollee rights; (7) confidentiality; (8) enrollment and disenrollment; (9) grievance systems; (10) subcontractual relationships and delegation; (11) use of practice guidelines; (12) health information systems; and (13) mechanisms to detect both underutilization and overutilization of services as part of the quality assessment and performance improvement programs.

We believe that these activities are essentially the same regardless of the population served, but the activities specified in § 438.358(a)(1) are sensitive to the type of population served. For example, performance improvement projects that target the elderly would not be appropriate for addressing maternal and child health issues, and would not be considered duplicative. The rule provides one exception to this limitation: a State agency may exempt from all mandatory activities (listed in paragraphs (a)(1) and (a)(2) of proposed § 438.358) any MCO that serves only individuals who are eligible for both Medicare and Medicaid. In that situation, there is no reason for concern, since the population served is the same for both programs.

The State agency must require each MCO exempted under this section to make available to the State agency all reports and findings and the results of the Medicare quality review or the accreditation survey, in order to: (1) Provide that information to the EQRO; and (2) ensure that State agencies and Medicaid beneficiaries have access to comparative information on MCOs and M+C organizations.

H. Exemption From External Quality Review (Section 438.362)

This section implements section 1932(c)(2)(C) of the Act which provides that a State agency may exempt an MCO from the EQR requirements in section 1932(c)(2)(A) if the MCO has a current Medicare contract under Part C of title XVIII or under section 1876 of the Act; and, for at least two years, has had in effect a Medicaid contract under section 1903(m) of the Act.

In developing this proposed rule, we asked ourselves (1) how to interpret the statutory requirements for having a Medicare contract, and having had a Medicaid contract for at least two years; (2) whether the exemption should apply to an MCO whose Medicare and Medicaid contracts do not cover the same geographic area; (3) whether the Congress intended that the State agency grant an exemption without consideration of the MCO's performance during the preceding 2-year period; and (4) what information, if any, the State agency needs to obtain with respect to an exempted MCO. On the basis of our responses to those questions, we added three requirements. We particularly request comments on these requirements because they are not based on any explicit language in the statute or the Conference Committee Report.

The first requirement is that the two contracts cover all or part of the same geographic area. The purpose is to prevent exemption on the basis of a Medicare contract that covers a geographic area, for example, another State or a different part of the same State, that is completely different from the area covered by the MCO's Medicaid contract. (§ 438.362(a)(2))

We believe that an MCO that serves different areas typically has different provider networks in each area. Since research has clearly shown variations in practice patterns among physicians in different geographic areas, it is reasonable to interpret the deemed compliance provisions as requiring some common service areas.

The second added requirement is that, during each of the two years preceding the granting of an exemption, the MCO has had an EQR that found it to be performing acceptably with respect to the timeliness, access, and quality of health care services provided to Medicaid enrollees. (§ 438.362(a)(3)).

We considered several possible rationales for the statutory provision that grants exemption on the basis of two-year participation in the Medicaid program:

- After two years of dealing with the MCO as a contractor, the State agency is sufficiently familiar with its performance generally, thus making EQR unnecessary.
- Two years of serving the Medicaid population (a different population than Medicare's) is sufficient to exempt the MCO from EQR.
- During each of the two years of the Medicaid contract, the MCO will have been subject to the section 1932(c)(2)(A) requirements, and will have been able to demonstrate its performance through the annual EQR, demonstrating that the MCO's ongoing Medicare compliance is likely to remain predictive of high quality Medicaid services.

Given the importance that the Congress has placed on quality in the BBA provisions, we are proposing to interpret the two year rule to have been adopted based upon the third rationale above. Accordingly, we propose that the State agency have the option to exempt the MCO if, during the two preceding years of Medicaid contract under section 1903(m) it has been subject to EQR and been found to be performing acceptably with respect to the timeliness, access, and quality of care furnished to Medicaid enrollees. The State agency could not exempt an MCO that, during the previous two-year period had been found to have significant problems requiring corrective action. We note that our interpretation would effectively delay exercise of the option until at least two years after this rule is published in final.

The third added provision is that the State agency require each exempted MCO to provide it, annually, with copies of all Medicare reviews performed by us, or by any of our agents or any private accreditation organization, with respect to the timeliness, access, or quality of its services. (§ 438.362(b)) The rationale for this requirement is that the statutory provision exempts the MCO from EQR requirements specifically, but not from continued State agency oversight of the quality of MCO services.

I. EQR Results. (Section 438.364)

Section 438.364 requires that the EQR produce the following information:

- A detailed technical report that describes the following for each activity conducted under accordance with § 438.358: (1) The objectives; (2) the technical methods of data collection and analysis; (3) the data obtained; and (4) the conclusions drawn from the data. In addition, the report must also describe

the manner in which the data from all activities conducted in accordance with § 438.358 were aggregated, analyzed, and the conclusions were drawn as to the quality of the care furnished by the MCO.

- A detailed assessment of each MCO's strength and weaknesses with respect to timeliness, access, and quality of the health care services furnished to Medicaid enrollees.
- The recommendations for improving the quality of the services furnished by each MCO.
- Comparative data about all MCOs, as determined appropriate by the State agency.
- An assessment of the degree to which each MCO addressed effectively the recommendations for quality improvement, as made by the EQRO during the previous year's EQR.

We considered three alternatives for the level of detail of the information to be released to the public as EQR "results."

1. Do not provide a Federal definition of what constitutes "results" but allow each State agency to develop its own definition. This option would provide the greatest flexibility but was not selected because we believe that the statute intended a Federal "definition" to ensure that all State agencies provide sufficient information.

2. Require that all validated data and information be made available. Although this option would provide consumers with great detail about every aspect of MCO performance, the information would lack the sense of context necessary to ensure appropriate interpretation. It would impose additional burdens on State agencies for the release of large quantities of data, and would also be inconsistent with what experts have advised us is the best way to share information with consumers for their decision making, for example, to help potential enrollees choose among available MCOs.

3. Require that State agencies provide copies only of the summary findings, conclusions, and recommendations of the EQR. This would include the highest level conclusions drawn from a synthesis of all available information on MCO performance.

This proposed rule requires State agencies to provide information sufficient to enable interested parties to evaluate the conclusions of the EQR. To promote confidence in the validity of the conclusions, States may wish to release, in addition to the technical report, the more detailed underlying data to researchers or others as the States deem appropriate. However, the proposed rule does not require the States to do so. In addition, these data may be available through State-based authorities similar to Freedom of Information Act requirements for individuals to request and receive as much of the detailed information that goes into an EQR analysis and report as they want. (§ 438.364(a))

This section also (1) gives examples of groups of interested parties to which State agencies would provide copies, of the EQR results, upon request; (2) specifies that they must also give them to members of the general public who request them (§ 438.364(b)); and (3) provides that the information released may not disclose the identity of any patient (§ 438.364(c)).

J. Federal Financial Participation (FFP) (Section 438.370)

Section 438.370 provides that FFP at the 75 percent rate is available in expenditures for EQR, including the production of EQR information, performed by EQROs and at the 50 percent rate in expenditures for EQR-related activities performed by any entity that does not qualify as an EQRO. The 50 percent rate applies even if the activities are of the same type as those performed by EQROs.

V. Effective Date of the Final Rule

When this regulation is published as a final rule, we intend to make it effective 60 days following publication. Provisions that must be implemented through contracts with EQROs will be effective with contracts entered into or revised on or after 60 days following the effective data, but no longer than 12 months from the effective date.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement report is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA, requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comment on each of these issues for §§ 438.360, 438.362 and 438.364 of this document that contain information collection requirements.

Section 438.360 Nonduplication of Mandatory Activities

In order to avoid duplication, the State agency may exempt an MCO from mandatory activities (as specified in § 438.358) if the conditions of paragraph (b) or paragraph (c) of this section are met. To demonstrate compliance with these requirements an MCO must provide to the State agency, all the reports, findings, and other results of the Medicare review or the private accreditation survey.

The burden associated with these requirements is the time and effort for an MCO to disclose all the reports, findings, and other results of the Medicare review or the private accreditation survey to the State agency. Our current data indicate that there are approximately 420 MCOs and 90 PHPs providing Medicaid services. Of these, approximately 135 are Medicaid only MCOs. We believe that there is the potential for States to allow the remaining 285 MCOs to take advantage of the non-duplication provision and that these MCOs will be required to disclose the necessary information to each State agency. We further estimate that it will take each MCO 4 hours to disclose the necessary documentation to the State. Therefore, the total burden associated with this requirement is 285 MCO's × 4 hours = 1140 annual burden hours.

This section also requires that a State agency provide all the reports, findings, and other results of the Medicare review or the private accreditation survey to the appropriate EQRO. We estimate that it will take, on average, 4 hours for a State to disclose the necessary documentation to the appropriate EQRO. The total annual burden associated with this requirement is 1140 hours.

Section 438.362 Exemption From External Quality Review

Each year, exempted MCO's must provide to the State agency the most recent Medicare review findings reported to the MCO by HCFA or its agent. This information must include (1) all data, correspondence, information, and findings pertaining to the MCO's compliance with Medicare standards for access, quality assessment and performance improvement, health services, or delegation of these activities; (2) all measures of the MCO's

performance; and (3) the findings and results of all performance improvement projects pertaining to Medicare enrollees.

If an exempted MCO has been reviewed by a private accreditation organization and the survey results have been used to either fulfill certain requirements for Medicare external review under Subpart D of part 422 of this chapter or to deem compliance with Medicare requirements as provided in § 422.156, the MCO must submit a copy of all findings pertaining to its most recent accreditation survey to the State agency. These findings shall include accreditation survey results of evaluation of compliance with individual accreditation standards, noted deficiencies, corrective action plans, and summaries of unmet accreditation requirements.

The burden associated with these requirements is not applicable for two years following the final publication of this regulation. After two years, the time and effort for an exempted MCO to disclose the findings of its most recent Medicare review or private accreditation survey to the State agency will be the burden associated with these requirements. We believe, of the approximately 285 MCOs that potentially may provide Medicare services in addition to Medicaid services, State agencies will allow for approximately 10% of the MCOs to be exempt from the EQR requirement. We further estimate that it will take each MCO 8 hours to prepare and submit the necessary documentation to the State agency. Therefore, the total burden associated with this requirement is 10% of 285 MCO's × 8 hours = 228 annual burden hours.

Section 438.364 External Quality Review Results

Each EQRO is required to submit to the State agency a detailed technical report that describes, for each EQR and each related mandatory and optional activity undertaken by the EQRO, the objectives, technical methods of data collection and analysis, data obtained, conclusions drawn from the data, and the manner in which the conclusions were drawn as to the quality of the care furnished by the MCO. In addition, the report must include: (1) A detailed assessment of each MCO's strengths and weaknesses with respect to the timeliness, access, and quality of health care services furnished to Medicaid beneficiaries; (2) recommendations for improving the quality of health care services furnished by each MCO; (3) as the State agency determines methodologically appropriate, comparative information about all MCOs, and (4) an assessment of the degree to which each MCO has addressed effectively the recommendations for quality improvement, as made by the EQRO during the previous year's EQR.

The burden associated with this requirement is the time and effort for an EQRO to submit to a State agency a detailed technical report for each EQR conducted. It is estimated that it will take an EQRO 160 hours to prepare and submit the necessary documentation to the State agency. Therefore, the total burden associated with this requirement is, 510 technical reports (420 MCOs + 90 PHPs) × 160 hours = 81600 annual burden hours.

This section also requires each State agency to provide copies of technical reports, upon request, to interested parties such as participating health care providers, enrollees and potential enrollees of the MCO, beneficiary advocate groups, and members of the general public.

The burden associated with this requirement is the time and effort for a State agency to disclose copies of a given technical report to interested parties. We estimate that on average, it will take a State agency 4 hours to disclose the required information. Therefore, the total burden associated with this requirement is 420 MCOs + 90 PHPs × 25 requests per MCO or PHP × 4 hours = 51000 annual burden hours.

We have submitted a copy of this proposed rule to OMB for its review of the information collection requirements described above. We will also submit the final EQR protocols upon their completion to OMB. These requirements are not effective until they have been approved by OMB. As stated in the preamble of this rule, the EQR protocols are detailed instructions to be followed by personnel performing reviews of health care quality. The JCAHO is developing these protocols under the guidance of an expert panel. All activities that provide information for EQR must use protocols that are consistent with the protocols being developed. This will ensure that the conduct of the activities enhances the quality of EQR for State agencies and that the conduct of the activities is methodologically sound.

We anticipate that the protocols will be complete in the spring of 2000. Upon their completion, a **Federal Register** notice will be published. To obtain a copy of the protocols when they become available, access them on the HCFA Internet homepage at www.hcfa.gov, or submit a request to the HCFA address below: Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850; Attention Julie Brown, HCFA–2015–P.

If you comment on any of these information collection and record keeping requirements, please mail 3 copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850; Attention Julie Brown, HCFA–2015–P and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Lori Schack, HCFA Desk Officer.

VII. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "DATES" section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

VIII. Impact Statement

A. Regulatory Impact Analysis

We have examined the impacts of this rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, we prepare a regulatory flexibility analysis unless we certify that a rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, non-profit organizations and governmental agencies. Most hospitals and other providers and suppliers are

small entities, either by nonprofit status or by having revenues of $5 million or less annually. Individuals and States are not included in the definition of a small entity.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

The Unfunded Mandates Reform Act (Public Law 104–4) requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation). This rule does not impose any mandates on State, local, or tribal governments, or the private sector that will result in an annual expenditure of $100,000,000 or more.

The rule implements Medicaid provisions as directed by the BBA; thus, alternatives were not considered. The only alternative would be to seek repeal of the legislation. This would be inconsistent with the major focus of the new provisions: protection of beneficiary rights in a health care system in which MCOs have gained broad powers.

We do not anticipate that the provisions in this proposed rule will have a substantial economic impact on most hospitals, including small rural hospitals. The BBA provisions include some new requirements on State agencies and MCOs, but not directly on individual hospitals. The impact on individual hospitals will vary according to each hospital's current and future contractual relationships with MCOs. Furthermore, the impact will also vary according to each hospital's current procedures and level of compliance with existing law and regulation pertaining to Medicaid managed care. For these reasons, this proposed rule would not have a significant impact on the operations of a substantial number of hospitals. The only other small entity affected by these regulations would be the EQROs. However, this rule does not impose additional burdens on them. Instead, the rule offers those organizations the benefit of opportunities for additional revenues. Thus we certify that this rule will not have a significant economic impact on a substantial number of small entities.

We do not anticipate a significant increase in Medicaid expenditures as a result of the publication of these regulations for the following reasons. First, 44 States, accounting for nearly 98 percent of Medicaid administrative expenditures, are currently obtaining 75 percent enhanced FFP for EQR activities carried out by PRO and PRO-like organizations. Permitting these State agencies to claim 75 percent matching for EQR activities conducted by the additional types of entities allowed by these regulations would therefore not result in increased costs to the extent that State agencies switch from PRO or PRO-like organizations to these additional entities. Moreover, we believe that, by expanding the pool of organizations available to conduct EQR, these State agencies may be able to negotiate savings compared to current costs of dealing with PRO and PRO-like organizations. Additional savings may be realized through opportunities afforded by the proposed rule to coordinate EQR activities with quality reviews conducted for other purposes, as discussed above. Additional costs may arise where State agencies currently conduct quality review activities at 50 percent Federal matching rate that would now qualify for 75 percent, and from new EQR activities undertaken as a result of the BBA requirements.

In addition, even though we are proposing to extend this requirement to PHPs, again we do not expect this to significantly increase Medicaid expenditures. PHP costs account for approximately 5 percent of the payments we make to capitated arrangements. Furthermore, State agencies currently conduct quality review activities on PHPs at a 50 percent Federal matching rate. Additional costs may arise for States quality review activities that would now qualify for 75 percent and for new quality review activities undertaken as a results of the activities required in this proposed rule.

Although we cannot quantify these various cost and savings effects, we believe that their net impact would be well below the $100 million annual threshold for a major rule, and therefore that a regulatory impact analysis is not required. The impact of this proposed regulation is subsumed in estimates of the aggregate impact of the BBA, which have already been included in Medicaid baseline projections for the President's budget.

B. Federalism

Under Executive Order 13132, we are required to adhere to certain criteria regarding Federalism in developing regulations. We have determined that this proposed regulation will not significantly affect States rights, roles, and responsibilities. Section 1903(a)(30)(C) of the Act currently requires an EQR for each contract a State has with a section 1903(m) organization. In accordance with section 4705 of the BBA, this proposed rule would establish requirements and procedures for EQR of Medicaid MCOs. We propose to require States to ensure that an annual EQR is performed by a qualified EQRO for each contracting MCO, the EQRO has adequate information to carry out the review, and that the results of the reviews are made available to interested parties such as participating health care providers, enrollees, advocate groups, and the general public. We propose that these EQR requirements apply to PHPs and certain entities with comprehensive risk contracts that have been exempted from section 1903(m)(2)(A) requirements. We believe this is consistent with the intent of the Congress in enacting the quality provisions of the BBA. This proposed rule would not require State agencies to dismantle EQR mechanisms that they have used to meet section 1902 (a)(30)(C) of the Act and which they have found to be effective and efficient. Rather, this proposed rule would provide States greater flexibility in the types of entities they may use to conduct EQR.

We worked closely with States in developing this regulation. Specifically, in accordance with section 1932(c)(2)(A)(ii) of the Act, which requires the Secretary to consult with States to establish a method for identifying entities qualified to conduct EQR, we met with States and other stakeholders under the auspices of the National Academy of State Health Policy to establish a criteria to identify qualified entities. Most of the recommendations made at this meeting have been incorporated into this proposed rule. For recommendations not accepted, an explanation has been provided.

In addition, section 1932(c)(2)(A)(iii) requires the Secretary to coordinate with the NGA in contracting with an independent quality review organization to develop protocols to be used in EQR. To meet this requirement, we issued a RFP for one or more contractors to develop a set of review protocols for EQROs to use in the conduct of EQRs. Two State

representatives selected by the NGA were members of the panel that reviewed and rated responding proposals. Moreover, part of the development of the EQR protocols includes convening an expert panel for review and comment of the protocols. State representatives are included in this process.

List of Subjects

42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant programs-health, Medicaid, Reporting and record keeping requirements.

42 CFR Part 438

Grant Programs—health, Managed care entities, Medicaid, Quality assurance, Reporting and record keeping requirements.

42 CFR Chapter IV would be amended as set forth below.

A. PART 433—STATE FISCAL ADMINISTRATION

1. The authority citation for part 433 is revised to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 433.15 [Amended]

2. In § 433.15, the following change is made: A new paragraph (b)(10) is added to read as set forth below.

§ 433.15 Rates of FFP for administration.

* * * * *

(b) * * *

(10) Funds expended for the performance of external quality review or the related activities described in § 438.358 of this chapter when they are performed by an external quality review organization as defined in § 438.2 of this chapter: 75 percent.

B. A new part 438 is added, to read as set forth below.

PART 438—MANAGED CARE PROVISIONS

Subpart A—General Provisions

Sec.

438.1 Basis, scope and applicability.
438.2 Definitions.

Subparts B through D [Reserved]

Subpart E—External Quality Review

Sec.

438.350 State responsibilities.
438.352 EQR protocols.
438.354 Qualifications of EQROs.
438.356 State contract options.
438.358 Activities related to external quality review.
438.360 Non-duplication of mandatory activities.
438.362 Exemption from external quality review.
438.364 External quality review results.
438.370 Federal financial participation.

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart A—General Provisions

§ 438.1 Basis, scope and applicability.

(a) *Statutory basis.* This part is based on section 1932(c)(2) of the Act.

(b) *Scope.* This part sets forth requirements for annual external quality reviews of each contracting MCO, including—

(1) Criteria that States must use in selecting entities to perform the reviews;

(2) Specifications for the activities related to external quality review;

(3) Circumstances under which external quality review may use the results of Medicare quality reviews or private accreditation surveys; and

(4) Standards for making available the results of the reviews.

(c) *Applicability.* The provisions of this part apply to managed care organizations (MCOs), prepaid health plans (PHPs), and entities with comprehensive risk contracts that have been exempted by statute from the requirements in section 1903(m)(2)(A).

§ 438.2 Definitions.

As used in this subpart—

EQR stands for external quality review;

EQRO stands for external quality review organization.

External quality review means the analysis and evaluation, by an EQRO, of aggregated information on timeliness, access, and quality of the health care services furnished to Medicaid recipients by each MCO and other related activities performed by an EQRO.

External quality review organization means an organization that meets the competence and independence requirements set forth in § 438.354, and performs external quality review.

Quality, as it pertains to external quality review, means the degree to which an MCO maintains or improves the health outcomes of its enrollees through its structural and operational characteristics and through the provision of services.

Validation means the review of information, data, and procedures to determine the extent to which they are accurate, reliable, free from bias, and in accord with standards for data collection and analysis.

Subparts B through D—[Reserved]

Subpart E—External Quality Review

§ 438.350 State responsibilities.

Each State that contracts with MCOs must ensure that—

(a) Except as provided in § 438.362, an annual EQR is performed by a qualified EQRO for each contracting MCO;

(b) The EQRO has information, obtained from the related activities described in § 438.358, to carry out the review;

(c) The information provided to the EQRO in accordance with paragraph (b) of this section is obtained through methods consistent with the protocols established under § 438.352; and

(d) The results of the reviews are made available as specified in § 438.364.

§ 438.352 EQR protocols.

Each protocol must specify—

(a) The data to be gathered;

(b) The sources of the data;

(c) The detailed procedures to be followed in collecting the data to promote its accuracy, validity, and reliability;

(d) The proposed method or methods for validly analyzing and interpreting the data once obtained; and

(e) All instructions, guidelines, worksheets, and any other documents or tools necessary for implementing the protocol.

§ 438.354 Qualifications of EQROs.

(a) *General rule.* The State must ensure that each organization it selects to perform EQR meets the requirements of this section.

(b) *Competence.* The organization must have at least the following:

(1) Staff with knowledge of—

(i) Medicaid recipients, policies, data systems, and processes;

(ii) Managed care delivery systems, organizations, and financing;

(iii) Quality assessment and improvement technologies; and

(iv) Research design and methodology, including statistical analysis.

(2) Sufficient physical, technological, and financial resources to conduct EQR.

(3) Other clinical and nonclinical skills to carry out the review and to supervise the work of any subcontractors.

(c) *Independence.* The organization and its subcontractors are independent from the State Medicaid agency and from the MCOs they review. In order to qualify as "independent" and serve as an EQRO—

(1) A State agency, department, university, or other State entity may not—

(i) Have Medicaid purchasing or managed care licensing authority;

(ii) Deliver any health care services to Medicaid recipients; or

(iii) Conduct, on the State's behalf, any other ongoing Medicaid program operations related to oversight of the quality of MCO services.

(2) A State agency, department, university, or other State entity must be governed by a Board or similar body the majority of whose members are not government employees.

(3) An EQRO may not review a particular MCO if either the EQRO or the MCO exerts control over the other. (As used in this paragraph, "control" has the meaning given the term in 48 CFR 19.101.)

§ 438.356 State contract options.

(a) The State must contract with one or more EQROs.

(b) Each contractor must meet the competence requirements as specified in § 438.354(b).

(c) Each contracting EQRO is permitted to use subcontractors. The EQRO is accountable for, and must oversee, all subcontractor functions.

(d) Each contractor and subcontractor must meet the requirements for independence, as specified in § 438.354(c)

(e) For each contract, the State must follow an open, competitive procurement process that is in accordance with State law and regulations and consistent with 45 CFR part 74 as it applies to State procurement of Medicaid services.

§ 438.358 Activities related to external quality review.

(a) *Mandatory activities.* The EQR must use information obtained from the following activities which must be performed by the State or its agent or, if they are not so performed, must be performed by the EQRO:

(1) Each year, for each MCO, the EQR must use information obtained from the following:

(i) Validation of performance improvement projects that were required by the State and were performed during the preceding 12 months.

(ii) Validation of performance measures that the State required and that the MCO reported during the preceding 12 months.

(2) Each year, the EQR must also use information obtained from a review, conducted within the previous 3 year period, to determine the MCO's compliance with standards established by the State for the following:

(i) Availability of services.

(ii) Continuity and coordination of care.

(iii) Coverage and authorization of services.

(iv) Establishment of provider networks.

(v) Enrollee information.

(vi) Enrollee rights.

(vii) Confidentiality.

(viii) Enrollment and disenrollment.

(ix) Grievance systems.

(x) Subcontractual relationships and delegation.

(xi) Use of practice guidelines.

(xii) Health information systems.

(xiii) Mechanisms to detect both underutilization and overutilization of services as part of the quality assessment and performance improvement programs.

(b) *Optional activities.* The review may also use information derived from the following optional activities performed by the State or its agent, or the EQRO:

(1) The validation of client level data (such as claims and encounters) reported by the MCO.

(2) The administration or validation of consumer or provider surveys of quality of care.

(3) The calculation of performance measures in addition to those reported by the MCO and validated by the EQRO.

(4) The conduct of performance improvement projects in addition to those conducted by the MCO and validated by the EQRO.

(5) The conduct of studies on quality, focused on a particular aspect of clinical or non-clinics services at a point in time.

(c) *Technical assistance.* The EQRO may, at the State's direction, provide technical guidance to groups of MCOs to assist them in conducting activities related to the mandatory and optional activities that provide information for the EQR.

§ 438.360 Nonduplication of mandatory activities.

(a) *General rule* In order to avoid duplication, the State may exempt an MCO from mandatory activities (as specified in § 438.358) if the conditions of paragraph (b) or paragraph (c) of this section are met.

(b) *Certified M+C organization.* The State may exempt an MCO from the mandatory activity specified in § 438.358(a)(2), if the following conditions are met:

(1) The MCO is also a certified M+C organization with a current Medicare contract.

(2) The MCO meets either of the following conditions:

(i) The MCO's current structure and its compliance with the standards established by the State under § 438.358(a)(2) have been evaluated and approved by HCFA or its contractor.

(ii) The MCO is currently fully accredited by a private accrediting organization that HCFA approves and recognizes as having standards and review procedures at least as stringent as those established by HCFA for the mandatory activity specified in § 438.358(a)(2).

(3) The MCO provides to the State all the reports, findings, and other results of the Medicare review or the private accreditation survey. The State provides the information to the EQRO.

(c) *MCO serves only the dually eligible.* The State may exempt an MCO from the mandatory activities specified in § 438.358(a)(1) and (a)(2) if the following conditions are met:

(1) The MCO serves only individuals who receive both Medicare and Medicaid benefits.

(2) The Medicare review activities are substantially comparable to the State-specified mandatory activities in § 438.358(a)(1) and (a)(2).

(3) The MCO provides to the State all the reports, findings, and other results of the Medicare review. The State provides the information to the EQRO.

§ 438.362 Exemption from external quality review.

(a) *Basis for exemption.* The State may exempt an MCO from EQR if the following conditions are met:

(1) The MCO has a current Medicare contract under part C of title XVIII or under section 1876 of the Act, and a current Medicaid contract under section 1903(m) of the Act.

(2) The two contracts cover all or part of the same geographic area.

(3) The Medicaid contract has been in effect for at least two consecutive years before the effective date of the exemption and during those two years the MCO has been subject to EQR under this part, and found to be performing acceptably with respect to the timeliness, access, and quality of health care services it provides to Medicaid recipients.

(b) *Information on exempted MCOs.* (1) *Information on Medicare review findings.* Each year, the State must obtain from each MCO that it exempts from EQR, the most recent Medicare review findings reported to the MCO by HCFA or its agent including—

(i) All data, correspondence, information, and findings pertaining to the MCO's compliance with Medicare

standards for access, quality assessment and performance improvement, health services, or delegation of these activities:

(ii) All measures of the MCO's performance; and

(iii) The findings and results of all performance improvement projects pertaining to Medicare enrollees.

(2) *Information on accreditation surveys.* (i) If an exempted MCO has been reviewed by a private accreditation organization, the State must require the MCO to ensure that the State receives a copy of all findings pertaining to its most recent survey if the accreditation survey has been used for either of the following purposes:

(A) To fulfill certain requirements for Medicare external review under subpart D of part 422 of this chapter,

(B) To deem compliance with Medicare requirements, as provided in § 422.156.

(ii) These findings must include, but need not be limited to, accreditation survey results of evaluation of compliance with individual accreditation standards, noted deficiencies, corrective action plans, and summaries of unmet accreditation requirements.

§ 438.364 External quality review results.

(a) *Information that must be produced.* The State must ensure that the EQR produces at least the following information:

(1) A detailed technical report that describes the manner in which the data from all activities conducted in accordance with § 438.358 were aggregated, analyzed, and the conclusions were drawn as to the quality of the care furnished by the MCO. The report must also include the following for each activity conducted in accordance with § 438.358:

(i) Objectives;

(ii) Technical methods of data collection and analysis;

(iii) Data obtained; and

(iv) Conclusions drawn from the data.

(2) A detailed assessment of each MCO's strengths and weaknesses with respect to the timeliness, access, and quality of health care services furnished to Medicaid recipients.

(3) Recommendations for improving the quality of health care services furnished by each MCO.

(4) As the State determines methodologically appropriate, comparative information about all MCOs.

(5) An assessment of the degree to which each MCO has addressed effectively the recommendations for quality improvement, as made by the EQRO during the previous year's EQR.

(b) *Availability of information.* The State must provide copies of the information specified in paragraph (a) of this section, upon request, to interested parties such as participating health care providers, enrollees and potential enrollees of the MCO, recipient advocate groups, and members of the general public.

(c) *Safeguarding patient identity.* The information released under paragraph (b) of this section may not disclose the identity of any patient.

§ 438.370 Federal financial participation.

(a) FFP at the 75 percent rate is available in expenditures for EQR (including the production of EQR information), performed by EQROs and their subcontractors.

(b) FFP at the 50 percent rate is available in expenditures for EQR-related activities performed by any entity that does not qualify as an EQRO.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance)

Dated: August 2, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

Approved: September 9, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–31101 Filed 11–30–99; 8:45 am]

BILLING CODE 4120–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2522 and 2525

RIN 3045–AA09

AmeriCorps Education Awards

AGENCY: Corporation for National and Community Service.

ACTION: Proposed rule.

SUMMARY: We propose to amend several provisions relating to the AmeriCorps education award, including those governing the circumstances under which an AmeriCorps member may be determined eligible for a pro-rated education award and the ways in which participants may use the award.

DATES: The deadline for written comments is January 31, 2000.

ADDRESSES: Comments may be mailed or delivered to Gary Kowalczyk, Coordinator of National Service Programs, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, D.C. 20525, sent by facsimile transmission to (202) 565–2784, or sent electronically to gkowalcz@cns.gov. Copies of all communications received will be available for review at the Corporation by members of the public.

FOR FURTHER INFORMATION CONTACT: Gary Kowalczyk, Coordinator of National Service Programs, Corporation for National and Community Service, (202) 606–5000, ext. 340. T.D.D. (202) 565–2799. This proposed rule may be requested in an alternative format for persons with visual impairments.

SUPPLEMENTARY INFORMATION: Pursuant to the National and Community Service Act of 1990, as amended (42 U.S.C. 12501 *et seq.*), the Corporation for National and Community Service ("the Corporation"), through the National Service Trust, provides education awards and qualified student loan interest benefits to AmeriCorps participants who successfully complete a term of service in an approved national service position. The AmeriCorps education award may be used to pay for specified educational costs and to repay certain types of student loans. In addition, upon a participant's successful completion of a term of service, the National Service Trust will pay the interest that accrued during the term on certain types of student loans.

On July 12, 1999 (64 FR 37411), we published final rules governing the AmeriCorps education award and related interest benefits. This notice of proposed rulemaking proposes to clarify one provision regarding eligibility for a pro-rated education award and another provision concerning the use of the education award to pay current educational expenses.

Release for Compelling Personal Circumstances

A participant who demonstrates that compelling personal circumstances make completion of the term of service unreasonably difficult or impossible may be eligible for a pro-rated education award. In the final rule published on July 12, 1999, we listed examples of situations that could be properly classified as compelling personal circumstances. The proposed rule would eliminate one of the situations listed as an example of compelling personal circumstances. Specifically, we propose to rescind our previous determination that compelling personal circumstances are present when a participant, who is serving in a program that includes in its approved objectives the promotion of employment among participants, leaves a term of service to accept an employment opportunity. We believe that eliminating this category is

necessary to promote consistency in the provision of pro-rated education awards throughout AmeriCorps. Under the proposed rule, a participant who leaves service for employment is eligible for an education award only if the participant is a recipient of Temporary Assistance to Needy Families (TANF) making the transition from welfare to work.

Definition of Current Educational Expenses

The proposed rule expands the definition of "current" educational expenses to include expenses incurred after an individual enrolls as an AmeriCorps member. The final rule published on July 12, 1999, covered expenses incurred only after the completion of service. We believe that interpreting "current" educational expenses to include those incurred after an AmeriCorps member begins a term of service would avoid financial hardship for AmeriCorps members who serve while also attending an institution of higher education.

Executive Order 12866

We have determined that this regulatory action is not a "significant" rule within the meaning of Executive Order 12866 because it is not likely to result in: (1) An annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

We have determined that this regulatory action will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, we have not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

Other Impact Analyses

Because the proposed changes do not authorize any information collection activity outside the scope of existing regulations, this regulatory action is not subject to review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*). For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

List of Subjects

45 CFR Part 2522

AmeriCorps, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2525

Grant programs—social programs, Student aid, Volunteers.

For the reasons stated in the preamble, chapter XXV, title 45 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2522–AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS

1. The authority citation for part 2522 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

2. Section 2522.230 is amended by revising paragraphs (a)(5) and (a)(6) to read as follows:

§ 2522.230 Under what circumstances may AmeriCorps participants be released from completing a term of service, and what are the consequences?

* * * * *

(a) * * *

(5) Compelling personal circumstances include:

(i) Those that are beyond the participant's control, such as, but not limited to:

(A) A participant's disability or serious illness;

(B) Disability, serious illness, or death of a participant's family member if this makes completing a term unreasonably difficult or impossible; or

(C) Conditions attributable to the program or otherwise unforeseeable and beyond the participant's control, such as a natural disaster, a strike, relocation of a spouse, or the nonrenewal or premature closing of a project or program, that make completing a term unreasonably difficult or impossible;

(ii) Those that the Corporation, has for public policy reasons, determined as such, including:

(A) Military service obligations; or

(B) Acceptance by a participant of an opportunity to make the transition from welfare to work.

(6) Compelling personal circumstances do not include leaving a program:

(i) To enroll in school;

(ii) To obtain employment, other than in moving from welfare to work; or

(iii) Because of dissatisfaction with the program.

* * * * *

PART 2525–NATIONAL SERVICE TRUST: PURPOSE AND DEFINITIONS

1. The authority citation for part 2525 continues to read as follows:

Authority: 42 U.S.C. 12601–12604.

2. Section 2525.20 is amended by revising the definition of "Current educational expenses" to read as follows:

§ 2525.20 Definitions.

* * * * *

Current educational expenses. The term *current educational expenses* means the cost of attendance for a period of enrollment in an institution of higher education that begins after an individual enrolls in an approved national service position.

* * * * *

Dated: November 23, 1999.

Wendy Zenker,

Chief Operating Officer.

[FR Doc. 99–31009 Filed 11–30–99; 8:45 am]

BILLING CODE 6050–28–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–339; FCC 99–353]

Implementation of Video Description of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to adopt limited requirements for television video description. The Commission seeks comment on ways to increase the availability of video

description. This action is intended to ensure the availability of video description for the benefit of all Americans with visual disabilities in accordance with the Telecommunications Act of 1996.

DATES: Comments are due on or before January 24, 2000; reply comments are due on or before February 23, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, Room TW–A306, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eric Bash, Policy and Rules Division, Mass Media Bureau, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (''*NPRM*''), FCC 99–339, adopted November 18, 1999; released November 18, 1999. The full text of the Commission's *NPRM* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW–A306), 445 12 St. SW, Washington, DC. The complete text of this *NPRM* may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 1231 20th St., NW, Washington, DC 20036.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. Television plays a significant role in our society. Television programming shapes public opinion and culture in myriad ways. It is the principal source of news and information and provides hours of entertainment every week to American homes. For the millions of Americans with visual disabilities—who watch television in similar numbers and with similar frequency to the general population—the difficulty of being able to follow the visual action in television programs puts them at a significant disadvantage. This disadvantage can be overcome through the use of video description, through which narrated descriptions of a television program's key visual elements are inserted during the natural pauses in the program's dialogue. Video description is typically provided through the use of the Secondary Audio Programming channel so that it is audible only to those who wish to hear the narration. The narration generally describes settings and actions that are not otherwise reflected in the dialogue, such as the movement of a person in the scene. In this *NPRM*, we propose to adopt limited requirements to ensure that video description is more available so that all Americans can enjoy the benefits of television. We expect to expand these requirements once we have gained greater experience with video description.

2. Public television has been airing described video programming for more than a decade. WGBH's Descriptive Video Service (DVS) has described more than 1600 PBS programs, and in the fall of 1998 provided video description of three daily programs, four weekly programs, selected episodes of three other series and several specials. Many commercial broadcasters also have the technical ability to air described video programming, but few have done so. Many cable systems have the capability to provide described programming, but do so only on very limited channels, such as the Turner Classic Movies channel, and none of this programming is available without the assistance of public funding. As a result, less than 1% of all programming contains video description.

3. The Commission has previously conducted inquiries on video description. The Commission issued its first Notice of Inquiry (''*NOI*'') on video description in 1995, 60 FR 65052 (December 18, 1995). Section 713(f) of the Act, added by the 1996 Act, directed the Commission to commence an inquiry on video description, and report to Congress on its findings. Using the record adduced in response to the *First NOI*, the Commission issued the required report to Congress in 1996, 61 FR 42249 (August 14, 1996). The Commission then issued a *second NOI* in 1997, 62 FR 38088 (July 16, 1997), and submitted more information to Congress on video description in its 1997 annual report on competition in the markets for the delivery of video programming, 63 FR 10222 (March 2, 1998). The availability of video description has not meaningfully improved during the past several years while these proceedings were ongoing.

4. Various parties have asked the Commission to take steps to enhance the availability of video description. As discussed, the Commission has received two specific proposals to implement the service, both of which suggest that we phase in video description over a number of years. In addition, the President's Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters has encouraged digital broadcasters to provide video description. The Commission has also received letters of support from Congress and industry. Through this proceeding, we seek comment on ways to increase the availability of video description, without imposing an undue burden on industry.

II. Background

5. *Audience for Video Description.* Video description is designed to make television programming more accessible to persons with visual disabilities, and enable them to ''hear what they cannot see.'' Thus, the primary audience for video description is persons with visual disabilities. Estimates of the number of persons with visual disabilities range from more than eight million to nearly twelve million. The group includes persons with a problem seeing that cannot be corrected with ordinary glasses or contact lenses, with a range in severity.

6. A disproportionate number of persons with visual disabilities are older. The National Center for Health Statistics reports that eye problems are the third leading cause, after heart disease and arthritis, of restricting the normal daily activities of persons 65 years of age or older. While only 2–3% of the population under 45 years of age has visual disabilities, 9–14% of the population 75 years of age or older does. This means that as the population ages, more and more people will become visually disabled.

7. Secondary audiences for video description exist as well. For example, at least one and a half million children between the ages of 6 and 14 with learning disabilities may benefit from video description. Because the medium has both audio description and visual appeal, it has significant potential to capture the attention of learning disabled children and enhance their information processing skills. Described video programming capitalizes on the different perceptual strengths of learning-disabled children, pairing their more-developed modality with their less-developed modality to reinforce comprehension of information.

8. The secondary audience may also include persons without disabilities. Just as health club members and sports bar patrons have become beneficiaries of closed captioning, viewers who are doing several things at once, who need to attend to something during a program, or who leave the room during a program, may become beneficiaries of video description. In fact, the Narrative Television Network, which provides video description that is ''open'' and therefore cannot be turned off, reports that 60% of its audience is not visually disabled.

9. *Technology.* Video description can be either ''open'' or ''closed.'' Open description is provided as part of the main soundtrack of a program. As a result, no special equipment is needed for a broadcaster or multichannel video

programming distributor (MVPD) to transmit the descriptions or for the viewer to receive them. The descriptions cannot, however, be turned off.

10. Closed description is provided on the Secondary Audio Programming, or SAP, channel. The SAP channel allows for an additional audio soundtrack for a program, independent of or separate from the monaural and stereophonic soundtracks. A secondary carrier, or subcarrier, transmits the SAP channel audio soundtrack through a modulator. When the SAP channel is used, a programming distributor transmits two separate audio tracks. The second audio track is transmitted with the main program signal. For example, the SAP channel as currently used by PBS for its video description is transmitted with the main program signal from the network's master control facility and satellite distribution system to the local station's broadcast facility and through the local transmitter. To accommodate the additional soundtrack, changes may need to be made to some network and local stations' plant wiring and equipment. At the local transmitter, the broadcast station or cable operator must have the technical facilities to pass through the subcarrier signal to include the SAP channel information.

11. The CPB–WGBH National Center for Accessible Media (NCAM) reports that, as of 1998, 156 public television stations reaching 79 million (80%) of TV households had installed the necessary equipment to distribute descriptions via SAP. In addition, each of the four largest commercial television networks (ABC, CBS, Fox, NBC) offered Spanish audio on the SAP channel last year. According to NCAM, in the top 25 DMAs, 81% of one major commercial network's affiliates are SAP-equipped, and, in the top 50 DMAs, 69% of cable systems are. NCAM also reports that SAP has been a standard feature of stereo broadcasting for the past fifteen years; as of 1997, 650 TV stations broadcast in stereo, amounting to roughly 40% of total TV stations. For those stations that are not yet SAP-equipped, NCAM estimates that the cost to update equipment to become so is between $5,000 and $25,000, based on the experience of the noncommercial stations that are SAP-capable.

12. To receive information contained within the SAP channel, a viewer must have a receiver (TV set) capable of delivering it. According to the Consumer Electronics Manufacturers Association, as of January 1998, 59% of TV sets sold, and 90% of VCRs sold, have stereo capability, and most of these are SAP-equipped. The Commission observed several years ago that 52% of American households at the time had SAP-compatible TV sets, and 20% had such VCRs. SAP-capable TV sets and VCRs can be relatively inexpensive, less than $150, and a converter box is also available for use with TV sets and VCRs that are not SAP-capable.

13. *Prior Video Description Inquiries.* The Commission first considered video description when it issued a *NOI* on closed captioning and video description on December 4, 1995. Several months later, the Telecommunications Act of 1996 became law. Section 305(f) of the 1996 Act added new section 713 to the Communications Act of 1934. Entitled "Video Programming Accessibility," section 713 addressed closed captioning and video description.

14. On July 29, 1996, the Commission released the required report, based on the record adduced in response to the *NOI.* The Commission did not issue specific guidance on the criteria enumerated in section 713, because "the present record on which to assess video description * * * is limited, and the emerging nature of the service renders definitive conclusions difficult." However, the Commission noted that "the development of rules for closed captioning, which is more widely available, can provide a useful model for the process of phasing in broadened use of video description." The Commission concluded that it should monitor the service and seek more information in the context of its annual report on competition in the market for the delivery of video programming.

15. On January 13, 1998, the Commission released its second report on video description, as part of its annual report to Congress on competition in the market for video programming. In the *Fourth Annual Report,* the Commission stated that "it is certain that 'closed' video description is feasible," given that it is already being provided by some, such as PBS. The Commission noted the expense of providing the service, citing, for example, information provided by WGBH that the expense of describing programming was approximately $3,400 per hour, and that the expense of noncommercial broadcasters that have upgraded equipment to become SAP-capable ranged from $5000 to $25,000.

16. *Coalition and NCAM Proposals.* Following the *Fourth Annual Report,* NCAM submitted a proposal to phase in video description. This proposal was based on an earlier one submitted by the National Coalition of Blind and Visually Impaired Persons for Increased Video Access (Coalition), but modified and updated to take into account the Commission's closed captioning rules.

17. NCAM proposes that initial video description requirements apply to the largest broadcast networks (ABC, CBS, Fox, NBC, and PBS), and national non-broadcast networks, such as cable networks, that serve 50% or more of the total number of MVPD households. In order to ensure that video description provided by these distributors is capable of being received by viewers, NCAM proposes local pass-through requirements on a staggered schedule. Thus, NCAM suggests that by the end of the first year after any Commission rules become effective, affiliates of the broadcast networks identified in the top 25 markets would be required to pass through the description provided by the networks, and all cable systems in the top 25 markets would be required to pass through the description provided by those broadcasters and by national non-broadcast networks serving 50% or more of the total number of MVPD households. By the end of the second year, these requirements would be extended to the top 50 markets; by the end of the third year, to the top 100 markets; and by the end of the fourth year, to the top 200 markets.

18. Both the Coalition and NCAM propose that initial video description requirements apply to prime time and children's programming, and suggest that requirements for other programming be deferred for several years until the infrastructure for video description has developed more, and the Commission, the industry, and the public have gained more experience with the technology. Both the Coalition and NCAM propose that the requirements be phased in over a seven-year period. By the end of the first year after any Commission rules become effective, the distributors would be required to describe four hours of prime time programming per week. By the end of each succeeding year, they would be required to describe an additional three hours of prime time programming per week, until all twenty-two hours of prime time programming (excluding live newscasts) are described. In addition, by the end of the second year, both the Coalition and NCAM propose that the applicable distributors be required to describe three hours of children's programming per week.

III. Proposals and Request for Comment

19. We propose to adopt limited rules to phase "closed" video description into the marketplace. We hope to ensure the more widespread availability of video description, but to proceed incrementally so as not to impose a

significant burden on video programming distributors. We thus propose that the largest video programming distributors should provide a limited amount of video description of their prime time and/or children's programming. We believe that requiring these distributors to provide some video description will not be economically burdensome for them. We further believe that requiring them to provide video description of a small portion of their prime time and/or children's programming will ensure the widest availability of video description to audiences that are most likely to benefit from it. We ask for comment on these views.

20. In this section, we outline a particular proposal of the kind that we envision for the initial implementation of these rules. The proposal would require broadcasters affiliated with ABC, CBS, Fox, and NBC in Nielsen's top 25 Designated Market Areas (DMAs), and larger MVPDs, to provide some "closed" video description. We propose that these broadcasters and MVPDs provide a minimum of 50 hours per calendar quarter (roughly four hours per week) of described prime time and/or children's programming. Larger MVPDs would be required to carry the described programming of the broadcasters affiliated with the top 4 networks, and of nonbroadcast networks that reach 50% or more of MVPD households. We also propose that these broadcasters and MVPDs begin providing the required described programming no later than 18 months after the effective date of our rules. We further propose to adopt procedures to waive our rules if compliance would be unduly burdensome, and to adopt enforcement procedures. These proposals are described in more detail.

21. This approach is generally modeled after our closed captioning rules. Our approach here is more measured, however, because video description technology is not as developed as closed captioning technology, and all distributors may not have the technical capability now to provide described programming. As the Commission, the industry, and the public gain greater experience with video description, we will review the rules we propose to adopt now, and modify them as the public interest requires. We expect to increase the amount of required described programming over time "in order to ensure the accessibility of video programming to persons with visual impairments," as envisioned by Congress in the section 713(f) of the Act.

22. We recognize that broadcasters are in the process of converting from analog to digital technology. The flexibility inherent in digital technology may make the provision of video description even easier and less costly. Given that the need for video description exists now and that the transition to digital will not occur overnight, however, we do not wish to wait for the transition to be complete before adopting video description requirements. We are thus proposing to apply the requirements outlined in this *Notice* to analog broadcasters. We do intend, however, to extend our video description requirements to digital broadcasters in the future. We are inclined not to adopt a specific timetable to apply to digital broadcasters in the *Report and Order* arising out of this *Proposed Rule*, but rather to address such specifics in a future proceeding. At that time we can craft rules based upon the experience we have gained as a result of analog broadcasters' implementation of our initial requirements. We seek comment on this approach. We also seek comment on what technical issues are raised by the provision of video description by digital broadcasters and on how the conversion to digital affects the costs associated with the provision of video description.

23. *Entities to Describe Programming.* We propose to hold programming distributors, as opposed to producers, responsible for compliance with our video description rules. We recognize that distributors may not actually describe the programming. In the closed captioning proceeding, the Commission observed that others such as producers might more efficiently caption programming, but reasoned that the Commission could more easily monitor and enforce the rules by holding distributors responsible for compliance. We believe this reasoning is equally applicable here, and therefore propose to hold distributors responsible for complying with video description requirements. We seek comment on these views.

24. We propose to apply our rules to all distributors of video programming over which we have jurisdiction. Video programming distributors include television broadcast stations, cable operators, direct broadcast satellite (DBS) operators, home satellite dish (HSD) providers, open video system (OVS) operators, satellite master antenna television (SMATV) operators, and wireless cable operators using channels in the multichannel multipoint distribution service (MMDS). We believe that as many distributors as possible should provide video description to enhance the availability of the service, as well as to ensure a level playing field among distributors. MVPDs are increasingly the primary source of video programming for most Americans, and noncable MVPDs continue to grow. Some MVPDs may require separate SAP generators for each channel they wish to distribute with audio on a SAP channel. It does appear, however, that most of the distribution technologies are capable of transmitting audio on the SAP channel or through other means. We seek comment on this proposal.

25. We believe, however, that our initial rules should only require the largest distributors to provide video description. As the Commission stated in the *Fourth Annual Report*, "any requirements for video description should begin with only the largest broadcast stations and programming networks that are better able to bear the costs involved * * *. For example, a minimal amount of video description could be required to be provided by the larger broadcast stations in larger markets, and by the larger video programming networks." The costs of providing video description include the cost of having programming described, and, in some instances, the cost of upgrading equipment. We thus propose to require the affiliates of the four largest broadcast networks (ABC, CBS, Fox, and NBC) in the top 25 DMAs, and the larger MVPDs to provide video description. Our proposal is consistent with the first phase of NCAM's proposal. We seek comment on our proposal, and on how to define the larger MVPDs to which our initial rules should apply. We seek to identify those MVPDs that are comparable to the broadcast stations we have proposed to require to provide described programming. As indicated, we acknowledge and expect that programming networks, and not broadcast stations and MVPDs, will actually describe programming, but we believe, for ease of enforcement and monitoring of compliance with our rules, that we should hold distributors responsible for compliance. Our proposal would not require any noncommercial stations to provide video description at this time, given the financial difficulties that many of them face, particularly during the transition to DTV.

26. To help us better evaluate our proposal and realize our goal of maximizing video description without imposing an undue burden, we also seek further comment on the costs of video description. The Commission has previously noted that the cost of

describing prime time programming may be as much as several thousand dollars per hour, although commenters have pointed out that the cost of describing prime time programming is but a small fraction of the total budget of such programming. We seek additional comment on the costs of describing programming, including more information on the costs relative to the production budgets of programming such as prime time programming. The Commission has also noted that the cost of upgrading equipment may be between $5,000 and $25,000, although NCAM reports that 81% of one network's affiliates are SAP-equipped, and 69% of cable systems are. We seek more complete and updated information on the number of broadcasters and MVPDs that are SAP-equipped. We seek further comment on the cost of upgrading equipment, particularly from broadcasters that have already done this.

27. We also seek comment on our proposal to require the largest distributors to provide described programming beginning 18 months after the effective date of our rules. We wish to select a beginning date that ensures more widespread video description is available rapidly, but does not impose an undue burden on distributors.

28. We intend our proposal to require the largest programming distributors to provide a limited amount of video description to be a starting point for further development of the service. The experience of the largest programming distributors will provide us with concrete information upon which to propose a schedule to phase in other distributors. We seek comment on an appropriate timetable for the next phase in.

29. *Programming to be Described.* We propose that the distributors should initially provide a minimum of 50 hours per quarter (roughly four hours per week) of video description of prime time and/or children's programming. As the Commission stated in the *Video Accessibility Report*, "initial requirements for video description should be applied to new programming that is widely available through national distribution services and attracts the largest audiences, such as prime time entertainment series." Our proposal to require distributors to describe roughly four hours per week of prime time programming is consistent with first phase of the Coalition's and NCAM's proposals. Although four hours per week appears to be a reasonable starting point, we prefer to express the requirement as 50 hours per quarter in order to grant distributors additional flexibility in selecting the best programming to describe. We propose also to permit distributors to meet the 50 hour video description requirement by describing children's programming in order to meet the needs of children with visual disabilities. As indicated, NCAM suggests that video description of children's programming would also provide a benefit to children with learning disabilities. Within these broad categories of programming, the distributors would have flexibility to decide which programming will reach the largest audience and be most likely to provide the intended benefits of video description. We seek comment on our proposal, and on any alternatives. Instead of requiring that the minimum number of hours of video description apply to prime time and children's programming, should we allow distributors complete flexibility to choose which programming to describe? Should we establish certain parameters to ensure that distributors select programming that has a significant audience that would benefit from video description? Whether we prescribe prime time and/or children's programming or not, is a minimum of 50 hours per quarter (roughly 4 hours per week) appropriate for the initial requirement? We seek comment on the resources currently available to describe programming. We also seek comment on how to ensure that the public, and in particular people with disabilities, know when described video programming is scheduled.

30. Commenters in our earlier *NOI* proceedings have noted that Spanish-language audio sometimes competes for use of the SAP channel. We seek comment on the extent to which Spanish or other languages use or plan to use the SAP channel, the impact, if any, of today's proposals on such services, and how such potential conflicts could be avoided or minimized. Further, although we believe that adoption of digital technology will eliminate any potential conflict between competing users of the SAP channel, we seek comment on whether there are any technical solutions to such potential conflicts in the analog environment.

31. In addition, commenters in our earlier *NOI* proceedings have argued that a second script, which may constitute a "derivative work" under copyright law, is necessary to provide video description. As noted, however, many distributors have provided video description for years, and apparently have not found this to be an obstacle. We seek comment on whether copyright issues could become an obstacle to video description, and, what could be done to prevent or minimize such a result.

32. The Coalition points out that public safety messages that scroll across the TV screen are totally inaccessible to persons with visual disabilities, and proposes that an aural tone be required to accompany the messages to alert such persons to turn on a radio, the SAP channel, or a designated digital channel. We believe that it is of vital importance for these emergency messages to be accessible to persons with visual disabilities. We seek comment on the Coalition's proposal, how it relates to the Commission's current standards for broadcasting emergency information, and on any other effective approaches to this problem. Could these messages be provided via "open" description?

33. *Waivers and Enforcement Procedures.* We also propose to adopt procedures to enforce our rules, and to waive them if compliance would result in an undue burden. The Commission adopted such procedures in its closed captioning rules. Guided by statutory factors, the Commission determined that factors relevant to a showing that compliance with its closed captioning rules would result in an undue burden are the nature and cost of captioning the programming, the impact on the operation of the petitioner, the financial resources of the petitioner, and the type of operations of the petitioner. The Commission also adopted some basic pleading requirements and timetables for petitions for waiver. In terms of enforcement, the Commission did not adopt any reporting requirements, but rather simply adopted pleading requirements and timetables. We seek comment on whether these procedures are appropriate for our initial video description rules.

IV. Jurisdiction

34. We seek comment on the question whether we possess statutory authority to adopt the proposed video description rules. We also seek comment on the question whether the existence or relative strength of such authority varies according to the type of video programming provider—broadcaster, cable operator, or DBS company, for example—potentially subject to the rules.

35. In connection with this jurisdictional question, we note that section 1 of the Act established the Commission "[f]or the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, *to all the people of the United States* * * * a rapid, efficient,

Nation-wide, and world-wide wire and radio communication service * * *." Also, section 2(a) grants the Commission jurisdiction over "all interstate and foreign communication by wire or radio" and "all persons engaged within the United States in such communication * * *." In addition, section 4(i) of the Act empowers "[t]he Commission [to] perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions." Finally, section 303(r) directs the Commission, "as the public interest, convenience, and necessity requires," to "[m]ake such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions in this Act * * *."

36. We further observe that Congress has expressed a general legislative preference for the increased accessibility of certain communications services for persons with disabilities. Section 225 requires the Commission to ensure that "interstate and intrastate telecommunications relay services are available, to the extent possible and in the most effective manner, to hearing-impaired and speech-impaired individuals in the United States." Similarly, section 255 requires manufacturers of telecommunications equipment, and providers of telecommunications services, to make such equipment and services "accessible to and usable by individuals with disabilities, if readily achievable." Section 303(u) generally requires television receivers to be equipped with a closed captioning chip. Section 710 provides for compatibility between telephones and hearing aids. In addition, the 1998 amendments to section 508 of the Rehabilitation Act require federal departments and agencies to accommodate persons with disabilities, including both employees and members of the public, with respect to the accessibility of information, technology, and data.

37. Other sections of the Act may also relate to the Commission's authority to adopt video description rules. For example, in order to grant a Title III license, renew such a license, or permit the assignment or transfer of such a license, sections 309(a), 307(c)(1) and 310(d) of the Act, respectively, require the Commission to find that the "public interest, convenience, and necessity" will be served thereby.

38. Also potentially relevant to this inquiry is section 713(f). That provision directed the Commission to "commence an inquiry to examine the use of video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings." As noted, the report was to address "appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate."

39. We seek comment on the question whether these provisions of the Act, taken together, provide sufficient authority to adopt the proposed video description regulations and on the scope of such authority as it relates to different types of programming providers.

V. Conclusion

40. We adopt this *Notice* in order to stimulate greater availability of video description, while at the same time not impose an undue burden on distributors. To meet the needs of the millions of Americans with visual disabilities, many public television stations and a few cable programmers have voluntarily provided some video described programming, and we applaud these efforts. Through the limited requirements we propose today, we hope to make this service more widely available to ensure that all Americans have access to video programming.

VI. Administrative Matters

41. *Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before January 24, 2000 and reply comments on or before February 23, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies, 63 FR 24121 (May 1, 1998).

42. Comments filed through ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment via e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

43. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, TW–A325, Washington, DC 20554.

44. Parties who choose to file paper should also submit their comments on diskette. These diskettes should be addressed to: Wanda Hardy, Paralegal Specialist, Mass Media Bureau, Policy and Rules Division, Federal Communications Commission, 445 Twelfth Street, SW, 2–C221, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case (MM Docket No. 99–353), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must sent diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, SW, CY–B402, Washington, DC 20554.

45. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 Twelfth Street, SW, CY–A257, Washington, DC 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418–0270, (202) 418–2555 TTY, or *bcline@fcc.gov*. Comments and reply comments also will be available electronically at the Commission's Disabilities Issues Task Force web site: *www.fcc.gov/dtf*. Comments and reply comments are available electronically in ASCII text, Word 97, and Adobe Acrobat.

46. This document is available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Martha Contee at (202) 4810–0260, TTY (202) 418–2555, or *mcontee@fcc.gov*.

47. *Ex Parte Rules.* This proceeding will be treated as a "permit-but-disclose" proceeding, subject to the "permit-but-disclose" requirements under § 1.1206(b) of the rules. 47 CFR 1.1206(b), as revised. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description or the views and arguments presented is generally required. 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b).

48. *Initial Regulatory Flexibility Analysis* ("IRFA"). As required by the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an IRFA of the possible economic impact on small entities of the proposals contained in this *Notice*. Written public comments are requested on the IFRA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions in our IRFA regarding the prevalence of small businesses in the television broadcasting industry. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the *Notice*, and must have a distinct heading designating them as a response to the IRFA. The Reference Information Center, Consumer Information Bureau, will send a copy of this *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

49. *Initial Paperwork Reduction Act Analysis.* This *Notice* may contain either proposed or modified information collections. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collections contained in this *Notice*, as required by the Paperwork Reduction Act of 1996. Public and agency comments are due at the same time as other comments on the *Notice*. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) ways to enhance the quality, utility, and clarity of the information collected; and (c) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 445 Twelfth Street, SW, Room C–1804, Washington, DC 20554, or via the Internet to *jboley@fcc.gov* and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to *fain_t@al.eop.gov*.

50. *Additional Information.* For additional information on this proceeding, please contact Eric Bash, Policy and Rules Division, Mass Media Bureau, (202) 418–2130, (202) 418–1169 TTY.

VII. Ordering Clauses

51. Accordingly, pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, 310, and 713 of the Communications Act, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 613, this *Notice of Proposed Rulemaking* is adopted.

52. The Commission's Reference Information Center, Consumer Information Bureau, shall send a copy of this *Notice*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

VIII. Initial Regulatory Flexibility Analysis

53. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 ("RFA"), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible economic impact on small entities by the policies and rules proposed in this *Notice*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice* provided in paragraph 38. The Commission will send a copy of the *Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, 5 U.S.C. 603(a). In addition, the *Notice* and the IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

54. Section 713(f) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. 613, directed the Commission, within six months of its enactment, to "commence an inquiry on video descriptions on video programming in order to ensure the accessibility of video programming to persons with visual impairments, and report to Congress on its findings." Section 713(f) required the report to "assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate."

Legal Basis

55. This *Notice* is adopted pursuant to sections 1, 2(a), 4(i), 303, 307, 309, 310, and 713 of the Act, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, 613.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

56. The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act, 5 U.S.C. 601(3) (1980). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA, 15 U.S.C. 632.

57. *Small TV Broadcast Stations.* The SBA defines small television broadcasting stations as television broadcasting stations with $10.5 million or less in annual receipts, 13 CFR 121.201.

58. The *Notice* proposes to limit the TV broadcast stations that must provide described programming to the TV broadcast stations affiliated with the top four commercial networks in the top 25 Nielsen Designated Market Areas (DMAs). According to Commission staff review of the BIA Publications, Inc., Master Access Television Analyzer Database, less than five commercial TV broadcast stations subject to our proposal have revenues of less than $10.5 million dollars. We note, however, that under SBA's definition, revenues of affiliates that are not television stations should be aggregated with the television station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from nontelevision affiliated companies.

59. *Small MVPDs.* The *Notice* proposes to limit the MVPDs that must provide described programming to larger MVPDs. The *Notice* seeks comment on how to define the MVPDs to which the initial rules should apply, and seeks to identify those MPVDs that are comparable to the broadcast stations affiliated with the top 4 commercial networks in the top 25 DMAs. The *Notice* thus proposes not to apply the initial rules to smaller MVPDs.

60. It is possible, however, that the MVPDs we ultimately decide to require to provide described programming may constitute a "small business" under some definitions. For that reason, we review the definition of "small business" for various MVPDs.

61. SBA has developed a definition of a small entity for cable and other pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Bureau of the Census, there were 1423 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992. We will address each service individually to provide a more succinct estimate of small entities. We seek comment on the tentative conclusions.

62. *Cable Systems:* The Commission has developed its own definition of a small cable company for the purposes of rate regulation. Under the Commission's rules, a "small cable company," is one serving fewer than 400,000 subscribers nationwide. We estimate that there were 1439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1439 small entity cable system operators under this definition.

63. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, does not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

64. *MMDS:* The Commission refined the definition of "small entity" for the auction of MMDS as an entity that together with its affiliates has average gross annual revenues that are not more than $40 million for the proceeding three calendar years. This definition of a small entity in the context of the Commission's *Report and Order* concerning MMDS auctions that has been approved by the SBA.

65. The Commission completed its MMDS auction in March, 1996 for authorizations in 493 basic trading areas ("BTAs"). Of 67 winning bidders. 61 qualified as small entities. Five bidders indicated that they were minority-owned and four winners indicated that they were women-owned businesses. MMDS is an especially competitive service, with approximately 1,573 previously authorized and proposed MMDS facilities. Information available to us indicates that no MDS facility generates revenue in excess of $11 million annually. We tentatively conclude that for purposes of this IRFA, there are approximately 1,634 small MMDS providers as defined by the SBA and the Commission's auction rules.

66. *ITFS:* There are presently 2,032 ITFS licensees. All but one hundred of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

67. *DBS:* As of December, 1996, there were eight DBS licensees. However, the Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be impacted by these proposed rules. Although DBS service requires a great investment of capital for operation, we acknowledge that there are several new entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

68. *HSD:* The market for HSD service is difficult to quantify. Indeed, the service itself bears little resemblance to other MVPDs. HSD owners have access to more than 265 channels of programming placed on C-band satellites by programmers for receipt and distribution by MVPDs, of which 115 channels are scrambled and approximately 150 are unscrambled. HSD owners can watch unscrambled channels without paying a subscription fee. To receive scrambled channels, however, an HSD owner must purchase an integrated receiver-decoder from an equipment dealer and pay a subscription fee to an HSD programming package. Thus, HSD users include: (1) Viewers who subscribe to a packaged programming service, which affords them access to most of the same programming provided to subscribers of other MVPDs; (2) viewers who receive only non-subscription programming; and (3) viewers who receive satellite programming services illegally without subscribing. Because scrambled packages of programming are most specifically intended for retail consumers, these are the services most relevant to this discussion.

69. According to the most recently available information, there are approximately 30 program packages nationwide offering packages of scrambled programming to retail consumers. These program packages provide subscriptions to approximately 2,314,900 subscribers nationwide. This is an average of about 77,163 subscribers per program package. This is substantially smaller than the 400,000 subscribers used in the commission's definition of a small MSO. Furthermore, because this is an average, it is likely that some program packages may be substantially smaller.

70. *OVS:* The Commission has certified three OVS operators. On October 17, 1996, Bell Atlantic received approval for its certification to convert its Dover, New Jersey Video Dialtone ("VDT") system to OVS. Bell Atlantic subsequently purchased the division of Futurevision which had been the only operating program package provider on the Dover system, and has begun offering programming on this system using these resources. Metropolitan Fiber Systems was granted certifications

on December 9, 1996, for the operation of OVS systems in Boston and New York, both of which are being used to provide programming. On October 10, 1996, Digital Broadcasting Open Video Systems received approval to offer OVS service in southern California. Because these services have been introduced so recently, little financial information is available. Bell Atlantic and Metropolitan Fiber Systems have sufficient revenues to assure us that they do not qualify as small business entities. Digital Broadcasting Open Video Systems, however, is a general partnership just beginning operations. Accordingly, we tentatively conclude that one OVS licensee qualifies as a small business concern.

71. *SMATVs:* Industry sources estimate that approximately 5,200 SMATV operators were providing service as of December, 1995. Other estimates indicate that SMATV operators serve approximately 1.05 million residential subscribers as of September, 1996. The ten largest SMATV operators together pass 815,740 units. If we assume that these SMATV operators serve 50% of the units passed, the ten largest SMATV operators serve approximately 40% of the total number of SMATV subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, we tentatively conclude that a substantial number of SMATV operators qualify as small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

72. The *Notice* proposes to hold certain TV broadcast stations and MVPDs responsible for providing 50 hours per quarter of described prime time and/or children's programming. Those broadcast stations and MVPDs must keep sufficient records to show that they are providing and have provided at least the required amount of described programming.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

73. As indicated, the *Notice* proposes to limit the TV broadcast stations and MVPDs that must provide described programming to larger TV broadcast stations (specifically, commercial TV broadcast stations affiliated with the four largest commercial broadcast networks in the top 25 DMAs) and larger MVPDs. The *Notice* seeks comment on how to define the MVPDs to which the initial rules should apply, and seeks to identify those MVPDs that are comparable to the broadcast stations affiliated with the top four networks in the top 25 DMAs. The Commission, therefore, has taken steps to minimize the impact of the proposed rules on small business.

74. Although the *Notice* proposes to hold the larger broadcast stations and MVPDs responsible for compliance with the initial rules, the Commission acknowledges that the broadcast and nonbroadcast networks that supply programming to the broadcast stations and MVPDs will most likely provide the actual video description of the programming. The *Notice* proposes, however, to limit the programming that must be described to that shown on the four largest commercial broadcast networks, and on nonbroadcast networks that reach 50% or more of MVPD households. The Commission has, therefore, taken steps to minimize the impact of the proposed rules on small business.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–31116 Filed 11–30–99; 8:45 am]

BILLING CODE 6712–01–P

VOL 64 ISS 230 DE 1 1999 UMI

Notices

Federal Register
Vol. 64, No. 230
Wednesday, December 1, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 12 noon–3 p.m.

PLACE: ADF Headquarters.

DATE: Tuesday, December 7, 1999.

STATUS: Open.

Agenda

12 noon—Chairman's Report

12:30 p.m.

President's Report

New Business

3 p.m.—Adjournment

If you have any questions or comments, please direct them to Dick Day, Coordinator, Office of Policy, Planning and Outreach, who can be reached at (202) 673–3916.

William R. Ford,

President.

[FR Doc. 99–31312 Filed 11–29–99; 2:15 pm]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the East Indiana (IN), Kansas (KS), Minot (ND), and Tri-State (OH) Areas, and Request for Comments on the Official Agencies Serving These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in August and September 2000. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies:

East Indiana Grain Inspection, Inc. (East Indiana);

Kansas Grain Inspection Service, Inc. (Kansas);

Minot Grain Inspection, Inc. (Minot); and

Tri-State Grain Inspection Service, Inc. (Tri-State).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before December 30, 1999.

ADDRESSES: Applications and comments must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604. Applications and comments may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at this address located at 1400 Independence Avenue, SW, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act.

1. Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
East Indiana	Muncie, IN	09/01/1997	8/31/2000
Kansas	Topeka, KS	09/01/1997	8/31/2000
Minot	Minot, ND	10/01/1997	9/30/2000
Tri-State	Cincinnati, OH	10/01/1997	09/30/2000

a. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Indiana and Ohio, is assigned to East Indiana.

In Indiana:

Bounded on the North by the northern and eastern Grant County lines; the northern Blackford, and Jay County lines;

Bounded on the East by the eastern Jay, Randolph, Wayne, and Union County lines;

Bounded on the South by the southern Union and Fayette County lines; the eastern Rush County line south to State Route 244; State Route 244 west to the Rush County line; and

Bounded on the West by the western Rush and Henry County lines; the southern Madison County line west to State Route 13; State Route 13 north to State Route 132; State Route 132 northwest to Madison County; the western and northern Madison County lines; the northern Delaware County line; the western Blackford County line north to State Route 18; State Route 18 west to County Highway 900E; County Highway 900E north to the northern Grant County line.

Darke County, Ohio.

b. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Colorado, Kansas, Nebraska, and Wyoming, is assigned to Kansas.

The entire State of Colorado.

The entire State of Kansas.

In Nebraska:

Bounded on the North by the northern Scotts Bluff County line; the northern Morrill County line east to Highway 385;

Bounded on the East by Highway 385 south to the northern Cheyenne County line; the northern and eastern Cheyenne County lines; the northern and eastern Deuel County lines;

Bounded on the South by the southern Deuel, Cheyenne, and Kimball County lines; and

Bounded on the West by the western Kimball, Banner, and Scoots Bluff County lines.

Goshen, Laramie, and Platt Counties, Wyoming.

Kansas' assigned geographic area does not include the following grain elevators inside Kansas' area which have been and will continue to be serviced by the following official agency: Hastings Grain Inspection, Inc.: Farmers Coop, and Big Springs Elevator, both in Big Springs, Deuel County, Nebraska.

c. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of North Dakota, is assigned to Minot.

Bounded on the North by the North Dakota State line east to State Route 14;

Bounded on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded on the West by the North Dakota State line.

The following grain elevators, located outside of the above contiguous geographic area, are part of this geographic area assignment: Harvey Farmers Elevator, Harvey, Wells County (located inside Grand Forks Grain Inspection Department, Inc.'s, area); and Benson Quinn Company, Underwood, and Wilton Farmers Union Elevator at Washburn Station, Washburn, both in McLean County (located inside Grain Inspection, Inc.'s, area).

d. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Indiana, Kentucky, and Ohio, is assigned to Tri-State.

Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of State Route 244), and Switzerland Counties, Indiana.

Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of State Route 59), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson Counties, Kentucky.

In Ohio:

Bounded on the North by the northern Preble County line east; the western and northern Miami County lines east to State Route 296; State Route 296 east to State Route 560; State Route 560 south to the Clark County line; the northern Clark County line east to U.S. Route 68;

Bounded on the East by U.S. Route 68 south to U.S. Route 22; U.S. Route 22 east to State Route 73; State Route 73 southeast to the Adams County line; the eastern Adams County line;

Bounded on the South by the southern Adams, Brown, Clermont, and Hamilton County lines; and

Bounded on the West by the western Hamilton, Butler, and Preble County lines.

2. Opportunity for Designation

Interested persons, including East Indiana, Kansas, Minot, and Tri-State, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

DESIGNATION TERMS

East Indiana and Kansas	09/01/2000 to 06/30/2003
Minot and Tri-State	10/01/2000 to 06/30/2003

3. Request for Comments

GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the East Indiana, Kansas, Minot, and Tri-State official agencies. Commenters are encouraged to submit pertinent data concerning the East Indiana, Kansas, Minot, and Tri-State official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: November 19, 1999.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 99–31085 Filed 11–30–99; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the California, Kankakee (IL), Washington, Alabama, and Springfield (IL) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

California Department of Food and Agriculture (California);

Kankakee Grain Inspection, Inc. (Kankakee);

Washington Department of Agriculture (Washington);

Alabama Department of Agriculture and Industries (Alabama); and

Springfield Grain Inspection, Inc. (Springfield).

EFFECTIVE DATES: February 1, 2000, for California, Kankakee and Washington, and March 1, 2000, for Alabama and Springfield.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the July 1, 1999, **Federal Register** (64 FR 35586), GIPSA asked persons interested in providing official services in the geographic areas assigned to California, Kankakee, Washington, Alabama, and Springfield to submit an application for designation. Applications were due by July 30, 1999. California, Kankakee, Washington, Alabama, and Springfield, the only applicants, each applied for designation to provide official services in the entire area currently assigned to them. Since

California, Kankakee, Washington, Alabama, and Springfield were the only applicants, GIPSA did not ask for comments on the applicants.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act and, according to Section 7(f)(1)(B), determined that California, Kankakee, Washington, Alabama, and Springfield are able to provide official services in the geographic areas for which they applied.

The following organizations are designated to provide official services in the geographic areas specified in the April 1, 1999, **Federal Register**.

Official agency	Designation start	Designation end	Telephone
California	02/01/2000	12/31/2002	916–654–0743
Kankakee	02/01/2000	12/31/2002	815–365–2268
Washington	02/01/2000	12/31/2002	360–902–1921
Alabama	03/01/2000	12/31/2002	334–415–2531
Springfield	03/01/2000	12/31/2002	217–522–5233

California's geographic area specified in the July 1, 1999, **Federal Register** was amended by the August 13, 1999, **Federal Register** (64 FR 44196), to include the geographic area formerly assigned to Los Angeles Grain Inspection Service, Inc. (Los Angeles). GIPSA canceled Los Angeles' designation on August 27, 1999, according to their request.

Interested persons may obtain official services by calling the telephone numbers listed above.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: November 19, 1999.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 99–31086 Filed 11–30–99; 8:45 am]

BILLING CODE 3410–EN–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 6 p.m. and adjourn at 9 p.m. on December 20, 1999. The Committee will reconvene at 8:30 a.m. and adjourn at 12 p.m. on December 21, 1999, The meeting site for both days will be at the Best Western Inn Starlite. 214 Washington. Waterloo, Iowa 50701. The purpose of the meeting is to hold a community forum on "How to File a Discrimination Complaint."

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 19, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–31131 Filed 11–30–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Initiation of Five-Year ("Sunset") Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of Five-Year ("Sunset") Reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating five-year ("sunset") reviews of the antidumping and countervailing duty orders or suspended investigations listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner or Kathryn B. McCormick Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560 or (202) 482–1698, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (*see Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders or suspended investigations:

DOC Case No.	ITC Case No.	Country	Product
A–533–809	A–639	India	Forged Stainless Steel Flanges.
A–583–821	A–640	Taiwan	Forged Stainless Steel Flanges.
A–588–829	A–643	Japan	Defrost Timers.
A–421–805	A–652	Netherlands	Aramid Fiber.
C–475–812	C–355	Italy	Grain-Oriented Electrical Steel.
A–588–831	A–660	Japan	Grain-Oriented Electrical Steel.
A–475–811	A–659	Italy	Grain-Oriented Electrical Steel.
A–588–832	A–661	Japan	Color Negative Photo Paper & Chemical Components.
A–421–806	A–662	Netherlands	Color Negative Photo Paper & Chemical Components.
A–570–831	A–683	China	Garlic.
A–570–826	A–663	China	Paper Clips.

DOC Case No.	ITC Case No.	Country	Product
A–570–827	A–669	China	Cased Pencils.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*e.g.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset internet website at the following address:

"http://www.ita.doc.gov/import_admin/records/sunset/".

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written notification if you no longer represent a party on the service list.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306 (*see Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order*, 63 FR 24391 (May 4, 1998)).

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1999)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 (1998) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: November 24, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31216 Filed 11–30–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations*, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1999), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–506; A–583–505]

Final Results of Expedited Sunset Reviews: Oil Country Tubular Goods From Canada and From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Oil country tubular goods from Canada.

SUMMARY: On May 3, 1999, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty orders on oil country tubular goods ("OCTG") from Canada and from Taiwan (64 FR 23596) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of notices of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in these cases, no response) from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Reviews section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230;

telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: December 1, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

The merchandise subject to these antidumping duty orders is OCTG from Canada and from Taiwan. This includes American Petroleum Institute ("API") specification OCTG and all other pipe with the following characteristics except entries which the Department determined through its end use certification procedure were not used in OCTG applications: length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for OCTG with tolerances of plus 1/8 inch for diameters less than or equal to 8 5/8 inches and plus 1/4 inch for diameters greater than 8 5/8 inches, minimum wall thickness as identified for a given outer diameter as published in the API or proprietary specifications for OCTG; a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength; and if with seams, must be electric resistance welded. Furthermore, imports covered by these reviews include OCTG with non-standard size wall thickness greater than the minimum identified for a given outer diameter as published in the API or proprietary specifications for OCTG, with surface scabs or slivers, irregularly cut ends, ID or OD has not been mechanically tested or has failed those tests.[1] The merchandise is currently, classifiable under the Harmonized Tariff Schedules ("HTSUS") item numbers 7304.20, 7305.20, and 7306.20. The HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

The order on OCTG from Canada covers all manufacturers and exporters of Canadian OCTG, excluding Welded Tube of Canada, Ltd. ("Welded Tube") and Ipsco, Inc. ("Ipsco").[2] The order on OCTG from Taiwan covers all manufacturers and exporters of Taiwanese OCTG.

History of the Orders

The antidumping duty order on OCTG from Canada was published in the **Federal Register** on June 16, 1986 (51 FR 21782).[3] The Department, in the antidumping duty order, as amended, established deposit rates for the following producers and/or exporters: 13.00 percent for Algoma Steel Corporation, Ltd. ("Algoma"), 33.78 percent for Ipsco, and 3.18 percent for Sonco Steel Tube, Ltd. ("Sonco"). The Department also established a 16.65 percent deposit rate for all other producers and/or exporters.

Since that time, the Department has conducted six administrative reviews.[4] We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise, excluding Welded Tube and Ipsco.

The antidumping duty order on OCTG from Taiwan was published in the **Federal Register** on June 16, 1986 (51 FR 22098). The Department, in the antidumping duty order, established a deposit rate of 26.32 percent for Far East Manufacturing Company ("Far East"). The Department also established a 26.32 percent deposit rate for all other producers and/or exporters. The Department has not conducted any administrative reviews of this order. We note that, to date, the Department has not issued any duty absorption findings in this case. The order remains in effect for all manufacturers and exporters of the subject merchandise.

Background

On May 3, 1999, the Department initiated sunset reviews of the antidumping duty orders on OCTG from Canada and from Taiwan (64 FR 23596), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of North Star Steel Ohio ("North Star"), Lone Star Steel Company ("Lone Star"), Maverick Tube Corporation ("Maverick"), U.S. Steel Group ("U.S. Steel"), and USS/Kobe Steel Company ("USS/Kobe") (collectively, the "domestic interested parties") on May 18, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*.[5] The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as U.S. manufacturers of OCTG. We received complete substantive responses from the domestic interested parties on June 2, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i).

In its response, Lone Star stated that it participated in the original investigations of OCTG from Canada and from Taiwan. Furthermore, Lone Star and Maverick stated that they had participated in subsequent administrative reviews of the Canadian order. U.S. Steel and USS/Kobe stated that neither has participated before the Department in prior proceedings of the Canadian OCTG order. We did not

---

[1] The Department determined, on April 30, 1991, that seamless mechanical tubing/certain coupling stock meeting criteria are excluded from the scope of the order (*see Notice of Scope Rulings*, 56 FR 19833 (April 30, 1991)).

[2] Welded Tube was excluded from the Department's less than fair value determination (*see Antidumping; Oil Country Tubular Goods From Canada; Final Determination of Sales at Less Than Fair Value*, 51 FR 15029 (April 22, 1986)). In addition, the Department revoked this order with respect to Ipsco (*see Oil Country Tubular Goods From Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part of the Antidumping Duty Order*, 61 FR 49733 (September 23, 1996)).

[3] The antidumping duty order was subsequently amended. *See Oil Country Tubular Goods (OCTG) From Canada: Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order*, 51 FR 29579 (August 19, 1986) and *Oil Country Tubular Goods From Canada; Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand*, 54 FR 41576 (October 10, 1989).

[4] *See Oil Country Tubular Goods From Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part of the Antidumping Duty Order*, 61 FR 49733 (September 23, 1996); *Oil Country Tubular Goods From Canada; Final Results of Antidumping Duty Administrative Review*, 60 FR 35898 (July 12, 1995); *Oil Country Tubular Goods From Canada, Final Results of Antidumping Duty Administrative Review*, 59 FR 34409 (July 5, 1994); *Final Results of Antidumping Duty Administrative Reviews Oil Country Tubular Goods From Canada*, 56 FR 41890 (August 23, 1991); *Final Results of Antidumping Duty Administrative Reviews Oil Country Tubular Goods From Canada*, 56 FR 38408 (August 13, 1991); *Final Results of Antidumping Duty Administrative Reviews Oil Country Tubular Goods From Canada*, 55 FR 50379 (December 10, 1990); *Oil Country Tubular Goods From Canada: Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand*, 54 FR 41576 (October 10, 1989); *Oil Country Tubular Goods (OCTG) From Canada: Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order*, 51 FR 29579 (August 19, 1986); *Antidumping Duty Order: Oil Country Tubular Goods (OCTG) From Canada*, 51 FR 21782 (June 16, 1986); and *Antidumping; Oil Country Tubular Goods From Canada; Final Determination of Sales at Less Than Fair Value*, 51 FR 15029 (April 22, 1986).

[5] USS/Kobe only provided a substantive response to the Notice of Initiation of the sunset review of OCTG from Canada. USS/Kobe did not participate in the Department's sunset review of OCTG from Taiwan.

receive a substantive response from any respondent interested party to these proceedings. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct expedited, 120-day, reviews of these orders.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 31, 1999, the Department extended the time limit for completion of the final results of these reviews until not later than November 29, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty orders, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the orders are revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, the domestic interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) Dumping continued at any level above *de minimis* after the issuance of the order, (b) Imports of the subject merchandise ceased after the issuance of the order, or (c) Dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant reviews, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive responses, the domestic interested parties argued that revocation of this antidumping duty orders would likely lead to continuation or recurrence of dumping by Canadian and Taiwanese producers and/or exporters of the subject merchandise. With respect to whether dumping continued at any level above *de minimis* after the issuance of the orders, the domestic interested parties argued that dumping has continued throughout the life of the orders at above *de minimis* levels. Furthermore, USS/Kobe argued that the dumping margins for some Canadian producers and/or exporters have not only continued throughout the life of the order, but have consistently increased.

The domestic interested parties also argued that import volumes have declined significantly since the issuance of the orders. Specifically, the domestic interested parties argued that imports of OCTG from Canada in the year prior to the imposition of the order amounted to over 150,000 tons but have since almost completely ceased. Specifically, North Star stated that imports of OCTG from Canada have dropped to less than 1,500 tons per year. Furthermore, USS/Kobe provided data which indicates that imports of OCTG from Canada in 1998 were less than 2,000 tons and have not exceeded 8,100 tons in any year since 1991.

With respect to the Taiwanese order, Lone Star and Maverick argued that imports of OCTG from Taiwan were nearly 10,000 tons prior to the imposition of the order but have since almost completely disappeared. In fact, Lone Star and Maverick stated that there were no shipments of the subject merchandise from Taiwan in 1998.

In summary, the domestic interested parties argued that the Department should determine that there is a likelihood that dumping would continue were the orders revoked because (1) Dumping margins above *de minimis* levels have been in place since the imposition of the orders and (2) Imports of the subject merchandise have declined significantly since the imposition of the orders.

As discussed in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. Dumping margins above *de minimis* levels have continued to exist for shipments of the subject merchandise throughout the life of the orders.

Consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after issuance of the orders. The Department, utilizing U.S. Census Bureau IM146 reports, agrees with the domestic interested parties that imports of the subject merchandise decreased sharply following the imposition of the orders. Furthermore, the Department agrees with Lone Star and Maverick that there were no imports to the United States of Taiwanese OCTG in 1998. However, imports of Taiwanese OCTG did resume in 1999. Despite the dramatic decline in imports of OCTG from Canada and Taiwan and the cessation of imports of Taiwanese OCTG in 1998, the Department can confirm that imports of the subject merchandise continue from both countries.

Based on our analysis of the records in these proceedings, the Department finds that the existence of dumping margins after the issuance of the orders is highly probative of the likelihood of continuation or recurrence of dumping. Deposit rates above *de minimis* levels continue in effect for exports of OCTG by all Canadian and Taiwanese manufacturers and/or exporters subject to the orders.[7] Therefore, given that

[6] *See Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 48579 (September 7, 1999).

[7] As noted above, with respect to the Canadian order, Welded Tube was excluded from the Department's less than fair value determination and the order was revoked with respect to Ipsco (*see*

dumping has continued over the life of the orders and respondent interested parties have waived their right to participate in these reviews before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the orders were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in the antidumping duty order on OCTG from Canada, as amended, established deposit rates for the following producers and/or exporters: 13.00 percent for Algoma, 33.78 percent for Ipsco, and 3.18 percent for Sonco. The Department also established a 16.65 percent deposit rate for all other producers and/or exporters (51 FR 21782 (June 16, 1986)).[8] We note that, to date, the Department has not issued any duty absorption findings in this case.

The Department, in the antidumping duty order on OCTG from Taiwan, established a deposit rate of 26.32 percent for Far East. The Department also established a 26.32 percent deposit rate for all other producers and/or exporters (51 FR 22098 (June 16, 1986)). We note that, to date, the Department has not issued any duty absorption findings in this case.

Antidumping; Oil Country Tubular Goods From Canada; Final Determination of Sales at Less Than Fair Value, 51 FR 15029 (April 22, 1986) and *Oil Country Tubular Goods From Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part of the Antidumping Duty Order*, 61 FR 49733 (September 23, 1996)).

[8] The antidumping duty order was subsequently amended. *See Oil Country Tubular Goods (OCTG) From Canada: Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order*, 51 FR 29579 (August 19, 1986) and *Oil Country Tubular Goods From Canada; Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand*, 54 FR 41576 (October 10, 1989).

In its substantive responses, the domestic interested parties argued that the Department should report to the Commission the deposit rates established in the original investigations of these orders because, as stated in the *Sunset Policy Bulletin*, they are the only calculated rates that reflect the behavior of producers and/or exporters without the discipline of the order. Furthermore, with respect to the order on OCTG from Canada, USS/Kobe argued that for two additional producers not examined in the original investigation, Christianson Pipe, Ltd. and Prudential Steel, Ltd., the Department should report the all others rate from the original investigation.

The Department agrees with the domestic interested parties. We find that the dumping margins calculated in the original investigations are the only calculated rates that reflect the behavior of exporters without the discipline of the orders. Consistent with the *Sunset Policy Bulletin*, we determine that the margins calculated in the Department's original investigations are probative of the behavior of Canadian and Taiwanese producers and/or exporters of OCTG if the orders were revoked. Therefore, we will report to the Commission the company-specific and "all others" rates from the original investigations contained in the Final Results of Review section of this notice.

Final Results of Reviews

As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the margins listed below:

	Margin (percent)
Canadian manufacturers/exporters:	
Algoma	13.00
Sonco	3.18
Ipsco	Revoked.
Welded Tube	Excluded.
All Others	16.65
Taiwanese manufacturers/exporters:	
Far East	26.32
All Others	26.32

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: November 24, 1999.

Joseph A. Spetrini

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31225 Filed 11–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112299A]

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings of the Dolphin and Wahoo Advisory Panel (AP) and Scientific and Statistical Committees (SSC).

DATES: The AP meetings will be held January 5, 2000, and the SSC meeting will be held January 12, 2000. See SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: The meetings will be held in Kenner and New Orleans, Louisiana. See SUPPLEMENTARY INFORMATION for specific locations.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida, 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida, 33619; telephone 813–228–2815.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

The AP meeting is scheduled to begin at 8:30 a.m. on January 5, 2000, and will conclude by 4:00 p.m. The AP meeting will be held at the at the New Orleans Airport Hilton Hotel, 901 Airline Highway, Kenner, Louisiana; telephone 504–469–5000. The Dolphin Wahoo AP will convene to review a "Draft Fishery Management Plan for the Dolphin, Coryphaena hippurus, and Wahoo, Acanthocybium solandri, Fishery in the

Atlantic, Caribbean, and Gulf of Mexico'' (Dolphin/Wahoo FMP) that has been prepared by the South Atlantic, Gulf, and Caribbean fishery management councils. The first 10 actions, with options, of the Dolphin/Wahoo FMP contain measures that are applicable to the dolphin and wahoo stocks in the jurisdictions of all three councils. These include measures to: define the management units; address dealer, vessel, and operator permits; consider data reporting requirements; identify estimates of maximum sustainable yield, optimum yield, and overfishing criteria; and framework options to enable seasonal adjustments to the management structure. Other actions, with options, are separately applicable to each council's area of jurisdiction, and include actions that may be implemented through the framework procedures, e.g. minimum size limits, bag limits, trip limits, and allocations. Based on this review, the Dolphin and Wahoo AP may make recommendations to the Council of preferred actions.

The SSC meeting is scheduled to begin at 1:00 p.m. on January 12, 2000, and will conclude by 5:00 p.m. The SSC meeting will be held at the Doubletree Hotel, 300 Canal Street, New Orleans, Louisiana; telephone 504–581–1300. The SSC will convene to review the same information and formulate their recommendations based on a scientific perspective. Copies of the agenda can be obtained by calling 813–228–2815.

Although non-emergency issues not contained in these agendas may come before the AP/SSC for discussion, those issues may not be the subject of formal AP/SSC action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 29, 1999.

Dated: November 26, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–31204 Filed 11–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112699B]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees in December, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between Monday, December 13 and Tuesday, December 21, 1999. See SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: Meetings will be held in Portsmouth, NH, Portland, ME and Danvers, MA. See SUPPLEMENTARY INFORMATION for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Monday, December 13,1999, 8:30 a.m.—Joint Groundfish Committee and Advisory Panel Meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

Independent meeting of the Groundfish Advisory Panel from 8:30–9:00 a.m. to discuss its role and responsibilities; the joint meeting convenes at 9:00 a.m.

1. The committee will continue development of recommendations and options regarding exemptions for access to groundfish closed areas; options will be included in the Northeast Multispecies Fishery Management Plan (FMP) annual adjustment; the committee's recommendations may address exemptions for recreational party/charter vessels, scallop gear, handline gear, and any other fishing gears currently listed as ''exempted'' with respect to the multispecies fishery.

2. Possible development of recommendations for management measures for recreational groundfish fisheries also to be included in the multispecies annual adjustment; recommendations may include bag limits, catch restrictions in groundfish closed areas, or any other recreational measures that can be implemented through a framework adjustment to the Multispecies FMP.

3. Discussion and development of recommendations regarding access to the Georges Bank closed areas by scallop vessels; these may include seasons for access, boundaries of the areas to be opened to scallop vessels, multispecies trip limits, and bycatch total allowable catches (TACs) for multispecies.

Tuesday, December 14, 1999, 10:00 a.m.—Capacity Committee Meeting

Location: Holiday Inn by the Bay Hotel, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311.

Review and prioritization of identified fishing capacity issues; initial identification of options for addressing capacity issues; review of a proposed outline for a report to the Council on fishing capacity issues; preliminary briefing on the development by the Northeast Fisheries Science Center of an economic model that estimates the economic impacts of the fishing industry on a community; discussions on information necessary to support future committee deliberations.

Tuesday, December 14, 1999, 9 a.m., and Wednesday, December 15, 1999, 8:30 a.m.—Experimental Fisheries and Research Steering Committee

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

Discussion of committee organization, purpose, tasks, process and information needs, followed by a brief report on the status of sea scallop TAC research set-aside associated with Framework Adjustment 12 to the Scallop FMP.

Tuesday, December 21, 1999, 9:30 a.m.—Joint Habitat Committee and Advisory Panel Meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

Discussion of NMFS' request for comments on the Essential Fisher Habitat interim final rule; discussion of a structured process to designate Habitat Areas of Particular Concern (HAPCs); discussion of issues concerning the development of a dedicated habitat research area, including a review of materials for scoping and a workshop.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting.

Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: November 26, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–31203 Filed 11–30–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

November 23, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Hong Kong and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2000 limits. These limits have been increased, variously, for adjustments permitted under the flexibility provisions of the ATC.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 23, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Hong Kong and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200–227, 300–326, 360–363, 369(1) [1], 369pt. [2], 400–414, 464, 469pt. [3], 600–629, 666, 669pt. [4] and 670, as a group.	254,856,238 square meters equivalent.
Sublevels in Group I	
219	45,361,264 square meters.
218/225/317/326	77,152,142 square meters of which not more than 4,249,239 square meters shall be in Category 218(1) [5] (yarn dyed fabric other than denim and jacquard).
611	7,151,815 square meters.
617	4,512,292 square meters.
Group I subgroup 200, 226/313, 314, 315, 369(1) and 604, as a group	121,450,414 square meters equivalent.
Within Group I subgroup	
200	391,087 kilograms.
226/313	81,368,365 square meters.
314	21,944,072 square meters
315	10,849,223 square meters.
369(1) (shoptowels)	891,586 kilograms.
604	268,455 kilograms.
Group II	
237, 239pt. [6], 331–348, 350–352, 359(1) [7], 359(2) [8], 359pt. [9], 431, 433–438, 440–448, 459pt. [10], 631, 633–652, 659(1) [11], 659(2) [12], 659pt. [13], and 443/444/643/644/843/844(1), as a group.	878,157,003 square meters equivalent.
Sublevels in Group II	
237	1,311,724 dozen.
331	4,399,357 dozen pairs.
333/334	319,184 dozen.
335	349,791 dozen.
338/339 [14] (shirts and blouses other than tank tops and tops, knit).	2,973,125 dozen.
338/339(1) [15] (tank tops and knit tops).	2,233,725 dozen.
340	2,847,080 dozen.
345	485,530 dozen.
347/348	6,895,362 dozen of which not more than 6,805,362 dozen shall be in Categories 347–W/348–W [16]; and not more than 5,157,360 dozen shall be in Category 348–W.
352	7,715,391 dozen.
359(1) (coveralls, overalls and jumpsuits).	668,262 kilograms.
359(2) (vests)	1,392,796 kilograms.
433	10,817 dozen.
434	11,612 dozen.
435	78,271 dozen.
436	101,942 dozen.
438	837,232 dozen.
442	95,944 dozen.
443	64,319 numbers.
444	43,444 numbers.
445/446	1,383,834 dozen.
447/448	69,593 dozen.
631	728,026 dozen pairs.

Category	Twelve-month restraint limit
633/634/635	1,431,705 dozen of which not more than 535,489 dozen shall be in Categories 633/634; and not more than 1,099,388 dozen shall be in Category 635.
638/639	4,991,263 dozen.
641	862,469 dozen.
644	49,379 numbers.
645/646	1,368,011 dozen.
647	605,620 dozen.
648	1,210,184 dozen of which not more than 1,195,394 dozen shall be in Category 648–W[17].
649	932,414 dozen.
650	192,819 dozen.
652	5,377,750 dozen.
659(1) (coveralls, overalls and jumpsuits).	738,604 kilograms.
659(2) (swimsuits)	307,909 kilograms.
443/444/643/644/843/844(1) (made-to-measure suits).	60,115 numbers.
Group II subgroup	
336, 341, 342, 350, 351, 636, 640, 642 and 651, as a group.	164,827,032 square meters equivalent.
Within Group II subgroup	
336	253,347 dozen.
341	2,881,900 dozen.
342	593,499 dozen.
350	147,976 dozen.
351	1,217,185 dozen.
636	340,961 dozen.
640	1,040,678 dozen.
642	271,145 dozen.
651	369,252 dozen.
Group III	
831, 833–838, 840–844, 847–858 and 859pt.[18], as a group.	47,594,094 square meters equivalent.
Sublevels in Group III	
834	13,876 dozen.
835	118,130 dozen.
836	179,520 dozen.
840	701,706 dozen.
842	278,910 dozen.
847	376,841 dozen.
Limits not in a group	
845(1)[19] (sweaters made in Hong Kong).	1,132,745 dozen.
845(2)[20] (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	2,711,360 dozen.
846(1)[21] (sweaters made in Hong Kong).	183,176 dozen.
846(2)[22] (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	441,385 dozen.

[1] Category 369(1): only HTS number 6307.10.2005.

[2] Category 369pt.: all HTS numbers except 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 6406.10.7700 and HTS number in 369(1).

[3] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[4] Category 669pt.: all HTS numbers except 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[5] Category 218(1): all HTS numbers except 5209.42.0060, 5209.42.0080, 5211.42.0060, 5211.42.0080, 5514.32.0015 and 5516.43.0015.

[6] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[7] Category 359(1): only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[8] Category 359(2): only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[9] Category 359pt.: all HTS numbers except 6406.99.1550 and HTS numbers in 359(1) and 359(2).

[10] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[11] Category 659(1): only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[12] Category 659(2): only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[13] Category 659pt.: all HTS numbers except 6406.99.1510, 6406.99.1540 and HTS numbers in 659(1) and 659(2).

[14] Categories 338/339: all HTS numbers except 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

[15] Category 338/339(1): only HTS numbers 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

[16] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[17] Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

[18] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

[19] Category 845(1): only HTS numbers 6103.29.2074, 6104.29.2079, 6110.90.9024, 6110.90.9042 and 6117.90.9015.

[20] Category 845(2): only HTS numbers 6103.29.2070, 6104.29.2077, 6110.90.9022 and 6110.90.9040.

[21] Category 846(1): only HTS numbers 6103.29.2068, 6104.29.2075, 6110.90.9020 and 6110.90.9038.

[22] Category 846(2): only HTS numbers 6103.29.2066, 6104.29.2073, 6110.90.9018 and 6110.90.9036.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated November 30, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The conversion factors for merged Categories 333/334, 633/634/635 and 638/639 are 33, 33.90 and 13, respectively. The conversion factor for Category 239pt. is 8.79.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–31057 Filed 11–30–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Inventions for Licensing; Government-Owned Inventions

AGENCY: Department of the Navy, DOD.
ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for domestic and foreign licensing by the Department of the Navy.

U.S. Patent Application Serial No. 09/144,683 entitled "High Noise Communication System" Navy Case No. 79,054 and U.S. Patent Application Serial No. 09/207,903 entitled "High Noise Suppression Microphone" Navy Case No. 79,603.

ADDRESSES: Requests for copies of the patent applications cited should be directed to Coastal Systems Station, Dahlgren Division NSWC, 6703 W. Hwy. 98, Code CP20L, Panama City, FL 32407–7001, and must include the Navy Case Number.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey A. Gilbert, Counsel, Coastal Systems Station, Code CP20L, 6703 W. Hwy 98, Panama City, FL 32407–7001, telephone (850) 234–4646.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)
Dated: November 16, 1999.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–31198 Filed 11–30–99; 8:45 am]
BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO) Executive Panel

AGENCY: Department of the Navy, DOD.
ACTION: Notice.

SUMMARY: The CNO Executive Panel is to conduct the midterm briefing of the Technology Hedging Strategies Task Force to the Chief of Naval Operations. This meeting will consist of discussions relating to technology hedging strategies.

DATES: The meeting will be held on December 14, 1999 from 10 a.m. to 11 a.m.

ADDRESSES: The meeting will be held at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: Commander Christopher Agan, CNO Executive Panel, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302–0268, (703) 681–6205.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: November 18, 1999.

J. L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–31199 Filed 11–30–99; 8:45 am]
BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–4226–001 and EL00–16–000]

Ameren Operating Companies; Notice of Initiation of Proceeding and Refund Effective Date

November 24, 1999.

Take notice that on November 23, 1999, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL00–16–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL00–16–000 will be 60 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Secretary.

[FR Doc. 99–31140 Filed 11–30–99; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–22–009]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 24, 1999.

Take notice that on November 19, 1999, CNG Transmission Corporation (CNG) filed revised tariff sheets to comply with the letter order of Director of the Office of Pipeline Regulation dated November 17, 1999.

As explained in the filing, CNG has renumbered its proposed tariff sheets to eliminate duplicate tariff sheet numbers.

CNG states that copies of its letter of transmittal and enclosures are being served upon parties to the proceeding and to interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided in section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31152 Filed 11–30–99; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–74–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 24, 1999.

Take notice that on November 18, 1999, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of December 20, 1999:

Eighth Revised Sheet No. 1

Twenty-Fifth Revised Sheet No. 31
Third Revised Sheet No. 189
Second Revised Sheet No. 190–193
Third Revised Sheet No. 194
Fourth Revised Sheet No. 195
Second Revised Sheet No. 196
Second Revised Sheet No. 197
First Revised Sheet No. 198
First Revised Sheet No. 466
Original Revised Sheet Nos. 467–474

CNG states that the purpose of this filing is to implement a new rate schedule and associated form of service agreement, Rate Schedule TTT, authorizing CNG to provide title transfer tracking services. TTT service is an administrative service, under which CNG provides buyers and sellers of gas with accounting locations (Eligible Points) for the nomination of title transfers on the CNG system. As with CNG's existing Mainline Pooling Service (Rate Schedule MPS), the Eligible Points for proposed TTT Service will correspond to one location for receipts upstream (or south) of CNG's Valley Gate Junction, and one relating to quantities downstream (or north) of Valley Gate.

CNG states that copies of its letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31153 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–031 (Phase II)]

Columbia Gas Transmission Corporation; Notice of Filing of Refund Report

November 24, 1999.

Take notice that on November 19, 1999, Columbia Gas Transmission Corporation (Columbia Gas) filed a refund report in the above referenced docket, pursuant to section 154.501(e) of the Commission's regulations.

Columbia Gas states that on October 19, 1999, Columbia Gas made refunds as a result of and pursuant to its approved Stipulation and Agreement settling the referenced docket, which settlement was approved by the Commission on September 15, 1999. Pursuant to section 154.501 of the Commission's regulations, the refunds include applicable interest through October 19, 1999. Parties who received refunds also received a schedule of the computation of the principal and interest amounts.

Columbia Gas states that copies of its filing have been mailed to all affected customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before December 1, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31150 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–26–000]

Commonwealth Edison Company, on Behalf of Itself and Its Public Utility Affiliates and PECO Energy Company, on Behalf of Itself and Its Public Utility Affiliates; Notice of Filing

November 24, 1999.

Take notice that on November 22, 1999 Commonwealth Edison Company (ComEd) and PECO Energy Company (PECO), on their behalf and on behalf of their public utility affiliates (collectively, Applicants), tendered for filing an application pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission's regulations, 18 CFR Part 33 (1999), for an order approving the proposed merger of ComEd and PECO (Application).

Applicants request all authorizations necessary to undertake the proposed merger. Upon consummation of the merger, Applicants will form a registered public utility holding company system.

Applicants request that the Commission approve the merger on an expedited basis and without an evidentiary hearing. Applicants state that they have, by overnight mail, served a copy of the Application, including all non-confidential attached materials, on the Illinois Commerce Commission, on the Pennsylvania Public Utility Commission and on all other interested entities.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before January 21, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/

online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31142 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–71–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 24, 1999.

Take notice that on November 18, 1999, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, bear a proposed effective date of November 1, 1999.

ESNG states that the purpose of this instant filing is to track rate changes attributable to a storage service purchased from Transcontinental Gas Pipeline Corporation (Transco) under its Rate Schedules GSS and LSS. The costs of the above referenced storage services comprise the rates and charges payable under ESNG's Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedules GSS and LSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31149 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–4–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 14, 1999.

Take notice that on November 19, 1999, El Paso Natural Gas Company (El Paso) tendered for filing a firm Transportation Service Agreement (TSA) between El Paso and MGI Supply, Ltd. (MGI) and Fourteenth Revised Sheet No. 1 to its FERC Gas Tariff, Second Revised Volume No. 1–A.

El Paso states that it is submitting the TSA for Commission approval since the TSA contains provisions which differ from El Paso's Volume No. 1–A Tariff. The tariff sheet, which references the TSA, is proposed to become effective on January 1, 2000.

Any person desiring to be heard or top protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31143 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–476–001]

Gas Transport, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 24, 1999.

Take notice that on November 18, 1999, Gas Transport, Inc. (GTI) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets, with a proposed effective date of August 1, 1999.

GTI states that the purpose of this filing is to comply with the Commission's letter order issued on September 15, 1999 (Order) in the above-referenced proceeding. The Order directed GTI to file revised tariff sheets to rectify certain matters with respect to GTI's filing on August 20, 1999, made to comply with the Commission's Order No. 587–K. Specifically, the revised tariff sheets address the Order by incorporating GISB Standards 4.3.17 through 4.3.35 as well as 1.3.3 and 2.3.16, Version 1.3, by reference in GTI's General Terms and Conditions, Section 22.

GTI states that copies of this filing were served upon its firm customers and interested state commissions. Copies were also served on all interruptible customers as of the date of the Compliance filing.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided in section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31147 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–290–004]

Michigan Gas Storage Company; Notice of Compliance Filing

November 24, 1999.

Take notice that on November 16, 1999, Michigan Gas Storage Company (MGS) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Sub Fourth Revised Tariff Sheet No. 4 (to be effective January 1, 1997), Second Sub Fifth Revised Tariff Sheet No. 4 (to be effective June 1, 1997), Second Sub Fifth Revised Tariff Sheet No. 5 (to be effective January 1, 1997), and Third Sub Sixth Revised Tariff Sheet No. 5 (to be effective October 1, 1997), along with accompanying workpapers and other materials.

MGS states that the filing is being made in compliance with the Commission's April 5, 1999 Order on Initial Decision and November 1, 1999 Order Granting Rehearing in this docket.

MGSCo states that copies of this filing have been served on all customers and applicable state regulatory agencies and on all those on the official service list in this docket.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided in section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31151 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–75–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

November 24, 1999.

Take notice that on November 19, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing to be a part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Fourteenth Revised Sheet No. 25, to be effective January 1, 2000.

Natural states that the purpose of this filing is to implement the Gas Research Institute (GRI) Surcharge in accordance with Section 39 of the General Terms and Conditions of Natural's Tariff. The GRI surcharges were approved by the Federal Energy Regulatory Commission's (Commission) Order issued September 29, 1999, at Docket No. RP99–323–000, to be effective January 1, 2000.

Natural requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet submitted to become effective January 1, 2000.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31155 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Docket Nos. ER98–1890–000, ER98–1890–003, and ER98–1890–005]

Northern States Power Company (Minnesota and Wisconsin); Notice of Filing

November 24, 1999.

Take notice that on November 22, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively NSP), tendered for filing a request to withdraw its February 17, 1998, proposed amendment, filed with the Commission in Docket No. ER98–1890–000, to the curtailment procedures in Sections 13.6 and 14.7 of its Open Access Transmission Tariff.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 3, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31139 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–72–000]

Questar Pipeline Company; Notice of Tariff Filing

November 24, 1999.

Take notice that on November 18, 1999, Questar Pipeline Company tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective January 1, 2000:

First Revised Volume No. 1

Twelfth Revised Sheet No. 5
Eleventh Revised Sheet No. 5A

Original Volume No. 3

Twenty-Third Revised Sheet No. 8

On June 1, 1999, GRI filed an abbreviated application seeking approval of funding for its year 2000 research, development and demonstration program and its 2000–2004 five-year plan. The Commission issued an order on September 29, 1999, in Docket No. RP99–323–000 approving GRI's funding plans. This filing incorporated the approved GRI surcharge rates in the Statement of Rates to Questar's tariff.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31146 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP000–24–000 and CP00–25–000]

Sabine Pipe Line Company; Sabine Pipe Line LLC; Notice of Applications

November 24, 1999.

Take notice that on November 15, 1999, Sabine Pipe Line Company (Company), 1111 Bagby Street, Houston, Texas 77002, filed in Docket No. CP00–24–000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations to restructure the operations of the Sabine pipeline system as a limited liability company in order to take advantage of state and franchise tax savings available to limited liability companies and to have the business and financing flexibility offered by that structure. Company seeks authority to abandon all of its jurisdictional facilities and services by transfer to Sabine Pipe Line LLC (Sabine LLC). Concurrently, sabine LLC requests a certificate of public convenience and necessity authorizing it to acquire and operate Company's jurisdictional facilities and to perform the services authorized by the Commission, in the same manner as Company operates the facilities and performs the services. Sabine LLC, 1111 Bagby Street, Houston, Texas 77002, filed in Docket No. CP00–25–000 an application pursuant to Sections 7(b) of the Natural Gas Act to abandon a 43-mile segment of the sabine pipeline system in Louisiana and Texas that is underutilized, all as more fully set forth in the applications which are on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 of assistance.

[Docket No. CP00–24–000]

According to Company, there will be no other changes associated with this application and that, upon approval, Sabine LLC will perform the same services at the same rates and under the same terms and conditions as Company. Company asks that the Commission transfer to Sabine LLC all certificates and authorizations that have been issued for the construction and operation of the Sabine pipeline system. According to Company, Sabine LLC will adopt Company's currently effective tariff and rates, an will refile the tariff to reflect the proposed change in business structure. Company states that the proposed application is not intended to accomplish anything other than to change the legal structure of the owner and operator of the pipeline company from a corporation to a limited liability company.

[Docket No. CP00–25–000]

Sabine LLC proposes to abandon approximately 43 miles of 16-inch mainline transmission facilities, which extend from a point on the west bank of the Neches River in Jefferson County, Texas, to point on the east bank of the Calcasieu River in Calcasieu Parish, Louisiana, by sale to Texaco Petrochemical LLC for use in liquids service. The proposed abandonment will entail the isolation of the 16-inch line from the remainder of the Sabine pipeline system and the abandonment of the receipt and delivery points of the 16-inch line. The points that will be abandoned include those points designated as: (1) Midcoast; (2) Dynegy; (3) Neches/Dupont; (4) Spindletop: (5) Channel; (6) Neches/Firestone; (7) Gulf States Utilities: (8) Bridgeline/Lake Charles; and, (9) Bridgeline/Citgo. Sabine LLC proposes to move two of the delivery points, designated as the Dynegy and Midcoast points, to the pipeline's parallel 18-inch line under blanket certificate authority in order to ensure continuity of service.

Sabine LLC states that the proposed abandonment will reduce the amount of available firm capacity on the Sabine pipeline system by 65,000 dts per day in the geographic area where the abandoned pipe is located, but that there should not be any appreciable impact on the services provided by the pipeline. According to Sabine LLC, throughput on the system has been declining on the 16-inch line while operation and maintenance costs have increased. The Sabine pipeline system operates primarily as a market center in South Louisiana and transportation on the east/west corridor between Texas and Louisiana has declined significantly over the past few years. Sabine LLC contends that the receipt and delivery points that they propose to abandon are either inactive or underutilized and that the cost of operating most of these points exceeds the revenues derived from such points. Sabine LLC requests that the Commission grant the authorization by February 29, 2000.

Any questions regarding this petition should be directed to Wade Hopper, 1111 Bagby Street, Houston, Texas 77002 at (713) 752–7188, or Deborah L. Plattsmier, President, P.O. Box 4781, Houston, Texas 77210–4781 at (713) 752–7714, or Linda L. Geoghegan, Attorney, P.O. Box 4596, Houston, Texas 77210–4596 at (713) 752–6067.

Any person desiring to be heard or to make a protest with reference to said application should, on or before December 15, 1999, file with the Federal Energy Regulatory Commission (888 First Street, NE, Washington, DC 20426) a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing

to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Company and Sabine LLC to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–31159 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–441–000; ER98–2550–000; ER98–495–000; ER98–1614–000; ER98–2145–000; ER98–4300–000; ER98–2668–000; ER98–2669–000; ER98–4296–000; ER98–496–006; ER98–2160–004; ER98–441–001; ER98–495–001; ER98–496–001; ER98–4300–001; ER99–1127–000; ER98–2668–001; ER98–2669–001; ER98–4296–001; and ER99–1128–000]

Southern California Edison Co.; California Independent System Operator Corp.; El Segundo Power, LLC; Pacific Gas and Electric Co.; Duke Energy Moss Landing LLC, and Duke Energy Oakland, LLC; San Diego Gas & Electric Co; Southern California Edison; Pacific Gas and Electric Co.; San Diego Gas & Electric Co.; Duke Energy Moss Landing LLC; Duke Energy Oakland LLC; Notice of Filing

November 24, 1999.

Take notice that on November 12, 1999, San Diego Gas & Electric Company (SDG&E), tendered for filing with the Commission certain cost data specified in Article IV.E. of the Stipulation and Agreement filed in these dockets on April 2, 1999, and approved by the Commission on May 28, 1999. SDG&E states that Article IV.E. requires such data, as at December 31, 1998 to be filed by the owners of certain Reliability Must Run (RMR) generating units. SDG&E further states that, although it no longer owns the units in question, it is submitting the data as an accommodation to the new owners, since SDG&E owned or leased the units on December 31, 1998.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 3, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31158 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–73–000]

Tennessee Gas Pipeline Company; Notice of Compliance and Tariff Filing

November 24, 1999.

Take notice that on November 18, 1999, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume 1, Third Revised Sheet No. 366, with an effective date of December 19, 1999.

Tennessee states that Sheet No. 366 is being filed to comply with the Commission's September 29, 1999 Order Approving Disposition of Jurisdictional Facilities in Docket No. EC99–73. El Paso Energy Corporation and Sonat Inc., 88 FERC (61,302 (1999) (hereinafter, "the September 29th Order"). In the September 29th Order, the Commission approved the application of El Paso Energy Corporation and Sonat Inc. requesting Commission approval of the proposed merger between the two companies. Tennessee further states that Sheet No. 366 effectuates that commitment of the respective companies to file tariff sheets, for each of their jurisdictional pipeline companies that serve the Southeast, committing that future pipeline expansion capacity will be offered to all shippers on a non-discriminatory basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31154 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–71–017]

Transcontinental Gas Pipe Line Corporation; Notice of PBS Revenue Sharing Refund Report

November 24, 1999.

Take notice that on November 19, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a refund report showing that on November 18, 1999, Transco submitted PBS revenue sharing refunds (total principal and interest amount of $697,553.47) to all affected shippers in Docket Nos. RP97–71 and RP97–312.

Section 3.4 of Transco's Rate Schedule PBS provides that, during the effectiveness of the Docket No. RP97–71 rate period, which began on May 1, 1997, Transco shall refund annually 75% of the fixed cost component of all revenues collected under Rate Schedule PBS to maximum rate firm

transportation, maximum rate interruptible transportation and maximum rate firm storage Buyers (collectively, Eligible Shippers). Transco has calculated that the refund amount for the annual period from May 1, 1998 through April 30, 1999 equals $697,553.47. Pursuant to Section 3.4 of Rate Schedule PBS, Transco refunded that amount to Eligible Shippers based on each eligible Shipper's actual fixed cost contribution as a percentage of the total fixed cost contribution of all such Eligible Shippers (exclusive of the fixed cost contribution pertaining to service purchased by Seller from third parties).

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed on or before December 1, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31148 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–19–000]

Wells Rural Electric Company; Notice of Filing

November 24, 1999.

Take notice that on November 19, 1999, Wells Rural Electric Company (WREC) tendered for filing with the Commission a Request for Waiver of the Requirements of Order Nos. 888 and 889 and Certain Other Commission Regulations.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 20, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31141 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–76–000]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filingst

November 24, 1999.

Take notice that on November 19, 1999, Wyoming Interstate Company (WIC), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, Third Revised Sheet No. 4B, with an effective date of December 1, 1999.

WIC states that the tariff sheet reflecting a decrease in the percentage for Fuel, Lost and Unaccounted-for Gas ("FL&U Percentage") from .80% to .54% for its Existing System transport and an decrease from 1.76% to 1.72% for its Power River Incremental transport, based on the data contained in the twelve month data collection period ending August 31, 1999.

WIC states that copies of the filing were served upon the company's jurisdictional customers and interested state commissions, and is otherwise available for public inspection at WIC's office in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31156 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2474–004 New York]

Erie Boulevard Hydropower L.P.; Notice of Availability of Draft Environmental Assessment

November 24, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for relicensing of the Oswego River Hydroelectric Project, located on the Oswego River in Oswego County, New York, and has prepared a draft Environmental Assessment (DEA) for the project. In the DEA, the commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426 and may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm, (please call (202) 208–2222 for assistance).

Any comments should be filed within 45 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please affix "Oswego River Project No. 2474–004" to all comments. For further information, please contact Charles T. Raabe at (202) 219–2811.

David P. Boergers,

Secretary.

[FR Doc. 99–31145 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2032–001 Wyoming]

Lower Valley Power & Light, Inc.; Notice of Availability of Draft Environmental Assessment

November 24, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 386, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Strawberry Hydroelectric Porject (Project), and has prepared a Draft Environmental Assessment (DEA). The project is located on Strawberry Creek near Bedford, within lands of the Bridger National Forest, in Lincoln County, Wyoming. The DEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426, and may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Any comments should be filed within 30 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. For further information, contact Carter Kruse, Environmental Coordinator, at (202) 219–3023.

David P. Boergers,

Secretary.

[FR Doc. 99–31144 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–060]

El Dorado Irrigation District and Pacific Gas and Electric Company; Notice of Scoping Meetings, Site Visit, and Intent To Prepare an Environmental Assessment

November 24, 1999.

The Federal Energy Regulatory Commission (Commission) is reviewing the application for a non-capacity related amendment to license for the El Dorado Project (FERC No. 184) to permit the planned restoration of the project diversion dam, to replace the original dam which was largely destroyed by flood waters, and the construction of a new, 9,400-foot-long bypass tunnel from Mill Creek to Bull Creek, to replace damaged portions of the project's canal. The El Dorado Project, co-licensed to the El Dorado Irrigation District (EID) and Pacific Gas and Electric Company (PG&E) is located on the South Fork American River, in El Dorado, Alpine, and Amador counties, California.

The Commission intends to prepare an Environmental Assessment (EA) for the El Dorado Project, which will be used by the Commission to determine whether, and under what conditions, to issue the amendment to the license for the project. To support and assist our environmental review, we are beginning the public scoping process to ensure that all pertinent issues are identified and analyzed, and that the environmental document is thorough and balanced.

We invite the participation of governmental agencies, non-governmental organizations, and the general public in the scoping process, and have prepared Scoping Document 1 (SD1) to provide information on the proposed project and to solicit written and verbal comments and suggestions on our preliminary list of issues and alternatives to be addressed in the EA. The SD1 has been distributed to parties on the Service List for this proceeding, as well as other individuals and organizations that we have identified as having previously expressed an interest in this project. The SD1 is available from our Public Reference Room at (202) 208–1371. It can also be accessed online at http://rimsweb1.fern.fed.us/rims/.

We will hold two scoping meetings to receive input on the scope of the EA. A public meeting will be held on December 15, 1999 at the Radisson Hotel, 500 Leisure Lane, in Sacramento, California, from 2 to 4 pm and on December 16, 1999 at the County Board of Supervisors Office, Bldg. A, 33 Fair Lnae, in Placerville, California, from 7 to 9 pm. The public and agencies may attend either or both meetings. We also will visit the project site on December 16, 1999. We will meet at Camp 5 El Dorado Irrigation District Headquarters, at 7225 U.S. Highway 50, at 10 am. More information on the meetings and site visit is provided in the SD1.

Please review the SD1 and, if you wish to provide oral or written input, follow the instructions in section 3.0. Please note that scoping comments must be received by the close of business on January 10, 2000. All correspondence should clearly show at the top of the first page "El Dorado Project, FERC No. 184–060." Address all communications to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Room 1A, Washington, DC 20426.

Please direct any questions about the scoping process to John M. Mudre at (202) 219–1208.

David P. Boergers,

Secretary.

[FR Doc. 99–31157 Filed 11–30–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34143A; FRL–6397–4]

Dimethoate, Revised Pesticide Risk Assessment; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a public meeting to present the revised risk assessments for one organophosphate pesticide, dimethoate, to interested stakeholders. This public meeting, called a "Technical Briefing," will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessments for dimethoate. In addition, representatives of the U.S. Department of Agriculture (USDA) will also provide ideas on possible risk management for dimethoate.

DATES: The technical briefing will be held on Tuesday, December 14, 1999, from 9 a.m. to noon.

ADDRESSES: The technical briefing will be held at Holiday Inn Hotel and Suites-Old Town, 625 First St., Alexandria, VA, telephone number: 703–548–6300.

FOR FURTHER INFORMATION CONTACT: By mail: Karen Angulo, Special Review and

Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphates, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/. In addition, a brief summary of the dimethoate revised risk assessments are now available at http://www.epa.gov/pesticides/op/status.htm/, as well as in paper as part of the public version of the official record as described in Unit I.B.2.

2. *In person.* The Agency has established an official record for the organophosphate dimethoate under docket control number OPP–34143A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticide dimethoate. The Agency is presenting the revised risk assessments for dimethoate to interested stakeholders. This technical briefing is designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessments: Including the major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessment affected the revised risk assessment; and the pesticide use information/data that was used in developing the revised risk assessment. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management.

The technical briefing is part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

On the day of the technical briefing, in addition to making copies available at the meeting site, the Agency will also release for public viewing the dimethoate revised risk assessments and related documents to the Public Information and Records Integrity Branch and the OPP Internet web site that are described in Unit I.B.1. In addition, the Agency will issue a **Federal Register** notice to provide an opportunity for a 60-day public participation period during which the public may submit risk management and mitigation ideas, and recommendations and proposals for transition.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: November 23, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–31049 Filed 11–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34174B; FRL–6397–5]

Organophosphate Pesticides; Availability of Revised Risk Assessments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notices announces the availability of the revised risk assessments and related documents for one organophosphate pesticide, propetamphos. In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management ideas or proposals. These actions are in response to a joint initiative between EPA and the Department of Agriculture (USDA) to increase transparency in the tolerance reassessment process for organophosphate pesticides.

DATES: Comments, identified by docket control number OPP–34174B, must be received by EPA on or before January 31, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the "SUPPLEMENTARY INFORMATION."

To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34174B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the revised risk assessments and submitting risk management comments on propetamphos, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. *Electronically.* You may obtain electronic copies of this document and other related documents from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides and obtain electronic copies of the revised risk assessments and related documents mentioned in this notice, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/.

B. *In Person.* The Agency has established an official record for this action under docket control number OPP–34174B. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as CBI. This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34174B in the subject line on the first page of your response.

1. *By mail.* Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* Submit electronic comments by e-mail to: "opp-docket@epa.gov," or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number OPP–34174B. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under "FOR FURTHER INFORMATION CONTACT."

IV. What Action is EPA Taking in this Notice?

EPA is making available for public viewing the revised risk assessments and related documents for one organophosphate, propetamphos. These documents have been developed as part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation. The documents being released to the public through this notice provide information on the revisions that were made to the propetamphos preliminary risk assessments, which where released to the public, January 15, 1999 (64 FR

2644) (FRL–6056–9), through a notice in the **Federal Register**.

As part of the pilot public participation process, EPA and USDA may hold public meetings (called Technical Briefings) to provide interested stakeholders with opportunities to become more informed about revised organophosphate risk assessments. During the Technical Briefings, EPA describes the major points (e.g., risk contributors), use data that were used (e.g., data from USDA's Pesticide Data Program (PDP)), and discusses how public comments impacted the assessment. USDA provides ideas on possible risk management. Stakeholders have an opportunity to ask clarifying questions, and all meeting minutes are placed in the OPP public docket. Technical Briefings may not be held for chemicals that have limited use patterns or low levels of risk concern. The use patterns for propetamphos are for indoor pest control and the products are predominately used by professional pesticide applicators; therefore, no Technical Briefing is planned. In cases where no Technical Briefing is held, the Agency will make a special effort to communicate with interested stakeholders in order to better ensure their understanding of the revised assessments and how they can participate in the organophosphate pilot public participation process. EPA has a good familiarity with the stakeholder groups associated with the use of propetamphos who may be interested in participating in the risk assessment/risk management process, and will contact them individually to inform them that no Technical Briefing will be held. EPA is willing to meet with stakeholders to discuss the propetamphos revised risk assessments. Minutes of all meetings will be docketed.

In addition, this notice starts a 60-day public participation period during which the public is encouraged to submit risk management proposals or otherwise comment on risk management for propetamphos. The Agency is providing an opportunity, through this notice, for interested parties to provide written risk management proposals or ideas to the Agency on the pesticides specified in this notice. Such comments and proposals could address ideas about how to manage dietary, occupational, or ecological risks on specific propetamphos use sites or crops across the United States or in a particular geographic region of the country. To address dietary risk, for example, commenters may choose to discuss the feasibility of lower application rates, increasing the time interval between application and harvest ("pre-harvest intervals"), modifications in use, or suggest alternative measures to reduce residues contributing to dietary exposure. For occupational risks, for example, commenters may suggest personal protective equipment or technologies to reduce exposure to workers and pesticide handlers. For ecological risks, commenters may suggest ways to reduce environmental exposure, e.g., exposure to birds, fish, mammals, and other non-target organisms. EPA will provide other opportunities for public participation and comment on issues associated with the organophosphate tolerance reassessment program. Failure to participate or comment as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments and proposals must be received by EPA on or before January 31, 2000, at the addresses given under the "ADDRESSES" caption. Comments and proposals will become part of the Agency record for the organophosphate specified in this notice.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: November 23, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–31050 Filed 11–30–99; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34211; FRL–6395–3]

Availability of Reregistration Eligibility Decision Document for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 90–day public comment period on the Reregistration Eligibility Decision (RED) document for the active ingredient triphenyltin hydroxide (TPTH). The RED represents the Agency's formal regulatory assessment of the health and environmental data base of the subject chemical and presents the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Comments, identified by docket control number OPP–34211, must be received on or before February 29, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34211 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Budig, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 703–308–8029; and e-mail address: budig.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of particular interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and those persons who use this chemical in agricultural production. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access the TPTH RED document and RED fact sheet electronically, go to the REDs table on the EPA Office of Pesticide Programs home page, http://www.epa.gov/REDs. For related

information, see http://www.epa.gov/pesticides.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34211. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34211 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: "*opp-docket@epa.gov*," or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34211. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under "FOR FURTHER INFORMATION CONTACT."

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

The Agency has issued a Reregistration Eligibility Decision (RED) document for the pesticide active ingredient TPTH. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides initially registered before November 1984, to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical listed in this document is substantially complete. This RED addresses issues raised by the Food Quality Protection Act of 1996 ("FQPA"), and any tolerance assessment procedures required under FQPA.

All registrants of pesticide products containing the active ingredient TPTH have been sent the appropriate RED document and must respond to labeling requirements and product specific data requirements within 8 months of receipt. Products containing other pesticide active ingredients in addition to TPTH will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally-mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this RED as a final document with a 90–day comment period. Although the 90–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the REDs. All comments will be carefully considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

The legal authority for this reregistration eligibility decision falls under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, which directs that "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration" before calling in data on products and either reregistering products or taking "other appropriate regulatory action."

List of Subjects

Environmental protection.

Dated: November 22, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–31213 Filed 11–30–99; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–2605]

Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces a window filing opportunity to allow persons with certain pending requests for new analog (NTSC) television stations to modify their requests, if possible, to eliminate technical conflicts with digital television (DTV) stations and to move from channels 60 through 69. The term "DTV stations" here includes DTV allotments, authorized or requested increases in DTV allotment facilities and proposals for new or modified DTV allotments. The window shall open upon the release of this document and close on March 17, 2000.

DATES: The window filing opportunity begins November 22, 1999, and closes March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418–1600.

SUPPLEMENTARY INFORMATION: This window is available for (1) amendments (other than channel changes) to pending applications for new full-service NTSC television stations on channel 2 through 59, (2) petitions for rule making seeking a new channel below channel 60 for those applicants with pending applications for new full-service NTSC television stations on channels 60 through 69 (in addition, authorized NTSC stations and DTV allotments on channels 60 through 69 can seek permission to relocate to a lower channel at any time, including during this filing window, if they can identify a suitable channel) (3) petitions for rule making seeking a new channel below channel 60 for those applicants with pending applications for new full-service NTSC television stations on channels 2 through 59 at locations inside of the "TV Freeze Areas" and (4) amendments to pending rule making petitions to amend the TV Table of Allotments to add NTSC television allotments.

All application amendments, petitions for rule making and amendments to petitions for rule making seeking a new NTSC channel must be filed during this window. Pursuant to the Commission's directive, we will thereafter dismiss all remaining applications on channels 60 through 69, all freeze-area applications on channel 2 through 59 that conflict with a DTV station, and all rulemaking petitions requesting a channel above 59 or a channel that conflicts with a DTV station.

In a related proceeding initiated on September 22, 1999, the Commission is considering the creation of a new "Class A" television service, providing some elements of primary status for some low power TV (LPTV) stations. See *Notice of Proposed Rulemaking*, MM Docket No. 99–292, 64 FR 56999 (10/22/99). A question is posed in that proceeding about whether protection should be afforded to NTSC applications and rule making petitions that are pending when the new Class A rules take effect. If the Commission decides in that proceeding that pending NTSC applications and rule making petitions are not to be protected from new Class A stations, and Class A stations are created that conflict with such pending applications or rule making petitions, those NTSC applications and rule making petitions would be dismissed or denied. If the Commission decides that the pending NTSC proposals have priority, applicants for Class A licenses could be required to protect these service proposals.

Background

This window filing opportunity is available only to (1) those persons who filed petitions for rule making on or before July 25, 1996, to add an NTSC channel to the TV Table of Allotments, and (2) persons with applications for new full-service NTSC television stations that were filed on or before September 20, 1996, or applications filed after that date in response to a valid cutoff list. These were the deadlines that the Commission set in its DTV *Sixth Further Notice of Proposed Rule Making* for the filing of rulemaking petitions to add channels to the TV Table of Allotments and new applications for analog stations on vacant allotments. See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Sixth Further Notice of Proposed Rulemaking*, 61 FR 43209 (8/21/96) (*Sixth Further Notice*). In that *Sixth Further Notice*, the Commission indicated that petitions for rule making that had been filed and open rule making proceedings would be addressed on a case-by-case basis, taking into account the impact on the draft DTV allotment table.

On January 6, 1998, the Commission issued a *Report and Order* in ET Docket No. 97–157 wherein it reallocated the 746–806 MHz band (television channels 60 through 69) for public safety use and commercial fixed, mobile and broadcasting services. See Reallocation of Television Channels 60–69, the 746–806 MHz Band, *Report and Order*, 63 FR 06669 (2/10/98) (*Report and Order*). In that *Report and Order*, the Commission acknowledged that there were pending applications for new NTSC television stations on pre-existing channel 60–69 allotments and also petitions for rulemaking to add new allotments on these channels to the TV allotment table. The Commission decided to not authorize any more new full-service NTSC television stations on channels 60 through 69. Nevertheless, it recognized that those persons with pending applications and/or petitions for new full-service NTSC television stations on those channels had already invested time, money and effort into their applications and petitions. Therefore, the Commission stated that it would not summarily terminate the pending applications and petitions, and it would, at a later date, provide applicants and petitioners an opportunity to amend their applications and petitions, if possible, to a channel below channel 60.

On December 18, 1998, the Commission issued a *Second Memorandum Opinion and Order* in MM Docket No. 87–268 wherein it addressed petitions for reconsideration of its earlier decisions in the DTV proceeding. See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Order*, 63 FR 13546 (3/20/98) (*Second MO&O*). The Commission acknowledged that there were pending applications for new NTSC television stations at locations for which the Commission had previously frozen the acceptance of applications in order to preserve spectrum for DTV use (TV freeze areas). The Commission had previously not protected these freeze-area applications in the development of the DTV Table of Allotments. Nevertheless, the Commission believed that it was desirable to provide freeze-area applicants with the option to pursue their applications wherever such

application would not conflict with NTSC or DTV stations. Therefore, the Commission stated that it would allow freeze-area applicants whose applications conflict with DTV stations to request a change in their requested NTSC channel or to amend their application to eliminate all such conflicts.

Amendments to Applications (Excluding Channel Changes)

All applicants that are part of a single mutually exclusive (MX) group because their applications now seek the use of the same channel allotment (below 60) must decide as a group whether to pursue a channel change through the petition for rule making process. Members of an MX group that have chosen to remain on their allotted channel may file a settlement agreement with a single corrective amendment to the proposed surviving application. Members of an MX group that do not file a settlement agreement and do not jointly request a channel change in a rule making petition, must each amend their application to eliminate any technical conflict with DTV stations.

Each application amendment filed during this window opportunity must conform with all pertinent legal and technical requirements, including criteria for interference protection to both NTSC and DTV services. Application amendments must meet the minimum distance separations between NTSC stations (47 CFR 73.610) and must protect DTV stations as provided in § 73.623(c), but without any allowance to create *de minimis* interference as defined in § 73.623(c)(2). As indicated, the term "DTV stations" here includes DTV authorizations, applications, allotments and rule making proposals. November 1, 1999 was the scheduled due date for most commercial television stations to file DTV construction permit applications. The Mass Media Bureau is currently entering into its computer database the many applications that were filed and expects to complete this entry by the end of the year.

Application amendments may include changes in the ERP, directional antenna pattern, antenna height or site location requested in the application. Application amendments may also request DTV operation, as the Commission indicated in paragraph 41 of the *Second MO&O*. An application amendment to specify DTV operation will be evaluated under the criteria for changing an initial DTV allotment set forth in § 73.622(a) of the rules. Specifically, the channel may be in the range from 2 through 59, and DTV and NTSC stations must be protected by meeting the engineering criteria of § 73.623(c) of the rules. Applying these criteria is consistent with the Commission action in the *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order* that allows these stations to be converted to DTV operation, even if their channel is outside the core range of 2 through 51. See Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*, 63 FR 15774 (4/1/98) (*Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*).

Petitions for Rule Making To Specify a New Channel or Amendments of Petitions

A change of an NTSC allotment channel must be requested by filing a petition for rule making seeking such a change. A channel change may *not* be requested through an amendment to a pending application. However, there are 2 applications (for channel 64 in Charlottesville, VA) that have been through an extended process of comparative hearing, court appeal, and remand to the Commission. They currently have pending a settlement agreement and an application amendment that specify a different channel. Because of the age and unique history of those applications and because they are currently before the Commission, the Bureau will not require the filing of a rule making petition. Rulemaking petitions or amendments to pending petitions must retain the community of license specified in the pending television application or rulemaking petition.

Such petitions for rule making filed during this window by freeze-area applicants on channels below 60 must also demonstrate that interference to a DTV station (which could be a DTV allotment, a proposed change in a DTV allotment, or an application to change a DTV station's facilities) would be caused if the requested channel change is not made. Such a petition may request a DTV channel as the replacement for the NTSC channel allotment, as the Commission indicated in paragraph 42 of the *Second MO&O*. A petition seeking a DTV allotment under these circumstances will be evaluated under the criteria for changing an initial DTV allotment set forth in § 73.622(a) of the rules. Specifically, the channel may be in the range from 2 through 59, and DTV and NTSC stations must be protected by meeting the engineering criteria of § 73.623(c) of the rules.

Where multiple applications have been filed for a single NTSC channel allotment, a petition for rulemaking must propose a single replacement channel (below 60), to which all applicants agree to modify their applications.

Persons with pending rulemaking petitions for channels 60 through 69 should amend their petitions to specify a channel below channel 60. Persons with pending rulemaking petitions for channels 2 through 59 should amend their petitions to specify a different channel below channel 60 if their requested channel is in conflict with a DTV station. New and amended rulemaking petitions submitted during this window filing opportunity will be subject to our normal notice and comment procedures. However, as the Commission indicated in the *Sixth Further Notice* and reiterated in the *Second MO&O*, new proposals for additional NTSC channel allotments will not be accepted. Therefore, new parties may not counterpropose a new NTSC allotment in the same or nearby communities. The opportunity for filing counterproposals is limited to those parties with existing petitions and applications that are the subject of this filing window. When a rule making proceeding has been started by a Notice of Proposed Rule Making, conflicting proposals must be filed in initial comments, pursuant to the procedures for consideration of counterproposals. Rulemaking petitions and amendments to pending petitions filed during this window opportunity must conform with all pertinent legal and technical requirements, including pertinent criteria for interference protection to NTSC and DTV services. Allotment proposals must meet the minimum distance separations between NTSC stations (47 CFR 73.610). Petitions to *change* the channel of an existing allotment must protect DTV stations as provided in § 73.623(c), but without any allowance to create *de minimis* interference as defined in § 73.623(c)(2). Amendments to existing petitions to *add* a new NTSC channel allotment must meet the minimum distance separations to DTV stations as provided in § 73.623(d). As indicated above, the term "DTV stations" here includes DTV authorizations, applications, allotments and proposals. November 1, 1999 was the scheduled due date for most commercial television stations to file DTV construction permit applications. The Mass Media Bureau is currently entering into its computer database the many applications that were filed and

expects to complete this entry by the end of the year.

In developing proposed amendments to the allotment table, petitioners are advised that they should consider, to the extent possible, authorized LPTV and TV translator stations. An allotment Report and Order that adds a new channel to the NTSC table of allotments will specify a period of time for the filing of applications (using FCC Form 301) for a new NTSC TV station construction permit.

Associated applications will remain pending as long as there is pending a petition for rulemaking seeking an alternate channel. An allotment Report and Order changing a channel allotment will specify a period of time for the filing of amendments to pending applications (using FCC Form 301), for the modified channel allotment. Such amendments to pending applications will be considered minor and the applications will retain their original file numbers.

MX Group Resolution

To encourage settlements among mutually exclusive applicants, we will waive for this special window filing opportunity the rule that limits reimbursements of applicants to legitimate and prudent expenses. See 47 CFR 73.3525(a)(3). Those applications for particular commercial channel allotments below 60 that continue to be mutually exclusive after the completion of the amendment process will be resolved by use of the Commission's new broadcast competitive bidding rules. Consistent with those rules, wherever two or more applications were pending for the same allotment before July 1997, the group is closed and no additional applications for the allotment (on the new channel) will be accepted. Wherever a single application was pending for an allotment before July 1997, and that application has not been "cutoff" against the filing of competing applications, the application (as amended) will be subject to competing applications in accordance with the Commission's auction filing window procedures to be announced at a later date.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–31115 Filed 11–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201094

Title: Tampa—Harborside Refrigerated Marine Terminal Agreement

Parties: Tampa Port Authority Harborside Refrigerated Services, Inc.

Synopsis: The proposed agreement provides for a wharfage incentive. The agreement runs through November 25, 2000.

Dated: November 26, 1999.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–31206 Filed 11–30–99; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants.

E & H Transport Network, Inc., 2180 Las Palmas Drive, Carlsbad, CA 92009; Officers: Oren Zaslansky, President (Qualifying Individual), Ella Heldes, Secretary

Galax, Inc., 147–27 175th Street, Jamaica, NY 11434; Officers: Elio Levy, Exec. Vice President (Qualifying Individual), Cyril Charbaut, Vice President

Shanghai Jin Hai-Jet Air International, Forwarding Company Limited, Shartez Plaza, Suite 2502, No. 88, Zun Yi Nan, Shanghai, China; Officers: Bonko Chan, Exec. Vice President (Qualifying Individual)

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Delmar Steamship Agency, Inc., 1670 N.W. 94th Avenue, Miami, FL 33172–2836; Officers: Rosa Del Dago, Vice President (Qualifying Individual), Manuel Del Dago, President

U.S. Brokers (OS) Inc., 331–333 Northern Avenue, Boston, MA 02110; Officer: Louise Mailly, President (Qualifying Individual)

NCD Global Inc., 400 Maltese Drive, Totowa, NJ 07512; Officers: Charles Drumm, President (Qualifying Individual), Maria McKenna, Vice President

Palumbo USA Inc., 1 Exchange Place, Suite 1000, Jersey City, NJ 07302–3911; Officers: Ralph Di Rado, Vice President (Qualifying Individual), Anthony J. Pruzinsky, Director

Ocean Freight Forwarders—Ocean Transportation Intermediary, Applicants

Hexcorps Inc., 14730 Treborway Drive, Houston, TX 77014–1127; Officers: Samad A. Lateef, President (Qualifying Individual), Mussadqa B. Lateef, Vice President

GFAST Inc., 18201 Viscount Bldg. G, Suite 300, Houston, TX 77032; Officers: Gail W. Milholland, Operations Manager (Qualifying Individual), Brahim Abid Charef, Vice President

5K Logistics, Inc., 1040 Sandy Ridge Road, Doylestown, PA 18901; Officer: Paul J. McGrath, President (Qualifying Individual)

Transcar Auto Shippers Inc., 2401 Houston Street, Grand Prairie, TX 75050; Officers: Sandra Kay Lester, President (Qualifying Individual), Ernst U. Grossmann, Vice President

International Forwarders Inc., 501–C Industrial Street, Lake Worth, FL 33461; Officer: Christopher L. Atwell, President (Qualifying Individual)

Dated: November 26, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–31205 Filed 11–30–99; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 14, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. William Baker Benton, Jr., Hughes, Arkansas; to acquire additional voting shares of Lakeside Bancshares, Inc., Hughes, Arkansas, and thereby indirectly acquire additional voting shares of The Planters National Bank of Hughes, Hughes, Arkansas.

Board of Governors of the Federal Reserve System, November 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–31120 Filed 11–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 24, 1999.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. The Bancorp.com, Inc., Wilmington, Delaware; to bcome a bank holding company by acquiring 100 percent of the voting shares of TB.com Bank, Wilmington, Delaware.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Clintonville Bancshares, Inc., Clintonville, Wisconsin; to acquire 100 percent of the voting shares of Nichols Bancorp, Inc., Nichols, Wisconsin, and thereby indirectly acquire Neighborhood State Bank, Nichols, Wisconsin.

Board of Governors of the Federal Reserve System, November 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–31119 Filed 11–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. First National Bancshares, Inc., Spartanburg, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Spartanburg (in organization), Spartanburg, South Carolina.

B. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community National Bancorporation, Ashburn, Georgia; to merge with Tarpon Financial Corporation, Tarpon Springs, Florida, and thereby indirectly acquire First National Bank, Tarpon Springs, Florida.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Belvedere Capital Partners, LLC; California Community Financial Institutions Fund, L.P.; and Sacramento Capital Co.; all of San Francisco, California; to acquire 100 percent of the voting shares of Sacramento Commercial Bank, Sacramento, California.

Board of Governors of the Federal Reserve System, November 26, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–31211 Filed 11–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 24, 1999.

A. Federal Reserve Bank of Atlanta (Cynthia Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Century South Banks, Inc., Dahlonega, Georgia; to acquire Haywood Bancshares, Inc., Waynesville, North Carolina, and thereby indirectly acquire Haywood Savings Bank, Inc., SSB, Waynesville, North Carolina, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, November 24, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–31121 Filed 11–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 16, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Cera Foundation, Cera Management, Cera Ancora NV, Cera Holding, all of Leuven, Belgium; Almanij NV, Antwerp, Belgium; and KBC Bank & Insurance Holding Company, NV and KBC Bank NV, both of Brussels, Belgium; to acquire KBC Financial Products (USA), Inc., New York, New York, and thereby engage *de novo* in underwriting and dealing, to a limited extent, in securities that a national bank or state member bank is not authorized to underwrite and deal in, *See J.P. Morgan & Co., Incorporated, et al.*, 75 Fed. Res. Bull. 192 (1989). These activities will be conducted worldwide.

Board of Governors of the Federal Reserve System, November 26, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–31210 Filed 11–30–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 991 0306]

Reckitt & Coleman plc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 10, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Richard Parker or Michael Antalics, FTC/H–374, 600 Pennsylvania, Ave., NW, Washington, D.C. 20580. (202) 326–2574 or 326–3821.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for November 24, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW., Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and

copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Consent Agreement") from Reckitt & Colman plc ("Reckitt & Colman"), which is designed to remedy the anticompetitive effects resulting from Reckitt & Colman's acquisition of the voting securities of Benckiser N.V. from NRV Vermögensverwaltung GmbH ("Vermögensverwaltung"). Under the terms of the Decision & Order, Reckitt & Colman will be required to divest Benckiser's Scrub Free® and Delicare® businesses to Church & Dwight Co., Inc. ("Church & Dwight") after the date upon which the Commission preliminarily accepts the Consent Agreement. Church & Dwight produces a number of household products under the Arm & Hammer® brand name.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make final the Decision & Order.

On July 27, 1999, Reckitt & Colman and entities controlled by Vermögensverwaltung entered into a Merger Agreement under which Reckitt & Colman agreed to purchase all of the voting securities of Benckiser N.V. for approximately $2.7 billion. The Commission's Complaint alleges that the merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the markets for the research, development, formulation, manufacture, marketing and sale of hard surface bathroom cleaners and fine fabric wash products.

Hard surface bathroom cleaners are products specially formulated, sold and used by consumers to remove built-up soils and stains from bathroom surfaces. Reckitt & Colman, which sells Lysol,® and Benckiser, which sells Scrub Free,® are two significant U.S. suppliers of hard surface bathroom cleaners. Fine fabric wash products are specially formulated, sold and used by consumers to launder fine fabrics such as silks, woolens or other delicate fabrics. Reckitt & Colman, which sells Woolite,® and Benckiser, which sells Delicare,® are the two largest suppliers of fine fabric wash products.

The United States is the relevant geographic area in which to evaluate the effects of the proposed acquisition of Benckiser by Reckitt & Colman. It is unlikely that the competition eliminated by the proposed transaction would be replaced by foreign manufacturers of hard surface bathroom cleaners and fine fabric wash products. Foreign manufacturers of these products are unable to compete effectively in the U.S. because they lack the necessary brand recognition among U.S. consumers and face substantial transportation costs, which make importing their products into the U.S. uneconomical.

The hard surface bathroom cleaner and fine fabric wash markets are highly concentrated in the United States, and the proposed acquisition would substantially increase concentration in each market. In the hard surface bathroom cleaner market, the acquisition would result in an increase in the Herfindahl-Hirschman Index ("HHI") to approximately 2300 points, which is an increase of about 500 points over the premerger HHI level. In the fine fabric wash market, the post-merger HHI would be approximately 8500 points, which is an increase of about 700 points over the premerger HHI level.

By eliminating competition between these competitors in these highly concentrated markets, the proposed acquisition could allow Reckitt & Colman unilaterally to exercise market power or could facilitate coordinated interaction among the remaining competitors in the hard surface bathroom cleaner market, and could allow Reckitt & Colman unilaterally to exercise market power in the fine fabric wash market, thereby increasing the likelihood that consumers of hard surface bathroom cleaners and fine fabric wash products would be forded to pay higher prices.

In addition, new entry would not deter or counteract the anticompetitive effects likely to flow from the proposed transaction. A new entrant into either the hard surface bathroom cleaner or fine fabric wash market would need to undertake the difficult, expensive and time-consuming process of developing a competitive product, creating brand recognition among U.S. consumers, and establishing a viable retail distribution network. Because of the difficulty of accomplishing these tasks new entry into either market could not be accomplished in a timely manner. Moreover, because of the high sunk costs involved, it is not likely that new entry into either market would occur at all, even in response to a small, nontransitory increase in price in either market after the transaction. Similarly, entry through brand name product line extension is not likely. Large, vertically integrated manufacturers of household cleaners are set up for high volume production and not for the production of small or individual stock keeping units for niche markets.

The Consent Agreement effectively remedies the acquisition's anticompetitive effects in the hard surface bathroom cleaner and fine fabric wash markets by requiring Reckitt & Colman to divest Benckiser's Scrub Free® and Delicare® businesses to a third party. These assets include all Scrub Free® and Delicare® trademarks and related intellectual property, trade secrets, technical and manufacturing know-how, and customer and vendor lists and information. Pursuant to the Consent Agreement,the Benckiser businesses must be divested to Church & Dwight after the Commission accepts this Consent Agreement for public comment, but on or before the date that Reckitt & Colman acquires Benckiser. Church & Dwight is a well established, financially viable company that offers value priced consumer cleaning products under established brands including Arm & Hammer®, Parsons®, Brillo® and Sno Bol®. In order to ensure an orderly transition, Reckitt & Colman will provide Church & Dwight with short-term integration assistance, including production planning and order and billing processing. In the event that these businesses are not divested to Church & Dwight, the Decision & Order contains a provision that requires Reckitt & Colman to divest Benckiser's Scrub Free® and Delicare® businesses to an alternative acquirer approved by the Commission within ninety (90) days of the date the Decision & Order becomes final. At the alternative acquirer's option, additional related assets may be divested including fixtures, machines, buildings, structures, vehicles, real property, or other tangible assets used in the research, development, formulation, manufacture, sale, or distribution of these businesses.

In the event that the Benckiser Scrub Free® and Delicare® businesses are not divested to Church & Dwight or to an alternative acquirer within 90 days of the date the Commission's Decision & Order becomes final, the Decision & Order provides that the Commission may appoint a trustee to divest these assets, and, at the purchaser's option, to

divest additional related assets to a Commission-approved purchaser.

The Order also requires Reckitt & Colman to provide to the Commission a report of compliance with the divestiture provisions of the Decision & Order within thirty (30) days following the date the Decision & Order becomes final, every thirty (30) days thereafter until Reckitt & Colman has completed the required divestiture, and every ninety (90) days thereafter until Reckitt & Colman has completed its divestiture obligations under the Order.

The purpose of this analysis is to facilitate public comment on the Consent Agreement and it is not intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99–31183 Filed 11–30–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Genetic Testing

AGENCY: Office of the Secretary, DHHS.

ACTION: Notice of meeting and request for public comments on oversight of genetic testing.

Pursuant to Public Law 92–463 notice is hereby given of a meeting of the Secretary's Advisory Committee on Genetic Testing (SACGT), U.S. Public Health Service. The meeting will be held from 8:45 a.m. to 5 p.m. on January 27, 2000 at the University of Maryland, School of Nursing, 655 W. Lombard Street, Baltimore, Maryland 21201. The meeting will be open to the public from 8:45a.m. to adjournment with attendance limited to space available. The public is encouraged to register for the meeting through the SACGT website or by contacting the SACGT at 301–496–9838. Further information about the meeting is available at the following website address: http://www4.od.nih.gov/oba/sacgt.htm. A draft meeting agenda will be posted to the website prior to the meeting. Individuals who plan to attend and need special assistance, such assign language interpretation or other reasonable accommodations, should inform the contact person listed below in advance of the meeting. All comments received before the end of the consultation period will be considered by SACGT and will be available for public inspection at the SACGT office between the hours of 8:30 a.m. and 5:00 p.m. The SACGT office is located at 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892. Questions about this request for public comments can be directed to Susanne Haga, Ph.D., Program Analyst, SACGT, by email (hagas@od.nih.gov) or telephone (301–496–9838).

The Secretary's Advisory Committee on Genetic Testing (SACGT) is seeking diverse public perspectives on the adequacy of current oversight of genetic testing in the United States. SACGT was chartered to advise the Department of Health and Human Services on the medical, scientific, ethical, legal, and social issues raised by the development and use of genetic tests. This notice provides background information prepared by SACGT about genetic tests, including their current limitations, benefits and risks, and the provisions for oversight now in place. It presents five specific issues for public comment along with related questions and a sixth set of questions to enable the public to comment on other issues relevant to genetic testing. SACGT is also seeking public comments through a website consultation, a targeted mailing, and a public meeting on January 27, 2000 in Baltimore, Maryland.

The public is encouraged to submit written comments on the oversight of genetic testing to SACGT. In order to be considered by SACGT, public comments need to be received by January 31, 2000. Comments can be submitted by mail or facsimile. Members of the public with Internet access can submit comments through email or the SACGT website consultation. The SACGT mailing address is: SACGT, National Institutes of Health, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892. SACGT's facsimile number is 301–496–9839. Comments can be sent via email to: *sc112c@nih.gov*. To participate in SACGT's website consultation, please visit the SACGT website: http://www4.od.nih.gov/oba/sacgt.htm Questions about this request for public comments can be directed to Susanne Haga, Ph.D., Program Analyst, SACGT, by email (hagas@od.nih.gov) or telephone (301–496–9838).

A Public Consultation on Oversight of Genetic Testing

Part I: Introduction

Overview

Decades of research in genetics have brought about many important medical and public health benefits. Gene discoveries have provided a better understanding of the genetic basis of disease and opened new avenues for diagnosis, treatment, and prevention of disease. The pace of the discovery of new genes and the development of new genetic tests is expected to increase in the future. The Human Genome Project, a major international collaborative effort established and supported by public and private groups, including the U.S. Department of Energy (DOE) and the National Institutes of Health (NIH), is expected to complete the sequencing of the human genome by the year 2003. The unprecedented amount of genetic information produced by the Human Genome Project will enable scientists to make more rapid progress in understanding the role of genetics in many common complex diseases and conditions—such as heart disease, cancer, and diabetes—and to increase knowledge that may lead to the development of individually tailored medical treatments. These scientific and technological advances are expected to bring about revolutionary changes in clinical and public health practice and to have a significant impact on society.

The Secretary's Advisory Committee on Genetic Testing (SACGT) was established to advise the Department of Health and Human Services (DHHS) on the medical, scientific, ethical, legal, and social issues raised by the development and use of genetic tests. The formation of SACGT was recommended by the NIH-DOE Task Force on Genetic Testing and the Joint NIH-DOE Committee to Evaluate the Ethical, Legal and Social Implications Program of the Human Genome Project. At SACGT's first meeting in June 1999, the Assistant Secretary for Health and Surgeon General asked the Committee to assess, in consultation with the public, the adequacy of current oversight of genetic tests.

Statement of the Issue

Advances in knowledge about the structures and functions of human genes and the development of new laboratory technologies for the analysis of genetic material are helping to produce many new genetic tests for a wide range of conditions and purposes. Genetic tests can be used to diagnose disease, confirm a diagnosis, provide prognostic information about the course of disease, confirm the existence of a disease in individuals who do not yet have symptoms, and, with varying degrees of effectiveness, predict the risk of future disease in healthy individuals. Currently, several hundred genetic tests are in clinical use, with many more under development, and their number and variety are expected to increase rapidly over the next decade. These

advances stem in large part from research funded and conducted by agencies within DHHS, especially NIH.

The Task Force on Genetic Testing, which was charged to review genetic testing in the United States and to make recommendations to ensure the development of safe and effective genetic tests, began its work in 1995 and published its final report two years later. In its final report, the Task Force concluded that although genetic testing is developing successfully in the United States, some concerns about it exist. These can be grouped into four main areas:

- The way in which tests are introduced into clinical practice;
- The adequacy and appropriate regulation of laboratory quality assurance;
- The understanding of genetics on the part of health care providers and patients; and
- The continued availability and quality of testing for rare diseases.

The Task Force recommendations were intended primarily to enhance the way in which tests are developed, reviewed, and used in clinical practice. The Task Force explored the question of how tests should be assessed, considered how comprehensive data gathering efforts could incorporate new data, and made suggestions about the need for external review of tests. Although the Task Force recommended that revisions to the current review process may be needed to assess the effectiveness and usefulness of genetic tests, it did not specify how the review of laboratory-based genetic tests should be changed.

DHHS requested that SACGT build on the work of the Task Force by assessing whether current programs for assuring the accuracy and effectiveness of genetic tests are satisfactory or whether other measures are needed. This assessment requires consideration of the potential benefits and risks (including socioeconomic, psychological, and medical harms) to individuals, families, and society, and, if necessary, the development of a method to categorize genetic tests according to these benefits and risks. Considering the benefits and risks of each genetic test is critical in determining its appropriate use in clinical and public health practice. If, after public consultation and analysis, SACGT finds that other oversight measures for genetic tests are warranted, it has been asked to recommend options for such oversight.

It is important to note that although this paper focuses on Federal oversight of genetic tests in laboratory and clinical settings, the training and education of health care providers and the promotion of greater public understanding of genetics are also critical issues. More genetics training and education of health care providers who prescribe genetic tests and use the results for clinical decision-making is widely regarded as another way in which to enhance the safe and effective development and use of genetic tests. It is helpful to keep training and education of health care providers and promotion of public understanding in mind while considering the Federal role in oversight. SACGT intends to address the training and education issue after this current assignment is completed.

Importance of Public Consultation

The question of whether more oversight of genetic tests is needed has significant medical, social, ethical, legal, economic, and public policy implications. Additional oversight may ensure that genetic tests are appropriately used and accurately interpreted, and it may increase the confidence of providers and individuals in using or having genetic tests. Such oversight might increase the willingness of health insurers to cover the costs of genetic tests if their usefulness can be established, but might also increase the costs of those tests. On the other hand, subsequent acceptance and widespread use of a genetic test may increase the demand for it and thereby lower the costs of a test. The development of genetic tests and their use in clinical practice may be slowed by more oversight measures. Finally, further oversight can be expected to require additional funds.

Because this issue may greatly affect those who undergo genetic testing, those who provide tests in health care practice, and those who work or invest in the development of such tests, DHHS has sought to ensure that public perspectives on oversight for genetic testing are considered. Such public involvement in this process will enhance SACGT's analysis of the issues and the advice it provides to DHHS. SACGT is hoping to reach a broad audience and to receive a wide range of perspectives from both professionals and the general public, including diverse communities. SACGT is using five approaches to gather public perspectives: (1) A notice in the **Federal Register**; (2) a targeted mailing to interested organizations and individuals; (3) a website consultation (*http://www4.od.nih.gov/oba/sacgt.htm*); (4) a public consultation meeting on January 27, 2000 in Baltimore, Maryland; and, (5) a retrospective review and analysis of the literature. The Committee looks forward to receiving public comments and to being informed by the public's perspectives on oversight of genetic testing.

Organization of This Paper

Because the issues surrounding genetic testing are complex and highly technical, this paper first provides basic background information about genetic tests, including a discussion of their current limitations, benefits and risks. The provisions for oversight that currently are in place are outlined. Then, the paper presents the specific issues that SACGT and the public have been asked to consider, along with some possible approaches or options for addressing them.

Part II: Background Information About Genes, Genetics Research, and Genetic Testing

Overview

Much of the information presented in the following sections regarding genes, genetics research, and genetic testing is adapted from Understanding Gene Testing, a booklet produced by the National Cancer Institute and the National Human Genome Research Institute. The booklet is available at *http://www.accessexcellence.org/AE/AEPC/NIH/index.html*.

Genes and Gene Mutations

Genes are made of DNA, a long, threadlike molecule coiled inside cells. Within the cell, the DNA is packaged into 23 pairs of chromosomes. Each chromosome, in turn, contains thousands of genes. Genes, which are segments of DNA, are packets of instructions that tell cells how to behave. They do so by specifying the instructions for making particular proteins. The gene instructions are written in a four-letter code, with each letter corresponding to one of the chemical constituents, or bases, of DNA: A, G, C, T. The number of bases in the human genome (the complete sequence of the DNA molecule) is estimated to be 3 billion to 4 billion. The human genome is estimated to contain 100,000 to 140,000 genes.

If the DNA sequence, the order of the four-letter code, becomes altered in any way, the cell may make the wrong protein, or too much or too little of the right one—mistakes that often result in disease. In some cases, such as sickle cell anemia, just a single misplaced base is sufficient to cause the disease. Genetic mistakes can be inherited (called an inherited mutation) or they can develop during an individual's

lifetime (an acquired mutation). Inherited mutations are found in every cell of the body, while acquired mutations occur sporadically in individual cells.

Mutations in genes are responsible for an estimated 3000 to 4000 clearly hereditary diseases and conditions. Some of these—including Huntington disease, cystic fibrosis, neurofibromatosis, Duchenne muscular dystrophy—are caused by the mutation of a single gene. Gene mutations also play a role in cancer, heart disease, diabetes, and many other complex diseases. Genetic alterations may increase a person's risk of developing one of these more complex disorders, although it is the cumulative effects of the interaction of genetic and environmental factors, such as diet and smoking, that result in the development of disease.

Genetics Research

The process of discovering and understanding genetic mutations is an extremely complex one. Reaching a complete understanding of the relationship between a mutation and a disease or condition can involve many years of investigation, and the discovery of a mutation usually is only the first step. Scientists looking for a gene that contributes to a particular disease or condition typically begin by studying DNA samples from members of families in which many relatives over several generations have developed the same illness—colon cancer, for example. Scientists start looking for detectable traits or distinctive segments of DNA (called genetic markers) that are consistently inherited by relatives with the disease or condition but that are not found in relatives who do not have it. Then, scientists work to narrow down the target DNA area, identify possible genes, and look for specific mutations within those genes.

Because the genome is vast, discovering a specific disease gene has, up to now, been a difficult and time consuming effort. In the case of Huntington disease, for example, scientists worked for ten years before they found the gene that causes the disease. The Human Genome Project combined with new developments in technology, such as tandem mass spectrometry, microarrays, and gene chips, will speed up the pace of the discovery of disease genes and mutations.

Once the entire sequence of the human genome has been mapped, scientists will have the tools they need to better understand the contribution of each gene to the development and function of the human body. Even then, however, the role played by a specific gene mutation in disease will not be completely understood because of complicating factors such as gene-gene interactions and environmental influences (for example, smoking and diet). As a result, understanding what gene mutations mean for a person's future health and well-being will require more research, including population-based studies that focus on clarifying the significance of gene-gene and gene-environment interactions.

Genetic Testing

Genetic testing involves the analysis of chromosomes, genes, and/or gene products to determine whether a mutation is present that is causing or will cause a certain disease or condition. It does not involve treatment for disease, such as gene therapy, although test results can sometimes suggest treatment options.

Genetic tests are performed for a number of purposes, including prenatal diagnosis, newborn screening, carrier testing, diagnosis/prognosis, presymptomatic testing, and predictive testing. Prenatal diagnosis is used to diagnose a genetic disorder or condition in a developing fetus. Newborn screening is used to detect certain genetic diseases in newborns, and it is performed on a public health basis by the States. The disorders screened for are those that, if detected early, have significant treatment or prevention benefits. Carrier screening is performed to determine whether an individual carries a copy of a mutated gene for a recessive disease (recessive means that the disease will occur only if both copies of a gene are mutated). Carriers are not affected with the disease, but they have a 50 percent risk of passing the mutation on to their children. If the partner of a carrier is screened and found also to be a carrier, each child they conceive will have a 25 percent risk of being affected with the disorder. Diagnostic testing is used to identify or confirm the diagnosis of a disease or condition in an affected individual. Diagnostic testing can also be used for prognostic purposes to help determine the course of a disease. Presymptomatic testing is used to determine whether individuals who have a family history of a disease, but no current symptoms, have the gene mutation. Predictive testing determines the probability that a healthy individual with or without a family history of a certain disease might develop that disease.

At present, genetic testing is clinically available for more than 300 diseases or conditions in more than 200 laboratories in the United States, and investigators are exploring the development of tests for an additional 325 diseases or conditions. (These statistics were provided by GeneTests, a directory of clinical laboratories providing testing for genetic disorders, which can be found at the following website: *http://www.genetests.org*). A recent survey of genetic testing laboratories found that over a recent three-year period, the total number of genetic tests performed increased by at least 30 percent each year, rising from 97,518 in 1994 to 175,314 in 1996. Most of the tests are conducted for diagnostic, carrier, and presymptomatic purposes for rare genetic disorders. Recently, tests have been developed to detect mutations for about 25 more common, complex conditions—such as breast, ovarian, and colon cancer—whose effects generally do not appear until later in life. These tests are currently used for presymptomatic purposes in individuals with a family history of the disorder. Although the tests could be used for predictive purposes, they are not recommended for this purpose because more must be learned about the significance of the mutation in someone without a family history of the disease.

A concern has recently been raised about the impact that patenting human genes may be having on genetic testing. The Patent and Trademark Office has been issuing patents on gene sequences since 1980. Approximately 12,000 patents have been issued on plant, animal, and human genes and patent applications have been made on another 30,000 genes. While patenting genes generally provides incentives for the development of useful gene-based products, some gene patent holders have begun to restrict the use of their gene discoveries by charging high fees for the license rights, establishing exclusive licenses, or refusing to license the discovery altogether. These restrictions can have an adverse effect on the accessibility, price, and quality assurance of genetic tests. A recent survey conducted by the American College of Medical Genetics, a professional organization representing clinical and laboratory geneticists, found that 25 percent of its members had discontinued offering certain genetic tests because of patent/licensing complexities.

Important Concepts About the Accuracy and Effectiveness of Genetic Tests

Several standard terms are used in discussing the accuracy and effectiveness of laboratory tests. These terms—analytical validity, clinical validity, and clinical utility—apply not

only to genetic tests but also to other kinds of tests, such as cholesterol or pap smear tests. An understanding of these terms is helpful in considering the possibilities for oversight of genetic tests.

Analytical validity is an indicator of how well a test measures the property or characteristic it is intended to measure. (In the case of a genetic test, the property can be DNA, proteins, or metabolites.) An analytically valid test would be positive when the relevant gene mutation is present (analytical sensitivity) and negative when the gene mutation is absent (analytical specificity). Another element of the test's analytical validity is reliability—meaning that the test obtains the same result each time. During the process of validating a new genetic test, how well it performs will be compared to how well the best existing method or "gold standard" performs. Sometimes, if a gold standard does not exist for a new genetic test, the test's performance must be based on how well it performs in samples from individuals known to have the disease.

Clinical validity is a measurement of the accuracy with which a test identifies or predicts a clinical condition. A clinically valid test would be positive if the individual being tested has the disease or predisposition (clinical sensitivity) and negative if the individual does not have the disease or predisposition (clinical specificity). To be clinically valid, a test would be positive if the individual being tested has or will get the disease or condition (positive predictive value) and negative if the individual being tested does not have or will not get the disease or condition (negative predictive value). Determining the clinical validity of a test may be more challenging when different mutations within the same gene cause the same disease and different mutations can result in different degrees of disease severity. In addition, gene mutations may or may not lead to disease depending on how "penetrant" or completely expressed they are.

Clinical utility refers to the degree to which benefits are provided by positive and negative test results. If a test has utility, it means that the results—positive or negative—provide information that is of value to the person who is tested. The availability of an effective treatment or preventive strategy, for example, would make such information valuable. However, even if no interventions are available to treat or prevent the disease or condition, there may be benefits associated with knowledge of a result. On the other hand, social, psychological, and economic harms can result from such knowledge, particularly in the absence of privacy and discrimination protections. Thus, determining the clinical utility of a test requires obtaining information about the benefits and risks of both positive and negative test results.

A final point can be made about the challenge of assessing the clinical validity and utility of genetic tests used for predictive purposes and for rare diseases. For genetic tests used for predictive purposes in diseases or conditions whose effects do not become apparent for many years, clinical validity and utility will need to be evaluated over time. For genetic tests for rare diseases, gathering sufficient data to assess clinical validity and utility may never be possible because of the low prevalence of the diseases. Consequently, different approaches to the evaluation of clinical validity and utility for predictive tests and for rare disease tests may be necessary.

Current Limitations of Genetic Testing

Genetic tests currently have certain limitations that are relevant to the issue of oversight. One important limitation is that a test may not detect every mutation a gene may have. A single gene can have many different mutations, and they can occur anywhere along the gene. Moreover, not all mutations have the same effects. For example, more than 800 different mutations of the cystic fibrosis gene have been identified, some of which cause varying degrees of disease severity and some of which appear to cause no symptoms at all. This means that a positive test for a specific cystic fibrosis mutation may not provide a clear picture of how the disease is likely to affect the individual. A negative test result cannot completely rule out the disease because the test will usually focus only on the more common mutations and will not detect rare ones. Furthermore, because of varying genetic and environmental factors, even the same mutations may present different risks to different people and to different populations. The same mutation in the cystic fibrosis gene in individuals from different populations may have different clinical effects as a result of variations in genetic and environmental factors. In addition, the frequency of common cystic fibrosis mutations varies among population groups. Determining the clinical validity of a genetic test requires a thorough analysis of all these factors without which the likelihood of error may be high.

Another current limitation of genetic tests, especially if used for predictive purposes, relates to the complexities of how diseases develop. Diseases and conditions can be caused by the interaction of many genetic and environmental factors. Thus, predictive tests cannot provide certain answers for everyone who might be at risk for a disease such as breast or colon cancer. For example, mutations in the breast cancer 1 gene (BRCA1) occur in about half of families with histories of multiple cases of breast and ovarian cancer. If a woman with no family history of the disease has the BRCA1 mutation, it may not mean that she will develop breast or ovarian cancer. Likewise, if she does not have the mutation, she still cannot be sure she will never develop breast cancer.

Another important consideration related to the limitations of genetic testing is that effective treatments are not available for many diseases and conditions now being diagnosed or predicted through genetic testing, and, in some instances, they may never be available—a situation sometimes called the "therapeutic gap." While knowledge that a disease or condition will or could develop may not provide any direct clinical benefit, it may lead to increased monitoring which could help manage the disease or condition more effectively. At the same time, information about risk of future disease can have significant emotional and psychological effects and, in the absence of privacy and anti-discrimination protections, can also lead to discrimination or other forms of misuse of personal genetic information.

Potential Benefits and Risks of Genetic Tests

Information provided by genetic tests has potential benefits and risks. Understanding the benefits and risks of a genetic test is critical in determining its appropriate use in clinical and public health practice. The benefits and risks of any particular test to individuals or particular populations may change over time as more information is gathered.

Potential Benefits. Individuals with a family history of a disease live with troubling uncertainties about their and their children's futures. Having a genetic test may relieve some of those uncertainties. If the test result is positive, it can provide an opportunity for counseling and for the introduction of risk-reducing interventions such as regular screening practices and healthier lifestyles. Early interventions (for example, annual colonoscopies to check for precancerous polyps, the earliest signs of colon cancer) could prevent thousands of colon cancer deaths each

year. If the test result is negative (they do not have the mutation), in addition to feeling tremendous relief, individuals may also no longer need frequent checkups and screening tests, some of which may be uncomfortable and/or expensive.

Genetic tests can sometimes provide important information about the course a disease may take. For example, certain cystic fibrosis mutations are predictive of a mild form of the disease. Other gene mutations may identify cancers that are likely to grow aggressively.

Genetic tests can provide information to improve treatment strategies. Because genetic factors may affect how individuals respond to drugs, the knowledge that an individual carries a particular genetic mutation can help health care providers tailor therapy. For example, individuals with Alzheimer disease (AD) who have two copies of a certain gene mutation do not respond to the drug Tacrine. In individuals with AD who do not have both copies of the mutation, however, the drug seems to slow progression of the disease.

Potential Risks. Genetic testing poses potential physical, medical, psychological, and socioeconomic risks to individuals being tested and to members of their families. For the most part, the physical risks of genetic testing are minimal because most genetic tests are performed on blood samples or cells obtained by swabbing the lining of the cheek. The procedures required to carry out prenatal genetic testing can, in rare circumstances, cause miscarriage.

The medical risks of genetic testing relate to actions taken in response to the results of a genetic test. Positive test results can have an impact on a person's reproductive and other life choices. Individuals with positive test results may choose not to have children. They may opt to take extraordinary preventive measures, such as surgical removal of the breasts to prevent the possible development of cancer. Individuals with negative test results may forgo screening or preventive care because they mistakenly believe they are no longer at risk for developing a given disease. Incorrect test results or misinterpretation of test results have substantial risks. False negative test results can mean delays in diagnosis and treatment. False positive results can lead to follow-up testing and therapeutic interventions that are unnecessary, inappropriate, and sometimes irreversible. Genetic test results have potential psychological risks. The emotional impact of positive test results can be significant and can cause persistent worry, confusion, anger, depression, and even despair. Individuals who have relatives with a disorder have a fairly clear, and perhaps frightening, picture of what their own future may hold. Negative test results also can have significant emotional effects. While most people will feel greatly relieved by a negative result, they may also feel guilty (survivor guilt) for escaping a disease that others in the family have developed. A negative test result may provide a false sense of security because the individual may still bear the same risk of disease as the general population.

Because genetic test results reveal information about the individual and the individual's family, test results can shift family dynamics in pronounced ways. For example, if a baby tests positive for sickle-cell trait during newborn screening, it means that one of the parents is a carrier. It is also possible for genetic tests to inadvertently disclose information about a child's paternity.

Genetic test results present potential socioeconomic risks for individuals. Some people have reported being denied health insurance and losing jobs or promotions as a result of genetic test results. People have reported being rejected as adoptive parents because of their genetic status. Some people seeking adoptions have requested genetic testing for the child before finalizing the adoption.

Genetic test results can pose risks for groups if they lead to group stigmatization and discrimination. Concerns about the potential risks of discrimination and stigmatization are particularly acute among minority groups who have experienced other forms of discrimination. Regrettably, the African American experience with sickle cell anemia screening provides an example of the potential for and consequences of discrimination and is one of the reasons why the particular risks of genetic testing for minority groups must be considered. In the 1970s, a major effort was made in many States, with Federal Government support, to screen African American children and young adults for sickle cell disease. Many of the screening programs were based on an inadequate knowledge of the genetics of sickle cell disease, and in some instances, the accuracy and validity of the test itself was in question. Also, many programs were implemented without sufficient sensitivity to ethnocultural issues and the potential for misuse of personal test results. Individuals who were actually carriers of the mutation were incorrectly identified as having sickle cell disease. Carriers were ostracized, deprived of employment and educational opportunities, and denied health and life insurance.

It is important to point out that the potential risks described above relate to genetic testing for conditions that are solely health-related. In the future, it may be possible to develop tests that could be used to diagnose conditions that are related to certain predispositions, such as to obesity, alcohol abuse, or nicotine addiction, or to predict future behavior. Although the assumption that single genes, or even many genes, can predict complex human actions is simplistic, the possibility of such tests raises profound concerns because their potential psychological and socioeconomic harms are so significant and the potential misuse of such information is so great.

Case Studies: From Gene Discovery to the Development and Use of Genetic Tests

After a gene has been shown to cause or play a role in a specific disease or condition (through analysis of DNA from affected individuals), the function of this gene in both healthy and disease states must then be understood. Each step along the research path adds to and reshapes existing knowledge in this constantly evolving area of study. In the following sections, seven case studies are provided to illustrate the different kinds of genetic testing that are performed, the way in which genetic tests evolve from research to clinical and public health practice, and some of the difficulties that can arise when a test moves from research to clinical use due to limitations in the data on clinical validity and utility. Although each example primarily describes one use of the test, it is possible that the same test could be used for other purposes. For example, a diagnostic test also may be used for predictive purposes. Indeed, the fact that tests may be used for multiple and overlapping purposes is one of the significant challenges of any effort to identify distinct categories of genetic tests.

Prenatal Diagnosis. An example of a genetic test used for prenatal diagnosis is the test for the recessive disorder called Tay-Sachs disease. (Genetic tests are also used for Tay-Sachs carrier screening, but this case study focuses on its use in prenatal diagnosis.) Tay-Sachs is a neurological disease that results from a buildup of sugar fats in brain cells and is caused by a defect in a gene that is responsible for the breakdown of those fats. Infants with Tay Sachs generally appear healthy at birth, but begin to develop motor weakness between 3 and 5 months of age. Progressive weakness continues,

characterized by poor head control and failure to achieve major developmental milestones, such as crawling or sitting unsupported. After 8 to 10 months of age, the disease progresses rapidly, and the child becomes completely unresponsive. Most children with Tay-Sachs survive to 2 to 4 years of age; most succumb to pneumonia. Currently, palliative and supportive treatment is the only therapy for Tay-Sachs disease.

Prenatal diagnosis of Tay-Sachs disease was first achieved in 1970. The test involves measuring the activity of a particular enzyme in cells from a developing fetus. The fetal cells are obtained through two principal methods—chorionic villus sampling (CVS) and amniocentesis. CVS, which is performed at 9 to 12 weeks of pregnancy, involves examining a sample of fetal cells taken from the placenta. Amniocentesis is a procedure, done at 16 to 18 weeks of pregnancy, in which a sample of the fluid surrounding the fetus (the amniotic fluid) is withdrawn from the womb and examined. These procedures carry a risk of miscarriage (1 case in 100 for CVS and 1 case in 200 to 300 for amniocentesis). When the results of the Tay-Sachs test are positive, many couples face an agonizing decision about whether to continue the pregnancy. Most, but not all, elect to terminate the pregnancy. Although prenatal diagnosis for Tay-Sachs disease initially was used only for couples to whom affected children had already been born, it is now also offered to couples who are identified by carrier screening to be at risk.

Over the last two decades, the analytical validity and clinical validity of prenatal testing for Tay-Sachs disease have been established, and the clinical utility of the test is now also fairly well understood. Tay-Sachs disease testing is limited primarily to populations in which the disease is known to be prevalent, including people of Ashkenazi Jewish or French Canadian descent. The incidence of Tay-Sachs disease in the Ashkenazi Jewish population is approximately 1 in 4,000 births; in the general population the incidence is tenfold less (1 in 40,000).

Newborn Screening. Phenylketonuria (PKU) results from a defect in a gene that encodes for a liver enzyme that is important for the breakdown of an essential protein building block, phenylalanine. The defect leads to the buildup of phenylalanine levels in the blood, resulting in brain damage. It was first described in 1934, when an association was observed between mental retardation and the presence of chemicals known as phenylketones in the urine of two siblings. In 1953, it was demonstrated that lowering blood phenylalanine levels by placing affected persons on a phenylalanine-restricted diet improves outcomes for individuals with PKU. In 1959, the introduction of a restricted diet in PKU-affected newborns was shown to prevent brain damage. The overall incidence of PKU is approximately 1 in 10,000 live births.

In 1963, a simple, inexpensive test to screen for elevated phenylalanine in the blood of newborns became available. A trial test was conducted on a group of individuals with mental retardation, and it identified correctly all persons who were previously diagnosed with PKU. After publication of the test method, the PKU screening test was accepted by the medical and scientific communities and became part of routine neonatal screening programs across the country. In fact, PKU was the first genetic disease for which newborn screening was developed. Newborn PKU screening is required by law in nearly all States.

The gene responsible for the major form of PKU was found in 1986, and since then more than 100 different mutations in the gene have been identified. Because DNA analysis of the PKU gene cannot always be correlated with disease severity, analysis of enzyme function and measurement of phenylalanine metabolites are more reliable indicators of clinical severity.

In the nearly 40 years since the PKU screening test was first used, a significant amount of data has been collected to establish its analytical and clinical validity and clinical utility. The test's clinical utility is especially significant because the most serious consequence of untreated PKU—mental retardation—can be prevented through a phenylalanine-restricted diet.

Carrier Screening. Cystic fibrosis (CF), which was first described in the 1930s, primarily affects the lungs and pancreas and often results in the onset of chronic lung disease. Recurrent infections and deficiencies of pancreatic enzymes can prevent normal digestive function. The median survival of individuals with CF has increased from 18 years in 1976 to 30 years in 1995, thanks to aggressive management of disease complications. CF is most common in people of northern and central European origin, with an incidence of 1 in 2,000, but it is much less common in other populations.

The CF gene was identified in 1989. Seventy percent of affected individuals carry the same mutation in the CF gene, and about 30 other mutations account for another 20 percent of CF cases. The remaining 10 percent have been found to have one of at least 800 additional mutations, and new mutations are still being identified. More than 85 percent of individuals with CF are born to parents who have no family histories of the disorder.

Results from a CF carrier test can only reduce—not eliminate—the risk that one may be a carrier, because it is not practical to test for all of the possible rare mutations. Carrier screening is recommended for those individuals with family histories of CF or for those who have a relative identified as a CF carrier. An NIH consensus development conference in 1997 concluded that carrier screening should be offered to all pregnant women and couples contemplating pregnancy, but this recommendation is in the early stages of implementation. Further research is needed to correlate the many different gene mutations with disease severity, population differences, and penetrance. Information from these studies may aid in an assessment of the clinical validity and clinical utility of broader based carrier screening.

Diagnostic/Presymptomatic Testing. Testing for myotonic dystrophy can be both diagnostic and presymptomatic. First described in 1908, myotonic dystrophy is an autosomal dominant, multisystem disorder mainly involving the heart, smooth and skeletal muscle, central nervous system, and eyes. The incidence of myotonic dystrophy is 1 in 8,000. It is characterized by a symptom known as myotonia-delayed muscular relaxation or stiffness and is extremely variable in severity both within and between families. The disease has been shown to have an earlier onset and increasingly severe clinical features as it is passed from one generation to the next.

The gene for myotonic dystrophy was identified in 1985. The mutation is located at one end of the gene, where a series of duplicate DNA sequences called repeats is found. In the normal gene, the number of repeats is fewer than 50. Carriers of the myotonic dystrophy gene have 50 to 80 repeats; affected adults have between 100 to 500 repeats. Several studies have found a correlation between a higher number of repeats and earlier age of onset and disease severity.

Molecular testing for diagnostic and presymptomatic purposes has been used for myotonic dystrophy since 1990, and DNA testing is now an acceptable form of diagnosis for this disease. More than 1,000 individuals have been studied through DNA analysis, and thus far, no mutation other than the increased number of repeat sequences has been found. Data on the analytical validity and clinical validity of this test are

fairly complete, but unfortunately, no specific therapy is available that will slow or significantly modify the progressive muscular changes that occur in individuals with myotonic dystrophy. Although the test is able to provide a definitive diagnosis and is considered useful for some individuals, the clinical utility of the test is less clear-cut because of the lack of effective treatment. Scientists are hopeful that further research on the function of the myotonic dystrophy gene may explain the underlying causes of the disease and lead to the development of new therapies.

Diagnostic Testing (with effective treatment). Genetic testing for hereditary hemochromatosis (HH) is currently conducted for diagnostic purposes. Studies are underway to determine whether the genetic test should be used for predictive purposes in the general population. HH was first described in 1889. It is an autosomal recessive disease that results in increased accumulation of iron in the body. When the body's storage capacity for iron is surpassed, the iron is deposited in the tissues of multiple organs, causing tissue damage. This iron overload can cause cirrhosis of the liver, diabetes, fatigue, and heart disease, among other conditions, and persons with HH are more likely to die from liver failure or primary liver cancer. However, HH is one of the few genetic diseases for which an effective and relatively simple therapy exists if the disease is diagnosed before tissue damage has occurred. The therapy involves removing excess iron by periodic phlebotomy, or bloodletting.

In 1972, a simple biochemical test was developed to measure iron levels in the blood. The accuracy of the test was evaluated through several investigational studies. It is currently the most common screening strategy for the disease. The incidence of HH is estimated to be about 3 in 1,000 in people of northern European descent, an estimate that is based on screening trials that used biochemical measures of iron overload to identify affected persons. The proportion of people with positive test results who progress to symptomatic disease or life-threatening complications is unknown, however, and information on the incidence of HH in other populations is less complete.

In 1996, more than 100 years after HH was first described, the gene responsible for HH was identified. Based on research studies of HH affected individuals, one specific mutation in the gene has been found to be responsible for 85 percent of HH cases, and a second mutation is responsible for a much smaller proportion of cases. More than a dozen different genetic testing methods are now available for the detection of the two described mutations. Genetic testing for HH has been used to identify presymptomatic persons with a family history, and it may eventually replace liver biopsy as the definitive test for HH because it is safer and noninvasive. Broad-based population screening by DNA analysis has not been implemented for HH because of the uncertain link between positive test results and severity of disease, the environmental and other genetic factors that may be involved in the disease process, and the possibility that other mutations may exist that have not yet been identified. Studies are underway to address these knowledge gaps and to assess the clinical validity of the DNA based test.

Diagnostic/Predictive Testing (without effective treatment). Alzheimer disease (AD), which was first described in the early 1900s, is a progressive disease that causes impairment in multiple brain functions, including memory, language, orientation, and judgment. The only definitive diagnosis for AD is the examination of brain tissue after death. At the present time, a checklist of clinical symptoms is used to diagnose AD and to rule out other possible disorders. Thus, a definitive diagnostic test for AD would be an important medical advance. Three genes have recently been associated with AD, although inherited cases of AD make up only a small proportion (less than two to five percent) of AD sufferers. Diagnostic and presymptomatic testing based on DNA analysis is recommended only for the small number of families that have a dominant pattern of inheritance of AD in multiple generations. A fourth gene, known as APOE, is the most recent gene found to be associated with AD. One variant of the gene, referred to as APOE4, is thought to be a risk factor for AD. Although the majority of AD cases occur at random, individuals with one or two copies of this gene are thought to be at greater risk for developing AD than the general population.

Not long after the discovery of this association, the test was commercialized as a tool to predict heightened risk for AD, although the clinical validity and clinical utility of the test had not yet been established. Subsequently, APOE4 predictive testing was withdrawn from the market, and the test is now available only to aid in the confirmation of a diagnosis of AD in a patient showing signs of dementia. APOE4 predictive DNA testing for AD is not recommended for several reasons. First, it is associated at a population level with an increased risk of AD, but its predictive value for individuals is limited because many people with one or two copies of APOE4 will never develop AD, and conversely, many people with AD do not carry the gene variant. In addition, science's understanding of other risk factors that may play a role in the development of the disease in people who carry APOE4 is limited. Finally, the social and psychological burdens of predictive AD testing are not understood fully, and treatment and preventive strategies are lacking. More research into the genetic basis of AD will be necessary before predictive genetic testing of AD in the general population would be appropriate.

The ongoing commercial availability of this test as a tool in diagnosing AD complicates oversight issues, because without appropriate oversight, the APOE4 test could be used for predictive purposes, even though this use is not recommended. In addition, a positive result from APOE4 testing in an individual suspected of having AD automatically provides information to relatives about their probability of developing the disease, information that could be misused. As this example shows, the boundary between predictive and diagnostic uses of tests often is not distinct.

Presymptomatic/Predictive Testing. Breast cancer is an example of a disease in which genetic testing is used to predict disease in individuals with a family history of the disease. According to recent estimates, breast cancer is the second leading cause of cancer death in women in the United States. One out of every eight American women is at risk for developing breast cancer during her lifetime. There are a number of treatment options for breast cancer, including radiation, lumpectomy or mastectomy, and multiple drug treatments for both first diagnosis and metastatic disease. However, there is no guaranteed cure, and, once diagnosed, women never know whether they will be able to overcome the disease. Women with a strong family history of breast cancer, which may suggest the presence of a genetic factor, are at greater risk, although only 5 to 10 percent of breast cancer cases are believed to be related to genetic predisposition.

Because of the strong family history documented in some women who develop breast cancer, scientists began an intensive search for the gene that contributes to the development of this disease. DNA from women with familial breast cancer was analyzed, and in 1990, a region on chromosome 17 was found to be linked to increased risk for

the development of breast and ovarian cancer. In 1994, the BRCA1 gene was identified as a cancer-susceptibility gene. A second gene, BRCA2, was later discovered. Mutations in these two genes account for a significant portion of inherited cases of breast and ovarian cancer.

Development of commercial tests for these genes quickly followed. However, difficulties in assessing the analytical and clinical validity of BRCA1/2 test results have been demonstrated in some studies. Hundreds of mutations have been detected in the two BRCA genes, and different mutations in these genes may have different risks for breast cancer and ovarian cancer, or possibly different affects of tumor progression or severity. This suggests that further research is necessary to clarify the relationship between gene mutations in BRCA1/2 and the risk of developing breast and/or ovarian cancer. Studies have shown that the same mutations in different families have resulted in different disease outcomes, and environmental and other modifying factors also may determine how a particular mutation behaves, further contributing to the difficulty in interpreting BRCA 1/2 test results.

The complexities associated with genetic testing of BRCA1/2 raise further concerns, because some of the options a woman may choose if she tests positive, such as the surgical removal of breasts or ovaries, are irreversible. Further research on different populations and on women with no family history of breast cancer are necessary to establish analytical and clinical validity for BRCA1/2 testing in the general population. Such research should also increase understanding of the risks and benefits of testing for these groups, which may be different for women with no family history of the disease.

Part III: Current Oversight of Genetic Tests

In considering whether additional oversight measures for genetic tests are needed, it is important to understand the provisions for oversight that already are in place. Currently, genetic and non-genetic tests receive the same level of oversight from governmental agencies. Genetic tests are regulated at the Federal level through three mechanisms: (1) The Clinical Laboratory Improvement Amendments (CLIA); (2) the Federal Food, Drug, and Cosmetic Act; and (3) during investigational phases, regulations for the Protection of Human Subjects (45 CFR 46, 21 CFR 50, and 21 CFR 56). In addition to the Federal role, oversight of genetic tests is provided by States and private sector organizations.

This section summarizes the roles of five DHHS organizations in providing oversight of genetic tests: the Centers for Disease Control and Prevention (CDC), Food and Drug Administration (FDA), Health Care Financing Administration (HCFA), Office for Protection from Research Risks (OPRR), and National Institutes of Health (NIH). Although it does not have a regulatory function, the NIH supports research activities that generate knowledge about genetics and genetic testing. The roles of the States and the private sector in oversight also are described.

The Roles of CDC and HCFA

All laboratory tests performed for the purpose of providing information for the health of an individual must be conducted in laboratories certified under CLIA. Tests are regulated according to their level of complexity: waived, moderate, and high complexity. The regulatory requirements applied to these laboratories increase in stringency with the complexity of the tests performed. Under CLIA, HCFA's Division of Laboratories and Acute Care in partnership with CDC's Division of Laboratory Systems develops standards for laboratory certification. In addition, the CDC conducts studies and convenes conferences to help determine when changes in regulatory requirements are needed. The advice of the Clinical Laboratory Improvement Advisory Committee (CLIAC) may also be sought regarding these matters.

The CLIA program provides oversight of laboratories through on-site inspections conducted every two years by HCFA using its own scientific surveyors or employing surveyors of deemed organizations or State-operated CLIA programs that have been approved for this purpose. The oversight provided includes a comprehensive evaluation of the laboratory's operating environment, personnel, proficiency testing, quality control, and quality assurance. The laboratory director, who must be certified, plays a critical role in assuring the safe and appropriate use of laboratory tests. Laboratory directors are required to take specific actions to establish a comprehensive quality assurance program, which ensures that the continued performance of all steps in the testing process is accurate. Although laboratories under CLIA are responsible for all aspects of the testing process (from specimen collection through specimen analysis and reporting of the results), to date, CLIA oversight has emphasized intra-laboratory processes as opposed to the clinical uses of test results. CLIA has not specifically addressed other aspects of oversight that are critical to the appropriate use of a genetic test, including the clinical validity and clinical utility of a given test. Also unaddressed to date are other important issues such as informed consent and genetic counseling. (See Part IV for a discussion of steps being taken by CDC and HCFA to strengthen CLIA regulations for genetic testing.)

The Role of FDA

All laboratory tests and their components are subject to FDA oversight under the Federal Food, Drug, and Cosmetic Act. Under this law, laboratory tests are considered to be diagnostic devices, and tests that are packaged and sold as kits to multiple laboratories require premarket approval or clearance by the FDA. This premarket review involves an analysis of the device's accuracy as well as its analytical sensitivity and specificity. Premarket review is performed based on data submitted by sponsors to scientific reviewers in the Division of Clinical Laboratory Devices in the FDA's Office of Device Evaluation. In addition, for devices in which the link between clinical performance and analytical performance has not been well established, the FDA requires that additional analyses be conducted to determine the test's clinical characteristics, or its clinical sensitivity and specificity. In some cases, the FDA requires that the predictive value of the test be analyzed for positive and negative results.

The majority of new genetic tests are being developed by laboratories for their own use. These are referred to as in-house tests or "home brews." The FDA has stated that it has authority, by law, to regulate home brew laboratory tests, but the agency has elected, as a matter of enforcement discretion, not to exercise that authority. However, the FDA has taken steps to establish a measure of regulation of home brew tests by instituting controls over the active ingredients (analyte-specific reagents) used by laboratories to perform genetic tests. This regulation subjects reagent manufacturers to certain general controls, such as good manufacturing practices. However, with few exceptions, the current regulatory process does not require a premarket review of the reagents. (The exceptions involve certain reagents that are used to ensure the safety of the blood supply and to test for high-risk public health problems such as HIV and tuberculosis.) The regulation restricts the sale of reagents to laboratories capable of performing high-complexity tests and requires that certain information

accompany both the reagents and the test results. The labels for the reagents must, among other things, state that "analytical and performance characteristics are not established." Also, the test results must identify the laboratory that developed the test and its performance characteristics and must include a statement that the test "has not been cleared or approved by the U.S. FDA." In addition, the regulation prohibits direct marketing of home brew tests to consumers.

The Role of Human Subjects Regulations

Additional oversight is provided during the research phase of genetic testing if the research involves human subjects or identifiable samples of their DNA. Regulations governing the protection of human research subjects are administered by the OPRR and FDA. OPRR oversees the protection of human research subjects in DHHS-funded research. The FDA oversees the protection of human research subjects in trials of investigational (unapproved) devices, drugs, or biologics being developed for eventual commercial use. Fundamental requirements of these regulations are that experimental protocols involving human subjects must be reviewed by an organization's Institutional Review Board (IRB) to assure the safety of the subjects and that risks do not outweigh potential benefits. The regulations apply if the trial is funded in whole or in part by a DHHS agency or if the trial is conducted with the intent to develop a test for commercial use. However, FDA regulations do not apply to laboratories developing home-brew genetic tests, because at present these tests are not subject to the FDA's enforcement authority. OPRR regulations would apply if the laboratory was DHHS-funded or was carrying out the research at an institution that receives DHHS funding. In a 1995 survey of biotechnology companies, the Task Force on Genetic Testing found that 46 percent of respondents did not routinely submit protocols to an IRB for any aspect of genetic test development.

The Role of NIH

The mission of NIH is to support and conduct medical research to improve health. This research encompasses basic, clinical, behavioral, population-based, and health services research. In addition to funding a substantial amount of genetics research, including the Human Genome Project, and assuring that the research is conducted in accordance with human subjects regulations and other pertinent guidelines, NIH supports a number of other programs that have an important role in disseminating knowledge and technology to the public and private sectors. These activities help promote the appropriate integration and application of scientific knowledge into clinical and public health practice. The following are examples of research, dissemination, and integration activities supported wholly or in part by NIH that might specifically contribute to a better understanding of the validity and utility of genetic tests.

- The Ethical, Legal, Social Issues (ELSI) Program, a major program established as an integral part of the Human Genome Project, supports research on the ethical, legal, and social implications of human genetics research.
- A five-year epidemiologic study of iron overload and hereditary hemochromatosis is beginning to gather data on the prevalence, genetic and environmental determinants, and potential clinical, personal, and societal impact of the disorder. The knowledge gained from this study will be used to determine the feasibility, benefits, and risks of a broad-based screening program.
- The Cancer Genetics Network, a consortium of academic cancer centers around the country, serves as a national resource to support multi-center investigations into the genetic basis of cancer susceptibility, to integrate new research data into medical practice, and to identify psychological, ethical, legal, and public health issues related to cancer genetics.
- GeneTests, a directory of clinical laboratories providing testing for genetic disorders, disseminates information about diseases and diagnostic and treatment options to health care providers and the public.
- The National Coalition for Health Professional Education in Genetics promotes genetics education and information dissemination to health professionals.

NIH also produces consensus statements and technology assessment statements on issues important to health care providers, patients, and the general public. Topics related to genetic testing have included newborn screening for sickle cell disease, genetic testing for cystic fibrosis, and screening for and management of PKU.

The Role of the States

State health agencies, particularly state public health laboratories, have an oversight role in genetic testing, including the licensure of personnel and facilities that perform genetic tests. State public health laboratories and State-operated CLIA programs, which have been deemed equivalent to the Federal CLIA program, are responsible for quality assurance activities. A few States, such as New York, have promulgated regulations that go beyond the requirements of CLIA. States also administer newborn screening programs and provide other genetic services through maternal and child health programs.

The Role of the Private Sector

The private sector provides oversight in partnership with HCFA and the CDC by serving as agents for the Government in accreditation activities. The private sector also develops laboratory and clinical guidelines and standards. A number of organizations are involved in helping to assure the quality of laboratory practices and in developing clinical practice guidelines to ensure the appropriate use of genetic tests. These organizations include the College of American Pathology (CAP), which develops standards for its membership and establishes and operates proficiency testing programs; the NCCLS (formerly called the National Committee on Clinical Laboratory Standards), which develops consensus recommendations for the standardization of test methodologies; and, the American College of Medical Genetics (ACMG), which develops guidelines for the use of particular tests and test methodologies and works with CAP to provide proficiency tests for certain genetic tests. Other organizations, such as the American Academy of Pediatrics, American College of Obstetrics and Gynecology, American Society of Human Genetics, and National Society of Genetic Counselors, are also involved in the development of guidelines and recommendations regarding the appropriate use of genetic tests.

The Roles Combined

It is likely that no single agency or organization will be able to address all the issues raised by genetic tests. Instead, the combined expertise of all entities may be needed.

Part IV: Recommendations of the NIH–DOE Task Force on Genetic Testing

The Task Force on Genetic Testing made a number of recommendations related to the oversight of genetic tests. The Task Force identified the type of data needed in order to assess the validity and utility of genetic tests, methods of data collection, preliminary criteria for tests that require stringent scrutiny, the need for external review of genetic tests, steps for enhancing

laboratory quality assurance, and special concerns related to rare diseases. These recommendations are summarized below, and the full report of the Task Force is available at *www.nhgri.nih.gov/ELSI/TFGT__final/*. The actions taken by the Federal agencies in response to the Task Force recommendations are also outlined.

Data needed for assessing tests. The Task Force recommended that data regarding analytical and clinical validity and clinical utility should be gathered to determine when a test is ready for clinical application and that validation should occur for each intended use of a test.

Collection of data. The Task Force recommended that NIH and the CDC support consortia and other collaborative efforts to facilitate data collection on test safety and effectiveness. It recommended that the CDC play a coordinating role in data gathering and serve as a repository for data submitted by genetic test developers.

Tests requiring stringent scrutiny. The Task Force recommended that certain kinds of genetic tests might require a higher level of scrutiny, and it suggested some criteria for determining which kinds of tests these might be. The criteria included whether

- The tests are used for predicting future disease in healthy or apparently healthy people;
- The tests cannot be independently confirmed;
- The tests have low sensitivity and low positive predictive value;
- The tests are for conditions for which an intervention is not available or has not been proven effective in those with positive test results;
- The tests are for disorders of high prevalence;
- The tests are for screening; and
- The tests are likely to be used selectively in ethnocultural groups with higher incidence or prevalence of a disorder.

Review of genetic tests. The Task Force recommended that test developers submit their clinical validity and utility data to independent internal and external reviewers and to interested professional organizations. It said that the reviews should ensure that the data are interpreted correctly, that test limitations are described, and that the populations for which the test may or may not be appropriate are defined.

Enhancing laboratory quality assurance. The Task Force recommended that CLIA regulations be augmented to strengthen clinical laboratory practices for genetic tests by requiring specific provisions for quality control, personnel qualifications and responsibilities, patient test management, proficiency testing, quality assurance, confidentiality, and informed consent. The Task Force recommended that clinical laboratories should not offer a genetic test unless its clinical validity has been established or data on its clinical validity are being collected either under an IRB-approved protocol or a conditional premarket approval agreement from the FDA. It also recommended that clinical laboratories pilot a test in order to verify that all steps in the testing process are operating appropriately.

Ensuring continuity and quality of tests for rare diseases. The Task Force pointed out that although the vast majority of single-gene diseases are rare, a total of 10 to 20 million Americans are afflicted with rare diseases. The Task Force recommended that laboratories providing genetic testing services for rare diseases should be CLIA-certified, subject to the same internal and external reviews as other clinical laboratories, and required to validate tests used in clinical practice. It further suggested that, because of difficulties in obtaining sufficient data on test validity, consideration should be given to developing less stringent regulations—without sacrificing quality—for genetic testing of rare diseases. The Task Force highlighted the important role of the NIH Office of Rare Diseases in disseminating information about the availability of safe and effective tests for rare diseases.

Progress Since Publication of Task Force Report

Since receiving the final report of the Task Force on Genetic Testing, DHHS agencies have acted on several of the Task Force recommendations that relate to the oversight of genetic tests. The FDA promulgated the regulation described in Part III for components of tests, thereby introducing a degree of FDA oversight of commercial, laboratory-based testing services. The FDA also has established an advisory panel on genetics to provide expertise needed for the review of genetic test kits.

HCFA and CDC have taken steps to develop recommendations for more specific requirements for the performance of genetic tests under CLIA. After careful review of existing requirements, CLIAC recommended changes to ensure that CLIA specifically addresses genetic testing. The CLIAC recommendations include provisions for the pre-and post-analytical phases of the testing process. The pre-analytical provisions include attention to the need for informed consent prior to collecting the sample. The informed consent process helps individuals understand the risks and benefits of a specific test so that they can make informed decisions regarding genetic testing. Clinical information, including ethnic background, when appropriate, would need to be submitted to the laboratory performing the test in order to enhance the accuracy of the interpretation of results. This is because although a given test may be likely to predict disease in some populations, it may produce unacceptable false positive results in another ethnic group. To ensure accuracy, samples would have to be transported to the testing laboratory in a manner that would preserve the integrity of the DNA, RNA, protein, or metabolite to be studied. For the post-analytical phase, CLIAC recommended additional requirements for assuring the confidentiality of test results as they are returned to the provider. The security of test information is essential to protecting the privacy of test results, especially when a number of locations require access to the information or results are communicated using computers. To avoid over- or under-interpreting the meaning of test results, CLIAC recommended that they be described clearly, including detailed information about the methods used and the specific factors tested. Counseling must be readily available to help individuals understand the meaning of the specific test that was performed and the significance of the findings to other family members. These and other post-analytical factors require thoughtful design and implementation in order to ensure that the performance of the genetic test maximizes benefits to individuals and families and minimizes socioeconomic risks. The CLIAC recommendations will be published in the **Federal Register** for public comment. Comments will be reviewed and carefully considered before final changes are made to CLIA.

CDC has established the Human Genome Epidemiology Network to advance the collection, analysis, dissemination, and use of peer-reviewed epidemiologic information on human genes. The Network promotes the use of this knowledge base for making decisions involving the use of genetic tests and services for disease prevention and health promotion by health care providers, researchers, members of industry and government, and the public.

CDC is leading an interagency effort to explore how voluntary, public-private partnerships might help encourage and facilitate the gathering, review and

dissemination of data on the clinical validity of genetic tests. Such data collection through a consortium approach is important for several reasons. In addition to the increasing number of predictive tests for common chronic diseases and potential for commercialization and premature use of genetic tests, there is a need for making consistent information available to providers, consumers, and policymakers. Also, the evaluation of tests may require longitudinal clinical and epidemiologic data, data that are generated from both public and private sources. The goals of the public/private partnership include identifying data elements needed for the evaluation of genetic tests, exploring a framework for data collection and dissemination, and facilitating the review of data for a smoother transition from gene discovery to clinical and public health. Two pilot data collection efforts for cystic fibrosis and hereditary hemochromatosis are in the preliminary stages.

The CDC, NIH, the Health Resources and Services Administration (HRSA), and the Agency for Health Care Policy and Research (AHCPR) are beginning to collaborate more closely to promote and support the development of genetic knowledge and technology and to ensure that this knowledge and technology is used appropriately to improve the health and well being of the Nation. The goal of this collaboration is to enhance agency programs involving technical assistance, professional and public education, data collection and surveillance, applied genetic research and assessment, policy development, and quality assurance.

Part V: Critical Issues To Be Addressed

SACGT has been asked to assess, in consultation with the public, whether current programs for assuring the accuracy and effectiveness of genetic tests are satisfactory or whether other oversight measures are needed for some or possibly all genetic tests. This assessment requires consideration of the potential benefits and risks (including socioeconomic, psychological, and medical harms) to individuals, families, and society, and, if necessary, the development of a method to categorize genetic tests according to these benefits and risks. Considering the benefits and risks of each genetic test is critical in determining its appropriate use in clinical and public health practice. If, after public consultation and analysis, SACGT finds that other oversight measures are warranted, it has been asked to recommend options for such oversight. The advantages and disadvantages of each option must be considered carefully before a final determination is made.

SACGT has been asked to address these five specific issues.

Issue 1: What criteria should be used to assess the benefits and risks of genetic tests?

Issue 2: How can the criteria for assessing the benefits and risks of genetic tests be used to differentiate categories of tests? What are the categories and what kind of mechanism could be used to assign tests to the different categories?

Issue 3: What process should be used to collect, evaluate, and disseminate data on single tests or groups of tests in each category?

Issue 4: What are the options for oversight of genetic tests and the advantages and disadvantages of each option?

Issue 5: What is an appropriate level of oversight for each category of genetic test?

These five issues are discussed in more detail below. This discussion is provided in order to foster public discussion and deliberation. Following the discussion of each major issue, SACGT presents a number of related questions. SACGT encourages public comment on all or any one of the major issues and approaches and on the related questions. SACGT presents a sixth set of other related questions relevant to genetic testing and encourages public input on these as well.

Issue 1: What Criteria Should Be Used To Assess the Benefits and Risks of Genetic Tests?

Assessing the benefits and risks of genetic tests is a process that occurs in stages. Before a test is used in clinical or public health practice, a determination must be made regarding the test's effectiveness in the laboratory—that is, whether a test is analytically valid. The degree of complexity of the test is a particularly important factor in assessing analytical validity. The second step in assessing the benefits and risks of genetic tests is to evaluate how well tests perform in the clinical environment, which is the principal focus of discussion for this issue.

In considering this issue, SACGT identified three primary criteria that could be used to assess the benefits and risks of a genetic test. One criterion is clinical validity, which refers to the accuracy of the test in diagnosing or predicting risk for a health condition. Clinical validity is measured by the sensitivity, specificity, and predictive value of the test. The second criterion is clinical utility, which involves identifying the outcomes associated with positive and negative test results. Because clinical validity and clinical utility of a genetic test may vary depending upon the health condition and the population to be tested, these criteria must be assessed on an individual basis for each test. The third criterion relates to the social context within which genetic testing is performed.

Factors To Be Considered in Assessing Clinical Validity

Because clinical validity considers many aspects of genetics that make genetic testing complex, it is a measure that is essential to the assessment of the benefits and risks of genetic tests. A test's clinical validity is influenced by a number of factors beyond the laboratory, including the purpose of the test, the prevalence of the disease or condition tested for, and the adequacy of relevant information.

Purpose of test. Genetic tests have a number of purposes, and some are used for more than one purpose. The acceptable level of a predictive value of a genetic test may vary depending on the purpose for which the test is used (for example, for diagnosing or predicting a future health risk). In addition, a higher predictive value may be required of a stand-alone test than of a test that is used to confirm other laboratory or clinical findings.

Prevalence. Clinical validity, particularly predictive value, is influenced by the prevalence of the condition in the population. Assessing clinical validity may be particularly challenging in the case of tests for rare diseases. This is because gathering statistically significant data may be difficult, as relatively few people have these diseases. Thus, prevalence may be a factor in determining how much data on test performance should be available before a test is offered in patient care.

Adequacy of information. For many genetic tests, particularly those used for predicting risk, knowledge of the test's clinical validity may be incomplete for many years after the test is developed. When information that may affect clinical validity is incomplete, the potential harms of the test may increase and must be considered more carefully.

Factors To Be Considered in Assessing Clinical Utility

Clinical utility is the second criterion that is critical to assessing the benefits and risks of genetic tests. Clinical utility takes into account the impact and usefulness of the test results to the individual, the family, and society. The benefits and risks to be considered include the social and economic consequences of testing as well as the implications for health outcomes. Decisions about the use of a genetic test

should be based upon a consideration of the risks of any follow-up tests required to confirm an initial positive test, of the degree of certainty with which a diagnosis can be made, and of the potential for adverse socioeconomic effects versus beneficial treatment if a diagnosis is made. Factors affecting clinical utility include the potential benefits and risks of test results, the nature of the health condition and its potential outcomes, the purpose of the test, uncertainties of genetic test results, the provision of information concerning other family members, and the quality of evidence for assessing outcomes.

Potential benefits and risks of genetic test results. There are a number of potential benefits and risks of genetic testing. The benefits and risks of true positive and negative test results must be considered, as must the risks of false positive and negative results (see list of benefits and risks below). A true positive result means that the test result is positive, and the condition or predisposition is actually present. A true negative result means that the test result is negative, and the condition or predisposition is not present. False results can also be both positive and negative. A false positive occurs when the test indicates a positive result when in fact the condition or predisposition is not present. A false negative occurs when the test indicates a negative result but the condition or predisposition is present.

Potential benefits of a positive test result:

- May provide knowledge of diagnosis or risk status.
- May allow preventive steps or treatment interventions to be taken.
- May identify information about risk status in other family members (also a potential harm).

Potential benefits of a negative test result:

- May rule out specific genetic diagnosis or risk.

May eliminate the need for unnecessary screening or treatment.

Potential risks of a positive test result:

- May expose individuals to unproven treatments.
- May cause social, psychological and economic harms, including stigmatization and potential exclusion from health insurance and employment.
- May identify information about risk status in other family members (also a potential benefit).
- For false positive test results, individuals may be exposed to unnecessary screening and treatment.

Potential risks of a negative test result:

- May give false reassurance regarding risk due to nongenetic causes. May have psychological effects, such as "survivor guilt."
- For false negative test results, may delay diagnosis, screening, and treatment.
- *Nature of health condition and health outcomes.* The nature (severity, degree of associated disability, or potentially stigmatizing characteristics) of the health condition being tested for is an important factor in assessing clinical utility. For example, a genetic test for periodontal disease may raise less concern than a test for cancer, and genetic tests developed for conditions such as alcoholism or mental illness might cause even greater concern. Health outcomes, as measured by such indicators as morbidity and mortality, are important in assessing clinical utility of genetic testing, and they can be affected by both the nature of the health condition as well as the availability, nature, and efficacy of treatment. As uncertainties increase about the health outcomes associated with a test result, so do the potential harms of the test. This is an important consideration in genetic testing for common health problems such as cancer and cardiovascular disease, since health outcomes typically are the result of the combined effects of genetic, environmental, and behavioral risk factors.

Purpose of the genetic test. The purpose of the test is an important factor in assessing clinical utility. Genetic tests used to predict a disease or condition will have different risks and uncertainties associated with it as compared to a diagnostic test. For example, the use of a test to aid in the diagnosis of cystic fibrosis in a person who has symptoms has different implications than the use of a test to determine whether a woman with no symptoms has a risk for breast and ovarian cancer because she possesses a BRCA1 or BRCA2 mutation. Tests used for diagnostic purposes will most likely be conducted as part of a clinical evaluation to diagnose a specific disease or will be used for clearly inherited diseases or conditions.

Genetic tests used for predictive purposes in healthy persons are associated with greater uncertainties and risks. Currently, tests used for predictive purposes will give an estimate of the risk a person may have of developing a particular disease or condition. Due to incomplete knowledge, however, the risk assessment may be inaccurate because of other genetic and environmental factors that have not been accounted for or are not yet known. Predictive genetic tests may have profound effects on the lives of otherwise healthy individuals. Even though degree of risk is uncertain, a positive test result for breast cancer may affect treatment, reproductive, and lifestyle plans. A negative test result for a BRCA1 mutation does not eliminate the risk of breast cancer, because BRCA1 mutations account for only a small percentage of breast cancer cases overall. A woman with a negative test result still carries, at minimum, the breast cancer risk of the average woman and she should still continue with preventive screening measures.

The use of a genetic test in population screening may raise greater concern than the use of the same test in an individual seeking information about his or her health. In population screening, a large number of healthy people may receive unexpected test results that may or may not provide definitive information. Decisions about whether to use genetic tests for screening should take into account the prevalence of the condition. The higher the prevalence of the genetic condition, the greater the number of people who will be subjected to false positive and false negative results. On the other hand, if treatment options are available, screening for highly prevalent diseases may have significant public health value.

Uncertainties of genetic test results. The assessment of a test's clinical utility is affected by the accuracy of test results. False negative results are more common in the early stages of the development of diagnostic tests, including genetic tests. Genetic tests in early development may identify only a portion of mutations associated with a given health outcome. If a woman is from a family in which multiple cases of early breast cancer have occurred, she is likely to be at risk for an inherited susceptibility to breast cancer even if genetic testing has failed to identify a specific cancer-associated mutation in her family.

Information about family members. Because genetic information may have implications for family members, the potential of the test to reveal information about family members is another factor to be considered in assessing a test's clinical utility. For example, DNA-based tests for cystic fibrosis, sickle cell anemia, or other conditions will identify carriers for the condition as well as those who are affected. If a woman with breast cancer tests positive for a BRCA1 mutation, her first-degree relatives are then known to have a 50 percent chance of carrying the same mutation. Some of these relatives may not wish to discover their risk, while others may wish to use the test

VOL 64 ISS 230 DEC 1 1999 UMI

results of their relatives to make a decision about their own genetic testing.

Quality of evidence for outcomes assessment. The quality of evidence for assessing outcomes of genetic test. results is a factor in the clinical utility of a genetic test. Often, evidence to assess relevant factors, especially those related to potential social or economic harms, is limited or lacking. In assessing potential risks under these circumstances, incomplete information and the potential for harms that have not yet been documented must be considered. Established methods for evaluating the quality of the evidence should be used to assess outcomes.

Factors To Be Considered in Assessing Social Issues

Important social considerations may heighten the risks of certain tests, even if they are accurate and clinically meaningful. Tests for certain health conditions may carry special risks because of the social implications of the health condition, *e.g.*, conditions associated with mental illness or dementia. Thus, the social context of a disease may be an important factor for an individual to consider prior to taking a genetic test. In addition to affecting the individual, these special risks may affect entire populations. In particular, special consideration should be given to genetic stigmatization and discrimination, genetic testing in specific U.S. populations, and the possible development and use of genetic tests for non-health related conditions.

Genetic stigmatization. Genetic test results can change how people are viewed by their family, friends, and society, and how they view themselves. People diagnosed with or at risk for genetic diseases or conditions may be affected by the way others begin to see and interact with them. Having or being at risk for a disease or condition that is viewed by society in a negative light can result in stigmatization, and emotional and psychological harms. In addition to changes in how they are seen by others, social influences can affect self-perception and have a profound impact on life decisions.

Genetic discrimination. Diagnostic or predictive genetic information about an individual may lead to discrimination in health insurance, life insurance, and education and employment. The potential for discrimination may be particularly acute for people with, or at risk for, diseases or conditions that are chronic, severely disabling, and lack effective or affordable treatments. Educational opportunities may be restricted, further limiting future life possibilities. Fears of genetic discrimination have made the establishment of Federal privacy and confidentiality protections a high priority for many.

As important as legal protections are, however, they cannot prevent all adverse consequences of genetic information. For example, the stigma associated with certain genetic diseases or conditions can affect personal choices, such as marriage and child bearing.

Special considerations for U.S. populations. Significant social concerns have grown out of the strong memories of the American eugenics movement and the painful history of programs that tested minority populations for conditions such as sickle cell disease. In some cases, these programs heightened discrimination against those tested. Given this history, tests developed for use in particular population groups, whose incidence of a condition may be higher, or in circumstances where the meaning of the test could be interpreted only within a certain population, may carry higher risks. This issue is of great concern in the United States because of the exceptional diversity of the population. Specific genetic diseases or conditions occur with different frequencies in different populations. As genetic testing becomes more common, the potential for stigmatization of groups increases. Educational programs, legal protections, and the involvement of ethnocultural group representatives in assessing the risks and benefits of genetic tests are needed to reduce the risk of stigmatization of groups.

In addition, social categories used to classify ethnocultural differences often do not accurately reflect actual genetic variation within a population. For example, since the categories "Hispanic" and "Asian" encompass populations from different parts of the world, genetic variations are likely to exist within these populations. Thus, care should be taken in determining the ethnocultural background of individuals in order to ensure accurate interpretation of genetic test results. A further note of caution is also necessary. In developing genetic tests, it will be important to assure their accuracy when used in different populations. In so doing, however, the erroneous assumption that there is a straightforward, one-to-one relationship between one's genes and one's ethnocultural identity may be inadvertently reinforced. This could result in stigmatization because even accurate tests could reinforce misguided cultural notions about genetic determinism.

Tests for conditions not commonly regarded as medical or health-related. In the future, it may be possible to develop genetic tests that could be used to identify predispositions to certain patterns of behavior, such as risk-taking, shyness, or other complex features of personality. Although the assumption that single genes, or even many genes, can predict complex human actions is simplistic, the possibility of such tests raises profound ethical questions and concerns because their potential psychological and socioeconomic harms are so significant and the potential misuse of such information is so great. The boundaries between "health-related" and "non-health related" are not clear cut, and they may shift over time. It will, therefore, be difficult to avoid harm from genetic tests simply by limiting their use to situations of diagnosing or predicting disease. For example, genetic tests might be used to predict susceptibility to conditions that are health-related but where a strong behavioral component exists, such as obesity, alcohol abuse, or nicotine addiction. Individuals identified as at risk for stigmatized conditions such as these may suffer special harms.

Questions Related to Issue 1:

1.1 What are the benefits/risks of having of a genetic test?

1.2 What are the major concerns regarding the different genetic tests that are currently available?

1.3 What expectations do individuals have about genetic tests, such as whether they have a high level of accuracy and can be used to help make health or important personal decisions?

1.4 In deciding whether to have a genetic test, does it matter whether a treatment exists for the condition or disease being tested for? Is the information provided by the test important or useful by itself?

1.5 Do concerns about the ability to keep genetic test results confidential influence an individual's decision to have a genetic test?

1.6 Are genetic tests different from other medical tests, such as blood tests for diabetes or cholesterol? Should genetic test results be treated more carefully with more confidentiality than other medical records?

Issue 2: How Can the Criteria for Assessing the Benefits and Risks of Genetic Tests Be Used To Differentiate Categories of Tests? What Are the Categories and What Kind of Mechanism Could Be Used To Assign Tests to the Different Categories?

In attempting to address this issue, SACGT considered whether the criteria

of clinical validity and clinical utility could be used to characterize the potential risks associated with a given test, which would allow tests to be grouped according to the risks that are associated with them. Using this information, tests might be organized into categories such as "high risk" and "low risk." Such a categorization would not be simple or straightforward, however, because it would depend upon a combination of factors, including test characteristics, availability of safe and effective treatments, and the social consequences of a diagnosis or identification of risk status. For example, a test of high predictive value that identifies a nonstigmatizing condition with a safe and effective treatment might fall into a low-risk category, while a test that has high predictive value and that identifies a genetic risk for a serious condition for which treatment is unproven might fall into a high-risk category.

As these general examples illustrate, categorizing tests will require the weighing of several different aspects of the test and of the disease that the test is used to diagnose or predict. Developing an appropriate mechanism for this process poses a challenge, and it is likely that such a mechanism will involve at least three steps. In the first step, data concerning the test would be collected perhaps using a standardized format to ensure that all of the required data are reported. In the second step, the data would be analyzed to determine risk category. One possible approach would be to initially sort tests into a readily identifiable low-risk category (possibly tests with well-defined characteristics that meet a previously defined low-risk threshold). For tests not falling within the low-risk category (possibly tests for rare diseases or complex, common diseases), a third step involving a more detailed evaluation of available data would be required to make a final determination of risk category.

Thus, determining the risk category of a test will involve evaluating the data available regarding the analytical and clinical validity of the test and the outcomes of positive and negative test results. This evaluation should consider socioeconomic factors, such as the potential for stigmatization and other social risks, including the likelihood that a test would be used in particular population groups. For tests that are determined to be high risk or potentially high risk, the analysis likely will require a diverse range of technical expertise and input.

Questions Related to Issue 2:

2.1 Do some genetic tests raise more ethical, legal, medical, and social concerns than others and should they be in a special category and require some special oversight? If so, what tests or types of tests would fall into such a category?

2.2 Are there some genetic tests that raise no special concerns and therefore need no special oversight? If so, what tests or types of tests would fall into this category?

Issue 3: What Process Should Be Used To Collect, Evaluate, and Disseminate Data on Single Tests or Groups of Tests in Each Category?

Currently, data about genetic tests are collected by a number of different organizations. Some of these data are publicly available; others are not. It appears that in the future, a laboratory that develops a particular test will need to continuously collect data regarding its analytical validity, and at a minimum, a summary of the results of the evaluation should become available as part of the information on analytical validity contained in the test labeling.

Data on clinical application of a test could be collected and evaluated by a number of sources, including professional organizations, individual laboratories, academic institutions, and/or governmental agencies. One option is to continue to rely on the current practice of allowing laboratories to base decisions on information they collect and analyze, including their own data or data they glean from other sources, such as research publications or consensus conferences. A second option is to make each laboratory that offers a test responsible for collecting and analyzing the information that is required to support its claims for the test according to national standards. A third choice would be for a Government agency, possibly the CDC, to coordinate the creation and collection of information on clinical applications of tests that detect particular mutations and perhaps to define appropriate claims for tests as well. (See Part IV for a discussion of CDC's current efforts in this area.) A fourth option, discussed as part of Issue 4, would be to form a consortium of government, professional associations, and industry that would create, collect, and analyze information about clinical applications. More than likely, data on any genetic test will be incomplete and must be collected on a continuous basis. If the data available at the time of the initial evaluation suggest benefit of the test in clinical practice, the test may be approved on the condition that data will continue to be collected and will be reviewed again at a future date.

Another approach to data collection on validity and utility of genetic tests could be modeled after tumor registries. Tumor registries document and store information about a patient's history, diagnostic findings, treatment, and outcome. Information within a tumor registry may be used to generate a variety of reports on topics such as patient quality of care and long-term results of specific treatments.

Regardless of the option chosen for data collection, once the data have been collected and evaluated, they must be disseminated to health care practitioners and the public. This must include not only data generated prior to offering the test for clinical use, but also data generated as part of any postmarket evaluation. One option is to require laboratories to release summaries of data on clinical application as part of the process of offering the test. Such summaries could be directed to health care professionals, to the general public, or to both. In addition, different methods of collection and distribution of information may be used for different tests. Guidelines or regulations might be required to make those distinctions. One method would be to rely upon publications and professional societies to inform readers and members, with the expectation that practitioners will inform the public over time. Alternatively, the Federal Government or a consortium could be responsible for ensuring that relevant data are available for both professional and public use.

Questions Related to Issue 3:

3.1 Given that collection of data is an ongoing process, what type of system or process should be established to collect, evaluate, and disseminate data about the analytical validity, clinical validity and clinical utility of genetic tests?

3.2 How can the system or process for data collection, evaluation, and dissemination be structured in such a way as to protect the privacy and confidentiality of the data that is collected?

Issue 4: What Are the Options for Oversight of Genetic Tests and the Advantages and Disadvantages of Each Option?

SACGT has been asked to focus on oversight of the accuracy and effectiveness of genetic tests—especially, the development, use, and marketing of genetic tests developed by clinical laboratories. SACGT recognizes that there are many areas beyond test development, use, and marketing that might have an equally important impact in assuring the safety and effectiveness of a genetic test. For example, the

training and education of health care providers who prescribe genetic tests and use their results for clinical decision making is a critical issue, in particular as it relates to their ability to stay abreast of new information on the uses, capabilities, and limitations of these tests. The effect that gene patenting is having on the cost, accessibility, and quality assurance of genetic tests is another critical issue, as is the potential for workplace and insurance discrimination that could result from genetic testing. Oversight of genetic tests that provide non-health related information is another area of inquiry. SAGCT will focus its attention on these other high priority oversight issues once it completes its current work.

Current Oversight of Genetic Tests

As a starting point, it is important to recognize that some oversight of the development, manufacturing, use, and marketing of genetic tests is already in place. Currently, genetic and nongenetic tests receive the same level of oversight from governmental agencies. These oversight provisions are discussed in Part III and reiterated here briefly. All laboratory tests, including genetic tests, performed for the purpose of providing information for the health of an individual must be conducted in laboratories certified under CLIA. The CLIA program provides oversight through inspections conducted by HCFA using its own scientific surveyors or surveyors of deemed organizations or State-operated CLIA programs that have been approved for this purpose. The oversight provided includes a comprehensive evaluation of the laboratory's operating environment, personnel, proficiency testing, quality control, and quality assurance. To date, CLIA oversight has emphasized intra-laboratory processes. As discussed in Part IV, HCFA and CDC have taken steps to develop recommendations for more specific requirements for the performance of genetic tests under CLIA.

Under the medical device regulations, the FDA requires that genetic tests packaged and sold as kits to laboratories require premarket approval or clearance by the FDA. The premarket review would evaluate the test's accuracy and analytical validity. For devices in which the link between clinical performance and analytical performance has not been well established, the FDA requires that additional analyses be conducted to determine the test's clinical characteristics, or its clinical sensitivity and specificity. In some cases, the FDA requires that the predictive value of the test be analyzed for positive and negative results. The FDA has not attempted to extend its authority to regulate home brew tests (tests developed by laboratories for their own use). All of the genetic tests described in Part II are home brew tests. FDA has implemented regulation of the active ingredients of genetic tests, or analyte-specific reagents (ASRs). Manufacturers of ASRs are required to comply with good manufacturing practices, restriction of sales to laboratories capable of performing complex tests, and requirements that certain information accompany both the reagents and the test results.

Additional oversight protections are provided by professional organizations and state health departments. Organizations such as CAP, ACMG, and NCCLS have developed guidelines and standards for the development and use of genetic tests. State health departments may require laboratory facilities and personnel that perform genetic tests be licensed.

Possible Areas of Oversight

In considering areas of oversight, SACGT has focused on several key issues. While these are not the only areas in which additional oversight might be considered, and public comment on other issues would be welcome, SACGT expects to consider at least the following issues.

Introducing Laboratory-Developed Tests into Clinical Practice. Analytical Validity. It seems clear that a genetic test should not be used in clinical practice (i.e., for other than research purposes) unless it has been shown to detect reliably the mutation that it is intended to detect. CLIA now requires a laboratory that offers a test to determine the analytical validity of the test before it is used in clinical practice. In the current system, the laboratory intending to offer a test decides when it has met CLIA's requirement, a judgment that may later be audited during a CLIA inspection. Most believe that the current system needs review. Some have suggested that voluntary or mandatory standards should be enhanced to assist laboratories in deciding when a test's analytical validity has been determined and is acceptable, or that laboratories should be required to obtain the concurrence of an independent third party before a test is offered for use in clinical practice.

Clinical Validity. Similar questions arise with respect to the appropriate level of knowledge about a test's ability to generate information about the presence, or possibility of future occurrence, of a disease. Determining a genetic test's clinical validity is a complex and usually long term process (often requiring decades of work). At the same time, many people want to see gene discoveries translated into practical use as soon as the discoveries are made, often before the clinical validity of the test is fully established. The use of the test is then refined as new information becomes available. No Federal standards guide laboratory decision making with respect to when enough is known about a genetic test for it to be used in clinical practice or the extent to which uncertainties about a test's characteristics must be disclosed.

Clinical Utility. Also important is the degree to which benefits are provided by positive and negative test results. Some have argued that genetic tests should not be available unless they can provide information useful in making health-related decisions and that consumers are likely to assume that a test would not be made available unless it has a health benefit. For example, a negative genetic test result may provide a useful basis of information for informed decision-making. Others have argued that access to information, even it if does not lead to an health-related intervention, is itself useful. There is currently no requirement that the clinical utility of a genetic test be assessed before it is used in clinical practice, and some observers have suggested that additional oversight is needed to ensure greater awareness of the utility of the test.

Changes in Test Methodology. When test manufacturing methods and materials change, either deliberately or inadvertently, the performance characteristics of a test can change as well, which can change the analytical validity, clinical validity, and clinical utility of the test. Some have suggested that stronger incentives should be created to re-qualify tests when methods and materials change.

Patient Safeguards. Informed consent in the research phase of development. In some cases, laboratories that are developing genetic tests for eventual use in clinical practice conduct studies using identifiable patient samples. Unless the study is conducted with Federal funding or is intended for submission to FDA, there is no Federal requirement that laboratories obtain informed consent from a patient participating in that study.

Informed consent for tests used in clinical practice. Even after a test has been accepted into clinical practice, some observers have suggested that due to the predictive power of genetic tests and the impact test results may have on the individual and their families, tests

should not be administered unless the individual has been fully informed of the test's risks and benefits and a written informed consent obtained. There is currently no requirement for such an informed consent.

Availability of genetic education and counseling. Current oversight does not specifically address whether genetic education and qualified counseling should be made available for all genetic tests. Genetic test results may be difficult to interpret and present in an understandable manner, raise important questions related to disclosure of test results to family members, and sometimes involve difficult treatment decisions. Because of these intricate issues, some have suggested that those who offer genetic tests should be encouraged or required to make genetic education or counseling available to individuals.

Post Market Data Collection. Many tests are put into clinical use before full information about their validity and utility has been obtained. Virtually everyone agrees that it is critical that data continue to be collected after such tests reach the market. Yet, no comprehensive method for data collection now exists. Many observers believe that ongoing mechanisms to collect data need to be put in place. A number of potential mechanisms to accomplish data collection are outlined in the discussion of Issue 3.

Information Disclosure and Marketing. Data disclosure. There is no current requirement that data about a test's analytical validity, clinical validity, or clinical utility, or lack thereof, be disclosed to health care providers or patients. Some observers believe that laboratories should be encouraged or required to make such information available and to ensure that the data is accurate and complete.

Promotion and marketing. Although the Federal Government requires that promotion and marketing of products and services (which sometimes takes the form of educational materials), be truthful and not deceptive, Federal agencies have taken little enforcement action against false or deceptive claims involving genetic tests. While some believe that false or deceptive claims are not currently a problem, others have suggested that promoting or advertising genetic tests, especially to patients/consumers, should be prohibited. Another suggestion is that promotion and advertising of genetic tests may be permitted, but emphasis should be placed on taking action against false or deceptive claims.

Possible Directions and Implications of Further Oversight

SACGT welcomes public input on whether further oversight measures are needed, and if so, how additional oversight might be addressed. If, from its deliberations and public consultation, SACGT determines that further oversight is needed, possible directions that could be taken include the strengthening and expansion of current CLIA or FDA regulations or voluntary standards and guidelines, the formation of interagency review boards, or the formation of a consortium of representatives from government, industry, and professional organizations.

In assessing whether further oversight is warranted, it is important to consider the implications that further oversight may have on the current system and all parties involved. Among other issues, any new proposals to provide additional oversight of this rapidly growing technology should take into consideration the trade-offs involved as well as the evolving nature of genetic research and technology.

Trade-offs. In considering whether additional oversight is warranted, the risks, benefits, and economic implications (both short and long term) associated with oversight must be considered. More stringent oversight, for example, may ensure greater certainty that a test has been shown to be accurate and useful, that patient safeguards are in place, and that health care dollars are not spent on tests of little value. On the other hand, additional oversight may delay the introduction of new tests (or improvements to existing tests) into clinical practice and increase the costs of test development, which may in turn discourage the development of new tests. The provision of any type of additional oversight is likely to have resource implications that may affect the costs of genetic tests and public access to them.

Evolving nature of genetic research and technology. New information on genetics and human diseases and conditions are published on an almost daily basis, and new technologies are emerging rapidly. Due to this pace of discovery and technological change, the assessment of the analytic validity, clinical validity, and clinical utility of a genetic test is likely to change in light of new findings. For example, data from population studies or the identification of additional genes or mutations will change and, in most cases, improve knowledge about a specific genetic disease or condition in a specific population. Observers have suggested that laboratories will need to be able to access and assimilate new information continuously in order to update the clinical validity and utility of their tests and that oversight methods will need to monitor, guide, and sample the flow of new information rather than take snapshots of what is known at a given moment in time. According to this view, health care providers and oversight groups will need to recognize and adapt their methods to the conditions created by continuous knowledge generation.

Questions Related to Issue 4:

4.1 Information about the accuracy, validity, and usefulness of genetic tests is being gathered through research studies. At what point should an experimental test be considered ready for general use? Is it important for a test to be immediately available even if its validity has not been fully established? Might the point at which a test is considered ready for general use be different for different types of genetic tests? Since data on the validity of tests for rare diseases are especially difficult to collect, should special considerations be given to rare disease testing to ensure access to these tests and, if so, what should the considerations be?

4.2 What level of confidence should individuals have, or might they want to have, in the information they receive about a genetic test? Would the level of confidence change depending on the type of disease (e.g., cancer versus gum disease) or the type of testing being done (e.g., predictive versus diagnostic testing)?

4.3 Is making information available to the consumer about a genetic test, such as information about its accuracy, predictive power, and available therapy, a sufficient form of oversight?

4.4 Would one form of oversight be to review or inspect promotional material directed to consumers (such as commercials, billboards, or Internet marketing) and health care providers (such as package inserts) to make sure that claims made are accurate? Is this sufficient oversight?

4.5 Should genetic education/counseling provided by an individual with special training always be available when genetic tests are offered? Should this apply for every genetic test or only for some kinds of genetic tests?

4.6 Certain trade-offs may be necessary in order to ensure that genetic tests are safe and effective. Are consumers willing to pay for the cost of additional oversight of genetic tests (in the form of higher prices, health insurance premiums, or taxes)? Are consumers willing to wait for the effectiveness of genetic tests to be

demonstrated before having access to a new genetic test?

Issue 5: What Is an Appropriate Level of Oversight for Each Category of Genetic Test?

Different levels of oversight may be appropriate for tests that present different or unknown levels of risk, have different purposes, and are at different stages of development. Until SACGT has had an opportunity to consider public comment, it is premature for SACGT to formulate or offer any views on whether additional oversight is needed, and if so, what form it should take. SACGT welcomes public comment on this subject.

Question Related to Issue 5:

5.1 How can oversight be made flexible enough to incorporate and respond to rapid advances in knowledge of genetics?

Issue 6: Are There Other Issues in Genetic Testing of Concern to the Public?

6.1 Is the public willing to share, for research purposes, genetic test results and individually identifiable information from their medical records in order to increase understanding of genetic tests? For example, tumors removed during surgery are often stored and used by researchers to increase understanding of cancer. Should samples from individuals with genetic disorders or conditions be managed in a manner similar to cancer specimens? Or does the public feel that this could cause confidentiality problems? If so, are there special informed consent procedures that should be used?

6.2 Research studies involving human subjects or identifiable human tissue samples that are funded by the Government or are subject to regulations of the FDA must be reviewed by an Institutional Review Board (IRB). (An IRB is a specially constituted review body established or designated by an organization to protect the welfare of human subjects recruited to participate in biomedical or behavioral research.) Some studies involving genetic tests do not fall into either of these categories and, therefore, are not required to be reviewed by an IRB. For example, a private laboratory developing a test for its own use would not be required to obtain IRB review. Should all experimental genetic tests be required to be reviewed by an IRB?

6.3 When some medical tests (e.g., routine blood counts) are performed, patients do not sign a written consent to have the test performed. Should health care providers be required to obtain written informed consent before proceeding with a genetic test? Should this apply to all tests or only certain tests? Should testing laboratories be required to obtain an assurance that informed consent has been obtained before providing test services?

6.4 Does the public support the option of being able to obtain a genetic test directly from a laboratory without having a referral from a health care provider? Why or why not?

6.5 Should any additional questions or issues be considered regarding genetic testing?

Part VI. Conclusion

SACGT was chartered to advise the DHHS on the medical, scientific, ethical, legal, and social issues raised by the development and use of genetic tests. At SACGT's first meeting in June 1999, the Assistant Secretary for Health and Surgeon General asked the Committee to assess, in consultation with the public, whether current programs for assuring the accuracy and effectiveness of genetic tests are satisfactory or whether other measures are needed. This assessment requires consideration of the potential benefits and risks (including socioeconomic, psychological, and medical harms) to individuals, families, and society, and, if necessary, the development of a method to categorize genetic tests according to these benefits and risks. Considering the benefits and risks of each genetic test is critical in determining its appropriate use in clinical and public health practice.

The question of whether more oversight of genetic tests is needed has significant medical, social, ethical, legal, economic, and public policy implications. The issues may affect those who undergo genetic testing, those who provide tests in health care practice, and those who work or invest in the development of such tests. SACGT is endeavoring to encourage broad public participation in the consideration of the issues. Such public involvement in this process will enhance SACGT's analysis of the issues and the advice it provides to DHHS. SACGT looks forward to receiving public comments and to being informed by the public's perspectives on oversight of genetic testing.

Comment Period and Submission of Comments

In order to be considered by SACGT, public comments need to be received by January 31, 2000. Comments can be submitted by mail or facsimile. Members of the public with Internet access can submit comments through email or participate in the SACGT website consultation.

Secretary's Advisory Committee on Genetic Testing, National Institutes of Health, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892, 301–496–9839 (facsimile), sc112c@nih.gov (email), http://www4.od.nih.gov/oba/sacgt.htm (website).

Dated: November 24, 1999.

Sarah Carr,

Executive Secretary, SACGT.

[FR Doc. 99–31226 Filed 11–30–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 91N–0101, 91N–0098, 91N–0103, and 91N–100H]

Food Labeling: Health Claims and Label Statements for Dietary Supplements; Strategy for Implementation of *Pearson* Court Decision

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is informing the public of its strategy to implement a recent court decision in *Pearson* v. *Shalala* (*Pearson*). The agency is taking this action to ensure that interested persons are aware of the steps it plans to follow to carry out the decision. FDA is also announcing how it plans to process petitions for dietary supplement health claims during the interim implementation period.

FOR FURTHER INFORMATION CONTACT: Marquita B. Steadman, Center for Food Safety and Applied Nutrition (HFS–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, 301–827–6733.

SUPPLEMENTARY INFORMATION:

I. Background

On January 15, 1999, the U.S. Court of Appeals for the D.C. Circuit issued its decision in *Pearson* v. *Shalala*, 164 F.3d 650 (D.C. Cir. 1999). In *Pearson*, the plaintiffs had challenged FDA's health claim regulations for dietary supplements and FDA's decision not to authorize health claims for four specific nutrient-disease relationships: Dietary fiber and cancer, antioxidant vitamins and cancer, omega-3 fatty acids and coronary heart disease, and the claim that 0.8 mg of folic acid in dietary supplement form is more effective in

reducing the risk of neural tube defects than a lower amount in conventional food form.

The court held in *Pearson* that, on the administrative record compiled in the challenged rulemakings, the first amendment does not permit FDA to reject health claims that the agency determines to be potentially misleading unless the agency also reasonably determines that no disclaimer would eliminate the potential deception. Accordingly, the court invalidated the regulations prohibiting the four health claims listed above and directed the agency to reconsider whether to authorize the claims. The court further held that the Administrative Procedure Act requires FDA to clarify the "significant scientific agreement" standard for authorizing health claims, either by issuing a regulatory definition of significant scientific agreement or by defining it on a case-by-case basis.

The Government filed a petition for rehearing en banc (reconsideration by the full court of appeals). The U.S. Court of Appeals for the D.C. Circuit denied the petition for rehearing on April 2, 1999.

After the petition for rehearing was denied, FDA's Center for Food Safety and Applied Nutrition updated its 1999 Program Priorities document to state that developing a strategy to implement the *Pearson* decision would be a high priority for calendar year 1999.

II. Components of the Implementation Strategy

The components of the strategy are to: (1) Update the scientific evidence on the four claims at issue in *Pearson*; (2) issue guidance clarifying the "significant scientific agreement" standard; (3) hold a public meeting to solicit input on changes to FDA's general health claim regulations for dietary supplements that may be warranted in light of the *Pearson* decision; (4) conduct a rulemaking to reconsider the general health claims regulations for dietary supplements in light of the *Pearson* decision; and (5) conduct rulemakings on the four *Pearson* health claims. Because of FDA's obligation to implement the court decision promptly, the agency intends to work on the components of the strategy concurrently whenever possible. As noted above, implementation of *Pearson* is one of the items on the Center for Food Safety and Applied Nutrition's (CFSAN's) 1999 Program Priorities list, which constitutes CFSAN's priority work plan for the year, and CFSAN will include *Pearson* implementation as one of its high priority items for fiscal year 2000.

III. Updating the Scientific Evidence on the Four *Pearson* Claims

As a first step toward re-examining the evidence supporting the four claims at issue in *Pearson*, FDA published a notice in the **Federal Register** of September 8, 1999 (64 FR 48841), requesting that interested persons submit any available scientific data concerning the substance-disease relationships that are the subject of the four claims. In that notice, FDA requested that written comments be submitted to the agency by November 22, 1999. In addition, CFSAN entered into a contract with a nongovernment firm to conduct a literature review for the four claims to identify relevant scientific information that became available after the agency's initial 1990 to 1993 review of these claims. This data gathering and literature review is needed for FDA to determine the current nature of the scientific evidence relating to the four claims and is an essential step in re-considering the claims. The contracted literature review for the four claims is due to the agency this fall.

In response to a request from several of the *Pearson* plaintiffs, the agency has agreed to extend or reopen the comment period on the September 8, 1999, notice for 75 days after the agency issues its guidance on the significant scientific agreement standard (described below). The agency will give careful consideration to any additional data it receives during the second 75-day comment period.

IV. Guidance on the Significant Scientific Agreement Standard

The agency is preparing to issue guidance clarifying the meaning of the significant scientific agreement standard. FDA expects to issue such guidance before the end of calendar year 1999.

V. Rulemakings and Public Meeting

FDA is planning to initiate several rulemakings in response to *Pearson*. First, the court's decision requires the agency to reconsider whether to authorize the four claims that were at issue in the case. The agency intends to conduct four rulemakings, one for each claim. In each instance, the agency will first evaluate whether the evidence supporting the claim meets the significant scientific agreement standard; if not, the agency will then proceed to consider whether there is any qualifying language that could render the claim nonmisleading. If FDA believes that the answer to either question is yes, the agency will propose to authorize the claim; otherwise, the agency will propose not to authorize it.

Second, FDA intends to initiate rulemaking to consider changes to its general health claims regulations for dietary supplements that may be warranted in light of *Pearson*. A public meeting during the first quarter of calendar year 2000 will precede this rulemaking. FDA will publish a **Federal Register** notice announcing the date and location of the public meeting. In that notice, FDA will provide a list of topics or questions to focus public input on how the agency's approach to the regulation of health claims for dietary supplements could be changed in light of *Pearson*.

Written comments received in response to the notice, and participation at the public meeting, will assist the agency in the rulemaking to reconsider its general health claims regulations for dietary supplements.

VI. Interim Process for Petitions

Until the rulemaking to reconsider the general health claims regulations for dietary supplements is complete, FDA intends to deny, without prejudice, any petition for a dietary supplement health claim that does not meet the significant scientific agreement standard in 21 CFR § 101.14(c). Once the rulemaking is complete, the agency will, on its own initiative, reconsider any petitions denied during the interim period. Petitions will be reconsidered in the order they were originally received. This process does not apply to the four claims at issue in *Pearson*, which will be handled as previously described.

FDA takes seriously its obligation to implement *Pearson*. The agency believes that the fastest and most efficient way to fully implement the decision is to conduct a rulemaking to reconsider the general procedures and standards governing health claims for dietary supplements before ruling on individual petitions that do not meet the current regulatory standard for health claim authorization. If the agency attempted to proceed case-by-case without establishing a regulatory framework applicable to all petitions, confusion among regulatees, inconsistent agency action, and waste of private and agency resources could result.

This practice is consistent with the practice FDA adopted immediately following the passage of the Nutrition Labeling and Education Act of 1990, which provided explicit statutory authority for health claims on conventional foods and dietary supplements. In a **Federal Register** notice

published March 14, 1991 (56 FR 10906), the agency announced that it would deny, without prejudice, any health claim petition that was submitted before issuance of final regulations concerning the submission and content of such petitions.

Dated: November 23, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–31122 Filed 11–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–5013]

Draft Guidance for Industry on Labeling of Over-the-Counter Human Drug Products Using a Column Format; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Labeling of Over-the-Counter Human Drug Products Using a Column Format." This draft guidance is intended to provide information on the use of columns as part of the standardized format and standardized content requirements for the labeling of over-the-counter (OTC) drug and drug-cosmetic products.

DATES: Submit written comments on the draft guidance for industry by January 31, 2000.

ADDRESSES: Copies of the draft guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of the draft guidance entitled "Labeling of Over-the-Counter Human Drug Products Using a Column Format" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow or Cazemiro R. Martin, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled "Labeling of Over-the-Counter Human Drug Products Using Column Format." This is the first of a series of guidances the agency plans to issue to help manufacturers, packers, and distributors implement the recently issued final rule establishing standardized format and content requirements for the labeling of all OTC drug products.

In the **Federal Register** of March 17, 1999 (64 FR 13254), FDA published a final rule establishing a standardized format and standardized content requirements for the labeling of all OTC drug products including drug-cosmetic products (products that consist of both drug and cosmetic components or a single component marketed for both drug and cosmetic uses). This rule is intended to standardize labeling for all OTC drug products so consumers can easily read and understand OTC drug product labeling and use these products safely and effectively.

The regulatory requirements for this new standardized labeling require manufacturers to present OTC drug and drug-cosmetic labeling information in a certain prescribed order and format. This new format will require the revision of all existing labeling.

The final rule did not include examples where Drug Facts information (presented in a defined box or similar enclosure) appeared in column format on the same side of the outside container of a retail package, or side-by-side on the immediate container label. This draft guidance is intended to explain how Drug Facts information can be presented using a column format that is consistent with the final rule. This draft guidance includes examples of such labeling in columns.

This draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). This draft guidance represents the agency's current thinking on using a column format in the labeling of OTC human drug products (21 CFR part 201). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public.

Interested persons may, on or before January 31, 2000, submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 22, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–31124 Filed 11–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–285]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection.

Title of Information Collection: Request for Retirement Benefit Information.

Form No.: HCFA–R–285 (OMB# 0938–0769).

Use: This form will be used to obtain information regarding whether a beneficiary is receiving retirement payments based on State or local government employment, how long the claimant worked for the State or local government employer, and whether the former employer or pension plan subsidizes the beneficiary's Part A premium. The purpose in collecting this information is to determine and provide those eligible beneficiaries, with free Part A Medicare coverage.

Frequency: On occasion.

Affected Public: State, Local or Tribal Government, and Individuals or Households.

Number of Respondents: 1,500.

Total Annual Responses: 1,500.

Total Annual Hours: 375.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 10, 1999.

John Parmigiani,

Manager, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–31200 Filed 11–30–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4490–N–02]

Notice of Regional Meeting on Draft HUD Tribal Consultation Policy

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: Executive Order 13084 directs Federal agencies to "have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." In accordance with the Executive Order, HUD is in the process of developing tribal consultation policy. On November 2, 1999, HUD published a notice in the **Federal Register** announcing three regional meetings sponsored by HUD for the purposes of receiving tribal input on the appropriate scope and content of HUD's tribal consultation policy. This notice announces a future meeting being sponsored by HUD for this purpose. All comments received at the meetings will be considered in the development of HUD's final tribal consultation policy. Before finalizing consultation policy, HUD will publish the draft policy in the **Federal Register** for additional public comment.

DATES: The regional meeting will be held on December 6, 1999. The meeting will begin at approximately 1:30 pm and end at approximately 4:30 pm (local time).

ADDRESSES: The regional meeting will be held at the Sacramento Convention Center, 1030 15th Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Jacqueline Johnson, Deputy Assistant Secretary for Native American Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4126, Washington, DC 20410; telephone (202) 401–7914 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On May 14, 1998, President Clinton signed Executive Order 13084 (entitled "Consultation and Coordination with Indian Tribal Governments"). The Executive Order directs Federal agencies to "have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." In accordance with the Executive Order, HUD is in the process of developing a tribal consultation policy.

HUD is sponsoring a series of regional meetings for the purposes of receiving tribal input on the appropriate scope and content of HUD's consultation policy. Six meetings have already been held.

The first meeting was held on September 28, 1999 in Pocatello, Idaho in conjunction with the meeting of the Affiliated Tribes of Northwest Indians. The second meeting was held on October 19, 1999 in Anchorage, Alaska in conjunction with the meeting of the Alaska Federation of Natives. The third meeting was held on October 27, 1999 in Oneida, New York in conjunction with the meeting of the United South and Eastern Tribes.

On November 2, 1999 (64 FR 59196), HUD published a notice in the **Federal Register** announcing three additional regional meetings. The fourth meeting was held on November 9, 1999 in Oklahoma City, Oklahoma. The fifth meeting was held on November 16, 1999 in Phoenix, Arizona. The sixth meeting was held on November 17, 1999 in Denver, Colorado.

This notice announces a seventh regional consultation meeting. The meeting will be held at the place and time identified in the **DATES AND ADDRESSES** section of this notice.

All comments received at the regional consultation meetings will be considered in the development of HUD's final tribal consultation policy. Before finalizing a consultation policy, HUD will publish the draft policy in the **Federal Register** for additional public comment.

Interested persons who are unable to attend one of the regional consultation meetings are encouraged to submit written comments to the Office of Native American Programs, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Dated: November 22, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–31114 Filed 11–30–99; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office for Equal Opportunity, Office of the Secretary, DOI.

ACTION: Notice.

SUMMARY: In compliance with the section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office for Equal Opportunity announces the proposed public information collection and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by January 31, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office for Equal Opportunity, Attn: Michael Dole, Department of the Interior, 1849 C St N.W., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instrument, please write to the above address, or call Michael Dole, (202) 208–5183. The collection instrument is also available on the internet at: http://www.doi.gov/diversity/doc/di__1935.pdf.

SUPPLEMENTARY INFORMATION: DOI is below parity with the relevant Civilian Labor Force representation for many of our mission critical occupations, and has developed a 5 year Strategic Plan to improve representation and be more responsive to the changing demographics of the country. The only way to determine if there are barriers in the recruitment and selection process is to track the groups that apply and the groups at each stage of the selection process. There is no other objective way to make these determinations, and no source of this information other than directly from applicants.

The information is not provided to selecting officials and plays no part in the selection of individuals. Instead, it is used in summary form to determine trends over many selections within a given occupation or organizational area. The information is treated in a very confidential manner. No information from this form is entered into the Personnel File of the individual selected, and the records of those not selected are destroyed after the conclusion of the selection process.

The format of the questions on ethnicity and race are compliant with the new OMB requirements, and are identical to those which will be used in the year 2000 census. This form is a simplification and update of a similar applicant background survey used by DOI for many years. The form received a six month emergency approval from OMB while we solicited comment in the **Federal Register**. We are currently requesting public comment on a three year extension of the OMB approval.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected: and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Title, Associated Form, and OMB Number: Applicant Background Survey, DI form 1935; OMB Control No.: 1091–0001.

Needs and Uses: This form is used to obtain source of recruitment, ethnicity, race, and disability data on job applicants to determine if the recruitment is effectively reaching all aspects of the relevant labor pool and to determine if there are proportionate acceptance rates at various stages of the recruitment process. Response is optional. The information is used for evaluating recruitment only, and plays no part in the selection of who is hired.

Affected Public: Applicants for DOI jobs.

Annual Burden Hours: 9,960.

Number of Respondents: 120,000.

Responses Per Respondent: 1.

Average Burden Per Response: No more than 5 minutes.

Frequency: 1 per application.

Dated: November 22, 1999.

Michael Dole,

Affirmative Employment Program Administrator, Department of the Interior.

[FR Doc. 99–31138 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of Letters of authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities have been issued to the following companies:

Company	Activity	Date issued
Western Geophysical (Anadarko)	Exploration	October 25, 1999.
Western Geophysical (ARCO)	Exploration	October 25, 1999.
ARCO Alaska, Inc. (Meltwater North)	Exploration	October 27, 1999.
ARCO Alaska, Inc. (Spark #1)	Exploration	October 27, 1999.
ARCO Alaska, Inc. (Rendezvous A&B)	Exploration	October 28, 1999.
ARCO Alaska, Inc. (Lookout A)	Exploration	October 28, 1999.
ARCO Alaska, Inc. (Moose's Tooth A&C)	Exploration	October 28, 1999.
ARCO Alaska, Inc. (Clover A&B)	Exploration	October 28, 1999.
ARCO Alaska, Inc. (Cairn)	Exploration	October 28, 1999.
Western Geophysical (BP Exploration)	Exploration	October 29, 1999.
Kuukpik/Fairweather Geophysical	Exploration	October 29, 1999.
BP Exploration (West Gwydyr Bay)	Exploration	November 9, 1999.
ARCO Alaska, Inc. (NW Eleen)	Exploration	November 10, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: Letters of authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations "Marine Mammals; Incidental Take During Specified Activities (64 FR 4328; January 28, 1999)."

Dated: November 17, 1999.

Gary Edwards,

Deputy Regional Director.

[FR Doc. 99–31135 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Oneida Nation of New York Liquor Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the

Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner*, 463 U.S. 713 (1983). I certify that the Oneida Nation of New York Liquor Ordinance was duly adopted and certified by Resolution No. 97-06 of the Oneida Nation of New York Tribal Council on August 2, 1999. The Ordinance provides for the regulation of the sale, possession and consumption of liquor in the area of the Oneida Nation of New York, under the jurisdiction of the Oneida Nation of New York, and is in conformity with the laws of the State of New York.

DATES: This ordinance is effective as of December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Jim D. James, Office of Tribal Services, Division of Self Determination and Tribal Government Assistance, 1849 C Street, NW, MS 4631 MIB, Washington, DC 20240–4401; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: The Oneida Nation of New York Liquor Licensing Ordinance is to read as follows:

Oneida Indian Nation

Alcoholic Beverage Control Ordinance

Ordinance No.: 0–99–06

Pursuant to the authority vested in the Oneida Indian Nation (the "Nation") by virtue of its sovereign and inherent powers of self-government, the Nation hereby establishes standards for the sale, introduction and possession of alcoholic beverages on the Nation's reservation and within all Indian country under the jurisdiction of the Nation.

Article I—Introduction, Sale and Possession

The introduction, sale or possession of alcoholic beverages shall be lawful on the Nation's reservation and within all Indian country under the jurisdiction of the Nation, provided that such introduction, sale or possession is in compliance with the laws, regulations and ordinances of the Nation, which, at all times, shall conform with or exceed the laws, regulations and ordinances of the State of New York. Without limiting the generality of the foregoing in any way, the possession of alcohol by, or the sale or distribution of alcohol to, anyone under the age of twenty-one (21) is prohibited under all circumstances.

Article II—License Required

No person shall manufacture for sale or sell at wholesale or retail any alcoholic beverages on the Nation's reservation or within any Indian country under the jurisdiction of the Nation unless such person has been duly licensed by the Oneida Nation Alcoholic Beverage Control Commission (the "Commission"). The Nation shall, through its representative(s), appoint the members of the Commission and shall have the exclusive power to (a) remove or replace any member of the Commission, and (b) increase or reduce the size of the Commission.

Article III—License Application

No alcoholic beverage license shall be issued under this Ordinance to any person not possessing the qualifications and satisfying the conditions set forth herein. Any person or persons desiring an alcoholic beverage license shall file a sworn application for license with the Commission. The application shall contain a full and complete showing of the following:

A. Payment of a fee of $25.00 for the sale of alcoholic beverages for off-premises consumption and payment of a fee of $50.00 for the sale of alcoholic beverages for on-premises consumption.

B. Proof satisfactory to the Commission that the applicant is not a member of the Commission and that he or she satisfies each of the licensing requirements established by the Commission.

Article IV—License; Terms and Conditions

A. Alcoholic beverage licenses issued by the Commission shall be for a term of one (1) year, commencing on the date of issuance.

B. No transfer, conveyance or assignment of an alcoholic beverage license issued by the Commission may occur without the prior written consent of the Commission.

Article V—Issuance of Alcoholic Beverage Licenses

A. An alcoholic beverage license shall be issued to the applicant by the Secretary/Treasurer of the Commission after such applicant's application has been approved by the Commission.

B. Fees for an alcoholic beverage license issued pursuant to this Ordinance shall be paid to the Secretary/Treasurer of the Commission. Such fees shall be deposited by the Commission in the general fund of the Nation.

Article VI—Criminal Jurisdiction

This Ordinance does not in any way confer upon the Nation criminal jurisdiction over non-Indians.

Article VII—Interpretation

A. The Oneida Nation does not, by enacting this Ordinance, waive in any respect its sovereign immunity, or that of its agents or officers, in any manner, under any law, for any purpose, or in any place.

B. Nothing in this Ordinance shall constitute, or be construed as, the Nation's consent to the extension of jurisdiction by the State of New York or by any municipality over matters coming within the purview of this Ordinance.

C. This Ordinance does not create any right, cause of action or benefit enforceable at law or in equity by any person against the Nation, its agents, its officers or employees, or any other person.

Article VIII—Effective Date

This Ordinance shall be effective as a matter of tribal law as of the date of its adoption by the Tribal Council, and effective as a matter of Federal law on such date as the Assistant Secretary—Indian Affairs certifies and publishes the same in the **Federal Register**.

Dated: November 23, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–31184 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1020–00–241A]

Call for Nominations for Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Resource Advisory Council call for nominations.

SUMMARY: The purpose of this notice is to solicit public nominations for a vacancy on the Bureau of Land Management (BLM) Mojave-Southern Great Basin Resource Advisory Council (RAC). The RAC provides advice and recommendations to the BLM on land use planning and management of the public lands within the geographic area, which includes southern Nevada. Public nominations will be accepted for 45 days after the publication date of this notice.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues relating to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, the interests represented by the individuals appointed to the RACs must be balanced and representative of the various issued concerned with the management of the public lands. The current vacancy is within Category One (of three), which includes:

Holders of federal grazing permits and representatives of energy and mineral development, timber industry, transportation or rights-of-way, off-highway vehicle use, and commercial recreation.

Individuals may nominate themselves or others. Nominees must be residents of the State of Nevada, in which the RAC has jurisdiction. Nominees will be evaluated based on their education, training, experience, and their knowledge of the geographical are of the

RAC. Nominees should have demonstrated a commitment to collaborative resource decisionmaking. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

Simulaneous with this notice, the BLM Nevada State Office will issue a press release providing additional information for submitting nominations. Nominations for RAC membership should be sent to the BLM office as follows: Jo Simpson, Nevada State Office, 1340 Financial Boulevard, (Postal ZIP 89502–7147) P.O. Box 12000, Reno, Nevada 89520–0006.

FOR FURTHER INFORMATION CONTACT: Robert Stewart, Public Information Specialist, BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada, telephone (775) 861–6786.

Dated: November 16, 1999.

Robert V. Abbey,

Nevada State Director.

[FR Doc. 99–31134 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–060–99–1220–00]

Central Montana Advisory Council Meeting

AGENCY: Bureau of Land Management, Lewistown Field Office.

ACTION: Notice of meeting.

SUMMARY: The Central Montana Resource Advisory Council will meet December 7 and 8, 1999, at the Yogo Inn in Lewistown, Montana. These meetings are open to the public.

The December 7 session will begin at 1 p.m. with a public comment period lasting until 1:30 p.m. The council will use the remainder of the meeting to work toward finalizing a report concerning future options for public land features in the Missouri River Breaks for the Secretary of the Interior. The meeting will adjourn around 4 p.m.

The December 8 meeting will begin at 8 a.m. and will adjourn at 3 p.m. The council will use this meeting to finalize their report to the Secretary. The meeting is open to the public however, there is no public comment period scheduled.

DATES: December 7 and 8, 1999.

LOCATION: Yogo Inn, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Field Manager, Malta Field Office, Bureau of Land Management, 501 South 2nd Street East, Malta, Montana 59538.

SUPPLEMENTARY INFORMATION: The meetings are open to the public and there will be a public comment period on December 7, as detailed above.

Dated: November 15, 1999.

David L. Mari,

Field Manager.

[FR Doc. 99–31133 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–ET; COC–61332]

Public Land Order No. 7417; Withdrawal of Public Land for the Rough Canyon Area of Critical Environmental Concern; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 2,373 acres of public land from surface entry and mining for 50 years for the Bureau of Land Management to protect the sensitive plants and animals species, outstanding scenic values, and cultural resource values in the Rough Canyon Area of Critical Environmental Concern. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the Rough Canyon Area of Critical Environmental Concern:

Sixth Principal Meridian

T. 12 S., R. 100 W., Protraction Diagram No. 13, Accepted January 22, 1965.
- Sec. 29, that portion of the S½SW¼ lying southerly of Bureau of Land Management Road No. 7150, from the west boundary of sec. 29 easterly to the westerly side of the crossing of the streambed of Rough Canyon, thence continuing easterly along a line parallel to and 10 feet northerly of the mean high water line of the Rough Canyon watercourse to an intersection with the east boundary of the S½SW¼ of sec. 29;
- Sec. 30, that portion lying southerly and westerly of a line parallel to and 200 feet southerly of the centerline of Bureau of Land Management Road No. 7150, from the east boundary of the section to a point 1500 feet east of the west boundary of said sec. 30, thence north along a line parallel to the west boundary of said section to the intersection with the north boundary thereof, thence westerly along said northern boundary of the northwest corner of sec. 30;
- Sec. 31;
- Sec. 32, W½.

T. 12 S., R. 101 W.,
- Sec. 25, lots 2 to 4, inclusive, SE¼NW¼, and SW¼;
- Sec. 26, N½SE¼;
- Sec. 35, lot 14;
- Sec. 36, lots 1 to 6, inclusive, NW¼, and N½SW¼.

T. 13 S., R.100 W. Protraction Diagram No. 13, accepted January 22, 1965.
- Sec. 5, NW¼;
- Sec. 6, N½NE¼ and SE¼NE¼.

The area described contains approximately 2,737 acres in Mesa County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994)), the Secretary determines that the withdrawal shall be extended.

Dated: November 17, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–31201 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–932–1430–01; NMNM 42909 et al.]

Public Land Order No. 7416; Revocation of Executive Orders Dated June 24, 1914, April 28, 1917, February 11, 1918, July 10, 1919, May 25, 1921, and February 7, 1930, and Partial Revocation of Executive Order Dated April 17, 1926; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes 6 Executive orders in their entirety and partially revokes an Executive order insofar as they affect 6,426 acres of lands withdrawn for Public Water Reserve Nos. 21, 50, 53, 65, 77, 107, and 129. These lands do not meet the criteria for a public water reserve. This action will open 4,651 acres to surface entry and nonmetalliferous mining. The remaining 1,775 acres are either withdrawn for other purposes, held in trust for the Jemez Pueblo, or no longer in Federal ownership. The Executive orders did not close any of the lands to metalliferous mining or to mineral leasing.

EFFECTIVE DATE: January 3, 2000.

FOR FURTHER INFORMATION CONTACT: Jeanette Espinosa, BLM New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico 87505, 505–438–7597.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Orders dated June 24, 1914, April 28, 1917, February 11, 1918, July 10, 1919, May 25, 1921, and February 7, 1930, which established Public Water Reserve Nos. 21, 50, 53, 65, 77, and 129 respectively, are hereby revoked in their entirety as they affect the following described lands:

New Mexico Principal Meridian

Public Water Reserve No. 21 (NMNM 42909)

T. 14 N., R. 10 W.,
Sec. 12, N½ and SE¼.

Public Water Reserve No. 65 (NMNM 42910)

T. 25 N., R. 10 E.,
Sec. 25, NW¼SE¼ and S½SE¼.
T. 3 S., R.13 W.,
Sec. 31, lot 3.
T. 15 S., R. 4 E.,
Sec. 3, SE¼NE¼ and NE¼SE¼.
T. 18 S., R. 19 W.,
Sec. 5, SW¼;
Sec. 5, SW¼;
Sec. 6, lots 3, 4, and 5, SE¼NW¼ and N½ SE¼.

Public Water Reserve No. 129 (NMNM 42915)

T. 18 N., R. 1 E.,
Sec. 5, E½NW¼ and NE¼SW¼;
Sec. 17, lots 3 and 4.

Public Water Reserve No. 50 (NMNM 42940)

T. 14 S., R. 17 W.,
Sec. 25, SW¼NW¼, N½SW¼, SE¼ SW¼, and SW¼SE¼.

Public Water Reserve No. 53 (NMNM 42941)

T. 18 S., R. 17 W.,
Sec. 28, SE¼NE¼.
T. 23 S., R. 30 E.,
Sec. 10, SW¼NW¼;
Sec. 28, NW¼NE¼.

Public Water Reserve No. 77 (NMNM 42942)

T. 9 S., R. 13 E.,
Sec. 5, lot 8;
Sec. 6, lot 11.

The areas described aggregate approximately 1,634 acres.

2. The Executive Order dated April 17, 1926, which created Public Water Reserve No. 107, is hereby revoked insofar as it affects the following described lands:

New Mexico Principal Meridian

Public Water Reserve No. 107

(NMNM 42913)

T. 23 N., R. 1 W.,
Sec. 32, SE¼SE¼.

(NMNM 42914)

T. 31 N., R. 11 E.,
Sec. 6, SW¼NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼.

(NMNM 42916)

T. 30 N., 15 W.,
Sec. 8, E½SW¼ and SW¼SE¼;
Sec. 17, N½NE¼, SE¼NE¼, and NE¼SE¼.

(NMNM 42920)

T. 20 N., R. 10 W.,
Sec. 30, NE¼SW¼.
T. 17 S., R. 21 W.,
Sec. 18, lot 2.

(NMNM 42944)

T. 25 S., R. 10 E.,
Sec. 24, NE¼NE¼.
T. 26 S., R. 10 E.,
Sec. 24, SW¼NE¼.
T. 26 S., R. 11 E.,
Sec. 26, NE¼NE¼.

(NMNM 42947)

T. 17 S., R. 3 E.,
Sec. 11, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 12, SW¼NW¼ and W½SW¼.

(NMNM 42948)

T. 15 S., R. 4 W.,
Sec. 21, N½NE¼SE¼SW¼, W½SE¼SW¼, and S½SE¼SE¼SW¼;
Sec. 28, SE¼NW¼.

(NMNM 42949)

T. 20 S., R. 29E.,
Sec. 5, NE¼SE¼;
Sec. 31, SE¼SW¼.

(NMNM 42950)

T. 20 S., R. 34 E.,
Sec. 8, NE¼SW¼.

(NMNM 42951)

T. 20 S., R. 33 E.,
Sec. 24, NE¼NW¼.

(NMNM 42952)

T. 14 S., R. 4 E.,
Sec. 20, S½NE¼.
T. 14 S., R. 22 E.,
Sec. 20, NW¼SW¼.

(NMNM 42953)

T. 16 S., R. 4 E.,
Sec. 17, SW¼SW¼.

(NMNM 42954)

T. 16 S., R. 1 W.,
Sec. 23, SE¼NE¼.
T. 17 S., R. 1 W.,
Sec. 24, SW¼NW¼.
T. 18 S., R. 1 W.,
Sec. 24, NW¼NW¼.
T. 15 S., R. 1 E.,
Sec. 26, SE¼NE¼.
T. 17 S., R. 1 E.,
Sec. 18, SW¼NE¼.
T. 9 S., R. 4 E.,
Sec. 26, SW¼NE¼.
T. 11 S., R. 4 E.,
Sec. 14, SW¼SE¼.
T. 21 S., R. 4 E.,
Sec. 33, NE¼SW¼.
T. 21 S., R. 4 W.,
Sec. 30, NW¼NE¼.
T. 10 S., R. 5 E.,
Sec. 17, SW¼SE¼.
T. 21 S., R. 6 W.,
Sec. 1, lot 1.
T. 8 S., R. 8 E.,
Sec. 11, NW¼NW¼.
T. 10 S., R. 8 E.,
Sec. 31, NW¼SE¼.
T. 18 S., R. 8 E.,
Sec. 10, SE¼NE¼;
Sec. 25, NW¼SE¼.
T. 22 S., R. 8 E.,
Sec. 8, SE¼SE¼;
Sec. 17, SW¼SE¼;
Sec. 30, lot 4.
T. 25 S., R. 8 W.,
Sec. 14, lot 1;
Sec. 23, NE¼NE¼ and NE¼SE¼.
T. 6 S., R. 9 E.,
Sec. 19, NE¼SE¼.
T. 7 S., R. 9 E.,
Sec. 19, lot 4.
T. 8 S., R. 9 E.,
Sec. 15, lot 15.
T. 10 S., R. 9 E.,
Sec. 30, NW¼SE¼ and NE¼SW¼.
T. 12 S., R. 9 E.,
Sec. 35, NW¼SE¼.
T. 19 S., R. 9 E.,
Sec. 17, SE¼SW¼.
T. 21 S., R. 9 W.,
Sec. 17, SW¼SW¼.
T. 28 S., R. 9 W.,
Sec. 17, SE¼SE¼.
T. 15 S., R. 10 E.,
Sec. 5, SE¼SE¼.
T. 21 S., R. 10 E.,
Sec. 33, lot 2.
T. 24 S., R. 10 E.,
Sec. 34, SE¼NW¼;
T. 25 S., R. 11 W.,
Sec. 7, NW¼SW¼.
T. 26 S., R. 11 W.,
Sec. 31, NE¼SW¼.
T. 27 S., R. 11 W.,
Sec. 1, NW¼SW¼.
T. 28 S., R. 11 W.,
Sec. 11, NE¼SE¼;
T. 23 S., R. 12 W.,
Sec. 9, SW¼SW¼.
T. 28 S., R. 12 W.,
Sec. 12, NE¼SW¼;
T. 25 S., R. 13 W.,
Sec. 26, SW¼NW¼.
T. 26 S., R. 13 W.,
Sec. 18, SE¼NE¼.
T. 28 S., R. 13 W.,

Sec. 26, SE¼SE¼.
T. 25 S., R. 14 E.,
Sec. 19, lot 2.
T. 26 S., R. 14 E.,
Sec. 30, lot 4.
T. 30 S., R. 14 W.,
Sec. 5, NE¼SW¼.
T. 24 S., R. 15 W.,
Sec. 5, lot 1 and SE¼NE¼;
Sec. 23, NE¼NW¼.
T. 26 S., R. 18 W.,
Sec. 20, SW¼NW¼.
T. 25 S., R. 19 W.,
Sec. 19, SE¼NE¼.
T. 26 S., R. 19 W.,
Sec. 35, NE¼SW¼.
T. 27 S., R. 19 W.,
Sec. 25, NW¼NE¼.
T. 28 S., R. 19 W.,
Sec. 20, SE¼NE¼;
Sec. 25, NW¼SE¼.
T. 27 S., R. 20 W.,
Sec. 33, NE¼SE¼.
T. 29 S., R. 20 W.,
Sec. 1, SE¼SW¼;
Sec. 27, NE¼SW¼.
T. 21 S., R. 22 E.,
Sec. 22, NE¼SW¼.
T. 21 S., R. 24 E.,
Sec. 19, lot 12.
T. 22 S., R. 24 E.,
Sec. 21, SE¼NW¼.
T. 15 S., R. 25 E.,
Sec. 21, SE¼NE¼.

(NMNM 42955)

T. 17 S., R. 21 W.,
Sec. 33, lot 3 and NE¼SE¼;
Sec. 34, SW¼NE¼.

(NMNM 42956)

T. 26 S., R. 14 W.,
Sec. 27, SW¼NW¼ and NW¼SW¼;
Sec. 28, SE¼NE¼ and NE¼SE¼.
T. 26 S., R. 15 W.,
Sec. 15, SW¼SW¼;
Sec. 34, SW¼SW¼.

(NMNM 42957)

T. 20 S., R. 4 E.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼.
T. 23 S., R. 26 E.,
Sec. 8, SE¼SW¼.

(NMNM 42958)

T. 15 S., R. 1 W.,
Sec. 34, NE¼SW¼.
T. 24 S., R. 19 W.,
Sec. 35, SW¼SW¼.
T. 7 S., R. 9 E.,
Sec. 28, SW¼SW¼;
Sec. 29, SE¼SE¼;
Sec. 33, NW¼NW¼.
T. 8 S., R. 9 E.,
Sec. 7, lot 1.
T. 10 S., R. 17 E.,
Sec. 24, SW¼SW¼.
T. 22 S., R. 24 E.,
Sec. 31, SE¼NW¼.

The areas described aggregate approximately 4,792 acres.

The total areas described in Paragraphs 1 and 2 aggregate approximately 6,426 acres.

3. The lands described below are either withdrawn for other purposes, held in trust for the Jemez Pueblo, or no longer in Federal ownership:

T. 18 N., R. 1 E.,
Sec. 5, E½NW¼ and NE¼SW¼;
Sec. 17, lots 3 and 4.
T. 23 N., R. 1 W.,
Sec. 32, SE¼SE¼.
T. 17 S., R. 3 E.,
Sec. 11, S½NE¼, SE¼NW¼, E½ SW¼, and SE¼;
Sec. 12, SW1/4NW1/4 and W½SW¼.
T. 9 S., R. 4 E.,
Sec. 26, SW¼NE¼.
T. 11 S., R. 4 E.,
Sec. 14, SW¼SE¼.
T. 14 S., R. 4 E.,
Sec. 20, S½NE¼.
T. 15 S., R. 4 E.,
Sec. 3, SE¼NE¼ and NE¼SE¼.
T. 16 S., R. 4 E.,
Sec. 17, SW¼SW¼.
T. 20 S., R. 4 E.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼.
T. 21 S., R. 4 E.,
Sec. 33, NE¼SW¼.
T. 10 S., R. 5 E.,
Sec. 17, SW¼SE¼.
T. 10 S., R. 8 E.,
Sec. 31, NW¼SE¼.
T. 22 S., R. 8 E.,
Sec. 8, SE¼SE¼;
Sec. 17, SW¼SE¼;
Sec. 30, lot 4.
T. 21 S., R. 10 E.,
Sec. 33, lot 2.
T. 24 S., R. 10 E.,
Sec. 34, SE¼NW¼.
T. 25 S., R. 10 E.,
Sec. 24, NE¼NE¼.
T. 18 S., R. 19 W.,
Sec. 6, lots 3, 4, and 5, SE¼NW¼, and N½SE¼.
T. 17 S., R. 21 W.,
Sec. 33, lot 3 and NE¼SE¼;
Sec. 34, SW¼NE¼.

The areas described aggregate approximately 1,775 acres.

4. At 10 a.m. on January 3, 2000, the lands described in Paragraph 1 and 2, excluding those described in Paragraph 3, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 3, 2000, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. At 10 a.m. on January 3, 2000, the lands described in Paragraphs 1 and 2, excluding those described in Paragraph 3, will be opened to nonmetalliferous mineral location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: November 17, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99–31202 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–00–1420–BJ00]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land, is scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Tp. 7 N., R. 36 E.

The plat, representing the dependent resurvey of a portion of the subdivisional lines and the adjusted original meanders of the former banks of Islands A and B, in the Yellowstone River, lying within section 26 and the survey of the new meanders of the present banks of Islands A and B, in the Yellowstone River, lying within section 26 and certain division of accretion lines, Township 7 North, Range 36 East, Principal Meridian, Montana, was accepted September 1, 1999.

This survey was requested by the Powder River Resource Area office, Miles City District and was necessary to identify the boundary lines of Federal Interest Lands.

A copy of the preceding described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on this plat, is received prior to the date of the official filing, the filing will be stayed pending consideration of the protest. This particular plat will not be officially filed until the day after all

protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Dr., P.O. Box 36800, Billings, Montana 59107–6800.

Dated: November 19, 1999.

Daniel T. Mates,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 99–31132 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of information collection request.

SUMMARY: To comply with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), we are notifying you that an information collection request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. We are also soliciting your comments on the ICR describing the information collection, its expected costs and burdens, and how the data will be collected.

DATES: Written comments should be received on or before January 3, 2000.

ADDRESSES: You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Interior Department (OMB Control Number 1010–0104), 725 17th Street, NW, Washington, DC 20503; telephone (202) 395–7340. You should also send copies of these comments to us. Our mailing address for written comments regarding this information collection is David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225. Courier or overnight delivery address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225. Email address is *RMP.comments@mms.gov*.

PUBLIC COMMENT PROCEDURE: Your comments and copies of your comments may be submitted to the addresses listed above. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include Attn: Certification for Not Performing Accounting for Comparison (Dual Accounting), Form MMS–4410, OMB Control Number 1010–0104, and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact David S. Guzy directly at (303) 231–3432.

We will post public comments after the comment period closes on the Internet at *http://www.rmp.mms.gov*. You may arrange to view paper copies of the comments by contacting David S. Guzy, Chief, Rules and Publications Staff, telephone (303) 231–3432, FAX (303) 231–3385. Our practice is to make comments, including names and addresses of respondents, available for public review on the Internet and during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231–3046, FAX (303) 231–3385, email *Dennis.C.Jones@mms.gov*.

SUPPLEMENTARY INFORMATION:

Title: Certification for Not Performing Accounting for Comparison (Dual Accounting).

OMB Control Number: 1010–0104.

Abstract: The Secretary of the Interior is responsible for collecting royalties from leases producing minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage the production of mineral resources on Indian lands and Federal onshore and offshore leases, to collect the royalties due, and to distribute the funds in accordance with those laws; we perform these royalty management functions for the Secretary.

On August 10, 1999, the Minerals Management Service (MMS) published in the **Federal Register** (64 FR 43506) the notice of a final rulemaking titled "Amendments to Gas Valuation Regulations for Indian Leases," with an effective date of January 1, 2000. In that Notice, MMS requires that lessees submit the Form MMS–4410, Certification For Not Performing Accounting for Comparison, when gas is never processed prior to entering the pipeline with an index located in an index zone or into a mainline pipeline not in an index zone.

The certification form is part of MMS's final rulemaking amending its regulations governing the valuation, for royalty purposes, of natural gas produced from Indian leases. The gas regulations apply to all gas production from Indian (tribal or allotted) oil and gas leases (except leases on the Osage Indian Reservation). The new regulations resulted from a negotiated rulemaking between Indian tribes and allottees, oil and gas industry, and Government.

Most Indian lease terms require accounting for comparison (dual accounting) when gas produced from the lease is processed. Under the rule, to not perform dual accounting, a lessee must certify, on Form MMS–4410, that the gas was never processed prior to entering the pipeline with an index located in an index zone or into a mainline pipeline not in an index zone. The lessee will be required to sign the certification form for each lease having production that is exempt from dual accounting. This is a one-time certification that will remain in effect until there is a change in lease status or ownership. This certification will allow MMS and the tribes to better monitor compliance with the dual accounting requirement of Indian leases.

In most cases, the lessee will know the disposition of the gas. If gas is sold at the wellhead, the lessee may have to consult with the purchaser of the gas to determine its disposition. The MMS or tribal auditors, Indian representatives, MMS's Royalty Valuation Division, and the Office of Indian Royalty Assistance, may use the information provided on the form.

The current OMB inventory of 5,412 hours is decreased to 2,880 hours. This adjusted decrease of 2,532 burden hours is the result of our originally overestimating the number of Indian leases that would be required to submit Form MMS–4410.

Respondents/Affected Entities: Companies that pay royalties on gas produced from tribal and allotted Indian leases.

Frequency of Response: One-time certification in effect until a change of lease status or ownership.

Estimated Number of Respondents: 720.

Estimated Total Annual Reporting and Recordkeeping Burden: 2,880 hours

Comments: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency A * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by January 3, 2000.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: November 23, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–31112 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of information collection request.

SUMMARY: To comply with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), we are notifying you that an information collection request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. We are also soliciting your comments on the ICR describing the information collection, its expected costs and burdens, and how the data will be collected.

DATES: Written comments should be received on or before January 3, 2000.

ADDRESSES: You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Interior Department (OMB Control Number 1010–0103), 725 17th Street, NW, Washington, DC 20503 (telephone (202) 395–7340). You should also send copies of these comments to us. Our mailing address for written comments regarding this information collection is David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225. Courier or overnight delivery address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225. Email address is *RMP.comments@mms.gov*.

PUBLIC COMMENT PROCEDURE: Your comments and copies of your comments may be submitted to the addresses listed above. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include Attn: Safety Net Report, Form MMS–4411, OMB Control Number 1010–0103, and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact David S. Guzy directly at (303) 231–3432.

We will post public comments after the comment period closes on the Internet at *http://www.rmp.mms.gov*. You may arrange to view paper copies of the comments by contacting David S. Guzy, Chief, Rules and Publications Staff, telephone (303) 231–3432, FAX (303) 231–3385. Our practice is to make comments, including names and addresses of respondents, available for public review on the Internet and during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, phone (303) 231–3046, FAX (303) 231–3385, email *Dennis.C.Jones@mms.gov*.

SUPPLEMENTARY INFORMATION:

Title: Safety Net Report.

OMB Control Number: 1010–0103.

Abstract: The Secretary of the Interior is responsible for collecting royalties from leases producing minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage the production of mineral resources on Indian lands and Federal onshore and offshore leases, to collect the royalties due, and to distribute the funds in accordance with those laws; we perform these royalty management functions for the Secretary.

On August 10, 1999, the Minerals Management Service (MMS) published in the **Federal Register** (64 FR 43506) the notice of a final rulemaking titled "Amendments to Gas Valuation Regulations for Indian Leases," with an effective date of January 1, 2000. In that Notice, MMS requires that lessees submit the Safety Net Report, Form MMS–4411, when gas production from an Indian lease is sold beyond the first index pricing point.

The Safety Net Report is part of MMS's final rulemaking amending its regulations governing the valuation, for royalty purposes, of natural gas produced from Indian leases. The gas regulations apply to all gas production from Indian (tribal or allotted) oil and gas leases (except leases on the Osage Indian Reservation). The new regulations resulted from a negotiated rulemaking between Indian tribes and allottees, oil and gas industry, and Government.

The safety net calculation establishes the minimum value, for royalty purposes, of natural gas produced from Indian leases. This reporting requirement will assist the Indian lessor in receiving all the royalties that are due and aid MMS in its compliance efforts. The rule requires the lessee to calculate the safety net price using prices received for gas sold downstream of the first index pricing point. It will include only the lessee's or lessee's affiliate's arm's-length contracts and will not require detailed calculations for the costs of transportation. By June 30 following any calendar year, the rule requires the lessee to calculate for each month of the previous calendar year a safety net price. The rule requires the lessee to submit a separate Form MMS–

4411 for each index zone where the lessee has an Indian lease. The safety net price will capture the significantly higher values for sales occurring beyond the first index pricing point. The lessee will submit its safety net prices to MMS annually (by June 30) using the Form MMS–4411.

The Safety Net Report will allow MMS and the tribes to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary's trust responsibility and lease terms. In the safety net calculation, the lessee will only include sales under those arm's-length contracts that establish a delivery point beyond the first index pricing point to which the gas flows. Moreover, those contracts must include any gas produced from or allocable to one or more of the lessee's Indian leases in the index zone. The MMS or tribal auditors, Indian representatives, MMS's Royalty Valuation Division, and the Office of Indian Royalty Assistance, may use the information provided on the form.

The current OMB inventory of 37,400 hours is decreased to 10,500 hours. This adjusted decrease of 26,900 burden hours is the result of our originally overestimating the number of companies submitting Form MMS–4411 and overstating the number of index zones for which each company would have to submit this form.

Respondents/Affected Entities: Companies that pay royalties on gas produced from tribal and allotted Indian leases.

Frequency of Response: Annually.

Estimated Number of Respondents: 140 companies.

Estimated Total Annual Reporting and Recordkeeping Burden: 10,500 hours.

Comments: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by January 3, 2000.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: November 23, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–31113 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Construction of Visitor and Education Center, Great Basin National Park, White Pine County, NV; Scoping Notice

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (Pub. L. 91–190) and Council on Environmental Quality regulations (40 CFR 1508.22), the National Park Service intends to prepare a supplemental environmental document for proposed construction of a facility serving visitor information, research, and education needs in Baker, Nevada. This new environmental compliance process could entail amending the General Management Plan (GMP) completed in 1993. During the ensuing environmental impact analysis process, suitable alternatives will be developed to address the design and construction of the proposed facility. The new conservation planning process will be conducted in consultation with affected federal agencies, State and local governments, Tribal groups, and interested organizations and individuals.

Background

The National Park Service completed an EIS and GMP for Great Basin National Park in 1993, which set forth direction and priorities for developing visitor and administrative facilities six miles east of the park on a federally owned parcel in the town of Baker, and a site on the eastern border of the park. This new environmental impact analysis effort is intended to implement or refine that management direction, with the focused objective of preparing an environmental assessment or supplemental EIS regarding the administrative, information, research support, and education program envisioned in 1993 for Great Basin National Park.

The forthcoming environmental compliance document will identify, analyze, and recommend management actions necessary to locate and construct a centralized facility designed to serve both the visiting public, as well as educational and research institutions throughout the Great Basin Region. It is envisioned that the proposed complex could include: Office space; one or more conference classrooms; library; laboratory facilities; museum and records storage; natural history association sales outlet and storage space; restrooms; exhibit space; auditorium and a lobby. In addition, the proposal could include construction of hiking trails and a picnic pavilion. Anticipated area of impact is approximately two acres, located primarily on a previously disturbed site.

Depending on alternatives proposed and specific action selected, the proposal to construct this facility may differ from the GMP which envisioned information contact, administrative, visitor center, and other related functions on separate sites. It is now desired to co-locate these functions at one site, thereby reducing overall environmental impact. This alteration could result in construction of only one complex, but one which may provide a somewhat larger, integrated facility that meets all the needs originally forecast for two sites.

Scoping

The NPS is hereby initiating the scoping phase with a request for interested individuals, organizations, and agencies to provide information relevant to the design and construction of such a facility. Renewed collaboration with individuals and organizations familiar with Great Basin National Park is desired, but comments received on the 1993 GMP will also be reviewed. At this time it is uncertain what level of environmental compliance will be undertaken, and public feedback on this proposal will aid in this determination. This scoping process will be undertaken in a manner sufficient to fulfill the requirements for an EIS should that option be subsequently chosen. If it is determined that an EIS will be prepared, this will be communicated via a Notice of Availability of a draft EIS published in the **Federal Register**, as well as via direct mailings to those who respond during this scoping phase. Written comments must be postmarked not later than January 30, 2000, and should be directed to the Superintendent, Great Basin National Park, Baker, NV 89311.

Review and Decision Process

At this time an environmental document is anticipated to be available for public review and comment not sooner than spring, 2000. Availability of the document for review and written comment will be announced through local and regional news media, the internet, and direct mailing. At this time it is anticipated that a decision will be made not sooner than summer or fall, 2000. This will be recorded in either a Finding of No Significant Impact or a Record of Decision, and duly publicized. The official responsible for the decision is the Regional Director, Pacific West Region, National Park Service; the official responsible for implementation is the Superintendent, Great Basin National Park.

Dated: November 22, 1999.

William C. Walters,

Deputy Regional Director, Pacific West Region.

[FR Doc. 99–31176 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1994), that a meeting of the National Park System Advisory Board will be held on December 14–15, 1999, in the Capital Room of The Hotel Washington, 515—15th Street, NW, Washington, DC. On December 14, the Board will convene from 9 a.m. until 12 Noon. National Park Service Director Robert Stanton will address the Board, followed by an orientation session. A tour of national monument sites is scheduled for the afternoon.

The Board will reconvene on December 15, at 9 a.m., and adjourn at approximately 4 p.m. The Board will be addressed by Deputy Director of the National Park Service Denis Galvin. The Board will consider organization and procedural matters relating to the Board, and deliberate issues relating to the National Park System. National Historic Landmark nominations will be reviewed by the Board during the afternoon session.

The Board may be addressed at various times by other officials of the National Park Service and the Department of the Interior; and other miscellaneous topics and reports may be covered. The order of the agenda may be changed, if necessary, to accommodate travel schedules or for other reasons.

The Board meeting will be open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Anyone who wishes further information concerning the meeting, or who wishes to submit a written statement, may contact Mr. Loran Fraser, Office of Policy, National Park Service, 1849 C Street, NW, Washington, DC 20240 (telephone 202–208–7456).

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 2414, Main Interior Building, 1849 C Street, NW, Washington, DC.

Dated: November 23, 1999.

Robert Stanton,

Director, National Park Service.

[FR Doc. 99–31175 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 20, 1999. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by December 16, 1999.

Carol D. Shull,

Keeper of the National Register.

CALIFORNIA

Contra Costa County

Tucker House, 110 Escobar St., Martinez, 99001563

Imperial County

Southwest Lake Cahuilla Recessional Shoreline Archeological District, Address Restricted, Salton City Vicinity, 99001567

Placer County

Colfax Freight Depot, 7 Main St., Colfax, 99001564

San Diego County

San Diego Trust and Savings Bank Building, 530–540 Broadway, San Diego, 99001565

Tulare County

Tulare Union High School Auditorium and Administration Building, 755 E. Tulare Ave., Tulare, 99001566

CONNECTICUT

Fairfield County

Greenwood Avenue Historic District, Roughly along Greenwood Ave., P.T. Barnum Sq., Depot Pl., and South St., Bethel, 99001568

ILLINOIS

Sangamon County

Brunk Farmstead, KOA Campground Rd., 1 mi. S. of E. Lake Dr., Rochester vicinity, 99001569

IOWA

Dallas County

Feller, Robert William Andrew, Farmstead, 2965 340th Tr., Van Meter vicinity, 99001570

LOUISIANA

Plaquemines Parish

St. Patrick's Catholic Church, 21997 LA 23, Wast Pointe a'la Hache, 99001571

MASSACHUSETTS

Bristol County

Al Mac's Diner—Restaurant (Diners of Massachusetts MPS), 135 President Ave., Fall River, 99001572

MICHIGAN

Allegan County

Second Street—Gun River Bridge (Highway Bridges of Michigan MPS), 2nd St. over Gun River (Martin Township), Hooper vicinity, 99001573

Antrim County

M–88—Intermediate River Bridge (Highway Bridges of Michigan MPS), MI 88 over Intermediate R., Bellaire, 99001574

Berrien County

Avery Road—Galien River Bridge (Highway Bridges of Michigan MPS), Avery Rd. over Galien R. (Weesaw Township), New Troy vicinity, 99001577

Blossomland Bridge (Highway Bridges of Michigan MPS), MI 63 over St. Joseph R., Saint Joseph, 99001576

North Watervliet Road—Paw Paw Lake Outlet Bridge (Highway Bridges of Michigan MPS), N. Watervliet Rd. over Paw Paw Lake outlet (Watervliet township), Watervliet vicinity, 99001575

PENNSYLVANIA

Lancaster County

Landis Valley Museum, 2451 Kissel Hill Rd. (Manheim Township), Landis Valley vicinity, 99001578

Philadelphia County

Philadelphia Naval Shipyard Historic District, S. Broad St., Philadelphia, 99001579

SOUTH DAKOTA

Brule County

Ashley Shanty and Privy (Federal Relief Construction in South Dakota MPS), RR1, Box 100, Pukwana vicinity, 99001580

Clay County

Johnsen, Calle Nissen, Farm, 31494 453rd Ave., Gayville vicinity, 99001581

Jerauld County

Methodist Episcopal Church of Wessington Springs, SE Corner of Main and State Sts., Wessington Springs, 99001582

Lake County

Holdridge, A.W., Home, 616 NE 5th St., Madison, 99001583

Pennington County

Gramberg Ranch, 14895 Lower Spring Rd., Hermosa vicinity, 99001584
South Dakota Department of Transportation Bridge No. 52–824–300 (Historic Bridges in South Dakota MPS), Local Rd. over Cheyenne R., Wasta vicinity, 99001585
South Dakota Department of Transportation Bridge No. 52–575–383 (Historic Bridges in South Dakota MPS), Local Rd. over Rapid Cr., Caputa vicinity, 99001586

TENNESSEE

Benton County

Rushing, John, Farm, 5760 N. TN 69A, Camden vicinity, 99001587

Humphreys County

Greyhound Half—Way House, 124 E. Main St., Waverly, 99001588

[FR Doc. 99–31174 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–652 (Review)]

Aramid Fiber From The Netherlands

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on aramid fiber from the Netherlands.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on aramid fiber from the Netherlands would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On June 24, 1994, the Department of Commerce issued an antidumping duty order on imports of aramid fiber from the Netherlands (59 FR 32678). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is the Netherlands.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: all aramid fiber formed of poly para-phenylene terephthalamide.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of all aramid fiber formed of poly para-phenylene terephthalamide. The Commission included the subcontractors of E.I. DuPont de Nemours & Co. as part of the Domestic Industry.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 24, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–044, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1993.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company

transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31219 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. AA1921–143, 731–TA–341, 731–TA–343–345, 731–TA–391–397, and 731–TA–399 (Review)]

Certain Bearings From China, France, Germany, Hungary, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sioban Maguire (202–708–4721), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: Effective August 23, 1999, the Commission established a schedule for the conduct of the subject reviews (64 FR 46949, August 27, 1999). The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B), and is hereby revising its schedule.

The Commission's new schedule for the reviews is as follows: the prehearing staff report will be placed in the nonpublic record on March 1, 2000; the deadline for filing prehearing briefs is March 10, 2000; requests to appear at the hearing must be filed with the Secretary to the Commission not later than March 13, 2000; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on March 16, 2000; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on March 21, 2000; the deadline for filing posthearing briefs is March 30, 2000; the Commission will make its final release of information on May 18, 2000; and final party comments are due on May 22, 2000.

For further information concerning these reviews see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: November 23, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31195 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Review)]

Cased Pencils From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on cased pencils from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–049, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Background

On December 28, 1994, the Department of Commerce issued an antidumping duty order on imports of cased pencils from China (59 FR 66909). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: cased pencils, including raw pencils.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of all cased pencils. The Commission excluded one domestic producer, Pentech International, Inc., from the Domestic Industry under the related parties provision. One Commissioner defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is December 28, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided In Response To This Notice Of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1993.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in gross and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in gross and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in gross and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for

the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31224 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–393 (Final) and 731–TA–829–840 (Final)]

Certain Cold-Rolled Steel Products From Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping and countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigations Nos. 701–TA–393 (Final) and 731–TA–829–840 (Final) under sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain cold-rolled steel products that are subsidized by the Government of Brazil, and by reason of less-than-fair-value imports of certain cold-rolled steel products from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain cold-rolled steel products are subsidized by the Government of Brazil, and imports of certain cold-rolled steel products from Argentina, Brazil, Japan, Russia, South Africa, Thailand, and Venezuela are being sold in the United States at less than fair value within the meaning of sections 703 and 733 of the Act (19 U.S.C. 1671b and 19 U.S.C. 1673b). The investigations were requested in petitions filed on June 2, 1999, by Bethlehem Steel Corporation (Bethlehem, PA); U.S. Steel Group (Pittsburgh, PA); Ispat Inland, Inc. (East Chicago, IL); LTV Steel Co., Inc. (Cleveland, OH); National Steel Corporation (Mishawaka, IN); Gulf States Steel, Inc. (Gadsden, AL); Steel Dynamics Inc. (Butler, IN); Weirton Steel Corporation (Weirton, WV); and the United States Steelworkers of America, Pittsburgh, PA.

The petitions also alleged that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded by imports sold at less than fair value from China, Indonesia, Slovakia, Taiwan, and Turkey. The Commission made affirmative preliminary injury determinations with regard to those imports. Commerce has postponed its preliminary determinations concerning whether imports from these countries are sold at less than fair value. In the event Commerce makes affirmative preliminary determinations the Commission will activate the final phase of these antidumping investigations. The briefing schedule, hearing, and other deadlines as outlined below will also apply to these investigations.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file

an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on January 6, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on January 20, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 12, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 18, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing .

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is January 13, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 27, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before January 27, 2000. On February 16, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 18, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: November 23, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31194 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–661–662 (Review)]

Color Negative Photo Paper & Chemicals From Japan and the Netherlands

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the suspended investigations on color negative photo paper and chemicals from Japan and the Netherlands.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigations on color negative photo paper and chemicals from Japan and the Netherlands would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–046, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1994, the Department of Commerce suspended antidumping duty investigations on imports of color negative photo paper and chemicals from Japan and the Netherlands (59 FR 43539, Aug.24, 1994). The Commission is conducting reviews to determine whether termination of the suspended investigations would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Japan and the Netherlands.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original preliminary determinations, the Commission found one Domestic Like Product: amateur and professional color negative photo paper and all chemicals used in its production.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original preliminary determinations, the Commission found one Domestic Industry: producers of amateur and professional color negative photo paper and all chemicals used in its production.

(5) The Order Date is the date that the investigations were suspended. In these reviews, the Order Date is August 12, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR § 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigations on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1993.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in square feet and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in square feet and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each of the Subject Countries; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each of the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in square feet and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each of the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31221 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–643 (Review)]

Defrost Timers From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on defrost timers from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on defrost timers from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1994, the Department of Commerce issued an antidumping duty order on imports of defrost timers from Japan (59 FR 9957). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: defrost timers for residential refrigerators. One Commissioner defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of defrost timers for residential refrigerators. One Commissioner defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is March 2, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–043, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1993.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31218 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–639–640 (Review)]

Forged Stainless Steel Flanges From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on forged stainless steel flanges from India and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on forged stainless steel flanges, both finished and not-finished, from India and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–042, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, US International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On February 9, 1994, the Department of Commerce issued antidumping duty orders on imports of forged stainless steel flanges, both finished and not-finished, from India and Taiwan (59 FR 5994). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are India and Taiwan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: stainless steel flanges, both finished and unfinished.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose

collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic Industry: the domestic producers of forgings and finished stainless steel flanges, consisting of both forger/finishers and converters. The Commission also excluded one domestic producer, Flow Components, from the Domestic Industry under the related parties provision. Two Commissioners defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is February 9, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity

specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1992.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/ business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each of the Subject Countries; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each of the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each of the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31217 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–683 (Review)]

Fresh Garlic From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on fresh garlic from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–047, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, the Department of Commerce issued an antidumping duty order on imports of fresh garlic from China (59 F.R. 59209). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found in the affirmative for one Domestic Like Product: fresh garlic. One Commissioner defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found in the affirmative for one Domestic Industry: producers of fresh garlic, excluding crop tenders. One Commissioner defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is November 16, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the

Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1994.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/ business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise

produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31222 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–355 (Review) and 731–TA–659–660 (Review)]

Grain-Oriented Silicon Electrical Steel From Italy and Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty order on grain-oriented silicon electrical steel from Italy and the antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on grain-oriented silicon electrical steel from Italy and the antidumping duty orders on grain-oriented silicon electrical steel from Italy and Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On the dates listed below, the Department of Commerce issued countervailing duty and antidumping duty orders on the subject imports:

Order date	Product/Country	Inv. No.	FR cite
6/7/94	Grain-oriented silicon electrical steel/Italy	701–TA–355	59 FR 29414
6/10/94	Grain-oriented silicon electrical steel/Japan	731–TA–660	59 FR 29984
8/12/94	Grain-oriented silicon electrical steel/Italy	731–TA–659	59 FR 41431

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Italy and Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: grain-oriented silicon electrical steel.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic Industry: producers of grain-oriented silicon electrical steel.

(5) The Order Dates are the dates that the countervailing duty and antidumping duty orders under review became effective. In these reviews, the Order Dates are as shown in the preceding tabulation.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–045, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1993.

(7) If you are a U.S. producer of the Domestic Like Product, provide the

following information on your firm's operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from each of the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from each of the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in each of the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from each of the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31220 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–663 (Review)]

Paper Clips From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on paper clips from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on paper clips from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is January 20, 2000. Comments on the adequacy of responses may be filed with the Commission by February 11, 2000.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–048, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On November 25, 1994, the Department of Commerce issued an antidumping duty order on imports of paper clips from China (59 FR 60606). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (*e.g.*, copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referered to as "No. 1 clips," "No. 3 clips," "Jumbo" or "Giant" clips, "Gem clips," "Frictioned clips," "Perfect Gems," "Marcel Gems," "Universal clips," "Nifty clips," "Peerless clips," "Ring clips," and "Glide-On clips." Specifically excluded are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry consisting of producers of the Domestic Like Product as defined above.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is November 25, 1994.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is January 20, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is February 11, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and

207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1993.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions,

please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: November 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31223 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–459 (Review)]

Polyethylene Terephthalate (PET) Film From Korea

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject five-year review.

EFFECTIVE DATE: November 23, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On October 1, 1999, the Commission established a schedule for the conduct of this expedited five-year review (64 FR 55958, October 15, 1999). Subsequently, the Department of Commerce extended the date for its final results in the expedited review from October 29, 1999 to January 27, 2000. In order to have the benefit of the Department of Commerce's findings, the Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the five-year review is as follows: the staff report will be placed in the nonpublic record on January 4, 2000; the deadline for interested party comments (which may not contain new factual information) on the staff report is January 7, 2000; the deadline for interested party comments (which may not contain new factual information) on Commerce's final results is January 31, 2000; and the deadline for brief written statements (which shall not contain new factual information) pertinent to the review by any person that is neither a party to the five-year review nor an interested party is January 31, 2000.

For further information concerning this five-year review, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: This five-year review is being conducted under authority of title VII of the Tariff Act of 1930; the Commission is using its authority under 19 U.S.C. 1675(c)(5)(B) to extend the deadline for this review. Further, this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: November 24, 1999

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31196 Filed 11–30–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2028–99]

Direct Mail Program for Persons on Active Duty in the Armed Forces of the United States Filing Form N–400 With the Service Center in Lincoln, NE

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The Immigration and Naturalization Service (Service) is adjusting its Direct Mail program to require all persons currently serving in an active duty status in the armed services of the United States who are applying for naturalization based on qualifying military service, to file their Form N–400, Application for Naturalization, with the service center in Lincoln, Nebraska. This action is necessary to centralize and facilitate processing of all Form N–400 filings by armed forces personnel.

DATES: This notice is effective December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Gerald Casale, Adjudications Officer, Immigration and Naturalization Service, Immigration Services Division, 801 I Street NW, Room 900, Washington, DC 20536, Telephone (202) 514–0788.

SUPPLEMENTARY INFORMATION:

What Is the Direct Mail Program?

Under the Service's Direct Mail program applicants for naturalization mail the Form N–400 directly to a service center for processing instead of to a local office. The purpose and strategy of the Direct Mail program have been discussed in detail in previous rulemaking and notices (see 59 FR 33903 and 59 FR 33985).

The Service is refining its Direct Mail processing of Form N–400 by requiring all active duty military persons who are filing for naturalization based on qualifying military service to file their applications with the service center in Lincoln, Nebraska. Applicants who apply for naturalization while serving in the armed services must be in active duty status at the time of filing and meet all of the requirements for naturalization stated in 8 CFR part 328 or 8 CFR part 329.

Where Should Active Duty Members of the Armed Services File Their Form N–400, Application for Naturalization?

Effective [Insert date of publication in the **Federal Register**], all active duty members of the armed services who apply for naturalization based on that service must mail their Form N–400 applications directly to the following address: Nebraska Service Center, Attention: N–400 Naturalization Facilitation Unit, P.O. Box 87426, Lincoln, Nebraska 68501–7426.

What Will Happen to Form N–400s Filed at Other Service Centers?

During the first 60 days following the effective date of this notice, the Vermont, California, and Texas Service Centers will forward to the Nebraska Service Center any Form N–400 that they receive from a person who is applying for naturalization on the basis of current active duty status in the armed services. They will also notify the applicant that the application is being forwarded to the Nebraska Service Center for processing. Applications forwarded from the other service centers will be receipted and filed when they arrive at the Nebraska Service Center. The applicants will receive written notification of the date, place, and time of their interview for naturalization.

After the 60-day transition period, any applicants for naturalization based on current military service who attempt to file the Form N–400 application at a location other than the Nebraska Service Center will be directed to mail their application directly to the Nebraska Service Center for processing.

Dated: November 24, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–31310 Filed 11–29–99; 2:31 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

November 24, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation for ESA, MSHA, OHAS, and VETS contact Darrin King ((202) 219–5096 ext. 151 or by E-Mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: Aerial Lifts, Manufacture's Certification Record of Modification.

OMB Number: 1218–0230.

Frequency: On occasion.

Affected Public: Business or other for-profit; not-for-profit; Federal government; State, local or tribal government.

Number of Respondents: 900.

Estimated Time Per respondent: Three minutes.

Total Burden Hours: 45 hours.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employees as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). In this regard, the standard on Aerial Lifts (29 CFR 1910.67) requires that when aerial lifts are "field modified" for uses other than those intended by the manufacture, the modification must be certified by the manufacturer or by any other equivalent entity, such as a nationally recognized testing laboratory to be in conformity with all applicable provisions of ANSI A92.2–1969 and the OSHA standard, to be at least as safe as the equipment was before modification. The employer is required to maintain the certification record and to disclose to an OSHA Compliance Officer upon request.

Agency: Occupational Safety and Health Administration.

Title: Servicing Multi-Piece and Single Piece Rim Wheels, Manufacturer's Certification Record.

OMB Number: 1218–0219.

Frequency: Annually.

Number of Respondents: 80.

Estimated Time per Response: 5 minutes.

Total Burden Hours: 6.

Description: The standard on Servicing Multi-Piece and Single Piece Rim Wheels, under 29 CFR 1910.177(d)(3)(iv), requires that when a damaged restraining device needs structural repair, such as component replacement or rewelding, the repairs must be certified by either the manufacturer or a registered professional engineer as meeting the strength requirements of paragraph 1910.177(d)(3)(I). The information collection requirement (the manufacturer's certification record) ensures that employers protect employees from hazards of a damaged restraining device in the event of a rim wheel separation or the sudden release of pressurized air. In addition, OSHA compliance officers may require employers to disclose the required certification record at the time of an inspection.

Agency: Occupational Safety and Health Administration.

Title: Overhead and Gantry Cranes, Inspection Certification Records.

OMB Number: 1218–0224.

Frequency: Varies (annually, semi-annually).

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal government.

Number of Respondents: 30,000.

Estimated Time Per Response: Varies from 15 minutes to 30 minutes.

Total Burden Hours: 367,500.

Description: The inspection certification records required in 29 CFR 1910.179(j)(2)(iii), (j)(2)(iv)(m)(1), and (m)(2) are necessary to ensure compliance with the requirement for overhead and gantry cranes. They are intended to ensure that these cranes have periodic and recorder maintenance checks and that they are operating in a safe and reliable condition. In addition, OSHA compliance officers may require employers to disclose the certification records during an Agency inspection.

Agency: Occupational Safety and Health Administration.

Title: Forging Machines, Inspection Certification Records.

OMB Number: 1218–0228.

Frequency: Bi-Weekly.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal government; State, local or tribal government.

Number of Respondents: 27,000.

Estimated Time per Response: 10 minutes.

Total Burden Hours: 244,868

Description: The inspection certification records required in the standard on Forging Machines, 29 CFR 1910.218(a)(2)(i) and (a)(2)(ii) are necessary to ensure that forging machines have periodic and regular maintenance checks and that guards and point of operation protection devices have scheduled and recorded inspections. In addition, OSHA compliance officers may require employers to disclose the certification records during an Agency inspection.

Agency: Occupational Safety and Health Administration.

Title: Hazard Communications (29 CFR 1200: 1915, 1917, 1918, 1926, 1928).

OMB Number: 1218–0072.
Frequency: On occasion.
Affected Public: Business or other for-profit; Federal government; State, local or tribal government.
Number of Respondents: 5,041,918.
Estimated Time Per Respondent: Ranges from 10 minutes for establishments to obtain and maintain material safety data sheets to 8 hours for manufacturers or importers to conduct a hazard determination.
Total Burden Hours: 7,301,762 hours.
Description: The Hazard Communication Standard's collection of information requirements are designed to ensure that the hazards of all chemicals produced or imported are evaluated and that information concerning their hazards is transmitted to employees and downstream employers. The standard requires chemical manufacturers and importers to evaluate chemicals they produce or import to determine if they are hazardous; for those chemicals determined to be hazardous, material safety data sheets and warning labels must be developed. Employers are required to establish a hazard communication program, to transmit information on the hazards of chemicals to their employees by means of labels on containers, material safety data sheets and training programs. Implementation of these collection of information requirements will ensure all employees have the "right-to-know" the hazards and identities of the chemicals they work with and will reduce the incidence of chemically-related occupational illness and injuries.

Ira L. Mills,
Departmental Clearance Officer.

[FR Doc. 99–31178 Filed 11-30-99; 8:45 am]
BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Roof Control Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before January 31, 2000.

ADDRESSES: Send comments to Diane B. Hill, Program Analysis Officer, Office of Program Evaluation and Information Resources, 4015 Wilson Boulevard, Room 715, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to dhill@msha.gov, along with an original printed copy. Ms. Hill can be reached at (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Diane B. Hill, Program Analysis Officer, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 719, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Hill can be reached at dhill@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 302(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 846, requires that a roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine be first approved by the Secretary of Labor (Secretary) before implementation by the operator. The plan must show the type of support and spacing approved by the Secretary, and the plan must be reviewed at least every 6 months by the Secretary.

Under 30 CFR 75.221, the information required to be submitted and approved in the roof control plan includes the following: (1) the name and address of the company; (2) the name, address, mine identification number, and location of the mine; (3) the name and title of the company official responsible for the plan; (4) a description of the mine strata; (5) a description and drawings of the sequence of installation and spacing of supports for each method of mining used; (6) the maximum distance that an ATRS system is to be set beyond the last row of permanent support (if appropriate); (7) specifications and installation procedures for liners or arches (if appropriate); (8) drawings indicating the planned width of openings, size of pillars, method of pillar recovery, and the sequence of mining pillars; (9) a list of all support materials required to be used in the roof, face and rib control system; (10) the intervals at which test holes will be drilled (if appropriate); and (11) a description of the methods to be used for the production of persons. Under 30 CFR 75.215, the roof control plan for each longwall mining section is required to specify the methods that will able used to maintain a safe travelway out of the section through the tailgate side of the longwall and the procedures that will be followed if a ground failure prevents travel out of the section through the tailgate side of the longwall.

Roof control plans are evaluated by Mine Safety and Health Administration (MSHA) specialists on the basis of the criteria set forth in 30 CFR 75.222. The District Manager may require additional measures in plans and may approve roof control plans that do not conform to the applicable criteria in this section, provided that effective control of the roof, face, and ribs can be maintained.

Under 30 CFR 75.223, a mine operator is required to proposed revisions to the roof control plan when conditions indicate that the plan is not suitable for controlling the roof, face, ribs, or coal or rock bursts, or when accident and injury experience at the mine indicates the plan is inadequate. The regulation also requires mine operators to plot on a mine map each unplanned roof or rib fall and coal or rock burst that occurs in the active workings when certain criteria are met. Finally, the regulation requires MSHA to review the plan every 6 months.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to Roof Control Plans. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions or responses.

A copy of the proposed information collection request may be obtained by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

Falls of roof, face and rib continue to be a leading cause of injuries and death in underground coal mines. All underground coal mine operators are required to develop and submit roof control plans to MSHA for evaluation and approval. These plans provide the means to instruct miners, who install roof supports, in the minimum requirements and placement of roof supports. The plan also provides a reference for mine supervisors to assist them in compliance with the plan requirements. In that regard the plan is a working document for the miners.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Roof Control Plan (30 CFR 75.215, 75.220, 75.221, 75.222, and 75.223).

Agency Number: 1219–0004.

Recordkeeping: Indefinite.

Affected Public: Business or other for-profit institutions.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden hours
75.220	10	On occasion	10	24 hours	240
75.223	1,020	On occasion	1,107	5 hours	5,535
75.223(b)	1,020	On occasion	2,400	5 minutes	192
Totals	2,050		3,517	1.7 hours	5,967

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $5,585.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 24, 1999.

Jay Mattos,

Acting Director, Program Evaluation and Information Resources.

[FR Doc. 99–31177 Filed 11–30–99; 8:45 am]

BILLING CODE 4510–43–M

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, December 9, 1999 and Friday, December 10, 1999 at the Embassy Suites Hotel, 1250 22nd Street, NW, Washington, DC. The meeting is tentatively scheduled to begin at 10 a.m. on December 9, and 9 a.m. on December 10.

The Commission will discuss post-acute care quality initiatives, the home health prospective payment system, outpatient therapy services, a skilled nursing facility update framework, beneficiaries' financial liability and access to care, Medicare's role in the safety net, coding of evaluation and management services, a single update mechanism across ambulatory care settings, hospital capital payment, Medicare hospital inpatient payments, the expanded hospital inpatient transfer policy, the most-of-Medicare margin, rebasing hospital inpatient payments, and ESRD payment reform.

Agendas will be mailed on Tuesday November 30, 1999. the final agenda will be available on the Commission's website (www. MedPAC.gov)

ADDRESSES: MedPAC's address is: 1730 K Street, NW, Suite 800, Washington, DC 20006. The telephone number is (202) 653–7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 635–7220.

SUPPLEMENTARY INFORMATION: If you are not on the Commission mailing list and wish to receive an agenda, please call (202) 653–7220.

Murray N. Ross,

Executive Director.

[FR Doc. 99–31169 Filed 11–30–99; 8:45 am]

BILLING CODE 6820–BW–M

NATIONAL SKILL STANDARDS BOARD

Notice of Open Meeting; Amended Tine

AGENCY: National Skill Standards Board.

ACTION: Notice of open meeting; amended time.

SUMMARY: The National Skill Standards Board was established by an Act of Congress, the National Skill Standards Act, Title V, Pub. L. 103–227. The 27-member National Skill Standards Board will serve as a catalyst and be responsible for the development and implementation of a national system of voluntary skill standards and certification through voluntary partnerships which have the full and balanced participation of business, industry, labor, education and other key groups. This notice amends the time of the meeting. The meeting will be held from 10 a.m. to 12 noon on Friday, December 10, 1999. The meeting notice was originally published on Nov. 23, 1999 at 64 FR 65734–65735.

TIME AND PLACE: The meeting will be held from 10 a.m. to approximately 12 p.m. on Friday, December 10, 1999, at The Holiday Inn Hotel and Suites, 625 First Street, Alexandria, VA 22314.

AGENDA: The agenda for the Board Meeting will include and update from the Board's committees and presentations from representatives of the Sales & Service Voluntary Partnership (SSVP) and Manufacturing Skill Standards Council (MSSC).

PUBLIC PARTICIPATION: .The meeting, from 10 a.m. to 12 p.m., is open to the public. Seating is limited and will be available on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities should contact Leslie Donaldson at (202) 254–8628, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Dave Wilcox, Deputy Executive Director at (202) 254–8628.

Signed at Washington, D.C., this 24 day of November, 1999.

Edie West,

Executive Director, National Skill Standards Board.

[FR Doc. 99–31179 Filed 11–30–99; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219–OLA–2; ASLBP No. 00–773–02–OLA]

GPU Nuclear Corp.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

GPU Nuclear Corp.; Oyster Creek Nuclear Generating Station

This Board is being established pursuant to the request for hearing submitted by the Nuclear Information and Resource Service. The petition for leave to intervene was filed in response to a notice issued by the NRC staff for consideration of a proposed amendment to the license of GPU Nuclear Corp. for the Oyster Creek Nuclear Generating Station. The requested amendment would allow the use of the reactor building crane to handle loads up to and including forty-five tons during power operations. A notice of the proposed amendment was published in the **Federal Register** at 64 FR 54,925 (Oct. 8, 1999).

The Board is comprised of the following administrative judges:

Alan S. Rosenthal, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001.

Dr. Charles N. Kelber, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001.

Dr. Peter S. Lam, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001.

All correspondence, documents, and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 24th day of November 1999.

G. Paul Bollwerk III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 99–31189 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423–LA–3; ASLBP No. 00–771–01–LA]

Atomic Safety and Licensing Board; In the Matter of Northeast Nuclear Energy Company (Millstone Nuclear Power Station, Unit No. 3; Facility Operating License NPF–49) Change in Time and Location of Prehearing Conference

November 24, 1999.

Before Administrative Judges: Charles Bechhoefer, Chairman; Dr. Richard F. Cole; Dr. Charles N. Kelber.

Notice is hereby given that the time and location of the prehearing conference scheduled for December 13–14, 1999, announced by the Atomic Safety and Licensing Board's Notice of Prehearing Conference dated November 2, 1999, published at 64 FR 60854 (November 8, 1999), has been changed. The conference will commence at 9:00 a.m. on Monday, December 13, 1999, at Ballroom 3, Radisson Hotel, 35 Gov. Winthrop Blvd., New London, Connecticut 06320, and will continue (to the extent necessary) at 9:00 a.m. on Tuesday, December 14, 1999, at the same location.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge, Rockville, Maryland.

[FR Doc. 99–31190 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 115th meeting on December 14–16, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, November 12, 1998 (63 FR 63337).

Tuesday, December 14, 1999

8:30 A.M.–8:40 A.M.: Opening Remarks by the ACNW Chairman (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

8:40 A.M.–9:30 A.M.: ACNW Planning and Procedures (Open/Closed)—The Committee will hear a briefing from its staff on issues to be covered during this meeting. The Committee will also consider topics proposed for future consideration by the full Committee and Working Groups. This will include strategic planning and self assessment as well as topics for the next Commission briefing. The Committee will discuss ACNW-related activities of individual members. The Committee may also discuss potential ACNW members. (Note: The new members portion may be closed to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6)).

9:30 A.M.–12:15 P.M.: Department of Energy's Yucca Mountain Draft Environmental Impact Statement (DEIS) (Open)—The Committee will discuss various aspects of the DEIS with representatives of the Department of Energy. Topics will likely include a discussion on transportation issues, the nature of public comments to date, and future activities on the part of the DOE.

1:15 P.M.–5:00 P.M.: Planning and Procedures (Open)—Continuation of previous items plus preparation for its next day meeting with the Commission.

Wednesday, December 15, 1999

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACNW Chairman (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–11:30 A.M.: Prepare for and Meet with the NRC Commissioners (Open)—The Committee will meet with the Commissioners to discuss items of mutual interest. Topics are expected to include: risk communications, repository design white paper, NRC's proposed high-level waste regulation, decommissioning issues, and the ACNW action plan and self assessment.

12:30 P.M.–2:00 P.M.: Clearance Rule (Open)—The Committee will discuss this proposed rule. The rule will address the level of radioactive contamination on solid material that is acceptable for unrestricted release.

2:00 P.M.–3:30 P.M.: NRC Staff's Strategic Planning Efforts (Tentative) (Open)—The Committee will discuss with the NRC staff their recent strategic planning efforts. The Committee will use this information in drafting their Year 2000 Action Plan.

3:45 P.M.–5:30 P.M.: Preparation of ACNW Reports (Open)—The Committee will discuss planned reports on the following topics: the Yucca Mountain DEIS, rubblization decommissioning option, waste related research, the role of safety assessment in regulatory decision making, defense in-depth, the proposed NRC high-level waste regulation, and other topics discussed during this and previous meetings as the need arises.

Thursday, December 16, 1999

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACNW Chairman (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–9:30 A.M.: Meeting with the Director of the Division of Waste Management, Office of Nuclear Material Safety and Safeguards (NMSS) (Open)—The Committee will meet with the Director to discuss items of mutual interest.

9:30 A.M.–3:00 P.M.: Preparation of ACNW Reports (Open)—The Committee will continue preparation of ACNW reports.

3:00 P.M.–3:30 P.M.: Miscellaneous (Open)—The Committee will discuss miscellaneous matters related to the conduct of Committee and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 28, 1999 (64 FR 52352). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Richard K. Major, ACNW, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, ACNW (Telephone 301/415–7366), between 8:00 A.M. and 5:00 P.M. EST.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. EST at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: November 24, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–31191 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Pilot Program Evaluation Panel; Meeting Notice

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 94–463, Stat. 770–776) the U.S. Nuclear Regulatory Commission (NRC) announced the establishment of the Pilot Program Evaluation Panel (PPEP). The PPEP will function as a management-level Oversight group to monitor and evaluate the success of the Commission's Reactor Oversight Process Improvements program. A Charter governing the PPEP functions as a Federal Advisory Committee was filed with Congress on June 30, 1999, after consultation with the Committee Management Secretariat, General Services Administration. The PPEP will hold its forthcoming meetings on December 8 and 9, 1999, at the Nuclear Regulatory Commission Headquarters, 11545 Rockville Pike, Rockville, Maryland 20852, Room T–2 B3.

The PPEP meeting participants are listed below along with their affiliation:

Frank P. Gillespie—Nuclear Regulatory Commission
Mohan C. Thadani—Nuclear Regulatory Commission
James T. Wiggins—Nuclear Regulatory Commission
Heidi Hahn—Los Alamos National Laboratories
Bruce Mallet—Nuclear Regulatory Commission
Geoffrey Grant—Nuclear Regulatory Commission
Kenneth E. Brockman—Nuclear Regulatory Commission
James Lieberman—Nuclear Regulatory Commission
Steve Floyd—Nuclear Energy Institute
David Garchow—Public Service Electric and Gas
Masoud Bajestani—Tennessee Valley Authority
George Barnes—Commonwealth Edison Company
James Chase—Omaha Public Power District
Gary Wright—Illinois Department of Nuclear Safety
David Lochbaum—Union of Concerned Scientists

These meetings are scheduled to develop consensus on the PPEP's final report. The PPEP will discuss the comments provided by the PPEP members, and resolve the differences of views if any. The product of this two day meeting will be the final report of the panel. To ensure flexibility, the panel will not follow any specific chronological agenda.

Meetings of the PPEP are open to the members of the public. Oral or written views may be presented by the members of the public, including members of the nuclear industry. Persons desiring to make oral statements should notify Mr. Frank P. Gillespie (Telephone 301/415–1004, e-mail FPG@nrc.gov) or Mr. Mohan C. Thadani (Telephone 301/415–1476, e-mail MCT@nrc.gov) five days prior to the meeting date, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras will be permitted during this meeting.

Further information regarding topics of discussion; whether the meeting has been canceled, rescheduled, or relocated; and the Panel Chairman's ruling regarding requests to present oral statements and time allotted, may be obtained by contacting Mr. Frank P. Gillespie or Mr. Mohan C. Thadani between 8:00 a.m. and 4:30 p.m. EDT.

PPEP meeting transcripts and meeting reports will be available from the Commission's Public Document Room. Transcripts will be placed on the agency's web page at the address below: http://www.nrc.gov/NRR/OVERSIGHT/index.html.

Transcripts of previous PPEP meetings can be viewed as background material at the above web site.

VOL 64 ISS 230 DE 1 1999 UMI

Dated: November 24, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–31187 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on December 15–16, 1999, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, December 15, 1999—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss the staff's programs for risk-based analysis of reactor operating experience, including special studies for common-cause failure analyses, system and component analyses, accident sequence precursor analyses, and related matters.

Thursday, December 16, 1999—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss NRC staff efforts in the area of risk-informed technical specifications and associated industry initiatives proposed by the Risk-Informed Technical Specification Task Force. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: November 24, 1999.

Paul A. Boehnert,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–31188 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

NRC Coordination Meeting With Standards Development Organizations

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The NRC has committed through its Strategic Plan to utilize consensus standards to increase the involvement of licensees and others in the NRC's regulatory development process, consistent with the provisions of Public Law (Pub. L.) 104–113, the National Technology and Transfer Act of 1995, and Office of Management and Budget (OMB) Circular A–119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and Conformity Assessment." As part of this commitment, periodic coordination meetings with key standards development organizations (SDOs) and other stakeholders will be held to foster better communication of SDOs' ongoing activities, and NRC needs regarding standards development and their use.

DATES: December 8, 1999—Registration will be from 1 p.m. to 1:30 p.m. The meeting will begin at 1:30 p.m. and will last approximately four hours.

LOCATION: U.S. Nuclear Regulatory Commission Headquarters, Two White Flint North, Room T–3B45, 11545 Rockville Pike, Rockville, Maryland 20852–2738.

CONTACT: Wallace E. Norris, USNRC, Telephone: (301) 415–6796; Fax: (301) 415–5074; Internet: wen@nrc.gov.

ATTENDANCE: This meeting is open to the general public. All individuals planning to attend, including SDO representatives, are requested to preregister with Mr. Norris by telephone or e-mail and provide their name, affiliation, phone number, and e-mail address.

PROGRAM: The purpose of the meeting is to foster better communication between SDOs and NRC regarding standards development and use. By holding periodic coordination meetings, the SDOs will be able to describe their on-going and planned activities, and the NRC will be able to discuss activities and issues related to specific standards that are being developed or revised to meet its regulatory needs. The meeting will be coordinated by the NRC Standards Executive.

The first meeting between NRC and SDOs was held on May 26, 1999. The following issues were identified at the May 26, 1999, for discussion at this meeting:

(1) *Policy:* A proposal for the participating organizations to fill the void resulting from the dissolution of the ANSI Standards Nuclear Board (SNB) by addressing policy issues such as standards implementation problems, needs, and priorities was favorably discussed. It is requested that SDO representatives consider processes for implementing this proposal.

(2) *Timeliness:* The length of time between identification of the need for a standard and endorsement by the NRC is excessive. Some SDOs are presently implementing trial standards development and approval programs in an attempt to speed up the process. A status summary is requested from those organizations implementing trial programs.

(3) *Pub. L. 104–113:* Questions related to implementation of the public law were raised. To provide direction in implementing Pub. L. 104–113 and OMB Circular A–119, the NRC issued Management Directive 6.5, "NRC Participation in the Development and Use of Consensus Standards," on November 2, 1999. A copy of the Management Directive will be provided to those in attendance, and NRC staff will provide an overview.

(4) *Status:* A continuing item will be SDO discussion of standards under development to address emerging issues.

Dated in Rockville, Maryland this 24th day of November, 1999.

For the Nuclear Regulatory Commission.

John W. Craig,

NRC Standards Executive.

[FR Doc. 99–31186 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of November 29, December 6, 13, and 20, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 29

There are no meetings scheduled for the Week of November 29.

Week of December 6—Tentative

Wednesday, December 8

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

Week of December 13—Tentative

Wednesday, December 15

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: Dr. John Larkins, 301–415–7360)

Thursday, December 16

9 a.m. Meeting on NRC Response to Stakeholders' Concerns Location: (NRC Auditorium, Two White Flint North)

Friday, December 17

9:30 a.m. Briefing on Status of RES Programs, Performance, and Plans (Including Status of Thermo-Hydraulics) (Public Meeting) (Contact: Jocelyn Mitchell, 301–415–5289)

Week of December 20—Tentative

Wednesday, December 22

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

* The schedule for Commission meeting is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: November 26, 1999.

William M. Hill, Jr.,

SECY, Tracking Officer, Office of the Secretary.

[FR Doc. 99–31270 Filed 11–29–99; 10:49 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 6, 1999, through November 19, 1999. The last biweekly notice was published on November 17, 1999 (64 FR 62704).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By January 3, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and

any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to *(Project Director)*: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: October 12, 1999.

Description of amendment request: This proposed technical specification change removes the anticipatory reactor scram signal for turbine electro-hydraulic control (EHC) low oil pressure trip from the reactor protection system (RPS) trip function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

The proposed change removes the Turbine EHC Control Oil Pressure-Low scram function and the associated Limiting Safety System Setting (LSSS). The purpose of the Turbine EHC Control Oil Pressure scram is to anticipate the pressure transient which would be caused by imminent control valve closure on loss of control oil pressure. This

function does not serve as an initiator for any accidents evaluated in Chapter 15 of the Updated Final Safety Analysis Report (UFSAR). In addition, this trip function is not credited in any design basis event and is functionally redundant to the Turbine Control Valve Fast Closure RPS trip function during a postulated loss of EHC control oil event. The Turbine Control Valve Fast Closure will initiate a scram on a loss of control oil event coincident with turbine control valve closure.

Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The removal of this function does not represent a change in operating parameters or introduce a new mode of operation. The pressure switches associated with the Turbine Control Valve Fast Closure function provide equivalent protection from a loss of EHC oil event. For this reason, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

Operation under the proposed amendment will not change any plant operation parameters, nor any protective system actuation setpoints other than removal of the Turbine EHC Control Oil Pressure-Low scram function. The scram function associated with the Turbine Control Valve Fast Closure provides equivalent protection for events involving fast turbine control valve closure including the loss of EHC control oil pressure. For this reason, eliminating the EHC Control Oil Pressure-Low scram function, which is redundant to other protective instrumentation, does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Station, Unit No. 2, Westchester County, New York

Date of amendment request: September 23, 1999.

Description of amendment request: The proposed amendment would relocate items associated with instrumentation for toxic gas monitoring from the Technical Specifications (TSs) to the Updated Final Safety Analysis Report (UFSAR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because:

1. There is no significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature. The Specifications and associated Bases will be transferred verbatim to the UFSAR.

These changes do not affect possible initiating events for accidents previously evaluated or alter the configuration or operating of the facility. The Limiting Safety Systems Settings and Safety Limits specified in the current TSs remain unchanged. Therefore, the proposed changes to the subject TS would not increase the probability or consequences of an accident previously evaluated.

2. The possibility of a new or different kind of accident from any accident previously evaluated has not been created.

As stated above, the proposed changes are administrative in nature. The safety analysis of the facility remains complete and accurate. There are no physical changes to the facility, and the plant conditions for which the design basis accidents have been evaluated are still valid. The operating procedures and emergency procedures are unaffected. Consequently, no new failure modes are introduced as a result of the proposed changes, therefore, the proposed changes will not initiate any new or different kind of accident.

3. There has been no significant reduction in the margin of safety.

The proposed changes are administrative in nature. Since there are no changes to the operation of the facility or physical design, the UFSAR design basis, accident assumptions are not affected. Therefore, the proposed changes will not result in a reduction in the margin of safety.

The proposed changes have been reviewed by both the Station Nuclear Safety Committee (SNSC) and the Con Edison Nuclear Facility Safety Committee (NFSC). Both Committees concur that the proposed changes do not represent a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Section Chief: Sheri Peterson.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: November 3, 1999.

Description of amendment request: The amendments would revise Section 3.8.1, "AC [alternating current] Sources—Operating," of the Technical Specifications. Specifically, this would revise: (1) Surveillance Requirement (SR) 3.8.1.9 to delete the power factor requirement from the diesel generator (DG) load rejection test; (2) SR 3.8.1.13 to allow performance of the diesel generator non-emergency automatic trip bypass test at any operational power level; and (3) SR 3.8.1.14 to allow performance of the 24-hour diesel generator run at any operational power level and delete the power factor requirement. No plant modification is involved with this proposed amendment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. Involve a reduction in a margin of safety.

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Approval of this amendment will have no effect on accident probabilities or consequences. The DGs and their associated emergency buses are not accident initiating equipment; therefore, there will be no impact on any accident probabilities by the approval of this amendment. The design of the equipment is not being modified by these proposed changes. In addition, the ability of the DGs to respond to a design basis accident will not be adversely impacted by these proposed changes. There will be no significant increased likelihood of causing a blackout of a safety bus by the proposed changes in testing. Therefore, there will be no significant impact on any accident consequences.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. Equipment will be operated in the same configuration with the exception of the plant

mode in which the testing is conducted. No changes are being made to the plant which will introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators; neither does it adversely impact any accident mitigating systems.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be impacted by implementation of this proposed amendment. The equipment referenced in the revised TS for these proposed changes is already capable of performing as designed. No safety margins will be impacted.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Richard L. Emch, Jr.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: November 3, 1999.

Description of amendment request: The proposed amendments would revise Section 3.8.1, "AC [alternating current] Sources—Operating," of the Technical Specifications. Specifically, this would revise: (1) Surveillance Requirement (SR) 3.8.1.9 to allow performance of the diesel generator (DG) load rejection test at any operational power level and to delete the power factor requirement; (2) SR 3.8.1.10 to allow performance of the diesel generator full load rejection test at any operational power level; and (3) SR 3.8.1.14 to allow performance of the 24-hour diesel generator run at any operational power level and delete the power factor requirement. No plant modification is involved with this proposed amendment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or
3. Involve a significant reduction in a margin of safety.

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Approval of this amendment will have no effect on accident probabilities or consequences. The DGs and their associated emergency buses are not accident initiating equipment; therefore, there will be no impact on any accident probabilities by the approval of this amendment. The design of the equipment is not being modified by these proposed changes. In addition, the ability of the DGs to respond to a design basis accident will not be adversely impacted by these proposed changes. There will be no significant increased likelihood of causing a blackout of a safety bus by the proposed changes in testing. Therefore, there will be no significant impact on any accident consequences.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. Equipment will be operated in the same configuration with the exception of the plant mode in which the testing is conducted. No changes are being made to the plant which will introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators; neither does it adversely impact any accident mitigating systems.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be impacted by implementation of this proposed amendment. The equipment referenced in the revised TS for these proposed changes is already capable of performing as designed. No safety margins will be impacted.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn , Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: Richard L. Emch, Jr.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: October 7, 1999.

Description of amendment request: Grand Gulf Nuclear Station (GGNS) requests approval to revise its licensing basis for the release of fission products following an accident. The basis for the proposed change makes use of one of the insights established in NUREG–1465, "Accident Source Terms for Light Water Nuclear Power Plants," which defines alternative source terms for use in the licensing of light water reactors. Specifically, this application credits the insight that there is a delay in the release of fission products from the reactor fuel following a postulated design basis loss-of-coolant accident (LOCA). The timing of fission product release from fuel perforation, i.e., gap activity release, is based on the boiling water reactor (BWR)—specific value of the timing of the gap activity release phase of a LOCA as calculated in the Boiling Water Reactor Owners Group (BWROG) Report, "Prediction of the Onset of Fission Gas Release From Fuel in Generic BWR." This BWROG Report has been previously reviewed and approved by the Nuclear Regulatory Commission (NRC) staff. The licensing basis change to Updated Final Safety Analysis Report (UFSAR) Section 15.6.5.5.2 proposed by GGNS replaces the assumption of an instantaneous release of gap activity phase fission products into the drywell with a more accurate scenario in which the gap activity release is delayed by up to 121 seconds as calculated in the BWROG Report. Approval of this change will allow GGNS to increase the containment isolation valve closure times credited for limiting post-accident doses to both control room personnel and to offsite individuals. While this new basis would be applicable to all of the containment isolation valves, it addresses only the dose mitigation aspects of the closure requirements. There are currently some valves for which the closure time is limited based on other functional performance requirements (e.g., line break isolation). This submittal does not propose any changes that would

VOL 64 ISS 230 DE 1 1999 UMI

eliminate any of these other requirements. The allowable closure times for these valves would not be affected by this proposed change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

GGNS staff has evaluated the proposed change to incorporate a delay in the post-accident fission product release into its licensing basis. This change recognizes one of the revised source term insights discussed in NUREG–1465. This change in the licensing basis will provide the basis for revising the Technical Requirements Manual to increase Primary Containment Isolation Valve (PCIV) maximum isolation times. These changes have been evaluated using the standards in 10CFR50.92 and it is concluded that they do not involve any significant hazards considerations. Specifically, the proposed change will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change takes credit for a new source term insight that recognizes that the fission product release from a fuel assembly is not instantaneous with a design basis accident. Implementation of this change into the licensing basis will be used to justify an increase in the maximum allowable PCIV isolation times. These changes do not affect the precursors for any accident or transient evaluated in Chapter 15 of the GGNS UFSAR. Therefore, there is no increase in the probability of any accident previously evaluated.

A plant specific radiological analysis has been performed to evaluate the effect on the dose consequences of extending the maximum allowable closure time. This evaluation considered the initial two-minute period of the accident during which, according to new source term insights developed in NUREG–1465 and in a BWROG report, fission product releases are not expected to occur. Releases from the break and from containment during this period consist of coolant radioactivity only. The total release during this period was found to result in an offsite dose of less than 0.60 rem. This dose represents only a small fraction of the LOCA dose evaluated in the UFSAR. As this submittal is for a limited scope application of the NUREG–1465 insights (in this case, timing and duration of the coolant activity phase) and addresses only the first 121 seconds of the accident scenario, the total long-term dose determined using the TID–14844 assumptions is not changed by this submittal.

In reality, the other insights offered in the NUREG would be expected to result in an overall dose reduction. In any event, the dose consequences of the proposed change do not result in an increase in the consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated;

The primary containment isolation system is designed to prevent, as much as practicable, the unfiltered release of radioactive material to the environs following an accident. As such, the system is relied upon for accident dose consequence mitigation. Neither the revision of the licensing basis to recognize that fission product releases are not instantaneous as is assumed in the current analysis, nor the extension of the valve closure times affects the ability of the valves to perform their accident mitigation function. It is also noted that the increased closure time allowables will only be applied to valves which do not have an alternate constraining performance requirement for closure time; the safety functions of other supported components and systems are not affected. Thus, the proposed change does not create the potential for a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety.

The proposed change revises the bases for the offsite dose calculation to credit, in the initial 2 minutes of the accident scenario, the fact that there is no fuel failure expected during this time. That is, for the first two minutes of the event, only coolant activity is released. The other assumptions, bases and methodologies for offsite dose calculations used to evaluate the long-term offsite dose consequences of accidents described in FSAR [Final Safety Analysis Report] Chapter 15 are not affected by this change. The margin between calculated dose consequences described in the FSAR and regulatory limits is not reduced.

A recent GGNS analysis of the LOCA scenario considering the only release in the first 121 seconds is from the reactor coolant resulted in an EAB [exclusion area boundary] dose of less than 1 rem thyroid during this period. The total dose for the 0- to 2-hour period is not expected to increase due to the delay in the fission product release; the total amount of radioactivity released will remain the same. Both the recently evaluated 2-minute dose and the 24.9 rem in two hours as presented in the UFSAR are insignificant in comparison to the 300 rem acceptance limit for this scenario. The GGNS SER [safety evaluation report] acknowledges the conservatism of the old analysis methodology. An independent analysis done by the staff during their evaluation of the GGNS FSAR estimated doses could decrease about 95% if the fission product release were to be delayed by 2 minutes.

The bases for PCIV closure times described in the Technical Specifications remain unchanged. The inconsistency between the assumption of immediate containment isolation in the dose analysis and allowable isolation valve closure times of one to two minutes is eliminated by this change. Plant specific analysis has shown that the expected dose resulting from the PCIVs remaining open during this period is insignificant.

Actual safety benefits are expected to result from valve performance and reliability improvements, elimination of unnecessary reports and system performance improvements such as minimization of water hammer events. Therefore, the increase in maximum isolation time for certain PCIVs proposed in this submittal will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

GPU Nuclear, Inc., et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania.

Date of amendment request: August 20, 1999.

Description of amendment request: The proposed license amendment would modify the Technical Specifications (TSs) to allow revision of the 4KV Engineered Safeguards Bus Undervoltage Relay Degraded Voltage calibration to be performed at an annual interval rather than its present refueling interval and change the bases to state that the degraded voltage relay setpoint tolerance is being changed from an "as left" reading to an "as found" reading. Additionally, the new calculations supporting the request identified a need to compensate for lack of voltage margin through reliance on manual action in lieu of full automatic voltage protection, as implied by Chapter 8 of the Updated Final Safety Analysis Report (UFSAR). Such actions would involve load manipulations following a loss of coolant accident (LOCA) with post LOCA conditions in combination with extremely low switchyard voltage. An additional limit of operation with a maximum of 5 Circulating Water pumps while in single 230KV auxiliary transformer operation is also added to the UFSAR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes to the degraded voltage relay setpoint tolerance and calibration interval are intended to reduce the total degraded voltage relay setpoint uncertainties. These changes will provide greater confidence that minimum voltages necessary to operate NSR [nuclear safety related] equipment are not exceeded. In combination, the proposed changes for degraded voltage relay setpoint tolerance and

calibration interval will reduce the probability that ES [engineered safeguards] buses will be separated from their offsite power source during low grid voltage conditions. This will reduce challenges to the onsite emergency power systems. The proposed changes will enhance the ability of the undervoltage protection scheme to perform in accordance with its intended design, and will improve the ability of the scheme to respond to low voltage conditions caused by malfunction of equipment important to safety.

Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated in the SAR.

2. The proposed setpoint tolerance and calibration interval changes are consistent with the specifications and intended design of the degraded voltage protection scheme and do not introduce the possibility of any new failure modes to the protection scheme or the electrical distribution system. The proposed changes reduce the probability of insufficient voltage to NSR loads and reduce the probability of separation of ES buses from the offsite power source. Therefore, operation of the facility in accordance with the proposed changes do not create a possibility of a new or different type of accident than any previously evaluated in the SAR.

3. The proposed setpoint tolerance and calibration interval changes are intended to reduce the total degraded voltage relay setpoint uncertainties. The changes will provide greater confidence that minimum voltages necessary to operate NSR equipment will not be exceeded. The proposed changes will also reduce the probability that the ES buses will be separated from their offsite power source during low grid voltage conditions. These effects will enhance the objective [of] providing a reliable source of power for BOP auxiliaries and [a] continuously available power supply for the ES equipment as required by TS [technical specification] 3.7 bases. Therefore, operation of the facility in accordance with the proposed changes would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Sheri R. Peterson.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: November 3, 1999.

Description of amendment requests: The proposed amendments would allow use of fuel rods with ZIRLO cladding, specify an alternate methodology to determine the integral fuel burnable absorber (IFBA) requirements for Westinghouse fuel assemblies stored in the new fuel storage racks, and delete the designation of the fuel assembly types allowed in the spent fuel storage racks and the new fuel storage racks.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

The proposed T/S [Technical Specification] change to allow storage and use of fuel rods clad with ZIRLO does not significantly increase the probability of occurrence of an accident. Fuel assemblies are not an initiator or precursor to any previously evaluated accident. The proposed T/S change does not change or alter the design criteria for the systems or components used to mitigate the consequences of any design basis accident. Use of ZIRLO fuel cladding does not adversely affect fuel performance or impact nuclear design methodology. Therefore, accident analysis results are not impacted. The operating limits are not changed and the analysis methods to demonstrate operation within the limits remain in accordance with NRC-approved methodologies. Other than the changes to the fuel rod cladding there are no physical changes to the plant associated with this T/S change. A safety analysis is still required to be performed for each specific reload cycle to demonstrate compliance with fuel safety design bases. The 10 CFR 50.46 emergency core cooling system acceptance criteria are applied to the ZIRLO clad fuel rods. The use of fuel assemblies containing ZIRLO clad fuel rods does not result in a change to the reload design and safety analysis limits. The clad material is similar in chemical composition and has similar physical and mechanical properties as Zircaloy-4. Thus, the cladding integrity is maintained and the structural integrity of the fuel assembly is not affected. ZIRLO cladding improves corrosion performance and dimensional stability. Since the dose predictions in the safety analyses are not sensitive to the fuel rod cladding material used, the radiological consequences of accidents previously evaluated in the safety analysis remain valid.

The proposed T/S change to specify an alternate NRC-approved methodology used to determine the IFBA requirements for Westinghouse fuel assemblies stored in the new fuel storage racks does not change or alter the design criteria for the systems or components used to mitigate the consequences of any design basis accident. This alternate methodology is more conservative with respect to determining the reactivity of the stored fuel assemblies than the methodology currently specified in the T/S. Therefore, the probability of an accidental criticality is less with the proposed T/S change than currently assumed. Since a criticality accident is precluded by the proposed T/S change, the consequences of a criticality accident are not changed by the use of this alternate methodology.

The proposed T/S change to delete designation of the fuel assembly types allowed in the spent fuel storage racks and new fuel storage racks is administrative, and does not alter the design and analysis requirements that ensure storage of fuel in safe configurations. The existing T/S requirements for maximum enrichment, reactivity, and spacing of fuel assemblies in the spent fuel storage racks and new fuel storage racks are not altered by this change.

Based on the above discussions, design basis accident analyses affected by these T/S changes remain valid, and the consequences of an accident previously evaluated are not significantly increased by these changes.

Therefore, the probability of occurrence or the consequences of accidents previously evaluated are not significantly increased.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed T/S change to allow storage and use of fuel rods clad with ZIRLO cannot create a new or different kind of accident. Fuel assemblies with ZIRLO clad fuel rods satisfy the same design bases as those used for fuel assemblies with Zircaloy-4 clad fuel rods. The design and performance criteria continue to be met and no new failure mechanisms have been identified. Since the original design criteria are met, the ZIRLO clad fuel rods cannot be an initiator for any new accident. The ZIRLO cladding material offers improved corrosion resistance and structural integrity. The proposed changes do not affect the design or operation of any other system or component in the plant. The safety functions of the other structures, systems, or components are not changed in any manner, nor is the reliability of any other structure, system, or component reduced. The changes do not affect the manner by which the facility is operated and do not change any other facility design feature, structure, or system. No new or different types of permanent plant equipment are installed by this proposed T/S change. In addition, the use of ZIRLO fuel assemblies does not involve any alterations to permanent plant equipment or plant operating procedures that would introduce any new or unique operational mode or accident precursor.

The proposed T/S change to specify an alternate NRC-approved methodology used to determine the IFBA requirements for Westinghouse fuel assemblies stored in the new fuel storage racks ensures that a conservative methodology is used to verify the licensing basis reactivity limits are not exceeded. The proposed change does not affect any permanent plant equipment or plant operating procedures, and cannot be an initiator of an event.

The proposed T/S change to delete designation of the fuel assembly types allowed in the spent fuel storage racks and new fuel storage racks is an administrative

change only. The proposed change does not affect any permanent plant equipment or plant operating procedures, and cannot be an initiator of an event.

Since there is no change to the permanent facility or plant operating procedures, and the safety functions and reliability of structures, systems, or components are not affected, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, it is concluded that the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed T/S change to allow storage and use of fuel rods clad with ZIRLO does not change the reactor fuel reload design and safety analysis limits. The use of these fuel assemblies takes into consideration the core operating conditions allowed in the T/S. For each cycle reload core, the fuel assembly design and core configuration are evaluated using NRC-approved reload design methods, including consideration of the core physics analysis peaking factors and core average linear heat rate effects. The design basis and modeling techniques for fuel assemblies with Zircaloy-4 clad fuel rods remain valid for fuel assemblies with ZIRLO clad fuel rods. Use of ZIRLO cladding material has no effect on the criticality analysis for the spent fuel storage racks and the new fuel storage racks. Furthermore, it has no effect on the thermal-hydraulic and structural analysis for the spent fuel pool. Therefore, the design and safety analysis limits specified in the T/S are maintained with this proposed change.

The proposed T/S change to specify an alternate NRC-approved methodology used to determine the IFBA requirements for Westinghouse fuel assemblies stored in the new fuel storage racks ensures that a conservative methodology is used to verify the licensing basis reactivity limits are not exceeded. Therefore, the existing T/S margin for reactivity control in the new fuel storage racks is maintained by this proposed change.

The proposed T/S change to delete designation of the fuel assembly types allowed in the spent fuel storage racks and new fuel storage racks is an administrative change, and does not alter any of the existing T/S limits governing storage and use of reactor fuel.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: Claudia M. Craig.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: October 16, 1998, as supplemented by letters dated December 30, 1998, May 10, June 15, July 30, August 2, 11, 16, 19, 27, September 10, and 30, 1999.

Description of amendment request: Associated with a Niagara Mohawk Power Corporation (NMPC or the licensee) application to convert from the Curent Technical Specifications (CTS) for the Nine Mile Point Nuclear Power Station, Unit No. 2, to Improved Technical Specifications (ITS) as contained in Revision 1 of NUREG–1433, and Revision I of NUREG–1434, "Standard Technical Specifications for General Electric Plants, BWR/4 and BWR/6" dated April 1995, the licensee proposed to allow two hydrogen recombiners to be inoperable for up to 7 days provided that the alternate hydrogen control system is found to be acceptable to the NRC staff as described below.

CTS 3.6.6.1 ACTION only permits one hydrogen recombiner to be inoperable. If two hydrogen recombiners are inoperable, CTS 3.0.3 is entered. CTS 3.6.6.1 ACTION has been modified to incorporate Standard Technical Specification (STS) 3.6.3.1 ACTION B which allows two hydrogen recombiners to be inoperable for up to 7 days. The use of STS 3.6.3.1 ACTION B is allowed, as specified in a Bases Reviewer's Note, provided that the alternate hydrogen control system is found to be acceptable to the NRC staff. Therefore, the licensee proposed to allow credit be taken for an alternate hydrogen control system in the event of both hydrogen recombiners are determined to be inoperable for up to 7 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the criteria set forth in 10 CFR 50.92, NMPC has evaluated this proposed Technical Specifications change and determined it does not represent a significant hazards consideration. The following is provided in support of this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change extends the functional test frequency of the hydrogen recombiner system. The hydrogen recombiners are not considered as initiators for any previously evaluated accidents. Therefore, the probability of an accident previously evaluated is not significantly increased. The proposed change does not impact the Surveillance Requirement itself nor the way in which the Surveillance is performed. The proposed change does not affect the availability of the hydrogen recombiners to mitigate an accident because of the availability of the redundant hydrogen recombiner. Furthermore, an historical review of surveillance test results indicated that all failures identified were unique, non-repetitive, and not related to any time-based failure modes, and indicated no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any design changes, plant modifications, or changes in plant operation. The system will continue to function in the same way as before the change. In addition, the Surveillance Requirement itself and the way the Surveillance is performed will remain unchanged. Furthermore, a historical review of surveillance test results indicated no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The design, function, and OPERABILITY requirements for the hydrogen recombiner system are unchanged with this proposed revision. Although the proposed change will result in an increase in the interval between surveillance tests, the impact on hydrogen recombiner availability is small based on the redundant hydrogen recombiner, and there is no evidence of any failures that would impact the availability of the hydrogen recombiners. Therefore, the assumptions in the licensing basis are not impacted, and the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Sheri R. Peterson.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: October 25, 1999.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to add the Oscillation Power Range Monitor (OPRM) Upscale function and allow the proposed activation of the OPRM function of automatically detecting and suppressing reactor instability conditions. Activation of the OPRM is in response to Generic Letter 94–02, "Long-Term Solutions and Upgrade of Interim Operating Recommendations for Thermal-Hydraulic Instabilities in Boiling Water Reactors," licensee's associated commitment to implement stability solution Option III as described in Licensing Topical Report NEDO–31960–A, "BWR Owners' Group Long-Term Stability Solutions Licensing Methodology," and previous Nine Mile Point Unit 2 (NMP2) License Amendment 80 dated March 31, 1998. The proposed changes would add the OPRM as a Reactor Protection Sytem (RPS) Functional Unit, including operability requirements and surveillance tests. Specifically, the proposed amendment would revise TS 2.2, "Limiting Safety System Settings," TS 3/4.3.1, "Reactor Protection System Instrumentation," TS 3/4.4.1, "Recirculation System," and TS 6.9.1.9, "Administrative Controls-Core Operating Limits Report." The proposed changes to support activation of the OPRM function are generally consistent with the changes proposed in Licensing Topical Report NEDC–32410P–A, "Nuclear Measurement Analysis and Control Power Range Neutron Monitor (NUMAC PRNM) Plus Option III Stability Trip Function," Supplement 1, dated November 1997. The licensee's submittal also provides changes to the associated TS Bases and the TS Index (page ix).

The proposed changes would be made to NMP2's current TS, as well as to NMP2's improved TS addressed in a previous notice (64 FR 56518, October 20, 1999).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of the OPRM Upscale functional unit to TSs involves a system that is intended to detect the symptoms of instability events and initiate mitigative actions. The worst case failure of the system involved would be a failure to initiate mitigative actions (i.e., scram), but no failure can cause an accident. The removal of certain RCS [Recirculation System] operational restrictions is justified with the addition of the OPRM functional unit which will provide an automatic scram in the event of reactor instabilities. Therefore, the proposed change will not result in a significant increase in the probability of any accidents previously evaluated.

The addition of the OPRM Upscale functional unit to the NMP2 TSs will permit activation of the OPRM. Activation of the OPRM, together with the NUMAC-PRNM, provides NMP2 the ability to detect and suppress reactor instabilities. The existing RPS functional units as well as other plant equipment will continue to perform their intended function in the event of an accident. The addition of the OPRM functional unit fulfills the intended purpose of the TS-required RCS operational restrictions. Therefore, the proposed change will not result in a significant increase in the consequences of any accident previously evaluated.

2. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The addition of the OPRM Upscale functional unit to the NMP2 TSs will permit activation of the OPRM. Activation of the OPRM, together with the NUMAC–PRNM, provides NMP2 the ability to detect and suppress reactor instabilities. The OPRM is a mitigative system whose addition as an RPS functional unit will not create the possibility of a new or different accident or adversely affect existing RPS functional units. The worst case failure of the systems involved would be failure to initiate mitigative actions, but no failure can cause an accident. Except for the activation of the OPRM, no new plant configurations are created. The OPRM Upscale functional unit fulfills the intended purpose of the existing TS-required RCS operational restrictions. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed TS changes will not adversely affect the performance characteristics of RPS instrumentation nor will it affect the ability of the subject instrumentation to perform its intended function.

The addition of the OPRM Upscale functional unit to the NMP2 TSs will permit activation of the OPRM. Activation of the OPRM, together with the NUMAC-PRNM, provides NMP2 the ability to detect and suppress reactor instabilities (stability solution Option III) thereby meeting the requirements of GDC [General Design Criteria] 10 and 12. The NRC has reviewed and accepted the Option III methodology described in Licensing Topical Report NEDO-31960–A and concluded that the solution will provide the intended function. The surveillance testing and frequencies proposed will assure reliability of the OPRM Upscale function. The purpose of the existing TS operational restrictions on the RCS will be met by the automatic scram feature of the OPRM.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Sheri Peterson.

PECO Energy Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, (LGS) Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: October 14, 1999.

Description of amendment request: The proposed amendments, if approved, would revise the LGS, Units 1 and 2, Technical Specifications (TSs), Sections 2.2., "Safety Limits and Limiting Safety System Settings," and 3.0/4.0, "Limiting Conditions for Operation and Surveillance Requirements." The proposed revisions are required to support installation of a new Power Range Neutron Monitoring (PRNM) System and incorporate long-term thermal-hydraulic stability solution hardware.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

As discussed in the Nuclear Measurement Analysis & Control (NUMAC) PRNM [Power Range Neutron Monitor] Licensing Topical Report (LTR), the NUMAC PRNM modification and associated changes to the TS involve equipment that is designed to detect the symptoms of certain events or accidents and initiate mitigating actions. The worst case failure of the equipment involved in the modification is a failure to initiate mitigating action (scram or rod block), but no failure can cause an accident. The PRNM replacement system is designed to perform the same operations as the existing Power Range Monitor System and meets or exceeds all operational requirements. Therefore, it is concluded that the probability of an accident

previously evaluated is not increased as a result of replacing the existing equipment with the PRNM equipment.

The PRNM System reduces the need for tedious operator actions during normal conditions and allows the operator to focus more on overall plant conditions. The automatic self-test and increased operator information provided with the replacement system are likely to reduce the burden during off-normal conditions as well. The replacement equipment qualifications fully envelope the environmental conditions, including electromagnetic interference, in the LGS control room.

The replacement equipment has been specifically designed to assure that it fully meets the response time requirements in the worst case. As a result, due to statistical variations resulting from the sampling and update cycles, the response time is typically faster than required in order to assure that the required response time is always met. Setpoints are changed only when justified by the improved equipment performance specifications and by setpoint calculations which show that safety margins are maintained. There is no impact to the Control Rod Drop accident analysis because the PRNM System maintains all existing system functions with a reliability equal to or better than the existing Power Range Monitor System.

The replacement equipment includes up to 5 LPRM [Local Power Range Monitor] inputs on a single module compared to one per module on the current system. Up to 17 LPRM signals are processed through one preprocessor. The recirculation flow signals are processed in the same hardware as the LPRM processing. The net effect of these architectural aspects is that there are some single failures that can cause a greater loss of "sub-functionality" than in the current system. Other architectural and functional aspects, however, have an offsetting effect. Redundant power supplies are used so that a single failure of Reactor Protection System (RPS) AC power has no effect on the overall PRNM System functions while still resulting in a half scram as does the current system. Continuous automatic self-test also assures that if a single failure does occur, it is much more likely to be detected immediately. The net effect is that from a total system level, unavailability of the safety-related functions in the replacement system is equal to or better than the current Power Range Monitor System.

Based on the extensive and thorough verification and validation program used in the PRNM design and field operating experience, common cause failures in software controlled functions are judged to not be a significant failure mode.

However, in spite of that conclusion, means are provided within the system to mitigate the effects of such a failure and alert the operator. Therefore, such a failure, even if it occurred, will not increase the consequences of a previously evaluated accident.

To reduce the likelihood of common cause failure of software controlled functions, thorough and careful verification and validation activities are performed both for the requirements and the implementing software design. In addition, the software is designed to limit the loading that external systems or equipment can place on the system, thus significantly reducing the risk that some abnormal dynamic condition external to the system can cause system functional performance problems due to processing "overload" (i.e., "slowing down" or stopping the processing).

As a conservatism, however, despite these verification and validation activities, common cause failures of software-controlled functions due to residual software design faults are assumed to occur. Both the software and hardware are designed to manage the consequences of such failure (and also cover potential common cause hardware failures). Safety outputs are designed to be fail safe by requiring dynamic update of output modules or data signals, where failure to update the information is detected by simple receiving hardware, which, in turn, forces a trip. This aspect covers all but rather complex failures where the software or hardware executes a portion of the overall logic but fails to process some portion of new information (inputs "freeze") or some portion of the logic (outputs "freeze").

To help reduce the likelihood of complex failures, a watchdog timer is used which is updated by a very simple software routine that in turn monitors the operational cycle time of all tasks in the system. The software design is such that as long as all tasks are updated at the design rate, it is likely that software controlled functions are executing as intended. Conversely, if any task fails to update at the design rate, that is a strong indication of at least some unanticipated condition. If such a condition occurs, the watchdog timer will not be updated, the computer will be automatically restarted, and the system will detect an abnormal condition and provide an alarm and trip.

The information available to the operator is at least the same as with the current system and, in many cases, improved. No actions are required by the operator to obtain information normally used and equivalent to that available with the current equipment. However, the replacement system does provide more directly accessible information regarding the condition of the equipment, including automatic self-test, which can aid the operator in diagnosing unusual situations beyond those defined in the licensing basis.

In summary, the reliability of the new PRNM System and its ability to detect and mitigate abnormal flux transients have either remained the same or improved over the existing Power Range Monitor System. Since these postulated reactivity transients are mitigated by the new system as effectively and reliability [reliably] as the existing system, the consequences of these transients have not changed. Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

LGS Modification P00224 uses digital processing with software (firmware) control for the main signal processing part of the modification. The remainder of the equipment in the modification uses conventional equipment similar to the current system (e.g., penetrations, cables, interface panels).

The digital equipment has "control" processing points and software-controlled digital processing where as the current system has analog and discrete component processing. The result is that the specific failures of hardware and potential software common cause failures are different from the current system. The effects of software common cause failure are mitigated by hardware design and system architecture, but are of a "different type" of failure than those evaluated in the LGS Updated Final Safety Analysis Report (UFSAR). Therefore, the replacement system may have a malfunction of a different type from those evaluated in the LGS UFSAR[. . .] However, when these PRNM failures are evaluated at the system level, there are no new effects.

LGS Modification P00224 involves equipment that is intended to detect the symptoms of certain transients and accidents and initiate mitigating action. The worst case failure of the equipment involved in the modification is a failure to initiate mitigating action (scram), but no failure can cause an accident. This is unchanged from the current system. Software common cause failures could result in the system failing to perform its safety function, but this possibility is addressed in Section 1, above. In that case, it might fail to initiate action to mitigate the consequences of an accident, but would not cause one. No new system level failure modes are created with the PRNM System.

Therefore, LGS Modification P00224 does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in the margin of safety.

The PRNM System response time and operator information is either maintained or improved over the current Power Range Monitor System.

The PRNM System has improved channel trip accuracy compared to the current system and meets or exceeds system requirements assumed in setpoint analysis. The channel response time exceeds the requirements. The channel indicated accuracy is improved over the current system and meets or exceeds all of the system requirements.

The PRNM System was developed to detect the presence of thermal-hydraulic instabilities and automatically initiate the necessary corrective actions to suppress the oscillations prior to violating the Minimum Critical Power Ratio (MCPR) Safety Limit. The NRC has reviewed and approved the PRNM Licensing Topical Report (LTR) concluding that the PRNM System will provide the intended protection.

Therefore, LGS Modification P00224 does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J.W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief: James W. Clifford.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: September 9, 1996, as supplemented on June 6, 1997, and June 7, 1999.

Description of amendment request: This application for amendment to the Indian Point 3 Technical Specifications (TSs) proposes to revise TS Section 6 to delete requirements for Plant Operating Review Committee review of the fire protection program and implementing procedures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the Indian Point 3 plant in accordance with the proposed amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes delete the Plant Operating Review Committee (PORC) review of changes to the fire protection program and implementing procedures. The changes do not introduce any new modes of plant operation, make any physical changes, or alter any operational setpoints. Therefore, the changes do not degrade the performance of any safety system assumed to function in the accident analysis. Consequently, there is no effect on the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from those previously evaluated.

No physical changes to the plant or changes to equipment operating procedures are proposed. The changes are administrative and will not have any direct effect on equipment important to safety. Therefore the changes cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

Adequacy of the fire protection program and implementing procedures is assured by the fire protection license condition, the procedure review and approval process implemented by Amendment 159, the provisions of 10 CFR 50.59, and inspections and audits performed under the cognizance of the SRC [Safety Review Committee]. Consequently, deleting PORC's responsibility for review of the fire protection program and implementing procedure will not degrade the fire protection program. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: Sheri R. Peterson.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment request: November 8, 1999 (PCN 454).

Description of amendment requests: The licensee proposed to revise Surveillance Requirement (SR) 3.8.1.18 of Technical Specification (TS) 3.8.1, "A.C. Sources-Operating." Currently, SR 3.8.1.18 reads: Verify interval between each sequenced load block is within plus or minus 10% of design interval for each emergency and shutdown load programmed time interval load sequence. The licensee proposed to revise the SR to read: Verify the timing of each sequenced load block is within its timer setting plus or minus 10% or plus or minus 2.5 seconds, whichever is greater, with the exception of the 5 second load group which is minus 0.5, plus 2.5 seconds, for each programmed time interval load sequence.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed change would expand the current surveillance acceptance criteria to more accurately reflect the characteristics of the installed plant equipment. The diesel generators (DG's) have sufficient capacity to maintain adequate voltage and frequency during load sequencing with the expanded tolerance. The overall Engineered Safety Features (ESF) response times in the Technical Specifications and safety analyses are maintained even though the timer tolerance is increased. Therefore, the consequences of any accident previously evaluated are not increased. The DG load sequence timers are not of themselves a credible initiator of any accident, so the probability of an accident has not been increased. The timers will function acceptably to support the equipment needed for accident mitigation, so the consequences of an accident are not increased. Therefore, the probability or consequences of any accident previously evaluated are not increased.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This amendment request does not involve any change to plant equipment or operation. In the event of a loss of preferred power, the ESF electrical loads are automatically connected to the DG's in sufficient time to provide for safe reactor shutdown and to mitigate the consequences of a Design Basis Accident such as a loss of coolant accident. Increasing the timer tolerance will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

This amendment does not change the manner in which safety limits, limiting safety settings, or limiting conditions for operations are determined. The actual response times have not been altered by this amendment. Therefore, operation of equipment will not be affected. Accordingly, this amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California.

Date of amendment request: November 12, 1999 (PCN 505).

Description of amendment requests: The licensee proposed to revise Technical Specification (TS) 5.5.2.13, "Diesel Fuel Oil Testing Program." Specifically, the following changes are proposed:

1. The at least once per 92 days test is deleted for water and sediment,

American Petroleum Institute (API) gravity or an absolute specific gravity, and kinematic viscosity for the diesel fuel oil in the Emergency Diesel Generator fuel oil storage tanks. The requirement to test these properties prior to addition of new fuel to the storage tank remains unchanged.

2. A requirement is added to test new fuel oil prior to addition to the storage tank to verify that the flash point is within limits.

3. A requirement is added to test new fuel oil within 31 days of delivery for "other properties for ASTM [American Society for Testing and Materials] 2D fuel."

4. The acceptance criteria for the properties listed, with the exception of the particulate criterion, are replaced with the phrase "within limits." The statement which requires sampling in accordance with ASTM–D4057–81 is deleted. Acceptance criteria and reference to the applicable standard for sampling are currently provided in the Bases for Surveillance Requirement 3.8.3.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This change is an administrative change to make Technical Specification (TS) 5.5.2.13, "Diesel Fuel Oil Testing Program," consistent with the existing Bases for Surveillance Requirement (SR) 3.8.3.3. The specific changes are:

1. The at least once per 92 days diesel fuel oil test is deleted for water and sediment, American Petroleum Institute (API) gravity or an absolute specific gravity, and kinematic viscosity. The requirement to test these properties prior to addition of new fuel to the storage tank remains unchanged.

2. A requirement is added to test new fuel oil prior to addition to the storage tank to verify that the flash point is within limits.

3. A requirement is added to test new fuel oil within 31 days of delivery for "other properties for ASTM 2D fuel."

4. The acceptance criteria for the properties listed, with the exception of the particulate content, are replaced with the phrase "within limits." Acceptance criteria are currently provided in the Bases for Surveillance Requirement 3.8.3.3.

These changes are all consistent with the existing Bases for SR 3.8.3.3 and NUREG 1432.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This change is an administrative change to make TS 5.5.2.13, "Diesel Fuel Oil Testing Program," consistent with the existing Bases for Surveillance Requirement 3.8.3.3.

Therefore, this proposed change will not create the possibility of a new or different kind of accident from any accident that has been previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

This change is an administrative change to make TS 5.5.2.13, "Diesel Fuel Oil Testing Program," consistent with the existing Bases for Surveillance Requirement 3.8.3.3.

Therefore, there will be no significant reduction in a margin of safety as a result of this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant (VEGP), Units 1 and 2, Burke County, Georgia

Date of amendment request: April 19, 1999, as supplemented by letter dated November 1, 1999.

Description of amendment request: The proposed change would revise Surveillance Requirement (SR) 3.3.5.2 and associated Bases to allow the loss of voltage and degraded voltage trip setpoints to be treated as nominal values in the same manner as the trip setpoints for the Reactor Trip System (RTS) and Engineered Safety Feature Actuation System (ESFAS) instrumentation. The November 1, 1999, letter removes a note proposed in the April 19, 1999, amendment request. This revision does not change the scope of the April 19, 1999, application and the initial proposed no significant hazards consideration.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change affects only the presentation of the trip setpoints for loss of voltage and degraded voltage in SR 3.3.5.2 in the VEGP Units 1 and 2 TS [Technical Specifications]. The calibration of the channels whose setpoints are specified in SR 3.3.5.2 will continue to be performed in a manner consistent with the setpoint methodology used to determine the trip setpoints. There will be no adverse effect on the ability of those channels to perform their safety functions as assumed in the safety analyses. Since there will be no adverse effect on the trip setpoints or the instrumentation associated with those trip setpoints, there will be no increase in the probability of any accident previously evaluated. Similarly, since the ability of the instrumentation to perform its safety function is not adversely affected, there will be no increase in the consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed change affects only the presentation of the trip setpoint requirements of SR 3.3.5.2. Plant operation will not be changed, and the response of safety related equipment as assumed in the accident analyses would not be adversely affected. Therefore, the proposed change does not involve a new or different kind of accident than any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. As described above, the loss of voltage and degraded voltage instrumentation will remain capable of performing its safety function as assumed in the accident analyses. The treatment of trip setpoints as nominal values is consistent with the methodology used to establish those setpoints. As such, margin is not affected by the proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Section Chief: Richard L. Emch, Jr.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: September 8, 1999, as supplemented by letter dated November 9, 1999. The September 8, 1999, application was originally noticed in the **Federal Register** on November 3, 1999 (64 FR 59806).

Description of amendment request: The proposed amendments would revise Technical Specification 3/4.8.1, "A.C. Sources, Operating," and associated Bases, by relocating the 18-month surveillance to subject the standby diesel generator to inspections, in accordance with procedures prepared in conjunction with its manufacturer's recommendations, to the Technical Requirements Manual.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change moves the requirement to perform manufacturer's recommended inspections of the Standby Diesel Generators from the Technical Specifications to the Technical Requirements Manual (TRM). The change does not result in any hardware or operating procedure changes. The requirement being removed from the Technical Specifications is not the initiator of any analyzed event. The TRM is maintained using the provisions of 10 CFR 50.59. Since any changes will be evaluated per 10 CFR 50.59, no significant increase in the probability or consequences of an accident previously evaluated will be allowed without prior NRC approval. Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change moves the requirement to perform manufacturer's recommended inspections of the Standby Diesel Generators from the Technical Specifications to the TRM. The change does not alter the plant configuration (no new or different type of equipment will be installed) or make changes in methods governing normal plant operation. The change does not impose different requirements. The change does not alter assumptions made in the safety analysis and licensing basis. Therefore, the change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change moves the requirement to perform manufacturer's recommended inspections of the Standby Diesel Generators from the Technical Specifications to the TRM. The change does not reduce the margin of safety since the location of details has no impact on any safety analysis assumptions. In addition, the requirement being transposed from the Technical Specification to the TRM is the same as the existing Technical Specification. Also, the TRM is maintained using the provisions of 10 CFR 50.59. Since any changes will be evaluated per 10 CFR 50.59, no significant reduction in a margin of safety will be allowed without prior NRC approval.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: November 5, 1999.

Description of amendment requests: The proposed license amendments would revise Technical Specification (T/S) Surveillance Requirement 4.5.1.c to require verification that power is removed from each emergency core cooling system accumulator isolation valve operator instead of verification that each accumulator isolation valve breaker is removed from the circuit. In addition, the proposed license amendments would revise T/S 3.5.1 to change "pressurizer pressure" to "reactor coolant system pressure" in the applicability and action statement requirements. The Bases for T/S 3/4.5.1 will also be revised to reflect both changes. Additionally, administrative changes are proposed to the page format.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

The ECCS [emergency core cooling system] accumulators are used to mitigate the consequences of an accident after the event has occurred and do not initiate any accident previously evaluated. Demonstrating how power is removed from the valve operator does not initiate an accident. Inadvertently closing the valves cannot initiate an accident. Therefore, there is no significant increase in the probability of occurrence of an accident previously evaluated.

The ECCS accumulators will still perform their function of injecting borated water into the reactor coolant loops following a large break loss-of-coolant accident, as described in Section 14.3.1 of the Updated Final Safety Analysis Report (UFSAR). A spurious closure of an accumulator outlet isolation valve is not a credible event. Performing T/S Surveillance Requirement 4.5.1.c provides assurance that one of the two actions required for spurious closure of the valve is precluded. The proposed change to the surveillance continues to provide assurance that power will be removed from each accumulator isolation valve operator so that the valves remain open. The consequences of accidents previously evaluated remained bounded because the accumulators will still function as assumed in the UFSAR accident analysis. Therefore, there is no significant increase in the consequences of any accident previously evaluated.

Changing "pressurizer pressure" to "RCS [reactor coolant system] pressure" has no significant effect on the applicability of the T/S requirements. RCS pressure and pressurizer pressure instrumentation measure a similar parameter in the primary coolant system. Since the RCS is a closed-loop fluid system, pressure instruments should indicate approximately the same value. There is no significant difference between the instrument readings because they are corrected for range, height, and accuracy. There is no significant change in the margin of pressure between when the accumulators are required to be aligned at 1000 psig and the upper limit specified in T/S 3.5.1.d of 658 psig.

The proposed format changes are administrative and have no impact on plant operation.

Therefore, the proposed changes do not increase the probability of occurrence or

consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes to T/S 3/4.5.1 and the associated Bases do not involve any physical changes to the plant, but do change the way the plant is operated by changing the method for ensuring spurious closure of the accumulator isolation valve will not occur. The proposed change to T/S Surveillance Requirement 4.5.1.c does not create any new operator actions. The position of the accumulator isolation valve remains open in Modes 1, 2, and 3 with RCS pressure greater than 1000 psig, which meets its design safety function. The proposed change does not increase the possibility of the accumulator valve repositioning. In order for repositioning to happen, the operator must close the molded-case circuit breaker coupled with either an active single failure or deliberate operator action in the control room. The proposed change of verifying that power is removed from the accumulator isolation valve provides the same level of protection. Two positive actions are required for the accumulator isolation valve to reposition.

The proposed format changes are administrative and have no impact on plant operation.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

T/S Surveillance Requirement 4.5.1.c provides requirements that ensure that a single action will not cause an inadvertent closure of the accumulator isolation valves. The proposed change continues to ensure that two positive actions, an operator action to restore the breaker and a single failure, are required for valve closure.

Changing "pressurizer pressure" to "RCS pressure" does not impact operation of the accumulators. The proposed changes do not impact the nitrogen cover pressure as stated in T/S 3.5.1.c. The accumulators would not be expected to inject borated water until RCS pressure lowers to 658 psig (the upper limit specified in T/S 3.5.1.d). The change does not affect when this would occur after an accident. Therefore, changing "pressurizer pressure" to "RCS pressure" has no impact on plant operation.

The proposed format changes are administrative and have no impact on plant operation.

Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 (c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involves no significant hazards consideration.

Attorney for licensee: David W Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: Claudia M. Craig.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Arizona Public Service Company, et al., Docket No. STN 50–528, Palo Verde Nuclear Generating Station, Unit No. 1, Maricopa County, Arizona

Date of application for amendment: October 8, 1999, as supplemented October 29, 1999.

Brief description of amendment: The amendment revises Surveillance Requirement 3.8.4.8 of Technical Specification 3.8.4, to allow the licensee to forego the performance of this surveillance until entry into MODE 4 coming out of the ninth refueling outage for Unit 1.

Date of issuance: November 19, 1999.

Effective date: November 19, 1999.

Amendment No.: 121.

Facility Operating License No. NPF–41: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 19, 1999 (64 FR 56369).

The October 29, 1999, supplement provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 19, 1999.

No significant hazards consideration comments received: No

Commonwealth Edison Company, Docket No. 50–373, LaSalle County Station, Unit 1, LaSalle County, Illinois

Date of application for amendment: July 7, 1999, as supplemented on October 14, 1999.

Brief description of amendment: The amendment revised Section 2.1 of the Technical Specifications to reflect a change in the Minimum Critical Power Ratio.

Date of issuance: November 9, 1999.

Effective date: Immediately, to be implemented prior to the startup of Cycle 9.

Amendment No.: 137.

Facility Operating License No. NPF–11: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 11, 1999.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 9, 1999.

No significant hazards consideration comments received: No.

Duquesne Light Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of application for amendment: January 29, 1998, as supplemented by letters dated November 9, 1998, and June 14, 1999.

Brief description of amendment: This amendment authorized changes to the Beaver Valley Power Station, Unit No. 2 (BVPS–2) Updated Final Safety Analysis Report (UFSAR). The amendment authorizes changes to the UFSAR to reflect revisions to the radiological dose calculations for the locked rotor accident analysis. This revision of the calculation was performed in order to incorporate more conservative

assumptions than those used in the previous analysis for a postulated locked rotor event.

These changes are not the result of hardware changes to the plant or any change in operating practices. They reflect revised analysis results only and allow revision of the licensing basis to reflect conservative assumptions used in the revised analyses.

The June 14, 1999, letter withdrew a portion of the amendment which would have revised the UFSAR description of the small-break loss-of-coolant accident radiological consequences.

Date of issuance: November 18, 1999.

Effective date: As of the date of issuance.

Amendment No: 103.

Facility Operating License No. NPF–73. Amendment approved changes to the UFSAR.

Date of initial notice in **Federal Register**: March 11, 1998 (63 FR 11919).

The November 9, 1998, and June 14, 1999, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the amendment beyond the scope of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1999.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: July 29, 1999, as supplemented by letters dated August 6, 1999, October 14, 1999, and October 26, 1999.

Brief description of amendment: The proposed change to the Arkansas Nuclear One, Unit No. 2 Technical Specifications would allow the performance of a special inspection of the steam generator tubes during an upcoming mid-cycle outage. This mid-cycle outage is planned for the purpose of performing inspections in selected areas of the steam generator tube bundle where previous inspections have revealed tube degradation. The proposed change would limit the initial inspection scope to these identified areas and includes scope expansion criteria to address unexpected results.

Date of issuance: November 5, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 210.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 6, 1999 (64 FR 54375).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 5, 1999.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: May 6, 1999.

Brief description of amendment: The amendment incorporates the Technical Specification changes necessary for redefining the minimum critical power ratio safety limit for Cycle 11 operation with a mixed core of Siemens Power Corporation fuel and General Electric fuel.

Date of issuance: November 17, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No: 140.

Facility Operating License No. NPF–29: The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: August 25, 1999 (64 FR 46434).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 17, 1999.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio.

Date of application for amendment: July 26, 1999.

Brief description of amendment: This amendment—

(1) Relocates the requirements in TS 3/4.3.3.2, "Instrumentation—Incore Detectors," TS 3/4.3.3.9, "Instrumentation—Waste Gas System Oxygen Monitor," and TS 3/4.4.4.7, "Reactor Coolant System—Chemistry," to the Davis-Besse Nuclear Power Station (DBNPS) Updated Safety Analysis Report (USAR) Technical Requirements Manual (TRM);

(2) Revises TS 3/4.11.2, "Radioactive Effluents—Explosive Gas Mixture," to reflect the relocation of TS 3/4.3.3.9;

(3) Revises the requirements of TS 3/4.4.6.1, "Reactor Coolant System Leakage—Leakage Detection Systems," to require one monitor (gaseous or particulate) of the containment atmosphere radioactivity monitoring systems to be operable, rather than requiring both systems to be operable simultaneously; and

(4) Revises TS 3/4.3.3.1, "Radiation Monitoring Instrumentation," to be consistent with the revision to TS 3/4.4.6.1.

Date of issuance: November 16, 1999

Effective date: November 16, 1999.

Amendment No.: 234.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 25, 1999 (64 FR 46436).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 16, 1999

No significant hazards consideration comments received: No

NASA Aeronautics Space Administration (NASA), Docket No. 50–30, NASA Test Reactor, Erie County, Ohio

Date of application for amendment: March 25, 1999, as supplemented on August 10, 1999.

Brief description of amendment: This amendment changes Lewis Research Center (LeRC) to Glenn Research Center (GRC).

Date of issuance: November 16, 1999.

Effective Date: November 16, 1999.

Amendment No: 10.

Facility License No. TR–3: The amendment changes facility name.

Date of initial notice in **Federal Register**: October 6, 1999 (64 FR 54377).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 16, 1999.

No significant hazards consideration comments received: No.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: November 16, 1998, as supplemented June 21, 1999.

Brief description of amendment: Amendment changes Technical Specifications to limit reactor power oscillations during a reactor trip and allows operation in the Extended Load Line Limit Analysis region of the power/flow operating curve.

Date of issuance: September 21, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 168.

Facility Operating License No. DPR–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: December 30, 1998 (63 FR 71968) as corrected January 27, 1999 (64 FR 4148).

The June 21, 1999, letter provided supporting information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 1999.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: September 29, 1998, as supplemented by letters dated March 8 and April 7, 1999.

Description of amendment request: To revise Facility Operating License No. NPF–86 to reflect the transfer of the license, to the extent held by Montaup Electric Company, to Little Bay Power Corporation.

Date of issuance: November 19, 1999.

Effective date: As of its date of issuance, and shall be implemented within 30 days.

Amendment No.: 65.

Facility Operating License No. NPF–86: Amendment revised the License.

Date of initial notice in **Federal Register**: December 14, 1998 (63 FR 68801). The March 8 and April 7, 1999 supplements provided clarifying information and did not change the staff's proposed no significant hazards determination. The Commission received comments which were addressed in the staff's Safety Evaluation dated August 3, 1999. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 3, 1999.

No significant hazards consideration comments received: Yes.

Northeast Nuclear Energy Company, et al., Docket No. 50–245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendments: April 19, 1999, as supplemented August 25, October 14, and November 3, 1999.

Brief description of amendments: The amendment deletes most of the current Technical Specifications to implement the Permanently Defueled Technical Specification. Portions of the April 19, 1999, request related to fuel storage pool water level, crane operability, and crane travel with a spent fuel cask will be addressed at a later date.

Date of issuance: November 9, 1999.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 106.

Facility Operating License No. DPR–21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 30, 1999 (64 FR 35208).

The August 25, 1999, letter provided clarifying information that did not change the scope of the April 19, 1999, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 9, 1999.

No significant hazards consideration comments received: No

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: May 7, 1998, as supplemented January 22, 1999.

Brief description of amendment: The amendment revises the licensing basis to address the addition of the dose from the Refueling Water Storage Tank back leakage into the design basis loss-of-coolant accident analysis and Chapter 15 of the Final Safety Analysis Report.

Date of issuance: November 4, 1999.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 176.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 1, 1998 (63 FR 35991). The January 22, 1999, supplement provided clarifying information that did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 4, 1999.

No significant hazards consideration comments received: No

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: August 5, 1999.

Brief description of amendment: The amendment corrects editorial errors in the Technical Specifications Sections 3.8.3.2, 4.6.2.1, 4.8.1.1, and 4.9.12. The amendment also corrects minor editorial and reference errors in Bases Sections B 3/4.3.2, B 3/4.4.11, B 3/4.6.1.2, and B 3/4.8.4.

Date of issuance: November 15, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 177.

Facility Operating License No. NPF–49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 8, 1999 (64 FR 48858).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 15, 1999.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: December 29, 1998, as supplemented by letters dated July 30 and October 12, 1999.

Brief description of amendments: The amendments revise Technical Specifications (TS) 6.9.1.8, "Core Operating Limits Report," of the current TSs and TS 5.6 of the improved TSs, to allow the use of NRC approved addenda to WCAP–10054–P–A, "Westinghouse Small Break ECCS Evaluation Model Using NOTRUMP Code," August 1985, to determine core operating limits. The improved TSs were issued in Amendment Nos. 135 for Diablo Canyon Power Plant, Units 1 and 2 dated May 28, 1999, but have not yet been implemented.

Date of issuance: November 15, 1999.

Effective date: November 15, 1999, and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1—136; Unit 2–136.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 21, 1999 (64 FR 19562). The July 30 and October 12, 1999, supplemental letters provided additional clarifying information and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is

contained in a Safety Evaluation dated November 15, 1999.

No significant hazards consideration comments received: No.

PECO Energy Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania.

Date of amendment request: January 12, 1999, as supplemented January 29, March 10, and September 20, 1999.

Description of amendment request: This amendment revised Technical Specifications (TSs) Section 3/4.4.2, "Safety/Relief Valves," and TS Bases Sections B 3/4.4.2, B 3/4.5.1 and B 3/4.5.2 to increase the allowable as-found main steam safety relief valve (SRV) code safety function lift setpoint tolerance from plus or minus 1% to plus or minus 3%. Also, the required number of operable SRVs in operational conditions 1, 2, and 3 will be increased from 11 to 12.

Date of issuance: November 10, 1999.

Effective Date: As of date of issuance and shall be implemented prior to completion of the spring 2000 refueling outage for Limerick Generating Station, Unit 1.

Amendment No: 137.

Facility Operating License No. NPF–39. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: February 24, 1999 (64 FR 9194).

The January 29, March 10, and September 20, 1999, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 10, 1999.

No significant hazards consideration comments received: No.

PECO Energy Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania.

Date of application for amendment: June 7, 1999.

Brief description of amendment: The amendment revised the technical specifications (TSs) to reflect the permanent deactivation in the closed position of the "wet" instrument reference leg isolation valve HV–61–102. Specifically, TS Table 3.6.3.1, "Primary Containment Isolation Valve," and its associated notations were revised to reflect this current plant configuration.

Date of issuance: November 18, 1999.

Effective date: As of its date of issuance and shall be implemented within 30 days.

Amendment No.: 138.

Facility Operating License No. NPF–39. This amendment revised the TSs.

Date of initial notice in **Federal Register**: October 6, 1999 (64 FR 54380).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1999.

No significant hazards consideration comments received: No.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: December 24, 1998, as supplemented May 25 and September 27, 1999.

Brief description of amendments: These amendments revise Technical Specification (TS) Table 3.3.8.1–1 related to loss of power instrumentation set points and limits of allowable values for the 4 kV emergency buses.

Date of issuance: November 16, 1999.

Effective date: These license amendments are effective as of their date of issuance. Phase 1 applies to Functions 2 and 3 in TS Table 3.3.8.1–1 and shall be implemented within 30 days of the date of issuance of the amendment. Phase 2 applies to Functions 4 and 5 in TS Table 3.3.8.1–1 and shall be implemented no later than March 1, 2000. Note (a) shall be implemented within 30 days of the date of issuance of the amendment and shall be voided upon completion of modification 96–01511, but no later than March 1, 2000.

Amendments Nos.: 230 and 235.

Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Technical Specifications. The May 25 and September 27, 1999, letters provided clarifying information that did not change the initial proposed no significant hazards consideration.

Date of initial notice in **Federal Register**: May 5, 1999 (64 FR 24199).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 16, 1999.

No significant hazards consideration comments received: No.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: October 14, 1997, as supplemented July 23, 1998, December 3, 1998, February 25, 1999, and September 29, 1999.

Brief description of amendment: The amendment revises Technical Specifications to permit use of additional spent fuel storage racks.

Date of issuance: November 10, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 256.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 24, 1998 (63 FR 45096).

The July 23, 1998, December 3, 1998, February 25, 1999, and September 29, 1999, applications provided supplemental information that did not affect the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 10, 1999.

No significant hazards consideration comments received: No.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: November 14, 1997, as supplemented on August 25, 1999.

Brief description of amendments: The amendments revise the TSs to make administrative and editorial changes to correct errors in the TSs that have either existed since initial issuance or were introduced during subsequent changes. In addition, surveillance requirements are added that should have been incorporated within the TSs when the applicable amendment to the TSs was approved by the NRC.

Date of issuance: November 2, 1999.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 225 and 206.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 17, 1997 (63 FR 66141). The August 25, 1999, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 2, 1999.

No significant hazards consideration comments received: No.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendments: March 18, 1996, as supplemented April 28, 1997, and February 16, 1999.

Brief description of amendment: The amendment authorizes changes to the design-basis accident analysis (postulated cask drop accident) to be incorporated into the Defueled Safety Analysis Report (DSAR) and revises the Permanently Defueled Technical Specifications to reflect the changes to the cask drop analysis.

Date of issuance: November 12, 1999.

Effective date: November 12, 1999, with the Technical Specifications to be implemented within 30 days. Implementation also includes incorporation of the changes into the DSAR at the next update of the DSAR in accordance with the schedule in 10 CFR 50.71(e).

Amendment No.: 127.

Facility Operating License No. DPR–54: The amendment revised the Technical Specifications and the Defueled Safety Analysis Report.

Date of initial notice in **Federal Register**: August 25, 1999 (64 FR 46442).

The April 28, 1997, and February 16, 1999, supplements provided additional clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 12, 1999.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: October 20, 1998 (PCN 485), as supplemented August 13, 1999.

Brief description of amendments: The amendments revise Technical Specification 3.3.9 by adding a surveillance requirement for response time testing for the control room isolation signal.

Date of issuance: November 15, 1999.

Effective date: November 15, 1999, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 2—160; Unit 3—151.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 12, 1999 (64 FR 55311).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 15, 1999.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 7, 1998, as supplemented by letters dated May 20, June 16, September 30, October 20, and October 21, 1999.

Brief description of amendments: The amendments changed the Technical Specifications (TSs) to reflect reactor coolant system flow differences between the existing Model E and replacement Model ®94 steam generators (SGs) by adding a new flow rate requirement to TS 3.2.5, Departure from Nucleate Boiling (DNB) Parameters, that is applicable to the Model ®94 SGs. Related changes to Bases 3/4.2.5, DNB Parameters, were also made. The licensee withdrew all changes proposed in the May 7, 1998, application that were superseded by the previously approved amendments 115/103 dated September 2, 1999.

Date of issuance: November 8, 1999.

Effective date: November 8, 1999.

Amendment Nos.: Unit 1—117; Unit 2—105.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 1, 1998 (63 FR 35996).

The May 20, June 16, September 30, October 20, and October 21, 1999, supplements provided additional clarifying information. The September 30, 1999, supplement also provided updated TS pages. This information was within the scope of the original application and **Federal Register** notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 8, 1999.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 31, 1998, as supplemented by letters dated April 19, August 18, and October 21, 1999.

Brief description of amendments: The amendments revised Technical Specification 3/4.4.9.3 by revising the cold overpressure mitigation curve to accommodate the replacement steam generators and by adding two surveillances (for the centrifugal charging pumps and the emergency core cooling system accumulators) to ensure the operability of the cold overpressure mitigation system.

Date of issuance: November 9, 1999.

Effective date: November 9, 1999, to be implemented within 30 days.

Amendment Nos.: Unit 1—118; Unit 2—106.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 8, 1999 (64 FR 48867).

The October 21, 1999, supplement provided a revised implementation date. This information was within the scope of the original application and **Federal Register** notice and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 9, 1999.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date

the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By January 3, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has

made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: October 29, 1999, as supplemented November 2, 1999.

Description of amendment request: The amendment revises the Technical Specification administrative controls regarding the containment leak rate testing program and the core operating limits report. These changes are necessary to reflect changes in the accident analyses and core design methodologies for the next operating cycle.

Date of issuance: November 15, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 188.

Facility Operating License No. DPR–20: Amendment revises the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration, and requested that any comments on the proposed no significant hazards consideration be provided to the staff by close of business November 12, 1999. The notice was published in the Herald Palladium on November 6–8, 1999. No public comments were received.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated November 15, 1999.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Section Chief: Claudia M. Craig.

Dated at Rockville, Maryland, this 23rd day of November 1999.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Deputy Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–31037 Filed 11–30–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Tour of Printing and Processing Plants

AGENCY: Postal Rate Commission.

ACTION: Notice of Commission visit.

DATES: The visits are scheduled for December 6–8, 1999.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268–0001, 202–789–6820.

SUPPLEMENTARY INFORMATION: Members of the Postal Rate Commission will visit the R.R. Donnelley printing plant at Spartanburg, South Carolina on the afternoon of Monday, December 6, 1999. The Commission will discuss logistics and support issues, and problems with and procedures for preparation of mail for dropshipping. On the morning of Tuesday, December 7, 1999, the group will tour the BMG fulfillment facility in Duncan, South Carolina, and discuss mailing practices that incorporate the use of multiple subclasses and services by a major music club. That evening, the group will observe operations at the Orlando, Florida terminal facility used by members of the Florida Gift Fruit Shippers Association (FGFSA) to prepare items for shipment to distant postal facilities.

On Wednesday, December 8, 1999 the group will tour the packinghouse operation of a shipper-member of FGFSA to get a complete understanding of parcel movement from producers to consumers using the Postal Service delivery network, and then meet with several shippers to obtain a balanced picture of the varying needs of different sized operations. Finally, during the evening of December 8, the group will observe the operation of the Orlando Priority Mail processing center operated for the Postal Service by Emery.

Dated: November 24, 1999.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 99–31170 Filed 11–30–99; 8:45 am]

BILLING CODE 7710–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24176; 812–11402]

INVESCO Bond Funds, Inc., et al.; Notice of Application

November 24, 1999.

AGENCY: Securities and Exchange commission ("SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from sections 18(f) and 21(b) of the Act, under section 12(d)(1)(J) of the Act for an exemption from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(3) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain registered investment management companies to participate in a joint lending and borrowing facility.

APPLICANTS: INVESCO Bonds Funds, Inc., INVESCO Combination Stock and Bond Funds, Inc., INVESCO Global Health Sciences Fund, INVESCO International Funds, Inc., INVESCO Money Market Funds, Inc., INVESCO Sector Funds, Inc., INVESCO Speciality Funds, Inc., INVESCO Stock Funds, Inc., INVESCO Treasurer's Series Funds, Inc., and INVESCO Variable Investment Funds, Inc. (collectively, the "Companies"), INVESCO Funds Group, Inc. ("INVESCO Funds Group," and together with any entity controlling, controlled by, or under common control with INVESCO Funds Group, "INVESCO"), and any other registered open-end investment company advised by INVESCO (together with the Companies, the "Funds").

FILING DATES: The application was filed on November 13, 1998, and amended on October 15, 1999. Applicants have agreed to file an additional amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 20, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, 7800 East Union Avenue, Denver, Colorado 80237.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each of the named Funds, except INVESCO Global Health Sciences Funds ("Global"), is registered under the Act as an open-end management investment company and is organized as a Maryland corporation. Global, organized as a Massachusetts business trust, is registered under the Act as a closed-end management investment company.[1] INVESCO Funds Group, Inc. is registered under the Investment Advisers Act of 1940. Each Fund has entered into an investment advisory agreement with INVESCO under which INVESCO exercises discretion to purchase and sell securities for the Funds. INVESCO is an indirect wholly-owned subsidiary of AMVESCAP PLC, a publicly traded holding company that through its subsidiaries, including AIM Management Group, Inc., engages in investment management.

2. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments. Other Funds may borrow money from the same or other banks for temporary purposes to satisfy redemption requests or to cover unanticipated cash shortfalls such as a trade "fail" in which cash payment for a portfolio security sold by a Fund has been delayed. Currently, the Funds have credit arrangements with their custodians (*i.e.*, overdraft protection) under which the custodians may, but are not obligated to, lend money to the Funds to meet the Funds' temporary cash needs.

3. If the Funds were to borrow money from their custodians under their current arrangements or under other credit arrangements with a bank, the Funds would pay interest on the borrowed cash at a rate which would be significantly higher than the rate that would be earned by other (non-borrowing) Funds on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants believe this differential represents the bank's profit. Other bank loan arrangements, such as committed lines of credit, would require the Funds to pay substantial commitment fees in addition to the interest rate to be paid by the borrowing Fund.

4. Applicants request an order that would permit the Funds to enter into lending agreements ("Interfund Lending Agreements") under which the Funds would lend and borrow money for temporary purposes directly to and from each other through a credit facility ("Interfund Loan"). Applicants believe that the proposed credit facility would substantially reduce the Funds' potential borrowing costs and enhance their ability to earn higher rates of interest on short-term lendings. Although the proposed credit facility would substantially reduce the Funds' need to borrow from banks, the Funds would be free to establish committed lines of credit or other borrowing arrangements with banks. The Funds also would continue to maintain overdraft protection currently provided by their custodians.

5. Applicants anticipate that the credit facility would provide a borrowing Fund with significant savings when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The credit facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also propose using the credit facility when a sale of securities fails due to circumstances such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. Sales fails may present a cash shortfall if the Fund has undertaken to purchase security with the proceeds from securities sold. When the Fund experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Fund incurs overdraft charges. Alternatively, the Fund could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the credit facility under these circumstances would enable the Fund to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

7. While borrowing arrangements with banks will continue to be available to cover unanticipated redemptions and sales fails, under the proposed credit facility a borrowing Fund would pay lower interest rates than those offered by banks on short-terms loans. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements. Thus, applicants believe that the proposed credit facility would benefit both borrowing and lending Funds.

8. The interest rate charged to the Funds on any Interfund Loan (the "Interfund Loan Rate") would be the average of the "Repo Rate" and the "Bank Loan Rate," both as defined below. The Repo Rate for any day would be the highest rate available from investments in overnight repurchase agreements to the Cash Reserves Fund, a series of INVESCO Money Market Funds, Inc. or any general money market fund registered under the Act and advised by any entity controlling, controlled by, or under common control with INVESCO having the greatest amount of assets (the "Money Market Fund"). The Bank Loan Rate for any day would be calculated by INVESCO each day an Interfund Loan is made according to a formula established by the Funds' directors or trustees (the "Trustees") designed to approximate the lowest interest rate at which bank short-term loans would be available to the Funds. The formula would be based

[1] All Funds that presently intend to rely on the order are named as applicants. Any other Funds that subsequently rely on the order will comply with the terms and conditions in the application.

upon a publicly available rate (*e.g.*, Federal Funds plus 25 basic points) and would vary with this rate so as to reflect changing bank loan rates. Each Fund's Trustees periodically would review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Trustees.

9. The credit facility would be administered by INVESCO money market investment professionals (including the portfolio manager for the Money Market Fund) and fund accounting department (collectively, the "Cash Management Team"). Under the proposed credit facility, the portfolio managers for each participating Fund may provide standing instructions to participate daily as a borrower or lender. INVESCO on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. Once it had determined the aggregate amount of cash available for loans and borrowing demand, the Cash Management Team would allocate loans among borrowing Funds without any further communication from portfolio managers (other than the Money Market Fund's portfolio management on the Cash Management Team). Applicants expect far more available uninvested cash each day than borrowing demand. All allocations will require approval of at least one member of the Cash Management Team who is not the Money Market Fund portfolio manager. After allocating cash for Interfund Loans, INVESCO will invest any remaining cash in accordance with the standing instructions of portfolio managers or return remaining amounts for investment directly by the portfolio manager of the Money Market Fund.[2] The money market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions, and Global will participate in the credit facility only as a lender.

[2] Certain of the Funds have obtained an order permitting INVESCO to deposit uninvested cash balances that remain at the end of the trading day in one or more series of INVESCO Money Market Funds, Inc., or any other money market series of any of the Funds or of any other registered investment company advised by INVESCO which holds itself out to investors as a money market fund subject to rule 2a–7 under the Act. See INVESCO Bond Funds, Inc., Investment Company Act Release Nos. 23788 (April 16, 1999), and 23833 (May 12,1999) (order).

10. The Cash Management Team would allocate borrowing demand and cash available for lending among the Funds on what the Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transactions.

11. INVESCO would (a) monitor the interest rates charged and the other terms and conditions of the loans, (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (c) ensure equitable treatment of each Fund, and (d) make quarterly reports to the Trustees concerning any transactions by the Funds under the credit facility and the interest rates charged. The method of allocation and related administrative procedures would be approved by each Fund's Trustees, including a majority of Trustees who are not "interested persons" of the Funds, as defined in section 2(a)(19) of the Act ("Independent Trustees"), to ensure that both borrowing and lending Funds participate on an equitable basis.

12. INVESCO would administer the credit facility as part of its duties under its existing management or advisory and service contract with each Fund and would receive no additional fee as compensation for its services. INVESCO or companies affiliated with it may collect standard pricing, recordkeeping, bookkeeping, and accounting fees applicable to repurchase and lending transactions generally, including transactions effected through the credit facility. Fees would be no higher than those applicable for comparable bank loan transactions.

13. Each Fund's participation in the proposed credit facility will be consistent with its organizational documents and its investment policies and limitations. The prospectus of each Fund discloses the extent to which the respective Fund may borrow money for temporary purposes and the extent to which the respective Fund is able to mortgage or pledge securities to secure permitted borrowing. If the requested relief is granted, the statement of additional information ("SAI") for each Fund participating in the interfund lending arrangements will disclose the existence of the arrangements. The maximum amount that any Fund may borrow or lend is 33⅓% of total assets, and the maximum amount of securities which any Fund may pledge or mortgage is 15% of net assets. Each Fund that desires to engage in interfund lending arrangements, and that has existing fundamental policies that would restrict participation in such arrangements, will obtain shareholder approval to amend its policies to the extent necessary to permit it to participate in such arrangements on the conditions set forth in the application.

14. In connection with the credit facility, applicants request an order under (a) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an "affiliated person" of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having INVESCO as their common investment adviser, and because of the overlap of Trustees and officers of the Funds.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements

satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a person with strong potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because (a) INVESCO would administer the program as a disinterested fiduciary; (b) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments; (c) the Interfund Loans would not involve a greater risk than other similar investments; (d) the lending Fund would receive interest at a rate higher than it could obtain through other similar investments; and (e) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obatining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affilitiated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit the the proposed credit facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Funds or shareholders, and that INVESCO would receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security excpet that a company is permitted to borrow from any bank, if immediately after the borrowing, there is an asset coveage of at least 300 percent for all borrowings of the company. Under section 18(g) of the Act, the term "senior security" invludes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined credit facility and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon applications for exemptive relief from section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:[3]

1. The interest rates to be charged to the Funds under the credit facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, INVESCO will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) more favorable to the lending Fund than the Repo Rate and, if applicable, the yield on the Money Market Fund, and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that required collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any even not over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

[3] For purposes of these conditions, the term "INVESCO" refers to registered investment advisers.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total less than 10% of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund may not borrow through the credit facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of its net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. Except as set forth in this condition, no Fund may borrow through the credit facility unless the Fund has a policy that prevents the Fund from borrowing for other than temporary or emergency purposes (and not for leveraging). In the case of a Fund that does not have such a policy, the Fund's borrowings through the credit facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions or 102% of sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.

12. The Cash Management Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds (except the portfolio manager of the Money Market Fund acting in his or her capacity as a member of the Cash Management Team). All allocations will require approval of at least one member of the Cash Management Team who is not the Money Market Fund's portfolio manager. The Cash Management Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the extent that the portfolio manager of the Money Market Fund has access to loan demand data). INVESCO will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts for investment directly by the portfolio manager of the Money Market Fund.

13. INVESCO will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Trustees concerning the participation of the Funds in the credit facility and the terms and other conditions of any extensions of credit under the facility.

14. The Trustees of each Fund, including a majority of the Independent Trustees: (a) Will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, INVESCO will promptly refer the loan for arbitration to an independent arbitrator selected by the Trustees of the Funds involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[4] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Trustees setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

16. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in any easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, the yield on the Money Market Fund, and such other information presented to the Fund's Trustees in connection with the review required by conditions 13 and 14.

17. INVESCO will prepare and submit to the Trustees for review an initial report describing the operations of the

[4] If the dispute involves Funds with separate Boards of Trustees, the Trustees of each Fund will select an independent arbitrator that is satisfactory to each Fund.

credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of operations of the credit facility, INVESCO will report on the operations of the credit facility at the Trustees' quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund that is a registered investment company shall prepare an annual report that evaluates INVESCO's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Rate will be higher than the Repo Rate and the yield on the Money Market Fund, but lower than the Bank Loan Rate; (b) compliance with the collateral requirements as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Trustees; and (e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the credit facility unless it has fully disclosed in its SAI all material facts about its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31208 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24175, 812–11816]

MAS Funds, et al.; Notice of Application

November 23, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 18(f) and 21(b) of the Act, under section 12(d)(1)(J) of the Act for an exemption from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(3) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF THE APPLICATION: Applicants request an order that would permit series of a registered open-end management investment company to participate in a joint leading and borrowing facility.

APPLICANTS: MAS Funds (the "Fund") and Miller Anderson & Sherrerd, LLP (the "Adviser").

FILING DATES: The application was filed on October 14, 1999. Applicants have agreed to file an amendment, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 20, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, One Tower Bridge, West Conshohocken, PA 19428.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. The Fund is registered under the Act as an open-end management investment company and currently consists of the following investment portfolios: Equity Portfolio, Mid Cap Growth Portfolio, Mid Cap Value Portfolio, Small Cap Growth Portfolio, Small Cap Value Portfolio, Value Portfolio, Cash Reserves Portfolio, Domestic Fixed Income Portfolio, Fixed Income Portfolio, Fixed Income II Portfolio, Global Fixed Income Portfolio, High Yield Portfolio, Intermediate Duration Portfolio, International Fixed Income Portfolio, Limited Duration Portfolio, Multi-Market Fixed Income Portfolio, Municipal Portfolio, Special Purpose Fixed Income Portfolio, Targeted Duration Portfolio, Balanced Portfolio, Multi-Asset-Class Portfolio, Advisory Mortgage Portfolio, Advisory Foreign Fixed Income Portfolio, Growth Portfolio, Value II Portfolio, Balanced Plus Portfolio and New York Municipal Portfolio (the "Portfolios"). Applicants request that any relief granted pursuant to the application also apply to future investment portfolios of the Fund.

2. The Adviser serves as investment adviser to each Portfolio. Morgan Stanley Dean Witter Advisory, Inc. (the "Sub-Adviser") acts as investment sub-adviser to the Cash Reserves Portfolio. The Adviser and the Sub-Adviser are subsidiaries of Morgan Stanley Dean Witter & Co. and are registered under the Investment Advisers Act of 1940. The Fund has entered into an investment advisory agreement with the Adviser under which the Adviser oversees each Portfolio's investments and manages its business affairs, subject to the oversight of the Board of Trustees of the Fund (the "Board"). The Adviser and, with respect to the Cash Reserves Portfolio only, the Sub-Adviser, exercises discretionary authority to purchase and sell securities for the Portfolios.

3. Some Portfolios may lend money to banks or other entities by entering into repurchase agreements, either directly or through a joint account, or purchasing other short-term instruments. Applicants have obtained an order permitting them to deposit uninvested cash balances that remain at the end of a trading day in one or more joint trading accounts ("Joint Accounts") to be used to enter into

repurchase agreements.[1] Other Portfolios may need to borrow money from a bank to satisfy redemption requests, cover unanticipated cash shortfalls such as a trade "fail" in which cash payment for a portfolio security sold by a Fund has been delayed, or for other temporary purposes. Currently, if a Portfolio has a temporary cash need it would incur an overdraft with the custodian bank.

4. If the Portfolios were to borrow money from a bank under their current arrangements or under other credit arrangements, they would pay interest on the borrowed cash at a rate which would be higher than the rate that would be earned by other (non-borrowing) Portfolios on investments in repurchase agreements and other short-term instruments of the same maturity as the bank loan. Applicants state that this differential represents the bank's profit for serving as a middleman between a borrower and lender. Other bank loan arrangements, such as committed lines of credit, would require the portfolios to pay substantial commitment fees in addition to the interest rate to be paid by the borrowing Portfolio.

5. Applicants request an order that would permit the Portfolios to enter into lending agreements ("Interfund Lending Agreements") under which the Portfolios would lend and borrow money for temporary purposes directly to and from each other ("Interfund Loans") through a credit facility ("Credit Facility"). Applicants believe that the proposed Credit Facility would substantially reduce the Portfolios' potential borrowing costs and enhance their ability to earn higher rates of interests on short-term loans. Although the proposed Credit Facility would substantially reduce the Portfolios' needs to borrow from banks, the Portfolios would still be free to establish committed lines of credit or other borrowing arrangements with banks.

6. Applicants anticipate that the Credit Facility would provide a borrowing Portfolio with savings when the cash position of the Portfolio is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and certain Portfolios have insufficient cash on hand to satisfy such redemptions. When the Portfolios liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The Credit Facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

7. Applicants also propose using the Credit Facility when a sale of securities fails due to circumstances such as a delay in the delivery of cash to the Portfolio's custodian or improper delivery instructions by the broker affecting the transaction. Sales fails may present a cash shortfall if the Portfolio has undertaken to purchase a security with the proceeds from securities sold. When the Portfolio experiences a cash shortfall due to a sales fail, the custodian typically extends temporary credit to cover the shortfall and the Portfolio incurs overdraft charges. Alternatively the Portfolio could fail on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Portfolio, or sell a security on a same day settlement basis, earning a lower return on the investment. Use of the Credit Facility under these circumstances would enable the portfolio to have access to immediate short-term liquidity without incurring custodian overdraft or other charges.

8. While borrowing arrangements with banks will continue to be available to cover unanticipated redemptions and sales fails, under the proposed Credit Facility a borrowing Portfolio would pay lower interest rates than those offered by banks on short-term loans. In addition, Portfolios making short-term cash loans directly to other Portfolios would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements. Thus, applicants believe that the proposed Credit Facility would benefit both borrowing and lending Portfolios.

9. The interest rate charged to the Portfolios on any Interfund Loan (the "Interfund Loan Rate") would be the average of the "Repo Rate" and the "Bank Loan Rate," both as defined below. The Repo Rate for any day would be the highest rate available to the Portfolios from investments in overnight repurchase agreements through a Joint Account. The Bank Loan Rate for any day would be calculated by the Adviser on each day an Interfund loan is made according to a formula established by the Board. The formula would be designed to approximate the lowest interest rate at which bank short-term loans would be available to the Portfolios, and would be based upon a publicly available rate (*e.g.*, the Federal Funds rate) plus a certain premium reflecting the spread over the publicly available rate typically paid by the Portfolios (*e.g.*, 25 basis points). In accordance with this formula, the Interfund Loan Rate would vary with the publicly available rate so as to reflect changing bank loan rates. The Board periodically would review the continuing appropriateness of using the publicly available rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Portfolios. The initial formula and any subsequent modifications to the formula would be subject to the approval of the Board.

10. The Credit Facility would be administered by employees of the Adviser (the "Cash Management Team"). Under the proposed Credit Facility, the portfolio managers for each participating Portfolio could provide standing instructions to participate daily as a borrower or lender. The Cash Management Team on each business day would collect data on the uninvested cash and borrowing requirements of all participating Portfolios from the Portfolios' custodian. Once it had determined the aggregate amount of cash available for loans and borrowing demand, the Cash Management Team would allocate loans among borrowing Portfolios without any further communication from portfolio managers. After the Cash Management Team has allocated cash for Interfund Loans, the Adviser will invest any remaining cash in accordance with the standing instructions of portfolio managers. The money market Portfolios typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions.

11. The Cash Management Team will allocate borrowing demand and cash available for lending among the Portfolios on what the Cash Management Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Portfolios, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transactions. The method of allocation and related administrative procedures would be approved by the Board, including a majority of Trustees who are not "interested persons" of the Fund, as

[1] MAS Pooled Trust Fund, Investment Company Act Release Nos. 18081 (Apr. 8, 1991) (notice) and 18135 (May 6, 1991) (order); MAS Pooled Trust Fund, Investment Company Act Release Nos. 19377 (Apr. 1, 1993) (notice) and 19437 (Apr. 27, 1993) (amended order).

defined in section 2(a)(19) of the Act ("Independent Trustees"), to ensure that both borrowing and lending Portfolios participate on an equitable basis.

12. The Adviser would (i) monitor the interest rates charged and the other terms and conditions of the loans, (ii) limit the borrowings and loans entered into by each Portfolio to ensure that they comply with the Portfolio's investment policies and limitations, (iii) ensure equitable treatment of each Portfolio, and (iv) make quarterly reports to the Board concerning any transactions by the Portfolios under the Credit Facility and the interest rates charged.

13. The Adviser would administer the Credit Facility as part of its duties under its existing advisory contract with each Portfolio and would receive no additional fee as compensation for its services. The Adviser may collect standard pricing, recordkeeping, bookkeeping, and accounting fees applicable to repurchase and lending transactions generally, including transactions effected through the Credit Facility. Fees would be no higher than those applicable for comparable bank loan transactions.

14. Each Portfolio's participation in the proposed Credit facility will be consistent with its organizational documents and its investment policies and limitations. The statement of additional information of each Portfolio participating in the interfund lending arrangements will disclose the existence of such arrangements.

15. In connection with the Credit Facility, applicants request an order under (i) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the act; (ii) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an "affiliated person" of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Because the Adviser may be deemed to control the Portfolios, the Portfolios might be deemed to be under common control and thus affiliated persons of each other.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a person with strong potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed Credit Facility transactions do not raise these concerns because (i) the Adviser would administer the program as a disinterested fiduciary; (ii) all Interfund Loans would consist only of uninvested cash reserves that the Portfolios otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through the Joint Accounts; (iii) the Interfund Loans would not involve a greater risk than other similar investments; (iv) the lending Portfolios would receive interest at a rate higher than they could obtain through other similar investments; and (v) the borrowing Portfolios would pay interest at a rate lower than otherwise available to them under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Portfolio obtaining an undue advantage over any other Portfolio.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Portfolio to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c). 17(b) and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed Credit Facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Portfolios or shareholders, and that the Adviser would receive no additional compensation for its services in administering the Credit Facility. Applicants also note that the purpose of the proposed Credit facility is to provide economic benefits for all the participating Portfolios.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, if immediately after the borrowing, there is an asset coverage of at least 300 per cent for all borrowings of the company. Under section 18(g) of the Act, the term "senior security" includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the Credit Facility (because the lending Portfolios are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Portfolios would remain subject to the requirement of section 18(f)(1) that all borrowings of the Portfolio, including combined Credit Facility and bank borrowings, have at least 300% asset coverage. Based on the

conditions and safeguard described in the application, applicants also submit that to allow the Portfolios to borrow from other Portfolios pursuant to the proposed Credit Facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon applications for exemptive relief from section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, Policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the Credit Facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Portfolios and their shareholders. Applicants note that each Portfolio would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Portfolio's participation in the Credit Facility will be on terms which are no different from or less advantageous than that of other participating Portfolios.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The interest rates to be charged to the Portfolios under the Credit Facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, the Adviser will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) more favorable to the lending Portfolio than the Repo Rate, and (b) more favorable to the borrowing Portfolio than the Bank Loan Rate.

3. If a Portfolio has outstanding borrowings, any Interfund Loans to the Portfolio (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any event not over (7) days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Portfolio, that event of default will automatically (without need for action or notice by the lending Portfolio) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Portfolio to call the Interfund Loan (and exercise all rights with respect to collateral, if any) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Portfolio.

4. A Portfolio may make an unsecured borrowing through the Credit Facility if its outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the Portfolio has a secured loan outstanding from any other lender, including but not limited to another Portfolio, the Portfolio's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Portfolio's total outstanding borrowings immediately after an interfund borrowing would be greater than 10% of its total assets, the Portfolio may borrow through the Credit Facility on a secured basis only. A Portfolio may not borrow through the Credit Facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Portfolio that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Portfolio must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Portfolio with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Portfolio will within one (1) business day thereafter (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Portfolio's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Portfolio's total outstanding borrowings exceed 10% is repaid, or the Portfolio's total outstanding borrowings cease to exceed 10% of its total assets, the Portfolio will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No equity, fixed income or money market Portfolio may lend to another Portfolio through the Credit Facility if the loan would cause its aggregate outstanding loans through the Credit Facility to exceed 5%, 7.5%, or 10%, respectively, of its net assets at the time of the loan.

7. A Portfolio's Interfund Loans to any one Portfolio shall not exceed 5% of the lending Portfolio's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven (7) days. Loan affected within seven (7) days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Portfolio's borrowings through the Credit Facility, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Portfolio's total net cash redemptions and 102% of failed trades for the preceding seven (7) calendar days.

10. Each Interfund Loan may be called on one (1) business day's notice by a lending Portfolio and may be repaid on any day by a borrowing Portfolio.

11. A portfolio's participation in the Credit Facility must be consistent with its investment policies and limitations and organizational documents.

12. The Cash Management Team will calculate total Portfolio borrowing and lending demand through the Credit Facility, and allocate loans on an equitable basis among the Portfolios without the intervention of any Portfolio manager. The Cash Management Team will not solicit cash for the Credit Facility from any Portfolio or prospectively publish or disseminate loan demand data to Portfolio managers. The Adviser will invest any amounts

remaining after satisfaction of borrowing demand in accordance with the standing instructions from Portfolio managers.

13. The Adviser will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Board concerning the participation of the Portfolios in the Credit Facility and the terms and other conditions of any extensions of credit thereunder.

14. The Board, including a majority of the Independent Trustees:

(a) Will review no less frequently than quarterly each Portfolio's participation in the Credit Facility during the preceding quarter for compliance with the conditions of any order permitting the transactions;

(b) Will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and

(c) Will review no less frequently than annually the continuing appropriateness of each Portfolio's participation in the Credit Facility.

15. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two (2) business days from its maturity or from the time the lending Portfolio makes a demand of payment under the provisions of the Interfund Lending Agreement, the Adviser will promptly refer the loan for arbitration to an independent arbitrator selected by the Board who will serve as arbitrator of disputes concerning Interfund Loans. The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Portfolios. The arbitrator will submit at least annually a written report to the Board setting forth a description of the nature of any dispute and the actions taken by the Portfolios to resolve the dispute.

16. The Fund will maintain and preserve for a period of not less than six (6) years from the end of the fiscal year in which any transaction under the Credit Facility occurred, the first two (2) years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, and such other information presented to the Board in connection with the review required by conditions 13 and 14.

17. The Adviser will prepare and submit to the Board for review, an initial report describing the operations of the Credit Facility and the procedures to be implemented to ensure that all Portfolios are treated fairly. After the commencement of operations of the Credit Facility, the Adviser will report on the operations of the Credit Facility at the Board's quarterly meetings.

In addition, for two (2) years following the commencement of the Credit Facility, the independent public accountant for the Fund shall prepare an annual report that evaluates the Adviser's assertions that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives:

(a) that the Interfund Loan Rate will be higher than the Repo Rate, but lower than the Bank Loan Rate;

(b) compliance with the collateral requirements as set forth in the application;

(c) compliance with the percentage limitations on interfund borrowing and lending;

(d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and

(e) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Portfolio at the time of the Interfund Loan.

After the final report is filed, the Fund's auditors, in connection with their Fund audit examinations, will continue to review the operation of the Credit Facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Portfolio will participate in the Credit Facility upon receipt of requisite regulatory approval unless it has fully disclosed in its statement of additional information all material facts about its intended participation.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31161 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24174; 812–11700]

Scudder California Tax Free Trust, et al.; Notice of Application

November 23, 1999.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act") under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

Summary of Application: Applicants request an order that would permit certain registered investment companies to participate in a joint lending and borrowing facility.

Applicants: Scudder California Tax Free Trust, Scudder Cash Investment Trust, Schudder Fund, Inc., Scudder Funds Trust, Scudder GNMA Fund, Scudder International Fund, Inc., Scudder Municipal Trust, Scudder Mutual Funds, Inc., Scudder Pathway Series, Scudder Portfolio Trust, Scudder Securities Trust, Scudder State Tax Free Trust, Scudder Tax Free Money Fund, Scudder Tax Free Trust, Scudder U.S. Treasury Money Fund, Scudder Variable Life Investment Fund, Farmers Investment Trust, Global/International Fund, Inc., Investment Trust, Value Equity Trust, The Japan Fund, Inc. (collectively, the "Scudder Funds"), AARP Cash Investment Funds, AARP Growth Trust, AARP Income Trust, AARP Managed Investment Portfolios Trust, AARP Tax Free Income Trust (collectively, the "AARP Funds"), Cash Account Trust, Cash Equivalent Fund, Investors Cash Trust, Investors Municipal Cash Fund, Kemper Aggressive Growth Fund, Kemper Asian Growth Fund, Kemper Blue Chip Fund, Kemper Equity Trust, Kemper Europe Fund, Kemper Floating Rate Fund, Kemper Funds Trust, Kemper Global Income Fund, Kemper Global/International Series, Inc., Kemper Growth Fund, Kemper High Yield Series, Kemper Horizon Fund, Kemper Income and Capital Preservation Fund, Kemper Income Trust, Kemper International Fund, Kemper National Tax-Free Income Series, Kemper Portfolios, Kemper Securities Trust, Kemper Short-Term US Government

Fund, Kemper Small Capitalization Equity Fund, Kemper State Tax-Free Income Series, Kemper Strategic Income Fund, Kemper Target Equity Fund, Kemper Technology Fund, Kemper Total Return Fund, Kemper U.S. Government Securities Fund, Kemper Value Plus Growth Fund, Kemper Value Series, Inc., Kemper Variable Series, Tax-Exempt California Money Market Fund, Zurich Money Funds, Zurich Yieldwise Money Fund (collectively, the "Kemper Funds" and, together with the Scudder Funds and the AARP Funds, the "Investment Companies"), Scudder Kemper Investments, Inc. ("Scudder Kemper"), and all other open-end registered investment companies and their series that are advised by Scudder Kemper or a person controlling, controlled by, or under common control with Scudder Kemper (together with the Investment Companies, the "Funds").[1]

Filing Dates: The application was filed on July 16, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 20, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609.

Applicants: AARP Funds, Two International Place, Boston, Massachusetts 02110; Scudder Funds, Two International Place, Boston, Massachusetts 02110 or 345 Park Avenue, New York, New York 10154; Kemper Funds, 222 South Riverside Plaza, Chicago, Illinois 60606; Scudder Kemper, 345 Park Avenue, New York, New York 10154.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, (202) 942–7120, or Mary Kay Frech, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each Investment Company is registered under the Act as an open-end management investment company and is organized either as a Maryland corporation or a Massachusetts business trust. Scudder Kemper is registered under the Investment Advisers Act of 1940 and serves as investment adviser to the Funds.

2. Some Funds may lend money to banks to other entities by entering into repurchase agreements, either directly or through a joint account. Under an existing order, each Fund can deposit its uninvested daily cash balances into a joint account administered by Scudder Kemper ("Joint Account").[2] The funds in the Joint Account are used to enter into repurchase agreements. Scudder Kemper determines the amount of cash balances to be invested in the Joint Account each day, and receives no additional compensation for managing the Joint Account. In addition, the Funds and Scudder Kemper have filed and application for an order to permit certain non-money market Funds to use their uninvested cash to purchase shares of certain affiliated funds for cash management purposes (collectively, the "Central Funds").

3. Other Funds may borrow money from the same or other banks for temporary purposes, such as to satisfy redemption requests. Currently, most Funds have a committed line of credit with certain banks through which each Fund may borrow money for temporary or emergency purposes, including funding shareholder redemptions and the payment of dividends ("Committed Credit Facility"). The rate of interest paid by the Funds when they borrow under the Committed Credit Facility is significantly higher than the rate of interest earned on repurchase agreements entered into by the Funds. Applicants state that this differential represents the bank's profit for serving as a middleman between a borrower and lender.

4. Applicants request an order that would permit the Funds to enter into lending agreements under which the Funds would lend and borrow money for temporary purposes directly to and from each other through a credit facility ("Proposed Credit Facility"). Applicants believe that the Proposed Credit Facility would substantially reduce the Funds' potential borrowing costs and enhance their ability to earn higher rates of interest on short-term lendings. Although the Proposed Credit Facility would substantially reduce the Funds' need to borrow from banks, bank loans will continue to be available to the Funds.

5. Applicants anticipate that the Proposed Credit Facility would provide the Funds with significant savings when the cash position of any Fund is insufficient to meet temporary cash requirements. This situation could arise when redemptions exceed anticipated volumes and the Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, which normally are effected immediately, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). The Proposed Credit Facility would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. While borrowing arrangements with banks will continue to be available to cover unanticipated redemptions, under the Proposed Credit Facility a borrowing Fund would pay lower interest rates than those offered by banks on short-term loans. In addition, Funds making short-term loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or the Central Funds. Thus, applicants believe that the Proposed Credit Facility would benefit both borrowing and lending Funds.

7. The interest rate charged to the Funds on any loan under the Proposed Credit Facility (the "Interfund Loan Rate") would be the average of the current overnight repurchase agreement rate available through the Joint Account (the "Joint Account Repo Rate") and a single benchmark rate set for all Funds. The benchmark rate would be calculated by Scudder Kemper each day that a Fund borrows or lends, according to a formula established by each Fund's board of directors or trustees (collectively, "Boards") to approximate the lowest interest rate at which bank loans would be available to the Funds ("Bank Loan Rate"). The formula would

[1] All existing Funds that currently intend to rely on the requested order are named as applicants, and any Fund that relies on the order in the future will comply with the terms and conditions of the application.

[2] Scudder Global Fund, Inc., Investment Company Act Release Nos. 23482 (Oct. 7, 1998) (notice) and 23525 (Nov. 5, 1998) (order).

be based upon a publicly available rate and would vary with this rate so as to reflect changing bank loan rates. Each Fund's Board periodically would review the continuing appropriateness of using the formula to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current Bank loan rates that would be available to the Funds. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Board.

8. The Proposed Credit Facility would be administered by the officers and employees of Scudder Kemper responsible for overseeing short-term trading for the Joint Account (including a money market Fund portfolio manager) ("Cash Management Group"). A Fund would not participate in the Proposed Credit Facility as a lender unless it also elected to participate in the Joint Account or, in the case of money market Funds, unless the fund would invest on any given day in the Joint Account. Under the proposed Credit Facility, the portfolio managers for each participating Fund, other than the money market Funds, may provide standing instructions to participate daily as a borrower or lender. As in the case of the Joint Account, the Cash Management Group on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds, other than the money market Funds, from the Funds' custodians. The portfolio managers for the money market Funds would inform the Cash Management Group directly each day of the amount of cash, if any, they wished to make available under the Proposed Credit Facility as a lender. The money market Funds typically would not participate as a borrower because they rarely need to borrow cash to meet redemptions. Once it had determined the aggregate amount of cash available for loans and borrowing demand, the Cash Management Group would allocate loans among borrowing Funds without any further communication from portfolio managers. Applicants expect far more available uninvested cash each day than borrowing demand. After allocating cash for interfund loans, the Cash Management Group will inform the money market Fund managers of the amount of loans, if any, made for each money market Fund so that the Fund managers may invest any remaining cash in the Joint Account or other available instruments. With respect to other participating Funds, the Cash Management Group will follow standing instructions from the portfolio managers to invest the remaining amounts daily through the Joint Account.

9. The Cash Management Group would allocate borrowing demand and cash available for lending among the Funds on what it believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by each Fund's Board, including a majority of directors who are not "interested persons" of the Funds, as defined in section 2(a)(19) of the Act ("Independent Directors"), to ensure that both borrowing and lending Funds participate on an equitable basis.

10. Scudder Kemper would (i) monitor the interest rates charged and the other terms and conditions of the loans, (ii) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations, (iii) ensure equitable treatment of each Fund, and (iv) make quarterly reports to the Boards of the Funds concerning any transactions by the Funds under the Proposed Credit Facility and the interest rates charged. Scudder Kemper would administer the Proposed Credit Facility as part of its duties under its existing management or advisory and service contract with each Fund and would receive no additional fee as compensation for its services.

11. Each Fund's participation in the Proposed Credit Facility will be consistent with its organizational documents and its investment policies and limitations. The current investment limitations of certain Funds provide that they may borrow money as a temporary measure for extraordinary or emergency purposes in amounts up to 33⅓% of total assets in order to meet redemption requests. To the extent the fundamental investment limitations of a Fund are inconsistent with participation in the Proposed Credit Facility, the fund would seek shareholder approval, where necessary, to participate in the Proposed Credit Facility. No Fund would be permitted to participate in the Proposed Credit Facility unless the Fund had fully disclosed all material information concerning the Proposed Credit Facility in its prospectus and/or statement of additional information ("SAI").

12. In connection with the Proposed Credit Facility, applicants request an order under (i) section 6(c) of the Act granting relief from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting relief from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting relief from sections 17(a)() and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an "affiliated person" of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having Scudder Kemper as their common investment adviser and, in some instances, the same Board.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a person with strong potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and its

shareholders. Applicants assert that the Proposed Credit Facility transactions do not raise these concerns because (i) Scudder Kemper will administer the program as a disinterested fiduciary; (ii) all interfund loans will consist only of uninvested cash balances that the Fund otherwise would invest in short-term repurchased agreements or other short-term instruments either directly or through the Joint Account; (iii) the interfund loans will not involve a greater risk than other similar investments; (iv) the lending Fund will receive interest at a rate higher than it could obtain through other similar investments; and (v) the borrowing Fund will pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed line of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants contend that the standards under section 6(c), 17(b) and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the Proposed Credit Facility does not involve these abuses. Applicants note that there would be no duplicate costs or fees to the Funds or shareholders, and that Scudder Kemper would receive no additional compensation for its services in administering the Proposed Credit Facility. Applicants also note that the purpose of the Proposed Credit Facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, if immediately after the borrowing, there is an asset coverage of a least 300 per cent for all borrowing of the company. Under section 18(g) of the Act, the term "senior security" includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the Proposed Credit Facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined credit facility and bank borrowings, have a least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds under the Proposed Credit Facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon applications for exemptive relief from section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by an unfair advantage to investment company insiders. Applicants believe that the Proposed Credit Facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the Proposed Credit Facility will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The interest rate to be charged to the Funds under the Proposed Credit Facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, the Cash Management Group will compare the Bank Loan Rate with the Repo Rate and will make cash available for interfund loans only if the Interfund Loan Rate is (a) more favorable to the lending Fund than the Repo Rate and, if applicable, the yield on the Central Funds and (b) more favorable to the borrowing Fund than the Bank Loan Rate and, if applicable, the Committed Loan Rate.

3. If a Fund has outstanding borrowings, any interfund loans to the Fund (a) will be at an interest rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan than requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in no event over seven days), and (d) will provide that, if an event of default by the Fund occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the interfund loan agreement entitling the lending Fund to call the interfund loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A fund may make an unsecured borrowing through the Proposed Credit Facility if its outstanding borrowings from all sources immediately after the interfund borrowing total less than 10% of its total assets, provided that if the Fund has a secured loan outstanding from any lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after interfund borrowing

would be greater than 10% of its total assets, the Fund may borrow through the Proposed Credit Facility only on a secured basis. A Fund may not borrow through the Proposed Credit Facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding interfund loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding interfund loans exceeds 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) Repay all its outstanding interfund loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding interfund loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each interfund loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding interfund loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the Proposed Credit Facility if the loan would cause its aggregate outstanding loans through the Proposed Credit Facility to exceed 15% of its net assets at the time of the loan.

7. A Fund's interfund loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of interfund loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. Each interfund loan may be called on one business day's notice by the lending Fund and may be repaid on any day by the borrowing Fund.

10. A Fund's participation in the Proposed Credit Facility must be consistent with its investment policies and limitations and organizational documents. A Fund may not borrow through the Proposed Credit Facility unless the Fund has a policy that prevents the Fund from borrowing for other than temporary or emergency purposes (and not for leveraging), except that certain Funds may engage in reverse repurchase agreements for any purpose.

11. The Cash Management Group will calculate total Fund borrowing and lending demand through the Proposed Credit Facility, and allocate interfund loans on an equitable basis among the Funds without the intervention of any portfolio manager of any Fund (except the money market Fund portfolio manager acting in his capacity as a member of the Cash Management Group). The Cash Management Group will not solicit cash for the Proposed Credit Facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers (except to the text that the money market Fund portfolio manager has access to loan demand data). The Cash Management Group will invest amounts remaining after satisfaction of borrowing demand in accordance with standing instructions from portfolio managers or return remaining amounts for investment directly by the portfolio managers of the money market Funds.

12. Scudder Kemper will monitor the interest rates charged and the other terms and conditions of the interfund loans and will make a quarterly report to the Boards concerning the participation of the Funds in the Proposed Credit Facility and the terms and other conditions of any extensions of credit thereunder.

13. Each Fund's Board, including a majority of the Independent Directors: (a) will review no less frequently than quarterly the Fund's participation in the Proposed Credit Facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on interfund loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the Proposed Credit Facility.

14. In the event an interfund loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the interfund loan agreement, Scudder Kemper will promptly refer the loan for arbitration to an independent arbitrator selected by the Board of each Fund involved in the loan who will serve as arbitrator of disputes concerning interfund loan. The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Boards setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the Proposed Credit Facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, the yield on the Central Funds, if applicable, and such other information presented to the Fund's Board in connection with the review required by conditions 12 and 13.

16. Scudder Kemper will prepare and submit to the Funds' Boards for review an initial report describing the operations of the Proposed Credit Facility and the procedures to be implemented to ensure that all Funds are treated fairly. After commencement of operations of the Proposed Credit Facility, Scudder Kemper will report on the operations of the Proposed Credit Facility at the Boards' quarterly meetings.

In addition, for two years following the commencement of the Proposed Credit Facility, the independent public accountant for each Fund that is a registered investment company shall prepare an annual report that evaluates Scudder Kemper's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Loan Rate will be

higher than the Joint Repo Rate and, if applicable, the yield on the Central Funds, but lower than the Bank Loan Rate and, if applicable, the Committed Loan Rate; (b) compliance with the collateral requirement as set forth in the application; (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Boards; and (e) that the interest rate on any interfund loan does not exceed the interest rate on any third party borrowing of a borrowing Fund at the time of the interfund loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the Proposed Credit Facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

17. No Fund will participate in the Proposed Credit Facility upon receipt of requisite regulatory approval unless it has fully disclosed in its SAI all material facts about its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31162 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42175; File No. SR–ISCC–99–01]

Self-Regulatory Organizations; International Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to ISCC's Decision To Withdraw From the Clearance and Settlement Business

November 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 23, 1999, the International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared primarily by ISCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, ISCC will withdraw from the clearing agency business and transfer its core services to the National Securities Clearing Corporation ("NSCC").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ISCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On May 12, 1989, the Commission granted, pursuant to Sections 17A and 19(a) of the Act[3] and Rule 17Ab2–1,[4] the application of ISCC for registration as a clearing agency on a temporary basis for a period of eighteen months.[5] Since that time, the Commission has extended ISCC's temporary registration through February 29, 2000.[6]

ISCC was created to provide safe and efficient clearance and settlement of securities transactions between United States broker-dealers and foreign financial institutions.[7] ISCC serves this function through its core services, the Global Clearance Network ("GCN") and International Link services.[8]

ISCC, a wholly owned subsidiary of NSCC, proposes to deregister as a clearing agency and transfer its core services to NSCC because it is no longer cost-effective to provide such services through a separate company.[9] The transfer of services of NSCC will be transparent to ISCC users. They will be required to perform any system modifications, and they will be charged the same fees for the services at NSCC as they are currently paying ISCC.

ISCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[10] and the rules and regulations thereunder applicable to ISCC, because it will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed arrangements would impose no burden on competition. After consummation of the proposed arrangements, securities industry members will continue to have access to high-quality, low-cost clearing and custody service.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions

[2] The Commission has modified the text of the summaries prepared by ISCC.

[3] 15 U.S.C. 78q–1 and 78s(a).

[4] 17 CFR 240.17AB2–2–(c).

[5] Securities Exchange Act Release No. 26812 (May 12, 1989), 54 FR 21691.

[6] Securities Exchange Act Release Nos. 28606 (November 16, 1990), 55 FR 47976; 30005 (November 27, 1991), 56 FR 63747; 33233 (November 22, 1993), 58 FR 63195; 36529 (November 29, 1995), 60 FR 62511; 37986 (November 25, 1996), 61 FR 64184; 38703 (May 30, 1997), 62 FR 31183; 39700 (February 26, 1998), 63 FR 10669; and 41103 (February 24, 1999), 64 FR 10521.

[7] Securities Exchange Act Release Nos. 29841 (October 18, 1991), 56 FR 55960, and 32564 (June 30, 1993), 58 FR 36722.

[8] ISCC has offered the International Link service since its inception in 1989.

[9] In connection with this rule filing, NSCC has submitted a proposed rule change (File No. SR–NSCC–99–12) to amend its rules to allow it to provide the GCN and the International Link Services.

[10] 15 U.S.C. 78q–1.

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of ISCC. All submissions should refer to File No. SR–ISCC–99–01 and should be submitted by December 22, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31164 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42173; File No. SR–MBSCC–99–06]

Self-Regulatory Organization; MBS Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Market Margin Differential Deposits

November 23, 1999.

On July 14, 1999, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change, File No. SR–MBSCC–99–06, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to amend the formula MBSCC uses to calculate market margin differential deposits. Notice of the proposal was published in the **Federal Register** on October 22, 1999.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The rule change amends the formula MBSCC uses to calculate market margin differential deposits to the participants fund.[3] Specifically, the rule change adds net position and net-out position components to the market margin differential deposit formula.

Article IV, Rule 2, Section 4 of MBSCC's rules sets forth the formula used to calculate a participant's daily market margin differential deposit to the participants fund. This formula currently requires a participant to make a daily market margin differential deposit to the participants fund equal to the sum of: (a) 130% (or such other percentage as MBSCC from time to time may determine) of adjusted net losses plus (b) 100% (or such other percentage as MBSCC from time to time may determine) of certain projected cash settlement obligations owed to MBSCC minus (c) the amount of any market margin differential deposits previously made by the participant to and remaining in the participants fund.

The rule change replaces the 130% of adjusted net losses component as contained in subsection (a) of the formula with 130% (or such other percentage as MBSCC from time to time may determine) of the greater of: (i) adjusted net losses or (ii) 25 basis points (or such other number of basis points as MBSCC from time to time may determine) of net position and 25 basis points (or such other number of basis points as MBSCC from time to time may determine) of the largest outstanding net-out position minus excess profits from forward transactions.[4]

II. Discussion

Section 17(A)(b)(3)(F)[5] of the Act requires that the rules of the clearing agency be designed to promote the prompt and accurate safeguarding of securities transactions. The Commission believes that the rule change is consistent with MBSCC's obligations under the Act because the revised market margin differential deposit formula encompasses more circumstances where an MBSCC participant could pose risk to MBSCC.

The revised formula establishes a margin requirement for net position risk and for net-out position risk. For example, under the previous formula a participant was not subject to a margin call on a day it did not have adjusted net losses. Under the revised formula, the net position component should address the circumstances where a participant does not have adjusted net losses but has a large net position, and there is market volatility between margin calls. (The 130% multiplier, which is designated to address market volatility, was not effective if the participant did not have adjusted net losses.)

A second situation where the revised formula addresses risk not covered by the previous formula relates to the fact that losses of non-original contra-sides in excess of an insolvent participant's participant fund are prorated to and assessments are made against this insolvent participant's original contra-sides. MBSCC's netting system pairs-off and nets-out buy and sell trades with original and non-original contra-sides. Netting substantially reduces the number of trades requiring clearance. Although netting eliminates the need to clear net-out trades, it does not eliminate the potential liability for pro-rata assessments against original contra-sides. Under the previous formula, the participants fund did not include a margin component for potential pro-rata assessments against original contra-sides. Under the revised formula, the net-out component should address the circumstances where an original contra-side nets-out of transactions and otherwise does not have sufficient deposits to the participants fund to satisfy potential pro-rata assessments.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–MBSCC–99–06) be and hereby is approved.

---

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 42005 (October 13, 1999), 64 FR 57170.

[3] MBSCC requires participants to maintain collateral in the form of depositions to the participants fund. Each participant's fund is comprised of a basic deposit, a minimum market margin differential deposit, and a market margin differential deposit. The basic deposit is equal to a minimum of $1,000 and a maximum of $10,000 with the actual amount determined based on the average six months billing for the participant. The minimum market margin differential deposit is equal to $250,000. The market margin differential deposit is based on the formula set forth in Article IV, Rule 2, Section 4 of MBSCC's rules.

[4] The rule change also modifies Article I, Rule 1 of MBSCC's rules to add definitions of the terms "excess profits from forward transactions" and "net position."

[5] 15 U.S.C. 78q–1(b)(3)(F).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31166 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42176; File No. SR–NSCC–99–12]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Transfer of the Global Network and the International Link Service to NSCC

November 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 23, 1999, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will allow NSCC to offer the Global Clearance Network Service ("GCN") and the International Link Service ("ILS") previously offered by the International Securities Clearing Corporation ("ISCC").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit NSCC to offer the GCN and the ILS previously offered by ISCC. ISCC, a wholly owned subsidiary of NSCC, is proposing to stop providing clearance and settlement services and transfer its core services to NSCC. According to NSCC, it is no longer cost-effective to provide international clearance and settlement services through a separate company.[3]

GCN was originally approved by the Commission in 1991.[4] It facilitates and centralizes the processing of international transactions at a beneficial cost to ISCC members. Under ISCC's Rule 50, GCN allows ISCC members, utilizing standardized input and output formats, to transmit data to ISCC several times throughout the day using a standardized trade format. Upon receipt, ISCC validates the data and, if accepted, translates the data into the format of specified agent banks. Accepted data is transmitted to the agent banks where processing occurs under the agent banks' normal terms, conditions, and operating framework.

ISCC has provided ILS since its inception in 1989 as a clearing corporation. In accordance with ISCC's Rule 40, which permits ISCC to establish links with foreign financial institutions ("FFIs"), ISCC sponsors accounts at The Depository Trust Company ("DTC") for the purpose of providing FFIs with custody services for their U.S. securities. Deliveries and receives of securities on deposit at DTC, based on instructions from the FFI, occur through DTC free of payment.

According to NSCC, the current users of ISCC's GCN and ILS will receive from NSCC similar services under the same terms and conditions. No new programming or system format changes will be required to utilize GCN and ILS as offered by NSCC. The transfer of services will be transparent to current ISCC participants. NSCC will set the fees for these transferred services at prevailing rates.

All current GCN and ILS participants will be able to continue to utilize such services when they are offered by NSCC. Currently there are thirty users of GCN and three ILS participants. In order to provide these services, NSCC is incorporating rules substantially similar to the applicable ISCC rules and procedures: NSCC Rule 62 is based on ISCC Rule 50; NSCC Addendum U is based on ISCC Addendum E; and NSCC Rule 61 is based on ISCC Rule 40.[5]

ISCC currently provides facilities management services to the Emerging Markets Clearing Corporation ("EMCC"). In connection with ISCC's deregistration as a clearing agency, these services will be provided by NSCC.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder applicable to NSCC because it will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed arrangements would impose no burden on competition. After consummation of the proposed arrangements, securities industry members will continue to have access to high-quality, low-cost clearing and custody service.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

---

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] Concurrently with this rule filing, ISCC has submitted a proposed rule change (File No. SR–ISCC–99–01) to withdraw from the clearance and settlement business.

[4] Securities Exchange Act Release No. 29841 (October 18, 1991), 56 FR 55960. ISCC subsequently modified its processing procedures for the GCN Service through the addition of Addendum E to ISCC's Rules and Procedures. *See* Securities Exchange Act Release No. 35392 (February 16, 1995), 60 FR 10415.

[5] Because ISCC's members are also NSCC members, there is no need for NSCC to adopt ISCC's other rules governing risk management and corporate governance. Also, NSCC will not assume ISCC services that are currently dormant (*e.g.*, Foreign Netting and Comparison Service and ISCC's link with Euroclear).

[6] 15 U.S.C. 78q–1.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–99–12 and should be submitted by December 22, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31165 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42174; File No. SR–NYSE–99–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Amending List of Exchange Rule Violations and Fines Applicable Thereto

November 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 10, 1999, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to revise the List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A ("List") for imposition of fines for minor violations of rules and/or policies by adding to the List; (1) Failure to comply with the provisions of Rule 97(a) relating to purchases by a member of additional shares of stock on a "plus" or "zero-plus" tick when it holds a long position in the stock as a result of an earlier block trade with a customer; and (2) failure to comply with Expiration Day Auxiliary Opening Procedures. The Exchange believes it is appropriate to make the failure to comply with the provisions of the above-named rule and procedure subject to the possible imposition of a fine under Rule 476A procedures. The text of the proposed rule change is available at the Office of the Secretary, NYSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 476A provides that the Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules. The purpose of the Rule 476A procedure is to provide for a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under Rule 476 would be more costly and time-consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than a cautionary letter would convey. Rule 476A preserves due process rights, identifies those rule violations which may be the subject of summary fines, and includes a schedule of fines. In SR–NYSE–84–27,[3] which initially set forth the provisions and procedures of Rule 476A, the Exchange indicated it would amend the list of rules from time to time, as it considered appropriate, in order to phase-in the implementation of Rule 476A as experience with it was gained.

The Exchange is seeking approval to add to the List of Rules subject to imposition of fines under Rule 476A procedures the failure by members or member organizations to comply with the provisions of: (1) Rule 97(a) which prohibits a member organization that holds a long position in a stock in its trading account resulting from a block transaction it effected with a customer from purchasing, for an account in which the member organization has a direct or indirect interest, additional shares of such stock on a "plus" or "zero plus" tick under certain conditions for the remainder of the trading day[4] and (2) Expiration Day Auxiliary Opening Procedures which provide that the Exchange, as soon as practicable, after 9:00 a.m. on expiration days, will publish market order imbalances of 50,000 shares or more in all stocks, may publish imbalances of less than 50,000 shares at that time with Floor Official approval, and will not publish a "no imbalance" status for any stock.[5]

The purpose of the proposed change to Rule 476A is to facilitate the Exchange's ability to induce compliance with all aspects of the above-cited rules. The Exchange believes failure to comply with the requirements of the rule and procedures should be addressed with an appropriate sanction and is adding violations of these requirements to the List so as to have a broad range of regulatory responses available. The Exchange believes that this would more effectively encourage compliance by enabling a prompt, meaningful and heightened regulatory response (*i.e.*, the issuance of a fine rather than a cautionary letter) to a minor violation of a rule.

The Exchange wishes to emphasize the importance it places upon

---

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985) (approving SR–NYSE–84–27).

[4] *See* Securities Exchange Act Release No. 41500 (June 9, 1999), 64 FR 32596 (June 17, 1999).

[5] *See* NYSE Information Memoranda No. 96–34 (November 8, 1996) and No. 99–37 (July 19, 1999) for a discussion of Expiration Day Auxiliary Opening Procedures.

compliance with the above-named rules. While the Exchange, upon investigation, may determine that a violation of any of these rules is a minor violation of the type which is properly addressed by the procedures adopted under Rule 476A, in those instances where investigation reveals a more serious violation of the above-described rules, the Exchange will provide an appropriate regulatory response, such as suspension, expulsion, limitation of activities, etc. This includes the full disciplinary procedures available under Rule 476.

2. Statutory Basis

The NYSE believes that this proposal will advance the objectives of Section 6(b) of the Act[6] in general and further the objectives of Section 6(b)(6)[7] in particular in that it will provide a procedure whereby member organizations can be "appropriately disciplined" when a rule violations is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. The proposed rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of Sections 6(b)(7)[8] and 6(d)(1)[9] of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission change.

This proposed rule change is filed pursuant to Section 19(b)(3)(A)(i) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11] The proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest provided that the Exchange has given the Commission notice of its in tent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, which the NYSE did in this instance.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to SR–NYSE–99–45 and should be submitted by December 22, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31209 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 USC 78f(b).
[7] 15 USC 78f(b)(6).
[8] 15 USC 78f(b)(7).
[9] 15 USC 78(d)(1).
[10] 15 USC 78s(b)(3)(A)(i).
[11] 17 CFR 240.19b–4(f)(6).
[12] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 USC 78c(f).
[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42177; File No. SR–PCX–99–47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to an Increase in the Market Maker Ticket Data Entry Fee

November 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to change its Schedule of Fees and Charges to increase its Market Maker Ticket Data Entry Fee from $0.25 per trade of $0.50 per trade.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, PCX Market Makers pay a Ticket Data Entry Fee of $0.25 per trade. The Ticket Data Entry Fee is charged to a Market Maker for every manual ticket transaction that is entered by the Order Book Official into PCX's Pacific Options

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.

Exchange Trading System ("POETS")[3] for the Market Maker. Under the proposed rule change, the fee would be increased to $0.50 per trade for each manual ticket transaction entered into POETS for the Market Maker.

2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[4] of the Act, in general, and furthers the objectives of Section 6(b)(4),[5] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)[6] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–99–47 and should be submitted by December 22, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–31163 Filed 11–30–99; 8:45 am]

BILLING CODE 8010–01–M

[3] POETS is PCX's automated options trading system comprised of an options order routing system, an automatic and semi-automatic execution system, an on-line limit order book system, and an automatic market update system. *See generally* Exchange Act Release No. 27633 (Jan. 18, 1990), 55 FR 2466 (Jan. 24, 1990) (order approving SR–PSE–89–26).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78f(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2). In reviewing the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 1999–6091]

Information Collection by Agency Under Review by the Office of Management and Budget (OMB)

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded the Information Collection Reports (ICRs) abstracted below to OMB for review and comment. Our ICRs describe the information that we seek to collect from the public. Review and comment by OMB ensure that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before January 3, 2000.

ADDRESSES: Please send comments to both (1) the Docket Management System (DMS), U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW, Washington, DC 20590–0001, and (2) the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), 725 17th Street NW, Washington, DC 20503, to the attention of the Desk Officer for the USCG.

Copies of the complete ICRs are available for inspection and copying in public docket USCG–1999–6091 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (G-SII–2), U.S. Coast Guard, room 6106, 2100 Second Street SW, Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published ((64 FR 45993 (August 23, 1999)) the 60-day notice required by OMB. That request elicited one comment.

The comment concerned ICR 2115–0549—Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels. It cited as a "problem" two sentences in the ICR, which it quoted as follows: (1) "One section of [our regulations] *requires the posting of two placards* which contain operating instructions and safety precautions for the gas cooking appliance and gas system." (2) "The information provided by the placards is to be used by any person operating cooking appliances to ensure [that they are] operated in a safe manner." It conceded that "these are certainly reasonable requirements," but it maintained that the "*regulations are defective* in that" they incorporate the requirements by reference to standards of the American Boat and Yacht Council or the National Fire Protection Association rather than state them in their text. [Emphases in original] It further conceded that the markings should be required, as they are, but it further maintained that the regulations should set forth the substance of the markings or at least make explicit the

fact of their being required, as they do not.

While the comment was a good one, it pertained to the underlying regulation instead of the ICR itself. On October 25, 1999, we replied to the comment-explaining among other things that we had incorporated the requirements by reference, rather than set them forth in full, for the sake of economy-and we sent copies of comment and response to OMB.

Request for Comments

The Coast Guard invites comments on the proposed collections of information to determine whether the collections are necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the Department's estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Numbers of all ICRs addressed. Comments to DMS must contain the docket number of this request, USCG 1999–6091. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Requests

Title: Application for Tonnage Measurement of Vessels. *OMB Control Number:* 2115–0086.

Type of Request: Extension of currently approved collection.

Affected Public: Vessel owners.

Form(s): CG–5397.

Abstract: The information collected determines a vessel's tonnage. Tonnage in turn determines licensing, inspection, safety requirements, and operating fees.

Annual Estimated Burden Hours: The estimated burden is 27,600 hours annually.

Title: Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels.

OMB Control Number: 2115–0549.

Type of Request: Extension of a currently approved collection.

Affected Public: Owners and operators of passenger vessels.

Forms: N/A.

Abstract: The collection of information takes the form of a requirement that passenger vessels have posted two placards, which contain safety and operating instructions on the use of cooking appliances that use liquefied gas or compressed natural gas.

Annual Estimated Burden Hours: The estimated burden is 2,362 hours annually.

Title: Records Relating to Citizenship of Personnel on Units Engaged in Outer Continental Shelf (OCS) Activities.

OMB Control Number: 2115–0143.

Type of Request: Extension of currently approved collection.

Affected Public: Operators of vessels and units engaged in activities on the OCS.

Form(s): N/A.

Abstract: Vessels and units engaged in activities on the OCS (exploration and exploitation of offshore resources such as gas and oil) must be manned and crewed by U.S. citizens or permanent resident aliens (43 U.S.C. 1356). The collection of information imposed by 33 CFR 141.35 takes the form of a requirement that employers maintain records demonstrating compliance.

Annual Estimated Burden Hours: The estimated burden is 449 hours annually.

Title: Oil and Hazardous Material Pollution Prevention and Safety Records, Equivalents/Alternatives and Exemptions.

OMB Control Number: 2115–0096.

Type of Request: Extension of currently approved collection.

Affected Public: Operators of facilities handling and vessels carrying bulk oil and hazardous materials.

Form(s): CG–4602B.

Abstract: The information collected will minimize the number and impact of pollution discharges and accidents occurring during transfer of oil or hazardous materials. It will also help to evaluate proposed alternatives and requests for exemptions.

Annual Estimated Burden Hours: The estimated burden is 1,840 hours annually.

Title: Ships Carrying Bulk Hazardous Liquids.

OMB Control Number: 2115–0089.

Type of Request: Extension of currently approved collection.

Affected Public: Operators of chemical tank vessels.

Form(s): N/A

Abstract: The information collected ensures compliance with our rules governing ships carrying bulk hazardous liquids.

Annual Estimated Burden Hours: The estimated burden is 471 hours annually.

Title: Barges Carrying Bulk Hazardous Materials.

OMB Control Number: 2115–0541.

Type of Request: Extension of currently approved collection.

Affected Public: Operators of tank barges.

Form(s) N/A.

Abstract: The information collected ensures the safe shipment of bulk hazardous liquids in barges. It ensures that barges meet safety standards and that crewmembers have the information necessary to operate barges safely.

Annual Estimated Burden Hours: The estimated burden is 11,724 hours annually.

Title: Facilities Transferring Oil or Hazardous Materials in Bulk—Letter of Intent.

OMB Control Number: 2115–0077.

Affected Public: Facility operators.

Forms: N/A

Abstract: Each waterfront facility that intends to transfer oil or hazardous materials in bulk to or from vessels must notify the Coast Guard Captain of the Port by submitting information in the form of a letter of intent to operate. This letter identifies the owner and operator of the facility for purposes of enforcement and contact.

Annual Estimated Burden Hours: The estimated burden is 460 hours annually.

Title: Oil and Hazardous Materials Transfer Procedures and Waste Management Plans.

OMB Control Number: 2115–0120.

Type of Request: Extension of currently approved collection.

Affected Public: Owners and operators, of vessels and facilities.

Form(s): N/A.

Abstract: This rule requires each vessel with a capacity of 250 barrels or more of oil or hazardous materials to develop and maintain procedures that specify measures for safely operating transfer systems. It also requires each oceangoing ship of 40 feet or more in length, engaged in commerce or equipped with a galley or berth, to develop and maintain a waste-management plan for the handling and disposal of ship-generated garbage.

Annual Estimated Burden Hours: The estimated burden is 14,302 hours annually.

Title: Plan Approval and Records for Marine Engineering Systems—46 CFR Subchapter F.

OMB Control Number: 2115–0142.

Type of Request: Extension of currently approved collection.

Affected Public: Owners and builders of commercial vessels.

Form(s): N/A.

Abstract: The information collected takes the form of owners' and builders' of commercial vessels submitting to the Coast Guard, for review and approval, plans for marine-engineering systems to ensure that the vessels will meet regulatory standards.

Title: National Response Resource Inventory.

OMB Control Number: 2115–0606.

Affected Public: Oil-spill-removal organizations.

Form(s): N/A.

Abstract: The information collected should improve the effectiveness of deploying response equipment in the event of an oil spill. It may also serve in the development of contingency plans.

Annual Estimated Burden Hours: The estimated burden is 1,446 hours annually.

Title: Identification Markings on Lifesaving, Fire Protection, and Emergency Equipment.

OMB Control Number: 2115–0577.

Type of Request: Extension of currently approved collection.

Affected Public: Safety-equipment manufacturers, owners and operators of vessels.

Form(s): N/A.

Abstract: Lifesaving, fire-protection, and emergency equipment must be identified by its manufacturer, model number, capacity, approval number, and other information concerning its performance. Markings help the owners and operators of vessels and the Coast Guard to determine compliance with regulations.

Annual Estimated Burden Hours: The estimated burden is 4,012 hours annually.

Title: Periodic Gauging and Engineering Analyses for Certain Tank Vessels Over 30 Years Old.

OMB Control Number: 2115–0603.

Type of Request: Extension of currently approved collection.

Affected Public: Owners and operators of certain tank vessels.

Form(s): N/A.

Abstract: The Oil Pollution Act of 1990 requires the issuance of regulations for the structural integrity of tank vessels, including periodic gauging of the plating thickness of tank vessels over 30 years old. The information collected helps to verify the structural integrity of older tank vessels.

Annual Estimated Burden Hours: The estimated burden is 11,724 hours annually.

Dated: November 23, 1999.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 99–31129 Filed 11–30–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 23, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 3, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1425.

Regulation Project Number: PS–55–93 TEMP and NPRM.

Type of Review: Extension.

Title: Certain Elections for Intangible Property.

Description: The information is required by the IRS to aid it in administering the law and preventing manipulation. The information will be used to verify that a taxpayer is properly reporting its amortization and income taxes. The likely respondents are businesses or other for-profit institutions.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (once, 1993 tax return).

Estimated Total Reporting Burden: 100 hours.

OMB Number: 1545–1511.

Regulation Project Number: REG–209828–96 Final.

Type of Review: Extension.

Title: Nuclear Decommissioning Funds; Revised Schedules of Ruling Amounts.

Description: The regulations revise the requirements for requesting a schedule of ruling amounts based on a formula or method.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 20.

Estimated Burden Hours Per Respondent/Recordkeeper: 5 hours.

Estimated Total Recordkeeping Burden: 100 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–31167 Filed 11–30–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Submission for OMB review; comment request.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that has been extended, revised, or implemented unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comments concerning an extension, without change, of an information collection titled Recordkeeping Requirements for Securities Transactions—12 CFR 12. The OCC also gives notice that it has sent the information collection to OMB for review.

DATES: You should submit your written comments to both OCC and the OMB Reviewer by January 3, 2000.

ADDRESSES: You should send your written comments to the Communications Division, Attention: 1557–0142, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, you can send comments by facsimile transmission to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: You may request additional information, a copy of the collection, or a copy of the supporting documentation submitted to

OMB by contacting Jessie Dunaway or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0200), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Recordkeeping Requirements for Securities Transactions—12 CFR 12.

OMB Number: 1557–0142.

Form Number: None.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

The information collection is required to ensure national bank compliance with securities laws and to improve the protection afforded persons who purchase and sell securities through banks. The transaction confirmation information provides customers with a record regarding the transaction and provides banks and the OCC with records to ensure bank compliance with banking and securities law and regulations. The OCC uses the required information in its examinations to, among other things, evaluate the bank's compliance with the antifraud provisions of the Federal securities laws.

The requirements in 12 CFR part 12 are located as follows:

Recordkeeping requirements: 12 CFR 12.3(a).

Notification of transaction to customer: 12 CFR 12.4.

Notification by agreement: 12 CFR 12.5(a), (b), (c), and (e).

Securities trading policies: 12 CFR 12.7(a).

Report by bank officers and employees: 12 CFR 12.7(a) and (b).

Waiver request: 12 CFR 12.8.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit.

Number of Respondents: 745.

Total Annual Responses: 745.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 3,913.

OCC Contact: Jessie Dunaway or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, OMB No. 1557–0142, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

OMB Reviewer: Alexander Hunt, (202) 395–7340, Paperwork Reduction Project 1557–0142, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Comments

Your comment will become a matter of public record. You are invited to comment on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) Whether the OCC's burden estimate is accurate;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) Whether the OCC's estimates of the capital or startup costs and costs of operation, maintenance, and purchase of services to provide information are accurate.

Dated: November 24, 1999.

Mark Tenhundfeld,

Assistant Director,

Legislative & Regulatory Activities Division.

[FR Doc. 99–31207 Filed 11–30–99; 8:45 am]

BILLING CODE 4810–33–P

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Notice of Availability of the Record of Decision on the Diamond Fork System, Central Utah Project

AGENCY: The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission).

ACTION: Notice of availability of the Record of Decision (ROD)

SUMMARY: On November 19, 1999, Don A. Christiansen, Chairman of the Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) signed the Record of Decision (ROD) which documents the selection of the Proposed Action as presented in the 1999 Final Supplement to the 1984 Diamond Fork Power System Final Environmental Statement (1999 FS–FEIS; FEIS 99–25) filed with the U.S. Environmental Protection Agency on July 1, 1999. The Mitigation Commission, Central Utah Water Conservancy District and the Department of the Interior served as joint lead agencies in the preparation of the 1999 FS–FEIS. The Proposed Action and a No Action alternative are described and evaluated in the FS–FEIS upon which the ROD is based. Implementation of the Proposed Action responds to the Mitigation Commission's and the Department of the Interior's need to mitigate for impacts of the Bonneville Unit of the Central Utah Project and other federal reclamation projects. The Proposed Action also responds to the need to transport, on average, 147,600 acre-feet of water annually from the Colorado River drainage to the Utah Lake drainage including 86,100 acre-feet of CUP water to facilitate exchanges of water from Utah Lake to Jordanelle Reservoir for municipal and industrial supplies. Under the Proposed Action, the water will be conveyed through the Diamond Fork System and Strawberry Tunnel (an existing feature). The Assistant Secretary for Water and Science, Department of the Interior, has issued a separate ROD for the Diamond Fork System. The Assistant Secretary's separate decision is necessitated by the responsibility and authority of the Department of the Interior for other aspects of the project beyond the scope of the Mitigation Commission to mitigate for reclamation projects.

The Proposed Action will accomplish these measures by construction and operation of a series of pipelines, tunnels, and other facilities which will convey the transmountain diversions of the Central Utah Project (CUP) and Strawberry Valley Project (SVP). These facilities will remove environmentally damaging high flows from natural stream courses that have been released since the early part of the 20th century. Additionally, minimum instream flows will be provided. Removal of high flows and provision of minimum flows will allow for the restoration of a more natural ecosystem, improvement of fish and wildlife habitats and populations, and increases in recreational uses.

FOR FURTHER INFORMATION: Additional information on matters related to this **Federal Register** notice can be obtained at the address and telephone number set forth below:

Mr. Mark Holden, Projects Manager, Utah Reclamation Mitigation and Conservation Commission, 102 West 500 South, Suite 315, Salt Lake City, UT 84601, Telephone: (801) 524–3146.

Dated: November 22, 1999

Michael C. Weland,

Executive Director.

[FR Doc. 99–31136 Filed 11–30–99; 8:45 am]

BILLING CODE 4310–05–P

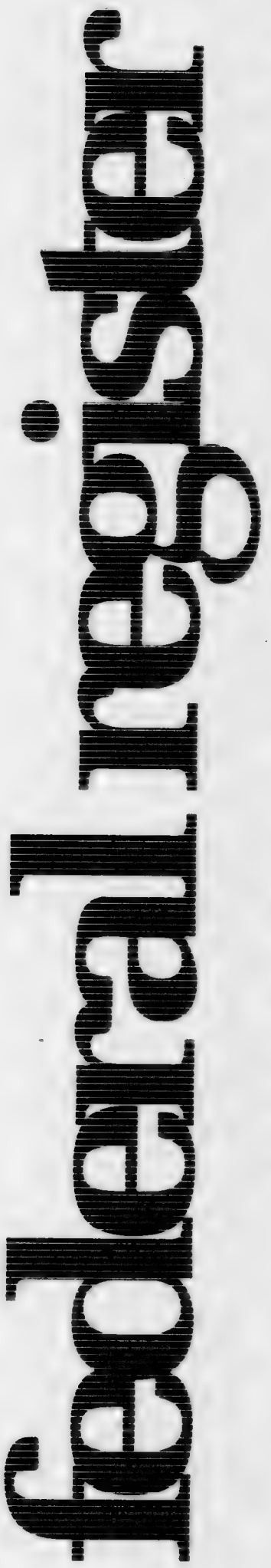

Wednesday
December 1, 1999

Part II

Federal Communications Commission

47 CFR Parts 36, 54 and 69

Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs; Final Rules

VOL 64 ISS 230 DE 1 1999 UMI

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36, 54, and 69

[CC Docket Nos. 96–45 and 97–160; FCC 99–304]

Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerning the Federal-State Joint Boar on Universal Service and Forward-Looking Mechanism for High Cost Support for Non-Rural LECs completes the selection of a model to estimate forward-looking cost by selecting input values for the synthesis model the Commission previously adopted.

DATES: Effective December 1, 1999.

FOR FURTHER INFROMATION CONTACT: Richard Smith, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Tenth Report and Order in CC Docket Nos. 96–45 and 97–160 released on November 2, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C. 20554. The full text of this document is also available on the Internet: www.fcc.gov/ccb/universal_service.

I. Introduction

1. In the Telecommunications Act of 1996 (1996 Act), Congress directed this Commission and the states to take the steps necessary to establish explicit support mechanisms to ensure the delivery of affordable telecommunications service to all Americans. In response to this directive, the Commission has taken action to put in place a universal service support system that will be sustainable in an increasingly competitive marketplace. In the *Universal Service Order*, 62 FR 32862 (June 17, 1997), the Commission adopted a plan for universal service support for rural, insular, and high-cost areas to replace longstanding federal support to incumbent local telephone companies with explicit, competitively neutral federal universal service support mechanisms. The Commission adopted the recommendation of the Federal-State Joint Board on Universal Service (Joint Board) that an eligible carrier's level of universal service support should be based upon the forward-looking economic cost of constructing and operating the network facilities and functions used to provide the services supported by the federal universal service support mechanisms.

2. In this Report and Order, we complete the selection of a model to estimate forward-looking cost by selecting input values for the synthesis model we previously adopted. These input values include such things as the cost of switches, cables, and other network components necessary to provide supported services, in addition to various capital cost parameters. The forward-looking cost of providing supported services estimated by the model will be used as part of the Commission's methodology to determine high-cost support for non-rural carriers beginning January 1, 2000. This methodology is established in a companion order in the final rule document published elsewhere in this issue of the **Federal Register.**

II. Determining Customer Locations

A. Customer Location Data

1. Geocode Data

3. While we affirm our conclusion in the *Platform Order*, 63 FR 63993 (November 18, 1998), that geocode data should be used to locate customers in the federal mechanism, we conclude that no source of actual geocode data has yet been made adequately accessible for public review. We conclude that we will use an algorithm based on the location of roads to create surrogate geocode data on customer locations for the federal mechanism until a source of actual geocode data is identified and selected by the Commission. We reiterate our expectation that a source of accurate and verifiable actual geocode data will be identified in the future for use in the federal mechanism.

4. In the *Platform Order*, we concluded that a model is most likely to select the least-cost, most-efficient outside plant design if it uses the most accurate data for locating customers within wire centers, and that the most accurate data for locating customers within wire centers are precise latitude and longitude coordinates for those customers' locations. We noted that commenters generally support the use of accurate geocode data in the federal mechanism where available. We further noted that the only actual geocode data in the record were those prepared for HAI by PNR, but also noted that "our conclusion that the model should use geocode data to the extent that they are available is not a determination of the accuracy or reliability of any particular source of the data." Although commenters supported the use of accurate geocode data, several commenters questioned whether the PNR geocode data were adequately available for review by interested parties.

5. In the *Universal Service Order*, 62 FR 32862 (June 17, 1997), the Commission required that the "model and all underlying data, formulae, computations, and software associated with the model must be available to all interested parties for review and comment." In an effort to comply with this requirement, the Commission has made significant efforts to encourage parties to submit geocode data on the record in this proceeding. PNR took initial steps to comply with this requirement in December 1998 by making available the "BIN" files derived from the geocoded points to interested parties pursuant to the *Protective Order*, 63 FR 42753 (August 11, 1998). PNR also has continued to provide access to the underlying geocode data at its facility in Pennsylvania. Several commenters argue, however, that the availability of the BIN data alone is not sufficient to comply with the requirements of criterion eight, particularly in light of the expense and conditions imposed by PNR in obtaining access to the geocode point data. In addition, PNR acknowledges that its geocode database relies on third-party data that PNR is not permitted to disclose.

6. Consistent with our tentative conclusion in the *Inputs Further Notice*, 64 FR 31780 (June 14, 1999), we conclude that interested parties have not had an adequate opportunity to review and comment on the accuracy of the PNR actual geocode data set. The majority of commenters addressing this issue support this conclusion. We note that a nationwide customer location database will, by necessity, be voluminous, relying on a variety of underlying data sources. In light of the concerns expressed by several commenters relating to the conditions and expense in obtaining geocode data from PNR, we find that no source of actual geocode data has been made sufficiently available for review. While PNR has made some effort to satisfy the requirements of criterion eight, we prefer to adopt a data set that is more readily available for meaningful review. In particular, we note that the geocode points are available only on-site at PNR's facilities, making it difficult for parties to verify the accuracy of those points. We recognize, however, that more comprehensive actual geocode

data are likely to be available in the future, and we encourage parties to continue development of an actual geocode data source that complies with the criteria outlined in the *Universal Service Order* for use in the federal mechanism.

2. Road Surrogate Customer Locations

7. We conclude that PNR's road surrogating algorithm should be used to develop geocode customer locations for use in the federal universal service mechanism to determine high-cost support for non-rural carriers beginning January 1, 2000. In the *Platform Order*, we concluded that, in the absence of actual geocode customer location data, associating road networks and customer locations provides the most reasonable approach for determining customer locations.

8. As we noted in the *Platform Order*, "associating customers with the distribution of roads is more likely to correlate to actual customer locations than uniformly distributing customers throughout the Census Block, as HCPM proposes, or uniformly distributing customers along the Census Block boundary, as HAI proposes." We therefore concluded in the *Platform Order* that the selection of a precise algorithm for placing road surrogates should be conducted in the inputs stage of this proceeding. In the *Inputs Further Notice*, we tentatively adopted the PNR road surrogate algorithm to determine customer locations.

9. Currently, there are two road surrogating algorithms on the record in this proceeding—those proposed by PNR and Stopwatch Maps. On March 2, 1998, AT&T provided a description of the road surrogate methodology developed by PNR for locating customers. On January 27, 1999, PNR made available for review by the Commission and interested parties, pursuant to the terms of the *Protective Order*, the road surrogate point data for all states except Alaska, Iowa, Virginia, Puerto Rico and eighty-four wire centers in various other states. On February 22, 1999, PNR filed a more detailed description of its road surrogate algorithm. Consistent with the conditions set forth in the *Inputs Further Notice*, PNR has now made available road surrogate data for all fifty states and Puerto Rico.

10. In general, the PNR road surrogate algorithm utilizes the Census Bureau's Topologically Integrated Geographic Encoding and Referencing (TIGER) files, which contain all the road segments in the United States. For each Census Block, PNR determines how many customers and which roads are located within the Census Block. For each Census Block, PNR also develops a list of road segments. The total distance of the road segments within the Census Block is then computed. Roads that are located entirely within the interior of the Census Block are given twice the weight as roads on the boundary. This is because customers are assumed to live on both sides of a road within the interior of the Census Block. In addition, the PNR algorithm excludes certain road segments along which customers are not likely to reside. For example, PNR excludes highway access ramps, alleys, and ferry crossings. The total number of surrogate points is then divided by the computed road distance to determine the spacing between surrogate points. Based on that distance, the surrogate customer locations are uniformly distributed along the road segments. In order to ensure that its road surrogate data set includes all currently served customers, PNR has made minor adjustments to its methodology in some instances. For example, Census Blocks that are not assigned to any current wire center have been assigned to the nearest known wire center, based on the "underpinned of the census block in relation to the wire center's central office location."

11. Stopwatch Maps has compiled road surrogate customer location files for six states suitable for use in the federal mechanism. We conclude, however, that until a more comprehensive data set is made available, the Stopwatch data set will not comply with the *Universal Service Order's* criterion that the underlying data are available for review by the public. Only GTE endorses the use of the Stopwatch data set. In addition, we note that the availability of customer locations for only six states is of limited utility in a nationwide model designed to be implemented on January 1, 2000.

12. AT&T and MCI contend that the exclusive use of a road surrogate algorithm to locate customers produces a 2.7 percent upward bias in loop cost on average on a study area basis when compared to a data set consisting of PNR actual geocode data, where available, and surrogate locations where actual data are unavailable. AT&T and MCI argue that this occurs because the road surrogate methodology uniformly disperses customers along roads, failing to take into consideration actual, uneven customer distributions that tend to cluster customer locations more closely. AT&T and MCI therefore suggest a downward adjustment to produce more accurate outside plant cost estimates. GTE disagrees and contends that, because the PNR actual geocode data create serving areas that are too dense, it is not surprising that AT&T and MCI have found that the use of road surrogate data produces costs that are slightly higher. GTE argues that there is no evidence to conclude, therefore, that a uniform dispersion of customers is likely to overstate outside plant costs. Sprint contends that the decision to optimize distribution plant in the model mitigates any concern that the road surrogate algorithm overstates the amount of outside plant.

13. We agree with GTE and Sprint that there should be no downward adjustment in cost to reflect the exclusive use of a road surrogate algorithm. In doing so, we note that, although the Commission has gone to great lengths to identify a source of actual, nationwide customer locations, no satisfactory data source has been identified. In fact, only one source of such data, the PNR geocode data, has been placed on the record. As noted, however, we have rejected the PNR geocode data set at this time because it has not been made adequately available for review. In the absence of a reliable source of actual customer locations by which to compare the surrogate locations, it is impossible to substantiate AT&T and MCI's contention that the road surrogate algorithm overstates the dispersion of customer locations in comparison to actual locations. Although LECG has made comparisons between Ameritech geocode locations and the PNR road surrogate locations, the validity of that comparison is dependent on the accuracy of the geocode data used in that comparison. As Ameritech has not filed that data on the record, we have no way of verifying the accuracy of its geocoded locations. In addition, we note that Ameritech agrees that the PNR road surrogate "is a reasonable method for locating customers in the absence of actual geocode data." Having no reliable evidence that the PNR road surrogate algorithm systematically overstates customer dispersion, we conclude that no downward adjustment to the outside plant cost estimate is required.

14. We also disagree with Bell Atlantic's contention that road surrogate data is inherently random and likely to misidentify high-cost areas. As noted in the *Platform Order*, we believe that it is reasonable to assume that customers generally reside along roads and, therefore, associating customers with the distribution of roadways is a reasonable method to estimate customer locations. We note that PNR's methodology of excluding certain road segments is consistent with the Commission's conclusion in the

Platform Order that certain types of roads and road segments should be excluded because they are unlikely to be associated with customer locations. In addition, we note that PNR's reliance on the Census Bureau's TIGER files ensures a degree of reliability and availability for review of much of the data underlying PNR's road surrogate algorithm, in compliance with criterion eight of the *Universal Service Order*. The PNR road surrogate algorithm is also generally supported by commenters addressing this issue. While AT&T and MCI advocate the use of actual geocode data points, AT&T and MCI endorse the PNR road surrogate algorithm to identify surrogate locations in the absence of actual geocode data. We therefore affirm our tentative conclusion in the *Inputs Further Notice* and adopt the PNR road surrogate algorithm and data set to determine customer locations for use in the model beginning on January 1, 2000.

3. Methodology for Estimating the Number of Customer Locations

15. In addition to selecting a source of customer data, we also must select a methodology for estimating the number of customer locations within the geographic region that will be used in developing the customer location data. In addition, we must determine how demand for service at each customer location should be estimated and how customer locations should be allocated to each wire center. In the *Inputs Further Notice*, we tentatively concluded that PNR's methodology for estimating the number of customer locations based on households should be used for developing the customer location data. In addition, we also tentatively concluded that we should use PNR's methodology for estimating the demand for service at each location, and for allocating customer locations to wire centers. We now affirm these tentative conclusions.

16. In the *Universal Service Order*, the Commission concluded that a "model must estimate the cost of providing service for all businesses and households within a geographic region." The Commission has sought comment on the appropriate method for defining "households," or residential locations, for the purpose of calculating the forward-looking cost of providing supported services. Interested parties have proposed alternative methods to comply with this requirement.

17. AT&T, MCI, and Ameritech support the methodology devised by PNR, which is based upon the number of households in each Census Block, while BellSouth, GTE, SBC, USTA, and US West propose that we use a methodology based upon the number of housing units in each Census Block. A household is an occupied residence, while housing units include all residences, whether occupied or not.

18. In the *Inputs Further Notice*, we tentatively adopted the use of the PNR National Access Line Model, as proposed by AT&T and MCI, to estimate the number of customer locations within Census Blocks and wire centers. The PNR National Access Line Model uses a variety of information sources, including: survey information; the LERG; Business Location Research (BLR) wire center boundaries; Dun & Bradstreet's business database; Metromail's residential database; Claritas's demographic database; and U.S. Census Bureau estimates. PNR's model uses these sources in a series of steps to estimate the number of residential and business locations, and the number of access lines demanded at each location. The model makes these estimates for each Census Block, and for each wire center in the United States. In addition, each customer location is associated with a particular wire center. We conclude that PNR's process for estimating the number of customer locations should be used for developing the customer location data. We also conclude that we should use PNR's methodology for estimating the demand for service at each location, and for allocating customer locations to wire centers. We believe that the PNR methodology is a reasonable method for determining the number of customer locations to be served in calculating the cost of providing supported services.

19. PNR's process for estimating the number of customer locations results in an estimate of residential locations that is greater than or equal to the Census Bureau's estimate of households, by Census Block Group, and its estimate is disaggregated to the Census Block level. PNR's estimate of demand for both residential and business lines in each study area will also be greater than or equal to the number of access lines in the Automated Reporting and Management Information System (ARMIS) for that study area.

20. The BCPM model relied on many of the same data sources as those used in PNR's National Access Line Model. For example, BCPM 3.1 used wire center data obtained from BLR and business line data obtained from PNR. In estimating the number of residential locations, however, the BCPM model used Census Bureau data that include household and housing unit counts from the 1990 Census, updated based upon 1995 Census Bureau statistics regarding household growth by county. In addition, rather than attempting to estimate demand by location at the Block level, the BCPM model builds two lines to every residential location and at least six lines to every business.

21. A number of commenters contend that the total cost estimated by the model should include the cost of providing service to all possible customer locations, even if some locations currently do not receive service. Some commenters further contend that, if total cost is based on a smaller number of locations, support will not be sufficient to enable carriers to meet their carrier-of-last-resort obligations. These commenters argue that basing the estimate of residential locations on households instead of housing units will underestimate the cost of building a network that can provide universal service. They therefore assert that residential locations should be based on the number of housing units—whether occupied or unoccupied. These commenters contend that only this approach reflects the obligation to provide service to any residence that may request it in the future.

22. Some commenters also contend that the PNR National Access Line Model has not been made adequately available for review. As noted, the National Access Line Model is a multi-step process used to develop customer location counts and demand and associate those customer locations with Census Blocks and wire centers. As a result, PNR contends that the National Access Line Model cannot be provided in a single, uniform format. The HAI sponsors have provided a description of the National Access Line Model process in the HAI model documentation. PNR has made the National Access Line Model process available for review through on-site examination and has provided more detailed explanation of the National Access Line Model upon request from interested parties. PNR notes that several parties have taken advantage of this opportunity. PNR also notes that the National Access Line Model computer code is available for review on-site. PNR also has filed with the Commission the complete output of the National Access Line Model process. In addition, Bell Atlantic and Sprint argue that the National Access Line Model produces line counts that vary significantly from actual line counts.

23. In adopting the PNR approach for developing customer location counts, we note that the synthesis model currently calculates the average cost per line by dividing the total cost of serving customer locations by the current number of lines. Because the current

number of lines is used in this average cost calculation, we agree with AT&T and MCI that the total cost should be determined by using the current number of customer locations. As AT&T and MCI note, "the key issue is the consistency of the numerator and denominator" in the average cost calculation. According to AT&T and MCI, other proposed approaches result in inconsistency because they use the highest possible cost in the numerator and divide by the lowest possible number of lines in the denominator, and therefore result in larger than necessary support levels. AT&T and MCI also assert that, in order to be consistent, housing units must be used in the determination of total lines if they are used in the determination of total costs. MCI points out that "[i]f used consistently in this manner, building to housing units as GTE proposes is unlikely to make any difference in cost per line." Although SBC advocates the use of housing units, it agrees that the number of lines resulting from this approach should also be used in the denominator of any cost per line calculation to prevent the distortion noted by AT&T and MCI. We agree with AT&T and MCI that, as long as there is consistency in the development of total lines and total cost, it makes little difference whether households or housing units are used in determining cost per line. For the reasons discussed, we believe that PNR's methodology based on households is less complex and more consistent with a forward-looking methodology than housing units.

24. To the extent that the PNR methodology includes the cost of providing service to all currently served households, we conclude that this is consistent with a forward-looking cost model, which is designed to estimate the cost of serving current demand. As noted by AT&T and MCI, adopting housing units as the standard would inflate the cost per line by using the highest possible numerator (all occupied and unoccupied housing units) and dividing by the lowest possible denominator (the number of customers with telephones).

25. If we were to calculate the cost of a network that would serve all potential customers, it would not be consistent to calculate the cost per line by using current demand. In other words, it would not be consistent to estimate the cost per line by dividing the total cost of serving all potential customers by the number of lines currently served. The level and source of future demand, however, is uncertain. Future demand might include not only demand from currently unoccupied housing units, but also demand from new housing units, or potential increases in demand from currently subscribing households. We also recognize that population or demographic changes may cause future demand levels in some areas to decline. Given the uncertainty of future demand, we noted in the *Inputs Further Notice* that we are concerned that including such a highly speculative cost of future demand may not reflect forward-looking cost and may perpetuate a system of implicit support. Ameritech and AT&T and MCI also note that adopting the proposed conservative fill factors will ensure sufficient plant to deal with any customer churn created as a result of temporarily vacant households.

26. In addition, we do not believe that including the cost of providing service to all housing units would necessarily promote universal service to unserved customers. We note that there is no guarantee that carriers would use any support derived from the cost of serving all housing units to provide service to these customers. Many states permit carriers to charge substantial line extension or construction fees for connecting customers in remote areas to their network. If that fee is unaffordable to a particular customer, raising the carrier's support level by including the costs of serving that customer in the model's calculations would have no effect on whether the customer actually receives service. In fact, as long as the customer remains unserved, the carrier would receive a windfall. We recognize that providing service to currently unserved customers in such circumstances is an important universal service goal and the Commission is addressing this issue more directly in another proceeding.

27. We also find that interested parties have been given a reasonable opportunity to review and understand the National Access Line Model process for developing customer counts. The HAI sponsors have documented the process by which the National Access Line Model derives customer location counts and PNR has made itself available to respond to inquiries from interested parties. The National Access Line Model is a commercially licensed product developed by PNR, and we do not find it unreasonable for PNR to place some restriction on its distribution to the public. In addition, we agree that the National Access Line Model is more correctly characterized as a process consisting of several steps, and therefore we find no practical alternative to on-site review. Even if it were possible for PNR to turn the National Access Line Model over to the public in a single format, we believe that this would be of limited utility without a detailed explanation of the entire process. We therefore conclude that PNR has made reasonable efforts to ensure that interested parties understand the underlying process by which the National Access Line Model develops customer counts and has made that process reasonably available to interested parties. In addition, unlike the case with PNR's geocode data points, PNR's road surrogate customer location points are available for review and comparison by interested parties.

28. In response to Bell Atlantic and Sprint's concern regarding the line counts generated by the National Access Line Model, we note that the line count data proposed in the *Inputs Further Notice* had been trued up by PNR to 1996 ARMIS line counts. We subsequently have modified those data to reflect the most currently available ARMIS data. Accordingly, the input values that we adopt in this Order will true up the line counts generated by the National Access Line Model to 1998 ARMIS line counts. While the Commission has requested line count data from the non-rural LECs, no party has suggested, and we have not been able to discern, any feasible way of associating such data with wire centers used in the model. The Commission intends to continue to review this issue in addressing future refinements to the forward-looking cost model.

29. In the *Inputs Further Notice*, we also noted that the accuracy of wire center boundaries is important in estimating the number of customer locations. PNR currently uses BLR wire center information to estimate wire center boundaries. As noted, the BCPM model also uses BLR wire center boundaries, as does Stopwatch Maps in its road surrogate customer location files. A few commenters support the use of BLR wire center boundaries, noting widespread use by the model proponents. Others advocate the use of actual wire center boundaries. These commenters acknowledge, however, that this information is generally considered confidential and may not be released publicly by the incumbent LEC. We conclude that the BLR wire center boundaries are the best available data that are open to inspection and that they provide a reasonably reliable estimation of wire center boundaries. We note that both the BCPM and HAI proponents have utilized the BLR wire center data in their respective models. While use of actual wire center boundaries may be preferable, we agree that such information is currently unavailable or proprietary. We therefore approve the

use of the BLR wire center boundaries in the current customer location data set.

III. Outside Plant Input Values

A. Introduction

30. In this section, we consider inputs to the model related to outside plant. The *Universal Service Order's* first criterion specifies that "[t]he technology assumed in the cost study or model must be the least-cost, most efficient, and reasonable technology for providing the supported services that is currently being deployed." Thus, while the model uses existing incumbent LEC wire center locations in designing outside plant, it does not necessarily reflect existing incumbent LEC loop plant. Indeed, as the Commission stated in the *Platform Order*, "[e]xisting incumbent LEC plant is not likely to reflect forward-looking technology or design choices." The *Universal Service Order's* third criterion specifies that "[o]nly long-run forward-looking costs may be included." We select input values consistent with these criteria.

31. As the Commission noted in the *Platform Order*, outside plant, or loop plant, constitutes the largest portion of total network investment, particularly in rural areas. Outside plant investment includes the copper cables in the distribution plant and the copper and optical fiber cables in the feeder plant that connect the customers' premises to the central office. Cable costs include the material costs of the cable, as well as the costs of installing the cable.

32. Outside plant consists of a mix of aerial, underground, and buried cable. Aerial cable is strung between poles above ground. Underground cable is placed underground within conduits for added support and protection. Buried cable is placed underground but without any conduit. A significant portion of outside plant investment consists of the poles, trenches, conduits, and other structure that support or house the copper and fiber cables. In some cases, electric utilities, cable companies, and other telecommunications providers share structure with the LEC and, therefore, only a portion of the costs associated with that structure are borne by the LEC. Outside plant investment also includes the cost of the SAIs and DLCs that connect the feeder and distribution plant.

B. Engineering Assumptions and Optimizing Routines

33. As noted in the *Inputs Further Notice*, the model determines outside plant investment based on certain cost minimization and engineering considerations that have associated input values. In the *Inputs Further Notice*, we recognized that it was necessary to examine certain input values related to the engineering assumptions and optimization routines in the model that affect outside plant costs. Specifically, we tentatively concluded that: (1) The optimization routine in the model should be fully activated; (2) the model should not use T–1 feeder technology; and (3) the model should use rectilinear distances and a "road factor" of one.

1. Optimization

34. When running the model, the user has the option of optimizing distribution plant routing via a minimum spanning tree algorithm discussed in the model documentation. The algorithm functions by first calculating distribution routing using an engineering rule of thumb and then comparing the cost with the spanning tree result, choosing the routing that minimizes annualized cost. The user has the option of not using the distribution optimization feature, thereby saving a significant amount of computation time, but reporting network costs that may be significantly higher than with the optimization. The user also has the option of using the optimization feature only in the lowest density zones.

35. In reaching our tentative conclusion that the model should be run with the optimization routine fully activated in all density zones, we recognized that using full optimization can substantially increase the model's run time. We noted that a preliminary analysis of comparison runs with full optimization versus runs with no optimization indicated that, for clusters with line density greater than 500, the rule of thumb algorithm results in the same or lower cost for nearly all clusters. Accordingly, we sought comment on whether an acceptable compromise to full optimization would be to set the optimization factor at "– p500," as described in the model documentation.

36. We adopt our tentative conclusion that the model should be run with the optimization routine fully activated in all density zones when the model is used to calculate the forward-looking cost of providing the services supported by the federal mechanism. The first of the ten criteria pronounced by the Commission to ensure consistency in calculations of federal universal support specifies that "[t]he technology assumed in the cost study or model must be the least-cost, most efficient, and reasonable technology for providing the supported services that is currently being deployed." As we explained in the *Inputs Further Notice*, running the model with the optimization routine fully activated complies with this requirement. In contrast, running the model with the optimization routine disabled may result in costs that are significantly higher than with full optimization. The majority of commenters that address the optimization issue support the use of full optimization. GTE opposes any implementation of optimization.

37. We agree with AT&T and MCI and GTE that it is inappropriate to deviate from full optimization merely to minimize computer run time. While the rule of thumb algorithm generally results in costs that are approximately the same as the spanning tree algorithm for dense clusters, for some dense clusters the spanning tree algorithm will result in lower costs. For this reason, we believe that any choice in maximum density clusters in which the minimum spanning tree algorithm is not applied may result in an arbitrary overestimate of costs for some clusters. Accordingly, running the model with full optimization is consistent with ensuring that the model uses the least-cost, most efficient, and reasonable distribution plant routings for providing the supported services.

38. As explained, the model seeks to minimize costs by selecting the lower of the cost estimates from the spanning tree algorithm and the rule of thumb algorithm. Both GTE and US West challenge the selection of the routing that minimizes annualized cost on the basis of a comparison between an engineering rule of thumb and the spanning tree result. US West claims that use of the rule of thumb approach is inappropriate because combining it with the spanning tree analytical approach to determine the amount of needed plant biases the results downward and will produce inappropriately low results.

39. We find that US West's concerns are misplaced. Contrary to US West's characterization, the rule of thumb used in the model is not an averaging methodology. Instead, it is a methodology that determines a sufficient amount of investment to serve each customer in every cluster using a standardized approach to network design. This approach connects every populated microgrid cell to the SAI using routes which are placed along the vertical and horizontal boundaries of the microgrid cells constructed in the distribution algorithm. The rule-of-thumb algorithm is somewhat similar in

its functioning to the so-called "pinetree" methodology proposed by both the early HAI and BCPM models for building feeder plant. Thus, the rule of thumb provides an independent calculation of sufficient outside plant for each cluster. The minimum spanning tree algorithm connects drop terminal points to the SAI using a more sophisticated algorithm in which routes are not restricted to following the vertical and horizontal boundaries of microgrid cells. The algorithm "chooses" a path independently of the set route structure defined by the rule-of-thumb, but still connects all drop terminals to the SAI. Since both the rule of thumb algorithm and the spanning tree algorithm use currently available technologies and generate investments that are sufficient to provide supported services, an approach which selects the minimum cost based on an evaluation of both of the algorithms is fully consistent with cost minimization principles.

40. We also disagree with GTE's assertion that the optimization routine should be disabled because it disproportionately affects lower density areas where universal service is needed most. The task of the model is to estimate the cost of the least-cost, most-efficient network that is sufficient to provide the supported services. Moreover, we note that the model does not determine the level of high-cost support amounts. We have taken steps in our companion order to ensure that sufficient support is provided for rural and high-cost areas.

41. We also reject GTE's claim that the optimization routine does not work as intended. GTE bases this contention on the observation that in some instances when the optimization factor is increased from −p100 to −p200 (*i.e.* going from density zones less than or equal to 100 lines per square mile to density zones less than or equal to 200 lines per square mile), both loop investment and universal service requirements increase. This, according to GTE, would not happen if the optimization worked properly.

42. We disagree. Optimizing the distribution plant is not synonymous with optimizing the entire network. Because the model's optimization routine optimizes distribution and feeder sequentially, and the starting point for the optimization of feeder plant is the distribution plant routing chosen, there are occasions when the optimal feeder plant will be more costly than it would be if distribution plant and feeder plant had been optimized simultaneously. In some cases, the lower distribution investment produced by the optimization routine may be offset by higher feeder investment, resulting in higher total outside plant costs than produced by the rule of thumb algorithm. Contrary to GTE's assertion, this phenomenon does not demonstrate that the optimization works improperly. To the contrary, it demonstrates that optimization occurs properly within the constraints of the model's design.

43. Moreover, we conclude that such rare occurrences do not outweigh the benefits of the optimization routine. The magnitude of the difference between the network cost produced by the optimization routine in these instances and the rule of thumb algorithm is *de minimis*. Furthermore, altering the model to optimize distribution investment and feeder investment simultaneously would greatly add to the complexity of the model.

2. T–1 Technology

44. A user of the model also has the option of using T–1 on copper technology as an alternative to analog copper feeder or fiber feeder in certain circumstances. T–1 is a technology that allows digital signals to be transmitted on two pairs of copper wires at 1.544 Megabits per second (Mbps). If the T–1 option is enabled, the optimizing routines in the model will choose the least cost feeder technology among three options: analog copper; T–1 on copper; and fiber. For serving clusters with loop distances below the maximum copper loop length, the model could choose among all three options; between 18,000 feet and the fiber crossover point, which earlier versions of the model set at 24,000 feet, the model could choose between fiber and T–1, and above the fiber crossover point, the model would always use fiber. In the HAI model, T–1 technology is used to serve very small outlier clusters in locations where the copper distribution cable would exceed 18,000 feet.

45. In the *Inputs Further Notice*, we tentatively concluded that the T–1 option in the model should not be used at this time. We noted that the only input values for T–1 costs on the record were the HAI default values and tentatively found that, because the model and HAI model use T–1 differently, it would be inappropriate to use the T–1 technology in the model based on these input values. We also noted that the BCPM sponsors and other LECs maintained that T–1 was not a forward-looking technology and therefore should not be used in the model. Other sources indicated that advanced technologies, such as HDSL, could be used to transmit information at T–1 or higher rates. We sought comment on this issue. We also sought comment on the extent to which HDSL technology presently is being used to provide T–1 service.

46. We conclude that the T–1 option should not be employed in the current version of the model. We agree with those commenters addressing this issue that traditional T–1 using repeaters at 6000 foot intervals is not a forward-looking technology. While HDSL and other DSL variants are forward-looking technologies, we do not at this time have sufficient information to determine appropriate input values for these technologies for use in the model. We conclude, therefore, that use of T–1 in the optimization routine as an alternative to analog copper or digital fiber feeder for certain loops under 24,000 feet is not appropriate at this time. Accordingly, the model will be run for universal service purposes with the T–1 option disabled.

3. Distance Calculations and Road Factor

47. In the distribution and feeder computations within the model, costs for cable and structure are computed by multiplying the route distances by the cost per foot of the cable or the structure facility, which depends on capacity and terrain factors. Distances between any two points in the network are computed using either of two distance functions. The model allows a separate road factor for each distance function, and every distance measurement made in the model is multiplied by the designated factor. Road factors could be computed by comparing average distances between geographic points along actual roads with distances computed using either of the two distance functions. Given sufficient data, these factors could be computed at highly disaggregated levels, such as the state, county, or individual wire center.

48. In the *Inputs Further Notice*, we tentatively concluded that the model should use rectilinear distance in calculating outside plant distances, rather than airline distance, because rectilinear distance more accurately reflects the routing of telephone plant along roads and other rights of way. We also tentatively concluded that the road factor in the model, which reflects the ratio between route distance and road distance, should be set equal to one. In addition, we asked whether we should use airline miles with wire center specific road factors as an alternative to rectilinear distance.

49. We reaffirm our tentative conclusion that the model should use rectilinear distance rather than airline distance in calculating outside plant

distances. As we noted in the *Inputs Further Notice*, research suggests that, on average, rectilinear distance closely approximates road distances. We agree with SBC that the calculation of outside plant distances should reflect the closest approximation to actual route conditions and road distance. We also conclude that it would be inappropriate to use airline distance in the model without simultaneously developing a process for determining accurate road factors (which would be uniformly greater than or equal to 1 in this case). While the use of geographically disaggregated road factors may merit further investigation, we note that the absence of such a data set on the record at this time precludes our ability to adopt that approach. We therefore conclude that the model should use a rectilinear distance metric with a road factor of one.

C. Cable and Structure Costs

1. Nationwide Values

50. As discussed in this section, we adopt nationwide average values for estimating cable and structure costs in the model rather than company-specific values. In reaching this conclusion, we reject the explicit or implicit assumption of most LEC commenters that company-specific values, which reflect the costs of their embedded plant, are the best predictor of the forward-looking cost of constructing the network investment predicted by the model. We find that, consistent with the *Universal Services Order's* third criterion, the forward-looking cost of constructing a plant should reflect costs that an efficient carrier would incur, not the embedded cost of the facilities, functions, or elements of a carrier. We recognize that variability in historic costs among companies is due to a variety of factors and does not simply reflect how efficient or inefficient a firm is in providing the supported services. We reject arguments of the LECs, however, that we should capture this variability by using company-specific data rather than nationwide average values in the model. We find that using company-specific data for federal universal service support purposes would be administratively unmanageable and inappropriate. Moreover, we find that averages, rather than company-specific data, are better predictors of the forward-looking costs that should be supported by the federal high-cost mechanism. Furthermore, we note that we are not attempting to identify any particular company's cost of providing the supported services. We are estimating the costs that an efficient provider would incur in providing the supported services.

51. AT&T and MCI agree that nationwide input values generally should be used for the input values in the model. AT&T and MCI concur with our tentative conclusion that the use of nationwide values is more consistent with the forward-looking nature of the high-cost model because it mitigates the rewards to less efficient companies. Additionally, AT&T and MCI maintain that developing separate inputs values on a state-specific, study-area specific, or holding company-specific basis is not practicable. As AT&T and MCI contend, doing so would be costly and administratively burdensome.

52. While reliance on company-specific data may be appropriate in other contexts, we find that for federal universal service support purposes it would be administratively unmanageable and inappropriate. The incumbent LECs argue that virtually all model inputs should be company-specific and reflect their individual costs, typically by state or by study area. For example, GTE claims that the costs that an efficient carrier incurs to provide basic service vary among states and even among geographic areas within a state. GTE asserts that the only way for the model to generate accurate estimates, *i.e.*, estimates that reflect these differences, is to use company-specific inputs rather than nationwide input values. As parties in this proceeding have noted, however, selecting inputs for use in the high-cost model is a complex process. Selecting different values for each input for each of the fifty states, the District of Columbia, and Puerto Rico, or for each of the 94 non-rural study areas, would increase the Commission's administrative burden significantly. Unless we simply accept the data the companies provide us at face value, we would have to engage in a lengthy process of verifying the reasonableness of each company's data. For example, in a typical tariff investigation or state rate case, regulators examine company data for one time high or low costs, pro forma adjustments, and other exceptions and direct carriers to adjust their rates accordingly. Scrutinizing company-specific data to identify such anomalies and to make the appropriate adjustments to the company-proposed input values to ensure that they are reasonable would be exceedingly time consuming and complicated given the number of inputs to the model.

53. Where possible, we have tried to account for variations in costs by objective means. As explained, the model reflects differences in structure costs by using different values for the type of plant, the density zone, and geological conditions. As discussed, we sought comment in the *Inputs Further Notice* on alternatives to nationwide plant mix values, but the algorithms on the record produce biased results. We continue to believe that varying plant mix by state, study area, or region of the country may more accurately reflect variations in forward-looking costs and intend to seek further comment on this issue in the future of the model proceeding.

2. Preliminary Cable Cost Issues

54. *Use of 24-gauge and 26-gauge Copper.* In the *Inputs Further Notice*, we tentatively concluded that the model should use both 24-gauge and 26-gauge copper in all available pair-sizes. We based our tentative conclusion on a preliminary analysis of the results of the structure and cable cost survey, in which it appeared that a significant amount of 24-gauge copper cable in larger pair sizes currently is being deployed. We also noted that, while HAI default values assume that all copper cable below 400 pairs in size is 24-gauge and all copper cable of 400 pairs and larger is 26-gauge, the BCPM default values include separate costs for 24-and 26-gauge copper of all sizes.

55. We conclude that the model should use both 24-gauge and 26-gauge copper in all available pair sizes. No commenter refuted our observation that a significant amount of 24-gauge copper cable in larger pair sizes currently is being deployed. Those commenters addressing this issue concur with our tentative conclusion. SBC confirms our analysis of the survey data and notes that it deploys 24-gauge cable in sizes from 25 to 2400 pairs. GTE explains, and we agree, that the model should use both 24-gauge and 26-gauge copper in all available pair sizes in order to stay within transmission guidelines when modeling 18 kilofoot loops.

56. *Distinguishing Feeder and Distribution Cable Costs.* In the *Inputs Further Notice*, we reaffirmed the Commission's tentative conclusion in the *1997 Further Notice* that the same input values should be used for copper cable whether it is used in feeder or in distribution plant. We adopt this tentative conclusion. Those commenters addressing this issue agree with our tentative conclusion. GTE contends that it is both unnecessary and inappropriate to have different costs for feeder and distribution cable material. GTE explains that, although quantities of material and labor related to cable size may differ between feeder and distribution, the unit costs for each

remain the same. Similarly, Sprint agrees that the material cost of cable is the same whether it is used for distribution or feeder. In sum, we find that the record demonstrates that it is appropriate to use the same input values for copper cable whether it is used in feeder or in distribution plant.

57. *Distinguishing Underground, Buried, and Aerial Installation Costs.* In the *Inputs Further Notice*, we also tentatively concluded that we should adopt separate input values for the cost of aerial, underground, and buried cable. We reached this tentative conclusion on the basis of our analysis of cable cost data supplied to us in response to data requests and through *ex parte* presentations. We found considerable differences in the per foot cost of cable, depending upon whether the cable was strung on poles, pulled through conduit, or buried.

58. We conclude that separate input values for the cost of aerial, underground, and buried cable should be adopted. Those commenters addressing this issue confirm our analysis of the data, *i.e.*, that there are differences, some significant, in placement costs for aerial, underground, and buried cable. GTE explains that, from a material perspective, the cable may have different protective sheathing, depending on construction applications. GTE adds that labor costs also differ depending on the type of placement. Both SBC and Sprint identify the cost of labor as varying significantly depending upon the type of placement. Based upon a review of the record in this proceeding, we conclude that separate input values for the cost of aerial, underground, and buried cable are, therefore, warranted.

59. *Deployment of Digital Lines.* We also conclude that two inputs, "pct__DS1" and "pct__1sa", should be modified to provide more accurate deployment of digital lines in the distribution plant. The model can deploy a portion of distribution plant on digital DS1 circuits by specifying these two user adjustable inputs. The input "pct__DS1" determines the percentage of switched business traffic carried on DS1 circuits, and the input "pct__1sa" determines the percentage of special access lines carried on DS1 circuits. Previously, we used default values for the inputs "pct__DS1" and "pct__1sa." We now adopt more accurate values for these inputs using 1998 line count data, following the methodology described.

60. Initially the model determines the number of special access lines from a "LineCount" table in the database "hcpm.mdb," which provides for each wire center the number of residential lines, business lines, special access lines, public lines, and single business lines. The Commission required incumbent LECs to provide line counts for business switched and non-switched access lines on a voice equivalent basis and on a facilities basis. Upon receipt of those filings, we determined industry totals for each of the line count items requested. By applying the model's engineering conventions to the totals, the model determines the percentage of switched and non-switched lines provided as DS1-type service. Thus, using the channel and facility counts submitted in response to the *1999 Data Request*, it is possible to determine the "pct__DS1" input value using the following formula: (1-pct__DS1)*channels + pct__DS1*channels/12 = facilities. A similar calculation is performed to solve for the "pct__1sa" input value. For both switched business and special access lines, the number of digital lines is then determined by multiplying the respective line count by the input value "pct__DS1" or "pct__1sa." Since 24 communications channels can be carried by two pairs of copper wires, the number of copper cables required to carry digital traffic is computed by dividing the number of digital channels by 12. These percentages are used to adjust the wire center cable requirements by reducing the facilities needed to serve multi-line business and special access customers.

3. Cost Per Foot of Cable

61. We affirm our tentative conclusion that we should use, with certain modifications, the estimates in the NRRI Study for the per-foot cost of aerial, underground, and buried 24-gauge copper cable and for the per-foot cost of aerial, underground, and buried fiber cable. We conclude that, on balance, these estimates, as modified in the *Inputs Further Notice*, and further adjusted herein, are the most reasonable estimates of the per-foot cost of aerial, underground, and buried 24-gauge copper cable and fiber cable on the record before us. In reaching this conclusion, we reject, for the reasons enumerated, the arguments of those commenters who contend that we should use company-specific data to develop the inputs for the per-foot cost of cable to be used in the model.

62. *Company-specific data.* As we discussed, we have determined to use nationwide average input values for estimating outside plant costs. In reaching this conclusion, we determined that the use of company-specific inputs was inappropriate because of the difficulty in verifying the reasonableness of each company's data, among other reasons. We have examined cable cost and structure cost data received from a number of non-rural LECs, as well as AT&T, in response to the structure and cable cost survey and through a series of *ex parte* filings. In addition, we have examined additional company-specific data submitted by certain parties with their comments. We conclude that these data are not sufficiently reliable to use to estimate the nationwide input values for cable costs or structure costs to be used in the model.

63. We conclude that the cable cost and structure cost data received in response to the structure and cable cost survey, in the *ex parte* filings, and in the comments are not verifiable. We find that with regard to the survey data, notwithstanding our request, most respondents did not trace the costs submitted in response to the survey from dollar amounts set forth in contracts by providing copies of these contracts and all of the interim calculations for a single project or a randomly selected central office. With regard to the *ex parte* data and data submitted with the comments, we find that, because most respondents did not document in sufficient detail the methodology, calculations, assumptions, and other data used to develop the costs they submitted, nor did they submit contracts or invoices setting forth in detail the cable and structure costs they incurred, these data cannot be substantiated. Moreover, we note that the structure and cable costs reported in the survey by some parties differ significantly from those reported by the same parties in the *ex parte* filings. These differences are not explained, and render those sets of data unreliable.

64. We find this lack of back-up information particularly unsettling given the magnitude of certain of the costs reported. We agree with AT&T and MCI that the cable installation costs submitted by the incumbent LECs appear to be high. We also agree with AT&T and MCI that this is because the loading factors employed in calculating these costs appear to be overstated. Because of the lack of back-up information to explain these loading costs, however, there is no evidence on the record to controvert our initial assessment. Accordingly, the level of these costs remains suspect.

65. Moreover, we find additional deficiencies beyond the critical lack of substantiating data, impugning the reliability of the LEC survey data and the *ex parte* data we have received. As discussed, the task of the model is to

calculate forward-looking costs of constructing a wireline local telephone network. To that end, the survey directed respondents to submit cable and structure costs for growth projects for which expenditures were at least $50,000. We believed that such projects would best reflect the costs that a LEC would incur today to install cable if it were to construct a local telephone network using current technology. In contrast, absent from the data would be costs associated with maintenance or projects of smaller scale which do not represent the costs of installing cable during such construction using current technology. Thus, the data would capture the economies of scale enjoyed on large projects which, should result in lower cable costs on a per-foot basis. Notwithstanding the survey directions, several of the respondents submitted data representing projects that were not growth projects or projects for which expenditures were less than the $50,000 minimum we established.

66. Conversely, some respondents included costs that should have been excluded under the definitions employed in the survey. For example, some respondents included costs for terminating structures, such as cross-connect boxes, in the cable costs they reported. Similarly, some respondents reported underground structure costs on a "per duct foot" basis contrary to the instructions set forth in the survey directing that such costs be reported on a "per foot" basis. We find that these inconsistencies render the use of the survey data inappropriate.

67. In sum, we find that certain of the concerns we identified with regard to using company-specific data, rather than nationwide average inputs for model inputs, have been borne out in our review of the cable cost and structure cost data we have reviewed. Specifically, we find that we are unable to verify the reasonableness of such data. Accordingly, we find that we are unable to use the company-specific data we have received for the estimation of cable cost and structure cost inputs for the model.

68. In reaching this conclusion, we reject the contention that the inability to link the costs submitted in response to the cable and structure cost survey to contracts is irrelevant because the survey request was not intended to create such a trail. This claim ignores the fact that the reasonableness of the survey data was placed into question by the presence of data received on the record that was inconsistent with the survey data. For this reason, as GTE attests, we attempted to create such a trail by requesting contracts and other supporting data in an effort to verify the reasonableness of the company-specific data received in response to the survey as well as in *ex parte* filings.

69. *Methodology.* As we explained in the *Inputs Further Notice,* our tentative decision to rely on the NRRI Study was predicated on our inability to substantiate the default input values for cable costs and structure costs provided by the HAI and BCPM sponsors. For that reason, we tentatively concluded, in the absence of more reliable evidence of cable and structure costs for non-rural LECs, to use estimates in Gabel and Kennedy's analysis of RUS data, subject to certain modifications, to estimate cable and structure costs for non-rural LECs. As we explained, Gabel and Kennedy first developed a data base of raw data from contracts for construction related to the extension of service into new areas, and reconstruction of existing exchanges, by rural-LECs financed by the RUS. Gabel and Kennedy then performed regression analyses, using data from the HAI model on line counts and rock, soil, and water conditions for the geographic region in which each company in the database operates to estimate cable and structure costs. Regression analysis is a standard method used to study the dependence of one variable, the dependent variable, on one or more other variables, the explanatory variables. It is used to predict or forecast the mean value of the dependent variable on the basis of known or expected values of the explanatory variables.

70. Those commenters advocating the use of company-specific data provide a litany of alleged weaknesses and flaws in the NRRI Study, and the modifications we proposed, to discredit its use to estimate the input values for cable costs and structure costs. In sum, they argue that the overall approach we proposed is unsuitable for estimating the cable and structure costs of non-rural LECs and generally leads to estimates which understate actual forward-looking costs. We find the contentions in support of this claim unpersuasive. Significantly, we note that these commenters provide no evidence that substantiates the reasonableness of the company-specific cable costs and structure costs submitted on the record to permit their use as an alternative in the estimation of cable and structure cost inputs to be used in the model.

71. For similar reasons, we reject AT&T and MCI's recommendation that we rely on the RUS data to develop cost estimates for the material cost of cable and then adopt "reasonable" values for the costs of cable placing, splicing, and engineering based on the expert opinions submitted by AT&T and MCI in this proceeding. We find that the expert opinions on which AT&T and MCI's proposed methodology relies lack additional support that would permit us to substantiate those opinions. Moreover, we reject AT&T and MCI's contentions, often analogous to those raised by the non-rural LECs, that the approach we proposed to estimate cable and structure costs is flawed in certain respects.

72. We reject the contentions of the commenters, either express or implied, that it is inappropriate to employ the NRRI Study because the RUS data set on which it relies is not a sufficiently reliable data source for structure and cable costs. We find that the RUS data set is a reasonably reliable source of absolute cable costs and structure costs, and more reliable and verifiable than the company-specific data we have reviewed. As explained in the NRRI Study, and noted, the RUS data reflect contract costs for construction related to the extension into new areas, and reconstruction of existing exchanges, by rural LECs financed by the RUS. Thus, the RUS data reflect actual costs derived from contracts between LECs and vendors. These costs are not estimates, but actual costs. Nor do they reflect only the opinions of outside plant engineers. In sum, we conclude that these are verifiable data.

73. We also note that the RUS data reflect the costs from 171 contracts covering 57 companies operating in 27 states adjusted to 1997 dollars. These companies operate in areas that have different terrain, weather, and density characteristics. This fact makes the RUS data sample suitable for econometric analysis. Moreover, we find that, because the costs are for construction that must abide by the engineering standards established by the RUS, these data are consistent. We note also that the imposition of consistent engineering requirements mitigate the impact of any inefficiencies or inferior technologies that may otherwise be reflected in the data.

74. Finally, as noted, the RUS data reflect costs for additions to existing plant or new construction. The use of such costs is consistent with the objective of the model to identify the cost today of building an entire network using current technology.

75. In reaching our conclusion to use the NRRI Study and thus the underlying RUS data, we have considered and rejected the contentions of the commenters that the RUS data set is flawed thereby rendering use of the NRRI Study inappropriate. GTE claims

that because certain high-cost observations were removed from the RUS data, the NRRI Study's results are unrepresentative of rural companies' costs, and are even less representative of non-rural companies' costs. We disagree. Gabel and Kennedy omitted data reflecting certain contracts from the RUS data they used to develop cost estimates because estimates produced using the data were inconsistent with the values of such estimates suggested by *a priori* reasoning or evidence. For example, they excluded certain observations from the buried copper and structure regression analysis because buried copper cable and structure estimates obtained from this analysis would otherwise be higher in low density areas than in higher density areas. Such a result is contrary to the information contained in the more than 1000 observations reflected in the data from which Gabel and Kennedy developed their buried copper cable and structure regression equation. Thus, removing the observations does not render the remaining data set less representative of rural companies' costs or, as adjusted, the estimates of the costs of non-rural companies. Moreover, we note that the evidence supplied on the record in this proceeding demonstrates that structure costs increase as population density increases. Thus, we find that the RUS data set is not flawed as GTE contends. We conclude that the removal of certain high cost observations was reasonable.

76. We also disagree with GTE's and Bell Atlantic's assertion that the NRRI Study is flawed because the RUS company contracts do not reflect actual unit costs for work performed, but rather the total cost for a project. Both commenters claim that this alleged failure results in unexplained variations in the RUS data which undermine the validity of the estimates produced. Contrary to GTE's and Bell Atlantic's contention, the contracts from which Gabel and Kennedy developed their data base for developing structure and cable costs do set forth per unit costs for materials and per unit costs for specific labor tasks.

77. We also disagree with AT&T and MCI's claim that the RUS data are defective because they consist of primarily small cables. AT&T and MCI claim that 74 percent of the RUS data are for cables of 50 pairs or less, and 95 percent are for cable sizes of 200 pairs or less. As a result, AT&T and MCI contend that the RUS data are inaccurate, especially for cable sizes above 200 pairs. We disagree with AT&T and MCI's analysis. We note that, for the buried copper cable and structure regression equations we proposed and adopt, approximately 39 percent of the observations are for cable sizes of 50 pairs or less, and approximately 76 percent are for 200 pairs or less. For the underground copper cable regression equation we proposed and adopt, approximately 10 percent of the observations are for cable sizes of 50 pairs or less, and approximately 33 percent are for 200 pairs or less. For the aerial copper cable regression equation we proposed and adopt, approximately 40 percent of the observations are for cable sizes of 50 pairs or less, and approximately 76 percent are for 200 pairs or less. Thus, the proportion of the observations reflected in the copper cable cost estimates we adopt are significantly greater for relatively large cables than what AT&T and MCI contend.

78. Finally, we reject the contention that it is inappropriate to use the NRRI Study because the RUS data base is not designed for the purpose of developing input values for the model. In the NRRI Study, Gabel and Kennedy explain that they began developing the data base as an outgrowth of the Commission's January 1997 workshop on cost proxy models when it became apparent that costs used as inputs in such models should be able to be validated by regulatory commissions. For this reason, they prepared data that is in the public domain to provide independent estimates of structure and cable costs.

79. We also find unpersuasive the contention that there are econometric flaws in the NRRI Study which render it unsuitable for developing input values. We disagree with the contentions of several commenters that the structure cost and cable cost regression equations that we develop from the RUS data are flawed because they are based on a relatively small number of observations. As a general rule of thumb, in order to obtain reliable estimates for the intercept and the slope coefficients in a regression equation, the number of observations on which the regression is based should be at least 10 times the number of independent variables in the regression equation. Ameritech claims that the sample size used to estimate the costs of buried placement is too small because it contains only 26 observations in density zone one. Ameritech's criticism ignores the fact that we use a single regression equation to estimate buried copper cable and structure costs for density zones one and two based on 1,131 observations (1,105 in zone two and 26 in zone one). There are four independent variables in the buried copper cable and structure regression equation, i.e., the variables that indicate the size of the cable, presence of a high water table, combined rock and soil type, and density zone. This suggests that approximately 40 observations are needed to obtain reliable estimates for the parameters in this regression equation. The total number of observations used to estimate this regression equation, 1,131, readily exceeds the number suggested for estimating reliably this regression equation. The number of observations for density zone one alone, 26, provides 65 percent of the suggested number of observations. Similarly, AT&T and MCI claim that the sample size for underground cable is too small because it contains only 80 observations. There is one independent variable in the adopted underground copper cable equation, i.e., the variable that indicates the size of the cable. Based on the rule of thumb noted, 10 observations are needed to reliably estimate this regression equation. The number of observations used to estimate the adopted underground copper cable regression equation, 81, is more than eight times this suggested number. Moreover, we note that Ameritech does not provide any evidence that suggest that a sample that has 26 observations in density zone 1 produces biased estimates of buried structure and cable costs for density zone one. Similarly AT&T and MCI do not provide any evidence to support their allegation that a sample size of 80 observations produces biased estimates of underground copper cable costs. Finally, we note that GTE contends that the regression results for aerial structure are undermined because the sample size for poles is based only on 19 observations. While a sample of this size fails to satisfy the general rule of thumb we noted, we find that the estimates produced are reasonable. As we pointed out in the *Inputs Further Notice*, the average material price reported in the NRRI Study for a 40-foot, class four pole is $213.94. This is close to our calculations of the unweighted average material cost for a 40-foot, class four pole, $213.97, and the weighted average material cost, by line count, $228.22, based on data submitted in response to the *1997 Data Request*. Moreover, we note that GTE does not provide any evidence that suggests that a sample size of 19 poles for developing aerial structure costs produces biased estimates as GTE seems to allege.

80. We also disagree with GTE's contention that the NRRI Study contains three methodological errors that make its results unreliable. First, GTE asserts

that the most serious of these flaws is that the NRRI Study improperly averages ordinal or categorical data, i.e., qualitative values, for the costs of placing structure in different types of soil. Contrary to GTE's claim, the independent variables that indicate soil type, rock hardness, and the presence of a high water table used in the regression equations for aerial and underground structure and buried structure and cable costs in the NRRI Study and proposed in the *Inputs Further Notice* do not reflect an incorrect averaging of ordinal data. The variables for soil, rock, and water indicate the average soil, rock, and water conditions in the service areas of RUS companies. They are based on averages of data obtained from the HAI database for the Census Block Groups in which the RUS companies operate. In general, the magnitude of the t-statistics for the coefficients of the independent variables for soil, rock, and water in the structure regression equations indicate that these variables have a statistically significant impact on structure costs. The magnitude of the F-statistic indicates that the independent variables in the structure regression equations, including those that indicate water, rock, and soil type, jointly provide a statistically significant explanation of the variation in structure costs. These statistical findings justify use of these variables in the structure regression equations. We also note that HAI uses as cardinal values, i.e., quantitative, not ordinal values, the soil and rock data from which the averages reflected in the rock and soil variables in the NRRI Study are calculated. For example, HAI uses a multiplier of between 1 and 4 to calculate the increase in placement cost attributable to the soil condition. Moreover, and more importantly, we note that no commenter has demonstrated the degree of, or even the direction of, any bias in the cost estimates derived in the NRRI Study or in the regression equations proposed in the *Inputs Further Notice* as a result of the use of soil, water, and rock variables based on averages of HAI data.

81. GTE also claims that the NRRI Study is flawed because it relies on the HAI model's values relating to soil type which GTE claims were "made up." GTE contends that this renders the variable relating to soil type judgmental and biased. We find GTE's concern misplaced. As explained, the econometric analyses of the data demonstrate a statistically significant relationship between the geological variables developed from the HAI data and the structure costs. Finally, we disagree with GTE's claim that the NRRI Study is flawed because of a mismatch in the geographic coverage of the RUS data and the HAI model variables. GTE does not provide any evidence showing that the alleged mismatch introduces an upward or downward bias on the cost estimates obtained from the regression equations. Moreover, and more importantly, the t-statistics for the coefficients of the variables that measure rock and soil type generally indicate that these geological variables provide a statistically significant explanation of variations in RUS companies' structure costs.

82. We also reject the claims that the derivation of the equations for 24-gauge buried copper cable, buried structure, and buried fiber cable from the NRRI Study regression equations for 24-gauge buried copper cable and structure and buried fiber cable and structure, respectively, is inappropriate. As we explained in the *Inputs Further Notice,* we modified the regression equations in the NRRI Study for 24-gauge buried copper cable and structure and buried fiber cable and structure, as modified by the Huber methodology described, to estimate the cost of 24-gauge buried copper cable, buried structure and buried fiber cable because the regression equations for buried copper cable and structure and buried fiber cable and structure provide estimates for labor and material costs for both buried cable and structure combined. In layman's terms, we split the modified 24-gauge buried copper cable and structure regression equation into two separate equations, one for 24-gauge buried copper cable and one for buried structure costs. We also split the modified buried fiber cable and structure regression equation to obtain an equation for buried fiber cable. We did this because the model requires a separate input for labor and material costs for cable and a separate input for labor and material costs for structure. In contrast, the RUS data and buried cable and structure regression equations developed from these data, reflect labor and material costs for buried cable and structure combined.

83. Significantly, the criticisms of our development of the 24-gauge buried copper cable equation, buried structure equation and buried fiber cable equation in this manner ignore the fact that reliable, alternative data for buried cable costs and buried structure costs is not available on the record. Given that the model requires a separate input reflecting labor and material costs for both copper and fiber cable and a separate input reflecting labor and material costs for structure, and that the only reliable data on the record does not separate such costs between cable and structure, we find it necessary to split the regression equation.

84. Contrary to the assertions of the commenters, either express or implied, the steps we took to derive these equations were not arbitrary. We used a single buried structure equation to estimate the cost for buried structure without distinguishing between the equation for buried copper structure and the equation for buried fiber structure because the model does not distinguish between buried copper structure costs and buried fiber structure costs. We find that this is reasonable because the intercept and the coefficients for the variables that primarily explain the variation in structure costs, i.e., the variables that indicate density zone, the combined soil and rock type, and the presence of a high water table, in the combined regression equation for buried fiber cable and structure are not statistically different from the intercept and the coefficients for these variables in the combined regression equation for 24-gauge buried copper cable and structure. We also find that it is reasonable to develop a separate structure equation from the regression equation for the combined cost of 24-gauge buried copper cable and structure rather than from the regression equation for the combined cost of buried fiber cable and structure because the water and soil and rock type indicator variables in the regression equation for the combined cost of 24-gauge buried copper cable and structure are statistically significant. In contrast, these variables are not statistically significant in the buried fiber cable and structure regression equation. In addition, we note that the number of observations used to estimate the 24-gauge buried copper cable and structure regression equation, 1,131, exceeds the number of observations used to estimate the buried fiber cable and structure regression equation, 707 observations.

85. We note that we included in the separate buried cable equations the variable for cable size and its coefficient reflected in the combined cable and structure regression equations. We find that this is reasonable because the cable size variable and its coefficient explain the variation in cable costs. We also note that we excluded from the separate buried cable equations the independent variables in the combined cable and structure regression equations that indicate density zone, the presence of a high water table, and the soil and rock type. We find that this is reasonable because these variables and their coefficients explain primarily the variation in buried structure costs.

Conversely, we excluded from the separate buried structure equation the variable for cable size and its coefficient reflected in the combined 24-gauge buried copper cable and structure regression equation because this variable and its coefficient explain the variation in cable costs.

86. We also included in the separate structure equation the variables and the coefficients for the variables that indicate density zone, the combined soil and rock type, and the presence of a high water table in the combined regression equation for 24-gauge buried copper cable and structure. Again, we find this is reasonable because these independent variables and coefficients primarily explain the variation in structure costs.

87. Finally, because the estimated intercepts in the regression equations for the cost of buried cable and structure reflect the fixed cost for both buried cable and structure in density zone one, we included in the separate equations for buried cable an intercept reflecting the fixed cost of cable. Similarly, we included in the equation for buried structure an intercept reflecting the fixed cost of structure in density zone one. Specifically, we allocated an estimate of the portion of the combined fixed cable and structure costs that represents the fixed copper cable costs reflected in the intercept in the 24-gauge buried copper cable and structure cost regression equation to the intercept in the equation for 24-gauge buried copper cable. Correspondingly, we allocated an estimate of the portion of fixed cable and structure cost that represents the fixed costs of buried structure reflected in the intercept in the buried 24-gauge copper cable and structure cost regression equation to the intercept in the equation for structure costs. We also allocated to the intercept in the separate buried fiber cable equation the remaining portion of the fixed costs reflected in the intercept in the combined buried fiber cable and structure regression equation after subtracting from the value of this intercept the estimate for fixed structure costs in density zone 1 in the separate buried structure equation. The sum of the particular values that we adopt for the fixed cable cost in the separate 24-gauge copper cable equation, $.46, and the fixed structure cost in density zone 1 in the separate structure equation, $.70, equals the 24 gauge buried copper cable and structure fixed costs reflected in the intercept in the combined copper cable and structure regression equation of $1.16. The sum of the particular values that we adopt for the fixed cable cost in density zone 1 in the separate fiber cable equation, $.47, and the fixed structure cost in the separate structure equation of $.70 equals the buried fiber cable and structure fixed costs reflected in the intercept in the combined fiber cable and structure regression equation, $1.17. We find that these values are reasonable. We note that $.46 lies between AT&T and MCI's estimate of the fixed cost for a 24-gauge buried copper cable of $.12 and the HAI default value for the installed cost of a 6-pair 24-gauge buried copper cable of $.63. Moreover, we note that we could have used relatively higher or lower values for the fixed structure and cable costs in the separate structure and cable equations. However, we note that the sum of the fixed costs reflected in the buried structure cost estimates (excluding LEC engineering costs) developed from the separate buried structure equation and the fixed costs reflected in the buried cable cost estimates (excluding LEC engineering and splicing costs) developed from the separate buried copper or fiber cable equation is not affected by the relative values that we use for the fixed cost in these separate equations.

88. Finally, we note that GTE contends that the proposed equations for buried cable and buried structure are questionable because the buried structure costs would not vary with the presence of water. We have modified the regression equation for buried copper cable and structure by adding the variable that indicates the presence of a high water table. We obtain structure cost estimates used as input values by setting the coefficient for the water indicator variable equal to zero. These structure cost estimates, therefore, assume that a high water table is not present. The model adjusts these estimates to reflect the impact on these costs of a high water table. GTE also claims that the proposed equations are questionable because the costs for buried structure derived from the buried structure equation would not vary with cable size. We reject this contention. GTE has not provided any evidence that demonstrates that buried structure costs vary with cable size. To the contrary, GTE states that it cannot produce such evidence because it is not able to separate actual costs of buried structure from total costs of buried plant.

89. In sum, we find that the regression equations we proposed and tentatively adopted in the *Inputs Further Notice* are an appropriate starting point for estimating cable costs and structure costs for non-rural LECs for purposes of developing inputs for the model, particularly given the absence of more reliable cable and structure cost data from any other source. We find, however, that certain commenters' criticisms of the regression equations we proposed have merit. We make the following adjustments to improve the regression equations consistent with those criticisms.

90. First, we remove the independent variable that indicates whether two or more cables are placed at the same location from the regression equations for 24-gauge aerial copper cable, 24-gauge buried copper cable and structure, aerial fiber cable, and buried fiber cable and structure. As a result, the regression equations we adopt do not have this variable as an independent variable. We do not include this independent variable in any of the cable and structure equations because the model does not use a different cable cost if the outside plant portion of the network it builds requires more than one cable.

91. We also remove from the regression equation for 24-gauge underground copper cable the variable that is the mathematical square of the number of copper cable pairs. We remove this variable because its use results in negative values for the largest cable sizes, as some parties point out. We note that none of the other proposed cable and structure regression equations had this variable as an independent variable.

92. We add the variable that indicates the presence of a high water table to the regression equations for buried copper cable and structure and underground structure costs. With this change, all of the regression equations for structure costs adopted in this Order have this variable as an independent variable. We include this variable in the structure equations because the model applies a cost multiplier to all structure costs when the water table depth is less than the critical water depth. To develop structure cost inputs, we set the value of the water indicator variable equal to zero in the structure regression equations, thereby developing structure costs that assume that there is no water in the geographic area where the structure is installed. The multiplier in the model then adjusts these costs to reflect the impact on these costs of a high water table when it determines that the water table depth is less than the critical water depth.

93. We reduce the value of the intercept to $.46 from $.80 in the equation proposed in the *Inputs Further Notice* for calculating the labor and material costs for buried copper cable (excluding structure, LEC engineering, and splicing costs). We now estimate the buried 24-gauge copper cable and structure regression equation after

removing the multi-cable variable and adding the water indicator variable. The value of the intercept in this regression equation of $1.16 is less than the intercept in the proposed regression equation of $1.51. As we did in the *Inputs Further Notice*, we derive the buried copper cable equation from the regression equation for 24-gauge buried copper cable and structure costs. The value of the intercept in the buried copper cable and structure regression equation represents the fixed cost for both buried copper cable and buried copper cable structure in density zone 1. We assume, as we did in the *Inputs Further Notice*, that $.70 is the fixed cost for buried copper cable structure in density zone 1. Accordingly, the fixed labor and material cost for buried copper cable is $1.16 minus $.70, or $.46.

94. We also reduce the value of the intercept to $.47 from $.60 in the equation proposed in the *Inputs Further Notice* for calculating the labor and material costs for buried fiber cable (excluding structure, LEC engineering, and splicing costs). We now estimate the buried fiber cable and structure regression equation after removing the multi-cable variable. The value of the intercept in this regression equation, $1.17, is greater than the value of the intercept in the proposed regression equation, $1.14. As we did in the *Inputs Further Notice*, we derive the buried fiber cable equation from the regression equation for buried fiber cable and structure costs. The value of the intercept in the buried fiber cable and structure regression equation represents the fixed cost for both buried fiber cable and buried fiber cable structure in density zone 1. We assume that $.70 is the fixed cost for buried fiber cable structure in density zone 1. Accordingly, the fixed labor and material cost for buried fiber cable in density zone 1 is $1.17 minus $.70 or $.47

95. *Huber Adjustment.* In the *Inputs Further Notice*, we tentatively concluded that one substantive change should be made to Gabel and Kennedy's analysis. As we explained, we tentatively concluded that the regression equations in the NRRI Study should be modified using the Huber regression technique to mitigate the influence of outliers in the RUS data. Statistical outliers are values that are much higher or lower than other data in the data set. The Huber algorithm uses a standard statistical criterion to determine the most extreme outliers and exclude those outliers. Thereafter, the Huber algorithm iteratively performs a regression, then for each observation calculates an observation weight based on the absolute value of the observation residual. Finally, the algorithm performs a weighted least squares regression using the calculated weights. This process is repeated until the values of the weights effectively stop changing.

96. We affirm our tentative conclusion to modify the regression equations in the NRRI Study using the Huber methodology to develop input values for cable and structure costs. The cable and structure cost inputs used in the model should reflect values that are typical for cable and structure for a number of different density and terrain conditions. If they do not reflect values that are typical, the model may substantially overestimate or underestimate the cost of building a local telephone network. As discussed, application of the Huber methodology minimizes this risk, thereby producing estimates that are consistent with the goal of developing cable and structure cost inputs that reflect values that are typical for cable and structure for different density and terrain conditions.

97. The commenters attest to the fact that there are significant variances in the RUS structure and cable cost data. We find that the presence of these outliers warrants the use of the Huber methodology. By relying on the Huber methodology to identify and to exclude or give less than full weight to these data outliers in the regressions, we decrease the likelihood that the cost estimates produced reflect measurement error or data anomalies that may represent unusual circumstances that do not reflect the typical case. We note that we are not readily able to ascertain the specific circumstances that may explain why some data points are outliers relative to more clustered data points because of the multivariate nature of the database. Such occurrences are expected when dealing with such a database. Not only are there many observations, but these observations reflect the circumstances surrounding the construction work of many different contractors done for a large number of companies on different projects over a number of years. We also note that the task of identifying structure cost outliers without using a statistical approach such as Huber is especially difficult because these costs are a function of different geological conditions and population densities. Given that it is not feasible, as a practical matter, to determine why particular data points are outliers and our objective is to develop typical cable and structure costs, we conclude that use of the Huber methodology is appropriate.

98. We find the comments opposing application of the Huber methodology unpersuasive. In the first instance, we reject the assertions of the commenters, either express or implied, that the application of robust regression analysis is not the preferred method of dealing with outliers in a regression. There is no preferred method. The use of robust regression techniques is a matter of judgement for the estimator. As we explained, the goal of our analysis is to estimate values that are typical for cable and structure costs for different density and terrain conditions. We determined that we should mitigate the effects of outliers occurring in the data to ensure that the estimates we produce reflect typical costs. Noting that such outliers have an undue influence on ordinary least squares regression estimates because the residual associated with each outlier is squared in calculating the regression, we determined, in our expert opinion, to employ the Huber methodology to diminish the destabilizing effects of these outliers. Thus, while it can be argued that we could have produced a different estimate, the commenters have not established that application of the Huber methodology produces an unreasonable estimate.

99. Bell Atlantic and GTE assert that the probability distribution of the error term must be symmetric about its mean and have fatter tails than in the normal distribution in order to use the Huber methodology. We disagree. The Huber methodology in effect fits a line or a plane to a set of data. The algebraic expression of this line or plane explains or predicts the effects on a dependent variable, *e.g.*, 24-gauge aerial copper cable cost, of changes in independent variables, *e.g.*, aerial copper cable size. It does this by assigning zero or less than full weight to observations that have extremely high or extremely low values. The assignment of weights to observations depends on the values of the observations. It does not depend on the probability of observing these values. The error term to which Bell Atlantic and GTE refer is the difference between the predicted or estimated values of the dependent variable and the observed values of the dependent variable. Given that the error term is the difference between the predicted and observed values of the dependent variable, and that the assignment of weights by the Huber methodology does not depend on the probability of observing particular values of this variable, this assignment of weights does not depend on the probability of observing particular values of the error

VOL 64 ISS 230 DEC 1 1999 UMI

term. It, therefore, does not depend on whether the probability distribution of the error term is symmetric about its mean and has fatter tails than in the normal distribution.

100. Bell Atlantic also argues that the Huber methodology should not be used unless there is evidence that outliers in the RUS data are erroneous. We disagree. We believe that use of the Huber methodology with RUS data ensures that cost estimates reflect typical costs regardless of whether there is evidence that outliers in the RUS data are erroneous. The RUS data, as Bell Atlantic and other parties point out, have a number of high values and low values. These outliers may reflect unusual circumstances that are unlikely to occur in the future. The Huber methodology dampens the effects of anomalistically high or low values that may reflect unusual circumstances. Notwithstanding the dispersion in the RUS data, we believe that there are relatively few errors in these data. As we explained, the RUS data are derived from contracts. Gabel and Kennedy determined that the values reflected in the RUS data are within one percent of the values set forth on the contracts. There are likely to be few errors in the contracts themselves because these are binding agreements that involve substantial sums of money between RUS companies and contractors. These parties have an obvious interest in ensuring that these values are correctly reflected in these contracts. While we believe that errors in these contracts are likely to be infrequent, outlier observations in the RUS data may reflect large errors. The Huber methodology dampens the effects of outlier observations that may reflect large errors.

101. We find that the estimates produced by applying the Huber methodology are reasonable. The estimates resulting from application of the Huber methodology reflect most of the information represented in nearly all of the cable and structure cost observations in the RUS data. Approximately 80 percent of the cable and structure observations are assigned a weight of at least 80 percent in each structure and regression equation that we adopt. This large majority comprises closely clustered observations that clearly represent typical costs. Conversely, approximately 20 percent of the cable and structure observations are assigned a weight of less than .8 in each of these regression equations. This small minority comprises observations that have extremely high and extremely low values that do not represent typical costs. We also note that because the Huber methodology treats symmetrically observations that have high or low values, it excludes or assigns less than full weight to data outliers without regard to whether these are high or low cost observations.

102. *Buying Power Adjustment.* In the *Inputs Further Notice*, we tentatively concluded that we should make three adjustments to the regression equations in the NRRI Study, as modified by the Huber methodology described, to estimate the cost of 24-gauge aerial copper cable, 24-gauge underground copper cable, and 24-gauge buried copper cable. We further tentatively concluded that these adjustments should be made in the estimation of the cost of aerial fiber cable, buried fiber cable, and underground fiber cable. The first of these adjustments was to adjust the equation to reflect the superior buying power that non-rural LECs may have in comparison to the LECs represented in the RUS data. We noted that Gabel and Kennedy determined that Bell Atlantic's material costs for aerial copper cable are approximately 15.2 percent less than these costs for the RUS companies based on data entered into the record in a proceeding before the Maine Public Utilities Commission (the "Maine Commission). Similarly, Gabel and Kennedy determined that Bell Atlantic's material costs for aerial fiber cable are approximately 33.8 percent less than these costs for the RUS companies. We also noted that Gabel and Kennedy determined that Bell Atlantic's material costs for underground copper cable are approximately 16.3 percent less than these costs for the RUS companies and 27.8 percent less for underground fiber cable. We tentatively concluded that these figures represent reasonable estimates of the difference in the material costs that non-rural LECs pay in comparison to those that the RUS companies pay for cable. Accordingly, to reflect this degree of buying power in the copper cable cost estimates that we derived for non-rural LECs, we proposed to reduce the regression coefficient for the number of copper pairs by 15.2 percent for aerial copper cable, and 16.3 percent for 24-gauge underground copper cable.

103. We also proposed to reduce the regression coefficient for the number of fiber strands by 33.8 percent for aerial fiber cable and 27.8 percent for underground fiber cable. As we explained, this coefficient measures the incremental or additional cost associated with one additional copper pair or fiber strand, as applicable, and therefore, largely reflects the material cost of the cable. Because the NRRI Study did not include a recommendation for such an adjustment for buried copper cable or buried fiber, we tentatively concluded we should reduce the coefficient by 15.2 percent for buried copper cable and 27.8 percent for buried fiber cable. We explained that the level of these adjustments reflect the lower of the reductions used for aerial and underground copper cable and aerial and underground fiber cable, respectively.

104. We adopt the tentative conclusion in the *Inputs Further Notice* and select buying power adjustments of 15.2 percent, 16.3 percent and 15.2 percent for 24-gauge aerial copper cable, 24-gauge underground copper cable, and 24-gauge buried copper cable, respectively. Correspondingly, we adopt buying power adjustments of 33.8 percent, 27.8 percent, and 27.8 percent for aerial fiber cable, underground fiber cable, and buried fiber cable, respectively. We find that, based on the record before us, the buying power adjustment is appropriate and the levels of the adjustments we proposed for the categories of copper and fiber cable we identified are reasonable.

105. As we explained in the *Inputs Further Notice*, the buying power adjustment is intended to reflect the difference in the materials prices that non-rural LECs pay in comparison to those that the RUS companies pay. Because non-rural LECs pay less for cable, a downward adjustment to the estimates developed from data reflecting the costs of rural-LECs is necessary to derive estimates representative of cable costs for non-rural LECs. The commenters generally concede that such differences exist. There is, however, disagreement among the commenters that an adjustment is necessary in this instance to reflect this difference.

106. Those commenters advocating the use of company-specific data oppose the buying power adjustment as unnecessary. GTE and Sprint contend that the use of a more representative data set, i.e., company-specific data, would account for any differences in buying power. As we explained, however, the RUS data are the most reliable data on the record before us for estimating cable and structure costs. Because there is a difference in the material costs that non-rural LECs pay in comparison to those that the RUS companies pay, a downward adjustment to the RUS cable estimates is necessary to obtain representative cable cost estimates for non-rural LECs.

107. We note that AT&T and MCI support the proposed adjustment for aerial and underground copper and fiber cable. AT&T and MCI oppose, however,

the use of the lower of the reductions adopted for aerial and underground cable categories, for the buried cable category. Although AT&T and MCI agree that an adjustment is appropriate for buried cable, they contend that the buying power adjustment should be set at the higher figures of 16.3 percent for buried copper cable and 33.8 percent for buried fiber cable, or at the very least, at the average of the higher and lower values for aerial and underground cable. We disagree. We find that AT&T and MCI offer no support to demonstrate why the higher values should be used. As explained, the levels of the adjustments we proposed and adopt are the most conservative based on the available record evidence.

108. Apart from opposing the buying power adjustment on the ground that as a general matter the adjustment is unnecessary, those opposing the adjustment take issue with the adjustment on methodological grounds. GTE contends that the adjustment cannot properly convert RUS data into costs for non-rural carriers because the RUS data do not reflect the cost structure of rural carriers. As we explained, the assertion that the RUS data does not reflect the cost structure of rural carriers is without merit. GTE also contends that the application of the adjustment factors to the coefficients in the regression equations is contrary to the fundamentals of sound economic analysis. The solution GTE recommends is that additional observations for non-rural companies be added to the data set. This solution echoes GTE's assertion that company-specific data should be used. Reliable observations for non-rural LECs are not available, however, as explained.

109. GTE also identifies what it considers flaws in the development of the buying power adjustment. GTE argues that because the adjustment to the RUS data was developed using only one larger company's data (Bell Atlantic's) reflecting costs for a single year, the adjustment is not proper. We disagree for several reasons. First, we note that although we specifically requested comment on this adjustment and its derivation in the *Inputs Further Notice*, GTE and other parties challenging the use of Bell Atlantic's data have not provided any alternative data for measuring the level of market power, despite their general agreement that such market power exists. These parties failed to submit comparable verifiable data to show that the buying power adjustment we proposed was inaccurate. Under these circumstances, we cannot give credence to the unsupported claims that the Bell Atlantic data is not representative.

110. Equally important, we have reason to conclude that the adjustment we adopt is a conservative one. The buying power adjustment we proposed and adopt is based upon a submission by Bell Atlantic to the Maine Commission in a proceeding to establish permanent unbundled network element (UNE) rates. In that context, it was in Bell Atlantic's interests to submit the highest possible cost data in order to ensure that the UNE rates would give it ample compensation. But in the context of the adjustment we consider here for buying power, a relatively higher cost translates into a *reduced* adjustment because the greater the LEC costs, the less the differential between LEC and rural carrier costs. Therefore, given the source of this data, we conclude that it is likely to produce a conservative buying power adjustment, not an excessive one. Nevertheless, in the proceeding on the future of the model, we intend to seek further comment on the development of an appropriate buying power adjustment to reflect the forward-looking costs of the competitive efficient firm. In sum, we find that GTE's criticisms are not persuasive, and that the adjustment is a reasonable one, supported by the record.

111. GTE also asserts a litany of other concerns that, according to GTE, render the buying power adjustment invalid. We find these concerns unpersuasive. GTE claims that the adjustment is suspect because some RUS observations used in the determination of material costs are not used in the regression. We disagree. As discussed, we apply the Huber methodology to RUS cable costs that reflect both labor and material costs. The observations in the RUS database to which the Huber methodology assigns zero or less than full weight are those with the highest and the lowest values. As described, a statistical analysis demonstrates that this assignment of weights to these observations has little impact on the level of material costs reflected in the cable cost estimates derived by using this methodology. Therefore, material cost averages based on all of the RUS data are not likely to vary significantly from material cost averages based on a subset of these data.

112. Specifically, with one exception, the value of the regression coefficient for the variable representing the size of the cable in the cable cost regression equations derived by using the Huber methodology lies inside the 95 percent confidence interval surrounding the value of this coefficient in these regression equations in the NRRI Study obtained by using ordinary least squares. The coefficient for the variable that represents cable size represents the additional cost for an additional pair of cable and therefore represents cable material costs. The values of the coefficient for the cable size variable obtained by using Huber and ordinary least squares are based on a sample of RUS companies' cable costs drawn from a larger population of such costs. The values of the coefficient obtained from this sample by using the Huber methodology and ordinary least squares are estimates of the true values of this coefficient theoretically obtained from the population of cable costs by using these techniques. Generally speaking, a 95 percent confidence interval associated with a coefficient estimate contains, with a probability of 95 percent, the true value of the coefficient. The fact that the value of the cable size coefficient obtained by using the Huber methodology lies within an interval that contains with 95 percent certainty the true value of the ordinary least squares cable size coefficient supports the conclusion that the Huber methodology does not by its weighting methodology have a statistically significant impact on the level of the material costs reflected in the cable cost estimates derived by using this methodology.

113. GTE also claims that some RUS observations appear to be from rescinded contracts or contracts excluded from the NRRI Study per-foot cable cost calculation. However, GTE offers no evidence that this is the case. Finally, GTE claims that some RUS observations are for technologies that may not be appropriate for a forward-looking cost model. On the contrary, loading coils were excluded from the RUS data base. Thus, we find that the RUS data do not reflect any non-forward-looking technologies.

114. GTE and Sprint each attempt to impugn the validity of the buying power adjustment, claiming that there may be an incongruity between the data submitted to the Maine Commission by Bell Atlantic and the RUS data. We find this claim unpersuasive. Both GTE and Sprint assert that it is unknown whether the underlying data include such items as sales tax or shipping costs and, if so, whether the level of these items is comparable between Maine and the states included in the RUS data. Significantly, neither claim that such an incongruity exists in fact, nor do they provide viable alternatives for the calculation of the adjustment. We note that the RUS data reflect the same categories of costs as those reflected in the Bell Atlantic data. More importantly, this data reflects the best

available evidence on the record on which to base the buying power adjustment.

115. BellSouth claims that the buying power adjustment is flawed because it does not take into account the exclusion of RUS data resulting from the Huber adjustment. Bell Atlantic makes a similar claim. Both parties argue that because the Huber methodology excludes high cost data from the regression analysis, it is inappropriate to apply a discount which essentially has the same effect. In sum, these commenters claim that we are adjusting for high material costs twice. We disagree. This contention ignores the fact that the application of the Huber methodology and the buying power adjustment are fundamentally different adjustments. The Huber adjustment gives reduced weight to observations that are out of line with other data provided by the RUS companies. The Huber adjustment provides coefficient estimates that can be used to estimate the cost incurred by a typical RUS company. The adjustment is designed to dampen the effect of outlying observations that otherwise would exhibit a strong influence on the analysis. The large buying power adjustment, on the other hand, adjusts for the greater buying power of the non-rural companies. None of the RUS companies have the buying power of, for example, Bell Atlantic or GTE, and therefore have to pay more for material. The buying power adjustment could only duplicate the Huber adjustment if some of the RUS companies have the buying power of a company as large as Bell Atlantic. Because none of the firms in the RUS data base are close to the size of Bell Atlantic, the commenters are incorrect when they assert that, since the Huber methodology excludes high cost data from the regression analysis, it is inappropriate to apply the buying power adjustment.

116. We also reject BellSouth's argument that, to determine the size of the buying power adjustment, we should use a weighted average of the cable price differentials between Bell Atlantic and the RUS companies that is based on the miles of cable installed, not the number of observations, for each cable size. In the NRRI Study, this weighted average price differential is determined by: (1) calculating the price differential between Bell Atlantic's average cable price and the RUS companies' average cable price for each cable size; (2) weighting the price differential for each cable size by the number of observations used to calculate the RUS companies' average cable price; and (3) summing these weighted price differentials. The average measures the central tendency of the data. In general, the average more reliably measures this central tendency the larger the number of observations from which this average is calculated. In the NRRI Study, the average cable prices calculated for the RUS companies that reflect a relatively large number of observations are more reliable than those that reflect relatively few observations. Accordingly, weighting the price differentials for each cable size by the number of observations reflected in the average cable price calculated for the RUS companies provides a weighted average that reliably measures the central tendency of the price. In contrast, use of the miles of cable installed as weights to determine the average cable price differentials could result in a less reliable measure of central tendency because price differentials based on a small number of observations but reflecting a high percentage of cable miles purchased would have a greater impact on the weighted average than price differentials based on a large number of observations of cable purchase prices. Moreover, use of the number of miles of cable installed as the weights would result in a weighted average price differential that reflects RUS companies' relative use of different size cables. The RUS companies' relative use of different size cables is irrelevant for use in a model used to calculate non-rural LECs' cost of constructing a network.

117. We also reject Bell Atlantic's contention that the buying power adjustment is flawed because it should have been applied to the material costs rather than the regression coefficient of copper cable pairs or the number of fiber strands. Bell Atlantic has provided no evidence that demonstrates that applying the discount to the coefficient is incorrect. It is an elementary proposition of statistics that the result of applying the discount to the regression coefficient is equal to applying the discount to the material costs. Significantly, Bell Atlantic has not demonstrated that applying the discount to the regression coefficient does not produce the same result as applying the discount to the material costs.

118. Finally, we disagree with Sprint that, because buying power equates to company size, it is inappropriate to apply this adjustment uniformly to all carriers. We are estimating the costs that an efficient provider would incur to provide the supported services. We are not attempting to identify any particular company's cost of providing the supported services. We find, therefore, that applying the buying power adjustment as we propose is appropriate for the purpose of calculating universal service support.

119. In sum, we find unpersuasive the criticisms of the buying power adjustment we proposed. We conclude that, based on the record before us, a downward adjustment to the estimates developed from data reflecting the cable costs of rural LECs is necessary to derive estimates representative of cable costs for non-rural LECs and that the levels we have proposed for this adjustment are reasonable.

120. *LEC Engineering.* The second adjustment we proposed to the regression equations used to estimate cable costs was to account for LEC engineering costs, which were not included in the RUS data. As we noted, the BCM2 default values include a loading of five percent for engineering. In contrast, the HAI sponsors claimed that engineering constitutes approximately 15 percent of the cost of installing outside plant cables. This percentage includes both contractor engineering and LEC engineering. The cost of contractor engineering already is reflected in the RUS cable cost data. In the *Inputs Further Notice*, we tentatively concluded that we should add a loading of 10 percent to the material and labor costs of cable (net of LEC engineering and splicing costs) to approximate the cost of LEC engineering.

121. We affirm our tentative conclusion to add a loading of 10 percent to the material and labor for the cost of cable (net of LEC engineering and splicing costs) to approximate the cost of LEC engineering. We find that, based on the record before us, the proposed LEC engineering adjustment, as modified, is appropriate. We also find that the level of the adjustment we proposed is reasonable. We note that there is a general consensus among the commenters that the proposed adjustment is necessary. We reject, however, the contentions of those commenters that advocate that the level of the LEC adjustment be based on company-specific data. As we explained, we find such data to be unreliable. For similar reasons, we reject the LEC engineering adjustment proposed by AT&T and MCI. As we explained, AT&T and MCI's proposal is based on expert opinions which we find to be unsupported and, therefore, unreliable. Accordingly, the level of the adjustment that we proposed, which, as we explained in the *Inputs Further Notice* represents the mid-point between the HAI default loading and the BCPM default loading, is the most reasonable value on the record before us.

122. Sprint contends that we should calculate the loadings for LEC engineering on a flat dollar basis rather than on a fixed percentage of the labor and material costs of cable. We find persuasive Sprint's contention that LEC engineering costs do not vary with the size of the cable and therefore do not vary with the cost of the cable. Accordingly, we find it reasonable to apply the loading for LEC engineering in the manner that Sprint recommends.

123. We also find that the commenters are correct that the loading for LEC engineering should not reflect any adjustment for buying power because the buying power differential between non-rural and rural LECs only relates to materials. We adjust our calculation accordingly. Similarly, we also find it appropriate to include in the loading for LEC engineering an allowance for LEC engineering associated with splicing. We find that this is appropriate because the loading for LEC engineering is based on BCPM and HAI default values for this loading that are expressed as a percentage of cable costs inclusive of engineering.

124. *Splicing Adjustment.* The third adjustment to the regression equations that we proposed in the *Inputs Further Notice* was to account for splicing costs, which also were not included in the RUS data. As we explained, Gabel and Kennedy determined that the ratio of splicing costs to copper cable costs (excluding splicing and LEC engineering costs) is 9.4 percent for RUS companies in the NRRI Study. Similarly, Gabel and Kennedy determined that the ratio of splicing costs to fiber cable costs (excluding splicing and LEC engineering costs) is 4.7 percent. Thus, we tentatively concluded that we should adopt a loading of 9.4 percent for splicing costs for 24-gauge aerial copper cable, 24-gauge underground copper cable, and 24-gauge buried copper cable. Correspondingly, we tentatively concluded that we should adopt a loading of 4.7 percent for splicing costs for aerial fiber cable, underground fiber cable, and buried fiber cable.

125. We affirm these tentative conclusions. We find that, based on the record before us, the splicing cost adjustment is appropriate and the levels of the adjustments proposed are reasonable. In reaching this conclusion, we reject the claims of those commenters that advocate the use of company-specific data to develop the splicing loadings. For the reasons enumerated, we find such data unreliable.

126. We disagree with GTE's claim that, because the splicing factor is based on the RUS data, it is flawed. This contention echoes GTE's assertion that we should use company-specific data. As we explained, however, we conclude that such data are not reliable. We also disagree with GTE's contention that an analysis of the source contract data shows that some splicing costs are invalid. GTE is mistaken. The RUS cost data from which the regression equations in the NRRI Study and in this Order are derived exclude splicing costs. Cable cost estimates obtained by using this methodology and these data are net of LEC engineering and splicing costs. We add to these cable cost estimates a loading factor for splicing that Gabel and Kennedy developed separately using the RUS data in the NRRI Study without using the regression analysis. In the NRRI Study, Gabel and Kennedy determined the ratio of splicing to cable costs by comparing the cost for splicing and the cost for cable (exclusive of splicing and LEC engineering costs) reflected in the contracts included in the RUS data base. Some of the splicing costs reflected in this database are relatively high and some are relatively low. None of these high or low values is likely to influence significantly this ratio because it reflects a large number of observations. Accordingly, we find it reasonable to apply the splicing ratios developed in the NRRI Study to the cable cost estimates developed separately in this Order by using the Huber methodology with the RUS data.

127. We also disagree with AT&T and MCI's contention that, rather than adopting the proposed splicing loadings or the incumbent LEC's loading factors, we should adopt "reasonable values for the costs of cable placing, splicing, and engineering based on the expert opinions submitted in this proceeding." As discussed, we find that these expert opinions are unsupported, and therefore unreliable.

128. For the same reason, we also find unpersuasive AT&T and MCI's claim that the loading of 9.4 percent for splicing copper cable is excessive. AT&T and MCI estimates that splicing costs vary between 3.4 and 6.9 percent of cable investment in contrast to the proposed rate of 9.4 percent. We find that these estimates, which rely on assumptions concerning the per-hour cost of labor, the number of hours required to set up and close the splice, the number of splices per hour, and the distance between splices, are unreliable. AT&T and MCI have provided no evidence other than the unsupported opinions of their experts to substantiate these data. In contrast, Bell Atlantic supports the use of the 9.4 percent loading indicating, that this level is consistent with its own data.

129. While Sprint agrees that a splicing loading is required in the NRRI regression, Sprint recommends that a flat dollar "per pair per foot" cost additive should be employed rather than the adjustment we proposed. We disagree. We find that Sprint's flat dollar "per pair per foot" cost additive ignores the differences in set-up costs among different cable sizes. In contrast, the percent loading for splicing costs we adopt herein implicitly recognizes such differences because these loadings are applied to cable costs estimates (exclusive of splicing and LEC engineering costs) derived from regression equations that have an intercept term that provides a measure of the fixed cost of cable. Accordingly, we conclude that the percent loading approach is more reasonable.

130. Sprint also asserts that underground splicing costs are higher due to the need to work in manholes. We agree. The dollar amounts associated with the fixed percentage loadings adopted in this Order for underground copper and fiber cable are generally larger than for aerial and buried copper cable and fiber cable. The dollar amounts that we adopt for splicing are generally larger for underground cable because the costs that we develop from RUS data for underground cable net of splicing and engineering costs are generally larger than the costs that we develop for aerial and buried cable net of splicing and engineering costs. As a result, when the fixed percentage is applied to these cable costs, the dollar amount for splicing is generally larger for underground cable than for aerial and buried cable.

131. We disagree with those commenters who argue that the splicing costs do not vary with the cost of cable (net of splicing costs). We find that cable costs increase as the size of the cable increases. Splicing costs increase as the size of the cable increases because larger cables require more splicing than small cables. Therefore, splicing costs increase as the cost of the cable increases.

132. Finally, we disagree with SBC's claim that the 14 percent splicing factor for fiber cable is more appropriate than the 4.7 percent we proposed. We find that the 14 percent factor SBC proposes is unsupported. SBC asserts that this factor is based on an average cost ratio from an analysis using various lengths of underground fiber placement, including placing labor and comparing it to associated splicing costs from

current cost dockets. However, SBC has not provided this analysis on the record.

133. *26-Gauge Copper Cable.* In the *Inputs Further Notice*, we explained that, because the NRRI Study did not provide estimates for 26-gauge copper cable, we must either use another data source or find a method to derive these estimates from those for 24-gauge copper cable. To that end, we tentatively concluded that we should derive cost estimates for 26-gauge cable by adjusting our estimates for 24-gauge cable. We proposed to estimate these ratios using data on 26-gauge and 24-gauge cable costs submitted by Aliant and Sprint and the BCPM default values for these costs. We noted, that while we would prefer to develop these ratios based on data from more than these three sources, we tentatively concluded that these were the best data available on the record for this purpose.

134. We affirm our tentative conclusion to derive cost estimates for 26-gauge cable by adjusting our estimates for 24-gauge cable. As we explained in the *Inputs Further Notice*, we agree with the BCPM sponsors that the cost of copper cable should not be estimated based solely on the relative weight of the cable. Instead, we proposed to use the ordinary least squares regression technique to estimate the ratio of the cost of 26-gauge to 24-gauge cable for each plant type (*i.e.*, aerial, underground, buried). We conclude that, based on the record before us, this approach is reasonable.

135. Consistent with their position on estimating the costs of 24-gauge cable, many commenters advocate that we use company-specific data to estimate the costs of 26-gauge cable. As we explained, we have determined that such data are not sufficiently reliable to employ in the model. Accordingly, we reject the use of company-specific data to estimate the costs of 26-gauge cable. We note that AT&T and MCI endorse the derivation of cost estimates for 26-gauge cable from estimates for 24-gauge cable. Notwithstanding their support of the general approach we proposed, AT&T and MCI oppose estimating the ratio of costs of 26-gauge cable to 24-gauge cable using the cable costs submitted by Aliant and Sprint and the BCPM default values. Instead, AT&T and MCI advocate the use of the relative weight of copper to adjust the cost of the 24-gauge copper. AT&T and MCI claim that this approach is the most logical because 26-gauge copper costs are directly proportional to the weight of the metallic copper in the cable. We reject AT&T and MCI's recommended approach. We find that, because AT&T and MCI have provided no evidence that the weight differential is approximately equal to the price differential, there is insufficient evidence on the record demonstrating the reasonableness of this approach.

136. Many of those commenters advocating the use of company-specific data contend that there are flaws in the methodology adopted herein to derive cost estimates for 26-gauge cable by adjusting our estimates for 24-gauge cable. Bell Atlantic and GTE contend that our methodology results in biased estimates due to statistical error. We agree and modify our proposed methodology as explained.

137. As we explained in the *Inputs Further Notice*, in order to derive the 26-gauge copper cable costs, we first estimated the cost for 24-gauge copper cable for each cable size from the RUS data using the Huber methodology. More specifically, we obtained an estimate of the expected or mean value of the cost for 24-gauge copper cable (for given values of the independent variables in the regression equation). We then obtained values for the ratio of 24-gauge copper cable to 26-gauge copper cable for each cable size using *ex parte* data obtained from Aliant and Sprint and BCPM default values for the costs and employing ordinary least squares regression analysis. As a result, we obtained an estimate of the expected value of the ratio of 24-gauge copper cable to 26-gauge copper cable (for given values of the independent variables in the regression equation). Finally, we multiplied the reciprocal of this ratio by the cost of 24-gauge copper cable obtained by using the Huber methodology with RUS data to obtain the proposed 26-gauge copper cable cost for each copper cable size. Bell Atlantic and GTE contend, and we agree, that this is a biased estimate of the expected value of the cost for 26-gauge copper cable because the expected value of the ratio of two random variables, *e.g.*, 26-gauge copper cable cost and 24-gauge copper cable, does not equal the ratio of the expected value of the first random variable to the expected value of the second rand m variable. We note that the magnitude of the bias is larger as the difference grows between the expected value of the ratio of 26-gauge copper cable cost to 24-gauge copper cable cost and the ratio of the expected value of 26-gauge copper cable cost to the expected value of 24-gauge copper cable cost.

138. Accordingly, we modify the methodology tentatively adopted in the *Inputs Further Notice* to derive estimates of 26-gauge copper cable costs from 24-gauge copper cable costs that are not biased. In addition to estimating the expected value of the cost for 24-gauge copper cable for each cable size using the RUS data, we also estimate the expected value of the costs of 24-gauge and 26-gauge copper cable for each cable size using the data submitted by Aliant and Sprint and the BCPM default values, as well as data submitted by BellSouth, hereinafter identified in the aggregate as "the non-rural LEC data." We divide the estimate of the expected value for 24-gauge copper cable cost derived from the non-rural LEC data into the estimate of the expected value for 26-gauge copper cable cost derived from these data for each cable size. The result is a ratio of an estimate of the expected value for 26-gauge copper cable cost to an estimate of the expected value for 24-gauge cable cost for each cable size. Finally, we multiply this ratio by the estimate of the expected value of the cost for 24-gauge copper cable derived from the RUS data to obtain an estimate of the expected value of the cost for 26-gauge copper cable for each cable size. We find that this adjustment eliminates the bias identified by the commenters. We conclude, therefore, that these estimates are reasonable and adopt them as inputs for 26-gauge copper cable costs.

139. We note that, in adopting these modifications, we find that it is reasonable to rely on the non-rural LEC data for calculating the ratio of the cost for 24-gauge copper cable to that for 26-gauge copper cable, but not for calculating the absolute cost for 24-gauge copper cable and 26-gauge copper cable. As discussed, we find that the non-rural LEC data are not a reliable measure of absolute costs. Notwithstanding this finding, we conclude that it is reasonable to use the non-rural LEC data to determine the relative value of the cost for 24-gauge copper cable to that for 26-gauge copper cable. We find that it is reasonable to conclude that each LEC used the same methodology to develop both 24-gauge and 26-gauge copper cable costs. Accordingly, any bias in the costs for 24-gauge and 26-gauge copper cable that results from using a given methodology is likely to be in the same direction and of a similar magnitude. As a consequence, the estimate of the expected value of the cost for 26-gauge copper cable for each cable size and the estimate of the expected value of the cost for 24-gauge copper cable obtained from non-rural LEC data are likely to be biased by approximately the same factor. The ratios of the estimates of these expected values are not likely to be affected significantly because the bias in one estimate approximately cancels

the bias in the other estimate when the ratio is calculated.

140. GTE also contends that the proposed methodology systematically reduces the amount of labor associated with placing cable. We conclude that the adjustments made in response to GTE and Bell Atlantic's criticisms discussed render this criticism irrelevant. We find that no systematic bias will result because the ratio of the 24-gauge cost of copper cable to the cost of 26-gauge copper cable represents the installed cost of 26-gauge copper cable including all labor and materials divided by the installed cost of 24-gauge copper cable including all labor and materials. Moreover, this ratio is applied to the installed cost of 24-gauge copper cable which includes all labor and material costs.

141. BellSouth claims that neither the data used to develop the ordinary least squares regression equation we employ in the *Inputs Further Notice* to estimate the cost of 26-gauge copper cable or the computations used to derive that equation have been provided. BellSouth contends that, as a result, it is not possible to confirm or contradict the discount value. We disagree. Contrary to BellSouth's assertion, the data are available. As we explained, the regression equation uses *ex parte* data submitted by Aliant and Sprint. These data are available subject to the Commission's rules regarding the treatment of confidential material. We also note that the BellSouth data we employ in the adjusted methodology we adopt herein are publicly available. Moreover, the BCPM data are publicly available.

4. Cable Fill Factors

142. We affirm our tentative conclusion that fill factors for copper cable should be lower in the lowest density zones. Significantly, those commenters addressing this issue agree that lower density zones should utilize lower copper cable fill factor inputs. We also reject, at the outset, certain assertions made by GTE and others, challenging the overall approach we proposed and adopt herein for determining the appropriate cable fill factors to use in the federal mechanism and reject GTE's assertions that the model is flawed.

143. We disagree with GTE's assertion that the use of generalized fill factors are not proper inputs for a cost model that seeks to estimate the forward-looking costs of building a network. GTE claims that the use of generalized fill factors disregards how actual distribution plant is designed and that different levels of utilization are observed in different parts of the local network. However, we find that GTE's concerns are misplaced. Contrary to GTE's implication, generalized fill factors are an administrative input and are not the sole determinate of the effective fill factor. As we explained in the *Inputs Further Notice*, the effective fill factor will vary with the number of customer locations and the available discrete size of cable. Thus, the effective fill factor will reflect how distribution plant is designed and different levels of utilization that are observed in different parts of the local network.

144. Similarly, we disagree with GTE's assertion that company-specific information should be used to determine appropriate fill factor inputs. We note that the final effective fill factors are the result of the input of the administrative fill factors and company-specific customer location data. We also disagree with the contention that administrative fill factors must be company-specific. The administrative fill factors are determined per engineering standards and density zone conditions. These factors are independent of an individual company's experience and measured effective fill factors. The administrative fill factors would be the same for every efficient competitive firm.

145. We reject GTE's contention that the model should be modified to accept the number of pairs per location to determine the required amount of distribution plant rather than using fill factors. GTE claims that this is necessary because using fill factor inputs produces anomalous results. GTE contends that the use of fill factors causes the number of implicit lines per location to decrease as density increases, in contrast to what occurs in reality. There are, according to GTE, always more business customers in higher density zones; therefore, the number of lines that must be provisioned per location should increase as density increases.

146. We find that there is no need to modify the model to accept pairs per location rather than fill factors, as GTE contends. The number of implicit lines per location does not decrease in the model as GTE claims. On the contrary, the number of implicit lines per location increases as a function of the number of business lines. The model will build to the level of business demand. With business demand increasing as a function of density, the model generates a higher number of lines per location as density increases. In sum, the anomaly that GTE identifies does not exist. GTE's claim reflects a misunderstanding of the model's operation.

147. Finally, we disagree with GTE's assertion that there is an error in the way the model calculates density zones that prevents correct application of zone-specific inputs. As GTE explains, after the model has assigned customer locations to clusters, it constructs a "convex hull" around all locations in the cluster. The model then calculates density as the lines in the cluster divided by the area within the convex hull. GTE claims that the calculated densities will be higher than those observed in the real world because the denominator excludes all land not contained in the convex hull. While we agree with GTE's description of how the model determines cluster density, we find GTE's claim that this methodology is erroneous to be misplaced. In sum, GTE argues that the model employs a restricted definition of area which causes the model to use excessively high utilization factors. In other words, the issue is whether the model should recognize all of the area around a cluster. We conclude that it should not. If the land outside the convex hull were included in the denominator, as GTE implies it should, the denominator would recognize unoccupied areas where no customers reside. As a result, the model would select density zone fill factors that are lower than needed to service the customers in that cluster. There would be a downward bias in the model fill factors. Thus, there is not an error in the way the model calculates density zones, as GTE contends. The model generates density values that correspond to the way the population is dispersed. To do otherwise would introduce a bias and distort the forward-looking cost estimates generated by the model.

148. *Distribution Fill Factors.* We also affirm our tentative conclusion that the fill factors selected for use in the federal mechanism generally should reflect current demand and not reflect the industry practice of building distribution plant to meet ultimate demand. As we explained in the *Inputs Further Notice*, the fact that industry may build distribution plant sufficient to meet demand for ten or twenty years does not necessarily suggest that these costs should be supported today by the federal universal service support mechanism.

149. We find unpersuasive GTE's assertion that the input values for distribution fill factors should reflect ultimate demand. In concluding that the fill factors should reflect current demand, we recognized that correctly forecasting ultimate demand is a speculative exercise, especially because of rapid technological advances in

VOL 64 ISS 230 DEC 1 1999 UMI

telecommunications. For example, we note that ultimate demand decreases substantially when computer modem users switch from dedicated lines serving analog modems to digital subscriber lines where one pair of copper wire provides the same function as a voice line and a separate dedicated line. Given this uncertainty, we find that basing the fill factors on current demand rather than ultimate demand is more reasonable because it is less likely to result in excess capacity, which would increase the model's cost estimates to levels higher than an efficient firm's costs and could potentially result in excessive universal service support payments.

150. Significantly, we note that, contrary to GTE's inference, current demand as we define it includes an amount of excess capacity to accommodate short-term growth. We find that GTE has not provided any evidence that demonstrates that the level of excess capacity to accommodate short-term growth is unreasonable. Rather, GTE claims that, if distribution is not built to reflect ultimate demand there will be delays in service and increased placement costs due to the need to reinforce distribution plant in established neighborhoods on a regular basis. GTE also contends that telephone companies do not design distribution plant with the expectation that it will require reinforcement because that is rarely the least-cost method of placing plant. GTE also claims that, in a competitive environment, facilities-based competitors would build plant to serve ultimate demand. We find, however, that these unsupported claims do not demonstrate that reflecting ultimate demand in the fill factors more closely represents the behavior of an efficient firm and will not result in the modeling of excess capacity. Finally, we find that we did not misinterpret the meaning of building distribution plant to serve "ultimate demand," as GTE asserts. Rather, we refused to engage in the highly speculative activity of defining "ultimate demand." Moreover, we believe that universal service support will be determined more accurately considering current demand, and not ultimate demand. Although firms may have installed excess capacity, it does not follow that the cost of this choice should be supported by the universal service support mechanism. As growth occurs, however, we anticipate that the requirement for new capacity will be reflected in updates to the model.

151. Concomitantly, we adopt the proposed values for distribution fill factors. As we explained in the *Inputs Further Notice*, the model designs outside plant to meet current demand in the same manner as the HAI model. Accordingly, it is appropriate to choose fill factors that are set at less than 100 percent. We conclude that, based on the record before us, the proposed values reflect the appropriate fill factors needed to meet current demand.

152. There is divergence among the commenters with regard to the adoption of the proposed values for the distribution fill factors. Sprint does not object to the use of the proposed values, stating that "they appear to reasonably represent realistic, forward-looking practices." As noted, Ameritech contends that the copper distribution and feeder fill factors are reasonable estimates to use if company-specific or state-specific fill factors are not used. In contrast, SBC disagrees with the HAI proponents' claim that the level of spare capacity provided in the proposed values is sufficient to meet current demand plus some amount of growth. SBC, however, offers no controverting evidence demonstrating that the proposed values are insufficient to meet current demand plus short-term growth. We find that the lone fact that SBC disagrees is insufficient to controvert our conclusion that the proposed values reflect the appropriate fill needed to meet current demand. BellSouth contends that the proposed values will significantly understate distribution cable requirements. BellSouth submits instead projected fill factors for its distribution copper, feeder copper, and fiber cables determined by BellSouth network engineers. We find these estimates unsupported. Similarly, Bell Atlantic contends that the proposed fill factors for feeder and distribution are too high and recommends we adopt its proposed fill factors. We find these recommended fill factors unsupported. We, therefore, select the proposed values for distribution fill factors.

153. We also disagree with AT&T and MCI's contention that the proposed values for the distribution fill factors are too low. AT&T and MCI claim that distribution fill factors of 1.2 lines per household are more than adequate in a forward-looking cost study. We disagree. We find that 1.2 lines per household are inadequate because they simply reflect the existing provision of telephone service and are less than current demand as we define it herein. Moreover, AT&T and MCI's claim is belied by their own assertions. AT&T and MCI contend that the "proposed conservative fill factors will ensure sufficient plant capacity to accommodate potentially unaccounted service needs in the PNR data." AT&T and MCI also state that "[t]he fill levels used in HAI provides more than enough spare capacity for service work, churn, and unforeseen spikes in demand. In sum, AT&T and MCI attest to the reasonableness of not only use of the HAI default values for distribution plant, but also the use of the average of the HAI and BCPM default values for copper feeder.

154. We also disagree with AT&T and MCI's claim that higher factors are appropriate because the model's sizing algorithm produces effective fill factors that are lower than optimal values. As we explained in the *Inputs Further Notice*, because cable and fiber are available only in certain sizes, the effective fill factor may be lower than the administrative fill factor adopted as an input. We find that AT&T and MCI's claim ignores this fact.

155. Finally, we note that AT&T and MCI also claim that the factor should be higher because universal service support does not include residential second lines or multiple business lines. The Commission has never acted on the recommendation in the *First Recommended Decision*, 61 FR 63778 (December 2, 1996, that only primary residential lines should be supported. Moreover, we also note that AT&T and MCI's claim ignores the sixth criterion, which requires that:

> The Cost Study or model must estimate the cost of providing service for all businesses and households * * * Such inclusion of multi-line business services and multiple residential lines will permit the cost study or model to reflect the economies of scale associated with the provision of these services.

In sum, we find AT&T and MCI's claim in this regard unpersuasive.

156. *Feeder Fill Factors.* We also affirm our tentative conclusion to adopt copper feeder fill factors that are the average of the HAI and BCPM default values. The divergence among the commenters noted with regard to the use of the average of the HAI and BCPM default values for the distribution fill factors is reflected in the comments regarding the proposed feeder fill factors. Sprint finds that use of the average of the HAI and BCPM default values for feeder fill factors is reasonable. Ameritech's conditional support was noted. In contrast, BellSouth contends that the average of the HAI and BCPM default values will significantly understate copper feeder cable requirements. As noted, BellSouth advocates the use of projected fill factors for copper feeder determined by BellSouth network engineers. Similarly, Bell Atlantic contends that the feeder fill factors are too high. We reject the

use of these fill projections for copper feeder for the reasons enumerated. We also reject, for the reasons enumerated, AT&T and MCI's contention that feeder fill factors based on the average of the HAI and BCPM default values are too low.

157. *Fiber Fill Factors.* Finally, we affirm our tentative conclusion that the input value for fiber fill in the federal mechanism should be 100 percent. The majority of commenters addressing this specific issue agree with our tentative conclusion. AT&T and MCI contend that fiber feeder fill factors of 100 percent are appropriate because the allocation of four fibers per integrated DLC site equates to an actual fill of 50 percent, since a redundant transmit and a redundant receive fiber are included in the four fibers per site. AT&T and MCI explain that, because fiber capacity can easily be upgraded, 100 percent fill factors applied to four fibers per site are sufficient to meet unexpected increases in demand, to accommodate customer churn, and, to handle maintenance issues. Similarly, SBC asserts that fiber fill factors of 100 percent can be obtained because they are not currently subject to daily service order volatility and are more easily administered. In contrast, BellSouth advocates that we employ projected fills estimated by BellSouth engineers. As noted, these estimates are unsupported and we reject them accordingly. In sum, we find that the record demonstrates that it is appropriate to use 100 percent as the input value for fiber fill in the federal mechanism.

5. Structure Costs

158. We affirm our tentative conclusions to use the regression equation for aerial structure in the NRRI Study as a starting point for the cost estimate for aerial structure; to use the regression equation for underground structure in the *Inputs Further Notice* as a starting point for the cost estimate for underground structure for density zones 1 and 2; and to use the regression equation for the cost of 24-gauge buried copper cable and structure, as modified, to estimate the cost of buried structure for density zones 1 and 2. Concomitantly, we affirm our tentative conclusion to add to the estimates for aerial structure the costs of anchors, guys, and other materials that support the poles. As we explained in the *Inputs Further Notice*, the RUS data from which this regression equation was derived do not include these costs. We also adopt the following values we proposed in the *Inputs Further Notice* for the distance between poles: 250 feet for density zones 1 and 2; 200 feet for zones 3 and 4; 175 feet for zones 5 and 6; and 150 feet for zones 7, 8, and 9.

159. As noted, several commenters advocate that the input values we adopt for structure costs reflect company-specific data. For the reasons enumerated, we reject the use of the company-specific data we have received to estimate the nationwide average input values for structure costs to be used in the model.

160. Notwithstanding this conclusion, we find that it is unnecessary to extrapolate cost estimates for underground and buried structure for density zones 3 through 9 as we proposed. At the time of the *Inputs Further Notice*, we believed the extrapolated data were the best data available to us at the time for density zones 3 through 9 although we noted our preference to use data specific to those density zones. Upon further examination, we find that cost data, which include values for density zones 3 through 9, submitted by various state commissions for use in this proceeding are more reliable than the extrapolated data. Specifically, we reviewed structure cost data from North Carolina, South Carolina, Indiana, Nebraska, New Mexico, Montana, Minnesota, and Kentucky. These data reflect structure costs designed for use in the HAI and BCPM models.

161. The structure costs submitted by the state commissions have values for normal rock, soft rock, and hard rock for density zones 3 through 9. We adopt as the buried and underground structure cost input values for these density zones weighted average structure costs developed from these data based on the number of access lines for the companies to which the state decisions regarding the submitted structure costs apply. We find that these weighted averages represent reasonable estimates for buried and underground structure costs in normal, soft, and hard rock conditions for density zones 3 through 9.

162. Apart from the criticism of the extrapolation of structure costs for density zones 3 through 9 from the estimates for density zone 2, the comments we have received regarding the values we proposed for structure costs vary as to the type of structure the commenters address and vary as to the position they take on the reasonableness of the estimates. BellSouth states that the values we adopt for aerial structures are "fairly representative of BellSouth's values" but claims that, based on a comparison to its actual data, the values for underground and buried structure are too low. Cincinnati Bell states that the values we adopt for underground structure never vary from Cincinnati Bell's actual costs by more than 15 percent. Sprint claims that our proposed cost of poles are understated but the costs of anchor and guys appear to be reasonable. SBC claims that its actual weighted cost of a 40 foot pole is inconsistent with the loaded cost from the NRRI Study. SBC asserts, however, that the NRRI-specified cost is more closely aligned with SBC's anchor and guy costs. We find that, given this divergence of positions, the support in the record for some of our proposed values, and lack of back-up data to support the arguments opposing our proposals, on balance, the structure cost estimates we adopt for aerial, underground, and buried structure for density zones 1 and 2 are reasonable. Moreover, we find it is reasonable to use the values we adopt for density zones 3 through 9. As we discussed, these values reflect cost data for density zones 3 through 9 and have been submitted to us by state commissions for use in this proceeding. These values are more reliable than those derived through the extrapolation of data reflecting density zones 1 and 2, and for the reasons discussed, the company-specific data submitted on the record.

163. In reaching these conclusions, we note that AT&T and MCI advocate that we adjust the regressions used to estimate structure costs to reflect the buying power of large non-rural LECs. We find that, because AT&T and MCI did not provide any data to support such a determination, the record is insufficient to determine that such an adjustment is necessary. We also reject AT&T and MCI's claim that the costs of underground structure are excessive because they fail to exclude manhole costs from the costs of underground distribution. Contrary to AT&T and MCI's assertion, we find that manhole costs are necessary to allow for splicing when the length of the distribution cable exceeds minimum distance criteria adopted by the model.

164. Finally, we note, as described, that we have made adjustments to certain of the regression equations in the *Inputs Further Notice* from which we estimate structure costs in order to address certain of the criticisms reflected in the comments and improve the regression equations accordingly.

165. *LEC Loading Adjustment.* In the *Inputs Further Notice*, we tentatively concluded that we should add a loading of ten percent to the material and labor cost (net of LEC engineering) for aerial, underground, and buried structure because the cost of LEC engineering was not reflected in the data from which Gabel and Kennedy derived their

estimates. We find that, based on the record before us, the LEC engineering adjustment is appropriate and the proposed level of the adjustment is reasonable. In reaching this conclusion, we reject at the outset the position of those commenters advocating that the adjustment be based on company-specific data. As we explained, we find such data are not the most reliable data on the record.

166. As with the LEC adjustment proposed for cable costs discussed, there is a general consensus on the record among the commenters that an adjustment is necessary. We find, therefore, that an adjustment to reflect the cost of LEC engineering is appropriate. Beyond the general claim that we should adopt company-specific data, there is divergence among the commenters regarding the appropriate level of this adjustment. GTE claims that the adjustment should be greater than 10 percent based on a comparison to its data for buried plant. SBC agrees that 10 percent is appropriate for aerial and buried structure but too low for underground structure. SBC proposes a loading factor of 20 percent instead for underground structure. Based on our review of the information, it is our judgement that the 10 percent adjustment is the most reasonable value on the record before us to reflect the cost of LEC engineering.

6. Plant Mix

167. As explained, although we tentatively chose to adopt nationwide plant mix values, we presented and sought comment on an alternative algorithm based on sheath miles reported in ARMIS to develop plant mix values. Consistent with that alternative, GTE asserts that company-specific plant mix should be used instead of nationwide input values. Similarly, Sprint contends that company-specific or state-specific plant mix values should be used. US West asserts that the model should utilize study-area specific plant mix values that are available in ARMIS as a starting point for plant mix inputs in the model.

168. We find, however, as discussed, because companies do not report aerial and buried route miles in ARMIS, that it is not possible to develop plant mix factors directly from these data at this time. Moreover, we note that the record does not reflect company-specific plant mix values for all companies, nor has any commenter presented a methodology that recognizes the fact that plant mix varies across density zones and allocates it accordingly. In sum, we conclude that neither company-specific nor ARMIS-derived data represent reasonable alternatives to the use of nationwide inputs. We find, therefore, that the use of nationwide inputs is the most reasonable approach in developing plant mix values on the record before us.

169. US West claims that the plant mix algorithm we proposed places too much plant in aerial. US West traces this flaw to several alleged errors in the plant mix algorithm. US West claims that the algorithm erroneously double weights the model plant mix. This is not an error as US West claims. Because the model results used in US West's analysis are based on the low aerial distribution input, we find that the double weight should result in low levels of aerial construction rather than high levels of aerial construction. US West also identifies several formulaic errors. We find these errors attributable, however, to US West's lack of understanding of how the proposed algorithm works. We agree, however, with US West that the high aerial results do appear to be a function of incorrectly weighting aerial plant. We find that this problem is a function of treating the aerial plant mix factor as a residual rather than directly estimating an aerial factor. Given this flaw, we conclude that we should not adopt the plant mix algorithm on which we sought comment.

170. As noted, we sought comment on alternatives to nationwide plant mix input values. US West has proposed two algorithms. As explained, we find that each of these has its own biases and, therefore, that neither is a reasonable alternative to what we have proposed. In brief, US West's first algorithm takes the geometric mean of the national default and a structure ratio to determine the plant mix factor. It defines the structure ratio for underground plant as the ratio of ARMIS trench miles to model route miles; for buried and aerial plant the structure ratio is defined as the relative sheath miles of the structure type multiplied by the model route miles less the ARMIS trench miles. We find that the final result of this algorithm places too much underground structure because, for all but the lowest density zone, the underground plant mix factor is significantly higher than the ARMIS ratio. The second algorithm US West proposes starts with the relative share of ARMIS sheath miles for all three structure types. It then establishes two series of fractions that sum to one. In the first series, the fractions increase as the density zone increases. This series is applied to underground structure and thus places more underground structure in the higher density zones. In the second series, the fractions decrease as the density zones increase. This series is applied to aerial structure, with the result that the percentage of aerial cable declines as density increases. For buried structure, the ARMIS ratio is used for all density zones. We find that this algorithm is flawed because it does not recognize the difference between sheath and route miles. As a consequence, the algorithm produces a biased result. Specifically, it constructs too much underground cable. We find that, until this problem is resolved, relying directly on ARMIS information leads to unreasonable results.

171. *Distribution Plant.* We adopt the proposed input values for distribution plant mix which. We conclude that these values for the lowest to the highest density zones, which range from zero percent to 90 percent for underground plant; 60 to zero percent for buried plant; and 40 to ten percent for aerial plant, are the most reasonable estimates of distribution plant mix on the record before us.

172. There is divergence among the commenters with regard to the appropriateness of the input values for the distribution plant mix proposed in the *Inputs Further Notice*. SBC supports the proposed distribution plant mix, noting that it "closely aligns with the embedded plant and future outside plant design." AT&T and MCI advocate the use of the HAI default values for plant mix because, according to AT&T and MCI, they more properly reflect the use of aerial and underground cable than the proposed distribution plant mix inputs. AT&T and MCI claim that the proposed inputs reflect too much underground and too little aerial cable. As we explained in the *Inputs Further Notice*, the model does not design outside plant that contains either riser cable or block cable. Accordingly, use of the HAI default values, which assume a high percentage of aerial plant in densely populated areas, would be inconsistent with the model platform. AT&T and MCI ignore this fact.

173. In the *Inputs Further Notice*, we stated that we disagreed with HAI's assumption that there is very little underground distribution plant and none in the six lowest density zones. In support of the HAI values for underground distribution plant, AT&T and MCI proffer the distribution plant mix values for BellSouth, notably the only company to provide such data, showing that its underground distribution plant mix value is very low. We find that, because we are not adopting a company-specific algorithm, it is not necessary to address this issue. As noted, we will not adopt an

alternative algorithm until the issue of underground structure distances has been resolved. We adhere to employing a national value because we find that, though it may not be exact for every company, it will be reasonable for all companies.

174. *Feeder Plant.* We also adopt the proposed input values for feeder plant mix. We conclude that these values for the lowest to the highest density zones, which range from five percent to 95 percent for underground plant; 50 to zero percent for buried plant; and 45 to five percent for aerial plant, are the most reasonable estimates of distribution plant mix on the record before us. GTE's and Sprint's comments specifically address the specific issue of feeder plant mix inputs. As noted, both carriers advocate the use of company-specific data for plant mix. We reject the use of such data for feeder plant mix for the reasons we enumerated.

175. Finally, we affirm our tentative conclusion that the plant mix ratios should not vary between copper feeder and fiber feeder. In reaching our tentative conclusion, we noted that, although the HAI sponsors proposed plant mix values that vary between copper feeder and fiber feeder, they have offered no convincing rationale for doing so. We find such support still lacking. GTE claims that a distinction is necessary because the existing plant mix indicates that the trend for more out-of-sight construction has already resulted in differing copper and fiber feeder plant mixes. In contrast, SBC contends that plant mix ratios should not vary between copper feeder and fiber feeder because existing structure is used whenever available for fiber and copper placement so the mix ratio would not differ. We find neither of these claims to be persuasive. Accordingly, we conclude that, given the absence of controverting evidence, it is reasonable to assume that plant mix ratios should not vary between copper feeder and fiber feeder in the model.

D. Structure Sharing

176. We adopt the following structure sharing percentages that represent what we find is a reasonable share of structure costs to be incurred by the telephone company. For aerial structure, we assign 50 percent of structure cost in density zones 1–6 and 35 percent of the costs in density zones 7–9 to the telephone company. For underground and buried structure, we assign 100 percent of the cost in density zones 1–2, 85 percent of the cost in density zone 3, 65 percent of the cost in density zones 4–6, and 55 percent of the cost in density zones 7–9 to the telephone company. In doing so, we adopt the sharing percentages we proposed in the *Inputs Further Notice*, except for buried and underground structure sharing in density zones 1 and 2, as explained.

177. Commenters continue to diverge sharply in their assessment of structure sharing. As noted by US West, "[s]ince forward-looking sharing percentages for replacement of an entire network are not readily observable, there is room for reasonable analysts to differ on the precise values for those inputs." While commenters engage in lengthy discourse on topics such as whether the model should assume a "scorched node" approach in developing structure sharing values, little substantive evidence that can be verified has been added to the debate. AT&T and MCI contend that the structure sharing percentages proposed in the *Inputs Further Notice* assign too much of the cost to the incumbent LEC and fail to reflect the greater potential for sharing in a forward-looking cost model. In contrast, several commenters contend that the proposed values assign too little cost to the incumbent LEC and reflect unrealistic opportunities for sharing. In support of this contention, some LEC commenters propose alternative values that purport to reflect their existing structure sharing percentages, but fail to substantiate those values. SBC, however, claims that the structure sharing percentages we propose reflect its current practice and concurs with the structure sharing values that we adopt in this Order.

178. More than with other input values, our determination of structure sharing percentages requires a degree of predictive judgement. Even if we had accurate and verifiable data with respect to the incumbent LECs' existing structure sharing percentages, we would still need to decide whether or not those existing percentages were appropriate starting points for determining the input values for the forward-looking cost model. AT&T and MCI argue that past structure sharing percentages should be disregarded in predicting future structure sharing opportunities. Incumbent LEC commenters argue that sharing in the future will be no more, and may be less, than current practice.

179. In the *Inputs Further Notice*, we relied in part on the deliberations of a state commission faced with making similar predictive judgment relating to structure sharing. The Washington Utilities and Transportation Commission, conducted an examination of these issues and adopted sharing percentages similar to those we proposed.

180. In developing the structure sharing percentages adopted in this Order, we find the sharing percentages proposed by the incumbent LECs to be, in some instances, overly conservative. While we do not necessarily agree with AT&T and MCI as to the extent of available structure sharing, we do agree that a forward-looking mechanism must estimate the structure sharing opportunities available to a carrier operating in the most-efficient manner. As discussed in more detail in this Order, the forward-looking practice of a carrier does not necessarily equate to the historical practice of the carrier. Given the divergence of opinion on this issue, and of AT&T and MCI's contention that further sharing opportunities will exist in the future, we have made a reasonable predictive judgment, and also anticipate that this issue will be revisited as part of the Commission's process to update the model in a future proceeding.

181. In the *1997 Further Notice*, 62 FR 42457 (August 7, 1997), the Commission tentatively concluded that 100 percent of the cost of cable buried with a plow should be assigned to the telephone company. In the *Inputs Further Notice*, we sought comment on the possibility that some opportunities for sharing existed for buried and underground structure in the least dense areas and proposed assignment of 90 percent of the cost in density zones 1–2 to the telephone company. Several commenters contend that there are minimal opportunities for sharing of buried and underground structure, particularly in lower density areas. In addition, several commenters contend that, to the extent sharing is included in the RUS data, it is inappropriate to count that sharing again in the calculation of structure cost. While we agree that structure sharing should not be double counted, we note that the RUS data includes little or no sharing of underground or buried structure in density zones 1–2. This does, however, support the contention of commenters that there is, at most, minimal sharing of buried and underground structure in these density zones. We therefore modify our proposed input value in this instance and assign 100 percent of the cost of buried and underground structure to the telephone company in density zones 1–2.

182. We believe that the structure sharing percentages that we adopt reflect a reasonable percentage of the structure costs that should be assigned to the LEC. We note that our conclusion reflects the general consensus among commenters that structure sharing varies by structure type and density.

While disagreeing on the extent of sharing, the majority of commenters agree that sharing occurs most frequently with aerial structure and in higher density zones. The sharing values that we adopt reflect these assumptions. SBC also concurs with our proposed structure sharing values. In addition, as noted, the Washington Utilities and Transportation Commission has adopted structure sharing values that are similar to those that we adopt. We also note that the sharing values that we adopt fall within the range of default values originally proposed by the HAI and BCPM sponsors.

E. Serving Area Interfaces

183. We affirm our approach to derive the cost of an SAI on the basis of the cost of its components and adopt a total cost of $21,708 for the 7200 pair indoor SAI. We find that there remains an absence of contract data between the LECs and suppliers with regard to SAIs on the record before us. Accordingly, we affirm, as discussed in more detail, our tentative conclusions with respect to the following issues: (1) the cost per pair for protector material; (2) the appropriate splicing rate and corresponding labor rate; (3) the methodology employed in cross-connecting in a SAI; and (4) the appropriate feederblock and distribution installation rate.

184. Based on the record before us, we conclude that $4 per pair is a reasonable estimate of the cost for protected material. As we explained in the *Inputs Further Notice*, this estimate is based on an analysis of *ex parte* submissions, which is the only evidence we have available to evaluate the cost of SAI components. We also noted that Sprint has agreed that $4 is a reasonable estimate of the cost. SBC and AT&T and MCI concur with our tentative conclusion to adopt the $4 per pair cost. In sum, the record fully supports our conclusion that $4 per pair is a reasonable estimate of the cost for protector material.

185. We also conclude that the record demonstrates that a splicing rate of 250 pairs is reasonable, and adopt it accordingly. As we explained in the *Inputs Further Notice*, the HAI sponsors proposed a splicing rate of 300 pairs per hour, while Sprint argued for a splicing rate of 100 pairs per hour. We believed that HAI's proposed rate was a reasonable splicing rate under optimal conditions, and therefore, we tentatively concluded that Sprint's proposed rate was too low. We noted that the HAI sponsors submitted a letter from AMP Corporation, a leading manufacturer of wire connectors, in support of the HAI rate. We recognized, however, that splicing under average conditions does not always offer the same achievable level of productivity as suggested by the HAI sponsors. For example, splicing is not typically accomplished under controlled lighting or on a worktable. Having accounted for such variables, we proposed a splicing rate of 250 pairs per hour.

186. AT&T and MCI, the proponents of the 300 pairs per hour rate, support our tentative conclusion. Sprint takes issue with the splicing rate we proposed. Sprint impugns the evidence, appearing in the form of a letter from AMP Corporation on which we relied in part, to determine a reasonable splicing rate. In sum, Sprint contends the letter represents an "unsupported claim of someone trying to sell equipment." While Sprint is correct that the proponent is an equipment manufacturer, neither Sprint nor any other commenter provided evidence from any other equipment manufacturer to refute AMP.

187. Sprint also questions the fact that we did not utilize the data available from the NRRI Study to determine the splicing rate. Sprint maintains that an analysis of that data results in a splicing rate of 58.8 pairs per hour, substantially less than the 300 pairs per hour we recognized as a ceiling in our analysis. We based our proposed splicing rate on an analysis of such rates as they relate specifically to the installation of a complete and functional SAI. In contrast, although the data to which Sprint refers is for modular splicing, it is not clear, nor does Sprint claim, that such data specifically relates to the installation of SAIs. In sum, the validity of this data as a measure in the derivation of splicing rates for SAI installation is not established on the record. Sprint's critique ignores this fact. Accordingly, we reject the use of the data available from the NRRI Study to determine the splicing rate.

188. We also conclude that the $60 per hour labor rate we proposed for splicing is reasonable and adopt it accordingly. Those commenters addressing this specific issue agree. As we explained in the *Inputs Further Notice*, this rate, which equates with the prevalent labor rate for mechanical apprentices, is well within the range of filings on the record.

189. We also conclude that the model should assume that a "jumper" method will be used half the time and a "punch down" method will be used the remainder of the time to cross-connect an SAI. A cross-connect is the physical wire in the SAI that connects the feeder and distribution cable.

190. In the *Inputs Further Notice*, we tentatively concluded that neither the jumper method nor the punch down method is used exclusively in SAIs. We reached this tentative conclusion based on the conflicting assertions of Sprint and the HAI sponsors. We noted that, Sprint asserted that the "jumper" method generally will be employed to cross-connect in a SAI. In contrast, the HAI sponsors claimed that the "punch down" method is generally used to cross-connect. We also noted that, in buildings with high churn rates, such as commercial buildings, carriers may be more likely to use the jumper method. On the other hand, in residential buildings, where changes in service are less likely, carriers may be more likely to use the less expensive punch down method. Thus, we tentatively concluded that it appeared that both methods are commonly used, and that neither is used substantially more than the other.

191. Based on the record before us, we affirm our tentative conclusion to assume that the "jumper" method and the "punch down" method will be used an equal portion of the time. SBC challenges this conclusion, pointing out that it uses the "jumper" method in applications involving hard lug or insulation displacement contact and that it is currently replacing existing "punch down" interfaces. We conclude that SBC's sole claim is not sufficient to demonstrate that the "jumper" method is used substantially more than the "punch down" method. We note also that Sprint contends that the cross-connect proposed by AT&T and MCI is not an SAI, but a building entrance terminal. We disagree. The design meets the SAI definition of providing an interface between distribution and feeder facilities. In sum, we find that the record demonstrates that it is reasonable for the model to assume that a "jumper" method will be used half the time and a "punch down" method will be used the remainder of the time to cross-connect an SAI.

192. We also adopt a feeder block and distribution installation rate of 200 pairs per hour. As we explained in the *Inputs Further Notice*, we derived this installation factor based on a comparison of Sprint's proposed installation rate of 60 pairs per hour with HAI's proposed 400 pair per hour rate. We concluded that, because neither feeder block installation nor distribution block installation is a complicated procedure, Sprint's rate of 60 pairs per hour is too low. We also recognized that installation conditions are not always ideal. As we explained, feeder block and distribution block installations are not typically accomplished under

controlled lighting or on a worktable. We proposed a rate of 200 pairs per hour to recognize these variables.

193. We note that our proposed feeder block and distribution block rates are unchallenged. Significantly, SBC attests that this installation rate aligns with time-in-motion studies performed in cross-connect building applications. We conclude, therefore, that our proposed rate is reasonable, and adopt input values based upon it accordingly.

194. We also adopt the cost estimates for other size indoor and outdoor SAIs tentatively adopted in the *Inputs Further Notice*. We conclude that, based on the record before us, the derivation of the costs of the other SAI sizes from the cost of the 7200 pair indoor SAI is reasonable.

195. GTE takes issue with the derivation of the costs of the other SAIs from the cost of the 7200 pair indoor SAI. First, GTE contends that there is no need to extrapolate the costs of other SAIs because the costs of individual SAI sizes and associated labor are readily available. We disagree. We concluded that it was necessary to extrapolate the costs of other SAI sizes from the cost of a 7200 pair SAI because of the lack of component-by-component data for other SAI sizes on the record. As noted, we find the record still lacks such data. We also disagree with GTE's contention that SAI costs are not subject to a linear relationship across all sizes as we determined. We find GTE's contention, which relies on GTE's SAI estimates, unpersuasive given the lack of substantiating data supporting these estimates. In sum, the record demonstrates that the derivation of the costs of the other SAIs from the cost of the 7200 pair indoor SAI is reasonable.

196. US West contends that the costs of a SAI should be determined by the actual cable sizes for the cables entering and leaving the SAI rather than the number of cable pairs entering and leaving the interface. We agree. The model has been revised to calculate the costs of an SAI on the basis of actual cable sizes for the cables entering and leaving the SAI.

197. US West raises an additional issue concerning the sizing of SAIs. US West notes that some clusters created by the clustering module exceed the default line limit of 1800 lines and gives as an example a specific cluster containing 7,900 lines. The largest SAI can accommodate only 7200 lines, counting both feeder side and distribution side lines. Therefore, US West contends that, in situations such as this, insufficient SAI plant is deployed by the model. We agree with this analysis. There is no way to guarantee that the line limit of 1800 lines will not be exceeded for some clusters, even though modifications have been made to the cluster algorithm to mitigate this possibility to the greatest possible extent. Therefore, in the current version of the model, we modify the input table for SAI costs so as to allow for serving areas (clusters) in which the capacity of feeder cable plus distribution cable meeting at the interface may exceed 7200. We do this by allowing for line increments of 1800 up to a total line capacity of 28,800. The values in the input table assume that, whenever more than 7200 lines are required in an SAI, two or more standard SAIs are built, one with full capacity of 7200 and the others with capacities equal to 1800, 3600, 5400 or 7200. The input values for each of the multiply-placed SAIs are then summed.

198. A related issue is raised by US West with respect to drop terminal capacity in the model. In previous versions of the model, drop terminals were sized for residential housing units and small business locations, with a maximum line capacity per drop location equal to 25 lines. For medium size and larger business locations with line demand greater than 25 lines, no specific provision for additional drop terminal capacity was provided, except in situations in which a single business accounted for all of the lines in a single cluster. Again, we agree with the US West analysis of this issue. Accordingly, we have modified the input table for drop terminal costs by adding additional line sizes equal to 50, 100, 200, 400, 600, 900, 1200, 1800, 2400, 3600, 5400, and 7200. At any location requiring a drop terminal with capacity exceeding 25 lines, the model will assume that the location will be served by an indoor SAI, and the cost of the corresponding interface is equal to the corresponding value from the table for SAI costs.

F. Digital Loop Carriers

199. We adopt an average of the contract data submitted on the record, adjusted for cost changes over time, as the cost estimates for DLCs. This decision is predicated on two conclusions. The first is our determination that the contract data submitted to the Commission in response to the *1997 Data Request*, and in *ex parte* submissions following the December 11, 1998, workshop, remains the most reliable data on the record. Significantly, no additional information has been proffered nor has any alternative method been proposed, on which to base our estimate of DLC costs. The second is that we conclude that it is reasonable to reduce both the fixed DLC cost and per-line DLC cost reflected in this data by a factor of 2.6 percent per year in order to capture changes in the cost of purchasing and installing DLCs over time.

200. As we explained in the *Inputs Further Notice*, the contract data submitted to the Commission in response to the *1997 Data Request*, and in *ex parte* submissions following the December 11, 1998, workshop, is the most reliable data because, not only is it the only data on the record, but it reflects the actual costs incurred in purchasing DLCs. Moreover, although we would have preferred a larger sample, the contract data is sufficiently representative of non-rural carriers because it reflects the costs incurred by several of the largest non-rural carriers, as well as two of the smallest non-rural carriers.

201. GTE, Bell Atlantic and Sprint support the use of the contract data in estimating the cost of DLCs. Only AT&T and MCI and SBC challenge the use of these data. SBC contends that the contract data is not the most reliable data on DLC costs because labor costs associated with testing, turn-up, and delivery of derived facilities are not factored into the input values. We disagree. The data we identify as "contract data" include these costs. As we explained in the *Inputs Further Notice* and noted, we sponsored a workshop on December 11, 1998, to further develop the record on DLC costs in this proceeding. During the workshop, we presented a template of the components of a typical DLC to the attendees. The template provided the respondents the opportunity to identify their contract costs with regard to each of the components. In addition, we requested that the respondents identify, and thereby include, other costs associated with DLC acquisition, including labor costs associated with testing, turn-up, and delivery of the DLC. Using this opportunity to submit DLC cost data, GTE and Aliant included such costs in their submissions. Sprint submitted similar data in a September 9, 1998 *ex parte* filing. These costs were identified and added to the analysis of US West's and BellSouth's contract data. We derived these costs from *ex parte* filings made by these carriers in this proceeding.

202. AT&T and MCI allege that the contract data overstates the actual costs of DLC equipment and therefore, should not be adopted. AT&T and MCI instead advocate use of the HAI default values. AT&T and MCI argue that the contract costs are not only unsupported by any verifiable evidence but, more

VOL 64 ISS 230 DEC 1 1999 UMI

importantly, are refuted by the contract information from which they were derived. In support, AT&T and MCI submit an analysis of the DLC cost submissions of Bell Atlantic, BellSouth, and Sprint. In each instance, AT&T and MCI assert that these data demonstrate DLC costs that are far below those proposed by the incumbent LECs and the Commission and that are fully consistent with the HAI default values.

203. We disagree with AT&T and MCI's analysis. For example, AT&T and MCI claim that information provided by Bell Atlantic shows that total DLC common equipment costs for DLC systems capable of serving 672, 1344, and 2016 lines are similar to, and uniformly less than, the corresponding HAI values. In reaching this conclusion, however, AT&T and MCI omit the costs for line equipment. As Bell Atlantic points out, the cost of digital line carrier equipment should include these costs, and we agree.

204. Similarly, AT&T and MCI assert that certain of Sprint's costs are significantly inflated and, once adjusted, are similar to and uniformly less than the corresponding HAI values. We find, however, these adjustments to be unsupported. AT&T and MCI reduce the supply expenses associated with Sprint's DLC costs, more than 66 percent, based on the experience of AT&T and MCI's engineering team members. AT&T and MCI offer no evidence, however, other than the opinions of their experts to substantiate this proposed adjustment.

205. AT&T and MCI also contend that Sprint applies excessive mark-ups for sales tax. AT&T and MCI argue that, because Sprint operates its own logistics company, there is no reason to apply sales tax to both supply expense and materials. We find that AT&T and MCI offer no support to demonstrate that this results in an excessive mark-up for sales tax. We reach the same conclusion with regard to AT&T and MCI's proposed reduction to Sprint's labor costs. AT&T and MCI contend that Sprint's labor costs are inflated and propose reductions in such costs through a reduction in the number of labor hours associated with DLC installation. AT&T and MCI provide no support for such a reduction and, therefore, we decline to reduce Sprint's labor costs.

206. Significantly, AT&T and MCI offer no evidence to controvert our tentative conclusion that the HAI values they employ as a comparative benchmark, and advocate that we adopt, are not more reliable than the contract data. We rejected the use of the HAI and the BCPM default values because they are based on the opinions of experts without substantiating data. Similarly, we rejected data submitted by the HAI sponsors following the December 11, 1998, workshop. We found that data to be significantly lower than the contract data on the record, and concluded that it would be inappropriate to use because it also lacked support. AT&T and MCI have not provided any additional evidence to substantiate the HAI data.

207. We also affirm our tentative conclusion that it is reasonable to reduce both the fixed DLC costs and per-line DLC costs reflected in the contract data in order to capture changes in the cost of purchasing and installing DLCs. As we explained in the *Inputs Further Notice*, this reduction recognizes the fact that the cost of purchasing and installing a DLC diminishes over time because of improvements in the methods and components used to produce DLCs, changes in both capital and labor costs, and changes in the functionality requirements of DLCs. The premise that overall DLC costs move downward over time is not disputed on the record.

208. We also conclude that the 2.6 percent reduction we proposed in both the fixed DLC costs and per-line DLC costs is appropriate. As we explained in the *Inputs Further Notice*, this is a conservative estimate, based on the change in cost of remote switches, which is a reasonable proxy for changes in DLC cost. More importantly, a comparison of data submitted on the record by Sprint for the years 1997, 1998, and 1999 demonstrates that an overall reduction of 2.6 percent is considerably less than Sprint's actual experience. An analysis undertaken by staff produces an average reduction in DLC costs for Sprint of 9.2 percent per year. We note that this estimate reflects both material and labor costs.

209. Only SBC and GTE specifically address the 2.6 percent reduction. SBC supports the 2.6 percent reduction in fixed and per-line DLC costs as it applies to material costs only. In contrast, GTE opposes the adjustment. GTE suggests that, as the inputs are adjusted over time, the cost of current technology will be reflected in the revised data. GTE is correct that the current cost of technology would be reflected in revised data. The adjustment we proposed and adopt updates cost to current cost. Implicit in SBC's comment is the premise that labor costs will not decrease over time. Although this may be a reasonable assumption, the 2.6 percent reduction we adopt is applied to the overall cost of a DLC. As we explained, the 2.6 percent reduction is a conservative estimate compared to the actual reductions we have observed in the Sprint data. As a result, we conclude that increases in labor will be offset by reductions in other factors in the cost of DLCs.

210. Finally, as noted, we sought comment on the extent, if any, to which we should increase our proposed estimates for DLCs to reflect material handling and shipping costs because it was unclear whether the DLC data submitted by other parties include these costs. On further analysis, we note that material handling and shipping costs are reflected in the proposed DLC estimates we adopt herein. Moreover, we conclude that it is appropriate to include these costs in the cost estimates for DLCs. We note that no comments were filed opposing the inclusion of such costs.

IV. Switching and Interoffice Facilities

A. Switch Costs

211. *Switch Cost Estimates.* We adopt the fixed cost (in 1999 dollars) of a remote switch as $161,800 and the fixed cost (in 1999 dollars) of both host and stand-alone switches as $486,700. We adopt the additional cost per line (in 1999 dollars) for remote, host, and stand-alone switches as $87.

212. For the reasons set forth, we affirm our tentative conclusion to use the publicly available data from LEC depreciation filings, and to supplement the depreciation data with data from LEC reports to the RUS. We also affirm our tentative conclusion that we should not rely on the BCPM and HAI default values, because these values are largely based on non-public information or opinions of their experts, without data that enable us adequately to substantiate those opinions.

213. *Switch Cost Data.* The depreciation data contains for each switch reported: The model designation of the switch; the year the switch was first installed; and the lines of capacity and book-value cost of purchasing and installing each switch at the time the depreciation report was filed with the Commission. The RUS data contains, for each switch reported: The switch type (*i.e.*, host or remote); the number of equipped lines; cost at installation; and year of installation.

214. The sample that we use to estimate switch costs includes 1,085 observations. The sample contains 946 observations selected from the depreciation data, which provide information on the costs of purchasing and installing switches gathered from 20 states. All observations in the depreciation data set are for switches with 1,000 lines or more. In order to

better estimate the cost of small switches, we augmented the depreciation data set by adding data from RUS. The RUS sample contains 139 observations which provide information from across the nation on the costs of small switches purchased and installed by rural carriers. Over 80 percent of the observations of switch costs in the RUS data set measure the costs for switches with 1,000 lines of capacity or less. The combined sample represents purchases of both host and remote switches, with information on 490 host switches and 595 remote switches, and covers switches installed between 1989 and 1996. This set of data represents the most complete public information available to the Commission on the costs of purchasing and installing new switches.

215. The depreciation data set proposed in the *Inputs Further Notice* excluded 26 observations that had been deemed to be outliers by the Bureau of Economic Analysis. Bell Atlantic criticizes the Commission for excluding these outliers. The excluded observations were not available in electronic form prior to the release of the *Inputs Further Notice*. Subsequently, the Bureau obtained these outlying observations from the Bureau of Economic Analysis and reinserted them into the data set used to derive the input values we adopt herein. In addition, several commenters recommend that the depreciation data set also should include switches with fewer than 1,000 lines of capacity. This information, however, is not available in electronic format and, therefore, would be unduly burdensome to include.

216. In response to the *1997 Data Request*, the Commission received a second set of information pertaining to 1,486 switches. Upon analysis, however, we have identified one or more problems with most of the data submitted: missing switch costs; zero or negative installation costs; zero or blank line counts; unidentifiable switches; or missing or inconsistent Common Language Local Identification (CLLI) codes. After excluding these corrupted observations, 302 observations remained. The remaining observations represented switches purchased by only four companies. We affirm our tentative conclusion that the data set we use is superior to the data set obtained from the data request, both in terms of the number of usable observations and the number of companies represented in the data set.

217. Following the December 1, 1998, workshop, three companies voluntarily submitted further data regarding the cost of purchasing and installing switches: BellSouth provided data on switch investments for its entire operating region; Sprint provided similar data for its operations in Nevada, Missouri, and Kansas; and GTE provided switch investment information for California. When consolidated, this information forms a data set of approximately 300 observations representing the costs of new switches. As AT&T has noted, however, the information submitted contains some inconsistencies. Considering these inconsistencies, the limited number of companies represented, and the size of this voluntarily submitted data set, we conclude that the data set we use is preferable.

218. BellSouth suggests that we merge either the information received in response to the *1997 Data Request*, the information from the voluntary submissions, or both, with the data set we use. We reject this suggestion because there are significant inconsistencies between the different data sets. For example, in its voluntary submission, GTE provides the amount of total investment for each of its California switches at the time these switches were installed, but reports associated line counts only for October 1998. This information is not consistent with the data set used by the Commission, which contains aggregate investment and line counts measured at the same point in time. Second, our analysis of the information provided in both the voluntary submissions and the data request reveals, based on simple linear regression, inconsistencies between these two data sets and the data set employed by the Commission. Our analysis reveals that both alternative data sets contain information that is inconsistent with the comments in this proceeding.

219. *Adjustments to the Data.* As discussed, in the *Inputs Further* Notice, we proposed certain adjustments to the RUS data to account for the cost of MDF and power equipment, which were omitted from the RUS information. Specifically, we proposed increasing the cost of purchasing and installing switches by $12 per line for MDF and $12,000, $40,000, or $74,500, depending upon switch size, for power costs. Commenters who address this issue agree that the RUS data must be modified to account for the costs of MDF and power to make the RUS data consistent with the depreciation data, which include these costs. Some commenters who address these adjustments claim that we should use different values for MDF and power costs, but provide little or no information we can use to verify their suggested values. Sprint, for example, claims our power costs are too low and provides a breakdown of power costs, but does not supply any data to support their higher proposed values for power costs. AT&T and MCI claim our proposed power costs should be reduced because they are substantially higher than those proposed by their experts.

220. We find that we need not attempt to resolve disagreement over the reasonableness of our proposed values, in the absence of any additional information, because we adopt an alternative methodology for estimating MDF and power costs. We find that we should adjust the RUS data for MDF and power equipment costs in a way that is more consistent with the way in which these costs are estimated in the depreciation data set. In the depreciation data, MDF and power equipment costs are estimated as a percentage of the total cost of the switch, as are all other components of the switch. Based on the estimates of Technology Futures, Inc., we find that these costs were eight percent of total cost. Because we are adjusting the RUS data so that they are comparable with the depreciation data, we find it is appropriate to use a comparable method to estimate the portion of total costs attributable to MDF and power equipment. Accordingly, in order to account for the cost of MDF and power equipment omitted from the RUS information, we conclude that the cost of switches reported in the RUS data should be increased by eight percent.

221. In the *Inputs Further Notice*, we tentatively concluded, based on an estimate provided by Gabel and Kennedy, that $27,598 should be added to the cost of each remote switch reported in the RUS data. SBC recommends that remote termination costs should be added to remote switch costs on a per-line basis, but provides no estimates of the per-line cost of remote termination. Sprint provides remote termination estimates of $22,636 for termination of remote switches with less than 641 lines and $46,332 for termination of remote switches with between 641 and 6,391 lines. Using Sprint's methodology, the average cost of terminating a RUS remote switch on a RUS host switch is $29,840. Sprint's estimate is consistent in magnitude with Gabel and Kennedy's estimate. Therefore, because Sprint's tiered estimates captures differences between remote termination costs associated with remote switch size, we adopt Sprint's estimates.

222. Based upon Gabel and Kennedy recommendations, derived from data

analysis undertaken by RUS, we conclude that the cost of switches reported in the RUS data should be increased by eight percent in order to account for the cost of LEC engineering. We conclude, however, that this adjustment should not be added to the cost of power and MDF, because these estimates already include the costs of LEC engineering.

223. *Methodology.* Consistent with our tentative conclusions in the *Inputs Further Notice*, we employ regression analysis. In this Order, we also adopt our tentative conclusion to use a linear function based on examination of the data and statistical evidence.

224. Sprint recommends using a non-linear function, such as the log-log function, to take into account the declining marginal cost of a switch as the number of lines connected to it increases. We affirm our tentative conclusion that the linear function we adopt provides a better fit with the data than the log-log function. A discussion of the effect of time and type of switch on switch cost is presented.

225. Based upon an analysis of the data and the record, we conclude that the fixed cost (i.e., the base getting started cost of a switch, excluding costs associated with connecting lines to the switch) of host switches and remote switches differ, but that the per-line variable cost (i.e., the costs associated with connecting additional lines to the switch) of host and remote switches are approximately the same. This is consistent with statistical evidence and the comments of Sprint, BellSouth, and the HAI sponsors.

226. *Accounting for Changes in Cost Over Time.* We recognize that the cost of purchasing and installing switching equipment changes over time. Such changes result, for example, from improvements in the methods used to produce switching equipment, changes in both capital and labor costs, and changes in the functional requirements that switches must meet for basic dial tone service. In order to capture changes in the cost of purchasing and installing switching equipment over time, we affirm our tentative conclusion in the *Inputs Further Notice* to modify the data to adjust for the effects of inflation, and explicitly incorporate variables in the regression analysis that capture cost changes unique to the purchase and installation of digital switches.

227. To the extent that the general level of prices in the economy changes over time, the purchasing power of a dollar, in terms of the volume of goods and services it can purchase, will change. In order to account for such economy-wide inflationary effects, we multiply the cost of purchasing and installing each switch in the data set by the gross-domestic-product chain-type price index for 1997 and then divide by the gross-domestic-product chain-type price index for the year in which the switch was installed, thereby converting all costs to 1997 values.

228. In order to account for cost changes unique to switching equipment, we enter time terms directly into the regression equation. US West agrees that the costs of the equipment, such as switches and multiplexers, used to provide telecommunications services are declining, and that the per-unit cost of providing more services on average is declining. Bell Atlantic and GTE, however, contend that the cost of switches is not currently declining and therefore pricing declines should not be expected to continue into the future. As evidence, they cite their own fixed-cost contracts. As AT&T notes, however, "[i]f Bell Atlantic in fact agreed to switching contracts that 'effectively froze prices on switching equipment,' those prices would reflect its idiosyncratic business judgement * * *" GTE expresses concern that, under certain specifications of time, the regression equation produces investments for remote switch "getting started" costs that are negative and that such specifications overstate the decline in switch costs. As noted in the *Inputs Further Notice*, the HAI sponsors also caution that the large percentage price declines in switch prices seen in recent years may not continue. We affirm our tentative conclusion that the reciprocal form of time in the regression equation satisfies these concerns by yielding projections of switch purchase and installation costs that are positive yet declining over time.

229. Ameritech and GTE advocate the use of the Turner Price Index to convert the embedded cost information contained in the depreciation data to costs measured in current dollars. We note, however, that this index and the data underlying it are not on the public record. We prefer to rely on public data when available. Moreover, we affirm our tentative conclusion that it is not necessary to rely on this index to convert switch costs to current dollars. Rather, as described in the preceding paragraph, we will account for cost changes over time explicitly in the estimation process, rather than adopting a surrogate such as the Turner Price Index.

230. *Treatment of Switch Upgrades.* The book-value costs recorded in the depreciation data include both the cost of purchasing and installing new equipment and the cost associated with installing and purchasing subsequent upgrades to the equipment over time. Upgrades costs will be a larger fraction of reported book-value costs in instances where the book-value costs of purchasing and installing switching equipment are reported well after the initial installation date of the switch. We affirm our tentative conclusion that, in order to estimate the costs associated with the purchase and installation of new switches, and to exclude the costs associated with upgrading switches, we should remove from the data set those switches installed more than three years prior to the reporting of their associated book-value costs. We believe that this restriction will eliminate switches whose book values contain a significant amount of upgrade costs, and recognizes that, when ordering new switches, carriers typically order equipment designed to meet short-run demand.

231. Bell Atlantic criticizes the Commission for excluding a large percentage of the observations from the initial depreciation data set. As noted in the preceding paragraph, however, the observations that have been excluded do not accurately represent the price of a new switch.

232. We reject the suggestions of Ameritech, Bell Atlantic, BellSouth, GTE, and Sprint that the costs associated with purchasing and installing switching equipment upgrades should be included in our cost estimates. The model platform we adopted is intended to use the most cost-effective, forward-looking technology available at a particular period in time. The installation costs of switches estimated reflect the most cost-effective forward-looking technology for meeting industry performance requirements. Switches, augmented by upgrades, may provide carriers the ability to provide supported services, but do so at greater costs. Therefore, such augmented switches do not constitute cost-effective forward-looking technology. In addition, as industry performance requirements change over time, so will the costs of purchasing and installing new switches. The historical cost data employed in this analysis reflect such changes over time, as do the time-trended cost estimates.

233. *Additional Variables.* Several parties contend that additional independent variables should be included in our regression equation. Some of the recommended variables include minutes of use, calls, digital line connections, vertical features, and regional, state, and vendor-specific identifiers. For the purposes of this analysis, our model specification is limited to include information that is in

both the RUS and depreciation data sets. Neither data set includes information on minutes of use, calls, digital line connections, vertical features, or differences between host and stand-alone switches. State and regional identifiers are not included in the regression because we only have depreciation data on switches from 20 states. Thus, we could not accurately estimate region-wide or state-wide differences in the cost of switching. Our model specification also does not include vendor-specific variables, because the model platform does not distinguish between different vendors' switches.

234. *Switch Cost Estimates.* A number of commenters criticize the switch cost estimates contained in the *Inputs Further Notice* and suggest that they should be dismissed or substantially revised. For example, Sprint suggests that we dismiss the results because the data are collinear and the model is mis-specified. Bell Atlantic and BellSouth suggest that the Commission underestimates the cost of switches, while AT&T and MCI suggest that the Commission overestimates the cost of switches. The Commission's estimates, however, are based upon the most complete, publicly-available information on the costs of purchasing and installing new switches and therefore represent the Commission's best estimates of the cost of host and remote switches. We have addressed the specific objections that have been raised by parties with regard to the methodology, data set, or other aspects of the approach we adopt to derive switch cost estimates, and for the reasons given there, we reject those objections. We conclude that the remaining evidence provided as grounds for dismissing or substantially revising these estimates is largely anecdotal or unconfirmed and undocumented and does not lead us to believe that our estimates should be altered. We conclude, therefore, that the switch cost estimates we adopt are the best estimates of forward-looking cost.

B. Use of the Local Exchange Routing Guide (LERG)

235. In the *Inputs Further Notice*, we tentatively concluded that the Local Exchange Routing Guide (LERG) database should be used to determine host-remote switch relationships in the federal high-cost universal service support mechanism. We now affirm that conclusion. In the *1997 Further Notice*, the Commission requested "engineering and cost data to demonstrate the most cost-effective deployment of switches in general and host-remote switching arrangements in particular." In the *Switching and Transport Public Notice*, the Bureau concluded that the model should permit individual switches to be identified as host, remote, or stand-alone switches. The Bureau noted that, although stand-alone switches are a standard component of networks in many areas, current deployment patterns suggest that host-remote arrangements are more cost-effective than stand-alone switches in certain cases. No party has placed on the record in this proceeding an algorithm that will determine whether a wire center should house a stand-alone, host, or remote switch. We therefore affirm our conclusion to use the LERG to determine host-remote switch relationships.

236. In the *Platform Order*, we concluded that the federal mechanism should incorporate, with certain modifications, the HAI 5.0a switching and interoffice facilities module. In its default mode, HAI assumes a blended configuration of switch technologies, incorporating both hosts and remotes, to develop switching cost curves. HAI also allows the user the option of designating, in an input table, specific wire center locations that house host, remote, and stand-alone switches. When the host-remote option is selected, switching curves that correspond to host, remote, and stand-alone switches are used to determine the appropriate switching investment. The LERG database could be used as a source to identify the host-remote switch relationships. In the *Platform Order*, we stated that "[i]n the inputs stage of this proceeding we will weigh the benefits and costs of using the LERG database to determine switch type and will consider alternative approaches by which the selected model can incorporate the efficiencies gained through the deployment of host-remote configurations."

237. The majority of commenters throughout this proceeding have supported the use of the LERG database as a means of determining the deployment of host and remote switches. These commenters contend that the use of the LERG to determine host-remote relationships will incorporate the accumulated knowledge and efficiencies of many LECs and engineering experts in deploying the existing switch configurations. Sprint contends that there are many intangible variables that can not be easily replicated in determining host-remote relationships. Commenters also contend that an algorithm that realistically predicts this deployment pattern is not feasible using publicly available data and would be unnecessarily "massive and complex." AT&T and MCI argue, however, that use of the LERG to identify host-remote relationships may reflect the use of embedded technology, pricing, and engineering practices.

238. We conclude that the LERG database is the best source set forth in this proceeding to determine host-remote switch relationships in the federal high-cost universal service support mechanism. As noted, no algorithm has been placed on the record to determine whether a wire center should house a stand-alone, host, or remote switch. In addition, many commenters contend that development of such an algorithm independently would be difficult using publicly available data. While GTE suggests that the best source of host-remote relationships would be a file generated by each company, we note that no such information has been submitted in this proceeding. In addition, GTE's proposal would impose administrative burdens on carriers. We conclude that the use of the LERG to identify the host-remote switch relationships is superior to HAI's averaging methodology which may not, for example, accurately reflect the fact that remote switches are more likely to be located in rural rather than urban areas. We therefore conclude that use of the LERG is the most feasible alternative currently available to incorporate the efficiencies of host-remote relationships in the federal high-cost universal service support mechanism.

C. Other Switching and Interoffice Transport Inputs

239. *General.* In the *Inputs Further Notice*, we proposed several minor modifications to the switching inputs to reflect the fact that the studies on which the Commission relied to develop switch costs include all investments necessary to make a switch operational. These investments include telephone company engineering and installation, the main distribution frame (MDF), the protector frame (often included in the MDF), and power costs. To avoid double counting these investments, both as part of the switch and as separate input values, the commenters agree that the MDF/Protector investment per line and power input values should be set at zero. In addition, commenters agree that the Switch Installation Multiplier should be set at 1.0. We agree that including these investments both as part of the switch cost and as separate investments would lead to double counting of these costs. We therefore adopt these values.

240. *Analog Line Offset.* In the *Inputs Further Notice*, we tentatively

concluded that the "Analog Line Circuit Offset for Digital Lines" input should be set at zero. We now affirm that conclusion. AT&T and MCI contend that the switch investment in the model should be adjusted downward to reflect the cost savings associated with terminating digital, rather than analog, lines. AT&T and MCI assert that this cost savings is due primarily to the elimination of a MDF and protector frame termination. AT&T and MCI further contend that the model produces, on average, 40 percent digital lines, while the data used to determine switch costs reflect the use of only approximately 18 percent digital lines. In contrast, GTE contends that the model may calculate more analog lines than carriers have historically placed due to the use of an 18,000 feet maximum copper loop length.

241. AT&T and MCI suggest that the analog line offset input should reflect a $12 MDF and $18 switch port termination savings per line in switch investment for terminating digital lines in the model. Several commenters disagree and recommend setting the analog line offset to zero. Sprint contends that the analog line offset is inherent in the switching curve in the model, thus making this input unnecessary and, therefore, justified only if the switch cost curve is based on 100 percent of analog line cost. Sprint argues that an unknown mixture of analog and digital lines are taken into consideration in developing the switch curve.

242. The record contains no basis on which to quantify savings beyond those taken into consideration in developing the switch cost. We also note that the depreciation data used to determine the switch costs reflect the use of digital lines. The switch investment value will therefore reflect savings associated with digital lines. AT&T and MCI's proposed analog line offset per line is based on assumptions that are neither supported by the record nor easily verified. For example, it is not possible to determine from the depreciation data the percentage of lines that are served by digital connections. It is therefore not possible to verify AT&T and MCI's estimate of the digital line usage in the "historical" data. In the absence of more explicit support of AT&T and MCI's position, we conclude that the Analog Line Circuit Offset for Digital Lines should be set at zero.

243. *Switch Capacity Constraints.* In the *Inputs Further Notice*, we proposed to adopt the HAI default switch capacity constraint inputs as proposed in the HAI 5.0a model documentation. We now adopt that proposal. The forward-looking cost mechanism contains switch capacity constraints based on the maximum line and traffic capabilities of the switch. In their most recent filings on this issue, AT&T and MCI recommend increasing the switch line and traffic capacity constraints above the HAI input default values for those inputs. AT&T and MCI contend that the default input values no longer reflect the use of the most current technology. For example, AT&T and MCI recommend that the maximum equipped line size per switch should be increased from 80,000 to 100,000 lines.

244. We conclude that the original HAI switch capacity constraint default values are reasonable for use in the federal mechanism. We note that Sprint, the only commenter to respond to this issue, supports this conclusion. We also note that the HAI model documentation indicates that the 80,000 line assumption was based on a conservative estimate "recognizing that planners will not typically assume the full capacity of the switch can be used." AT&T and MCI therefore originally supported the 80,000 line limitation as the maximum equipped line size value with the knowledge that the full capacity of the switch may be higher.

245. *Switch Port Administrative Fill.* In the *Inputs Further Notice*, we proposed a switch port administrative fill factor of 94 percent. We now adopt that proposed value. The HAI model documentation defines the switch port administrative fill as "the percent of lines in a switch that are assigned to subscribers compared to the total equipped lines in a switch." HAI assigns a switch port administrative fill factor of 98 percent in its default input values. The BCPM default value for the switch percent line fill is 88 percent.

246. Bell Atlantic contends that switches have significant unassigned capacity due to the fact that equipment is installed at intervals to handle growth. Sprint recommends an average fill factor of 80 percent. US West contends that its actual average fill factor is 78 percent. AT&T and MCI contend that the switching module currently applies the fill factor input against the entire switch when it should be applied only to the line port portion of the switch. AT&T and MCI therefore contend that, either the formula should be modified, or the input needs to be adjusted upward so that the overall switching investment increase attributable to line fill will be the same as if the formula were corrected.

247. We note that the switch port administrative fill factor of 94 percent has been adopted in several state universal service proceedings and is supported by the Georgetown Consulting Group, a consultant of BellSouth. We also note that this value falls within the range established by the HAI and BCPM default input values. The BCPM model documentation established a switch line fill default value of 88 percent that included "allowances for growth over an engineering time horizon of several years." Sprint has provided no substantiated evidence to support its revised value of 80 percent. US West's average fill factor of 78 percent is based on data that include switches with unreasonably low fill factors. Regarding AT&T and MCI's contention that the switching module currently applies the fill factor input against the entire switch rather than the line port portion of the switch, we note that this occurs only when the host-remote option is not utilized in the switch module. As noted, we are using the host-remote option and therefore no adjustment to the switch fill factor is required. We therefore adopt a switch port administrative fill factor of 94 percent.

248. *Trunking.* In the *Inputs Further Notice*, we tentatively concluded that the switch module should be modified to disable the computation that reduces the end office investment by the difference in the interoffice trunks and the 6:1 line to trunk ratio. In addition, we tentatively adopted the proposed input value of $100.00 for the trunk port investment. We now affirm these tentative conclusions and adopt this approach.

249. The HAI switching and interoffice module developed switching cost curves using the Northern Business Information (NBI) publication, "U.S. Central Office Equipment Market: 1995 Database." These investment figures were then reduced per line to remove trunk port investment based on NBI's implicit line to trunk ratio of 6:1. The actual number of trunks per wire center is calculated in the transport calculation, and port investment for these trunks is then added back into the switching investments.

250. Sprint notes that, under the HAI trunk investment approach, raising the per-trunk investment leads to a decrease in the switch investment per line, "despite a reasonable and expected increase" in the investment per line. GTE also notes that the selection of the trunk port input value creates a dilemma in that it is used to reduce the end office investment, as noted, and to develop a tandem switch investment. GTE and Sprint recommend that the switch module be modified by disabling the computation that reduces the end office investment by the difference in

the computed interoffice trunks and the 6:1 line to trunk ratio. MCI agrees that the trunk port calculation should be deactivated in the switching module.

251. In the *Inputs Further Notice*, we agreed with commenters that the trunk port input creates inconsistencies in reducing the end office investment. Consistent with the suggestions made by GTE and MCI, we conclude that the switch module should be modified to disable the computation that reduces the end office investment by the difference in the computed interoffice trunks and the 6:1 line to trunk ratio. Sprint, the only commenter to address this issue in response to the *Inputs Further Notice*, agrees with our conclusion.

252. Because the trunk port input value is also used to determine the tandem switch investment, we must determine the trunk port investment. In the *Inputs Further Notice*, we proposed an input value for trunk port investment per end of $100.00. SBC and Sprint contend that this value should be higher—ranging from $150.00 to $200.00. BellSouth has filed information on the record that supports our proposed trunk port investment value. BellSouth notes that the four states that have issued orders addressing the cost of the trunk port for universal service have chosen estimates of the cost of the trunk port that range from $62.73 to $110.77. We conclude that the record supports the adoption of a trunk port investment per end of $100.00, as supported by the HAI default values. As noted, this value is consistent with the findings of several states and BellSouth. In addition, we note that SBC and Sprint provide no data to support their higher proposed trunk port investment value. We therefore adopt the HAI suggested input value of $100.00 for the trunk port investment, per end.

V. Expenses

A. Plant-Specific Operations Expenses

253. Consistent with our tentative conclusions, we adopt input values that reflect the average expenses that will be incurred by non-rural carriers, rather than a set of company-specific maintenance expense estimates. We adopt our proposed four-step methodology for estimating expense-to-investment ratios using revised current-to-book ratios and 1997 and 1998 ARMIS data. We clarify that the ARMIS investment and expense balances used to calculate the expense-to-investment ratios in steps three and four should be based on the accounts for all *non-rural* ARMIS-filing companies. Although some rural companies file ARMIS reports, the mechanism we adopt today will be used, beginning January 1, 2000, to determine high-cost support only for non-rural carriers. We find, therefore, that it is appropriate to include only data from the non-rural ARMIS-filing companies in calculating these expense-to-investment ratios.

254. *Current Data.* Parties commenting on whether we should update our methodology using more current ARMIS data agree that we should use the most currently available data. We obtained account-specific current-to-book ratios for the related plant investment accounts, for the years ending 1997 and 1998, from Ameritech, Bell Atlantic, BellSouth, GTE, and SBC. Accordingly, we adopt input values using these updated current-to-book ratios and 1997 and 1998 ARMIS data to calculate the expense-to-investment ratios that we use to obtain plant-specific operations expense estimates for use in the federal mechanism.

255. *Nationwide Estimates.* As discussed in this section, we adopt nationwide average values for estimating plant-specific operations expenses rather than company-specific values for several reasons. We reject the explicit or implicit assumption of most LEC commenters that the cost of maintaining incumbent LEC embedded plant is the best predictor of the forward-looking cost of maintaining the network investment predicted by the model. We find that, consistent with the *Universal Service Order's* criteria, forward-looking expenses should reflect the cost of maintaining the least-cost, most-efficient, and reasonable technology being deployed today, not the cost of maintaining the LECs' historic, embedded plant. We recognize that variability in historic expenses among companies is due to a variety of factors and does not simply reflect how efficient or inefficient a firm is in providing the supported services. We reject arguments of the LECs, however, that we should capture this variability by using company-specific data in the model. We find that using company-specific data for federal universal service support purposes would be administratively unmanageable and inappropriate. Moreover, we find that averages, rather than company-specific data, are better predictors of the forward-looking costs that should be supported by the federal high-cost mechanism. In addition, we find that using nationwide averages will reward efficient companies and provide the proper incentives to inefficient companies to become more efficient over time, and that this reward system will drive the national average toward the cost that the competitive firm could achieve. Accordingly, we affirm our tentative conclusion that we should adopt nationwide average input values for plant-specific operations expenses.

256. AT&T and MCI agree with our tentative conclusion that we should adopt input values that reflect the average expenses incurred by non-rural carriers, rather than company-specific expenses. They argue that the universal service support mechanism should be based on the costs that an efficient carrier *could* achieve, not on what any individual carriers *has* achieved. In contrast, incumbent LEC commenters argue that we should use company-specific values.

257. BellSouth, for example, contends that the approach suggested by AT&T and MCI conflicts with the third criterion for a cost proxy model, which states that "[t]he study or model, however, must be based upon an examination of the current cost of purchasing facilities and equipment * * *." BellSouth argues that the "only logical starting point for estimating forward-looking expenses is the current actual expenses of the ILECs." We agree that we should start with current actual expenses, as we do, in estimating forward-looking maintenance expenses. We do not agree with the inferences made by the incumbent LEC commenters, however, that our input values should more closely match their current maintenance expenses.

258. BellSouth's reliance on criterion three fails to quote the first part of that criterion, which states:

> Only long-run forward-looking economic cost may be included. The long-run period must be a period long enough that all costs may be treated as variable and avoidable. The costs must not be the embedded cost of facilities, functions, or elements.

Thus, the model's forward-looking expense estimates should not reflect the cost of maintaining the incumbent LEC's embedded plant. The *Universal Service Order's* first criterion specifies that "[t]he technology assumed in the cost study or model must be the least-cost, most efficient, and reasonable technology for providing the supported services that is currently being deployed." As we explained in the *Inputs Further Notice*, while the synthesis model uses existing incumbent LEC wire center locations in designing outside plant, it does not necessarily reflect existing incumbent LEC loop plant. Indeed, as the Commission stated in the *Platform Order*, "[e]xisting incumbent LEC plant is not likely to reflect forward-looking technology or design choices." Thus, for

example, the model may design outside plant with more fiber and DLCs and less copper cable than has been deployed historically in an incumbent LEC's network. We find that the forward-looking maintenance expenses also should reflect changes in technology.

259. GTE argues that expense-to-investment ratios should not be developed as national averages, because no national average can reflect the composition of each company's market demographics and plant. GTE argues further that costs vary by geographic area and that this variability reflects operating difficulties due to terrain, remoteness, cost of labor, and other relevant factors. GTE contends that "[u]sing national average operating expenses will either understate or overstate the forward-looking costs of providing universal service for each carrier, depending on the variability of each company to the average." GTE claims that the use of the national average penalizes efficient companies that operate in high-cost areas.

260. Similarly, Sprint contends that the use of nationwide estimated data does not accurately depict the realities of operating in Sprint's service territories. Sprint claims that the national averages are far below Sprint's actual costs, because the Commission's methodology for estimating plant-specific expense inputs is heavily weighted toward the Bell companies' urban operating territories. According to Sprint, the Bell companies have a much higher access line density than Sprint, and the expense data from such companies with a higher density of customers will result in expense levels that are much lower than the expense levels experienced by smaller carriers. AT&T and MCI respond by showing that a particular small carrier, serving a lower density area than Sprint, has plant-specific expenses that, on a per-line basis, are less than half of Sprint's expenses. AT&T and MCI claim that "the most significant driver of cost differences between carriers in the ARMIS study area data is *efficiency*." Like other LECs, SBC argues that the costs for LECs vary dramatically, based on various factors including size, operating territories, vendor contracts, relationships with other utility providers and the willingness to accept risk. SBC asserts that "[t]hese differences are not in all instances attributable to inefficient operations."

261. We agree with SBC that not all variations in costs among carriers are due to inefficiency. Although we believe that some cost differences are attributable to efficiency, we are not convinced by AT&T and MCI's example that Sprint is less efficient than the small carrier they identify. Sprint could have higher maintenance costs because it provides higher quality service. But we also are not convinced by Sprint's argument that maintenance expenses necessarily are inversely proportional to density. Sprint provides no evidence linking higher maintenance costs with lower density zones, and we can imagine situations where there are maintenance costs in densely populated urban areas that are not faced by carriers in low density areas. For example, busy streets may need to be closed and traffic re-routed, or work may need to be performed at night and workers compensated with overtime pay.

262. We cannot determine from the ARMIS data how much of the differences among companies are attributable to inefficiency and how much can be explained by regional differences or other factors. BellSouth's consultant concedes that there is nothing in the ARMIS expense account data that would enable the Commission to identify significant regional differences. GTE concedes that it may be difficult to analyze some data because companies have not been required to maintain a sufficient level of detail in their publicly available financial records. GTE's proposed solution for reflecting variations among states is simply to use company-specific data. Indeed, none of the LECs propose a specific alternative to using self-reported information from companies. For example, SBC argues we should use company-specific expenses provided pursuant to the *Protective Order* to develop company-specific costs, because these are the costs that will be incurred by the providers of universal service.

263. While reliance on company-specific data may be appropriate in other contexts, we find that, for federal universal service support purposes, it would be administratively unmanageable and inappropriate. The incumbent LECs argue that virtually all model inputs should be company-specific and reflect their individual costs, typically by state or by study area. As parties in this proceeding have noted, selecting inputs for use in the high-cost model is a complex process. Selecting different values for each input for each of the fifty states, the District of Columbia, and Puerto Rico, or for each of the 94 non-rural study areas, would increase the Commission's administrative burden significantly. Unless we simply accept the data the companies provide us at face value, we would have to engage in a lengthy process of verifying the reasonableness of each company's data. For example, in a typical tariff investigation or state rate case, regulators examine company data for one-time high or low costs, pro forma adjustments, and other exceptions and direct carriers to adjust their rates accordingly. Scrutinizing company-specific data to identify such anomalies and to make the appropriate adjustments to the company-proposed input values would be exceedingly time consuming and complicated given the number of inputs to the model. We recognize that such anomalies invariably exist in the ARMIS data, but we find that, by using averages, high and low values will cancel each other out.

264. Where possible, we have tried to account for variations in cost by objective means. As we stated in the *Inputs Further Notice*, we believe that expenses vary by the type of plant installed. The model takes this variance into account because, as investment in a particular type of plant varies, the associated expense cost also varies. The model reflects differences in structure costs by using different values for the type of plant, the density zone, and soil conditions.

265. As discussed, we cannot determine from the ARMIS data how much of the differences among companies are attributable to inefficiency and how much can be explained by regional differences or other factors. To the extent that some cost differences are attributable to inefficiency, using nationwide averages will reward efficient companies and provide the proper incentives to inefficient companies to become more efficient over time. We find that it is reasonable to use nationwide input values for maintenance expenses because they provide an objective measure of forward-looking expenses. In addition, we find that using nationwide averages in consistent with our forward-looking economic cost methodology, which is designed to send the correct signals for entry, investment, and innovation.

266. Bell Atlantic contends that using nationwide averages for plant specific expenses, rather than ARMIS data disaggregated to the study area level, defeats the purpose of a proxy model because it averages high-cost states with low-cost states. Bell Atlantic argues that we should use the most specific data inputs that are available, whether region-wide, company specific, or study-area specific. Conceding that data are not always available at fine levels of disaggregation, Bell Atlantic contends there is no reason to throw out data that more accurately identify the costs in

each area. Bell Atlantic argues that, even if the Commission does not have current-to-book ratios for all of the ARMIS study areas, it could use average current-to-book ratios and apply them to company-specific ARMIS data.

267. Contrary to Bell Atlantic's contention, we do not find that using nationwide average input values in the federal high-cost mechanism is inconsistent with the purpose of using a cost model. In addition to the administrative difficulties outlined, we find that nationwide values are generally more appropriate than company-specific input values for use in the federal high-cost model. In using the high-cost model to estimate costs, we are trying to establish a national benchmark for purposes of determining support amounts. The model assumes, for example, that all customers will receive a certain quality of service whether or not carriers actually are providing that quality of service. Because differences in service quality can cause different maintenance expense levels, by assuming a consistent nationwide quality of service, we control for variations in company-specific maintenance expenses due to variations in quality of service. Clearly, we are not attempting to identify any particular company's cost of providing the supported services. We are, as AT&T and MCI suggest, estimating the costs an efficient provider would incur in providing the supported services. We are not attempting to replicate past expenses, but to predict what support amounts will be sufficient in the future. Because high-cost support is portable, a competitive eligible telecommunications carrier, rather than the incumbent LEC, may be the recipient of the support. We find that using nationwide averages is a better predictor of the forward-looking costs that should be supported by the federal high-cost mechanism than any particular company's costs.

268. *Estimating regional wage differences.* We do not adjust our nationwide input values for plant-specific operations expenses to reflect regional wage differences. Most LEC commenters advocate the use of company-specific data to reflect variations in wage rates. GTE, for example, claims that regional wage rate differentials are reflected in the company-specific data available from ARMIS. GTE complains that our proposed input values suggest there is no difference in labor and benefits costs between a company operating in Los Angeles and one operating in Iowa. As discussed, the publicly available ARMIS expense account data for plant-specific maintenance expenses do not provide enough detail to permit us to verify significant regional differences among study areas or companies based solely on labor rate variations. For the reasons discussed, we find that we should not use company-specific ARMIS data to estimate these expenses, but instead use input values that reflect nationwide averages.

269. Although they would prefer that we use company-specific data, some LEC commenters suggest that the wage differential indexes used by the President's Pay Agent, on which we sought comment, would be an appropriate method of disaggregating wage-related ARMIS expense data. GTE, on the other hand, contends that these indexes are not relevant to the telecommunications industry, because they are designed for a specific labor sector, that is, federal employees. GTE claims that there are numerous publicly available sources of labor statistics and that, if we adopt an index factor, it should be specific to the telecommunications industry.

270. We agree with GTE that, if we were to use an index to adjust our input values for regional wage differences, it would be preferable to use an index specific to the telecommunications industry. We looked at other publicly available sources of labor statistics, however, and were unable to find a data source that could be adapted easily for making meaningful adjustments to the model input values for regional wage differences. Specifically, we looked at U.S. Department of Labor, Bureau of Labor Statistics (BLS) information on wage rate differentials for communications workers comparing different regions of the country. The Employment Cost Indexes calculated by BLS identify changes in compensation costs for communications workers as compared to other industry and occupational groups. In a number of the indexes, communications is not broken out separately, but is included with other service-producing industries: transportation, communication, and public utilities; wholesale and retail trade; insurance, and real estate; and service industries. In making regional comparisons, the Employment Cost Indexes divide the nation into four regions: northeast, south, midwest, and west. There also are separate indexes comparing metropolitan areas to other areas.

271. We find that the regions used in the BLS data are too large to make any significant improvement over our use of nationwide average numbers. For example, Wyoming is in the same region as California, but we have no reason to believe that wages in those two states are more comparable than wages rates in California and Iowa. That is, there is no simple way to use the BLS data to make the type of regional wage adjustments suggested by GTE. We note that no party has suggested a specific data source or methodology that would be useful in making such adjustments. Accordingly, we decline to adopt a method for adjusting our nationwide input values for plant-specific operations expenses to reflect regional wage differences.

272. *Methodology.* As discussed in this section, we adopt our proposed methodology for calculating expense-to-investment ratios to estimate plant-specific operations expenses. We reject arguments of some LEC commenters that this methodology inappropriately reduces these expense estimates.

273. Several LEC commenters generally support our methodology for calculating expense-to-investment ratios to estimate plant-specific operations expenses, although, as discussed, only if we use company-specific input values. For example, GTE agrees with our tentative conclusion that input values for each plant-specific operations expense account can be calculated as the ratio of booked expense to current investment, but only if this calculation is performed on a company-specific basis. BellSouth states that "[t]he methodology proposed by the Commission for plant-specific expenses is very similar to the methodology employed by BellSouth."

274. Other LEC commenters object to our use of current-to-book ratios to convert historic account values to current cost. Although their arguments differ somewhat, they essentially claim that the effect of our methodology is to reduce forward-looking maintenance expenses and that this is inappropriate because the input values are lower than their current maintenance expenses. AT&T and MCI counter that, if there is any problem with our maintenance expense ratios, it is that they reflect the servicing of too much embedded plant, which has higher maintenance costs, and too little forward-looking plant, which has lower maintenance costs.

275. US West asserts that, while in theory it is correct to adjust expense-to-investment ratios using current-to-book ratios, in practice there is a problem because the current-to-book ratio is based on reproduction costs and the model estimates replacement costs. US West defines reproduction cost as the cost of reproducing the existing plant using today's prices and replacement cost as the cost of replacing the existing plant with equipment that harnesses new technologies and is priced at

today's prices. US West claims that our methodology actually increases the mismatch between historic and forward-looking investment levels because the reproduction costs are not the same as the replacement costs. We agree that reproduction costs are not the same as replacement costs because the mix of equipment and technology will differ, but we disagree with US West's characterization of this as a mismatch.

276. US West estimates that applying current-to-to book ratios to existing investment would generate reproduction costs that are 141 percent higher than historic costs. US West claims that, in contrast, forward-looking models generally show that the cost of replacing those facilities would be slightly less than historic costs, if new technologies were deployed. US West's claim that our methodology results in a mismatch because of these cost differences, however, is wrong. Rather, the differences between reproduction costs and replacement costs merely show that the mix of technologies has changed. The hypothetical example US West uses to illustrate its argument fails to account for changes in technology. The following hypothetical example illustrates how changes in the mix of technology will change maintenance expenses. If historic investment on a company's books consists of 100 miles of copper plant, at a cost of $10 per mile, and 10 miles of fiber plant, at a cost of $1 per mile, then the historic cost is $1010. If current maintenance costs are $10 for the copper plant and $0.10 for the fiber plant, the total maintenance expense is $10.10. If the price of copper increases to $15 per mile and the price of fiber decreases to 80 cents per mile, then the reproduction costs would increase to $1508. If the forward-looking model designs a network with 60 miles of copper and 50 miles of fiber, the resulting replacement cost is $940. Using our methodology, we use the current-to-book ratios of 1.5 ($15/$10) and .8 (80 cents divided by $1) to revalue the copper and fiber investment, respectively, at current prices, and the resulting maintenance expense for the forward-looking plant would be $6.58 rather than $10.10. This does not result in a mismatch. In our hypothetical example, the maintenance costs for fiber were substantially less on a per-mile basis than they were for copper. Thus, we would expect the forward-looking plant with considerably more fiber and less copper to have lower maintenance costs than the current plant, which has more copper. Because the mix of plant changes, the Commission should not, as US West suggests, simply adjust book investment to current dollars to derive maintenance expenses for the forward-looking plant estimated by the model.

277. Sprint argues that we should simply divide the current year's actual expense for each account by the average plant balance associated with that expense. Sprint claims that, when this ratio is applied to the investment calculated by the model, forward-looking expense reductions occur in two ways: (1) the investment base is lower due to the assumed economies of scale in reconstructing the forward-looking network all at one time; and (2) greater use of fiber in the forward-looking network reduces maintenance costs because less maintenance is required of fiber than of the copper in embedded networks. Sprint claims that reducing maintenance for a current-to-book ratio as well as for technological factors constitutes a "double-dip" in maintenance expense reduction.

278. Sprint's claim that our methodology constitutes a "double dip" in reducing maintenance expenses is misleading because the effect of using current-to-book ratios depends upon whether current costs have risen or fallen relative to historic costs. Current-to-book ratios are used to restate a company's historic investment account balances, which reflect investment decisions made over many years, in present day replacement costs. Thus, if current costs are higher than historic costs for a particular investment account, the current-to-book ratio will be greater than one, and the expense-to-investment ratio for that account will decrease when the investment (the denominator in the ratio) is adjusted to current replacement costs. Sprint calls this double dipping because copper costs have risen and the model uses less copper plant than that which is reflected on Sprint's books. If current costs are lower than historic cost, however, the current-to-book ratio will be less than one and the adjusted expense-to-investment ratio for that account will increase when the investment (the denominator in the ratio) is adjusted to current replacement costs. Fiber cable and digital switching costs, for example, have fallen relative to historic costs. Sprint essentially is arguing that our methodology is wrong because it understates Sprint's historical costs. The input values we select are not intended to replicate a particular company's historic costs, for the reasons discussed.

279. SBC disputes our assumption that the model takes into account variations in the type of plant installed because, as investment in a particular type of plant varies, so do the associated expense costs. SBC argues that expenses do not vary simply because investment varies. Nonetheless, SBC believes that developing a ratio of expense to investment and applying it to forward-looking investments is a reasonable basis for identifying forward-looking plant specific expenses. SBC complains that our methodology is inconsistent, however, because it has defined two completely different sets of forward-looking investments: one based on historical ARMIS investments adjusted to current amounts; and another derived on a bottom-up basis employing the cost model. Until we reconcile these "inconsistencies," SBC recommends that we use unadjusted historical investment amounts in developing plant specific expense factors, because they are closer to SBC's historical plant specific expenses.

280. Although they characterize the issue somewhat differently, US West, Sprint, and SBC essentially argue that our methodology is wrong because it understates their historical costs. AT&T and MCI counter that a forward-looking network often will result in lower costs than an embedded network and that the trend in the industry has been to develop equipment and practices to minimize maintenance expense. AT&T and MCI claim that, if there is any problem with our maintenance expense ratios, it is that they reflect the servicing of too much embedded plant, which has higher maintenance costs, and too little forward-looking plant, which has lower maintenance costs. AT&T and MCI further claim that, if our analysis had been based exclusively on financial information that reflected equipment consistent with the most-efficient forward-looking practices, the maintenance expenses would have been lower.

281. None of the commenters provide a compelling reason why we should not use current-to-book ratios to adjust historic investment to current costs. SBC in fact suggests that the Commission consider using the Telephone Plant Index (TPI) in future years to convert expense estimates to current values. SBC appears to be confusing the effect of measuring inputs in current dollars, which it recognizes is reasonable, and the end result of the calculation, which includes the impact of measuring all inputs in current dollars, changes in the mix of inputs, the impact of least-cost optimal design used by the model, and the model's engineering criteria. The relationship between maintenance costs and investment in the Commission's

methodology is related to all of these factors.

282. Sprint also claims that our methodology understates maintenance costs, because it assumes new plant and the average maintenance rate will be higher than the rate in an asset's first year. AT&T and MCI dispute Sprint's claim that maintenance costs per unit of plant increase over time. Sprint provides an example which purports to show that an asset with a ten year life, a ten percent maintenance fee in the first year, and annual costs increasing annually at three percent, would result in an average maintenance rate of 11.55 percent. Sprint's example, however, does not consistently apply our methodology. Sprint's example fails to apply the current-to-book ratio to the total and average plant in service estimates used in the example. When the current-to-book ratio is applied to the total and average plant in service estimates, the resulting maintenance rate is ten percent for all years.

283. BellSouth argues that the investment calculated by the model is unrealistically low because sharing assigned to the telephone company is unrealistically low and fill factors are unrealistically high. BellSouth argues that, because it has shared in cost of trenching, this does not mean the maintenance cost for buried cable would be less, and in fact, the costs may be higher. BellSouth apparently is confused about the Commission's methodology, because the sharing percentages apply only to the costs of structure, not the costs of the cable.

B. Common Support Services Expenses

284. Consistent with our tentative conclusions, we adopt input values that estimate the average common support services expenses that will be incurred by non-rural carriers on a per-line basis, rather than a set of company-specific common support services expenses. We affirm our tentative conclusion that input values for corporate operations, customer service, and plant non-specific expenses should be estimated on a nationwide basis, rather than a more disaggregated basis. As noted, we find that for universal service purposes nationwide averages are more appropriate than company-specific values. We conclude that we should use Specification 1 of our proposed regression methodology to estimate expenses for ARMIS accounts 6510 (Other Property, Plant, and Equipment); 6530 (Network Operations); 6620 (Service Expense/Customer Operations); and 6700 (Executive, Planning, General, and Administrative). As discussed, we use an alternative methodology to estimate expenses for ARMIS account 6610 (Marketing). We conclude that we should use 1998 ARMIS data in both methodologies, and an estimate of 1998 Dial Equipment Minutes of Use (DEMs) in the regression equation, to calculate these input values. We clarify that the ARMIS data we use to calculate these estimates are based on ARMIS accounts for all *non-rural* ARMIS-filing companies. We find that it is appropriate to include only data from the non-rural ARMIS-filing companies in calculating the expense per line for common support services expenses.

285. *Current Data and Use of Productivity Factor.* The input values we adopt in this Order contains a summary of the per-line, per-month input values for plant non-specific expenses, corporate operations expenses, and customer services expenses, including regression results, calculations, and certain adjustments made to the data based on the methodologies described. Because we used 1996 ARMIS data in our regression methodology to estimate our proposed input values for common support services expenses, we proposed a method of converting those estimates to 1999 values. Specifically, we proposed using a productivity factor of 6.0 percent for the years 1997 and 1998 to reduce the estimated input values. We further proposed adjusting the expense data for those years with an inflation factor based on the Gross Domestic Product Price Index (GDP–PI) in order to bring the input values up to current expenditure levels.

286. AT&T and MCI claim that the 6.0 productivity factor is too low, while most LEC commenters contend that it is too high. Sprint argues that expenses should not be adjusted for a productivity or an inflation factor and that we should use 1998 data. GTE argues that no productivity adjustments are necessary, if we use current, company-specific ARMIS data to develop input values. Although we generally decline to adopt company-specific input values for common support services expenses, we agree that using the most currently available ARMIS data (1998) obviates the need to adjust our estimates for either productivity gains or an inflation factor at this time. We believe, however, that there should be an incentive for increased productive efficiency among carriers receiving high-cost universal service support. Accordingly, we believe that a reasonable productivity measure or some other type of efficiency incentive to decrease costs associated with common support services expenses should be incorporated into the universal service high-cost support mechanism in the future. We intend to address this issue in the proceeding on the future of the model.

287. The input values we adopt in this Order are estimates of the portion of company-wide expenses that should be supported by the federal high-cost mechanism. We derive the estimates using standard economic analysis and forecasting methods. The analysis relies on publicly available 1998 ARMIS expense data and the most current minutes of use information from NECA. This data is organized by study area. The estimate of 1998 DEMs is based on a calculated growth rate of 1997 to 1996 DEMs reported by NECA. As a result of deleting rural ARMIS-filing companies and including company study area changes since 1996, pooling of the 1998 data sets provides expense, minutes of use, and line count data for 80 study areas. This is in comparison to the 91 study areas resulting from pooling the 1996 data described in the *Inputs Further Notice*.

288. Some parties object to our using data at the study area level, because they claim that ARMIS-filing companies report data in two distinct ways. Ameritech and US West argue that parent companies generally assign a significant portion of plant non-specific and customer operations expenses across their operating companies on the basis of an allocation mechanism. As a result, they claim that a simple regression on the study area observations will produce coefficients that reflect a blend of two relationships: the cost-based relationship and the allocation-based relationship, of which only the former is appropriate to measure. They argue further that it is necessary to model the allocation method explicitly, to net out the latter data, or to aggregate the data to the parent company level. Although we acknowledge that our accounting rules provide carriers with some flexibility, we expect that the allocation mechanism used by the parent company represents underlying cost differences among its study areas. We find that it is reasonable to assume that the companies use allocation mechanisms that are based on cost relationships to allocate costs among their study areas. Accordingly, we find that it is reasonable to use ARMIS data at the study area level in the regression methodology.

289. *Regression Methodology.* As described in the *Inputs Further Notice*, we adopt standard multi-variate regression analysis to determine the portion of corporate operations expenses, customer services expenses,

and plant non-specific expenses attributable to the services that should be supported by the federal high-cost mechanism. We adopt an equation (Specification 1) which estimates total expenses per line as a function of the percentage of switched lines, the percentage of special lines, and toll minutes per line. We use this regression methodology to estimate the expenses attributable to universal service for the following accounts:

Other Property, Plant, and Equipment (6510); Network Operations (6530); Service Expense/Customer Operations (6620); and Executive, Planning, General and Administrative (6700).

We adopt this specification, rather than an average of the two specification estimates suggested in the *Inputs Further Notice*, to separate the portion of expenses that could be estimated as attributable to special access lines and toll usage, which are not supported by the federal high-cost mechanism, from switched lines and local usage. As explained, we use an adjusted weighted average of study areas to estimate the support expense attributable to Account 6610, Marketing.

290. Several parties contend that our regression analysis is flawed. Sprint, for example, claims that we have exaggerated the significance of our statistical findings beyond a level justified by the regression result; and have made the often-committed error of interpreting our regression results in a way that implies causality. US West argues that, although there is a causal relationship between the level of expenses and the variables we use in the regression, the coefficient of determination or R^2 is fairly low, which implies that the causal relationship only explains a small portion of the total costs. GTE claims that our regression is mis-specified because it utilizes only the mix of output as explanatory variables, and excludes important variables related to differences in input prices and production functions. Because of this mis-specification and the omitted variables, GTE also claims that our equations have a low predictive ability, as measured by the R^2s.

291. We disagree with commenters who claim that there is little explanatory value in our regression analysis. In accounts 6620, 6700, 6530 the regressions explain a high degree of the variability in the expense variables. Only account 6510 (Other Property, Plant, and Equipment) has a low R^2, which is not surprising given the reported data in this account. Based on the 1998 ARMIS data, the resulting regression coefficient for this expense category is negative due to the numerous negative expenses reported by carriers in 1998. Because the ARMIS reports represent actual 1998 expenses incurred by the non-rural telecommunications companies within their various study areas, we find that it is appropriate to include this negative expense in our calculations. We note, however, that inclusion of this account in our calculations represents less than one percent of the total expense input for common support services expenses.

292. We believe that our regressions represent a cost-causative relationship, and that common support services expenses are a function of the number of total lines served, plus the volume of minutes. Because in the long run, all costs are variable, we disagree with commenters who suggest that our methodology is flawed because we do not include an intercept term in our regression equation to represent fixed or start-up costs. As discussed, the model is intended to estimate long-run forward-looking cost over a time period long enough so that all costs may be treated as variable and avoidable. Moreover, the federal high-cost mechanism calculates support on a per-line basis, which is distributed to eligible carriers based upon the number of lines they serve. We would not provide support to carriers with no lines. Nor would we vary support, which is portable, between an incumbent and a competitive eligible telecommunications carrier, based on differences in their fixed or start-up costs. We explicitly assume, therefore, that if a company has zero lines and zero minutes, it should have zero expenses. Thus, we have no constant or fixed cost in our regressions. We also believe that these expenses are driven by the number of channels, not the number of physical lines.

293. That is, our assumptions imply that expenses are a linear function of lines and minutes. We next need to separate out the common support services expenses related to special access lines and toll minutes, because these services are not supported by the federal high-cost mechanism. Therefore, we split the lines variable into switched and special access lines, and we split the minutes variable into local and toll minutes. In this modified equation, expenses are a function of switched lines, plus special access lines, plus local minutes, plus toll minutes. We believe that changes in local minutes, however, should not cause changes in common support services expenses that are not already reflected in the expenses associated with switched lines. We find that it is reasonable to assume that local calls do not increase these overheard costs in the same way that toll minutes do. For example, in most jurisdictions local calls are a flat-rated service and additional local calling requires no additional information on the customer's bill. With toll calling, however, even subscribers that have some kind of a calling plan receive detailed information about those calls. It is reasonable to assume that adding an additional line on a subscriber's bill for a toll call causes overhead costs that are not caused by local calls. Moreover, toll calling outside a carrier's serving area involves the costs associated with completing that call on another carrier's network. As discussed, we tested our assumption that local calls do not affect costs in the same way that toll calls do by running the regressions to include local minutes. Based on theory and our analysis, we decided to drop the local minutes variable, so that expenses are a function of switched lines, plus special access lines, plus toll minutes. Because we are calculating a per-line expense estimate, we divide all the variables by the total number of lines to derive our final equation: expenses divided by total lines equals the percentage of switched lines, plus the percentage of special lines, plus toll minutes divided by total lines.

294. US West claims that our regressions may not be based on appropriate cost-causative relationships, because we count special access lines by channels and not by physical pairs. The ARMIS data used in the regressions count special lines as channels. That is, special access lines are counted as DS0 equivalents: a DS1 has 24 channels, and a DS3 has 672 channels. US West contends that it is far from clear how this method of counting special access lines reflects how these services cause expenses, because it is clear that DS1s and DS3s are not priced as if they cause 24 and 672 times the amount of expenses as a narrowband line.

295. The fact that DS1s and DS3s are priced differently in the current marketplace does not imply that it is improper to count lines as channels. US West's suggested alternative, counting special lines as physical pairs, would assume that a residential customer with two lines causes the same amount of overhead expenses as a special access customer with one DS1 line. To the contrary, we find that it is reasonable to assume that more overhead expenses are devoted to winning and keeping the DS1 customer than the residential customer. Further, we expect that more overhead expenses are related to customers using higher capacity services than those using lower capacity

services. Accordingly, we find that it is reasonable to use channel counts in our regression equations.

296. Some commenters also criticized our regression analysis on the grounds that variables are highly correlated and that the predicted coefficients are not stable. In particular, US West claims that the confidence intervals and standard errors are large and that a dividing-the-sample experiment leads to drastically different results. While these commenters are correct that the correlation values are high for the raw variables, the values are not high once the variables under consideration are adjusted by dividing by total lines. We find that the correlation values are all very reasonable. We note, in particular, the −1 correlation between switched lines and special lines. The fact that switched lines plus special lines equals one is the reason the regression cannot be run with a separate constant. We note that our parameterization has switched lines, special lines, and toll minutes as explanatory variables. We have chosen not to include local minutes in our regressions for theoretical reasons. So, the key correlation values are the correlations of toll minutes with special lines and with switched lines. We find that those values are reasonable.

297. Several commenters suggested that we use local minutes as an explanatory variable. Despite our tentative conclusion that our regressions should not include local minutes as a variable, in response to these comments, we re-ran each of the regressions with local minutes per line as an additional variable. In three of the four regressions, the coefficient for local minutes was not significant at the five percent level, and for account 6700, its sign was the opposite of what was expected. The resulting difference in the estimated expenses attributable to supported services was very small in magnitude as well. If we used the local minutes variable in our parameterization, after summing across all expense accounts, our per-line, per-month estimate for a switched line would be approximately $0.01 more. Given our belief that local minutes should not influence these expenses, the lack of significance in the coefficients, and the overall lack of impact when the variable was consistently included in the regressions, we conclude that we should not include local DEMs per line in our specifications.

298. Except for the inclusion of local minutes as a variable, no commenters have suggested a better parameterization or methodology for using the ARMIS data to estimate expense inputs for these accounts. Further, no commenters have suggested an alternative publicly available data set to use for our estimation of expense input values. We acknowledge that there is substantial variation in the underlying expense data taken from the ARMIS reports. Common support services expenses often contain charges unrelated to the specified relationships in the regression equation. For example, there are many one-time expenses and non-recurring charges associated with these accounts. We have tried to limit the effect of this problem by making adjustments to the expense data, as discussed. Given the data limitations and the parameterization we have chosen, we find that the estimated coefficients are the best estimate of the applicable expenses, regardless of the resulting standard errors.

299. *Removal of One-Time Expenses.* In the *Inputs Further Notice*, we discussed our efforts to adjust estimates of common support services expenses to account for one-time and non-recurring expenses. We sought comment on the need for information about and estimates of various types of exogenous costs and common support service expenses that are recovered through non-recurring charges and tariffs. These expenses include specific one-time charges for the cost of mergers or acquisitions and process re-engineering, and network and interexchange carrier connection, disconnection, and re-connection (*i.e.*, churn) costs.

300. In the *Inputs Further Notice*, we tentatively concluded that we should not use an analysis submitted by AT&T and MCI to estimate one-time and non-recurring expenses for corporate and network operations expenses. This analysis averaged five years (1993–1997) of data from Security and Exchange Commission (SEC) 10–K and 10–Q filings for all tier one companies to identify and calculate a percentage estimate of corporate and network operations expenses classified as one-time and non-recurring charges associated with these types of activities. Our tentative conclusion not to rely on the AT&T and MCI analysis to make these adjustments was based on the fact that we were using 1996 ARMIS data to estimate the expense inputs. Because the SEC reports do not indicate whether the one-time expenses were actually made solely during a specific year indicated, we tentatively concluded that we could not use the analysis' five year average or the actual 1996 SEC figures to make adjustments to the 1996 ARMIS data. In the *Inputs Further Notice*, we noted however that the AT&T and MCI analysis indicates that one-time expenses for corporate and network operations can be significant. We sought comment on how to identify and estimate one-time and non-recurring expenses associated with these common support services.

301. AT&T and MCI disagree with our tentative decision to reject their one-time cost estimates and argue that it is better to estimate one-time costs through use of the SEC reports, although these reports may imperfectly establish the precise date of the occurrence, than to fail to exclude these costs at all. Although some LEC commenters may agree that we should adjust our estimates to exclude one-time and non-recurring expenses, they provide no data or methodology to accomplish this, other than suggesting that we should get this information from the companies. GTE claims that unless companies implement specific tracking mechanisms, these data are not generally or easily identified after the fact.

302. We now reconsider our tentative conclusion not to use the analysis submitted by AT&T and MCI to adjust our network and corporate operations expense estimates to account for one-time and non-recurring expenses. We do so for a number of reasons. First, we received no additional information on publicly available data sources or other reasonable methods to estimate these one-time and non-recurring costs at this time. Second, the problems associated with determining the actual costs of 1996 one-time expenses based on the SEC reports are obviated because we are using 1998 expense data to estimate the forward-looking input values. We find that using the estimated average of one-time costs over the five preceding years (1993–1997) to adjust 1998 data is a reasonable method to determine the impact of costs related to mergers and acquisitions and work force restructuring. Further, we believe any adjustments for one-time costs based on the AT&T and MCI analysis may be biased downward after comparing the number of companies involved in these types of activities in 1998 and 1999 to those in 1993–1997. Accordingly, we adjust downward estimated expenses in account 6530 (Network Operations) by 2.6 percent and in account 6700 (Executive, Planning, General, and Administrative) by 20 percent.

303. *Removal of Non-Supported Expenses.* In the *Inputs Further Notice*, we also discussed our efforts to adjust marketing and other customer service expenses to account for recurring expenses that are not related to services supported by the federal high-cost mechanism. The non-supported expenses we attempted to identify include vertical features expenses,

billing and collection expenses not related to supported services, operational support systems and other expenses associated with providing unbundled network elements and wholesale services to competitive local exchange carriers. We proposed adjustments to extract non-supported service costs related to marketing, coin operations, published directory, access billing, interexchange carrier office operation, and service order processing. Specifically, we made percentage reductions to the regression coefficient results for specific expense accounts based on a time trend analysis of average ARMIS 43–04 expense data for five years (1993–1997).

304. Some commenters argue that our proposed methodology removes non-supported services twice because these expenses were already taken out by the regression when expenses are subdivided among switched lines, special lines, and toll minutes. Although we agree, as discussed, that our methodology double counted the marketing expenses associated with special access lines, we do not agree with the theory that combining a percentage reduction with the regression methodology invariably removes expenses twice. For example, vertical features associated with switched lines such as call waiting are not supported, but the expenses associated with call waiting are not removed using the regression analysis. If we had the data to separately identify and remove vertical features expenses from switched lines, we believe that it would be appropriate to do so and to continue using the regression analysis to separate the remaining expenses. Nonetheless, upon further analysis, we find that we should not adopt our proposed method of removing these non-supported recurring expenses. We find that this method is not sufficient to adequately identify non-supported common support service expenses due to differences in account classifications from the ARMIS 43–03 and ARMIS 43–04 reports. Therefore, we do not utilize the time trend analysis or take reductions for these non-supported expenses in the input values at this time. We recognize that this causes an overstatement of in our estimate of the expenses attributable to supported services in account 6620 (Service Expense and Customer Operations). Unlike the case with marketing, however, we do not have an alternative source of information on which to base a methodology for removing the non-supported expenses in this account. We plan to seek comment on a verifiable and systematic method to identify and remove these costs in the proceeding on the future of the model.

305. *Marketing.* As explained in the *Inputs Further Notice*, we made an adjustment to the Account 6610 (Marketing) regression coefficient based on an analysis made by Economics and Technology, Inc. (ETI). The ETI analysis offered a method for disaggregating product management, sales, and advertising expenses for basic (residential) telephone service from total marketing costs. Based on information from the New England Telephone Cost Study, ETI attributed an average of 95.6 percent of company marketing costs to non-supported customers or activities, such as vertical and new services. Relying on this analysis, we reduced the input estimate to reflect 4.4 percent of marketing expenses determined by the regression. In the *Inputs Further Notice*, we tentatively concluded that this was the most accurate method on the record for apportioning marketing expenses between supported and non-supported services.

306. We agree with commenters that, in making this adjustment to the post-regression analysis input estimate, we incorrectly estimated marketing expenses because reductions were taken twice for special access lines. We agree with the commenters that any adjustments to exclude expenses based on the type of service should be made from total relevant marketing expenses rather than the regression results. Therefore, we do not use the regression methodology to estimate marketing expenses. Instead, using the 1998 ARMIS data, we adjust the total weighted average of relevant expenses for all study areas.

307. Commenters also point out that the adjustment figure of 4.4 percent based on the ETI Study as initially reported was determined under the assumption that only expenses attributable to residential local service would be supported. Further, the ETI estimate of costs associated with the marketing of supported services was calculated by taking a percentage of expenses only from Account 6611, Product Management. Specifically, the ETI estimate did not include any relevant expenses from Account 6613, Product Advertising. As noted in the *Inputs Further Notice*, funding support for marketing is to be based on those expenses associated with advertising. Section 214 of the Communications Act requires eligible telecommunications carriers to advertise the availability of residential local exchange and universal service supported services. Moreover, we note that under the current high cost loop support mechanism, carriers receive no support for marketing.

308. We received further documentation and an alternative analysis from ETI which included an estimate for advertising expenditures. The revised analysis included proportional allocations of advertising costs based on the percentage of lines estimated for primary line residential service and single-line business service. ETI also used line count source material from the Preliminary Statistics of Common Carriers 1998 rather than relying on 1996 data used in its original analysis.

309. Based on the new information provided and the lack of any reasonable alternative presented by the commenters, we calculate an input estimate of supported advertising expenses using the ETI study and 1998 ARMIS expenses. By adding a proportional allocation for multi-line business advertising expenses to the ETI alternative analysis (which only included an estimate representing primary line and single line business advertising costs), we conclude that 34.4 percent of Account 6613, Product Advertising, would be the most appropriate expense amount for the advertising of universal service. Because the additional data provided by ETI allowed for the calculation and estimate of supported and non-supported advertising expenditures, we did not allocate costs associated with product management or sales. As previously mentioned, these marketing activities are not specifically required for support under section 214 of the Communications Act and currently receive no high cost loop support. Taking 34.84 percent of total 1998 advertising expenses for the 80 non-rural high cost study areas and dividing by total lines per month, the average per line per month input value for advertising support is $0.09. This level of advertising expenses represents 5.82 percent of total 1998 marketing costs for non-rural carriers.

310. *Local Number Portability.* There is an additional input value that we estimate separately from our consideration of other expense input values. Specifically, the synthesis model has a user-adjustable input for the per-line costs associated with local number portability (LNP). In the *Inputs Further Notice*, we proposed a per-line monthly LNP cost of $0.39, based on a weighted average of the LNP rates filed by the LECs available at that time. AT&T and MCI point out that the Commission suspended and investigated some of those rates, and that the rates we approved are generally lower than the

rates we used to estimate our LNP input value. They argue that we should use the line-weighted nationwide average of approved LNP rates, which they estimate currently is $.032. GTE claims that there is no justification for using the nationwide average LNP rate, as suggested by AT&T and MCI, because the approved LNP rates provide the best representation of each company's LNP costs. We agree with GTE and in this instance depart from our general practice of using nationwide input values in the federal universal service support mechanism. Because the Commission has investigated and approved LNP rates for most LECs, we find that it is appropriate to use the company-specific input values listed. For those carriers that have not yet filed an LNP tariff, we will use the line-weighted nationwide average of approved LNP rates.

C. GSF Investment

311. We conclude that the model's preliminary estimates of GSF investment should be reduced in the third step of the algorithm, because we find that only a portion of GSF investment is related to the cost of providing the services supported by the federal mechanism. In response to certain comments, however, we modify our proposed allocation factor, as discussed. Although we reject commenters' arguments that the preliminary GSF investment should not be reduced at all, we agree that we should not exclude facility-related maintenance expenses in our proposed allocation factor. In addition, we modify our method of calculating the denominator of our allocation factor so that both the numerator and denominator are simple averages. Finally, we clarify that the ARMIS TPIS used in the first step of the algorithm excludes ARMIS GSF investment.

312. *Reduction of Preliminary GSF Estimate.* Several LEC commenters argue that the preliminary GSF investment should not be reduced by an allocator in the third step of the algorithm. SBC contends that the factor we use to reduce our preliminary GSF investment estimates substantially underestimates the GSF amounts related to the supported services. SBC claims that the ratios used to estimate the preliminary GSF investment already provides a reasonable basis for allocating GSF to supported services, because the GSF ratio (derived from the ARMIS accounts) is only applied to investment identified by the model as associated with supported services. BellSouth also claims that the TPIS calculated by the model is the investment necessary to provide the supported services and that no further reductions in the preliminary GSF investment estimate are appropriate. Sprint similarly claims that by applying a book GSF ratio to the forward-looking plant necessary to provide supported services, the modeled GSF plant also has been converted to a forward-looking level necessary to provide the supported services. Sprint contends that applying an additional allocator is not necessary and has the effect of reducing GSF plant twice.

313. We disagree with SBC's contention that only a portion of GSF is assigned to supported services in deriving our preliminary estimates of GSF investment. To the contrary, the GSF ratio is applied to all model investment, which includes the investment required to provide both supported and non-supported services. As discussed, the model estimates the cost of providing services for all businesses and households within a geographic region, including the provision of special access, private lines, and toll services. Because these services are not supported by the federal high-cost mechanism, the preliminary GSF investment estimate must be adjusted to reflect the portion of GSF investment attributable to the supported services. Thus, BellSouth's assertion that the TPIS calculated by the model is the investment necessary to provide the supported services is wrong. For the same reasons, we reject Sprint's argument that, by applying the book GSF ratio, the modeled GSF plant has somehow been converted to a forward-looking level necessary to provide the supported services. On the contrary, the conversion estimates the amount of GSF investment attributable to all services, supported and non-supported. The second reduction is required to estimate the amount of GSF investment that should be supported by the federal universal service support mechanism.

314. *Allocation Factor.* Assuming that we use an allocator to reduce preliminary GSF investment, several commenters criticize the particular allocator that we proposed in the *Inputs Further Notice.* For example, GTE questions why we used only expenses for customer operations, network operations, and corporate operations in the allocation calculation and excluded plant-specific expenses. GTE argues that plant-specific operations also use GSF investments and should be counted in the calculation. SBC also argues that GSF investment supports all aspects of a LEC's operations, and contends that it makes no sense to exclude facility-related maintenance expenses in our proposed allocation factor. We agree that expenses for plant-specific operations expenses should be included in our calculation of the nationwide allocation factor derived from the regression methodology. Accordingly, the allocation factor we adopt to estimate GSF investment includes plant-specific operations expenses.

315. GTE also contends that the forward-looking way to calculate a GSF investment ratio is to convert all ARMIS investments to current values using current-to-book ratios, before calculating an adjusted ARMIS GSF to TPIS investment ratio. Although we concede there is some logic to GTE's argument that we should convert ARMIS GSF investments to current values by using current-to-book ratios, we note that this would require a change in the model platform. As we explain, the model platform uses a three-step algorithm to estimate GSF investment. Although we can easily change the input value for the factor used in step three, we could not adjust the ARMIS data by applying a current-to-book factor without modifying the model platform. Proposals to change the model platform are properly addressed in response to pending petitions for reconsideration of the *Platform Order* or the proceeding on the future of the model.

316. Finally, GTE claims that our estimation of the universal service portion of the GSF investment is flawed because our regression methodology uses a wrong specification and incorrectly excludes expenses. GTE also claims that the calculation allocator itself is flawed because the numerator is a simple average of expenses derived from the regression results, but the denominator is a weighted average of the total expenses developed from ARMIS data. GTE argues that the type of average in the numerator and denominator should match. While we do not agree that our regression methodology is flawed, we find that GTE has pointed out an inconsistency in our GSF methodology. Specifically, we agree that we should use the same type of average in both the numerator and denominator of our allocation factor. As a result, we use the simple average of total expenses in the denominator of the allocation factor we adopt for estimating the portion of GSF attributable to supported services.

317. *Clarification.* BellSouth claims that the algorithm used to estimate GSF investment contains an error in consistency. BellSouth suggests that in step one we should determine the ratio of ARMIS-based GSF investment to the ARMIS-based TPIS less GSF investment. In step two, this ratio is multiplied by

the TPIS investment determined by the model, which excludes GSF. We clarify that the model calculates GSF investment as BellSouth suggests it should. That is, the model uses ARMIS-based TPIS less GSF investment. US West claims that in the second step of the algorithm the synthesis model includes only fifty percent of the building investment and no land investment. The synthesis model incorporates the HAI switching and expense modules and calculates the investment related to wire center buildings and land in the switching module. So, US West is mistaken that fifty percent of the building and land investment is eliminated, because this investment is added back in calculating switching costs.

318. For the reasons stated, we adopt input values for GSF investment that reflect the portion of GSF investment attributable to the cost of providing the services supported by the federal mechanism. Specifically, we calculate preliminary GSF investment on a study area specific basis, using 1998 ARMIS data, and then multiply these estimates by a nationwide allocation factor derived from the regression methodology that we used to estimate the portion of common support services expenses attributable to switched lines and local usage and the portion of plant-specific operations expenses attributable to the supported services. The allocation factor is the sum of plant specific operations expenses, customer operations expenses, network operations expenses, and corporate operations expenses attributable to the supported services, divided by the sum of those expenses calculated on a total regulated basis.

VI. Capital Costs

A. Depreciation

a. Method of Depreciation

319. For the reasons explained, we adopt a straight-line equal-life-group method of depreciation. Further, we select curve shapes to be used to distribute equal-life groups in each plant account.

320. Most commenters support our tentative conclusion to use the straight-line equal-life-group method of depreciation. Ameritech argues, however, that the Commission's adoption of a straight-line depreciation method in other contexts need not limit us to that method for use in this model, and that "the method of depreciation for a specific study area needs to be consistent with any study that underlie [sic] the development of economic lives or net salvage." Although Ameritech may correctly assert that there is no requirement that we adopt a method of depreciation simply because it is the method previously adopted by the Commission in another context, we believe that the Commission's adoption, in other proceedings, of the straight-line equal-life-group method reflects the well-considered conclusion that this method of depreciation is best-suited to determining the economic costs of providing local service. The straight-line equal-life-group depreciation method is also consistent with our method of developing economic lives and net salvage for the same plant accounts. Because the Commission consistently uses a straight-line equal-life-group depreciation method in all other Commission-proposed depreciation, and in light of the general support received in favor of straight-line equal-life-group depreciation, we conclude that straight-line equal-life-group depreciation is appropriate for use in the high-cost support mechanism.

321. In using the straight-line equal-life-group method of depreciation in other contexts, the Commission has acknowledged that the method necessarily requires the selection of a curve shape for the distribution of the equal-life groups. The HAI model assumed a single curve shape for all plant accounts. Because the curve shapes are not easily averaged across all categories, however, we believe that use of the single HAI curve shape will unduly distort the model input values. We, therefore, determine that separate curve shapes should be adopted for each plant account category. Actuaries have developed generic, standardized curve shapes, called Gompertz-Makeham (GM) standard curves, that describe generalized mortality patterns. GM standard curve shapes are recognizable to many knowledgeable parties concerned with depreciation methods and are normally more immediately meaningful to them than nonstandard curve shapes, which are identified by the values for three variables. For convenience purposes, GM standard curves are often substituted for nonstandard curves. USTA has developed nonstandard curve shapes for most plant accounts based on mortality data provided by its members, using the same methodology approved in other Commission proceedings. For the remaining plant accounts, the Commission has developed composite curves, also nonstandard, utilizing data from available depreciation studies. Because the GM standard curves are recognizable and convenient to parties interpreting the data inputs in the high-cost model, and because the standardized curves will not vary significantly from the nonstandardized curves, we conclude that GM standard curves will be more useful in the high-cost inputs model than nonstandard curves. For each plant category, therefore, we adopt the GM standard curve shape nearest that developed by USTA or the Commission.

b. Depreciation Lives and Future Net Salvage Percentages

322. We adopt the tentative conclusion of the *Inputs Further Notice* that we should use HAI's input values with respect to depreciation lives and future net salvage percentages. As explained, we reject the objections by some commenters that the HAI input values are not appropriate for determining depreciation rates in a competitive environment.

323. In estimating depreciation expenses, the model uses the projected lives and future net salvage percentages for the asset accounts in part 32 of the Commission's rules. Traditionally, the projected lives and future net salvage values used in setting a carrier's rates have been determined in a triennial review process involving the state commission, the Commission, and the carrier. In order to simplify this process, the Commission has prescribed ranges of acceptable values for projected lives and future net salvage percentages. The Commission's prescribed ranges reflect the weighted average asset life for regulated telecommunications providers. These ranges are treated as safe harbors, such that carriers that incorporate values within the ranges into their depreciation filings will not be challenged by the Commission. Carriers that submit life and salvage values outside of the prescribed range must justify their submissions with additional documentation and support. Commission-authorized depreciation lives are not only estimates of the physical lives of assets, but also reflect the impact of technological obsolescence and forecasts of equipment replacement. We believe that this process of combining statistical analysis of historical information with forecasts of equipment replacement generates forward-looking projected lives that are reasonable estimates of economic lives and, therefore, are appropriate measures of depreciation.

324. We disagree with comments by incumbent LECs that the Commission's prescribed ranges are not appropriate for determining depreciation rates in a competitive environment. These parties argue that rapid changes in technology and competition in local

telecommunications markets will diminish asset lives significantly below the Commission's prescribed range by causing existing equipment to become obsolete more quickly. We agree with GSA, AT&T and MCI that there is no evidence to support the claim that increased competition or advances in technology require the use of shorter depreciation lives in the model than are currently prescribed by the Commission. The Commission's prescribed lives are not based solely on the engineered life of an asset, but also consider the impacts of technological change and obsolescence. We note that the depreciation values we adopt are generally at the lower end of the prescribed range. We also find compelling the data presented in GSA's comments showing that, although the average depreciation rate for an incumbent LEC's Total Plant in Service is approximately seven percent, incumbent LECs are retiring plant at a four percent rate. This difference has allowed depreciation reserves to increase so that the depreciation reserve-ratio is currently greater than 50 percent. We conclude that the existence of this difference implies that the prescribed lives are shorter than the engineered lives of these assets. In addition, this difference provides a buffer against technological change and competitive risk for the immediate future. We, therefore, conclude that the Commission's prescribed ranges are appropriate to determine depreciation rates for use in the federal high-cost mechanism.

325. We also decline to adopt the values for projected lives and net salvage percentages submitted by several incumbent LEC commenters. These commenters propose adoption of default values for projected lives and salvage based LEC industry date surveys or on similar values currently used by LECs for financial reporting purposes. The LEC industry data survey's projected lives generally fall outside of the Commission's prescribed ranges. This is significant because the values that fall outside of the prescribed ranges represent accounts that reflect the overwhelming majority of plant investment, thus potentially triggering a dramatic distortion of the estimated cost of providing the supported services. Moreover, these commenters assert that technological advances and competition will have the effect of displacing current technologies, but offer no specific evidence that this displacement will occur at greater rates than the forward-looking Commission-authorized depreciation lives take into account. The record is particularly silent regarding the displacement of technologies associated with the provision of services supported by the federal high-cost mechanism. We do not believe that the LEC industry data survey's projected lives have been adequately supported by the record in this proceeding to justify their adoption.

326. We also agree with GSA's comments that the projected-life values currently used by LECs for financial reporting purposes are inappropriate for use in the model. In addition, the commenters proposing these values have not explained why the values used for financial reporting purposes would also reflect economic depreciation. The depreciation values used in the LECs' financial reporting are intended to protect investors by preferring a conservative understatement of net assets, partially achieving this goal by erring on the side of over-depreciation. These preferences are not compatible with the accurate estimation of the cost of providing services that are supported by the federal high-cost mechanism. We, therefore, decline to adopt the projected life values used by LECs for financial reporting purposes.

327. In the *1997 Further Notice*, the Commission tentatively concluded that it should adopt depreciation expenses that reflect a weighted average of the rates authorized for carriers that are required to submit their rates to us. The values submitted by the HAI sponsors essentially reflect such a weighted average. The HAI values represent the weighted average depreciation lives and net salvage percentages from 76 study areas. According to the HAI sponsors, these depreciation lives and salvage values reflect the experience of the incumbent LEC in each of these study areas in retiring plant and its projected plans for future retirements.

328. In the *Inputs Further Notice*, we tentatively concluded that HAI's values represent the best forward-looking estimates of depreciation lives and net salvage percentages. Generally, these values fall within the ranges prescribed by the Commission for projected lives and net salvage percentages. Although the HAI values for four account categories fall outside of the Commission's prescribed ranges, these values still reflect the weighted average of projected lives and net salvage percentages that were approved by the Commission and, therefore, are consistent with the approach proposed in the *1997 Further Notice*. As noted, the fact that an approved value falls outside of the prescribed range simply means that the carrier proposing the value was required to provide additional justification to the Commission for this value. We are satisfied that HAI calculated its proposed rates using the proper underlying depreciation factors and that HAI's documentation supports the selection of these values. We, therefore, adopt HAI's values for estimating the depreciation lives and net salvage percentages.

B. Cost of Capital

329. We now adopt the conclusions that we tentatively reached in the *Inputs Further Notice* regarding the cost of capital. For the reasons discussed, we do not find that any commenter has provided a compelling argument for altering the current federal rate of return of 11.25 percent, absent the adoption of a different rate of return by the Commission in a rate prescription order.

330. The cost of capital represents the annual percentage rate of return that a company's debt-holders and equity holders require as compensation for providing the debt and equity capital that a company uses to finance its assets. In the *Universal Service Order*, the Commission concluded that the current federal rate of return of 11.25 percent is a reasonable rate of return by which to determine forward-looking costs.

331. GSA, AT&T and MCI comment that the cost of capital for incumbent LECs is well below 11.25 percent. Bell Atlantic advocates a cost of capital rate in the range of 12.75 to 13.15 percent. GTE and USTA dispute the lower cost of capital asserted by AT&T and MCI and GSA. All commenters addressing this issue agreed that, if a different rate of return is adopted in a rate prescription order, that value should be adopted in the model.

332. We find that the commenters proposing an adjustment to the cost of capital have failed to make an adequate showing to justify rates that differ from the current 11.25 percent federal rate of return. We conclude, therefore, that the current rate is reasonable for determining the cost of providing services supported by the federal high-cost mechanism. If the Commission, in a rate prescription order, adopts a different rate of return, we conclude the federal mechanism should use the more recently determined rate of return.

C. Annual Charge Factors

333. We also now adopt our tentative conclusion in the *Inputs Further Notice* to use HAI's annual charge factor methodology. As explained, we find this appropriate because the synthesis model uses a modified version of HAI's expense module.

334. Incumbent LECs develop cost factors, called "annual charge factors," to determine the dollar amount of recurring costs associated with acquiring and using particular pieces of investment for a period of one year. Incumbent LECs develop these annual charge factors for each category of investment required. The annual charge factor is the sum of depreciation, cost of capital, adjustments to include taxes on equity, and maintenance costs.

335. To develop annual charge factors, the BCPM proponents proposed a model with user-adjustable inputs to calculate the depreciation and cost of capital rates for each account. The BCPM proponents stated that this account-by-account process was designed to recognize that all of the major accounts have, among other things, differing economic lives and salvage values that lead to distinct capital costs. HAI's model is also user adjustable and reflects the sum for the three inputs: depreciation, cost of capital, and maintenance costs. In the *Inputs Further Notice*, the Commission tentatively adopted HAI's annual charge factor methodology, and invited comment on this tentative decision. GTE argues that the annual charge factors should be company specific, in order to make the cost calculations in the optimization phase and the expense module comparable. We do not believe it would be appropriate to adopt GTE's proposal of using company-specific annual charges, because we are adopting nationwide averages for all other inputs, including those that make up the annual charge. Adopting company-specific annual charges would therefore result in likely inconsistencies between various related inputs and in the model as a whole. AT&T and MCI support the use of the HAI annual charge factor methodology.

336. Because the synthesis model uses HAI's expense module, with modifications, we adopt HAI's annual charge factor methodology, utilizing the capital cost and expense inputs adopted. We believe that HAI's annual charge factor methodology is consistent with other inputs used in the model adopted by the Commission, and is, therefore, easier to implement and yields more reasonable results.

VII. Proposed Modification to Procedures for Distinguishing Rural and Non-Rural Companies

337. Consistent with our tentative conclusion in the *Inputs Further Notice*, we eliminate the annual filing requirements for carriers serving fewer than 100,000 access lines that have self-certified as rural, unless changes occur in their status as rural carriers. In addition, we will require carriers serving study areas with more than 100,000 access lines to file rural self-certifications that are consistent with the statutory interpretation discussed. Thereafter, such carriers also will be required to file only in the event of a change in their status.

338. As discussed, we interpret "local exchange operating company" in section 153(37) of the Act to refer to the legal entity that provides local exchange service. In addition, we interpret "communities of more than 50,000" in that section to refer to legally incorporated localities, consolidated cities, and census-designated places with populations of more than 50,000 according to Census Bureau statistics.

339. With respect to our request for comment on whether we should reconsider our use of section 153(37) to distinguish rural telephone companies from non-rural companies, we conclude that we should not use an alternative definition of rural telephone company to determine which companies are subject to the rural or non-rural high-cost support mechanisms.

340. Because of settled expectations in this ongoing proceeding, the Commission will accept a carrier's current rural self-certification for purposes of calculating support based on that status for calendar year 2000. We will require carriers serving study areas with more than 100,000 access lines to certify their rural status by July 1, 2000, for purposes of receiving support beginning January 1, 2001.

1. Annual Filing Requirement

341. *Carriers serving study areas with fewer than 100,000 access lines.* We adopt the proposed change in the annual self-certification requirement for rural carriers and will require that carriers serving fewer than 100,000 access lines file a rural self-certification letter only if their status has changed since their last filing. All commenters addressing this issue urge the Commission to eliminate annual filing requirements. We believe that this is a better approach because the overwhelming majority of the companies that filed rural certification letters qualified as rural telephone companies under the 50,000- or 100,000-line thresholds identified in the statute. Access line counts can be verified easily with publicly available data. Further, this relaxation in filing requirements will lessen the burden on rural carriers. We estimate that this change will eliminate the filing requirement for approximately 1,380 of the carriers that filed in 1998, many of which are small businesses on which even limited regulatory requirements may be unduly burdensome. We, therefore, conclude that carriers serving study areas with fewer than 100,000 access lines that already have certified their rural status need not re-certify for purposes of receiving support beginning January 1, 2000, and need only file thereafter if their status changes. As explained, we must determine the status for carriers serving study areas with more than 100,000 access lines.

342. We believe, as GTE suggests, that carriers generally (although not uniformly) have filed for rural status in this proceeding on a study area basis. Indeed, the synthesis model that has been posted on the Commission's Web site—allowing carriers to determine how the Commission has been treating them throughout this proceeding—estimates cost on a study area basis. Not all carriers, however, have uniformly filed for rural status on a study area basis, as we noted in the *Inputs Further Notice*, resulting in inconsistencies that must be resolved in order to assure equitable treatment of all carriers. These inconsistencies will be addressed.

343. *Carriers serving study areas with more than 100,000 access lines.* For purposes of calculating high cost support using the model for the year 2000, we will continue to treat carriers as rural if they have previously self-certified as rural carriers. We will then require rural carriers serving study areas with more than 100,000 access lines to file certification letters by July 1, 2000, for their year 2001 status. Commenters that address the issue broadly support re-certification requirements that require these carriers to re-certify only if their status has changed, rather than require them to re-certify each year. Finding that the relaxed re-certification requirements will reduce administrative burdens for carriers subject to rural certification and for the Commission, we conclude that certified rural carriers with more than 100,000 access lines need only re-certify their status if it changes. Therefore, in 2001 and subsequent years, a carrier serving study areas with more than 100,000 access lines and claiming rural status will be required to file only if its status changes.

2. Statutory Terms

344. As noted in the *Inputs Further Notice*, carriers' line counts are readily available to the Commission, but information about service territories and communities served are not. As a result, the Commission can easily determine whether a carrier satisfies criteria (B) or (C) of the rural telephone company definition, because these criteria are

based on information that can be verified easily with publicly available data—the number of access lines served by a carrier. In contrast, criteria (A) and (D) require additional information and analysis to verify a carrier's self-certification as a rural company. Specifically, under criterion (A), a carrier is rural if its study area does not include "any incorporated place of 10,000 inhabitants or more" or "any territory * * * in an urbanized area," based upon Census Bureau statistics and definitions. Under criterion (D), a carrier is rural if it had "less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the [1996 Act]."

345. We conclude that criterion (A), by referencing Census Bureau sources, can be applied consistently without further interpretation by the Commission. We will require, however, that carriers self-certifying as rural telephone companies pursuant to criterion (A) include with their self-certification letter a description of the study areas in which they provide service and the basis for their assertion that they meet the requirements of criterion (A).

346. In the *Inputs Further Notice*, we sought comment on the meaning of the term "local exchange operating entity." Commenters have offered three different interpretations of this term. Many commenters suggest that we should interpret the term as applying at the study area level. Although in most cases an operating entity will provide service to only one study area within a state, that is not always the case. As a result, the study area approach could mean classifying a carrier at an organizational level smaller than the actual legal entity responsible for the provision of the local exchange services (*e.g.*, a "division" of a company). In contrast, AT&T and MCI argue that the term should mean the holding company within a state whose affiliates provide the local exchange services. The third interpretation has been proposed by RTC and Citizens Utilities, who argue that the most natural understanding of "local exchange operating entity" is the legal entity responsible for the provision of local exchange services, regardless of whether that entity serves a single or multiple study areas. We conclude that this interpretation is the most reasonable one.

347. We believe that it is most logical to classify the carrier at the actual corporate level through which it offers its local exchange services. As RTC and Citizens Utilities point out, it is that entity that has legal responsibility for the provision of the local exchange services. The holding company interpretation proposed by MCI and AT&T seems to rest upon the concern that study area designations will be manipulated and, as a result, carriers will inappropriately be eligible for support as rural carriers, when they should not be. We do not believe that the potential for manipulation of the federal universal service support mechanism by rural carriers poses the threat that AT&T and MCI suggest; to the contrary, the study area waiver process provides the Commission with oversight over the creation, division, and combination of study areas.

348. On the other hand, if a carrier should be operating within multiple study areas, we see no basis for interpreting the term "local exchange operating entity" in a manner that would ignore the legal entity responsible for the provision of services by designating a subunit of the legal entity as the local exchange operating entity for a particular study area. Rather, it is more reasonable to have the term local exchange operating entity be synonymous with the corporate entity bearing legal responsibility for the services provided.

349. Although we adopt Citizen Utilities' interpretation of "local exchange operating entity," we reject its proposed interpretation of criterion (C). Citizens Utilities proposes that a local exchange carrier operating entity be considered a rural carrier for each of its study areas, regardless of whether those study areas have fewer than 100,000 access lines, if any *single* study area in which it operates contains fewer than 100,000 access lines. Under this interpretation, which only Citizens Utilities supports, an incumbent LEC offering service to a significant portion of a state, including major urban areas, could be certified as a rural carrier for all study areas that it serves within the state if it merely has one outlying study area with less than 100,000 access lines. We find this interpretation to be inconsistent with the statutory language that an entity is an rural telephone company only "to the extent" that it serves a study area with fewer than 100,000 lines. Essentially, Citizens Utilities' interpretation would read that limiting language out of section 153(37). The effect of such a reading would be to permit some of the largest LECs in the nation to claim rural status for all of their study areas if they happen to serve a rural study area within in the state. Such an interpretation would undermine not only the Commission's universal service support mechanisms, but also the fundamental procompetitive policies underlying the 1996 Act. We do not believe that this could be what Congress intended when it specified that carriers would be deemed rural telephone companies "to the extent" that they satisfied the various criteria, including criterion (C) pertaining to serving study areas with less than 100,000 access lines. Accordingly, consistent with the language of the statutory provision, its purpose, and its context in the Act, we adopt the interpretation that a LEC may be properly considered a rural carrier with respect to those study areas to which its operating company provides service to fewer than 100,000 access lines. In contrast, a LEC will be deemed a non-rural carrier for study areas serving more than 100,000 access lines unless it satisfies one of the other criteria under section 153(37).

350. We also sought comment in the *Inputs Further Notice* regarding the proper interpretation of "communities of more than 50,000." GTE offers an interpretation of this phrase based on the definition of "rural area" in § 54.5 of the Commission's rules. GTE calculates its percentages of rural and non-rural lines by determining whether each of its wire centers is associated with a metropolitan statistical area (MSA). The lines in each wire center associated with an MSA are considered to be urban, unless the wire center has rural pockets, as defined by the most recent Goldsmith Modification. The approach suggested by GTE in its comments has merit because it prevents rural treatment of a suburban area adjacent to a census-designated place. At this time, however, there is no information on the record to indicate that this circumstance presents a serious problem in our determination of a carrier's status as a rural or non-rural company. Other commenters addressing the issue support the definition of "communities of more than 50,000" by using Census Bureau statistics for legally incorporated localities, consolidated cities, and census-designated places, and some specifically reject the use of the Commission's definition in § 54.5 because of the added complication of its use.

351. Because GTE's approach is more complicated and difficult to administer and because the consequences of the approach would reach only a few, if any, rural carriers' study areas, we decline to adopt GTE's interpretation of "communities of more than 50,000." Instead, we now adopt the use of Census Bureau statistics for legally incorporated localities, consolidated, cities, and census-designated places for identifying communities of more than 50,000, as Census Bureau statistics are widely

available and may be consistently applied by the Commission. We further require that, when a carrier files for rural certification under criterion (D), it must include in its certifying letter a list of all communities of more than 50,000 to which it provides service, the population of those communities, the number of access lines serving those communities, and the total number of access lines the carrier serves.

3. Identification of Rural Telephone Companies

352. States apply the definition of rural telephone company in determining whether a rural telephone company is entitled to an exemption under section 251(f)(1) of the Act and in determining, under section 214(e)(2) of the Act, whether to designate more than one carrier as an eligible telecommunications carrier in an area served by a rural telephone company. Although the Commission used the rural telephone company definition to distinguish between rural and non-rural carriers for purposes of calculating universal service support, there is no statutory requirement that it do so. The Commission adopted the Joint Board's recommendation to allow rural carriers to receive support based on embedded costs for at least three years, because, as compared to large LECs, rural carriers generally serve fewer subscribers, serve more sparsely populated areas, and do not generally benefit as much from economies of scale and scope. The Commission also noted that, for many rural carriers, universal service support provides a large share of the carriers' revenues, and thus, any sudden change in the support mechanisms may disproportionately affect rural carriers' operations.

353. In the *Inputs Further Notice*, we sought comment on whether to reconsider the means of distinguishing rural and non-rural carriers. Commenters generally oppose any reconsideration of our decision to use the definition of rural telephone company to distinguish between rural and non-rural carriers for the purpose of evaluating universal service support on the grounds that changing the definition at this time could disrupt the settled expectations that they have developed. We agree that we should not change our reliance on the statutory definition of rural telephone company to distinguish between rural and non-rural carriers for universal service purposes. Accordingly, we will leave in place the Commission's decision to use the definition of rural telephone company in section 153(37) of the Communications Act to distinguish rural telephone companies from non-rural ones.

VIII. Appendices

354. Appendix A contains the input values adopted in this Order for use in the synthesis model. Appendix B explains the methodology used for estimating the input values for outside plant structure and cable costs. Appendix C describes the methodology used for estimating the input values for switching costs. Appendix D describes the methodology used for estimating the input values for expenses, including: the development of expense to investment ratios; the regression equations used to estimate common support services expenses; the analysis used to estimate marketing expenses; local number portability rates for particular companies; and the formula used to calculate the general support facilities allocation factor.

IX. Procedural Matters and Ordering Clause

A. Final Regulatory Flexibility Analysis

355. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Inputs Further Notice*. The Commission sought written public comment on the proposals in the *Inputs Further Notice*, including comments on the IRFA. The Final Regulatory Flexibility Analysis (FRFA) in this Order conforms to the RFA, as amended.

356. *Need for and Objectives of This Order.* In the *Universal Service Order*, the Commission adopted a plan for universal service support for rural, insular, and high-cost areas to replace longstanding federal subsidies to incumbent local telephone companies with explicit, competitively neutral federal universal service mechanisms. In doing so, the Commission adopted the recommendation of the Joint Board that an eligible carrier's support should be based upon the forward-looking economic cost of constructing and operating the networks facilities and functions used to provide the services supported by the federal universal service mechanism.

357. In the *Universal Service Order*, the Commission also determined that rural and non-rural carriers will receive federal universal service support determined by separate mechanisms until at least January 1, 2001. The Commission stated that it would define rural carriers as those carriers that meet the statutory definition of a rural telephone company in section 153(37) of the Communications Act. We have found that carriers self-certifying as rural have not always applied section 153(37) uniformly. We clarify our interpretation of section 153(37). We also address the possibility that our annual self-certification requirements may be modified or eliminated in order to reduce the reporting burden on filing entities.

358. Our plan to adopt a mechanism to estimate forward-looking costs for larger, non-rural carriers has proceeded in two stages. On October 28, 1998, the Commission completed the first stage of this proceeding: the selection of the model platform. The platform encompasses the aspects of the model that are essentially fixed, primarily assumptions about the design of the network and network engineering. In this Order, we complete the second stage of this proceeding, by selecting input values for the cost model, such as the cost of cables, switches and other network components, in addition to various capital cost parameters.

359. *Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were received specifically in response to the IRFA. We received several comments, however, addressing concerns that may affect small entities. These comments universally supported our proposal, adopted in this Order, to reduce the burden of carriers self-certifying as rural by eliminating the annual filing requirement.

360. *Description and Estimate of the Number of Small Entities to which the Order will Apply.* The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small government jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA. The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees.

361. We have included small incumbent LECs in this present RFA analysis. As noted, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone

communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

362. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small providers specifically directed toward LECs. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,410 companies reported that they were engaged in the provision of local exchange service as incumbents. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,410 small entity LECs that may be affected by this Order. We also note that, with the exception of our clarification of the definition of rural carrier under section 153(37) and the modification of reporting requirements, the rules adopted by this Order apply only to larger, non-rural LECs.

363. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* This Order imposes no new reporting, recordkeeping, or other compliance requirements. As discussed, this Order immediately eliminates the requirement that carriers serving study areas with fewer than 100,000 access lines must annually file letters certifying themselves as rural carriers in order to remain in the rural carrier universal service support mechanism. Further, this Order eliminates, after the July 1, 2000, filing deadline, the requirement that rural carriers serving study areas with more than 100,000 access lines must file annual self-certification letters. All rural carriers must, however, notify the Commission in the event of a change in rural status.

364. The overall effect of this Order will be to reduce reporting, recordkeeping, and other compliance requirements for small entities. This benefit will apply to all carriers deemed rural under section 153(37), regardless of whether they are a small or large entity. Carriers serving study areas with fewer than 100,000 access lines—which are more likely to be small entities than those serving study areas with more than 100,000 access lines—will be most immediately benefited, as no further filings will be required of them unless and until their rural status changes. The largest carriers will generally be non-rural and not affected by this change in reporting. To the extent that large and small entities are treated differently, therefore, small entities will not carry a disproportionately high cost of compliance.

365. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* As noted, with respect to reporting requirements affecting small entities, we eliminate the burden of an annual filing requirement for rural carriers. For carriers serving study areas with fewer than 100,000 access lines, this change is effective immediately. Rural carriers serving study areas with more than 100,000 access lines will be required to file a self-certification letter by July 1, 2000, but will not be required to refile additional annual certifications unless their status changes. These changes have at their heart consideration of the resources of small entities, and will reduce, if not eliminate, the costs of compliance for small entities. The alternative to this approach would have been to require additional unnecessary self-certification letters from the vast majority of filing carriers, even though the data supporting those self-certifications are easily verified by publicly available documentation. The other changes to Commission rules that we adopt in this Order affect only larger, non-rural LECs, and should have no direct affect on small entities.

366. *Report to Congress.* The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of this Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

B. Paperwork Reduction Act Analysis

367. The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Pub. L. 104–13, and has been approved in accordance with the provisions of that Act. On August 4, 1999, the Office of Management and Budget approved the proposed requirements contained in the *Inputs Further Notice* under OMB control number 3060–0793.

C. Ordering Clauses

368. It is ordered, pursuant to sections 1, 4(i) and (j), 201–209, 218–222, 254, and 403 of the Communications Act, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–209, 218–222, 254, and 403 that this Report and Order is hereby adopted.

369. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 36

Reporting and recordkeeping requirements, Telephone.

47 CFR Part 54

Universal service.

47 CFR Part 69

Communications common carrier.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–30877 Filed 11–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36 and 54

[CC Docket No. 96–45; FCC 99–306]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerning the Federal-State Joint Board on Universal Service adopts a new specific and predictable forward-looking mechanism that will provide sufficient support to enable affordable, reasonably comparable intrastate rates for customers served by non-rural carriers. This document also addresses specific

methodological issues relating to the calculation of forward-looking support, including the area over which costs should be averaged; the level of the national benchmark; the amount of support to be provided for costs above the national benchmark; the elimination of the state share requirement; and the targeting of the statewide support amount. It also modifies the rules governing our existing support mechanism to ensure that support for rural carriers is not substantially changed when non-rural carriers are removed from that mechanism and transitioned to the new forward-looking support mechanism.

DATES: Effective December 1, 1999 except for §§ 36.611(h), 36.612, 54.307(b), (c), 54.309(c), 54.311(c), and 54.313 which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the Federal Register announcing the effective date of those sections.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Ninth Report and Order and Eighteenth Order on Reconsideration in CC Docket No. 96–45 released on November 2, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act), Congress codified the Commission's historical policy of promoting universal service to ensure that consumers in all regions of the nation have access to telecommunications services. Specifically, in section 254 of the Act, Congress instructed the Commission, after consultation with the Federal-State Joint Board on Universal Service (Joint Board), to establish specific, predictable, and sufficient mechanisms to preserve and advance universal service.

2. Based on recommendations from the Joint Board in the *Second Recommended Decision*, 63 FR 67837 (December 9, 1998), and building on the framework the Commission set forth in the *First Report and Order*, 62 FR 32862 (June 17, 1997) and *the Seventh Report and Order*, 64 FR 30917 (June 9, 1999), we establish in this Order a new federal high-cost support mechanism that will be sufficient to enable non-rural carriers' rates for services supported by universal service to remain affordable and reasonably comparable in all regions of the nation. The support determined by the mechanism described in this Order will replace the support that non-rural carriers currently receive from the existing high-cost fund, which provides support for intrastate rates and services. The new high-cost support mechanism described in this Order provides support based on the estimated forward-looking costs of providing supported services. The forward-looking costs and the cost model that we will use to estimate them are discussed at length in the companion *Inputs Order* adopted. With the adoption of this Order and the *Inputs Order*, the Commission's new forward-looking high-cost support mechanism for non-rural carriers will be ready to begin providing support effective January 1, 2000.

3. Our methodology for determining non-rural carriers' high-cost universal service support conforms to the 1996 Act's goals and balances the competing interests involved in this proceeding. As the 1996 Act requires, the Commission has developed policies for reforming high-cost support in consultation with the Joint Board, and this Order reflects deference to states' interests and needs. We also have attempted to balance the various and often countervailing concerns of many industry segments that have an interest in the outcome of this proceeding, including incumbent local exchange carriers (LECs), interexchange carriers (IXCs), competitive LECs, and wireless carriers.

4. Because of the disparate interests involved and the complexity of the issues, however, this has not been an easy process. For example, high-cost states, which are likely to be net recipients of high-cost support, have very different views on universal service than low-cost states, which are likely to be net payors of high-cost support. On the other hand, all states have expressed similar concerns about the Commission's jurisdiction. Similarly, incumbent LECs in high-cost states, which are likely to be major recipients of support, particularly in the near term, have very different views than other LECs, IXCs, and wireless carriers, which are major contributors to federal support mechanisms. In some cases, however, IXCs and wireless carriers are entering competitive local service markets, so that these carriers are both contributors and potential recipients.

5. The 1996 Act charged the Commission with resolving the difficult issues surrounding universal service, within prescribed guidelines, and so we must balance the competing interests of these divergent parties. In this proceeding, the Commission has done so in a way that is faithful to the statute's commitment to ensuring that support mechanisms serve "*consumers* in all regions in the nation," and that consumers in high-cost areas continue to have access to reasonably comparable services at reasonably comparable rates.

II. Order

A. Introduction

6. In this Order, we adopt a new specific and predictable forward-looking mechanism that will provide sufficient support to enable affordable, reasonably comparable intrastate rates for customers served by non-rural carriers. The methodology for this mechanism is based on the framework outlined in the *Seventh Report and Order*, with certain modifications. Specifically, the forward-looking mechanism compares the costs of providing supported services in a particular state, as determined by the cost model, to a national benchmark, and provides support for costs that exceed that benchmark. In constructing this mechanism, we begin by examining the appropriate federal and state roles in providing universal service support for intrastate rates. Next, we address specific methodological issues relating to the calculation of forward-looking support, including the area over which costs should be averaged; the level of the national benchmark; the amount of support to be provided for costs above the national benchmark; the elimination of the state share requirement; and the targeting of the statewide support amount.

We then address the hold-harmless and portability provisions, and the methods to ensure that non-rural carriers use support in compliance with the 1996 Act. We next address the assessment and recovery bases for contributions to the high-cost support mechanism. We also describe our plan to address implicit support in access charges as part of our separate *Access Charge Reform* proceeding. In addition, we modify the rules governing our existing support mechanism to ensure that support for rural carriers is not substantially changed when non-rural carriers are removed from that mechanism and transitioned to the new forward-looking support mechanism. Finally, we lift the stay on our section 251 pricing rules, effective May 1, 2000. We emphasize that there may be several

ways in which we could design the various components of the federal support mechanism consistent with section 254, but we believe, in light of the facts before us and in consultation with the Joint Board, that the method we adopt here appropriately balances the varied and competing goals of section 254.

7. The new forward-looking support mechanism that we adopt will provide forward-looking support effective January 1, 2000. As discussed, however, the actual disbursement of forward-looking support (retroactive to January 1, 2000) will not occur until the second quarter of 2000. Moreover, no commenter has claimed that implementation of the new forward-looking mechanism presents any "Y2K" problems. Thus, we do not foresee any "Y2K" issues associated with the transition to the new forward-looking mechanism because there will be no actual change in support levels on or around January 1, 2000.

B. Federal and State Roles in Providing Universal Service Support for Intrastate Rates

8. To construct an appropriate methodology for providing federal high-cost support, we must first examine the respective roles of federal and state regulators in providing such support. Historically, federal programs have provided explicit intrastate high-cost support for local loop and switching costs that significantly exceeded the national average. Many state programs, on the other hand, have largely achieved the goals of intrastate universal service implicitly through rate structures and, to a lesser extent, through explicit state high-cost support mechanisms. As discussed, many state rate structures have included significant implicit support for universal service. The states' historical authority over intrastate ratemaking, and thus their primary responsibility for intrastate universal service, has been recognized by the Commission. The Commission, however, has had a longstanding goal of promoting universal service nationwide, and thus has provided support for intrastate-allocated costs that significantly exceed the national average.

9. *In Texas Office of Public Utility Counsel* v. *FCC*, the Fifth Circuit held that section 254 of the Act did not affect the proscription, set forth in section 2(b), against Commission regulation of intrastate rates. Thus, states alone have jurisdiction for setting rates for intrastate services. Consequently, states alone have the authority to set rates for intrastate services that are just, reasonable, affordable, and reasonably comparable. We conclude that Congress would not have imposed on the Commission obligations regarding intrastate rates that the Commission does not have the legal authority to effectuate. Indeed, the Fifth Circuit found that the Commission was permitted (but not required) to provide federal universal service support for intrastate services. The Fifth Circuit also found that the Commission may condition such support on assurances by states that such federal support will be used for its intended purposes.

10. In the *Second Recommended Decision*, the Joint Board recognized that section 254 does not alter the states' historical responsibility for intrastate universal service. The Joint Board interpreted section 254(b)(3)'s principle that rates be "reasonably comparable" to refer to "a fair range of urban/rural rates both within a state's borders, and among states nationwide." The Joint Board found that the federal role in achieving reasonably comparable rates should be to provide "those amounts necessary to establish a standard of reasonable comparability of rates across states." According to the Joint Board, the state role is to "supplement, as desired, any amount of federal funds it may receive," and to "address issues regarding implicit intrastate support in a manner that is appropriate to local conditions." Stated another way, the primary federal role is to enable reasonable comparability among states (*i.e.*, to provide states with sufficient support so that states can make local rates reasonably comparable among states), and the primary role of each state is to ensure reasonable comparability within its borders (*i.e.*, to apply state and federal support to make local rates reasonably comparable within the state). This Order adopts that approach as a policy goal. In addition, the approach is consistent with the Fifth Circuit's decision regarding the Commission's responsibility for supporting intrastate services. It also is consistent with Congress's goal of making universal service support explicit.

C. New Forward-Looking High-Cost Support Methodology

11. This Order sets out a methodology—in essence, a set of formulas—that will be used to determine non-rural carriers' support amounts for serving rural and high-cost areas. The methodology computes a specific support amount, and can be replicated by carriers or other members of the public. The methodology will change over time only in the ways we specifically describe herein or pursuant to modifications that we make in the future pursuant to public notice and comment in this proceeding. Thus, the methodology is specific and predictable. Moreover, for the reasons discussed, we find that this mechanism will result in sufficient support to enable affordable and reasonably comparable rates for customers in areas served by non-rural carriers.

12. In the *First Report and Order*, the Commission concluded that high-cost support should be based on forward-looking costs. Since that time, the Commission has continued to work to adopt a cost model that is reasonably accurate and verifiable. As an initial matter, we note that in the *Inputs Order* we have affirmed the Commission's decision to base support calculations on forward-looking costs. Moreover, the Commission and its staff have undertaken a thorough review of the model and its input values over the past six months. In so doing, the staff has coordinated extensively with, and received substantial input from, the Joint Board staff and interested outside parties. As a result of this examination of the model, we have concluded in the Inputs Order that the model generates reasonably accurate estimates of forward-looking costs and that the model is the best basis for determining non-rural carriers' high-cost support in a competitive environment. We have found that none of the criticisms of the model undermine our decision to use it for calculating non-rural carriers' high-cost support. As discussed in the *Inputs Order*, we believe that using the model is the best way to determine non-rural carriers' support amounts for the funding year beginning January 1, 2000. We also recognize, however, that the model must evolve as technology and other conditions change. We therefore have committed in the *Inputs Order* to initiating a proceeding to study how the model should be used in the future and how the model itself should change to reflect changing circumstances.

13. Finally, as discussed further in the *Inputs Order*, we reiterate that the federal cost model was developed for the purpose of determining federal universal service support, and that it may not be appropriate to use nationwide values for other purposes, such as determining prices for unbundled network elements. The Commission has not considered the appropriateness of this model for any other purposes, and we have cautioned parties from making any claims in other proceedings based upon the input values adopted in the *Inputs Order*.

14. Consistent with the goals of federal universal service support

discussed, the new forward-looking support mechanism will compare the average costs of providing supported services in a given area to the national benchmark, provide support for costs exceeding the national benchmark, and then target that support based on wire-center costs, so that the amount of support available to a competitor depends on the cost level of the wire center. In this section, we examine the area over which costs should be averaged; the level of the national benchmark; the amount of support to be provided for costs above the national benchmark; the elimination of the state share requirement; and the method for targeting statewide support amounts.

1. Area Over Which Costs Should Be Averaged

15. *Federal and State Roles.* After further consultation with the Joint Board, we believe that the federal mechanism should calculate support levels for non-rural carriers by comparing the forward-looking costs of providing supported services, averaged at the statewide level, to the national benchmark. Of all the potential approaches suggested, we believe that statewide averaging is the approach most consistent with the federal role of providing support for intrastate universal service to enable reasonable comparability of rates among states. Federal high-cost support is generated through contributions by all interstate telecommunications carriers for purposes of providing support to high-cost states. This has the effect of shifting money from relatively low-cost states to relatively high-cost states. By averaging costs at the statewide level, the federal mechanism compares the relative costs of providing supported services in different states. The federal mechanism will then provide support to carriers in those states with costs that exceed the national average by a certain amount, i.e., the national benchmark (135 percent of the national average). This approach ensures that no state with costs greater than the national benchmark will be forced to keep rates reasonably comparable without the benefit of federal support. By averaging costs at the statewide level, the federal mechanism is designed to achieve reasonable comparability of intrastate rates among states based solely on the interstate transfer of funds.

16. The states, in contrast, have the primary responsibility for ensuring reasonable comparability of rates within their borders. The federal mechanism leaves this state role intact, but provides support to carriers in states with average costs substantially in excess of the national average. With the elimination of the state share requirement, no state resources are relied upon by the federal mechanism in providing support for costs above the benchmark. This permits the states to use their substantial resources to achieve the goal of reasonably comparable rates within states. In many cases, states have brought their resources to bear through rate averaging and other forms of implicit support. Recently, some states have created explicit support mechanisms. We recognized the states' jurisdiction over intrastate support in the *Seventh Report and Order*, when we observed that "the erosion of intrastate implicit support does not mean that federal support must be provided to replace [it]. Indeed, it would be unfair to expect the federal support mechanism, which by its very nature operates by transferring funds among jurisdictions, to bear the support burden that has historically been borne within a state by intrastate, implicit support mechanisms." Thus, we believe that statewide averaging, together with the rest of the methodology we adopt, is consistent with the division of federal and state responsibility for achieving reasonable comparability for non-rural carriers.

17. *Joint Board.* We also find that averaging costs at the statewide level is consistent with the Joint Board's vision for the scope and purpose of the federal high-cost support mechanism. The Joint Board noted that this Commission alone has the ability to implement a support mechanism that transfers support from one state to another, and stated that federal support should be provided to achieve reasonably comparable rates across states. The Joint Board envisioned that the states should have the primary responsibility for ensuring reasonable comparability within states. Although the Joint Board recommended averaging costs at the study area level instead of the statewide level, it did so based on its concern that there would be insufficient time before implementation of the new federal mechanism for some states to adopt the necessary mechanisms to transfer support among non-rural carriers in different study areas within a particular state. The carrier-by-carrier interim hold-harmless approach that we adopt, however, alleviates the Joint Board's concern. Under that approach, each non-rural carrier within a state will receive no less support under the new mechanism than it receives under the current mechanism. Because the carrier-by-carrier interim hold-harmless approach will be in effect for up to three years from implementation of the new forward-looking mechanism, states have no immediate need to transfer support among study areas within their borders. In addition, states should have ample time to implement whatever state mechanisms are necessary to achieve such transfers before the Commission reviews the need for a hold-harmless provision. Therefore, the only impediment to statewide averaging identified by the Joint Board—lack of sufficient time for state action—has been removed by the carrier-by-carrier interim hold-harmless provision.

18. *Alternative Approaches.* We have carefully reviewed the alternatives to statewide averaging, and in the context of non-rural carriers, in light of the overall methodology we adopt here and the specific circumstances before us, we conclude that statewide averaging is the best approach to further the goals of section 254, while respecting the historical federal and state roles for universal service. There are several benefits to statewide averaging. Statewide averaging considers costs averaged with regard to state boundaries, thereby taking into consideration each state's authority and ability to achieve reasonable comparability of rates within its borders. We recognize that averaging at the study area, UNE cost zone, or wire center levels would have the advantage of providing a more granular measure of support, and that granularity of support is a desirable goal in a competitive marketplace. Given the specific circumstances and purposes we address here, however, we believe that statewide averaging, coupled with our decision to target the distribution of support to wire centers with the highest costs in a state, better balances the goal of targeting support to high-cost areas against the recognition that states can and should satisfy their own rate comparability needs to the extent possible before drawing support from other states.

19. For example, assume that the Commission chose to average costs at the wire center level. Under this approach, the costs of providing supported services in individual wire centers would be averaged together to arrive at a national average cost per wire center. Wire centers with costs that exceed the national benchmark would receive support. Because the costs in high-cost wire centers in a given state would not be averaged first with lower-cost wire centers in the same state, wire center averaging would ignore the state's authority and ability to ensure reasonable comparability of rates within its borders. Stated another way, the federal mechanism would shift funds

from low-cost wire centers (and customers) in other states to fund high-cost wire centers in the state at issue, and would do so without giving the state the opportunity to support its high-cost wire centers with funds from its low-cost wire centers.

20. The same issue arises if costs are averaged at the UNE cost zone level. Pursuant to our UNE cost zone rules, state commissions must set different rates for elements in at least three defined geographical areas within the state to reflect geographic cost differences, and may employ existing density-related zone pricing plans or other cost-related zone plans established pursuant to state law. Under a UNE cost zone approach to averaging forward-looking costs, costs in individual UNE cost zones would be averaged together to arrive at a national average cost per UNE cost zone. UNE cost zones with costs greater than the benchmark would receive support. As in the wire center approach, the federal mechanism would provide support to high-cost UNE cost zones in a state, without regard to the state's authority or ability to ensure reasonable comparability of rates within its borders. In providing such support, the federal mechanism would shift funds from low-cost UNE zones in other states to high-cost UNE zones in the subject state, thus saddling ratepayers in other states with burdens more appropriately placed on ratepayers in the subject state. Additionally, although we expressed concern in the *Seventh Report and Order* that averaging costs over an area larger than the UNE cost zone could result in opportunities for arbitrage or other uneconomic activities, our concern was based on the assumption that all lines within that larger geographic area would be eligible for the same amount of support, even though UNE prices would differ among UNE zones. Because the new federal mechanism calculates the amount of support at the statewide level, but targets that support to high-cost wire centers within the state, all lines within a state are not eligible for the same amount of support. Thus, the potential for arbitrage or other uneconomic activity is reduced.

21. Study area cost averaging suffers from the same infirmities as wire center or UNE cost zone averaging. In many states, only one non-rural carrier provides service. In such states, the state boundary and the study area boundary are the same. Some states, however, possess more than one non-rural carrier, and thus more than one study area. Thus, under a study area averaging approach, costs in individual study areas would be averaged together to arrive at a national average cost per study area. Study areas with costs greater than the benchmark would receive support. The federal mechanism, therefore, would shift funds from low-cost study areas in one state to high-cost study areas in another state without regard to the recipient state's authority or ability to provide support for costs within its borders. In addition, such a federal mechanism could provide greater support to a state with more than one study area than it would to a state with a single study area, even though both states have the same average forward-looking costs on a statewide level, thus discriminating against a state that has only one non-rural study area. For example, assume that a state with a single study area has average costs below the benchmark and therefore does not receive forward-looking support. Assume that another state has the same average statewide costs below the benchmark, but has two study areas, one with costs above the benchmark and one with costs below the benchmark. Under a study area averaging approach, the federal mechanism would provide support for the high-cost study area even though the statewide average cost is below the benchmark. This result would burden the federal support mechanism (and thus all ratepayers) with providing support for a state that, through happenstance, has more than one non-rural carrier, and therefore more than one study area. Such support should instead be provided by the state in its role as the primary ratemaking authority and provider of support within its borders.

22. Several commenters have suggested nonetheless that a decision by the Commission to average costs over a large geographic area is merely an arbitrary way to restrain the size of the fund created by the new forward-looking support mechanism. We reject this assertion. Congress stated that the Commission shall establish specific, predictable, and *sufficient* mechanisms to preserve and advance universal service. Moreover, the Fifth Circuit approved the Commission's use of a methodology based on forward-looking cost models for this task "[a]s long as [the Commission] can reasonably argue that the methodology will provide sufficient support for universal service * * *." Thus, despite our general agreement with the Joint Board's conclusion that the federal fund should not increase substantially at this time, our primary goal in this proceeding must be to provide sufficient universal service support to enable reasonable comparability of rates among states. We meet this policy goal, however, in a manner consistent with the federal role for providing universal service support, which, as discussed, we find to be transferring funds among states. Accordingly, we conclude that statewide averaging of forward-looking costs is the appropriate means for achieving the federal mechanism's primary goal of enabling reasonable comparability of rates among states.

2. National Benchmark

23. In establishing a national cost benchmark to enable reasonably comparable rates among states, we observe that the 1996 Act does not define the term "reasonably comparable." We find that Congress' use of the term "reasonably" indicates its recognition that the task of setting federal support amounts is not an exact science. Accordingly, consistent with our interpretations of "reasonableness" provisions elsewhere in the statute, we conclude that the term "reasonably comparable" leaves us substantial discretion to determine what is reasonable, including the manner in which we make that determination. The Joint Board interpreted the reasonable comparability standard to refer to a "fair range" of urban and rural rates both within a state's borders, and among states nationwide. In the *Seventh Report and Order*, the Commission adopted the Joint Board's interpretation. The Commission recognized, however, that reasonably comparable does not mean that rate levels in all states, or in every area of every state, must be the same. Therefore, we believe that reasonably comparable must mean some reasonable level above the national average forward-looking cost per line, *i.e.*, greater than 100 percent of the national average. In interpreting "reasonably comparable," we must consider the burden placed on below-benchmark states (and ratepayers) whose contributions fund the federal support mechanism. We also must ensure that the benchmark we select, when taken together with other aspects of the overall funding mechanism, allows for universal service support that is specific and predictable.

24. We conclude that the level of the national benchmark should be set at 135 percent of the national average forward-looking cost per line for non-rural carriers. The federal mechanism will provide support for costs that exceed this national benchmark. A national benchmark of 135 percent falls within the range recommended by the Joint Board, and ensures that no state will face costs greater than 35 percent above the national average cost per line.

Moreover, setting the benchmark at 135 percent of the national average forward-looking cost is consistent with the precedent of the existing support mechanism and the comments we have received. The current mechanism begins providing support for costs between 115 and 160 percent of the national average cost per line, based on carriers' books, and the vast majority of non-rural carriers receive all their current support for costs in this range. The new national benchmark of 135 percent is near the midpoint of this range. Commenters generally proposed benchmark levels between 80 and 200 percent of the nationwide average. Vermont and US West, for example, advocated benchmarks of 80 percent and 115 percent, respectively. California stated that it uses an affordability benchmark of 150 percent. CBT, Sprint, and Western Wireless also advocate a 150 percent benchmark, and AT&T urges us to use a 200 percent benchmark. Thus, the 135 percent benchmark is a reasonable compromise of commenters' proposals. By adopting this benchmark, we do not mean to suggest that we could not, in consultation with the Joint Board, determine that a different level of benchmark is appropriate in future proceedings. In the context of non-rural carriers, and in light of the overall methodology we adopt here and the specific circumstances before us, however, we believe that the benchmark we adopt appropriately balances various goals under the statute. These goals include, among others, sufficiency, specificity, and predictability, as well as the need to achieve rate comparability. In addition, we have also attempted to ensure that the fund is no larger than necessary, and to minimize burdens on carriers and consumers that contribute to universal service mechanisms.

25. We believe that this level of support will provide states with the ability to provide for a "fair range" of urban and rural rates within their borders, and will be sufficient to "prevent pressure from high costs and the development of competition from causing unreasonable increases in rates above current, affordable levels." Because no state will face costs, net of federal support, that exceed 135 percent of the national average, the federal mechanism will prevent excessive upward pressure on rates caused by high costs. This will remain true even as competition develops and pushes prices toward economic cost. We therefore find that using a benchmark set at 135 percent of the national average forward-looking cost per line will, at this time, in light of the facts before us, provide sufficient support to enable reasonably comparable rates.

26. We recognize that, irrespective of our policies, the development of competition may place pressure on implicit support mechanisms at the state level. For example, states that use above-cost pricing in urban areas to subsidize below-cost service in rural areas may face pressure to deaverage rates as competitors begin to offer cost-based rates to urban customers. Although this development may compromise states' ability to facilitate universal service using implicit support, it should not compromise states' ability to facilitate universal service through explicit support mechanisms. In addition, we do not believe it would be equitable to expect the federal mechanism—and thus ratepayers nationwide—to provide support to replace implicit state support that has been eroded by competition if the state possesses the resources to replace that support through other means at the state level. This approach is consistent with our discussion, of the appropriate, respective roles of the state and federal jurisdictions in providing universal service support.

27. We also believe that a national benchmark of 135 percent strikes a fair balance between the federal mechanism's responsibility to enable reasonable comparability of rates among states and the burden placed on below-benchmark states (and ratepayers) whose contributions fund the federal support mechanism. We recognize that selecting the national benchmark is not an exact science. We conclude, however, that a national benchmark of 135 percent of the national average cost per line will allow the federal mechanism to provide sufficient support pursuant to the Act, while at the same time minimizing the burden on those who fund the federal support mechanism. Moreover, we believe that, given the specific circumstances here, the mechanism we adopt is consistent with the Joint Board's conclusion that the federal high-cost support fund should be only as large as necessary, consistent with other requirements of the law.

28. Some commenters have suggested that our choice of a benchmark will necessarily be arbitrary, and some have suggested that we will intentionally set the benchmark with an eye to minimizing the size of the federal support mechanism. We reject these claims. We remain committed to the objective that the fund not be any larger than is necessary to achieve the various goals of section 254. As noted, we have attempted to set a benchmark level that provides sufficient support to enable reasonably comparable rates, as the statute requires. To do so, we have relied on the Joint Board's recommendations, the existing mechanism, and commenters' proposals to arrive at a benchmark level that reasonably balances the roles of the states and the federal mechanism to meet the statutory goals.

3. Support for Costs Above the National Benchmark

29. All of the proposals to limit the size of the high-cost support mechanism assume that costs will be averaged at the wire center or UNE cost zone level. As discussed, however, we have concluded that averaging costs below the statewide level is not the most appropriate means for the federal support mechanism to achieve the goals of the Act. We recognize that our primary mission in this proceeding is to construct a federal mechanism that provides sufficient support, and we conclude that using one of the proposals described to limit the amount of support available to states from the federal mechanism would not provide sufficient support and would be contrary to Congress' goals and the Fifth Circuit's decision. Therefore, we reject all four of these proposals.

30. We observe, however, that providing support for all loop costs that exceed the federal benchmark would not properly take account of our separations rules. Pursuant to the separations process, incumbent carriers currently recover, through interstate access rates, a portion of their book costs for all components necessary to provide supported services, *e.g.*, loop costs, switching costs, etc. Our separations rules specify the percentage of costs that will be recovered through interstate rates. In producing cost estimates, the cost model estimates only the forward-looking *intrastate* (*i.e.*, separated) costs for all of the components necessary to provide supported services, with three important exceptions: loop costs, port costs, and local number portability (LNP) costs. The model's estimates for loop and port costs consist of both the *intrastate and interstate* (i.e., unseparated) costs of the loop and port. The model's estimates of LNP costs consist solely of interstate costs. In this Order, we are addressing support to enable the reasonable comparability of *intrastate* rates. It would therefore be inappropriate for us to address costs in this Order that are recovered through interstate rates, as these costs, or their recovery, will not directly affect intrastate rates. Our methodology must therefore account for the percentage of

costs that are recovered in the interstate jurisdiction in determining how much support should be provided to enable the reasonable comparability of intrastate rates.

31. Our current separations rules allow carriers to recover 25 percent of their book loop costs through interstate rates. Carriers also recover 15 percent of their book port costs, on average, through interstate rates, and 100 percent of their LNP costs through the federal LNP cost recovery mechanism. We therefore conclude that the forward-looking mechanism will calculate support based on 75 percent of forward-looking loop costs, 85 percent of forward-looking port costs, and 0 percent of forward-looking LNP costs, as well as 100 percent of all other forward-looking costs determined by the cost model. Based on the percentage of forward-looking costs that the intrastate portion of each of these items represents, we have determined that together they represent 76 percent of total forward-looking costs. Therefore, we conclude that the federal mechanism should provide 76 percent of the portion of the forward-looking cost of providing the supported services that exceeds the national benchmark. We emphasize that this will not undermine the federal mechanism's ability to provide sufficient support. Rather, it is merely a safeguard to ensure that our mechanism adequately takes account of our separations rules and the division of cost recovery responsibility set forth in those rules. If necessary, we will adjust this support amount in light of further developments in our ongoing separations and access charge reform proceedings.

4. Elimination of the State Share Requirement from the Forward-Looking Support Methodology

32. After further consultation with the Joint Board, we conclude that determining support amounts for non-rural carriers in each state based on statewide averaged costs will, under these specific circumstances, more accurately reflect each state's ability to support universal service with its own resources than would imputing a per-line amount to each state to support universal service internally. Therefore, we reconsider and eliminate the state share requirement from the methodology adopted in the *Seventh Report and Order*.

33. We find that this result is consistent with both section 254 and the Joint Board's overarching recommendation that federal support not be dependent on any particular state action and that "no state can or should be required by the Commission to establish an intrastate universal service fund." We conclude that the Joint Board's general recommendation, namely that the Commission abstain from requiring any state action as a condition for receiving federal high-cost universal service support (other than state certifications), represents the best policy choice at this time. Furthermore, we conclude that, together with the statewide averaging approach discussed, the elimination of the state share requirement better fosters the Joint Board's goal of ensuring that the states' ability to provide for universal service needs within their borders is reflected in the federal mechanism. Thus, we reconsider and eliminate the state share requirement from the methodology for the forward-looking high-cost support mechanism for non-rural carriers.

5. Targeting Statewide Support Amounts

34. We conclude that, after the total amount of forward-looking support provided to carriers in a particular state has been determined in accordance with the methodology set forth, which is based on statewide average costs, the total support amount will then be targeted so that support is only available to carriers serving those wire centers with forward-looking costs in excess of the benchmark, and so that the amount available per line in a particular wire center depends on the relative cost of providing service in that wire center. This targeting approach has two main effects. First, once the forward-looking mechanism calculates the total amount of support available within a state, the targeting approach determines which carriers receive support, and how much support is provided to each carrier. Second, the targeting approach determines the amount of support that is available to a competitive carrier that captures lines from an incumbent carrier.

35. As discussed, the primary role of the federal mechanism is to transfer funds among states, while states are primarily responsible for transferring funds within their borders. Our targeting approach is consistent with this determination. The total amount of support available within the state is based, as discussed, on statewide costs—not wire center costs—relative to the federal benchmark. If we did not target support, then the same amount of federal support would be available for any line served by a competitor within the state. Thus, support would be available, for example, to competitors that serve only low-cost, urban lines, regardless of whether the cost of any of the lines served exceeds the benchmark. This result would create uneconomic incentives for competitive entry, and could result in support not being used for the purposes for which it was intended, in contravention of section 254(e).

36. In the *Seventh Report and Order*, the Commission described this targeting process as follows: "if we were to determine total support amounts in each study area by running the model to estimate costs at the study area level, [we propose] to distribute support by running the model again at the wire center level in order to target support to high-cost wire centers within the study area." We clarify that this process does *not* involve running the model more than once. The cost model, by design, calculates costs at the wire center level. The wire center costs generated by the model can then be averaged together, as desired, at higher levels of aggregation, such as the UNE cost zone level (assuming UNE cost zones are composed of wire centers), the study area level, or the statewide level. Thus, the model only needs to be run once to determine forward-looking costs for whatever methodology is selected.

37. Under the methodology we adopt, the model's wire center costs are averaged at the statewide level and a total statewide support amount is determined. That total statewide support amount is then targeted, based on the individual high-cost wire center costs in the state, as previously determined by the cost model, that are above the benchmark. For example, assume that a state has three wire centers with ten lines in each wire center. Assume that the average forward-looking cost per line in each wire center is as follows: Wire Center 1—$20, Wire Center 2—$30, Wire Center 3—$40. Thus, the statewide average cost per line is $30 (((\$20×10)+(\$30×10)+(\$40×10))/30 lines). Assume further that the national benchmark equates to $25 per line. Using the statewide methodology adopted, the total amount of support provided to the carriers in the state would be $114.00 ((\$30–\$25)×30 lines×76%), or $3.80 per line per month of untargeted support. Under the targeting approach, however, this support is distributed to carriers serving lines in the highest-cost wire centers, based on the difference between costs in that wire center and the benchmark, the number of lines served, and a pro rata factor. Any carrier serving customers in the low-cost wire center receives no support. Targeting support to high-cost wire centers requires three calculations. First, support is calculated separately

for each wire center (wc-scale support). Wire Center 1 is not entitled to any support because its cost is below the benchmark. Wire Center 2's wc-scale support would be $38.00 (($30 − $25)×10 lines×76%). Wire Center 3's wc-scale support would be $114.00 (($40 − $25)×10 lines×76%). Second, a pro-rating factor is calculated for the state. Total wc-scale support for both wire centers is $152 ($38.00+$114.00). Because only $114.00 of support is available in the state, each wire center will receive 75 percent ($114/$152) of its wc-scale support. Third, the pro-rating factor is applied to each wire center eligible for support. In Wire Center 2, support will be $2.85 per line ($38.00×75%/10). In Wire Center 3, support will be $8.55 per line ($114.00×75%/10). Total support in the state, distributed in this way, is $114.00 (($2.85×10)+($8.55×10)). The targeting mechanism, therefore, provides support to carriers serving the highest cost customers, but within the overall limit on the state's support amount from the federal mechanism.

38. By comparison, a uniform distribution in the hypothetical state described would result in all lines in the state receiving $3.80. Thus, even though a carrier serving lines in Wire Center 1 has costs ($20) below the benchmark ($25), it would receive a substantial amount of support ($3.80) for those lines, resulting in a windfall for the carrier and an artificial incentive for other carriers to compete in that wire center. At the same time, although the carrier serving lines in Wire Center 3 has costs ($40) above the benchmark ($25), it would receive a support amount ($3.80) substantially below its costs, thereby discouraging competitive entry in that wire center and placing increased pressure on the state to provide additional support.

39. By targeting the total amount of support to high-cost wire centers, the federal mechanism avoids the inefficiencies and potential market distortions that could be caused by distributing federal support on a uniform statewide basis. We believe that this distribution methodology ensures that federal high-cost support provided by state-to-state transfers will flow to carriers serving the high-cost areas within each state.

40. After further consultation with the Joint Board, we recognize that some states may wish to have federal support targeted to an area different than the wire center, e.g., the UNE cost zone, in order to achieve the individual state ratemaking goals unique to a particular state. We believe that such an approach is consistent with the states' primary role in ensuring reasonable comparability within their borders and would give the states a degree of flexibility in reaching that goal. Therefore, we conclude that a state may file a petition for waiver of our targeting rules, asking the Commission to target federal support to an area different than the wire center. Such a petition should include a description of the particular geographic level to which the state wishes federal support to be targeted, and an explanation of how that approach furthers the preservation and advancement of universal service within the state.

D. Interim Hold-Harmless Provision

41. We conclude that the new federal high-cost support mechanism will contain an interim hold-harmless provision that provides hold-harmless support on a carrier-by-carrier basis. That is, no carrier will receive less support, on a per-line basis, than it would have received if we had continued to provide support under the existing high-cost support mechanism. To accomplish this result, we shall calculate interim hold-harmless support pursuant to the existing high-cost support mechanism for non-rural carriers in part 36 of our rules for the duration of the interim hold-harmless provision. Interim hold-harmless support also shall include LTS under § 54.303 of our rules for those non-rural carriers that would otherwise be eligible for LTS if we had continued to provide support under our existing high-cost support mechanism. To the extent that a carrier qualifies for forward-looking support, in an amount greater than it would receive pursuant to the existing mechanism, the carrier shall receive support based solely on the forward-looking methodology. To the extent that a carrier does not qualify for forward-looking support, or qualifies for forward-looking support in an amount less than it would receive pursuant to the existing mechanism, the carrier shall receive interim hold-harmless support based solely on the existing support mechanism in part 36 of our rules, and, if applicable, LTS under § 54.303 of our rules. Thus, we will ensure that no non-rural carrier will receive less support on a per line basis than it receives under the current mechanism.

42. Existing federal high-cost support under part 36 and § 54.303 is calculated on a carrier-by-carrier basis and is reflected in the recipient carrier's rates. Our continuation of the high-cost support mechanism under part 36 and § 54.303, as an interim hold-harmless provision, therefore, effectively adopts a carrier-by-carrier hold-harmless approach. The majority of commenters supporting a hold-harmless provision are in favor of a carrier-by-carrier approach. We believe that a carrier-by-carrier hold-harmless provision is necessary to ensure that no sudden or undue disruption in consumer rates occurs during the transition to the new federal high-cost support mechanism based on forward-looking economic costs. Moreover, as discussed, an interim carrier-by-carrier hold-harmless provision ensures that states will not have to take immediate action to transfer funds among carriers within their borders as a result of our decision to average costs at the statewide level.

43. We emphasize, however, that we do not intend for the continuation of high-cost support under part 36 and § 54.303 as an interim hold-harmless provision, to insulate carriers from changes in their support amounts due to changed circumstances unrelated to the rules adopted in this Order. If a carrier becomes ineligible for high-cost universal service support after January 1, 2000, then the carrier shall not continue to receive hold-harmless support under part 36 or § 54.303 of our rules. In addition, our continuation of support under part 36 and § 54.303 as an interim hold-harmless provision ensures that, if the carrier's high-cost universal service support would have changed under the existing mechanism after December 31, 1999, then the carrier's hold-harmless support will be adjusted to reflect that change. We believe that computing hold-harmless support under part 36 and § 54.303 of our rules on an ongoing basis is a better policy choice than simply "freezing" support levels as of a certain date. Freezing hold-harmless support could provide windfalls, or create hardships, for carriers that should have experienced changes in their support amounts through the normal operation of part 36 and § 54.303. Therefore, we reject the frozen hold-harmless approach.

44. We recognize that an interim carrier-by-carrier hold-harmless provision may increase the size of the federal high-cost fund slightly when compared to a state-by-state hold-harmless provision. Nonetheless, we agree with commenters that this concern is outweighed by the potential for rate shock in high-cost areas during the transition to a forward-looking mechanism if carriers are not fully held harmless. Under the interim carrier-by-carrier hold-harmless provision that we adopt, the amount of federal high-cost support provided to each non-rural carrier will be the greater of the amount indicated by the new forward-looking

support mechanism, or the explicit amount of federal high-cost support that the carrier would receive, on a per-line basis, under the operation of the existing high-cost support mechanism at part 36 and § 54.303 of the Commission's rules. Specifically, all carriers will continue to report cost and loop count data pursuant to part 36. In the event that carriers in a particular state do not qualify for forward-looking support pursuant to part 54 of our rules because the statewide average forward-looking cost per line is below the national cost benchmark, or the amount determined pursuant to § 54.309 of our rules is less than the amount that would be determined under part 36 and § 54.303, then those carriers shall receive interim hold-harmless support pursuant to part 36 and, if applicable, § 54.303. This provision will ensure that no non-rural carrier receives less federal high-cost universal service support per line under the new mechanism than it receives under the current mechanism.

45. Rather than simply making available a uniform hold-harmless amount to each non-rural carrier, however, we conclude that hold-harmless support must be targeted for competitive purposes to the high-cost wire centers served by a non-rural carrier. We believe that targeting hold-harmless support to individual wire centers is necessary for many of the same reasons that we chose to target forward-looking support to individual wire centers. By targeting hold-harmless support to individual wire centers, we can encourage competitive entry in high-cost wire centers. Targeting also avoids the economic inefficiencies that could be caused by making hold-harmless support available to competitors on a uniform basis among all of the wire centers served by a carrier, such as arbitrage between deaveraged UNE rates and averaged support in low-cost wire centers.

46. Because the interim hold-harmless support provided pursuant to part 36 and § 54.303 of our rules, unlike forward-looking support, will be based on carriers' book costs rather than the forward-looking methodology, the amount of hold-harmless support provided is not related to the level of the national benchmark. Thus, during the limited period for which hold-harmless support is available, certain carriers may receive support for costs that are below the national benchmark for forward-looking support. To ensure that hold-harmless support is available in the highest cost wire centers, we adopt a method for targeting hold-harmless support that is slightly different than the method we adopted for targeting forward-looking support. Specifically, as discussed in the following paragraph, we adopt a cascading approach to target hold-harmless support, so that a carrier's highest-cost wire centers receive support before its lower-cost wire centers receive support. Thus, while the total amount of interim hold-harmless support available to a carrier is determined pursuant to part 36 and § 54.303, that amount is targeted to the carrier's individual wire centers based on the forward-looking costs of providing supported services in those wire centers as determined pursuant to § 54.309 of our rules. As we explained, carriers will receive lump sum support payments, and the states can direct carriers to spend the federal support in a manner consistent with section 254(e), though not necessarily in the wire center to which the support was targeted. By targeting hold-harmless support, however, the federal mechanism ensures that, in a wire center where the incumbent is receiving hold-harmless support, a competitor will receive an amount of support that is related to the costs in that wire center.

47. For example, assume a state has a single carrier with three wire centers in the state and ten lines in each wire center. Assume that the average forward-looking cost per line in each wire center is as follows: Wire Center 1—$15, Wire Center 2—$20, Wire Center 3—$25. Thus, the statewide average cost per line is $20 (($150+ $200+$250)/30 lines = $20/line). Assume further that the national benchmark equates to $22 per line, and therefore the carrier receives no forward-looking support under the forward-looking methodology in part 54 of our rules, which averages costs at the statewide level. Also assume that the carrier receives a total of $90 of interim hold-harmless support as determined pursuant to part 36 of our rules. Under our targeting approach, the hold-harmless support is distributed first to the wire center with the highest costs until that wire center's costs, net of support, equal the costs in the next most expensive wire center. This process continues in a cascading fashion until all support has been distributed. In this example, the first $50 of hold-harmless support ($5 per line) would be distributed to Wire Center 3, so that the average forward-looking cost in Wire Center 3, net of hold-harmless support, is reduced to $20 per line. This places Wire Center 3 on equal footing with Wire Center 2, which also has average costs of $20 per line. The remaining $40 of hold-harmless support would be divided equally on a per-line basis between Wire Center 2 and Wire Center 3. Thus, both wire centers would receive an additional $2 per line ($40/20 lines), so that the average forward-looking costs, net of hold-harmless support, in Wire Center 2 and Wire Center 3 would be $18 per line.

48. Moreover, because we have decided that a competitor that captures a customer from an incumbent is entitled to any per line hold-harmless support that the incumbent is receiving, the distribution described is necessary to prevent uneconomic incentives for competitive entry, potential for arbitrage with UNE rates, and to ensure that support reaches the areas where it is needed most. If hold-harmless support were not targeted to high-cost wire centers, then a uniform hold-harmless amount would be available for a competitor serving any line in the state, including low-cost lines. For example, in the hypothetical situation described, a uniform distribution would result in all lines being eligible for $3 ($90/30 lines) of hold-harmless support. Thus, even though the cost of providing service is relatively low in Wire Center 1 ($15), competitors serving lines in that wire center would receive a significant amount of support for those lines, creating an artificial incentive for other carriers to compete in that wire center. At the same time, the cost of providing service is relatively high in Wire Center 3 ($25), but this would not be reflected in the amount of support available to competitors, thereby discouraging competitive entry in that wire center. Accordingly, we conclude that targeting forward-looking support to high-cost wire centers is an appropriate means for achieving Congress's goal of promoting competition in the marketplace.

49. We decided to allow individual states to petition the Commission to have federal forward-looking support targeted for competitive purposes to an area different from the wire center. We concluded that such an approach is consistent with the states' primary role in achieving the goal of reasonable comparability within their borders and would allow states greater flexibility to reach that goal. We conclude that the same rationale applies with equal force in the context of targeting interim hold-harmless support. Accordingly, we conclude that a state may file a petition for waiver of our targeting rules, asking the Commission to target interim hold-harmless support to an area different than the wire center. Such a petition should include a description of the particular geographic level to which the state wishes interim hold-harmless support to be targeted, and an

explanation of how that approach furthers the preservation and advancement of universal service within the state.

50. As discussed, we are adopting several amendments to the current data reporting requirements to ensure that cost and loop count data submitted by non-rural carriers under part 36 will conform with loop count data submitted under our part 54 rules for forward-looking support. All carriers serving customers in areas served by non-rural incumbent LECs will be required to file data on a quarterly schedule, instead of the present annual schedule with voluntary quarterly updates. The filing of quarterly data for rural carriers, however, shall remain voluntary. By synchronizing the reporting requirements for non-rural high-cost support, we can ensure that all non-rural carriers receive support based on data from the same time periods. We conclude that this synchronization will result in a high-cost support mechanism that is easier to administer and is more equitable, non-discriminatory, and competitively neutral.

51. We stress that the interim carrier-by-carrier hold-harmless provision that we adopt is a *transitional* provision intended to protect consumers in high-cost areas during the shift to the new federal support mechanism that will provide support based on statewide-averaged forward-looking costs of providing the supported services. We agree with commenters that the hold-harmless provision should not be a perpetual entitlement, and should be phased out as carriers and states adapt to the new forward-looking mechanism. Accordingly, we request that, on or before July 1, 2000, the Joint Board provide the Commission with a recommendation on how the interim hold-harmless provision can be phased out or eliminated without causing undue disruption to consumer rates in high-cost areas. In addition, we reaffirm our original conclusion in the *Seventh Report and Order* that the Commission and the Joint Board shall, no later than January 1, 2003, comprehensively examine the operation of the revised high-cost universal service support mechanism.

E. Portability of Support

52. We reiterate that federal universal service high-cost support should be available and portable to all eligible telecommunications carriers, and conclude that the same amount of support (i.e., either the forward-looking high-cost support amount or any interim hold-harmless amount) received by an incumbent LEC should be fully portable to competitive providers. A competitive eligible telecommunications carrier, when support is available, shall receive per-line high-cost support for lines that it captures from an incumbent LEC, as well as for any "new" lines that the competitive eligible telecommunications carrier serves in high-cost areas. To ensure competitive neutrality, we believe that a competitor that wins a high-cost customer from an incumbent LEC should be entitled to the same amount of support that the incumbent would have received for the line, including any interim hold-harmless amount. While hold-harmless amounts do not necessarily reflect the forward-looking cost of serving customers in a particular area, we believe this concern is outweighed by the competitive harm that could be caused by providing unequal support amounts to incumbents and competitors. Unequal federal funding could discourage competitive entry in high-cost areas and stifle a competitor's ability to provide service at rates competitive to those of the incumbent.

53. We reiterate our finding in the *First Report and Order* that, where a competitive eligible telecommunications carrier is providing service to a high-cost line exclusively through unbundled network elements (UNEs), that carrier will receive the universal service support for that high-cost line, not to exceed the cost of the unbundled network elements used to provide the supported services. The remainder of the support associated with that element, if any, will go to the incumbent LEC.

54. As discussed, we are modifying our reporting requirements to synchronize non-rural carrier submissions under part 36 and part 54 of our rules. Under our current part 36 rules, incumbent LECs are required to report cost and loop-count data on July 31st of each year. If they so choose, incumbent LECs may update the July 31st data on a quarterly basis. Part 54 of the Commission's rules, on the other hand, requires competitive eligible telecommunications carriers to report loop-count data on July 31st of each year. Unlike the rules applicable to incumbent LECs, however, part 54 of the Commission's rules does not currently allow competitive eligible telecommunications carriers to update their loop-count data on a quarterly basis. To ensure that forward-looking support provided under part 54 and interim hold-harmless support provided under part 36 and § 54.303 are based on data from the same reporting periods, and to ensure equitable, non-discriminatory, and competitively neutral treatment of incumbent LECs and competitive eligible telecommunications carriers, we shall require mandatory quarterly reporting for non-rural carriers under both part 54 and part 36 of our rules. By allowing incumbent LECs and competitive eligible telecommunications carriers to obtain support for high-cost lines on a regular quarterly basis, our rules will facilitate portability of support among carriers. In addition, the quarterly filing requirement is consistent with the Universal Service Administrative Company's (USAC) quarterly submission of program demand projections, and should allow more accurate projections based on regular quarterly loop counts.

F. Use of Federal High-Cost Support by Carriers

55. We conclude that providing federal universal service high-cost support in the form of carrier revenue, to be accounted for by states in their ratemaking process, is an appropriate mechanism by which to ensure that non-rural carriers use high-cost support only for the "provision, maintenance and upgrading of facilities and services for which the support is intended," in accordance with section 254(e) of the Act. We note, however, that we are not attempting to direct the manner in which states incorporate federal high-cost support into their ratemaking processes, nor are we setting forth elaborate rules for compliance with section 254(e). Rather, we anticipate that states will take the appropriate steps to account for the receipt of federal high-cost support and ensure that the federal support is being applied in a manner consistent with section 254, and then certify to the Commission that federal high-cost support received by non-rural carriers in their states is being used appropriately. Because the support that will be provided by the methodology described in this Order is intended to enable the reasonable comparability of *intrastate* rates, and states have primary jurisdiction over intrastate rates, we find that it is most appropriate for states to determine how the support is used to advance the goals set out in section 254(e).

56. For example, a state could adjust intrastate rates, or otherwise direct carriers to use the federal support to replace implicit intrastate universal service support to high-cost rural areas, which was formerly generated by above-cost rates in low-cost urban areas, that has been eroded through competition. A state could also require carriers to use the federal support to upgrade facilities in rural areas to ensure that services

provided in those areas are reasonably comparable to services provided in urban areas of the state. These examples are intended to be illustrative, not exhaustive. As long as the uses prescribed by the state are consistent with section 254(e), we believe that the states should have the flexibility to decide how carriers use support provided by the federal mechanism.

57. As a regulatory safeguard, however, we adopt rules in this Order requiring states that wish to receive federal universal service high-cost support for non-rural carriers within their territory to file a certification with the Commission stating that all federal high-cost funds flowing to non-rural carriers in that state will be used in a manner consistent with section 254(e). This certification requirement is applicable to non-rural incumbent LECs, and competitive eligible telecommunications carriers seeking high-cost support in the service area of a non-rural LEC. The certification shall be filed annually and shall be applicable to all non-rural carriers that the state certifies as eligible to receive federal universal service high-cost support during that annual period. A state may file a supplemental certification for carriers not subject to the state's annual certification. A certification may be filed in the form of a letter from the appropriate state regulatory authority, and shall be filed with (1) the Commission and (2) USAC. Each certification shall become part of the public record maintained by the Commission. We note that some state commissions, including Wisconsin, may lack direct regulatory oversight to ensure that federal support is reflected in intrastate rates. We believe, nonetheless, that states that lack direct authority over rates in their jurisdictions would still be able to certify to the Commission that a non-rural carrier in the state had accounted to the state commission for its receipt of federal support, and that such support had been used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Indeed, in states with limited jurisdiction over carriers, the state need not initiate the certification process itself. Instead, in such states, non-rural LECs, and competitive eligible telecommunications carriers serving lines in the service area of a non-rural LEC, may formulate plans to ensure compliance with section 254(e), and present those plans to the state, so that the state may make the appropriate certification to the Commission. Under our rules, a state shall also have the authority to revoke a certification in the event that it determines that a carrier has not complied with section 254(e). Because states are responsible for making section 254(e) certifications to the Commission, challenges to the propriety of the certifications, or revocation of the certifications, should be brought at the state level.

58. To ensure that non-rural carriers comply with section 254(e), we do not believe that a non-rural carrier in a particular state should receive federal forward-looking support until the Commission receives an appropriate certification from the state. Absent such a certification, the Commission has no reliable way of knowing whether the forward-looking support is being used properly, because of the Commission's limited authority over carriers' intrastate activities. Therefore, we conclude that, during the first year of operation of the new federal forward-looking support mechanism (January 1, 2000–December 31, 2000), a non-rural carrier in a particular state will not receive forward-looking support until the state files an appropriate certification with the Commission. The carrier will, however, receive interim hold-harmless support during the first year in the event that the state does not make the required certification. Given the short time before implementation of the new mechanism, we believe that providing interim hold-harmless support in the absence of a state certification is necessary to prevent possible rate shocks that might occur absent such support.

59. After further consultation with the Joint Board, we conclude that all federal high-cost support flowing to non-rural carriers in the second year of operation and thereafter, including both forward-looking support and interim hold-harmless support (to the extent that this measure is still in place), should be contingent upon the state's filing the section 254(e) certification described. Although we recognize that some states will need more time than others to produce a certification, we must have a reliable way of knowing that federal support is being used in a manner consistent with section 254(e). We believe that the certification requirement is not an overly burdensome means of effectuating Congress's goals, and we conclude that a year is a sufficient period of time for states to file the required certification with the Commission.

60. Under our existing rules, USAC submits estimated universal service support requirements, including high-cost support, to the Commission two months before the beginning of each quarter. Thus, for the first quarter of 2000, USAC will submit estimated universal service support requirements on or before November 1, 1999. The Commission uses those support requirements to establish a contribution factor for the upcoming quarter. USAC then uses the contribution factor to bill carriers and collect the appropriate amount of support to fund the universal service programs. In order for USAC to submit an accurate estimate of high-cost demand, it will need to know which carriers have been certified by states pursuant to the section 254(e) certification process before it files its estimate. To allow USAC sufficient time to process section 254(e) certifications and estimate demand, we conclude that states should file such certifications one month before USAC's filing is due. For a given program year of the new forward-looking high-cost support mechanism, this would mean that section 254(e) certifications would be due on October 1.

61. We recognize that the timing of the adoption of this Order will not give states sufficient time to file section 254(e) certifications for the first program year 2000 under this approach. Therefore, for the first and second quarters of 2000 only, non-rural carriers in a state shall be entitled to retroactive forward-looking high-cost support for those quarters. Specifically, if the state files its certification on or before January 1, 2000, then carriers subject to that certification shall receive forward-looking support for the first quarter of 2000 in the second quarter of 2000, and forward-looking support for the second quarter of 2000 in that quarter. If the state files its certification on or before April 1, 2000, and certifies carriers for the first and second quarters of 2000, then carriers subject to that certification shall receive forward-looking support for the first quarter of 2000 in the third quarter of 2000, together with forward-looking support for the third quarter of 2000. Such carriers shall receive forward-looking support for the second quarter of 2000 in the fourth quarter of 2000, together with forward-looking support for the fourth quarter of 2000.

62. Under this approach, some carriers may receive two quarters worth of support in a single quarter. To prevent fluctuations in the contribution factor and ensure a uniform collection of contributions, we direct USAC to collect contributions in the first quarter of 2000 as if all carriers potentially eligible for forward-looking support were certified to receive such support beginning in the first quarter of 2000, and as if support were actually provided beginning in the first quarter of 2000. In the event that not all potentially eligible

carriers are certified to receive support for the first and second quarters of 2000, USAC shall apply any surplus contributions to reduce future collection requirements.

63. In order for non-rural carriers in a state to receive any high-cost support, either forward-looking or hold-harmless support, for the second program year beginning on January 1, 2001, the state must file its section 254(e) certification no later than one month before USAC's filing is due (*i.e.*, October 1, 2000). In order for non-rural carriers in a state to receive any high-cost support, either forward-looking or hold-harmless support, for subsequent program years beginning on January 1, of each year, the state must file its section 254(e) certification no later than one month before USAC's filing is due (i.e., October 1 of the preceding year).

64. In the event that a state files an untimely certification, the carriers subject to that certification will not be eligible for support until the quarter for which USAC's subsequent filing is due. For example, if a state files a section 254(e) certification for the first program year, after April 1, 2000, but on or before July 1, 2000, then carriers subject to that certification will not receive forward-looking support until the fourth quarter of 2000. If a state files a section 254(e) certification for the first program year after July 1, 2000, then carriers subject to that certification will not receive forward-looking support in the first program year. If a state files a section 254(e) certification for the second program year, after October 1, 2000, but on or before January 1, 2001, then carriers subject to that certification will not receive any support, either forward-looking or hold-harmless support, until the second quarter of 2001.

65. Because support from the federal methodology described in this Order will be used to maintain reasonably comparable *intrastate* rates, we must decide how to apply the federal support in the intrastate jurisdiction. The current federal support mechanism operates through the jurisdictional separations rules, shifting additional carrier book costs into the interstate jurisdiction so that they can be recovered through the federal mechanism.

66. We conclude that support amounts provided to incumbent non-rural carriers as a result of the hold-harmless provision should continue to operate through the jurisdictional separations process to reduce book costs to be recovered in the intrastate jurisdiction. The hold-harmless amounts are based on the existing system, which is based on carriers' book costs. Moreover, these amounts have generally been accounted for in intrastate ratemaking, so treating them differently could result in a need for states to take further action to ensure the proper application of the support.

67. As noted, forward-looking support will be provided to non-rural carriers once states have certified that such support will be used in the intrastate jurisdiction in a manner consistent with section 254(e). In light of this provision, we conclude that we do not need to take further action to specify how such support will be applied in the intrastate jurisdiction. Before forward-looking support begins flowing to non-rural carriers, the state commission will have specified or reached agreement with that carrier on how the support will be used in the intrastate jurisdiction, in a manner consistent with section 254(e). Thus, there is no reason for further federal requirements for the application of the support.

68. We are not adopting any rules in this Order that, as a means to ensure compliance with section 254(e), would require that non-rural carriers receiving federal high-cost support offer an affordable basic local service package to their customers. GTE, for example, argues that each state should be required to determine the rate it considers "affordable" and then certify to the federal fund administrator that each carrier seeking high-cost funding for areas within that state provide at least one service package that meets the Commission's definition of the supported services, and is offered at a rate no greater than the state-determined affordable rate. We decline to condition support on such extensive state actions. We believe that the less onerous certification requirements described allow states an appropriate amount of flexibility to determine how to ensure that carriers comply with section 254(e). Furthermore, as we found in the *First Report and Order*, even assuming that section 214(e) allowed the Commission to impose such a "basic service package" requirement, it is not necessary to adopt such a requirement because, in areas where there is no competition, states are charged with setting rates for local services, and where competing carriers offer the supported services, consumers will be able to choose the carrier that offers the service package best suited to the consumer's needs.

69. We also decline to adopt rules in this Order that would require incumbent non-rural carriers to notify their customers that the incumbent has received federal support for their lines and that such support is portable to the carrier of the customer's choice. We agree with commenters that the issue of whether or not to require non-rural incumbent LECs to provide notification or display high-cost support credits on customer bills or inserts is best left to the individual state jurisdictions to decide.

70. Finally, we re-emphasize our conclusion in the *Seventh Report and Order* that, if we find that a carrier has not applied its universal service high-cost support in a manner consistent with section 254(e), we have the authority to take appropriate enforcement actions against that carrier. We remind parties that they may petition the Commission, under section 208 of the Act, if they believe a carrier has misapplied its high-cost support, and may also fully avail themselves of the Commission's formal complaint procedures to bring any alleged misapplication of federal high-cost support before the Commission. Moreover, although we have given states the flexibility to determine how carriers may use federal support in a manner consistent with section 254(e), we may revisit this issue if we find that a more prescriptive approach is necessary to ensure compliance with section 254(e).

G. Assessment and Recovery Bases for Contributions to the High-Cost Support Mechanism

71. Pursuant to the *First Report and Order*, the Commission currently assesses contributions to the high-cost universal service support mechanism on the basis of carriers' interstate and international end-user telecommunications revenues, and carriers recover their contributions through their rates for interstate services. In the *Second Recommended Decision*, the Joint Board stated that the Commission may wish to consider adding intrastate revenues to the assessment and recovery bases for the high-cost support mechanism. In the *Seventh Report and Order*, the Commission took the Joint Board's recommendation under advisement, pending resolution of challenges to the Commission's assessment and recovery rules in the Fifth Circuit.

72. As discussed, a three judge panel of the Fifth Circuit ruled that the Commission could not assess carriers' intrastate revenues to fund its universal service support mechanisms. The court also reversed and remanded for further consideration the Commission's decision to assess the international revenues of carriers with interstate revenues. In addition, the court reversed the Commission's "decision to require

ILECs to recover universal service contributions from their interstate access charges." In response to the court's decision, the Commission removed intrastate revenues from the contribution base; exempted from the contribution base the international revenues of interstate carriers whose interstate revenues account for less than 8 percent of their combined interstate and international revenues; and revised its rules to allow incumbent LECs to recover their contributions through access charges or through end-user charges. In light of the court's decision, and the Commission's response to it, the assessment base for contributions to the high-cost support mechanism shall remain interstate and international end-user telecommunications revenues, and the recovery base shall remain rates for interstate services.

H. Adjusting Interstate Access Charges to Account for Explicit Support

73. In the *Seventh Report and Order*, the Commission agreed with the Joint Board that the Commission has the jurisdiction and responsibility to identify any universal service support that is implicit in interstate access charges. If such implicit support does exist, the Commission concluded that, to the extent possible, it should make that support explicit. Thus, in order to supplement the record in the ongoing companion access charge reform proceeding, the Commission sought comment in the *Seventh Report and Order* on how interstate access charges should be adjusted to account for implicit high-cost universal service support that may, in the future, be identified in access rates. Specifically, the Commission sought further comment on a number of proposals and tentative conclusions regarding the adjustment of interstate access charges to account for explicit support, including: (1) whether price cap LECs should reduce their interstate access rates to reflect any increase in explicit federal high-cost support they receive; (2) whether the Commission should require price cap LECs to make a downward exogenous adjustment to their common line basket price cap indexes (PCIs); (3) whether price cap carriers should reduce their base factor portion (BFP); (4) whether the Commission should reduce the subscriber line charge (SLC) on primary residential or single-line business lines; and (5) whether non-rural rate-of-return LECs should apply additional interstate explicit high-cost support revenues to the CCL element. The Commission received numerous comments addressing these issues. As we stated in the *Seventh Report and Order*, we intend to move ahead with access reform in tandem with the implementation of the revised federal high-cost support methodology. Accordingly, we anticipate that the Commission's final determinations regarding adjustments to interstate access charges to account for explicit universal service support will be issued in the separate *Access Charge Reform* proceeding. We re-emphasize that the support provided through the methodology described in this Order will be used to enable the reasonable comparability of *intrastate* rates, and thus will not be used to replace implicit support in interstate access rates.

I. High-Cost Loop Support For Rural Carriers

74. Initially, we emphasize that, under our current rules, removing the non-rural carriers from the existing system does not result in a decrease in support for rural carriers. Rather, rural carriers would receive a smaller annual increase in support when non-rural carriers are removed from the interim cap.

75. There are three general options available to address this issue. First, we could take no action and, pursuant to our existing rules, calculate rural support under the interim cap using only the total growth in rural carrier loops. Second, as proposed by Western Alliance, we could remove the interim cap in its entirety. Finally, as proposed by NECA, we could calculate support for rural carriers as if all carriers, rural and non-rural, continued to participate in the existing fund.

76. Consistent with our commitment not to consider significant changes in rural carriers' support until after the Rural Task Force and the Joint Board have made their recommendations, we conclude that we should amend our part 36 rules to calculate universal service funding for rural carriers as if all carriers continued to participate in the fund. This approach will avoid significant and immediate changes in support for rural carriers, and is similar to the interim hold-harmless provision that we adopted for non-rural carriers. We also believe that it would be inconsistent with the intent of section 254 if we allowed the growth rate of high-cost universal service support for rural carriers to be significantly and unintentionally reduced because of the overall slowdown in loop growth caused by the removal of non-rural carriers. Contrary to the suggestions of Western Alliance, however, we do not believe that removing the cap from the calculation is an appropriate remedy for this situation. The cap is designed to prevent excessive growth in the existing high-cost fund, and we believe it should remain in place pending any restructuring of the high-cost support mechanism for rural carriers. In addition, because we are requiring non-rural carriers to continue reporting cost and loop-count data under part 36 pursuant to the interim hold-harmless provision, continuing to calculate the expense adjustment for rural carriers using data from all carriers will be administratively easy to implement. We also wish to stress that, although we are modifying our rules to calculate the rural loop expense adjustment based on loop data for both rural and non-rural carriers, this remedy is an *interim* solution until we consider appropriate reforms for the rural high-cost support mechanism.

J. Lifting the Stay of the Commission's Section 251 Pricing Rules

77. In August 1996, the Commission promulgated certain rules in the *Local Competition Order*, 61 FR 45476 (August 29, 1996), to implement section 251 of the Communications Act of 1934, as amended. One such rule, § 51.507(f), requires each state commission to "establish different rates for [interconnection and unbundled network elements (UNEs)] in at least three defined geographic areas within the state to reflect geographic cost differences." Numerous parties, including incumbent LECs and state commissions, appealed the *Local Competition Order*, and the U.S. Court of Appeals for the Eighth Circuit stayed the Commission's section 251 pricing rules in September 1996 pending its consideration of the appeal. In July 1997, the Eighth Circuit vacated the deaveraging rule, among others, on the grounds that the Commission lacked jurisdiction. On January 25, 1999, however, the U.S. Supreme Court reversed the Eighth Circuit's decision with regard to the Commission's section 251 pricing authority, and remanded the case to the Eighth Circuit for proceedings consistent with the Supreme Court's opinion.

78. Because the section 251 pricing rules had not been in force for more than two years, and not all states established at least three deaveraged rate zones, the Commission stayed the effectiveness of § 51.507(f) on May 7, 1999, to allow the states to bring their rules into compliance. The Commission stated that the stay would remain in effect until six months after the Commission released its order in CC Docket No. 96–45 finalizing and ordering implementation of high-cost

universal service support for non-rural LECs. The Commission did so to allow the states to coordinate their consideration of deaveraged rate zones with issues raised in that proceeding. Now that we have adopted an order in CC Docket No. 96–45 finalizing and ordering implementation of intrastate high-cost universal service support for non-rural LECs, state commissions can consider deaveraging in concert with the federal high-cost support that will be available in the intrastate jurisdiction. Consequently, the stay that has been in effect since May 7, 1999, shall be lifted on May 1, 2000. By that date, states are required to establish different rates for interconnection and UNEs in at least three geographic areas pursuant to § 51.507(f) of the Commission's rules.

III. Procedural Matters

A. Regulatory Flexibility Act Certification

79. The Regulatory Flexibility Act (RFA) requires an Initial Regulatory Flexibility Analysis (IRFA) whenever an agency publishes a notice of proposed rulemaking, and a Final Regulatory Flexibility Analysis (FRFA) whenever an agency subsequently promulgates a final rule, unless the agency certifies that the proposed or final rule will not have "a significant economic impact on a substantial number of small entities," and includes the factual basis for such certification. The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The SBA defines a small telecommunications entity in SIC code 4813 (Telephone Communications, Except Radiotelephone) as an entity with 1,500 or fewer employees.

80. We conclude that a FRFA is not required here because the foregoing *Report and Order* adopts a final rule affecting only the amount of high-cost support provided to non-rural LECs. Non-rural LECs generally do not fall within the SBA's definition of a small business concern because they are usually large corporations or affiliates of such corporations. In a companion *Further Notice of Proposed Rulemaking*, 64 FR 31780 (June 14, 1999), in this docket, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) seeking comment on the economic impacts on small entities. No comments were received in response to that IRFA. Furthermore, we are taking action in this *Report and Order* that will have a beneficial impact on smaller rural carriers. Specifically, we are amending our part 36 rules to calculate universal service funding for rural carriers as if all carriers, both rural and non-rural, continued to participate in the fund, pending the selection of an appropriate forward-looking high-cost support mechanism for rural carriers. This action will avoid significant changes in support for rural carriers, and prevent the growth rate of high-cost universal service support for rural carriers from being significantly reduced because of a slowdown in loop growth rates that would be caused by the removal of non-rural carriers from the fund calculations. Therefore, we certify, pursuant to section 605(b) of the RFA, that the final rule adopted in the *Report and Order* will not have a significant economic impact on a substantial number of small entities. The Office of Public Affairs, Reference Operation Division, will send a copy of this certification, along with this *Report and Order*, to the Chief Counsel for Advocacy of the SBA in accordance with the RFA. In addition, this certification, and *Report and Order* (or summaries thereof) will be published in the **Federal Register**. The Commission will send a copy of this *Report and Order* including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.

B. Effective Date of Final Rules

81. We conclude that the amendments to our rules adopted herein shall be effective upon publication in the **Federal Register**, except for sections 36.611(h), 36.612, 54.307 (b), (c), 54.309(c), 54.311(c), and 54.313 which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections. In this Order we conclude that the new forward-looking high-cost support mechanism should be implemented on January 1, 2000, and that states and territories that desire non-rural carriers within their jurisdiction to receive forward-looking high-cost support for calendar year 2000 must certify to the Commission and the Administrator that non-rural carriers receiving support within their jurisdiction will only use the support for the provision, maintenance and upgrading of the supported services. The first filing deadline for this certification will be January 1, 2000. Thus, the amendments must become effective before January 1, 2000. Making the amendments effective 30 days after publication in the **Federal Register** would jeopardize the required January 1, 2000 implementation and filing date. Accordingly, pursuant to the Administrative Procedure Act, we find good cause to depart from the general requirement that final rules take effect not less than 30 days after their publication in the **Federal Register**.

C. Paperwork Reduction Act

82. This *Report and Order* contains either new or modified information collections. The Commission has requested Office of Management and Budget ("OMB") approval, under the emergency processing provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, of the information collections contained in this rulemaking.

IV. Ordering Clauses

83. The authority contained in sections 1–4, 201–205, 214, 218–220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, the Ninth Report and Order and Eighteenth Order on Reconsideration is adopted. This Order is effective December 1, 1999 except for sections 36.611(h), 36.612, 54.307 (b), (c), 54.309(c), 54.311(c), and 54.313 which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

84. Parts 36 and 54 of the Commission's Rules, 47 CFR parts 36 and 54, are amended as set forth, effective immediately upon publication in the **Federal Register**.

85. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the Report and Order, including the Regulatory Flexibility Act Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 36

Reporting and recordkeeping requirements, Telephone.

47 CFR Part 54

Universal service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Final Rules

Parts 36 and 54 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (I) and (j), 205, 221(c), 254, 403, and 410 unless otherwise noted.

2. Amend § 36.601 by revising paragraph (c) to read as follows:

§ 36.601 General.

* * * * *

(c) The annual amount of the total nationwide expense adjustment shall consist of the amounts calculated pursuant to § 54.309 of this chapter and the amounts calculated pursuant to this subpart F. The annual amount of the total nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total loop cost expense adjustment for the immediately preceding calendar year, increased by a rate equal to the rate of increase in the total number of working loops during the calendar year preceding the July 31st filing. The total loop cost expense adjustment shall consist of the loop cost expense adjustments, including amounts calculated pursuant to § 36.612(a) and § 36.631. The rate of increase in total working loops shall be based upon the difference between the number of total working loops on December 31 of the calendar year preceding the July 31st filing and the number of total working loops on December 31 of the second calendar year preceding that filing, both determined by the company's submissions pursuant to § 36.611. Beginning January 1, 2000, non-rural incumbent local exchange carriers and, eligible telecommunications carriers serving lines in the service area of non-rural incumbent local exchange carriers, shall only receive support pursuant to this subpart F to the extent that they qualify pursuant to § 54.311 of this chapter for interim hold-harmless support.

3. Amend § 36.611 by revising the introductory text and paragraph (h) to read as follows:

§ 36.611 Submission of information to the National Exchange Carrier Association.

In order to allow determination of the study areas and wire centers that are entitled to an expense adjustment, each incumbent local exchange carrier (LEC) must provide the National Exchange Carrier Association (NECA) (established pursuant to part 69 of this chapter) with the information listed for each of its study areas, with the exception of the information listed in paragraph (h), which must be provided for each study area and, if applicable, for each wire center, as that term is defined in part 54 of this chapter. This information is to be filed with NECA by July 31st of each year, and must be updated pursuant to § 36.612.

The information filed on July 31st of each year will be used in the jurisdictional allocations underlying the cost support data for the access charge tariffs to be filed the following October.

An incumbent LEC is defined as a carrier that meets the definition of an "incumbent local exchange carrier" in § 51.5 of this chapter.

* * * * *

(h) For rural telephone companies, as that term is defined in § 51.5 of this chapter, the number of working loops for each study area. For non-rural telephone companies, the number of working loops for each study area and for each wire center. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. These figures shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

4. Amend § 36.612 by revising paragraph (a) to read as follows:

§ 36.612 Updating information submitted to the National Exchange Carrier Association.

(a) Any rural telephone company, as that term is defined in § 51.5 of this chapter, may update the information submitted to the National Exchange Carrier Association (NECA) on July 31st pursuant to § 36.611 (a) through (h) one or more times annually on a rolling year basis according to the schedule. Every non-rural telephone company must update the information submitted to NECA on July 31st pursuant to § 36.611 (a) through (h) according to the schedule.

(1) Submit data covering the last nine months of the previous calendar year and the first three months of the existing calendar year no later than September 30th of the existing year;

(2) Submit data covering the last six months of the previous calendar year and the first six months of the existing calendar year no later than December 30th of the existing year;

(3) Submit data covering the last three months of the second previous calendar year and the first nine months of the previous calendar year no later than March 30th of the existing year.

* * * * *

5. Amend § 36.622 by removing paragraph (d) and by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 36.622 National and study area average unseparated loop costs.

(a) * * *

(1) The National Average Unseparated Loop Cost per Working Loop shall be recalculated by the National Exchange Carrier Association to reflect the September, December, and March update filings.

* * * * *

(b) * * *

(1) If a company elects to, or is required to, update the data which it has filed with the National Exchange Carrier Association as provided in § 36.612(a), the study area average unseparated loop cost per working loop and the amount of its additional interstate expense allocation shall be recalculated to reflect the updated data.

* * * * *

6. Amend § 36.631 by revising paragraph (d) introductory text to read as follows:

§ 36.631 Expense adjustment.

* * * * *

(d) Beginning January 1, 1998, for study areas reporting more than 200,000 working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (d) (1)–(4). After January 1, 2000, the expense adjustment (additional interstate expense allocation) shall be calculated pursuant to § 54.309 of this chapter or § 54.311 of this chapter (which relies on this part), whichever is applicable.

* * * * *

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

8. Amend § 54.5 by adding the following definition in alphabetical order to read as follows:

§ 54.5 Terms and definitions.

* * * * *

Wire center. A wire center is the location of a local switching facility containing one or more central offices, as defined in the Appendix to part 36 of this chapter. The wire center boundaries define the area in which all customers served by a given wire center are located.

9. Amend § 54.307 by revising paragraph (a) introductory text, paragraphs (a)(1), (a)(2), and (a)(3), and (b), and by adding paragraph (c) to read as follows:

§ 54.307 Support to a competitive eligible telecommunications carrier.

(a) *Calculation of support.* A competitive eligible telecommunications carrier shall receive universal service support to the extent that the competitive eligible telecommunications carrier captures the subscriber lines of an incumbent local exchange carrier (LEC) or serves new subscriber lines in the incumbent LEC's service area.

(1) A competitive eligible telecommunications carrier shall receive support for each line it serves in a particular wire center based on the support the incumbent LEC would receive for each such line.

(2) A competitive eligible telecommunications carrier that uses switching purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for switching or the per-line DEM support of the incumbent LEC, if any. A competitive eligible telecommunications carrier that uses loops purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for the loop or the incumbent LEC's per-line payment from the high-cost loop support and LTS, if any. The incumbent LEC providing nondiscriminatory access to unbundled network elements to such competitive eligible telecommunications carrier shall receive the difference between the level of universal service support provided to the competitive eligible telecommunications carrier and the per-customer level of support that the incumbent LEC would have received.

(3) A competitive eligible telecommunications carrier that provides the supported services using neither unbundled network elements purchased pursuant to § 51.307 of this chapter nor wholesale service purchased pursuant to section 251(c)(4) of the Act will receive the full amount of universal service support that the incumbent LEC would have received for that customer.

* * * * *

(b) In order to receive support pursuant to this subpart, a competitive eligible telecommunications carrier must report to the Administrator on July 31st of each year the number of working loops it serves in a service area as of December 31st of the preceding year, subject to the updates specified in paragraph (c) of this section. For a competitive eligible telecommunications carrier serving loops in the service area of a rural telephone company, as that term is defined in § 51.5 of this chapter, the carrier must report the number of working loops it serves in the service area. For a competitive eligible telecommunications carrier serving loops in the service area of a non-rural telephone company, the carrier must report the number of working loops it serves in the service area and the number of working loops it serves in each wire center in the service area. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. These figures shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(c) For a competitive eligible telecommunications carrier serving loops in the service area of a rural telephone company, as that term is defined in § 51.5 of this chapter, the carrier may update the information submitted to the Administrator on July 31st pursuant to paragraph (b) of this section one or more times annually on a rolling year basis according to the schedule. For a competitive eligible telecommunications carrier serving loops in the service area of a non-rural telephone company, the carrier must update the information submitted to the Administrator on July 31st pursuant to paragraph (b) of this section according to the schedule.

(1) Submit data covering the last nine months of the previous calendar year and the first three months of the existing calendar year no later than September 30th of the existing year;

(2) Submit data covering the last six months of the previous calendar year and the first six months of the existing calendar year no later than December 30th of the existing year;

(3) Submit data covering the last three months of the second previous calendar year and the first nine months of the previous calendar year no later than March 30th of the existing year.

10. Add § 54.309 to subpart D to read as follows:

§ 54.309 Calculation and distribution of forward-looking support for non-rural carriers.

(a) *Calculation of total support available per state.* Beginning January 1, 2000, non-rural incumbent local exchange carriers, and eligible telecommunications carriers serving lines in the service areas of non-rural incumbent local exchange carriers, shall receive universal service support for the forward-looking economic costs of providing supported services in high-cost areas, provided that the State in which the lines served by the carrier are located has complied with the certification requirements in § 54.313. The total amount of forward-looking support available in each State shall be determined according to the following methodology:

(1) For each State, the Commission's cost model shall determine the statewide average forward-looking economic cost (FLEC) per line of providing the supported services. The statewide average FLEC per line shall equal the total FLEC for non-rural carriers to provide the supported services in the State, divided by the number of lines served by non-rural carriers in the State.

(2) The Commission's cost model shall determine the national average FLEC per line of providing the supported services. The national average FLEC per line shall equal the total FLEC for non-rural carriers to provide the supported services in all States divided by the total number of lines served by non-rural carriers in all States.

(3) The national cost benchmark shall equal 135 percent of the national average FLEC per line.

(4) Support calculated pursuant to this section shall be provided to non-rural carriers in each State where the statewide average FLEC per line exceeds the national cost benchmark. The total amount of support provided to non-rural carriers in each State where the statewide average FLEC per line exceeds

the national cost benchmark shall equal 76 percent of the amount of the statewide average FLEC per line that exceeds the national cost benchmark, multiplied by the number of lines served by non-rural carriers in the State.

(5) In the event that a State's statewide average FLEC per line does not exceed the national cost benchmark, non-rural carriers in such State shall be eligible for support pursuant to § 54.311. In the event that a State's statewide average FLEC per line exceeds the national cost benchmark, but the amount of support otherwise provided to a non-rural carrier in that State pursuant to this section is less than the amount that would be provided pursuant to § 54.311, the carrier shall be eligible for support pursuant to § 54.311.

(b) *Distribution of total support available per state.* The total amount of support available per State calculated pursuant to paragraph (a) of this section shall be distributed to non-rural incumbent local exchange carriers, and eligible telecommunications carriers serving lines in the service areas of non-rural incumbent local exchange carriers, in the following manner:

(1) The Commission's cost model shall determine the wire center average FLEC per line for each wire center in the service areas of non-rural carriers in the State. Non-rural incumbent local exchange carriers, and eligible telecommunications carriers serving lines in the service areas of non-rural incumbent local exchange carriers, that serve wire centers with an average FLEC per line above the national cost benchmark, as defined in paragraph (a)(3) of this section, shall receive forward-looking support;

(2) The wire center scale support amount for each wire center identified in paragraph (b)(1) of this section shall equal 76 percent of the amount of the wire center average FLEC per line that exceeds the national cost benchmark, multiplied by the number of lines in the wire center;

(3) The total amount of forward-looking support available in the State calculated pursuant to paragraph (a)(4) of this section shall be divided by the sum of the total wire center scale support amounts calculated for each wire center pursuant to paragraph (b)(2) of this section;

(4) The percentage calculated pursuant to paragraph (b)(3) of this section shall be multiplied by the total wire center scale support amount calculated for each wire center pursuant to paragraph (b)(2) of this section;

(5) The total amount of support calculated for each wire center pursuant to paragraph (b)(4) of this section shall be divided by the number of lines in the wire center to determine the per-line amount of forward-looking support for that wire center;

(6) The per-line amount of support for a wire center calculated pursuant to paragraph (b)(5) of the section shall be multiplied by the number of lines served by a non-rural incumbent local exchange carrier in that wire center, or by an eligible telecommunications carrier in that wire center, to determine the amount of forward-looking support to be provided to that carrier.

(c) *Petition for waiver.* Pursuant to section 1.3 of this chapter, any State may file a petition for waiver of paragraph (b) of this section, asking the Commission to distribute support calculated pursuant to paragraph (a) of this section to a geographic area different than the wire center. Such petition must contain a description of the particular geographic level to which the State desires support to be distributed, and an explanation of how waiver of paragraph (b) of this section will further the preservation and advancement of universal service within the State.

11. Add § 54.311 to subpart D to read as follows:

§ 54.311 Interim hold-harmless support for non-rural carriers.

(a) *Interim hold-harmless support.* The total amount of interim hold-harmless support provided to a non-rural incumbent local exchange carrier shall equal the amount of support calculated for that carrier pursuant to part 36 of this chapter. The total amount of interim hold-harmless support provided to a non-rural incumbent local exchange carrier shall also include Long Term Support provided pursuant to § 54.303, to the extent that the carrier would otherwise be eligible for such support. Beginning on January 1, 2000, in the event that a State's statewide average FLEC per line, calculated pursuant to § 54.309(a), does not exceed the national cost benchmark, non-rural incumbent local exchange carriers in such State shall receive interim hold-harmless support calculated pursuant to part 36, and, if applicable, § 54.303. In the event that a State's statewide average FLEC per line, calculated pursuant to § 54.309(a), exceeds the national cost benchmark, but the amount of support that would be provided to a non-rural incumbent local exchange carrier in such State pursuant to § 54.309(b) is less than the amount that would be provided pursuant to part 36 and, if applicable, § 54.303, the carrier shall be eligible for support pursuant to part 36 and, if applicable, § 54.303. To the extent that an eligible telecommunications carrier serves lines in the service area of a non-rural incumbent local exchange carrier receiving interim hold-harmless support, the eligible telecommunications carrier shall also be entitled to interim hold-harmless support in an amount per line equal to the amount per line provided to the non-rural incumbent local exchange carrier pursuant to paragraph (b) of this section.

(b) *Distribution of interim hold-harmless support amounts.* The total amount of interim hold-harmless support provided to each non-rural incumbent local exchange carrier within a particular State pursuant to paragraph (a) of this section shall be distributed first to the carrier's wire center with the highest wire center average FLEC per line until that wire center's average FLEC per line, net of support, equals the average FLEC per line in the second most high-cost wire center. Support shall then be distributed to the carrier's wire center with the highest and second highest wire center average FLEC per line until those wire center's average FLECs per line, net of support, equal the average FLEC per line in the third most high-cost wire center. This process shall continue in a cascading fashion until all of the interim hold-harmless support provided to the carrier has been exhausted.

(c) *Petition for waiver.* Pursuant to section 1.3 of this chapter, a State may file a petition for waiver of paragraph (b) of this section, asking the Commission to distribute interim hold-harmless support to a geographic area different than the wire center. Such petition must contain a description of the particular geographic level to which the State desires interim hold-harmless support to be distributed, and an explanation of how waiver of paragraph (b) of this section will further the preservation and advancement of universal service within the State.

12. Add § 54.313 to subpart D to read as follows:

§ 54.313 State certification.

(a) *Certification.* States that desire non-rural incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a non-rural incumbent local exchange carrier within their jurisdiction to receive support pursuant to §§ 54.309 and/or 54.311 must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State will be used only for the

VOL 64 ISS 230 DE 1 1999 UMI

provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.309 and/or 54.311 shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

(b) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (c) of this section. The annual certification must identify which carriers in the State are eligible to receive federal support during the applicable 12-month period, and must certify that those carriers will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended. A State may file a supplemental certification for carriers not subject to the State's annual certification. All certifications filed by a State pursuant to this section shall become part of the public record maintained by the Commission.

(c) *Filing deadlines.* In order for a non-rural incumbent local exchange carrier in a particular State, and/or an eligible telecommunications carrier serving lines in the service area of a non-rural incumbent local exchange carrier, to receive federal high-cost support, the State must file an annual certification, as described in paragraph (b) of this section, with both the Administrator and the Commission. Support shall be provided in accordance with the following schedule:

(1) *First program year (January 1, 2000–December 31, 2000).* During the first program year (January 1, 2000–December 31, 2000), a carrier in a particular State shall receive support pursuant to § 54.311. If a State files the certification described in this section during the first program year, carriers eligible for support pursuant to § 54.309 shall receive such support pursuant to the following schedule:

(i) *Certifications filed on or before January 1, 2000.* Carriers subject to certifications filed on or before January 1, 2000 shall receive support pursuant to § 54.309 for the first and second quarters of 2000 in the second quarter of 2000, and on a quarterly basis thereafter. Support provided in the second quarter of 2000 shall be net of any support provided pursuant to § 54.311 for the first quarter of 2000.

(ii) *Certifications filed on or before April 1, 2000.* Carriers subject to certifications that apply to the first and second quarters of 2000, and are filed on or before April 1, 2000, shall receive support pursuant to § 54.309 for the first and third quarters of 2000 in the third quarter of 2000, and support for the second and fourth quarters of 2000 in the fourth quarter of 2000. Such support shall be net of any support provided pursuant to § 54.311 for the first or second quarters of 2000.

(iii) *Certifications filed on or before July 1, 2000.* Carriers subject to certifications filed on or before July 1, 2000, shall receive support pursuant to § 54.309 for the fourth quarter of 2000 in the fourth quarter of 2000.

(iv) *Certifications filed after July 1, 2000.* Carriers subject to certifications filed after July 1, 2000, shall not receive support pursuant to § 54.309 in 2000.

(2) *Second program year (January 1, 2001–December 31, 2001).* During the second program year (January 1, 2001–December 31, 2001), a carrier in a particular State shall not receive support pursuant to §§ 54.309 or 54.311 until such time as the State files the certification described in this section. Upon the filing of the certification described in this section, support shall be provided pursuant to the following schedule:

(i) *Certifications filed on or before October 1, 2000.* Carriers subject to certifications filed on or before October 1, 2000 shall receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in the first, second, third, and fourth quarters of 2001.

(ii) *Certifications filed on or before January 1, 2001.* Carriers subject to certifications filed on or before January 1, 2001 shall receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in the second, third, and fourth quarters of 2001. Such carriers shall not receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in the first quarter of 2001.

(iii) *Certifications filed on or before April 1, 2001.* Carriers subject to certifications filed on or before April 1, 2001 shall receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in the third and fourth quarters of 2001. Such carriers shall not receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in the first or second quarters of 2001.

(iv) *Certifications filed on or before July 1, 2001.* Carriers subject to certifications filed on or before July 1, 2001 shall receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in the fourth quarter of 2001. Such carriers shall not receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in the first, second, or third quarters of 2001.

(v) *Certifications filed after July 1, 2001.* Carriers subject to certifications filed after July 1, 2001 shall not receive support pursuant to §§ 54.309 or 54.311, whichever is applicable, in 2001.

(3) *Subsequent program years (January 1–December 31).* During the program years subsequent to the second program year (January 1, 2001–December 31, 2001), a carrier in a particular State shall not receive support pursuant to § 54.309 or § 54.311 until such time as the State files the certification described in this section. Upon the filing of the certification described in this section, support shall be provided pursuant to the following schedule:

(i) *Certifications filed on or before October 1.* Carriers subject to certifications filed on or before October 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first, second, third, and fourth quarters of the succeeding year.

(ii) *Certifications filed on or before January 1.* Carriers subject to certifications filed on or before January 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the second, third, and fourth quarters of that year. Such carriers shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first quarter of that year.

(iii) *Certifications filed on or before April 1.* Carriers subject to certifications filed on or before April 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the third and fourth quarters of that year. Such carriers shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first or second quarters of that year.

(iv) *Certifications filed on or before July 1.* Carriers subject to certifications filed on or before July 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, beginning in the fourth quarter of that year. Such carriers shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first, second, or third quarters of that year.

(v) *Certifications filed after July 1.* Carriers subject to certifications filed after July 1 shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in that year.

[FR Doc. 99–30876 Filed 11–30–99; 8:45 am]

BILLING CODE 6712–01–P

VOL
64
ISS
2
3
0
DE
1
1999
UMI

federal register

Wednesday
December 1, 1999

Part III

Department of Labor

Pension and Welfare Benefits Administration

29 CFR Part 2520

Proposed Small Pension Plan Security Amendments; Proposed Rule

VOL 64 ISS 230 DEC 1 1999 UMI

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2520

RIN 1210–AA73

Proposed Small Pension Plan Security Amendments

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains proposed amendments to the regulations governing the circumstances under which small pension plans are exempt from the requirements to engage an independent qualified public accountant and to include a report of the accountant as part of the annual report under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). Regulation 29 CFR 2520.104–46 provides a waiver of the annual examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants at the beginning of the plan year. The proposed amendments are designed to increase the security of assets in small pension plans by conditioning the waiver of the requirements concerning the engagement of an accountant on enhanced disclosure of information to participants and beneficiaries and, in certain instances, improved bonding requirements. This regulatory action is being proposed as a way of enhancing the security and accountability of small pension plans because of recent cases involving embezzlement or other misappropriations of pension assets that have focused national attention on the potential vulnerability of small pension plans to fraud and abuse. The proposed amendments do not affect the exemption for small welfare plans (such as group health plans) under § 2520.104–46. Conforming amendments are made to the simplified annual reporting requirements specified in 29 CFR 2520.104–41. If adopted, the proposal would affect participants and beneficiaries covered by small pension plans, sponsors and administrators of small pension plans, and service providers holding assets of small pension plans.

DATES: Written comments concerning the proposed regulations must be received by January 31, 2000.

ADDRESSES: Written comments (preferably three copies) should be sent to: Office of Regulations and Interpretations, Room N–5669, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, Attention: Small Pension Plan Security Proposal. All submissions will be open to public inspection in the Public Disclosure Room, Pension and Welfare Benefits Administration, Room N–5638, 200 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Keene, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, (202) 219–8521. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

A. Background

In general, the administrator of an employee benefit plan required to file an annual report under Title I of ERISA must include as part of that report the opinion of an independent qualified public accountant (IQPA). These annual reporting requirements can be satisfied by filing the Form 5500 "Annual Return/Report of Employee Benefit Plan." [1] The requirements governing the content of the opinion and report of the IQPA are set forth in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b). Section 104(a)(2)(A) permits the Department of Labor (Department) to prescribe, by regulation, simplified annual reports for pension plans with fewer than 100 participants. Section 104(a)(3) permits the Department to prescribe exemptions from the reporting and disclosure requirements or simplified reporting and disclosure for welfare plans. In accordance with the Department's authority under sections 104(a)(2)(A) and 104(a)(3), the Department adopted, at 29 CFR 2520.104–41, simplified annual reporting requirements for pension and welfare benefit plans with fewer than 100 participants. In addition, the Department, at 29 CFR 2520.104–46, prescribed for small plans a waiver from the requirement of section 103(a)(3)(A) to engage an IQPA and to include the opinion of the accountant as part of the plan's annual report.

Since the adoption of § 2520.104–46 in 1976, the amount of assets held in small pension plans has increased dramatically and small pension plans have become important retirement savings vehicles for an increasing number of American workers. Recently, media coverage of a case involving misappropriation of pension assets over several years focused national attention on the potential vulnerability of small pension plans to fraud and abuse. There have been other cases where service providers, administrators or other fiduciaries have misused retirement savings held in small pension plans and have concealed their acts by falsifying financial and other information to plan sponsors, trustees, and participants. Although such cases are rare and legal remedies often can be pursued in an effort to recover lost assets, the Department believes that, given the increasing extent to which workers are depending on their employment-based pension plans as a primary source of retirement income, it is appropriate to take steps to improve the security of pension assets in small pension plans.

One approach to improving the security of assets in small pension plans is to require all such plans to comply with the audit requirements of section 103(a)(3)(A). As noted above, the assets of plans with fewer than 100 participants, unlike larger plans, are not required to be examined by an IQPA. While subjecting the assets of small pension plans to an audit would, in the view of the Department, provide a high degree of certainty that the assets reported on a plan's annual report are actually available to pay benefits, the Department recognizes that the costs attendant to such a requirement may be significant for many plans and plan sponsors. Consistent with the Department's goal of encouraging pension plan establishment and maintenance, particularly in the small business community, the Department concluded that engaging an accountant should not be the only means by which the security of small plan pension assets can be improved.

In assessing alternatives to a mandatory audit requirement, the Department concluded that a three-pronged approach—focusing on (1) Who holds the plan" assets, (2) Enhanced disclosure to participants and beneficiaries and (3) In limited situations, an improved bonding requirement—could enhance the level of security and accountability for small pension plan assets, while keeping administrative burdens and costs to a minimum by building on current recordkeeping, disclosure and bonding requirements and practices. Based on our experience in dealing with thousands of inquiries every year from participants regarding their plans, we have determined that well informed participants and beneficiaries are often in the best position to be watchdogs over their own pension plans and can catch problems early. We also have determined that, based on industry estimates, the costs of enhancing fidelity bond coverage will be nominal for most

[1] See sections 101(b)(4) and 103 of ERISA, and 29 CFR 2520.103–1.

plans and less than the cost of an annual audit by an IQPA.

The alternative referenced above is set forth as proposed new conditions for obtaining a waiver from the requirements concerning the engagement of an IQPA under § 2520.104–46. A description of the proposal follows.

B. Proposed Amendment to § 2520.104–46

Currently, the conditions to obtaining a waiver from the requirement to engage an accountant under § 2520.104–46 are that a pension plan have fewer than 100 participants at the beginning of the plan year and the plan administrator properly file the "Form 5500–C/R Return/Report of Employee Benefit Plan (With fewer than 100 participants)." As discussed below, the proposal would, upon adoption, amend the regulation to further condition eligibility for the waiver on additional disclosures to plan participants and beneficiaries concerning the assets held by their plans and, in certain instances, an increase in the amount of a plan's fidelity bond.[2]

In general, the Department believes that statements of plan assets prepared by certain regulated financial institutions (such as banks, insurance companies, mutual funds, and securities broker-dealers), if made available to participants and beneficiaries, provide a means by which participants and beneficiaries can independently confirm that the assets reported by the plan to be available to pay benefits as of the end of the plan year were, in fact, available according to the books and records of the institution holding the assets. Such disclosure, in the Department's view, reduces the likelihood of losses over long periods due to acts of fraud or dishonesty. The Department also believes that supplemental bonding requirements also will serve to reduce the risk of loss due to acts of fraud or dishonestly where a substantial percentage of a plan's assets are held by entities that may not be subject to state or federal regulatory oversight.

1. Qualifying plan assets and bond requirement

The first part of the proposal, therefore, focuses on the extent to which a plan's assets are held by regulated financial institutions. *See:* Proposed § 2520.104–46(b)(1)(i)(A). The proposal uses the term "qualifying plan assets" in applying the conditions of the waiver. "Qualifying plan assets" are defined in the proposal to include any assets held by: a bank or similar financial institution, as defined in § 2550.408b–4(c); an insurance company qualified to do business under the laws of a state; an organization registered as a broker-dealer under the Securities and Exchange Act of 1934; or any other organization authorized to act as ■ trustee for individual retirement accounts under section 408 of the Internal Revenue Code. The term "qualifying plan assets" also includes assets that the Department believes present little risk of loss to participants and beneficiaries as a result of acts of fraud or dishonesty " participant loans meeting the requirements of ERISA section 408(b)(1) and qualifying employer securities, as defined in ERISA section 407(d)(1). *See* Proposed § 2520.104–46(b)(1)(ii).

The proposal provides that, with respect to each plan year for which the waiver is claimed, at least 95% of the assets of the plan constitute "qualifying plan assets" or any person who handles plan funds or other property that do not constitute "qualifying plan assets" is covered by a bond meeting the requirements of ERISA section 412, except that the amount of the bond is not less than the value of such assets.[3] The 95% test is provided in recognition of the fact that some small plans may have assets (such as limited partnership or real estate interests) held by parties that are not regulated financial institutions. It is not the intent of the Department in proposing these amendments to directly or indirectly influence how the assets of small plans are invested through application of the audit requirements. Accordingly, only where more than 5% of a plan's assets do not constitute "qualifying plan assets" will the bonding component of the proposal apply. As noted above, the bonding component of the proposal would require a bond meeting the requirements of ERISA section 412 in an amount equal to 100% of the assets that do not constitute "qualifying plan assets." Based on industry estimates as detailed below, it does not appear that the costs attendant to compliance with the proposed bonding requirement will be significant enough to affect plan investments in assets that are not "qualifying plan assets."

Under the proposal, the percentage of a plan's assets that constitute "qualifying plan assets" and, as appropriate, the amount of supplemental bond coverage necessary to comply with the regulation are to be determined for each plan year for which the waiver is claimed. Accordingly, the administrator of a plan electing the waiver must make the required determinations as of the beginning of the plan year. For purposes of this requirement, the required determinations are to be made in a manner consistent with the requirements of section 412. Inasmuch as a determination that more than 5% of a plan's assets do not constitute "qualifying plan assets" may necessitate an increase in the amount of the plan's section 412 bond, assuming the administrator does not elect to engage an accountant, the Department concluded that the determination of "qualifying plan assets" should be made on the same basis as the required bond. In this regard, 29 CFR 2580.412–14 requires that the amount of the section 412 bond be determined by reference to the preceding reporting year. In the case of new plans, with respect to which there is no preceding report year, § 2580.412–15 provides procedures for making estimates for the current year.

For example, Plan A, which reports on a calendar year basis, has total assets of $600,000 as of the end of the 1999 plan year. Plan A's assets, as of the end of year, include: investments in various bank, insurance company and mutual fund products of $520,000; investments in qualifying employer securities of $40,000; participants loans, meeting the requirements of ERISA section 408(b)(1) totaling $20,000; and a $20,000 investment in a real estate limited partnership. Because the only asset of the plan that does not constitute a "qualifying plan asset" is the $20,000 real estate investment and that investment represents less than 5% of the plan's total assets, no bond would be required under the proposal as a

[2] On September 3, 1997, the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation published (62 FR 46556) proposed revisions to the annual return/report forms filed for employee benefit plans. The Agencies proposal replaced the Form 5500, Form 5500–C and Form 5500–R with one Form 5500 to be used by both large and small plan filers beginning with 1999 plan year filings. On June 24, 1998 the Agencies published a notice of the submission of the revised Form 5500 for OMB review (63 FR 34493). PWBA received conditional approval for the revised Form 5500 under OMB control number 1210–0110. The Department also published on December 10, 1998 (63 FR 68370) a notice of proposed rulemaking to conform its regulations relating to the annual reporting and disclosure requirements of Part 1 of Title I of ERISA to the revised forms. The proposed amendments to the small pension plan IQPA waiver contained in this notice would modify the proposed amendments to § 2520.104–41 and § 2520.104–46 published in the December 10 notice. The Form 5500 series may need to be adjusted following adoption of a final rule in connection with this proposal to reflect changes to the small pension plan IQPA waiver.

[3] Section 412 of ERISA and the regulations issued thereunder, 29 C.F.R. § 2580.412–1 *et seq.*, set forth the bonding requirements generally applicable to ERISA-covered pension and welfare benefit plans.

condition for the waiver for the 2000 plan year. By contrast, Plan B also has total assets of $600,000 as of the end of the 1999 plan year, of which $558,000 constitutes "qualifying plan assets" and $42,000 constitutes non-qualifying plan assets. Because 7%—more than 5%—of Plan B's assets do not constitute "qualifying plan assets," Plan B, as a condition to electing the waiver for the 2000 plan year, must ensure that it has a fidelity bond in an amount equal to at least $42,000 covering persons handling non-qualifying plan assets. Inasmuch as compliance with section 412 generally requires the amount of bonds to be not less than 10% of the amount of all the plan's funds or other property handled, the bond acquired for section 412 purposes may be adequate to cover the non-qualifying plan assets without an increase (i.e., if the amount of the bond determined to be needed for the relevant persons for section 412 purposes is at least $42,000). As demonstrated by the foregoing example, where a plan has more than 5% of its assets in non-qualifying plan assets, the bond required by the proposal is for the total amount of the non-qualifying plan assets, not just the amount in excess of 5%.

2. Disclosure

In addition to the bonding requirement, discussed above, the proposal further conditions the waiver of the requirement to engage an accountant on the disclosure of certain information to participants and beneficiaries. Specifically, § 2520.104–46(b)(1)(i)(B) of the proposal requires that the summary annual report (SAR) of a plan electing the waiver include, in addition to the other information required by 29 C.F.R. § 2520.104b–10: (1) The name of each institution holding "qualifying plan assets" and the amount of such assets held by each institution as of the end of the plan year; (2) The name of the surety company issuing the bond, if the plan has more than 5% of its assets in non-qualifying plan assets; (3) A notice indicating that participants and beneficiaries may, upon request and without charge, examine, or receive copies, of evidence of the required bond and statements received from each institution holding qualifying assets which describe the assets held by the institution as of the end of the plan year; and (4) A notice stating that participants and beneficiaries should contact the Regional Office of the U.S. Department of Labor's Pension and Welfare Benefits Administration if they are unable to examine or obtain copies of statements received from each institution holding qualifying assets or evidence of the required bond, if applicable. Proposed § 2520.104–46(b)(1)(i)(C) is intended to make clear that plan administrators must, without charge, make the required documents available for examination and, upon request, provide copies of those documents to participants and beneficiaries.

As indicated earlier, these requirements, in an effort to minimize costs to plans, are intended to build on existing recordkeeping and disclosure requirements. In this regard, the Department believes that all plans will receive year-end statements from institutions holding "qualifying plan assets." The proposal does not require the year-end statements to be in any particular form, but the statements, at a minimum, must identify the institution holding the assets and the amount of assets held as of the end of the year. Such information is typically furnished in the normal course of business and would, nonetheless, be necessary for administrators to properly discharge their annual reporting obligations under ERISA. Moreover, because annual reports generally are not required to be filed earlier than the end of the 7th month after the end of plan year and summary annual reports are not required to be distributed until 9 months after the close of the plan year or, if there is an approved extension of time to file, 2 months after the close of the extension period,[4] administrators are afforded ample time to ensure the availability of the information necessary to satisfy the disclosure obligation on which the waiver is conditioned.

3. Limitations

The proposal would also make clear that this section does not affect the obligation of a plan electing a waiver of the audit requirement to file a Form 5500 "Annual Return/Report of Employee Benefit Plan," including any schedules or statements required by the instructions to the form. In addition, the proposal would clarify that a plan electing to file a Form 5500 as a small plan pursuant to the "80 to 120 rule" in 29 CFR 2520.103–1(d) may also claim the waiver afforded in this section in the same manner as a plan with fewer than 100 participants. Under the "80 to 120 rule," if the number of participants covered under the plan as of the beginning of the plan year is between 80 and 120, and an annual report was filed as a small plan filer for the prior year, the plan administrator may elect to continue to file as a small plan filer and claim the waiver afforded by this section even though the plan covered more than 100 participants as of the beginning of the plan year. On the other hand, a plan with fewer than 100 participants as of the beginning of the plan year that elects to continue to file a Form 5500 as a large plan pursuant to the "80 to 120 rule" is not eligible to claim the waiver afforded to small plan filers.

[4] See 29 C.F.R. 2520.104a–5 (regulation on date of filing for annual reports), 29 C.F.R. 2520.104a–6 (regulation on date of filing for annual reports for plans which are part of a group insurance arrangement) and 29 C.F.R. 2520.104b–10(c) (regulation on when to furnish summary annual reports)

C. Conforming Changes to the Simplified Annual Reporting Regulation

Conforming amendments to the simplified annual reporting provisions in § 2520.104–41 would clarify that, although other simplified reporting options would continue to be available, if an employee benefit plan with fewer than 100 participants does not meet the criteria set forth in § 2520.104–46, it would be required to engage an IQPA to conduct an examination of the financial statements of the plan, include with the plan's annual report the financial statements, notes and schedules prescribed in ERISA section 103(b) and 29 CFR 2520.103–1, and include within the plan's annual report a report of an IQPA as prescribed in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b)(5).

D. Effective Date

This regulation is proposed to be effective 60 days after publication of a final rule in the **Federal Register**. If adopted, the proposed amendments would be applicable to the first plan year beginning after the effective date of the final regulations.

E. Request for Public Comments on Alternatives

During the development of this proposal, small business groups expressed concern about the Department taking actions in this area that would increase administrative costs for small business owners thinking about continuing existing pension plans or offering new ones. The Department shares these concerns. Data indicate that more than one half of the private sector workforce does not participate in a pension plan, and this problem is particularly serious in the small business sector. In developing this proposal we attempted to balance the interest in providing secure retirement savings for participants and beneficiaries with the interest in minimizing costs and burdens on small

pension plans and the sponsors of those plans.

To aid in this effort as we develop a final regulation, the Department is interested in obtaining views and comments from the benefit plan community on whether there are alternative approaches that would provide significant enhancements in the security of small pension plan assets and the accountability of persons handling those assets which would be more effective or involve less cost and burden than this proposal. In that regard, the Department specifically invites comments on requiring as conditions of being eligible for the audit waiver that small pension plans (1) Obtain a fidelity bond covering persons who handle plan funds in an amount equal to at least 80% of the value of the plan's assets and (2) Make available to participants and beneficiaries a schedule of the plan's assets held for investment purposes as of the end of the plan year similar to the schedule currently required as part of the Form 5500 annual report filed by pension plans with 100 or more participants. Additionally, the Department requests comments on the investment of small pension plans assets; specifically, the proportion of assets that are "qualifying plan assets" as defined in this proposal.

Executive Order 12866 Statement

Under Executive Order 12866, the Department must determine whether the regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) Creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) Materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this action is "significant" and subject to OMB review under Section 3(f)(4) of the Executive Order. Consistent with the Executive Order, the Department has undertaken to assess the costs and benefits of this regulatory action. The Department's assessment, and the analysis underlying that assessment, is detailed below.

Overview

In the Department's view, the benefits of the proposed additional requirements for the IQPA waiver outweigh the costs. The enhanced accountability and security of small pension plans resulting from additional IQPA waiver conditions will benefit plan participants who are counting on these pensions for retirement security. Given the more than $300 billion in small pension plan assets, any increase in security and accountability is valuable. The additional conditions will also strengthen confidence in the pension system as a whole, and this added confidence may encourage more employers to offer pension plans, as well as additional workers to participate in pension plans that are offered. The costs to small pension plans will not be large " it is estimated to be less than 1% of total annual administrative costs for all small pension plans. Estimates from Form 5500 data indicate that most small pension plans (as quantified below) would meet the requirement that at least 95% of their assets be "qualifying plan assets." For the few plans not meeting this requirement, the cost of obtaining fidelity bonds to enable them to meet the conditions required for the waiver are low. The statements required from qualifying financial institutions will impose no additional costs on plans because these records are kept as part of usual and customary business practices as the information is necessary for administrators to properly discharge their annual reporting obligations under ERISA. Finally, the cost of meeting disclosure requirements is small because after an initial start up cost to modify the SAR, no additional preparation costs are associated with SAR disclosure beyond the SAR statutory requirements. Additionally, no preparation is associated with distributing the statements and evidence of fidelity bonds that participants may request under the proposal.

The total costs imposed by the additional conditions this proposal would place on the small plan audit waiver are expected to be a one time cost of $5.9 million, plus $9.0 million annually.[5] This is composed of a $5.9 million start up cost to include summary language on the financial statements and bonds in the SAR, an $8.0 million cost for the estimated 37,000 plans not meeting the 95% test to obtain a bond, and a $995,000 cost to plans for providing copies of the statements and bonds upon request.

COSTS IMPOSED BY PROPOSED SMALL PENSION PLAN SECURITY AMENDMENTS

Proposed regulatory provision	SAR summary language	Obtain a bond	Provide requested copies of statements and bonds
Number of plans impacted	605,000	37,000	605,000
Total Cost	$5.9 million	$8.0 million	$995,000
Cost per plan	$10	$220	$1.64

Statement of Need for Proposed Action

As noted earlier, recent cases involving embezzlement or other misappropriations of pension assets have focused national attention on the potential vulnerability of small pension plans to fraud and abuse. As a result, the Department has determined that modifications to the small plan audit waiver would enhance pension plan security. Imposing the additional conditions on the audit waiver would

[5] The cost estimates are derived from 1995 data on pension plans (the latest available) and 1997 BLS data on occupational wages.

help reduce the risk of loss due to acts of fraud or dishonesty with small plan assets. It would also provide participants with more information about their pension plans, thus better enabling them to help provide the checks and balances needed to ensure the integrity of the pension plan.

Examination of Alternative Approaches

To improve the security of pension plan assets, and to better provide participants and other parties to the plan the ability to verify and monitor the existence of small pension plan assets, various alternatives to the proposal were considered. The voluntary nature of the private pension system requires the Department to be particularly sensitive to costs imposed by regulations and to avoid, when possible, any action that would negatively impact small pension plan formation or maintenance. The Department therefore consulted industry groups and associations regarding alternatives available to enhance pension plan security and the burdens imposed by these various alternatives. The proposed regulation was crafted using these suggestions, and is intended to accomplish these goals without imposing significant costs on pension plans.

Among the alternatives considered were on-site inspection, periodic reporting, additional compliance penalties, additional bonding requirements, and eliminating the existing small plan audit waiver of examination and report of an accountant. However, all of these options were either extremely expensive (ranging in cost from $200 million to $4 billion paid by plans or plan sponsors) and thus conflicted with the Department's priority of creating a regulatory environment that encourages pension plan formation, not feasible to implement, or would not have sufficiently enhanced small pension plan security.

Cost Analysis

The requirements contained in this proposal were developed to best conform to the actual investment patterns of small plans, rather than to alter these patterns. To understand the investment patterns of plans and the typical percentage of plan assets that would meet the "qualifying plan assets" requirement, we used Form 5500 data to examine how pension plans report their allocation of assets among various investment categories. Plan asset allocation information on the Form 5500 C/R filed by small plans is currently limited to very general categories. Because of this lack of detailed financial information, the Form 5500 filings of plans with more than 100 participants but less than $2 million in assets (within two standard deviations of the mean asset value of small plans) were used as a proxy. Data show that within this proxy group, the proportion of investments in "qualifying plan assets" to total investments does not vary with plan size except among the largest plans (those with 2,500 or more participants), which represent less than 1 percent of the proxy group. We obtained a distribution of these plans based upon the proportion of each plan's assets that are "qualifying plan assets." We then applied this distribution to the actual 1995 count of small plans to estimate a distribution of small plans based on the proportion of assets that are "qualifying plan assets." We assumed that assets reported as cash, CD's, U.S. Government Securities, corporate debt and equity, loans, employer securities and the value of interest in direct filing entities, registered investment companies, and insurance company general accounts constitute "qualified plan assets" as defined in this proposal.

The chart below shows the results of the analysis of 1995 data (the most recent year of available data) using these assumptions, and how many plans out of the 605,000 would not meet the "qualifying plan assets" test if the threshold were set at the various percentages outlined in the table. This shows that the vast majority of the assets of small plans are "qualifying plan assets." Specifically, for all but 6% of small pension plans, at least 95% of plan assets constitute "qualifying plan assets." Similarly, for all but 3% of plans, at least 90% of plan assets constitute "qualifying plan assets." As the threshold moves below 90%, very few additional plans are added to the list of those having the required percentage of "qualifying plan assets." The analysis of the data indicates that the 95% threshold represents the point at which most small plans maintain their assets in investments which represent minimal risks to their security. Consequently, the 95% threshold requirement is the means by which most plans will meet the requirement for the audit waiver. The plans that will not meet the 95% threshold are atypical of the industry standard, impose a greater risk on plan asset security, and are sufficiently few in number such that additional conditions for an audit waiver to protect participants and plan assets are warranted and are also cost effective.

ESTIMATES OF THE NUMBER AND PERCENTAGE OF SMALL PENSION PLANS (1–99 PARTICIPANTS) NOT MEETING THE "QUALIFYING PLAN ASSETS" TEST AT VARIOUS THRESHOLD LEVELS

	Alternative Threshold Levels for Qualifying Plan Assets						
	100%	95%	90%	85%	80%	75%	<75%
Number of plans	347,148	36,595	18,590	16,218	15,036	13,924	50
Percent of plans	57%	6%	3%	3%	2%	2%	.01%

Imposing an audit on small pension plans that do not meet the 95% requirement was initially considered. However, the audit cost for these 6% of small pension plans—$230 million annually—was determined to be comparatively too great in relation to other alternatives. We considered the alternative of adjusting bonding requirements and calculated the cost of requiring those plans that do not meet the 95% test to obtain fidelity bonds for the funds that are not "qualifying plan assets." Our analysis shows that bonding is a substantially less costly alternative, lowering aggregate costs by a factor of more than 20 while similarly accomplishing the goal of enhancing small pension plan security.

This alternative was feasible because for the 6% of plans that do not meet the 95% test, nearly all meet the condition that at least 75% of assets are "qualifying plan assets." This means that nearly all of the affected plans would be able, at a relatively low cost, to purchase a fidelity bond in the amount equal to, at most, those 25% of plan assets that are not "qualifying plan assets." For the average plan with $600,000 in assets, this leaves an upper bound of $150,000 in assets that would need to be covered by a bond. Applying

an annual premium of $200[6] to the 6% of plans with these $150,000 in assets needing bonding coverage yields a cost of $7.3 million. In addition to the average bond premium of $200 per plan, obtaining the bond is estimated to involve one-half hour of an analyst's time at $39 per hour per small plan, for a cost of $0.7 million. Summing these costs yields $8.0 million to comply with the additional bonding requirement.

To address the need to enhance the ability of participants to monitor the financial status of plans that do not receive financial audits, the proposed regulation would require that the SAR be modified to include summary information describing the statements and fidelity bonds and a notice that copies are available upon request. This requirement merely involves an initial start up cost to plans to modify their automated SAR forms to include the language required by the regulation. Similar to the assumptions made for the Form 5500 and SAR regulatory analyses, 90% of plans are assumed to use service providers for the required SAR modifications, with the remaining plans performing the modifications in-house. The one-time cost of modifying the SAR form is estimated to be $5.9 million—15 minutes of a professional's time at $39 per hour for all small plans. Any preparation burden associated with completing the SAR form is not attributable to this proposal, but rather, to SAR requirements in general. Another burden associated with disclosure requirements is providing copies of the statements and bonding information to those participants and beneficiaries who request them. The Department assumes that 5% of participants and beneficiaries will request this information. Since the documents already have been provided by bonding companies and financial institutions, the cost of compliance merely involves assembling the appropriate documents and photocopying, by a clerical worker at $15 per hour, and mailing costs at $.37 per distribution—for an aggregate cost of about $995,000 to plans.

Benefits Analysis

The proposed regulation is intended to accomplish two purposes: to limit pension plan fraud and to provide all parties of small pension plans with information to monitor their plan assets and plan fiduciaries. The benefits of reducing fraud and improving information disclosure are numerous. In addition to the benefits listed below, this proposal strengthens the self-regulating aspects of ERISA. With minimum government intervention, participants and other parties to the plan will have an improved ability to verify and monitor plan assets. The following bullets highlight the other potential benefits of the proposed regulation in a qualitative, and when possible, quantitative, way:

- Confidence in the private pension system may be strengthened and may result in increased participation among the nearly 600,000 private wage and salary workers who currently elect not to participate in a small plan that is offered;
- In 1998, more than $6 million in pension plans assets were recovered as a result of criminal investigations. If new conditions are imposed on the small plan audit exemption, fewer assets may be missing from plans in the future because of the checks and balances put in place by improved information disclosure;
- The investigations and litigation associated with recovering assets of small pension plans can be very costly to private parties and to the Government. In 1998, nearly 6,000 civil investigations were initiated by the Department. If new conditions are imposed on the small plan audit exemption, losses will likely decline and fewer investigations of small pension plans may be needed. This will have the dual effect of lowering investigation-related costs for small plans and permitting Federal authorities to enhance the security of other participants by directing their efforts elsewhere; and
- When workers discover that their pension plan assets are missing or are jeopardized, worker productivity declines. Time at work may be spent investigating what happened to plan assets, whether they will be restored, and whether retirement will be possible without these pension assets. If fewer instances of embezzlement occur as a result of additional conditions being imposed on the small plan audit exemption, this productivity loss will likely be reduced or eliminated.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and which are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposed rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations and governmental jurisdictions.

For purposes of analysis under the RFA, PWBA proposes to continue to consider a small entity to be an employee benefit plan with fewer than 100 participants. The basis of this definition is found in section 104(a)(2) of the Employee Retirement Income Security Act of 1974 (ERISA), which permits the Secretary of Labor to prescribe simplified annual reports for pension plans which cover fewer than 100 participants. Under section 104(a)(3), the Secretary may also provide for exemptions or simplified annual reporting and disclosure for welfare benefit plans. Pursuant to the authority of section 104(a)(3), the Department has previously issued at 29 C.F.R. §§ 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46 and 2520.104b–10 certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans covering fewer than 100 participants and which satisfy certain other requirements.

Further, while some large employers may have small plans, in general most small plans are maintained by small employers. Thus, PWBA believes that assessing the impact of this proposed rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business which is based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 *et seq.*). PWBA therefore requests comments on the appropriateness of the size standard used in evaluating the impact of this proposed rule on small entities.

On this basis, however, PWBA has preliminarily determined that this rule will not have a significant economic impact on a substantial number of small entities. In support of this determination, and in an effort to provide a sound basis for this conclusion, PWBA has prepared the following regulatory flexibility analysis.

[6] The bonding premium was estimated based on information supplied by industry representatives.

The amount of assets in small pension plans has grown nearly tenfold since 1975, making small pension plans an increasingly important retirement savings vehicle for Americans. In light of recent cases involving embezzlement or other misappropriations of pension assets that have focused national attention on the potential vulnerability of small pension plans to fraud and abuse, this regulatory action is being considered to enhance the security and accountability of small pension plans.

The objective of the proposed rule is to verify the existence of small pension plan assets and to provide information to all parties to the plan in order to enhance pension plan security. The requirements governing the proposed regulation are set forth in ERISA section 104(a)(2), in which Congress evidenced specific intent to provide small plans with relief from burdensome and expensive reporting requirements, and in the regulations §§ 2520.104–41 and 2520.104–46.

The proposed regulation amends the Department's existing waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants under ERISA. In 1995, there were about 605,000 employee pension plans with fewer than 100 participants that met the requirements for the audit waiver. Under the proposed regulation, an estimated 94% of these plans will meet the additional audit waiver requirement that at least 95% of plan assets be "qualifying plan assets." This means that only about 37,000 small plans will be subject to the requirement that the plan either purchase fidelity bonds for those assets that are not "qualifying plan assets" or obtain an audit. All 605,000 small pension plans will be subject to the disclosure requirement that the SAR contain summary information on the financial institution statements and bonds, and that the information be provided free of charge upon request.

This proposed rule impacts all classes of small pension plans with fewer than 100 participants subject to Title I of ERISA. The proposal described here is the one that accomplishes the objective of enhancing pension plan security without imposing significant costs via additional reporting, recordkeeping, and other compliance requirements. The 6% of plans that do not meet the proposed criteria for an audit waiver must either purchase a fidelity bond to cover the funds that are not "qualifying plan assets" or obtain an audit. We assume plans will choose the less costly alternative—bonding. In addition to the average bond premium of $200 per plan, obtaining the bond is estimated to involve one-half hour of an analyst's time at $39 per hour per small plan, for an aggregate cost of $8 million. Second, the plan administrator would have to receive from each qualifying financial institution a statement identifying each plan asset held. No cost is associated with this requirement because the statements required from qualifying financial institutions are records that these institution dispense as part of usual and customary business practices and that plan administrators must obtain to properly discharge their annual reporting obligations under ERISA. Third, the plan's SAR would have to include summary information describing the statements and fidelity bonds and a notice that copies of the statements and bonds are available at no charge. This requirement involves an initial start up cost of $5.9 million—15 minutes of a professional's time at $39 for all 605,000 small plans to modify their SAR forms to include the language required by the regulation. Additionally, plans would be required to provide participants and beneficiaries copies of the statements and bonding information upon request. The Department assumes that 5% of participants and beneficiaries will request this information at a cost of $995,000 to plans—assembling and photocopying by a clerical worker at $15 per hour for 7 minutes per distribution, and mailing costs of $.37 per mailing. The aggregate annual disclosure cost of $995,000 translates to only $1.64 per plan and is the only annual cost imposed by this regulation on the estimated 568,000 plans meeting the 95% test. For the 37,000 plans not meeting the 95% test, they also face an annual cost of $8 million for bonding requirements, or an additional $220 per plan. Additionally, all 605,000 plans face the one time start up cost of $10 per plan.

When considering any regulatory action, it is important to consider the impact on businesses of various sizes. Given that well over half of all small pension plans (57%) have between 1 and 10 participants, it is important to focus on these small plans in particular.

ESTIMATES OF THE NUMBER AND PERCENTAGE OF VERY SMALL PENSION PLANS (1–9 PARTICIPANTS) NOT MEETING THE "QUALIFYING PLAN ASSETS" TEST AT VARIOUS THRESHOLD LEVELS

	Alternative Threshold Levels for Qualifying Plan Assets						
	100%	95%	90%	85%	80%	75%	<75%
Number of plans	186,142	20,377	10,771	9,402	8,737	8,100	49
Percent of plans	54%	6%	3%	3%	3%	2%	.01%

As the above table shows,[7] the percent of plans with 1–9 participants that would meet the requirement that 95% of assets be "qualifying plan assets" is the same as that for all small plans with fewer than 100 participants. Therefore, the 95% threshold is reasonable for all classes of plans within the category of those with fewer than 100 participants.

[7] The data in the table was estimated in the same way as that for pension plans with more than 100 participants (see Executive Order 12866 Statement).

A discussion of alternatives to the proposed rule that the Department considered appears above in the "Examination of Alternative Approaches" section of the Executive Order 12866 Statement.

No relevant federal rules are anticipated to duplicate, overlap, or conflict with this proposed rule.

Paperwork Reduction Act

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. § 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration is soliciting comments concerning the proposed revision of the information collection request (ICR) included in this Notice of Proposed Small Pension Plan Security Amendments. A copy of the ICR may be obtained by contacting the office listed in the addressee section of this notice.

The Department of Labor (Department) has submitted a copy of the proposed information collection to the Office of Management and Budget (OMB) in accordance with 44 U.S.C. § 3507(d) of PRA 95 for review of its information collections. The Department and OMB are particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for the Pension and Welfare Benefits Administration. Although comments may be submitted through January 31, 2000, OMB requests that comments be received within 30 days of publication of the Notice of Proposed Rulemaking to ensure their consideration.

ADDRESSEE (PRA 95): Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, D.C. 20210. Telephone: (202) 219–4782 (this is not a toll-free number); Fax: (202) 219–4745.

The proposed modifications to the small plan audit waiver will increase the security and accountability of small pension plans. The paperwork burden imposed on plans will be minimal. No paperwork burden is associated with two of the three provisions in the regulation—the requirement that 95% of plan assets be—qualifying plan assets'' and the improved bonding requirement for those plans not meeting the 95% test. Paperwork does arise from the third provision—modifying the SAR to include summary information describing the statements and bonds and noting that copies are available upon request. This requirement involves a one-time start up cost to plans to modify their SAR forms to include the language required by the regulation. Since 90% of plans are assumed to use service providers to comply with ERISA Form 5500 and SAR reporting requirements, it is assumed that the modifications to the SAR form will be done by service providers for 90% of plans, and in-house for the remaining plans. The start up cost (averaged over a three year period) is estimated to be $1.8 million for the 90% small plans using service providers and 15,000 hours for the remaining plans—15 minutes per plan, at $39 per hour (professional's rate) for those plans using service providers. Another cost associated with the SAR disclosure requirements is providing copies of the statements and bonding information to participants and beneficiaries who request them. The Department assumes that 5% of participants and beneficiaries will request this information. Since the documents already have been provided by bonding companies and financial institutions, the cost of compliance per distribution merely involves 5 minutes to ready the appropriate documents for mailing and 2 minutes of photocopying by a clerical worker, at a $15 hourly rate for plans using service providers, and mailing costs of $.37 per mailing. The aggregate burden is $912,000 and 5,500 hours.

Type of Review: Revision of an existing information collection.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Title: ERISA Summary Annual Report Requirement.

OMB Number: 1210–0040.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Frequency of Response: Annually.

Total Respondents: 817,000.

Total Responses: 235,000,000.

Estimated Burden Hours: 1,390,172 total (1,369,577 for existing information collection request, and 20,595 for proposed amendments).

Estimated Annual Cost (Capital/Startup): $1,770,000 total.

Estimated Annual Costs (Operating and Maintenance): $112,287,000 total ($111,375,000 for the existing information collection request, and $912,000 for proposed amendments).

Total Annualized Costs: $114,057,000 total ($111,375,000 for the existing information collection request, and $2,682,000 for proposed amendments).

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, this proposed rule does not include any Federal mandate that may result in expenditures by State, local or tribal governments, and does not impose an annual burden exceeding $100 million on the private sector.

Small Business Regulatory Enforcement Fairness Act

The rule proposed in this action is subject to the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801, *et seq.*) (SBREFA) and is a major rule under SBREFA. The rule, if finalized, will be transmitted to Congress and the Comptroller General for review.

Statutory Authority

These regulations are proposed pursuant to authority contained in section 505 of ERISA (Pub. L. 93–406, 88 Stat. 894, 29 U.S.C. 1135) and section 104(a) of ERISA, as amended, (Pub. L. 104–191, 110 Stat. 1936, 1951, 29 U.S.C. 1024), and under Secretary of Labor's Order No. 1–87, 52 FR 13139, April 21, 1987.

List of Subjects in 29 CFR Part 2520

Accountants, Disclosure requirements, Employee benefit plans, Employee Retirement Income Security Act, Pension plans, and Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

PART 2520—[AMENDED]

1. The authority for Part 2520 continues to read as follows:

Authority: Secs. 101, 102, 103, 104, 105, 109, 110, 111(b)(2), 111(c) and 505, Pub. L. 93–406, 88 Stat. 840–52 and 894 (29 U.S.C. 1021–1025, 1029–31, and 1135); Secretary of

Labor's Order No. 27–74, 13–76, 1–87, and Labor Management Services Administration Order 2–6.

Sections 2520.102–3, 2520.104b–1 and 2520.104b–3 also are issued under sec. 101(a), (c) and (g)(4) of Pub. L. 104–191, 110 Stat. 1936, 1939, 1951 and 1955, and sec. 603 of Pub. L. 104–204, 110 Stat. 2935 (29 U.S.C. 1185 and 1191c).

2. Section 2520.104–41 is amended by revising paragraph (c) as follows:

§ 2520.104–41 Simplified annual reporting requirements for plans with fewer than 100 participants.

* * * * *

(c) *Contents.* The administrator of an employee pension or welfare benefit plan described in paragraph (b) of this section shall file, in the manner prescribed in § 2520.104a–5, a completed Form 5500 "Annual Return/Report of Employee Benefit Plan," including any required schedules or statements prescribed by the instructions to the form, and, unless waived by § 2520.104–46, a report of an independent qualified public accountant meeting the requirements of § 2520.103–1(b).

* * * * *

3. Section 2520.104–46 is amended by revising paragraphs (b)(1) and (d) to read as follows:

§ 2520.104–46 Waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants.

* * * * *

(b) *Application.* (1)(i) The administrator of an employee pension benefit plan for which simplified annual reporting has been prescribed in accordance with section 104(a)(2)(A) of the Act and § 2520.104–41 is not required to comply with the annual reporting requirements described in paragraph (c) of this section, provided that with respect to each plan year for which the waiver is claimed—

(A) (*1*) At least 95 percent of the assets of the plan constitute qualifying plan assets within the meaning of paragraph (b)(1)(ii) of this section, or

(*2*) Any person who handles assets of the plan that do not constitute qualifying plan assets is bonded in accordance with the requirements of section 412 of the Act and the regulations issued thereunder, except that the amount of the bond shall not be less than the value of such assets;

(B) The summary annual report, described in § 2520.104b–10, includes, in addition to any other required information:

(*1*) The name of each institution holding qualifying plan assets and the amount of such assets held by each institution as of the end of the plan year;

(*2*) The name of the surety company issuing a bond for purposes of paragraph (b)(1)(i)(A)(*2*);

(*3*) A notice indicating that participants and beneficiaries may, upon request and without charge, examine or receive copies of evidence of any bond required by paragraph (b)(1)(i)(A)(*2*) and copies of statements received from each institution holding qualifying assets which describe the assets held by the institution as of the end of the plan year; and

(*4*) A notice stating that participants and beneficiaries should contact the Regional Office of the U.S. Department of Labor's Pension and Welfare Benefits Administration if they are unable to examine or obtain copies of the statements received from each institution holding qualifying assets or evidence of the bond, if applicable; and

(C) In response to a request from any participant or beneficiary, the administrator, without charge to the participant or beneficiary, makes available for examination, or upon request furnishes copies of, evidence of any bond required by paragraph (b)(1)(i)(A)(*2*) and the statement of assets from each financial institution holding qualifying assets as of the end of the plan year.

(ii) For purposes of paragraph (b)(1), the term "qualifying plan assets" means:

(A) Qualifying employer securities, as defined in section 407(d)(1) of the Act and the regulations issued thereunder;

(B) Any loan meeting the requirements of section 408(b)(1) of the Act and the regulations issued thereunder; and

(C) Any assets held by the following institutions:

(*1*) A bank or similar financial institution as defined in § 2550.408b–4(c);

(*2*) An insurance company qualified to do business under the laws of a state;

(*3*) An organization registered as a broker-dealer under the Securities and Exchange Act of 1934; or

(*4*) Any other organization authorized to act as a trustee for individual retirement accounts under section 408 of the Internal Revenue Code.

(iii) For purposes of paragraph (b)(1), the determination of the percentage of all plan assets consisting of qualifying plan assets with respect to a given plan year shall be made in the same manner as the amount of the bond is determined pursuant to §§ 2580.412–11, 2580.412–14, and 2580.412–15.

* * * * *

(d) *Limitations.* (1) The waiver described in this section does not affect the obligation of a plan described in paragraph (b) (1) or (2) of this section to file a Form 5500 "Annual Return/Report of Employee Benefit Plan," including any required schedules or statements prescribed by the instructions to the form. See § 2520.104–41.

(2) For purposes of this section, an employee pension benefit plan for which simplified annual reporting has been prescribed includes an employee pension benefit plan which elects to file a Form 5500 as a small plan pursuant to § 2520.103–1(d) with respect to the plan year for which the waiver is claimed. See § 2520.104–41.

(3) For purposes of this section, an employee welfare benefit plan that covers fewer than 100 participants at the beginning of the plan year includes an employee welfare benefit plan which elects to file a Form 5500 as a small plan pursuant to § 2520.103–1(d) with respect to the plan year for which the waiver is claimed. See § 2520.104–41.

(4) A plan that elects to file a Form 5500 as a large plan pursuant to § 2520.103–1(d) may not claim a waiver under this section.

Signed at Washington, D.C., this 24th day of November, 1999.

Richard M. McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–31110 Filed 11–30–99; 8:45 am]

BILLING CODE 4510–29–P

Wednesday
December 1, 1999

Part IV

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 25 and 52

Federal Acquisition Regulation; Restrictions on Acquisitions From Yugoslavia and Afghanistan; Proposed Rule

VOL 64 ISS 230 DE 1 1999 UMI

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAR Case 1999–008]

RIN 9000–AI54

Federal Acquisition Regulation; Restrictions on Acquisitions From Yugoslavia and Afghanistan

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Orders 13121 and 13129. These Executive orders prohibit the importation into the United States of any goods or services from Yugoslavia (Serbia and Montenegro) or the territory of Afghanistan controlled by the Taliban.

DATES: Interested parties should submit comments in writing on or before January 31, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.1999–008@gsa.gov.

Please submit comments only and cite FAR case 1999–008 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Paul Linfield, Procurement Analyst, at (202) 501–1757. Please cite FAR case 1999–008.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes to amend FAR 25.70(a) and the clauses at FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and FAR 52.225–11, Restrictions on Certain Foreign Purchases, to implement Executive Order 13121 of April 30, 1999, and Executive Order 13129 of July 4, 1999. These Executive orders prohibit the importation into the United States of any goods or services from Yugoslavia (Serbia and Montenegro) or the territory of Afghanistan controlled by the Taliban. As a matter of policy, the Government does not acquire, even for overseas use, supplies or services that cannot be imported lawfully into the United States.

This rule was not subject to Office of Management and Budget review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it only applies to acquisition of items from Yugoslavia or Afghanistan. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Subparts 25 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–008), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: November 24, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 25 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. Revise paragraph 25.701(a) to read as follows:

25.701 Restrictions.

(a) The Government generally does not acquire supplies or services that cannot be imported lawfully into the United States. Therefore, even for overseas use, agencies and their contractors and subcontractors must not acquire any supplies or services originating from sources within, or that were located in or transported from or through—

(1) Cuba (31 CFR part 515);
(2) Iran (31 CFR part 560);
(3) Iraq (31 CFR part 575);
(4) Libya (31 CFR part 550);
(5) North Korea (31 CFR part 500);
(6) Sudan (31 CFR part 538);
(7) Territory of Afghanistan controlled by the Taliban (Executive order 13129); or
(8) Yugoslavia (Serbia and Montenegro) (Executive Order 13121).

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. In section 52.212–5, revise the date of the clause; redesignate paragraph (a)(2) as (a)(3); add new paragraph (a)(2); and amend newly designated paragraph (a)(3) by removing "U.S.C" and adding "U.S.C." in its place. The revised text read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Date)

(a) * * *

(2) 52.225–11, Restrictions on Certain Foreign Purchases (E.O.'s 12722, 12724, 13059, 13067, 13121, and 13129); and

* * * * *

4. In section 52.225–11, revise the date of the clause and paragraph (a); in paragraph (b) remove "Government" and insert "government" in its place; and revise paragraph (c) to read as follows:

52.225–11 Restrictions on Certain Foreign Purchases.

* * * * *

Restrictions on Certain Foreign Purchases (Date)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United

States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, Sudan, the territory of Afghanistan controlled by the Taliban, and Yugoslavia (Serbia and Montenegro).

* * * * *

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

[FR Doc. 99–31125 Filed 11–30–99; 8:45 am]
BILLING CODE 6820–EP–M

VOL
64
ISS
2
3
0
DE
1
1999
UMI

federal register

Wednesday
December 1, 1999

Part V

Environmental Protection Agency

40 CFR Parts 141 and 143
National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements; Final Rule

VOL 64 ISS 230 DE 1 1999 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 143

[WH–FRL–6481–7]

RIN 2040–AD04

National Primary and Secondary Drinking Water Regulations: Analytical Methods for Chemical and Microbiological Contaminants and Revisions to Laboratory Certification Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule contains revisions to drinking water regulations that were proposed for public comment in separate documents dated July 31, 1998, September 3, 1998, and January 14, 1999. In this rule, EPA is approving the use of updated versions of 25 American Society for Testing and Materials (ASTM), 54 Standard Methods for Examination of Water and Wastewater (Standard Methods or SM) and 13 Environmental Protection Agency (EPA) analytical methods for compliance determinations of chemical contaminants in drinking water. At the same time, the Agency is withdrawing approval of the previous versions of the 13 EPA Methods. Previous versions of the SM and ASTM methods will continue to be approved. EPA is also approving use of a new medium and two new methods for simultaneous determination of total coliforms and *E. coli.*, a new method for determination of lead, six new methods for determination of magnesium, and two new methods for determination of acid herbicides. The Agency is also making several technical corrections or clarifications to the regulations, amending the regulation to provide for changes in the composition of Performance Evaluation (PE) samples, requiring a successful PE sample analysis each year for chemical analyses, and requiring method specific laboratory certification criteria for reporting compliance data. This rule also adds two ASTM and two SM methods to those recommended for secondary monitoring of sulfate and chloride.

DATES: This final rule becomes effective on January 3, 2000. The incorporation by reference of the publications listed in today's rule is approved by the Director of the Federal Register as of January 3, 2000. For Judicial Review purposes, this final rule is promulgated as of 1 p.m. (Eastern time) on December 15, 1999, as provided in 40 CFR 23.7.

ADDRESSES: The record for this rulemaking has been established under three separate docket numbers: W–97–04 for the September 3, 1998 (63 FR 47115) rule; W–97–05 for the July 31, 1998 (63 FR 41134) rule; and W–98–27 for the January 14, 1999 (64 FR 2538) rule. Supporting documents including references and methods cited in this document, public comments received on the proposal and EPA's responses, are available for review at the US Environmental Protection Agency, Water Docket, East Tower Basement, 401 M Street, SW, Washington, D.C. 20460. For access to the docket materials, call 202–260–3027 on Monday through Friday, excluding Federal holidays, between 9 a.m. and 3:30 p.m. Eastern Time for an appointment.

FOR FURTHER INFORMATION CONTACT: The EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

For technical information on microbiology methods contact Paul S. Berger, Ph.D., (202–260–3039). For technical information regarding chemistry methods, contact Jeanne Campbell (202–260–7770). Both individuals are in the Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC–4607), US Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. For a list of Regional Contacts see **SUPPLEMENTARY INFORMATION**.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

Public water systems are the regulated entities required to conduct analyses to measure for contaminants in water samples. However, EPA Regions, as well as States, local, and tribal governments with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act, sometimes conduct analyses to measure for contaminants in water samples. If EPA has established a maximum contaminant level ("MCL") for a given drinking water contaminant, the Agency also "approves" standardized testing procedures (i.e., promulgated through rulemaking) for analysis of the contaminant. Once EPA standardizes such test procedures, analysis using those procedures (or approved alternate test procedures) is required. Public water systems required to test water samples must use one of the approved standardized test procedures. Categories and entities that may ultimately be regulated include:

Category	Examples of potentially regulated entities	SIC
State, Local, and Tribal Governments.	States, local and tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; States, local, and tribal governments that themselves operate public water systems required to conduct analytic monitoring.	9511
Industry	Industrial operators of public water systems.	4941
Municipalities	Municipal operators of public water systems.	9511

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability language at 40 CFR 141.2 (definition of public water system). If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Regional Contacts

EPA Regional Offices

I JFK Federal Bldg., One Congress Street, 11th Floor, Boston, MA 02203, Phone: 617–918–1611, Tony DePalma

II 290 Broadway, 24th Floor, New York, NY 10007, Phone: 212–647–3880, Walter Andrews

III 841 Chestnut Building, Philadelphia, PA 19107, Phone: 215–814–5757, Victoria Binetti

IV 345 Courtland Street, N.E., Atlanta, GA 30365, Phone: 404–562–9329, Stalling Howell

V 77 West Jackson Boulevard, Chicago, IL 60604, Phone: 312–886–6206, Charlene Denys

VI 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, Phone: 214–665–7150, Larry Wright

VII 726 Minnesota Avenue, Kansas City, KS 66101, Phone: 913–551–7682, Robert Morby

VIII One Denver Place, 999 18th Street, Suite 500, Denver, CO 80202, Phone: 303–312–6812, Jack Rychecky

IX 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415–744–1858, Corine Li

X 1200 Sixth Avenue, Seattle, WA 98101, Phone: 206–553–1893, Larry Worley

Information on Internet Access

This **Federal Register** document has been placed on the Internet at the following location: *http://www.epa.gov/fedrgstr*. Information about analytical methods approved for compliance monitoring can be found at the following location: *http://www.epa.gov/OGWDW/methods/methods.html*.

Availability and Sources for Methods

Copies of final EPA Methods are available for a nominal cost through the National Technical Information Service (NTIS), US Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. NTIS also may be reached at 800–553–6847. Copies of EPA Methods 515.3 and 549.2 may be obtained from USEPA, National Exposure Research Laboratory (NERL)-Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268. Written requests for copies of EPA Methods 515.3 and 549.2 may be faxed to NERL-Cincinnati at 513–569–7757 or sent via E-mail to: *Dwmethods.help@epa.gov*. All other methods must be obtained from the publisher. Publishers (with addresses) for all approved methods are cited at 40 CFR Part 141 and in the References section of today's rule.

Table of Contents

I. Statutory Authority
II. Regulatory Background and History
III. Summary of Final Rule
IV. Response to Comments
V. Changes Between the Proposed Rules and the Final Rule
VI. Performance-based Measurement System
VII. Regulation Assessment Requirements
VIII. References

I. Statutory Authority

The Safe Drinking Water Act (SDWA), as amended in 1996, requires EPA to promulgate national primary drinking water regulations (NPDWRs) which specify maximum contaminant levels (MCLs) or treatment techniques for drinking water contaminants (SDWA section 1412 (42 U.S.C. 300g–1)). NPDWRs apply to public water systems pursuant to SDWA section 1401 (42 U.S.C. 300f(1)(A)). According to SDWA section 1401(1)(D), NPDWRs include "criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures. * * *" (42 U.S.C. 300f(1)(D)). In addition, SDWA section 1445(a) authorizes the Administrator to establish regulations for monitoring to assist in determining whether persons are acting in compliance with the requirements of the SDWA (42 U.S.C. 300j–4). EPA's promulgation of analytical methods is authorized under these sections of the SDWA as well as the general rulemaking authority in SDWA section 1450(a), (42 U.S.C. 300j–9(a)).

II. Regulatory Background and History

EPA has promulgated analytical methods for all currently regulated drinking water contaminants for which MCLs or monitoring requirements have been promulgated. In most cases, the Agency has promulgated regulations specifying (i.e., approving) the use of more than one standardized analytical method for a particular contaminant. Systems may use any one of them for determining compliance with an MCL or monitoring requirement. After any regulation is published, EPA may amend the regulations to approve additional methods or modifications to existing approved methods, or withdraw approved methods that become obsolete.

On July 31, 1998, and January 14, 1999, EPA proposed to amend the regulations to approve the use of several new methods and modifications to existing methods that EPA believes are as good as or better than the current methods and procedures. The January 14 notice also proposed six analytical methods for magnesium, which would compensate for an omission in the Stage 1 Disinfectants and Disinfection Byproducts (DBP) Rule (63 FR 69390, December 16, 1998). The DBP Rule allows certain surface water systems that are unable to achieve the specified level of total organic carbon removal instead to meet one of several alternative performance criteria, including the removal of 10 mg/L magnesium hardness from source water. The DBP Rule, however, does not include any analytical methods for magnesium.

In addition to these two proposed rules, EPA proposed a rule on September 3, 1998, which was a companion to a direct final rule published on the same day (63 FR 47098). In the September 3, 1998 rule, EPA proposed approving the use of updated versions of previously approved analytical methods, the withdrawal of older versions of certain EPA methods, minor technical corrections or clarifications, and amendments to the regulations. The direct final rule, in the absence of adverse public comment, would have been final on January 4, 1999. Because adverse comments were received, EPA withdrew the entire September 1998 rule on December 31, 1998 (63 FR 72200) and deferred final action in order to respond to those comments.

III. Summary of Final Rule

A. This Rule Amends the Regulations at 40 CFR Part 141 To

1. Allow use of newer versions of 25 methods published by the American Society for Testing and Materials (ASTM). The new versions are published in the 1996 *Annual Book of ASTM Standards*, Vols. 11.01 and 11.02.

2. Allow use of newer versions of 54 methods published by the Standard Methods Committee. The new versions are published in *Standard Methods for the Examination of Water and Wastewater*, 19th edition, 1995.

3. Allow use of 13 of the 14 compliance monitoring methods published by EPA in the document, *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III*, EPA/600/R–95/131, August 1995. These 13 methods replace the previous versions of these methods. The compliance method published in Supplement III that is not approved in today's rule is EPA Method 515.1, Rev. 4.1; the previous version, Rev. 4.0, continues to be the approved version.

4. Approve a new method for the determination of lead under the Lead and Copper Rule, Palintest Method 1001.

5. Approve six new methods for the determination of magnesium, EPA Method 200.7, ASTM D–511–93 versions A and B, and SM 3500–Mg versions B, C and E under the DBP Rule.

6. Approve two additional methods for the determination acid herbicides, EPA Method 515.3 and ASTM D5317–93.

7. Replace EPA Method 549.1 for determination of Diquat with EPA Method 549.2.

8. Approve use of a new membrane filter medium, MI (4–Methylumbelliferyl-Beta-D-galactopyranoside—Indoxyl-Beta-D-glucuronide) Agar, for the simultaneous determination of total coliforms and *E. coli*, in drinking water under the Total Coliform Rule (TCR) and source water under the Surface Water Treatment Rule (SWTR).

9. Approve two new methods for determination of total coliforms, E*Colite® Test and m-ColiBlue24® Test in source water under the SWTR.

10. Require that microbiological samples collected for the determination of coliforms or fecal coliforms in source water under the SWTR or for determination of heterotrophic bacteria

in distribution system samples be shipped and held below 10°C.

11. Reduce the minimum incubation time for reading the Colisure Test, for determination of total coliforms, from 28 hours to 24 hours in drinking water under the TCR.

12. Require that a PE sample for chemical contaminants be successfully analyzed at least once each year using each method used to report compliance monitoring results. Additional methods used for confirmation testing, however, would not require PE proficiency testing.

13. Clarify that the acceptance limits for successfully measuring chemical analytes in a PE sample apply only if that analyte has been added to the PE sample.

14. Increase the maximum holding time from 48 hours to 14 days for chlorinated, unacidified drinking water samples collected for determination of nitrate.

15. Promote safe handling of acids by clarifying that acidification of samples for determinations of metals can be conducted in the laboratory rather than in the field and allowing use of dilute (1:1) solutions of acid to preserve samples collected for the determination of metals or nitrate (including total nitrate).

16. Provide an option for field/laboratory determinations of alkalinity, calcium, conductivity, orthophosphate and silica in drinking water samples by any person acceptable to the State to conduct these determinations. Previously a laboratory had to be certified to conduct these determinations.

B. This Rule Amends the Regulations at 40 CFR Part 143 To

1. Add methods for the determination of chloride to the table of methods recommended for the optional monitoring of secondary drinking water contaminants. The new recommended methods for chloride are ASTM D 512–89B and SM 4500–Cl^- B.

2. Add methods for the determination of sulfate to the table of methods recommended for the optional monitoring of secondary drinking water contaminants. The new recommended methods for sulfate are ASTM D 516–90 and SM 4500–SO_4^{2-} E.

IV. Response to Comments

EPA received 15 comments on the July 31, 1998 (63 FR 41134) proposal, 13 comments on the September 3, 1998 (63 FR 47115) rule, and 21 comments on the January 14, 1999 proposal (64 FR 2538). Commenters represented analytical laboratories, water utilities, instrument manufacturers, State and local governments, trade associations, scientists, and private citizens. A summary of major public comments on the proposed rules and the Agency's response is presented in this section. The Agency's complete response to all comments on these rules is available in the public docket for this rule.

Except as noted in Part V of this preamble, the provisions in today's rule are the same as those proposed in the July 31, 1998, the September 3, 1998 and the January 14, 1999, **Federal Register** notices.

A. Response to Significant Comments Received on the July 31, 1998 (63 FR 41134) Notice

1. Using the Same Method To Analyze Compliance Monitoring Samples and Performance Evaluation Samples

Several commenters objected to the July 1998 proposal that would require laboratories to use the same method to report the results of analyses of compliance monitoring samples and the annual PE sample that is required to maintain certification for drinking water. No commenter stated that it was unsound scientifically to require testing laboratory proficiency with a PE sample using the same method used for routine compliance monitoring. Commenters criticized the requirement, because it was too expensive or did not conform with the National Environmental Laboratory Accreditation Conference (NELAC) standard for PE sample analysis.

The commenters did not quantify what would be too expensive nor provide any cost estimates of the degree or extent that costs would increase for drinking water compliance monitoring under the proposed requirement. All States currently require the proposed practice. In addition, Chapter Three of the EPA *Manual for the Certification of Laboratories Analyzing Drinking Water* Fourth Edition (EPA 1997) recommends that, "If a laboratory wishes to be certified for a contaminant by more than one method, it should analyze the PE samples by each method for which it wishes to be certified." In this context "to be certified" means to be permitted to report compliance monitoring data. Two factors mitigate the cost of analyzing PE samples-by-method. First, a PE sample analysis is required only for each method used to report compliance data. Second, if a laboratory analyzes samples for an analyte and confirms the result by analysis with a second method, the laboratory is required to pass a PE only with the method used to report the compliance data. For labs that elect to report compliance results using more than one method per analyte, the incremental cost of an extra PE sample analysis is small, manageable and reasonable, and justified by the need to ensure that a laboratory is qualified to report data with each method.

The Agency has worked with NELAC to maximize compatibility between NELAC standards and the EPA laboratory certification requirements. The NELAC standards state that a State or federal regulation would supersede a NELAC standard when a conflict exists. EPA has the ultimate responsibility to ensure the quality and integrity of compliance monitoring data reported under the SDWA and other statutes. NELAC standards can be an alternative means to implement regulatory requirements for drinking water laboratory certification, but they are not a substitute for drinking water regulations. EPA strongly encourages States to adopt NELAC standards, but adoption is voluntary.

Three commenters supported the proposed requirement, but were concerned that the proposed change may be misinterpreted and require one to pass the PE sample for all analytes even if one were only measuring a subset of the analytes in a compliance sample (e.g., using EPA 552.1 to determine dalapon, but not the haloacetic acids). EPA does not believe the requirement will be subject to misinterpretation. If one uses EPA 552.1 to report only dalapon data, the PE sample results need only include dalapon. EPA intends to provide further guidance on this requirement in the laboratory certification manual when it is revised, and provide other assistance as specific questions arise.

2. Withdrawal of EPA Method 549.1 for Diquat

Four commenters stated they have not had any regular precipitation problems using EPA Method 549.1. Some of these commenters believe that withdrawal of EPA Method 549.1 is unnecessary and a hardship because it would require use of the new EPA Method 549.2. One of the commenters noted to the contrary that elimination of the pH adjustment simplifies the method and should not have a negative effect.

EPA agrees that not all matrices exhibit the precipitation problem at the pH adjustment step, which may be why commenters did not report significant precipitation problems with EPA Method 549.1. However, the Agency has received complaints that precipitation occurs in hard water matrices. EPA has verified this problem in simulated hard water matrices containing high

concentrations of magnesium. After carefully reviewing all of the procedural steps of EPA Method 549.1, EPA experimentally retested the pH adjustment step. The test demonstrated that the pH adjustment to pH 10.5 did not improve extraction efficiency as had been reported in literature. Increasing pH to 10.5 actually had a negative effect on recovery because of the degradation of Diquat at strongly alkaline pH. Therefore, the pH adjustment step was removed and the method was reissued and proposed as EPA Method 549.2. The pH retest step and other data are in the administrative record of the July 31, 1998 (63 FR 41134) rule.

Use of EPA Method 549.2 does not require re-certification or learning the use of a new method. EPA Method 549.2 is EPA Method 549.1 without the pH adjustment step. Requiring a step (pH adjustment) to be omitted from the current method does not impose a hardship on analytical laboratories or the regulated community. As no positive effect is associated with the pH adjustment to 10.5, and there is the possibility of a negative effect, the Agency is withdrawing EPA Method 549.1.

3. MI-Agar Medium for Coliform Determinations

In the July 31, 1998 rule, EPA proposed to approve the use of MI Agar for use with the Total Coliform Rule and Surface Water Treatment Rule. The Agency had proposed that the results from MI Agar can be read following incubation of media for 16–24 hours. Two commenters suggested that the MI Agar procedure should be approved as a 24 hour procedure since results in the comparison study were read at 24 hours. EPA data demonstrates that blue E. coli and fluorescent total coliform colonies appear in as few as 9 hours, which would be detected by the laboratory in 16–24 hours, depending upon the time of day the sample was filtered. However, because the appearance time for the blue E. coli colonies exceeded the standard 8-hour working day and because EPA planned to compare the MI Agar procedure with one using M-Endo medium, a 24-hour method, EPA used the 24-hour incubation time for the studies. Thus, the Agency is approving the method as a 24-hour test (although the test may be recorded as positive if this result shows up earlier than 24 hours). The test is approved for detecting total coliforms and E. coli under the Total Coliform Rule and for enumerating total coliforms under the Surface Water Treatment Rule.

B. Responses to Significant Comments Received on the September 3, 1998 (63 FR 47115) Notice

1. Quality Control Improvements for EPA Methods

Four commenters on the September 1998 rule noted that, although many Supplement III methods contain tightened analyte recovery control limits of ±30%, the data presented in some of these methods do not support the change. Commenters provided data or other information to support their argument for the following analytes: 2,4-DB, Aciflurofen, DCPA, Dinoseb, pentachlorophenol and Picloram in EPA Method 515.1, Rev. 4.1; hexachlorocyclopentadiene (HCP) in EPA Method 508.1, Rev. 2.0; and DDT in EPA Method 508, Rev.3.1. The commenters recommended either (1) retaining the current limits of ± 3 standard deviations or method limits, whichever are narrower for these three methods or (2) setting the recovery control limits on an analyte-by-analyte basis.

EPA revised the quality control requirements to set a limit on the range of acceptable recoveries of analytes. Previously the allowed variability had no limit because it was based on relative standard deviation (RSD) of previous recoveries and could increase to unacceptable limits if the RSD continued to increase during routine use of the method. The proposed revised criteria would allow the recoveries to vary by as much as three times the RSD provided this value does not exceed a fixed numerical limit. The fixed (usually ±30%) limit is specified in the initial demonstration of capability section of each EPA method. After reviewing public comment, EPA agrees that the fixed criteria may be too restrictive for some analytes. Specifically, because the recovery limits of ±30% for some of the regulated acid herbicides in EPA Method 515.1, Rev. 4.1 are not fully supported by the available data, the Agency will not approve this revision of EPA Method 515.1. The current revision, 4.0, will remain approved with the current recovery control limits of ± 3 standard deviations. EPA may evaluate the available data to determine if a better recovery control strategy can be developed for a future proposal. Because of this change, EPA will not impose the ±30% criterion on the ASTM version of EPA Method 515.1, D5137–93, that is approved in today's rule.

The Agency is keeping the ±30% recovery criterion for other Supplement III methods, including EPA Methods 508 and 508.1, because the data published in these methods supports the tighter control limits. The control limits of DDT from reagent water listed in Table 2 of EPA Method 508 range from 82% to 142%, i.e. 112% ±30%. The mean recoveries observed for the two synthetic waters (Table 2) and another reagent water (Table 3) are 98%, 84% and 87%, all of which fall within the allowed 82–142% recovery control limits. Although EPA agrees that data published for HCP in EPA Method 508.1, Rev. 2.0 does not support the ±30% limits for HCP, the failure is due to the extremely low spiking levels of HCP used, .i.e., four to six times the method MDL of 0.004 µg/L. In Section 9.3 of most Supplement III methods the specified minimum spiking level is ten times the MDL, which for HCP would be 0.04 µg/L, or at some midpoint of the calibration curve between the MDL and the MCL, which for HCP would be 25 µg/L. Data in the Supplement III version of EPA Method 525.2 was obtained with HCP spiked at higher concentrations and supports the ±30% recovery control limits. EPA Method 525.2 data supports the HCP control limits in EPA Method 508.1 because the procedure for the recovery of HCP from a drinking water sample is identical in both methods. The main difference between the methods is the detection system, which would not affect recovery of HCP from drinking water in any way.

2. Nitrate and Nitrite Determinations

Nitrate 48-Hour Holding Time: Two commenters believe the 48-hour limit specified in the September 1998 rule for unacidified samples is not justified when the drinking water has been disinfected. The commenters provided data and cited a reference [Williams 1979] to demonstrate the stability of nitrate in chlorinated drinking water samples that have not been acidified. One commenter recommended a holding time of 14 to 28 days. The proposed 48 hour limit was based on the recommended preservation conditions in the approved methods published by EPA, ASTM and Standard Methods. Data submitted by the commenters and in an EPA study [EPA 1987] support a longer holding time. The JAWWA report showed no difference between the two types (acidified and unacidified) of samples over a period of 14 days; the EPA report recommended a holding time of 16 days. EPA accepts the commenters' data and is increasing the holding time to 14 days at 4° C for chlorinated, unacidified samples but is keeping the current requirement of 48 hours for unacidified, unchlorinated drinking water samples.

Nitrite Determinations in Some Disinfected Drinking Water Samples: The September 1998 notice included a footnote 2 in the preservation table at § 141.23(k)(2) which explained that analysis of samples disinfected with a strong oxidant (such as free chlorine, chlorine dioxide or ozone) can only provide a total nitrate (nitrate plus nitrite) result because all nitrite will be oxidized to nitrate. One commenter suggested that EPA drop the new footnote because it was incorrect. The commenter provided data to show that nitrite can occur in supplies disinfected with chlorine if a sufficiently high level of ammonia is present. EPA proposed the footnote to remove a burden from PWSs that conduct unnecessary measurements of nitrite that has been oxidized to nitrate in a chlorinated water sample. These measurements are a burden when samples must be shipped, because the maximum holding time for nitrite samples is 48 hours. Although chlorine and other strong oxidant disinfectants will usually oxidize nitrite to nitrate in a water sample, EPA agrees that this may not occur in all chlorinated water supplies. Thus, the footnote has not been added to the preservation table. EPA may use other means to reduce the burden of nitrite analysis at a PWS when use of a strong oxidant disinfectant clearly makes a nitrite determination unnecessary.

3. Approval of 20th Edition of Standard Methods

Several commenters applauded EPA's decision to approve 19th edition of Standards Methods but urged EPA to consider approval of 20th edition as it will be published before this final rule takes effect. The timing of promulgation of this rule and publication of the 20th edition did not allow sufficient time for review of the 20th edition by the Agency. The Agency has begun this review and once a review is complete intends to propose to incorporate the latest edition of Standard Methods and other voluntary consensus standards, seek comments and finalize these changes.

4. EPA's Decision Against Withdrawal of Older Editions of Consensus Methods

Three commenters expressed concern that EPA has chosen to cite not only the most recent edition of Standard Methods but also older editions which are no longer available from the publisher. The Agency believes that the differences between the methods in earlier and newer editions are not significant to warrant the removal of older editions or impose any possible additional economic burden (especially on small laboratories) to require the purchase of new editions.

C. Response to Significant Comments Received on the January 14, 1999 (64 FR 2538) Notice

1. False-Positive Rates for m-ColiBlue24® Test and E*Colite® Test

Several commenters contended that the false-positive rates for the E*Colite® Test and m-ColiBlue24® Test were too high and consequently opposed approval of these tests without an additional analytical procedure to ensure that those positives were actually coliforms. According to data submitted by the manufacturers that developed the two proposed tests, the false positive rates were: 16.0% for total coliforms and 7.2% for *E. coli* (E*Colite Test®), and 26.8% for total coliforms and 2.5% for *E. coli* (m-ColiBlue24® Test).

As part of its process for evaluating new methods for regulated drinking water contaminants, EPA recommends that applicants follow the testing protocols developed by EPA for use under the Alternative Test Procedure (ATP) and provide EPA with the resulting data. The two existing protocols for total coliforms/*E. coli* direct the applicant to provide the false-positive rate, false-negative rate, comparison data with an EPA-specified reference method, and other information. The current protocols, however, do not set an upper limit for the false-positive and false-negative rates. Because the two applicants met all the conditions of the protocol, and the protocols do not set an upper limit for the false-positive rate, EPA next decided whether the false-positive results were sufficiently great so as to require a verification step.

The Agency decided that the rates are not so high to require a verification step. First, the definition of "total coliforms" is not tightly defined. The definition is not strictly based upon taxonomy, but rather on the basis of gas production from the fermentation of lactose. EPA has approved some coliform tests (e.g., Colilert test) that are based not upon this process, but rather on some other means of determining whether the organism uses lactose. Therefore, the different methods may not be testing for exactly the same set of organisms, and this situation clouds the meaning of the term "false-positive." Second, the Agency believes that public health would not be jeopardized with the higher false-positive rates because any false-positive result would err on the side of safety. Third, the Agency notes that a single total coliform-positive sample does not result in an MCL violation. Thus the adverse consequence of a "false-positive" for the system is mitigated. Finally, water systems have a choice among several methods currently approved for coliform. The user should take the false-positive rate (and, more importantly, the false-negative rate) into account in choosing which analytical methods to use for compliance sampling. Therefore, the Agency is not requiring a verification step for these two methods although systems/laboratories may elect to verify a total coliform-positive test at their discretion. The Agency notes that the *Manual for the Certification of Laboratories Analyzing Drinking Water* (4th ed., EPA 815–B–97–001, March 1997), at paragraph 5.1.8, encourages laboratories to perform parallel testing between a newly approved test and another EPA-approved procedure for enumerating total coliforms for at least several months and/or over several seasons to assess the effectiveness of the new test for the wide variety of water types submitted for analysis.

To emphasize the point that systems and laboratories should carefully choose which coliform method to use, the Agency has added a footnote to the table on approved methods for total coliforms in 141.21(f) that states:

> EPA strongly recommends that laboratories evaluate the false-positive and negative rates for the method(s) they use for monitoring total coliforms. EPA also encourages laboratories to establish false-positive and false-negative rates within their own laboratory and sample matrix (drinking water or source water) with the intent that if the method they choose has an unacceptable false-positive or negative rate, another method can be used. The Agency suggests that laboratories perform these studies on a minimum of 5% of all total coliform-positive samples, except for those methods where verification/confirmation is already required, e.g., the M-Endo and LES Endo Membrane Filter Tests, Standard Total Coliform Fermentation Technique, and Presence-Absence Coliform Test. Methods for establishing false-positive and negative rates may be based on lactose fermentation, the rapid test for β-galactosidase and cytochrome oxidase, multi-test identification systems, or equivalent confirmation tests. False-positive and false-negative information is often available in published studies and/or from the manufacturer(s).

In addition to this footnote, to assist systems and laboratories in choosing a method, EPA is planning two future actions. First, EPA intends to prepare and widely distribute a list of the Agency-approved coliform methods, along with published false-positive and false-negative rates for each. Second, EPA intends to re-evaluate whether the alternate test procedure protocol for

coliforms should include specific limits for the false-positive and false-negative rates, whether to specify more precisely how these rates are to be determined, and whether to revise the comparison study to correct for the false-positive rates.

As a result of these measures, the Agency might undertake rulemaking that would require laboratories to use another test to verify the results from one or more of the coliform methods that the Agency has previously approved for drinking water analyses or are being approved in today's rule. Alternatively, the Agency may issue guidance rather than regulations on this issue. EPA is approving the three proposed coliform methods in today's rule rather than delay approval until the conclusion of this re-evaluation, because (1) The issue is not whether the test should be approved, but rather whether a verification step is needed, (2) Any future verification requirement may cover not only the three proposed coliform methods, but also previously EPA-approved methods, and (3) The Agency may issue guidance to the States, laboratories, and water systems on this issue rather than regulations. In the interim, EPA is recommending that each laboratory establish false-negative and false-positive rates for the water matrices to be tested, if it uses a method(s) for which EPA does not currently require a confirmation/verification step.

2. m-ColiBlue24® Test and E*Colite® Test: Presence-Absence vs. Density Measurements

Commenters requested clarification whether the m-ColiBlue24® Test and E*Colite® Test were being proposed as presence-absence type tests or density tests. EPA proposed, and is approving, these two tests only as presence-absence type tests, i.e., to determine the presence or absence of total coliforms and *E. coli* in a 100-mL water sample under the Total Coliform Rule (TCR). The two methods have not been approved for use under the SWTR by unfiltered systems to enumerate densities of total coliforms in the source water.

3. m-ColiBlue24® Test: Incubation Time

Commenters requested clarification of the incubation time for m-ColiBlue24®. EPA is approving this method and the Colisure test as 24-hour tests.

4. E*Colite® Test: Accidental Release of Bactericide

E*Colite® Test has a bactericide compartment that is separated by a seal from the reaction compartment. Two commenters were concerned that an accidental release of the bactericide could result in either sample loss or undetected false-negatives. According to a letter to EPA, dated April 13, 1999, from the manufacturer, Charm Sciences has quality assurance criteria for the integrity of the seal between the reaction compartment and the bactericide compartment. The Agency has included the letter in the docket for today's rule. Charm Sciences tests the seal between the bactericide and the culture in raw material acceptance specifications. Test bags must have a failure rate of <0.2% after 72 hours incubation at 37° C. In addition, the manufacturer adds a red dye to the bactericide so that a faulty seal between the compartments is quickly identified by the user as a flawed test. Finally, Charm Sciences, in an improvement, dispenses the bactericide in a protective foil pouch contained inside the bactericide compartment. This additional pouch offers a failure rate <0.2%. According to Charm Sciences, the probability of a simultaneous compartment seal failure and a pouch failure would be $P<0.00004$. As a result, the Agency believes an accidental release of bactericide is improbable.

5. Magnesium: Inductively Coupled Plasma—Mass Spectrometry (EPA Method 200.8)

The January 14 notice proposed six analytical methods for magnesium. EPA is approving all six methods. One commenter recommended that EPA approve the use of EPA Method 200.8, Inductively Coupled Plasma—Mass Spectrometry, in addition to the other six methods for analysis of magnesium. The Agency, however, does not have the data to support the use of EPA Method 200.8 for magnesium, and thus is not approving this method.

6. Lead: Anodic Stripping Voltammetry Method (Method 3130 B in *Standard Methods*)

The January 14 notice proposed a new alternate test procedure for lead, Method 1001, *Lead in Drinking Water Differential Pulse Anodic Stripping Voltammetry (DPASV)*, developed by Palintest LTD. Two commenters recommended that EPA approve the Anodic Stripping Voltammetry Method for lead (Method 3130 B) that appears in *Standard Methods*. The commenters did not provide their rationale, but apparently believe that approval is warranted based upon the fact that it is a consensus method equivalent to the proposed Palintest Procedure.

EPA reviewed Method 3130 in *Standard Methods* to determine whether the method could be approved on the basis that it was equivalent to the proposed Palintest Procedure (Method 1001). While the Agency notes that both procedures employ the same measurement technique, i.e., Differential Pulse Anodic Stripping Voltammetry, it does not believe that this fact, by itself, is sufficient to claim that the methods are equivalent.

Based upon the description provided in *Standard Methods*, the Agency does not believe there is sufficient data to show that the methods are equivalent. Method 3130 (Sections 1a and 1c) mentions sample digestion, and references Section 3030. While Section 3030 presents several acid digestion procedures, there is no supporting data employing the cited procedure(s) to show the efficacy of Method 3130 in conjunction with the measurement phase. In addition, in the section on "procedure" (Section 4), there is no mention of a specific value for the detection limit, nor linear dynamic range data, for either the hanging mercury drop electrode or the thin mercury film electrode, in the context of the operating parameters listed in the table, "Instrumental conditions."

Also, the section on "quality control" (Section 6) only states that the guidelines in Section 3020 should be followed. The guidelines in 3020, Quality Control, state that one should refer to individual method(s) for method specific quality control requirements. Thus, Method 3130 neither presents nor provides an acceptable cite for method quality assurance. Although Section 1020 B, Quality Control, discusses and/or describes the necessary elements of QC, it does not present the necessary data to demonstrate equivalency.

For the reasons indicated above, EPA is not approving Method 3130 in this rule. However, the Agency may decide to approve this method as a consensus method under a subsequent edition of *Standard Methods*, once the concerns indicated above are resolved.

V. Changes Between the Proposed Rules and the Final Rule

Except as noted below, the actions in today's final rule are the same as the proposed actions.

A. Changes to the July 31, 1998 Proposed Rule

MI Agar Medium for Coliform Determinations

The Agency proposed that results from MI Agar can be read following 16–24 hour incubation. In today's final rule the Agency has approved MI Agar as a 24 hour test.

B. Changes to September 3, 1998 Proposed Rule

1. Acid Herbicide Methods: EPA 515.1 (Rev. 4.1) and ASTM D 5317–93

EPA will not withdraw EPA Method 515.1 (Rev. 4.0) as proposed in the September rule and replace it with EPA Method 515.1 (Rev. 4.1) for the determination of acid herbicides the data in Rev. 4.1 does not support the upper limit of ± 30% for the recovery of some method analytes. Because of this change, EPA will not require that the ± 30% criterion be applied to determinations of acid herbicides using ASTM D 5317–93. EPA Method 515.1 Rev. 4.1 is published in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III* (Supplement III), EPA/600/R–95/131, August 1995. EPA Method 515.1 Rev. 4.0 is published in *Methods for the Determination of Organic Compounds in Drinking Water*, EPA/600/4–88/039, December 1988, Revised, July 1991. The other 13 compliance methods in Supplement III are approved in today's rule and replace the previously approved versions of these methods. EPA is withdrawing approval of the previous versions of the 13 EPA methods effective on June 1, 2001.

2. Nitrate and Nitrite Determinations

EPA is changing two of the amendments that were proposed at 141.23(k)(2) for determinations of nitrate or nitrite. The proposed amendments would have eliminated the requirement to determine nitrite in some drinking waters that are disinfected and require unacidified, chlorinated samples to be analyzed within 48 hours of collection. Under certain conditions nitrite is not completely oxidized to nitrate in disinfected water supplies, EPA will not eliminate the requirement to determine nitrite in disinfected water supplies. Therefore, EPA is increasing the proposed holding time for unacidified samples of chlorinated drinking water from 48 hours to 14 days.

3. Acidification of Samples

The footnotes to the table of preservation requirements at § 141.23(k)(2) are revised to allow use of dilute rather than concentrated acids and to clarify that current regulations do not require that samples for determination of metals be acidified in the field at the time of collection. This information was previously omitted from the table, because most approved methods specify use of dilute acid or that metals (not nitrate) samples may be analyzed 16 hours after they have been acidified at the laboratory.

4. Methods for Monitoring Unregulated Contaminants

The methods for unregulated monitoring at 40 CFR 141.40 will not be updated, because other regulatory actions (the Unregulated Contaminant Monitoring Rule, UCMR) will supersede the currently specified methods. These changes were published as a final rule on September 17, 1999 (64 FR 50556).

C. Changes to January 14, 1999 Proposed Rule

There were no changes to the actions or methods proposed in this rule.

VI. Performance-Based Measurement System

EPA plans to implement in the future a performance-based measurement system (PBMS) that would allow the option of using either performance criteria or reference methods in its drinking water regulatory programs. The Agency is currently determining the specific steps necessary to implement PBMS in its programs and preparing an implementation plan. Final decisions have not yet been made concerning the implementation of PBMS in water programs. However, EPA is currently evaluating what relevant performance characteristics should be specified for monitoring methods used in the water programs under a PBMS approach to ensure adequate data quality. EPA would then specify performance requirements in its regulations to ensure that any method used for determination of a regulated analyte is at least equivalent to the performance achieved by other currently approved methods.

Once EPA has made its final determinations regarding implementation of PBMS in programs under the Safe Drinking Water Act, EPA would incorporate specific provisions of PBMS into its regulations, which may include specification of the performance characteristics for measurement of regulated contaminants in the drinking water program regulations.

VII. Regulation Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 USC 601 et. seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, "which are appropriate to the activities of the agency" after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601 (3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with SBA's Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's rule on small entities, EPA considered small entities to be those public water systems serving 10,000 or fewer customers. Public water systems includes both publicly and privately owned water systems. In accordance with the RFA requirements, EPA proposed using this alternative definition for governmental jurisdictions, small businesses and small not-for-profit enterprises in the **Federal Register** (63 FR 7620–7621 (February 13, 1998)), requested public comment, consulted with the Small

Business Administration (SBA) on the alternative definition as it relates to small businesses, and finalized the alternative definition in the final Consumer Confidence Report regulation on, 63 FR 44524–44525 (August 19, 1998). As stated in that Final Rule, the alternative definition would be applied to all future drinking water regulations.

After considering the economic impact of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. Today's rule approves new and revised versions of currently approved EPA Methods, ASTM Methods and Standard Methods for compliance with drinking water standards and monitoring requirements. Previous versions of these ASTM and Standard Methods will not be withdrawn. Public water systems and laboratories performing analyses on behalf of these systems may continue to use them after the promulgation of today's rule. Previous versions of 13 EPA Methods, however, will be withdrawn after 18 months. The delayed effective date for withdrawal should provide ample time for the changeover. The incremental change in cost associated with the use of the new versions of EPA methods will be very minor because the new versions contain only technical enhancements and editorial improvements. This rule also provides public water systems additional options for detecting total coliforms and E. coli in drinking water under the Total Coliform Rule and source water under the Surface Water Treatment Rule, for measuring magnesium under the DBP Rule, and for measuring lead under the Lead and Copper rule.

This rule also made minor technical corrections, amendments, or clarifications to the regulations and laboratory certification requirements. Laboratories conducting analysis for contaminants in drinking water are required to be certified for proficiency in the analytical method they actually use for drinking water compliance monitoring. Thus, in the case of laboratories that choose to be certified for an analyte using more than one approved method, the regulation will require such laboratories to analyze a PE sample for each method for which certification is requested. Currently most laboratories elect to be certified for only one method and there is no reason to believe this situation will change. Even if some small laboratories elect to seek certification for more than one method for some analytes, EPA has concluded that less than 24 small laboratories (1% of the total) will elect to do so. The consequent economic impact on small government laboratories would only be the annual cost of an additional PE analysis for the additional method of their choosing which could run as much as $100 or as little as $10 per laboratory. The cost per laboratory depends on the complexity of the additional method for which the laboratory chooses to be certified.

The requirement to hold samples at 10 °C during transit/storage under the Surface Water Treatment Rule is not expected to cause any significant increase in monitoring cost for small water systems. The requirement will affect only a selected number of small systems. The requirement to hold total and fecal coliform samples at 10 °C during transit/storage will affect only systems which use surface water and do not filter. Distribution system samples collected for the analysis of heterotrophic bacteria [measured as heterotrophic plate count (HPC)] are also required to be held at 10 °C during transit/storage. However, the analysis of heterotrophic bacteria is an optional substitute for maintaining a detectable disinfection residual. The requirement to hold samples below 10 °C can be easily met by shipping samples in reusable ice packs. EPA estimates a one time cost of less than $5 per sample for the ice packs; over a period of time this represents only a slight increase in sample shipping cost under current requirements.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The rule approves use of additional analytical methods by systems conducting analysis for contaminants in drinking water and thus provides operational flexibility to the system. Any mandate to use a standardized testing procedure for a particular contaminant was established by EPA in an earlier rulemaking. Today's rule merely allows additional standardized procedures. Although, the rule withdraws earlier outdated versions of some methods, EPA anticipates no increase in expenditure or burden on the testing laboratories because newer methods are easier and more efficient to use. Thus, no increase in expenditure or burden on the laboratories' client public water systems is expected.

The rule also approves six methods for magnesium for use under the Stage 1 DBP Rule. Currently there are no EPA approved methods for magnesium, though earlier rulemaking established the need for standardized testing (in order to avoid other requirements). The methods will allow certain systems using softening that are unable to meet the specified level of total organic carbon removal to analyze for magnesium as one of several alternative performance criteria. EPA estimates that the cost of a magnesium analysis should not exceed $20 per sample; systems analyzing magnesium under the DBP Rule will be required to collect 24

samples per year, which will cost no more than $20 × 24 = $480 per year. EPA believes that less than 1% of the 1,395 surface water systems covered by the DBP Rule will choose to monitor for magnesium as one of several criteria. As noted earlier, however, today's rule did not establish a new requirement for standardized testing of magnesium. That requirement was established in earlier rulemaking (though EPA neglected to specify acceptable standardized procedures at that time).

Today's rule affects laboratory testing requirements in ways other than approval of additional standardized test procedures. Some of these changes impose Federal mandates, but the effect of the new mandate will be well below $100 millions dollars in any one year. Today's rule authorizes changes to the composition of Performance Evaluation (PE) samples, requires yearly analysis of PE samples, establishes a requirement that laboratories be certified based on the proficiency with the method they actually use, and establishes a temperature requirement for certain samples prior to testing. The cost of PE program should decrease because the testing laboratories have to analyze for fewer analytes. The authorized changes to PE sample composition may actually decrease the burden associated with existing mandates.

Requiring PE sample analysis once a year will not adversely affect the systems because all States that conduct laboratory certification programs currently require yearly PE sample analysis. Today's rulemaking merely formalizes this national consistency among the States.

The amendment requiring that laboratories be certified based on the proficiency on the method they actually use to report the compliance data will impose a minor requirement for laboratories that choose to be certified for an analyte by more than one method. Previously, laboratories could satisfy PE testing requirement using any approved method regardless of the method actually used. Today's action merely codifies the common sense intention that laboratories establish proficiency with the methods they actually use. Though the requirement to establish proficiency now mandates use of the method actually used for compliance testing, EPA believes the potential incremental cost of an extra PE sample analysis is small, manageable and reasonable, and justified by the need to ensure that a laboratory is qualified to report data with each method. Currently most laboratories elect to be certified by the one method that they routinely use. There is no reason to believe laboratories will be compelled to incur the cost of an additional PE sample in the future.

The requirement to hold source water samples below 10 °C during transit/storage under the Surface Water Treatment Rule will affect only a small fraction (1–9%) of the water utilities. The effect on monitoring cost will be very minor, and attributable to a slight increase in sample shipping cost. Therefore, the mandate associated with the sample holding temperature should be insignificant.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The requirements will not be significant according to the information presented in the previous discussion of the Regulatory Flexibility Act. The requirements will not be unique because large and small governments would be affected the same way. Thus today's rule is not subject to the requirements of section 203 of the UMRA.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq., EPA must submit an information collection request covering information collection requirements in a rule to the Office of Management and Budget (OMB) for review and approval. This rule does not contain any information collection requirements, and therefore is not subject to the Paperwork Reduction Act.

E. Science Advisory Board and National Drinking Water Advisory Council, and Secretary of Health and Human Services

In accordance with Section 1412 (d) and (e) of the SDWA, the Agency submitted all three rules in the proposal phase to the Science Advisory Board, the National Drinking Water Advisory Council, and the Secretary of Health and Human Services for their review. They had no comments.

F. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. EPA is approving new versions of ASTM and Standard Methods for many regulated drinking water contaminants. ASTM and SM are both voluntary consensus standard bodies responsible for promoting adoption of uniform and efficient methods for analysis. In addition, EPA conducted a search to identify applicable consensus standards that would be acceptable for compliance determinations under the SDWA for the measurement of Diquat, six acid herbicides, magnesium, and lead and is approving consensus methods whenever possible. EPA identified two methods (ASTM D 5317–93 and SM 6640 B) for the acid herbicides. EPA is approving ASTM Method D 5317–93 for acid herbicides but decided not to use SM 6640 B in this rulemaking. The use of this voluntary consensus standard would have been impractical with applicable law because of significant shortcomings in the sample preparation and quality control sections of the method instructions. The Stage 1 DBP disinfection by-products final rule allows systems to demonstrate compliance with a total organic carbon removal requirement by demonstrating the removal of magnesium from the water supply. In today's rule, EPA has approved five voluntary consensus standards, SM 3500–Mg versions B, C, and E; ASTM D 511–93 versions A and B, for determination of magnesium. These methods have the sensitivity and precision necessary to determine magnesium removal at the levels specified in the Stage 1 DBP rule.

EPA identified no voluntary consensus standards for Diquat, and none were brought to the Agency's attention in comments. Therefore, EPA has decided to use EPA Method 549.2. A commenter recommended that EPA include thallium as an approved analyte in SM 3113 B. While SM 3113 B lists thallium in the potential analytical scope, the method does not contain accuracy and precision statistical data for determinations of thallium. The Agency does not have and the commenter did not provide the sensitivity, accuracy and precision statistical data the Agency would need to approve this technique for compliance determinations of thallium. Therefore, EPA decided not to include thallium in this rulemaking. A commenter recommended that the

Agency approve a voluntary consensus standard (SM 3130 B) for lead, because the commenter believes it is equivalent to the Palintest Method 1001 that is approved in today's rule. EPA reviewed SM 3130 B and concluded that is it not equivalent to the technique used in Method 1001, and the performance data in the method are not complete enough for the Agency to determine whether SM 3130 B would produce results equivalent to Method 1001 or to other methods approved for determinations of lead.

G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997)

Executive Order 13045 applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) Concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is not an "economically significant" rule as defined under E.O. 12866.

H. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's rule approves new and revised versions of currently approved EPA Methods, ASTM Methods and Standard Methods for measurement of compliance with drinking water standards. This rule also provides public water systems, many of which are owned or operated by political subdivisions of States, with additional options for detection of total coliforms and *E. coli* in drinking water under the Total Coliform Rule and source water under the Surface Water Treatment Rule, as well as for measurement of magnesium under the DBP Rule, and for measurement of lead under the Lead and Copper rule. Though public water systems may be owned or operated by political subdivisions of States, the additional measurement flexibility afforded by today's rule will in no way affect the allocation of responsibilities among various levels of government.

This rule also made minor technical corrections, amendments, or clarifications to the regulations and laboratory certification requirements. Laboratories conducting analysis for contaminants in drinking water are required to be certified for proficiency in the analytical method they actually use for drinking water compliance monitoring. Thus, in the case of laboratories that choose to be certified for an analyte using more than one approved method, the regulation will require such laboratories to analyze a PE sample for each method for which certification is requested. Today's rule also requires that source water samples be held at 10°C during transit/storage under the Surface Water Treatment Rule. For government laboratories that will be affected by this rule, the affect will not have federalism implications because the rule will not impose substantial direct compliance costs, nor will it affect existing relationships between the national government and the States, nor will it affect the distribution of powers and responsibilities among the various levels of government. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

I. Executive Order 13084—Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. EPA's promulgation of analytical methods is authorized under section 1401(1)(D) and 1445(a) of the Safe Drinking Water Act. This rule approves new and updated analytical methods for drinking water compliance monitoring and makes method related corrections and amendments in the regulations. The

choice of new and updated analytical methods will actually save compliance cost as newer methods are more efficient and easier to use. Methods related corrections and amendments may cause a small increase in compliance cost but the increase will be very minor as discussed in the preamble. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective January 3, 2000.

VIII. References

APHA 1992. Eighteenth edition of *Standard Methods for the Examination of Water and Wastewater*, 1992, American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005.

APHA 1995. Nineteenth edition of *Standard Methods for the Examination of Water and Wastewater*, 1995, American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005.

ASTM 1994. *Annual Book of ASTM Standards*, 1994, Vol. 11.01 and 11.02, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

ASTM 1996. *Annual Book of ASTM Standards*, 1996, Vol. 11.01 and 11.02, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

AWWA 1996. "Standard Methods—A Closer Look", Posavec, Steve, in *Opflow*, Vol. 22, No. 2, February 1996, American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

Brenner 1993. Brenner, K.P., et al., "New medium for the simultaneous detection of total coliform and *Escherichia coli* in water", Appl. Environ. Microbiol. 59:3534–3544.

Brenner 1996a. Brenner, K.P., et al., "Comparison of the recoveries of *Escherichia coli* and total coliform from drinking water by the MI Agar method", Appl. Environ. Microbiol. 62:203–208.

Brenner 1996b. Brenner, K.P., *et al.*, "Interlaboratory evaluation of MI Agar and the U.S. Environmental Protection Agency—approved membrane filter method for the recovery of total coliform and *Escherichia coli* from drinking water", J. Microbiol. Methods 27:111–119.

EPA 1987. "Development of Preservation Techniques and Establishment of Maximum Holding Times: Inorganic Constituents of the National Pollutant Discharge Elimination System and Safe Drinking Water Act", EPA/600/S4–86/043, March 1987.

EPA 1990a. "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I", July 1990, NTIS PB91–146027.

EPA 1991. "Methods for the Determination of Organic Compounds in Drinking Water", December 1988, revised July 1991, NTIS PB91–231480.

EPA 1992. "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," August 1992, NTIS PB92–207703.

EPA 1993. "Methods for the Determination of Inorganic Substances in Environmental Samples", August 1993, NTIS PB94–120821.

EPA 1994. "Methods for the Determination of Metals in Environmental Samples—Supplement I", May 1994, NTIS PB95–125472.

EPA 1994b. *Technical Notes on Drinking Water Methods*, EPA/600/R–94/173, October 1994, NTIS PB95–104766.

EPA 1995. "Methods for the Determination of Organic Compounds in Drinking Water—Supplement III," EPA/600/R–95/131, August 1995, NTIS PB95–261616.

EPA 1996. EPA Methods 515.3, "Determination of Chlorinated Acids in Drinking Water by Liquid-liquid Extraction, Derivatization And Gas Chromatography With Electron Capture Detection," Revision 1.0, EPA/815/B–99/001, July 1996. Available from U.S. Environmental Protection Agency, National Exposure Research Laboratory (NERL)-Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268.

EPA 1997a. EPA Methods 549.2 "Determination of Diquat And Paraquat in Drinking Water by Liquid-solid Extraction And High Performance Liquid Chromatography With Ultraviolet Detection", Revision 1.0, EPA/815/B–99/002, June 1997. Available from U.S. Environmental Protection Agency, National Exposure Research Laboratory (NERL)-Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268.

EPA 1997b. *Manual for the Certification of Laboratories Analyzing Drinking Water*, Fourth Edition, Office of Water Resource Center (RC–4100), 401 M. Street SW, Washington, D.C. 20460, EPA/81/B–97/001, March 1997.

NY 1996. Suffolk County Water Authority 1996. Data Package pertaining to EPA Method 508.1 and the use of a NP detector. Suffolk County Water Authority Laboratory, 260 Motor Parkway, P.O. Box 18043, Hauppauge, New York 11788–8843.

Palintest 1999. Method 1001: Lead in Drinking Water by Differential Pulse Anodic Stripping Voltammetry, August 1999. Palintest, LTD, 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018.

USGS 1989. Methods I–3720–85, I–3300–85, I–1030–85, I–1601–85, I–2598–85, I–1700–85 and I–2700–85 in *Techniques of Water Resources Investigations of the U.S. Geological Survey*, Book 5, Chapter A–1, 3rd ed., 1989, U.S. Geological Survey (USGS) Information Services, Box 25286, Federal Center, Denver, CO 80225–0425.

USGS 1993. Method I–2601–90 in *Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments*, Open File Report 93–125, 1993, U.S. Geological Survey (USGS) Information Services, Box 25286, Federal Center, Denver, CO 80225–0425.

Williams 1979. Williams, T. J, *et al.*, "An Evaluation of the Need for Preserving Potable Water Samples for Nitrate Testing", JAWWA, March 1979, pp. 157–160.

List of Subjects

40 CFR Part 141

Environmental protection, Chemicals, Incorporation by reference, Indian-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 143

Environmental protection, Chemicals, Incorporation by reference, Indian-lands, Water supply.

Dated: November 22, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of Code of Federal Regulations, are amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.21 is amended by:

a. Revising paragraph (f)(3);

b. Revising the next to last sentence of paragraph (f)(5);

c. Revising the second sentence of paragraph (f)(6)(i);

d. Revising the second sentence of paragraph (f)(6)(ii);

e. Adding paragraphs (f)(6)(v), (f)(6)(vi) and (f)(6)(vii); and

f. Revising the second sentence of paragraph (f)(8).

The revisions and additions read as follows:

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(3) Public water systems must conduct total coliform analyses in accordance with one of the analytical methods in the following table.

Organism	Methodology [12]	Citation [1]
Total Coliforms [2].	Total Coliform Fermentation Technique [3,4,5].	9221A, B
	Total Coliform Membrane Filter Technique [6]	9222 A, B, C
	Presence-Absence (P-A) Coliform Test [5,7]	9221
	ONPG-MUG Test [8]	9223
	Colisure Test [9]	
	E*Colite® Test [10]	
	m-ColiBlue24® Test [11]	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1, 6, 8, 9, 10 and 11 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, D.C. 20460 (Telephone: 202–260–3027); or at the Office of FEDERAL REGISTER, 800 North Capitol Street, NW, Suite 700, Washington, D.C. 20408.

[1] Methods 9221 A, B; 9222 A, B, C; 9221 D and 9223 are contained in *Standard Methods for the Examination of Water and Wastewater*, 18th edition (1992) and 19th edition (1995) American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005; either edition may be used.

[2] The time from sample collection to initiation of analysis may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10 °C during transit.

[3] Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform, using lactose broth, is less than 10 percent.

[4] If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half to two-thirds after the sample is added.

[5] No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

[6] MI agar also may be used. Preparation and use of MI agar is set forth in the article, "New medium for the simultaneous detection of total coliform and *Escherichia coli* in water" by Brenner, K.P., et al., 1993, Appl. Environ. Microbiol. 59:3534–3544. Also available from the Office of Water Resource Center (RC–4100), 401 M. Street SW, Washington, D.C. 20460, EPA/600/J–99/225.

[7] Six-times formulation strength may be used if the medium is filter-sterilized rather than autoclaved.

[8] The ONPG-MUG Test is also known as the Autoanalysis Colilert System.

[9] A description of the Colisure Test, Feb 28, 1994, may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. The Colisure Test may be read after an incubation time of 24 hours.

[10] A description of the E*Colite® Test, "Presence/Absence for Coliforms and *E. Coli* in Water," Dec 21, 1997, is available from Charm Sciences, Inc., 36 Franklin Street, Malden, MA 02148–4120.

[11] A description of the m-ColiBlue24® Test, Aug 17, 1999, is available from the Hach Company, 100 Dayton Avenue, Ames, IA 50010.

[12] EPA strongly recommends that laboratories evaluate the false-positive and negative rates for the method(s) they use for monitoring total coliforms. EPA also encourages laboratories to establish false-positive and false-negative rates within their own laboratory and sample matrix (drinking water or source water) with the intent that if the method they choose has an unacceptable false-positive or negative rate, another method can be used. The Agency suggests that laboratories perform these studies on a minimum of 5% of all total coliform-positive samples, except for those methods where verification/confirmation is already required, e.g., the M-Endo and LES Endo Membrane Filter Tests, Standard Total Coliform Fermentation Technique, and Presence-Absence Coliform Test. Methods for establishing false-positive and negative-rates may be based on lactose fermentation, the rapid test for β-galactosidase and cytochrome oxidase, multi-test identification systems, or equivalent confirmation tests. False-positive and false-negative information is often available in published studies and/or from the manufacturer(s).

* * * * *

(5) * * * The preparation of EC medium is described in Method 9221E (paragraph 1a) in *Standard Methods for the Examination of Water and Wastewater*, 18th edition, 1992 and in the 19th edition, 1995; either edition may be used. * * *

(6) * * *

(i) * * * EC medium is described in Method 9221 E as referenced in paragraph (f)(5) of this section. * * *

(ii) * * * Nutrient Agar is described in Method 9221 B (paragraph 3) in *Standard Methods for the Examination of Water and Wastewater*, 18th edition, 1992 and in the 19th edition, 1995; either edition may be used. * * *

* * * * *

(v) The membrane filter method with MI agar, a description of which is cited in footnote 6 to the table in paragraph (f)(3) of this section.

(vi) E*Colite® Test, a description of which is cited in footnote 10 to the table at paragraph (f)(3) of this section.

(vii) m-ColiBlue24® Test, a description of which is cited in footnote 11 to the table in paragraph (f)(3) of this section.

* * * * *

(8) * * * Copies of the analytical methods cited in Standard Methods for the Examination of Water and Wastewater (18th and 19th editions) may be obtained from the American Public Health Association *et al.*; 1015 Fifteenth Street NW., Washington, DC 20005. * * *

* * * * *

3. Section 141.23 is amended by:

a. Revising paragraph (a)(4)(iii);

b. Revising the table and footnotes in paragraph (k)(1);

c. Revising paragrah (k)(2) including the table;

d. Revising paragraph (k)(3)(i); and

e. Revising paragraph (k)(3)(ii) introductory text.

The revisions read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

* * * * *

(a) * * *

(4) * * *

(iii) If duplicates of the original sample taken from each sampling point used in the composite sample are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the State within 14 days after completing analysis of the composite sample, provided the holding time of the sample is not exceeded.

* * * * *

(k) * * *

(1) * * *

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4]	Other
Alkalinity:				
Titrimetric		D1067–92B	2320 B	I–1030–85 [5]
Electrometric titration				
Antimony:				
ICP-Mass Spectrometry	[2] 200.8			
Hydride-Atomic Absorption		D–3697–92		
Atomic Absorption; Platform	[2] 200.9			
Atomic Absorption; Furnace			3113 B	
Arsenic[14]:				

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4]	Other
Inductively Coupled Plasma	[2] 200.7		3120 B	
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Platform	[2] 200.9			
Atomic Absorption; Furnace		D–2972–93C	3113 B	
Hydride Atomic Absorption		D–2972–93B	3114 B	
Asbestos:				
Transmission Electron Microscopy	[9] 100.1			
Transmission Electron Microscopy	[10] 100.2			
Barium:				
Inductively Coupled Plasma	[2] 200.7		3120 B	
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Direct			3111 D	
Atomic Absorption; Furnace			3113 B	
Beryllium:				
Inductively Coupled Plasma	[2] 200.7		3120 B	
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Platform	[2] 200.9			
Atomic Absorption; Furnace		D3645–93B	3113 B	
Cadmium:				
Inductively Coupled Plasma	[2] 200.7			
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Platform	[2] 200.9			
Atomic Absorption; Furnace			3113 B	
Calcium:				
EDTA titrimetric		D511–93A	3500–Ca D	
Atomic absorption; direct aspiration		D511–93B	3111 B	
Inductively-coupled plasma	[2] 200.7		3120 B	
Chromium:				
Inductively Coupled Plasma	[2] 200.7		3120 B	
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Platform	[2] 200.9			
Atomic Absorption; Furnace			3113 B	
Copper:				
Atomic absorption; furnace		D1688–95C	3113 B	
Atomic absorption; direct aspiration		D1688–95A	3111 B	
ICP	[2] 200.7		3120 B	
ICP—Mass spectrometry	[2] 200.8			
Atomic absorption; platform	[2] 200.9			
Conductivity Conductance		D1125–95A	2510 B	
Cyanide:				
Manual Distillation followed by		D2036–91A	4500–CN^- C	
Spectrophotometric, Amenable		D2036–91B	4500–CN^- G	
Spectrophotometric.				
Manual		D2036–91A	4500–CN^- E	I–3300–85 [5]
Semi-automated	[6] 335.4			
Selective Electrode			4500–CN^- F	
Fluoride:				
Ion Chromatography	[6] 300.0	D4327–91	4110 B	
Manual Distill.; Color. SPADNS			4500–F^- B, D	
Manual Electrode		D1179–93B	4500–F^- C	
Automated Electrode				380–75WE [11]
Automated Alizarin			4500–F^- E	129–71W [11]
Lead:				
Atomic absorption; furnace		D3559–95D	3113 B	
ICP-Mass spectrometry	[2] 200.8			
Atomic absorption; platform	[2] 200.9			
Differential Pulse Anodic Stripping Voltammetry				Method 1001 [15]
Magnesium:				
Atomic Absorption		D 511–93 B	3111 B	
ICP	[2] 200.7		3120 B	
Complexation Titrimetric Methods		D 511–93 A	3500–Mg E	
Mercury:				
Manual, Cold Vapor	[2] 245.1	D3223–91	3112 B	
Automated, Cold Vapor	[1] 245.2			
ICP-Mass Spectrometry	[2] 200.8			
Nickel:				
Inductively Coupled Plasma	[2] 200.7		3120 B	
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Platform	[2] 200.9			
Atomic Absorption; Direct			3111 B	
Atomic Absorption; Furnace			3113 B	
Nitrate:				
Ion Chromatography	[6] 300.0	D4327–91	4110 B	B–1011 [8]
Automated Cadmium Reduction	[6] 353.2	D3867–90A	4500–NO_3^- F	

VOL 64 ISS 230 DE 1 1999 UMI

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4]	Other
Ion Selective Electrode			4500–NO_3^- D	601 [7]
Manual Cadmium Reduction		D3867–90B	4500–NO_3^- E	
Nitrite:				
Ion Chromatography	[6] 300.0	D4327–91	4110 B	B–1011 [8]
Automated Cadmium Reduction	[6] 353.2	D3867–90A	4500–NO_3^- F	
Manual Cadmium Reduction		D3867–90B	4500–NO_3^- E	
Spectrophotometric			4500–NO_2^- B	
Orthophosphate: [12]				
Colorimetric, automated, ascorbic acid	[6] 365.1		4500–P F	
Colorimetric, ascorbic acid, single reagent		D515–88A	4500–P E	
Colorimetric, phosphomolybdate;				I–1602–85 [5]
automated-segmented flow;				I–2601–90 [5]
automated discrete				I–2598–85 [5]
Ion Chromatography	[6] 300.0	D4327–91	4110 B	
pH: Electrometric	[1] 150.1 [1] 150.2	D1293–95	4500–H^+ B	
Selenium:				
Hydride-Atomic Absorption		D3859–93A	3114 B	
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Platform	[2] 200.9			
Atomic Absorption; Furance		D3859–93B	3113 B	
Silica:				
Colorimetric, molybdate blue;				I–1700–85 [5]
automated-segmented flow				I–2700–85 [5]
Colorimetric		D859–95		
Molybdosilicate			4500–Si D	
Heteropoly blue			4500–Si E	
Automated method for molybdate-reactive silica			4500–Si F	
Inductively-coupled plasma	[3] 200.7		3120 B	
Sodium:				
Inductively-coupled plasma	[2] 200.7			
Atomic Absorption; direct aspiration			3111 B	
Temperature: Thermometric			2550	
Thallium:				
ICP-Mass Spectrometry	[2] 200.8			
Atomic Absorption; Platform	[2] 200.9			

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1–11 and 15 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

[1] "Methods for Chemical Analysis of Water and Wastes", EPA/600/4–79/020, March 1983. Available at NTIS, PB84–128677.

[2] "Methods for the Determination of Metals in Environmental Samples—Supplement I", EPA/600/R–94/111, May 1994. Available at NTIS, PB95–125472.

[3] *Annual Book of ASTM Standards*, 1994 and 1996, Vols. 11.01 and 11.02, American Society for Testing and Materials. The previous versions of D1688–95A, D1688–95C (copper), D3559–95D (lead), D1293–95 (pH), D1125–91A (conductivity) and D859–94 (silica) are also approved. These previous versions D1688–90A, C; D3559–90D, D1293–84, D1125–91A and D859–88, respectively are located in the *Annual Book of ASTM Standards*, 1994, Vols. 11.01. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4] 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater*, 1992 and 1995, respectively, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[5] Method I–2601–90, *Methods for Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments*. Open File Report 93–125, 1993; For Methods I–1030–85; I–1601–85; I–1700–85; I–2598–85; I–2700–85; and I–3300–85 See *Techniques of Water Resources Investigation of the U.S. Geological Survey*, Book 5, Chapter A–1, 3rd ed., 1989; Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225–0425.

[6] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R–93/100, August 1993. Available at NTIS, PB94–120821.

[7] The procedure shall be done in accordance with the Technical Bulletin 601 "Standard Method of Test for Nitrate in Drinking Water", July 1994, PN 221890–001, Analytical Technology, Inc. Copies may be obtained from ATI Orion, 529 Main Street, Boston, MA 02129.

[8] Method B–1011, "Waters Test Method for Determination of Nitrite/Nitrate in Water Using Single Column Ion Chromatography," August 1987. Copies may be obtained from Waters Corporation, Technical Services Division, 34 Maple Street, Milford, MA 01757.

[9] Method 100.1, "Analytical Method For Determination of Asbestos Fibers in Water", EPA/600/4–83/043, EPA, September 1983. Available at NTIS, PB83–260471.

[10] 10 Method 100.2, "Determination of Asbestos Structure Over 10-μm In Length In Drinking Water", EPA/600/R–94/134, June 1994. Available at NTIS, PB94–201902.

[11] Industrial Method No. 129–71W, "Fluoride in Water and Wastewater", December 1972, and Method No. 380–75WE, "Fluoride in Water and Wastewater", February 1976, Technicon Industrial Systems. Copies may be obtained from Bran & Luebbe, 1025 Busch Parkway, Buffalo Grove, IL 60089.

[12] Unfiltered, no digestion or hydrolysis.

[13] Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher. For direct analysis of cadmium and arsenic by Method 200.7, and arsenic by Method 3120 B sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by Method 200.9; antimony and lead by Method 3113 B; and lead by Method D3559–90D unless multiple in-furnace depositions are made.

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4]	Other

[14] If ultrasonic nebulization is used in the determination of arsenic by Methods 200.7, 200.8, or SM 3120 B, the arsenic must be in the pentavalent state to provide uniform signal response. For methods 200.7 and 3120 B, both samples and standards must be diluted in the same mixed acid matrix concentration of nitric and hydrochloric acid with the addition of 100 µL of 30% hydrogen peroxide per 100ml of solution. For direct analysis of arsenic with method 200.8 using ultrasonic nebulization, samples and standards must contain one mg/L of sodium hypochlorite.

[15] The description for Method Number 1001 for lead is available from Palintest, LTD, 21 Kenton Lands Road, P.O. Box 18395, Erlanger, KY 41018. Or from the Hach Company, P.O. Box 389, Loveland, CO 8053.

(2) Sample collection for antimony, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium, and thallium under this section shall be conducted using the sample preservation, container, and maximum holding time procedures specified in the following table:

Contaminant	Preservative [1]	Container [2]	Time [3]
Antimony	HNO_3	P or G	6 months
Asbestos	4°C	P or G	48 hours [4]
Banum	HNO_3	P or G	6 months
Beryllium	HNO_3	P or G	6 months
Cadmium	HNO_3	P or G	6 months
Chromium	HNO_3	P or G	6 months
Cyanide	4°C, NaOH	P or G	14 days
Fluoride	None	P or G	1 month
Mercury	HNO_3	P or G	28 days
Nickel	HNO_3	P or G	6 months
Nitrate	4°C	P or G	48 hours [5]
Nitrate-Nitrite [6]	H_2SO_4	P or G	28 days
Nitrite	4°C	P or G	48 hours
Selenium	HNO_3	P or G	6 months
Thallium	HNO_3	P or G	6 months

[1] When indicated, samples must be acidified at the time of collection to pH < 2 with concentrated acid or adjusted with sodium hydroxide to pH > 12. When chilling is indicated the sample must be shipped and stored at 4°C or less.

[2] P=plastic, hard or soft; G=glass, hard or soft.

[3] In all cases samples should be analyzed as soon after collection as possible. Follow additional (if any) information on preservation, containers or holding times that is specified in method.

[4] Instructions for containers, preservation procedures and holding times as specified in Method 100.2 must be adhered to for all compliance analyses including those conducted with Method 100.1.

[5] If the sample is chlorinated, the holding time for an unacidified sample kept at 4°C is extended to 14 days.

[6] Nitrate-Nitrite refers to a measurement of total nitrate.

(3) * * *

(i) Analyze Performance Evaluation (PE) samples provided by EPA, the State or by a third party (with the approval of the State or EPA) at least once a year.

(ii) For each contaminant that has been included in the PE sample and for each method for which the laboratory desires certification achieve quantitative results on the analyses that are within the following acceptance limits:

* * * * *

4. Section 141.24 is amended by:

a. Revising the section heading

b. Revising paragraph (e);

c. Revising paragraphs (f)(14)(ii);

d. Revising paragraphs (f)(17)(i)(A), (f)(17)(i)(B), (f)(17)(ii) introductory text; and paragraph (f)(17)(ii)(A);

e. Revising paragraph (h)(10)(ii);

f. Revising paragraph (h)(13) introductory text, (h)(13)(i); and

g. Revising paragraph (h)(19)(i)(A)and (h)(19)(i)(B) introductory text to read as follows:

§ 141.24 Organic chemicals, sampling and analytical requirements.

* * * * *

(e) Analyses for the contaminants in this section shall be conducted using the following EPA methods or their equivalent as approved by EPA.

(1) The following documents are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Method 508A and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water,* EPA/600/4–88–039, December 1988, Revised, July 1991. Methods 547, 550 and 550.1 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement I,* EPA/600–4–90–020, July 1990. Methods 548.1, 549.1, 552.1 and 555 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II,* EPA/600/R–92–129, August 1992. Methods 502.2, 504.1, 505, 506, 507, 508, 508.1, 515.2, 524.2 525.2, 531.1, 551.1 and 552.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III,* EPA/600/R–95–131, August 1995. Method 1613 is titled "Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS", EPA/821–B–94–005, October 1994. These documents are available from the National Technical Information Service, NTIS PB91–231480, PB91–146027, PB92–207703, PB95–261616 and PB95–104774, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. Method 6651 shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater,* 18th edition, 1992 and 19th edition, 1995, American Public Health Association (APHA); either edition may be used. Method 6610 shall be followed in accordance with the *Supplement to the 18th edition of Standard Methods for the Examination of Water and Wastewater,* 1994 or with the 19th edition of *Standard Methods for the Examination of Water and Wastewater,* 1995, APHA; either publication may be used. The APHA documents are available from APHA, 1015 Fifteenth Street NW., Washington, D.C. 20005. Other required analytical test procedures germane to the conduct of these analyses are contained in *Technical Notes on Drinking Water Methods,* EPA/600/R–94–173, October 1994, NTIS PB95–104766. EPA Methods 515.3 and 549.2 are available from U.S. Environmental Protection Agency, National Exposure Research Laboratory (NERL)–Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268. ASTM Method D 5317–93 is available in the *Annual Book of ASTM Standards,* 1996, Vol. 11.02, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or in any edition published after 1993.

Contaminant	Method [1]
Benzene	502.2, 524.2
Carbon tetrachloride	502.2, 524.2, 551.1
Chlorobenzene	502.2, 524.2
1,2-Dichlorobenzene	502.2, 524.2
1,4-Dichlorobenzene	502.2, 524.2
1,2-Dichloroethane	502.2, 524.2
cis-Dichloroethylene	502.2, 524.2
trans-Dichloroethylene	502.2, 524.2
Dichloromethane	502.2, 524.2
1,2-Dichloropropane	502.2, 524.2
Ethylbenzene	502.2, 524.2
Styrene	502.2, 524.2
Tetrachloroethylene	502.2, 524.2, 551.1
1,1,1-Trichloroethane	502.2, 524.2, 551.1
Trichloroethylene	502.2, 524.2, 551.1
Toluene	502.2, 524.2
1,2,4-Trichlorobenzene	502.2, 524.2
1,1-Dichloroethylene	502.2, 524.2
1,1,2-Trichloroethane	502.2, 524.2, 551.1
Vinyl chloride	502.2, 524.2
Xylenes (total)	502.2, 524.2
2,3,7,8-TCDD (dioxin)	1613
2,4-D [4] (as acid, salts and esters).	515.2, 555, 515.1, 515.3, D5317–93
2,4,5-TP [4] (Silvex)	515.2, 555, 515.1, 515.3, D5317–93
Alachlor [2]	507, 525.2, 508.1, 505, 551.1
Atrazine [2]	507, 525.2, 508.1, 505, 551.1
Benzo(a)pyrene	525.2, 550, 550.1
Carbofuran	531.1, 6610
Chlordane	508, 525.2, 508.1, 505
Dalapon	552.1, 515.1, 552.2, 515.3
Di(2-ethylhexyl)adipate	506, 525.2
Di(2-ethylhexyl)phthalate	506, 525.2
Dibromochloropropane (DBCP).	504.1, 551.1
Dinoseb [4]	515.2, 555, 515.1, 515.3
Diquat	549.2
Endothall	548.1
Endrin	508, 525.2, 508.1, 505, 551.1
Ethylene dibromide (EDB).	504.1, 551.1
Glyphosate	547, 6651

Contaminant	Method [1]
Heptachlor	508, 525.2, 508.1, 505, 551.1
Heptachlor Epoxide	508, 525.2, 508.1, 505, 551.1
Hexachlorobenzene	508, 525.2, 508.1, 505, 551.1
Hexachlorocyclopentadiene.	508, 525.2, 508.1, 505, 551.1
Lindane	508, 525.2, 508.1, 505, 551.1
Methoxychlor	508, 525.2, 508.1, 505, 551.1
Oxamyl	531.1, 6610
PCBs [3] (as decachlorobiphenyl). (as Aroclors)	508A 508.1, 508, 525.2, 505
Pentachlorophenol	515.2, 525.2, 555, 515.1, 515.3, D5317–93
Picloram [4]	515.2, 555, 515.1, 515.3, D5317–93
Simazine [2]	507, 525.2, 508.1, 505, 551.1
Toxaphene	508, 508.1, 525.2, 505
Total Trihalomethanes	502.2, 524.2, 551.1

[1] For previously approved EPA methods which remain available for compliance monitoring until June 1, 2001, see paragraph (e)(2) of this section.

[2] Substitution of the detector specified in Method 505, 507, 508 or 508.1 for the purpose of achieving lower detection limits is allowed as follows. Either an electron capture or nitrogen phosphorous detector may be used provided all regulatory requirements and quality control criteria are met.

[3] PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl. Users of Method 505 may have more difficulty in achieving the required detection limits than users of Methods 508.1, 525.2 or 508.

[4] Accurate determination of the chlorinated esters requires hydrolysis of the sample as described in EPA Methods 515.1, 515.2, 515.3 and 555, and ASTM Method D 5317–93.

(2) The following EPA methods will remain available for compliance monitoring until June 1, 2001. The following documents are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at EPA's Drinking Water Docket, 401 M Street, SW., Washington, DC 20460; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. EPA methods 502.2 Rev. 2.0, 505 Rev. 2.0, 507 Rev. 2.0, 508 Rev. 3.0, 531.1 Rev. 3.0 are in "Methods for the Determination of Organic Compounds in Drinking Water", December 1988, revised July 1991; methods 506 and 551 are in "Methods for the Determination of Organic Compounds in Drinking Water—Supplement I", July 1990; methods 515.2 Rev. 1.0 and 524.2 Rev. 4.0 are in "Methods for the Determination of Organic Compounds in Drinking Water—Supplement II," August 1992; and methods 504.1 Rev. 1.0, 508.1 Rev. 1.0, 525.2 Rev.1.0 are available from US EPA NERL, Cincinnati, OH 45268

(f) * * *

(14) * * *

(ii) If duplicates of the original sample taken from each sampling point used in the composite sample are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the State within 14 days after completing analysis of the composite sample, provided the holding time of the sample is not exceeded.

* * * * *

(17) * * *

(i) * * *

(A) Analyze Performance Evaluation (PE) samples provided by EPA, the State, or by a third party (with the approval of the State or EPA) at least once a year by each method for which the laboratory desires certification.

(B) Achieve the quantitative acceptance limits under paragraphs (f)(17)(i)(C) and (D) of this section for at least 80 percent of the regulated organic contaminants included in the PE sample.

* * * * *

(ii) To receive certification to conduct analyses for vinyl chloride, the laboratory must:

(A) Analyze Performance Evaluation (PE) samples provided by EPA, the State, or by a third party (with the approval of the State or EPA) at least once a year by each method for which the laboratory desires certification.

* * * * *

(h) * * *

(10) * * *

(ii) If duplicates of the original sample taken from each sampling point used in the composite sample are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the State within 14 days after completion of the composite analysis or before the holding time for the initial sample is exceeded whichever is sooner.

* * * * *

(13) Analysis for PCBs shall be conducted as follows using the methods in paragraph (e) of this section:

(i) Each system which monitors for PCBs shall analyze each sample using either Method 508.1, 525.2, 508 or 505. Users of Method 505 may have more difficulty in achieving the required Aroclor detection limits than users of Methods 508.1, 525.2 or 508.

* * * * *

(19) * * *

(i) * * *

(A) Analyze Performance Evaluation (PE) samples provided by EPA, the State, or by a third party (with the approval of the State or EPA) at least once a year by each method for which the laboratory desires certification.

(B) For each contaminant that has been included in the PE sample achieve quantitative results on the analyses that are within the following acceptance limits:

* * * * *

5. Section 141.28 is amended by revising paragraph (a) to read as follows:

§ 141.28 Certified laboratories.

(a) For the purpose of determining compliance with §§ 141.21 through 141.27, 141.30, 141.40, 141.74 and 141.89, samples may be considered only if they have been analyzed by a laboratory certified by the State except that measurements for alkalinity, calcium, conductivity, disinfectant residual, orthophosphate, pH, silica, temperature and turbidity may be performed by any person acceptable to the State.

* * * * *

6. Section 141.74 is amended by revising the first five sentences in paragraph (a) introductory text, the table and footnotes in paragraph (a)(1), and the first and second sentences in paragraph (a)(2) to read as follows:

§ 141.74 Analytical and monitoring requirements.

(a) *Analytical requirements.* Only the analytical method(s) specified in this paragraph, or otherwise approved by EPA, may be used to demonstrate compliance with §§ 141.71, 141.72 and 141.73. Measurements for pH, turbidity, temperature and residual disinfectant concentrations must be conducted by a person approved by the State. Measurement for total coliforms, fecal coliforms and HPC must be conducted by a laboratory certified by the State or EPA to do such analysis. Until laboratory certification criteria are developed for the analysis of fecal coliforms and HPC, any laboratory certified for total coliforms analysis by the State or EPA is deemed certified for fecal coliforms and HPC analysis. The following procedures shall be conducted in accordance with the publications listed in the following section. * * *

(1) * * *

Organism	Methodology	Citation [1]
Total Coliform [2]	Total Coliform Fermentation Technique [3,4,5]	9221 A, B, C
	Total Coliform Membrane Filter Technique [6]	9222 A, B, C

Organism	Methodology	Citation [1]
Fecal Coliforms [2]	ONPG–MUG Test [7]	9223
	Fecal Coliform Procedure [8]	9221 E
	Fecal Coliform Filter Procedure	9222 D
Heterotrophic bacteria [2]	Pour Plate Method	9215 B
Turbidity	Nephelometric Method	2130 B
	Nephelometric Method	180.1 [9]
	Great Lakes Instruments	Method 2 [10]

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1, 6, 7, 9 and 10 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, D.C. 20460 (Telephone: 202–260–3027); or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C. 20408.

[1] Except where noted, all methods refer to *Standard Methods for the Examination of Water and Wastewater,* 18th edition, 1992 and 19th edition, 1995, American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005; either edition may be used.

[2] The time from sample collection to initiation of analysis may not exceed 8 hours. Systems must hold samples below 10°C during transit.

[3] Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform, using lactose broth, is less than 10 percent.

[4] Media should cover inverted tubes at least one-half to two-thirds after the sample is added.

[5] No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

[6] MI agar also may be used. Preparation and use of MI agar is set forth in the article, "New medium for the simultaneous detection of total coliform and Escherichia coli in water" by Brenner, K.P., et al., 1993, Appl. Environ. Microbiol. 59:3534–3544. Also available from the Office of Water Resource Center (RC–4100), 401 M Street SW, Washington, D.C. 20460, EPA 600/J–99/225.

[7] The ONPG–MUG Test is also known as the Autoanalysis Colilert System.

[8] A–1 Broth may be held up to three months in a tightly closed screw cap tube at 4°C.

[9] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R–93/100, August 1993. Available at NTIS, PB94–121811.

[10] GLI Method 2, "Turbidity", November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, Wisconsin 53223.

(2) Public water systems must measure residual disinfectant concentrations with one of the analytical methods in the following table. The methods are contained in both the 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater,* 1992 and 1995; either edition may be used. * * *

* * * * *

7. Section 141.89 is amended by revising paragraph (a)(1) introductory text, (a)(1)(i) to read as follows and by removing the semicolon at the end of paragraph (a)(1)(ii)(B) and adding a period in it's place.

§ 141.89 Analytical methods.

(a) * * *

(1) Analyses for alkalinity, calcium, conductivity, orthophosphate, pH, silica, and temperature may be performed by any person acceptable to the State. Analyses under this section for lead and copper shall only be conducted by laboratories that have been certified by EPA or the State. To obtain certification to conduct analyses for lead and copper, laboratories must:

(i) Analyze Performance Evaluation samples, which include lead and copper, provided by or acceptable to EPA or the State at least once a year by each method for which the laboratory desires certification; and

* * * * *

PART 143—NATIONAL SECONDARY DRINKING WATER REGULATIONS

1. The authority citation for part 143 continues to read as follows:

Authority: 42 U.S.C. 300f *et seq.*

2. Section 143.4 is amended by revising the table and footnotes in paragraph (b) to read as follows:

§ 143.4 Monitoring.

* * * * *

(b) * * *

Contaminant	EPA	ASTM [3]	SM [4]	Other
Aluminum	[2] 200.7		3120 B	
	[2] 200.8		3113 B	
	[2] 200.9		3111 D	
Chloride	[1] 300.0	D4327–91	4110 B	
	.....		4500–Cl^- D	
	.....	D512–89B	4500–Cl^- B	
Color	.....		2120 B	
Foaming Agents	.....		5540 C	
Iron	[2] 200.7		3120 B	
	[2] 200.9		3111 B	
	.....		3113 B	
Manganese	[2] 200.7		3120 B	
	[2] 200.8		3111 B	
	[2] 200.9		3113 B	
Odor	.....		2150 B	
Silver	[2] 200.7		3120 B	[5] I–3720–85
	[2] 200.8		3111 B	
	[2] 200.9		3113 B	
Sulfate	[1] 300.0	D4327–91	4110 B	
	[1] 375.2		4500–SO_4^{2-} F	
	.....		4500–SO_4^{2-} C, D	
	.....	D516–90	4500–SO_4^{2-} E	

Contaminant	EPA	ASTM [3]	SM [4]	Other
TDS	.....		2540 C	
Zinc	[2] 200.7		3120 B	
	[2] 200.8		3111 B	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, 401 M Street, SW, Washington, DC 20460 (Telephone: 202–260–3027); or at the Office of Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20408.

[1] "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R–93–100, August 1993. Available at NTIS, PB94–120821.

[2] "Methods for the Determination of Metals in Environmental Samples—Supplement I", EPA/600/R–94–111, May 1994. Available at NTIS, PB 95–125472.

[3] *Annual Book of ASTM Standards*, 1994 and 1996, Vols. 11.01 and 11.02, American Society for Testing and Materials. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4] 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater*, 1992 and 1995, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[5] Method I–3720–85, *Techniques of Water Resources Investigation of the U.S. Geological Survey*, Book 5, Chapter A–1, 3rd ed., 1989; Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225–0425.

[FR Doc. 99–30901 Filed 11–30–99; 8:45 am]

BILLING CODE 6560–50–P

VOL
64
ISS
2
3
0
DE
1
1999
UMI

Rea

CUST

Federa
General
aids

Laws

Preside
Executi
The Un

Other S
Electron
Privacy
Public I
TTY for

ELECTR

World W
Full tex
publicat

Federal
Inspecti

E-mail

PENS (P
service f
subscrib

with the

Use lists
PENS. W

Referenc
Federal

The Fed
regulatio

FEDERA

67147–6

Reader Aids

Federal Register

Vol. 64, No. 230

Wednesday, December 1, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

67147–67468..... 1

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 1, 1999

COMMERCE DEPARTMENT
International Trade Administration
Watches, watch movements, and jewelry:
Allocation of duty-exemptions—
Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; published 12-1-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Atlantic highly migratory species—
Atlantic bluefin tuna; published 11-1-99

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Federal-State Joint Board on Universal Service—
Customers served by non-rural carriers; intrastate rates; published 12-1-99
Non-rural LECs; forward-looking mechanism for high cost support; published 12-1-99
Radio services, special:
Private land mobile services—
Exclusivity and frequency assignments policies; examinations; correction; published 12-1-99

FEDERAL EMERGENCY MANAGEMENT AGENCY
Flood insurance program:
Write-your-own program—
Private sector property insurers assistance; published 10-18-99

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Bull trout; published 11-1-99

INTERIOR DEPARTMENT
Watches, watch movements, and jewelry:
Allocation of duty-exemptions—
Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; published 12-1-99

INTERIOR DEPARTMENT
Reclamation Bureau
Colorado River Water Quality Improvement Program:
Colorado River water offstream storage, and interstate redemption of storage credits in Lower Division States; published 11-1-99

PENSION BENEFIT GUARANTY CORPORATION
Single-employer plans:
Allocation of assets—
Interest assumptions for valuing benefits; published 11-15-99

STATE DEPARTMENT
Consular services; fee schedule; published 11-30-99

OFFICE OF UNITED STATES TRADE REPRESENTATIVE
Trade Representative, Office of United States
Tariff-rate quota amount determinations:
Cane sugar and sugar containing products; allocations to Mexico and Canada; published 12-1-99

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Bell Helicopter Textron, Inc.; published 11-16-99
LET, a.s.; published 10-8-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Milk marketing orders:
Southern Illinois-Eastern Missouri; comments due by 12-8-99; published 12-1-99

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
Women, infants, and children; special supplemental nutrition program—
Local agency expenditure reports; comments due by 12-9-99; published 11-9-99

AGRICULTURE DEPARTMENT
Farm Service Agency
Farm marketing quotas, acreage allotments, and production adjustments:
Peanuts; comments due by 12-10-99; published 11-30-99

AGRICULTURE DEPARTMENT
Food Safety and Inspection Service
Meat and poultry inspection:
Inspection services; fee increase; comments due by 12-10-99; published 11-10-99

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD
Americans with Disabilities Act; implementation:
Accessibility guidelines—
Recreation facilities; comments due by 12-8-99; published 8-3-99

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Environmental statements; notice of intent:
Western Pacific Region; Exclusive Economic Zone; pelagics fisheries; comments due by 12-6-99; published 10-6-99
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
West coast salmon; comments due by 12-6-99; published 11-19-99
Western Pacific Region pelagic species; environmental impact statement; comments due by 12-6-99; published 10-20-99
Western Pacific Region pelagics; comments due by 12-6-99; published 11-5-99

EDUCATION DEPARTMENT
Elementary and secondary education:
Safe and Drug-Free Schools and Communities Act Native Hawaiian Program; comments due by 12-6-99; published 10-6-99
Postsecondary education:
Teacher Quality Enhancement Grants Program; comments due by 12-6-99; published 11-5-99

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Electric utilities (Federal Power Act):
Rate schedules filing—
Electric rate schedule sheets; designation procedures; comments due by 12-6-99; published 11-5-99
Practice and procedure:
FERC Form Nos. 423, 714, and 715; electronic filing; comments due by 12-6-99; published 11-4-99

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Arizona; comments due by 12-8-99; published 11-8-99
California; comments due by 12-8-99; published 11-9-99
Michigan; comments due by 12-9-99; published 11-9-99
North Carolina; comments due by 12-10-99; published 11-10-99
Oklahoma; comments due by 12-8-99; published 11-8-99
Tennessee; comments due by 12-6-99; published 11-5-99
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 12-9-99; published 11-9-99

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Florida; comments due by 12-6-99; published 10-27-99
Illinois; comments due by 12-6-99; published 10-27-99
Iowa; comments due by 12-6-99; published 10-27-99
Montana; comments due by 12-6-99; published 10-27-99
South Dakota; comments due by 12-6-99; published 10-27-99
Texas; comments due by 12-6-99; published 10-27-99

VOL 64 ISS 230 DE 1 1999 UMI

Regulatory Flexibility Act; review of regulations; comments due by 12-10-99; published 10-14-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Child support enforcement program:

Incentive payments and audit penalties; comments due by 12-7-99; published 10-8-99

Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation—

State self-assessment review and report; comments due by 12-7-99; published 10-8-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicaid:

Flexibility in payment methods for services of hospitals, nursing facilities, and intermediate care facilities for mentally retarded; comments due by 12-6-99; published 10-6-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Vicuna populations in South America; comments due by 12-7-99; published 9-8-99

National Wildlife Refuge System:

Land usage; compatibility policy; comments due by 12-8-99; published 11-16-99

JUSTICE DEPARTMENT

Privacy Act; implementation; comments due by 12-8-99; published 11-8-99

LABOR DEPARTMENT

Employment Standards Administration

Federal Coal Mine Health and Safety Act of 1969, as amended:

Black Lung Benefits Act—

Individual claims by former coal miners and dependents processing and adjudication; regulations clarification and simplification; comments due by 12-7-99; published 10-8-99

MINE SAFETY AND HEALTH FEDERAL REVIEW COMMISSION

Federal Mine Safety and Health Review Commission

Procedural rules; comments due by 12-10-99; published 11-10-99

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:

Central Contractor Registration; comments due by 12-6-99; published 10-6-99

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list additions; comments due by 12-6-99; published 9-22-99

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems; comments due by 12-6-99; published 11-4-99

POSTAL SERVICE

Domestic Mail Manual:

Nonautomation mail processing instructions and letter tray label revisions; comments due by 12-9-99; published 10-25-99

International Mail Manual:

Priority Mail Global Guaranteed; enhanced expedited service from selected U.S. locations to selected European countries; comments due by 12-6-99; published 11-4-99

SMALL BUSINESS ADMINISTRATION

Business loans:

Certified development companies; areas of operations; comments due by 12-8-99; published 11-8-99

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

New York Harbor, NY; safety zone; comments due by 12-6-99; published 10-6-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; comments due by 12-9-99; published 11-9-99

Airbus; comments due by 12-6-99; published 11-4-99

Bombardier; comments due by 12-9-99; published 11-9-99

British Aerospace; comments due by 12-8-99; published 11-8-99

CFM International; comments due by 12-6-99; published 10-7-99

Eurocopter Deutschland GmbH; comments due by 12-7-99; published 10-8-99

Fairchild; comments due by 12-6-99; published 10-6-99

Fokker; comments due by 12-8-99; published 11-8-99

General Electric Co.; comments due by 12-6-99; published 10-7-99

International Aero Engines AG; comments due by 12-6-99; published 10-7-99

Pratt & Whitney; comments due by 12-6-99; published 10-7-99

Class E airspace; comments due by 12-6-99; published 10-19-99

Commercial space transportation:

Licensed reentry activities; financial responsibility requirements; comments due by 12-6-99; published 10-6-99

TRANSPORTATION DEPARTMENT

Federal Transit Administration

Buy America requirements:

Microcomputers; permanent waiver; comments due by 12-7-99; published 10-8-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.J. Res. 80/P.L. 106–105

Making further continuing appropriations for the fiscal year 2000, and for other purposes. (Nov. 18, 1999; 113 Stat. 1484)

H.J. Res. 83/P.L. 106–106

Making further continuing appropriations for the fiscal year 2000, and for other purposes. (Nov. 19, 1999; 113 Stat. 1485)

S. 468/P.L. 106–107

Federal Financial Assistance Management Improvement Act of 1999 (Nov. 20, 1999; 113 Stat. 1486)

H.R. 2454/P.L. 106–108

Arctic Tundra Habitat Emergency Conservation Act (Nov. 24, 1999; 113 Stat. 1491)

H.R. 2724/P.L. 106–109

To make technical corrections to the Water Resources Development Act of 1999 (Nov. 24, 1999; 113 Stat. 1494)

S. 1235/P.L. 106–110

To amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training. (Nov. 24, 1999; 113 Stat. 1497)

H.R. 100/P.L. 106–111

To establish designations for United States Postal Service buildings in Philadelphia, Pennsylvania. (Nov. 29, 1999; 113 Stat. 1499)

H.R. 197/P.L. 106–112

To designate the facility of the United States Postal Service at 410 North 6th Street in Garden City, Kansas, as the "Clifford R. Hope Post Office". (Nov. 29, 1999; 113 Stat. 1500)

H.R. 3194/P.L. 106–113

Making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes. (Nov. 29, 1999; 113 Stat. 1501)

S. 278/P.L. 106–114

To direct the Secretary of the Interior to convey certain

lands to the county of Rio Arriba, New Mexico. (Nov. 29, 1999; 113 Stat. 1538)

S. 382/P.L. 106–115
Minuteman Missile National Historic Site Establishment Act of 1999 (Nov. 29, 1999; 113 Stat. 1540)

S. 1398/P.L. 106–116
To clarify certain boundaries on maps relating to the Coastal Barrier Resources System. (Nov. 29, 1999; 113 Stat. 1544)

H.R. 2116/P.L. 106–117
Veterans Millennium Health Care and Benefits Act (Nov. 30, 1999; 113 Stat. 1545)

H.R. 2280/P.L. 106–118
Veterans' Compensation Cost-of-Living Adjustment Act of 1999 (Nov. 30, 1999; 113 Stat. 1601)

Last List November 16, 1999

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this a 'dress.

VOL 64 ISS 230 DE 1 1999 UMI

TABLE OF EFFECTIVE DATES AND TIME PERIODS—DECEMBER 1999

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
December 1	December 16	January 3	January 18	January 31	February 29
December 2	December 17	January 3	January 18	January 31	March 2
December 3	December 20	January 3	January 18	February 1	March 3
December 6	December 21	January 5	January 20	February 4	March 8
December 7	December 22	January 6	January 21	February 7	March 8
December 8	December 23	January 7	January 24	February 7	March 8
December 9	December 27	January 10	January 24	February 7	March 9
December 10	December 27	January 10	January 24	February 8	March 10
December 13	December 28	January 12	January 27	February 11	March 15
December 14	December 29	January 13	January 28	February 14	March 15
December 15	December 30	January 14	January 31	February 14	March 15
December 16	January 3	January 18	January 31	February 14	March 16
December 17	January 3	January 18	January 31	February 15	March 17
December 20	January 4	January 19	February 3	February 18	March 22
December 21	January 5	January 20	February 4	February 22	March 22
December 22	January 6	January 21	February 7	February 22	March 22
December 23	January 7	January 24	February 7	February 22	March 23
December 27	January 11	January 26	February 10	February 25	March 29
December 28	January 12	January 27	February 11	February 28	March 29
December 29	January 13	January 28	February 14	February 28	March 29
December 30	January 14	January 31	February 14	February 28	March 30

VOL
64
ISS
2
3
0
DE
1
1999
UMI

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**

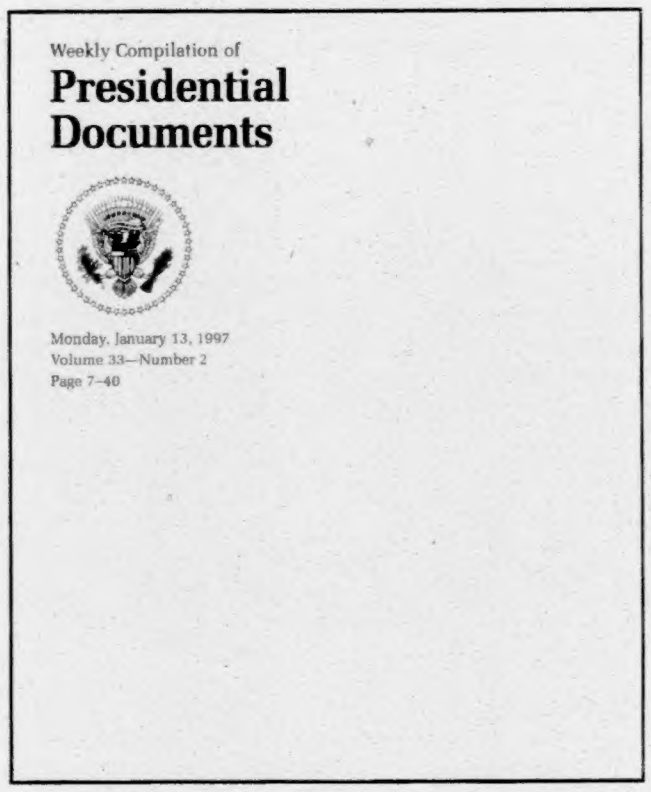

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy! MasterCard VISA

Order Processing Code:
*** 5420**

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $137.00 First Class Mail ☐ $80.00 Regular Mail

The total cost of my order is $ _____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 1/97

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

re

f the
l

VISA

12–2250
12–1800

so I can

hange.

ments
– □

you for
r order!

1/97

7954

VOL
64
ISS
2
3
0
DE
1
1999
UMI

Printed on recycled paper

END